THE CONGRESSIONAL GLOBE:

CONTAINING

THE DEBATES AND PROCEEDINGS

OF

THE SECOND SESSION

OF

THE THIRTY-THIRD CONGRESS.

VOLUME XXX.

BY JOHN C. RIVES.

CITY OF WASHINGTON:
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THE CONGRESSIONAL GLOBE.

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33D CONGRESS, 2D SESSION. THURSDAY, DECEMBER 7, 1854. NEW SERIES....No. 1.

This is the first number of the *Congressional Globe* for the second session of the Thirty-Third Congress. It will contain all the Proceedings of Congress, except such speeches as may be withheld by Members several days for revision, which will be printed in the *Appendix*, with the Message of the President of the United States and the Reports of the Executive Departments. All the Laws that may be passed during the session will be published in the same form, so that they may be bound up with the Congressional Globe and Appendix.

Subscription price of the Congressional Globe and Appendix and the Laws for this session, (payable in advance,) $3 00.

THIRTY-THIRD CONGRESS.

SECOND SESSION.

IN SENATE.

MONDAY, *December* 4, 1854.

THIS being the first Monday of December, the day set apart by the Constitution for the annual meeting of Congress, the Senators assembled in the Senate Chamber at twelve o'clock, m. The following Senators were present: From the State of

Maine—Hon. Hannibal Hamlin.

Vermont—Hon. Lawrence Brainerd and Hon. Solomon Foot.

Massachusetts—Hon. Julius Rockwell* and Hon. Charles Sumner.

Rhode Island—Hon. Philip Allen and Hon. Charles T. James.

Connecticut—Hon. Francis Gillette and Hon. Isaac Toucey.

New York—Hon. Hamilton Fish and Hon. William H. Seward.

Pennsylvania—Hon. Richard Brodhead and Hon. James Cooper.

Delaware—Hon. James A. Bayard.

Virginia—Hon. R. M. T. Hunter and Hon. James M. Mason.

South Carolina—Hon. Andrew P. Butler and Hon. Josiah J. Evans.

Georgia—Hon. William C. Dawson.

Alabama—Hon. Clement C. Clay, jr., and Hon. Benjamin Fitzpatrick.

Mississippi—Hon. Stephen Adams and Hon. Albert G. Brown.

Louisiana—Hon. John Slidell.

Missouri—Hon. Henry S. Geyer.

Tennessee—Hon. James C. Jones.

Kentucky—Hon. John B. Thompson.

Ohio—Hon. Salmon P. Chase and Hon. Benjamin F. Wade.

Indiana—Hon. Jesse D. Bright and Hon. John Pettit.

Illinois—Hon. James Shields.

Michigan—Hon. Lewis Cass and Hon. Charles E. Stuart.

Wisconsin—Hon. Henry Dodge.

Iowa—Hon. Augustus C. Dodge and Hon. George W. Jones.

California—Hon. John B. Weller.

At half past twelve o'clock, m., the Secretary called the Senate to order.

Prayer by Rev. HENRY SLICER.

The SECRETARY. With the permission of the Senate, I will read a letter addressed to me by the Hon. Mr. ATCHISON:

PLATTE CITY, *November* 11, 1854.

DEAR SIR: It will not be in my power to reach Washington before the second or third week in December. You will please announce this fact to the Senate at its meeting, that they may proceed to the election of a presiding officer.

Your obedient servant,

DAVID R. ATCHISON.

ASBURY DICKINS, Esq., *Secretary of the Senate.*

Mr. HUNTER. Mr. Secretary, I move that, by general consent, General CASS, of Michigan, be requested to act as President *pro tempore* for to-day.

The SECRETARY put the question on the motion, and it was unanimously agreed to.

Mr. CASS (on taking the chair, to which he was conducted by Mr. HUNTER) said: In assisting, gentlemen of the Senate, at your organization, I hold this seat to-day, but I can hold it no longer, as I do not feel competent to preside over the deliberations of the Senate.

*By Executive appointment in the place of Hon. Edward Everett.

CREDENTIALS.

Mr. FOOT presented the credentials of the Hon. LAWRENCE BRAINERD, chosen by the Legislature of Vermont, a Senator from that State for the unexpired term of the Hon. WILLIAM UPHAM, deceased.

The credentials were read; and the oath prescribed by law having been administered to Mr. BRAINERD, he took his seat in the Senate.

RECONSIDERATION OF A VOTE.

Mr. PETTIT. I have a motion to make which I wish to have entered on the Journal to-day. I will not press it now, but I deem it of importance to make it at the earliest hour. It is a motion to reconsider a vote taken on the last business day of the late session, on the passage of House bill for the relief of Enoch S. More. I ask that the motion be entered on the Journal for future consideration.

The PRESIDENT *pro tempore*. It will be so entered.

NOTIFICATION OF ORGANIZATION.

Mr. BRODHEAD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Ordered, That the Secretary inform the House of Representatives that a quorum of the Senate has assembled, and that the Hon. LEWIS CASS has been chosen President of the Senate *pro tempore* for this day.

Mr. BRODHEAD. I offer another resolution:

Ordered, That the Secretary wait on the President of the United States and inform him that the Senate have chosen the Hon. LEWIS CASS President of the Senate *pro tempore*.

Mr. MASON. I do not know whether that is according to usage—whether it is necessary to inform the President of that fact. The House of Representatives always inform the President when they have chosen a Speaker at every new Congress; but I am not aware of any usage of the Senate to inform him that we have chosen a President *pro tempore* in the absence of a Vice President. Unless the honorable Senator who moves the resolution knows such to be the custom, or has looked into the subject, I should prefer not to adopt this course.

Mr. BRODHEAD. I have been informed that such a resolution is usual; that it is proper, and according to custom, that the President of the United States should know who is the Presiding Officer of this body. I should, properly, have made the resolution read, "President of the Senate *pro tempore* for this day;" and if the Secretary will add the words "for this day" to the resolution, it will be right. I so modify it.

The PRESIDENT *pro tempore*. I understand, on inquiry of the Secretary, that this proceeding has been usual under these circumstances. It has been customary to announce to the President of the United States the election of a temporary presiding officer.

The resolution, as modified, was agreed to.

ORGANIZATION OF THE TWO HOUSES.

On motion by Mr. DODGE, of Iowa, it was

Resolved, That a committee of three be appointed by the President *pro tempore* of the Senate, jointly with a committee to be appointed by the House of Representatives, to wait on the President of the United States, and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make.

Mr. DODGE, of Iowa, Mr. DAWSON, and Mr. TOUCEY were appointed the committee.

A message was subsequently received from the House of Representatives, by Mr. FORNEY, their Clerk:

Mr. PRESIDENT: I am directed to inform the Senate that a quorum of the House of Representatives has assembled, and that the House of Representatives are ready to proceed to business.

The House of Representatives have adopted a resolution for the appointment of a committee, jointly with the committee appointed on the part of the Senate, to wait on the President of the United States, and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make; and have appointed Mr. GEORGE W. JONES, Mr. SOLOMON G. HAVEN, and Mr. THOMAS H. BAYLY the committee on the part of the House.

NOTICE OF A BILL.

Mr. BRODHEAD gave notice of his intention to ask leave to introduce a bill further to extend the provisions of the bounty land law.

RESOLUTION SUBMITTED.

Mr. BRODHEAD submitted the following resolution for consideration:

Resolved, That the Committee on Commerce be directed to inquire into the expediency of providing by law for the better security of life and property on board of sea-going steam and other vessels.

He gave notice that he should call up the resolution for action as soon as the committees should be organized.

HOUR OF MEETING.

On motion by Mr. HAMLIN, it was

Ordered, That the daily hour of meeting of the Senate be twelve o'clock, m., until otherwise ordered.

PRESIDENT'S MESSAGE.

Mr. DODGE, of Iowa, from the Committee appointed to wait upon the President of the United States and advise him of the organization of the two Houses of Congress, reported that they had discharged the duty assigned to them, and were informed by the President that he would immediately communicate in writing with the two Houses.

A message was received from the President of the United States, by the hands of SIDNEY WEBSTER, Esq., his Private Secretary; which was read. [See Message in the Appendix.]

On motion by Mr. HAMLIN, it was

Ordered, That the usual number of the Message and accompanying documents be printed for the use of the Senate.

Ordered, That ten thousand copies of the Message and accompanying documents, in addition to the usual number, be printed for the use of the Senate.

On motion by Mr. SEWARD, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 4, 1854.

At twelve o'clock the Speaker called the House to order.

Prayer by the Rev. WILLIAM H. MILBURN, Chaplain of the House.

The CLERK then proceeded to call the roll for the purpose of ascertaining if there was a quorum present, when the following gentlemen answered to their names:

MAINE.

Moses Macdonald,
Samuel Mayall,
E. Wilder Farley,
Israel Washburn, jr.,
Thomas J. D. Fuller.

NEW HAMPSHIRE.

George W. Kittredge,
Harry Hibbard.

VERMONT.

James Meacham,
Andrew Tracy,
Alvah Sabin.

MASSACHUSETTS.

Thomas D. Eliot,
Samuel L. Crocker,
Samuel H. Walley,
William Appleton,
Charles W. Upham,
Nathaniel P. Banks, jr.,
Tappan Wentworth,
Alexander De Witt,
Edward Dickinson,
John Z. Goodrich.

RHODE ISLAND.

Thomas Davis,
Benjamin B. Thurston.

CONNECTICUT.

James T. Pratt,
Colin M. Ingersoll,
Nathan Belcher,
Origen S. Seymour.

NEW YORK.

Hiram Walbridge,
William M. Tweed,
John Wheeler,
William A. Walker,
Jared V. Peck,
William Murray,
Theodoric R. Westbrook,
Isaac Teller,
Russell Sage,
Rufus W. Peckham,
George A. Simmons,
Bishop Perkins,
Peter Rowe,
George W. Chase,
Orsamus B. Matteson,
Henry Bennett,
Daniel T. Jones,
Edwin B. Morgan,
Andrew Oliver,
John J. Taylor,
George Hastings,
Davis Carpenter,
Benjamin Pringle,
Thomas T. Flagler,
Solomon G. Haven,
Reuben E. Fenton.

NEW JERSEY.

Nathan T. Stratton,
Charles Skelton,
Samuel Lilly,
George Vail,
Alex. C. M. Pennington.

PENNSYLVANIA.

Thomas B. Florence,

Joseph R. Chandler,
John Robbins, jr.,
William H. Witte,
William Everhart,
Samuel A. Bridges,
J. Glancy Jones,
Isaac E. Hiester,
Ner Middleswarth,
Hendrick B. Wright,
Galusha A. Grow,
James Gamble,
William H. Kurtz,
Samuel L. Russell,
John McCulloch,
John L. Dawson,
David Ritchie,
Thomas M. Howe,
Michael C. Trout,
John Dick.

DELAWARE.

George Read Riddle.

MARYLAND.

John R. Franklin,
Jacob Shower,
Joshua Vansant,
Henry May,
William T. Hamilton,
Augustus R. Sollers.

VIRGINIA.

Thomas H. Bayly,
John S. Millson,
John S. Caskie,
William O. Goode,
Thomas S. Bocock,
William Smith,
Charles J. Faulkner,
John Letcher,
Henry A. Edmundson,
Fayette McMullin.

NORTH CAROLINA.

Thomas Ruffin,
William S. Ashe,
Solon H. Rogers,
John Kerr,
Richard C. Puryear,
Thomas L. Clingman.

SOUTH CAROLINA.

John McQueen,
James L. Orr,
William W. Boyce.

GEORGIA.

Alfred H. Colquitt,
David J. Bailey,
Elijah W. Chastain,
Junius Hillyer,
David A. Reese,
Alexander H. Stephens.

ALABAMA.

Philip Phillips,
Sampson W. Harris,
William R. Smith,
George S. Houston,
Williamson R. W. Cobb,
James F. Dowdell.

MISSISSIPPI.

William S. Barry,
Otho R. Singleton,
Wiley P. Harris,
William Barksdale.

LOUISIANA.

William Dunbar,
Theodore G. Hunt,
John Perkins, jr.

OHIO.

David T. Disney,
John Scott Harrison,
Lewis D. Campbell,
Alfred P. Edgerton,
Andrew Ellison,
Aaron Harlan,
Moses B. Corwin,
Frederick W. Green,
John L. Taylor,
Thomas Ritchey,
Edson B. Olds,
William D. Lindsley,
Harvey H. Johnson,
William R. Sapp,
Edward Ball,
Wilson Shannon,
George Bliss,
Edward Wade,
Andrew Stuart.

KENTUCKY.

Linn Boyd,
Ben Edwards Grey,
James S. Chrisman,
Clement S. Hill,
John M. Elliott,
William Preston,
John C. Breckinridge,
Leander M. Cox,
Richard H. Stanton.

TENNESSEE.

Nathaniel G. Taylor,
Samuel A. Smith,
William Cullom,
Charles Ready,
George W. Jones,
Felix K. Zollicoffer,
Emerson Etheridge,
Frederick P. Stanton.

INDIANA.

Smith Miller,
William H. English,
Samuel W. Parker,
Thomas A. Hendricks,
John G. Davis,
Daniel Mace,
Norman Eddy,
Andrew J. Harlan.

ILLINOIS.

Elihu B. Washburne,
John Wentworth,
James Knox,
William A. Richardson,
Richard Yates,
James C. Allen,
William H. Bissell,
Willis Allen.

MISSOURI.

Thomas H. Benton,
Alfred W. Lamb,
James J. Lindley,
Mordecai Oliver,
John S. Phelps,
Samuel Caruthers.

ARKANSAS.

Alfred B. Greenwood,
Edward A. Warren.

MICHIGAN.

David A. Noble,
Samuel Clark,
Hestor L. Stevens.

FLORIDA.

Augustus E. Maxwell.

TEXAS.

George W. Smyth.

IOWA.

Bernhart Henn.

WISCONSIN.

Ben C. Eastman,
John B. Macy.

CALIFORNIA.

James A. McDougall,
Milton S. Latham.

FROM MINNESOTA TER.

Henry M. Rice.

FROM OREGON TER.

Joseph Lane.

FROM UTAH TER.

John M. Bernhisel.

WASHINGTON TER.

Columbia Lancaster.

The SPEAKER announced that one hundred and ninety-three gentlemen had answered to their names, and that a quorum being present, the House was competent to proceed to business.

NEW MEMBERS.

CHARLES F. LEWIS, Representative elect from the eleventh congressional district of Virginia, in the place of Mr. SNODGRASS, deceased; F. M. BRISTOW, from the third district of Kentucky, in place of the Hon. P. EWING, deceased; ISAAC TELLER, from the twelfth, and HENRY C. GOODWIN, from the twenty-second districts of New York, in place of Messrs. DEAN and GERRIT SMITH, resigned, severally appeared, and were qualified by taking the oath to support the Constitution of the United States.

NOTIFICATION OF ORGANIZATION.

Mr. JONES, of Tennessee. I move, sir, that the Clerk of the House inform the Senate that a quorum of the House have appeared and answered to their names, and that the House is now ready to proceed to business.

The motion was agreed to.

Mr. JONES. I now move that a committee of three be appointed by the Chair, to wait upon the President of the United States, in conjunction with such committee as may be appointed by the Senate, to inform him that a quorum of the two Houses have met, and are ready to receive any communication which he may have to make.

The motion was agreed to; and the Speaker thereupon appointed the following gentlemen said committee on the part of the House: Messrs. GEORGE W. JONES, SOLOMON G. HAVEN, and THOMAS H. BAYLY.

DRAWING FOR SEATS.

Mr. FLORENCE. I offer the following resolution:

Resolved, That the Clerk of this House, immediately after the passage of this resolution, place in a box the name of each member and delegate of the House of Representatives, written on a separate slip of paper; that he then proceed, in the presence of the House, to draw from said box, one at a time, the said slips of paper, and as each is drawn, he shall announce the name of the member or delegate upon it, who shall choose his seat for the present session: *Provided*, That before said drawing shall commence, the Speaker shall cause every seat to be vacated, and shall see that every seat continues vacant until it is selected under this order.

Mr. HILLYER. I propose to amend that resolution so as to provide that the members be required, before the drawing commences, to retire from their seats.

The SPEAKER. The Chair supposes that, under the resolution as it stands, he has authority to require members to vacate their seats. Such has been the practice heretofore.

Mr. STANTON, of Tennessee. I have received a message from my colleague, Mr. CHURCHWELL, who passed through this city a few days ago, and went to the city of New York. I am informed by that message that he is quite sick, and has been unable to get here this morning, as he intended. He therefore requests that one of his colleagues may be permitted to select a seat for him.

Mr. BOCOCK. Is he in the city?

Mr. STANTON. He was in the city, but went to New York, with the expectation of returning by this morning, which, of course, he could have done, and would have done, had he not been taken sick. I conceive that it is the same as if he had been taken sick in this city; but I simply desire to submit his request to the House, and I shall be satisfied with the decision of the House whatever it may be.

The SPEAKER. The Chair supposes that the gentleman from Tennessee submits his motion as an amendment to the resolution of the gentleman from Pennsylvania, [Mr. FLORENCE.]

Mr. STANTON. Yes, sir.

Mr. DICKINSON. I hope the amendment of the gentleman from Tennessee will prevail; and I wish to make a similar motion in behalf of one of my colleagues, Mr. EDMANDS, who came on with me to the Astor House, New York. On Friday morning he sent for me to come to his room, where I found him confined to his bed by sickness. He requested me to ask the House to allow a seat to be drawn for him, as he has been detained on the way to Washington by sickness. I hope that request will be granted, and also the request of the gentleman from Tennessee on behalf of his colleague.

Mr. WHEELER. I hope that a colleague of mine, Mr. HUGHES, who is detained in Philadelphia by illness, will also be allowed to have a seat selected for him.

Mr. STEPHENS, of Georgia. I wish to say that I have never yet known permission given to draw by proxy for any person out of the city, although indisposed. It has been usual to allow friends to draw for those detained in the city by sickness, but never for those absent from the city. I hope that the usual rule will be adhered to. If there be any member unwell in the city, he will be allowed, under the usual rule, to have a seat drawn for him by a friend.

The SPEAKER. The motion of the gentleman from New York [Mr. WHEELER] will not be in order until the amendment to the amendment, first proposed by the gentleman from Tennessee, [Mr. STANTON,] is disposed of. After that, it will then be acted upon in its order.

Mr. CULLOM. I insist upon a strict adherence to what has been the usual practice of the House. If it be departed from, I give notice that I shall ask permission to draw for my colleague, [Mr. BUGG,] who is detained in the Old Dominion upon a visit to his relatives.

Mr. CARUTHERS. If the usual rule be departed from, I shall ask permission to draw for my colleague, [Mr. MILLER,] who is detained by sickness in St. Louis.

The SPEAKER. The gentleman from Tennessee [Mr. STANTON] moves that some gentleman be authorized or named by the Chair to draw a seat for his colleague, [Mr CHURCHWELL.] The gentleman from Massachusetts [Mr. DICKINSON] proposes to amend the motion, so as to embrace the name of his colleague, [Mr. EDMANDS.]

The question was then taken on the amendment to the amendment, and it was rejected.

Mr. STANTON, of Tennessee. I withdraw the motion I made.

The question was then taken upon the resolution as originally introduced; and it was agreed to.

The SPEAKER. The Chair, in execution of the order made by the adoption of the resolution, directs that each member shall retire outside of the bar of the House. The officers of the House will see that all remain outside of the bar until their names shall have been called; then they shall be admitted inside to choose their seats.

MESSAGES FROM THE SENATE.

A message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., their Secretary, informing the House that they had assembled, that the Hon. LEWIS CASS, of Michigan, had been chosen President of the Senate *pro tempore* for this day, and that they were ready to proceed to business.

A message was also received from the Senate, by the hands of Mr. MACHEN, their Chief Clerk, informing the House that they had appointed a committee, to join such committee as may be appointed by the House, to wait upon the President to inform him that a quorum of the Senate had assembled and were ready to receive any communication he might be pleased to make, and that Messrs. DODGE, of Iowa, DAWSON, of Georgia, and TOUCEY, of Connecticut, constituted such committee on the part of the Senate.

DRAWING FOR SEATS—AGAIN.

The House then proceeded in the execution of the order for choosing seats. The members retired without the bar, and when their names were severally drawn selected their seats. The process was thus completed.

VETO MESSAGE—HARBOR BILL.

The SPEAKER. Near the close of last session a veto message from the President of the United States was received by the House. There being no quorum present the message was not read. The Chair supposes, under the Constitution, the first business in order is the consideration of the President's veto message. If it is the pleasure of the House the message will be read.

Mr. CLINGMAN. It is competent, I take it, to postpone the subject until to-morrow or some other future day, and I hope there will be no objection to such postponement. I make the motion that its further consideration be postponed until to-morrow.

The SPEAKER. If there be no objection, the consideration will be postponed until that time, by unanimous consent.

Mr. CAMPBELL. Will it be in order to move that its consideration be postponed until the first Monday in December next?

The SPEAKER. The more regular mode of proceeding would be to read the message first. It will then be for the House to dispose of the matter as they may think proper.

Mr. WENTWORTH, of Illinois. I wish to make an inquiry. Will not the reading of the message require action on the bill to follow it? The bill has been returned to the House, and the Constitution requires that, the message being read, the House shall proceed to act upon the veto bill. I think the better way would be to pass the whole matter by informally until to-morrow or some other day, and then take the subject up and dispose of it.

The SPEAKER. It will be competent for the House, by a vote, to postpone the consideration of the bill upon which the vote is founded. But the more regular way would be to have the veto message read, as it has never yet been read to the House.

Mr. WENTWORTH, of Illinois. It is the same message that was read at the close of last session.

The SPEAKER. It was not read then.

Mr. WENTWORTH. It certainly was read from the Speaker's desk, although there was no quorum present at the time.

The SPEAKER. The gentleman is mistaken, as the message has never been read from the desk.

Mr. WENTWORTH. Then I certainly will make no objection to its being read.

The veto message of the last session (which has heretofore been published in all the papers) upon the bill making appropriations for the improvement of harbors and rivers, was then read by the Clerk.

Mr. WENTWORTH. I move that the message be referred to the Committee on Commerce and be printed.

Mr. CLINGMAN. I would inquire whether the motion to postpone the further consideration of this subject does not take precedence of the motion made by the gentleman from Illinois?

The SPEAKER. The pending question is, "Shall the bill pass, the President's objection to the same notwithstanding?" A motion is made that the consideration of the bill be postponed until Wednesday next, and the Chair thinks it will take precedence of the motion made by the gentleman from Illinois, [Mr. WENTWORTH.]

Mr. WENTWORTH. If it is a question of precedence merely, I have nothing to say.

The question was then taken on Mr. CLINGMAN's motion; and it was decided in the affirmative—ayes 120, noes not counted.

Mr. WENTWORTH. I now move that the message be referred to the Committee on Commerce, and that it be printed.

The SPEAKER. The consideration of the matter has already been postponed until Wednesday, and a motion to refer it is not in order.

Mr. WENTWORTH. I want the message printed, so that we may have it before us when we come to act upon it.

The SPEAKER. It is competent for the House to order the message to be printed, but the consideration of it having been postponed, you not only cannot consider the passage of the bill, but cannot move to refer it.

Mr. WENTWORTH. Then I simply move that the message be printed.

Mr. WHEELER. I object.

Mr. HOUSTON. Is it not competent for the gentleman from Illinois to move that the message be printed?

The SPEAKER. The Chair thinks it is in order.

Mr. WENTWORTH. I make that motion; and I demand the previous question upon it.

The previous question received a second, and the main question was ordered to be now put.

The question was then taken upon the motion of Mr. WENTWORTH; and it was agreed to.

Mr. HOUSTON. I now move that ten thousand extra copies be printed.

[Cries of "No!" "No!"]

Mr. H. I make the motion in order that it may go to the Committee on Printing under the rule.

The SPEAKER. The motion will go, as a matter of course, to the Committee on Printing; and it is so ordered.

RESOLUTIONS.

On motion by Mr. OLDS, it was

Ordered, That leave be granted to withdraw from the files of the House the petition and papers of Samuel F. Yeoman.

On motion by Mr. HIBBARD, it was

Ordered, That leave be granted to withdraw from the files of the House the petition and papers of Bela Young, for the purpose of reference to one of the Departments.

On motion by Mr. BERNHISEL, it was

Ordered, That leave be granted to withdraw from the files of the House the petition and papers of Dimick B. Huntington, for the purpose of reference to one of the Departments.

On motion by Mr. HARLAN, of Indiana, it was

Ordered, That leave be granted to withdraw from the files of the House the petition and papers of Colonel Benjamin Sayre, for the purpose of reference to one of the Departments.

HOMESTEAD BILL.

Mr. DAWSON. Mr. Speaker, I wish to give notice that, when the House proceeds to the consideration of the business on the Speaker's table, and shall reach the bill commonly known as the homestead bill, I shall offer a substitute, embodying the provisions of the original bill, with but slight alterations, which I have prepared in lieu of the one sent us from the Senate. I now ask that it may be ordered to be printed for the information of the House.

There was no objection; and Mr. DAWSON's substitute was ordered to be printed.

TERRITORIAL BILLS.

Mr. LANE, of Oregon, by unanimous consent, introduced bills; which were severally read a first and second time by their titles, as follows, and referred as indicated:

A bill making an appropriation for completing the public buildings of Oregon Territory—Committee on Territories.

A bill for the construction of a military road in Oregon Territory—Committee on Military Affairs.

A bill regulating the location of bounty land warrants in Oregon Territory—Committee on the Public Lands.

A bill to provide for the allowance of invalid pensions to certain volunteers in the Indian wars in Oregon Territory—Committee on Military Affairs.

Mr. BERNHISEL, by unanimous consent, introduced the following resolution; which was adopted:

Resolved, That the Committee on Territories be instructed to inquire into the expediency of authorizing the Legislative Assembly of the Territory of Utah to continue their session for a term not exceeding sixty days instead of forty days as heretofore provided; and that said committee shall report by bill or otherwise.

Mr. BERNHISEL, by unanimous consent, introduced a joint resolution; which was read a first and second time by its title, as follows, and referred to the Committee on Territories:

Joint resolution for the relief of John L. Smith and James McGaw.

MINISTER TO FRANCE.

Mr. INGERSOLL asked unanimous consent for leave to introduce the following resolution; which was read for information:

Resolved, That the President of the United States be requested to communicate to the House, if not inconsistent with the public interest, any correspondence which may have taken place with the French Government in reference to the refusal to permit the Minister of the United States to Spain to pass through the territory of France.

Mr. PECK. I object to the introduction of the resolution.

PENSIONS.

Mr. WENTWORTH, of Illinois. I move that the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill (No. 540) granting pensions to all persons engaged in the war of 1812, and Indian wars prior thereto, and to their widows, with a view to make it the special order of the day for the third Monday of January next.

Mr. ORR. I object.

Mr. WENTWORTH. I move to suspend the rules for the purpose which I have indicated.

The question was taken; and the House refused to suspend the rules.

PRESIDENT'S MESSAGE.

Mr. JONES, of Tennessee. Mr. Speaker, the joint committee appointed by the two Houses to wait on the President of the United States, and to inform him that a quorum of each House was assembled, and ready to receive any communication that he may please to make, have discharged that duty, and the President has requested them to inform their respective Houses, that he would at once communicate to them a message in writing.

BOUNTY AND PENSION LAWS.

Mr. READY, by unanimous consent, introduced a bill; which was read a first and second time by its title, as follows, and referred to the Committee on Invalid Pensions:

A bill to extend the provisions of the bounty land and pension laws of the United States.

RESOLUTIONS.

The SPEAKER proceeded to call on members by States for resolutions.

When the State of Connecticut was called—

Mr. INGERSOLL said: I wish to ask the Chair whether I can submit the resolution for which I asked the consent of the House just now, and have it acted upon?

The SPEAKER. It must go over under the rule, if objected to.

Mr. INGERSOLL. Then I will not offer it.

DUTY ON COALS.

When the State of New York was called—

Mr. WALBRIDGE offered the following resolution:

Resolved, That the Committee of Ways and Means be instructed to bring in a bill removing the present duty on foreign coals so that the same shall be admitted duty free.

Mr. RITCHIE, of Pennsylvania. I propose to debate that resolution.

The SPEAKER. It must then go over under the rule.

SOLDIERS OF THE WAR OF 1812.

Mr. FLORENCE. I ask the unanimous consent of the House to introduce a resolution providing for making the bill of the House (No. 56) providing for extending the provisions of the bounty land laws to the soldiers of the war of 1812, the special order for Tuesday, the 9th day of January, and to continue as such from day to day until disposed of.

Mr. CLINGMAN. I object.

Mr. FLORENCE. It is for the benefit of the old soldiers of the war of 1812. I hope there will be no objection.

Mr. CLINGMAN. I do object.

Mr. FLORENCE. I move to suspend the rules to enable me to offer the resolution.

The question was taken, and (two thirds not voting in the affirmative) the rules were not suspended.

CONGRESS AT OSTEND.

Mr. SOLLERS. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the President of the United States inform this House, if not incompatible with the public interest, what was the object or objects of the meeting or conference of the American Ministers at Ostend, and whether the said meeting or conference was in obedience to instructions of the Secretary of State; what the said instructions were, and what was the result of the said meeting or conference.

Mr. BAYLY, of Virginia. I object.

Mr. SOLLERS. I move to suspend the rules to enable me to submit the resolution, and ask for the yeas and nays upon the motion.

The yeas and nays were ordered.

Mr. BAYLY. The resolution is debatable, I believe.

The SPEAKER. It is not even before the House. The question is upon the motion to suspend the rules.

The question was taken upon Mr. SOLLERS's motion, and decided in the negative—yeas 73, nays 101; as follows:

YEAS—Messrs. Ball, Banks, Bennett, Bristow, Campbell, Caruthers, Chandler, Chase, Corwin, Cox, Crocker, Cullom, De Witt, Dick, Dickinson, Eastman, Thomas D. Eliot, Etheridge, Everhart, Farley, Flagler, Franklin, Goodrich, Goodwin, Grow, Aaron Harlan, Harrison, Haven, Hiester, Hill, Howe, Hunt, Kerr, Knox, Lindley, McCulloch, Mayall, Middleswarth, Morgan, Mordecai Oliver, Parker, Peck, Peckham, Pennington, Bishop Perkins, Pringle, Puryear, Ready, David Ritchie, Rogers, Russell, Sabin, Sage, Sapp, Simmons, Skelton, Sollers, Alexander H. Stephens, Andrew Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Tracy, Upham, Wade, Walbridge, Walley, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, Wheeler, Yates, and Zollicoffer—73.

NAYS—Messrs. James C. Allen, Willis Allen, Ashe, David J. Bailey, Thomas H. Bayly, Barksdale, Barry, Belcher, Bliss, Bocock, Boyce, Breckinridge, Bridges, Caskie, Chastain, Chrisman, Clark, Clingman, Cobb, Colquitt, Cumming, John G. Davis, Dawson, Dowdell, Dunbar, Eddy, Edmundson, John M. Elliot, Ellison, English, Faulkner, Florence, Fuller, Gamble, Goode, Green, Greenwood, Hamilton, Andrew J. Harlan, Wiley P. Harris, Hastings, Hendricks, Henn, Hibbard, Hillyer, Houston, Ingersoll, Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Kittredge, Kurtz, Latham, Lewis, Lilly, Lindsley, Macdonald, McDougall, McMullin, McQueen, Macy, Maxwell, May, Smith Miller, Millson, Murray, Noble, Olds, Andrew Oliver, Orr, John Perkins, Phelps, Phillips, Pratt, Reese, Riddle, Thomas Ritchey, Robbins, Rowe, Seymour, Shannon, Shower, Singleton, William Smith, William R. Smith, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Stratton, John J. Taylor, Thurston, Trout, Vail, Vansant, Walker, Warren, John Wentworth, Westbrook, Witte, and Hendrick B. Wright—101.

So (two thirds not having voted in the affirmative) the rules were not suspended.

ANNUAL MESSAGE OF THE PRESIDENT OF THE UNITED STATES.

A message in writing was received from the President of the United States, by SIDNEY WEBSTER, his Private Secretary.

The SPEAKER. Is it the pleasure of the House that the message be now read?

[Cries of "Read!" "Read!"]

The Clerk then read the Message, which will be found in the Appendix.

Mr. HOUSTON. I move that the message, with the accompanying documents, be referred to the Committee of the Whole on the state of the Union, and if it is competent for me, as I believe it is, I will also move that twenty thousand extra copies be printed.

Mr. BOYCE. I beg to amend by substituting thirty thousand for twenty thousand.

The SPEAKER. Does the Chair understand the gentleman from Alabama as including the motion to print with that to refer?

Mr. HOUSTON. Yes, sir; I believe it is usual to make the two motions jointly.

A MEMBER. The motion must go to the Committee on Printing.

The SPEAKER. It does not necessarily go to that committee.

The message and accompanying documents were then referred to the Committee of the Whole on the state of the Union.

Mr. HOUSTON. Do I understand that the motion to print has gone to the committee?

The SPEAKER. The Chair decided that it is not necessary for it to go there.

Mr. HOUSTON. I was aware that it was unnecessary, and therefore made the two motions together.

The SPEAKER. The Chair misunderstood the gentleman.

Mr. LILLY. I would inquire what is the usual number of extra copies ordered to be printed?

Mr. HOUSTON. Previous to the last session of Congress, fifteen thousand was the usual number, but at the last session twenty thousand copies were ordered.

Mr. BOYCE. I move to amend the motion of the gentleman from Alabama so as to make the number thirty thousand.

Mr. JONES, of Tennessee. I hope the amendment of the gentleman from South Carolina will not be adopted; and I move the previous question.

The previous question received a second, and the main question was ordered to be put; and being put, Mr. BOYCE's amendment was voted down. Under the further operation of the previous question, Mr. HOUSTON's motion was agreed to.

APPOINTMENT OF STANDING COMMITTEES.

Mr. HAVEN. I wish to know if any motion has been made this morning, that the Chair appoint the standing committees?

The SPEAKER. No such motion has been made.

Mr. HAVEN. Then I submit it now.

The motion was agreed to.

And then, on motion by Mr. SOLLERS, the House (at twenty minutes past three o'clock, p. m.) adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

TUESDAY, *December* 5, 1854.

Hon. JAMES A. PEARCE and Hon. THOMAS G. PRATT, of Maryland, appeared in their seats this morning.

The SECRETARY called the Senate to order.

Prayer by Rev. HENRY SLICER.

ELECTION OF PRESIDENT PRO TEMPORE.

Mr. JONES, of Iowa. I offer the following resolution:

Resolved, That the Senate do proceed forthwith to the choice of a President *pro tempore*.

Mr. SEWARD. Before we proceed with this election, I should like to have the views of Senators in regard to the effect of the appointment—whether it is to be an absolute appointment of a President *pro tempore*, and what the tenure of his office is to be. I will state very freely my own opinion in going into this election, and it is this: that there can be but one person at the same time holding the office of President *pro tempore* of the Senate of the United States, and that that person will hold his office until it shall again constitutionally become vacant; so that in the case of a vacancy occurring in the office of the President of the United States, the person now to be chosen to fill the office of President *pro tempore* of the Senate would succeed to that high trust, and become the Chief Executive Magistrate of the United States.

Mr. PETTIT. That is the way we understand it.

Mr. SEWARD. Then it is so understood.

Mr. BAYARD. I do not consider that there is any necessity for our determining what the effect of our resolution to elect a Presiding Officer of the Senate will be with regard to suppositive events which may occur hereafter. This proposition is simply that we elect a Presiding Officer. It is probable I might agree with the Senator from New York, that there cannot be two Presidents at one time; but there is no need of our entering into these questions. If we are disposed to elect, we do it for the purpose of conducting the business of the Senate; and I think we can leave such questions to the future as events may arise.

The resolution was agreed to.

The SECRETARY. Senators will please to prepare their ballots.

Mr. WELLER. I ask whether the rule can be suspended which requires that the selection shall be by ballot, and whether I cannot offer a resolution at once declaring that a certain Senator shall be President *pro tempore?*

Mr. STUART AND OTHERS. It can be done by unanimous consent.

Mr. WELLER. I ask unanimous consent to offer a resolution declaring the Hon. JESSE D. BRIGHT President *pro tempore* of the Senate.

Several SENATORS. It requires unanimous consent.

Mr. MASON. I think if the Secretary will refer to the precedents, he will find that the Hon. DAVID R. ATCHISON was chosen President of the Senate by a resolution; probably the resolution was presented by unanimous consent.

Mr. DODGE, of Iowa. It has been very often done.

Mr. SUMNER. Mr. Secretary, I must ask for the vote by ballot. If necessary, I shall object to the consideration of the resolution.

Several SENATORS. That is enough; we must proceed to ballot.

The SECRETARY. The Senators will please to prepare their ballots.

The Senators proceeded to ballot with the following result:

Hon. Jesse D. Bright received	24 votes.
Hon. Salmon P. Chase	6 "
Hon. William C. Dawson	2 "
Hon. Solomon Foot	2 "
Hon. George E. Badger	1 "
Whole number of votes cast	35
Necessary to a choice	18

The SECRETARY. Twenty-four being a majority of all the votes given, Mr. BRIGHT is elected President of the Senate *pro tempore*.

Mr. JONES, of Iowa, and Mr. SHIELDS conducted Mr. BRIGHT to the chair.

The PRESIDENT *pro tempore*, on taking the chair, addressed the Senate as follows:

SENATORS: The result just announced devolves upon me important responsibilities, and were it not for my intimate acquaintance and knowledge of those with whom I am to be associated in their discharge, I should hesitate about accepting. Nine years' service in this body, however, has familiarized me somewhat with its rules and usages, and particularly with that spirit of kindness and forbearance uniformly observed and practiced by one member toward another, which, let me assure you, serves in no small degree to lessen the embarrassment I should otherwise feel in attempting to preside over your deliberations. In accepting this trust, Senators, permit me to say (that which I hope would have been taken for granted had I remained silent) that whatever ability I possess shall be employed in promoting the public interests by an impartial discharge of the duties belonging to the appointment you have just conferred. Less than this would be infidelity to the Constitution and the country, and a betrayal of that confidence you have so generously reposed in me. For this unsolicited manifestation of your friendship and regard, I offer you my grateful acknowledgments.

The Journal of yesterday was read and approved.

PRESIDENT PRO TEMPORE.

On motion by Mr. JONES, of Iowa, it was

Ordered, That the Secretary wait on the President of the United States, and inform him that the Senate have chosen the Hon. JESSE D. BRIGHT President *pro tempore*.

On motion by Mr. JONES, of Iowa, it was also

Ordered, That the Secretary inform the House of Representatives, that a quorum of the Senate has assembled, that the Hon. JESSE D. BRIGHT has been chosen President of the Senate *pro tempore*, and that the Senate is ready to proceed to business.

CORRESPONDENCE WITH GENERAL WOOL.

Mr. WELLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested, if not incompatible with the public interest, to communicate to the Senate, copies of all instructions and correspondence between the different departments of the Government, and Major General Wool commanding the Pacific division of the Army, in regard to his operations on that coast.

CHAPLAINS TO CONGRESS.

Mr. SEWARD. I offer the following resolution:

Resolved, That two chaplains to Congress, of different denominations, be chosen, one by each of the two Houses, to serve during the present session.

Mr. PETTIT. That is already provided for. By looking at the Journal, the Senator will see that last year a resolution of that kind was offered here, to provide for chaplains for that session. It went to the House, and, on the motion of a member from Indiana, it was amended in the House, so as to make it for the Congress, and that amendment was concurred in here, and the election was had under that resolution.

Mr. SEWARD. I wish barely to state, that I should have called this a concurrent resolution; but since there is a question raised about it by the honorable Senator, I shall not ask for its consideration now. I am informed, however, that it appears from the Journal that the state of the case is different from what the honorable Senator supposes. We can look at it by to-morrow.

The PRESIDENT. The resolution will lie over for one day, under the rules.

Mr. SEWARD subsequently said: I am informed by the Clerk that the resolution was limited to the last session; I therefore ask the Senate to consider the resolution at this time.

Objection being made, the resolution lies over one day.

STANDING COMMITTEES.

Mr. SLIDELL. I offer the following resolution:

Resolved, That so much of the 35th rule of the Senate as relates to the appointment of the standing committees be suspended.

I offer this with a view of presenting, subsequently, a resolution that the standing committees, which were in existence at the close of the last session, be continued.

The resolution was agreed to.

Mr. SLIDELL. I now present this resolution:

Resolved, That the several standing committees, as existing at the adjournment of the Senate on the 7th of August last, be reappointed, with the exception of such vacancies as may have been caused by the fact of any member of said committees having ceased to be a member of the Senate, and that the President *pro tempore* be authorized to fill such vacancies.

The resolution was agreed to.

NOTICES OF BILLS.

Mr. WELLER gave notice of his intention to ask leave to introduce a bill to extend, for a limited period, "An act to ascertain and settle private land claims in the State of California."

Mr. BROWN gave notice of his intention to ask leave to introduce a bill to extend the benefits of the bounty land laws of the United States to Choctaws, and other Indians, who have heretofore served in the Army of the United States in time of war.

Mr. PEARCE gave notice of his intention to ask leave to introduce a joint resolution providing for the appointment of two regents for the Smithsonian Institution.

Mr. DODGE, of Iowa, gave notice of his intention to ask leave to introduce bills of the following titles:

A bill to continue the improvement of the Des Moines and Rock river rapids, on the upper Mississippi; and

A bill to establish the office of surveyor general for the Territory of Utah, and to grant lands to actual settlers.

Mr. CASS gave notice of his intention to ask leave to introduce a bill for making appropriations for deepening the channel over the St. Clair flats; and also for deepening the channel in the St. Mary's river, both being in the State of Michigan.

Mr. BRODHEAD gave notice of his intention to ask leave to introduce a bill establishing a commission for the examination and adjustment of private claims.

CLERKS TO COMMITTEES.

Mr. JONES, of Iowa, offered the following resolution:

Resolved, That the committees which were authorized at the last session of the Senate to appoint clerks be, and they hereby are, authorized to appoint clerks during the present session, who shall receive the same per diem compensation as was paid to them at the last session.

Mr. PETTIT. Let the Senator strike out "per diem." I move to strike it out. That will make the resolution read: "The same compensation as was paid to them at the last session." I hope the Senator from Iowa will accept that.

Mr. ADAMS. If I understand the proposition of the Senator from Indiana, it would give these clerks for this session the same pay which they received last year for an eight months' session.

Mr. PETTIT. I certainly do not wish to give them the same total pay for a short session which they received for a long one. Let the resolution read: "the same per diem and percentage." That will cover the difficulty. I offer that amendment.

Mr. CASS. Before I vote on the question I should like to know what the pay is.

Mr. ADAMS. Six dollars a day, I think.

Mr. JONES, of Iowa. It was four dollars.

Mr. CASS. That is the daily pay; but what is the percentage?

Mr. JONES, of Iowa. Twenty per cent.

Mr. EVANS. I think the pay is five dollars a day.

Mr. STUART. If the words per diem be stricken out, as proposed by the Senator from Indiana, the resolution would clearly give these clerks the same amount of compensation which they received at the last session. That, I understand, is the amendment which the Senator from Indiana proposes.

Mr. JONES, of Iowa. He has modified his proposition so as to provide for giving them the increased percentage allowed at the last session. That is all.

Mr. BROWN. I must object to the insertion of the word "percentage." It was allowed at the last session for special reasons then assigned; and, if the same reasons apply again, it can, and no doubt will, be paid at this session. I should much prefer not to see it provided for so early as this.

Mr. BRODHEAD. We should say nothing about percentage in this resolution, because a committee was appointed at the last session on whose recommendation, I believe, the per diem pay of committee clerks was raised from four dollars to six dollars. They receive six dollars, and no percentage.

Mr. PETTIT. If the Senator will allow me to correct him, I will do so.

Mr. BRODHEAD. Certainly.

Mr. PETTIT. The per diem is fixed at five dollars, and a percentage of twenty per cent. was allowed on that, making six dollars altogether. That is the pay—five dollars daily, with twenty per cent. additional.

Mr. CHASE. Mr. President, I am opposed to the resolution as it stands, though I do not propose to object to its immediate consideration. I think the appointment of clerks to committees has grown to be a great abuse in the Senate, and needs reformation. At the last session of the Senate, committee clerks were appointed under general rule; clerks were allowed to all committees of six members. Under that provision, a clerk was assigned to the committee of which you, Mr. President, had the honor to be chairman, and I had the honor to be a member. I have no doubt that, under ordinary circumstances, it is a very useful committee, but I think we had but one meeting during the whole of the last long session of Congress. We paid for a clerk during eight months, and had but one meeting of the committee. I think a clerk was assigned to the Committee on Agriculture. I am not aware how many meetings that committee had, but I am quite confident it never made a report.

Mr. PRATT. One report I recollect.

Mr. CHASE. I was not aware of it.

Mr. ALLEN. I will correct the honorable Senator. I was on that committee, and I can say that several reports were made, and some of them were very long ones. Besides, the clerk was employed only for a part of the time, and not for the whole session.

Mr. CHASE. I am very glad to hear that there was some care exercised in that respect. If, however, in that case the clerk to the Committee on Agriculture was appointed for only a limited term, it was an exceptional case. I am certain as to the other committee of which I spoke.

Now, sir, it is perfectly right that there should be clerks for the most important committees of the Senate. It is quite important that there should be a clerk to the Committee on Finance, for example. The Senator from Virginia [Mr. HUNTER] can answer for that. When a chairman of a committee states upon his personal responsibility that a clerk is necessary for his committee, I have no doubt the Senate will cheerfully award a clerk to that committee. So in the case of the Committee on Claims, of which I have also the honor to be a member. I have no doubt my friend, the chairman of that committee, would be willing to state at once to the Senate that he believes a clerk to be necessary to the business of the committee. It is only for these public considerations, in my judgment, that a clerk ought to be appointed. I shall therefore vote against the resolution in its present form.

The PRESIDENT. The question is on agreeing to the resolution.

Mr. BROWN. Does it include the amendment which was suggested in reference to percentage?

The PRESIDENT. The resolution is now exactly in the same words in which it was originally offered by the Senator from Iowa.

Mr. PETTIT. I moved to amend the resolution—and I understood the mover to accept the amendment—by adding after "per diem compensation" the words "and percentage." It strikes me that if we pay percentage at all, the greater reason exists for paying it at the short session when the committee clerks are employed for only three months, and have to seek employment elsewhere during the rest of the year. If a percentage is to be allowed on their salary, it ought to be at the short in preference to the long session, if any distinction be made. I did not think their pay at the long session was too much.

A few words more, sir. So far as the committee of which I have the honor to be chairman is concerned, I can say—and I believe every member of that committee will bear evidence of the truth of the statement—that it would be almost a matter of impossibility for us to get along without a clerk. The labors of that committee at the last session were immense, and very laborious. I believe they made more written reports of bills than any other committee of this body. Many of them required lengthy and tedious investigations; Senators could not get the time to attend to them, and we employed a clerk of ability and fitness for the place.

Mr. JONES, of Iowa. I accepted the amendment offered by the Senator from Indiana, under the impression that the pay of these officers was four dollars a day. I believe now that it is five dollars per day, and the twenty per cent. additional would make it six dollars. To that I agree. I hope the Senate will pass the resolution as it stands, and give the clerks five dollars a day, with twenty per cent. additional, which would make it six dollars.

Mr. BROWN. With every disposition to vote for the resolution, I shall be constrained to vote against it with that amendment. It will be quite time enough to fix the question of percentage when the services shall have been performed, and we shall know more about their necessity.

Mr. PETTIT. As there seems to be a difference of opinion on the subject, I will withdraw my amendment.

Mr. THOMPSON, of Kentucky. I believe it has been the practice in the other House, and in the Senate, at the termination of each session of Congress, if these officers have done their duty well and faithfully to the satisfaction of each House, to adopt a resolution giving them some additional pay.

Mr. BROWN. Certainly; that is the usual course.

Mr. THOMPSON, of Kentucky. Like the Senator from Mississippi, I shall go in for the additional pay, which the Senator from Indiana desires, at the end of the session, provided these clerks do what they ought to do. I am for the resolution as offered without amendment. I will not say that I am for holding the additional compensation *in terrorem* over them, but I think we ought to hold it back and pay it to them at the end if they do right.

Mr. JONES, of Iowa. I accepted the amendment because I felt confident, as I do now, that the percentage will be added towards the end of the session if we do not now allow it. Sir, these clerks are at the disposal of the committees. They can be removed at any moment, and whenever a clerk fails to do his duty, I have no doubt the committee to which he is attached will remove him. I know such will be the case in the committee over which I have the honor to preside, (the Committee on Pensions,) the duties of which are very laborious. If our clerk does not do his duty he will be removed from office, and he knows it.

I hope we shall commence to pay these clerks their full compensation now, instead of making them wait until the end of the session for the percentage. The compensation allowed them is small. In this city, no man who has a family, (and I have no doubt most of the clerks have families,) can support it for a year on the small pittance of six dollars a day for only three months.

A SENATOR. The amendment is withdrawn.

Mr. JONES, of Iowa. I do not allow it to be withdrawn; I accept it as part of my resolution.

Mr. CHASE. I think the resolution might as well pass in its present shape, if it pass at all; for it is only making two bites of a cherry if we divide it. Our experience here shows perfectly well that whatever opposition may be offered originally to these extra compensations, they are always allowed in the end, and it is almost useless to make any opposition to them whatever. I am opposed to the resolution itself on the ground which I stated. I think that the practice of allowing clerks to committees, except where the chairman of a committee comes into the Senate, and, on his personal responsibility as such chairman, states that a clerk is necessary for his committee, is wrong, and inevitably leads to abuse. If, however, we determine to continue the committee clerks generally, I think we might as well fix at the outset the amount of compensation which they are to receive. It is better and fairer.

Mr. BROWN. I move to strike out the words "and percentage," so as to leave these clerks five dollars a day.

Mr. JONES, of Iowa. I wish to make one remark in answer to the Senator from Ohio. If the members of the Committee on Pensions were faithfully to perform the laborious duties which they would have to perform if they had no clerk, I do not believe they could attend to their duties here one half the time, for they would be necessarily compelled to occupy the time in the committee room drawing up reports, and doing the clerical duties which the clerk does for them. I hope the resolution will pass as I have offered it. I am in favor of allowing the committee clerks, as we have allowed the clerks in the Departments, additional compensation, particularly as the business of the committees has increased in late years.

Mr. CHASE. The remark of the Senator from Iowa does not answer the objection which I made. I concede that whenever the chairman of a committee desires a clerk for the duties of his committee, the Senate ought to appoint one; but this resolution proposes to continue all the clerks to the committees who had them at the last session; and I have shown to the Senate that, in one case at least, a clerk was appointed for a committee that met but once during the whole session.

Mr. JONES, of Iowa. I think that is wrong.

Mr. BUTLER. I concur very much in the views taken by the honorable Senator from Ohio.

I think that every chairman should, upon his own responsibility, say to the Senate whether he requires a clerk or not; and upon his saying so I shall always concede a clerk to the committee of that Senator. As the Senator from Iowa has very well expressed it, I know that, as regards some business before the committee of which I am chairman, I could not attend to it, without being absent from the Senate Chamber nearly the whole time; but there are other committees, I know, which do not require clerks, and therefore I cannot conscientiously confound and make them equal.

Mr. FOOT. I move an amendment to the resolution, by inserting the word "standing" before the word "committee," so as to exclude special committees, many of which were authorized to appoint clerks at the last session of Congress, but which, during the present session, probably may have no meetings.

Mr. JONES, of Iowa. I accept that modification.

The PRESIDENT. Then the question is on the amendment of the Senator from Mississippi to strike out the words "and percentage."

Mr. STUART. I hope the Senator who offered the resolution will consent to put it in its original shape, with the exception of the amendment of the Senator from Vermont.

Mr. JONES, of Iowa. I will do so because that Senator and another distinguished Senator on my right have assured me that the law regulates this matter, and that it is unnecessary to say anything about compensation. I therefore modify the resolution by striking out the words "and percentage."

Mr. EVANS. My recollection about the matter, Mr. President, is that a committee was appointed last year for the purpose of regulating the salaries of the officers of the Senate, and that committee reported that twenty per cent. should be added to their salaries. The salary of the committee clerks was fixed at four dollars per diem, and twenty per cent. added to it made four dollars and eighty cents. When that proposition was before the Senate, the Senator from Indiana moved to increase their pay to five dollars a day, and it was agreed to. The resolution of the Senate is that their pay shall be five dollars per diem, and twenty per cent. additional, making it six dollars. That is the law as it now stands. Such is my recollection.

Mr. BROWN. As the Senator from Iowa has restored the resolution to its original shape, I, of course, withdraw my amendment.

Mr. ADAMS. I wish to know if the resolution as it now stands is confined to standing committees?

Mr. JONES, of Iowa. It is.

Mr. ADAMS. Very well.

Mr. CHASE. But that does not reach the objection.

Mr. JONES, of Tennessee. I think, sir, I am just as willing to pay for services rendered by any individual to this Government, as any man in the Senate; but if the fact be as stated by the Senator from Ohio—and I believe it to be true—that a clerk was paid for eight or nine months' service, without ever being present except at one meeting of a committee, and this resolution is calculated to continue that clerkship, I cannot in justice to my convictions of duty, vote for it. Is it not enough, Mr. President, that the chairman of one of your committees shall come in here and say that he wants a clerk? I will vote to give a clerk to any committee, upon the say-so of its chairman.

Mr. JONES, of Iowa. That is what we wish; such is the resolution.

Mr. JONES, of Tennessee. No, sir; this resolution goes further than that, and says that all the standing committees which employed clerks at the last session shall be authorized to employ them this session. The honorable gentleman who presides over our deliberations is the chairman of a committee that has no use for a clerk, according to the statement made by the Senator from Ohio, and yet his committee is directed by this resolution to appoint a clerk.

Mr. JONES, of Iowa. Not directed, but authorized.

Mr. JONES, of Tennessee. That amounts to a direction in this country, where there are so many office-seekers. Every one of these clerkships will be filled, and my friend from Iowa knows they will be filled.

Is it not enough, I repeat, sir, that we should allow a clerk when the chairman of an important committee states that one is necessary, in order to expedite the business of the committee? Take your Committee on Finance, your Committee on Pensions, your Committee on the Judiciary—when the chairman of either of those committees stands up in the Senate and says that his committee needs a clerk, there is not a Senator here who would vote against allowing one. Is not that sufficient? Is it not little enough for them to come to us and say they want additional assistance, and let us vote it to them? To vote that every committee may appoint a clerk, whether he be needed or not, is further than I am willing to go.

I do not know that the Committee on Military Affairs, of which I am a member, will need a clerk at this session, though we had one at the last; but if we do need one, our chairman will come here and ask for him, and you will all vote for the proposition; but pass this resolution, authorizing every committee to appoint a clerk, and they will be apt to do it. This is a matter which the Senate can dispose of as they please, but I cannot vote for the resolution as it stands, although I am perfectly willing to vote a clerk to every committee whose chairman rises in the Senate, and on his responsibility says his committee needs a clerk. If he says he wants two, I will give him two; but I will not give one where he is not needed.

Mr. HUNTER. I agree with what has just been said in regard to this resolution. It seems to me that it is unnecessary to allow every standing committee the privilege of appointing a clerk. A clerk is not necessary for all the committees; and it seems to me that it is but a proper precaution and conservative check, to require the chairman of each committee which needs a clerk to come in and ask the Senate for one. I believe there is no case in which the Senate would refuse the request, if the chairman should state that the appointment of a clerk was required by the committee, and necessary for a proper discharge of their duties. I think it would be far better to adopt that plan than to adopt a resolution to give a clerk to every standing committee. I know it would be a small abuse, but still it would be an abuse in the Senate of the United States—a body to which the country looks—and I think we had better correct it. I cannot, therefore, vote for a resolution as broad as the one now before the Senate.

Mr. WELLER. I agree with what has been said by the Senator from Virginia; and, therefore, I move that the resolution lie upon the table.

The motion was agreed to—ayes 19, noes not counted.

BURLINGTON MARINE HOSPITAL.

Mr. FOOT submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation for the construction of a marine hospital at Burlington, Vermont.

CINCINNATI MARINE HOSPITAL.

Mr. CHASE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of constructing a marine hospital at Cincinnati, Ohio.

COMMITTEE ON THE PACIFIC RAILROAD.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the select committee on the subject of the Pacific railroad, appointed at the last session, be continued during the present session, except where vacancies have occurred by the retirement of any member, and that the President of the Senate have power to fill such vacancies.

CLERKS TO COMMITTEES.

Mr. BRODHEAD. I beg leave to offer the following resolution:

Resolved, That the Committee on Claims be authorized to employ a clerk.

Mr. President, I have said nothing about the compensation for the clerk, because it is fixed by the resolution of the last session; and I say, as chairman of the committee, it is quite necessary the resolution should be adopted.

The resolution was considered by unanimous consent, and agreed to.

Mr. JONES, of Iowa, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Pensions be authorized to employ a clerk, and pay said clerk the same per diem that was allowed to him at the last session.

Mr. BUTLER. I have a resolution to offer on the part of the Committee on the Judiciary:

Resolved, That the Committee on the Judiciary be authorized to appoint a clerk for the present session.

Mr. PETTIT. I move to amend the resolution so as to give the same authority to the Committee on Private Land Claims.

Mr. WELLER. There are other committees which I suppose are in want of clerks, and which the Senate will award to them. The Committee on Foreign Relations need one, and I therefore move to amend the amendment by inserting that committee. I hope my friend from Indiana will accept it.

Mr. DODGE, of Iowa. I move to insert the Committee on Public Lands also.

Mr. JAMES. I make the same motion in reference to the Committee on Patents and the Patent Office.

The PRESIDENT *pro tempore*. The Secretary will read the resolution as it would stand if so modified.

It was read, as follows:

Resolved, That the Committees on the Judiciary, Private Land Claims, Foreign Relations, Public Lands, and Patents and the Patent Office, be severally authorized to appoint clerks for the present session.

Mr. HUNTER. It seems to me that we had better take the question separately on each proposition, or we shall certainly fall into the same difficulty that we had in regard to the general resolution.

Mr. BUTLER. I think so too.

The PRESIDENT. The question will be first on the resolution in regard to the Committee on the Judiciary.

The resolution was agreed to.

Mr. PETTIT submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Private Land Claims be authorized to employ a clerk for the present session.

Mr. WELLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Foreign Relations be authorized to employ a clerk for the present session.

Mr. JAMES. I offer the following resolution:

Resolved, That the Committee on Patents and the Patent Office be authorized to employ a clerk for the present session.

Mr. CLAY. I should like to know the necessity which exists for the employment of a clerk for that committee. I confess that I do not know the extent of the duties of the committee; but, judging from the number of reports which it made at the last session, I should not suppose that it needed a clerk. Unless, therefore, I can be assured that there is a necessity for one, I cannot vote for the resolution.

Mr. JAMES. I state to Senators that there is an actual necessity for the employment of a clerk by this committee. As chairman of the committee, it is presumed that I understand what its requirements are, and I consider that we cannot do its business without a clerk. For that reason I have offered the resolution.

The resolution was agreed to.

Mr. HAMLIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be authorized to employ a clerk for the present session.

Mr. HUNTER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Finance be authorized to employ a clerk for the present session.

Mr. DODGE, of Iowa, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Lands be allowed to employ a clerk for the present session.

Mr. EVANS submitted the following resolu-

tion; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Revolutionary Claims be authorized to appoint a clerk during the present session.

PETITIONS, ETC.

Mr. CASS presented the memorial of Reuben Wood, praying compensation for the time he acted as diplomatic agent of the United States in Chili, under an appointment by Balie Peyton, Envoy Extraordinary and Minister Plenipotentiary of the United States; which was referred to the Committee on Foreign Relations.

Also, the petition of Alexander F. Branard, pilot of the United States steamer Michigan, praying to be allowed pay for a whole year, instead of for the time actually employed; which was referred to the Committee on Naval Affairs.

Mr. ROCKWELL presented the petition of S. Gregory and others, clerks in the navy-yard at Boston, praying to be placed on an equal footing, as regards their salaries, with the clerks of the navy-yard at Washington; which was referred to the Committee on Naval Affairs.

Mr. SEWARD presented the petition of Augustus Ford, of the United States Navy, praying compensation for a chart of Lake Ontario, prepared by him in the war of 1812, for the use of the squadron therein, before his entrance into the public service; which was referred to the Committee on Naval Affairs.

Also, documents in relation to the claim of Jacob Kerr, to compensation for military bounty land warrants alleged to have been lost by the fraud or misconduct of Government agents; which was referred to the Committee on Revolutionary Claims.

On motion by Mr. ADAMS,

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 5, 1854.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

STANDING COMMITTEES.

The SPEAKER announced the following as the standing committees, appointed under the order of the House of yesterday:

Committee of Elections.—Messrs. Richard H. Stanton of Ky., James Gamble of Pa., James L. Seward of Ga., Orsamus B. Matteson of N. Y., Nathan T. Stratton of N. J., Edward Dickinson of Mass., George Bliss of Ohio, Samuel Clark of Mich., and Thomas M. Bristow of Ky.

Committee of Ways and Means.—Messrs. George S. Houston of Ala., George W. Jones of Tenn., Harry Hibbard of N. H., Alexander H. Stephens of Ga., John S. Phelps of Mo., William Appleton of Mass., John C. Breckinridge of Ky., Solomon G. Haven of N. Y., and John Robbins, jr., of Pa.

Committee of Claims.—Messrs. Alfred P. Edgerton of Ohio, John Letcher of Va., Joshua R. Giddings of Ohio, Carlton B. Curtis of Pa., Daniel Mace of Ind., John G. Miller of Mo., Thomas Ruffin of N. C., Charles Ready of Tenn., and William W. Boyce of S. C.

Committee on Commerce.—Messrs. Thomas J. D. Fuller of Me., John S. Millson of Va., John Wentworth of Ill., Tappan Wentworth of Mass., William Aiken of S. C., Aaron Harlan of Ohio, George W. Morrison of N. H., William Dunbar of La., and Reuben E. Fenton of N. Y.

Committee on Public Lands.—Messrs. David T. Disney of Ohio, W. R. W. Cobb of Ala., Henry Bennett of N. Y., Bernhart Henn of Iowa, Milton S. Latham of Cal., Isaac E. Hiester of Pa., Hestor L. Stevens of Mich., Samuel Caruthers of Mo., and Edward A. Warren of Ark.

Committee on the Post Office and Post Roads.—Messrs. Edson B. Olds of Ohio, Paulus Powell of Va., C. W. Upham of Mass., D. T. Jones of N. Y., W. P. Harris of Miss., Asa Packer of Pa., Jesse O. Norton of Ill., J. A. McDougall of Cal., and Joshua Vansant of Md.

Committee for the District of Columbia.—Messrs. William T. Hamilton of Md., William O. Goode of Va., Richard Yates of Ill., John G. Davis of Ind., David A. Noble of Mich., John Dick of Pa., William S. Barry of Miss., William Cullom of Tenn., and John J. Taylor of N. Y.

Committee on the Judiciary.—Messrs. Frederick P. Stanton of Tenn., John S. Caskie of Va., James Meacham of Vt., Origen S. Seymour of Conn., Samuel W. Parker of Ind., Hendrick B. Wright of Pa., John Kerr of N. C., Francis B. Cutting of N. Y., and Henry May of Md.

Committee on Revolutionary Claims.—Messrs. R. W. Peckham of N. Y., Augustus Drum of Pa., Moses B. Corwin of Ohio, John M. Elliott of Ky., Jacob Shower of Md., Sion H. Rogers of N. C., Samuel L. Crocker of Mass., Norman Eddy of Ind., and James C. Allen of Ill.

Committee on Public Expenditures.—Messrs. William H. Kurtz of Pa., George Hastings of N. Y., Alex. C. M. Pennington of N. J., Preston S. Brooks of S. C., James C. Allen of Ill., Robert M. Bugg of Tenn., David Stuart of Mich., John Z. Goodrich of Mass., and Alexander De Witt of Mass.

Committee on Private Land Claims.—Messrs. Junius Hillyer of Ga., James H. Lane of Ind., James Abercrombie of Ala., P. H. Bell of Texas, Samuel A. Smith of Tenn., Roland Jones of La., Charles Hughes of N. Y., Matthias H. Nichols of Ohio, and Theodoric R. Westbrook of N. Y.

Committee on Manufactures.—Messrs. John McNair of Pa., Thomas Davis of R. I., John R. Franklin of Md., Hiram Walbridge of N. Y., George W. Kittredge of N. H., Samuel Mayall of Me., Elihu B. Washburne of Ill., James F. Dowdell of Ala., and Caleb Lyon of N. Y.

Committee on Agriculture.—Messrs. John L. Dawson of Pa., Fayette McMullin of Va., Willis Allen of Ill., R. C. Puryear of N. C., W. D. Lindsley of Ohio, Samuel Clark of Mich., William Murray of N. Y., John P. Cook of Iowa, and Samuel Lilly of N. J.

Committee on Indian Affairs.—Messrs. James L. Orr of S. C., Benjamin C. Eastman of Wis., Galusha A. Grow of Pa., Edward Ball of Ohio, Augustus E. Maxwell of Fla., Daniel B. Wright of Miss., Alfred B. Greenwood of Ark., Benjamin Pringle of N. Y., and Milton S. Latham of Cal.

Committee on Military Affairs.—Messrs. William H. Bissell of Ill., Thomas H. Benton of Mo., Charles J. Faulkner of Va., Thomas M. Howe of Pa., William R. Smith of Ala., Nathaniel P. Banks, jr., of Mass., J. A. McDougall of Cal., Emerson Etheridge of Tenn., and Theodore G. Hunt of La.

Committee on the Militia.—Messrs. Elijah W. Chastain of Ga., Jared V. Peck of N. Y., William Everhart of Pa., Zedekiah Kidwell of Va., William R. Sapp of Ohio, Samuel P. Benson of Me., John B. Macy of Wis., Edward Wade of Ohio, and James Maurice of N. Y.

Committee on Naval Affairs.—Messrs. Thomas S. Bocock of Va., Moses Macdonald of Me., George W. Chase of N. Y., William S. Ashe of N. C., T. B. Florence of Pa., F. K. Zollicoffer of Tenn., Charles Skelton of N. J., A. H. Colquitt of Ga., and Augustus R. Sollers of Md.

Committee on Public Buildings and Grounds.—Messrs. Burton Craige of N. C., Nathan Belcher of Conn., John L. Taylor of Ohio, Lawrence M. Keitt of S. C., and Ebenezer M. Chamberlain of Ind.

Committee on Foreign Affairs.—Messrs. Thomas H. Bayly of Va., Sampson W. Harris of Ala., Joseph R. Chandler of Pa., Colin M. Ingersoll of Conn., Thomas L. Clingman of N. C., Wilson Shannon of Ohio, William Preston of Ky., John Perkins, jr, of La., and John J. Taylor of N. Y.

Committee on the Territories.—Messrs. William A. Richardson of Ill., John McQueen of S. C., John L. Taylor of Ohio, D. J. Bailey of Ga., Geo. W. Smyth of Texas, E. Wilder Farley of Me., Wm. H. English of Ind., Philip Phillips of Ala., and A. W. Lamb, of Mo.

Committee on Revolutionary Pensions.—Messrs. William M. Churchwell of Tenn., Henry A. Edmundson of Va., Israel Washburn, jr., of Me., Peter Rowe of N. Y., Ner Middleswarth of Pa., Andrew Ellison of Ohio, James J. Lindley of Mo., Smith Miller of Ind., and Thomas T. Flagler of N. Y.

Committee on Invalid Pensions.—Messrs. Thomas A. Hendricks of Ind., Christian M. Straub of Pa., Russell Sage of N. Y., George Vail of N. J., James S. Chrisman of Ky., Andrew Stuart of Ohio, W. B. W. Dent of Ga., J. Wiley Edmands of Mass., and William M. Tweed of N. Y.

Committee on Roads and Canals.—Messrs. Cyrus L. Dunham of Ind., George Read Riddle of Del., Lewis D. Campbell of Ohio, J. T. Pratt of Conn., William A. Walker of N. Y., David Ritchie of Pa., Henry M. Shaw of N. C., Leander M. Cox of Ky., and William Barksdale of Miss.

Committee on Patents.—Messrs. Benjamin B. Thurston of R. I., Samuel A. Bridges of Pa., Andrew Tracy of Vt., Bishop Perkins of N. Y., and Clement S. Hill of Ky.

Committee on Revisal and Unfinished Business.—Messrs. W. R. W. Cobb of Ala., John McNair of Pa., John McCulloch of Pa., Andrew Stuart of Ohio, and Alvah Sabin of Vt.

Committee on Accounts.—Messrs. Carlton B. Curtis of Pa., Andrew Oliver of N. Y., Edwin B. Morgan of N. Y., Thomas Ritchey of Ohio, and Otho R. Singleton of Miss.

Committee on Mileage.—Messrs. Andrew J. Harlan of Ind., William H. Witte of Pa., David A. Reese of Ga., Harvey H. Johnson of Ohio, and James Knox of Ill.

Committee on Engraving.—Messrs. George Read Riddle of Del., Mike Walsh of N. Y., and George A. Simmons of N. Y.

Committee on the Library.—Messrs. Joseph R. Chandler of Pa., Thomas H. Benton of Mo., and Charles J. Faulkner of Va.

Joint Committee on Printing.—Messrs. William Murray of N. Y., Richard H. Stanton of Ky., and Samuel L. Russell of Pa.

Committee on Enrolled Bills.—Messrs. Frederick W. Green of Ohio, Alexander De Witt of Mass., and Bernhart Henn of Iowa.

Committee on Expenditures in the State Department.—Messrs. Daniel Wells, jr., of Wis., George Vail of N. J., Samuel L. Crocker of Mass., Samuel A. Smith of Tenn., and Thomas T. Flagler of N. Y.

Committee on Expenditures in the Treasury Department.—Messrs. David Stuart of Mich., Thos. W. Cumming of N. Y., Mordecai Oliver of Mo., Michael C. Trout of Pa., and Edward Wade of Ohio.

Committee on Expenditures in the War Department.—Messrs. George W. Kittredge of N. H., John Wheeler of N. Y., Ner Middleswarth of Pa., Davis Carpenter of N. Y., and Elihu B. Washburne of Ill.

Committee on Expenditures in the Navy Department.—Messrs. Fayette McMullin of Va., Thomas Ritchey of Ohio, C. W. Upham of Mass., James F. Dowdell of Ala., and A. C. M. Pennington of N. J.

Committee on Expenditures in the Post Office Department.—Messrs. Samuel Lilly of N. J., Smith Miller of Ind., Samuel P. Benson of Me., James L. Seward of Ga., and James Abercrombie of Ala

Committee on Expenditures on the Public Buildings.—Messrs. Henry A. Edmundson of Va., Mike Walsh of N. Y., Alvah Sabin of Vt., Michael C. Trout of Pa., and Thomas W. Cumming of N. Y.

AMENDING THE JOURNAL.

Mr. CARPENTER. I rise to a privileged question. I find from the reading of the Journal, that my name does not appear on the list of yeas and nays taken on the resolution offered by the gentleman from Maryland [Mr. SOLLERS] yesterday—the resolution calling for information on the subject of the conference of American ministers at Ostend. I voted in the affirmative, and desire that my vote be so recorded.

There being no objection, and the result of the question not being affected, the alteration was ordered to be made.

MESSAGE ON THE RIVER AND HARBOR BILL.

Mr. HOUSTON. I rise to a privileged question. I move to reconsider the vote by which my motion to print extra copies of the President's veto message of the river and harbor improvement bill, received last session, was adopted, with a view to withdraw that motion. I understand that another message—more extended—is coming in on that subject; and of course, it is not necessary to print extra copies of the one in regard to which my motion to print was made.

The motion to reconsider was adopted.

Mr. HOUSTON. I now withdraw the motion to print.

REPORT ON THE FINANCES.

The SPEAKER laid before the House the

annual report of the Secretary of the Treasury on the state of the finances.

On motion by Mr. CLINGMAN, the reading of the communication was dispensed with, and the report was referred to the Committee of Ways and Means, and ordered to be printed.

REIMBURSEMENT OF EXPENSES TO UTAH.

Mr. BERNHISEL, by unanimous consent of the House, introduced the following resolution:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of refunding to the Territory of Utah the expenses incurred by said Territory in suppressing Indian hostilities in the year 1853; and that said committee report by bill or otherwise.

There being no objection, the question was put; and the resolution was adopted.

COLT PATENT INVESTIGATING COMMITTEE.

Mr. LETCHER. I desire to offer the following resolution:

Resolved, That the committee raised by the resolution adopted by the House of Representatives, on the 10th of January last, be continued, and charged with the same powers and duties as at the last session of Congress.

Several MEMBERS. What committee is it?

Mr. LETCHER. It is the committee on the Colt patent case.

The resolution was adopted.

Mr. LETCHER moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

THE CALIFORNIA LAND COMMISSION.

Mr. LATHAM, by unanimous consent, introduced a bill, of which previous notice had been given, entitled "An act to continue in force for a limited time the provisions of the act of Congress of 5th March, 1851, and the second section of its supplement of 18th January, 1854, so as to enable the board of land commissioners in California to close their adjudications of private land titles in that State, and for other purposes;" which was read a first and second time by its title, and referred to the Committee on Public Lands.

THE TEXAN BOUNDARY ACT.

Mr. SMYTH, of Texas, on leave, introduced a bill supplemental to an act entitled "An act proposing to the State of Texas the establishment of a northern and western boundary; the relinquishment, by the State, of all territory claimed by her exterior to said boundaries, and of all her claims on the United States, and the establishment of a territorial government for New Mexico," approved September 9, 1850; which was read a first and second time by its title, and referred to the Committee of Ways and Means.

IMPROVEMENT OF MOBILE BAY.

Mr. PHILLIPS, on leave, introduced a bill, of which previous notice had been given, making a further appropriation for continuing the improvement of Mobile bay; which was read a first and second time by its title, and referred to the Committee on Commerce.

PUBLIC LANDS.

Mr. ENGLISH. I ask the unanimous consent of the House to offer the following resolution of inquiry:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of providing by law that no patent issue for land entered into under the act of last session "to graduate and reduce the price of the public lands" to actual settlers and cultivators, except on satisfactory proof that said land has been in the actual possession and cultivation of the person applying for such patent, for a period of three years, beginning within sixty days from the date of entry, or that such person has been in the actual possession or cultivation of an adjoining farm or plantation for the same period.

The question was taken, and the resolution was adopted.

Mr. ETHERIDGE. I desire to give notice to the House that when the substitute which was offered yesterday by the gentleman from Pennsylvania, [Mr. DAWSON,] in lieu of the Senate bill for the disposition of the public lands by settlement, comes up for the consideration of the House, I will offer an amendment to it. If the House will grant its consent, I desire to have the amendment printed.

There being no objection, it was so ordered.

Mr. COBB. I ask the unanimous consent of the House to introduce a bill, of which previous notice has been given. It is a slight modification of a bill that was passed at the last session.

The bill was then read the first and second time by its title, as follows, and referred to the Committee on the Public Lands, viz.:

A bill to amend an act approved the 4th of August, 1854, entitled an act to graduate and reduce the price of public lands to actual settlers and cultivators.

HARBOR AT REEDY ISLAND.

Mr. CHANDLER, in pursuance of previous notice, introduced a bill "making appropriations for completing the shelter or harbor at Reedy Island in the river Delaware;" which was read the first and second time by its title, and referred to the Committee on Commerce.

Mr. SOLLERS. I desire to say that upon the proper occasion I will introduce the resolution which I offered yesterday.

The SPEAKER. The resolution referred to by the gentleman will not come up under the rules, until all the States shall have been called—the other States not having had their turn.

Mr. ROGERS. I ask the unanimous consent of the House to introduce the following resolution, and upon it I demand the previous question:

Resolved, That the President of the United States be requested, if not inconsistent with the public interest, to communicate, at his earliest convenience, to this House all the correspondence between this Government and our Minister at the Spanish court in relation to the Lopez expedition, and the persons engaged therein.

The SPEAKER. The resolution will lie over under the rules, unless by the unanimous consent of the House.

Mr. JONES, of Tennessee. I object.

DUTIES ON RAILROAD IRON.

Mr. PHILLIPS. I offer the following resolution, and upon it I demand the previous question.

The resolution was then read, as follows:

Resolved, That the Committee of Ways and Means be instructed to report a bill reducing the duties on railroad iron or allowing a credit thereon.

Mr. LETCHER. I object.

The SPEAKER. The rule referred to by the Chair does not apply to this resolution, as it is not a resolution calling for information from any of the Departments.

Mr. JONES, of Tennessee. I move to lay the resolution upon the table.

Mr. PHILLIPS. Upon that question, I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken, and there were—yeas 97, nays 71; as follows:

YEAS—Messrs. Appleton, David J. Bailey, Barry, Belcher, Bennett, Breckinridge, Bridges, Campbell, Carpenter, Caruthers, Chandler, Corwin, Cox, Crocker, Dawson, Dick, Dickinson, Edmands, Thomas D. Eliot, Everhart, Farley, Faulkner, Flagler, Florence, Franklin, Fuller, Gamble, Goodrich, Goodwin, Grey, Grow, Hamilton, Aaron Harlan, Wiley P. Harris, Haven, Hibbard, Hiester, Hillyer, Houston, Howe, Hunt, Ingersoll, Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Kittredge, Kurtz, Lamb, Letcher, McCulloch, Macdonald, Matteson, Meacham, Middleswarth, Morgan, Murray, Peck, Pennington, Bishop Perkins, Phelps, Pratt, Pringle, Riddle, David Ritchie, Robbins, Rowe, Russell, Sabin, Sage, Sapp, Seymour, Shannon, Shower, Simmons, Skelton, George W. Smyth, Richard H. Stanton, Stratton, Straub, John J. Taylor, John L. Taylor, Teller, Thurston, Tracy, Trout, Tweed, Upham, Vansant, Wade, Walker, Walley, Israel Washburn, Tappan Wentworth, Wheeler, Witte, and Hendrick B. Wright—97.

NAYS—Messrs. Willis Allen, Thomas H. Bayly, Banks, Barksdale, Bliss, Bocock, Boyce, Caskie, Chastain, Chrisman, Clark, Clingman, Cobb, Colquitt, Craige, Cullom, John G. Davis, Thomas Davis, Dowdell, Dunbar, Eastman, Edgerton, Edmundson, Ellison, English, Fenton, Goode, Green, Greenwood, Harrison, Hastings, Henn, Hill, Kerr, Knox, Latham, Lewis, Lindley, Lindsley, McMullin, Macee, Macy, Maxwell, Mayall, Millson, Noble, Olds, Mordecai Oliver, Orr, Parker, John Perkins, Phillips, Ready, Richardson, Rogers, Ruffin, Shaw, Singleton, William Smith, William R. Smith, Sollers, Frederick P. Stanton, Hestor L. Stevens, Andrew Stuart, Nathaniel G. Taylor, Walbridge, Warren, Elihu B. Washburne, John Wentworth, Westbrook, and Zollicoffer—71.

So the resolution was laid upon the table.

Mr. FLORENCE moved to reconsider the vote by which the resolution was laid upon the table, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

CLERKS TO COMMITTEES.

Mr. DISNEY. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the clerks authorized to be employed by the standing committees at the last session be continued during the present session.

Mr. RICHARDSON. As perhaps this is the most favorable time I shall get, I desire to make a proposition to give the Committee on Territories a clerk for a part of this session.

Mr. HAMILTON. I propose to debate the resolution.

The SPEAKER. Under the rule, the resolution must then go over.

PACIFIC RAILROAD.

Mr. GREY. I wish to give notice that to-morrow, or some subsequent day, I shall ask leave to introduce a bill providing for a grant of lands to aid in the construction of a railroad from some point upon the Rio Grande near El Passo through to the Pacific ocean.

NATURALIZATION LAWS.

Mr. TAYLOR, of Tennessee. I desire to give notice that to-morrow, or some subsequent day, I shall ask leave introduce a bill for the modification or repeal of the naturalization laws.

MILEAGE.

Mr. McMULLIN. I desire to give notice that unless the Committee on Mileage shall not report very soon upon the bill which was referred to that committee in relation to the equalization of the pay or mileage of members of Congress, I shall introduce a new bill in relation to that subject.

NATIONAL AGRICULTURAL SCHOOL.

Mr. WENTWORTH, of Illinois, offered the following resolution:

Resolved, That the Committee on Agriculture inquire into the expediency of establishing a National Agricultural School, upon the same principle with the National Naval and Military Schools, to have one scholar, educated at the public expense, from each congressional district, and to be established in connection with the Smithsonian Institution, so as the better to carry out the object of its founder.

Mr. McMULLIN. I propose to debate that resolution.

The SPEAKER. The resolution will then go over, under the rule.

MILITARY ROADS TO THE PACIFIC.

Mr. RICHARDSON gave notice that to-morrow, or on some future day, he would ask leave to introduce a bill for the construction of a military road through the Territories of Kansas and Washington;

Also, a bill for the construction of a military road through the Territories of Kansas, Utah, and Oregon;

Also, a bill for the construction of a military road through the Territories of Kansas and New Mexico.

MILITARY ROAD IN NEBRASKA AND IOWA.

Mr. HENN offered the following resolution; which was read, and agreed to:

Resolved, That the Committee on Territories be instructed to inquire into the expediency of constructing a military road from Council Bluffs, Iowa, to New Fork Kearney, in the Territory of Nebraska.

On motion by Mr. LANCASTER, it was

Ordered, That the Committee of the Whole on the state of the Union be discharged from the further consideration of a bill entitled "A bill for the construction of military roads in the Territories of Nebraska and Kansas," and that the same be referred to the Committee on Territories.

On motion by Mr. HAVEN, it was

Ordered, That leave be granted to withdraw from the files of the House the petition and papers of Roswell W. Haskins, for the purpose of reference in the Senate.

COMMITTEE ON SMITHSONIAN FUND.

Mr. CHANDLER offered the following resolution:

Resolved, That the special committee to whom, at the last session of Congress, was referred the subject of the investment of the funds of the Smithsonian Institution, be continued with its powers and duties.

The SPEAKER. With the permission of the House, the Chair would remark that all the select committees appointed at the last session expired, as a matter of course, with the last session. If not objected to, a general order will be entered to continue those committees which did not report in full at the last session.

Mr. ROWE. I object.

The SPEAKER. The question will then be upon the resolution offered by the gentleman from Pennsylvania.

The question was taken; and the resolution was agreed to.

MESSAGE FROM THE SENATE.

A message was here received from the Senate,

by ASBURY DICKINS, Esq., their Secretary, informing the House that the Senate had elected the Hon. JESSE D. BRIGHT as President *pro tempore* of that body.

IMPORTATION OF FOREIGN PAUPERS.

Mr. SOLLERS gave notice that to-morrow, or on some future day, he should ask leave to introduce a bill to prevent the importation of passenger paupers and convicts to the United States, and to increase the revenues of the United States;

Also, a bill to prevent the enlistment of persons of foreign birth in the Navy and Army of the United States.

The SPEAKER. The Chair begs leave to remind the House that, notice of intention to ask leave to introduce bills may be sent to the Clerk's desk, and will be entered by him. It would be more convenient to hand the notice to the Clerk, and it would save the time of the House.

Mr. HAMILTON. I would inquire of the Chair if Maryland is now being called for resolutions?

The SPEAKER. It is.

AMERICAN MINISTERS AT OSTEND.

Mr. SOLLERS. Is this the proper time to call up the resolution I offered yesterday?

The SPEAKER. It is.

Mr. SOLLERS. I ask that the resolution may be read.

The resolution was reported, as follows:

Resolved, That the President of the United States inform this House, if not incompatible with the public interest, what was the object or objects of the meeting or conference of the American ministers at Ostend, and whether the said meeting or conference was in obedience to instructions of the Secretary of State; what the said instructions were, and what was the result of the said meeting or conference.

Mr. SOLLERS. I wish it to be distinctly understood that, in offering the resolution, I had not the slightest desire, upon the face of the earth, to find any fault with the Administration, or with these foreign ministers abroad, who met in solemn conclave at Ostend. It will be time enough for me to find fault with their action when I know what that action is. If I ever felt any disposition to strike a blow at this Administration, surely it was not at the moment of its weakness. In the ring, it is a point of honor not to strike a fallen foe; and, although I do not love this Administration, I do most sincerely pity it; and if I do not admire it, I have compassion for it. If I cannot help it, God knows I shall not kick it.

In offering the resolution I had not the slightest design of finding fault with what these gentlemen have done, in meeting at Ostend, or with what they have recommended to the President. I have presented the resolution, I confess, in order to satisfy the curiosity which is almost general, from one end of the country to the other, to ascertain the precise purpose for which these gentlemen did meet at Ostend.

It will be conceded on all hands that the movement is a most unprecedented one. From the foundation of this Government to the present time, with this single exception, no such meeting of American ministers has taken place in any part of Europe. And, Mr. Speaker, when we consider the peculiar character of him whom it is said is at the bottom of this matter; when it is known that our Minister at Madrid is understood to be the person who called this conference, just and well-founded suspicions may exist in the minds of the people of the United States in regard not only to the practice, but the dangerous character of that conference. I myself do not aver that it was dangerous. I do not say that it will jeopardize the people, or the Government of the United States; but I denounce it as unprecedented. It has, and can have only one tendency, if left unexplained; and that is to create against us the bad feeling and distrust of every foreign Government to whom we have sent an accredited minister. There is not a man within the sound of my voice who does not know that this meeting is unprecedented in American history, and who will not agree with me that, unless some action be taken by us, we may be justly charged with a disposition to aggrandize by making aggressions on foreign territory. It may be well thought that this movement has for its object some new aggression, some new filibuster movement calculated to bring about discord and war between foreign Governments and our own. I hope and trust that such may not be the object for which these gentlemen met in solemn conclave at Ostend. I hope that they met out of some good, pure, and patriotic motive. But at all events give us light. Let us know what was the object.

Now, will the friends of the Administration withhold from the people of the United States the information in respect to this matter which they have the right to, and which they do demand? The day of secret diplomacy has gone by. It is not in accordance with the character of the American Government. The people of the United States demand to know what has been done by those to whom they have confided the authority of representing them abroad. And I ask now that the President of the United States shall cause to be communicated to this House the object for which these gentlemen met at Ostend, and what they did when assembled.

Mr. BAYLY, of Virginia. Mr. Speaker, I regret very much that my friend from Maryland has introduced the resolution now before the House at so early a period of the session. I cannot help thinking that it is premature. I differ entirely with the gentleman in saying that there was anything to alarm the country in this meeting of our ministers at Ostend, if, indeed, any such meeting actually took place. On the contrary, sir, considering the condition of affairs in Europe, the unsettled condition of the foreign relations of every nation upon the face of the earth, I believe, to be general in the expression of my opinion, that there is not one which is not disturbed in its foreign affairs, and prosperous and successful as we have been in this respect, still our foreign horizon is not entirely cloudless.

The gentleman from Maryland said that the meeting of these ministers at Ostend, if, indeed, such a meeting has actually taken place, is unprecedented. I think, although the gentleman may be technically right in his remark, that he is not so in the spirit of the intercourse which has heretofore taken place between the representatives of the United States abroad. It has not at all been unusual for them to confer with each other—I mean by actual visits one to the other; and so far from its being unusual for them to confer with each other by writing, it is a part of their instructions to do so. They are required to keep each other constantly informed of what is going on at the respective courts to which they are accredited. And if they are required, in written communications, to keep themselves informed as to what is going on at the respective courts where they are, what impropriety can there be, in place of that sort of information which written communications would give, that they should meet at some convenient spot and talk matters over, to compare views, and to do so with that freedom which is more easily indulged in conversation than in official communications?

My opinion, sir, is that the resolution is premature. I am not prepared to say whether it is a resolution that this House could safely pass, or not; but I do say that the character of the message of the President, which was sent yesterday to the two Houses of Congress, ought to disarm the gentleman of any distrust as to the conservatism in respect to our foreign affairs. I think that message is eminently conservative. I admire it, because, being conservative myself in respect to our foreign relations, I am glad to find that I shall be able to cordially coöperate with the President in the views which he has expressed.

I did not hear the Committee on Foreign Affairs announced. I do not know, even, that I am chairman of it. I suppose, however, that it is somewhat of the composition that it was at the last session. If so, I think they gave to the House evidence that they are conservative; at any rate, I hope my friend will have no objection to trust that committee with that resolution; and I move that it be referred to the Committee on Foreign Affairs.

At the call of several gentlemen, the resolution was again read.

Mr. WENTWORTH, of Illinois. Mr. Speaker, when the resolution was introduced yesterday, I voted against it for the reason that I deemed it premature. At that time I had not heard the message from the President, which I supposed would give a full and fair *exposé* of our relations with foreign Governments.

Now, with the gentleman from Virginia, [Mr. BAYLY,] I heartily indorse that message. It is from a President for whom I voted. Looking to the foreign policy set forth in it, I congratulate myself in having voted for Franklin Pierce. The message is a conservative one, and which Whigs ought to approve of. I am glad to know that it is generally approved of by the Democratic party.

Mr. Speaker, it only remains for Democrats to act up to their professions. The President has made his proposition. We acknowledge its correctness, and consequently ought to sustain him. Were the presidential election to come off to-morrow, notwithstanding the many isms prevailing in our midst, he, in my judgment, would be defeated who proposed that we should pursue any other than the foreign policy set forth in the message of yesterday.

Now, we hear certain reports in relation to our men abroad; we see certain documents from our men abroad; we hear of their writing addresses to foreign Governments, telling them what they should do and what they should not do. Now, sir, I do not know whether these documents are true or false. It may be that they are forgeries. I hope for the credit of the Government that they are forgeries. It is the duty of the President of the United States to inquire whether they are or not. I presume he has inquired, and from the fact that he has not dismissed these men, and from the fact that he has sent to us the documents just transmitted, I have no doubt that they are all forgeries. I have no doubt that they are all false—false as the credit of the Government requires that they should be.

Now, sir, I represent a constituency that is made up more or less of foreign population. They have occasion very frequently to visit their homes abroad, and it is for their interest when they go there—it is for their interest that we should have men at the head of our foreign diplomacy who take no direct interest in foreign Governments—who are engaged in no intrigues to upset those Governments. It is important that we should have men who are doing all they can to elevate the character and strengthen our own Government abroad. I wish to have it in my power to tell my constituents, when they want passports to go abroad, that those passports will protect them. When they get into trouble abroad, and appeal to our ministers there, we should have such ministers as are sagacious, judicious, and prudent men, men who can have an influence at the courts to which they are sent, and who can protect our citizens when they are in trouble. At the same time I would caution my constituents when they go abroad, to mind their own business and to let foreign Governments and foreign affairs alone.

But I am sorry to see—I do not know why it is—that there is a sort of timidity in reference to emigration from this country. Men are afraid; they are afraid of danger somewhere. I know not the cause of it. I hope it is ungrounded. But considering the state of prosperity in which this country now is, I do think that we ought to try, with all the energies in our power, to maintain pacific relations with all the nations in the world, while, at the same time, we guard all our rights with jealous care.

But, under the circumstances, Mr. Speaker, I am not for agitating this matter at this early day in the session. I hope, when our diplomats abroad see the message of the President of the United States, if they differ from him in his views, they will come right home, attend to the affairs of this Government, and let foreign Governments alone. If they agree with the President in his views, I hope they will try to strengthen themselves with the Governments to which they are sent, and do all they can to preserve honorable and pacific relations between those Governments and our own.

But as the gentleman from Virginia [Mr. BAYLY] says that his committee is eminently conservative in its character, and as I know, that if we do get into trouble with any foreign Government the blow will strike Old Virginia before it will the country which I represent, I shall vote for his motion to refer the resolution to the Committee on Foreign Affairs, as the most proper direction we can give it.

Mr. GREY. This is a resolution asking for information merely. Its phraseology is such that the President will not be compelled to communicate any information that he shall deem to be det-

rimental to the public interest. Now, sir, there is deep interest felt, and a great anxiety throughout the country to know something of the objects of that congress of our ministers recently held in Europe. It is thought to be something unusual in the political history of our Government for our ministers at foreign courts to invite each other to assemble as a congress or convention at some point abroad, and there to determine among themselves what shall be our policy with regard to foreign Governments; because, Mr. Speaker, it has heretofore been regarded that our ministers abroad were not to determine and act on their own judgment, but to act upon, and in conformity to, *written* instructions from the Administration then in power. I do not intend to be understood as censuring the conduct of our ministers abroad. I have the utmost confidence in some of them; but I think circumstances have just now caused a general interest and anxiety to know something in relation to that recent assemblage in Europe of our diplomatists. We have recently seen in the papers, in different Governments of Europe, and in this country, articles disapproving that meeting in strong terms, and denouncing, as filibustering, certain letters, communications, and addresses that have been published abroad, and purporting to have been written and published by gentlemen who have been sent there as appointees of this Administration.

Now, sir, I do not know that these articles were written by the gentleman to whom they have been attributed. I do not know that the articles I have seen, purporting to have been written and published by our consul at Liverpool, were written by him, or that those publications, said to have been written by our secretaries of legation, were written by them. I do not know that the communications which are charged as having been published by our Minister at Madrid were published by him, or that conduct and public expressions—which have been characterized as very objectionable and filibustering—attributed to him, were properly charged to him. I do not know that the charges which I have heard as to the objects of that congress, which, it is said, has been held, are true. But, sir, I can see no possible objection to giving to this House, and to this nation, the information sought by the resolution, especially when it is couched in such guarded terms. Sir, are his friends afraid to trust to the discretion of the President? Let the resolution be passed, and no injury can result from it, because it gives to the President a discretionary power. He will still have full discretion as to what he shall communicate. If he shall refuse to communicate what we ought to know, we shall find it out, sooner or later, and then he will receive merited rebuke for withholding information he ought to have communicated. But I have full confidence that, if the resolution be passed, he will communicate at once to the House, in full, all the information in his possession in relation to the subjects to which the resolution refers, and it will be very gratifying to the nation to receive it.

Sir, there are, just at this time, peculiar circumstances which induce suspicions and anxieties to know something definite upon this subject. No member of this House can pass through his district without being interrogated as to the object of that assemblage of our ministers abroad, and about that "Greytown affair," as it is called.

Only a few months since, our Minister to "Central America" happened, by accident, to be at Greytown when there was a row—or what the French call an "*emeute*," but what we in Kentucky would style a "*free fight*"—going on with a mob party, composed of persons of all nations, speaking all languages, and of all sorts of colors and complexions. Our Minister became involved in it, and was wounded. He then established over Greytown a sort of standing army, and hastened on to this city. The next news was that our Government was waging a most successful naval war against Greytown, the result of which will be a cost of perhaps a million or more to our Government. Now, sir, had our Minister then been at his headquarters in "Central America," to which he had been sent, our people might, perhaps, have been much better off for it.

We have, since this "Greytown affair," heard much of what has been termed "filibustering" publications from some of our officials in Europe. Then comes this congress of our ministers at Ostend. What for? To determine among themselves, *while in Europe*, what shall be the foreign policy of our Government! Will the President or Senate, by whom those ministers were appointed, admit their authority to determine for themselves matters of such vast importance? If each minister is to conform to instructions from his Government, where was the necessity of their conference? Who ever heard of the captains, majors, colonels, and subordinates, while engaged in active duty, holding a conference as to what they should do, or how arrange the campaign, in utter disregard of orders from the general in command? Two of our present ministers [Messrs. Soulé and Belmont] are of foreign birth, and ought, in my opinion, never to have been appointed to those positions. I know, sir, there exists, and justly too, throughout this nation, a deep feeling of opposition to the appointment of foreigners to negotiate matters connected with our foreign affairs. No man ought ever to hold the appointment of minister plenipotentiary from this to a foreign Government but a *native-born American citizen*.

I have no objection to the Committee on Foreign Affairs having this information; I do not doubt that they would give it to the House, if called on by the House to do so, but at the same time I oppose the motion from the gentleman, [Mr. BAYLY,] to refer this resolution to that committee, because I do not see any reason why the information should not be communicated *directly* to this House without going through the hands of that committee, and being transmitted by them, to us, perhaps not until near the close of the session, to the House.

The gentleman from Illinois, [Mr. WENTWORTH,] and the gentleman from Virginia, [Mr. BAYLY,] tell us that the resolution is premature at this early day in the session. Why, sir, I presume they are not in possession of any facts by which they can tell whether it is premature or not; they do not know the facts which the resolution proposes to bring out, and place in possession of the House and the country. Or, if *they* have that information, the members of this House generally, have not, but think they ought to have, and therefore we regard the resolution as well-timed. If those gentlemen think the resolution not couched in terms sufficiently guarded, I will vote for any amendment they may suggest to improve it in that particular.

Mr. BAYLY, of Virginia. If the gentleman from Kentucky will permit me, I will say, that I pledge him upon my honor that I do not know that any such meeting has taken place, and that I do not knew anything that was done if it did take place.

Mr. GREY. Sir, that is as I supposed. The gentleman from Virginia knows nothing about it; I presume the gentleman from Illinois knows nothing about it; and yet they say the resolution calling for information in reference to it is premature. Well, sir, I think differently; the country thinks differently; the people want light and information, and I hope this Democratic Congress will not withhold it from them.

Mr. WENTWORTH, of Illinois. I said it was premature to introduce the resolution before the President's message had been read. Beyond that I have not committed myself.

Mr. GREY. The President's message has *now* been received and read, and gives no information upon that subject; and I understood the gentleman from Illinois to say, that he still thought the introduction of the resolution was premature, and therefore wished to refer it to the Committee on Foreign Affairs. Well, sir, this is only a three months' session, and I think all the information we ought to be in possession of at all ought to be communicated to us at the earliest day practicable.

Sir, let gentlemen not deceive themselves, there is throughout the country an anxiety to know what has been going on in Europe recently about which we have heard and read so many reports, and been near getting into difficulty with France, and about which, if we had credited all the telegraphic reports and newspapers a war with France seemed inevitable. Many of these rumors we now know were untrue, but yet the country does not know the truth, therefore this resolution seeks to have it disclosed. Why, sir, it has been charged that because of the action of our Minister at Madrid, and because of the suspicions which had been excited by that ministerial congress at Ostend, and because of publications which were charged to officials of the United States now residing at foreign Governments, that the interests of our Government and people are being prejudiced abroad.

Sir, I hope the House will consider that they are entitled to have this information direct from the President instead of referring the resolution to the Committee on Foreign Affairs, in order that the President may communicate it to them, in order that they may communicate it to us. Mr. Speaker, let us have the fullest information on this subject which the President in his wisdom may think we are entitled to, and let us have it speedily.

Mr. WASHBURN, of Maine. Mr. Speaker, it strikes me that the resolution of the gentleman from Maryland is such a one as the country had a right to expect would be offered and adopted by this House. We know, sir, from common newspaper report—it is known throughout this country and throughout Europe—that there has been an unusual conference of American ministers at Ostend; unusual and unprecedented, I believe, notwithstanding what the gentleman from Virginia [Mr. BAYLY] has said; unprecedented, in fact, in spirit and in principle. When before in the history of this Government has such a conference of ministers been called with so much parade and such a flourish of trumpets? When before has there been such a conference of American ministers on foreign ground; composed, too, of such materials; ministers themselves of foreign birth, in a considerable part? Sir, it was unusual in the composition of that congress, and unusual in the fact of the congress itself. The country is very reasonably anxious and curious upon this subject. The people desire to know what was the object of that meeting, and what have been its results, if any. It seems to me that they have a right to know it. They want to know if there was any good reason for transferring the diplomacy of this country from our own shores to a batch of ministers in a foreign land. I think that we ought to have whatever information there is in the State Department, or in the possession of the President in reference to this matter, in order that we may be prepared at once to express, if there shall be occasion and necessity in the opinion of the representatives of the people, our earnest and decided protest against any such movement, any such conference, any such action of American ministers abroad. I have nothing more to say.

Mr. HILLYER. When this resolution was introduced yesterday, I voted against it, because the President's message had not then been received; and I was of the opinion that probably that message might communicate the information sought by the resolution. The message, however, was silent on the subject. The information called for by this resolution ought to be given to the country. In this country, and with our people, there can be no necessity for keeping secret a transaction of this character, unless the public interest should require it, and of that the President will judge. Certainly no consideration of party policy can require secrecy; and if it did, it ought not to be tolerated. Public attention has been directed to this congress at Ostend. Public inquiry is everywhere made with regard to its objects and its results. And I think that this body is the proper tribunal to call for the information in such official shape as will give the people full information of the whole transaction. I shall support the resolution.

Mr. PHILLIPS. Mr. Speaker, not intending to deny the power of the House to make such a call upon the President as is contained in the resolution under discussion, I do say that this admitted power ought to be exercised only in cases of great interest, and where we have something tangible to act on. I do not think that the framers of the Constitution ever intended that this House should take a leading part in the arrangement or settlement of our negotiations or relations with foreign Governments. The practice of passing such resolutions as this should therefore be discountenanced. There is no substantial predicate for the action now proposed.

In the first place, what evidence have we that the meeting at Ostend was directed by any one in authority?

Mr. SOLLERS, (interrupting.) That is the very point. The resolution makes a specific in-

quiry of the President to know whether he did authorize it.

Mr. PHILLIPS. I understand that.

Mr. SOLLERS. That is the very point upon which the resolution seeks information.

Mr. PHILLIPS. I repeat I understand that perfectly well, but I do say that it is not consistent with the dignity of this House, it is not within the appropriate sphere of its duties that our foreign relations should be discussed here on every idle occasion, and our attention challenged in debate upon resolutions of inquiry founded merely on idle rumor, or newspaper gossip. Sir, we ought to have, as it seems to me, some substantial basis to rest upon. We ought to have some well-grounded belief, or some just apprehension that the interests of the country are jeoparded before we exercise the high power of intervening in transactions which the Constitution of the country has mainly intrusted to the coördinate departments of the Government.

In the present instance, not only have we no evidence that the meeting at Ostend was by authority, but it is not even surmised that it resulted in any action; where is the product; what the bitter fruit of this terrible assemblage; upon what rests the cause of complaint, or the ground of the present solicitude?

Mr. GREY. I desire to ask the gentleman whether, if such a meeting was held, and if it was ordered by the Administration to be held, and if results have taken place, we ought not to know what those results are? And how can we know it better than by calling on the President for information?

Mr. PHILLIPS. I insist we ought to have something more than mere suspicion, that some disaster has occurred, or some great evil is impending over us, something more stable than outdoor rumors, before the power of this House should be called into action in such a case as this.

But gentlemen declare that there has been great "curiosity" manifested in several portions of the country, and that they deeply share in that feeling. But, sir, we sit here for higher purposes than the gratification of idle curiosity; nor can we recognize it as a legitimate foundation for legislative action.

Assuming, Mr. Speaker, that the meeting at Ostend was held by competent authority, to what point are we brought? Why, sir, simply that it was unusual; not unprecedented, but unusual. Admitting this, and that its novelty has provoked criticism and speculation, and even excited "curiosity" to its lowest depth, will any gentleman on this floor maintain that, under the peculiar aspect of European affairs, it would be reprehensible in the President to direct a consultative meeting of any number of our ministers for the better protection or promotion of our interests? Is a consultation by letter, in itself proper, but dangerous to the interests of the country when had by word of mouth? What if such a meeting is unusual? The question, the only question, should be, is it wrong? does it invade the rights of others? does it involve our own? If we are satisfied on these points, there is no just cause to invoke our interference. It is gravely intimated that the conference has given alarm to some European writers. Let them be *alarmed*. We need apprehend no injury from that; no, sir, not the least. Armed with honesty, and acting on principles correct in themselves, we may conduct our diplomacy after our own fashion, and fear should find no place in our vocabulary.

With these views, Mr. Speaker, I do not feel called upon to vote for the resolution with the design of giving it the "go-by." I am willing to vote for the motion of my friend from Virginia, [Mr. BAYLY,] to refer it to the Committee on Foreign Affairs——

Mr. BAYLY, (interrupting.) Will my friend allow me to say that I certainly did not make the motion with the view of getting clear of the resolution. I made the motion so that our committee might, in the first place, be prepared to report to this House what, after inquiry, our opinion would be as to the propriety of its action; and I should report the resolution back again, if it should seem to us proper to do so.

Mr. PHILLIPS. Do I understand that the gentleman from Virginia [Mr BAYLY] now insists upon his motion?

Mr. BAYLY. Yes.

Mr. PHILLIPS. I am perfectly willing to have the direction indicated by the gentleman's motion given to the resolution for the reason I have already stated.

Mr. LETCHER. I shall vote for this resolution as it stands, and I should vote for it if something more were added to it. I am satisfied from the tone of the public journals throughout the country, from conversation with intelligent citizens among my own constituents, that there is a distrust to some extent of our Minister at Madrid. And, as far as I am concerned, I desire that the facts shall go before the country, in order that if that distrust be unfounded he may have the benefit of the vindication which the publication of these papers will give to him; and if it be well founded, then the country ought to know it.

I am, therefore, for procuring the necessary information to enable me to decide how this is. But, says the gentleman from Alabama, [Mr. PHILLIPS,] you ought never to call for such information on light occasions. I imagine from what I have seen of this matter in the newspapers that it is about as serious an occasion, about as important a movement in reference to calls for information, as any that I have heard directed to the President since I have been a member on this floor. We had during the last session, and we have had during preceding sessions, various calls on the Executive for correspondence and information, and not one of these calls, in my judgment, was as important as this is.

But the gentleman says we ought not to call for information on the mere ground of suspicion. Well, now, I have known men and I have known parties to be very seriously injured by suspicions alone. In fact, it is about as sure a mode to do injury to men, to excite general suspicion against their character or conduct—particularly if any attempt be made to conceal the facts which have given rise to suspicion. Perhaps it is the very best mode of inflicting injury to character that can possibly be adopted.

Now, so far as Mr. Soulé is concerned, my relations with him have been pleasant. I esteem him as a gentleman. But at the same time, in the discharge of my duty here, when an issue of this sort is made, I say what I honestly believe; and I say that I do not think Mr. Soulé ought ever to have been sent abroad; and I believe that the interest of the country would be promoted by bringing him home. With the lights now before us, we do not know how this thing is. If he is wronged by this suspicion, which I entertain in common with others, no one will be more ready to repair that wrong than I will be.

Mr. BAYLY. The resolution which my friend is debating has no reference to Mr. Soulé or his conduct. It does not contain a word about it.

Mr. LETCHER. I understand Mr. Soulé was in this congress at Ostend.

Mr. BAYLY. There is not a word said about Mr. Soulé in the resolution.

Mr. LETCHER. Very well; but I take it that my colleague [Mr. BAYLY] knows as well as I do whom that resolution refers to. Was, or was not, Mr. Soulé there? And if he was not there, how came up this fuss about his going back through France? [Laughter.] Now, I understand that he was there; and when the gentleman [Mr. BAYLY] tells me that Mr. Soulé is not mentioned in that resolution, I ask what difference does that omission make when everybody knows that, even though he is not mentioned, the resolution as distinctly refers to him as if he were? I hope, then, that the call will be made, and that we will get the information, and that the country will be left to judge of the propriety or impropriety of the gentleman's [Mr. Soulé] course.

Mr. CAMPBELL. It strikes me that this resolution is a very harmless affair. It simply proposes that the President shall communicate to this House, and to the country, such information connected with the meeting at Ostend as, in his judgment, will not be inconsistent with the public welfare. He is to be left to judge. He is to decide whether it is proper that the information asked should be given; and why not, therefore, let the resolution be adopted? Every one knows—as it has been well remarked—that there is pervading the country a feeling of suspicion in relation to this meeting; and that feeling, I have reason to believe, is well founded. Does not every member within the sound of my voice know that ten millions of dollars were voted out of the people's Treasury at the last session of Congress, somewhat hastily, under the Gadsden treaty? And do we not all know, that when the honorable member from Missouri [Mr. BENTON] sought papers which were necessary for the enlightenment of the House and the public mind, as connected with that matter, that they were refused to be given, and that we were compelled to legislate on that subject, as it were, in the dark? Does not every member within the sound of my voice know, too, that the Executive branch of the Government sought from this House ten millions of dollars more of the people's money, at the close of the session; and that that ten millions of dollars so called for was connected with a proposition to acquire the Island of Cuba? Was it not openly avowed on this floor, when we were voting for the six steam frigates, that one of the objects of thus increasing the Navy was the acquisition of Cuba? It is natural enough, under such circumstances, that the people should look with a suspicious eye upon such an extraordinary meeting of our foreign embassadors as that of Ostend.

The honorable gentleman from Alabama [Mr. PHILLIPS] asks how do we know that anything of this sort occurred? Sir, I tell him that though this is an age of Know-Nothingism, the people *do know* that these things have occurred. They know what was done at the last session of Congress. They know that there is pervading the South a general feeling which looks wistfully at that rich island, and seeks its early acquisition. The people upon the northern frontier know too that there is a deep feeling there, which is looking towards the annexation of the British Provinces of North America, as a set off to further acquisitions southward. And hence it is that those who desire most heartily to preserve an honorable peace with all the nations of the earth, feel a sensitiveness in relation to every movement connected with our intercourse with foreign nations, calculated in any degree to involve us in troubles such as are now drenching Europe in human blood. In a Government like this, sir, based as it is upon public opinion—where the people are the sovereigns and the rulers—shall it be said they ought to be kept long in ignorance of the purpose, when a congress of ministers is well known to have taken place at Ostend (though not from any official documents that have been laid before us, but known by the universally published fact all over the world.)

Let me say to the chairman of the Committee on Foreign Affairs that it has been so universally published, and remains undenied by the accredited organs of his Administration at home. This I regard as sufficient information of the fact that the meeting was held to justify the call for information in regard to the objects of the conference? Will either of the honorable gentlemen point me to a paragraph in any of the papers recognized as organs of this Administration in which it is denied, that a congress of foreign ministers was held at Ostend? Under this state of things, *that* congress must have assembled for some purpose. No meeting, under these circumstances, could have been held without an object. I hold, that it is due to the people of the United States, that the President shall tell their representatives, if not inconsistent with the public welfare, under the existing state of affairs, what the facts are connected with this meeting of ministers.

I have nothing to say now against the official conduct of either of these foreign ministers. It is premature to do so. I cannot say that I indorse all that my honorable friend from Virginia [Mr. LETCHER] said in relation to our Minister at Madrid. When we shall have been in possession of the facts—when the evidence shall have been disclosed to us in relation to his official career—I shall endeavor to discharge, fairly and without prejudice, that duty which as a just juror I shall owe as well to the country as to the private and official character of that distinguished man.

Mr. LETCHER. I understand the gentleman from Ohio to say that he would not do as I have done—condemn the Minister at Madrid without a hearing. The gentleman misunderstood my remark. I stated distinctly that I, in common with the country, entertained the suspicion that something was wrong; and that whenever I had information here to guide my conduct, that I would then decide, upon that information, whether I was right

or wrong; and if my suspicions were improperly entertained, that I would cheerfully retract them, and do full justice to our Minister at Madrid.

Mr. CAMPBELL. I misunderstood the honorable gentleman to some extent; but my friend accompanied his remarks with an expression of his personal dislike to that Minister, which might tend to prejudice him before the country. I condemn no one.

Mr. LETCHER. Does the gentleman say that I made an expression of my personal dislike to our Minister at Madrid?

Mr. CAMPBELL. The gentleman said that he ought never to have been sent there.

Mr. LETCHER. I said that, so far as I was concerned, my relations with Mr. Soulé had been pleasant, but it was my opinion that he ought never to have been sent to Spain.

Mr. CAMPBELL. I indorse that myself as a matter of opinion.

Mr. SOLLERS. If the gentleman from Ohio will give way, I deem it necessary to make a slight explanation of the resolution which I had the honor to introduce a short time since. The honorable gentleman from Alabama [Mr. PHILLIPS] seems to think that the resolution I offered was contrary to parliamentary usage, and that I was introducing what he chooses to designate as an undignified matter—terms which I am not in the habit of applying to the productions of other pens and brains. He assigns as a reason why this resolution should not be adopted, that, according to the theory of the Government of the United States, this particular branch of the Government has no power over the subject of foreign affairs. How does it happen, then, that we have a Committee on Foreign Affairs appointed upon the part of the House?

Mr. PHILLIPS. So far from my denying the power of the House in this matter, I commenced my remarks by expressly admitting it. I did not deny the power of the House to pass this resolution, but I thought that the power in relation to this subject—which I admitted was in the House—should not be exercised slightly, and that we should have something substantial upon which to act. I beg leave to say to the gentleman that I made use of no expression that I can now call to mind which at all reflects either upon the mover of the resolution, his motives, or the resolution itself. I said that I did not think it was dignified to offer a resolution which was based merely upon suspicion.

Mr. SOLLERS. I have heard the explanation of the honorable gentleman from Alabama, and according to his recent statement——

Mr. PHILLIPS. According to my first statement.

Mr. SOLLERS. And according to his first statement, then, the House has power to pass the resolution, but such power should not be exercised by the House except upon extraordinary occasions, or at least, upon occasions when there was some suspicion which should call for the exercise of such power. I appeal to the common sense of this House—a thing not often appealed to, or very frequently exercised—if it is not as well known that this meeting of ministers at Ostend has taken place as any event which transpired yesterday or the day before within the personal knowledge of each individual member of this House; if it is not as well known as anything can be known which transpired upon the other side of the Atlantic; if it is not just as well known as that the battle of the Alma has been fought, or that the Allies are besieging Sebastopol; if it is not just as well known as the fact that we have different ministers accredited to various foreign Governments at the respective places to which they are sent? Just as well known as any of these things, is it known to every member of this House; nor is it denied by any man that this meeting of ministers has actually taken place.

I do not look upon this meeting as a matter of trifling consequence; for if I did, I should never have offered this resolution. I look upon this conference of ministers in Ostend as involving most stupendous consequences, not only to the people of the United States, but to foreign Governments also. There is not a man in this House who does not know that this conference has created, and is creating, a most profound sensation from one end of the Union to the other, as being a most unusual and extraordinary affair, not only from the character of the conferees engaged in it, but from the suspicion that something more than meets the eye was done by them, and which they desire should not be known. And what have I asked by this resolution? I have not said that the President of the United States instructed these men to meet in conference at Ostend. I say no such thing. I ask the question, if any instructions have been given; and if they have, what is the character of such instructions, and what has been the result of such meeting or conference? I do not say that they have done mischief or harm to the United States. I ask the question what they have done, in order that the people of the United States, who are deeply interested in our foreign relations, and that we, their representatives, may all see and know what they have done there.

I cast no suspicion upon the President of the United States, nor upon the members of his Cabinet, nor upon the foreign ministers of the United States. I have not said one word in that direction—not a word. There are people who believe, and perhaps a majority of the friends of the Administration, and of the party to which the gentleman from Alabama [Mr. PHILLIPS] belongs, believe that the appointment of the gentleman who now represents this Government at Madrid, was an unfortunate appointment. I too have objections, not of a personal character, to the appointment of that gentleman to the court of Spain. I object to it, not because that gentleman is not a man of transcendent ability, but for other reasons, upon a discussion of which I shall not enter at this time, but which I shall take occasion, at some future time, to set forth fully to this House.

I will simply remark, that I never would, so help me God, intrust the foreign interests and affairs of this country, or the foreign administration of this Government, to the hands of any man who is not a native born. In the Constitution of the United States it is provided that the President of the United States shall be a native born citizen of the United States, and that no person shall be eligible to that office who is not so. And how is it, if that provision is a wise one—and of that no one entertains a doubt—that these gentlemen of foreign birth should be intrusted with important and delicate negotiations, is something which I cannot comprehend. But I do know that it is done. Mr. Soulé is unexceptionable so far as character is concerned, but he was raised in a different school of liberty from that in which we were instructed. He imbibed his notions of civil government and liberty in Paris, reeling with the fallacious doctrines, and social views of Rousseau. He might live here until he reached the days of Methusela, and talented as he is, he could never comprehend the representative Government of the United States, and I never knew a foreigner that did, and although I know it is the first word—the word "Democracy"—that is whispered into the ears of foreigners when they land upon our shores, yet it is to the Irish a *stumbling block*, and to the Dutch *foolishness*. [Laughter.] My main objection to this appointment rests upon the fact that Mr. Soulé dates his extraction from this foreign source, and that he was the pioneer in this conference at Ostend. At some future time I shall take occasion to express my views fully upon this question, though I do not know exactly when I shall do it.

Now, in conclusion, let me say that this resolution only asks for light. It is designed to prevent a sensation all over the land. The people ask for light; and if they ask light, give it to them. It was the first element in the organization of the world. "God said let there be light, and there was light." [Laughter.]

Mr. CLINGMAN. If there had been no discussion upon this subject, I should have contented myself with a silent vote for the resolution. I always vote for resolutions of inquiry, unless something on the face of it renders it obviously improper to do so. It is true that yesterday I did not vote to suspend the rules for the introduction of this resolution, and would not so vote to-day.

The question being now presented directly before us, I intend to vote for it, but lest it may be supposed that I am operated upon by the reasons so eloquently expressed by the gentleman from Maryland, [Mr. SOLLERS,] I will say, that while I vote for the resolution, I do not concur, at all, with much that has been said by him, and I am not operated upon, at all, by the reasons given by him and others.

I see nothing unusual and surprising in this conference of ministers. In view of the struggle which is going on in Europe, and the interests the United States have at stake there, it was proper that some such conference should have taken place. If it should so happen that Mr. Buchanan should take one view, or one position upon questions affecting our rights as neutrals, and Mr. Soulé should take another, that state of affairs would work disadvantageously to our Government. It was therefore important that our ministers should come to some understanding, and know what to insist upon. There was no more impropriety in their coming together—whether by the advice of the Executive or not, I do not know—than there is in calling a Cabinet council in this city. If it is true that some of them are men of extreme opinions, which would lead them to rash acts, it is eminently proper that they should consult with the cooler heads we have abroad.

Hence, entertaining this opinion, and thinking the conference a proper one, and that they met with the view of sending information to the Executive of this country, I would have passed the subject by, and would not have introduced the resolution myself. But the question now stands in a different position before us. Gentlemen tell us that the country is alarmed in view of these facts, and the gentleman from Virginia speaks feelingly upon the subject. Well, if this be true, and the passage of this resolution will allay that sort of apprehension, in God's name let it pass. I shall vote for the resolution for information, and yet do not wish to be entangled with the questions which these gentlemen have raised. I express no opinion as to the appointment of Mr. Soulé. I have the highest respect and admiration for that gentleman. The Constitution gives the President, by and with the advice and consent of the Senate, power to appoint our ministers to foreign courts, and we have no more right to interfere with, or power over, such appointments, than the Senate would have over the selection of our Speaker, or any other officer. I waive, then, all question as to the propriety of Mr. Soulé's appointment, and all those other questions which have been brought before us by gentlemen who have discussed this resolution. It is enough, for the reasons which I have stated, that I shall vote for the resolution, and I appeal to the gentleman from Virginia, over the way, [Mr. BAYLY,] to withdraw his motion to refer it to the Committee on Foreign Affairs, and let it be adopted. I hope my friend will withdraw that motion. I concur with the gentleman in his view of the matter. I perceive no necessity for the information; but other gentlemen want it, and I am reluctant, therefore, to vote against the resolution.

Mr. BAYLY, of Virginia. I must assign my reasons for declining.

The SPEAKER. The gentleman's colleague is in possession of the floor.

Mr. McMULLIN. Mr. Speaker, yesterday I thought that this resolution was premature, and I still think so. Supposing the Government is in the danger which some gentlemen seem apprehensive of, because of the conduct of our representatives abroad, are we not all aware of the existence of a committee—one of the standing committees of this House—whose duty it is to investigate such matters?

I care little whether the proposition before the House is adopted or rejected. My object in rising was to notice a remark which fell from the learned gentleman from Maine, [Mr. WASHBURN.] That gentleman seemed to have jumped at the conclusion that this Administration has acted unprecedentedly in sending ministers of foreign birth to represent our Government abroad.

Mr. WASHBURN, of Maine. With the gentleman's permission I shall correct him. I stated that the conference was unprecedented, and not the fact that a portion of the conferees was of foreign birth. The gentleman from Virginia misunderstood me.

Mr. McMULLIN. I am happy to be corrected. I do not know whether the conference is unprecedented, or not. Certainly, I would presume that it is the undoubted right of our foreign representatives to confer together when they may on the best interests of the country.

I am not surprised, Mr. Speaker, that gentlemen upon this floor express holy horror of foreigners. It is a popular topic, and to become a leading matter of discussion here. At the North I understand that some have such a holy horror of foreigners that they have actually taken from the walls of their public halls the portraits of some of our statesmen of foreign birth. If that policy is to be adopted and carried out here, I would advise the gentleman from Maine to turn his head to the right, and seeing the portrait of La Fayette, to have that taken down.

I am grieved to see attacks made in this deliberative body on men because they are of foreign birth. I expected gentlemen to assail this Administration, but not because of its appointment of men as ministers who are of foreign birth. This is not the first Administration which has appointed as our ministers men of foreign birth. The distinguished Albert Gallatin, of foreign birth, was appointed our minister abroad; and in that capacity was always a favorite with Jefferson. I regard Mr. Soulé as a high-toned and honorable gentleman, and as fully capable of representing us abroad. I am not then prepared to censure his appointment by this Administration. I hope, in conclusion, that if the Committee on Foreign Affairs are of opinion that there has been misconduct on the part of our foreign ministers, that we shall hear from them at an early day. Unless I hear first from that committee of the necessity for this resolution, I shall vote against it.

Mr. WITTE. Mr. Speaker, I felt comparatively little interested in the resolution before the House, until I had listened for some time to the discussion on it. I did not regard it in a serious light. Now, however, the discussion has given it somewhat of a serious character. I understand it to be a resolution calling on the President for information in reference to an alleged meeting of the representatives of this Government accredited to the various continental Powers, at Ostend. This Government, we apprehend, has no official information of such a meeting; but such a meeting is characterized by gentlemen, who are doubtless well versed in the science of diplomacy, and certainly well understand our foreign relations, as an extraordinary thing.

I shall vote against the resolution, but I desire to state briefly the reason why. In the beginning I will say that I do not regard it as an extraordinary thing. I apprehend that there is scarcely a gentleman upon this floor who understands the continental system and relations which we bear to all of Europe, who does not know that these things are of frequent—almost daily—occurrence. Personal interview and conference of our ministers at St. Cloud and St. James, is a very common thing. And it is now that I hear, for the first time, such a meeting characterized as extraordinary.

Now that foreign Powers become interested in the discussion to hear the meeting thus characterized in an American Congress, it becomes a matter of some consequence, and, in my judgment, is deserving of proper notice. The question is not whether we are to be represented abroad by gentlemen of foreign birth or not; but simply what our representatives did in that so-called congress. Now, is there anything more in personal interview than in written communication, which is demanded by the Government to take place from day to day? He who understands the complex system on the continent of Europe, and where else we have ministers, and who understands our relations, knows perfectly well that it is not only the privilege but the duty of our honest and indefatigable and watchful representative abroad constantly to communicate with his colleagues, for such they are.

How is this congress to be regarded? I hear imputations made. Gentlemen say: "We want to know what is going on?" What is the presumption? How can we judge from the evidence which we have before us? Is it not to be supposed that those gentlemen who represented this Government are honest and indefatigable in the discharge of their duties? Is it not to be regarded as *prima facie* evidence that they desired to do their duty? Are not our foreign relations peaceable? What object had they then other than a peaceful one? What end have they to subserve? Have they any instructions? None; and I can speak with much more confidence on that point than I could have spoken before the receipt of the President's message.

Gentlemen say that yesterday they would have voted for this resolution, or against it, but that the reception of the message has changed their opinions. It has changed mine, and for this reason. It is the duty of the President to constantly communicate to this House, and through it to the country, whatever he deems of importance in reference to our foreign relations. His message was received and read scarce twenty-four hours ago. Now, I would ask gentlemen to divest themselves of any partisan feeling, and to look calmly and dispassionately at the matter. The President is asked to communicate what information he may have in his possession in regard to one of the most important cases which can possibly engage his attention, or that of this House. This, too, when but twenty-four hours before he communicated a lengthy message to us, in which he said not a word of the matter.

Now, briefly, my reason for voting against the resolution and in favor of its reference to the Committee on Foreign Affairs is, because it is important in its character, and that much of the importance with which it is invested has been given to it because of the tenor of the discussion here.

Gentlemen say that the country wants light. That is a very good thing to say here; it is a good thing to say anywhere. We are the representatives of the people, and it is right and proper that we should thus speak. But we should always consider in connection—what is the case? what is the subject? The communication sought, and which gentlemen say the country imperatively demands, is on a very secret subject—the subject of our foreign diplomacy. I apprehend that all will agree as to the nature of that science. It is doubtless true that the conference of our representatives abroad is of such a character as to require extreme secrecy. First, because of its nature, and the President doubtless so believes it, because he says nothing whatever about it in his message. In the next place, the fact of their meeting in person, instead of trusting to the ordinary means of communication, is proof that the objects of the meeting were secret in their character.

I say, then, in conclusion, are we to arraign, unheard, our foreign representatives? Do we not profess to be peaceful in our intentions? Are there no rampant filibusters here, who want to kick over the whole thing, because something has been done in secret that we have not been apprised of? Very well, sir, if the meeting has been a secret one, we have no right to know what did take place until the President of the United States sees proper to communicate it; and I repeat that it was secret in the fact of the extraordinary caution, of the extraordinary care which was manifested by these ministers in conferring with each other, instead of resorting to the ordinary means.

Once more let me say, that it is difficult to speak against a resolution of this character. I know how well it sounds to the people of the nation for their representatives to ask for information—to cry give us light! But, sir, the people of this nation have not called for this; they have not demanded the passage of such a resolution. Such a course is an extraordinary one. No such example, I venture to say, has been set in the history of the Government.

Sir, this transaction did not take place between two foreign Powers, whether peaceful or belligerent, but between our own representatives who, in the exercise of the highest functions with which they were invested, felt that they had a solemn duty to perform. I repeat, then, that I shall vote for the reference of this resolution to the Committee on Foreign Affairs, first, because we have already sufficient proof that the meeting was a secret one, and second, because we have sufficient evidence in the fact that the President has just communicated to Congress a lengthy message, in which he has not said anything upon the subject, that he either had no information upon it, or that it was of such a character that he did not deem it necessary or proper to communicate it.

Mr. TAYLOR, of Ohio. I did not intend to participate in this debate, and should have simply given a silent vote upon the resolution, if the debate called forth by it had not assumed a character of very great interest. I think the country is indebted to the gentleman from Maryland [Mr. SOLLERS] for introducing it; and I hope my friend from Virginia [Mr. BAYLY] will withdraw his motion to refer it to the Committee on Foreign Affairs.

I will not detain the House further, than to say that I believe the impression, very generally prevailing in the country, is strongly antagonistic to the appointment of foreign-born citizens to represent the nation in foreign courts. It is true that we have had no official information that this secret meeting was held at Ostend, but it is well known that such a meeting did take place. There is not a gentleman in this House who will deny it. And if it did take place, it must have been for some object, or if there was no object, the sooner the people of the country know it from the proper source, the better.

The gentleman from Alabama [Mr. PHILLIPS] told the House, as I understood him, that he should vote to send the resolution to the Committee on Foreign Affairs, for the purpose of giving it the go-by. Well, sir, I have the highest respect for that committee. I admire their conservative character. The course pursued by them during the last session—alluded to by my friend from Virginia, [Mr. BAYLY]—commanded my admiration for its conservativeness. But when a gentleman wishes to have the resolution given the go-by, by referring it to one of the standing committees of the House, I cannot consent to vote for such a reference. I say that it is due to this House, as the representatives of the nation—it is due to the dignity of the House—that we should call upon the Chief Executive of the nation for such information as he can give us, not incompatible with the public interest, touching this secret meeting of our foreign ministers abroad.

Mr. Speaker, the fact that the Minister of the United States in London, the Minister of the United States at Madrid, and the Minister at the Hague—two of them—Mr. Soulé and Mr. Belmont, men of foreign birth, were invited by themselves, or by each other, or directed by the Government of the United States to meet at Ostend, in Belgium, whether for an important purpose, or for no purpose, has certainly attracted a great deal of the attention of the people of this country. And it is not premature to call for information respecting it. We are not acting upon mere reports. The Chief Executive Magistrate of the country, in his annual message sent to this House yesterday, has stated officially that a misunderstanding has recently taken place between France and the United States, because the authorities of France had refused permission for Mr. Soulé to pass through that country on his way from the meeting of Ostend to his post in Madrid. It is not, therefore, a mere matter of report upon which we are acting. It is upon something much more tangible.

Now, sir, what was it that produced that misunderstanding with France, for which we were told an ample apology was made, if it was not this? If we may believe newspaper reports, when Mr. Soulé was refused permission to pass through France, Mr. Mason demanded an apology. It was considered a direct insult to the country. But the matter was explained by saying that Mr. Soulé was not refused as the Minister of the United States, but as a private citizen, who had formerly resided in France, and who had, for some cause, been a fugitive from that country in his early days. And having contracted the dislike of that Government, he was prohibited from passing through the country until our Minister in France interposed, and the prohibition was withdrawn.

But, sir, this meeting at Ostend has attracted a great deal of interest in this country, and I think every gentleman in this House must admit that it is proper to call upon the President of the United States for the information in his possession, if it can be given without prejudice to the public interest.

Sir, the public are nearly unanimous in opposition to sending, for our ministers abroad, such men as Messrs. Soulé and Belmont. I do not speak of it as a matter of much importance, but I will mention the fact, that two years ago, in traveling in the Hague itself, in Amsterdam, in the Netherlands, in the United Provinces, almost as much a Republic as ourselves, although they are a limited monarchy, everywhere I heard complaints made, in advance, of the appointment of an Austrian-born citizen as a representative of the

people of America. It was said to me that they had deserved better treatment at the hands of the United States, because in the days of the revolution they had loaned freely their power, their money, and their influence to establish the liberty of this country. They said they deserved, at least, to have a man to represent us who was an American-born citizen.

I know nothing personally against Mr. Belmont, but I repeat the people of the country unanimously, or a vast majority of them, disapprove of the appointment of such men to such high places in the diplomacy of the nation. Sir, I say to this House that neither Mr. Soulé nor Mr. Belmont, whatever be their talents or wealth, are the proper persons to represent the people of America in foreign courts. I say it here in my place—I have the right to say it as a representative called upon yearly to vote the salaries of these men—that proper men should be appointed to represent us abroad. I am not prepared to say that no citizen of foreign birth should be appointed. But, sir, the object of these gentlemen who have recently been at Ostend, whether their meeting was authorized by the President of the United States or not, ought to be made known to the people of this country, and there is no more appropriate mode of making it known, than by a respectful call upon the President of the United States to communicate this information, if not incompatible with the public interests. If these gentlemen were not authorized by the Government to go to Ostend, then the Government is not responsible for their action; they deserted their posts to the injury of the Government, and that is another objection to them.

Mr. Speaker, the fashion nowadays of ex-consuls, ex-ministers, and gentlemen in high official positions, writing what are called "filibustering" letters to foreign nations, and stirring up bad feeling against the Government of the United States, is anything but kind, generous, or conservative of the peace of the country. Sir, we have a Chief Magistrate who is authorized to send ministers to foreign countries, and so long as the ministers thus appointed do their duty, under the instructions of the Executive, and uphold the honor, the rights, the dignity, and the interests of the Republic of the United States abroad, they shall have my aid and support. But when they step out of their proper sphere to play the Red Republican, to assail and attempt to revolutionize Governments abroad, or to form "entangling alliances" with foreign nations, I shall denounce them as a public man and as a private citizen, as long as I have the right to do so. I should not have said one word upon this occasion if the resolution had been permitted to take the usual course, and as I believe the subject has now been thoroughly discussed, I call for the previous question.

Mr. BAYLY, of Virginia. I would ask my friend from Ohio, to allow me to say a word or two before he demands the previous question. The gentleman from Maryland, [Mr. SOLLERS,] to whom I desire to reply, has spoken two or three times.

Mr. TAYLOR. Will the gentleman renew the demand for the previous question if I now withdraw it for his accommodation?

Mr. BAYLY. Certainly, I will do so.

Mr. TAYLOR. Then, sir, I withdraw the demand.

Mr. BAYLY. Mr. Speaker, I should certainly acquiesce in the suggestion of the gentleman from North Carolina, [Mr. CLINGMAN,] and withdraw my motion to commit the resolution, and allow it to pass if I thought its passage was merely a harmless thing, as it seems to be taken for granted that it is. But, sir, the passage of this resolution would be setting a very dangerous precedent in this House.

Now, let us see what it is:

Resolved, That the President of the United States inform the House of Representatives, if not incompatible with the public interest, what was the object or objects of the meeting or conference of American ministers at Ostend, and whether said meeting or conference was held in obedience to instructions from the Secretary of State; what said instructions were, and what was the result of the meeting or conference.

Well, now, I undertake to say that except in an extreme case, the House of Representatives ought to make no such call as this. The President of the United States, and the Senate in conjunction with him, are by the Constitution charged with the conduct of our foreign affairs. The framers of the Constitution purposely withheld from us any right to interfere with it except in the single case where legislation is necessary to carry out a treaty. That is the only case in which this House has any right to interfere unless our object be, as the grand inquest of the nation, to institute proceedings of impeachment for misconduct of our foreign affairs. It would be a mischievous precedent for this House to call upon the President of the United States in reference to questions connected with our foreign diplomacy, except where legislation is necessary.

Now, suppose this resolution goes to the President, and he says the conference was held by his direction; what does that amount to? Was there any harm in that? Was there any harm in requiring that our ministers abroad should confer with each other? As I said in the few remarks which I submitted to the House prior to making my motion, they are required to confer with each other in writing, and why not in personal conference? Besides that, these personal conferences are not without precedent, as almost every gentleman who has spoken has assumed. On several occasions Mr. Gallatin, who was the favorite minister of Mr. Jefferson, and enjoyed his confidence to a larger extent than the others, was directed to visit other foreign ministers and confer with them. I had not anticipated this debate, and, therefore, cannot, with entire readiness and confidence in my accuracy, refer to a number of instances; but my impression is very decided that Mr. Gallatin was sent to St. Petersburgh when he was Minister to London, to confer with the minister there in respect to an important negotiation that was going on. But if it be unusual, it is not improper.

But suppose the President replies that the conference was not called by his authority; that the ministers chose to go to Ostend to confer with each other. Was there any harm in those ministers doing it? In an emergency it was proper that they should.

Then the resolution asks what were the President's instructions, and what the ministers went to Ostend for? What does the House want with that information? What action are you to predicate upon that information if it is all communicated? It is merely to gratify a curiosity, and I undertake to say, that the House of Representatives of the United States ought not to be passing resolutions merely to gratify a curiosity, especially in relation to our foreign affairs, which are intrusted emphatically to the President and Senate. If the Senate of the United States think there has been any of this dangerous proceeding which some gentlemen seem to suspect, why, that body will call for the information to be communicated to them in secret, and no damage will ensue.

But gentlemen say that if these ministers were sent there by the President, and if the information called for by the resolution ought not to be communicated, he will say in his reply that it ought not to be communicated.

Mr. SOLLERS, (interrupting, and Mr. BAYLY yielding the floor by request.) The gentleman from Virginia, the chairman of the Committee on Foreign Affairs, tells us that in asking for this information the House is calling for information with reference to our diplomatic relations with foreign Governments. I have here the Journal of the last session of the present Congress, by which I find that on one fair bright morning—I recollect it well—a resolution was passed calling for correspondence relative to the rights of neutrals, and instructions in relation to Cuba. And who do you suppose offered that resolution? Why, the honorable member from Virginia himself!

Mr. BAYLY. Will the gentleman be kind enough to hand me that resolution?

Mr. SOLLERS. I will, sir.

Mr. BAYLY. Whilst the gentleman is looking for the resolution, let me say that in this case the dilemma is perfect. These ministers were at Ostend for the purpose of negotiation, or they were not. If they merely met there to confer with each other, then what does this House want to know what was the object of that conference?

If they were there for the purpose of negotiation or for consulting in reference to negotiation, then it is certain that that negotiation is still pending, because the country knows nothing of its results. And it is a constant and satisfactory answer, even in the Senate, for the chairman of the Committee on Foreign Affairs to say that a negotiation is pending, as a reason for not making public the information connected with it.

And the gentleman from Maryland [Mr. SOLLERS] thinks he has got me there, (Mr. SOLLERS having directed Mr. B.'s attention to the reference.) Let us see whether the gentleman has got me there. The first resolution to which he refers, calls for "such public declarations as have been made in regard to the right of neutrals," a subject in respect to which we were then interested——

Mr. SOLLERS, (interrupting.) Well, then, go to the Cuba matter.

Mr. BAYLY. I will go to that. I called for all the correspondence in connection with Cuba; and why did I do that? Because this House, in referring the President's message to the Committee on Foreign Affairs, had committed that subject to us for investigation. Besides that there was a resolution of this House referred to that committee directing us to inquire into this matter. And I knew what I was after before I asked for information. I knew that it was connected with a subject already before that committee by the order of the House. And the gentleman supposes that a resolution of that sort in reference to a correspondence which had ended, for keeping which a secret there was no longer any necessity, is authority for calling for information in reference to a meeting which either had connection with negotiations or had not? If that meeting had no connection with negotiation, *cui bono* the information sought? If it had, that negotiation is still pending, and it would be improper for this House to call for such information. I would thank the gentleman to look for another precedent.

Mr. SOLLERS. If the gentleman from Virginia will allow me, I would say that I think the cases perfectly analogous. I believe, or have very strong suspicion, that this resolution relates to the same subject-matter as did the gentleman's resolution in reference to Cuba.

Mr. BAYLY. That gentleman will further remember, as far as that resolution of mine was concerned, that the President of the United States sent a message here in relation to the case of the Black Warrior, and asked for our legislative action. He asked also for provisional legislation to meet the contingency of a failure of negotiations. And when this House had committed to the committee over which I had then the honor to preside, the message asking for legislation refering to that particular subject, asking, too, for an advance of the people's money as a contingent appropriation in the event of no satisfactory adjustment, I felt it then entirely proper—nay, more than proper—I felt it due to the committee and to this House that before we responded to this message of March last, we should have all the information connected with the whole subject. And the gentleman [Mr. SOLLERS] thinks that such a resolution as that is a precedent for this calling for information, as to whether these foreign ministers, whose appointment is given to the President and Senate, met at a certain town in Europe accidentally or under instructions, and if they met under instructions, what were those instructions, and what was the object of the conference?

Now, if the President's message was before this House, calling upon us for a contingent appropriation of money, to meet the contingency o the failure of a negotiation, then the gentleman's resolution, asking for information as to the object of that negotiation, and as to everything connected with it, would have been entirely proper. I am obliged to the gentleman for the illustration he has furnished me.

But, sir, I cannot close my remarks, although my friend from Virginia [Mr. LETCHER] must excuse me for saying so, without making some irrelevant remarks in reply to those of my friend of a similar character. He says he did not approve of the appointment of Mr. Soulé, and that there is a great deal of dissatisfaction in his part of the country with that appointment. Why, sir, this resolution has nothing to do with Mr. Soulé's appointment. It has nothing to do with Mr. Soulé's conduct, either in his affairs of honor at Madrid, or in his difficulty in getting a passage through France. If the President have to answer that resolution, I take it for granted that he will say nothing whatever on that subject, because if he should do so, it would be a very clear case of

traveling out of the record, and I presume he will not do that.

As to the appointment of foreigners, that is a matter with the President and Senate, and one with which the House of Representatives, as a legislative body, has nothing to do. My own opinion is very decided, that it would be quite as well that we should be represented abroad by Americans—quite as well! I do not mean to say that I would disfranchise foreigners in any respect, but I do mean to say—so far as my individual opinion is concerned—that it would be quite as well we should be represented abroad by native Americans. Ay, sir, I say further, to my friend from Virginia, that I am prepared to go one step beyond that. I am prepared to adopt the sentiment which Mr. Jefferson expressed—I believe in his letter to Mr. Short—that even native-born Americans ought not to be left abroad too long.

Mr. LETCHER, (interrupting.) I have not said one word about Native Americanism; nor did I object to the appointment of Mr. Soulé as a foreigner. I never mentioned one word as to his being a foreigner at all.

Mr. BAYLY. I beg my friend's pardon. It was the gentleman from Maryland [Mr. SOLLERS] to whom I intended to allude. I certainly did not intend to misrepresent my colleague. I am the last man on the floor who would do so. But, as I was saying, I not only prefer that we should be represented abroad by native American citizens, but I would not let them stay abroad too long. They lose, to some extent, their home sympathies, although I see it constantly stated by these representatives abroad that they never loved their country half so well till after they had left it. Still I know that when they stay there too long, if they do not lose their home sympathies, they lose, at any rate, that intimate acquaintance with the American feeling and character which our foreign representatives abroad ought to carry with them. That was even objected to Mr. Jefferson. Nothing could destroy Mr. Jefferson's democracy or his attachment to his country. Upon one occasion, a mutual friend asked Mr. Henry why he disliked Mr. Jefferson. Mr. Henry was a man of infinite tact, and he did not choose to assign graver reasons; but he assigned one reason for his dislike of Mr. Jefferson, that he staid so long in France that he did not like his natural victuals. (Pronouncing it in Negro vernacular.)

I agree with these gentlemen, so far as this matter of sending Americans abroad is concerned. I would greatly prefer to have Americans abroad, but they should not stay there longer than four or five years. I do not want Europeans to suppose we have no people of our own fit for such offices as it has been said our practice implies. Then they had better come back and mingle with the people again. I demand the previous question upon my motion.

Mr. JONES, of Tennessee. I understand the gentleman from Virginia [Mr. BAYLY] to call for the previous question. I do not wish to make any remarks, but I wish simply to suggest a modification of his motion by referring this resolution with instructions to the Committee on Foreign Affairs, to inquire whether or not the meeting of American ministers at Ostend was not held for the purpose of organizing a Know-Nothing lodge in Europe. [Laughter.]

Mr. BAYLY. I hardly ever knew my friend from Tennessee [Mr. JONES] to ask me to modify a resolution before, where I did not comply with his request; but, upon this occasion, he must excuse me. If the resolution under consideration is referred to the Committee on Foreign Affairs, I shall try to ascertain, although I think the precedent is wrong, whether something may not be said upon this floor that will satisfy the curiosity of gentlemen, without the formality of a call upon the President, which, in the event the gentleman contemplates, will compel him to reply, that important negotiations were going on, and that the information could not, at that time, be communicated. If this conference, as two or three gentlemen have said, has excited the alarm of foreign nations, why, it will increase that distrust to an infinite extent, if the President, in his message, says: I cannot tell you what the object of that conference was. So I think the passage of the resolution is setting a bad precedent. I think that the House can be satisfied upon this subject without the mischief that would result from a formal reply of that kind. I believe I may safely say, that the conduct of the Committee on Foreign Relations heretofore has not been such as to excite any distrust in this House as to its conservatism. I call for the previous question.

Several MEMBERS. Withdraw the demand for the previous question.

Mr. BAYLY. My only wish is to consult the pleasure of the House.

Mr. WHEELER. I object to the withdrawal of the demand for the previous question.

The previous question was seconded, there being—ayes 83, noes 51.

The main question was then ordered to be put.

Mr. WHEELER demanded the yeas and nays; which were ordered.

Mr. HENN moved that the House adjourn, which was disagreed to—ayes 59, noes not counted.

The question was then taken upon Mr. BAYLY's motion, and decided in the negative—yeas 83, nays 84; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, Ashe, David J. Bailey, Thomas H. Bayly, Barksdale, Barry, Belcher, Bocock, Breckinridge, Bridges, Caskie, Chastain, Clingman, Cobb, Colquitt, Craig, John G. Davis, Thomas Davis, Dawson, Dowdell, Dunbar, Edgerton, Edmundson, Ellison, English, Faulkner, Fenton, Florence, Fuller, Gamble, Goode, Green, Greenwood, Hamilton, Wiley P. Harris, Hastings, Hendricks, Henn, Hibbard, Houston, Ingersoll, Johnson, George W. Jones, J. Glancy Jones, Kittredge, Kuriz, Lamb, Latham, Lewis, Lindsley, Macdonald, McMullin, Macy, Smith Miller, Olds, Orr, Bishop Perkins, John Perkins, Phelps, Phillips, Pratt, Riddle, Robbins, Rowe, Ruffin, Seymour, Shannon, Shaw, Shower, Singleton, William R. Smith, George W. Smyth, Straub, John J. Taylor, Trout, Tweed, Vansant, Walker, John Wentworth, Westbrook, Witte, and Hendrick B. Wright—83.

YEAS—Messrs. Appleton, Ball, Banks, Bennett, Boyce, Bristow, Campbell, Carpenter, Chandler, Chase, Corwin, Cox, Crocker, Cullom, De Witt, Dick, Dickinson, Edmands, Thomas D. Eliot, Everhart, Farley, Flagler, Franklin, Goodrich, Grey, Grow, Aaron Harlan, Harrison, Haven, Hiester, Hill, Hillyer, Howe, Hunt, Daniel T. Jones, Kerr, Knox, Letcher, Lindley, McCulloch, Mace, Matteson, Mayall, Meacham, Middleswarth, Millson, Morgan, Murray, Oliver, Parker, Peck, Pennington, Pringle, Ready, Reese, David Ritchie, Rogers, Russell, Sabin, Sage, Sapp, Simmons, Skelton, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Stratton, Andrew Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Tracy, Upham, Wade, Walbridge, Walley, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, Wheeler, Yates, and Zollicoffer—84.

The question then recurring upon the adoption of the resolution,

Mr. WHEELER demanded the yeas and nays; which were ordered.

On motion by Mr. GROW, the House then adjourned—ayes 73, noes 55—at twenty minutes past three o'clock, till to-morrow at twelve, m.

IN SENATE.

WEDNESDAY, *December* 6, 1854.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

Hon. WILLIAM PITT FESSENDEN, of Maine, attended to-day.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate the annual report of the Secretary of the Treasury on the state of the Finances; which was referred to the Committee on Finance, and

On motion by Mr. HUNTER, it was

Ordered, That the report be printed, and that ten thousand copies thereof, in addition to the usual number, be printed for the use of the Senate.

Also, a communication from the Treasurer of the United States, transmitting copies of his accounts with the United States for the third and fourth quarters of the year 1853, and the first and second quarters of the year 1854, as adjusted by the accounting officers of the Treasury Department; which was referred to the Committee on Finance.

PETITIONS, ETC.

Mr. PETTIT presented the petition of the register of the land office and receiver of public moneys at Indianapolis, praying to be allowed the same per centum on the sales of the public lands as was allowed previous to the act of August 4, 1854; which was referred to the Committee on Public Lands.

Mr. STUART presented the petition of Ross Wilkins, Judge of the Territory of Michigan in 1832, praying that he may be included within the provisions of the act of August 1, 1854, to provide compensation for the services of George Morell, in adjusting titles to land in Michigan; which was referred to the Committee on Claims.

Also, a petition of the register of the land office and receiver of public moneys at Kalamazoo, Michigan, praying to be allowed the same per centum on the sales of the public lands as was allowed previous to the act of August 4, 1854; which was referred to the Committee on Public Lands.

Mr. JAMES presented the petition of Rhodes Sheldon and others, praying that Simoen Steadman may be paid for military services in the last war with Great Britain; which was referred to the Committee on Military Affairs.

Mr. HAMLIN presented the petition of Lemuel Worcester, praying a pension on account of a disability incurred while employed as a waiter to a militia officer in the United States service during the last war with Great Britain; which was referred to the Committee on Pensions.

Mr. GEYER presented the petition of Joseph Hardy and Alton Long, praying payment for lead unlawfully exacted from them by agents of the United States; which was referred to the Committee on Claims.

Mr. BROWN presented documents in relation to the claim of Levi C. Harris, to a pension on account of a wound received during the last war with Great Britain; which were referred to the Committee on Pensions.

Mr. SHIELDS presented resolutions of the Board of Common Council of the city of Rock Island, Illinois, praying that that place may be made a port of delivery; which were referred to the Committee on Commerce.

THE JAPAN EXPEDITION.

Mr. SLIDELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to communicate to the Senate, if in his opinion not incompatible with the public interest, the instructions, correspondence, and other documents relating to the naval expedition to Japan, and the proceedings and negotiations resulting in a treaty with the Government thereof.

NATURALIZATION LAWS.

Mr. ADAMS gave notice of his intention to ask leave to introduce a bill to amend the "act to establish a uniform rule of naturalization, and to repeal the acts heretofore passed on that subject," approved April 24, 1802.

BILLS INTRODUCED.

Mr. BROWN, in pursuance of previous notice, asked and obtained leave to introduce a bill to extend the benefits of the bounty land laws of the United States to Choctaws and other Indians who have heretofore served in the Army of the United States in time of war; which was read a first and second time by its title, and referred to the Committee on Indian Affairs.

Mr. WELLER, in pursuance of previous notice, asked and obtained leave to introduce a bill to extend, for a limited period, "An act to ascertain and settle private land claims in the State of California;" which was read twice by its title, and referred to the Committee on Public Lands.

Mr. CASS, in pursuance of previous notice, asked and obtained leave to introduce a bill for making appropriations for deepening the channel over the St. Clair flats; and also for deepening the channel in the St. Mary's river, in the State of Michigan; which was read a first and second time by its title, and referred to the Committee on Commerce.

Mr. BRODHEAD, in pursuance of previous notice, asked and obtained leave to introduce a bill establishing a commission for the examination and adjustment of private claims; which was read a first and second time by its title, and referred to the Committee on Claims.

CLERKS TO COMMITTEES.

Mr. BROWN. I offer the following resolution:

Resolved, That the Committee on Indian Affairs have power to appoint a clerk.

I will say that the chairman of the committee is not present, and therefore, as its duties are very laborious, and it is necessary to have a clerk, I hope the Senate will not insist upon the request coming from the chairman.

The resolution was considered by unanimous consent, and agreed to.

Mr. SHIELDS offered the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs be authorized to employ a clerk until otherwise ordered by the Senate.

MAIL STEAMER BILL.

Mr. HUNTER. The mail steamer appropriation bill remained as unfinished business at the close of the last session. It lay over, and I therefore suppose it will now be the first thing in order. It went over on account of a disagreement between the two Houses. The Senate made an amendment to which the House disagreed. A committee of conference was appointed, but they could not agree upon a report. A motion was then made by the honorable Senator from Maryland, [Mr. PRATT,] to recede from the Senate's amendment. In the midst of the discussion upon that question, the session terminated, and the bill went over at that time. One of the members of the committee of conference, the honorable Senator from Georgia [Mr. TOOMBS] is absent, and I therefore propose, by general consent, that the consideration of the bill be postponed until Monday next. I think that by that time the Senator from Georgia will be here, and we can take up the subject and dispose of it. I submit the motion to postpone.

Mr. STUART. I should have no objection to the motion made by the Senator from Virginia, if the Chair should be of the opinion that what the Senator states is the present condition of the bill. My own opinion is, that from the condition in which it was left, it is lost, and that it is not, in any parliamentary sense, unfinished business to be considered by us at the present session. If the Chair is not clear upon the subject, the question may be reserved for consideration. I have thought upon it myself, and I have given the conclusion at which I have arrived.

Mr. WELLER. I believe the question at the time of the adjournment of the Senate, was upon the motion to recede from the amendment which had been made by the Senate. If that be the pending question, and the Senate recede from the amendment, the bill will become a law of the land. If we accede to the bill in the terms in which it passed the House of Representatives, it becomes a law of the land. The pending question at the adjournment was upon the motion to recede, and upon that motion the Senator from New York [Mr. SEWARD] had the floor. He had given notice that he would speak at least four hours upon it, and preferring my dinner to such a discussion, I moved the adjournment. That is then the pending question, and the honorable Senator from New York, in my opinion, is entitled to the floor upon it.

Mr. BRODHEAD. I do not think, in view of a fact which I shall state, that it is material whether the bill was left as unfinished business or not at the last session. It proposes to make an appropriation for the mail steamers. The amount proposed to be appropriated by it, I understand has been paid from certain balances which were remaining in the Treasury, of money which had been appropriated to pay for the mail steamers. The money which was proposed to be appropriated by the bill had been earned by the company under its contract, and by the failure of the bill at the last session, it was supposed that they would be prevented from obtaining the money. It has turned out not to be so, because there were unexpended balances in the Treasury—the ten per centum which was retained when the vessels were constructed, or something of that kind. I believe that those balances were properly paid by the Department, so that the company owning the mail steamers have been paid the amount mentioned in the bill. Hence, it is immaterial whether it is considered as unfinished business or not.

Mr. SEWARD. I hope the suggestion of the honorable Senator from Virginia will be agreed to, and that the question will be suffered to lie over until Monday next. We can then inquire into the matter.

Mr. HUNTER. I think it had better lie over until Monday, and in the mean time we can look into the question and see what are the facts.

Mr. STUART. I do not wish to discuss the question to-day. I stated that I had no objection to the motion of the Senator from Virginia, saving, however, the question whether the bill was before us. That question, I think, is lost sight of.

The motion was agreed to.

DES MOINES AND ROCK RIVER RAPIDS.

Mr. DODGE, of Iowa. Pursuant to previous notice, I ask leave to introduce a bill to continue the improvement of the Des Moines and Rock river rapids, on the Upper Mississippi. I do not wish its reference to any committee, but ask that it may be read twice, and take its place upon the Calendar. I also give notice to the Senate that I shall call it up at an early day.

Leave was given to introduce the bill, and it was read twice. It proposes to appropriate $200,000 for the purpose mentioned.

WISCONSIN SALT SPRING LANDS.

Mr. DODGE, of Iowa. A bill passed the Senate at the last session "relinquishing to the State of Wisconsin the lands reserved for salt springs therein." It passed this body on the 17th of January. It was subsequently passed by the House, with a slight amendment, and returned to the Senate on the 4th of August, when, Senators will recollect, no action could be had upon it. I therefore ask the Senate to consider it now.

The Senate proceeded to consider the amendment of the House; which was to strike out all after the enacting clause, and insert:

"That in lieu of the twelve salt springs, with six sections of land adjoining to each, heretofore granted to the State of Wisconsin for its use by the fourth clause of the seventh section of the act entitled 'an act to enable the people of Wisconsin Territory to form a constitution and State government, and for the admission of such State into the Union,' approved August 6, 1846, there be, and is hereby, granted to Wisconsin, to be selected by the Legislature of the State out of any public land subject to private entry, and to be sold in such manner as the Legislature may direct, for the benefit and in aid of the university of the State, and for no other purpose whatever, seventy-two sections of land: *Provided*, That any selection of land heretofore made under the act entitled 'an act to extend the time for selecting the land granted to Wisconsin for saline purposes,' approved May 4, 1852, and which shall not have been sold by the United States, and not legally claimed by preëmption or otherwise, be granted and affirmed to the State for the use of the university of the State as part of the seventy-two sections hereby granted."

Mr. STUART. I will call the attention of the chairman of the Committee on Public Lands [Mr. DODGE, of Iowa] to the fact that this appears to be a substitute for the original bill, and one which is placed upon a different footing. It will be recollected by that Senator that I asked the Senator from Wisconsin, now absent, [Mr. WALKER,] to furnish to the committee the facts upon which the original bill was founded. Those facts were never received, except in a statement which was rather imperfectly made by him. The substitute presents the act in a different character, and I only wish to know if the chairman of the Committee on Public Lands is informed of the facts upon which the amendment is based. I shall very cheerfully vote for a bill to give to the State of Wisconsin whatever other new States received under similar laws. I should be very glad to hear from the Senator the facts in reference to the substitute.

Mr. DODGE, of Iowa. The fact is this: in the usual grants made to Iowa, and other States, there was a given time within which the selection must have been made. The State decided to apply the land to a university, rather than to the common school fund, which was the original provision; and it may require the sanction of Congress. Although the amendment of the House is a substitute, the difference is a very slight one in the phraseology. If there be any objection to it, I am willing to have it referred to the committee.

Mr. STUART. Not at all. The Senator is aware that the practice has been to give the new States the seventy-two sections of land for university purposes.

Mr. DODGE, of Iowa. The grant is precisely the same as to Iowa.

Mr. STUART. Have not the seventy-two sections been given heretofore to Wisconsin for that purpose? Or is this intended to make up the quantity?

Mr. DODGE, of Iowa. No, sir; this is to make up the quantity.

Mr. STUART. The Senator is aware that the salt spring donation is a different thing given to all the new States. The seventy-two sections are given for university purposes. Certain salt spring lands which were donated, were for different purposes. It is in the power of the Legislature of each State to apply the salt spring lands as they choose, keeping within the objects of the donation. In Michigan those lands have been applied to common school purposes, and the seventy-two sections have been applied to university purposes. Now, if it is intended to apply the salt spring lands to make up the deficiency which the State of Wisconsin has found in selecting for university purposes, instead of to the common school fund, there can be no objection.

Mr. DODGE, of Iowa. That is it.

Mr. SEWARD. I do not doubt at all that we wish to be laborious; but I desire to call the attention of the Senate to the joint rule of the two Houses, under which the business of the first session of Congress is resumed at the second session. The twenty-first joint rule is as follows:

"After six days from the commencement of a second or subsequent session of Congress, all bills, resolutions, or reports, which originated in either House, and at the close of the next preceding session remained undetermined in either House, shall be resumed, and acted on in the same manner as if an adjournment had not taken place."

The PRESIDENT *pro tempore*. The Chair will suggest that this bill can be taken up under a resolution adopted at the last session, which will be read.

The Secretary read as follows:

"WEDNESDAY, *August* 2, 1854.—Mr. SLIDELL submitted the following resolution; which was considered by unanimous consent, and agreed to.

"*Resolved*, That all subjects before the Senate at the close of the present session, including those before the committees, shall be continued till next session, and shall then be proceeded with in the same manner as if no adjournment of the Senate had taken place; and the papers which have been referred to the committees, and may be in their possession at the close of the session, shall be returned informally to the Secretary, and by him restored to the committees appointed at the next session."

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the House.

The amendment was agreed to.

HOUSE BILLS REFERRED.

The joint resolution of the House of Representatives, declaring the Seneca Indians entitled to a pension and bounty lands in certain cases, was read twice, and referred to the Committee on Indian Affairs.

The bill for the relief of the legal representatives of John Putnam was read twice, and referred to the Committee on Claims.

The bill allowing the further time of two years to those holding lands by entries in the Virginia military district in Ohio, which were made prior to the 1st of January, 1852, to have the same surveyed and patented, was read twice, and referred to the Committee on Public Lands.

ENOCH S. MORE.

Mr. PETTIT. On the first day of the session I made a motion to reconsider the vote by which the bill for the relief of Enoch S. More was passed on the last business day of the late session. It becomes necessary to reconsider it, for this reason simply: It is a House bill. It passed the House, came over here, and was properly passed by the Senate; but, in the midst of the confusion attending the close of the session, I am informed by the Secretary it was mislaid. It is now too late to take it back to the House, as having been then passed, as it is also too late to present it to the President; and it becomes necessary, as I conceive, to reconsider the vote by which it was passed, and then repass the bill, so that it may go to the House again, and, being passed now, be sent to the President for his signature. It is a small matter, and one which is unquestionably right. Under the resolution which has just been read, I take it there can be no doubt of the propriety of this proceeding. I am aware there is a rule which provides that a motion for a reconsideration must be made within three days; but it will be seen that there was no opportunity for making this motion at an earlier period than I did make it. The bill passed on the last business day of the session. It will be recollected by all who were present that it was resolved that the session should be extended to Monday, but that no legislative business should be done after four o'clock on Friday. I hold the resolution in my hand, the last clause of which is this:

"*Provided*, That no motion other than to adjourn, shall be taken by either House after the hour of four o'clock, p. m., this day"—

that is, Friday, August the 4th. Now, no motion for a reconsideration could have been made earlier. The resolution which has just been read continues the unfinished business of the session precisely as though there had been no adjourn-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. TUESDAY, DECEMBER 12, 1854. NEW SERIES.....No. 2.

ment; and, therefore, I suppose the motion can be made. I suppose that no injury can arise from not making the motion earlier, when it was not possible to make it; I therefore ask that the motion may be agreed to, and that the bill may be reconsidered, and again passed.

The motion to reconsider was agreed to.

Mr. PETTIT. I ask that the bill be now put upon its passage.

The Senate proceeded to consider the bill. It declares that, whereas the rolls of Captain Abraham Mattison's company of New York militia show that Enoch S. More deserted in 1812; and satisfactory evidence having been filed in the Pension Office, that, instead of having deserted, he was absent on furlough, and sick at the time; and as, on an investigation of the evidence by the Commissioner of Pensions, it was deemed sufficient to grant him an invalid pension; therefore, in order to enable him to get a bounty of land under the act of September 28, 1850, and to correct the roll, it proposes to direct the Commissioner of Pensions to correct the roll by erasing the words which imply that More had deserted, and insert "sick and absent on furlough;" and also to vest in More all the rights he would have had if he had continued in the company according to the terms of enlistment.

The bill was again passed.

RESOLUTIONS ON THE TABLE.

The Senate proceeded to consider the resolutions lying on the President's table. The first in order was one directing the Committee on Commerce to inquire into the expediency of providing by law for the better security of life and property on board of sea-going steam and other vessels.

Mr. BRODHEAD. That is a resolution which I had the honor to submit a few days ago. I ask that it may be passed over for the present.

The PRESIDENT. That course will be pursued, if there be no objection.

There was no objection.

The next resolution was one submitted yesterday by Mr. SEWARD, to provide for the election of two chaplains, one by each House, for the present session.

Mr. SEWARD. I learn that the Rev. Mr. Slicer, who was, at the last session, one of the chaplains of Congress, is detained from the city by a distressing family affliction at home; and as he probably will feel an interest in this subject, I ask that this matter may lie over for a few days.

The PRESIDENT. The resolution will be passed over for the present. The next resolution in order on the table, is one submitted by the Senator from Michigan, [Mr. STUART,] on the 15th of February, 1854, in these words:

Resolved, That the Committee on Commerce be, and they are hereby, instructed to report to the Senate, at as early a day as one can reasonably be prepared, a bill making appropriations for the improvement of harbors and rivers.

Mr. STUART. It is hardly useful to consider that resolution now; I therefore move that it be ordered to lie on the table.

The motion was agreed to.

CONSTRUCTION OF A RULE.

Mr. SEWARD. Mr. President, if there be now no bill before the body, I wish to call the attention of the Senate once more to the question which I raised some time ago, that it may be understood. It is, of course, with no view to oppose any bill before the Senate, that I raise this question. The joint rule to which I called the attention of the Senate, was that

"After six days from the commencement of a second or subsequent session of Congress, all bills, resolutions, or reports, which originated in either House, and at the close of the next preceding session, remained undetermined in either House, shall be resumed and acted on in the same manner as if an adjournment had not taken place."

When I brought this rule to the notice of the Senate, it was answered, that at the last session the Senate had superseded it, and the Secretary read a resolution of the Senate which provided that business might be resumed at the present session, in the stage at which it was left by the adjournment of Congress, as if there had been no adjournment. On reflection, that seems to me not to be a sufficient answer. I do not see what power the Senate has to pass such a resolution, which would control and reverse, or subvert a joint rule of the two Houses. It seems to me that that rule or resolution of the Senate, so far as it conflicts with the twenty-first joint rule, is void; otherwise, there can be no harmony of action between the two Houses. I beg leave, sir, to call your attention to it as a presiding officer, and a member of the Senate of long experience, that it may have consideration, if any such case hereafter may require it.

The PRESIDENT. I will look at the point.

Mr. STUART. Allow me to make a suggestion in connection with this subject for the consideration of the Chair. It strikes me that there is no conflict between the provisions. The resolution saves the business just as the joint rule does; but the joint rule fixes the time at which the business shall be taken up. They may, therefore, both stand, but the joint rule must control as to the time when the business shall be taken up and considered. I think the Chair on reflection will come to that conclusion.

The PRESIDENT. The Chair will examine and consider the subject.

Mr. STUART. As no Senator seems now to have any new business to present for consideration, I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 6, 1854.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

AMERICAN MINISTERS AT OSTEND.

The SPEAKER. The business first in order is the consideration of the following resolution:

Resolved, That the President of the United States inform this House, if not incompatible with the public interest, what was the object or objects of the meeting or conference of American ministers at Ostend, and whether the said meeting or conference was held in obedience to instructions from the Secretary of State; what the said instructions were, and what was the result of said meeting or conference.

Mr. TAYLOR, of Tennessee. I rise to a privileged question. I gave notice yesterday that I should introduce a bill for the repeal or modification of the naturalization laws. It is entered on the record for repeal only, and I desire that the proper correction should be made.

The SPEAKER. The words "or modification" will be entered upon the Journal unless objection be made. The Chair understands that such is the character of the notice.

Mr. CLINGMAN. I rise to a question of order. The Chair will recollect that, on my motion, I believe, the consideration of the President's veto message was postponed until this morning. I would respectfully inquire of the Chair, whether that will be the first business in order this morning?

The SPEAKER. The Chair supposes, the House having ordered the main question to be put upon the adoption of the resolution introduced by the gentleman from Maryland, [Mr. SOLLERS,] which was last under discussion yesterday, that that resolution must first be disposed of before the consideration of the veto message can be taken up. That will be the first business in order after action is had on the resolution.

Mr. CLINGMAN. I suppose the Chair is right.

EXECUTIVE COMMUNICATIONS.

The SPEAKER here presented a communication from the Treasurer of the United States, transmitting, in pursuance of law, copies of his accounts with the United States for the third and fourth quarters of the year 1853, and the first quarter of the year 1854, as adjusted by the officers of the Treasury Department.

Also, a communication from the Secretary of the Navy, transmitting, in pursuance with requirement contained in "the act making appropriation for the naval service for the year ending the 30th of June, 1853," approved August 31, 1852, a report of the number and names of the appointments to the Naval School which have been made, and the district and State whence each one comes, the number of vacancies existing at said school, with the congressional district entitled to supply them, &c.

The former communication was laid upon the table, and ordered to be printed; and the latter was referred to the Committee on Naval Affairs.

REPORT OF SECRETARY OF THE TREASURY.

Mr. JONES, of Tennessee. The annual report of the Secretary of the Treasury was presented yesterday, and ordered to be printed; but there was no order made for the printing of extra copies. I now move that the same number of extra copies of that document as were printed last session—fifteen thousand, I believe—be printed for the use of the House.

The question was taken; and the motion was agreed to.

CONFERENCE OF MINISTERS AT OSTEND.

The SPEAKER. The question recurs upon the passage of the following resolution:

Resolved, That the President of the United States inform this House, if not incompatible with the public interest, what was the object or objects of the meeting or conference of the American Ministers at Ostend, and whether said meeting or conference was in obedience to instructions from the Secretary of State; what the said instructions were, and what was the result of said meeting or conference.

Mr. CHASTAIN. I move to lay the resolution upon the table, and upon that I demand the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 72, nays 90; as follows:

YEAS—Messrs. Willis Allen, Thomas H. Bayly, Barry, Belcher, Bliss, Breckinridge, Bridges, Caskie, Chastain, Chrisman, Clark, Cobb, Craige, Curtis, Dawson, Disney, Drum, Dunbar, Ellison, English, Faulkner, Florence, Fuller, Goode, Green, Greenwood, Hamilton, Sampson W. Harris, Wiley P. Harris, Hastings, Hendricks, Henn, Hibbard, Hughes, Ingersoll, Johnson, George W. Jones, J. Glancy Jones, Kurtz, Lewis, Lindsley, Macdonald, McDougall, McQueen, Macy, Maurice, Smith Miller, Olds, Orr, Phelps, Phillips, Pratt, Richardson, Riddle, Thomas Ritchey, Robbins, Rowe, Ruffin, Seymour, Shannon, Shaw, Shower, Singleton, William Smith, George W. Smyth, Straub, John J. Taylor, Trout, Tweed, Walsh, Warren, and Witte—72.

NAYS—Messrs. David J. Bailey, Ball, Banks, Bennett, Bristow, Campbell, Carpenter, Caruthers, Chandler, Corwin, Cox, Crocker, Cullom, Thomas Davis, De Witt, Dick, Dickinson, Eastman, Edmands, Thomas D. Eliot, Etheridge, Everhart, Farley, Flagler, Franklin, Goodrich, Goodwin, Grow, Aaron Harlan, Harrison, Haven, Hiester, Hill, Hillyer, Houston, Howe, Hunt, Daniel T. Jones, Kerr, Knox, Letcher, Lindley, McCulloch, Mace, Matteson, Mayall, Meacham, Middleswarth, Millson, Morgan, Murray, Andrew Oliver, Mordecai Oliver, Parker, Peck, Peckham, Pennington, John Perkins, Powell, Preston, Pringle, Ready, Reese, David Ritchie, Russell, Sabin, Sage, Sapp, Simmons, Skelton, William R. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Stratton, Andrew Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Tracy, Upham, Wade, Walley, Elihu B. Washburne, Israel Washburn, John Wentworth, Tappan Wentworth, Wheeler, and Zollicoffer—90.

The SPEAKER. The question now recurs upon the adoption of the resolution.

Mr. BAYLY, of Virginia. I move that there be a call of the House, as I want a full vote upon this resolution, which I regard as mischievous.

[Cries of "No!" "No!"]

Mr. BAYLY. Well, I will not insist upon it.

Mr. McMULLIN. Will it be in order now to move to lay the resolution upon the table?

The SPEAKER. It will not, as the House has this moment refused to lay it upon the table.

Mr. SAGE. I hope we shall have an immediate vote upon the resolution.

Mr. McMULLIN. Will it be in order to move to refer the resolution?

The SPEAKER. It will not, the previous question having been ordered to be now put.

Mr. McMULLIN. Will it be in order to move to postpone its consideration indefinitely?

The SPEAKER. It will not, as the House has ordered the previous question to be now put, which is on the adoption of the resolution. No motion in regard to it is in order.

Mr. HILLYER. I move to reconsider the vote just taken.

Mr. WHEELER. And I move to lay that motion upon the table.

The SPEAKER. That motion can hardly be necessary.

Mr. SKELTON. I move, if it is in order, to reconsider the vote by which the House yesterday refused to refer this resolution to the Committee on Foreign Affairs.

The SPEAKER. The motion is not in order at this time.

Mr. ORR. I think that motion is in order.

The SPEAKER. One motion to reconsider is already pending.

Mr. HILLYER. I withdraw the motion.

Mr. WHEELER. I renew it.

Mr. HILLYER. I would first inquire of the Chair, if the motion which I made be withdrawn, will the motion just made by the gentleman from New Jersey [Mr. SKELTON] be in order?

The SPEAKER. It will.

Mr. HILLYER. Then I withdraw it.

The SPEAKER. The question, then, is upon the motion of the gentleman from New Jersey, to reconsider the vote by which the House refused to commit the resolution to the Committee on Foreign Affairs.

Mr. WASHBURNE, of Illinois. Will it be in order to move to lay that motion upon the table?

The SPEAKER. The necessity for laying that motion upon the table would not seem to exist; but ordinarily it is in order to move to lay a motion upon the table, and the Chair will entertain it now.

Mr. WASHBURNE. Then I make the motion, and upon that I demand the yeas and nays.

Mr. CAMPBELL. I desire to inquire of the Chair, whether the motion to reconsider the proposition to refer is now in order, the main question having been ordered upon the passage of the resolution?

The SPEAKER. Such has been the practice of the House, uniformly, as the gentleman from Ohio will recollect; but the vote must be taken without debate.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 84, nays 89; as follows:

YEAS—Messrs. Ball, Banks, Bennett, Bristow, Campbell, Carpenter, Caruthers, Chandler, Chase, Corwin, Cox, Crocker, Cullom, Thomas Davis, De Witt, Dick, Dickinson, Drum, Eastman, Edmands, Thomas D. Eliot, Everhart, Farley, Flagler, Franklin, Goodrich, Goodwin, Grey, Grow, Aaron Harlan, Harrison, Haven, Hiester, Hill, Howe, Hunt, Daniel T. Jones, Kerr, Knox, Letcher, Lindley, McCulloch, Mace, Matteson, Mayall, Meacham, Middleswarth, Millson, Morgan, Murray, Mordecai Oliver, Parker, Peck, Peckham, Pennington, Powell, Pringle, Ready, Reese, David Ritchie, Russell, Sabin, Sage, Sapp, Simmons, William R. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Stratton, Andrew Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Tracy, Upham, Wade, Walley, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, Wheeler, and Zollicoffer—84.

NAYS—Messrs. Willis Allen, David J. Bailey, Thomas H. Bayly, Barksdale, Barry, Belcher, Bliss, Bocock, Breckinridge, Bridges, Caskie, Chastain, Chrisman, Clark, Clingman, Cobb, Colquitt, Craige, Curtis, Dawson, Disney, Dowdell, Dunbar, Eddy, Edgerton, Ellison, English, Faulkner, Florence, Fuller, Green, Greenwood, Hamilton, Sampson W. Harris, Wiley P. Harris, Hastings, Hendricks, Henn, Hibbard, Hillyer, Houston, Hughes, Ingersoll, Johnson, J. Glancy Jones, Kittredge, Kurtz, Lamb, Latham, Lewis, Lindsley, Macdonald, McDougall, McMullin, McQueen, Macy, Maxwell, Smith Miller, Olds, Orr, Bishop Perkins, John Perkins, Phelps, Phillips, Pratt, Richardson, Riddle, Thomas Ritchey, Robbins, Rowe, Ruffin, Seymour, Shannon, Shaw, Shower, Singleton, Skelton, William Smith, George W. Smyth, Straub, David Stuart, John J. Taylor, Trout, Walsh, Warren, John Wentworth, Westbrook, Witte, and Hendrick B. Wright—89.

The question then recurring upon the motion to reconsider the vote by which the House refused to commit the resolution to the Committee on Foreign Affairs,

Mr. WHEELER demanded the yeas and nays; which were ordered.

The question was then taken; and it was decided in the affirmative—yeas 94, nays 83; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, David J. Bailey, Thomas H. Bayly, Barksdale, Barry, Belcher, Bliss, Bocock, Bridges, Caskie, Chastain, Chrisman, Clark, Clingman, Cobb, Colquitt, Craige, John G. Davis, Dawson, Disney, Dunbar, Eddy, Edgerton, Edmundson, John M. Elliott, Ellison, English, Faulkner, Florence, Fuller, Goode, Green, Greenwood, Hamilton, Sampson W. Harris, Wiley P. Harris, Hastings, Hendricks, Henn, Hibbard, Hillyer, Houston, Hughes, Ingersoll, Johnson, George W. Jones, J. Glancy Jones, Kittredge, Kurtz, Lamb, Latham, Lewis, Lindsley, Macdonald, McDougall, McMullin, McQueen, Macy, Maxwell, Smith Miller, Olds, Orr, Bishop Perkins, John Perkins, Phelps, Phillips, Pratt, Richardson, Riddle, Thomas Ritchey, Robbins, Rowe, Ruffin, Seymour, Skelton, William Smith, George W. Smyth, Straub, David Stuart, John J. Taylor, Trout, Tweed, Walsh, Warren, John Wentworth, Westbrook, Witte, and Hendrick B. Wright—94.

NAYS—Messrs. Ball, Banks, Bennett, Bristow, Campbell, Carpenter, Caruthers, Chandler, Chase, Corwin, Cox, Crocker, Cullom, Cutting, De Witt, Dick, Dickinson, Drum, Eastman, Edmands, Thomas D. Eliot, Etheridge, Everhart, Farley, Flagler, Franklin, Goodrich, Grey, Grow, Aaron Harlan, Harrison, Haven, Hiester, Hill, Howe, Hunt, Daniel T. Jones, Kerr, Knox, Letcher, Lindley, McCulloch, Mace, Matteson, Mayall, Meacham, Middleswarth, Millson, Morgan, Murray, Mordecai Oliver, Parker, Peck, Peckham, Preston, Pringle, Ready, Reese, David Ritchie, Russell, Sabin, Sage, Sapp, Simmons, Sollers, Frederick P. Stanton, Richard H. Stanton, Stratton, Andrew Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Tracy, Upham, Wade, Walbridge, Walley, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, Wheeler, and Zollicoffer—83.

The question then recurring upon the motion to refer the resolution to the Committee on Foreign Affairs,

Mr. MORGAN demanded the yeas and nays; which were ordered.

The question was then taken; and it was decided in the affirmative—yeas 93, nays 83; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, David J. Bailey, Thomas H. Bayly, Barksdale, Barry, Belcher, Bliss, Bocock, Breckinridge, Bridges, Caskie, Chastain, Clark, Clingman, Cobb, Colquitt, Craige, John G. Davis, Dawson, Disney, Dowdell, Dunbar, Eddy, Edgerton, Edmundson, Ellison, English, Faulkner, Fenton, Florence, Fuller, Goode, Green, Greenwood, Hamilton, Sampson W. Harris, Wiley P. Harris, Hastings, Hendricks, Henn, Hibbard, Hillyer, Houston, Hughes, Ingersoll, Johnson, George W. Jones, J. Glancy Jones, Kittredge, Kurtz, Lamb, Lewis, Lindsley, Macdonald, McDougall, McMullin, McQueen, Macy, Maxwell, Smith Miller, Olds, Orr, Bishop Perkins, John Perkins, Phelps, Phillips, Pratt, Riddle, Robbins, Rowe, Ruffin, Seymour, Shannon, Shaw, Shower, Singleton, Skelton, William Smith, William R. Smith, George W. Smyth, Straub, David Stuart, John J. Taylor, Trout, Tweed, Walsh, Warren, John Wentworth, Westbrook, Witte, and Hendrick B. Wright—93.

NAYS—Messrs. Ball, Banks, Bennett, Bristow, Campbell, Carpenter, Caruthers, Chandler, Chase, Corwin, Cox, Crocker, Cullom, Thomas Davis, De Witt, Dick, Dickinson, Eastman, Edmands, Thomas D. Eliot, Etheridge, Everhart, Farley, Flagler, Franklin, Goodrich, Goodwin, Grey, Grow, Aaron Harlan, Harrison, Haven, Hiester, Hill, Howe, Hunt, Daniel T. Jones, Knox, Letcher, Lindley, McCulloch, Mace, Matteson, Mayall, Meacham, Middleswarth, Millson, Morgan, Murray, Mordecai Oliver, Parker, Peck, Peckham, Pennington, Preston, Pringle, Ready, Reese, David Ritchie, Russell, Sabin, Sage, Sapp, Simmons, Sollers, Frederick P. Stanton, Richard H. Stanton, Stratton, Andrew Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Tracy, Upham, Wade, Walbridge, Walley, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, Wheeler, and Zollicoffer—83.

So the resolution was referred.

VETO OF THE RIVER AND HARBOR BILL.

The SPEAKER. The question first in order is the consideration of the President's veto message on the river and harbor bill.

Mr. CLINGMAN. Mr. Speaker, we learned the other day from the annual message of the President that he designs sending to this House a communication setting forth his views in detail on the subject of internal improvements. This being so, it is perhaps proper for both the House and the President that his reasons for his veto should be well understood before further action is had. I myself voted against the river and harbor bill, and am entirely satisfied with the veto; but it is highly probable that those gentlemen who differ from the Executive in their opinions on the subject would prefer having his views more fully than they are now before the country. I shall, therefore, suggest a postponement of the consideration of the subject to a future day. I am not particular what day is fixed.

The SPEAKER. Let the gentleman name a day.

Mr. CLINGMAN. I yielded the floor to my friend from Louisiana, at whose instance I have made the suggestion.

Mr. DUNBAR. I move, Mr. Speaker, that the further consideration of the President's veto message on the river and harbor bill be postponed until this day next week. My constituents of New Orleans are deeply interested in this measure. In the bill are large appropriations, and in my judgment proper ones, for the improvement of the mouths of the Mississippi river, and for the improvement of that river at various other points and its tributaries. In these, as I have said, my constituents are deeply interested.

I was a member of the Committee on Commerce which reported the bill. It received my vote in committee, and in the House on its final passage. In my judgment, it ought not to have been vetoed by the President. He has lately informed us that he would shortly send us his reasons in detail for his veto, and respect to the Chief Magistrate requires that we should at least postpone consideration of the subject for a few days, and until those reasons are laid before us. Therefore it is that I have moved a postponement until this day next week. We can then act more understandingly on the matter. We can then determine whether we shall attempt the passage of the bill, despite the President's veto, or whether we shall introduce another one which may not be liable to the objections of the Executive in his supplemental message. I hope, therefore, that my motion will prevail.

Mr. WENTWORTH, of Illinois. If I supposed, Mr. Speaker, that there was a member of this body whose vote would be changed one way or the other by a message from the President of the United States on this subject, one familiar to everybody, and which has been agitated ever since the origin of the Government, and talked on upon every stump in the country where an election was to be held, I would vote for the postponement; but I sincerely believe that every member is now prepared to vote ay or no on the veto. Such being the case, I do not see why action should not now be had as well as at any other time.

Mr. CLINGMAN. Move the previous question and let us come to a vote then.

Mr. WENTWORTH. I suppose that our action is to be on the real veto message.

A MEMBER. We act on the bill.

Mr. WENTWORTH. Yes, we act on the bill; and if we can, pass it despite the veto message. We have no more right to allow the President, after vetoing a bill, to send in a supplemental message than we have to allow members of Congress to make supplemental speeches and give supplemental reasons for their votes.

I do not myself feel inclined to go into the merits of the bill at all. I come here to reflect the wishes of my constituents. I know no Executive—none other in this matter than the people I left behind me. If they have any documents to control me, they will send them here. I carry out the will of my constituents, and I presume that every member intends to do the same.

Now, Mr. Speaker, the House is as full as it is likely to be during the session, mayhap fuller. It is customary for members about this time to absent themselves from the city, and to remain away until after the holidays. But, I repeat that I am willing to refrain from pressing the consideration of the message, if any gentleman will state to the House that he is in doubt what he ought to do, and desires the reception of the further reasons of the President previous to action.

Mr. TAYLOR, of Ohio. I would ask the gentleman from Illinois whether the bill embraces a single item of appropriation for the improvement of any river and harbor in the country which has not been recommended by the proper department of the Government, and already commenced?

The SPEAKER. The Chair feels it his duty to advise gentlemen that discussion must be confined to the motion of postponement.

Mr. WENTWORTH. I have already stated that it was not my intention to discuss the merits of the bill.

The SPEAKER. The Chair made the statement for the information of gentlemen.

Mr. WENTWORTH. If I call for the previous question, can we then proceed to vote?

Mr. TAYLOR. I should like my question answered.

Mr. WENTWORTH. We cannot discuss the merits of the bill at this time. I call for the previous question.

Mr. CAMPBELL. If the gentleman will withdraw his call for the previous question I will renew it.

Mr. WENTWORTH. I would withdraw it if we could speak to the merits of the bill.

Mr. CAMPBELL. I wish to say a word in reference to the postponement, and that is all.

Mr. WENTWORTH. I withdraw my call for the previous question, and yield the floor to the gentleman from Ohio, for explanation.

Mr. CAMPBELL. This is a measure, Mr. Speaker, which deeply interests the whole valley of the Mississippi—I may say the whole country. I concurred in the suggestion made by the honorable gentleman from Louisiana, [Mr. DUNBAR,] that respect for the Executive required of us at least a suspension of action until his fuller views are made known. There are circumstances surrounding the case which, in my judgment, render it peculiarly proper to suspend action for a time at least. Among others is the fact that the President at the last session approved of a bill for the improvement of the Cape Fear river.

Mr. CLINGMAN. Is this discussion in order?

The SPEAKER. The Chair will arrest the course of debate not directly confined to the proposition before the body.

Mr. CAMPBELL. Well, we are notified by two messages that the Executive has reasons which he wishes to give the House. In the veto message, at the close of the last session, we were informed that we should have those reasons in the regular annual message. It was not supposed that they were to be given in detail at that time. The reasons have been prepared during the vacation for some cause unknown to us, and it strikes me that this is rather a remarkable circumstance. In the annual message we are informed that these reasons are prepared; and, for one, before the bill is again considered, I should like to see them. I desire to know, however, whether either the honorable gentleman, who represents the Committee on Commerce, or the gentleman from Louisiana, has any official information in regard to the time when these promises will be carried out?

Mr. DUNBAR. I have no official information on the subject, but I have no doubt that the message will be sent to us in a few days.

Mr. CAMPBELL. Does the gentleman believe that we shall have the message in time to examine it before the day fixed for the postponement?

Mr. DUNBAR. I do.

Mr. CAMPBELL. Then I hope that the motion to postpone will prevail, so that we may extend to the President the courtesy indicated.

Mr. WENTWORTH. I now insist on my call for the previous question.

Mr. HOUSTON. I would inquire of the Chair whether the special order for the Pacific railroad does not commence on Monday next?

The SPEAKER. The Chair does not recollect the order at the last session, but he will remark that such special order would not interfere with the consideration of the President's veto message.

Mr. DUNBAR. I understand that the special order will not interfere with the consideration of the veto message.

The SPEAKER. It will not. The Chair understands that the Pacific railroad bill was made the special order for the second Monday in December. The question now, however, is upon seconding the demand for the previous question. The Chair will remark that if it be seconded, and the main question ordered, the House will be brought to a vote directly upon the bill, the President's objections notwithstanding.

Mr. JONES, of Tennessee. I demand tellers upon seconding the demand for the previous question.

Tellers were ordered; and Messrs. WHEELER and BOYCE appointed.

Mr. DUNBAR. I rise to a question of order. I ask whether my motion to postpone the consideration of the veto message does not take precedence?

The SPEAKER. It does not. The demand for the previous question is first in order, and, if seconded by the House, the motion to postpone will be cut off.

Mr. DUNBAR. I was under a different impression.

The House was then divided upon seconding the demand for the previous question, and the tellers reported—ayes 82, noes 73.

So there was a second.

The main question—being upon the passage of the bill—was then ordered to be put.

Mr. WENTWORTH, of Illinois. I demand the yeas and nays.

Mr. JONES, of Tennessee. The Constitution requires that the vote upon a veto shall be taken by yeas and nays.

The SPEAKER. The Constitution does require that the yeas and nays shall be spread upon the Journal, and it is therefore unnecessary for the House to order them.

The question was taken; and decided in the negative—yeas 95, nays 80; as follows:

YEAS—Messrs. Appleton, Ball, Banks, Bennett, Bliss, Bristow, Campbell, Carpenter, Caruthers, Chandler, Chase, Clark, Corwin, Cox, Crocker, Cullom, Dawson, Dick, Dickinson, Dunbar, Eastman, Eddy, Edgerton, Edmands, Thos. D. Eliot, Ellison, English, Etheridge, Everhart, Farley, Fenton, Flagler, Florence, Goodrich, Goodwin, Green, Greenwood, Grey, Aaron Harlan, Harrison, Haven, Henn, Hiester, Hill, Howe, Hughes, Hunt, Johnson, Knox, Lindley, Lindsley, McCulloch, Mace, Macy, Matteson, Mayall, Meacham, Middleswarth, Morgan, Noble, Mordecai Oliver, Parker, Peck, Peckham, Pennington, Preston, Pringle, Ready, Riddle, David Ritchie, Russell, Sabin, Sage, Sapp, Seymour, Shower, Simmons, Frederick P. Stanton, Hestor L. Stevens, Andrew Stuart, David Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Tracy, Trout, Wade, Walley, Elihu B. Washburne, Israel Washburn, John Wentworth, Tappan Wentworth, Wheeler, and Zollicoffer—95.

NAYS—Messrs. James C. Allen, Willis Allen, David J. Bailey, Thomas H. Bayly, Barksdale, Barry, Belcher, Bocock, Boyce, Breckinridge, Bridges, Caskie, Chastain, Chrisman, Clingman, Cobb, Colquitt, Craige, Curtis, John G. Davis, De Witt, Disney, Dowdell, Edmundson, Faulkner, Fuller, Goode, Grow, Hamilton, Sampson W. Harris, Wiley P. Harris, Hastings, Hendricks, Hibbard, Hillyer, Houston, Ingersoll, Daniel T. Jones, George W. Jones, J. Glancy Jones, Kittredge, Kurtz, Lamb, Latham, Letcher, Lewis, Macdonald, McDougall, McMullin, McQueen, Maxwell, Smith Miller, Millson, Murray, Olds, Orr, Bishop Perkins, John Perkins, Phelps, Phillips, Powell, Pratt, Reese, Rowe, Ruffin, Shannon, Shaw, Singleton, Skelton, William Smith, William R. Smith, George W. Smyth, Richard H. Stanton, Stratton, Straub, John J. Taylor, Walbridge, Walsh, Warren, and Hendrick B. Wright—80.

So (two thirds not voting in the affirmative) the bill was lost.

TREASURY REPORT.

Mr. MURRAY. I rise to a privileged question. I am instructed by the Committee on Printing to offer the following resolution:

Resolved, That the usual number of extra copies of the letter of the Secretary of the Treasury, transmitting estimates for the appropriations required for the service of the fiscal year ending June 30, 1856, be printed.

Mr. HOUSTON. How many is the usual number?

Mr. MURRAY. This is for fifteen hundred and twenty copies.

Mr. JONES, of Tennessee. I would inquire of the gentleman from New York if this document has not already been printed?

Mr. MURRAY. The printing has not been ordered.

Mr. JONES. If I mistake not, it is customary for the officers of the Government to order these documents to be printed.

Mr. MURRAY. There has been no order to print the document at all. This is to print the regular number of fifteen hundred and twenty copies.

Mr. JONES. I supposed it had been printed under the law providing for the printing of the Departments.

Mr. MURRAY. I understand not.

Mr. JONES. The law requires the Secretary to have these documents printed in advance, so as to be placed in the hands of the members at the meeting of Congress. I supposed it had been printed under that law, and the expense taken out of the fund for the public printing.

Mr. MURRAY. The Chief Clerk informed me that the printing had been done, but that there was no appropriation out of which the expens could be paid; and that this resolution was necessary to have the work paid for.

Mr. JONES. Then I would suggest to the gentleman to change his resolution so as to direct the Clerk to pay for the printing which has already been done.

Mr. MURRAY. I have no objection to that.

Mr. HOUSTON. I have not looked at the law since the last session, but my impression is that there must be some mistake about there being no appropriation. My recollection is that an appropriation was made for the printing of these estimates.

Mr. MURRAY. For this session?

Mr. HOUSTON. Yes, sir; for this session. That is my recollection, and I hope the gentleman will allow his resolution to go over for a day or two, until we can look into the matter.

Mr. MURRAY. I will withdraw the resolution if the appropriation has been already made.

Mr. STANTON, of Kentucky. If the gentleman will allow me a short explanation, I think I can satisfy the House in reference to this resolution. The appropriation made at the last session of Congress, to which the gentleman from Alabama refers, was to enable the Secretary to have his estimates printed and placed in the hands of the members at the commencement of the session. The object of this resolution is to secure the usual number for binding, to go among the regular documents of the House which have not been ordered.

Mr. HOUSTON. In reply to the gentleman from Kentucky, I will say that I remember distinctly having had a conversation with the Superintendent of the Public Printing at the last session, in which he assured me that the phraseology then used would furnish the number required to bind up. I hope the gentleman from New York will withdraw the resolution until the matter can be inquired into.

Mr. MURRAY. I will withdraw it.

INTRODUCTION OF A BILL.

The business next in order being the calling of the States for resolutions, and the introduction of bills—

Mr. SOLLERS introduced a bill "to provide for the purchase of so much of the Columbia Turnpike as is within the limits of the District of Columbia, and making the same free;" which was read a first and second time by its title, and referred to the Committee for the District of Columbia.

Mr. JONES, of Tennessee. If there is nothing else to do but to call the States for resolutions, I will move that the House do now adjourn.

Mr. HAMILTON. I desire to offer a resolution from the State of Maryland.

The SPEAKER. The State of Maryland will be first in order when the call is resumed.

The question was put, and Mr. JONES's motion was agreed to, and

Thereupon, at fifteen minutes before two o'clock, p. m., the House adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

THURSDAY, *December* 7, 1854.

The Hon. MOSES NORRIS, jr., of New Hampshire, and the Hon. GEORGE E. BADGER, of North Carolina, appeared in their seats this morning.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

HON. DAVID R. ATCHISON.

Mr. BADGER. Mr. President, I ask the unanimous consent of the Senate now to introduce, and I hope it will be presently considered and adopted, this resolution:

Resolved, That there be paid out of the contingent fund to the Hon. DAVID R. ATCHISON, the difference between the amount which he has already received as President *pro tempore* of the Senate, and the compensation of Vice President, from the date of his election by the Senate as their President *pro tempore* to the commencement of the present session, according to the practice which has heretofore prevailed.

There being no objection, the Senate proceeded to consider the resolution, and it was agreed to.

CLERKS TO COMMITTEES.

Mr. BAYARD. With the assent and concurrence of the Committee on Public Buildings, I rise to ask liberty to employ a clerk for that committee for the present session. I deem it necessary, within the proper meaning of the term, that we should have a clerk, because I think it would be conducive to the proper order of the business of the committee. I move that they have liberty to employ a clerk for this session.

The motion was agreed to.

Mr. SLIDELL. I desire to offer a resolution authorizing the Committee on Roads and Canals to employ a clerk. I will state, for the information of the Senate, that during the recess of the Senate, the former clerk has been very busy in collecting certain statistical and other information respecting the Louisville and Portland canal, and there will be a very voluminous report made,

involving considerable labor. Under these circumstances, I trust no objection will be made to the resolution.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved, That the Committee on Roads and Canals be authorized to employ a clerk for the present session.

ACTS OF THE UTAH LEGISLATURE.

The PRESIDENT. The Chair has received, and now lays before the Senate, the acts and resolutions of the Legislature of the Territory of Utah, together with a journal of their proceedings for their third annual session. It was provided by the act of Congress passed September 16, 1850, for the organization of that Territory, that all the laws passed by the Legislative Assembly and Governor, should be submitted to the Congress of the United States, and, if disapproved, should be null and of no effect. This communication is transmitted in compliance with that law. What disposition will the Senate make of it?

Mr. WELLER. I move that it be referred to the Committee on Territories.

The motion was agreed to.

VACANCIES IN COMMITTEES.

Mr. SLIDELL. I offer the following resolution:

Resolved, That the President *pro tempore* be authorized to fill the existing vacancies in the committees of the Senate, and that the additional members of committees specially authorized by resolutions of the Senate at the last session be discontinued.

I will state that this additional resolution to those passed on the second day of the session becomes necessary in order to provide for vacancies made by the election of yourself, sir, as President of the Senate.

The resolution was agreed to.

ADJOURNMENT OVER.

Mr. BADGER. Let us not forget, sir, in the hurry and anxiety to do business, that this is Thursday. I rise to submit the usual motion that, when the Senate adjourns to-day, it be to meet on Monday next.

The motion was agreed to.

PETITIONS, ETC.

Mr. SEWARD presented the petition of Isaac S. Smith, praying remuneration for loss sustained in consequence of the annulment of his contract for the construction of a light-house on Horse Shoe Reef, in the Niagara river; which was referred to the Committee on Commerce.

Also, the petition of John Thomas, naval architect, of the city of New York, together with papers by E. K. Collins, asking for the action of Congress for the better preservation of human life from shipwreck; which was referred to the Committee on Commerce.

Mr. FITZPATRICK presented the petition of the register of the land office and the receiver of public moneys at Montgomery, Alabama, praying to be allowed the same percentage on the sales of public lands as was allowed previous to the act of August 4, 1854; which was referred to the Committee on Public Lands.

Mr. PRATT presented the petition of Samuel Crapin, praying that the pension allowed him be made to commence from the time of his disability; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. HAMLIN, it was

Ordered, That the petition of Sarah Harmon, formerly the widow of Timothy Murray, be withdrawn from the files of the Senate, for the purpose of reference to the Commissioner of Pensions.

On motion by Mr. ALLEN, it was

Ordered, That the bill to pay the heirs of Stephen Morell, deceased, the arrears of pension due their father, be recommitted to the Committee on Pensions.

On motion by Mr. CLAY, it was

Ordered, That the petition and papers in the case of Hugh Wallace Wormeley be withdrawn from the files of the Senate, and referred to the Committee on Naval Affairs.

NOTICE OF A BILL.

Mr. FOOT gave notice of his intention to ask leave to introduce a bill to extend the statute of limitations for the prosecution of certain crimes against the United States.

RESOLUTIONS.

The resolutions on the Calendar were called in their order, but the Senate not being ready for action on them, they were passed over for the present.

DEPARTMENT OF LAW.

Mr. ADAMS. I move that the Senate take up the "bill to establish a Department of Law, to prescribe certain duties of the Auditors and Comptrollers of the Treasury, and for other purposes," in order to make it a special order.

The motion was agreed to; and,

On motion by Mr. ADAMS, it was

Ordered, That its further consideration be postponed to, and made the special order for, Monday, the 18th instant.

GEORGE FISHER.

Mr. BROWN. According to previous notice, I ask leave to introduce a "bill supplemental to an act therein mentioned."

Leave was granted, and the bill was read twice by its title.

Mr. BROWN. Mr. President, that bill is for the benefit of a constituent of mine, and proposes to direct a reëxamination of some accounts which, from some mistake in the taking of evidence, were rejected originally, on account of their being imperfectly authenticated. The authentication is now perfect; and the object of the bill is simply to have the accounts adjusted with the benefit of that testimony. I suppose there can be no objection to it, and if there is not, I hope the bill will now be passed.

The bill was considered as in Committee of the Whole. It proposes to make it the duty of the Second Auditor of the Treasury, under the provisions of the "Act for the relief of the legal representatives of George Fisher, deceased," approved April 12, 1848, to reëxamine the case, and allow the claimants the benefit of the testimony heretofore marked "rejected for want of authentication," if it is now legally authenticated by the Executive of Alabama. The adjustment is to be made in strict accordance with the act to which the bill is barely supplemental.

Mr. FITZPATRICK. What is that bill?

Mr. BROWN. It is a bill for the benefit of the legal representatives of George Fisher. The accounts were adjusted and settled two or three years ago, under an act of Congress. Some items, however, were rejected on the ground that the evidence sustaining them was not authenticated by the Executive of Alabama. That testimony has now been authenticated, and the bill simply authorizes the reinvestigation of those items, so as to give to the claimants the benefit of that testimony. That is all there is of it.

Mr. SEWARD. I hope the bill will be allowed to pass. It is merely correcting a technical error.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

SMITHSONIAN INSTITUTION.

Mr. PEARCE, according to previous notice, asked and obtained leave to introduce a joint resolution providing for the appointment of two Regents for the Smithsonian Institution; which was read twice by unanimous consent, and considered as in Committee of the Whole.

It proposes to fill the vacancies in the Board of Regents, of the class other than members of Congress by the reappointment of the late incumbents, Rufus Choate, of Massachusetts, and Gideon Hawley, of New York.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

COMPENSATION OF CONGRESSMEN AND SUPREME COURT JUDGES.

Mr. BADGER. I desire to give notice that on Monday next, I shall ask permission of the Senate to introduce a bill increasing the compensation of the members of both Houses of Congress, and of the Judges of the Supreme Court of the United States.

JACOB M'LELLAN.

Mr. HAMLIN. I move that the Senate proceed to the consideration of House bill for the relief of Jacob McLellan.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to the consideration of the bill.

It proposes to direct the Secretary of the Treasury to cause to be paid to Jacob McLellan, his heirs or assigns, $450, that being part of a penalty imposed upon the ship George Turner, and paid by McLellan, in December, 1851, for an alleged violation of the laws of the United States restricting the number of passengers in merchant vessels.

Mr. HAMLIN. This is a House bill. It received, I believe, the unanimous approbation of the Committee on Commerce of the Senate. The shortest statement of the case, perhaps, will be made by reading the printed report of the House committee, which I ask may be read.

The Secretary read the report.

From the evidence submitted by the petitioner and obtained from the custom-house at New York, it appears that the ship, being at the port of Havre, in October, 1851, was chartered of her captain, on account of her owners, for a gross sum, to take passengers to New York, and that she sailed on the 12th of October, with two hundred and twenty-four passengers. The space in the ship between decks available for passengers, was three thousand one hundred and five feet, together with a deck-house whose measurement was twenty-eight feet—the latter not being occupied by passengers during the voyage. The space between decks allowed the ship to take on board, for the voyage from Havre to New York, two hundred and twenty-one passengers, with two additional for the deck-house, if it had been used for that purpose.

The first section of the sixteenth chapter of the laws passed in 1847, prescribes for such a voyage fourteen feet of deck for each passenger, and provides that no stores or other goods, not being the personal luggage of the passengers, shall occupy any of the space allotted to them. After the passengers had been engaged for the ship, the captain caused a coal-bin, occupying forty-seven feet of the deck, to be made across the bows, between decks, to contain the coal for the use of the passengers, and also a latticed partition across the after part of the deck, for the purpose of storing the personal baggage of the passengers; and, in this state of the vessel, the voyage was successfully made, and the passengers were all landed at New York in good health, making no complaint of their accommodations or of the treatment or personal attention bestowed upon them.

After the discharge of the cargo and the landing of the passengers, the ship was seized by the collector of New York for a violation of the law. Thereupon the owners petitioned the President for a remission of the penalty alleged to have been incurred, who, upon the facts stated by the owners and the custom-house officers of New York, imposed upon the vessel a fine of twelve hundred dollars. A remission of this fine is asked for upon two grounds; first, that there was no violation of law in the manner of making the voyage; and second, that, if there was a violation of law, it was unintentional on the part of the captain.

To sustain his first position, the petitioner alleges that the number of passengers on board the ship was two hundred and twenty-three; that the ship, including the deck-house, had a legal capacity for that number; and that the two partitions made between decks were for the accommodation of the passengers, and not in violation of the statute. The answer is, that the return of the surveyor of New York shows the whole number of passengers to be two hundred and twenty-four; that the deck-house was not used for passengers, and there is no evidence that it was offered them for use. So far, then, it appears that the ship had three passengers more than the law allowed her to carry. The allegation that the erection of the "bin" in the forward part of the vessel was done to accommodate the passengers, by setting apart a place for their coal, does not relieve the case. The law expressly forbids any "stores or goods other than the personal luggage of the passengers" to occupy the space prescribed for them. The coal placed in the bin, although for the use of the passengers, and located where it would best accommodate them, was not their "personal luggage." The designation of it most favorable to the petitioner would be that of passengers' stores, which are by law expressly excluded from the space allotted to the passengers. Upon an examination of the first section of the act referred to, it appears susceptible of no other construction than that every passenger should enjoy during the whole voyage, for himself and his personal

luggage, in that part of the vessel assigned to passengers, fourteen superficial feet of deck, and that the captain or owners of the ship cannot appropriate for any other purpose any part of the space so set apart for the passengers' use, although it may be shown that such purpose was designed to, and did accommodate the passengers. In this case forty-seven feet of the deck was used for purposes other than for the passengers and their personal luggage, and such use was in violation of law, and to allow the excuse which has been offered to avoid the operation and effect of a statute so express, under circumstances similar to those attending the case, when an admeasurement of the ship had been made with reference to her taking passengers on her return voyage, when the law is so clear and definite in its terms, and when the duty of the captain could have been correctly ascertained, would be to work its practical repeal.

The petitioner further claims that the placing a latticed partition across the deck, in order to stow the baggage of the passengers in a particular quarter of the deck, was no violation of the law, and at all events no intentional violation of it. The arrangement of the baggage, in the manner stated, was as conducive to the health and convenience of the passengers as if it had been suffered to lie scattered over the deck. It is not denied that this baggage was the personal luggage of the passengers, and, as such, was rightfully placed between decks; and, upon the whole evidence presented, the committee cannot agree that the peculiar arrangement adopted by the captain was a breach of the law, and they therefore determine that so much of the fine as was imposed on the ship by reason of erecting the latticed partition and the stowing of the passengers' luggage behind the same, and which came into the Treasury of the United States, should be remitted.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

CREEK AND SEMINOLE HOSTILITIES.

Mr. FITZPATRICK. I move that the Senate take up the "bill to authorize the payment of certain claims for depredations and spoliations during the hostilities with the Creek and Seminole Indians in 1836 and 1837," for the purpose of making it a special order.

The motion was agreed to; and,

On motion by Mr. FITZPATRICK, it was

Ordered, That its further consideration be postponed to, and made the special order for, this day week—the 14th instant.

PRINTING OF A REPORT.

On motion by Mr. SEWARD, it was

Ordered, That the report of the Treasurer of the United States, communicating copies of his accounts for the third and fourth quarters of 1853, and the first and second quarters of 1854, be printed for the use of the Senate.

DES MOINES AND ROCK RIVER.

Mr. DODGE, of Iowa, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate the report of the officer in charge of the improvements of the Des Moines and Rock river rapids of the Mississippi river.

BILL INTRODUCED.

Mr. DODGE, of Iowa, according to previous notice, asked and obtained leave to introduce a bill to establish the office of surveyor general for the Territory of Utah, and to grant lands to actual settlers; which was read twice by its title, and referred to the Committee on Public Lands.

DEATH OF PRESLEY EWING.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing the decease of the Hon. PRESLEY EWING, a member of that House, from the State of Kentucky, and the proceedings of the House thereon; which were read.

Mr. THOMPSON, of Kentucky. Mr. President, I rise to move the unanimous concurrence of the Senate in resolutions similar to those just reported from the House of Representatives to this body. I hope that the Senate will pardon me in a remark or two. I knew PRESLEY EWING intimately; I knew him well for a long time, in and out of Congress. I do not design now here a prolix biographical sketch, nor do I purpose to elaborate a eulogy; I, however, ask leave to say that his popularity and his promise endeared him to his native Kentucky; in which State, already in youth, in and out of his congressional district, he had secured the confidence, the respect, and the profound personal attachment of the entire Commonwealth.

It is a sad and calamitous affliction to contemplate the death of one who but as yesterday was buoyant with hope, exultant in maturing manhood, full of social vivacity, honor, wit, and all that endeared him in his private relations to crowds of true and admiring friends. By the inscrutable Providence of the Omnipotent, he has been called from amongst us. In bowing to the Divine behest there is a consolation even of this world, apart from submissive acquiescence in the Providence of God, to know and to say to his venerable and aged father that, whilst just, manly, honorable, and true in his political positions and views, his son here among his comrades, his compeers, and the men of his day and age, was the Hector of Priam's children.

To his numerous, very numerous relations and friends—not more numerous than respected and respectable—and to his native State of Kentucky, it is consoling to know that here, upon the theater of his brief but brilliant public career, he was known as a fair political foe, a true gentleman, a man of high honor, an accomplished scholar, and of ability admitted, and yet, but just culminating to usefulness and fame. To the councils of the Confederacy, and to his native State, his loss is a sad bereavement. Stricken down before the midday of life by a "pestilence that walketh at noonday," the recollection of his virtues, his promise, his unspotted honor, remains to reconcile his friends and survivors to this decree of an all-wise Providence.

Mr. President, I do not wish—it would be unseemly here—to speak of my friend politically. I am afraid to trust myself to utter what I personally deeply feel. I knew and loved him as a brother. It was reciprocated; and I will only of him say, by inheritance and education a thorough gentleman, the hackneyed ways of vice had never so far touched the purity of his nature, as even in unguarded moments, by act or by avowal, to make him seem to forget the religion of his mother, or the politics of his father, or soil his soul by a dishonest or sordid feeling towards his fellow-men. In life, from his cradle to his grave, there was no stain incurred to rest on his memory now. I offer the following resolutions:

Resolved, That the Senate has received with deep sensibility, the message from the House of Representatives, announcing the death of the Hon. Presley Ewing, a Representative from the State of Kentucky.

Resolved, That, in token of respect to the memory of the deceased, the Senate do now adjourn.

Mr. BADGER. I had no knowledge, sir, when I came to the Senate this morning, that the subject of the death of Mr. EWING would be brought to our attention. I do not rise for the purpose of making any speech, delivering any eulogy, or entering into any discussion respecting the life and merits of the deceased. I wish simply to say, on this occasion, a few words to which my feelings prompt me.

I formed the acquaintance of Mr. EWING here. He served in the other House, and I in the Senate. I have known him intimately, considering the difference in our respective ages, and our having served in different branches of Congress. I knew him, sir, as a man of decided talent, amiable temper, and most attractive social qualities. I was at once attached and endeared to him, and I heard of his death with the greatest regret, and with as much surprise as regret, stricken down, as he was, in the midst of youth and apparent vigor of constitution, with every promise of long life and extended usefulness before him. As I heard of his death with regret then, as I cherished for him, while living, feelings of friendly regard and respectful consideration, I shall give my hearty assent to any resolution intended to manifest the sense of this, as of the other branch of Congress, upon the melancholy announcement which we have this day formally received from the House of Representatives.

The resolutions were unanimously agreed to, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 7, 1854.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

INTRODUCTION OF BILLS.

Mr. MAXWELL, by general consent, introduced a bill "to authorize the sale of reserved lands in the State of Florida;" which was read a first and second time by its title, and referred to the Committee on Public Lands.

Mr. HOUSTON, from the Committee of Ways and Means, introduced a bill "making appropriations for the payment of invalid and other pensions for the year ending June 30, 1854;" which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. H., from the same committee, also reported a bill "making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes for the year ending June 30, 1856;" which received the same order and reference.

Mr. HENN, by unanimous consent, and in pursuance of previous notice, introduced a bill "making a further appropriation for the improvement of the rapids in the Mississippi river;" which was read a first and second time by its title, and referred to the Committee on Commerce.

Also, a bill "for the relief of the owners and occupants of the town of Omaha City, in the Territory of Nebraska, and for other purposes;" which was read twice by its title, and referred to the Committee on Public Lands.

Mr. BARKSDALE, by unanimous consent, and in pursuance of previous notice, introduced a bill "to constitute Columbus, in the State of Mississippi, a port of delivery, and for other purposes;" which was read a first and second time by its title, and referred to the Committee on Commerce.

Mr. ZOLLICOFFER, by unanimous consent, introduced a bill "further to provide for the security of the lives of passengers in vessels propelled in whole or in part by steam;" which was read a first and second time by its title, and referred to the Committee on Commerce.

CLERK FOR WAYS AND MEANS COMMITTEE.

Mr. HAVEN. As there seems to be a little lull, or intermission in the business of the House, I hope the House will indulge me in offering the following resolution:

Resolved, That the Committee of Ways and Means be authorized, during the present session, to employ a clerk, at a compensation not to exceed four dollars a day, for the time he may be actually employed.

The resolution was received, considered, and agreed to.

Mr. HAVEN then moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was put and agreed to.

DIPLOMATIC AND CONSULAR SYSTEMS.

Mr. PERKINS, of Louisiana. I ask the unanimous consent of the House, that the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill (No. 353) "to remodel the diplomatic and consular systems of the United States," and that it be re-referred to the Committee on Foreign Affairs. There was an error in the printing of the bill last session.

No objection being made, the Speaker announced that it would be so ordered.

Mr. SKELTON. I object to that bill being taken up out of its order.

The SPEAKER. The Chair thinks the objection comes too late. The motion to discharge the committee has certainly been received by the unanimous consent of the House. If the gentleman desires a division upon it, however, the Chair will put the question to the House.

Mr. PERKINS. I think the gentleman from New Jersey does not understand my motion. The motion is to discharge the Committee of the Whole on the state of the Union from the further consideration of the bill, and to recommit it to the Committee on Foreign Affairs.

Mr. SKELTON. I have no objection to that

The subject was then dropped.

BINDING OF ESTIMATES.

Mr. STEPHENS, of Georgia. I wish to ask leave of the House to introduce a resolution, the object of which is to provide that the book of estimates laid upon our tables shall be cut and bound, under the direction of the Committee on Printing. In its present shape, the letter of the Secretary of the Treasury is almost useless.

The resolution was read, considered, and agreed to, as follows:

Resolved, That the Committee on Printing be instructed to have the letter of the Secretary of the Treasury, transmitting estimates of appropriations, cut and bound for the use of members.

ADJOURNMENT TILL MONDAY.

Mr. COX obtained the floor, but yielded it to

Mr. SOLLERS, who moved that when the House adjourns, it adjourn till Monday next.

Mr. WHEELER demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. HAMILTON called for tellers.

Tellers were ordered; and Messrs. GOODE, and DAVIS of Indiana, were appointed.

The question was taken; and the tellers reported —ayes 82, noes 50.

So the motion was agreed to.

LATE PRESLEY EWING.

Mr. COX. Mr. Speaker, I rise to discharge the melancholy duty of announcing to this House the death of my colleague, the Hon. PRESLEY EWING, who, at the time of his death, was a member of this House from the State of Kentucky. Since the close of the last session he has paid the debt of Nature, and has been summoned to a state "from whose bourn no traveler returns."

Mr. EWING left this city a few days before the adjournment of Congress, in good health, to return to his paternal home, in his native State—a home endowed with every blessing which could afford comfort in this life, and defy the approach of every enemy of earthly happiness, save affliction, and the King of Terrors. There he was received with a welcome which none but kindred hearts and hands can bestow or appreciate.

Besides this, the approving greetings of an intelligent constituency—a constituency who were proud of their representative whose talents and zealous discharge of duty had shed luster and honor upon them—filled the measure of virtuous ambition. But he was not long permitted to enjoy this enviable condition. The ways of Providence are inscrutable to man. "In the midst of life we are in death," and the hour of apparent security is often the period of the greatest peril. Suddenly and without premonition the messenger of death executes his summons, and hurries his victim to the dark shadows of the grave.

The deceased was my intimate acquaintance, associate, and friend. I could dwell upon his many manly virtues. I could speak of the many points of loveliness in his character. I could speak with ardent rapture of the triumphs of his youthful genius over the many obstacles in his pathway to the temple of fame. But I will not detain the House by pronouncing a eulogy on the deceased. That task belongs more properly to others who can discharge it with more ability than I can command. For him, no words of sympathy or praise need be uttered. His faith in the efficacy of a mediatorial sacrifice cheered his path through the dark valley of the shadow of death, and the rod and staff of supernal power supported him in the extremities of human suffering.

For us—the living—it may be proper to pause and reflect that we, too, must soon be summoned before the same dread tribunal. Let us learn from his early fate a sense of the transitory and evanescent character of all sublunary things. Let us learn sympathy from the sorrows and afflictions of others, and humility from a sense of our own fugitive state; and in the beautiful but mournful language of the poet remember that

"The boast of heraldry, the pomp of power,
And all that beauty, all that wealth e'er gave,
Await alike the inevitable hour:
The paths of glory lead but to the grave."

Mr. Speaker, I offer the following resolutions, and move their adoption:

Resolved, That this House has heard with emotions of profound sorrow and regret the announcement of the death of the Hon. PRESLEY EWING, who at the time of his death was a member of this House, from the third congressional district of the State of Kentucky.

Resolved, That this House tender to the aged father and relatives of the deceased the expression of sympathy on this afflicting event; and, as a testimonial of its respect to the memory of the deceased, that the members of this House will wear the usual badge of mourning for thirty days.

Resolved, That the Clerk of the House communicate to the father of the deceased, the Hon. Ephraim M. Ewing, a copy of these resolutions.

Resolved, As a further mark of respect for the memory of the deceased, that a copy of these resolutions be communicated to the Senate, and that this House do now adjourn.

Mr. BRISTOW. Mr. Speaker, I would permit the resolutions offered by my colleague in relation to the death of my predecessor to pass in silence, but my position as his successor, as well as my feelings, prompt me to add some remarks, as a feeble tribute to the memory of the departed.

Such an expression of respect from the Congress of his country is an august testimonial of their appreciation of his public worth; but it cannot convey, either to his contemporaries or posterity, an adequate idea of his bright and gifted intellect, or the gay and genial heart that has vanished forever from this assembly. When you separated, but a short time since, none returned homeward more full of life, and health, and hope, or a brighter prospect to return; but while it has been allotted to mature manhood and old age again to convene in the public councils, the heart of the ardent youth to whom you bade farewell is stilled forever in death.

PRESLEY EWING was a Kentuckian by birth and education. He was the eldest son of one of the most learned and upright jurists of our country. His father possessed the vigor and enterprise that characterized the early settlers of the State, and attained the highest judicial honor Kentucky could bestow. His health failed, a few years since, under excessive labor for the public; he yet lingers on a bed of affliction; in that condition he looked upon the dead body of his only child but one; and that one, in delicate health, had the fortitude to sustain, and probably prolong, the sinking and wasting life of his affectionate father, under his deep affliction. The scene was one of trial. In his case silence, with heartfelt anguish, was the language of grief. Whose heart so cold as not to vibrate to the chord of sympathy and condolence with the afflicted father, surviving brother, relations, and friends? His estimable, affectionate, and intelligent mother, on a bed of affliction at the time of the promotion of her son to Congress, barely lived to hear the announcement of his election, and tranquilly left the scenes of mortality. His afflicted father may well say, in the language of Job: "Oh, that I was as in months past, when the Almighty was yet with me, when my children were about me."

Of two sons, who were the pride of his declining years, Presley was the elder; endowed with ample gifts by nature, his father secured for him the advantage of a liberal education. The seed was sown on no barren soil, but brought forth abundant harvest. His quick and fertile mind seized the proffered opportunities, and while free from the austerities of scholarship, rapidly acquired preëminence in the field of intellect—a natural delicacy of taste and refinement of sentiment characterized his mind, but did not impair its strength, nor enfeeble its vivacity. After the termination of his studies at college, his powers of observation and comparison were still further cultivated by European travel, and an association with men of intellectual distinction, not only in our own, but foreign countries.

When he returned to his native State, the natural bent of his genius, as well as the partiality of friends, caused him to embark in political life. He was returned from his native county to the Legislature of the State, and there by his ready powers of debate, and his prompt and ready perceptions, was marked as one eminently qualified for parliamentary contests and forensic success. The sphere of his reputation was enlarged, and Kentucky regarded him as one of those to whom her interests were to be intrusted, and on whom her future honors were to be bestowed.

Four years since, when he had scarcely passed the age requisite for eligibility, Mr. EWING was elected to Congress from the district I now have the honor to represent. He came upon this arena replete with hope and talent. He found himself closely allied in friendship with one whose fostering care was well formed to give a wise and noble direction to his youthful ambition. The one, full of years, and dignities, and public honors, was about to close forever his public life and earthly career; the other, young, sanguine, and talented, was about to embark upon the stormy sea upon which the first had been tossed; a short time elapsed and Henry Clay joined the patriotic band which has made the Republic illustrious in history; a few short years and his young friend and adherent has followed him into the dim mansions of the silent land. The heart of Kentucky is with them both. If she remembers, with reverential love, the loss the country endured in the death of the elder statesman, in her maternal heart, she cannot forget the bright haired youth of whom she has been of late bereft in the morning of his promise.

The characteristics of the mind of Mr. EWING were peculiar. His individuality was marked and distinct. Free in the realms of thought as a hunter in his native forests, no servile immitation enfeebled or disfigured his oratory. His mind was clear and vigorous, and he possessed strong powers of analysis. His temper for debate was admirable, and his gay and genial humor cooled the heat of party controversy, and enabled him to discuss the most irritating topics in such a manner as to convert even his adversaries into friends. Generous almost to prodigality, and with the keenest and liveliest sensibilities, these qualities seemed not only to mark his character, but to tinge his very thoughts. An exuberant wit, and powerful sense of the ludicrous, sparkled with perennial brightness, both in conversation and debate.

Blended with these attributes, was a strong natural relish for the beauties of nature, and a gift of pathos which gave him great attraction as a popular speaker. He combined, in a rare degree, the mingled mirth and tenderness of Sterne, and, as an orator, possessed a power over the hearts of his audiences similar to that which that eccentric author exercised over the sensibilities of his readers. But, notwithstanding these easy and graceful qualities of mind, he adhered with tenacity to his principles, and inflexibly maintained them.

During his life he was never obnoxious to the charge of political inconsistency. He continued a favorite in his district to the time of his death. His loyalty to his friends was as fixed as his opposition to his adversaries was manly and tolerant. But, sir, I will not venture to dwell longer upon this theme, or enlarge upon the abilities and virtues of the departed. No eulogy of mine can add to your appreciation of his character; no voice of mine can extend the sphere of his reputation; no grief of mine can assuage the anguish of his venerable father, mourning the loss of his eldest born; but let his aged parent, as the world recedes from him, bear with him the sad consolation that the genial qualities which adorned the heart, and the brilliant talents that embellished the mind of his gifted child, are neither forgotten by his friends nor unremembered by his countrymen.

Mr. LATHAM. Mr. Speaker, to the wish of the Kentucky delegation, that I should participate in this oblation to our departed associate, my own heart has given a mournful acquiescence. But four short months ago we took him by the hand at parting and wished him God speed, little dreaming of the journey he was going on, or that the chilly hand of death was to come between him and our welcome back. Secure in that strange confidence with which mortality ever mocks her worldly minded children, no passing thought admonished that the bright eye should be dimmed so soon—the jovial hearty laugh be heard no more among us. We looked not down the dark valley his feet were so soon to tread. Our line of vision reached not half so far, but measured distance only by our hopes.

The death of PRESLEY EWING comes nearer home to individuals in this body, inasmuch as he had endeared himself to all most fraternally; and whether we admire his talents and consistent liberality on this floor, or recall around the social hearth and board his humorous originality and oddity, our voices assume of themselves the low tone of affectionate sorrow, and the smile which had sprung to the lip fades sadly away. We cannot but wonder and be amazed at God's providence—but wonder why one so fitted to cheer and make others happy, should be so early called. Why, at the very dawn of a manly existence, whose morning sun was rising with much more

than common brightness, that promised a long summer day of usefulness and well-rewarded exertion, the twilight of the grave came on, and those who loved him—the aged parent whose pride and stay he was—are left to sit within the shadow of his eclipse.

To them, and to the constituency he so honorably represented, we can but offer the condolence of sincere sympathy and regret. And while we confidently resign our own will to that of the Omniscient One, who giveth and also taketh away in his good time, and for his own purposes, we can best express our own feelings in the simple sentence—which should be engraved on the stone that marks his quiet rest—*He had no enemies.*

To ourselves let us bring this striking lesson home. In this hour, set apart not only to honor, but to contemplate, let us ponder on the uncertainty of our time at best—the fleetness of our time at most. Let us look onward at the work we have laid out for our lives to do, and upward to that Power from whence cometh our strength and length of days, wherein to do it. Let us remember that our sight is not the same as His who made us. That when a task seems done to us, to Him it is unfinished; and when most unfinished to us, to Him it is already done. That the thin thread of life wherewith we are to weave the web of our day's work, is often stayed in the hand at high noon, and knots and blemishes and places overshot, together with the soiled spots and marks of careful toil, remain as we have left them until the time of the great showing. That deeds, which are to us trivial, have great influences, and one moment treads too fast upon the heels of the other, burdened with its own weight of action, to spare anything to rectify or alter. Yet while we are earnest, as these contemplations should always make us, we can gain still another lesson than that of our mortality, from the one of our number, whose work has been so lately finished. We may learn that by the cheerful and conciliatory discharge of our own duties, we encourage our fellow-laborers in theirs, "So that we go not like the galley slave, scourged to his dungeon, but sustained and cheered with an unfaltering trust, like one who wraps the drapery of his couch about him, and lies him down to pleasant dreams."

The public life of Mr. EWING is known to us all, as well as to those of his own State, whom it most concerned. He was twice a member of the Legislature of Kentucky; twice elected to the Congress of the United States, thus demonstrating the belief of his people in his integrity, and their confidence in his ability. His personal acquaintance and deep veneration for Henry Clay—his admiration of that great man's devotion to his friends, and steady pursuit of his own patriotic duty, which led him so much to emulate and imitate it, needs scarcely to be recalled to you.

His talents were brilliant; his education classical; his social virtues enriched by travel and humor, were eminently great; and withal, God gave him a generous and noble heart. In many a chosen circle his loss is mourned as irreparable. And though his life has flitted across our horizon as bright and sudden as a shooting star, its track is marked in our memory by the soft light of affectionate recollection that only the midnight cloud of death has power to obscure.

Mr. SMITH, of Alabama. The silence and solemnity which prevail here now is an indication not only that a mere man is dead, and that a politician has passed away; not only that a member of Congress has gone to his long home, but it is an indication of something more than that. It strikes me that every face here shows, in its solemn expression, that a FAVORITE is dead! Though a party man, a warm party man, the intercourse of Mr. EWING with the members of this and of the last Congress left an impression that, in all his social relations, he was something above a mere party man; for it may be truly said of him that he was a universal favorite of this House, having no enemy here, as has been said by the gentleman from California.

Mr. Speaker, when a man dies after coming to the maturity of old age, crowned with gray hairs, having erected for himself in history, and in the estimation of mankind, a monument commensurate with his personal ambition; having accomplished all that he could desire; having filled the measure of his country's expectation, and satisfied the yearnings of an earnest patriotism; when a man dies in that position, with all the world ready to acknowledge his achieved excellences and his established fame—the grief which surrounds his bier is not entirely the grief of the heart. There is a mixture of pleasure and pride in the lamentation exhibited at such a spectacle—not the less honorable because of the pleasurable emotions which the memory of a great and eventful life should inspire.

So it was when Kentucky was called upon (nay, not only Kentucky, but the whole nation) to look upon the lifeless body of Henry Clay. Everybody looked for *his* death; HE had FULFILLED the measure of his country's expectations. The grief which surrounded his bier was not so much the grief of the heart, as it was the breaking of the collected volume of a nation's intellectual sorrow, connected with the swelling anthems of a nation's pride. But when a *young* man dies—a young man who is not only ambitious, but who is full of those lofty *capacities* which make ambition felt; full of genius, learning, poesy, eloquence, and daring, all crowned with a sort of intuitive magical sagacity; full of hope for his friends and country, yet unachieved, but blossoming;—when such a man dies, before he has erected a monument to his memory—a monument to stand against the shock of ages—it is indeed sad. So it was with EWING! He fell before his sun "had climbed the meridian,"—as has been beautifully said by the honorable gentleman from California, [Mr. LATHAM]—cut down in his youth; just beginning to fill his father's head with the bright realization of the long-nourished wishes of his heart. Oh, sir, when a man falls under these circumstances, the grief we feel for him is the grief of the heart; and

> "Lycidas is dead—dead ere his prime;
> YOUNG LYCIDAS."

His lofty hopes, his fond expectations, his honest yearnings, his loftiest ambitions, dead! dead!!

Sir, look upon him as a man merely—and we remember him but a few months ago, when, indeed, he was an invalid—his occasionally coming into this Hall, as it were, a mere loiterer—a mere word of his convulsing this whole House with laughter and merriment. Look upon him as a wit, and you will inscribe upon his monument the epitaph on one of our most ancient of wits—"ALAS, POOR YORICK!"

Look upon him as a grave statesman, a scholar, and a man of eloquence! Take the few speeches which he has left upon our records, and you will find them marked with a beauty of phraseology, a compactness of logic, and a lucidness of investigation which challenge comparison with the debates of the best orators of this or the other end of the Capitol. He was a ripe scholar, a quick thinker, and a close reasoner. Indeed, sir, he was peculiarly capacitated for distinction and shining honor, in this particular sphere.

Mr. Speaker, perhaps I have said enough. If it were necessary to offer any excuse for making these remarks I have a good one. Besides my cordial relations with Mr. EWING, I am myself a native of the same village which gave him birth. Hence it is my duty, as well as my mournful pleasure, to make these sad and solemn remarks. And I wish, sir, that I had it in my power to do or say something by which I could aid in the erection of a more substantial tribute to his memory than this mere outpouring of congressional lamentation.

The question was taken, and the resolutions were unanimously adopted.

Thereupon (at five minutes before one o'clock, p. m.,) the House adjourned until Monday next, at twelve, m.

IN SENATE.

MONDAY, *December* 11, 1854.

Prayer by Rev. HENRY SLICER.

The Journal of Thursday was read and approved.

The Hon. ARCHIBALD DIXON, of Kentucky, the Hon. DAVID S. REID, of North Carolina, the Hon. ROBERT TOOMBS, of Georgia, the Hon. WILLIAM K. SEBASTIAN, of Arkansas, and the Hon. ISAAC P. WALKER, of Wisconsin, appeared in their seats to-day.

CREDENTIALS PRESENTED.

Mr. BADGER presented the credentials of the Hon. DAVID S. REID, chosen by the Legislature of North Carolina a Senator from that State for the term of six years from the 4th of March, 1853.

The credentials were read, and the oath prescribed by law having been administered to Mr. REID, he took his seat in the Senate.

PETITIONS, ETC.

Mr. WELLER presented the petition of George W. Torrence, praying that the pension he now receives may be made to commence from the time of his disability; which was referred to the Committee on Pensions.

Also, the petition of A. M. Winn, of California, praying that he may be indemnified for certain expenses incurred, and advances made to the indigent sick and suffering at Sacramento City, prior to the 13th October, 1849, under the authority of General Riley, military governor of that State; which was referred to the Committee on Claims.

Mr. HAMLIN presented the petition of Greenleaf R. Drake, praying a patent for a chain pump, sickness having prevented him from complying with the provision of law in the case; which was referred to the Committee on Patents and the Patent Office.

Also, the petition of Thomas Given, for himself and the heirs-at-law of Robert Given; the petition of Peletiah Littlefield, one of the heirs-at-law of Noah M. Littlefield; the petition of Mary Ann S. Darby, granddaughter and only surviving heir-at-law of Samuel Darby; the petition of Samuel Pope, one of the heirs-at-law and grandchild of Isaac Pope; the petition of Lucius Q. C. Nason and Sabrina Grant, only surviving children and heirs-at-law of Nathaniel Nason; the petition of Bracket Leavitt, for himself and the other heirs-at-law of Nathaniel Leavitt; and the petition of Joseph S. Bailey, in behalf of himself and the heirs-at-law of John Bailey, praying to be allowed commutation pay; which were referred to the Committee on Revolutionary Claims.

Mr. SUMNER presented the memorial of Dr. J. Winthrop Taylor, a surgeon in the United States Navy, praying to be allowed the difference of salary between that of passed assistant surgeon and of surgeon while acting in the latter capacity; which was referred to the Committee on Naval Affairs.

Also, the petition of R. B. Forbes, on behalf of the Hannibal and St. Joseph Railroad Company of Missouri, praying that the sale of the public lands on the line of that railroad may be restricted to actual settlers; which was referred to the Committee on Public Lands.

Mr. SHIELDS presented the memorial of J. J. McClellan, widow of Lieutenant Colonel John McClellan, late of the United States Army, praying for a pension; which was referred to the Committee on Pensions.

Also, the petition of Jacob Dodson, a private in Frémont's California battalion during the late war with Mexico, praying to be allowed the same bounty land and allowances that were granted to other volunteers in that war; which was referred to the Committee on Public Lands.

Also, the petition of Sarah Vincent, widow of John Vincent, a soldier in the last war with Great Britain, praying for a pension and bounty land; which was referred to the Committee on Pensions.

Also, the petition of the heirs-at-law of Captain William Underwood, a soldier of the revolutionary war, praying an increase of pension; which was referred to the Committee on Pensions.

Mr. FISH presented the petition of Henry Ruggles, of Brooklyn, New York, praying that the proper Department may be authorized to exchange waste land belonging to the Government at Brooklyn for land of the petitioner, adjoining the navy-yard, at that place; which was referred to the Committee on Naval Affairs.

Also, the memorial of Mary Okill, praying remuneration for loss sustained by her father, James Jay, in consequence of advances made by him for the United States Government in 1779; which was referred to the Committee on Revolutionary Claims.

Mr. CASS presented documents in relation to the rank of A. S. Taylor as an officer in the Marine Corps; which was referred to the Committee on Naval Affairs.

Mr. SEWARD presented the petition of Roswell W. Haskins, praying to be discharged from a judgment in favor of the United States against him as one of the bail of P. A. Barker, late col-

lector of the customs at Buffalo Creek; which was referred to the Committee on the Judiciary.

Mr. JAMES presented the petition of A. P. Pearce, and twenty-three others, captains and pilots of Rhode Island, and the petition of William P. Lewis, and eighty-three other citizens of Rhode Island, praying for an appropriation for the construction of a breakwater at Grace's Point, Block Island; which were referred to the Committee on Commerce.

Also, the memorial of Joshua Shaw, of New Jersey, praying to be allowed compensation for the past and present use, by the Government of the United States, of his invention of the percussion cap, and lock for small-arms, and percussion locks, and wafer primers to be applied in the firing of cannon; which was referred to the Committee on Military Affairs.

Mr. MASON presented the petition of Peter Parker, secretary of legation of the United States in China, (by his attorney, Harvey Lindsley,) praying that an appropriation be made to compensate him for extra salary as acting chargé d'affaires at Canton, from January 27, to April 14, 1854, a period of two months and eighteen days, amounting to $433; which was referred to the Committee on Foreign Relations.

Mr. STUART presented the petition of the register of the land office, and receiver of public moneys at Detroit, Michigan, praying to be allowed the same rate of compensation under the present land graduation bill, as was allowed to them prior to the act of August 4, 1854; which was referred to the Committee on Public Lands.

PETITION WITHDRAWN AND REFERRED.

On motion by Mr. HUNTER, it was

Ordered, That the petition of the heirs of Richard K. Meade, deceased, on the files of the Senate, be referred to the Committee on Revolutionary Claims.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting a statement of the appropriations applicable to the service of the War Department during the fiscal year 1853-'54; which was referred to the Committee on Military Affairs, and ordered to be printed.

Also, a communication from the Secretary of State, showing the disbursements for the State Department for the year ending June 30, 1854; which was ordered to lie on the table and be printed.

BOARD OF CLAIMS.

Mr. BRODHEAD, from the Committee on Claims, to whom was referred the bill to establish a board of commissioners for the examination and adjustment of private claims, reported it without amendment; and it was ordered to be printed. He gave notice that in a few days after the bill should be printed, he would call it up for the consideration of the Senate.

FRENCH CONSUL AT SAN FRANCISCO.

Mr. WELLER submitted the following resolution for consideration; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States (if not incompatible with the public interest) be requested to transmit to the Senate copies of all correspondence between the Secretary of State and the French Government, in relation to the late difficulties between the Consul of the latter Government at San Francisco and the Federal authorities in the State of California.

LAKE COMMUNICATION.

Mr. CASS submitted the following resolution for consideration; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be instructed to report to the Senate the information required to be obtained respecting the deepening of the communication between Lakes Huron and Superior by a proviso in the act of March 3, 1853, making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1854.

RIVER AND HARBOR BILL.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that the bill of the House, entitled "An act making appropriations for the repair, preservation, and completion of certain public works heretofore commenced under the authority of law," returned at the last session to the House by the President of the United States, with his objections thereto, had failed for want of the two thirds vote required by the Constitution in such cases.

FRANKING PRIVILEGE.

Mr. CHASE gave notice of his intention to ask leave to introduce a bill to abolish the franking privilege and to provide for the distribution of the public documents.

RIVER AND HARBOR IMPROVEMENTS.

Mr. SHIELDS gave notice of his intention to introduce bills of the following titles:

A bill to continue the improvement of the Illinois river;

A bill to continue the improvement of the harbor of Waukegan, in Illinois; and

A bill to continue the improvement of the harbor of Chicago, in Illinois.

BILLS INTRODUCED.

Mr. FOOT, in pursuance of previous notice, asked and obtained leave to introduce a bill to extend the statute of limitations in certain criminal cases; which was read a first and second time by its title, and referred to the Committee on the Judiciary.

Mr. GEYER asked, and by unanimous consent obtained, leave, previous notice not having been given, to introduce a bill "to provide for holding an additional term of the circuit court of the United States for the Missouri district, and for the salary of the judge of said district;" which was read a first and second time by its title, and referred to the Committee on the Judiciary.

NATURALIZATION LAWS.

Mr. ADAMS, in pursuance of previous notice, asked and obtained leave to introduce a bill to amend the "act to establish a uniform rule of naturalization, and to repeal the acts heretofore passed on that subject," approved April 24, 1802; which was read a first time.

Mr. ADAMS. Mr. President, I move that the bill be read a second time with a view to reference, and upon that motion I ask the indulgence of the Senate while I explain the provisions of the bill, and give the reasons which have induced me to offer it. I am aware that this is not the usual course of proceeding—yet it is in order, and as I know myself liable to misconstruction, I only ask that my remarks may go to the country with the introduction of the bill.

The bill proposes a change in our naturalization laws to this extent, in lieu of five years the alien must reside in the United States twenty-one years; but the change is entirely prospective. All foreigners who may be inhabitants of the United States at the time of the passage of the law will be entitled to naturalization according to the laws now in force; those only who may come after that period will be affected by it. I would deprive no man of any privilege or immunity secured by the Constitution and laws of the country, nor would I impair or abridge any prospective rights promised by existing laws. But, sir, self-preservation is said to be not only the highest duty of man to himself and his Creator, but one above law. The same rule applies with equal force to Governments. If this position be true, the inquiry arises, is the country in danger from an excess of foreign population either immediate or remote? In order to give the country a view of the whole subject, I here present a table showing the increase of population for the last fifty years, the probable increase by the same ratio for the next century, as well as the amount of immigration to this country for a series of years:

Increase of Population in the United States for fifty years.

1800	5,305,925
1810	7,239,814
1820	9,638,131
1830	12,866,020
1840	17,069,453
1850	23,191,876

Decennial increase per centum.

From 1800 to 1810	36.45
From 1810 to 1820	33.35
From 1820 to 1830	33.26
From 1830 to 1840	32.67
From 1840 to 1850	35.87

The population in the year 1800 being 5,305,925, and in the year 1850, 23,191,876, the increase has been 4 37 per centum on the population of 1800, calculating the same ratio of increase for the next fifty years, our population in the year 1900 would be 101,349,498, and in the year 1950 it would reach, if the same increase is continued, 442,907,296.

Arrivals of Foreigners in the United States.

From 1800 to 1810	70,000
From 1810 to 1820	114,000
From 1820 to 1830	135,986
From 1830 to 1840	579,368
From 1840 to September 30, 1850	1,677,330
Total to September 30, 1850	2,576,684
From September 30, 1850, to January 1, 1852,	439,437
From January 1, 1852, to January 1, 1853,	372,725
From January 1, 1853, to January 1, 1854,	368,643
From September, 1850, to January 1, 1854,	1,118,805
Total	3,757,489
Foreign paupers for 1850, 13,437.	

Thus you will see, that if we should preserve this Union, this entire continent will be necessary for the wants of our descendants one hundred years hence, without the addition of foreigners. I then ask every American, whether native-born or adopted, if it is not our duty to preserve this fair heritage for the use of our children, and not lavish it on those who had no share in either achieving our independence, maintaining our free institutions, or developing the resources of this happy and prosperous country. True, sir, we have a vast unoccupied territory, yet it is being settled and populated with a rapidity which seems almost fabulous. By ordinary increase of population during the next fifty years, we shall have no more room than will be necessary for the use of the then inhabitants. But, sir, when we look to the fact that, from 1800 to 1810, the arrivals of foreigners in the United States were seventy thousand, and now they are over four hundred thousand per annum—estimate the constantly augmenting number of immigrants with their probable increase for a few years, and it becomes alarming. If these were the only consequences involved I should have felt it my duty to offer the bill under consideration; but, sir, the political destiny of this country is one of higher moment; the true danger lies in the improper use of the ballot-box. I ask Senators to cast their eyes over this country and see the number of foreigners, (who often march in procession to the polls,) controlled frequently by a single mind, selecting for us our most important officers. See the riots and mobs in our cities—look at their protest on your Journals against the passage of laws to secure to our citizens the right of self-government; then see them hang in effigy an American Senator for having the honesty and independence to mete out equal justice to all sections of this Confederacy; see the organization of a party known as the German Progressive Republican party, whose avowed object, among other things, is to abolish the Sabbath—that holy day of rest—a day cherished, loved, and revered, not only by all true Christians, but by the toiling, laboring millions throughout christendom, and then tell me if you do not see danger. If this be the case, as is apparent, is it not the duty of every patriot and statesman to lay aside personal and party considerations, and apply the remedy, if there be one, legitimately within our reach? When the present naturalization law was passed, the annual immigration, as I have shown, was about seven thousand—they were bold and enterprising men, dispersed throughout the country, and soon became familiar with our Government and laws, as they still do in the South. This is not the case now in the North and northwest—they come to the northern States at the rate of nearly half a million a year; they come in communities of hundreds and thousands. Many remain in your cities and become servants and waiters; others, more enterprising, go to the western States and settle up neighborhoods and counties—never learn our language, but retain their mother tongue; they have but little intercourse with Americans, and are, consequently, many years in learning the genius and structure of our Government. Many, I admit, come here with intelligence and patriotism sufficient to have the elective franchise reposed in them in even less time than is now required. So with regard to minors. Many young men from eighteen to twenty-one would vote as intelligently and judiciously as others at fifty, but we *cannot* discriminate. We *must* legislate for classes. If we adopt this rule, we shall have but little difficulty in arriving at the conclusion, that the terms of this bill are sufficiently liberal for the safety of the country. Some will be excluded too long—many admitted too soon. Men born, reared, and

educated under the monarchical governments, taught to believe in the divine right of sovereigns to give law and to rule, cannot unlearn in a day the education of their lives, and if this were possible, an alien has much to learn of the character of this Government before he should approach the ballot-box. Our Government is a complex one, of State and Federal powers—all power emanating from the people—a system of government unlike that of others, complicated in theory, yet in practice simple and harmonious, securing to the high and the humble, the rich and the poor, a perfect equality of rights, dispensing its blessings without favor or partiality from the Atlantic to the Pacific—blessings enjoyed by no other people known in the history of the world, and which it is the highest duty of every statesman to preserve unimpaired. Then, sir, if I am right in the assumption that foreigners should become acquainted with our institutions before they are allowed a vote, and five years was the proper time for that purpose in 1802, twenty-one years is not too long a period now.

I have attempted to present a brief view of the subject without giving extreme cases, or intentionally exaggerating facts or consequences. I believe public opinion demands the change proposed, and what is more important, I believe the safety of the best Government ever formed by human wisdom requires it. I said in the commencement of my remarks, that I knew myself liable to misconstruction; that liability arises first from the success in the late elections, of a new party in this country; and next from a disposition upon the part of some people to attribute improper motives to all others but themselves. Now, sir, I say that I do not belong to the "Know-Nothing" organization, nor any other order of the kind. I do not now, nor have I ever belonged to any secret society, or association that had a secret, nor has that party or its successes any influence on my course upon this question, unless it is to the extent of encouraging me to believe that this or some similar bill will pass at the present or next session of Congress. In order to show my views on this subject before the late elections, I will read from some remarks I made on the homestead bill on the 19th of April last, when the Know-Nothings had won but few, if any, battles, and when it was believed to be an unimportant and short-lived party. Upon the amendment offered by the Senator from Ohio, [Mr. WADE,] I said:

"But, sir, the proposition of the Senator from Ohio is, that you shall not only tax one portion of the people for the benefit of another, but that you shall tax the native-born and adopted citizens of this country for the benefit of foreigners; that you shall say, by this bill, to every man who may reside without the limits of the United States, if he will come here, that your citizens shall be taxed to the value of one hundred and sixty acres, and a bounty of that amount of land bestowed upon him. To that I am opposed.

"I have no hostility against foreigners. My friend from Iowa, the other day, on a collateral issue, on a question which came before the Senate, remarked that I had deserted him, and those who act with him, on this bill. Sir, I am not conscious that I have ever favored the bill, or the principle of the bill: therefore, I am not a deserter from it. I think, if we will cast our eyes around us, we shall see that the time has passed when it is necessary to hold out inducements to individuals to emigrate to this country. My friend from Iowa said he hoped the time would never arrive when the people of this country would cease to remember, with sentiments of gratitude, the claims of the descendants of the Lafayettes and Montgomeries, and others who aided our fathers in the Revolution. I hope so too; but times have changed. The time has ceased, in my humble judgment, when we should continue to hold out other and different inducements to individuals to immigrate and become citizens of this country than are afforded by the character of our institutions. I would not change the policy of this Government, and refuse to hold out inducements such as we have heretofore held out to foreigners. I desire to see this country continue to be a home and an asylum for the oppressed of all nations. I desire, whenever a foreigner sets his foot upon our soil, to have thrown over him the panoply of our free institutions, to protect him in his person, his property, in the pursuit of happiness, and an unbounded liberty of conscience; and with that, from this day forth, I will stop. To every man who has come here under existing laws, I would extend all the rights which our present laws promise him; and to every man who comes to this country in the future, with the rights I have indicated, I would cease to offer more.

"Have you not seen, sir, within the last few months, petitions presented here and laid upon your table, remonstrating, in the name of foreigners, against the action of this body? Not content with that, have you not learned through the public newspapers, that a mob of foreigners, under the style of foreigners, assembled together, and hanged in effigy an honorable member of this body? What does that indicate? If the act indicates anything, or has any significance, it is that, in the estimation of those men, the individual referred to, the chairman of the Committee on Territories, [Mr. DOUGLAS,] ought to be hung by the neck until he is dead; and for what, sir? For doing his duty to the Constitution, to his oath, and to his country. I ask Senators, if they do not see indications in this of a combination in retaining the notions of the olden country, which shows that it is necessary, not that we should check it by legislation—I do not propose that at the present time—but that we should cease to hold out any further inducements. What do we need of further immigration from other countries? We have a sufficient population to protect ourselves against all the world. We have a sufficient population to settle every portion of our country which it is necessary to settle. For the purpose of a free and happy Government, we have a sufficient population."

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"Sir, the time has come, if combinations are formed, if separate distinctions are kept up by those who think proper to adopt this as their country, when we should at least cease to tax our own citizens for their benefit. These circumstances may not weigh with others; with me they have their influence."

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"Mr. President, I hope I will not be considered unkind or unfriendly to foreigners. I showed my regard for them during the present session, when they were denounced in this body for alleged mobs in the Bedini affair. I was the first Senator to furnish an apology for what seemed to be (from the reports in the papers) a breach of the peace, and that hospitality to the stranger for which our countrymen are so justly distinguished. I thought, and then said, in substance, that some allowance was to be made for those who had participated in the meetings referred to; that they had suffered from the oppressions of the Pope; that many of them had come from a country where the name of the Pope's Nuncio was synonymous with tyranny, the stake, and martyrdom for conscience sake; it was not, therefore, strange, when they heard that name in this country of unbounded liberty, that they should have committed some excesses in manifesting their disapprobation of the part he was supposed to have taken in the oppressions of their countrymen. I repeat, sir, that I am not opposed to foreigners, but have briefly stated my opinions as to the true future policy of this Government."

My remarks on the Bedini resolutions were made before I had ever heard the name of the Know-Nothing party. Thus it will be seen that my judgment on this subject was formed independent of the order, or rather the circumstances upon which I formed my opinions gave rise and success to that organization; and the principles set forth in the remarks I have quoted are the same that are contained in this bill, except that twenty-one years' residence is substituted for an entire repeal. Reflection, and further examination of the subject, has produced the change indicated by the bill. When I learned the indignity offered to Senator DOUGLAS by a German mob, I determined to introduce this bill. Since I gave notice of my intention to introduce it, I have been frequently asked if I am a Know-Nothing. I have already said that I am not. How far I agree with the persons composing this organization I cannot say, as I do not know their principles. If they are in favor of a repeal of the naturalization laws, as I have understood they are, then I differ with them as indicated by this bill. If they are in favor of conferring office on native-born citizens in preference to adopted, qualifications, moral character, and fitness in all respects being equal, then I agree with them to that extent. If they would vote at the polls for a Protestant (all things being equal) in preference to a Roman Catholic, I again agree with them. But, sir, if they were to require of me to vote for an unworthy native, against a faithful patriot and worthy foreigner or Catholic, I should differ with them, and bestow my suffrage on the good in preference to the bad man of whatever nativity or religion; nor can I be placed in a position where I would be required to vote against my friend for my enemy. Of all the invaluable rights secured to us by our Constitution and laws, the one I appreciate most highly, is the untrammeled liberty of conscience, that every man, woman, and child in this broad land is entitled to, and should, worship the Deity as to him or her may seem right and proper, or withhold their adoration, being responsible alone to the Author of their being. This is a liberty above price, and for this many have laid their heads upon the block, and were the gainers thereby. Thus esteeming the privilege, I would deprive no one of it, from the slave to the most exalted in the Government, and it is because I entertain these sentiments, because I wish to preserve these inestimable privileges—to perpetuate our thrice glorious institutions unimpaired, that I desire to see this bill passed. I have been asked if I am not a Know-Nothing, why I do not attack these secret political organizations? I answer, that I have never condemned or approved the Masonic fraternity, or Odd-Fellows, further than the external fruit they bore. I have seen the widow's tear dried from her eye, and the orphan clothed, fed, and educated by their charity. Such fruit I most cordially approve. The Know-Nothings are a new order; whether their organization is destined for good or evil, time alone can determine with certainty. If we knew their principles we could judge more correctly; as it is, we must wait. They have not been in existence long enough for us to see their fruit matured. If, at the organization of the next Congress, in the other end of the Capitol, they should come to the rescue of the friends of the Constitution, unite with the national men in that body in dispelling the gloom that now hangs over the country—save the Government from the hands of the fanatics—such acts will meet my decided approbation. Such water could not flow from a polluted fountain; such fruit could not grow on a tree which has no good in it; therefore I shall judge them as I judge others, by the good or evil they do the country.

But I am told that the States have the right, and do exercise it, of determining the qualifications of voters. I am apprised of that; and my answer is, that the States having conferred on Congress the power of passing uniform laws of naturalization should, in all good faith to the General Government, and each to the others, conform the qualification of voters to the laws of naturalization. Many of the States have done so, while others have not; yet such a change in public opinion has been manifested recently as to justify the belief that all, or nearly all the States will conform to the principle of this bill, or something approximating to it. I am not tenacious about the time—twenty-one years. I named this period because I thought it the proper one; and, so far as I have heard an expression of opinion, it is the favorite. If the bill should not pass this session, it is presented in a legislative form, and can be transferred to the people; if they desire it, they can elect Representatives to pass or reject the proposition. It is a precautionary, or conservative political measure. If it succeeds, no inhabitant of the United States, at the time of its passage—whether native-born or foreigner—can be injured by it, for it is as much for the benefit of one class as the other. If it should fail, but little injury will be likely to accrue to us in our day. Much may to our children. Why should there be an alarm at this proposition? No man in the United States can complain that injustice is done to him or his. If any person has more solicitude for the welfare of the subjects of other Governments than the citizens of this, he differs from me.

The patriots of the Revolution, who framed the Constitution, and who fought side by side with the noble foreigners in that immortal struggle, believed some restriction on the rights of citizenship to aliens necessary; and, therefore, conferred on Congress the power of passing uniform naturalization laws, and provided expressly that no other than natural born citizens should hold the offices of President and Vice President of the United States. No hearts ever beat with livelier or warmer sentiments of gratitude than theirs; yet they loved their country and the institutions they founded better than all other things. If I owned more land than is necessary for my son, I might divide the surplus with my poor neighbors; but as I have not, I shall certainly leave what I have to him, and let others take care of themselves. So if we had more territory than our descendants would probably require within a reasonable time, this measure would not be important in the point of view in which I am now treating it. I have taken a period which may be said to be too remote, that "sufficient for the day is the evil thereof." This is a Divine rule, and of course proper in its place, but does not hold good in regard to laws for the government of man, nor providing for the rights and safety of our successors. Suppose our ancestors had acted upon that motto, would the Revolution which severed the ties that bound this country to the Government of Great Britain have taken place? If those patriots and immortal statesmen had only looked to the benefits accruing to themselves, and not to their posterity, would the short time they could have expected to enjoy the blessings of liberty been an adequate compensation for the treasure that was spent, the sufferings endured, and the blood that was shed to obtain independence? No, sir; for the benefit of posterity, the land was baptized with the purest blood that ever was shed upon the altar of liberty. If they had consulted the interests of themselves

alone, and the wishes of their friends in the Old World, liberty, rational liberty, as enjoyed by us at this day, would never have been known. Then if we neglect legislation proper and necessary for the protection of those who shall come after us—both as to country and laws—are we not recreant to the high trust reposed in us? Mr. Jefferson said:

"Civil government being the sole object of forming societies, its administration must be conducted by common consent. Every species of government has its specific principles. Ours, perhaps, are more peculiar than those of any other in the universe. It is a composition of the freest principles of the English Constitution, with others derived from natural right and natural reason. To these nothing can be more opposed than the maxims of absolute monarchies. Yet, from such, we are to expect the greatest number of emigrants. They will bring with them the principles of the Governments they leave, imbibed in their early youth; or, if able to throw them off, it will be in exchange for an unbounded licentiousness, passing, as is usual, from one extreme to another. It would be a miracle were they to stop precisely at the point of temperate liberty. These principles, with their language, they will transmit to their children. In proportion to their numbers they will share with us the legislation. They will infuse it into their spirit, warp and bias its directions, and render it a heterogeneous, incoherent, distracted mass.

"I may appeal to experience for a verification of these conjectures. But, if they be not certain in event, are they not possible, are they not probable? Is it not safer to wait with patience, for the attainment of any degree of population desired or expected? May not our Government be more homogeneous, more peaceable, more durable?"

When Mr. Jefferson thus wrote, we were a feeble nation; now we are strong and powerful, and his arguments have more force from the lights of experience. In 1800 the foreign arrivals were seven thousand, now over four hundred thousand per annum. Suppose we estimate the increase of immigration for the next fifty years in the ratio of the past fifty, and add their natural increase. Why, sir, it would be worse than the locusts of Egypt. We would have to give place to them as the aborigines have to us. We know that the character of the immigrants has greatly changed. In 1802, the date of the present law, they were a noble race. Some of this class yet come, but we know that many of the present arrivals are from jails and houses of correction—in a word, the refuse of Europe. In 1802 we had no foreign paupers; in 1850 we had thirteen thousand four hundred and thirty-seven. This is conclusive evidence of the difference in past immigrants. I suppose it is the oppressions of European Governments, which is pouring upon our shores such numbers of paupers. Well, sir, I sympathize with the poor and unfortunate in every country, but am native American enough to prefer that the tyrannical Governments which produce these paupers should take care of them, and believing as I do, that the facility with which they become citizens serves as a great stimulant to immigration, I desire to see it changed.

But, sir, there is another point of view in which I consider this an important question. If the foreign vote shall at any time be strong enough to have a controlling influence in our elections, it will greatly impair the confidence of our people in the stability of the Government. The basis of our political edifice may be said to be the virtue and intelligence of the people, and the strongest ligatures that bind and hold it together are the confidence and affections of the people. Destroy them, and it crumbles and falls to the earth, and buries in its ruins the liberties of the most favored people in the world. I ask what is better calculated to destroy the confidence of the country in our Government than admitting to the ballot-box the immense number of uninformed foreigners now crowding our shores?

If the facts and figures I have here presented be correct, if the condition of the country, past, present, and prospective, does not require the enactment of such a law as I have proposed, I have altogether mistaken the necessities of the country. As no human being now in the United States can possibly be injured by it, (except myself, politically,) I shall never regret the humble effort I have made to preserve to my countrymen this, the best country and the most perfect Government enjoyed by man since sin entered the world.

If the bill is read again without objection, I shall move its reference to the Committee on the Judiciary.

The bill was ordered to a second reading, read a second time by unanimous consent, and referred to the Committee on the Judiciary.

MAIL STEAMER APPROPRIATION BILL.

Mr. HUNTER. There is an appropriation bill which I believe comes up this morning. I refer to the bill which was laid over from the last session "making appropriations for the transportation of the United States mail by ocean steamers and otherwise, during the fiscal year ending the 30th of June, 1855." Its consideration was fixed for to-day.

The PRESIDING OFFICER, (Mr. WALKER in the chair.) That bill is now in order.

Mr. BRODHEAD. Mr. President, when this bill came up for consideration the other day, a question of order was raised as to whether it fell, in consequence of the adjournment of the two Houses, at the close of the last session. I do not think, sir, that it is very material how that question may be decided, because I believe it quite unnecessary to consider the bill at this time; and hence, I rise for the purpose of moving its reference to the Committee on the Post Office and Post Roads.

Mr. HUNTER. It cannot be referred now.

Mr. BRODHEAD. I am told that such a motion is not now in order; but I think it is. The bill is now before the Senate. The committee of conference reported that they could not agree. A motion was then made that the Senate recede from its amendment. That being the condition of the bill, I hold that a motion to refer it to the Committee on the Post Office and Post Roads, is in order; and in this opinion I hope to be sustained by the judgment of the Chair.

Sir, it seems to me, for obvious reasons, that this bill should be referred. It makes an appropriation to pay the contractors for the transportation of the mails in ocean steamers; and it also contains a section giving the notice, mentioned in the act of 1852, providing for a discontinuance of the extra allowance to the New York and Liverpool line. The section making the appropriation has passed both Houses, and therefore it cannot be amended; but still it is virtually within our control, because the section giving the notice—a portion of the same bill—has not yet been agreed to by both Houses. I say the section making the appropriation ought not to pass, because the money therein appropriated has been paid to the contractors. It was paid out of unexpended balances in the Treasury. Such is unquestionably the fact. Then why make an appropriation of money to pay the contractors, when they have already been paid?

There is another reason why the reference should be made. The question of notice should not be contained in an appropriation bill. It is contrary to the rules of the Senate to include such a matter. It should come up as a separate, independent, and distinct proposition.

Mr. President, I never voted for the establishment of these lines of mail steamers; I was one of those who resisted the proposition to give an additional allowance of a million of dollars to the Collins line; but the proposition to give notice for discontinuing their contract should be considered, and carefully considered, in connection with the recommendations of the Postmaster General on the subject. He informs us, in his annual report now upon our tables, that the contractors have faithfully performed the service, that they are enterprising contractors, but still that the sums paid to them are too high. He recommends that the notice be given, and that the Government purchase the mail steamers, or rather take them in pursuance of a provision in their contract upon an appraisement. Sir, I will be very slow in agreeing to take these old steamers, already half worn out, at any price, repair them for naval use, and then call them first-class war steamers. By the time you have taken these steamers, paid $300,000, or $400,000, or $500,000 for each one, and expended a few hundred thousand dollars for new machinery, and to have the gingerbread work and top-hamperings taken off, so as to prepare them for war steamers, what will you have accomplished? You will have got old mail steamers, with side-wheels, for the Navy. I do not think that this is very sound economy. It will cost us, perhaps, two or three millions of dollars to pay for all the steamers on all the lines. It may be that the contractors, after having received the cream of their contracts, wish to get clear of their old steamers. A steamer depreciates ten per cent. every year. These steamers have been five years in service. It may be that, at the end of five years more, when the contract terminates, the vessels will be of no use, and will be worth nothing; and it may be that the contractors wish to get clear of them at this time, by inducing the Government to purchase them.

There are questions which suggest themselves at this time and in connection with the proposition now under consideration. They ought to be very carefully considered. I do not pretend to deliver any definite judgment in the premises, and I do not wish to be considered as committed on the question. I have made these suggestions for the purpose of showing that this is a large question which ought to be considered and deliberately considered by one of the standing committees of the Senate. Hence it is that I submit the motion to refer the subject to the Committee on the Post Office and Post Roads.

Mr. HAMLIN. Mr. President, I do not propose to enter into a discussion of the merits of this bill. It is an important one—one affecting the interests of the country as well as the interests of the parties who are more immediately and directly affected by its provisions. The first question submitted to the Senate is one of order. I suppose those Senators who are friendly to the continuance of the present steam mail arrangement may insist, indeed the whole Senate will require, that the Presiding Officer shall decide that question, because it is material. It should be decided, because I think it may involve the whole controversy. But my purpose in rising now is to make a suggestion to the chairman of the Committee on Finance, [Mr. HUNTER,] and I shall be very glad if he will see fit to conform to it.

The question involved in the bill is one which is directly connected with the administration of the Post Office Department, or at least to a certain extent, so far as the revenues of that Department are concerned. All the Senators know that the chairman of the Committee on the Post Office and Post Roads, [Mr. RUSK,] who is now absent, has felt and taken a very lively interest in the subject. Now, sir, if, while the question of order is pending, the Senate commit the bill to the Committee on the Post Office and Post Roads, they override the question of order, and undertake, before the Presiding Officer decides whether the bill is before the Senate, to take cognizance of it and refer it. I think that is a good and ample reason why it should not be referred until the Presiding Officer has first decided whether it is before us or not. The merits of the bill clearly ought not to be discussed before we know whether it is before us, and I do not mean to go into them. I only wish to suggest, for the consideration of the Senator who has called up the bill, that it should be postponed until the chairman of the Committee on the Post Office and Post Roads shall be here—first, because the personal interest which he has felt in the matter will, I think, justify it; and second, because it is a matter connected directly with the Post Office Department, and it is only courtesy and only fairness that it should be postponed until the arrival of the chairman of the Post Office Committee. I understand that that Senator is expected to be here this week, and the postponement can make a difference of but a very few days. I therefore hope the Senator from Virginia will consent to the postponement.

Mr. HUNTER. So far as I am concerned, I am willing to wait until the Senator from Texas arrives; I am willing to wait this week in order to give him a chance to be here; but it is necessary to decide the question of order. It seems to me that it is entirely out of order to entertain a motion to refer a bill which is now between the two Houses, and has been committed to a committee of conference. It has already been before a committee of conference, and is now before us on the motion of the Senator from Maryland, [Mr. PRATT,] to recede from our amendment. This is the state of the bill: It passed the Senate with an amendment. The House refused to concur in that amendment. A committee of conference was appointed. That committee reported that they could not agree, and then the motion was made to recede. Now, sir, there is but one of three things which we can do. We can either recede, and thus pass the bill; or we may adhere, and, if the House adhere to their disagreement, thus defeat the bill; or we may ask for another conference. But there is no means by which we can take the bill from the possession of the joint

committee of conference, except by some motion which will dispose of the fate of the bill ultimately. We cannot refer it to one of our own committees; and I think if the Senator from Pennsylvania will reflect, he will see that it is impossible to take that course consistently with the rules of order. So far as the postponement of the consideration of the bill is concerned, I am willing that it shall lie over until the Senator from Texas, the chairman of the Committee on the Post Office and Post Roads, returns.

Mr. BRODHEAD. If I believed with my friend from Virginia that this bill was pending before the committee of conference, I should not have made the motion which I submitted to refer it; but when the committee of conference reported that they could not agree, that of course terminated their labors, and the bill was then before the Senate. Hence it was, the committee of conference being out of the way, their functions ended, that the motion to recede was made; and if a motion to recede can be entertained, surely a motion to commit to the Committee on the Post Office and Post Roads is in order.

Mr. HUNTER. I would suggest to my friend from Pennsylvania that he is right in this—the bill was reported back to the Senate by the committee of conference. But I say, in that condition of things, you can make but one of three motions, either to ask for another committee of conference, or to insist, or to recede. If you recede from your amendment, the bill is passed; there is an agreement between the two Houses. If you insist or adhere, why then either the conference must go on, or the bill be lost, if the other House also adheres. That is the only course which it is possible to pursue.

Mr. SEWARD. Mr. President, there certainly is no necessity for acting on this bill now, because the appropriation which it contains has been virtually made by a previous act of Congress, and has been enjoyed by the parties for whom it was proposed to be made by this bill. There seems to be a disposition on the part of the chairman of the Committee on Finance [Mr. HUNTER] to wait until the return of the chairman of the Committee on the Post Office and Post Roads. Whatever be the disposition of it, that Senator, [Mr. RUSK,] from his standing in this body, and the deep interest he has manifested in this question, is entitled to be heard on the subject. Therefore, for the purpose of carrying out the views of the honorable Senator from Maine, and the honorable Senator from Virginia, I move to lay the bill on the table, with the understanding that it can be called up on the return of the honorable Senator from Texas.

Mr. HUNTER. I have no objection to its taking that course. I hope, though, the motion of the Senator from Pennsylvania will not be considered or entertained. If he chooses hereafter to present it, he may do it, and let the question then be raised.

Mr. BRODHEAD. It seems to me that we should gain by referring the bill to the Committee on the Post Office and Post Roads. If we do so, the Senator from Texas, being the chairman of that committee, as soon as he returns will have the bill before him. That is the proper place for him to consider it. If the Senate should be of opinion that the subject ought to be considered by a committee, why not refer it now? We gain time by it.

The PRESIDENT. Does the Senator make the motion to refer?

Mr. BRODHEAD. I do.

Mr. HUNTER. I raise the question of order on it.

The PRESIDENT. The first question is whether the bill is properly before the Senate, in other words, whether it was left among the unfinished business of the last session. The Chair has no difficulty in deciding that it was so left, under a resolution adopted at the last session, on the motion of the Senator from Louisiana, [Mr. SLIDELL.] That resolution will be read.

The Secretary read it, as follows:

Resolved, That all subjects before the Senate at the close of the present session, including those before committees, shall be continued to the next session, and shall then be proceeded with in the same manner as if no adjournment of the Senate had taken place; and the papers which have been referred to the committees, and may be in their possession at the close of the session, shall be returned informally to the Secretary, and by him restored to the committees when appointed at the next session.

The PRESIDENT. The bill, with the amendment, was reported back by the committee of conference, and no action had by the Senate prior to the adjournment *sine die*. The Senator from Maryland, [Mr. PRATT,] however, moved that the Senate recede from the amendment. The Senate adjourned *sine die* before that motion was disposed of, and that is now the pending question.

Mr. WELLER. I move to postpone the further consideration of the subject until to-morrow week.

Mr. BRODHEAD. Does that take precedence of my motion?

The PRESIDENT. Is that a motion to refer?

Mr. BRODHEAD. It is.

Mr. HUNTER. I rise to a question of order. Can the Senator move to refer the bill to a committee, while it is in its present condition?

The PRESIDENT. The Senator from California moves to postpone.

Mr. WELLER. That is my motion. It is simply to postpone the further consideration of the subject until to-morrow week.

Mr. BADGER. That has precedence.

The PRESIDENT. Yes, sir.

Mr. SEWARD. I wish to know whether the motion I submitted, to lay the bill on the table, has not precedence over all?

The PRESIDENT. That overrides the other motions; it has precedence.

Mr. SEWARD. I make that motion.

The motion was agreed to, and the bill was ordered to lie on the table.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 11, 1854.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of Thursday was read and approved.

EXPENDITURES IN THE STATE AND WAR DEPARTMENTS.

The SPEAKER laid before the House communications from the State and War Departments, transmitting, in compliance with law, full and detailed accounts of expenditures of moneys appropriated for their respective services; which, on motion, were laid upon the table, and ordered to be printed.

Also, journal and resolutions of the Legislative Council of Utah Territory; which were, on motion, laid upon the table, and ordered to be printed.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; which thereupon received the Speaker's signature:

An act for the relief of Enoch S. More; and

An act to relinquish to the State of Wisconsin the lands reserved for salt springs therein.

MICHIGAN LANDS.

Mr. CLARK, by unanimous consent, introduced a bill of which previous notice had been given; which was read a first and second time by its title, as follows, and referred to the Committee on Private Land Claims:

A bill to confirm the entry to certain lands in the State of Michigan.

AMERICAN MEDIATION OF THE EASTERN WAR.

Mr. CLINGMAN. Mr. Speaker, I desire the introduction of a joint resolution, with a view to its reference to the Committee on Foreign Affairs. I hope there may be no objection.

The resolution was read for information, as follows:

A Joint Resolution requesting the President to tender the mediation of the United States to the Powers engaged in the Eastern war.

Whereas, the people of the United States see, with regret, that several of the great Powers of Europe are engaged in a war which threatens to be of long duration, and disastrous in its consequences to the industrial and social interests of a large portion of the civilized world, and being, under the favor of Providence, in the full enjoyment of the blessings of peace, distant from the theater of conflict, disconnected with the causes of quarrel, between the parties belligerent, and as a nation having no immediate interest in the contest, and while not recognizing the right to interfere either by force or even by menace, nevertheless, are of opinion that the controversy is susceptible of pacific adjustment, through the interposition of a neutral and friendly Power: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be requested to tender to the belligerents the mediation of the United States, in such manner as, in his judgment, may seem most likely to lead to a pacification.

Mr. CLINGMAN. I desire that it shall go to the Committee on Foreign Affairs.

Mr. HAMILTON. I feel it to be a sense of duty to object to that resolution.

Mr. CLINGMAN. I move to suspend the rules for the purpose of enabling me to introduce it. I merely want to have it referred to a committee.

Mr. SOLLERS. Is it in order to move to lay that resolution upon the table?

The SPEAKER. It is not; the resolution not being before the body.

Mr. JONES, of Tennessee. Is it in order to move to suspend the rules?

The SPEAKER. It is.

Mr. JONES. When does the time for suspending the rules expire?

The SPEAKER. It is in order to suspend the rules on every Monday.

The question was then taken; and the House refused to suspend the rules, only forty-seven voting in the affirmative.

RELIEF OF THE KANE EXPEDITION.

Mr. FLORENCE. I ask the unanimous consent of the House to offer the following resolution, merely for the purpose of having it referred to a committee:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, authorized to cause an adequate steamer and a transport vessel to be purchased or chartered, and to be fitted out, and equipped, and provisioned, for the purpose of conveying relief to the expedition under the command of Doctor Elisha Kent Kane, of the United States Navy, which sailed in May, 1853, for the Arctic seas, in search of Sir John Franklin; and to detail such officers and men from the Navy, and to accept the services of such volunteers, at his discretion, as may be required for the conduct and manning thereof. And that the expenses hereby authorized be paid out of any money in the Treasury not otherwise appropriated.

Mr. JONES, of Tennessee. I object to the reception of that resolution.

Mr. FLORENCE. I hope the gentleman will withdraw his objection. I wish merely to have it referred to the Committee on Naval Affairs.

Mr. JONES. I do not withdraw my objection.

Mr. FLORENCE. I move to suspend the rules to enable me to present it.

Mr. ROBBINS. Upon that motion I demand the yeas and nays.

The yeas and nays were not ordered.

The question was then taken; and the House refused to suspend the rules.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, their Secretary, informing the House that they had passed, without amendment, House bill (No. 393) for the relief of Jacob McLellan.

Also, that they had passed a joint resolution (No. 28) for the appointment of Regents in the Smithsonian Institution; and a bill (No. 501) supplemental to an act therein mentioned.

MEMPHIS NAVY-YARD.

Mr. STANTON, of Tennessee, by unanimous consent, offered the following resolution; which was read, considered, and adopted:

Resolved, That the President be requested to communicate to this House any proposition which may have been made to the Government by the city authorities of Memphis, relative to the navy-yard property recently ceded to that city, together with his views and those of the Navy Department, as to the propriety of accepting the proposed recession, and of reëstablishing a naval depot and yard of construction at Memphis.

BINDING OF FINANCE REPORT.

Mr. STEPHENS, of Georgia. The annual report upon the state of the finances is now laid upon our tables, as usual, in an uncut and unbound condition. I propose to offer a resolution for their binding, similar to the one I offered the other day in reference to the estimates of the Secretary of the Treasury. I ask the consent of the House to offer the following:

Resolved, That the Committee on Printing be directed to have the report of the Secretary of the Treasury on the state of the finances cut and bound, for the use of the members of this House.

There was no objection; and the resolution was received and adopted.

CAPTAIN THOMAS PORTER, DECEASED.

Mr. LANE, of Indiana. I ask the consent of the House to introduce a joint resolution.

There was no objection; and the resolution was introduced, and read a first and second time by its title, as follows:

A bill for the relief of the children of Captain Thomas Porter, deceased.

Mr. LANE. I propose to ask that that resolution shall be put upon its passage; and that the House may understand the grounds upon which it is based, I send to the clerk's table a letter from the Commissioner of Pensions, which I ask may be read.

The letter was read. It states that an act was passed during the last session directing that the name of Captain Thomas Porter be placed upon the roll of invalid pensions, at twenty dollars per month, commencing on the 2d day of March, A. D. 1831, deducting from said amount such sum or sums as had been heretofore allowed and paid to him as pension money. It now appears, however, that Captain Porter died on the 6th day of February before the act was passed. Under these circumstances further action of Congress is necessary before the money can be paid to his children.

The joint resolution was then read *in extenso*. It provides that the pension due Captain Thomas Porter by the act of August 5, 1854, be paid to his administrator, to be distributed by him in the same manner as arrearages of pensions to deceased pensioners are distributed.

Mr. LANE. I will state to the House that while the bill for the relief of Captain Porter was pending, he died. After the news of his death reached this city, I had the bill amended so as to provide for the payment of the money to his administrator; and the bill passed this House in that shape. It went to the Senate, and they, not knowing of the death of Captain Porter, struck out that provision. It came back to the House and my colleague, [Mr. HENDRICKS,] believing that the money could be drawn under the bill as it came from the Senate, moved to concur, and it passed in that shape. This joint resolution provides merely that the money shall be paid to the administrator for the benefit of the children of Captain Porter. I hope the House will pass it.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was subsequently read the third time, and passed.

MILITARY SUPERVISION OF CIVIL WORKS.

Mr. SAPP, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the special committee appointed at the last session, on the subject of military supervision of civil works, and which reported only in part, be continued with all its powers, to examine and report upon those branches of the inquiry intrusted to them not yet reported upon.

BUSINESS OF THE DISTRICT OF COLUMBIA.

Mr. HAMILTON. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That Tuesday, Wednesday, and Thursday, the 19th, 20th, and 21st instant, be set apart for business for the District of Columbia.

Mr. SKELTON. I object to that.

Mr. HAMILTON. Then I move to suspend the rules. Some time ought to be devoted to the business of this District, and the resolution only asks for three days.

The rules were suspended, (two thirds voting in favor thereof,) and the resolution was considered, and agreed to.

Mr. HAMILTON moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

APPROPRIATION BILLS.

Mr. HOUSTON, from the Committee of Ways and Means, reported the following bills; which were severally read a first and second time by their respective titles, referred to the Committee of the Whole on the state of the Union, and ordered to be printed:

A bill making appropriation for the support of the Military Academy for the year ending 30th of June, 1856; and

A bill making appropriation for the support of the Army for the year ending 30th June, 1856.

POSTPONEMENT OF THE SPECIAL ORDER—THE PACIFIC RAILROAD.

Mr. HOUSTON. If the House will indulge me, I desire to make a motion now to go into the Committee of the Whole on the state of the Union, with a view that we may distribute, at this early period of the session, the President's message to the various committees, that they may have it before them for the purpose of carving out and preparing the business of the session.

The SPEAKER. The gentleman from Alabama, and perhaps the House, may not remember that there is a special order in the Committee of the Whole on the state of the Union that would control the committee.

Mr. McDOUGALL. I desire that that special order shall be postponed. I move that it be postponed until the second Tuesday in January next; and I will state my reason for making that motion. When the special order was postponed until this day, at the last session, it was understood that the reports of the engineers would be laid upon the tables of members at the opening of this present session. I have called on the Secretary of War, and he informs me that no reports of surveys will be laid before the House before about the 1st of January. Some of them have come in but lately, and it has been impossible to compile and arrange them so as to be intelligible. They will, however, all be here by the 1st of January next, and the subject can then be fully and fairly considered, with these reports in the hands of members. I hope the House will consent to the postponement.

The motion to postpone was agreed to.

Mr. HOUSTON. I now renew my motion.

ENGRAVING OF MAPS—PACIFIC RAILROAD SURVEYS.

Mr. McDOUGALL (Mr. HOUSTON temporarily yielding the floor) submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the maps accompanying the reports of engineers of the Pacific railroad surveys be lithographed and printed for the use of the members of this House.

DISCIPLINE OF THE NAVY.

Mr. BOCOCK, (Mr. HOUSTON further yielding the floor,) by unanimous consent, introduced a bill "to provide for the more efficient discipline of the Navy;" which was read a first and second time by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

EXCUSE FROM SERVICE ON A COMMITTEE.

Mr. TAYLOR, of New York, (Mr. HOUSTON still yielding.) I have been placed this session upon the Committee on Foreign Affairs. I was before upon the Committee for the District of Columbia. As I understand that there are gentlemen in the House who are not upon any committee, I ask to be excused from serving upon the Committee for the District of Columbia.

The question was put, and the motion was agreed to.

The question was then taken on the motion of the gentleman from Alabama, [Mr HOUSTON,] and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, Mr. STANTON, of Tennessee, in the Chair.

THE PRESIDENT'S MESSAGE.

Mr. HOUSTON. I now move to take up the annual message of the President of the United States to the two Houses of Congress at the present session, for distribution to the various committees.

The motion was agreed to.

Mr. HOUSTON. In connection with this subject I propose the following resolutions:

1. *Resolved*, That so much of the annual message of the President of the United States to the two Houses of Congress at the present session, as relates to our foreign affairs, together with the accompanying correspondence in relation thereto; to marking the boundary between the United States and the British possessions in the Northwest, as designated in the convention of the 15th June, 1846; to the extinguishment of the possessory rights of the Hudson's Bay Company and of the Puget Sound Agricultural Company, under the third and fourth articles of said convention, be referred to the Committee on Foreign Affairs.

2. *Resolved*, That so much of the said message and accompanying papers as relates to the existing tariff, and recommends a revision and change of its provisions; to the condition of the Treasury; to the finances of the Government; to the public debt and its repayment; to the receipts and expenditures; together with the "estimates for appropriations," be referred to the Committee of Ways and Means.

3. *Resolved*, That so much of the said message and accompanying documents as relates to the Army of the United States, and recommends an increase and modification of the same, together with all recommendations for new arsenals, forts, magazines, and barracks, or the discontinuance of old ones, be referred to the Committee on Military Affairs.

4. *Resolved*, That so much of the said message and accompanying documents as relates to the Navy of the United States, and recommends an increase and reform of the same, be referred to the Committee on Naval Affairs.

5. *Resolved*, That so much of said message and accompanying documents as relates to the modification of the present judicial system of the United States; to the records and papers of a public character; of the several officers of the Government; to making false entries in said books, or returning false accounts, be referred to the Committee on the Judiciary.

6. *Resolved*, That so much of the said message and accompanying papers as relates to our intercourse with the various Indian tribes, be referred to the Committee on Indian Affairs.

7. *Resolved*, That so much of said message and accompanying documents as relates to the Post Office Department, its operation and condition, be referred to the Committee on the Post Office and Post Roads.

8. *Resolved*, That so much of said message and accompanying documents as relates to commerce; to a revision of the existing laws for the maintenance of discipline, and the protection of life and property at sea, be referred to the Committee on Commerce.

9. *Resolved*, That so much of said message and accompanying documents as relates to the public lands, their survey and sale; to grants of land in aid of the construction of railroads; be referred to the Committee on Public Lands.

10. *Resolved*, That so much of the said message and accompanying documents as relates to the District of Columbia, be referred to the Committee for the District of Columbia.

11. *Resolved*, That so much of said message and accompanying documents as relates to the public buildings and grounds, be referred to the Committee on Public Buildings and Grounds.

12. *Resolved*, That so much of said message and accompanying documents as relates to patents, the condition and operations of the Patent Office, and the modification of existing patent laws, be referred to the Committee on Patents and the Patent Office.

Mr. HOUSTON. I have endeavored in these resolutions to distribute the various subjects enumerated in the President's message to the appropriate committees, in accordance with the rules of the House. I have prepared them in strict conformity to those rules; and unless there be some objection, I would like the vote to be taken on all these resolutions at once.

Mr. GIDDINGS then addressed the committee, remarking that he desired to call the attention of the country rather to the omissions of the message than to any of the doctrines contained therein. He referred to the fact that for the first time in twenty-five years the Executive of the United States had failed to call attention to the subject of slavery. The President had even omitted to notice any of the points relating thereto contained in his former message; and this, he contented, was caused by the voice of the people, as recently announced at the ballot-box.

The speech will be found in the Appendix.

Mr. WASHBURN, of Maine. I do not know that I have any desire to discuss the President's message, or that I have any amendments to offer to the resolutions which have been presented by the chairman of the Committee of Ways and Means; but gentlemen would like to see these resolutions in print, and have an opportunity of learning whether they will cover the whole ground embraced in the President's message. For the purpose, therefore, of affording that opportunity, I move that the committee do now rise.

[Loud cries of "No!"]

The question was taken, and the committee refused to rise.

The question now being upon the adoption of Mr. HOUSTON's resolution,

Mr. WHEELER moved the following as an additional resolution:

Whereas, the eleventh clause of the eighth section of the first article of the Constitution of the United States, declares that "the Congress shall have power"—"to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water," &c.; and whereas, the Constitution doth not invest the President of the United States, or any Department of the Federal Government, or any officer thereof, with power to declare war, or to levy or make offensive war, upon or against any foreign State, or Government, or community, or the people thereof, without the previous action of "the Congress," authorizing the same; and whereas, information is in possession of this House of the bombardment by a vessel of the Navy of the United States, of a town situate in a foreign country, against which no declaration of war had been previously made, nor warlike hostilities by the Federal Government, authorized by "the Congress;" and, also, of the invasion of said country by an armed force from said vessel, under the flag of the United States, and commanded

by an officer of the Navy thereof, and the burning of said town, and the destruction of the property of the residents thereof; and whereas, although the indignities and offenses to the Government and people of the United States, which it is represented caused such courses to be pursued, may preclude the Government of said foreign country, and any other foreign Government, from making any just complaint on account of said transactions; yet, insomuch as it is of high consequence to the States, and to the people of this Confederacy, that no violation of the constitutional compact, and especially that no usurpation of the power of Congress to "declare war," by the Executive branch of the Government, or any officer thereof, be allowed to pass unnoticed by the grand inquest of the country; therefore, be it

Resolved by the House of Representatives of the United States, That a select committee, to be composed of thirteen members of this House, be forthwith appointed, to inquire into and investigate as to the matters mentioned in the preamble to this resolution, with plenary power to send for persons and papers; and that said committee be instructed specially to inquire whether the Constitution of the United States hath been violated by any officer of the Government in any of said transactions, and if so, by what officer or officers, and the circumstances connected therewith; and that said committee do make report to this House as early as practicable whether any, and if so, what further action is necessary or proper by this House in the premises.

Mr. OLDS. I raise a question of order. That resolution is not in order.

The CHAIRMAN. The Chair is of the opinion that the resolution, in its present form, is not in order.

Mr. OLDS. It has no reference to the President's message.

The CHAIRMAN. The Chair presumes that the committee would have power to recommend the reference of that portion of the message to a special committee.

Mr. WHEELER. I withdraw that resolution, and offer the following as an amendment:

Resolved, That so much of said message as relates to the bombardment and burning of the town of San Juan de Nicaragua, or Greytown, be referred to a select committee of thirteen, and that said committee be instructed to report the facts in relation thereto, and that said committee have power to send for persons and papers.

Mr. MILLSON. I raise another point of order upon that resolution. Is it competent to the Committee of the Whole to appoint a special committee?

The CHAIRMAN. It is not, but the resolutions make no reference to any committee. They only recommend to the House to refer different portions of the message to certain committees.

Mr. MILLSON. I refer to the amendment of the gentleman from New York, [Mr. WHEELER.] That contemplates the appointment of a select committee.

The CHAIRMAN. The Chair is not aware of any principle of order or rule of the House that would prevent this committee from recommending the reference of any part of the message to a select committee. The Chair does not know that it has been usual to do it, but certainly it is not inconsistent with the object of the resolutions offered by the gentleman from Alabama.

Mr. PHILLIPS. All the resolutions are merely recommendatory.

Mr. MILLSON. I thought the amendment of the gentleman from New York provided for the appointment of a select committee.

The CHAIRMAN. The Chair thinks the amendment is in order.

Mr. RICHARDSON. I desire to know if there is any reason why a select committee should be raised to have this portion of the message referred to it. It is at least unusual. We have, I believe, standing committees to whom every portion of the message may be appropriately referred.

Mr. OLDS, (interrupting.) If the gentleman will give way, I will raise another question of order.

Mr. RICHARDSON yielded the floor.

Mr. OLDS. My point of order is this: that that portion of the President's message which the gentleman from New York seeks to have referred to a select committee is, by one of the resolutions introduced by the gentleman from Alabama, [Mr. HOUSTON,] referred to the standing Committee on Foreign Affairs, and, therefore, his motion should be a motion to amend that resolution, and not an independent resolution to refer the same portion of the message to a select committee, which the gentleman from Alabama seeks to refer to a standing committee.

Mr. WHEELER. I offered this as an amendment, withdrawing my original resolution.

The CHAIRMAN. So the Chair understands it, and cannot see that the gentleman from Ohio [Mr. OLDS] is correct in his point of order. The Chair, therefore, overrules the point, and decides the amendment in order.

Mr. OLDS. Did the gentleman from New York offer this as an amendment to the resolution offered by the gentleman from Alabama, [Mr. HOUSTON,] referring that portion of the President's message to the Committee on Foreign Affairs?

Mr. WHEELER. Yes.

The CHAIRMAN. The gentleman from New York offers his proposition as an amendment, and in that form the Chair proposes to put it to the committee.

Mr. OLDS. If the original resolution and this amendment pass, you will be referring the same portion of the President's message to the standing Committee on Foreign Affairs, and to the select committee of the House.

The CHAIRMAN. That is a question of consistency and propriety for the committee to determine.

The question was put on the adoption of the amendment.

Mr. WHEELER demanded tellers.

Tellers were ordered; and Messrs. MILLSON and KERR were appointed.

The question was taken, and the tellers reported —ayes 54, noes not counted.

So, a majority of a quorum not having voted in the affirmative, the amendment was not agreed to.

Mr. WADE. I offer the following resolution:

Resolved, That so much of the President's message as relates to the improvement of rivers and harbors be referred to the Committee on Commerce.

Mr. WADE. I make that motion, Mr. Chairman, for this reason: The resolution, as offered by the gentleman from Alabama, and as now before the committee, does not embrace that part of the President's message. It refers to specific matters to go to the Committee on Commerce, not including this; and I simply propose by my resolution to have this portion of it referred in like manner.

The question was taken, and the amendment was not agreed to.

The question then recurred on the resolutions offered by Mr. HOUSTON, and they were collectively agreed to.

Mr. OLDS. I move that the committee do now rise, and report these resolutions to the House.

The motion was agreed to.

The committee accordingly rose; and Mr. RICHARDSON having taken the chair as Speaker *pro tempore*, the Chairman of the committee reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and especially the annual message of the President of the United States to the two Houses of Congress, and had instructed him to recommend to the House a series of resolutions.

Mr. HOUSTON. I ask the previous question on the adoption of those resolutions.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof, the resolutions were adopted.

OCEAN MAIL STEAMERS.

Mr. OLDS. During the last session of Congress, a bill was reported from the Committee on the Post Office and Post Roads, and referred to the Committee of the Whole on the state of the Union, relative to mail steamers. There is now pending a motion to reconsider the vote by which it was so referred. I ask that that motion may be considered now, so that the bill may be referred back to the Committee on the Post Office and Post Roads.

The title of the bill was read, as follows:

House bill (No. 244) abolishing the present ocean mail steam-service, and authorizing the Postmaster General to relet the same in accordance with the usages and regulations appertaining to the inland mail service; and for other purposes.

The question was taken, and the motion to reconsider was agreed to.

Mr. OLDS. I now move to recommit the bill to the Committee on the Post Office and Post Roads.

The motion was agreed to.

HENRY S. SANDFORD.

Mr. INGERSOLL. I ask leave to report from the Committee on Foreign Affairs Senate bill No. 430, being a bill for the relief of Henry S. Sandford, and to move that the bill be put upon its passage. I think that a few words of explanation will satisfy the House of the propriety of my request.

The title of the bill was then read.

Mr. SKELTON objected.

Mr. INGERSOLL. I hope that the gentleman from New Jersey will withdraw his objection. I move that the bill be put upon its passage.

The SPEAKER *pro tempore*. The question is upon a reconsideration.

Mr. INGERSOLL. I think the Chair is in error. The bill was reported back at this session from the Committee on Foreign Affairs, with a recommendation that it pass.

Mr. GROW. Must it not go to the Committee of the Whole on the state of the Union?

Mr. INGERSOLL. It had been previously referred to the Committee on Foreign Affairs.

The SPEAKER *pro tempore*. If that is the situation of the bill, objection being raised, it cannot be put upon its passage now.

Mr. COBB. I move that we proceed to the consideration of bills upon the Speaker's table, with a view of referring them to their appropriate committees.

Mr. SAPP moved to reconsider the vote by which the resolution in regard to the special committee appointed at the last session upon the subject of the military supervision of civil works was agreed to, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. COBB. Is it not in order to proceed to business upon the Speaker's table?

The SPEAKER *pro tempore*. It can only be done by unanimous consent.

Mr. CLINGMAN. What is the regular order of business?

The SPEAKER. The call upon committees for reports.

On motion by Mr. STEPHENS, of Georgia, the House then, at ten minutes before two o'clock, adjourned till to-morrow, at twelve o'clock, m.

IN SENATE.

TUESDAY, *December* 12, 1854.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

PUBLIC PRINTING.

The PRESIDENT *pro tempore* laid before the Senate the second annual report of the Superintendent of Public Printing, showing the condition of the public printing; which was ordered to lie on the table, and be printed.

CAPTAIN THOMAS PORTER.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had passed a joint resolution for the relief of the children of Captain Thomas Porter, deceased.

Mr. PETTIT. I ask the Senate to proceed to the consideration of the joint resolution which has just been received from the House. It will be seen that it is simply to supply a deficiency in a bill of last year.

The motion was agreed to; and the joint resolution was read a first and second time by unanimous consent, and considered as in Committee of the Whole. It proposes to direct the proper accounting officer to pay to the administrator of Captain Thomas Porter, deceased, out of the money appropriated for the payment of invalid pensions, the amount of pension due Captain Porter at the time of his death, by virtue of the act of Congress of August 5, 1854, which money is to be distributed, by the administrator, to Captain Porter's children, in the same manner as arrearages of pensions are distributed to the children of deceased pensioners.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

ENROLLED BILLS SIGNED.

A message was received from the House of Representatives, by Mr. MCKEAN, Chief Clerk, announcing that the Speaker of the House had signed the following enrolled bills:

A bill relinquishing to the State of Wisconsin, the lands reserved for salt springs therein; and

A bill for the relief of Enoch S. More.

Which were then signed by the President *pro tempore*.

PETITIONS, ETC.

Mr. SEWARD presented the petition of Margaretta Dupignac, daughter of Bezaleel Howe, an officer in the revolutionary war, praying to be allowed a pension; which was referred to the Committee on Pensions.

Also, the petition of Susan Palmer, widow of Junis B. Palmer, an officer of New York volunteers in the last war with Great Britain, praying to be allowed bounty land; which was referred to the Committee on Public Lands.

Also, a petition of residents of the State of New York, praying that measures may be taken to secure to American citizens, residing or traveling in foreign countries, the enjoyment of the rights of conscience and of public worship; which was ordered to lie on the table.

Also, the memorial of Miguel Montiel, an officer in Colonel Domingo's company of spies in the Mexican war, praying that bounty land may be granted him and the other members of that company; which was referred to the Committee on Public Lands.

Also, the petition of Dennison E. Seymour, representing that he was induced through misrepresentations to enlist in a company of United States engineers, and praying remuneration for losses sustained, and hardships endured in consequence thereof; which was referred to the Committee on Military Affairs.

Mr. SHIELDS submitted additional documents in relation to the claim of the heirs of James Bell, deceased; which were referred to the Committee on Revolutionary Claims.

Mr. NORRIS presented the petition of the heirs of Simon Smith, praying to be allowed the arrears of pension, which they allege to have been due him; which was referred to the Committee on Pensions.

Also, the memorial of Justin Spaulding, asking pay for his services as chaplain on board the ship Independence; which was referred to the Committee on Naval Affairs.

Mr. SUMNER presented the petition of Ebenezer Hitchcock, a soldier in the last war with Great Britain, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. SLIDELL presented the petition of the heirs of James Heard, deceased, a captain in the New Jersey line of the Continental Army, praying to be allowed the half pay for life to which he was entitled; which was referred to the Committee on Revolutionary Claims.

Mr. CASS presented a document in relation to the claim of Judge Schley and Judge Witherell to compensation for extra services while United States judges for the Territory of Michigan; which was referred to the Committee on Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. SHIELDS, it was

Ordered, That the petition of William A. Cameron, on the files of the Senate, be referred to the Committee on Revolutionary Claims.

On motion by Mr. WELLER, it was

Ordered, That the report of the Committee on Claims on the memorial of Charles Homer, be recommitted to the Committee on Claims.

On motion by Mr. JONES, of Tennessee, it was

Ordered, That the petition of General Robert Armstrong, on the files of the Senate, be referred to the Committee on Pensions.

On motion by Mr. BRODHEAD, it was

Ordered, That Joseph Nock have leave to withdraw his petition and papers.

REPORTS FROM A STANDING COMMITTEE.

Mr. SHIELDS, from the Committee on Military Affairs, to whom was referred a bill for the relief of Charles W. Carroll, reported it back without amendment.

He also, from the same committee, to whom was referred a bill from the House of Representatives granting bounty land to Cornelius Coffey, reported it back without amendment.

He also, from the same committee, to whom was referred the bill from the House of Representatives for the relief of Eleanor Hoople, of the Province of Canada, reported it back without amendment.

He also, from the same committee, to whom was referred the petition of Simeon Stedman, praying payment of an amount due him for services as a soldier in the last war with Great Britain, submitted a report, accompanied by a bill for his relief; which was read, and passed to a second reading.

NOTICE OF A BILL.

Mr. JONES, of Tennessee, gave notice of his intention to ask leave to introduce a bill to give to railroad companies three years within which to pay the duties on iron imported for railroad purposes.

BOUNTY LAND LAWS.

Mr. BRODHEAD. In pursuance of previous notice, I ask leave to introduce a bill "in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," which I ask may be read a first time, and ordered to be printed. I will not ask for its reference to a standing committee, for reasons which I will state when I call it up for consideration in a few days.

The bill was read a first time, and passed to a second reading. It was also ordered to be printed.

BILLS INTRODUCED.

Mr. SHIELDS, in pursuance of previous notice, asked and obtained leave to introduce the following bills; which were severally read a first and second time by their titles, and referred to the Committee on Commerce:

A bill to continue the improvement of the Illinois river;

A bill to continue the improvement of the harbor of Waukegan, in Illinois, on Lake Michigan; and

A bill to continue the improvement of the harbor of Chicago, in Illinois.

He also asked and obtained the unanimous consent of the Senate to introduce a bill for the relief of Thomas T. Russell, of Florida; which was read a first and second time by its title, and referred to the Committee on Military Affairs.

JUDICIARY SYSTEM.

Mr. BUTLER. I give notice that I shall ask the Senate, on the first Tuesday in January next, to take up for consideration the bill reported at the last session by the Committee on the Judiciary, to modify and amend the judicial system of the United States. I ask that it be made the special order for that day.

The motion was agreed to; and the bill was read a second time, and its further consideration was postponed to, and made the special order for, Tuesday, January 2, 1855.

REVOLUTIONARY CLAIMS.

Mr. EVANS. Mr. President, a bill has been before the Senate since March last, to provide for the settlement of the claims of the officers of the revolutionary army. It was postponed at a late day of the last session, to the first day of this session, but was not taken up. I now move that it be taken up, and made the special order of the day for the first of January next.

The motion was agreed to; and the bill was postponed to, and made the order of the day for, Monday, January 1, 1855.

CHAPLAINS TO CONGRESS.

On motion by Mr. SEWARD, the Senate proceeded to consider the following resolution submitted by him on the 5th instant:

Resolved, That two chaplains of Congress, of different denominations, be chosen, one by each of the two Houses, to serve during the present session.

Mr. DODGE, of Iowa. I move to amend the resolution by striking out the words "of different denominations." I believe it is quite unnecessary that we should hamper ourselves in respect to the different denominations, especially as my friends, the Methodists, are divided into a Church North, and a Church South, and may therefore, for the purposes of this resolution, be regarded as different denominations. I believe this to be a hostile movement directed at the present chaplain [Mr. Slicer] of this House, who is my choice, and I wish to oppose it here and everywhere. I believe it is a movement directed at him, and because of his sentiments upon the very question which has severed and snapped the cords which once bound the Methodist Church, North and South.

Mr. SEWARD. I will barely state, sir, that this resolution was drawn by me in the customary form, as I have always understood it to be. I have no tenacity about the denominations. I have no objection to having both chaplains of one denomination. I have no objection to taking them from different denominations, or any denomination. If it be the pleasure of the Senate to change the practice in that respect which has heretofore prevailed, and it shall be agreed to by the House of Representatives, I shall make no objection. I see, however, no objection to the old system, and I had supposed it would be most acceptable to Congress.

Mr. MASON. Mr. President, I think there is a joint rule of the two Houses, which requires that chaplains shall be elected, one for each House, and that joint rule prescribes, according to my recollection, that they shall be of different denominations. Now, I do not see why the Senator from New York should offer a resolution to go into the election of chaplains, and declare that we shall conform to that rule, unless he has some specific reason for doing so; and if the Senator from New York has a specific reason for doing so, I suggest to that Senator that he disclose it to the Senate. Sir, if I am right in the assumption that the joint rule requires the chaplains elected to be of different denominations, then it rests with the two Houses to conform to that rule, and if they do not conform to it, each House is responsible for its action. I shall, with great pleasure, vote for a resolution to go into the election of chaplains, but I see no reason patent upon the resolution, why we should be required in doing so to conform to any existing rule.

The PRESIDENT. The Chair will remark that there is no such joint rule. The matter has heretofore depended on the action of the two Houses, and I believe it has been the practice to declare that the chaplains should be of different denominations.

Mr. SEWARD. The honorable Senator from Virginia has proceeded upon a suppositious case, which, I think, is entirely erroneous. I know of no such joint rule. If the honorable Senator from Virginia does, he will have the goodness to point out that rule to the Senate. If there be no law of the United States, and no joint rule on the subject, then I do not know how otherwise we are to reach this election than by a joint resolution. The joint resolution which I have offered is copied from the joint resolutions which have been heretofore passed by the two Houses of Congress at every session since I have had any knowledge of their proceedings. As I said before, I have no specific object—if I had I should explain it. In regard to any personal question in this matter, I can say that I know nothing of any such question. On the second day of the session, when we met here, the question arose about chaplains—whether a chaplain was to be elected in the proceedings necessary to organize the House. I offered this resolution in this shape, without the knowledge of the fact that the two chaplains who officiated at the last session were of the same denomination. I offered it in this form, because it was the customary form.

That is all I have to say, sir, on that subject; but, since I am up, I will explain how it is that it seems to be necessary to have a resolution to proceed to the election of Chaplain.

At the last session—the first session of this Congress—a joint resolution, similar in all respects to this resolution, and I believe *in hæc verba*, was passed by this body, and sent to the other House, of course. That resolution provided that two chaplains should be elected of different denominations, one by each House, for that session of Congress. It went to the other House, and there that resolution was laid upon the table. Afterwards a joint resolution was introduced into that House, by which it was provided that two chaplains should be elected for this Congress. The other House proceeded, under that resolution, to elect a chaplain. They notified this House, not that they had passed the joint resolution formerly passed by the Senate, but that they had passed a joint resolution for the election of chaplains, one by each House; and in the notice which they gave they stated that the election was for that session of Congress. When that notification came here that resolution was read, but, as I learn from the Secretary, no action was had upon it; there was no concurrence in it; but the Senate, without any action upon it, on the motion of the honorable Senator from Iowa, [Mr. JONES,] proceeded to

the election of a chaplain, and the present incumbent was elected.

Then the matter stands in this way: that at the last session each House elected a chaplain without any joint resolution or joint agreement for that purpose. We certainly have no chaplain now, because the chaplain elected by the Senate last year was elected for the last session only.

I have nothing to say, sir, in regard to the imputations upon the motives which actuate me in this transaction. I am prepared to act with the Senate in the appointment of a chaplain of any denomination, and to acquiesce in any choice they may make. I claim, of course, the right to vote as I think best. If it be the pleasure of the Senate to agree to the motion to strike out, I have no objection.

Mr. CASS. If this were a resolution introduced at the commencement of a term of Congress I should vote for it; but we have only a very short session before us. There are now two gentlemen acting as chaplains who acted during the last session, and it seems to me to be the better course to continue them for the short time which remains.

Mr. WELLER. I should like to ascertain whether the chaplains were elected at the commencement of the last session under a resolution similar to this, requiring that they should be of different denominations. I understand that the chaplain of the House of Representatives, as well as the chaplain of the Senate, is a member of the Methodist church; but one, it is said, belongs to the Church South, and the other to the Church North, and if so it has been construed that they belong to different denominations. Now, what I desire to ascertain is whether, at the last session, we elected under a resolution requiring that chaplains of different denominations should be elected for the respective Houses. In other words, I wish to ascertain whether the Senator from New York intends by this resolution to supersede the present incumbent. I am for the reëlection of Mr. Slicer, he having given satisfaction, as I think, to the reasonable portion of the Senate. I should like to have that information, Mr. President, before the vote is taken.

Mr. STUART. We elected on our own motion last year, I understand.

The PRESIDENT. The Secretary will read from the Journal the proceedings at the last session in relation to this question.

The Secretary read, as follows, from the Journal of Monday, December 5, 1853:

"Mr. BRIGHT submitted the following resolution; which was considered by unanimous consent, and agreed to:

"*Resolved*, That two chaplains, of different denominations, be appointed for the present session, one by each House, and to interchange, weekly, between the two Houses."

He also read the following from the Journal of Wednesday, December 7, 1853:

"A message from the House of Representatives, by Mr. MCKEAN, their Chief Clerk:

"Mr. PRESIDENT: The House of Representatives have passed a resolution for the election of two chaplains to officiate alternately during the present session of Congress."

* * * * * * *

"The resolution of the House of Representatives for the election of chaplain having been read,

"On motion by Mr. JONES, of Iowa,

"The Senate proceeded to the election of a chaplain, on their part, and the Rev. Henry Slicer was duly elected."

Mr. WELLER. It seems, sir, from the reading of the Journal, that the House of Representatives never agreed to the resolution which was originally submitted to, and adopted by, the Senate, requiring that the chaplains should be of different denominations. The House of Representatives simply passed a resolution to proceed to the election of a chaplain for each branch of Congress. The election was held under the resolution of the House of Representatives, it having been concurred in by the Senate. Therefore, I think, at the commencement of the last session of Congress, there was no resolution, no vote of the Senate requiring that the chaplains should be of different denominations. I am in favor of having the election in the same way and in the same manner in which it was held at the commencement of the last session.

Mr. SEWARD. Mr. President, I will state again how I understand that transaction to have occurred. No joint resolution was passed by both Houses. So the elections, such as they were, were made by the two Houses severally, under some misapprehension, without a joint agreement to elect at all. I understand the House, in point of fact,—and so it appears by their Journal when they entered on the election,—elected a chaplain for the Congress; but when they sent a notice of what they had done to the Senate, that notice stated that they had elected for the session. I suppose the Senate misunderstood the message which was received from the House, and presumed the House had concurred in the Senate's resolution, and, under that mistake, they proceeded to elect, and elected for the session. But it turns out that there was no joint resolution passed; so that neither election was held in pursuance of one but each election was conducted by each House upon its own authority and in its own way.

In regard to the requirement that the chaplains should be of different denominations, it has seemed to me to be a salutary and an impartial rule. I prefer that way. I have no prejudice against the present incumbent. It is not any question about the present incumbents in the two Houses that determines my vote. I am not tenacious about retaining that portion of the resolution, though I hope we shall continue according to the old custom, because I prefer to stand on the ancient ways, unless there be some reason for a change.

Mr. WELLER. Mr. President, the election of chaplains of different denominations requires, of course, the joint action of both branches of Congress. The House of Representatives, at the last session, virtually refused to agree to a resolution of that character. They proceeded to elect a chaplain of their own, without paying any regard whatever to the denomination to which the chaplain of the Senate might belong. I am in favor, therefore, of proceeding in the same manner in which the House of Representatives have proceeded. They have elected their chaplain, and I desire now that the Senate should proceed to elect theirs. The House of Representatives have virtually refused to accede to a proposition similar to that which is now submitted by the Senator from New York, and to which the House must accede before it can be carried out; and for that reason I prefer that the Senate should elect its own chaplain, irrespective of the House.

Mr. STUART. Perhaps, Mr. President, it is not in order to offer a substitute for this resolution, which shall make it merely a resolution of the Senate. I am inclined to think not, though the Chair may disagree with me; but that is the object I should like to reach. The House has its chaplain for the whole Congress; we have one, it seems, for a single session. Now, sir, there is a manifest impropriety in offering and passing a resolution which shall call on the House to displace its chaplain, elected for the Congress, and go into a new election. It has become a distinct matter of the two Houses. Our object can be best attained, it seems to me, only by electing a chaplain for this session. If I am right in supposing that it is not in order to amend this resolution for that purpose, I shall vote to reject it; and then, if no other Senator does it, I shall offer a simple resolution to proceed to the election of a chaplain for this session.

Mr. MASON. Mr. President, I have looked upon it, since I have been in the Senate, as a matter of invariable usage—and I think a very proper usage—in providing for the alternating, between the two Houses, of their chaplains; also to provide that those chaplains should be of different denominations. It is a matter of proper deference to public opinion, to say nothing more of it, that our business here on each day should be opened, according to the forms of the different religious sects, by prayer, and I have yielded cheerfully to it; but I think that that usage which would show to the world that the Congress of the United States favors no particular religion, should be preserved and maintained. I had thought—and I was confirmed in that opinion by some Senators around me—that this matter of constant usage rested on a joint rule of the two Houses. It seems, however, that it rests only upon a concurrent or joint resolution adopted at each Congress. Now, I am for adhering to that usage, as far as I can do it by my vote. I think it is salutary that we should not even appear to favor any particular religious denomination, or give a preference to one over another. But if the Senator from Michigan, who last spoke, [Mr. STUART,] be correct in saying that we have got into a little tangle with the House, by the House having, at the last session, elected a chaplain for the whole Congress, while we elected for but one session, I think, with him, the better way to disentangle it is to vote down, if it be persevered in, the proposition of the Senator from New York, which, I understand, is the usual joint resolution, and elect, for this session only, a chaplain for the Senate. Then at the next session the matter can be remedied by the usual joint resolution. There would appear to be a tangle between the two Houses—I dare say inadvertently—and we could not ask the House now to displace its chaplain, with a view to return to the former usage.

The PRESIDENT. It is not a joint resolution that is before the Senate; it is a simple resolution, and it is clearly in order to strike out all after the word "Resolved," and insert any other matter in relation to the subject.

Mr. STUART. Then, if the Senator from Iowa will withdraw his amendment, I will offer a substitute.

Mr. DODGE, of Iowa. I withdraw it.

Mr. STUART. I offer the following as a substitute for the resolution:

Resolved, That the Senate will now proceed to the election of a chaplain for the Senate for the present session.

Mr. DODGE, of Iowa. I hope the substitute will be adopted. When I fight a chaplain, or any other man, I will do it, and in such a manner that he and his friends will know that I am fighting him eye to eye. I know, sir, the motives whence this attack springs. I know that it is directed at a man whose only crime is that he has offered up his daily invocation for the preservation of this Union, and because he is a supporter of the Constitution of the United States. I know that that man has been denounced in all of the northwestern States as the corrupt and supple instrument of the South, and of southern men, as I myself have been denounced. Thus has this man been assailed. Falsehoods and anecdotes have been told upon him—emanating from the floor of the Senate, and the other branch of Congress—and retailed and repeated by itinerant and incendiary Abolition lecturers. He has been charged with having prayed daily for the passage of those compromise measures for which the venerable and now departed Senator from Kentucky [Henry Clay] spoke away his lungs. He has been arraigned, indicted, and lied about throughout my entire section of country by traveling minions from this and the other branch of Congress. Sir, when I desire to fight a chaplain, or a Senator, I will fight him for reasons openly given; I will not do it behind a bush; I will not seek by joint resolutions and indirect movements to accomplish that which I dare not openly avow.

The amendment of Mr. STUART was agreed to; and the resolution as amended was adopted. The Senate accordingly proceeded to ballot, with the following result:

Rev. Henry Slicer received	24 votes.
Rev. H. W. Beecher	3 "
Rev. S. B. Stanton	9 "
Rev. Mr. Hodges	2 "
Rev. Smyth Pyne	1 "
Rev. Byron Sunderland	1 "
Whole number of votes cast	40
Necessary to a choice	21

The Rev. HENRY SLICER having received a majority of the votes cast, was declared duly elected chaplain of the Senate for the present session.

ISAAC M. SIGLER.

On motion by Mr. JONES, of Iowa, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives for the relief of Isaac M. Sigler, of Putnam county, Indiana.

Its object is to place the name of Isaac M. Sigler on the list of invalid pensioners, at the rate of eight dollars per month, from April 1, 1854.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

EXECUTIVE SESSION.

Several messages in writing having been received from the President of the United States, on motion by Mr. MASON, the Senate proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 12, 1854.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a communication from the State Department, transmitting the returns made to that Department by the collectors of the customs of the number of seamen registered at the several ports of entry during the year ending the 30th September, 1854; which was laid on the table, and ordered to be printed.

PUBLIC PRINTING.

Also, the second annual report of the Superintendent of the Public Printing; which, on motion by Mr. ROBBINS, was laid on the table, and ordered to be printed.

HENRY S. SANFORD.

Mr. INGERSOLL. I desire to call up the motion to reconsider the vote referring Senate bill (No. 430) "for the relief of Henry S. Sandford, late chargé d'affaires of the United States at Paris.

The bill was then read through by the clerk. It provides for the payment to Mr. Sandford of the sum of $6,223 82, being the amount of difference between the salary received by him as secretary of legation at Paris, from the 14th day of May, 1853, and the 22d day of January, 1854, and the salary of chargé d'affaires for the same period, together with the usual outfit of a chargé d'affaires, and for necessary clerk hire, the further sum of $1,170 63.

Mr. INGERSOLL. If the House will indulge me for a moment, I will explain what I conceive to be the necessity for action at this time in this case. If the motion I have made prevail, I will then move to put the bill upon its passage. The bill comes from the Senate, having, as I understand, passed that body unanimously. It was accompanied with a report from the Committee on Foreign Affairs of that body, recommending its passage. The sum and substance of the report is, that Mr. Sandford was appointed by the last Administration as secretary of legation at Paris; that he acted as chargé d'affaires nearly a whole year after the return of Mr. Rives to this country. He was, as such chargé d'affaires, put to great expense, relying for indemnification upon the usual custom of the Government in remunerating officers of this kind. I do not know of a case where this allowance has been refused, and I do think that under the peculiar circumstances, considering the condition in which Mr. Sandford is placed, and considering, too, that it has been the usual and uniform practice in such cases to grant the relief asked for, that there should be no hesitation upon the part of the House in passing the bill. I hope that the bill will be passed, and, if in order, I move the previous question upon the passage of the bill.

Mr. McMULLIN. Is the motion of the gentleman from Connecticut to discharge the Committee on Foreign Affairs from all further consideration of the bill, for the purpose of bringing the bill immediately before the House?

The SPEAKER. The motion is to reconsider the vote by which the bill was referred to the Committee on Foreign Affairs.

Mr. INGERSOLL. The bill was referred to that committee at the last session of Congress. I will state in this connection, that the Committee on Foreign Affairs of the House have consented, and indeed instructed me to make this motion. The bill passed the Senate by unanimous consent, I am informed.

Mr. McMULLIN. I hope the gentleman from Connecticut will withdraw his demand for the previous question. Certainly he should do so, after having made a speech himself.

Mr. INGERSOLL. I will do so, if the gentleman will renew it.

Mr. McMULLIN. I will do so. It is not my purpose to discuss the merits of this bill. I rise for an entirely different purpose. I desire to say to the House that I am not willing to depart from the general rule which ought to govern this House in reference to all bills before it, which is that they shall come up in their regular order, as they stand before this body. If the House now establish the precedent of departing from that general rule, by taking this bill out of the usual course, by discharging from its consideration the committee to which it has been referred, and by now putting it upon its passage, I ask them if they can withhold the same courtesy in reference to all other bills, which any member may desire to take up and pass, out of its regular order? Certainly they cannot, and I hope, for this reason, that they will leave the bill with the committee to be examined by them, and reported to the House in the usual course of business.

And, in connection with this subject, I now give notice to gentlemen upon both sides of the House—without desiring to act discourteously to any member—that while there are many bills, all having the same right to demand the consideration of the House that this bill has, and the same ground upon which they shall be made an exception to the general rule, and be taken up out of their order, I shall object to any such course. If you grant this request, you cannot withhold a like courtesy in reference to any other bill.

I therefore hope, that the House, at this early period of its session, will adhere to the general rule, in this respect, and not establish this objectionable precedent. You will save time by so doing. Without discussing the merits of this particular bill, I must say, that the course proposed to be pursued in reference to it, will lead to a great consumption of valuable time. You will save that time by letting all the bills take their regular course under the rule.

In conformity to the pledge I made to the gentleman from Connecticut, I now move the previous question upon the motion.

The previous question was seconded, and the main question was ordered to be now put.

Mr. LETCHER. Will it be in order to move to lay the motion upon the table?

Mr. SPEAKER. It will.

Mr. LETCHER. Then I make the motion.

The question was taken; and the motion was disagreed to, forty-five only voting in favor thereof.

The question recurring upon the motion to reconsider the vote by which the bill was referred to the Committee on Foreign Affairs.

Mr. TAYLOR, of Ohio, demanded tellers.

Tellers were ordered; and Messrs. EDMUNDSON and BOYCE were appointed.

The question was taken; and the tellers reported—fifty-eight in the affirmative; noes not counted.

So the motion was disagreed to, a majority of a quorum not voting in favor thereof.

The SPEAKER. Reports are now in order from the Committee of Elections.

REFERENCE OF PRESIDENT'S MESSAGE.

Mr. PECKHAM. I desire, at this time, to make a motion to reconsider the resolutions adopted yesterday by the House, by which the subjects embraced in the President's message were referred to the different committees. I did not myself intend to participate in a discussion upon the message. But I confess myself very much surprised at the very early disposition of it, and its being taken out of the Committee of the Whole when but one person had been heard in regard to it.

There is one portion of the message in reference to which I desire to make some remarks—not in a general discussion—yet I am not prepared to make them now. There are some facts which I desire to possess myself of, before I wish to be heard upon the matter. I therefore move to reconsider the vote by which the reference was made, and ask that the motion may stand for a day or two.

The SPEAKER. The motion of the gentleman from New York will be entered, and it is competent for the House to allow the consideration of it to pass over.

Mr. JONES, of Tennessee. Consider it now.

The SPEAKER. It is competent for any member to call it up at his pleasure.

Mr. RICHARDSON. The gentleman from New York can discuss any point in the message, when we are in Committee of the Whole again—the message having been referred—just as well as if the message were up for consideration. I do not see that it is important, to accomplish his object, that the vote by which the message was referred, should be reconsidered.

Mr. PECKHAM. I believe, with the gentleman, that it can be done, but never so appropriately as when the message is before the House or the committee for consideration. Then, I presume, is the proper time for discussion. I have no intention of making a general speech on the subject. There, however, is a portion of the message which, in some degree, ought to be debated, and its positions called to the attention of this body and the country. There certainly can be no great desire, nor any important consideration which requires the matter at once to be disposed of. I see no reason why it should be; and I should be obliged to the House if it would allow the motion for reconsideration to stand for a day or two for the purpose I have indicated.

Mr. HOUSTON. The gentleman from New York proposes to postpone consideration and action on his motion for reconsideration to some future day. If it be agreed to, it will be on the express ground and for the specified purpose of enabling him to submit a speech which he admits can as appropriately and as competently be made on any of the appropriation bills as on the reference of the President's message.

Mr. PECKHAM. Not as appropriately.

Mr. HOUSTON. Just precisely the same latitude of debate is allowed in the one case as in the other. And, Mr. Speaker, this House will indeed be presenting itself in a strange and remarkable attitude to the country, if business is delayed for debate at a short session, when it is so important to make an early commencement. We have no right to expect that we shall be, in any way, very much profited by any debate which may grow up on the President's message. It is asking the House to do a great deal to withhold this business from the committees of the body, and to prevent early action at this short session, simply for the purpose of hearing a gentleman make a speech. I should be much pleased to hear the gentleman from New York make a speech on the President's message, or any other subject which could come before us for discussion; but I cannot, as a member of this body, and desirous to advance the public business, give a vote by which I will cause a stand-still of the legislation for a week or two to hear my friend from New York deliver his views on particular points. I can do it for no gentleman, and therefore I move that the motion to reconsider be laid upon the table.

Mr. PECKHAM. Permit, Mr. Speaker, a single remark by way of answer to the gentleman from New York.

The SPEAKER. The motion to lay the motion to reconsider upon the table is not debatable, as the gentleman is aware.

The question was taken, and the motion to reconsider was laid upon the table, there being, on a division, ayes eighty-five, noes not counted.

JACOB M'LELLAN.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled a bill of the following title; which received the Speaker's signature: A bill for the relief of Jacob McLellan.

PRESERVATION OF LIFE AND PROPERTY.

Mr. FULLER. I am instructed by the Committee on Commerce to report back Senate bill No. 393, entitled "An act for the better preservation of life and property from vessels shipwrecked on the coasts of the United States," with a recommendation that it do pass.

The bill comprises but four sections, and is simple in its provisions. I may say for the information of the House, that if it had been acted on at the last session it would have been the means, in all probability, of saving the lives of more than three hundred persons who have since been destroyed in the very locality where it is now proposed to authorize and direct the Secretary to erect stations and supply all the paraphernalia for the preservation of human life. It is one of those cases which demands immediate action, and I trust that the bill may be now put upon its passage.

The bill was read *in extenso*.

Mr. SMITH, of Virginia. Was there consent to take up the bill?

The SPEAKER. The bill has been regularly reported from the Committee on Commerce, and the question now is, shall it be read a third time?

Mr. LETCHER. I have not examined the bill, but I think that it makes an appropriation.

Mr. SMITH. Mr. Speaker, I was about to suggest that the bill had better be referred for further consideration to the Committee of the Whole on the state of the Union. The House will see that this is only a part of a great model

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. THURSDAY, DECEMBER 14, 1854. NEW SERIES....No. 3.

system, the effect of which is to increase the public charge and multiply public offices. We are at the beginning of a system, there is no doubt, by which we are to establish posts all along the sea-coast of the United States, and which will prodigiously augment the public expenditures. It is a subject which demands at our hands the gravest consideration, for although the bill before us is in itself of little importance, still we must not lose sight of the obviously great and important results of the great system designed. Therefore, if it be in order, for really I have not had time to examine the bill carefully, I move that it be referred to the Committee of the Whole on the state of the Union.

Mr. FULLER. The bill makes no appropriation, and it is not therefore necessary that it should receive its first consideration in the Committee of the Whole on the state of the Union.

If I had supposed, Mr. Speaker, that there would have arisen any serious objection to the bill from my friend from Virginia, or others, I should have prefaced my motion with a more detailed exposition of the provisions of the measure. I believe the bill has been carefully considered. It has passed the Senate. It has the recommendation of the Secretary of the Treasury; and it has also the recommendation of an extensive memorial of a humane society, and of different chambers of commerce. Sir, it appeals to the good sense of every person who takes an interest in the preservation of human life.

It is well known to this House that the particular locality for which this bill makes provision, is one of peculiar danger. And here I desire to call the attention of the gentleman from Virginia [Mr. SMITH] to the fact that this bill is not general in its application; it only applies to particular localities—to the coasts of New Jersey and Long Island, the coasts to which the emigrant ships are drawn in entering the harbor of the great city of New York. I call the attention of the gentleman to the case of the New Era, which is of so recent date that it must be fresh in the minds of every member of the House.

There are erected upon that coast certain stations, and certain means supposed to be useful in the preservation of human life—such as surf-boats, mortars, ropes, and various other paraphernalia, to aid in saving the lives of shipwrecked passengers and mariners. Owing to the inefficiency of these preparations, however, in the case of the New Era, the melancholy spectacle was witnessed by thousands of persons standing upon the shore, of over three hundred persons perishing one by one, without the possibility of being saved.

The compensation provided by this bill is only $200. The distance of coast is limited, and I do not think upon a subject so exclusively within the control of Congress as this is, the sum appropriated should excite the fear or alarm, that any extravagant system of expenditure is to be initiated. Sir, it is a humane provision, and one which addresses itself peculiarly to the good sense of this House. It is one which requires immediate action. The Secretary of the Treasury, in his annual report, has called the attention of Congress, and the country particularly, to the subject. And really, sir, I do not know that I shall have another opportunity of presenting this measure to the House during this short session, in which so much business is crowded, if it is not disposed of now. I appeal to gentlemen, therefore, to forego their objections in this case. If the bill should be found to be defective in any particular, the correcting hand of reform can be applied in amendment to it hereafter.

I say again, therefore, that I hope, in a question of this importance, no particular scruples will actuate the House in insisting upon the reference of this bill to the Committee of the Whole on the state of the Union, where it will sleep the sleep that knows no waking.

Mr. SKELTON. I will not occupy the attention of the House for any length of time. I should not have spoken at all upon the subject—though it is one in which I take a very deep interest—but for the most extraordinary motion made by the gentleman from Virginia, [Mr. SMITH.] It is known that if the motion to refer to the Committee of the Whole on the state of the Union prevail, it will be killing the bill. Every member of the House knows very well that we shall never be able to reach it. Now, sir, I ask the House, upon principles of economy, as well as of justice and humanity, to pass this bill at once.

We have already erected upon that coast a number of stations, and life-boats, and other articles have been purchased to aid in the preservation of life. The Secretary of the Treasury has recently caused an appropriation of $20,000 to be expended upon that coast in stations, life-boats, &c.; and there is no one there to take care of them. We have, on the coasts of Long Island and New Jersey, property to the amount of $50,000, for the preservation of human life. No one has charge of it, and it is going to decay. The ropes, upon various occasions, have been found to be rotten from exposure; and the boats are going to decay for want of proper care.

Now, sir, this is not the first appropriation for this object. Since 1848 there have been appropriations annually made for the same object, and they have been seconded by an association of highly intelligent gentlemen in New York,—a life saving society,—and thousands of lives have already been saved by the means which have been used upon our coast.

I will now call the attention of the House to the fact that the loss of life upon the coasts of New Jersey and Long Island is over one thousand annually. Now, will any man in this House hesitate to make the trifling appropriation which we ask to save those lives? This bill, however, merely enables the Secretary of the Treasury to preserve the property which we have already accumulated upon these coasts; but, in addition to the accomplishment of this object, it will also increase the efficiency of the appropriations which are annually made. The stations first established there have been found not to be sufficient. As I said before, over a thousand lives, not only of foreign emigrants to our shores, but of our own citizens, are lost annually upon these shores. When the wind blows from the north, vessels are blown upon the coast of New Jersey, and when it blows from the south, they are blown upon that of Long Island. Now, I appeal to this House if it would not be an act of justice as well as humanity, for us to make this appropriation? We are the protectors of the commerce of the country, and it is our duty to protect the lives of those who are wrecked upon our coast. Every vessel which passes in and out of the narrow channel, at the entrance of the New York harbor, is liable to be driven upon one or the other of these coasts. Mr. Speaker, the amount of property annually destroyed—nay, sir, the customs, the revenue, that would have been collected upon that property, are sufficient, ten times over, to balance the amount of expenditure involved in the means of protection. So that I appeal to this House, not only upon the principles of humanity and of justice, but upon principles of economy, to pass this bill. It is a matter of much importance that it should pass at once, and that there should be somebody to take care of this property, and to use the means which we have already furnished.

Some gentlemen may think that our people who are living upon the coast, should take care of the property and use their own means. So they have. They have saved thousands of lives, and they will save thousands more. But I appeal to this House if it is fair that these men, living upon the coast, for the most part poor fishermen, should be involved in all the expense which they annually incur for the preservation of human life? Is it right, is it proper, that we should impose this duty upon them? Is it unreasonable that a man should be appointed at a cost of only $200? Gentlemen must remember that the person who is appointed must incur much danger and much hardship in the performance of his duty, and all for the pitiful sum of $200.

But I will not detain the House longer. As I have already said, I appeal to them upon the principle of economy, as well as of justice and humanity, to pass this bill, which will in all probability have the effect of saving the lives of a thousand persons annually upon that dangerous coast. The country, I say, demands that we should give protection to these men, who are cast upon our sea-coast, and I hope, sir, that this bill will be put upon its passage, and carried through without delay.

Mr. CAMPBELL. Mr. Speaker, I acknowledge the force of the appeal which has just been made to the sympathies of the House by the honorable member from New Jersey; but I should like to know whether this bill will not come within that class of improvements which the Executive has already notified us he intends to veto.

Now, sir, I made an appeal in vain the other day to the House to postpone its action on a very important measure—the river and harbor bill, under Executive veto—until we might learn the opinions of the President upon the great constitutional questions involved in all these bills, in order that we might know and fully understand the position upon which the President plants himself. The honorable gentleman from New Jersey has made an appeal to the House, and I am not prepared to say that I can resist it; for I am satisfied that some action is necessary for the preservation of human life upon the sea-board. But, sir, there is a class of politicians upon this floor who, whilst they are deeply solicitous for the lives of foreign emigrants landing upon our shores, seem to forget that thousands and tens of thousands of the precious lives of hardy, native-born Americans are annually destroyed upon the northern lakes, and upon the great rivers of the interior. This wrong is not because of the want of legislative action, but because there is a power above legislation which controls our action through the veto. There is a class of members, too, who seem to disregard constitutional principles, and appeal to the House in behalf of appropriations for their particular localities, and, at the same time, by their votes sustain the Executive veto based upon the same principle of their votes.

Sir, as a national man, as a Western man, as a member representing, in part, that great suffering interest in inland commerce, I appeal to the Representatives of the nation to stand up, not merely for the protection of the lives of foreign immigrants put in jeopardy on the sea-board, but for the protection of the lives and fortunes of the native-born hardy boatman of the great inland rivers, and of the weather-beaten sailors of our northern lakes. We hear through the press and by telegraph, almost daily, of disasters on those waters and lakes, but this House turns a deaf ear, and appeals are made to the Executive in vain. I desire to know why it is so, Mr. Speaker; for I do not propose to discuss this bill or to oppose its passage. I want consistent and uniform action. I want to know if the sea-coast is prepared to extend that to us which she so imploringly asks? If not, let us know it; for, in the forcible language of the honorable member from Illinois, [Mr. RICHARDSON,] who I do not now see in his seat, at the close of the last session, if the great thoroughfares of the interior are not to be regarded as objects worthy of national consideration, then your little localities on the coast of New Jersey and elsewhere cannot be so regarded by us under the Constitution. If the honorable gentleman will point me to that provision in the Constitution which authorizes even the appropriation of the pittance of $200 for an object like this, I will point him to the same provision as the authority upon which we who advocate the improvement of the rivers and harbors of the interior of all the sections of the Union rest our cause. The Constitution was not made for the coast of New Jersey alone, nor for the coast of New England, nor for the coast of the South; it was made for the whole country—for the protection of the interests of the inland as well as of the exterior.

Mr. SKELTON. Allow me one word.

Mr. CAMPBELL. I wish to know if the gentleman voted for the river and harbor bill?

Mr. SKELTON. I voted for the river and harbor bill of 1852, which I considered a constitutional bill. But I will say to the gentleman from Ohio that I shall vote for the protection of life upon the northern lakes and upon the western rivers as cheerfully as I do for the protection of life upon the sea-coast of New Jersey, when the bills presenting themselves for my action meet my approval. I will, in addition, say, that I will raise my hands for the protection of human life upon the sea-coast, or the lakes, or the rivers, without asking the question whether those needing protection and assistance are foreigners or native-born citizens. Wherever I see a man in danger of his life, I am ready to go to his rescue, without asking any such question as that.

Mr. CAMPBELL. We shall not differ about that. I think I would go about as far to save the life of a fellow creature as the honorable member from New Jersey, himself. I leave that, however, for others to determine. But I wish to know of the honorable gentlemen, whether he voted for the river and harbor bill independent of the veto of the President? Will he answer me that question?

Mr. SKELTON. I voted without reference to the President? I always do my duty to my constituents without reference to the President of the United States.

Mr. CAMPBELL. I do not know that I fully understand the honorable member from New Jersey. I ask him again, whether he voted for the river and harbor bill last week, when considered in face of the President's veto?

Mr. SKELTON. I did not.

Mr. CAMPBELL. You did not!

Mr. SKELTON. My reason was, that I did not consider it a national bill.

Mr. CAMPBELL. It was not constitutional, eh? Very well. Now, Mr. Speaker, the gentleman voted against that bill, responding to the wants of various sections of the country, because it was not national and constitutional, and yet asks us to vote for a bill for the Jersey coast, and that is the very point that I now make. How does he go to work to satisfy the men upon the mighty Mississippi that the coast of New Jersey is entitled to national aid and national appropriations from their Treasury if that mighty river is not entitled to it?

Mr. SKELTON. Will the gentleman allow me to say, that I voted for appropriations for life-boats upon the northwestern lakes last session.

Mr. CAMPBELL. Very well, sir; and if the gentleman finds in the Constitution power to vote for light-houses and life-boats, there he will find the power to vote for the improvement of the northern lakes, and to remove from the Mississippi and its tributaries the snags which have proved so destructive to human life and inland commerce.

Mr. Speaker, I wish the gentleman from New Jersey and the House to understand—as I stated at the outset of my remarks—that I have not risen particularly for the purpose of opposing this bill, for, as he has well said, it appeals to us as friends of humanity, and I can support it right heartily. But I wish to point these gentlemen to a region from which other appeals come to us—appeals that come up to us accompanied by the bitterest tears of those whose friends have been lost, but to which we turn a deaf ear. I wish, upon these great questions to notify gentlemen again, that the time is rapidly approaching when that just equality in national appropriations, which the mighty West has so long demanded, will come here, backed by a true popular sovereignty—a true American sovereignty—and will be enforced upon this floor, independent of your Executive power and your Executive vetoes.

Mr. SMITH, of Virginia. When I called the attention of the House to this bill, and made the motion for its reference to the Committee of the Whole on the state of the Union, I had no idea, Mr. Speaker, to have got up anything like the lengthened discussion that that motion has given rise to. But I thought that I saw in the bill some provisions which rendered its consideration by that committee indispensable, and, with the view simply of calling attention to such provisions, I made the remarks which I have made, and the motion which I have submitted. I had no expectation of hearing raised a constitutional question; nor had I any idea that the appropriations for the improvement of rivers and harbors, which we so often hear of, would be introduced into this discussion. Least of all did I expect that the honorable gentleman from New Jersey, [Mr. SKELTON,] or any other gentleman, should advert to the inconsistency which he deems me to be chargeable with. Why, I thought that consistency was decidedly an old fogy sentiment. I thought that at this day nobody prided himself on such an idea. I thought that it was completely voted down, out of the pale of the general circle of popular action now-a-days.

But my purpose, when I made that motion, was—what it is now—to direct the attention of the House to this bill, and to show to the House the extraordinary powers contemplated to be conferred by it on an executive officer. To do this, I will—as the bill is very short—call the attention of the House to its provisions.

What is the first section of this bill? It is "that the Secretary of the Treasury be, and he is hereby, authorized to establish such additional stations on the coast of Long Island and New Jersey, for affording aid to the shipwrecked vessels thereon; to change the location of existing stations, and to make such repairs and furnish such apparatus and supplies as may, in his judgment, be best adapted to give effect to the object of this act."

The Secretary of the Treasury is thus authorized, first, to change the location of the present stations——

Mr. SKELTON, (interrupting.) Will the gentleman from Virginia allow me to say one word in explanation?

Mr. SMITH. Certainly.

Mr. SKELTON. I would state to the House that the Secretary of the Treasury, by virtue of the appropriation of the last session of Congress, in this connection, has already changed and modified these stations, station-houses, and boats. He will not, under this bill, make any other changes than those which he is already authorized to make by the appropriation of last session. The object of this bill is merely to authorize him to place men in charge of the boats and stations.

Mr. SMITH. Mr. Speaker, and gentlemen of the House, I will read the several sections of the bill that you may understand its provisions. I am examining now into the powers which it is proposed by this bill to confer on the Secretary of the Treasury, not into those with which he may be already invested. If the authority proposed to be given here to the Secretary of the Treasury is an exhausted power, why is it required here? What is he authorized to do? To establish such additional stations on the coast of Long Island and New Jersey for affording aid to shipwrecked vessels thereon as may, in his judgment, be best adapted to give effect to the object of the bill. He has the power by this bill to establish additional stations there, or if he has not, then there is no force in the English language.

What next is he authorized to do? He is authorized to change the location of the existing stations. He is not only to establish additional stations, but he is to change the location of those existing. Nor is that all. He is to make such repairs, and to furnish such apparatus and supplies as may, in his judgment, be best adapted to give effect to the objects of this act. Why, the Secretary of the Treasury can do anything and everything in connection with this subject. There is a specification, it will be seen, first, to establish different additional stations, and secondly, to change those already established, to supply apparatus, &c. Why, sir, he has the power to do everything in connection with the matter; and I ask this House is this the sort of legislation which it ought to sustain?

Now what is the next section of the act? The second section reads:

"That the Secretary of the Treasury be, and he is hereby, authorized to appoint a keeper, at a compensation not exceeding $200, at each of the stations to be established under the provisions of the first section of this act, and a superintendent, who shall also have the powers and perform the duty of an inspector of the customs, for each of the coasts therein mentioned, and to give said keepers and superintendents proper instructions relative to the duties to be required of them."

The Secretary of the Treasury has, therefore, by this act, the unlimited power to establish stations, and to change the location of those now existing; and here there is given to him, besides, a very large circle of patronage. He is to appoint keepers at each of the stations, who are to receive an annual compensation of $200 a year. Why, sir, I supposed that on the coast of New Jersey, which, from my earliest days, I have heard of as distinguished for its disasters, this is the first effort of the kind that has been made. I have thought that the people on that coast were wreckers, and that the gentleman's constituents there were always compensated, and amply compensated too, for their risks and labors, by the value of the goods washed upon their coast from the wrecked vessels cast there.

Mr FULLER made a remark on this point which did not reach the ear of the reporter.

Mr. SMITH. I am now dealing with the bill before us. I am speaking of the compensation heretofore received by the inhabitants of the New Jersey coast. I was adverting to that which everybody understands well. I suppose there is scarcely a dead body swept from the sea on that coast which has not something of value in its pocket.

Mr. SKELTON. Will the gentleman from Virginia allow me to say one word in this connection?

Mr. SMITH. Certainly; I shall be very glad of any explanation that can be given.

Mr. SKELTON. I should not have attempted again to occupy the attention of the House on the subject of this bill, but for the extraordinary remarks made by my friend, who has just taken his seat.

Mr. SMITH. Oh, I have not finished yet; I have yielded the floor for a moment to the gentleman from New Jersey, for explanation.

Mr. SKELTON. The gentleman from Virginia asserts that he understands the population of New Jersey to be amply compensated for their losses and their labors, by the value of the property cast upon their coast. Now, it is hardly necessary for me to explain to this House that this very respectable body of men, residing on the coast of New Jersey, are not land pirates and thieves. It is hardly necessary for me to say to the House that the United States have a wreck-master on the coasts of the United States, besides other officers of the custom-house, who take charge of all the property cast upon the sea-coast. It is not necessary that I should say anything now in contradiction of the insinuation of the gentleman from Virginia, that the people of New Jersey compensate themselves for their toils and risks by highway robbery, or by plundering the poor mariners who are cast upon their coast. But I would be recreant to my duty if I failed on this floor to defend my State from such a charge. Those men, sir, to whom such conduct is imputed, make more sacrifices and endure more hardships than the gentleman seems to give them credit for, and they are besides as honest as any men in the State of Virginia, or in any other State in the Union. I ask that these men be protected in return for their labor, and that this insinuation thrown against them "year in and year out"—this charge of piracy and plunder—be treated with the contempt which it merits.

I say, again, the people on the New Jersey coast never commit plunder and piracy. They scorn it, sir. Those hardy mariners who get their living by fishing and boating will not be compensated in that way. They would sacrifice their all, they would almost sacrifice their lives, rather than be guilty of crimes of that character; and I hurl back the charge that has been made against them. I call upon the House to defend these men, who have done so much for the cause of humanity, from such aspersions. They have given more succor to shipwrecked mariners, and have sacrificed more for them, than any other people on any other coast; and I ask this House to defend such a people from the unfounded charges made against them on this floor.

Mr. SMITH. I am sorry to see the gentleman work himself into a passion; but I hope the voters of his district will have the good sense to understand that this speech of his was for "Buncombe."

Mr. SKELTON. I say to the gentleman that it was for justice and humanity, not for "Buncombe." I make no speeches for "Buncombe" on this floor.

Mr. SMITH. Exactly; let it be put down that the gentleman from New Jersey makes no speeches here for Buncombe; but the House will

bear in mind that I made no charge of robbery or piracy against anybody in the world. I simply stated what is generally a true and admitted proposition. These people who live down on the Jersey coast where wrecks of vessels frequently occur, have a very convenient way of taking care of themselves. I do not suppose that the people of New Jersey are any better than the people of any other State. But let that pass. I desire to call the attention of the House to the provisions of this bill, and I will be obliged to gentlemen while I am commenting upon the bill if they will not interrupt me.

"*And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to appoint a keeper at a compensation not exceeding $200 at each of the stations to be established under the provisions of the first section of this act."

Just look at this. The patronage of the Federal Government is greatly increasing and must be diminished. Is this the way the gentleman from New Jersey, [Mr. SKELTON,] who is a strict constructionist of the Constitution, proposes to carry out so important a reform? No, sir! He is directly proposing to multiply the number of Federal officers, by providing for an additional number to be appointed at these stations.

"And a superintendent!"

What shall these superintendents do?

"Who shall also have the powers and perform the duty of an inspector of the customs for each of the coasts therein mentioned, and to give said keepers and superintendents proper instructions relative to the duties to be required of them."

Here is a nice fat office provided for these superintendents, and, of course, they cannot have less than an inspector's allowance. The duty of the superintendent will be to travel from station to station, and get his mileage. It will make a very nice place for some of these worthy and honorable gentlemen of New Jersey.

"SEC. 3. That no boat shall be purchased and located at any point other than on the coasts of Long Island and New Jersey, unless the same be placed in the immediate care of an officer of the Government, or unless bond shall be given by proper individuals, living in the neighborhood, conditioned for the care and preservation of the same and its application to the uses intended."

Here is a provision that every boat purchased for this service shall be placed in the charge of an officer of the Government. It is impossible to tell the number of officers that this law actually covers. We have here a multiplication of officers provided for by this section.

But, without dwelling upon this subject, let me read the fourth section:

"That the Secretary of the Treasury be, and he is hereby, authorized to establish stations at such light houses as in his judgment he shall deem best, and the keepers of such lights shall take charge of such boats and apparatus as may be put in their charge respectively, as a part of their official duties."

We have a countless number of light-houses. Discretion is given to the Secretary of the Treasury to establish stations at these light-houses and to provide keepers for them. The previous portions of the bill provided that there should be an increase of stations, and this section of the bill, under the construction that may be given to it, allows a keeper for each station, and a keeper without duty, because it is made the duty of the light-house keeper to take care of the boats. I have no hesitation in saying, that under this bill you would have hundreds of Federal officers added to the number we now have. The question now is, whether this bill shall be carefully considered in Committee of the Whole, or whether it is to be put through in hot haste. I have called the attention of the House to the provisions of this bill. I have no interest in the world in this question, and I have intended to cast no reflections upon any one. Not intending to go into any discussion as to the merits of the constituency which the gentleman from New Jersey [Mr. SKELTON] represents, and having called the attention of the House to the provisions of the bill, I am perfectly willing that the House should do as it pleases with the bill, without feeling myself any particular anxiety about its fate.

Mr. CHANDLER. I do not purpose to tax the attention of the House by any analysis of the bill, or by any argument upon its merits; but as gentlemen have thought proper to speak to this bill, because their constituents were concerned, I feel myself called upon by the same rule and with the same impulse, to utter a few words in behalf of the passage of the bill. The coast that is to be guarded is the coast of New Jersey, but the navigation that is to be defended is probably the navigation of New York, Philadelphia, Baltimore, and the world.

I agree with the honorable gentleman from Ohio, [Mr. CAMPBELL,] that there should be something done for the preservation of human life and valuable property upon the lakes, but I would not pretermit a single exertion to save human life and property upon the Atlantic coast—upon that coast which has become in an especial manner a Golgotha, full of dead men's bones, and which demands the attention of legislation in behalf of humanity. It is not because it is for one man, or another man; for one country or another, that legislation is required. We all remember the beautiful quotation that the honorable gentleman from New York [Mr. SMITH] made at the last session—and I regret that the honorable gentleman who succeeds him has not begun already to fulfill the task which his predecessor began so well to discharge, that of teaching us true oratory and its true uses—a quotation which he made in Latin, from Terrence, but which I will freely render into English: "I am a man, and all that concerns humanity interests me." Whether the human beings whose lives are lost are from Germany, Ireland, or any of our own States, is a matter of no consequence. They are human beings, and their safety demands the attention of the Government under which the place of their peril is found; and while Congress could have done much to save their lives, their death, horrible as it was—death in its most hideous form—"cries aloud against the deep"—neglect by which they were left to perish.

The honorable gentleman from Virginia [Mr. SMITH] alludes to something which he seems to think is a fact, that persons residing upon the seacoast are very apt to help themselves to the merchandise that is cast up there, and that they find a compensation in the jetsam and flotsam of the ocean. The jetsam and flotsam of the New Jersey coast are human bodies, three hundred of which were thrown or floated upon that coast in the last wreck, if there is any *last* wreck in that place of peril. The people in that vicinity stop not to pay themselves, but to afford help—to give human waifs that burial which the dead demand from the living. Three hundred of them required that attention which only the living can give, and which only the dead can receive.

Sir, it is wrong to the cause of humanity to implicate the people of any part of our country in charges, such as the honorable gentleman from Virginia threw upon them, and especially wrong to the people of New Jersey. I have very little connection with them now, but I know them all along that coast, and although, mingled among them, as with all other people, there are those who disgrace humanity, yet these are only an exception to the general rule. Those who live on that sterile coast, derive from the sandy soil a nourishment which you and I cannot live upon. You, Mr. Speaker, who enjoy the rich products of the deep soil of Kentucky; and I, who know what our markets derive from that soil, can scarcely tell what the barren sands of New Jersey produce; yet these men live there honestly, and are every winter employed in extending to humanity that aid which Christianity makes, at once a duty and a pleasure.

And we are told that they are to derive their reward for the rescue of life, in the jetsam and flotsam of the coast. Sir, after that assertion, we must pass the bill, or we may be charged with pointing the shoresmen of the country to a mode of compensation not recognized by law or humanity. And the wretch who would leave the sufferer to pillage, or would rob the dying to compensate for unavailing labors, may plead the want of action of this House on the bill, and the argument that delayed its passage.

We also are told that we are not to pass the bill, because it places unlimited power in the hands of the Secretary of the Treasury. An awful power along that sandy coast! from Cape May to Barnegat, and from Barnegat to Sandy Hook, where circumstances require it, to establish a house, or wretched hovel, to hold the gun and the ball, and to keep dry the powder which is to throw to the wrecked ship the means which is to save the few who can be saved of the thousands who crowd and perish in the stifling places between her deck. A few hundred dollars a year! Two hundred dollars a year! Fifty-six cents a day, sir, are to be paid to these men who watch over the cause of humanity. Scarcely a fee to a city surgeon for setting a broken limb, or even a broken finger. Two hundred dollars a year!

But then there is another man, we are told, who is to be set over these men. An inspector of customs is to be appointed to watch all along that coast. Awful expenditure! It is well for us, in the spirit of true economy, to place there an inspector whose duty it shall be to see that the goods cast upon that coast shall not be gathered up from the wreck, and sent into market without paying the duty which is imposed upon all other goods. It is then a good law, in this view of the case, without regard to the benefit to humanity. But when humanity appeals to us, shall this House hesitate a moment to bestow this power upon the Secretary, at the loss of more than a thousand lives a year—lives which would be saved by the machinery and means called for by the provisions of this bill?

Every man who knows that coast, and its history, knows perfectly well that if efficient machinery had been supplied, every soul of the three hundred who were lost upon the New Era might have been saved. But the machinery was insufficient, and the help was incompetent. Those who would assist were not men brought up to the work, whose duty it was to save human life.

I do not stop to inquire who were on board that ship. But we know they were poor Germans, who spoke not our language, but they spoke a language which reached the ears of the Jerseymen. It went across the waves, and reached the hearts of men who would have rushed to their aid, even at the risk of life, if they had been provided with the machinery and boats which this bill secures, and probably would have saved three hundred human beings. I do not stop to inquire of the value of those lives, what they were worth, soul and body—soul and body together are worth something.

But it is said Jerseymen will come down here and secure all these offices; that Jerseymen will be employed at this salary—two hundred dollars a year. Not of necessity, Mr. Speaker; not of necessity. If the Secretary of the Treasury is so disposed, he need not appoint Jerseymen who live along the coast. He can find men who will take the places without confining the patronage of the Government to New Jersey, New York, or Delaware. He might, sir, bestow his favor for once in a way upon an F. F. V.

I do not desire, Mr. Speaker, any inconsiderate action by this House. This is the bill which was laid over from the last session, and many people thought it unnecessary to pass it at that session. There will be no winter storms upon us, they said. But there have been storms and wrecks, and six or seven hundred lives have been lost, which might have been saved.

I think, therefore, we ought to act upon it now; and, if no one wants to speak, I will move the previous question upon the bill.

The previous question was then seconded, and the main question was ordered to be now put.

The main question being, shall the bill be referred to the Committee of the Whole on the state of the Union? it was put and decided in the negative.

The bill was then, according to order, read a third time.

Mr. CAMPBELL. I move the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be now put.

The main question being upon the passage of the bill,

Mr. SMITH, of Virginia, demanded the yeas and nays.

The yeas and nays were ordered.

The question was then taken, and there were—yeas 126, nays 45; as follows:

YEAS—Messrs. Aiken, Ball, Belcher, Bennett, Benson, Bliss, Bridges, Bugg, Campbell, Carpenter, Caruthers, Chamberlain, Chandler, Chase, Churchwell, Clark, Clingman, Corwin, Cox, Crocker, Cullom, Curtis, Dawson, De Witt, Dick, Dickinson, Drum, Dunbar, Eddy, Edmands, Thomas D. Eliot, English, Etheridge, Everhart, Farley, Faulkner, Fenton, Flagler, Florence, Fuller, Giddings, Goodwin, Green, Greenwood, Grow, Aaron Harlan, Harrison, Hastings, Haven, Henn, Hill, Howe, Hughes, Hunt, Ingersoll, Johnson, Daniel T. Jones, J. Glancy Jones, Kerr, Kitredge, Knox, Kurtz, Lane, Latham, McCulloch, Mac-

donald, McNair, Mace, Matteson, Mayall, Meacham, Middleswarth, Morgan, Murray, Nichols, Norton, Andrew Oliver, Parker, Peckham, Pennington, Bishop Perkins, Phillips, Pratt, Pringle, Puryear, Ready, Reese, Richardson, David Ritchie, Thomas Ritchey, Robbins, Rogers, Sabin, Sapp, Seward, Seymour, Shower, Simmons, Skelton, Samuel A. Smith, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, Hestor L. Stevens, Stratton, Straub, Andrew Stuart, David Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Teller, Trout, Upham, Vansant, Wade, Walbridge, Walley, Walsh, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, Wheeler, Witte, Hendrick B. Wright, and Zollicoffer—126.

NAYS—Messrs. James C. Allen, Willis Allen, David J. Bailey, Barksdale, Barry, Benton, Bocock, Boyce, Bristow, Brooks, Caskie, Chastain, Chrisman, Cobb, Colquitt, Craige, John G. Davis, Dunham, Edgerton, Edmundson, John M. Elliott, Goode, Wiley P. Harris, Hendricks, Hibbard, Houston, George W. Jones, Keitt, Lamb, Letcher, McMullin, McQueen, Smith Miller, Mordecai Oliver, Orr, John Perkins, Phelps, Powell, Ruffin, Shaw, Singleton, William Smith, George W. Smyth, Warren, and Daniel B. Wright—45.

So the bill was passed.

Mr. FULLER. I move to reconsider the vote by which the bill was passed; and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by SIDNEY WEBSTER, his Private Secretary.

COLLECTORS IN OREGON TERRITORY.

Mr. LANE, of Oregon, by unanimous consent, and after previous notice, introduced a bill; which was read a first and second time by its title, as follows, and referred to the Committee on Commerce:

A bill regulating the powers of the collectors at Astoria and Umpqua, Oregon Territory.

FORGERY AND DEPREDATIONS ON UNITED STATES MAIL IN INDIAN TERRITORY.

Mr. GREENWOOD, by unanimous consent, introduced the following resolution; which was adopted:

Resolved, That the Committee on the Judiciary be instructed to report a bill, at as early a day as practicable, providing for the punishment of the crime of forgery and depredations on the United States mail in Indian territory.

INVALID PENSION BILL.

Mr. HOUSTON. Mr. Speaker, there are two or three of the appropriation bills ready for action, and they are of that class which requires no extended investigation. With the indulgence of the House, I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, that they may be taken up and disposed of.

The question was taken; and the motion was agreed to.

The House thereupon resolved itself into the Committee of the Whole on the state of the Union, (Mr. CHANDLER in the chair.)

Mr. HOUSTON. Mr. Chairman, I move that we take up for consideration House bill (No. 554) making appropriations for the payment of invalid and other pensions of the United States, for the year ending the 30th of June, 1856.

There was no objection; and the bill was taken up and read *in extenso*.

Mr. FLORENCE. I desire to ask the chairman of the Committee of Ways and Means a question. It will be recollected that at the close of the last session there was a provision in the invalid pension appropriation bill for private pensioners. I very naturally supposed that a similar one would have been reported in the same bill at this session. It has not been reported, and I would ask whether the laying aside of the bill to be reported to the House will prevent the submission of an amendment to the bill when it comes up in the House?

The CHAIRMAN. It will not.

Mr. APPLETON. I have an amendment to submit on the subject.

Mr. HOUSTON. If the bill is laid aside to be reported to the House, with a recommendation that it do pass, I expect the House to act on it. I will say to the gentleman from Pennsylvania, as well as the gentleman from Massachusetts, that no estimate was submitted at this session of Congress, which I have been enabled to find, for the privateer pensioners. It was not included in the estimates, nor is it included in the bill. I think it would be improper to delay action on the bill for the purpose of getting an estimate to put in it. If the omission of the estimate be a mistake on the part of the Department, it can be supplied in the Senate. It would not be quite proper, I repeat, to delay the bill for the purpose of sending to the Department to get estimates. The amendment can be as well made in the Senate as it can here.

Mr. FLORENCE. The answer is entirely satisfactory. I only desired to have the estimate in the bill. If it can be as well put in when the bill is before the Senate, I interpose no objection to the bill being laid aside to be reported to the House, with a recommendation that it do pass.

Mr. HOUSTON. The bill appropriates the entire amount of the estimates for pensions sent in by the Department. There is not a dime left out.

Mr. FLORENCE. That is all I can desire.

Mr. APPLETON. I move to add the following words: For the payment of privateer pensions, two thousand dollars.

The question was taken; and the amendment was disagreed to.

Mr. HOUSTON. I move that the bill be laid aside to be reported to the House, with the recommendation that it do pass.

The question was taken; and the motion was agreed to.

INDIAN APPROPRIATION BILL.

Mr. HOUSTON. I move that the committee do now take up, and proceed to the consideration of House bill (No. 555) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1856.

The question was taken; and the motion was agreed to.

Mr. HOUSTON. I move to dispense with the first reading of the bill, and that it be now read by sections for amendment.

The question was taken, and the motion was agreed to.

Mr. WALBRIDGE. I am aware, Mr. Chairman, that the views which I design to submit are not pertinent to the bill before us; but, apprehending that I may be prevented expressing my opinion in regard to the resolution which I offered a few days since, I avail myself of the present opportunity to state to this committee the convictions that control my judgment, and the reasons which animate me in asking the repeal, at this time, of all duty on foreign coal.

If any apology is necessary for calling, at this time, the attention of this House to the resolution directing the Committee of Ways and Means to bring in a bill abolishing the present duty upon foreign coal, it may be found in the universal demand that exists for this common necessary of life, and the injustice and impracticability of that system of legislation which seeks to hoard up, by an indirect tax, moneys not actually required to carry on the Government, to the great detriment of the commercial and business interests of the country. Every day's experience demonstrates that the true policy of this Government is to regulate the revenues of the country so as to equalize, as nearly as possible, our receipts with our expenditures.

Although many eminent citizens predicted the absolute inability of the greatly reduced tariff of 1846 to yield sufficient revenue to carry on the ordinary fiscal affairs of the Government, their anticipations have not been realized, and even that measure has filled our Treasury to plethora, and led to an undue accumulation of the public money, drawn unnecessarily from the people, and locked up from circulation.

So far as that tariff was an advance toward the free-trade principle, it meets my unqualified commendation. It has nobly vindicated the wisdom in which it originated. It has triumphantly served the purpose for which it was created. It enabled the Government to meet all its current expenditures, and the extraordinary demands resulting from the war with Mexico; a war by which our territorial surface has been so much extended, embracing a region of country unfailing in its yield of the precious metals, and opening to us new avenues of trade and commerce, by which the genius and industry of our people are everywhere quickened, bringing corresponding increase to the general wealth and prosperity of the Republic.

But we have arrived at a period in which we are threatened with a financial crisis. Indeed, the great commercial cities of the Union are now suffering under pecuniary disasters; commercial confidence, the life-blood of trade, is gone. It is obvious we have gone beyond the limits of prudence, yet the present is a state of things which human forecast, under the tendencies of the times, could not have anticipated.

It is not for me, on the present occasion, to trace out the unlooked-for events which have contributed to produce the present state of our monetary affairs. It is sufficient for us to know that severe pressure exists, and it is our duty to interpose for its relief to the extent of our constitutional ability.

The foreign imports into the United States for the year ending 30th of June, 1854, are estimated at..... $304,562,381

Our exports during the same period reached..... 278,241,064

Leaving a balance against the United States of..... $26,121,317

to be liquidated by cost of freight and accruing profits, with any remaining balance to be made good in gold and silver.

The revenue from customs, public lands, &c., for the last fiscal year, is, $73,549,705

Expenditures for the same period, exclusive of the public debt..... 51,018,249

Thereby leaving a surplus revenue of $22,531,456

The estimates for the last year amounted to $38,406,581. Our appropriations reached to $58,116,958. The excess, according to the President's message, of more than twenty millions, being applicable to extraordinary objects, of which amount $10,000,000, to meet the stipulations of the third article of the treaty with Mexico, form a part.

Suppose, then, our receipts are set down for the coming year at $70,000,000, which, in my judgment, will not be materially lessened in that, nor in the next succeeding four years, should the existing tariff be continued, and our regular expenditures at $38,400,000, we would have an annual surplus revenue of $31,600,000; and, after taking a margin annually of $11,250,000, so as to sink our national debt in four years—its aggregate being less than $45,000,000—we shall still have remaining a surplus of over $20,000,000 unnecessarily withdrawn from circulation, to the serious injury of the whole business community; and to this extent a useless and unnecessary tax upon the people.

In times of financial difficulty like the present, it is the duty of Congress to reduce the public expenses to the lowest point that will enable the Government to conduct the public business, and at the same time reduce the public taxes, by enlarging the free list of foreign imports, particularly in the necessaries of life, and where the burden of taxation falls heavily upon every branch of human industry, and comes home to every man's fireside.

It is not my present intention to traverse this subject in its length and breadth, but I respectfully invite the attention of this House to one article in which the people I have the honor to represent are largely interested, in common with the whole country, and in regard to which the existing tariff should be immediately amended, and that by abolishing the duty on *foreign coal*. This is now one of the *necessaries of life*. It has become so within the last fifteen or twenty years. Previously, the fuel used in domestic affairs was timber, and the employment of coal for machinery purposes was inconsiderable.

The advance in the mechanic arts, in motive power, by the universal application of steam on railways and ocean and inland navigation, has entirely changed our relations to this important article; in fact, has revolutionized the age in regard to it. Yet it stands on the statute-book of 1846, in schedule C of the tariff of that year, as subject to an ad valorem duty of 30 per cent.—equivalent to 45 per cent. (taking into count the cost of freight and charges) on its value in the country—and is there in company with the luxuries of life, "ale, porter, beer, and articles embroidered with gold, silver, or other metal!"

This enactment continues, Mr. Speaker, notwithstanding the annual consumption of coal in the United States has reached, at this period, about 10,000,000 of tons, the present cost of which may

be fairly estimated at from six to eight dollars a ton *at the place of consumption*, showing that the people of the United States are paying for this, one of the great necessaries of life, between sixty and eighty millions of dollars per annum, under a tariff levied upon them which, as hereinbefore stated, is full forty-five per cent. protection

Mr. STRAUB. Will the gentleman yield the floor one moment, and permit me to ask him a single question?

Mr. WALBRIDGE. Certainly.

Mr. STRAUB. The gentleman from. New York has told us that the price per ton of coal was from six to eight dollars, and the aggregate cost to the consumers about eighty million dollars. If my memory serves me right, the quantity of anthracite mined and delivered in 1853, was a fraction over five million tons; how, then, the learned gentleman can prove the whole amount of cost to the consumers to be eighty million dollars, he will please inform the House.

Mr. WALBRIDGE. I answer the gentleman by referring him to the statistics which I produce.

Nor is this protective principle of legislation, respecting this great necessary of life, of recent origin. For we find since the formation of the Government a heavy restriction has been constantly laid upon this indispensable article.

In 1789 the tariff on coal per ton, of twenty-eight bushels, was fifty-six cents, or twenty-two per cent. on its value. Our importations that year were 3,850 tons.

In 1800 the duty was $1 40 per ton, fifty-six per cent. on its value, and we imported 11,787 tons.

In 1810, same duty, our importations reached 14,030 tons.

In 1815, after the war, and under a duty of $2 80, or one hundred and twelve per cent. on the value per ton, our importations fell to 3,514 tons.

In 1820, under duty of $1 40 per ton, being fifty-six per cent. on its value, we imported 24,061 tons.

In 1825, with a duty of $1 68, we imported 25,795 tons.

In 1830, with the same duty, we imported 58,582 tons.

In 1835, under the compromise tariff of 1833, with a duty, say of $1 40 per ton, we imported 59,972 tons.

The protective tariff of August 30, 1842, continued in force until the present tariff took effect, 1st December, 1846, the duty on coal reaching $1 75 per ton.

In 1843 our importations reached	41,163 tons.
In 1844	87,073 "
In 1845	85,776 "
In 1846	156,853 "

And under this tariff of 1st December, 1846, our importations have been as follows:

In 1847 we imported	148,021 tons.
In 1848	196,168 "
In 1849	198,213 "
In 1850	189,439 "
In 1851	214,774 "
In 1852	183,015 "
In 1853	231,508 "
In 1854	252,865 "

During the four years last mentioned, we have imported an aggregate of 882,162 tons, valued, according to a Treasury statement in my possession, certified November 21, 1854, at $1,970,179, or, at a general average of four years, $2 23 per ton; and the aggregate duty paid on the same is $591,053 70.

The scarcity of fuel and the demand for coal had, undoubtedly, their full share in influencing the amount of importations at the several periods mentioned. This demand for coal is still rapidly augmenting, having risen in the last fifty years from 15,000 tons per annum to an annual consumption of 10,000,000, and yet being continually on the increase.

It is only within the last fifteen years that the United States have become, strictly speaking, a coal-producing country. A quarter of a century previous to that period there were not more than one thousand tons of anthracite coal annually produced in the whole Union; yet, in 1847 the increase alone had reached to more than one thousand tons per day, and has since increased, and is still increasing almost in a compound ratio.

In 1847, we imported	148,021 tons.
In 1848	196,168 "
In 1819	198,213 "
In 1850	189,439 "
In 1851, we imported	214,774 tons.
In 1852	183,015 "
In 1853	231,508 "
In 1854	252,865 "

The ability of the American producer to successfully compete with the foreign importer, even after the present protective restriction shall have been removed, is beyond question. Look at our superior facilities for the extraction and transportation of the article, the constantly increasing demand, and the extent of our coal-producing regions in comparison with those of Europe and the British possessions on this continent.

It is to be remembered that the coal we import is mostly from Great Britain and her North American dependencies. The aggregate of square miles of coal-producing countries in Europe, viz: Great Britain, Ireland, Scotland, and Wales; Spain in the Asturias region, France, Belgium, Prussian dominions, Austrian provinces, and the British dependencies in North America, is 852,229 square miles—the coal region of which embraces about 35,504 square miles, or a little more than one twenty-fourth part.

The United States contain, exclusive of Texas, Oregon, and Washington—the last two abounding extensively in this mineral—some 2,800,000 square miles. The twelve coal States, viz: Alabama, Georgia, Tennessee, Kentucky, Virginia, Maryland, Ohio, Indiana, Illinois, Pennsylvania, Michigan, and Missouri, embrace an aggregate surface of 565,283 square miles; of which the coal region covers 133,132 square miles, or nearly one quarter of the entire area of these States, producing, in 1850, while yet in the infancy of this great staple, according to the census returns of that year, 5,049,954 tons.

The annual coal produce of Great Britain proper, Belgium, France, Prussia, Austria, and Spain, in 1853, was within a fraction of 51,000,000 tons. In that year Pennsylvania alone produced 7,000,000 tons, and Maryland more than 500,000 tons.

The produce and consumption in the United States for 1854 may with safety be estimated at 10,000,000 tons. Yet, notwithstanding this article is so abundant in our country, and our facilities for its supply so great, the price has risen, within the last year, from thirty to fifty per cent., and within the last five years nearly one hundred per cent.

With almost illimitable resources at home, I can see no good reason for continuing the present exorbitant duty on coal, which, in my opinion, should be a free article; and the earlier the foreign coal is brought into competition with our domestic the better it will certainly be for the consumer. Nor in a series of years will this prove any detriment to the American producer, whose energies will be directed to the proper application of all the facilities possible for the cheapest mining, transportation, and its delivery on the most reasonable terms; while, as a matter of revenue to the country, it is not only not wanted, but absolutely detrimental to our general interests. Not a railway is made and equipped with engines and cars, nor a steamship constructed, but iron is required, and, in its manufacture, coal is the material used for the propulsion of the requisite machinery. The growth of the iron manufacture and trade in the United States, so intimately connected with the coal trade within the last forty years, is enormous—keeping pace, if not in advance of, the strides in every other department of human industry. In 1810 we had 153 furnaces, producing 54,000 tons of pig iron. In 1845 we had 540 blast furnaces, averaging 900 tons each annually, yielding 486,000 tons, and 950 bloomeries, forges, rolling and splitting mills, yielding, of bar hoops, &c., 291,600 tons, and of blooms, castings, machinery, and stove plates, 151,500 tons—making that year an aggregate of 929,100 tons, at the value of $33,940,500. In 1853 the rapid increase in this branch of manufacture was such as to yield much more than 1,000,000 tons of pig iron.

Some idea may be formed of the increasing demand for coal, by even a glance at the multiplied uses to which it is applied. We have now in active operation 20,000 miles of railway communication, at a cost of $600,000,000, and the system is advancing, stretching its arms, Briareus like, far and wide over the Union, in the ratio of the expansion of population, and the growth of the country.

The steam marine of the United States in 1852, was 1,390 vessels, with an aggregate of 417,226 tons, of which 96 were ocean steamers, 529 engaged in the coast trade, and 765 employed on inland navigation. Such has been the increase of our steam commercial marine within the last two years, that it would not be extravagant to estimate our steam marine for 1854, at 1,800 vessels, with an aggregate steam tonnage of 540,000 tons.

A quarter of a century ago the power of steam upon land, and upon the ocean, was comparatively unknown, and the vast and unmeasured material which waked this power into life, slumbered in our soil.

But the use of coal for the creation of motive power upon railroads and in steam navigation, both inland and ocean, furnishes but an inadequate idea of its extensive application and value to the country.

"Coal has been forcibly described as the indispensable aliment of industry. It is a primary material, engendering force; giving a power superior to that of natural agents, such as water, air, &c., procure. It is to industry what oxygen is to the lungs, water to the plant, nourishment to the animal. It is to coal we owe our steam and gas. It replaces in the workshops and domestic hearths the charcoal which had become too costly under the last head; in our northerly latitudes it is destined always to acquire increasing and more general use. The employment of coal will be henceforward no other than a question of cheapness, and in the present age the first interest of industry is above all to see ameliorated the ways of communication, to lower the tolls upon the routes and canals."

When Crœsus exhibited his golden treasures, some one told him that he who possessed iron could soon make himself master of them. The ownership of the gold of the Aztecs and the Incas yielded to the iron and steel of the Spanish invader.

The Creator, with a bounteous hand, has furnished us with a coal region with an extent and richness, as I trust I have shown, unequaled by any political community on the face of the earth, and almost as exhaustless as the atmosphere by which we are surrounded. The means for the extraction of this one of the great necessaries of life are at hand, and all that human ingenuity and enterprise could desire; and from these rich deposits a stream of wealth, now swollen, flows into the coffers of the producer. When we reflect that that article under a high protective tariff is becoming, and to a great extent has become, an indispensable agent in every household—that it is daily growing into universal use for all domestic purposes—that it is indispensable in the machinery which fashions with artistic skill and elegance the implements used and necessary in every family—that it is equally needed and employed in the manufacture of farming utensils and tools in the mechanic arts—in travel by land and by water; indeed, for all the arts of peace, and equally indispensable in the art of war, and for all the means of national defense, is there any reason why there should be an oppressive and unnecessary tax upon that which so seriously affects the interests of every citizen of the Republic?

Every principle of justice demands that the shackles on this trade, which the existing tariff imposes, should be stricken off, and that the traffic of this important article should be opened to the freest competition.

In conclusion, Mr. Speaker, I have endeavored to attract the attention of this body to the subject, rather by a brief summary of the interests involved, than by any attempt at elaborate argument. The days of this session are rapidly diminishing. The business of the country requires, in fact, demands, brevity in discussion and promptitude of action. As one of the representatives in part of the city of New York, the great commercial capital of this continent, it becomes my duty, from which I could not shrink, to press the matter upon this body. My constituents have a right to expect and require it at my hands. They demand that the abundance of Europe, which the producer there can supply, shall be brought at once to our shores, that they may have the relief created by a proper competition. A city with a population of 750,000 souls, of 175,000 families, employ it for domestic purposes. The manufacturing interests in the furnaces, forges, and all the engines employed in the useful arts, require it. The trading community

in their stores and workshops seek the light, in the production of which this article forms an essential element. The fleet steamships that daily leave our shores, carrying our flag to every sea, in the lawful pursuits of commerce, expect it. And in the name of all these great interests, and that of my immediate constituency, I respectfully urge the immediate and unconditional repeal of the existing duty.

Mr. RITCHIE, of Pennsylvania. I have only a few words to say, Mr. Speaker, in reply to the appeal made to the House by the gentleman from New York, [Mr. WALBRIDGE.] I wish to take this opportunity to correct an erroneous report which has been circulated by the newspapers throughout the country, with regard to the conduct of those gentlemen who are engaged in producing coal in the anthracite mines of Pennsylvania. They have been charged with having withheld coal from market in order that the price of it might be raised. I wish to state here, with reference to that charge, that the supply forwarded this year by the Reading railroad is over twenty-five per centum greater than that of last year, while last year was a year in which a much larger quantity of coal was produced from the anthracite mines of Pennsylvania than had been produced in any previous year. In 1853, I find by the reports of the Reading railroad, which I presume is as nearly correct as we can possibly get such a thing, it is estimated that these mines produced 5,195,154 tons of coal. That quantity is the estimated produce of the anthracite mines of Pennsylvania alone, and does not embrace the bituminous coal raised in any section of the country. The importations of foreign coal for the same year amounted to 231,508 tons, paying a duty of something over $400,000, stated in the report of the Secretary of the Treasury on commerce at $490,010. Now, I wish the House to observe how perfectly trifling this foreign coal trade appears by these figures in comparison with the domestic coal trade.

Mr. WALBRIDGE, (interrupting.) I have heard with pleasure the statement of the augmented production of the Pennsylvania mines; but I wish the gentleman to state how it is that the price of coal corresponds in nearly the same ratio with its increased production?

Mr. RITCHIE. I am perfectly willing to answer that question.

Mr. WALBRIDGE. I ask it as a piece of practical information for my friends at home.

Mr. RITCHIE. The increased price of coal is a consequence of that measure so lauded by the gentleman from New York—the tariff of 1846. By means of that measure this country was brought to an enormous importation of foreign goods. It destroyed the iron business of Pennsylvania. The country ran in debt for iron imported from Europe to build railroads. There was undertaken, partly at least, in consequence of the tariff of 1846, which occasioned a temporary reduction in the price of iron, a system of railroads requiring more capital, more iron, and more labor in their construction than could be supplied by the whole world. In consequence of these, and other extravagant enterprises, the price of labor, of provisions, and of everything produced by labor, coal included, was increased. We had no money wherewith to pay the debts thus contracted. To meet this want, railroad and other bonds were issued and sent to Europe, and in return for them, we imported foreign goods and foreign iron to an enormous amount. The furnaces and iron business of Pennsylvania were thus broken up.

This iron business, I wish to remark to the gentleman, is one which requires four, five, or six years, in order that it may be organized and carried on advantageously and profitably in all its departments. Mines must be opened, furnaces must be built, and labor must be organized; and all this requires much time and outlay. And yet by a few cargoes of foreign iron, the enterprise may be rendered unprofitable; the prices are brought down, the hands are discharged, they emigrate to Australia or California; they are good miners, accustomed to that rude sort of labor, they make money there, and they cannot be recalled, so that when the foreign supply falls short the hands are not to be found to make iron at home. With this system of foreign importations based upon credit, expenditures become profuse, the value of money decreases, the price of labor rises, the cost of provisions rises, everything rises. When people are running in debt, they usually become profligate in their expenditures. The price of coal has not increased in a greater proportion than the cost of provisions and the price of wages. The cost of transportation on the railroads has increased in the same way. In fact every necessary of life has increased in cost, as well as coal. We know that here, in this House, we have had to increase the compensation of nearly every one of the gentlemen in our employ some twenty-five per cent.

This explanation will suffice as a reason for the raising of the price of coal. These men who dig coal cannot live on nothing any more than other people. They must have higher wages to enable them to meet the greater cost of living; and when the coal producers pay higher wages they must charge more for their coal.

Mr. WALBRIDGE. I return my acknowledgments to the gentleman for the information he has given us; but I scarcely recognize in all this anything more than the old arguments between the question of free trade and protection. I mean no disrespect to the gentleman, but he will allow me to say that I can see nothing more than the old arguments in what he says.

Mr. RITCHIE. It was not I who introduced this old question of free trade and protection. The gentleman from New York was himself the first to broach it. He eulogized the principle of free trade. He spoke of the tariff of 1846, and commended it because it tended towards free trade. It was, therefore, the gentleman himself that introduced the topic. I did not.

Mr. WALBRIDGE. On that point I can only say that I am in favor of free trade.

Mr. RITCHIE. I have one word to say with respect to the mode of doing business in this House in reference to the subject of duties and estimates. I allude to the inconsiderate manner in which great interests are sometimes assailed. Here is a capital of many millions of dollars invested in this coal business. The productions of anthracite coal alone in the Pennsylvania mines for the year, will be worth $40,000,000 at the least. Pennsylvania supplies almost all the coal consumed on the sea-board of this continent; and is that immense trade to be destroyed or endangered for the sake of getting, just at this moment, a few trifling cargoes of foreign coal a few cents cheaper? I have shown that in 1853 the quantity of coal imported from abroad, was 231,508 tons, against a production of anthracite coal in Pennsylvania alone of between five and six millions of tons. That is all the supply that we could look to Great Britain for every year. She is able to furnish us with only 231,000 tons of coal. And here I take occasion to state to the gentleman from New York, and to this House, that even this quantity of coal does not, I believe, mainly come from Great Britain. It comes from the British provinces of North America. And I would further state to that gentleman and to the House, that the coal trade with the British provinces of North America is now unrestricted. The duty is taken off the Canadian coal by the treaty ratified by the Senate of the United States last summer.

Mr. WALBRIDGE. It seems then to be very unaccountable why there should be such opposition to taking the duty off coal imported from Great Britain if the quantity is so very inconsiderable.

Mr. RITCHIE. Certainly; I know that that objection is fairly made, and it shall be as fairly met. I say that the quantity of coal imported into this country is perfectly contemptible with reference to the market which has to be supplied. But I have to say further on this point, that cargoes of coal brought in here free of duty for two or three months, may produce such an effect upon the market as to break up mining enterprises in this country, and the business is so important that no risk with regard to it ought to be run. The repeal of the duty can do no good to any one and may do much harm.

Mr. WALBRIDGE. Do the companies engaged in the business fail?

Mr. RITCHIE. They do not; but they might fail if coal was brought in from abroad; and after their business was once suspended, it would require years to restore it to its present state. In reply to the question of the honorable gentleman from New York, I say that a supply of foreign coal might, and probably would, bring down the price of American coal in the eastern markets, so as to make the business unprofitable, and thus ruin those who are engaged in the business, because of the magnitude of their daily expenses. In that case, the laborers employed in these mines would be scattered to the four winds of heaven, and you would find them going to Australia, California, and other distant portions of the world, where there would be a demand for their labor. You have now a market that consumed, in 1854, probably ten millions of tons of coal, to be supplied from foreign sources, which now offer in this market only two hundred and thirty-one thousand tons. After we have destroyed our domestic productions, we should be obliged to look to foreign sources; but they would not be able to supply the demand, and the price of fuel would rise enormously. It is within my own personal knowledge that a large number of artisans engaged in the iron works of Pennsylvania emigrated to California, after the iron business had been ruined by the tariff of 1846, engaged there in other kinds of labor, and when the price of iron rose, they could not be recalled.

The conduct of many persons in this country has been so utterly in defiance of what seems to me to be the rules of prudence and good sense, as to be altogether inexplicable. Take, for instance, the conduct of those who have contended for the repeal of the duties upon railroad iron. We have already in the United States, in the course of construction or projected, railroads that would consume all the iron and spare labor and capital of the world. In the face of this fact, many gentlemen here insisted at the last session of Congress upon passing railroad bills. What is the result of passing bills of this kind? You pass a bill giving land to some company, by the aid of which it may build a new road, and the company issues bonds and puts them into the market in order to raise the money. It enters into competition with other roads, in the sale of bonds, thereby bringing down the price of other railroad bonds, and diminishing public confidence in the whole of them. This new railroad company also enters into competition with other railroad companies in the purchase of materials and labor, underbidding in the sale of bonds, and overbidding in the price of materials and labor. In connection with this thing, in order to make the insanity complete, we have a proposition to repeal the duty upon railroad iron, in order that the little production left in this country may be utterly destroyed, and that we may rely wholly upon a foreign market.

I admit that this doctrine of free trade would be good, if a man had the purse of Fortunatus, and an everlasting supply of cash—if he was not obliged to purchase anything by labor, but had money to spend. If he has to exchange his own labor and his own produce for the labor and productions of other people, he must look to see what other people will take from him, and what they will give him in return. He must look to his own sources of production. In the case of the iron manufacture, in pursuing the policy advocated by the gentleman from New York, we destroy our own mills at home, and have nothing to give in exchange for the iron we import from abroad. Not having a supply of ready money, we run in debt. Our own sources of production are dried up. We consume what we have procured on trust. When pay day comes, we have to repudiate, or beg for further time, till we can earn enough to pay our debts. We then adopt a wiser system, pursue it till we have forgotten our embarrassments, and then are seduced again by the same old fallacies, and fall into the same errors.

I have been led further in this discussion than I intended, as I arose merely to correct the misstatements that have been made with regard to the miners of Schuylkill, about their keeping their coal out of the market.

Mr. WALBRIDGE. The gentleman will bear me witness that I made no such reflections.

Mr. RITCHIE. I know that the gentleman did not indulge in any such reflections, but I have seen such a statement published in the newspapers, and it has been mentioned to me in conversation by members of this House, and my desire, in rising at this time, was simply to correct such misstatement.

Mr. WITTE. I have but a single remark to make. I have listened with a good deal of interest to this discussion, not only because it is important, but because it is upon a very staple subject. A

good deal has been said about the miners of Schuylkill county, about a combination of coal traders to put up the price of coal, to control the market, and thereby fix and regulate the price of coal. I can understand perfectly well that a movement of such a character is well calculated to excite the attention of the entire country, because the whole community are interested in this subject, and almost every one requires coal for various purposes.

Gentlemen who are engaged in mining in the coal region have, in my judgment, been unjustly charged with a combination for the purpose of raising the price and keeping it up. I have not heard this statement made publicly on the floor of the House, but it has been alluded to, and it is a subject of conversation at almost every corner of the street, and has been the staple of newspaper discussion for some time. Since it has been alluded to, I will make this remark in connection as a set-off to this statement, equally well entitled to consideration, and upon reflection, I think it will bear quite as close a scrutiny. It is this: That the charge is very properly perhaps fixed upon gentlemen living in New York and other eastern cities, who, by combination of capital, have sought to bring down the price of coal to such a low figure, as to render it impossible for the coal producers to bring it into market, and derive any profits thereby. The great avenues through which coal reaches the sea-board still exist, their means of transportation have increased, and no obstacle has been thrown in the way of the production of that article, or in the way of bringing it to market. The usual machinery still exists and is employed, which enables us to produce and dispose of the article at the lowest price which the law of trade, of demand and supply, will admit of. But gentlemen at the East have sought to bring down the price of coal to a figure lower than the producers are able to bring it to market.

I have taken some trouble to examine into this matter; I went into the coal regions, and conversed with the miners themselves. I was referred to their books, and to their correspondence with eastern capitalists, and my mind was rendered entirely clear upon the subject, that if a combination existed anywhere, it was not in the coal regions of Pennsylvania, where there exists an actual competition to produce and send forward to market the greatest amount of coal. I was convinced that the competition which sought to produce a very extraordinary condition of the market, and thereby to cause a high price of coal, was in the eastern States and cities.

It is well to bear these things in mind, and they are subjects of very great interest. I do not say that this thing does actually exist in the city of New York. But there is an extraordinary combination of capital there, and without being unkind or unjust, I hope I may be permitted to say that the people of New York have been at various times charged with various sorts of combination to raise the price of various kinds of things, as well as to depress them. While I do not charge that this is so, I do say, if there was a disposition to do such a thing, New York possesses unexampled facilities for accomplishing it. I do not say it is done, but there certainly has been a combination of circumstances to produce this state of affairs.

My honorable friend [Mr. WALBRIDGE] avoids this matter, but goes on to speak of the duty on coal. His speech was able, and exhibited vast learning, and I am really thankful to him for the light which he has thrown upon the matter. But if this gentleman will show me by his figures that anything done by Congress in reference to duties upon coal could and would affect the market value of that article, I should be glad to know it.

Mr. WALBRIDGE, (interrupting.) If the gentleman really wants that experiment tested, let him and his friends vote to take off the thirty per cent. duty upon coal, and he will soon, I think, see the fact demonstrated, that the market value of coal will be much lower.

A discussion with that gentleman is always blended with much courtesy and kindness, and I desire to answer him in the same spirit. He will not contend that when we add thirty per cent. duties to an article, we make it cheaper; and I do not see how it is, that if you take off thirty per cent. duty, and allow it to come in free—deducting the cost and charges of transportation—you will not get it thirty per cent. cheaper. I do not see why he and his friends should resist the change, if it makes no difference whether you impose this duty or not.

Here I wish to put myself right on one point, and that is the monopoly on the part of the coal producers to bring about the present state of things in the coal market. I know nothing about that, and I make no charges; but I do know that within five years the price of coal has increased one hundred per cent.; and the people of the whole North, where the article is consumed, have to pay twice as much for it as they did five years ago.

Mr. STRAUB. With the permission of the gentleman from Pennsylvania, [Mr. WITTE,] I wish to say a word. Our learned friend from the North has told the truth in regard to the raising the price of coal; but while he speaks of the price of coal going up, does he forget that the price of every article necessary to life has risen correspondingly? Will he answer that question? [Laughter.]

Mr. WALBRIDGE. Everything except the pay of members of Congress. I believe that is stationary. [Laughter.]

Mr. WITTE. I am not disposed to review the able speech of the honorable gentleman from New York, but I would, however, say to him that I think it would have been exceedingly difficult to come to the conclusion which he comes to, upon the argument he makes. He says if we take off the thirty per cent. duty, we shall have coal at a lower price. He will permit me to say, that the reduction of the duty, or the taking it off entirely, could not possibly affect the price of coal one farthing at this time. We could not look for any supply of coal except from Pictou, in any quantities. On the 1st of October there were several vessels lying at Pictou for the purpose of loading coal, and they could carry more coal than all the force of the island, employed in mining, could supply in two months.

Mr. WALBRIDGE. They were there loading for coal to be brought in under the reciprocity treaty.

Mr. WITTE. But it has not affected the price of coal, not in the least. I have my own opinions as to the cause of the present extraordinary price of coal, but I reserve an expression of them for a future occasion. At some other time I may trouble the House with a statement of them. It is one of those kind of cases upon which gentlemen may reasonably entertain different opinions. But I content myself with saying now, that the entire abolition of duty upon coal could not, at this time, affect its market price. The subject embraces a wide range. A variety of reasons contribute to the present extraordinary condition of the coal market.

I desire now to correct a statement of my colleague from Pennsylvania, [Mr. RITCHIE,] and not adverted to by the gentleman from the Schuylkill district, [Mr. STRAUB.] Gentlemen have spoken of 5,000,000 tons as the amount of coal annually produced in Pennsylvania. I say it is nearer 10,000,000 than 5,000,000—5,000,000 being about the number of tons brought to the sea-board alone. I desire to make this statement, in order that gentlemen when discussing this great coal question may have some idea of the magnitude of the trade, and treat it with the consideration which its importance demands.

Mr. HIESTER. I move that the committee do now rise.

Mr. JONES, of Tennessee. Let the gentleman go home and get his dinner, if he wants it; but let us attend to the public business.

Mr. HOUSTON. If the committee are satisfied with the bill, I will move that the committee do now rise and report it, with the other bill, to the House, with the recommendation that it do pass. It is in strict conformity with treaty and existing laws. Its provisions have been examined with a great deal of care. The reading of the bill will occupy but a few minutes longer. Let us pass it; it can easily be done to-night.

The CHAIRMAN. The motion is that the committee do now rise.

The question was taken; and the motion was agreed to, there being, on a division—ayes 72, noes not counted.

The committee thereupon rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the invalid pension appropriation bill, which it had directed him to report to the House, with the recommendation that it do pass; and also the Indian appropriation bill, and had come to no resolution thereon.

Mr. MEACHAM. I move that the House do now adjourn.

Mr. HOUSTON. I would ask the gentleman to withdraw his motion until we have passed the invalid pension appropriation bill. I do not suppose that he desires to put the bill upon the Speaker's table out of its order. If we adjourn now that will necessarily be the result.

Mr. MEACHAM. I insist on my motion.

The question was taken, and the House refused to adjourn.

Mr. HOUSTON. I now call for the previous question, on ordering the invalid pension appropriation bill to be engrossed and read a third time.

The call for the previous question received a second, and the main question was ordered to be now put.

The bill was ordered to be engrossed for a third reading; and it was read a third time, and passed.

Mr. HOUSTON. I move to reconsider the vote by which the bill was passed, and that that motion do lie upon the table.

The latter motion was agreed to.

Mr. HAVEN. I move that the House do now adjourn.

The question was taken, and the motion was agreed to.

Whereupon the House (at ten minutes to three o'clock, p. m.,) adjourned until to-morrow, at twelve, m.

IN SENATE.

WEDNESDAY, *December* 13, 1854.

Prayer by the Rev. HENRY SLICER.

The Hon. JOHN M. CLAYTON, of Delaware, appeared to-day.

SAMUEL PRIOLEAU.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating intelligence of the fact that the claim provided for by the act approved July 27, 1854, "for the relief of the legal representatives of Samuel Prioleau, deceased," had been liquidated and paid under the provisions of the general act of August 4, 1790, and the special act of January 24, 1795.

[The message will be found in the House proceedings of this date.]

Mr. WELLER. I believe that bill was originally reported by the Committee on Revolutionary Claims; and I therefore move that the message be referred to that committee, and that it be printed.

Mr. EVANS. Mr. President, I desire to say something in regard to this matter, as I had some connection with it as a member of the Committee on Revolutionary Claims, and as the gentlemen in whose favor the act was passed were and are citizens of South Carolina. Lest it might be supposed that there has been something unfair in this transaction, or that they made an application to Congress for money which they knew had been paid, and thereby designed to defraud the Government, I desire to make a simple statement of the facts.

The claim originated in this way: At the siege of Charleston, in 1780, General Lincoln, for the purpose of aiding in the fortifications, ordered that certain buildings belonging to Mr. Prioleau, and situated on his wharf in the city of Charleston, should be taken down and used for the fortifications. It was done by the engineers. Immediately afterwards, Governor Rutledge appointed a commissioner, who, acting with a person appointed by Mr. Prioleau, assessed the value of these buildings at £10,000, South Carolina currency, which comparatively with sterling money, was about seven for one. This was in 1780. Mr. Prioleau's claim was presented to the State of South Carolina immediately afterwards, and in 1782 laid before Congress, then sitting in Philadelphia; but nothing was done with it until the organization of the present Government. It was then again presented and referred to the Secretary of the Treasury, who reported in its favor. Finally, in 1795, an act of

Congress was passed directing the payment of it, but with a condition that before payment Mr. Prioleau should produce the contract under which the buildings had been used. This was a condition annexed, which of itself excluded payment, because, from the very nature of the case, there was no contract made in relation to the matter. Mr. Prioleau died not long afterwards, and the matter rested in that way.

In the second generation, between the years 1830 and 1840, the Prioleau family in Charleston received a letter from some gentleman who had been connected with the Treasury Department here, informing them that this debt stood unpaid upon the Treasury books. This was the first intimation that those who now claim had of any such debt. They requested a gentleman, whose name I do not now remember, but whom I have seen since I have been here, who was then an officer of the Army, and a friend of the family, to make inquiries on the subject, when he came to Washington. He did so. The Treasury officers told him the debt stood on the books unpaid. Then one of the present claimants—the Messrs. Ravenal, who are as respectable gentlemen as any in the city of Charleston, or I believe I might say any in the world, the grandsons of Mr. Prioleau—came on to Washington and examined the matter. The proper officers of the Treasury told him the debt stood there on the books. Examination was made, and no evidence could be found that the debt had ever been paid. The officer expressed his willingness and readiness to pay it under the act of 1795, but he said he could not do it unless the contract was produced, as required by that act. That, of course, they could not produce; and then they had no resource except to apply to Congress.

About twelve years ago, I think, the application was first made. The claim was examined by committee after committee, and always reported on favorably. The idea never entered into any man's head that the debt had been paid. When I came here last winter and took my seat in the Senate, my attention was called to the subject by Mr. Daniel Ravenal, one of the administrators, who stands in the relation of personal friendship to myself. I moved to take the papers from the files, and refer them to the Committee on Revolutionary Claims. The Senate agreed to this. The matter was examined in the committee by myself. When I came to investigate it, I found the facts which I have now detailed to be contained in the reports, and supported by the papers. A bill in favor of the legal representatives of Mr. Prioleau was reported and passed by the Senate. It was sent to the House of Representatives, and it was passed there. The only difficulty in the case was to account for the fact, that the matter had remained dormant so long. The account which was given of that, and which, to my mind, was satisfactory, was this: Mr. Prioleau himself died soon after the passage of the act of 1795; and it was supposed that having prosecuted his claim for fifteen years before he could get it allowed at all, and then allowed with an impossible condition, the old man became offended at this apparent injustice of his country, and abandoned his claim, and therefore his family knew nothing about it. The bill was finally passed and approved.

Since that time, it appears, according to the message, to have been discovered that the old records of the loan office in Charleston show that this debt was funded as far back as 1797, although among the papers there was a letter from some of the officers of the Treasury, acknowledging that the debt had never been paid, and expressing a willingness to pay it, if the evidence required by the act of 1795 could be produced. There is among the papers accompanying the President's message, as I have been told, a letter from the administrators of Mr. Prioleau, which I am sorry to see was not printed with the message in the Union of this morning. That letter declares their regret that the mistake should have occurred. They say that the claim on their part originated entirely in mistake, and they abandon all rights under the act. Whether under these circumstances it be necessary to do anything more, I do not know. If gentlemen desire to refer the subject to the Committee on Revolutionary Claims, very well; but if not, I do not see that it is necessary to do anything, because accompanying the President's message is a letter from the administrators, in which they disclaim any right to receive the money appropriated.

Mr. BADGER. I would suggest to my friend from South Carolina that, under the circumstances he has stated, it is better that the reference should be made, and that those facts, accompanied also with the statement contained in the letter, of the immediate and prompt declining, on the part of the administrators, to prosecute this matter, should be embodied in a brief report. It is due to these gentlemen, in order to vindicate them from any suspicion of intentional wrong.

Mr. EVANS. I desire to have the letter which accompanies the message read.

The Secretary read it, as follows:

CHARLESTON, *December* 4, 1854.

DEAR SIR: We duly received your letter of the 17th ultimo, and, with it, a copy of your report to the Secretary of the Treasury, under date of 4th October, 1854, on the claim of the heirs of Samuel Prioleau, payment of which was directed by the act of Congress of 27th July, 1854.

In reply, we beg leave to say, that the full and clear statement of the case, as set forth in the report, is, in our judgment, conclusive of the fact, that the claim was settled with Samuel Prioleau under the act of 28th January, 1795, which we believed to have been unexecuted; and, as the representatives of Samuel Prioleau, we acknowledge that we are satisfied of the fact.

We deeply regret that no evidence of the settlement could be traced before our application to Congress, notwithstanding the several, and we believe careful searches, made at our instance, and, on one occasion, during the presence of one of us. Had the information been then found which you have lately discovered, you, as well as ourselves, would have been spared much trouble, and we have been spared much pain. We trust, however, that Mr. Guthrie and yourself understand, that our course was suggested by a sense of duty to those whose interests we were bound, as executors, to regard. And upon reviewing all the circumstances we do not see that we could have done otherwise than prefer the claim.

We feel indebted to you for the kind spirit of your letter and report, and for the pains you have taken to exhibit in the letter the whole case; so that, whilst you present the proofs of payment you have also shown how it was that both we and the officers of the Department were led into error, and we tender you our thanks for the considerate candor with which you exonerate us from any improper motive.

Whether the other claim adverted to in our letter of the 10th of November, was ever prosecuted or settled, we have no means of ascertaining. We have no information but the vague and imperfect data referred to in that letter. You will be kind enough to excuse the delay in replying to your letter. We had *personally* but a small interest in the claim, and it was desirable the other heirs should also be made acquainted with the information you had communicated.

We have the honor to be, your obedient servants,

JOHN RAVENAL,
DANIEL RAVENAL,
Executors of P. G. Prioleau, surviving executor of Samuel Prioleau.

ELISHA WHITTLESEY, Esq., *Comptroller of the Treasury of the United States, Washington.*

Mr. EVANS. I am willing to agree to the motion of the Senator from California, to refer the message and documents to the Committee on Revolutionary Claims, and order them to be printed.

The motion was agreed to.

PETITIONS.

Mr. ADAMS presented the petition of Reuben H. Grant, praying the payment of a claim against the Choctaw Indians; which was referred to the Committee on Indian Affairs.

Mr. JONES, of Iowa, presented a petition of the register and receiver of the land office at Fort Des Moines, Iowa, praying to be allowed the same per centum on the sales of the public lands as was allowed previous to the act of August 4, 1854; which was referred to the Committee on Public Lands.

Mr. SEWARD presented a petition of citizens of the State of New York, who served in the war of 1812, praying to be allowed additional bounty land; which was referred to the Committee on Public Lands.

CONVENTION OF THE SOLDIERS OF 1812.

Mr. SEWARD. Mr. President, some time during the last autumn a convention was held in the State of New York of officers and soldiers of the war of 1812; and they formed themselves into an association for the purpose of keeping alive feelings of friendship with each other, and patriotic associations in the public mind, and also with a view of making an appeal to Congress for such a provision as should be thought best for the support of those of them who were in indigent circumstances. I have received from the presiding officer of that body a communication, in which he informs me of a fact which I believe is well understood otherwise, that on the eighth day of January next a convention of the officers and soldiers of the war of 1812, throughout the United States, will be held in the City of Washington; and in behalf of that association he requests me to take measures, if possible, to induce Congress to provide, in the first place, that they may have the use of the Hall of the House of Representatives for their session; and, in the second place, that some provision may be made for defraying the expenses of the members of that convention while they are attending its sittings. In regard to the first object, of course neither the Senate nor myself have any power over the subject. I merely state the wishes of that respectable body on that subject, and I trust they will meet with attention in the quarter where it belongs. In regard to the other provision—for defraying the expenses of these veterans—I have to state that it would be in consonance with my own views of what would be right and just, wise and patriotic; but I am aware there is liable to arise a difference of opinion as to the constitutional power of Congress to make such an arrangement. Unwilling to assume to present my own opinions on such a question, I have taken occasion to consult with the chairman of the Committee on Military Affairs, [Mr. SHIELDS;] and, after conference with him, I have come to the conclusion to ask that this communication be referred to that committee. I hope they will give it their early attention, and if there be no constitutional objection in the way, will recommend such action as they deem best in reference to the reception of this convention. I know that they will recommend such a disposition of the subject as to them shall seem proper and consistent with their obligations to the Constitution. I move, therefore, to refer the communication to the Committee on Military Affairs.

The motion was agreed to.

CONGRESSIONAL AND JUDICIAL COMPENSATION.

Mr. BADGER, in pursuance of previous notice, asked and obtained leave to introduce a bill to increase the compensation of the judges of the Supreme Court, and of the members of both Houses of Congress; which was read a first and second time by unanimous consent, and considered as in Committee of the Whole.

It proposes to make an addition, to take effect from the first Monday in December, 1854, of fifty per centum upon the yearly compensation now allowed by law to the Chief Justice and Associate Justices of the Supreme Court of the United States, and upon the per diem compensation, now allowed by law, of Senators, Representatives, and Delegates in Congress.

Mr. BADGER. Mr. President, I desire to make a brief explanation in regard to the bill which I have presented to the Senate, to show the necessity and propriety of the measure. I believe all of us who have served here have been satisfied for years past that the compensation which we receive is entirely inadequate. For one, I am, and have long been, satisfied of it. I have felt, nevertheless, an extreme reluctance to interfere with the compensation of members upon any of the plans which have been heretofore proposed.

I have had great doubt and difficulty about the plan which has often been suggested, of altering the mode in the compensation of the members of this and the other branch of Congress. It is known to us all that a bill, changing the mode of compensation from a per diem allowance to a yearly salary, was passed in the year 1816; that it produced universal dissatisfaction throughout the country; that, under a storm of indignation from the people of the United States, almost every member of the Congress that passed it, was hurled from the seat which he occupied; and that at the next Congress, in submission to this general sentiment, this stern expression of the public will, that law was repealed, and in the year 1818 the law which now regulates our compensation, was passed, taking effect from the 4th of March, in the year preceding the passage of that bill. It is, therefore, evident that at that period at least, there was a decided objection in the public mind to that mode of compensation. I say that *mode* of compensation, because it is not conceivable that the amount of salary proposed to have been given, could have been the cause of such a wide-spread dissatisfaction. That salary was but $1,500 a

year, and I think it would involve a reflection on the people of the United States of that day to suppose that they imagined the amount to be so great, that on that account merely they refused to tolerate their public servants who had made that provision for themselves.

I assume it, therefore, sir, as clear that there was then a deep-rooted objection in the public mind to that mode of compensation—by a salary instead of a per diem allowance. I think this is further evident from the fact that when Congress, in obedience to the general will of the people, repealed the act of 1816, and established the present rate of compensation, they increased not only the per diem allowance which had prevailed before the act of 1816, but also the provision made under the head of mileage for members of both Houses of Congress, although previous to 1816 all the inconveniences of attending the seat of Government, all the expenses of getting here, had been greater than they were in 1818, when the subject was revised and the mileage increased. I think, therefore, it would be unwise to make any effort towards restoring a method of compensation which has prevailed but for one Congress in the more than sixty years of our political existence under the Constitution, and which was then repealed in consequence of a decided expression of disapprobation by the people, from one quarter of the Union to the other.

But independently of that, I have myself serious difficulties about the establishment of a salary as the mode of compensation to members of Congress. I doubt greatly the propriety of the principle of compensating members in that way; and I am very certain, whether the principle be a right one or not, there are difficulties in the way of its application, which will induce us, all other considerations being put out of the question, to forbear resorting to that mode of compensation. I could mention them, but I deem it unnecessary.

I propose, then, Mr. President, by this bill, so far as it affects the members of the two Houses of Congress, to leave the mode of compensation precisely as it stands; to undertake to enter upon no speculation as to a new principle or system of compensation; but, taking that which we have, to add to the per diem allowance of the members of this and the other House fifty per centum upon the amount which was allowed by the act of 1818.

The first question which presents itself, when a measure of that kind is brought to the attention of Congress, is, whether the proposed increase is fair, and reasonable, and just; whether, assuming that the allowance fixed in 1818 was then fair, reasonable, and just, the altered condition of things in the country would now make it but fair, reasonable, and just, that the proposed addition should be made? That is a subject upon which I suppose there is no member of this or the other House of Congress, who has not had the clearest and most satisfactory means, both by experience and observation, to enable him to decide in the affirmative. The increased expenditures, the large advance in the price of living, the additional outlay which is required from gentlemen who attend the sessions of Congress here, the advance upon all the necessaries, and all the conveniences of life, have been, at least, in a ratio equal to fifty per centum since the year 1817. If that be so, it would seem to follow, as a necessary consequence, that if there be the same purpose now as there was in 1818 in compensating members of Congress; if the same end is to be obtained, the addition which the bill proposes should be made to the rate of compensation.

Mr. President, the legislation of Congress, since I have had the honor of a seat in this body, has demonstrated that what I have affirmed with regard to our own compensation, and the necessity of its increase, is true. You, sir, and I, well know, every gentleman who hears me knows, that in the course of the last half dozen years, almost every officer in the executive branch of the Government, every officer who is employed in attendance upon either House of Congress, has had his compensation largely increased—increased to the full amount of the advance which this bill proposes to make in our compensation. We have been compelled to make it. A sense of justice to the employees of the Government has compelled us to make it. And, after having made this advance in the compensation of all the executive officers of the Government; after having served for totally inadequate compensations from year to year, while the disparity between the compensation and the necessary demands of our situation has been yearly increasing, surely, sir, it cannot be said—if we now pass this bill—that we have shown any indecent haste to furnish for ourselves that reasonable relief which we have long since granted to others. So much for that portion of the bill which relates to ourselves.

How stands the case with regard to the judges of the Supreme Court of the United States? They have been much in the same situation as the members of both Houses of Congress. The present rate of compensation to the judges of that court was fixed as far back as the year 1819. It has since received no addition. For thirty-seven years the members of this body and of the other House of Congress, and the judges of the Supreme Court, have remained without any measure being adopted by Congress for the amelioration of their condition and for adapting their compensation to their increased and increasing wants.

I assume, with regard to the judges, that the salaries fixed in 1819 gave them but a reasonable compensation; and, if so, it is, I think, demonstrable that those salaries have now, from various causes, ceased even to approach a fair and reasonable compensation. I will call the attention of the Senate to two or three facts which will serve to show the change in the labors, and the business, and the expenditures of the members of that court, from which the truth of my proposition will be sufficiently evident.

In the six years commencing with 1809 and terminating with 1815, that court was in session altogether two hundred and six days, and decided two hundred and thirty-three cases, making the average of cases decided by the court in each year to be thirty-nine, and of days in which they sat, thirty-six. In the six years between 1822 and 1827, embracing a period commencing shortly after the salaries of the judges were fixed, the court was in session two hundred and sixty-three days, and determined one hundred and ninety-four cases, making the average of cases yearly determined, to be thirty-two, and days in which they were in session forty-four. In the six years from 1848 to 1853, inclusive, the judges were in session six hundred and sixty-four days, and determined four hundred and forty-eight cases, making an average of seventy-four cases decided in each year, and one hundred and ten days of actual session.

Now, sir, it is impossible to contemplate this enormous increase of business and vast additional consumption of time of the judges, without perceiving that, if the salaries allowed in 1819 were then fair and reasonable, they have entirely ceased to be so now. But, then, Mr. President, there is another consideration. It must be recollected that this statement by no means furnishes to us an adequate view of the increase upon the labor and the additional consumption of the time of the judges of that court, because we must recollect that, on their circuits, in the advancing business and varied pursuits of the country, new classes of litigation have sprung up, and subjects have come in contest in particular cases of such importance in principle and value in amount, that, in a similar proportion, at least, have the circuit labors been enlarged, which, by law, they are required to perform. Nor is this all. When a judge, as formerly, was required to come here and spend perhaps a fortnight or three weeks in attending a term of the court, it exposed him to little personal sacrifice or inconvenience, and to very little expenditure. But now, sir, when every second year he spends six months in this place, and three months in the intervening year, it is actually equivalent to compelling him to support two households. His sacrifice is great; his expenditure is great; his labor is enormous.

The question then presents itself, Mr. President, is it just, is it fair, is it magnanimous, that those public servants, now the actual drudges of the Commonwealth, should be left with a compensation which I think every gentleman knows to be entirely inadequate? But, further, is it right, is it safe for the country? Pause one moment, and consider the nature of their duties. These judges no longer sit here to determine causes of comparatively small moment, which, though they may settle great principles, involve no large amount of pecuniary interests. The causes that now come before them often involve millions of property; and the question may with propriety be asked, whether any wise and judicious Legislature should commit the decision of such controversies to needy and half-provided men? Sir, every American must feel proud to know that the ermine of that court has never heretofore been touched with even a suspicion of corruption; but is it wise in us, is it safe, according to the experience of mankind, to continue to press this experiment, and to keep men unprovided in such an office, to leave them only such an allowance as does not provide a decent and comfortable support for their families? Sir, they are the supreme arbiters in the last resort of controversies often involving principles of vast moment, and sometimes millions of dollars; and ought not to be left to trials under which many wise, and some good men have fallen. They should have a sufficient and honorable provision; they should be freed from the perplexities of domestic want, the pressure of private embarrassments, and thus be enabled to devote, without interruption from private anxieties, all their best powers to the service of their country.

But who are the men, sir, in whose behalf I make this appeal to your justice and magnanimity? I may instance one or two without fearing to be invidious. There is the venerable magistrate who presides in that court. He deserves to have applied to him the description which my Lord Coke gives of Chief Justice Wray. He is emphatically "a most reverend judge, of profound and judicial knowledge, accompanied with a ready and singular capacity, grave and sensible elocution, and continual and admirable patience." He is a noble specimen of what the judicial character should be. Every Senator knows that he has discharged all the duties of his high office with an integrity unimpeached, with unsurpassed learning, and with a decorum, a courtesy which has never, in a single instance, been swerved from its propriety. He has labored on without complaining; he has asked nothing; but there, looking only to his country and his duty, and meeting increasing demands upon his time and strength with new exertions of energy and perseverance, he continues to preside in that high court, which is the sheet-anchor of our institutions, a worthy successor of that illustrious man who immediately preceded him.

Mr. President, look at the two junior judges of that court, from the extreme points of the Union, North and South; men of the highest character for learning, for integrity, for talent, for judicial propriety and decorum; men in the prime of life; men who have been placed upon that bench with the prospect of having a long career of usefulness to their country, and of honor for themselves before them; men led by a natural and honorable ambition, by a just professional pride, elevating them above sordid considerations, to accept a position the compensation of which is not more, probably, than the fourth of what their profession had produced, and would have continued for many years to produce, for them. Sir, we had an example in the course of the last year, which, to my mind, was a spectacle of moral sublimity, when we saw those two judges presiding, one in the extreme North, the other in the extreme South, calmly and fearlessly endeavoring to enforce the laws of the United States against the prejudices and the passions of an excited and embittered community. I do not advert to these cases for the purpose of bringing up or making an invidious allusion to the particular questions discussed, which produced excitement or discontent in either case. I have no such purpose; but, I trust, another and a higher one. I refer to the fact merely of the excitement—the popular outcry, and the manly firmness of the judges. I ask how important it must be—how inexpressibly important for our country and its institutions it is, and must ever be—to have that bench adorned by magistrates possessing and exhibiting such qualities; by men standing like a rock, against which the waves of popular passion and the tumultuary outbursts of angry, and excited, and seditious men may harmless break, leaving the lofty and august form of judicial power uninjured and towering far above them.

Now, Mr. President, if those high functions are to be exercised, and by this court, (and we cannot prevent it, the court is established by the Consti-

tution itself, and an immense power, important to individual happiness and welfare, and to the general safety, is deposited in it by constitutional devolution—there it is, and there it must be)—I ask whether it is either wise, or just, or fair, or liberal, while the compensation of every officer of the Government, if we except the President of the United States, has been increased to meet the increase of expenditure, and the advancement of the country and the growing official labors and duties, that we should leave these most important officers, these who must continue to exercise those high functions, these who are established by the Constitution itself, these for whom we can find no substitute, if we would, and have not the power to erect a substitute, if we could find one, hampered in their private relations, with all the inconvenience and embarrassments of a deficient support, and have their minds distracted in the midst of their judicial duties, by the difficulties of meeting the pecuniary demands which devolve upon them as head of families? Is it just, or safe, or wise, as the spirit of adventure and speculation advances, as the opening up of new countries progresses, as the bringing forward of new and large subjects of litigation increases upon us, to leave them open, as needy and half paid men must be open, to temptations, before which many of the mighty have, in times past, fallen? Is it just to them? Is it safe to us? Is it wise for the country? Sir, these questions can receive but one answer. The additional amount of expenditure from the Treasury I regard as nothing; it is but as the drop from the bucket; but the advantage of the measure to us, and to our country, is, in my apprehension, so large that it scarcely admits of exaggeration.

There is another feature in regard to this bill, Mr. President, on which I wish to say a word. I have not made its provisions prospective merely. I have made it to commence with the present session of Congress. I have made it so because I consider it right that it should be so. No gentleman who has come here this winter has failed to learn this fact—that if a sense of justice towards members of Congress requires that some addition should be made to their compensation, such increase was never more needed than it is now. I do not, therefore, yield to what I consider a fastidious modesty in professing that while I feel it is unjust that other gentlemen should serve for a totally inadequate compensation, I nevertheless think it right and just that I should serve for such myself. I do not arrogate to myself any superiority over my compeers here, but I have no hesitation in saying that I deserve to have, and that I need; better compensation than I receive under the existing law; and deserving it and needing it, I do not hesitate to vote it to myself. At the same time, Mr. President, in connection with that, I would say that there is no gentleman in this Chamber who would divest himself more entirely of personal consideration than I would, and no one who would be less influenced by pecuniary consideration than I would. No one, if I thought it desirable, would more cheerfully surrender any such advantage than myself. But I lay no stress upon that provision. I think it right, and therefore I insert it; but I shall cheerfully yield to any opinion of the Senate that it would be either wiser, or better, or more prudent, or more modest, or more self-denying to give to that portion of the bill a prospective operation.

Mr. President, there is another point upon which I wish to submit a remark or two before I take my seat. You will have observed that the bill which I have presented to the Senate contains no reference to what is called the mileage of members of Congress. We have often, sir, been admonished, by a portion of our fellow-citizens who take an exceeding interest in our conducting the affairs of the nation with prudence, propriety, and justice, and who seem long since to have embraced the opinion that the wisdom of the nation rests with them—we have often been admonished, in various ways—through the newspaper press and otherwise—that we ought to diminish the mileage which is allowed to members of Congress. We have been told that great abuses have crept into the mileage system, and we have been invoked to abolish or reduce the inequality which exists in the mileage given to the different members of this and the other branch of Congress. I have seen already, since I gave notice of my intention to introduce this bill, a very kind intimation that it would be well for me to seize the present occasion to accomplish a reform in that direction. Sir, I receive all these intimations with great kindness; but I have never let my mind be disturbed in the least by them. I am opposed to any proposed interference with the subject of mileage.

I maintain that the present system of mileage is, upon the whole, just and right, and dictated by a wise policy, though there may be individual cases in which it cannot be said that it is just or right, as there will be under all general laws, frame them as you will. As a system it is founded upon a wise and just principle, and makes a discrimination which, in the main, is a proper and just discrimination. For instance, there is my friend from Texas, who is not now in his seat, and who is at the head of the Committee on the Post Office and Post Roads, [Mr. RUSK;] he receives in the short session of Congress, a great deal more money than I do. He has a sum allowed him for mileage that is perhaps some eight or ten times as large as is allowed to me; but supposing that I had equal claims upon the country, and brought as large an amount of weight and influence into the deliberations of this body as my absent friend does, and that we stood therefore precisely upon an equality in all those respects which concern the effective representation of our respective States, is any injustice done by this inequality? There is none, sir, in my opinion; and I have a very short and simple method of testing that inquiry by applying it to myself. I would rather attend a session of Congress in this city from the place in which I reside, without any mileage, than to attend a session of Congress in this city from the State of Texas, or attend a session of Congress in St. Louis, or Louisville, or Cincinnati, or Texas, from my present home, with three times the mileage that is paid to my honorable friend from Texas.

There is, in my opinion, an entire misapprehension in the public mind with regard to the purpose for which Congress, in 1818, settled this question of mileage. It was not with the view, wholly or chiefly, of furnishing to members a sum of money to cover their traveling expenses. It was no such thing. The attempt had just been made to give what was thought to be a more adequate compensation, in the form of a salary, to members of Congress. The public reprobation of that measure had compelled its repeal. But, in adjusting a new method of compensation, what did Congress do? When all the conveniences and all the facilities of traveling had increased, and when all the expenses of traveling had been diminished, they increased the allowance for what is called mileage. Why, sir; why?

Mr. President, on looking at the subject, it is impossible to resist the conclusion that they adopted it as a method by which some equality of compensation, in the true sense of equality, might be made to gentlemen who were called, in the service of their country, to attend either House of Congress. It was thought, and thought reasonably, and thought justly, that the sacrifice to a gentleman who left his home to go to a distance of twenty-five hundred or three thousand miles to attend a session of Congress, was vastly greater, the inconvenience to him was vastly greater, the loss of his business, the disorder of his private affairs, were vastly greater than in attending a session of Congress near to the place of his abode, and the compensation was adjusted upon the mileage, with a view to make, as far as possible, a real equivalent for the supposed and real difference which existed in the less and the sacrifice necessarily involved in such an attendance by persons remote from the seat of Government.

I have, therefore, always been opposed to interfering with the subject of mileage. I am opposed to it now. If it were possible to equalize the subject of mileage by bringing those up who get too little, it might commend itself as a wise and judicious economy. But, in my opinion, it would be both unwise and unjust to interfere in the manner proposed with the mileage now allowed, and which, considering it as a system, is founded upon sound principles, and accomplishes, in the main, the purposes of justice which the framers of the system intended to accomplish.

But, sir, with regard to our per diem. All of us feel that we fall greatly short of what we ought to have. Why, sir, is the fact known to you, is it known to the country, that, at this session of Congress, every gentleman who lives within a reasonable distance of the capital, will receive less compensation for his attendance and services here than nearly every one of the officers of the Senate; greatly less than any of the clerks in the Secretary's office; by no inconsiderable sum, compared to the whole amount, less than the pay of the messengers in the service of the Senate? Can that be right, or reasonable, or just? Do we not bring here equal claims upon our country with the messengers who are employed in our service? Is not our time as valuable to us, and, when devoted to the public, as valuable to the public? Can it be reasonable, and just, and respectable, and honorable, that the members of either House of Congress should receive, during the session, less money for their attendance than is paid to the messengers who attend upon the committees, and who attend at our doors, and prosecute the other duties of their stations, and thus promote the convenience of members in their private as well as in their public relations?

If you go into the executive department the disproportion is still greater. Even a clerk of the lowest grade receives a yearly compensation greater than, at a short session of Congress, the members of each House receive who live within a reasonable distance—who do not live more than five hundred miles from the capital—and the addition which those who do live beyond that distance receive in the shape of mileage is but a fair effort to compensate them for the greater sacrifices which they make and the greater inconveniences which they endure than their brother members.

Sir, I think the provisions of this bill are founded in reason and justice. It is free from the objections which I stated two years ago, to the measure moved by my friend, then in this body, from the State of Kentucky, [Mr. Underwood.] It leaves all the principles of the present law untouched, and simply makes what I deem a reasonable addition to the compensation of the judges of the Supreme Court, and of the members of both Houses of Congress.

I have no doubt that the measure will commend itself to the approval of the whole American people; and I hope that it will receive the sanction of the Senate and of the other House of Congress.

I will not, Mr. President, at this time, unless some Senator desires it, move any reference of the bill; but, with the approbation of the Senate, will let it take its place upon the Calendar, and be printed, so that the Senate may hereafter take it up, and make any disposition of it they think proper. I therefore ask that that course may be pursued. Let the bill take its place upon the Calendar, and let it be printed.

The further consideration of the bill was postponed until to-morrow; and it was ordered to be printed.

REPORT FROM A STANDING COMMITTEE.

Mr. SEWARD, from the Committee on Commerce, to whom was referred the bill from the House of Representatives for the relief of the legal representatives of John Putnam, reported it back without amendment.

NOTICES OF A BILL.

Mr. SHIELDS gave notice of his intention to ask leave to introduce a bill to provide for the establishment of a marine hospital at Galena, Illinois.

BILLS INTRODUCED.

Mr. JONES, of Iowa, asked and obtained the unanimous consent of the Senate to bring in a bill for the relief of Julia Frances Peebles, and George Washington Peebles, of Illinois; which was read a first and second time by its title, and referred, together with the memorial and papers of the parties on the files of the Senate, to the Committee on Public Lands.

Mr. JONES, of Tennessee, in pursuance of previous notice, asked and obtained leave to introduce a bill granting to railroad companies three years in which to pay the duties on iron imported for railroad purposes; which was read twice by its title, and referred to the Committee on Finance.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had passed a bill making appropriations for the payment of invalid and

other pensions of the United States for the year ending June 30, 1856.

Also, that they had passed the bill from the Senate for the better preservation of life and property from vessels shipwrecked on the coasts of the United States.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill for the relief of Jacob McLellan; which thereupon received the signature of the President *pro tempore*.

RIVER IMPROVEMENTS IN MICHIGAN.

Mr. STUART. Mr. President, I am instructed by the Committee on Commerce to report back, with certain amendments, the bill which was referred to them "making appropriations for deepening the channel over the St. Clair flats, and for deepening the channel over the St. Mary's river, in the State of Michigan." I will state in a few words what the amendments are. After filling the blanks in the bill, the committee simply recommend a change of its phraseology so as to limit the appropriation for the St. Mary's improvement to such surveys as have already been made. The whole appropriation necessary cannot now be made with propriety, because the War Department has not yet received the proper information. The officer in charge has been applied to, but his report has not yet been received. My colleague [Mr. CASS] has asked for that information, and if that shall be received before the bill be finally acted upon, we shall move to amend it so as to cover the whole ground.

The bill and amendments were ordered to be printed.

ISAAC SWAIN.

Mr. CHASE. I ask the Senate to indulge me by taking up for consideration a private bill which ought to have been acted on at the last session of Congress, but was not. I move to take up for consideration Senate bill for the relief of Isaac Swain.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole.

It proposes to direct the payment of $4,150 to Isaac Swain, for damages to the ship Ellen Brooks, his property, while employed in conveying military supplies from Benicia, California, to Government posts near that place, under the order of the proper officers, and detention of the vessel beyond the time stipulated in the charter-party.

Mr. CHASE. Mr. President, I will explain the bill briefly to the Senate. The proper officers of the United States entered into a contract with Captain Swain for the transportation of stores from Valparaiso to Benicia. On arriving at Benicia he notified the proper officers of his readiness to deliver the stores. He was required to land them at a certain point up the river, at which the landing was not usual, and was not required by the charter-party. In consequence of his endeavors to do this, and without any fault on his part, the vessel was damaged to the amount of about $3,500. This damage was proved to the satisfaction of the committee, and it constitutes one of the items allowed in the bill. The other item is for detention, under the contract, beyond the time stipulated in the charter-party. These two items constitute the whole of the allowance made by the Committee on Claims. In making this allowance the committee were unanimous. They disallowed by far the greatest portion of the claim; but, so far as the bill goes, they all think it clearly just and equitable.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

GRAHAM AND FINNALL.

Mr. WELLER. I ask the Senate to take up the bill for the relief of James S. Graham and Walker H. Finnall, which passed the House of Representatives at the last session, but was not acted on in the Senate for want of time.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to the consideration of the bill.

Its object is to give authority to the Postmaster General to pay to Graham and Finnall the sum of $3,000, as compensation in full for the losses sustained by them, by reason of the abandonment by the Postmaster General of two contracts made by that officer with them for the transportation of the mail from Washington to Fredericksburg, and from Fredericksburg to Richmond, which contracts bear date the 3d of December, 1847.

In October, 1847, the Richmond, Fredericksburg, and Potomac Railroad Companies refused to transport the mail of the United States without an increased compensation, and demanded a rate of compensation greater than that for which the Postmaster General was authorized to contract by law. He proceeded to advertise for proposals to carry the mails between Washington and Richmond by post coaches; and proposals were made, accepted, and contracts entered into, for the transportation of the mails between the points named—one contract for the mail between Washington and Fredericksburg, and one for the mail between Fredericksburg and Richmond—at the aggregate sum per annum of $13,000. The contracts were taken by the memorialists, and were to commence on the 10th of December, 1847, and to expire on the 30th of June, 1851, making the term of service nearly three years and seven months. The contracts were taken with the understanding and with the just expectation that the full term of service would be enjoyed, and with this expectation the contractors were induced to incur extraordinary expenses in stocking and opening a route upon brief notice, and at the commencement of winter.

The fact that the contractors had good reason to understand that the contract would not be abandoned, appears from the statement of the Postmaster General, Hon. Cave Johnson. It appears, however, that within the first year of the service the Postmaster General succeeded in effecting a satisfactory contract with the railroad companies; and hence, on November 30, 1848, he gave notice to the contractors of the abandonment of his contract with them, to take effect the 4th of December, 1848. Thereupon the contractors called upon the Postmaster General for compensation for their extraordinary losses, and in his reply the opinion was distinctly expressed, that it would be just to give additional and equitable indemnity to the contractors, who are the present memorialists, but he had no legal power to afford the relief.

From the peculiar character of the case, the memorialists are entitled to indemnity; they should at least receive a fair indemnity for their actual losses, which are estimated by the committee at the sum of three thousand dollars.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

HOUSE BILL REFERRED.

The bill from the House of Representatives, making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1856, was read twice by its title, and referred to the Committee on Finance.

ISRAEL KETCHAM

On motion by Mr. CHASE, the bill for the relief of Israel Ketcham was read a second time, and considered as in Committee of the Whole. It proposes to direct the payment to Israel Ketcham, (a sub-contractor under Farrow and Harris, contractors for erecting a fortification on Dauphin Island, in Mobile bay, in the year 1819,) the sum of $17,528 55, the amount due to Ketcham from Farrow and Harris, for labor and materials furnished by him for the fortification, payment whereof was intended to be secured by the proviso to the act of the 3d of March, 1825, "for the relief of Nimrod Farrow and Richard Harris."

In the year 1818, Farrow and Harris entered into a contract with the United States for the construction of a fortification at Dauphin Island, in Mobile bay; and in 1819 entered into a contract with Mr. Ketcham to furnish labor and materials for that purpose. In compliance with his contract, he took out from New York a number of mechanics and laborers, with provisions, implements, and materials, to Dauphin Island, in doing which he expended $20,000, and the only sum received of Farrow and Harris for this expenditure was $5,000.

The erection of this fortification was subsequently abandoned by the Government, and several acts have been passed by Congress for the relief of Farrow and Harris, with the view of indemnifying them for their losses consequent upon the abandonment of the work by the United States. One of these acts, passed the 3d March, 1825, authorized the accounting officers to pay to Nimrod Farrow, surviving contractor, the sum of $73,747 78, and to surrender to him all liens and securities held by the Government for advances made on the contract, but it was provided that Farrow, before receiving any of the personal property to be delivered, and before being entitled to receive the money mentioned, should enter into a bond to the Secretary of War, with security in the penal sum of $120,000, to appropriate the net proceeds of the personal property, and the money to be received, towards the payment of the debts contracted by Farrow and Harris, or either of them, or any other person or persons contracting under them for supplies furnished and services rendered in and about the erection of the fortification; and if there was any surplus, after paying the debts so contracted, Farrow was to pay to Harris, or his legal representatives or assigns, his just proportion of the surplus. It was made the duty of the Secretary of War, upon the application of any of the parties interested, and satisfactory proof of the failure of Farrow, to fulfill the conditions, to cause the bond to be prosecuted for the benefit of the party or parties making such application, and of such persons as might have an interest in the bond.

The petitioner thinks that, by this provision, he was entitled to the payment of his claim out of the $73,747 appropriated by the act, and complains that, after the failure of Farrow to pay him, he applied to the Secretary of War to have suit brought on the bond filed with him for the security of the sub-contractors; but no suit was brought, and he thinks the Government should be responsible for the misapplication, by its officers, of the fund provided for his relief.

Having failed to receive any part of his claim, either from Farrow and Harris or from the Secretary of War, Mr. Ketcham thinks the Government is bound in equity and justice to pay him the amount to which he was entitled under the proviso of the act of 1825, and which Congress intended should have been paid out of the appropriation made in that act, but of which he was deprived through the *laches* of the Secretary of War.

The committee are not disposed to admit that it is the duty of the Government to interpose for the protection of a sub-contractor against loss by the failure of the principal, or from any other cause. But it appears, from the terms of the act of 1825, that, under the peculiar circumstances of this case, Congress deemed it to be its duty, not only to grant relief to the contractors, but to provide expressly that the relief should be extended to the sub-contractors and other creditors of the original contractors. Congress having adopted that principle in this particular case, the question now presented appears to be whether its benefits shall be secured to the petitioner. The committee are satisfied that he was a *bona fide* creditor of Farrow and Harris for material and labor furnished for the execution of their contract with the Government, and that his claim was intended to be embraced by the proviso in the act of 1825; and that he failed to receive any portion of the money appropriated by that act.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

EXECUTIVE SESSION.

On motion by Mr. HAMLIN, the Senate proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 13, 1854.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

SAMUEL PRIOLEAU.

The SPEAKER laid before the House the following message of the President:

To the Senate and House of Representatives:

An act for the relief of the legal representatives of Samuel Prioleau, deceased, which provided for the payment of the sum of $6,928 60, to the legal representatives of said

Prioleau, by the proper accounting officer of the Treasury, was approved by me July 27, 1854. It having been ascertained that the identical claim provided for in this act was liquidated and paid under the provisions of the general act of August 4, 1790, and of the special act of January 24, 1795, the First Comptroller of the Treasury declined to give effect to the law first above referred to without communicating the facts for my consideration. This refusal I regard as fully justified by the facts upon which it was predicated.

In view of the destruction of valuable papers by fire in the building occupied by the Treasury Department in 1814, and again in 1833, it is not surprising that cases like this should, more than seventy years after the transaction with which they were connected, be involved in much doubt. The report of the Comptroller, however, shows conclusively, by record evidence still preserved in the Department and elsewhere, that the sum of $6,122 44, with $3,918 36 interest thereon from the date of the destruction of the property—making the sum of $10,040 80—was allowed to Samuel Prioleau under the act for his relief passed in 1795.

That amount was reported by the Auditor to the Comptroller on the 14th day of February, 1795, to be funded as follows, to wit:

Two thirds of $6,122 44, called 6 per cent. stock	$4,081 63
One third, called deferred stock	2,040 81
Interest on the principal, called 3 per cent. stock	3,918 36
	$10,040 80

On the books of the loan office of South Carolina, under date of April 27, 1795, is an entry showing that there was issued of the funded 6 per cent. stock to Samuel Prioleau $4,081 63

Of the deferred stock	2,040 81
Of the 3 per cent. stock	3,918 36
	$10,040 80

On the ledger of said loan office an account was opened with Samuel Prioleau, in which he was credited with the three items of stock, and debited by the transfer of each certificate to certain persons named under dates of May 20, 1795, August 24, 1795, and April 19, 1796.

These records show that the account of Samuel Prioleau, required to be settled by the act of January 28, 1795, was settled; that the value of the property destroyed was allowed; that the amount so found due was funded by said Prioleau, and entered by his order on the loan office books of South Carolina, and soon thereafter by him sold and transferred. That the entire funded debt of the United States was long since paid is matter of history.

It is apparent that the claim has been prosecuted under a misapprehension on the part of the present claimants.

I present the evidence in the case collected by the First Comptroller, and embodied in his report, for your consideration, together with a copy of a letter just received by that Officer from the executor of P. G. Prioleau, and respectfully recommend the repeal of the act of July 27, 1854.

FRANKLIN PIERCE.

WASHINGTON, *December* 11, 1854.

Mr. AIKEN. I move that the message be laid upon the table and ordered to be printed.

The SPEAKER. The claim was passed through the Committee on Revolutionary Pensions, and the Chair would suggest that the message and accompanying papers be now given the same direction.

Mr. FAULKNER. I move that the message and accompanying papers be referred to the Committee on Revolutionary Pensions.

Mr. AIKEN. I do not think the reference as indicated is at all necessary. There was a mistake evidently in the first instance. It has been corrected, and the matter arranged since. The parties concerned acknowledge the error into which they were led. I repeat, that I see no reason for again referring the matter to the Committee on Revolutionary Pensions. No further action is demanded on our part, and, therefore, I have moved that the message be laid upon the table and ordered to be printed.

The question was taken; and Mr. AIKEN's motion was agreed to.

CLERKS TO COMMITTEES.

Mr. FAULKNER. I am instructed by the Committee on Military Affairs to introduce the following resolution:

Resolved, That the Committee on Military Affairs be authorized to employ a clerk at the usual pay of four dollars per day, for such time as he is actually employed.

Mr. STANTON, of Tennessee. I move an amendment, authorizing the Committee on the Judiciary to employ a clerk upon the same terms.

Mr. Speaker, I will say in reference to the amendment, that the House referred certain matters of investigation to that committee at the last session, and authorized it to employ a clerk so long as the investigation continued. By a subsequent resolution that investigation was extended to all other matters before the late Mexican commission. It is somewhat doubtful whether the committee would not be authorized to employ a clerk until the conclusion of that investigation. It is possible that that resolution may now authorize them, but this amendment will make the matter certain. I think every member of the committee is satisfied that, having a great deal of very important business to attend to, it is a matter of impossibility to get along without a clerk.

Mr. DISNEY. I think that the better course would be to make the resolution general, and provide for clerks to all the standing committees. I believe that most of them had clerks at the last session.

Mr. HOUSTON. Some of the committees may not want clerks.

Mr. DISNEY. I make no objection to any course desired by gentlemen; I merely threw out the suggestion.

The question was taken, and the amendment was agreed to; the resolution, as amended, was then adopted.

USURY LAWS.

Mr. BOYCE, by unanimous consent, introduced the following resolution; which was adopted:

Resolved, That the Committee on the Judiciary be instructed to inquire and report as to the expediency of the repeal of the usury laws, with leave to report by bill or otherwise.

NEW ORLEANS CUSTOM-HOUSE.

Mr. DUNBAR, by unanimous consent, introduced a joint resolution; which was read a first and second time by its title, as follows:

A joint resolution to modify, or change the original plan of the custom-house at New Orleans.

The joint resolution was read *in extenso*.

It provides that the provisoes appended to the several appropriations for the custom-house at New Orleans shall be so modified as to substitute wrought-iron beams, and to substitute some light fire-proof material for the roof, which shall relieve the walls from superfluous weight.

Mr. DUNBAR. I have here a letter from the Secretary of the Treasury, which will explain the necessity for the passage of the resolution.

The letter was read by the Clerk, giving reasons why the modifications in the original plan should be made.

Mr. DUNBAR. I will merely state, in addition, that owing to the nature of the soil upon which the very large custom-house at New Orleans is being erected, it is necessary to make these alterations in the plan which are recommended by the Secretary of the Treasury. There is an urgent necessity that there should be immediate action upon the subject. It will cost less to finish the building upon the plan now proposed than upon the original plan, and it will be quite equal in beauty and durability. I think there can be no objection to the passage of the resolution, and I ask unanimous consent that it be put upon its passage.

The joint resolution was then ordered to a third reading; and was accordingly read the third time, and passed.

Mr. DUNBAR moved that the vote by which the resolution passed be reconsidered, and that the motion to reconsider be laid upon the table; which latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed, without amendment, a bill of this House (No. 437) for the relief of Isaac M. Sigler, of Putnam county, Indiana, and a joint resolution (No. 38) for the relief of the children of Captain Thomas Porter, deceased.

SAMUEL PRIOLEAU—AGAIN.

Mr. COBB. I rise to a privileged question. I move to reconsider the vote by which the letter from the Secretary of the Treasury, which was read this morning, was laid upon the table. It is in relation to that bill about which we have had some difficulty. I will state that while I am opposed to interfering with anything proceeding from my honorable friend from South Carolina, [Mr. AIKEN,] I am satisfied that we could pursue a course better than the one he has suggested in relation to this case.

The bill to which that letter relates stands upon your statute-books unrepealed, and while I apprehend no difficulty, so far as the present generation are concerned, yet, in future, persons may rise up who have forgotten the transaction, and may come forward with claims for the appropriation which has not been paid. I think the better course would be for us to reconsider the vote by which this communication was laid upon the table, and to refer it to the committee which had charge of the bill—the Committee on Revolutionary Pensions, I think—with instructions to report a bill for the repeal of the original bill. I say I have no apprehension of any difficulty from the present generation, but generations may rise up hereafter who may come to your records and find the bill unrepealed, without the evidence that the money has been already paid. I hope, therefore, that my honorable friend from South Carolina will concur with me that it would be better to refer this communication to the committee who originally had charge of the subject, with instructions to report a bill repealing the original bill.

Mr. STANTON, of Tennessee. I would suggest to the gentleman from Alabama that a shorter course would be for him to present such a bill himself. It could be done in three lines.

Mr. COBB. If I could have the opportunity of reporting such a bill, I should have no objection to that course.

Mr. AIKEN. I have no objection whatever to the course indicated by the gentleman from Alabama, though I think it is entirely unnecessary. I think, if the gentleman knew the parties themselves, he would not consider any such action necessary.

Mr. COBB. I said I had no apprehension in reference to these parties, but that generations might rise up hereafter which might not prove quite so honorable.

Mr. AIKEN. I presume there is some misapprehension in reference to the circumstances connected with the case. As soon as the error was discovered, the parties made the fact known to the Treasury Department. Mr. Whittlesey has presented us with a report upon the subject, which will go upon the records, accompanied with the letter stating that the money has been paid, so that there can be no possible danger of any mistake resulting in the future. If the gentleman wishes to have the act repealed, however, I have no sort of objection; but I would suggest that it would be better to repeal the act at once, without referring the communication at all.

Mr. ORR. I believe the Clerk has prepared a bill, which I now ask the consent of the House to offer.

There was no objection, and the bill was read a first and second time by its title, ordered to be engrossed and read a third time, and being engrossed, it was accordingly read a third time, and passed.

The message of the President in relation to the bill was then laid upon the table.

CALIFORNIA LAND COMMISSION.

Mr. LATHAM. I ask the consent of the House to make a report from the Committee on Public Lands, in order that the same may be laid upon the table and printed.

Several MEMBERS. What is it about?

Mr. LATHAM. It is a report upon House bill No. 547, entitled "A bill to continue in force, for a limited time, the provisions of the act of Congress of 3d March, 1851; and the second section of its supplement of 18th January, 1854, so as to enable the board of land commissioners in California to close their adjudication of private land titles in that State, and for other purposes." I do not wish to have the report read. I only wish to have it laid upon the table and printed.

No objection being made, the report was ordered to lie upon the table and be printed.

CLERK FOR PUBLIC LAND COMMITTEE.

Mr. DISNEY. I am instructed by the Committee on Public Lands to offer the following resolution:

Resolved, That the Committee on Public Lands be authorized to employ a clerk during the present session, at a compensation not exceeding four dollars a day.

Mr. COBB. I am a member of the Committee on Public Lands. I objected to that resolution in the committee, and voted against it, and I feel it to be my duty to object to it here.

The SPEAKER. Objection being made, the resolution cannot be received.

PRINTING OF MORTALITY STATISTICS.

Mr. MURRAY. I am instructed by the Committee on Printing to offer the following resolution:

Resolved, That there be printed, for the use of the members of the present House of Representatives, fifteen thousand copies of that portion of the returns of the Seventh Census which relates to the mortality statistics of the United States, to be arranged by the Superintendent of the Census: *Provided*, The same shall be printed in royal octavo form, and not to exceed three hundred pages.

Mr. JONES, of Tennessee. The Secretary of the Interior has, I think, informed us that the Superintendent of the Census has performed his duties, and resigned his office; and I believe that the same Department has asked for one clerk to take charge of all the census returns from 1790 to the present time, and to furnish such information as may be called for from those returns. I can, therefore, see no necessity for that resolution, as there is no person to execute it. I think it is quite unnecessary to adopt it.

Mr. CLINGMAN. I beg leave to say further, that I remember very well that when this subject was under consideration, two years ago, these returns were found to be so inaccurate, that Congress, at that time, refused to have them published. If any gentleman will take the trouble to investigate the facts then elicited, I am satisfied they will find that we should merely be diffusing error by this publication. I therefore hope that we shall publish nothing of the kind.

Mr. JONES, of Tennessee. I object to the resolution.

Mr. JONES, of New York. I wish to say to this House that, two years since, I attended a meeting of the Medical Association of the United States in the city of Richmond, and that that body unanimously asked this House, by petition, to publish these mortality statistics of the census of 1850. I know that it was the unanimous opinion of the medical faculty, from all the States of the Union, then congregated at Richmond, that those statistics ought to be published. I know, still further, that there is no other body of men in the country so well fitted to give an intelligent opinion on the subject as that very association; and they *unanimously* asked that these facts should be published. I know of no statistics that are so likely to be correct. If they are not correct, it is because a set of men were sent abroad to collect facts who were unsuited to the performance of that duty. The fact of a birth, or a death, or a marriage, in a family, it appears to me, is very likely to be remembered for one year, at least.

We have published the statistics of the produce of the country; the number of bushels of wheat and potatoes; the value of fowls and hen-roosts, and all matters of that kind; but when you were asked, by the medical faculty of the United States, to furnish a clerk to collect the mortality statistics, and send those statistics to them, you refused to do it. The Medical Society of the State of New York—a very learned body, in my estimation—have had this subject under consideration, and have petitioned this House to publish these facts. The whole medical world asks it; and I say to every member of this House, that you can send no document to your physician—if he is an intelligent man—that he will prize so highly as this. If you will permit the medical faculty to send a committee to investigate these papers, and publish them themselves, they will do it at their own cost; and I would say to my friends in this House that I really think the medical faculty are better judges of what they want than this House can possibly be.

Mr. CLINGMAN. Permit me to make a suggestion.

Mr. JONES, of Tennessee. I objected to the introduction of this resolution.

The SPEAKER. The resolution came in as a report from the Committee on Printing, and the Chair thinks that the objection cannot affect it.

Mr. CLINGMAN. It is a privileged report.

Mr. JONES. I suppose that the Committee on Printing have no right to select portions of documents, sent to a former Congress, and report in favor of printing them. They have no right to bring in such reports as that under the rule that allows them to report at any time.

Mr. STANTON, of Kentucky. Will the gentleman allow me to say that the Committee on Printing obtained jurisdiction of the matter by a resolution referred to them by this House having special reference to the statistics of mortality.

The SPEAKER. In that case, the Chair thinks that the resolution is properly before the House.

Mr. JONES. When was that resolution referred to the Committee on Printing?

Mr. STANTON. At the close of the last session of Congress.

Mr. JONES. Yes, sir; but you will recollect that all that fell through. This is is a new Committee on Printing, and the matters referred to the committee of last session cannot be acted on by the present committee.

The SPEAKER. The question arises whether the objection of the gentleman from Tennessee does not come too late.

Mr. JONES. I made it some time since.

The SPEAKER. The Chair does not recollect hearing the objection.

Mr. JONES. I made the objection at the close of my remarks. I distinctly stated that I objected to the resolution.

Mr. CLINGMAN. I understand the gentleman from New York [Mr. JONES] to say that the medical faculty desires to have the facts upon the subject published. I have no doubt but that the medical faculty desires to have the facts in question; but they will not get the facts by this publication. These gentlemen suppose that the statistics have been accurately collected by the Census Bureau, but if any of them were to go to that office, and examine these statistics for themselves, they would ascertain that they are entirely unreliable. I do not understand from the gentleman that any members of the medical association which he spoke of ever did examine the compilation of vitality statistics. If any of them had taken the trouble to go to the Census Bureau for that purpose, they would have found that there is no information there that would be of any service to their profession. I rather suppose that the gentleman has not himself looked into the particulars of these returns, but I would remind him that when the statistics for the State of Maryland were submitted as a specimen to Congress, the matter was referred to a committee of the House, and also to a committee of the Senate. When these committees examined the report, it appeared that it was full of errors. I took some pains myself to examine it, and really the errors with which it was filled were laughable. If the gentleman from New York will take the trouble to read the report which was made at the time by the committee, he will see how utterly incorrect these statistics were. The result of the committees' report was that the last Congress was satisfied that there was nothing in this book which ought to be sent abroad throughout the country.

The gentleman from New York says that the medical gentlemen throughout the country would like to have the privilege of examining into these returns, and that they might have them published at their own expense. Now, if the gentleman introduces a resolution to confer such privilege on the medical faculty of the United States, I will not object to it. I do not believe that any member on this floor will object to any medical association or any medical gentleman having the privilege of going to the Census Office and examining this thing for themselves. But I do object to our diffusing error in this way at the public expense. I do not understand that my friend from New York is prepared to say that these statements of the Census Bureau are at all reliable. I am sure they are not. Even those matters which we have already published from that office, are not at all correct. Gentlemen of this House who have examined the Census Report, as published, know very well that it is full of errors. For example, I cannot ascertain, by referring to this report, how many cotton factories there are in North Carolina; nor can I ascertain how many iron establishments there are in any particular county. I merely cite these examples to show how extremely inaccurate the returns which we have already sent abroad are. But when we come to the vitality statistics it is still worse. That is a matter which those engaged in the returns knew very little about, and therefore you will find in these statistics errors even greater than in other portions of the report. On that ground I hope that the publication of these vitality statistics will not be made, for if Congress authorize their publication, they will be taken throughout the country, and in Europe, to be correct; and they will thus mislead scientific men.

Mr. WADE. Did the gentleman from North Carolina [Mr. CLINGMAN] specially examine these vitality statistics? and if so, where did he find the errors he complains of?

Mr. CLINGMAN. I have not stated that I have examined one branch of the returns more than another. But I say this to my friend from Ohio, [Mr. WADE,] that I did examine, with some care, a portion of the volume published,—that relating to the State of Maryland,—and I found in it a number of amusing and laughable mistakes. I am not a married man like my friend, and do not take so much interest in the matter of births and marriages as he may take. [Laughter.]

Mr. WADE. Well, it is time the gentleman from North Carolina was beginning to take an interest in that subject. [Laughter.]

Mr. JONES, of New York. I wish to say one word more on this subject, so that the House may better understand the reasons why these statistics should be published. The collection of census statistics made in this country in 1850 will be repeated, and the publication of the vitality statistics now, will cause more accuracy to be observed in taking like statistics again. And I want the members of this House to understand that the medical faculty ask that this thing may be published, so that they may be enabled to correct the errors therein—if there are any. The House will concede the proposition that probably the best class of society to whom this thing can be referred is the medical men.

In countries where such statistics are collected, it is members of the medical profession who attend to them. I do not suppose that, in this instance, these statistics are entirely correct; but I know that the whole medical faculty of the country ask you to give them copies of the vitality statistics compiled from the census of 1850, so that the errors which may exist in them may be guarded against in the next census. I shall take the ground that, if these returns are incorrect, that is one reason additional why they should be printed, so that the errors might be detected and avoided in future.

I would say, further, to the members of this House, that if there is any body of men on the earth who are entitled to receive from you what they ask, it is the medical faculty of this country. They spend their days and nights in diving into the secrets of diseases, and in hunting them up. They meet annually in convention, in some city of the United States, and at their own expense. They are not paid eight dollars a day; but they defray their own expenses; convening not for their own good, but for ours; and for the good of our constituencies. I am sorry that that profession has not an abler advocate than myself to represent it here; but I ask the members of this House to pass this resolution unanimously, and give to the medical faculty what they request—the vitality statistics of this country. These statistics will benefit them, if they do not benefit you.

Mr. HAVEN. I desire to inquire of the Chair, or of some member of the Committee on Printing, about what would be the cost of this publication?

Mr. MURRAY. I understand that the cost of getting up the work in the bureau, would be about $2,500, and that the cost of printing would be thirty-seven cents per copy.

Mr. HAVEN. I do not desire to enter into the controversy at all. I have not examined the statistics in question, nor will I have an opportunity of doing so unless they are published. I think it is better that they should be published, and I hope the House will adopt the resolution. I therefore move the previous question.

Mr. CLINGMAN. I move to lay the resolution upon the table.

Mr. JONES, of Tennessee. With the permission of the gentleman from New York, [Mr. HAVEN,] who moved the previous question, I would suggest——

The SPEAKER, (interrupting.) There is a motion pending that the resolution be laid upon the table.

Mr. CLINGMAN. I withdraw that motion.

Mr. JONES. I suggest, that if the resolution do pass, and if the work has to be done, somebody else besides the Superintendent of the Census Bureau, who has resigned, will be given charge of it.

Mr. STANTON, of Kentucky. Will the gentleman from New York [Mr. HAVEN] allow me one moment to make a short explanation?

Mr. HAVEN. I will withdraw my demand for the previous question for the purpose of explanation.

Mr. STANTON. I think it very proper that the House should know that a large portion of the statistics in question are already prepared and ready for publication. The vitality statistics of some six or eight of the States are already arranged and prepared, according to forms which have been suggested by the medical gentlemen throughout the United States who took an interest in the matter. The continuance of the office need not be prolonged more than two or three months for the purpose of completing the arrangement of these statistics, at which time they will be ready to be handed to the printer, and the work can be distributed at the expiration of this session of Congress.

In reference to the correctness of these statistics, the Superintendent of the Census does not pretend that they are strictly correct in all respects; because it was a matter of impossibility that the gentlemen who took the census throughout the United States could be sufficiently accurate in their labors to get such statistics correctly. But I understand that the returns approximate as nearly to correctness as could be expected. Since the returns have been made Mr. DeBow has sent circulars to every quarter where it was likely that information could be got, and wherever there were errors in the returns which could be corrected through that instrumentality, he was enabled so to have them corrected.

I have no doubt, as the gentleman on my right [Mr. JONES, of New York] has said, that these statistics, if presented to the public, will be found of immense value to the medical faculty; and besides, as he remarks, if errors have crept into them, their publication will be the means of preventing such errors in the future.

Mr. JONES, of Tennessee. I can see no possible necessity for this publication. I suppose that every physician in the country knows how many persons have died under his own practice, and whether he has killed them scientifically or ignorantly. It will do them no good, as I conceive, to know how many they have killed in the aggregate. I renew the motion of the gentleman from North Carolina, [Mr. CLINGMAN,] that the resolution be laid on the table.

Mr. HUNT. I hope the honorable gentleman from Tennessee will allow me to say one word, by way of reply, to the remarks which the gentleman has addressed to the House just now. I desire to vindicate an honorable and useful profession from the slanders of that gentleman.

The SPEAKER. Debate is not in order on the motion to lay the resolution on the table.

Mr. HUNT. The gentleman was allowed to address the House, and I only desire to say that in my opinion it is indecent for any gentleman to speak of a calling——

The SPEAKER, (interrupting.) Discussion is out of order unless the motion to lay the resolution on the table be withdrawn.

Mr. JONES. I withdraw the motion. Did I understand the gentleman from Louisiana [Mr. HUNT] to say that he wished to repel a slander?

Mr. HUNT. I did say so, sir.

Mr. JONES. I have been a member of this body for some years. I have never in my life, here or elsewhere, intentionally wounded the feelings or attempted to insult any gentleman. I am no bully; I am no duellist; and with such I have nothing to do.

Mr. HUNT. The gentleman says that he would not slander an honorable profession. He did so by sneering at it, and talking of their killing, and keeping accounts of their own killing, and of there being no necessity for statistics to be furnished at the hands of this House, as they desire. When the gentleman talks of an honorable profession endeared to us from birth, and throughout life as preserving our lives in times of sickness and disease; when he speaks of physicians not as embassadors of humanity and mercy, not as health-giving men, but as destroyers of life, I say that he slanders a noble profession. I do not impute to the gentleman an intention to do so. He spoke hastily, I think, and in ignorance of the exact bearing of his words, and perhaps he was giving way to what is too common here in this House and elsewhere, a disposition to find fault with his neighbors, supposing, as men very often do, that they rise in consequence as they detract from the merits and knowledge of others. I say that practice is common here, and too common elsewhere. The gentleman, in language, did slander a profession, an honorable profession, whatever his intention might have been. Had he said that he did not mean to do so, I would have concurred immediately with his declaration, and have said nothing more upon the subject. The gentleman says that he is no bully, and that he wishes to have nothing to do with bullies. What does the honorable gentleman mean? Is he so false to truth and honor as to impute to me, that I am a bully; that I would trespass upon the feelings of any honorable gentleman, and that I would wantonly do wrong to any human being upon earth? If he means by being a bully, that I have the courage of a gentleman to resent an injury, he does nothing more than appreciate my character as a gentleman—a character which I believe is enjoyed by every man whom I have the honor now to look upon in this body. Why does the gentleman talk of bullying? Has he any fear, and does he imagine that I would desire to insult him? No, sir! I would rather cherish good will towards all mankind. If I know my own heart, I have Christianity enough in me to desire to eradicate all evil from it, and to live in peace and courtesy with the whole world. I must say further, that I have always liked the gentleman. I have met him upon equal and kind terms, and when I rose to vindicate the profession, I had no idea of testing his courage, or trampling on his feelings, if he is devoid of it. I rose in the discharge of my duty, to ask this House to sustain a profession asking for mortality and vital statistics—a very reasonable request, which the medical profession best know the value of, and which this House will no doubt grant, after the debate which has already been had upon it.

Mr. HAVEN. I hope the House will now proceed to pass upon the resolution before them, and I demand the previous question upon its passage.

Mr. CLINGMAN. I move to lay the resolution upon the table, and upon it I demand the yeas and nays.

The yeas and nays were ordered.

The question was then taken, and there were—yeas 74, nays 107; as follows:

YEAS—Messrs. Aiken, James C. Allen, David J. Bailey, Barry, Bocock, Boyce, Breckinridge, Brooks, Chamberlain, Chastain, Chrisman, Clingman, Cobb, Colquitt, Cox, Craige, Cutting, John G. Davis, Dawson, Dowdell, Eastman, Eddy, Edgerton, Edmundson, Ellison, English, Faulkner, Fuller, Goode, Green, Greenwood, Hamilton, Hendricks, Hibbard, Houston, Johnson, George W. Jones, Keitt, Kurtz, Lamb, Lane, Letcher, Lindsley, Macdonald, McMullin, McQueen, Maxwell, Smith Miller, Millson, Nichols, Noble, Orr, John Perkins, Phelps, Puryear, Thomas Ritchey, Robbins, Ruffin, Seymour, Shannon, Shaw, Singleton, Samuel A. Smith, William Smith, William R. Smith, Hestor L. Stevens, Stratton, Straub, Andrew Stuart, Nathaniel G. Taylor, Walsh, Warren, Witte, and Daniel B. Wright—74.

NAYS—Messrs. Appleton, Ball, Banks, Belcher, Benson, Bliss, Bridges, Bristow, Campbell, Carpenter, Caruthers, Caskie, Chandler, Chase, Churchwell, Clark, Corwin, Crocker, Cullom, Curtis, Thomas Davis, De Witt, Dick, Dickinson, Dunbar, Edmands, Thomas D. Eliot, Etheridge, Everhart, Fenton, Flagler, Florence, Giddings, Goodwin, Grow, Aaron Harlan, Harrison, Hastings, Haven, Hiester, Hill, Howe, Hughes, Hunt, Daniel T. Jones, J. Glancy Jones, Kittredge, Knox, Latham, Lewis, Lindley, Lyon, McCulloch, McDougall, Mace, Macy, Matteson, Mayall, Meacham, Middleswarth, Morgan, Murray, Norton, Andrew Oliver, Mordecai Oliver, Parker, Peck, Pennington, Bishop Perkins, Phillips, Pratt, Preston, Pringle, Ready, Reese, David Ritchie, Rogers, Russell, Sabin, Sapp, Seward, Simmons, Skelton, George W. Smyth, Sollers, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, David Stuart, John J. Taylor, John L. Taylor, Teller, Thurston, Tracy, Trout, Upham, Wade, Walbridge, Walley, Elihu B. Washburne, Israel Washburn, Wells, Tappan Wentworth, Westbrook, Wheeler, Yates, and Zollicoffer—107.

So the House refused to lay the resolution upon the table.

The previous question was then seconded, and the main question ordered.

The question was then taken; and the resolution was passed.

Mr. JONES, of New York, moved to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

MAIL SERVICE IN THE SOUTH.

Mr. PERKINS, of Louisiana. I ask the unanimous consent of the House to offer the following resolution. It is a matter of some importance to my State, and I hope that the resolution will be agreed to:

Resolved, That the Postmaster General be requested to inform Congress if, in obedience to the law passed August the 5th, 1854, which "authorized and directed him to establish a mail on the Mississippi river from Cairo to New Orleans, and from Keokuk, Iowa, to Gafena, in Illinois, said mail to be carried daily from Cairo to New Orleans," and to facilitate the establishment and carrying of which, he was authorized, on failure to obtain acceptable bids, after advertising for thirty days, to make private contracts, has been put into operation, either in whole or in part; and that if said mail has not been put into operation, he communicate to Congress his reasons for this omission, together with a statement of the terms of the bids, and the names of the parties putting them in, for carrying said mail, either for the whole route or for sections of the route; and that, in the event of his having contracted for carrying the mail on any section or sections of said route, he inform the House what section or sections, and whether bonds were taken of the parties so contracting, for the faithful discharge of their contracts, and the different dates at which said bonds were taken and placed in the Department, and, if any, which of said bonds have been forfeited.

The question was taken; and the resolution was agreed to.

Mr. McDOUGALL. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That five thousand extra copies of the reports of the Pacific railway survey and accompanying maps be printed for the use of the House.

The SPEAKER. The resolution, under the rules, goes to the Committee on Printing.

On motion by Mr. READY, it was

Ordered, That leave be granted to withdraw from the files of the House the papers of Milton Spafford, for the purpose of reference.

On motion by Mr. MATTESON, it was

Ordered, That leave be granted to withdraw from the files of the House the papers of Pamela Slavin.

On motion by Mr. ENGLISH, it was

Ordered, That leave be granted to withdraw from the files of the House the papers and petition of Thomas Shankland, for the purpose of reference in the Senate.

BRIG COMO.

Reports being in order from the Committee on Commerce,

Mr. AIKEN reported a bill authorizing the collector of the port of Charleston, in South Carolina, under the direction of the Secretary of the Treasury, to admit to registry, under the name and title of the Jehossee, the American-built brig owned by Hugh E. Vincent and others, and known as the Como.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was subsequently read the third time, and passed.

GRANTS OF LANDS.

Mr. DISNEY, from the Committee on Public Lands, made adverse reports in the following cases; which were severally laid on the table:

On the petition of Randolph Macon College, asking a grant of public land in order for its better support;

On the memorial of the faculty of Union University, Tennessee, for a portion of the public domain for the benefit of colleges and universities in the United States;

On the memorial of the president and professors of Amherst College, Massachusetts, praying Congress to make a donation of a township of the public land to each college and university now in operation in the United States;

On the petition of the faculty of the University of Vermont for a grant of land for the benefit of colleges in the United States;

On the petition of the faculty of Washington College, Virginia, asking for a grant of land to each chartered college and university in the United States;

On the memorial of the Delaware University, of Ohio, for a grant of land for its better support;

On the petition of the faculty of La Fayette College for a grant of a township of land to each of

the chartered colleges and universities in the United States;

On the memorial of the president and faculty of St. John's College, Maryland, asking for a grant of a township of land to each college in the United States;

On the memorials of the faculty of Franklin and Marshall College of Lancaster, Pennsylvania; of St. Xavier's College, in the State of Ohio; of the citizens of New York, and of the faculty of Hobert Free College, at Geneva, New York; of the faculty of the Emory and Henry College, Virginia; of Beloit College, Wisconsin; of the trustees of La Grange College, in the State of Alabama; of the faculty of Madison University, New York; of Alleghenia College, Pennsylvania; of Middleburg College, Vermont; of Wittenberg College, Ohio; of Lewisburg University, Pennsylvania; of Miami University, Ohio; of the University of Rochester, New York; and of Davidson College, North Carolina, asking a grant of a township of land for each of the chartered colleges and universities in the United States;

On the petition of the county court of Logan county, Illinois, asking for a donation of land to each State sufficient to endow a State industrial university;

On the petition of citizens of Missouri, asking for a grant of public lands for general educational purposes;

On the memorial of Joseph Jones and others, asking a grant of public lands to establish normal schools in each State for the education of female teachers;

On the memorial of the Legislature of Wisconsin, in favor of granting lands for the education of the deaf, dumb, blind, and insane;

On the petition of the citizens of Chicago for a grant of public land in aid of the Seaman's Friend Society;

On the petition and resolutions of the city of Baltimore, praying Congress to grant public lands to aid houses of refuge;

On the memorial of the Legislature of Louisiana in relation to granting lands within that State for railroad purposes; and

On the memorial of the Legislative Council of New Mexico, in relation to land claims.

BOUNTY LANDS.

Mr. DISNEY also, from the same committee, reported, with a recommendation that it do pass, a bill supplementary to the act entitled "An act granting bounty lands to certain officers and soldiers who have been engaged in the military services of the United States," approved September 28, 1850; and also to the act approved March 22, 1852, "to make land warrants assignable, and for other purposes."

The bill was read a first and second time by its title.

The SPEAKER. The question is, "Shall the bill be read a third time?"

Mr. ORR. I have not seen that bill printed. I cannot form any opinion on it myself—and I suppose that most of the members are in the same situation. I move that it be referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. DISNEY. I have no objection to the reference suggested.

The question was taken; and Mr. ORR's motion was agreed to.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled a joint resolution and bill of the following titles; which received the Speaker's signature:

A joint resolution for the relief of the children of Captain Thomas Porter, deceased; and

An act for the relief of Isaac M. Sigler, of Putnam county, Indiana.

ADVERSE REPORTS.

Mr. DISNEY, from the Committee on Public Lands, reported adversely on the following memorials and petitions; which were laid upon the table:

A petition from citizens of Cox and Laramie townships, Cooper county, Missouri, asking for a grant of a section of land for school purposes;

The memorial of Morgan L. Hewitt and seventy-one other citizens of Cleveland, Ohio, for aid to a railroad to the mining regions of Lake Superior;

The petitions of William Milford and fifty-eight other citizens; and of Samuel S. Mather and seventy other citizens of Cleveland, Ohio, for aid to same railroad;

The memorial of Edwin James, sr., and Edwin James, jr., and others, praying indemnity for losses sustained in consequence of the illegal suspension and subsequent abrogation by the surveyor general of their contracts for surveying certain public lands in Illinois and Missouri; and

The memorial of citizens of Hancock county, Ohio, asking for a grant of land to the Urbana, Findlay, and Detroit Railroad Company.

LAND PATENTS.

Mr. DISNEY, from the same committee, reported back Senate bill (No. 238) entitled "An act to authorize the issue of patents to lands in any State or Territory in certain cases," with an amendment.

The amendment was read and adopted, as follows:

Add these words, "if the same be found correct;" so that the section will read, as follows:

"That in case of any claim to land in any State or Territory which has heretofore been confirmed by law, and in which no provision is made by the confirmatory statute for the issue of patents, it shall and may be lawful, where surveys for the land have been, or may hereafter be made, to issue patents for the claims so confirmed upon the presentation to the Commissioner of the General Land Office of plats of survey thereof duly approved by the surveyor general of any State or Territory."

At Mr. DISNEY's request, the following letter, from the Commissioner of the Land Office, was read in explanation of the bill and amendment:

GENERAL LAND OFFICE, *December* 12, 1854.

SIR: I have examined the provisions of "An act to authorize the issue of patents to lands in any State or Territory in certain cases," (S. 238,) referred by you to this office, and in relation thereto have the honor to state that this bill is designed to provide a more ready and convenient evidence of title than can be made under existing laws.

It is held, as you know, that patents can only issue in cases where their issue is authorized by law.

The Supreme Court has ruled that a title can be conveyed as well by a law as by a patent; hence, where parties hold under a law which does not authorize the issue of a patent, it is difficult to present a satisfactory foundation of title, except by judicial proceedings. A patent is well understood as being *prima facie* evidence of title, and this bill proposes to place this convenient evidence in the possession of the parties, instead of that more tortuous in its character, though equally certain, to wit: the law and certified plat of survey.

With great respect, JOHN WILSON, *Commissioner.*

Hon. D. T. DISNEY, *Chair'n Com. Public Lands.*

P. S. You will perceive a slight amendment to the bill, which I deem indispensably necessary to prevent patents issuing on erroneous surveys.

The bill was then read a third time, and passed.

Mr. DISNEY yielded the floor to

Mr. GREENWOOD. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. SMITH, of Virginia. I hope the gentleman will allow me to ask for the withdrawal of certain papers before we go into committee.

Mr. GREENWOOD. I withdraw my motion for that purpose, if the gentleman will renew it.

ARCHIBALD R. S. HUNTER.

Mr. SMITH. I will renew it. I now ask for leave to withdraw the petition and papers of Archibald R. S. Hunter.

Mr. COBB. What is the object of the withdrawal?

Mr. SMITH. The request for withdrawal was placed in my hands by the person concerned. I do not know what he wants with the papers.

The papers is the petition of Archibald R. S. Hunter, praying remuneration for property destroyed by the Tennessee volunteer troops, while in the service of the United States in 1836.

Mr. COBB. I have no objection to the papers being withdrawn, provided a copy is left upon the files of the House.

Mr. SMITH. I do not know what the course usually is—I merely want leave to withdraw the papers.

The SPEAKER. It is the usual custom to have copies of papers withdrawn.

There being no objection, leave was granted.

COMMITTEE OF THE WHOLE—INDIAN BILL.

Mr. SMITH. I now renew the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. CHANDLER in the chair,) and resumed the consideration of the bill of the House (No. 555) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1856.

The first section of the bill was read by the Clerk.

Mr. MACE obtained the floor.

Mr. HOUSTON. If the gentleman from Indiana proposes to make a speech, I would suggest to him that he allow the bill to be read through first, and then his speech can come in as well as now.

Mr. MACE. I will state to the gentleman from Alabama that I should certainly be disposed to accommodate him, but as I shall probably not speak for more than half an hour, I prefer to say what I have to say now, and then the reading of the bill may proceed.

Mr. HOUSTON. It would expedite the business of the committee if he would allow the bill to be read through now.

[Cries of "Go on!"]

Mr. MACE. I prefer to go on now. Mr. Chairman, I propose to enter upon the discussion of a subject, not for the purpose of inciting angry debate in this Hall or inflaming the public mind, but in good faith, for the purpose of bringing the House and the country back to where we stood prior to the passage of the Kansas and Nebraska bill.

I gave notice several days ago of my intention to introduce into the House a bill to prohibit slavery in the Territories of Kansas and Nebraska, which bill I intend to introduce as soon as opportunity offers. The bill which I have prepared has no circumlocution about it. It contains no stump speeches. It is a plain and concise bill, and covers the whole ground. No mistake can result from it. It is brief, and for the purpose of placing the committee in possession of what it is, I will proceed to read it.

A bill to prohibit slavery in the Territories of Nebraska and Kansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That slavery and involuntary servitude, except for the punishment of crime, whereof the parties shall have been duly convicted, is forever prohibited in the Territories of Nebraska and Kansas.

The bill is an exact transcript of the ordinance of 1787, and it is an exact transcript of the eighth section of the act of the 6th of March, 1820, preparatory to the admission of Missouri into the Union as a State.

I need not go into a discussion here to show the purposes of the Kansas and Nebraska bill. I need not travel over the whole ground which the North and the South traveled over during the discussion at the last session of Congress. But events have shown that the whole object of that Kansas and Nebraska bill was to repeal the prohibition of slavery north of 36° 30'.

I know that much has been said in this Hall and elsewhere, even during the present session of Congress, about squatter sovereignty. Much has been said about the right of the people, and not only the right, but the perfect, absolute right of the people to make their own laws in the Territories of Kansas and Nebraska. I think that we have progressed far enough in this matter for us to come down to the true constitutional duty of Congress in the organization of Territories. And what is it?

It was claimed by General CASS, some years ago, and promulgated through the country that he had discovered the new doctrine of squatter sovereignty. I ask if there is any more squatter sovereignty in the organization of the Territories of Kansas and Nebraska than there was in the organization of Michigan, or Illinois, or Indiana? There is not. It is no new discovery. It has been acknowledged ever since the foundation of our institutions, and the whole cry of squatter sovereignty, of which we have heard so much here and elsewhere, is nothing but a sheer, miserable humbug. Sir, what is the constitutional law upon this subject? It is simply this: Prior to the repeal of the Missouri compromise line, the people had a right to go and settle that territory, and form a constitution for its government. Iowa was thus carved out of that territory, and underwent that process. The prohibition existing at

the time against slavery, of course no attempt was made to carry it there. People went there who were in favor of a constitution prohibiting that institution, and the appointed time and the only time when they had a right to speak upon that subject was when they formed their State constitution. Now, the only point involved in this question from the beginning, is simply this: that under the operation of the compromise act of 1820, this country now included in Kansas and Nebraska, stood in the same condition as the Territory of Iowa before its admission into the Union. There was no probability or possibility that slavery would ever go there. Such a thing could not be dreamed of.

But, under the operation of the Kansas and Nebraska bill, which repealed that compromise, slavery can exist and does now exist in the Territories of Kansas and Nebraska. Thus have you opened the door to slavery, and it is said to be a race between the North and the South, who shall occupy that territory, and whether a constitution shall be submitted to Congress—not recognizing slavery, because that would not be necessary, but prohibiting slavery; because I assert here that, should the people of Kansas assemble together and adopt a State constitution, and say not one single word about slavery, if the institution existed there, it would continue to exist unless Congress imposed the condition, that the Territory should not be admitted unless the institution was abolished.

Then, Mr. Chairman, my understanding is this, that the Legislature of the Territory of Kansas—though its members are not elected yet—will not be called upon to act upon the question of slavery at all. There is no necessity that it should act upon it, because if the law remains as it is, as a matter of course, slavery must continue to exist there, and will exist there, just as it existed in Missouri and Louisiana, being a part of the same purchase. But if the Legislature act at all upon the question, they will pass a law, I suppose, according to the doctrine of "squatter sovereignty," saying that slavery shall not exist there. I will not discuss the question of the binding force of such a law as that; but I will affirm, and that, too, without fear of contradiction, that should the Legislature of Kansas pass such a law, Congress would have a perfect right to reject it, and the whole subject would be presented to this Congress, and it would open up the discussion here of that troublesome and vexatious question.

My purpose is not only to relieve this Congress from the further discussion of the question, but I have a higher purpose—I wish at once to relieve the citizens of the Territory of Kansas from its discussion.

Sir, had not that compromise of 1820 been repealed—a compromise established by the wisdom of the fathers of this Republic; had we proceeded in accordance with the bills introduced before in relation to this Territory, and organized a territorial government, things would have gone on there as they did in Iowa; in time a State constitution would have been formed, and you would have had no trouble and no excitement. But how stand things now? What is the action of last session leading to? What do we hear from Kansas in reference to the recent election there? What do we see there amongst the citizens of this Republic, who ought to be a peaceful brotherhood? Why, if the reports are true—and, mark you, I do not vouch for their truth at all—attempts are being made to place matters there upon such a footing that the institution of slavery may be planted in that Territory, and that Kansas may claim admission into the Union as a slave State. I do not know anything as to the truth of the rumors afloat, and far be it from me to do injustice to the citizens of Missouri, or of any other portion of this Confederacy; but, if the common rumor is true, a systematic effort has been made by citizens of the frontier of Missouri, aided by a distinguished citizen of that State, now there—at least, he is not here—to shape the institutions of that Territory, and establish slavery, by improper means. Hundreds, ay, thousands of men have been sent into Kansas from Missouri and elsewhere, without the intention of making a permanent home there at all, for the purpose of electing, as Delegate upon this floor from that Territory, a gentleman who is said to be, *bona fide*, a citizen of the State of Missouri. What a state of things, then, has the repeal of that compromise already produced, and to what may it not lead! Suppose that, on the adoption of a constitution for Kansas, a majority of the people of that Territory should be found to be in favor of excluding the institution of slavery—one third, we will say, of the inhabitants having taken their slave property there for the purpose of moulding the institutions of the Territory so that slavery may exist in it, and yet, having been outnumbered, what then? Why, as a matter of course, they will have to take back their property at great expense, trouble, and inconvenience, and make their location in a State where the institution of slavery can and does exist. I know that much was said in my State, and said in the North generally, as to the effect of the Kansas and Nebraska bill. The discussion in this House, however, was conducted on the hypothesis, and the very correct one, too, that the destruction of that line by the provisions of the Kansas and Nebraska bill, would permit the southern man to take his slaves into those Territories, and that he would be protected in his property in them upon the same principle that protection would be afforded to the northern man taking his horses there; the doctrine, in other words, of non-intervention on the part of the Congress of the United States. But many different versions were given, in my State, of the effect of the Kansas and Nebraska bill by leading friends of that measure. Near the close of the campaign a gentleman of the highest distinction boldly took the ground that the Kansas and Nebraska bill was eminently a bill in favor of freedom; that it not only secured freedom north of the line of 36° 30′, but that it carried it south of the line, and that there was territory south of that line sufficient to make three States, each as large as the State of New York, which was dedicated to the cause of freedom by the bill.

It is not my purpose, Mr. Chairman, to pursue this line of discussion any further. It is my purpose, if possible, to bring this Congress and the country to the point where we were prior to the passage of the Nebraska bill, or to its introduction. And here, let me remark, as I stated on a former occasion, that for thirty-four years after the passage of the Missouri compromise law there never was a single request made—of any respect as to numbers—from any portion of the United States demanding at the hands of Congress the abolition of that compromise.

We met here, last Congress, as a band of brothers; the most perfect harmony prevailed among us. We met here, and the session bid fair to be a business session—to be a session which would redound to the greatness and honor of the country. Without consultation with any one—so far as I know—without a single petition having been presented, or request from any one, this bill was introduced—come upon us like a clap of thunder at noon-day, when no cloud obscures the meridian sun; and we were called upon to pass it, and thereby repeal the Missouri compromise act. From necessity such a measure was calculated to distract and to divide us, not only here but elsewhere. I have repeatedly had my feelings wounded on this floor, as other gentlemen must have had theirs, in consequence of the bad feeling growing out of this question. It was worse at home. It was worse in the congressional district which I have the honor to represent. It was worse in every district throughout the North and West. I would not have opened my mouth in respect to this measure at the present session of Congress, if I thought that the North had indorsed it. I am one of those old-fashioned republicans who believe that the people are the sovereigns in this nation. I do not believe that because I hold a seat in the Congress of the United States, I thereby become the master of my people; but I regard myself as their servant, called upon to do their business, and to carry out their will.

Sir, I am free to confess that at the time of the introduction of the bill I had no conception of the feeling of my people in regard to it. For they had forgotten—or, if they had not forgotten, they had never dreamed—that a proposition would come up to repeal the Missouri compromise, as was presented at the last session of this Congress. But an effort was made—a strenuous effort—not only during the last session of Congress, but since its adjournment—in the region of country where I live—to reverse this principle of Government. The doctrine sought to be established now is this, that we come up here as the masters of the people, that we come here not bound to consult with them at all, and that we may pass laws which we know they will disapprove of, and then call upon them, as legal subjects, to acquiesce in our acts and cease their grumbling. I presume that every other gentleman in this House was in the same predicament that I was, in regard to this matter. He did not know the wishes of the people of our districts, in regard to it. All that he could do, was to guess at it. We all made our guesses. The people have passed upon the bill. Their verdict is recorded, "so that he who runs may read." And now, the question submitted is whether this Congress, which passed that bill, will, by voting for this measure which I have introduced, carry out the will of their constituencies; or whether they will adhere to the doctrine that it is the duty of their constituents to submit in humble silence to the action of their representatives.

I think I can assert, without fear of contradiction, that should every member on this floor vote according to the determination of his constituents, as expressed in the late elections, on this question, the bill which I propose to introduce would pass by a very decided majority, and by that means the will of the people would be carried out. Is not that right? Is it not our duty to do that? And, in addition, does not the highest public necessity demand such action at our hands? If the action of Congress at the last session on this Nebraska bill were final, it would not be right or proper for me to discuss it now. If this matter were to end with the passage of that bill, it would certainly be highly improper for me to occupy the time of the committee in the discussion of it. But, how stands the question—not only presently, but prospectively? Why, *presently* it is of the utmost importance to undo what we have wrongly done, for the purpose of restoring peace and quiet throughout the land. *Prospectively*, how does it stand? Let it be remembered that I do not stand here for the purpose of making a threat. I stand here for the purpose of speaking cooly and dispassionately; and I do speak so when I say to this committee, and to the country, that, in my humble judgment, Kansas never can come into this Union as a slave State, and we may as well settle that question now as hereafter. I have never found in my intercourse with society or by my reading that there was any existing desire to abolish the Missouri compromise in any quarter. Certain gentlemen, few in number, and not from the South, were anxiously in favor of this bill for objects which, in my opinion, it is not necessary to refer to. The question was brought before this House, and this House acted upon it. Our southern friends, or a majority of them, voted for it, upon the assurance that it would meet the approval of the free States—that no one would oppose it but the Abolitionists—that the National Whigs were all in favor of the measure.

It may be said of me that I propose to make war upon southern institutions, that I wish to get up an abolition furor and excitement. I disclaim such a charge at once. I make no war upon any section of this Union: I have heard a good deal said about national men, about national Democrats, and national Whigs. Gentlemen may appropriate any name they please. I claim, by my actions, by my sentiments, by my associations and my birth, to be a national man in the strictest sense of the term. I like the kind of nationality which they have at the South, and would to God we had more of it at the North. I like it, because they know their rights and can maintain them. They espouse such measures as commend themselves to their constituents, and which their constituents desire, but they do not espouse them with that easy good nature which we at the North are in the habit of manifesting in similar circumstances. You never find the South, where a President vetoes a favorite measure of theirs, indorsing and supporting that veto, and claiming that it is right, but they act as men should act, and demand, with a united front, and in tones of political thunder, that their rights be respected. It is that sentiment which I wish to infuse in the North, and it is a sentiment which I know the South respect. We go to work and pass a river and harbor bill, a matter in which we of the West are vitally interested. We all make speeches and vote for it; the President sets down, and in a very deliberate manner vetoes it, upon the ground that it is

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unconstitutional. It is unconstitutional to appropriate for Lake Michigan in my State, because it is a broad lake, but it is perfectly constitutional to make an appropriation at the mouth of Cape Fear river, in North Carolina, because Cape Fear river is a branch, and not a river at all. When I go home to my constituents, they call me to an account, and ask me why this appropriation was not made? And I answer, perhaps, did you not see that I made a speech, and voted for it. Oh, yes, we noticed all that, but why did it fail to pass? It failed because the President vetoed it. What next? Oh, for Heaven's sake, do not discuss that question amongst the people, or it will interrupt the harmony of the party, so as to insure our defeat in subsequent elections. At least, that is the course things have taken in the Northwest, and I say to the Northwest, and the non-slaveholding States of this Union, that these discussions will ever be presented here, and these exactions will be continued from time to time, stirring up angry discussion, and interrupting the harmony of the country, until the North, East, and West stand upon the same high, elevated, and dignified platform occupied by southern men. Whenever we infuse that feeling into the councils of our nation, whenever it shall be understood that the people will maintain their rights, and nail to the wall all who betray them, then I suppose we will all be national Democrats, or national Whigs.

I trust that the consideration of this bill will receive the patient attention of this House. The question is one which deeply concerns the country, and the whole country. It is not a question whether this or that man shall be President; whether this or that man shall come back to Congress; whether this or that man shall have a foreign mission; but it is a question submitted to the calm and deliberate consideration of the country, whether a great wrong shall be repaired and justice be done. I do not know what success the bill may have. The friends of it have no presidential patronage—they have no bright promises to hold out in the future, and they have no patronage in the way of office to bestow. They simply present this bill to the Congress of the United States, and ask them, for the purpose of doing justice, to undo what was wrongfully done at the last session. I state here in my place—and I think perhaps I understand the feelings of the people of the North and West as well as any one—that if this matter is suffered to rest, that agitation and excitement, disastrous in its consequences, will follow, leading, perhaps, to bloodshed and murder. When the finale does come—as soon it must, unless this bill passes—the issue presented will not be one of acquiescence; but it will be, "are you in favor of the admission of Kansas as a slave State?" Under such circumstances that issue presents itself to the country. But the people know and understand that thirty-four years ago the pure men of this land, carrying out the principles of the ordinance of 1787, established a compromise line—slavery to exist south of that line, and never to exist north of it. They know, too, from the records of Congress, and they know from subsequent elections, that a Congress was thrown together here, not upon the issue of that question, but upon higher and holier ones, which Congress took it upon themselves, without being requested from any quarter whatever, to destroy the action of the fathers of the Republic. This we of the North regard as a legislative fraud. We regard it as a wrongful act. We regard it as a measure uncalled for. And viewing it in that light, I can state here, and in conclusion I will state, that never, while I have a seat in the Congress of the United States, will I, as a Representative, vote for the admission of Kansas into this Union with the institution of slavery in its constitution.

Mr. OLIVER, of Missouri. I desire to ask my friend from Indiana one or two questions. If I understood him, he remarked that he recognized the soundness of the doctrine of popular sovereignty in its application to the Territories of the United States, as an abstract proposition. In other words, if I understood him, he said he subscribed to the doctrine, that the people in the Territories should have the right to govern themselves in all matters appertaining to their domestic institutions. I ask the gentleman if that is so?

Mr. MACE. I desired to state this—and I think I was very clear—that from the necessities of the case, and under the Constitution of the United States, the people of the Territories had no right whatever to establish or reject slavery, while a Territory, but that such right would only accrue at the time they should meet for the purpose of forming a State constitution; and even after a constitution should be formed, it would be in the power of the Congress of the United States to refuse to admit the State, without a modification of the provisions of the Constitution in reference to the subject of slavery, or any other subject.

Mr. OLIVER. Did I understand the gentleman to deny the soundness of the doctrine of the right of the people of the Territories to govern themselves, as an abstract question?

Mr. MACE. They have no power under the Constitution of the United States.

Mr. OLIVER. Does the gentleman believe they have the power under the laws of Congress?

Mr. MACE. I do, and it is not conferred by the Kansas and Nebraska bill.

I wish to make one remark. If it had been the intention of the Congress of the United States to confer the power which the gentleman speaks of, but one simple section was needed in the Kansas and Nebraska bill to accomplish such object, and that section would have been to the effect, that the people of the Territories should have the right to assemble together, and adopt a form of Government, elect their officers, and then ask to be admitted into the Union.

Mr. OLIVER. Do you subscribe to that doctrine?

Mr. MACE. If Congress will adopt a bill of that kind, I will vote for it.

Mr. OLIVER. If I have been fortunate enough to understand the gentleman, I understand that he would subscribe to the doctrine of the people's right to govern themselves in the Territories, provided they were allowed to assemble themselves together and vote in the aggregate. But, at the same time, I understand the gentleman to be involved in this very singular contradiction, that he is opposed to the people of the Territories governing themselves through agents and representatives properly chosen. How can the gentleman now extricate himself from that dilemma?

Mr. MACE. Mr. Chairman, I was discussing the Kansas and Nebraska bill, the terms of that bill, and its provisions; and I assumed that there was no popular sovereignty in it. I assumed that it was not intended to have any; and, reasoning from that, the Territorial Legislature of Kansas could have no right to pass upon this question of slavery; that it was not necessary that they should do it; that slavery already existed there, and would continue to exist, unless prohibited by the Congress of the United States, or the constitution of Kansas, when she should come into the Union.

Mr. OLIVER. Here is the conclusion to which the gentleman comes: He is in favor of the doctrine of leaving the people of the Territories to govern themselves, if they can assemble and vote, in the aggregate, upon acts appertaining to their domestic institutions, including the election of governor, judges, and all other officers, and vote in the aggregate upon the subject of slavery; of the relation of husband and wife, of parent and children, of guardian and ward, of master and slave. If they are allowed to vote for all of these he is in favor of it. Then, if he subscribes to that doctrine, what difference is there in practice, whether they govern themselves by lawfully chosen agents and representatives, or otherwise?

Mr. MACE. I think I stated, through the whole of my argument, that, notwithstanding the Legislature of Kansas might pass any law; notwithstanding they may meet together to adopt a constitution, yet, under the Constitution of the United States, Congress has perfect control over their acts, from the necessity of the case.

Mr. OLIVER. Well, I understand him, that if the Kansas and Nebraska bill had conferred the power upon the people of the Territories to govern themselves on all subjects, including the election of governor, judges, and all other officers, he would have subscribed to the doctrine contained in the bill. Then I ask him, and every member of this House, how can they discriminate between the people's governing themselves in the aggregate, and the doing the same thing by lawfully elected representatives? The people of my State govern themselves in relation to all matters appertaining to their domestic interests. But how do they do it? Through lawfully chosen representatives. Do the gentleman's constituents, because they send him as their Representative here, thereby divest themselves of the power and privilege of governing themselves? Have they conferred upon him absolute power to say what is best for them, and reserved to themselves no check upon his action? I take it, according to the gentleman's own position, that he does recognize, to the fullest extent, the right of the people to govern themselves in the Territories, and that, too, in the most impracticable form. He goes further than any friend of the Nebraska-Kansas bill dared to go.

Let me crave the attention of the committee to what the gentleman has told us. If I remember correctly, the gentleman placed his objection to the bill at the last session upon a high and patriotic ground. He was opposed to the repeal of the Missouri compromise because it broke a solemn compact—a sacred covenant. His serenity was disturbed, and the pure patriotism which he says now moves him was awakened in his bosom. Not one word did you then hear from him in regard to the subject of slavery. He at that time disavowed any desire to agitate the country on that point. He opposed the repeal of the Missouri compromise because it disturbed the peace of the nation, and set an example for the breaking of compacts which would most certainly lead to disastrous results. His object was the preservation of peace. He desired order, concord, and brotherly love, to pervade the entire land. He viewed the Kansas-Nebraska bill as an apple of discord thrown into our midst to produce distraction, and to sow dissensions amongst the people. This was the language held by my honorable friend from Indiana at the last session. They were the expressions of a warm and zealous heart, which seemed to be moved by a holy patriotism for the peace of the Union. He then frowned on all agitation and dissension between the different sections of the country.

How does the gentleman present himself before the committee and the country this morning? True, he comes with the profession of love for his country and an earnest desire for its peace, prosperity, and continued welfare; but in his hand is a miserable scrawl—and what for? For the prohibition of slavery from Kansas and Nebraska forever. This prohibition was the very thing which, in 1820, caused strife and bad feeling between the North and the South. And this proposition for prohibition now comes from a professed friend of the peace and rights of all sections. Last session he inveighed against the introducers of the Kansas-Nebraska bill, because, as he alleged, they introduced discord into our midst. Now he revives agitation, which has been calmed down, by his prohibition of freemen, and his brothers, from these Territories. Still he talks of peace—lovely peace. I would to God that he now cherished the sentiments which fell from his lips last session. If he did, no such miserable prohibition as the one proposed would have now been offered to harass, annoy, and vex the proud people of our southern States. This prohibition has heretofore been the cause of their bitterness. But the South is loyal to the Union. Thank God, she has ever been, and ever will be, loyal to it. The prohibition of 1820 weighed heavily on her, but she denied herself her rights and smothered her feelings. She subdued the feelings of resentment which had been aroused in her bosom. Why? For the sake of the Union; and to prevent the spilling of

fraternal blood; to get Missouri into the Union. Thus it was in 1820.

Here comes the gentleman from Indiana, I repeat, with a similar prohibition in his hand, to estrange us, and to alienate our affections from the Union. But the perpetuity of the Union, I am proud to say, will never be abandoned by the conservative portion of the northern people. I heard a gentleman the other day commisserate the defeat of gentlemen from the North who had voted for the Kansas-Nebraska bill. He was sorry that they were decapitated at the ballot-box. Another expressed his sympathy; and, the better to wound and sting, he pitied them. Let me say, Mr. Chairman, that those of the northern delegation who voted for the Kansas-Nebraska bill evinced a strong determination to do justice to all parts of the confederacy. They recognized the equality of rights among the States; and, sir, if they have fallen in the defense of justice, it is but for a little while. They will carry with them into their retiracy the consciousness, as American Representatives, of having indorsed and supported a principle which is of no less importance than those lying at the foundation of the Republic—the right of the people of the Territories to govern themselves. If they are to be thus proscribed, they can console themselves with the proud recollection of having fallen in the defense of equal rights and of justice. It will immortalize them. There is a bright day in reserve for them. The resplendent sun of intelligence will then burst upon them a flood of glorious light. They may be cheered and encouraged, and banish all fears.

Mr. Chairman, my friend proposes to prohibit slavery forever from these Territories. Were I to say that he was an Abolitionist, he might take it unkindly, and perhaps call on me for explanation. Let us examine his position, and see it according to his statements. He tells us that slavery exists, and lawfully, this very day, in Kansas, and that there is no necessity for local legislation to establish it. What does he propose to do? Why, he admits slavery is there, and proposes a prohibition, which is practically the abolition of slavery in the Territory. He abolishes the institution of slavery; that is Abolitionism, is it not? What other gentleman upon this floor, professing to be conservative, will come up here, with an open face, and propose the abolition of slavery? This is, practically, Abolitionism, and he cannot escape the conclusion.

The gentleman further remarks, that he anticipated, as a consequence of the passage of the Nebraska-Kansas bill, that contention would occur in the Territories in regard to slavery. He alludes to the recent election, as Delegate, of Mr. Whitfield, and asks how it has been brought about? He contends that it has been brought about by the people of western Missouri going there and voting against law and order.

Mr. MACE, (interrupting.) I simply stated upon that point, because I was unwilling to make the charge, that what I said was from newspaper rumors, which I did not vouch for.

Mr. OLIVER. Yes, sir; then the gentleman undertakes here in the Hall of the House of Representatives, upon mere newspaper rumor, to prefer a charge which in its tendency is calculated to some extent to injure the persons to whom it relates, that the people of Missouri have interfered in the election of Kansas in a manner not in accordance with law and order, for the purpose of assisting in the election of Mr. Whitfield. And the gentleman further stated, as I understood him, that this organization was headed by a distinguished man in Missouri. To whom did the gentleman refer?

Mr. MACE. I referred to the same gentleman who has been referred to as such in the newspapers all over the country—Senator ATCHISON.

Mr. OLIVER. Then the gentleman from Indiana, upon no other evidence than mere newspaper rumor, here in this House, with his character as a Representative upon this floor, with all the sanctity which that character can give the charge, states that General ATCHISON was engaged in the work of violating law and order in the Territory of Kansas. Sir, General ATCHISON is incapable of such work. Those who know him well, know that he is utterly incapable of such work; and where he is known, there is no necessity for anything to be said by me in vindication of his character from any such aspersion. I leave his name, his reputation, as a man of honor to stand upon themselves as the best advocate, as the best vindicator, in reference to charges such as the gentleman from Indiana has preferred against him.

How stands the case with regard to the people of Missouri? The gentleman has preferred his charges against them upon mere newspaper rumors. Suppose it were so; suppose the charges were well founded, what of it then? Who set the first example of organization for the purpose of controlling the subject of slavery in the Territory of Kansas? Where did we first get the example of an organization of hirelings, of men bought up and sent out to Kansas upon one idea? And for what purpose? To prevent slavery from being established in that Territory. Where did the plan find its origin? In the South? No, sir; in the North and East. In that portion of the country which my honorable friend from Indiana has the honor, in part, to represent. A northern organization—an emigration society—was formed in the North, and I believe an honorable member of this House was made its president.

Several MEMBERS. Who is he? Name him!

Mr. OLIVER. No, sir, I will not call his name, but I understand the president of that society is a member of this House. And how was that society organized? Upon what principles? For what purpose? My friend behind me, from Georgia, [Mr. STEPHENS,] suggests that the president of that emigration society was not only a member of this House, but that he was beaten in his own district in the recent election. Yes, sir, and badly beaten. Did the people of Massachusetts put the seal of political death upon his patriotic brow? But this society was formed upon certain principles, and for a certain purpose, and that purpose was to prohibit slavery—to prevent its introduction into the Territory of Kansas. And how was it to be done? It was by getting men from the northern States to emigrate to Kansas with instructions from headquarters, from the president of the emigration society and its founder, that they should resist the introduction of slavery into that Territory, at all events. Well, sir, these men emigrated to Kansas, with what inducement? Were they attracted thither by the grandeur of its scenery? By the fertility of its soil? By the magnitude of its rivers? By the prospects which it opened to industry and enterprise? Did they go there with the lawful purpose of becoming citizens of the Territory merely? No! they went there actuated by one idea only, and that was opposition to slavery. They went two thousand miles, and were furnished money to go there, for no purpose other than to vote against the introduction of slavery into Kansas.

Mr. ENGLISH. I ask the gentleman from Missouri to yield for a single moment.

Mr. OLIVER. For explanation, I will.

Mr. ENGLISH. If I am correctly informed, my colleague [Mr. MACE] himself was one of the originators of that emigration society—one of the pioneers in the cause. [Great laughter.]

Mr. MACE. I must congratulate my honorable colleague as being a discoverer, second only to Christopher Columbus. Why, sir, the honorable gentleman from Massachusetts—I will call him by name—[Mr. GOODRICH,] myself, and sundry other vice presidents, organized this society immediately after the passage of the Nebraska bill. And we sent not only one circular, but a hundred thousand of them, throughout the North, for the simple purpose, and none other, of defeating the iniquity of the repeal of the Missouri compromise.

Mr. OLIVER. Then the honorable gentleman went "a wooling" and got fleeced. [Laughter.] Well, sir, I am astonished. The honorable gentleman from Indiana admits that he was one of the vice presidents of that wonderful society, and I must acknowledge the truth of the statement since he makes it himself, though I would not have believed it had it come from any other quarter. But how does it happen that the honorable gentleman and his eastern allies, who formed a society for the avowed and sole purpose, of throwing twenty thousand emigrants from the North into Kansas for no other purpose than to defeat slavery there, who have been engaged in their holy work ever since the passage of the Kansas and Nebraska bill until the recent election, when they were overwhelmingly and shamefully defeated, now comes into this House with a little prohibition. [Laughter.] After he had been engaged in his own game with his eastern organization for the purpose of preventing slavery in Kansas, by the exercise of the sovereign rights of the people at the ballot-box, he now comes in with a little bill forever prohibiting slavery and involuntary servitude in the Territory. The gentleman thinks that, because he cannot get what he wants through his emigration society, he will get it by prohibition. That is his last hope. At the last session the gentleman was no slavery agitator—one who would have nothing to do with the subject; who opposed the Nebraska and Kansas bill only because he would not violate compacts, contracts, and compromises; it was that which wounded his patriotic heart so much that he could get no peace; he spoke only for the sake of compromises. But now, the *true* reason of the gentleman's opposition to the Kansas and Nebraska bill is developed, and that is opposition to slavery, and to the extension of that institution. When he finds that he cannot defeat it by means of this unusual and unheard of organization at the East—by belching forth into Kansas the surplus population of the eastern States, those who, for a few dollars, would peril life itself, and travel two thousand miles for the purpose of carrying out a visionary idea—when he is beaten in that scheme, he comes forward and proposes to prohibit slavery forever in the Territory of Kansas! That proves conclusively, that his opposition to the Nebraska bill was really instigated by his hostility to the institution of slavery.

Mr. Chairman, the scheme of emigration into Kansas, gotten up by northern gentlemen, naturally suggested to the southern people, acting upon the principle of self-defense and self-preservation, some counteractive policy. Was it, sir, to be expected that the people of Missouri—a State upon whose western border this Territory lies, and in sight of many of her people—would sit down quietly and fold their arms in a state of inaction, whilst this eastern emigration society was flooding the country with its emissaries for the sole purpose of excluding slavery from Kansas, and ultimately operating upon their institutions to their prejudice—surrounding them, as it were, with scorpions and fire, until they should be forced into subjection and acquiescence? And because the State of Missouri was aroused to her danger, and her people, awakened on this subject, manifested their solicitude in regard to it from considerations of self-preservation, is it to be imputed to them as a crime and dishonor? If any crime has been committed, it was committed by you, sir, [turning to Mr. MACE,] one of the vice presidents of the society that perpetrated this foul enormity against your country, threatening to disturb its peace and harmony. Say not, then, of Missouri that she was guilty of any crime in seeking to counteract your purposes by means at once honorable and commendable.

Let me say just here, that I am happy to learn that the emigrants to Kansas from the State of Indiana voted for Whitfield. Yes, sir, the freemen from Indiana, who emigrated to Kansas, voted for Whitfield. What does that prove? Why, that they did not go there under the auspices of this eastern emigration society, but that they went there as proud freemen, as noble men—men of head and men of heart, men of spirit and men of soul, men who appreciate freedom and know the value of their sovereignty.

The gentleman from Indiana remarked that the recently-elected Delegate from Kansas is from the State of Missouri. I am sorry the gentleman evinces so little acquaintance with the distinguished men of our country, the places of their birth, and the positions they have recently occupied. Mr. Whitfield is from Tennessee. He was for some time a member of the Tennessee Legislature, but was appointed Indian agent for Kansas, and has resided there ever since. He is not from Missouri.

Mr. Chairman, my object in rising was not to attempt to reply to all the positions taken by the gentleman from Indiana. My purpose was merely to reply to that portion of his remarks reflecting upon the people of the State which I have the honor, in part, to represent, and upon the character of General ATCHISON; and then to answer, as I have thus endeavored to do, some of the positions which he assumed in regard to the Kansas and Nebraska bill.

In conclusion, I have this to say to the gentle-

man: He told us last session that he was influenced by no other consideration than that of patriotism and a true solicitude for the welfare and interests of the country. Let me invoke him, then, as an American Representative, if he really values the Union and equality of rights of these States, and the peace of the country, to put himself in that high position so creditable to him; to keep himself under the influence of those lofty motives and to cast far from him all that would be calculated to disturb that peace and to destroy the harmony of his fellow-citizens in the different sections of the Confederacy. Should he determine to do that—as is to be hoped by every friend of peace and order that he will—he will at once permit this paper, proposing the eternal prohibition of slavery in Kansas, to sink into that death from which there is to be no waking forever, and leave the Territory, as it now is, to be governed and controlled by the freemen residing there, according to the provisions of the Kansas and Nebraska bill, and under the laws passed by the first local Legislature. When he has done that, he will, in my judgment, have acted the part of a faithful patriot, a true-hearted American, a national Representative. But if he persists in the course of prohibition, nothing but strife and contention can be anticipated.

Mr. WASHBURN, of Maine. Mr. Chairman, when I came into the Hall a few moments ago, the gentleman from Missouri, who has just taken his seat, seemed to be expressing considerable surprise that an attempt should be made, or even suggested, to restore the Missouri compromise. I supposed that it had been understood, upon all sides, at the last session—alike by gentlemen of all parties, and from every section of the Union—that an attempt would be made to restore the principle of the ordinance of 1787—of the Jeffersonian ordinance of 1784, whenever there should be power to do it. Sir, let me say to the gentleman from Missouri that he must not be surprised, that he must not manifest any symptoms of disappointment if he shall find that, at the proper time, in the next Congress, earnest, sincere, and persistent attempts are made to carry out the pledge which was given to him, and to members generally, by those gentlemen who stood with me in opposition to the repeal of the Missouri compromise last session, to restore that compromise; one by which the question of slavery was settled so far as the Louisiana purchase was concerned thirty-four years ago, and which had remained undisturbed for that length of time. A year ago, however, it was disturbed and unsettled by the gentleman and his friends; and now he comes in here, and with beautiful coolness, complains that those who resisted that disturbance should give him notice that they are determined to restore what he and his friends so unnecessarily, without justification and without good cause, took from us. Let me say to him, and to gentlemen generally, that the sentiment of the North is, in my judgment, almost unanimously in favor of early, practical, and persevering efforts to restore the provisions and principles of the Missouri compromise to the statute-book. And if he asks my authority for saying so, I refer him to the recent elections in the North and Northwest. And I have no doubt that, in the next Congress, there will be a majority here who will be able to make effective the will of the North in that regard, and the more so in consideration of the recent exhibitions and manifestations of the doctrine of popular sovereignty, as practically applied in the case of Kansas.

Sir, we were told—and it was the great argument last year by members in favor of the Nebraska bill—that it gave to the people residing in the Territories, to the people having an interest there, the right and the power to exercise judgment in regard to their own institutions. And, whatever show of plausibility there was in the repeal of the Missouri compromise, consisted in that argument. All the strength and all the popularity it had in the North was based on that ground, and none other. We were told, too, by gentlemen that there was no practical question involved; that slavery would never go into Kansas or Nebraska—never. We were told so by the honorable gentleman from North Carolina, [Mr. BADGER,] in the other branch of Congress. We were told so, too, by the distinguished Senator from Massachusetts, [Mr. EVERETT,] who is not now a member of the National Legislature. We were told so by gentlemen all around—that this was not a practical question. In the North, therefore, there was not, perhaps, so much agitation and so deep excitement in the recent elections as there would have been if many of the citizens had not believed that there was some truth in these statements, suggestions, and opinions of gentlemen in both Houses of Congress.

But what do we find now? We learn that in the very first election that has taken place in Kansas, that a large and overwhelming vote has been given in favor of introducing slavery there. That is the effect of the election. Such is the meaning of the recent vote in Kansas. If that was a result of the exercise of popular sovereignty, let me say I do not so understand it. I have seen in the newspapers, in letters published in the newspapers—and which I believe contain the truth—that a large number of people have gone over from Missouri into Kansas, not with the intention of residing there, but simply for the purpose of voting, and then returning to the State from which they had gone. That is the first commentary which we have—the first practical exposition—of the beautiful doctrine of popular sovereignty! These individuals, living in Missouri, not in Kansas, and not intending to reside there; I have heard and believe, have gone over there in sufficient numbers to have controlled the election in the Territory. I understand the gentleman from Missouri himself [Mr. OLIVER] to have, in substance, admitted the truth of this statement, for though he does not actually state that such was the case, he justifies the fact of these men going there on the ground that emigration societies were formed in the North to control the political institutions of the Territory. If emigration societies have been formed for that purpose, what justification does that give to the citizens of Missouri to go there, not as emigrants, but simply for the purpose of voting at the election, and none other? Sir, nobody believes that emigrants have gone from New England to Kansas for such a purpose as that.

Mr. OLIVER. The gentleman from Maine somewhat misrepresents me. I did not concede, nor did I intend to concede, directly or indirectly, that any people have gone from Missouri to Kansas for the purpose of aiding in controlling the election, who did not intend to reside there permanently.

Mr. WASHBURN. I ask the gentleman from Missouri whether or not, from information that he has received, he believes that many individuals have gone from Missouri to Kansas to vote at the election, who have since returned and now reside in Missouri?

Mr. OLIVER. I am not here to give credence to vague newspaper reports, nor will I believe them.

Mr. WASHBURN. Then I understand the gentleman to say he does not believe the facts, as I have supposed them to exist?

Mr. OLIVER. I have no evidence of the fact.

Mr. WASHBURN. I ask the gentleman from Missouri whether or not he believes the report. He has qualified his answer by saying that he has no evidence of its truth. I do not understand him as meaning to say that he does not believe it.

Mr. OLIVER. I have no evidence, and consequently do not believe it.

Mr. WASHBURN. And *consequently* he does not believe it! He has no evidence of the fact, and therefore he does not believe it! Let me ask the gentleman whether or not he has a suspicion [laughter] that it is true? I suspect, after all, Mr. Chairman, that the gentleman from Missouri does not disagree very much with myself in this regard, if I am to judge by the qualified manner in which he has answered my question. I submit to the House whether or not there can be much doubt in the gentleman's mind, or in the mind of any gentleman here, that individuals have gone from the State of Missouri into the Territory of Kansas, solely for the purpose of voting there, and for no other reason? It has been so stated publicly; and nobody has contradicted the statement. And it was stated recently, as I have been informed, in the paper published in the gentleman's own district—the Argus, I believe it is called—the organ of General ATCHISON, that such movement was to be made. I ask the gentleman whether he has seen anything of that statement? I am informed that such is the case. At any rate, some two thousand seven hundred votes were given in the recent election in Kansas—a number of votes implying a population of some fifteen thousand. Does anybody believe that Kansas contains a population of fifteen thousand? Does anybody believe that it contains ten thousand, or even half that number? No man in the country believes such a thing. It is evident, then, that a great many have gone and voted there, who were not settlers or inhabitants. It is evident and plain to my mind that many have gone there from the neighboring State and voted at the election. In fact, I thought that my friend from Missouri admitted it when he undertook to justify them for doing so, on the ground that emigration societies had been formed in New England for the purpose of sending settlers there.

It seems to me that there is great difference between going there, as so many men from Missouri have gone, for the purpose solely of voting, and going as the men from New York and New England have gone, under the patronage of the emigration society, or otherwise, for the purpose of settling there. No man, I imagine, will assume, or say that he believes that men have gone two or three thousand miles, from New York or New England to Kansas, solely for the purpose of voting or taking part in the government of the Territory. Not at all! They have gone there for the purpose of taking up their residence there and becoming permanent and fixed settlers. And they, under this doctrine of popular sovereignty, are the parties who ought to exercise sovereignty, and not find themselves controlled by individuals coming in upon them from another State and exercising the elective franchise, having no political or legal rights there, and thus breaking down their influence, destroying their sovereignty. If there was an emigration society in New England—as there was—its object was not to send men to Kansas simply to give their votes, but that they might become settlers and have the right to exercise their sovereignty by living on the soil. It is unjust and wrong for men to go there, not as settlers, but simply for the purpose of defeating, by their votes, the will of these men who are really settlers, and who have gone there, whether with or without the aid of emigration societies.

This state of facts which has transpired there in this last election will do more to nerve the North in her purpose of restoring the Missouri compromise than anything else could have done; because it will take from the friends of the Nebraska bill in the North the last and the only argument which they had—namely, the argument of popular sovereignty, and answer, finally, and conclusively, the suggestion that slavery would never go there. *Now* the weakness of this argument and the folly of this suggestion are transparent. *Now*, it is patent and legible to all men that the very author of this movement—as he claims himself to be, [General ATCHISON]—does not believe in popular sovereignty at all, inasmuch as he would thus wrongfully and illegally outnumber and overpower the suffrages of those who are the only sovereigns upon the Cass-Douglas hypothesis.

Mr. OLIVER. I ask the gentleman from Maine how can he account for the fact that the Free-Soil candidate in Kansas only received two hundred and forty-eight votes, while Mr. Whitfield received nearly one thousand four hundred votes?

Mr. WASHBURN. Perhaps I cannot answer that question to the satisfaction of the gentleman. I am not very well advised in reference to the reasons operating upon those men who may be supposed to be opposed to the extension of slavery over the Territory of Kansas. I believe, however, that the votes of the opponents of the repeal of the Missouri compromise were divided between two or three candidates, and that the aggregate number was very much larger than that stated by the gentleman as given for one individual. I believe, as it has been suggested to me, that a great many honest, quiet, modest men, Free-Soil men, who went there from the North, were prevented from voting by the manner in which the election was conducted, and by the fact that they were overawed and bullied by individuals not residing in the Territory. I have heard that assigned as a reason for the result. I do not know that it is correct, but I give it as the best information I have in reply to the question of the gentleman from Missouri. In reference to the great vote given for

Mr. Whitfield, I suppose it can be accounted for simply from the fact, that a large majority of the voters did not belong to Kansas, but across the river, in Missouri. That is the best answer I can give the gentleman.

I will not detain the committee by extended remarks. I did not hear the speech of the gentleman from Indiana, [Mr. MACE,] and but a portion of that of the gentleman from Missouri, [Mr. OLIVER.] It seemed to me that it was due to the opponents of the repeal of the Missouri compromise to have it understood here, that it was not their intention or purpose that that repeal should stand sacred and untouched, but that upon the earliest appropriate and practicable occasion, that measures would be taken to restore to freedom her just rights in the republic, and also to make the distinction clearly and easily to be made between those individuals who went to Kansas from New England and other portions of the North and West, whether it was by the aid of emigration societies or not, with the intention of remaining there as permanent settlers, and those citizens of Missouri, who went over there simply for the purpose of exercising an illegal and unwarrantable control over, and interference with, their neighbors.

Mr. STEPHENS, of Georgia, obtained the floor.

Mr. GREENWOOD. Does the gentleman from Georgia desire to address the committee at this time?

Mr. STEPHENS. Not this evening.

Mr. GREENWOOD. I move, then, that the committee rise.

The question was taken, and the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bill No. 55, being the Indian appropriation bill, but had come to no conclusion thereon.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled "An act for the better preservation of life and property in vessels shipwrecked on the coasts of the United States;" which thereupon received the signature of the Speaker.

On motion by Mr. LETCHER, the House then adjourned, at ten minutes past three o'clock, till to-morrow at twelve o'clock, m.

IN SENATE.

THURSDAY, *December* 14, 1854.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

COMMITTEE SERVICE.

Mr. NORRIS. I understand that before my arrival here this session, I was appointed a member of the Committee on Finance. I am a member of two other committees, and have a good deal to do on them. I therefore respectfully ask the Senate to excuse me from serving on the Committee on Finance.

Mr. NORRIS was excused, and the vacancy was ordered to be filled by the President.

Under a resolution passed by the Senate, at an early day after its organization, the standing committees were revived, and the President *pro tempore* was authorized to fill the vacancies. In accordance with that resolution the following appointments have been made:

Committee on Finance—Mr. TOUCEY and Mr. STUART.

Committee on Claims—Mr. BRAINERD.

Committee on Roads and Canals—Mr. WALKER.

Committee on the District of Columbia—Mr. BROWN.

Committee on Territories—Mr. COOPER.

Committee on the Pacific Railroad—Mr. REID and Mr. FOOT.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting the report of the board of officers appointed to examine claims contracted in California under Lieutenant Colonel Frémont, in 1846 and 1847; which was referred to the Committee on Military Affairs, and ordered to be printed.

PETITIONS, ETC.

Mr. FISH presented the memorial of the Chamber of Commerce of New York, recommending that an expedition be sent to the Polar sea, for the purpose of affording relief to Commander Kane, his officers and crew; which was referred to the Committee on Naval Affairs.

Mr. SEWARD presented the petition of Parmelia Slavin, praying to be allowed the pension to which her former husband, John Blue, was entitled; which was referred to the Committee on Pensions.

Mr. SHIELDS presented a petition of the register of the land office and receiver of public moneys at Kaskaskia, Illinois, praying to be allowed the same per centum on the sales of the public lands as was allowed previous to the act of August 4, 1854; and asked its reference to the Committee on Public Lands. This petition was presented after the passage of the bill—as found below—reported by Mr. STUART from the Committee on Public Lands; and Mr. STUART suggested that there would be no necessity to refer the petition to a committee. It was therefore ordered to lie on the table.

Mr. SHIELDS also presented the petition of Michael Hanley, praying an increase of pension; which was referred to the Committee on Pensions.

Also, the petition of the administrator *de bonis non* of William Brent, an officer in the war of the Revolution, praying to be allowed the commutation pay to which said Brent was entitled; which was referred to the Committee on Revolutionary Claims.

Mr. PRATT presented the petition of Charles Reeder, praying compensation for services in making experiments, under the direction of the Secretary of the Navy, in relation to the explosion of steam-boilers; which was referred to the Committee on Naval Affairs.

Mr. JAMES presented the memorial of Edward Harte, praying compensation for services rendered the Patent Office in 1852; which was referred to the Committee on Patents and the Patent Office.

Mr. HAMLIN presented the petition of Susanna H. Burnham, for herself and in behalf of the other heirs-at-law of Jeremiah Hill, an officer in the Army of the Revolution, praying to be allowed the commutation pay to which he was entitled; which was referred to the Committee on Revolutionary Claims.

Mr. EVANS presented the petition of Jane M. Rudulph, of Charleston, South Carolina, widow of Captain Thomas C. Rudulph, late a captain in the United States Revenue Service, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. BRODHEAD presented the petition of Frederick Zarracher, praying compensation for expenses incurred, and losses sustained, in entertaining, by order of the United States Marshal, a posse of men, a large body of United States marines, and others, called out to aid in the execution of the laws, during the Christiana riots in Pennsylvania; which was referred to the Committee on Claims.

Mr. BROWN presented the petition of H. R. Rooker, for herself and others, children of Jabez B. Rooker, praying compensation for the services of her father, a clerk to the Commissioner of Public Buildings; which was referred to the Committee on Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. CLAY, it was

Ordered, That Ann Timmens have leave to withdraw her petition and papers.

On motion by Mr. DODGE, of Iowa, it was

Ordered, That J. W. Nye, assignee of Peter Bargy and Hugh Stewart, have leave to withdraw his petition and papers.

On motion by Mr. BRODHEAD, it was

Ordered, That the report of the Secretary of War, on the claim of Daniel Nippes, on the files of the Senate, be referred to the Committee on Military Affairs.

On motion by Mr. FISH, it was

Ordered, That Duncan L. Clinch have leave to withdraw his petition and papers.

IMPROVEMENT OF HARBORS.

Mr. STUART gave notice of his intention to ask leave to introduce a bill making appropriations for improving the harbors on Lakes Ontario, Erie, St. Clair, Huron, Superior, and Michigan.

BILL INTRODUCED.

Mr. SHIELDS, in pursuance of previous notice, asked and obtained leave to introduce a bill to provide for the erection of a marine hospital at Galena, in the State of Illinois; which was read a first and second time by its title, and referred to the Committee on Commerce.

SITES FOR CUSTOM-HOUSES.

Mr. CHASE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to inform the Senate what sites have been selected and purchased for custom-houses, and a marine hospital in Ohio, under authority vested in him by the act of Congress passed at the last session; and if no sites have been purchased, the reasons which have prevented it.

HOSPITAL MONEY.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be directed to consider the expediency of abolishing, by law, the exaction of twenty cents from the monthly wages of the seamen in the merchant service of the United States, and of boatmen in the western waters, constituting what is called hospital money, so that when sick or disabled they may enjoy their present privileges at the marine hospitals without the present tax.

CHEROKEE TREATIES.

Mr. SEBASTIAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Attorney General of the United States be required to examine the records of the different boards of commissioners appointed under the seventeenth article of the Cherokee treaty of 1835-'36, to adjudicate claims arising under or provided for in the several articles of said treaty, and report to the Senate, as soon as practicable, whether their decisions on reservations granted under the treaties of 1817 and 1819 were in conformity to the terms upon which they were granted, and what kind of removal by the heads of families from said reservations was requisite to cause the right to revert to the United States; also, whether anything remains to be done by the United States to comply, in good faith, with her obligations to the reservees under said treaties.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had passed the following joint resolution and bills:

Joint resolution to modify or change the original plan of the custom-house at New Orleans;

Bill to change the name of the American-built brig Como to that of Jehossee, and to grant her a new register;

Bill to repeal the act for the relief of the legal representatives of Samuel Prioleau, deceased; and

Senate bill to authorize the issue of patents to land in any State or Territory in certain cases, with an amendment, in which the concurrence of the Senate was requested.

BILLS SIGNED.

The message also announced that the Speaker had signed a joint resolution for the relief of the children of Captain Thomas Porter, deceased; a bill for the relief of Isaac M. Sigler, of Putnam county, Indiana; and a bill for the better preservation of life and property from vessels shipwrecked on the coasts of the United States; which were thereupon signed by the President *pro tempore*.

HOUSE BILLS REFERRED.

The bill from the House of Representatives to repeal an act for the relief of the legal representatives of Samuel Prioleau, deceased, was read a first and second time by its title, and referred to the Committee on Revolutionary Claims.

The bill to change the name of the American-built brig Como to that of Jehossee, and to grant her a new register, was read a first and second time by its title, and referred to the Committee on Commerce.

COMPENSATION OF LAND OFFICERS.

Mr. STUART. I am instructed by the Committee on Public Lands to report "a bill to increase the compensation of the registers of land offices and receivers of the public moneys, under the act entitled 'an act to graduate and reduce the price of public lands to actual settlers and culti-

vators,' approved August 4, 1854." Several petitions on the subject have been presented by Senators and referred to the committee, and the bill, in its provisions, is recommended by the Department of the Interior, as also by the Commissioner of Public Lands. I therefore ask the Senate to consider it at this time. I think it is a bill to which there can be no objection.

The bill was read twice, by unanimous consent, and considered as in Committee of the Whole. It proposes to give each register and receiver the same amount of pay for each entry of land under the act of 1854, as he is by law entitled to receive for similar entries of land at the minimum price of $1 25 per acre; but the whole amount received annually is in no case to exceed the limitation fixed by existing laws.

The bill was reported to the Senate without amendment.

Mr. CHASE. I should like to hear the honorable Senator from Michigan explain the effect of this bill upon the present system.

Mr. STUART. I will state, Mr. President, as the Senator probably did not hear me before, that the last Congress, as is known to Senators, passed an act to reduce and graduate the price of public lands to actual settlers and cultivators. That graduation runs down, in given instances, as low as twelve-and-a-half cents per acre. The law fixing the compensation of receivers and registers remains the same, and that compensation is a commission of one per cent.; so that in the given case an officer would receive one tenth of what he now receives upon an entry on land at $1 25 per acre. The Secretary of the Interior, adopting the views of the Commissioner of the Land Office, recommends that the amount of compensation under that bill be the same as under the existing laws, and this bill carries out that recommendation. The committee are unanimous in reporting it, and I believe it is entirely correct.

The bill was ordered to be engrossed for a third reading, and was read a third time and passed.

VIRGINIA MILITARY DISTRICT.

Mr. DODGE, of Iowa, from the Committee on Public Lands, to whom was referred House bill allowing the further time of two years to those holding lands by entries in the Virginia military district in Ohio, which were made prior to the first of January 1852, to have the same surveyed and patented; reported it back without amendment, recommended its passage, and asked for its immediate consideration.

The Senate accordingly, as in Committee of the Whole, proceeded to consider the bill, and no amendment being proposed, it was reported to the Senate, ordered to a third reading, read a third time, and passed.

LAND PATENTS.

The PRESIDENT. The Senate bill to authorize the issue of patents to land in any State or Territory in certain cases, has passed the House with an amendment.

The Senate proceeded to consider the amendment.

The bill, as it passed the Senate, proposed to direct that, in case of any claim to land in any State or Territory which has heretofore been confirmed by law, and in which no provision is made by the confirmatory statute for the issue of patents, it should be lawful, where surveys of the lands have been, or may hereafter be, made, to issue patents to claims so preferred, upon presentation to the Commissioner of the General Land Office of plats of the survey duly approved by the surveyor general of any State or Territory.

The amendment of the House was to add at the end, "if the same be found correct by the said commissioner."

The amendment was agreed to.

DON JUAN JESUS VIGIL.

On motion by Mr. GEYER, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution from the House of Representatives, for the settlement of the claim of Don Juan Jesus Vigil, of New Mexico.

It is intended to authorize the Secretary of War to cause to be audited the claim of Don Juan Jesus Vigil, for a flock of sheep seized from him by a detachment of troops in the service of the United States, in January, 1847, and to make compensation to him for so many of the sheep as may have been used by the troops, or were lost to the owner in consequence of the seizure; but the whole amount of compensation allowed is not to exceed nine thousand dollars; and the justice and equity of the allowance is to be established to the satisfaction of the auditing officer and the Secretary of War.

The claimant, pursuing his lawful occupation, was engaged in removing a large lot of sheep from Red river to Moro creek, in New Mexico, where they were met by a detachment of United States troops, which had been detailed for that purpose by Lieutenant C. Oxley, of the second regiment of Missouri mounted volunteers, who seized the entire drove of sheep, made the herdsmen prisoners, and carried the whole into Las Vegas, where the herdsmen were detained, and the sheep dispersed, or converted to the subsistence of the troops, (about two hundred in number.) At the end of eleven days the herdsmen were liberated, and such portions of the sheep as could be found were restored to them; on recounting which, it appeared that there had been used by the troops, or were dispersed and lost in consequence of the seizure and conversion, upwards of four thousand head. The statements of the officers show that the seizure and capture were made in consequence of an erroneous suspicion that the sheep were intended for the supply of the enemy, then in a state of insurrection at Taos. But it is shown that, not only was the suspicion wrong as regarded the destination of the sheep, but that the owner of them had been constantly friendly to the United States, and particularly to Governor Brent and others, who had been massacred at Taos.

It is not according to the custom of modern warfare that private property should be subject to seizure without compensation, and the United States recognized this principle in the late war with Mexico, even in those parts of the enemy's country that continued in arms after our troops had possession of them. The Territory of New Mexico was, however, peculiarly situated. It had been, from the commencement of the war, an object of the Government to gain the good will of the people there, and to avoid active warfare against them as far as possible. This is shown in the instructions and dispatches issued to General Kearny, and other officers who commanded there, and who were directed to, and did, in their proclamations, assure the inhabitants of the benevolent intent of our Government toward them, and that it would respect both the persons and property of all who should not take up arms against the United States. It is believed that these promises, and the consequent general submission of the Territory to the United States, constituted an engagement on the part of our Government to observe strictly towards those people the rule of non-spoliation of private property—a rule which is voluntarily observed in those parts of Mexico that were occupied by the commands of Generals Scott and Taylor.

This claim was originally presented to the Secretary of War, who readily perceived and acknowledged its justice, but could not settle it for want of authority to do so, and an appropriation for that purpose.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

NEW ORLEANS CUSTOM-HOUSE.

The joint resolution from the House of Representatives to modify or change the original plan of the custom-house at New Orleans, was read twice.

Mr. SLIDELL. I hope the Senate will consider and pass that resolution at this time. I will state, for the information of the Senate, that it passed the House at the instance of the Secretary of the Treasury. The architects reported that, in consequence of the sinking of the foundation of the building, it would be necessary to make the superstructure of iron instead of marble. I presume there can be no objection to committing the matter to the discretion of the Secretary of the Treasury.

The joint resolution was considered as in Committee of the Whole; and, no amendment being proposed, it was reported to the Senate, ordered to a third reading, read a third time, and passed.

ADJOURNMENT OVER.

On motion by Mr. BADGER, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

JOSEPH GIDEON.

Mr. JONES, of Iowa. I ask leave to refer the petition and papers of Joseph Gideon to the Committee on Naval Affairs; and in order that I may comply with the rules, I make this statement. A bill for his relief passed the Senate at the last session, went to the House, and was ordered to lie on the table there. Now, if I can have the papers referred, I want to have it done for my friend. Can it be done, sir, under the rules?

The PRESIDENT. Will the Senator state the facts again?

Mr. JONES, of Iowa. The bill passed the Senate. It went to the House, and upon motion there, was ordered to lie upon the table. It is now upon the table in the House. I ask leave to have it withdrawn from the files, and referred to the Committee on Naval Affairs here. There was a mistake in relation to it. I want to keep within the rule if I can.

The PRESIDENT. The Senator might introduce a resolution asking the House to return the bill.

Mr. JONES, of Iowa. I make the motion that the House be requested to withdraw from their files, and return to the Senate, the papers in the case of Joseph Gideon.

The motion was agreed to.

JOHN SHAW.

Mr. SEBASTIAN. On examining the Calendar, I find on the orders a bill which I think was disposed of at the last session. It is a bill for the relief of John Shaw. If my recollection serves me right, it was disposed of. It is a small bill, appropriating $1,000 for services in 1828.

The PRESIDENT. The Secretary reports that it is yet with the committee.

Mr. SEBASTIAN. It is on the Calendar, and therefore must have been reported. It was reported from the Committee on Indian Affairs, and is now on the Calendar. I move that the Senate proceed to its consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider it.

It proposes to pay to John Shaw, of Wisconsin, $1,000, in payment for his travel, attendance, and service as interpreter, upon a trial of certain Winnebago Indians, in 1828, before Hon. James Duane Doty, at Prairie du Chien.

In 1828, a special term of the circuit court of the United States was held at Prairie du Chien, by Hon. James Duane Doty, as the additional judge of the Territory of Michigan, for the trials of some Winnebago Indians for the murder of citizens of the United States. Under orders from the War Department, Mr. John Scott was sent a distance of five hundred miles, to prosecute the case, and otherwise represent the United States. He found it necessary to procure an interpreter. Several who could only interpret the Winnebago language into French, were tried and discharged; but as it was necessary to get an interpreter who understood the Winnebago, French, and English languages, the services of Mr. Shaw were obtained. He lived then at St. Louis. During the trial, he performed that service satisfactorily to the court, and the attorneys both for the United States and the Indians. He claims now for his services, and travel, and attendance, $1,000. The committee think it not unreasonable. The judge of the court thinks his services were worth that amount, being the same allowed as extra compensation to the attorneys. A special appropriation was made to cover the expenses of the trial, but it appears, from the official letter of the Indian office, where the claims were audited, that Mr. Shaw has never either been paid or claimed the amount heretofore.

No amendment being proposed, the bill was reported to the Senate, and ordered to be engrossed for a third reading. It was read a third time, and passed.

CHIPPEWA INDIANS.

Mr. SEBASTIAN. I move that the Senate proceed to the consideration of the bill to provide for the extinguishment of the title of the Chippewa Indians to lands owned and claimed by them in the Territory of Minnesota and the State of Wisconsin, and for their domestication and civilization. It has passed the House, and has hereto-

fore been considered in the Senate. There was, then, however, some objection to it, which I now understand is removed.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

It proposes to authorize the President to cause negotiations to be entered into with the Chippewa Indians, for the extinguishment of their title to all the lands owned and claimed by them in the Territory of Minnesota and State of Wisconsin. The treaties are to contain the following provisions, and such others as may be requisite and proper to carry them into effect:

First. Granting to each head of a family in fee-simple a reservation of eighty acres of land, to be selected in the territory ceded, so soon as surveys shall be completed, by those entitled, which reservation shall be patented by the President of the United States, and the patent shall expressly declare that the lands shall not be alienated or leased by the reservees, or their heirs and legal representatives, until otherwise ordered by Congress, and no change of location shall be made without the assent of the President of the United States.

Second. The annuities to which the Indians are entitled under existing treaties, with the consent of the Indians, together with such as may be allowed them for the cession or cessions under the provisions of the act, shall be equally distributed and paid them at their villages or settlements within the limits of the ceded territory; but the President shall be invested with power to cause the annuities to be commuted, from time to time, for such articles of goods, provisions, stock, cattle, implements of agriculture, the clearing and fencing of land, and the erection of buildings and other improvements, as in his discretion will conduce most to promote their comfort, civilization, and permanent welfare.

Third. All the benefits and privileges granted to the Indians shall be extended to and enjoyed by the mixed bloods belonging to or connected with the tribe, and who shall permanently reside on the ceded lands.

Fourth. The laws of the United States and the Territory of Minnesota shall be extended over the Chippewa territory whenever it may be ceded, and the same shall cease to be "Indian country," except that the lands reserved to the Indians, or other property owned by them, shall be exempt from taxation and execution, and the act passed June 30, 1834, "to regulate trade and intercourse with the Indian tribes," &c., shall be inoperative over the ceded territory, except the twentieth section, which prohibits the introduction and sale of spirituous liquors to Indians.

Fifth. The President shall have power to prescribe and enforce such rules and regulations, not inconsistent with the provisions of the bill, as he may deem necessary for the effectual execution of the purposes of the act, which rules and regulations shall be annually reported to Congress.

For the purpose of defraying the expenses of the negotiations, the sum of $10,000 is proposed to be appropriated.

The bill was reported to the Senate without amendment, and ordered to a third reading. It was read a third time, and passed.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 14, 1854.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

THE ARCTIC EXPEDITION.

Mr. WHEELER, on leave, introduced a memorial from the Chamber of Commerce of the city of New York, praying Congress to take some measures to rescue Dr. Kane and his associates from the peril and danger to which they were exposed in the expedition to the Polar seas, in which they had embarked for the relief of Commodore Franklin; which was referred to the Committee on Naval Affairs.

DUDLEY F. HOLT.

Mr. BANKS. The petition of Dudley F. Holt, for a pension, was referred to the Committee on Invalid Pensions, and, under the rule adopted by the committee, was reported upon adversely. I understand that the committee are willing to give a reëxamination to the petition, and I ask the unanimous consent of the House that it may be again referred to that committee. I make this request with the consent of the chairman of the committee.

There being no objection, it was so ordered.

MILITARY CONTRIBUTION FUND.

Mr. STANTON, of Kentucky, by unanimous consent, introduced the following resolution:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of so extending the provisions of the act of Congress of 3d March, 1849, legalizing the collection and expenditure of the military contribution fund levied in Mexico, as to authorize the Secretary of War to pay out of that fund thus appropriated, the same rate of compensation to those employed in its settlement in the civil bureaus, as to those already paid in the military.

The question was taken; and the resolution was adopted.

THOMAS HURST.

Mr. JAMES C. ALLEN, by unanimous consent, introduced the following bill; which was read a first and second time by its title, and referred to the Committee on Naval Affairs:

A bill for the relief of Thomas Hurst, a sergeant in the marine corps.

LIGHT-HOUSE ON CAPE RACE.

Mr. CUTTING, by unanimous consent, introduced the following joint resolution; which was read a first and second. time by its title, and referred to the Committee on Commerce:

Joint resolution authorizing the President of the United States to adopt measures to procure the erection of a first-class light-house on Cape Race.

MESSAGE FROM THE SENATE.

A message was here received from the Senate, by ASBURY DICKINS, Esq., their Secretary, informing the House that the Senate had passed a bill of the House (No. 325) "for the relief of James S. Graham and Walter H. Finnall. Also, that the Senate had passed bills of the following titles:

An act for the relief of Israel Ketcham; and

An act for the relief of Isaac Swain.

In which he was directed to ask the concurrence of the House.

MONUMENT TO GENERAL WAYNE.

On motion by Mr. PECKHAM, it was

Ordered, That the Committee on Revolutionary Claims be discharged from the further consideration of the petition of citizens of Fort Wayne, Indiana, asking money to assist in the erection of a monument at that place, in commemoration of the services of General Wayne, and that the same be referred to the Committee on Military Affairs.

AMOS KNAPP.

On motion by Mr. CARPENTER, it was

Ordered, That Senate bill (No. 193) for the relief of Amos Knapp be re-referred to the Committee on Invalid Pensions.

INVALID PENSIONS.

On motion by Mr. FAULKNER, it was

Ordered, That the Committee on Military Affairs be discharged from the further consideration of the bill of the House to provide for the allowance of invalid pensions to certain volunteers in the Indian wars in Oregon Territory, and that the same be referred to the Committee on Invalid Pensions.

TERMINATION OF DEBATE.

Mr. HOUSTON. If there are no reports from committees to come in, I desire to move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of taking up the general appropriation bills.

But before I make that motion, however, I wish to say, as there are other appropriation bills ready to be taken up for consideration, I will, if the House indulge me, move to take them up as soon as the one now under consideration shall have been disposed of. I now move the usual resolution, to terminate debate upon the present bill in one hour after the committee shall have again resumed its consideration.

Mr. CAMPBELL. Upon that motion I ask for tellers.

Mr. WASHBURNE, of Illinois. I call for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. KERR. Is it in order to amend the resolution?

The SPEAKER. It is.

Mr. KERR. I move, then, to amend by inserting three hours instead of one.

Mr. HOUSTON. If gentlemen all around will agree to it, I am perfectly willing to make it two hours, and will so modify my resolution.

Mr. KERR. That will do.

The modification of the resolution was accepted.

Mr. HAMILTON. I move the previous question.

The previous question was seconded, and the main question was ordered to be now put.

Mr. WASHBURNE, of Illinois. I now withdraw my call for the yeas and nays.

The question was then taken, and the resolution, as modified, was adopted.

Mr. HOUSTON moved to reconsider the vote by which the resolution was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

The question then recurring upon the motion of Mr. HOUSTON, it was put and agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. CHANDLER in the chair.)

INDIAN APPROPRIATION BILL.

The CHAIRMAN. When the committee rose, it had under consideration the Indian appropriation bill, on which the gentleman from Georgia [Mr. STEPHENS] is entitled to the floor.

Mr. STEPHENS. Mr. Chairman, in taking the floor on this occasion, it was not my purpose, nor is it my purpose now, to reopen or go into a discussion of the general merits of the Kansas-Nebraska bill which was passed at the last session of Congress. The gentleman from Indiana [Mr. MACE] came forward on yesterday, and, in a very formal manner, announced the determination, for the future, of the opponents to that measure. Repeal is their policy. Prohibition of slavery is again to be put upon Kansas and Nebraska. I considered the merits of the question as settled at the last session. I consider them as settled now. Revolution never goes backwards—always forward. The argument in and out of Congress, and throughout the Union, on the great movement made by the National Legislature on this question, was then conclusive, and, by the passage of that bill we took a grand step in that progress which characterizes this age. There never will be any backward movement in this matter—at least in my opinion. I have no apprehensions on that score; and I repeat, that I do not rise for the purpose of opening, or again canvassing, the merits of the Nebraska-Kansas bill. But the gentleman from Indiana gave utterance to some remarks to which I deem some reply proper. He seemed to think and argue that the late elections at the North conclusively showed that the public sentiment there, by the late elections, had passed the sentence of public condemnation on the bill referred to, and demanded its immediate repeal. He spoke of that as a fixed fact. The gentleman from Maine, [Mr. WASHBURN,] who succeeded him in the discussion, indulged in the same line of argument. Now, I wish to state to these gentlemen, to this committee, and the country, that I draw no such inference from the late elections. It is true that the results were very astonishing to some, though not to me, and took many men, in and out of power, by surprise.

I ask the honorable gentleman from Indiana how he reaches the conclusion that these elections set the seal of the public condemnation upon the friends of the great movement of the last session? I believe, Mr. Chairman, that there was no man more zealous in his opposition to the bill then passed, not even excepting the gentleman from Indiana himself, than yourself, and you will pardon me, sir, the illustration. Even you, sir, from the city of brotherly love, are no longer returned to the seat which you have filled with so much ability, and in which you have voted with me on many questions of public policy—always excepting this particular measure. Now, I ask the gentleman from Indiana whether that is a proof that the people of Philadelphia agree with him and with you, Mr. Chairman? I might argue, following his line, that this, your defeat, was the seal of reprobation on your course. But, sir, the truth is, your course on that bill, I take it, had but little to do in your defeat one way or the other. Again, Mr. Chairman, my honorable friend from another

district in Pennsylvania, who sits to my right, [Mr. HIESTER,] with whom I had a conversation at the last session just previous to the passage of the bill, and who was quite as zealous in his opposition as you or the gentleman from Indiana, has also been defeated in the canvass for reëlection. I do not recollect the majority against him. I have not attempted the *Herculaneum* excavating process of ascertaining the depths to which he has been buried in this popular irruption—the majority against him I do not know, but it was decided. The gentleman from the first district of Pennsylvania, [Mr. FLORENCE,] who voted and ardently supported the measure, has been reëlected. I also see that the gentleman from the Berks district [Mr. JONES] has been again returned. Another gentleman from Pennsylvania, [Mr. PACKER,] and an advocate of the Kansas-Nebraska bill, has been returned. In fine, I find that some who have voted for it and some who have voted against it have been returned to Congress. Why, sir, in Pennsylvania a gentleman ran for Governor who was known to be opposed to the bill, and a gentleman ran for Canal Commissioner on the opposite ticket, and was known to be in favor of the measure. The opponent of the bill was elected by thirty-seven thousand majority, while its advocate was elected Canal Commissioner by, I believe, one hundred thousand majority. Now, what is to be legitimately inferred from this state of things? Certainly, not that the people of Pennsylvania had put their seal of reprobation on Nebraska. I should infer that the Nebraska question had nothing or very little to do with the election—it was an element only in the canvass. Now, when the gentleman wishes to appeal to the results of an election as evidence of anything, he must admit that the question claimed to be decided by it ought to be the sole, leading, and paramount question in the canvass. If such be the case, appeal can be made to the result. But when you find a Nebraska man elected Canal Commissioner of Pennsylvania by one hundred thousand majority, and an anti-Nebraska man elected Governor by thirty-seven thousand majority, it simply shows that this question could have had very little to do with the results. How was it in Massachusetts? There is the honorable gentleman from that State, [Mr. GOODRICH,] who was alluded to yesterday in connection with the gentleman from Indiana, as associated with those who got up the Kansas and Nebraska Emigration Society. There is another, [Mr. ELIOT,] who came here and took the lead in favor of the repeal of the fugitive slave law; and the gentleman who sits immediately in my rear, [Mr. WALLEY,] who was distinguished in his opposition to the bill—all were zealous in their opposition to the bill, all were candidates for reëlection, and all were left at home. All, sir, fell before the destroying angel which came in the night, and they knew not whence the blow came. It certainly did not come from the quarter to which the gentleman from Indiana alludes; for if the anti-Nebraskaites struck down such men as those to whom I have referred, they did not back their friends as we do ours down South.

Mr. Chairman, now let me turn to the State of Illinois. I allude to her with pleasure, for I believe there was not a single northern State where the principles of the Nebraska bill were so openly and widely promulgated and considered, and so fairly represented and met as in that State. The distinguished Senator who had charge of the bill in the Senate, stood in the front of the battle, never giving ground, never yielding an inch, and the distinguished and gallant gentleman upon this floor, [Mr. RICHARDSON,] who had charge of it here, met the people of Illinois everywhere on its merits. If there is a State north which may be appealed to as one where there was anything like a contest on the question, it was Illinois. And what was the result? There were but three men from that State who voted for the Nebraska bill, and now we have four Nebraska men from Illinois. It seems Nebraska gained strength by discussion there. We had but three men before, and now we have got four.

Mr. WASHBURNE, of Illinois. Will the gentleman tell me what the popular vote of Illinois was upon the Nebraska question?

Mr. STEPHENS. The only test of the popular vote in the entire State of Illinois that I know upon that question, was upon the State treasurer, and the Nebraska candidate carried it by a large majority—three thousand majority, I have heard. In Congress, Nebraska gained one member.

Mr. WASHBURNE. I must correct my friend from Georgia in regard to the fact of the vote in Illinois upon State treasurer. It is true that Mr. Moore, the Nebraska man, was elected, I have seen it stated, by about eighteen hundred majority. But it should be stated, in connection with that fact, that the man who ran against him—Mr. Miller—was not known in the southern part of the State as a candidate, and was not voted for at all in that part of the State. [Laughter.]

Mr. STEPHENS. I suppose not.

Mr. WASHBURNE. And I will say further, that if Mr. Miller had received his party vote in that part of the State where he was not known as a candidate, he would have been elected by some five or six thousand majority.

Mr. STEPHENS. Well, sir, I do not think the people of Illinois could have been exceedingly offended and outraged by this measure, if they did not take the trouble to have their candidates in opposition known. And yet, the gentleman from Illinois wants to have us believe that if they could only have had their candidates known, they would have been elected by five or six thousand majority.

Mr. WASHBURNE. I will state to the gentleman that the candidate regularly nominated declined, and the other candidate was brought out only a short time before the election.

Mr. STEPHENS. Then I can only say that their candidate ran before the popular demonstration had got hold of him, [laughter;] and it only shows that the first candidate saw the hand writing upon the wall, and was more prudent than the last one. [Renewed laughter.]

Mr. RICHARDSON. With the permission of the gentleman from Georgia, I will make a single correction. My colleague states that Mr. Moore was elected treasurer of Illinois, because his opponent was not known as a candidate in the southern part of the State. Sir, the facts are against my colleague. It is true that in some of the southern counties he received but few votes; but it is also true, that in all the counties he received some, so that it was known that Mr. Miller was a candidate in all the counties in the State.

While I am up, I want to state the reason why the first candidate declined. He was nominated as the Republican, Fusion candidate, and was brought out by that party. And I hesitate not here to declare that if he had continued in the field he would have been beaten by more than ten thousand votes. But the candidate who was brought out at last was indorsed by all the leading Whigs in the State, as a sound, radical Whig. He was run by the Whigs and supported by the Fusionists, which accounts for his receiving as heavy a vote as he did.

Mr. STEPHENS. Then the interruption of the gentleman on my left, [Mr. WASHBURNE,] after all, amounts to but very little. He says Moore was elected by eighteen hundred majority. That is quite enough for my purpose.

Mr. WASHBURNE. How much was Mr. Pierce's majority?

Mr. STEPHENS. It is not material to me what Mr. Pierce's majority was. The popular vote in Illinois at the recent election was in favor of sustaining the principle of the Nebraska bill. That is my point. I do not care whether the majority was eighteen hundred, or five thousand, or eighteen thousand. I am willing to take it at eighteen hundred. I heard that it was three thousand. The gentleman has heard that it was eighteen hundred; but the difference is immaterial. It is given up that a majority was in favor of the principle of the Nebraska bill. So much for the popular condemnation there.

Now, then, take the State of New York—for I must be brief upon this point. There was but one candidate for Governor in that State who was openly and avowedly in favor of the repeal of the Nebraska bill. I mean Mr. Clark. New York gave but few votes upon this floor, for the bill. I think it is generally conceded, that if there is any State in the Union that is particularly unsound on this question, as gentlemen speak, it is New York. Well, sir, New York, with all its anti-slavery organizations; with its Syracuse convention, where everything was done that could be done to rally the freemen of the North, as it was said; with its emigration society; with all this, how many votes did Mr. Clark get? Not more than one third of the votes of the State. Clark got one hundred and fifty-odd thousand votes; Seymour got some three hundred less—one hundred and fifty-odd thousand votes; and Ullman and Bronson, together, received about the same number, one hundred and fifty-odd thousand more. So that, in the great State of New York, where this question was made preëminently a test, in the recent election, not one third of the votes of the State were given for the anti-Nebraska candidate. And yet the late election in New York is held up as a popular demonstration in opposition to the principle of the Nebraska bill. Sir, no such conclusion can be drawn; and the same may be said in reference to the elections in Pennsylvania, in New Jersey, in Michigan, in Indiana; so far as furnishing any popular demonstration upon this subject, they amount to nothing. No person can draw any legitimate inference from them, in reference to this question. Some say it was the Know-Nothings; some say it was the Temperance men; and some say it was the anti-Nebraskaites, that caused the defeat.

Sir, I am not prepared to say what it was that caused these, to some people, so strange results. I am inclined to think that the man down in North Carolina was about right when he said it was General Malcontent that caused it. Some were discontented because of the appointments of the President to office; some were discontented because it was improper to send such a man as Mr. Soulé to Madrid; some were discontented because it was wrong to send such a man as Mr. Belmont abroad; some were dissatisfied at the appointment of Mr. Vroom; some at Mr. Dix; some at the turning out of Bronson; some at the organization of the Cabinet—some at one thing and some at another. Some said one thing and some another. There was general discontent and dissatisfaction—whether rightfully or wrongfully it is not my purpose now to discuss. But the Administration had pursued such a course as to make a large party of malcontents—men bent upon breaking up things—this class, the North Carolina man calls the "Ramshackles;" the designation is a good one. Yes, sir, it was General Malcontent and the great party of the "Ramshackles" that triumphed at the North at the late elections, and not the anti-Nebraskaites. [Laughter.]

But the gentleman from Indiana referred to the South. He said he wanted the members from the North to get on the same high stand that the Representatives of the South occupied. I suppose he intended what he said in this connection as a compliment to the South, inasmuch as he wanted his people to occupy the same position; but, if I comprehend what he said, I do not receive it as a compliment. He said that southern members upon this floor first ascertained the wishes and then voted upon all questions as their constituents wished—that they would stand by the interests of their constituents and represent their wishes. Sir, I say to the gentleman that I think he is just as much mistaken in this as he was in reference to the popular elections of the North. I can speak, however, only for myself. It is not true that, in my course as a member of this House, I look solely to what my constituents wish. The first question that addresses itself to my mind is, whether any measure presented here is right? I send no letters home to know what they think there about it; I never have and never shall. I consult my own judgment, and act accordingly. If I think a measure is right, that it is proper, that it is just, I vote for it; and if I do not, I vote against it. Upon the merits of every question I am responsible to my constituents; and when I go home to them, an intelligent and patriotic people, if they do not approve my conduct, they can send another in my place. Sir, I believe that that is the general position of southern men.

But the gentleman says that when southern men's measures are vetoed, they raise their voices in tones of thunder until they carry them. Sir, I do not believe there ever was a southern measure vetoed. I do not recollect one. The South has never asked anything from your Government that called for a veto. There is the difference between us. The South asks but few favors from you. It is a class of gentlemen from the North who ask aid from the Government. Why, we never

come here in that attitude. Let me ask the gentleman when any measure from the South was ever vetoed? when the South ever asked anything that required the exercise of the veto power?

But the gentleman said that he admired the South, because "knowing their rights, they dared maintain them." That I take as a compliment. And now, what is his position? Why, the South "*knowing their rights*, and daring to maintain them," he would have the North to rise up and prevent her from getting her known and acknowledged rights! If we know our rights, and they *are* our rights, and we dare maintain them, why ought not the North, why ought not the gentleman—I will not say the North—to grant us our rights! Have we ever asked anything but what was right? Now, I say, with all due respect to the gentleman, that the true position of the South is this: we "ask nothing but what is right, and we submit to nothing that is wrong." That is the position that the South has always occupied, as I remember her history.

Now, sir, upon the subject of internal improvements which the gentleman alluded to, has the South ever asked legislative aid in that particular? I do not speak now, sectionally, or against the North; but look at the whole history of our Government. Who is it that is constantly appealing here for legislative aid and legislative patronage? Who ask for fishing bounties? Who ask for protection to navigation? Why, the people of the South, if they were permitted to use or employ foreign vessels in their coast trade, would be greatly benefited thereby. But American shipping must be protected, and who is it that asks that protection, not only on shipping, but almost everything else? Who is it that wants a duty upon coal? Who upon iron? Who upon woolen goods? Who upon shoes, hats, leather, cotton fabrics—everything? Why, it is the industrial interests of the North. We of the South, it is true, sometimes grumble and complain; but the great majority of the people of the South have yielded to what they consider in some instances very heavy exactions, for the support of Government. But when did we ever come up and ask any aid from the Government of the United States? The constant prayer of the South to you has been to stay your hands. All that we ask of you is, keep your hands out of our pockets. That is *all* that the South ask, and we do not get even that. It is true, sir, that in my own State we have asked some little favors, but very few. Some years ago we asked that you should take the obstructions out of the mouth of the Savannah river—not obstructions that nature put there, but that were put there during the revolutionary war, to keep out a foreign fleet—put there, not by the citizens of the State, but by public authority. It seems to us nothing but right and just that the General Government should remove those obstructions; but we have asked in vain for that. The gentleman says that the Representatives of the North come here and pass river and harbor bills, which are vetoed, and the wishes of their constitnents are thereby defeated. Well, sir, we have some rivers in the South quite as navigable as those in Indiana; but when did Georgia, or South Carolina, or Virginia, or the South generally, come and ask Congress to clear out those rivers?

Now, Mr. Chairman, I am not going into a discussion of this question of internal improvements, or the constitutional power. I am going to address a plain, common-sense argument in reply to the gentleman from Indiana, who said that when the South asked anything she got it, or that when a southern measure was vetoed, the South thundered and thundered upon this floor, until she got what she wanted, while northern measures were defeated by vetoes. I repeat, that a southern measure has *never* been vetoed. But how does the gentleman stand when he comes here and asks us, out of the public Treasury, to clean out the rivers in his State? I will state here, in passing, that I believe Congress has the constitutional power to clean out harbors, and construct roads when it is necessary either for the collection of the public revenue, or for military purposes. I did what I could last Congress to get the improvement of Boston harbor, as well as of various other harbors that I believed to be necessary for the collection of the revenue. I was also in favor of removing the obstructions in the mouth of the Mississippi river. This is sufficient to show my general position on this subject. Now, a few words on the material matter alluded to by the gentleman, the improvement of western rivers.

In the State of Georgia, we have never asked for any harbor improvements except for the removal of those obstructions at the mouth of the Savannah river, and we never got that, as I have stated. We have never asked the General Government to clean out our rivers. But we have a country of hill and valley, and we have to get to market with our products—for we grow *some* things in Georgia for market, notwithstanding that, in the opinion of the gentleman from Indiana, we are a Heaven-accursed, slavery-doomed land—we grow some products in Georgia, I say, for market, and how do we get them to market? Do we come here and ask aid of the General Government? No, sir. Why, in my State, we have now upwards of a thousand miles of railroad in full operation. How did we obtain it? We took our surplus capital, and with it we bought human labor, human energy, bone and sinew—we bought the strong arms of our own citizens, as well as of foreigners, to come and dig down the hills and fill up the valleys, and lay down the superstructure of our railroads—we bought the iron, when we could get it, in this country, and we went abroad for it when we could not get it here, and notwithstanding all that, when we brought our iron into the country, we had to pay duty upon it to the General Government. Twenty millions of dollars have been spent in Georgia in constructing highways to our markets. That is the way we got our thousand miles of railroad. So far from coming here and receiving assistance from the Government, we have actually had to pay a tax for the privilege of bringing our iron into the country. Georgia has paid not less than a million and a half of dollars, as a duty on iron, into the Treasury for the privilege of building her own works of internal improvement. Now, I would ask any candid man—I would ask the gentleman himself—if it is just, not only to tax Georgia for the privilege of constructing her highways, but then to take these very taxes that we have paid to open rivers in Indiana? It does not strike me that that is very just. I am speaking now to men of common sense. I am not talking of what you can constitutionally do. Is it not an unjust abuse of power to do it, even if you have the power?

The gentleman from Ohio [Mr. CAMPBELL] told us, the other day, what the "great West" would do. I have a great respect for the great West, and I will do everything which I think right, and proper, and just, to develop the resources of that section of the country. I am willing, as I have said, to open the mouth of the Mississippi, because the State of Louisiana cannot do it, and to take the snags out of that great river. But when I am appealed to to clear out every little river, and open up every little harbor, and make works of improvements throughout the country, or in any section of it—I do not care which or what—barely because the people of such section want it, and send men here to ask and vote for it, I say it is unjust to dispose of the public money in any such way, and I shall not do it. I ask every man now, who looks on these questions as he should, if it is not manifestly unjust?

Now, the gentleman [Mr. MACE] says, in speaking of the Missouri compromise, that, by the Missouri compromise, slavery had been prohibited north of 36° 30', and that slavery was to exist south of 36° 30'. I wish to correct the gentleman. The South has never asked that slavery should be extended by this Government any where, south or north. The Missouri compromise of 1820 never established such a principle—never. The act of 1820, by which Missouri was to have come into the Union, but never did, prohibited the existence of slavery north of 36° 30'; but it said nothing at all on the subject south of that line. The South never asked such a guarantee. The guarantee which the South has asked, and which has been established in the passage of the Nebraska bill, and which the South will never yield, was simply that the people on every foot of American soil, north or south, east or west, shall, when they come to form their State constitution, do as they please upon the question of African slavery, and shall come into the Union either with or without it, as they shall then determine for themselves. The South does not ask you that a slave State shall be admitted from Texas, unless the people there so determine. What we insisted on in the Texas annexation resolutions was, that the people there might be permitted to settle this matter for themselves. And this is all the guarantee we secured; all that we then asked; all that we asked in 1850; all that we asked in the Nebraska bill, and what we will ever maintain is, that the people in every organized community, in every Territory, when they come to form their own institutions, shall do as they please in that respect, and come into the Union either with or without slavery, as they wish. I say, sir, that is the southern doctrine; and I say, also, that it is American doctrine. That is what I mean by national doctrine.

The gentleman [Mr. MACE] said yesterday he was a national man. National! Why, sir, he is against his own section. Not only is he against the South, but he is against his own people. According to his doctrine his own people cannot be trusted in the Territories. He must be their guardian—a self-constituted protector. He says that members of Congress set up to be masters of their constituents, that they did not know what their constituents wanted, and that they came here last session to be their masters by voting for Nebraska against their wishes. No, sir, it is the gentleman himself who wants to be master. Of whom? Of his own fellow citizens! He and the men who embrace his doctrine virtually say that when the people go from the North or South into a Territory they become unfit to govern themselves. This is what the gentleman said about *masters:*

> "The doctrine sought to be established now is this, that we come up here as the masters of the people, that we come here not bound to consult with them at all, and that we may pass laws which we know they will disapprove of, and then call upon them, as loyal subjects, to acquiesce in our acts and cease their grumbling."

The gentleman says that that is what we do. I say to the gentleman, "thou art the man." That is exactly what you do. Why does he offer his bill to abolish slavery in Kansas and Nebraska? because he says the people there will have it if we do not. Why does he then propose to pass a law for them which he knows they will disapprove of, and then call on them as "loyal subjects to acquiesce in our acts, and cease their grumbling?" He says that when men go from Massachusetts, or from Indiana, or from Illinois, or from Ohio, or from Georgia, and get over into the Territories, they shall not govern themselves as they please, but as we please. We, the Nebraska men, on the contrary, treat them as freemen, as our equals, and let them do as they please. Who, then, are the masters, or would-be-masters? I say, sir, it is that class of men who set themselves up as the only safe guardians, protectors, and lawmakers for men who have no choice in their election, and to whom they are in no way responsible. Oh, but the gentleman says, pass this bill, say, by law, that slavery never shall go into these Territories, and then the people can do just as they please, just as they did in Iowa, and can form State constitutions against slavery, as Iowa did, and come into the Union as that State did. Why, sir, the gentleman's idea of liberty on the part of the people to do as they please is very much like a story that I heard told by the late Justice McKinley, of the Supreme Court. The incident occurred in Lexington, Kentucky, I believe. A member of Congress from that State had given very much dissatisfaction to his constituents by some vote; and they went through the form of burning him in effigy. Accordingly they got up a torch-light procession to march to his house, and as they were going along with a great deal of "noise and some confusion," some person on the side-walk, not partaking of the feelings of the crowd, but believing it to be an outrage rather, whispered this opinion to a man next to him. One of the rowdies in the procession, who overhead the remark, stepped up and said to him, "What is that you say?" "You think that this is a great outrage, do you?" "Yes, I do," was the answer. "Then, sir," replied his questioner, "I want to let you know that this is a free country, and that we will do as we d—d please, and you shan't say nothing!" [Laughter.] That is the way the gentleman [Mr. MACE] would give freedom to the Territories. Oh, yes, he will make it a free Territory. He will have his way, and the people there "shan't say nothing." He would give them precisely that sort of freedom

which closes the mouths of freemen. That sort of liberty he would have which says to freemen, "You shall do as I please—it is a free country, it is true; but I will have my way, and you shall not say a word. You shall not elect Whitfield, or any man who would favor the introduction of slavery." [Laughter.]

Now, sir, the gentleman [Mr. MACE] yesterday notified the country, and notified the House that Nebraska never should come in as a slave State. This is plain and direct language. It presents the issue fairly. It is bringing up that question which has been thrice settled by this country. And, without pretending to speak prophetically, I will venture the opinion, that if Nebraska comes here with a slavery constitution, she will be admitted; and the great body of these gentlemen who occupy the position of the gentleman from Indiana, will be at that time buried so deep under popular condemnation, that their voices against it will never reach the Capitol. A great national principle is involved in this question which the people of this country are not a going to ignore. National men will be sent from the North as well as from the South. Men will be sent to Congress who stand upon principles, and will not "back and fill," and be on one principle for one week, one month, and one moon, and upon another principle another week, and month, and moon. The gentleman's principles do not set by him a twelve-month. And if he changes in the future as rapidly and radically as he has in the past, even he, if here, may yet vote for her admission as a slave State.

In some things I was surprised at the gentleman's speech yesterday; for I recollected very well the remarks he made with reference to this Nebraska bill before it passed, and the amendment which he offered. I beg to call his attention and the attention of the House to the report of his remarks—made on the 22d of May, the Saturday before it passed:

"Mr. MACE moved to insert in the first section 'and the Territorial Legislature shall have the power to admit or exclude slavery at any time by law.' He said he offered the amendment in good faith, and for the purpose of testing the sincerity of members from the western States, and more especially the sincerity of those of the delegation from Indiana, who were to vote in favor of the bill.

"Mr. ENGLISH. If the amendment be adopted, will my colleague give the bill his support?

"Mr. MACE. I will."

Mr. MACE. What reasons did I give?

Mr. STEPHENS. The only reasons he gave are those I have read. He said that he offered the amendment in good faith, for the purpose of testing the sincerity of members, and more especially the sincerity of the members of the delegation from Indiana who voted in favor of the bill; and he said that if it was adopted—that is, if the Legislature should have the power to settle the question at any time, he would vote for the bill. Now, he wants to deprive the Legislature, or the people in convention, from ever being empowered to settle, as they want to do, it at all. Perhaps when the people do settle, as they now have the power to do it, he may yet sanction it, notwithstanding they may adopt a slavery constitution.

Mr. MACE. Did the gentleman vote for my amendment?

Mr. STEPHENS. I did not, and for the reason given, that by the bill we had given the people all the power that we could under the Constitution. We could not grant more, and they could not exercise more if we had granted it. We had done all we could on our part, and we could not give them more. The government of the Territories, in my opinion, devolved upon Congress, in the first instance. It was our duty to govern them, or provide governments for them. I stated then to the country, and now state, that I believe it was right and just for us to turn over our powers to the people, all the powers at least that they can exercise under the Constitution. So far as my vote was concerned, I gave the people all the power that they could exercise under the Constitution. We could not give them more, and why should the gentleman have asked to give them more?

The gentleman from Indiana said that he would vote in good faith to give the people of these Territories power to admit slavery; but now he comes forward and wants to deprive them of the power of passing any law by which slavery may be tolerated. I did not know then whether Kansas would be a slave State or not. I do not know now whether it will be or not, but this does not make the slightest difference in my vote. Men may indulge in whatever speculations they please. If Kansas should come here with a constitution excluding slavery, and ask admission into the Union as a State, while I am a member upon this floor, I should vote for her admission. At least that feature in her constitution will not cause me to vote against her admission. I voted for the admission of Iowa, and I have voted for the admission of every northern State, since I have occupied a seat upon this floor, when I have been in my place. I was not here when California was admitted, but I defended her admission.

I want gentlemen from the North, and the gentleman from Indiana, to understand the South, or at least the position of some of her Representatives. We stand upon principle. We do not advocate a measure to-day, because it votes money into the pockets of our constituents, or because it is favored by them or advances their interests, and then to-morrow array ourselves in opposition to it, because we think a different result follows from its operation, but we stand, particularly on this question, upon the fixed and immutable principles upon which the Constitution itself rests. In the beginning, in the middle of our history, and up to this time, there we have always stood. The South, in 1820, maintained the principle that a State has the right to come into the Union with such institutions as she, republican in their character, might adopt. Missouri was denied admission, and the South did reluctantly consent that slavery should be excluded north of 36° 30', provided Missouri should come in as she pleased. But Missouri was again denied admission—she did not come in under this act of 1820. I will not, however, go over this ground again now. The North would not adhere to the principles of the act of 1820. When the strife of 1850 became intolerable, when the ship of State seemed about to go down, and when southern men were still standing on deck with flag-staff in their hands appealing to northern patriots to come to the rescue, and stand upon the old platform, occupied by them when the Missouri question arose—that is, the State-rights doctrine of letting each State settle this matter for itself—whether in accordance with the wishes of the North or South—it was then that this principle, incorporated in the Nebraska bill, was first established. This principle now follows the American flag wherever it floats, whether in California, Utah, New Mexico, or southern Texas. The same stars and stripes, with the same principles inscribed upon their broad folds, now wave far up in Kansas and Nebraska! Let them go, knit together, one and inseparable, over every foot of American soil. This, sir, is my wish, and this, sir, I think, will be the result; I therefore say to the gentleman from Maine, [Mr. WASHBURN,] that he will not live to see the day, in my opinion, when this great movement, this revolution in American politics, will ever roll backwards. Its course will rather be onward. There are some other topics to which I wish to allude.

Why is it that gentlemen object so much to the introduction of slavery into Kansas, if the people of that Territory desire it to go there? When I made a speech at the last session upon this subject, I stated that I would vote for the principle of allowing the people of any section of the country to come into the Union and form institutions as they please. This I said when I knew there might be twice as many people there from the North as from the South, and the chances of emigration I knew would greatly preponderate in favor of the North. I am willing, now, to abide by that principle. I have no desire to deprive the people of any State or Territory in our common country of the right of adopting such institutions for their government, when they become States, as they please. It is anti-American, and entirely at war with the spirit of the age, about which we hear so much. I ask why the people of any section of the country should be prevented from adopting the institutions of the South, if they wish them? Socially, morally, and politically, or in any aspect of the question, is there any reason for depriving them of such right? Is it for the sake of humanity that gentlemen are not willing for the people of Kansas to assign the African the same condition there that he occupies in the South, if they think it best to do so? Are gentlemen willing to degrade their own race by not permitting them to vote upon matters relating to their own government, while they are endeavoring to elevate the negro to the standard of the white man? You may degrade the white man, but you cannot raise the negro to the level you purpose. It is impossible. You have to reverse a law of nature first. Men may indulge in philanthropic speculations as much as they please, but here is the great immutable law of nature, and they cannot avoid it. I am not here to argue whether decrees of the Most High are right, wise, and just. There is a difference, a vast difference, established by the Creator between the different races of men. For myself, I believe that He who made us all is just, and that He made the white man as He made him, and that He made the negro as He made him—for wise and just purposes. Some vessels are made for honor and some for dishonor; one star differeth from another star in magnitude as well as in brilliancy. I believe, too, that the system of government, as adopted by the South, defining the *status* or relation of these two races, is the best for both of them; and I am prepared to argue that question with the gentleman, here or anywhere. Take the negroes in Indiana, take them in the North generally, and compare their condition with those of the South. Take them in Africa; take them anywhere on the face of the habitable globe; and then take them in the southern States, and the negro population of the South are better off, better fed, better clothed, better provided for, enjoy more happiness, and a higher civilization, than the same race has ever enjoyed anywhere else on the face of the world. Could Howard, the philanthropist, who has left an undying fame for his deeds of humanity, have taken the same number of Africans from their native country and raised them from their barbarous condition to that of the slaves of the South, he would have added much to that stature of immortality which, in his day, he erected to himself. It would have greatly added to that reputation, which now sanctifies his memory in the hearts and affections of mankind.

Look at the three millions of Africans as you find them in the South; and where is the man so cold-hearted, and cold-blooded, as would wish to put them in the condition that their forefathers were, or their kindred now are in Africa? What has done so much for these people but that which is so much denounced by inconsiderate fanatics; men and women, too, who find fault with what they know nothing about?

Again: take our negroes, and compare their condition with that of the free negroes of the North. I have the result of the Census returns before me, and from that it appears that the increase of the free people of color in the United States, from 1840 to 1850, was only ten and ninety-five hundredths per centum. This shows that their condition cannot be very good, or desirable; and to this increase is to be added, too, the fugitive slaves, and those who have been emancipated. With all these sources of increase, that increase has only been ten and ninety-five hundredths per centum.

Now, how is it with the slaves—the down-trodden, the abused, the half-starved slaves? Their increase, during the same period, was twenty-eight and fifty-eight hundredths. Is there any such result to be presented at the North, where they are free and left to themselves? How can your missionaries in philanthropy and crusaders in benevolence account for this?

But some people say that slavery is a curse to the white man. They abandon the idea that it is a curse to the negro. They say it weakens, impoverishes, and demoralizes a State. Let us see. They say there can be no high social, moral, or material development under the institution of slavery. I have before me some statistics on this point—statistics relating to material development. But, before alluding to them, I will say upon the subject of morals, that I saw a table of crimes made out in the Census Office for 1850. From those statistics it appeared—I speak from memory; I have not the paper before me—that the number of convictions for crimes of every grade, in Massachusetts, the land of "steady habits," and where we hear so much of the immoral effects of slavery, with a population under one million, was several thousand; while in the State of Georgia, with a population not so great, the similar

convictions are less than one hundred. I say, then, upon the score of crime, upon the score of morals, I am ready to compare my State with that of Massachusetts, or any one of the free States. Where, then, is the moral curse which arises from slavery?

A few facts in reference to physical development. I had occasion, some time since, for another purpose than the present, to look a little into the statistics of Georgia, compared with those of other States. I selected the State of Ohio, because it was one of the most prosperous of the North—often styled, and, perhaps, justly too, the giant of the West. According to the census returns in 1850, Ohio had of improved lands 9,851,493 acres—Georgia had only 6,378,479 acres, the cash value of the Georgia land so improved and under culture was $95,753,445, while the cash value of the Ohio lands was returned at $358,758,603—Ohio had nearly one third more land in a state of improvement than Georgia had, and returned at more than three times the cash value of the Georgia lands. The whole population of Ohio was 1,908,480, the whole population of Georgia, white and black, was 905,999. The population of Ohio, therefore, was more than double that of Georgia. Here we see her free labor more than double in number, working one third more land, worth, by valuation, more than three times that of Georgia. From these elements it might not be surprising to see her agricultural products greatly exceeding those of Georgia, without resorting to the "curse of slavery" to account for it. But how stand the facts? Ohio produced the following articles:

Wheat	14,487,351 bus. at	80 cents.		$11,589,880
Buckwheat	638,660 "	40 "	..	255,224
Indian corn	59,078,695 "	30 "	..	17,723,608
Rye	425,918 "	50 "	..	212,959
Barley	354,358 "	50 "	..	177,179
Oats	13,472,742 "	25 "	..	3,368,182
Peas and beans	60,168 "	$1 "	..	60,168
Irish potatoes	5,057,769 "	40 "	..	2,023,107
Sweet potatoes	187,991 "	50 "	..	93,995
Tobacco	10,454,449 lbs.	7 "	..	731,811
Cloverseed	103,197 bus.	$4 "	..	412,748
Flax	446,932 lbs.	10 "	..	44,693
Flaxseed	188,880 bus.	75 "	..	141,660
Maple sugar	4,588,209 lbs.	6 "	..	275,292
Molasses	197,308 gals.	35 "	..	69,057
Wine	48,207 "	$1 "	..	48,207
Garden products returned in money, value			....	214,004
Orchard " " " "			....	695,921
Aggregate				$38,137,695

This list includes nearly every agricultural product of the earth in that State except hay, which is omitted, because in Georgia there is no return for fodder, which, in that State, answers the same purpose of hay in Ohio, as food for stock. The quantity of each product produced is given from the census tables. The values run out are such as are believed to be the usual average values of each article in that State, except the products of gardens and orchards, which are taken from the tables—no other values are put upon the products in the tables. The estimate above stated is believed to be a fair one. Now let us take up the returns for Georgia and place upon them a like estimated average value. Here we have:

Wheat	1,088,534 bushels at	$1 00	...	$1,088,534
Indian corn	30,080,099 " "	50c	..	15,040 049
Cotton—bales	499,031 400 lbs. at	8c	..	15,970 912
Rice	38,950,691 lbs. at	4c	..	1,558,027
Peas and beans	1,142,011 bushels at	$1 00	...	1,142,011
Sweet potatoes	6,986,428 "	25c	..	1,746,607
Irish potatoes	227,378 "	50c	..	113,689
Oats	3,820,044 "	37½c	..	1,433,516
Cane sugar	1,642 hhds., 1,000 lbs.,	6c	..	98,520
Molasses	216,150 gallons at	25c	..	54,037
Orchard products of			....	92,766
Garden products of			....	76,500
Aggregate				$38,414,168

An amount so far from falling under that of Ohio as might have been expected, actually exceeds it above a quarter of a million, without extending the Georgia list to rye, barley, tobacco, and other articles which are produced in that State. Away, then, with this prating cry about slavery's paralyzing the energy of a people, and opposing the development of the resources of a country.

If I were to take the statistics of any other State, and go through them in the same way, I have no reason to doubt that an equally favorable result to Georgia would follow. I took the State of Ohio, not as any disparagement to her, but to show that even in the South, where they say the soil is sterile, and the population inert, and cursed with slavery, as it is said to be, Georgia, with one half of the population, and only two thirds of the value of land, exceeds in agricultural products by one quarter of a million of dollars, the great giant of the West.

Now, then, if the people of Kansas, the people of Nebraska, or the people of any other portion of our territory, going from old Massachusetts, going from New York, or from Indiana, or from the South, learning and consulting wisdom from the past, and profiting by experience from all parts of the Union, should think it practically best for the happiness of themselves and for their posterity in the far distant future, to adopt the social institutions of Georgia in preference to those of Indiana, if they prefer the institutions of the South to those of the North, I say they should not be deprived of their right to do it, and the gentleman from Indiana, and those who act with him, should not set themselves up as judges and "masters" to control the matter.

[Here the hammer fell.]

Mr. CAMPBELL then addressed the committee during an hour, in reply to the gentleman from Georgia. His remarks, withheld for revision, will be published in the Appendix.

Mr. WASHBURNE, of Illinois. I desire to disabuse the mind of the gentleman from Georgia in regard to the result of the Illinois election. I know, sir, it may be a little distasteful for gentlemen to hear the truth in regard to it. As has been stated, the issue had been fairly and fully made by the Senator from my State, [Mr. DOUGLAS.] It was made by him, sustained by him all over the State, with a zeal and talent worthy a better cause. And what was the result? Why, sir, the popular vote in this State was sixteen thousand against the Kansas and Nebraska measure. Sir, look at the congressional districts, look, too, at the vote as it stood here upon the Kansas and Nebraska bill.

Let them examine the popular vote for the members of Congress in the various districts, and they will then find what is the opinion of Illinois upon this subject. Why, sir,——

The CHAIRMAN. The time for general discussion has now expired. The bill will be now read for amendments.

Mr. WHEELER. I move that the committee do now rise.

Mr. ORR. I hope the motion to rise may not prevail, and that the bill will be reported to the House before we adjourn.

The question was taken; and the committee refused to rise.

The Clerk then proceeded to read the bill by sections for amendments.

When the reading had proceeded to the section making provisions for the Miamies,

Mr. HARLAN, of Indiana, offered the following amendment:

For deficiency of lands west of the Mississippi river, granted to said tribe by the treaty of 1840, —— dollars.

Mr. H. said: By the treaty of 1840 with the Miamies, a tract of land west of the Mississippi was assigned to that tribe of Indians, described by certain boundaries, and purporting to contain five hundred thousand acres; in consideration of which the tribe were to relinquish the lands owned by them, in the State of Indiana. At the time of the cession, the country in which their tract was assigned was a wilderness, unknown to even the white citizens of the United States, and much less was it known to the Miami Indians. They confided, therefore, to the representations made by the Government of the United States, which assured them that they were to receive five hundred thousand acres of land. This was done in 1840, but in 1854, just fourteen years thereafter, it was ascertained, for the first time, that there was a deficiency in their lands amounting to one hundred and thirty-odd thousand acres.

A portion of the tribe, however, and the portion for which I ask the money provided in this amendment, did not accede to the terms of the treaty, and this portion, comprising more than half of the tribe, remained in the State of Indiana. The other portion removed west of the Mississippi, and have since been in possession of the land ceded to the tribe. By the treaty of 1854, the whole tract was confirmed to this portion of the tribe, thus depriving a majority of the Indians of all compensation whatever. It was ascertained that the whole number of the tribe in 1854 was five hundred and fifty, of which only two hundred and forty-eight were west of the Mississippi river. The others, more than three hundred in number, live in Indiana, and for them I ask that this deficiency may be made up.

I have left the blank to be filled by the committee as they shall think proper.

Mr. PARKER. This is an important amendment, and to enable the gentleman from Indiana to get it properly before the committee, I move that the committee do now rise.

Mr. ORR. I hope not. I think the committee can very easily finish the bill to-night.

The question was put, and the motion agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, the Chairman [Mr. CHANDLER] reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bill No. 555, being the Indian appropriation bill, and had come to no conclusion thereon; and then,

On motion by Mr. McMULLIN, the House (at ten minutes before three o'clock, p. m.) adjourned until to-morrow, at twelve o'clock, m.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December* 15, 1854.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a communication from the President of the United States, transmitting a report from the Secretary of State, with accompanying documents, in compliance with the resolution of the House of Representatives of 27th July last.

Mr. ORR. What resolution was that?

The SPEAKER, (after conferring with the clerks.) It was a resolution calling for information with reference to the expulsion of the Greeks from Egypt.

Mr. ORR. I move that the message be laid upon the table and printed.

Mr. CLINGMAN. I presume that there may be something in that message that may render it proper that it should go to the Committee on Foreign Affairs.

Mr. ORR. I have no objection to that reference, and withdraw my motion.

Mr. CLINGMAN. Then I move that the message be referred to the Committee on Foreign Affairs, and printed.

The motion was agreed to.

The SPEAKER also laid before the House a communication from the Secretary of War, informing the House that he has transmitted to the Senate the report of the board of officers appointed under the 6th section of the Army appropriation bill of 1852, for the examination of claims contracted in California, under Lieutenant Colonel Frémont in 1846 and 1847; which was ordered to lie upon the table, and be printed.

Also, a communication from the Treasury Department, submitting supplemental estimates of funds required for the service of that Department for the fiscal year ending 30th June, 1856, based on information received from distant parts of the Union since the regular estimates were laid before Congress.

On motion by Mr. HAVEN, said communication was referred to the Committee of Ways and Means, and ordered to be printed.

PRINTING OF THE POST OFFICE REPORT.

Mr. JONES, of New York. I ask leave to introduce a resolution from the Post Office Committee, for the purpose of reference merely. It is as follows:

Resolved, That there be printed for the use of the Postmaster General's office fifteen hundred copies of his annual report, and the appendix, accompanying the President's annual message.

There being no objection, the resolution was received and referred, under the rule, to the Committee on Printing.

EXCUSES FROM SERVICE ON A COMMITTEE.

Mr. LETCHER. I ask to be excused from service on the Committee of Claims. I am on

another committee that occupies my time to such an extent that it is impossible for me to give attention to the duties of the Committee of Claims. I therefore hope the House will excuse me from further service on that committee.

Many Members. "No," "no."

A Member. What other committee are you on?

Mr. LETCHER. The special committee on the Colt patent case.

Several Members. We cannot excuse you.

Mr. LETCHER. It is utterly impossible for me to attend to the duties of both committees, and I think it only right, as there are gentlemen in the House who are upon no committees, that the Committee of Claims should be full. The special committee on which I am now engaged, meets almost every day, and I must necessarily be absent from it, or from the Committee of Claims. Under these circumstances, it seems to me that it would be unreasonable for the House to decline to excuse me, especially as there are eight or nine gentlemen here who are upon no committees.

Mr. HAVEN. I shall regret very much to lose the services of our friend from Virginia on the Committee of Claims, but under the circumstances, I think the House had better excuse him.

Mr. EDGERTON. I can only say that if the opinion of the Committee of Claims has any weight with the House, the gentleman will not be excused. As chairman of the committee, I should dislike very much to lose the gentleman. I consider him—and I believe the committee do also—one of the most important members of the committee.

Mr. FLORENCE. We all know he is that.

Mr. LETCHER. However much I shall regret to part with the Committee of Claims, it is perfectly certain that we must part, or that I must give up my position on the special committee.

The question was then taken; and Mr. Letcher was excused from further service on the Committee of Claims.

The SPEAKER stated that the business first in order was the consideration of private bills on the Speaker's table.

CIVIL AND DIPLOMATIC BILL.

Mr. HOUSTON. I am instructed by the Committee of Ways and Means to make a report from that committee, which the rules require me to make.

The SPEAKER. Is it a bill?

Mr. HOUSTON. It is.

The bill was then read a first and second time by its title, as follows, referred to the Committee of the Whole on the state of the Union, and ordered to be printed:

A bill making appropriation for the civil and diplomatic expenses of the Government for the year ending 30th June, 1856.

BILLS INTRODUCED.

Mr. EDDY, by unanimous consent, introduced sundry bills; which were read a first and second time by their respective titles, and referred as indicated below, viz:

A bill for the relief of John L. Bowes, an agent in charge of property of the United States at Michigan City, in the State of Indiana. Referred to the Committee on Commerce.

A bill making appropriation for continuing the piers, and constructing a breakwater at Michigan City, in the State of Indiana, and to otherwise improve the harbor at said city. Referred to the Committee on Commerce.

And a bill for the relief of Stephen Bunnel, of the State of Indiana. Referred to the Committee on Invalid Pensions.

PERSONAL EXPLANATION.

Mr. EDGERTON. I rise to what I believe to be a question of privilege. I see that I am recorded on the Journal as having given notice of my intention to introduce an amendment to the homestead bill. That amendment has been printed with my name attached to it as its author. My attention has been called to it, and I wish to state to the House that it is an error on the part of the Clerk. The amendment is proposed by Mr. Etheridge, of Tennessee, and I am opposed to it.

Mr. McMULLIN. I call for the regular order of business. This being private bill day, I trust the House will proceed to the consideration of private business.

The SPEAKER. The Chair repeats that the business first in order is the consideration of the private bills upon the table.

Mr. FULLER. Will the gentleman from Virginia permit me to report back a joint resolution which was referred to the Committee on Commerce?

Mr. WALSH. I object, and insist on the regular order of business.

PRIVATE BILLS—BETSEY NASH.

The House then proceeded to the consideration of the private business upon the Speaker's table, the first bill in order being House bill (No. 380) "for the relief of Betsey Nash," returned from the Senate with an amendment.

The amendments of the Senate propose to add two sections to the bill, providing for the payment of $3,000 to the widow of James C. Batchelder, who was killed at Boston on the 26th May, 1854, while assisting the United States marshal for the district of Massachusetts in executing a law of Congress.

Mr. McMULLIN. That is a question which I confess I do not very well understand, and I should be glad if some friend of the amendments would explain them to the House.

The SPEAKER. The bill and amendments, involving an appropriation, must, under our rules, be committed, unless by the unanimous consent of the House they be considered now.

Mr. WASHBURNE, of Illinois. I object.

Mr. FAULKNER. I move then that the bill and the amendments be referred to the Committee on Military Affairs.

Mr. McMULLIN. It occurs to me that this bill ought to be referred to the Committee of the Whole House. I make the motion that it be so referred.

Mr. FLORENCE. It is too late to make the motion. The bill has been already referred.

The SPEAKER. The Chair thinks it is not too late, and that the gentleman from Virginia has a right to make the motion.

Mr. HAVEN. I desire a word for information, which may control the question in the House. What is the condition of the bill? is it on its return from the Senate now?

The SPEAKER. It is on its return from the Senate, with an amendment involving an appropriation.

Mr. HAVEN. Then I hope it will go to a Committee of the Whole House.

The question was taken on Mr. McMullin's motion; and it was agreed to.

So the bill was referred to a Committee of the Whole House.

THOMAS ELLIS.

The SPEAKER. House bill (No. 381) for the relief of Thomas Ellis has been returned from the Senate with an amendment. The amendment proposes to strike out, in lines six and seven, the word "Illinois," and insert in lieu thereof, the word "Missouri," so that the sentence will read, "to Thomas Ellis, of Platte county, in the State of Missouri."

The question was put; and the Senate amendment was agreed to.

SENATE BILLS.

The following bills of the Senate were read a first and second time by their titles, and respectively referred to the Committee of Claims:

No. 484. Act for the relief of Gad Humphreys;

No. 464. Act for the relief of Israel Ketchum;

No. 424. Act for the relief of Isaac Swain.

REPRESENTATIVES OF GEORGE FISHER.

Senate bill (501) supplemental to an act therein mentioned.

Mr. SINGLETON. This is a bill which concerns parties in Mississippi. It is simply for the purpose of carrying out the objects of a bill passed at a previous session. I should like very much to have the bill put upon its passage.

Several Members. Let the bill be read.

The Clerk read the bill.

It directs that it shall be the duty of the Second Auditor of the Treasury—under the provisions of the act of Congress for the relief of the legal representatives of George Fisher, deceased, approved April 12, 1848—to reëxamine the said case, and to allow the claimants the benefit of the testimony heretofore marked "rejected" for the want of authentication, provided that such testimony be now legally authenticated by the executive of Alabama, and adjudged to be made in strict accordance with the act referred to, and to which this act is supplementary.

Mr McMULLIN. I hope the gentleman from Mississippi [Mr. Singleton] will not ask to have this bill put upon its passage now. It strikes me that it should be referred to a committee. For the purpose of saving time, I shall insist upon the regular order of business.

Mr. SINGLETON. The bill does not contemplate the appropriation of a single cent. It is merely to regulate a matter between the Auditor and the representatives there spoken of, and to allow the Auditor to admit certain testimony which was before rejected on account of want of formality in the record. This want of formality has been supplied, and the only object of this bill now is to permit this excluded testimony to be given before the Auditor. The Auditor has an impression that he cannot reopen the case, unless authorized to do so by the passage of a supplemental act. It has been passed by the Senate without any objection, and I hope the House will now pass it.

The bill was ordered to a third reading; and having been read a third time, was passed.

PRIVATE CALENDAR.

Mr. EDGERTON. I move that the House do now resolve itself into a Committee of the Whole House on the Private Calendar.

The question was put; and the motion was agreed to.

The House accordingly resolved itself into a Committee of the Whole House on the Private Calendar, (Mr. McMullin in the chair.)

SAMUEL COLT.

The CHAIRMAN. The business first in order before the committee is the consideration of House bill No. 59, being a bill for the relief of Samuel Colt.

Mr. EDGERTON. I trust that that bill will be passed over informally. I understand that the investigating committee is not ready to report on the case yet.

Mr. JONES, of Tennessee. Can the committee pass it by simply by a majority vote? I think we can dispose of it, now that it is up.

The CHAIRMAN. According to the impression of the Chair, it has been the practice heretofore to pass by informally this bill, as well as others.

Mr. JONES. Yes; but it was by unanimous consent.

The CHAIRMAN. The Chair fell into an error; it is understood that the practice has been to pass bills by by unanimous consent.

Mr. EDGERTON. I would state to the gentleman from Tennessee that this bill has been passed over several times by a majority vote.

The CHAIRMAN. Does the Chair understand the gentleman from Tennessee as objecting to the bill being passed by informally?

Mr. JONES. Yes, sir; I think it better to have it disposed of at once.

Mr. EDGERTON. I make the motion that the bill be passed by informally; and I ask that the question be taken. I would state that the House have twice decided, by a vote, that this bill shall be passed by informally. Once the gentleman from Massachusetts, [Mr. Walley,] in the chair decided that it could not be passed by without unanimous consent, but the House overruled his decision. Again, when I was in the chair, I made a similar decision, but the House overruled it. I now make the motion that the bill be passed by informally, and I call for a vote of the committee upon that question.

Mr. JONES, of Tennessee. I have no disposition to raise the question. If the majority of the committee are disposed to pass this case by informally, I have no objection. I shall vote against doing so, and I think we had better dispose of the case to-day.

The CHAIRMAN. Not being well acquainted with what have been the decisions heretofore, the Chair is disposed to entertain the motion of the gentleman from Ohio, [Mr. Edgerton.] The question before the committee, therefore, is, shall the bill be passed by informally for the present?

Mr. EDGERTON demanded tellers; which were ordered; and Messrs. Kerr and Boyce were appointed.

The question was taken, and there were—ayes 82, noes 43.

So the bill was passed by informally.

FERDINAND CLARK.

House bill (No. 103) for the relief of Ferdinand Clark.

The bill and report were then read by the Clerk.

The bill in this case provides that the duties imposed by the act of June 30, 1834, entitled "An act concerning tonnage upon Spanish vessels," on the Spanish brig Conde de Villanueva, Captain Carlos de Agao, and paid to the collector of the port of Charleston, in South Carolina, previous to the clearance of the vessel from that port for Cuba, on the 11th of September, 1835, with a cargo of rice and lard, shall be refunded to Ferdinand Clark, the owner of the brig, she having been wrecked on the coast of Florida, on the 17th of the same month, and lost, with the greater portion of her cargo.

From the report in this case it appears that the petitioner is a citizen of the United States, and a resident merchant at Havana; that he was the owner of the Spanish brig Conde de Villanueva, of which Captain Carlos de Agao was commander; that the said brig, laden with a cargo of rice and lard, (part of which was also the property of the petitioner,) cleared from Charleston, in the State of South Carolina, for Havana, in the Island of Cuba, on the 11th of September, 1835, having paid to the collector of the port of Charleston the sum of one thousand nine hundred and fifty-one dollars and forty-three cents, ($1,951 43,) as tonnage duty, conformably to the act of Congress of the 30th of June, 1834, entitled, "An act concerning tonnage duty on Spanish vessels;" that the said brig sailed from Charleston on the 13th of September, 1835, and that on the 17th of the same month she was wrecked on the coast of Florida, and that the vessel and cargo were totally lost, with the exception only of a portion of the lard. It also appears that, in consequence of that disaster, the petitioner, through his agents, Messrs. Crocker & Co., merchants, of Charleston, and consignees of the said brig, applied to the collector of the port of Charleston for relief, and that, at his suggestion, they subsequently addressed themselves to the Secretary of the Treasury, requesting that the duties thus paid might be refunded; but that they were given to understand by the Secretary that he had no authority to interpose in their behalf, and that relief in such cases could only be afforded by the action of Congress. The petitioner, accordingly, now applies to Congress for that redress which the Treasury Department is unable to afford.

Mr. FULLER. Mr. Chairman, while the report of the committee was being read at the Clerk's desk, so much noise prevailed in the Hall that I presume but a small portion of the members, for whose benefit it was read, heard it. Having reported the bill, it is perhaps my duty as well to the House and the claimant, to make a brief statement of the reasons set forth by the committee why it should pass.

The equity of the case grows out of the tonnage duty levied by the Spanish Government on American vessels carrying American cargoes to the Islands of Cuba and Porto Rico. The Spanish Government levied a heavy discriminating tonnage duty, the object of which was to throw the carrying trade of American produce from the American into Spanish bottoms. In 1831 or 1832, our Government levied a countervailing tonnage duty on Spanish vessels leaving American ports. The claimant here shipped a cargo of American produce from Charleston, on board of a Spanish vessel. Before he got his clearance he paid the collector of that port $1,900 tonnage duty. The vessel proceeded on her voyage, but had gone only a short distance when she was wrecked on the coast, and her cargo lost. Now, the question arises, whether our Government, in protecting our commerce by means of countervailing tonnage duty, will add to the injury of its own citizens by exacting tonnage duty which was intended to be paid when the vessel had arrived at a Spanish port? It is just one of these cases, in the judgment of the committee, and mine also, where the strongest equitable considerations apply against our Government for the refunding of the tonnage duty.

This is the case, in short. A very voluminous report was made on it sometime ago, which the Committee on Commerce has adopted. It is the report which has just been read. I see no injury to result from the passage of the bill. And it strikes me that if a case can arise where the sovereign power ought to refund the money, as well from equitable considerations as on grounds of policy, this is that one. With this statement I leave the matter with the committee.

The bill was then laid aside to be reported to the House, with a recommendation that it do pass.

ADOLPHUS MEIR AND COMPANY.

House bill for the relief of Adolphus Meir & Co., of St. Louis.

The bill, which was read, provides that there shall be refunded to Adolphus Meir & Co., of St. Louis, or to their attorney at New Orleans, the duties paid by them on seventeen packages of hardware, amounting to $1,075 30, being part of an invoice imported by Adolphus Meir & Co., of St. Louis, through the medium of C. T. Buddecke & Co., of New Orleans, from Liverpool, in the American ship W. V. Kent, which packages of hardware were entered at New Orleans under warehouse and transportation bond, and sent from the ship direct to the steamboat Marshal Ney, bound to St. Louis, Missouri; and which steamboat on the evening of October 8, 1849, the time fixed for her departure, took fire and was burned, together with the merchandise aforesaid: provided the said Adolphus Meir & Co. shall, within four months after the approval of this act, furnish to the Secretary of the Treasury satisfactory proof of the total destruction of said hardware.

On motion by Mr. FULLER, the bill was laid aside to be reported to the House, with the recommendation that it do pass.

WILSON AND BROTHERS, OF ST. LOUIS.

House bill for the relief of Wilson & Brothers, of St. Louis, in the State of Missouri.

The bill, which was read in *extenso*, provides for the refunding to Wilson & Brothers, of St. Louis, $549 90 for duties paid on five packages of merchandise transhipped and destroyed in like manner with those referred to in the previous case: provided, that proof be furnished the Secretary of the Treasury that the merchandise was duly delivered and totally destroyed, and that Wilson & Brothers are the parties in interest, and authorized to receive the return duties.

Mr. FULLER. I move that the bill be laid aside, to be reported to the House, with the recommendation that it do pass.

Mr. GROW. Mr. Chairman, though the amount proposed to be appropriated from the Treasury is small, still the precedent to be established is a bad one. If we are to refund duties paid on goods which have been destroyed by fire after importation into the country, and previous to the sale to consumers, we must refund all duties on goods, whether destroyed by fire or otherwise, previous to their being sold to consumers. Why should not the consumer be paid his loss, as well as the importer. The bill sets a bad precedent. If we are to have revenue laws, they should be uniformly enforced. There should be no individual exceptions. If we make exceptions now, we shall hereafter be flooded with similar claims for the refunding of duties. When we have a tariff, let the duties assessed at the custom-house be collected. When that system of collecting taxes ceases, then this legislation will cease with it. I see no reason for making this proposed exception to the general rule.

Mr. FULLER. I apprehend that the gentleman from Pennsylvania has not carefully noted the principles on which the reporting of the bill is based. The order for the goods emanated from the city of St. Louis. Goods imported to that place, as the gentleman is well aware, have to be transhipped at New Orleans; from the vessel in which they were brought across the Atlantic they are transferred to a boat capable of navigating the Mississippi river. Duties on goods imported and destined for St. Louis, are computed and settled at New Orleans by the collector, and are put under what are called "transportation bonds." In this case the packages were placed unbroken on board a steamboat which took fire on leaving New Orleans, and, with the merchandise, was consumed. I see no reason why these goods should pay duties while on the steamboat any more than they should had the vessel in which they were brought to New Orleans been sunk in the ocean. They did not arrive at the point of their final destination; they were in progress of importation. The duties had only been computed or ascertained at New Orleans to prevent frauds being committed upon the revenue by the goods being landed, and entering into consumption at intermediate points.

This, therefore, does not come within the class of cases where the goods have been landed at their final destination, the packages broken, and the goods scattered over the country before being destroyed by the casualty of fire. The uniform practice of the Government has been to remit duties in such cases. It is now settled by a general law which has since been passed, that where goods are destroyed in unbroken packages, while being transported from one port to another, the duties shall be refunded.

Mr. GROW. Since the statement of the gentleman from Maine, I will say that I had not exactly understood the nature of the case from the reading of the report. It seems from the statement of the gentleman, that this would not furnish a precedent to cover all cases where goods are destroyed by fire, and where the duties have been paid. I have, therefore, no objection to the passage of this bill.

Mr. FULLER. I ask, then, for the vote upon the motion, that the bill be laid aside to be reported to the House, with a recommendation that it do pass.

The question was put; and the bill was accordingly laid aside.

MOORE AND HASCALL.

House bill for the relief of Hiram Moore and John Hascall coming up next in order,

Mr. TRACY said: This bill is one that I reported from the Committee on Patents. I had been under the impression that it was disposed of at the last session until this morning. I was absent from my seat a considerable portion of the latter part of the session, on account of ill health, and could not attend to it myself. I am not prepared to take it up this morning; and I move, therefore, that it be passed over for the present.

The motion was agreed to.

THOMAS S. J. JOHNSON.

House bill for the relief of Thomas S. J. Johnson, of the Territory of New Mexico, coming up next in order, was read *in extenso* by the Clerk.

Mr. READY. Since that bill was reported by the Committee of Claims, an important communication has been received from the Treasury Department, which makes it desirable that the bill should again go before the committee which reported it. I ask, therefore, that that disposition may be made of it.

The CHAIRMAN. Does the gentleman move that the bill be recommitted?

Mr. READY. Not exactly that; I move that it be laid aside to be reported to the House, with the recommendation that it be referred to the Committee of Claims.

The motion was agreed to, and the bill accordingly laid aside.

CHARLES A. KELLETT.

Senate bill for the relief of Charles A. Kellett coming up next in order, was read *in extenso*.

It provides for refunding the duties which were paid upon a Chinese junk, brought some years ago into New York by the petitioner.

The report states that the junk was brought to this country to aid the purposes of science by exhibiting it as a curiosity, and that the cost of importation was much greater than the amount received from exhibition.

Mr. LETCHER. It seems that that gentleman embarked in a humbug speculation which did not pay. I move that the bill be laid aside to be reported to the House, with the recommendation that it do not pass.

The motion was agreed to; and the bill accordingly laid aside.

GENERAL BARON DE KALB.

House bill for the relief of the children and heirs of Major General Baron de Kalb, coming up next in order, was read through by the Clerk.

It directs the payment of $90,513 61, including interest from the year 1819, to the children and heirs of Baron de Kalb, in consideration of the services of the late General de Kalb in the war of the Revolution.

The report in favor of the claim, which was of great length, was then read.

Mr. LETCHER. I believe the bill appropriates some $90,000.

The CHAIRMAN. About that amount.

Mr. CORWIN. I will state, Mr. Chairman, that the bill allows and appropriates to the grandchildren of Baron de Kalb the seven years' half-pay, with interest thereon from the time that the claim was first presented to Congress, in 1819. By calculation, members will ascertain that the amount provided in the bill is the true one—of course taking into consideration the grade which he sustained in the Army of the United States.

A large quantity of land was voted the children of officers of his grade during the revolutionary war, and who died in the service. That land was located in Ohio; but from the ignorance of the grandchildren of Baron de Kalb of the situation of things in that State, it was sold for taxes, and they did not receive a cent for it.

The committee to which this matter was referred carefully investigated it, and finally came to the conclusion, whether equitably or not I am not now prepared to say, to allow the amount embraced in this bill, which is, I repeat, the seven years' half-pay of the grade of Baron de Kalb, with interest on that amount from the time the claim was first presented to Congress, to the present time. The sum proposed to be appropriated may be considered a very large one, but it is no larger than the others of the same grade obtained when they applied for it—saving the interest, which in this case has been accumulating for nearly sixty years. It amounts to a large sum of money, but it ought to be paid. The claimants, as the papers show, are the lineal descendants. The American people owe this debt if they owe no other.

Mr. KERR. How many grandchildren are there?

Mr. CORWIN. Two. I presume there will be no difficulty in the passage of the bill. I am certain that there ought to be none.

I was anxious to press this bill on the consideration of the House at the last session; but from the confused condition of affairs here, the committee was a long time uncalled for reports, and the bill was laid aside for other business—the wretched Nebraska bill, and other bills. It was taken up once, but, I believe, that when the amount of the appropriation was discovered, it was laid aside because of want of time for its consideration. This is the earliest moment it could be got up for consideration. No gentleman who has heard the report can, I am sure, entertain a doubt that the money ought to be paid, and promptly paid. I assure the committee that every substantive fact of the report is proved by the testimony in the case, and the history of the country.

Mr. LETCHER. It may be all true, as the gentleman believes, that this claim is a proper one, and one which the committee will allow on a full examination of it. I have listened as attentively as most members of this committee to the reading of the report at the Clerk's desk, and after listening with the utmost attention, I acknowledge very frankly that there are points embraced in it that I do not understand from that cursory reading.

Here we have a statement of accounts for moneys advanced to the Baron de Kalb for disbursement. We have statements of balances from other transactions; we have the seven years half pay, and we have various other things, making up the aggregate of the bill, that it is utterly impossible for the members of this House to understand from a single reading at that desk.

Now, sir, if the claim is right I desire that it should be paid; but at the same time I desire to have an opportunity to look into it more fully—more carefully than I have yet had the opportunity of doing. It is known to the House that during the present session we have had occasion to repeal a bill passed at the last session. That claim, at that time, was represented as justly and honestly due as this claim now is, and the House allowed it. But it afterwards turned out differently.

It appears from the report that this claim has been running since the year 1819. It appears, also, that there has been at least one adverse report made upon it. It does seem to me, therefore, that under these circumstances, before we undertake to pass it, involving as it does, a sum amounting to $90,000, the members of the House should have an opportunity to look into it, to examine it with more care than it has been possible for us to do thus far. It may be that, upon that consideration, we shall be satisfied that the claim is a just one; but I submit that it requires far more consideration than we have yet given it.

Mr. PECKHAM. If the committee will allow me, and the gentleman from Virginia desires that I should answer the objections which he has presented, I will proceed to do so now. The committee will recollect, perhaps, that at the last session this case was laid over, upon my motion. I desired to make a motion to amend the bill, so far as the amount was concerned; and, therefore, I objected to its passage then, as reported by the gentleman from Ohio, [Mr. CORWIN.] My honorable colleague upon the Committee on Revolutionary Claims has correctly told the committee the principles which influenced us in making that report; but I think he has made an inaccuracy, that he has committed an error, in carrying out that principle; and I shall, therefore, move to reduce the amount of the appropriation to somewhere about $70,000.

The first ground upon which the report is based is, that the widow and children of the Baron de Kalb, who was killed in the revolutionary war, are entitled to seven years' half-pay. They are entitled to this half-pay under the resolution of Congress passed the 24th of August, 1780. If the gentleman from Virginia will refer to that resolution he will see that it applies to this case without a doubt. The amount of this half-pay is $7,000, and to this they are entitled beyond dispute.

Then another item claimed by the heirs of the Baron de Kalb is for the back pay to which he was entitled at the time of his death. That includes not only the pay proper belonging to an officer of his rank, but also the emoluments attached to his office. This amount can be ascertained by what was paid to Lafayette who served at the same time, in the same grade of office, under the same circumstances. They came over from France in the same ship, and their commissions bore the same date. Lafayette received $6,000 a year, in addition to what was subsequently given him by Congress. Computing by the same rate the amount of back pay due the Baron de Kalb at the time of his death, is $18,000.

Now, these two sums, rejecting all others, form the basis of this report, and the principles by which the committee were guided in recommending the passage of the bill. If what I have stated be true, then the only question that remains for us to consider is, have these accounts been paid? That they have never been paid, is proved by the certificates of the Third Auditor, and the Register of the Treasury. In fact, there seems to be no doubt that they have never been paid. If they have, there is no record of the fact. The reason why the back pay due has never been settled is, that at the time of the death of the Baron, there was standing upon the books of the Treasury against him, some $224,000. He had received that amount of money to disburse for the subsistence of the Army. At the time of his death, his vouchers, with all his clothing and papers, fell into the hands of the enemy, and for that reason his heirs have never been able to account for the proper disbursement of the money, and it continued on the books of the Department against him. It was, however, finally expressly ordered by Congress that he should be credited with the whole amount, upon the presumption, upon the only reasonable, honest presumption, that, being an honorable man, he did properly disburse the money he had received in a fiduciary character. The books of the Department show precisely the amount of money which he did receive on account of his pay—some $3,000 I think, in all. The items are all given, and there is no difficulty in ascertaining the amount paid, and the amount due him at the time of his death. After making the deductions, the amount due for back pay, &c., is a little less than $15,000. This, with the seven years' half-pay due to his widow and children of $7,000, is all that is asked at the hands of Congress, together with interest.

Now, Mr. Chairman, I have no desire to make any appeal to this House for anything but justice to the heirs of the Baron de Kalb. They have been appealing from time to time to the justice of Congress. In 1821 or 1822 an adverse report was made upon this claim, on the ground that the seven years' half-pay was not due, because the Baron was a foreigner. But it is evident from the facts of the case that the position taken in that report was erroneous. The resolution upon which it was based applied only to officers who served until the close of the war, while the half-pay claimed by the heirs of the Baron de Kalb was founded upon the fact of his death while in the service, in which case his widow and children are clearly entitled to it. Taking those two sums together, and adding interest from the time when the claim was presented and properly authenticated, it amounts to about $72,000. That, it seems to me, in justice and equity, ought to be paid.

An objection is made that interest should not be allowed; but I submit that in honesty, justice, and fairness, it ought to be allowed. It has not been the default of these heirs, or the default of the deceased Baron de Kalb, that this claim has not been satisfied before. The claim arose in 1780, and from that time to this it has been at different times urged upon the attention and justice of Congress. It was not continued from 1784 up to 1819, because of the death of the widow, and subsequently because of the disturbances in France, during which one of the sons perished on the scaffold, and another was killed in some other way. But from 1819 up to this time it has been continued. Petition after petition has been presented to Congress, sometimes by the President, and sometimes through the agency of the French embassador. It has again and again been reported upon favorably. The last report, in 1850, was for $25,000, without regard to interest; but it seems to me, that as a matter of simple justice, interest should be allowed from the time when the claim was fully verified and demanded. It was through a mistake on the part of the committee, in my judgment, that the case was ever reported on adversely; because the committee did not rightly interpret the joint resolution of Congress.

Now, sir, if interest is allowed in such a case between private individuals, why should it not be allowed in this case? What is the objection to allowing it in the case of the Government? In the first place, it is said that the Government is always presumed to be ready to pay its debts. That is the presumption of law.

Mr. SMITH, of Virginia. I desire to ask the gentleman a question. I am not at all acquainted with this claim, but I understood from his remarks that the Baron had received $200,000 for disbursement, from the liability for which he was afterwards discharged by an act of Congress. Is there anything in the papers going to show whether or not he did not retain, out of that large sum of money, something on account of his pay?

Mr. PECKHAM. Certainly he did not. The act of Congress was simply that that amount of money should be allowed to his credit in the settlement of his accounts. Not one shilling of the money was applied to his own private claim. That the papers show.

I was about to add another remark, when I was interrupted by the gentleman from Virginia. As I before stated, in reference to the interest question, it is universally admitted, that in the case of a private individual, interest should be allowed from the time when the claim is presented and properly authenticated. I have already stated the reasons why it is not allowed in the case of the Government. It is upon the presumption that the Government is always ready to pay its debts. That presumption happens to be rebutted in this case. The claim was presented and properly authenticated long ago, and has been continually pressed before Congress, and yet it has not been allowed. It has been continued ever since 1819. Now, it seems to me, its justice is apparent; and is there any reason, or justice, or equity, in saying that this claim, if it was just at that time, shall not bear interest? It seems to me there is none. By whose neglect or default has this claim remained unsettled? By the neglect of Congress alone. Will this Government take advantage of its own neglect and make a profit of its own default or refusal to pay its debts? I hope not. General Lafayette was allowed $200,000 by Congress, in addition to $24,000 pay, and was besides granted some thirty-six thousand acres of land. The heirs of Baron de Kalb are allowed no claim of that sort. They have received certificates for land, from which, through ignorance, or in consequence of their residence abroad, they have

never realized one dollar. The land has all been sold for taxes.

Mr. HENDRICKS. Where do they live?

Mr. PECKHAM. In France.

Mr. SOLLERS. And they are very poor.

Mr. PECKHAM. They have become very much reduced in circumstances, and are now living in very great penury. I really hope, without making any appeal to the feelings of the House, or to its sympathy, that this Congress will do itself the justice to pass this claim. I move to reduce the amount contained in the bill to $72,070.

Mr. LETCHER. I think the speech of the gentleman from New York must have satisfied the House, or ought to have satisfied the House, that we had better look into this matter before we undertake to pass the bill. This bill, as it comes from the committee, proposes to appropriate $90,513 16. The gentleman from New York has satisfied himself, if he has not satisfied the House, that there is really but $72,000 due. Now, sir, if the committee have come to the conclusion that $90,500 is due, and the gentleman from New York, who has made a careful examination of the matter, has arrived at the conclusion that only $72,000 is due, does it not become us, before we undertake to vote either of those sums, to ascertain which is the real sum, in order that that real sum may be granted to the party entitled to it.

Now, let us see how this sum is made up? The first item in the account is $2,433 61, which is for monthly pay adjusted at the Treasury in 1784, and then left due; then comes seven years' half-pay, say $7,000; then pay and emoluments for three years and twenty days, say $18,000; making an aggregate of $27,433 61, and upon those three sums comes this amount of interest, which runs the claim up to $90,513. Now, I ask if, under these circumstances, with a claim like this, the House will depart from the rule which has been recognized here in almost every instance, (not to allow interest on claims,) by allowing this claim with interest more than double the amount of the claim itself.

If the principle is right in this case, why is it not right in regard to all the other private claims that come up for consideration in this body? Why is it that if A B, here at home, amongst ourselves, presents his claim to Congress and urges it, session after session, and that claim is not acted upon for years—why is it, I ask, that he is not allowed interest? And why is it that the gentleman from New York has not taken it upon himself to do justice to such claimants as those, when their claims have been under consideration here?

But, sir, in this case, for the first time, this principle of allowing interest is to be ingrafted on our legislation as a permanent principle. This is to be held up hereafter as a precedent. All the other claims that are awaiting the consideration of this committee are to be made to carry interest, and the result will be that when you come to pay the claims, you will not only have to pay them, but probably three to five times the amount of the claims themselves, in the shape of *interest*. Now, sir, I say that before that principle shall be established we should look into this matter carefully, particularly as the gentlemen of the committee cannot themselves agree in a mere matter of calculation—a mere matter of dollars and cents—a mere matter of calculation of interest on a given sum. Is it not, therefore, altogether important that time should be given to gentlemen to look into this matter, and that we should have the privilege of seeing whether this gentleman from New York is right, or that gentleman from Ohio is right?

Mr. PECKHAM. I ask leave to correct the statement of the gentleman from Virginia.

Mr. LETCHER. Certainly.

Mr. PECKHAM. There was no difference in the calculation of interest by the committee. As to that, the committee agreed unanimously. But the gentleman who made this report committed a mistake in not crediting the Government with the amount paid. It was, therefore, a difference, not of interest, but of the amount due. The gentleman allowed an amount greater than the sum which appears by the papers to be due.

Mr. KERR. When was the amount that you speak of paid?

Mr. PECKHAM. It was before the battle of Camden, where De Kalb was killed—before he went to the South to take command of the troops.

Mr. LETCHER. Then, if the committee made a mistake in ascertaining the amount due, so much the worse. If, with the papers before them from the Treasury Department, the committee made a mistake which makes a difference of some $18,000, the case is so much the worse for that committee, and demands at the hands of the House more careful scrutiny.

Mr. CORWIN. I will state, Mr. Chairman, that there is no difference of opinion in the minds of the committee upon the equity and good conscience of this case. In drawing the report—as I did draw it—I took into consideration the seven year's half-pay, not deducting from that sum the different sums of money which Baron de Kalb had received from our agents in France and elsewhere before his death. Take these sums, with the interest on them, and it makes the precise difference in question. There is no error about it. There is no error about the calculation of interest; and the amendment is offered so that the House may determine, at this time, whether these deductions are to be made, or whether it will give to the heirs of Baron de Kalb the seven year's half-pay, exclusive of deductions, by passing the bill for $90,513 61, or whether the House will adopt the amendment of the gentleman from New York, [Mr. PECKHAM.] I do not care which course the House may take. I think the bill should be for $90,513 61, but if the House think otherwise, then let it be passed for $72,070. But I have no doubt that it ought to be passed for the former sum.

Mr. LETCHER. And the result of the explanation is that, upon the principle of *equity and good conscience*, the gentleman over the way [Mr. CORWIN] thinks that the sum ought to be $90,513 61; and, on the principle of *right*, the gentleman from New York [Mr. PECKHAM] thinks that it ought to be $72,070!

I hope the same rule will be adopted in respect to this as to all other matters. If the claim cannot be postponed for the purpose of investigation, then I shall move to fill up the amount in this bill with the sum of $27,433 61, the principal sum, without interest, instead of the sum now contained in it; and I submit that motion.

Mr. KERR. I think that if ever there was a claim which ought to be by this time fully investigated and clearly explained on this floor, the claim we are at present considering is of that character. The committee, with commendable diligence, as I conceive, have devoted considerable labor to the investigation and ascertainment of the facts of the case. Particularly, the member of the committee in whose charge the matter was placed has, I think, with very great care collected every fact that could throw any light on the subject, and has arrayed these facts in lucid order, so that we are now as familiar with everything pertaining to the history of the services of Baron de Kalb, and of the claim which his heirs-at-law have against the United States as we could be were we to wait here for six months in continual investigation of the matter.

But my friend over the way, [Mr. LETCHER,] to whom I always listen with great respect, has suggested, that because there is a difference of opinion in the committee with reference to the amount due, we should, therefore, delay yet longer, and continue the examination of the claim. Now, the committee, it is true, did differ with reference to the amount; but that difference, as I understand, was merely the consequence of a mistake as to the amount due, and that has been rectified.

Mr. LETCHER. It was not a mere mistake. The gentleman from New York [Mr. PECKHAM] thinks that the amount should be $72,070, while the gentleman from Ohio [Mr. CORWIN] thinks it ought to be $90,513 61.

Mr. KERR. If, however, the gentlemen who had the matter in charge made a mistake, the chairman of the committee detected it before we are called upon to act in regard to it, and relieved the House from all possibility of being involved in the error.

Mr. LETCHER. If my friend from North Carolina [Mr. KERR] will allow me to interrupt him, I would say that he will find besides that the interest is calculated at seven per cent., instead of at six.

Mr. KERR. That, I suppose, results from the fact that seven per cent. is the legal rate of interest in New York; and I presume my friend from New York [Mr. PECKHAM] was inadvertently involved in the error from that fact. But this is a small matter—so small that if it has not already been corrected, it can be corrected in a moment.

Mr. PECKHAM. Yes; I calculated the interest at the rate of seven per cent., and so informed the gentleman from Virginia.

Mr. KERR. At all events, such an error is a matter of no consequence. But I understand the gentleman from Virginia [Mr. LETCHER] to object to allowing any interest at all on the claim. Really, this is the only point which, it seems to me, admits of any hesitation. I know that the habit of some gentlemen in this House is to object to appropriations on all occasions. I know that it is the habit of some gentlemen here to insist that there is one rule of moral conduct for a Government, and another rule for a gentleman of honor. For my part, I do not see the difference between the principles which should govern a Government and those which should govern a gentleman. If, under the circumstances of this case, it were dishonorable for a gentleman to refuse to pay interest, it is dishonorable for a Government to refuse it. And, sir, if a gentleman would lose caste—if he would suffer injury in his reputation—by withholding the payment of a just debt, a Government should no less suffer in the estimation of the world from the same cause. There is no reason, sir, why this Government should withhold interest on a claim so justly due to the heirs of one who has a claim upon our gratitude, second only to that of "the Father of his Country." Why should we make an invidious discrimination between the gallant De Kalb and the Marquis de Lafayette? The latter illustrious individual has been not only rewarded, but most munificently rewarded for his services and sacrifices for us in our revolutionay struggle. *He spilt his blood only for us;* De Kalb both bled and died in the same glorious cause.

I cannot see any ground, therefore, why the Government should not dispense the same measure of justice to the one as to the other. If any distinction is to be made, it ought to be in favor of the unfortunate Baron de Kalb. He lost his life in fighting the battles of liberty, and left his family in dependence and want. They have been ever since living in penury on account of the devotion of his life to the service of our country—*in defense of liberty.* And now, sir, when the claim is made out and presented, it is urged, in an American Congress, that we should quibble about interest, and withhold from the claimants a just debt which should have been paid half a century ago.

I do hope that the House of Representatives, composed of those who are descended from the men who fought with De Kalb; from those who struggled to establish the liberties we enjoy; from those who, by the wisdom of their counsels in forming our Government, have made this country one of the greatest and wealthiest nations of the world—I say, I do hope, that the Representatives of the descendants of such men will not hesitate any longer in passing this bill for the amount indicated by the gentleman from New York, [Mr. PECKHAM.] For my own part, I have no hesitation in saying, that I would vote for the ninety odd thousand dollars reported by the committee. If not due as a debt, I will vote for it as a bounty. The heirs of Baron de Kalb are clearly entitled to it. He never received the pay that was due to him. And this sum would not be half the amount of bounty given to Lafayette and others, who, like him, left their own country and perilled their fortunes and lives to win and establish our liberties.

Mr. MAY. With the honorable gentleman from North Carolina, [Mr. KERR,] I, too, can say, Mr. Chairman, that I never expect to have the fortune to vote here for a claim of equal merit with this; and, therefore, not only out of my disposition to do justice, and that springing from my heart after a sufficient examination of the facts of the case, do I feel perfectly justified in giving my support to this claim. But I am here, with my colleagues, requested by our State to support it. Over and over again has Maryland—acknowledging, I may say, the transcendent merits of this claim—instructed her Representatives here, and in the other branch of Congress, to come up and give it their most devoted support:

"It being represented to this General Assembly that the representatives of the Baron de Kalb, a major general in

the service of the United States in the war of the Revolution, and who, at the action of Camden on the 16th of August, 1780, when leading on the troops of the Maryland and Delaware lines, and 'animating them by his example to deeds of valor,'* lost his life; and the said representatives having presented to Congress a claim for his services," &c., &c.

Such is the noble tenor of our legislative resolve.

I had wished that the argument of this claim should be left to the honorable gentleman [Mr. CORWIN] who reported the bill, and whose careful and elaborate report must meet the approbation of every member who gives it a candid consideration; and to the other gentleman, [Mr. PECKHAM,] a member of the same committee, who has given much attention to the subject. Although these gentlemen differ in the results, by the figures which they have presented, yet their arguments ought to carry our conclusions to support the claim which they have both so strongly advocated. It stands, as it was stated by the honorable gentleman from New York, [Mr. PECKHAM,] upon two grounds. It is a claim made by the representatives of Baron de Kalb, who are descended from his own loins, and who reside in France, poor, and destitute, for the arrears of pay and emoluments due him under the engagement by which he entered into the American service in our revolutionary struggle—the pay to be computed exactly in dollars and cents for the period of time in which he served, and emoluments to be ascertained upon the same principle.

The second ground upon which the claim is based, is an act of Congress which gave seven years' half-pay to the widows and children of those who fell in our revolutionary struggle. Sixty years have passed since that glorious, gallant German, laid down his life in our cause. I have stood upon the spot where he fell; and I have felt all my patriotic enthusiasm kindled by the side of his grave. The people of Camden, and its neighborhood, as hospitable, patriotic, and generous as any of the gallant State of Carolina, erected a beautiful monument over his remains in the church-yard there. The people of South Carolina, in common with the people of Maryland, and of the whole country, venerate his memory. I have spoken with old men upon the battle field of his fame, who were full of interesting traditions connected with him, and his service there, and who were able to give me a vivid and most gratifying picture of what they were. There are authentic memorials in the archives of our State, made up of letters from some of the gallant sons of Maryland, who accompanied Baron de Kalb, and which state that, after he had received eleven mortal wounds from British bayonets and sabres, when engaged in the very front of the fight, and while he was slowly dying, that he devoted the last moments of his life in dictating a letter, testifying to the gallantry of our heroic troops, and recommending their example to the imitation and emulation of their countrymen. The last moments of his life were not passed in thoughts of his wife and children, far away. No, sir; his mind did not go across to France to occupy itself in the tender recollections and associations that would engage the mind of one less patriotic, less stern, and less devoted to the great cause of our liberties; but he spent the last moments of his life in dwelling with delight upon the conduct of our soldiers, in describing how the field was fought, how the troops were arranged, and which of them most distinguished themselves, and how even the British had borne their testimony to the bravery of his troops. His aid-de-camp, De Buysson, in whose arms he expired, received these declarations, and asserted that they were the last thoughts of the dying hero. Such was the end of the gallant De Kalb.

The children in whose veins the blood of that noble patriot now runs, are asking the price of that precious blood shed on that battle-field. I confess it has always surprised me, looking to the great rank of this man, and to the fact that he was a brigadier general in the armies of France when he came to our country, that he came in the same ship with General Lafayette, and obtained a commission from Congress on the same day, that he was acknowledged to be of equal rank with Lafayette during the whole period of his revolutionary service, that he laid down his life at the battle of Camden, while Lafayette survived to the end of our struggle, and lived to enjoy not only the gratitude and veneration of our people, but had a liberal bounty bestowed upon him, how the distinction made between these two illustrious officers can be possibly justified. General Lafayette, with the approbation of the whole country, received thirty thousand acres of public land, ay, more, and $224,000 in money besides, while the claim of De Kalb, of equal merit and rank, with the only difference that he sacrificed his life in fighting our battles for freedom, now presented for $70,000, according to the estimate of the honorable gentleman from New York, is to be considered here as exorbitant. I trust by every association dear and common to us all, and by our recollections of such distinguished services as were rendered by this illustrious foreigner, that this American Congress will acknowledge the justice of the claim now presented by his heirs dwelling upon the soil of France, to its fullest extent, and if this be done at this period of our history, it may prove instructive to our countrymen.

The delay that has ensued in the settlement of the claim, is due to the fact that Baron de Kalb, being put in command of the troops of the Maryland and Delaware lines for the defense of the Carolinas, had committed to his charge the sum of about $226,000 Continental money, and greatly depreciated, for the purpose of defraying the expenses of the troops, of which he gave no account whatever, and therefore the accounting officers of the Government never could settle this claim. He stands charged with this sum of money upon the books of the Treasury. The evidence is very clear that the Baron did not use the money himself, but he had no opportunity of showing this. His whole time was devoted to marching his troops with extraordinary expedition to the South. Every moment of his time was occupied in preparing them for a severe conflict. His papers at the time of his death, all his effects, everything which he had about him, or there possessed, were seized by the enemy, (along with his body,) and were never retrieved; and to this hour there is no knowledge on the part of any one, after a most diligent and careful search, as to what became of those papers. The presumption is, that they fell into the hands of the soldiers, to whom they were of no value, and were scattered abroad over the sands of the Carolinas. Nobody knows how that is, but it was ascertained by the sense of justice of an early Congress—and that has been more than once repeated—that no explanation of those accounts ought to be demanded, as, under the circumstances of the case, none could be rendered. The misfortunes of war, and the cruel adversity of his situation, placed it entirely out of the power of himself or his friends, or of those who were around him, to make the exhibition of any accounts.

That was the difficulty, and that was the way in which a former Congress answered it, and that is the way in which subsequent Congresses have continued to answer it. Now, sir, we propose to demand no account of his disbursements for the Government, but to settle with his heirs as though no charge remained upon the books of the Department against him. Is it not just? Is there a gentleman who hears me who does not at once assent that, under the circumstances, they ought to be relieved from that unjust charge? Whatever that sum was it was quite insignificant; certainly so compared with the nature of this claim, which is one of the most commanding interest. Nay, sir, it is a majestic claim, before which such an obstruction sinks into utter insignificance. I think if there ever was a just claim presented here, and which appealed to us, upon every possible ground, to pass it, to the full measure recommended by the committee, or, perhaps, to that substituted by the gentleman from New York, [Mr. PECKHAM,] this is that claim. I would, therefore, vote in favor of the amount presented by either of the gentlemen; but, as the gentleman from New York seems to have more carefully, since the report was made by the honorable gentleman from Ohio, considered the difference of the account, I shall vote in favor of the amount moved by him.

In doing so, I am authorized to say for those here who represent the blood of the Baron de Kalb in the prosecution of this claim, that that sum will be accepted—nay, sir, anything will be accepted by them in this time of their necessity. If the House see fit to drive a hard bargain with these children of that great hero and patriot for the price of his life's blood, they will take anything they can get, and release the United States forever from any further demands.

Mr. PECKHAM. I move to amend, by substituting for the amount stated in the bill, the sum of $66,099 76.

Mr. LETCHER. I insist upon the amendment which I offered, which is to insert the sum of $27,433 61.

Mr. MILLSON. There is no class of claims which appeals more strongly to the feelings of our people than those founded upon revolutionary services, or revolutionary sacrifices. The effect produced by the eloquent remarks of the two gentlemen who have just taken their seats, well attest this truth.

Some years ago, sir, I served upon the Committee on Revolutionary Claims, and it became my duty then to make some examination of the case now before the committee. I confess that I do not retain a very vivid recollection of the result of that examination, and with a view to refresh my memory, I desire to ask the gentleman from New York [Mr. PECKHAM] one or two questions. And first, I will ask him if this bill, now before the House is not founded upon a resolution of Congress, adopted in the year 1780, extending a resolution adopted by Congress in 1778, granting seven years' half-pay to the widows and children of those officers who died while in the service of the country?

Mr. PECKHAM. It is.

Mr. MILLSON. Then I will ask another question, and that is whether the resolution under which this bill is framed does not distinctly provide that no one shall have the benefit of the seven years' half-pay, but those officers who were residents of some particular State of the Union, and who had taken the oath of allegience to the United States?

Mr. PECKHAM. No, sir. The gentleman is commingling the provision made for officers themselves with that made for the relief of the widow and children. The provision made for the relief of the officers themselves, applies, as the gentleman says, but not so, however, in regard to the provision for the relief of widows and children. On the contrary, it has been expressly resolved by Congress, that it did apply to others than citizens of the United States. And so the papers show.

Mr. MILLSON. Mr. Chairman, if I am right in supposing that the original resolution of 1778 restricted its benefits to those officers who were residents of some of the States, and who had taken an oath of allegiance to the United States, then I am sure I am right in the conclusion, that the act of 1780 did not extend it to any class of officers who were not embraced in the act of 1778.

Until the gentleman made the statement which he has just pronounced, I had no very definite idea of the ground upon which this claim rested; but his reply to my inquiry brings to my mind the result of examinations frequently made by me, when I served upon the Committee on Revolutionary Claims. It was solemnly decided by Congress that the act of 1780 was not intended to apply to any other class of cases than those provided for by the act of 1778, granting seven years' half-pay.

Mr. PECKHAM. Congress passed the following resolution, August, 1785:

"*Resolved*, That the Paymaster General be, and he is

* The high regard entertained by the whole American people for his gallant conduct and distinguished services is strongly evinced in the following resolution, adopted by Congress on the 14th of October, 1780, to wit:

Resolved, That a monument be erected to the memory of the late Major General Baron de Kalb, in the city of Annapolis, in the State of Maryland, with the following inscription:

Sacred to the memory of the
BARON DE KALB,
Knight of the royal order of military merit,
Brigadier of the armies of France,
And Major General in the service of the United States of America,
Having served with honor and reputation for three years,
He gave a last and glorious proof of his attachment to the liberties of mankind and the cause of America,
In the action near Camden, in the State of South Carolina,
On the 16th of August, 1780;
Where, leading on the troops of the Maryland and Delaware lines, against superior numbers,
and animating them by his example to deeds of valor,
He was pierced with many wounds, and,
On the 19th following, expired, in the 48th year of his age.
The Congress of the United States of America,
In gratitude to his zeal, services, and merit,
Have erected this monument.

hereby, directed to settle with the widows and orphans of officers who did not belong to any of the United States, entitled to seven years' half-pay, under the resolution of August 24, 1780, and to issue to them certificates therefor."

That covers this case precisely.

Mr. MILLSON. I speak from no very recent examination, and the gentleman will correct me if I am in error. The act of 1778 grants seven years' half-pay to the widows and children of all those military officers commissioned by Congress who shall serve to the end of the war. The act of 1780 grants the same bounty to the widows and children of those officers who might die in the service, and in that way be prevented from serving to the end of the war. Now, sir, the question whether the act of 1780 was intended to embrace any other description of persons than that provided for by the resolution of 1778 was presented to the notice of Congress about twenty years ago; and this House then deemed it of sufficient importance to refer it to the consideration of the Judiciary Committee. That committee in the case of the heirs of Captain Shubrick, of South Carolina, reported, through a very distinguished jurist of the State of New York, [Mr. Barnard] —whose report I remember that I had occasion to embody in one of my own—that the act of 1780 was not intended to apply to any other class of cases than that embraced in the act of 1778.

Now, Mr. Chairman, I do not make these remarks for the purpose of expressing any settled opinion as to the merits of this claim. If it be founded in justice, it is one which should be instantly allowed. It is one which it would be a reproach to this Government not to have allowed long ago. But when we recollect that in allowing a claim of this character more than sixty years after its presentation, we put a stigma on the reputation of the United States Government—a stigma which we must be content to bear, if we are properly subject to the reproach—we should, at least, take pains to satisfy ourselves before passing the bill, that our country has, indeed, so long, and so cruelly delayed justice to the heirs of this gallant hero of our Revolution.

Not desiring to extend my remarks further at this time, and trusting that it is the sense of the committee that this case should be proceeded with cautiously, and be thoroughly examined; and reminding gentlemen that if the committee now rise, it will be the first subject for consideration when we next resolve ourselves into a Committee of the Whole on the Private Calendar, and that no injury can happen because of the delay, I move that the committee do now rise.

Mr. LETCHER. I demand tellers.

Tellers were not ordered.

The question was taken, and the committee refused to rise.

Mr. MILLSON. Mr. Chairman, my purpose in moving that the committee do now rise, certainly was not to defeat the ultimate passage of this claim, if it should be ascertained to be well founded. Nobody would be more ready to vote for it than I would, if I could be satisfied that it was entirely right. I wished to give an opportunity to the committee to examine the claim—important not merely in amount and principle, but as it involves, in some degree, the character and reputation of our country for justice. But since the committee has thought proper to remain in session, I desire to submit one or two other remarks in connection with this subject. I will ask the gentleman from New York—for really I do not feel myself sufficiently informed of matters to vote understandingly—whether any portion of the relief extended by this bill has reference to the settlement of the accounts between Baron de Kalb and the United States?

Mr. PECKHAM. None, sir.

Mr. MILLSON. Or is it altogether the payment of the seven years' half-pay?

Mr. PECKHAM. No. It includes the balance for services—the pay and emoluments, after deducting the amount received by Baron de Kalb.

Mr. LETCHER. Seven years' half-pay, and $18,000 pay and emoluments.

Mr. PECKHAM. No, sir; only a little less than $15,000.

Mr. LETCHER. You have got it $18,000 on the paper Eleven years' half-pay, $7,000; and pay and emoluments for three years and twenty days, $18,000.

Mr. PECKHAM. The gentleman insists upon being mistaken. The records of the Department show that it is $18,000, less $3,637 29. The paper to which the gentleman refers is that of the attorney, not mine.

Mr. MILLSON. Remembering, Mr. Chairman, that some years ago I had given this claim some slight examination, and that I had seen one or two previous reports on it, I took occasion, during the dialogue between my colleague and the gentleman from New York, to send to the House library for the volume containing them. One of these reports I will send up to the clerk's desk to be read to the Committee.

The Clerk read the report, as follows:

The Committee on Pensions and Revolutionary Claims, to whom was referred, on the 4th of December, 1820, the petition of Elie, Baron of Kalb, knight of the royal order of military merit, and Maria Anna Carolina, of Kalb, widow Geymuller, have had the same under consideration, and report thereon:

That, on the 10th of December, 1819, the petition of the said petitioners was referred to the Committee on Pensions and Revolutionary Claims; that, on the 7th of February following, that committee made report thereon. [See No. 517, page 702.]

This petition being again referred to the Committee on Pensions and Revolutionary Claims, the committee have had recourse to the Treasury Department for information relating to the accounts of the Baron de Kalb, and, by a report from that Department, it appears that "the only information on the subject of his accounts during the revolutionary war is to be found in one of the ledgers of the late office of commissioner of army accounts, preserved from the fire which destroyed the public buildings. A copy of his accounts is extracted therefrom and inclosed. There does not appear, as far as the evidence in this office affords information, that any final settlement was made of the accounts of the Baron de Kalb; and, at this period, when the records have so generally been destroyed, it would be impracticable to make one with accuracy." By the account alluded to it appears that there is a balance standing to the debit of the Baron de Kalb, amounting to $234,100 70.

The committee further report that the petitioners appear to claim the payment of any arrears of pay which may be due to their late father. On this subject the committee observe that the large balance appearing on the books of the Treasury, and standing debited in the account of the late Baron de Kalb, goes to preclude the expectation of any arrears of pay being due to the Baron de Kalb.

The petitioners appear to claim five years' pay as being due to their late father, the Baron de Kalb. On this subject the committee observe that, on the 15th of May, 1778, Congress unanimously resolved "that all military officers commissioned by Congress, who now are, or hereafter may be, in the service of the United States, and shall continue therein during the war, and not hold any office of profit under these States, or any of them, shall, after the conclusion of the war, be entitled to receive, annually, for the term of seven years, if they live so long, one half of the present pay of such officers: *Provided*, That no general officer of the cavalry, artillery, or infantry, shall be entitled to receive more than the one half part of the pay of a colonel of such corps, respectively: *And provided*, That this resolution shall not extend to any officer in the service of the United States, unless he shall have taken the oath of allegiance to, and shall actually reside within, some one of the United States." The resolution alluded to appears to be expressly intended for those officers only who, being in the service of the United States, did actually reside within some one of the United States, and did continue in the service of the United States during the war; and to the exclusion of all other officers who, although being in the service of the United States, did not actually reside within some one of the United States, or who did not continue in the service of the United States during the war. The Baron de Kalb, in the resolution of Congress of the 14th of October, 1780, is stated to be a brigadier in the armies of France. The family of the Baron de Kalb is believed to have resided, and continued to reside, in France. Hence it is inferred that France was the place of his residence; and, therefore, that he is included within the proviso of that resolution. The resolution of Congress of the 15th of May, 1778, contains not any provision for the widows or orphans of officers who had died, or thereafter might die, in the service of the United States. On the 16th of August, 1780, the Baron de Kalb, major general in the service of the United States, in the action near Camden, in South Carolina, leading on the troops of the Maryland and Delaware lines against superior numbers, and gloriously contending on behalf of the rights of mankind, was mortally wounded, and died on the 19th of that month. On the 24th of August, 1780, Congress resolved "that the resolution of the 15th of May, 1778, granting half-pay for seven years to the officers who should continue in service to the end of the war, be extended to the widows of those officers who have died, or shall hereafter die, in the service, to commence from the time of such officer's death, and continue for the term of seven years; or, if there be no widow, or in case of her death or intermarriage, the said half-pay be given to the orphan children of the officer dying as aforesaid, if he shall have left any; and that it be recommended to the Legislatures of the respective States to which such officers belong, to make provision for paying the same on account of the United States."

That resolution of the 24th of August, 1780, is explanatory of the resolution of 15th of May, 1778, and manifesting that that resolution was limited and confined to officers who did actually reside in some one of the United States, and not otherwise; and recommending to the several States, respectively, to make provision accordingly for the widows or orphans of officers who did reside within some one of the United States, respectively. On these resolutions of Congress it does not appear that the heirs of the Baron de Kalb can bottom any claim for five years' pay, as mentioned in their petition. By a resolution of Congress of the 21st of October, 1780, half-pay for life was granted to officers in the service of the United States, alluded to in that resolution. That resolution does not include the case of the heirs of the Baron de Kalb. On the 26th of January, 1784, Congress resolved "that half-pay cannot be allowed to any officer, or to any class or denomination of officers, to whom it has not been heretofore expressly promised." The resolutions of Congress of the 21st of October, 1780, of the 22d of March, 1783, and of the 8th of March, 1785, allowing half-pay for life, or commutation thereof for five years' full pay, do not include this case of the petitioners. Their claim for five years' pay does not apppear to be included in, or provided for, by any act or resolution of Congress.

This committee do further report that evidence has not been adduced to prove that any arrears of pay are due to the Baron de Kalb, and that, therefore, his heirs, the petitioners, have not any just claim against the United States for any arrears of pay said to be due to their late father, the Baron de Kalb; that the claim of the heirs of the Baron de Kalb to the full pay of five years on account of the services of the Baron to the United States is not bottomed on any act or resolution of Congress, and is, therefore, inadmissible, and ought not to be allowed. By the report from the Department of the Treasury alluded to, it appears that, on reference to the register of officers of the revolutionary army returned as entitled to land, the name of the Baron de Kalb is entitled to land, for which application is to be made to the Department of War.

This committee, after consideration of this case of the petitioners, and taking into view the circumstances attending it, are of opinion that it does not appear that any arrears of pay are due to the late Baron de Kalb, as intimated by the petitioners in their petition; that it does not appear that the petitioners, heirs of the Baron de Kalb, have any just claim against the United States for five years' pay in consequence of services by him performed to the United States; and, therefore, submit the following resolution:

Resolved, That the prayer of the petitioners, so far as relates to their claim of any arrears of pay supposed to be due to their late father, the Baron de Kalb, and so far as relates to their claim of pay for five years in consequence of services of their late father, the Baron de Kalb, to the United States, be not granted; and that the petitioners have leave to withdraw so much of their said petition as relates to their claim for land as heirs of the Baron de Kalb, so that they may apply to the Department of War for the same.

It appears from this report that the committee reported adversely upon both branches of the claim; first, that there were no arrears due, and again, that the claimants were not entitled to seven years' half-pay under the resolutions of Congress. In making their report, they put it distinctly upon the ground that the resolution of Congress granting seven years' half-pay applied altogether and exclusively to those officers who were residents of some one of the States of the Confederacy, or had taken the oath of allegiance to the United States, and there was a previous report in which the claim was denied upon the same ground. Here, then, are two reports made at an early period of the Government, rejecting the claim, and there is one report, made by the gentleman from Ohio, [Mr. CORWIN,] allowing it, and in this state of things, we are left in a condition of indecision and uncertainty as to whether the claim ought to be allowed or not. Until the gentleman can answer the objections stated in that report, it would seem to me at least prudent to delay the final adjudication of the claim.

But I have another objection to so much of the bill as provides for the allowance of interest upon this demand. I believe I have never voted for the payment of interest except where the payment of interest was a matter of contract. This is a rule with all Governments, and when gentlemen come to consider narrowly the ground upon which that rule is founded, they will, I think, see that it is a sensible one, and one which ought rarely, if ever to be departed from. Interest is never due, except where it is agreed to be paid, or where it is imposed by way of penalty for the improper withholding of the debt, and no gentleman can tell me any other ground for the claim of interest.

So far as the first ground is concerned, there is no pretense that there was a contract between the Government of the United States and Baron de Kalb to pay interest upon this claim. The claim for interest cannot rest upon that. It can, therefore, only be sustained on the remaining ground, and that is that it is by way of penalty for the improper withholding of the money by the debtor from the creditor. But upon sovereigns no penalty can be imposed, and no Government has ever agreed to pay interest by way of penalty, because no Government can admit that it has been wrongfully withholding money from the party to whom it is due. There is no superior who can adjudicate the default of the Government. The Government is superior to every other authority, and to agree to pay interest by way of penalty is to acknowledge, what Government can never acknowledge, that it was wrong in withholding the amount. Where the Government ascertains a

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debt to be due, it pays it. Where it ascertains a debt not to be due, it refuses to pay it. In its sovereign capacity it is right when it determines that the debt is due, in its sovereign capacity it is right when it determines that the debt is not due. No appeal can lie from its decision, and it is always to be presumed that the Government is right, because being the highest tribunal, from which no appeal can lie, no one can say that Government is wrong. These are the principles which have been received among all nations, and which have determined all to deny the payment of interest for the mere forbearance of the debt. Interest cannot, then, be paid by way of penalty.

But, can it be demanded upon the ground of the loss to which the creditor has been subjected? Why, sir, interest is never allowed upon that ground—never. Let a man make a loan to a friend without interest, and let him prove ever so clearly that the non-payment of his debt at the stipulated time has subjected him to loss, he is without remedy. If he bring suit for the recovery of the debt, he can get only the debt; and though he may prove that the non-payment of the debt has occasioned extensive disasters, he can claim nothing but the debt. That is the law amongst individuals. Let a man make a loan bearing interest at three per cent., payable at a stipulated time, and the money is not paid at that time; he can recover only three per cent. interest, and when he gets the money, he gets it with only three per cent. interest. By reason of the failure to pay the money he may have been subjected to losses from inability to enter into speculations as he might otherwise have done, but still he is without remedy. Where is this principle to stop when the claim for interest proceeds upon the ground that the failure or default of the agent of the Government has subjected the claimant to loss? Sir, will you apply this principle to your courts of justice? If a claimant should prove to the satisfaction of Congress that, by reason of the repeated continuance of his case by some judge of one of the courts of the United States, he has been delayed in the recovery of a debt that is due him, is the Government of the United States responsible to him for the interest he may have lost by reason of the default of the judge who has, it may be improperly, continued the case from time to time? Most unquestionably not. And yet the judge is as much the agent of the United States as Congress.

Again, sir, the gentleman from North Carolina [Mr. Kerr] suggested that the Government ought not to prescribe for itself a different rule from that which is usual amongst individuals. Sir, the Government does not prescribe any other rule than that which is common among individuals. So far from it, all the advantage is on the side of the individual claimant, and all the disadvantage on the side of the Government. If this claim of the heirs of Baron de Kalb had been preferred against a private citizen, the claimant would have been deprived not only of the interest but of the principal, upon the very first adjudication of the case, when in 1820 it was decided adversely to the claim, and the heir of Baron de Kalb would have been forever barred. But, sir, because he claims this amount from the Government of the United States, there is no bar to his appeals. He may come, notwithstanding one hundred refusals, and still claim the amount of the debt that he supposes has been withheld from him. Sir, is not the privilege of being allowed to make repeated demands—of never being foreclosed by any refusal from the assertion of his claim—more than a full compensation for the absence of the right to demand interest?

It strikes me, that without saying anything further in reference to the merits of the claim itself, the allowance of so large an amount of interest rests on foundations which Governments have heretofore never recognized nor allowed, and which never should be allowed.

I desire, Mr. Chairman, that the House shall have an opportunity of considering the subject maturely. I do not know that, on full examination of this claim, I should be myself opposed to it. I should be most willing to be convinced that it is founded in justice. And if I were convinced of that, I would not be restrained by the apprehension that the Government would subject itself to reproach for its long delay in satisfying the claim. I would not, I say, be restrained by such an apprehension from yielding my ready and cheerful support to the bill. But, sir, in the uncertainty which I feel as to its merits, I shall be constrained, in the present state of the case, to vote against the bill, if I am compelled to vote without the further information which I might have the opportunity of acquiring.

Mr. PHILLIPS. Is it in order, Mr. Chairman, to move to amend the bill at this stage?

The CHAIRMAN. It is not in order now to move to amend, as there is an amendment pending to an amendment.

Mr. PHILLIPS. Well, would it be in order for the gentleman from New York [Mr. Peckham] to accept of an amendment suggested?

The CHAIRMAN. It would, in the way of a modification.

Mr. PHILLIPS. Then I suggest to the gentleman from New York to strike out the latter portion of the bill, which places the payment of the $66,000 on account of the principal and interest due, and to substitute therefor these words: "for the services rendered, and the sacrifices made, by Baron de Kalb during the revolutionary war." In this manner we can get rid of all the objections that have been made here.

Mr. PECKHAM. I have just drawn, and was about to submit, such an amendment. It then will make the bill read, "$66,975 for the services and sacrifices of the late Baron de Kalb in the war of the Revolution, out of any money in the Treasury not otherwise appropriated."

Mr. TAYLOR, of Tennessee. Is an amendment in order now?

The CHAIRMAN. Not now.

Mr. TAYLOR. I would suggest to the gentleman from New York, [Mr. Peckham,] if it be placed on that ground, that $100,000 be substituted instead of $66,975.

A Member. Make it $67,000.

[Cries of "Question!" "Question!"]

Mr. SIMMONS obtained the floor.

Mr. LETCHER. Will the gentleman from New York [Mr. Simmons] give way to a motion that the committee do now rise?

Mr. SIMMONS yielded the floor.

Mr. LETCHER. Then I make that motion.

The question was taken, and the motion was not agreed to.

Mr. SIMMONS. It seems to me, Mr. Chairman, that there is a determination manifested here by the majority of the committee to deprive the minority of the opportunity of examining the merits of this case. I rise only to protest against such a precedent being set in this House. Gentlemen will find in the end that there is nothing gained by it. It is a game at which two can play, [laughter,] and in the course of a series of years it will always be found that it comes about right.

Now, sir, I am perfectly willing to vote a fair and liberal compensation to the heirs of Baron de Kalb, whether it be on the ground of sympathy to the needy heirs, or whether it be as a glorification of one of our revolutionary officers. But I am not willing to vote blindfolded. I wish to see a little as to whether this claim is right. The Baron de Kalb case has been compared to that of the Marquis de Lafayette. But this comparison, sir, is only to help out an argument sustained here. The comparison does not hold entirely good. Why, sir, Lafayette was a sort of moral representative of this great free Republic—a patent one for the world. He went to Europe, and there, by the influence which he exercised, he and his associates were the occasion of starting the establishment of the same principles, and putting them in operation in France. And for this he suffered imprisonment in the dungeons of Olmutz. As the representative of such principles, he became known throughout the world. He became a public man. His private means were entirely inadequate to his expenses. And, sir, that was the argument used for the appropriation made to him by Congress. I well recollect that argument being used by Mr. Clay himself, when speaking in favor of granting to Lafayette $200,000. The very countenance of Lafayette—whom I well recollect in America—inspired a sort of feeling, so that no man could restrain himself from being liberal and generous toward him, not only while he was here, but when he was abroad. He went abroad, and morally represented the principles of this Government. And, sir, he did forty times as much good for republicanism after he left this country, and before the appropriation was made to him, than he had done while he was here. So, too, General Washington has done forty times as much good for liberty since his death as he had done in his lifetime. Just as St. Paul has converted a thousand times more unbelievers since his death than he did during his lifetime. [Laughter.]

It is somewhat important, sir, that when we go to vote money we should do it from a pure motive, so that it may produce its effect. I have no objection to vote for granting money in a proper cause, for revolutionary officers or for their heirs. But what significance is to be given to your expression in this act? None at all, beyond the mere payment of the sum; and therefore it is proper that the amount should be inquired into, and that we should see how much is to be paid. I would not go into dollars and cents, to be sure, on small matters in making up the account between the Government and Baron de Kalb, and seeing what part of the $200,000 given to him remained in his hands. But I would look into it a little, so as to have everything fair instead of being ready to swallow an amendment which goes to put the whole bill on glorification instead of a debt. Why, sir, what have the heirs of Kosciusko been paid? Did not General St. Clair die of absolute starvation on the mountains of Pennsylvania? And what has been paid his heirs? If we are going to start on this principle of glorification alone, is it not proper that we should look a little, and see how many more similar cases there are? because if we are to extend the same rule to the heirs of all revolutionary officers, we shall have to make an assignment; and the amount should be divided equally among all, instead of giving the preference to any.

Mr. PECKHAM. Will my colleague allow me to state that this report was presented on the 7th of February last, and has been before the House ever since.

Mr. SIMMONS. That may be, but I have not had an opportunity to examine it. [Laughter.] However, as it is, I do not intend to decline voting something for the heirs of Baron de Kalb, but I will vote the smallest sum; and if there be a still smaller sum proposed I will vote for that, unless the House get an opportunity to examine the matter.

Mr. KEITT. It then seems that the gentleman from New York [Mr. Simmons] is willing to vote a small amount, whether he is satisfied of the correctness of the claim or not. He says he does not understand this claim. If you will report a smaller amount, why the gentleman is ready to vote for it. The unavoidable inference from this remark of the gentleman is, then, that he is willing to fling away the public money without any just claim whatever, provided it is a small amount.

Mr. SIMMONS. The gentleman has misunderstood me. The report shows, that there is something due as a debt, but the amount to be liquidated is placed upon different grounds. I wish to have one distinct amount, as clear as one of Mr. Calhoun's metaphysical speeches. [Laughter.]

Mr. KEITT. The gentleman would vote for the bill now, provided that the amount was reduced. As to the gentleman's metaphysical abstractions, I have nothing to say. I mean to say here, that I have no comparison to make between a man who voluntarily left his own home, and exposed himself to the perils of a conflict in

our cause—between a foreigner who fell upon one of our battle-grounds covered with wounds—and another who offered his life upon a hundred fields, and was saved only by the will of God.

The gentleman from New York [Mr. SIMMONS] protested against strangling the minority. For months, I understand, this report has been upon your tables, and he has not yet had time to read it. If you pass this case over to-day, when will he read it? Has it not been read from the Clerk's desk? When is the member to read it? One would infer, from the tenor of his remarks, that when a bill is brought before the House, that we must stand silent, and suspend its business until Know-Nothingism is converted into Know-Somethingism. I am satisfied with the explanations which have been given by the gentlemen who are members of the committee that reported the bill. I am satisfied with the explanations given by my honorable friend from North Carolina, [Mr. KERR,] and with those of my honorable friend from Maryland, [Mr. MAY,] and I support the bill upon their representations. I believe that the amount named by the gentleman from New York [Mr. PECKHAM] is due to the heirs of this individual; and I will not, with the member from New York, [Mr. SIMMONS,] in the language of my friend from Maryland, [Mr. MAY,] drive a hard bargain, and demand the pound of flesh.

Mr. SIMMONS. Did I understand the gentleman from South Carolina to say, or intimate, that I was in favor of political Know-Nothingism?

Mr. KEITT. I did not say any such thing.

Mr. SIMMONS. I will simply inform the gentleman that I am opposed to all that sort of stuff. [Laughter.]

Mr. LETCHER. I would like to know of my friend from South Carolina one thing. He says that this report has been here for eleven months. Above all other things, I would like to know whether my friend from South Carolina ever saw or read the report in this case before to-day?

Mr. KEITT. I will answer that question in this way. The report was submitted last February, and it has been upon our tables since then. It was read at the Clerk's desk. If I did not read it, it was my fault. If I did not hear it read, it was my fault; and I shall not come here and ask the members of this House who may have done their duty, to suspend the public business of the country, because I had not done mine.

[Cries of "Good!" "Good!"]

Mr. LETCHER. My friend has not read the report in this case, and he has not heard it read; and yet, by a sort of intuitive power that I do not possess, he has come to the conclusion, without any knowledge upon the subject at all, that this $90,000 ought to be paid.

Mr. KEITT. It is only $66,000.

Mr. LETCHER. When I commenced this controversy here to-day, the amount claimed was $90,513, but I reduced it to $66,000 by correcting the figures of the gentleman from New York, [Mr. PECKHAM.] My friend ought to be obliged to me for that reduction.

Mr. PECKHAM. By changing the mode of calculation.

Mr. LETCHER. Changing the mode of calculation! The gentleman first calculated the amount at seven per centum, and then calculated it at six per centum; but I take it that this difference of one per centum will not make the amount of $22,000. It may be made out by arithmetic in Albany, but certainly not in Virginia. All I have asked in this matter was, (and I think there is reason in it,) that this matter should not be pressed to a vote to-day, especially when the fact is considered by the House that there are not ten men upon this floor who have read the report in this case. If there are let them rise in their places, and say that they have either read or seen it. Now, in this state of the case, gentlemen standing here in total ignorance of this matter get up and proclaim to this House that nobody should be heard, and when any person rises, his ears are assailed by cries of "question!" "question!" from those whose ignorance is most extraordinary in regard to this case. I came here to vote understandingly about these matters.

I give, perhaps,—as I think will be admitted by the House generally,—as close attention to these reports as any member upon this floor, but yet, so far as I am concerned, I have not had time to read the report in this particular case. When I appealed to gentlemen who are in the same condition to give us time to read it, and the opportunity to do so, in order that our votes might be placed upon the proper ground, the reply was, no. When my colleague [Mr. MILLSON] asked for further time to consider this matter, what was the result? A deliberate purpose to force a bill—about which no one knows anything—down the throats of the members of this House, without an opportunity for examination. Let this thing go to the country. Let gentlemen's constituents understand it. Let them say whether they approve the conduct of their Representatives, in voting away the public money, without knowledge of the facts stated in the reports presented to this House. That is all I ask.

I hope now the committee will rise; and I think interest enough has been excited in the case by the discussion to-day, to induce gentlemen to look into it, and between this and next Friday inform themselves in regard to its merits.

Mr. MAY. I wish to make one remark in reply to the gentleman from Virginia. I recollect very well that once when this case was called up it was, upon an explanation made by the honorable gentleman from New York, [Mr. PECKHAM,] postponed and laid aside, in order that the correctness of the figures might be tested—some of the gentlemen of the committee, and others who had taken an interest in the matter, not being quite satisfied that the figures were right. I remember I protested, to the gentleman from New York, against the injustice of such delay, and said it was the duty of gentlemen of the House, who wished the delay to consider matters of such importance, to have investigated it before. It seems to me, with all respect to the gentleman from Virginia, that the friends of this bill have been patient enough in its slow progress, and especially when we know that the claim is sixty years old.

Mr. LETCHER. If my friend from Maryland will produce ten men in this House who have read the report in the case, I will say not another word.

Mr. KEITT. Suppose they have never read it?

Mr. LETCHER. Suppose they never will read it? And suppose the gentleman should go home to his constituents, and should be asked how it happened that he had voted for this appropriation of $90,000, and he should say that he had never read the report—

Mr. KEITT. That is my business.

Mr. LETCHER. And not only that, but that he never knew anybody that had read it, what think you would be their opinion of Congress?

Mr. PECKHAM. I have no desire to detract, in any degree, from the credit to which the gentleman is entitled; but precisely the same position which I take in regard to this bill, I took when this same bill came up before. It was then postponed, upon a motion made by myself, for the purpose of enabling me to amend it.

Mr. SIMMONS. Can the gentleman inform me who is the agent of these heirs, and who are now presenting this claim?

Mr. PECKHAM. I will answer the gentlemn's remark by saying that the committee at the time they made the report, had seen no agent whatever, of any kind or description. I have since learned that a gentleman in this city, a highly respectable individual, has something to do in relation to it.

Mr. SIMMONS. Has this agent any interest in this money or not?

Mr. MAY. I can answer the gentleman. The facts are as stated by the gentleman from New York. The committee considered the claim without the facts being presented to them otherwise than as it had been presented over and over again by the President of the United States in his messages, and by the French Minister resident in this city. But it so happens that a gentleman of this city, well known to me, and of highly respectable character, became acquainted with the heirs of the Baron de Kalb, in France, while he was acting as Secretary to his uncle, at Paris. In that capacity, and by accident, he became acquainted with those persons, and not at all seeking to secure the character of a claim agent, in regard to this claim. But, accidentally becoming acquainted with them in this way, he promised to attend to the claim, and to act as agent for them. I do not know what he has done, but he has presented a good many considerations to the gentleman from New York, [Mr. PECKHAM,] and I think that one reason why this mistake was made by the committee, and rectified by the committee, was because this gentleman, who had the claim in charge, in the manner of which I have spoken, was too modest to come before Congress, and the committee, and present the case fully to them.

Now, I have inquired of others in reference to the relation of those who are entitled to this claim. These heirs are the blood of Baron de Kalb, his own grandchildren, and great grandchildren; and no human being, as far as I know, or believe, has an assignment of one dollar of this claim. But I dare say that this gentleman who represents this claim will be entitled to some share of it for his services, but that will be an insignificant amount.

Mr. BOYCE. Mr. Chairman, I beg leave to make a few remarks upon this occasion. I represent the district of Kershaw, upon the soil of which the battle took place in which De Kalb lost his life. I feel that I would be doing injustice to the generous sentiments of this portion of my constituents, if I were to remain silent at this time. After the very full report of the committee, and the expositions made by gentlemen who have addressed the House upon the subject, it would be a useless consumption of time for me to go into an elaborate investigation of the case. I cannot, however, refrain from alluding to one objection which has been urged against the bill. It is said De Kalb was not a citizen of the United States, and had not given notice of his intention to become a citizen. But I do not think this objection well taken. Before he had time to do so, he fell in a desperate contest, at the head of your army, fighting for your liberty. It was a notice which he sealed with his blood, and which he illustrated with his glory. Cold must be the heart which does not receive this notice.

If this be a meritorious claim in itself, surely it could not have stronger recommendations than spontaneously force themselves upon us at the name of De Kalb, and the memory of his services. The events of the disastrous battle in which he fell are familiar to us all. The American army were encamped near Rugely's Mills, some ten or fifteen miles north of Camden, where the British army lay, under the command of Lord Cornwallis. General Gates, flushed with his victory over Burgoyne, determined to surprise Cornwallis, and he accordingly made a night march towards Camden for that purpose. By a very singular coincidence, Cornwallis had the same purpose, and made the same movement towards Gates. The result was, that the two armies met unexpectedly, some seven miles above Camden, before daybreak. A mutual pause took place, until there was light enough to see by. At daylight the British army advanced at the charge step, with fixed bayonets. Unfortunately, at this moment the American militia, who were in the front rank, were endeavoring to change position, in pursuance of an order from General Gates. The advance of the British at this juncture disconcerted these raw troops; they became disordered; a panic seized upon them; they threw down their arms, and fled ingloriously from the field; and General Gates fled after them, as he said, to rally the fugitives. De Kalb commanded the second rank, the Continentals. What did he do? Did he follow the example of his commanding general? No; he remained firm; he disdained to fly; he remained to die. He closed up the ranks of the Continentals; he refused to surrender; he fought with desperation; he held for some time the fate of the day in suspense, and at last, overwhelmed by superior numbers, though he could not conquer fortune, he sustained our honor, and learned brave men how to die for their country. He fell in the midst of the enemy, pierced with numerous wounds, and fighting to the last. If the American Army had been actuated by his resolve, instead of a day of terrible disaster, it would have been a resplendent victory.

When General Lafayette was in Camden, on his last visit to the United States, the citizens of that town, with a peculiar propriety, removed the remains of De Kalb from the battle-field where they rested, and buried them with signal respect, in a beautiful spot in the very heart of Camden, and they erected over these glorious remains a chaste monument, an evidence of their gratitude and their patriotism. I could not be insensible to a claim

presented by the descendants of De Kalb without jarring upon their sensibilities. Indeed it would seem to me, if I did, I would hear a voice from the grave, crying shame, shame, shame.

The question was then taken on Mr. LETCHER's amendment; and it was disagreed to.

The question next recurring on the amendment offered by Mr. PECKHAM, to reduce the amount to $66,099,76; it was put, and decided in the affirmative; and then, on motion of Mr. KERR, the bill was ordered to be laid aside to be reported to the House, with a recommendation that it do pass.

Mr. GROW. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, the Chairman reported that a Committee of the Whole House had had the Private Calendar generally under consideration, and the action had upon particular bills.

ADJOURNMENT TO MONDAY.

Mr. LETCHER. I move that when the House adjourns to-day, it be to meet on Monday next.

Mr. EDGERTON. I demand the yeas and nays on that motion.

The yeas and nays were not ordered.

The question was then taken; and Mr. LETCHER's motion was agreed to.

Mr. WALBRIDGE. I move that the House do now adjourn.

Mr. PECKHAM. Is it in order to move to take up the bill for the relief of the heirs of Baron de Kalb?

The SPEAKER. Not while a motion is pending for the adjournment of the House.

Mr. WALBRIDGE. I withdraw the motion for adjournment.

BARON DE KALB—AGAIN.

Mr. PECKHAM. I now move that the bill reported by a Committee of the Whole House for the relief of the heirs of Baron de Kalb, be taken up for action.

The SPEAKER. The bills reported from a Committee of the Whole House will come up in order, as the business before the body, if it does not adjourn. No motion is therefore necessary.

Mr. PECKHAM. I ask that all the bills be passed over before the one for the relief of the heirs of Baron de Kalb, so that it may be taken up and acted on. I do it for the purpose of saving time. If we do not act on the bill now, when it again comes up, there will most certainly arise a very protracted debate.

Mr. JONES, of Tennessee. If the gentleman will call the previous question on the bills just reported from a Committee of the Whole, and have the main question ordered to be now put, they will come up and be acted on without debate.

Mr. PECKHAM. Then I shall do that.

Mr. EDGERTON. I move that the House do now adjourn.

The question was taken; and the House refused to adjourn.

The SPEAKER. The previous question can be ordered on all the bills only by unanimous consent.

Mr. EDGERTON. I object.

FERDINAND CLARK.

Mr. PECKHAM. I call for the previous question on the bill for the relief of Ferdinand Clark.

The call for the previous question received a second; and the main question was ordered to be now put.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was read a third time, and passed.

ADOLPHUS MIER & CO.

Mr. PECKHAM. I call for the previous question on the bill for the relief of Adolphus Meir & Co., of St. Louis.

The call for the previous question received a second, and the main question was ordered to be now put.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was read a third time, and passed.

WILSON AND BROTHERS.

Mr. PECKHAM. I call for the previous question on the bill for the relief of Wilson & Brothers, of St. Louis, in the State of Missouri.

The call for the previous question received a second; and the main question was ordered to be now put.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was read a third time, and passed.

THOMAS S. J. JOHNSON.

As recommended by the Committee of the Whole House, the bill for the relief of Thomas S. J. Johnson, of the Territory of New Mexico, was recommitted to the Committee of Claims.

CHARLES A. KELLETT.

The question was then taken on the passage of the bill for the relief of Charles A. Kellett, and in concurrence with the recommendation of a Committee of the Whole House, it was rejected.

BARON DE KALB.

Mr. PECKHAM. I now call for the previous question on the bill just reported from a Committee of the Whole House, with the recommendation that it do pass. I refer to the bill for the relief of the children and heirs of Major General Baron de Kalb.

The call for the previous question received a second, and the main question was ordered to be now put.

The Clerk read the amendments of the committee, as follows:

For the words, "ninety thousand five hundred and thirteen dollars and sixty-one cents, that sum being the amount now due, including interest from the year 1819, at which time this demand was presented for payment, out of any money in the Treasury not otherwise appropriated," substitute the following:

Sixty-six thousand ninety-nine dollars and seventy-six cents for the claims, services, and sacrifices of the late Baron de Kalb in the war of the Revolution, out of any money in the Treasury not otherwise appropriated.

The question was taken, and the amendment was agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was read a third time.

Mr. PECKHAM. I call for the previous question on the passage of the bill.

The call for the previous question received a second, and the main question was ordered to be now put.

Mr. LETCHER. I demand the yeas and nays onthe passage of the bill.

The yeas and nays were refused.

The bill was then passed.

Mr. PECKHAM. I move that the vote by which the bill was passed be reconsidered, and that that motion be laid upon the table.

The latter motion was agreed to.

Mr. FLORENCE. I move that the House do now adjourn.

The question was taken, and the motion was agreed to.

Thereupon the House (at four o'clock, p. m.) adjourned until Monday next at twelve, m.

IN SENATE.

MONDAY, *December* 18, 1854.

Prayer by Rev. HENRY SLICER.

The Journal of Thursday was read and approved.

The Hon. THOMAS J. RUSK, of the State of Texas, and the Hon. STEPHEN A. DOUGLAS, of the State of Illinois, appeared in their seats to-day.

CREDENTIALS.

Mr. SEBASTIAN presented the credentials of the Hon. ROBERT W. JOHNSON, chosen by the Legislature of Arkansas, a Senator from that State for the unexpired term of the Hon. Solon Borland, resigned. The seat was occupied by Mr. JOHNSON at the last session, under an appointment from the Governor of Arkansas.

The credentials were read, and the oath prescribed by law having been administered to him, Mr. JOHNSON took his seat in the Senate.

Mr. SEBASTIAN also presented the credentials of Mr. JOHNSON as Senator from Arkansas for six years from the 4th of March next; which were read.

PETITIONS, ETC.

Mr. FOOT presented documents in support of the claim of Mary Felch, widow of Cheever Felch, to bounty land for the services of her husband during the last war with Great Britain; which were referred to the Committee on Public Lands.

Mr. SUMNER presented a petition of the American Peace Society, supplemental to a memorial of last year, praying that measures may be taken to secure, by treaty stipulation, the reference of all future international difficulties which cannot be settled by negotiation, to arbitration; which was referred to the Committee on Foreign Affairs.

Mr. SHIELDS presented the petition of Nancy Weatherford, widow of Colonel Weatherford, of the first regiment of Illinois volunteers in the war with Mexico, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. MASON presented the memorial of Emily L. Slaughter, widow of the late Commander Slaughter, of the United States Navy, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. FESSENDEN presented the petition of Josiah S. Little, of Portland, Maine, praying to be remunerated for land of which he was deprived by the treaty of Washington; which was referred to the Committee on the Judiciary.

Mr. DODGE, of Wisconsin, presented a petition of the register of the land office and receiver of public moneys at Stevens's Point, Wisconsin, praying to be allowed the same per centum on the sales of the public lands as was allowed previous to the act of August 4, 1854; which was referred to the Committee on Public Lands.

Mr. EVANS presented the petition of Robert Mills, praying an examination of his plan for supplying the city of Washington with water; which was referred to the Committee on the District of Columbia.

Mr. BROWN presented the petition of John H. Horne, praying that money illegally required from him by the Government, in payment for land, may be refunded with interest; which was referred to the Committee on Indian Affairs.

Mr. STUART presented the petition of B. F. H. Wetherall, legal representative of James Wetherall, deceased, late a judge of the Territory of Michigan, praying compensation for adjusting titles to land in said Territory; which was referred to the Committee on Claims.

Mr. SEBASTIAN submitted additional documents in regard to the claim of William Field; which were referred to the Committee on the Judiciary.

Mr. CASS presented a petition of the register of the land office and of the receiver of public moneys at Vincennes, Indiana, praying to be allowed the same per centum on the sales of the public lands as was allowed previous to the act of August 4, 1854; which was referred to the Committee on Public Lands.

Mr. DIXON presented additional documents in support of the claim of the legal representatives of Isaac Shelby; which were referred to the Committee on Revolutionary Claims.

Mr. CASS. I present the petition of John T. Sprague, of the United States Army, praying that Margaret S. Worth, the widow of General Worth, may be allowed the pension her husband was entitled to for a disability incurred in the last war with Great Britain. I am sure the character and distinguished services of General Worth will attract the attention of my friend, the chairman of the Committee on Pensions, [Mr. JONES, of Iowa,] to which committee I move the reference of the petition.

It was so referred.

REPORT RECOMMITTED.

On motion by Mr. EVANS, it was

Ordered, That the report of the Committee on Revolutionary Claims, on the memorial of the heirs-at-law of John Morgan, be recommitted to the Committee on Revolutionary Claims.

REPORTS FROM STANDING COMMITTEES.

Mr. SHIELDS, from the Committee on Military Affairs, reported a bill for the increase and better organization of the Army, and for other purposes; which was read, and passed to a second reading. He gave notice that he should endeavor to get the bill up at the earliest opportunity.

Mr. JONES, of Iowa, from the Committee on Pensions, to whom was referred the bill from the House of Representatives for the relief of Sidney P. Pool, of the State of Maine, reported it back without amendment.

He also, from the same committee, to whom was referred the bill from the House of Representatives for the relief of Mary Rutherford, widow of Samuel Rutherford, reported it back without amendment.

He also, from the same committee, to whom was referred the bill for the relief of Catharine B. Arnold, reported it back without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. CLAY, from the Committee on Pensions, to whom was referred the petition of Mary Felch, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

PRESIDENT'S MESSAGE.

On motion by Mr. MASON, it was

Ordered, That so much of the President's message, at the commencement of the session, as relates to the foreign relations of the country, be referred to the Committee on Foreign Relations.

On motion by Mr. DODGE, of Wisconsin, it was

Ordered, That so much of the President's message as relates to the commercial affairs of the country, and the loss of life from shipwrecks, be referred to the Committee on Commerce.

On motion by Mr. HUNTER, it was

Ordered, That so much of the President's message as relates to the finances of the country be referred to the Committee on Finance.

On motion by Mr. DODGE, of Iowa, it was

Ordered, That so much of the President's message as relates to the public lands be referred to the Committee on Public Lands.

NOTICES OF BILLS.

Mr. CLAY gave notice of his intention to ask leave to introduce a bill amendatory of, and supplementary to, an act approved August 4, 1854, entitled "An act to graduate and reduce the price of the public lands to actual settlers and cultivators."

Mr. FOOT gave notice of his intention to ask leave to introduce a bill making an appropriation for the completion of the breakwater in the Bay of Burlington, in Lake Champlain.

BILLS INTRODUCED.

Mr. JONES, of Iowa, asked and obtained the unanimous consent of the Senate to introduce a bill for the relief of the heirs of Colonel William Grayson; which was read a first and second time by its title, and, together with sundry documents relating thereto, on the files of the Senate, referred to the Committee on Revolutionary Claims.

Mr. STUART asked and obtained the unanimous consent of the Senate to introduce a joint resolution for the relief of the Secretary of the Territory of Minnesota; which was read a first and second time by its title, and referred to the Committee on Territories.

SEARCH FOR DR. KANE.

Mr. BRODHEAD submitted the following resolution for consideration:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of sending a steamer and tender to the Arctic seas for the purpose of rescuing or affording relief to Passed Assistant Surgeon E. K. Kane, of the United States Navy, and the officers and men under his command.

PRINTING A REPORT.

Mr. SEBASTIAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That two thousand copies of the last annual report of the Commissioner of Indian Affairs, with the accompanying documents, be printed and bound for the use of the Senate.

THE PRESIDENT'S MESSAGE.

On motion by Mr. STUART, it was

Resolved, That two hundred additional copies of the President's message, and accompanying documents, be printed for the use of each of the Secretaries of State, Treasury, War, Navy, and Interior Departments, the Attorney General, and Postmaster General.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had agreed to the amendment of the Senate to the bill of the House for the relief of Thomas Ellis; that they had passed the bill of the Senate supplemental to an act therein mentioned; also, a bill for the relief of Ferdinand Clark; a bill for the relief of Adolphus Meir & Co., of St. Louis; a bill for the relief of Wilson & Brothers, of St. Louis, in the State of Missouri; and a bill for the relief of the children and heirs of Major General Baron de Kalb.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read a first and second time by their titles, and referred to the Committee on Commerce:

A bill for the relief of Ferdinand Clark;

A bill for the relief of Adolphus Meir & Co., of St. Louis; and

A bill for the relief of Wilson & Brothers, of St. Louis, in the State of Missouri.

INTERNAL IMPROVEMENTS.

Mr. CASS. I desire to say that I intended this morning to ask the Senate to take up for consideration the bill reported by my colleague, [Mr. STUART,] from the Committee on Commerce, making an appropriation for deepening the channels of the flats of the St. Clair river, which is a highly important improvement; but I have thought on reflection that it would be better to wait for the communication which we expect from the President of the United States, before any of these questions in regard to internal improvements are taken up. I have concluded, therefore, to let the matter lie over until we receive the President's message.

SWAMP AND OVERFLOWED LANDS.

Mr. STUART. I am instructed by the Committee on Public Lands to report a bill for the relief of purchasers and locators of swamp and overflowed lands, and I want to state, in a few words, the circumstances under which it is reported, and then ask the Senate for its present consideration. A similar bill was reported from the Committee on Public Lands, at the last session, and passed the Senate at the same time that it was reported. It was sent to the House, but by some accident there, has been lost. The committee, therefore, have instructed me, and this is done at the request of the House committee, to report another bill, and to ask the Senate to put it upon its passage, in order that it may be acted upon immediately, inasmuch as a large number of individuals are affected by it.

The bill was read twice, by unanimous consent, and considered as in Committee of the Whole.

It proposes to direct that where lands granted to the several States by the act of September 28, 1850, to enable the State of Arkansas, and other States, to reclaim the swamp lands within their limits, have been sold or located since its passage, the purchase money shall be paid over to the State for such lands as have been, or may be sold for cash, and that the Governor, by such agent as he may appoint, may select other lands in lieu of those located by warrants and scrip, upon the surrender to the United States, by the Governor or the duly authorized officer, of all claim on the part of the State to the lands granted to the State which have been entered or located, and that upon such surrender the titles in fee to the purchasers shall pass by the United States patent. No selection, however, is to be made by any State agent of lands subject to sale at a price exceeding $1 25 per acre, and all lands and money received by any State under the provisions of the bill are to be applied as required by the act of 1850.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read a third time, and passed.

CREEK AND SEMINOLE DEPREDATIONS.

Mr. FITZPATRICK. On my motion, at an early period in the session, the bill to authorize the payment of certain claims for depredations and spoliations during the hostilities with the Creek and Seminole Indians, in 1836 and 1837, was made the special order for Thursday last. When I asked the Senate to fix that day for its consideration I was aware that there were several Senators absent who are friendly, and have a common interest in the bill. I indulged the hope, however, that at the period fixed they would have arrived. I was disappointed in that hope, and consequently did not ask for the consideration of the bill the day set apart for its consideration. I now find, sir, that I shall necessarily be drawn from the Senate for the next two weeks, as I am compelled to return home. But the same difficulty now exists that existed on Thursday last. Some gentlemen who are friendly to the bill are still absent; and I am ready and anxious to dispose of the bill, but unwilling, under the circumstances, to ask for its consideration now. I therefore ask the Senate to take it up for the purpose of making it the special order for the 10th of January.

The motion to take up the bill was agreed to, and then its further consideration was postponed to, and it was made the special order for, Wednesday, the 10th of January.

BOARD OF CLAIMS.

Mr. BRODHEAD. I ask the Senate to take up and consider, at this time, the bill to establish a board of commissioners for the examination and adjustment of private claims. It is an important measure, and has been well considered by the Committee on Claims. I should be pleased at any rate if the Senate would give me their patient attention for ten or fifteen minutes.

Mr. BADGER. Will the Senator permit several bills from the House to be read?

Mr. BRODHEAD. Certainly.

SURETIES OF D. M. F. THORNTON.

Mr. MASON. Mr. President, there is a bill on the Calendar which was reported from the Committee on the Judiciary at the last session, for the relief of J. H. F. Thornton, Lawrence Taliaferro, and Hay T. Taliaferro, sureties of D. M. F. Thornton, late a purser in the Navy of the United States. If that bill is passed, as I have no doubt it will be, it should be done at this session. The Senate will therefore indulge me very much, and oblige me, if they will allow the bill to be taken up and considered. I submit the motion that the Senate proceed to its consideration, and I do it with the concurrence of the Senator who reported it from the Committee on the Judiciary, [Mr. BUTLER.]

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to the consideration of the bill. It proposes to direct that, in conformity with a report of the Committee on the Judiciary of July 20, 1854, the persons named be released from their liability as sureties.

Mr. MASON. The bill is accompanied by a report which was made by the chairman of the Committee on the Judiciary, [Mr. BUTLER.] I take it for granted that Senators have read it; but if any Senator has not read it, he can call for its reading. If that is not desired, I hope the bill will be immediately acted upon.

Mr. BUTLER. As the bill is here, I shall not detain the Senate by going into any explanation of it. The report, perhaps, contains as clear a statement as any that I can make; but I will say that the bill received the unanimous sanction of the committee, after having been fully investigated. There was no division upon it in the committee.

No amendment being proposed, the bill was reported to the Senate, and ordered to be engrossed for a third reading. It was read a third time, and passed.

BARON DE KALB.

Mr. SHIELDS. A bill for the relief of the children and heirs of Major General Baron de Kalb, has been sent to us from the House of Representatives. I understand it passed that body almost unanimously. I do not know that it is necessary that it should pass through the usual course of a reference; I therefore ask the Senate to take it up and put it on its passage now. It would be a most generous Christmas gift to those persons.

Mr. EVANS. I have looked somewhat into that case, and I think, although the petitioners are entitled to something, they are not entitled to all that is proposed to be given; I should, therefore, prefer to have it sent to a committee.

The bill was subsequently read twice by its title, with a view to its reference.

Mr. BADGER. I hope it will meet with the general approbation of the Senate to let that bill pass at once. It is a bill whose merits are very peculiar, and the claims of the parties interested very strong upon the Government and people of the United States. I hope there will be no objection to the consideration of the bill at this time. I think a brief explanation will satisfy every Senator that it ought to pass at once. If passed at all, it should pass promptly. It passed the House of Representatives, after full discussion,

by an overwhelming majority, the opponents of the bill not being able to command a call for the yeas and nays.

The PRESIDENT. If there be no objection, the bill will be considered as in Committee of the Whole.

Mr. CLAY. I will suggest that the Senator from South Carolina [Mr. EVANS] objected to its consideration.

Mr. BADGER. I hope my friend from South Carolina will not persist in the objection.

The PRESIDENT. The Chair has heard no objection to its consideration now.

Mr. EVANS. The only objection that I had was, that the bill establishes the principle of allowing interest upon claims from a very remote period. It may establish a new principle.

The PRESIDENT. Does the Senator still object?

Mr. EVANS. No, sir. I waive it.

Mr. HUNTER. I do, if that is the case. It ought to be examined by a committee, if it establishes a new principle.

Mr. BADGER. If my friend will allow me to make a statement, I think he will not object. The case is this: Baron de Kalb, a Major General in our revolutionary army, marched a body of troops from Maryland and Delaware, if I recollect aright, for the purpose of assisting, in the South, against the army under the command of Lord Cornwallis. As we all know, he led those troops to the South, and arrived in time to take part in the unfortunate battle of Camden, in which he lost his life, under circumstances most glorious for himself, and appealing in the strongest manner to every feeling that can influence an American bosom. There was a certain amount due to Baron de Kalb at the time of his death, for his pay and emoluments as Major General in the service of the United States. The amount thus due to him for his pay and emoluments has never been paid. The payment has been obstructed by this fact: there was put in the possession of the Baron, when he moved his troops to the South, or was about moving them to the South, the sum of $220,000, or thereabouts, in Continental money, to enable him to defray the expenses of moving his command to the scene of action. They arrived there. The battle ensued. He fell in that battle, gallantly leading and encouraging his troops to endeavor to prevent the loss of that day. He fell covered with wounds. All his papers fell into the possession of the enemy; and the consequence was, that he stood charged upon the books of the Government with $220,000 in Continental money. Of course the executive officers of the Government had no power to do anything else than require a presentment of vouchers in order to cancel the amount; but every man sees that nothing could be more absurd than to suppose it was possible that he could settle that account, or that that money (how much depreciated I know not) could have been otherwise than exhausted in the necessary expenses of the troops. He lay in a bloody grave. He could produce no vouchers. His papers were in the possession of the enemy. His friends, therefore, could produce none. That obstacle, therefore, remained to the payment of any part of what was due him until Congress passed an act directing that the amount should be credited, and that it should be taken for granted that that honorable and gallant man had not withheld from its proper purposes the money that was deposited with him to enable him to move his forces to the scene of action.

About the year 1819, the descendants of Baron de Kalb, living in France, poor and destitute, first applied to Congress for the payment of the amount due to their ancestor for his pay and emoluments. This bill, as it stands, gives to them the amount so due, with interest from the year 1819, when the claim was preferred. The payment was then due and then withheld, then known to be due, and would have been settled and paid at the Treasury, but for the formal obstacle which I have mentioned; and every man of intelligence and generous spirit must see that it ought not to be allowed to stand in the way of a settlement for an instant. The proposal of the bill is to give that amount with interest from the time when the claim was preferred.

Now, sir, I think that this stands as an exception to any case that may be presented. Some gentlemen in the House having objection to what was called the allowance of interest, the phraseology of the bill was altered, so that no precedent can be established by it, and it makes this accumulated sum be paid to his heirs as a testimonial of Congress to the honorable and gallant services of Baron de Kalb. If the bill be read, it will be seen that the claim is placed upon that footing, although the sum is produced by adding the interest to the principal from 1819, when the claim was preferred. I think, sir, when the bill is read, that my friend from Virginia will allow his generous heart to speak, and will say at once that the bill should pass.

Mr. CLAYTON. I did not know, Mr. President, that there was such a bill before the Senate, until the moment it was called up; but I feel that I should not truly represent the State which I do represent on this floor, if I were to remain entirely silent while such a measure as this is on its passage. The Baron de Kalb was the man who, on the ever-memorable 16th of August, 1780, led the regiment of my native State, and the brigade of the Marylanders, in the disastrous and fatal battle of Camden. I have heard the few surviving officers of that regiment speak of the Baron de Kalb in terms which it is unnecessary for me now to repeat, because his virtues have been proclaimed in every history of that period, since that day. But, sir, the circumstances under which he fell ought not at this moment be forgotten. He was in the council of war which was held on the evening preceding that battle. He remonstrated against the determination of General Gates to go into action on the next day, to attempt to beat up the quarters of Cornwallis, predicted the fatal consequences of it, and for his counsel was denounced in such terms as no gallant spirit like his could bear and live. He resolved, after the insults that were bestowed upon him, that it would be better for him to die in the battle next day than to survive the dishonor of such charges as were then made against him. He led the Delawarians and Marylanders into the battle, and into the front of it; and the regiment of my State, which went into that battle eight hundred muskets strong, came out at night with only one hundred and ninety-six. That battle, the bloodiest, perhaps, that ever was fought, during the revolutionary war, annihilated the Delaware regiment, and it never stood upon the rolls of the Army as a regiment afterwards. Forever after that, it was called Kirkwood's companies, or Kirkwood's battalion.

The Baron de Kalb, sir, fell at the head of a bloody charge, leading that very regiment into action. He was wounded first in the head as I have heard from Jaquette, who was surviving adjutant of the regiment. His horse was killed under him, and Jaquette told me, with his own scarf he bound up the bloody wound and insisted upon De Kalb retiring from the field. He refused, still laboring under the feelings of the preceding night. Jaquette had killed a British officer of dragoons, and seized the horse. De Kalb mounted it, rode into the action again, and was soon fatally wounded. There was a bloody battle, sir, over his bleeding body in which the troops of my State suffered most severely, as also did the Marylanders, who fought in that battle. He was taken by the enemy while yet breathing; he died, I think, the next day; and the last words he uttered were that he was proud to have had his death-wound inflicted on him fighting at the head of such brave men.

Sir, I do not think it necessary—it would be an idle waste of time—for me to recount the history of this gallant man. Now, at this late day, when some measure of compensation is proposed for his services, I hope most anxiously that it will not be objected to by my friend from Virginia. Sir, the Virginians suffered in that bloody battle, as well as the men of Delaware and of Maryland; the Virginians have derived the benefits of the exertions, and labors, and services of Baron de Kalb, as well as the people of my State; and I hope that at this day my friend from Virginia, and all the members of the Senate, will agree that this measure may be taken up and passed without delay. It is a measure of justice, but of tardy justice at last.

Mr. BRODHEAD. Mr. President, I yielded the floor at the instance of the Senator from North Carolina, to permit several bills to be referred, and not for the purpose of allowing a discussion to go on on this bill, for I had taken the floor and asked the Senate to consider one equally important. This bill has been here for the last thirty or forty years. If what my friends from North Carolina and Delaware say be true, then it will not take long for the Committee on Revolutionary Claims to examine it, and there will then be but little objection to the passage of the bill. The message which we received from the President the other day ought to be an admonition to us to be careful how we pass upon these ancient claims. Claims of sixty-odd years of age ought not to be allowed upon mere statements. There ought to be the clearest kind of proof. I have no doubt that my friends earnestly believe that all they say is true. Probably it is; but we ought to proceed upon a claim involving over $60,000 with some degree of caution, and should not, at any rate, dispense with the examination of a committee. How many members of this body have examined the report upon the subject? The bill only came here this morning from the House of Representatives, and I think it ought to be referred to the Committee on Revolutionary Claims.

The PRESIDENT. Objection being made to the consideration of the bill, the question will be on the motion to refer it to the Committee on Revolutionary Claims.

Mr. HUNTER. Mr. President, I agree entirely with what the Senator from Pennsylvania has said. The better the claim, the less danger to be apprehended from the examination of that claim by the proper committee. It is now early in the session, and the bill certainly will be reported time enough to allow us to act upon it; and I think, sir, we ought not to legislate thus hastily. I will only say, in reply to the appeals which my friends have made to me, that I have learned this morning from a friend of mine in the House of Representatives, that there was a mistake of $24,000 in this bill. Under these circumstances, I think it but safe and right, that it should be examined by the appropriate committee.

Mr. BADGER. I have no desire in the world, sir, to press the bill now if it meets the opposition of any gentleman on the floor. I have no doubt that the bill is all right with the exception that the amount is too small. I am perfectly willing that it should be referred.

Mr. CLAYTON. After the statement which has been made by the gentleman from Virginia, I should desire the reference of the bill. It is the first time I ever heard such an intimation, and I think it will be found that it is an entire mistake; but after that statement, I think the bill ought to be referred, for the purpose of correcting the error, if any there be.

The motion to refer the bill was agreed to.

DEPARTMENT OF LAW.

Mr. BRODHEAD. I now renew my motion to take up the bill to provide for the establishment of a board of claims.

Mr. ADAMS. I ask the Senator from Pennsylvania to give way for a short time, with a view of allowing the special order of the day to be taken up, as I desire to leave the Senate Chamber at an early hour, on account of the state of my health. If the bill, which is the special order, should lead to any protracted debate, I will consent to its postponement; but it is an important bill, and if it meets the approbation of the Senate, I should like to have it passed now, that it may go to the other House.

Mr. BRODHEAD. I withdraw my motion for the present.

Mr. ADAMS. Then I move to take up the bill to which I have referred.

The motion was agreed to; and the bill "to establish a department of law, to prescribe certain duties of the Auditors and Comptrollers of the Treasury, and for other purposes," was accordingly read a second time, and considered as in Committee of the Whole.

Mr. ADAMS. I have various amendments to propose to this bill, the first of which is to strike out the third section, which authorizes the appointment of an assistant attorney general. On investigation and consultation with the Attorney General, I find that he is now of opinion that such an officer is not necessary. That opinion concurs with my own judgment; and, in fact, I think that all laws authorizing assistant secretaries in any of the Departments ought to be repealed, and I should offer an amendment to this bill for that purpose,

but that I do not wish to trammel it with any extraneous legislative provisions. I therefore now simply move to strike out the third section of the bill, which provides for the appointment of an assistant attorney general.

Mr. HUNTER. Mr. President, this seems to be a bill not merely to create a department of law, but to reorganize all the other Departments to a considerable extent; and it is so important a measure that I think there ought to be a little time given for its examination. I therefore ask that it be postponed until to-morrow, at one o'clock.

Mr. ADAMS. I hope that my friend from Virginia, before he makes that motion, will allow me to present the amendments which I wish to have made. Some of them become necessary in consequence of the legislation of the last session. Clerks were provided for in the bill of the Senator from Virginia himself, which have made some of the provisions of this bill unnecessary at this time. I wish now to have the amendment authorized by the committee made, and then to ask that the bill be printed as amended, so that Senators may understand its provisions.

Mr. BADGER. We wish to get the superfluous matter out of the bill.

Mr. ADAMS. That is the object.

The PRESIDENT. The question is on the amendment of the Senator from Mississippi, to strike out the third section of the bill.

The amendment was agreed to.

Mr. ADAMS. The fourth section provides that the President may "require the Attorney General or Assistant Attorney General to attend to the interests of the Government in any court of the United States." I move to amend this provision by striking out the words "or Assistant Attorney General," and inserting "or other person."

The amendment was agreed to.

Mr. ADAMS. The same words occur in another portion of the section, and I move to strike them out and insert "or other person."

The amendment was agreed to.

Mr. ADAMS. I next move to strike out the sixth section, which provides for a number of clerks in the office of the Attorney General. This section has become unnecessary in consequence of legislation at the last session. I move to strike out the section, and insert in lieu of it the following:

SEC. 6. *And be it further enacted*, That the commissions of all officers of the United States shall be made out, recorded, and, when necessary, countersigned and sealed in the Department, under the supervision of the heads of which those officers may respectively be required to act, or to which they belong.

The amendment was agreed to.

Mr. ADAMS. My next amendment is to strike out all after the seventh section of the bill in regard to the distribution of accounts between the several Auditors and Comptrollers, the subjects mentioned there having been provided for by a bill introduced after this bill was reported at the last session.

The amendment was agreed to.

Mr. ADAMS. As I wish to have the bill printed as amended, I ask that it be postponed till Wednesday, at one o'clock, and made the special order for that time.

Mr. HUNTER. I agree to that.

The motion was agreed to; and the bill, as amended, was ordered to be printed.

BOARD OF CLAIMS.

On motion by Mr. BRODHEAD, the Senate, as in Committee of the Whole, proceeded to consider the bill reported by him from the Committee on Claims, "to establish a board of commissioners for the examination and adjustment of private claims."

Mr. BRODHEAD. In the few remarks I propose to make in explanation of this bill, I will certainly not weary the Senate with useless detail. It proposes to remedy an evil which has been a crying one for the last twenty or twenty-five years. I have carefully considered the subject, examined all the bills which have heretofore been submitted in either branch of Congress, and the measure now under consideration is the result of my labors. It has received the sanction of the Committee on Claims to which it was referred, and several of the most experienced gentlemen connected with the Government in and out of Congress. And the primary consideration is, not whether this or that objection can be made to it, but whether it is not the best and least objectionable which can be devised. I am quite certain, and feel justified in asserting, that if it does not do great good, it is free from constitutional objection, and will do no harm. It is certainly proper as an experiment. In preparing it, I have endeavored to omit all provisions which have heretofore been seriously objected to.

It may be said that it does not go far enough, that it will not entirely remedy the evil; but if we attempt to do anything more, we interfere with the right of petition; the machinery will be too complex; members may not take time to understand its provisions, or fear that it will not work well in practice; and hence it will break down, as its predecessors have done. It may be said, too, that it has a wrong name, that boards of commissioners have become unpopular. But the proposed board is differently organized from the one which passed upon claims against Mexico, under the treaty of 1848. The proceedings of that board were in a measure private, its decisions were final and conclusive, and money paid upon them; its opinions were not published, and the Government was not represented. Not so with the board mentioned in the bill; its proceedings will be public, both sides will be heard, lawyers of high character will appear before it, its decisions will not be final, and its opinions and decisions will be published and placed before both Houses of Congress. The proceedings before the board will be, as in the courts of law or equity, in some measure adversary, and upon disputed questions of fact testimony will be taken, upon notice to both sides. All lawyers know how difficult it is to make correct decisions upon *ex parte* statements and evidence. The members of the board will have no "enemy in the rear," no elections coming on, no documents to send home, no Buncombe speeches to make. They will have the same motives for correct action that a judicial tribunal would have. They will feel the responsibility of their positions. Members of Congress do not; they are seldom, if ever, called to an account at home for their action upon private bills.

Now, as to the evil complained of. But a few facts need be stated, because they are decisive, and clearly prove the necessity for legislative interposition.

Population doubles in this country every twenty-three or four years. The business before Congress, and especially that of a private character, increases in the same ratio. Twenty-five years ago Congress appropriated between $13,000,000 and $15,000,000 to carry on the Government. Now we appropriate over $60,000,000. Two days of every week—one third of the time, to say nothing of the time spent by committees—is set apart for the consideration of private bills and reports, and yet not much more than half are acted upon; and yet the people complain that our sessions are too long. Want of time leads to improper legislation, and often to great injustice. Those who have honest claims are postponed for years. Justice is cheated by long delay; and yet a man who retains money belonging to the Government, is treated as a felon, and prosecuted in the criminal courts. The pressure of business of a private character prevents us from considering great questions in a way becoming statesmen representing this great people, and this extended empire. Our time is too valuable to be occupied in discussing the merits or demerits of a private bill. Frequently we dispute about the facts of a case presented in an *ex parte* way, the truth of which could be better ascertained by a tribunal differently constituted. Besides, we are run down by private claimants, and their agents or attorneys; and private claims are either passed or pressed into the appropriation bills the last nights of our sessions, contrary to the rules of the Senate, and injurious to the character of Congress.

In 1838, more than sixteen years ago, the House of Representatives passed a resolution with a preamble, declaring that the "private business far exceeded what could reasonably be attended to," and instructed the Committee on Claims to take the subject into consideration. That committee did so, and Mr. Whittlesey, the chairman of the committee, who before and since has rendered such good service to the country, and won so high a character for unyielding integrity, made the report, and submitted a bill to which I shall have occasion to allude before I take my seat. In 1848, the subject was again investigated by Mr. Rockwell, then a member from Connecticut, a gentleman we all knew and admired for his many good qualities of head and heart. He also made a report from the same committee, strongly urging the establishment of a board of claims. In those two reports will be found the statistics of private claims, showing their increase, and the necessity of establishing some tribunal to relieve members of Congress from a system of electioneering, from labor unbecoming their positions and unsatisfactory to honest claimants. But I need not enlarge upon this point. The facts I have stated, it seems to me, are conclusive, and the experience and observation of members will suggest many more.

The most difficult task remains—for it is much easier to point to the defects of a system than to devise remedies; to demolish a building than to erect a convenient substitute. Three forms of relief have been suggested:

1. To enlarge the powers of the accounting officers.

2. To enlarge the powers of the judiciary.

3. To establish a board similar to the one proposed in the bill.

The idea of allowing accounting officers to exercise a discretionary power; to allow damages for a breach of contract, for instance; to dispense with rules of law and of evidence, is pretty much abandoned, and I need hardly discuss it. Executive officers should be governed by law. They exercise their functions in private. They now have as much as they can properly attend to, and to enlarge their powers would be a dangerous experiment. Congress would not know how much money or for what objects to appropriate it. The Executive officers could not furnish us with estimates, as they are now bound to do by law.

To enlarge the powers of the judiciary would be equally dangerous and inexpedient. It is very doubtful whether we have power under the Constitution to waive sovereignty and to authorize the Government to be sued either in "law or equity." There are many cases which come before Congress; applications which are addressed to our discretion which could not well be considered or adjudged by a judicial tribunal according to the rules known to the courts of "law and equity." It would be difficult for us to establish the rules by which the court should be governed in the great variety of applications for equitable relief. It would introduce a dangerous element into our judiciary system. And who is to represent the Government? It may be said the district attorneys. The decision of the courts, of course, would have to be final and conclusive, and, therefore, if a district attorney should not do his duty, should be ignorant or corrupt, the decision would be against the Government, and large sums of money paid on it. It seems to me that it would be placing the public Treasury at the disposal of the courts contrary to the meaning of the Constitution and sound policy. It frequently happens that a man has a perfectly just claim against the Government, that his case comes within the meaning of a law; but the accounting officers reject it because they must be governed by strict law or by departmental regulation, which cannot be relaxed without establishing a dangerous precedent. Our Government, in its various transactions, must of course deal with, and make contracts with, thousands of our citizens annually, and of course there must many questions arise involving a necessity for the exercise of discretionary power. There are, also, cases not founded on contract, express or implied, which could not be made out in any court according to the rules of law or equity. They are applications to the will of the sovereign to the sense of liberality and generosity, if you please, of the people or Government, and Congress, exercising, to a limited extent, the sovereign power, is the only tribunal which can grant relief. We could not, by authorizing the Government to be sued, cut off the right of petition to Congress. It would be difficult, if not impossible, to define or classify the cases in which the courts should have jurisdiction. Then again, we would be obliged to reform the fee bill, and say how much district attorneys, clerks, marshals, &c., should be paid for their services. The courts have not time. Business in the United States courts has increased as much as it has in Congress, and the judges are inadequately paid.

Now, as to the plan proposed in the bill. It proposes the appointment of three commissioners, at a salary of four thousand dollars each, to hold these offices for four years, to whom all petitions to Congress, asking relief on account of any claim against the United States, shall be referred. The President, no doubt, will select men who have special qualifications, and have a large stock of reputation laid in. We have no right to say, or presume in advance, that he will not. But he is to appoint them by and with the advice and consent of the Senate; and therefore, if unworthy or incompetent persons are appointed, it will be our own fault. This board will be in the nature of a judicial tribunal, and will have the motives to correct conduct to which I alluded in the commencement of my remarks. They will be in session the whole year; will have power to take testimony in behalf of the Government; will have time, means, and opportunity to get at and report the facts of each case. And when that is done, will it not enable us to render speedy justice to honest claimants? Will not those who present claims upon a partial, perverted, or fabricated statement of facts, be confounded? Will not committees be relieved of an immense amount of unpleasant, useless, and unprofitable labor? Under the present system, committees cannot get at the real state of facts. We have no time. Cases are presented *ex parte*, and we do not take testimony on the part of the Government. I never knew a committee to attempt to do it.

In the bill presented by Mr. Whittlesey, in 1838, the right of appeal from the decision of the accounting officers to the board was allowed, and the decision of the board under $500 was made final and conclusive. The first provision was also in Mr. ROCKWELL's bill. I have omitted both, and Mr. Whittlesey agrees with me that the first, at any rate, should be omitted. There should be no appeal from the accounting officers who decide according to law, except to Congress. When a case is taken from the accounting office, it should come before the public. Freedom and publicity of debate are essential, not only to the preservation of our free institutions, but to purity of all our judicial tribunals. A party who wishes to take an appeal will not be delayed by this bill. He can present his petition to Congress, and file it with the Secretary of the Senate or Clerk of the House, whether Congress is in session or not, and it will thus, after being registered, go at once before the board. The board is to report to Congress at the opening of each session, and every month when it is in session. All petitioners will thus have their cases speedily examined, the facts which are so material, exactly and impartially ascertained and stated. Now, many honest claimants are delayed from one to twenty years, and many improper allowances made. When this board is established, members of Congress will have a place to refer private claimants to, and hence will not be electioneered with. We will not be asked to take charge of private claims, and will have time to attend to our other and more important duties. The board will have the assistance of the Solicitor of the Treasury and the district attorneys. At one time I thought I would insert a section providing for the appointment of a solicitor to represent the Government before the board, but, upon reflection, I concluded not to do it. It might be necessary if there was but one commissioner, or the decisions of the board were made final, and money to be paid upon them, but each member of the board represents the Government, and is in some measure an examining magistrate. The arguments before the board would have to be either written or printed, and hence the board, if they decided in favor of or against a claimant, would be obliged to make the argument, and it would be unnecessary to incumber the record, which must come up for review before Congress, with the opinions of a solicitor and of the board. If hereafter it should be found necessary to have such an officer, the appointment of one can easily be authorized.

I have not made the decision of the board final in any case. All admit that above five hundred dollars it should not be made conclusive; then why make it so below that sum? A small claim favorably reported on by the board would not be delayed in Congress, unless allowed upon improper principles. Besides, what would be done with applications for pensions, or for renewal of patents? The board might allow a soldier fifty or one hundred dollars per annum, but cannot tell how long he will live, and hence cannot tell whether their decision will take more or less than five hundred dollars from the Treasury. To make the decisions of the board final, would make the board less responsible and less careful. The bill provides penalties against perjury, for the appointment of two clerks and a messenger, and contains other provisions calculated to make the board efficient and useful.

These are the reasons, Mr. President, briefly stated, which have induced me to endeavor to bring this great measure—for no one will question its importance—earnestly and conspicuously before the Senate, and to ask for it serious and favorable consideration.

I have some amendments to propose to the details of the bill, in order to make it more perfect. In the first place I move to amend the first section by striking out of the provision fixing the salary of the commissioners at $3,500, and inserting $4,000.

Mr. HUNTER. Mr. President, I think my friend, the Senator from Pennsylvania, has fallen into some serious errors in regard to one of the bills which has been heretofore introduced on this subject. He is mistaken if he supposes that I ever introduced a bill which allowed the United States to be sued, and made the judgment of the court final. The one which I introduced proposed that all the decisions of the tribunal constituted by it should be referred to Congress, that they might decide on them afterwards—both those for and those against the United States. He is also mistaken if he supposes that I ever proposed to send the claims before the district courts. I proposed, sir, to establish a board, or, if I could, a court of accounts within the District of Columbia, and to have publicity, to allow counsel for the claimants, and to provide that there should be a regular attorney of the United States, who should defend the Government against these claims.

My own opinion is, that the best tribunal for the examination of such claims would be a court constituted here, before whom these claims should be publicly presented. Counsel might be employed if the petitioner chose. The United States in them should be defended by a regular attorney. When the court had examined and pronounced its opinion for or against, then that should be, not final and conclusive as against the United States, but should be reported to Congress for their action. I take it for granted that there would scarcely be a case in which Congress would not concur in the decision of a court thus established and thus guarded. So far from proposing that the sessions of this court should be private, I have always insisted that publicity was one of the best defenses to the purity of the administration of justice in this regard.

Now, sir, I am so anxious for the establishment of some tribunal of this sort, that I will not vote against all bills unless the mode be taken which I prefer. I will vote for almost any measure which is tolerably guarded and secured for this purpose.

Nor, sir, did I ever propose to give an appeal, any more than the Senator from Pennsylvania proposes to do so, from the decisions of the accounting officers. If an accounting officer decides against a claimant, can he not do under this bill as he would have done under that which I proposed? Why, he has only to take a more roundabout way. Instead of appealing directly to the court, and asking their decision upon the claim, (which, according to my proposition, would not have been final, but would have resulted in an examination by the court, and a report from that court to Congress, that they might act upon it,) the Senator proposes the roundabout method of allowing a claimant who thinks himself aggrieved by the decision of an accounting officer, to petition Congress, from whose files the petition is to be sent to this board. Why, sir, it is the same thing; it is, in fact, an appeal, and if this had not been allowed, I should not have been as favorably disposed as I am to the Senator's bill, though there are many things in the bill that I like.

I think this bill will need amendment in another regard. I do not think that it does require publicity in the proceedings of the commissioners. I have examined it, and I see no clause which requires their opinions to be pronounced in public, none which requires them to keep records, none which requires their sessions to be public. Now, I think all these things ought to be required in the bill. If the Senator will do that, and provide that the United States shall be defended by an attorney; if he will provide for making the proceedings open, and require that the decisions of the board, when made, shall not be final and conclusive, but shall be reported here, I will vote for almost any bill. But, sir, I should vastly prefer, on account of the tenure, that, instead of commissioners appointed for four or five years, and removable at the pleasure of the President, we should have two judges sitting here, who should hold their office as judges do under the Constitution of the United States. It may be said that if we were to do that, and it should be found that the system did not work well, those judges would be fastened on us; but, sir, if we should abolish the court, of course the office would go with it, and I suppose there can be no doubt of our power to do that, if we were to find that it did not turn out according to our expectations. But, sir, I prefer that method, because, to the credit of this country, in the history of its judicial proceedings, there is hardly a taint, or the suspicion of a taint, on the judicial ermine in regard to the purity of the motives which influence their decisions.

I believe, sir, that the great reason why justice is thus administered for millions, not without errors, but without suspicion of impurity, or impropriety of motive, is, that we have men appointed as judges who are responsible to the world through their reputation, and who, acting and deliberating in public, are exposed to the scrutiny of public opinion, and to a just responsibility to it. I think that is the highest security we can have for the purity and propriety of their action, and, therefore, I myself would much prefer that there should be a court here, that the United States should have a regular attorney, that its proceedings should be open like those of any other court. Nor would I give it final and conclusive jurisdiction in regard to any amount; I would only provide that its members should examine judicially, and determine, and report their decisions to Congress; because I think it would be too great a power to give to any court to allow them to make decisions which would draw money directly out of the Treasury.

When these safeguards are provided, I think we should establish the most admirable tribunal for doing justice to private claimants, and at the same time for throwing proper checks about the Treasury of the United States that could be established. But, if it should not be the pleasure of Congress to establish a court of this sort, then I would vote very cheerfully for a board. Give me some tribunal where these claims are to be examined according to the rules of evidence; where they are to be examined by competent persons; where the claimant may appear, if he chooses, either in person or by attorney; but where the United States shall also be guarded by an attorney, whose business ought to be to devote himself to the investigation of the claims, and to defend the interests of the United States in regard to them. With this distribution of power, it is manifest that, whether you had a court or had a board—for that has been one of the objections to a court—either could pronounce its opinion on the equity of the case; for, after all, it would be the opinion of this tribunal in regard to the demand, either in law or in equity, of the claimant, and they would express in their report the grounds upon which the decision was given; so that, no matter which you had, whether a court or a board, you would afford relief for all classes of cases, whether they were founded on an equitable or a legal claim.

But, sir, putting out of consideration that question, it seems to me to be obvious that there is nothing which the interests of the country so imperiously demand, at present, as the establishment of some such tribunal. If we cannot get a court for that purpose, I shall vote for commissioners such as the Senator proposes; and would only ask that he should so amend his bill as to provide, not that we should have the casual services of the Solicitor of the Treasury, who is already sufficiently employed, but that we should have an attorney appointed for this purpose, whose duty it should be to attend this board or court, and defend the interests of the United States; and also that we should have special provisions in this bill which should require that its proceed-

ings should be public, because that is the great check and safeguard, after all. If the Senator will agree to this, the other provisions of his bill seem to me to be very good, and I shall sustain them cheerfully.

Mr. BRODHEAD. Mr. President, I do not see that there is any real difference between my friend from Virginia and myself, though there may be some in name. He prefers a tribunal to be called a court; I prefer a tribunal of three gentlemen, to be called a board of commissioners. We agree that their decisions should not be final and conclusive. We agree, also, that their decisions should be made public, but my friend from Virginia says he does not see a provision of that kind in the bill. Why, sir, he will perceive a requirement in the bill that they shall deliver their opinions, whether for or against the applicant, and that those opinions shall come up for consideration here. How can they come up for consideration here unless they be printed and laid on our desks? Is not that publicity?

Mr. WELLER. But the difficulty is as to the proceedings of the board before rendering a decision.

Mr. BRODHEAD. I take it for granted that under this bill those proceedings would be open.

Mr. HUNTER. Why not require it in the bill? Why not make that obligatory?

Mr. BRODHEAD. I can make it obligatory, if that be necessary; but I take it for granted that, under the bill, as it now stands, the proceedings would be public.

Now, a few words as to the Government's being represented by an attorney specially appointed for the purpose. I drew up a section making that provision, and I had intended to offer it in lieu of the one requiring the Solicitor of the Treasury to attend to cases before the board, but on reflection I concluded not to offer it, for reasons which I shall proceed to state. The Government is to be represented by these three commissioners. Their decisions are to come before us. They are to be examining magistrates for us. Then, why incumber the record, which is to come up before us for final adjudication, with the opinions and doings of an attorney specially appointed? How much could he aid these gentlemen? They will have power, under the bill, to take testimony, and to use the district attorneys throughout the United States for that purpose. I have thought, therefore, that the proceedings before the board would not be oral, but that the cases would be submitted on written or printed arguments, for or against the claims; and that, if an argument was to be made against a claim, as it would have ultimately to be either for or against it, by the board itself, the board could represent sufficiently the Government of the United States. If, however, the judgment of the Senate should be against me on this point, I have a section already prepared which I can submit in lieu of the one authorizing a call upon the Solicitor of the Treasury.

Now, sir, I see no substantial difference between the honorable Senator from Virginia and myself on this subject. I did not say, that some years ago he proposed a board such as he supposes I attributed to him; but I did understand him, some years ago, to have a plan for the reference of private claims to the district courts throughout the United States.

Mr. HUNTER. The Senator is mistaken.

Mr. BRODHEAD. I am informed that I am in error on that point. Be it so. There is, at any rate, now no substantial difference between the views of the honorable Senator from Virginia, and my own. I hope the Senate will permit me to suggest such amendments as I have to offer to the details of the bill; and then, if such be the desire of the Senate, it can lie over until to-morrow for further consideration.

Mr. CLAYTON. Mr. President, I am happy to hear from the honorable Senator from Pennsylvania, who introduced this bill, that he is quite willing to incorporate into the bill the provision suggested by the Senator from Virginia, which relates to the public decision and determination of questions, and the recording of proceedings as in courts. I supposed there would be no difference at all from the views of the Senator from Virginia on that subject; and I, for one, should be gratified if the Senator from Pennsylvania would yield to the gentleman from Virginia in that regard. I express this wish because I am myself a warm friend of this proposition, or something like it. I do earnestly hope this measure or something like it, attaining the great object which the Senator from Pennsylvania has in view, may be passed, and passed during this session.

Why, sir, we have presented to us at this time by the President of the United States, a paper which is now on the table, or in the hands of one of the committees of this body, returning for consideration to Congress a bill passed at the last session, appropriating some $7,000 of the public money, which, it appears, after careful examination by the First Comptroller of the Treasury, was actually paid some thirty or forty, or perhaps more, years ago. I have no doubt, sir, from my past knowledge of the history of this body, that we have very often paid claims which were paid before. I can point to one which I myself formerly opposed on this floor, on the very ground that the claim had been paid before it was then presented here; but I found after I left Congress, that the bill was passed, and the man paid twice, if not three times, for his services.

This body, I think we are nearly all agreed, is utterly unfit for the consideration of these claims. I desire to express my perfect concurrence in the suggestions of the two honorable gentlemen who preceded me. Let us have some measure of relief, something for the protection of the Government, as well as something also for the protection of honest claimants.

Sir, in regard to the point of difference between the two gentlemen who have addressed you in relation to a solicitor or attorney to represent the interests of the United States before this board, I entirely concur with the Senator from Virginia. There ought to be an officer before that board representing this Government. My friend from Pennsylvania thinks that the commissioners themselves will be agents of the Government. Sir, I do not wish them to stand in that relation to the Government. I wish them to be impartial arbiters and judges between the United States and the individual claimant, feeling themselves as much bound to look to the interest of the claimant as to the interest of the Government. I do not wish, therefore, to make it their particular business to hunt up testimony, or see that the interests of the country are protected; except when the testimony is brought before them, I wish them, then, to act as other judges do under the same circumstances, and decide impartially.

But, sir, the want of an officer of this kind has been productive of great mischief in former times, let me tell my friend from Pennsylvania. In the year 1849, the President of the United States, when Congress was about to establish the board which afterwards settled the Mexican claims, in his annual message, earnestly asked Congress to appoint an attorney to represent the Government before that board, predicting at the time, as he did, some of the very evils which afterwards occurred. Congress neglected the recommendations, and you, sir, know what has been the result. I do not believe that the claims awarded by that board, which have been deemed fraudulent, would ever have been allowed if there had been a faithful officer of the Government, such as President Taylor recommended should be appointed at that time for the Government. I say, therefore, that I concur with the gentleman from Virginia in that; and I do hope my friend from Pennsylvania will indulge us with a change in that regard, and introduce the section which he says he has prepared, to provide for the appointment of that officer.

There is another thing in this bill to which I wish to call the attention of my friend from Pennsylvania, and which I wish him to correct. These commissioners ought to be independent. If they are not judges nominally, they are so in fact, and ought to have that best of all qualities pertaining to a judge—perfect independence. I think it was in the convention of Virginia that John Marshall said, that of all the evils that could be inflicted upon a sinning people by an angry Heaven, a dependent judiciary was the worst. This is a court; call it what you please. I wish it to be substantially a court. I do not care for the name, whether you term them commissioners or judges; but I wish them to be independent. Now, my friend has provided in the bill that these commissioners shall be appointed by the President, by and with the advice and consent of the Senate, and "shall hold their office until the time appointed for the expiration of this act, unless sooner removed by the President." I trust the words, "unless sooner removed by the President," will be stricken from the bill. I do not wish these commissioners to sit in this high tribunal, liable, at any moment, to be dismissed by the President or anybody else. I do not wish the President himself, whoever he may be, to be liable, as he will be, constantly, to the imputation of controlling and governing the decisions of this tribunal. For the sake of the President, for the sake of the character of the tribunal, for the sake of perfect justice, I ask that the tribunal may be in fact perfectly independent.

I have not looked very carefully into the bill; but I desire, sir, to thank my friend from Pennsylvania, as I do most sincerely, for introducing the subject at this early stage of the session, and I beg that he will press it *de die in diem* until the Senate shall have decided upon it. I have, in the haste of the moment, made these suggestions. I hope that he will concur with me in them, and that we shall pass this measure, or something like it.

Mr. PETTIT. Mr. President, I rise to express my conviction that something ought to be done to relieve the two Houses of Congress from the burden and uncertainty that necessarily follow the investigation by them of private claims; but while I express my conviction that something ought to be done, my judgment is equally clear that nothing short of referring the whole matter to the judicial tribunals of the country will answer that desirable object.

The Senator from Pennsylvania may possibly have got into his recollection indistinctly a measure that I proposed while a member of the other House, when, if my memory serves me, he was also a member. A member of that House, from Connecticut, [Mr. John A. Rockwell,] at that time had this subject as a darling object for two or three sessions of Congress. I believe his measure was very much like the present bill. His idea was the organization of a board of commissioners consisting of three members, with some fixed salary, to sit here at the seat of Government, to examine, investigate, and finally report to Congress, for their action, all claims upon the Government. I considered then, as I thought, that subject fully, and I believe I considered it with reference to the nature and organization of our institutions, the propriety of enforcing these claims, and the propriety of surrendering that mere bauble, or pretense, that the sovereign cannot be sued; and I moved a substitute for his whole bill. My proposition was that he who had either a legal or an equitable claim against the Government, which could be enforced in the courts of the country as between individuals, arising whether at common law or under statute law, should be at liberty to resort to the district courts of the Union in the States where the claim originated, whether in the nature of a tort or in the nature of a contract; that he should take the same proceedings as if the claim were against an individual; that he should file a bill in equity if it were such a case as required the consideration of a court of equity, or the equity side of a court, or that he should file his declaration, either in contract or in tort, as the case might require, against the United States; that process should be issued; that it should be served, one copy upon the Attorney General of the United States here, and another copy upon the district attorney of the United States for the district in which the suit was brought; that those two officers should immediately consult together by correspondence; that the Attorney General, or Solicitor of the Treasury, should advise the local district attorney how to defend the case; that copies of the declaration, or bill, should be forwarded here; that there should be a perfect concert between the authorities here and the proper district attorney; that all the evidences in the Departments in this city, which could be furnished, should be furnished, under the seal of the respective Departments, to the district attorney; that the issue should be made up, at the appropriate term of the court, precisely as between individuals; and that the case, if proper for a jury, should be submitted to a jury, under the instruction, eye, and inspection of the judge; that the same rules of evidence, either in law or in equity, which obtain and are enforced in the courts between individuals, should obtain and be enforced between the individual plaintiff or

complainant and the whole Union. This, sir, was the outline of the system which I proposed. My plan further provided that the decision of the court was to be precisely as final as if the case were between individuals; that an appeal, or a writ of error, should lie, under the same rules and regulations, as in private cases from the district to the circuit court, and thence to the Supreme Court; and that, in all respects, the cases should be tried precisely as though they were between individuals. That proposition was so guarded that no bill or declaration could be framed upon any supposititious, possible, political right, such as meritorious services in such cases as those where you present medals and swords, and matters of that sort. All these cases would continue to come here as now; and such cases only were to be presented to the courts, on behalf of an individual claimant against the whole people of the Union, as an individual could present, either in a court of law or equity, against any other person. Provision was made that judgment should be rendered; that an appeal or writ of error could be taken; bills of exceptions filed, and the whole practice gone through with as if it were a private case; and, finally, that it should end in the Supreme Court here, if the amount in controversy justified it, as under the provisions of the law in regard to individuals.

Now, sir, I have great respect for the Senator from Pennsylvania, and for his opinions generally; but when he expresses a doubt as to our right to waive what he seems to call sovereignty, and allow ourselves, or allow the whole Union, to be sued, I cannot say that I have any great respect for that particular opinion. In the first place, it may well be doubted, and that Senator would be among the first to question whether there is any sovereignty vested here. He might be inclined to suppose that the United States have no sovereignty. In that opinion, however, I am not a State-rights man enough to agree. I hold that there is a limited sovereignty vested here, and for the highest and most important purposes that sovereignty is vested anywhere—that there is as much sovereignty vested in the General Government for the purpose of declaring war and making peace, as there is in the Emperor Nicholas, or any other Power of the earth. Sovereignty is vested for certain purposes, and, to a certain extent, in the General Government.

But, sir, whence arose this old maxim, that the sovereign cannot be sued? It arose in England, and under the idea, in the first place, that the sovereign was too dignified to be called by process—whether subpena, attachment, letter, missive, or anything else—into his own courts; and in the next place it was based upon the broader general principle, though not always true in practice, that the sovereign is not only always able, but always willing to do justice to his subjects; that he will receive the petition of right, or *monstrans droit*, that he will promptly answer the grievances and wrongs of his subjects. Modern experience in England, however, has shown that to be fallacious, and, in the multiplicity of business, thousands and hundreds of thousands of cases arise against the Crown when it is utterly impossible for the sovereign in modern times to receive in person the *monstrans droit* of his subject. He has been compelled, therefore, to establish commissions and courts, and to open the old and constitutionally established common-law court, to suits against the Crown. True, the process is not served on the King in person. The sheriff does not go to the King, and tap him on the shoulder and take him into court; but the law provides that the suit shall be against the Crown; and it provides further what officer shall attend to it, who shall be notified or served with process of it, and how they shall attend to it in the name of the Crown and on its behalf; and, if judgment be rendered against the Crown, that the sum shall be paid from the treasury.

Sir, to establish this board of commissioners, and to say that they are only to act as your respective committees act here—report what, in their judgment, we ought to do—is, to my mind, creating labor, and making "confusion worse confounded;" or, at least, it will be no more than doing what a clerk of a committee might do—write out a report. If you see fit to take it, you will take it as it is—good, bad, or indifferent—without considering it. If you are to go into the whole question again, refer it to your committee, and have that committee not only read a long, and, perhaps, verbose report, but investigate all the documents, and all the papers upon which the commission has acted, in order to confirm or dissent from, to amend, change, or alter their report, nothing will be gained. I will not say, sir, that you open the door to fraud, to peculation, to speculation, to advantage, to favoritism. I will charge no such thing upon my countrymen. I should hope the reverse.

But, sir, in reference of these claims to a court, you have no trouble at all in waiving what is called an attribute of sovereignty, and allowing yourselves to be sued. How many times have you done it already in special cases? How many times do the different States do it? All the States of the Union have, more or less, allowed themselves to be sued in special cases. The United States have done so. When Congress refer a question to the head of one of the Departments, or to an inferior officer, as an auditor or comptroller, and say he shall settle the accounts upon principles of equity and justice, what do they do but allow themselves to be sued, and constitute the officer to whom the subject is so referred a tribunal, a judge, from whose decision their is no appeal whatever, but whose determination is final? And this is a decision without publicity, while by my plan such matters would be determined in the courts of the Union, which are open to the public gaze.

Now, I ask why it is, upon the principles of justice and reason, that we refuse to allow a citizen to sue his Government for redress, and yet provide by law, that if one hundred persons, or five hundred persons, or five thousand persons, as members of a corporation, or as individuals, owe a debt to one individual, that one individual may sue, by some technical name, the whole five hundred or five thousand? You say, in short, that if a part of the people of the United States owe a debt to another part of the people of the United States, the part so holding the claim may go into the courts which you have established, and, by the known, recognized, sifted, and pure principles of law, may establish their claim against that other part of the people of the United States. Why, then, is it, I ask you—upon what principle is it, that you say, that if all the people of the United States, consisting of twenty-five millions, owe a debt to an individual, the individual shall not have the right to sue all? I confess I cannot see the distinction; I cannot perceive the justice of this discrimination.

I know it is a common remark, that the United States would always be worsted, if my plan were pursued; that the claimant would always have the sympathy of the jury and the leaning of the court, and be in a position, by corruption, to produce a yielding on the part of the district attorney; or persons are afraid that something will favor the claimant, and operate against the interests and rights of the United States. I believe no such thing. In the first place, you have a judge of your own creation, your own creature, one whom yourselves have made, one whom the sovereign of the country has selected. In the next place, you yourselves select your jury, who are the taxpayers of the country, the men upon whom the burden, if burden there be, is to fall, and therefore they have a direct interest in scrutinizing well the claim, and guarding it against an exorbitant amount. You have, further, the making of the laws, and the devising of the rules of evidence, and throwing around your courts all the protection that you can possibly desire.

With your tribunals thus constituted, why can you not allow the plain right of one who has suffered for the whole people, who has either contributed his money or his labor voluntarily upon contract, or whose property has been taken from him in war per force of the rights of nations in war? Why is it that, if an individual had taken his property thus, or had acquired his labor or his money without reward upon contract, you open your courts, so that he may sue for it; but if the whole people take it, you set up the ideal mockery that the sovereign cannot be sued, and that the claimant must wait the tardy process of your reluctant, and, as a general thing, niggard justice? Sir, if either party has to suffer, I would rather that the whole should suffer; I would rather that the matter were in the hands of liberal juries, and of just judges to administer the law between the one and the many fairly, but liberally. I would rather that the Treasury suffered than that the thousand honest claimants against this Government go unrequited and unanswered.

I am well aware, sir, that in some instances too liberal a hand has been opened to claimants against the Government. We are satisfied that at the last session we made an appropriation of a very considerable sum of money through mistake, when we ought not to have appropriated it, but the money is saved to the Treasury and is not lost. While one has got this advantage, or might have had it, how many claimants are there here who have suffered from the days of the Revolution, and even anterior to them since first that struggle commenced. Sir, you had a case of that kind here this morning, and I was desirous that that bill should have passed at once. I entertained no doubt of its justice, its honesty, and its propriety. The descendants of the gallant foreigners who came here to aid us in our struggles, not only gave us their labor and their toil, and poured out their hearts' blood like water upon our soil, but have waited your tardy justice on the action of Congress to remunerate them for pay and commutation, and still I find there is objection here. But my sympathies are not altogether for the foreigner, nor for his descendants. I would do justice alike to all who have claims upon my Government. The time never shall come, while I speak for the American people, or for any portion of them, howsoever long or howsoever short that period may be, that I shall fail for a moment to do that between the claimant and my Government which I would acknowledge to be right between that claimant and myself, whether he be a foreign-born, the descendant of a foreigner, or a native-born citizen.

Sir, I repeat, I am satisfied that no amendment of the present practice can be efficiently adopted without opening the courts of the country to litigation between individuals on the one hand, and the masses of the country, the whole people of the United States, on the other, under the same rules and the same regulations of law, and to the same extent, as between single individuals. Fear not, sir, that the jury will run astray under the eye of an able, enlightened, firm, and pure judge, instructing them from the bench what is the law and what are the rights of the parties. I would have evidence, oral and written, taken precisely in the same way as between individuals. Thus I would treat all that class of cases, therefore, which present themselves either in a legal or an equitable view. I do not speak of that broad, undefined, unlimited, and illimitable equity, which pervades the community when they speak of equity; but I refer to that class of cases known to chancellors and to equity courts as contradistinguished from those that may be enforced by the rules of the common law. Let all those of a different kind, for extraordinary gallant services, or accidental or casual patriotic exertions, be presented here, where they ought to be presented and rewarded with a munificent hand; but let all those which are of a nature which might be enforced in our courts of record, if they existed between individuals, be referred to the courts, there to be dealt with, there to be prosecuted, there to be terminated, precisely as though they were between individuals. Do it; I see no objection. Do it; there can be no wrong, and speedy and ample justice will be awarded to all.

Mr. JONES, of Tennessee. This, I apprehend, is one of the most important measures in the history of the country. I am exceedingly anxious myself to vote for any bill that will remedy the evils which now exist. If I can do no better, I will vote for the bill which is before us; but it does seem to me that there are serious objections to it. I think that the Senator from Virginia, the Senator from Pennsylvania, the Senator from Indiana, and the Senator from Delaware, are all equally anxious for the passage of some bill that will remedy the evils under which we labor. It occurs to me, Mr. President, that we can save a great deal of time, and accomplish a larger amount of good to the public, if we can get those gentlemen of conflicting views, all having the same object in view, together, to make a bill that may be acceptable to all. I therefore rise for the purpose of making the motion, that this bill be referred to a select committee of five members of the Senate, the chairman of which will, of course, be the Senator from Pennsylvania, and I doubt not that the President will select those gentlemen

who are most conversant with the matter. I am clearly of the opinion that they will be able to bring us in a bill in a few days that will save a great deal of time and unnecessary debate, and accomplish a great deal of good. I have conferred with the friends of the bill, and I think they concur in that opinion. I am perfectly willing that the chairman of the Committee on Claims [Mr. BRODHEAD] should make the motion himself. I have made it, desiring him to be the chairman. I repeat, I believe it will result in a saving of time, and in the accomplishment of a great deal of good.

Mr. DAWSON. This is an important bill. I have no objection to the reference, but I can see no necessity for it. The bill is familiar to every Senator. I have voted, I think, for several successive sessions, for a bill reported by my friend from Virginia. There are but very few questions involved in this bill. The first is, will we change the present practice of the Government in relation to the decision of claims? The Senate has uniformly decided, according to my recollection, that it ought to be done. The next question is, what plan is most practicable, and will be most useful to the country? Some say, a bench of judges. That is my opinion. Others, and I think a majority, say a board of commissioners. Well, this bill proposes to establish a board of commissioners—to do what, sir? To decide upon all claims which are not already provided for by the existing laws of the land. If the accounting officer, or the officers appointed under those respective laws, shall have the right to decide upon claims, and if the laws do not cover a claim, and justify the officer in deciding favorably upon it, what is the claimant to have a right to do? To present his petition to Congress, or during the recess of Congress, to the Secretary of the Senate, or to the Clerk of the House of Representatives, and have it from Congress, or from the Secretary, or from the Clerk, referred to the board of commissioners—for what? To give it a judicial examination; to give the claimant, and the General Government against whom he claims, the right of introducing testimony for and against the claim; to have those commissioners, under an oath taken, decide upon the merits of the claim, and upon the obligation of the Government to pay it; and then to have the principles upon which it shall have been allowed or rejected, communicated to Congress for confirmation or rejection. Can there be anything fairer and clearer than this?

Now, sir, why refer the bill? Is it upon the principle that you will not have a board of commissioners? If so, move to strike that out, and insert judges. If you are satisfied with commissioners, where is the difficulty? The whole argument proceeds from the idea that the machinery adopted in the bill will not be equal to the necessity that exists. That is a mistake. The bill provides that the district judges of the United States, whenever called upon by the Government of the United States, or by the claimant—shall do what? Take the testimony of witnesses; and why have they to take testimony? To protect the Government against unjust modes of obtaining testimony. Can there be anything more just or fair for all parties than that? That is the whole bill. There is to be no final adjudication on the part of the commissioners. The final adjudication is to be on the part of Congress.

This is the bill of my friend from Pennsylvania. Why not agree to it? It is said it is not complete. What bill, sir, on the introduction of any new proceeding of this kind, will ever satisfy the whole Senate? Take it up, section by section, and amend it, if it does not meet the views of the majority of the Senate. After the bill goes into operation, like all other new proceedings, it will develop what is necessary, further, to be done on the part of Congress to sustain the rights of the citizen and protect the General Government. That is the object of my friend from Tennessee. That can hardly be obtained here now. Let us establish the first question, whether we shall have a commission or judges. After that is established we can proceed to establish the machinery to carry out the court or board of commissioners so as to effect the object intended. I think the bill is very well arranged, so far as to create a system which may hereafter be improved.

Why, sir, am I for the change? First, because the claimant, if his claim is right, is delayed here necessarily on account of the peculiar character of our legislation; and next, because there is not a thorough investigation of claims here. I have often suffered bills to pass, the merits of which I did not undertake to comprehend, and why? Because a report of a dozen lines settled the principle upon which the claim was presented. I agreed to the principle, but I did not know whether the facts of the case were so. I will vote for this bill, or I will vote for the bill of the Senator from Virginia, or for any bill that will establish a tribunal by which the citizen can obtain what is due to him, and at the same time secure the Government against any imposition or fraud. Hence it is that I say, let us vote for the principle contained in the bill, and then let the machinery be adopted to carry it out.

Mr. JONES, of Tennessee. My friend from Georgia asks, why refer this bill? I do not want to debate this question now; but I would take the speech of my friend from Georgia, and answer his own interrogatory. He asks, why refer the bill? Just because he is not ready to vote for it. He tells you that he prefers the bill of the Senator from Virginia, which is a little different from this, and he tells us, before he concludes, that he prefers the courts to a board of commissioners. Well, if you establish a court, you will have to reorganize and remodel the bill. There is not a principle in it that proceeds upon the supposition that it is to be a branch of the judiciary of this Government. The commission is to be a mere committee, first to examine the claim, and report it back to Congress; and we shall have as much struggle on the bills as we now have. You establish your commission. They examine a claim, and decide against the claimant. What follows? He comes right back to the Congress of the United States and asks a rehearing; and we have to go over the same ground. It is only claims which are allowed, that will be final before this board. I grant that it is a relief, to some extent, and that we should get rid of some claims; but a great majority of them would fall back upon us upon appeal from the board of commissioners, and then we should have to adjudicate and adjust them.

Now, sir, I think a court is better; yet, if I can do no better, I will take this. The very objection urged by my friend from Georgia to it, satisfies my mind that we ought to have a select committee made up of these discordant opinions, who might agree upon something likely to pass the Senate. I find serious objections to the bill, because I think it falls short of obtaining the great purpose contemplated by its author. I know he has the same object in view that I have. We want to get rid of these claims. I think there is but one safe mode of doing it, and that is to establish a court of claims—an independent judiciary, upon the same principle as the Supreme Court. Let the cases go there, and after the examination of witnesses, and the arguments of counsel, let them be decided, and then let there be an appeal to the Supreme Court of the United States. If you mean to attain justice, that is, in my opinion, the only way you can do it. If you mean to protect the Government against the improper claims, that is the plan. If you mean to accord to the citizen the rights of his property, that is the way in which to do it. I think the Committee on Claims are now just as competent, just as virtuous, just as able to decide questions of right as this board of commissioners which you propose to establish with a salary of $3,500 each. It will only be one step further. We shall get rid of one class of claims; but the most annoying of all, those litigated claims of doubtful propriety, will fall back upon the Congress of the United States, and we shall not have relieved ourselves at all, in my judgment.

I, therefore, go for the reference, believing that the Chair will appoint such men as are able to consider the subject properly. We have got the talent in this Senate. I do not include myself, for I do not claim anything of that sort. But there is talent enough, there is experience enough, there is wisdom enough, there is legal attainment enough in this Senate to frame a bill which will answer the purpose. I believe such can be done by a select committee, and I therefore press its appointment.

Mr. BRODHEAD. It is not very material to me whether this is referred to a select committee or not; but I beg to observe to my friend from Tennessee, that it has been before the Committee on Claims, and the proposition which he makes with reference to the judiciary, or a court, was there very deliberately considered. My friend seems to think that we cannot get clear of these claims by having a board established, but that they will come back on appeal. Suppose we adopt his plan, and refer the questions to the judiciary, can you cut off the right of petition? Has not the claimant the right to petition Congress at all times? Has not the citizen the right to be heard by petition?

Mr. JONES, of Tennessee. I do not propose to cut off the right of petition. That is a sacred privilege. But that is not the purpose. Let them come here with their petitions, and what have you to do but to refer them to the court, and we shall not be brought into the investigation of the questions. There is the thing. The object is to get rid of this constant *ex parte* investigation, in which the Government is never represented. When the petition comes, we can receive it, and refer it to the proper court. There is the point.

Mr. BRODHEAD. That is just what I propose to do, to preserve the right of petition when a man presents his claim, and refer it to this board. If it is the pleasure of the Senate that a select committee, who take an interest in the measure, should be raised, I certainly shall interpose no objection; but we come to this: if you select this plan, the bill, I think, is as practical as it can be made. If you establish a board, the bill can soon be considered and passed; but if it becomes a question between the two propositions, the board on the one side, and the judiciary on the other, then it becomes a more serious question; then it is not a question of detail. The proposition of a reference to the judiciary is captivating when first presented; but when it is examined—and I think my friend from Ohio [Mr. WADE] will concur with me in saying that the more it is examined, the more difficult and the less accessible it becomes. You would have to reform the whole judiciary system, in a great measure, to carry it out; you would have to define the jurisdiction; you would have to classify the cases; and how would you refer to a court, governed by rules of law or equity, questions which address themselves alone to our discretion, to our sense of liberality and justice—if you please, abstract justice, which is administered in courts of law or equity? These are the suggestions which occur to my mind in reference to that matter.

With regard to the suggestion of my friend from Delaware, that these commissioners should not be removable, that would make them less responsible. If we confer upon the President the right to appoint, we impliedly confer the right to remove. That is my answer to his proposition. If we do not give the power to the President to remove—a power which I think we cannot withhold—it may be said that we wish to have a political board formed. I do not wish that, for one. I believe the President will appoint gentlemen who have special qualifications. We have not the right to say, in advance, that he will not. I believe that he will appoint proper men, men who have a large stock of reputation, because it will require a considerable stock of this kind on hand. If, however, it is the pleasure of the Senate to adopt the suggestion of my friend from Tennessee, I have no objection. If it should go to a select committee at this time, I shall not now press the amendments which I have proposed.

Mr. CLAYTON. I only wish to say to my friend from Pennsylvania, in regard to the propriety of the power of removal, that the power of removal by the President, under a decision of the provision of 1789, is a power to remove officers other than judicial; and, therefore, there is no difficulty, such as my friend supposes, in making them independent of the Executive.

The motion to refer the bill to a select committee of five was agreed to.

Mr. BRODHEAD. I move that the Chair appoint the committee.

The motion was agreed to; and Mr. BRODHEAD, Mr. JONES, of Tennessee, Mr. HUNTER, Mr. CLAYTON, and Mr. CLAY were appointed.

COMMITTEE SERVICE.

Mr. BADGER. I ask the Senate to excuse me from serving on the Committee on Finance, and I assure them that if they will excuse me for this

session, I shall not require the same favor at the next. [Laughter.]

The honorable Senator was excused, and the vacancy was ordered to be filled by the President.

Mr. HUNTER. There is another vacancy in the Committee on Finance. The Senator from California, [Mr. GWIN,] who was upon it, is absent, and it is necessary that his place should be filled. I move that the vacancy be filled by the Chair; and I will state that I believe it is the wish of the absent Senator that his place should be filled.

Mr. WELLER. I can only say that such is the desire of my colleague. He is detained in California, and will not probably be here for several weeks to come. It is well known that there is a good deal of business connected with the State which I have the honor in part to represent, which makes it highly desirable that the position which he occupies on that committee should be filled during his temporary absence.

Mr. BADGER. I do not wish to interpose any obstacle in the way of completing that committee, but I beg leave to suggest to the Senator, that this motion is founded upon a misapprehension of the state of the case. So far as the absent Senator from California is concerned, there is no vacancy. He has not resigned his position on the committee; he has not been excused from service; he has not been displaced. There is no vacancy there; so that I apprehend the motion of my friend from Virginia should be to add a member to the committee. I have no objection to it, but I wish it to be understood.

Mr. HUNTER. I am willing to make the motion to add a member temporarily.

Mr. BADGER Until the Senator from California comes?

Mr. HUNTER. I move that another member be added to the committee.

Mr. BADGER. I would suggest to my friend that there is no particular difficulty here. The committee have got along with five members, and surely they can prosecute its business until the Senator from California returns. The Committee on Naval Affairs or Finance, whichever it is, can transact the business with five members until that time. Would it not be better to do that than present the incongruous appearance of increasing them from six to seven, while no other committee has more than six?

When that Senator returns, the redoubled diligence of these two gentlemen, both of them notorious for their economical propensities, will, by future saving, make up for a little loss during his absence. I think the motion had better be withdrawn.

Mr. HUNTER. There is a precedent for this in regard to the Committee on the Judiciary. It can only be done by unanimous consent, as it makes the number on the committee seven instead of six. The reason why I made the motion was not because five could not do the business, but it has generally been considered important that on the committee there should be one Senator from the Pacific side of the continent. If the Senate should think it a departure from the rule, of course they can vote it down.

The PRESIDENT. An additional member cannot be added without the unanimous consent of the Senate.

Mr. BADGER. I wish it to be understood that I do not interpose any objection, but I only threw out the suggestion, which, I think, is entitled to some consideration.

Mr. FISH. I do not rise for the purpose of objecting to the proposition of my friend from Virginia, but the Senator from California is also on the Committee on Naval Affairs. That committee consists of six members, and yet the Senate has been in session two weeks, and there have been but two members of the committee present. If the Senate agree to the proposition of the Senator from Virginia, therefore, I shall beg them to take into consideration the question whether it would not be proper to take the same course in regard to that committee.

Mr. HUNTER. If objected to, I withdraw the motion.

AMENDMENT TO JOINT RULES.

Mr. BROWN. I wish, before the Senate adjourns, to give notice that to-morrow I shall ask leave to introduce a resolution to establish an additional joint rule of the two Houses, my object being the same as is indicated by the bill which has just been referred to a select committee. I think the whole purpose of that bill can be met by a joint resolution establishing a general committee on claims. The plan is the same which I had before the House of Representatives, and which met with some favor, two or three years ago. Without going into detail I give the notice now, because in the House (I have not examined the rules here) it is necessary to give notice of a proposition to move to change the standing rules. If that is necessary here, I give the notice now.

JOSEPH GIDEON.

A message from the House of Representatives was received, transmitting to the Senate, in accordance with their request, the bill for the relief of Joseph Gideon.

SENATE BILLS BECOME LAWS.

A message from the President of the United States, by Mr. WEBSTER, his Secretary, announced that he had approved and signed the following bills:

An act for the better preservation of life and property from vessels shipwrecked on the coasts of the United States.

An act to relinquish to the State of Wisconsin the lands reserved for salt springs therein.

ENROLLED BILLS SIGNED.

A message from the House of Representatives was received, by Mr. FORNEY, their Clerk, announcing that the Speaker had signed the following enrolled bills and joint resolutions; which were then signed by the President:

A bill to provide for the extinguishment of the title of the Chippewa Indians to the lands owned and claimed by them in the Territory of Minnesota and State of Wisconsin, and for their domestication and civilization;

A bill for the relief of James S. Graham and Walker H. Finnall;

A joint resolution for the settlement of the claim of Don Juan Jesus Vigil, of New Mexico;

A joint resolution to modify or change the original plan of the custom-house at New Orleans;

A bill allowing the further time of two years to those holding lands by entries in the Virginia military district in Ohio, which were made prior to the 1st of January, 1852, to have the same surveyed and patented; and

A bill for the relief of Thomas Ellis.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 18, 1854.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of Friday was read and approved.

Mr. JAMES ABERCROMBIE, of Alabama, Mr. ASA PACKER, of Pennsylvania, and Mr. GEORGE W. MORRISON, of New Hampshire, appeared and took their seats.

JOSEPH GIDEON.

The SPEAKER announced that a message had been received from the Senate, requesting the return of Senate bill (No. 32) for the relief of Joseph Gideon.

There being no objection, it was so ordered.

EXCUSED FROM COMMITTEE SERVICE.

Mr. RUFFIN. I desire that the House will excuse me from further service on the Committee of Claims. I am also a member of the investigating committee upon the Colt patent case, which meets several times a week, and it will be impossible to attend the meetings of both committees.

The question was put, and Mr. RUFFIN was excused.

Mr. RICHARDSON obtained the floor.

BETSEY NASH.

Mr. BENNETT. I rise to a privileged question. On Friday last, the bill of this House for the relief of Betsey Nash, with the amendment of the Senate thereto, was referred to the Committee of the Whole House. I desire to submit the motion to reconsider the motion by which the bill was so referred. I do not care whether the motion is considered now or some other day.

The SPEAKER. The motion will be entered, but cannot be now considered, the gentleman from Illinois having first obtained the floor.

BILLS INTRODUCED.

Mr. RICHARDSON, by unanimous consent, and in pursuance of previous notice, introduced a bill of the following title; which was read a first and second time, and referred to the Committee on Territories:

A bill to establish military roads in the United States.

Mr. SMITH, of Tennessee, also, by unanimous consent, and in pursuance of previous notice, introduced sundry bills; which were read a first and second time by their titles, and referred to the appropriate standing committees. The following are the titles:

A bill for the relief of certain officers and soldiers of the Army who served in the war of 1812. Referred to the Committee on Military Affairs.

A bill to constitute Chattenooga, in the State of Tennessee, a port of delivery. Referred to the Committee on Commerce.

A bill to amend the Post Office laws. Referred to the Committee on the Post Office and Post Roads.

JOHN CHURCHWELL.

Mr. RICHARDSON. I ask the consent of the House that the memorial and papers in the case of John Churchwell be taken from the files of the House, and referred to the Committee on Military Affairs.

The SPEAKER. The Chair will remark that if the papers are not to go out of the House, the gentleman's object can be accomplished under the rule, by application at the Clerk's desk.

BARON DE KALB.

Mr. MAY. The Clerk has informed me that he has difficulty in the engrossment of the bill passed on Friday last, for the relief of the heirs of the Baron de Kalb. Owing to inadvertence, the gentleman who proposed an amendment to the bill omitted to strike out the phraseology for which his amendment was a substitute. I am sure that it was understood by the House that the appropriation which was made was to be in full for the claims, services, and sacrifices of General de Kalb. I ask the unanimous consent of the House, therefore, that the bill may be so engrossed.

There was no objection, and the order was accordingly made.

WILLIAM HARRIS.

Mr. HILLYER, by unanimous consent, and in pursuance of previous notice, introduced a bill for the relief of William Harris; which was read a first and second time by its title, and referred to the Committee on Invalid Pensions.

GULF SQUADRON IN THE MEXICAN WAR.

Mr. ROBBINS, by unanimous consent, offered the following resolution; which was read, considered, and adopted:

Resolved, That the Committee on Naval Affairs be requested to inquire into the expediency of placing the officers, seamen, and marines who served in the gulf squadron during the Mexican war, upon the same footing as to bounty land, extra pay, &c., as was granted by Congress to those who served in the Pacific squadron during the same period, and that they have leave to report by bill or otherwise.

MILWAUKIE CUSTOM-HOUSE.

Mr. WELLS. I have a resolution which I propose to offer, and to which I hope there will be no objection. I propose the following:

Resolved That the Secretary of the Treasury be requested to inform the House whether, in his opinion, the building authorized by the act of the last session, to be erected at Milwaukie, for custom-house, court-house, and post office, is sufficiently large to properly accommodate those purposes.

Mr. LETCHER. I should like to inquire of the gentleman from Wisconsin whether any contract has been entered into for the erection of that building?

Mr. WELLS. I will inform the gentleman that no such contract has been made.

Mr. LETCHER. What will be the cost of carrying out the plan which you propose to set aside?

Mr. WELLS. The appropriation made at the last session was for $50,000.

Mr. LETCHER. Can the gentleman inform me what amount of revenue is collected at that point?

Mr. WELLS. I cannot state precisely as to the last year. The previous year $150,000 was collected, and I presume the amount was larger last year.

Mr. LETCHER. That will do. I desire to offer an amendment to that resolution, to the effect that the Secretary of the Treasury be also requested to communicate to this House all the bids, plans, and estimates which have been furnished in connection with the custom-houses proposed to be built at the last session, which are on file in his Department.

Mr. WELLS. I will say to the gentleman that, if I am not mistaken, a resolution has already been adopted by the House calling upon the Secretary of the Treasury for the information which the gentleman desires.

Mr. LETCHER. If such a resolution has been passed I am satisfied; but I do not recollect any such resolution.

Mr. FULLER. In reply to the gentleman from Virginia, I will state that the Committee on Commerce had in their possession plans and estimates and specifications for this custom-house before they reported the appropriation for it at the last session.

Mr. LETCHER. But it seems that now we are to have two plans and two specifications. It seems now that plans and specifications were sent in with the recommendations of the Secretary of the Treasury, for the establishment of a custom-house at Milwaukie, during the last session, and that upon those recommendations an appropriation was made. Now, I want to know what bids have been offered, in consequence of the passage of that appropriation at the last session? I want to know what would be the probable cost of the building, according to the original plan, and whether it is proposed by the change of plan to increase the cost, by erecting a larger and more costly building?

Mr. HOUSTON. I desire to understand my friend from Maine, [Mr. FULLER,] who says that plans and estimates were furnished to his committee at the last session. If I remember correctly, the Committee on Commerce did not report in favor of but a small number of the vast appropriations for custom-houses upon which we were called to act. There is one provision in the law of the last session to which, I presume, the gentleman from Virginia refers. The appropriation for the establishment of new custom-houses and marine hospitals, authorized the Secretary of the Treasury to purchase sites upon which to erect these buildings, and made an indefinite appropriation to pay for them. Now, the Secretary, in his report on finance, states that he has selected certain sites at certain places, but gives no information as to the bids which have been presented. I presume the object of the gentleman is to obtain the proposals which have been made for sites, from which the Secretary has made his selection.

Mr. LETCHER. Well, that is exactly what I want to get at; but in addition to that, I want to get at the advertisements under which proposals were called for, the terms upon which they were asked, and all that was done in connection with the matter.

Mr. COBB. Well, send up your amendment. Nobody will object to it.

Mr. WELLS. I would inquire what is the question before the House? Is the amendment of the gentleman from Virginia still pending?

The SPEAKER. It is.

Mr. WELLS. I would suggest to the gentleman from Virginia that he should offer his amendment as a separate resolution. The resolution that I offer is simply one calling for information. I am sure that I would vote for the gentleman's amendment as a separate resolution, but I trust he will withdraw it as an amendment, and allow my resolution to pass. I will state, further, that the site for this building has been already fixed upon, and that it is the best which could have been selected for the purpose.

Mr. FULLER. Will the gentleman from Wisconsin yield the floor for the purpose of having the resolution reported? I did not hear it

Mr. WELLS. I yield for that purpose.

The resolution was again read.

Mr. LETCHER. I withdraw my amendment, and will offer a separate resolution.

The question was then taken on Mr. WELLS's resolution, and it was adopted.

STEAM SLOOPS-OF-WAR.

Mr. PHILLIPS, by unanimous consent, and in pursuance of previous notice, introduced a bill "to authorize the construction of six steam sloops-of-war;" which was read twice by its title, and referred to the Committee on Naval Affairs.

PRINTING OF THE INDIAN REPORT.

Mr. ORR. I ask leave to offer the following resolution:

Resolved, That two thousand copies of the annual report of the Commissioner of Indian Affairs, with the accompanying papers, be printed and bound for the use of the Indian Bureau.

Mr. JONES, of Tennessee. That resolution goes to the Committee on Printing, does it not?

The SPEAKER. The Chair was about to state that, unless the resolution can be now considered by unanimous consent, it must go to the Committee on Printing.

Mr. ORR. I have no objection to its being so referred.

The resolution was then referred, in compliance with the rule, to the Committee on Printing.

ORDER OF BUSINESS.

Mr. JONES, of Tennessee. To-morrow and the two succeeding days are set apart for the consideration of the business of the District of Columbia, and it is very desirable to get the Indian appropriation bill through the House before the holidays. I therefore move that the rules be suspended and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. CLINGMAN. I ask the gentleman from Tennessee to allow me to offer a resolution, to which I understand there will be no objection, simply for the purpose of reference.

Mr. JONES. If I withdraw my motion for that purpose a number of other gentlemen, who have resolutions to offer, will ask the same privilege, and the balance of the day will probably be consumed to no purpose.

Mr. SMITH, of Virginia. I hope the gentleman from Tennessee will withdraw his motion only for ten minutes or a quarter of an hour to enable resolutions to be offered.

Mr. JONES. Gentlemen around me say that they can get through with their resolutions in five or ten minutes. I will, therefore, withdraw my motion for the present.

THE EASTERN WAR—MEDIATION BY THE UNITED STATES.

Mr. CLINGMAN. I ask the consent of the House to introduce, for the purpose of reference merely, a joint resolution "requesting the President to tender the mediation of the United States to the Powers engaged in the eastern war."

Mr. WALSH. I object. Let them eat each other up. [A laugh.]

Mr. CLINGMAN. I hope the gentleman from New York will withdraw his objection. I believe he does not mean to insist on it, though I did not exactly hear what he said.

The SPEAKER. Then if the objection be withdrawn, the joint resolution will be read a first and second time.

Mr. WALSH. I have not withdrawn my objection.

BETSY NASH AND MRS. BATCHELDER.

Mr. FAULKNER. On Friday last, a bill entitled "a bill for the relief of Betsy Nash," returned from the Senate with an amendment, embracing a provision for the widow of James Batchelder, was referred to a Committee of the Whole House. The gentleman from New York [Mr. BENNETT] has moved to reconsider the vote by which that reference was made. I desire to ask the Chair what is the effect of the reconsideration thus pending; whether it prevents the bill from going to a Committee of the Whole House?

The SPEAKER. It suspends all action upon the bill.

Mr. FAULKNER. Then I move to lay that motion to reconsider upon the table.

Mr. CLINGMAN. I rise to a question of order. I ask what is the regular order of business? I wish it understood that I object to everything that is not strictly in order.

The SPEAKER. The regular order of business is the call of States for resolutions.

Mr. CLINGMAN. Then I insist that that order be pursued, and I object to everything else.

The SPEAKER. The gentleman from Virginia has a right to call up the motion to reconsider, as it is a privileged proposition. He does call it up, and submits a motion to lay the motion to reconsider upon the table.

Several MEMBERS. What is the question?

The SPEAKER. The Chair will state the position of the question. House bill (No. 380) "for the relief of Betsy Nash," was, on Friday last, referred to a Committee of the Whole House. To-day the gentleman from New York [Mr. BENNETT] moved to reconsider the vote by which the bill was thus committed, and the motion was entered. The gentleman from Virginia [Mr. FAULKNER] now rises and demands action upon that motion to reconsider, and moves to lay the motion to reconsider on the table.

Mr. BENNETT. Before the question is taken upon that motion, I want to say a word to the House.

Mr. HAMILTON. Debate is out of order.

The SPEAKER. No debate is in order unless the motion to lay the motion to reconsider upon the table is withdrawn.

Mr. BENNETT. I ask the gentleman from Virginia to withdraw it, that I may be heard for a moment.

Mr. GIDDINGS. I rise to a question of order. Does not a gentleman who makes a privileged motion to reconsider hold the floor upon that question, and can another gentleman rise and take it from him?

The SPEAKER. The Chair decides that it is competent for the gentleman from Virginia to call up the question of reconsideration; but it is not competent for him to take the floor from the gentleman who moved the reconsideration when it is called up. As, therefore, the gentleman from New York claims the floor, the gentleman from Virginia cannot submit the motion to lay the motion to reconsider upon the table.

Mr. RICHARDSON. When the gentleman from New York made the motion he was entitled to the floor; but he yielded the floor by deferring the motion to reconsider, and thereby lost his right.

The SPEAKER. The Chair decides that the gentleman from New York did not lose his right to the floor, for he could not have pressed the reconsideration of his motion at the time he submitted it, other business interfering. He had a right, however, to have the motion entered, and it was perfectly competent to postpone its consideration or to let it go over informally. The Chair decides that the calling up of the motion to reconsider cannot deprive the gentleman who submits the motion to the floor under the practice and rules of the House.

Mr. BENNETT. I do not wish to detain the House for more than a few moments in reference to this bill. The original bill was for the relief of Betsy Nash. She is the widow of a surgeon who served in the late war, and is really entitled to a pension. She is an old lady, poor and infirm. Her name has been before the Committee on Invalid Pensions since 1822, and the proof of her title to receive allowance was made perfect in 1831. The Committee on Invalid Pensions at that time, and have uniformly, at almost every session since, reported a bill for her relief. Her case is a strictly honest one. At the last session of Congress the claim was reported by the Committee on Invalid Pensions with a recommendation that the widow be allowed half-pay for five years. By the old law widows were allowed half-pay for five years; but according to the act of 1848, it may be extended five years longer. Widows, therefore, in certain cases, receive half-pay for ten years, and in some cases—by additional extension—for fifteen, twenty, and twenty-five years. I moved to amend the report of the committee by making the pension continue for the least of these terms—ten years. The bill was so amended, so that she was allowed half-pay for ten years instead of half-pay for five years. The bill was sent to the Senate for its concurrence; but the committee of the Senate, by the same sort of inadvertence as that into which the committee of the House had previously fallen—from not referring to the law of 1848, which allows pensions to be extended for five years

longer—struck the term down to five years, and offered that amendment, which was adopted. Then some other Senator proposed an additional and further amendment, allowing a pension of $3,000 to the widow of Batchelder, who was killed in Boston on the occasion of the attempted rescue of the fugitive slave Burns. The Senate passed that amendment also. But the appropriation to Mrs. Batchelder should have been put upon its own merits, and not placed upon this bill, which will undoubtedly, on that account, find difficulty in passing this House.

Whether that pension should or should not be made to Mrs. Batchelder, I am not to argue here; but certainly it is unjust to this old lady (Mrs. Nash) that there should be ingrafted on a bill for her relief, as to which there is no dispute and no question—proof having been regularly made of it—a claim about which there is question. What I ask the House to do in justice to this old lady is this: I ask the House to vote down the motion made by the gentleman from Virginia [Mr. FAULKNER] to lay the motion to reconsider, made by me, on the table, and to reconsider the bill, and nonconcur in the amendment added to it in the Senate. I am willing that Mrs. Batchelder should have a pension, but I say, let her claim stand upon its own merits, and be investigated by itself. This case of Mrs. Nash is one which the chairman of the Committee on Invalid Pensions, and every member of that committee will vouch for as an honest case. I, myself, am well acquainted with the facts, and know it to be a just and deserving case. This old and infirm lady will probably not be left long to derive advantage from the bill in her favor. If we delay to pass the bill for another session, she may never receive the benefit of it. Last session, her health was so feeble that it was supposed she could not live till this session. The discussion of the Batchelder case being ingrafted on the bill for Mrs. Nash's relief, will cause delay in the passage of the bill, and—if the two cases are not severed—the probability is that Mrs. Nash will never receive a pension, although she is as much entitled to it as any widow in the land receiving a pension. I hope, therefore, that this House will do justice to this old lady, by passing the bill granting her a pension, and by non-curring in the additional amendments which the Senate have passed to it. When the Senate come to understand the effect of their amendments, they will certainly recede from them. I do not believe there is a single member of the Senate, understanding the particular circumstance of the Nash case, who would have tacked those amendments on the bill. I trust, therefore, that, for the reasons I have stated, the House will reconsider its action, and pass the bill giving to Mrs. Nash a pension for the shortest term ordinarily allowed to widows. On this matter I have simply stated the facts of the case; and now ask the previous question.

Mr. SMITH, of Virginia. The previous question will not be sustained in the House.

Mr. HENDRICKS. The gentleman from New York has asked the previous question on his motion. I hope he will withdraw his demand, to allow me to make one or two remarks.

Mr. BENNETT. Certainly. I withdraw the demand for the previous question.

Mr. HENDRICKS. I had no desire to say anything to the House about the merits of the Batchelder case. I did not consider that to be involved in this case. Mrs. Nash's claim was a meritorious one. It was not a disputed claim in this House. The bill for her relief was passed here without objection. It went into the Senate, and that body put upon that bill an objectionable claim; one that will be objected to in this committee; one which will cause controversy. I think that the bill for the relief of Mrs. Nash ought not to be made contingent on the claim of Mrs. Batchelder. I am perfectly willing to consider Mrs. Batchelder's case; and it is very likely that I may support it. However, I have not thought much about it, and cannot give an opinion as to its merits. The bill for the relief of Mrs. Nash came from the Senate with amendments which require to be considered by the Committee of the Whole House. Now, it is not usual to refer a matter a second time to a Committee of the Whole House. The case of Mrs. Nash has already been considered in that committee, and it ought not to be sent there again. Especially should there not have been ingrafted on it a case which will give rise to discussion, and which may prevent or delay the passage of the bill.

I hope, therefore, that the motion made by the gentleman from New York [Mr. BENNETT] will prevail, and that the bill for the relief of Mrs. Nash will be passed without the amendments of the Senate. Mrs. Batchelder's claim ought, like that of Mrs. Nash, to stand upon its own merits. I do not believe in this log-rolling system of legislation—making one case carry through the other.

I renew the demand for the previous question.

Mr. SMITH, of Virginia. I ask the gentleman from Indiana [Mr. HENDRICKS] whether he thinks it a fair system of legislation to have two speeches made in favor of a proposition, and to allow none to be made against it?

The SPEAKER. The Chair reminds gentlemen that discussion is not in order when the previous question is demanded.

Mr. FAULKNER. I thought the gentleman from New York had withdrawn his call for the previous question.

The SPEAKER. Yes; but the gentleman from Indiana [Mr. HENDRICKS] has renewed it.

Mr. FAULKNER. Well, I trust that gentleman will withdraw his call.

Mr. HENDRICKS. Certainly. I withdraw it.

Mr. JONES, of Tennessee. I merely wish to inquire of the Chair whether the amendment attached to this bill does not make an appropriation of money, and whether, under the rule, the bill must not go to the Committee of the Whole?

The SPEAKER. The amendment of the Senate makes an additional appropriation, and must go to the Committee of the Whole.

Mr. FAULKNER. I have not a single word to say in opposition to the claim of Mrs. Nash. I have no doubt, as the gentleman from New York [Mr. BENNETT] has informed us, that it is a meritorious claim, and should receive the prompt consideration of this House I also regard the provision for the relief of Mrs. Batchelder—which has been annexed, and made an integral part of this bill, by the action of the Senate—as one equally meritorious and equally demanding the consideration and favorable action of this body. This bill being before us a few days ago—and the amendment of the Senate, containing an appropriation of money—it was necessary, under the rules of this House, that it should be referred to the Committee of the Whole, and the motion to have it so referred was made, and agreed to.

Now, sir, what is the effect of the motion made by the gentleman from New York, [Mr. BENNETT,] to reconsider the motion by which the bill was referred to the Committee of the Whole? It is to suspend action indefinitely on both the claims. If his motion be agreed to, the bill will be arrested in its course to the committee, and no action will be taken on it. My object, therefore, in moving to lay the motion of the gentleman from New York on the table is, that the matter may go at once to the Committee of the Whole House, and that it may be acted upon as soon as possible. To reverse that action now, is to defeat the amendment, for it makes an appropriation of money. I recognize the justice of the claim of Mrs. Nash, and I adhere to the justice of the second claim as not inferior to it in any point of view in its demands upon the consideration and justice of this House. I am unwilling that these claims should now be separated. There has been no log-rolling in the matter, as suggested by the gentleman from Indiana, [Mr. HENDRICKS.] The subject was before the Senate. That body desired to have prompt action upon it. It had that prompt action by annexing the amendment to the original bill, and I wish to see them taken up and considered together. No delay need take place. It may be taken up next Friday, or Friday week. I hope, therefore, that the bill will take that direction, and I renew the motion I made when I was up before, to lay the motion to reconsider upon the table.

Mr. DICKINSON. I ask for the reading of the bill and the amendment.

The bill and amendment were then read by the Clerk.

Mr. HENDRICKS. I desire to ask the Chair with reference to the point of order raised by the gentleman from Tennessee, [Mr. JONES,] if the House agree to a reconsideration, whether we cannot then refer the amendment of the Senate.

The SPEAKER. The amendment of the Senate makes an appropriation.

Mr. JONES, of Tennessee. It is unnecessary for the gentleman from Indiana to press the question of reconsideration, for the bill must go to a Committee of the Whole at any rate.

Mr. BENNETT. I suppose if the bill made an appropriation, and had been considered in Committee of the Whole, that it would not necessarily have to be re-referred.

The SPEAKER. When an additional appropriation is proposed by the Senate, it must be re-referred to a Committee of the Whole.

Mr. BENNETT. The very object of bringing this matter before the House, is to ask them to non-concur in the amendment of the Senate. I make the motion in order to bring that question before the House.

The SPEAKER. The rule which requires, in cases where appropriations are made, that they should go to a Committee of the Whole, would apply to this bill, unless unanimous consent be given that it should take a different direction, as it contains an amendment making an appropriation of money.

Mr. BENNETT. I ask unanimous consent, then, that the bill should come up now for the action of the House. It is certainly a case that demands prompt and speedy action, and I hope the House will grant the request I make.

The question was then put, on laying the motion to reconsider upon the table, and on division there were—ayes forty-five.

Mr. FAULKNER demanded the yeas and nays.

Mr. HAVEN. I am probably a friend to both of these measures. Let me say to my friend from New York, [Mr. BENNETT,] that it is evident he cannot have the unanimous consent of the House for the action he desires to take. I have no doubt of the correctness of the decision of the Chair, and that this bill involves an appropriation of money. It is a question now whether you will separate the bills or keep them together. We may divide upon that subject, and I suggest to the gentleman that he had better let the bill take the usual course.

Mr. JONES, of Tennessee. I will make a single suggestion for the unanimous approbation of the House, that this bill be referred to a Committee of the Whole and made the special order for Friday next. [Cries of "Agreed!" "Agreed!"] Christmas comes next Monday, and if you adjourn over on Thursday, you will have to meet here on Monday. If you adjourn on Friday, you will adjourn over till the Tuesday following.

Mr. BENNETT. I would rather make it the special order for two weeks from Friday.

Mr. JONES. I have no objection to naming any Friday that gentlemen may prefer.

Mr. BENNETT. Suppose you say three weeks hence.

A MEMBER. I object.

Mr. JONES. I move then to suspend the rules, that it may be done.

Mr. ORR. I desire to inquire of the Chair if he decides that this bill must not be considered in Committee of the Whole?

The SPEAKER. It appropriates money, and as a matter of course it must go to a Committee of the Whole.

Mr. ORR. If the motion to reconsider prevail, the House must send it to a Committee of the Whole, without a suspension of the rules requiring it.

Mr. HENDRICKS. If the House agree to a reconsideration, cannot the House recommit the bill and make it a special order?

The SPEAKER. A special order can be made only by a vote of two thirds.

Mr. FAULKNER. I withdraw the demand for the yeas and nays on the motion to lay the motion to reconsider upon the table.

Mr. HAMILTON. I call for tellers upon the motion.

Tellers were not ordered.

Mr. SMITH, of Virginia. I understood the gentleman from Tennessee [Mr. JONES] made a motion that the rules be suspended for the purpose of considering his proposition to make it the special order for Friday next.

Mr. JONES, of Tennessee. I suggested to the gentleman from Virginia to withdraw the motion to lay the motion to reconsider upon the table; to allow the motion to reconsider to pass, and then to recommit the bill with instructions that it be

made the special order for the Friday suggested by the gentleman from New York, [Mr. BENNETT.]

The question was then taken upon the motion to reconsider the vote by which the bill was referred, and it was decided in the affirmative.

Mr. BENNETT. I now ask the House to give me unanimous consent to have this bill taken up and considered at this time. We can dispose of it in a short time, and I see no reason why it should not be done.

Mr. SMITH, of Virginia. I object.

Mr. FAULKNER. That would be in violation of the proposition which has been made, and in view of which the House acted in reconsidering the motion by which the bill was referred. The understanding was, that if the motion to reconsider prevailed, the bill should be made the special order for some future day, and I hope that understanding will be carried out.

Mr. JONES, of Tennessee. I now move to amend the motion to commit to a Committee of the Whole, which is now pending, so as to make it the special order for Friday three weeks; and if there is any objection to that motion, I will move to suspend the rules to enable me to introduce it.

Many VOICES. No objection.

The question was taken, and the motion was agreed to.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled bills with the following titles; which thereupon received the signature of the Speaker:

Joint resolution to modify or change the original plan of the custom-house at New Orleans;

Joint resolution for the settlement of the claim of Don Juan Jesus Vigil, of New Mexico;

An act to provide for the extinguishment of the title of the Chippewa Indians to the lands owned and claimed by them in the Territory of Minnesota and State of Wisconsin, and for their domestication and civilization;

An act for the relief of James S. Graham and Walter H. Finnall;

An act allowing the time of two years to those holding lands by entries in the Virginia military district in Ohio, which were made prior to the 1st of January, 1852, to have the same surveyed and patented; and

An act for the relief of Thomas Ellis.

CLERK TO COMMITTEE.

Mr. RICHARDSON. I ask the unanimous consent of the House to enable me to submit a motion to allow to the Committee on Territories a clerk, at the ordinary compensation, for the space of thirty days.

Mr. CLINGMAN. I dislike to interfere with the gentleman's wishes; but I have called for the regular order of business, and must insist upon it. I would yield to the gentleman from Illinois as soon as to any one, but I wish to reach a matter in which I feel interested, and we can do that in a few minutes.

COMMITTEE OF THE WHOLE.

Mr. HAMILTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. SMITH, of Virginia. I hope the House will first dispose of the resolutions which may be introduced.

The question was then taken upon Mr. HAMILTON's motion; and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. MIDDLESWARTH in the chair,) and resumed the consideration of House bill (No. 555) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1856.

INDIAN APPROPRIATION BILL.

The CHAIRMAN. When the Committee of the Whole last rose, they had under consideration the Indian appropriation bill, and particularly an amendment, which was offered by the gentleman from Indiana, [Mr HARLAN,] to line 333 of the bill; which amendment will be reported by the Clerk.

Mr. HOUSTON. Before that is done I wish to appeal to the House to go back on the bill to page 9, lines 199 to 202 inclusive. That clause reads as follows:

"For life annuities to chiefs, per private article to supplemental treaty of 24th September, 1829, to treaty of 3d October, 1818, $200."

It will be seen that it provides for the payment of $200 as amount due for life annuities to chiefs of the Delaware Indians. The Secretary of the Interior has advised me, since I came into the Hall this morning, that he has received information of the recent death of one of the two chiefs of that tribe, and in consequence of that event, it becomes necessary to change that appropriation by limiting it to *one* chief, and reducing the sum to $100. I therefore move to strike out the words "annuities to chiefs," and insert in lieu thereof the words "annuity to chief," and also to strike out the word "two," and insert in lieu thereof the word "one."

The question was taken; and the amendment was agreed to.

The CHAIRMAN. The question now recurs upon the amendment which was pending when the committee last rose, offered by the gentleman from Indiana, to the appropriation for the Miami Indians.

The Clerk reported the amendment, as follows:

Page 14, line 330, add the following:
For deficiency of land west of the Mississippi Indians, granted to said tribe by the treaty of 1840, —— dollars.

Mr. ORR said: I do not know what sum it is proposed to fill the blank with. Is the gentleman from Indiana [Mr. HARLAN] in his seat to answer the question? I do not see that he is present. It was stated to me, incidentally, that the amount proposed to be inserted would be $100,000.

Now, sir, on the 25th of February, 1841, a treaty was ratified between the Miami Indians and this Government by the Senate of the United States, and, among other stipulations, it was therein provided that the Miamies should receive a certain tract of land, bounded on the east by the State of Missouri, on the north by the country of the Weas and Kaskaskias, on the west by the Pottawatomies, of Indiana, and on the south by the country assigned to the New York Indians, in all estimated to amount to five hundred thousand acres. Since that time, and during the course of the present year, another treaty has been negotiated with this same tribe of Indians. A portion of them emigrated west of the Mississippi, while the balance remained in the State of Indiana. The gentleman now proposes to make up a deficiency in the amount of this land. The deficiency was about one hundred and twenty or one hundred and thirty thousand acres. When the Commissioner of Indian Affairs negotiated the treaty during the past summer, not only were the Indians residing west of the Mississippi present and participating in the treaty, but also that portion of the tribe which remained in the State of Indiana. This treaty, which I hold in my hand, was the result of the negotiation. All parties were perfectly satisfied with it. The commissioner, when he came to negotiate the treaty, did not pay them for three hundred and seventy thousand acres of land which the Government secured under this last treaty, but he paid them for the whole five hundred thousand acres, giving them $200,000. Both bands were satisfied—the Indiana one especially, expressing themselves to the effect that they had received a more favorable consideration in the negotiation of the treaty than they had anticipated. There is, therefore, not the shadow of a pretext for a claim on the Government for $100,000—not for even $5. They have been fully paid every dollar to which they are entitled; and I only make these remarks now, so that hereafter when this claim shall be brought up, as I suppose it will be, they may be used in evidence against it. The Government always weakens its opposition to such claims, while the parties pressing them strengthen their efforts. The two treaties, taken together, show that these Indians have received every dollar to which they are entitled, and the amendment ought to be rejected.

Mr. CHAMBERLAIN. I move *pro forma* to fill the blank with $100,000.

I do not rise, Mr. Chairman, for the purpose of making a speech to the merits of the proposed amendment. I have not given the question that attention which would enable me to speak to its merits. It is a subject which has been particularly under the care and control of my colleague, [Mr. HARLAN,] who is not now in his seat. I therefore trust that this matter may be permitted to rest without the action of this committee until he can be in his place, and give this amendment the attention which it deserves. I know enough, however, from general information, of the manner in which the interests of the Miamies have been disposed of, to know that there is merit in this claim, that the Indians still remaining in Indiana have not received their just proportion of the money given for the ceded land. It was merely to express the hope that this subject may be permitted to rest until my colleague [Mr. HARLAN] can be in his seat to speak to it—he having given it a thorough investigation—that I have detained the committee for even a few moments.

Mr. OLIVER, of Missouri. Mr. Chairman, it is not on my own account that I have sought and now obtained the floor, but on account of my honerable colleague, [Mr. BENTON,] who is now absent in Boston. Friday evening last he came to my seat, and remarked that he desired to make a brief speech in opposition to the remedies proposed by the gentleman from Indiana, [Mr. MACE,] for the cure of certain evils alleged to have been engendered by the passage of the Kansas-Nebraska act.

Mr. HOUSTON. We are now under the five-minute rule, and gentlemen must confine themselves to the amendment under consideration.

Mr. OLIVER. I only ask the gentleman to hear what I have to say.

Mr. HOUSTON. In justice to myself in conducting the appropriation bills, I shall be compelled to object to every departure from the rules unless overruled by the committee.

Mr. OLIVER. I hope the gentleman will hear what I have to say before he objects.

Mr. HOUSTON. I shall object to any debate not in accordance with the five-minute rule.

The CHAIRMAN. Objection being made, the gentleman must confine his remarks to the amendment of the gentleman from Indiana, [Mr. CHAMBERLAIN,]

Mr. OLIVER. My colleague told me that he would be absent several days in Boston for the purpose of doing all that he could to interest the capitalists of that city in the stupendous enterprise of constructing a central railroad to the Pacific, and therefore requested me to read his speech to the House. I promised to do so; and with the permission of the committee, I shall now proceed to redeem that promise. The reading of the speech will only occupy about five minutes, and I hope no objection will be made.

Mr. HOUSTON. I object.

[Cries of "Print the speech!"]

Mr. HOUSTON. I cannot agree to a departure from the rule. If I depart from it in this case, I shall be compelled to yield in others.

Mr. OLIVER. I will again ask the gentleman to withdraw his objection. I can read the speech in five minutes.

Mr. HOUSTON. In a short while, we shall be through with this bill. Then, if the committee will allow me, I shall move to take up another appropriation bill. When up, it will be in order for the gentleman to read his colleague's speech.

Mr. OLIVER. Very well, sir. I shall wait until then.

The question was taken, and the amendment to the amendment was rejected.

Mr. HARLAN's amendment was then disagreed to.

Mr. HOUSTON. I propose to amend the bill, in the section making provision for the Miamies, by striking out from the 341st to the 349th line, inclusive, as follows:

For first and second of three equal annual installments upon $14,223 50, for education and support of the poor and infirm, per sixth article treaty 23d October, 1826, fifteenth article treaty 6th November, 1838, and fourth article treaty 5th June, 1854, $9,482 33.

I am not instructed by the Committee of Ways and Means to offer this amendment, because the matter has not gone before that committee. I sent up to the Clerk's desk a letter from the Secretary of the Interior, which I received this morning, too late to lay before the Committee of Ways and Means, and a part of which I will ask the Clerk to read.

The Clerk then read from the letter, as follows:

"For the first and second of three annual installments upon $14,223 50," &c., &c. This clause might be stricken from the bill, inasmuch as the amount $14,223 50 is now in

the Treasury as a balance of former appropriations made to fulfill the stipulations of the sixth article of the treaty of October 23d, 1826, and the fifteenth article of the treaty of November 26th, 1838, (W. S. S., vol 7, pages 301 and 571.) This balance becomes now payable as provided by the fourth article of the treaty of June 5th, 1854, the Indians, however, relinquishing their claim to any further payments under the article of the treaty of 1826, referred to.

The amendment was agreed to.

Mr. HOUSTON. I sent to the Clerk's desk this morning a letter, which I received since the meeting of this House, from the Secretary of the Interior, which concerns another amendment which I desire to offer to this bill. I will state to the committee the object of the amendment. Under the articles of the treaty with the Sacs and Foxes of Mississippi, we are bound to furnish to them so many barrels of salt, and so many kegs of tobacco. We have usually appropriated $800 for the one and $200 for the other. But the value of these articles in the market has changed, relatively, so that in one instance the appropriation is too large, and in the other too small. The Secretary of the Interior asks that we shall consolidate the appropriation, and put it as $1,000 for the purchase of so much salt and so much tobacco. If the committee desire it, the letter of the Secretary will be read.

I therefore offer the following amendments:

Page 25, after the word "salt," in line 585, insert, "and forty kegs of tobacco," and after the word "thirty-two," in line 586, strike out "two hundred," and insert "one thousand."

The section, as amended, will read:

For twenty-fourth of thirty installments, for forty barrels of salt, and forty kegs of tobacco, per fourth article treaty 21st September, 1832, $1,000.

Strike out lines 587, 588, and 589—forming the following section of the bill:

For twenty-fourth of thirty installments, for forty kegs of tobacco, per fourth article treaty 21st September, 1832, $800.

The question was taken; and the amendments were severally agreed to.

Mr. HOUSTON. The Clerk having finished the reading of the bill, I now propose, in pursuance of instructions from the Committee of Ways and Means, to offer an amendment, making the usual and necessary appropriations for Washington, Oregon, Utah, New Mexico, and California. They are embraced in the supplemental estimates which were ordered to be printed by the House a few days since, a duplicate of which I hold in my hands. The Committee have examined these estimates, and instructed me to propose the amendment to the bill, which I send up to the Clerk's desk. The appropriations now asked for would have been contained in the bill originally, I have no doubt, if the estimates had been at the Department at the time the annual estimates were made up. The estimates, in order to be laid upon our tables the first day of the session, have to be prepared at the various Departments and transmitted to the Treasury Department, at a period so early that those from countries far off do not usually reach the Department in time to be acted upon. Hence at every session we have had supplemental estimates embracing estimates for appropriations in those far off countries.

The Clerk then read the amendment, as follows:

For the general incidental expenses of the Indian territory in Washington Territory, $30,000.

For the expenses of adjusting difficulties and preventing outbreaks among the Indians in Washington Territory prior to and during the fiscal year ending the 30th June, 1856, $10,000.

For the general incidental expenses of the Indian service in California, embracing expenses of traveling, superintendent, and agents, $28,850.

For the pay of physicians, smiths, carpenters, agricultural and mechanical laborers on the reservations in California, $54,200.

For defraying the expenses of the removal and subsistence of Indians in California to these military reservations, in accordance with the plan submitted by the Superintendent of Indian Affairs of this State, and approved by the President, $125,000.

For the general incidental expenses of the Indian service in Oregon Territory, $10,000.

For adjusting difficulties and preventing outbreaks among the Indians in Oregon Territory, $10,000.

For the expenses of insurance and transportation of annuities payable to the Indian tribes in the Territory of Oregon, $3,000.

For payment of liabilities incurred for the Indian service in Oregon, under the supervision of the late superintendent, $10,000.

For the general incidental expenses of the Indian service in the Territory of New Mexico, $25,000.

For the general incidental expenses of the Indian service in the Territory of Utah, $20,000.

For compensation to three special agents and four interpreters for the Indian tribes of Texas, and for purchase of presents, $15,000.

The question was taken; and the amendment was agreed to.

Mr. HOUSTON. We are now through with the Indian appropriation bill, and under my assurance to my friend over the way, [Mr. OLIVER,] I propose to lay aside this bill that it may be reported to the House when the committee shall rise, and take up House bill No. 561. I move that this bill be laid aside to be reported to the House, with a recommendation that it do pass.

The motion was agreed to.

MESSAGE FROM THE PRESIDENT.

The committee here informally arose, and received a message, in writing, from the President of the United States, by SIDNEY WEBSTER, Esq., his Private Secretary; also, a message notifying the House that he did, on the 14th instant, approve and sign bills and a joint resolution of the following titles:

An act for the relief of Jacob McLellan;

An act for the relief of Isaac M. Sigler, of Putnam county, Indiana; and

Joint resolution for the relief of the children of Captain Thomas Porter, deceased.

And that, on the 15th instant, he approved and signed a bill of the following title:

An act for the relief of Enoch S. More.

The committee resumed its session.

MILITARY ACADEMY.

Mr. HOUSTON. I now move that the committee take up House bill (No. 561) making appropriations for the support of the Military Academy for the year ending June 30, 1856.

The question was put; and the motion was agreed to.

On motion by Mr. HOUSTON, the first reading of the bill was dispensed with.

MR. BENTON'S SPEECH.

Mr. OLIVER, of Missouri. Mr. Speaker, I will now proceed to read the speech of my colleague from Missouri, [Mr. BENTON,] to which I referred some time since.

Mr. OLIVER then proceeded to read the following speech:

Mr. BENTON. Mr. Chairman, the member from Indiana, [Mr. MACE,] who made the speech, and gave notice of the motion to bring in the bill which gave rise to this discussion, sat out with declaring that it was his intention to restore things to what they were twelve months ago—to restore the harmony of feeling in this House, and in the country, to what it was at the commencement of the last session of Congress. This is a good intent; and the man who can accomplish it, will justly be entitled to the character of a public benefactor; but I do not think the measures he proposes will accomplish this purpose: on the contrary, may make matters worse, which are bad enough. What are his measures? They are—*first*, to repeal the clause in the Kansas-Nebraska act, which abolished the Missouri compromise line; *secondly*, to oppose the admission of the State of Kansas into the Union, if she presents herself as a slave holding State. Now, I do not think either of those measures advisable, even if practicable, and will give my reasons for that opinion. With respect to the first one, I do not think it could be passed at this session, and its agitation could only disquiet the settlers in Kansas, and, perhaps, retard its population; and with me the rapid settlement of the Territory is an overruling consideration, as promoting the construction of the central road to the Pacific, and as giving protection to emigrants now traveling through the wild domain, without a road of any kind made by the Government, and exposed to murders and robberies, which the United States military posts can neither prevent nor avenge. The present agitation of the repeal could, therefore, effect no repeal, and might have a bad effect upon the settlement of the Territory, and, consequently, upon the contemplated road, and upon the facilities due to the emigrants; and these considerations, I think, might dispose of the motion for the present session. At the next, I think it will be superseded by events; that Kansas will be ripe for a State government, and be demanding admission into the Union. The member from Indiana then proposes to resist the admission, if she has established slavery. This, in my opinion, will be resisting a right, holding, as I do, that the State will be entitled to admission—having the other requisites—with or without slavery, as she pleases; and this not by virtue of any act of Congress to that effect, nor even by virtue of the Constitution, but by virtue of a right anterior and superior, both to Congress and the Constitution—I mean an inherent right of State sovereignty, possessed before the Constitution was made, not surrendered to the Federal Government when it was made, and, therefore, retained by the States. Add to this a treaty right to the same effect. Kansas is a part of the former province of Louisiana, acquired by Mr. Jefferson, and has a right, under that treaty, to be incorporated in the Union as soon as it can be done according to the principles of the Federal Constitution. The third article of the treaty is explicit to that effect; so that the right of the State to admission will be absolute under her sovereignty and the treaty, without any regard to her constitution in relation to slavery.

Mr. Chairman, there was crimination and recrimination the other day on this subject, between the member from Indiana and my colleague from the northwest district, [Mr. OLIVER.] The member from Indiana charged that citizens of Missouri had crossed the line to vote in Kansas at the late delegate election; my colleague retorted that men had been sent there by emigrant societies in the East, to control the election. I believe both were about right; and as to this stimulated emigration, I had my opinion of it at the time it was announced, and made known that opinion to some members from the eastern States now present, and that it would produce precisely the effect that has been seen—rouse and exasperate the people of the Missouri frontier, and lead to the scenes which have occurred. Why did I think so? Because I knew something of human nature, and that foreign interference is a thing which it will not endure. Of this, Missouri has been once before a signal instance: At the time of the formation of her constitution, it was a question among the people whether the constitution should be express or silent, on the subject of slavery. Foreign interference decided that question, and occasioned a clause to be introduced prohibiting the Legislature to emancipate slaves without the consent of their owners. I, an enemy to the extension of slavery, was a chief promoter of that clause; and why? Because foreigners, that is, citizens of other States, had interfered and agitated the country, and filled it with a great disturbance; and, for the sake of peace, and to prevent the annual recurrence of such agitations, I deemed it best (and that became the opinion of the convention) to cut up the evil by the root—to take the subject away from the Legislature—and consequently to exclude it from our elections; which was done. And the State, under that constitutional inhibition, had been free from the slavery agitation until carried there in the year 1849, and further inflamed by the events of the past year. I was not a member of the convention which framed the constitution, but promoted the anti-emancipation clause; and I mention my own case particularly that, being opposed to the extension of slavery, I yet instigated a provision against emancipation to prevent foreigners from coming to agitate us, and, I verily believe, if it had not been for that interference, the constitution would have been silent on the subject. This is one instance of the effect of foreign interference in the same State, and on the same subject, and what is now taking place on the western frontier of the State is only a new manifestation of the feeling which prevailed in the State in the year 1820. And such is human nature, and in all the relations of life, both as individuals and communities; a stranger cannot interfere in a family dispute without uniting the family against him, nor in a State dispute without uniting the State against him. What has happened, then, in Kansas, was obliged to happen, and was foreseen by some and deprecated at the time. I condemned that society emigration at the time, and there are members now present to whom I foretold its bad effects, such as have since been seen by everybody. If any emigrants came from the free States in the usual way, they would be kindly and respectfully received, but sent by societies for the purpose of governing elections, and they would meet with ill-will and opposition. And so I think the recrimination of my colleague was a fair set-off to the crimination of the member from Indiana

And this is all I have to say, confining myself, as I do, to the two measures proposed by the member from Indiana, and condemning his remedies while applauding his desire to cure the disease—his desire to put an end to agitation, and restore the House and the country to the happy state of tranquillity and fraternal feeling which prevailed twelve months ago, and which has been so lamentably, and, I fear, so durably impaired.

Mr. BARRY addressed the committee, (in remarks which have been withheld for revision,) in review of the conduct and principles of the Know-Nothing party, and the dangerous tendency of their doctrines.

[His speech will be found in the Appendix.]

Mr. BANKS then obtained the floor, but yielded to

Mr. STANTON, of Tennessee. With the permission of the gentleman, I will move that the committee do now rise.

Mr. HOUSTON. To-morrow and the two following days have been set apart, by special order of the House, for the consideration of business relating to the District of Columbia. This bill will not be then under consideration.

[Cries of "Go on, Banks!"]

Mr. BANKS. I am willing to yield the floor to the gentleman from Tennessee for the purpose he has indicated. I do not desire to go on with my speech this evening.

Mr. HOUSTON. If the gentleman does not desire to go on with his speech this evening, I will move that the bill be laid aside to be reported to the House, with the recommendation that it do pass. The gentleman can obtain the floor in committee on any of the bills embraced within the special order. I am anxious to have the bill before us acted on now, which can as well be done instead of being postponed until after the holidays.

The CHAIRMAN. Does the gentleman from Massachusetts yield the floor to the gentleman from Tennessee?

Mr. BANKS. If I am allowed to make a statement in regard to a declaration in the speech of the gentleman from Missouri, [Mr. BENTON,] just read by his colleague, [Mr. OLIVER,] by which I am in some measure alluded to, I will then yield the floor. I am not prepared to speak this evening.

Mr. HOUSTON. If the gentleman does not want to proceed with his speech now, I will move that the committee do now rise, and report the two bills which we have had before us.

Mr. HAMILTON. I hope the gentleman from Massachusetts may not be under the impression that he will have the floor to-morrow.

Mr. BANKS. I shall make no more words, but proceed with my speech.

[Cries of "That's right!" "Go on!"]

Mr. BANKS then addressed the House in reply to the gentleman from Mississippi, [Mr. BARRY,] and in defense of the doctrines of the Know-Nothing party. His speech (withheld for revision) will be published in the Appendix.

Mr. KEITT obtained the floor, but yielded to

Mr. ORR. With the permission of my colleague, I move that the committee do now rise.

Mr. HOUSTON. The next three days are covered by a special order. If the gentleman's motion be carried, that the committee do now rise, action on the bill under consideration will be postponed until after the holidays. If he will allow it to be reported to the House, his colleague will stand a good chance of getting the floor on another bill.

Mr. ORR. The Military Academy appropriation bill has not been read through, and it is not probable that it will be passed this evening.

Mr. HOUSTON. Fifteen lines only remain to be read.

Mr. KEITT. I am not disposed to embarrass the business of the body, and I shall, therefore, yield my right to the floor, if, by so doing, I can facilitate business. I will yield for no other purpose.

Mr. HOUSTON. I move, then, that the committee do now rise, and report the bill to the House.

The question was taken; and the motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the Indian and Military Academy appropriation bills, and had instructed him to report the former with, and the latter without, amendments, with the recommendation that they do pass.

Mr. HOUSTON. I call for the previous question on both bills.

The call for the previous question received a second, and the main question was ordered to be now put.

Mr. JONES, of Tennessee. These bills can easily be passed this evening. I hope that may be done.

Mr. HAVEN. I move that the House do now adjourn.

Mr. JONES, of Tennessee. I hope the gentleman will withdraw his motion so that we may pass the appropriation bills which have just been reported from the Committee of the Whole.

Mr. HAVEN. I withdraw the motion to adjourn.

The amendments of the Committee of the Whole to the Indian appropriation bill were, by unanimous consent, voted on *en masse*, and agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was read a third time, and passed.

The Military Academy appropriation bill was ordered to be engrossed and read a third time; and being engrossed, it was read a third time, and passed.

Mr. HOUSTON moved to reconsider the votes by which the Indian and Military Academy appropriation bills have just been passed, and that that motion be laid upon the table; which latter motion was agreed to.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; which received the Speaker's signature:

An act to authorize the issue of patents to lands in any State, or Territory, in certain cases; and

An act supplemental to an act therein mentioned.

MESSAGE FROM THE PRESIDENT.

The SPEAKER, by consent, laid before the House the following communication:

To the House of Representatives:

I transmit a report from the Secretary of War, with accompanying papers, in answer to the resolution of the House of Representatives, of the 2d of August last, requesting "such information as may be in the possession of the War Department, touching the cause of any difficulties which may have arisen between the Creek and Seminole Indians since their removal west of the Mississippi," and other matters concerning the tribes.

FRANKLIN PIERCE.

WASHINGTON, *December* 18, 1854.

Mr. WALSH. I move that the House do now adjourn.

Mr. LANCASTER. I appeal to the gentleman to withdraw the motion, and allow me to present a resolution for the purpose of having it referred. I am very anxious that it should go to a committee, and I do not know when I shall have another opportunity.

Mr. WALSH. The gentleman can present it some other time.

The motion was agreed to; and thereupon (at a quarter past four o'clock) the House adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

TUESDAY, *December* 19, 1854.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of State, transmitting, in compliance with a resolution of the Senate, of August 3, 1854, certain correspondence between the Department of State and Mr. Marsh, the United States Minister to Constantinople, relative to the affair of the Rev. Jonas King, employed by the American Board of Foreign Missions as a missionary to Palestine.

Mr. ROCKWELL. That communication covers certain correspondence between our Minister at Constantinople and the Secretary of State. There was a portion of it published during the last session of Congress; but the whole correspondence was not then communicated for reasons which existed at that time, but now no longer exist. I move that Executive document No. 67, of the last session, comprising that portion of the correspondence which was before communicated to the Senate, together with that now submitted, be referred to the Committee on Foreign Relations, and printed for the use of the Senate.

The motion was agreed to.

APPROPRIATION BILLS.

A message from the House of Representatives, by Mr. FORNEY, their Clerk, announced that they had passed a bill making appropriations for the support of the Military Academy, for the year ending June 30, 1856; also, a bill making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June 30, 1856.

They were severally read a first and second time by their titles, and referred to the Committee on Finance.

PETITIONS, ETC.

Mr. SHIELDS presented the petition of William B. Wood, praying that a pension may be allowed the widow of George W. F. Wood, an officer of the Army, who died of yellow fever while in the discharge of his duty in Texas; which was referred to the Committee on Pensions.

Mr. ROCKWELL. Mr. President, I present the memorial of David Sears, Abbot Lawrence, and others, trustees of the Massachusetts Humane Society, asking for an appropriation to be expended for the relief of shipwrecked mariners upon the coast of Massachusetts. They state that they are the trustees of a society which has existed since 1791; which has been furnished with funds from private sources as well as from the State of Massachusetts, and only once from the General Government. They represent that an appropriation was made at the last session, part of which was expected to have been appropriated upon that coast; but that, by a decision of the Secretary of the Treasury, it was all expended upon other portions of the coasts of the United States, and, as they believe, well expended. They therefore ask for an appropriation for that purpose, and they tender the agency of this Society in its economical expenditure. I move the reference of the memorial to the Committee on Commerce.

The motion was agreed to.

Mr. FISH presented the memorial of James Brown and others, of New York, praying that an expedition be sent to the Polar Seas, for the purpose of affording relief to Dr. Kane, his officers and crew; which was referred to the Committee on Naval Affairs.

RELIGIOUS LIBERTY.

Mr. CASS. I think, Mr. President, this is the third session since the commencement of the presentation to the Senate of petitions asking the interposition of the American Government to secure to our citizens abroad the rights of religious worship as well as the rights of sepulture. At the first session, when they were presented, the subject was referred to the Committee on Foreign Relations, and a very excellent report, accompanied by the proper resolutions, was introduced by the late Senator from Kentucky, [Mr. Underwood,] a most estimable man, as we all know. It was too late then, however, to act on the subject, and it lay over until the next session. At that session the number of petitions on the subject was greatly increased, showing the interest which the American people felt in regard to it. Those petitions, together with the report and resolutions of Mr. Underwood, were referred, at the last session, to the same committee. I had hoped that the subject would engage the attention of the committee, and that they would submit a report which the Senate could act upon at the last session. They did not, however, do so. I suppose the time and attention of the committee were otherwise directed. But, Mr. President, this subject has lost none of its interest with the people of our country. It has increased, and is increasing in importance from year to year, and the interest of the American people in it is likewise increasing.

I rise now to give notice that on some day when it may be convenient, I shall move the adoption of the resolutions introduced into the Senate by Mr. Underwood, accompanied with

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. WEDNESDAY, DECEMBER 20, 1854. NEW SERIES....No. 6.

another requiring the Secretary of the Senate to lay them before the President. I will not trouble the Senate with them now. I give the notice so that the Senate may be prepared to act finally on the subject. I have not the remotest idea of saying another word on the subject. Whatever is to be said on it further, if anything at all be said, will be by others, not by me. The Senate have already heard me in regard to it, and I do not feel that I should be doing justice to the body to again address them in reference to it.

But, sir, what I rose at this time more particularly to say, independent of the notice which I have given, was this: The discussions on the subject in this body attracted some attention in Paris; and by the comments of the Paris papers there was drawn out a very singular document which I hold in my hand, and which is well worthy the attention of the Senate. At the coronation of Napoleon—*the* Napoleon, Mr. President—representatives were summoned from the various religious bodies of France to be present at that ceremony, and among others the representatives of the Consistorial bodies of the Reformed Church of France were called there. I will read to you, sir, what the Emperor Napoleon said on this subject. Mr. President, it is marked with that vigor of thought, and that energy and terseness of expression, which characterized that remarkable man, and which, not less than his brilliant military achievements, will forever place him high among the roll of those men who have impressed their character upon the history of the age in which they live.

"I see with pleasure assembled here the pastors of the Reformed Churches of France, and I embrace, with ardor, this opportunity of testifying to them how highly I have been satisfied with the reports that have reached me, of the fidelity and good conduct of the pastors and citizens of the different Protestant communions. I desire them to understand that it is my firm intention to maintain the freedom of religious worship."

The expression that follows is a remarkable one:

"The empire of the law ends, where the undefined empire of conscience begins. Neither the law, nor the sovereign can do anything against this freedom. Such are my principles, and those of nature; and if any one of my race, who may succeed me, should forget the oath I have taken, and, deceived by the promptings of a false conscience, should violate it, I devote him to public censure, and authorize you to give him the name of Nero."

Mr. President, these are the words of a despotic sovereign;—despotic he was by habit and by temperament; but they are words of truth and wisdom, by whomsoever spoken. They are a stern rebuke to those men—there are some of them in our country—who maintain that liberty of conscience is the power to think, and that human governments have the right to place themselves between man and his Creator, and proscribe all forms of religious worship but those fixed on by themselves.

I again repeat, sir, that at an early day I shall ask the Senate to consider the resolutions presented by Mr. Underwood.

REPORTS FROM STANDING COMMITTEES.

Mr. SHIELDS, from the Committee on Military Affairs, to whom was referred the memorial of Samuel M. Clendenin, praying compensation for services, as clerk to Lieutenant Ruggles, in 1840, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of James P. Heath, praying to be allowed pay as an aid to Governor Winder, commander-in-chief of the Maryland militia, in the war of 1812, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill for the relief of Thomas T. Russell, of Florida, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

Mr. WADE, from the Committee on Claims, to whom was referred the bill from the House of Representatives, for the relief of Lincoln Bates, reported it back without amendment.

Mr. BRAINERD, from the Committee on Claims, to whom was referred the bill from the House of Representatives, for the relief of Polly Carver, widow and executrix of Nathan Carver, deceased, reported it back without amendment.

Mr. ALLEN, from the Committee on Pensions, to whom was referred the bill from the House of Representatives for the relief of Tebina Rawson, reported it back without amendment.

He also, from the same committee, to whom was referred the petition of Parmelia Slavin, widow of John Blue, deceased, praying to be allowed a pension, submitted a report, accompanied by a bill for her relief; which was read, and passed to a second reading. The report was ordered to be printed.

CLERKS TO COMMITTEES.

On motion by Mr. RUSK, it was

Ordered, That the Committee on the Post Office and Post Roads be authorized to employ a clerk.

Mr. ADAMS. I ask the Senate to allow a clerk to the Committee on Retrenchment. At the commencement of the session, it was my intention not to ask for a clerk to that committee at this session; but I find that I cannot discharge the duties imposed on me by the rules as chairman of that committee, and my other duties here, without the aid of a clerk. I believe one to be necessary for the business of the committee, and therefore I move that they have liberty to employ a clerk for this session.

The motion was agreed to.

BILL INTRODUCED.

Mr. JONES, of Tennessee, asked and obtained the unanimous consent of the Senate to introduce a bill for the relief of Abel Jackson; which was read a first and second time by its title, and referred to the Committee on Pensions.

INVALID PENSION BILL.

Mr. HUNTER. I am directed by the Committee on Finance to report back, with an amendment, House bill making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1856. This bill is strictly according to estimates, and the amendment of the committee is pursuant to a supplemental estimate which has been sent in. I ask that the bill may now be acted upon.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment of the committee was to add the following section:

SEC. 2. *And be it further enacted*, That any moneys appropriated by the act of 31st of May, 1854, to supply deficiencies for the fiscal year ending the 30th of June, 1854, applicable to the payment of pensions of invalids who were wounded on board private-armed vessels during the last war with Great Britain, not required under the provisions thereof, may be applied to the same purpose for the year ending June 30, 1855.

The amendment was agreed to.

Mr. FESSENDEN. I move to amend the bill by adding the following:

And be it further enacted, That the widows of the officers, non-commissioned officers, marines, or mariners, who served in the Navy of the United States during the revolutionary war, and who were married since the 1st day of January, 1800, shall be entitled to pensions in the same manner, and to the same extent, as the widows of officers and soldiers of the army of the Revolution, under the second section of the act of February 3, 1853; and the pensions granted by this act, and those under said second section of the act of February 3, 1853, shall commence on the 4th of March, 1848

Mr. HUNTER. I suggest to the Senator from Maine, that perhaps this is a measure that had better come from the appropriate committee—the Committee on Pensions. They had better take time, and consider the matter, and report a bill.

Mr. CLAY. I will suggest to the Senator from Maine, that there is a bill now before the Senate providing for that class of persons; and I propose shortly to call it up for consideration.

Mr. HUNTER. I think that would be the better course to pursue. Let the matter lie over for the present, and not put it upon this bill.

Mr. FESSENDEN. I do not know that I entirely understand the Senator from Alabama. Do I understand that a bill has been reported providing for both these cases, and is now before the Senate?

Mr. CLAY. I think so. I think that will be found to be the case.

Mr. FESSENDEN. If that be the case, I shall not press the amendment. I have offered this to carry out a suggestion made by the Commissioner of Pensions at the last session; but if the bill prepared by the Committee on Pensions covers the cases, I will be willing to let the matter rest, and let that bill be considered. If it does not cover them, I should like to have them added to this bill, which I think is very appropriate for the subject.

Mr. CLAY. I will state to the Senator from Maine that the bill to which I allude was reported in conformity with the recommendation of the Commissioner of Pensions; and thus I have reason to believe that it embraces exactly the cases for which his amendment provides.

Mr. FESSENDEN. Then I withdraw the amendment.

The bill was reported to the Senate as amended, the amendment was concurred in, and ordered to be engrossed; and the bill was ordered to a third reading. It was read a third time, and passed.

Mr. FESSENDEN subsequently said: I wish to move a reconsideration of the vote by which the pension appropriation bill was passed. I will state that I do it in consequence of having examined the bill referred to by the Senator from Alabama, and having found that we were both in error in reference to the character of it. It has no reference to the particular purpose of my amendment. I do this with the consent of the chairman of the Committee on Finance. I shall not press the consideration of the bill now. It may lie over until to-morrow in order that the matter may be looked into.

The PRESIDENT. Does the Senator ask action upon the motion now?

Mr. FESSENDEN. Yes, sir.

Mr. STUART, (Mr. HUNTER being out of his seat.) I suggest to the Senator from Maine that he had better let the matter lie over until to-morrow, in order that the chairman of the committee may be consulted with on the subject.

Mr. FESSENDEN. He does not object to the motion.

Mr. HUNTER, (having returned.) I think it is understood that it will lie over until to-morrow to give me an opportunity to examine it.

Mr. FESSENDEN. The motion or the bill?

Mr. HUNTER. The bill.

Mr. FESSENDEN. The Senator has no objection to acting on the motion to reconsider?

Mr. HUNTER. Certainly not.

The motion to reconsider was agreed to, and the further consideration of the bill was postponed until to-morrow.

BRIG COMO.

Mr. DODGE, of Wisconsin. The Committee on Commerce, to whom was referred the bill from the House of Representatives, to change the name of the American-built brig Como to that of Jehossee, and to grant her a new register, have directed me to report it back, and recommend its passage. I ask for its consideration at this time.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

Its object is to direct the collector of customs at Charleston, South Carolina, under the direction of the Secretary of the Treasury, to admit to register, under the name of Jehossee, the American-built brig Como, now owned by Hugh E. Vincent and Daniel B. Vincent, of Charleston.

No amendment being proposed, the bill was reported to the Senate, and ordered to a third reading. It was read a third time, and passed.

LAND OFFICE REPORT.

Mr. STUART. I am requested to submit a resolution to have additional numbers of the report of the Commissioner of the General Land Office printed for the use of that office:

Resolved, That five hundred additional copies of the report of the Commissioner of the General Land Office be printed for the use of that office.

The resolution was considered by unanimous consent, and agreed to.

JOINT COMMITTEE ON CLAIMS.

Mr. BROWN. In pursuance of notice given yesterday, I now introduce a resolution providing for an additional joint rule of the two Houses:

Resolved, (the House of Representatives concurring,) That the following be added to the standing rules of the two Houses of Congress:

There shall be appointed a standing committee of the Senate to consist of seven members, and another of the House of Representatives to consist of thirteen members, to be called, in each House, the General Committee on Claims. It shall be the duty of said committee in the House of Representatives to report a bill at each session of Congress making appropriations for the payment of private claims. When the several committees of the House report in favor of any claim, the report, with the evidence on which it is based, shall be referred, and without debate and as a matter of privilege, to the said General Committee on Claims, and if that committee, after due examination, concur in said report, they shall insert an item for the payment of said claim in the bill for the payment of private claims, and thereupon submit a report and the evidences to the House to be printed, or otherwise disposed of as the House may direct. When the bill aforesaid is reported from the House to the Senate, it shall forthwith be referred to the General Committee on Claims in the Senate, and they shall proceed to insert therein such items as may in like manner in the Senate as in the House have been reported from the several committees, and have received also the sanction of said General Committee. The said bill, before its final passage in either House, shall be read by sections, and a separate vote taken on each section or item, and this notwithstanding the previous question may have been moved and seconded. In the order of business, the bill for the payment of private claims shall have precedence over other bills, next after the general appropriation bills.

I do not propose at this time to discuss that proposition, but if the Senate will indulge me, I will make a remark or two in reference to it, and then move its reference to the select committee which was appointed yesterday, and to which the bill of the Senator from Pennsylvania was referred. I do not believe that that bill will at all meet the purpose contemplated by its advocates. The difficulty with us in reference to private claims has not been that we do not get investigation and reports upon them. The difficulty has always been in the other House of Congress, in procuring action upon the bills and reports after they have been made. That difficulty cannot be relieved in the mode proposed. Why? When you establish your board of claims they will go on to investigate such claims as may be presented to them, make their reports, and return their evidences to Congress with bills drawn by themselves; and then we shall be precisely as we are now, with reports, and bills, and accumulated evidences, but without action on the part of Congress. Therefore, sir, we shall not be advanced one solitary step beyond the point where we are now in the great object sought by the claimants themselves—that is, the procuring of a final settlement and payment of their claims. Why, sir, if you will authorize that board, if you will put it in operation on the first of May, by the time that Congress meets in December they will have reported not less than five hundred claims to you, with five hundred separate bills, and in this they will simply relieve the committees of the two Houses of the labor of doing the same thing. Then will come the work which we are asked to do now, not to investigate, not to make reports, not to accumulate evidences, but to pass the bills. That board cannot pass bills through Congress; they cannot make appropriations; they cannot do that which is the great thing complained of now—make the appropriations and pay the claims.

The proposition which I submit proposes to relieve that difficulty; and without going into a discussion of it, I beg to commend it to the attention of the select committee which was raised yesterday, with the hope that they will at least consider it. Having given to it a great deal of consideration, I think that it will relieve the difficulty under which we labor. It will at least procure that which we desire, and of which the claimants stand most in need—positive action at each session of Congress on their claims, one way or the other. I cannot for the life of me see how the Government is to be injured; how it is possible for the Government to be injured by it. It will be seen that it is proposed that each item in the bill to be reported shall pass the ordeal of two committees in each House before it comes before the House or Senate—first, the committees, as now organized, and then the general committee; and at last the bill is to be voted upon in each House by sections or by items—each item being voted into, or out of, the bill, according to the sense of the respective bodies. I do not see, therefore, that it is possible that any fraud, any imposture, can be practiced upon the Government. But I did not rise to discuss the subject. I trust it will at least receive the consideration of the select committee, to whom I move its reference.

The motion was agreed to.

SEARCH FOR DR. KANE.

On motion by Mr. BRODHEAD, the Senate proceeded to consider the following resolution, submitted by him yesterday:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of sending a steamer and tender to the Arctic seas for the purpose of rescuing or affording relief to Passed Assistant Surgeon E. K. Kane, of the United States Navy, and the officers and men under his command.

Mr. BRODHEAD. Dr. Elisha K. Kane, the talented, gallant, and meritorious officer mentioned in the resolution, is a native of my State, and is connected with highly honorable and distinguished families who reside there. Prompted by most generous and chivalrous impulses, he took command of the expedition, which, it is feared, is now in great peril, under the circumstances which I will now briefly proceed to state.

Doctor Kane, a passed assistant surgeon in the United States Navy, had been the senior surgeon of the squadron commonly known as the "Grinnell Expedition," which returned in 1851 from the Arctic Seas. Its object had been the rescue of Sir John Franklin; and though this was not attained, Congress was pleased to express its favorable sense of the officers engaged in the party, by directing that they should receive double pay. From that time Lady Franklin became the correspondent of Dr. Kane, and in some of her letters, addressed to him and Mr. Grinnell, she urged the organization of another expedition, which Dr. Kane should take the command of; the expedition to have the same objects as the first. Efforts were accordingly made to procure the means for the outfit and conduct of such a party. Mr. Grinnell gave his tried vessel, the Advance; Mr. Peabody, of London, gave $10,000; and Dr. Kane used his exertions as a lecturer, and his influence with different scientific institutions, to make up the rest. He had, however, succeeded but partially, when Mr. Kennedy, the then Secretary of the Navy, took an important part in consummating the scheme. He gave Dr. Kane orders, as a Navy officer, to take command of the expedition—assigned to him the services of several warrant officers and seamen—provided hospital and other stores, astronomical and nautical instruments, &c., &c.—furnished the vessel with a library; and finally *ordered* Dr. Kane *to report fully to the Department on his return*. The cause of science was thus to be advanced by governmental aid.

The party (nineteen, all told) sailed from New York in May, 1853. Letters were received from them, dated at Upernavik, the most northern of the considerable Greenland settlements, on the 28th of July of that year. They have not been heard of since. These letters spoke of the whole company as in good health and full of hope—the navigation abundantly studded with icebergs, but altogether practicable—and the promise of a successful transit into the Polar sea as highly encouraging. In fact, as we now know from the report of the whalers and others, the season of 1853, in the Arctic circle, was of an unusually open character; and there is no doubt entertained by Dr. Kane's family, or by those navigators who have been engaged in Arctic explorations, that the Advance passed safely to a high northern latitude.

It was the purpose of Dr. Kane to carry his vessel, in the summer of 1853, as far up Baffin's Bay as the entrance of Smith's Sound, and there to place her in harbor for the winter. He intended then to proceed, in the autumn months, with a detachment of his force, to some point still further north—employing for this purpose sledges drawn by dogs, and perhaps occasionally boats. He then would deposit his heavier vehicles, form a depot of the stores he had brought, and in the early winter might return to his vessel. He was again to set out for the North in the spring of 1854, complete his explorations before the end of the summer of that year, and return to the United States by the end of September, 1854. His provisions were, however, adequate to his support in case of mishaps *until* the summer of 1855, *though not beyond*.

The winter of 1853-'54, and the summer of 1854, have been the most severe that have been known within the Arctic circle in seventeen years. The whalers have been unable to reach their accustomed cruising grounds in North Baffin; and it is the opinion of the best authorities on Arctic subjects, that it is scarcely to be hoped, from the immensity of the fields of ice in that region, that the navigation can be opened again to the mouth of Smith's Sound for years to come. If they are right in this, the American expedition must remain ice-locked for another year at least; and in such case they must necessarily perish by starvation. For we know now, from the melancholy fate of Franklin's party, that the region is without resources to support life. Indeed, Dr. Kane was aware of these contingent perils; and while warning his friends that he might be arrested by ice in the first effort to return, he added that he should, in that case, rely on the exertions of his countrymen to aid in his rescue. He left with them, at the same time, specific instructions by which they might follow his traces, or ascertain his whereabouts, in case he should be unable to return. The return of all the English expeditions from the Polar seas, which took place since Dr. Kane entered the ice, and of which he cannot be apprised, further increases the hazards of the American party. For the quarter from which he would hope to derive support in case of need is thus withdrawn from him.

It is proposed now to dispatch a screw propeller and a tender in search of the party. This scheme will no doubt meet the countenance and good wishes of the President and the Secretary of the Navy, but it is doubtful whether they have power to act without legislative sanction. A four months' cruise will enable such a steamer to pass, without serious hazard, to the ice-barrier, and her officers and crew to complete all researches, and return to the United States. The rescue expedition must be ready for sailing by next May, to avail itself of the northern summer. Hence the necessity of authorizing it at the earliest moment. To delay legislation till the appropriation bills are before Congress, is to defeat the object. Officers of the Navy have already volunteered to form part of the expedition. There will be no difficulty in procuring men, and of the best sort.

Doctor Kane is a gallant officer, conducting a hazardous and meritorious enterprise, with the consent and under the orders of the Government, and hence it becomes the duty of a generous Government, representing a generous people, to take measures for his rescue or relief. We have officers and naval vessels unemployed, and hence the expense would be little, and I therefore hope that the resolution will be adopted, and that the Committee on Naval Affairs will at once take it into consideration.

The resolution was agreed to.

PACIFIC RAILROAD.

The PRESIDENT. The first special order is the bill for the construction of a railroad from the valley of the Mississippi to the Pacific ocean.

Mr. STUART. It is hardly worth while to take that up to-day. I move to postpone it until to-morrow.

The motion was agreed to.

JUDICIAL SYSTEM.

The PRESIDENT. The next special order is the bill to amend and modify the judicial system of the United States.

Mr. STUART. That, I think, is a special order for a future day, having been made so on the motion of the chairman of the Committee on the Judiciary, [Mr. BUTLER.]

The PRESIDENT. That Senator gave notice that, on some future day, he would move to make it a special order, but no day was fixed. If there be no objection, it will be passed over.

Mr. STUART. If there is no pressing business before the Senate, I move that the Senate adjourn.

Mr. PETTIT. Will the Senator allow me to make a report?

Mr. STUART. Certainly.

UNITED STATES LANDS IN CINCINNATI.

Mr. PETTIT. The Committee on the Judiciary, to whom was referred the bill from the House of Representatives, vesting the title of the United States to certain land in the city of Cincinnati, have instructed me to report it back without amendment, and recommend its passage. The Senator from Ohio, [Mr. CHASE,] not now in his seat, desires that bill to pass promptly. There can be no impropriety in its passage, and I ask for its consideration at this time.

The Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to direct that the title of the United States to the unsold land in fractional section eleven, fractional township four, fractional range one, of John C. Symmes's purchase of land in Ohio, be vested in the corporate authorities of Cincinnati and their successors, and any other occupants of it in severalty, upon payment to the Commissioner of the General Land Office of the minimum price of land subject to entry. It is not to be construed, however, as impairing the legal or equitable rights of any other persons to the land.

Mr. PETTIT. If there is any doubt about the bill, there is a report accompanying it which can be read.

No amendment being proposed, the bill was reported to the Senate, and ordered to a third reading. It was read a third time, and passed.

GENERAL WOOL.

Mr. BRODHEAD. The Committee on Claims, to whom was referred the bill from the House of Representatives, allowing rations to General John E. Wool, have instructed me to report it back without amendment, and with a recommendation that it pass.

Mr. WELLER. If there be no objection, I hope the bill will be put upon its passage. It is an old claim, and there is no sort of doubt that it ought to pass. It passed the House of Representatives at the last session, and was referred to the Committee on Claims here. I suppose, however, in the hurry of business, they were unable to report it back then; therefore, if there be no objection, I hope it will be acted upon now. I do not think there can be any objection to it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to direct the accounting officers of the Treasury to ascertain and pay to General John E. Wool, Inspector General of the United States Army, the value of double rations, from July 21, 1821, to March 3, 1833, being the same as have been allowed by the War Department to other officers of the staff.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

WITHDRAWAL OF PAPERS.

Mr. BRODHEAD. At the instance of a member of the Committee on the Judiciary of the House of Representatives, I ask the Senate to make the following order:

Ordered, That leave be granted to withdraw the petitions and memorials presented to the Senate on the subject of judiciary reform in the District of Columbia, in order that they may be presented in the House of Representatives.

The order was adopted.

Mr. BADGER subsequently said: I am not exactly satisfied about the propriety of what the Senator from Pennsylvania has had done in reference to the withdrawal of certain papers. I move to reconsider the vote agreeing to his resolution, and then let it lie over until to-morrow. It is rather unusual, I think, to adopt the course which he has proposed. I move to reconsider the vote agreeing to that resolution.

The motion was agreed to; and the question recurring on the adoption of the resolution, its further consideration was postponed until to-morrow.

PRESIDENT'S MESSAGE.

Mr. BRODHEAD. In the absence of the chairman of the Committee on Naval Affairs, I move that so much of the annual message of the President as relates to the Navy and to naval affairs be referred to the Committee on Naval Affairs.

The motion was agreed to.

SCHOONER SARAH.

A message from the House of Representatives, by Mr. FORNEY, their Clerk, announced that they had passed a bill to authorize the Secretary of the Treasury to issue a register to the schooner Sarah.

The bill was read a first time, and ordered to a second reading.

Mr. STUART. I ask that the bill may now be read a second time, with a view to its passage at this time. I understand from the chairman of the Committee on Commerce of the other House that the vessel is now delayed for the purpose of obtaining her papers in pursuance of this bill, to which there can be no objection.

By unanimous consent, the Senate at once considered the bill as in Committee of the Whole. Its object is to authorize the Secretary of the Treasury to issue a register to the British-built schooner Sarah, of fifty tons burden, wrecked near the district of Passamaquoddy, if it shall appear to his satisfaction that the owners of the schooner have expended in repairs three fourths of the value of the vessel.

No amendment being proposed, the bill was reported to the Senate without amendment. It was ordered to a third reading, was read a third time, and passed.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 19, 1854.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

The SPEAKER stated the first business in order, was the call of the Committee for the District of Columbia for reports.

NAVAL SERVICE.

Mr. PHELPS, from the Committee of Ways and Means, by unanimous consent, introduced a bill making appropriations for the support of the naval service for the year ending the 30th of June, 1856; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

FORTIFICATIONS.

Mr. HOUSTON, from the same committee, introduced a bill making appropriations for fortifications and other works of defense, and for repairs of barracks and quarters for the year ending the 30th of June, 1856; which received the same order of reference.

REGISTER FOR THE BRIG SARAH.

Mr. FULLER. I ask the unanimous consent of the House to report, from the Committee on Commerce, a bill providing a register of a vessel which is now detained in port for that purpose.

There was no objection, and a bill authorizing the Secretary of the Treasury to issue a register to the schooner Sarah; was reported, and read a first and second time by its title.

Mr. FULLER. I ask that the bill may be put upon its passage.

The bill received its several readings, and was finally passed.

Mr. EDMANDS. I ask the unanimous consent of the House to introduce a resolution.

Mr. LETCHER. I call for the regular order of business.

The SPEAKER. Then the gentleman cannot introduce his resolution.

Mr. HAMILTON. I have two or three bills and a resolution, which I am instructed by the Committee for the District of Columbia to report.

Mr. MURRAY. I rise to a privileged question. I have a report, which I am instructed by the Committee on Printing to report.

The SPEAKER. The gentleman cannot take the floor from the gentleman from Maryland for that purpose. There is a special order setting apart this day, to-morrow, and the next day, for the consideration of business connected with the District of Columbia.

Mr. MURRAY. The rules permit the Committee on Printing to report at any time.

The SPEAKER. The gentleman states the rule correctly; but the order of the House making other business the special order, suspends this with all other rules.

GRADUATION BILL.

Mr. COBB. As the feelings of the gentleman from Virginia [Mr. LETCHER] have been ineffectually appealed to by the gentleman from Massachusetts, I desire to make an appeal, in which the whole country is interested. If the House will allow me, I will state that I have been instructed by the Committee on Public Lands——

Mr. LETCHER. I object, and call for the regular order of business.

Mr. COBB. I hope the gentleman will, at least, allow me to state my object. I am very anxious to get the following bill before the House:

A Bill to amend an act approved 4th August, 1854, entitled "An act to graduate and reduce the price of the public lands to actual settlers and cultivators."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act approved 4th August, 1854, "to graduate and reduce the price of the public lands to actual settlers and cultivators," shall be so construed that the affidavits required by the third section of that act may be made before any officer duly authorized by law to administer oaths, according to such forms and pursuant to such regulations as shall be prescribed by the Secretary of the Interior; and that portion of said act that has been construed as requiring that lands entered or applied for, for the use of an adjoining farm or plantation, shall form a compact body with such farm or plantation, shall hereafter be construed as applicable to any lands in the neighborhood of such farm or plantation, say not to exceed four miles distance; and the portion of said law that has been construed as authorizing the entry of lands under said graduating act on filing a declaration of intention to enter lands for the use of the applicant and for the purpose of settlement and cultivation, shall hereafter be considered as authorizing an entry in such cases, only on proof of actual settlement and improvement by the party making such application under such rules and regulations as may be prescribed by the Secretary of the Interior for that purpose; and the oath of the applicants that it is for their own use, and not in trust for another.

Mr. LETCHER. I call for the regular order of business.

The SPEAKER. Then no business is in order except that relating to the District of Columbia.

DISTRICT OF COLUMBIA BUSINESS.

Mr. HAMILTON, from the Committee for the District of Columbia, reported bills of the following titles; which were read a first and second time by their titles, and referred to the Committee of the Whole on the state of the Union:

A bill to amend the charter of Georgetown, in the District of Columbia; and

A bill to discharge the indebtedness of the penitentiary of the District of Columbia.

Mr. H. also, from the same committee, introduced the following resolution; which was read, considered, and adopted:

Resolved, That the Secretary of the Interior be requested to inform the House whether, in his judgment, any enactment by Congress is necessary for the permanent organization of the hospital for the insane of the Army and Navy, and of the District of Columbia, a portion of which is now nearly completed, and, in case he deems it needful, to report to the House such a plan of organization as he may think will best promote the beneficent object of the institution.

Mr. DAVIS, of Indiana, from the same committee, reported a bill to incorporate the St. Joseph's Male Orphan Asylum, in the District of Columbia; which was read a first and second time by its title, and referred to the Committee of the Whole on the state of the Union.

Mr. HAMILTON. If there are no other bills to be introduced, I will move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was put, and the motion agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair.)

WASHINGTON AQUEDUCT.

The CHAIRMAN. The first business in order is the consideration of the joint resolution (No. 12) "to provide for the continuance of the work on the Washington aqueduct."

Mr. HAMILTON. I desire to pass over that joint resolution informally. It is my purpose to-day to take up only those bills which will not be likely to give rise to any discussion.

There was no objection, and the joint resolution was accordingly passed over informally.

AUXILIARY GUARD OF WASHINGTON.

House bill (No. 354) "to amend an act entitled an act to establish an auxiliary watch for the protection of public and private property in the city of Washington, approved August 23, 1845," coming up next in order, was read.

It provides that each of the auxiliary watch

shall receive an annual compensation of $600, commencing with the present fiscal year, and repeals all other acts relative to the compensation of said watch.

Mr. DAVIS, of Indiana. I reported that bill, and if there is no objection to it, I move that it be laid aside to be reported to the House, with a recommendation that it do pass.

The motion was agreed to.

ADDITIONAL POWERS TO THE CORPORATION.

House bill (No. 355) "granting certain additional powers to the Corporation of Washington" was next in order upon the Calendar.

The bill was read.

The first section provides that it shall be lawful for the Mayor, Board of Aldermen, and Board of Common Council, of the city of Washington, in its discretion, to provide for the election by the inhabitants of said city, at stated periods, of any or all officers of said corporation not now elective under the existing charter thereof; and to prescribe the time, places, and manner of holding such elections, and the duties, terms, and tenure of office of all such officers, as well as of the register, collecter, and surveyor of said corporation; and also provides for the purity and independence of said elections.

Section two provides that the said corporation may cause any streets, or the carriage-ways, or foot-ways thereof, or of any portions of the same, to be paved, graded, or otherwise improved whensoever in its discretion the same may be deemed proper and necessary, any restrictions or conditions heretofore existing in the premises to the contrary notwithstanding; and in like manner, in its discretion, to cause to be constructed any drains and sewers which it may consider necessary for the proper drainage, health, or convenience of the city, and to cause the streets or any of them, or any portion of any of them, to be lighted by gas or otherwise, and to provide for the expense of any such works or improvements, either by a special tax or out of its corporate funds generally, or both, at its discretion. It also extends the jurisdiction of the said corporation over the whole extent of the bridges and abutments which are now constructed, or which may hereafter be constructed, from the said city across the Eastern Branch or the Potomac river, with full power to adopt and enforce such rules and regulations as it may deem necessary for the safety and security of property and of persons passing over the said bridges.

Section three provides that the said corporation shall have power, in its discretion, to cause new alleys to be opened into the squares, and from time to time to open, extend, change, or close those already laid out; subject always to the proviso concerning damages to individuals, contained in the eighth section of the act of May 15, 1820.

Section four provides that the corporation shall have power to create and establish police and municipal courts, and to establish a house or houses of refuge or correction for juvenile or other offenders, and to provide for the support and government of the same by special tax, or out of its corporate funds, or otherwise; and to pass any and all laws, not inconsistent with the Constitution and laws of the United States, for the establishment of an efficient police, for the maintenance of order, the protection of persons and property within the said city, and for the punishment, by fine or imprisonment, or both, of offenses against the ordinances and police regulations of the corporation; such imprisonment to be either in the county jail, or in such municipal establishments, work-houses, houses of correction or of refuge, as may be provided by the corporation for that purpose; and that the marshal of the District of Columbia shall receive and safely keep within the jail for the county of Washington, at the expense of the corporation, all persons committed thereto under or by authority of the provisions of the act.

Section five provides that the corporation shall have power to provide by law for the levying and collection of all taxes which it is or may be authorized to impose, or which may have been heretofore lawfully imposed, but are remaining unsatisfied, in such manner as may be deemed most efficient and conducive to the interests of the said city, any existing provisions in its present charter in that behalf to the contrary notwithstanding.

The sixth section provides that the corporation shall have power to organize a fire department, and to appoint one or more engineers, directors, or other officers, for the superintendence and direction of the firemen, fire companies, engines, hose, and fire apparatus, at all fires or alarms of fires occurring in the city, and also to pass all laws or police regulations which may be deemed necessary or expedient for the regulation, control, and management of all fire companies now existing, or hereafter to be incorporated or otherwise established, in the city, or the members thereof, anything in any existing law or charter to the contrary notwithstanding.

The seventh section provides that the corporation be authorized and empowered to pass all laws, ordinances, and regulations, which may be necessary to carry into effect the powers granted by this act.

The CHAIRMAN. The Chair desires to make a statement to the committee of what will be his ruling in case there should be any attempt to discuss matters not relevant to the subject under consideration. The Chair will rule in such case as it did during the last session of Congress, when territorial business was under consideration, that the speakers must confine their remarks to the bill before the committee.

The bill was then read by sections for amendments.

Mr. HAMILTON. I desire to offer an amendment to the first section just read. There is but one amendment that I desire to offer to this bill. The amendment is as follows:

At the end of the word "being," in line fifteen, insert the following:

And provided further, That no person shall vote at any election holden under the charter of said city who shall not have been returned on the books of said corporation, as provided by the fifth section of the act entitled "An act to continue, alter, and amend the charter of the city of Washington, approved May 17, 1848," and who has not the other qualifications required by the said fifth section of said act; and any person who shall vote or offer to vote contrary to the requirements of this proviso, shall, on conviction thereof, be sentenced to pay a fine of not less than ten nor more than fifty dollars, and to imprisonment for not less than one nor more than four months, for such offense.

The question was taken, and the amendment was agreed to.

Mr. HAMILTON. If there be no other amendments to be offered to the bill, I move that the further reading of the bill be dispensed with, and that the bill be laid aside to be reported to the House.

There being no objection, the further reading of the bill was dispensed with.

Mr. HAVEN. I wish to inquire of the chairman of the Committee for the District of Columbia, [Mr. HAMILTON,] or of some other gentleman, in reference to the fifth section of the bill, whether we are to understand that the fifth section confers upon the Corporation of Washington a right to levy taxes on the property of the United States?

Mr. HAMILTON. No, sir, I do not think it does.

The CHAIRMAN. If no member of the committee requires the reading of the intervening sections of the bill, the Clerk will report the fifth section.

Mr. HAMILTON. I think that the first five lines of the section show the precise authority conferred on the Corporation of Washington, in reference to taxes. They are as follows:

And be it further enacted, That the said corporation shall have power to provide by law for the levying and collection of all taxes which it is or may be authorized to impose, or which may have been heretofore lawfully imposed, but are remaining unsatisfied.

There is certainly no authority given here to impose taxes on the property of the United States.

Mr. HAVEN. My object is to have the exercise of such an authority prevented. I suppose that the lines pointed out by my friend from Maryland do not refer to the property which may be taxed, but to the object of taxation. They point to the subjects for which taxation may be properly imposed, and not to the property on which it may be imposed.

Mr. HAMILTON. I have no objection to such an amendment as the honorable gentleman from New York [Mr. HAVEN] may think proper, to the effect that the corporation are not entitled to levy any other than legal taxes, or to impose any on the property of the United States.

Mr. HAVEN. I have not prepared any amendment. I did not know that the gentlemen of the committee would care for it.

Mr. HAMILTON. There can be a proviso appended to the section, providing that nothing therein contained shall enable the corporation to tax the property of the United States.

Mr. HAVEN. I will prepare such a proviso.

Mr. GIDDINGS. I desire to offer an amendment to the fourth section of the bill.

The CHAIRMAN. That section has been passed. The gentleman from New York [Mr. HAVEN] is preparing an amendment to the fifth section of the bill for the purpose of exempting all property of the United States from taxation.

Mr. GIDDINGS. Has the fourth section been read?

The CHAIRMAN. No, it has not been read. After the first section was read, the gentleman from Maryland moved to dispense with the further reading of the bill; no objection was made, and the reading of the remaining sections was dispensed with. The gentleman from New York, [Mr. HAVEN,] however, proposed to amend the fifth section, and the consideration of that amendment is now before the committee.

Mr. GIDDINGS. And is it not in order now to move an amendment to the fourth section?

The CHAIRMAN. The Chair does not feel disposed to exclude the gentleman's amendment, as he was prevented, perhaps, from offering it in proper time, in consequence of the reading of the bill by sections having been dispensed with for the purpose of facilitating the business of the committee.

Mr. GIDDINGS. Then I want to propose an amendment to the fourth section.

The CHAIRMAN. The Chair will rule that the amendment of the gentleman from Ohio [Mr. GIDDINGS] may be received, although it is informal.

Mr. HAVEN. I have drawn up a proviso which is to come in on the twenty-fifth line of the fifth section of the bill. It is:

And provided further, That nothing herein contained shall authorize the imposition of any tax, assessment, or charge, on any of the property of the United States.

The question was taken, and the amendment was agreed to.

Mr. GIDDINGS. I move to add to the fourth section of the bill the following proviso:

Provided, That no person shall be imprisoned, unless charged with crime or offense.

My object is to call the attention of the committee to the fact, that under the authority of the District of Columbia three persons are now——

Mr. HAMILTON. Has the chairman ruled the amendment of the gentleman from Ohio in order?

The CHAIRMAN. The Chair did so decide. In making that decision, the Chair announced, at the instance of the gentleman from Maryland, [Mr. HAMILTON,] that if there was no amendment proposed to the preceding section, that this section would be considered. At that time the gentleman from Ohio rose, and stated that he desired to offer an amendment; and, under the circumstances, the Chair decided that the amendment would be entertained. In pursuance of that decision, the gentleman from Ohio offered his amendment.

Mr. GIDDINGS. I am quite sure that I am in order.

Mr. JONES, of Tennessee. I would appeal from the decision of the Chair, for the purpose of making a remark.

Mr. GIDDINGS. It is too late.

Mr. JONES. Not too late for an appeal.

The CHAIRMAN. The gentleman from Tennessee is in order, and is not too late in making an appeal from the decision of the Chair.

Mr. JONES. This is a bill to amend the act incorporating this city, granting certain powers to its board of corporation, composed of a Mayor, Board of Aldermen, and Board of Common Council. The amendment of the gentleman from Ohio, if I understood it rightly from hearing it read, proposes to prohibit the imprisonment of any person in this city, except he may be charged with a criminal offense. That may be all right in itself; but can we, in an act to amend the charter of the city of Washington, control the judiciary of this District? The amendment is not germane to this bill, and I think should not be made to it. It proposes general legislation affecting the judiciary of the District, and not the mere organization of the

city government. There will be, I doubt not, some project to reorganize the judiciary here. There is a project already pending before this House for that purpose, when the question of the powers of the judiciary will come up, and then this amendment will properly be in order.

Mr. GIDDINGS. I will suggest, if the Chair please, that this bill provides for power to be vested in the corporation of this city for the establishment of an additional police for the maintenance of order and for the protection of persons and property. I would ask if there can be anything more appropriate for the protection of persons than to provide for their liberty?

The CHAIRMAN. The gentleman from Tennessee [Mr. JONES] has appealed from the decision of the Chair upon the ground that the amendment offered by the gentleman from Ohio [Mr. GIDDINGS] is not in order. The Chair, in deciding that he would entertain the amendment submitted by the gentleman from Ohio, overruled the point of order that was made with reference to the point of time at which the amendment was offered. He made no ruling as to the subject-matter of the amendment; but upon that point, as the question is now raised by the gentleman from Tennessee, [Mr. JONES,] the Chair also rules the amendment to be in order. From that decision the gentleman from Tennessee appeals; and the question now is, Shall the decision of the Chair stand as the judgment of the committee?

Mr. HOUSTON. I would ask the Chair whether it would be in order for me, if I could get the floor, to make a motion to take up a bill reforming the judiciary of the District; or, rather, the general judiciary of the United States? Could I call up, under the special order which the House made a few days ago, a bill proposing a general reformation of the judiciary system of the country, and, as a matter of course, reforming the judiciary system of the District?

The CHAIRMAN. The Chair would decide that the gentleman could not call up such a bill.

Mr. HOUSTON. If the Chair would decide that to be out of order as a separate and independent proposition, by what process can we bring the same matter up in the nature of an amendment. If the amendment of the gentleman from Ohio [Mr. GIDDINGS] is in order, it is equally competent to bring in the entire judiciary of the United States.

The CHAIRMAN. Discussion upon the point of order raised by the gentleman from Tennessee is not in order. The question now before the committee is, Shall the decision of the Chair, made upon a point of order, stand as the judgment of the committee?

Mr. KERR demanded tellers; which were ordered; and Messrs. KERR and MACE were appointed.

The question was taken; and there were—ayes 73, noes 60.

So the decision of the Chair was sustained.

Mr. GIDDINGS. Mr. Chairman, I desire the attention of the committee particularly to this amendment, which has so often been defeated by evasion in this Hall, but which, I trust, we are now prepared to adopt. The law, as it now stands upon the statute-book of this District, authorizes the arrest, imprisonment, and sale into slavery of every man of color who shall be found in this District, unless he prove his freedom. And, even if he prove that he was born free, he is sold, unless he can pay the costs and expenses of his imprisonment. This said law has long existed here. On a former occasion, it was denied in this Hall that such a law was in force. The Clerk of this body was called upon to state the facts. He had been a practicing lawyer for forty years in this District, and he declared to this body that such *was the law;* that it was in *force*, and had been sustained since the District first came under our jurisdiction.

The object of my amendment is distinctly to say that all persons shall be free from arrest or imprisonment, unless charged with crime or offense. It is a law of equal rights, equal justice, dealing out the same measure to all men and to all people who shall be found in the District; securing to each one the right of personal liberty, unless he shall be charged with an offense or crime.

The question is one which goes home to every man, to every heart. Its doctrine cannot be made more obvious by argument, because it comes within those "self-evident truths" which address themselves to the understanding of every individual. Now, I wish to say to the country, that this district is controlled by the laws of Congress; that it is under our *exclusive* jurisdiction. That *we*, the members of Congress, deal out oppression, injustice, and crime, to the people here; that that measure of justice which we, the Congress of the United States, deal out, is enjoyed by the people of this District and no more; that it is by virtue of our laws that freemen are here seized, imprisoned, and here sold, for the jail fees, into perpetual bondage. It is by virtue of those laws, that all those outrages upon the liberties and rights of mankind are perpetrated.

My proposition is to repeal and set aside every law which would involve any freeman into slavery, and to prevent the imprisonment of any person, unless charged with crime or offense. I wish to say to the committee, that all I ask is a definite expression of the opinion of the House. Let every member feel that he is giving his vote upon a question of great importance to the colored population of this District, and let each give his vote according to the dictates of that sense of justice which God has given him. I hope gentlemen who have objection to this proposition, will come up to it fairly and explicitly, and say to the country that we ought not to protect the liberties of those who depend upon our legislation for the degree of liberty which they enjoy.

Mr. HAMILTON. It is not my purpose to say a word in reply to the gentleman from Ohio. I desire to have the vote taken upon his amendment immediately, as every gentleman fully understands the question. I hope the committee are prepared to vote upon the amendment without argument.

The question being upon the pending amendment,

Mr. PRINGLE demanded tellers; which were ordered; and Messrs. MACE and BOYCE were appointed.

The question was then taken; and the tellers reported thirty-five in the affirmative; not a majority of a quorum.

So the amendment was not agreed to.

No further amendments being offered to the bill, it was laid aside to be reported to the House, with a recommendation that it do pass.

WASHINGTON GAS-LIGHT COMPANY.

The next bill which came up for consideration was House bill (No. 357) authorizing the Washington Gas-Light Company to increase the capital stock of said company.

The bill was read *in extenso*, and authorizes the company to increase their capital stock to $150,000 in shares of twenty dollars each, subscribed on the books of the company; and subjecting the holders of said stock to the same liability as is provided in the original act of incorporation in 1848.

No amendments being offered, on motion of

Mr. DAVIS, of Indiana, the bill was laid aside to be reported to the House, with a recommendation that the same do pass.

RAILWAY COMPANY.

The next bill which came up for consideration was House bill (No. 430) to incorporate the Washington and Georgetown Railway Company in the District of Columbia.

Mr. HAMILTON. I move that that bill be laid aside informally for the present.

The motion was agreed to; and the bill was laid aside.

MUTUAL FIRE INSURANCE COMPANY.

The next bill which came up in order for consideration was a bill (H. R. 507) to incorporate the Mutual Fire Insurance Company of the District of Columbia.

The bill was read *in extenso.*

By unanimous consent, the reading of the bill by sections for amendment was dispensed with.

Mr. TAYLOR, of New York. In lieu of the third section which is as follows:

SEC. 3. *And be it further enacted*, That the capital stock of this company shall consist of the cash paid in as interest on the premium notes hereinafter mentioned, which cash shall never exceed $20,000; also, the premium notes given by the insured. Said notes shall be payable on demand, and shall constitute and be a lien to the amount thereof, respectively, in the nature of a judgment, waiving the right of inquisition upon all buildings insured by said company, together with the right to and interest of the assured to the land on which they stand, and upon the other property insured by said company in consideration thereof: *Provided*, That said company shall file, in the proper office for recording judgments and mortgages, a memorandum of the name of the individual insured, a description of the property, and the amount of the deposit note unpaid; and the same, when so entered, shall be deemed and taken to be in all respects as a judgment entered upon confession by virtue of a warrant of attorney, and execution may at any time be had thereon for so much as, by virtue of the provisions of this act, may be due and demandable; but the lien thereof shall commence with the filing of the memorandum in the proper office: *Provided*, That such lien shall not be construed to take from such person insured as aforesaid the privilege of a freeholder—

I move the insertion of these words:

SEC. 3. *And be it further enacted*, That the capital stock of this company shall consist of the premium notes given by the insured, and of the cash paid in as interest on said premium notes, which cash shall never exceed $20,000. Said notes shall be payable on demand, and shall constitute and be a lien to the amount thereof, respectively, upon all buildings insured by said company, and the land upon which they stand, and the appurtenances to such land, and upon the estate and interest, legal or equitable, of the assured in such buildings, lands, and appurtenances, and upon the other property insured by said company in consideration thereof: *Provided*, That said company shall file, in the office of the clerk of the circuit court of the District of Columbia, a memorandum of the name of the individual insured, a description of the property, and the amount of the premium note unpaid; and the said note, upon the filing of said memorandum, shall be deemed and taken to be in all respects as a judgment entered upon confession by virtue of a warrant of attorney, and execution may at any time be had thereon for so much as, by virtue of the provisions of this act, may be due and demandable; but the lien thereof shall commence with the filing of the memorandum in the said office: *Provided*, That such lien shall not be construed to take from such person insured as aforesaid the privilege of a freeholder.

Mr. TAYLOR. The amendment is substantially the same as the section of the bill for which it is a substitute. It is, however, improved in phraseology, and more distinctly expresses the object of the act. I repeat, that it does not differ in a single particular from the substance of the original section.

The amendment was agreed to.

Mr. TAYLOR. If there be no further amendments, I move that the bill be laid aside to be reported to the House.

Mr. SIMMONS. I wish to ask some member of the committee which reported this bill, one or two questions. I little expected, when I came here, to find this common nuisance, which has been found to be intolerable nearly all over the country, about to be incorporated and centralized here at the seat of Government. Now, I want to know, in regard to the second section, whether it is intended to be confined in its operation to property located in the District of Columbia, or whether their powers of insuring are to go to all the States in the Union—into Canada and everywhere else?

Mr. TAYLOR. I cannot answer the gentleman with any degree of certainty. It is my impression, however, that the design is, that the bill shall apply exclusively to property located in the District of Columbia.

Mr. SIMMONS. Then I would suggest to the gentleman that it would be better to have a clause inserted, restricting the operation of the second section to property situated in the District of Columbia. Unless this is done, these mutual insurances will expand until they will embrace property in every part of the United States and in Canada. Now, sir, I know that in Canada the notes of these companies cannot be collected. The courts have so decided. They have decided them to be illegal. And, sir, I, for one, am not willing to authorize the incorporation of such a humbug institution to be expanded until it embrace all the country in its operation, under the credit of the city of Washington, authorized by an act of Congress. If it is confined to the District of Columbia, the agents will not undertake to organize branches outside of the District.

Then, under the third section, if I properly understand it, it will be perfectly impracticable to collect any insurance out of the jurisdiction of the District. For instance, in the State of Virginia it could not be colleted without an expensive law suit, and I doubt whether it could be done at all.

Mr. TAYLOR. Of course it could not be done.

Mr. SIMMONS. Then why not confine the operation of the act expressly to the District of Columbia?

Mr. TAYLOR. The presumption is that the bill is designed to apply only to the District of

Columbia. I have no objection to the amendment indicated by the gentleman from New York; but I will say, however, that I do not know whether such an amendment will meet the wishes of those who desire this incorporation.

Mr. FLORENCE. I have an amendment which I think will meet the wishes of the gentleman from New York, which I offer, to come in at the end of the third section. I move the following:

Provided further, That the privileges, immunities, and franchises granted by this act, shall be confined to the District of Columbia.

The amendment was adopted.

The bill now having been read through for amendment, was laid aside to be reported to the House, with the recommendation that it do pass.

SUPPRESSION OF SMALL NOTES.

Senate bill (No. 16) to suppress the circulation of small notes as a currency in the District of Columbia, coming up next in order upon the Calendar, was read *in extenso* by the Clerk.

The Clerk then proceeded to read the bill by sections for amendment.

The Committee for the District of Columbia reported an amendment to the first section, to insert therein the words—

—"or of the amount of five dollars and upwards, payable or redeemable in bank or other notes, or any other thing except gold and silver."

So as to make it read:

That if any person or persons, body-politic or corporate within the District of Columbia, shall make, emit, issue, utter, sign, draw, or indorse any bank note, promissory note, or any instrument of writing, for the payment or delivery of money, or other valuable thing, or of anything purporting to be a valuable thing, of a less amount than five dollars, or of the amount of five dollars and upwards, payable or redeemable in bank or other notes, or any other thing except gold or silver, &c.

Mr. HAVEN. I do not know that I have any idea of what is the object of the committee in this amendment, and I should like to hear a few words of explanation in relation to it from the chairman of the committee. If the object of this bill is to prohibit individuals or corporations from circulating their promises to pay, no matter whether it be in bills or in gold and silver, then this amendment ought not to be in. But if it be simply to allow any corporation or individual to issue their paper, which shall circulate as currency in this District, why, this amendment seems to be well enough. I suppose, however, that it was the intention of the committee to prohibit, as far as they were able, the circulation of promises to pay, whether those promises were payable in other notes, or promises in produce, in merchandise, or in gold and silver.

Mr. HAMILTON. That was our object.

Mr. HAVEN. If that be so then I submit to the gentleman that he had better reconsider the language of this section, for the only prohibition in it now is against issuing bills that are payable in other bills. I will read it:

"That if any person or persons, body-politic or corporate, within the District of Columbia, shall make, emit, issue, utter, sign, draw, or indorse any bank note, promissory note, or any instrument of writing, for the payment or delivery of money, or other valuable thing, or of anything purporting to be a valuable thing, of a less amount than five dollars, or of the amount of five dollars and upwards, payable or redeemable in bank or other notes, or any other thing except gold or silver," &c.

Now, suppose they issue notes payable in gold and silver, do the committee mean to allow that? Is that the object they have in view?

Mr. HAMILTON. In reply to the gentleman, I will only state, that there is a very serious difficulty existing in reference to the suppression of all kinds of notes in this District. To talk about suppressing the circulation of all notes of the denomination of five dollars and upwards, is simply preposterous, because individuals from all parts of the Union come here, and nearly all the States of the Union, with but few exceptions, authorize the issue of notes of the denomination of five dollars and upwards. There are, also, in this city four or five banks, once incorporated, although now their charters have expired, which do issue such notes. Now, if we enter into a controversy with reference to these institutions, we shall be involved in difficulty, and our great object—the suppression of notes under the denomination of five dollars—will be lost.

I am not too favorably disposed to banks, or a banking system. It would be my policy—if that were possible—to suppress all kinds of notes in this District; but it is impracticable, and I therefore desire to suppress the most mischievous.

In regard to the other class of issue—that of the denomination of five dollars and upwards, payable in other bank notes—it is our earnest desire to suppress it.

One of these concerns—issuing notes of this description—has since blown up. The bill was peculiarly directed to that institution, for issuing and circulating such notes. We did not desire to strike at all kinds of banks. We were well aware of the controversy which must arise in this body and in the Senate, if we did; but we desired to strike first at this mischievous small-note circulation, which has so much injured the community, and is so pestiferous a currency.

Mr. HAVEN. Will the gentleman from Maryland allow me for one moment?

Mr. HAMILTON. Certainly.

Mr. HAVEN. The object which I have in view, is to call the gentleman's attention to the fact, that if it were his intention to effect what he proclaims he wished to effect, he has entirely failed to attain his object; for this bill does not prohibit the circulation or issue of small notes, whether under five dollars or over five, except such notes as are payable in a particular manner. It contains nothing to prohibit the issue or circulation of small notes for which specie is to be paid. Now, Mr. Chairman, I do not propose to undertake to correct this, but I merely wish to call the gentleman's attention to it.

Mr. HAMILTON. If the gentleman will excuse me, I will read the words of the bill:

—"or of anything purporting to be a valuable thing, of a less amount than five dollars, or of the amount of five dollars or upwards, payable or redeemable in bank or other notes, or any other thing except gold or silver."

Mr. HAVEN. Yes; when they are payable *or* redeemable in this way, their issue will be legal. But when small bills or large bills are declared to be payable by notes of other banks, they will be illegal; but I suppose that both of them may be made payable. But I wish to show further—and I think this is a fair implication from the bill—that it allows individuals to issue their shinplasters to any amount they desire. I do not purpose to undertake to correct the bill, I only purpose to call the gentleman's attention to it, and simply to say, that unless there be some radical change made in one or two sections of the bill, I cannot vote for it.

Mr. McMULLIN. Mr. Chairman, I have a remonstrance here from some of the citizens of Washington, which I desire to have read to the committee before I proceed to say anything on the subject of this bill.

The Clerk accordingly read the following remonstrance:

WASHINGTON, *January* 9, 1853.

To Hon. Fayette McMullin,
House of Representatives, D. C.:

We, a portion of the business men of this District, having heard that there is being an effort made to suppress the circulation of small notes of less denomination than five dollars, in this District, earnestly request that no such laws may be enacted. In the States of Virginia, Maryland, and Pennsylvania, each have laws prohibiting the circulation of notes of a less denomination than five dollars, which laws are not regarded in the least degree. We cannot discriminate or conceive the difference between a five dollar note and five one dollar notes, if both are upon the same basis. Further, one dollar notes are a matter of great convenience in making change, and we find in the majority of cases persons generally prefer small notes, if they are good, to one dollar gold pieces. We would earnestly ask, if there be any change in our banking laws, that we have a law similar to the States of New York or Indiana, to wit: a free banking system, free and open to all who can give the proper security. We think it would be a hard case for strangers coming to the Metropolis of the nation not to be allowed the privilege of passing their money here, which is good and lawful currency in the States in which they reside. We further think that this District and city should be exempt from such stringent laws, as it is the center of attraction for citizens from all parts of our great Republic, and should be the freest and most lenient place in its laws in the United States.

R. W. Latham,	G. M. Wright,
Linton & Tweedy,	E. E. White & Co.,
C. O. Wall,	William M. Cripps,
Wm. S. Richardson,	P. Bartlett Orem,
James J. Miller,	B. P. Paige,
G. Wm. Yerby,	W. H. Stevens,
George W. Cochran,	H. T. Loudon & Co.,
Joseph Radcliff,	Marshall Brown,
James Williams,	Hall & Brother,
William Ballantyne,	E. D. Etchison,
A. Gray,	D. R. Wall,
R. R. Gurley,	B. W. Caster,
Francis Mattingly,	John Waller,
John Richey,	James L. White,
P. J. Steer,	Fitzhugh Coyle,
Edward Steer,	C. G. Wildman,
Thomas G. Warren,	White & Sons,
S. P. Hoover,	W. G. W. White,
S. C. Mills,	Jesse B. Wilson,
G. T. Gibson,	J. M. Harry,
A. Koop,	C. G. Klopfer,
James Davis,	Thomas C. Wheeler,
E. Edmonston,	Charles Werner,
J. R. Harbaugh,	J. D. Earle,
Charles Klamann,	W. H. Gilman,
J. W. Clements,	W. W. Baldwin,
H. C. Harrover,	Edward Hall,
Hugh Cameron,	W. M. Shuster & Co.,
J. S. Barbour, jr.,	Erastus S. Tate,
J. W. Kays,	Shekell & Baily,
	Yerby, Tebbs & Yerby.

Mr. McMULLIN. That paper, as you will have perceived, is numerously signed by the most influential business men of the city of Washington. I beg to say, in the outset, that I am myself opposed to this small-note currency, whether in the District of Columbia or in any of the States. But, sir, I desire to call the attention of the committee to the present state of affairs in this country. There are, perhaps, four fifths or nine tenths of the States of the Union which are allowed to have in circulation notes below the denomination of five dollars. My own State of Virginia has prohibited, by one of the most rigorous legislative enactments that I have seen enacted in any State, the circulation of notes of a less denomination than five dollars; and yet that State has been wholly unable to enforce the law in my own district. Sir, I doubt very much the policy of this bill. I ask gentlemen on this floor who represent States recognizing the issue of small notes of a less value than five dollars, whether they are not in the habit of receiving or sending, almost daily, small notes for the purpose of paying newspaper subscriptions and other matters? I doubt very much the policy of the measure at this particular period.

I need not tell you, Mr. Chairman, nor the members of this committee, that, for the last four or five years, specie has been drawn from the country to an enormous amount. The demand of Europe for specie has been such that immense quantities have been purchased up and sent abroad. Under the late coinage law, passed at the last Congress, we find that specie has been recoined, and the country will shortly be supplied with small specie for circulation; but now, in the absence of a sufficiency of specie to supply the country with small change, I doubt very much—opposed as I am in principle to the small-note circulation—the policy and the justice of the House at this moment passing this bill to prohibit small-note circulation. This District—as is shown by the remonstrance that has been read—is opposed to the passage of this law. And, if the most influential business men of the District of Columbia are remonstrating against the passage of this law, I ask whether we have a right to insist on passing it? Congress is the local legislature of this District, and should lend attention to the remonstrances of its citizens. If gentlemen will take the trouble to look at this remonstrance they will find a vast number of names subscribed to it—names of the wealthiest and most extensive business men in the District of Columbia.

Sir, I have myself, at this session of Congress, and at preceding sessions, paid out small bills; and I ask, is it the purpose of the committee, by this bill, to make that act culpable, and to make me guilty of a violation of the law? Therefore, I ask gentlemen to look at this matter carefully, and not act hastily upon it. It strikes me, if we were to pass such a bill at all, that it ought not to be at this particular period, when the financial condition of the whole country is so very much embarrassed. After the passage of the law suppressing the circulation of small notes in my State, we still received them, notwithstanding the law was a most rigorous one. In my district a presentment was made before the grand jury to bring the offenders of the law before the court, but they have not been able to enforce a law so clearly against public sentiment and public opinion.

Mr. CASKIE. Opposed, as I am, to the circulation of small notes everywhere, I do not design to discuss the question; because I am sure the mind of every man here is made up on the subject. I rise at this time merely because of an assertion as to my own State, contained in the remonstrance just read, and some remarks of my colleague who presented it. It is stated in that remonstrance that

the law of Virginia for the effectual suppression of small notes is not in the least regarded; and my colleague seems, to some extent, at any rate, to concur in the statement. I wish to inform the committee that, so far as my district is concerned, and so far as my knowledge of the State extends, the law to which I have alluded has acted like a charm. It has been universally regarded from the very beginning of its operation. It has entirely banished the small-note currency that we had before from our midst, and substituted gold and silver instead. It has gone into effectual operation without the least disturbance or difficulty. It gives universal satisfaction, and I do not believe that, within the limits of the State, there is a man who would return to the system of small notes.

Mr. McMULLIN. My colleague may be right so far as his district is concerned, but so far as my district is concerned, I say that he is laboring under an egregious error.

Mr. CASKIE. I do not know about the district of my colleague, but I speak of my own, and for the State, so far as my knowledge of it extends.

Mr. McMULLIN. It is well known to my colleague, as it is to all my colleagues, that the district which I have the honor to represent is bounded upon the south by Tennessee and North Carolina, and upon the north by Kentucky. In each of these States they issue small notes, and the people in the district of country bordering upon those States have been compelled to receive small notes. I heard a judge there giving a charge to the grand jury for the enforcement of this law, and I tell the committee, as I do my colleague, according to my recollection, that the first presentment had not yet been made in that district.

Mr. CASKIE. I say to my colleague that, so far as I know, there never has been a necessity for any presentment. I never knew of any small notes being offered in my part of the State after the law went into operation.

Mr. HAMILTON. Did I understand the gentleman from Virginia [Mr. McMULLIN] as saying that the circulation of small notes was now allowed in Maryland?

Mr. McMULLIN. No; but the remonstrance I presented makes that statement.

Mr. HAMILTON. The law that we have in Maryland for the suppression of the small note circulation is most effectually carried out. It has driven small notes entirely out of circulation, and we hardly see a one dollar note there now. For common, ordinary purposes, we have nothing but gold and silver.

Mr. McMULLIN. I can well imagine that it is perfectly competent with the constituents of my colleague to resort to a specie circulation, where they have various banks located in the city of Richmond to which they can go. But such is not the condition of things in the rural districts, and especially in my district. I repeat, there has not been a day since I returned home from the seat of Government that I have not seen small notes in circulation. When I first returned I refused to take them. I did not, by so doing, intend to violate the law; but finding out the real state of things, I fell into the same habit with others in passing these notes. They are put into circulation every day in that portion of Virginia; and so long as the various States which lie contiguous to that section of the State issue small notes, you cannot enforce the law for their suppression. You cannot enforce such a law when public opinion is decidedly against it. I repeat here, that I am opposed to the circulation of small notes, but you cannot enforce such a law against public opinion.

Mr. FLORENCE. It seems to me that it is almost unnecessary to say a word upon this question, or to reply to the remarks of the gentleman from Virginia, [Mr. McMULLIN,] for it is one that appeals so directly to the common sense of every man in this House, as to require no argument in its favor. In Pennsylvania, where we had a circulation of small notes precisely the same as referred to by the gentleman from the Richmond district, [Mr. CASKIE,] the specie circulation has taken the place of small notes, and the people are entirely satisfied with the change. I do not know of a locality in the whole State of Pennsylvania that is not entirely satisfied with the abolition of the small-note circulation.

The gentleman from Virginia [Mr. McMULLIN] says that we cannot dispense with these small notes. He gets his per diem in specie; the employees of the Government are all paid in specie, and I do not know why he or they should receive bank notes, or notes of a smaller amount than five dollars, in exchange for specie.

Mr. McMULLIN. The gentleman must suppose that I do not receive money from any other source than the District of Columbia. It is at home, in my district, that I am obliged to take small notes.

Mr. FLORENCE. Very well. I have no idea where the gentleman gets his money; and it is none of my business where he receives it. It is none of his business where I receive mine, so he occupies the same position that I do in that respect. I am speaking of the experience as to the working of the law in Pennsylvania, and the beneficial effect the abolition of the small-note currency and the introduction of specie have had there. Further than that, it protects the laboring classes from immense loss, that they would otherwise sustain, if the circulation of small notes was allowed. Look at the experience of the District of Columbia in this matter, in the so-called institutions which made up and circulated this small-note currency. I would call the attention of the committee to this fact, that you find signed to this very petition presented by the gentleman from Virginia, the name which has become somewhat notorious—that of R. W. Latham. I mean notorious from his associations with an institution which has recently exploded. It is to remedy the evil resulting from institutions of this character, that the chairman of the Committee for the District of Columbia has introduced this bill. I am opposed, I may say here, to legislation upon the subject of banks in the District of Columbia at all. I deny the right of this Congress to establish any banking institutions, or countenance, by any act, the establishment of such institutions here; but the question of expediency made by gentlemen who have participated in this debate, that we should rid ourselves of a nuisance in the shape of banking acts, may be a reason why we should begin a reform now to be accomplished at some future time.

Somebody hands me this note, [holding up a slip of paper:] "Ask the gentleman from Virginia what the Democratic sentiment of his State is upon the subject, and that will bring the question down to a question of principle," [laughter,] which I am not prepared to discuss, [laughter,] for the reason that, perhaps, the time which would be employed upon this subject might be more valuably employed than in the discussion of a subject which everybody understands.

Further than that, it is said that the locality of the institution, with the notes of which the notes of Selden, Withers & Co., were redeemed, is in the district represented by my friend from Virginia, [Mr. McMULLIN.] I know nothing about the character of that institution, but the mere fact of its location has been suggested to me.

Mr. McMULLIN, (interrupting.) If the gentleman will allow me, I will respond to his inquiries. I answer the gentleman's first interrogatory with great pleasure. It is true that, in Virginia, as in all other Democratic States in the Union, the Democratic doctrine has been to recognize no currency below the denomination of five dollars. I am with the gentleman upon that question; but I expressly stated that I doubted very much the propriety of adopting this law at this particular time.

I desire, too, to respond to the last interrogatory of the gentleman. It is true that the Trans-Alleghany bank is located in the district I have the honor to represent; and I ask the gentleman if he, or any of his constituents, or any other gentleman upon this floor, or their constituents, have ever presented a dollar upon that bank but what has been paid?

Mr. FLORENCE. Certainly not.

Mr. McMULLIN. Then, why should the gentleman lug in that bank here? I tell that gentleman, and this House, that whenever they present a note of that bank at its counter, and it is not paid, you will see repudiated the bonds of the Commonwealth of Virginia, and that as long as the Commonwealth of Virginia is good, that bank will be good.

Mr. FLORENCE. I would say to the gentleman that I intended no reflection, by my remarks, upon the character of that institution; but what I said of it was incidentally drawn out by its connection with the institution of Selden, Withers & Co. I am glad to hear the gentleman vindicate the character of that institution. My only desire is to protect the working classes of this District, if I can, against the losses which they sustain by these shin-plaster shops of this District, as well as all others into whose hands these small notes fall. It can best be done by this bill, and that is the reason why I have occupied so much of the time of this committee upon this question.

Mr. SIMMONS. I propose to substitute an amendment in the place of the one submitted by the committee, and which, I think, will obviate the objection of my colleague from New York, [Mr. HAVEN,] and at the same time will accomplish precisely what the committee meant to accomplish by their amendment. Instead of the language of the committee, which is, "or of the amount of five dollars and upwards, payable or redeemable in bank or other notes, or any other thing except gold or silver," I move to insert these words in lieu thereof, "or of any other amount, if such other amount is payable or redeemable in anything but gold or silver."

Mr. HAMILTON. I accept the amendment.

Mr. LETCHER. Is an amendment to the amendment now in order?

The CHAIRMAN. An amendment to an amendment is already pending.

Mr. LETCHER. The amendment which I desire to propose would come in at a part of the section before that to which the amendment of the gentleman from New York applies.

The CHAIRMAN. Then the Chair will entertain it now.

Mr. LETCHER. I propose to insert in the eighth line, after the word "dollars," the words "however redeemable," the effect of which would be to prohibit the issuing of notes of a less amount than five dollars however redeemable.

I desire to say a word or two upon this subject, particularly as my two colleagues from Virginia have got interested in this discussion. I am opposed to shin-plasters——

A VOICE. Blister-plasters.

Mr. LETCHER. Yes, shin-plasters, blister-plasters, and almost every species of plasters, but especially these shin-plasters. I have been somewhat surprised to hear of the experience of my friend from the southwest district of Virginia [Mr. McMULLIN] upon this subject. I know the times are sadly out of joint, but it never occurred to my mind that my friend would be in favor of small notes, and advocate it upon this floor or any where else, and, least of all, did I expect that he would come in here with this public memorial by the way of sustaining his position. Now, sir, here is a memorial which bears date "Washington, January 9, 1853." The thing has kept remarkably well, to be sure, while the banker who drew it up, has gone the way of all things perishable. This memorial is headed with the name of "R. W. Latham," and I imagine the House has some distinct recollection—and my friend over the way [Mr. McMULLIN] may also have some distinct recollection—of an institution under the title of "The Exchange Bank." That institution commenced with the issue of small notes, and the issue was kept up by others, and the State of Virginia was driven to the necessity of passing a law expelling such notes from its borders.

Mr. McMULLIN, (interrupting.) I beg the gentleman to remember that this very bill, against which that remonstrance was got up, was prepared at the last session of Congress, and that the remonstrance was handed to me with the request that I should present it to the House. And I beg my colleague to remember, too, that I have not changed my views in reference to the impropriety of the issuing of a small-note circulation. I trust, therefore, my colleague will not repeat it. I stated, however, that I doubted the propriety of the passage of this bill at this particular time.

Mr. LETCHER. If this memorial, which was gotten up a year ago, were attempted to be gotten up now, does the gentleman think it probable that it would get the same signatures as those which mark its face at this moment? I should like to know if this memorial were to be circulated to-day, whether those who did sign it would now follow in the wake of a dead president and a dead bank, or would have been willing, when that institution has failed under his nose, and

when men are losing by the bills of that institution—gotten up and sustained for a season by small notes—would come up and indorse an institution which had produced injury to the public?

Mr. McMULLIN, (interrupting.) Does my colleague mean to say that I indorsed the institution?

Mr. LETCHER. I did not mean to say that; but I meant to say that those who signed this paper in 1853, in all probability, would not have presented any such remonstrance in 1854, when that bank had failed, and that they would not now sign it.

Mr. McMULLIN. I was charged with this remonstrance, and requested to present it to the House. Is it not the duty of every member upon this floor, whenever a remonstrance or a petition is placed in his hands, to present it upon this floor? No man knows better than my colleague does, what are the duties of a member here. If I have done more than that, I am responsible, not to my colleague, but to my constituents. I am not involved in the misfortunes of that institution, nor am I to preach a funeral discourse of any of the gentlemen who have been connected with it.

Mr. LETCHER. Why does not my colleague look at the date of this thing, and see when it was gotten up? Suppose, under his construction, they had come here with a memorial got up five or six years ago, when these small notes were started, would he have felt that it was his duty to have presented it under these circumstances, without ascertaining what was the present sentiment of the District in regard to the same subject? Now, sir, the fact that they have sent no remonstrance in here against the suppression of small notes dated within this year, affords pregnant proof to this committee that the people of this District have borne as long as they can bear, and that they are not now willing to come forward and indorse institutions, or sustain principles, that they might have approved a year or more ago.

Mr. Chairman, I hold that all of these things ought to be put down; that they operate as a cheat, as a fraud upon that portion of the community who are least able to bear it; that portion of the community who have the least knowledge of the availability, or of the value of bank paper. And in our legislation here, so far as we legislate for this District, we ought to take particular care, where we can do so, to protect this class of the community who are, in a great measure, unprotected under this banking system. I want it so that there can be no notes of a less denomination than five dollars issued here. And I want it as a protection to my own State as well as to this District. I know how these shin-plasters were put into circulation here a few years ago; how they got currency in the States of Virginia, Indiana, and everywhere else. They were sent out to agents located in the various towns of Virginia, and a commission paid to those agents to put them into circulation among the people of the country. And when "The Bank of the Union" exploded here, when various other of these institutions went down, the farmers and the mechanics throughout the country had the paper, but the agents who put them into circulation had relieved their hands of them, and were not, to any extent, the sufferers. We had to meet this thing in my county; and we did meet it fairly and squarely. A law passed by the Legislature of Virginia has been enforced, and is enforced to this very day.

Mr. HAMILTON. Mr. Chairman, I do not believe that there is any desire in this body to avoid meeting the question presented to it. The mind of members and the voice of the people of the country are against the issue of these small notes, and I do not see the necessity for any elaborate indication of the movement for their suppression. It is my hope that we shall now proceed to the perfecting of the details of the bill, and then, if it meet with the approbation of a majority of the committee, to report it to the House, with the recommendation that it do pass. But three days have been set apart for the consideration of business relating to this District. There are many important bills which have not yet come before us; and I appeal to the gentleman from Virginia to let us proceed to vote on the amendments. The people of his State are correct in their principles, as a general thing, and if anything is wrong, I have no doubt it will be rectified. Without at all impugning the judgment of my honorable friend from Virginia, [Mr. McMULLIN,] I will say, that I think they will remedy their own matter in their own proper way.

Mr. GOODE. They have already applied the remedy.

Mr. HAMILTON. With a view to avoid all misconstruction I have adopted the amendment of the gentleman from New York. I have done so, not because I thought the amendment was necessary, but for the satisfaction of members who were of a different opinion.

The CHAIRMAN. The amendment immediately under consideration is that which has been proposed by the gentleman from Virginia, [Mr. LETCHER.]

Mr. HAMILTON. I understand that the amendment of the gentleman from Virginia is *pro forma*.

Mr. LETCHER. No, sir; there is no *pro forma* about it.

The CHAIRMAN. The amendment of the gentleman from Virginia may accomplish what the gentleman from Maryland desires.

Mr. HAMILTON. I did not hear it read. Perhaps it may.

Mr. LETCHER. I wish to modify my amendment so that, if it be adopted, the section will read as follows:

"That if any person or persons, body-politic or corporate, within the District of Columbia, shall make, emit, issue, utter, sign, draw, or indorse any bank note, promissory note, bill, check, draft, or any instrument of writing, for the payment or delivery of money, or other valuable thing, or of anything purporting to be a valuable thing, or of anything in the form or similitude of paper money, of a less amount than five dollars, however redeemable, or of the amount of five dollars and upwards, payable or redeemable in bank or other notes, or any other thing except gold or silver, to be used as a paper currency, or as a circulating medium, either as money, or in lieu of money, or any other currency," &c.

I want to cover everything in the shape or similitude of paper money.

Mr. HAMILTON. The words "instruments of writing" are already in the bill.

Mr. LETCHER. But there are also instruments of printing.

Mr. HAMILTON. I have no objection to the gentleman's amendment.

The question was then taken; and Mr. LETCHER's amendment was adopted; there being, on a division, ayes seventy-two, noes not counted.

The CHAIRMAN. The question now recurs on the amendment of the gentleman from New York, [Mr. HAVEN.]

Mr. HAMILTON. I accept the gentleman's amendment as a modification.

The CHAIRMAN. The gentleman cannot accept the amendment, for the amendment to which it is proposed is one made by the Committee for the District of Columbia.

Mr. JONES, of Tennessee. I think that the object the House has in view will best be obtained by rejecting both the amendments proposed by the Committee for the District of Columbia, and that proposed by the gentleman from New York, [Mr. HAVEN,] and then to strike out of the eighth line the words, "of a less amount than five dollars." The clause will then read:

"That if any person or persons, body-politic or corporate, within the District of Columbia, shall make, emit, issue, utter, sign, draw, or indorse any bank note, promissory note, or any instrument of writing, for the payment or delivery of money, or other valuable thing, or anything purporting to be a valuable thing, to be used as a paper currency, or as a circulating medium, either as money, or in lieu of money, or any other currency," &c.

Now, sir, what were the provisions of that section as it came from the Senate? It was to prevent and suppress the issuance and the putting into circulation in this District, of all notes and paper intended to pass as such, below the denomination of five dollars. The Committee for the District of Columbia propose to prevent the issuance in this city of all notes above that denomination which shall be payable in anything other than gold and silver.

Now, if you will reject the two amendments I have indicated, and then strike out in the eighth line of the first section the words "of a less amount than five dollars," you will then prevent and suppress the issuance of all paper of every denomination intended to be circulated as money within this District. That, sir, is the object which I, for one, wish to attain. In doing that, we are not altering the laws of the District. We are not prohibiting any corporation or anybody in the District from the exercise of any right which they now have. There is not now, and has not been for several years, any corporate authority, or any individual authority, in the District, to issue any circulating medium intended to pass as money of any denomination whatever, payable either in gold and silver, or anything else, in any amount whatever.

Sir, it is within my recollection, that there were banks within the District of Columbia incorporated by Congress. Preceding the expiration of their charters they came here and asked to have them renewed. Congress refused to renew them, and required them to wind up their business within a given period, and, at the same time, giving them power to make collections and to wind up their concerns. But, instead of carrying out the law as it was intended, I understand they transferred their assets into the hands of trustees for the benefit of the stockholders, and those trustees, without any corporate authority whatever, have gone on and issued notes, and put them in circulation in the District.

Mr. Chairman, if this statement is correct, the conduct of these men has been wrong. They should not be permitted to issue notes of a less denomination than five dollars, nor of a greater denomination, in violation of law. Sir, if you will reject these pending amendments, and strike out the words I have indicated in the first section, you will effect the object which I think should be attained, that is, to prevent and to suppress the issuance and circulation of notes of every denomination, within the limits of the District.

That is the first section. The second, as it came from the Senate, provides for suppressing the circulation of all paper currency of a less denomination than five dollars. This, the Committee for the District of Columbia propose to amend, by inserting the words "or of the denomination or amount of five dollars or upwards, payable or redeemable in bank or other notes, or anything except gold and silver."

Now, Mr. Chairman, I have seen a great deal of paper currency which was issued in this city some years ago, of less denominations than five dollars, of every kind and description that could be manufactured. I believe one bank issued notes for a dollar and a half, payable in Virginia money when five dollars or more were presented at one time; but I have no recollection of ever seeing notes of the denomination of five dollars or more, made payable or redeemable in the notes of other banks. Then, if the amendment the committee propose should not be adopted, the effect of the section will simply be to suppress and prevent the circulation of all notes whatever of a less denomination than five dollars. But you will say nothing against the circulation of notes over five dollars that are issued in the States. The bill will then prevent the issuance of any paper currency whatever in the District, and this object I desire to effect. But if it is thought by Congress that paper money should be issued within the District, let them organize such establishments as, in their opinion, are needed to promote the public interest.

It is now thought by some that, should the bill pass as amended by the Committee for the District of Columbia, prohibiting the issuance of all notes, however payable, of a less denomination than five dollars, and prohibiting the circulation of all above five dollars, payable in anything other than gold and silver, by implication, concerns in the city will be authorized to issue paper of a greater denomination than five dollars, if made payable in gold and silver when it is presented. Now, sir, if this is to be the legitimate construction of the section, much as I desire the passage of a measure to suppress this kind of circulating medium, I cannot vote for it. If it is to authorize the issuance of a paper currency of any description whatever in the District, I cannot sustain it. I, for one, will vote for nothing of that character, either here or elsewhere. I will not give my support to any such action, either by the Federal or a State government. I believe the framers of our Government, its fathers, its founders, believed, at the time of the establishment of the Constitution, that they had provided a hard money currency for the Government, in which gold and silver coin should be the standard of value and the circulating medium. And I believe that every charter for the issuance of bank notes, whether by Congress for this District, or the nation at large, or by State Legislature, is in violation not only of the fundamental provisions upon which the Government

was established, but in violation of the written provisions of the Constitution of the United States.

Mr. CUMMING. Mr. Chairman, I believe that of all the humbugs in this country the greatest and most palpable one is this immense talk about the issuance of notes—of paper money. Sir, the very foundation of that extensive commerce which has brought the world to what it now is, and has so much tended to civilize and christianize mankind, was the adoption of bills of exchange—I mean paper representatives of money.

Sir, if the Government of the United States should undertake to say that, in this District, nothing should be circulated but gold and silver, it would be setting an example which, if followed throughout the whole country, would speedily reduce our vast commercial enterprises to complete ruin.

Mr. WALSH. I should like to ask my colleague one question. I understood him to say just now that the most formidable instrumentality ever employed in the christianization of the world, had been bills of exchange, and, I suppose, shinplasters.

Mr. CUMMING. I said one of the most powerful agencies in the civilization of the world had been the use of paper credits.

Mr. WALSH. Then I should like to ask my colleague how many the twelve Apostles used? [Laughter.]

Mr. FLORENCE. Oh! they had "neither scrip nor purse." [Renewed laughter.]

Mr. CUMMING. I do not wish to be interrupted by such questions. This is no joke. I am in earnest. I say, sir, that there is not in the United States metallic money enough, probably, to purchase the city of New York alone; and the idea of establishing precious metals as a universal currency is, therefore, absurd. It has been estimated, I believe, that the gold and silver currency of the United States is not above the absolute issue of paper money in the city of New York. Now, sir, how would any railroad or canal ever have been constructed in this country, if you had been obliged to bring silver and gold to pay for the labor and the many appliances necessary in these works, besides the foreign cost of the iron used, especially on railroads, and which we have scarcely begun yet to manufacture for ourselves? It would have been an impossibility. You cannot carry on the commonest transactions of life without some system of credit, and there must be some positive representative of the credit, or *trust*, allowed between man and man. You must give and take this *trust;* and to represent it, you must use bills of exchange, promissory notes, drafts, and, above all, *bank notes;* or, as they ought to be, and are, thank God, in most cases in the State from which I come, specie under another name. Sir, if I think proper to enter into a transaction with my neighbor, and he thinks it to his advantage to dispose of something to me on credit, am I to be compelled to refuse his offer, and he to forego the advantage he anticipated, by reason of the fact that I can give him no available acknowledgment of the debt I owe him?

Sir, if Congress thinks proper to pass this law, every dollar of paper money in this District will be valueless to the poor man. Two dollar notes, and three dollar notes will be excluded; but ten and fifty dollar bills will be allowed to circulate. In the State of New York the notes of a majority of our banks are secured by depositing, with the Comptroller of the State, either stocks of the State of New York or of the United States, to about the amount of the notes issued, and there is a margin left for a decline in those stocks. Every note is signed by the Comptroller, and is just as good after it has received his signature, as it is after it has been signed by the president of the bank. If Congress chooses to adopt a similar law for this District, requiring the bills of every denomination issued by either individual or corporation, to be secured by any specific stocks they may think proper to name, they will then leave room for the operations of commerce here, and for credit and the use of paper money. There can be no necessity for confining business operations here to a gold and silver currency.

Sometimes facts, although very homely, produce more effect than a great deal of eloquence and argument. I was passing through the State of Pennsylvania the other day, when a poor servant girl came and asked me if I would change a dollar for her. I thought, of course, she wanted me to give her small silver for it, but I found that she had a dollar bill on one of the banks of New York city which, although perfectly good, she was not allowed to pass in Pennsylvania, and I gave her a gold dollar for it, to save her from distress, as she had only this small sum. This, sir, is the capital of the country, and when I come here with a good one dollar bill, issued in my State, am I to be told that I shall not expend it?

Mr. JONES, of Tennessee. I will say to the gentleman, that if the bill is amended as I have suggested, it will only suppress the circulation of notes issued in this District, but it will not suppress the circulation of bills of the denomination of five dollars and upwards, issued in other portions of the country.

Mr. CUMMING. Would it suppress the circulation in this District of New York one dollar bills?

Mr. JONES. It would.

Mr. CUMMING. Well, that is what I am opposed to.

Mr. JONES. It would prohibit the circulation of all notes below five dollars, but would not affect the circulation, in this District, of notes issued in the States of five dollars and upwards.

Mr. CUMMING. My opinion is, that that would be a great inconvenience to the whole traveling community, and to all of us, and I shall oppose any such legislation.

Mr. HAMILTON. Just allow me to say one word in reply to the gentleman from Tennessee, [Mr. JONES.] I do not desire, at this moment, to enter into a controversy upon the constitutional principle involved in this bill, or subject. This bill, Mr. Chairman, was got up with the idea of suppressing small-note currency in the District of Columbia. That is the object of this bill. It was got up with no other object. The committee recognized the evils that flow from this small-note currency. We knew it well; and it was to correct that particular evil that we approved this bill. If this committee now undertake to enter into a discussion of all the ramifications of the issue of paper money; if they undertake to examine into the power of the Government with reference to the legislation of Congress for this District; or, if they are disposed to legislate upon a matter as to which the Committee for the District of Columbia has not reported any measure, and which we know nothing about, where, I ask, is all this to end? This bill was framed with the design of suppressing the circulation of small notes; it was gotten up for that purpose; its only object was to correct that evil. We desired that a bill of this character should pass to meet that exigency; but nothing more than that. And I am sure that the gentleman from Tennessee is too sensible of the merits and the necessity of this bill, to place any obstacle in the way of its passage; because it certainly does go to that extent in furtherance of his ideas and views.

Mr. JONES. Let me ask the gentleman from Maryland if he does not think that the bill, as I propose it shall be, would have the effect of suppressing the small-note currency more effectually than it would as it now is?

Mr. HAMILTON. It would not suppress more effectually the circulation of bills under the denomination of five dollars, though it would have the effect of suppressing the circulation of all other bills. I acknowledge that it would have the latter effect; but that is not the question now before the committee. I doubt whether the bill, if amended as proposed by the gentleman from Tennessee, would pass the Senate; and, therefore, I desire that, if it is to be passed at all, it will be passed as it stands. It was, as I have said, to meet the exigency of that particular evil of small-note currency that the bill was passed by the Senate. And, too, there are gentlemen of the highest respectability in this city who are peculiarly interested in this matter, and we should not take action on it without consideration and examination. The object of the bill reported by the Committee for the District of Columbia was, as I have said, to suppress the pestiferous circulation of small notes, not to interfere with the issue of bills of a larger denomination than five dollars. If it be the desire of the House to suppress the issue of all notes in this District, let us at some future day consider the question, after those who are interested in it have had notification. Let us, then, determine our legislative responsibility and their rights. I will most cordially unite with the gentleman from Tennessee in appropriate legislation to remedy whatever evil may exist. But this bill was originated in no other idea than to correct the one evil; and I hope, therefore, that the committee will go on and vote upon the bill as it stands, one way or the other.

Mr. SKELTON. I should not, Mr. Chairman, have made any remarks on this bill, if the motion of the gentleman from Tennessee had not been made. That motion meets my approbation to the fullest extent, and at the same time it makes the provisions of this bill appeal to the interests of the people throughout the United States. For that reason I cannot forbear making a few remarks on the subject, as I believe that the proposition which has been made is one which is calculated not only to protect the people of the District of Columbia from imposition, but is calculated also to protect the people of the United States from imposition. We all know the vast amount of this paper money issued by the banks of Washington that has been circulated throughout the Union. The people of the States have been losers to a much larger amount by the failure of Washington banks, than have the people of the District of Columbia; and therefore the evil of permitting individuals to circulate notes, under the pretense of having bank charters in this District, and allowing them to give the impression to the community abroad, that they have a corporate charter from the Congress of the United States, is one which is calculated to impose upon the people of the States, and to defraud them out of their property. And, sir, as the bill now stands, without the amendment of the gentleman from Tennessee—which I hope will be adopted—the evil of allowing individuals to circulate notes without the privilege of the Congress of the United States creating a currency, will not be put an end to. Here we have (as the gentleman from Maryland remarks) associated individuals of high respectability—doing what? Manufacturing a currency of the United States directly in the teeth, and overriding the power of Congress and of the Constitution of the United States, issuing a currency of the District of Columbia for a circulating medium throughout the United States, in opposition to the laws of Congress, and in opposition to the Constitution itself. I hope that Congress will consider this matter, and will proclaim to the people of the District of Columbia who these associated gentlemen are who pretend to be men of the highest respectability. I know nothing about their respectability. We have had recently a firm of the highest respectability—a firm which had means appropriated to them to pay members of Congress only two years ago—failing the other day for I do not know how many millions of dollars. That was one of the respectable firms which, a few days ago, had a banking institution in this District in violation of the laws of Congress, and in violation of the Constitution, which has plundered of millions of dollars not only the people of the District of Columbia, but the people of the States. I hope this species of wrong will be put a stop to.

Mr. CUMMING. I rise to a question of order. I appeal to the Chair to know if it is in order for the gentleman from New Jersey to rise here and abuse absent citizens of this District in such a manner as that.

The CHAIRMAN. The Chair was at the moment engaged in a matter of business with the Clerk, and did not catch the expression of the gentleman from New Jersey. But, unless the gentleman indulged in personalities towards members of this House, the Chair cannot decide him to be out of order.

Mr. SKELTON. I did not indulge in any personalities, nor do I intend to do so, for the firm I alluded to may have the high respectability which my friend from Maryland speaks of. He asks how can we at once prohibit the circulation of this kind of currency here without giving notice to these respectable gentlemen that they must stop the issue of their notes? Are we bound to give men notice who are issuing bank bills illegally, that they must stop such issue? If counterfeiters go to work producing spurious money, and we wish to punish or put a stop to counterfeiting, are we bound to notify them before passing a law to restrain them? No, sir. This transaction of issuing bills here is illegal. The persons engaged

in it know themselves that they are violating the acts of Congress and the Constitution of the United States, and we are not required to notify men who are transacting illegal business in violation of the laws of the country. As an honorable member near me suggests, those gentlemen, when they were going to close their concern, did not give us notice of their intention to do so; and as another friend remarks, some of the members of Congress, who had funds deposited with them, got no notice that their doors were about to be closed against them, and hence, men throughout the Union have been defrauded of their rights.

Mr. CUMMING. I ask the gentleman whether members of Congress are to be protected against, or to complain of, losses any more than other people? Who among us has not been subjected to them?

Mr. SKELTON. It is a rascally transaction all around.

Mr. CUMMING. I think it would be more gentlemanly, and much more honorable to tell these men to their faces all this, than to spout it out among the members of Congress on this floor, where those who are abused have no opportunity of vindicating themselves.

Mr. SKELTON. Without entering into a discussion of this question—because I did not intend to speak upon it when I rose—I will now, while I have the floor, make a few brief remarks in explanation of my views of the banking system. It is a very appropriate time now to call the attention of members of Congress to the evils resulting from the banking institutions throughout our country. We have at the present time a bank panic. Our currency is being contracted very rapidly, and banking institutions which have heretofore afforded facilities to the commercial community have suspended those facilities, compelling those under obligations to them to pay their indebtedness. The result of this movement on the part of the banks of the various States, has been to throw out of employment a great number of mechanics and laboring men. Hundreds of thousands of these men are now walking the streets of our cities and villages without finding work by which to support themselves, their wives and children. They are thrown out of employment without any means of subsistence; and how has this been brought about? Mainly by the fluctuating condition of our currency.

If there is any one thing more important than another to the prosperity of the country, it is the establishment of a currency which shall be permanent, and one which shall not fluctuate and change every day of the year. We can have no permanent currency, save that of gold and silver. Bank paper, in the very nature of things, and from the necessity of the case, must be a fluctuating one—must periodically overshadow the country with gloom and despondency—must periodically paralyze the hand of industry, and depress, not only the value of labor, but the value of real estate, all over the Union. One year the banks issue a vast amount of currency, real estate rises in price, and men are tempted to indulge in speculations and involve themselves deeply in debt; but when the day of reckoning comes, and this bank circulation must be redeemed, the price of real estate then becomes depreciated, and merchants then, with store-houses full of goods, are obliged to pay debts contracted under the expansion of the currency. When the currency is depreciated one half, the result is, that the debtor, under these circumstances, is compelled to pay, relatively, double the amount in which he is indebted to his creditor. Goods and real estate, which brought a large amount a few months before, cannot be sold in the market for half their former price. Thousands of individuals are ruined periodically by the fluctuations in the amount of circulating medium called currency. It is a great curse to the whole country.

I hail the proposition now made by the chairman of the District Committee, to suppress the circulation of small notes in the District of Columbia, with pleasure, because it marks a new era in the history of legislation here, and proclaims the establishment of what should be the true currency of our country—a currency that shall prevent the great mischief that periodically overshadows the commercial affairs of the country. Pointing out the evil, it provides a remedy therefor, and I hope that Congress will take a step in the right direction by the passage of this bill, in order that the people of the United States may reflect and ponder upon this subject in time to avert it, and to prevent an accumulation of the mischief. I agree with my friend from Tennessee, [Mr. JONES,] that no other currency but gold and silver should be the legal currency. The Constitution of the United States never contemplated that the States should issue a currency, but it positively forbids them from issuing bills of credit. If they do it, they violate the rights of the citizens of the various States, and every few years rob them of millions of money. I hope that the amendment of my friend from Tennessee [Mr. JONES] will prevail.

Mr. DAVIS, of Indiana. I move that the committee rise, with a view of enabling me to offer a resolution to close debate upon this bill.

Mr. WALSH demanded tellers; which were not ordered.

The question was taken; and the motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order relating to the business of the District of Columbia, and had directed him to report sundry bills, some with amendment, some without amendment, and also that they had had under consideration Senate bill No. 16 "to suppress the circulation of small notes as a currency in the District of Columbia," and that they had come to no resolution thereon.

Mr. DAVIS. I move that the debate on Senate bill No. 16 cease in five minutes after the same shall be resumed in Committee of the Whole.

The question was taken; and the motion was agreed to.

Mr. DAVIS. I now move to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STANTON, of Kentucky. I move that the House do now adjourn.

The question was taken, and there were—ayes twenty-six, noes not counted.

So the House refused to adjourn.

The question was then taken on Mr. DAVIS's motion, and it was decided in the affirmative.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair,) and resumed the consideration of Senate bill No. 16, "to suppress the circulation of small notes as a currency in the District of Columbia."

Mr. BAYLY, of Virginia. I give notice that, on Tuesday, the 16th day of January next, I shall move to go into the Committee of the Whole on the state of the Union for the purpose of taking up House bill No. 117, being "a bill to provide for the ascertainment and satisfaction of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801."

The CHAIRMAN. The question now before the committee is upon the adoption of the amendment submitted by the gentleman from New York, [Mr. CUMMING,] to the amendment offered by the Committee for the District of Columbia.

Mr. TAYLOR, of Ohio. I did not intend to say a word in reference to this bill, but from the remarks which have been dropped in this debate, I am induced to make a few remarks. It seems to me that if anything can show the necessity of a proper banking institution in the District of Columbia, and the duty of Congress to provide such a system, the discussion of to-day would show it. I am not of the opinion of the gentleman from Tennessee, [Mr. JONES,] who holds that we have no right, under the Constitution of the United States, to establish banking institutions either for the General Government, or for the States, by the States. Every State in this Union has acted upon an opposite opinion. By the neglect of Congress to provide a proper banking system for the District of Columbia, you have driven the people of the District—whose sole legislators you are—to the necessity of establishing some kind of a banking institution for themselves.

My friend from Tennessee has done this committee the favor to refer this committee to an act of Congress, authorizing the banks of the District to wind up their business; but he makes the allegation—I have no doubt in good faith, sustained as he is by the gentleman from New Jersey—that the present banks in this District, the Bank of Washington, and the Bank of the Metropolis, for instance, are without authority of law, is calculated to do these institutions injury. If they are banks without authority of law, it is time that the members of this committee should look into the subject, and give them a banking system, under an act of Congress, such as the citizens of all the States enjoy. I have watched the progress of this thing for several years, and have made some efforts to give them a banking institution. A distinguished member of the Senate from the State of New York, the Hon. HAMILTON FISH, in August, 1852, introduced into the Senate a bill—a copy of which I have in my hand—for the purpose of establishing a banking system for this District. It was presented after mature deliberation, and consultation with others, the object of which was to give to the District of Columbia a banking system of as good a character, and as secure in its foundations, as that established in the great State of New York, and which is found to work well there. That system is based upon United States stocks, and other specified stocks at par, and all the notes issued by the banks are issued under the signature of State authority, and they are never permitted to go unredeemed.

That is the kind of banking system which the Congress of the United States are bound, in my opinion, to give to the people of this District, and it is the fault of Congress that shin-plasters are issued here, and scattered all over the United States. I am opposed to private banking privileges, but I am in favor of a properly regulated banking system, established by law, under the Constitution, authorizing the issue of notes always redeemable, and secured in the mode which the States of this Union have thought best to secure them, and found convenient to secure them. Why not, sir? Why compel the people of this District—sixty thousand of them—of whom you are sole legislators, to take the notes of the banks of Ohio, Maryland, Virginia, and other States as a circulating medium? They do circulate freely among them. Why do you compel respectable men here, who are willing to give security for issuing notes, to take the notes of adjoining States, which are chartered, if you please, by the State Legislature?

[Here the hammer fell.]

The question recurring upon the amendment offered by Mr. SIMMONS, to the amendment reported by the Committee for the District of Columbia, it was put, and agreed to.

The question recurring upon the amendment as amended,

Mr. JONES, of Tennessee. Would it be in order, before putting that motion, to move to strike out from the eighth line the words "of less amount than five dollars," or would it be in order, after the amendment is adopted, to move to strike out those words, with the amendment included?

The CHAIRMAN. Either mode may be pursued.

The question was then taken upon the amendment, as amended, and it was agreed to.

Mr. JONES, of Tennessee. I now move to strike out all after the words "valuable thing" in the eighth line, down to the eleventh line. The words are, "of a less amount than five dollars, or any other amount, if such amount is payable or redeemable in anything but gold or silver." The bill will then read:

"That if any person or persons, body-politic or corporate, within the District of Columbia, shall make, emit, issue, utter, sign, draw, or indorse any bank note, promissory note, or any instrument of writing, for the payment or delivery of money, or other valuable thing, or of anything purporting to be a valuable thing, to be used as a paper currency, or as a circulating medium, either as money, or in lieu of money, or of any other currency," &c.

It will then prohibit the issuing of any species of circulating paper medium for this District.

Mr. MILLSON. Mr. Chairman, desirous that this bill should pass in the form in which it came from the Senate, I very much apprehend we shall lose the object sought to be obtained altogether, by attempting to accomplish more than the bill was originally intended to embrace. This subject came before the Thirty-Second Congress, and I remember I warned my friends, who were urging the passage of a similar bill, by attempting too much, that they would defeat their object altogether. And so it proved, for the provisions of the bill became so complicated that when it went

to the Senate, it was found impossible to give it that consideration which the importance of the subject demanded. Sir, I take it that we had better confine ourselves to the object of the bill, as it came originally from the Senate, which was to prevent the circulation of small notes as a currency in this District.

I entirely agree in the views of my friend from Tennessee, as to the propriety of suppressing the circulation of all notes issued by unchartered banks. But the object cannot be effected in this mode. When the gentleman comes to reflect upon the subject, I think he will find that it will be necessary to introduce a separate bill to suppress the circulation of unchartered banks. Such a law now exists in the State of Virginia, the provisions of which, exceedingly complicated and minute as they are, cannot be embraced in the few words proposed to be added by the gentleman from Tennessee. At present there are no banks in this District. The persons who call themselves banks, are but individuals, who have the rights of individuals to issue their own notes, promising to pay money, or promising to pay anything else, above the denomination of five dollars.

I think it will be well when this matter is brought before the House to disagree to the amendments which have been adopted by the committee, and confine the bill to its original object, the suppression of small notes. We do not know how many different kinds of instruments may be embraced by the language of the amendment italicized here. There may be bonds for the delivery of State stock, which may be assignable from one hand to another. There may be bonds, or covenants, for the delivery of merchandise. All these things, although not aimed at by the committee, or the body, may, nevertheless, be embraced by the language of the provision in this bill as it is proposed to be amended. I am not willing, in this form, to suppress the circulation of notes above the denomination of five dollars which may be legally issued by corporations of sovereign States.

Mr. JONES. I think the gentleman is mistaken.

Mr. MILLSON. The gentleman will find that the bill, if amended as proposed, will suppress the circulation of all notes or bills, even though they may be issued legally and under the authority of some State, if uttered within the District of Columbia.

The question was put on Mr. JONES's amendment; and, on a division, there were—ayes forty-five——

Mr. SEYMOUR. I demand tellers.

Tellers were ordered; and Messrs. PARKER, and DAVIS of Indiana, were appointed.

The question was again put; and, on a division, the tellers reported—ayes thirty-nine——

The CHAIRMAN. Is a further division called for?

No further count was demanded.

The CHAIRMAN. The amendment is rejected.

Mr. WASHBURNE, of Illinois. I should like to have a further count. The tellers have not reported those voting in the negative.

The CHAIRMAN. The Chair asked whether a further count was demanded, and it was not; a quorum being present, and thirty-nine not being one half of a quorum, he declared the amendment rejected.

Mr. PECKHAM. I move that the committee do now rise. We should have some time to consider the very important amendments which have been proposed.

The question was put; and, on a division, there were—ayes 47, noes 54.

Mr. HAMILTON. I demand tellers.

Tellers were ordered; and Messrs. DAVIS of Indiana, and HUGHES were appointed.

The question was again put; and the tellers reported—ayes 48, noes 61.

The CHAIRMAN. There is no quorum voting, and the clerk will call the roll.

The clerk then proceeded to call the roll; having noted the absentees, the committee rose, and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union, had had the state of the Union generally under consideration, and particularly the special order relating to business of the District of Columbia, and finding itself without a quorum, had directed the roll to be called, and the names of the absentees to be reported to the House, that they may be noted upon the Journal. The following is a list of the absentees:

Messrs. James C. Allen, Ashe, David J. Bailey, Thomas H. Bayly, Ball, Banks, Barksdale, Barry, Belcher, Bell, Benson, Benton, Bissell, Bliss, Breckinridge, Campbell, Caruthers, Chastain, Chrisman, Churchwell, Clark, Clingman, Colquitt, Cook, Cox, Cumming, Curtis, Cutting, Dent, De Witt, Dickinson, Disney, Dowdell, Drum, Dunham, Eastman, Eddy, Edgerton, Edmundson, John M. Elliott, Ellison, English, Etheridge, Farley, Faulkner, Fenton, Flagler, Gamble, Giddings, Green, Grey, Sampson W. Harris, Wiley P. Harris, Harrison, Henn, Hibbard, Hiester, Hill, Hillyer, Ingersoll, Roland Jones, Keitt, Kidwell, Kurtz, Lamb, Lane, Latham, Lilly, Lindley, Lyon, McDougall, McMullin, McQueen, Mace, Matteson, Maurice, Meacham, John G. Miller, Nichols, Noble, Olds, Orr, Phillips, Powell, Preston, Puryear, Ready, Reese, Richardson, Thomas Ritchey, Rowe, Sabin, Sage, Seward, Shannon, Samuel A. Smith, William Smith, William R. Smith, Sollers, Richard H. Stanton, Alexander H. Stephens, Hestor L. Stevens, Stratton, Andrew Stuart, David Stuart, John J. Taylor, Tweed, Vail, Walbridge, Walker, Warren, John Wentworth, Westbrook, Wheeler, Witte, Hendrick B. Wright, and Zollicoffer.

The SPEAKER. One hundred and seventeen have answered to their names; no quorum.

Mr. PECK. I move that the House do now adjourn.

Mr. HAMILTON. What becomes of the business reported from the committee?

The SPEAKER. It is still the special order, and may be taken up and disposed of to-morrow, before the House resolves itself into the Committee of the Whole on the state of the Union.

The question was taken on Mr. PECK's motion; and it was agreed to.

Thereupon the House adjourned (at twenty minutes past three o'clock) until to-morrow at twelve o'clock.

IN SENATE.

WEDNESDAY, *December* 20, 1854.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

The Hon. WILLIAM WRIGHT, of New Jersey, appeared in his seat to-day.

PETITIONS, ETC.

Mr. ADAMS. I present the memorial of the Mississippi Baptist State Convention, praying that measures may be taken to secure religious liberty to American citizens residing or traveling abroad. As the Senator from Michigan [Mr. CASS] has given notice of his intention to call up the subject at an early day, I move that the memorial be received and laid on the table.

The motion was agreed to.

Mr. ADAMS presented the petition of the register of the land office and the receiver of public moneys at Grenada, Mississippi, praying to be allowed the same per centum on the sales of the public lands as was allowed previous to the act of August 4, 1854; which was ordered to lie on the table.

Mr. JAMES presented the petition of Eliza J. Rogers and Sarah Ann D'Wolf, only surviving children and heirs-at-law of Rev. William Rogers, brigade chaplain of the Revolution, praying to be allowed bounty land; which was referred to the Committee on Public Lands.

Mr. EVANS presented the petition of the children and heirs-at-law of John Gates, praying to be allowed the bounty land to which their father was entitled for services during the war of the Revolution; which was referred to the Committee on Revolutionary Claims.

Mr. SEBASTIAN presented the petition of the register of the land office and of the receiver of public moneys at Helena, Arkansas, praying to be allowed the same per centum on the sales of the public lands as was allowed previous to the act of August 4, 1854; which was referred to the Committee on Public Lands.

Mr. STUART presented the petition of Joseph Loranger, praying remuneration for property destroyed by the enemy during the last war with Great Britain; which was referred to the Committee on Claims.

Mr. DOUGLAS presented the petition of James W. Sheahan, praying compensation for certain reporting for a committee of the Senate; which was referred to the Committee on Claims.

REPORT FROM A STANDING COMMITTEE.

—Mr. STUART. The Committee on Public Lands, to whom were referred sundry memorials of registers of land offices and receivers of public moneys throughout the United States, praying to be allowed the same per centum on the sales of the public lands as was allowed previous to the act of August 4, 1854, have directed me to report them back, and ask that they lie on the table, as a bill has been reported and passed by the Senate on that subject.

The motion was agreed to.

FISHERIES OF THE UNITED STATES.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be directed to consider if any further legislation be necessary, in order to promote the interests of the fisheries of the United States, especially by amending the system of licenses; also, by altering the terms of the bounty to vessels engaged in "the bank and cod fisheries;" and also by extending this bounty to vessels engaged in the mackerel fisheries.

SCHOOLCRAFT'S REPORT.

Mr. SEBASTIAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be requested to communicate to the Senate a copy of the special report of Henry R. Schoolcraft, of November 18, 1854, made to the Secretary of the Interior on the state of Indian statistics.

SLAVERY IN THE TERRITORIES.

Mr. SUMNER. I beg leave to present the memorial of the New England Baptist Free Mission Society, authenticated by their secretary, in which they ask Congress to repeal the act known as the Nebraska-Kansas act, and also the fugitive slave bill, which they believe to be a violation of the rights of man and of the Constitution of our country. As the Senator from Ohio [Mr. CHASE] proposes at an early day to call up his bill which is now on the Calendar, for the prohibition of slavery in the Territories, I move that this memorial do lie upon the table.

The motion was agreed to.

CALIFORNIA LAND COMMISSION.

Mr. STUART. The Committee on Public Lands have instructed me to report back, without amendment, the bill which was referred to them "to continue in force for a limited period the act 'to ascertain and settle the private land claims in the State of California.'"

Mr. WELLER. If there be no objection, I ask that that bill may now be taken up for the consideration of the Senate. This commission is to expire on the 4th of March next, and there is among our printed documents a statement made by the land commissioners, which shows that it will be utterly impossible for them to pass upon the cases now before them within that period. It is also important that the question should be decided at once whether this commission is to be extended or not. I therefore ask that the bill may now be considered by the Senate.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Its object is to extend and continue in full force until the 3d of March, 1856, the board of commissioners heretofore appointed under the act of March 3, 1851, in order to enable them to close up their business.

No amendment being proposed, the bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

RIGHTS OF CITIZENSHIP.

Mr. BAYARD. I ask the Senate to take up House bill "to secure the rights of citizenship to children of citizens of the United States born out of the limits thereof." The bill came to the Senate at the last session, and an amendment was reported to it by the Committee on the Judiciary. I move that the Senate now take up the bill for the purpose of disposing of it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

It proposes to provide that persons heretofore born, or hereafter to be born, out of the limits or jurisdiction of the United States, whose fathers were, or shall be, at the time of their birth, citizens of the United States, shall be deemed and

considered to be citizens of the United States, with a proviso that the rights of citizenship shall never descend to persons whose fathers never resided in the United States. As it came from the House of Representatives, the bill contained a second section, to the effect that any woman heretofore married, or who hereafter shall be married, to a citizen of the United States, should be deemed and taken to be a citizen. The Committee on the Judiciary had reported an amendment to strike out this section.

Mr. BAYARD. Mr. President, I am instructed by the Committee on the Judiciary to move, as a substitute for the amendment originally recommended by them, to insert in the second section, after the word "woman," the words "who might be lawfully naturalized under existing laws." The amendment contemplated originally by the committee was to abandon the second section, which provides for the naturalization of alien women by intermarriage with citizens. The committee have revised their opinion on that subject, and now propose, as a substitute for this amendment, the one which I have stated. The effect then will be to adopt the bill as it comes from the House, only placing on it the restriction that, by marriage, the wife cannot be naturalized unless she could be naturalized by the ordinary process of law, under other circumstances. That guard is considered necessary and proper. I am instructed by the committee to withdraw their original amendment, and present the one which I have now offered.

Leave being granted to withdraw the original amendment, the one now proposed by Mr. BAYARD was adopted.

The bill was reported to the Senate as amended, the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. The bill, as amended, was read a third time, and passed.

EMIGRANT SHIPS.

Mr. FISH. I ask the Senate to take up the bill for the better protection of life and health on board passenger ships. My object in asking to take it up is to move its recommittal to the select committee which reported it.

The motion was agreed to.

Mr. FISH. I now move that it be recommitted to the select committee.

The motion was agreed to.

The special committee which reported the bill last session consists of Messrs. FISH, SHIELDS, SUMNER, HAMLIN, and BENJAMIN.

JAMES BUTLER.

On motion by Mr. JONES, of Iowa, the Senate, as in Committee of the Whole, proceeded to consider House bill for the relief of James Butler.

It proposes to place his name on the roll of invalid pensioners at eight dollars a month from January 1, 1854.

No amendment being proposed, the bill was reported to the Senate, and ordered to a third reading. It was read a third time, and passed.

INVALID PENSION BILL.

On motion by Mr. HUNTER, the Senate, as in Committee of the Whole, resumed the consideration of House bill making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1856.

Mr. FESSENDEN. I move to amend the bill by adding the amendment which I proposed, but subsequently withdrew, yesterday:

SEC. 3. *And be it further enacted*, That the widows of the officers, non-commissioned officers, marines, or mariners, who served in the Navy of the United States during the revolutionary war, and who were married since the first day of January, 1800, shall be entitled to pensions in the same manner, and to the same extent, as the widows of officers and soldiers of the army of the Revolution, under the second section of the act of February 3, 1853; and the pensions granted by this act, and those under said second section of the act of February 3, 1853, shall commence on the 4th of March, 1848.

Mr. HUNTER. In regard to that amendment I have this to say, that it is adding to a general appropriation bill what I think ought to be a subject of independent legislation. If it were in the form of an independent bill, coming from the Committee on Pensions, I should probably have nothing to say upon it; because it proposes only to put on the same footing the widows of naval and military officers of the revolutionary war. As to the justice of the measure, I have nothing to say; but at the same time it is very important that we should keep these appropriation bills clear of all subjects of independent legislation, if it is possible to do it. For that reason it is, so far as I am concerned, that I am not willing to consent, and cannot consent, to the addition of such legislation to this bill. I believe there are not many instances in which such legislation can be found; but if the precedent could be found, it ought not to be followed. I admit that, as an independent measure, it proposes to do for widows of naval officers what has been done for widows of army officers; but this is not the place for that kind of legislation.

Mr. FESSENDEN. Mr. President, it is very evident that the honorable Senator from Virginia objects to this amendment merely as a matter of form. I agree with him as to the propriety of keeping as many of these amendments from appropriation bills as possible; but there are some peculiar cases in which, I think, the rule ought to be broken over, and this is one of them. It proposes to make a provision, which the Senator admits to be just and proper, for a certain class of widows. He says he is willing to vote for the provision in an independent bill. So would any member of this Senate; but if we defer it until another bill can be acted upon, and then wait until that bill is passed in the other House, we shall probably wait to a time when many of the persons proposed to be benefited will be beyond the reach of any aid to be derived from us.

The bill proposes only to do with regard to the widows of the officers and men of the revolutionary navy what has been done for the widows of the officers of the revolutionary army, and to do with regard to both what we supposed was to have been done by the act passed in 1853. It is not necessary, I suppose, that I should explain the peculiar character of it. Each member of the Senate understands it from hearing it read this morning. It is a matter which I propose not only in accordance with my own opinions, but at the suggestion of my colleague, who prepared it. I leave it with each member of the Senate to say whether it is just, on account of a mere matter of form—because it is a matter of form after all—to defer the measure to a time when probably those proposed to be benefited would derive no benefit from it.

I will say that, so far as my power goes, I am willing to aid the honorable Senator from Virginia in keeping out of the appropriation bills everything, generally, that is not of such a nature as to require immediate action; but when an instance of that kind does arise, I think it is our duty to look over a mere matter relating to the propriety of the course of business, and with reference to a case which calls for immediate action, we ought to act promptly, in order that the action may be available. As therefore my honorable friend admits the justice and propriety of the thing itself, and has only suggested—I presume he deems it his duty to suggest it—not that he has any further opposition to the measure itself on his part—I trust no member of the Senate will allow himself to be influenced to vote against the amendment on account of a matter of form.

Mr. HUNTER. I will add that this is something more than a mere matter of form. It is a matter of justice in this: If we follow this course the friends of other measures of legislation which relate as much to other general appropriation bills as this measure does to this bill will press them, and ask the Senate to put them upon general appropriations, and how then can we with any justice refuse to do so? They will tell us that there is this precedent, and that having done it already in this case, they have as much title to have their measures attached to the general appropriation bills as existed in this case. It is, therefore, in some respects a matter of justice. If you once vote to depart from the rule, there is no telling where we shall be led, unless we make an invidious discrimination, and allow to one class of claims, or one species of legislation, greater liberality than to another. In that respect it seems to me that it is a matter of justice.

Mr. FESSENDEN. I will simply observe, Mr. President, in reply, that this is not a question of justice between members of the Senate as to what any individual Senator has a right to demand. It is a question of justice as to other individuals, and if another question should come up of a similar character, if a number of very aged people, who are fast dropping into the grave, should come here with their claims, and the only objection to relieving them should be, that it could not be done without putting a provision for their relief upon a general appropriation bill, I think the answer to that objection would be clear. If another question of that kind should be presented by another member of the Senate, I would vote for it without hesitation; and it would be no answer to say that it does not belong to that ordinary class of business which is connected with general appropriation bills. I can see no reason for objecting to an extraordinary case of that kind for that reason.

Mr. STUART. It seems to me there is an additional reason why this amendment should not be placed upon this bill. Some conversation occurred here yesterday between Senators, by which it was elicited that there is pending a bill, which has been reported from the Committee on Pensions, upon a similar subject. Now, sir, that bill can be taken up at any time, and the amendment suggested by the Senator from Maine would be very appropriate to it, and I doubt not, if it meets the approbation of the Senate, that it could be passed in fifteen minutes at any time. Therefore, the rule referred to by the chairman of the Committee on Finance may be preserved in all its purity, and with perfect propriety, and still the same justice be done which the Senator from Maine seeks to have done to these individuals. There is much force, as any gentleman will admit, in the suggestion made by the chairman of the committee, as to adhering, so far as it is possible, to the rule of keeping such amendments off general appropriation bills. There may be at times very urgent necessity for putting them on; but, under the circumstances that exist in the Senate at this time, there is no such necessity, for the bill to which I have referred can be called up on the motion of the Senator from Maine, or of any other member of the Senate, at any moment, and disposed of, and his amendment can be offered to it.

Mr. HUNTER. I will say to the Senator from Maine that I will go with him to take up the other bill, if he will not press his amendment upon this bill.

Mr. CHASE. The whole object of the amendment proposed by the Senator from Maine is to place the widows of the officers, marines, and sailors of the naval service of the Revolution, in precisely the same condition in which the widows of the officers and soldiers of the military service are in regard to pensions. The object proposed is not condemned by any Senator. On the contrary, it meets with the approbation of all. Whether we approve of the extent to which the pension system has been carried or not, is not now the question. The simple question is, shall equality be established between the two arms of the service?

Mr. FESSENDEN. I do not wish any member of the Senate to vote under a misapprehension. It goes a little further, and places all those widows on the same ground as those married previous to 1800.

Mr. CHASE. Do I understand the Senator as saying that this bill discriminates between the widows of the soldiers and those of the men engaged in the naval service?

Mr. FESSENDEN. Not at all; it puts them upon the same footing. It also makes additional provision for those of the Army, and that also is extended to the Navy.

Mr. CHASE. Precisely. It establishes equality between the two arms of the service, and equality is equity. I can see no objection to it now, unless the objection raised by the Senator from Virginia is a valid one. Now, sir, what is our experience upon this subject? There is no instance of which I am aware, where a session of the Senate has passed without the rule to which the Senator from Virginia alludes having been infringed. It seems to have been made for the purpose of infringement. Always there occur cases in which amendments of this character, and even private bills, are annexed to the general appropriation bills upon appeals made by Senators to the Senate. This rule, therefore, which is not one of our rules, but exists simply in general parliamentary usage, is not commonly regarded. This is a case, it seems to me, in which it should not be observed if it is not to be observed in every case;

and this is my reason: If we pass upon this amendment at this time, and in this form, it will secure for it the consideration of the other House; but pass upon it as an independent bill, and, in the ordinary course of legislation, the consideration of the other House is not secured. It may go to a committee. It may sleep there through the entire session. It may not be acted upon at all. It probably will not be acted upon at all; whereas, if we act upon it in this shape, it will certainly be acted upon in the same shape in the House. The objects of the amendment are meritorious; I hope, therefore, it will be agreed to.

Mr. FESSENDEN called for the yeas and nays on the amendment; and they were ordered.

Mr. BROWN. Before the vote is taken, I desire simply to say that, understanding there is no objection to the amendment upon principle,—no one opposing it because the measure ought not to be passed,—I cannot consent to vote against it on a mere technical objection. It seems to me the only objection is, that it ought not at this time to be put on this bill. If it is a meritorious proposition—if we ought to pay these pensions—why not do it in the shortest, and quickest, and most convenient mode? If we put it on as an amendment to this bill, there is an end of it. You pass it, and the parties who have just and proper claims against the Government will get their money. But, as has been suggested by the Senator from Ohio, if you pass it in the mode pointed out by the Senator from Virginia, as an amendment to a bill which is now on your Calendar, and which, if passed by the Senate, must go to the other House for its action, what will be the consequence? The chances are ten to one that it will not be acted upon, at least during this session of Congress; and at another session it will have to come up as a new proposition. Thus it will hang on, as other meritorious claims have done, from year to year, while claimants justly entitled to money—no one disputing that they are entitled to it—will be postponed. These old widows cannot afford to wait. They have already waited too long, and having waited on the Government for nearly fifty years, without receiving this payment for the services of their husbands, I do not think they ought to be put off on these technicalities. It may be, as suggested by the Senator from Virginia, that it would be more ship-shape to put it somewhere else; but to what does that amount in regard to the substance of the matter? The substance is, that we owe the money, and we ought to pay it. I shall vote to put the amendment on this bill, because it will secure its passage.

Mr. STUART. I did not intend to give any opinion as to the propriety of the amendment, for one of the best reasons in the world. I have had no opportunity of considering it, nor has the Senate had such an opportunity. The great objection to this sort of legislation is, that you do not get the benefit of an investigation before a committee, and a report upon the subject; so that it is not in the power of Senators to understand the question. I cannot vote upon this amendment understandingly, and I doubt whether there are five Senators who can. I am not, therefore, prepared to say that I would vote for or against it as an independent measure. The question has not been examined by one of our committees. We have no report upon it. The effect of it is before us. I regard the subject of pensions as one of the most delicate subjects that can be touched by legislation, and I think the history of our Government, under the system, shows that we should consider very carefully when we are asked to adopt a provision of law in respect to pensions, to see what will be its effect. That the Senate, as a body, does not and cannot know in regard to this.

This reason certainly ought to be sufficient in itself to prevent my voting in favor of the amendment; and yet a vote against it ought not to be considered as condemning the substance of the amendment, for I do not understand it. There is no time and opportunity to understand it. It does not, therefore, follow, as suggested by the Senator from Mississippi, that there is no objection to it. None may have been made, for the reason to which I have alluded. No Senator may have had an opportunity to so far examine the subject as to make an objection; but we are now going to vote in the dark upon it. If, however, it comes up as an amendment to a future bill, and it is printed, so that it can be read and understood, and a day, or two or three days, be taken to examine it, Senators will then be able to say whether it ought to be adopted or not. At present, I do not know whether it should be or not; and, therefore, I repeat the propriety of adhering to the rule suggested by the Senator from Virginia, of keeping such subjects off an appropriation bill whenever it can, with propriety, be done. I alluded to the existence of another bill, as constituting an additional reason why we might with propriety adhere to that rule.

Mr. BROWN. I did not suppose that anybody could raise an objection to the substance of the amendment, and I was confirmed in that opinion after hearing several Senators speak, because no one had raised an objection to it. Now, I suppose there is no Senator here who has not examined the question as to paying pensions to the widows of those who served in the Army. Well, this simply proposes, as I understand it, to extend the same provision to the widows of those who served in the Navy. The whole question, then, is, are the Naval officers as meritorious as the Army officers? Are those who served in the Navy of the United States as meritorious as those who served in the Army? If they are, it seems to me the whole question is settled; and, having settled it in favor of the Army class, it follows, as a necessary consequence, it strikes me, that there can be no investigation required to settle it in favor of the naval class.

Mr. ADAMS. I rise to a question of order. I have no disposition to throw technicalities in the way; but I understand that, if we adopt rules, the judgment of the Senate should be governed by them. I make the point of order that, to offer to an appropriation bill an amendment to create new liabilities, and provide for their payment, is in conflict with the rules of the Senate.

The PRESIDENT. The Secretary will read the rule.

The Secretary read, as follows:

"No amendment, proposing additional appropriations, shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution, previously passed by the Senate, during that session, or moved by direction of a standing or select committee of the Senate, or in pursuance of an estimate from the Head of some of the Departments; and no amendments shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law, or a treaty stipulation."

The PRESIDENT. The Chair is under the impression that the amendment comes within the rules, and is in order.

Mr. HUNTER. In regard to the amendment itself, I will say, in answer to the Senator from Mississippi, and others, that this is a matter of substance, and not merely of form. The impropriety of tacking—that is to say, of adding—measures of general legislation to general appropriation bills, has long ago been proved by experience. It has been pronounced contrary to parliamentary usage and law by every respectable authority upon the subject, and has afforded, over and over again, the subject of disputes between the different Houses which constitute Legislatures. Why, sir, see to what it will lead. All are interested in general appropriation bills. All will agree to make such appropriations, because they are provided for by law. But if the House of Representatives send up such a measure as that, and we tack to it something to which they are averse, where does it place them? If we choose to adhere to that amendment, they must either take that which relates only to matters of general, independent legislation, against their will, or lose the general appropriation bill. For that reason, it has always been considered as sound and safe policy to confine appropriation bills to subjects which legitimately belong to them. The mischievous consequences of this tacking have always been acknowledged by those who have had experience in parliamentary affairs.

I admit that much is to be found in our past experience to show that we have not adhered to this rule; but I think we have learned something from that experience; and, for one, I am disposed to adhere to the rule, if I can, more rigidly than ever; and I believe that if we would set out with the determination to permit nothing to be put upon the general appropriation bills except matters relating to laws which have already been passed, and which legitimately belong to those bills, we could get along much easier, and our legislation would be much safer and more conservative. For that reason I have objected to the addition of this amendment. I think it is eminently a subject which ought to come from the proper committee—the Committee on Pensions. If we once begin to act in this way, I do not see how we are to stop. The Senator from Mississippi [Mr. BROWN] said, that we ought to put the amendment on the bill, because, if it is not added to it, the House will not act upon the measure. The same rule would apply to every subject of general legislation in which we feel an interest. There are thousands of as much importance as this—thousands which appeal as strongly to our sense of justice as this; and as good a reason will exist for tacking many other measures, of independent and separate legislation, to appropriation bills, as can be given in the present instance. I therefore repeat, that this is something more than a matter of form; and that the Senate owes it to the general dispatch of business, and to justice to the other House, not to attach this matter of new and independent legislation to a general appropriation bill.

Mr. BROWN. In reply to the Senator from Virginia, I desire to say that this, as the Senator admits, and as everybody knows, is not the first instance where this thing has been done; and, though I might be willing to go with the Senator, I do not think this is a good point to commence upon. Let us commence somewhere else. The proposition is to give to a most meritorious class that to which they are justly entitled, and we ought not to commence the restriction with them. I think I could remind the honorable Senator of a case in which he was a warm and zealous advocate for incorporating into a general appropriation bill a measure which had nothing to do with it. A number of years ago a dispute arose about the public printing. The House would not allow compensation to be made to the public printer. This body—and I believe the Senator was in favor of it—inserted in the civil and diplomatic appropriation bill a provision for his relief, and it became a matter of contest between the two Houses. Three or four committees of conference were raised upon it, and I think my friend from Virginia was one of the last to give way. I did not think that was right, but the Senator did, and surely such a case as that was not as meritorious as this. The public printer has not such a claim upon the gratitude of his country as the widows of those who shed their blood in its service.

Mr. HUNTER. That claim was founded upon law, or it purported to be founded upon law. This is a proposition to enact a new law. That may have been a mistake on the part of those who advocated it. But they supposed that it was founded on law, and that was the ground on which they urged it. They did not, therefore, advocate the tacking on to an appropriation bill a general act of legislation which had not a connection with it.

Mr. BROWN. At all events, precedents are not scarce. The thing has been done, and I trust the Senate will not make this an exception to the practice which has been observed for a long time.

Mr. WELLER. I believe it has been the usual practice of the chairman of the Committee on Finance to resist every amendment which is proposed to a bill that he may have reported. We have had the same appeals exactly from the Senator heretofore. He has made the same attempt to resist amendments. Now, sir, we have reported to us a bill to provide for the payment of certain pensions. Amongst other things, it provides for the payment of pensions to the widows of the officers and soldiers of the revolutionary army. The Senator from Maine proposes to add a provision for the widows of those who served in the Navy; so that the widows of the officers and marines of the Navy of the United States shall be placed upon the same footing as the Army. It seems to me that, if there is any amendment which could be proposed to the bill which has been reported by the chairman of the Committee on Finance, it is the very amendment which has been offered by the Senator from Maine. The Senator from Virginia, as well as other Senators who oppose the amendment, concede it, as a matter of justice, that the officers of the Navy should be placed upon the same footing as the officers of the Army. There is, then, the simple question, are you willing to make provision for the payment of pensions? Are you willing to extend the provision of that

pension system to the widows of the officers and marines who served, during the revolutionary war, in the Navy of the United States? There is the whole question. Does the Senator from Virginia want a voluminous report from the Committee on Pensions in order to enable him to comprehend the subject? Is there any Senator here so dull of comprehension that he cannot at once decide the simple question whether justice demands that the widows of naval officers shall be placed upon an equal footing with the widows of Army officers? Sir, I should be unwilling to admit that such a Senator is here. Here, then, is the simple question, propounded by the amendment, whether we shall give the same meed of justice to the widows of the officers of the Navy that we have already extended, by a provision of our laws, to the widows of Army officers? I am satisfied, in my mind, the amendment is right; and I would vote for it even if it were not technically in order under the rules of the body. But in my judgment, under the rules, in a pension bill making an appropriation for the payment of pensions to the widows of the officers of the Army, it is perfectly competent to insert a provision to extend it to the widows of naval officers.

Mr. TOOMBS. I think the principle sought to be established by this amendment is a very bad one. The Senate have repeatedly declared their unwillingness to put a new law upon an appropriation bill. They have departed from that determination and that rule occasionally, but wherever they have done so, I believe the Senators who have advocated it have permitted their feelings to override a good rule. Now, sir, this whole system of pensions does require an investigation. The gentlemen say the amendment is to put the widows of officers of the Navy upon the same footing with those of the officers of the Army. For one, I am opposed to extending the system, because it was a vicious one in the beginning. I would not vote for it. I would vote against extending it. We did not pass any of these pension laws until 1818, when nineteen twentieths of the men of the Revolution had died, and when, through the mists of time, there was a great difficulty in telling which side they did fight on. When we first placed the widows on the pension list there was some semblance of justice, because it embraced only those who were married to the soldiers before the last term of service had expired. Subsequently we applied it to those who were married up to 1794—after the war. Then we carried it to 1800; and now the pension is granted no matter when they were married, and it is declared that any woman who married a revolutionary soldier after the war, and who shared none of the difficulties and perils of the war, shall receive a pension. The men of the Revolution, who achieved the independence of the country, scorned a pension. It was a profligate son who demanded it from the Government. For one, I am opposed to the whole system; and I should like to bring up these bills, extending the system, regularly before the country, and not permit them to ride over the rules of the Senate under any idea that it is justice which is due to these people.

Mr. CHASE. We are overriding no rule whatever. The amendment has been decided to be in order. It is as legitimately in order as any amendment which can be presented to the Senate for its consideration. There may be a parliamentary usage, as suggested by the Senator from Virginia, which is infringed; but that usage is not the usage of this body. Our whole experience, from the commencement of every Senator's service until this moment, shows that that is not the usage of the Senate. If it is parliamentary usage, it is not usage here.

Now, sir, what does this bill provide? In the very last clause it provides for the payment of pensions to widows and orphans of the officers and soldiers of the Army, under the act of February 3, 1853. What does the amendment provide for? It simply extends the benefits of that principle, already established by previous legislation, to the widows of officers and persons engaged in the naval service. It extends a known, settled, recognized, and established principle. We are not doing a new thing. We are simply saying that the widows of officers, marines, and sailors in the Navy, shall be placed upon a footing with the widows of the officers and soldiers of the Army. It takes one of the very identical provisions of this bill, and gives it simply this additional extent; that is all.

There is, however, an extension by the amendment in both these classes of cases, conformable to the idea originally entertained by those who supported the provision in favor of the widows of officers and soldiers in the Army. Their idea was, that those pensions should commence from 1848. The construction of the Government officers, I believe, makes them commence from 1853. In both these cases the pensions are made to commence from 1848. That is the only change, and that simply carries out the purpose of the Senate and of Congress in passing the original provision.

Mr. DAWSON. My mind is not made up as to how I shall vote on this measure. This proposition, I presume, is not new in this body. For some reason, the pension laws have not been extended to the widows and orphans of sailors and marines. I presume, if we were to look back to the previous discussions upon the subject, we should ascertain the principles upon which our predecessors have uniformly rejected the proposition.

Mr. FESSENDEN. It was an omission.

Mr. DAWSON. It is said by my friend from Maine, that it was a mere accidental omission. That may be so.

Mr. FESSENDEN. The widows of the officers of the Navy, sailors, and marines, were included, if I recollect aright, in the act of 1848, and previous acts; but by mistake, I suppose, were omitted from the act of 1853, which provided that widows of officers and soldiers of the revolutionary army who married after 1800 should be entitled to pensions.

Mr. DAWSON. If that be true, the better plan is, as there is no haste in the matter, and as there is an objection made to it in consequence of its not being a proper matter for a general appropriation bill, to give us time to investigate it. I intended to do so after it was proposed and passed over yesterday; for it did seem strange to my mind. Then I recollected the attempts which had been made before, and I thought there might be some just reason for it; hence I desire to investigate the matter. I shall, therefore, vote against the amendment, not pledging myself, however, how I shall ultimately vote on the measure.

The question being taken by yeas and nays, resulted—yeas 19, nays 18; as follows:

YEAS—Messrs. Badger, Brainerd, Brown, Chase, Clayton, Dodge of Wisconsin, Fessenden, Fish, Foot, Gillette, James, Jones of Iowa, Jones of Tennessee, Rockwell, Sumner, Thompson of Kentucky, Wade, Walker, and Weller—19.

NAYS—Messrs. Adams, Allen, Brodhead, Clay, Dawson, Dodge of Iowa, Evans, Geyer, Hunter, Johnson, Norris, Rusk, Sebastian, Slidell, Stuart, Toombs, Toucey, and Wright—18.

So the amendment was agreed to.

Mr. STUART. I desire to ask the Senator from Maine whether, by the existing laws, the persons referred to in his amendment, who were married before 1800, drew pensions?

Mr. FESSENDEN. By the act of 1848 they do. I so understand it.

Mr. STUART. My impression was otherwise.

Mr. FESSENDEN. I believe the law passed in 1848 covers that; I cannot speak with certainty, however. It was the act of 1853 which gave the same pensions to those who were married after 1800, as were given to those married before that period.

The bill was reported to the Senate as amended, the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read a third time, and passed.

On motion by Mr. BADGER, the title was amended by adding "and for other purposes."

BOARD OF CLAIMS.

Mr. BRODHEAD. The select committee, to whom was referred the bill to establish a board for the examination and adjustment of private claims, have had the same under consideration, and have instructed me to report a substitute for the bill. The committee have modified the bill in several particulars, and I now entertain the hope that it will commend itself to the favorable consideration of the Senate. I ask for its printing, and give notice that I shall to-morrow call it up for consideration.

The substitute was ordered to be printed.

B. F. H. WITHERELL.

Mr. BRODHEAD, from the Committee on Claims, to whom was referred the memorial of Ross Wilkins, and the petition of B. F. H. Witherell, submitted a report, accompanied by a bill to extend the provisions of an act entitled "An act to provide compensation for the services of George Morell, in adjusting titles to land in Michigan;" which was read, and passed to a second reading. The report was ordered to be printed.

LAW DEPARTMENT.

On motion by Mr. ADAMS, the Senate, as in Committee of the Whole, resumed the consideration of the bill "to establish a Department of Law, to prescribe certain duties of the Auditors and Comptrollers of the Treasury, and for other purposes."

The bill was under consideration on Monday last, when it was amended in various particulars. As amended, it proposes to constitute the existing office of Attorney General of the United States a department, to be denominated the Department of Law, of which the Attorney General, for the time being, is to be the principal officer. He is to perform all the duties now belonging to the office of Attorney General, and such as may be required of him by law. He is to cause to be prepared, recorded, and transmitted or delivered, all appointments and commissions in the judiciary of the United States, of governors and secretaries of the Territories thereof, and all special commissioners or other officers not under the direction of any other Department; but no such commission is to be recorded until after it shall be attested by the Attorney General. It is also made his duty to superintend and direct United States district attorneys in the transaction of their official duties, and the Solicitor of the Treasury, and the business of that office, to which end the Solicitor, who is hereafter to be styled the Solicitor of the United States, and the clerks and messenger, together with all the books and papers of that office, are to be transferred to the Department of Law, as a bureau of that Department.

The supervisory power now exercised by the Secretary of the Interior over the accounts of the marshals, clerks, and other officers of the courts of the United States, is to be exercised by the Attorney General, who is to sign all requisitions for the advance or payment of money out of the Treasury, on estimates or accounts, subject to the same adjustment or control now exercised on similar estimates or accounts by the accounting and comptrolling officers of the Treasury.

Provision is made that if the President of the United States should, in his discretion, require the Attorney General, or other person, to attend to the interest of the Government in any United States court out of the District of Columbia, or in any State court, the Attorney General, or other person so employed, shall be paid out of the judicial fund, such allowance as the President may deem reasonable and just. In case of the death, absence from the seat of Government, or inability of the Attorney General, the President, if he think it necessary, may authorize any person to perform the duties of the office until a successor be appointed, or until the absence or inability shall cease.

It is further provided that the commissions of all officers of the United States shall be made out, recorded, and when necessary, countersigned and sealed in the Department under the supervision of the heads of which those officers may respectively be required to act, or to which they belong.

Another section proposes to distribute the auditing and adjusting of accounts among the accounting officers in this manner, to wit: The First Auditor to audit and adjust all accounts, disbursements, claims, and expenditures that may arise or be unsettled in the Department of the Treasury; the Second Auditor those of the Department of the Interior; the Third Auditor those of the War Department; the Fourth Auditor those of the Department of the Navy; the Fifth Auditor those of the State and Law Departments; and the Sixth Auditor those of the Post Office Department. All accounts audited by the First and Fifth Auditors are to be revised and comptrolled by the First Comptroller; and all accounts audited by the Second, Third, and Fourth Auditors, are to be revised and comptrolled by the Second Comptroller.

Mr. ADAMS. I desire to move one further amendment to the bill. It is in the sixth section, at the end of the clause: "the Second Auditor shall audit and adjust all accounts, disbursements, claims, and expenditures of whatsoever nature or description that may arise or be unsettled in the Department of the Interior," to add the words "except the General Land Office, which shall be settled as now provided by law."

The amendment was agreed to.

Mr. ADAMS. I shall detain the Senate but a very few minutes in explaining the bill. The first proposition in it is to convert the existing office of the Attorney General into a department of law. That was recommended by General Jackson, in his first annual message, and again at a subsequent session. Afterwards, it was recommended by Mr. Polk. The present Executive is in favor of it. It accords with the views and opinions of all the members of the Committee on Retrenchment and Reform, among whom are two ex-members of different Cabinets. I ask that General Jackson's messages may be read for the consideration of the Senate, and to call their attention to the importance of the subject.

The Secretary read, as follows:

Extract from President Jackson's First Annual Message.

"I would recommend, therefore, that the duties now assigned to the agent of the Treasury, so far as they relate to the superintendence and management of legal proceedings on the part of the United States, be transferred to the Attorney General; and that this officer be placed on the same footing in all respects as the heads of the other Departments, receiving like compensation, and having such subordinate officers provided for his Department as may be requisite for the discharge of these additional duties. The professional skill of the Attorney General, employed in directing the conduct of marshals and district attorneys, would hasten the collection of debts now in suit, and hereafter save much to the Government. It might be further extended to the superintendence of all criminal proceedings for offenses against the United States. In making this transfer, great care should be taken, however, that the power necessary to the Treasury Department be not impaired; one of its greatest securities consisting in a control over all accounts, until they are audited or reported for suit."

Extract from President Jackson's Second Annual Message.

"The attention of Congress was called, on a former occasion, to the necessity of such a modification of the office of Attorney General of the United States as would render it more adequate to the wants of the public service. This resulted in the establishment of the office of Solicitor of the Treasury, and the earliest measures were taken to give effect to the provisions of the law which authorized the appointment of that officer, and defined his duties. But it is not believed that this provision, however useful in itself, is calculated to supersede the necessity of extending the duties and powers of the Attorney General's office. On the contrary, I am convinced that the public interest would be greatly promoted by giving to that officer the general superintendence of the various law agents of the Government, and of all law proceedings, whether civil or criminal, in which the United States may be interested, allowing to him at the same time such a compensation as would enable him to devote his undivided attention to the public business. I think such a provision is alike due to the public and to the officer.

"Occasions of reference from the different Executive Departments to the Attorney General, are of frequent occurrence; and the prompt decision of the questions so referred tends much to facilitate the dispatch of business in those Departments. The report of the Secretary of the Treasury, hereto appended, shows also a branch of the public service not specifically intrusted to any officer, which might be advantageously committed to the Attorney General.

"But, independently of those considerations, this office is now one of daily duty. It was originally organized, and its compensation fixed, with a view to occasional service, leaving to the incumbent time for the exercise of his profession in private practice. The state of things which warranted such an organization no longer exists. The frequent claims upon the services of this officer would render his absence from the seat of Government, in professional attendance upon the courts, injurious to the public service; and the interests of the Government could not fail to be promoted by charging him with the general superintendence of all its legal concerns.

"Under a strong conviction of the justice of these suggestions, I recommend it to Congress to make the necessary provisions for giving effect to them, and to place the Attorney General, in regard to compensation, on the same footing with the Heads of the several Executive Departments. To this officer might also be intrusted a cognizance of the cases of insolvency in public debtors, especially if the views which I submitted on this subject last year should meet the approbation of Congress—to which I again solicit your attention."

Mr. ADAMS. The Solicitor of the Treasury is a law officer; his decisions are subject to the revision of the Attorney General, and his office legitimately and properly belongs to the law department. To the provision of the bill providing for the transfer of that officer to this department, I have heard no objection in any quarter. It is the judgment, I believe, of every one familiar with the duties of the different Departments with whom I have conversed on the subject, that the office of Solicitor should be transferred to the Department of the Attorney General.

The subsequent portion of the bill is intended to harmonize the business of the different Departments. It is in accordance with the judgment of almost every, if not every, member of the present Cabinet, as well as all the members of different preceding Cabinets with whom I have conversed. I found that there was great difficulty and conflict in the Departments for the want of some provision of law similar to what we have proposed in the last section of the bill as it now stands. For instance, the claims to be settled in the Interior Department are audited by four different Auditors; which of course produces much confusion. Take the War Department as another illustration. If a quartermaster purchases a dozen articles of one description and a dozen of another, his account is divided and sent to different Auditors. Very great inconvenience and confusion necessarily arise from this course. This bill simplifies the auditing of accounts by giving to each of the Departments its own Auditor. The object is that each Department may be independent of the others, so far as is consistent with the safety of the public Treasury. The bill was matured by the committee in accordance with the best lights we could obtain on the subject, and I believe it meets the approbation of all experienced men who have investigated it. It is not my purpose to detain the Senate, and I shall not do so. I presume there will be no serious objection to the bill.

Mr. WELLER. Mr. President, I have examined this bill for the first time this morning, and I am afraid that I shall not be able to vote understandingly upon it at the present time. I regard it as a very important bill. It is one which proposes radical changes in one of the Departments of the Government. Now, we have a committee in this body composed exclusively of lawyers—the Committee on the Judiciary. I shall be compelled to move that this bill be committed to that committee, in order that they may have an opportunity of fully examining it. If it be desirable to make the alterations proposed by my friend from Mississippi, I have no doubt, the public interests so demanding, the Senate will agree to make the changes; but at all events I think the bill should undergo the supervision of the Committee on the Judiciary before being brought to a formal vote before the Senate. Hence I move to refer it to the Committee on the Judiciary.

Mr. ADAMS. Mr. President, I should not have obtruded a bill upon the consideration of the Senate which I did not believe belonged legitimately and properly to the committee who reported it. By reference to the rule providing for the appointment of the committee of which I have the honor to be chairman, it will be seen that this bill came appropriately within the province of that committee. My colleague on the Committee on Retrenchment, one of the ablest lawyers of this body, and an ex-member of a former Cabinet—the distinguished Senator from North Carolina, [Mr. BADGER]—aided me in maturing this bill. Another colleague of mine on that committee, the distinguished Senator from Connecticut, [Mr. TOUCEY,] also an eminent lawyer, who was formerly Attorney General in Mr. Polk's Cabinet, perfected that portion of the bill relating to that Department; at least the committee agreed to all the suggestions which he made, and that part of the bill was perfected in accordance with his opinions.

If my friend from California [Mr WELLER] would point out some objection which neither my friend from North Carolina, nor my friend from Connecticut, nor myself, could answer, I could then see some propriety in referring the bill to the Committee on the Judiciary. As it is, I cannot. The rule under which the Committee on Retrenchment was raised prescribes it to be their duty to investigate the various Departments, and to report any amendment that, in the judgment of that committee, the laws governing those Departments may require. In accordance with that rule we have presented this bill; but if any serious objection to it be pointed out, I shall not persist in opposing its reference to the Committee on the Judiciary. I admit that it is the business of the Judiciary Committee to investigate all legal questions; but, sir, look at the provisions of the bill. The Solicitor of the Treasury is a law officer—every Senator knows that fact. The Attorney General has a supervising control over his decisions. Now, does it require the investigation of a lawyer to ascertain that the Solicitor ought to be in the Department and under the supervision of the Attorney General? I have had read, for the consideration of the Senate, the opinions of Andrew Jackson. I might adduce the opinions of Mr. Polk to the same effect; but it is unnecessary to consume the time of the Senate. I have never met with any one who did not agree to the propriety of the change to which I have adverted. It is a matter in which I have no interest and feel none, except that I am confident that if the bill be passed as it has been matured, it will promote harmony in the different Departments to an extent which no other bill has done for a great length of time.

Mr. WELLER. I certainly did not intend, Mr. President, by the remark which I made, to reflect, in any shape or form, on the committee who reported this bill. I do not doubt that the members of that committee are very able lawyers. Nor have I any amendments of my own to propose, for, as I have already said to the Senate, I read the bill this morning for the first time. Perhaps, if I had read it carefully, I might be satisfied, with the Senator from Mississippi, that it is now in the best form in which it can be presented. But, sir, I know the fact that there is a standing committee, regularly organized under the rules of the Senate, composed exclusively of lawyers, to whom all subjects of this sort properly belong. This bill proposes a radical change in one of the law departments of this Government. If there be any one subject which, more than any other, peculiarly belongs to the Committee on the Judiciary, it is this very question. After that committee shall have passed upon it, I have no doubt the form in which they present the bill will command the vote of the Senate. I have expressed no opinion myself as to the merits of the bill; nor shall I undertake to express an opinion whether or not it be necessary to make all the changes signified by the Senator from Mississippi; but, at all events, with the limited knowledge I now have of the bill, I should have been better satisfied if it had come from the regularly organized Committee on the Judiciary. I say this without intending to reflect on the distinguished legal attainments of the gentlemen who compose the committee that reported it.

The PRESIDENT. The question is on referring the bill to the Committee on the Judiciary.

Mr. BADGER. Mr. President, I hope that course will not meet with the approbation of the Senate. I do not know, sir, that this bill belongs with any special propriety to the Committee on the Judiciary more than to any other committee. My honorable friend who is at the head of the Committee on Retrenchment and Reform, [Mr. ADAMS,] from which this bill came, has taken great pains to satisfy himself and the committee, by thorough communication with the Departments of the Government, that the change which this bill proposes to make, will be acceptable to them, and will be advantageous to the public service. Now, if you take one part of the bill, that which relates, for instance, to the office of the Attorney General, you may say that that, by itself, would properly come under the cognizance of the Committee on the Judiciary; but the moment you pass from that, you will find yourself involved in the consideration of another Department of the Government, with which that committee has no special connection; and therefore it must necessarily happen that, if any bill is to be reported for the improvement of the Departments of the Government generally, it must come from some committee which, in respect to one or other of those Departments, has no special connection with it.

I humbly conceive, therefore, sir, that, of all the committees of the Senate, there is none from which this bill could come with such eminent propriety as from the committee at the head of which is my honorable friend from Mississippi. It is a committee which is to look into the general subject of reform in the administration of the Government. It is to propose measures for the purpose of promoting reform where reform is necessary. It is a committee for the purpose of proposing retrenchment where retrenchment is necessary. And, therefore, as this bill proposes a general reform in

the manner of transacting business in the Departments, not one only, but others, also, it seems to me there can be no special reason for committing it to the Committee on the Judiciary. At the same time, sir, I will say, that I certainly should have no objection to its going to that committee, if such be the wish of the Senate. I have as much confidence in the conclusions to which that committee would come as any member of the Senate can have, or as I could have in the conclusions of any committee of the Senate. But, sir, I think this course had better be pursued for the purpose of meeting the wishes of the Senator from California. Let the bill lie over for the present; give an opportunity for gentlemen to look into it, and see if any further commitment be necessary; and if it should be thought so then, upon the suggestions which may be thrown out in the Senate, let it be recommitted to the same committee to revise and examine it. I think that would be consistent with the proper course of the business of the Senate, and respectful to the committee which has reported this bill.

Mr. WELLER. I have no desire, of course, to have this bill committed, unless it be the intention of the committee who reported it to press it to a vote to-day. If an opportunity be given—I should not ask for a longer time than two or three days—for an examination of the details of the bill, I shall perhaps attain the object I have in view. If the Senator from Mississippi is not inclined to press a vote to day——

Mr. ADAMS. I am perfectly willing to agree to postpone the bill until Monday, and make it the special order for that day.

Mr. BADGER, and others. That will be Christmas day.

Mr. WELLER. I am willing that the general debate should go on to-day; or that the amendments to be presented should be offered to-day, with the understanding that no final vote is to be taken; but that the bill shall lie over.

Mr. ADAMS. The committee have no more amendments to propose.

Mr. WELLER. I withdraw my motion to commit.

Mr. BADGER. I suggest that, instead of prosecuting a debate on a subject on which some of us are not informed, it would be better to allow any amendments which gentlemen may wish to propose hereafter, to be laid on the table informally, and ordered to be printed; and let the bills stand over until Tuesday or Wednesday next, as Monday will be Christmas day, and I know my friend from Mississippi does not want us to meet then.

Mr. ADAMS. Certainly not.

Mr. BADGER. I ask that any amendments which gentlemen wish to propose, may be received informally, and ordered to be printed.

The PRESIDING OFFICER, (Mr. NORRIS in the chair.) The Chair understands that there is one small amendment pending which has been proposed by the Senator from Mississippi.

Mr. BADGER. I suppose it is not necessary to print that.

The PRESIDING OFFICER. I presume not.

Mr. BADGER. Then I move to postpone the further consideration of the bill until Tuesday next.

The motion was agreed to.

ENROLLED BILLS SIGNED.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that the Speaker had signed the following enrolled bills:

A bill to authorize the issuance of patents to land in any State or Territory, in certain cases;

A bill supplemental to an act therein mentioned;

A bill for the relief of General John E. Wool;

A bill to change the name of the American-built brig Como to that of Jehossee, and to grant her a new register; and

A bill to authorize the Secretary of the Treasury to issue a register to the schooner Sarah.

Which were thereupon signed by the President *pro tempore*.

MARY RUTHERFORD.

On motion by Mr. JONES, of Iowa, the Senate proceeded, as in Committee of the Whole, to consider House bill for the relief of Mary Rutherford, widow of Samuel Rutherford. It proposes to instruct the Secretary of the Interior to place her name on the roll of invalid pensioners, at the rate of four dollars per month, which is to be paid to her for five years, commencing January 1, 1854.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

EXECUTIVE SESSION.

On motion by Mr. BRODHEAD, the Senate proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 20, 1854.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

The Hon. J. W. WHITFIELD, Delegate from the Territory of Kansas, appeared, and was duly qualified by taking the usual oath to support the Constitution of the United States, and took his seat.

RIGHTS OF CITIZENS OF UNITED STATES.

Mr. FULLER, by unanimous consent, introduced the following resolution; which was adopted:

Resolved, That the Committee on Commerce be instructed to inquire whether any further legislation is necessary for the better defining of the rights of citizens of the United States in ships, vessels, and other property purchased by them of the citizens or subjects of foreign countries, under certain circumstances; and to report by bill or otherwise.

CHARLESTON HARBOR.

Mr. AIKEN, by unanimous consent, and in pursuance of previous notice, introduced a bill; which was read a first and second time by its title, as follows, and referred to the Committee on Commerce:

A bill making a further appropriation for deepening the bar of Charleston harbor.

ENLISTMENTS IN THE ARMY.

Mr. FAULKNER. I ask the unanimous consent of the House for leave to report from the Committee on Military Affairs a bill to remedy an accidental and unintentional omission in the law of the 4th of August, 1854. It is one which I am satisfied will commend itself to the favorable action of the body.

Mr. HAMILTON. If bills are allowed to be reported and acted on, they may give rise to debate. There are only two more days left for the consideration of the business relating to the District of Columbia, and we want every moment of them. Therefore, I am under the necessity of making objection to the proposition of the gentleman from Virginia.

Mr. FAULKNER. Let the bill be read. If the gentleman will hear its provisions I am sure he will not object to its consideration and passage at this time.

Mr. HAMILTON. Let it be read.

The bill was read *in extenso;* it provides that the words "non-commissioned officers, musicians, and privates," in the first section of the act entitled "An act to increase the pay of the rank and file of the Army, and to encourage enlistments," approved August 4, 1854, shall be construed to include all enlisted men of the Army of the United States.

Mr. SKELTON. I object.

The SPEAKER. Reports are now in order from the Committee for the District of Columbia.

Mr. HAMILTON. Several bills are upon the Speaker's table, reported yesterday from the Committee of the Whole on the state of the Union, and I ask that they may be taken up and first acted on.

BILLS INTRODUCED.

Mr. SEWARD, by unanimous consent, introduced a bill to appropriate money to remove obstructions in the Savannah river, and to improve the navigation thereof; which was read a first and second time by its title, and referred to the Committee on Commerce.

Mr. HUGHES, also by unanimous consent, introduced a bill making appropriations for working a steam-dredge on Lake Champlain; which was read a first and second time by its title, and referred to the Committee on Commerce.

WITHDRAWAL OF PAPERS.

Mr. MAXWELL. I ask leave to withdraw from the files of the House the petitions and papers in the case of Samuel E. Todd, and also in the case of Lewis Benedict.

Mr. LETCHER. For what purpose?

Mr. MAXWELL. I do not know for what purpose the leave is desired.

The SPEAKER. The Chair presumes there will be no objection if copies are left on the files of the House.

Mr. JONES, of Tennessee. Is it not the most proper course to give leave for copies to be taken and to retain the originals?

The SPEAKER. It will be for the House to give such order as it may see fit.

Mr. JONES. Then I hope we shall retain the originals, and give copies.

Mr. MAXWELL. I believe it is usual to withdraw the originals and to leave copies. I do not see why the usual course should be departed from in this instance.

Mr. HAMILTON. If there is objection, I call for the regular order of business.

Mr. LETCHER. I object to having the originals withdrawn. That is not the usual course.

Mr. MAXWELL. I saw papers withdrawn no longer ago than yesterday.

Mr. LETCHER. They were withdrawn to be presented in the Senate.

Mr. MAXWELL. I have no objection to copies being left. I hope the gentleman will not object to having the papers withdrawn.

Mr. LETCHER. I do object.

Mr. HAMILTON. Then I must insist upon the regular order of business.

DISTRICT OF COLUMBIA BUSINESS.

Mr. HAMILTON. I ask that the bills reported from the Committee of the Whole on the state of the Union yesterday, may be taken up and put on their passage; and if there be no objection, I will ask the previous question upon them all.

There was no objection, and the previous question was seconded, and the main question ordered to be put upon the following bills, some of which had been reported with, and some without amendments:

A bill to amend an act entitled "An act to establish an auxiliary watch for the protection of public and private property in the city of Washington," approved August 23, 1842;

A bill granting certain additional powers to the Corporation of Washington; and

A bill authorizing the Washington Gas-Light Company to increase the capital stock of said company.

The bills were then severally taken up in their order, and the amendments reported by the Committee of the Whole on the state of the Union having been agreed to, they were ordered to be engrossed and read a third time; and being engrossed, were accordingly read the third time, and passed.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles, which received the signature of the Speaker:

An act vesting the title of the United States to certain lands in the city of Cincinnati;

An act to authorize the Secretary of the Treasury to issue a new register to the schooner Sarah;

An act for the relief of Brigadier General John E. Wool; and

An act to change the name of the American brig Como to that of Jehossee, and to grant her a new register.

Mr. DAVIS, of Indiana. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair.)

SMALL-NOTE CURRENCY.

The CHAIRMAN. The business first in order before the committee, according to the order of the House, is the consideration of business relating to the District of Columbia. At the session of yesterday, the committee had under consideration Senate bill No. 16, being "An act to suppress

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

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the circulation of small notes as a currency in the District of Columbia." When the committee rose they were about to pass from the consideration of the first section.

Mr. GROW. Before we pass from that section, I propose to amend it. As the bill now stands, the penalty for issuing any bill prohibited by this section is ten dollars. That penalty, as the section now stands, attaches to the issuance of a bill for five dollars or upwards. Now, bills of fifteen, twenty, or twenty-five dollars might be issued, and the penalty would only be ten dollars; so that you would provide by this penalty an incentive to men to evade your law. I move to increase the penalty to fifty dollars, or say one hundred dollars, as that will cover any bill that might be issued.

Mr. TAYLOR, of Ohio. I do not know that I shall object to a penalty of fifty or one hundred dollars, or any other sum that the gentleman from Pennsylvania may suggest. But, on reading over this section this morning, it strikes me that it is probably more extensive in its operation than the gentleman from Maryland [Mr. HAMILTON] intends it to be. If it be intended to enact by this bill that any gentleman coming here from any State of the Union shall be subjected to a penalty of fifty or a hundred dollars for passing a note of any kind issued in Virginia, or Maryland, or Pennsylvania, or Ohio, or New York, or any other State, I shall have to vote against it; and yet, I never want to see small bills issued, or bills of any denomination, not immediately redeemable in specie. The first few lines provide, that if any person or persons, or body-corporate, in the District of Columbia, "shall make, emit, issue, *utter*," and so forth. Now, it may be a question whether the word "utter" does not include the passing of a bill. I am not sufficiently conversant with technical terms to say if it does or not. But if it does, I insist that this section will impose a penalty of $100, if the amendment of the gentleman from Pennsylvania is adopted, on any individual visiting this city who offers to pass a ten or twenty dollar note of any bank in a neighboring State, or in any State of the Union. Now, that would be a monstrous enactment, when the States all over the Union give to their citizens what they consider a good banking system—acceptable to them—a currency which is passed by almost every gentleman in the country without question, and is redeemable in specie; and yet, in this District, we shall be subjected to a penalty of $100 for offering to pass such bills. If that be the meaning of the section—and I call upon the gentleman from Maryland, who has charge of the bill, to state what he means by the word "utter"—I, for one, shall vote against the bill, although I profess to be in favor of the suppression of small notes under the denomination of five dollars, and in favor of a good banking system for this District. I believe that such a system might be adopted within one hour from this time, if gentlemen of the committee chose to turn their attention to the subject.

The question now being upon Mr. GROW's amendment,

Mr. WALKER demanded tellers.

Tellers were ordered, and Messrs. BOYCE and BUGG were appointed.

The question was then taken, and the tellers reported—ayes 42, noes 76.

So the amendment was rejected.

Mr. GROW. I now move to make the penalty fifty dollars instead of ten dollars, and I do so merely for the purpose of explaining the reason why I offered the amendment that has been rejected. I refrained from going into an explanation of the matter before, because I had no desire to occupy the time of the House, thinking that it would be obvious to every member that, while we attempt in this bill to suppress the circulation of small notes in this District, and to prevent the issuing of notes and bills of any denomination, not redeemable in specie, the penalty of ten dollars, provided by the bill as it stands now, will not effect the purpose. For, supposing that instead of bills of less value than five dollars, bills are issued for twenty dollars, thirty dollars, or forty dollars, if a suit be brought against the individual who issues such notes, the penalty recoverable from him is only ten dollars.

Mr. HAMILTON. Mr. Chairman, is there an amendment pending?

The CHAIRMAN. Yes. The gentleman from Pennsylvania [Mr. GROW] has proposed to amend by striking out the words "ten dollars," and substituting in lieu thereof the words "fifty dollars."

Mr. GROW. I have but a word to say on the point, and that is: Suppose an individual in this city thinks proper to issue a bill for twenty dollars of the kind which we wish to suppress, (the penalty for that offense is ten dollars,) the offender pays the penalty, and the commission of the offense leaves him a profit of ten dollars, for he will have received for his worthless bill twenty dollars, while he has only had to pay a penalty of ten dollars. It seems quite obvious, therefore, that, with the small penalty now provided by the bill, we cannot accomplish the object at which the bill is aimed. The penalty provided for the punishment of an offense should be such as to hold out no inducement to evade the law; and if the object of this bill be to suppress a worthless currency, not based upon a metallic foundation, we should attach such a penalty to the violation of the law as would operate as a preventive to such violation.

In this case the Senate sent a bill in here for the purpose of suppressing a small-note currency in the District of Columbia, providing that no bill of a less value than five dollars should be issued, under a penalty of ten dollars. The penalty was then sufficiently great for the purpose. But we have amended that bill, so as that no bills of any denomination shall be issued, and we have left the penalty the same as it was. It was to remedy that palpable error that I proposed my amendment. I have no purpose to serve in the matter, but I think the object of the bill a good one, and therefore I desire to see the bill made an efficient one. One object of the bill being to suppress the small-note currency in the District, and the other object being to suppress the issuing of notes of any amount, redeemable in any way but by gold and silver, the penalty properly applicable to the one would be too small for the other, and it was to meet that objection that I proposed to increase the penalty.

Mr. HAMILTON. I would remark to the gentleman from Pennsylvania, [Mr. GROW,] and notify the committee, that, when the bill is reported to the House, I shall move that all the amendments be voted down, so that we may pass the bill in the form in which it came from the Senate. We will thus so far accomplish the object desired by a large portion of the people of the District, and, I am sure, by a majority of the House—the suppression of the circulation of small notes. We have gone beyond that over and over again. No longer than three years ago, there was a bill introduced in this House for the same purpose, and it was ruined by objections, and by members endeavoring to accomplish everything. By passing the Senate bill as it was sent into the House, we will accomplish just what we desire.

Mr. GROW. I ask the gentleman from Maryland [Mr. HAMILTON] whether he proposes, when the bill comes into the House, to move to strike out all the amendments, and leave the bill to apply merely to notes of less denomination than five dollars?

Mr. HAMILTON. I propose doing so. I mean to confine the operation of the bill to notes under five dollars, so that, when we pass it, it shall become the law of the land. I therefore give notice to the committee that I am opposed to every amendment to the bill, so that the bill—if we pass it as it came from the Senate—shall become the law of the land.

Mr. GROW. Then I withdraw my amendment.

Mr. MILLSON. I was going to say that, if the amendment proposed by the gentleman from Pennsylvania [Mr. GROW] were adopted, it would be necessary to make another material alteration in the bill; because the bill provides that this penalty is to be collected before a magistrate, whereas the jurisdiction of magistrates does not extend to that amount.

The CHAIRMAN. Further discussion is not in order, the amendment having been withdrawn.

Mr. WALSH. I move the following amendment:

After the word "shall," in line seventeen, of the first section, strike out the rest of the section, and insert in lieu thereof the following:

—"be deemed guilty of misdemeanor, and shall, on conviction, be punished by imprisonment for a term not exceeding six months, or a fine not exceeding $250, or by both, at the discretion of the court."

So that the amendment, if so amended, would read:

—every such person, and every member, officer, or agent of such body-politic or corporate, concerned in, or assenting to, such making, emitting, issuing, uttering, signing, drawing, or indorsing as aforesaid, for any of the purposes aforesaid, shall be deemed guilty of misdemeanor, and shall, on conviction, be punished by imprisonment, &c.

The question was taken; and the amendment was rejected.

Mr. HUGHES. I propose to amend the first section of the bill by striking out all after the word "Columbia," in the twenty-second line. The remaining words of the section which I propose to strike out are:

"And on the trial of any such cause, if the promissory note, bank note, or other instrument in question, be, in part or in the whole, printed or engraven, it shall be deemed sufficient evidence of an intention to put the same into circulation, in violation of this act, unless the contrary be shown."

Now, sir, the offense against which this bill is directed is not an *intent* to utter. It is the uttering. Yet, in order to throw the onus of proof on the defendant, these lines are inserted in the bill. I think they are entirely unnecessary, and only serve to complicate this matter. It is not like the ordinary penalty prescribed in cases of forgery and counterfeiting, where the having a bill in possession, with intent to utter, is made a crime by the statute; because in the balance of this first section, which precedes this clause, the intent to utter is not made an offense. It is the uttering which constitutes the offense.

The latter clause of the section which I propose to strike out, recites that the bill or instrument in question, being in whole or partly engraved, it shall be deemed sufficient evidence of an intention to circulate. The intent is not the offense charged, and, therefore, this clause is mere verbiage. The conclusion I arrive at in regard to this matter is, that it would be best to strike out that portion of the bill, so as to relieve it from all embarrassment, and it being a penal statute, the onus should not thus be thrown on the defendant, particularly where the intention to utter is not the offense charged.

Mr. SIMMONS. A single word. It is obvious to every lawyer that a penal statute has nothing to do with the intention.

The CHAIRMAN. The Chair must call the gentleman from New York to order, as his colleague has already spoken in favor of the amendment.

Mr. HAMILTON. I am opposed to the amendment.

The question was taken upon Mr. HUGHES's amendment; and it was rejected.

Section two was then read as follows—the words in italics being the amendment reported by the committee:

SEC. 2. *And be it further enacted*, That it shall be unlawful for any person or persons, body-politic or corporate, to pass, or offer to pass, within the District of Columbia, any bank note, promissory note, or any instrument in writing of a less denomination or amount than five dollars, *or of the denomination or amount of five dollars and upwards, payable or redeemable in bank or other notes, or any other thing, except gold or silver*, either as money, or in lieu of money, or of any other currency; and any other person or persons, and every member, officer, or agent of such body-politic or corporate, violating the provisions of this section, shall forfeit and pay a sum of not less than five nor more than ten dollars for every such offense, one half to the use of the person who shall sue therefor, and the other half to the use of the county of Washington, District of Columbia.

Mr. HAMILTON. I ask the committee to disagree to the amendment.

The question was taken; and the amendment was disagreed to.

Mr. PERKINS, of New York. I propose to introduce the following amendment as a separate and independent section, to come in after the second section:

And be it further enacted, That any person or persons, body-politic or corporate, and every association of individual persons, and persons composing such association, that heretofore have issued any bank bill or check, or promissory note, intended for circulation as money, or any other instrument in the similitude of a bank bill, or purporting to be a bank bill, or shall hereafter issue such bill, check, note, or instrument, shall, after due presentment and demand of payment, neglect or refuse to redeem the same in gold or silver any such bill, check, or note, the person or persons, body-politic or corporate, or associations of persons, and each and every of them, who made, emitted, issued, uttered, signed, drew, or indorsed the same, and all persons interested in the issuing of the same, shall forever after such refusal be precluded from issuing, or causing or procuring to be issued any bill, note, check, or other instrument purporting to be a bank bill, or to be used as a circulating medium, and every person who shall sign, make, issue, or emit, or cause to be signed, issued, or emitted, any such bill, note, or check, after such suspension, or refusal, or neglect to redeem as aforesaid, shall be deemed guilty of felony; and, on conviction, shall be imprisoned in the penitentiary of the District of Columbia not less than one nor more than two years.

The object of the amendment is to prevent banks from suspending for a time, and then resuming operations again. It has not been an uncommon thing for banks to suspend, and then they, or their agents, would buy up their bills at a great discount, and, after they purchased all their bills, then resume their business again. Such a fraud as that ought to be prohibited and made a felony.

Mr. MILLSON. I have only to say that I greatly desire to adopt the suggestion of the chairman of the committee to vote down all these amendments, and pass the bill as it came from the Senate. There is very important business relating to the District of Columbia to be considered in committee, and the sooner we get through this bill the better.

In reply to the suggestion of the gentleman from New York, [Mr. PERKINS,] that the object of this bill is to prevent banks in the District, which have suspended, from issuing notes, I would say farther, that there are no banks in the District at all. There are individuals issuing notes, and I suppose these individuals have a right to issue and reissue them, but there are no banks here; and I trust that there will be none created. I desire to suppress the circulation of paper money as much as possible. I think that we should heed the admonition of an ancient philosopher, that when you wish to get your hands out of a narrow necked jar, having grasped too many filberts, the best plan is to relinquish some, that you may at least secure what you can conveniently take. In this case, the best plan is to act upon that wise advice, and take the bill as it came from the Senate. Let us suppress the circulation of small notes, and be content with that for the present. Hereafter we may be able to strike at the existence of these unchartered banks.

The question was taken upon Mr. PERKINS's amendment; and it was rejected.

Mr. WASHBURN, of Maine. I would like to inquire whether the second section has been passed upon by the committee?

The CHAIRMAN. The amendment reported by the committee, and printed in italics, has been stricken out.

The Clerk then proceeded to read the fourth, fifth, sixth, seventh, eighth, and ninth sections.

The CHAIRMAN. The Committee for the District of Columbia propose to strike out of the ninth section the words "first day of November next," and to insert in lieu thereof the words "the first day of February next."

The section now reads as follows:

SEC. 9. *And be it further enacted*, That this act shall be in force from and after the first day of November next, and that so much and such parts of all former acts as may be repugnant to this act be, and the same are hereby, repealed.

Mr. HAMILTON. I hope that amendment will be voted down.

Mr. CUMMING. Is it now in order to move to amend any one of the sections which the Clerk has just read?

The CHAIRMAN. It is not. It would have been had any gentleman risen in his seat, as the Clerk proceeded, and stated that he desired to offer an amendment. No member having indicated such a wish, the sections have been passed by, with the exception of the ninth, to which an amendment is in order.

Mr. CUMMING. I did not understand that the sections were passed by, as the Clerk proceeded, otherwise I should have offered an amendment before.

Mr. BRIDGES. I would ask the gentleman from Maryland [Mr. HAMILTON] whether this bill was not reported at the last session?

Mr. HAMILTON. It was.

Mr. BRIDGES. And was not the "first of November," in the bill, designed for last November?

Mr. HAMILTON. It was.

Mr. BRIDGES. Well, if these words are left in the bill, the bill will not take effect until the first of next November. I prefer that the bill shall take effect from the first of February or the first of March. It will suspend the operation of the bill too long to allow the words "the first day of November" to remain in the bill.

Mr. HAMILTON. This bill was reported at the last session of Congress, at about this time in the session. Those words were then inserted upon the urgent request of gentlemen from Georgetown, who were interested in this matter. Then there was no law in existence for the suppression of the circulation of small notes in the District, and the Corporations of Georgetown and Alexandria had then a large amount of small notes in circulation. The Senate decided to give those corporations until the first day of November then next, in which time to redeem their circulation. That circulation is based, I think, upon stocks; and the question is, whether, if this bill goes into immediate operation, which requires that their notes shall be paid in gold and silver, they would be able to conform to the requirements of the law in that respect. That is the idea which suggests itself to my mind at this time. I desire that as early a day as possible shall be fixed upon for this act to go into effect. To give some reasonable time, would relieve those corporations from great inconvenience.

Mr. BRIDGES. I move to amend the amendment proposed by the Committee for the District of Columbia, by striking out the words "the first day of February next," and inserting in lieu thereof the words "three months after the passage of this act."

The question was taken upon the amendment of Mr. BRIDGES, and it was not agreed to.

The question then recurring upon the amendment proposed by the Committee for the District of Columbia,

Mr. WALSH said: I move to amend that amendment by providing that the act shall go into effect immediately.

It is well known that there is no scarcity of money in the District of Columbia. One hundred thousand dollars in gold are paid out weekly in this city to the employees of the Government, and in numberless instances they go to the brokers, and palm them off for these shin-plasters, and at a large profit to themselves.

The question was then taken, and the amendment to the amendment was not agreed to.

The question was then taken on the pending amendment, and it was not agreed to.

Mr. CUMMING. I move to amend the ninth section, by inserting therein the words, "the first day of November, 1860." I move the amendment merely to afford me an opportunity to make a few remarks.

Gentlemen on this floor seem to be frightened about something—panic-struck. Perhaps their fingers may have been burned. Men of business are accustomed to that. Failures in business in less stringent monetary times than these happen every day in commercial life. But if members of Congress, by chance, lose a few dollars through a bank here, the whole Congress—no, I hope not the whole—come down upon those connected with, or managing these institutions, and call them out by name, with derision and insult, upon this floor.

A VOICE. Members of Congress cannot afford any loss.

Mr. CUMMING. I know well by experience that gentlemen here cannot afford to lose anything, for they do not receive enough to justify it.

But there is more to be said. I stated yesterday that it was absurd to dream of carrying on the commerce of this country with the use merely of gold and silver as a circulating medium. It is worse than absurd. Go to the chambers of commerce in your principal cities, composed of Whigs and Democrats, and they will tell you that it is worse than absurd. I am known as a Democrat of the very worst kind, that is, of the strongest kind. None who know me can doubt but that I am one of the strictest sect; but I am not afraid to express my candid sentiments upon points like this, with freedom.

The existing tariff brings into the vaults of the Government more money in gold and silver than is demanded by all of its expenditures. What is to be the result? If the present tariff, then, continues in existence, it is fair to presume that the whole of the precious metals will be absorbed by the Government, and lay unemployed in the Treasury vaults. Yet, in the face of this startling fact—that gold and silver are to be withdrawn and shut up from daylight in our Government's coffers—we are to say that no other currency shall be used in commercial transactions but gold and silver. If such be made the law here, it will be followed in other places. I understand from a gentleman from Missouri that they have now a bank in that State (which may answer in a non-commercial district,) which pays out nothing but gold and silver. In my judgment, if you ordain, while continuing a tariff that brings all the gold and silver into the Treasury vaults, that commerce shall be carried on only by metallic currency, ruin will be the consequence to the country. The matter is clear to every man. None can doubt that, unless the tariff be reduced, we shall soon have all the gold and silver in the hands of the Government. How then will gentlemen carry out their golden dreams?

The inconvenience arising from this law is one of the most important objections which I have to urge against it. Members of my family have been insulted in Maryland because they offered New York bills (far better than any of their own notes) in ordinary shopping. They were threatened with being brought before a magistrate. And here, by this bill, you authorize the fining or imprisonment of anybody who offers a bill in trade of a less denomination than five dollars. How is that amount fixed? Is it any better than the amount of four dollars? Why do you not say that no notes shall circulate of a less denomination than six dollars? This bill ought not to pass this body. You assume more than the Queen of England, or the Czar of Russia dare assume, when you say that the people of this District shall, in commerce, just do so, and not otherwise, under a penalty of fine and imprisonment; when you say that they may pass a five dollar bank bill but not one for four dollars and seventy-five cents.

Mr. WALSH. My friend and colleague has informed the House that he is one of the worst kind of Democrats.

Mr. CUMMING. Not so bad as you. [Laughter.]

Mr. WALSH. The slightest doubt entertained by the House in reference to that subject has been entirely dispelled by his speech. [Laughter.] I trust that his amendment will not pass.

Mr. CUMMING, by unanimous consent, withdrew his amendment.

The bill was then laid aside to be reported to the House, with the recommendation that it do pass.

WASHINGTON AQUEDUCT.

On motion by Mr. HAMILTON, "the bill for the condemnation of land, &c., for the Washington aqueduct" was informally passed over.

METROPOLITAN RAILROAD.

The title of the next bill in order on the Calendar was read by the Clerk, as follows:

A bill allowing the Metropolitan railroad to extend into the District of Columbia, and for other purposes.

The CHAIRMAN. If there be no objection, the first reading of the bill will be dispensed with.

Mr. WALSH. I object.

The Clerk then proceeded to read the bill *in extenso*.

The bill was then read by sections for amendment.

Mr. CRAIGE. I propose to amend the second section, in the sixth line, by inserting after the word "ways," the words "excluding Pennsyl-

vania avenue and the other avenues," so that the section will then read:

That the said Metropolitan Railroad Company shall likewise have power, and they are hereby fully invested with the same, for conducting, making, and continuing their said road, through the cities of Georgetown and Washington, by such streets, avenues, or ways, excluding Pennsylvania avenue and the other avenues, as may be found most expedient by the president and directors of said company, and upon such terms, conditions, and restrictions, as may be agreed upon with the corporate authorities of said cities respectively, to or near the depot of the Baltimore and Ohio Railroad Company in said city of Washington, and, with the consent of the corporate authorities thereof, to any other point that may be deemed most advisable and may be agreed upon as a depot, and thence to the Navy-Yard, or to any point on the Potomac river, in said District of Columbia.

Mr. HAMILTON. It seems to me that that amendment is entirely too broad. The road must pass through or cross some avenue if it comes into the city. It seems to me that if we undertake the restriction so broad as the gentleman's amendment would indicate, we shall find ourselves involved in the same difficulties that have occurred in New York and other cities. I am perfectly willing to exclude Pennsylvania avenue, but it seems to me that we should not except all the avenues.

Mr. HAVEN. I would suggest that it would be well to exclude also the public squares, except with the consent of the President of the United States.

Mr. HAMILTON. I have no objection to that. I move the following as a substitute for the amendment offered by the gentleman from North Carolina, and which I hope he will accept. I move to add, at the end of the section, the following proviso:

Provided, That the same road shall not cross or pass through Pennsylvania avenue or any of the public squares or reservations.

Mr. CRAIGE. I accept the amendment in lieu of the one I offered.

The amendment was agreed to.

Mr. SIMMONS. I desire to ask the chairman of the committee which reported this bill one or two questions. I wish to know, in the first place, whether the privileges and immunities granted by the Maryland Legislature to the Metropolitan railroad extend within the Corporation of Washington so as to permit them to come through the city with locomotives, or whether the right of the corporation to regulate that matter is reserved?

Mr. HAMILTON. The bill provides that the road shall be subject to such regulations as the corporation shall prescribe within its limits. The matter is entirely within the control of the municipal authorities.

Mr. SIMMONS. Then am I to understand that under the authority of the State of Maryland the railroad company will not have the power to run their cars through the city at full speed? Have the corporate authorities power to prescribe that they shall run through the city with horses?

Mr. HAMILTON. Certainly. If the road comes into the city of Washington, it is to come under whatever restrictions the city may see fit to impose.

Mr. SIMMONS. Now, I desire to know one thing further. Have the city authorities the power to impose such restrictions as shall be necessary to guard against danger from fire, or against the injury or destruction of the public property?

Mr. HAMILTON. We have provided for that in the amendment which has been just adopted.

Mr. FLORENCE. I earnestly hope that there will be some provision made to regulate the speed with which the cars are to be allowed to pass through the streets of the city, or anywhere within the exclusive jurisdiction of the General Government. We are already suffering greatly from the influence of steam in the District of Columbia, and I hope we shall not allow steam engines to come within the limits of the city.

Mr. PRINGLE. Oh, adopt the Philadelphia regulation.

Mr. FLORENCE. I want that horses shall be used instead of steam, upon the road within the limits of the city.

Mr. DAVIS, of Indiana. I rise to a question of order. There is no proposition before the committee upon which the gentleman from Pennsylvania can speak.

The CHAIRMAN. The five-minute rule has not been adopted, and is not now in force.

Mr. FLORENCE. It seems that gentlemen do not want me to let off steam. [A laugh.]

Mr. HAMILTON. No, not just now.

Mr. FLORENCE. Well, if they will protect me from it in the District of Columbia, I will take my seat. [Laughter.]

Mr. HAVEN. I think the bill should contain the ordinary clause reserving to Congress hte power toalter, modify, or repeal the act.

Mr. HAMILTON. Yes, put that in.

Mr. WALSH. I would ask the chairman of the Committee for the District of Columbia, whether there is any limit as to the charge per mile for carrying passengers?

Mr. HAMILTON. Yes, sir.

Mr. WALSH. I understand that the State of Maryland receives half a dollar for every passenger carried over this Washington branch road, and the consequence is that passengers have to pay more than five times what they pay on the best roads in the State of New York.

Mr. HAMILTON. Yes, but there is no such capitation tax upon this road.

Mr. HAVEN. I now offer the following amendment as an additional section:

SEC. 5. *And be it further enacted*, That Congress reserves to itself the right to change, alter, repeal, or annul this act, or any part thereof, at its pleasure.

Mr. HAMILTON. That is right.

Mr. HILLYER. Is it in order now to offer an amendment to the second section of the bill?

The CHAIRMAN. It is not. The second section of the bill has been passed. The bill has been considered by sections, and as each section has been passed, the Chair has so announced.

Mr. SEYMOUR. I would suggest to the gentleman that he can, probably, accomplish his purpose by moving an additional section. My own impression is, that the second section does not sufficiently provide for control over the speed that shall be allowed, and the manner in which the road shall be conducted through the city.

Mr. HILLYER. I was drawing up an amendment, and had nearly completed it, when the chairman announced that the second section was passed.

The CHAIRMAN. Perhaps the gentleman's amendment can come in as an additional section.

The question was then taken on Mr. HAVEN's amendment; and it was adopted.

Mr. SEYMOUR. I would now propose an amendment—one which I have not drawn up with much care—for the purpose of bringing the subject to the attention of the committee. The amendment is in these words:

SEC. 6. *And be it further enacted*, That the corporate authorities of the cities of Washington and Georgetown may regulate the manner in, and the speed at which cars may pass within the respective limits of said cities.

Mr. HAMILTON. If I mistake not, that power is already conferred in the second section of the bill. Here it is: "Upon such terms, conditions, and restrictions as may be agreed upon by the corporate authorities of said cities," and so forth. However, I have no objection to the amendment, if there is any doubt as to the construction which may be put upon that second section.

Mr. HILLYER. I desire to propose an amendment to the amendment of the gentleman from Connecticut, to the effect that the corporate authorities of Washington and Georgetown may also determine through what streets and avenues this road shall pass.

The CHAIRMAN. Will the gentleman reduce his amendment to writing?

Mr. HILLYER. I will do so.

Mr. COBB. I move to amend the amendment of the gentleman from Connecticut by adding the words, "provided said speed shall not exceed the rate of six miles an hour."

Several MEMBERS. Say four miles an hour.

Mr. COBB. Very well. I will make it four miles. That is speed enough.

Mr. HAMILTON. Oh, I hope there will be no such provision as that put in the bill.

Mr. COBB. The gentleman from Connecticut proposes to give the corporate authorities power to regulate the speed. Who own the stock in this road? Why, the very men who control this corporate authority, of course; and you might just as well give the stockholders complete power, without any restriction, as give it to the corporate authorities. I hope the gentleman from Connecticut will accept my amendment. Four miles an hour is quite fast enough. It is as fast as the cars are allowed to pass through any city.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Alabama [Mr. COBB] to the amendment offered by the gentleman from Connecticut, [Mr. SEYMOUR.]

Mr. HILLYER. If I understood the Chair correctly, the amendment which I offered—and which has been passed by the Chair—was taken notice of and properly recognized.

The CHAIRMAN. The Chair was waiting for the gentleman to reduce his amendment to writing.

Mr HILLYER's amendment was submitted, as follows:

And that the corporate authorities of Washington and Georgetown also determine on what avenues and streets the said road be laid.

Mr. COBB. I suggest that that amendment conflicts with the amendment of the gentleman from North Carolina, [Mr. CRAIGE,] because the latter declares that the road shall not pass through such and such avenues and public grounds, and the amendment of the gentleman from Georgia [Mr. HILLYER] proposes to give the corporations complete control of that matter.

Mr. HILLYER. Well, I will modify my amendment to suit the views of the gentleman from Alabama, by inserting "except Pennsylvania avenue and the public squares and reservations."

Mr. COBB. I would much rather that the amendment of the gentleman from North Carolina shall be allowed to stand.

Mr. HILLYER. The modification to which I have assented will leave the amendment of the gentleman from North Carolina in full force and unaffected.

The amendment as modified was read, as follows:

And that the corporate authorities of Washington and Georgetown also determine on what avenues and streets said road shall be located, except Pennsylvania avenue and the public squares and reservations.

The question was put on Mr. HILLYER's amendment; and it was rejected.

Mr. COBB. If it be a proper time now, I submit the amendment that I have indicated.

The amendment of Mr. COBB to the amendment of Mr. SEYMOUR was reported, as follows:

Provided, That the speed within the limits of said cities shall not exceed five miles an hour.

The question was taken; and the amendment to the amendment was rejected.

The question recurred on the amendment offered by the gentleman from Connecticut, [Mr. SEYMOUR;] and the amendment was adopted.

The Clerk then proceeded to read the preamble to the bill.

Mr. WALSH. I move to strike out the enacting clause of the bill.

The question was taken; and the motion was not agreed to.

Mr. HAMILTON. I move that the bill be laid aside to be reported to the House, with a recommendation that it do pass.

The motion was agreed to.

TAXATION IN GEORGETOWN.

House bill No. 517, authorizing the corporate authorities of Georgetown to impose additional taxes, and for other purposes, coming up next in order on the Calendar, was read by the Clerk.

The first section of the bill provides that the Mayor, Recorder, Aldermen, and Common Council of Georgetown, be authorized and empowered to lay and collect a special annual tax of seventy-five cents, or so much thereof as may be necessary, upon every hundred dollars of property by law taxable within the corporate limits of said town, in order to meet the engagements recently assumed by said town in subscribing to the stock of the Metropolitan Railroad Company; and the tax is pledged to secure the engagements, and shall, in no event, be applied to any other object; and the like remedy shall be used for the recovery thereof as is now used for the recovery of other public taxes in said town.

The second section provides that the Corporation of Georgetown shall have full power and authority to introduce into said town a supply of water for the use of the inhabitants thereof, and to

cause the streets, lanes, and alleys, or any of them, to be lighted by gas, or otherwise, and to provide for the expense of any such works or improvements, either by a special tax or out of its corporate funds generally, or both, at its discretion.

Mr. FLORENCE. I move to lay the bill on the table.

The CHAIRMAN. That motion cannot be entertained, the House being in committee.

Mr. HAMILTON. I move that the bill be laid aside to be reported to the House, with a recommendation that it do pass.

The CHAIRMAN. The Clerk will first proceed to read the bill by sections for amendments.

The bill was read by sections, for amendments.

Mr. FLORENCE. I desire to offer an amendment to the first section of the bill, because that is the section to which I object most strongly. I move to strike out that section, if it be in order, I make this motion, because I am opposed to giving any countenance to a subscription by municipal corporations to railroad companies. The consequences resulting from such a policy have produced disaster in different States of the Union, and have increased very largely the indebtedness of the cities that have embarked in these railroad enterprises. Take, for instance, the city of Philadelphia—a city whose stock, until the period when this insane course of subscribing for the stock of railroad companies, and pledging its credit for the same, was pursued, was worth as much as one hundred and seven or one hundred and eight dollars. The disasters that have been brought upon the country by a variety of causes—and, I think, mainly produced by subscription on the part of the city corporations for railroad stocks—have reduced the stock of the city of Philadelphia alone to eighty-eight dollars in the one hundred. The depreciation of this stock causes serious losses to hundreds of people, and has worked a very great injury to the public, independently of the bad consequences resulting from it to the city of Philadelphia itself.

Mr. STANTON, of Tennessee. Is the city compelled to pay interest on these bonds?

Mr. FLORENCE. No, sir; I do not believe in the right of the city to pledge its creditors for railroad purposes, or for subscription to railroad stocks. I do not think that the Congress of the United States should countenance, directly or indirectly, any such act, and hence I am opposed to this section of the bill.

Mr. HAVEN. Before the motion of the gentleman from Pennsylvania is disposed of, I desire to offer an amendment to the first section. I think the section ought to be amended.

The CHAIRMAN. Any motion to amend will be entertained, and have precedence of the motion made by the gentleman from Pennsylvania to strike out the first section.

Mr. HAVEN. I move to strike out, in the tenth and eleventh lines, the words "the said tax is hereby pledged," and also the words "and shall in no," and insert in lieu thereof the words "to pledge the same," and also the words "in such a manner that it shall in no," so that the section would read as follows:

That the Mayor, Recorder, Aldermen, and Common Council of Georgetown be, and they are hereby, authorized and empowered to lay and collect a special annual tax of seventy-five cents, or so much thereof as may be necessary, upon every hundred dollars of property by law taxable within the corporate limits of said town, in order to meet the engagements recently assumed by said town in subscribing to the stock of the Metropolitan Railroad Company; and to pledge the same to secure the said engagements, in such a manner that it shall in no event be applied to any other object; and the like remedy shall be used for the recovery thereof as is now used for the recovery of other public taxes in said town.

In the words which I propose to strike out, we undertake ourselves to pledge this money for certain uses, thereby either undertaking to execute a trust or become responsible for this amount. We should do no such thing, and I think the amendment I have proposed will obviate the difficulty.

The question was taken upon Mr. HAVEN's amendment; and it was agreed to.

Mr. WASHBURN, of Maine. I would like to inquire of the chairman of the committee who reported this bill, under what authority the inhabitants of Georgetown have subscribed to the stock of that railroad company—whether there has been any authority delegated to them for that purpose by Congress?

Mr. HAMILTON. They have subscribed for it under their charter—the only authority I have any knowledge of in the case.

Mr. WASHBURN. To what extent have they subscribed?

Mr. HAMILTON. To the amount of $200,000.

Mr. WASHBURN. I would also inquire of the gentleman from Maryland what was the vote of the city by which this subscription was made?

Mr. HAMILTON. I cannot exactly answer the question, as it has been a long time since I have had the subject under consideration. I can only say that we have been solicited by the city authorities to pass this bill. We have had petitions from the inhabitants of Georgetown before us, and we have had delegations from that city to wait upon us in reference to this matter. The accomplishment of this work is a matter of great moment to them. My impression is, that the authorities of Georgetown took a popular vote of the town upon this subject. I am not positive, but my impression is, that the members of the Board of Common Council came before the committee, and stated, to the best of my recollection, that there was a difficulty in the Board as to whether Congress should be asked to allow them to impose a tax, not exceeding fifty cents, or not exceeding seventy-five cents. That of seventy-five cents was adopted, and an appeal was taken by the members voting for, by resigning, and they were largely sustained. There was no diversity, apparently, among the Board and the people as to the imposition of either the former or the latter.

Mr. WASHBURN. I do not intend to oppose the first section of the bill, or vote for striking it out; but I simply desired to ascertain whether there was any authority in the inhabitants of the town to make a subscription. I understand the gentleman from Maryland to say that there was. Ordinarily, the inhabitants of a town have no authority of this kind, unless it is specially given by the Legislature. It seems, from the reply of the gentleman, that authority exists in the Corporation of Georgetown, given by their charter, to make subscription to this stock; and, in pursuance of that charter, they have made the subscription, pledged their honor, and contracted obligations. It seems to me, therefore, especially improper and unjust in us to refuse to give to that corporation power to carry out the obligations which they have assumed. Although, generally, I am in favor of the principle advocated by the gentleman from Pennsylvania, [Mr. FLORENCE,] as against the policy of organized cities and towns making subscriptions of this kind, yet, as in this case—as it has been exercised and partially carried out—I shall vote for giving the corporation the power to carry out the policy they have already commenced.

Mr. FLORENCE. I am opposed to the amendment of the gentleman from Maryland, although I did not hear all his remarks. I am opposed to the policy of granting this authority, for reasons other than I have mentioned. This morning we passed a law in relation to the issue of small notes in the District of Columbia; and, for the express purpose of enabling the Corporation of Georgetown to pay its debts, we extended that law, before it should go into operation, some eleven months. Here is the fact of a bankrupt corporation issuing small notes—notes under the denomination of five dollars—which has, notwithstanding that fact staring us in the face, and the country, subscribed $200,000 for the accomplishment of this purpose.

But the chairman of the Committee for the District of Columbia [Mr. HAMILTON] says, that the people have directed it? Who? What people? Who are the people? What authority had they to do it? What authority had any portion of the people of the Corporation of Georgetown to bind me to the payment of any such debt? I think we have traveled a good ways during these last two days in sustaining corporations by the authority of the Congress of the United States, and it is pretty nearly time that we had stopped this accelerated and accelerating motion.

The gentleman from New York [Mr. SIMMONS] this morning referred to the fact that we are going ahead without knowing what we are doing—that we were directing or authorizing railroad companies to build railroads through the avenues of this District without protecting the citizens of the District by well guarded laws, as to the rate of speed at which their engines might be driven through the city. And now we have here the solemn fact presented to the country, that a radical committee, selected by a Democratic Speaker of the House of Representatives, has presented a bill to this House to authorize munit cipal subscriptions to railroad companies. Upon a vote upon a principle this morning—a well defined principle, and, as I have always understood. a Democratic principle—there were just nineteen gentlemen to sustain it.

Mr. WALSH, (interrupting.) A good many in these degenerate days. [Laughter.]

Mr. FLORENCE. While at the organization of this Congress—when an era of good feeling existed, interrupted somewhat since—we had a majority, upon the election of Speaker, of some fifty in this House, and here it is now dwindled down to nineteen men. That is worse than the worst enemies of the Democratic party ever intimated it was.

Mr. SOLLERS. I call the gentleman to order. I submit that he is out of order in reflecting upon the state of the Democratic party, as not being pertinent to the bill under consideration.

Mr. FLORENCE. I hope the gentleman will state his point of order again.

The CHAIRMAN. The gentleman is called to order because his remarks are not relevant to the bill under consideration, and the Chair would remark that the gentleman was not, at the time he was interrupted, speaking to the bill under consideration.

Mr. FLORENCE. Is it not in order now to test the condition of the Democratic party by seeing how many Democrats we have in this House, as indicated by a vote upon the principle contained in this bill? If the Chair decides that it is not, I appeal from that decision.

The CHAIRMAN. The gentleman from Maryland [Mr. SOLLERS] called the gentleman to order, because, in his remarks, he referred to the state of the Democratic party at the time of the organization of this House. The Chair ruled the point well taken, and decided the gentleman out of order. From that decision the gentleman from Pennsylvania takes an appeal. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was taken; and it was decided in the affirmative.

So the Chair was sustained.

The question then recurring upon the motion of Mr. FLORENCE—

Mr. HAVEN said: I wish to say another word upon this subject. I assumed, when I proposed to amend the first section of the bill, that it was a bill which had been well considered by the gentlemen who compose the Committee for the District of Columbia. I suppose now it has been so considered; but I desire to say to this committee, that this is a very extravagant and a very extraordinary mode of legislation, and a very extraordinary grant of power to the Corporation of Georgetown—one which the House should hesitate long before it grants, unless the gentlemen who compose that committee can give us full and cogent reasons why we should pass it.

The reasons stated by the gentleman from Pennsylvania—although it happened that he got out of order before he had finished his remarks, by swinging out into the shadowy regions of recent Democratic faith—were rather pungent, and had some weight with them, as applicable to the first section. But the second, as well as the first section of this bill, requires some consideration. That section proposes to confer upon the Corporation of Georgetown an unlimited and unregulated power to tax the people of that corporation to whatever extent they please, for the purposes mentioned therein. I am told by the honorable gentleman, the chairman of the Committee for the District of Columbia, [Mr. HAMILTON,] that there has been some sanction of this course by the people of Georgetown themselves. If there has been a sanction of it by a clear majority of the people—those who own the property as well as those who do not—I am content, and willing to give them what they so desire. But I am unwilling to do so unless there has been some such expression of their opinion as shall fairly express the will of the majority? This is a matter which bears upon the property-holders of Georgetown. Have they authorized it. Or have any considerable portion of the citizens of that place authorized us to grant this power to any branch of their municipal authority?

I do not make these suggestions for the purpose of pressing the House in opposition to the bill, but because I live in a city which sometimes gets restive under the salutary restraints which the Legislature puts upon it, and it is well that all cities should be held in wholesome subordination at times. The power of numbers, perhaps, in some instances, and in cases of this kind, should be a little modified by the rights of the men who hold property, and have to pay the taxes. I am willing, sir, that a majority in all legislation of a general kind should control, where that majority may not take away vested private rights without compensation; but in this case, we propose to confer the power, without limitation or restraint, upon the common council of Georgetown to take away, if they please, the property of those who own it, by taxation, without giving such property-owners any power or any chance to defend themselves, or protect their rights. I doubt not the gentleman from Maryland [Mr. HAMILTON] will be able to tell the House whether he has authority from this corporation to frame this bill as it is. If he has not, I shall vote against the bill.

Mr. HAMILTON. In reply to the gentleman from New York, I will state my general recollection in reference to the history of this bill. I was not here when it was reported to the House. We were, however, waited upon by the corporate authorities of the city of Georgetown, and by other respectable and influential citizens, who earnestly pressed upon us the adoption of the proposition contained in this bill. They represented that it was a matter of the most vital importance to them, both as a city and as individuals, that this great channel of communication should be constructed. It is a great channel of communication. It is a route, so far as respects the travel of the West, which cuts off a large triangle in the ordinary route of travel. It is forty-five miles nearer the West than the route by way of the Relay. It saves to the people of the West four or five hours travel by railroad. It is also important to this city in securing the trade of the Cumberland valley during the entire season, and which is now directed in another direction during the winter, when the canal, through which the city receives it in the summer season, is closed up. These considerations address themselves to the citizens of Georgetown, and they address themselves to the citizens of Washington, and also to those who come here from the West.

Mr. BRIDGES. I wish to ask the gentleman a question, the answer to which will, in some manner, control my vote. Does the chairman of the Committee for the District of Columbia know of any citizens of Georgetown who are opposed to this measure?

Mr. HAMILTON. I have not heard of a single individual in Georgetown who is opposed to it. The bill has been before the House since the beginning of the last session. Gentlemen of influence and respectability have, at various times, been before our committee to ask its passage, and there was no controversy between them. They were unanimous for the measure. A memorial, presented to the council of Georgetown, instructing them to go for the proposed subscription, was laid before us. The signers were so numerous that we felt no desire to count them. In obedience to their instructions, they have come to Congress and now ask the passage of this bill.

I shall not bandy the word "democracy" with the gentleman from Pennsylvania, [Mr. FLORENCE.] I hope that in my service here I have convinced members that I am at all times controlled by, and prepared to vote for, Democratic principles and measures. But I desire to do justice to all men. No narrow view, or prejudice, can affect me when I learn the unanimous wish of these people. If they desire this great line of communication, I shall be the last man here to refuse it to them.

Mr. FLORENCE. Did the gentleman say he would not bandy the word "democracy" with me?

Mr. HAMILTON. Yes, sir, I said so.

Mr. FLORENCE. Did the gentleman mean to intimate that I had prejudices other than Democratic ones? [Laughter.]

Mr. HAMILTON. No, sir. I know that the gentleman is a Democrat; but we will not toss the word between us.

Mr. FLORENCE. I have a pretty good certificate of my Democracy granted at the last election. [Laughter.]

Mr. HAMILTON. The reasons which I have stated were the ones operating on the Committee for the District of Columbia in reporting this bill. I feel no other interest in the matter than to gratify the wishes and desires of the people of Georgetown. If I supposed that the bill was in opposition to their views and desires, and their interests, I should be unwilling to advocate, or vote for it.

Now, as to the second section. That section gives power to the Corporation of Georgetown to introduce water for the use of the people there. Is it necessary for me on this floor to appeal for the conferring of that authority? After we have refused to supply them with water, shall we refuse them the authority to supply themselves? They desire the provision individually, and as a corporation; and with the lights which I have now before me, I can see no good reason for preventing the gratification of that desire.

Mr. GROW. Mr. Chairman, I have but a few words to say on the proposition before the committee; and but for the remarks of the gentlemen from New York and Maryland, I should have contented myself with a silent vote. The gentleman from New York [Mr. HAVEN] seems to put this legislation on the ground that if a majority ask it, it should be granted. I put it on no such ground. It is legislation, in my opinion, which is against the vital principles of this Government. You authorize one set of citizens to put their hands into the pockets of another set, and to take money for the purpose of private speculation. It is against the great essential doctrine of a free Government—that you can take money from a citizen without his consent for any other purpose, than that for which Governments are instituted, the protection of the life, property, or health of the citizens. Now, here is a railroad enterprise—for what purpose? It is, of course, engaged in as a private speculation. Private gain is the moving cause. Now, can a majority of your citizens, on any principle of justice, equity, or right, take from the minority any of their money for such a purpose without their consent? It confers on a portion of citizens the right to which, under any principle of justice, they are not entitled. You allow the Corporation of Georgetown to take from a minority there, and without their consent, their property, for the purpose of applying it to individual private gain; it is legislation which the Congress of the country, while claiming to act on principles of justice, equity, and right, ought never to allow to go upon its statute-book. The authorizing of such municipal corporations to do these things is, in my judgment, against sound principles of legislation, whether indulged in by Legislatures of States, or any other legislative body. Certainly the Congress of the United States should be the last body to set the example. If the gentleman from Maryland [Mr. HAMILTON] could assure the committee that it was the unanimous wish of the people of Georgetown to have this authority conferred, it would be some palliation; but the principle of legislation is equally pernicious and wrong. It is a wrong on the minority when they do not consent; it is a bad precedent when they do. It is bad legislation in either case. For this reason I am opposed to conferring such power on any corporation, here or elsewhere.

Mr. COBB. Mr. Chairman, I do not rise for the purpose of speaking for or against the measure, but to submit a motion; for I see from the demonstration just given, that we are getting to sea in the discussion. Political questions which have been agitating the country for many years, have already been introduced and discussed. Some Democrats who believe that the people doubt their democracy, make it more substantial by Buncombe speeches. I do not intend disrespect to any gentleman. [Laughter.]

I move that the committee do now rise, with a view of offering a resolution in the House for the close of debate on the bill now under consideration.

Mr. WALSH. Is not that a Buncombe speech? [Laughter.]

The question was taken; and the motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the special order relating to business of the District of Columbia, and had directed him to report back Senate bill No. 16, and House bill No. 516, with amendments, and that it had come to no resolution on House bill No. 517, allowing the Metropolitan railroad to extend into the District of Columbia, and for other purposes.

Mr. COBB. I move the usual resolution, to close debate in the Committee of the Whole on the state of the Union, on the bill allowing the Metropolitan railroad to extend into the District of Columbia, and for other purposes, in five minutes after its consideration shall be again resumed in committee.

The question was taken; and the resolution was adopted.

Mr. COBB. I move that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken; and the motion was agreed to.

The House thereupon resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair.)

The CHAIRMAN. The bill before the committee, is one allowing the Metropolitan railroad to extend into the District of Columbia, and for other purposes.

Mr. TAYLOR, of Ohio. In the five minutes, to which debate on this bill has been confined, I desire to say something in behalf of the people of Georgetown. I do not recognize the opinion expressed by the gentleman from Pennsylvania, [Mr. GROW,] as one that ought to control a wise legislator anywhere. If I understood the gentleman correctly, he said that where there was any opposition to a great public measure, that even if there were five men in the Corporation of Georgetown opposed to this proposition, it should be abandoned because of the want of unanimity. We should never legislate for anybody if we were to wait for entire unanimity. If we were to wait for entire unanimity of the people of such a city as Georgetown, we should never act on questions touching their interests and prosperity.

Now to the facts: I understood the honorable chairman of the Committee for the District of Columbia to say that the Common Councils of Georgetown called on his committee at the beginning of the last session, and, without a dissenting voice, asked that this bill might pass. There never was an appeal for any measure more universally made than for this one now under consideration. The advantages to accrue to Georgetown by the construction of a railroad connecting with the Baltimore and Ohio railroad, and with Frederick and Hagerstown, are so great and apparent, that during an acquaintance of some six or seven years with its people, I have never heard any opposition to it. And as to the authority given by this bill to enable them to pay the interest upon their subscription to that road, and to enable them to supply their city with water, I shall give my vote to furnish that authority with great pleasure, as I shall for any measure for the benefit of the cities of Washington and Georgetown. Sir, they ought to be allowed to supply themselves with water, if we do not supply them from the funds of the General Government. They live in the District of Columbia, where they have no vote for a member of this House, or for the President of the United States, and have no influence here except by appealing to our sense of justice and right. We are their exclusive legislators, and it becomes our duty to deal liberally with them. I therefore hope the House will not hesitate to grant the request which is now asked, and to reject the amendment now pending.

Mr. LETCHER. What is the amendment pending?

The CHAIRMAN. It is to strike out the first section.

Mr. LETCHER. Is it in order to amend the section which it is proposed to strike out?

The CHAIRMAN. It is in order to perfect the section before the question is taken upon striking it out.

Mr. LETCHER. Well, sir, I propose to amend by inserting after the word "of," in the seventh line, the word "real," so that the clause will read:

That the Mayor, Recorder, Aldermen, and Common Council of Georgetown be, and they are hereby, authorized and

empowered to lay and collect a special annual tax of seventy-five cents, or so much thereof as may be necessary, upon every hundred dollars of real property by law taxable within the corporate limits of said town, in order to meet the engagements recently assumed by said town in subscribing to the stock of the Metropolitan Railroad Company.

I propose this amendment because improvements of this sort are calculated to prove much more beneficial to the holders of real estate than to the holders of personal property. I say that it is wrong that the burdens of this taxation should fall as heavily upon those who are the holders of personal property, who have no connection with the ownership of the soil, but who constitute, perhaps, a considerable proportion of the population of the town, as upon the owners of real estate.

Now, sir, when this subscription was made, it was for the purpose of increasing the value of the real estate by augmenting the business of the city of Georgetown; and whenever the business of the city is augmented, the result of that augmentation will be directly to the advantage of the owners of real estate almost exclusively. I desire, then, to see this amendment adopted, if the bill is to pass; and I think it should be adopted, unless the gentleman from Maryland can give some other reason than we have yet heard, why the citizens of Georgetown should be indiscriminately taxed for the benefit of this Metropolitan Railroad Company. Suppose there are seven hundred and fifty citizens of Georgetown, three hundred of them owning personal property alone, and that there are only one hundred who hold real estate, is it right that this one hundred landholders should control the other three hundred and fifty, who own the residue of the property of that town? Is it right that they should impose a general tax upon the other three hundred citizens? Such a system of taxation would be, in effect, for the minority in interest to control the majority in the burdens they impose.

Now, sir, I want to see how it is that this subscription came to be made by the city of Georgetown. I want to know whether it was by the authority of Congress, or by what authority? It seems to me that my friend from Maryland, who represents the Committee for the District of Columbia, ought to have these things at hand for the information of the House. It seems to me that the House ought to have the opportunity of understanding these facts from the records made by the parties interested. But, sir, if this section is to be retained, I hope the amendment I have proposed will be adopted, and that this taxation will be made to apply to real estate only.

Mr. HAMILTON. I ask for tellers upon the amendment of the gentleman from Virginia.

Tellers were ordered; and Messrs KEITT and THURSTON were appointed.

The question was taken; and the tellers reported ten in the affirmative—a further count not being demanded.

So the amendment was not agreed to.

The question then recurred upon striking out the first section, and, being taken, was decided in the negative.

The reading of the bill was then concluded, and no further amendments being proposed, it was laid aside to be reported to the House, with the recommendation that it do pass.

WASHINGTON INSURANCE COMPANY.

House bill No. 531, to incorporate an insurance company in the city of Washington, coming up next in order on the Calendar, was read by its title.

By unanimous consent, the first reading was dispensed with.

The bill was then read by sections, for amendment. The first section provides that Silas H. Hill, William B. Todd, James G. Berret, B. B. French, Benjamin Beall, Lewis Johnson, Walter Lenox, George Parker, Joseph Bryan, Augustus Perry, H. B. Sweeny, T. M. Chubb, J. C. McGuire, and R. S. Patterson, their associates and successors, shall be a body-politic and corporate, by the name and style of the Washington Insurance Company, for the purpose of making insurance on dwellings, houses, stores, and all other kinds of buildings, vessels in port, house furniture, merchandise, and all other kinds of property, against loss and damage by fire; and also to make insurance on vessels, merchandise, freight, specie, bullion, commissions, profits, bank notes, bills of exchange, and other evidences of debt, bottomry, *ad respondentia* interests, and all other personal property or interests in or touching property at sea, land, or water; and that the corporation hereby created shall, by the same name, have succession, and shall be capable in law to sue and be sued, implead and be impleaded, in all courts of law and equity, or elsewhere, and to make and to have a common seal, and the same to break, alter, and renew at their pleasure.

Mr. LETCHER. I move to strike out the enacting clause of the bill; that motion will allow a discussion on the merits of the bill.

Mr. Chairman, this strikes me as a very remarkable bill. There are some extraordinary powers granted here to this corporation; and there is almost an utter exemption of everything like restriction upon its acts. Here, in the first place, the principle which is now recognized everywhere else is departed from in this bill—that is, the individual liability of the stockholders for the contracts which the company may make. This bill merely makes the property which the stockholders have invested in the company liable. It expressly exempts the private property of the stockholders from payment of such debts as the company may contract; and their liability is confined exclusively to the investments they may have made in the insurance company. In proof of this fact, take the fifth section of the bill, which is in these words:

"SEC. 5. *And be it further enacted*, That the members of the company shall not be liable for any loss, damage, or responsibility arising from any contract of insurance, other than the property they have in the capital or funds of the company to the amount of the shares respectively held by them, and any profits arising therefrom not divided: *Provided*, The said corporation shall, from time to time, apply all sums of money received by them for premiums to the payment of losses in the first instance, and to make up the amount of their original capital whenever it shall have suffered any diminution by losses."

The stockholders may divide as large profits as they please with each other, but so far as their action as members of that insurance company is concerned, they have the right to make all they can, and are subject to no loss except to the amount which they may have, respectively, invested in this joint stock institution. Now, it seems to me, that when the settled view of the country has decided—as it has done for some years past—that where associations of this kind are formed, where they are formed for the purpose of speculating and making profits, the parties who choose to embark in that species of speculation in quest of profit, shall be held liable for all the contracts the company may make, and not only the property which they invest, but all the property which they possess, shall be subject to such contracts. It seems, I say, that we would do wrong in ignoring that settled view of the country by this bill.

It is most extraordinary that, during this present session, comprising a period of only about fifteen days, and particularly during these last two days, we have had more propositions to give birth to corporations than have been presented to Congress since I have been a member—three years. Here we have one after another applications to incorporate associations for all conceivable purposes, and besides all this, we have them even coming in here and proposing to be incorporated on such terms as are universally objected to everywhere else.

Well, that is not all that is in this bill. Under the provisions of the bill the company can trade in any sort of stock—canal stock, railroad stock, and every species of business in which they may choose to engage. This bill does, in fact, to some extent, confer almost unlimited privileges, without any restriction whatever over them, or without any guarantee that the parties who trade with them shall be protected. Now it is extraordinary that this bill should be sought to be carried at the present time, when we see similar corporations tumbling everywhere around us. Every day we hear of the failures of institutions engaged in this business, speculating in stocks, and trading in all sorts of mortgages, while the people are left to suffer from their imprudence in risking their property in contracts with such companies. And for the Congress of the United States now to set the example of authorizing this thing throughout the country—of stimulating this reckless spirit, and of building up similar new enterprises—is, to say the least of it, unwise. Here we are engaged in giving birth to associations which are soon to follow in the footsteps of those which have exploded. I hope that the House will reflect upon this matter, and look at the extent to which this species of legislation seems to be going.

Now, here is another matter in this bill which is most extraordinary. Look at the sixteenth section of the bill, where the simple clause which has been considered fair and proper in every case for years, is absolutely annulled in behalf of this association.

"SEC. 16. *And be it further enacted*, That in suits by or against said company, no member of the corporation shall on that account (if he be not in his individual capacity a party to such suit) be incompetent as a witness."

Now, the universal doctrine of law is, that parties interested in companies—whether railroad or other companies—are not competent witnesses to testify in behalf of the company in suits where the interests of such company are involved. And yet, in this age of progress, in this age of corporations, when the whole country is to be shingled over with them, when rights are to be granted to them which Congress withholds from private citizens, it is proposed to upset the settled law of the land, and give to the members of these corporations the privilege of testifying in their own behalf. In other words, Mr. Chairman, if they get into a controversy with you, the president or directors, or stockholders of the association, are to be authorized to come into court and to promote their own interests by forcing a recovery against you, and thereby putting dollars and cents in their own pockets.

I call upon the gentleman who reported this bill, [Mr. DICK,] to know why this provision was put in here? Why, I ask him, was such a provision inserted? Why is it that this corporation is to have everything in its own favor, while everything in favor of the people is withdrawn from the bill? This bill must have been drawn by somebody who is interested in this matter. It is drawn with that particularity, and that degree of care for the protection of the parties concerned, that it seems to me the conclusion is irresistible that it must have been prepared by those directly interested in it, and that it has been reported to the House without due consideration. I hope, if we are determined to incorporate this institution, that we will make it conform to the settled policy of the country, that we will require the stockholders to be individually liable, and exclude from the bill the privileges which allow them to testify in their own behalf, to promote their own interest, and to increase their own gains by securing themselves against those who may happen to deal with them.

Mr. DAVIS, of Indiana. I have but a word to say in reference to this bill. First of all, I desire to say that it has been a year, I believe, since I saw the bill. It was reported by my colleague upon the committee, [Mr. DICK, of Pennsylvania,] and my attention has just again been called to it by the speech of the honorable gentleman from Virginia, [Mr. LETCHER.] So far as regards the individual liability clause of which the gentleman speaks, I had supposed that it was made a part of this bill. I remember very distinctly that the committee had one general rule upon that subject, and that was, reserving the right to Congress to repeal, alter, or modify these corporation acts, and we had another rule making the stockholders individually liable for the debts of the company. I do not now desire to enter into a discussion of this subject, or answer all the objections which the gentleman from Virginia has made to this bill. I only wish to say that, when the bill is read by sections, that any amendment which the gentleman may offer so as to make the bill conform to the bills which have been heretofore passed, and which have passed since I have had the honor of a seat upon this floor, will be entirely acceptable to, and will not meet with any opposition from me.

The CHAIRMAN. The bill was not reported by the Committee for the District of Columbia.

Mr. DAVIS. I beg pardon then for my mistake in supposing that it was reported regularly by the Committee for the District of Columbia. That accounts for this bill being reported in its present shape, for I know the general rule of the committee was different.

Mr. SIMMONS. I wish to ask the gentleman from Indiana whether his attention has been called to the fourth section, where it will be seen that

the corporation is to take effect as soon as five thousand shares shall be subscribed without being paid in, or the balance secured by good mortgages on real estate, with double the amount of United States stock—whether the policy holders are to have any security at all?

Mr. DAVIS. I cannot answer the question now, but I will answer it perhaps in a moment. The gentleman from Virginia [Mr. LETCHER] referred to one fact which I desire to answer, and it is this: That more bills creating corporations have been passed within fifteen days past than ever before since I have had the honor of a seat upon this floor. I desire to say that the Committee for the District of Columbia never had the privilege of reporting bills, except one or two, which I succeeded in getting passed during the last session of Congress, until the present day. The business relating to the District of Columbia was always blocked up; and we had no power, no right, and no authority to make a report until yesterday, or take up this bill for consideration. It is not my wish to consume the time of the House with a discussion of this question now. When the bill shall be read by sections, I shall have no objection to any amendment which the gentleman from Virginia may propose to it to make it conform to the bills which have been heretofore reported. I am willing that the bill shall have all the guards which the gentleman from Virginia may desire.

Mr. FLORENCE. Would it be in order to move to commit the bill to the Committee for the District of Columbia?

The CHAIRMAN. That motion is not in order in committee, and cannot be entertained at present.

Mr. FLORENCE. We passed a bill yesterday incorporating a company of similar character in Georgetown, which seemed unobjectionable with the amendments that were made to it; and, if the Committee for the District of Columbia will make this bill conform to it, a majority of the present committee, I presume, will not object to it.

Mr. STANTON, of Tennessee. I cannot see the force of the objections to this bill, submitted by the gentleman from Virginia, [Mr. LETCHER,] especially to the objection which refers to the fact that the stockholders of this corporation are not to be liable to the full extent of the debts of the corporation. If such a provision were incorporated in this bill, it would certainly destroy all the benefits of the bill. An incorporation of this kind is designed to be nothing more or less than a limited partnership—a partnership in which the parties will be permitted to put in a certain amount of their notes, and risk no more than the amount designed to be put into the establishment. It is the practice, in some of the States of this Union, to allow limited partnerships of this kind, and, under the circumstances, certainly there can be no disadvantage, and no danger to the public, when it is perfectly well understood that a certain amount of property is liable for the debts of the institution, and no more. The contract of insurance is a very peculiar one. You will find very few individuals who would be willing to take risks, if the whole amount of their personal possessions is to be liable for any contingency that may happen. The same individuals, however, might be willing to put a very considerable amount of property into institutions of this kind, as security for the ultimate payment of losses, whatever they might be. What security have the public in a case of this kind? Nothing more nor less than the amount of property pledged by the security of the debt that may be incurred. What security have the public, when an individual becomes an underwriter? Nothing more nor less than the amount of property possessed by that underwriter. In either instance, the value of the security is or ought to be perfectly well known to the party that does business with the institution or the individual. The commercial community of the present day is tolerably well informed upon this subject, and in cases of this kind. If this institution should not be a sound one, the community would be very likely to know it. The reputation of institutions of this kind is just as well settled in a commercial community, as the reputation of private individuals. I presume, if you were to incorporate this company tomorrow, the citizens of Washington and Georgetown who wish to do business with an insurance company, would probably prefer to do it with this insurance company, just as it is organized in this bill, in preference to doing this business with a half dozen individuals who might sign a contract for insurance.

Mr. LETCHER. Will my friend permit me to ask him a question? Did my friend vote for a bill to incorporate the Mutual Fire Insurance Company in the District of Columbia?

Mr. STANTON. I happened to be at one of the Departments on business yesterday, and I was not here when that bill passed.

Mr. LETCHER. Well, I will read the gentleman a clause of that bill. It is this:

"*And be it further enacted*, That the members of said corporation shall each be liable, in his or her individual capacity, for all debts created by said corporation in favor of persons not members thereof."

Mr. STANTON. Well, Mr. Chairman, I grant that that would create an additional security to the benefit of the institution, and to the benefit of persons doing business with that institution; and if the members of that corporation are willing to accept of a charter upon such terms, why, it perhaps inures to the benefit of the community as well as to their own benefit, by the way of giving them greater credit.

But what is the principle there? The incorporators have a certain amount of property in their individual capacity, and a certain amount in their corporate capacity. Add the two amounts together, and the community know pretty well the amount they have bound to back up the risks taken by the company. They have private property, and property as corporators. In this instance they have corporate property, and nothing more, and the community is as well aware of that as they are of the other fact in the other case, and they know it just as soon in the one case as in the other.

It is true that the fact that the property of the individual is bound for his corporate acts may make the corporator much more careful, and not perhaps to take a greater risk as a corporator, than he would take as an individual. It may be the means of so controlling the acts of the corporation as to secure prudence on the part of the institution.

On the other hand, I presume the liability of the party does not remain after he has disposed of his interest in the institution. And now, sir, whatever may be the liability of the property of the individual stockholders at a given time, you see perfectly well, that it would be in the power of these corporators to transfer their stock to men of straw, and thereby release themselves from the liability imposed upon them by the act of incorporation. I am not certain that this power on the part of the stockholders or incorporators does not render a charter of that kind more deceptive than the one in this case, which I hold in my hand.

I know nothing of the origin of this bill, nor do I know who the gentlemen are who are to be incorporated, for I have not even read their names, but I think the principle is wrong to insist that no limited partnership should ever be allowed. I doubt whether the operations of insurance could be carried on in this country without limited partnerships, or that underwriters could be found willing to risk their whole fortune upon contracts of insurance. I doubt whether it is not a matter of necessity to incorporate limited partnerships.

I only desired to state my views upon this one point, to show that there could be no danger to the public by incorporating a company, with the provisions contained in this bill.

Mr. GREENWOOD. It seems to be admitted, even by the last gentleman who spoke, as well as by others, that this bill is imperfect. I understand from some of the members of the Committee for the District of Columbia, that this bill has never been before them; and, if it will meet with the approbation of gentlemen around me, I will move that this bill be laid aside to be reported to the House: with a recommendation that it be referred to the Committee for the District of Columbia.

Mr. LETCHER. Before that question is taken, I wish to say another word in reference to this matter. It is well known to the members of this House, that I have resisted all attempts to refer bills, upon their introduction, to the Committee of the Whole on the state of the Union, before referring them to the standing committees of this House. This is a strong instance in illustration of the impropriety of pursuing that course. Here is a bill introduced, and immediately referred to the Committee of the Whole, which is certainly one of the most defective ever brought to the consideration of this body. It has been introduced and brought up for discussion without its having received the consideration of any committee, and that through the expedient of referring it to the Committee of the Whole when it was introduced into this body. I hope the difficulty which we have gotten into now will attract the attention of gentlemen, and that it will admonish them of the necessity of first referring bills to the standing committees of this body, and thereby avoid the difficulty into which we have involved ourselves upon this occasion.

There is another matter to which I wish to call the attention of the Committee for the District of Columbia, when this bill shall be sent to them. There is not a word in this bill, from the very first to the last, in the way of prohibiting it from issuing bank paper. Not a word.

A MEMBER. The gentleman is mistaken.

Mr. LETCHER. We have here passed a bill in Committee of the Whole, which has not yet been reported to the House, to suppress the circulation of small notes in the District. But here is a charter for a company which contains not one word upon that subject.

Mr. PENNINGTON. I wish to call the attention of the gentleman from Virginia to the sixteenth section of the bill. He will find that he is laboring under an error, and that the prohibition against the issuing of bank paper is there contained in express words.

The CHAIRMAN. The question is upon the motion to strike out the enacting clause.

Mr. LETCHER. I withdraw that motion.

The question then recurring upon Mr. GREENWOOD's motion, it was put, and decided in the affirmative.

So the bill was laid aside to be reported to the House, with a recommendation that it be referred to the Committee for the District of Columbia.

METROPOLITAN COLLEGIATE INSTITUTE.

The next bill which came up for consideration was House bill No. 533, to incorporate the Metropolitan Collegiate Institute of Washington.

Mr. HAMILTON. I move that that bill be passed over informally.

The motion was agreed to; and the bill was laid aside.

PENITENTIARY INDEBTEDNESS.

Mr. HAMILTON. There is another bill which I desire to have taken up and acted upon before we adjourn. It is one to which I am sure no objection will be made. It is bill No. 583.

The bill was reported by its title, as follows:

A bill for the liquidation of the penitentiary indebtedness.

Mr. LETCHER. Is that bill printed.

The CHAIRMAN. The Clerk informs the Chair that it is not.

Mr. LETCHER. Then I hope that it will be passed over for the present.

Mr. HAMILTON. Let it be read for information, and I am sure the gentleman from Virginia will have no objection to it.

Mr. JONES, of Tennessee. I desire to say to the gentleman from Virginia, that, if the provisions of this bill are right, the bill itself is proper, and should be passed.

There is a leather dealer in this city who, for years past, has furnished leather for the penitentiary; and, at the coming in of the present superintendent of the penitentiary, the debt due to that gentleman amounted to some $12,000. It has been reduced by the present superintendent some $5,000, leaving still a balance due to him of some $7,000. This amount has been due him for years. He receives no interest, and appropriations have been asked for the payment of this debt. The Secretary of the Interior, in his report accompanying the President's annual message of this session, states that there is a balance of indebtedness of some $7,000, which ought to be paid. I myself have no doubt of the indebtedness, and think that the appropriation ought to be made to pay it off.

The bill, which was read *in extenso*, provides that $7,186 92 be appropriated out of any moneys in the Treasury not otherwise appropriated, to enable the Secretary of the Interior to liquidate

the indebtedness of the penitentiary of the District of Columbia.

There being no objection, the bill was laid aside to be reported to the House, with the recommendation that it do pass.

The Clerk read the title of the next bill on the Calendar, as follows:

A bill to amend the charter of Georgetown, in the District of Columbia.

The CHAIRMAN. That bill has not yet been printed.

Mr. HAMILTON. If anybody objects to its consideration, I shall not press it at this time.

Mr. HAVEN. My friend from Maryland [Mr. HAMILTON] has been pretty well worked yesterday and to-day on these bills for the District of Columbia, and, as the committee seems now to be substantially without business, I suggest that the committee do now rise.

The CHAIRMAN. Certain bills, informally passed over yesterday, may be taken up and disposed of.

Mr. HAMILTON. The committee do not desire those bills taken up, but to remain informally passed over.

Mr. DAVIS, of Indiana. There has been a bill reported which is not on the Calendar. The committee could take it up and dispose of it in a few minutes.

The Clerk read the title of the bill, as follows: An act to incorporate the St. Joseph's Male Orphan Asylum in the D strict of Columbia.

The CHAIRMAN. The bill has not been printed.

Mr. WASHBURNE, of Illinois. I move that the committee do now rise.

The question was taken; and the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the special order, relating to business of the District of Columbia, and had directed him to report its action thereon, which he did.

Mr. HAMILTON. What is the first bill before us for action?

The SPEAKER. The bill to suppress the circulation of small notes as a currency in the District of Columbia.

Mr. HAMILTON. It was the understanding of the committee, when that bill was laid aside to be reported to the House, that the amendments made to the first section should be voted down, and that it should pass as it came from the Senate. I hope that may be done.

Mr. HAVEN. I desire to know whether the amendments on page two were agreed to?

The SPEAKER. The amendments in italic are those recommended by the Committee for the District of Columbia. Those made to the first section were agreed to, and the others repudiated, and the bill reported to the House, with the understanding that those made to that section should also be voted down when they came here.

By unanimous consent, the question was taken on the amendments of the Committee of the Whole, and they were rejected.

The bill was then ordered to be read a third time, and it was read a third time, and passed.

Mr. HAMILTON. I move to reconsider the vote by which the bill was passed, and that that motion be laid upon the table.

The latter motion was agreed to.

Mr. HAMILTON. If there be no objection, I call for the previous question on all the other bills which have been reported to the House.

Mr. HAVEN. I object. There is one bill which I think ought to be amended. The second section of the bill allowing the Metropolitan railroad to extend into the District of Columbia was passed over with an incorrect understanding of its provision on my part, as well as of others. It authorizes the railroad corporation itself to select the streets through which the road was to run. I think that it should be restricted so that they shall have the right to run the road only through the streets selected by the corporations of Georgetown and Washington.

Mr. HAMILTON. I suggested, when the bill was in committee, that, if any amendment to the bill was needed to guard it, I should not object to its being offered; and if the gentleman from New York desires to offer the amendment he has indicated, I shall not object, though I think it is not required.

Mr. COBB. And I believe the gentleman from Maryland also promised to accept an amendment in reference to speed. There is no provision in the bill to meet that objection.

Mr. HAMILTON. I do not recollect having made such a promise.

Mr. HAVEN. I am opposed to the insertion of any provision in reference to speed. But I think the amendment I have suggested, and which I have now reduced to writing, should be adopted. I move to insert in the ninth line of the seventh section, after the word "respectively," the following:

But in no case shall the said corporation use any of the streets of said cities without the consent of the municipal authorities of said cities, respectively.

Mr. HAMILTON. I have no objection to that amendment; and I now move the previous question.

The previous question was seconded, and the main question ordered to be now put.

The question being first upon Mr. HAVEN's amendment, it was taken; and the amendment agreed to.

The amendments reported by the Committee of the Whole on the state of the Union were then severally read and concurred in.

Mr. HAVEN. I propose that, by unanimous consent, the last amendment, giving the municipal authorities of Washington and Georgetown power to regulate the speed of the cars within their respective limits, and which now stands as an additional section of the bill, may be inserted at the end of the second section, where it more properly belongs.

The proposition was assented to by the House.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, was accordingly read a third time, and passed.

Mr. HAMILTON moved that the vote last taken, by which the bill passed, be reconsidered, and that the motion to reconsider be laid upon the table; which latter motion was agreed to.

The bill authorizing the corporate authorities of Georgetown to impose additional taxes, and for other purposes, was next taken up.

Mr. GROW. I would propose that that bill be allowed to pass over until the others have been disposed of, and then, that the previous question shall be ordered on it, and allow the final vote to be taken to-morrow.

Mr. HAMILTON. I have no objection.

No objection was made, and the bill accordingly passed over.

The bill to incorporate an insurance company in the city of Washington, was next taken up, and, in accordance with the recommendation of the Committee of the Whole on the state of the Union, committed to the Committee for the District of Columbia.

Mr. LETCHER. What do I understand has become of the bill to give Georgetown power to lay additional taxes?

Mr. HAMILTON. It is passed over, so that it may be ready for our action to-morrow.

Mr. LETCHER. Well, sir, by way of having it all ready for our action to-morrow, I move to lay it on the table.

The SPEAKER. The gentleman cannot make that motion, for the bill is not before the House at all.

The bill to discharge the indebtedness of the penitentiary in the District of Columbia, coming up next in order, was ordered to be engrossed and read a third time; and being engrossed, was accordingly read a third time and passed.

Mr. HAMILTON. I now ask that the bill to authorize the corporate authorities of the city of Georgetown to impose additional taxes, and for other purposes, be taken up; and I demand the previous question upon its engrossment.

Mr. LETCHER. Is it in order now to move to lay that bill upon the table?

The SPEAKER. It is.

Mr. LETCHER. I make that motion; and now I move that the House adjourn.

Mr. HAMILTON. If the House now adjourn, will this bill come up in the morning?

The SPEAKER. It will, under the operation of the special order, if the gentleman chooses to call it up.

Mr. HAMILTON. Then I have no objection to an adjournment.

The question was then put; and Mr. LETCHER's motion was agreed to; and

Thereupon (at twenty minutes past three o'clock) the House adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

THURSDAY, *December* 21, 1854.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had passed the following bills:

Bill granting certain additional powers to the Corporation of Washington.

Bill authorizing the Washington Gas-Light Company to increase the capital stock of said company.

Bill to amend an act entitled "An act to establish an auxiliary watch for the protection of public and private property in the city of Washington," approved August 23, 1842.

Bill to incorporate the Mutual Fire Insurance Company of the District of Columbia.

Bill to authorize the extension, construction, and use of the Metropolitan Railroad Company, into and within the District of Columbia.

Bill for the liquidation of the Penitentiary indebtedness.

Also, a bill of the Senate to suppress the circulation of small notes as currency in the District of Columbia.

The six first-mentioned bills from the House of Representatives were severally read a first and second time by their titles, and referred to the Committee on the District of Columbia.

The message also announced that the Speaker had signed the following enrolled bill:

Bill vesting the title of the United States to certain lands in the city of Cincinnati.

Which was thereupon signed by the President *pro tem.*

PETITIONS, ETC.

Mr. ALLEN presented the following resolutions of the Legislature of Rhode Island and Providence Plantations; which were read, and ordered to be printed:

Resolutions in favor of the establishment of a navy-yard in Narragansett bay.

Resolutions in relation to the allowance of pensions and bounty land to the officers, soldiers, and sailors who served in the last war with Great Britain.

Resolutions in favor of the establishment of a uniform and cheap rate of ocean postage.

Mr. SLIDELL presented a memorial of a committee of the Louisiana Baptist State Convention, praying that measures may be taken to protect citizens of the United States sojourning in foreign countries, in the free and uninterrupted exercise of their religious faith; which was referred to the Committee on Foreign Relations.

Mr. DAWSON presented resolutions of the Legislature of Georgia, in favor of the establishment of a naval depot at Brunswick, in that State; which were referred to the Committee on Naval Affairs.

Mr. BADGER presented the petition of William G. Ridgely, Chief Clerk in the Bureau of Yards and Docks, praying to be allowed arrears of salary; which was referred to the Committee on Retrenchment and Reform.

REPORT FROM A STANDING COMMITTEE.

Mr. DODGE, of Iowa, from the Committee on Public Lands, to whom was referred the petition of Jacob Dodson, a private of Captain Richard Owen's company, in the California battalion, commanded by Lieutenant Colonel J. C. Frémont, in the war with Mexico, praying to be allowed bounty land and other allowances granted by law to the other volunteers in the same war, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs; which was agreed to.

BILLS INTRODUCED.

Mr. STUART, in pursuance of previous notice, asked and obtained leave to introduce a bill making appropriations for improving the harbors on Lakes Ontario, Erie, St. Clair, Huron, Superior, and Michigan; which was read a first and second time by its title, and referred to the Committee on Commerce.

Mr. CLAY, in pursuance of previous notice, asked and obtained leave to introduce a bill amendatory of, and supplementary to, an act approved August 4, 1854, entitled "An act to graduate and reduce the price of the public lands to actual settlers and cultivators;" which was read a first and second time by its title, and referred to the Committee on Public Lands, and ordered to be printed.

WAR IN EUROPE.

Mr. SUMNER submitted the following resolution for consideration:

Resolved, That the Committee on Foreign Affairs be directed to consider the expediency of tendering the mediation of the United States to the Governments of Great Britain, France, and Turkey on the one side, and of Russia on the other, in the hope of withdrawing the existing controversy between them from the destructive umpirage of war, so that the blessings of peace may be again secured to the people of those nations, and also to the general commerce of the world.

REGULATION OF PILOTAGE.

Mr. SLIDELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire whether any, and what legislation be necessary to obviate a conflict with the laws of the several States on the subject of the compensation and regulation of pilotage within their limits.

MAIL CONTRACTS.

Mr. JONES, of Tennessee, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Postmaster General be requested to inform the Senate whether or not a contract has been made for carrying the mail from Cairo to New Orleans, as was directed by an act of Congress, passed at its last session. If not, that he inform the Senate why it has not been done.

BURLINGTON BREAKWATER.

Mr. FOOT, in pursuance of previous notice, asked and obtained leave to introduce a bill making an appropriation for the continuation of the breakwater in the harbor of Burlington, on Lake Champlain; which was read twice by its title.

Mr. FOOT. I move the reference of the bill to the Committee on Commerce, and will take occasion to say to the members who compose that committee, and are here present, that the appropriation sought by it is the same in amount as that contained in the river and harbor bill of the last session for this object, which bill fell under the Executive veto. I will take occasion to say further, that the appropriation sought by this bill is not open to the constitutional objections raised to some of the provisions embraced in that river and harbor bill, and on account of which, doubtless, that bill failed to receive the Executive approval. The object for which this little appropriation is sought, is not merely of a local and limited character, as for some small and comparatively unimportant lake or river, exclusively within the limits and jurisdiction of a single State. On the contrary, it is one preëminently of a national character; it is for the protection of one of the principal harbors upon the great water communication between the States and the Lower Province of Canada—the great thoroughfare, indeed, between the cities of New York and Montreal, and which floats a commerce of at least forty millions a year.

This lake, to the extent of one hundred and twenty miles, lies between the States of Vermont and New York, and extends some thirty miles into the British Province of Canada.

In the possible event of hostilities again arising between our country and that of Great Britain, Lake Champlain must inevitably again become the theater of naval conflicts between the two countries, as in 1813, when the gallant McDonough achieved upon its waters one of the proudest naval triumphs of that war. The very position of the lake, lying upon the borders of, and connecting, the two countries, as it does, gives it a character of peculiar national importance.

Aside, therefore, from all mere commercial considerations, which must be conceded to be of vast importance, and having reference only to the national defense and safety, the same considerations which require the improvement of your harbors upon the sea-coast, with reference to the safety and defense of your Navy, apply with equal force to the improvement of your harbors with reference to the safety and protection of your naval forces upon this and upon the other frontier lakes of the country, and give to these works most emphatically the character of nationality. The Government has already expended some $70,000 or $80,000 upon the work named in the bill. The work remains in an unfinished state. The harbor is insecure without the completion of it. We only ask the Government to complete what it has already begun, and of the importance of which it has given a practical recognition. We ask it not for the benefit of some local interest—not merely for the benefit of a local commerce: we ask it for national interests, and for the national security. If no other argument is available, we ask it for the same reason, and upon the same considerations, that we have erected fortifications at Rouse's Point on this lake near the dividing line between the two Governments. If any constitutional scruples forbid this appropriation for the peaceful purposes of commerce, then let it be done under the power authorizing you to prepare for the exigencies of war.

But without entering upon the discussion of the questions involved, I commend the bill to the favorable consideration of the Committee on Commerce, who, I believe, have already taken in charge applications of a similar character.

The motion to refer was agreed to.

CHRISTMAS HOLIDAYS.

Mr. BADGER. This is Thursday, sir; but there is a slight difficulty which occurs in the way of the former usual proceeding on this day, next Monday being Christmas. In order to accomplish the substance at a little expense of the form which prevails before the Christmas holidays—as it is not usual for the Senate to adjourn over from Thursday to a later day than the succeeding Monday—as Monday is Christmas, and as, of course, nobody desires to be here on that day, I think it would be well to resolve that, when the Senate adjourns to-morrow, it be to meet the day after Christmas, which is Tuesday. I submit that motion.

The motion was agreed to.

CATHARINE B. ARNOLD.

On motion by Mr. JONES, of Iowa, the Senate, as in Committee of the Whole, proceeded to consider the bill for the relief of Catharine B. Arnold.

Its object is to direct the Secretary of the Interior to place the name of Catharine Bryant Arnold, widow of the late Major Ripley A. Arnold, upon the list of pensioners, and to pay to her a pension at the rate of one half the pay per month to which her husband was entitled at the time of his death—the pension to commence on the 6th of September, 1853, and to continue during her natural life or widowhood.

Ripley A. Arnold was graduated from the Military Academy, July 1, 1838, and commissioned as second lieutenant in the second dragoons, and shortly afterwards joined his regiment in Florida, where he continued to serve till the close of the war against the Indians in that country. His services in this war were active and efficient, and he was breveted a captain for gallant conduct in the war against the Florida Indians, to date from April 19, 1842, the day of the affair at Pilaklikahal against Halleck Tustennuggee, in which he was particularly distinguished.

On the breaking out of the Mexican war, the second dragoons, in which Brevet Captain Arnold then held the rank of first lieutenant, was encamped opposite Matamoras, and it formed part of the small force under General Taylor that sustained so nobly the first conflicts on the Rio Grande. On these occasions Captain Arnold was again distinguished, and won the brevet of major, to date from May 9, 1846, for his gallant and meritorious conduct in the battles of Palo Alto and Resaca de la Palma. He was promoted a captain in his regiment August 18, 1847, and continued with it till the termination of the war, when he accompanied it to Texas, where he was serving at the time of his death, September 6, 1853. He was killed in an encounter with Assistant Surgeon J. M. Steiner, United States Army, growing out of an affray at the post, which Major Arnold attempted to suppress, and for which he afterwards caused Dr. Steiner to be arrested. For this exercise of his proper duty, Dr. Steiner afterwards shot Major Arnold.

There is no existing law which gives to the widow of officer or private of the regular Army either pension or half-pay, unless the soldier died of wounds received or diseases incurred in the Mexican or some previous war. The laws respecting naval pensions, however, grant five years' half-pay to the widows of all who die in the service, of wounds, injuries, or diseases incurred, or casualties happening while in the line of duty. The Committee on Pensions, under recommendation from the Commissioner of Pensions, have reported a bill placing widows of the Army upon the same footing, in this respect, with widows of the Navy. Having recognized the justice of this class of claims in that bill, they regard the peculiar and painful circumstances attending Mrs. Arnold's bereavement, and the previous meritorious services of her deceased husband, as justifying the special action of Congress in her behalf.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

RELIGIOUS LIBERTY ABROAD.

Mr. CASS. I wish to ask the Senate to order the printing of one thousand copies of the resolutions presented, and the report made, by Mr. Underwood two years ago, on the subject of securing the rights of religious worship to American citizens in foreign countries. I have just ascertained at the Secretary's office that there are very few copies left, and before that subject comes up for consideration, I should like Senators to have an opportunity of looking at the report and resolutions of Mr. Underwood. I therefore move that one thousand copies of them be ordered to be printed for the use of the Senate.

The motion was agreed to.

COURT OF CLAIMS.

On motion by Mr. BRODHEAD, the bill, yesterday reported by him from the select committee, "to establish a court for the investigation of claims against the United States," was read a second time, and considered as in Committee of the Whole.

This bill makes provision for the establishment of a court of claims, to consist of three judges, to be appointed by the President, by and with the advice and consent of the Senate, to hold their offices during good behavior; which court is to hear and determine all claims founded upon any law of Congress, or upon any regulation of an executive department, or upon any contract, express or implied, with the Government of the United States, which may be suggested to it by a petition filed therein; and also, all claims which may be referred to it by either House of Congress. It is to be the duty of the claimant, in all cases, to set forth a full statement of the claim, with the action upon it in Congress, or by any of the Departments, specifying what person or persons are owners of or interested in it, and when and upon what consideration he or they became so interested. Each of the judges is to receive a compensation of $4,000 per annum, and to take an oath to support the Constitution of the United States, and discharge faithfully the duties of his office.

A solicitor for the United States, to represent the Government before the court, is to be appointed by the President, by and with the advice and consent of the Senate, whose duty it will be to prepare all cases on the part of the Government for hearing before the court, and to argue them when prepared; to cause testimony to be taken, when necessary to secure the interest of the United States; to prepare forms, file interrogatories, and superintend the taking of testimony, in the manner prescribed by the court; and generally to render such services as may be required of him from time to time, in the discharge of the duties of his office. He is to be sworn to the faithful discharge of his duties in the manner prescribed for the qualification of the judges, and is to receive a compensation of $3,500 per annum.

The court is to have authority to establish rules and regulations for its government; to appoint commissioners to take testimony to be used in the investigation of claims that may come before

it; to prescribe the fees they shall receive for their services, and to issue commissions for the taking of testimony, at the instance of the claimant or of the United States. When testimony is taken for the claimant, the fees of the commissioner, and the cost of the commission and notice, are to be paid by him; and when taken at the instance of the Government, the fees, together with all postage incurred by the solicitor in his official capacity, are to be paid out of the contingent fund provided for the court. In all cases, when it can be conveniently done, the testimony is to be taken in the county where the deponent resides; and the commissioner taking it is required to administer an oath or affirmation to the witnesses brought before him for examination.

In all cases where it shall appear to the court that the facts set forth in the petition of the claimant do not furnish any ground for relief, it shall not be its duty to authorize the taking of testimony until the matter shall have been reported to Congress; but if Congress fail to confirm the opinion of the court, it shall proceed to take the testimony in such case.

In taking testimony, the opportunity is to be given to the United States to file interrogatories, or, by attorney, to examine witnesses, under such regulations as the court shall prescribe, and like opportunity is to be afforded the claimant in cases where testimony is taken on behalf of the United States under like regulations.

Swearing falsely before the court, or before any of its commissioners authorized to take testimony, is to be considered perjury, and to subject the offender to the same pains, penalties, and disabilities which now are, or shall be hereafter, by law, prescribed for willful and corrupt perjury.

Provision is made that the court shall keep a record of its proceedings, and shall, at the commencement of each session of Congress, and of each month during the session, report to Congress the cases upon which it shall have finally acted, stating in each the material facts established by the evidence, with its opinion, and the reasons upon which it is founded. Any judge who may dissent from the opinion of the majority is to append his reasons for the dissent to the report. This report, with the briefs of the solicitor and of the claimant accompanying it, is to be printed in the same manner as other public documents. It is made the duty of the court to prepare a bill or bills in those cases which shall have received its favorable decision. Two or more cases may be embraced in the same bill, where the separate amount proposed to be allowed in each case may be less than one thousand dollars. The testimony in each case is also to be transmitted. The reports so made, and the bills so reported, if not finally acted upon during the session of Congress to which they are made, are to be continued from session to session, and from Congress to Congress, until finally acted upon, and their consideration at the subsequent session of Congress, is to be resumed and proceeded with in the same manner as though finally acted upon at the session when presented.

The claims reported upon adversely are to be placed upon the Calendar when reported, and if the decision of the court be confirmed by Congress, it shall be conclusive; and the court is not, at any subsequent period, to consider the claims unless such reasons be presented as, by the rules of common law or chancery in suits between individuals, would furnish sufficient ground for granting a new trial.

Power is proposed to be granted to this tribunal to call upon any of the Departments for any information or papers it may deem necessary, but the head of a Department may refuse to answer such a call if, in his opinion, it would be injurious to the public interest. The court is to have the use of all recorded and printed reports made by the committees of each House, when deemed to be necessary in the prosecution of the duties assigned. It is to appoint a chief clerk, at a salary of $2,000 per annum, and an assistant clerk, if deemed necessary, at a salary of $1,500, and a messenger, at a salary of $800. Rooms are to be appropriated to the court in the Capitol, unless, in the opinion of the Speaker of the House of Representatives, it would interfere with the business of Congress; in which case the court is to procure such rooms in Washington city as may be necessary.

Mr. CASS. Mr. President, I do not mean to occupy the time of the Senate, for this subject is in better hands than mine; but I wish to make a few general remarks in reference to the bill. I wish to state my own conviction that the time has obviously come when, if we do not mean to commit crying injustice, as well to the Government on the one side, as to individuals on the other, some such mode of proceeding as that proposed by this bill must be adopted. A body of three hundred men divided, as the two Houses of Congress are, is not a proper body to investigate private claims. They are protracted indefinitely, or they are granted hastily, and in either event injustice is often done to the parties interested, or to the United States.

Many efforts have been made, Mr. President, to establish some such board. There was one established immediately after the close of the last war with Great Britain, but it was finally repealed. It was founded on a bad principle, and Mr. Madison took the responsibility of stopping its operations, for it would have drained the Treasury. The difficulty in that case was simply this: The board was required to investigate all the claims for the immense losses on the frontier during that war, coming within certain classes designated in the law, and money was to be drawn from the Treasury by their report. They began such an immense scale of examination and payment, that, as I stated, Mr. Madison stopped the execution of the law, and referred the matter to Congress at its next session, when the law was repealed. This bill wisely guards against that evil. This plan proposes that the board, or court, shall investigate the claims presented, leaving to Congress final action upon them, so that the Treasury will be within our control.

But, Mr. President, what I principally rose for was to express the hope that we shall not separate until some board or court is organized for the investigation of these claims. I hope that, though every gentleman will, as a matter of course, vote for that provision which he prefers, he will yet, if he cannot get the plan which he would prefer, take the next best, and so on. On that principle I shall act, for there can be no greater error than a neglect to establish such a board, and almost any board reasonably constituted, is better than none. I wish, therefore, to entreat every Senator not to let this bill fail because he cannot get the very identical plan which he wants. If we come to the consideration of the measure with such a feeling as that, we are sure to carry it into effect, and I am certain that public opinion is with us in relation to it.

A question was raised the other day as to whether this tribunal should be a board or a court. On that question I have my own opinion. I prefer a court; but the other is a very excellent method, and I am perfectly prepared to take that, if I cannot get a court. But, above all things, sir, I fully approve of a remark or two which fell, the other day, from the honorable Senator from Delaware, [Mr. CLAYTON,] that we should require entire publicity in the proceedings of this board or court, and should have a perfectly impartial feeling on the part of judges or commissioners. I can tell you, sir, what at present is a great difficulty. We have in the Treasury as excellent auditors and other accounting officers as there ever were. I have no doubt they are honest men; but when you put men into the Treasury in that position, they do not feel like a chancellor whose duty it is to investigate matters between individuals. They feel themselves as parties, and too often seem to consider that the object is to save money to the Treasury, instead of paying honest claims. I can also tell you, sir, that the habit of investigating these claims after a long lapse of time, induces the opinion that the larger portion of them are dishonest, and therefore produces a feeling which operates on the officer's judgment. One of the best officers you ever had, one of the most honest men I ever knew; a faithful, able, and intelligent gentleman, who occupied a position in your Treasury for half a century; who began when the seat of Government was at Philadelphia, and finally died here a year or two since, was an auditor whose merits were acknowledged by the whole country; but, during the latter part of his life, he never took up a claim for examination without the first impression of his mind being, not "Why should that claim be allowed?" but "What reason is there why that claim should not be rejected?" That was the operation of his mind. Knowing this to be the natural operation of the human mind, I wish to have a board, or court, composed of gentlemen who will not feel themselves parties to the suit, and to have a managing man before them—call him a solicitor, or attorney, or what you please—an agent of the Government, to investigate the claims so as to leave the judges or commissioners full power to act without any impulsive feeling about them, and stand committed to investigate the cases precisely as they would cases arising between individuals.

I repeat, sir, in human nature it is almost impossible to find a man who is not operated upon by the circumstances which surround him. If you put a gentleman at this desk, who looks at papers sent to him, day after day, by a clerk, it is impossible but that his feelings become enlisted, and operate on his judgment. I have had some experience in these matters, and I know that, in many cases, auditing officers have felt it to be an injury when an appeal has been taken and their judgment has been overruled. I do not blame the feeling. There it is, and there it must be, while human nature is what it is.

This, sir, is all I have to say on this bill, and I think it is all I shall say during its progress; but before I take my seat, I will mention an instance to show the singular operation of the influence to which I have referred on officers in the Treasury Department. Toward the close of the year 1813, the army on the northwestern frontier was almost destitute of provisions, the roads were impassable, and we did not know what could be done. Among other things proposed to remove the pressure upon us, a seine was directed to be purchased and sent up to Lake Huron, to catch whitefish. The quartermaster purchased a seine, and the whitefish were caught abundantly, which was a matter of vast importance to the soldiers. The account was sent on; and what do you think was the decision on it by the accounting officer? It was, that whitefish did not run in the month of November, and, therefore, that the United States had been cheated. [Laughter.] The good officer had lived all his life upon the Potomac, and had heard of shad, which run only in April and May, and he thought that no fish could run in November. [Laughter.]

Mr. CHASE. He had heard of the resolutions of 1798.

Mr. CASS. I have nothing to do with the resolutions of 1798 now; I am merely speaking of fish. [Laughter.] I introduced the anecdote simply to show how natural it is for the human mind to be affected by circumstances by which it is surrounded. I wish to have a board or court composed of gentlemen wholly independent of any private feelings in relation to the parties, before whom the interests of the United States shall be managed by some attorney appointed for the purpose, and where the judges or commissioners shall have only the power of judges. Anything short of this will fail in one great object I have in view. I trust, however, the Senate will come to the consideration of the subject with a determination to pass some such provision as is contained in this bill.

Mr. BRODHEAD. Mr. President, I shall enter into no general discussion respecting the provisions of this bill, because I did so somewhat at large the other day. I rise now only for the purpose of saying that this bill, now before the Senate, was most carefully matured by the select committee appointed a few days ago after the discussion we had in the Senate. It is the same bill which I introduced at the commencement of the session, in principle, in substance, and in detail, with one important exception—the exception relating to the tenure of office—and a change of name; but the powers and duties of the three gentlemen to be appointed under this bill, are the same as they were to be under the original bill.

The first section of the present bill authorizes the appointment of three gentlemen who are to hold their offices for life, or, technically speaking, during good behavior. This tenure may be objected to, and it has been seriously objected to; but a majority of the select committee thought it was best, because those gentlemen, with this tenure, would be independent, in some measure, of all Executive influence, at any rate. The court may be repealed or abolished at any time, and

their decisions are not final and conclusive; and, therefore, we need not fear the life tenure in this instance. No money can be paid from the Treasury on the decision of these gentlemen called a court. A solicitor is provided to represent the Government. A claimant has to bring his case before the court by petition, detailing all the facts of the case upon which he bases a claim against the Government, to which the solicitor provided for in the bill makes his answer, and the case then proceeds before this tribunal. It will, therefore, be a judicial tribunal in its character; and we need not fear that it will be beyond the control of Congress, or that it will be too independent, or that it will be corrupt, or that the present miserable system of electioneering, which is carried on by claimants and their agents, will be continued before the court, because their decision will not be final and conclusive. For this reason we need not fear what occurred before the commission alluded to by the honorable Senator from Michigan, after the war of 1812.

Mr. President, we are all agreed as to the evils to be remedied; but there is a variety of opinions, as suggested by the honorable Senator from Michigan, in reference to the mode of relief. The primary consideration, as he has well stated, is not whether this or that objection can be started to the bill, but whether it is not the best which, under the circumstances, can be devised upon the subject. I believe this to be the best. To be sure, I should have preferred it if it had been a little different in detail in some of its provisions; but I yielded my own wishes in this respect for the purpose of meeting the judgment of Senators of larger experience than myself. I hope, sir, that, in view of the many considerations which have been so well suggested by the venerable Senator from Michigan, this bill will meet the favorable judgment of the Senate.

Mr. WELLER. I desire, Mr. President, to move an amendment to the first section of the bill, the object of which is to change the character of this tribunal. I move to strike out the word "court" wherever it occurs in the bill, and to insert "board of commissioners;" and I will very briefly state to the Senate the reason why I make this motion.

Under the Constitution of the United States, if there be a court established, the judges of that court are to be appointed during good behavior. The only power which is given to us on that subject is by the first section of the third article of the Constitution of the United States, which provides that "the judges, both of the Supreme and inferior courts, shall hold their offices during good behavior." In order to avoid the difficulty which is presented to my mind, I am compelled to move to change the character of this tribunal from a court to that of a board of commissioners; and I apprehend that then, under the provisions of the Constitution, it would be perfectly competent for the law-making power of this Government to limit the period for which the commissioners should hold their offices. It may well be doubted whether this bill creates a "court" within the meaning of the provision of the Constitution to which I have referred; but, to avoid all controversies which might arise on this subject, I deem it proper to move the amendment.

I confess, sir, that I am opposed to the appointment of these judges during life. I think that, in the improvements which have been made by the different States in the Union in the organization of their judicial tribunals, they have all found that it was expedient to appoint or elect their judges for a limited term of years. There are, it is true, some States in the Union which still adhere to the old doctrine of appointing judges during good behavior, but nearly all the State constitutions which have been adopted within the last generation have contained a provision fixing a limited tenure to those offices. Whilst the most valuable improvements have been made in the arts and sciences, changes, calculated to advance the public interests and secure the rights of the people, have been made in our judicial system. I am not so wedded to the system adopted by our ancestors as to believe it perfect, and that no improvements can be made upon it; nor do I regard the changes recently adopted by the States, in regard to the judicial system, *dangerous innovations*. They are, on the contrary, wholesome reforms.

I do not desire that there should be any officer in this Government above or beyond public opinion. I understand the Senator from Pennsylvania to affirm that it is of the utmost importance that these judges should be *independent*. Independent of what? I would have the judges of your judicial tribunals independent of popular clamor, independent of party intrigue, and above the influences which, now and then, disturb the dirty pool of politics. But I would have no judge independent of a sound public opinion, calmly and deliberately expressed. I have been taught, sir, that this Government is founded upon, and that it is sustained by, public opinion. I have been taught to believe that political power might be safely intrusted to the hands of the people. Hence it is, sir, that, progressing with the spirit of the age, nearly all the new States of the Confederacy have provided that their judges shall be appointed, or elected, by the people, for a limited period of years—say six years. I confess that, like most gentlemen of my profession, in early life my prepossessions may have been in favor of having judges elected, or appointed, during good behavior. But the other system is no new or untried experiment. Various States of this Union have already provided for the election of their judges by the people, and for a limited term; and I know of no State that has seen cause to change its policy in this respect. If you can show that, in any of the States where judges are elected for a term of years by the people, those judges have become corrupt, or have basely received bribes for their judicial decisions, then I might be willing to abandon this policy, on which we have now started. But I undertake to say that, in all the States in which the policy has been adopted of electing judges by the people, and for a limited term, they have found the ablest jurists their States have been able to procure. Take the great State of Ohio. There, under a change of their constitution, it was provided that judges should be elected by the people, and should hold their offices for a term of six years. The great political parties selected five of their most prominent lawyers for the distinguished stations of judges of the highest court in the State; and I undertake to say that, under the operations of that provision, the judicial system of the new States will compare favorably with the older States which still adhere to the former practice. Will any man undertake to tell me that the judges now in the State of Ohio, elected for a limited period, are much more apt to become corrupt than those in the good old State of Virginia, where they are appointed during good behavior, or for life?

Mr. HUNTER. The Senator is mistaken as to Virginia. The judges there are not chosen in that way.

Mr. WELLER. Sir, I was not aware that the State of Virginia had made this advance; but I understand they are still elected in Virginia for life.

Mr. HUNTER. No, sir.

Mr. BROWN. Take South Carolina.

Mr. WELLER. It seems I am very much mistaken, then, in the character of Virginia; and if South Carolina be the only State in the Union that is holding back in this matter, I hope my friend from that State, who sits before me, [Mr. BUTLER,] may catch some of that progressive spirit which is now abroad in the land, and which, in my opinion, is essential to the prosperity of the country. But, Mr. President, I do not desire to enter into this discussion. I simply desire to put the Senate in possession of the ground on which I propose this change, and to inform them of the object which I seek to attain; for always, when I have an object to attain, which does not appear on the face of a motion, I hold myself bound to explain what it means. I have stated my object in proposing this change. I am utterly opposed to life officers in the judiciary, or any other department of the Government. I am for a reform in this particular wherever the power of the Federal Government extends.

Mr. BROWN. Mr. President, I have two or three objections to this bill, and they are insuperable. I care nothing about whether you call this tribunal a board of claims, or call it a court, for I have been taught to think that "a rose by any other name would smell as sweet;" but I am wholly at a loss to determine why the name of this tribunal has been changed by the committee, except it be for the cause, with which all of us are too familiar, that boards of claims have fallen under public opinion and public censure. Whenever you have had them, they have not only brought odium upon the country, but upon themselves. We have to-day to lament the wreck of many a fair reputation, on account of its connection with boards of claims. Did the committee expect, by changing the name of the tribunal, and calling it a court, that they would rescue it from public criticism? Was it expected that, by calling these three gentlemen a court, instead of a board of claims, the people of this country would not dare to criticise their conduct? Or did the committee indulge in some dream that gentlemen called judges would be more wise and more honest than if they were called commissioners? If there be anywhere a sounder reason than one of these for changing the name, I should like to hear it assigned. I care nothing, however, whether you call this tribunal a board of claims or call it a court; it is equally liable to objection, as I think I can demonstrate.

What is it that this court is expected to do? To render judgments and draw warrants upon the Treasury? No, sir. As has been well said by the venerable Senator from Michigan, this was tried, and the country rejected it. Upon fair trial it was found that it would not do to permit the judges to draw warrants on the Treasury, and I am only amazed that the wisdom of the Congress which passed that law failed to detect its unconstitutionality. We are told, in the plain letter of the Constitution, that "no money shall be drawn from the Treasury, but in consequence of appropriations made by law." The committee who reported this bill, with an eye to that provision of the Constitution, have undertaken to fulfill it—and how have they done it? They have proposed to organize a court, and require that court to make investigations, to send in their reports and the testimony taken before them, with bills drawn, cut and dried, for the action of Congress. Why, Mr. President, this much is done in your committee rooms, and done quite as well, and with quite as much fidelity as it can be done by this court. Has any one ever complained that your committees do not investigate? Is there any complaint here, or elsewhere, that your committees do not report? Does not the table of the other House literally groan beneath the weight of reports and accumulated evidence brought in there by the various committees, from year to year? And what, sir, does all this accumulated evidence accomplish? What do all these reports accomplish? What is their effect? Simply to crowd the Calendars of the two Houses of Congress with unpassed bills. When these same reports, and evidence, and bills shall come from this court, will Congress be more likely to act upon them than when they come from committees of their own body? Is it expected of Senators and Representatives, with their obligations to the Constitution, and to the people, and the States, that they are to pass into laws whatever bills this court may think proper to draw up and send to them? I ask honorable Senators if that is what is expected of us in the future? Is it expected that we are to take for granted that all is true which the court report? Are we to take it for granted that their judgment is infallible? Are we simply to sit here and register that which they tell us to register? Or are we to exercise sound judgment in making appropriations under the Constitution? If we are, then I ask the honorable chairman who reports this bill, how far we shall be advanced if his bill passes? Shall we not be left precisely where we stand now, with evidence accumulated, with reports made, and with bills drawn, but bills not passed into laws, appropriations not made, and claimants not satisfied? So far as I am concerned, I would as soon trust the Committee on Claims of the Senate to-day, as trust this court, if it were now organized.

This, sir, is one of the insuperable objections which I have to the passage of the bill, that it does not advance us a solitary inch in the progress of business, unless it be taken for granted that the reports of the court will be infallible, and must necessarily be indorsed by the two Houses of Congress.

Mr. BRODHEAD. Will my friend, at this point, allow me a word of explanation?

Mr. BROWN. Certainly.

Mr. BRODHEAD. The honorable Senator from Mississippi says he would trust the Com-

mittee on Claims of the Senate; but, as the chairman of that committee, I beg leave to inform him that I have not time to investigate the vast variety of cases which come before that committee, and yet properly discharge my other duties, and consider, as I ought to do, much larger questions.

Mr. BROWN. In that connection, to keep up the argument, allow me to ask the Senator whether his committee, and other committees, have not found time to report hundreds of bills which Congress has never found time to pass; and if they be not passed, what is the use of reporting any more?

Mr. BRODHEAD. Mr. President, Congress may not have confidence in those reports, because we have not time to investigate, and to send out and take testimony upon the part of the Government. The hearing before the committees is entirely *ex parte*. From want of time, want of an adversary proceeding before us, the Government not being represented, Congress may not have that confidence in our doings which they ought to have.

Mr. BROWN. Mr. President, I have never yet heard any want of confidence expressed in the committees of either House of Congress; I have yet to hear the integrity of one committee impeached; I have yet to hear the skill or the ability of the committees impeached; but I have heard the integrity of boards of commissioners impeached, and I have seen, and all the world has seen, that they were either not honest, or were grossly careless in the discharge of their duties.

Now, sir, suppose this court shall be organized, and it shall pass some such enormous claim as the Gardiner claim; will the press of this country be muzzled, and stand in awe of the dignity of a court? or will they not speak out against it as they did against the board of commissioners which allowed that claim? Will public opinion stand aghast at the enormity of assailing a tribunal simply because you call it a court? No, sir; it will be assailed; it will be overthrown; it will be covered with odium and disgrace, if it shall happen to commit an error of that sort.

Again, suppose that the commission which passed the Gardiner claim had sent to Congress, and we, relying—as I suppose we are expected to rely—upon the wisdom, the integrity, and infallibility of such a court, had gone on to make the appropriation; what would have been said of the gentlemen whose names were found recorded in the affirmative on such a proposition? I introduce this illustration for the purpose of showing how necessary it will become for each member of the Senate and of the House, in protecting his own reputation, not to take these judgments upon trust, but to stand and scrutinize each and every one of them. If he does that, I repeat, this tribunal will not advance you a single inch beyond the point where you stand to-day. It may report to you more bills; it may give you more to do; but if you do not pass the bills you now have before you, are you likely to pass a larger number under the influence of such a board or court as this?

You know, Mr. President, (Mr. BADGER in the chair,) and all other Senators know, that I am not apt to be very particular about expense—perhaps I am not enough so; but I wish now to inquire, what are you to pay for this tribunal? Why, you are to pay in salaries the sum of $17,500 a year; you are to authorize an increase of Executive patronage—and all for what? Simply to relieve the committees of the two Houses of Congress from the labor of investigating and reporting upon these claims; for I assert again, that is all the court is expected to do. The whole matter, therefore, resolves itself down to this: are you willing to pay this sum of money, thus to increase Executive patronage, for the sake of having that done which the committees can do, and now do, just as well? But this is not a tithe—nay, sir, it is not a hundredth part of the expense of the court. The bill provides for appointing commissioners throughout the whole United States and all the Territories, and wherever else God only knows. The power to appoint commissioners is unlimited. They are to be paid out of the Treasury when the commission is to take testimony in favor of the United States—and will there ever be a case when the Government will not need testimony, and will not take out a commission on its side? Is it expected that this tribunal is to decide on *ex parte* testimony—on the testimony of the claimant? If not, then a commission on the part of the Government will be necessary, and necessary in every case. How much the expense will be increased by this proceeding, I do not pretend to know. Even if, after all this expense, we were to reach any profitable end; if we were to be advanced a single inch in the business of legislation, I should make no objection to it; but, I ask again, if the bills reported from committees now do not pass Congress, are these bills more likely to pass? Why, sir, what do we see every day in the other House? Bills to which no man on earth can make the least possible objection, in the way of argument, have been suspended there from year to year, from session to session, from Congress to Congress, and yet they are not passed. If such bills do not pass, tell me whether the bills drawn by this court are likely to pass. The very moment one of them comes into the House of Representatives, under the rules of that House, some gentleman will rise up and say, "I object," and the bill will go back again upon the Calendar to take a long sleep of two or three weeks, or perhaps as many months; and when it comes up again, some other gentleman will say, "I object;" not because he knows anything about it, but for the reason that he does not know anything about it; and hence nothing will be gained. I maintain, then, that, by this bill, you are not striking at the root of the evil; you are not reaching it; but are involving the country in a heavy expense, making a departure from all established principles, when it is apparent to those who have investigated the subject, that, in doing so, you are not making a step in advance towards the great object of passing the bills and paying the claimants.

The committee who reported the present bill have undertaken another very wide departure from the old precedents of the Government. They have undertaken to say to each subsequent Congress: "You shall take no step backward in the progress of these bills." They have undertaken to say, that if this Thirty-Third Congress gives a private bill two readings, in each House, the next Congress must give us credit for it; and if it has been read three times in one House, and passed, and only been read once in the other, that House, in the next Congress, may give it one reading more, and at another Congress give it its final reading. I doubt very much, and but for the acknowledged legal ability of the gentleman who drew this bill, I should seriously question the authority to bind future Congresses in this way. Each Congress passes bills upon its responsibility to the Constitution and to the country. This idea of forcing one Congress under a legislative edict to give credit for all that has been done in the progress of a bill at preceding Congresses, is doing what I very much question your right to do. If this Congress passes a bill, how many times must it be read? Three times in each House. If the next Congress passes a bill, it must be read three times in each House. Is the next House of Representatives the same House that now exists, or is it a new House of Representatives?

Mr. BRODHEAD. I think my friend from Mississippi misapprehends the tenor and meaning of the eighth section of the bill, and I therefore ask for its reading.

The Secretary read it, as follows:

"SEC. 8. *And be it further enacted*, That said reports, and the bills reported as aforesaid, shall, if not finally acted upon during the session of Congress to which the said reports are made, be continued from session to session, and from Congress to Congress, until the same shall be finally acted upon, and the consideration of said reports and bills shall, at the subsequent session of Congress, be resumed, and the said reports and bills be proceeded with in the same manner as though finally acted upon at the session when presented."

Mr. BROWN. Exactly, sir. Now, what is meant by continuing bills "from session to session, and from Congress to Congress," if it is not expected that all that we do in this Congress in reference to a particular bill, shall be taken into the account of its passage at the next succeeding Congress; and then, if the two do not succeed in carrying it entirely through, the third Congress shall give to the two preceding ones the credit for what has been done? If that be not the purpose, aim, and object of this provision in the bill, the language in which it is drawn is very much misapplied. So far as taking up a bill at a subsequent session of the same Congress is concerned, we do that every day. That is all right; but the point which I make is, that this measure requires that bills shall be continued from Congress to Congress, and that I maintain you have no power to do; at least, such is my judgment, and I, of course, give it with great deference. I may be mistaken, but it does strike me, with great force, that you have no right to do such a thing. At any rate, about this I am not mistaken, that this is the first time in the history of this Government when there has been an attempt to do such a thing. If you can do it in reference to claims, why may you not do it in reference to all bills, and all other legislative business? If you can do it in reference to private claims, why can you not continue all business from Congress to Congress; and whatever we leave undone at the close of this Congress, hand over to the next, and they take it where we leave it? I say this is commencing a very serious innovation; and if this be not the object, the language should be so changed as to leave no doubt of it.

I have other objections, Mr. President, to this bill, which I will not detain the Senate by assigning now. The objections which I have stated, if I had none other, are insuperable with me, and I cannot, under any circumstances, vote for this bill.

Mr. HUNTER. Mr. President, there are two classes of objections which are raised to this bill. One is presented by the Senator from California, [Mr. WELLER,] who objects to the tenure of office; he thinks it should be for a term of years, and not during good behavior; the other, by the Senator from Mississippi, [Mr. BROWN,] who thinks that if the court be established it will be inefficient and fail to answer the end which we propose.

I think, sir, in regard to the tenure of office, that it will be easy to show that we have to choose between two alternatives, and that the analogies which the Senator from California has attempted to draw from the action of the States do not apply here, and that precedents cannot be found in the course which they pursue to govern us on the present occasion. I say, sir, I think it is plain that we have to choose between two alternatives—either we have to appoint the members of this court during good behavior, in order to make them independent, or else, if we appoint them for a term of years, they will be dependant on the appointing power, who might remove them three times a day if the Senate could act on the new appointments so often. These are the two alternatives between which we have to choose, and not between the practice of the General Government here and the practice of the States. Why, sir, in the States where judges are elected for terms of years, they are elected by the people. Here they are appointed, not by the people but by the President. In the States, in every case with which I am familiar, in all the constitutions of which I have any knowledge, during the period for which they are elected, they are independent even of the people; they cannot be removed in my State during the term of seven years, I think it is, for which they are elected. Here, if we attempt to give them a term of years, they will not be independent, even during that term, but will be liable to be removed at any time the President may choose. The danger, the fear is that they will be removed upon every change of party and upon each new Administration.

It seems to me to be very important to protect such a tribunal against these dangers. For that purpose I have gone to the Constitution of the United States, in order to seek the rule by which I was to be guided. In the establishment of the Federal courts, the Constitution provided that the judges should hold during good behavior. That system has operated well as a judicial system. It has given us admirable courts, and I believe, for one, that those courts have been all the better, because the judges were independent; for observe, sir, the analogy does not exist between a Federal judge and a State judge, which gentlemen seem to imagine. Here, if the judges did not hold during good behavior, they would be liable to removal every day; whereas, in the States, where they are elected for a term of years, they are elected by the people, and are independent during that period. I thought, sir, I could not go to any surer source for guidance and instruction than to the Constitution of the United States itself; and it was because the judicial system of the United

States, in the main, had served so good an end, so far as the administration of justice between man and man is concerned, that I was disposed to refer to that in a case of this sort for the establishment of a court.

Again, it seems to me that if there ever was a court which ought to be independent—if there ever was a tribunal which ought to be saved from the influences under which it might act if its members were in danger of removal, it is exactly such a tribunal as this; and in order to make its action sound, and just, and pure, and impartial, it is necessary not only to remove it from all danger of proscription, but to subject it to that ordeal which the gentleman admires so much, and which I admire so much—to subject it to the ordeal of public opinion, by establishing a court whose proceedings should be of record, and open, and known to the world at large. It is to be observed, too, that this will be a court of somewhat larger jurisdiction than the courts which decide only upon law. All matters are open to it, not only matters of law, but matters of equity, and all cases which Congress may choose to refer to it. Now, if we had improper persons, persons acting under improper influences, or persons acting in secret, what immense temptations would be afforded to fraud and improper conduct! To save them from this, I know of no better means than to make them independent, so far as the Constitution has made the judges of the United States independent, and to hold them to that responsibility which is worth more than all the pecuniary securities in the world—the responsibility of a man to public opinion for his character and his reputation, which he will value more when he is put in a place where his whole excellence and eminence depend upon maintaining that character and that reputation pure and intact.

So much, then, Mr. President, for that branch of the subject—the tenure by which these judges are to hold. I come now to the other branch. The Senator from Mississippi says that this court will be inefficient, because they will have to report their proceedings to Congress; and yet he has given a very good reason why it is necessary that they should report their proceedings to Congress. He seemed to think, too, that there was something of pretension in the name which was given to the tribunal, and that it implied an intention to dictate to Congress, and to say what they should do. Well, now, there is nothing of that sort; but the bill does especially require that there should be a report to Congress of the evidence on which the court act, of the reasons which govern them, accompanied by the petition of the claimant, and everything in fact which could be desired in order to form an opinion in relation to the merits of the decision. It is provided that all these things shall be reported to Congress, in order that we may know the grounds on which the decision is made; and further, sir, for this other object, to hold the court to its responsibility to public opinion for its sound action, that the public may be able, if they choose, to review and examine the grounds of its decision.

I think my friend from Mississippi, when he comes to look a little closer into this bill, must see that such a tribunal would be greatly more efficient than a committee. Why, sir, a committee of either House acts upon *ex parte* evidence; it acts upon such evidence as the claimant may choose to afford, unless the claim happens to be referred to some gentleman who takes a special interest in the matter, and will go a little further in order to collect evidence for himself. In the court the United States will be protected by an attorney, whose business it will be to look to the interest of the Government, and to examine every claim. Here there is no such protection. There we shall have a body of men trained to the consideration of these matters, whose business it is to examine and determine them. Here it depends on whether members of a committee examine a case or not. It would not often happen that the members of a committee were as suitable and fit for such an examination as judges selected on account of their fitness for this office, and whose daily and yearly business is to examine into such claims. I think there cannot be a doubt that, in regard to the examination of claims, such a court would be a much more efficient body than any committee of Congress.

But, sir, the Senator from Mississippi says that this proceeding will be much more expensive, and he refers to the salaries, some seventeen thousand or eighteen thousand dollars, granted in this bill, in order to show how much more expensive this will be than the present system is. Why, sir, a debate upon a single private claim will often cost more than the entire salaries provided for in this bill; and the degree to which the passage of such a bill would shorten the sessions of Congress, would constitute a saving far greater than any expense which we should incur by the establishment of this court. He says commissioners are to be appointed all over the United States; but on examination he will find that it is only proposed to give to this court the authority which every court has, to establish commissions to take testimony; and the expense of the court will only be in proportion to its business, and in proportion to the expenses of the other courts, when you come to compare the business of the two. That would be all. The commissioners are not permanent officers; we only propose to give to the court that power which is given to every court, to send out a commission to take testimony in order to ascertain the merits of the cases submitted.

We provide in this bill for a thorough examination and sifting of every case. It is to be presented, first, on petition by the claimant. He has to state the ground of his claim. He has to state the action of Congress, or of any Department, if there has been any such action on the claim. He has to state who are interested in it, and how they became interested. That he has to state by petition to the court. Then there is an attorney of the United States to look into it. If he finds it necessary to examine testimony in order to ascertain whether this statement of facts be true, there is the court, with power to send a commission to the place where it should be sent in order to ascertain the truth of the facts alleged. When the depositions have been taken, and the evidence is all before the court, and counsel, if it be necessary, have been heard on both sides, the court determines publicly, and decides upon the case, and reports to Congress its decision, and the evidence and grounds on which that decision was made.

It is said, however, that it would not further us in the dispatch of business, in regard to private claims, to have such a report, because Congress would examine these claims afterwards as much as it did before. I think not. I believe there might be some special case, there might be some claim which, perhaps, from its magnitude, would startle and astonish Congress, and into which they would look; and to the extent to which that practice would be carried, I believe it would prove salutary as a restraint and a check upon the court. It would make them more anxious to determine correctly and properly, when they knew their decisions might be liable to such criticism; but, in most instances, I take it that Congress would find it right, proper, and expedient to accept the judgment of the court, and, after they had pronounced on claims, pass bills in favor of those claims on which they had decided favorably.

Here again, however, the Senator from Mississippi finds an objection. He says this court is to prepare the bills. Why, Mr. President, that is no provision of mine; its authorship belongs to another gentleman—a gentleman who was once Senator from Maine, Mr. Bradbury; but I think it is an admirable provision. In the English House of Commons they have their bills prepared by lawyers, [Mr. Cass. Always.] in order that these bills may conform to the general statutory provisions of the country. I think it is eminently proper, and is an admirable provision, to require these judges to frame a bill in favor of a claim after they have examined and decided it. Who knows so much about it? Who so fit to do it? Having done it, they will afford to Congress, in the discharge of this important duty, every facility which could be rendered by any tribunal. Is there anything in which we so much need assistance and aid as in this very matter, of the discharge of justice to private claimants? Do you not know, sir, that they block up your doors here for justice? Do we not know that justice is delayed until the heart of the claimant sickens within him, and that, when we do take it up, it is under such circumstances as often preclude us from either ascertaining what is just, or doing what is right in the case? Do we not all feel it? Sir, I have felt it. I have felt compelled to vote hundreds of times on cases in regard to which I knew I had not the information which enabled me to discharge the judicial function that I was asked to discharge in the case.

Sir, I believe that if we should pass such a bill as this, we should render more service to the country, we should do more to purify the legislation of Congress, than has been done by any measure which has been proposed for a very long time. For one, as I said the other day, I would vote for almost any measure which proposed to do something better than we are now doing in regard to this vexed question which presses on us for decision. I think that the bill which is now under consideration will make an admirable beginning. I have no idea that it is perfect, or that we could begin with anything perfect; but I think by it we lay the foundation for a good system, for an admirable system, and one which I believe will produce most important consequences hereafter in the proper administration of this Government. Why, sir, I may perhaps be permitted to refer to it in this connection—one of the greatest reforms which was introduced by the great Napoleon in France was the introduction of a court of claims, which decided upon accounts presented to the departments, an institution which proved to be so admirable that the English Government sent out a commission to examine into its workings; and the report made by Doctor Bowring on that subject shows a reform which has been achieved and effected by this institution, such as must strike any man who will choose to study the subject.

Here is a court which will afford the means, not merely of enabling Congress to examine into the equity of a case, but will afford the means of deciding judicially upon the law of the case; and, while it will not interrupt at all the proceedings of the Departments, while they will go on unchecked, unless Congress shall interfere, it will give the claimant the means of revising the decisions of the Departments themselves in a court, and of presenting the opinion of the court to Congress. How much better is this than the practice which is beginning to grow up, of lawyers appearing before Comptrollers and Auditors—for they have appeared before Auditors, and I believe even Comptrollers—to argue cases in the Departments. Here, sir, if claimants are aggrieved, they can obtain the decision of a court, and appeal to Congress. Not that it would have the power of interfering with the decisions of the Departments at all, but claimants would have the power of obtaining the judgment of the court upon the decision of the Department, and appealing upon that judgment to Congress itself. Is it not probable that this would prove most salutary; and that this court would be found to be an assistance in the working of the Government, not merely to Congress, but to the Executive Departments themselves?

Mr. BROWN. I wish to say a few words in reply to the Senator from Virginia. He brings me to that point to which I supposed we should be brought in the discussion of this bill, and that is, that when the reports of the court are made to Congress, Congress is to pass them *nem. con.*

Mr. HUNTER. I did not say so.

Mr. BROWN. The Senator says he did not say so, but his whole argument went to prove it so, and I will undertake to show to the Senator that he has come as near saying so as ninety-nine and three quarter cents are to a dollar. He alluded to my argument against the expense of this proceeding—and how did he answer it? By saying that the discussion of one private bill now consumes more money than the whole expense of this court would be. Are we not to discuss these private bills when they come from the court? If we are, what becomes of the Senator's argument about expense? for the same discussion will be had then, I apprehend, as now. What becomes of that argument unless we pass the bills without discussion, which I said in the beginning was expected of us?

Mr. HUNTER. I will correct my friend. My argument was this: I hope and believe this court will entitle itself to the confidence of Congress, and will have so much of the confidence of Congress, that in general its decisions will not require revision; that the cases requiring revision will be the exception and not the general rule.

Mr. BROWN. Then that is one step further in the same direction which I was pointing out—that this court is to have the confidence of Con-

gress, as the Senator expresses it, and we are to register what it tells us without discussion. I dare say there will be an attempt to stifle discussion here and in the other House of Congress, and to force the decision of the court upon us, whether we will or not. I protest, in advance, against any such thing. I dare say it will be done; but I have no doubt that after two or three years shall have elapsed, its proceedings will be discussed. I know they ought to be discussed from the commencement, because I know that the obligation of appropriating money belongs not to a court, but to Congress. That member of Congress who fails to discuss or understand thoroughly a bill appropriating money before he votes on it, is not discharging his duty to the Constitution. Why was Congress required to appropriate money? Why was this responsibility riveted upon us, which we are now endeavoring to shake off? It was that the people's representatives—those who are amenable to the people and to the States—should give an account of the disposition which they make of the people's money. Here, sir, we have a proceeding which is to relieve us of this responsibility. We are to have so much confidence in this court, that we are not to discuss its proceedings, except now and then, I suppose, simply to keep up a show of discharging our duties. This is precisely what I apprehended in the beginning, because I saw, from the commencement, that unless we did that, we should have made by this movement—as I have already stated—not one step in advance of the position which we at present occupy. Unless you pass, without discussion, the bills sent by the proposed court, you will have accomplished nothing by its organization; and if you do discuss them, the court is a nullity, not worth a sixpence.

Mr. PRATT. I have listened with a great deal of pleasure to the very able speech of the Senator from Virginia, with every word of which I most heartily accord. There are one or two views, however, particularly on the first branch of the subject discussed by him, which I think it may be important to submit to the consideration of the Senate.

The honorable Senator from California has announced his intention to move to strike out the words indicated by him, with the view of having these officers, these judges, appointed for a period of years, instead of during good behavior, as the bill now provides, and I suppose, from the tenor of the speech of my honorable friend, his disposition also is to have them elected by the people of the United States, for a great part of his speech was taken up with a eulogy upon that mode of appointing judicial officers.

Mr. President, my honorable friend read to the Senate the clause of the Constitution under which we have authority to establish this tribunal. His design is to strike out the word "court," and insert the name "commissioners," and then to strike out the words "good behavior," and insert some specified number of years as the tenure of the office. I submit to that honorable Senator, in looking to our power, what difference it makes whether we call the tribunal appointed in virtue of this bill to discharge the duties which are described in the bill, commissioners or judges, if the power conferred is a judicial power; and I submit to the better judgment of my honorable friend whether any one who reads the first section of the bill can doubt that it does confer judicial power upon the tribunal to be appointed. I do not care whether you call them judges or commissioners. It is a judicial power conferred upon this tribunal, and under the Constitution you have no authority to appoint a judge, or a person to discharge a judicial duty, except during good behavior. It appears to me, therefore, that that part of the bill which provides that the tribunal, under whatever name it may be called, shall be entirely protected from the suspicion of being governed by any other than the purest influences, is most important, and the tenure of office provided for in the bill should be retained. And if I am right, we have no power to gratify the views of my honorable friend from California, by changing the tenure of the office.

In reference to the remarks of the honorable Senator from Virginia, upon the second branch of the subject, there is one forcible argument that occurs to my mind. The tribunal established by the bill is to report to the Congress of the United States its action. It is not only to report its decisions, but it is also to report the grounds and evidences upon which those decisions are predicated. Now, I submit to the Senator, and to every one who will read or hear the remark which I am about to make, whether it is not the best guarantee for purity of action that could be supplied by any bill. The other courts appointed under the Constitution of the United States have their juries, and they make their decisions, and those decisions they are not compelled to publish. The appointment here is during good behavior; and the judges appointed under this bill are to report to Congress every year, at the commencement of a session, and monthly afterwards, their action on each claim, and the evidences on which the action is predicated. I submit whether it can enter into our imagination that men of ordinary capacity would act corruptly, or improperly, or would act otherwise than in accordance with their best judgment, when they are to have their decisions repeatedly coming before this body, who are to act, according to my understanding, not merely upon the decisions themselves, but to appropriate the money, provided the decisions appear to be right.

The honorable Senator from Mississippi stated that he had yet to hear anybody complain of the action of this Government in reference to private claims. The Senator is fortunate. I am upon the Committee on Claims, and have been on it since I have had the honor of having a seat on this floor.

Mr. BROWN. I did not say that they did not complain of delay and want of justice, but that the integrity and intelligence of committees has not been complained of. Their reports are relied upon, and the complaint was against Congress not acting.

Mr. PRATT. I did not suppose that the honorable Senator had intimated that the complaint was against the intelligence of Congress, but the complaint is that they do not bring that intelligence to bear upon the subject of the claim of the citizen. That is the complaint. I was about to say that the honorable Senator was much more fortunate than I have been, for I have yet to find, anywhere out of Congress, any citizen of the United States who does not complain of our non-action in reference to the claims of our citizens upon the Government of the United States.

Mr. BROWN. I do not deny that at all.

Mr. PRATT. The Senator says that we are not aiding at all in facilitating this business; that reports are now made, we pass our bills, and they go to the other House, the table of which is now loaded down with bills which have passed this body, making appropriations for the purpose of satisfying the public creditors. Sir, it is because the other branch of the Legislature is groaning under that load that this bill is introduced here. If Congress would act as soon as the committees report; if it would take up, consider, and discuss, if it chooses, but act at once upon the bills, and, where justice requires it, pay the claims, there would be no necessity for the establishment of the tribunal proposed by the bill. The very argument of the honorable Senator, that the tables are groaning here, and in the other House, with private bills, shows the necessity for this bill.

Mr. President, I only rose for the purpose of suggesting the constitutional view which I have presented, in addition to the able remarks of the honorable Senator from Virginia, in regard to the tenure of the office of these judges.

Mr. WELLER. The amendment which I have proposed contemplates the appointment of these judges or commissioners for a period of years. It is true, sir, in the course of my argument, I intimated that, if it could possibly be done, I would have the judges and all the officers of the Government elected by the people. If they are competent to select legislators to frame, and an executive to enforce, the laws of the United States, they have the capacity to elect their judiciary to expound them. It requires no more ability or integrity to do the one than the other.

Mr. PRATT. I would inquire of the honorable Senator whether we are not bound by the Constitution in making these appointments, and as that declares that judges shall hold their offices during good behavior, whether he thinks we can declare otherwise by this bill?

Mr. WELLER. I do not regard this bill as constituting a court under the provisions of the Constitution of the United States. It is, in my judgment, no court—it is not a judicial tribunal—in the meaning of the third article of the Constitution, and therefore the judges may not necessarily be appointed during good behavior. In other words, I hold that it is perfectly optional with the Senate whether these officers shall hold their offices during good behavior, or be limited to a term of years. The Congress of the United States undoubtedly has power to appoint commissioners; and what is the provision of this bill but the organization of a board of commissioners to ascertain certain facts? What are those facts? They are facts connected with claims against this Government. There is not a word in the bill which makes the opinion of these judges the judgment of a court. They are required by the seventh section, "at the commencement of each session of Congress, and at the commencement of each month during the session of Congress, to report to Congress the cases upon which they shall have finally acted, stating in each the material facts which they find established by the evidence, with their opinion in the case, and the reasons upon which such opinion is founded." It is, therefore, to all intents and purposes, simply a court of inquiry—a mere tribunal to take testimony for the final action of Congress. It is to be a mere tribunal organized for the purpose of ascertaining facts and taking testimony, and submitting that testimony to the legislative branch of the Government, where the case can finally be disposed of. To avoid all dispute, however, I have proposed to change the phraseology in the particular which I have indicated. It is perfectly competent, under the Constitution of the United States, to appoint these judges for a limited time. It appears to me no one can doubt this.

Now, sir, what is the objection to it? The Senator from Virginia says that they may be removed by the President of the United States. I take it for granted that no President would attempt to disturb this judicial tribunal unless there were good and sufficient reasons showing that the public interests demanded such a change. I say, sir, that the same objection which the Senator from Virginia urges against the appointment of these officers by the President for a term of years, will apply to almost all the other officers who may be appointed by the Executive. The power I grant you may be abused, but this is not to be presumed. No change would be made unless the public good require it. I am not afraid of this court becoming corrupt. My observation has taught me that there is much more corruption in the legislative department than in the judiciary. The power has been charged with much more than the facts will justify. I am not afraid of corruption, whether they be appointed for good behavior or for a limited period; but I prefer, for the reasons which I have given, that they should be appointed as other officers are, and as the spirit of the age demands—for a limited time. If the first appointments were found, upon trial, incompetent or unfit for the stations, I would have them removed. If, from age or bodily infirmities, they were unable to discharge the duties of their offices, I would evst in the hands of the President the power to change them. If they become so generally suspected of a want of integrity or capacity as to render their opinions of no weight before Congress, let them be dismissed. I would have no officer, under such circumstances, to fold his arms in indifference and say you cannot touch me, "*I am a life officer.*"

Mr. PRATT. The section of the bill which I suppose confers the judicial power is not the seventh section, to which the Senator has referred. The first section declares:

"The said court shall hear and determine all claims founded upon any law of Congress, or upon any regulation of an Executive department, or upon any contract, express or implied, with the Government of the United States, which may be suggested to it by a petition filed therein."

So that it is that section which confers upon this tribunal, call it what you please, the judicial power of determining the claim of any individual citizen against the Government of the United States. The seventh section is to make it obligatory upon the tribunal to report its proceedings to Congress, which is entirely constitutional, if the tribunal appointed is a court, within the view of the constitutional provision; because, I appre-

hend, there could be no constitutional objection to requiring the Supreme Court of the United States to report the result of their decisions to Congress. There would be nothing unconstitutional in it, if we were to apply the whole clause in the seventh section, so far as the report is concerned, to any court—the Supreme Court of the United States, or any one of the inferior courts—appointed under the Constitution, as we apply it to this. It is the first section which confers the judicial power; and I submit that we cannot, under a change in the name, give a power which the Constitution forbids of having these officers appointed for a limited time.

Mr. CLAYTON. I do not propose to enter into a lengthy discussion of this bill. I am sensible, sir, of the importance of acting, instead of speaking upon it. It is a subject which has often been discussed; and, so often that, even were I prepared, at this time, to take up severally and in detail every passage, and section, and sentence of the bill, I should think it a work of supererogation. I take it for granted that honorable gentlemen here have turned their thoughts to this subject, each and all of them, long before this, and that upon the general principles involved in the bill, every man is ready to proclaim his opinion. But, after the course through which this debate has gone, two or three words from me, as one of the members of the committee, may not be improper.

It seems to me that there is a misunderstanding on the part of some gentlemen as to the character and nature of the judicial power. This Government was sought, by the framers of the Constitution, to be divided into three classes—three distinct and independent powers to exercise its functions—the executive, the legislative, and the judicial. Upon the separation of those powers, the very liberties of the country were deemed by the framers of the Constitution to depend. The greatest of the objects of separating these powers was unquestionably attained by the Constitution in its practical operation. Every man, however, who has observed the proceedings of Congress, must have been struck with the anomaly that Congress, while a mere legislative body, has been constantly engaged in discharging judicial functions. Every private claim upon the Government which has come before Congress has been considered by the two branches of Congress, each separately, every member of each body acting as a judge. I say, sir, as a judge. The Constitution defines the judicial power, and the character of the judge. It says:

"The judicial power shall extend to all cases in law and equity, arising under this Constitution," &c. "To controversies to which the United States shall be a party," &c.

And every one of these private claims on the Government is a controversy to which the United States necessarily is a party. The judicial power is defined by the Constitution itself, then, and is expressly extended to all these cases. The Constitution is also explicit as to the judges themselves. It declares:

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior."

Sir, the spirit, to say nothing of the letter, of the Constitution undoubtedly requires that those who undertake to decide upon these claims should be judges. They should be independent. No man can assign a reason why they should not be, to all intents and purposes, as independent as any other judges existing under the Government. It was, therefore, sir, with a view to the provisions of the Constitution itself, that the committee felt themselves bound to make the report of a bill establishing a court—the judges of which should be as independent as any judge of the Supreme Court of the United States—to decide these cases.

As it relates to the expediency and policy of establishing this tribunal, is there a man within the sound of my voice who does not know that something like it is necessary? Why, sir, the last session of Congress lasted some eight months. The expenses during every day of that session have been estimated by one of the officers of the Senate at $5,150, and by another officer at at least $6,000. I will take the smallest sum—$5,150. I think I do not overrate the time that we were engaged in considering private claims, when I say that it was at least fifty days. Now, taking the smallest sum computed by an officer of this Government, as the expenses of a single day—$5,150—and you find that the enormous sum of $252,500 was expended during one session of Congress in attention to this subject, which we propose to transfer to a court, whose annual expenses will amount to some $16,000 or $18,000.

It will not bear consideration, for a moment, for any man to undertake to charge that this bill creates new offices and new expenses to draw more money from the Treasury than is drawn now. No greater measure of reform or retrenchment was ever proposed than this. Sir, I will undertake to say that the expenses of Congress, in the consideration of a single private claim, in a former year—a petty claim, too—a horse, (I refer to Amy Darden's horse)—cost the Government more than this tribunal will cost it for twenty years. I could enumerate many other cases almost as bad.

Now, sir, having for a long time been a witness of these abuses, I have been compelled, by every consideration of justice and duty to the country, to lend my humble aid to the passage of this bill. I do not pretend to say that it is, in every particular, precisely what I would have it; but every great measure of this character must be a compromise of opinion. It is the best that could be devised by the committee—the best we could agree upon. In all its great and important features I admire it, and shall give it my vote with all my heart. If it should be discovered, in the future, that there are defects in the organization of this tribunal, as one of the Senators on the other side of the Chamber has said, cannot Congress correct it? But, sir, we shall have gained a great step by the passage of this bill; not only in the mere saving of money, but in the more important point of saving the honor, and dignity, and character of the country. We shall, after its passage, I trust, have no more imputations against the character of Congress. Many slanders that have been circulated will be crushed forever. Moreover, the justice of the court will be far superior to that degree of justice which we have meted out to claimants here. Every man of experience on this floor knows how loosely we act upon cases of this description. Like the honorable Senator from Virginia, I, too, have often been compelled to vote upon claims which I did not understand, resting my vote entirely in confidence upon the committee that made the report; and is not that the case with every gentleman? How is it possible for any one man, devoting himself to the interests of the country, in reference to any other subject than this, to investigate every little petty claim, or even every important claim, that comes before Congress. It is out of the question. It never has been, and never will be, done by any man. No such duty ought ever to be enjoined upon us.

But my friend from Mississippi [Mr. BROWN] contends that it will be the duty of this Congress, and of every other Congress, to review the decisions of this court when they come here upon appeal. Sir, if we may be permitted to repose as much confidence in the court as we now are compelled to repose in the decisions of a committee, we certainly shall not be losers by it. Your committees are composed, during different sessions of Congress, of different men. At one time you have, at the head of the Committee on Claims, or at the head of the Committee on the Judiciary, a gentleman entertaining certain fixed opinions in reference to the mode of dispensing justice to these claimants. A change occurs. We are constantly changing here, sir, as well as in the other House. A new chairman, and new members of the committee, are appointed. The law which is dispensed to claimants one year, is not the law which is dispensed to claimants during the next year. There is no fixed principle that is always abided by. But a court, sir, composed, as I trust this will be, of some of the ablest men in the country—and the compensation is placed so as to induce such to accept the office—will be bound, as other courts are, to decide according to established rules of justice, and to follow those rules as precedents. We shall not, therefore, have one measure of justice meted out to A, and a different measure to B; but all the citizens of the United States, and all the claimants against the Government, of whatever character or description, will stand precisely in the same position in reference to the justice which will be given to them. Here, then, is a tribunal, sir, infinitely superior to the Committee on Claims.

The proposition of the honorable Senator from Mississippi would, unquestionably, better our case very much; but would he, upon mature consideration, compare the Committee on Claims, or any other committee, with a court composed of legal gentlemen, for the investigation of such cases? I have as much respect for my colleagues in Congress as anybody; but I cannot help saying that men whose duty it is to devote their lives to judicial cases, who are not to have their thoughts distracted from judicial considerations, as we are distracted here, would make a tribunal vastly superior to any committee which we could appoint for the purpose of examining such cases. With regard to examining their decisions, suffer me to say, that, if that tribunal shall be established, and its decisions shall come here for consideration, instead of holding ourselves bound to examine every case that the board has decided, we shall, one and all of us, hold ourselves bound to respect the decisions of the court below, unless some one claims to be aggrieved by that decision, and can point out to us, unequivocally, the error which is contained in it. No man supposes that all these cases shall be reviewed here by a committee, or by any member. We shall only be acting as we act now. Now, we repose confidence in our committee. Now, we vote upon the decision of the committee. We do not examine the grounds on which the committee have predicated their decisions; and we shall not do it in the case of this court, unless some claimant shall come forward and ask that his case may be reviewed, pointing out, distinctly, some defect, either of law or of fact, for our consideration and decision. Then we may send it to a committee, if we think proper, or take it up and debate it; but I trust, if we are going to have any respect for our own law-making, we shall get rid of these cases which now occupy so much of the attention and time of Congress.

I beg pardon for having occupied so much of the attention of the Senate. I did not rise to go into a lengthy debate upon the subject.

Mr. BROWN. Mr. President, I should not again trouble the Senate—and I only mean now to speak a few minutes—if Senators had not stated my position entirely as though I were averse to these private claims. I must have labored to little purpose, if I have not convinced every one who pays the least attention to my course, that I have always sympathized deeply and earnestly with claimants, and, perhaps, said as much, and endeavored to do as much, as any other Senator, or any other member of the other House of Congress, to relieve this branch of the Government, and, at the same time, relieve the wants of private claimants. It is, as I undertook to demonstrate this morning, because this bill does not accomplish either of those objects, that I am opposed to it. I do not wonder that claimants should be in favor of this proposition. A man in a frying-pan would be very apt to jump into the fire—anything for a change. Claimants have suffered, I know, for years and years under the inaction of Congress. I have always been ready and anxious to act in their favor; but when you make a change at all, I want it to be a beneficial change; and the point which I undertook to make this morning was, that, before Senators should insist upon the passage of this bill, they should show that the bills coming from the court would be more readily acted upon than bills coming from a committee; for I insist that, until that is shown, you have not shown that this bill will give relief either to Congress or to claimants.

I want to show, while I am up, that so far from this bill giving relief to the claimants, it will be a total denial of justice to all small claimants. Why? It involves an amount of expense to them which they will never be enabled to pay, unless they have a claim for some thousands of dollars. Suppose there should be a claimant in one of the remote States, as Florida, or California, or in one of the remote Territories, as Oregon, or Washington, for $500. Now, he presents his claim to his Representative or Delegate, and he brings it here before Congress, and gets some sort of investigation—it does not amount to a great deal, it is true, but it does not cost him anything. Establish the court, and what will you require of him? He must, in the beginning, employ an attorney to present his claim to it, according to form; for here you are prescribing that petitions shall be drawn

up in form, and then you are authorizing the court to lay down the rules which are to govern it. What will a poor fellow away off in Florida, or California, or in one of the remote Territories, know of the forms and rules of this court? How is he to get his case fairly before the court, otherwise than by employing an attorney? What next? The court is to send out a commission—a commission from Washington city to Florida, or Oregon, or some other remote point, to take testimony; and if testimony is to be taken in favor of the claimant, he is to pay the expense of it. What private claimant can afford to pay the attorney's fees and expenses of this commission simply to get justice from his Government. I stand up here, and in the name of those claimants, protest against the iniquity of this thing. It is our business to give justice to our creditors, and not impose upon them expenses which will amount to a total denial of justice. You have it in your power to do it without incumbering them with those expenses. You ought to do it; and if you are faithful to yourselves and to the Constitution, you will do it.

I want some one to show me how these enormous expenses are to be avoided. What attorney will take a claim from a remote State without his fee? The court will have its own rules, and will not consider a case without testimony. *Ex parte* testimony will not be considered. A commission will be sent out to take testimony anew. The claimant must pay the expense, so far as his side of the case is concerned. That expense must necessarily swallow up all the profits of the claim; and then, when he has paid the expenses, where does he stand? Precisely where he stands to-day, with a bill before Congress, which would be no more likely to pass on account of the expenses incurred and paid, than it is likely to pass now, unless you do, as my friend from Delaware has said, pass it because of your confidence in the court. Sir, confidence is a plant of sickly growth; the very moment that you breathe suspicion upon it, it will be like the Exchange Bank of Washington. When confidence was destroyed, the bank went down. When confidence is destroyed in the court, the court will go down. Members will not be apt, after once being imposed upon by a decision from the court, to pass other bills without consideration; and when you come to discuss them as you discuss bills now, this discussion will occur upon every proposition as it comes up, as I will now proceed to demonstrate.

The expense of the discussion of bills coming from the court will be equal to the expense of the discussion of bills coming from a committee; therefore, my friend's argument all falls to the ground. How will the discussion arise? There will be outside parties, ready to complain that justice has not been done to the Government, or to other parties; or the claimant will say that he got but some fifteen, or twenty, or fifty per centum of what he claims. He will say to his friends: "Injustice has been done to me; I want you to investigate this case; I want a discussion before the Senate about it." In every case where a claimant has not got all he asked for, he will demand discussion; when he has got all he has demanded, some ill-natured friend of his will be very apt to prompt discussion. One single member rises and attacks a bill on the ground of the insufficiency of the testimony; then you will have all the discussion on a bill coming from the court that you have on a bill coming from a committee.

You cannot keep down these discussions; and above all, Mr. President, you cannot prevent the utterance of those two potential words in the House of Representatives, "I object." "I object" has destroyed more bills in that House than the most eloquent arguments have ever carried through it. That same potent "I object" will be there to meet your bills from this court, as they have met your bills from committees; not because there is any reason in it, not because there is justice in it, but because members think proper to say "I object." I ask those who have served in the other House of Congress, if this is not true, and to the letter, according to their experience?

Mr. HUNTER. The Senator from Mississippi seems to think that this bill will entail a great deal of expense on the petitioner. I think not. It requires him to do in the court what our rules require him to do here, file a petition, state the persons interested, and the action of Congress and the Department upon it—a thing that he can do without an attorney, if he can draw up a petition at all.

Mr. BROWN. We all know that the representatives of the people do not take note of the want of form. We do not care whether the petition is precisely addressed according to the forms of law, whether it opens and concludes properly, or not. We look to the substance of the thing; but what will the court do? What do we authorize them to do? Why, to make their own rules. What do courts do? Where is the private citizen in this country who can get his case fairly into court, and fairly out of it, without the aid of an attorney? Are not attorneys required in all courts? Has not the ingenuity of legislators in the several States been racked for years, seeking to dispense with attorneys before a court? And what has it all resulted in? Why, in imposing additional burdens upon the claimant. Where a private party goes into court, he must go with the aid of legal counsel, and so this court will require the same thing, whatever may be the pretensions or honest convictions of gentlemen.

Mr. HUNTER. I believe that there is nothing in the requisitions of the bill which will require an attorney more than the rule which we now have in regard to petitions. It will be quite as easy to present a petition to the court as to present it here. But the Senator says no, because the court has power to establish rules. We presume it will establish sound rules, just rules; we presume it will have sense and virtue enough not to impose unnecessary burdens on the petitioners. It will be just as apt to enable the petitioners to appear before them readily, as we should be—and does the petitioner escape the necessity of employing an attorney when he comes here? How many claims are there of any magnitude for which some claim agent is not employed?

The PRESIDING OFFICER. The question is on the amendment of the Senator from California.

Mr. WELLER. I think I can make a modification of that amendment, so as to bring the Senate to a direct vote upon the question which I propose. I can move to strike out "during good behavior," and insert "a period of six years," giving notice that, in the event that amendment prevails, I shall follow it up with a motion to strike out the word "court," and insert the word "commissioners," so as to comply with what I regard the provision of the Constitution.

The PRESIDING OFFICER. The present motion of the Senator from California is to amend the first section, by striking out "during good behavior," and inserting "for a term of six years."

Mr. CHASE. I regard this question, sir, as likely to determine the fate of the bill, and it is, therefore, one of very great importance. There are many Senators—or, at least, several Senators—who cannot vote for the bill if it constitutes a court instead of appointing a board. The bill, as it came from the Committee on Claims, and the former bill which passed the Senate, both provided for the appointment of a board of commissioners, and both of them, instead of providing for their holding office during good behavior, fixed a term of years. I cannot regard this delegation of power to these officers as a delegation, in any sense, of judicial authority—judicial authority, I mean, as prescribed in the Constitution of the United States. Judicial authority implies power to determine finally upon cases submitted to it. No tribunal can be a court in the proper sense of the word, unless it has the power to determine the law in regard to the particular controversies submitted to it. There may be an appeal from it, but if not appealed from, its judgment is final.

Now, sir, the court, as it is called, provided by this bill is not a tribunal from which there is either no appeal, or whose decisions are final. It is to discharge simply the function of a committee of this body. It is to receive cases, and petitions may be presented to it as are often presented to the Senate, and referred to a committee. Evidence is to be submitted upon both sides; but after all, what is this board or court to do? Simply to report the cases submitted to it to the Congress of the United States for its action, expressing nothing more nor less than its opinion.

In the analogies of the courts of law, I know nothing more analogous to this than the case of a master in chancery. He is appointed for the purpose of investigating particular cases which may be referred to him, and reporting his opinion to the court. If that opinion is not excepted to, the judgment of the court is passed upon it, and the report is confirmed. So, too, in regard to an auditor to examine accounts upon reference from a court of law. He examines the case submitted to him, and pronounces his opinion upon it; but it is not conclusive. It goes to the court from which his authority emanated, and that court determines the question in controversy.

That is precisely analogous, it seems to me, to this case; but who ever heard of a master in chancery, or an auditor of accounts appointed for life? The power is not judicial in any proper sense of the word. It is not desirable that these officers should be appointed for life. It is desirable, in my humble judgment, to have a board to which these cases can be referred which consume so much of the time of Congress and of the committees, and before which the parties can have an opportunity of a fair and impartial consideration and hearing, so that neither the interests of the Government will suffer from inadvertence, hasty, careless, or prejudiced action, on one side, or the interests of the party suffer from similar influences on the other side. I am, therefore, in favor of the appointment of a board; but I do not think we ought to appoint a court. I think we would go beyond our proper province in doing such a thing; and therefore I do not think that the question as to the constitution of courts comes properly into discussion here; but, if it were before us for discussion, I should say I concur fully in the opinion stated by the Senator from California. I think no more desirable improvement can be introduced into our system of government than the limitation of the terms of all judicial functionaries, requiring their election by the people; but that is entirely outside of this case. All that we desire to do now, is to provide a mode in which the merits of the claims upon the Government will be ascertained, for the purpose of saving the time of this body, and the time of the committees, and also for the purpose of securing the claimants themselves and the Government against injustice; and that we can get by the appointment of a board.

Mr. BUTLER. I did not intend to take part in this debate, and I shall say but a very few words. I agree with those gentlemen who have said that this tribunal—for I suppose it may be entitled to that designation—is not to be vested with the functions of a court—of a judge. I agree with the Senator from Ohio in that respect. The power of a court is to give judgment; and to give a forcible judgment—one that can be enforced by its own authority. So that I think the name given to this does not change, in fact, the organization of the tribunal. I regard it as nothing more nor less than three persons to hold their office during life, to perform the functions of judicial auditors; or, as the Senator from Ohio has said, I think their functions are more like those of a master in chancery, in my own State, or a master in chancery in England; but in one respect I differ from the Senator from Ohio, and that is in regard to the tenure of office, for I think the master in chancery in England—though I may be mistaken—is almost appurtenant to the court, and holds his office by a stronger tenure than the chancellor himself, who, we all know, goes out of office by a political change in the Ministry.

I am in favor of this tribunal. You may call it a court, or you may call it a board of three commissioners. I am in favor of it for two simple reasons; and in that respect I differ essentially from the honorable Senator from Mississippi. I have been here nearly eight years, and I declare, upon the responsibility of a Senator, that I know no body with which I have ever been connected which pronounces a more irresponsible judgment upon the subject of claims than the Senate and House of Representatives. Sir, the claims come here through an irresponsible channel. How do they come here? Why, nominally, they are presented by different Representatives and Senators; but, in fact, so far as regards the claims themselves, if they are claims of any merit, the claimants generally employ a claims agent; and, Mr. President, if their claims are without merit, they employ a dozen claims agents. [Laughter.] There is a proposition which I present; if they are large claims, without any merit, we have the agents

THE CONGRESSIONAL GLOBE.

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surrounding that door like harpies; and if there is a good claim, it speaks for itself.

It is against this irresponsible mode of approaching the Federal Legislature by these claims agents that I would have some sifting process. I would have a tribunal *apertis foribus*, with all the advantages of open adversary controversy; and their deliberations would be more likely to result in justice than ours here, because they would be submitted to the fair judgment of an adversary controversy.

I shall vote for the bill. I do not like the name which is given to the tribunal; but somebody has said that a "rose by any other name would smell as sweet." I do not think it is a court, but I do not think that important. I care very little about the name.

Mr. President, it was entirely beside the subject when my friend from California [Mr. WELLER] thought proper, it seems to me, to go out of his way to look for some State in which the judges hold their office during good behavior. He selected Virginia. Well, sir, allow me to say to my friend, that I regard it as a compliment that South Carolina has adhered to the ancient landmarks of a republican Government.

Mr. WELLER. No progress at all.

Mr. BUTLER. And she is better off than those who have made progress, and broken their necks. [Laughter.] I do not like the steamboat progress that goes down the Mississippi, and puts off its passengers at a hazard. I prefer the security of the common law; and I do not hesitate to say, sir, that there has been no improvement upon the administration of the English jurisprudence. Sir, I could appeal with pleasure to your State, [Mr. BADGER in the chair.] I am glad of it. It is my neighbor; and I once had occasion, in my office, to review some decisions in connection with it. I shall not detract from Ohio; nor shall I have the bad taste to single out any one State for the purpose of attacking its system. Get a good and able judge, and whether elected by the people for six or eight years, or whether he holds his tenure for life, his judgments will always vindicate themselves. But, sir, I will say to my honorable friend from California, that I will subject the judgments of Chief Justice Ruffin, of your State, and the judgments of South Carolina, to the tribunals of Westminster Hall, and compare them with those of any State of the Union.

Mr. WELLER. Mr. President, I had no intention whatever to provoke the Senator from South Carolina. He is the last Senator on this floor with whom I should seek to engage in a contest. I barely alluded to the State of South Carolina as one of the few States in the Union that had made no improvement in her judicial system, and had not incorporated a more popular idea into the judiciary. If the State of South Carolina sees proper to adhere to old notions, and remain in darkness, I have, of course, no right to complain; but I have never heard that South Carolina stood above all the other States in the Union for the purity of her judges, or their legal ability.

Mr. BUTLER. I never said so.

Mr. WELLER. I undertake to say that wherever this popular element has been introduced into the States of this Union—wherever the people have a voice in the election of their judges—they have selected quite as distinguished men as those which have adorned the bench of South Carolina. I said that the American people elsewhere had made some progress in their judicial system—that amid all the other improvements which had been advancing so rapidly for the last quarter of a century, they had made important changes in their judiciary, and that they had impressed upon it the popular element. Sir, if South Carolina chooses to appoint her judges for life, if she adheres to the old English rule, if she is so much wedded to that country from whence we originally came, I have not a word of complaint to utter; nor do I intend to impeach the motives, the integrity, or the ability of any of her judges. Other States have seen proper to adopt a different rule, and I undertake to say that under the operation of that rule there have been as few charges against their judges for corruption as under the old plan. That is all I contend for.

Whether the new States are broken down by their changes or not, or whether their legs were originally so weak that, in their attempt to walk, they have been prostrated, it is not for me to decide. But I undertake to say that the States progressing so rapidly will compare now with the State of South Carolina in everything that constitutes the greatness of a State. It is not for me to say that other States have got further advanced than South Carolina; it is not for me to say that the spirit of progress is operating more rapidly elsewhere than there. But there stands the fact that she holds on to these opinions, which the enlightenment of other States has long since abandoned.

Mr. BUTLER. Mr. President, the Senate will bear me testimony to one thing; that although I may appear to be somewhat precipitate in the mode of expression, I am very guarded in my remarks. They will also bear me witness that I have never, so far as I have known myself, been guilty of the bad taste of saying that South Carolina was superior to any other State in the Union in any part of her organization. Sir, we are peers and equals here; and when I speak of States, I speak of them merely as equals. I do not designate one and say that she is in darkness and has progressed nothing because her people have retained the forms and the institutions of their forefathers. What I said was—and was it not remarkably guarded?—that the judicial decisions of South Carolina and of North Carolina would compare with those of any State in the Union. I did not detract from any State. I was guarded upon that subject. But when a Senator chooses, by attribution, to put into my mouth what I did not say, I must be permitted to correct it, in justice to my State and to myself.

Mr. WELLER. As it has become simply a matter of taste, of course, sir, I am not disposed to enter into a dispute with the Senator on that subject, for *de gustibus non est disputandum*. Whether it was in bad taste or not, I shall not undertake to decide; that would not be proper; but in alluding to some of the States of the Union that still adhere to the old plan of appointing judges for good behavior, I mentioned the State of Virginia. I regret to say that the Senator from Virginia himself led me into that error, for I asked him, a few minutes before, what was the tenure of judges in the State of Virginia, and I understood him to say that it was during good behavior.

Mr. HUNTER. Then I could not have heard the Senator's question aright; for there has been a recent change in our Constitution on that subject. I must have supposed that the Senator's remark referred to something else.

Mr. WELLER. It was for that reason I asked the question. I had a sort of general, indistinct recollection that by the new constitution of Virginia a change was made, and, therefore, I interrogated the Senator from Virginia, who, it seems, did not understand the question. Hence, I was driven off by my friend from Virginia, and he unfortunately threw me on my friend from South Carolina. In the heat of debate, on the moment, I made the allusion. If it was in bad taste——

Mr. BUTLER. I did not say so.

Mr. WELLER. If it was in bad taste I desire to withdraw it, for I know of no Senator on whose judgment, as to a matter of taste, I would rather rely than my friend from South Carolina.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The question is on the amendment of the Senator from California, to strike out the words "during good behavior."

Mr. WELLER called for the yeas and nays; and they were ordered.

Mr. STUART. Inasmuch as the vote is to be taken on this subject now, and as I stand in a perhaps somewhat isolated position in regard to it, I ask leave to detain the Senate for only a few moments, while I give the reason which will control my vote on this amendment. So long, at all events, as this bill retains the language "judges," my belief is that the tribunal which it proposes to establish is a court under the provisions of the Constitution, and that the Constitution prescribes the tenure of office. I also think that a mere change of the word "judges" to "commissioners" would not change the effect of the bill. I admit that a bill might be framed establishing a commission which would not be a judicial tribunal within the meaning of the Constitution; but I am of the impression that the bill now before us, though the word "judges" should be changed to "commissioners," would still constitute a judicial tribunal within the meaning of the Constitution, and therefore that the tenure of office is fixed by it.

It is said, however, that there is one test by which you may determine whether it is a judicial tribunal or not, and that is whether it has the power to enforce its judgments. Why, sir, the Constitution expressly provides that "no money shall be drawn from the Treasury but in consequence of appropriations made by law." Then, there is and can be no judicial tribunal which could issue an execution to satisfy a judgment out of the Treasury of the United States, so that test in this instance must fail.

Other reasons, I think, might be suggested, but I am desirous not to detain the Senate at this moment for the purpose of expressing my views either on this particular subject or on the bill itself. Perhaps at the proper time I may ask the Senate to hear me for a few minutes, and express my notions and views as to what tribunal should be constituted for the purpose of adjudicating private claims. I only desired to say so much at this moment as should explain my vote. I shall vote against this amendment of the Senator from California, and against the one which he proposes to offer in future, believing that if both those amendments were adopted, they would not relieve the present bill from the provisions of the Constitution of the United States.

Mr. DOUGLAS. Mr. President, the remarks of the Senator from Michigan are so pertinent and to the point, and so nearly express what I myself intended to say, if I had got the floor when he did, and have been so well said that they relieve me from the necessity of adding more than a word or two to his remarks.

Sir, I regard this as a court which we are establishing, and it is only because it raises to the dignity of a court of the United States, that it can receive my support. I think that if we do establish a court of claims, possessed and endowed with all the prerogatives and privileges of a court, to compel the attendance of witnesses, where there can be a fair and impartial investigation, and an attorney to attend to the interests of the United States, so that we can have an adjudication of the merits of each claim, it will bring a weight of authority into the Senate and into the House of Representatives which would be binding on our judgments in all cases where the contrary could not be made clearly to appear. If we were to change the name of the tribunal, although I admit, a name is not always of importance, I should attach importance to it in this case. The fact of calling this tribunal a board of commissioners would imply that it was only to take the place of a committee, and to report facts. Now, I want an adjudication which I should deem binding upon us, and on which I could vote to confirm the verdict or judgment of the court without inquiry, and to appropriate the money because they had found it to be due. I want an adjudication in which I could put the same credence that I would give to a decision of the Supreme Court of the United States, so that when their report is made to us, unless some extraordinary cause appeared to the contrary, we should appropriate at once the money, or, if they reported adversely, decide against the claim.

For these reasons I desire this to be a court, with the first men of the country upon the bench, and the first lawyer of the country for the attorney of the United States, before the court. Here I will remark, that I do not think the salary, proposed

to be allowed to the attorney, is sufficient to command the first talent. I believe that the highest interests of this country will be dependent on this court so far as money is concerned. Although I would gladly change the tenure of office for the members of the court, if I could do so, and still retain it as a court, and although I believe that the reforms which have been made in my own State, in regard to the judiciary, were wisely made and ought to be valid, yet, as under the Constitution of the United States, a judge must hold during good behavior, I must either yield my desire to have a court established, or else I must make it a court, and give its judges a tenure for good behavior. Under that view, I shall vote to create a court of claims with the authority of a court, and then give to its members that tenure which the Constitution compels us to give in that event.

The question being taken by yeas and nays on the amendment of Mr. WELLER, resulted—yeas 16, nays 24; as follows:

YEAS—Messrs. Adams, Brainerd, Bright, Brown, Chase, Dodge of Wisconsin, Dodge of Iowa, Fessenden, Gillette, Johnson, Rusk, Sebastian, Slidell, Sumner, Wade, and Weller—16.

NAYS—Messrs. Allen, Badger, Brodhead, Butler, Clay, Clayton, Dawson, Douglas, Evans, Fish, Foot, Geyer, Hunter, Jones of Iowa, Jones of Tennessee, Mason, Norris, Pratt, Rockwell, Shields, Stuart, Thompson of Kentucky, Toombs, and Wright—24.

So the amendment was not agreed to.

Mr. ADAMS. I move to amend the first section by adding, after "good behavior," the words "or the existence of this law;" so as to provide expressly that the tenure shall be "during good behavior, or the existence of the law."

Mr. HUNTER. It is not necessary to do that. If the law be repealed, the office, of course, will go with it.

Mr. ADAMS. Then my amendment is of no harm.

Several SENATORS. It is not necessary.

Mr. ADAMS. There seems to be objection to it, and I will not press it now. But I will offer a proviso hereafter to cover the object. I shall content myself, at present, with moving to amend the first section in another particular. Provision is made that the court shall hear all claims founded upon any law, or upon any regulation of the Executive Department, or upon any contract, express or implied, with the Government of the United States, "which may be suggested to it by a petition filed therein." I wish to add, after the word "therein," the words "without formality of pleading." The object is, that parties having claims may go to the proper Department, and, if dissatisfied with the decision of the Department, shall have a right to file their petition, without formality of pleading, before this court. I do this to obviate some of the objections which have been made by my colleague.

Mr. BRODHEAD. I think an amendment of this kind is quite unnecessary. The bill already provides that the court "shall hear and determine all claims founded upon any law of Congress, or upon any regulation of an Executive Department, or upon any contract, express or implied, with the Government of the United States, which may be suggested to it by a petition filed therein;" and then goes on to provide that the claimant shall set forth, in the petition, the action which has been had.

Mr. DOUGLAS. And the court prescribes its own rules of proceeding.

Mr. BRODHEAD. Certainly. So that it is quite unnecessary to adopt the amendment of the Senator from Mississippi.

Mr. ADAMS. I am not particular about it. I only wished to provide, by law, that which Senators take it for granted the court will prescribe by rule. I am willing to take a great deal for granted; but when it is so easy, by a simple amendment, to require the court to receive and file these petitions, without the formality of pleading, I can see no objection to inserting it. It is not detracting from the capacity of these judges to require them to receive petitions without the formality of pleading.

Mr. DOUGLAS. I believe the jurisdiction of this court will involve both matters of law and matters of equity against the United States, and consequently the bill has provided that the proceedings shall commence by petition, setting forth precisely the nature of the claim; but the answer is to be in such form as the rules of the court shall prescribe. You cannot make an analogy exactly to a court of equity, nor exactly to a court of law; but the court itself, by its rules, can prescribe what the forms of proceeding shall be after the filing of the petition; and its experience from day to day, and from week to week, will point out to the judges what that mode of proceeding should be, in order to answer the ends of justice and facilitate business better than we can prescribe here in this bill. I think we had better leave it where the bill leaves it, and allow them to adopt their own rules of proceeding.

Mr. PRATT. The contemplation of this bill is that the court which is framed by the bill shall have cognizance of those claims, which the Departments have refused or may refuse to pay. If a citizen of the United States is entitled to money from the Government of the United States, and his title is beyond dispute, he will go to the proper Department and get his money. It is in those classes of cases where the Departments will not pay, that the citizen will find his remedy in the tribunal established by this bill; therefore it seems to me my friend from Mississippi must perceive that in such cases his amendment is not necessary.

The amendment was rejected.

Mr. FISH. I desire to present an amendment to the third section of the bill. It appears to me that in the bill as it now stands, there is no power given to the court to issue subpenas, to compel the attendance of witnesses. The court is authorized to appoint commissioners to take testimony, but no power is conferred to require the attendance of witnesses. I therefore propose to amend the third section by adding after the provision giving the court power to appoint commissioners, these words:

And also to issue subpenas to require the attendance and the deposition of witnesses, which subpenas shall have the same force as if issued from a district court of the United States, and compliance therewith shall be compelled under such rules and orders as the court hereby created shall establish.

Mr. DOUGLAS. I wish to suggest to the Senator from New York the propriety of confining that authority to the District of Columbia. I doubt the propriety of authorizing the court to send to California for witnesses, and charge us with the expense of bringing them from there. I am willing to authorize them to summon witnesses within the District of Columbia; but outside this District I should prefer to have the testimony taken in the form of depositions.

Mr. FISH. The third section already provides that "in all cases where it can be conveniently done, the testimony shall be taken in the county where the deponent resides." These commissions are to run in other States, and are not confined to the District of Columbia. Witnesses are to be examined in the county where they reside.

Mr. DOUGLAS. I supposed the object of the amendment was to compel witnesses to appear and testify orally before the court.

Mr. FISH. Only before the commissioners.

Mr. BRODHEAD. The Senator from New York called my attention this morning to this defect in the third section, and I observed it at once. I think the amendment is a very proper one. It only provides for compulsory process to secure the attendance of witnesses before the commissioners.

Mr. BROWN. Then I would suggest to my friend from New York that he had better authorize the commissioner to issue subpenas.

Mr. DOUGLAS. Certainly; that is the proper course.

Mr. FISH. If the commissioners have this authority, it will answer my purpose.

Mr. BROWN. Of course, a commissioner should have power to compel the attendance of witnesses before him.

Mr. FISH. I will modify my amendment, so as to read:

And also to issue subpenas to require the attendance of witnesses, in order to be examined before said commissioners, which subpenas shall have the same force as if issued from a district court of the United States; and compliance therewith shall be compelled, under such rules and orders as the court hereby created shall establish.

The amendment was agreed to; the bill was reported to the Senate as amended, the amendment was concurred in, and the bill was ordered to be engrossed for a third reading.

Mr. ADAMS. Although I know it is too late, at this stage of the bill, to propose an amendment, I should like to have an opportunity to offer a proviso to come in at the end of the bill, reserving to Congress the right to repeal it.

Many SENATORS. We have that right.

Mr. ADAMS. We may have the right, but the bill especially gives the incumbents the office for life. I believe Congress has the power, but I know there is doubt about it.

Mr. TOOMBS. I never heard it doubted.

Mr. DOUGLAS. I should object to such a proviso, for the reason that it would imply that we could not repeal an act creating an existing court where such language was not used. I hold it to be quite clear that we have that power.

The bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCKEAN, Chief Clerk, announced that they had passed a bill to authorize the corporate authorities of Georgetown to impose additional taxes, and for other purposes.

EXECUTIVE SESSION.

On the motion of Mr. DOUGLAS, the Senate proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 21, 1854.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER presented to the House a communication from the President of the United States, transmitting a report from the Secretary of State, in answer to the resolution of the House of Representatives, of the 27th of July last, of the correspondence between the Secretary of State and the Minister to the Netherlands, in the case of Captain Walter M. Gibson.

Mr. BAYLY, of Virginia. I move that the message, with the accompanying documents, be referred to the Committee on Foreign Affairs, and be printed.

Mr. ORR. I desire to say, upon that subject, that I hope the Committee on Foreign Affairs will give it their earnest and most considerate attention. It seems that the diplomatic efforts of the Government, in the case, have not thus far produced an adjustment of the claim of Captain Gibson. The subject presents a very grave question, and I hope the committee will give it their attention at an early day.

The message, with the accompanying documents, was then referred to the Committee on Foreign Affairs, and ordered to be printed.

The SPEAKER also presented the following communications:

A communication from the Treasury Department, transmitting, in pursuance of law, a detailed statement of the manner in which the contingent fund of the Department has been expended from June 30, 1853, to June 30, 1854, together with the statements furnished by the heads of the several bureaus of the Department. Referred to the Committee of Ways and Means, and ordered to be printed.

A communication from the Post Office Department, transmitting, in pursuance of law, an estimate for the ocean mail service, payable out of the revenue of the Department, for the year commencing July 1, 1855. Referred to the Committee of Ways and Means, and ordered to be printed.

A communication from the Post Office Department, transmitting, in pursuance of law, an estimate of the sums of money expected to be required for the service of the year commencing July 1, 1855. Referred to the Committee of Ways and Means, and ordered to be printed.

MARYLAND COURTS.

Mr. VANSANT, by unanimous consent, and in pursuance of previous notice, introduced a bill to provide for the accommodation of the courts of the United States in the district of Maryland, and for a post office at Baltimore, Maryland; which

was read a first and second time by its title, and referred to the Committee on the Judiciary.

TERRITORY OF UTAH.

Mr. RICHARDSON, by unanimous consent, reported back, from the Committee on Territories, certain resolutions from the Territorial Legislature of the Territory of Utah; which were referred to the Committee of Claims.

PROTECTION OF UNITED STATES OFFICERS.

Mr. STANTON, of Tennessee, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the propriety of further legislation for the better protection of the officers of the United States and other persons engaged in the execution of the laws thereof, and to report by bill or otherwise.

BILLS INTRODUCED.

Mr. JONES, of Louisiana, by unanimous consent, and in pursuance of previous notice, introduced a bill for the relief of C. E. Greenough; which was read a first and second time by its title, and referred to the Committee on the Judiciary.

Mr. MACY, by unanimous consent, and in pursuance of previous notice, introduced a bill for the commencement and completion of certain public works in the State of Wisconsin therein named; which was read a first and second time by its title, and referred to the Committee on Commerce.

The bill appropriates, to be expended under the superintendence of the Secretary of War, the following sums:

For the improvement of the harbor of Ozaukee, Ozaukee county, Wisconsin, $10,000;

For the removal of obstruction, and clearing out the channel of the Wolf river, in Wisconsin, $10,000;

For clearing out and removing the bar at the mouth of the Fond du Lac river, at the foot of Lake Winnebago, $5,000;

For a breakwater near the mouth of said river, $5,000; and

For removing obstructions at the entrance to the harbor of Menaska, on Lake Winnebago, $5,000.

Mr. M. also introduced a bill to make appropriations for the repairs, preservation, and completion of certain public works in the State of Wisconsin, heretofore commenced under authority of law; which received the same reference.

The bill appropriates, to be expended under the superintendence of the Secretary of War, the following sums:

For continuing the improvement of the harbor of Sheboygan, Wisconsin, on Lake Michigan, $12,000; and

For continuing the improvement of the harbor of Manitowoc, Wisconsin, on Lake Michigan, $12,500.

PUBLIC BUILDINGS IN ALEXANDRIA.

Mr. SMITH, of Virginia, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be, and they are hereby, directed to inquire into the expediency of purchasing a lot and constructing a building suitable for the accommodation of the custom-house, post office, and district court of the United States, in Alexandria, in the State of Virginia.

GUSTAVUS B. HORNER.

Mr. SMITH. At the last session there was a report made in the case of the heirs of Gustavus B. Horner. That report was mislaid, and consequently no order was made for its printing. It has now been found, and as the case will come up in a few days, I ask that the order may be made for the printing of the report.

It was so ordered.

UNITED STATES COURTS IN FLORIDA.

Mr. MAXWELL, by unanimous consent, and in pursuance of previous notice, introduced a bill "to provide for holding the United States courts in the northern and southern districts of Florida, in case of the sickness or disability of either of the judges of those districts."

Said bill was read a first and second time by its title, and referred to the Committee on the Judiciary.

PLATTSBURG, NEW YORK.

Mr. SIMMONS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce inquire into the expediency of providing, by law, for the completion of the breakwater in the harbor of Plattsburg, on Lake Champlain, and for the purchase of a site and the erection of a building at that place, suitable for a custom-house, post office, and court-house, for holding the United States courts in the northern district of New York.

Mr. FAULKNER. I am instructed by the Committee on Military Affairs to ask the adoption of this resolution:

Resolved, That the Committee on Military Affairs be authorized to send for persons and papers.

Several MEMBERS objected; so the resolution was not received.

Mr. HAMILTON. I call for the regular order of business.

CLERK FOR A COMMITTEE.

Mr. RICHARDSON. I trust the gentleman from Maryland will permit me to ask the unanimous consent of the House to introduce a resolution to allow the Committee on Territories a clerk for thirty days. We have a great deal of business to do, and this assistance is quite necessary to enable us to transact it.

The SPEAKER. Does the gentleman from Maryland withdraw his motion?

Mr. HAMILTON. Yes; let the resolution come in, if nobody objects to it.

The SPEAKER. If objection is made to it, the resolution cannot be considered.

Mr. RICHARDSON. I am aware of that.

Mr. HAMILTON. If no one else objects to it, I shall not.

The resolution was then read and agreed to, as follows:

Resolved, That the Committee on Territories be authorized to employ a clerk, at the rate of four dollars per day, provided said clerk shall not be employed to exceed thirty days.

GENERAL ASSEMBLY OF RHODE ISLAND.

Mr. DAVIS, of Rhode Island, by unanimous consent, presented resolutions of the General Assembly of his State, relative to the officers and soldiers of the war of 1812; also, resolutions relative to the establishment of a naval depot in Narragansett bay; and also, resolutions in reference to cheap postage.

Ordered, That said resolutions lie upon the table, and be printed.

RIGHT OF SUFFRAGE IN THE TERRITORIES.

Mr. ZOLLICOFFER, by unanimous consent, and in pursuance of previous notice, introduced a bill "to regulate and make uniform the right of suffrage in the several Territories of the United States;" which was read a first and second time by its title, and referred to the Committee on Territories.

CORPORATE POWERS TO GEORGETOWN.

Mr. HAMILTON. I now insist upon the regular order of business.

The SPEAKER. The regular order of business is the consideration of House bill No. 517, "authorizing the corporate authorities of Georgetown to impose additional taxes, and for other purposes," which was reported yesterday from the Committee of the Whole on the state of the Union, with an amendment. The previous question was demanded by the gentleman from Maryland, [Mr. HAMILTON,] and a motion was made yesterday evening by the gentleman from Virginia [Mr. LETCHER] to lay the bill upon the table.

Mr. FLORENCE. The bill upon which the vote is now about to be taken led to a good deal of discussion yesterday.

The SPEAKER. The gentleman from Pennsylvania must be aware that debate is not in order.

Mr. FLORENCE. I beg to ask the consent of the House to have read a letter from a citizen of this District in reference to this bill. I hope the chairman of the Committee for the District of Columbia will allow the House to be enlightened by the reading of the letter.

Mr. DAVIS, of Indiana. I object.

Mr. FLORENCE. Then I shall vote to lay the bill upon the table.

Mr. LETCHER. I ask for the yeas and nays on my motion to lay the bill upon the table.

The yeas and nays were ordered.

The question was then taken on Mr. LETCHER's motion; and it was decided in the negative—yeas 49, nays 86; as follows:

YEAS—Messrs. Thomas H. Bayly, Bugg, Craige, Dawson, Edgerton, Fenton, Florence, Giddings, Greenwood, Grow, Sampson W. Harris, Hastings, Haven, Hibbard, Houston, Howe, Hughes, George W. Jones, J. Glancy Jones, Kittredge, Letcher, Lilly, Lindsley, McCulloch, McNair, Smith Miller, Morrison, Nichols, Andrew Oliver, Packer, Preston, Ready, Reese, Robbins, Ruffin, Seymour, Shaw, Skelton, George W. Smyth, Straub, Andrew Stuart, John J. Taylor, Tracy, Trout, Vansant, Wade, Walley, Walsh, and Warren—49.

NAYS—Messrs. James C. Allen, Appleton, Ball, Bliss, Breckinridge, Bridges, Bristow, Brooks, Campbell, Carpenter, Chandler, Chase, Chrisman, Clark, Clingman, Cobb, Corwin, Cox, Crocker, Cullom, Curtis, John G. Davis, Thomas Davis, Dickinson, Thomas D. Eliot, English, Etheridge, Farley, Franklin, Fuller, Goodrich, Goodwin, Green, Hamilton, Aaron Harlan, Andrew J. Harlan, Wiley P. Harris, Hendricks, Hiester, Hill, Hunt, Ingersoll, Johnson, Roland Jones, Kidwell, Knox, Kurtz, Lamb, Macdonald, McQueen, Mace, Macy, Maxwell, May, Mayall, Meacham, Norton, Mordecai Oliver, Orr, Parker, Phelps, Phillips, Puryear, Riddle, David Ritchie, Thomas Ritchey, Rogers, Russell, Sabin, Sapp, Shower, Simmons, Samuel A. Smith, William Smith, Richard H. Stanton, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Upham, Walker, Elihu B. Washburne, Tappan Wentworth, Westbrook, Yates, and Zollicoffer—86.

So the House refused to lay the bill upon the table.

The previous question was then seconded.

Mr. INGERSOLL. I wish to vote understandingly upon this question, and I should like to inquire of the gentleman who reported this bill, whether the citizens of Georgetown have by vote authorized the corporation to impose additional taxes for this purpose?

Mr. HAMILTON. I regret that the gentleman from Connecticut was not here yesterday, for I then explained the matter to the best of my recollection.

Mr. INGERSOLL. I have seen it stated in a newspaper that the citizens have never been consulted.

Mr. HAMILTON. Oh yes, they have been consulted.

Mr. FLORENCE. I call the gentleman from Maryland to order.

The SPEAKER. No debate is in order.

The main question was then ordered to be put.

The amendment reported from the Committee of the Whole on the state of the Union was read and adopted.

The bill was then ordered to be engrossed, and read a third time, and being engrossed, it was accordingly read the third time.

Mr. HAMILTON. Upon the passage of the bill I demand the previous question.

The previous question received a second, and the main question was ordered to be put.

The question now being, "Shall the bill pass?" it was put, and, on a division, there were—ayes 72, noes 58.

Mr. FLORENCE. I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and there were—yeas 82, nays 63; as follows:

YEAS—Messrs. James C. Allen, Appleton, Ball, Bliss, Boyce, Bridges, Bristow, Brooks, Campbell, Carpenter, Chandler, Chase, Chrisman, Clark, Cobb, Cox, Crocker, Cullom, Curtis, John G. Davis, Thomas Davis, Dickinson, Edmundson, Thomas D. Eliot, English, Etheridge, Franklin, Fuller, Goodrich, Goodwin, Green, Hamilton, Aaron Harlan, Wiley P. Harris, Hendricks, Hill, Hillyer, Hunt, Roland Jones, Kerr, Knox, Kurtz, Lamb, Lathan, Macdonald, McMullin, McQueen, Mace, Macy, Maxwell, Mayall, Norton, Mordecai Oliver, Orr, Parker, John Perkins, Phelps, Pratt, Puryear, Riddle, Rogers, Russell, Sabin, Simmons, Singleton, Samuel A. Smith, William Smith, William R. Smith, Frederick P. Stanton, Richard H. Stanton, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Upham, Walker, Elihu B Washburne, Israel Washburn, Wells, Tappan Wentworth, Westbrook, Yates, and Zollicoffer—82.

NAYS—Messrs. Caskie, Craige, Dawson, Dowdell, Edgerton, Ellison, Farley, Fenton, Florence, Giddings, Greenwood, Grow, Andrew J. Harlan, Sampson W. Harris, Hastings, Haven, Hibbard, Houston, Howe, Hughes, Ingersoll, Johnson, George W. Jones, J. Glancy Jones, Kittredge, Lane, Letcher, Lilly, Lindsley, McCulloch, McNair, Smith Miller, Millson, Morrison, Nichols, Andrew Oliver, Packer, Peck, Bishop Perkins, Preston, Ready, Reese, David Ritchie, Thomas Ritchey, Robbins, Ruffin, Sage, Sapp, Seymour, Shaw, Shower, Skelton, George W. Smyth, Straub, Andrew Stuart, John J. Taylor, Tracy, Trout, Vansant, Wade, Walley, Walsh, and Warren—63.

So the bill was passed.

Mr. HAMILTON moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

The SPEAKER. Reports are in order from the Committee for the District of Columbia, or from any other committee having business relating to the District.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, Esq., its Secretary, informing the House that the Senate had passed, with amendments, bills of the following titles:

An act to secure the right of citizenship to children of citizens of the United States born out of the limits thereof;

An act making appropriations for the payment of invalid and other pensions of the United States, for the year ending June 30, 1856;

And two private bills.

Also, that the Senate had passed a bill of the following title:

An act to continue in force, for a limited period, the act to ascertain and settle private land claims in the State of California.

DISTRICT OF COLUMBIA.

Mr. MAY. The Committee on the Judiciary have instructed me to report back the following bill, which relates to the business of the District:

House bill (No. 445) to reorganize the courts of the District of Columbia, and to reform and improve the laws thereof.

Mr. MAY then addressed the House:

I wish to say, Mr. Speaker, that, as I consider this a very vital question to the people of the District, and to-day being the last of the days appropriated to the consideration of the business of the District, I very greatly desire that this bill may be brought before the House now, and that the House, if such be its pleasure, proceed to the consideration of its provisions.

It was, Mr. Speaker, during the last session of Congress, and early in the session, that the President of the United States communicated to us a message, accompanied by a report from the Attorney General of the United States, notifying us of the necessity of reorganizing the judicial establishment of the United States, and also of that of the District of Columbia, as well as its system of laws. That message and report were referred to the Judiciary Committee, of which I have the honor to be a member. In the distribution of the subjects belonging to this message, the committee desired that I should take upon myself the consideration of that part of it which related to the judicial system of this District, and to its laws. I confess, sir, that I felt great difficulty about doing that. There were some reasons, personal to myself, which I frankly stated to the gentlemen of the committee, why the subject ought not to be committed to me. They, however, thought otherwise. And when I felt that, notwithstanding these considerations, I could yet give a candid and impartial examination of the subject; that I have enjoyed opportunities which have been shared, probably, by no other gentleman in this body, in so great a degree, of informing myself about it; when I now hold the same opinions on the subject that I held before these personal embarrassments were created; when I knew that it was a subject most vital, I may say, to the happiness of the people of the District, and that they were universally in favor of some measure of relief, I yielded my private considerations, and accepted the task.

I own that the bill presented now for the consideration of the House has been the result of a good deal of my own reflection and labor. It has not only employed me, but also the other honorable members of the committee, and it has also received the consideration of a large majority of the members of the profession here, members of the local bar, as well as of many of the most respectable citizens of the District, and I am authorized to say they support its provisions. The bill was reported in June last by the Judiciary Committee, and was ordered to be printed; and on my own motion, it was recommitted to the Committee on the Judiciary, so as that the subject might still be held under consideration for such modifications as further reflections or advice might show to be proper.

The fact that the bill was so reported, and that its provisions were notified to the public through the newspapers, the fact that it was printed and open to the examination of everybody who chose to obtain a copy, that no efforts, as the House well knows, were made to put the bill upon its passage at the last session—the fact of this delay and these opportunities for its complete investigation—these facts have induced the committee, after making some modifications, to authorize me to report the bill back again as a whole, and now put it upon its passage.

Now, sir, there seems to me to be two principal considerations which belong to our deliberations upon this bill. I shall endeavor to occupy the time of the House as little as possible, admonished that, on subjects like this, it is quite impossible that anything more than a general survey can be made. I shall, then, with the pleasure of the House, proceed first to consider briefly the history, plan, and operation of the present judicial system, and of the laws here in force, which, I persuade myself, will bring the conclusions of this honorable body to the result that both are in great need of a thorough reform, and that, in the language of the message of the President, "they call loudly for some action on the part of Congress;" and then I shall proceed, in the second place, to consider the provisions of this bill.

We all know that when the General Government was anxious to locate its metropolis in some desirable place, Maryland and Virginia made propositions to cede portions of their territory here on the banks of the Potomac for that object; that these propositions received favor from Congress, and that the seat of Government was here located under the direction of General Washington.

In 1791 an act of the General Assembly of Maryland was passed, which ratified the cession; and in this act of the Assembly of Maryland I find a provision that the people of the ceded territory, then citizens of that State, should be entitled to the benefit of its laws and institutions of government, and that all the laws then in force in that State should prevail and be in force over the ceded portion until Congress should provide another system of institutions, and enact such laws as might be necessary to fulfill its duties under the eighth section of the first article of the Constitution. In that provision I see a solicitude on the part of the Legislature of the State, which I have the honor in part to represent, to provide for the future welfare of the people of this District; and it was on the terms of such a provision that Maryland parted with a portion of her citizens, and gave them up to the jurisdiction of the General Government. An examination into the history of the legislation of Congress and the condition of the people here, will show how far these desires of Maryland have been realized.

In February, 1801, the Congress of the United States passed a law adopting the whole body of the laws of Maryland then in force in that State, to be and remain in force in this part of the District, and that the laws of the State of Virginia should remain in force in the other part of the District across the Potomac river. That act of February, 1801, also established two courts. It established a circuit court, with three judges, and the judges of this court were, according to the express enactment and terms of the section creating their office, to hold it during good behavior. This is a significant clause. It provided also for the establishment of an orphans' court, which was to take jurisdiction over probates and testamentary matters. In March following, another court was established here—a district court—and the chief justice appointed by the act of February, 1801, was to be *ex officio* judge of this court. Here, then, we have three courts and four judges, or five judges, considering the chief justice *ex officio* as an independent judge of the district court. These were the judges established in the District up to 1838, when Congress passed a law dividing the criminal jurisdiction which the circuit court exercised, and vesting it in another court. That act created a criminal court, over which a single judge was to preside. That, sir, is the last legislation, touching the establishment of courts, that was enacted here, so that we find now in force here in the District of Columbia, four courts and six judges, all maintained by the United States.

In 1846, Alexandria county, over which the judges of the circuit court, the judge of the criminal court, and the judge of the district court presided, and administered their duties, was, at the desire of its people, retroceded to Virginia. Nearly one half of the District, in point of territory, and a large proportion in point of property and population, was thus parted with. And yet the judicial establishment remains to this hour such as it was when the District was complete ten miles square, as it was first laid out.

Now, sir, that is the history of the establishment of these courts. Such is the plan of these courts. Their operations depend upon the condition of the system of laws which they are called upon to administer. It is a peculiar jurisprudence which prevails here. These courts possess a jurisdiction which is possessed by no other courts in this land. They possess a common-law jurisdiction. They possess a jurisdiction under the old British statutes, which were in force in the province and State of Maryland up to the time of cession; they possess jurisdiction under the enactments of the State of Maryland at the period of the cession, and they possess jurisdiction under such laws as Congress has since passed.

It will be sufficient for me to say that, after a lapse of fifty-four years, without the alteration of the plan of the judicial system, without any improvement in the general scheme of jurisprudence, except here and there a tinkering about it, in the way of special or experimental legislation, (which, in the minds of intelligent lawyers and others, has been considered rather as injuring than improving the system,) I say, it must conclusively appear, from the consideration of this single fact, that the system here must be exceedingly imperfect, and behind the progress and wants of society. Why, we live in an age of progress. The whole world, the Old and the New, is moving forward with prodigious strides in all its institutions, and in none more than in its legal constitutions. Look at the condition of Maryland and Virginia that surround us. We see the old systems of laws that have been created, judicial systems that have been founded or improved, since the cession, laid down in the dust by the voice of the people of those States, and new systems erected in their place. In Virginia we see an entirely new judicial system, a noble code of laws, a monument to the wisdom of her legislators. In Maryland we see, also, the entire system of laws revised, and the Legislature proceeding continually, from that time to this, in improving her system of general jurisprudence. In 1850 we heard the voice of the people of that State demanding a further reform, and we saw a convention assembled at Annapolis to effect a thorough and complete reorganization of the judiciary, abolishing the old systems altogether, and creating a new and simpler plan, and also providing for a codification of her laws.

Speaking of the general operation of the judicial system here, I beg the House to understand, that I apply my observations exclusively to the defect of the system, not meaning in any way to indulge in any kind of criticism or observation upon any matter which may be personal to the judges of the District, or which may go to affect their integrity or fidelity in the performance of their duties. I say, the operation of the circuit court here, is a perfect anomaly in the history of jurisprudence. Since the infirmities of age have taken from the bench the chief justice of that court—an honored and venerable man, whom no one in this community venerates with a more sincere feeling than I do—and deprived him of the capacity to perform his duties now, or hereafter, that bench now remains composed of two judges. Its jurisdiction is most comprehensive. And as the right of appeal to the Supreme Court only begins where the measure of damages or final judgment is over $1,000, every one will at once perceive that, in a case below this sum, how a judicial doubt, which may divide the court and leave it without any determination of the questions that may be presented, may yet decide the right of parties without any redress whatever. I say, that it is an anomaly, which cannot be found in any system of laws in any civilized country. Not only so, but the modes of procedure are such as existed according to the practice of common law in England, and are extremely technical and imperfect. It takes a party eighteen months before an undisputed cause can be brought up for consideration.

There are other defects of every description in the procedures of this court, which, I fear, time will not be afforded me to consider in detail. The voice of the people here, with respect to the utter and complete abolition of the present constitution of this court, is most unanimous. Long before I had entered into any unfriendly personal or professional relations towards this bench, I had, in accordance with the teachings of a public duty, taken an earnest, and, perhaps, a prominent part in advancing measures of reform about this judiciary;

and, to my knowledge, since then thousands upon thousands of citizens of this city have convened over and over again for the purpose of presenting their petitions and resolutions to Congress, in favor of obtaining it. Upon one occasion, I recollect that, in order that the voice of the people might be signified in the most authoritative way, by an arrangement among themselves, the qualified voters (a restricted class) agreed that they would signify their will upon this subject at a municipal election in June, 1850, and the Register of the Corporation of Washington city has certified here, over his own hand and designation of office, that, in the several wards in this city where ballots were cast upon the subject of judicial reform, there stood, for judicial reform, one thousand two hundred and seventy-four votes, and against it but twenty-seven!

Here is the certificate:

REGISTER'S OFFICE, WASHINGTON, December 21, 1854.

I certify that, by the returns of the Commissioners of Election for June, 1850, the following was the return made by them of the vote on judiciary reform:

	For.	Against.
First Ward	271	5
Second Ward	232	6
Third Ward, no vote returned	-	-
Fourth Ward	148	5
Fifth Ward	265	6
Sixth Ward	207	4
Seventh Ward	151	1
	1,274	27

W. J. McCORMICK, *Register.*

Mr. ELIOT. I ask the honorable gentleman from Maryland if he will be kind enough to state at what time that election was held.

Mr. MAY. In June, 1850. Not only so, but I find on the files of Congress petitions, memorials and resolutions upon this subject, which might be piled up here like "Pelion on Ossa," demanding, in most earnest terms, this reform in the judiciary as a *matter of right*, vital to the prosperity and well-being of the people. I can add to these influential and significant expressions of the popular will, if it deserves consideration, the fact, well known to you, Mr. Speaker, and other honorable gentlemen who are present here, and were present then, that, on my coming here in a public station, as a member of this House, that there were extraordinary demonstrations of respect paid to me by many of the most leading, and influential, and useful citizens of this District, founded, not upon considerations of any respect merely personal to me—no, sir; but altogether upon considerations of respect for the part which I had taken in the agitation of this question of judicial reform—about which their feelings were deeply engaged—and invited by a confidence they reposed in me, that I would try to advance their hopes, and promote their interests here, according to the opportunities of my legislative rights and privileges. I therefore feel bound, by every obligation that I hold to these people, earnestly and resolutely, with my whole heart, to appeal to this House in behalf of that reform, so long and so loudly called for by the people of this District. It may be the only opportunity that will be afforded me—and, in all human probability will be—to accomplish this purpose which they and I have so much at heart. I cannot go hence without satisfying the claims of the people of this District upon me in this respect.

The constitution of the criminal court here is one full of interest. It is a court where the integrity of the public archives and the safety of the public treasure are to be principally protected; and it is the court where all criminal offenses committed against the people and property of this District, are to be prosecuted. I have seen it stated, as obtained from the court records, within the last few days, that more than three hundred and seventy new cases have been presented at the present term of this court to the grand jury attending it. Why, sir, this is a prodigious drain upon the Treasury of the United States, and goes to an amount beyond what can be well conceived. I shall present a statement to the House presently of what all these expenses are.

When you consider, not only the struggle which prevails among gentlemen who are commissioners, or justices of the peace, in this District, but among the constables who serve them, all striving for their fees, which is their compensation, you cannot escape the conviction, that there is a great amount of business manufactured in this way, in the name of the Government, and at its expense. I shall show, by the report of the Secretary of the Interior, made to you the other day, what the amount of mere fees is, which is thus demanded from the United States.

Not only do we find these objections in the administration of these courts—and I only touch briefly upon the principal objections, so as not to consume too much time—but we shall find, I think, that the judicial plan is altogether too large for the wants of the people of the District; too slow, and too cumbrous, too technical, for the enlightened administration of justice; that there is nothing right or well conducted about it, according to my humble views. Let me ascertain this by some inquiry, in the way of comparison, between the new systems established in the States of Virginia and Maryland, and the one which prevails here, with that of the people of Alexandria county, who, up to the year 1846, belonged to this District of Columbia. By that comparison we shall find that, while this fragment of the District has six judges, one judge, on the other side of the river, performs the judicial duties of seven counties—one judge only dispatching, for the most part, the criminal, chancery, and general common-law jurisdiction. There is, to be sure, a county court, in each county, which has a limited jurisdiction, and principally over testamentary matters, and such as concern the police government of their county. That judge receives a compensation of $2,000 a year. In Maryland, in that portion nearest to us, in its first judicial circuit, one judge holds his court in three large counties of that State, and performs all the judicial duties of those three counties, except that which is performed by the orphans' court, which is confined chiefly to testamentary matters. That judge receives $2,000 per year. The judges of the orphans' court receive four dollars a day during the time the court is in session. In this District there are six judges, and those six judges receive, out of the Treasury of the United States, $11,700, for salaries alone. Now, sir, the size of the judicial establishment here, in point of salaries, swells to a larger amount—I wish to speak of the year 1850, as in that year I made the reference from which I obtained my data—than the salaries of the judicial establishments of five of the sovereign States of this Union, and at this time is greater than the salaries of the judges of three of the States, and very considerably greater than those of the judicial establishments of two of the sovereign States of this Union put together. The judicial salaries of the States of—

Vermont, were then	$8,250
Rhode Island	2,550
Delaware	5,500
Florida	8,000
Iowa	9,000
District of Columbia	10,700

Now view this point in relation to population—a fair republican way to measure it:

States.	By the Census.	Estimated Population in 1850.	Cost of Judiciary.
Massachusetts	994,000	875,000	$25,750
Tennessee	1,000,000	980,000	32,400
Kentucky	982,000	890,000	36 000
North Carolina	869,000	780,000	18,000
South Carolina	668,000	620,000	31,500
Georgia	906,000	825,000	21,800
District of Columbia	51,687	50,000	10,700

Would this be credited? Kentucky, the most expensive of these States in her judiciary—more than *seventeen* times larger in population—has yet a system but little more than *three* times greater in expense to her people than is our system here to the United States. North Carolina, with a population nearly *sixteen* times larger, pays only $7,300 more for her whole judiciary than is paid in this District. Georgia, containing nearly *seventeen* times more people, pays but little more than *twice* the sum paid here. Georgia contains about 58,000 square miles; North Carolina about 45,500 square miles; this District about 60 square miles. It is believed that "life, liberty, and property" are quite as well protected in these States, as in this District.

The following table will show what are the labors of the judges of our circuit court:

Statement of the number of days on which the circuit court has been in actual session since the first term of the court as at present constituted by its judges.

October term		1845	35 days.
March	"	1846	49 "
October term	Van Ness case tried this term, and consumed six weeks of it,	1846	66 days.
March	"	1847	50 "
October	"	1847	44 "
March	"	1848	38 "
October	"	1848	43 "
March	"	1849	45 "
October	"	1849	57 "
March	" So far forty-six days; close in all probability in ten days more,	1850	56 "
	Total during five years		483 "

Or an average of ninety-six days and a fraction each year.

Salary of three judges of circuit court during the same period of five years, (not including Judge Cranch's extra pay.)

Judge Cranch, at	$2,700	$13,500
Judge Morsell, at	2,500	12,500
Judge Dunlop, at	2,500	12,500
Total		$38,500

Compare this with salary and labors of judges in any State of the Union, who, in many cases, are continually in extended circuits.

By going on and carrying out the comparison with the population of the two adjoining districts, of Maryland on the one side, and Virginia on the other, we shall see that the one judge who performs the judicial duties of the district of Maryland has a population over whom he presides, of fifty-one thousand four hundred and nine persons. And Judge Tyler, who presides over seven counties of Virginia, has a population of eighty-nine thousand five hundred and fourteen persons; while here we have a population, according to the census, of fifty-one thousand six hundred and eighty-seven.

Now, sir, the report of the Secretary of the Interior states that the expenses of the coroner had drawn from the Treasury the sum of $9,800 in the period of four years—expenses found, by the opinion of the Attorney General of the United States, to be wholly unauthorized by law. I read his report:

"Some time after I entered upon the discharge of my duties, I observed that many inquests were held in the city by the coroner, and found that the sum of $9,800 had, within the last four years, been drawn from the Treasury to defray the expenses. Believing these expenditures to be unauthorized by law, I sought the advice of the Attorney General, who, in an elaborate opinion, having concurred with me, all further payments were discontinued."

There is also a question raised as to the fees to which the clerk is entitled, and I wish to say to this House that, according to the present judicial establishment, there is but one clerk to all the courts, and the fees of all are monopolized by one person. I read from his report:

"In June, 1853, on the question being presented on appeal, I was of opinion that the clerk of the United States courts in this District was, by the one hundred and sixty-seventh paragraph of the act of 1842, obliged, as other clerks, to make a report of his fees and emoluments, embracing those of the criminal court. As a contrary view had been taken by one of his predecessors, I submitted the question to the Attorney General, who, upon a thorough examination, came to the conclusion that such was his duty. From his reports, since made, after making large allowance for expenses, his fees and emoluments in the five years ending the 31st of December last, were $29,986 48, being an excess of $12,486 48 over the maximum allowed by law, which will be refunded. There is not even a plausible pretext for his being made a solitary exception to a rule applying to the clerks of all the other United States courts."

The Secretary also says that the expenses arising from criminal complaints draws from the Treasury of the United States upwards of $10,000, and he calls upon Congress to correct this evil:

"By existing laws the costs of all criminal complaints made before the magistrates of this District, whether the complaint is sustained or not, are paid by the General Government. This item, for the last fiscal year, amounted to upwards of $10,500. The power should surely be conferred upon the magistrate or court to compel the complainant to pay the costs in all cases where the magistrate or court may deem the prosecution unfounded, frivolous, or malicious. This may be the means of preventing the institution of many prosecutions in which the public have no interest.

"The judicial expenses of the United States are largely on the increase. To some extent this is natural, and many causes contribute to it; but some exist which seem to be unnecessary, and should, therefore, be removed. A pre-eminent one is believed to be the great number of terms and places at which courts are held."

I have a table here, communicated to me by the Secretary of the Treasury, upon my request, in the following letter:

TREASURY DEPARTMENT,
REGISTER'S OFFICE, *December* 18, 1854.

SIR: Inclosed I have the honor to hand you a statement of the "judicial expenses of the District of Columbia for the last five years," as requested by the Hon. HENRY MAY.

The accounts of the marshals are made up without regard to years, and, of consequence, great difficulty arises in making a yearly statement, and I have, therefore, taken the amounts advanced to marshals in each year, made an aggregate, deducted therefrom expenses of Supreme Court, and balances due by marshals, and the remainder divided into five equal parts, assuming that to be the best way of getting at the yearly expenditures; which, it is believed, will answer the purposes of the Hon. HENRY MAY.

I have the honor to be, very respectfully, your obedient servant, F. BIGGER.

Mr. G. RODMAN, *Chief Clerk Treasury Department.*

Statement of the Judicial Expenses of the District of Columbia for five years, ending 30th June, 1854.

Salaries of chief justice, associate judges of the circuit court of the United States, and judges of the criminal and orphans' courts, for the year ending 30th June, 1850,	$10,700 00	
District attorney	250 00	
Other expenses averaged	52,219 11	
		$63,169 11
Salaries of chief justice, associate judges, and judges of the criminal and orphans' courts, for the year ending 30th June, 1851	$11,075 00	
District attorney	150 00	
R. H. Gillett, additional counsel	250 00	
Other expenses averaged	52,219 11	
		63,694 11
Salaries of chief justice, associate judges, and judges of the criminal and orphans' courts, for the year ending 30th June, 1852	$11,200 00	
District attorney	100 00	
Other expenses averaged	52,219 11	
		63,519 11
Salaries of chief justice, associate judges, and judges of the criminal and orphans' courts, for the year ending 30th June, 1853	$11,266 66	
District attorney	350 00	
Other expenses averaged	52,219 11	
		63,835 77
Salaries of chief justice, associate judges, and judges of the criminal and orphans' courts, for the year ending 30th June, 1854	$11,700 00	
Other expenses averaged	52,219 10	
		63,919 10
		$318,137 20

F. BIGGER, *Register.*

TREASURY DEPARTMENT,
REGISTER'S OFFICE, *December* 18, 1854.

This subject of large and increasing expenses has been a subject of constant complaint, and the people here are groaning under their share of the fees attending their judicial transactions. It has doubtless often been brought to the notice of members of Congress that anybody here, on the least pretext, may institute a criminal prosecution against anybody else. The fact is notorious, that people do get up brawls and quarrels of the most insignificant character, men stand around and witness it, and a complaint is lodged. The justice of the peace gets his fees for issuing the warrant for the arrest of the parties; for the witnesses, and they get fees for giving evidence; and the constable also gets his share. The parties are then sent to the grand jury; and let me say that the grand jury here is absolutely a standing establishment of the county for a great part of the year. How long, I cannot say. Members of the grand jury have constantly remonstrated against the injustice done the Government in this respect. Crowds on crowds of witnesses go to the grand jury, besiege their doors, and remain during the whole term of the court, originating these frivolous and too often malicious prosecutions, for the sake of the $1 25 per diem which they receive from the United States Treasury. And this is one of the causes magnifying the judicial expenses of this District, and deserves serious attention.

Now, Mr. Speaker, not having time left to dwell on these details longer, and believing that their force will be acknowledged, I shall turn to the history of the legislation of Congress on this subject, and show the House that from the cession of the District down to the present time, committees on committees, Congress after Congress, have agreed that the judicial establishment and laws of this District, are most deficient, and need sweeping reforms. Two codes of laws have been prepared under the authority of Congress, and published with a view of remedying this evil; yet up to this hour not one single provision of either has been adopted or put in force. Mr. POWERS, chairman of the Committee for the District of Columbia, at the first session of the Twenty-First Congress, made a report on this whole subject, in which, after enumerating the evils attending it, goes on to say:

"In view of all these facts, your committee cannot avoid coming to the conclusion that they call for the prompt and efficient action of Congress; and that the prosperity of this people, the reputation of the country, the character of our republican Government, and the general cause of liberty, are deeply concerned in the result.

"For these multiplied and complicated evils what is the remedy?

"If it were practicable, your committee would not hesitate to recommend an immediate restoration of this District to the States from which it was taken, and the people to the enjoyment of those political rights and privileges of which they have been deprived, reserving to the Federal Government all due control over the public property, and, if thought requisite, such other means of self-protection as might be devised. While this would be the best, it is perhaps the only effectual remedy which can be proposed. This proposition was made in Congress in less than two years after its assumption of the government of this District.

"On the 8th of February, 1803, Mr. Bacon, a member of the House of Representatives from Massachusetts, offered the following resolutions:

"'*Resolved*, That it is expedient for Congress to recede to the State of Virginia the jurisdiction of that part of the territory which was ceded to the United States by the said State of Virginia, by an act passed the 3d of December, 1789.

"'*Resolved*, That it is expedient for Congress to recede to the State of Maryland the jurisdiction of that part of the territory of Columbia which was ceded to the United States by the said State of Maryland, by an act passed the 19th of December, 1791: *Provided*, The said States should consent and agree thereto."

"These resolutions were immediately referred to a Committee of the Whole House; and the reasons urged in their favor were:

"1. That exclusive jurisdiction is not necessary nor useful to the Government.

"2. That it deprives the inhabitants of the District of their political rights.

"3. That much of the time of Congress was consumed in legislating for the District.

"4. That the government of the District is expensive.

"5. The incompetency of Congress to legislate for the District, because the members are strangers to its local concerns.

"6. It is an example of a government without representation—an experiment dangerous to the liberties of the States."

I read another extract:

"They will next inquire whether the committees of both Houses of Congress for the District, in addition to their other legislative duties, can devote sufficient time to the revision of the laws and the civil and criminal jurisprudence of this Territory as is manifestly indispensable.

"Your committee think not, and will offer no further reason than the facts above stated, and the past experience on this subject."

Among other things this committee addressed circular letters to nearly all the gentlemen of the bar here, inviting the expression of their opinions on the subject, and, by examination of this document, it will be found that all, without a single exception, represented that the evils of the judicial system of the District were oppressive. Some were in favor of one reform, some of another, according to the old maxim—"*To thomines quot sententiæ*"—but all were for reform, in a greater or less degree, which is ever so applicable to this subject. The late distinguished and honored Francis S. Key, in his reply, makes an observation that I will read:

"30. My opinion is that much less of the time of Congress would be required for our legislation, as we are, than under a territorial government. If a tolerable system of laws and proper judicial tribunals are once given to us, we should require very little legislation afterwards."

That opinion is shared in by other and eminent gentlemen of the bar. It has been affirmed and reaffirmed, over and over again. To remedy the evils complained of, the present bill has been introduced. It gives, according to my humble judgment, a good judicial establishment, and provides for a proper and just system of laws. It will be the means of saving a great deal of the time of Congress, which is so often engaged in the consideration of the local business of this District. We have now had three days set apart for the consideration of such business, and that only. The expenses of Congress for these three days would, I presume to think, be infinitely more than sufficient to defray the expenses of establishing this new system. This, it seems to me, ought to be a convincing argument.

It was the opinion of the very enlightened Judge Cranch, that there ought to be a codification of the laws of this District. And I am sure that I can confidently quote his opinion. It is to be found in this volume. As early as 1802, resolutions were introduced into Congress for retrocession, or a local legislature, or for a new judiciary and other laws. All these plans have been proposed by our committees. Again, in 1802, there were reports made, and resolutions adopted in Congress. And again, the same thing in 1803 and 1804. In 1809 the grand jury of Washington took up the subject and came before Congress in a most earnest request in favor of certain reforms. In 1816, a resolution was passed by Congress authorizing the judges of the District to prepare a code of laws. But that Congress made no appropriation to defray the expense of its preparation. Under these circumstances the chief justice took upon himself the labor of performing that duty alone. After having devoted a great deal of his time to the subject he presented a code of laws, which was printed, and which I now hold in my hands, (a large volume;) but Congress never found time to consider it, and it fell still-born from the press. I say Congress never had time to consider this code in detail, and they never will have time to do so. If we are to wait until the several provisions of a code are acted upon by Congress, the people of the District will have to wait, I fear, until "the crack of doom."

Again, in 1820, there were resolutions reported by a joint committee of both Houses of Congress. A local legislature was recommended to be established by the resolutions which were reported in 1825. In 1830, again the establishment of a code for the District was recommended, and an able report made by Mr. Powers, who seems to have investigated the whole subject with great attention. That committee did come to the conclusion that it was the duty of Congress to provide for the establishment of a code which should be printed and distributed for the use of the District of Columbia.

Again, in 1833, a distinguished member from Virginia, an eminent lawyer, the late Philip Doddrige, undertook the work of preparing a code for the District. The result of his labors is comprised in this volume before me, which was printed, but nothing further was done upon the part of Congress than to receive his report, and order it to be printed.

Now, sir, I have endeavored to show wha attempts have been made to correct the abuses i.. the judicial system of the District. It has been conceded on all hands, by every Congress and by every committee of every Congress whic has investigated the subject, that it is the imperative duty of Congress, devolving upon them by that clause of the Constitution of the United States which gives them exclusive power and jurisdiction over the District, to provide some cod of laws which shall, in some degree, conform t the improvements of the age and the progress o society.

I therefore think that the considerations I have presented, together with the authoritative conclusions to which all the committees of Congress who have ever given the subject their attention have arrived, will bring us to believe that there are great evils and defects connected with, and existing in, the judicial system of the District, and that are "calling loudly," in the language of the Attorney General, for the reforming hand of Congress.

The Committee on the Judiciary have given the subject under consideration a careful and deliberate investigation, and the plan which they have presented to the House by this bill, I now propose to explain, so far as the time afforded me will permit.

The preamble of the bill states that "since the retrocession of Alexandria county to the State of Virginia, it has become expedient to reduce the number of judges in the District of Columbia, and curtail the judicial expenses, and that it is represented by citizens of this District that the courts thereof should be reorganized, and its laws reformed and improved."

The first section of the bill abolishes the present judicial plan altogether, because no system can be constructed out of the present materials which it would be advisable to adopt. Every system that has hitherto been proposed to be constructed out of it has failed to meet the favorable consideration of Congress. There are too many courts. There are too many judges. The whole system is too expensive. It is too cumbersome. Its imperfections appear even to the blind.

There can be no doubt as to the power of Congress to abolish these courts. Congress created them, and it may destroy them. But if there should be any difficulty upon this point, the posi-

tion I have assumed can be enforced by the highest judicial and legislative authorities. In 1802 Congress exercised the power to abolish the Federal courts, and that by a very decisive majority of this House. The courts of this District do not emanate from the same high source—the Constitution. They are mere legislative courts.

The second section provides for the establishment of a court of common pleas, of which there shall be a single judge, to be invested with all the powers now possessed and exercised by the circuit court of the District. The process of this court and its pleadings are plain and speedy, and are copied after the plan in force in the State of Virginia. Judgments in undisputed cases may be obtained in the clerk's office by a process of the most simple and speedy nature. This court is to hold its session three times in the year. The section is a long one, and consists, for the most part, in describing the process. I have not time further to explain it.

The third section establishes a court to be styled "the court of equity," and is to have the equity jurisdiction now held by the circuit court, and is also to have the jurisdiction of the orphans' court—a jurisdiction of the most important and interesting character—one which has in its keeping the rights of widows and orphans. Sir, that court exercises a jurisdiction over one third of the entire property of this District in the period of twenty years. It has not been considered necessary in the constitution of that court as it now exists, to require that the judge should be a professional man, and unprofessional persons have been usually appointed to discharge its duties. This has been considered by intelligent citizens, and by lawyers, as a jurisdiction of so much importance that the selection of professional men as judges would be a matter of great importance. We have therefore carried that jurisdiction to the equity court which is to be filled by a judge learned in the law.

This court is required to be open every judicial day in the year, and the rules of equity practice, which are prescribed by the Supreme Court, are to be the rules for its government. At present there are two systems of rules, of such practice—and they are in conflict.

The fourth section establishes a criminal court, to have a single judge, and to possess all the criminal jurisdiction which is now possessed by the criminal court of the District, and all the criminal jurisdiction of the District court. And here, I wish to say, that under the present constitution of this court, it has been found extremely difficult to ascertain the jurisdiction properly belonging to it. A notorious criminal, who was indicted for murder on board of one of our ships of war, was tried before this court, and convicted of manslaughter. The judge, upon his own suggestion, arrested the judgment, upon the ground that his court had no jurisdiction to try the case. It was then carried to the district court, and the question was heard before Judge Cranch, who decided that his court had no jurisdiction over the case, and the result was that the criminal who had been tried and convicted, was discharged from prison and went free! We believe that if this plan is adopted a great expense in this court will be saved to the Government, and that twenty cases will be disposed of where one is now, and it will mitigate that evil practice which now so often prevails, by which innocent and friendless persons are too often prosecuted purely through malice, and being thrown into prison, are kept there for a suffering season awaiting trial.

The next section provides that the clerk of the chancery court shall also perform the duties of the office of register of wills—an important office—and its duties appropriate to the clerk of the equity court, so that by this provision widows and children and all who are concerned in the jurisdiction of that court may have an opportunity to see the transactions of the court kept according to the plan of an enlightened and well regulated system.

Then there are provisions for transferring records from one court to another, and to the new courts which this bill proposes to establish.

Then, sir, there is a provision in the next section, giving certain special powers over appeals in patent cases, &c. There is great complaint upon that subject made by the Secretary of the Interior in his report which I have quoted. The law authorizes appeals to be taken in patent cases to any judge of the circuit court. These cases are taken now, sometimes, to the present chief justice, merely for delay, as he, by reason of his infirmities, is unable to consider them. The Secretary of the Interior states that he doubts very much whether, after the termination of his life, the other judges will be in a situation to meet the expectations of the public in this respect. There are cases now held open by appeals taken in this way, which have been depending for two years, according to the report of the Secretary of the Interior. I read what he says:

"The law now allows any person who appeals from the decision of the Commissioner of Patents to select which of the three judges of the circuit court of the District he chooses before whom to bring his appeal. The chief justice of that court will probably never again be able to entertain an appeal, so that taking an appeal before him is tantamount to its postponement during the term of his natural life; and even after his death there may be some question whether the delay will be at an end. By such an abuse of the law a case has been suspended in this manner for nearly two years, and may be continued for an indefinite period."

Then, sir, there is next established a local court of appeals, which court is composed of the three judges of the courts below, any two of whom shall constitute a quorum. The judge who decided the case in the court below is made incompetent to sit upon the question on which the appeal is taken. This provision is made in part to relieve the Supreme Court of the United States from the appeals taken to it from this District. That court may be considered, also, as a part of the local judiciary, so far as this appellate jurisdiction is concerned. These appeals impose upon it a considerable additional burden, already too great, (as every gentleman in Congress and every lawyer knows,) to be transacted by the court, with all its faithful and persevering efforts. By this section we propose to give to the people of the District a local court of appeals to determine all those questions arising under a peculiar system, which do not require the consideration of the Supreme Federal Court, which are not of a general and comprehensive nature, or involving the settlement of principles either interesting or instructive to the professien or the bench. The record which carries up the case, according to this bill, is simply the docket entries of the case, a certificate of which incloses the original papers; the courts being in the same building, the clerk of the court below hands it to the clerk of the court of appeals, at a cost to the parties of one dollar, instead of the expense of some hundred dollars, as may now be incurred, in making up a record to the Supreme Court of the United States.

A MEMBER. In what cases are appeals to be allowed to the Supreme Court?

Mr. MAY. In all cases over $2,000, which is the limit prescribed in relation to appeals from all the other courts of the Union.

The ninth section contains provisions for the appointment of clerks—a clerk of each court—and who is to be only clerk of one court.

The tenth section provides that, in case of the disability of a judge, another judge shall take the place of the judge who may be disabled.

The eleventh section provides for the transfer of records of cases now pending in the Supreme Court.

The twelfth section has reference to certain duties which relate to the surrender of fugitives from justice from other parts of the Union.

The thirteenth section authorizes appeals from the decisions of justices of the peace to go to the court of common pleas, to be there considered, so as to allow the law which belongs to such cases to be determined by a judge who understands it. It has been a crying evil here, and it is the subject of complaint in several of the letters of gentlemen of the profession, addressed to the chairman of the Committee on the Judiciary, to be found in this volume. A party who chooses to bring an action against another may arrange with the constable to summon a jury of idlers or loafers, who hang around the justice's office, or neighborhood, and every question of law belonging to the case is submitted to them for their consideration. The law is withdrawn from the cognizance of the justice, and goes to the absolute discretion of the jury, and no matter how they err, or with what motives, or what flagrant injustice may be done, there is no remedy whatever.

In the next section power is given to the court of equity to grant divorces from the bond of marriage. There is now no such power in any court in the District. Parties here, who are in the unhappy situation of needing such a jurisdiction to dissolve the marriage bond, are obliged to go into Virginia or Maryland, and to remain there a number of years to obtain the required residence.

Next is a provision, and a very important one, in the fifteenth section, which looks to the peculiar constitution of the territory of this District. There is but one county in the District, and there can be no change of venue, no matter how much prejudice, or bias, or partiality may be prevailing. There is, therefore, no possible mode by which the benefit of an impartial and unprejudiced jury can be obtained. The provision here, looking to the only practicable remedy attainable, divides the county, in cases where the party makes it appear to the satisfaction of the court that there is such local bias or prejudice prevailing in either division, and authorizes the marshal to select a jury from some other part of the District free from such bias, and separated from it on any question of interest.

Then there is a provision for the appointment of a sufficient number of coroners, to hold inquests—that they may be prompt—and besides this, these coroners are to perform other important duties in arranging jurors.

The eighteenth section reduces all the expenses of taxation, and all the fees and charges of the clerk's officers, as well as the fees of the district attorney, marshal, and coroners; and this is to be done in the only practicable and efficient way of doing it—by the new judges created by the bill. And when this new and reduced tariff of fees is prepared, (which is their first work,) it is to be printed and put up in conspicuous places for the information of all concerned. Fees, as well as fines, are now, strange to say, sometimes here ascertained in pounds of tobacco, under the old law of Maryland.

Mr. TAYLOR, of Ohio. I desire to ask the gentleman from Maryland a question.

Mr. MAY. I have but a moment of my time left.

Mr. TAYLOR. I wish to ask the gentleman how, if the courts are abolished, he proposes to reëstablish them? I have looked carefully over the bill and can find no provision of that kind.

Mr. MAY. The courts in this bill are established by specific enactment, as will be seen in the first section.

Mr. TAYLOR. Then, how are the judges to be appointed—by the people, or by the President?

Mr. MAY. The mode of appointment not being prescribed, or provided for, in the bill, of course they will be appointed by the President of the United States, as all other officers of the United States are, by and with the advice and consent of the Senate.

Mr. TAYLOR. The bill makes no provision, I believe, upon that subject.

Mr. MAY. Then the bill proposes a new plan for summoning jurors, to remedy what has been felt to be a great evil. Why, sir, persons out of employment, persons who cannot get employment, persons who are undeserving of employment, too often manage to get themselves summoned as jurors to sit at the expense of the Government, at $1 25 a day, through the protracted terms of all these courts, and thus too often becoming partisans of the different gentlemen of the profession who may be engaged most actively in the trial of cases——

[Here the hammer fell.]

Mr. SEYMOUR. I rise, not for the purpose of taking the floor, but to say that, as the gentleman from Maryland has not quite completed his explanation of the bill, I hope he will have the unanimous consent of the House to conclude it.

[Universal cries of "Agreed!"]

Mr. MAY, (resuming.) I desire to explain the provisions of the twentieth section, which are most important. The plan recommended for summoning the jurors—to consider this a moment longer—is that adopted in some of the New England States. The coroners of Washington city, Georgetown, and the county of Washington, furnish the marshal of the District with the names of such citizens as they may select, who are to serve as jurors, according to the number which shall have been previously ascertained to be sufficient by the judges, and their names are placed on ballots, in a wheel or box, and to be drawn out in the presence of one of the judges, and they are to be drawn, term after term, in a sufficient

number, so that the duty of a juror shall be distributed among the people of the District as equally as possible, and thus rendering it certain that the respectable and intelligent citizens shall, in turn, perform such a responsible duty. Now, this class of citizens are oftentimes compelled to sit, for weeks and months together, upon the jury, with those with whom such an association is too often repugnant. Hence, upon this account, the office of juror is often given up to those who have no other occupation, and are, in this sense, pensioners upon the judiciary fund. This bill provides for a very efficient system, copied out of the codes of New England, and which has been adopted in several of the western States—a most admirable plan of securing an impartial jury.

The twentieth section of the bill provides "that the President, by and with the advice and consent of the Senate, shall be authorized to appoint two persons, learned in the law, to revise, simplify, digest, and codify the laws of the District, and also the rules and principles of practice, of pleadings, of evidence, and conveyancing, and to add thereto, and codify such laws of the State of Maryland, as may be applicable to the circumstances and condition of said District," and which may be, or become in force during the preparation of the code. It is intended to give the benefit, not only of the present system that now exists in force in Maryland, and of which the laws here, for the most part, are the basis, but also the benefits of that new system which is now in the course of preparation, and which will include every improvement of the most enlightened systems. The work of codification of the laws, in Maryland, is intrusted to some of the ablest lawyers of the State; and we flatter ourselves that it will be a proud monument of their wisdom and labor. The work of codification here will draw around it the advantages of the judicial system of Maryland, which are to be found in its published reports, so that the Government and people here, under its charge, will have not only the benefit of the improved system of jurisprudence, but the judicial interpretations of that system which have been made at the expense of the State of Maryland, and which are to be found in the reports of that State. The code proposed by this bill is to be "constructed according to a simple method, and expressed in language concise and plain; and, as far as possible, made level to the understanding of a person of ordinary intelligence and education;" and it is to contain a full and particular index. The Board of Aldermen and Common Council of the city of Washington are to elect five competent persons, and the Board of Aldermen and Council of Georgetown are to elect two competent persons, and the levy court of the county of Washington is to elect one competent person, which persons together shall compose a board, to consider, at convenient seasons, the provisions of said code, as it may be prepared; and any three of said persons to constitute a quorum of said board; and it is to be the duty of the said persons who may be appointed to codify the laws to attend the meetings of the board. They are required to attend in order to explain the provisions of the code as it advances, and the Attorney General may attend the meetings in order to give such advice, as may be necessary, and, with the aid of the codifiers, to bring the influence of intellect and science to govern their conclusions. When these persons have considered and adopted the provisions of the code, or such portions of it as may be deemed by them to be applicable to the condition of the people here, they are to certify the same to the President of the United States, who shall thereupon, if the same be approved by him, cause it to be published in a neat and convenient form, and to be substantially bound; and he shall cause a sufficient number of volumes of said code to be printed and bound as may be necessary for the amplest distribution of the same among the people of said District, and for the preservation of said code, so that the people may have an opportunity, in certain designated public offices and places of seeing and understanding its provisions. Here is seen the popular sanction in making the code, and a complete mode of informing the people of its contents. By proclamation the President is then to convene the citizens of the District of Columbia at a time and places to be appointed by him for the purpose of voting for or against the adoption of the code. When the returns of that election are presented to the President, he is to report them along with the code for the consideration of Congress, and a period down to the first Monday of December, 1857, is afforded for that purpose. If the code shall meet the approbation of Congress, it shall be then proclaimed by the President as the law of the District.

The House will at once see the benefits of this plan. You withdraw from the consideration of Congress any necessity for considering the details of the provisions of the code, a task which has heretofore prevented the adoption of any system, however satisfactory and complete. And this mode will prove to be sufficient for all those gentlemen who acknowledge the sovereignty of the people, and their right to be consulted about the laws under which they are to live. I think no one will be found ready to deny this privilege, even to the people of this disfranchised District; and this especially when we know that at the time of the adoption of the Constitution, it was expressly declared by Mr. Madison, in one of his letters in the Federalist, as the true meaning of the Constitution, as it relates to the people of the District of Columbia, "that they will have had their voice in the election of the Government which is to preside over them, and a municipal legislature, for local purposes, derived from their own free suffrages, *will, of course*, be allowed to them."

If the code should meet the approbation of the people of the District, I think it will then come recommended in away certain to meet the favor of Congress. Thus will an end be put to the constant appeals which are made to us here session after session, for improvement upon this piece, and alteration of that piece, of legislation, and which are multiplying with the increasing wants of the people. It is indispensably necessary, we think, that new judges shall be created for the purpose of introducing the new system. Every lawyer knows that there is no principle in the philosophy of practical jurisprudence clearer, as is constantly shown in the history of almost every State in this Union, than where you propose to introduce these new reforms in the judicial institutions or laws, that you should have new judges appointed to administer them. We know that the judicial habits to which the bench have been accustomed for a long time, make them unfriendly to changes or innovations.

I thank the House for the privilege of explaining the twentieth section, and for the patient attention with which they have listened to my explanations of the bill. I have only to regret that I have been constrained to present so general and imperfect a sketch of its provisions.

Mr. BRIDGES. I am satisfied, from the very lucid and able statement made by the honorable gentleman from Maryland, [Mr. MAY,] that a reform in the judiciary system of this District is necessary. I have examined the bill, and I am satisfied that its provisions are well calculated to effect a reform so greatly needed. I rose for the purpose merely of moving, as I now do, that the bill be immediately put upon its passage; and, upon that motion, I demand the previous question.

Mr. ELIOT, of Massachusetts. I hope that the demand for the previous question will not be pressed.

[Mr. GREEN, from the Committee on Enrolled Bills, here reported, as correctly enrolled, a bill of the following title:

An act to suppress the circulation of small notes as currency in the District of Columbia.

Which thereupon received the signature of the Speaker.]

Mr. BRIDGES. If the gentleman from Massachusetts wishes to speak upon this subject, I will withdraw the previous question, provided he will renew it when he closes.

Mr. ELIOT. I desire to have this subject somewhat debated. I have not prepared myself so to speak upon it as I wish to do; but I cannot agree to renew the call for the previous question, in view of the great importance of this bill to the District. I want it discussed and debated somewhat—not at length—but so that we may have some understanding of the provisions of the bill which we are now called upon to pass.

Mr. BRIDGES. I will, then, withdraw the call for the previous question generally.

Mr. ELIOT. Mr. Speaker, when it is remembered that the members of this House have not yet heard the provisions of this bill read, and that it is a bill more directly implicating the happiness of every member of this District than all the bills which have been passed, aggregated and quadrupled, the honorable gentleman from Pennsylvania [Mr. BRIDGES] will, I am quite sure, justify me—more than excuse me—for not being willing to promise, in advance, to renew the previous question, which he was kind enough to withdraw, at first conditionally.

Why, Mr. Speaker, this bill has been, it is said, before the committee since last June. It has been printed, and copies of it have been laid, for ought I know, upon the table of the members. But in its present form, it came from the committee freshly, this forenoon, and now, in a House not full by any means, after many members have withdrawn and retired for the enjoyment of the holidays, without preparation, without premonition, without discussion, but upon the statement of the honorable member from Maryland, [Mr. MAY,] who has frankly told the House that there were reasons, privately operating upon his mind, which impelled him, at first, to decline the labor of this investigation—a declaration fairly made by him, and expected of him by me—yet under such circumstances, and upon that one statement, it would seem as though a bill, involving the happiness, the rights, social and private, of every man in the District, ought not to be passed upon now.

It was but yesterday that my attention was called to this bill. Of course, I cannot pretend to have that acquaintance with the subject which the honorable gentleman from Maryland by his investigation has attained. Nevertheless, I have some. Why, sir, this District is a home to me, and that court, too, has not been without its interest, and those judges have not been strangers to me, and I cannot sit still and see this guillotine, this decapitation, this ruthless legislating away the offices held by them, and filled by them ably, earnestly, and most learnedly, without now upon the spot, and without other preparation than that which has been afforded to me in the brief time since this matter has been called to our notice, rising here and saying what I know.

Mr. Speaker, I should like to know how it is apparent to this House that the members of this bar desire this alteration——

Mr. MAY, (interrupting.) I would say to the gentleman that since I closed my remarks, at this moment, there has been brought and laid upon my table, a paper signed by thirty-four members of the bar of this District, respectable gentlemen, personally known to me as such, who state what their desire is upon the subject, and that they have seen and read this bill, and they, memorializing, respectfully pray that it may be passed. I think this memorial is a very honorable testimony to the independence of their character.

There was a remonstrance sent to the Committee on the Judiciary, and considered by it; and I am bound to say that that remonstrance was signed by twenty-five gentlemen, honorable and, some of them, distinguished members of the bar in this city; but I believe that the modifications now made in the plan of this bill have met the principal objections made by that remonstrance.

Mr. ELIOT. I should be glad to know if the honorable gentleman will state whether there are not reasons given in the remonstrance against our present action, growing out of the absence, on the part of the people, of any expression of a wish of action here; and whether that provision contained in the twentieth section of this bill, as now modified, has been inserted for the purpose of meeting that objection?

Mr. MAY. It has.

Mr. ELIOT. The modification of the twentieth section has then removed some of the objections to the bill, and to the plan proposed by the committee. I would very gladly remove them all; but, in my judgment, that is not practicable in the bill as now presented. I have yet to learn that, under the Constitution under which we live, and under which those judges, who are acted upon directly by this bill, hold the offices now occupied by them, we have fairly power to legislate in the manner proposed by this bill, as it came from the committee.

Mr. Speaker, I understand that, as the remonstrance and the petition stand, there have been thirty-two members of the bar who have applied for a change, and have notified the honorable gentleman from Maryland that they are satisfied with

the provisions of this bill; that there were fifteen, if I remember the number correctly, who were opposed to the provisions of the bill. The gentleman from Maryland believes that some of the objections named in that remonstrance have been removed by the bill as now modified.

I have examined this bill, in connection with the bill which was reported in the other branch of the Capitol, at the time referred to by the gentleman from Maryland. It is substantially the same bill, so far as it regards the change proposed to be made in the courts, without embracing the arrangements presented here for the codification of the laws.

I do not understand that the people of this District have been heard on this matter at all. Why, sir, I believe that in other cases where it has been deemed essential to revolutionize the courts, there has been some action on their part. Here I do not understand that there has been any. I look around me, and I see no man standing in his place on the floor delegated to speak the views of the people of this District. I do not understand that more than thirty, or thirty-two, of the bar have spoken in favor of the bill. I do not know what they have said; but I do know what some of the most influential, the most able, learned, and intelligent members of the legal profession residing here, have spoken and written on this subject; and I shall call attention to it. The same facts existed in 1850 which now exist, and yet I hold in my hand the opinions of Messrs. Bradley, Carlisle, Moffatt, Cox, and others, which were drawn out by the reference, on the part of the committee of the other branch of Congress, of this very subject to their consideration. Now, I do not understand that the honorable gentleman from Maryland has stated that he intended to express the opinions of either of the gentlemen whose names I have given. It may be that they have since changed their views, and it was therefore that I stated the names.

Mr. BRIDGES I propose to ask the gentleman from Massachusetts whether he knows Judge Cranch, of this District?

Mr. ELIOT. I do.

Mr. BRIDGES. Is he in any way related to Judge Cranch?

Mr. ELIOT. Judge Cranch's wife and my grandmother, when they were both living, were sisters.

Mr. BRIDGES. I will ask, further, whether the gentleman does not know that Judge Cranch has been entirely incapable for the discharge of his duties as judge for the last five years, and whether, during that time, he has not drawn an annual salary of $2,900?

Mr. ELIOT. The gentleman catechizes me as though I were his pupil.

Mr. BRIDGES. I asked the gentleman the questions for my own information, as well as that of the House.

Mr. ELIOT. I beg to ask the gentleman whether he does not know what he inquires for?

Mr. BRIDGES. I do.

Mr. ELIOT. Then why the questions?

Mr. BRIDGES. I put a civil question to the gentleman, and expect a civil answer.

Mr. ELIOT. My answer was as civil as the gentleman's question.

Mr. Speaker, Judge Cranch is too well known in this District to need defense at my hands. There is no gentleman who has visited this city for years who has not heard of him. It is not for me to say that he is not now what he has been. Nor is it for me to say that Congress will not legislate his salary from him. Sir, his heart's blood, his whole active life, all his energies, have been devoted to his country's service. He was placed on the judicial bench in 1800, and he has remained there ever since. He has done a vast amount of work, and it has given character and honor to the profession and to the bench. Not another American of whom I know can exhibit a more massive, or enduring, or honorable monument than the legal labors of that judge have erected. Has the honorable gentleman from Pennsylvania examined the judicial labors of Judge Cranch? Has he read the book to which the honorable gentleman from Maryland referred? Can he tell me the compensation Judge Cranch received for it?

Mr. BRIDGES. I well understand what the labors of Judge Cranch have been in former years. I spoke of latter years; those were the ones to which I referred.

Mr. ELIOT. By the laws under the Constitution, I believe that we have no pensioners. In England, before a man had devoted one fourth part of the time or labor to the service of the kingdom that Judge Cranch has to this country, he would retire on a pension. Does the honorable member mean to call on Congress to legislate away the office of judge, because Chief Justice Cranch is now unable to perform the work incident to it? Why, sir, if the honorable gentleman should be questioned by me, and asked whether he had any personal reason for desiring the passage of this bill, he would think that I was stepping aside from the proper line of debate.

Now, let us see whether the interests of this District are such as to demand a reformation of the judiciary, and a decapitation of the existing judges.

Mr. STANTON, of Tennessee. Mr. Speaker, with the permission of the gentleman from Massachusetts, I will state, that I have before me the memorial sent to the Committee on the Judiciary by the members of the bar in opposition to this bill. The gentleman from Maryland, [Mr. MAY,] by mistake, stated that there were about fifteen names signed to it. I find on looking over it that there are twenty-seven names. Two of the gentlemen erased their names, stating that they had signed it under a misapprehension of its contents. It is proper that the gentlemen should have the entire benefit of the objection of members of the bar to this bill. There are two grounds, and only two, as I understand, on which this bill is opposed. The one first stated in this memorial, was the idea of exercising the constitutional power of exclusive legislation over this District, by authorizing a body of laws to be composed under the direction of the President, and become of force by his proclamation. That was the original form of the bill; but when the committee came to look into the bill, after it was reported during the last session, they themselves, previous to the coming in of this remonstrance, had discovered the error into which they had fallen in that part of the bill, and had corrected it by directing that the provisions of the code should be submitted to the people, and after having been submitted to the people, and approved by them, they should then be enacted by Congress. Thus that objection has been removed.

The other objection felt by some members of the Committee, and among others by myself, was to the disturbing of these gentlemen in their office who, by the existing law, if not by the Constitution of the United States, hold their offices for life. I confess that, while I agreed to all the details of the bill, I had some difficulty on that point. I looked into the decisions of the Supreme Court with reference to the territorial judges, and especially the decision in 1 Peters, where they use the strongest language, one which will undoubtedly cover this case. I think, humble as I am, that the Supreme Court have not given a proper interpretation of the Constitution of the United States in that case. Nevertheless, it seems to be the settled law of the country, and the settled construction of the Constitution, and, therefore, so far as the constitutional construction is concerned, I do not see that that objection can be made to the bill.

Those are the only objections, so far as I know, which have been made from any quarter. One has been remedied; the other cannot be remedied unless by another alteration of the bill.

Mr. ELIOT. I will ask the honorable member of the Judiciary Committee to state, in respect to the territorial bills to which he refers, whether he considers the tenure of office therein provided the same as that provided in this bill, and as resting on the same constitutional grounds?

Mr. STANTON. The question to which I referred, was as to the power of Congress to establish a tenure of office different from that fixed by the Constitution. But the Supreme Court of the United States have, as all legal gentlemen know, intimated, if not directly decided, that the judges of the Territories do not hold their offices under the clause of the Constitution establishing the tenure of the judges of the Federal courts, and that, therefore, the fixing of the tenure of the territorial judges at four years is no violation of the Constitution of the United States. This opinion is distinctly expressed in a case reported in 1st Peters, upon the ground that Congress has the exclusive power to legislate for the Territories; and, upon the same ground, the same opinion must be held in reference to the judges of the District of Columbia, for Congress has also the exclusive power to legislate for the District.

The report in the same case also goes further, and states that the judicial power exercised in the territorial courts is not that which is contemplated by the Constitution, which is confined to certain enumerated cases. Now, it must be conceded, certainly, that the jurisdiction of the courts of the District is not embraced in the cases enumerated in the Constitution, and, therefore, it would seem to follow, that the tenure of the judges of the district courts does not come under the provision of the Constitution of the United States providing that the tenure of office shall be for life, or during good behavior.

But, if the gentleman will allow me to say so, I think the tenure of the judges is a question altogether different from that of the jurisdiction of the courts. The Constitution says, that the judicial power of the United States shall extend to certain enumerated cases. Of course that applies to the States. But the courts of the District of Columbia have a *general* jurisdiction, going beyond the cases enumerated in the Constitution, and coextensive with the exclusive power of Congress. Yet I do not exactly see why they are not still courts of the United States, established under the power given in the Constitution to erect tribunals inferior to the Supreme Court, and therefore subject to the limitations and conditions therein provided as to the tenure of office by the judges. The highest tribunal, however, has thought otherwise, and the question may be considered as already settled.

Mr. ELIOT. In the report which was made by Judge BUTLER, of South Carolina, in the Senate in 1850, that objection was made and commented upon. I will read one or two paragraphs from that report, and ask the attention of the House to them:

"The proposition to appoint new judges, upon any other tenure than that provided by section one, article third, of the Constitution—which declares that 'the judges, both of the supreme and inferior courts, shall hold their offices during good behavior'—is one which your committee are not prepared to adopt. The condition of the District of Columbia differs widely from that of the Territories. It is not, as they are, in a state of transition. It has its fixed and permanent *status* under the Constitution. Its judiciary is invested with a portion of the judicial power of the United States under the Constitution, and is clearly within the spirit of the provision just cited. Under this construction of the Constitution this circuit court was created. Its judges were appointed under the third section, ninth article, of the act of 27th February, 1801, which declares that '*they shall hold their respective offices during good behavior*,' 'and shall take the oath or affirmation provided by law to be taken by the judges of the circuit courts of the United States.'

"After the foregoing views on the subjects of this bill, an important question presents itself, to which the committee feels it its duty to advert.

"Is it the object, and would it be the operation of the bill, should it pass, to abolish the judicial system of the District, and thereby the offices of the judges, with a view of instituting a different system, and investing the judges to be appointed under it with entirely different functions from those which belong to the present judges; or, is it the purpose of the bill, under a mere legislative act, to remove from office the present judges, with a view of appointing others, who shall have devolved upon them essentially the same duties?"

Now, Mr. Speaker, the interrogatory was put by my honorable friend from Ohio, [Mr. TAYLOR,] as to the manner in which the new judges are to be appointed by this bill. The reply was made, that according to the provisions of this bill, they were to be appointed by the President, by and with the advice and consent of the Senate. Now, sir, the President derives his power to appoint judges from the Constitution, and from no other source. The Constitution authorizes him to appoint the judges of the Supreme Court, and other inferior officers. Where, then, does the President derive the power, under the Constitution, to appoint a judge, except during good behavior?

Mr. STANTON. Will the gentleman allow me to refer him to a case to which I have before referred, and which I now have before me. It is the case of the American Insurance Company, reported in 1st Peters.

"We have only to pursue this subject one step further, to perceive that this provision of the Constitution of the United States does not apply to it. The next sentence declares that 'the judges of the supreme and inferior courts shall hold their offices during good behavior.' The judges of the superior courts of Florida hold their offices for four years.

These courts, then, are not constitutional courts, in which the judicial power conferred by the Constitution upon the General Government can be deposited. They are incapable of receiving it. They are legislative courts, created in virtue of the general right of sovereignty which exists in the Government, or in virtue of that clause which enables Congress to make all needful rules and regulations respecting the territory belonging to the United States."

Just as they have exclusive power over the District of Columbia. The report proceeds:

"The jurisdiction with which they are invested is not a part of that judicial power which is defined in the third article of the Constitution, but is conferred by Congress in the execution of those general powers which that body possesses over the Territories of the United States. Although admiralty jurisdiction can be exercised in the courts in the States, in those courts only which are established in pursuance of the third article of the Constitution, the same limitation does not extend to the Territories. In legislating for them, Congress exercises the combined powers of the general, and of a State government."

Mr. ELIOT. That is for the Territories.

Mr. STANTON. Just as it does for the District of Columbia.

Mr. ELIOT. Does that extend to the courts?

Mr. STANTON. It does, if the first conclusion be correct. As I remarked, my conclusions are based upon this decision of the Supreme Court. If it were an original question I should be of a different opinion.

Mr. ELIOT. I hope the gentleman will give his attention to this question, and determine for himself whether the Territories in the respect, of which he has explained, stand upon the same ground with the District of Columbia in reference to this circuit court, which we are about to abolish.

Mr. STANTON. With only this distinction, that by the law of 1801, establishing the courts in this District, the tenure of the judges is during good behavior, and by abolishing the courts we abolish the office at the same time, and they do not hold their offices for life. That is the only difference.

Mr. ELIOT. Therefore they do not hold their offices during good behavior! Why, sir, that is very plain. But I would beg leave to ask for an answer to the question which I had partly propounded when I was interrupted. Where does the President derive the power, under the Constitution, to appoint a judge of a United States court, except during good behavior? Sir, there is no such power. If he has power to appoint a judge for a term less than that, it must have been conferred upon him by the act creating the office. How can the President of the United States appoint judges for these courts for ten years? He is not authorized to do it by the bill. He is not empowered to do it by the Constitution. Where then does he get his authority? I wait for an answer.

Mr. SEYMOUR. I think the gentleman will find an answer in the second section of the second article of the Constitution.

Mr. ELIOT. Read it.

Mr. SEYMOUR. I will do so. It says:

"The President shall have power, by and with the advice and consent of the Senate, to make treaties;" * * "shall appoint embassadors and other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law."

Mr. ELIOT. That is all the Constitution says. He shall appoint judges of the Supreme Court and all other officers of the United States. Now, sir, that same Constitution says that judges of the Supreme Court shall hold their offices during good behavior. My question is: Whence does the President derive the power to appoint judges, except during good behavior, unless that power is given to him by the precise act itself? That is the question to which I want an answer. I do not mean to say that the power does not exist. I mean only to suggest the question to the Judiciary Committee, who have had this subject under consideration since last June. Undoubtedly they can give me an answer.

Mr. SEYMOUR. My idea is, that when the law establishes an office, the Constitution devolves upon the President the power of appointment to that office, by and with the advice and consent of the Senate. That seems to be the language of the Constitution, as I have read it.

Mr. HENDRICKS. The Legislature decides what shall be the term of office.

Mr. SEYMOUR. The Legislature creates the office and fixes the term, and the President makes the appointment, by and with the advice and consent of the Senate. I again call the attention of the gentleman to the language of the Constitution:

"The President shall appoint judges of the Supreme Court, *and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law.*"

Whenever the Legislature establishes by law an office, the appointment to that office devolves, under the Constitution, upon the President.

Mr. McMULLIN. Will the gentleman from Massachusetts allow me to ask him a question?

Mr. ELIOT. Certainly.

Mr. McMULLIN. I desire to know if the gentleman from Massachusetts is now contending or means to contend that Congress has no power, under the Constitution, to pass this bill, because it would abolish the offices of judges in this District? Am I to understand him as taking that ground?

Mr. ELIOT. I must answer that question in the affirmative if I answer it in one word.

Mr. McMULLIN. Will the gentleman then allow me to give him a case which I conceive to be one precisely in point?

Mr. ELIOT. Certainly, sir.

Mr. McMULLIN. When the city of Alexandria formed a part of the District of Columbia, Judge Neil was the presiding judge of one of the courts in that city, but when the retrocession to the State of Virginia took place, he was legislated out of his office. The office was abolished *ipso facto*, to all intents and purposes. I must be allowed to express my surprise that the learned gentleman from Massachusetts should contend, before this House and the country, that Congress has no power so to legislate as either to extend or abolish the judicial circuits of the country.

Mr. ELIOT. Will the gentleman be kind enough to tell me under what constitution Judge Neil held his office?

Mr. McMULLIN. Under the Constitution of the United States, as organized by law—by act of Congress.

Mr. ELIOT. Not under a law of the State of Virginia?

Mr. McMULLIN. No, sir.

Mr. MAY. His office was created by the act of February 27, 1801.

Mr. ELIOT. And he was appointed by the President?

Mr. McMULLIN. Yes; sir.

Mr. MAY. I dislike to interrupt the gentleman from Massachusetts, but, as he has alluded to Judge Cranch, I wish to refer him to a document in which he will find the replies of that venerable judge to questions put to him by a committee of the House of Representatives, in respect to the amount of the duties of the circuit court. Observe that this was before the establishment of the criminal court and before the retrocession of Alexandria county; it was when the circuit court had the whole jurisdiction of a general character, common law, chancery, and criminal of the whole District.

Judge Cranch says:

"The circuit court now consists of three judges, *either of whom*, with the ordinary share of health which they have heretofore enjoyed, *would, in respect to the labor and time required, be competent to discharge all the duties of the court.*"

Mr. ELIOT. What is the date of that?

Mr. MAY. Eighteen hundred and thirty. That is the reply of Judge Cranch to an interrogatory addressed to him by a committee of Congress with respect to the amount of labor the court had to perform, and that was before the retrocession to Virginia, at a time when two terms had to be held in Alexandria, and also before the criminal was separated from the civil jurisdiction. At that time, says Judge Cranch, one judge was able to attend to the whole duty, and I believe that one such judge as he, was able to do it.

Mr. ELIOT. "One such judge as he," the honorable member says, was able to perform all the duties of the court. That is an answer to the suggestion made just now by the gentleman from Pennsylvania, [Mr. BRIDGES,] over the way. But that opinion of Judge Cranch was expressed before the retrocession to Virginia. At that time the population of the District of Columbia was less than its present population by more than one third. In 1850 there were over sixty-six thousand inhabitants here I cannot state what has been the increase since that time. The population of the city of Alexandria was not at that time, if I am correct in my recollection, much more than eight thousand. In point of fact, the duties have increased and the population has increased, so that at the present time the duties incumbent upon the court since the retrocession are vastly more than all the duties performed before it.

In regard to this matter of duties, (my argument is desultory enough, you see,) let me call the attention of the House to some statistics. It is said that the courts here have nothing to do. What was the number of suits instituted in 1850 in the circuit court of the county of Washington? It was 643, and the number of trials and judgments was 376. In 1840 the number of suits instituted was 909; of trials 350. In 1847 there were 759 suits, and 557 trials. In 1848, 664 suits, and 482 trials. In 1849 there were 694 suits, and 296 trials. That, too, is exclusive of the large equity jurisdiction of the court. In 1845 there were no less than 48 bills filed; in 1846, 61; in 1849, 81, and up to June, 1850, 38.

I desire to speak upon another point, to which the honorable gentleman from Maryland referred. There has not been a circuit court anywhere, I believe, since circuit courts were established, where the amount of business has been equal to that done in Washington, and where there have been so few reversals, by the Supreme Court of the United States, of the judgments made by the judges here. That was the case at the time the report was made in the other branch of Congress, and yet this fact is to be considered, that the judges of the circuit court of the District of Columbia do not sit here, in the Capitol, to defend their judgments, when appeals are taken. Their judgments are contested here, and no one is upon the bench of the Supreme Court to defend them. In all the other circuits the circuit judge is present, and can state to his brethren the reasons upon which he based his opinions.

Not so with the decisions which come from the circuit court here—and yet a less number of reversals have been had here than in any other circuit court of the United States. Does not that fact speak for the character of this judiciary and of its judges? The letters I have in my hands are full upon that point. Inquiries were made in regard to the manner in which the business of the court was discharged. I do not understand that there is a dissenting voice; and I understand the testimony to be uniform to the utility and faithfulness, the untiring perseverance and diligence manifested upon the part of the judges who have occupied that bench. Certainly it cannot be contended, if there is one not now among his brethren, that it furnishes a reason why that court should be legislated out of existence.

The honorable gentleman from Maryland says that a new system cannot be ingrafted upon the present system. Such was not the judgment of other gentlemen who have had the same matter under their consideration; for it was stated by Judge BUTLER, of South Carolina, in the report to which I have referred, and from which I have drawn most of the facts that I have stated to the House, that in the opinion of the committee there was no cause for such a revolution as a bill like this contemplated; that it was easy to ingraft upon the system now existing such improvements, such alterations, and such amendments, as would meet the wants of the profession, and answer the ends of justice. An honorable member inquires of me what report this is. I beg leave to state, that I read from the report made by Judge BUTLER in the Senate, August 22d, 1850. It will be found in Senate document, No. 185, of the 31st Congress.

"The committee entertain no doubt that the present system might be remodeled and amended, so as to require the present judges, in a different mode of administration, to be transferred to different jurisdictions, or to have different jurisdictions consolidated so as to require one magistrate to discharge certain duties that have devolved upon two or more. And in this way different jurisdictions might be changed and modified, and perhaps some one of them abolished by the transfer: as, for instance, the duties of the orphans' court might be transferred to the chanceller, but leaving the subjects of such jurisdiction still remaining. Such does not appear to be the essential design of the bill. It assumes that other judges are to be elected by the people to fulfill the duties prescribed in the bill, and, of course, for that purpose, that the present judges are first to be removed. The removal of the present judges is an essential incident—and, perhaps, aim—in the operation of the contemplated measure, and is to be effected by a mere act of legislation. As has been remarked, the judges, under the Constitution, hold their offices for life, or during good behavior. Nothing has been brought to the view of the committee to show that

they have forfeited their right to hold their offices by this tenure; and if any evidence had been produced touching that delicate subject, it would not have become the committee to have received it, as it is not its province to give any opinion—much less to pronounce an authoritative decision—which could have the effect of removing the present incumbents. To abolish the present courts and make a provision to elect other judges by the people, to perform the duties of its judges, under different forms of jurisdiction merely, would be, in effect, to remove the present judges from office."

I believe it is true that the jurisdiction of this court is larger than the jurisdiction of the other circuit courts of the United States.

I will read an extract from Judge BUTLER's report:

"The circuit court of the District of Columbia was created by the act of February 27, 1801, chapter 15, (2 Statutes at Large, page 103.) By the third section, it is enacted 'that there shall be a court in said District, which shall be called the circuit court of the District of Columbia; and the said court, and the judges thereof, shall have all the powers by law vested in the circuit courts, and the judges of the circuit courts, of the United States. Said court shall consist of one chief judge and two assistant judges, resident within said District, to hold their respective offices during good behavior—any two of whom shall constitute a quorum; and each of the said judges shall, before he enter on his office, take the oath or affirmation provided by law to be taken by the judges of the circuit courts of the United States.' And by the fifth section it is enacted 'that said court shall have cognizance of all crimes and offenses committed within said District, and of all cases in law and equity between parties both or either of which shall be resident or found within said District; and also of all actions or suits of a civil nature at common law or in equity, in which the United States shall be plaintiffs or complainants; and of all seizures on land or water, and all penalties and forfeitures made, arising or accruing under the laws of the United States.'

"The criminal jurisdiction has since been transferred to the criminal court of the District of Columbia, established in 1838, (chap. 192.)

"The 'powers vested in the circuit courts and the judges of the circuit courts of the United States,' referred to in the third section, are the powers enumerated in the act of 13th February, 1801, (2 Stat. at Large, 89;) which act was repealed by the act of 29th April, 1802, ch. 31. These powers remain vested in the circuit court of the District of Columbia, notwithstanding that repeal. (Kendall, Postmaster General, *vs* the United States, 12 Peters, 524.) The court has also the like powers and jurisdiction as a county court of Maryland, and as the high court of chancery of that State. The consequence is, that it has a larger jurisdiction and more extensive powers than any of the other circuit courts created by the act of 1802, above cited."

These judges hold their offices under the Constitution. I come now to reply to the honorable gentleman from Virginia, [Mr. MCMULLIN.] If these judges hold their offices under the Constitution, and if, under the Constitution, they hold their offices during their good behavior, if no fault has been found with them, and their work has been well discharged, then where do we get our power to legislate them out of office, according to the provisions of this bill? I confess I know no such power, nor can I tell where to look for it. It is said that a case has occurred in Virginia, where one judge was legislated out of office. Will the gentleman tell me how it happens, when the Constitution has conferred an office upon a man, that Congress may take it away from him during the time when he holds it under the Constitution? I would submit that it is right that the people of this District should have a voice in this matter. I would submit that it is but fair that the people of this District should have an opportunity to say, in some form or other, whether they do, or do not, desire this change.

The honorable gentleman from Maryland referred to some popular indication, by which it seemed that, at a certain time, a vote was taken here, within the District, upon the question of judicial reform. That vote was taken in June, 1850. In August, 1850, Judge Butler made his report, and he then states that no satisfactory evidence has been laid before the committee of such a feeling upon the part of the citizens of the District, as would justify the change then asked for. That was after the time referred to by the honorable gentleman from Maryland. Has there been any expression of opinion upon the part of the citizens of the District since that time?

Mr. STANTON, of Tennessee. Did I understand the gentleman to say that there had been no example of legislating judges out of office by the Congress of the United States?

Mr. ELIOT. No, sir; I do not say so. So far from it, I stated that I had been informed here, at my desk, that there was one case.

Mr. STANTON, of Tennessee. There is another, and a much more important one than that to which the gentleman alludes. The gentleman may not be aware of it. It occurred in 1802. I will read an extract from "Story on the Constitution." It is as follows:

"A measure was adopted in 1802, under the auspices of President Jefferson, which, if its constitutionality can be successfully vindicated, prostrates in the dust the independence of all inferior judges, both as to the tenure of their office, and their compensation for services, and leaves the Constitution a miserable and vain delusion. In the year 1801, Congress passed an act reorganizing the judiciary, and authorizing the appointment of sixteen new judges, with suitable salaries, to hold the circuit courts of the United States in the different circuits created by the act. Under this act the circuit judges received their appointments, and performed the duties of their offices, until the year 1802, when the courts established by the act were abolished by a general repeal of it by Congress, without in the slightest manner, providing for the payment of the salaries of the judges, or for any continuation of their offices. The result of this act, therefore, is, (so far as it is precedent,) that, notwithstanding the constitutional tenure of office of the judges of the inferior courts is during good behavior, Congress may, at any time, by a mere act of legislation, deprive them of their offices at pleasure, and with it take away their whole title to their salaries."

I ought to say, however, that Judge Story condemns it.

Mr. ELIOT. Yes, sir, that is fair; and I expected it. Will the gentleman tell me upon what ground he condemned it?

Mr. STANTON. I can read what he says upon the subject. It is found in his work upon the Constitution, and not in any of his decisions. The act has not been before the courts for judicial adjudication.

Mr. ELIOT. It is good authority, and I should be glad to hear it.

Mr. STANTON. He says, immediately after what I have already read:

"How this can be reconciled with the terms or the intents of the Constitution, is more than any ingenuity of argument has ever, as yet, been able to demonstrate. The system fell because it was unpopular with those who were then in possession of power, and the victims have hitherto remained without any indemnity from the justice of the Government."

If the gentleman wishes to read the balance of it, he can do so at his leisure.

Mr. ELIOT. Very good law.

Mr. STANTON. I acknowledge I had very great doubt as to the propriety of this mode of proceeding; and I myself, individually, would have preferred a different mode of proceeding in regard to this particular party. It was the only objection I had to the bill, and the only objection I heard suggested in the committee. The details of the bill were unanimously approved by the committee.

Mr. MAY. If the honorable gentleman from Massachusetts desires it, I can tell him where he can find a debate upon that repealing act of March, 1802. The act turned out sixteen judges—Federal judges, appointed under the Constitution. The debates are collected in a volume which can be obtained from the library of Congress. The bill which accomplished that was introduced into the Senate by a distinguished gentleman from Kentucky, [Mr. BRECKINRIDGE,] who supported it by an argument of great force and power. There never was a greater array of talent, or a more forcible exhibition of logic, applied to the discussion of constitutional law, than was furnished in that debate; and upon a vote, in the House of Representatives, for repealing that act, by the act of March, 1802, there were—yeas 60, nays 34. That was a case where the question was as to the power of Congress to turn out the Federal judges appointed under the Constitution.

I may say here, that one of the courts here has expressed a decided opinion that the courts of this District are not courts of the United States, under the Constitution, and that the tenure of the offices of judges in these courts, is not secured to them by that instrument.

Mr. ELIOT. Unless they are courts under the Constitution, and unless the power is given by the Constitution to appoint the judges thereof, where does the President get the power to appoint? He does not get it from the bill itself.

Mr. MAY here made a remark which was entirely inaudible to the reporter.

Mr. ELIOT. I am indeed unprepared to argue that case, and have already said more than I expected I should have said when I called the attention of the House to this subject.

The act, however, to which gentlemen have referred, was a special act, for the accomplishment of a special purpose, and has been condemned by Judge Story. Can the honorable gentleman from Maryland [Mr. MAY] say whether any distinguished elementary writer upon constitutional law, anywhere in the United States, has fairly sanctioned that as a constitutional act? It may be that there have been such, but does the gentleman remember one?

If no member upon this floor remembers any one jurist who has upheld that act, and if it be true that Judge Story has said that no human ingenuity could justify it, am I not fairly entitled, in reply to the honorable gentleman from Virginia, [Mr. MCMULLIN,] to contend that here, in this case, under the Constitution, Congress has no power to act in accordance with the provisions of this bill? It is a serious question, and one which, I apprehend, the Congress of the United States will hardly pass upon without a clear conviction of its right. Good may, to be sure, come out of the reorganization of the judiciary of the District; but there will be wrong inflicted, and that without necessity, and, as I believe, without justification.

Let me call the attention of the House to the phraseology of that first section, and to which the gentleman from Maryland devoted scarcely a minute of his argument. It is this:

"That so much of the acts of Congress heretofore passed as create the circuit court, the district court, the orphans' court, and the criminal court, of the said District, be, and the same are hereby, repealed; and all of said courts, and the offices of judges, and other officers thereof, be, and the same are hereby, forever abolished."

Now, sir, that is pretty serious legislation, and it calls for a strong case to justify such action on the part of Congress. Are we satisfied, that upon the system as now existing, no sufficient amendment can be ingrafted? Judge BUTLER thought there might be, and he so reported to the Senate. Is it plain that it cannot be done? If it is not, then, without discussing the constitutional power of Congress, is it right that we should legislate in this way, when no fault has been found, and no charge made, to take from these men offices held, as they are, under the Constitution of the United States? Without discussing the power to do it, are we called upon to do it until it shall appear that no other course is open for us except this one, especially when, so far as I know, there has been no action on the part of the citizens of the District, and only action on the part of members of the bar, some of whom were upon one side, and some upon the other, and when the citizens have had no opportunity to say what they desire, or to intimate to Congress what action they desire?

Mr. Speaker, I have stated some objections to this bill without examining its provisions as they have been examined by the honorable gentleman from Maryland. I am free to say that the objection to the twentieth section has been substantially removed, so far as I understand it. It is not printed; it was read in manuscript at the Clerk's desk. It was to-day reported for the first time. Whether the other modifications which have been referred to essentially alter the bill, I do not know. No man upon this floor can tell. No man has had power to examine the details of the bill as it has now come amended from the committee.

[Here the hammer fell.]

Mr. JONES, of Tennessee. I call for the previous question on the amendments.

Mr. SIMMONS. I ask the gentleman to withdraw his call. I shall not occupy more than five minutes. If he withdraws the call, I shall renew it.

Mr. JONES. I cannot. If the House is not prepared for the previous question, they can vote down my demand for it.

Mr. TAYLOR, of Ohio. I demand tellers.

Tellers were ordered; and Messrs. LANE, of Indiana, and FULLER were appointed.

The question was taken; and the call for the previous question received a second; the tellers having reported—ayes 69, noes 50.

Mr. WASHBURN, of Maine. I demand the yeas and nays on ordering the main question to be now put. I want to see whether debate is to be cut off on a bill so much in need of it.

[Cries of "Order!"]

The yeas and nays were ordered.

Mr. SAGE. I move that the House do now adjourn.

The question was taken; and the House refused to adjourn; there being, on a division, ayes 43, noes 66.

The question was taken on ordering the main

question to be now put; and it was agreed to—yeas 82, nays 53; as follows:

YEAS—Messrs. Abercrombie, Aiken, David J. Bailey, Banks, Bliss, Bocock, Boyce, Bridges, Bristow, Brooks, Clark, Clingman, Cox, Cutting, John G. Davis, Dawson, Dunbar, Edgerton, Ellison, Faulkner, Florence, Fuller, Green, Greenwood, Grow, Hamilton, Wiley P. Harris, Hastings, Hendricks, Hibbard, Houston, Ingersoll, George W. Jones, Roland Jones, Kerr, Lane, Latham, Letcher, Lewis, Lilly, Lindsley, Macdonald, McMullin, McQueen, Macy, Maxwell, May, Morrison, Nichols, Noble, Olds, Andrew Oliver, Orr, Packer, Parker, John Perkins, Phelps, Phillips, Pratt, Richardson, Riddle, Thomas Ritchey, Robbins, Ruffin, Seymour, Shannon, Shaw, Shower, Singleton, Skelton, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, John J. Taylor, Thurston, Trout, Vansant, Walbridge, Walker, and Wells—82.

NAYS—Messrs. Appleton, Benson, Carpenter, Caskie, Chandler, Chase, Cobb, Corwin, Crocker, Thomas Davis, Dick, Eastman, Thomas D. Eliot, Farley, Giddings, Goodrich, Goodwin, Aaron Harlan, Haven, Hill, Howe, Hughes, Hunt, J. Glancy Jones, Knox, McCulloch, Mayall, Millson, Morgan, Norton, Pennington, Puryear, Ready, David Ritchie, Rogers, Russell, Sabin, Sage, Sapp, Simmons, William Smith, Andrew Stuart, John L. Taylor, Nathaniel G. Taylor, Tracy, Upham, Wade, Walley, Walsh, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, and Yates—53.

So the main question was ordered to be now put.

Mr. WASHBURN, of Maine. I move that the House do now adjourn.

The question was taken; and the House refused to adjourn.

The SPEAKER. The question now is on the amendments of the Committee on the Judiciary.

The first amendment was read, as follows:

After the word "authorized," insert the words, "by and with the advice and consent of the Senate," so that the section will read as follows:

SEC. 20. *And be it further enacted*, That the President of the United States is hereby authorized, by and with the advice and consent of the Senate, to appoint two persons, learned in the law, to revise, simplify, digest, and codify the laws of said District, &c.

The question was put; and the amendment was adopted.

Mr. TAYLOR, of Tennessee. Has this bill ever been read in the House?

The SPEAKER. The Chair is informed that this bill has not been read. This is a bill which was referred to the Committee on the Judiciary, and by them reported back with sundry amendments, on which the House is now voting.

Mr. TAYLOR. Then we are voting on a bill to reorganize the judiciary of the District of Columbia without its having been read.

The SPEAKER. The bill was read a first and second time by its title, as bills usually are.

The second amendment of the committee was read, as follows:

After the word "may," insert the words, "become in force during the preparation of said code, and," so that the section will read:

And also the rules and principles of practice, of pleadings, of evidence, and conveyancing, and also to add thereto and codify such laws of the State of Maryland as may become in force during the preparation of said code, and be applicable to the circumstances and condition of said District, &c.

The question was put; and the amendment was agreed to.

Third amendment:

In section twenty, line fifty-four, amend so that the clause will read:

And when the said code shall be printed and distributed, the President of the United States shall appoint a time and places in the said District for taking the sense of the citizens thereof for or against the adoption of the said code; and he shall cause judges to be selected, who shall preside at such election; and he shall provide and proclaim the mode and rules of conducting the same: *Provided*, Every free white male citizen of the United States, above the age of twenty-one years, who has resided in the said District for one year next preceding said election, shall be permitted to vote thereat. And the result of the said election shall be reported to the said President, and the same, with the said code, be by him reported to Congress; and when ratified and approved by the same, he shall, by his proclamation, declare it to be in force, from the day of the date thereof, as the law of the said District of Columbia; and the same, when so proclaimed, shall thereafter be and remain as such, without any further act or proceedings to that effect, until altered or repealed by the Congress of the United States.

The amendment was agreed to.

Fourth amendment:

Insert at the end of section twenty the following proviso:

Provided, That said code shall be reported to Congress on or before the first Monday of December, in the year 1857.

The amendment was agreed to.

Fifth amendment:

Strike out the twenty-first section, which is as follows: "SEC. 21. *And be it further enacted*, That all laws contrary to, or inconsistent with, the provisions hereof, he, and the same are hereby, forever repealed; and this act shall take effect and be in force from and after the —— day of ——, next ensuing the passage thereof."

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time, and accordingly received its third reading.

Mr. HAMILTON. I move the previous question on the passage of the bill.

Mr. ELIOT. Has the bill been engrossed?

The SPEAKER *pro tempore*, (Mr. BOCOCK in the chair.) It has not been engrossed, but it has received its third reading.

Mr. TAYLOR, of Tennessee. I wish to understand something about this bill, and I think the House ought to understand it better than they now do. I move that the House do now adjourn.

Mr. STANTON, of Tennessee. Before the question is put upon that motion, I wish to inquire if the main question has been ordered upon the passage of the bill?

The SPEAKER *pro tempore*. The previous question has been demanded, but not ordered.

Mr. TAYLOR. I demand the yeas and nays upon the motion to adjourn.

The yeas and nays were ordered.

The question was put; and the House refused to adjourn—yeas 46, nays 76; as follows:

YEAS—Messrs. Appleton, Belcher, Benson, Carpenter, Caskie, Chandler, Chase, Cobb, Corwin, Crocker, Thomas Davis, Dick, Eastman, Thomas D. Eliot, Farley, Goodrich, Grow, Aaron Harlan, Hill, Howe, Hughes, Hunt, J. Glancy Jones, Knox, Millson, Morgan, Norton, Pennington, Puryear, David Ritchie, Rogers, Russell, Sabin, Sage, Sapp, Simmons, William Smith, John L. Taylor, Nathaniel G. Taylor, Upham, Wade, Walley, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, and Yates—46.

NAYS—Messrs. David J. Bailey, Banks, Bliss, Bocock, Boyce, Bridges, Brooks, Clark, Clingman, Cox, Craige, Cutting, John G. Davis, Dawson, Dunbar, Edgerton, Faulkner, Florence, Fuller, Green, Greenwood, Hamilton, Wiley P. Harris, Hastings, Haven, Hendricks, Hibbard, Houston, Ingersoll, George W. Jones, Roland Jones, Kerr, Lamb, Lane, Latham, Letcher, Lewis, Lilly, Lindsley, Macdonald, McMullin, McQueen, Macy, Maxwell, May, Morrison, Olds, Andrew Oliver, Orr, Packer, Parker, John Perkins, Phelps, Phillips, Richardson, Riddle, Thomas Ritchey, Robbins, Ruffin, Seymour, Shannon, Shaw, Shower, Singleton, Skelton, Frederick P. Stanton, Hestor L. Stevens, John J. Taylor, Thurston, Trout, Vansant, Walbridge, Walker, and Walsh—76.

The question then recurred upon seconding the demand for the previous question.

Mr. TAYLOR, of Tennessee. I wish to know if this bill can be passed without engrossment?

[Shouts of "Order!"]

The SPEAKER *pro tempore*. The gentleman from Tennessee may rise to a question of order, but he cannot debate the bill.

Mr. TAYLOR. I do raise the question of order, that the bill has not been engrossed; and I ask the Chair if it is competent to put a bill upon its final passage before its engrossment?

The SPEAKER *pro tempore*. The Chair will state to the gentleman from Tennessee that the point of order in reference to the engrossment of the bill, in his opinion, comes too late. By the rule of the House, after a bill has been ordered to be engrossed and read a third time, it must be engrossed—if the question is raised—before it can be read a third time. But, in the present instance, the bill was read the third time before objection, in reference to its engrossment, was raised. The Chair will, therefore, rule that the objection comes too late, and that the bill, having received its third reading, may be put upon its passage without reference to its engrossment.

Mr. TAYLOR. I will state that objection was made to its being passed without engrossment before it was read the third time. But I presume the Chair did not hear it.

The SPEAKER *pro tempore*. The Chair certainly did not hear any objection until that raised by the gentleman from Tennessee himself, and that was not made until after the bill had received its third reading.

The previous question was then seconded.

Mr. WASHBURN, of Maine. Is it in order to move to reconsider the vote by which the bill was ordered to be engrossed and read a third time?

The SPEAKER *pro tempore*. It is in order to make the motion.

Mr. CLINGMAN. I submit respectfully to the Chair, that after the main question has been ordered to be now put it is too late to go back.

The SPEAKER *pro tempore*. The Chair will entertain the motion.

Mr. WASHBURN. I would inquire whether the motion is not debatable? If it is, I desire to submit some remarks to the House upon it.

The SPEAKER *pro tempore*. It is not debatable. The gentleman may submit the motion, but the question must first be taken to ascertain whether the House will order the main question to be now put.

Mr. TAYLOR. I call for the yeas and nays upon ordering the main question.

The yeas and nays were not ordered.

The main question was then ordered to be put.

Mr. PENNINGTON. I move that the House do now adjourn.

Mr. MORGAN. I demand the yeas and nays upon the motion.

The yeas and nays were not ordered.

Mr. SAGE. I demand tellers upon the motion.

Tellers were not ordered; and the question being put, the House refused to adjourn.

Mr. HAMILTON. I call for the vote upon the passage of the bill.

The SPEAKER *pro tempore*. The Chair will state that in his opinion the gentleman from Maine having made the motion to reconsider the vote by which the bill was ordered to be engrossed and read a third time, that motion must be put now. If the question be taken first upon the final passage of the bill, it will then be too late to reconsider the vote by which it was ordered to be engrossed and read a third time, and the motion will be lost.

Mr. JONES, of Tennessee. Did the gentleman from Maine vote in the majority upon the engrossment of the bill? If he did not he has no right to submit the motion to reconsider?

Several MEMBERS. No, he did not.

Mr. HAMILTON. I move to reconsider the vote by which the bill was ordered to be engrossed and read a third time; and to lay that motion on the table.

The SPEAKER *pro tempore*. Did the gentleman from Maryland vote in the affirmative?

Mr. HAMILTON. I did.

Mr. WASHBURN. I submit that I made the motion to reconsider, and that the gentleman from Maryland cannot take the floor from me to move to lay it upon the table.

The SPEAKER *pro tempore*. Did the Chair understand the gentleman from Maine to say he voted in the majority?

Mr. WASHBURN. I suppose I did. There was no division called upon the question.

The SPEAKER *pro tempore*. Then the motion of the gentleman from Maine will be entertained, and the gentleman is entitled to the floor.

Mr. LETCHER. I rise to a question of order. If the gentleman from Maine will say here, as a member of this House, that he voted for the engrossment of that bill, I have no objection to his motion being received, but unless he will say that I do object.

The SPEAKER *pro tempore*. The Chair overrules the objection of the gentleman from Virginia, upon the ground that no division having been called, according to the uniform practice of the House, it is not necessary to ascertain how a member voted to give him a right to make a motion to reconsider.

Mr. JONES, of Tennessee. The Chair will recollect that the main question having been ordered upon the passage of the bill, it has been held by the Speaker of the House, uniformly, that no member could go back to move a reconsideration of the engrossment of the bill, without first reconsidering the vote by which the main question was ordered to be put. I submit that it is too late for the gentleman from Maine to make his motion.

Mr. WASHBURN. If the main question has been ordered to be put, it is not my fault. I made the motion before it was ordered. The motion was entertained, and I now desire to say something in reference to it.

Mr. ORR. I must rise to another question of order. I submit that the gentleman from Maine has no right to speak to his motion after the House have sustained the call for the previous question.

The SPEAKER *pro tempore*. The Chair has already informed the gentleman from Maine that the motion is not debatable.

Mr. WASHBURN. I understood the Chair to say I was entitled to the floor.

The SPEAKER *pro tempore*. The gentleman

was entitled to the floor to make his motion, but not to debate.

Mr. WASHBURN. The previous question had not been ordered upon the passage of the bill when I made the motion, and under the practice heretofore pursued, I hold that I have the right to address the House.

The SPEAKER *pro tempore*. It is very clear, by the rules, and, according to the recollection of the Chair, by the uniform practice of the House, that a motion to reconsider is not debatable when the previous question is operating upon the bill.

The question was then put upon Mr. WASHBURN's motion, and the House refused to reconsider the vote by which the bill was ordered to be engrossed and read a third time.

The question then recurred upon the passage of the bill.

Mr. TAYLOR, of Tennessee. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. SAGE. As it is very late in the day——

[Cries of "Order!" "Order!"]

Mr. SAGE. I will make the motion that the House do now adjourn.

Mr. FLORENCE. I rise to a question of order. The House have just refused to adjourn, and the gentleman cannot make the motion over again.

The SPEAKER *pro tempore*. The Chair overrules the question of order upon the ground that business has been transacted since the House refused to adjourn. The Chair entertains the motion.

Mr. WASHBURN, of Maine. I demand tellers upon the motion.

Tellers were ordered; and Messrs. WALKER and BOYCE appointed.

The question was put; and the tellers reported—ayes 67, noes 55.

So the motion was agreed to; and

Thereupon, at twenty minutes past four, the House adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

FRIDAY, *December* 22, 1854.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

The Hon. D. R. ATCHISON, of Missouri, appeared in his seat to-day.

HOUSE BILL REFERRED.

The bill from the House of Representatives, authorizing the corporate authorities of Georgetown to impose additional taxes, and for other purposes, was read a first and second time by its title, and referred to the Committee on the District of Columbia.

JUDICIAL SALARIES.

Mr. TOOMBS, from the Committee on the Judiciary, to whom various petitions on the subject were referred, reported a bill to fix the salaries of the Justices of the Supreme Court, judges of the district courts of the United States, and the judge of the orphans' court of the District of Columbia; which was read and passed to a second reading.

C. M. STRADER AND COMPANY.

Mr. ADAMS. I move to postpone the prior orders, with the view of taking up the joint resolution "for the settlement of the claim of the late firm of C. M. Strader & Co., mail contractors." I presume there will be no objection to it, but if there be, I shall consent that it be laid over. It is one of the few claims which I think is indisputable.

The motion was agreed to, and the joint resolution was read a second time, and considered as in Committee of the Whole. It proposes to authorize the Postmaster General to cause to be settled, upon principles of equity and justice, the claim of James Thompson, surviving partner, and Sarah B. Strader, widow and administratrix of C. M. Strader, of the late firm of C. M. Strader & Co., for the violation of their contract with the Post Office Department.

Mr. ADAMS. I move to strike out the words "Postmaster General," and insert "proper accounting officers." It is not subject to the control of the Postmaster General.

The amendment was agreed to, the bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in. The joint resolution was ordered to be engrossed for a third reading, was read a third time, and passed

OBSTRUCTIONS IN THE MISSISSIPPI.

Mr. SLIDELL. I ask the favor of the Senate to consent that the bill "to remove obstructions to navigation in the mouths of the Mississippi river, at the Southwest Pass and the Pass a l'Outre," be made the special order of the day for some day next month; it is immaterial to me which day be fixed. I should have made this motion previously if my colleague [Mr. BENJAMIN] had been present. I hope, however, that by the time which I propose to fix, he will be here, ready to impress the Senate with the importance of the passage of this bill. I will say the second Tuesday or the 9th day of January. I move that this bill be made the special order for that day.

The motion was agreed to.

WASHINGTON GAS-LIGHT COMPANY.

Mr. NORRIS. I am instructed by the Committee on the District of Columbia to report back, without amendment, House bill authorizing the Washington Gas-Light Company to increase the capital stock of said company, and to ask for its consideration now, as it is a very small bill, and one to which there can be no objection.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill, which is designed to authorize the Washington Gas-Light Company to increase their capital stock $150,000; which additional stock is to be subscribed on the books of the company in shares of twenty dollars, and the holders of it are to be subject to the same liability as is provided in the eleventh section of the original act of incorporation, approved July 8, 1848.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

AUXILIARY GUARD.

Mr. NORRIS. The same committee, to whom was referred the bill from the House of Representatives entitled "An act to amend an act entitled 'An act to establish the auxiliary watch for the protection of public and private property in the city of Washington,' approved August 23, 1842," have instructed me to report it back, and recommend its passage at the present time.

The Senate, as in Committee of the Whole, accordingly proceeded to consider the bill. Its object is to increase the compensation of each of the Auxiliary Guard to $600 a year, commencing with the present fiscal year.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

Mr. BADGER. I believe, sir, it was the general understanding yesterday that the Senate would only meet to-day as a matter of form, and not for the transaction of business. We should have adjourned over to-day, but for the fact of Monday being Christmas; and I merely suggest whether it is fair, according to the usage of the Senate, to proceed with business. [Laughter.]

Mr. NORRIS. Before the Senator moves an adjournment, I hope I may be permitted to make a motion.

Mr. BADGER. Certainly.

COMMITTEE CLERK.

Mr. NORRIS. I move that the Committee on the District of Columbia be authorized to employ a clerk.

The motion was agreed to.

PATENT LAWS.

Mr. STUART. The chairman of the Committee on Patents and the Patent Office, [Mr. JAMES,] has been unexpectedly called away from his seat. There is a bill pending before the Senate to amend the several acts now in force in relation to the Patent Office. I ask the Senate to take it up at this time merely for the purpose of allowing me to offer several amendments, which the committee desire to propose, in order that they may be printed, so that when the bill shall be taken up for action at a future day, they may be here for the inspection of Senators. If the Senate will take up the bill at this time, I shall barely offer the amendments, and have them printed together with the bill.

Mr. BADGER. I suggest that the amendments can be laid on the table informally, and ordered to be printed.

Mr. STUART. That will answer the purpose. I ask for the printing of the bill and proposed amendments.

The order was made accordingly.

Mr. BADGER. I now think it is entirely proper to move an adjournment, and I submit the motion.

The motion was agreed to; and, in accordance with the order made yesterday,

The Senate adjourned until Tuesday next.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December* 22, 1854.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

APPROPRIATION BILLS.

Mr. HOUSTON, from the Committee of Ways and Means, reported the following bills; which were read twice by their respective titles, referred to the Committee of the Whole on the state of the Union, and ordered to be printed:

A bill making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1856; and

A bill making appropriations for the transportation of the United States mails by ocean steamers and otherwise, during the fiscal year ending June 30, 1856.

A letter from the Postmaster General was also referred to the Committee of the Whole on the state of the Union with the latter bill, and ordered to be printed.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; which thereupon received the signature of the Speaker:

An act for the relief of James Butler; and

An act for the relief of Mary Rutherford, widow of Samuel Rutherford.

CLAIM OF WASHINGTON TERRITORY.

Mr. HIBBARD. The Committee of Ways and Means, to whom was referred the memorial of the Legislature of Washington Territory, relative to the claim for rescuing passengers from the ship Georgia, have instructed me to report back the same, and ask that the Committee be discharged from its further consideration, and that it be laid upon the table. I will state to the House that the legislation asked for in that memorial was had at the last session of Congress, although that fact was probably not known to the Territorial Legislature.

INTRODUCTION OF A RESOLUTION.

Mr. HIBBARD. I ask the unanimous consent of the House to introduce the following resolution of inquiry. It is a resolution, I presume, to which no objection will be made:

The resolution was then read, as follows:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of granting to the Seavy's Island Bridge Company the right to build a bridge across an arm of the Piscataqua river, between Seavy's Island and the navy-yard at Kittery, Maine, and the right of way across said navy-yard to the village of Kittery.

The question was taken; and the resolution was agreed to.

Mr. SMITH, of Virginia. I ask the unanimous consent of the House to present the memorial of H. O. Claughton, commercial agent for the United States for the Netherlands division of the Island of St. Martin, which I ask may be referred to the committee.

The SPEAKER. Under the rules, the gentleman can accomplish his object by presenting the memorial at the Clerk's desk.

BILLS INTRODUCED.

Mr. WELLS, in pursuance of previous notice, introduced the following bills:

A bill making further appropriations for the continuation of the improvement of the harbor at Milwaukie, Wisconsin;

A bill making further appropriation for the improvement of the harbor at Racine, Wisconsin; and

A bill making further appropriation for the con-

tinuation of the improvement of the harbor at Kenosha, Wisconsin.

Which were severally read the first and second time by their titles, and referred to the Committee on Commerce.

Mr. FULLER. I ask permission of the House to report back to the House the joint resolution, which was referred to the Committee on Commerce, for the better preservation of life. I ask that the resolution may be read.

The resolution was then read, as follows:

Resolved, That the President of the United States be, and hereby is, authorized to open a correspondence with the Government of Great Britain, or any of her dependencies, in order to procure the erection of a first-class light-house at Cape Race, on the Island of Newfoundland, and that he be authorized to engage, on behalf of the United States, to defray the whole, or such equitable proportion, of the expense of erecting the said light-house, as to him shall appear to be proper and just.

Mr. FULLER. I ask for the reading of a brief report, which will fully explain the resolution.

Pending the reading of the report,

Mr. CUTTING rose and said: I presume there will be no objection, on the part of the House, to the unanimous adoption of the resolution; for it is only an act, as I understand it, of the sheerest humanity to provide a light-house upon Cape Race, which is now in the great thoroughfare to and from Europe.

Inasmuch as the House has a great deal of business before it, I move to dispense with the further reading of the report, which shows how indispensable the erection of this light-house is, and how strongly the danger to life and property appeals to the House for immediate action upon this bill. It simply provides that the President of the United States be authorized to enter into negotiations with the Government of Great Britain, or with the provincial Governments, for the purpose of having a first-class light-house immediately erected, the expense to be divided between the parties who are to be benefited by it, and who alike suffer a great loss of life and property to which the constant and immense travel in that quarter is exposed. I ask, under these circumstances, the House to take immediate action upon the bill, and, in order that its valuable time may not be consumed, I hope that they will agree to dispense with the further reading of the report, and that the chairman will ask the House to order the bill to a third reading.

Mr. SMITH, of Virginia. I understand that it is a proposition to commence a new system of building foreign light-houses.

Mr. CUTTING. No, sir.

Mr. SMITH. It is a proposition to build a light-house out of the jurisdiction of the United States.

Mr. CUTTING. No, sir. It is a proposition to enter into negotiations with the British Government and the Provincial Governments, to induce them to do this great act of humanity, and it authorizes the President to advance such a proportion of the expense as, in his judgment, may be right, proper, and honorable to the character of the country.

Mr. SMITH. According to the explanation given by the honorable gentleman from New York, the bill is what I supposed it to be. I am not wise enough to discriminate between an act making an appropriation to build a light-house by a direct act of Congress, and an act which gives to the President power to negotiate for its being done partly at the expense of the United States. It seems that we are about to comprehend in our range all powers within, as well as without the Union. I say that the proposition presented here is the commencement of a system to build foreign light-houses, and the explanation of the gentleman from New York [Mr. CUTTING] himself, concedes that fact, this light-house being upon foreign ground. The fact that negotiations are to be entered into by the President, with other Powers, does not affect the question.

Mr. HAMILTON. Since objection is taken to the resolution, I call for the regular order of business.

Mr. FULLER. The objection comes too late.

Mr. HAMILTON. I suppose that the report was read for information.

The SPEAKER. The bill was read through, and no objection was made to the reading of the report.

Mr. HAMILTON. I understood the papers were to be read for information, and, if no objection was to be made, that we should then proceed to the consideration of the case.

Mr. SMITH, of Virginia. I suppose the bill and report was being read for information.

The SPEAKER. The bill was read for information, and there was no objection, and, by way of argument, papers were read and speeches made. The objection, therefore, comes too late.

Mr. SMITH. Will it be in order to move to refer the bill to the Committee of the Whole on the state of the Union?

The SPEAKER. It will.

Mr. SMITH. I make that motion. I understand this resolution comes from the Committee on Commerce.

Mr. FULLER. It does.

Mr. SMITH. Then, of course, it goes to the Committee of the Whole on the state of the Union, as it obviously involves an appropriation of money.

Mr. CUTTING. Oh, no.

Mr. SMITH. But I put my objection upon a different ground. It is plain to this House—and I do not now consider the plea of humanity—that this is the beginning of a system of vast expenditure, and it involves a great responsibility on the part of this House. And, I ask, is this proposition of such importance, that its initiation should be taken, and the resolution be disposed of in this summary way, and without that full debate and consideration which alone can be had in the Committee of the Whole on the state of the Union?

For one, sir, I am tired of progress in this direction. I am one of those who do not believe in the value of the acquisition of these islands in the Pacific ocean, of which we hear so much; and it is one of the consolations of the day that I find no mention of it made in the message of the President of the United States, however much may have been said in reference thereto in the newspapers of the day. I hope it is all talk.

My attention has not been called to this subject before, and I do not profess to know, as the chairman of the Committee on Commerce [Mr. FULLER] is well aware, what is the precise character of this bill, or the circumstances which are to be adduced in support of it. But this much I do know, that it is the commencement of a system involving important consequences—a system by which we are to undertake to build light-houses in every quarter of the globe where it may be supposed that the interests of commerce will be promoted, or wherever a band of adventurers may affect to deem the same necessary. It opens a vast field for operation, and will prove a fruitful source of drain upon the Treasury of the United States. I move, therefore, that this bill be referred to the Committee of the Whole on the state of the Union, and I call the previous question.

Mr. FULLER. I know that the time of this House is precious, and therefore I am unwilling to occupy it for any length of time.

Mr. SMITH, of Virginia. I call the gentleman to order. I called for the previous question.

The SPEAKER. The Chair did not understand the gentleman from Virginia to call the previous question.

Mr. SMITH. I did so.

Mr. FULLER. Then I hope the House will vote it down.

Mr. JONES, of Tennessee. The gentleman from Maine [Mr. FULLER] will have an hour in which to speak after the call for the previous question.

The SPEAKER. Not upon a motion to commit.

Mr. JONES. The motion to commit was voted down in the House.

The SPEAKER. Then the question will arise in its proper place, and it will be time to decide it when it arises.

The House was then divided on the demand for the previous question; and it was decided in the negative—forty only voting in favor thereof.

The question recurring on the motion to refer the bill to the Committee of the Whole on the state of the Union,

Mr. FULLER said: It is my intention to move to put that resolution upon its passage immediately.

Mr. CRAIGE. I rise to a question of order. I believe this bill involves an appropriation of money.

Mr. CUTTING. Not at all.

Mr. CRAIGE. It provides that, after the negotiation shall have been made, the President of the United States shall be authorized to bear such proportion of the expense as he may think proper. Of course it must go to the Committee of the Whole on the state of the Union. It is an appropriation of money, to all intents and purposes, and goes to the Committee of the Whole on the state of the Union as a matter of course.

Mr. FULLER. I would say to the gentleman that I apprehend subsequent legislation will be necessary to appropriate the money.

The SPEAKER. It involves an appropriation of money, but does not make one.

Mr. CRAIGE. If this bill pass, I submit that the President of the United States is authorized to assume a proportion of the expenses of erecting this light-house; and, of course, the Government is pledged by his action, and bound to pay the amount.

The SPEAKER. The money could not be drawn from the Treasury under this resolution. That is the distinction made by the decisions of my predecessors, and also in decisions made by myself.

Mr. FULLER. I am not surprised at all that the gentleman from Virginia [Mr. SMITH] has interposed his objection to this resolution, when I remember the statement of his views upon a former bill, for the better protection of human life and property upon the New Jersey and Long Island coasts, which I had the honor to report from the Committee on Commerce. It is a matter of wonder to me that any other gentleman, looking to the commerce of both this country and of Europe which is constantly passing Cape Race, and upon which so much property and so many lives have been lost for want of this first-class light, should oppose this resolution—a point of great interest, not only to our commercial marine, but equally so to the Navy of the United States. I say, it is a matter of wonder to me that any gentleman should question the right of this Government to appropriate money for the purpose of protecting over four million tons of navigation, including our Navy, and that he should object to this resolution authorizing the President of the United States to enter into a negotiation with Great Britain, or its dependencies, for the erection of a light-house at that point, on such equitable terms as to him may seem just and proper. It is not new in instance or principle; appropriations of a similar character have been made.

But, without taking up the time of the House in showing what every man must know, that this is the great point of departure and arrival for all vessels crossing the Atlantic ocean, to and from the United States, and the dangerous character of sea navigation, in the vicinity of this point of Newfoundland, I demand the previous question on the passage of the resolution.

Mr. WALSH. Before the gentleman calls for the previous question, I desire to ask him, if this light-house is built, how much of it the Government of the United States will own?

Mr. FULLER. That is a question which I do not regard as material at all—and I do not care whether they own any part of it.

Mr. WALSH. Well, if the construction of that light-house is a matter of as great importance as is claimed for it to England, I would like to know why it is that Great Britain, which is not only able to pay her own expenses in a war with one of the most powerful nations of the earth, but also the expenses of her Allies, has not built it herself?

Mr. FULLER. Probably because her interests are not so much affected as ours are. I insist upon the previous question.

The previous question was then seconded; and the main question ordered to be put.

The main question being, "Shall the resolution be referred to the Committee of the Whole on the state of the Union?"

Mr. LETCHER said: I demand the yeas and nays upon it. I want to see how many are willing to put this thing through without first referring it to the Committee of the Whole on the state of the Union.

The yeas and nays were not ordered.

The question was then put; and the House

refused to refer the resolution to the Committee of the Whole on the state of the Union.

The SPEAKER. The question recurs upon the adoption of the resolution.

Mr. LETCHER. Will it be in order to move to lay it upon the table?

The SPEAKER. It will.

Mr. LETCHER. Then I make that motion.

The question was put; and the motion was not agreed to.

Mr. HILLYER. I call for the yeas and nays upon the adoption of the resolution.

The yeas and nays were not ordered.

The question was taken, and the amendment was adopted.

The joint resolution was then ordered to be engrossed, and read a third time; and being engrossed, it was read a third time.

Mr. McMULLIN. Mr. Speaker, I desire to call the attention of the House to the fact, that, on yesterday, we were complained of because of hasty legislation. To-day we have a proposition which you, Mr. Speaker, and all members, must acknowledge to be novel in its character, pressed to immediate passage by the honorable gentleman from Maine, [Mr. FULLER.] We are called on to pass it before it has been referred to, and considered, as it ought to be, in the Committee of the Whole on the state of the Union. In this case, as in that yesterday before us——

Mr. FULLER. I would inform the gentleman that this joint resolution is not novel in its character. Appropriations have been heretofore made for a like purpose to that intended here. Such light-houses have been erected on Horse Shoe Reef, and on Lake Ontario, in the jurisdiction of Canada. They have been, as they ought to be, erected wherever our commercial marine demands that they should be erected.

Mr. McMULLIN. Has our Government received the coöperation of that of Great Britain in the building of the light-house, to which the gentleman refers?

Mr. FULLER. I cannot answer the gentleman.

Mr. McMULLIN. The gentleman cannot answer the question. Therefore I am right in my assertion of the novel character of this joint resolution.

Yesterday, I repeat, we were complained of for alleged hot haste in the passage of the bill then under consideration. To-day we have the very gentlemen, who then complained, doing what then gave them so much offense. Now, it does seem to me, that gentlemen ought, at least, endeavor to be consistent in their action. It is not strange that I am surprised at this glaring inconsistency in gentlemen.

The question is one strange and novel in its character. It is, as alleged by my colleague, but the beginning of a system, the end of which none of us can foresee. We cannot foretell what expenditure of the public money it will entail. We must all admit that it does involve the largest expenditure of the public money; and, in my judgment, it ought first to be considered in the Committee of the Whole on the state of the Union. I call for the previous question.

Mr. CHANDLER. I hope the gentleman will withdraw it for a moment.

Mr. McMULLIN. I withdraw it for the gentleman.

Mr. CHANDLER. Mr. Speaker, I feel the importance of the remark of the honorable gentleman from Virginia, about hasty legislation. If that gentleman had yesterday listened to the suggestions which were made to him touching hasty legislation, his remarks to-day would have greater force on my mind than they have, although they would not deter me from voting in favor of this joint resolution. It is never too early to begin a good work; and it is never necessary, when you are engaging in that which is right, to inquire where it will end. Whatever is rightly begun, and with correct principles, we are to trust. The end will sanctify the means of that kind. And we are not to look about to see whether we are engaged in building a light-house upon British soil, or to share with her in the expense of doing so. The question is simply, are we, in our marine, are we, in our traveling community, sharing, or having all of the advantages, all the benefits? If we are, the colony there has nothing to do with it.

The gentleman knows that the British Government does not erect these light-houses. The light-houses along the British coasts belong to the Trinity House. They are the property of a close corporation.

The question is one of commercial advantage; and we therefore owe it to our commercial marine—we owe it to the naval marine of our country that we should provide the means of their safety wherever there is danger. The new mode of navigating the Atlantic ocean, which sends our merchant ships, and which will send our naval ships, on the great circle, brings them in close proximity with Race Point, and the use of iron, in a much larger amount than formerly in our ships, often renders the compass very uncertain. Several times has it happened, since this new mode of navigation has been adopted, that vessels have been found far north of their calculation, so much so, that, in one case, the ship, when the fog cleared away, was found to be among the rocks, and, in the other, the vessel was in a snug bay instead of on the broad ocean. The light-house would have been the means of showing their position, which their safety absolutely required.

It is not a loss to Great Britain if one of our ships is cast away on Cape Race. It is not a loss to the colony there if half a dozen of our ships are wrecked there; but it is a loss to her, it is a shock to humanity, if, on that iron-bound coast, five hundred, eight hundred, or a thousand men are lost in that way, when the erection of a first or second-rate light-house there would have saved them all. Gentlemen who live so far from the light of a light-house; gentlemen who lack the light of that kind of science, may well hang back, and tell us that we labored yesterday against hasty legislation, and that we are to-day starting on the principle which we condemned. Yesterday a portion in this House believed that there was to be an intrenchment on the judiciary; that the Constitution was to be trodden down. Whether it was, or was not, is another matter; but that is the argument. To-day it is a simple question whether a few dollars shall be laid out for the preservation of thousands of human lives; whether a friendly negotiation shall be entered into with a neighboring colony for the protection of commerce, the growing and enlarged commerce of our country—enlarged now by the very perils, and war, and expenses to which another honorable gentleman has alluded? Wherever we have a right, let us defend it. Wherever we have a means of gain, let us use it. It is not a year since that upon this floor the voices of members on all sides were raised in behalf of the rights of an alleged American citizen, who, turned out to be otherwise. The life of one of our American citizens is of infinite value. Indeed, an American citizen has the right of protection in any country. Every man who walks the soil of the United States is, because he pays a tax, makes on oath, or votes, amply protected. The ægis of the law is thrown around him in every quarter he visits. And, if his path is on the mountain wave, if his home is on the deep, shall he be without our protection? Shall we deny him a little expenditure of money for the erection of a light-house to point out the landmarks in his voyage, to save him from destruction?

In compliance with my promise to the gentleman from Virginia, I now call for the previous question. In doing so I leave the question to the good feeling of the House.

The previous question was seconded; and the main question ordered to be put.

Mr. HILLYER. I call for the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was then taken, and decided in the affirmative—yeas 78, nays 52; as follows:

YEAS—Messrs. Aiken, Appleton, Ball, Banks, Benson, Bliss, Carpenter, Caruthers, Chandler, Chase, Cook, Corwin, Crocker, Cutting, Thomas Davis, Dawson, Dunbar, Thomas D. Eliot, Etheridge, Farley, Fenton, Florence, Fuller, Giddings, Goodrich, Goodwin, Green, Grow, Aaron Harlan, Hastings, Haven, Hill, Howe, Hughes, J. Glancy Jones, Kerr, Kittredge, Knox, Kurtz, Lane, Latham, McCulloch, McDougall, Mace, May, Mayall, Nichols, Norton, Andrew Oliver, Mordecai Oliver, Peckham, Bishop Perkins, Ready, David Ritchie, Robbins, Rogers, Russell, Sabin, Sage, Sapp, Seymour, Shannon, Richard H. Stanton, Hestor L. Stevens, Andrew Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Thurston, Tracy, Upham, Wade, Walbridge, Elihu B. Washburne, Israel Washburn, Wells, Tappan Wentworth, and Yates—78.

NAYS—Messrs. Abercrombie, James C. Allen, Barry, Boyce, Breckinridge, Bridges, Bristow, Caskie, Chrisman, Clark, Clingman, Cobb, Cox, Craige, Cullom, John G. Davis, Dowdell, Eddy, Edmundson, John M. Elliott, Ellison, Greenwood, Hamilton, Andrew J. Harlan, Wiley P. Harris, Hendricks, Hillyer, Houston, George W. Jones, Roland Jones, Kidwell, Lamb, Letcher, Lilly, Lindley, Lindsley, McMullin, McNair, Smith Miller, Orr, Parker, Pennington, Phelps, Pratt, Ruffin, Samuel A. Smith, William Smith, Trout, Walsh, Warren, Daniel B. Wright, and Zollicoffer—52.

So the bill was passed.

Mr. HAMILTON. I call for the regular order of business.

Mr. FULLER. I rise to a privileged question. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, their Secretary, informing the House that the Senate have passed a bill for the establishment of a board for the investigation of claims against the United States, and a bill for the relief of Catharine B. Arnold; in which he asked the concurrence of the House.

MESSAGE FROM THE PRESIDENT.

A message was also received from the President of the United States, by SIDNEY WEBSTER, his Private Secretary, informing the House that he had approved and signed sundry private bills.

Mr. STANTON, of Kentucky. I rise to a privileged question. I wish to make a report from the Committee on Printing.

ADJOURNMENT OVER.

Mr. HILLYER. I rise to a question of privilege which I apprehend will take precedence of any other. I move that when the House adjourns, it adjourn to meet on Tuesday next.

The question was taken; and the motion agreed to.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by general consent, laid before the House a communication from the Secretary of the Treasury, transmitting the report of Professor Bache, Superintendent of the Coast Survey, showing the progress of the work under the charge of that officer, and accompanied with maps and plates prepared at the Coast Survey Office.

Mr. ROBBINS. I have a resolution which I desire to present in connection with that communication. I offer the following:

Resolved, That ten thousand copies of the letter of the Secretary of the Treasury, communicating the report of the Superintendent of the Coast Survey for the year 1854, in addition to the usual number, be printed, five thousand thereof for the use of the House, and the remainder for distribution by the Coast Survey Office; and that the same be printed and bound with the plates in quarto form, and that the plates be printed under the direction of the Coast Survey Office.

The resolution was referred, under the rule, to the Committee on Printing.

The communication was then ordered to lie on the table, and be printed.

The SPEAKER also laid before the House a communication from the Treasury Department, in answer to a resolution of the House, asking the opinion of the Secretary in reference to the insufficiency of the custom-house at Milwaukie, transmitting a letter from the Secretary on that subject.

Mr. WELLS. I ask that the letter may be read.

Mr. HOUSTON. I hope the gentleman will allow it to be referred to the Committee on Commerce without reading.

Mr. WELLS. I have no objection, if it is ordered to be printed.

The communication was accordingly referred to the Committee on Commerce, and ordered to be printed.

Mr. STANTON, of Kentucky. I desire now to present a report from the Committee on Printing.

JUDICIARY OF THE DISTRICT OF COLUMBIA.

The SPEAKER. The report of the Committee on Printing is not in order at this time, the main question having been ordered to be now put upon the passage of the bill for remodeling the judiciary of the District of Columbia. The question must be first taken upon the passage of that bill, upon which the yeas and nays have been ordered.

The question was being taken upon the passage of the bill by yeas and nays, when

Mr. CASKIE addressed the Chair.

The SPEAKER. The gentleman from Virginia must be aware that no discussion can be allowed while the call of the roll is proceeding.

Mr. CASKIE. I understand that; but, with the assent of every member of the Judiciary Committee present this morning—six in number—I ask the unanimous consent of the House to make a change in this bill. The bill provides that, "hereafter writs of error shall be allowed in favor of the United States in criminal cases from the decisions of said criminal court." I ask the consent of the House to strike out the words "United States," and to insert the word "accused," so that the clause will read:

And hereafter writs of error shall be allowed in favor of the accused, in criminal cases, from the decisions of said criminal court.

The change is recommended by all the members of the Judiciary Committee who are present, and I hope there will be no objection to its being made in the bill.

No objection being made, the bill was so amended.

The call of the roll was then completed, and there were—yeas 113, nays 35; as follows:

YEAS—Messrs. Abercrombie, Aiken, James C. Allen, Willis Allen, Thomas H. Bayly, Banks, Barry, Bliss, Bocock, Boyce, Breckinridge, Bridges, Bristow, Brooks, Caruthers, Caskie, Chamberlain, Clark, Clingman, Cook, Curtis, John G. Davis, Dawson, Dowdell, Dunbar, Eastman, Eddy, Edgerton, Edmundson, John M. Elliott, Ellison, Etheridge, Farley, Faulkner, Fenton, Florence, Fuller, Goodwin, Green, Greenwood, Grow, Hamilton, Andrew J. Harlan, Wiley P. Harris, Hastings, Hendricks, Henn, Hillyer, Houston, Johnson, George W. Jones, J. Glancy Jones, Keitt, Kerr, Kidwell, Kurtz, Lamb, Lane, Latham, Letcher, Lewis, Lilly, Lindley, Lindsley, Macdonald, McDougall, McMullin, McNair, McQueen, Macy, Maxwell, May, Smith Miller, Morrison, Nichols, Noble, Andrew Oliver, Orr, Parker, Peckham, Bishop Perkins, John Perkins, Phelps, Phillips, Pratt, Preston, Reese, Richardson, Riddle, Thomas Ritchey, Robbins, Ruffin, Seymour, Shannon, Singleton, Samuel A. Smith, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Andrew Stuart, David Stuart, John J. Taylor, Nathaniel G. Taylor, Thurston, Trout, Wade, Walbridge, Walker, Walsh, Wells, Westbrook, and Daniel B. Wright—113.

NAYS—Messrs. Ashe, Benson, Carpenter, Chase, Cobb, Corwin, Crocker, Thomas Davis, Dick, Thomas D. Eliot, Giddings, Goodrich, Aaron Harlan, Hill, Hughes, Knox, McCulloch, Norton, Pennington, Puryear, Ready, Rogers, Russell, Sabin, Sapp, William Smith, William R. Smith, John L. Taylor, Tracy, Upham, Warren, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, Yates, and Zollicoffer—35.

So the bill was passed.

Mr. HAMILTON moved to reconsider the vote by which the bill was passed, and also, to lay the motion to reconsider upon the table; which latter motion was agreed to.

PRIVATE BUSINESS.

Mr. EDGERTON. I move that the House resolve itself into a Committee of the Whole on the Private Calendar.

The SPEAKER. The Chair would suggest that there are two private bills upon the Speaker's table which had better be first taken up and referred.

No objection being made, the following Senate bills were taken up, read a first and second time by their titles, and referred as indicated:

A bill for the relief of John Shaw. Referred to the Committee on Indian Affairs.

A bill for the relief of J. H. F. Thornton, Lawrence Taliaferro, and Hay F. Taliaferro, sureties of D. M. F. Thornton, late a purser in the United States Navy. Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. ORR. I ask the gentleman from Ohio to withdraw his motion to go into a Committee of the Whole, to allow me to make two or three adverse reports from the Committee on Indian Affairs. They cannot possibly give rise to any discussion.

Mr. EDGERTON. If no one else objects, I will not.

Mr. ORR, from the Committee on Indian Affairs, then reported adversely upon the following cases; which were laid upon the table, and the latter case ordered to be printed:

The memorial of J. W. Quincy and B. Peters, delegates from the Stockbridge tribe of Indians, praying Congress for relief and appropriations;

The petition of J. B. Duer and others opposed to the reception of the lands purchased from the Stockbridge Indians in 1848;

The petition of Colonel John Shaw, for compensation for provisions furnished to, and property taken by, the Menomonee Indians, in 1846, 1847, and 1848.

Mr. ORR. I ask that the communication from the Committee on Indian Affairs, relative to the claim of the Miami Indians, may also be laid upon the table, and be ordered to be printed.

It was so ordered.

Mr. FAULKNER, from the Committee on Military Affairs, also reported adversely upon the memorial of James E. Stuart; which was laid upon the table, and ordered to be printed.

REGENTS OF SMITHSONIAN INSTITUTION.

Mr. MEACHAM. I wish to state that there is a bill upon the Speaker's table providing for the reappointment of Regents of the Smithsonian Institution. I will state that it is necessary to transact some business which cannot be done without the reappointment of these Regents. I ask that the bill may be taken up and passed. It will take but a minute, and I hope there will be no objection.

Mr. COBB. I object.

POSTMASTER GENERAL'S REPORT, ETC.

Mr. STANTON, of Kentucky. I wish to ask the permission of the gentleman from Ohio [Mr. EDGERTON] to present a report from the Committee on Printing.

Mr. WALSH. I object.

Mr. STANTON. The joint rule of the two Houses of Congress authorizes the Committee on Printing to report at any time. My colleague on the committee, [Mr. MURRAY,] who has had charge of the report, has been trying, for the last ten days, to get it before the House, and I have been struggling all the morning to accomplish the same object. I claim it as a right to make a report from that committee.

The SPEAKER. The Chair will state, that the gentleman from Ohio, some time since, made a motion to go into a Committee of the Whole House, this being private bill day, and what has taken place since has been by the courtesy of the gentleman who made the motion.

Mr. STANTON. But the gentleman from Ohio, as I understand, yields me the floor for the purpose of making my report.

The SPEAKER. If the gentleman from Kentucky claims the right to make a report from the Committee on Printing, the Chair will rule that he has that right.

Mr. STANTON then presented the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed, for the use of the Postmaster General, fifteen hundred copies of his annual report and appendix accompanying the President's annual message; and, for the use of the Pension Office, one thousand copies of the annual report of the Commissioner of Pensions, with the accompanying tables.

The question then recurred upon the motion that the House resolve itself into a Committee of the Whole.

Mr. CULLOM. I move that the House do now adjourn.

The question was put; and, upon a division, there were—ayes 73, noes 69.

Mr. EDGERTON. I call for the yeas and nays. I will say that this is objection day, and if the House will go into committee, we can get through with a good deal of business in the course of the morning.

The yeas and nays were ordered.

The question was then taken upon Mr. CULLOM's motion; and it was decided in the negative—yeas 61, nays 79.

So the House refused to adjourn.

The question was then taken on Mr. EDGERTON's motion; and it was agreed to.

PRIVATE CALENDAR.

The House accordingly resolved itself into a Committee of the Whole, (Mr. JONES, of Pennsylvania, in the chair,) and proceeded to consider the bills upon the Private Calendar, in their order. This being "objection day," all bills that were objected to were passed over without debate, and those to which no objection was made, were laid aside to be reported to the House, with a favorable recommendation.

COLT'S PATENT.

House bill for the relief of Samuel Colt. [Objected to by Mr. JONES, of Tennessee.]

MOORE AND HASCALL.

House bill for the relief of Hiram Moore and John Hascall. [Objected to by Mr. SMITH, of Virginia.]

JOHN H. STONE.

House bill for the relief of the legal representatives of Colonel John H. Stone.

This bill provides for the payment to the heirs of a revolutionary officer of half-pay up to the time of his death, in 1804.

Mr. LETCHER. Does that bill provide for the payment of interest?

Mr. ROGERS. It does not.

Mr. LETCHER. Then, if it does not include interest, why is a distinction made between this case and that of the heirs of Baron de Kalb, reported upon the other day?

Mr. ROGERS. I will state that the committee adopted a rule to allow interest in all cases where there had been a favorable report. But after this bill was drawn, in accordance with that rule, the party representing the claim came to me and requested, in order that the bill might pass without objection, that interest should not be included; and, in compliance with that request, I struck it out.

Mr. LETCHER. What were the previous reports in this case?

Mr. ROGERS. All favorable.

The bill was then laid aside to be reported to the House.

REPRESENTATIVES OF WILLIS RIDDICK.

House bill for the relief of the legal representatives of Colonel Willis Riddick, deceased. [Objected to by Mr. PENNINGTON.]

REPRESENTATIVES OF FRANCIS VIGO.

House bill for the relief of the legal representatives of Colonel Francis Vigo.

Mr. MACE. I had the honor to report that bill for consideration. The committee came to the conclusion that it ought not to pass. I move, therefore, that it be laid aside to be reported to the House, with a recommendation that it do not pass.

The order was made accordingly.

M'ATEE AND EASTMAN.

House bill for the relief of McAtee & Eastman. [Objected to by Mr. LETCHER.]

ROBERT GRAHAM.

House bill to authorize Robert Graham to locate six thousand nine hundred and ninety-three acres of land, in lieu of one undivided half-part of certain lands patented to John Edgar and John Murray St. Clair, by the Governor of the Northwestern Territory. [Objected to by Mr. EDGERTON.]

JOHN D. COLMESNIL.

A resolution for the adjustment of the accounts of John D. Colmesnil. [Objected to by Mr. LETCHER.]

NEHEMIAH STOKELY.

House bill for the relief of the heirs of Captain Nehemiah Stokely, deceased. [Objected to by Mr. MCMULLIN.]

Mr. MACE. I move the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, the Chairman of the committee [Mr. JONES, of Pennsylvania] reported that the Committee of the Whole on the Private Calendar had, according to order, had under consideration sundry private bills, and had directed him to report to the House action thereon.

The SPEAKER. The bills reported by the committee are before the House.

JOHN H. STONE.

The bill for the relief of the legal representatives of Colonel John H. Stone was then ordered to be engrossed and read a third time; and being engrossed, it was subsequently read a third time, and passed.

Mr. FLORENCE moved to reconsider the vote by which the bill was passed, and also to lay the motion to reconsider upon the table; which latter motion was agreed to.

FRANCIS VIGO.

The bill for the relief of the legal representatives of Colonel Francis Vigo was then taken up, and the report of the Committee of the Whole that the same do not pass, was concurred in.

So the bill was rejected.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. FRIDAY, DECEMBER 29, 1854. NEW SERIES....No. 9.

Mr. HAMILTON moved to reconsider the vote by which the last bill was rejected, and also to lay the motion to reconsider upon the table; which latter motion was agreed to.

REGENTS OF SMITHSONIAN INSTITUTION.

Mr. MEACHAM. I now ask the House to take up the bill for the reappointment of the Regents of the Smithsonian Institution, and pass it. It will occupy but a moment.

Mr. FLORENCE. Oh, no; there is no quorum here.

Mr. BRIDGES. I move that the House do now adjourn.

Mr. BAYLY, of Virginia. I hope the gentleman will withdraw that motion. I want to move that the House again resolve itself into a Committee of the Whole on the Private Calendar. It is private bill day, and private bills ought to be considered.

Mr. BRIDGES. I cannot withdraw my motion.

Mr. BAYLY. I ask for the yeas and nays upon the motion.

The yeas and nays were not ordered.

The question was then taken on Mr. BRIDGES's motion; and it was agreed to.

The House accordingly, at two o'clock and fifteen minutes, adjourned until Tuesday next.

IN SENATE.

TUESDAY, *December* 26, 1854.

Prayer by Rev. HENRY SLICER.

The Journal of Friday was read and approved.

The Hon. JOHN BELL, of Tennessee, appeared in his seat to-day.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report from the Secretary of the Treasury, in answer to a resolution of the Senate respecting the selection and purchase of sites for custom-houses and a marine hospital in Ohio; which was ordered to lie on the table, and be printed.

COAST SURVEY REPORT.

The PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting the report of the Superintendent of the Coast Survey for the year ending November 1, 1854.

Mr. STUART. I suppose that communication will be printed under the ordinary rules. I offer the following resolution for the printing of additional copies:

Ordered, That ten thousand copies of the letter of the Secretary of the Treasury, communicating the report of the Superintendent of the Coast Survey for the year 1854, in addition to the usual number, be printed—five thousand copies thereof for the use of the Senate, and the remainder for distribution by the Coast Survey Office; and that the same be printed, and bound with plates, in quarto form, and that the plates be printed under the direction of the Superintendent of the Coast Survey.

Mr. FESSENDEN. Does not that resolution go to the Committee on Printing?

Mr. STUART. I suppose that is not necessary under the rule. I would say to the Senator from Maine, that the resolution is a precise copy of the one which has heretofore been passed by the Senate on similar occasions.

Mr. FESSENDEN. I do not know that there is any special objection to this; but I have seen the evil of passing resolutions for printing extra copies of documents without going through the ordinary course. I understand it to be a rule that all resolutions ordering the printing of additional numbers of any document should be referred to the Committee on Printing in the first place. If that be not so, I do not know that I have any particular objection to the resolution, for I cannot dispute anything the honorable Senator says.

The resolution was agreed to.

PETITIONS, ETC.

Mr. BRODHEAD presented a petition of the Board of Trade of Philadelphia, praying that an appropriation be made for the completion of the piers, harbors, and other similar works commenced in the Delaware bay and river, and for the improvement of the navigation thereof; which was referred to the Committee on Commerce.

Also, a petition of the Board of Trade of Philadelphia, praying that an expedition be sent to the rescue of Dr. Kane and those who accompanied him to the Arctic regions, in search of Sir John Franklin; which was referred to the Committee on Naval Affairs.

Mr. CASS presented the petition of George Fitzsimmons, a soldier, wounded in the last war with Great Britain; praying that his pension may commence from the date of his disability; which was referred to the Committee on Pensions.

Mr JONES, of Iowa, presented a memorial of inhabitants of Allamakee county, Iowa, praying the establishment of a mail route from Prairie du Chien, Wisconsin, by way of Johnson's Landing, Bell's Mill, and Waterville, to Wankon, Allamakee county, Iowa; which was referred to the Committee on the Post Office and Post Roads.

Also, the petition of B. T. Watson, praying to be allowed compensation for work done under a contract with the Commissioner of Public Buildings; which was referred to the Committee on the District of Columbia.

Also, a petition of the register of the land office, and of the receiver of public moneys at Dubuque, Iowa, praying to be allowed the same per centum on the sales of the public lands, under the land graduation bill of last session, as was allowed them previous to that period; which was referred to the Committee on Public Lands.

Mr. JONES, of Tennessee, presented a petition from citizens of Memphis, Tennessee, asking Congress to pass a law to secure greater security and certainty in the transmission of letters through the post office; which was referred to the Committee on the Post Office and Post Roads.

Mr. FOOT. There has been placed in my hands, with the request that I should present it to the Senate, the memorial of J. Sidney Swift, praying Congress to establish a polytechnic school at the Smithsonian Institution, in the city of Washington. The memorial sets forth, with some minuteness of detail, the objects and plan of such an institution, and contains some valuable suggestions on that subject. I move that it be referred to the Committee on the Library, and be printed for the use of the Senate.

The motion was agreed to.

Mr. TOUCEY presented a petition of the children and heirs of David Tomlinson, praying to be allowed commutation pay; which was referred to the Committee on Revolutionary Claims.

CAPTAIN A. S. TAYLOR.

Mr. CASS. Some days ago I presented to the Senate a memorial of Captain A. S. Taylor, of the Marine Corps, and had it referred to the Committee on Naval Affairs. I now ask leave to have it withdrawn. It is proper, I think, that it should take another direction.

Leave to withdraw the memorial was granted.

REPORT FROM A STANDING COMMITTEE.

Mr. CLAY, from the Committee on Claims, to whom was referred the petition of Alexander McKee, praying the passage of a law authorizing him to locate certain lands in Texas on copies of certificates which have been lost, as he alleges, while in possession of the United States, asked to be discharged from its further consideration, and that it be referred to the Committee on Private Land Claims; which was agreed to.

MERCHANT SEAMEN'S WAGES.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be directed to consider if any legislation be needed in order to secure the wages of merchant seamen in the case of wreck.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that they had passed bills and a joint resolution of the following titles:

A bill to reorganize the courts of the District of Columbia, and to reform and improve the laws thereof;

A bill for the relief of the legal representatives of Colonel John H. Stone; and

A joint resolution authorizing the President of the United States to procure the erection of a light-house at Cape Race;

A subsequent message announced that the House of Representatives had passed a joint resolution of the Senate for the appointment of Regents of the Smithsonion Institution.

NOTICE OF A BILL.

Mr. WRIGHT gave notice of his intention to ask leave to introduce a bill to continue the improvements at the entrance of the harbor at Newark, New Jersey.

BOUNTY LANDS.

Mr. BRODHEAD. I beg leave to give notice that I shall, at an early day next week—Tuesday or Wednesday—call up for consideration the bill which I introduced some time since, granting additional bounty lands to the soldiers of the war of 1812. I would call up the bill to-day, but that the Senate is very thin. As it will probably remain so during this week, I shall defer calling up the bill until next week.

CONTINGENT EXPENSES OF NEBRASKA.

Mr. DOUGLAS. I understand, from a member of the Senate, who has conferred with the head of the Treasury Department, that there is a necessity for the passage of a small territorial bill, arising out of a state of facts which I will explain to the Senate. The contingent fund at the use of the Governor of Nebraska, for the purpose of convening the Legislature, ($1,500,) was properly drawn by the late Governor of that Territory; but, in consequence of his death, it is not, at this moment, available; and, therefore, an additional appropriation of $1,000 is required, as the Legislature is about to meet. For these reasons, I ask the unanimous consent of the Senate to introduce a bill to provide for the contingent expenses of the Territory of Nebraska.

Leave was granted, and the bill was read twice, and considered as in Committee of the Whole.

Its object is to appropriate $1,000 to defray the contingent expenses of the Governor of the Territory for the remainder of the present fiscal year, the former appropriation of $1,500 having been drawn from the Treasury by the late Governor Burt, and, by reason of his death, being unavailable for the present; and it is declared to be the true intent and meaning of the bill, that not more than $1,500 shall be expended for those contingencies in the present fiscal year.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read a third time, and passed.

PATRICK C. MILES.

The bill to increase the pension of Patrick C. Miles was read a second time, and on motion of Mr. ALLEN, the Senate, as in Committee of the Whole, proceeded to its consideration.

It is intended to direct the Secretary of the Interior to increase the pension of Patrick C. Miles, (late a sergeant of company K, first regiment infantry, United States Army, and who lost a leg, and was otherwise injured while gallantly leading to the assault at the storming of Monterey,) to the rate of thirteen dollars per month, the amount of his duty pay; the increase to take effect from the first of January, 1854, and continue during his natural life.

Mr. ALLEN called for the reading of the report of the Committee on Pensions, from which it appeared that Mr. Miles served in the Army of the United States seven years, and, for good conduct, was promoted to the rank of duty sergeant of his company. At the storming of Monterey his company was ordered to the assault, and while advancing, exposed to the fire of the enemy

in front and on the right and left, the orderly was disabled by a spent ball, and Sergeant Miles, taking his place, gallantly led on to the attack. While advancing at a charge he was struck by a cannon ball, which carried away and shattered his right leg. No notice being taken of the wounded at the time, he lay as he fell for about an hour, endeavoring to staunch the blood from his wound with his cravat, and, while in this situation, a piece of shell from a bomb, which bursted within a few feet of him, struck him in the neck, inflicting a severe wound upon the muscles and tendons, and partially disabling his right arm, the use of which he has never fully recovered. Upon being carried to the rear he suffered amputation of his leg, and upon his recovery was honorably discharged. He was pensioned by the Bureau at eight dollars per month. He represents that this sum is inadequate to his support, and that he would retire to the military asylum, but to do so he must relinquish the whole of his present pension and leave himself without a cent for the support of his two young and motherless children. He therefore prays an increase of pension to the rate of his pay while in the service, and at the time he was disabled.

Congress has, heretofore, exercised its discretion in increasing pensions to non-commissioned officers, who have distinguished themselves by gallant and daring conduct, to the rate of their duty pay. And after a full examination of the case of Sergeant Miles, and a personal interview with him, they are satisfied that an exception to the provisions of the general statutes could not be made in a more deserving case, or in favor of a soldier more worthy of respect and gratuity.

No amendment being proposed, the bill was reported to the Senate, and ordered to be engrossed for a third reading. It was read the third time, and passed.

CENSUS OFFICE CLERKS.

Mr. ADAMS. I offer the following resolution:

Resolved, That the sixth section of the act entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1855, and for other purposes," approved August 4, 1854, be so construed as to extend to the clerks employed in the Census Office the same additional compensation granted by the act of April 22, 1854.

If there is any objection to the adoption of the resolution, I shall not object to its going over for the present. I will say to the Senate, however, that these clerks were provided for in the act of 22d of April last, but only until the first of July, as it was then thought that their duties would be completed by that time. After the passage of the act, and before the expiration of the time for which their compensation was increased, Congress imposed additional duties upon the Census Office, which have detained them at the same kind of labor in which they were engaged previously. That is the only reason why the increase of their compensation was not extended beyond the first of July. If there be no objection, I should like to have the resolution considered now.

The resolution was considered by unanimous consent, and agreed to.

Mr. ADAMS afterwards said: Mr. President, upon investigation I discover that a resolution which I introduced a few minutes ago, and which was adopted by the Senate, in relation to clerks in the Census Office, ought to have been a joint resolution. I ask now that the proper amendment be made so as to make it a joint resolution. I therefore move to reconsider the vote by which the resolution was adopted.

The motion was agreed to.

Leave was granted to introduce the resolution as a joint resolution, "relative to the construction of the act of 22d of April, 1854." It was read twice by its title, and considered as in Committee of the Whole, reported without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

ROSS WILKINS AND JAMES WITHERELL.

Mr. CASS. Mr. President, a bill was reported a few days ago from the Committee on Claims, which I now ask the Senate to consider. It is a private bill, the principle of which was established at the last session of Congress. The case is simply this: Under the territorial government of Michigan the judges of the supreme court were required to do the duties of land officers. At the last session of Congress an act was passed making compensation for the services of one judge in performing those duties. Two others were omitted, one of whom is dead. The one who is alive, and the legal representatives of the one who is dead, have made application to have the same provision extended to them. The subject was referred to the Committee on Claims, and they have reported in favor of granting it. I should be glad to have the Senate take up and consider the bill.

The bill to extend the provisions of an act entitled "An act to provide compensation for the services of George Morell in adjusting titles to land in Michigan," was accordingly read a second time, and considered as in Committee of the Whole.

Its object is to pay to Ross Wilkins and to the legal representatives of James Witherell, respectively, late judges of the United States for the Territory of Michigan, for their services in ascertaining, adjusting, and settling claims to land, and performing other duties, the same rate of compensation as is allowed to the other judges of the Territory for like services, by the provisions of the act of August 1, 1854, in regard to George Morell.

Mr. CASS. If necessary, I will ask the chairman of the Committee on Claims [Mr. BRODHEAD] to explain the bill.

Mr. BRODHEAD. I reported the bill from the Committee on Claims. The reasons why I did so are contained in the report which I submitted, and which accompanies the bill. If necessary, that can be read. I do not know that it is necessary, however, to read it. A simple statement of the case will present it to the minds of Senators. The bill proposes to give to the two judges who were omitted, the same compensation which we, last year, gave to another judge of that Territory for performing the same duties. Congress imposed additional duties on those judges, and for rendering that service we propose to pay them a small additional allowance. That is the whole case. It is quite unnecessary to read the report. I trust there will be no objection to the bill.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read a third time, and passed.

HERMAN CHITTENDEN.

On motion by Mr. WADE, the Senate, as in Committee of the Whole, proceeded to consider House bill for the relief of Herman Chittenden.

It proposes to place his name upon the pension roll as a life pensioner, at the rate of eight dollars per month, commencing March 1, 1854.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

LIGHT-HOUSE AT CAPE RACE.

The joint resolution from the House of Representatives, "authorizing the President of the United States to adopt measures to procure the erection of a first-class light-house on Cape Race," was read a first and second time by its title.

The PRESIDENT. If there be no objection the resolution will be referred to the Committee on Commerce.

Mr. STUART. Mr. President, unless there be some objection by Senators, I would suggest the propriety of considering that joint resolution now. It simply authorizes the President, as I understand it—having read it a day or two ago—to negotiate with the authorities of Great Britain, with a view to the construction of a light-house at the point designated. It makes no appropriation, and does not in itself bind Congress to make any; but it is for the purpose of instituting an inquiry to ascertain the basis upon which such a construction can be made. I see no objection to it myself. It would go to the committee of which I am a member, if it were referred; but I think it would be as well to consider it now.

Mr. JONES, of Tennessee. I think the joint resolution had better go to the Committee on Commerce. I am not at present prepared to vote for it myself.

The joint resolution was referred to the Committee on Commerce.

REFERENCE OF HOUSE BILLS.

The bill from the House of Representatives for the relief of the legal representatives of Colonel John H. Stone, was read a first and second time by its title, and referred to the Committee on Revolutionary Claims.

House bill to reorganize the courts of the District of Columbia, and to reform and improve the laws thereof, was read twice by its title, and referred to the Committee on the Judiciary.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McKEAN, Chief Clerk, announced that the Speaker had signed the following enrolled bills:

Bill to suppress the circulation of small notes as a currency in the District of Columbia;

Bill for the relief of Mary Rutherford, widow of Samuel Rutherford; and

Bill for the relief of James Butler.

Which were then signed by the President *pro tempore*.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 26, 1854.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of Friday was read and approved.

The SPEAKER presented to the House the laws of the Territory of Minnesota; which were referred to the Committee on Territories.

REGENTS FOR SMITHSONIAN INSTITUTION.

Mr. ENGLISH. I ask the unanimous consent of the House to take from the Speaker's table a Senate joint resolution proposing to appoint Rufus Choate, of Massachusetts, and Gideon Hawley, of New York, Regents for the Smithsonian Institution; and if the House will allow me, I propose to ask that the resolution may be put upon its passage.

I will state, as a reason why the resolution should be put upon its passage at an early day, that there is to be a regular meeting of the Regents of that institution the next week, and it is desirable that there should be a full board upon that occasion. These gentlemen have been Regents heretofore, and I presume there will be no objection to their reappointment. I ask that the resolution may be taken up and put upon its passage.

The resolution was read, as follows:

Resolved, &c., That the vacancies in the Board of Regents of the Smithsonian Institution of the class otherwise than members of Congress, be filled by the reappointment of the late incumbents, viz: Rufus Choate, of Massachusetts, and Gideon Hawley, of New York.

Mr. HAVEN. I presume there is no objection to the passage of the resolution.

The resolution was then ordered to a third reading; and was accordingly read the third time, and passed.

MAP OF NEBRASKA.

Mr. WHITFIELD, by unanimous consent, introduced the following resolution; which was read, and, under the rule, referred to the Committee on Printing:

Resolved, That the Clerk of the House of Representatives be instructed to purchase, out of the contingent fund of the House, —— copies of the map of Nebraska and Kansas Territories, compiled by Captain Eastman, of the United States Army, for distribution by the members of the House.

RAILROAD IN KANSAS.

Mr. WHITFIELD also, by unanimous consent, introduced a bill to aid the Territory of Kansas in the construction of a railroad in said Territory; which was read a first and second time by its title, and referred to the Committee on Public Lands.

IMPORTATION OF FOREIGN PAUPERS.

Mr. BRIDGES, by unanimous consent, offered the following resolution; which was read, considered, and adopted:

Resolved, That the Judiciary Committee be instructed to inquire into the expediency of preventing by law the importation of foreign paupers into the United States, and that they make report at the earliest possible day, by bill or otherwise.

NAVAL DEPOT AT NEW ORLEANS.

Mr. HUNT, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be instructed to inquire into the expediency of establishing a naval depot at or near New Orleans, for the equipment, repair, and supply of vessels of war, and that he report to this House the information he may obtain, together with his views upon the subject.

MINNESOTA AND NORTHWESTERN RAILROAD CHARTER.

Mr. LETCHER, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Whereas, the law authorizing the Territory of Minnesota, in the last clause of section six, in the following terms, viz: "All laws passed by the Legislative Assembly and Governor, shall be submitted to the Congress of the United States, and, if disapproved of, shall be null and of no effect," reserves to Congress the right of revising and disapproving all laws passed by said Territorial Legislature: Therefore,

Resolved, That the acts of said Territorial Legislature, as certified to this body, be referred to the Committee on the Judiciary, and that said committee inquire into the propriety of declaring the act chartering the Minnesota and Northwestern Railroad Company "null and of no effect," and that they make report to this House of their action in the premises.

Mr. ELIOT, of Massachusetts, obtained the floor.

PRINTING OF THE COAST SURVEY REPORT.

Mr. RUSSELL. I rise to a privileged question. I desire to present a report from the Committee on Printing.

The SPEAKER. The gentleman's report would be a privileged one if he could get the floor for the purpose of presenting it; but he cannot take the floor from the gentleman from Massachusetts for that purpose.

Mr. ELIOT. I will yield the floor with pleasure to the gentleman from Pennsylvania.

Mr. RUSSELL, from the Committee on Printing, then presented the following resolution:

Resolved, That ten thousand copies of the letter of the Secretary of the Treasury, communicating the report of the Superintendent of the Coast Survey for the year 1854, in addition to the usual number, be printed—five thousand thereof for the use of the House, and the remainder for distribution by the Coast Survey Office; and that the same be printed and bound in quarto form, and that the plates be printed under the direction of the Coast Survey Office.

Mr. HAMILTON. Since the floor has been assigned to the gentleman from Pennsylvania, who is a member of the Committee on Printing, I desire to ask him a single question. I desire to know why the agricultural part of the Patent Office report, which was ordered to be printed near the commencement of the last session, has not been furnished to the members of the House in pursuance with the order?

A MEMBER. It has been furnished.

Mr. HAMILTON. I have not received mine.

Mr. RUSSELL. I will state, in reply to the gentleman from Maryland, that I understand thirty thousand copies of the Patent Office report, to which he alludes, have been delivered to the members, that number of plates having been furnished to the public binder. The remainder have not been furnished, because the plates have not been struck off.

Mr. HAMILTON. What kind of plates?

Mr. RUSSELL. Those which were furnished to go into the work. The gentleman will see what they are by referring to the work itself.

The resolution was then adopted.

SICK AND DISABLED SEAMEN.

Mr. ELIOT, of Massachusetts, by unanimous consent, and in pursuance of previous notice, introduced a bill supplementary to an act for the relief of sick and disabled seamen, and for other purposes; which was read a first and second time by its title, and referred to the Committee on Commerce.

NAVAL PENSIONERS.

Mr. CORWIN, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be instructed to inquire into the expediency of so amending the naval pension laws as to admit to the navy pension roll the widows and orphans of the persons who have died, or shall die, after leaving the naval service, in the same manner as those who have died, or shall die, while in the naval service, and of those who have become disabled from casualties occurring while in the line or duty.

ADJOURNMENT OVER.

Mr. GROW. I move that when the House adjourns, it adjourn to meet on Friday next.

Mr. CLINGMAN. I demand the yeas and nays upon the motion.

Mr. JONES, of Tennessee. If the gentleman from Pennsylvania will withdraw that motion, I think we shall have a working quorum to go on with the business through the week.

Mr. GROW. If I thought there would be I would withdraw the motion. But I doubt it very much.

Several MEMBERS. Withdraw it.

Mr. GROW. I will withdraw the motion for the present.

MR. BENNETT'S LAND BILL.

Mr. COBB. I am anxious to make a report from the Committee on Public Lands, but inasmuch as I anticipate objection, I call for the regular order of business. That will bring up the consideration of the bill in which the gentleman from New York [Mr. BENNETT] is interested, and I suppose he will want to have its consideration postponed.

The SPEAKER. The first business in order is the consideration of the bill referred to by the gentleman from Alabama, being House bill (No. 102) "granting lands equally to the several States to aid in the construction of railroads and for the support of schools." The bill was postponed until this day.

Mr. CHASE. My colleague, [Mr. BENNETT,] who has this bill in charge, has been called home. He desired me, before he left, to ask the House to allow the consideration of the bill to be postponed until this day three weeks. I move that it be so postponed.

The motion was agreed to.

D. B. JUAN DOMERCQ.

Mr. CURTIS, by unanimous consent, reported back from the Committee of Claims Senate bill (No. 142) "for the relief of D. B. Juan Domercq," with an amendment.

Said bill was referred to a Committee of the Whole House, and ordered to be printed.

CONSULS AND COMMERCIAL AGENTS.

Mr. FULLER. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the President of the United States be requested to communicate to this House, in connection with the report on commercial relations and comparative tariffs, requested by a resolution of this House, of December 14, 1853, copies of all returns of consuls and commercial agents of the United States, made in reply to a circular from the Department of State, dated October 8, 1853, or such portions thereof as he may deem expedient.

I simply desire to say, in reference to this resolution, which I intend to ask the House to pass at once, that the House, at a former session, called for the information specified. In the mean time, to a circular addressed by the Secretary of State to all our foreign consuls, of whom there are some three hundred, ninety have responded, and furnished that Department with much valuable information, which cannot be obtained at any other point. It is the desire of the Department that that information should be communicated, in connection with that called for by the previous resolution.

By unanimous consent, the resolution was received and agreed to.

MASSACHUSETTS AND NEW YORK—CESSION OF TERRITORY.

Mr. GOODRICH, by unanimous consent, and in pursuance of previous notice, introduced a bill giving the consent of Congress to the cession, by the State of Massachusetts, to the State of New York, of the district of Boston Corner.

The bill was read twice by its title.

Mr. GOODRICH. I would be glad to have that bill put upon its passage, and if the House will hear me for two or three minutes, I am sure nobody will object to it.

Boston Corner is an incorporated district, in the southwest corner of Massachusetts, and contains one thousand and eighteen acres. It is a triangle, and only about two miles long from extreme points. Most of the territory lies on the west side of the Taughkanic mountain, and is inaccessible, except by footmen, and of very little value. Upon the smaller and improved portion of it, at the foot of the mountain, there are some sixty inhabitants, who desire to be set off from Massachusetts to New York. The Legislature of Massachusetts, though reluctant to part with territory, has acceded to the request of the inhabitants of this territory, so strong were the reasons for it, and ceded it, or the sovereignty and jurisdiction of that State over it, to the State of New York. The Legislature of New York has passed an act accepting the cession. Commissioners—one from each State—have, as required, made a survey and map of the territory, a copy of which, and of the acts of both States, I propose to file in the office of the Clerk of this House. This is the territory to which prize-fighters resort, because they are there out of the reach of the officers and public authorities of Massachusetts, by reason of this impassable mountain, and are also without the jurisdiction of New York.

All parties interested agree that the territory ought to belong to the State of New York; but in order to make the cession valid, it is necessary that Congress consent to it; and the object of the bill I ask permission of the House to introduce, is to give this consent. I cannot suppose it necessary to detain the House with any further explanation, and hope the bill may be put on its passage at once.

Mr. HAVEN. I fancy that there is no gentleman in this Hall who, after duly considering this matter, will interpose any objection to the passage of the bill. The two States, having acted by their Legislatures upon the subject, are here only because the Constitution of the United States makes it necessary that they shall have the consent of the General Government for the purpose of accomplishing this object.

Here is the language of the Constitution upon this point:

"No State shall, without the consent of Congress, &c., enter into any agreement or compact with another State," &c.

Also,

"New States may be admitted by Congress into this Union, but no new State shall be formed or erected within the jurisdiction of another State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as Congress."

The two States have entered into an agreement by which Massachusetts has ceded the sovereignty and jurisdiction to the State of New York. Although it is not a matter of any great consequence to the State of New York, so far as the great State itself is concerned, yet in reference to this little corner, it is a matter of great consequence for the good government of the small number of people within it. Unless there is a desire manifested to discuss the bill, I demand the previous question upon it.

Mr. SMITH, of Tennessee. The gentleman from New York [Mr. HAVEN] has partly answered the question which I wished to ask of the gentleman from Massachusetts. It is this: Can Congress authorize one State to transfer a portion of her territory to another State, or ought that State to cede her territory to the United States, and let Congress itself fix the boundary of the new State? The portion of the Constitution read by the gentleman from New York, it seems to me, refers to other kinds of contracts than cessions of portions of territory.

Mr. GOODRICH. There was a case similar to this between New Jersey and New York in 1833.

The previous question was seconded; and the main question ordered to be put.

The bill was then ordered to be engrossed and read a third time; and having been engrossed and read the third time, was passed.

INVALID PENSIONS.

Mr. FENTON. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That the Committee on Invalid Pensions be instructed to report a bill declaring that all pensions for wounds or injuries received while in the line of duty, and in the military or naval service of the United States, shall commence at the date of such disability, the amount of such pensions to be regulated according to existing laws, and paid to the persons entitled thereto, deducting former payments; and in case of the death of any invalid before or after the passage of said act, the amount of pension due him shall be paid to his widow, and if no widow, to his surviving child or children.

Mr. HAMILTON objected.

CUSTOM-HOUSE AT PERTH-AMBOY.

Mr. LILLY, by the unanimous consent of the House, introduced a resolution; which was agreed to, as follows:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of providing for the erection of a custom-house at Perth-Amboy, New Jersey.

Mr. WENTWORTH, of Massachusetts. I ask the consent of the House to submit two reports from the Committee on Commerce.

Mr. COBB. I object, and call for the regular order of business.

GRADUATION BILL.

The SPEAKER. The business first in order is the consideration of reports from the Committee on Public Lands.

Mr. COBB. I desire to report back from the Committee on Public Lands, with an amendment, the bill to amend an act approved the 4th August, 1854, entitled an act to graduate and reduce the price of public lands to actual cultivators and settlers.

The amendment was then read by the Clerk.

Mr. WASHBURNE, of Illinois. I desire to ask if the honorable gentleman from Alabama wishes to put the bill upon its passage? I hope that the amendment will be printed, and the whole matter postponed to some future time.

Mr. COBB. The amendment has been printed, according to my direction, in the Globe, in order that every gentleman in the House might understand it. I can state, in a few minutes, if the House will hear me, the object of the whole amendment. The friends of the graduation bill desire that the amendment which I offer should be put upon its passage immediately.

Mr. WASHBURNE. I desire to say, that I am in favor of some amendment of the graduation bill passed at the last session. All of us who know what has been the practical operation of that bill, understand perfectly well, with all deference to my friend from Alabama, [Mr. COBB,] that it was very crude and imperfect in its details. I desire to see it amended, and I hope the amendment, whatever it is, may be one that the House can understand, and one which will answer the expectations of the country and the parties who are to be benefited by it.

I merely wish to understand the matter thoroughly before I am called upon to vote upon it; and I desire that when we act, we may act intelligently, and make a perfect law.

I understand the operation of this law, so far as it has been carried into effect—and that has not been to any very great extent—has been such that the land office has, in fact, been obliged themselves to legislate, in order to carry out what was supposed to be the intention of the framers of the act. The honorable gentleman from Alabama [Mr. COBB] will not understand me as opposing this amendment, or as opposing the bill itself.

Mr. COBB. Of course not.

Mr. WASHBURNE. All I want is, that we may have such information as to enable us to act understandingly. The subject is of vast importance, and the amount of land which will be taken up under this bill is enormous. It is therefore fitting, and proper, and just that, while we legislate at all upon this subject, we should legislate with a knowledge of what we are doing.

Mr. COBB. I can enable the gentleman to do that, if he will allow me.

Mr. WASHBURNE. Certainly I will.

Mr. COBB. As the gentleman has spoken in regard to the bill which has been passed, and of its defects—a bill which he has denounced as unfit to have been passed by Congress—and inasmuch as its bearing has not been such as the Congress of the United States intended that it should be, it becomes necessary for me to look at the bearings of that bill, and at its provisions. But, before I attempt to do that, I will state to the House the importance of these proposed amendments to the bill itself.

In the first place, the original law, the graduation bill, requires affidavits to be made before the registers and receivers of the land offices. That provision of the bill works a great hardship to a number of individuals. For instance, an infirm individual, or a widow, would not be able to reach the land office for the purpose of making the affidavit required by law. The amendment which relates to that provision of the bill, allows the affidavit to be made before any person properly authorized to administer oaths, under the direction of the Secretary of the Interior.

The second provision of the bill requires that persons already owning land, and desiring to locate a section for farming purposes, must locate the land adjoining his own. Now, the word "adjoining" has been so construed by the Land Office as to require that the land shall form a compact body. They have decided that, if it does not form a compact body, it does not join, and, therefore, the owner of lands cannot enter land under the law, unless it forms with his own a compact body, and hence is virtually deprived of the benefits of the law in many instances. Such was not the intention of Congress.

Now, in order to carry out the intention of Congress, I propose—and it is with the approbation of the Land Office that I do so—to strike out from the bill the word "adjoining," and insert in lieu thereof the word "neighboring," and inserting the further provision that the location shall not be more than four miles distant, and retaining the restriction of the original bill, in relation to the amount entered, to three hundred and sixty acres. That proposed amendment meets with the approbation of the General Land Office Department. I presume my friend from Illinois [Mr. WASHBURNE] will assent to the propriety of this amendment.

Now, to those gentlemen who have objection to the graduation bill; to those who have raised a clamor about it, because it has been a source of speculation, and has afforded facilities to speculators to monopolize the cheap lands, I wish to say a word, and call their attention to the legislation proposed in reference thereto, and I think they will sanction the proposition. And I can say here that, so far as speculation has been carried on under the provisions of that bill, it is my good fortune to know that the people of my district have not violated the solemn oath required to be taken by that act, and entered into speculations on the strength of such oaths. But if men have been guilty of a violation of that provision, by a false oath, they have practiced a fraud upon individuals, and not upon the Government; for the Government gets the money of the speculators. Individuals are defrauded, because the object of the bill was to secure its privileges to actual cultivators and settlers, and he who enters a tract, under an oath that he actually intends to occupy and cultivate the same, when it is not his intention so to do, would perjure himself; and if men will perjure themselves, I do not know how we can always prevent it. But we propose an amendment to provide against that as far as possible, and the proposition is, that, to secure actual occupation, settlement, and cultivation, the individual shall prove that he is actually upon the land, before he shall be permitted to enter it at all.

I hope my friend from Illinois will give his sanction to that. If it shall be adopted, then the facilities which, it has been said, this affords for speculation, cannot be extended any further. It prevents it by requiring the man who desires to enter land under it, to go upon it, and to prove that he is upon it, before he can enter it.

If there is no objection to that, then I apprehend the bill is perfect. As far as the amendments are concerned, I submitted the whole question to the Commissioner of the General Land Office, with a request that he would frame a bill which would obviate all the objections which have been raised to this one. In pursuance of that request, he handed me that bill. I trust the House will see the necessity of passing it immediately.

If this speculation is going on, which is complained of by the New York Tribune, and other papers, it is the duty of Congress to pass the law, and put a stop to such speculation instantly, and I should not be a faithful representative and legislator did I not insist upon its speedy passage. In accordance with my duty, then, I ask that it may be acted upon now, that it may be passed, and sent to the Senate for their concurrence, that, in the shortest possible time, we may put a stop to this clamor which is going on in reference to speculation under this graduation bill.

Mr. JONES, of Tennessee. I wish to inquire of the gentleman from Alabama, if this bill so proposes to amend the graduation act of last session, as to require a person who wishes to enter land at the graduated price, to be upon the land, and in actual possession, before he can make the entry?

Mr. COBB. It does; and that was what the first bill intended to provide, but the speculator has availed himself of the defective phraseology of that bill, and hence the necessity of this amendment.

Mr. JONES, of Tennessee. I think that amendment will cut off from the benefits of this law nearly all the persons who would desire legitimately to avail themselves of its provisions.

Mr. COBB. I will give the gentleman the opportunity to tell the House why; for such a broad assertion, unsupported by facts or argument, might prejudice the matter.

Mr. JONES. Because a man who wishes to enter land under the bill, although that land were woods, and uncultivated, he must go there, settle upon it, and erect himself a cabin before he can make an entry at all.

Mr. COBB. All right.

Mr. JONES. Where the necessity of such a requirement? If a man desires to swear falsely for the benefit of a speculator, he may do so under this provision as well as under the other; he can put up a shanty, take the oath, and enter the land.

Mr. COBB. The difficulty is this, as the House will see at once: Under the provisions of the law, as it now stands, a man may swear that he enters the land for the purpose of actual occupation and cultivation; but, in doing so, he, at the same time, construes the law to mean occupation and cultivation at any future time—fifty years hence, if you please.

Mr. JONES. The gentleman said something about trouble at the Land Office in carrying out the provisions of the bill. Did they examine these proposed amendments, or this substitute, up there?

Mr. COBB. They drew up the bill, and handed it to me.

Mr. JONES. Well, sir, I do not know whether they are favorable to this mode of disposing of the public lands, or not, at that office. I know, as their reports show, that they are very hostile to granting homesteads. But when it comes to giving the lands for railroads, to corporations, and speculators, such propositions receive the indorsement of the Land Office.

But, sir, will the effect of this bill be really to benefit the honest settler who wishes to avail himself of the privileges of the graduation bill? Or is it one that will throw obstacles in the way of one who wishes to secure for himself a home upon the public domain? I cannot see how it will inure to the benefit of the *bona fide* settler who wishes to get this land, to provide that he shall actually settle upon it before he may secure his claim. There are none of these lands in my country, but a man in my neighborhood may think that, by going over into the neighborhood of the district of the gentleman from Alabama, he may find a quarter section of the public land that he would like to settle upon. But he does not like to leave his home where he now lives until he has secured a place in the country to which he proposes to remove. Now, I think he should be allowed to go there and make affidavit under oath of his intention to settle and cultivate the land; and then, having secured the land, to return and make his arrangements for going there to settle.

I know that there is nothing further from the intention of the gentleman from Alabama than to throw obstacles in the way of the actual settlers upon the public lands. I doubt not that his object in advocating this amendment, is to guard against the use of improper means by speculators in securing the public lands under the graduation bill of the last session. But, from hearing that part of it read to which I have made reference, I doubt very much whether his object will be accomplished.

Mr. OLIVER, of Missouri. I desire to make a single suggestion.

Mr. COBB. I believe I still have the floor. I desire to say one word in answer to the gentleman from Tennessee. The difficulty which the gentleman suggests could be removed by a provision to the effect that, after the lands had been located under this law, unless the locator removed there with his family, and actually settled upon and cultivated the same within—say thirty or sixty days—his title should be forfeited. But that would render the law at once complicated. Gentlemen must see that it would render it very complicated, because the forfeiture would have to be declared, and a law-suit would, probably, in most cases have to be gone through with. But this bill is for the benefit of those who actually settle upon and cultivate the lands, and it removes all doubt or difficulty in reference to the matter by providing that a man must actually settle upon the lands and cultivate them, before he can avail himself of the privileges of the law.

Mr. HOUSTON. With the permission of my colleague, [Mr. COBB,] I will suggest to the gen-

tleman from Tennessee, that he move to strike out the provision to which he alludes, if he intends to persist in his opposition to it, and then allow the other two provisions, which are certainly eminently proper, and eminently called for, and to which, I presume, no one will object. I hope, therefore, that he will make that motion; and if a majority of the House agree to strike out that section, let the remainder be passed.

Mr. COBB. The gentleman from Tennessee cannot get the floor to make any such motion.

Mr. HOUSTON. I presume my colleague cannot keep the floor all day.

Mr. COBB. I can keep the floor for one hour.

Mr. OLIVER. Am I not entitled to the floor?

The SPEAKER. The Chair awarded the floor to the gentleman from Missouri, supposing the gentleman from Alabama had concluded his remarks; but if the gentleman still claims the floor, the Chair will rule that he is still entitled to it.

Mr. COBB. I am willing to yield the floor to the gentleman from Missouri for a suggestion.

Mr. JONES, of Tennessee. If the gentleman from Alabama still retains the floor, I hope he will yield it to me for a suggestion. With his permission, I would suggest that, if there have been any fraudulent entries under this graduation law, we had better provide, by this bill, that such entries shall be declared null and void; that these men never had any legal title to the land, and that they now have no title to it.

Now, one word in reply to the remarks of the gentleman from the limestone district, in Alabama, [Mr. HOUSTON.] I say to the gentleman that I am not making opposition to this bill at all. If there is a man in this House, or if there ever was a man in this House, who is a friend to the settler, and who is in favor of putting the public lands into the hands of the actual cultivators and tillers of the soil, at the lowest possible price, and of affording them all the facilities of a home, I am one of them.

Mr. HOUSTON. With the consent of my colleague, I will say to the gentleman from Tennessee, that I am aware of the course he has always pursued in this House in reference to the proper disposition of the public lands, and that he has occupied the position which he states. I did not suppose he was making opposition to the entire bill; and it was on account of the friendship which I knew he extended to the settler upon the public lands, that I appealed to him to confine his opposition to that section which he had pointed out; and if there is a majority of the House in favor of striking it out, to allow the remainder of the bill to pass.

Mr. JONES. If I had the floor for that purpose, I would move to strike out that section of the bill. But I would suggest to the other gentleman from Alabama, who reported this bill, [Mr. COBB,] that perhaps the best plan to remedy the defects of the law, would be simply to extend the right, under the existing law, to each person who is now authorized by it to enter not exceeding three hundred and twenty acres at the graduated prices, and then to require him to make oath that he had not entered land before under this graduation bill. This would make no distinction between a foreign and native-born citizen, and would place all upon the same footing.

Mr. COBB. I will say to the gentleman from Tennessee, that the suggestion made by him may be very good, so far as it goes, but I wish to call his attention to the fact, that he still leaves what is acknowledged to be an evil—a great and crying evil—standing. He would still permit any person, by declaring that he intends to settle upon the land, to come and enter it, and then never to settle upon it or cultivate it at all. That is what I desire most to prevent, and that is what this bill proposes to prevent, by requiring a man to settle upon the land before he can have the benefit of the graduation law. But to provide that entries which have already been improperly made shall be null and void, as the gentleman suggests, I think would make the bill too complicated, and would be objectionable upon that ground.

Mr. ORR. Will the gentleman allow me to make a suggestion?

Mr. COBB. Certainly; because I am always fond of hearing suggestions.

Mr. ORR. I do not think the House is exactly in a position to act upon this bill; and I would suggest to the gentleman from Alabama that he move to have the further consideration of the subject postponed until Tuesday week, and that the bill be printed. By that time we shall have it upon our desks, and shall be prepared to act upon it. It will not lose its present position in its class of business.

Mr. COBB. I stated when I first introduced the proposition that it was printed.

Mr. LETCHER. When and where?

Mr. COBB. It was printed in the Globe a few days ago.

Mr. OLIVER. I hope the gentleman from Alabama will allow me an opportunity of offering an amendment to his amendment. I desire to offer it now, in order that it may be printed with the bill and the gentleman's amendment, and I appeal to the courtesy of the gentleman to afford me the opportunity.

Mr. COBB. Of course, I will not object to any amendments being proposed, provided I consent to the proposition of the gentleman from South Carolina; and if it be the pleasure of the House, I will certainly consent to the postponement of the bill. But I want to get clear of the crying evil that is coming up to us. The press that is hostile to the principle of the measure, represent that it enables speculators to monopolize the whole of the public lands. I want to strike at the root of that evil, and remedy it at once.

Mr. OLIVER. I ask that my amendment may be read.

The SPEAKER. Does the gentleman from Alabama yield the floor?

Mr. COBB. I will yield it after one suggestion, as it seems to be the pleasure of the House. I move that the further consideration of the bill be postponed for one week.

Mr. WASHBURNE, of Illinois. I hope that suggestion will be adopted.

Mr. COBB. I move, also, that the bill and the proposed amendments be printed.

The question was taken on Mr. COBB's motion; and it was agreed to.

ENROLLED BILL.

Mr. GREEN, from the Committee on Enrolled Bills, reported that the committee had examined, and found truly enrolled, a joint resolution "for the appointment of Regents of the Smithsonian Institution;" and said resolution thereupon received the signature of the Speaker.

CONTINGENT EXPENSES OF NEBRASKA.

Mr. HOUSTON. Mr. Speaker, a bill from the Senate came in this morning, and is now upon your table, entitled "An act to provide for the contingent expenses of the Territory of Nebraska." If the House will allow it to be read, it explains itself. The appointment of a successor to the late Governor Burt has been made, and the gentleman appointed is now in this city. As the bill will show, the contingent fund appropriated last session was drawn by Governor Burt. Owing, however, to his unfortunate death, the accounts have not been settled. It is important that the present Governor should depart at once for the Territory of Nebraska; and that being the case, the bill proposes that $1,000 shall be appropriated for the contingent purposes of that Territory until, in time, such a settlement can be made as may be ordered to be made with the estate and heirs of the late Governor Burt. I ask that the bill may be taken up and read.

No objection being made, the bill—Senate No. 528—was taken from the Speaker's table, and read a first and second time by its title.

The bill, or joint resolution—the enacting clause being in the form of a joint resolution—was then read *in extenso* by the Clerk.

It provides "that the sum of one thousand —— be appropriated to defray the contingent expenses of the Governor of the Territory of Nebraska for the remainder of the present fiscal year," and recites the causes which have rendered the appropriation necessary, as given above in the remarks of Mr. HOUSTON.

Mr. HOUSTON. I propose to fill the blank with the word "dollars." I do not know why it was omitted by the Senate. The object of the joint resolution is, to appropriate $1,000 to the present wants for contingencies of the Territory, until a proper settlement can be made with the estate of the late Governor Burt. The latter part of the resolution restricts the contingent expenses of the Territory to $1,500—the amount originally appropriated.

Mr. ORR. Is the joint resolution before the House upon its passage?

The SPEAKER. The question now is upon ordering it to a third reading.

Mr. ORR. I have had occasion, Mr. Speaker, to look somewhat into the accounts of the late Governor Burt, and I would be very much gratified to have an opportunity afforded me of offering an amendment to the joint resolution now under consideration. It seems that, when Governor Burt received the appointment of Governor of Nebraska, he drew $1,500 for contingencies of that Territory. He reached his destination; but was ill at the time of his arrival, and continued to grow worse; and a few days only before his death, the oath of office was administered to him by the chief justice of the Territory.

My information is, that of the $1,500 which he drew, $1,000 was, upon his death, turned over to the Secretary of the Territory, who became, under the law, acting Governor upon the death of the Governor. There is, however, no evidence of that fact in the Treasury Department. The Secretary of the Territory has not acknowledged the receipt of the $1,000. I presume that that omission has grown out of this circumstance: The House is aware of the fact that Governor Burt was a native and citizen of my own State, South Carolina; when he received his appointment, he made arrangements to go to the Territory of Nebraska; in so doing, he was subjected to a very considerable expense, which I desire the House, in some shape or other, to provide for; he carried with him a portion of his family; and the salary which he received from the date of his commission to that of his death, was wholly inadequate to defray the necessary expenses of his removal. Upon his death, the acting Governor of the Territory appointed a committee, composed, I believe, of two citizens of Nebraska, and two or three gentlemen from South Carolina, who had accompanied Governor Burt, to carry home his remains; and the probability is, that this $1,000 which has not been acknowledged by the Secretary of the Territory, has been expended in carrying home the remains of Governor Burt from Nebraska to South Carolina. It will require some legislation to protect the acting Governor of Nebraska in making that disposition of the funds, and I suppose there is no gentleman in the House who would object to it. It was meet and proper that the remains of Governor Burt should be carried to the soil of the State where he lived, and where most of the members of his family are still residing, to be interred alongside the remains of his father.

I would be very glad to offer an amendment to this resolution to legalize the expenditure which Governor Cumming made, for the purpose of sending home the remains of Governor Burt in charge of the committee, and also to direct the Comptroller of the Treasury to pay to the representatives of Governor Burt whatever sum was actually expended by him for traveling expenses, and his outfit to the Territory. It will not be a very large sum, but it will afford a great relief to his family, who are left in a very destitute condition.

Mr. HOUSTON. Will my friend from South Carolina allow me to suggest to him, that the legislation he desires would be better suspended for the present. I have listened attentively to his remarks; and it is very evident that he is not himself in possession of the facts necessary to such legislation as he desires. It will be just as competent for him, at some other period of the session, to accomplish his object. If, however, he appends his amendment to this bill, it will delay action upon it; and if the amendment is adopted, it will have to go back to the Senate for their approval. It is very important that the present Governor should take his departure at an early period for the Territory of Nebraska. I hope, therefore, without expressing any opinion as to the suggestions made by my friend from South Carolina, that he will allow the subject, as far as he has presented it, to remain suspended for the present, and permit the bill to pass in its present shape.

The SPEAKER. The Chair begs the indulgence of the House for a moment, to the order made by them a few moments since to print the bill reported by the gentleman from Alabama

[Mr. COBB] with the pending amendments. Some gentlemen upon the floor understood the amendment proposed by the gentleman from Missouri [Mr. OLIVER] was also to be printed; and also a similar amendment offered by the gentleman from Indiana, [Mr. ENGLISH,] but that order was not made. Is it the pleasure of the House that these amendments shall also be printed?

There being no objection, it was so ordered.

Mr. ORR. I have no special desire to press the suggestion I have presented at this particular time, although the gentleman from Alabama [Mr. HOUSTON] must be well aware of the difficulties that lie in the way of getting this subject before the House again. If the amendment I desire to offer is proposed to any appropriation bill, it may be ruled out of order. Under the rules of the House, it might be in order; but that question, in all probability, would be made by some gentleman upon the floor. That is one difficulty in the way, and that is one reason why I desire, when the proper resolution or bill is before the House, to append to it such an amendment as I think, in justice and equity, the House ought to adopt.

Mr. HOUSTON. If no one objects to it as an amendment to this bill, it is pretty conclusive evidence that they will not object to it as an amendment to any other bill. I only make the appeal I do to the gentleman from South Carolina, not with the view of defeating his amendment, but with a view of allowing it to pass by for the present, so that the appropriation asked for in the bill may be made at once available, and so that the Governor may go at once to his destination.

Mr. ORR. There is another difficulty in postponing this matter. I am not disposed to be pertinacious in pressing the amendment I desire to offer; but it seems to me that the present bill is the appropriate one to which it can be appended. The latter clause of the resolution or bill under consideration, if I heard it correctly, provides that no greater sum than $1,500 shall be allowed for the present year for the contingencies of that Territory. If I should offer an amendment or separate bill for the benefit of the representatives of Governor Burt, any gentleman so disposed might thrust that in my face and say that there was——

Mr. HOUSTON. I do not know that I am disposed to thrust any thing in the face of my friend from South Carolina. I understand the restriction in the bill to amount to this, that no more money shall be applied for the contingent expenses of that Territory, and not that there shall be no more appropriated to the Territory. The restriction is upon the use of the money, for this bill itself appropriates $1,000 in addition to the $1,500 heretofore appropriated. That is, there are $2,500 which might be properly applied to the contingencies of the Territory. This bill proposes that the original amount intended to be applied to the contingencies of that Territory shall be retained, and also provides for the addition of $1,000 to be applied to the same purpose.

Mr. ORR. The $1,500 which have been already appropriated, and which, perhaps, may be expended in the way I have indicated, ought properly to be passed by the accounting officer of the Treasury as a proper contingency. Yet there is no law which would authorize the accounting officer of the Treasury so to regard it.

The gentleman from Alabama suggests, that it will be absolutely necessary to send this bill back to the Senate, if any amendment is adopted at the present time. I suppose it will be necessary to send the bill back to the Senate in any event, for I believe that the gentleman himself proposes an amendment to the bill.

Mr. HOUSTON. Merely as a matter of form.

Mr. ORR. The bill will have to go back to the Senate, nevertheless. I do not desire to delay the departure of Governor Cumming for the Territory of Nebraska, but I would like to have this matter considered to-day. I would prefer to have it postponed, if I can do so, until to-morrow, or the first legislative day we may have, when I may be able to offer an amendment, perhaps, which I think will be in order.

Mr. HOUSTON. I hope the gentleman from South Carolina will not persist in his desire for a postponement of this question. If he desires to propose an amendment, let him do it now, so that we may not encounter any additional delays to which an amendment, such as he speaks of, would subject us. If we intend to do anything, let us make the appropriation asked for by this bill available at once, without these intervening delays; and I hope, therefore, that he will not insist upon a postponement of this matter.

Mr. LETCHER. I would like to suggest to my friend from Alabama an amendment to this resolution. I do not exactly like its present phraseology. The three first lines read in this way:

"*Be it enacted, &c.*, That the sum of $1,000 be appropriated to defray the contingent expenses of the Governor of the Territory of Nebraska, for the remainder of the present fiscal year."

As I understand this appropriation of $1,000, it is for the contingent expenses of the Territory of Nebraska; but, as that resolution stands, it is an appropriation for the contingent expenses of the Governor of Nebraska. I propose the following amendment, then: to strike out the word "Governor," and insert in lieu thereof the word "government," so that it will read as follows:

Be it enacted, &c., That the sum of $1,000 be appropriated to defray the contingent expenses of the government of the Territory of Nebraska for the remainder of the present fiscal year, &c.

The question was taken; and the amendment was agreed to.

The question then recurred upon the amendment of Mr. HOUSTON, to insert the word "dollars;" and it was agreed to.

Mr. LETCHER. Did I understand the gentleman from South Carolina [Mr. ORR] to withdraw his proposition to amend the bill?

The SPEAKER. The gentleman from South Carolina did not submit an amendment.

Mr. LETCHER. Yes; but he suggested one, and I want to know how the matter stands.

Mr. ORR. At the suggestion of friends around me, I propose not to embarrass the present bill by the additional section. I give notice, however, to the House, that I shall bring the matter up when I am a little better prepared with an exact state of the accounts of Governor Burt, and I hope the House, will be then prepared to do justice to his family in this matter.

Mr. HAVEN. I move the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be now put.

The bill was then ordered to be read a third time, and having been read, it was subsequently passed.

ARMY BILL.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of taking up House bill No. 562, making appropriations for the support of the Army for the fiscal year ending June 30, 1856.

Mr. BRIDGES. I ask my friend from Alabama to withdraw that motion for a moment, to give me an opportunity to correct an error, or rather to offer an amendment to the resolution I offered this morning in relation to foreign paupers.

Mr. HOUSTON. I have no objection.

Mr. BRIDGES. The House have adopted a resolution this morning requesting the Committee on the Judiciary to inquire into the expediency of preventing, by law, the emigration of foreign paupers. It has been suggested that the words "and criminals" should be inserted after the word "paupers" in the resolution, so that it shall read "to prevent, by law, the importation of foreign paupers and criminals into the United States."

Mr. RICHARDSON. The word "criminal" alone will not answer.

Mr. DAWSON. Add the words "and convicts."

Mr. BRIDGES. The word "criminals" will make the resolution broad enough.

The question was put; and the amendment was agreed to.

Mr. DAVIS, of Indiana. I ask the gentleman from Alabama to withdraw his motion, to allow me to offer a motion for the printing of a bill.

Mr. HOUSTON. I will do so.

Mr. DAVIS. I move that House bill No. 584, to organize the Washington Male Orphan Asylum, be printed.

The motion was agreed to.

Mr. ETHERIDGE. I move that the House do now adjourn.

The motion was not agreed to.

Mr. HOUSTON. I now insist upon my motion.

Mr. COBB. As there seems to be some misapprehension in relation to the order which was made in reference to the graduation land bill, and inasmuch as many desire to have the bill of 1854—the original graduation bill—printed, I ask the House to have that bill printed, in connection with the bill which was first offered by me this session, and with the amendments which I have offered thereto.

Mr. CLINGMAN. I object.

Mr. LETCHER. Let us have them all together.

The House refused to order the printing.

ADJOURNMENT OVER.

Mr. STEPHENS, of Georgia. I rise to a privileged question. I move that when this House adjourns, it adjourn to meet on Friday next.

Mr. BOCOCK. I demand the yeas and nays upon that motion.

Mr. KEITT. I suspect, sir, that the House may as well concur in the motion of my friend from Georgia. We have not a quorum, and we cannot do any business without it.

The SPEAKER. The Chair would suggest to the gentleman that the motion is not debatable.

Mr. HOUSTON. I hope the motion will not be agreed to. We can act upon some of the appropriation bills.

The House was divided on the demand for the yeas and nays, and twenty-three only voting in favor thereof,

The SPEAKER declared the yeas and nays were not ordered.

Mr. CLINGMAN. I ask that the other side may be counted. We may believe there is no quorum present; and in order to test it, I ask that the negative be counted.

Mr. SEYMOUR. I ask for tellers upon the yeas and nays.

Mr. CLINGMAN. I insist upon a count of the other side.

Mr. RICHARDSON. I suggest to my friend from Virginia whether we had not better take the question on the motion to adjourn over by tellers.

Mr. BOCOCK. Well, I will withdraw the demand for the yeas and nays.

Mr. RICHARDSON. I call for tellers upon the motion to adjourn over.

Tellers were ordered; and Messrs. RICHARDSON and HAMILTON were appointed.

The House was divided; and the tellers reported sixty in the affirmative, when——

Mr. JONES, of Tennessee, demanded the yeas and nays upon the motion.

The yeas and nays were ordered.

The question was then taken upon the motion, and decided in the negative—yeas 58, nays 62; as follows:

YEAS—Messrs. Willis Allen, Appleton, David J. Bailey, Banks, Benson, Bristow, Campbell, Carpenter, Caruthers, Chamberlain, Chase, Cook, Crocker, Cullom, Thomas Davis, Thomas D. Eliot, Etheridge, Farley, Fenton, Giddings, Goodrich, Green, Grow, Wiley P. Harris, Hill, Hillyer, Hughes, Hunt, Johnson, J. Glancy Jones, Keitt, Knox, Letcher, Lewis, Mace, Mayall, Meacham, Olds, Packer, Parker, Preston, Reese, David Ritchie, Russell, Sabin, Shannon, Simmons, Richard H. Stanton, Alexander H. Stephens, John J. Taylor, Thurston, Tracy, Upham, Wade, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, Westbrook, and Zollicoffer—58.

NAYS—Messrs. Barksdale, Barry, Bocock, Boyce, Bridges, Brooks, Clingman, Cobb, Corwin, Craige, Curtis, John G. Davis, Dawson, Dick, Dowdell, Dunbar, Eastman, Eddy, English, Fuller, Greenwood, Hamilton, Aaron Harlan, Andrew J. Harlan, Haven, Hendricks, Henn, Houston, George W. Jones, Roland Jones, Kidwell, Lamb, Latham, Lilly, Macdonald, McDougall, McMullin, McQueen, Maxwell, Smith Miller, Morrison, Nichols, Mordecai Oliver, Orr, Bishop Perkins, John Perkins, Phillips, Pratt, Puryear, Ready, Richardson, Thomas Ritchey, Ruffin, Sage, Sapp, Seymour, Samuel A. Smith, William R. Smith, George W. Smyth, Andrew Stuart, Warren, and Wells—62.

So the House refused to adjourn over.

The question then recurred upon the motion that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HAMILTON. I demand tellers upon the motion.

Tellers were ordered; and Messrs. HAMILTON and GROW were appointed.

Mr. LETCHER. I move that the House do now adjourn.

The question was put; and the motion agreed to; and

Thereupon the House adjourned until to-morrow, at twelve o'clock, m.

IN SENATE.

WEDNESDAY, *December* 27, 1854.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, made in compliance with a resolution of the Senate of the 7th instant, transmitting a letter of the Colonel of Topographical Engineers, inclosing an extract from a report of Lieutenant Colonel J. E. Johnston, the officer in charge of the improvement of the Des Moines and Rock river rapids, of the Mississippi river, and also a copy of a report of John G. Floyd, the agent in charge of the above work; which was referred to the Committee on Commerce, and ordered to be printed.

PETITIONS, ETC.

Mr. FISH presented the memorial of William H. Brown, praying an appropriation to enable the Secretary of the Navy to test an invention of his for removing persons and property from shipwrecked vessels, and, if satisfactory, that he be authorized to purchase it for the use of the Navy; which was referred to the Committee on Naval Affairs.

Also, the petition of James Walling, a prisoner during the war of 1812, in Dartmoor prison, praying to be allowed compensation for the sufferings endured by him in consequence of his imprisonment; which was referred to the Committee on Claims.

Mr. SHIELDS presented the petition of John S. Develin, late an officer in the Marine Corps, praying to be allowed a pension, to commence after the date of his disability; which was referred to the Committee on Pensions.

Mr. FESSENDEN presented the petition of John Holden, of Massachusetts, praying that the half-pay due his father, John Holden, a lieutenant in the revolutionary army, may be paid to his heirs-at-law; which was referred to the Committee on Revolutionary Claims.

Mr. BROWN presented a petition of the register of the land office, and of the receiver of public moneys at Washington, Mississippi, praying to be allowed the same per centum on the sales of public lands as was received by them previous to the passage of the land graduation bill of August 4, 1854; which was ordered to lie on the table.

PAPERS WITHDRAWN.

On motion by Mr. BELL, it was

Ordered, That J. P. Chase have leave to withdraw his petition and papers, for the purpose of presentation to a Department.

BILLS INTRODUCED.

Mr. SHIELDS asked and obtained the unanimous consent of the Senate to introduce a bill to incorporate the St. Joseph's Male Orphan Asylum in the District of Columbia; which was read a first and second time by its title, and referred to the Committee on the District of Columbia.

Mr. WRIGHT, in pursuance of previous notice, asked and obtained leave to introduce a bill to continue the improvements in the harbor of Newark, New Jersey; which was read a first and second time by its title, and referred to the Committee on Commerce.

Mr. SLIDELL asked and obtained the unanimous consent of the Senate to introduce a bill for the relief of C. E. Greneaux; which was referred to the Committee on the Judiciary.

TREATY WITH JAPAN.

Mr. FISH submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Foreign Relations be instructed to inquire and report whether any and what compensation should be allowed to Commodore M. C. Perry for his services in negotiating a treaty with the Empire of Japan.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had passed a bill giving the consent of Congress to the cession, by the State of Massachusetts to the State of New York, of the district of Boston Corners; also, that they had passed a bill of the Senate to provide for the contingent expenses of the Territory of Nebraska, with amendments.

The message also announced that the Speaker had signed an enrolled joint resolution to provide for the appointment of Regents of the Smithsonian Institution; which was thereupon signed by the President *pro tempore*.

THE INDIAN TERRITORIES.

On motion by Mr. JOHNSON, it was

Ordered, That the bill to establish and organize the Territories of Chel-o-kee, Mus-co-gee, and Chah-ta, be recommitted to the Committee on Territories.

CHRISTMAS HOLIDAYS.

Mr. BADGER. I believe it is very well known to all of us here, sir, that a great number of the members of the body have taken advantage of the Christmas holidays to leave the city, and we shall probably have a very thin attendance of the body if the Senate sit this week. Indeed, until after the first of January, the Senate are indisposed to transact any important business, and I do not know that it is necessary or proper to bring the Senators who are in the city here from day to day. There are gentlemen here who probably desire to take a little relaxation for themselves; I am not one of the number, though, myself. It is distinctly understood, however, that no business will be done until Tuesday next. I would suggest, therefore, and I make a motion to the effect, that when the Senate adjourns to-day, it be to meet on Friday; and that when it adjourns on Friday next, it be to meet on the ensuing Tuesday. That will only be formally carrying out what is commonly understood informally among us—that no important business will be done until the Christmas holidays are ended. I submit the motion in accordance with these views.

The motion was agreed to.

CONTINGENT EXPENSES OF NEBRASKA.

Mr. DOUGLAS. I am told that the amendments made by the House to the bill to provide for the contingent expenses of the Territory of Nebraska are merely verbal ones, and I therefore ask the Senate to concur in them now.

The Senate proceeded to consider the amendments.

The bill, as it passed the Senate, made the appropriation for the contingent expenses of the "Governor." The first amendment of the House is to substitute "government" for "Governor." The other amendment was to insert the word "dollars," which had been accidentally omitted, after "one thousand."

The amendments were concurred in.

CESSION OF BOSTON CORNERS.

Mr. ROCKWELL. A bill has been sent from the House, which I ask the Senate to consider and dispose of now, as it is a bill which simply relates to the settlement of a matter between the State of Massachusetts and the State of New York, in regard to which those States are agreed. It is a bill "giving the consent of Congress to the cession, by the State of Massachusetts to the State of New York, of the district of Boston Corners."

The bill was read twice by its title.

Mr. ROCKWELL. The bill relates to a district of land, containing about one thousand acres, situated in the southwest part of the Commonwealth of Massachusetts, which is separated from the other portion of that State by a mountain, so as to make it inaccessible to the people of that State. It belongs to no municipal organization. It contains but few inhabitants, and they are desirous that the cession should be made. The State of New York has also consented to the annexation, as my honorable friend [Mr. FISH] can state. I hope the bill will be passed now, as it is merely to give the consent of the General Government to what the States and the people have already done.

Mr. FISH. I agree entirely with what my friend has said. It is a subject with which I have been familiar for some time. If any expression be necessary, on the part of the State of New York, I am very happy to bear testimony in her behalf of her willingness to take what Massachusetts can no longer keep. [Laughter.]

The Senate proceeded to consider the bill as in Committee of the Whole.

The Legislature of Massachusetts passed an act, which was approved May 14, 1853, ceding the sovereignty and jurisdiction over the district of Boston Corners, situated in the southwesterly corner of the State, to New York, with the proviso, however, that the act was not to take effect until Congress should consent to the cession. The Legislature of New York passed an act, on the 21st of July, 1853, accepting the sovereignty and jurisdiction ceded, upon the provisions expressed in the act of cession. Certified copies of these acts have been filed in the office of the Clerk of the House of Representatives. For better defining the limits and extent of the territory ceded, commissioners were appointed by both States, and made a survey and map of the territory, and caused sufficient monuments to be erected along its eastern boundary line, a copy of which has also been deposited in the Clerk's office. In consideration of these facts, the bill proposes to give the consent of Congress to the cession and annexation.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

COMMITTEE ON ENGROSSED BILLS.

Mr. BADGER. I am informed by one of the officers of the Senate, that the three gentlemen who compose the Committee on Engrossed Bills are now absent; and it is necessary that there should be some gentleman present to serve upon that committee. I move, therefore, that the Chair be authorized to appoint an additional member.

The motion was agreed to; and Mr. FESSENDEN was appointed.

PENITENTIARY INDEBTEDNESS.

Mr. NORRIS. I am instructed by the Committee on the District of Columbia, to whom was referred the bill from the House of Representatives for the liquidation of the penitentiary indebtedness, to report it back without amendment, recommend its passage, and ask for its consideration at this time.

The Senate, as in Committee of the Whole, proceeded to consider the bill. Its object is to appropriate $7,186 92, to enable the Secretary of the Interior to liquidate the present indebtedness of the penitentiary in the District of Columbia.

No amendment being proposed, the bill was reported to the Senate, and ordered to a third reading. It was read a third time, and passed.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 27, 1854.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

TELEGRAPH TO THE PACIFIC.

Mr. FARLEY. I ask the unanimous consent of the House to allow me to report back, from the Committee on Territories, Senate bill No. 60, with sundry amendments and an accompanying report. This bill authorizes the construction of a subterranean line of telegraph from the Mississippi, or the Missouri river, to the Pacific ocean. My object is to have the bill referred to the Committee of the Whole on the state of the Union, and printed.

There being no objection, the bill was reported back, referred as indicated, and, with the report, ordered to be printed.

MIAMI INDIANS—PERSONAL EXPLANATION.

Mr. HARLAN, of Indiana. Mr. Speaker, I have risen this morning for the purpose of making a personal explanation in relation to a certain matter brought before the House a few days since. It will be remembered that when the Indian appropriation bill was under consideration, in the Committee of the Whole on the state of the Union, I offered to amend the bill by appropriating a certain amount of money out of the Treasury to the Miami Indians, in Indiana.

About a week ago the bill was taken up, and the amendment considered in my absence. I regret that I was necessarily absent during the pendency of that question. That amendment was offered by me upon my own individual responsibility, without any petition or memorial, or any information going before the House in any shape. I did it from my knowledge of the circumstances, which I had acquired as the representative of these Indians, and at the request of the Indians themselves.

The honorable member from South Carolina, [Mr. ORR,] on the day when the final action was taken upon the amendment, took upon himself to make a statement to the House in reference to the amendment. It will be remembered that, in June last, a treaty was made with the Miami Indians, by which a portion of them ceded their territory west of the Mississippi river to the United States. In reference to this treaty, the member from South Carolina addressed the House in these words:

"Now, sir, on the 25th of February, 1841, a treaty was ratified between the Miami Indians and this Government, by the Senate of the United States; and, among other stipulations, it was therein provided that the Miamies should receive a certain tract of land, bounded on the east by the State of Missouri, on the north by the country of the Weas and Kaskaskias, on the west by the Pottawatomies of Indiana, and on the south by the country assigned to the New York Indians—in all estimated to amount to five hundred thousand acres. Since that time, and during the course of the present year, another treaty has been negotiated with this same tribe of Indians. A portion of them emigrated west of the Mississippi, while the balance remained in the State of Indiana. The gentleman now proposes to make up a deficiency in the amount of this land. The deficiency was about one hundred and twenty or one hundred and thirty thousand acres. When the Commissioner of Indian Affairs negotiated the treaty during the past summer, not only were the Indians residing west of the Mississippi present, and participating in the treaty, but also that portion of the tribe which remained in the State of Indiana. This treaty which I hold in my hand was the result of the negotiation. All parties were perfectly satisfied with it. The commissioner, when he came to negotiate the treaty, did not pay them for three hundred and seventy thousand acres of land, which the Government secured under this last treaty; but he paid them for the whole five hundred thousand acres, giving them $200,000. Both bands were satisfied, the Indiana one especially, expressing themselves to the effect that they had received a more favorable consideration in the negotiation of the treaty than they had anticipated. There is, therefore, not the shadow of a pretext for a claim on the Government for $100,000—not for even $5."

And, sir, I believe it was upon this statement, made by the honorable member, that the House voted down the amendment. He proceeds further:

"They have been fully paid every dollar to which they are entitled; and I only make these remarks now, so that hereafter, when this claim shall be brought up—as I suppose it will be—they may be used in evidence against it. The Government always weakens its opposition to such claims, while the parties pressing them strengthen their efforts. The two treaties, taken together, show that these Indians have received every dollar to which they are entitled, and the amendment ought to be rejected."

So it seems that the object of the gentleman was not only to prevent the passage of the amendment upon that occasion, but to forestall the action of Congress in future, if the claim should ever again be brought up.

Now, sir, I wish to make this explanation: I want it distinctly understood that I am not the person, if I know myself, to present a claim for the action of this House which I do not believe to be just, to be equitable, to be fair. But, this amendment having been thus summarily disposed of in my absence, upon the statement of the gentleman from South Carolina, and that statement going upon the record for the express purpose, as avowed, of being used as evidence against the claim, if it should come up again in the future, my silence upon the subject would be tantamount to an admission, upon my part, that I had presented a claim to the House without equity and without justice, which certainly is not the fact.

Now, a few words in respect to the facts upon which this amendment was offered. And I may be permitted to state that I claim to know as much about this matter as any man in the country, I care not who he is, for I have acted as the agent and friend of those Indians in this matter. It may be necessary to state the fact that a portion of the Miami Indians—a majority of the tribe—reside in Indiana, and the remainder—a minority—in Kansas Territory. There were five Indians of the Indiana portion of the tribe who came to this city last summer as delegates, not for the purpose of disposing of their lands, but for the express purpose of ascertaining why their annuity had been withheld. They were entitled to an annuity by express treaty stipulation, and they came here in reference to that annuity. They had no authority to sell their lands, and they came for no such purpose. And, sir, to give it the most technical construction, only the five Indiana Indians, who signed the treaty ceding the lands of the tribe, were bound by it. The Indiana portion of the tribe are not bound by it in any respect whatever.

Therefore, the statement of the gentleman from South Carolina is, I think, incorrect, when he says that the Miamies of Indiana were satisfied with this treaty with respect to the lands. I believe that he will bear testimony to the fact that, when the treaty was pending in the Senate of the United States, in August last, the Miami Indians of Indiana asked that $100,000 should be given to them, because they had not been provided for by the treaty with respect to their lands west. I now wish to ask the gentleman from South Carolina a simple question, and I wish it to go upon the record for the purpose of future use, to meet the declaration made by the gentleman the other day. I wish him to state whether or not the tribe did not reside in Indiana, and whether or not they did not, in 1840, cede to the Government of the United States one of the most valuable Territories in the Union for $500,000, and a section of country assigned to them west of the Mississippi, estimated to contain five hundred thousand acres of land?

Mr. ORR. There was a treaty made in 1840, or 1841, under which the Government paid the Miami Indians a pretty large sum of money—perhaps $500,000—for certain lands which were ceded by the Indians. There was, previous to that time, another treaty made by those Indians, and the band which resided in the State of Indiana, in addition to receiving their proportion of the $500,000 under the treaty of 1840, and a pretty large amount under another treaty, had reservations granted to them by name, each grant stipulating the number of acres that they were to receive. The gentleman is correct in stating that there was a treaty made, that $500,000 was paid to the Miamies, and a very valuable tract of territory acquired from them.

Mr. HARLAN. What does the gentleman say with reference to the amount of land assigned to them west of the Mississippi?

Mr. ORR. The tract assigned to them, under the treaty of 1840, or 1841, was assigned by metes and bounds. It was bounded on the north by the country of the Weas and Kaskaskias, on the west by the State of Missouri, on the east by the Pottawatomies of Indiana, and on the south by the lands assigned to the New York Indians. The clause of the treaty prescribing the metes and bounds, end with these words: "estimated to contain five hundred thousand acres." I presume that is the statement the gentleman desires.

Mr. HARLAN. The gentleman says that, by a former treaty, donations were given to this band. I do not think the gentleman would make an incorrect statement if he was aware of it, but I desire to say, for his information, that there is a distinction taken between a "band" and a "tribe." By the treaty of 1840 there were reserved grants given to but two individuals. One section was given to Lafountain, and seven sections to Chief Richardville. I care not what reservations or grants were made in other treaties; for it will be remembered that the Government of the United States commenced treating with these Indians as early as 1795, and that all the territory, west and northwest, now embraced in Ohio, and in the northeastern portion of Indiana, belonged to them.

Mr. ORR. I would like to ask the gentleman what is the value of the land reserved to those Indians to whom he alludes?

Mr. HARLAN. Richardville?

Mr. ORR. Yes, sir.

Mr. HARLAN. I cannot say what is the value of the sections—perhaps $6,000 a section at the present time.

Mr. ORR. Who are to be, eventually, the recipients of the value of that land?

Mr. HARLAN. I believe that Richardville died some eight years ago, and left it to three of his granddaughters in the tribe, and perhaps some others.

Mr. ORR. The treaty declares that it was given to him in trust for the benefit of his band.

Mr. HARLAN. The gentleman refers now to the reservation granted to Meshin-go-me-sia.

Mr. ORR. What is the value of that land?

Mr. HARLAN. That land was reserved to Moto-sin-ia, father of Meshin-go-me-sia, under the treaty of 1838, which gave us another section of country.

Mr. ORR. Well, what is the value of that land?

Mr. HARLAN. Thirty thousand dollars; ten sections to be held by him in trust for the band. Not one in eight of the Indians remaining in Indiana derives any benefit under the treaty of 1840 and treaty of 1838. There are full three hundred Miamies in Indiana, and more than a majority of the whole tribe have not received one farthing under the treaty of June last, on account of their interest in the western lands. So far from being paid their full proportion, and being satisfied, they have received nothing—not one single farthing. Now, I will ask the gentleman how many Miamies reside in Indiana, and how many in the West?

Mr. ORR. I think about three hundred in Indiana, and two hundred in the West.

Mr. HARLAN. The exact number is three hundred and two in Indiana, and two hundred and forty-eight in the West. Now, I want to ask the gentleman whether, under the treaty of June last, those residing in Indiana got one single farthing for the proceeds of the sale of their land in the West?

Mr. ORR. They did not; but certain annuities were continued to them at their solicitation, and the Commissioner of Indian Affairs declares, in his report, which has been ordered to be printed, although it has not yet been sent up here, that they not only expressed themselves satisfied, but declared that they had received greater advantages under the treaty than they had hoped or expected to receive when they left home. That is the language which the Commissioner of Indian Affairs employs in a communication addressed to me officially, and which has been ordered to be printed. I have sent to the document room, but the document has not yet come up from the printers.

Mr. HARLAN. Sir, when these Indians in Indiana have been deprived of every right they were entitled to under the treaty, and in justice and equity, then it is announced that they are satisfied. That announcement reminds me of the address of a celebrated officer to his army, when speaking of Rome and her policy, and when about to engage in battle with the Roman army, he says: "When Rome has unpeopled a nation, so that there are none left to bear arms, she has given peace to that people." So of these Indians; when you have deprived them of every right, you have "given satisfaction." These Indians came here for the purpose of ascertaining why it was that past annuities, to which they were justly entitled, under treaty stipulations, had been withheld from them. They became restive on this question, and came here to know why their annuities could not be paid to them. In that way, and for that purpose, they came to the city of Washington; and all that was granted in June last was a commutation of their perpetual annuity for $25,000, and annual annuities amounting to $5,080, in the shape of salt, tobacco, iron, steel, &c. Every dollar of this amount has been withheld from those Indians residing in Indiana. In regard to the land west, they announce emphatically that they were not authorized by the tribes residing in Indiana, to treat for the land. They had no council upon that subject; they knew nothing about it; and they would not, therefore, act in regard to it.

I now wish to ask the honorable gentleman from South Carolina, whether he has any information whether the treaty asking an appropriation of $100,000 for the Indians in Indiana, which was before the Senate of the United States for three days, was ratified or not?

Mr. ORR. I can, of course, have no information of any amendment having been offered, inasmuch as the veil of secresy has not been removed. I know not what transpired in the Senate. It has been said—and I have no reason to doubt it—that an amendment was offered to the treaty; but as for stating it officially, I cannot do it.

Mr. HARLAN. I have now stated, in regard to this matter, all that I desire to state. I wished simply to say to the House, that these Indians of Indiana have got nothing by this treaty, except what was guarantied them by former treaties. I desire to say, that the Indians residing in Indiana feel that they are weak and feeble; and that—if I may so call it—they were, by an arbitrary decision, ruled out of all participation in any benefits resulting from the grant to the Indians of the lands west. They have had no agency in the matter, and have not been regarded as owners in part of these lands; and they feel that they have been deeply aggrieved, and deprived of their interest in them by this treaty. If the House are not willing

to allow them their just demand, the time will, perhaps, soon come when justice will be awarded them. I assure the House that I have not attempted to offer an amendment asking an appropriation of a solitary dollar for an object which I did not think honorable and praiseworthy.

Mr. ORR. I hope the House will indulge me in making a few remarks in reply to the gentleman from Indiana, [Mr. HARLAN.] Before I commence saying anything upon the question at issue, I desire, if any impression has been produced in this House, or upon the country, unfavorable to the integrity of the honorable gentleman from Indiana by the remarks made by me upon a former occasion, to disavow any such *purpose* upon my part. The gentleman from Indiana, doubtless, is of the opinion that these Indians have a just claim against the Government of the United States. The facts though, as I understand them, and as they are understood officially by this Government, do not warrant that conclusion. Hence I used strong language in the remarks which I made when the amendment was under discussion before the committee. It will be remembered by the House, that the gentleman from Indiana offered his amendment to the Indian appropriation bill upon Thursday. The Private Calendar was taken up on Friday, and the Indian appropriation bill was not touched again till Monday, when the amendment offered by the gentleman from Indiana, came up for consideration. It came from neither of the standing committees of this House. It sprung a new question upon those who had the Indian appropriation bill in charge.

Upon a slight conference with the honorable chairman of the Committee of Ways and Means, I ascertained that he had no information upon the subject; and I consented that I would inquire into the subject, and learn the true state of facts from the Indian department. I did so, and I only stated, in the remarks that I made, the facts which I there obtained. When the communication, addressed to me by the Commissioner of Indian Affairs a few days ago, and which the House ordered to be printed, shall be laid upon the tables of members, it will be found that the Commissioner of Indian Affairs not only goes to the extent of fortifying and sustaining every fact that I stated to the House, but that he even goes further, and uses stronger language than I did with reference to this claim.

Now, were the Indiana Indians here assenting to this treaty? It is set forth in the caption of the treaty which I hold in my hands:

"Whereas a treaty was made and concluded on the 5th day of June, 1854, between George W. Manypenny, commissioner on the part of the United States, and the following named delegates, representing the Miami tribe of Indians, viz: Nah-we lan, or Big Legs; Ma cat-a-chin quah, or Little Doctor; Lana pin-chah, or Jack Hockley; So-ne-lan-gish-lah, or John Bonvie; and Wan-zop-e ah; they being thereto duly authorized by said tribe; and Me-shin-go me zia, Po con-ge-ah, Pim-yi-oh te-nah, Wap pop-pe-tah, or Bondy, and Ke ah-cot-woh, or Buffalo, *Miami Indians, residents of the State of Indiana*, being *present* and *assenting*, *approving*, and *agreeing* to and *confirming* said articles of agreement and convention."

This is the caption. When the treaty came before the Senate for ratification, an amendment was adopted by that body, as follows: to strike out of the fourth article, the following words:

"*Provided, however*, That if the Miami Indians of the State of Indiana, desire it, and notify the Secretary of the Interior of that fact, he will cause the said sum of $231,004 to be invested for them in safe stocks, and pay over annually to said Indians the interest arising from such investment; and the said Miami Indians now present from the State of Indiana agree to take the opinion of their people on their return home, and advise the Department without delay,"

and insert the following words in lieu thereof:

"The sum of $231,004, hereby stipulated to be paid to the Miami Indians, of Indiana, shall be held by the United States for said last-named Indians, and by the Government invested, as the President may direct, at an interest of five per centum per annum, and which interest shall be paid annually, for the period of twenty-five years, to the said Miami Indians, of Indiana; and at the expiration of that time, or sooner, if required by them and approved by the President, the principal sum to be paid in full, the United States being directly responsible therefor—said investment to be made, and the interest thereon to commence accruing the 1st day of July, 1855, and thence to continue."

Then follow certain provisoes, not necessary to be recapitulated for the proper understanding of this question.

Mr. HARLAN. Will the gentleman from South Carolina allow me to ask him a question—whether this sum of $231,004 is any portion of the proceeds of the sale of lands, or whether it was given for a commutation of past annuities guarantied by former treaties?

Mr. ORR. Treaties had heretofore been negotiated with these Indians residing in Indiana, and it was expected, at the time the last treaty was concluded, (in 1840,) that they would remove to their lands beyond the Mississippi, except such as were allowed special reservations of lands. Many of them did not go. Others went, and returned. The Commissioner of Indian Affairs was disposed to regard no one as belonging to the Miami tribe except those who had removed. When they came here to sell the three hundred and seventy thousand acres of land which had been given to them beyond the Mississippi, they were accompanied by the Miami Indiana Indians. The treaty then made, and the one from which I have been reading, was a review, or a renegotiation of all the treaties between these tribes up to that time; and this last treaty was understood and declared to be perfectly satisfactory to all parties, including the Indiana Miamies.

But to return from this digression to the treaty itself. I call the attention of the House to the concluding paragraph of the Senate's amendment, which amendment was procured to the original treaty by the interposition, and at the suggestion of the Indiana Miamies, who were in the city when the treaty was ratified by the Senate.

The paragraph is as follows:

"The Miami Indians, of Indiana, being now represented in Washington by a *fully authorized deputation, and having requested the foregoing amendments*, the same are binding on them; but these amendments are in no way to affect or impair the stipulations in said treaty contained, as to the Miamies west of the Mississippi, the said amendments being final and not required to be submitted to the Miamies for their consent."

There are the facts upon which I predicated the statement which I made in the debate in committee. Was my language too strong? In using the emphatic language which I did, as to the want of merit in this claim, it did not enter into my head to derogate from the integrity of the honorable gentleman from Indiana, [Mr. HARLAN.] He, no doubt, in looking at this question in the aspect presented to his mind, sees that there is some justice in the claim; but the facts of the case, the facts on file in the Department in the Indian Bureau, and the facts contained in this treaty, establish, beyond any controversy, that the statement I made, represents truly the condition of this tribe towards the Government of the United States.

LAND CLAIMS IN CALIFORNIA.

Mr. LATHAM. I ask the unanimous consent of the House to take up Senate bill No. 497, to continue in force for a limited period an act to ascertain and settle private land claims in the State of California, for the purpose of having it referred to the Committee on Public Lands.

No objection being made, the bill was taken up, read a first and second time by its title, and referred to the Committee on Public Lands.

JEREMIAH MOORE.

On motion by Mr. STUART, it was

Ordered, That leave be granted to withdraw from the files of the House the petition and papers of Jeremiah Moore, for the purpose of being referred in the Senate.

THOMAS PARKS.

Mr. TAYLOR, of New York. When bill No. 363, for the relief of the heirs of Thomas Parks, deceased, was reported to the House, it was accompanied by a report, which, by an oversight, was not ordered to be printed. I now move that the same be printed.

The motion was agreed to.

HARBORS IN CONNECTICUT.

Mr. SEYMOUR, by unanimous consent, introduced the following bill, of which previous notice had been given; which was read a first and second time, and referred to the Committee on Commerce, viz:

A bill making appropriation for the improvement of the harbors of Bridgeport, Norwalk, and Stamford, in the State of Connecticut.

W. R. NEVINS AND URI EMMONS.

On motion by Mr. BRIDGES, by unanimous consent, it was

Ordered, That the Committee on Patents be discharged from the further consideration of bills of the Senate of the following titles:

S. No. 171. An act for the relief of W. R. Nevins; and S. No. 316. An act for the relief of the heirs of the late Uri Emmons; and that the same be laid upon the table.

JOHN STEWART.

On motion by Mr. WENTWORTH, of Massachusetts, by unanimous consent, it was

Ordered, That the Committee of Claims be discharged from the further consideration of the bill for the relief of John Stewart; and that the same be laid upon the table.

COMMITTEE OF THE WHOLE.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAVIS, of Indiana, in the chair.)

ARMY APPROPRIATION BILL.

Mr. HOUSTON. I move to take up House bill (No. 562) making appropriations for the support of the Army for the year ending June 30, 1856.

Mr. WASHBURNE, of Illinois. I ask if the first bill upon the Calendar—being the swamp land bill—is not the bill in order to be taken up at the present time?

Mr. HOUSTON. I have a motion already pending, which I suppose is in order. It is to take up the bill for the support of the Army for the next fiscal year.

Mr. WASHBURNE. But that does not answer the question which I put to the Chair. I ask if that bill has the preference when the House went into Committee of the Whole upon no particular bill?

The CHAIRMAN. The Chair decides that the regular appropriation bills have preference over all others.

The motion of Mr. HOUSTON was then agreed to, and the Army appropriation bill was taken up.

Mr. HOUSTON. I move the first reading of the bill be dispensed with.

The motion was agreed to.

The reading of the bill, by sections, was then proceeded in.

The following paragraph being under consideration:

"For pay of the Army, two million six thousand eight hundred and six dollars"—

Mr. HOUSTON moved to insert between the words "six" and "thousand" the word "hundred."

The amendment was agreed to.

Mr. HOUSTON. I will state to the committee that the appropriations have been transposed in the two following paragraphs:

"For contingent expenses of the office of the commanding general, six hundred dollars.

"For arrearages prior to July 1, 1815, payable through the office of the Third Auditor, under an act approved May 1, 1820, in addition to the balance undrawn in the Treasury, two thousand dollars."

I move that "six hundred," in the first paragraph, be stricken out, and "two thousand" inserted; and that "two thousand," in the second paragraph, be stricken out, and "six hundred" inserted.

The motion was agreed to.

Mr. GIDDINGS. I want the ear of the chairman of the Committee of Ways and Means for a single moment. I desire to inquire whether, in the pay of the Army provided for in this bill, is included the pay of the militia employed in Massachusetts in taking the fugitive slave Burns?

Mr. HOUSTON. No, sir. This bill has nothing to do with the matter. It is merely to make appropriations for the regular standing Army of the United States. And I will state further that it makes appropriations for the year that is to commence in July next.

MESSAGE FROM THE SENATE.

The committee here informally rose, and a message was received from the Senate, by Mr. ASBURY DICKINS, their Secretary, informing this House that the Senate had passed, without amendment, bills of the House of the following titles:

An act for the relief of Herman Chittenden;

An act for the liquidation of the penitentiary indebtedness; and

An act giving the consent of Congress to the cession, by the State of Massachusetts to the State of New York, of the district of Boston Corners.

Also, that the Senate have agreed to the amendments of the House to the bill of the Senate, to provide for the contingent expenses of the Territory of Nebraska.

Also, that the Senate had passed bills and a joint resolution of the following titles, in which he was instructed to ask the concurrence of the House:

An act to increase the pension of Patrick C. Miles;

An act to extend the provisions of an act entitled "An act to provide for the services of George Morell in adjusting titles to land in Michigan;" and

A joint resolution relative to the construction of laws for the allowance of additional compensation to the clerks in the Census Bureau.

The committee then again resumed its session.

ARMY APPROPRIATION BILL—AGAIN.

When the following paragraph was read:

For the Capitol extension, three hundred and twenty-five thousand dollars—

Mr. HENN said: I desire to ask the chairman of the Committee of Ways and Means if it is the intention of the Government to quarter the Army upon the Capitol?

Mr. HOUSTON. No, sir; I believe it is the intention to quarter another class of patriots who have left their homes, and come here to carry on the business of legislation. [Laughter.]

I will state, however, to the gentleman from Iowa, that this item was recommended by the War Department, and it was deemed proper by the Committee of Ways and Means to insert it in the Army bill, rather than to transfer it to another appropriation bill. If there are no other amendments, I will move that the bill be laid aside to be reported to the House.

The motion was agreed to.

POST OFFICE APPROPRIATION BILL.

Mr. HOUSTON. I now move to take up House bill (No. 594) making appropriations for the service of the Post Office Department for the year ending June 30, 1856.

Mr. WASHBURNE, of Illinois. I trust the gentleman from Alabama will now interpose no objection to taking up and disposing of the first bill upon the Calendar, which is the first business regularly before the committee.

A MEMBER. What bill is it?

Mr. WASHBURNE. It is the swamp land bill. It was reported almost at the commencement of the last session of Congress, and has remained upon the Calendar ever since.

Mr. HOUSTON. The House is thin now, and if you take up that bill, it will give rise to a good deal of altercation, and, in all probability, at this period of the session, may result in our doing nothing. The appropriation bills that I propose to take up, are such as may be examined now, just as well as in a full House. In all likelihood, no opposition will be made to any item in them, and if there is any serious opposition made to a single item, I shall not ask for a vote upon it in so thin a House as we now have. I move that House bill No. 594—the Post Office appropriation bill—be taken up.

Mr. WASHBURNE. I think it my duty to insist upon the regular order of business.

Mr. HAMILTON. That is the regular order; appropriation bills take precedence.

Mr. JONES, of Tennessee. The gentleman from Illinois must be aware that it is especially provided by the rules that a motion to take up one of the regular appropriation bills shall be in order.

Mr. WASHBURNE. Well, then, I hope the committee will vote down the motion of the gentleman from Alabama.

Mr. JONES. If the committee vote down the motion to take up the bill proposed to be taken up by the gentleman from Alabama, why then the Calendar will be called in its order. But, as the gentleman from Alabama remarked, many of those interested in the swamp land bill are not present, and the Post Office appropriation bill is a matter of course anyhow, and we can pass it as well now in a thin House as we could in a full one.

Mr. WASHBURNE. The bill which I desire to have considered is one in which the country at large is interested; private rights are at stake, and my constituents demand early action upon it. I have been written to frequently on the subject.

The CHAIRMAN. The motion of the gentleman from Alabama is in order, and the Chair will put the question.

Mr. WASHBURNE. I call for a division.

The committee was divided on Mr. HOUSTON's motion, and the Chairman announced that there were sixty voting in the affirmative.

Mr. HAVEN. If the Chair will allow me, I will make an appeal to my friend from Illinois, and I think we can accommodate this matter in a moment. I see that bill No. 594, which the gentleman from Alabama proposes to take up, is a very short bill, covering only two pages. If the gentleman from Illinois will withdraw his demand for a division, we can dispose of that bill in a very short time, and then take up the swamp land bill. If he insists on a division, the committee will probably have to rise on account of the disclosure of a deficiency of a quorum.

Mr. WASHBURNE. With that understanding I will withdraw my demand for a division.

Mr. HAMILTON. It is the understanding of no other part of the House.

Mr. WASHBURNE. Then I insist on a count of the negative side.

Mr. ORR. I demand tellers on the motion of the gentleman from Alabama.

Tellers were ordered; and Messrs EASTMAN and NOBLE were appointed.

The question was then taken; and the tellers reported—ayes 77, noes 17.

No quorum having voted, the roll was called, and the absentees noted, when one hundred and twenty-two members answered to their names.

The committee then rose; and the Speaker having resumed the chair, the Chairman reported the facts to the House, together with the names of the absentees.

A quorum being now present, the committee resumed its session.

Mr. JONES, of Tennessee. If the gentleman from Illinois will waive his demand for a division, and allow the appropriation bill to be disposed of, I am satisfied there will then be no opposition to taking up the swamp land bill.

Mr. WASHBURNE. I am perfectly willing to pursue that course. I only wanted that understanding in the first place.

POST OFFICE APPROPRIATION BILL.

Mr. HOUSTON's motion was then agreed to *nem. con.*, and the committee proceeded to consider House bill (No. 594) "making appropriation for the service of the Post Office Department during the fiscal year ending June 30, 1856."

The bill was first read *in extenso*, and then by clauses for amendment.

Mr. HOUSTON. I move that the bill be laid aside to be reported to the House, with a recommendation that it pass.

The question was taken; and it was decided in the affirmative.

Mr. HOUSTON. I have other appropriation bills ready, and I would like very much to take some of them up to-day, but if the House considers itself under obligation to take up the swamp land bill, I will interpose no objection. My object is to bring about prompt legislation, and advance in our business as much and as fast as possible.

Mr. WASHBURNE, of Illinois. I hope that the House will now proceed to consider the swamp land bill.

Mr. BENTON. I was on the point of addressing the Chair, for the purpose of offering an amendment, when the Post Office appropriation bill was laid aside. I now ask the consent of the House to offer the following amendment:

SEC. 2. *And be it further enacted.* That the Postmaster General shall contract with the lowest and best bidder, for carrying the mail in daily coaches, wagons, and sleighs, between the city of Independence, in the State of Missouri, and a main mail line to San Francisco, in the State of California; the contractor to open the road where necessary, and to erect temporary bridges and ferries where needed; the expense of such work to be included in the bid; and the road to be free for all travelers when opened, and a moderate toll agreed upon with the Postmaster General, for crossing bridges and ferries.

Mr. HOUSTON. I object to a reconsideration of the bill now, with a view of letting in an amendment of that kind. The amendment which the gentleman from Missouri desires to offer would not be in order, even if the bill were now before the committee.

The CHAIRMAN. The Chair rules the amendment out of order. The business now first in order, is the consideration of House bill (No. 109) "for the relief of purchasers and locators of swamp overflowed lands."

Mr. SMITH, of Tennessee. I move that the committee rise.

The question was taken; and, upon division, there were—ayes 29, noes not counted.

Mr. SMITH demanded tellers on his motion; which were ordered; and Messrs. SMITH, of Tennessee, and CULLOM, were appointed.

The question was then taken; and the tellers reported—ayes 76, noes not counted.

So the committee rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bills No. 562 and No. 594, which they had directed him to report to the House, one with and one without an amendment, with a recommendation that they pass.

Mr. HOUSTON. I move the previous question upon the passage of the bills reported from the Committee of the Whole on the state of the Union.

Mr. McDOUGALL. I would ask the chairman of the Committee of Ways and Means to withdraw his demand for the previous question, in order that I may offer an amendment to the Army appropriation bill, which is recommended by the Committee on Military Affairs.

Mr. HOUSTON. If the gentleman will indicate to the House what the amendment is, and if no one objects to it, I am willing that the amendment should be offered, if it be in order as an amendment to that bill.

Mr. McDOUGALL. It is an amendment recommended by the Secretary of War, and is as follows:

For the purpose of determining how far camels and dromedaries may be made useful to the Government for the purposes of transportation over the deserts of the interior, and for the purpose of exploring the same, $20,000, to be expended by, and under the direction of, the Secretary of War.

Mr. HAMILTON. That amendment is not in order to the bill.

Mr. HOUSTON. I call for the previous question upon the bill.

Mr. McDOUGALL. I hope the gentleman will withdraw that demand, as I want to explain what the amendment is.

Mr. HOUSTON. I cannot withdraw it for the purpose of explanation. I withdrew it merely to hear what the nature of the amendment was.

Mr. LETCHER. Is the amendment in order?

Mr. HAMILTON. It is not.

The SPEAKER. If the question were raised, the Chair would decide that it is not.

Mr. LETCHER. Then I raise the question.

Mr. McDOUGALL. The amendment has been recommended by one of the standing committees of this House.

The SPEAKER. The Chair decides it to be out of order, upon the ground that there is no law authorizing it, and for that reason it is not regular as an amendment to an appropriation bill.

ADJOURNMENT OVER.

Mr. KEITT. I rise to a privileged question. I move that when this House adjourns, it adjourn to meet on Saturday next.

The question was taken; and the motion was decided in the affirmative.

So the House decided when it adjourns, to adjourn over until Saturday next.

ARMY BILL—AGAIN.

The previous question was then seconded, and the main question was ordered to be now put.

The main question being first upon the amendments recommended by the Committee of the Whole on the state of the Union, the question was taken, and the amendments were agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was subsequently read a third time, and passed.

POST OFFICE BILL.

Mr. HOUSTON. I call for the previous question upon the passage of the Post Office appropriation bill.

The previous question was seconded, and the main question ordered to be now put.

The bill was then ordered to be engrossed, and

read a third time; and being engrossed, it was subsequently read a third time, and passed.

Mr. HOUSTON moved to reconsider the votes, respectively, by which the last two bills were passed, and also to lay the motions to reconsider upon the table; which latter motions were agreed to.

ENROLLED BILL.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled the following bill; which thereupon received the signature of the Speaker, viz:

An act to provide for the contingent expenses of the Territory of Nebraska.

Mr. CAMPBELL. I move that the House do now adjourn.

The SPEAKER. The Chair would request the gentleman to withdraw that motion for a moment.

Mr. CAMPBELL. Certainly.

MAILS UPON THE MISSISSIPPI.

The SPEAKER thereupon presented to the House a communication from the Post Office Department, in response to a resolution of the House adopted the 13th instant, inquiring as to the establishment of a mail upon the Mississippi river, under an act of Congress passed August 5, 1854.

The communication was laid upon the table, and ordered to be printed.

DOLLY EMPSON.

Mr. READY, by unanimous consent, introduced a bill granting a pension to Dolly Empson; which was read a first and second time by its title, and referred to the Committee on Invalid Pensions.

EXPLORATION OF COLONEL FREMONT.

Mr. McDOUGALL. I have a document in my hand from Colonel Frémont, in regard to his explorations last winter over the continent, from Missouri to California. I desire to have it printed for the use of the House. It has been printed for the Senate.

The motion was agreed to.

RIVER AND HARBOR IMPROVEMENTS.

Mr. NOBLE, by unanimous consent, introduced the following bill, of which previous notice had been given; which was read a first and second time by its title:

A bill making appropriation to continue the public works, and to extend the pier in the harbor at Monroe, Michigan.

The SPEAKER announced that it was referred to the Committee on Commerce.

Mr. HAVEN. I desired to submit a very few remarks upon the reference of the bill introduced by the gentleman from Michigan, if it is not too late.

The SPEAKER. It is not too late. The gentleman from New York addressed the Chair before the bill was referred. The gentleman from New York is entitled to the floor.

Mr. GROW. If the gentleman will yield the floor for that purpose, I will move that the House do now adjourn.

Mr. HENN. Before the gentleman from New York yields the floor for that purpose, I hope he will allow me to say that the House have determined not to transact any business this week after to-day, and that, as the bill making appropriations for the contingent expenses of the Territory of Nebraska has not yet been finally disposed of, it is important that we should dispose of it before we adjourn.

Mr. HAVEN. The object I had in view in asking the attention of the House to a few remarks, at this time, was not with any particular reference to the bill introduced by the gentleman from Michigan, but I had intended, within the space of five minutes, to have submitted a few suggestions upon the subject of internal improvements. I can do it, however, as well at any other time as now, and if the House desire it, I will give way for a motion to adjourn.

The SPEAKER. The Chair will suggest that, if the House adjourn in the present stage of business, the bill introduced by the gentleman from Michigan will go to the Speaker's table, at the foot of the Calendar.

Mr. HAVEN. I will then move to refer it to the Committee on Commerce.

The SPEAKER. That motion is already pending.

Mr. HAVEN. My purpose in addressing the Chair has no foundation in any hostility to the bill of the gentleman from Michigan, but there has been, within a few days past, several bills of a similar character, looking to the prosecution of other works of internal improvement, and they have been referred to the Committee on Commerce without any debate, and apparently without exciting, to any considerable degree, the attention of the House. This question of river and harbor improvements is a great, and, in some portions of the country, an absorbing question; it addresses itself very directly to the attention of commercial men—of business men everywhere; and I desire to say a few words, and throw out a few suggestions, to awaken the House, and perchance the country, to the importance of some conclusion, and some settled plan of action in reference to it now. This desultory way of treating the subject, by leaving it entirely to the individual action of members particularly interested in given localities, I am satisfied will produce no good fruits, and I suggest to the House to consider whether we ought not to instruct the Committee on Commerce to report separate bills for each item contained in the bill of the last session vetoed by the President, (something like one hundred and forty in number, I believe,) or so many of them as are not clearly open to constitutional objection, if there be any such, and then set apart some specified time for their consideration by the House, and pass them, and send them to the President separately for his approval. This is the only process I think by which we can draw from the President those hidden, those secret, mysterious, untold reasons, which have so far, this session, paralyzed our action, and prevented our extending our helping hands to the crippled and deserving commerce, carried on by means of the rivers and lakes between the different States of the Union. This we can do if we will set ourselves about it, and it is due to the business interests of the country that we should do it, or adopt some other mode of extending our fostering hand to these great and neglected interests.

I suggest that this matter ought not to remain longer "down at the heel," and "in this raveled-out condition," if I may be allowed the expression.

It has been suggested by some, and, I believe, by honorable Senators, in the other end of the Capitol, that these works of river and harbor improvements had better be grouped and included in several bills, each bill to contain the appropriations for a general section of the country—as, for instance, one bill for the lakes, another for the rivers, another for the Atlantic sea-board, and still another for the Pacific. I would have no objection to this plan, if it would tend to help us out of the hands of the Philistines, into which the veto, containing many promises, but no objections, has precipitated us with these works. But I foresee the plan will not work—the veil of secrecy will rest upon the objections that would fail to be disclosed in future vetoes to such bills, and time would be wasted without any valuable results. And I can assure gentlemen here that their hopes will prove fallacious if they rest upon any such assumption. My own opinion is, that separate bills only will lay the whole subject bare, and force upon the Executive the responsibility that he has, so far, successfully shunned, and leave upon the two Houses their portion of responsibility, which, for one, I am very ready to assume.

My principal object, however, in alluding to the subject at this time, was to call the attention of the House to it, and suggest early and appropriate action; such action ought not to be longer delayed, whatever it may be. If the gentleman from Iowa [Mr. HENN] has some special matter on which he desires immediate legislation to-day, I will not interpose this subject further, as it can be resumed at the convenience of the House.

Mr. JONES, of Tennessee. Before the gentleman yields the floor, I wish to inquire, in reference to the statement just made by the gentleman from Iowa, [Mr. HENN,] if the bill to provide for the contingent expenses of the Territory of Nebraska has not passed the Senate, and just been signed by the Speaker of the House?

The SPEAKER. It has just been signed.

Mr. JONES. Then I suppose the House have nothing further to do in reference to it.

Mr. CAMPBELL. Before the gentleman from New York takes his seat, will he allow me to ask him one question?

Mr. HAVEN. Certainly.

Mr. CAMPBELL. I wish to inquire of the gentleman whether he also proposes to have separate bills reported for each of the light-houses in the different sections of the country? It strikes me that the gentleman's plan of having separate bills reported for each item of river and harbor improvement is wholly impracticable. You might just as well, in my judgment, have a separate bill for each item of appropriation in the civil and diplomatic bill, or for each light-house in the country, as for each item of river and harbor improvement. Every gentleman in the House knows that at the close of every Congress the Speaker's table is loaded down with bills that do not pass, because they can never be reached. I repeat, sir, that if we are to have three or four hundred separate bills, which should be reported in one general river and harbor bill, we might just as well have a separate bill for every item in your light-house appropriation bill, and for every item in every other branch of the public service. I, for one, have never yet trained with those who follow Executive dictation, and I never will.

Mr. HAVEN. The point which I understand the gentleman from Ohio to make in his inquiry is, whether I propose to have a separate bill reported for each item of appropriation for light-houses. I answer that I do not. That is a subject to which I have not alluded; but it is one which the President has not yet by his veto reduced us to the necessity of considering, although I commend the subject to his friends, as standing substantially on the same grounds as river and harbor improvements. I would also say to the gentleman, and to the House, that if my wishes could be followed upon this subject, I would not suggest that these appropriations of necessity should be passed in separate and independent bills at all. The gentleman knows that I have voted for general river and harbor appropriation bills, but I would advise him, if he desires to know what the difficulties are in the way of a general bill, and how to get over them, he should put his inquiry to the Executive himself, for the objections came from that source originally, and not from me.

The Executive has promised to send his objections to the river and harbor bill, as he had the right to do. But we were told when the bill was returned at the close of the last session, that he had deferred sending them on that occasion for want of time to give the bill a proper consideration. There is one suggestion, however, which I desire shall go to the country in that connection. It will be recollected that the veto message came into this House on Friday, the 4th of August, being the day originally fixed for the final adjournment of the last session, but not until after both Houses of Congress had passed a resolution to extend the session until the Monday following, thereby giving to the President a further opportunity of considering the bill before returning it to the House, and of stating his objections to it.

Mr. ORR. I want to correct the gentleman as to the misapprehension into which he has fallen in reference to the extension of the session from Friday to Monday. The object was to enable the engrossing committee to report the bills that had been passed, and not, as the gentleman states, to give the President time to consider the river and harbor bill before returning it.

Mr. HAVEN. The gentleman need feel no uneasiness upon this subject. He will remember that when we agreed to extend the session, it was resolved that we should not transact any business except of a particular and very limited description in the mean time.

Mr. CRAIGE, (interrupting.) The gentleman from New York need have no apprehension of uneasiness upon the part of this side of the House; but whenever gentlemen upon the other side make misstatements of facts upon the matter under consideration, we shall correct them. The gentleman states that the House agreed to extend the session for the purpose of enabling the President to bring in his veto message; the fact is, that the extension was to allow time for the bills to be engrossed and signed.

Mr. HAVEN. My friend from North Carolina would have saved himself the necessity of making the very lucid explanation he has given,

if he had only waited a moment. Now, sir, the facts, as I recollect them, were these: We agreed upon Friday that we would extend the time for the final adjournment until the Monday following. It was also agreed that, in the mean time, nothing but certain motions should be in order. It is true, that one object—and perhaps the express object the House had in view in extending the session—was to enable the engrossing clerks to transact their portion of the business. But, at the same time, I want to inquire of the gentleman from North Carolina, if, when we adjourned from Friday until Monday, for the purpose of having other bills properly engrossed by our clerks, it did not give the President also until Monday to consider the river and harbor bill, and present his objections to it at that time? I understand that on Monday morning messages were received from the President, announcing that he had signed certain other bills, and the receipt of these Executive messages was the only species of business which was transacted in the House.

I do not suppose that this extension was made for the express purpose of accommodating the President; but I do understand that there was just as much time for the Executive, from two o'clock on Friday, until seven o'clock on Monday morning, to consider and state to us his objections to that bill, as there was for the engrossing clerks, or for the members of the House, to transact any business that legitimately belonged to them to perform.

Mr. Speaker, I should have finished what I had to say long before this time, if I had not been interrupted. But I was going on to say, that the bill came back with the message of the President declaring that he withheld his signature—as he had the right to do—on Friday. Now, the Constitution provides that the Executive may return any bill to the House in which it originated with his *objections*. But the President, in his message, states, in substance, that he had not time to state his reasons, and to exhibit the distinctions as he desired to present them in reference to various portions of the bill. Well, sir, everybody was willing that he should take time to accomplish his purpose. He promised that he would make another communication to us upon the subject at some subsequent time. I supposed it was to accompany his annual message, but that communication has not yet been made.

It is undoubtedly proper, under the Constitution, for the President from time to time, or at any time, to give to Congress information on the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient. But I do not know, unless the twice promised message is to be regarded—provided a message ever is to come on this subject—as information on the state of the Union generally, how we are to receive it, or by what authority he is to communicate it.

Why, he might just as well send counselors here to address the House as send his objections, unless they come back when the bill comes, as provided by the Constitution. I hope a message will come. I shall be very happy to receive and consider it. I hope we shall be possessed at last of those "reasons" so long in gestation, and that are so very hard of delivery, in order that we may know, when we see them, whether it is possible, by legislating in gross or in detail here, that the business community, the people at large, can have the benefit of the action of this Government, or whether the action of this Congress, through the use of the Executive veto, is to be confined entirely to the officers of the Government, and to be for the benefit of the Government alone.

I have made these suggestions, not because I am wedded to any particular policy, nor because I desire to make war upon the Executive, or upon any of the gentlemen who think with him upon this subject; but I have made them because it has seemed to me that the House is allowing these various bills to be introduced without any particular consideration; and letting this matter drift along until we shall get into the short days of the session, when nothing effectual can be done; the whole thing, I fear, will be allowed to "grow small by degrees and beautifully less," until it is extinguished on the 4th of March, with the commissions of the members now here. I do not care about legislating in detail upon these measures, although I think that a very good way; but I want to wake up the House, if I can, to some proper mode of legislation, that will enable us to say to the country, either that their just expectations have been answered here, or that we cannot legislate, in gross or in detail, in such a way as to meet the approval of the Executive Department of this Government in reference to the interests of the people at large, and then let the responsibility rest where it belongs. I do not wish to wake up any spirit of controversy here, or to make any suggestion that will call forth remark, but simply to arouse the House to call upon their committee to make some report that shall bring up this whole subject for action, and shall indicate to the country what we have determined upon in reference to it.

Mr. CAMPBELL, (Mr. HAVEN yielding the floor temporarily, by request.) I simply wish to say, that so far as the Executive is concerned, I think the Constitution settles his duty in respect to this matter. If he does not approve a bill, he should return it with his reasons, which are to go upon the record. In this instance, the Executive asked for time to give his reasons, and gentlemen will bear me witness that I appealed to the House, when the question was before us, to postpone the consideration of the river and harbor bill, in order that the Executive might send in his reasons for vetoing that measure. The House, however, refused to do that, and there is now no measure upon which the Executive can predicate a message which shall go upon the Journal. It was the right of the Executive, when he vetoed that measure, to have his reasons placed upon the Journal; but the House, by its hasty action, deprived him of that right; and now, if he sends in his reasons, they cannot go upon the Journal.

Mr. BOCOCK. Will the gentleman from New York allow me to ask the gentleman from Ohio a question?

Mr. HAVEN. Yes, certainly.

Mr. BOCOCK. I wish to know of the gentleman from Ohio, what particular desire he has for the reasons of the President in relation to this subject? We have found a sufficient number of gentlemen here to prevent the passage of that river and harbor bill, the President's reasons to the contrary notwithstanding. Does the gentleman think that, if the President had given his reasons, gentlemen who voted against the bill would have been brought to vote for it? or did the gentleman wish to have the reasons in order to swell the vote by which the bill was defeated? What does he want with the reasons of the President?

Mr. CAMPBELL. In the first place, Mr. Speaker, I hold that it was due to the Executive of this great nation, when he had asked of the House of Representatives the privilege of sending in his reasons, and when there was no injury to be done by delay, that that privilege should have been extended to him. I have no idea that his reasons would change my opinions, although they are subject to change when there is sufficient reason upon which I can predicate a change; for I do not claim to be one of those who never change an opinion once formed. I was willing to receive and read his reasons, in addition to extending to him the courtesy that was due to his high station. That was the reason why I made the appeal to the House to delay action on the veto; but the House would not wait for the President's reasons, or give him an opportunity of having them put upon the Journal. Of course, gentlemen opposite could prevent the passage of the bill, for we had not two thirds, and now gentlemen who assert that the doctrine of "popular sovereignty" is the great fundamental principle of their party, twit us, because a minority prevented us from passing a bill which had passed both Houses of Congress, in which there is a majority of nearly two to one in favor of the Executive—voted for by men, I apprehend, quite as learned in constitutional law as the gentleman's President, both in the Senate and in this House. I may say that without disparagement to the Executive. I want to see all the reasons of the Executive for vetoing that measure; the country wants to see them all; for it is a great national system, and we want to know how to meet these Executive vetoes.

Mr. HAVEN, (resuming.) As I said before, I have no desire to create any kind of ill-feeling, either political or otherwise, between any portions of this House and the Executive, or any of the members of the House. One of my reasons for desiring legislation by separate bills, at least if no other method can procure them, is by a proper mode to get the long promised views of the Executive upon this subject. It is possible that he may present them in a way that will be satisfactory to the country. It is not for me to say that he will not do so, although I have long thought, myself, without being in possession of those views, that we had the right and the power, under the Constitution, to make provision to the extent of the bill that was lately returned. I repeat, I do not desire to induce any debate upon this subject, but simply to call the attention of the House to it, and there leave it for the present.

Mr. BAYLY, of Virginia. I have listened, with a good deal of surprise, to the remarks of my friend from New York. Sir, one of the best acts of statesmanship of Silas Wright, in my opinion, was the proposition that he made, that all these acts for internal improvements should be considered separately, and that each one should stand upon its own basis. That was the proposition that came from the gentleman's own State, and from one of its most eminent statesmen. The propriety of that course is so manifest, that I am sure the House, accustomed as it is to the system of clubbing improvements together, would hardly tolerate me in making an argument in its support. And yet, strange to say, the system thus suggested from his own State, and by one of its most eminent statesmen, is made a special ground of objection with the gentleman from New York.

Mr. HAVEN, (interposing.) Oh, no; I beg the gentleman's pardon. My very proposition, if the gentleman will allow me to say so, was, that we should instruct our committee to report separate bills, and not to deal with the subject otherwise.

Mr. BAYLY, of Virginia. That does not meet my objection. If they come in together, they had as well be incorporated in one bill, as to have every man with his bill in his hand, going about and making an arrangement with somebody else. The proposition of the gentleman from New York does not mend the matter at all, as I understand it. They will come in together; for they are gregarious, and have a disposition to associate with each other.

Another remark of the gentleman from New York struck me as still more singular than the one upon which I have commented. It is this: That the President had done a great wrong in his sending a bill here with his objections to its passage, and afterwards, in his annual message, offering to give more in detail his reasons for those objections. I am sure that there is no disposition, on the part of our Executive, to depart from the early practice of the Government in the vetoes. I do not know that it is published, but I have seen in manuscript, in his own handwriting, the veto that Mr. Madison prepared, at the request of General Washington, to the first bank of the United States. It is a model paper, and Mr. Madison meant to make it such. He confined himself to the Constitution, to assigning the objections, and not to arguing the case. "I object to the passage of the bill because." He gave his objections for withholding his signature, and did not go into an elaborate and forensic argument. There you have a message, prepared under General Washington's direction, vetoing the first bank of the United States, with nothing but the language of the Constitution—"I object"—and the reasons assigned therefor.

Although I would have been satisfied with the simple veto of the President, without his arguments, it is very singular that the gentleman from New York, of all others in this House, should object to the course the President has taken. I recollect that, when the fugitive slave-law passed, the President of the United States took the opinion of the Attorney General upon that question. He did not send it to Congress, but had it filed in the Department of State, and it was published in the newspapers. Mr. Polk signed the Oregon bill, and put his reasons on file for doing so; yet that was not within the Constitution, strictly speaking. Mr. Fillmore signed the fugitive slave-law, and, through his Attorney General, gave his reasons for doing so, and put them upon file. It would have been quite as respectful if he had sent those reasons to the House, as to have put them on file in the Department of State. I am, therefore, surprised that the gentleman from New York

should oppose a proceeding, upon this occasion, which, to say the least, is much more deferential to the representatives of the people.

Gentlemen will recollect that this case is not without authority. So far from the President of the United States in this matter having undertaken to dictate to Congress, so far from his having undertaken in this instance to use his Executive influence, he has but obeyed a solemn injunction of the Constitution of the United States, which he has sworn to support. The Constitution of the United States requires—it does not merely authorize him—the President, not on the first Monday of December, not upon any other specified day in the calendar, but from time to time, as often as he may suppose it important, to communicate to the Legislative Department his views in respect to public questions.

In the event which the Constitution, in the last resort, justifies, of his withholding his approbation, it is right that he should, in advance, give us his opinion, not to influence us, not to bind us. It is his imperative duty not his right, under the Constitution, as I have already stated in respect to these questions, to communicate his opinions to this House. I do not stand here as the advocate particularly of this Administration. I believe that this House knows that I have indulged in freedom of judgment perhaps as broad as was quite consistent with my duty to my party. I have certainly not erred upon the side of subserviency. It is strange that the gentleman from New York, and others, should come here to complain of the President, telling us that he will send a message expressing fully his views, so that we may know what we are to expect in reference to a matter where his coöperation is indispensable. If it were a matter with which he had nothing to do, then it would be impertinent. But so far from its being a matter in which he has nothing to do, it is a matter where his coöperation is necessary, and where we ought to know, to some extent, his views. It is his duty to let us know what those views are. The complaint in regard to the President, heretofore, has been so far from his undertaking to dictate to us, that we have not known his views as entirely and as fully as it was our right to know them. I know, in some questions which have come up especially under my own jurisdiction, that such has been the case, and in this instance I see no force whatever in the remarks that have been submitted by my friend from New York. We will get that message. What will be its character, I am not prepared to say. I have a good deal of confidence that it will be a message that will give satisfaction to the Democratic party, and which, in my opinion, ought to give satisfaction to the country. I have not seen it. But we will see.

Mr. WASHBURN, of Maine. The gentleman from Virginia [Mr. BAYLY] has stated his objections to the consideration of the river and harbor improvements, in the gross, and that objections of a similar kind had been entertained by a distinguished Senator from New York, now no more—Silas Wright. I believe that Silas Wright was, and that the gentleman from Virginia is, opposed to all appropriations for the purposes of internal improvement. I believe, therefore, it has been a matter of policy with those gentlemen, as it is with all those who are opposed to internal improvements, to favor that method of proceeding which they know must result in the success of their views, and which must practically prevent all legislation in Congress upon that subject. The gentleman from Virginia knows full well, as everybody knows, that it would be next to an impossibility to pass any bill singly and separately, for works of that character.

Mr. BAYLY, of Virginia, (interrupting.) The gentleman from Maine is in sad error in stating that Silas Wright was opposed to all these improvements. On the contrary, he was for them, but with the view of pursuing something like propriety in these appropriations, he was in favor of the policy of letting every one of them stand upon its own footing.

Mr. WASHBURN. I would ask the gentleman from Virginia, whether he knows of a single instance where Mr. Wright voted for an appropriation for the improvement of rivers and harbors?

Mr. BAYLY. Unquestionably he did so.

Mr. WASHBURN. In what year, and upon what bill?

Mr. BAYLY. If the gentleman disputes the fact, I will furnish him the proof, but I cannot do so at this moment.

Mr. WASHBURN. My impression was that Mr. Wright had not, and that the gentleman from Virginia had reference to some bill which was not of a general character—one providing for a particular appropriation, and not an appropriation for several works of improvement.

Mr. BAYLY. It was in reference to a bill which was vetoed.

Mr. WASHBURN. I had the impression that Mr. Wright was opposed to river and harbor appropriations generally. At any rate, he must have known that his policy would defeat such appropriations, or most of them.

At the commencement of this session, I hoped and supposed that we should have had the President's veto message, assigning his reasons for objecting to the river and harbor bill passed at the last session. I had hoped those reasons would have been given to us before we were called upon to act upon that bill, in order that we might have the aid, whatever it might amount to, which we could derive from his reasons. I thought it would have been but just to the President, for the House to have delayed action upon that bill until such time as he should submit to us his reasons. And I desire now—although I was in favor of that bill, voted for it, and should vote for it again—to have that message, and to ascertain what the reasons are upon which the President relies, and the grounds upon which he stands. I want to know whether there is or not any principle involved in the matter—if the President has any one single idea running through and controlling his views and actions upon questions of this character. I am much at a loss to know—indeed, I am unable to conjecture even—what the President means, or what his ideas are.

I remember this, that during the last session of Congress we passed an appropriation for the removal of obstructions from the mouth of Cape Fear river; an appropriation as objectionable, I believe, as most, if not all, the items of appropriation in the general river and harbor bill of last session——

Mr. CRAIGE, (interrupting.) I wish to say one word just here—and the House will bear me witness that I seldom trouble them—about this Cape Fear improvement to which the gentleman from Maine alludes, and which is so often mentioned by others. He seems to misapprehend the ground upon which the President signed the bill, and I take the liberty of referring him to the statements made at the time as to the reasons why he signed and approved the bill, and also to the speech made by Mr. ASHE upon the occasion, and to the testimony furnished by that gentleman at that time, all of which went to show that those obstructions were placed there by the Government itself. The President put his approval upon the ground that, if the Government put the obstruction there, it was the duty of the Government to remove it.

Mr. WASHBURN. Exactly so, and therefore——

Mr. CRAIGE. The President expressly mentioned, when he signed the bill, that he did so upon that ground; and he drew that distinction

Mr. WASHBURN. Therefore, it is only necessary, in order to make an appropriation necessary and proper, that the Government should make some obstruction. In such case, it would be perfectly right, constitutional, and proper for Congress to pass, and the President to approve, a bill for removing those obstructions.

I remember, too, there was some legislation necessary to make available an appropriation theretofore made for the removal of a raft in the Red river. That legislation was made by the last Congress, and it was, in its nature, equivalent to an affirmative and original legislation, for without it the appropriation was of no value, and could not be used. I remember that the amendment, to accomplish that legislation, got into a bill—I will not say was smuggled into a bill—in the Senate, and upon the report of a committee of conference, was adopted by the House and Senate, and sent to the President, and by him approved and signed. The item was as objectionable, in principle, as any item contained in the river and harbor bill, which was vetoed by the President at the same session.

Now, I want to know what principle it is by which the President is governed; upon what ground he proceeds; what the leading idea is which governs and controls his action in these matters. I am unable to ascertain it from his actions. I find he has approved the bill for the removal of the obstruction in Cape Fear river, for the reason assigned by the gentleman from North Carolina, [Mr. CRAIGE,] and that he has signed another bill, making another appropriation or application of money to another work; but I do not know upon what ground he satisfied himself that it was right, constitutional, and proper. I want the message before us, that he may explain to the country how it is that he approved bills of that kind, and did not veto them, while he vetoed the general appropriation bill for the improvement of rivers and harbors. And yet, Mr. Speaker, it seems to me that this practice of sending veto messages to this House, and messages expressing opinions upon questions of this kind, not simply as veto messages, and in the time and in the form, when and in which they may go upon the record, is a practice more honored in the breach than in the observance. There may have been a precedent for it—a single precedent. I believe one can be found under Mr. Monroe's administration. But this idea that, after action has been finally had upon the measure vetoed, the President is to come in here with his argument, is one which ought not to be encouraged by the House. What does it imply? It implies that it is proper and right for the President to come in here with his written argument, to transfer himself from the White House to the Capitol, and indicate to us his views upon the state of legislation, and to argue with us in relation to any measure before us, and tell us beforehand what he will veto and what he will not veto.

It seems to me that such a course is a breach of privilege of this House. I do not suppose that the honorable gentleman from Virginia, [Mr. BAYLY,] or any other gentleman here, would justify such a course of action on behalf of the Executive. I protest against any such practice growing up in this country. There has been no precise precedent for it, and I think it ought not to be tolerated.

Mr. ORR. I do not propose to detain the House with a long speech. I desire to come back to the point at which this discussion commenced, and to give my understanding of the facts connected with the presentation to this House of the veto message of the President, at the close of the last session of Congress. As I have already intimated, my understanding of the facts is widely different from the representation of the gentleman from New York.

It will be remembered that Friday, the 4th of August, was the day fixed upon for the final adjournment of Congress. According to my recollection, the committee of conference, to which was committed the disagreeing votes of the two Houses upon this river and harbor bill, did not report until after ten o'clock on Friday morning, and that the House was to adjourn at four o'clock in the same afternoon. It will also be remembered that there were various propositions made to extend the time for adjournment, and that these propositions were all voted down, until the member from Ohio, [Mr. GREEN,] a member of the Engrossing Committee, came forward and stated, upon the floor of the House, that it would be utterly impossible for the enrolling clerks to enrol all the bills that had been passed by the time which had been fixed upon for adjournment, and hence there was an absolute necessity for an extension of the time; and not till then was such extension carried.

Now, sir, the bill could not have been enrolled before twelve o'clock, and the President sent in his message returning it within two hours of that time; and what became of that message? Sir, I was here, and some other gentlemen who now hear me were in the Hall at the time; and what, I say, became of the President's veto message? It was not read to the House. The President was not allowed at that time to set forth his reasons for withholding his signature to the bill. Why? Who objected? The gentleman from New York himself. The gentleman from New York was the very man who prevented the reasons of the President from going forth to the country at that time. And upon what ground? What was the pretext for his objection? It was that there was no quorum present. He would not

even allow the message to be read, because there was not a sufficient number of members present to act then upon the bill.

Now, sir, the President knew as well as the gentleman from New York, that the question must again be presented to the House upon the passage of the bill, after he had vetoed it and sent it back, and that the House could still pass it in spite of his objections, if a vote of two-thirds could be obtained in its favor. But the President returned the bill immediately, not having had time to prepare, in full detail, his objections to the bill, so that the majority here, might, before the adjournment of the session, vote upon the question "shall the bill pass, notwithstanding the objections of the President." The gentleman from New York and his friends, were resolved that the bill should pass, or defeat every other appropriation bill, and the President gratified the gentleman, and in time to take the second vote before four o'clock that afternoon. For mark you, the House, in extending the time for adjournment, had provided expressly in the resolution that no legislative business, of any description whatever, should be transacted after four o'clock on Friday. Now, suppose, as the gentleman from New York suggests, the President had delayed sending in his message until Monday morning, and, in the mean time, had prepared his reasons, at length, for withholding his signature, what would have been the result? No action could have been taken upon the bill until the present session, and would not the charge have been made then, by the gentleman from New York, that he had purposely kept back the bill, with his veto, for the purpose of defeating the action of the House upon it at the last session? The gentleman is hard to satisfy. He complains that the President did not furnish adequate reasons for the veto, and yet, when he objected to the reading of the veto message, he could not possibly have known its contents, and whether the reasons were satisfactory or not. Whether good or bad, he alone is responsible for their not being published.

And let me, in this connection, say to my friend over the way, [Mr. HAVEN,] that I repeat what I said at the time this veto message was received, that there has never yet been an unpopular veto in this country. There has never been a veto sent into this House, or into the Senate, by any President, upon any great question, when the question has gone before the people of the country, that they have not decided, upon the sober second thought, that the President was right, and ought to be sustained. Sir, the mistake which the State and Federal Governments in this country has fallen into, has been too much legislation; that people are best governed who are least governed. Any President who, acting upon his moral responsibility, according to the dictates of his conscience, has had the manly courage to step in and veto legislation which he believes to be wrong, has always commanded the respect of the people of the country. Such has always been the fact, and it will always be so. It is right that it should be so. The people never fail to rally to the standard of a leader who courageously interposes to check and defeat assumptions of power in any of the departments of Government. When has the country suffered detriment, or the citizen deprived of his just rights by the exercise of the veto power?

But the gentleman from Maine told the House that there had been but a single precedent in which a President, after a measure had been voted upon a second time, had sent in his reasons for withholding his signature—I believe he refers to a case happening during the administration of Mr. Monroe—and he remarks, that it is a custom more honored in the breach than in the observance. And yet, in the next breath, he complains of the President, because he has not given to the House his reasons for vetoing the bill. Sir, the question was very pertinently put by the gentleman from Virginia, [Mr. BOCOCK;] why does he want to know the reasons of the President? Does he expect those reasons will change his views?

Mr. WASHBURN, of Maine. I would like to have received the reasons of the President before the veto message was acted upon; and I would like to hear them now, so that the friends of rivers and harbors may be enabled to avoid the requirement of a two thirds vote—that we may know just what kind of a bill to pass to obtain for it his approbation.

Mr. ORR. Then the ground upon which the gentleman from Maine predicates his opinions is entirely erroneous. If he believes the bill which he voted for, and which his friends voted for, and carried through the House, was right; if he believes there was nothing unconstitutional in it, then, according to his opinion, the President has outraged the public sentiment of the country in vetoing it. It is his duty, and the duty of his friends, to prepare another bill exactly of that discription, to pass it, and send it to the President, and give him another opportunity to send in another veto.

Mr. WASHBURN. I think the gentleman, as a practical man, would not adopt the course he suggests. If there are one hundred, or one hundred and twenty items which I believe ought to be included in such bill, and I had reason to believe that the President would approve of one hundred of them, but not of the others, should I not, as a practical man, include in the bill such as would meet his approval, when I knew that if all were included the whole bill would be defeated?

Mr. ORR. I will say to the gentleman from Maine that where constitutional issues and opinions are involved, the question of practicability cannot arise.

Mr. WASHBURN. It does not follow that the question of constitutionality must arise. If the President is willing to approve one hundred of the items, should I not, as a practical man, secure them, and let the other ten go, although I believed them all to be constitutional?

Mr. ORR. Then the ground which the gentleman from Maine assumes is, in fact, this: suppose the House and the Senate, acting as a legislative body, pass a bill which they believe to be proper, and which they believe to be constitutional; they send it to the President, and he vetoes it; would the gentleman from Maine have Congress assert its independence, and adhere to the principle it had promulgated? Not at all. He is for bowing, as the gentleman from Ohio [Mr. CAMPBELL] says, to Executive dictation, and for framing and passing such a bill as the President would sign. What sort of morality would that be in politics? Is that the measure of his devotion to principle and right?

When you believe your principles are correct, but you are foiled in carrying them into effect by an Executive veto, are you to turn round and crouch before the power that thwarts you? Are you to bow silently and humbly to Executive dictation, merely for the sake of securing a little appropriation for the improvement of your river or harbor? No, sir, if the gentleman from Maine believes that the President is wrong, and if he believes that public opinion in the country does not justify the President in his veto, it is his duty to assert his rights, and those of the country, and not to bow to the dictates of the President.

But, sir, I suspect strongly that the gentleman from Ohio, over the way, [Mr. CAMPBELL,] who is an old tactician, and who understands party politics and party tactics, perhaps, better than any man in the House, and the gentleman from New York, [Mr. HAVEN,] who, I think, I should certainly be doing no more than justice, to say is a very adroit tactician, do not want these reasons at all, and that they now bring the matter before the country for the purpose of making political capital out of it. They do not want the reasons of the President. That is the very last thing they want. But I will say to the gentlemen that I will venture the prediction, that they will get the reasons of the President, and that this long protracted gestation, which the gentleman from New York speaks of, will result in sending forth a full-grown Hercules that will batter down all the feeble arguments which have been made upon this subject in favor of the constitutionality and expediency of the bill which was passed last session.

Now, I suppose that if I were to itemize this bill—go over, item after item, and require the gentleman from Maine [Mr. WASHBURN] to say whether each item was, in his opinion, constitutional or not, his test of constitutionality would be nationality; if it were national, it would be constitutional. Well, sir, if that be the test of the gentleman from Maine—and it certainly would be a very loose way of reading the Constitution—I think that there are a dozen different appropriations in that bill which no man would have the immodesty to declare were national in any point of view whatever; they are as local as locality itself.

Let me say to the gentleman from Ohio, [Mr. CAMPBELL,] in conclusion, that he need not alarm himself about the reasons of the President. I was one of those who voted for the previous question a few days since, in order that the river and harbor bill might be disposed of at once, and I did so because I knew that nothing could come of it legislatively. The bill passed by only fifteen majority, and there was no possibility of there being two thirds in favor of it now. I think gentlemen have had sufficient evidence of the firmness and independence of the President to believe that if they send him another such bill, he will veto it also. In due time they will get the reasons of the President, and if those reasons fail to satisfy the gentleman from Ohio and the gentleman from Maine, they will, I feel assured, satisfy the good people of this country, and, when they are satisfied, no one else will have cause to complain.

Messrs. HAVEN and LETCHER rose simultaneously, and both claimed the floor.

The SPEAKER. The gentleman from New York having had the floor once upon this question, the gentleman from Virginia is entitled to it.

Mr. HAVEN. I appeal to my friend from Virginia, to let me say a few words in reply to his colleague, [Mr. BAYLY,] and the gentleman from South Carolina, [Mr. ORR.]

Mr. LETCHER. I will give the gentleman the opportunity he desires.

Mr. GREENWOOD. Will the gentleman from Virginia yield me the floor for a few moments, in order that I may reply to the remarks of the gentleman from Maine?

Mr. LETCHER. I am going to do that myself by-and-by, if I can get a chance. [Laughter.]

Mr. GREENWOOD. I merely want to make an explanation—nothing more.

Mr. LETCHER. Well, let the gentleman from New York go on now, and perhaps I will give you a chance afterwards.

Mr. HAVEN. If the floor is in my possession through the kindness and liberality of the gentleman from Virginia, I desire the attention of the House for a few moments.

I did not, nor do I now, intend or design to argue the question of the expediency or constitutionality of these river and harbor improvements. I may, and very likely shall, desire to do that at some future time. I know my friend from South Carolina does not expect it from me now, for I notice that he does not include me in the catalogue of those who might possibly be demolished by the "full-grown Hercules" he foretells us—perhaps, having better means of prophecy than the rest of us—by some extraordinary operation of midwifery, is to be born unto this House, within a short time. [Laughter.]

I rise more for the purpose of putting myself right with the gentleman from Virginia, [Mr. BAYLY,] because if there are any two gentlemen in this House whose esteem and the approval of whose judgments I particularly desire more than that of others, they are my friends from South Carolina and Virginia.

Now, in reference to the gentleman from Virginia. He first complained of me because I made the suggestion that this House had better send instructions, by some manly action, above-board, and in the face of the country, to its Committee on Commerce to report separate bills, and then he turned round and pronounced a eulogy upon the course of an eminent statesman of my own State—Silas Wright—because he had recommended a similar course. I wish he would state to me logically, if not constitutionally, how I can be wrong in this, if Mr. Wright was correct when he recommended the same thing. But, my friend goes further. Although he says that he thinks the appropriations for these works ought not to come in in connection, all in one bill, yet he is unwilling that they shall come in in separate bills, because, he says, such separate bills would be gregarious, they would be social in their habits and character, and he is fearful, to use his own expression, they would graze upon his pasture, or browse upon his lands. Now, I would like to ask the gentleman where he leaves himself by that argument? He would not have them come together, because unitedly they have a strength that they would not have separately; he dare not have them come separately, because in their habits

they are gregarious, and they would be sure to pasture upon premises that he wishes to preserve sacred from their encroachments. How, then, shall they come? How far shall they be separated? Shall we have one bill a session, or one a month, or one a fortnight? or shall we fritter away our strength by talking about the propriety of bringing them in separately, or including all the appropriations in one bill, until we get no bill at all? I fear the gentleman's desires lead him in the precise track f his logic, and both fetch him up in favor of the last proposition—that of no bill at all.

Mr. JONES, of Tennessee, (*sotto voce.*) Separate them, and bring in only one bill a session, and then there can be no log-rolling. [A laugh.]

Mr. HAVEN. My friend from Virginia says that he likes the veto message that was prepared for General Washington, because it was a statesmanlike paper, and merely said: "I object to this bill for such a reason; I object to it for such another reason," and did not undertake to argue the question, or set up his judgment on questions of expediency, as above that of the representatives, fresh from the States and their constituency. Sir, that is all I desire from the President of the United States now, and I hope that when the message—which I am now sure will come, because I know that when my friend from South Carolina prophesies he has seen behind the veil—[laughter]—I hope that when that message does come, it will be that kind of message which shall be exactly square with the statesmanlike opinion of the gentleman from Virginia; I hope that instead of running off into irrelevant matters, and overlaying the subject with words of equivocal meaning, the President will just give us his objections to the bill, so that we and the country can understand them.

Mr. BAYLY, of Virginia, (interrupting.) The gentleman from New York, I know unintentionally, rather puts me in a false attitude before the country. There are two clauses of the Constitution authorizing the President to communicate with this House. One is that clause which authorizes him to send back a bill with his objections, and I think that the veto prepared by Mr. Madison for General Washington is a model for *that* description of message. But there is another clause requiring the President to communicate to Congress, from time to time, in respect to public questions, and this case comes under that category. The message will come. The gentleman need give himself no concern upon that score. Although I am not behind the scenes—thank God! I never was behind the scenes anywhere—I know that message will come, and that it will not be a veto message at all, because when there is a veto message, the Constitution requires us immediately to consider the bill, and there will be no bill with it.

Mr. HAVEN. I am obliged to my friend from Virginia for drawing the nice distinction between the two modes in which the Executive can communicate with this House. They are also very clearly stated in the Constitution. It is true, I suppose, that the communication which we now know is to come—for we have it now from a gentleman who has been behind the veil, as well as from one who says he has never been there—it is true that that message cannot be, in terms, a veto message. Its anatomical construction—to carry out the figure of the gentleman from Virginia, when he spoke of grazing on his pasture—must be of another class. It must, therefore, be that kind of communication which comes from the Executive, not, perhaps, technically speaking—in the language of the gentleman from Virginia—communicating his views, but which he is authorized to make to Congress, from time to time, "giving information on the state of the Union." That is the language of the Constitution, I believe. I am glad to know that we have a place assigned, beforehand, for this message, which has been, hitherto, of doubtful birth, but cannot hereafter give any trouble as to the species to which it belongs.

I have no desire to attack the message now, and I have no reason to suppose that I shall have a particular desire to do so when it comes. But to proceed. The gentleman from Virginia, not because he has any desire to place me in an inconsistent position here, but for the purpose, perhaps, of covering up the steps which are made upon the other side, informs the House and the country that he deems it singular I should object to this course by the Executive, because he says, when the fugitive slave law was passed, the then Executive of the Union took the opinion of his Attorney General upon the constitutionality of its provisions, and placed it upon the files of the Department of State. Why, my friend mistakes me altogether, if he understands that I object to any message from the President on this subject. I have been asking for the reasons and for the objections of the President, and I have tried to contrive some mode to get them. I do not desire to complain, for I have been very well treated, personally, by the Executive, and what exertions I have made in this matter have been made to get at the reasons of the President, and not for the purpose of having them withheld. His reasons are all I am after now.

If the President had taken the opinion of his Attorney General in this particular case, and put that opinion upon file, it certainly would be quite as instructive to the country and to future generations, and much more serviceable to the House than it would be to allow his reasons for that veto to be locked up in his own breast, and leave the business interests of the country to wither and perish in an entire uncertainty as to what they might depend upon by the Government in the future.

One might infer from the suggestions of my friend from Virginia that the Executive has been constantly laboring, in some way or other, to get an opportunity to lay before us his reasons for the veto, and he assures us, substantially, that the President intends to give them yet, but there seems a struggle to prevent him. Why, sir, the very burden of the complaint so far, by those in favor of these public works, has been, why does he not give us his reasons—let us have his reasons and objections, and see if we cannot, by some proper mode, obviate them.

A word in reference to the complaint made against me by the gentleman from South Carolina for what took place last August, when the veto message was sent in and laid upon the table. The President, it is true, did send in that message about two o'clock, I think, on Friday, the 4th of August, although Congress did not adjourn till the 7th; and the gentleman asks why it was not read? And he answers by saying—referring to me—that the gentleman from New York was the man that interposed an objection to its being read. That is true, sir; and I would have no objection to the gentleman's reference to that matter if he had only disclosed the residue of what took place. I recollect, upon that occasion, that the same gentleman from New York declared to the House that he had no objection to the reading of the message without having a quorum present, provided that he could be allowed to express his views in regard to it before the final adjournment, so that they might go before the country at the same time with the message. But my friend chose rather to let the poison remain in that condition, and without action, than to allow it to go to the country with any attempted or proper antidote. Suppose the President had not sent in his message until Monday, would there have been any impropriety in such a course? Why not have sent it in then, with the other bills which he sent? Why not consider it until that time? Why not take Friday, and Saturday, and a portion of Monday to consult his Attorney General, like former Presidents, and see if, at that time at least, he could not present to us and the country his objections to the bill, and have then made a closed business of it, as the Constitution contemplated he should. The reasons—if they may be called such which he did send—were vague, shadowy, and quite indefinite. Let me read from the Journal an extract or two, showing them.

"The prominent point of difference between those who have been regarded as the friends of a system of internal improvements by the General Government and those adverse to such a system, has been one of constitutional power, though more or less connected with considerations of expediency. My own judgment, it is well known, has, on both grounds, been opposed to a 'general system of internal improvements' by the Federal Government, as well as from past unsatisfactory experience to render its use advantageous either to the country at large, or effectual for the object contemplated."

It will be noticed that the President's objection is to a "*general system* of internal improvements by the Federal Government." He is, therefore, either opposed to them altogether in whatever shape they may come, or else he is in favor of a *partial* system. There is but one other alternative, and that is to favor them without any system at all. It may be he will choose the latter mode.

He says further:

"I shall consider it incumbent on me to present to the present Congress, at its next Congress, a matured view of the whole subject, and to endeavor to define approximately, at least, and according to my own convictions, what appropriations of this nature by the General Government the great interests of the United States require, the Constitution will admit and sanction, in case no substitute should be devised capable of reconciling the differences both of constitutionality and expediency.

"In the absence of the requisite means and time for duly considering the whole subject at present, and discussing such possible substitute, it becomes necessary to return the bill to the House of Representatives, in which it originated, and for reasons thus briefly submitted to the consideration of Congress, to withhold from it my approval."

That is what the President told us he would endeavor to give us. One third of this session has gone by, and we have not yet had these reasons. I do not now desire, and I believe I have never manifested any desire, to find fault with the President in reference to this matter, but I do desire, since one third of the session has already expired, that the House should take some action, at least, to remind his Excellency that we are waiting for those reasons, so far, at least, as to enable us to conform our legislation to his views, to the extent that we can do it with proper self-respect, and without abandoning our duty to the country at large, or giving up what we regard as the true letter and spirit of the Constitution. We want to know, we desire the *country* to know his reasons for refusing relief to some of the interests of the country that are now perishing for the want of attention and aid on the part of the Federal Government, whilst millions can be constitutionally expended to buy up trackless deserts, and foreign territory.

Mr. McMULLIN. I dislike exceedingly to interrupt the gentleman from New York, but I rise to a question of order. I understood that my colleague had the floor assigned to him, and I desire to know if he had the right to assign it to the gentleman from New York?

Mr. LETCHER. I did assign it by the general consent of the House, as I supposed. That was my reason for doing it.

Mr. McMULLIN. I think it was about time to get through with this debate. I am getting tired of it.

Mr. HUNT. Gentlemen upon the other side of the House have been heard upon this question; and I think justice should be done to gentlemen upon this side of the House also.

Mr. HAVEN. I regret that my friend from Virginia, [Mr. McMULLIN,] furthest from me, is so fatigued by this debate; but I hope that during the three days before we meet again, he will recuperate his energies, so that he can go on with the legislation of the country with all the vigor and patience which usually characterize him in this House. The rest of the House all seem to endure it very well.

I desire to say, while I am on the floor, that I have seen in print suggestions that have been thrown out, at the other end of the Capitol, which looked to separate bills for appropriations in separate sections of the country, each bill containing all the appropriations for a given section. I want to caution gentlemen against getting up these sectional bills. Other plans have been proposed of having the States most immediately interested in these works combine, and by compact provide for a mode of constructing them. Against all projects for States getting together and combining their means and influence for such works, I desire to warn gentlemen who love this Union at heart. There is nothing more unsafe for the stability and permanence of the Union, than to induce different sections or localities of this country to enter into separate measures for the purpose of taking care of their own interests, for the avowed reason that the Union, as a whole, is unfavorable to the interests of their section. Plans for their own relief, under such circumstances, are never discussed without engendering bad feelings against other sections, which refuse them coöperation and aid, and which have no sympathy with their general wants.

The SPEAKER. The Chair did not understand, whether or not the gentleman from Virginia [Mr. LETCHER] insisted upon an enforcement of

the rule. It is by the courtesy and consent of the House alone, that the Chair indulges this course of remark.

Mr. LETCHER. I yielded the floor to the gentleman from New York, to make the explanation he desired, and I am quite willing he should proceed.

Mr. HAVEN. I have had no desire to make any extended remarks upon this subject since I took the floor last, but only to answer some of the remarks that have been made by gentlemen upon the other side of the House.

I think we had better avoid, as far as we can, all appearance of sectional bills for sectional improvements; and I think that we had better turn our attention to legislating for the entire country, fairly and impartially, without reference to any thing but its wants. I shall vote as cheerfully, as liberally, and as freely for the great rivers of the South and West, and for the States and Territories on the Pacific, as I shall for the great lakes of the North and Northwest, and the Atlantic coast.

Now, sir, although the House seems to be quite satisfied that this debate shall go on, yet I had no intention, when I took the floor at first, to spring this matter upon the House; and, from a desire I have to stand well with my friend from Virginia furthest from me, [Mr. McMULLIN,] and to relieve him from any further fatigue in listening, I submit the subject where it is, and surrender the floor.

Mr. LETCHER. Mr. Speaker——

The SPEAKER. The Chair begs leave to remark that, as the bill makes an appropriation of money, under the rule of the House, it must be considered and discussed first in the Committee of the Whole on the state of the Union. The debate, therefore, is out of order, the whole of it, from the beginning to the end, unless by——

Mr. LETCHER. It will not hurt me a great deal, Mr. Speaker.

The SPEAKER. The Chair was about to remark that the debate was in order by unanimous consent, and that he had indulged and heard gentlemen with pleasure, and would not intimate that he intended to interfere at all with the gentleman from Virginia.

Mr. LETCHER. I wanted to say a word or two only.

The SPEAKER. The Chair does not desire to interfere at all.

Mr. LETCHER. It seems to me that this is "much ado about nothing." We have wasted a good deal of time in this discussion, and yet my friend from New York [Mr. HAVEN] does not seem to be exactly for the operation which he has set on foot. His object is to have this appropriation made, as I understand from his speech.

My friend from Ohio, [Mr. CAMPBELL,] belonging to the same party, also wants the appropriation made. The gentleman from Maine [Mr. WASHBURN] is in the same category. But yet, when they come to express their views upon the subject, each of them has a different plan. Now, it occurs to me that the best way to get along is for the gentleman to recommend to the Whig side of the House to meet together, fix upon some plan, and to come here with that. Then we shall see, on the other hand, what we have got to fight.

In the next place, the Cape Fear river appropriation is a matter of no great concern, anyhow. If the President were to write reasons from this until the middle of next month, he never could satisfy me that the appropriation was right. [Laughter.] And I take it, on the other hand, that if the President of the United States were to write any number of reasons in favor of his course upon this river and harbor bill, he never would satisfy the gentleman from Maine [Mr. WASHBURN] that he was right. It is a useless sort of business.

If the message comes to this House, the President will have an opportunity to put his reasons on record, and to give them to the country. They may have an influence upon the people outside of the House, but so far as the House itself is concerned, there will not be one vote affected by it one way or the other. He never can convince the Whigs on this side of the House, that these improvements are not right, and he certainly never can convince the Old Line Democrats from Virginia, that they are right. [Laughter.]

Mr. CAMPBELL. As many Democrats voted for the bill as Whigs.

Mr. LETCHER. But they were Democrats corrupted by bad associations. [Laughter.] As far as we of Virginia are concerned, we were upon the true Democratic platform, and those Democrats from the North who voted for the bill, or many of them, I fear, were influenced by the gentleman from Ohio, [Mr. CAMPBELL.] He was hard at work in the matter, and did his very best to secure the passage of the bill.

Well, it was passed, and the President killed it; and I had hoped gentlemen would have let the thing sleep quietly in its grave. If they want another bill, let them fix up one and bring it in here. Let them put the matter into one, two, three, or four bills, or put it altogether, and try the President over again, and see if he will sign it. If he will not sign it, but sends it back here, see if you can get two thirds to overrule his objections.

The SPEAKER. The pending question is a motion to refer the bill to the Committee on Commerce.

Mr. GREENWOOD. Before that question is put, I desire to submit a remark or two, in answer to a remark made by the gentleman from Maine, [Mr. WASHBURN,] in regard to the appropriation heretofore made for the removal of the Red river raft. I understood the gentleman to refer to the bill of last session, containing that matter, as one to which the President had given his sanction, and as referring to it by way of showing inconsistency on the part of the President. I understood him to say, also, that by some maneuvering or other, that bill had passed this House. So far as I have had anything to do with this bill, I can say to the gentleman that he is entirely mistaken. The bill was passed upon the recommendation of a committee of conference, and if the gentleman did not take the trouble to ascertain what that report was, and to examine it, he can lay the blame only upon himself.

It will be recollected that some two or three sessions ago an appropriation of $100,000 was made for the purpose of removing the Red river raft, with certain restrictions, however. When the general river and harbor bill of last session came up in the House for consideration, the gentleman from Louisiana, [Mr. JONES,] I believe, introduced an amendment, the object of which was to remove the restriction thrown around the appropriation, in order that it might be made available. It was ascertained, in the mean time, that that gentleman was opposed to this general river and harbor bill, and an effort was about being made to defeat his amendment. I appealed to the gentleman from New York, who was urging his objections to it, to withdraw them. He did so, at my request, I remarking at the same time, that I was a friend to the rivers and harbors, as I was. That bill the delegation from Arkansas unanimously voted for. I gave it my sanction, and I did so, also, upon the ground that it was a bill to carry out improvements already commenced.

But, to recur to the history of this Red river raft, of which I was speaking. The President vetoed the bill, and this same amendment, introduced by the gentleman from Louisiana, was appended to a Senate bill, which afterwards came down to this House. The House refused to concur in the Senate's amendment, and the consequence was that a committee of conference was appointed. The matter was duly submitted to that committee. They considered the matter of difference, and made a report to the House of the conclusion to which they had arrived. That report was adopted.

Now, the gentleman from Maine says that the bill came to this House, and was carried through, without the members understanding it. I can only say, it was his own fault if he did not understand it.

Mr. WASHBURN. I would like to inquire of the gentleman if the amendment was ever read in the House?

Mr. GREENWOOD. I think it was.

Mr. HOUSTON. That amendment, with others, was discussed in the Committee of the Whole on the state of the Union.

Mr. GREENWOOD. One of the Senators from the State of Arkansas, [Mr. JOHNSON, I believe it was,] placed the amendment upon a House bill, and it was sent here for our concurrence. We refused to concur. The committees of conference, to whom this matter was committed, made their report to both the House and Senate, and that report was concurred in by both Houses.

I would further say, that bill was not of such a character, that the gentleman could refer to it for the purpose of showing the President had acted inconsistently, and upon a principle different from that which governed his action on the river and harbor bill. His approving it does not show any inconsistency, because the appropriation itself was made some two or three years ago, and the bill only removed the restriction which was thrown around the expenditure, and was designed merely to make the former appropriation available. That was the only object of the amendment, and all it proposed.

Mr. HAMILTON. I move that the House do now adjourn.

Mr. MAY. I ask my colleague to withdraw that for a moment.

Mr. HAMILTON. I will.

THE MINNESOTA AND NORTHWESTERN RAILROAD.

Mr. MAY. I desire to submit a resolution. The House will see the importance of it. It is in the nature of a question of privilege.

The resolution was read, as follows:

Resolved, That the President of the United States be requested to communicate to this House any information possessed by him regarding a suit instituted in the Territory of Minnesota, by, or in the name of, the United States, against the Minnesota and Northwestern Railroad Company.

The resolution was agreed to.

Mr. JONES, of Tennessee, I wish to inquire if the bill introduced by the gentleman from Michigan, upon which this discussion has risen, has been referred?

The SPEAKER. It has not.

The bill was then referred to the Committee on Commerce.

Mr. HAMILTON. I move that the House do now adjourn.

Mr. WHITFIELD. I ask the gentleman to withdraw the motion, to enable me to introduce two or three bills, and have them referred to standing committees. I will remark, that none of them are railroad bills. [Laughter.]

Mr. HAMILTON. I will withdraw the motion.

KANSAS—BILLS INTRODUCED.

Mr. WHITFIELD then, by unanimous consent, introduced sundry bills; which were read a first and second time by their titles, and referred to the appropriate standing committees. The titles are as follows:

A bill to provide for the erection of public buildings in the Territory of Kansas. Referred to the Committee on Territories.

A bill to provide for the construction of roads and bridges, and for the improvement of rivers in the Territory of Kansas; and to provide for a geological survey of said Territory. Referred to the Committee on Military Affairs.

A bill to exempt certain town sites in the Territory of Kansas from sale and preëmption. Referred to the Committee on Public Lands.

A bill to establish certain post roads in the Territory of Kansas. Referred to the Committee on the Post Office and Post Roads.

Mr. HAMILTON. I now renew the motion that the House adjourn.

The motion was agreed to; and

Thereupon, at ten minutes past three o'clock, the House adjourned until Saturday next at twelve o'clock, m.

IN SENATE.

FRIDAY, *December* 29, 1854.

Prayer by Rev. HENRY SLICER.

The Journal of Wednesday was read and approved.

APPROPRIATION BILLS.

A message was received from the House of Representatives, by Mr. McKEAN, Clerk, announcing that they had passed bills of the following titles:

Bill making appropriations for the support of the Army for the year ending the 30th of June, 1856.

Bill making appropriations for the service of the Post Office Department for the year ending the 30th of June, 1856.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. TUESDAY, JANUARY 2, 1855. NEW SERIES.....No. 10.

These bills were read a first and second time, and referred to the Committee on Finance.

Mr. CASS, before the Army bill was referred, said: I desire to state that I observe it contains an appropriation for the Capitol extension, and I want to say to the chairman of the committee to whom it is referred, that I should be very glad to know what is the prospect, under the plan which is being carried out, for the ventilation of, and hearing in, the part of the extension which is to be occupied by the Senate. I rise merely to give notice to the chairman that, when the subject comes up, I shall ask him what the prospect is in those respects. I trust that we shall not fall into the same error which was committed in the construction of the new Parliament buildings in England, so as to subject us to the same sacrifice of money.

ENROLLED BILL SIGNED.

The message from the House also announced that the Speaker had signed a bill to provide for the contingent expenses of the Territory of Nebraska; which was then signed by the President *pro tempore*.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting, in compliance with a resolution of the Senate, of the 20th instant, a report, made by Henry R. Schoolcraft, to the Commissioner of Indian Affairs, on the state of Indian statistics; which was referred to the Committee on Indian Affairs, and ordered to be printed.

PETITIONS, ETC.

Mr. COOPER presented a memorial of the officers of the American Philosophical Society of Philadelphia, praying for the outfit and employment of adequate vessels for the relief of the American expedition in search of Sir John Franklin, under the command of Dr. Kane, and which is now detained in the Arctic seas; which was referred to the Committee on Naval Affairs.

Also, a memorial from the professors and students of Jefferson Medical College, in Philadelphia, signed by all the officers, and by students from various States of the Union, praying for the outfit and employment of vessels to proceed to the Arctic seas for the relief or rescue of Dr. Kane, in command of the American expedition in search of Sir John Franklin; which was referred to the Committee on Naval Affairs.

Also, the petition of Ann W. Butler, administratrix of Richard Butler, praying the payment of a balance standing to his credit on the books of the Treasury, with interest; which was referred to the Committee on Revolutionary Claims.

Mr. ADAMS presented the petition of Oscar W. Turk, praying payment for services rendered as clerk in the office of the Fourth Auditor of the Treasury in 1853; which was referred to the Committee on Claims.

Mr. FISH presented an additional document in relation to the claim of Catharine Clark, to a pension; which was referred to the Committee on Pensions.

Also, the petition of Howard & Co., of Buffalo, New York, remonstrating against the renewal of the patents granted to Cyrus H. McCormick and Obed Hussey, for improvements in reaping machines; which was referred to the Committee on Patents and the Patent Office.

PAPERS WITHDRAWN.

On motion by Mr. BELL, it was

Ordered, That Dr. Johnston Lykins have leave to withdraw his petition and papers, for presentation to the Department of the Interior.

JUDICIAL AND CONGRESSIONAL COMPENSATION.

Mr. BADGER. I wish to give notice that I shall, on Tuesday next, ask the Senate to take up and dispose of the bill which I submitted early in the session, increasing the compensation of the Judges of the Supreme Court and of the members of the two Houses of Congress.

PASSENGER VESSEL PENALTIES.

Mr. FISH. I ask the unanimous consent of the Senate to introduce a bill of which I have not had an opportunity previously to give notice. It is a bill to remit certain penalties in favor of passenger vessels.

Unanimous consent was given, and the bill was introduced, and read twice by its title.

Mr. FISH. If there be no objection, I should like to have the bill put on its passage now, as there is some necessity for speedy action on it. It has been submitted to the Treasury Department, and meets the approbation of the Secretary. The necessity arises from the fact that the present Secretary of the Treasury has put a construction upon the acts of 1847 and 1848, relating to these vessels, different from that which Mr. Walker, when in the Department, had made. Mr. Walker advised the parties owning these vessels that they were entitled to bring passengers on two different decks; but the present Secretary construes the law as not allowing that; and I am inclined to think his construction is the correct one. Vessels, however, have been engaged for the last seven or eight years in bringing passengers on two decks. There are many vessels now on their way from Europe to this country, in which are passengers thus placed, acting under the construction given by Mr. Walker. They have not had time to conform to the new construction of the law.

The bill provides for the remittance of the penalties on vessels which shall have sailed before the first of March next. The penalties would be remitted by the Department, in all probability, as soon as they arrived; but they are liable to seizure and attachment, at very heavy cost. The object of the bill is to relieve them. The Treasury Department agrees to it. The bill has been submitted to the Secretary of the Treasury; and an amendment, proposed by him, has been embodied in it.

The PRESIDENT. It requires unanimous consent to consider the bill now. The Chair hears no objection. The bill is before the Senate as in Committee of the Whole.

Mr. NORRIS. I do not understand the proposition of the Senator from New York. I understand that it is to remit certain penalties for the violation of a law. My own opinion is, that a bill of that kind ought not to pass here without investigation.

Mr. FISH. If the Senator will hear the bill read perhaps he will not object.

The bill was read. Its object is to provide that none of the penalties imposed by the first section of the act to regulate the carriage of passengers in merchant vessels, of the 27th of February, 1847, shall be enforced against any vessel which shall have sailed since the first of December, 1854, or which may sail prior to the first of March, 1855, for any port in the United States from any port or place in Europe, by reason of any such vessel having carried passengers on another deck between the lower and the uppermost or spar deck, as well as the lower deck, with the proviso, however, that the space required by that act for each passenger on the lower deck shall have been allowed to each passenger on that upper deck; and also, that all pains, penalties, and forfeitures which have been, or would have been, incurred by any vessel sailing between the periods mentioned by reason of carrying passengers on the upper deck, shall be remitted if the space required by the act of 1847 for passengers on the lower deck shall have been allowed to passengers on the upper deck. The remission, however, is not to be construed to extend to any other violation of the act of 1847, or of any other act of Congress, than that of carrying passengers on the deck between the lower and uppermost or spar deck; nor to any vessel sailing after the first of March, 1855.

Mr. FISH. If the honorable Senator from New Hampshire still objects, I will explain that the necessity for this bill arises from the fact——

Mr. NORRIS. I suppose, if I object to the consideration of the bill now, that is sufficient, and I do object to its passage—it not having been referred to any committee, and no report, as I understand, having been made upon it.

Mr. FISH. The Senator has the power to object.

The PRESIDENT. Does the Senator wish to refer the bill?

Mr. FISH. No, sir. Let it lie on the table, and I shall call it up on Tuesday.

Mr. NORRIS. I move its reference. I think it ought to be referred, and deliberately considered.

Mr. FISH. I move that it lie upon the table.

Mr. NORRIS. I wish to refer it to the Committee on the Judiciary.

Mr. FISH's motion was agreed to.

BETSEY WHIPPLE.

The bill for the relief of Betsey Whipple was read a second time, and, on motion by Mr. WADE, the Senate, as in Committee of the Whole, proceeded to its consideration.

Its object is to direct the Secretary of the Interior to place the name of Betsey Whipple, widow of Stephen Whipple, late a pensioner of the United States, on the roll of pensioners at the rate of ninety-six dollars per annum, from June 28th, 1853, during her widowhood.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read a third time, and passed.

Mr. BADGER. In accordance with the understanding, which was announced and distinctly understood by the Senate, at our last sitting, I now move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned until Tuesday next.

HOUSE OF REPRESENTATIVES.

SATURDAY, *December* 30, 1854.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of Wednesday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a communication from the Treasury Department, transmitting a report from the general disbursing agent of the Coast Survey, Samuel Hein, Esq., forwarded by the Superintendent, showing the names and number of persons employed during the last fiscal year, upon the Coast Survey and business connected therewith, the amount of compensation received by them, the nature of their employment, and the length of time during which they were employed, with a statement of all expenditures made under the direction of the Superintendent of the Coast Survey; which was laid upon the table, and ordered to be printed.

Also, a communication from the Department of the Interior, transmitting, in obedience to a resolution of the House of Representatives, a report made by Dr. Charles H. Nichols, the Superintendent of the Insane Asylum, in the District of Columbia, accompanied by a bill for the organization of the institution as a hospital for the insane of the Army and Navy, and of the District of Columbia, and a copy of the propositions of the Association of Medical Superintendents of American Institutions for the organization of institutions for the insane, together with suggestions made by Dr. Thomas Miller, a resident physician of this city, and stating that some legislation for the organization of the institution was indispensably necessary.

Mr. HAMILTON. I move that the communication be referred to the Committee for the District of Columbia.

Mr. PHELPS. I think it should go to the Committee on Military Affairs. I believe it relates to a military hospital.

Mr. HAMILTON. It is, also, for the insane of the District of Columbia. It appears in answer to a resolution reported by the Committee for the District of Columbia, and, I think, it should go to that committee.

The communication was referred to the Committee for the District of Columbia.

ADJOURNMENT OVER.

Mr. HAVEN. I rise to a privileged motion; and I do it now because I fear that, in the disposition of these communications, some question may arise which may cause a division of the House, and we shall be found without a quorum. I move that when this House adjourns, it adjourn to meet on Tuesday next.

The motion was agreed to.

BETSEY WHIPPLE.

A message was received from the Senate, informing the House that that body had passed a bill for the relief of Betsey Whipple, in which they asked the concurrence of the House.

HOUSE CONTINGENT FUND.

The SPEAKER laid before the House a communication from the Clerk of the House, transmitting his annual statement in reference to the contingent fund of the House.

CLERK TO A COMMITTEE.

Mr. HENDRICKS. I ask the unanimous consent of the House to introduce a resolution authorizing the Committee on Invalid Pensions to employ a clerk for twenty days. I will state to the House that, at the commencement of the session, a larger amount of business was found upon our hands than we expected. Some of the members of that committee are unable to attend to its duties because of ill-health; others because they find they have private business of their own that demands all their time and energies; so that the whole labor of examining cases is devolved upon a few members. We ask that we may have a clerk for twenty days.

There being no objection, the resolution was received, and, by unanimous consent, considered, and agreed to; as follows:

Resolved, That the Committee on Invalid Pensions be authorized to employ a clerk for twenty days at four dollars per diem.

WILLIAM H. RUSSELL.

Mr. READY, by unanimous consent, presented the petition of William H. Russell, late collector for the district of Monterey, California, praying compensation for his services and for expenditures incurred by him while in office; which was referred to the Committee of Claims.

INDUSTRIAL EXPOSITION AT PARIS.

Mr. WASHBURN, of Maine. I ask the unanimous consent of the House to allow me to introduce a resolution for the purpose of having it referred to the Committee on Foreign Affairs. The resolution is in these words:

Resolved, That the Secretary of the Navy, if, in his judgment, not inconsistent with the requirements of the naval service, be, and is hereby, directed to provide for the conveyance, to some convenient port in France, in one of our national ships, upon such terms and under such regulations as he may prescribe, such works of art, and such articles, the product of the industry and skill of the people of this country, as they may desire to send forward for exhibition at the World's Fair or Exposition, to be held in Paris in 1855.

Mr. HAMILTON. I object.

BILLS REPORTED.

Mr. HENN, from the Committee of Claims, by unanimous consent, reported back a bill for the relief of Henry H. Marsh; which was referred to a Committee of the Whole House, and ordered to be printed.

Mr. FAULKNER, from the Committee on Military Affairs, on leave, reported a bill extending the provisions of the act of August 11, 1848, to the widows and orphans of persons dying in the military service of the United States; which was read twice by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

COMMANDER WILLIAM F. LYNCH.

Mr. FAULKNER submitted the following resolution; which, by unanimous consent, was considered and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of allowing to Commander William F. Lynch, during the time he was engaged in the exploration of the Dead Sea, the same pay that was allowed to Lieutenants Herndon and Gibbon, during the time they were engaged in the exploration of the Amazon.

JOSHUA CHAMBERS.

On motion by Mr. GIDDINGS, the bill for the relief of Joshua Chambers was taken from the Speaker's table, and re-referred to the Committee on Revolutionary Claims.

MAIL BETWEEN ST. LOUIS AND SAN FRANCISCO.

Mr. PHELPS submitted the following resolution; which, by unanimous consent, was considered and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing an express mail between St. Louis, Missouri, and San Francisco, California, for the transmission of letters, and of increasing the rates of postage on letters carried in said mail, and to report by bill or otherwise.

BILLS INTRODUCED.

Mr. GREENWOOD, by unanimous consent, and in pursuance of previous notice, introduced a bill for the relief of William G. Preston, late a captain in the Army during the war of the United States with Mexico; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. LANE, of Oregon, by unanimous consent, and in pursuance of previous notice, introduced a bill to establish an additional land district in the Territory of Oregon; which was read a first and second time by its title, and referred to the Committee on Public Lands.

Mr. McMULLIN. I call for the regular order of business.

Mr. HAMILTON. I move that the House do now adjourn.

Mr. HOUSTON. If the gentleman will withdraw that motion, I suppose we can go into the Committee of the Whole on the state of the Union, and pass one of the appropriation bills.

Mr. HAMILTON. If there is a quorum present, I have no objection to that. I withdraw my motion in order that we may ascertain whether there be a quorum present.

Mr. HOUSTON. Then I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken; and, on a count, there were only fifty in the affirmative.

Mr. HOUSTON. I withdraw my motion.

Mr. HAMILTON. I move that the House do now adjourn.

The motion was agreed to; and, thereupon, (at twenty-five minutes past twelve o'clock,) the House adjourned until Tuesday next.

IN SENATE.

TUESDAY, *January* 2, 1855.

Prayer by Rev. W. H. MILBURN.

The Journal of Friday was read and approved.

Hon. STEPHEN R. MALLORY, of Florida, appeared in his seat to-day.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting the annual statement required by the act of May 1, 1820, prepared by the Second Comptroller of the Treasury, showing balances of appropriations standing upon the books of his office to the credit of the Department of the Interior, on the 1st of July, 1853, the amounts appropriated by Congress for the service of the fiscal year ending 30th of June, 1854, including repayments and transfers of appropriation, and the aggregate amounts applicable to the service of said fiscal year; also, the amounts drawn from said appropriations, or carried to the surplus fund from 1st of July, 1853, to 30th of June, 1854, and the balances remaining in the Treasury at the last named date; which was ordered to lie on the table and be printed.

Also, a communication from the Secretary of the Treasury, transmitting the annual statement, prepared by the Register of the Treasury, of the receipts and expenditures of the marine hospital fund for the relief of sick and disabled seamen in the ports of the United States, for the fiscal year ending 30th June, 1854; which was ordered to lie on the table and be printed.

Also, a report of the Secretary of the Senate, showing the payments made from the contingent fund of the Senate for the year ending December 3, 1854; which was ordered to lie on the table and be printed.

PETITIONS, ETC.

Mr. ATCHISON presented the petition of the register and receiver of the land office at Milan, Missouri, asking additional compensation for extra services, imposed by the act of the 4th of August, 1854; which was referred to the Committee on Public Lands.

Also, the petition of the register and receiver of the land office at Jackson, Missouri, asking additional compensation for extra services, performed under the act of August 4, 1854; which was referred to the Committee on Public Lands.

Also, the petition of the register and receiver of the land office at Lafayette, Missouri, praying additional compensation for extra services, imposed by the act of 4th August, 1854; which was referred to the Committee on Public Lands.

Also, the petition of Stephen Johnson and others, praying the passage of an act to authorize them to locate lots in the town of Atchison, in Kansas Territory; which was referred to the Committee on Public Lands.

Also, the memorial of Joseph Clymer, of Missouri, praying indemnity for losses sustained in consequence of the failure of the Government to carry out a contract made with him for the transportation of military stores; which was referred to the Committee on Military Affairs.

Mr. BRODHEAD presented the memorial of the Philadelphia Board of Trade, praying Congress to secure, by negotiation or otherwise, the erection of a light-house at Cape Race; which was referred to the Committee on Commerce.

Mr. FESSENDEN presented additional papers in the case of Josiah S. Little; which were referred to the Committee on the Judiciary.

Also, a petition of citizens of Castine, Maine, praying an appropriation for a custom-house and post office at that place; which was referred to the Committee on Commerce.

Mr. ROCKWELL presented a petition of clerks in the United States armory at Springfield, Massachusetts, praying to be allowed an increase of compensation; which was referred to the Committee on Military Affairs.

Mr. FISH presented the petition of L. L. Chapman, praying for a reward for the discovery of the physical cause of the irregular phenomena of nature, storms, elementary changes, &c., involving also the independent physical cause of the cholera, &c.; also asking for an appropriation to enable him further to continue his investigations; which was referred to the Committee on Claims.

Mr. SLIDELL presented the petition of John H. Thompson, John W. Dorsey, Alexander Wiley, John D. Thorpe, Harris Pyner, Robert Hanna, and Thomas H. Sharpe, praying an amendment to the bounty land act of September 28, 1850, so as to extend its benefits equally to each officer and soldier for whose benefit it was designed, regardless of time; which was referred to the Committee on Pensions.

Mr. NORRIS presented two petitions of citizens of Georgetown, District of Columbia, against the passage of the bill of the House of Representatives, now pending in the Senate, empowering the corporation of that town to levy additional taxes on its inhabitants; which was referred to the Committee on the District of Columbia.

Mr. BUTLER presented the petition of Hall Neilson, praying the remission of interest on notes given the United States in payment for land; which was referred to the Committee on Finance.

Mr. CASS presented a remonstrance, signed by Messrs. Howard & Co., of Buffalo, against the renewal of the patents of Cyrus H. McCormick and Obed Hussey, for improvements in reaping machines; which was referred to the Committee on Patents and the Patent Office.

Mr. JOHNSON presented the petition of B. F. Danby, the receiver of public moneys, and of R. A. Watkins, the register of the land office at Little Rock, Arkansas, praying to be allowed the same per centum on the sales of the public lands as was allowed them previous to the passage of the act of August 4, 1854; which was referred to the Committee on Public Lands.

Also, a petition of citizens of Ashley county, Arkansas, praying the establishment of a post route from Hamburg to Marie Saline Landing, on the east bank of the Ouachita river, and from thence to El Dorado, Union county, Arkansas, and a post office at Marie Saline Landing; which

was referred to the Committee on the Post Office and Post Roads.

Also, a petition of citizens of the counties of Pulaski, Sabin, and Hot Springs, Arkansas, praying the establishment of a post route from Little Rock, Arkansas, via Jericho, (old post office,) and on to Chenault and Hot Springs, Arkansas; which was referred to the Committee on the Post Office and Post Roads.

Mr. WADE presented additional documents relating to the claim of John Brown; which were referred to the Committee on Pensions.

Mr. FISH. Mr. President, I have been requested to present a petition very numerously and very respectably signed by citizens of New York, in relation to the existing war in Europe, in which they express their desire for the restoration of peace, and ask that Congress shall, in such manner and to such extent as shall be thought convenient, express their willingness to offer the mediation of this Government to the contending parties. I move its reference to the Committee on Foreign Relations.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. SLIDELL, it was

Ordered, That the petition of Simeon Knight, on the files of the Senate, be referred to the Committee on Military Affairs.

On motion by Mr. WADE, it was

Ordered, That the petition of John Brown, with the adverse report of the Committee on Pensions thereon, be recommitted to the Committee on Pensions.

On motion by Mr. BELL, it was

Ordered, That the documents on the files of the Senate, relating to the claim of William Read, be referred to the Committee on Military Affairs.

REPORT FROM STANDING COMMITTEES.

Mr. CLAY, from the Committee on Claims, to whom was referred a joint resolution for the relief of John Donnell & Sons, submitted an adverse report thereon, which was ordered to be printed.

Mr. WADE, from the Committee on Claims, to whom was referred the petition of W. P. Young, praying arrears of compensation as inspector of customs at Portsmouth, Virginia, submitted a report, accompanied by a bill for his relief; which was read and passed to a second reading. The report was ordered to be printed.

SENATE BILLS BECOME LAWS.

A message was received from the President of the United States, by Mr. WEBSTER, his Secretary, announcing that he had approved and signed the following bills and joint resolution:

A bill to suppress the circulation of small notes as a currency in the District of Columbia;

A bill to provide for the contingent expenses of the Territory of Nebraska;

A bill to authorize the issue of patents to lands in any State or Territory in certain cases;

A bill supplemental to an act therein mentioned; and

A joint resolution for the appointment of Regents in the Smithsonian Institution.

ENROLLED BILLS.

A message from the House of Representatives announced that the Speaker had signed certain enrolled bills, which were, thereupon, signed by the President of the Senate, as follow:

A bill to authorize the Washington Gas-Light Company to increase the capital stock of said company;

A bill to amend an act entitled "An act to establish an Auxiliary watch for the protection of public and private property in the city of Washington," approved August 23, 1842;

A bill for the relief of Herman Chittenden;

A bill to discharge the indebtedness of the penitentiary of the District of Columbia; and

A bill giving the consent of Congress to the cession, by the State of Massachusetts, to the State of New York, of the district of Boston Corners.

BOUNTY LAND TO INDIANS.

Mr. BROWN. The Committee on Indian Affairs, to whom was referred the joint resolution from the House of Representatives "declaring the Seneca Indians entitled to pensions and bounty land in certain cases," have instructed me to report it back with amendments. If there be no objection, I ask for the consideration of the resolution now.

No objection being made, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The first amendment of the committee was to strike out all after the resolving clause, and insert:

That the acts heretofore passed by Congress granting bounties in land to persons engaged in the military service of the United States in time of war, be so construed as to include Choctaw and other Indians, in the same manner and to the same extent as if the said Indians had been white men.

The second amendment was to amend the title of the joint resolution so as to make it read:

A joint resolution to extend the benefits of the bounty land laws of the United States to Choctaw and other Indians who have served in the Army of the United States in time of war.

Mr. STUART. If the Senator has no objection, I should like to have the joint resolution postponed until the amendments can be printed.

Mr. BROWN. I shall not insist on the consideration of the question now, if there be any objection; and therefore I move that the joint resolution be postponed until to-morrow, and that the amendments be printed.

The motion was agreed to.

JUDICIARY SYSTEM.

Mr. BUTLER. Mr. President, the bill to modify and amend the judicial system of the United States, was made the special order for this day. I find, however, that some of the gentlemen of the committee, and those who entertain different views on the subject, are not present. I move, therefore, that the bill be taken up for the purpose of being postponed until the day after to-morrow.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. BUTLER. I now move that it be postponed to, and made the special order for, Thursday next, at one o'clock.

The motion was agreed to.

REMISSION OF PENALTIES.

Mr. FISH. On Friday last I introduced a bill to provide for the remission of certain penalties on passenger ships. Its consideration was then objected to, and I gave notice that I should call it up to-day for action; but, at the suggestion of the Senator from Illinois, [Mr. SHIELDS,] my colleague on the select committee which has in charge the general question of passenger ships, I wish the Senate to allow that bill to be now taken up in order that it may be committed to that select committee. I move that the Senate take up the bill.

The motion was agreed to; and the bill was referred to the select committee appointed to inquire into the expediency of amending the laws in reference to the carriage of passengers in emigrant ships.

CLERK TO A COMMITTEE.

Mr. JOHNSON. Mr. President, supposing that the order of the last session, allowing a clerk for the Committee on Printing, still continued in force, on my arrival here the committee, at my suggestion, appointed a clerk. I have since been informed that it will need an express resolution of the Senate, at this session, to allow that committee to make such an appointment. I regard it as very material that such an officer should be allowed. I have been unable to find any records in that committee of the estimates, calculations, and recommendations of the Superintendent of Public Printing. I consider it important that a record should be kept of those matters, so that, when any particular job of public printing is executed, we can see how the actual cost compares with the estimate of the Superintendent. These records should be regularly kept in a book for that purpose. There are other matters appertaining to the business of that committee, which make it necessary that they should be allowed a clerk. The character of the business of the committee is well known to the Senate. It is troublesome. It relates to work which costs a great deal of money. For this reason, it is important that we should have a clerk to keep the proper records; and I am instructed by the committee to offer the following resolution, and to ask for its immediate consideration:

Resolved, That the Committee on Printing be allowed to employ a clerk, whose compensation shall commence from the time of his actual service as such.

The resolution was considered by unanimous consent, and agreed to.

ORDER OF BUSINESS—LAW DEPARTMENT.

Mr. BRODHEAD. As this is the first working day of the new year, I think it a very appropriate occasion to move that the Senate now take up for consideration the bill "in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States." The object of the bill is to do justice to the soldiers of the war of 1812, and our other wars.

Mr. ADAMS. Mr. President, I dislike to object to the consideration of the bill suggested by the Senator from Pennsylvania. There is, however, a bill on the Calendar, as the special order, which I have called up repeatedly. I refer to the bill to establish a Department of Law, and to regulate the transaction of the business of some of the other Departments. That bill was reported by the committee at the last session, and if it is to pass the Senate at all, it is important that it should pass at such an early day as to leave time for the House of Representatives to act upon it. Its consideration has been objected to a number of times in order to allow gentlemen to examine it; but as yet no amendments have been proposed other than those which were presented by the committee. I should like to have a vote upon that bill. I look upon it as being very important to the transaction of the public business that it should pass. If it be not the pleasure of the Senate to pass it, I hope they will at least take it up, and dispose of it in some way.

Mr. BRODHEAD. I have no doubt that we can consider both bills before we adjourn to-day. On the first day of the session I introduced the bill which I have asked the Senate now to consider. It has been before the Senate for nearly three years, and I hope my friend from Mississippi will permit us to proceed with it, and dispose of it. When we have done that we can take up his bill, and I hope we shall pass both these bills this day.

The PRESIDENT. The question is on the motion of the Senator from Mississippi, that the Senate proceed to the consideration of the bill "to establish a Department of Law, to prescribe certain duties of the Auditors and Comptrollers of the Treasury, and for other purposes."

Mr. BRODHEAD. I beg to suggest that my motion was first made.

The PRESIDENT. The Chair understood the Senator from Pennsylvania to yield the floor.

Mr. BRODHEAD. I yielded merely to hear a suggestion from my friend from Mississippi, and not to allow a motion to supersede mine. Besides, I do not understand my friend from Mississippi as urging his bill this morning in preference to the one which I desire to have considered. I have no doubt that, during the morning hour, we can dispose of the bill to which I have called the attention of the Senate.

Mr. CASS. Independent of that, Mr. President, there are some very important provisions connected with the bill of the Senator from Mississippi, and it should not be passed without being looked into. I have not seen a copy of that bill as it has been amended, and I wish to have an opportunity of looking at it. I am sure, however, from the attention I have given to it, that it will require the serious consideration of the Senate before it is passed. There is a principle in the bill which, to me, is somewhat dark, I must confess. When the matter comes up I shall explain my views.

Mr. ADAMS. It really seems, Mr. President, as if there were no prospect of ever getting that bill finally disposed of. It was reported by the committee at the last session; it was called up and made the special order for an early day this session; then the Senator from California [Mr. WELLER] wished to look into it, and it was postponed; and since that, the bill, as amended, has been printed and laid on each Senator's table. I have given way to every Senator who has suggested a doubt in regard to it. I am willing now, if any Senator will suggest a day when he thinks the Senate will be ready to consider it, to agree to postpone it until that time. It is a matter in which I have no personal concern, but I owe a duty to the committee which reported the bill. I have called it up again and again, but on every occasion some

Senator has wished time to consider it. If we continue in that way, I suppose the residue of the session may pass by without the bill being disposed of.

Mr. CASS. Mr. President, I will say to the honorable Senator from Mississippi, that that bill requires attention. It contains a provision, copied from the bill establishing the Department of the Interior, that the Attorney General, as the head of a Department, shall "supervise accounts." I do not know how that provision got into the bill that was passed in 1849, establishing the Department of the Interior. I am sure that, if the matter had been attended to, it could not have got into that bill. From the foundation of this Government, down to that moment, there never was a power given to the head of a Department to supervise accounts. You cannot find it in a Treasury law. The theory of the Treasury Department, from the commencement, was, that the Comptroller was the legal officer. There are, it is true, cases in which the head of the Department examines and certifies those contingent accounts which strictly belong to his Department; but he has no right to have the slightest legal control over the operations of the Treasury. A general power to supervise accounts is a dangerous one.

Mr. ADAMS. Let me suggest to the Senator to name some day on which he thinks the Senate will be ready to proceed with the consideration of the bill.

Mr. CASS. I wish to have it printed, and I wish time to look into it. I inquired at the Treasury Department to-day, for I thought it important to ascertain the views of practical accounting officers, men in whom I have confidence. I have seen them, and they have not had an opportunity of looking at the amended bill. I do not know that it has been printed. I believe not.

Mr. ADAMS. It has been printed, and I will furnish it to the Senator.

Mr. CASS. I wish to have one or two copies.

Mr. ADAMS. Will the Senator agree to consider the bill to-morrow!

Mr. CASS. That will be too soon.

Mr. ADAMS. Say this day week.

Mr. CASS. Very well.

Mr. ADAMS. Then I move that the bill "to establish a Department of Law, to prescribe certain duties of the Auditors and Comptrollers of the Treasury, and for other purposes," be postponed to, and made the special order for, this day week.

The motion was agreed to.

EXTENSION OF THE BOUNTY LAND LAWS.

Mr. BRODHEAD. I now renew my motion.

The motion was agreed to; and the Senate, accordingly, as in Committee of the Whole, proceeded to consider the bill "in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States."

The object is to entitle each of the surviving commissioned and non-commissioned officers, musicians, and privates, whether of regulars, volunteers, rangers, or militia, who were regularly mustered into the service of the United States, and every officer, commissioned and non-commissioned, seaman, ordinary seaman, marine, clerk, and landsman, in the navy, except those who have received prize money, in any of the wars in which this country has been engaged since 1790, and each of the survivors of the militia, or volunteers, or State troops of any State or Territory, called into military service, and regularly mustered, and whose services have been paid by the United States subsequent to the 18th of June, 1812, to receive a certificate or warrant from the Department of the Interior for one hundred and sixty acres of land. If any of those who have so served have received a warrant, they are now to be entitled to a certificate for such quantity as will make, with what they may have heretofore received, one hundred and sixty acres.

In case of the death of any person, who, if living, would be entitled to a certificate or warrant under the bill, leaving a widow, or, if no widow, a minor child or children, the widow or children are to receive a warrant for the same quantity of land that the deceased person would be entitled to receive if now living; but a subsequent marriage is not to impair the right of any such widow to a warrant, if she be a widow at the time of making her application and at the date of the warrant.

The warrant is not to be issued for any service less than twenty-eight days, or where the person shall actually have been engaged in battle, nor unless the party claiming it shall establish his right by record evidence of the service, or by two credible witnesses. The warrants are to be assignable.

Mr. BRODHEAD. The bill now before the Senate is the same which I introduced about three years ago, when I first became a member of the body. Since that time I have urged its passage, sometimes in season, and sometimes out of season. Once, on my motion, it was agreed to as an amendment to a land bill, but the House did not concur; and once it was lost on a tie vote. It is now before the Senate, I hope, for a definite and favorable consideration.

The main purpose of the bill is to place the soldiers of the war of 1812, and the old Indian fighters, upon the same footing, as to land, with those who served in the Mexican war. And I will mention facts to prove that, whether the Mexican soldiers received too much or not, the grant of land proposed in the bill is just and proper. I beg to remind the Senate that during the Mexican war we had an abundant Treasury; the soldiers, when discharged, were paid in gold and silver, received extra pay, and also a warrant for one hundred and sixty acres of land. The war of 1812, was difficult in many respects. Our country was then comparatively feeble, our enemy formidable, and some of the Indian tribes enlisted against us, and conducted themselves contrary to the rules of civilized warfare. At the close of the war many were discharged without pay, with only certificates of indebtedness, which were parted with for little, and were not paid for months after.

It would be a work of supererogation, if not affectation, for me to attempt to prove or assert that the patriotic men of 1812 and 1814 rendered the country good service. They need no eulogy at my hands. They fought our battles, gained our victories, drove back our invading foe, elevated the character of our country, preserved our institutions, and were poorly paid. Those who protected our frontiers from Indian depredations were equally meritorious.

The proposed measure is one of justice to the old States, in which most of the soldiers reside. In the great and good old Commonwealth, which I have the honor, in part, to represent, at least ten or twelve thousand persons will be, either directly or indirectly, benefited by the passage of this bill. At the last session we passed a bill, graduating and reducing the price of the public lands, an act greatly beneficial to the new States. Let us now pass this bill, and it will give aid and comfort to a most useful, and, in many cases, needy persons in the old States. Besides, it will be a compliment well deserved, and gratefully received. We are in a condition to do it without injury to the public service. We have an overflowing Treasury, and large bodies of public lands. Let us pass this bill, and it will be a good commencement of a New Year. I propose to modify the bill a little in its details, and will, therefore, propose a few slight amendments.

My first amendment is, to include in the first section, "sea-fencibles," and to strike out, after the provision in relation to seamen, the words "except those who have received prize money." Upon inquiry, I have ascertained that those who received prize money got very little—so little that it is hardly worth while to take it into account. It is true, that bounty land warrants have been heretofore granted to those engaged in the land service in preference to those engaged in the naval service of the country, because the one were entitled to prize money, and the other not; but, upon inquiry, I find that the sailors who received prize money got only six, or eight, or ten dollars apiece. I wish, therefore, to strike out that provision. I propose also, to strike out the second section, and insert a substitute which I shall send to the Secretary's desk, and to modify the third section so as to make it more easily understood.

I have been very much urged to agree to extend the provisions of the bill to heirs-at-law; but I have declined so to do, because I think it would be going too far. I have also been urged to agree to an amendment in regard to the time of service. The bill provides that all who served twenty-eight days or more, or those who were actually engaged in battle, or were taken prisoners, shall be entitled to the proposed bounty. Many wish to strike out this restriction; but it seems to me that a man who did not serve twenty-eight days, or who was not engaged in actual battle, or was not taken prisoner, can hardly be called a hero or a veteran of the war of 1812. It may be that, upon this point, I am wrong; but it has occurred to me, that it would be more complimentary to those who actually rendered good service, to place them upon higher ground than those who served less than twenty-eight days. I am not tenacious as to this provision, though I think that we shall strengthen the bill by keeping it as it is in this respect. I now send to the Chair the amendments to which I have alluded.

The PRESIDENT. The amendments will be read.

The Secretary proceeded to read them. The first was to insert, after the word "rangers," the word "sea-fencibles," and to strike out "except those who have received prize-money."

The amendment was agreed to.

The next amendment was to strike out the second section of the original bill, which was in these words:

"SEC. 2. *And be it further enacted*, That in case of the death of any person who, if living, would be entitled to a certificate or warrant, as aforesaid, under this act, leaving a widow, or, if no widow, a minor child or children, such widow, or, if no widow, such minor child or children, shall be entitled to receive a certificate or warrant for the same quantity of land that such deceased person would be entitled to receive under the provisions of this act, if now living: *Provided*, That a subsequent marriage shall not impair the right of any such widow to such warrant, if she be a widow at the time of making her application, and at the date of such warrant,"

and to insert in lieu thereof, the following:

SEC. 2. *And be it further enacted*, That in case of the death of any person entitled to a certificate or warrant under the provisions of the foregoing section, such certificate or warrant shall be issued in favor of, and inure to, the benefit of his family, according to the following rules: First, to his widow; second, his children; third, his father; fourth, his mother: *Provided, however*, That no person who has perpetrated, or attempted to perpetrate, a fraud on the United States, under any law, shall be entitled to the benefit of any provisions of this act: *Provided further*, That a subsequent marriage shall not impair the right of any such widow to such warrant, if she be a widow at the time of her making her application.

Mr. STUART. Mr. President, if I have heard correctly the amendment as read from the Secretary's desk, it seems to me that it is a much wider departure from the bounty land system than any which the Senator has suggested in his argument. As I have understood the reading of that amendment, it proposes to give to the children of one of these soldiers bounty land, although he may be a full-grown man. That, sir, is not only a new proposition, but, I repeat, it is extending the bounty land system infinitely further than anything which the honorable Senator has suggested. According to the system as it has been heretofore adopted, there seems to be a propriety in giving bounty land to a widow, or to a minor child; but to give bounty land to a full-grown man, who does not need it, as a mere gratuity, seems to me to be a stretch of liberality that will interfere largely, very largely, with the argument the Senator himself made, at the last session, against the power of Congress to give away the public lands. I speak now simply of the power. The power to give away the public land does not rest upon the genealogy of the individual to whom it is given. The power of Congress to give away the public lands is as complete in favor of a man whose father was not in the service of the country as in favor of one whose father was. The cession from the State of Virginia does not qualify it; there is no treaty through which we acquire the public lands that does qualify it. I think, then, the Senator will find, when he comes to review this proposition, that there is a little difficulty with some gentlemen, and he among the number, on the subject of power.

But, sir, if you pay no sort of regard to the necessities of the individual, there is a very great question of propriety. It is fair to presume, for the purposes of this species of legislation, that the widow of a soldier, or the minor heir of a soldier, needs the aid of the Government; but it would be a most violent presumption to suppose that every child of an individual who may have served the Government in any of the capacities named in this bill, needs the Government assistance, without regard to the age of the individual.

The second section of the Senator's bill, as it

stands, is in consonance with the past legislation of Congress. It gives to the soldier who performed the service, if he be living, or if he be dead, to his widow, or minor child, or children, one hundred and sixty acres of land. That is in accordance with the precedents in the past legislation of Congress. But to strike out that section, and to propose to give the land, irrespective of age, without any qualification upon the subject of necessity, is not only new, but I submit to the Senate that it is a very dangerous step in the way of the disposition of the public lands. For my part, I very much prefer the section as it now stands in the bill, and I shall, therefore, vote against the amendment now proposed by the Senator from Pennsylvania.

Mr. BRODHEAD. I called the particular attention of the Senate to the amendment to the second section, which I proposed as a substitute for the section which is now in the bill, with a view to the point made by my friend from Michigan. I propose to strike out the words "minor children," which have heretofore been in all the bounty land laws, and insert "children," because the words "minor children" would be of no use. There are no such minor children left. The most of them are of age.

Now, sir, first, in regard to the power of Congress; and secondly, in regard to the expediency of this measure.

My honorable friend from Michigan is mistaken in respect to the position assumed by me at the last session upon the homestead bill. I opposed that measure, and asserted that it was contrary to sound policy and true duty to collect money from the customs for the purpose of buying lands to give away. I did not much question the power of Congress upon that point; but I do not think that the question of power arises at this time, and under this section. We have a right to pay a son or child, whether a minor or adult, for the services of his father. In other words, we have a right to pay a debt due the father, to his children, whether they are of age or not. That is my proposition, and I do not think my honorable friend from Michigan can successfully controvert it; so that the question of power does not arise. It seems to me to be just, Mr. President, to enlarge the provisions of our bounty land laws a little; and in place of "minor children," insert, not heirs-at-law, but "children," and that is the only change proposed, and to that my honorable friend from Michigan has properly called the attention of the Senate. I wish, also, the particular attention of the Senate to that point. It is easily understood, and need not, I trust, be further discussed.

The question was taken on the amendment; and the Presiding Officer declared that it appeared to be lost.

Mr. BRODHEAD. I ask for the yeas and nays upon it. It is an important question, and I hope they will be given.

The yeas and nays were ordered and taken; and were—yeas 9, nays 25; as follows:

YEAS—Messrs. Brainerd, Brodhead, Clayton, Evans, Fish, Foot, Rockwell, Rusk, and Wade—9.

NAYS—Messrs. Adams, Allen, Atchison, Brown, Butler, Cass, Chase, Clay, Dawson, Dodge of Wisconsin, Dodge of Iowa, Douglas, Geyer, Gillette, Johnson, Jones of Iowa, Jones of Tennessee, Norris, Pearce, Sebastian, Slidell, Stuart, Sumner, Toucey, and Weller—25.

So the amendment was rejected.

The next amendment, proposed by Mr. BRODHEAD, was in the third section—which, in the bill as introduced, was, as follows:

"That in no case shall any such certificate or warrant be issued for any service less than twenty-eight days, or where the person shall actually have been engaged in battle, nor unless the party claiming such certificate or warrant shall establish his right thereto by record evidence of said service, or by two credible witnesses."

to strike out "or," and insert "except," and strike out "nor," and insert "or taken prisoner by the enemy and;" so as to read:

"That in no case shall any such certificate or warrant be issued for any service less than twenty-eight days, except where the person shall actually have been engaged in battle or taken prisoner by the enemy, and unless the party claiming such certificate or warrant shall establish his right thereto by record evidence of said service, or by two credible witnesses."

The amendment was agreed to.

Mr. CASS. I shall vote for the bill with great pleasure, Mr. President. I think it is right; but I beg to make a suggestion to the honorable Senator who has introduced it. I am aware that whatever line you draw, whatever number of days service you fix as the limitation to the benefits of the bill, there will be very little difference of merit between those who approximate to each other, and injustice may be done to some. If you require twenty-eight days service, a man who served twenty-seven days will have almost as much merit. I am aware, therefore, that wherever the line is drawn, injustice will occur. But I hold in my hand a letter which states the condition of a detachment who were ordered to Fort Wayne, immediately after the difficulty which arose on the frontier in 1812, and who remained under the orders of General Harrison some twenty-one days in the service. I submit to my honorable friend whether, in order to benefit those in such a case as that, the term of service might not be drawn down to twenty-one days. It is a pretty hard case, and the men undoubtedly did their duty.

Mr. BRODHEAD. I have received many letters, sir, upon the point alluded to by the venerable Senator from Michigan. We cannot fix any limit in time that will not do some injustice to some people. You can establish no general law that will not operate unjustly in certain particular cases. I therefore think that it is best to adhere to the rule of one month, or twenty-eight days, which I have adopted. Those who were in service less than twenty-eight days, and were engaged in any battle, or were taken prisoners, are provided for by the bill, and I think that is enough. If we come down to twenty-one days, we had better strike out the limit altogether, and there are decided objections to that. We should lose the bill I fear. At any rate, it would not strike the whole country with as much favor as I hope the provision as it stands will; and I therefore must decline to yield to the suggestion of the venerable Senator from Michigan.

Mr. CASS. I have no desire to put the bill to hazard. I shall, therefore, not press the amendment.

The PRESIDING OFFICER, (Mr. ATCHISON in the chair. If there be no further amendment the bill will be reported to the Senate as amended.

Mr. STUART. Perhaps I ought to state a fact which was presented to the consideration of the Committee on Public Lands, by a deputation which waited upon the committee the other morning, representing the officers and soldiers intended to be provided for by this bill. One class of cases was stated, which was this: that certain men were drawn into the service in Maryland, and the same thing was said to have been true in other places, who were called "minute men."

Mr. BRODHEAD. Flotilla men.

Mr. STUART. Perhaps, it was stated, they did not serve actually three days; but they were required, by the authorities to hold themselves in readiness for any moment, and they actually were taken away from their own affairs for months. In many cases, there were periods of service, perhaps, for a day or two, at times considerably distant from each other. The bill, as it now stands, would not cover those cases, which would seem to be among the most meritorious. Some, it is true, were taken prisoners; some were engaged in skirmishes, and would come within the provision of being in actual engagement; but a large number of them suffered in the way of deprivation from business and from their families; and their own personal hardships were much more than those which were experienced by large classes, who are covered by the existing provisions of the bill.

Now, sir, with my distinguished colleague, and with the honorable Senator who has introduced the bill, I should be unwilling to hazard it; but I really cannot see how it would hazard it to put it in the most acceptable form. It is true that you cannot fix a discriminating line which will not do marked injustice in certain cases. If you say twenty-eight days, you exclude a man who served twenty-seven days with equal merit, with equal hazard, with equal loss, and, perhaps, in a given case, and in a given number of cases, with even more merit, hazard, and loss. Therefore, sir, I had intended, until it was suggested that it might hazard the bill, to move to strike out that limitation. The first section provides for giving bounty land to all those who were regularly mustered into the service and paid. That is the criterion. If a man has been paid as a soldier of his country, let him receive the benefits of the bill, whether he was paid for ten days, or eleven days, or for twenty-seven or twenty-eight days; and mark me, Mr. President, I call the attention of the Senator from Pennsylvania to the fact—and the experience of every gentleman who has had anything to do with the procuring of these land warrants will testify to that fact—that the cases are almost innumerable where the reward for valuable services to the country is excluded by a single day. Strike the limitation out then, sir. It is a bounty; it is a simple donation by the Government to meritorious individuals, and let them all have it.

If we are to do anything at all, let us give the bounty to everybody who can be entitled to it under the principle of the bill, and let us end that question now, for I can assure you, that if Congress at this time shall pass this bill, the next session will not have gone by before you will be compelled to obliterate this very restriction. The injustice will be so glaring and so obvious to the mind of everybody—that is to say, if the bill itself is founded in justice—that you will have to strike out the limitation, and let every man who was in the service of the country at all have bounty land. How does it stand now? Take the principle of the bill as it stands. The man who was in the service of the country five years is to get a hundred and sixty acres of land. The man who was only twenty-eight days in the service is to get a hundred and sixty acres too.

Mr. WELLER. Or if one hour in battle?

Mr. STUART. Yes, sir; if he spent but one hour in battle, as the honorable Senator from California says, he is to get a hundred and sixty acres of land.

Mr. BUTLER. And he is entitled to it, too.

Mr. STUART. Therefore, there is no such thing as equality in the bill as it stands. Let us strike out all restriction, and do at once what we shall, by and by, be compelled to do—give to every man, who has been in the service of the country, one hundred and sixty acres of land.

Mr. BADGER. Suppose he has been in the service of the country in Congress?

Mr. STUART. Well, increase his pay. [Laughter.] My suggestion, therefore, Mr. President, would be to strike out the words, "for any service less than twenty-eight days, except where the person shall actually have been engaged in battle or taken prisoner by the enemy, and," so that the third section would read:

That in no case shall any such certificate or warrant be issued, unless the party claiming such certificate or warrant shall establish his right thereto by record evidence of said service, or by two credible witnesses.

I cannot conceive how that would endanger the bill. Indeed, I must believe, until I hear something more on the subject, that it would increase the number of those who would support it.

Mr. BRODHEAD. If I entertained that opinion I believe I would vote in favor of the amendment of my friend from Michigan, but I do not believe it. The bill already covers a very large class of soldiers. There are very few who entered the service, in point of fact and in earnest, that did not serve more than twenty-eight days; so that we had better be sure; we had better adopt a bill which will render substantial benefit to those who rendered real and valuable service. That is my answer to my friend from Michigan. It seems to me that if we give to all who served under five years and over twenty-eight days, we cover a very large class of our fellow-citizens; and I think the country will properly appreciate it.

Mr. FESSENDEN. I wish to ask the honorable Senator from Pennsylvania whether there is any particular reason for limiting the provisions of the bill to those who served the exact number of days expressed in the bill—twenty-eight days?

Mr. BRODHEAD. Heretofore the term of one month—or thirty days—has been included in the bounty land laws, and there are but twenty-eight days in one month of the year.

Mr. FESSENDEN. It does not strike me, Mr. President, that that is a very satisfactory reason for fixing that time. I will say to the Senator that, so far as my individual vote is concerned, I cannot support the bill as it stands, because I think it makes an improper distinction; and to show how unfairly the limitation will operate, I will state a fact. I know of a company of men who were mustered into the service of the country, and actually served for twenty-seven days—just one

day less than the time here limited. Well, now, sir, why should a man, or why should any number of men, who just served twenty-eight days be more entitled to this bounty land than a soldier, or a number of soldiers, who served twenty-seven days—one day less? If, therefore, you intend to shorten the period, and make it less than one month, which, it appears to me, is short enough, I think it would be more fair, and more sensible to adopt the suggestion of the Senator from Michigan. I shall, therefore, vote for the amendment. I cannot consent to anything which would operate so unfairly as the bill, as it stands, would operate in making the distinction.

Mr. CASS. I repeat, what I before observed, that I want the bill to pass; but it would seem to me to be a want of consideration to give one hundred and sixty acres to a man for one day's service. As I before said, it is difficult to draw a line; but certainly a line drawn down to that—to give one hundred and sixty acres for one day's service—does not seem to be doing justice. If you were to graduate the grant, and give one hundred and sixty acres for the greatest service, and so on downwards, according to the service, that could not be objected to; but we are assuming the grant to be one hundred and sixty acres, and I should be willing, perhaps, to come down to two weeks, but I think a discriminating line should not be altogether swept away.

Mr. DAWSON. I do not think that this is intended to be regulated by the consideration of the service actually rendered by any of the soldiers whatever, as I understand the bill. First, we have a large quantity of public lands, which we desire to dispose of, whether they want them or not. It seems we are desirous of getting them out of our hands, and from under our control. The next object, as I suppose, which the bill has, is to encourage patriotism; and the men who, in the war of 1812, took up their muskets, and put on their knapsacks, and went out in defense of their country, although it was but ten, fifteen, or twenty days, showed a willingness to discharge every duty incumbent upon them as soldiers or citizens, while, because they were in a portion of the country which needed no immediate defense, and because they could be attached to no portion of the army immediately in the neighborhood, they were often discharged, although they had volunteered for twelve months, or more. Now, sir, it was the principle, the disposition to defend the country, that prompted them to go, which is the thing that I desire to encourage.

As to the compensation of the soldier of 1812, that was regulated by the existing laws of the time. When he volunteered, or was enrolled, he received the pay he had contracted to receive. The present course of Congress is to compensate those who have once served the country, in order to encourage those who may hereafter serve, and the better plan, if we intend to give the public lands away, is to give them to those soldiers who exhibited, by their course of conduct during the war of 1812, a disposition to serve the country. Why, sir, by some accident during the war some officers and men were engaged in active service, in battles, and they received all the honors of the action; while hundreds, by accident, were thrown in another p sition, who, if they had been called upon, would have equally distinguished themselves. So, sir, the only principle which shall regulate my vote in this matter, shall be the disposition which was shown to serve the country. If one of those men who was enrolled was not called upon to go into action, it was not his fault.

I agree, sir, with the Senator from Michigan. If you open the door voluntarily, and make a donation of your public lands, I see no rule by which you can limit your liberality, because, a man who may have been in the service, and sick all the time, and rendered no service to the country, but was an expense, comes in for the grant. It is, then, the disposition which we consider. While we are giving away the public lands, let us do it upon a broad and liberal scale; let us do it upon a principle we all understand—to encourage the patriotism of the country, by rewarding those who have shown it heretofore, in order to encourage those who may come hereafter.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan, [Mr. STUART.]

Mr. BADGER. I should like the Senator to explain the effect of it—whether it will enlarge or diminish the number who will receive the grant.

Mr. STUART. I will say to the Senator from North Carolina, that the effect of it will be to give to every individual who was mustered into the service of the United States and paid, one hundred and sixty acres of land, and will change the section which now requires a service of twenty-eight days.

Mr. BADGER. Then, sir, I desire to say that I shall vote for that amendment, because I cannot see why a service of twenty-eight days should be required. I shall be excluded, myself, from the benefits of this bill, but still I will agree to vote for it without the amendment, if we can have an understanding that the compensation bill for members of Congress, which I introduced, shall pass the Senate without the yeas and nays, and without opposition. [Laughter.]

Mr. BRODHEAD. I agree that, after we do justice to the soldiers, we should proceed to do justice to ourselves. Mr. President, I am for enlarging the provisions of this bill, so far as we can do so with safety to its success. Hence it was that I moved to strike out the words "minor children," and insert "children." That would have enlarged its benefits very much—more so than the amendment suggested by my honorable friend from Michigan, which is to strike out the limitation of twenty-eight days. Therefore, it seems strange to me that honorable Senators, while they voted against the amendment to strike out the words "minor children," yet insist upon the amendment suggested by the honorable Senator from Michigan. If it should be adopted, I shall cheerfully vote for the bill; but I believe it is better to retain the limitation of twenty-eight days. Sir, it is much easier to point out the defects of a bill, or of a system, than to devise the remedy. You cannot, as has been well said, make a general law or, a general provision, that will not operate unjustly in particular cases. For these reasons I shall vote against the proposed amendment.

The amendment was agreed to.

Mr. BUTLER. This bill has brought within its provisions a large class of persons. If I understand it, it now includes the children of any officer or soldier of any war since 1790; and any one who served for one day in the war of 1812 will be entitled to one hundred and sixty acres of land. Now, sir, I know this fact: that there are two widows, living not more than ten miles apart, one of whom—a surviving widow of a revolutionary soldier—could not obtain a pension because she could not prove that her husband had been four months in the service. She could not obtain a pension because she could not prove that her husband had served four months in the revolutionary war. The evidence before the committee was very clear that he had served three months; but she could not establish the fact that he had served four months, or six months, which ever it was. Now, I move the following as an additional section to this bill:

SEC. 5. *And be it further enacted*, That the surviving widows of the officers and soldiers of the revolutionary war be entitled to the provisions of this act, provided their husbands shall have served the time specified in the act.

Mr. BRODHEAD. Bills for the relief of the survivors of the soldiers of the revolutionary war have always been considered distinctly from bills making grants to those who served in subsequent wars. I do not know that provisions for the benefit of the officers and soldiers of the Revolution have ever been included in a bill providing for the officers and soldiers of the other wars. They have always been provided for in bills by themselves. I therefore rise for the purpose of saying that I do not think this amendment is exactly germane to the bill; and I hope, for that reason, that my honorable and distinguished friend from South Carolina will not press it. There is another reason why it should not be pressed. If I am not very much mistaken, the officers of the war of the Revolution did receive large grants of bounty land. Certainly, those who served in the Virginia line did; and I know one who served in the Pennsylvania Continental line who received such bounty lands.

Mr. BUTLER. The officers of the Continental line may have received it.

Mr. BRODHEAD. I think, therefore, that a provision extending the benefits of this bill to the revolutionary officers and soldiers, and their descendants, had better be considered in a separate and distinct bill. I will certainly go for a provision of that kind, but I do not think it is proper to press its consideration as an amendment to this bill. It may, and I believe it will, embarrass it very much.

Mr. BUTLER. I do not see how a provision of this kind could embarrass this bill; but I do not hesitate to say that the widows—the aged widows—of the revolutionary officers and soldiers, are entitled to the justice of this Government in preference to the soldiers of the war of 1812, or the soldiers who fought in Mexico; and I state the fact, that, according to the law now, no widow of a revolutionary officer can obtain a pension, unless she can establish the fact that her husband served six months. He may have served three months—he may have served in the swamps, without bread, encountering all the hardships and perils of that war, but his widow cannot receive one dollar, either from the public Treasury or the public domain, because she cannot establish the fact that he served six months. I want to put the widow of a soldier of the revolutionary war precisely upon a footing with the widow of a soldier of the war of 1812. There is no reason why it should not be done. I have limited the amendment to the widows, because we may very well say that there are now no minor children of revolutionary officers. I think that may be pretty well assumed. I have, therefore, limited it to the widows, and there are very few of them. It cannot hurt the bill.

Mr. CASS. The honorable Senator has very properly observed that this can do little injury. There are very few of those widows remaining. But I should like to know the fact, if the Senator can tell me, as to what is the actual provision of existing laws, in respect to pensions for the widows of revolutionary officers.

Mr. BUTLER. I will state a fact which may go to illustrate the law. My opinion is, that no widow of a revolutionary officer can obtain a pension, unless she can establish, by satisfactory proof to the Department that her husband served six months. If it is but one day under that she cannot get a dollar. I am certain that the case which I have mentioned happened, that a lady, whose husband fought in the battles of the Revolution, could not obtain a pension from the Government because she could only prove three months' service. There are very few of that class left.

My friend from Pennsylvania says that the revolutionary soldiers have received lands. To a very limited extent, sir. Allow me to say, that of the soldiers who fought in South Carolina, from North Carolina, from Virginia, and from South Carolina, designated and known as State troops, not one of the officers, or their descendants, has received a dollar from this Government.

Mr. CASS. They received land.

Mr. BUTLER. Not an acre in right of their services that I have ever heard of.

Mr. CASS. Will the Senator allow me to say, that all the officers in the revolutionary war, whether they enlisted for the war, or for three years, I think it was, were entitled to one hundred acres of land. That was assumed by the United States and given out of the western lands. But, besides that, the States that had the luck to hold lands of their own, like North Carolina, Virginia, and, I think, New York, and, possibly, Connecticut, gave to their officers and soldiers very large quantities of land, independently of what was given by the United States. South Carolina, I believe, had no land.

Mr. BUTLER. No, sir.

Mr. CASS. A number of the States had, and they gave very large grants. Virginia, as is well known there, reserved the whole country between the Sciota and the Miami rivers, Ohio—and a most delightful region it is—to give to the soldiers of her line. But, I repeat, all the officers and soldiers of the revolutionary war, who served according to the tenor of the law, which, I think, required three years' service, received one hundred acres, and those one hundred acres were located in what is known as the United States military tract in Ohio, a country running by Zanesville and Columbus, and extending east and west for one hundred and fifty miles. That is the United States military tract, in which the warrants of the revolutionary officers and soldiers were located.

Mr. BUTLER. There is no one who could put me right sooner than the honorable Senator from Michigan; but I cannot be mistaken in saying that I do not think the soldiers and officers of the State line—as far as I can speak for South Carolina—received an acre.

Mr. CASS. When the Senator speaks of the State line, it is well known that, independent of the troops raised under the authority of the United States, there were cases in which the States raised, for particular purposes, troops of their own, and the land bounty of the United States was not extended to them. In that point of view the Senator is perfectly right. I referred only to the troops of South Carolina in the actual service.

Mr. BUTLER. Oh, certainly. I think my friend and myself will agree very well. The Continental troops—and there were a good many of that class in South Carolina—received land warrants; but as to General Sumpter, General Marion, General Pickens, and their commands, I will say that not a soldier of them received an acre of your public land. My father was a captain in the Revolution, and I know he has never received an acre of land. I will tell you what they did receive: they received indents issued by the Government of South Carolina, payable as certificates, and bearing a certain amount of interest. It is known that they depreciated, and they received very little. The Government here assumed the State debts ultimately; and speculators were benefited by it. But that has nothing to do with the question. What I say now is so plain that there is not a mind, looking to it in the abstract, or as an act of palpable justice, but must see that my proposition will aid this bill rather than detract from it. As it stands, the widow of a man who shouldered his musket and went to the county court-house, or into camp, in the war of 1812, will receive a bounty of one hundred and sixty acres of land, while the widow of a revolutionary officer or soldier, whose husband served for four months, will not be entitled to an acre under this bill or any other bill that has been passed. There are very few of those widows left; and I would go so far as to say, that they should receive land and some of the treasure of the United States, in virtue of the services of their husbands, if they served only one day. The amendment can do no harm. I think it will benefit the bill.

Mr. RUSK. I agree with my friend from South Carolina. If the bill is an act of justice, it is as much deserved by the class to whom he proposes to extend it as by any who are contained in the bill. If it is an act of gratitude, certainly it is still stronger; and how it would defeat the bill, I cannot see.

Mr. TOUCEY. Mr. President, I concur fully with the Senator from South Carolina; I see no reason why the restriction should be maintained in the bill which is contained in the first section in the words "since 1790," limiting the grant to those who have been engaged in any of our wars since 1790. I ask if there is a Senator upon this floor who is willing to make a discrimination of that kind against the soldiers of the revolution? The effect of the bill is only to grant one hundred and sixty acres of land to those who have not heretofore received any, and to those who have received a part, enough to make up that quantity of land. In the first section, there is introduced this restriction, by which the operation of it is limited to the wars that have occurred since 1790. Now, the object of my honorable friend from South Carolina can be attained by striking out that restriction in the first section. As it now reads, it relates to those who have served "in any of the wars in which this country has been engaged since 1790;" and then there is the further provision, that "where any of those who have so served shall have received a certificate or warrant, he shall be entitled to a certificate or warrant for such quantity of land as will make, in the whole, with what he may have heretofore received, one hundred and sixty acres to each such person having served as aforesaid."

Mr. BUTLER. That is right. I will accept that amendment. It will attain my object.

Mr. TOUCEY. I think, sir, we shall then be legislating upon a general principle, by which we shall grant the benefit of this bill to all who have been concerned in the wars of the country from the Declaration of Independence.

Mr. BRODHEAD. I have but one remark to make. I shall not be strenuous in my opposition to the proposed amendment. I merely rise now for the purpose of congratulating the Senate upon the liberal spirit which has been exhibited this morning. For the last three years I have pressed upon the consideration of the Senate the bill which is now before us. I have no great objection to the amendment. In fact, upon reflection, I rather incline to favor it. But, after it is adopted, I hope there will be no further amendments.

Mr. TOUCEY. I submit the amendment to strike out of the first section the words "since 1790."

Mr. BUTLER. I accept that, as it attains my object, which is simply to place the widows of the soldiers of the Revolution upon a footing with the widows of the soldiers of 1812, and that cannot be unjust.

Mr. TOOMBS. I cannot respond to this appeal for liberality, for which the Senator from Pennsylvania congratulates the Senate. I am opposed to the bill in any form. I do not think it is a proper use to make of the public property. I think the bill, as presented by the Senator from Pennsylvania is, in every way, objectionable, both in principle and as to the established policy of the Government. I think it is one of the best evidences of the decline from the ancient policy. Let us look at the history of it. So far as the amendment of the Senator from South Carolina is concerned, I approve of that. If you are going to divide the public domain, divide it fairly—take in not only the widows, but the children of the soldiers of the revolutionary war. Do not extend it to one man because he happened to live a little longer than others.

In the beginning of the war of 1812, all persons who enlisted into the public service of the United States for five years, or during the war, were entitled to one hundred and sixty acres of land, but these patriots did not come out then. During the course of the war, we could not get soldiers. The armies of the nation were disgraced. Its Capitol was burnt, and we wanted patriotism. We then increased the bounty to three hundred and twenty acres. These gentlemen did not come forward then. After the Mexican war, we gave every man who had served twelve months, I think, one hundred and sixty acres. Now, the bill of the Senator from Pennsylvania is to the effect that, any body who was ten days, or one day, or one hour, in the public service, shall have an amount of the public domain that never was given upon the same principle to a soldier of the Revolution, unless he enlisted for the war. There is much misapprehension in the Senate as to the system pursued during the revolutionary war. If I am correct in my recollection of it, a soldier in that war had to serve three years fully, before he could receive the grant. Soldiers who served in the armies of the United States, during the Revolution, for two years, eleven months, and twenty-nine days, have petitioned Congress since to allow it to them by a special bill. But under the national enthusiasm which attended the Mexican war, we gave one hundred and sixty acres to everybody who served thirty days.

So far as the bill is concerned, I think it very likely, if it passes the Senate and the House, I shall be a beneficiary to the amount of one hundred and sixty acres of land; but I think it is based upon no sound principle. The public lands were got for the purpose of giving additional bounties; and what has been the treatment of the revolutionary soldiers who won it, and their descendants? It is true the officers received their half-pay for life, or an agreement for it, which was commuted at their own instance, by their request; and the soldiers received five years' full pay, or ten years' half pay. They received every dollar of it. The United States paid it exactly as it was agreed to be paid. By their contract they agreed to pay them in the public security like other creditors, and they paid every man who served.

Mr. CASS. In the revolutionary war?

Mr. TOOMBS. Yes, sir.

Mr. CASS. I merely want to state what the honorable Senator knows. The actual soldier, to whom the pay was due, received a mere nominal sum. So my father, who was one of the soldiers of the Revolution, told me.

Mr. TOOMBS. I speak of the officers. I make the distinction.

Mr. CASS. The same thing is true in regard to the officers. They had given a month's pay for a yard of tobacco. The currency became depreciated. It run down to nothing. A good deal of the paper was the old Continental money. But as to what was called the funded debt of the United States, and the arrangement finally made with the officers, they were promised half-pay during life, and they ceded that and received the public securities, which were redeemed from those who kept them, and presented them at the Department; but the soldiers of the Revolution——

Mr. TOOMBS. That is precisely what I said. At the time, or just before the officers got their half-pay for life, the soldiers were offered eighty dollars. It turned out nothing. I was not drawing a comparison between the soldiers and the officers. The officers got their compensation as it was promised them.

But, Mr. President, the men of the Revolution had to serve three years to entitle themselves to one hundred acres of land. Now, it seems, you have become so patriotic that three days or an hour is sufficient; and those very men, of the last war, who would not enlist for the war, or they could have got one hundred and sixty acres at the beginning, or three hundred and twenty afterwards, but who went out in companies to protect their own homesteads from Indians or a foreign enemy, which they ought to have done, now come forward and claim one hundred and sixty acres of land—the same as those soldiers who enlisted for five years, and fought throughout the war. I say there is no equity or justice in it. It is against all principle. It is wrong, fundamentally wrong. If you are going to pay these people gratuities, pay them according to the services rendered.

It is very easy to talk about the old defenders of the country. Many of those defenders fell with arms in their hands, and they were not provided for. Why should you give to those who happen to live in 1855, after forty years have rolled over their heads, while you omit the children who have been left in penury by the death of those who have gone down to their graves? If you are going to divide the public domain, give it to the widows and children of those who fought for the country. Why should they not have it? Is it patriotism to entirely exclude them? If you pay this bounty for services rendered to the public, pay all who performed the service, and the heirs of those who rendered that service. Therefore I shall vote against the bill in any, and in all of its forms, unless it is broad enough to make a division of the public property among the whole people of the country.

Mr. BUTLER. Mr. President, I shall vote for the bill, and I regret that I differ from my friend from Georgia in reference to it. I did not like the proposition to allow the soldier of one day to be put on the same footing with one who served during the war. Such a provision appears to be unjust. I am, however, reconciled to this bill, on a very different ground from any that has been indicated. So far as it includes the officers and soldiers who performed service, I think it is very well to give them the land; and I think the widows of revolutionary soldiers, particularly, are entitled to it. There are very few of them left, at any rate, and I am willing to make this provision for them.

I am inclined to vote for this bill almost in its fullest latitude, though I should prefer to strike out one of the amendments which has been adopted. I am inclined to vote for it because I believe it is the best form of distributing the public lands, because I believe it is better than the system which has heretofore been recommended, of giving them to every person who will go and settle upon them. I think it is a better form of distribution, as far as my section is concerned, than any which has been presented. Sir, we have a homestead bill here; and that homestead bill, when it is offered, has the advantage over almost any other bill, because it attracts to it voters and influential men in the country. This bill proposes, not to distribute the lands to settlers who will go upon them and take them as a gratuity, but to distribute them among those who have contributed their services, in some measure, to win the domain. I say in some measure, for my friend from Georgia is perfectly right in one respect, that the officers and soldiers of the Revolution are those who won the independence of the country, and the title to the very lands we now propose to distribute under

the provisions of this bill. I am willing to include the soldiers of the war of 1812, because they maintained the honor of our flag, and, in some measure, entitled themselves and their children, or at least their widows, to a participation in the fruits of victory. I am in favor of the bill upon the broad ground that it will distribute to widows, and not to voters, an equal portion of the land, to some extent. I shall vote for it upon that ground, with the qualification I have stated, so far as regards a general distribution.

Mr. BRODHEAD. I only desire to make one further remark, and it is, that this bill is a very good one, unless it be killed by kindness. I have not so much objection to the amendment proposed by the Senator from South Carolina, as I have to striking out the limitation in regard to time. If we could restore the twenty-eight-day provision, and adopt the amendment of the Senator from South Carolina, I believe the bill would be less objectionable to the Senate, and more acceptable to the country. I wish, therefore, to express the hope that some gentleman will move a reconsideration of the vote on the amendment which I proposed as a substitute for the second section.

The PRESIDING OFFICER (Mr. ATCHISON in the chair). A motion to reconsider cannot now be entertained, as an amendment is pending.

Mr. BADGER. Mr. President, this is not with me at all a question whether the proposed distribution of the public lands is, in itself, most desirable and proper. According to my view, it is not. But it is now settled and established, that neither the public lands, nor the proceeds of the sales of the lands, can be distributed among the States of the Union, either for specific purposes pointed out by Congress, or for the general uses of the States to which those lands or their proceeds might be given. The country no longer needs the fund as a means of revenue. Then, sir, we have our choice, whether we shall dispose of the lands in the manner proposed by this bill to those men, and their representatives, who have been engaged in the various wars of the country, or whether they shall pass in homestead bills, holding out inducements and rewards in the public property of the country to depopulate the old States and drain their people into the new States, or whether the lands shall be disposed of upon the various processes of speculation, having the form and appearance of sale by graduation bills, when the country is to realize no real return.

Now, sir, among the various practicable and possible modes of application of the public lands, I decidedly prefer that which this bill offers to us to any of the others, and, therefore, I shall vote for the bill. I shall vote for it in the widest range and extent that it may be made to take. I shall go with my honorable friend from Georgia, to make it take in the heirs and representatives of the deceased soldiers, as well as the widows of those deceased soldiers. But in whatever form it may be put, wider or narrower, I shall go for it, because I infinitely prefer this mode of applying the lands, to any of the other modes which are now possible and within our reach. That is the ground upon which I sustain the bill.

Mr. TOOMBS. I will simply say, in reply to the Senator from North Carolina, that I will not assume that the Senate intends to throw away the public property, and, therefore, I do not think it a fair comparison to present, as the only alternative, the systems which the Senator has laid before us. If the systems of which he speaks were presented to me, I might possibly accept the one which he does in preference to the others. But I will not act upon the presumption that the Senate and House of Representatives of the United States, representing the American people, must necessarily squander the public money in one of the ways he has mentioned—all objectionable I will not agree to adopt one, lest a more objectionable form should be adopted by the legislative body. I assume that there is character enough, integrity enough, and patriotism enough in this Government to preserve the public property for public uses. I assume that it is not the intention of this Government to give it away in this partial form. I am not prepared to say that it would be a very bad system to divide the whole public domain among American citizens—among about ten millions of men in this country, descended from the men of the Revolution. Of all the modes, I should prefer that, if we were going to throw away the domain. That is just. That rests on some sound principle. It is on the principle that it belongs to all the people, but especially to the people who won it, and their descendants. Hence, if you admit that you are incapable of exercising this trust, that you are incapable of using it as a public fund to relieve the people from public burdens, and that you must squander it in some bad and reckless mode, you might adopt the plan which I propose, or the one which the Senator from North Carolina proposes. But I seek, sir, only to do my duty; and I intend to vote against all improper modes of disposing of the public property.

Mr. CLAY. I wish to ask the Senator from Pennsylvania if he has any estimate of the quantity of land which will be required to meet the provisions of this bill, if it should become a law?

Mr. BRODHEAD. I have not. I take it for granted, however, that, whether the quantity of land be more or less, makes no difference, if the proposed measure is just in itself.

Mr. CLAY. As I understand the bill at this time, it proposes to give one hundred and sixty acres to every man who was called out and mustered into service in any war of the United States. This seems to me to be going very far, and I should like to ascertain how much land will be required for the purpose. With this view I move, if it be in order, to refer the bill to the Committee on Public Lands.

Mr. RUSK. If the Senator will allow the vote first to be taken on the pending amendment, his motion will be then more appropriate.

Mr. CLAY. Very well, I will wait until the amendment is disposed of.

Mr. TOUCEY. Mr. President, I wish to say a word or two in reply to the honorable Senator from Georgia. If the principle of this bill were that of giving away, or squandering the public lands, I certainly should be bound to go against it. I do not entertain any doubt that it is competent for this Government to make an additional grant of money, or of lands, as a compensation for a past service under the Government. That is a principle which has been long adopted, and which I had supposed was universally acquiesced in. In the present case it is proposed to give one hundred and sixty acres of the public lands to the widows of revolutionary soldiers, where the soldiers themselves have not already received that amount. Can any man doubt the power of this Government to do that? There is but a handful of them. The amount called for will be but a pittance. It is proposed, further, to make a similar grant to the soldiers who were engaged in the war of 1812. Forty years have passed away since that war, and the number of its soldiers remaining now upon the stage of action can be but few. Thirty-three years are estimated as the average of a generation. If there be now any soldiers surviving, or widows of soldiers surviving, or minor children of such soldiers, it is proposed to make this grant where they have not already received it. I do not entertain any doubt of the competency of this Government to do that. We can make a compensation after the service has been performed, beyond that which we stipulated in advance of the service. It is upon that ground that the power is exercised. It is exercised, too, upon the general principle of encouraging men to embark in our service when the country is involved in war. In that point of view it is a matter of public policy, and it is wise and sound policy. I confess that I am somewhat surprised that my honorable friend from Georgia should make an exception to the granting of an additional compensation for past services, where the grant is on the ground of those services. I know of no more limitation upon the power of this Government to make a grant for past services, than to make a grant for future services. We are not bound to stipulate the amount in advance; or, if we do stipulate the amount in advance, we undoubtedly have power, I think, to make a further grant, if we deem it just and reasonable, and conducive to the public interest to do so.

Mr. BADGER. Mr. President, I agree with the Senator from Connecticut, that nothing is clearer than our constitutional competency to make additional compensation for past services.

Mr. CASS. Whether civil or military?

Mr. BADGER. Whether civil or military, as my friend from Michigan suggests, but especially and particularly for past civil services, because they are civil services. Mr. President, when I spoke of the alternatives left to us in regard to the disposition of the public lands, I did not proceed upon any presumptions about what Congress would do with them. I think it is not presuming that the lands will be disposed of for wasteful and improper objects, to assume, as I did, that we had only certain alternatives left. The past history and the present state of the legislation, and of the proposed legislation of Congress, in regard to the public lands, demonstrates, I think, that we have nothing left but the alternatives which I mentioned.

At the same time, however, it does not follow, that by saying that, I impute to gentlemen who vote for those projects the disposition of them to what they suppose to be wasteful and improvident objects. They may think them very wise and good. I think them wasteful and improvident; and believing that we are reduced to choose between these three or four methods of applying the public lands, I go for giving them to meritorious people, and meritorious classes of people, who, or whose progenitors have heretofore served the country. On that subject I agree entirely with my friend from South Carolina. I should regret exceedingly to see the lands disposed of in holding out inducements, and offering bribes to the inhabitants of the old States, of South Carolina, and North Carolina, and the other Atlantic States, to quit the country of their forefathers, and transfer themselves to the West. I shall, therefore, go cheerfully for this bill in the widest range. After the pending amendment shall have been disposed of, if my friend from Georgia will suggest the one which he proposes, I shall go for it with great pleasure, or if he will draw it up for me, I will propose it myself.

The PRESIDING OFFICER. The pending amendment is to strike out the words "since 1790" in the following clause: "In any of the wars in which this country has been engaged since 1790."

The amendment was agreed to.

Mr. TOUCEY. I perceive that it is necessary to move a further amendment in the first section, so as to conform to the one which has just been adopted. I move, therefore, to strike out the words "subsequent to the 18th day of June, 1812."

The amendment was agreed to.

Mr. STUART. I propose the following as an additional section to the bill:

SEC. —. *And be it further enacted*, That no warrant issued under the provisions of this act, shall be located on any public lands, except such as shall, at the time, be subject to sale at the minimum or lower graduated price.

Mr. BRODHEAD. I have no objection to that.

The amendment was agreed to.

Mr. CLAY. I now renew my motion to refer the bill to the Committee on Public Lands.

Mr. BRODHEAD. I hope that motion will not be agreed to. This bill has been before the Senate for a long time, and is very well understood. Besides, I fear, from the experience of the past, that if it gets into the hands of the Committee on Public Lands, we shall never hear of it again. For the last three years I have had the bill before that committee, and they never reported it back. It is true that the committee as organized at he opening of this session is somewhat different from what it was before. I cast no reflections or imputations on the committee. I take it for granted that they had other business to attend to.

Mr. BADGER. Railroad projects.

Mr. BRODHEAD. I do not know whether they were railroad or other projects, but we know there is a great deal of business before the Committee on Public Lands, and we are all over-worked here. Sir, I think we can understand the provisions of the bill without referring it to that committee. At one time, in order to have it considered by a standing committee of the body, I moved the reference of the bill to the Committee on Military Affairs, in view of the fact, that the chairman of that committee [Mr. SHIELDS] was himself a distinguished and gallant soldier, and would take it into consideration; but he reported it back, and asked that it should be referred to the Committee on Public Lands, considering that as the committee which should properly have jurisdiction. For these reasons, as we now understand the bill, I hope it will not be referred. Why

ascertain the exact or probable amount of the public lands, which will be granted to the soldiers under this bill, according to the suggestion of the Senator from Alabama? It makes but little difference, whether the amount be one hundred thousand acres or five hundred thousand acres, or double that quantity. If the bill be right, the quantity is not material.

Mr. TOOMBS. Has the vote been taken on retaining the word "minor" before "child" in the second section?

Mr. BRODHEAD. We took the vote on that, but I propose to renew in the Senate, the amendment which I before offered to the section alluded to by the Senator from Georgia.

Mr. DODGE, of Iowa. Mr. President, I do not desire that the motion of the Senator from Alabama, to refer the bill to the Committee on Public Lands, should prevail; but I think it is very important that the bill should be referred to some committee, and that it should be submitted to the Pension Bureau, or to the Secretary of War. I do not think it is a bill which should appropriately go to the Committee on Public Lands. I think it properly belongs to the Committee on Military Affairs, or the Committee on Pensions. It should be laid before the Pension Bureau or the War Department. The Pension Bureau is familiar with many hard cases in reference to widows and orphans' of men who have fallen in the service of their country, and is able to judge of the effect of the measure in connection with the existing pension and bounty land laws.

For myself, I am willing to give bounty lands to the surviving soldiers of the last war with Great Britain, but I am unwilling to extend the bill in the manner in which it is proposed to be extended; and I fear from the amendments that have been agreed to, and which are likely to be adopted, that I shall be constrained to vote against it. I hope, however, that my friend from Alabama will change his motion. Perhaps it would be better to refer the bill to a select committee, of which my friend from Pennsylvania should be chairman. I think he has labored in the cause of the old soldiers in such a manner as to give them and the Senate assurance that he will bring the subject to a final disposition, if possible. I trust that, if it be referred to a select committee, of which he shall be chairman, he will confer with the Commissioner of Pensions on the subject, and present us with a more perfect bill, and one more cautiously guarded than this is.

Mr. BADGER. Mr. President, I do not see any necessity, nor, in fact, any propriety, in referring this bill to any committee. It is before the Senate. I think we understand the general scope and purport of the bill, and I believe we are in favor of it in the form which it has been made to assume. That being the case, I do not see why we should not pass it at once. But, sir, if it is to be referred to any committee, I very respectfully suggest to my friend, who last spoke, that he has not indicated the proper committee. Neither of those committees which he indicated ought to be selected for the reference of this bill; but it appropriately belongs to the committee, of which, my friend from Mississippi, [Mr. ADAMS,] is the chairman—the Committee on Retrenchment and Reform, [laughter,] and in behalf of that committee, if it is to go to any, I put in a claim.

Mr. CASS. I am decidedly in favor of the principle of the bill, and shall be glad to vote for it; but I agree with those gentlemen who have suggested the propriety of a more mature examination of the subject. We have now hastily ingrafted on the bill four or five amendments, and we all know that we cannot understand such amendments fully unless we examine them in connection with the other provisions of the bill. For one, I think it is proper that we should know the amount of the grant. I believe, therefore, that we ought to refer it to the Committee or to the Commissioner of Public Lands, for the purpose of ascertaining the effect of the measure.

Mr. BRODHEAD. I have had it before the Commissioner of Public Lands again and again.

Mr. CLAY. I am very indifferent, sir, as to what committee the bill shall be referred to; but certainly it is manifest, in my opinion, that the bill should be referred to some committee. The Senator from North Carolina says we all know the purport of the bill. That is very true; but none of us know the effect of the bill. I have called on the author of it, to tell us what will be its probable effect, and he admits he does not know. Indeed, he seemed to regard that as altogether immaterial. I do not. I think the bill should be referred. I thought the Committee on Public Lands was the appropriate one, and I still think so, more especially as they have already had it under consideration for three years. If, however, the chairman of that committee objects to its further consideration by them, I am willing to waive that motion and move its reference to any other committee which he may choose to suggest.

Mr. DODGE, of Iowa. Let it be a select committee.

Mr. CLAY. I move, then, to refer the bill to a select committee of five Senators, but I trust I shall not be appointed on the committee, as I do not wish to serve upon it.

Mr. BRODHEAD. If this bill is to be referred at all, it should be to one of the standing committees. Why raise a select committee on the subject? I will say, in reply to the suggestions of the Senators from Alabama and Iowa, that I, for one, do not wish to serve on any committee on the subject, select or standing. This bill has been thoroughly considered, and we had better not take this mode of voting against it, because it comes pretty much to that. I think the bill can be perfected to-day. There is but one question of importance remaining open in regard to it. It is the one alluded to by the Senator from Georgia, when he was last up, the question of striking out "minors," and inserting "heirs." I desire to renew my amendment to that section, when the bill shall be reported to the Senate.

Mr. CLAYTON. Mr. President, I have forborne to take any part in this debate; but we have now arrived at the very pinch of the battle, just at that point where an erroneous move on the part of the friends of the bill may probably be fatal to it. I earnestly hope that the bill will now be passed, without a reference to either a select or a standing committee. It has been before Congress, as has been said by gentlemen, for many years. We have all had an opportunity of fully considering it. I do not design, by anything I shall say, to impede it, and I therefore do not desire to debate it. I hope we shall have action upon it. I look upon it as the best homestead bill that has ever been brought before Congress, and for that reason I shall vote for it.

The PRESIDING OFFICER. The question is on the motion of the Senator from Alabama to refer the bill to a select committee of five Senators.

The motion was not agreed to.

Mr. DODGE, of Iowa. I offer the following amendment, which may come in as an additional section:

Provided, That every such non commissioned officer, musician, and private, who may be entitled, under the provisions of this act, to receive a certificate or warrant for one hundred and sixty acres of land, shall be allowed the option to receive such certificate or warrant, or a Treasury scrip for $100; and such scrip, whenever it is preferred, shall be issued by the Secretary of the Interior, to such person or persons as would be authorized to receive such certificates or warrants for land; said scrip to bear an interest of six per centum per annum, payable semi-annually, and redeemable at the pleasure of the Government.

Mr. President, I copied the provision which I have now offered from the act of February 11, 1847, granting bounty land to the soldiers of the Mexican war. My purpose is to make this a grant for the benefit of the soldiers. I regard the bill, as it stands, as simply a proposition to issue so much governmental paper in a particular form, to be traded in by bankers and brokers in this city and other cities. The amendment will have the effect, if adopted, to prevent land warrants from going down below the price at which I have proposed to allow them to be redeemed. I propose to give the recipients of the bounty the option of taking it either in land warrants or treasury scrip, payable in cash. Now, sir, we all know that as soon as this bill passes, and a large batch of land warrants shall be issued under it, the bankers and brokers will bring them down to a mere nominal price, until they buy up the whole supply. As soon as they do that, they will send their agents off to locate the warrants upon the rich and fertile lands of the northwest, and they will sell them at a high price. They will thus carry on the process of making money on what is claimed to be a benefit to the old soldiers. Issue these one hundred and sixty acre warrants to go into the market in this manner, and they will decline to almost nothing. Then the brokers will raise the price, and thus they will alternate. The warrants will be used by speculators to buy up rich lands in the northwest, and in California and Oregon. This I wish to prevent. I hope the amendment will be adopted, because it will have the effect of keeping up the price of the warrant for the benefit of the old soldiers.

Mr. BRODHEAD. There is one decisive objection to the amendment of the Senator from Iowa. It is that the amendment proposes to allow $100 for each warrant which may be issued under the provisions of the bill. Some will receive a warrant for one hundred and twenty acres, and some for eighty acres, under its provisions, because under previous laws they received forty acre warrants, or eighty acre warrants. The object of the bill is to put them all on the same footing, and to give them enough to make up one hundred and sixty acres. This, of itself, is a decisive objection to the amendment. There are other reasons which I could give in opposition to it, but I do not wish to delay the Senate.

Mr. DODGE, of Iowa. If it will make the amendment more acceptable to my friend from Pennsylvania, I will modify it so that the amount to be paid shall be in proportion to the quantity of land mentioned in the warrant, whether forty acres, eighty acres, or one hundred and sixty acres.

The amendment was rejected.

The bill was reported to the Senate as amended.

The PRESIDENT. The question is on concurring in the amendments to the bill which have been made by the Senate, as in Committee of the Whole. Shall the question be taken on all the amendments together, or on each separately? [Separately.] Then the question will be on concurring in the first amendment in order, which is to insert in the first section "sea-fencibles."

The amendment was concurred in.

The second amendment, which was to strike out from the provision in relation to seamen the words, "except those who have received prize money," was concurred in.

The third and fourth amendments, which were to strike out the words limiting the bounty to the soldiers who served in the wars since 1790, and the militia who served since 1812, were concurred in.

The PRESIDENT. The fifth amendment, made as in Committee of the Whole, is to strike out of the third section the words, "for any service less than twenty-eight days, or where the person shall actually have been engaged in battle, or taken prisoner by the enemy, and." Will the Senate concur in this amendment?

Mr. BRODHEAD. I wish, at some suitable time, to renew the amendment which I offered as a substitute for the second section. As the Senate have adopted the amendment of the Senator from South Carolina, it seems to me there is an additional reason for placing that section in the form which I proposed. I know that the immediate question before the Senate is on concurring in the amendment to the third section, striking out the twenty-eight day provision. I think that provision should be allowed to stand, and then the second section should be modified as I proposed; or perhaps it would be as well for me to offer my substitute for the second section, and then let the question be taken on this amendment.

The PRESIDENT. The better plan would be to allow the amendments made as in Committee of the Whole, to be acted on before offering others.

Mr. BRODHEAD. Very well, sir.

The PRESIDENT. The question is on concurring in the amendment to the third section, which has been stated.

It was concurred in.

The last amendment made, as in Committee of the Whole, was to add the following additional section:

SEC. —. *And be it further enacted*, That no warrant issued under the provisions of this act shall be located on any of the public lands, except such as shall, at the time, be subject to sale at the minimum or lower graduated price.

Mr. DAWSON. I will ask the Senator from Michigan to explain what he means by "minimum or lower graduated price?"

Mr. STUART. I will state to the Senator from Georgia, that without this provision, these warrants might be located on reserved lands; for instance, alternate sections reserved for railroad

grants, and other reserved sections. The object of the amendment is to confine the selection of warrants to such lands as are subject to entry at the minimum price, or the lower graduated price, so as to give the holders the option of taking land subject to entry at ten shillings an acre, a dollar, or any other price.

The amendment was concurred in.

Mr. BRODHEAD. I now renew the amendment which I offered when the Senate was acting as in Committee of the Whole, as a substitute for the second section. As the Senate have stricken out the limitation in the third section, I hope they will adopt this amendment, the effect of which is principally to strike out "minor child," and insert "children."

Mr. TOOMBS. I will ask the Senator from Pennsylvania whether his object will not be accomplished by simply striking out the word "minor" where it occurs in the second section?

Mr. BRODHEAD. It would to a great extent; but I propose to insert "father" and "mother" also; hence, my object would not be entirely attained by the Senator's suggestion. There are other details in the section which make it better to adopt the substitute which I propose. My amendment is to strike out the present second section of the bill, and in lieu thereof, insert the following:

SEC. 2. *And be it further enacted*, That in case of the death of any person entitled to a certificate or warrant under the provisions of the foregoing section, such certificate or warrant shall be issued in favor of, and inure to the benefit of his family, according to the following rules: First, to his widow; second, his children; third, his father; fourth, his mother: *Provided, however*, That no person who has perpetrated, or attempted to perpetrate, a fraud upon the United States under any law, shall be entitled to the benefit of any provisions of this act: *Provided further*, That a subsequent marriage shall not impair the right of any such widow to such warrant, if she be a widow at the time of her making her application.

Mr. WELLER. I should like to have the Senator from Pennsylvania explain to me what he means by the word "attempted," in the last branch of the amendment. I can very readily conceive why a man, who has perpetrated a fraud on the Government, should be excluded from the benefits of the law. But that is a judicial question, and I should require that he should be regularly convicted of that fraud before being deprived of any of the privileges conferred by the bill. The Senator from Pennsylvania goes a step beyond that, and says that a man shall be excluded if he has attempted to perpetrate a fraud. Who is to decide that question? Is it to be left to the Pension Office to decide, when a man makes an application there for bounty lands, whether he has ever attempted to perpetrate some fraud on some Department of the Government? I think that is a very objectionable provision. I therefore ask the Senator to strike it out, and confine the exclusion to those who have really perpetrated frauds on the Government.

Mr. BRODHEAD. I modify my amendment by striking out the words "or attempted to perpetrate," in conformity with the suggestion of the Senator from California.

Mr. TOOMBS. I propose to amend the second section before the question is taken on striking it out. I propose to strike out the word "minor," where it occurs in that section before the word "child." This is a motion which will take precedence of that of the Senator from Pennsylvania.

Mr. BADGER. I hope that amendment will be adopted.

The amendment was agreed to.

The PRESIDENT. The question is now on the amendment proposed by the Senator from Pennsylvania, as a substitute for the second section.

Mr. BADGER. I hope the Senate will not adopt that amendment. We have now got the section in a good form, and I do not see that my friend from Pennsylvania will make it any better by striking it out, and putting in his substitute. Let us hold on to it as it is.

The amendment was rejected.

The PRESIDENT. The question now is on ordering the bill to be engrossed for a third reading.

Mr. STUART. Mr. President, I believe that in the condition in which this bill stands, I shall vote against it. I do not wish to renew the objections which I made when we were acting as in Committee of the Whole; but I think there is such a palpable objection to such a departure from anything that has been done before, as to give lands to the children of individuals who have served the country without respect to age, that I shall vote against it. It may give rise to a class of cases which, I am told, are somewhat numerous; perhaps there is one in the Senate now, where a distinguished individual has received land for services in the war with Mexico, and under this bill will be entitled to receive land in company with a minor brother. The effect of the bill, as it stands, is to divide between the full grown man and the minor child, the donation of one hundred and sixty acres of land for the services of the father, if there be such a case.

Mr. SHIELDS. Will the honorable Senator permit me to remind him that when the law was passed giving bounty lands to the officers and soldiers engaged in the war with Mexico, those who were then members of Congress were excluded from its benefits. I do not believe any member of the Senate or of the House ever received any benefit from that law.

Mr. STUART. I think there are individuals now here who were not here then, to whom that exclusion did not apply. Whether I be right in that or not, however, does not affect the principle. I say, take a case where land is donated for the services of a deceased soldier, and there are two children, one of whom is forty years old, and the other eight, if you please, or one twenty-five and the other eight. The one twenty-five years old divides the bounty land with the child eight years of age, under this bill.

Mr. WELLER. I suppose the Senator from Michigan alludes to my case, and I will therefore explain it. I obtained a grant of one hundred and sixty acres of land myself, for my military service during the Mexican war. My father was a commissioned officer in the war of 1812, and served under my distinguished friend from Michigan, [Mr. CASS.] I have a half-brother who is only thirteen years old; as a matter of course, therefore, under the provisions of this bill, as it now stands, the land to be granted for my father's services will be divided between that half-brother and myself, for it does not go exclusively to the minor children.

Mr. STUART. I said before, sir, that it might well be presumed that if the children were minor children, they were proper objects for the donation of this land by the Government. In regard to the widow also, that is a fair presumption, though, perhaps, a very liberal one. But, sir, there is no presumption that a man who is forty years old has need of the bounty of this Government at all. It is a simple question of a gift. Gentlemen may seek to shape it as they may; but it is only a question of giving away the public lands. I am in favor of that course with certain restrictions; and I beg leave to state to the Senate, at this time, my reasons for that.

I am in favor of the earliest possible settlement of the public lands. The very worst condition of things for the land States, is that the United States shall remain the proprietor of lands within their borders. The next in order of objectionable conditions of things, is that the lands shall go into the hands of speculators in large quantities. The best possible condition of things is, that they shall be in the hands of actual settlers. Well, now, sir, what is the effect of this bill? It is not to provide one actual settler in a thousand of those who receive the donation. All the bounties received by widows will, of course, pass into the hands of speculators, at whatever may be the market price. All those received by old men now living in one of the old States, will pass to speculators by the same law of trade.

It is proposed by the amendment, which has been adopted, striking out "minor," to increase that evil, to throw a still larger amount of these certificates into the hands of speculators, by giving the lands to those who are thirty, or forty, or fifty years old. It is a donation without any regard to necessity. If it were said that some rule should be established, by which it should be shown that a full grown man was poor, and in a condition where the Government might properly donate land to him, for the past services of his ancestor, I should not object to it; but the moment you go beyond widows and minor children, you not only do away with all presumption of necessity, but you strike a blow at once against the interests of the land States, by increasing the amount of this scrip that is to be issued, throwing it into the hands of speculators, and thereby absorbing enormous amounts of the public lands, to be held for merely speculative purposes. As an individual resident of a land State, I consider that such a policy so strikes at one of the most vital interests of my State, that, much as I should like to vote for the proper provisions of this bill, and cheerfully as I should vote for it, if it were confined to widows and minors, where there is an equivalent for any injury that may grow up, in the present condition of things, I shall be compelled to vote against it.

Mr. BADGER. Mr. President, I really do not see the force of the objection urged by the honorable Senator from Michigan, in either aspect of this case. With my friend from Connecticut, I consider that we are making a voluntary additional compensation for past services. Upon what principle, sir, do you direct this compensation, in the event of the death of the man who rendered the service, to be given to anybody else? Why do you give it to his children in preference to anybody else in the world? It is upon the ground that he being gone, we select the supposed objects of his affection, and put them in his place. That is the whole affair. Now, I should be glad to know why, in disposing of this fund upon this principle to the representatives of a man who has rendered you service in time of war, you should say that one of his sons, who is more than twenty-one years old, is less entitled to be considered as the representative of his affections than a child who is under twenty-one? Why, if one child be twenty years and eleven months old, should he be considered as entitled to share in this additional compensation for the past services of his father, and another who is twenty-one years old and a month over, be excluded from receiving this bounty? I cannot understand it.

It seems to me that the moment you assume the principle on which this bill is founded, you do—what? You suppose, for the occasion, that this quantity of land was the land of the ancestor—the soldier who served you; and he being gone, what do you do with it? You give it to those who, after his death, if he had left land of his own, would have taken it; or, as my friend from Illinois, who sits beside me, [Mr. SHIELDS,] suggests, (which brings it specifically to this case,) you do with it, in regard to his descendants, just as the law of the country would have done, if you had given it to him before he died; that is, you give it to his children.

Then, in the next place, the Senator from Michigan says there can be no presumption that a man, who is thirty or forty years of age, needs this assistance. Now, in the view I have taken of this subject, and in the frame of this bill, it is not founded upon the supposition that the children, in any case, need what is given them, for nothing is said of their necessities. It is founded on this: The ancestor rendered service; we desire to make an additional compensation for the service thus rendered, to manifest our sense of it. He is no longer here to receive that manifestation personally, and we give it to those who represent him—those who sprung from his own loins, the objects of his tenderest affection—to whom, when he died, the estate which he left went, and to whom this, also, on the principle of the bill, ought to go.

But then, sir, if we suppose that any idea of necessity is concerned, permit me to say that my friend from Michigan is entirely mistaken. I could find him a great many men of thirty or forty years of age, who stand in need of help, who stand in need of help from the Government, and who not only have the claim, (if they are the children of deceased soldiers who rendered services,) that the minor children have, but they have it in a more eminent degree; because it has so happened that the middle and active age of life has passed away with them without their being able to achieve an independence, and nothing is left for them in the future but a condition of dependence or penury; whereas the young man just entering into life, though he may have nothing, has all the chances before him of the successful prosecution of some enterprise by which, by the time he reaches forty, he may be enabled, so far as pecuniary considerations are concerned, to turn with indifference to the bounty you propose to bestow.

Again, the objection is founded upon a mistaken idea of the principle of the bill. The bill is not based upon necessity—it is not to provide for the necessitous at all—it is to give a bounty, an additional compensation for services rendered. Where the person who rendered those services is gone, the bill selects as the recipient of that merited testimonial, those who represent him in blood, as well as the widow whom he has left behind him, the nearest objects of his affection; and surely they are as near, whether they have passed or have not yet attained the age of twenty-one years.

There is, however, one idea of my friend from Michigan to which I wish to call the attention of my friend from Georgia. The Senator from Michigan objects to the bill because it will not people the western lands; because it will not attract settlers there; because, as he says, not one out of a thousand of the recipients of this bounty will go there to live on the lands granted by this bill; because the title to the lands will be sold, and the money obtained by those who are to receive the bounty. In other words, he objects to this bill, not merely because it gives lands to those who may be of full age, not because he is unwilling that those who represent deceased soldiers should receive the bounty which would otherwise be given to those soldiers, but because his object, as coming from a land State, is so to dispose of the public lands that those who take them shall go and settle upon those lands in the new States where they are. Now, that is the very policy which I told my honorable friend from Georgia this morning was one of the alternatives between which we had to choose as to the disposition of the public lands.

Sir, I am for encumbering the bill with no such provision. I am for the bill as it is. If anybody who is entitled to lands under this bill, supposing it to be passed, chooses to go and settle in Michigan, or any other land State, I shall feel no dissatisfaction; I shall wish him success wherever he goes; but I want to leave him at liberty to use this bounty of his country in such manner as he shall think proper, and not compel him to move from the valley or the mountain in which he passed his early years, and in which the bones of his ancestors now lie, and around which his affections cling, for the purpose, by an unnatural process of temptation, of calling him from that home of his forefathers and of his infancy, to another and distant part of the country. The bill, I think, sir, is right as it is. If we mean to give the bounty, let us give it liberally. Do not let us trouble ourselves in considering whether those who represent the old soldiers of our wars are twenty or forty years old. The merit of their ancestors was the same in each case; the nearness of their connection to those ancestors was the same in each case, and there ought to be no distinction made between them.

Mr. STUART. Mr. President, ingeniously as the Senator from North Carolina has argued to show what the principle of this bill is, I submit again to him and to the Senate, that it is nothing more nor less than giving away a portion of the public lands without any consideration whatever. Whenever a proposition is made, before service is rendered, to give lands as a reward for certain service, the service becomes a part of the consideration; but can any man tell me what consideration there is, when, after having made a contract for service, and the service has been performed, and the contract price paid for it, the man for whom the service was performed, comes forward, and says, "I will give you a thousand dollars besides?" If that be not an outright donation, I should like to have the dictionaries consulted to see what would constitute one. The Senator from North Carolina says he is unable to ascertain the foundation of my objection.

Mr. BADGER. I said I did not see the force of it. I understood its foundation.

Mr. STUART. Well, sir, if the Senator will look for one moment, and see how many acres of land will be given by the provision on which I was commenting, I think he will see some force in it. As the bill now stands, it proposes to give one hundred and sixty acres of land to any man who ever served the country from the Revolution down to to-day; and if he is dead, it goes to his widow or child. That is the provision. Every man, therefore, who served the country, is to have one hundred and sixty acres of land, either in his own person, or in the person of his widow or his child. Can no man see the difference in number between those who have children, and those who have them under twenty-one years of age? When you take away that restriction as to age, will it not increase this donation more than a million fold? There is no doubt about it. Whether you say "minor children," or simply "children," makes that difference numerically. I repeat, that every man who has ever been in the service of the country, is to get one hundred and sixty acres of land through himself, his widow, or his child; for I take it, the number will be very small indeed who are not represented either by a widow or child. Now, it comes home to its effect upon my State; and I call upon gentlemen who represent the land States here, to look at its effect.

As I said before, the worst condition of things is for the Government to hold the land by way of preventing settlement, and I do not hesitate to say that it is the worst condition, both for the General Government and for the States. I have ever held, and I hold to-day, that the Government of the United States is as much benefited by the settlement of the public domain by actual cultivators of the soil, as are the States in which that soil lies. Their interests are identical. It is manifestly against the interests of the State, and of the United States, too, that large portions of the public domain shall pass into the hands of speculators at nominal prices. Now, let a large amount of scrip be issued, as will be done under this bill, giving a land warrant to every man who has ever been in the service, and what will it be worth in the market? What sort of a donation are you making to the survivors of those who have fought the battles of your country? Let me bring this point to the attention of the gentleman who has introduced this bill from the most worthy motives. Say, if you please, that there are ten thousand living men who have served their country. He proposes now, by issuing scrip which shall bring in a million of grown men representing those who are dead, so to affect the value of the scrip that it will not bring twenty-five cents an acre—nay, not even a shilling an acre. Let this bill pass, and you cannot sell a certificate for one hundred and sixty acres of land for one hundred and sixty shillings, for the very plainest reason in the world, that it will not be worth it. You will have flooded the market; you will have issued, by virtue of this bill, if it shall become a law, scrip enough to enter all the land that will be entered within the next five or ten years; in view of such circumstances, what will the scrip be worth?

You say you are going to benefit the surviving soldiers of the war of 1812. That is the business you are engaged in. It is your primary object. Meetings have been held all over the United States, and the best feelings in the human bosom have been appealed to, in order to benefit these men. Deputations have been sent here to induce us to look at the matter. There is about to be a convocation of these men themselves, on the 8th of January, the anniversary of the battle of New Orleans, to do what? Why, to ask you to give them one hundred and sixty acres of land. Does anybody suppose they are going on the land, to live upon it? There is not one in forty of them, probably not one in a hundred of them, who is in a condition to go into the wilderness and clear up his farm. What does he rely on? The market value of the land warrant, after he shall have obtained it. Now, in giving it to him by this bill, I say you issue such an immense amount of similar land warrants, that his land warrant is scarcely worth the taking. A shilling an acre will be the utmost that he can get for it in the market. Yet, with this sort of legislation, you visit upon my State, and upon all the land States in this Union, the greatest calamity that can befall them, next to your refusing to sell the land at all. You spread over those States a blanket of land warrants, in the hands of speculators, to be held there until those who now live in the State have so raised the value of wild land by their industry, that these speculators can sell their land for from five to ten dollars an acre. That is the effect of this bill.

Gentlemen may now see the enormous consequences resulting from the change of a single word in the bill. By it you destroy the interests of the land States. In the same proportion you injure the interests of the United States. You defeat the primary object of the bill, to wit, to benefit the surviving soldiers who have fought the battles of your country. If this be not entirely overthrowing the laudable object which the Senator from Pennsylvania has had in view, and has been pursuing for years, then I confess that figures are false, that arithmetic is good for nothing, that the experience of the commercial community is good for nothing. In view of all this, can I consent to do such rank injustice to the State which I in part represent here, while I do nothing in the way of justice to the surviving soldiers of our country? Sir, so well satisfied am I of this, that I intend to take the sense of the Senate by moving to reconsider the vote on striking out the word "minor" in the second section. I make that motion.

Mr. BRODHEAD. Mr. President, my friend from Michigan is certainly a very ingenious legislator. He understands very well legislative tactics. He gets us into a dilemma, and then he complains of it. He procures an amendment of the bill in such a manner as to enlarge its provisions, and then he complains that the provisions are enlarged, and he tells us of the ill effect of extending it so far. When I first introduced the bill, I confined its operation to those who had served twenty-eight days and more; but the honorable Senator from Michigan moved to strike out that restriction, and the Senate agreed to it, thus giving the bounty to those who one day were mustered into the service, and the next day were mustered out; so that it was on his motion that the operations of the bill were greatly enlarged. I think, then, that he should not complain that it has been too much extended.

Sir, I expected a good deal of opposition from the Senators representing the new States. I expected to hear of speculators in land warrants. We have heard of them, as if there were no speculators in land in the new States. I think there is no occasion for any allusion to speculators either in land or in land warrants. The value of land warrants is well known and easily understood. They always bring their full value, or nearly so, though it is true there are some cases in which they do not. I will not detain the Senate. I hope the bill will now be put upon its passage. I think it would be well to restore the limitation as to time, but the sense of the Senate is otherwise. I hope, therefore, that notwithstanding the objections of the honorable Senator from Michigan, the bill will now be permitted to pass.

Mr. THOMPSON, of Kentucky. Mr. President, I did not design to say a word on this bill, nor do I desire now to enter into any discussion of it; but after the remarks which have been made by the Senator from Michigan, I do not know that I could remain silent, in justice to myself, and in due regard to the State which I have the honor to represent in part on this floor.

The Senator from Michigan says that this donation ought to be limited to minor children. It seems to me that, if the donation which we are making is a meritorious one, it can make no difference whether the children be minors or adults, males or females. If we are to give this bounty, let us give it to the descendants of the old soldiers; let us carry it down to every degree in which it can be inherited. For myself, I should prefer the use of the word "heir," as the most extensive one which could be employed; but still, I am satisfied to take the bill as it stands.

The Senator alluded to this effect of this measure upon his State. I trust, then, that I may be allowed, with proper modesty, to allude to the effect of it as far as the State of Kentucky is concerned. Though I am delegated as a representative from that State, I trust that, in my notions of policy, I am broad enough to be, in the language of the Constitution, "a Senator of the United States."

But, sir, let me look at the effect of this bill so far as regards Kentucky. In the war of 1812 the States of Ohio, Indiana, and Illinois were then, to a great extent, unsettled. The Administration was not over heartily sustained in the war against Great Britain. The men who were in that war, and who ought to be the meritorious recipients of this favor, are the men who began at Tippecanoe, before the declaration of war, under Allen and Davies, the men who, at the Thames, and at the river Raisin, under Shelby, Adair, and Johnson, rendered such gallant services. These are the men who, in the hour of trouble and trial, were ready to re-

spond to their country's call. I do not wish to draw invidious distinctions, but I will say, that Kentucky, in proportion to her numbers, furnished as many soldiers as any other State for the disastrous battles of the northwest, and the blood of her sons flowed more profusely, I believe, than that of the citizens of any other State in the Union. These men now ask, when age, and accident, and infirmity have disabled them from obtaining a competency—they ask it as a testimony of gratitude and grateful recollection from their country—that they shall receive a small land warrant, that they may go out and locate it in Michigan, or those other far off regions, which were secured to the country by their arms, and from which the savages were expelled by their prowess; they ask it for themselves, and for the descendants of their gallant comrades who have since sunk into the grave.

Recollect, Mr. President, that it comes very hard to an old State, especially such a State as I represent, to think now that her citizens are to be deprived of all participation in the country which, at the time of the last war, was possessed by Tecumseh and the British allies, and from which they were expelled by our arms. You have given to the States formed out of that territory large donations of land for school purposes. They have had large appropriations of books for libraries, and money for public edifices. Many of them have received millions upon millions of acres of land, in alternate sections, for railroad purposes. Others have received vast quantities of swamp lands. All those grants have been confined to the States in which the lands lie. Now, when the very men who drove off the savage foe from that territory, and who made it belong to the Union, if I may use that expression, come here and ask for a portion of it, they are told "you cannot have it, because you are so old that you cannot settle on it." If I mistake not, the Senator from Michigan voted for and advocated the homestead bill at the last session. Then let me ask him whether the descendant of one of the heroes who fought in the bloody fields of the last war, from Tippecanoe to New Orleans, is not as much entitled to a donation of land as any vagabond who may be thrown upon our shores from Europe as a pauper or felon?

Sir, the men who are to be benefited by this bill, rendered meritorious services to the country, and they ought to be rewarded for them. If those who rendered the services are not themselves living, the benefit should inure to their children. That is fair, and just, and right. There are now, on this floor, from the old States, half a dozen Senators who are relations and kinspeople to those who suffered in that war. I ask you, sir, whether it is not fair, and just, and proper, that this claim should be preferred by the old soldiers, especially those in Kentucky and Tennessee, and other States which have received nothing from the Federal Government in the shape of donations of public lands, simply because those lands did not lie within their borders? Although Kentucky is said to be the first born, and the eldest child of the Union, you have reversed all the notions of the law of primogeniture so as to deprive her of all benefit from the public lands. She has been disinherited. She has been treated by the Federal Government as a step-mother treats a child of her husband by a former marriage. That is the way in which she and the other States which do not contain public lands have suffered. Why refuse to their citizens who served in the last war, who fought the savages who occupied the territory on which these new States now flourish, this small donation?

The Senator from Michigan talks about the damage to result to his State from speculators getting hold of the land. I think he misconceives the effect of the bill. If you grant to one of these old heroes a land warrant, he will give it to his son or his grandson, who will go and settle on the land. The new States should be glad to have such settlers. They should know from the character of the ancestors of such a man that he is one who will stand up for what is right, and just, and patriotic. These are the men to whom I would give such donations. I shall vote for the bill as it stands. I shall vote for it in any shape, because I prefer it to profligate appropriations of the public land for railroad purposes. This, as a matter of individual responsibility, is the best possible scheme you can get.

Mr. WELLER. Mr. President, I have been very much disposed to go for this bill, because it is a very ungracious task to oppose any measure which proposes to make compensation for military services which have been rendered to the country; but, as one of the Senators on this floor, representing a new State, in which there is now a vast quantity of public lands which are directly to be affected by the operations of this bill, I have been constrained to hesitate, and I shall have to reflect still more upon it before I can bring my mind to vote for the bill. Whatever my personal feelings may be, I must, as one of the Senators of a new State, look to the probable effect it may have upon its future welfare.

Sir, I agree in much that has been said by the Senator from Michigan, [Mr. STUART,] as to the practical operation of this bill. No one can doubt that these certificates will be bought up by speculators in the cities, and that the inevitable effect will be, that in all those States in which there is a large amount of public land, there will be extensive non-resident land proprietors. I agree, too, with the Senator from Michigan, that the true policy of this Government is to hold its lands exclusively for the use of settlers. I agree with that Senator, that such a course not only strengthens the power of this Government, by making every man directly interested in it, by being the owner of the soil, but, for the future permanency of our institutions, it lays the foundation broad and deep in the hearts of our people. If I believed that these soldiers, or their immediate descendants, would themselves emigrate to the far and distant West, settle down upon its rich and productive valleys, and cultivate the soil, I should not hesitate about giving them even a section of land, if necessary. But, sir, I cannot shut my eyes to the fact, that the Senator from Pennsylvania, as one of the representatives of an old State, has already notified the Senate that this is the only way in which the older States of the Union can get their share of the public lands.

That Senator says there are ten thousand men within his own State who are directly interested in the passage of the bill. How many of them would themselves emigrate to the West, and avail themselves of the bounty proffered to them? How many of those brave and gallant soldiers, who were the recipients of your bounty because of their engagement in the Mexican war, have themselves settled down and are now in the possession of their quarter section of land? Is there any Senator on this floor who believes that one out of one hundred of those who are to be the recipients of this bill, will ever themselves possess the land? Will these men, who periled their lives in the second war of independence, or their descendants, seek, under the provisions of this bill, a home upon the now unsettled public lands? Do you desire to administer to their wants, and smooth their passage through the remainder of life? No, sir; no. This is a bill not for the gallant and intrepid soldier, but for the greedy speculator.

What, then, do you propose? You propose to issue a vast number of certificates, which are to be bought up by eastern speculators, to be located upon the rich and productive prairies of the West, and there to be held for their own benefit, and not for the benefit of the poor soldiers. If by thrusting my hand into the public Treasury, or into my own pocket, I could carry joy and gladness to the hearts of any of those brave and gallant men who were so eloquently alluded to by my friend from Kentucky, I should not hesitate to do it. I could not find it in my heart to refuse. But, sir, you propose here to make the eastern speculators the owners of your western lands, under the pretext of rewarding soldiers for past services! You wait until nearly the last of those soldiers has sunk into his grave, and now you propose to hunt up some remote descendant, and make him the recipient of a certificate which he can trade off to some bank or broker in the eastern States, for, perhaps, sixty or seventy dollars! And this, you call justice to the old soldier!

In 1837, those of us who then lived in the West, know that, under the operation of the banking system, with an inflated paper currency, there were speculators who were buying up whole townships of the public domain. They would neither sell at a fair price, nor cultivate, but they relied upon the honest labor of the hardy and enterprising immigrants who settled around their lands, to enhance the value of their speculations. This bill will bring about the same state of things again; for it will authorize the speculators to go and locate the public lands with the scrip which will be issued.

Sir, the Senator from Delaware says he goes for this bill, because it is the best homestead bill he ever saw. This a homestead bill! Sir, I thought the very principle on which your homestead bill was based, was that it was good policy in this Government to have its lands cultivated; and by way of inducing your population to leave the large and overgrown cities, and migrate to the West, you said that you would give them a quarter section of public land, if they would settle upon and cultivate it for a period of five years. That was the homestead principle—cultivation, in order to open up the resources of the country—in order to enhance the value of the property upon which your taxation principle could then be applied. Here, however, is simply a proposition to issue a certain amount of certificates, to be traded and gambled for by the banking and broking institutions of the country. A bill to foster and encourage speculation in the public lands. Not a bill to provide a home for the poor, the destitute, the houseless soldier—but a bill to throw the public lands into the hands of rich capitalists.

Well, sir, how many men will be the recipients of this bounty? How many men were called out into the military service of this country in the war of 1812? Can any Senator here answer that question? Is there any man here who is prepared to say what multitudes will come under the provisions of this bill, upon the pretext of being the descendants of some man who fought for his country at some time or other? It is not necessary that he should have fought hard, or that he should have served long; because, under the liberal provisions of the bill, if he served but for a day, or if he only served a quarter of a day, and was engaged in a battle, he is to be entitled to one hundred and sixty acres of land. Then, what is a battle? I ask the Senator from Pennsylvania to tell me how many men must be engaged in a fight before it can be considered a "battle," according to the provisions of this bill? Where does he draw the line of distinction between a skirmish and a battle? Why, I apprehend it is as difficult as it is to draw the line of distinction between a creek and a river. How many persons must be engaged in a fight before, under the provisions of the bill, the Commissioner of Pensions can solemnly decide that it was a *battle*?

I think, Mr. President, it would have been well for us if we had reflected, before starting in this scheme, how much land will be diverted from the public domain by the adoption of this measure. We ought to know how much of that immense territory which the United States now hold, is to be thrown into market under the operation of this bill. No man can tell how much. The distinguished Senator from Pennsylvania has labored assiduously for three long years to carry this measure through; in his own language he has been laboring for it "in season and out of season," and in my judgment, he strictly told the truth, for I have oftentimes seen him laboring for the bill out of season. [Laughter.] But, with all the labor which he has given to the subject—and he has made it the study of three years—can he now tell me how much land will be necessary to carry out the requirements of the bill.

Mr. BRODHEAD. I do not care.

Mr. WELLER. The Senator from Pennsylvania says he does not care. I do. I am anxious to find out whether we have land enough to meet the requirements of the bill. It certainly will require more than one hundred million of acres! The State which I represent, with her accustomed modesty, may ask for some small appropriation of lands for railroads. I can count, with great confidence, upon the support of the present incumbent of the chair, [Mr. BADGER,] as he has always stood by me on such questions, and has never been deterred by the seeming extravagance of an appropriation. [Laughter.] But, sir, I fear that, if this bill be passed, the surface of those States in which such land grants may hereafter be needed, will be shingled over by land certificates in the hands of eastern speculators. Do you propose to locate the old soldier upon one hundred and sixty acres of mineral land? I do not know that any

exception of mineral lands is made by the bill. I need not say that the Federal Government has very valuable mineral lands in the State from which I come. If you propose to give the soldier one hundred and sixty acres of mineral land in California, I can comprehend it; but if you intend to prohibit him from going there, why not say so by the provisions of the bill?

I did not intend, Mr. President, to say a single word on this question, and I should not have done so but for the fact that the bill has been put in such a shape as will utterly prevent me from voting for it. If it were confined to the soldier himself, or to his widow, or minor children, I should probably have given my support to the bill, notwithstanding it might operate injuriously on the State from which I came. Actuated by the higher motive alluded to by the Senator from Kentucky, the fact that I am a Senator of the United States, and not merely the representative of a particular State, I might have voted for the bill; but it has now been placed in such a shape that I cannot support it. It is an ungracious task, I grant, to oppose it. It is an unpopular position, I know, for any Senator to assume; but I am not in the habit of consulting public opinion, in order to determine the manner in which I shall discharge my duty. I will do what I think is right, regardless of consequences. Sir, I trust I am above being moved by that thing called popular clamor, which has been manufactured for the occasion. That there has been some clamor on this subject is undoubtedly true. It has been gotten up, in the main, by those who have, perhaps, as much of this world's goods as I have—probably more. I will not detain the Senate further. I merely announce my determination to vote against the bill in the shape in which it is now presented. Whilst I am always willing to extend the utmost liberality to the soldier who has faithfully served his country, I am not willing to open a wide door to the land speculator.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The question is on the motion of the Senator from Michigan to reconsider the vote of the Senate by which the word "minor" was stricken out of the second section of the bill.

Mr. CASS. Mr. President, the bill is in such a form that I do not understand its details. There was an example at the last session which ought to warn us against hasty legislation. According to the manner in which a clause in the naval appropriation bill was worded, the surrender of the navy-yard at Memphis to the corporate authorities of that city depended on the payment of a claim of the navy agent for percentage on certain disbursements. The two provisions were hastily put together as an amendment, and that was the result. It should forever be a warning to us against hasty and inconsiderate legislation. Amendments are put into important bills, and nobody knows their bearing. This bill ought to be printed, as it has been amended, before we finally act upon it.

Mr. WELLER. Will my friend allow me to cite another case in point?

Mr. CASS. With pleasure.

Mr. WELLER. I voted the other day for an amendment proposed by the Senator from Maine [Mr. FESSENDEN] to the invalid pension appropriation bill. I supposed, at the time, that it involved an appropriation of not more than $400,000 or $500,000, at the most, but I ascertain that, by the construction placed on that amendment at the Pension Office, it will require an expenditure this year of $1,200,000. Of course, I never intended to vote for such an extravagant provision as that.

Mr. CASS. All these things should be warnings to us against hasty legislation. In such important provisions we ought to have the bill and amendments before us printed, and not trust to a casual reading. I was, however, about to inquire whether this bill, in its present shape, takes in every person who served in the Revolution.

The PRESIDING OFFICER. The bill, as it stands, is without limitation of time.

Mr. CASS. Then it includes every male over the age of sixteen or seventeen years who was then in the country. None of them got one hundred and sixty acres, except the officers of the revolutionary army. A hundred acres was the most that any of them got. The adoption of the bill in that form will require all the revolutionary claims from the commencement of the Government down, to be looked into; and, as the honorable Senator from California has suggested, no man can tell the amount of land which will be required. No one can say whether we have enough lands to satisfy all the demands which will be made under such an extensive provision. Why, sir, I have just been told by a member of the House of Representatives, who understands the subject very well, that, by some calculations which were made at the last session, it was estimated that the bill, as originally presented, without the additions which have been made to-day, would take more than a hundred millions of acres of the public lands. I am as liberal as any man can be on this subject; but, before I give such a vote as that I should like to know exactly what I am voting for. The honorable gentleman from Pennsylvania says he does not care about the amount. I do, and for this reason: the question before us now is not one of justice. By that I mean that this bill is not in compliance with any promise actually made. When you called men into your service, you held out inducements to them, and said that, if they volunteered or enlisted, they should be entitled to so much land. That was a legal promise, and it has been fulfilled by the Government. After the service has been rendered, and it is proposed to confer additional bounty lands, you should take into consideration the various circumstances connected with the case.

I have no doubt of the constitutionality of making grants of land for military services. That has been done from the foundation of the Government. We grant pensions under the same power. We grant bounty lands, if we consider that the services have been such as to warrant additional compensation. As the honorable Senator from Connecticut [Mr. TOUCEY] has said, it works in two ways: It gives them that compensation to which they are entitled, and serves as an encouragement to men hereafter to enter the service of the country.

But I repeat, Mr. President, that, in one aspect, this is a gratuity; that is to say, you are not bound to grant it; and I, for one, am determined to look into the circumstances, and to see how far the provisions of the bill really go. The man who dies in your service, and leaves a widow and minor children, leaves persons who are pecuniarily interested in his fate, and his loss is a pecuniary injury to them; but those of his children whom the law has taken from him, those who are beyond the age of minors, and are working for themselves, are not interested in this pecuniary loss, and I would not extend the gratuity to them. I would stop where every law which you have heretofore passed on this subject has stopped.

I think we should not go beyond the minor children and wife, who suffer from the death of the father and husband. I think we should not extend the bounty to those who do not suffer by the death. We may fairly stop at this point, considering the nature of the proposed grant, which is not a legal one, but one wholly voluntary on our part.

I repeat, Mr. President, that I am among those who wish to know the extent of the proposed grant, and whether we have actually land enough belonging to the United States to meet the claims which will be presented under this bill, if it shall become a law. I am for postponing the subject, to give time for consideration. I am for referring it to the proper Department, in order to get full information on the subject, as I wish to understand it fully and fairly. I think we ought to understand exactly what its provisions are, as I believe there is no gentleman on the floor now, who knows specifically what it does provide for, and how far it extends.

Mr. BRODHEAD. Mr. President, I hardly expected the support of gentlemen from the land States for this bill. When my friend, the junior Senator from Michigan, [Mr. STUART,] became very kind to the bill, I was afraid that he would damage it. The first proposition to enlarge its provisions, to strike out the limitation of twenty-eight days' service, and give the land to every man who was for a day or even for an hour in the public service, came from him. I was afraid then that he would kill it with kindness. Now, at the close of the debate, we find him coming forward and saying that the whole country is to be shingled over with land warrants, and that there are to be so many of them issued that they will be of no value to the soldiers, and will be injurious to the land States.

Now, sir, I do not think that we should take counsel any more from the natural opponents of the bill. I mean those from the new States who have heretofore always opposed its provisions. If we are going to review the amendments, I hope that we shall strike them all out, and retain the limitation of twenty-eight days, and thus prevent the issue of thousands on thousands of land warrants, and thereby comply with, and carry out, the views of the honorable Senator from Michigan, [Mr. CASS.] I know that the proposition to give extra pay to the soldiers of the Mexican war came from the western States. Such, at any rate, is my recollection. The western States sent many soldiers to the Mexican war. The gentlemen representing these States then were eloquent in behalf of the proposition to give three months extra pay to those soldiers.

Mr. President, if Senators will take the trouble to examine the provisions of this bill, it will not take them long to comprehend them. I think we can as well perfect it here as a committee can. This is the proper time and place to do it. Let us agree to the pending motion to reconsider, if it is desired, and then I hope the Senator from Michigan [Mr. STUART] will move to reconsider his amendment striking out the limitation of twenty-eight days. When we have done that, we shall have restored the bill to something like what it was when we started.

Mr. CASS. The honorable Senator from California, a short time since, alluded to a provision which was added, as an amendment, to the invalid pension appropriation bill. I have just been told, by a member of the House of Representatives, who had a conversation with the head of the Department on the subject, that he estimates the expenditure under it at $6,000,000.

Mr. SHIELDS. Mr. President, I do not wish to enter into the debate, at this time; but I think my honorable friend from Pennsylvania does injustice to the representatives of the western States. As one of those representatives, I must say that I have taken great interest in this subject. He must recollect that a few sessions ago I took great interest in a bill granting bounty lands, not only to the officers and soldiers of the Mexican war, but to the officers and soldiers of the war of 1812, and all the Indian wars of the country. The honorable Senator does us injustice when he thinks we are opposed to this bill now. I am in favor of it; and if it be pressed to a vote, I shall go for it, even in its present shape; and, in fact, in almost any shape in which it may be put.

It seems to me, however, that when the honorable Senator urges this bill with so much zeal, he ought to be able to show us the probable quantity of land which revolutionary soldiers and their descendants will receive under its provisions. He should also be prepared to show us what quantity will be likely to inure to the benefit of the soldiers of the war of 1812, and their representatives; and what amount will be required to satisfy the bounties to be given for services in our other wars. This is a subject of calculation; and I confess that we cannot arrive at it with perfect exactness, but we can come pretty near to it, near enough for all practical purposes. I think we ought to have that information before us for our guidance. When I urged the former bounty land bill through this body, every Senator who was then here, will remember that I importuned, and even annoyed, the Senate to pass the bill for the benefit of the soldiers of the war of 1812, and the soldiers of our other wars. I found then, that nearly four hundred thousand would receive donations under that bill, according to its provisions; yet it was much more limited than this. How far this bill may go, I cannot tell.

No Senator here is more anxious than I am to do justice to these gallent men. I am willing to do them more than justice; I wish to treat them with liberality. I think we cannot confer a higher bounty for future courage and future bravery than will be afforded by rewarding those who have fought well and behaved gallantly in past wars. I do not believe that we shall ever have another war, or another opportunity of rewarding them. My opinion is, and I hope this opinion will be verified in the future, that we shall never have occasion to fight great battles again.

Mr. CASS. On our own soil, I hope, never.

Mr. SHIELDS. If we ever have a war it will not be such wars as we have had; but one on that extensive scale which is now going on in the Crimea. Armies may come here to attack us, but we shall never again have any wars in the interior of our country. As I before remarked, no Senator here is more anxious to do justice to these men and their descendants than I am. I do not believe that many of my relatives will be benefited by the bill, in any shape, and, therefore, I have no personal interest in it. I see going on now, sir, in another part of the globe, a conflict which is likely to convulse the whole world. What astonishes me in that conflict is, that a little handful of French and English, a comparatively small number of brave men, could maintain themselves in one corner of a great empire, containing some seventy millions of inhabitants, and imagine for a moment that they could take up their winter quarters there. Such an experiment will never be tried here, although we cannot number more than twenty-five millions of people. Why? Because you have been liberal to your soldiers, and this bill and other bills like it, show that America never forgets the bravery and gallant conduct of her sons.

But, sir, I will not go into such questions. I am in favor of the bill of the honorable Senator from Pennsylvania, and I am gratified that he is pressing it as he is; but I confess I should like to know, before finally acting on it, what is the probable quantity of land which will be required under it. I have no idea of the number of persons who will be entitled to land under the bill. If it be limited to those who served more than twenty-eight days, I should like to know how many millions of acres would be required to satisfy their claims? I think this is a point on which we should have full information before final action.

The bill, as amended, was ordered to be printed, and then, on motion,

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 2, 1855.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of Saturday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting the annual statement, prepared by the Register of the Treasury, of the receipts and expenditures of the marine hospitals, founded for the relief of sick and disabled seamen in the ports of the United States, for the fiscal year ending 30th June, 1854; which was laid upon the table, and ordered to be printed.

Also, a communication from the Secretary of the Interior, transmitting a statement showing the balance of appropriations standing on the books of his office to the credit of the Department, for the fiscal year ending 30th June, 1854; which was likewise laid upon the table, and ordered to be printed.

The SPEAKER stated that the business first in order was the consideration of a bill "to amend an act approved August 4, 1854, entitled 'An act to reduce and graduate the price of the public lands to actual settlers and cultivators.'"

DIPLOMATIC AND CONSULAR SYSTEM.

Mr. PERKINS, of Louisiana, by unanimous consent, reported back, from the Committee on Foreign Affairs, with certain modifications, a bill "to remodel the diplomatic and consular system of the United States."

Said bill was ordered to be printed, as modified, and its further consideration was postponed until Tuesday next.

FOREIGN PAUPERS.

Mr. WENTWORTH, of Massachusetts. The Committee on Commerce, to whom was referred a resolution, directing them to inquire into the expediency of legislative enactment to prevent the immigration of blind, insane, or disabled persons, have directed me to report a bill.

Mr. CLINGMAN. I prefer that the committees should be called regularly for reports.

Mr. COBB. What does the gentleman from Massachusetts propose to do with his bill?

Mr. WENTWORTH. I intend to move that it be printed, and its consideration postponed until this day two weeks.

Mr. COBB. I have no objection to that.

Mr. JONES, of Tennessee. I wish to inquire of the Chair if the morning hour has commenced?

The SPEAKER. It has.

Mr. JONES. Well, I wish to inquire further, what will be the effect of reporting bills now during the morning hour, and postponing their consideration, some for one week and some for two weeks? Will they not all come up during the morning hour; and will it not get us into inextricable confusion?

The SPEAKER. They will come up during the morning hour on the days to which they are postponed, and will take precedence of all other reports from committees during the morning hour of those days.

Mr. JONES. And from day to day until disposed of.

Mr. CLINGMAN. Then I object to this report.

MAIL CONTRACT IN CALIFORNIA.

Mr. LATHAM, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Post Office Department be requested to transmit to the House of Representatives a copy of the contract made by the Department, in the year 1853, with Messrs. Ramsey & Carmick, for the transportation of the United States mails between Vera Cruz, in Mexico, and San Diego, Monterey, and San Francisco, in California, along with all the correspondence relative to the same; and also relative to the change of schedule of the days for the arrival and departure of the United States mail steamers to and from Vera Cruz on the line to New Orleans.

SOLDIERS OF THE WAR OF 1812.

Mr. STRAUB I ask the unanimous consent of the House to offer the following preamble and resolution:

Whereas, the surviving officers and soldiers of the late war with Great Britain contemplate holding a convention in the city of Washington, on the 8th day of January, instant: Therefore—

Resolved, That out of respect, the use of the Hall of the House of Representatives be tendered them by the Speaker for that purpose.

Mr. JONES, of Tennessee. I understand from the newspapers that the convention have already procured a room in the city. They will meet in the day time, and if we allow them the use of this Hall, we shall have to adjourn over to make room for them.

Mr. STRAUB. Well, it will only be for one day.

Mr. JONES. We have but a few days left, in which to transact the necessary business.

A MEMBER. Besides, that convention will be in session for several days.

Mr. STRAUB. Well, suppose it is in session for four or five days.

The SPEAKER. Does the Chair understand the gentleman from Tennessee as objecting to the introduction of the resolution?

Mr. JONES. Yes, sir.

Mr. STRAUB. I demand the previous question on the passage of the resolution.

The SPEAKER. Objection being made, the resolution cannot be received.

Mr. COBB. The morning hour is passing away, and there is an important measure—the bill to graduate and reduce the price of public lands to actual settlers—in order before the House. The consideration of the amendments to this bill was postponed till this morning, in order that the bill, with all the amendments, might be printed, and laid upon the tables of members.

Mr. STRAUB. I was under the impression that I had the floor.

The SPEAKER. The gentleman from Pennsylvania cannot be entitled to the floor, as objection having been made to his proposition, it cannot be received by the House.

Mr. JONES, of Tennessee. I will not object to the introduction of the resolution, if a majority of the House are disposed to vote for it.

Mr. ORR. I shall object to the introduction of the resolution.

The SPEAKER. Objection being made, the resolution cannot be received.

Mr. STRAUB. I would inquire whether a motion to suspend the rules cannot at any time be made?

The SPEAKER. Except on Monday, such a motion is not in order under the rules of the House.

Mr. COBB. I will now finish the remarks which I commenced making a few minutes since. I will suggest to the members of the House that, if they will send to the Doorkeeper, they can be furnished a copy of the bill with the amendments offered to it. I trust that the House will vote upon it, and for it, too, as soon as they become perfectly satisfied that it is correct. I have a part of my hour left, but have no disposition to further discuss the merits of the measure now before us for consideration. The amendment reported by the committee is, I think, so plain, that every gentleman who gives it an examination, will readily and cheerfully vote for it. I hope that we will finish the discussion, and come to a vote upon the bill during the morning hour.

It is said by the newspaper press of the country, that great frauds have been perpetrated under the law of the last session. If such frauds have been perpetrated, it is our duty as soon as possible to put an end to them. For my part, I have not been able to discover in what the frauds consist, for the Government gets as much from one person as another for the land disposed of. The only difference is, that the frauds, if any, are committed upon the actual settlers by the speculators—that is, they obtain an undue advantage over them. This is a matter, however, for the House to determine. I trust that they will act speedily upon the proposition now before them, and pass the amendment reported by the committee. The House must be ready to vote upon it. The friends of the graduation bill desire a speedy vote. Its opponents, who are clamoring about the frauds perpetrated under the law, must of course desire immediate action upon the preventive measures. As the friends and opponents of the bill seem to desire it, why cannot we have a vote this morning? I will now yield the floor to any gentleman who may desire to speak upon this question.

Mr. DOWDELL. Is the second section of the amendment amendable?

The SPEAKER. It is now open to amendment.

Mr. COBB. I now call for the reading of the amendment reported in the nature of a substitute. It proposes to strike out all after the enacting clause, and insert what will be read by the Clerk.

The amendment was then read, as follows:

That the act approved 4th August, 1854, "to graduate and reduce the price of the public lands to actual settlers and cultivators," shall be so construed that the affidavits required by the third section of that act may be made before any officer duly authorized by law to administer oaths, according to such forms and pursuant to such regulations as shall be prescribed by the Secretary of the Interior; and that portion of said act that has been construed as requiring that lands entered or applied for the use of an adjoining farm or plantation, shall form a compact body with such farm or plantation, shall hereafter be construed as applicable to any lands in the neighborhood of such farm or plantation, say not to exceed four miles distance; and the portion of said law that has been construed as authorizing the entry of lands under said graduating act, on filing a declaration of intention to enter lands for the use of the applicant, and for the purpose of settlement and cultivation, shall hereafter be considered as authorizing an entry in such cases, only on proof of actual settlement and improvement by the party making such application, under such rules and regulations as may be prescribed by the Secretary of the Interior for that purpose, and the oath of the applicants that it is for their own use, and not in trust for another.

[A message in writing, from the President of the United States, was here received by the hands of SIDNEY WEBSTER, Esq., his Private Secretary.]

Mr. DOWDELL. In the twenty-third line, second page, after the word "application," I propose to insert the following:

In accordance with the provisions of the preëmption act of 1841, except as to notice and—

So that portion of the section will read, as follows:

"And the portion of said law that has been construed as authorizing the entry of lands under said graduating act, on filing a declaration of intention to enter lands for the use of the applicant, and for the purpose of settlement and cultivation, shall hereafter be considered as authorizing an entry in such cases, only on proof of actual settlement and improvement by the party making such application, in accordance with the provisions of the preëmption act of 1841, except as to notice, and under such rules and regulations as may be prescribed by the Secretary of the Interior for that purpose, and the oath of the applicants that it is for their own use, and not in trust for another."

My object in offering this amendment is to

remove the difficulty, of which the Commissioner of Public Lands speaks in his report, as growing out of the confused language of the second section of the act of 1854. It is exceedingly difficult and intricate to explain its features in connection with the several preëmption laws which have been passed already. My amendment covers two grounds. In the third section of the law of 1854, the language is "Any person applying to enter lands," which leaves it open for any *person* to enter lands, whether he be foreigner, native-born, black, white, or red. If this amendment be adopted, it will make the act conform to the act of 1841, by which it is provided that the right of entry shall be confined to the head of a family, a widow, a single man, over the age of twenty-one years, who is a citizen of the United States, and to one who has filed his declaration of intention to become a citizen of the United States, as required by the naturalization laws.

Under this bill of 1854, any *person*, without even declaring his intention to become a citizen of the United States, may purchase and enter the public lands. This may be applied to the lands of the lower part of the State of Alabama, which produce the most valuable timber for the use of our Navy, of any State in the Union. By reference to a statement of the collector of customs at the port of Mobile, you will perceive that a considerable trade has been carried on with foreign countries in this line. The pines of that region are tall and clear, and the yellow pine is peculiarly adapted for naval purposes.

The trade in that article has been increasing for a number of years past. As will appear from the statement of the collector in the year 1844, the amount of $21,088 worth of timber for naval purposes was cleared at the custom-house at Mobile. In 1845, $20,100 worth; in 1846, $42,385; in 1847, $73,278 worth; and in 1848, $198,709 worth; and a great deal of this timber has been taken from the public lands.

Sir, there is no reason why those who have never declared their intention of becoming citizens of the United States, should be put upon an equal footing with naturalized citizens, or with those who have declared their intention of becoming citizens. I do not wish to make any discrimination against any one who desires to settle the public lands, and I cannot discriminate in favor of those who have no intention of becoming citizens. Under the act of 1854, agents might be sent here from France and Spain, to cut the timber from our public lands, without ever having declared their intention to become citizens, and after pocketing the profits they receive from the same, retire with the same to their homes in foreign countries.

The object of the bill was to encourage the settlement of our public lands, and to sell the same to actual settlers. Again, this bill does not confine the benefits of its provisions to the head of a family, or to any person of a certain age. I have been informed by the Commissioner of the General Land Office, that, in some instances, whole families, parents and each of the children, have come forward at the same time, and claimed to make entries of the public lands, and that, in such cases, the Commissioner had to rely entirely upon construction in order to exclude them. Now, I do not wish that he should rely upon construction alone, but that the act may be made to conform to the act of 1841, and that no person, except such as are mentioned in that act, shall be entitled, under this graduation bill, to enter the public lands.

Mr. COBB. It seems to me that the tendency of the gentleman's amendment will be to get us somewhat at sea upon this subject, and that we shall have another "Know-Nothing" discussion in this Hall, if we bring up the question of the right of foreign-born citizens under this bill. My amendment does not propose to do any such thing. The proposition which comes from the committee, simply provides for the machinery by which the original law may be executed.

My colleague [Mr. DOWDELL] desires very much to carry into effect his proposition. But I suggest to him, why bring up the question here, in connection with this bill, and thereby give rise to an interminable debate upon a proposition which simply provides the machinery by which the original law can be executed; to afford facilities, even to the gentleman's own constituents, to make their affidavits, and enter lands, two or three hundred miles away from the land office, rather than compel them to go there in person, and to expend twice as much money as the land might be worth when entered. This bill proposes to permit him to file his affidavit, &c., under rules and regulations to be proscribed by the Department, and to enter the land without appearing personally at the land office. The gentleman's constituents will thus be able to send to the land office their applications. But if the gentleman brings up a discussion here upon a subject upon which the House is so sensitive, is it not probable that this whole measure will fail, and his constituents be left to pack off one or two hundred miles for the purpose of entering land at twelve-and-a-half cents an acre, and when they get to the land office, to find two or three thousand applicants before them, whose movements and entries they must await, at a great expense of time and money?

I therefore admonish the gentleman to bring up his question at another time, and not jeopard this bill, and the interest of his constituents. I do not intend to controvert the principles of the gentleman's amendments, but I doubt the propriety of presenting and urging them now. I see plainly that if such action be insisted upon, we shall not get to a vote upon this bill this session.

Mr. DOWDELL. Under the act of 1854, any man who holds ten thousand acres of land, can purchase three hundred and twenty more, but under the act of 1841 he is confined to three hundred and twenty acres. The object of my amendment is to benefit the preëmptor, whose interests this bill does not well guard, because by it privileges are extended to outsiders and others, which are not granted to *bona fide* preëmptors of land.

Mr. COBB. There I take issue directly with my colleague. I say the preëmptor here has the benefit of being upon the land. It is so declared by the Department, as the gentleman will see by looking at the instructions which I hold in my hand, and a copy of which is sent to every land office in the United States.

I will say, further, that it was my intention not to confine the sale of the public lands to men who had no lands, but that men who had farms might locate adjoining public lands at the graduated prices, and the restriction to three hundred and twenty acres of land is still adhered to. The man who has a farm may still locate three hundred and twenty acres more, for the purpose of timber, &c. The Government gets the money.

Mr. DOWDELL. The gentleman has stated all that I desire—that, under the provisions of this act, not more than three hundred and twenty acres shall be entered, otherwise a man might purchase as much land as he might choose. My colleague has asserted that he so intended to make it.

I will merely read the provisions of the act of 1841, to which I wish this act to conform. It is this:

"No person who is a proprietor of three hundred and twenty acres of land, in any State or Territory of the United States, and no person who shall quit or abandon his residence on his own land, to reside on the public lands of the same State or Territory, shall acquire any right of preëmption under this act."

If the act of 1854 is not made conformable to the act of 1841, great injustice, in my opinion, will be done the preëmptors under the act of 1841, and I hope, therefore, that there may be uniformity in our legislation in regard to the public lands.

Mr. COBB. The gentleman would be satisfied if he knew the principles by which the Committee on Public Lands was governed.

The amendment to the amendment was read by the Clerk, and then the bill, as it would read if the amendments were adopted.

Mr. PERKINS, of New York. I demand the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. McMULLIN. The amendment to the amendment is a very important one, and I doubt whether the House thoroughly understands it. I would like to have it again read.

The SPEAKER. If there be no objection, the amendment to the amendment will be again reported.

There was no objection; and the amendment to the amendment, the amendment, and the bill as it would read if amended, were again reported to the House.

Mr. McMULLIN. I do not know that even now I well understand the question before the body, and I desire for a moment to attract the attention of the gentleman from Alabama, [Mr. COBB,] who introduced the bill for the graduation of the prices of the public land, passed at the last session. At the time I voted in favor of that law my understanding was that it guarantied to the actual occupants the right to enter three hundred and twenty acres of land, at the graduated prices therein fixed. My understanding was that no person, or persons, were to be granted the privilege of entering Government land at the graduated prices, other than the actual settlers. If I correctly heard the remarks made by the gentleman from Alabama, his purpose now is not only to allow those who own forty, eighty, or three hundred and twenty acres of land, but those who own one thousand acres of land, to enter the Government land at the graduated prices.

Mr. COBB. Yes, sir; I propose that a man whose land adjoins the public land—never mind what quantity he has—shall enter the adjoining Government land at the graduated prices, if he goes upon it and brings it into cultivation. Under the act, whether he holds one thousand or ten thousand acres, he must go upon the land and cultivate it before he can enter it under the graduation prices.

Mr. McMULLIN. I voted with a great deal of pleasure for the bill graduating the price of the public land, which was passed at the last session. I was willing to allow any person to enter three hundred and twenty acres under that law; but I am now unwilling to grant the privilege to anybody to enter more than three hundred and twenty acres at the graduated prices.

Mr. COBB. That is the law now. There is a prohibition to entry by any one person of more than three hundred and twenty acres of the public land at the graduated prices.

Mr. McMULLIN. Here is the point which I desire to make: The gentleman said, that if a gentleman owned one thousand or ten thousand acres of land, that still, under the provisions of this bill, he could enter the public land at the graduated prices.

Mr. COBB. The gentleman may have paid twenty dollars the acre for his land, and, if there be public land adjacent, are we to prohibit him from entering it at the graduated prices?

Mr. McMULLIN. My object was, and it now is, to protect, as far as I can, the rights of the actual settlers.

Mr. COBB. The actual settlers have the preference over all others in the entry of the land; so that their rights are fully protected.

Mr. DISNEY. If the gentleman will allow me, I think I can explain the amendments which are pending better to the satisfaction of the gentleman from Virginia. The existing law—the law which it is now sought to amend—allows the privilege spoken of by the gentleman; and if the amendment of the gentleman from Alabama upon my left [Mr. COBB] prevails, will still remain. But if the amendment offered by the other gentleman from Alabama [Mr. DOWDELL] prevails, that will be cut off. The object of the gentleman upon my right is to cut off that privilege.

Mr. McMULLIN. Then, if I understand the gentleman from Cincinnati, [Mr. DISNEY,] the amendment of the gentleman from Alabama [Mr. DOWDELL] is to prohibit any person from entering lands at the graduated prices who is already the owner of three hundred and twenty acres of land or more.

Mr. DISNEY. That is the effect of the gentleman's amendment.

Mr. McMULLIN. Then I shall vote for the amendment of the gentleman from Alabama on my left, [Mr. DOWDELL.] It is known to the members of the House that my course in the last Congress upon this subject, differing, although it did, from that of all my colleagues from Virginia, was actuated then, as it is now, by a desire to protect the actual settlers upon the public lands. I was not willing then, and I am not willing now, that the benefits of this graduation law should go for the benefit of land jobbers and land speculators. With the explanation, therefore, of the gentleman from Ohio, I shall cheerfully vote for the amendment of the gentleman from Alabama on my left, [Mr. DOWDELL.]

Mr. PERKINS, of New York. It seems to me that the proper title of this bill would be "a bill further to facilitate the taking, for mere nominal prices, by persons already owning lands, the

lands of the United States adjoining them." That would be a fair and legitimate heading for this bill, indicating precisely what its contents are. I cannot conceive any possible reason why a man who already owns land should be entitled to the public land adjoining him, more than another man who owns no land at all. The effect of this bill will be to give all the chances of benefit to the men who already own land, and place all the chances against those who own none. I think, however, that the amendment of the gentleman from Alabama, over the way, [Mr. DOWDELL,] by bringing the matter under the operation of the preëmption laws, will do away with some of the injustice which the bill contains, and I shall, therefore, vote for his amendment.

Mr. COBB. If the gentleman from New York thinks my bill contains injustice, I should be glad to have him point it out.

Mr. RITCHIE, of Pennsylvania. I rise to a question of order. I desire to ask the Chair if the yeas and nays have not been ordered upon the adoption of the amendment of the gentleman from Alabama?

The SPEAKER. They have been ordered.

Mr. RITCHIE. I submit, then, that no further debate is in order.

The SPEAKER. The yeas and nays not having been called, debate may go on precisely as if the yeas and nays had not been ordered.

Mr. HOUSTON. I think my friend from Ohio [Mr. DISNEY] is mistaken as to the effect of the amendment of my colleague, [Mr. DOWDELL.] If he will examine it, I think he will find that it is confined in its operation to a single class of persons, who are benefited under the graduation law of the last session. He proposes to apply the machinery of the preëmption law of 1841 to the very class of persons who will desire to obtain land for actual settlement and cultivation. But the provision of the bill to which the gentleman from Virginia has presented his objections, is another matter altogether, and the amendment of my colleague does not apply to it at all.

One of the provisions of the law of 1854 permits any person who owns no land at all, to enter three hundred and twenty acres of land upon condition that he will go and settle upon it. Then there is another provision, and the one to which the gentleman from Virginia particularly alluded, which the amendment of my colleague [Mr. DOWDELL] does not touch at all, but which provides that any person owning land—I do not care whether it is one acre or a thousand acres—may enter three hundred and twenty acres adjoining his own land. This is the provision to which the gentleman from Virginia objected, and this, I say, the amendment of the gentleman from Alabama leaves untouched. But, sir, in requiring the poor man, who desires to enter a tract of land for his own settlement and cultivation, to conform to the preëmption law of 1841, you are only throwing additional difficulties between him and the entry of his home.

Under the law of 1854, any person who desires to enter land for settlement and cultivation, may enter three hundred and twenty acres at the graduated prices, provided that he makes the necessary affidavits. To this provision my colleague proposes, in his amendment, to apply all the machinery and tyranny of the preëmption law of 1841, making it necessary for the individual, who desires to provide himself a home, to go back and comply with all the requirements of that law, while the person who desires to enter land adjoining his farm or plantation, when he already possesses one, may do so without complying with any such requirements. That I understand to be the effect of the amendment of my colleague upon my left, [Mr. DOWDELL.]

Mr. DOWDELL. I will state to the gentleman that, under the act of 1854, any person may enter land at the graduated prices; but under that of 1841, persons entitled to the benefit of that act are confined to the head of the family, the widow, and the single man over twenty-one years of age, who is now a citizen of the United States, or who has declared his intention to become such. That is the requirement of the act of 1841; but under that of 1854, any person, black or white, native or foreigner, of whatever sort, may enter three hundred and twenty acres of the public lands, and never declare his intention to become a citizen of the United States at all.

Mr. HOUSTON. The gentleman now shifts his point to another branch of the subject entirely. What I desired to show was, that his amendment would not reach the objections made by the gentleman from Virginia, [Mr. MCMULLIN,] and the gentleman yields to my construction of his amendment by his silence upon the subject. I therefore repeat, that his amendment does not touch the case presented by the gentleman from Virginia at all.

Now, let me ask my colleague [Mr. DOWDELL] one question. Has not the law of 1841 received the careful construction of the Interior Department, and has not that construction been to confine the entries under the law to white persons and to citizens, or those who have declared their intentions of becoming such?

Mr. DOWDELL. That is the construction of the Land Office.

Mr. HOUSTON. My colleague says that construction has been given by the Land Office. Well, sir, I know that such is the construction, and that such was the intention of the law; and whether it has been made by the Secretary of the Interior, or by the Land Office, is the same thing. If such a construction is made now, it accomplishes the same thing as the amendment of my colleague, so far as the class of persons who are to be benefited by the law is concerned. Then why should we encumber this bill with all this extraneous matter? Why should we embarrass and delay this bill, which, in my judgment, should be passed at once? If the amendment of my colleague subserves no other purpose but to throw difficulties in the way of the actual settlers upon the public lands, I ask, why should we place it upon a bill of this sort, which, at least, in some of its parts, has merit in it, and is eminently demanded by the public interest, and by those who desire to secure to themselves a home upon the public domain?

Sir, while we are here delaying this matter, there are many persons in the land States who are unable to get to a land office, and who are excluded from the benefits of the graduation bill. Why not pass this bill at once, and allow these poor men to secure their homes? I know many cases in my own part of the country, where men live twenty, thirty, or forty miles from a land office; and when they have traveled that distance to secure their homes, they will find that, probably, a hundred applications have preceded them, and they are compelled to remain until they have expended five times the value of their land when they get it.

Mr. DOWDELL. My colleague, who has just taken his seat, inquired whether the Department had not put a construction upon the act of 1841? I answer, that a construction has been placed upon that law, but I am not aware that any construction has been placed upon the act of 1854, that avoids the necessity of my amendment. Indeed, I have good reason to believe that no such construction has been made, for the Commissioner of the Land Office, in his report, which I have before me, says that the law is extremely intricate, and that he desires amendments that will obviate all difficulty in its construction.

Mr. COBB. And let me state to my colleague, that the very amendment which the committee propose, was drawn up by the Commissioner of the Land Office in lieu of the one which I introduced early in the session.

Mr. HOUSTON. I am aware of the construction which has been given by the Land Office to the law of 1841; but the law of 1841 was a preëmption law, and not a law for any other purpose at all; it was one legislating in favor of actual settlers upon the public lands, and nothing else. The law that my colleague proposes to amend, is the graduation act of 1854, and it does not reach the case that is pointed out, where a man owning land has been allowed, under existing law, to enter more.

Now, let me state why I think we ought to act upon this bill, and act upon it promptly. As I said before, there are a great many persons who are really unable to get to the land offices. They are at a great distance from them. I know as many as a dozen widows in my own district who want to enter only forty acres of land—they have no money to buy more—but by this rigid construction of the act of 1854, they are as effectually excluded as if that bill had never been passed. In the first place, they have not got money enough to travel to the land offices and then pay for their land. In the next place, if they had money enough, many persons, both male and female, have not the physical ability to travel to the land offices for the purpose of securing their homes.

If there are objectionable sections in this bill, let us strike them out; but, at least, let us authorize such persons as I have referred to, to make their affidavits at home, and send those affidavits, with the money, to the land offices and secure their homes. That cannot be objectionable. Let us not encumber this bill with extraneous matter. If there are sections in it which ought not to pass, let us, as I suggested to the gentleman from Tennessee [Mr. JONES] the other day, in the name of common justice and humanity, strike them out, and pass those portions of the bill which are so eminently demanded, alike by the interests of the Government as by those of individual citizens.

Mr. HAMILTON. I desire to ask the gentleman from Alabama [Mr. COBB] a question. If I understood him, he asserted, a moment ago, that the Commissioner of the Land Office had drawn up this amendment now before the House. I would ask him, in justice to that officer, to state whether this amendment contains all that was drawn up and recommended by him.

Mr. COBB. Every word, I believe, except that he used the words "neighboring farms," and, under the instruction of the committee, I inserted the words "not to exceed four miles," because we conceived that the word "neighboring" might be construed to include farms fifty miles distant, in some portions of the Union.

Mr. HAMILTON. Mr. Speaker, this is a very important bill, and one that well deserves consideration at our hands. Its importance has been impressed upon us by the honorable member from Alabama, [Mr. HOUSTON,] who has called upon us to strike out the objectionable provisions, and pass the bill at once. I have no objection whatever to retain the provision particularly alluded to by this gentleman, so as to extend to the class he has mentioned in his State, and elsewhere, the benefits of the graduation act. That law, when passed—and I voted for it—was passed under the impression that it would inure to the benefit of the actual settlers and cultivators of the public lands.

BINDING OF PRESIDENT'S MESSAGE.

Mr. STEPHENS, of Georgia, (interrupting.) I would ask the gentleman from Maryland to yield me the floor for a moment, that I may move to have the copies of the President's message, now being furnished to members, cut and bound.

Mr. HAMILTON. I yield the floor for that purpose.

Mr. STEPHENS. The copies are now being laid upon our tables, and they are not at present in a readable shape. I hope there will be no objection to having an order made that they be cut and bound. I submit that motion.

Mr. JONES, of Tennessee. I will say to the gentleman that all the copies, except those laid upon the tables of members, have already been ordered to be bound.

Mr. STEPHENS. I know that, but I want to have the copies which are placed upon our tables cut and bound also.

Mr. STEPHENS's motion was then agreed to, *nem. dis.*

THE GRADUATION BILL—AGAIN.

Mr. HAMILTON, (resuming.) At the beginning of this session, we heard it announced that gross frauds had been committed under the graduation law of last session. The fact was heralded to us by the gentleman from Alabama, [Mr. COBB,] who declared that it was his determination to suppress those frauds.

Mr. COBB. I said that it was stated in the newspapers, that gross frauds had been committed, but, I stated, at the same time, that there had been none committed, to my knowledge, in my country.

Mr. HAMILTON. The gentleman said that he desired to remedy the defects of that law, for it is considered defective. We have now before us the matured plan of the gentleman, and what is it? Is it designed to carry into execution the purposes of the original law? What does the gentleman's amendment propose to accomplish? What fraud does it design to prevent? What defect remedy?

Mr. COBB. I will state to the gentleman, if he will allow me. I explained it the other day,

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but perhaps I did not express myself with sufficient clearness; and it may, therefore, be necessary for me to reiterate what I then said. Although the title of the bill of last session is "an act to graduate and reduce the price of the public lands to *actual settlers and cultivators*," and although that is the spirit of the law, yet, it is said that individuals have entered land under that act, not for the purpose of actual settlement and cultivation. I propose to amend the language of the act so that it shall not be misconstrued. It is said that persons entering land under that law, and solemnly declaring that they enter it for the purpose of actual settlement and cultivation, construe their oaths to mean within any time that they please. Now, I propose to make the language of the act explicit, and to provide that they shall be upon the land before they propose to enter it, and shall enter it for the purpose of immediate cultivation and settlement.

Mr. HAMILTON. The complaint now made here is, that there has been too rigid a construction of the act upon the part of the Commissioner of the Land Office. They say that he has refused to determine, under the law, lands to be "adjacent" that joined triangularly. If we take a legitimate view of this law, and of the desire of the Commissioner to confine it within its proper limits for the benefit of the actual settler and cultivator of the soil, he has done just what Congress designed he should do. He has rigidly construed this law to mean what Congress intended it should mean. But the honorable gentleman from Alabama desires to go beyond such intention, and go beyond the interests of the actual cultivator and settler of the soil. The Commissioner of the Land Office desired the benefits of the law to be restricted to this class of our citizens, but the honorable gentleman from Alabama comes here and says that the law is defective, and is fraudulently violated.

Mr. COBB. I deny that I ever said so.

Mr. HAMILTON. I am wrong, perhaps, in attributing the latter expression to that gentleman, but other gentlemen here say that the law is defective, and that great frauds have been perpetrated under it. Because the Commissioner of the Land Office refuses to go beyond the intent of the law, gentlemen hold him to be reprehensible, and desire material alterations and changes. I desire that the construction of the Commissioner shall stand, and just as rigidly as he can construe it, and that the laws should be rather limited than enlarged, as desired by the gentleman from Alabama. It will be the better for the country and for the interests of the actual settlers and cultivators.

[A colloquy here ensued between Mr. HAMILTON and Mr. COBB, which was indistinctly heard by the reporter, owing to the confusion in the Hall.]

Mr. HAMILTON. There is considerable confusion in reference to the amendments to this bill, none of which are yet perfected for legislative action. I desire to submit the following amendment:

Strike out that portion of the section which reads as follows:

"And that portion of said act that has been construed as requiring that lands entered or applied for the use of an adjoining farm or plantation, shall form a compact body with such farm or plantation, shall hereafter be construed as applicable to any lands in the neighborhood of such farm or plantation, say not to exceed four miles distance."

And I now move to recommit this bill to the Committee on Public Lands, with all the pending amendments; and upon this motion I demand the previous question.

Mr. JONES, of Tennessee. Has the morning hour expired?

The SPEAKER. It has not yet expired by some two minutes.

Mr. GREENWOOD. I desire to offer an amendment to this bill, to be referred with it, if it is recommitted to the Committee on Public Lands.

Mr. HAMILTON. I have no objection to the gentleman's amendment, if he desires to propose one.

The SPEAKER. There being no objection, the amendment proposed by the gentleman from Arkansas will be received to accompany the bill, if it is recommitted to the Committee on Public Lands.

Mr. HOUSTON. I ask the Chair, if the gentleman from Maryland withdraws the demand for the previous question, if it would be competent to pass a portion of this bill, and recommit to the Committee on Public Lands the subjects embraced in the balance. If the House will look at the bill, they will see that it will work no injury to anybody, if we pass the first part of it down to, and including the word "Interior," in the second section. I only propose to pass this portion of the bill; and if the House desire to recommit the subject-matter of the last half to the Committee on the Public Lands, why, they can do so just as well as if we did not take the action proposed. There certainly can be no objection to the first portion of the bill.

Mr. GROW. The amendment in the first section is coupled with that in the second section of the bill.

Mr. HOUSTON. I desire to know of the Speaker, whether we can pass the first part of the bill, and refer the latter half to the Committee on Public Lands?

The SPEAKER. The object of the gentleman can only be accomplished, by the unanimous consent of the House.

Mr. PERKINS, of New York. I object.

Mr. OLIVER, of Missouri. I desire to offer the amendment this morning, which I proposed the other day; so that, in the event of this whole subject being recommitted to the Committee on Public Lands, it may be with all the proposed amendments.

The SPEAKER. It seems to be the understanding of the House, that all the amendments offered by gentlemen shall be committed to the Committee on Public Lands, if the bill be recommitted to that committee. The motion now before the House, is that made by the gentleman from Maryland, [Mr. HAMILTON,] to refer this subject to the Committee on Public Lands, and upon that motion, he demands the previous question.

The previous question was then seconded.

Mr. LETCHER. I wish to inquire whether the proposition of the gentleman from Maryland [Mr. HAMILTON] includes the original bill?

The SPEAKER. It includes the original bill, and all the amendments.

The main question was then ordered to be now put.

The whole subject was then recommitted to the Committee on Public Lands.

Mr. HAMILTON moved to reconsider the vote just stated, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. JONES, of Tennessee. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported, as correctly enrolled, bills of the following titles; which, thereupon, received the signature of the Speaker, viz:

An act authorizing the Washington Gas-Light Company to increase the capital stock of said company;

An act for the relief of Herman Chittenden;

An act giving the consent of Congress to the cession, by the State of Massachusetts, to the State of New York, of the district of Boston Corner.

An act to amend an act, entitled "An act to establish an auxiliary watch for the protection of the public and the private property in the city of Washington," approved August 23, 1842; and

An act for the liquidation of the penitentiary indebtedness.

VETO MESSAGE—RIVERS AND HARBORS.

Mr. PHILLIPS. The gentleman from Tennessee [Mr. JONES] has withdrawn, for the present, his motion that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of enabling me to move that the President's message, sent in this morning, be now read to the House, with a view of moving that it be laid upon the table, and printed.

The motion was agreed to; and the message was then read, as follows:

To the Senate and House of Representatives:

In returning to the House of Representatives, in which it originated, a bill entitled "An act making appropriations for the repair, preservation, and completion of certain public works heretofore commenced under authority of law," it became necessary for me, owing to the late day at which the bill was passed, to state my objections to it very briefly, announcing, at the same time a purpose to resume the subject for more deliberate discussion, at the present session of Congress; for, while by no means insensible of the arduousness of the task thus undertaken by me, I conceived that the two Houses were entitled to an exposition of the considerations which had induced dissent, on my part, from their conclusions in this instance.

The great constitutional question of the power of the General Government in relation to internal improvements, has been the subject of earnest difference of opinion at every period of the history of the United States. Annual and special messages of successive Presidents have been occupied with it, sometimes in remarks on the general topic, and frequently in objection to particular bills. The conflicting sentiments of eminent statesmen, expressed in Congress, or in conventions called expressly to devise, if possible, some plan calculated to relieve the subject of the embarrassments with which it is environed, while they have directed public attention strongly to the magnitude of the interests involved, have yet left unsettled the limits, not merely of expediency, but of constitutional power, in relation to works of this class by the General Government.

What is intended by the phrase "internal improvements?" What does it embrace, and what exclude? No such language is found in the Constitution. Not only is it not an expression of ascertainable constitutional power, but it has no sufficient exactness of meaning to be of any value as the basis of a safe conclusion, either of constitutional law or of practical statesmanship.

President John Quincy Adams, in claiming, on one occasion, after his retirement from office, the authorship of the idea of introducing into the administration of the affairs of the General Government "a permanent and regular system" of internal improvements, speaks of it as a system, by which "the whole Union would have been checkered over with railroads and canals," affording "high wages and constant employment to hundreds of thousands of laborers;" and he places it in express contrast with the construction of such works by the legislation of the States and by private enterprise.

It is quite obvious, that, if there be any constitutional power which authorizes the construction of "railroads and canals" by Congress, the same power must comprehend turnpikes and ordinary carriage roads; nay, it must extend to the construction of bridges, to the draining of marshes, to the erection of levees, to the construction of canals of irrigation; in a word, to all the possible means of the material improvement of the earth, by developing its natural resources, anywhere and everywhere, even within the proper jurisdiction of the several States. But if there be any constitutional power thus comprehensive in its nature, must not the same power embrace within its scope other kinds of improvement of equal utility in themselves, and equally important to the welfare of the whole country? President Jefferson, while intimating the expediency of so amending the Constitution as to comprise objects of physical progress and well-being, does not fail to perceive that "other objects of public improvement," including "public education," by name, belong to

the same class of powers. In fact, not only public instruction, but hospitals, establishments of science and art, libraries, and indeed everything appertaining to the internal welfare of the country, are just as much objects of internal improvement, or, in other words, of internal utility, as canals and railways.

The admission of the power in either of its senses implies its existence in the other; and since, if it exists at all, it involves dangerous augmentation of the political functions, and of the patronage of the Federal Government, we ought to see clearly by what clause or clauses of the Constitution it is conferred.

I have had occasion more than once to express, and deem it proper now to repeat, that it is, in my judgment, to be taken for granted, as a fundamental proposition not requiring elucidation, that the Federal Government is the creature of the individual States, and of the people of the States severally; that the sovereign power was in them alone; that all the powers of the Federal Government are derivative ones, the enumeration and limitations of which are contained in the instrument which organized it; and by express terms: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."

Starting from this foundation of our constitutional faith, and proceeding to inquire in what part of the Constitution the power of making appropriations for internal improvements is found, it is necessary to reject all idea of there being any grant of power in the preamble. When that instrument says: "We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity," it only declares the inducements and the anticipated results of the things ordained and established by it. To assume that anything more can be designed by the language of the preamble, would be to convert all the body of the Constitution, with its carefully weighed enumerations and limitations, into mere surplusage. The same may be said of the phrase in the grant of the power to Congress, "to pay the debts and provide for the common defense and general welfare of the United States;" or, to construe the words more exactly, they are not significant of grant or concession, but of restriction of the specific grants, having the effect of saying that, in laying and collecting taxes for each of the precise objects of power granted to the General Government, Congress must exercise any such definite and undoubted power in strict subordination to the purpose of the common defense and general welfare of all the States.

There being no specific grant in the Constitution of a power to sanction appropriations for internal improvements, and no general provision broad enough to cover any such indefinite object, it becomes necessary to look for particular powers, to which one or another of the things included in the phrase "internal improvements" may be referred.

In the discussions of this question by the advocates of the organization of a "general system of internal improvements" under the auspices of the Federal Government, reliance is had, for the justification of the measure, on several of the powers expressly granted to Congress: such as to establish post offices and post roads; to declare war; to provide and maintain a Navy; to raise and support armies; to regulate commerce; and to dispose of the territory and other public property of the United States.

As to the last of these sources of power, that of disposing of the territory and other public property of the United States, it may be conceded, that it authorizes Congress, in the management of the public property, to make improvements essential to the successful execution of the trust; but this trust must be the primary object of any such improvement, and it would be an abuse of the trust, to sacrifice the interest of the property to incidental purposes.

As to the other assumed sources of a general power over internal improvements, they being specific powers, of which this is supposed to be the incident, if the framers of the Constitution, wise and thoughtful men as they were, intended to confer on Congress the power over a subject so wide as the whole field of internal improvements, it is remarkable that they did not use language clearly to express it; or, in other words, that they did not give it as a distinct and substantive power, instead of making it the implied incident of some other one. For such is the magnitude of the supposed incidental power and its capacity of expansion, that any system established under it, would exceed each of the others, in the amount of expenditure and number of the persons employed, which would thus be thrown upon the General Government.

This position may be illustrated by taking, as a single example, one of the many things comprehended clearly in the idea of "a general system of internal improvements," namely, roads. Let it be supposed that the power to construct roads over the whole Union, according to the suggestion of President J. Q. Adams, in 1807, whilst a member of the Senate of the United States, had been conceded. Congress would have begun, in pursuance of the state of knowledge at the time, by constructing turnpikes. Then, as knowledge advanced, it would have constructed canals; and at the present time, it would have been embarked in an almost limitless scheme of railroads.

Now, there are in the United States, the results of State or private enterprise, upwards of seventeen thousand miles of railroad, and five thousand miles of canals, in all twenty-two thousand miles; the total cost of which may be estimated at little short of six hundred millions of dollars; and if the same works had been constructed by the Federal Government, supposing the thing to have been practicable, the cost would have probably been not less than nine hundred millions of dollars. The number of persons employed in superintending, managing, and keeping up these canals and railroads, may be stated at one hundred and twenty-six thousand, or thereabouts; to which are to be added seventy or eighty thousand employed on the railroads in construction, making a total of at least two hundred thousand persons, representing in families nearly a million of souls employed in or maintained by this class of public works in the United States.

In view of all this, it is not easy to estimate the disastrous consequences which must have resulted from such extended local improvements being undertaken by the General Government. State legislation upon this subject would have been suspended, and private enterprise paralyzed, while applications for appropriations would have perverted the legislation of Congress, exhausted the national treasury, and left the people burdened with a heavy public debt, beyond the capacity of generations to discharge.

Is it conceivable that the framers of the Constitution intended that authority, drawing after it such immense consequences, should be inferred by implication as the incident of enumerated powers? I cannot think this; and the impossibility of supposing it would be still more glaring, if similar calculations were carried out in regard to the numerous objects of material, moral, and political usefulness, of which the idea of internal improvement admits. It may be safely inferred, that if the framers of the Constitution had intended to confer the power to make appropriations for the objects indicated, it would have been enumerated among the grants expressly made to Congress. When, therefore, any one of the powers actually enumerated, is adduced or referred to, as the ground of an assumption to warrant the incidental or implied power of "internal improvement," that hypothesis must be rejected, or at least can be no further admitted than as the particular act of internal improvement may happen to be necessary to the exercise of the granted power. Thus, when the object of a given road, the clearing of a particular channel, or the construction of a particular harbor of refuge, is manifestly required by the exigencies of the naval or military service of the country, then it seems to me undeniable, that it may be constitutionally comprehended in the powers to declare war, to provide and maintain a navy, and to raise and support armies. At the same time, it would be a misuse of these powers, and a violation of the Constitution, to undertake to build upon them a great system of internal improvements. And similar reasoning applies to the assumption of any such power as involved in that to establish post-roads and to regulate commerce. If the particular improvement, whether by land or sea, be necessary to the execution of the enumerated powers, then, but not otherwise, it falls within the jurisdiction of Congress. To this extent only can the power be claimed as the incident of any express grant to the Federal Government.

But there is one clause of the Constitution in which it has been suggested that express authority to construct works of internal improvement has been conferred on Congress, namely, that which empowers it "to exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places, purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and *other needful buildings*." But any such supposition will be seen to be groundless, when this provision is carefully examined, and compared with other parts of the Constitution.

It is undoubtedly true, that "like authority" refers back to "exclusive legislation in all cases whatever," as applied to the District of Columbia; and there is, in the District, no division of powers as between the General and the State governments.

In those places, which the United States has purchased, or retains within any of the States—sites for dock-yards or forts for example—legal process of the given State is still permitted to run for some purposes, and, therefore, the jurisdiction of the United States is not absolutely perfect. But let us assume, for the argument's sake, that the jurisdiction of the United States in a tract of land, ceded to it for the purpose of a dock-yard or fort, by Virginia or Maryland, is as complete as in that ceded by them for the seat of Government, and then proceed to analyze this clause of the Constitution.

It provides that Congress shall have certain legislative authority over all places purchased by the United States for certain purposes. It implies that Congress has otherwise the power to purchase. But, where does Congress get the power to purchase? Manifestly, it must be from some other clause of the Constitution, for it is not conferred by this one. Now, as it is a fundamental principle, that the Constitution is one of limited powers, the authority to purchase must be conferred in one of the enumerations of legislative power. So that the power to purchase is, itself, not an unlimited one, but is limited by the objects in regard to which legislative authority is directly conferred.

The other expressions of the clause in question confirm this conclusion, since the jurisdiction is given as to places purchased for certain enumerated objects or purposes. Of these, the first great division—forts, magazines, arsenals, and dock-yards, are obviously referable to recognized heads of specific constitutional power. There remains only the phrase, "and other *needful* buildings." Wherefore needful? Needful for any possible purpose within the whole range of the business of society and of Government? Clearly not; but only such "buildings" as are "needful" to the United States, in the exercise of any of the powers conferred on Congress.

Thus, the United States need, in the exercise of admitted powers, not only forts, magazines, arsenals, and dock-yards, but also court-houses, prisons, custom-houses, and post offices, within the respective States. Places for the erection of such buildings, the General Government may constitutionally purchase; and, having purchased them, the jurisdiction over them belongs to the United States. So, if the General Government has the power to build a light-house, or a beacon, it may purchase a place for that object; and, having purchased it, then this clause of the Constitution gives jurisdiction over it. Still, the power to purchase, for the purpose of erecting a light-house, or beacon, must depend on the existence of the power to erect; and, if that power exists, it must be sought after in some other clause of the Constitution.

From whatever point of view, therefore, the subject is regarded, whether as a question of express or implied power, the conclusion is the same, that Congress has no constitutional authority to carry on a system of internal improvements; and in this conviction the system has been steadily opposed by the soundest expositors of the functions of the Government.

It is not to be supposed that, in no conceivable case, shall there be doubt as to whether a given object be or not, a necessary incident of the military, naval, or any other power. As man is imperfect so are his methods of uttering his thoughts. Human language, save in expressions for the exact sciences, must always fail to preclude all possibility of controversy. Hence it is that, in one branch of the subject—the question of the power of Congress to make appropriations in aid of navigation—there is less of positive conviction than in regard to the general subject; and it therefore seems proper, in this respect, to revert to the history of the practice of the Government.

Among the very earliest acts of the first session of Congress, was that for the establishment and support of light-houses, approved by President Washington, on the 7th of August, 1789, which contains the following provisions:

"That all expenses which shall accrue, from and after the fifteenth day of August, one thousand seven hundred and eighty-nine, in the necessary support, maintenance, and repairs, of all light-houses, beacons, buoys, and public piers, erected, placed, or sunk, before the passing of this act, at the entrance of, or within any bay, inlet, harbor, or port of the United States, for rendering the navigation thereof easy and safe, shall be defrayed out of the Treasury of the United States: *Provided, nevertheless*, That none of the said expenses shall continue to be so defrayed, after the expiration of one year from the day aforesaid, unless such light-houses, beacons, buoys, and public piers, shall, in the mean time, be ceded to, and vested in, the United States, by the State, or States, respectively, in which the same may be, together with the lands and tenements thereunto belonging, and together with the jurisdiction of the same."

Acts containing appropriations for this class of public works, were passed in 1791, 1792, 1793, and so on, from year to year, down to the present time; and the tenor of these acts, when examined with reference to other parts of the subject, is worthy of special consideration.

It is a remarkable fact, that for a period of more than thirty years after the adoption of the Constitution, all appropriations of this class were confined, with scarcely an apparent exception, to the construction of light-houses, beacons, buoys, and public piers, and the stakeage of channels; to render navigation "safe and easy," it is true, but only by indicating to the navigator obstacles in his way—not by removing those obstacles, nor in any other respect changing, artificially, the preëxisting natural condition of the earth and sea. It is obvious, however, that works of art for the removal of natural impediments to navigation, or to prevent their formation, or for supplying harbors where these do not exist, are also means of rendering navigation safe and easy, and may, in supposable cases, be the most efficient, as well as the most economical of such means. Nevertheless, it is not until the year 1824, that, in an act to improve the navigation of the rivers Ohio and Mississippi, and in another act making appropriations for deepening the channel leading into the harbor of Presque Isle, on Lake Erie, and for repairing Plymouth beach, in Massachusetts bay, we have any example of an appropriation for the improvement of harbors, in the nature of those provided for in the bill returned by me to the House of Representatives.

It appears not probable that the abstinence of Congress in this respect, is attributable altogether to considerations of economy, or to any failure to perceive that the removal of an obstacle to navigation, might be not less useful than the indication of it for avoidance; and it may be well assumed that the course of legislation so long pursued was induced, in whole or in part, by solicitous consideration in regard to the constitutional power over such matters vested in Congress.

One other peculiarity in this course of legislation is not less remarkable. It is, that when the General Government first took charge of light-houses and beacons, it required the works themselves, and the lands on which they were situated, to be ceded to the United States. And, although for a time this precaution was neglected in the case of new works, in the sequel it was provided, by general laws, that no light-house should be constructed on any site previous to the jurisdiction over the same being ceded to the United States.

Constitutional authority for the construction and support of many of the public works of this nature, it is certain, may be found in the power of Congress to maintain a Navy and provide for the general defense; but their number, and, in many instances, their location, preclude the idea of their being fully justified as necessary and proper incidents of that power. And they do not seem susceptible of being referred to any other of the specific powers vested in Congress by the Constitution, unless it be that to raise revenue, in so far as this relates to navigation. The practice under all my predecessors in office, the express admissions of some of them, and absence of denial by any, sufficiently manifest their belief, that the power to erect light-houses, beacons, and piers, is possessed by the General Government. In the acts of Congress, as we have already seen, the inducement and object of the appropriations are expressly declared: those appropriations being for "light-houses, beacons, buoys, and public piers," erected or placed "within any bay, inlet, harbor, or port of the United States for rendering the navigation thereof easy and safe."

If it be contended that this review of the history of appropriations of this class leads to the inference, that, beyond the purposes of national defense and maintenance of a Navy, there is authority in the Constitution to construct certain works in aid of navigation, it is, at the same time, to be remembered, that the conclusions thus deduced from cotemporaneous construction and long continued acquiescence, are themselves directly suggestive of limitations of constitutionality, as well as expediency, regarding the nature and the description of those aids to navigation, which Congress may provide as incident to the revenue power. For at this point controversy begins, not so much as to the principle as to its application.

In accordance with long-established legislative usage, Congress may construct light-houses and beacons, and provide, as it does, other means to prevent shipwrecks on the coasts of the United States. But the General Government cannot go beyond this, and make improvements of rivers and harbors, of the nature, and to the degree, of all the provisions of the bill of the last session of Congress.

To justify such extended power, it has been urged that, if it be constitutional to appropriate money for the purpose of pointing out, by the construction of light-houses or beacons, where an obstacle to navigation exists, it is equally so to remove such obstacle, or to avoid it by the creation of an artificial channel; that if the object be lawful, then the means adopted solely with reference to the end must be lawful, and that, therefore, it is not material, constitutionally speaking, whether a given obstruction to navigation be indicated for avoidance, or be actually avoided by excavating a new channel; that if it be a legitimate object of expenditure to preserve a ship from wreck, by means of a beacon or of revenue cutters, it must be not less so to provide places of safety by the improvement of harbors, or, where none exist, by their artificial construction; and thence the argument naturally passes to the propriety of improving rivers for the benefit of internal navigation; because all these objects are of more or less importance to the commercial, as well as the naval interests of the United States.

The answer to all this is, that the question of opening speedy and easy communication to and through all parts of the country is substantially the same, whether done by land or water; that the uses of roads and canals in facilitating commercial intercourse, and uniting by community of interests the most remote quarters of the country by land communication, are the same in their nature as the uses of navigable waters; and that, therefore, the question of the facilities and aids to be provided to navigation, by whatsoever means, is but a subdivision of the great question of the constitutionality and expediency of internal improvements by the General Government. In confirmation of this, it is to be remarked, that one of the most important acts of appropriation of this class, that of the year 1833, under the administration of President Jackson, by including together and providing for, in one bill, as well as river and harbor works, as road works, impliedly recognizes the fact that they are alike branches of the same great subject of internal improvements.

As the population, territory, and wealth of the country increased, and settlements extended into remote regions, the necessity for additional means of communication, impressed itself upon all minds with a force, which had not been experienced at the date of the formation of the Constitution, and more and more embarrassed those who were most anxious to abstain, scrupulously, from any exercise of doubtful power. Hence the recognition, in the messages of Presidents Jefferson, Madison, and Monroe, of the eminent desirableness of such works, with the admission that some of them could lawfully and should be conducted by the General Government, but with obvious uncertainty of opinion as to the line between such as are constitutional and such as are not; such as ought to receive appropriations from Congress, and such as ought to be consigned to private enterprise, or the legislation of the several States.

This uncertainty has not been removed by the practical working of our institutions in later times; for, although the acquisition of additional territory, and the application of steam to the propulsion of vessels, have greatly magnified the importance of internal commerce, this fact has, at the same time, complicated the question of the power of the General Government over the present subject.

In fine, a careful review of the opinions of all my predecessors, and of the legislative history of the country, does not indicate any fixed rule by which to decide what, of the infinite variety of possible river and harbor improvements, are within the scope of the power delegated by the Constitution; and the question still remains unsettled. President Jackson conceded the constitutionality, under suitable circumstances, of the improvement of rivers and harbors through the agency of Congress; and President Polk admitted the propriety of the establishment and support, by appropriations from the Treasury, of light-houses, beacons, buoys, and other improvements, within the bays, inlets, and harbors of the ocean and lake coasts immediately connected with foreign commerce.

But, if the distinction thus made rests upon the differences between foreign and domestic commerce, it cannot be restricted thereby to the bays, inlets, and harbors of the oceans and lakes, because foreign commerce has already penetrated thousands of miles into the interior of the continent, by means of our great rivers, and will continue so to extend itself with the progress of settlement, until it reaches the limit of navigability.

At the time of the adoption of the Constitution, the vast valley of the Mississippi, now teeming with population, and supplying almost boundless resources, was literally an unexplored wilderness. Our advancement has outstripped even the most sanguine anticipations of the fathers of the Republic, and it illustrates the fact, that no rule is admissible which undertakes to discriminate, so far as regards river and harbor improvements, between the Atlantic or Pacific coasts, and the great lakes and rivers of the interior regions of North America. Indeed, it is quite erroneous to suppose that any such discrimination has ever existed in the practice of the Government. To the contrary of which is the significant fact before stated, that when, after abstaining from all such appropriations for more than thirty years, Congress entered upon the policy of improving the navigation of rivers and harbors, it commenced with the rivers Mississippi and Ohio.

The Congress of the Union, adopting, in this respect, one of the ideas of that of the Confederation, has taken heed to declare, from time to time, as occasion required, either in acts for disposing of the public lands in the Territories, or in acts for admitting new States, that all navigable rivers within the same "shall be deemed to be, and remain, public highways."

Out of this condition of things arose a question which, at successive periods of our public annals, has occupied the attention of the best minds in the Union. This question is, what waters are public navigable waters, so as not to be of State character and jurisdiction, but of Federal jurisdiction and character, in the intent of the Constitution and of Congress? A proximate, but imperfect, answer to this important question is furnished by the acts of Congress and the decisions of the Supreme Court of the United States, defining the constitutional limits of the maritime jurisdiction of the General Government. That jurisdiction is entirely independent of the revenue power. It is not derived from that, nor is it measured thereby.

In that act of Congress which, in the first year of the Government, organized our judicial system, and which, whether we look to the subject, the

comprehensive wisdom with which it was treated, or the deference with which its provisions have come to be regarded, is only second to the Constitution itself, there is a section in which the statesmen who framed the Constitution have placed on record their construction of it in this matter. It enacts that the district courts of the United States "shall have exclusive cognizance of all civil cases of admiralty and maritime jurisdiction, including all seizures under the law of impost, navigation, or trade of the United States, when the seizures are made on waters which are navigable from the sea by vessels of ten or more tons burden, within their respective districts, as well as upon the high seas." In this cotemporaneous exposition of the Constitution, there is no trace of suggestion that nationality of jurisdiction is limited to the sea, or even to tide-waters. The law is marked by a sagacious apprehension of the fact that the great lakes and the Mississippi were navigable waters of the United States even then, before the acquisition of Louisiana had made wholly our own the territorial greatness of the West. It repudiates, unequivocally, the rule of the common law, according to which the question of whether a water is public navigable water or not, depends on whether it is salt or not; and, therefore, in a river, confines that quality to tide-water—a rule resulting from the geographical condition of England, and applicable to an island, with small and narrow streams, the only navigable portion of which, for ships, is in immediate contact with the ocean, but wholly inapplicable to the great inland fresh water seas of America, and its mighty rivers, with secondary branches exceeding in magnitude the largest rivers of Great Britain.

At a later period, it is true, that, in disregard of the more comprehensive definition of navigability afforded by that act of Congress, it was for a time held by many that the rule established for England was to be received in the United States; the effect of which was to exclude from the jurisdiction of the General Government, not only the waters of the Mississippi, but also those of the great lakes. To this construction, it was with truth objected, that, in so far as concerns the lakes, they are in fact seas, although of fresh water; that they are the natural marine communications between a series of populous States, and between them and the possessions of a foreign nation; that they are actually navigated by ships of commerce of the largest capacity; that they had once been, and might again be, the scene of foreign war; and that therefore it was doing violence to all reason to undertake, by means of an arbitrary doctrine of technical foreign law, to exclude such waters from the jurisdiction of the General Government. In regard to the river Mississippi, it was objected that, to draw a line across that river at the point of ebb and flood of tide, and say that the part below was public navigable water, and the part above not, while in the latter the water was at least equally deep and navigable, and its commerce as rich as in the former, with numerous ports of foreign entry and delivery, was to sanction a distinction artificial and unjust, because regardless of the real fact of navigability.

We may conceive that some such considerations led to the enactment, in the year 1845, of an act, in addition to that of 1789, declaring that "the district courts of the United States shall have, possess, and exercise the same jurisdiction in matters of contract and tort, arising in, upon or concerning steamboats, and other vessels of twenty tons burden and upwards, enrolled and licensed for the coasting trade, and at the time employed in business of commerce and navigation between ports and places in different States and Territories upon the lakes and navigable waters connecting said lakes, as is now possessed and exercised by the said courts in cases of the like steamboats and other vessels employed in navigation and commerce upon the high seas or tide-waters, within the admiralty and maritime jurisdiction of the United States."

It is observable that the act of 1789 applies the jurisdiction of the United States to all "waters which are navigable from the sea" for vessels of ten tons burden; and that of 1845 extends the jurisdiction to enrolled vessels of twenty tons burden, on the lakes and navigable waters connecting said lakes, though not waters navigable from the sea, provided such vessels be employed between places in different States and Territories.

Thus it appears that these provisions of law, in effect, prescribe conditions by which to determine whether any waters are public navigable waters, subject to the authority of the Federal Government. The conditions include all waters, whether salt or fresh, and whether of sea, lake, or river, provided they be capable of navigation by vessels of a certain tonnage, and for commerce, either between the United States and foreign countries, or between any two or more of the States or Territories of the Union. This excludes water wholly within any particular State, and not used as the means of commercial communication with any other State, and subject to be improved or obstructed, at will, by the State within which it may happen to be.

The constitutionality of these provisions of statute has been called in question. Their constitutionality has been maintained, however, by repeated decisions of the Supreme Court of the United States, and they are, therefore, the law of the land by the concurrent act of the legislative, the executive, and the judicial departments of the Government. Regarded as affording a criterion of what is navigable water, and as such subject to the maritime jurisdiction of the Supreme Court and of Congress, these acts are objectionable in this, that the rule of navigability is an arbitrary one; that Congress may repeal the present rule, and adopt a new one; and that thus a legislative definition will be able to restrict or enlarge the limits of constitutional power. Yet this variableness of standard seems inherent in the nature of things. At any rate, neither the First Congress, composed of the statesmen of the era when the Constitution was adopted, nor any subsequent Congress, has afforded us the means of attaining greater precision of construction as to this part of the Constitution.

This reflection may serve to relieve from undeserved reproach an idea of one of the greatest men of the Republic, President Jackson. He, seeking amid all the difficulties of the subject for some practical rule of action in regard to appropriations for the improvement of rivers and harbors, prescribed, for his own official conduct, the rule of confining such appropriations to "places below the ports of entry or delivery established by law." He saw clearly, as the authors of the above mentioned acts of 1789 and 1845 did, that there is no inflexible natural line of discrimination between what is national and what local, by means of which to determine absolutely and unerringly at what point on a river the jurisdiction of the United States shall end. He perceived, and of course admitted, that the Constitution, while conferring on the General Government some power of action to render navigation safe and easy, had, of necessity, left to Congress much of discretion in this matter. He confided in the patriotism of Congress to exercise that discretion wisely, not permitting himself to suppose it possible that a port of entry or delivery would ever be established by law for the express and only purpose of evading the Constitution.

It remains, therefore, to consider the question of the measure of discretion in the exercise by Congress of the power to provide for the improvement of rivers and harbors, and also that of the legitimate responsibility of the Executive in the same relation.

In matters of legislation of the most unquestionable constitutionality, it is always material to consider what amount of public money shall be appropriated for any particular object. The same consideration applies with augmented force to a class of appropriations, which are in their nature peculiarly prone to run to excess, and which, being made in the exercise of incidental powers, have intrinsic tendency to overstep the bounds of constitutionality.

If an appropriation for improving the navigability of a river, or deepening or protecting a harbor, have reference to military or naval purposes, then its rightfulness, whether in amount, or in the objects to which it is applied, depends, manifestly, on the military or naval exigency; and the subject-matter affords its own measure of legislative discretion. But if the appropriation for such an object have no distinct relation to the military or naval wants of the country, and is wholly, or even mainly, intended to promote the revenue from commerce, then the very vagueness of the proposed purpose of the expenditure constitutes a perpetual admonition of reserve and caution. Through disregard of this, it is undeniable that, in many cases, appropriations of this nature have been made unwisely, without accomplishing beneficial results commensurate with the cost, and sometimes for evil, rather than good, independently of their dubious relation to the Constitution.

Among the radical changes of the course of legislation in these matters, which, in my judgment, the public interest demands, one is a return to the primitive idea of Congress, which required in this class of public works, as in all others, a conveyance of the soil, and a cession of the jurisdiction to the United States. I think this condition ought never to have been waived in the case of any harbor improvement of a permanent nature, as where piers, jetties, sea-walls, and other like works are to be constructed and maintained. It would powerfully tend to counteract endeavors to obtain appropriations of a local character, and chiefly calculated to promote individual interests. The want of such a provision is the occasion of abuses in regard to existing works, exposing them to private encroachment without sufficient means of redress by law. Indeed, the absence, in such cases, of a cession of jurisdiction, has constituted one of the constitutional objections to appropriations of this class. It is not easy to perceive any sufficient reason for requiring it in the case of arsenals or forts, which does not equally apply to all other public works; if to be constructed and maintained by Congress in the exercise of a constitutional power of appropriation, they should be brought within the jurisdiction of the United States.

There is another measure of precaution, in regard to such appropriations, which seems to me to be worthy of the consideration of Congeess. It is, to make appropriation for every work in a separate bill, so that each one shall stand on its own independent merits, and, if it pass, shall do so under circumstances of legislative scrutiny, entitling it to be regarded as of general interest, and a proper subject of charge on the Treasury of the Union.

During the period of time in which the country had not come to look to Congress for appropriations of this nature, several of the States, whose productions or geographical position invited foreign commerce, had entered upon plans for the improvement of their harbors by themselves, and through means of support drawn directly from that commerce, in virtue of an express constitutional power, needing for its exercise only the permission of Congress. Harbor improvements thus constructed and maintained, the expenditures upon them being defrayed by the very facilities they afford, are a voluntary charge on those only who see fit to avail themselves of such facilities, and can be justly complained of by none. On the other hand, so long as these improvements are carried on by appropriations from the Treasury, the benefits will continue to inure to those alone who enjoy the facilities afforded, while the expenditure will be a burden upon the whole country, and the discrimination a double injury to places equally requiring improvement, but not equally favored by appropriations.

These considerations, added to the embarrassments of the whole question, amply suffice to suggest the policy of confining appropriations by the General Government to works necessary to the execution of its undoubted powers, and of leaving all others to individual enterprise, or to the separate States, to be provided for out of their own resources, or by recurrence to the provision of the Constitution which authorizes the States to lay duties of tonnage with the consent of Congress. FRANKLIN PIERCE.

WASHINGTON, *December* 30, 1854.

Mr. PHILLIPS. The motion which I indicated when I last had the floor, was to lay this message upon the table, and that it be printed.

The message is long and important, and I think, I may add, without fear of contradiction, a very able one. My object in rising, at the present time, is to state that, inasmuch as there are many bills for internal improvements, which have been submitted to the House, and referred to the appropriate committees, upon which the discussion of this question will legitimately come up, and for the purpose of enabling members to consider

more maturely the principles stated in the message, than they are able to do from merely hearing it read, I move that the message be laid upon the table and printed, and upon that I call for the previous question.

Mr. HAVEN. I hope my friend from Alabama will not undertake to have any course pursued with this message which will prevent gentlemen from various parts of the House from expressing their views in reference to the subject therein treated. I have endeavored to hear the message as it has been read by the Clerk, but my seat is so remote that I have been able to get only here and there a passage. It appears to me, that a great part of the message is well reasoned, but some parts of it are reasoned in a way that will not stand scrutiny.

I take it for granted, the President himself is willing and desirous that his views upon the subject, when before the House, should be fully and fairly considered by the House. I do not now propose to enter into any discussion at all upon the subject, but I want to suggest to the gentleman, whether this message had not better be referred to the Committee of the Whole on the state of the Union, and ordered to be printed, where it will properly, and in order, come up for discussion.

I desire to add, in addition, that I presume my friends over the way, [Messrs ORR, and BAYLY of Virginia,] both of whom I see are upon the floor, will also be desirous of discussing this message, for I see it falls far short of that class of messages which my friend from Virginia [Mr. BAYLY] indicated as a model message for a veto, as such——

Mr. PHILLIPS. I will change the motion I made, and move that the message be referred to the Committee of the Whole on the state of the Union; and upon that I demand the previous question.

The previous question was seconded; and, under the operation thereof, the message was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. STANTON, of Kentucky. Will it be in order now to move that twenty thousand extra copies be printed?

The SPEAKER. It will.

Mr. STANTON. Then I make the motion.

Mr. JONES, of Tennessee. I wish, sir, in connection with that proposition, to call the attention of the House, and particularly that of the gentleman from Kentucky, [Mr. STANTON,] to a subject which is interesting, perhaps, to the members of this House. It will be recollected that at the last session this House ordered a large number of extra copies of various documents to be printed. For instance, one hundred thousand extra copies of the agricultural part of the Patent Office report, many thousand copies of Herndon's, and of Gibbon's report of the survey of the Amazon. These copies, for distribution among the members, have not yet been delivered, and I do not know what is the exact state and condition of them, but the prospect is, that they will not be delivered to the members of this House in time to be sent off to them before the expiration of this session, and we shall have all the extra printing of this session left here after we adjourn.

I would ask the gentleman from Kentucky, if he knows why the printing, ordered at the last session, has not been done, and delivered before this time?

Mr. STANTON, of Kentucky. I am very much gratified that the gentleman from Tennessee has afforded me an opportunity to make an explanation to the House, which, I think, will exculpate the Committee on Printing from any charge of having neglected their duties. It is also due to the public printer of the House, and the Superintendent of Public Printing, to say that no possible blame can attach to them for the delay which has occurred in the delivery to the members of such documents as were ordered at the last session. They have both faithfully and creditably discharged their duties so far as the circumstances would allow.

The House, at the last session, ordered one hundred, or one hundred and ten thousand copies of the agricultural part of the Patent Office report to be printed. They have been printed by the public printer for more than three months. The House also ordered a large number of Lieutenant Herndon's report on the exploration of the Amazon. They have been printed for more than six months. Gibbon's reports, which were ordered, have been printed more than five months, and Marcy's for the same length of time.

Many MEMBERS. Where are they?

Mr. STANTON. There are fifty tons of them in the printing office of the Union, and in the hands of the binder, subject to be mill-dewed and eaten up by mice and moths. The binder, who has been ready and waiting for some time, cannot bind them, for the reason that this House ordered an immense number of plates and maps, the engraving of which required much time, and have not been completed according to the contracts. The binder, without authority of the House, could not bind up the books without the plates and maps, and consequently, for some time, and at much loss to himself, has been compelled to remain idle. It is probable from the delay which has occurred, and the slowness with which the engravers execute their contracts, that, unless the House orders the books on hand to be bound without the plates and maps, we shall not have ready for distribution many of the books ordered at the last session, under six or eight months yet to come.

The House, at the last session, ordered for the four works I have enumerated, 239,559 sets of plates and maps. Of these there are yet uncompleted, and not delivered by the contractors, 86,032. These were due by the terms of the contracts, as a memorandum I have before me, taken from the contracts, shows, principally in the months of August, September, October, and November, and a few in the month of December. Why the engravers have not executed their contracts more promptly, I am unable to say, as the matter of securing the plates and maps is not under the jurisdiction of the Committee on Printing, and we have no control whatever over it.

About one half of the plates intended for the Patent Office report of the last year, remain yet to be executed. These plates are intended to illustrate the characteristics of a certain description of strawberry, and the practical value of which, I am unable to comprehend. I am sure it cannot be so great as to justify the delay which has occurred in the distribution of a work ordered nearly one year ago. This work is much in demand, and it would be far better for the House to order its binding without the plates, than tolerate any further delay. There remain, also, 10,966 plates intended for Herndon's report, 20,000 for Gibbon's, and 2,500 for Marcy's, unexecuted, and which must be delivered before these works can be bound and distributed.

This, Mr. Speaker, is the explanation I have to make in reply to the inquiry of the honorable gentleman from Tennessee, [Mr. JONES,] and which I trust will be satisfactory to the House.

Mr. GREENWOOD. Did I understand the gentleman from Kentucky to say that his committee had no control over the printing of the Patent Office report?

Mr. STANTON. I stated that the Committee on the Public Printing had no control over the subject of engraving. This is intrusted, by the law of 1846, to the Committee on Accounts; but a rule of the House confers on the Committee on Engraving, power to make the contracts.

Mr. JONES, of Tennessee. I think myself, that it would be better for us to take the Patent Office reports without the strawberries. [Laughter.] Let us have them, bound as they are, so that they may, as it was intended they should, be distributed among the people.

Mr. HOUSTON. Is there any motion pending?

The SPEAKER. There is none.

Mr. HOUSTON. Then I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken; and the motion was agreed to.

SWAMP AND OVERFLOWED LANDS.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair.)

The CHAIRMAN. The business first in order is the consideration of House bill (No. 9) for the relief of purchasers and locators of swamp and overflowed lands.

Mr. HOUSTON. Would it be in order for me, Mr. Chairman, to move to lay this bill aside, and to take up one of the appropriation bills?

The CHAIRMAN. Has debate been closed on the bill now before the committee?

Mr. HOUSTON. I believe that it has not.

The CHAIRMAN. The Chair then is of the opinion that it would be in order to move to take up one of the general appropriation bills.

Mr. HOUSTON. I move to take up the mail steamer appropriation bill.

Mr. WASHBURNE, of Illinois. Does the Chair deside that the bill, in regard to purchasers and locators of swamp and overflowed lands, is not in order?

The CHAIRMAN. The Chair decided that the bill for the relief of purchasers and locators of swamp and overflowed lands, was the first business in order; but, inasmuch as discussion had not been closed on it, that it was in order to pass it over, and to take up one of the general appropriation bills.

Mr. GROW. I would ask whether the gentleman from Alabama [Mr. HOUSTON] can take the floor from the gentleman from Illinois, [Mr. WASHBURNE,] to make the motion to take up the mail steamer bill? for the gentleman from Illinois had the floor when the committee rose.

The CHAIRMAN. The Chair was not aware that the gentleman from Illinois was in possession of the floor when the committee rose.

Mr. HOUSTON. I do not recollect that any gentleman claimed the floor when the committee rose.

Mr. WASHBURNE. When the committee rose, having this bill under consideration, I was entitled to the floor.

The CHAIRMAN. Such being the case, the motion made by the gentleman from Alabama [Mr. HOUSTON] is not in order.

Mr. WASHBURNE. I ask for the reading of the bill.

Mr. HOUSTON. The bill has been read through regularly the first time, and I presume it is now to be read for amendment.

The CHAIRMAN. The bill will now be read by the Clerk for amendment.

The bill was read by the Clerk for amendment.

The CHAIRMAN. The first question is on the amendment of the committee to add the following proviso:

Provided, That the proceeds of the lands located under this act shall be exclusively applied, as far as necessary, to the drainage of the swamp and overflowed lands in said States.

Mr. WASHBURNE. I move, in lieu of the following words:

"That where lands granted to the several States by the act of Congress of September 28, 1850, 'to enable the State of Arkansas, and other States, to reclaim the swamp lands within their limits,' have been sold or located since the passage of the said act, the Governor of any State in which such swamp lands may be situated, by such agent or agents as he may appoint, may select other lands of equal quantity, in lieu of those purchased with cash, or located by warrants and scrip, upon the surrender to the United States by such Governor, or other duly authorized officer, of all right, title, and claim on the part of such State in and to the lands granted to the States aforesaid which have been thus entered or located, or any part thereof; and, upon such surrender, the titles in fee to the purchasers shall pass by the United States patent."

To substitute the following:

That where lands granted to the several States by the act of 28th September, 1850, 'to enable the State of Arkansas, and other States, to reclaim the swamp lands within their limits,' have been sold or located since the passage of said act, the purchase money shall be paid over to the State for such of said lands as have been, or may be, sold for cash, and the Governor, by such agent or agents as he may appoint, may select other lands in lieu of those located by warrants and scrip, upon the surrender to the United States by the Governor, or other duly authorized officer, of all right, title, and claim, on the part of such State, in and to the lands granted to the State as aforesaid, which have been thus entered or located, or any part thereof; and upon such surrender the title in fee to the purchasers shall pass by the United States patents: *Provided*, That all such selections, by any State agent, shall be made of lands subject to sale at a price not exceeding $1 25 per acre: *And provided also*, That all lands and money received by any State under the provisions of this act, shall be applied and expended as required by the said act of 28th September, 1850: *And be it further provided*, That before the purchase money for such lands sold as aforesaid, shall be paid over to any State, and before any State shall be permitted to locate other lands in lieu of those located by warrants, or scrip, proof shall be made to the satisfaction of the district land officers, subject to the approval of the Commissioner of the Land Office, that such lands were of the character embraced by the swamp land act of September 28, 1850.

Mr. Chairman, I do not intend to trespass but for a few moments on the attention of the committee. This question, gentlemen will recollect, was reported to the House by the Committee on

Public Lands nearly one year ago. It was then considered a matter urgently demanding action, but it was referred to the Committee of the Whole on the state of the Union, and there it has been ever since. The Legislatures of many of the States, where these lands are situated, meet only biennially, and it is necessary, as some of them are now in session, that this bill should receive prompt action on our part, in order that the Legislatures may be enabled to act. Such is particularly the case with the State which I have the honor in part to represent upon this floor, and hence the desire I have for instant consideration of the measure, and hence the reason I have insisted upon taking up the bill.

It will be seen by those gentlemen of the committee who have paid attention to the reading of the substitute that I offer, what is proposed. It is merely to enable the locators and purchasers of the public lands, which have been decided to be swamp lands, within the meaning of the swamp land act of 1850, and which were entered in good faith before they had been reserved as swamp lands, to get their titles to the lands they have bought.

Now, sir, under the operation of the law of September 28, 1850, known as the swamp land act, there has a great deal of confusion arisen, and that confusion has been to the prejudice of the settler, who has bought his land in good faith, but who is now unable to get his title thereto. Under the construction which was given by the proper officers of the Government, it is held that the title to the lands known as swamp lands rested in the States from the passage of the act, that it was a grant *in præsenti*. That, sir, was the decision given by the General Land Office, and by the Secretary of the Interior. That is the construction given by an authority authorized to give it by the law, and, therefore, may now be considered as a part of the law.

Well, sir, what was the consequence? After the passage of this act, and before the character of these lands had been determined, while they were open to purchase and location, settlers purchased these lands, and, in many instances, went and located upon them, and improved them. But, by the decision of the Secretary of the Interior, the title vests in the several States in which they are situated, and the Commissioner of the General Land Office declines to issue patents to the purchasers. It is for this purpose that legislation is asked. We propose to give authority to the Commissioner of the General Land Office to issue patents to the purchasers, and to permit the States to locate other lands in lieu thereof.

Now, in order to show the committee that what I state is correct, I will quote from the decision of the Secretary of the Interior upon this point.

[The decision was here read, a copy of which could not be obtained.]

It will be perceived that the grounds upon which the Secretary of the Interior based his decision was, that it was a grant *in præsenti*—that the States are entitled to hold the lands from the time of the passage of the act. Now, sir, when this decision was made, the Commissioner of the General Land Office sent his circulars to the various land offices in the country, stating that the entries which had been made by purchasers in good faith must be canceled, and that they could have the purchase money refunded by application to the land office, under the general law. Well, sir, that was not what was wanted by these parties. They had entered the lands, and in many cases improved them, and made them valuable, and they wished to retain them rather than to receive the purchase money back again.

Now, sir, I repeat, that this bill is to remedy a great and crying evil. And I do not know what objections can be urged against it. It takes nothing from the United States. It takes nothing from the public lands. It only provides that the parties who have entered those lands shall have their titles confirmed to the property which they have purchased of the Government in good faith.

Mr. Chairman, I will now call the attention of the committee to the recent report of the Commissioner of the General Land Office, with regard to this subject, showing the vast number of patents now hung up in the land office, which have been refused the settlers, who have purchased their lands and paid their money for them, but who are unable to get their titles. I think the committee will now understand the intent and object of the substitute I have offered, and I have nothing further to say on the subject.

Mr. LINDLEY. Mr. Chairman, I desire to offer an amendment to the substitute of the gentleman from Illinois. The object of this bill, and of the gentleman's substitute, is a good one. It is an attempt to do justice to many persons in the West who purchased lands of the United States, which were afterwards selected and claimed by the States in which they lie as swamp lands. The bill and the substitute both very properly provide that the General Government shall give to the States the money arising from the sales of such lands, and permits the States to appoint commissioners to locate other lands in lieu of those located by land warrants, when the States shall relinquish their title to the Government, which will inure to the benefit of the innocent purchasers. But there is added the following proviso:

And provided also, That all lands and money received by any State under the provisions of this act, shall be applied and expended as required by the said act of 28th September, 1850: *And be it further provided*, That before the purchase money for such lands sold as aforesaid, shall be paid over to any State, and before any State shall be permitted to locate other lands in lieu of those located by warrants, or scrip, proof shall be made to the satisfaction of the district and officers, subject to the approval of the Commissioner of the Land Office, that such lands were of the character embraced by the swamp land act of September 28, 1850."

And to this I object, and propose, as an amendment, to strike out all after the words "Provided also." My reason for it is, that it is wholly inconsistent with the object of the bill. The difficulty in the old law—the evil to be remedied—is, that it took effect *in præsenti*, vesting the title in the States at the time of the passage of the swamp land act. Your land offices were kept open, and many persons were induced to enter and pay for the very land afterwards selected by the States and claimed as swamp lands. The simple question now is, what is Congress willing to do to indemnify persons to whom you sold lands that did not belong to you. Many of these persons, who bought these lands from the United States, have sold them and given deeds of general warranty. They are liable on their covenants, and can be brought into court at the end of a writ. Many others have bought timber and prairie in separate tracts. One has been selected for the State, the other is valueless without it. Now, what will Congress do for these persons? I think we ought to do all in our power, and stop at nothing that will effect justice. But the title to these lands vested in the States at the passage of the act, and by some of them, has been donated to the respective counties. Now, you cannot pass a law divesting the States and counties of their title. It will be altogether optional with them whether they accept of the provisions of this act or not. We must depend on their generosity and sense of justice. Hence, we should impose no obnoxious conditions on the exercise of that generosity. We should try to induce the States to accept the provisions of this bill; and, to insure that, we must strip it of the conditions contained in the proviso. Some gentlemen say we ought to make the States use the proceeds of these lands to drain the swamp lands. As between the States and the General Government that is proper. But we have no power thus to compel the States. We have now nothing to do with the policy of the swamp land act. But, having first granted these lands to the States, and afterwards sold them for money to innocent purchasers, we must do all we can to induce the States to relinquish to those purchasers, and whether some of the States may gain some advantage by it or not, is not the question. We should only consider how we can most surely do justice to those persons to whom we have sold lands that we can give no title for.

Let us, by this bill, request the States to whom the swamp lands were granted, to give them up to the purchasers, and let us give to the States other lands instead of them, and that without any of the conditions contained in the proviso which may defeat the very object and purpose of passing the bill.

Mr. DAVIS, of Indiana. I do not rise to make a speech, but the gentleman from Illinois, [Mr. WASHBURNE,] has, I understand, submitted a substitute for this entire bill, which is a very important one. Now, it is impossible for us to give the bill, important as it is, due consideration until that substitute is printed. I therefore move that the committee rise, so that we may make an order in the House to print the substitute.

Mr. HENN. I hope the gentleman from Indiana will let us go on with the consideration of this bill to-day. The amendment of the gentleman from Illinois is immaterial, so far as the purpose of the bill is concerned. It just provides what the Commissioner of the Land Office would do any how, and I think we had better pass the bill to-day. It has been delayed long enough, and the whole country is suffering from the want of it. I hope the gentleman will withdraw his motion.

Mr. DAVIS. I cannot withdraw it.

The question was then taken on Mr. DAVIS's motion; and it was decided in the negative.

So the committee refused to rise.

Mr. MAYALL. I would inquire if general debate is in order?

The CHAIRMAN. The Chair is of the opinion that it is.

Mr. MAYALL then addressed the committee, during an hour, in discussing the financial policy of the Administration.

His remarks (withheld for revision) will be published in the Appendix.

Mr. KEITT obtained the floor.

Mr. ROBBINS. If the gentleman from South Carolina will allow me, I will move, as the hour is late, that the committee do now rise.

Mr. KEITT. I yield the floor for that purpose.

Mr. ROBBINS. Then I submit the motion.

Mr. LETCHER. Will the gentleman from Pennsylvania withdraw his motion for a moment to enable me to offer an amendment to the bill now pending, in order that it may be printed?

Mr. JONES, of Tennessee. The Committee cannot order it to be printed.

Mr. LETCHER. No, but it will go in the Globe of to-morrow morning.

Mr. ROBBINS. To accommodate the gentleman from Virginia, I, for the present, withdraw my motion.

Mr. LETCHER. I am opposed to the original proposition, and also to the amendments proposed by the gentlemen from Illinois and Missouri, and it seems to me, that upon any fair construction of the swamp land act, there is no necessity for any such bill as they propose to pass. It is provided in the second section of this swamp land act, that the fee simple shall exist only when the patent is delivered; in other words, that no title vests in the Governor of the State in which the lands lie, until the patent is issued by the Government of the United States, for the land so selected. Well, now, if that be the case—if no patent has issued for these swamp lands, then there can, properly, be no controversy between those who have paid their money or delivered their scrip, or deposited their land warrants for the land which they now claim, and to which the patents are withheld by the land office. In order to remedy this whole difficulty, I move to strike out all after the enacting words of the bill, and to insert in lieu thereof, the following:

That the President of the United States cause patents to be issued to the purchaser or purchasers who have made entries of the public lands, claimed as swamp lands, either with cash, or with land warrants, or with scrip, prior to the issue of patents from the State or States, as provided for by the second section of the act, approved September 28, 1850, entitled "An act to enable the State of Arkansas, and other States, to reclaim the swamp lands within their limits," any decision of the Secretary of the Interior, or other officer of the Government to the contrary notwithstanding.

The CHAIRMAN. The Chair notifies the gentleman from Virginia that, at the present moment, that amendment is not in order.

Mr. LETCHER. Well, I give notice that I will offer it at the proper time.

Mr. ROBBINS. I now renew the motion to rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, the Chairman reported progress.

FOREIGN PAUPERS, ETC.

Mr. WASHBURNE, of Illinois. I move that the House adjourn.

Mr. WENTWORTH, of Massachusetts. I ask my friend from Illinois to withdraw his motion for a moment?

Mr. WASHBURNE. I withdraw it.

Mr. WENTWORTH. I ask leave to report a bill from the Committee on Commerce, and I

will move that its consideration be postponed until this day two weeks, and that it be printed.

Mr. McMULLIN. I must object to making special orders in that way.

Mr. WENTWORTH. Well, let the bill at least be printed.

Mr. McMULLIN. I have no objection to the reception of the report or the printing of the bill, but I do object to its being made a special order.

The SPEAKER. If there be no objection, the report will be received.

Mr. LETCHER. What is to be done with it?

Mr. WENTWORTH. I propose that the bill shall be ordered to be printed, and recommitted to the Committee on Commerce.

Mr. LETCHER. What bill is it?

Mr. WENTWORTH. It is a bill "to prevent the introduction into the United States of foreign criminals, paupers, idiots, lunatics, and insane, and blind persons."

No objection being made, the bill was received, read a first and second time by its title, recommitted to the Committee on Commerce, and ordered to be printed.

And then, on motion by Mr. McMULLIN, the House (at half past three o'clock, p. m.) adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

WEDNESDAY, *January* 3, 1855.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

Hon. WILLIAM M. GWIN, of California, appeared in his seat to-day.

CLERKS OF THE SENATE.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Senate, showing the names and compensation of persons employed in his office during the year 1854; which was ordered to lie on the table and be printed.

GENERAL WOOL.

The PRESIDENT *pro tempore* also laid before the Senate a communication from the President of the United States, transmitting, in compliance with a resolution of the Senate, copies of the instructions and correspondence between the different Departments of the Government and Major General Wool, commanding the Pacific division of the Army, in regard to the operations on that coast.

Mr. WELLER. Mr. President, I had intended to submit some remarks on a motion to print this correspondence; but as there is a number of documents which I have not had an opportunity of examining, I shall be compelled to forego that until they shall be printed. By the call which I made for this correspondence, I did not mean to propose legislative action on the subject. My main object was to vindicate the reputation of an officer of the Army, who, in my judgment, has been somewhat abused. General Wool is not only one of the ablest, but one of the most gallant officers in the Army of the United States. He was sent to the Pacific coast, not alone for the purpose of commanding the military department there, but for the purpose of arresting the spirit of filibusterism then rife on that coast. Very full and specific instructions were given to him by the Department of War. A literal compliance with those instructions placed him above the civil authorities, and required him really to take the initiative; and he has been subjected to some censure in some public places in consequence of a strict compliance with the letter of his instructions. I desire now simply to make the usual motion for the printing of this document. After it shall have been printed, I may take occasion to present my views of the course pursued by General Wool and by the Department of War.

The motion to print was agreed to.

INTERNAL IMPROVEMENTS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating his views on the subject of the power of the General Government over internal improvements in the States. At the last session he returned to the House of Representatives, in which it originated, the bill entitled "An act making appropriations for the repair, preservation, and completion of certain public works heretofore commenced under the authority of law." In the brief veto message accompanying that bill, the President announced his purpose to present to Congress, at the ensuing session, his views on the general question; and the present message is in accordance with that announcement.

The Secretary was proceeding to read the message, but

Mr. WELLER interposed, and said: I wish to ask whether it is necessary, under the rules of the Senate, that this communication should be read. It is, I understand, a veto message addressed to the House of Representatives, and, as a matter of course, a copy has also been transmitted to the Senate. That message has been printed by order of the House of Representatives, and has been read, I presume, by every Senator. If it be proper, I move that the reading of the message be dispensed with, and that it be laid on the table, and ordered to be printed.

Mr. HUNTER privately made a suggestion to the honorable Senator from California.

Mr. WELLER. I do not wish to make any motion which will conflict with the usual course of proceeding. Certainly, I design no disrespect to the President of the United States. I do not know that there is anything in the message to which I do not cordially subscribe. It was only for the purpose of saving time that I suggested my motion.

The PRESIDENT. The usual practice has been to read such messages.

Mr. WELLER. Very well. I withdraw my motion.

The Secretary continued and concluded the reading of the message, which is published in the proceedings of the House of Representatives of yesterday.

Mr. WELLER. I suppose it is not at all probable that the Senate will be called upon to act upon the vetoed bill, as the constitutional majority required cannot be obtained in the House of Representatives. I move, therefore, that the message lie on the table and be printed.

The motion was agreed to.

Mr. WELLER. I also move that twenty thousand extra copies of the message be printed for the use of the Senate.

Mr. FESSENDEN. I think that motion should go to the Committee on Printing. I do not know that the committee will have any objection to it; but they have come to the conclusion that it is best that all motions for printing extra copies of documents should go to the committee in the first instance.

Mr. WELLER. If that be the usual course, I have no objection to the reference.

Mr. CASS. I wish to suggest that this is a very important public document, and we know as much in regard to the propriety of printing it now as we shall do after the report from the committee. It contains the views of the Executive on a subject of great importance. It is very desirable that the people of the Union should know those views. We ought to give them an opportunity of doing so. I do not see the necessity of referring the matter to the Committee on Printing.

Mr. FESSENDEN. I dare say the individual members of the committee are now of the opinion that this printing should be ordered. But the committee have come to the conclusion that it is best that all motions for the printing of extra copies, without exception, should go to them in the first instance. I have no particular wish in the matter myself. I have merely stated the views of the committee.

Mr. CLAYTON. I see no reason why we should wait until the Committee on Printing have a session to decide this question for us. This is an important document; and men on all sides of the question desire that it should be spread before the country. I am content that twenty thousand copies of it shall be printed. I can see no reason why we should call in the aid of the Committee on Printing to decide this matter for us. The reference would put off the printing, perhaps, for a whole day. I hope, then, there will be no objection to immediately ordering this printing.

Mr. WELLER. I withdraw my acquiesence in the suggestion to refer the question to the Committee on Printing. I see no necessity, myself, for that reference. The House of Representatives, I believe, have ordered twenty thousand extra copies of the document to be printed. It relates to a very important question, and is a very able document. Of course, we desire to have it distributed as widely as possible over the country. Hence I must insist on my motion for the printing of twenty thousand extra copies.

Mr. JOHNSON. The Committee on Printing, in considering the general subject-matter of the public printing, have come to the conclusion that all motions for the printing of extra copies of documents should, in the first place, be referred to them. Acting under their instructions and authority, I feel bound to move that this proposition be referred to the Committee on Printing. It is believed to be desirable that, in every instance, these motions should undergo their supervision. A few days since, an order was made hastily for printing an extra number of a document, simply on the ground that once before an order of the same kind was made, and the committee were unable to look into the propriety of the proposition, because it was not referred to them. That committee is responsible, in some measure, to this body for the expense of the public printing; and, therefore, it is right that they should have an opportunity of examining the questions which bear upon the expense, and which go to increase it. I do not say that we shall not report immediately in favor of the proposition of the Senator from California. I am of the impression that we shall do so; but it is proper that we should have an opportunity of looking into the precedents on the matter, and of considering the expense of printing this document. Under the instructions of the committee, I feel bound, in every instance, to object to the passage of any resolution ordering the printing of extra numbers until that resolution has been referred to the committee, and reported on by them. I therefore insist on the motion to refer this subject to the Committee on Printing.

Mr. WELLER. I suppose the only object in referring a motion of this sort to the Committee on Printing is, that they may have an opportunity of examining the document and estimating the probable expense that will be incurred, and the importance of the publication. This is not a message of such a character as to require that species of investigation. Every Senator here has made up his mind at once as to whether it is proper to print an extra number of copies of this veto message or not. If the Senate were not already in possession of the message, and if it had not been read, there might be propriety in submitting to the Committee on Printing the question whether an extra number should be printed; but certainly the Senate are just as well prepared to decide now whether they will print an extra number as they will be after they shall have obtained the report of the Committee on Printing.

Mr. CASS. It is a very excellent rule to require that most of the documents which come to us from the Departments should be sent to the Committee on Printing before we decide on the printing of any extra number of them. Frequently books, journals, and reports of various kinds, are sent in here, of which members know nothing; and it is proper that, in such cases, the documents should go to the Committee on Printing, to determine their value and the probable expense of printing them. For this reason, I repeat, the rule is an excellent one; but here is an exceptional case. This is a document communicating the views of the Chief Magistrate on a point of constitutional policy, vastly important to the country. Let the committee report as they please, everybody knows this number of copies will be ordered to be printed. It seems to me, therefore, to be a useless ceremony to insist on referring the matter to the Printing Committee. I agree with the honorable Senator from Delaware, that the sooner we get the document for distribution the better. For these reasons, I shall vote for the printing without the reference.

Mr. JOHNSON. I made the motion to refer the proposition to the Committee on Printing; but I do not wish to be understood as insisting upon it from a desire to impede or defeat the object which those gentlemen who have addressed the Senate have in view. I have presented the motion in the simple discharge of a duty which has been imposed on me as a member of the Committee on Printing. I feel bound to see that no proposition to increase the cost of the public printing, by ordering a large number of extra copies of docu-

ments, shall escape the scrutiny of the proper committee. I must insist that every such proposition shall undergo the supervision of the Committee on Printing. If the Senate, in this instance, however, are satisfied that there is no necessity for such a reference and examination, of course they will not agree to the motion which I have made. I do not care, personally, whether the motion be agreed to or not. I do not ask the Senate to agree to it, if they are now satisfied of the necessity of printing this number of copies. I submit the motion, because I am instructed to do so by the committee. That being the case, I do not feel at liberty to withdraw it.

The motion to refer was not agreed to; and the motion of Mr. WELLER was adopted.

PETITIONS, ETC.

Mr. SHIELDS presented a petition of the clerks employed in the United States armory at Springfield, Massachusetts, praying to be allowed an increase of their salaries; which was referred to the Committee on Military Affairs.

Also, the petition of Colonel William Gates, of the United States Army, praying that an act may be passed to indemnify him for the loss of all his property on board the steamship San Francisco; which was referred to the Committee on Military Affairs.

Mr. MALLORY presented the petition of Samuel P. Todd, a purser in the United States Navy, praying to be allowed an indemnity for loss sustained by him in consequence of the depreciation of Treasury notes placed in his hands for disbursement, during the last war with Great Britain; which was referred to the Committee on Finance.

Mr. JOHNSON presented petitions of the registers and receivers of the land offices at Clarksville, and Washington, Arkansas, praying to be allowed the same per centum on the sales of the public lands as was allowed previous to the act of August 4, 1854; which were ordered to lie on the table, as the Senate has passed a bill to carry out the object of the petitioners.

He also presented documents in relation to the claim of John Rogers to compensation for the storage of provisions procured by the Government for the Chickasaw Indians in 1837; which were referred to the Committee on Indian Affairs.

Mr. FESSENDEN presented the petition of Samuel B. Porter, a soldier in the last war with Great Britain, praying a pension for injuries sustained while in the discharge of his duty; which was referred to the Committee on Pensions.

Mr. DAWSON. I present the petition of the sole surviving children of Samuel Hammond, an officer in the revolutionary war, praying to be allowed the commutation pay due to officers of his rank, which was not paid to him during his life. I move that the petition be referred to the Committee on Revolutionary Claims, and I call the special attention of my friend from South Carolina, chairman of that committee, [Mr. EVANS,] to this case.

The motion was agreed to.

Mr. FISH presented a memorial of the Life-Saving Benevolent Association of New York, asking that an expedition may be dispatched by the Government to the Arctic seas, for the rescue of Dr. Kane and his companions, now in those seas; which was referred to the Committee on Naval Affairs.

Also, a memorial of the marine insurance companies of the city of New York, asking that an expedition may be dispatched by the Government to the Arctic seas, for the rescue of Dr. Kane and his companions, now in those seas; which was referred to the Committee on Naval Affairs.

Mr. SLIDELL presented a petition of the inhabitants of Baton Rouge, Louisiana, praying a reduction in the rates of ocean postage; which was referred to the Committee on the Post Office and Post Roads.

Mr. CASS presented the petition of the widow and administratrix of Jeremiah Moors, praying compensation for services rendered and losses sustained in the construction of a light-house on Big Thunder Bay Island, in Lake Huron; which was referred to the Committee on Commerce.

INCREASE AND ORGANIZATION OF ARMY.

Mr. SHIELDS. I move that the bill "for the increase and better organization of the Army of the United States, and for other purposes," be recommitted to the Committee on Military Affairs; and I will briefly state the reason why I make this motion. The House Committee on Military Affairs have invited General Scott to meet them to-morrow in consultation, as they wish to avail themselves of his experience in the preparation and correction of the details of a bill such as is needed for the Army. I have been notified of this meeting; and I am anxious, as chairman of the Committee on Military Affairs, to avail myself of the same advantages. The two committees are to meet together in consultation with General Scott to-morrow, and we hope to agree upon a plan that will be acceptable to both branches of Congress. For that reason, I move the recommitment of the bill.

Mr. RUSK. I second the motion of the Senator from Illinois; and I desire to say a word or two in this connection. In reading over the bill, to which the honorable Senator has referred, I have perceived that two or three distinct subjects are included in it. It provides for an increase of our military force, and also for a reorganization of the Army. There is a further provision for a retired list. It seems to me that each of those subjects should stand on its own bottom. There may be Senators who are in favor of an increase of the Army, (and the necessities of the country require that increase at this time, particularly,) who might not be willing to vote for a retired list, or who would not be willing to go for a reorganization of the Army. I make this statement merely as a suggestion to the Committee on Military Affairs, that the three subjects should be included in three separate bills, instead of being put together.

Mr. SHIELDS. It is true, sir, that there are three principal substantial subjects embraced in this bill. One is the increase of the Army; another, the increase of the pay of the officers; and a third, the retired list. In addition to this, there is a provision for the reorganization of some of the *corps* of the Army. The Secretary of War has thought, and the Committee on Military Affairs has thought, that it would perhaps be better to connect these subjects together, for they are kindred subjects; but, if there be any objection to that course in the Senate, we can separate them at any time. That, however, is a matter which will be considered to-morrow, when we meet.

Mr. CLAYTON. I shall not undertake to decide between my two military friends on a subject upon which they are so much better informed than I can be; but it strikes me that it is eminently proper that a provision for a retired list should be in the same bill which proposes an increase of the Army; for it must occur to any gentleman here, who has reflected on the subject, that it must be difficult to get votes enough for an increase of the Army, without providing for a retired list. They seem to me to be essentially connected; and I think the proposition made by the Senator from Illinois, to put them together, is a very proper one.

Mr. SHIELDS. I do not wish, of course, to prolong this debate; but I shall be glad to hear honorable Senators express or indicate an opinion on this subject, as the Committees on Military Affairs of the two Houses meet to-morrow in consultation, and expect to have the benefit of the experience of General Scott in the correction of the details of the bill. We desire to act in harmony; and, therefore, I shall be very glad to receive any such intimation.

The motion to recommit the bill was agreed to.

NOTICE OF A BILL.

Mr. SUMNER gave notice of his intention to ask leave to introduce a bill to secure the wages of seamen in case of wreck.

BILL INTRODUCED.

Mr. MALLORY asked and obtained the unanimous consent of the Senate, to introduce a bill "to amend an act to establish a land district in the State of Florida, to be called the district of Tampa;" which was read a first and second time by its title, and referred to the Committee on Public Lands.

CLAIM OF JOHN ROGERS.

Mr. JOHNSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Indian Affairs examine into the claim of John Rogers, and take such action, if any, as shall be right and just in the premises.

DIPLOMATIC APPOINTMENTS.

Mr. BRODHEAD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be, and he is hereby, requested to furnish the Senate with a statement of the names of the ministers, chargé d'affaires, and the secretaries of legation of the United States, appointed since the 4th of March, 1849, together with the dates of their commissions, the time of the commencement of their compensation, of their departure for their posts, and of entering upon their official duties thereat.

CLERK TO A COMMITTEE.

Mr. MALLORY. It has been suggested to me this morning that no authority has yet been given to the Committee on Naval Affairs to appoint a clerk, though it is very necessary that they should have one. As the chairman of the committee [Mr. GWIN] is not now in his seat, I move that the committee be authorized to employ a clerk for the present session.

The motion was agreed to.

REPORTS FROM STANDING COMMITTEES.

Mr. BRAINERD, from the Committee on Claims, to whom was referred the petition of George Alexander, praying pecuniary relief on account of the loss of health while in the service of the United States, as commissioner appointed to run the northwestern boundary line, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of William B. Davis, praying remuneration for losses at Indian river, Florida, during the Indian disturbances in 1849, submitted an adverse report thereon; which was ordered to be printed.

WILSON AND BROTHER—MIER AND CO.

Mr. STUART. I am instructed by the Committee on Commerce to report back two bills which have passed the House of Representatives—one a bill for the relief of Wilson & Brother, of St. Louis, and the other a bill for the relief of Adolphus Mier & Co., of St. Louis. I learn from the Senator from Missouri, that a general law has been passed providing for the remission of duties on imported goods destroyed by fire under certain circumstances, which will cover these claims among others; and he wishes to withdraw the papers in one of the cases, that they may be transmitted to the proper Department. I report back the bills, and ask that the papers be withdrawn.

Mr. GEYER. I wish to have leave granted to withdraw the papers in the case of Wilson & Brother, and I move that the bill be laid on the table. The general law provides for both these cases, and Mier & Co. have received payment of their claim under it. I presume the proper course would be to lay the bills on the table, and to allow Wilson & Brother to withdraw their papers, and apply for payment at the Treasury under the general law.

The PRESIDENT. The bills originated in the House of Representatives. The practice has been to withdraw the papers in the House where the bill originates.

Mr. GEYER. I suppose a difficulty might ensue if leave was asked for, in the House, to withdraw the papers, while the bill was pending here; and if there should be a favorable decision on the bill here, the papers could not be withdrawn at all. I propose to lay on the table the bill for the relief of Wilson & Brother, so that, if it be necessary, at any period during the present session, to act upon it, we can take it up. I understand, however, that the general law applies to the case, and the papers are needed for the purpose of presentation to the Department for payment, under the provisions of that law. I do not suppose there can be any obstacle here to withdrawing the papers now. I, therefore, ask leave to withdraw them, and, at the same time, I move that both bills be ordered to lie on the table.

The motion was agreed to; and leave was granted to withdraw the papers.

INSURANCE COMPANY.

Mr. BROWN. I am instructed by the Committee on the District of Columbia, to report back House bill "to incorporate the Mutual Fire Insur-

ance Company of the District of Columbia," and recommend its passage. I ask the indulgence of the Senate to allow it to be considered now.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The PRESIDENT. The bill will be read in full.

Mr. BROWN. The bill is a long one, and I suppose no one cares to hear it read at length. A brief statement will obviate the necessity of reading the bill. It is simply to incorporate a mutual fire insurance company in this District. It reserves to Congress the right, at any time, to repeal, alter, or amend, the act, and makes all the members of the company responsible for all the liabilities of the company.

Mr. PRATT. And restricts the operations of the company to property within the District.

Mr. BROWN. Yes, sir. It can do nobody any harm, unless, perhaps, the members of the company.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

C. E. GRENEAUX.

Mr. BAYARD. I am instructed by the Committee on the Judiciary to report back Senate bill for the relief of C. E. Greneaux, with a recommendation that it pass. I ask the Senate to take up the bill now. It is very simple in itself, and undoubtedly one on which the Senate ought to act promptly, and one which I am sure will be passed immediately when the Senate are made acquainted with the facts. Some seven years ago a similar bill authorizing the Secretary of the Treasury to relieve, on a compromise, two of the sureties of a man named Lawrence. This bill proposes to put the third surety on the same footing, and authorize the Secretary of the Treasury to settle with him on the principle of a compromise. I think he has been unjustly treated. Beyond all question the Government, after having settled with the other sureties, was bound, according to every principle of equity, to settle with him on the same terms. I hope the bill will be considered and passed now.

By unanimous consent the bill was considered by the Senate as in Committee of the Whole. It proposes to authorize the Secretary of the Treasury to examine the claim of the United States against C. E. Greneaux, one of the sureties of Benoist Lawrence, formerly receiver of public moneys at Natchitoches, Louisiana, and to settle it on such terms as he shall think best for the United States, reference being had to the relief granted to his co-sureties by an act passed March 3, 1847.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

POST OFFICE BUILDINGS.

Mr. BAYARD. I am instructed by the Committee on Public Buildings to report a bill to authorize the enlargement of the General Post Office building. It is in conformity with a request preferred to the committee, at the last session of Congress, by the head of the Post Office Department. I attempted then, though against my general view of such matters, to attach it as an amendment to the civil and diplomatic appropriation bill. It was defeated on the ground that it ought not to be so attached. The subject-matter of the bill itself, however, absolutely requires early action. The building used by the Post Office Department requires enlargement. It is incompetent in its present condition to accommodate properly the business of the General Post Office. I report the bill, and give notice that I shall call it up at an early day.

The bill was read twice by its title, and ordered to be printed.

ST. JOSEPH'S ORPHAN ASYLUM.

Mr. NORRIS. I am directed by the Committee on the District of Columbia to report back, with amendments, the bill "to incorporate the St. Joseph's Male Orphan Asylum in the District of Columbia," and to ask for its immediate consideration.

By unanimous consent the Senate proceeded to consider the bill as in Committee of the Whole. The amendments of the Committee on the District of Columbia, were to add the following additional sections:

SEC. 3. *And be it further enacted*, That nothing in this act shall be so construed as to authorize the said corporation to issue any note, token, device, scrip, or other evidence of debt, to be used as a currency.

SEC. 4. *And be it further enacted*, That each of the stockholders in the said corporation shall be held liable in his or her individual capacity, for all the debts and liabilities of the said company however contracted or incurred; to be recovered by suit as other debts or liabilities before any court of competent jurisdiction.

The amendments were agreed to.

Mr. SHIELDS. Is this the bill which I introduced a few days ago?

The PRESIDENT. It is the same bill.

Mr. SHIELDS. I prefer that there should be no action on the bill at this time, and I therefore move that its further consideration be postponed until to-morrow.

The motion was ageed to.

EXTENSION OF THE BOUNTY LAND LAWS.

On motion by Mr. BRODHEAD, the Senate resumed the consideration of the bill "in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States;" the pending question being on the motion of Mr. STUART to reconsider the vote by which the word "minor" was stricken out before "child," in the second section.

Mr. BADGER. I hope that motion will not be agreed to.

Mr. STUART. I did not intend to say another word to the Senate on this subject; but I have been endeavoring since yesterday, as well as I could, to ascertain something as to the amount of land that will be taken under this bill. With the best lights before me, I learn that about three hundred millions of acres will be consumed by this bill if it shall become a law. That being the case, it is well enough to look at this question. The amount of the sales of the public lands for the last year, including those sold for cash, and entered by land warrants, has been very large, amounting to about ten millions of acres. The amount sold for cash alone was about seven million acres. Now, sir, if we issue an amount of land scrip equal to that supposed in this case, how long will it take to satisfy it, supposing ten million acres a year as the annual quantity entered? When the question is looked at in this light, there is such importance in it as must strike the sense of every Senator; but I only ask the attention of Senators to what I said yesterday. Will it not utterly defeat the main object of the bill; that is to say, remuneration to the surviving officers and soldiers of the war of 1812, and all other wars provided for here?

The graduation bill of the last session has reduced the price of public lands in the States to an average of about fifty cents an acre. As a matter of course, it has reduced the value of land warrants in the same proportion, so that a land warrant is not, to-day, worth more than half what it would be worth if all the land in the United States, subject to private entry, were held at one dollar and twenty-five cents an acre. Then, if you put into market the amount of land scrip which this bill will, a warrant for one hundred and sixty acres of land, in the hands of an officer or soldier of the army of 1812, will not be worth money enough to buy him a hat. Then, I ask again, if your chief object is totally defeated by the very extended provisions of the bill, as it now stands, while, at the same time, you inflict great injury on my State, why should I support the bill?

Having referred to this point, I am compelled, although reluctantly, to reply to an intimation made yesterday by the Senator from Pennsylvania. He said he did not expect that the Senators from the land States would support this bill. If he means to say that the Senators from the land States are less disposed than those from other States to do full justice, in the most liberal sense of the term, to the officers and soldiers of the war of 1812, or of any other war, then, in the language of my friend from Illinois, [Mr. SHIELDS,] he does the Senators from those States manifest and gross injustice. But, sir, if he means that his intention has been, and is, to make this bill so obnoxious that the Senators from those States cannot vote for it, he is right in saying that he does not expect them to do so.

Mr. BRODHEAD. Just at that point, I beg leave to ask my honorable friend from Michigan to permit me to say a word in explanation?

Mr. STUART. Certainly.

Mr. BRODHEAD. An objectionable feature of this bill, and one of which my honorable friend from Michigan is now complaining, was introduced upon his motion. The limitation of twenty-eight days was stricken out upon his motion, and yet he complains now that the bill has too extended an operation, and will, therefore, defeat itself. I think that he is doing good service now by speaking against his own amendment.

Mr. STUART. Mr. President, the Senator made a similar attempt upon two occasions, yesterday, and I did not deem it proper then, even to reply to it. If a Senator cannot see a difference in its effect upon the number provided for in this bill, between striking out the limitation of twenty-eight days as the term of service, and striking out the word "minor," preceding "children," then he cannot understand the first rudiments of the principles of addition. Why, sir, take the number of men who have been called into the service of the United States since we first commenced the struggle with Great Britain down to to-day, who have only been twenty-eight days in the service, and what proportion does it bear to the whole number? Any man who is at all conversant with the history of the country can see that it is very small indeed.

But, take the effect of striking out the word "minor," which brings into the bill almost the whole number of soldiers that has ever been in the employ of the United States, and then, I think, there will be difficulty in seeing the difference in the effect of the two. This is the effect of striking out the word "minor." If the man is alive, he draws the land; if he is dead, and has a child living, the land is still drawn. Now, what is the proportion of men who have been in the service of the country who are dead, and the whole number who have been in the service and have not left a surviving child? Any one who considers these facts can see the difference between the effect of the two propositions; and yet the Senator from Pennsylvania seeks to say that because, on my motion, the words "twenty-eight days," as a limitation on the term of service, were stricken out, I have been guilty of all the injury of which I now complain. Why, the substance of the bill, as it stands now, with the word "minor" stricken out, is to give to almost every man who has been in the service of the United States, one hundred and sixty acres of land, through himself or his child, because the proportion who have been in that service who have died, not leaving a child, is very small. Still, the Senator seems to hold me responsible for this extension of the provisions of the bill. The injustice of such a charge is apparent from what I have said.

Mr. President, the Senator from Kentucky [Mr. THOMPSON] yesterday remarked, in reply to what I said in respect to the effect of this bill on the land States, that he stood here, in the language of the Constitution, a Senator of the United States. I apprehend that Senator committed a slight error. There is no such language, I apprehend, in the Constitution as a "Senator of the United States." There is a provision for a "Senate of the United States," and that Senator, like every other Senator on this floor, is a member of that Senate of the United States, chosen by the State from which he comes, and representing, in part, its interests. The remark of that Senator, that he will, in the discharge of his duties here, look to the interests of the whole Union, is worthy of adoption and imitation. I am glad to hear it from that Senator, and I shall be glad to hear it from all others, because, if his life and mine be spared, we shall be here when that doctrine will be required to be brought into practice. The time is near by, yea, sir, it is at hand, when the elements now at work in both sections of this Union will make it eminently the duty of a man occupying a seat on this floor, to remember that he is acting for the United States. I shall be glad to see that honorable Senator then standing up to the doctrine. I doubt not he will do so; but I doubt not, also, that he will find, as he and I have too often found before, that the opinions of men influence their action only to the extent of their notions of the popularity of those opinions. Sir, those of us who live are to be tried, and I hope we shall be

found equal to the occasion. I know that honorable Senator did not mean to intimate that I was more sectional in my views of things upon this floor than he.

Mr. THOMPSON, of Kentucky. Not at all, sir.

Mr. STUART. I know it. But, sir, to return now to this bill. I ask, if it will require three hundred million acres of land (as it seems to me it must, on the assumption that four hundred and forty thousand men, as the Senator from Georgia said yesterday, were employed in the service in the war of 1812, and one hundred and sixty acres of land are given to each man,) to meet the provisions of this bill, is it not an important one? If that statement be true, we shall, by the passage of this bill, withdraw, for thirty years at least, from the Treasury of the United States, any income from the public lands, and we shall, in the words of the Senator from Iowa, shingle the new States all over with land scrip held by large landholders, thus checking settlement, doing the grossest injustice to those States, and effecting, also, thereby equal injustice to the old States of this Union.

Mr. THOMPSON, of Kentucky. The gentleman knows that I would not needlessly interrupt him; but I wish to ask him, if the homestead bill had passed, how much would that have absorbed? I do not desire to interrupt the tenor of the Senator's remarks; but I should like to have an answer to my question.

Mr. STUART. I am very thankful to the Senator; I like the interruption, because it gives me an opportunity to say that the distinction between the two cases is this: The more land taken under the homestead bill, the better for the new and the old States, because the homestead bill required the cultivation of a part of all that should be taken; it required that every man who took anything under the bill, should go on the land and cultivate it for five years.

Mr. PRATT. How would that be better for the old States?

Mr. STUART. The Senator from Maryland asks me how that would be better for the old ones? Why, sir, just in proportion as the new States are cultivated and settled, do they throw into the laps of your eastern States, and over your eastern railroads, money and wealth. I have been surprised, again and again, to see New York and Pennsylvania, and other old States, opposing grants of land for the construction of railroads in the new States, the inevitable effect of which would be to enrich them. I believe, to-day, that New York and Pennsylvania are more interested in the construction of a railroad in any northwestern State, than is the State in which the road may be constructed. I have no doubt of it. So of the southern land States. If the southwestern States construct railroads, the terminus of which, upon the Atlantic, is in the old States, passing through those old States, the benefit to them is incalculable; and, I say again, I have been surprised that they could not, or would not, see it.

Sir, I do not wish to detain the Senate, and I shall not do so. I should not have risen this morning, but that I thought it proper to say a few words in discharge of a duty to myself. I yield to no Senator in my desire to do justice to the surviving officers and soldiers who have been engaged in the service of the country; but when I see that the inevitable effect of this bill, as it now stands, must be to hold out to them a mere phantom—that which is worth a mere nominal sum, not enough to support a man in this city for one week—I cannot consent to see them thus improperly treated. For what have they asked? Look at the resolutions which are on our table from the Legislature of the State of Rhode Island, and you will see that they ask for a grant of land to the soldiers of the war of 1812. What do we do? Bring in everybody, and the children of everybody, who has ever been in the service of the United States.

Now, if there be covered up under this proposition, an effort to distribute the lands of the United States among the States of the Union, I can see the motive; but it is a motive in which I cannot participate. I cannot vote for the bill as it stands, though I should be inclined to do so if it were brought back even to its original terms. I can say to the Senator from Pennsylvania, that I am not at all tenacious about retaining the amendment which was adopted on my motion. If he desires that amendment to be stricken out, and the bill put in its original condition, if no other Senator is willing to move to reconsider the vote on it, I will do so myself. What I ask is, that you shall carry out the primary object of the bill fairly, in a manner which will do no injustice to any State in the Union. Much as I shall regret that I cannot have the opportunity of casting my vote in favor of some benefit to those meritorious men, I am compelled to vote against that which gives them a mere nominal sum—not ten dollars apiece—while it does such injustice to the Treasury of the United States, and to the land States of this Union and, consequently, to all the States, as cannot be made up in the next ten years.

Mr. TOOMBS. Mr. President, as I supported the amendment which the Senator from Michigan proposes to reconsider, I will say a few words in reply to him. He does not object to this amendment because it is wrong. He does not object to it because it is not in conformity with the principle of the bill, if the bill has any principle. He objects to it simply because he supposes it will take too much land. I understand that to be the sole ground of his objection. I say, sir, that the feature to which he objects is not only in conformity with the principles of the original bill, but if there be any merit in the question at all, it presents much higher claims than the original bill.

The children of those persons who, in the last war, stood by our flag, and lost their lives in standing by that flag and sustaining their own and the national honor, cannot be minors now. For this reason those children would be excluded from this bounty by the provisions of the bill, as it was presented, and as the Senator from Michigan would like to have it. The men of the Revolution who did not enlist for three years, but who poured out their blood and exposed their lives in defense of public liberty, never got one acre of the land which they won from the British Crown; and yet the Senator from Michigan would exclude their children, though he appears to be willing to give land to those who have served less than thirty days in later wars.

I have stated two classes of cases where there is, undoubtedly, merit which would be excluded by the original bill; and yet, it would bestow the bounty and the gratitude of the country upon the man who was called out, probably, to defend his own homestead, and ingloriously threw down his arms and fled, and has lived a craven life until to-day. That is the original bill. That is the bill which the Senator advocates. According to that bill, the grown-up children of the man who stood by his colors and lost his life in defense of the national flag, would not be authorized to receive an acre; while the craven who abandoned his post would now, after the lapse of thirty or forty years, receive this bounty. The first are to be excluded because, it is said, you have not land enough. If you have not enough land for all, give what you have first to the most meritorious. If you are going to curtail the proposed bounty, commence at the right place. Do not commence with the children of the man who lost his life in the service of his country. An influence which some may suppose to have a bearing on this point is, that one class has votes. That may be so, but I believe that it will be found, so far as this amendment is concerned, that there will be about as many on one side as on the other.

The Senator from Michigan, spoke of the effect of this system on the new States. Well, sir, I have not advocated the policy of your homestead bills, or your gratuities or largesses, or bounties to soldiers. I believe it to be utterly wrong, and it can never, under any circumstances, receive my vote. I have no jealousy of the new States. Many of the people of the country have gone from the old to the new States, and I hope that they have benefited their condition by so doing. My ancestors went from the old mother of Commonwealths further south to benefit themselves. I am perfectly willing that people shall go to the new States, but I will not give them bounties to go. I believe the settlement of the public territory is advantageous to both the old and the new States; but I also believe that the States aggregately have an interest in the public domain. I do not think it should be considered as a fund exclusively for the benefit of the new States. I think that in the main we have administered it on sound principles for the last fifty years. I have been willing to adhere to that system; but when you come to a distribution of the land under a bill like this, I say that the proposition at which the Senator from Michigan strikes, is the very best feature of the bill, as it now stands. Those at whom he strikes have louder claims upon the gratitude of the nation, claims better founded in justice, than those provided for in any other portion of the bill.

We are now asked to provide for the soldiers of the last war with Great Britain. Surely they are not as meritorious as the soldiers of the Revolution, who did not get a single acre of land unless they served for three years. All who, during the war of 1812, enlisted for the war got one hundred and sixty, or three hundred and twenty, acres of land, and all who served as long as thirty days received land in proportion to their service. Now, this bill proposes, without reference to length of time or duration of service, to put them all on an equality. There is no justice in that. When discriminations are to be made, I will discriminate in favor of the most meritorious, rather than in favor of the least meritorious.

The Senator from Illinois, [Mr. SHIELDS,] in his remarks yesterday, made a great mistake when he attributed much of the prowess of our own people to these largesses of Congress. Sir, the men of the Revolution did not receive them. Then it required three years' service to get one hundred acres of land, and I believe none was afterwards given to those men by the Congress of the United States. The soldiers in the war of 1812 received no land, except as a bounty for enlistment, which is legitimate. They were granted none for past services. Such an idea is a modern one. I suppose that the fathers of the Revolution shed some honor on the Republic. I suppose they were as valiant as those who came after them. They acted from motives far, very far, above any that were attributed by the Senator from Illinois to the mercenary soldiers of modern times. They fought for liberty and self-government. They did not fight for bounty. They did not weigh their patriotism in a scale with one hundred and sixty acres in the opposite balance. They gave their land, and sacrificed their lives in defense of their country and her liberties. They did not come here to ask for Government bounty. Until at least eight tenths of the men of the Revolution had been gathered to their fathers, and left the results of their toil to their children, no man in this country could carry through either body of the American Congress a proposition to bestow on our soldiers a bounty or a pension of any sort. The first pension law that Congress ever passed was passed in 1818—thirty-five years after the treaty of peace, which was the final consummation of independence. The men who fought your Revolution, and won your liberties, scorned to be compensated in pensions or bounty lands for past services. Even in 1818 the provisions of the bill of that year were restricted to those who were unable to support themselves, and that fact had to be proved to the satisfaction of the War Department here. It was in 1828 when the next pension bill was passed, and you gave to the soldiers of the Revolution their commutation, or pensions in lieu of it.

It was not till 1832—half a century after the last cannon of the Revolution had sounded upon your coasts—that you began the present flagitious system of pensions. What had become, during those fifty years, of the men who won your independence? They had gone to their fathers. While they were living you had abundance of land, but you gave them none of it. In 1802, you had a vast domain. Why did not these men come here then and demand for their services, bounties, and pensions, and largesses? It was because they were true patriots and true men. This system is a modern innovation. Even the men of the war of 1812 are nearly all dead; but neither they nor their children are to receive the bounty of the Government according to this bill, as it was originally presented. Those who took care to keep out of harm's way; those who threw down their arms and fled, will, under the bill, get as much bounty as the man who did his duty; and more than the children of the man who poured out his blood in defense of his own and the country's honor. I am opposed to the motion of the Senator from Michigan, because the provision at which he strikes is the very best in the bill as it now stands.

Mr. CLAYTON. I shall vote against the motion to reconsider, Mr. President, because I desire to place this bill upon the same footing as similar bills which have heretofore been passed. I see no reason for making a distinction. I cannot see why this bill should be more restricted than the one which was passed for the soldiers in the Mexican war. The provision in that case was, that the grant should be to the soldier, or, in case of his death, to his widow; and in case of the death of the widow, to the children, (not the minor children;) and if there were no children, to the father, and if there was no father, to the mother. Now will any man tell me a good reason why the provisions of this bill should not be coextensive with the provisions of that? Why provide for all engaged in the Mexican war in terms so large, extending it to all their children, and yet confine this bounty to the minor children of the soldiers of the war of 1812? Then, again, during the war of 1812, in all cases where acts of Congress of this description were passed, the warrant was directed to be issued to the soldier, and, of course, in case of his death, the land became the property of the heirs-at-law. It was not merely a grant to minor children, or even to children, but to all the heirs-at-law—to the collateral relations, in case there were no lineal descendants. That I think the best principle to establish here. I shall go for the best I can get; but certainly I prefer the provision which gives to the children—not merely to the minor children—his land, in case the soldier be dead.

Mr. President, this bill is objected to because it is said it will distribute hundreds of millions of acres of the public land. If I understand the honorable Senator from Michigan, [Mr. STUART,] one of his principal objections is on account of the enormous amount of land that will be disposed of by it. Sir, the homestead bill, for which the honorable Senator voted at the last session, proposes to give one hundred and sixty acres of land, not only to persons who might claim the benefits of this bill, but to all—and not only to all citizens of the United States, but to all persons in the United States; and, in fact, it invites foreigners to come and take one hundred and sixty acres of public land. Was any objection made by the honorable Senator, or by others here, who are now so strenuous in opposition to this bill, to that measure, because we could not compute how many hundreds of millions of acres might be disposed of by it? I heard no such objection from that side of the Chamber at that time. This bill, sir, assumes the principle of merit, as lying at the foundation of the grant. It proposes to give to those who are, in the eye of the country, meritorious, that which the homestead bill offers to all, without regard to merit. This, therefore, is an infinitely better mode of disposing of the public domain than that. It is palpable, sir, from the course honorable gentlemen have taken, that the public land is, before long, to be given away. Under these circumstances, I have but the alternative to choose, whether it shall be given to those most meritorious, or to every body who will come and take it.

Mr. President, there are some objections that might be made to this bill, and I propose, at the proper time, to move to amend it. I think there was much force in the remarks made yesterday by the Senator from Illinois, [Mr. SHIELDS,] and the Senator from California, [Mr. WELLER,] in reference to the danger, the possible danger, of speculators buying up these warrants and locating a great number of them in one spot, so as to preclude the settlement of the country. I shall move, sir, to restrict the power of those who buy these warrants, so that they shall not locate more than six hundred and forty acres in any contiguous tract, nor more than one thousand two hundred and eighty acres in any one township. That will obviate the difficulty which the honorable Senators pressed so much yesterday.

There are other objections to it. It has been suggested that provision is not made by the terms of the bill for those meritorious soldiers of the war of 1812, who received nothing from the Government, as was the case, I have understood, with the Plattsburg volunteers. The bill provides that none but those who have been paid shall receive its benefits. I shall propose to strike out that provision, so that those who were paid nothing shall enjoy the benefits of the bounty as well as those who received compensation.

Mr. CASS. It must be recollected, in considering this bill, that there is no legal claim on the part of any person to this bounty—neither the person who did the service, nor his widow, nor his children, if he left any, nor his creditors. There is no legal claim at all. In one point of view, it may be a gratuity. At any rate, it is an equitable law, and equitable compensation for services, which, we judge, under the circumstances of the country, is proper to be made. Now, the simple question is, whether these gratuities shall go to any others than those who may be considered as having sustained a loss by the death of a person who spent his life in our service? The widow and minor children are thrown upon him by nature for support, and they lose their support by his death; but the children who are out in the world making their own way, have no such loss, and are entitled to no such gratuity, any more than his cousins or anybody else. It is a simple question whether those persons, put in that condition, have a right to claim the gratuity which is given for those services? If I recollect aright—but I will not assert it positively—this is the first time that such a provision has been proposed to be introduced. This is very different from those cases, prescribed by the law, where warrants were to go to heirs, to major and minor children, for the very evident reason that those were laws for carrying into effect promises which had been made. They were legal promises voluntarily made before, or on, the entry of the parties into the service. You provided that they should be entitled to so much; and you afterwards provided how it should go; and that was fulfilling your legal contract. But you have here no legal contract, and no legal claim upon you; and I believe, if you put this provision on your statute-book, it will be the first time that you can find a provision that gratuitous grants like this shall go any further than to minor children. I will not say positively that it is so. If I am wrong, I should like any gentleman to correct me; but my impression is, that when you have departed from that, it was only in cases where there was a legal claim by virtue of a law previously passed.

Mr. STUART. In connection with what my colleague has said, I desire to read the third section of the act of September 28, 1850, giving bounty lands to those who were engaged in the service of the United States in the war of 1812. That section provides, among other things, that—

"In the event of the death of any commissioned officer, non-commissioned officer, musician, or private, prior to or subsequent to the passage of this act, who shall have served as aforesaid, and shall not have received bounty lands for such service, a like certificate or warrant shall be issued in favor of, and inure to, the benefit of his widow, who shall receive one hundred and sixty acres of land, in case her husband was killed in battle, but not to her heirs."

The Senator from Delaware asks if any gentleman can point out the difference between certain preceding acts, which he enumerated, and this? I think it will be a very easy task. The acts of 1812 and 1813, and of 1847, to which he alludes, were acts passed at the time of the service, when, if an individual had been killed in battle—the very supposition to which my colleague has just alluded existed—if he left children, they were, in all probability, minor children, who were deprived of his services for their support. The law of 1847 carried with it this supposition, and what is the fact? The men who go into the service of the country, are men, say from twenty-one to thirty-five years of age. I presume the most of them will fall within those ages. It is probable, therefore, in all cases, that if they leave any children at all, they are minor children. But, sir, when you have passed from the war of the Revolution down to to-day, and from the war of 1812 down to to-day, and you are making provision for the donation of bounty lands for services in them, there is no such supposition. It will be seen that the Congress of 1850 acted upon that principle. They gave to the widow, but not to the children. If a war were in existence to-day, and you were to provide for those who were in its service, and give one hundred and sixty acres of land to the widow or children of those who have died, the word "minor" would be pretty much useless; but now there is no minor child of a soldier of the Revolution dependent on him. There is, probably, no minor child of an officer or soldier of the war of 1812 dependent on him. They are full grown men. Therefore, the principle to which the honorable Senator from Delaware alludes does not apply.

It was said by the honorable Senator, and more particularly by the Senator from Georgia, [Mr. TOOMBS,] that my only objection to this act is the quantity of land which it gives. Not at all, sir. I admit that the general principle of donating lands should be confined to the individual himself; but the natural inference follows, that if you are giving lands at the time of the service, and if he be dead, his surviving family is as meritorious as the man who does not get killed, as the Senator from Georgia says; but if you wait seventy or eighty years, and then make the donation, there is no such necessity, nor any such propriety; and then it follows, that the quantity of land to be consumed by the act becomes an important element in its consideration. And, I say, now, sir, in my judgment, there is no propriety in covering by this act three hundred millions of acres of the public lands, for the purpose of giving them to men who are grown up and wealthy. They are as likely to be wealthy as any other citizens. They are full grown men, capable of taking care of themselves.

Mr. TOOMBS. Does not the original bill give to full grown men, one hundred and sixty acres of land?

Mr. STUART. Undoubtedly so; and doubtless so far it is improper; but there is no ground to discriminate. But certainly to give one hundred and sixty acres of land to a man, who has given the country no service at all, is a gratuity indeed; and that is the effect of giving it to the children without restricting it to the minors. It will be seen, therefore, if the Senator from Delaware will look at the acts, that the principle established by the Congress of 1850 is precisely the principle for which I contend; and it will also be seen, I think, that it is a principle founded in reason. You are giving the land a long time after the services have been conferred. Hence, the propriety of limiting it to the widow, as that act does.

Mr. CLAYTON. It is for the purpose of remedying the injustice of the act of 1850, that this bill is introduced. That act made an unjust discrimination between the children of the soldiers of 1812 and the children of the soldiers of the Mexican war; and the honorable Senator cannot, by any ingenuity of argument, show that it was otherwise. The act of February 11, 1847, giving land to the soldiers of the Mexican war, provides for the issue of scrip to the wife, child, or children, if there be any, and if none, then to the father, and if there be no father, then to the mother, of any deceased regular or volunteer. Why not extend the same provision to the soldiers of 1812? It has been intimated by one gentleman, that the act of 1847 was intended only to apply to those who died after the passage of the act. That is not the law, sir. The act gives the bounty to the children of those who died before its passage, as well as to those who died afterwards; and I say again, it is impossible for any man to point out the justice of such a discrimination as was made by the act of 1850. To remedy it, we propose now to pass this bill.

Mr. President, our friends from the new States give us at different times very different views in regard to the public lands. I remember an argument during the last session of Congress, which showed us that, in all cases where we had donated—for I believe that is the fashionable phrase, not given—school lands to any of those States, the donation would only have the effect of putting the States in debt. It was demonstrated by a course of mathematical reasoning, by some gentleman who was anxious to show that no benefit would be received by the western States, that it was an absolute injury.

Mr. STUART. The school lands?

Mr. CLAYTON. I think your colleague, in his speech upon the President's veto of the insane land bill, said something of that kind.

Mr. CASS. The honorable Senator labors under a total misapprehension. So far as respects myself, I do not recollect making any such argument.

Mr. CLAYTON. I think I could refresh the Senator's memory by referring to the speech. Now, sir, the Senator from Michigan [Mr. STUART] says that the operation and effect of this provision in the bill will be to destroy the

value of the warrants, so that the old soldier of the war of 1812 will not receive the value of an old hat for one.

Mr. STUART. I beg the Senator's pardon—not an *old* hat. I said it would not bring him enough to buy him a hat.

Mr. CLAYTON. Very well. The difference is between an old hat and a new one. My honorable friend thinks the land warrant will not be worth a hat. He was a zealous advocate of the homestead bill, which proposed to give every man, and his wife and children, one hundred and sixty acres of land, if they would settle it, and would appear there one day in six months. I think that is what the bill provided. A man, by the terms of the bill, might go and make his entry, and if he would come back once every six months, that was deemed occupancy sufficient to entitle him to the benefits of the act. We all saw then, and see now, that it was a virtual donation—an invitation to people to come and settle. Did my honorable friend suppose that persons could be induced to go from Europe, and the old States of the Union, to settle the West, for something that was not worth a hat, old or new? And the land warrant, in this case, is worth quite as much as it would be in that, or as much as the tracts would be worth when given to the settlers. No man can give any reason why it should not be. The class which that bill embraced are greatly more numerous than those provided for by this. On what principle can it be reasoned, that the soldiers of the war of 1812 will receive nothing worthy of consideration under the provisions of this bill, when other persons were supposed to receive by that bill enough to induce them to cross the mountains, and settle the lands of the West?

Mr. President, I do not propose to continue the discussion, for I have already occupied too much time. I am very anxious, however, that this bill should pass. I esteem it a great and beneficent measure. It is the best mode of disposing of the public lands we can probably ever resort to, and I am, for that reason, in favor of it.

Mr. STUART. The Senate will pardon me, but I would like to make a moment's reply to the Senator; for I am certain that he will see the difference between issuing three hundred millions of land scrip, and saying to three hundred millions of people, if you please, to make the cases parallel, "you may go on to the public lands and live there." If they go, they cultivate the soil, and add to the great wealth of the country; but in the other case you put three hundred millions of scrip into the market, and your soldier of the war of 1812 is not going on to that land at all, but he will, perhaps, sell it to some man who is, and thus the amount of stock in the market, by a well-settled principle of value, becomes pretty nearly worthless. Certainly the Senator can see the difference in that.

Allow me to say one word in respect to the homestead bill. The Senator has made a second allusion to it under a misapprehension of my position at the last session. I voted for the substitute for the homestead bill, known as the Hunter bill, which I had examined with some care. The provision of that bill was, that those only should take land under it in the States who, by the laws of the State in which the land should lie, would be entitled to hold it; and in the Territories the grant was to be to those persons who could take under the existing preëmption laws. It was no invitation, such as the Senator alludes to; but if it were, I do not hesitate to say that I never could see the reason why we might not have people come from anywhere on the face of the globe, and go on to the public lands and live there five years and cultivate them. I never could see the injury to flow from it to the country, or to any part of it, nor do I see any analogy between the principles contained in the homestead bill and the bill now under consideration.

Mr. CLAYTON. As to settling for five years, the homestead bill did not make that provision. By referring to its provisions it will be seen, that the man who appeared once in six months there and then went away and came back again at the end of six months, and carried a shovel and dug the earth, acquired a title to the land; but, sir, the soldier can go and settle; and does my honorable friend suppose that the soldiers and their descendants will not go and settle? I anticipate that there will be a very great exodus from every section of the Atlantic States to the West in consequence of the passage of this bill, and my honorable friend will find, I think, that the class of settlers who will go under the provisions of the bill and take possession of the public domain, will be of a vastly superior character to those who will go under the provisions of the homestead bill.

Mr. EVANS. I desire to say a few words, and I only do it because the Senator from Michigan [Mr. STUART] has made a statement as to the quantity of land which will be granted, which, it seems to me, is founded upon some most extravagant principle. To take three hundred millions of acres at one hundred and sixty acres to each man, would require that there should be one million nine hundred thousand soldiers. In the history of this country we have been engaged in three wars. I do not include the war in Florida. First, was the war of the Revolution. According to the statement of General Knox, we had engaged in that war two hundred and sixty-seven thousand nine hundred and seven regulars, and one hundred and sixty-six thousand six hundred and twenty-seven militia, of which he says one hundred and seven thousand was conjectural; but estimating the whole, we have four hundred and thirty-four thousand five hundred and thirty-four men.

Now, as I understand the provisions of this bill, it only extends to the children of the soldiers; and I would ask what proportion of the soldiers of the Revolution have children now living? Why, I venture to say, not one out of a hundred. Well, sir, the two hundred and sixty-seven thousand nine hundred and seven men who constituted the regular Army, received their hundred acres of land; but even if you were to pay them again, and allow them now the one hundred and sixty acres, supposing that only one out of a hundred would receive it, it would take four hundred and twenty thousand four hundred and sixty acres.

It is said, and I presume it is correct, that, in the war of 1812, we had four hundred and forty thousand men engaged in the service, regulars and militia. The act of 1850 provides that all who served in that war, and all the Indian wars, from 1790 up to that time, should receive, if they were enlisted for twelve years or more, and served nine months, one hundred and sixty acres of land. Therefore all those who served nine months, are paid already, and cannot come in under this bill. Supposing them to be a fourth of the whole, you have three hundred and thirty thousand to provide for. The same act provides that all who were enlisted for six months, and served four months, shall receive eighty acres of land. Suppose, if you please, that one third of those four hundred and forty thousand served four months, then they will be entitled only to eighty acres, because the bill provides that what they are to receive under it, is to be only enough to make up one hundred and sixty acres.

According to the same act, all who enlisted to serve for four months, and served any length of time exceeding one month, would receive forty acres of land. Well, sir, to make up that deficiency, only one hundred and twenty acres to each one will be necessary. Adding all these together, I cannot for the life of me, make three hundred millions of acres, if every one should be paid. According to my estimate, it will amount to only a little over thirty millions. If you add all the soldiers, the four hundred and thirty-four thousand five hundred and thirty-four of the revolutionary army and the four hundred and forty thousand of the war of 1812, which make only eight hundred and seventy-four thousand, and if you give to each of them one hundred and sixty acres, it will only make one hundred and thirty-nine million nine hundred and twenty-five thousand nine hundred and twenty acres, hardly one half of what the Senator says this bill is to take. If it were to dispose of all the public lands in this summary way, I should have some hesitation about it, though I consider the public lands a great source of contention here, and the sooner we get rid of them the better.

The PRESIDING OFFICER, (Mr. WELLER in the Chair.) The question is on the motion to reconsider.

Mr. STUART called for the yeas and nays, and they were ordered; and being taken, were—yeas 12, nays 28; as follows:

YEAS—Messrs. Cass, Chase, Dodge of Iowa, Gillette Jones of Iowa, Shields, Slidell, Stuart, Sumner, Toucey Wade, and Weller—12.

NAYS—Messrs. Allen, Badger, Bell, Brainerd, Brodhead, Brown, Butler, Clay, Clayton, Dawson, Dodge of Wisconsin, Evans, Fessenden, Foot, Geyer, Hunter, James, Johnson, Jones of Tennessee, Mallory, Mason, Norris, Pearce, Pratt, Rockwell, Rusk, Thompson of Kentucky, and Toombs—23.

So the motion was not agreed to.

Mr. CLAYTON. I move to amend the bill by adding, at the end of the fourth section, the following proviso:

Provided, That no lands entered and paid for by warrants issued under the provisions of this act in the name of any assignee or assignees of such warrants, shall be sold in a quantity exceeding six hundred and forty acres in a contiguous tract; nor shall any one person entering and paying for land on such assigned warrants be entitled to thus enter and pay for more than one thousand two hundred and eighty acres of land in any one township.

I move the amendment, in consequence of the suggestion which fell from yourself, (Mr. WELLER in the chair,) and the honorable Senator from Illinois, which struck me with much force, that those who purchased these land warrants might locate a number all in a body. I think, sir, we should not be justified in permitting the holders of the warrants who may have any number of them, to locate them altogether, and keep that section of th country unpeopled until they were ready to sell.

Mr. BADGER. I will suggest to my friend from Delaware, that I think his motion is adverse to the interests of the persons for whom the bill is intended to provide. If the soldiers, or their representatives, who hold the warrants should desire to settle, they will go and occupy the land. If they do not choose to sell them is it not the obvious conclusion that they want to go and settle? And the deprivation of any advantage which the warrants would possess, in the hands of those who may purchase, will diminish their value in the market and therefore injure the persons who are proposed to be benefited by the bill. Now, if it is an advantage to a man to be allowed to locate the warrants in a body, of course that will enhance the value of the warrants in the hands of the original holders. If you take away that advantage, of course you depreciate the value of them in his hands.

Mr. CLAYTON. If the object of the soldier be to settle, he will not want more than six hundred and forty acres in one contiguous tract. That is a farm large enough. If their object be not to settle, but to sell, and they dispose of it to speculators, I think it very impolitic to permit them to go and cover a whole district of country with warrants; and I cannot see how, by this, we can seriously affect the value of the warrants in the hands of any man who wishes to purchase with a view to settlement. I cannot see that this will injure the interests of the holders of the warrants, though I can see that there may be serious grounds for complaint in the new States, if large tracts of land shall be taken up and held free from settlement until the holders of the certificates should be pleased to dispose of them. I think this is but an act of justice to the new States.

Mr. DODGE, of Iowa. I am very glad that the Senator from Delaware has offered this amendment. I hope it will be agreed to, with a modification. I think the quantities which he proposes are too large by half, and I therefore move to amend his amendment, in the first instance, by reducing the quantity which may be located in a contiguous tract from six hundred and forty to three hundred and twenty acres; and in the second instance, in regard to the amount which may be entered in any one township, from one thousand two hundred and eighty to six hundred and forty. Every word that the Senator has said in respect to the location of these warrants in a body, is true. We can go through land held by non-resident speculators, who have taken up the land and invested their money in it, and we can look at the census and show you a country with only half the population and half the representation it should have, and we shall be told that that is the result of speculation. Lord Murray came to Wisconsin, by his agents, in 1836 and 1837, in the times of bank expansions, and before the issuing of the specie circular, and entered a very large district of country, a large portion of which is now unoccupied. Three hundred and twenty acres each are as much as any individual will want in the northwest for a farm, and six hundred and forty acres are as much, I

think, as the most liberal could possibly desire. I hope that the Senator from Delaware, in pursuance of the spirit which he has manifested and his advocacy of the principle for which he contends, and which is so important, will consent to my amendment.

Mr. CLAYTON. I hope my friend from Iowa will not press the modification of the amendment he has suggested. It is true that, in the old States, a farm of three hundred and twenty acres is regarded as sufficient for all common purposes; but I would suggest, that in the western States a farm of six hundred and forty acres, a whole section, is not regarded as a very large farm. I should be afraid that the modification of the amendment might have the effect of injuring the value of the land warrants. I have no such object in view, and I think that preventing a man from locating more than six hundred and forty acres together, cannot seriously depreciate them in the market. I must adhere, sir, to my amendment, although I am anxious to agree with my honorable friend upon all things of this kind, knowing that he has more experience than myself.

Mr. PEARCE. I doubt very much whether the restraints imposed by the Senator from Delaware would be effectual. I believe the speculators in the West are very well acquainted with the means of evading the law. I suppose they could very easily assign these warrants to other individuals, and take powers of attorney from them, and locate them in the name of those parties. I apprehend that, if it should be their desire to locate large quantities, they would pursue that course. Therefore the amendment would be ineffectual.

Mr. CLAYTON. That course would be an obvious fraud upon the law. If a man holding a great number of warrants, should place some of them in the hands of other men to locate alongside of his six hundred and forty acres, it would be a fraud upon the law, and could not be sustained; but, if discovered, would be liable to a penalty. It is not probable that such frauds as these could be successfully practiced, if those whose duty it is to look after the interests of the country do their duty properly.

Mr. STUART. I barely suggest to the Senator that he might obviate the difficulty by providing, in addition, that the patent should not issue to the assignee of the man making the entry. That is the regulation of the Land Office now in respect to entries under the graduation act of last session.

Mr. CLAYTON. Then, of course, it is not necessary.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa to the amendment of the Senator from Delaware.

On a division, no quorum voted.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 3, 1855.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

CLERK TO A COMMITTEE.

The SPEAKER. Resolutions are in order from the Committee on Public Lands.

Mr. DISNEY. I am instructed by the Committee on Public Lands to offer the following resolution:

Resolved, That the Committee on Public Lands be, and they are hereby, authorized to employ a clerk during the present session, at a compensation not exceeding four dollars per day.

Mr. COBB. If the gentleman from Ohio [Mr. DISNEY] will consent to modify the resolution he has offered, I will not object to it; otherwise I will feel constrained to do so. I suggest that the resolution be amended, so as to make it read that the clerk shall be employed for twenty days.

Mr. DISNEY. That term would be altogether too short. I therefore cannot agree to the gentleman's proposition.

Mr. COBB. Then I object to the resolution.

Mr. DISNEY. I cannot help my colleague's objection.

Mr. CLINGMAN. I call for the regular order of business.

Mr. DISNEY. I only desire to say to the House that, in my judgment, and in the judgment of the entire committee, with the exception of the gentleman from Alabama, [Mr. COBB,] there is an eminent necessity for that committee, in order that it may be able to transact the business before it, to have a clerk. For instance, this very morning, matters heretofore referred to the committee for the last ten days, could not be acted upon simply because we had no clerk to make the necessary preparation for business.

The whole committee, therefore, on a reëxamination of the question, and in view of the fact of the refusal of the House to allow them a clerk, and of the opposition of the gentleman from Alabama, [Mr. COBB,] the whole committee, I say, with the exception of that gentleman, have directed me to re-present the resolution which I have just offered, and I now ask the action of the House upon it.

Mr. COBB, (interrupting.) That is all very true, Mr. Speaker, but——

The SPEAKER. Does the gentleman from Ohio yield to the gentleman from Alabama?

Mr. DISNEY. No. I ask the previous question on the adoption of the resolution.

Mr. COBB. I am anxious to make a compromise with my colleague of the Committee on Public Lands, and I only ask to make a suggestion to him and to the House. I am satisfied that it is not necessary to have a clerk employed for the whole of the session, but——

The SPEAKER, (interrupting.) Does the gentleman from Ohio withdraw his demand for the previous question?

Mr. DISNEY. I do not.

The SPEAKER. Then debate is not in order.

Mr. COBB. I only desire to make this statement, if the gentleman from Ohio will allow me. I believe that a clerk would be able to perform the entire business which would devolve upon him in our committee, in the space of five days—all the business that we will have for him to do during the present session of Congress. We have each of us now our respective drawers full of reports; and the question with me is whether the House will allow us to remain on the floor long enough to explain these reports, without becoming anxious to drive us off as heretofore. We cannot get an opportunity to make the reports which we are now prepared to make. I am, however, willing to agree that the committee be allowed to employ a clerk for twenty days, within which time he would be able to prepare everything in the committee, and have all reports ready.

Mr. DISNEY. I desire to say one word in explanation, rendered necessary by the remarks of my colleague, [Mr. COBB.] It is this, that I take it for granted that the House has so much confidence in the judgment of the Committee on Public Lands, as to believe that they will discharge the clerk after they have ceased to have any use for his services. Why, the fact is, as I have already stated to the House, that this very morning the committee found that they could not act upon bills referred to them, simply because they have no clerk to arrange their business. It is impossible for us to get on without one.

The demand for the previous question was then seconded, and the main question was ordered to be put, and, under the operation of the previous question, the resolution was adopted.

PATENT OFFICE REPORT.

Mr. LATHAM obtained the floor.

Mr. JONES, of Tennessee. If the gentleman from California will permit me, I will submit a motion that the Committee on Printing be directed to have the agricultural portion of the Patent Office report, which was reported at the last session, bound without further delay for the plates, and delivered to the members.

Mr. HAMILTON. I desire to make an inquiry of the Chair. Has the morning hour commenced?

The SPEAKER. It has commenced.

Mr. HAMILTON. Then I object to the motion.

Mr. RIDDLE. If the House will do me the favor to listen to me for a few moments, I will make a brief explanation, which should have been made yesterday, on behalf of the Committee on Engraving.

The SPEAKER. The gentleman from Delaware will allow the Chair, in order to avoid confusion, to state that the gentleman from California [Mr. LATHAM] obtained the floor, and was in the act of presenting a report from the Committee on Public Lands, when the gentleman from Tennessee [Mr. JONES] asked the consent of that gentleman and of the House to introduce his motion. Is it the pleasure of the House that the gentleman from Tennessee submit his motion?

No objection was made.

Mr. JONES. My proposition is, that the Committee on Public Printing or the Superintendent of Public Printing—which ever be the proper party—be requested to have the agricultural portion of the Patent Office report which was made at the last session bound and delivered to those who are entitled to receive it, without further delay on account of the colored plates, so that we may have copies for the coming debate which is to take place on that report.

Mr. RIDDLE. I desire to say a few words in order to explain why I am opposed to the passage of the resolution of the gentleman from Tennessee, [Mr. JONES.] I was not present yesterday when the statement was made by my friend from Kentucky, [Mr. STANTON,] which rather reflected on the action of the Committee on Engraving, and I am sorry that not one of my colleagues was present, in order that the House might be made properly to understand the position of the work.

Now, sir, it should be known to the House, that during the last session of Congress more illustrated works were ordered than have been ordered by any three Congresses previously. In order to have this large amount of work executed with the least possible delay, the committee invited the competent lithographers from the four great cities of the country to give us bids; and every competent lithographer did so bid—stating the shortest time in which the work could be executed. These bids were received by the committee; they were all examined and considered, and, in every case, the most responsible bidders were selected to execute the work. But it happened, sir, that two only were behindhand, namely: the plates for the Patent Office report, and the maps—not the plates, as stated by the gentleman from Kentucky, [Mr. STANTON,] for Lieutenant Gibbon's work. From the brief time allowed for the performance of the work, these were left unfinished. I ascertained this morning, from the Clerk of the House of Representatives, that the thirty thousand sets of plates for Lieutenant Gibbon's work had all been received; and also, that the thirty thousand sets of plates for Lieutenant Herndon's work had been all received, and that a portion of the maps only were delayed, in consequence of the want of time to complete them.

But a reflection has been cast upon the Committee on Engraving in consequence of these books being kept back. Now, I want the gentleman who has charge of the Committee on Printing to tell me why Lieutenant Marcy's work has not been delivered to this House? The contractor, according to the terms of the contract, has furnished seven thousand five hundred sets of these plates; and now the complaint is made, because the agricultural portion of the Patent Office report has not been all delivered. There is but one contractor materially behindhand; for, in order that we might get the work done quickly, we have divided it between three contractors, one in Philadelphia, one in Boston, and one in Washington. The contractor in Washington is behind in his share of the work. He has not, as yet, delivered any of his contract. Previous to the holidays—as the gentleman from New York, [Mr. WALSH,] my only colleague now, can state—the Committee on Engraving unanimously instructed the Superintendent of Printing to examine the office of the lithographer in Washington, so as to ascertain what work he could accomplish in the month of January, without loss to himself, and to contract for the balance of the work. On my return to this city, I found that these instructions had not been obeyed. I went myself to the lithographer's office in Washington, and found that by the end of the present week he can deliver sixteen thousand plates; and if the gentleman's resolution be only deferred till this time two weeks, we can have all the plates ready for the agricultural portion of the Patent Office report.

Mr. STANTON, of Kentucky. The honorable gentleman from Delaware is entirely mistaken if he supposes that my remarks of yesterday were intended to cast any improper reflection upon the

Committee on Engraving; and those who heard me, will acquit me of saying anything more than that the contractors had not complied with their engagements. I regret that the gentleman now makes it necessary for me to refer to that committee; for I would gladly avoid any comment upon the manner in which they have discharged their duties. A full explanation of the causes which have led to delay in the delivery of the documents ordered at the last session, however, now requires it, and I shall not forbear.

I have before me some memoranda, furnished me by the Superintendent of Public Printing, which show the dates when the documents were ordered to be printed, the dates of the contracts for engraving, and the times when the maps and plates were, under the contracts, to be delivered. These certainly do show that much unnecessary delay has occurred, not only in making the contracts, but in their execution, and the delivery of the work to the hands of the printer.

Mr. RIDDLE. I will here remark that delay has been occasioned by the necessity that existed for the committee to invite proposals, and for lithographers living at a distance to come here and submit them to the committee for examination, before the contracts were made.

Mr. STANTON. I know that some little delay has arisen from that cause, but as I cast my eye down this column of figures I find that in some cases three or four months elapsed between the order of the House to print the document and the time at which the contracts for the engraving were executed, and then, some four, five, or six months in addition are allowed for the completion of the work. Now, I understand that the duty of procuring engravings for the Senate is imposed on the Secretary of that body, and it seldom ever occurs that more than two weeks elapse before the contracts are made, and the maps and plates are, consequently, almost always ready when the printing is completed. If the Senate can thus, by its Secretary, procure its engravings with no more delay than this, it seems certainly within the power of our House to do the same, and I cannot agree that the gentleman from Delaware is entirely without blame for the delay which we are now investigating.

But the gentleman demands of me, with some appearance of triumph, a reason for the delay which has occurred in the delivery of Marcy's report, and asks why they are not now in the hands of the members? The reason is a very simple one, and quite sufficient to exculpate both the printer and binder, as well as the Superintendent, from all blame. The work has been printed five months, but although the order to print was made in April, no engravings were delivered until the twentieth day of October. Some seven thousand five hundred plates have been furnished up to December 26, and a portion yet remains to be furnished. But it will be recollected that during last fall, for want of engravings, the binder was compelled, for more than three months, to remain comparatively idle, his hands discharged, and printed works accumulating by the ton upon his hands. Since he has begun to receive those engravings, he is proceeding with all the rapidity possible, to bind up the Census report, Patent Office report, and other works on hand, of quite as much interest as Marcy's.

It is true that the plates for Herndon's report have been delivered, though not as required by the terms of the contract. But the maps yet remain to be executed, and the binding cannot be done without them. There are more than twenty thousand of the plates for Gibbon's work not delivered. They were due long ago; and, if provided as required by the contracts, the books might have been in our hands. I leave the House to determine upon whom rests the responsibility of this delay.

The gentleman from Delaware, as an excuse for the delay in furnishing some of the plates for the Patent Office report, attempts to throw off the responsibility from himself to the Superintendent of Public Printing. He says he directed that officer to visit the establishment of one of the contractors, and inquire into the condition of the engraving intrusted to him. By law, the Superintendent has nothing to do with the engraving; and, if he did not meddle with it, as directed, he is not to be censured for it. That direction from the gentleman to the Superintendent was given only ten days ago, and too late to have been serviceable in preventing the delay of which there is now so much complaint. I understand that no contract has ever been entered into with the person alluded to, unless a mere verbal one, and that the prospect of procuring the thirty-seven thousand one hundred and seventy-three plates intrusted to him is a very poor one.

Mr. RIDDLE. The contract to which the gentleman from Kentucky alludes was forwarded to me for my approbation, but when I received it, I found that the dates, which I had directed to be inserted in it, had been erased, and dates two months later inserted. I refused under these circumstances to accept the contract. Where and by whom this erasure was made it is not for me to say. I found that the words "month of July" were erased and the words "month of September" inserted in their place; thus giving the contractors two months more time in which to comply with their contract.

Mr. STANTON. I understand this alteration was made by the contractor himself, to get more time; the contract they altered has never been approved by the committee. I would ask the gentleman if any other steps have been taken to secure the execution of the plates which were assigned to him?

Mr. RIDDLE. Nothing farther than a provision instructing the contractor to go on with the work.

Mr. STANTON. I do not know what progress the contractor is making, but I take it for granted, inasmuch as no plates are received, that he is doing very little, if anything, in the way of executing the work. But of this I am not well advised.

Mr. HAVEN. I desire to inquire of the gentleman from Kentucky, whether it be true that a portion of the agricultural part of the Patent Office report is bound and delivered?

Mr. STANTON. Some thirty thousand copies of the plates have been furnished, and the work bound and delivered to a portion of the members.

Mr. HAVEN. If that be so, I wish to submit to my friend from Tennessee that he had probably better withdraw his motion.

Mr. JONES. I did not suppose, when I submitted the motion, that there would be any objection to it, or that it would give rise to one moment's discussion. If I had, I would not have made the motion; but yesterday, when this subject was under consideration, I did what I conceived to be in accordance with the general feeling of the House. I believed that it was the unanimous wish of the House, that the documents should be bound without waiting for the plates to accompany them. In view of the present state of the feeling of the House, I will withdraw my motion.

STEAM LINE TO THE SANDWICH ISLANDS.

Mr. McDOUGALL. I ask the unanimous consent of the House to report back Senate bill, (No. 411,) "An act to establish a line of steam mail ships between San Francisco, in California, and Shanghai, in China, touching at the Sandwich Islands, or Japan."

Mr. HOUSTON. I object to the introduction of the bill out of order.

FOREIGN PAUPERS, ETC.

Mr. JONES, of Tennessee. I desire to submit a privileged motion. A bill was reported from the Committee on Commerce, yesterday, by the gentleman from Massachusetts, [Mr. WENTWORTH,] "to prevent the introduction into the United States of foreign criminals, paupers, idiots, lunatics, and insane and blind persons," which was recommitted to the Committee on Commerce, and ordered to be printed. I move to reconsider so much of that vote as recommitted that bill to the Committee on Commerce, and to lay the motion to reconsider upon the table.

The question was taken; and the motion was agreed to.

PRIVATE LAND CLAIMS IN CALIFORNIA.

Mr. LATHAM, from the Committee on Public Lands, reported the following bill, with a recommendation that it do pass:

A bill to continue in force, for a limited time, the provisions of the act of Congress of the 3d of March, 1851, and the second section of its supplement of 18th January, 1854, so as to enable the board of land commissioners in California to close their adjudications of private land titles in that State, and for other purposes.

The bill was then read *in extenso*.

Mr. LATHAM. I would not ask the House to take immediate action upon this bill, were it not for peculiar circumstances connected with the land commission. Its duties expire on the 4th day of March next, and if any other action is taken upon this bill, than putting it upon its passage at the present time, the object of the bill will be entirely defeated.

The Secretary of the Interior, and the Attorney General of the United States, have both recommended the provisions of the bill. It more intimately concerns the interests of the United States, than it does the interests of the citizens of the State of California.

The commission, although it has been organized ever since the 4th of March, 1851, has really been in session but two and a half years, and in that time the amount of labor which they have performed, and which they have had imposed upon them, is without precedent in the history of the Government. The number of cases which have been submitted to them is eight hundred and thirteen. Of these eight hundred and thirteen claims they have adjudicated three hundred and ninety-seven. Two hundred and ninety-four of them, which have been passed, contained seven hundred and twenty-six square leagues of land; and one hundred and three of them, which have been rejected, contain one hundred and eighty-three square leagues of land.

There yet remains to be adjudicated four hundred and sixteen cases, and unless a law similar to the one now submitted by the Committee on Public Lands is passed by Congress at its present session, the cases which as yet remain undisposed of, after the 4th of March next will fail, and the Government, and the parties claimants, will all suffer in their interests. The result will be, that all those claimants, whose claims shall not be adjudicated at that time, will be compelled to apply to Congress for relief by special action.

There has been no delinquency on the part of claimants. They have filed their claims in accordance with the provisions of the statute and the law passed by Congress, and if the commissioners fail, for want of time, to adjudicate upon them, will it not, as a matter of course, constitute a good foundation for an application for the action of this body?

Now, then, Mr. Speaker, the board of land commissioners, which was to adjudicate upon land claims arising in the Territory of Louisiana, has been continued for a long series of years, and as late as the last session of Congress a law was passed having relation to questions arising out of those very claims. But here is a court which has been in session but two and a half years, and has had submitted to them in that time an amount of business quite equal to that which was submitted to the commissioners of Louisiana claims. The California commissioners, in the report which they have made in reference to their business, state that one of the claims alone submitted to their adjudication involves the sum of $36,000,000; and that many of the claims pending involve large sums running from millions down to one and two hundred thousand dollars.

The questions, also, which they are called upon to decide, run through every species of law known to the civilized world; the civil law, the common law, the decrees of various departmental assemblies in Spain and Mexico, and upon the validity of all of which they are called upon to decide. Hence it is, that speedy action upon their part is absolutely impossible. In many instances, questions are submitted to them which require them to send to the courts of Spain, or to the City of Mexico, to procure authorities and evidence and copies of decrees of the respective courts, all bearing upon the cases which they are called upon to adjudicate.

So much, then, for the alleged delays of that commission. The interest of the United States is as great as the interest of California; and I ask this House, as the guardian of the interests of both the Government and these claimants, to extend this commission one year more.

As regards the second section of this bill, I am aware there will probably be some objection to it in this House, because I know the jealousy with

which gentlemen look upon anything like giving greater salaries or creating new offices. The spirit in this body is to retrench and cut down all the salaries of the officers now in California. No one in this body, who understands the true condition of their duties and expenses, entertains such feelings; but still such I know to be the general spirit of this House. But yet the United States district attorney for the State of California is called upon, when these cases are transmitted from the board of land commissioners to the United States district court, to discharge all the duties which Congress has now devolved upon three commissioners—a law agent, an assistant law agent, a clerk, and several assistant clerks. The law, as it now exists, says that, as soon as these cases are transferred, the parties have the right to come in and take testimony *de novo*. The attorney of the United States is obliged to file a petition and set forth the nature of the claim, and the claimants have the same right. The Government and claimants know the deficiency in the testimony, as submitted to the commissioners, and at once set to work to supply it. Hence, the whole work has to be gone over frequently, and the work really commences when the suits are transferred to the district court. The district attorney is compelled to act in the capacity of commissioners, law agents, and of clerks, and the history of these cases show that they are of a very arduous character. The duties which devolve upon him, in ordinary cases, often occupy him the entire year, and the taking of the testimony, and the examination of these witnesses, devolves upon him an amount of business absolutely impossible for him alone to discharge. Upon this point, I beg leave to have a letter to myself from the Attorney General read to the committee, which I will send to the Clerk's desk.

The Clerk read the following letter:

ATTORNEY GENERAL'S OFFICE, *December* 13, 1854.

SIR: In answer to your letter of inquiry of this date, I have the honor to state, that the determination of land claims in California, is, in my judgment, at the present time, one of the most urgent exigencies of the public service. The whole number of cases pending before the commissioners was, at the last advices, eight hundred and thirteen. Of these, three hundred and twenty have been certified to this office, and the prosecution of one hundred and eighty-seven appeals has already been notified by me to the respective district courts. In order to expedite this mass of business, two things, among others, seem to be necessary; first, to extend the land commission for one year, at least, and, secondly, to furnish additional force for what is to be done in the district court.

Upon the last point, permit me to observe that the cases are, for the most part, of importance in the principles of law as well as the amount of interest involved; that a circumstantial petition, in each case, has to be filed in the district court as the institution of proceedings there; that evidence has to be taken which is often quite voluminous; and that, in a word, each case devolves much special labor and responsibility upon the district attorney and court: all which is in addition to their ordinary duties, which are the more serious in California because of the fact that the district courts there discharge by law the functions of a circuit court.

To these causes, undoubtedly, it is owing that of the one hundred and eighty-seven cases, in which the prosecution of appeal has been notified by me, only four have been disposed of, and have come up to the Supreme Court.

The effect is to hold in suspense all the land titles in California, greatly to the prejudice of the State, its inhabitants, and of the United States.

I fully concur in opinion with the Secretary of the Interior as to the importance of promptly adopting suitable legislative measures in the premises.

I am, very respectfully, C. CUSHING.

Hon. MILTON S. LATHAM, *House of Representatives.*

Mr. RITCHIE, of Pennsylvania. I would ask the gentleman from California, whether he knows this commission can complete the business within one year? He says that the business of the commission is only about one half completed, and I would suggest whether the time of extension had not better be two years?

Mr. LATHAM. The bill has been drafted in pursuance of the wish of the land commissioners themselves. The land commission is now fully organized; it is now at work. According to their own report, made to the Secretary of the Interior, they think that they can complete their labors within one year.

With regard to the second section of the bill, which is recommended by the Attorney General, I will state that it is limited, in such way, that this assistant aid, given to the United States district attorney, is confined to the period of one year, within which he can get the cases before the United States district court, and be prepared to argue the principles involved in them.

One thing more, and I have done. The surveyor general of the State of California, in order that the House may fully appreciate the interests of the General Government in this matter, has stated that out of the 93,622,400 acres of land in that State, there are 10,000,000 acres of land, the very best land in the State, in some instances involving title to cities and to whole counties, embraced by the litigation of these Spanish grants. The question whether Congress will continue this commission for a year longer, and will give the United States district attorney, in the absence of a circuit court, the power and capacity to discharge the duties devolving on him, involves the question of the wealth of the State of California. The action of these commissioners decides the validity of the title of the lands within that State, and on that depends its permanent prosperity. I therefore respectfully ask of the House that it will pass this bill, and by doing so not only protect the interests of the citizens of California, but also those of the General Government.

I move that the bill be now put on its passage; and on that I call for the previous question.

The call for the previous question received a second, and the main question was ordered to be now put. The bill was ordered to be engrossed and read a third time; and being engrossed, it was read a third time, and passed.

Mr. LATHAM. I move to reconsider the vote by which the bill was passed, and that that motion be laid upon the table.

The latter motion was agreed to.

GRADUATION BILL.

The SPEAKER. Reports are still in order from the Committee on Public Lands.

Mr. COBB. Yesterday, Mr. Speaker, the bill under consideration during the morning hour was recommitted to the Committee on Public Lands, together with the amendments offered to it. Since then, that committee has closely investigated the whole subject, and has instructed me to report back a substitute, to the reading of which I respectfully ask the attention of members. We have endeavored to satisfy everybody, but whether we have succeeded or not I am unable to say. There is doubt of our success. We have sometimes to yield our own desires to satisfy others, and we have done in this matter as much as we could.

Now let me say, that if this bill is to pass at all, it ought to pass now, at once. If the crying evils exist as they are said to exist, by the newspapers and memorials, they ought to be remedied by us. They do exist, I believe, as all admit, and for their remedy this substitute is proposed, and I hope, may be adopted. At all events, let the matter be now disposed of. Let the bill be passed, or rejected.

The Clerk then read the substitute, as follows:

Be it enacted, &c., That so much of the act of August 18, 1854, entitled "An act to graduate and reduce the price of public lands to actual settlers, and cultivators," as requires the affidavit of the applicant, under said act, to be taken before the register, or receiver, be, and the same is hereby repealed, and said affidavit may hereafter be taken before any officer authorized to administer oaths, under such regulations as may be prescribed by the Secretary of the Interior; and so much of said act as requires that the land entered for the use of an adjoining farm, or plantation, shall adjoin that tract, or tracts, actually occupied or owned as a farm or plantation, be, and the same is hereby, so construed as to include any tract, or tracts, that may corner with such farm or plantation: *Provided*, That the portion of said law that has been construed as authorizing the entry of lands under said graduating act, on filing a declaration of intention to enter lands for the use of the applicant, and for the purpose of settlement and cultivation, shall hereafter be considered as authorizing an entry in such cases only as proof of actual settlement, and improvement, by the party making such application, under such rules and regulations as may be prescribed by the Secretary of the Interior for that purpose.

SEC. 2. *And be it further enacted*, That hereafter, in addition to the affidavit now required by the provisions of said act, each applicant shall be required to make oath that he or she intends to appropriate said land to his or her own exclusive use or benefit, and he or she has not, directly, or indirectly, made any agreement or contract in any way or manner with any person or persons whatsoever, by which the title by which he or she might acquire from the Government of the United States, should inure, in whole or in part, to the benefit of any person except himself or herself. And no person shall be entitled to any of the benefits of said act who is not a citizen of the United States, or who has not filed his declaration of intention to become a citizen, as required by the naturalization laws.

Mr. COBB. I suppose the House, by this time, understands this proposition, and I shall not discuss it. I shall therefore demand the previous question; and if the House is satisfied to vote upon it now, they will sustain the motion; if not, they will vote it down, and the bill will be open to amendment and discussion. I demand the previous question.

Mr. JONES, of Tennessee. I hope the gentleman from Alabama will allow me to propose an amendment, and obtain the vote of the House upon it.

Mr. COBB. I should like first to know what amendment the gentleman intends to propose?

Mr. JONES. What I wish is, to strike out so much of the bill as requires the person to settle upon land, and furnish proof that he has made improvements thereon before he can be allowed to enter it under this bill. I will merely say one word in reference to it. In my section of the country, where there are lands comprehended under this bill, the provision I wish to strike out may not work any great hardship. But suppose a case where a man goes fifty or one hundred miles, and selects a tract of land which he wishes to enter, but does not want to locate in that country unless he can get that particular tract—now, sir, by the time he has brought on his family, made his improvements, and is prepared to make proof of the fact, some other person may have entered it at $1 25 per acre, or have also made improvements, and have entered it before the person who originally selected the lands can have an opportunity of doing so.

I have no desire, sir, to discuss the question. I merely ask the gentleman from Alabama to allow me to offer the amendment which I have indicated, and permit the House to vote upon it.

Mr. COBB. I will withdraw the demand for the previous question for the present, and will yield the floor to the gentleman from Tennessee to offer his amendment. But I propose to say a very few words in answer to the objections which the gentleman has presented, before again demanding the previous question.

Mr. JONES. I then move to strike out so much of the substitute before the House—I think it is the third section—as requires a person to settle upon, make improvements upon, and furnish proof of the fact, before entering land under this bill.

Mr. COBB. I have given the gentleman from Tennessee an opportunity of submitting the amendment he has indicated, for the purpose of allowing the House the privilege of expressing its wishes in reference to it. But, sir, I hope the friends of this graduation measure will not further crowd me in presenting additional obstacles in the way of the speedy passage of this bill; because it has been the friends of the measure, and not the enemies, who have thus long delayed its passage. I say it has not been the enemies of this measure who have caused its delay—and I want the fact to go to the country—because, as yet, not one opponent to the bill has taken the floor in opposition to it.

Now, one word in reference to the proposition just presented by the gentleman from Tennessee. Sir, what was the object of the graduation bill? What is the object of the amendment which I have this morning presented? It is to require those who avail themselves of the benefits of the act, to settle upon and cultivate the land which they enter. And what are the objections that are being constantly made to this graduation bill? What is the cry that we hear constantly raised, of corruption being daily practiced under the operation of the original bill? It is, that men are permitted to enter land, upon which they do not settle, and which they never cultivate. I am not aware that any such fraud, or corruption, has been practiced in my section of the country, but it is said, that it has been committed in other sections; and I desire, therefore, in common with the other friends of this measure, to place a guard against the perpetration of these frauds in the future.

The gentleman from Tennessee proposes to take away this guard, and to open those lands to entry to any one in the same way they are now thrown open. He moves to strike out the section I have reported upon this subject. Well, sir, if the House, in the exercise of its wisdom, decide that it should be stricken out, so be it. But if they believe that under the existing law

frauds are constantly being committed, and if they wish to prevent the perpetration of these frauds in future, then let them provide, as I have provided in this bill, that no person shall be allowed to enter land under the graduation bill until they have settled upon and cultivated the same, except those who own lands adjoining. You will then make the benefits of the bill accrue only to the actual settlers and cultivators, and to those who own lands adjoining those they propose to enter.

Now, sir, I hope the House have heard enough upon this subject. I am ashamed that I have occupied so much of their time, as I have felt compelled to do, in the course of this discussion. I ask their pardon for trespassing so much upon their patience as I have done.

Mr. McMULLIN. Will the gentleman from Alabama yield me the floor for a moment?

Mr. COBB. If the gentleman desires to ask a question, I will certainly not be so uncourteous as to refuse, but I hope the gentleman will not make a speech.

Mr. McMULLIN. I have no intention of making a speech, but I wish to appeal to my friend from Alabama, if he desires to so frame this bill as to protect the actual settlers, not to permit the gentleman from Tennessee to come in with his amendment, which will defeat the object of the bill.

Mr. COBB. Oh, I think we shall vote down that amendment with all the ease imaginable.

Mr. McMULLIN. Now, I desire to ask the gentleman from Alabama to accept an amendment which shall preclude from the benefits of this bill any person who already owns three hundred and twenty acres of land.

Mr. COBB. I will inform the gentleman that there is a provision in the original bill which does not allow any person to enter more than three hundred and twenty acres at the graduated prices.

Mr. McMULLIN. Precisely. But I am opposed to any person being allowed to enter lands under this bill, who already owns as much as three hundred and twenty acres of land.

Mr. COBB. Mr. Speaker, I must insist upon my right to the floor——

Mr. McMULLIN. I have no desire to interfere with the gentleman's rights, but I give him notice, that if some such amendment is not made I shall vote against the bill.

Mr. OLIVER, of Missouri. I ask the permission of the gentleman from Alabama to allow me to offer an amendment, and have a vote of the House upon it.

[Cries of "Previous question!"]

Mr. COBB. I hope my friend from Missouri will excuse me if I decline to yield further. I demand the previous question; and upon seconding the demand, I ask for tellers.

Tellers were ordered; and Messrs. HILLYER, and JONES of Louisiana, were appointed.

The House was divided; and only thirty-five voted in the affirmative.

So the previous question did not receive a second.

Mr. DAWSON. I now desire to offer an amendment to this bill. I send it up to the Clerk's desk, and ask that it may be read.

The Clerk was proceeding to read the amendment, when

Mr. LETCHER (interrupting) said: I rise to a question of order. I submit that that amendment is a bill which is now pending before the House, and is not, therefore, in order as an amendment to this bill.

The SPEAKER. The Chair decides that the amendment of the gentleman from Pennsylvania is not in order, for another reason than that presented by the gentleman from Virginia. The amendment proposed by the gentleman from Pennsylvania is not, at this stage of the proceedings upon the bill, in order, for the reason that there is already an amendment to an amendment pending. Whether it would be germane or not, is a question that the Chair will not now decide.

Mr. DAWSON. My motion is to insert what I have sent to the Chair in lieu of the amendment of the gentleman from Tennessee.

The SPEAKER. Our rules do not recognize any such course of proceeding.

Mr. DAWSON. Well, it is in order, I presume, to move to strike out the original proposition, and substitute mine for it.

The SPEAKER. There is now an amendment pending in the nature of a substitute, and the gentleman from Tennessee has offered an amendment to that substitute.

Mr. JONES, of Tennessee. Would it not be in order to move to insert what the gentleman from Pennsylvania proposes, if it be germane, in lieu of what I propose to strike out?

The SPEAKER. That would be an amendment in a degree beyond what our rules recognize. The Committee on Public Lands propose to amend the bill, and the gentleman has offered an amendment to that amendment, and another amendment cannot be entertained.

Mr. JONES. Cannot I modify my amendment? I understand that the amendment of the committee in lieu of the original proposition is pending; mine is an amendment to that. Would it not be competent for me to move to strike out and insert? That would be but one amendment. Cannot I modify my amendment so as to insert what the gentleman from Pennsylvania proposes?

The SPEAKER. It is competent for the gentleman to modify his motion, or to withdraw it.

Mr. JONES. I will modify it so as to move to strike out what I have proposed, and insert the amendment of the gentleman from Pennsylvania.

The SPEAKER. Then the Chair will hear the question of order raised by the gentleman from Virginia, [Mr. LETCHER,] in reference to the amendment proposed by the gentleman from Pennsylvania. What are the gentleman's objections?

Mr. LETCHER. My objection to that amendment is, that it is not germane to the bill.

Mr. RICHARDSON. It is a substitute for it.

Mr. LETCHER. It is another distinct proposition, and is now pending before the House in another stage of its proceedings.

The SPEAKER. The Chair has not yet heard the amendment read, but understands from the Clerk that it is not precisely the bill pending before the House; and, therefore, that objection will not lie under our rules.

Mr. LETCHER. I understand that the homestead bill came back from the Senate with Senator HUNTER's substitute, and that the gentleman from Pennsylvania offered a substitute for that substitute. That is the proposition that he has now sent to the Clerk's desk.

Mr. HOUSTON. Let it be read.

The SPEAKER. If the gentleman from Virginia states the case correctly, the proposition of the gentleman from Pennsylvania is not a bill, but an amendment pending to another bill.

Mr. JONES Will the gentleman from Virginia yield me the floor for a moment?

Mr. LETCHER. No, sir, I cannot, for I want the Chair to decide the question whether the amendment is germane to the bill.

Mr. JONES. And I wish to set the gentleman right upon that very point.

Mr. LETCHER. Well, I yield to the gentleman.

Mr. JONES. The bill, called the homestead bill, which went from this House to the Senate, proposes to give to settlers not exceeding one hundred and sixty acres of land, upon condition of cultivation, without price. This proposition is to give to settlers, after five years' cultivation, the land at the rate of fourteen and a half cents an acre. Sir, it is not the same proposition. The one proposes to give land without price; the other to give it upon the payment of a price equal to the prime cost of the land to the Government. If an amendment is in order, this certainly must be germane, because the original proposition is to graduate and reduce the price of the public lands, and to secure to persons, under certain circumstances, lands at further reduced prices; the amendment proposes to secure the right to all persons to enter one hundred and sixty acres of land at the reduced price of fourteen and a half cents.

Mr. LETCHER. As I understand the bill now pending, it is simply a graduation bill, and nothing more. The gentleman's amendment proposes to substitute for that a regular bill, which shall give to every head of a family so much land. The only difference between it and the bill, as it passed this House, is the proposition—which the gentleman says is embraced in it—for the payment of fourteen and a half cents per acre.

The SPEAKER. From the description of the amendment given by the gentleman from Tennessee, the Chair thinks that it is in order.

Mr. DAWSON. Then I have the floor upon the amendment.

The SPEAKER. The gentleman from Virginia has the floor upon the question of order. The proposition submitted by the Committee on Public Lands, is in reference to the disposition of the public domain, and proposes to graduate and reduce the prices of the public lands. This amendment, as the Chair understands, proposes to reduce the price a little further—to fourteen and a half cents an acre. At all events, it so connects itself with the general disposition of the public lands, by sale, that the Chair thinks the amendment is in order.

Mr. DAWSON claimed the floor.

Mr. HOUSTON. I desire to have the amendment read.

The SPEAKER. Does the gentleman from Pennsylvania yield the floor?

Mr. HOUSTON. I do not ask him to do it. I suppose the gentleman is not entitled to the floor until the amendment has been read. When it has been read, any gentleman will have a right to submit a point of order to the Chair, and the gentleman from Pennsylvania cannot, by occupying the floor now, deprive members of that right.

The SPEAKER. Certainly not, and the Chair has not made any such decision whatever.

Mr. HOUSTON. I want to hear the amendment read, so that I may be able to judge if it is in order.

The SPEAKER. The amendment will be read, at the demand of the gentleman from Alabama.

Mr. HOUSTON. I make no demand. I ask that it may be read, as I have a right to do.

Mr. HAMILTON. I would suggest to the gentleman from Pennsylvania that he should move to recommit the bill, so as to keep it before the House, and then allow a motion to be made to go into the Committee of the Whole on the state of the Union. His amendment can then be printed.

Mr. DAWSON. It has been printed.

Mr. HAMILTON. I have not seen it, and it is a very important amendment.

The Clerk then read Mr. DAWSON's amendment, [offered by Mr. JONES,] which is as follows:

Any free person who is the head of a family, or who has arrived at the age of twenty one years, and is a citizen of the United States, shall, from and after the passage of this act, be entitled to enter, at the rate of fourteen and one half cents per acre, to be paid at the expiration of five years from the date of such entry, one quarter section of vacant and unappropriated public lands, which may, at the time the application is made, be subject to private entry at one dollar and twenty-five cents per acre, or a quantity equal thereto, to be located in a body, in conformity with the legal subdivisions of the public lands, and after the same shall have been surveyed.

SEC. 2. *And be it further enacted*, That the person applying for the benefit of this act, shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before the said register that he or she is the head of a family, or is twenty-one years of age, and that such application is made for his or her exclusive use and benefit, and those specially mentioned in this act, and not either directly or indirectly for the use or benefit of any other person or persons whomsoever; and, upon making the affidavit as above required, and filing the affidavit with the register, he or she shall thereupon be permitted to enter the quantity of land already specified: *Provided, however*, That no certificate shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if, at the expiration of such time, the person making such entry, or, if he be dead, his widow, or, in case of her death, his heirs or devisee, or, in case of a widow making such entry, her heirs or devisee, in case of her death, shall prove by two credible witnesses that he, she, or they, have continued to reside upon and cultivate said land, and still reside upon the same, and have not alienated the same, or any part thereof, then, in such case, he, she, or they, shall be entitled to a patent, as in other cases provided for by law: *And provided, further*, In case of the death of both father and mother, leaving an infant child, or children under twenty-one years of age, the right and the fee shall inure to the benefit of said infant child, or children, and the executor, administrator, or guardian, may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children for the time being have their domicil, sell said land for the benefit of said infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States.

SEC. 3. *And be it further enacted*, That the register of the land office shall note all such applications on the tract-books and plats of his office, and keep a register of all such entries, and make return thereof to the General Land Office, together with the proof upon which they have been founded.

SEC. 4. *And be it further enacted*, That if, at any time after filing the affidavit as required in the second section of this act, and before the expiration of the five years aforesaid, it shall be proven, after due notice to the settler, to the satisfaction of the register of the land office, that the person having filed such affidavit shall have actually changed his or her residence, or abandoned the said entry for more than six months at any time, then, and in that event, the land so entered shall revert back to the Govern-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

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ment, and be disposed of as other public lands are now by law, subject to an appeal to the General Land Office.

SEC. 5. *And be it further enacted*, That if any individual now a resident of any one of the States or Territories, and not a citizen of the United States, but, at the time of the passage of this act, shall have filed a declaration of intention as required by the naturalization laws of the United States, and shall become a citizen of the same before the issuing of the patent, as made and provided for in this act, shall be placed upon an equal footing with the native-born citizen of the United States.

SEC. 6. *And be it further enacted*, That no individual shall be permitted to make more than one entry under the provisions of this act; and that the Commissioner of the General Land Office is hereby required to prepare and issue such rules and regulations, consistent with this act, as shall be necessary and proper to carry its provisions into effect; and that the registers and receivers of the several land offices shall be entitled to receive the same compensation for any lands entered under the provisions of this act that they are now entitled to receive when the same quantity of land is entered with money, one half to be paid by the person making the application, at the time of so doing, and the other half on the issue of the certificate by the person to whom it may be issued: *Provided, however*, That all persons entering land under the provisions of this act shall, as near as may be practicable, in making such entries, be confined to each alternate quarter section, and to land subject to private entry: *And provided further*, That nothing in this act shall be so construed as to impair or interfere in any manner whatever with existing preëmption rights: *Provided further*, That the provisions of this act shall be so construed as to authorize the class of persons provided for in the foregoing part of this act, who may not own one hundred and sixty acres of land, to enter, at the rate of fourteen and one half cents per acre, any of the public lands adjoining his or her farm subject to entry at the minimum price per acre, a quantity, when added to what they may now own, equal to one hundred and sixty acres, provided he or she shall cultivate the whole or a part thereof.

Mr. DAWSON. I now move to recommit the bill to the Committee on Public Lands.

Mr. HAMILTON. I move that the House do now resolve itself into the Committee of the Whole on the state of the Union.

Mr. HOUSTON. I rise to a point of order.

Mr. DAWSON. I believe that I am entitled to the floor.

Mr. ETHERIDGE. I rise to a privileged question.

The SPEAKER. The gentleman from Alabama [Mr. HOUSTON] rises to a point of order, and is entitled to the floor.

Mr. HOUSTON. I am willing for the motion to be made to go into the Committee of the Whole on the state of the Union. But I do not want to lose the opportunity of presenting a point of order against this amendment of the gentleman from Pennsylvania, in the present state of the case. And I only make the matter known now, that I may not on to-morrow, or whenever the matter comes up again, be precluded from presenting the point of order that the amendment is not germane to the bill.

The SPEAKER. The point of order raised by the gentleman from Alabama will be considered by the House when the matter comes up again.

Mr. HAMILTON. I now renew my motion to go into the Committee of the Whole on the state of the Union.

Mr. DAWSON. I wish to make an inquiry of the Chair. I desire to know whether, if the motion of the gentleman from Maryland [Mr. HAMILTON] be adopted, I will not be entitled to the floor when the question comes up again?

The SPEAKER. When the matter comes up for discussion the gentleman from Pennsylvania will be entitled to the floor.

Mr. ETHERIDGE. The question of privilege which I raise, or rather the inquiry which I make of the Chair, is this: Why the amendment which I proposed to make to the substitute offered by the gentleman from Pennsylvania, when it was ordered to be printed, should not have been read with the bill? The bill, or rather the substitute, has been read through, and the amendment which I offered has not been read.

The SPEAKER. The whole matter having been, at that time, committed to the Committee on Public Lands, that committee was empowered to report a substitute for the original bill; and the House is now called upon to act upon that report. The amendment suggested by the gentleman from Tennessee [Mr. ETHERIDGE] was not really pending at the time the matter was referred to the Committee on Public Lands. It was but a suggestion—a notification of his desire to offer an amendment, which, by the consent of the House, was sent to the committee, and ordered to be printed with the bill and substitute.

Mr. ETHERIDGE. I understand that the motion of the gentleman from Pennsylvania [Mr. DAWSON] is, that the substitute which he offers be recommitted to the Committee on Public Lands.

The SPEAKER. There is a pending motion to recommit the bill to the Committee on Public Lands, but the motion now before the House is, that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. LETCHER. I merely wish to say, that if this proposition be voted down, I shall offer in lieu of it the proposition of my colleague in the Senate, [Mr. HUNTER.]

Mr. TAYLOR, of Tennessee. Will it be in order to offer a substitute for the substitute presented by the Committee on Public Lands?

The SPEAKER. That would not be in order, as it would be an amendment in the fourth degree. The motion to recommit, however, cuts off all motions to amend till another time, or until that motion be disposed of.

Mr. TAYLOR. Then I give notice that at the proper time I will offer a substitute for the substitute that has just been read.

Mr. READY. I ask the gentleman from Maryland [Mr. HAMILTON] to allow me the privilege of asking the consent of the House to make a motion.

Mr. HAMILTON. Certainly.

Mr. READY. I desire to make a motion to have a day set apart for the purpose of considering in the Committee of the Whole on the state of the Union a bill, which is No. 493 on the calendar, further supplemental to an act entitled "An act to authorize the payment for property destroyed by the enemy while in the military service of the United States, and for other purposes."

Mr. HAMILTON. That requires the unanimous consent of the House.

Mr. READY. I desire to ask the unanimous consent of the House.

Mr. ORR. Is it the gentleman's desire to have a special order made as to the taking up of this bill?

Mr. READY. Yes, sir.

Mr. ORR. Well; at this stage of the session I think it is hardly proper to have a special order made. I therefore object to the gentleman's motion.

The question was then taken on the motion of the gentleman from Maryland, [Mr. HAMILTON,] and it was agreed to.

The House thereupon resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair.)

SWAMP AND OVERFLOWED LANDS.

The CHAIRMAN. When the committee had its last sitting, they had under consideration House bill No. 9, being a bill "for the relief of purchasers and locators of swamp and overflowed lands," upon which the gentleman from South Carolina [Mr. KEITT] is entitled to the floor.

Mr. KEITT then addressed the committee during an hour, in examining and denouncing the principles of the Know-Nothing order. His remarks, withheld for revision, will be published in the Appendix.

Mr. CLINGMAN next addressed the committee upon the subject of tendering the good offices of the United States in an effort to settle amicably the difficulties existing between the European Allies and the Russian Government. His remarks, withheld for revision, will be published in the Appendix.

Mr. HARRIS, of Mississippi, obtained the floor, but yielded it temporarily to

Mr. BAYLY, of Virginia. I do not rise, Mr. Chairman, to make a speech in reply to the gentleman from North Carolina, my colleague upon the Committee on Foreign Affairs, or to review anything which has fallen from him. But he has made some remarks which render it proper that I should say a word or two. He has referred to the fact that a great deal of speculation has taken place in the newspapers in respect to the resolution presented to the House by him, and referred to the committee of which I have the honor to be chairman.

I believe I can say with entire confidence that, from feelings of humanity, there is no member of this House and no person connected with this Government who would not be glad to see an end put to this war; but with nations as with individuals, it is a very delicate matter to offer mediation between parties at war with each other. I have reason to believe, and can say to this House with entire confidence in my sources of information, that from the proper quarter overtures were made upon the part of this Government in respect to this matter, and that upon the whole, it was not thought advisable for us to interfere at all. Such being the case, I shall not be prepared to sustain the proposition to mediate on this occasion.

Mr. CLINGMAN. I beg leave to say, in explanation, that that fact was not communicated to myself, and my friend from Virginia, at the meeting of our committee, ten days since, when the committee favored the proposition. We learned it within a few days past.

Mr. BARKSDALE. My colleague [Mr. HARRIS] does not wish to speak this evening. I therefore move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, the Chairman reported progress.

Mr. JONES, of Tennessee, offered the usual resolution closing the debate, in the Committee of the Whole on the state of the Union, upon the swamp land bill, in one hour after the committee should resume the consideration of the same, and demanded the previous question.

And then, on motion by Mr. LETCHER, the House (at ten minutes past three o'clock, p. m.,) adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

THURSDAY, *January* 4, 1855.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

PETITIONS, ETC.

Mr. JONES, of Iowa, presented the memorial of Howard & Co., of Buffalo, New York, remonstrating against the renewal of the patents granted to Cyrus H. McCormick and Obed Hussey, for improvements in reaping machines; which was referred to the Committee on Patents and the Patent Office.

Mr. ADAMS presented the petition of John Holohan, praying to be paid for a pilaster capital, executed by him for the United States Capitol extension, by order of the Commissioner of Public Buildings; which was referred to the Committee on Public Buildings.

Mr. FESSENDEN presented the petition of David Benjamin, son and one of the heirs of Lieutenant Samuel Benjamin, an officer in the revolutionary war, praying that his heirs may be allowed the commutation to which he was entitled; which was referred to the Committee on Revolutionary Claims.

Mr. MALLORY presented the petition of Joshua Mercer, praying to be allowed a pension, to commence from the time the pension he formerly received was discontinued; which was referred to the Committee on Pensions.

Also, a petition of citizens of Tampa, Florida, praying an appropriation for coppered stakes to mark out the channel of Hillsborough bay and river, from the Big Oyster bar to the town of Tampa, and a beacon on Long bar, at the entrance of the river channel; which was referred to the Committee on Commerce.

Mr. WADE presented the memorial of Robert C. Schenck, asking an appropriation for the com-

pensation of his services as envoy extraordinary and minister plenipotentiary on special missions to the Argentine Confederation and the Oriental Republic of Uruguay, in the years 1852 and 1853; which, together with sundry papers on file, was referred to the Committee on Foreign Relations.

Mr. WELLER. I present the memorial of Isaac Williams, of California, who emigrated to that State in the year 1831, and was possessed of a large amount of property there. His premises were occupied by the American troops, under the orders of Colonel Frémont, during the Mexican war. They were attacked by the Mexicans, and a large amount of his property was destroyed. That property was destroyed in consequence of the fact that his houses were occupied by the United States troops. A portion of the claims of the memorialist were presented to the board which was organized to adjust what are commonly called the Frémont battalion claims; and some of them were allowed by that board; but under the act organizing them, they had no authority to pay them, as they were confined to payment for supplies furnished. I move that the memorial be referred to the Committee on Military Affairs.

The motion was agreed to.

IMMIGRATION OF FOREIGNERS.

Mr. SUMNER. I have in my hand a memorial of citizens of Massachusetts, setting forth at some length the evils of foreign immigration, particularly of Catholics, and proceeding at length to declare that a remedy for those evils cannot be found in any modification of the existing naturalization laws; and finally concluding with a prayer that Congress would pass a law imposing a head-tax of not less than $250 on every immigrant hereafter arriving from any foreign country, together with suitable provisions for refunding the same on their departure. As the bill of the Senator from Mississippi, [Mr. ADAMS,] relative to our naturalization laws, was referred to the Committee on the Judiciary, I move that this memorial be referred to that committee.

The motion was agreed to.

PAPERS WITHDRAWN.

On motion by Mr. SEBASTIAN, it was

Ordered, That William Field have leave to withdraw his petition and papers.

On motion by Mr. MALLORY, it was

Ordered, That Jonathan D. Ferris have leave to withdraw his petition and papers.

REPORTS FROM STANDING COMMITTEES.

Mr. TOUCEY, from the Committee on Finance, to whom were referred sundry petitions on the subject, together with a bill granting to railroad companies three years in which to pay the duties on iron imported for railroad purposes, submitted an adverse report thereon.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill from the House of Representatives, making appropriations for the support of the Military Academy, for the year ending the 30th of June, 1856, reported it back with sundry amendments. He gave notice that he should call it up for action as soon as the chairman of the Committee on Military Affairs should be in his place.

BILL INTRODUCED.

Mr. ADAMS asked, and by unanimous consent obtained, leave to introduce a bill to provide for the satisfaction of Choctaw reservations under the nineteenth article of the treaty of Dancing Rabbit Creek, of September, 1830; which was read a first and second time by its title, and referred to the Committee on Indian Affairs.

CALIFORNIA LAND COMMISSION.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had passed a bill "to continue in force, for a limited time, the provisions of the act of Congress of the 3d of March, 1851, and the second section of its supplement of the 18th of January, 1854, so as to enable the board of land commissioners in California to close their adjudications of private land titles in that State, and for other purposes."

Mr. GWIN. I ask that the bill which has just been received from the House of Representatives may be taken up and passed immediately. Its object is to continue the board of land commissioners in California for one year from the 3d of March next, when, according to existing laws, the commission will expire. It is important that this should be done promptly. A similar bill passed this body early in the session; but the House have passed a separate bill of their own. I hope there will be no objection to taking it up and acting upon it now.

The bill was read twice by its title, and considered as in Committee of the Whole, reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

EXTENSION OF THE BOUNTY LAND LAWS.

The Senate resumed the consideration of the bill "in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States." Mr. CLAYTON, yesterday, offered the following amendment, to be added to the fourth section:

Provided, That no lands entered and paid for by warrants issued under the provisions of this act, in the name of any assignee or assignees of such warrants, shall be sold in a quantity exceeding six hundred and forty acres in a contiguous tract, nor shall any one person entering and paying for lands with such assigned warrants, be entitled to thus enter and pay for more than one thousand two hundred and eighty acres of land within any one township.

Mr. DODGE, of Iowa, moved to amend that amendment, by striking out "twelve hundred and eighty," and inserting "six hundred and forty;" and the pending question was on this amendment to the amendment; on which Mr. DODGE, of Iowa, called for the yeas and nays, and they were ordered.

Mr. CHASE. I hope the Senator from Delaware will acquiesce in the amendment of the Senator from Iowa. It is quite true, sir, that Ohio cannot now claim to be one of the land States. We have been dealt with, as we think, very harshly. A less amount of land within that State has been granted for internal improvements than in any other, while we have paid into the public Treasury, for lands, a much larger sum than has been paid by any other State. On a former occasion I made an investigation into this subject, and I ascertained that Ohio had paid to the General Government, and to the grantees of the General Government, for the lands within her limits, no less a sum than $33,000,000. It is an enormous sum to be paid by the cultivators of the soil, for the simple privilege of extracting from the soil the resources of agriculture, and adding them to the common wealth of the country.

But, sir, although we of Ohio have now no interest in this, we know perfectly well what has been the effect of the purchase of large tracts of lands in contiguous bodies, upon the population of our States. There are portions of the State in which population has been delayed to this day—notwithstanding we were admitted into the Union in 1802—in consequence of this very evil. We sympathize, therefore, with new States which are exposed to the same evil; and we are anxious that if a bill of this sort shall receive the sanction of the Senate, the lands shall be taken up in small quantities. As the Senator from Delaware proposes, I would not have more than one tract located in any one township; I think that proposition is an exceedingly good one; and I am grateful to the Senator for having introduced it; but to authorize the location in such large tracts as six hundred and forty acres in one body, and twelve hundred and eighty acres in a single township, will, I am afraid, defeat the very beneficent object of the Senator himself. I trust, therefore, that in view of all the circumstances, he will consent to the modification proposed by the Senator from Iowa, which will certainly make the bill more acceptable to some members on this side of the Chamber.

Mr. CLAYTON. Mr. President, in reply to the honorable Senator from Ohio, I have this to say: I am very apprehensive that I may not be able to get the amendment passed at all; but very confident am I that if it is cut down in the manner proposed by the gentleman from Iowa, so as not to allow the purchasers of these land warrants to locate in any one spot more than three hundred and twenty acres, I shall lose the amendment altogether, and it ought to be lost if it be restricted to that extent. Permission ought to be given to the men who own these warrants, to locate them in spots containing at least six hundred and forty acres. If this be not done, the value of the warrants will be essentially diminished in the market. I have reflected on the subject, and I can go no further than is proposed in my original amendment; and I now warn the representatives of the new States on this floor, that if they should succeed in carrying the motion of the Senator from Iowa, to reduce the quantity from six hundred and forty to three hundred and twenty acres, they jeopard the whole amendment.

Mr. DODGE, of Iowa. Mr. President, there was a statement made yesterday by the honorable Senator from Delaware, respecting the size of the farms in the West, in reference to which I beg to inform him he is very greatly mistaken. If you look at the returns in the General Land Office, you will find that nearly two thirds of the public land sold is entered in forty and in eighty acre tracts. Especially is that the case where the entries are legitimate, and are made for actual settlement. If you examine the returns made by the Land Office during those years when the Government disposed of about a million and a half or two millions of dollars worth of land, (as was the case from the time of the commercial revulsion of 1837 and 1838 down to the expansion of the currency since the discovery of gold in California, and the rise in prices which it brought about, and the immense issue of land warrants in late years,) you find that by far the greatest proportion of sales were in tracts of forty acres, eighty acres, and one hundred and sixty acres. These are the largest entries that are ever made by actual residents and cultivators, though, of course, those who buy the lands upon speculation, and pay for them with land warrants, locate them in large quantities. I hope and trust that the amendment to the amendment will be adopted, and that my friend from Delaware will withdraw his opposition to it.

The yeas and nays were taken on the amendment to the amendment, with the following result:

YEAS—Messrs. Adams, Allen, Atchison, Bright, Butler, Cass, Chase, Dodge of Wisconsin, Dodge of Iowa, Douglas, Gwin, Johnson, Jones of Iowa, Mallory, Mason, Norris, Rusk, Sebastian, Slidell, Stuart, Sumner, Toucey, Wade, and Weller—24.

NAYS—Messrs. Badger, Bell, Brainerd, Brodhead, Clayton, Dawson, Evans, Fessenden, Foot, Gillette, James, Jones of Tennessee, Pearce, Rockwell, and Toombs—15.

So the amendment to the amendment was agreed to; and the question recurred on the amendment of Mr. CLAYTON as amended.

Mr. CLAYTON. It was no part of my object, in moving the amendment which I offered, to destroy the value of the warrants, as this proposition will do. I was a sincere friend of the bill. I thought its passage in the other House would be more easily secured by the adoption of such an amendment as I proposed; but I am very well satisfied that the restriction imposed by the amendment of the Senator from Iowa, is such as must seriously affect the value of these land warrants; and therefore I am compelled to vote against the whole amendment. I ask for the yeas and nays on the amendment as amended.

The yeas and nays were ordered.

Mr. SUMNER called for the reading of the amendment as amended; and it was read, as follows:

Provided, That no lands entered and paid for by warrants issued under the provisions of this act, in the name of any assignee or assignees of such warrants, shall be sold in a quantity exceeding three hundred and twenty acres in a contiguous tract; nor shall any one person entering and paying for lands with such assigned warrants be entitled to thus enter and pay for more than six hundred and forty acres of land within any one township.

Mr. CLAYTON. That, I think, will destroy the value of the land warrants, and make them almost worthless. I will not, however, go into the argument of the question. I say, again, I am a sincere friend of the bill, and I look on this amendment, in its present form, as fatal to the bill.

Mr. DODGE, of Iowa. I am sorry that the Senator will not state how and in what way this provision will destroy the value of the land warrants. I should like to hear the argument to show that it will depreciate the value of those warrants. I am anxious now, if this bill passes, that we should stipulate that when the warrants fall to a given price—say half the Government price of the land—money shall be paid for them. I offered that amendment, and I intend to renew it, in order to prevent these land warrants from going down to nothing. I am sincerely anxious, if the bill passes, that the warrant shall be to the old soldier

who receives it what it purports to be—worth something to him. But I would ask how is it possible that this restriction, which prevents the assignee of a warrant from locating more than three hundred and twenty acres in one compact body, and six hundred and forty acres in any township, will be calculated to depreciate the land warrant? Not at all. It is only calculated to spread the entries over a larger surface, and to prevent particular townships and counties from being doomed to non-settlement, and from being passed over in the march of improvement. We all know that this is the case in the western country, where non-residents own the lands. You know it, Mr. President; and I know it. It is to guard against this evil that I have proposed the restriction.

Mr. CLAYTON. Mr. President, by the provisions of the amendment, as it now stands, one man, holding no matter how many of these land warrants, cannot locate more than six hundred and forty acres in one township, and he cannot locate more than three hundred and twenty acres in any contiguous tract. Under such circumstances, it seems to me it must readily occur to the mind of my friend from Iowa, that a person holding these warrants in any considerable quantity, will find great inconvenience in locating them. He will be compelled to go into many townships, and, perhaps, into different States, to find spots where he can locate. That must necessarily affect the value of the warrants in the market. It is because it depreciates them, and must necessarily depreciate them, that I am driven to abandon all hope of pursuing such an amendment to this bill. I offered an amendment which, I thought, would have obviated the great difficulty that I felt, and which I was anxious to meet. I pointed it out to other gentlemen in the debate, and the amendment I proposed originally would, I think, have met it. That evil was, that persons holding these land warrants in great quantities might locate them upon land in the new States in one body, and might, by withholding them from sale, effectually prevent the settlement of that part of the country. That I wished to prevent; but the amendment, as it now stands, goes too far, and I cannot support it. The matter may not appear to the Senator from Iowa as it does to me, but it seems to me to be evident that a measure restricted so greatly as this now is, must most materially diminish the value of the land warrants.

The question being taken by yeas and nays on the amendment as amended, resulted—yeas 23, nays 14; as follows:

YEAS—Messrs. Adams, Allen, Bright, Butler, Cass, Clay, Dodge of Wisconsin, Dodge of Iowa, Douglas, Gillette, Gwin, Johnson, Jones of Iowa, Mallory, Norris, Rusk, Sebastian, Slidell, Stuart, Sumner, Toucey, Wade, and Weller—23.

NAYS—Messrs. Badger, Bell, Brainerd, Brodhead, Clayton, Dawson, Evans, Fessenden, Foot, James, Jones of Tennessee, Pearce, Rockwell, and Toombs—14.

So it was rejected.

Mr. FESSENDEN. I move to amend the bill by inserting, in the first section, after "United States," the words, "or any armed force called out by any State, for the protection of its territory, and whose services have been paid for by the United States."

I will state, briefly, what particular class of cases this amendment is intended to cover. In my own State, at the time of the difficulties arising on the northeastern boundary, some years since, in order to repel what was, in fact, an invasion, it became necessary at once to raise an armed force. There was no time to call out the militia, or the regular military force. An armed force was therefore raised for that purpose, and they served for a considerable length of time. In previous acts they have been recognized, and their services have been paid for by the United States, in the same way that they paid the militia who were afterwards regularly called out. These men rendered the same, and, in fact, greater service, because they were out for a greater length of time than the militia, if I am rightly informed. They have been recognized by the Government of the United States as proper persons to be paid; and I do not see any reason for excluding them from this bounty.

I will state, moreover, that, under a previous bounty land bill—the act of 1852—the larger portion of them received bounty lands, according to the first construction given to the act; but, before they all received warrants, a new construction was put upon the act by a new officer, leaving a portion of them in a condition different from their fellow-soldiers—if I may call them such—and they received no warrants. This amendment is designed to put them on an equality, for they are equally meritorious. Although they were not strictly in the military service of the Government, they were an armed force, called out by the State, and they have since been paid by the United States, as I before stated. I believe the same remark applies to some other States, where an armed force was called out in an emergency, and under somewhat similar circumstances. But I am not precisely aware to what number of States it applies.

Mr. FOOT. I desire to offer a further amendment to the first section of the bill, or as a modification of the amendment offered by the honorable Senator from Maine, which I venture to presume he will readily accept as a part of his own proposition, the object of which is to embrace within the provisions of this act the volunteers who went to Plattsburg, at the time of its invasion by the British troops from Canada, in September, 1813. While the bill, as it now stands, offers a bounty in land to every man, or in case of his death, to his widow, or children, who has ever been called into the military service of the country, and been regularly mustered and paid by the United States, no matter for how brief a period, or how unimportant his services may have been, although he may have been a regular soldier only in name, and served but for a *single* day, it excludes, by the operation of these very conditions, those volunteers who have rushed to the rescue of the country at the time of pressing emergency and impending danger, as did the volunteers at the battle of Plattsburg. There was then no time for delay. The enemy were suddenly upon us; they were within our own borders, and our own citizens, helpless and defenseless, with their households, were fleeing before them. The emergency was a sudden and a great one, and the danger imminent and pressing. All the adjacent country was aroused by the sudden alarm, and there was no time to be lost in regularly enrolling and mustering men into the service. All who were able to bear arms within the compass of fifty or a hundred miles, or more, shouldered their muskets, rushed forward to meet the enemy, and to drive them from our borders, without waiting to be regularly enrolled and mustered into the service. The farmers left their harvests in the field; all classes of people left their employments and their homes, and went to the scene of danger and of conflict. My honorable and worthy colleague [Mr. BRAINERD] was of that number.

The enemy at the time were at Plattsburg with an army of regular troops, to the amount of twelve or fourteen thousand, while upon the American side, the regular force at Plattsburg, at the time, under General Macomb, did not exceed probably some seven or eight hundred. Volunteers from all the adjacent country, upon the first alarm being sounded, rushed forward to the scene of danger and conflict, to the number of as many thousands. An engagement immediately followed. The enemy were routed and driven back into Canada; the victory was won, and the fortunes of that day were saved to the country by these very volunteers.

The battle of Plattsburg, sir, marks an era in the history of this country. The work was accomplished; the enemy were driven from our borders; quiet was restored; and the volunteers returned to their homes and their families. They were absent in that campaign some twenty, twenty-five, or thirty days, more or less, according to their distance from home. They bore their own expenses in going to the place of battle and returning home; those expenses varying from twenty-five to a hundred dollars and more. Many of them were killed in battle; many more of them were wounded; all of them suffered more or less from fatigue and hardship; and, with the exception of a single regiment, not a dollar have they or their families ever received from the bounty or the justice of the country. The very fact of their not having been paid by the United States presents a consideration in favor of extending to them the benefits of this bill rather than to exclude them from it. These volunteers rendered quite as signal and important service to the country as many a regular who has been paid by the United States, and, therefore, is included within the beneficial provisions of the bill.

The objection to this proposition, and the only one I can anticipate, is that their names, not being found upon any pay or muster-roll, it will become necessary to resort to parol testimony in proof of their services, and that this will open a wider door to imposition and fraud upon the Government. That frauds are practiced to some extent under all your pension and bounty land acts, is not to be denied; but this has not been, and ought not to be regarded as a sufficient reason for withholding the bounty of the Government from those who are deemed deserving of it. The argument will apply with equal force to any claim upon the Government resting entirely upon parol proof. The proof in this, as in all cases, must be made to the satisfaction of the Department, and be brought within such stringent rules and regulations as may be established for the purpose of preventing frauds upon the Government. Very many applications for pensions and bounty lands under existing laws, more or less, rest on parol proof. The term of service, personal identity, and many other material facts necessarily rest in parol. In many instances the pay or muster-roll is wanting, has been lost, or has never been furnished; but the application is not rejected for this cause, and upon this account. The applicant is permitted to make out his evidence by parol in full; and if it be satisfactory to the Department, his claim is allowed, and rightly allowed, in the absence of any pay or muster-roll.

This class of citizens, admitted, upon all hands, to have proved themselves as worthy, and meritorious, and patriotic as any other, ought not, certainly, to be excluded from the beneficial provisions of a bill intended to be as general and as comprehensive as this, merely upon the apprehension that the Government may not be able to protect itself as fully, and with as much certainty under this, as under any other provisions through which the public Treasury or the public lands are to be reached.

I hope, therefore, that my friend from Maine [Mr. FESSENDEN] will accept my proposition as a part of his own, and that the Senate will agree to it. I do not propose to discuss the general principles or policy of this bill. I shall vote for it, not merely as a bounty act, but also upon the consideration that it is the best attainable measure towards an equitable distribution of the public lands.

Mr. BRODHEAD. Mr. President, the provisions of this bill have already been very much enlarged. We all admit that, and many of the friends of the bill think it has been so much enlarged as to hazard its safety, if not in this body, in the House of Representatives. The honorable Senators from Maine [Mr. FESSENDEN] and from Vermont [Mr. FOOT] propose still further to enlarge it, but I think we had better not enlarge it any more. There were some regiments in New England who refused to march beyond their State lines, if I recollect aright. I do not say that the soldiers referred to by the two Senators who have last spoken are in that category; but, sir, if we open the door which they propose, if we adopt the amendments which they offer, we shall have to pay, and ought to pay, the volunteers who were called out in the New England States, and who refused to come under the United States authority. I know that there were some regiments in New England who refused to march beyond the State lines.

A SENATOR. They had constitutional scruples.

Mr. BRODHEAD. It seems, sir, that they had constitutional scruples against coming under the United States authority, because they thought the war ought not to have been declared. I hope, although it may do injustice to the meritorious gentlemen who are so ably represented by the Senator from Vermont, [Mr. FOOT,] that we will not adopt any more amendments, or, at any rate, not further enlarge the provisions of the bill.

Mr. BELL. I should be very sorry, Mr. President, to urge, or give my support to, any proposition which would endanger any portion of this bill, which it may be considered very desirable should be passed into a law; but I think, unless the provisions of the bill, or the terms in which they are expressed, shall be very materially changed, it will be highly proper that an amendment more extensive than that proposed by the Senator from Maine, and the one proposed by the Senator from Vermont, shall be ingrafted upon

it. That must be done, if we do not mean that it shall go forth to the public as a mere mockery of justice or gratitude to the men who, in the terms of the bill, at any time since the foundation of the Government, have performed military service; for the terms of the bill, as introduced by the honorable Senator from Pennsylvania, go that far. I understand him to have stricken out the proposition which was in it, as originally presented, not to go beyond the wars antecedent to 1790. There is no limitation now as to time. I propose, sir, that while these provisions of the bill stand in the terms in which they are expressed, we shall make it, in other respects, conformable to what appears to be its spirit and intention. The amended bill, which was printed and laid upon our tables yesterday morning, provides that "each of the surviving commissioned, and non-commissioned officers, musicians, and privates, whether of regulars, volunteers, rangers, sea-fencibles, or militia, who were regularly mustered into the service of the United States, and every officer, commissioned, and non-commissioned, seaman, ordinary seaman, marine, clerk, and landsman, in the Navy, in any of the wars in which this country has been engaged," &c., without any limitation as to time, embracing all the wars from the revolutionary conflict to this time, shall all be put upon an equal footing. That is the spirit and apparent intention of the act, and no one can come afterwards and say that it was not made as broad as were the claims for military service that have existed from the Revolution down to this time. It is perfect equality.

These terms, I contend, ought to be changed. The act ought to be framed in reference to giving relief where only, according to the other provisions of the bill, relief or bounty can be bestowed, so that there will be no delusive hope or expectation, no promise of justice which cannot be rendered, as it is fairly contained in it. Unless we mean to do that, we ought further to provide, for example, not only for the case of volunteers at Plattsburg, alluded to by the Senator from Vermont, and to those who actually performed service in the State of Maine, on the occasion alluded to by the honorable Senator from that State, but, Mr. President, you should recognize, though, perhaps, not a single additional acre of bounty land should be given under the other provisions of this act, unless it be sufficiently changed, a body of men who performed an act, not only of patriotism and daring, and courage, but one of the most effective acts in the revolutionary war. I allude to those brave men from the western part of Virginia, from what is now a part of the State of Tennessee, and from the western part of North Carolina and South Carolina, who fought the battle of King's Mountain. You find no recognition, so far as I know, in any pension bill or any bounty land bill that has ever passed Congress, of any claim upon the justice or gratitude of this Government in behalf of any of these men, whether officers or soldiers, unless, perhaps, some of the officers afterwards became officers in the regular Army, from the distinction which they acquired upon that occasion. Not one of those volunteers, and patriots, and soldiers who, at the period of the greatest depression in the revolutionary war, particularly in the South, achieved a victory which reanimated the whole South, has thus been recognized. They were a band of volunteers who were not, perhaps, in the service more than thirty days. They furnished their own horses, their own equipments, their own supplies, their own arms, and, congregating together by some little concert, perhaps by private dispatches sent across the mountains, in a few days they achieved the victory of King's Mountain. There has been no recognition of them by Congress in its bounty acts. They were never called into the service; they were never regularly mustered into the service of the United States. They were in service a less number of days than was limited by any pension or bounty land act which passed during the period of the Revolution, or since; and so, sir, they are not known in the history of our enormous pension and bounty land establishments as ever having performed military service in the country.

Although, perhaps, the number of those patriots who would be enabled to come forward and embrace the provisions of this bill, as having performed military services, would be very small, yet it would be something to their descendants to have it in their power to show that, although they were not permitted to receive any benefits from the enlarged bounty of the Government in the way of pensions in money or in land, their forefathers were among those who achieved the liberties of the country and performed important services. They were not enlisted, they were not called into the service of the Government; they were not regularly mustered and considered as soldiers of the country officially; but, nevertheless, they performed more important services than tens of thousands who have received the bounty of the Government, again and again, in a variety of forms. Therefore, sir, unless the whole feature of this bill, going back to that day, shall be changed, I insist, as an act of justice to ourselves, that we shall not exclude those who performed such services.

Again, Mr. President, this act goes on to provide that the parties who are to receive its benefits shall have been regularly called into the service, or regularly mustered into the service, in some war. Well, sir, some of the most gallant achievements in the settlement of the western country, in Kentucky and Tennessee, in Georgia, too, and South Carolina, and in North Carolina, were performed with the hostile tribes of Indians upon our borders, both in the revolutionary war and afterwards, down to 1795, by men in no proclaimed war, no public war, known and recognized as such by the Government, then or since. Some of them may have been paid afterwards, and recognized as having performed military services. They performed important military services against a public enemy of their settlement, of their borders, of their States or Territories, and why exclude them?

Will the Senator from Pennsylvania tell me that they ought not to be recognized for some of those achievements which come down to a period much later than the period of the Revolution, as I stated before, down to 1790 and to 1794, besides many of them antecedent to that period? Shall we refuse to recognize them as having claims upon the bounty of the Government, because they were not called into service by official authority? In some cases they were not even called out by State authority, as was the case with the men alluded to by the Senator from Maine. In some instances, upon the frontiers, in the infant settlement of the country, when they had no organized Government, there were no officers to call them into service. They had to fall to their arms and embody themselves by general consent to repel invasion and carry the war into the enemy's country; and surely they ought not to be excluded.

I shall not detain the Senate by referring to any of these wars. I propose an amendment which will embrace the proposition of the honorable Senators from Maine and Vermont, or it can be modified so as to do it; and I think I can assure the honorable Senator from Pennsylvania, that if those men are recognized by this bill, it would add but a few thousand acres to the amount which is proposed to be appropriated by it. I propose, therefore, sir, in the first section, after the words "who were regularly mustered into the service of the United States," to add "each of the surviving volunteers, officers, and privates in any war in which the country has been engaged, who performed military service, though not called out and regularly mustered into the service of the United States, and though such war was not at the time of such service, or at any time afterwards, proclaimed or recognized as such by the United States," and then will go on the provision of the bill making the grant. I do not say that those who banded themselves together, and went upon a fruitless search in quest of the enemy, or penetrated into the country without finding them, should be included, but those who actually performed military services; not those who were enlisted or called upon or mustered into the service only, and who performed no military service, but those who actually performed military service. I limit the amendment to them.

This amendment will embrace the case included in that of the Senator from Maine. The men in that case were called out by State authority, and were afterwards recognized by the Government and paid by it, as I understand. My provision will embrace them and all who have performed military service. It will be necessary to insert the amendment which I propose, in two places in the first section. The section now reads:

"*Be it enacted, &c.*, That each of the surviving commissioned and non-commissioned officers, musicians, and privates, whether of regulars, volunteers, rangers, sea-fencibles, or militia, who were regularly mustered into the service of the United States, and every officer, commissioned and non-commissioned, seaman, ordinary seaman, clerk, and landsman, in the Navy, in any of the wars in which this country has been engaged, and each of the survivors of the militia, or volunteers, or State troops of any State or Territory, called into military service, and regularly mustered therein, and whose services have been paid by the United States, shall be entitled to receive a certificate," &c.

The amendment which I propose, should be inserted after the words, "who were regularly mustered into the service of the United States," and again after the word "therein." I trust, sir, that it will receive the favorable consideration of the Senate. There will perhaps be very few who will receive any land under it, but still we ought to recognize the service which has been performed.

The PRESIDENT. That amendment cannot now be received, as there is an amendment, and also an amendment to that amendment, pending.

Mr. BELL. I bring it to the notice of the Senate, with the hope that it will be accepted by the Senator from Maine; as, if adopted, his will be useless.

The PRESIDENT. Does the Senator from Maine accept the modification?

Mr. FESSENDEN. I do not know that I have any objection to the object of that amendment; but I am fearful it will not cover the case for which I desire to provide. I will, however, modify my amendment by substituting the word "employed" for the words "called out," and by striking out "and whose services have been paid for by the United States;" and I am also willing to accept the amendment proposed by the Senator from Vermont.

The amendment, as modified, was read.

Mr. FESSENDEN. I wish to say, with reference to the amendment of the Senator from Tennessee, that I am apprehensive it does not cover the case which I desire to provide for, because it speaks of those men who rendered service in any of the wars of the United States. Now, the class I speak of cannot be said to have rendered service in any war of the United States, for no such war was existing at the time; and, therefore, they would not be protected by the amendment of the Senator from Tennessee.

I will state the case again, and the honorable Senator from Pennsylvania, will see that my amendment has no reference to that obnoxious class of individuals to whom he has called the attention of the Senate, although I supposed that old story had been forgotten by almost everybody. These persons were employed by the State, on a sudden emergency, to protect its frontiers against incursions from the province of New Brunswick, on the occasion of a difficulty arising out of the contested territory question on that border. They were employed by the State, but were not strictly received into military service. The State had no time to call out the regular troops—no time to organize any regular military force, for the defense of the country. Consequently it was obliged to receive, and glad to receive, volunteers to protect the territory. These men were employed under the authority of the State, and went to the scene of action, and rendered services for a considerable period of time, until the militia arrived upon the ground.

Now, sir, under the operation of the treaty of Washington, all that force, the armed force as well as the regular military force, have been recognized as in the service of the United States, and paid by the United States for their services. I have, therefore, no objection to insert, as I have done, at the end of my amendment, the words which are in the original bill—that is, the words "whose services have been paid for by the United States." And, let me say to the Senator from Pennsylvania, since they have been thus recognized, since they rendered more than thirty days' service, and as his bill, as drawn by him, only required twenty-eight days' service, I see no ground upon which he can object to the amendment, seeing that they come within the whole of the description contained in the bill, saving the words "in the military service of the United States." They were rendering military service, but they were not strictly called into service as military men, although they were an armed force; and having been recognized by the Government as having ren-

dered that service, and been placed upon the footing of those who performed military service, there seems to be no reason why this bounty, whether it is intended as a recognition of services, the reward of patriotism, or a distribution of the public lands, should not be extended to them as well as to those men who were regularly enrolled and mustered into the service of the United States.

Let me say to the Senator from Pennsylvania, further, that his own bill covers the case of the Massachusetts militia referred to, if there was any such case—although I have never understood that the militia of Massachusetts themselves refused to march beyond the limits of the State. The difficulty was of another kind—between the President and the Governor of the State. The bill provides for all who had been called into the service of the United States, and regularly mustered or called out by any State or Territory for military service. His own bill would apply to that case, and not my amendment; and I repeat, that under the construction of the act of 1852, most of those men have already received bounty lands to a certain extent, and the residue of them only failed by a new construction arising from having a new officer in charge of the matter.

I have no objection to the amendment of the honorable Senator from Tennessee. I recognize the force of the remarks which he has made, and I shall vote for anything containing the leading idea of that amendment with great pleasure; and I would willingly adopt it as a substitute for my own, if it would accomplish my purpose.

The bill ought, however, in my judgment, to be amended, by striking out the words "regularly mustered therein," which are new words, not inserted in the bill of 1852, however it may have been in other bills, and also the words, "and whose services have been paid by the United States."

I see no reason—except such as might arise from the manner of proof, and the difficulty that might exist with reference to making out the cases—to draw a line of discrimination between those whose services have been paid, and those whose services have not been paid, unless it is in favor of those whose services have not been paid for by the United States. Whether the intention be to reward them, or to accomplish the general object of getting rid of the lands, by giving a bounty to each person thus employed, or those rendering services, there certainly is the best reason in the world why the men who have never received anything should have the bounty, as well as those who have been paid. I do not recognize that discrimination. It ought not to be found in the bill; and I am perfectly willing to vote for an amendment to do away with it. Nevertheless, I do not now propose it, because it is not necessary for my purpose. I hope there will be no objection to the proposition I make, for it is very limited in extent, and very just, and one that has been heretofore recognized and acted upon.

Mr. BADGER. I should like to hear the amendment of the Senator from Maine read as modified.

The amendment was read. It is to insert in the first section, among those who are to be entitled to the benefits of the bill, the following:

"Or any armed force employed by any State for the protection of its territory, and whose services have been paid for by the United States, or who went as volunteers at the invasion of Plattsburg by British troops in September, 1813."

Mr. BADGER. I move to amend the amendment by striking out the words, "and whose services have been paid for by the United States."

Mr. FESSENDEN. That can be struck out of the original bill.

Mr. BRODHEAD. There is an amendment to the amendment already pending.

The PRESIDENT. That has been accepted by the Senator from Maine, and the question now is on the amendment of the Senator from North Carolina.

Mr. BRODHEAD. I hope that will not be agreed to. The words "mustered into the service," and "paid by the United States," were inserted to enable the Department to ascertain, by record evidence, who did serve. Why, sir, it would be impossible for the pension bureau to execute this law, if you do not provide for something like record evidence.

Mr. BADGER. The troops which the amendment provides for are those who were called out by the authority of the States, not people who collected themselves together in an unorganized military band, but troops called out under the authority of the States. Now, sir, although the archives of the United States may not furnish record evidence who those troops were, because in certain cases they were not paid by the United States, yet if they were called out under the authority of a State, and paid by a State, the archives of that State will furnish just the same evidence in regard to the payment and the men entitled, as the archives of the United States, if they were paid by the United States. I see, therefore, no objection to my amendment; and certainly upon principle the class of claimants who were called out by the States in a case of sudden emergency, to protect the community to which they belonged, if there is to be any distinction, are better entitled to the provisions of this bill, when they have received nothing from the United States, than those persons who were called out by a State under precisely the same circumstances, and have already received pay from the United States. I cannot understand, sir, why these words were inserted in the bill, except for the purpose mentioned by the Senator from Pennsylvania as furnishing a criterion by which to identify those who were entitled. And as I have said, if those military persons were called out by the authority of a State, and paid by the authority of a State, it would give just the same facility for ascertaining who are the persons entitled as is given in the other instance.

Mr. CASS. A bill like this, so comprehensive, and which, in my opinion, changes very much the policy of the Government, ought to be examined attentively. Now, sir, there is a point, evidently connected with this, a historical point, with which we are all acquainted, that should be guarded against. There were troops called out by the authority of States during the war, who were not placed at the disposition of the United States. They were refused to be placed under that disposition. We all know that, and you would not give them bounty land from the United States, would you? Every body knows about the contest between Mr. Madison and the Governor of Massachusetts, in 1812, when the Governor refused to place the State troops under the control of an officer of the United States. It was contended, and strangely contended, at that day, that no man could command the armed militia of the United States but the President of the United States in person, and, therefore, the militia of Massachusetts, of New York, of Connecticut, and so on, when called to act together should each be commanded, independently, by their own militia officer, unless the President of the United States were to take the command. The President would not accept the troops under these circumstances. It was a contested question, strange as it may appear at this day, but I believe it is settled now, and no man would raise such a question again.

I suppose none of us would be for giving bounty lands to troops of that description called out under these circumstances; therefore I think such cases should be guarded against. I will say, in corroboration of what fell from the Senator from Pennsylvania, the object of requiring pay or muster-rolls is to have them serve as checks, and to let us know who did serve. The officer had his muster-roll, the men were before him, and he could tell whether A B, C D, and so on, were there. That muster-roll is good evidence on the point; but if you resort to parol evidence in regard to services, from the days of the Revolution down to the present, I do not know where you are going to.

Mr. BADGER. There is no particular magic in a soldier being called out by the United States. Suppose he was called out by the authority of a State, and State officers commanded him, how is a muster-roll to be obtained in one of the Departments of the General Government?

Mr. CASS. I merely say a roll, a muster-roll of men in the service of a State under the United States authority. I would never vote to pay those who refused to come into the service of the United States during the war—never. I see no reason for it. They may have been mustered into the service of a State twenty times; but if they refused to be placed at the disposition of the General Government for the common defense of the country, I would not give them a cent.

Mr. PRATT. There is a portion of the original bill which must be amended before I can give it my support. It is in connection with the amendment just proposed by the Senator from North Carolina. It will be found in the first section, where the benefit of the act is limited to those "whose services have been paid for by the United States." Now, the argument of the Senators from Pennsylvania [Mr. BRODHEAD] and from Michigan [Mr. CASS] is, that this is essential for the purpose of identifying the party who served. If the honorable Senators will observe the provision of the bill, I think they will find there is sufficient to identify them without the additional provision to which I have adverted. It is only to make the grant to those troops who were "called into military service, and regularly mustered therein." Now, if the proposed troops have been regularly called and mustered into the service of the United States, the Department of the Federal Government can furnish evidence of the fact, that they were so mustered; for most of the rolls are there; and, therefore, this addition, which provides that unless they have been also paid by the United States, they shall not receive this bounty, is, in my judgment, not only unnecessary, but is entirely wrong in principle, as has been correctly said by the honorable Senator from North Carolina, in the observation which he has just made.

Can any man tell me why, except for the isolated purpose of identifying the object of the bounty, we should say that a man who has fought the battles of the country without being paid, should not receive a bounty as well as the man who has fought and has been paid? Except, therefore, for the reason assigned by the Senator from Pennsylvania, there is none in favor of striking out those words. If you were to make any difference, it should be in favor of a party who had not been paid.

Mr. BRODHEAD. You would include deserters.

Mr. PRATT. The Senator says I would take in persons who had been mustered and had deserted. I would do no such thing; but if they have been mustered into the service of the United States, the muster-roll will furnish the evidence of their having been in the service, and they are entitled to the bounty provided by the bill, although they may not have been paid.

Now, Mr. President, I should have no objection, if the words proposed to be stricken out are excluded, to provide, by an express provision, that no deserter shall receive bounty; and, to answer the argument of my friend from Michigan in reference to the amendment which is immediately pending, I should also consent that a provision should be made to exclude the idea that any party should be entitled to a bounty, who was not put under the authority of the United States. I am willing to provide that no bounty shall be received by such persons, under the provisions of the bill. I believe both objects can be provided for by express provision; but it is essential to the bill that the words proposed to be stricken out by the Senator from North Carolina should be stricken out.

Now, sir, a few words in regard to the effect of the bill in regard to the State of Maryland. It will be recollected that, at the last session of Congress, a bill was passed by the Senate to refund to that State the money which she advanced for the pay of her troops called out for the military service of the United States during the war of 1812; but it has not yet been passed by the other branch of the National Legislature. Until that bill shall have become a law, the Federal Government will not have paid the troops of the State of Maryland who served the United States in the war of 1812; and hence all the troops of Maryland, who served in that war, would be excluded by the provisions of this bill as it originally stood. It is, therefore, essential that this bill should be amended by striking out the words "who have been paid by the United States," in order that the constituency of my colleague and myself may receive the benefits of it.

Mr. BRODHEAD. Were they not in the regular service?

Mr. PRATT. They were; but they were paid by the State of Maryland. At the last session you passed a bill to refund to that State the money which she advanced for that purpose, but it has not yet been passed by the other House, and, consequently, all the militia of Maryland, in the war

of 1812, having been paid by that State, and not by the United States, would be excluded from the provisions of this bill as it stands.

Mr. BRODHEAD. If the bill which we have passed for the relief of the State of Maryland should receive the sanction of the House of Representatives, the class of soldiers alluded to by my friend from Maryland will be provided for by this bill in its original form. But, sir, I have risen for the purpose of saying that if every little squad of soldiers who ever rendered military service under State or county authority is to be included in the bill, and if it is necessary to insert such provisions in order to obtain the votes of Senators for the bill, it might as well be abandoned at once. This bill cannot be executed at the Departments if you extend its provisions as proposed by the Senator from Tennessee, and other Senators.

Mr. PRATT. I do not know what the Senator refers to when he speaks of little squads of soldiers or militia. I believe that, in the war of 1812, Maryland furnished the United States with more soldiers than did Pennsylvania, and they fought as bravely.

Mr. BRODHEAD. I did not allude to the soldiers of Maryland.

Mr. PRATT. And yet under the provisions of this bill, I say, the soldiers of Maryland are excluded from the proposed bounty. The Senator says he objects to this amendment because it is to include little squads of soldiers. Why, sir, all the soldiers of Maryland in the war of 1812 are excluded by the provisions of the bill.

Mr. BRODHEAD. I was speaking of the amendment pending before the Senate, and not of the one now alluded to by the Senator from Maryland. I mentioned the general effect of adding all the extensive amendments which have been suggested; and I submit again to the Senate whether the bill will not be hazarded, whether it will be of any practical service, whether it can be executed by the Departments if we adopt all those amendments. It was not my intention in drafting this bill to exclude the soldiers of Maryland, who rendered such valuable service during the war of 1812. I believe they will be included in its provisions. I presume the bill to which the Senator from Maryland referred will pass the House of Representatives, and then they certainly will be included, because they will have been paid by the Government of the United States. But, sir, the immediate question is on the amendment of the Senator from North Carolina. I object to that, because it is necessary for us to make some provision which will require record evidence of service, and because I learn from gentlemen who have been to the Pension Bureau that it will be impossible to execute the bill if we depart from the language which it is proposed to strike out.

Mr. PRATT. I have a suggestion to make to the Senator from Maine, [Mr. FESSENDEN.] If he will add to his amendment the words "to be evidenced by the muster-roll of the State calling such troops into service," he will remove the objection which occurs to my mind in regard to the possibility of identifying the objects of the bounty. I shall consent to support his amendment, if he will point out in it some mode by which the objects of the bounty can be identified. Let him require, as evidence, the muster-roll of the State. The bill requires it to be the muster-roll of the United States.

Mr. BADGER. Mr. President, there is no real difficulty, I apprehend, in regard to this question, which seems to disturb my friend from Pennsylvania. He says that if this amendment be adopted, and the bill, as thus amended, should pass both Houses, the law, so far as these cases are concerned, cannot be executed. If so, what harm is done? If it cannot be executed, it will remain precisely as if the provision which we now propose to strike out were left in the bill. But, sir, in all cases where the muster-rolls of the State show the persons called into service under the authority of the State, as I have already said, there can be no more difficulty in executing it, than where the persons were received into the service of the United States, and entered on the muster-rolls of the United States. That is apparent to every gentleman here. Then, if there be any cases in which there are no muster-rolls, and in which there is no method of authenticating the persons called into service, it is harmless; because, as my friend from Pennsylvania says, in that respect, and as to those cases, the law cannot be executed; and, if it cannot be executed, it is the same as if it were not passed.

But, Mr. President, it seems to me that we have now got into deep waters, and muddy waters. My friend from Pennsylvania has the idea that if the bill be put in the shape which my amendment proposes, we had better give up the whole bill. Under such circumstances, had we not better take a night to consider whether we shall allow bounty land to those persons who have not been paid by the United States, as well as those who have been so paid; or whether, rather than do that, it is better to let the whole bill go? I am a very sincere friend of the bill, and should be very sorry if the latter alternative should be arrived at. I suggest, however, to you, sir, and to the Senate, that the body is thin, the day is cloudy, the question is difficult, the discussion is confused; I think, therefore, we had better adjourn. I move that the Senate adjourn.

Mr. BUTLER. I hope the Senator will withdraw that motion for a few moments.

Mr. WELLER. There is a necessity for an Executive session.

The PRESIDENT. Does the Senator from North Carolina withdraw his motion?

Mr. BADGER. I do, sir; I cannot resist the entreaties of my friends.

Mr. BUTLER. The bill to modify and amend the judicial system of the United States was made the special order for to-day. This is the third day on which, after having been made the special order, it has been overslaughed. It is a remarkable fact that it has been put out of its place on each occasion by propositions to distribute the public lands, either in the form of homestead bills, or bounty bills. Two days were set apart for it at the last session, but it was not then taken up. I now give notice that, on to-morrow, I shall ask the Senate to consider that bill in preference to all others.

Mr. BRODHEAD. Then I hope we shall dispose of this bill to-day.

Mr. BADGER. I understand, now, that it is desirable that we should have an Executive session, to which, certainly, I wish to interpose no objection. I wish to say, also, in connection with the remarks made by my friend from South Carolina, that, notwithstanding a notice which I gave last week, I have been waiting, to allow my friend from Pennsylvania to get rid of his bill, either by having it passed or rejected.

Mr. BRODHEAD. Let us pass it now.

Mr. BADGER. I would cheerfully agree to do that, if we could; but we cannot. The honorable Senator himself is not exactly certain whether he does not want it not to pass if we make this amendment. I wish to give him an opportunity of considering whether it would not be better to pass it, even with the amendment. I was proceeding to say, however, that I have been waiting for the purpose of calling up a bill which I submitted at a very early period of the session, to increase our compensation. I wish to say now, that I shall seize the first opportunity of asking the Senate to take up that bill, and dispose of it. I think it has, upon every ground, meritorious claims to consideration—superior to those of any other bill upon your table, sir. Having given this notice, I move that the bill under consideration do lie on the table; with the intention, if the Senate shall agree to that, to move for an Executive session.

The motion was agreed to.

EXECUTIVE SESSION.

On motion by Mr. BADGER, the Senate proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 4, 1855.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

NAVY-YARD AT MEMPHIS.

The SPEAKER laid before the House the following message from the President of the United States:

WASHINGTON, *January* 1, 1855.

To the House of Representatives:

In response to the resolution of the House of Representatives of the 11th ultimo, requesting the President "to communicate to this House any proposition which may have been made to the Government by the city authorities of Memphis, relative to the navy-yard property recently ceded to that city, together with his views and those of the Navy Department as to the propriety of accepting the recession and reëstablishing the naval depot and yard of construction at Memphis," I transmit herewith the report of the Secretary of the Navy, and have only to add my concurrence in the views presented. FRANKLIN PIERCE.

Mr. STANTON, of Tennessee. I shall move that that communication be printed; and, if it be in order, I should like to have it referred to the Committee of the Whole on the state of the Union to be taken up at the same time as the Navy appropriation bill, if there is no objection to that course.

Mr. RICHARDSON. You can call it up at any time.

The SPEAKER. The subject-matter of the communication may be introduced at that particular time, but the Chair cannot see how an order of the House to that effect can well be made.

Mr. STANTON. I will state in a few words the object that I have in view in asking this order to be made; and I suppose that it is proper for me to do so on the motion to print. It has been usual for the chairman of the Committees of the Whole to decide that such a proposition as it is my purpose to offer when the naval appropriation bill comes up, is not in order—that is, an amendment making an appropriation for the reëstablishment of a navy-yard at Memphis. If this communication should be referred to the Committee of the Whole on the state of the Union, to be taken up with the naval appropriation bill, it would then be considered in order to propose an amendment of that kind. All that I desire to do, is to submit to the decision of the House of Representatives fairly, at a time when the proposition can be decided, either favorably or unfavorably, an amendment granting an appropriation for the purpose of reëstablishing that navy-yard; and if this communication can go to the Committee of the Whole under such circumstances that I can get an opportunity to make the proposition which I desire to make, I should like that favor to be accorded me by the House; otherwise——

Mr. SOLLERS, (interrupting.) Will the gentleman from Tennessee yield to me for a moment?

Mr. STANTON. Certainly.

Mr. SOLLERS. I desire to have a special order made, and I hope that the House will favor me.

Mr. PHELPS. I would inquire what disposition has been made of the message of the President of the United States?

The SPEAKER. By unanimous consent the proposition of the gentleman from Tennessee [Mr. STANTON] will be entered on the Journal and the order made, which is, that the message of the President of the United States, just read, shall be committed to the Committee of the Whole on the state of the Union, to be taken up and acted upon in connection with the bill to which he refers.

Mr. STANTON. I would state, Mr. Speaker, that I do not intend to trouble the committee at length on this subject. When the naval appropriation bill comes up, I will submit the question with but little debate. The simple proposition which I have in view is to present to the Committee of the Whole the proposition made by the city authorities of Memphis, to retrocede the navy-yard back again to the Government, on the condition of its reëstablishment for the construction of vessels of war. I think that such a proposition would be appropriate on the consideration of the naval appropriation bill.

Mr. PHELPS. I have no objection to the reference of the communication to the Committee of the Whole on the state of the Union. But I do object to there being an order made by this House that the matter in question should be considered in connection with the Navy appropriation bill. I desire to say further, that if there is to be a proposition submitted for the reëstablishment of the navy-yard at Memphis, it seems to me the most proper course would be to refer the communication to the Committee on Naval Affairs, that that committee may examine the question. But it is my conviction that we have already too many navy-yards in the country. And although at the last session I was in opposition to the cession of the navy-yard at Memphis to the city authorities, yet

I am opposed to the reëstablishment of that yard, or to the establishment of any other navy-yard. However, I do not desire now to discuss the question. I object to the proposition of the gentleman from Tennessee.

Mr. STANTON. I beg leave to appeal to the gentleman from Missouri to withdraw his objection to the course which I have thought proper to take with reference to the communication received from the President. I do not see how such a course can possibly embarrass the naval appropriation bill, or the gentleman. All that I ask is an opportunity to present the matter before the House. If I should ask for its reference to a select committee, the probability is that I should not get an opportunity to have the case acted upon. If it were referred to the Committee on Naval Affairs, and it were to come up separately and distinctly, the probability is that it would never be acted upon during the present session of Congress, and I now say to the House that, if the course I desire be adopted, I shall not detain the committee a single hour.

The SPEAKER. The gentleman from Missouri indicates his purpose to adhere to his objection.

Mr. STANTON. Then I ask that the message of the President be referred to a select committee of five members of this House.

It was so ordered.

INTRODUCTION OF A BILL.

Mr. FENTON, on leave, introduced a bill, of which previous notice had been given, "for continuing the improvements of the harbor of Dunkirk, in the State of New York;" which was read a first and second time by its title, and referred to the Committee on Commerce.

Mr. SOLLERS. I ask the unanimous consent of the House to make a motion for the purpose of fixing a day for taking up a bill reported by the gentleman from Tennessee, [Mr. READY,] from the Committee of Claims. It is an act entitled "An act further supplemental to an act entitled 'an act to authorize the payment for property lost, captured, or destroyed by the enemy, while in the military service of the United States, and for other purposes.'" I simply ask that this bill be taken up and made the special order for the 11th day of January.

Mr. HOUSTON. I object to a special order being made.

Mr. SOLLERS. Oh, I thought as much. [Laughter.]

Mr. RICHARDSON. I ask the unanimous consent of the House to report back, from the Committee on Territories, a petition in reference to the increase of the pay of officers in certain Territories of the United States; and ask that it may be referred to the Committee on the Judiciary.

It was so ordered.

CLERK FOR A COMMITTEE.

Mr. FULLER. The Committee on Commerce has instructed me to ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee on Commerce be allowed to employ a clerk for fifty days, at a compensation not exceeding four dollars per day.

Mr. SOLLERS. Does it not require the unanimous consent of the House to introduce that resolution?

The SPEAKER. It does.

Mr. SOLLERS. Then I object to it. I object to everything out of order and call for the regular order of business.

SWAMP LAND BILL.

The SPEAKER. The business first in order before the House is the disposition of the resolution introduced yesterday by the gentleman from Tennessee, [Mr. JONES,] closing debate on the swamp land bill in one hour after the Committee of the Whole on the state of the Union shall have resumed its consideration of it.

Mr. JONES, of Tennessee. I withdraw the demand for the previous question, and now move that the debate be closed in two hours after its consideration shall be resumed in the Committee of the Whole on the state of the Union; and on that motion I call for the previous question.

Mr. STEPHENS, of Georgia. I hope the gentleman from Tennessee will withdraw his call for the previous question, and let the time for the closing the debate on the swamp land bill be fixed for to-morrow at three o'clock.

Mr. JONES. To-morrow is private bill day.

Mr. STEPHENS. I hope the gentleman from Tennessee will consent to adopt the amendment I have suggested.

Mr. JONES, of Tennessee. It is very desirable to get rid of this bill to-day. Gentlemen are not discussing its merits at all, and such being the case, I think it is right and proper that we should terminate the debate at the earliest point. This general debate can be indulged in when some other appropriation bill comes up.

The SPEAKER. The question is not debatable.

Mr. STEPHENS. I trust that the House will vote the resolution down.

The question was then taken upon the resolution, and upon division, there were—ayes 68, noes 66.

Mr. STEPHENS demanded tellers; which were ordered; and Messrs. GOODE and MACE were appointed.

The question was taken, and there were—ayes 69, noes 58.

So the resolution was agreed to.

Mr. JONES, of Tennessee, moved to reconsider the vote by which the resolution was agreed to, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., informing the House that that body had passed bills of the following character:

An act to incorporate the Mutual Insurance Company of the District of Columbia; and

An act for the relief of C. E. Greneaux.

THE LAND BILL.

The SPEAKER. The business first in order before the House is upon the adoption of the amendment proposed by the gentleman from Pennsylvania, [Mr. DAWSON,] yesterday, to the bill reported from the Committee on Public Lands, to amend an act approved the 4th of August, 1854, entitled "An act to graduate and reduce the price of the public lands to actual settlers and cultivators," upon which the gentleman from Pennsylvania is entitled to the floor.

Mr. COX. Would it be in order to move to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. The gentleman would not be in order in making such a motion, unless the gentleman from Pennsylvania [Mr. DAWSON] yields him the floor for that purpose. The gentleman from Pennsylvania is entitled to the floor, and it cannot be taken from him except by his consent.

Mr. COX. I understood the gentleman from Pennsylvania as yielding the floor.

Mr. DAWSON. Not at all.

Mr. SIMMONS. I ask the gentleman from Pennsylvania to yield me the floor for a moment, in order that I may ask the unanimous consent of the House to present a memorial from ex-Governor Seymour and other gentlemen of the State of New York, which requires immediate action, if any action at all.

Mr. SOLLERS. I object.

Mr. COX. I would inquire of the Chair how much of the morning hour has elapsed?

The SPEAKER. About two minutes.

Mr. COX. I now understand that the gentleman from Pennsylvania does not insist upon his right to the floor this morning.

Mr. DAWSON. I will waive my right to the floor for the present, claiming the right to address the House hereafter, during the morning hour, when this graduation bill comes up for consideration.

Mr. COX. I now make the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken; and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair.)

SWAMP AND OVERFLOWED LANDS.

The CHAIRMAN. When the committee last rose it had under consideration a bill for the relief of the purchasers and locators of swamp and overflowed lands, and upon that question the gentleman from Mississippi [Mr. HARRIS] is entitled to the floor.

Mr. HARRIS, of Mississippi, here submitted a few brief remarks in opposition to any proposed mediation of this country, for the termination of the Eastern war; and yielded to

Mr. BARKSDALE, who moved that the committee do now rise.

The question was taken; and the motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the bill for the relief of the purchasers and locators of swamp lands, and had come to no resolution thereon.

Mr. SOLLERS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken; and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair,) and resumed the consideration of the bill amendatory of the graduation bill.

Mr. SOLLERS addressed the House in reply to speeches heretofore made against the Know-Nothing Order, by Mr. BARRY and Mr. KEITT. He advocated the purpose of this new organization, so far as it might go to restrict the immigration to this country of foreigners, and of their early enfranchisement as citizens of the United States. He fully justified the right of this new order to mature and perfect its organization upon principles of secrecy, if it would give it more power and potency to control the destinies of this country upon the basis of its principles. [His remarks, withheld for revision, will be published in the Appendix.]

Mr. GIDDINGS. I wish to ask the gentleman from Maryland a question. I understood him to say that he was for leaving the question of slavery where the Constitution left it. Am I correct?

Mr. SOLLERS. I think you are.

Mr. GIDDINGS. The gentleman then would vote to restore freedom to Kansas.

Mr. SOLLERS. I do not acknowledge any construction which the gentleman from Ohio would place upon the Constitution of the United States.

Mr. GIDDINGS. The gentleman then backs out of his position. Will not the gentleman reply to the question I have propounded him?

Mr. SOLLERS. I will most cheerfully reply. I have no desire to enter into a contest with the gentleman from Ohio. It is a striking illustration of the similarity of feeling between the two extreme parties of the country, that I should be interrupted by a Secessionist of the South and an Abolitionist of the West. That is what I want to tell my people, when I go home. I believe they know something about it already. But I am getting exhausted, and must hurry to a conclusion. I know nothing of the organization of the Know-Nothing party, but I know this, that this Government will be soon wrested from our hands, if we do not arrest the immense immigration from Asia and all parts of Europe setting in here from the starvation and desolating wars that prevail there.

I know another thing, that this party is bent upon preserving the Union of these States. I know that we passed the crisis of 1820, when the Missouri compromise was adopted.

I know another thing, that in 1832, we passed through another crisis of a very different kind—a crisis which threatened the dissolution of the Union, through secession and nullification—a crisis which was only averted, I undertake to say, whatever may have been his faults, by the honesty, bravery, and patriotism of General Andrew Jackson, who at that time declared that "the Union must and shall be preserved."

We passed through the crisis of 1850, when the fugitive slave law was adopted; and I trust that we have passed through the crisis of 1854. I know one thing, that politicians may attempt to do what they choose, but there is a party behind the politicians of this country who are pledged, as their fathers were pledged, to maintain the Union of these States, and they will do it at all hazards, and under all circumstances.

Mr. LETCHER obtained the floor.

Mr. GIDDINGS. Will the gentleman from Virginia yield me the floor for five minutes, in order that I may make an explanation?

Mr. LETCHER. If I do not lose the floor thereby, I will yield the floor to the gentleman.

Mr. GIDDINGS. It was with the utmost sincerity of purpose that I propounded the question I did, a few moments since, to my friend from Maryland, [Mr. SOLLERS.] I asked him, in good faith, whether he or his party would go to restore freedom to Kansas and Nebraska. I did it from the purest motives that ever found a place in my heart. The gentleman had appeared here as a champion of the "Know-Nothings," standing forth as the exponent of the views and principles of that party. In the sincerity of my heart, I desired to know of him that single fact. When he says, in general terms, that they would do everything in their power to preserve this Union, he avows nothing, he utters no doctrine, his declaration means nothing, for no man, here or elsewhere, professes any other sentiment. When I asked him, in plain and distinct language, will you restore freedom to Kansas? he hauls down his colors, beats a retreat, and shows the white feather, and deigns no reply. He is not so well deserving the appellation of "Know-Nothing," as of "*Say-Nothing.*" Are we to come here as Representatives of the American people, avow ourselves as champions of a party, and then hesitate to express the sentiments of our hearts, and every emotion of our inmost souls? Have not the people of the United States an inherent right to know what doctrines their public servants entertain, and that in distinct and unmistakable language? If I hesitate to avow any principle here, about which any friend or foe, or even an angel from heaven, might ask me to speak, I shall do it to deceive and defraud some portion of the people. I can do it for no other purpose than of deceiving, defrauding, and misleading somebody; such must of necessity be my object. I am a friend of the Know-Nothings, so far as I am informed of their policy. [Laughter.] I have courted their friendship, and I liked them as far as they went with us; but when they proclaim to the Union that they mean to crush out Abolitionists and Secessionists in order to preserve the Union at all hazards, he should let us know upon what principles they plant themselves. What doctrines do they entertain? Do they intend sustaining the doctrine that all men are endowed by their Creator with the inalienable right to freedom?

Mr. BARKSDALE. I wish to ask the gentleman from Ohio if the "Know-Nothings" and the Anti-Nebraska party did not unite in that State at the last election?

Mr. GIDDINGS. I do not know anything of the kind; I had no knowledge of any "Know-Nothing" lodge in Ohio before the election. If there were any Know-Nothings in my district, I trust they voted for me, as it would afford most excellent proof that they know something. [Laughter.]

Mr. STUART, of Michigan. I desire to ask the gentleman from Ohio whether the Know-Nothing party of Michigan, every single and solitary man of them, did not vote for the Abolition ticket, a ticket put in nomination solely and exclusively as an Abolition ticket?

Mr. GIDDINGS. I will with the utmost pleasure answer the gentleman, as I do, and will, every gentleman. Sir, I knew not that there was a Know-Nothing in the whole State of Michigan.

Mr. STUART. Well, I will ask the gentleman if, at the last election, every candidate upon the State ticket, and every candidate upon the congressional ticket, put in nomination by the Whig and Abolition party in the State of Michigan, were not notoriously members of the Know-Nothing organization—every one of them? It was never denied in that State.

Mr. GIDDINGS. I did indeed address a most respectable audience in Michigan, and a more intelligent audience I have seldom addressed or seen. They were enthusiastic on the great principles of freedom, of the rights of man, of the doctrine of our fathers of 1776; and, furthermore, I never heard it intimated, nor did I suspect, that any of them were "Know-Nothings," or had ever seen a Know-Nothing.

I rose here, not to make war upon any man or party, or to make a speech, but to call out the doctrines and the policy of the party represented by the gentleman from Maryland. I wish to know what they are; the people desire to understand their principles—their objects, on the great question now agitating the nation, on the question which has driven the old parties to the wall, which has overthrown both the Whig and Democratic organizations; which has scattered them to the four winds of heaven. Does the gentleman, or his associates, suppose they can put down the revolution now going forward? Will they attempt to divest the public mind of its love of justice, of liberty, of the rights of humanity, which gave the North such a triumph at the recent elections? Will he, or his party, waive the wand of political forgetfulness over those advocates of liberty who have so long stood forth as the champions of the constitutional rights of the free States? Are their lips now to be sealed on this question of freedom in Kansas and Nebraska? When that subject is mentioned, are they to place their fingers on their lips and keep silence? Why, sir, it is most unfortunate for that party, that my friend from Maryland [Mr. SOLLERS] has thus stood mute on so important a question. He talks of maintaining the Union, but how are they to do it? Is it to be effected at the sacrifice of the Constitution? I had hoped and expected the gentleman would have frankly answered the interrogatory. He was at perfect liberty to talk about brushing out Abolitionists, and all that sort of thing; but I desire to know how they are to act on this great issue, on which such a glorious victory was achieved at our late election? Sir, as he refused to answer this plain and simple question, will not all men, North and South, refuse to join him? Are freemen to go into this organization blindfolded? I think not. This policy of cheating the people has been repudiated. It cannot be renewed nor practiced at this day. I am glad I asked the question. The gentleman confesses himself unwilling to inform the people of the principles of the party to which he is attached. I will, therefore, look to some other member to do, and trust it will be done, before further pretensions are put forth by them.

Mr. LETCHER, (interrupting.) Has not the five minutes of the gentleman nearly expired?

Mr. GIDDINGS. Certainly, certainly; I yield the floor.

Mr. KEITT. I ask the indulgence of the gentleman from Virginia, to allow me to say a word or two.

Mr. LETCHER. I like to be accommodating, for I really think it is a question whether anybody will now be willing to listen to a speech upon the subject of swamp lands. [Laughter.]

Mr. KEITT. The gentleman from Maryland [Mr. SOLLERS] has introduced here what he is pleased to call the northern extreme and the southern extreme in conjunction. This, sir, is a matter of taste, and, when not connected with any thing personal and offensive, may be allowed to pass. He spoke of nullification and secession, and said the Know-Nothings were opposed to them as violently as to Abolitionism. Sir, I accept the admission. As my friend from Virginia [Mr. LETCHER] has yielded me the floor only for a moment, I shall only make a few remarks upon nullification and secession.

Sir, the principle of nullification has been expounded and illustrated by the noblest intellects of my State. It has been illustrated and expounded by Calhoun, Hayne, McDuffie, and Preston, and that host of great minds which poured splendor upon the annals of Carolina in '32. Sir, it was a party of brave men and free men. In times of trouble and danger, South Carolina had made heavy sacrifices of blood and treasure for the Union; but when insufferable wrong was inflicted upon her, she took her safety into her own hands, and gathered her children around her to redress her wrongs, and maintain her rights and sovereignty. Yes, sir, she gathered together her sons to defend her rights, and strike this Government if it dared to invade her. This, sir, she did openly, in the eye of the sun. She did not gather them in midnight hour, and in subterranean caves, to conceal her purpose, and strike with a stiletto. No Catiline was there, with brand and dagger, festering in midnight conspiracy, and in Senate Hall next day, when disclosures were made, professing to be "Know-Nothing." Sir, she rallied her sons under her own sovereign flag, and whoever was the foe of that flag was their foe. In this struggle, sir, South Carolina yielded not her rights and sovereignty. Thus much for nullification.

Now, sir, for secession. I was a member of that party. In 1850, I advocated the policy of South Carolina interposing her sovereignty as a shield between her citizens and the outrages of this Government. The spirit of resistance to Federal aggressions was universal throughout the State, but we differed as to the "mode and measure" of redress. Sir, I advocated the policy of secession, and the principle lying at its foundation—the principle of State sovereignty—I will defend to the last. The policy of the secession party was, in virtue of State sovereignty, to retire from the Federal compact, and, if you dared to assail us, to meet you upon the open field, to meet you with bow and brand, and fight out the quarrel. Sir, I owe allegiance to my State, and only through her to the Federal Government. Whenever she recalls that allegiance, I have no further connection with the Federal Government, and I scorn your clamors, and trample upon your hosannas to the Union.

Sir, I regret that the member from Maryland has introduced the nullification and secession party in juxtaposition with the Abolition party; but, as he has unequivocally disclaimed anything personal or offensive, I shall make no personal reply to him. I only desire to say to the House, that I was a member of the secession party of South Carolina, and whoever says aught against the honor or character of that party, I will answer with a monosyllable.

Mr. LETCHER. We have been *nominally* considering a bill here for some three or four days, which proposes to settle important questions in regard to swamp lands claimed by the States under a donation by the Federal Government in 1850, but I imagine that there are probably not five members in the House who have thought of it since this discussion commenced. I have been giving my attention to it because it is one of my rules, when I have anything to say, to address it to the subject under consideration; and as I believe this is a matter of considerable importance in connection with the public lands, I have determined that the remarks I have to make shall be directed to that issue, and none other.

It will be recollected that, on the 28th of September, 1850, an act was approved by the President of the United States, which donated to the State of Arkansas, and other land States, certain public lands, therein denominated *swamp and overflowed* lands. I beg leave to call the attention of the House to some of the provisions of that law, before I undertake to allude to some of the difficulties which have grown up under the construction that has been given to it.

The first section of this act explains very distinctly what the object of the act is. It reads thus:

"That to enable the State of Arkansas to construct the necessary levees and drains to reclaim the *swamp and overflowed lands therein*, the whole of those swamp and overflowed lands made *unfit thereby for cultivation*, which shall remain unsold at the passage of this act, shall be, and the same are hereby, granted to said State."

Now, it is as plain and palpable as language can make it, that the object of making this donation was to give to States those lands which was subject to be overflowed, and, which, in consequence of such overflowing, were, to some extent, prejudicial to the health of the neighborhood; in order that, by giving them to the States, they might be reclaimed and brought into such a condition that the country would be relieved from the danger of disease, and that the lands might be rendered valuable. The act itself limits the lands which are to be donated, and specifies the objects for which they are to be donated, showing that the limit was clearly and distinctly understood, and that the object of the grant was clearly and accurately expressed.

But if there is any doubt from the first section of this act, the second section places it beyond all controversy. It reads thus:

"That it shall be the duty of the Secretary of the Interior, as soon as may be practicable, after the passage of this act, to make out *an accurate list and plats of the lands* described as aforesaid, and transmit the same to the Governor of the State of Arkansas, and at the *request* of said Governor cause a patent to be issued to the State therefor; and on *that patent the fee-simple to said lands shall rest*, in the said State of Arkansas, subject to the disposal of the Legislature thereof: *Provided, however*, That the proceeds of said lands, whether from sale or by direct appropriation in kind, shall be applied successively, as far as necessary,

to the purposes of reclaiming said lands by means of the levees and drains aforesaid."

Well, now, what was the object? As I understand it, the surveyors, in making their plats of the land, laid down such as were swamp and such as were lands fit for cultivation. And I take it for granted that when Congress passed this law, it designed that this information, given to the Government by the surveyors, should be presented to the States, to enable their Governors, or other agents, to select the lands which Congress intended to donate to the said States.

Mr. COBB. I will state to the gentleman from Virginia that I voted for that swamp land act. When the question was pending before the Committee on Public Lands, the amount of land stated by the gentleman, was stated to be the true amount all the States concerned would receive.

Mr. LETCHER. Was the report from the Commissioner of the General Land Office?

Mr. COBB. It was. The statement was from the Land Office, and was submitted by the friends of the bill. So I want the gentleman to understand that, on this point, I am with him.

Mr. LETCHER. I am glad to hear it. Now, I should like to know whether the gentleman is with me on another subject. Has Alabama taken any land not swamp land—and if so, how much?

Mr. COBB. As the gentleman from Virginia has heretofore generally mistrusted all my movements, I am now desirous of obtaining his good will and confidence. Therefore, so long as I can act consistently with him, I shall do so. In Alabama there were four hundred thousand and odd acres of land reported to be swamp lands. That State, out of that amount, has only presented two thousand acres as swamp land. Have we done our duty?

Mr. LETCHER. Have you quit demanding the land?

Mr. COBB. I think that we ought to, for it is not worth demanding. And, with the gentleman's permission, I will add that, according to the opinion of the Secretary of the Interior, which I have always deprecated, had the lands in Alabama been unsold, and the surveys continued according to the rules prescribed and carried out in other States, according to the doctrine of periodical overflow, that State would get eight millions of acres, some of which are now worth ten, twenty, and fifty dollars the acre.

Mr. LETCHER. I am apprehensive, in the end, from the disposition manifested by the gentleman, that he will be likely to claim all to which Alabama is entitled under any rule adopted by the Commissioner of the General Land Office.

Mr. COBB. We shall claim none of it, because none of it is worth taking. Our Legislature even refuses to act on the subject.

Mr. LETCHER. If it is entirely worthless, I do not blame the State in not taking it.

Well, sir, this law goes on to recite that when these plats shall be furnished to the Government, patent shall issue to the State therefor, and on that patent the fee-simple to said land shall vest in said State of Arkansas, subject to the disposal of the Legislature thereof. This law has been so construed, I learn from the action of the Interior Department, as to claim a fee-simple title in these lands from the 28th of September, 1850, when the act was approved by the President. How that construction could have been given to it, is what I cannot for my life imagine.

Mr. WASHBURNE, of Illinois. I should like to know what the gentleman understands the words of the act, "these lands are hereby granted," were intended to mean?

Mr. LETCHER. I imagine that lands "hereby granted" do not vest a title in the State until the State gets a patent for it. By the second section of the act it is provided that the plats and certificates of survey in the land office, shall be furnished to the Governors of the said States, to enable them to make a designation, and to report to the Commissioner of the General Land Office the precise lands the Government of the United States shall issue patents for. Now, how title can vest in lands not yet ascertained either in their location, or their quantity, is to me extraordinary.

But again: according to the position of my friend from Illinois, [Mr. WASHBURNE,] if the lands are to be taken as having their fee-simple title vested from the passage of the act of 28th September, 1850, why is it that other land than that designated on the returns of the surveyor to the land office as swamp land, are claimed and held by these States?

Mr. WASHBURNE. I will answer the gentleman, so far as I have information on the subject. I understand, that by the law passed as early as 1785, surveyors of the public land were directed to make notes on their plats of the quality of the land, whether it was or not fit for cultivation. That law has generally been complied with; but in some cases its requisitions have been neglected; surveyors have made no such note on their plats. In such cases, evidence was received at the Land Office from competent witnesses in regard to the swamp land.

Mr. LETCHER. I understand that the action of the Land Office is not confined to the precise line laid down by the gentleman from Illinois. It seems from the quantity of land claimed as swamp land since 1850, that Professor Espy has been required in the northwestern and southern land States to furnish a sufficient quantity of rain to keep the whole country submerged, and this may account for the fact, to some extent, of our short crops in Virginia. [Laughter.] We had very little rain there last year, and I account for it by this swamp land controversy. I understand that the demand for rain was confined to the land States, claiming under the swamp land act. [Laughter.]

But let us go on and look at this law, and see how it could be misconstrued in the manner in which it has been misconstrued under this decision of the Department of the Interior. Here is the third section, which would seem, if anything could do it, to cut off all opportunity of misconstruction and avoid everything like difficulty in ascertaining the precise limits.

"SEC. 3. *And be it further enacted*, That in making out a list and plats of the land aforesaid, all legal subdivisions, *the greater part of which is 'wet and unfit for cultivation*,' shall be *included* in said list and plats; but when the greater part of a subdivision is not of that character, the whole of it shall be *excluded* therefrom."

That indicates the kind of overflowed land referred to. Lands along a stream which now and then overflows its banks, I take it, are not included. When lands back from the stream, and lower than those on it, are overflowed, they are not, certainly, to be claimed up to the stream, as swamp lands. For example, say that in six hundred and forty acres there should be one hundred acres wet, and subject to overflow, under the provisions of this section, that land is expressly *excluded* from reservation under the act. If, out of six hundred and forty acres, there are three hundred and thirty wet, and subject to overflow, this section would be included under the provisions of the grant to the State. Do not these terms seem to settle the whole question, to advise clearly and distinctly the manner in which this land should be selected? And how there could be a controversy about it, is to me extraordinary. It could be ascertained easily by the surveyor, or agent of the estate, whether a majority of a section was wet, or overflowed, or whether less than half of that section was subject to overflow. They should have ascertained whether a legal subdivision had on it more wet and overflowed land unfit for cultivation, than land that was not overflowed, and therefore, fit for cultivation, in the eye of the law. There should be no difficulty in ascertaining it. But, strange to tell, according to the report of the Commissioner of the General Land Office, there are one hundred and twenty-four thousand cases of conflict between persons who have gone into these States and located lands, and the claimants under the State government.

Now, sir, can you imagine—can anybody imagine, under the terms of this law, how any controversy should have arisen? I cannot see how any can arise; because if they made a personal examination, it seems to me all controversy would be avoided. But if they did not make a personal examination, then I do not think they construed the law in such a manner as it should have been construed, and as the Congress which passed it designed it should be construed. Sir, Congress certainly never intended, in making this donation, to place in the hands of the States absolute power to extend or limit it as they pleased. It was intended, in carrying out the law, that there should be representatives of the Federal Government as well as of the State governments, and that through this joint representation the precise extent of the grants should be ascertained. The results of their examinations should then be reported to the General Land Office, and the patent, to which the States are entitled under the donation act, should be granted.

But, notwithstanding all this, the Commissioner of the General Land Office, in his report, which was presented to Congress at the opening of the present session, shows that there are one hundred and twenty-four thousand conflicting cases.

Mr. HENN. Do I understand the gentleman to say that conflict has arisen in one hundred and twenty-four thousand cases?

Mr. LETCHER. I said the Commissioner of the General Land Office reports that number of conflicting cases.

Mr. HENN. I wish to correct the gentleman from Virginia. He states that there are one hundred and twenty-four thousand cases of conflict between the States and the purchasers of swamp lands. The Commissioner's report shows that there are one hundred and forty thousand suspended patents, but all these suspensions are not on account of conflicting claims—there are that many suspended because the Commissioner does not know which conflict and which do not.

Mr. LETCHER. Very well, there are one hundred and twenty-four thousand cases of suspended patents. How was this state of things brought about? I will refer you to one case which has been brought to my notice. A gentleman went to the State of Illinois, and regularly bought a tract of land in the State of Illinois, he being a man of fine judgment and perfectly conversant with all matters connected with agriculture. I say that since the act of 1852 was passed, he went to Illinois and made a personal selection of one thousand two hundred and eighty acres, I believe, but when he returned to secure his patent at the land office, he found that his whole tract was claimed by the State as *swamp land*.

A single word in addition and I have done. I have drawn up a bill, which I propose to offer as a substitute for the bill now under consideration; and it seems to me that my bill covers everything that ought to be asked for. It is composed of two sections. I send it to the Clerk's desk, and ask that it may be read.

The bill was then read, as follows:

Be it enacted, &c., That the President of the United States cause patents to be issued, as soon as practicable, to the purchaser or purchasers, locator or locators, who have made entries of the public lands claimed as swamp lands, either with cash, or with land warrants, or with scrip, prior to the issue of patents to the State or States as provided for by the second section of the act approved September 28, 1850, entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," any decision of the Secretary of the Interior, or any other officer of the United States, to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That upon due proof by the authorized agent of the State or States, before the Commissioner of the General Land Office, that any of the lands purchased or located were swamp lands within the true intent and meaning of the act aforesaid, the purchase-money shall be paid to the State or States; and where the lands have been located by warrant or scrip, the said State or States shall be authorized to locate a quantity of like amount upon any of the public lands subject to entry at $1 25 per acre, or less, and patents shall issue therefor on the terms and conditions enumerated in the act aforesaid: *Provided, however*, that the said decisions of the Commissioner of the General Land Office shall be approved by the Secretary of the Interior.

Mr. LETCHER. There is one other matter in connection with this subject to which I desire to call the attention of the committee. It seems to me that, if the same course had been pursued by the other States that was taken by the State of Indiana, there would have been no need of any legislation upon the subject. Upon the 14th day of February, 1853, a bill was introduced by the gentleman from Indiana, who sits before me, [Mr. DAVIS,] to settle the conflicts which existed between the Federal Government and the State of Indiana. After that bill had been discussed for some time in the House, it was laid upon the table by a very considerable majority. Well, sir, since that refusal upon the part of Congress to take action upon the subject, the whole controversy between the State of Indiana and this Government has been settled without conflict or difficulty. And I understand that, in that State, from that day to the present, there has not been the slightest difficulty with regard to the issuance of patents to purchasers and locators under the swamp land act. Well, now, sir, if the difficulty could be adjusted

then without legislation, why can it not be now in other States? If it could be adjusted then, two or three years after the passage of the act, why can it not be adjusted twelve months later?

Mr. WASHBURNE, of Illinois. If the gentleman from Virginia will allow me, I will suggest an amendment which, I think, will meet with his approval. I would suggest that, in the second section of his substitute, instead of requiring the proof to be taken to the General Land Office, he should allow it to be taken before the local land officers, and that it shall be subject to their approval.

Mr. LETCHER. I will tell the gentleman why I do not think the question should be decided by the local land officers. These officers are not judicial officers. They have had no experience in judicial affairs. They know nothing with regard to the rules of evidence. Judicial decisions should be pronounced by those whose education, information, and experience, properly qualify them to settle such questions wisely, and according to the law. They should understand the law and the rules of evidence. It does not seem to me that there can be any great deal of difficulty imposed upon the State governments by requiring them to procure testimony in reference to these lands, and transfer it to the Commissioner of the General Land Office for his adjudication upon the case presented. Besides, in these cases of conflict of jurisdiction between the United States and the States, the decisions in reference to them ought to be kept on file at the General Land Office, for the purpose of being referred to in case of any difficulty or controversy, in reference to the lands, that may hereafter arise.

Now, sir, in reference to these registers and receivers, how many of them are judicial officers? How many of them know anything about a judicial construction of law? How many of them can tell whether a decision is legal or illegal, or draw the distinction between legal evidence and illegal evidence? Now, I think these questions ought to be submitted to a man who is competent to judge, who is placed in a position where his judgment may be brought into action in adjusting those questions, and who has been selected, to some extent, from the judicial character of his mind. That is my view. Now, I will give way for a moment to the gentleman from Ohio.

Mr. DISNEY. I feel altogether too unwell to attempt any extended remarks in regard to the bill now before the committee. But it may be as well, for the information of the House, for me to state the facts which the gentleman from Virginia does not seem to be possessed of. All those provisions of the statute, referred to by the gentleman, in regard to the ascertainment of what particular lands come within the meaning of the act, have been faithfully and literally carried out by the Land Office. Perhaps more rigid instructions were never devised nor issued, by any Department of this Government, than those issued in relation to the lands coming within the terms of this particular act. Instructions were given to the surveyors of the Land Office, that they should, *from personal observation*, certify to the particular facts provided for in the statute. All the precautions have been taken which the act required should be taken. The rigorous character of the instructions, required this personal observation in regard to the character of each particular legal subdivision. But, notwithstanding all that, these cases of conflict have arisen.

Mr. LETCHER. Well, if the surveyors did their duty, how could these conflicts arise? If they reported the facts in regard to the character of those legal subdivisions to the Government and to the Register of the Land Office, how could any conflict occur with any one who went from another quarter to make his selection?

Mr. DISNEY. I was about proceeding to explain that.

Mr. STANTON, of Tennessee. Will the gentleman from Virginia allow me to state a fact?

Mr. LETCHER. Yes, sir; if it will not take too long.

Mr. STANTON. I simply desire to state that, in the region of country surrounding Memphis, instances have occurred in which individuals, in order to be secure, have felt themselves under the necessity of entering certain tracts of land both with military bounty land warrants, and also with swamp land scrip. So uncertain has it been, that, in order to make the thing absolutely secure, they have been compelled to enter their lands in both ways.

Mr. LETCHER. Well then, sir, according to the gentleman from Tennessee, the whole difficulty arises from the fact that people cannot tell whether the half of a legal subdivision of land is overflowed and wet, or whether it is dry! Now, is it not most remarkable that they cannot tell that, when the law expressly declares that if less than half of a legal subdivision is wet, then it is not to be included, and that if there is more than half wet, it shall be included? Does the gentleman mean to tell me that the men who go there to look at the land cannot tell that fact?

Mr. DISNEY. If the gentleman from Virginia will permit me, I will now go on with my explanation.

Mr. LETCHER. Well, be brief.

Mr. DISNEY. I have said that the Land Office has taken the precautions which I have spoken of, and that, notwithstanding those precautions, these cases of conflict have arisen. Now, the Land Office has been impressed with the belief that great and enormous frauds have been perpetrated under cover of that act. Something like sixty million acres of land have already been applied for and claimed. The Land Office, in common with myself, are disposed to go all proper lengths, in order to restrain and curtail those demands within the legitimate limits of the law. Both the Land Office and myself are resolute in setting our faces against these things. There is no objection, so far as I understand it, to the substitute offered by the gentleman from Virginia. It is substantially the same as the bill now pending, with one or two immaterial alterations.

Mr. LETCHER. No, it is not.

Mr. DISNEY. In all these cases of controversy at the Land Office between the States and individual purchasers, the burden of proof is thrown by the original bill entirely upon the States.

Mr. LETCHER. My bill does exactly that same thing.

Mr. DISNEY. Well, I say that your substitute is identical with the original bill.

Mr. LETCHER. No, it is not.

Mr. DISNEY. Some slight immaterial variations alone excepted.

Mr. LETCHER. There is a very material variation in reference to the character of the officer who is to decide these questions of conflict.

Mr. DISNEY. The Land Office now undertakes to decide these questions, and when the land has been assigned to individuals, requires the State to determine the opposite side of the case.

Mr. LETCHER. So far as the bill now pending is concerned, it refers all judicial questions to the registers of the land office scattered throughout these States.

Mr. DISNEY. They are to report the facts to the Land Office.

Mr. LETCHER. Well, that is the same thing. But my bill proposes to bring the cases directly upon evidence to this officer who has decided them heretofore, and who, I think, ought to decide them now, and then as an additional safeguard, it provides that the decisions of the Commissioner of the Land Office shall be approved by the head of the Interior Department.

Mr. DISNEY. I have no objection to that at all. One other remark, and I shall have done. The gentleman takes exception to the decision of the Land Office—to the construction given by the Department of the Interior to the terms of the grant. The Department of the Interior held that, by the terms of the act, the equitable interest vested in the States from the date of the act, though the legal title may not have passed to the States until the issuance of the patents.

Mr. LETCHER. I understand all that.

Mr. DISNEY. The Land Office has given that construction, which I presume any lawyer would give who should sit down and examine the act. But as the facts stand, it is very desirable that some adjustment should be made of these conflicting claims, amounting, as the gentleman from Virginia has told us, to over one hundred thousand, notwithstanding all the precautions of the Land Office. In many instances, lands are claimed which are clearly and distinctly not within the terms of the act.

Mr. LETCHER. Precisely. I concur with the gentleman in the opinion that there are claims set up for lands which do not come within the provisions of the act, and that the very claims thus set up have created all the conflicts which are now the subjects of difficulty, requiring legislative remedy.

Now, sir, I think that my bill guards all these points, and will probably prevent, if it be adopted, this conflict in time to come. Certain it is that something ought to be done to put an end to it. The gentleman says that fifty millions of acres have been already claimed as swamp lands under this grant, and that, owing to the construction which is given to it, that the title vested at the time of the passage or approval of the act, the States claim a right to the lands from that day forward, and that conflicts follow, as a necessary consequence, with all the claimants who go on that land. Now, one of two things is true; either that act, when it passed, vested all the lands in the States, or it vested a part of the lands—the overflowed portions, which were not designated, which could not be designated, and for which no patent could then be claimed. Now, Congress could not have donated all, yet all may be claimed, under the views presented by the gentleman from Ohio, [Mr. DISNEY,] under instruction from the Department of the Interior. I think that the Department is wrong. I think that that interpretation of the act is, to a very great extent, a cause of the difficulties that have arisen in the matter; and I think that claimants have no right to get one foot of these lands until they can produce evidence to the Government of the United States that they are *bona fide* owners. If they are held to their proofs, then it is entirely plain and simple. But I was willing to go beyond that. I was willing to allow that where lands are claimed by parties, and when these parties can bring themselves, on legal principles, before the Commissioner, and demonstrate that fact, then they shall be allowed—if cash has been paid—to receive the cash from the State treasury; or, if the land has been entered by scrip or land warrants, they shall be allowed to enter a like quantity of land elsewhere, at the price of $1 25 per acre, or less.

The only thing complained of, I think, is, that some of the gentlemen from western States think that the conditions imposed in the bill I have offered, are rather hard terms; they think it hard to be required to come to Washington to have their claims decided, and that I ought to be more liberal and allow this thing to be done at home. I will tell gentlemen the reason why I do not want this thing to be done at home. It is a reason which operates in my own State also. There are a great many tracts of land in my own State which are the subject of controversy, and no man ventures to go into the State courts to have the matter settled. And why? Because of the adverse feeling of the neighborhood; because the local pride of the neighborhood, because the local attachment of the neighborhood binds the parties together and denies to the parties claiming an opportunity to secure so fair a tract as they could receive in the Federal court, where the cause would be removed from the immediate neighborhood, and where the parties interested can get a fair trial. Now, I want this matter removed from the brotherhood; I want it removed from this new State association; I want to have it brought here before a disinterested person who has the capacity to examine the case, who understands the law of the case, and who will be free from all bias and influence of every kind, that he may examine the matter, and pronounce such judgment as will do justice, not only to the State, but to the United States. That is all I want.

Mr. GREENWOOD. I regret that the gentleman from Virginia [Mr. LETCHER] has taken a course which, I think, is hostile to the new States. However, it is common for him, on all questions concerning the disposition of the public lands, to attack the western States in some mode or other. I have no doubt that he does this on principle, and that he has no other object in view, except in his place to guard against an improvident disposition of the public lands. I trust he entertains no unkind feelings toward the new States, or that he is jealous of their prosperity. It strikes me, however, that everything which is contained in his bill is now strictly carried out and observed by the regulations of the Department in this city.

According to my understanding of the matter, every proposition the gentleman from Virginia proposes, is now strictly adhered to by the Land Office, so far as the adjudication of conflicting claims is concerned. It is unfortunate that these difficulties have grown out of this grant, but they should be settled in the shortest and most convenient mode. It is unfortunate, perhaps, that the act granting these swamp lands to the States in which they are located was not more explicit—so much so as to have left nothing for construction. Now, I understand the gentleman to say that too much land has been taken under the provisions of this bill. I deny, that by any fair construction of the act, that any more lands have been confirmed to Arkansas than she was entitled to demand by the bill.

Mr. LETCHER, (interrupting.) If the gentleman from Arkansas [Mr. GREENWOOD] will allow me one moment, I will say that my complaint is predicated on the report of the Commissioner of the Land Office; I have no knowledge about it myself.

Mr. GREENWOOD. I understand that. It has, however, been complained of by the gentleman from Virginia, that all the land on which rain has fallen since 1850 have been claimed under the provisions of this bill. I shall not attempt to reply to that portion of the gentleman's argument. I am aware that, in all probability, there may have been abuses committed under the act, in some of the States. I know of no such attempts in Arkansas. And, as a general thing, so far as my knowledge extends, the law has been carried out strictly and accurately, according to the intentions of Congress. Not, perhaps, according to the gentleman's notions of right. It is not expected, sir, that the State of Arkansas, or any other of the land States, would have accepted of a mere duck pond. No, sir; none of them would have accepted of land entirely covered with water. The State of Arkansas would have accepted of no such grant from this Government. Such acceptance would have entailed upon the States the expense of leveeing and draining the lands so as to make them susceptible of cultivation, at a cost of ten times their value; and it could not be expected that the States would be subjected to this expenditure for the benefit of the General Government without the hope of compensation. By draining the swamp lands, the adjacent Government lands would, of course, be greatly enhanced in value, but the States would not be benefited. Under such circumstances could any person reasonably suppose that the States would accept any such donations?

It has been properly said by the gentleman from Ohio [Mr. DISNEY] that, by every fair rule of construction, all the swamp lands of the State, the greater part of which are subject to overflow, and are thereby rendered unfit for cultivation, were bestowed to the States within whose limits they are embraced, immediately upon the approval of the swamp land bill by the President. There can be no question with respect to that construction. No lawyer would risk his reputation by giving the act a different construction. And leaving the plats of the surveys out of the question, wherever it appears that other lands than those reported by the surveys came within the provisions of the bill, the States were justly entitled to them under the grant. But where the field notes showed that lands were swamp and subject to overflow, the Department required no other proof on that subject. They have uniformly, as I understand, taken it for granted that these lands were swamp and overflown. In all other instances, however, the burden of proof, to show that the other lands claimed, but which were not comprised within the files of the land department here, the proof to show that they were of the same description, rested upon the claimant. The question then naturally arose as to the construction of the act. If the Department were satisfied that there were some lands which should pass by that act of 1850, but that the proof was not of record, I am sure that the States could commit no fraud by merely showing that there were swamp lands not reported upon the plats on file. The Department very properly determined that the proof of the fact must come from the State in which the lands were located, and through the surveyor general of such State. That rule has been strictly adhered to, so far as my knowledge extends; at least it has been in Alabama, where, perhaps, there was more swamp lands than there were in any other State, with the exception of Louisiana.

Mr. LETCHER. Will the gentleman from Arkansas permit me to ask him a question?

Mr. GREENWOOD. Certainly.

Mr. LETCHER. Will the gentleman inform us how many acres of land Arkansas has claimed under this bill?

Mr. GREENWOOD. I am not accurately informed as to that; but, perhaps, some seven or eight millions of acres.

Mr. LETCHER. And yet, when the bill was about to be passed, it was said that Arkansas would only be entitled, under it, to some eight hundred and seventy-odd thousand acres.

Mr. GREENWOOD. That may all be true; that was the supposed amount at the time. I was going on to remark, that mistakes about some of these conflicting claims may have arisen from the fact that individuals raised levees on the Mississippi river for the purpose of protecting their own farms; and hence a system of draining has been going on, by which land which was, at the time of the passage of the act, unfit for cultivation, has been reclaimed, and is now dry. I only adverted to this for the purpose of showing that everything which the gentleman asks by his bill is now given by the Department. The only difference seems to be, that the proof must be made directly to the Commissioner of the Land Office, or the Secretary of the Interior, instead of being made to the surveyor general of the State in which those lands are situated.

Before I take my seat, I desire to advert to the principles of the bill now pending, together with the amendment, or substitute, offered by the gentleman from Illinois, [Mr. WASHBURNE.] It seems that under this bill granting swamp lands to the several States in which they lie, conflicts have grown up, and the question now is, how shall those conflicts be settled? In many instances lands have been permitted to be entered at the Government offices, which are put down upon the maps as swamp and overflowed lands. Individuals were permitted to enter those lands before they were apprised of the passage of this act. Subsequently, entries of lands were made in what were called, in the land offices of the States, swamp scrip. One party, perhaps, claiming under entries made at a Government office, and another party claiming the land as swamp land, and entered at the State offices. The question is, how shall these difficulties be settled?

The bill now before us for consideration simply proposes, that in all instances where persons have entered lands which pass to a State under the provisions of the act of September, 1850, that the State shall be permitted to locate other lands in lieu of these lands, subject to location, at $1 25 per acre, provided the Governor shall relinquish to the General Government the title of the lands so entered. Wherever an individual has entered those lands, and entered them properly as swamp lands, it will be impossible for the Government to oust him of his right, because, by the entry of swamp lands, he has acquired a title of which the Government cannot divest him. I think that there ought to be an amendment to the original bill, or the substitute offered by the gentleman from Illinois, [Mr. WASHBURNE,] which will provide for this case. It seems impossible to make an adjustment of the matter where there is a conflict between the first and second entry. The Governor cannot relinquish the title which the State has acquired, because the title has passed from her, and because she has no title to relinquish. The individual who has made the first entry must withdraw his money. That is the only relief which can be afforded him.

Sir, the only question in my mind in regard to this matter is, whether it would be policy, under the provisions of the substitute offered by the gentleman from Illinois, [Mr. WASHBURNE,] for the Government to pay money for the lands that have been entered, or whether it would be the best policy to require the States to locate other lands in lieu thereof. It seems to me a question that admits of some doubt as to what would be the best policy for Congress to pursue, in adopting bills of this kind. I am not satisfied in my own mind, but there is one thing certain: if evils have grown up under this act, it is almost impossible at this late day to rectify them entirely. We should take every precaution to prevent the conflicts which have arisen in carrying out this grant, and so legislate, if possible, to quiet all the conflicting interests, and prevent litigation. Such should be the aim of courts as well as legislatures.

Mr. LETCHER. So far as I have any personal knowledge of these difficulties, they have grown up since 1852.

Mr. GREENWOOD. That may be very true; for many of the States did not legislate upon the subject of the grant for some time after the grant was made. It seems to me that the Government ought to go on and devise some plan, by which the conflicting titles to these lands should be settled at the shortest notice, and at the least possible expense to the individuals entering them. I hope something will be done to relieve purchasers, and obviate long, tedious, and expensive litigation.

Mr. DISNEY. Since I made my remarks upon this subject a few minutes since, I have examined the bill more particularly, and it is precisely of the character I supposed it was. The only point of importance in the bill that involves any difficulty is this, that patents shall issue at once in favor of the individual purchaser or locator. The Department of the Interior have held and decided, that the true and proper construction of that act vested an equitable interest in the State of all lands coming within the terms of the act. The question then arises, how far it is competent for Congress to so invest the State with an absolute interest in these lands. If the States are actually vested with the legal right, possession, and title to the lands in controversy, is it competent for Congress, by an act of legislation, to divest them of such right, possession, and title?

Mr. LETCHER. The gentleman, then, is not willing to legislate at all.

Mr. DISNEY here made a remark entirely inaudible to the reporter.

Mr. LETCHER. With the permission of the gentleman I will correct him. He says that everything provided for in my bill is now done in the Department of the Interior, in connection with these lands. Now, sir, the Commissioner of Public Lands says this—and I think, if the gentleman will attend to it, he will come to the conclusion that he is mistaken. He says:

"To remedy this evil, I respectfully recommend that authority be given for the issue of these patents."

That I have provided for in my bill.

"And that provision be made by law, that the purchase money for any such lands be paid over to the States."

That also I have provided for in my bill.

"And that they be authorized to select others in lieu of those located with scrip, land warrants, &c., on due proof by the authorized agents of the States, that such lands were of the character embraced by the swamp land act of 1850."

Now, sir, so far from these things being done at the Land Office, as the gentleman seems to suppose, the Commissioner comes here and asks this House to do what my bill proposes to do, and which the Commissioner alleges cannot be done without this law.

The CHAIRMAN. The hour for closing debate upon this bill, under the order of the House, has arrived, and the question now before the House is upon the amendment, recommended by the Committee on Public Lands, to the original bill.

Mr. HENN. I believe the House does not understand the precise situation of the original bill and the pending amendment. I ask that they may be read.

The original bill, and the amendment proposed by the committee, were then severally read.

Mr. WASHBURNE, of Illinois. I believe the question before the House stands in this manner: First, the original bill was introduced and referred to the Committee on Public Lands. That committee reported back the bill with the amendment which has been just read. To the whole bill I offered an amendment, which was to strike out all after the enacting clause, and to insert what has heretofore been read to the House. The gentleman from Virginia [Mr. LETCHER] has now offered a substitute—whether in order or not I am not prepared to say—which has also been read.

I desire to say, that on the whole, I am satisfied with the substitute which the gentleman from Virginia has offered. All that I desire is, to get the matter properly before the committee for action.

The CHAIRMAN. Does the Chair then understand the gentleman from Illinois to accept the substitute offered by the gentleman from Virginia?

Mr. WASHBURNE. I accept the substitute.

The CHAIRMAN. The question will then be first upon the amendment to the original bill, and the bill itself will be open to amendment. When that is perfected, the question will next be upon the substitute of the gentleman from Virginia. When that question arises, the substitute will be open to amendment. The question now is upon the amendment recommended by the Committee on Public Lands, to the original bill.

Mr. JONES, of Louisiana. Is it now in order to move to strike out the amendment reported by the committee?

The CHAIRMAN. Not exactly. It is in order to move to strike out a portion of it, but not the whole.

Mr. JONES. Then I move to strike out of the twenty-second line the words "as far as necessary." I wish to submit a few remarks in regard to this bill, and to the amendment which has been offered by the gentleman from Virginia. I believe, sir, with the Commissioner of the General Land Office, and with the Secretary of the Interior, that the title to these swamp and overflowed lands passed to the States by the simple act of the President of the United States signing the bill. A portion of these lands, since they were ceded to the several States, have been entered, under the act of the General Government, by private individuals; and thereby the States have been deprived of some of the rights which had been granted to them under the general bill. Now, I understand the object of this legislation is to remedy this wrong which has been done to the States. If that be the object, then it seems to me that the States ought to be consulted as to what they are willing to take at the hands of this Congress. Congress has no power to impose burdens and conditions upon this bounty which they now ask the States to yield to them. No; I think the whole of this amendment ought really to be stricken out, because we are entitled to all the swamp lands in the States, for whose benefit this act was passed. The States are not bound, if the decisions of the Land Office are correct, to accede to any proposition which might be now made by the Congress of the United States in regard to these lands. If the States take the lands from those persons who have entered them, without giving them a compensation, they would, at least, have a right to demand from the United States, not only the purchase-money which they have paid to the United States for those lands, which did not belong to the Government, but, in equity, those persons would have the right to ask Congress to reimburse them, not only for the money they have paid, but for the amount they have expended in improvements upon those lands.

I have no doubt the States would be willing to meet the Government half way, in granting relief to those persons who have entered those lands in good faith, and without a knowledge of the fact that they did not belong to the General Government, but to the State. But I say the Congress of the United States ought not to impose conditions upon the States, with regard to what they are to do with this money after they have got it. I say, the original bill, as it was sent to the committee, is the one which ought to be passed.

In regard to the substitute offered by the gentleman from Virginia, can the Congress of the United States judicially declare what are the rights of parties, under this act, granting the swamp and overflowed lands to the States? Suppose that it should turn out that the Supreme Court of the United States should have a difference with Congress and the gentleman from Virginia on the subject——

Mr. LETCHER. In answer to my friend from Louisiana, I would say a single word. How does he propose to adjust this controversy?

Mr. JONES. I propose to adjust it by passing the bill which is now before the committee, without amendment whatever.

Mr. LETCHER. As I understand the gentleman, he wants the amendment offered by the Committee on Public Lands, and on the ground that the Congress of the United States has no right to express any opinion in regard to this gift made by her—that it is a question for Louisiana and every other State claiming under this act. She is to take whatever she considers that grant confers.

Mr. JONES. I say that it is a question for the courts, and not for Congress.

Mr. LETCHER. What courts are to decide it? And even if the courts are to decide it, how does this interfere or affect the matter? If this act be unconstitutional, the gentleman can get the court to say so. If it be not unconstitutional, then it probably settles the question. It is manifest that the question must be settled some way. I imagine, if Congress, by legislative act, undertakes to settle it, that it will probably be more agreeable to all parties concerned—the General and State governments—than to have it settled by legal proceedings. It strikes me so. If not, then let them institute judicial proceedings, and settle the question.

Mr. LINDLEY. From the remarks of gentlemen it would seem that they consider the contest to be between the different States and the General Government. They ought to remember that we have sold lands not our own, and men have bought two pieces, one valueless without the other, and have paid the Government for them when we could not give title to them. These men are suffering, and we are in honor bound to do justice to these injured individuals. That is the point before Congress, and not that of contest between the States and General Government.

Mr. LETCHER. What does my bill provide for? Does it not provide exactly for the point presented by the gentleman from Missouri? Does it not give the land settled on to the settlers who are entitled to them? What else does the gentleman want? Does he want to exclude the settler, and to put the speculator in his shoes? Is that the object? That would seem to be the idea, to some extent, of the remarks of my friend from Arkansas. He says these lands are worth more, and that when the Government pays back $1 25 the acre, it does not reimburse the man already in possession under State scrip. If it does not reimburse him, does it reimburse the man who has entered them for actual settlement and cultivation? Is the settler to be made subject to the speculator? That is the whole point presented by the interruption of my friend from Missouri. By my bill, if the land is legitimately owned under this act by the State, the money arising from its sale, which has gone into the Treasury, shall go over to the State in lieu of the land. If it has been entered by land warrant or scrip, that then they shall have title to an equal amount to be thereafter selected. It seems to me, so far as the settler is concerned, that my bill is more likely to do him justice than the views suggested by the gentleman from Missouri.

The question was taken on Mr. JONES's amendment; and it was rejected.

The question was then taken on the amendment of the Committee on Public Lands; and it was agreed to.

At the request of several members, the question recurring on Mr. LETCHER's substitute, it was again reported.

Mr. GREENWOOD. Mr. Chairman, I do not desire to occupy the five minutes to which I am entitled under the rules.

The CHAIRMAN. The gentleman must submit an amendment.

Mr. GREENWOOD. I move to strike out the latter portion of the substitute.

Mr. Chairman, I wish to say only this one thing, and no more; if the substitute of the gentleman from Virginia be adopted, it will unsettle every title which the Commissioner of the General Land Office has in the mean time adjudicated and settled.

Mr. LETCHER. In answer to the gentleman from Arkansas, I repeat what I have already said to the gentleman from Ohio, that my bill is in exact conformity in every respect with the recommendation of the Commissioner of the General Land Office at this last session, recorded on page eight of his report. That there may be no difficulty about it, let me read from that report, because I take it that the Commissioner knew what he wanted and what were the best means of getting at it for the purpose of avoiding future evils:

"To remedy this evil, I respectfully recommend that authority be given for the issue of these patents, and that provision be made by law that the purchase-money for any such lands be paid over to the States, and that they be authorized to select others in lieu of those located with scrip, land warrants, &c., on due proof by the authorized agents of the States that such lands were of the character embraced by the swamp land act of 1850."

Now, sir, there is not a requirement of the recommendation of this Commissioner of the General Land Office which is not found embraced in the provisions of my bill.

Mr. McMULLIN. The gentleman's bill provides that the States shall enter other lands at $1 25 or less, and I desire to know what he means by the words "or less." Does he mean to make it conform to the graduation act?

Mr. LETCHER. Yes, sir; they may enter graduating land acre for acre. The bill states this distinctly. My object in putting that clause in my substitute will be apparent to my colleague in a moment. It will be recollected that, after the various railroad acts had been passed by Congress, the price of the alternate sections reserved was raised to $2 50 per acre. Now, my object in putting that clause in the bill, was to prevent the States from going upon these alternate sections to make their selections acre for acre. Then besides, there are other lands the price of which has been raised. There are the mineral lands, and the saline lands; all these lands are reserved; and it is my object to prevent the States from going upon them and making their selections. This is one of the cases referred to by the Commissioner of the General Land Office in his report, and if the gentleman will refer to it, he will find that the provisions of my substitute are not only recommended by that officer, but that, in this respect, it is copied, literally word for word, from that report. Every solitary thing that he has asked for is embodied in it, and I ask the members of this House if anything more can be asked for upon the subject?

Mr. GREENWOOD then, by unanimous consent, withdrew his amendment.

Mr. JONES, of Louisiana. I move to amend by adding, at the end of the bill, the following:

Provided further, That the States interested in said swamp lands shall agree to the provisions of this act; and this act shall not take effect in any of said States until it shall accede to the provisions of this act.

Mr. Chairman, it is my purpose, in moving that amendment, to provide against legislation that shall involve the States in any difficulty with the General Government, as to the proper construction of the original act which was passed transferring to the several States the swamp lands situated within their limits. Now, it has been said here, time and again, that the General Land Office, and the Secretary of the Interior, have given a certain construction to the act granting swamp lands to the States. That construction, however, conflicts with the notions of the gentleman from Virginia, and he now proposes that the Congress of the United States shall, by a simple act of legislation, declare that his construction of the law is correct, and that the construction of the Secretary of the Interior is not correct. Well, now, sir, I should like to know whether any mere law of Congress, any declaratory law, is binding, either upon the States or upon the Secretary of the Interior? Suppose the Secretary of the Interior chooses to adhere to the construction he has already given to the law, what is to become of the matter? Is he to be arraigned for violating the law of Congress? Why, sir, we all know that, if the construction of the Secretary of the Interior is correct, the provision the gentleman from Virginia proposes is necessarily unconstitutional.

Again, if the States accede to the proposition the gentleman from Virginia proposes to make, very well; but suppose that in the exercise of their vested rights, they should refuse to accede to his proposition, then what is to be done?

Now, sir, if the substitute of the gentleman from Virginia is to pass; if the House are determined to pass it in preference to the amendment reported by the committee, why, I propose to relieve Congress from the difficulty involved by the amendment of the gentleman from Virginia; that is, I propose that this law shall take effect whenever the States in which the lands are situated shall accede to it.

Mr. McMULLIN. As it is getting rather late I will move that the committee do now rise.

Mr. LETCHER. I wish to say a few words in reply to the gentleman from Louisiana.

Mr. McMULLIN. I will withdraw the motion and yield the floor to my colleague.

Mr. LETCHER. My friend from Louisiana

says that the Secretary of the Interior has given one construction to the swamp land act of 1850, and that I am seeking to find another. Now, so far as the construction which has been given to this act is concerned, I believe the very man who was Commissioner of the General Land Office when this law was passed, [Mr. Wilson,] now occupies the same position. Well, sir, Mr. Wilson construed this law; he issued these patents to the States, put the whole machinery of the law in operation, and yet the same man now asks that the very provision which I have inserted in my substitute may be adopted. Now, I take it for granted that Mr. Wilson, at least, knows what he is about; and, under these circumstances, does my friend from Louisiana suppose that he would ask for the passage of an act which his own construction of the law would interfere with?

Mr. JONES, of Louisiana. But suppose the proper authorities have decided that title to the swamp lands shall vest in the States from the date of the signature of the President of the United States to the law donating them.

Mr. LETCHER. Well, sir, Mr. Wilson, who has had this act under consideration from the time of its passage, has recommended that in cases where persons have entered lands before the patent has issued to the States, recommends that where they have been entered for cash, the money shall be refunded; where they have been entered by scrip, and where they have been entered by land warrants, the parties entering them shall be allowed to enter other lands in lieu thereof, acre for acre.

Mr JONES. It can be done by the consent of the States.

Mr. LETCHER. Well, sir, I take it for granted that when the States interested in this thing come forward and ask that it shall be done —when it is to be done by the aid of the Representatives from these States, and we have reason to believe that the States themselves desire it— they will accede to the law, if we pass it.

Mr. JONES. Does the gentleman from Virginia mean to say that the action of the Representatives of a State in Congress is binding upon the people of that State?

Mr. LETCHER. No, sir, I do not mean to say any such thing. What I mean to say is, that when the representatives of a State come here and ask for certain action upon the part of Congress, that it is to be presumed they speak the voice of the people in that State; and that when, in accordance with their request, we pass an act to relieve them of the evils of which they complain, they will accede to it.

Now it does seem to me that if any body understands this thing, the Commissioner of the General Land Office ought to understand it. It is his business. His whole attention is placed upon it; and yet he has arrived at these conclusions, and recommended the course I propose to pursue to accomplish the object.

The question was then taken upon Mr. JONES's amendment to the amendment; and it was not agreed to.

Mr. STANTON, of Tennessee. I desire to know from the Chair, the precise state of the question before the House?

The CHAIRMAN. The question is upon the adoption of the substitute proposed by the gentleman from Virginia.

Mr. STANTON. I move to strike out all after the fifth line.

Mr. Chairman, I make this motion for the purpose of submitting a single observation in reference to some of the questions which have been presented and discussed by the gentleman from Virginia, [Mr. LETCHER,] and the gentleman from Louisiana, [Mr. JONES.] I conceive it to be perfectly clear, that by the first section of the act of 1850, the Government of the United States placed itself under obligations to convey, by patent, to the State of Arkansas, every foot of overflowed land in that State, for the purpose of accomplishing a great public work.

By the second section of that act, the Government bound itself, at the proper time, when the necessary information was acquired, to issue a patent for every foot of overflowed lands, as described in the act itself.

Now, sir, it is true that the State of Arkansas cannot acquire any legal title to these lands until the patents are granted. It is equally true, that the Government of the United States may refuse to issue any patents. In that case no legal title will pass. No legal title will pass until the General Government issues patents. Nevertheless, the obligation remains; the equity still exists in the State of Arkansas to any portion of the lands covered by the first section of the act. That is the true state of the case. The Government of the United States has, in several instances, issued patents, not to the State of Arkansas, but to private individuals, for lands which equitably belong to the State of Arkansas under the swamp land act. Now, the State of Arkansas can do nothing. She cannot sue the Government of the United States.

Mr. HENDRICKS. I desire to ask the gentlemen from Tennessee a question upon the point that he is now discussing, and I do so because he has evidently given this legal question consideration. I wish to ask him whether, construing this act as he does, if the patent is issued to the citizen before it is issued to the State, it does not vest the legal title in the citizen?

Mr. STANTON. I suppose the patent does vest the legal title, but it is subject to the equities of the State of Arkansas, and it is very clear that suits may arise between the State of Arkansas and the individual patentees of the Government of the United States. It is to prevent all such suits, as I understand, that this bill is now proposed, to prevent the needless conflicts that may arise between the patentees of the United States Government, and the State of Arkansas, or the individuals to whom the State may have passed the lands. It must be evident to every gentleman upon this floor, that such contests will arise, unless this bill, or some provision of a similar character, is passed. If the State should accept the benefits of this bill, and demand patents for the lands, to be substituted for those improperly disposed of to individuals by the Government, then her equitable right would be lost, and there would be no further contest or difficulty.

Mr. JONES, of Tennessee. I am opposed to the amendment of my colleague. We have gotten into difficulty about these swamp lands, or at least some persons have gotten into difficulty about them, and it is necessary that something should be done to relieve them. I think the amendment proposed by the gentleman from Virginia [Mr. LETCHER] is perhaps the best proposition before the committee.

This whole difficulty, in my opinion, has arisen from the fact of an erroneous decision having been made by the Land Office in reference to the swamp land act. The first section of that act provides that all the swamp and overflowed lands remaining unsold at the time of the passage of the act shall vest in the States in which they lie, for certain purposes. The second section, if I mistake not, requires that the Commissioner of the Land Office shall make out a list of the swamp and overflowed lands in each State, and furnish that list to the Governor of the State; that upon the requisition of the Governor, the Land Office shall issue patents to the State for the lands thus designated as swamp and overflowed lands; and that upon the issue of such patents, the fee simple to the land thus patented shall vest in the State.

Now, my opinion is that no right vested in the State; that the State had no title to those lands until the Governor had requested the issuance of the patents for the lands. Suppose the Governor had never requested the issuance of patents; suppose the State had refused to accept those lands upon the terms and conditions of the act, would they ever have vested in the State? The first intimation you have that the State will accept the swamp and overflowed lands, is when the Governor notifies or requests the Land Office to issue patents for those lands. Now, sir, the title to the lands entered by individuals with money, warrants, or scrip, between the passage of the act and the issuance of the patents, or at least up to the time when the Governor signifies the acceptance of the lands by the State, by requesting the issuance of patents, does rightfully vest in the individuals who have entered them; the patent of the Government passes a good and valid title to the persons who have thus entered or located the lands. If, therefore, there is any question at all, it cannot be between the individuals upon the lands and the State claiming it under the swamp land act, but it is between the General Government and the State. The Government gave the lands to the State, and after she had thus given them, she sold them to individuals, and vested the title in them. The State cannot take the lands from those individuals, but must look to the General Government for redress.

As I said before, I believe that the State has really no right to come and ask for those lands or their value, or others in lieu of them, which were entered after the passage of the act, but prior to the acceptance by the State. But, waiving all that, I am willing to vote for the proposition of the gentleman from Virginia, which I consider the best one before the committee. It will, I doubt not, be satisfactory to the States, and also to the settlers.

The question was then taken on Mr. STANTON's amendment; and it was rejected.

Mr. DISNEY. I move *pro forma* to amend the first section, by inserting the words, "Provided the States shall assent thereto."

I offer that amendment simply for the purpose of being enabled to say one or two words in relation to this matter. I have said that the difference between these several bills is immaterial in the main, with one or two exceptions. The amendment proposed by the gentleman from Wisconsin [Mr. WELLS] differs from the others in providing that the act shall be construed as vesting the title to the swamp lands in the States in which they lie at the time of the approval of the act. The original bill provides that land shall be located elsewhere. And the amendment of the gentleman from Illinois [Mr. WASHBURNE] is simply in accordance with the practice of the Land Office. So, too, with the amendment proposed by the gentleman from Virginia. There is no objection to it, except that it accomplishes nothing save in a simple point. That point has been suggested by the gentleman from Louisiana, [Mr. JONES,] and adverted to by the gentleman from Tennessee, [Mr. STANTON,] who, I doubt not, has given a just and true construction to the law in relation to this grant. It is an absolute grant, taking effect after the date of the grant; and although no legal title, no mere paper title, passed to the State till the patent was drawn, yet the equitable inference is that the title did pass from the General Government to the respective States at the time the bill was signed, as set forth and provided for in the act itself. So stands the law.

Now, sir, take this case as it has already been put by the gentleman from Louisiana, [Mr. JONES.] Suppose the court should hold that an equitable interest has been vested in these States, and that you undertake here, as the gentleman from Virginia [Mr. LETCHER] proposes by his substitute, to give a title to the individual purchaser, what do the parties gain by it? What do they take by that piece of parchment, if the Supreme Court should hold in conformity with the opinion expressed by the Department, as illustrated by the gentlemen from Tennessee and Louisiana, [Messrs. STANTON and JONES,] and justly, too, in my opinion? If the Supreme Court should entertain the same opinion, what would an individual purchaser take, under that act, beyond the mere parchment and paper title? Now, in order to avoid this difficulty, and to comply with the requisition of the Land Office, you must provide for an agreement, on the part of the respective States, to this very act. That is an important part of the case.

Mr. HENN. I wish to ask the gentleman from Ohio one question, for information. It is, whether or not the applicant for a patent would acquire any title under this swamp act?

Mr. DISNEY. No.

Mr. HENN. I would, then, ask the gentleman whether any of the States have accepted the grant by legislative act?

Mr. DISNEY. I presume they all have.

Mr. HENN. I presume they have not, as I never heard of any of them having done so.

Mr. DISNEY. Now I come back to the question. There is but one solitary point in the whole of this controversy. It can all be reduced to the one point: and that is, what arrangement will you make by which the parties in possession of claims —individual parties—can have their titles secured to them, and the State shall be at the same time protected? If you do not make such an arrangement as will effect both these purposes, you will only lead to litigation, for no act of Congress can divest parties of the legal rights vesting in them.

Mr. LETCHER. We have had some rare law laid down here to-day. [Laughter.] The gentleman from Ohio, [Mr. DISNEY,] lays it down as a settled law of the country, that a grant or gift is to be construed strictly against the grantor. Now, I should like to know where the gentleman got his law from? I should like to know where he ever saw such law written in any law book? I should like to know another thing: I should like to understand this confusion about terms, which seems to be running through his head, and through the head of my friend from Tennessee, [Mr. STANTON,] about legal, equitable title, as he calls it. Now, what sort of a title is a "legal, equitable title?"

Mr. STANTON, of Tennessee. I have not made use of such a term.

Mr. LETCHER. I understood the gentleman from Tennessee to have spoken of "legal equitable titles."

Mr. STANTON. I have not used such a term.

Mr. LETCHER. Then I beg the gentleman's pardon. I certainly heard it from somebody on that side of the House. But I will just take the question as it is. The gentleman from Tennessee, [Mr. STANTON,] and the gentleman from Ohio, [Mr. DISNEY,] say that these States had an equitable title to these lands from the 28th of September, 1850, when the bill was passed. That is their proposition. Now, before the State knew anything about this matter, A B goes into the State of Arkansas, for instance, and locates six hundred and forty acres of the public lands, and pays for it, where is the equity title then? Here there is equity in both the State and the purchaser. There is equity in the State under the provisions of the act, and there is equity in the individual by the purchase of the land and the payment of the money for it. Now where is the superior equity in this case?

Mr. STANTON. In that case I have no doubt that the existence of this public law giving the swamp lands to the State of Arkansas ought to be known to the party purchasing, and he would have no equity.

Mr. LETCHER. He would have no equity! Here is the case of a man who pays his money for his land. The State does not know that it has a particle of title to the lands at the time of the purchase. The State has no evidence of title. Now when this law comes to be executed, how is the matter to be decided? Who has the superior equity, the State which has been given the lands by the Government, or the individual who has purchased his land and paid his money for the title? What is the next equity in the case? To give to the State which claims her property, the money received for it by the General Government. That is the equity due to the State. Is it not so?

Then here is another point in this matter; and when you come to settle the controversy, how are you going to get at it: A man goes into Alabama and locates six hundred and forty acres on dry land, and Alabama comes into court and swears it is a swamp. [Laughter.] Now what becomes of the equity here, as it has been laid down? My bill just presents this case as it ought to be, according to the ground taken by the Commissioner of the General Land Office. It meets all the cases of equity exactly as they occurred; and all these questions occupy precisely the position that they ought to occupy. Then, I should like, when the controversy arises, to see the agent of Alabama coming into this equity controversy, and undertaking to prove that this dry land was a swamp, and unfit for cultivation, too. I would like to see him swear that; and yet we are to come to the conclusion here that the man who goes to buy land, who had sense enough to enable him to accumulate money to buy land, locates his land in a swamp unfit for cultivation.

Mr. STANTON. I would like to say a single word in explanation. By the construction of levees along the margin of the river, much of the land which had been swamp, and unfit for cultivation, has been completely reclaimed. They have been made very valuable, and persons would be very glad to enter on them where the levee is made, or where there is a great probability that the levee will be made.

Mr. LETCHER. I take it that, if a man went there to get land, and found levees made along the river, he would be very likely to enter.

Mr. STANTON. By the raising of levees, lands within ten miles from the river, which may have been swamp, and unfit for cultivation, may be reclaimed, and may be entered.

Mr. LETCHER. I do not know that. We generally find that settlers run a long way from swamps.

Mr. STANTON. There are sometimes twenty miles reclaimed that have been covered with water.

Mr. LETCHER. Why, for that matter, the whole country was undoubtedly under water at one time, and might as well be claimed under the swamp act.

The question was then taken on the amendment offered Mr. DISNEY, and it was not agreed to.

Mr. WELLS. At the end of the first section I move to add the following proviso:

Provided, That in the construction of said act, it shall be construed as vesting the title to swamp and overflowed lands in the States in which they lie at the date of the approval of said act.

It seems to me, that some of the gentlemen who have participated in this debate do not understand the provisions of this bill, or else I do not. It is a matter of some importance, that the title of lands in the new States should not be disturbed. There are quite as many owners of these lands residing in the new, as in the old States. The object I propose by the amendment I offer, is to settle the question, at what particular date the title to these swamp lands vest in the States in which they lie. The Commissioner of the General Land Office, as I understand, has decided that the title vests at the date of the approval of the act, and all the States interested have acted upon that decision. The Secretary of the Interior has approved of that decision. It is now proposed to change that decision, and to make the title to these lands vest from the date of the issue of the patent. Any gentlemen who will reflect for a moment upon the matter, will see the great confusion into which land titles will be thrown by the passage of this provision in the bill, because the titles to these swamp lands will be of different dates. There should be some certain day fixed upon which the title to these lands should vest in the States where they lie. It is clear to my mind, that the decision made by the Commissioner in regard to this matter is the only true and proper one which should govern in the matter.

Mr. WASHBURNE, of Illinois. I understand the point made by my friend from Wisconsin, and for which he provides by his amendment, to be this: that he wishes Congress to settle the date at which the title to these swamp lands shall vest in the States in which they lie. That is a matter, I think, to be settled by the courts, the proper tribunals to decide this matter. If you vest the purchaser his title to these lands by patent, and if the State claims them, under and by virtue of the act of September, 1850, let the State institute a suit against the settler, and give the settler his patent title for him to come in and defend upon, and in that way you will settle the difficulty by the only legal and competent tribunal of the country.

Mr. WELLS. The very question that the gentleman from Illinois has made is the one that I wish to avoid. I do not wish to carry this question into the courts, but I wish to provide for the difficulty I have suggested in such plain and clear language that we need not go to the courts. If I make a present or gift of a tract of land to the gentleman from Virginia, and send him a deed, which he should not receive for a month afterwards, but which he then accepts, the title passes from me at the date of the gift. And so it ought to be in this case, and the Commissioner has decided that the title to these swamp lands should vest at the date of the approval of the act. The amendment I have offered is designed to settle that question and prevent its being again raised. If it is the intention of the committee to settle the titles to these lands, why let us have it done at once. The effect of the amendment I have introduced is to establish a clear and definite time at which the titles to these lands shall vest in the States in which they lie, and to confirm and corroborate the decision already made by the Commissioner of the General Land Office. I hope, therefore, that it will be adopted by the committee.

Mr. HOUSTON. I am opposed to the amendment of the gentleman from Wisconsin. I hope the bill now under consideration will be disposed of this evening, for to-morrow and the next day the Private Calendar comes up, and on Tuesday next we are to have a special order, so that if this bill is not acted upon finally to-day, there is no telling when it may receive action.

The question was then taken on Mr. WELLS's amendment; and it was rejected.

The question was then taken on Mr. LETCHER's substitute; and it was adopted.

Mr. HOUSTON. I move that the committee rise, and report the bill, with amendments, to the House.

The question was taken; and it was decided in the affirmative.

So the committee rose, and the Speaker having resumed the Chair, the Chairman reported that the Committee of the Whole on the state of the Union, had had the Union generally under consideration, and particularly House bill No. 9, being a bill for the "relief of purchasers or locators of swamp and overflowed lands," which they had directed him to report to the House with an amendment.

Mr. WASHBURNE, of Illinois, moved the previous question, which was seconded, and the main question ordered.

The amendment of the Committee of the Whole on the state of the Union was concurred in, and the bill, as amended, was then ordered to be engrossed and read the third time, and having been engrossed and read the third time, was passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

ORGANIZATION OF THE ARMY.

Mr. FAULKNER. I ask the unanimous consent of the House to permit me to make a report from the Committee on Military Affairs, of a bill "for the increase and better organization of the Army, and for other purposes." My object is simply this: I desire to have this bill reported, in order that it may be printed, and thus afford every member an opportunity to read it. It has been most carefully and elaborately prepared, and if I am allowed to report it now, I will then ask to have it recommitted to the Committee on Military Affairs.

Mr. HOUSTON. I understand the gentleman proposes to have the bill ordered to be printed, and then to recommit it to the same committee.

Mr. FAULKNER. That is all.

Mr. HOUSTON. I have no objection to that.

The bill was then read a first and second time by its title, as follows, viz:

A bill for the increase and better organization of the Army, and for other purposes.

Mr. FAULKNER. I now move that the bill be recommitted to the Committee on Military Affairs, and that it be printed.

The motion was agreed to.

Mr. HOUSTON moved to reconsider the vote by which the bill was recommitted, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

JESSE BARTLETT.

On motion by Mr. WASHBURN, of Maine, it was

Ordered, That leave be granted to withdraw from the files of the House the petition and papers of Jesse Bartlett, for the purpose of reference in the Senate.

And then, on motion by Mr. WHEELER, at three o'clock and thirty-five minutes, the House adjourned until to-morrow, at twelve o'clock, m.

IN SENATE.

FRIDAY, *January* 5, 1855.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

PETITIONS, ETC.

Mr. SUMNER presented a memorial of the Board of Trade of Boston, Massachusetts, praying that the Secretary of the Navy be empowered to send one or two ships to the Arctic seas, for the purpose of rescuing Dr. Kane and his gallant crew; which was referred to the Committee on Naval Affairs.

Mr. FESSENDEN presented the petition of Daniel Littlefield, one of the heirs-at-law of Daniel Littlefield, an officer in the revolutionary army, praying that the seven years' half-pay to which

his ancestors were entitled may be paid to the heirs-at-law; which was referred to the Committee on Revolutionary Claims.

Also, the petition of Joseph Colby, son and administrator of Ebenezer Colby, a soldier of the Revolution, praying to be allowed the difference between the amount of pension to which his father was entitled and that which he actually received; which was referred to the Committee on Revolutionary Claims.

Mr. MALLORY presented the petition of Irene G. Scarritt, widow of Jeremiah M. Scarritt, an officer in the Army of the United States, praying a pension; which was referred to the Committee on Pensions.

Mr. JONES, of Iowa, presented a petition of citizens of Iowa, praying the establishment of a mail route from Hartwick, in Delaware county, to Marion, in Linn county, Iowa; which was referred to the Committee on the Post Office and Post Roads.

Mr. RUSK presented the petition of James Myers; which was referred to the Committee on Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. SUMNER, it was

Ordered, That the petition of Lucretia Barton, of Charlestown, Massachusetts, on the files of the Senate, be referred to the Committee on Public Lands.

ADDITIONAL CIRCUIT IN CALIFORNIA.

On motion by Mr. GWIN, the bill heretofore introduced by him in addition to an act approved March 3, 1837, and entitled "An act supplementary to an act entitled 'an act to amend the judicial system of the United States,'" was referred to the Committee on the Judiciary.

PRIVATE BILLS.

Mr. STUART. I will inquire of the Chair whether to-day is not set aside by the rules for the consideration of private bills?

The PRESIDENT. The resolution adopted at the last session, setting apart Fridays for private bills, the Chair is under the impression, does not extend to the present session; and no order has been made to that effect at this session.

EXTENSION OF THE BOUNTY LAND LAWS.

Mr. BRODHEAD. I hope we shall proceed with the bill which was under consideration yesterday, in regard to bounty lands. I think it can be disposed of in a very short time this morning, and I hope that my friend from North Carolina [Mr. BADGER] will, on a little reflection, see the propriety of withdrawing the amendment which he proposed. We all desire to have some bill passed on the subject, but many Senators object to having the one which is before the Senate further enlarged in its provisions. I submit this remark for the consideration of Senators, in case the bill should be taken up.

MILITARY ACADEMY BILL.

On motion by Mr. HUNTER, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives, making appropriations for the support of the Military Academy for the year ending the 30th of June, 1856; which had been reported from the Committee on Finance with amendments.

The first amendment was, in the clause "For expenses of the Board of Visitors, $3,000," to strike out "$3,000," and insert "$4,160."

Mr. HUNTER. That is according to estimate. The number of visitors has been increased by law, making that increase of appropriation necessary.

The amendment was agreed to.

The next three amendments were, to insert in the bill, the following, which were agreed to:

For repairs and additions to the professors' quarters, $5,000.

For furnishing hospitals for cadets, $500.

For gas-house and apparatus, $15,000.

The next amendment was to insert:

For deficiency for expenses of the Board of Visitors for the year ending the 30th of June, 1855, $688 52.

Mr. HUNTER. That deficiency arose in this way: An additional member was appointed, and of course more money was required than had been appropriated. While I am up, I will also state that there is another deficiency, for which an amendment is reported, arising out of an increase of pay made by an act passed at the last session, after the estimate was sent in, and the Military Academy appropriation bill was passed.

The amendment was agreed to.

The next amendment was to insert:

For additional pay allowed to enlisted men, employed on extra duty, as mechanics and laborers, per act of 4th of August, 1854, for the year ending 30th of June, 1855, $2,868 40.

The amendment was agreed to.

Mr. HUNTER. The amendment which I now offer, on my own responsibility, is in pursuance of estimate. It is a small affair, but I have not had time to consult the committee in regard to it. It is to insert "For cavalry instruction, $200." The object is to enable the Secretary to separate the cavalry and artillery instruction.

The amendment was agreed to.

Mr. SHIELDS. I offer the following amendment, from the Committee on Military Affairs:

SEC. —. *And be it further enacted*, That hereafter the yearly allowance of the professor of French and Spanish, and of the professor of drawing, shall be the same as is now allowed to other professors.

The amendment was agreed to.

The bill was reported to the Senate as amended. The amendments were concurred in, and ordered to be engrossed, and the bill was ordered to a third reading. It was read a third time, and passed.

THE BATTLE OF NEW ORLEANS.

In consideration of the fact that Monday will be the 8th of January, the anniversary of the battle of New Orleans, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Tuesday next.

INTERNAL IMPROVEMENT BILLS.

Mr. CASS. I give notice to the Senate, that after the bill of the honorable Senator from Louisiana, [Mr. SLIDELL,] to remove the obstructions to navigation at the mouths of the Mississippi, which is the special order for Tuesday next, shall be disposed of, I shall ask them to consider the bill reported by my colleague, from the Committee on Commerce, to continue the improvement of the St. Clair Flats.

Mr. DODGE, of Iowa. I give notice that, on the same occasion, I shall move to take up the bill making an appropriation for continuing the improvement of the Des Moines and Rock river rapids in the Upper Mississippi.

Mr. SLIDELL informally submitted an amendment to the bill to remove obstructions to navigation in the mouths of the Mississippi river, at the Southwest Pass and the Pass a l'Outre; which was ordered to be printed.

EXTENSION OF THE BOUNTY LAND LAWS.

On motion by Mr. BADGER, the bill "in addition to the several acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States" was taken from the table.

Mr. CASS. I wish to vote for that bill if I possibly can; but I will state to the Senate, that my honorable colleague has addressed the Commissioner of Pensions and the Commissioner of the General Land Office for some information, which may be important to us in order to make an estimate of the extent to which we are going by the passage of the bill. As its object is not to provide for the payment of a debt, but to make a gratuity, it is very proper to know the amount involved in it. My colleague has taken measures to procure information as to the bearing of the bill, the nature of evidence which will be required under it, and other circumstances necessary in order to enable the Senate to act advisedly on the subject; I should, therefore, be obliged to the honorable Senator if he would consent to postpone the bill until Tuesday. It has assumed such a shape that it is difficult to tell its bearing. I want information in regard to it. I move to postpone the further consideration of the bill until Tuesday.

Mr. BRODHEAD. I have so much confidence in the judgment of the distinguished Senator from Michigan, that, knowing him to be a sincere friend of the measure, I yield to his suggestion.

Mr. ADAMS. There is a special order for Tuesday, which I do not wish to have superseded by this bill.

Mr. STUART. This postponement will not interfere with the Senator's bill.

Mr. ADAMS. Very well.

The PRESIDENT. The bill to which the Senator from Mississippi refers, was first made the special order for Tuesday, and will, therefore, have precedence.

The motion to postpone was agreed to.

SWAMP LANDS.

A message from the House of Representatives, by Mr. MCKEAN, Chief Clerk, announced that the House had passed a bill for the relief of purchasers and locators of swamp and overflowed lands.

The bill was read twice by its title, and referred to the Committee on Public Lands.

JUDICIAL SYSTEM.

On motion by Mr. BUTLER, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill, reported by him from the Committee on the Judiciary, to modify and amend the judicial system of the United States.

The bill provides, that from and after its passage, the Justices of the Supreme Court of the United States shall not, as heretofore, be required to perform circuit duty, but shall continue to have and exercise the same jurisdiction and powers now vested in them by law, within any of the circuits in which they may reside, in allowing writs of habeas corpus and of error, granting injunctions, and doing all other acts which may be done at chambers and out of term. Hereafter two terms of the Supreme Court are to be held annually at the seat of Government, one commencing on the first Monday in November, and the other on the first Monday in May.

The district courts of the United States, and the judicial districts, are to remain as now by law established; but the districts are to be divided and arranged into circuits, as follows: The first circuit is to comprise the several judicial districts within the States of Maine, New Hampshire, Massachusetts, and Rhode Island; the second circuit, those within the States of New York, Connecticut, and Vermont; the third circuit, those within Pennsylvania and New Jersey; the fourth circuit, those in Delaware, Maryland, and Virginia; the fifth circuit, those in North Carolina, South Carolina, Georgia, and Florida; the sixth circuit, those in Alabama, Mississippi, and Louisiana; the seventh circuit, those in Arkansas and Texas; the eighth circuit, those in Tennessee, Kentucky, and Missouri; the ninth circuit, those in Ohio, Indiana, and Michigan; the tenth circuit, those in Illinois, Wisconsin, and Iowa; and the eleventh circuit, the judicial districts in California.

Provision is made for the immediate appointment of ten circuit judges, one to be appointed for, and to reside in, each of the first ten circuits, and an eleventh circuit judge is to be appointed so soon as any other State on the Pacific coast shall have been admitted into the Union, and a judicial district or districts organized therein, to be comprised in the same circuit with California. These circuit courts are to be invested with all the jurisdiction and powers now exercised by the present circuit courts of the United States.

The circuit courts of the United States, it is provided, shall consist of the district judge of the respective district and of the circuit judge of the circuit; but if the district judge, by reason of a lawful impediment, shall not be able to attend the circuit court, it may be held by the circuit judge alone; and in case there is a lawful impediment to prevent the attendance of the circuit judge of the circuit, an adjoining circuit judge is to hold the court. All actions are to be transferred from the present circuit courts to those established by the bill; and their clerks are to continue until others are appointed in pursuance of law.

Each person appointed a judge of any circuit court established by the bill is, before he shall begin to exercise the duties of his office, to take the following oath, or affirmation: "I, A B, do solemnly swear (or affirm) that I will administer justice without respect to persons, and will do equal right to all persons, and will, in all things, faithfully and impartially discharge and perform all the duties incumbent on me as a circuit judge of the United States." Each judge is to receive a salary of $4,000 a year.

Mr. BUTLER. Mr. President, I propose at this time to make but very few remarks in relation to this bill. It comes before the Senate under circumstances well calculated to give it a fair, full, and faithful attention. Under a call made by a resolution introduced, I think, by the honorable Senator from Delaware, [Mr. CLAYTON,] the

President of the United States was, early in the last session, requested to present some plan for the reform and modification of the Federal judicial system. The President responded to that call, and his message set forth what is apparent, I think, in every part of the United States, that the present judicial system is inadequate to the wants and interests of the country. The Attorney General, representing the President, has made a very full and luminous report on this subject; but the committee were not satisfied entirely to adopt the suggestions of that report, but have had resort to various sources of information. Here I will say frankly, that we have thought it proper to consult very freely with the Judges of the Supreme Court, believing that they could give us information, and that their opinions were entitled to weight which could be derived from scarcely any other source. I know that heretofore it has been thought, somewhat in a spirit of jealousy, that the legislative department should conduct its proceedings independently of the departments who might be affected by its legislation. I have thought otherwise, and have not hesitated to consult freely the Judges of the Supreme Court. The result has been this bill. It is not exactly the bill which was presented by the President, nor is it the bill which I, individually, as a member of the Judiciary Committee, would entirely approve. I had a different idea myself, and I should have been willing to frame a bill of a very different character from this; but any other bill than such a one as that which has been prepared by the committee, and is now before the Senate, will, I believe, have no favor in the country.

I will state, summarily, the provisions of the bill. It makes a change, very essential in the estimation of some gentlemen. We propose to confine the business of the Supreme Court to one appellate tribunal, and to create eleven circuits, as they are described in the bill, throughout the United States; with a provision that a circuit judge shall be appointed to perform the duties of each circuit, leaving the district system very much as it is; or, in other words, not interfering materially with the jurisdiction of the district judges. To invert the statement: we leave, as the basis of the system, the district courts very much as they are at present, to perform the duties coming within their peculiar jurisdiction, with this qualification, that the district judge is to form a part of the circuit court when the circuit judge goes round, and, in that respect, they will form together one tribunal. Appeals are to be carried from this tribunal, composed of the district and circuit judge, directly to the appellate tribunal known as the Supreme Court. We have thought we were fully justified in this proposition by the clause of the Constitution by which we have attempted to guide our action. That clause of the Constitution, it seems to me, fully authorizes the change which, apparently, we propose to make in the judicial system of the United States by this bill. The clause is in these words:

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office."

We have by this bill, in conformity with the terms of this provision of the Constitution, provided for "one Supreme Court;" and that is the present Supreme Court consisting of the same number of judges now on the bench. They will hereafter, according to this bill, not be required to perform circuit duty; but will still be allowed, within the circuits in which they reside, or in any place where they may be found, to grant writs of *habeas corpus*, *mandamuses*, and all such writs as may fairly be issued at chambers. With respect to these *ex officio* writs, if I may so call them, their jurisdiction is not to be interfered with. They are not required hereafter to perform circuit duty, but are to confine themselves to the jurisdiction of an appellate tribunal. In this respect we have thought that we have consulted and carried out the true meaning of the Constitution, which provides that there shall be "one Supreme Court." It is not my purpose now to go into the various reasons why that is preferable to any other system, because there might be a difference of opinion on that subject; but I may be allowed to allude to the necessity of some such arrangement.

It is now very apparent, from the number, the magnitude, and the importance of the cases which are carried into the Supreme Court already, that it is impossible for the judges constituting that court to perform any other duties than those properly pertaining to that tribunal; in other words, they cannot, consistently with the duty of appellate judges, perform the duty of circuit judges. More especially will this appear to be the case if California shall have a circuit judge, to constitute a part of this tribunal; for no judge could go to California and ride circuit there part of the year, and then come back here and sit as one of the judges of this appellate tribunal. The same remark will apply to Oregon and New Mexico, and those other distant Territories which are likely to grow into States. You will have to consult, therefore, the necessities of the case, and separate the duties of a circuit judge from those which pertain strictly and exclusively to a Judge of the Supreme Bench.

I know it may be startling to some gentlemen that we have proposed to create ten or eleven additional judges, with a salary of $4,000 a year. I am one of those, Mr. President, who do not look at the amount of money which may be necessary to carry out a system of Government which will advance the public justice of the country. I will not deny justice to Texas, or to California, or to Oregon, or to Michigan, or to Missouri, or to Florida, or to Illinois, and other States, because we are afraid to appropriate an amount of money necessary to employ judges adequate to give dignity to the tribunals in which they preside. I know that a different view has prevailed with some who have supposed that we might elevate the district judges, and convert them into circuit judges, leaving them to perform the duties of the present circuit judges, and allow an appeal or writ of error to the Supreme Court. I am utterly opposed to that; but, as I have said, I will not go into any points of controversy on this bill at this time. That is not my object. It is simply my object to present the main features of the bill. When, hereafter, objections are made, as I have no doubt they will be, and amendments are offered, as I have no doubt they will be, I shall give them fair consideration, not in the spirit of an advocate of this bill exclusively. I have no such spirit in conducting this debate.

Let me say to the Senate now, that if it be supposed that any one gentleman can have his system, or such a system as he would approve of individually in all respects, he is very much mistaken. Now, I have always thought that a number of about five to constitute the Supreme bench, with others to constitute circuit judges, would be the best tribunal; but I know my original opinion on this point will not be acceded to. I have consulted freely with the Supreme Court, and I do not hesitate to say, that the opinion is, that it has now become so far a political tribunal—not in the proper sense of the term "political," but political questions have so far made their way into that court that it has to be a judicial representation of the different parts of the United States. Every part of the United States is claiming a right to have a judge, a judicial representative, upon that bench. I regret it; but this feeling exists to such an extent, that I believe, considering the diversity of interests, and I may say, the great sectional prejudices that prevail in different parts of the United States, five judges from one section would not give satisfaction to another, in administering the justice of the country, even if they were angels.

Therefore, sir, there are two considerations involved; justice must not only be administered according to law, (for that is not always sufficient,) but it must be administered in a mode and process likely to be satisfactory to the parties concerned, and to the different sections of the country whose interests may be involved, particularly if they have a political complexion. The advantage of having this tribunal sit here, and here alone, is an important one; and I should prefer it *per se*. I wish to have cases come before the Judges of the Supreme Court in such a manner that their minds shall be perfectly prepared to give them a fair consideration, unaffected by local feelings or influences. In other words, I wish them to stand here guarded by the law and the Constitution of the country; so that prejudices, which might affect a local tribunal, could be discarded, and the judges of this appellate tribunal be in a position where they could be neither insulted nor accused of yielding with too much facility to prejudices of a local character. I think, sir, in that respect, it would be an advantage to have a strong court. Perhaps, to make it a strong court in the sense in which I speak, it would be necessary to have a number upon it capable of sustaining themselves. The opinion is that a smaller number than the one we provide, would not be enough for self-support. That is one of the reasons which reconciled me to have eleven circuit judges, for I believe my friend from Connecticut [Mr. TOUCEY] is authorized to offer an amendment to give a judge to California, which will make eleven circuit judges.

I wish the Senate distinctly to understand that eleven circuits are to be created, and that these eleven circuit judges have nothing to do with the Supreme Court, but that they decide on their individual responsibility within their circuits in connection with the district judges, and that their judgments are to come up here for review, either by appeal or writ of error, so that the main feature of this bill is that, in conformity with the Constitution, we are constituting "one Supreme Court," and when we speak of creating eleven other courts, they are such "inferior courts" as Congress has the right to constitute under the clause of the Constitution to which I have referred. There is authority for it in the Constitution. We have made provision to carry out the very language of the Constitution.

I shall not now allude to the amendment which is to be proposed by my honorable friend from Illinois, [Mr. DOUGLAS,] because I have no doubt he will present his own views on it. I shall reserve, however, to myself the right of replying to the different views presented, not, as I stated before, at all in the spirit of controversy, for I do not stand in relation to this bill in the position of its exclusive advocate. I wish some bill to pass which will satisfy the demands of the country. I have alluded to the amendment of the Senator from Illinois. It contains one feature which the Senate will have to consider. The essential feature of his proposition, in contradistinction from the bill submitted by the committee, is to elevate the district judges and convert them into circuit judges, or, at least, give them the jurisdiction of circuit judges, with another provision, to have a tribunal composed of one Judge of the Supreme Court and the different district judges comprised in a circuit, as an intermediate tribunal with appellate jurisdiction, to hear cases within the different circuits from which appeals are to come to the Supreme Court of the United States. In one respect we agree; that is, to have one separate court of appeals. In the other respect, we differ. The committee discard from the plan submitted by them this intermediate appellate tribunal, through which cases shall pass before coming to the Supreme Court. That is the essential difference between the systems.

I have no particular partiality for this bill of the committee; I only say to gentlemen, that I believe it is the only bill which can be passed, and it is one which can very well receive my vote. I have presented the general view; I leave others to submit such amendments as they may think proper.

Mr. DOUGLAS. Mr. President, I rise for the purpose of offering, as a substitute for this bill, an amendment, of which I gave notice at the last session of Congress, and which has been printed. I do not propose to discuss the question now. I simply submit the amendment as a substitute. I suppose the order of proceeding will be, first, to go through with the bill reported by the committee, and perfect it, section by section. After that bill shall have been gone through with and perfected, the substitute can be considered and perfected, section by section, and then the vote can be taken on striking out all of the bill after the enacting clause, and inserting the substitute. My object is to give a fair opportunity for putting the bill of the committee in the shape in which it is to be submitted to the Senate, before taking the vote on my proposition. When we come to that point, I shall submit a few remarks in explanation of the principles of the amendment which I offer as a substitute.

The amendment is to strike out all after the enacting clause, and insert the following:

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. TUESDAY, JANUARY 9, 1855. NEW SERIES.....No. 13.

That, until otherwise provided, the judicial districts, and the times and places for holding the district courts of the United States, shall be the same as now provided by law: and the said district courts respectively shall, in addition to their jurisdiction under existing laws, have, and are hereby invested with, all the jurisdiction and powers now exercised by the present circuit courts of the United States; and that all actions, suits, process pleadings, and other proceedings, of what nature or kind soever, depending or existing in the present circuit courts of the United States, except as hereinafter provided, shall be, and hereby are, transferred and continued over to the respective district courts as provided in this act, in which such actions, suits, process or other proceedings ought, by law, to have been originally instituted, had this act been in force at the time of the inception of any such action, suits, or other proceedings; and no process issued, or proceedings pending in any or either of the said courts, shall be avoided or impaired by any change of organization made by this act, but all process, bail bonds, or recognizances, returnable at the next term of any or either of the said courts as now by law established, shall be returnable and returned to the terms of the said district courts respectively, next held according to this act, in the same manner as if so made returnable on the face thereof, and shall have full effect accordingly, and all continuances may be made to conform to the provisions of this act.

SEC. 2. *And be it further enacted*, That there shall be, and are hereby, constituted within the limits of the United States, nine judicial circuits, as follows:

1. The States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and Vermont, shall constitute the first circuit;

2. The States of New York, New Jersey, and Pennsylvania, shall constitute the second circuit;

3. The States of Delaware, Maryland, Virginia, and North Carolina, shall constitute the third circuit;

4. The States of South Carolina, Georgia, Alabama, and Florida, shall constitute the fourth circuit;

5. The States of Mississippi, Louisiana, Arkansas, and Texas, shall constitute the fifth circuit;

6. The States of Tennessee, Kentucky, Ohio, and Indiana, shall constitute the sixth circuit;

7. The States of Illinois, Michigan, Wisconsin, and Iowa, and the Territory of Minnesota, shall constitute the seventh circuit;

8. The State of Missouri, and the Territories of New Mexico, Kansas, and Nebraska, shall constitute the eighth circuit;

9. The State of California, and the Territories of Oregon, Washington, and Utah, shall constitute the ninth circuit.

SEC. 3. *And be it further enacted*, That there shall be held in each of said circuits, once every year, a court of appeals, to be composed of one of the justices of the Supreme Court, and of all the district judges in the respective circuits, and also of the chief justice of each Territory, in all cases where any Territory or Territories shall be included within the circuit. A majority of said justices and judges in their respective circuits shall constitute a quorum for holding said courts, in which the Justice of the Supreme Court of the United States shall preside, and in case of his absence, the oldest district judge in commission present shall preside; in the event there shall not be a quorum present on the day appointed by law for the opening of the court, the judges present shall be authorized to adjourn the court from day to day until a quorum shall appear, and if there shall be no quorum within — days from the first day of the term, they may adjourn the court until the next regular term, or until such day as they shall designate by an order upon the record; and in either case all causes shall be continued, and pleas and process stand over without prejudice to parties.

SEC. 4. *And be it further enacted*, That appeals and writs of error shall lie from each district court to the said court of appeals of their respective circuits, and also from the supreme court of any Territory to the said court of appeals, in all cases where a Territory shall be included within such circuit, in the same manner that appeals and writs of error now lie from the circuit courts to the Supreme Court of the United States; and the said court of appeals shall have power to hear and determine all writs of error and appeals that may be prosecuted from the district courts, in cases where appeals and writs of error now lie from the district courts to the circuit courts, and also in all cases where appeals and writs of error now lie from the supreme courts of Territories to the Supreme Court of the United States; and said appeals and writs of error shall be brought up and prosecuted in the said court of appeals, in the same manner and according to the same laws and regulations that now govern the circuit and district courts of the United States; and all appeals and writs of error now pending in the circuit courts shall be transferred to and prosecuted in the said courts of appeal, without prejudice to the parties, and in the same manner as if such appeals and writs of error had been taken subsequent to the period when this act shall take effect. The said courts of appeal shall have the same power and jurisdiction to hear and determine appeals and writs of error coming before them under the provisions of this act that the Supreme Court of the United States has to decide cases within its jurisdiction; and the same writs, process, modes of proceeding, and rules, that govern the Supreme Court, so far as they may be applicable, shall be in force and use in the said courts of appeal.

SEC. 5. *And be it further enacted*, That it shall be the duty of the Supreme Court, on or before the first day of January of each year, to assign to the several circuits the Justice of the Supreme Court who is to preside in the court of appeals in such circuit, and in the performance of this duty it shall be so arranged, unless there are special reasons for making an exception to the general rule, that each of the Justices of the Supreme Court shall, in turn, preside in the court of appeals for each circuit in the order of the number of the circuits, to the end that each of the Justices of the Supreme Court shall preside in the court of appeals for each of the circuits once in nine years, and that, in no event, shall any of the said justices preside in the same circuit two terms in succession.

SEC. 6 *And be it further enacted*, That the terms of the court of appeals shall be held annually in the several circuits, as follows:

1. In the first circuit at ————, on the —— day of ——.
2. In the second circuit at ————, on the —— day of ——.
3. In the third circuit at ————, on the —— day of ——.
4. In the fourth circuit at ————, on the —— day of ——.
5. In the fifth circuit at ————, on the —— day of ——.
6. In the sixth circuit at ————, on the —— day of ——.
7. In the seventh circuit at ————, on the —— day of ——.
8. In the eighth circuit at ————, on the —— day of ——.
9. In the ninth circuit at ————, on the —— day of ——.

SEC. 6. *And be it further enacted*, That the said courts of appeal shall have power to issue writs of mandamus and certiorari, and all other writs not specially provided by statute, which may be necessary for the exercise of their jurisdiction, and agreeably to the principles of law and usages of courts; and said courts respectively may, from time to time, adopt rules for the government of their own proceedings in cases before them, and also for bringing up appeals and writs of error from the district courts and the supreme courts of the Territories, which are not inconsistent with the laws of the United States or the rules of the Supreme Court.

SEC. 7. *And be it further enacted*, That in all criminal cases now pending, or which may hereafter be depending in the district courts, the judge who tries the cause, after trial and conviction, may suspend sentence of the defendant, if in his judgment any material difficult and doubtful question of law has arisen in the course of the trial, and he may certify the same to the court of appeals within his circuit, which shall hear and determine the same as soon as may be, giving the question certified preference of civil causes; and which decision of the court of appeals shall be certified by the clerk thereof to the inferior court where the cause is pending, and to which decision the inferior court shall be bound to conform. But the court of appeals shall not be authorized to entertain questions of law certified to them in any civil suit or proceeding; nor shall the Supreme Court of the United States entertain any question certified to it by the court of appeals; nor shall the Supreme Court entertain jurisdiction in any case of an appeal or writ of error where the decree or judgment in the court of appeals was entered *pro forma*, for the purpose of bringing up the case for revision; nor shall a court of appeals send up any case, but leave the party who supposes himself to be aggrieved to bring it up after a final decision, in the ordinary mode.

SEC. 8. *And be it further enacted*, That, from the final judgment and decree of the court of appeals, writs of error and appeal may be brought to the Supreme Court of the United States in all civil cases where the matter in controversy exceeds the sum or value of —— dollars besides costs; and in suits involving the infringement of patents a writ of error or appeal may be allowed by said court of appeals to the Supreme Court, regardless of the amount in controversy, if said court of appeals shall deem it reasonable to allow such appeal or writ of error. And from the final judgment of said court of appeals, in any civil action brought by the United States for the enforcement of the revenue laws of the United States, or for the collection of duties due, or alleged to be due, on merchandise imported therein, a writ of error may be prosecuted by either party to the Supreme Court, without regard to the sum or value in controversy. And when a question is presented in a case where the statute of a State is assumed to have violated the Constitution of the United States, or an act of Congress, and the decision of the question one way might conclude the controversy, such cause may be brought up to the Supreme Court from the court of appeals, if the matter in dispute exceeds the sum or value of two thousand dollars.

SEC. 9. *And be it further enacted*, That the Supreme Court shall have the same powers and jurisdiction over the judgments, decrees, and proceedings of said courts of appeal that it now possesses over the judgments, decrees, and proceedings of the circuit courts. And said Supreme Court shall be governed by the same practice, and process, and modes of proceedings, now in use in bringing up appeals and writs of error from the circuit courts. And the Supreme Court may make and publish, from time to time, rules for the government of the proceedings in the courts of appeal, and also for the regulation of writs of error, and appeals therefrom to the Supreme Court.

SEC. 10. *And be it further enacted*, That writs of error, and appeals from the district and circuit courts to said court of appeals, may be prosecuted at any time within two years from and after rendering said judgment or decree: *Provided*, That the day of rendering the judgment or decree shall be deemed to have been the last day of the regular term at which such judgment or decree was rendered, and which last day shall not be considered in the computation of time. And in cases of judgments and decrees heretofore rendered by a district court, from which a writ of error or appeal would lie to the circuit court, an appeal or writ of error may be brought to the court of appeals within two years from the passing of this act, and not afterwards: *Provided*, That if the party who prosecutes an appeal or writ of error on a judgment or decree hereafter rendered, shall, at the time of rendering said judgment or decree, have been an infant under twenty-one years of age, or a femme covert, or non compos mentis, or imprisoned, in such cases the writ of error or appeal may be prosecuted at any time within two years after the disability is removed. And in cases where appeals or writs of error are prosecuted from judgments or decrees now existing in the district courts, if the party prosecuting the appeal or writ of error is, at the time of passing this act, a femme covert, infant, non compos mentis, or imprisoned, then said writ of error or appeal may be prosecuted at any time within two years after the disability is removed.

SEC. 11. *And be it further enacted*, That in all cases where judgments and decrees have heretofore been rendered in circuit courts, or district courts exercising the powers of a circuit court, and which cases are of a character to be brought up, writs of error and appeals may be prosecuted to the Supreme Court as heretofore, nor shall this act apply to such judgments or decrees.

SEC. 12. *And be it further enacted*, That it shall be the duty of each court of appeals to appoint its own clerk, who shall give bond with two or more securities for the faithful performance of his duties in the manner and amount that the clerks of the circuit courts now do, and a like oath shall be taken, the title of the court only being changed. And said clerks shall be governed in the performance of their duties by the same practice that now governs the clerk of the Supreme Court of the United States; and it shall be the duty of the Supreme Court to prescribe by rules the fees that said clerks shall respectively receive; and until such rules are made and published, said clerks shall receive the same fees and compensation that is now received by the clerk of the Supreme Court, and it shall be his duty to furnish said clerks of the courts of appeal with a printed fee bill for their government, for which service the Supreme Court shall allow their clerk reasonable compensation.

SEC. 13. *And be it further enacted*, That all writs and process, issued by authority of the court of appeals, shall bear teste in the name of the Chief Justice of the Supreme Court, and be governed by the practice and regulations now in force and use, applicable to process, by which writs of error and appeals have heretofore been brought from the circuit courts to the Supreme Court, but final process shall issue from the court below, rendering the judgment or decree, to which a mandate shall issue, according to the practice of the Supreme Court. And in cases taken to the Supreme Court from the court of appeals, the Supreme Court may, at its discretion, direct its mandate to the courts of appeal, or to the district courts, where the cause originated, for the purpose of execution or further proceedings therein.

SEC. 14. *And be it further enacted*, That it shall be the duty of the attorney for the United States of the district where a court of appeals is held, to attend to the causes and interests of the United States in said courts, and to regularly attend the same from day to day, for which service he shall receive the same fees that are allowed in the Supreme Court for similar services, and also ten dollars each day for his attendance on the court. And it shall be the duty of the marshal of the district where a court of appeals is held, to attend the same and provide therefor, as he now attends and provides for the circuit courts held in his district, and said marshal and his deputies and attendants shall receive the same compensation and allowance that is allowed for similar services in the circuit court of said district. And the officers of the court of appeals shall be governed by the same laws and modes of proceeding which govern the officers of the circuit and district courts in cases where fees and compensation are demanded from the Treasury of the United States.

SEC. 15. *And be it further enacted*, That for the purpose of bringing up causes from the district courts to the courts of appeal, and from the latter to the Supreme Court, the Judges of the Supreme Court shall have power generally to allow writs of error and appeals from the courts of appeals to the district courts, and from the Supreme Court to the court of appeals under the same regulations that have heretofore governed said judges, allowing writs of error from the Supreme Court to the circuit court; and the district judges within their respective districts shall have the powers aforesaid in like manner, and to the same extent that the Supreme Judges have it: *Provided*, That appeals may be taken in open court in cases where an appeal will lie; but in such cases a regular citation, signed by a presiding judge, shall be served and returned to the appellate court.

SEC. 16. *And be it further enacted*, That as compensation to the district judges, and to the Judges of the Supreme Court, for holding said courts of appeal, they shall respectively receive the same per diem allowance, and the same mileage for travel to and from said courts, that is now paid to members of Congress for their attendance on the Congress of the United States: *Provided*, That no judge shall receive mileage for attending said court more than once in each year; nor shall per diem compensation be allowed for attendance except when the court is actually engaged in the business of the term; nor shall allowance be made for mileage or attendance if the judge is absent from the term of the court, for any reason whatever.

SEC. 17. *And be it further enacted*, That if a dangerous disease shall prevail at the place of holding any court of appeal at the time when a term commences, a majority of the judges of said court may, by an order to the clerk there-

of, postpone the term to a future time fixed by the order, which the clerk shall publish in one or more newspapers, so as to make the adjournment over generally known. And when it shall so happen that no marshal shall attend a court of appeals or a district court, by himself or his deputy, because of a vacancy, or for any other cause, the court shall have power to appoint a special officer, for the time being, to perform such duties appertaining to the marshal's office, as the court may prescribe by one or more orders of record, and such officers shall act in obedience to the court's orders until a marshal, duly qualified, shall attend in court. And said special officer shall be entitled to the same fees and compensation for the services he may perform, that the marshal would have received had he performed the same service.

SEC. 18. *And be it further enacted*, That all laws, or parts of laws, contrary to or inconsistent with the provisions of this act be, and the same are hereby, repealed.

The PRESIDENT. Amendments to the original bill will be received before taking the question on the proposed substitute.

Mr. TOUCEY. I rise to submit an amendment which was alluded to by my friend from South Carolina, the effect of which is to create an additional circuit in California, and provide for one additional circuit judge. It is to be effected by striking out the word "ten," where it occurs twice in the fourth section, and inserting in lieu of it the word "eleven," and by striking out the words "and an eleventh circuit judge shall be appointed so soon as any other State on the Pacific coast shall have been admitted into the Union, and a judicial district or districts organized therein, to be comprised in the same circuit with the State of California." This alteration would make the section read: "That there shall be appointed immediately eleven circuit judges of the United States, one to be appointed for and to reside in each of the eleven circuits herein first enumerated and defined," &c. I submit this proposition to amend at this time; and I will only say that I submit it in concurrence with the wishes of the Committee on the Judiciary, and with a very strong conviction, in my own mind, that it is indispensably necessary that the additional circuit should be created.

The amendment was agreed to.

Mr. TOUCEY. The adoption of that amendment renders necessary a further amendment in the sixth section, by striking out the word "and," before "tenth," and inserting after "tenth" the words, "and eleventh."

The amendment was agreed to.

The PRESIDENT. If no further amendment be proposed, the bill will be reported to the Senate.

Mr. WELLER. The Senator from Illinois has offered a proposition as a substitute for the bill which has been reported by the Committee on the Judiciary, and I suppose it is exceedingly desirable to ascertain, as soon as possible, whether the Senate approve the plan proposed by the Committee on the Judiciary or not. This would, perhaps, be the proper time for the Senator from Illinois to have a test vote. By doing that, we can ascertain the views of the Senate.

Mr. BADGER. The Senator can have the vote taken in the Senate after the bill shall be reported.

Mr. DOUGLAS. I prefer that action should be taken on my amendment now. It may be that it is not in the precise form in which it ought to be, and it may be necessary to perfect it in detail. If this course be pursued, Senators may be able to see what it is, and suggest any modifications which may be thought desirable.

The PRESIDENT. The question is on the amendment of the Senator from Illinois.

Mr. DOUGLAS. I have been induced, Mr. President, to offer this substitute from a conviction that the plan proposed by the Judiciary Committee will not answer the purposes which they have in view, and will not remedy the evils which they desire to correct. They propose to make a separate Supreme Court, with no other duties than those which are imposed upon the Supreme Court of the United States sitting at Washington alone. Here I differ, *in toto*, with the committee. I think the Supreme Court ought to have other jurisdiction. I think it is for the good of the country, and for the good of that court, that its judges should be required to go into the country, hold courts in different localities, and mingle with the local judges and with the bar. I think that, if the judges of that court be released from all duties outside the city of Washington, and stay here the whole year round, they will become, as a Senator remarked to me a moment ago, mere paper judges. I think they will lose that weight of authority in the country which they ought to have, just in proportion as they lose their knowledge of the local legislation, and of the practice and proceedings of the courts below. I believe, therefore, that the theory of the original plan in which our judiciary system was formed, was right. In consequence of the increase of the judicial business of the country, some modification of that plan has become necessary in order to preserve the same principle, and render it applicable to our present condition.

The plan which I propose in this substitute is simply this: that there shall be no new judges appointed; but, that the duties now performed by the district and circuit courts of the United States in each State shall hereafter be performed by the district judge in that State. According to it, the district judge will hold the district and the circuit court at the same time. Both will be open at the same time; the record of each will be before him, in the same manner as in a court of law with chancery jurisdiction. As both courts are open at the same time, the judge may take up a case on the law docket, or the chancery docket, as may be convenient; so, according to my plan, the district judge could take up a case on the docket of either the district or the circuit court—both courts being held by the same judge.

Then, having released the Judges of the Supreme Court from the necessity of going into every district in each State—and where there are three districts in a State, as in Tennessee, and other States, that must be a great labor—the question is, how much of this local duty can we devolve upon them without depriving them of the opportunity of performing all their duties at the seat of Government? It occurred to me that this point could be settled in the manner which I have proposed in my amendment. That is, to divide the whole United States into nine judicial circuits, and provide that there shall be held, once a year, in each of those circuits, a court of appeals, to be composed of the district judge of each district within the circuit, together with one of the Judges of the Supreme Court of the United States, who should preside. By way of illustration, suppose the New England States should be made one of the circuits. There are, in New England, six United States district courts; and the court of appeals would, therefore, be composed of these six district judges, with one Judge of the Supreme Court of the United States presiding, which would make a court of seven judges. I provide for appeals to be taken directly from the district court to this court of appeals, and then from the court of appeals to the Supreme Court of the United States, with certain restrictions. This illustration would apply to each of the other nine districts, comprehending all the States and all the Territories of the Union.

This system would, it seems to me, have very great advantages, and would remedy several evils which we have known to grow up under our present system. You now find that, in one district the rules of practice are one way, and in another district entirely different. One district judge decides a controverted principle in one way, and another in another way. If all the district judges in a circuit could come together once a year to review their own decisions, it would tend to bring about uniformity of thought and uniformity of practice within those districts. To secure this object, my substitute provides that the court of appeals in each circuit shall prescribe the rules of practice for the district courts within the circuit. You thus infuse uniformity into all the district courts within the same circuit, acting under the same rules; and the consequence would be, that very few appeals would be taken from the court of appeals to the Supreme Court of the United States.

I propose, also, to allow an appeal from the district court to the court of appeals in every case in which it is now allowed by law from the district to the circuit courts; and to allow appeals from the courts of appeals to the Supreme Court, but to fix a higher sum than is now required to be the amount in controversy, to entitle the parties to an appeal from a circuit court to the Supreme Court, so that small cases may stop at the courts of appeal, and none but cases involving large amounts and important principles, be carried to the Supreme Court of the United States.

Then, sir, with a view of remedying other evils which may now exist, I have introduced another principle, derived from the judicial system of some of the States of the Union. It is what is known as the rotatory principle; that is to say, inasmuch as one of the Judges of the Supreme Court is to preside in each of the courts of appeals once a year in each circuit throughout the United States, I require them to rotate; so that, if the Chief Justice presides in district No. 1 this year, he may next year go to district No. 2; and next to district No. 3, and so on until he come to district No. 9, at San Francisco. Then the succeeding year, the next judge highest in commission begins at district No. 1, goes to the second, and the third, and all the other districts. The consequence of this would be, that a Judge of the Supreme Court would not preside in the same circuit over a court of appeals, more than once in nine years. In that way, the foundation of complaints which sometimes are gotten up—probably unjustly, but yet none the less mischievous for being unjust—that there is a *coterie* around the Judge when he goes every year to the same circuit, would be destroyed.

Again, if a judge goes to the New England circuit one year, to the middle States the next year, then through the southern States, then to the western States, and finally to California, he becomes more familiar with the local judicial systems of the whole Union; and inasmuch as the Supreme Court is the final court of appeals from all decisions of the lower courts throughout the land, its judges ought to be familiar, so far as it is possible for them to become familiar, with the modes of proceeding in the various sections of the Union, with the local legislation, and the local laws of all parts of the country.

Now, sir, without meaning any disrespect to any one, but for the purpose of illustrating the practical operation of the principle, I trust I may be permitted to say, that I do not think it would be the slightest injury to Judge Curtis, of Boston, after having practiced law all his life in New England, to hold court for one term in Charleston, South Carolina, and then in New Orleans, and again in Chicago, and then in San Francisco. I think a system which required that, would liberalize the mind, elevate the train of thought, and expand the range of knowledge of any judge, no matter how exalted he might be. On the other hand, I do not think it would do the slightest harm to Judge Campbell, of Mobile, to send him to Boston to hold court, and let him mingle with the people of New England, and the New England bar and judiciary, and become acquainted with the New England character and New England jurisprudence. Let him go the round until he gets back, at the end of nine years, to his own circuit where he resides, and I think he would be liberalized, and improved, and benefited by the trip. The same remark would apply to each one of the judges. They would then have a degree of knowledge of the systems in each State, and of the local jurisprudence of each part of the country, which would be very valuable to them. They would thus become acquainted with the bar all over the Union, and with the sentiments and feelings of the bar, operating upon the rules of practice and the rules of court, and would acquire a knowledge which never could be acquired in any other way.

Entertaining these opinions, I believe that the best system we could adopt would be to take the present system as it is, adding no new judges, or at least not more than one, if an additional judge should be necessary, and I doubt whether one is; leave the district judges to perform their own duties in the district and circuit courts of the United States; constitute the courts of appeals which I have proposed, and allow an appeal from them to the Supreme Court of the United States. Thus, the whole system is harmonious. This plan would never render it necessary, in any expansion of the country, no matter how great, to increase the number of Judges on the bench of the Supreme Court of the United States; but when we bring other States into the Union, or organize other Territories, all we shall have to do will be to attach one of those new States or Territories to one of the existing nine judicial circuits. Then this system is complete. It will adapt itself to any expansion of our country, to any increase of business in all time to come, and I believe it will be harmonious in its action.

I have not been able to look into my proposi-

tion since I drew it up, and presented it informally at the last session. I did not expect it to come up to-day, and therefore cannot go fully into all its details; but there is a special provision in it which I think I ought to notice. In order to give ample compensation to the Judges of the Supreme Court for the extra labor which would be imposed on them by my proposition, in addition to their duties on the Supreme bench, I have proposed to allow them the per diem and mileage of members of Congress, while they are absent as presiding judges in the courts of appeals. If a judge should go only from here to Boston to hold court, the mileage would be but small. If he should go to New Orleans, it would be a very respectable sum; and if he should go to San Francisco, it would be quite a little fortune. I think such a provision would really improve the health of many of the judges, so that they could take a trip to San Francisco without complaining that they would suffer very much by it; though they might find it very unhealthy if some such provision were not made. I also believe it is a matter of justice that they should receive mileage in proportion to their travel. I do not say whether or not the present salary is sufficient. If it is not, increase it. But I say that, in addition to whatever salary you award to them as Judges of the Supreme Court, you should allow them eight dollars a day while holding the appellate courts, and the mileage of members of Congress, while traveling over the country to reach the sittings of those courts. I propose to apply the same principle also to the district judges when they leave their respective districts, and go to a central point in the circuit, to sit in the court of appeals.

I have thus stated briefly the chief provisions of the substitute which I have offered. It has occurred to me, that by this proposition we could avoid many of the evils which we are likely to encounter, by the adoption of the system reported by the Committee on the Judiciary. I have great reluctance, at any time, to make a radical and sudden change in the judiciary of the country. If there is any department of this Government for which I have higher reverence than any other, if there is any department in the purity and stability of which I place higher hopes than any other, it is the judiciary. I would not wish to make any such sudden and radical change in that system, as would infuse into it too many new men at one time. I would allow that infusion of new blood and new life to come into it by the course of nature, simply by filling vacancies when they may occur from time to time. Sir, I think it is unwise to make a change by which all the circuit courts of the Union shall at once be held by new men, perhaps politicians, perhaps lawyers, who have never been upon the bench. It is a thing which ought to be done gradually, so that there shall always be a majority of experienced judges upon each of the benches of the country.

These views, sir, have operated on my mind. I have doubted whether the system proposed by the Judiciary Committee could be adopted, and if adopted, I have had still more serious doubts whether it would remedy the evils intended to be remedied by those who have brought it forward. But, sir, not being a member of the Judiciary Committee, I have felt great reluctance in interposing my voice on this question. My duties have been such, that I have not been able to give it that consideration which the importance of a subject of this magnitude would require; but still, having these firm convictions on my own mind, I have felt that I owed it to the country, and especially to the bench, with which I have been associated for a small portion of my life, to make these suggestions, in order that the Senate may pass their judgment upon them, and make such disposition of the subject as they shall think proper.

Mr. ADAMS. I do not feel entirely prepared to vote on this substitute. A large portion of the Federal jurisdiction of our courts is a curse, and not a blessing to our people. Aside from maritime jurisdiction, my own opinion is, that generally the jurisdiction of the United States courts is an injury to the people; I refer particularly to cases of suits between citizens of different States. I am convinced, that a man can have as fair a trial in the State courts as in the Federal courts, and with one third or one fourth the expense. I am perfectly willing to vote for any proposition which will relieve the Judges of the Supreme Court from their present circuit court jurisdiction; but I think that to confer circuit court jurisdiction on the district courts of the United States would answer all the purposes of the country. Beyond that I am unwilling to go. I have not had an opportunity of examining the proposition of the Senator from Illinois. I admit that the manner in which he has presented it to the Senate is plausible, and, doubtless, it has very great merit in it; yet, I am not prepared, without a further investigation of the question, to vote on that proposition as a substitute for the original bill; although I cannot vote for the creation of eleven Federal circuit judges, thus extending the Federal power of this mighty Government over the States, and tending to overshadow them. I think, Mr. President, that we should curtail, as far as possible, the powers of the Federal Government within the States. I admit that we should have able judges; and I think we can have able district judges. If the present salaries do not command the best talent in the country, let us increase the salaries of the district judges until we make them respectable. The circuit courts of the different States are held by a single judge. Why not, then, confer on the district judges of the United States circuit court jurisdiction, and give them such salaries as will command the best talent in the country? This occurs to me to be the better plan.

Sir, I have intimated that the Federal courts are courts of oppression in the interior. There we have no maritime cases of which they can exercise jurisdiction. We have no cases for them, except suits between citizens of different States. The idea that a man from another State cannot have as fair a trial in the State courts as in the Federal courts in the State where the defendant lives, when the juries are composed of citizens of the same State, is very fallacious. He can have just as fair, impartial, and proper a trial in the one court as in the other; while, if he is sued in the State court, the cost of the party losing the case is not more than one third or one fourth what it would be in the Federal court. By the existing laws of the United States, the prosecuting lawyer receives a bounty of twenty dollars as a fee for such suits, whereas the attorney in the State courts receives not a cent. Thus, as a bounty to lawyers, men are compelled to pay three or four hundred per cent. more in the Federal courts than they would have to pay if the same suit were brought in the State courts. This is not all, sir. Juries are summoned from one hundred and fifty to two hundred miles, in some cases, to attend the Federal court and try actions of debt. This is a requirement which amounts to almost intolerable oppression in many portions of the country.

Sir, I would rather curtail, if it were possible, the jurisdiction of the Federal courts than extend it. I can see no necessity for having two judges, a district and circuit judge, to preside in one Federal court in the States, when all experience in the State courts has shown that one circuit judge is sufficient. I cannot, therefore, vote for the substitute of the Senator from Illinois, not having examined it sufficiently to satisfy my own mind that it should be adopted even in preference to the original bill reported by the committee. If, however, the vote should not be taken on it to-day, I may come to the conclusion to vote for that as a substitute, though I do not think I could vote for it as a separate bill.

Mr. PRATT. Mr. President, the Senator from Illinois did not advert to one point of the case on which I desire information, and I hope that either he or some member of the Judiciary Committee will give us information on the point to which I allude. The evil now complained of is, that the courts of the United States, as at present organized, and more particularly the Supreme Court, are unable to discharge the onerous duties imposed upon them under existing laws. Now, if I understand the machinery proposed by the amendment of the honorable Senator from Illinois, I do not see that the labor of the Supreme Court will be lessened by the proposition which he has presented. My only object in rising is to ask him to be kind enough to explain, if he has considered the subject, in what way the substitute which he proposes will lessen the labors of the Supreme bench?

Mr. DOUGLAS. I am aware that I was, perhaps, somewhat confused in the brief explanation which I gave this morning, as the matter came up unexpectedly, and therefore omitted many points which ought to have been fully explained. I have turned my attention, however, to the point to which the Senator from Maryland has adverted. It occurred to me that the duties of the Supreme Court of the United States would be materially lessened by the plan which I have proposed in this respect: I have thought that, by having a court of appeals, composed of six or seven judges in the respective circuits, one of the Justices of the Supreme Court presiding, there would be a much less number of appeals taken to the Supreme Court of the United States than there is under the present system. Under the existing system, an appeal from a district court to a circuit court of the United States, is a mere mockery. I do not speak offensively; but I say, in its practical effect it is a mockery; and for this reason: A case is first tried before the district judge, and then an appeal is taken to the circuit court. The circuit court is composed of that same district judge, and one Judge of the Supreme Court of the United States. If, when the case comes up for hearing before the circuit court, the district judge is of the same opinion that he was before, as he probably would be, and the circuit judge differs from him, there would then be no decision, and the case would be certified to the Supreme Court of the United States to decide between them. If, on the contrary, the circuit judge should agree with the judge below, then there would be a decision; but the appeal would have been useless; for it merely led to the affirmation of the opinion below. The consequence is, that whenever there is a difference of opinion between the circuit judge and the district judge, the case is certified to the Supreme Court, and thus you multiply the causes on the docket of the Supreme Court without having accomplished any benefit by the appeal through the intermediate court. But, according to my plan, instead of appealing from the judge below to himself and one other, you appeal to himself and probably six others—and one of those six, a Judge of the Supreme Court of the United States. If they should reverse a decision unanimously, the chances are, that the matter would stop there; or if they should confirm it unanimously, it would probably stop there. If they should be nearly equally divided on a question involving a new or intricate principle of law, or a vast amount of property, the case would probably be appealed. I think, then, that, in the practical operation of this system, there would be very few appeals to the Supreme Court of the United States in comparison to the number there is now.

Again, sir, the system I have submitted will diminish the duties of the Judges of the Supreme Court in another respect. Judge McLean, for example, is the judge assigned to the Northwestern circuit, in which I reside. He is expected to attend to his duties in the Supreme Court here at Washington, and also to preside twice a year in the circuit court in Ohio, twice in Indiana, four times in Illinois, there being two districts there, and twice in Michigan. There are, then, ten terms which he is expected to hold in the courts below in one year, besides attending to his duties in the Supreme Court. I propose, that instead of his holding ten terms of the circuit courts in each year, he shall attend but one term of the court of appeals of a particular circuit. It strikes me that this would materially diminish his duties. If the term of the court of appeals should last for three months—and certainly it could hardly be expected to take up that much time—he would still have nine months for attendance on the Supreme Court here.

My substitute requires the courts of appeals to be held in the nine circuits on the same day; say the first Monday in June, or the first Monday in May. That being the case, the Judges of the Supreme Court would arrange their terms so as to allow them to disperse to their respective circuits at the same time, finish their circuits, and get back here at the same time. I take it for granted, therefore, that, instead of being limited, as they now are, to two or three months every year for their duties here, the Judges of the Supreme Court, under my plan, would have at least nine months to be at Washington, after performing all their duties in the different circuits. In this way, by giving them eight, or nine, or ten months, to be here, instead of three or four months for their

duties in the Supreme Court, and by diminishing the amount of their circuit labors in the mode I have mentioned, they would be enabled to perform all their duties and have, probably, one half the year to themselves.

Mr. CASS. Mr. President, I accord with a good deal that has been said by the Senator from Mississippi, [Mr. ADAMS,] and yet it is not now a question of how much jurisdiction we shall give to the Federal courts. Their jurisdiction is given by the Constitution. We cannot enlarge or diminish it. The question before us is how we can best carry out profitably and properly the jurisdiction granted by the Constitution. My leaning is, and always has been, altogether in favor of sending the Judges of the Supreme Court to the respective circuits, for the reasons so well stated by the Senator from Illinois. Sir, those reasons were stated in Congress fifty years ago, and largely commented on then. It was a question which interested the nation at that time, and it received the attention of Congress. Senators will recollect the history of what is called the midnight judiciary law under Mr. Adams's administration, which was passed on the 3d of March, 1801, just as he went out of office, and by which he put in a large number of judges. One of the first efforts of the administration of Mr. Jefferson was to secure the repeal of that law, and one great ground of objection to it was that it took the Judges of the Supreme Court from proper contact with the bar, and the people of the respective States. I think that principle is worth maintaining still. I hold in my hands the message of Mr. Jefferson to Congress, in December, 1801, recommending the revision of that law. He goes into the details of the reasons why that revision was necessary. I need not read them, for everybody understands them. The result was that those courts were abolished. A great question in that day was, whether judges holding office by the tenure of good behavior could be legislated out of office, as it was called. It was decided that they could, and that has been the established principle of the Government since. You cannot touch the officer so long as the office remains, but you may abolish the office.

I repeat, Mr. President, that, so far as respects myself, I wish to vote for a system that will keep the Judges of the Supreme Court in contact with the people of the respective States. I do not know that the plan of the Senator from Illinois is the best one which can be proposed with that view. I have not examined it for the purpose of ascertaining that. I merely rose to state my impression on this subject, and to recall to the recollection of the Senate the fact that this question was debated, and attracted public attention fifty years ago. It was one of the principal objects which was accomplished, at the first session of Congress, under Mr. Jefferson's administration.

Sir, there was one remark which fell from the Senator from Mississippi, with which I do not agree. I want a court with more than one judge. I never wish to see one judge sit alone on the bench. He is liable to individual prejudices and passions which may be controlled if there be two or three associated with him. What is the expense of one or two judges more or less in the administration of justice in this country? I would not consider it for a single moment. Every day you see instances showing the propriety of having courts of more than one judge. I have lately seen a statement of a strange procedure of a court. It was a case where the court was supposed to be insulted, and there were ebullitions of passion from the judge which were very improper under the circumstances in which he was placed. I would control that by having more than one judge on the bench. I do not say that I would not vote for a bill establishing a court with one judge; but I think that, under any judiciary system of the Union, either State or Federal, there should be more than one judge on the bench.

Mr. TOUCEY. I formerly, Mr. President, concurred very much in the opinion that has been expressed by the honorable Senator from Michigan; but more mature experience and observation have convinced me that the system proposed by this bill, is the true system under the Constitution, and to meet the wants of the country. It is, to my mind, a fatal objection to the substitute proposed by my friend from Illinois, that it is not in itself capable of meeting the wants of the country. Sir, it is impossible that the Judges of the Supreme Court of the United States should discharge the duties of that court, and yet perform the duties which will be required of them by the amendment proposed by my friend from Illinois. It may have been practicable in an early period of the Government; but it is now impracticable. Sir, what does it demand? Why, that the Judges of the Supreme Court shall not only perform the duties incumbent upon them as Judges of the Supreme Court, but that they shall perform the onerous duties of a circuit court, an inferior court, by actual, personal attention to those duties over this wide-spread country. Now, is that possible? Take for example, one of the nearest circuits, that of New England, as proposed by the substitute of my friend from Illinois. The business of the circuit judge of New England is enough to occupy his entire attention. Take the circuit comprehending New York and Pennsylvania; the duties of a circuit judge in that circuit are as great as one man can possibly perform. And when you come to the circuit comprehending Louisiana, I have no doubt the same remark is true; the duties of that circuit demand the full attention of one judge.

Mr. DOUGLAS. I am not certain that I understand the Senator from Connecticut. Is he under the impression that the substitute which I propose requires Judges of the Supreme Court to perform circuit duties at *nisi prius*?

Mr. TOUCEY. Duties in the circuits.

Mr. DOUGLAS. The system is this: that the duties now performed by the circuit and district judges shall hereafter be performed by the district judge, and an appeal may then be taken, either from that circuit or district court, as the case may be, to the court of appeals of the circuit.

Mr. TOUCEY. I so understand it.

Mr. DOUGLAS. I supposed the Senator was under a misapprehension.

Mr. TOUCEY. Not at all. I say there are these duties to be performed; the duties of the district court within the circuit, and the duties of the circuit court within the circuit; and though cases come up from the district court, and circuit court, the business that will inevitably be transferred to that court will be amply sufficient to employ the full attention of one judge. But I come back, sir, to the system as it now is: we have a Supreme Court, we have an inferior court, called a circuit court; we have a still more inferior court, called a district court. There are three grades. Now, I beg the attention of the Senate for a moment, to the theory of the Constitution, as I believe it to be viewed by all the Judges of the Supreme Court, past and present. The Constitution provides that

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office."

Sir, by your present system, you make a Judge of the Supreme Court, appointed under the Constitution, also a judge of an inferior court. By what authority do you do that? According to the true theory of the Constitution, can you impose upon a Judge of the Supreme Court the office of a judge of the circuit court, and also the office of a judge of the district court, so that the same person shall hold the three offices, or two of them? I think that was not the theory of the framers of the Constitution. Suppose there should be a conflict on that point; suppose the Judges of the Supreme Court should be appointed judges of the district court, as they now are of the circuit courts, would they be bound to assume those duties? Being Judges of the Supreme Court, they hold by the tenure of the Constitution. They are judges of that one court. Can you require them to attend to any other duties than the duties of Judges of the Supreme Court under the Constitution? I acknowledge my mind has come to the conclusion that the true theory of the Constitution is, that the duties of the Judges of the Supreme Court should be limited to that court, and that the judges of the inferior courts should be distinct from the Judges of the Supreme Court. But, however that may be, since our domain has been so widely extended, and the business of the Supreme Court has so greatly increased, I think it is impossible that the present system, or the system proposed in the substitute, should be adapted to the actual exigencies of the country.

It was formerly a very favorite idea that the Judges of the Supreme Court should act as judges of the circuit courts; but that has become now, to a great extent, theory. You have passed a law by which the Judges of the Supreme Court are exonerated, practically, from the performance of those duties in very many cases, and they may be dispensed with in all cases except when the business cannot otherwise possibly be transacted. There is a large portion of the country where the people have not the presence of a circuit court. Indeed, the present system cannot be applied to the whole country. And this brings to my mind another objection, which I will merely state, and that is, that every portion of the country is equally entitled to the exercise of the power granted to this Government by the Constitution. The people in the remote western States, and on the Pacific, as well as those in the Atlantic States, are entitled to circuit courts and to district courts.

Again, I take objection to the substitute of my friend from Illinois, that a Judge of the Supreme Court is put upon the circuit court with the district judges, and there he may be overruled by the judges of the lowest court. He cannot be supposed to control his associates upon the bench, and you might as well dispense with his attendance. According to the substitute, his presence is of no importance except for the information he would communicate to them. By it, a question may come up in the proposed circuit court of appeals, and in that court the district judges overrule him, and his opinion becomes of no importance, except as far as it may influence the other members of the court.

Mr. President, the system presented by the bill commends itself to my mind because it is capable of adaptation to the country in all future time. Without enlarging the Supreme Court you can increase the number of circuits. You can appoint able men in each of those circuits to discharge the duties devolved on them by this bill, and thus the system becomes complete and perfect. The districts remain as now. You have, in the first place, the district courts; you then have the circuit courts, in which there is a circuit judge to act in the place of the Supreme Court Judge. You have the Supreme Court where the Judges can devote their whole attention, their whole time, and all their labor to the discharge of the duties which devolve upon them in that capacity, which is the highest.

It is said that there is a great advantage in calling upon them to go among the people and to traverse the country, as the judges of England traverse that country. I have no doubt this idea was derived from that source. It has been departed from in many of the States; and I confess that I think the true theory is, that the judges of the highest court should know nothing of the case before them, except what appears upon the record; that they should take up the case and apply the law, or apply the rules of equity to it, as it is upon the record, and decide it according to the true theory of the law in the one case, or of equity in the other. If, on the other hand, a Judge of the Supreme Court is obliged to lay aside that office, and to assume the office of an inferior court, and there try a case with a jury, or hear a case, and pass upon it, he comes into the Supreme Court with impressions not derived from the record, as it is laid before that court. So far does this consideration now influence the Supreme Court that a judge who sits upon a case in the court below, does not participate in the deliberation, although he is there present while his associates are passing upon it. In my opinion, the true theory is—and it is found to work well where it has been adopted—that the court of last resort, consisting of able, learned, and impartial men, looking to the case which is presented to them upon paper, should decide it as the rules of law or of equity require them to decide it, instead of being under the influence of extraneous impressions, derived from any of their number having participated in the agitation of the case in the courts below.

My honorable friend from Mississippi has objected to the proposed system, that it increases the number of judges, and that the Federal power ought to be curtailed. In one respect I agree with him. I would limit strictly the Federal power in

regard to the executive and the legislative branches of the Government; but I have yet to learn that it is an evil felt in this country that the power of the judiciary is too great. On the contrary, it is a quiet, unpretending power, deliberating and deciding, and their decision becomes the law of the case, not the law of the land. I deem it important that that arm of the Government should be strengthened, not weakened. I think, sir, that we cannot confer so great a benefit on the people of this country as to place in the high court which meets in this Capitol, judges such as we have now, and such as we have had in times past, men of ability, learning, and independence, to exercise in the last resort the judical power of the Constitution; but in order efficiently to execute that power, you must not throw upon them duties which, under the Constitution, do not properly belong to them; but must leave them to the sole and undivided execution of that high power which is intrusted to them, compared with which the powers of all other judiciaries dwindle into comparative insignificance. In this country the judiciary is a power which decides questions peaceably, instead of solving them by the use of the sword. It is the power that has been substituted in lieu of the war power between the States of this Union. That power is confided; and peaceably and quietly it has given us here a Government of thirty-one States, without the capacity to make war upon each other. I am for strengthening that arm of the Government. I would place there men of the highest ability, in whom the country have confidence, and I would permit them to devote their whole time and all their abilities to the exercise of this high constitutional power. Having done that, I would go into the circuits and I would place there men of equal ability and independence, if they can be found, and permit them to exercise that inferior branch of the Federal judicial power. I would leave the system as it now is, so that the district judges should, in their respective districts, exercise the power conferred on them, and also occupy a seat, which is rather one of consultation than of authority, by the side of the judges of the circuit court, and communicate to the circuit judge information that is peculiar to his own district in which he resides.

The system proposed by the bill is simple. It is in accordance with the system which now exists. It makes it more efficient. It provides more amply for the wants of the whole country. It is capable of indefinite expansion; and it carries out, most perfectly, the theory of the Constitution.

These are my general views. I did not intend to go into an extensive discussion of the bill, but, in this stage of it, to throw out these general considerations in advance, that those who have done me the honor of listening to me may have the benefit of them before they come to a decision on this question.

Mr. GEYER. Mr. President, it seems to be very generally agreed that a modification of the present judicial system is indispensable. The necessity for some change has long been felt. Repeated attempts have been made in Congress to accomplish what is so desirable, but they have uniformly failed, because Congress has not been able to agree upon the details of a system. Several plans have been, at different times, suggested, and among them, both of those which are now before the Senate. One of them proposes to continue the circuit court system, but to appoint circuit judges as a substitute for the Judges of the Supreme Court who now perform circuit duty, and to withdraw the Judges of the Supreme Court altogether from the circuits. The other proposes to abolish the circuit courts, to transfer the jurisdiction of those courts to the district courts, and to constitute an intermediate appellate court, composed of all the judges of the district courts of the circuit, with a Supreme Court Judge presiding. The first plan is that proposed by the Committee on the Judiciary, of which I have the honor to be a member, but, unfortunately, on this question I was in the minority.

I cannot agree to a system which is to have the effect of centralizing the Supreme Court; of discharging them from all duties on the circuits, withdrawing them from the districts of country to which they are now assigned, and bringing them to a common center at the seat of Government, for the purpose of there, and there alone, discharging their duties. The first effect of that will be, that in process of time all the judges of the Supreme Court may be found residing here near the center, and may be appointed from any portion of the Union. As it now is, while they are continued upon the circuits, there appears to be a sort of common-law rule, though not absolutely obligatory, as the Constitution is, that they shall be appointed from the various portions of the Union; and the different sections of the Union are represented in that tribunal. I, for that reason, thus generally stated, cannot agree to a system which shall withdraw them entirely from the circuits.

But, sir, we cannot continue the present system. The Union has already grown too large for it. Many of the States are denied the benefits which are extended to others and were intended to be given to all by the Constitution. I agree with the honorable Senator from Michigan, that we are not now upon the inquiry of how much jurisdiction ought to be given to these courts; but when the United States courts are intended by the Constitution to be instituted for the purpose of enabling persons residing in different States having causes of action to choose them as their tribunal, we have no right to withhold from them what the Constitution designed they should have—the election between the local courts and the courts of the United States, when they are citizens of different States.

The present system cannot be extended. Some of the States are already excluded from its benefits. Its extension on its present basis would involve the necessity of an increase of the number of Supreme Court Judges, and greatly, I think, embarrass the transaction of business in that high tribunal. In my judgment, a system ought to be adopted, if we can agree upon one, which shall not largely increase the number of Judges on the bench of the Supreme Court, but yet enable them to go to all parts of the Union, and as they cannot sit in each district, let them sit in one place in a circuit.

From the general view that I have thus presented, Mr. President, it will be seen that I am rather more favorable to the system proposed by the honorable Senator from Illinois, than to that proposed by the Committee on the Judiciary. There are, however, some of the details of his proposition to which I cannot agree. I think, for example, that there is a serious objection to introducing the Territories into the different circuits, and constituting the court of appeals within a particular circuit of the judges of the district courts in the States connected with it and the judges of the superior courts of the Territories. The judges of the superior courts of the Territories are temporary appointments, and yet, according to the proposition of the Senator from Illinois, they would sit in an appellate court to decide upon the cases adjudged by the judge of the court of the United States, appointed under the Constitution in the districts of the States. For example, the State of Missouri, and the Territories of Nebraska, Kansas, and New Mexico are, by the proposition of the Senator from Illinois, to be in one circuit. Upon an appeal from the district court of the district of Missouri, the three supreme judges of the Territories alone, could sit. That is an objection to a matter of detail.

Mr. DOUGLAS. I will state to the Senator, that the three judges of a Territory would not be there, but, in the case which he supposes, the chief justice of Kansas, the chief justice of Nebraska, and the chief justice of New Mexico, would sit in the court of appeals.

Mr. GEYER. I understand that; but this is the organization of a court of the United States under the Constitution, and upon such a court we could not have a judge with an appointment for a term of years. That might be obviated by organizing the Territories into districts, and appointing district judges with a permanent tenure.

I had intended myself, Mr. President, to offer a substitute for this bill, the main features of which would correspond with that offered by the Senator from Illinois. My plan would be to transfer the entire original jurisdiction of the circuit courts to the district courts, and to constitute an intermediate appellate jurisdiction composed as this substitute proposes they shall be composed; but confined in its appellate jurisdiction to cases of which the court obtains jurisdiction solely on the ground of citizenship in different States, and to cases where the amount involved exceeds a certain sum. I would not vest in that court appellate jurisdiction in cases involving the construction of the Constitution, or laws, or treaties of the United States, nor any of those questions which are, by the Constitution, committed to the Supreme Court. I would have the appellate jurisdiction exercised directly by writ of error, or appeal to the Supreme Court from the district court in such cases. To the extent of the appellate jurisdiction of that intermediate appellate court, it ought, in my judgment, to be final.

I do not think, with the honorable Senator from Mississippi, that it is an object in this Government to make litigation cheap or to encourage persons in carrying cases to the Supreme Court of the United States for adjudication. On the contrary, I think it is the part of wisdom to limit that appellate jurisdiction, and that persons who engage in litigation may understand, also, that they are to pay the expenses. I do not believe in the idea, as it is commonly interpreted, of bringing justice to every man's door. I think, if he has far enough to travel to enable him to reflect often before he gets to a point from which he cannot retract, he may do himself justice by the judgment he may form as to the propriety of going to law.

But, Mr. President, these are details. I rose principally for the purpose of suggesting that all we can do, perhaps all we ought to do, is to determine if we can agree upon the frame-work of a system. Let us first decide whether we shall have additional judges appointed for the circuits. That is the first question. The next will be, whether we shall have circuit courts at all, and whether the district courts shall be so organized as to exercise the jurisdiction now vested in the circuit courts; and then, after that, agree upon the different circuits. In order to present directly to the Senate a practical question, which will determine one of the great points to be determined before we can act on the details, I move to strike out the fourth section of the bill reported by the Committee on the Judiciary, which proposes the appointment of eleven additional circuit judges.

Mr. BUTLER. I suggest to the Senator to move to strike out the first clause of the first section. That would be the same thing.

Mr. GEYER. It occurred to me, that striking out the fourth section, if the Senate agreed to it, would be decisive that we are not disposed, in this change of systems, to create an additional number of judges. That would settle one point. Then another proposition might be offered as a part of the substitute presented by the honorable Senator from Illinois, to transfer the jurisdiction of the circuit courts to the district courts, and then the other details could be easily settled.

Mr. BUTLER. I should much prefer that my friend would move to strike out that clause of the first section which proposes to dispense with the circuit duties of the Judges of the Supreme Court; because, if I cannot have that object attained, I certainly should not go for creating new circuit judges at all. I would rather that the system should remain as it is, than undertake to patch it up, if we are to require the Judges of the Supreme Court to perform circuit duty. If that point is decided against me, I say, let the court stand as it is; I will not go to any of your intermediate courts to have one supreme judge, and have his opinions overslaughed by five or six local judges, who, perhaps, have never understood the great questions that come before such a tribunal. I never would consent to that. I never would consent to bring a supreme judge down to such business as that.

Mr. GEYER. We know not what the intermediate court, if there be any, may be called. The object is still attained by moving to strike out the fourth section. If it should be stricken out, and the general principle of the plan proposed by the Senator from Illinois be adopted, then I should propose to recommit the bill, for the purpose of having it amended, so as to make it harmonize with the system agreed upon by the Senate.

Mr. TOUCEY. I should prefer that the honorable Senator from Missouri would move to strike out the first section, because that presents the question upon which the whole debate almost will turn. Are the Judges of the Supreme Court to be required to do any duty beyond that of the Supreme Court? If they are not, then some other system must be adopted. If, on the contrary, they are to be required to do circuit duties, for one I

am disposed to patch up the existing system and to keep it along until we reach the time when the country will make a change that will supply its wants.

Mr. BUTLER. I suggest to the Senator from Missouri to move to strike out the first section.

Mr. GEYER. I should be very glad to do anything to accommodate the Senator. I repeat, I am in favor of the Supreme Court Judges performing circuit duties; but I am content now to make any motion that will test the principle.

Mr. BUTLER. Anything to try the question.

Mr. GEYER. I move, then, to strike out the first section after the enacting clause.

Mr. CLAYTON. I do not know whether any Senator desires now to address the Senate, on the general merits of the bill. I do not rise for the purpose of discussing, at this time, the relative merits of the two systems which are before us; but if no gentleman purposes to address the Senate upon the main question—the principles contained in the two propositions, the bill and the amendment of the Senator from Illinois—I trust no vote will be taken to test the question now. The Senate is too thin, and the question too important. It ought to be decided in a full Senate, and with full consideration. My friend from Missouri has moved to strike out the first section. That brings up the whole merits of the two antagonistic systems, and I trust we shall not be called upon to vote upon it to-day; but that the subject may go over until the next meeting of the Senate.

I therefore submit the motion, that it be postponed to, and made the special order for, Tuesday next.

The PRESIDENT. There are special orders for Tuesday and Wednesday next.

Mr. CLAYTON. This subject is an important one.

The PRESIDENT. The question is on the postponement.

Mr. BUTLER. I wish to acquit myself of a duty to the country, and to the President, and to Congress, by having this bill disposed of at as early a period as possible. I should be very glad to hear it discussed. It is an old subject, and has been very fully discussed before. The plan proposed by the substitute offered by the Senator from Illinois is an old one, and has been canvassed upon other occasions. All that I should have to say in reference to that—if I should have occasion to sum up the views I entertain upon this subject—would be, that it would turn the Supreme Judge into a subordinate judge of that inferior court. You would have four or five men entertaining the opinions prevailing in their local community; and you would send one Judge of the Supreme Court to adopt their opinions, or be overruled by them. In my opinion it would introduce the very mischief we ought to overcome. We ought to have an impartial tribunal, without anything to do with the local prejudices of the country, or with the local opinions of the law. I hope my friend from Delaware will give us his views upon the subject. I have no objection to its going over to Tuesday, provided we shall then go on with it. I have said that I am not very partial to this plan, but it is the only practicable one we could agree upon.

Mr. DOUGLAS. I have a few words to say in reply to the Senator from Connecticut and the Senator from South Carolina, upon the point that by the substitute which I propose, a Judge of the Supreme Court is to be made subordinate to the judges of the district court. It is true, there may be a case in which his opinion would be overruled by his associates in the court of appeals below. Take the illustration that I have given of the New England, or any other circuit, with six district judges on the bench. When an appeal comes from one of the district judges to those six judges, it is possible that they would be unanimous in their opinion that the law was one way, and that the Judge of the Supreme Court of the United States presiding in that court of appeals should think otherwise; and suppose the six do overrule him, does that degrade him? Does that put him in an inferior position? He is their associate there, it is true; but an appeal can be taken at once to the Supreme Court of the United States; and then if the six district judges are wrong and the Judge of the Supreme Court right, the Supreme Court will say so, and the law will be correctly expounded. I say, therefore, there is no humiliation in that, for if he is right, the Supreme Court of the United States will say so, and that will vindicate the correctness of his opinion. He will be on the Supreme bench as a member to vindicate his opinion, and will, to that extent, have an advantage over the district judges, in the decision of questions of law arising below.

A similar principle prevails now. You now put a Judge of the Supreme Court by the side of one district judge in holding the circuit court. If there is any inferiority it consists in the fact that they are put there as associates; and the objection would be just as conclusive against the present system as it would be against the one I propose; for in a case now in the circuit court, on appeal, if there is a diversity of opinion between the two judges the one offsets the other; the one is equal to the other; and it is certified to the Supreme Court. I do not see, therefore, that there is anything humiliating in sending the Judge of the Supreme Court to preside in the court of appeals unless it be the fact that the association would make him inferior; and I do not think we ought to assume that it would be so. We have good lawyers, men of ability and of character, for the judges of the district courts of the United States; or if not, we certainly ought to have. There is no class of officers in all this Government whose decisions and action have such a vital bearing upon the interests of the country, as those of the district judges in the several districts. Every description of cases of the highest importance come before them. They are selected because of their learning, high character, and capacity to decide upon those questions; and I think it would not be humiliating to a Judge of the Supreme Court to have them as his associates in the court of appeals.

My friend from Connecticut argues that the present system does not extend to all the States in the Union; and it might be inferred from his remark, that the same objection exists to the one I propose. I am aware that the existing system does not reach Texas, Iowa, Wisconsin, or California, or in fact that it does not——

Mr. TOUCEY. I did not mean to be so understood in regard to the Senator's substitute, for I agree that it does extend to the whole country.

Mr. DOUGLAS. I presumed he did not mean to convey that impression; yet I deemed it proper to refer to that fact in order that a misapprehension might not be drawn from misunderstanding his remarks. It is a conclusive objection against the present system, that there is not equality between the States in the judicial system. Texas has as much right to have her interests disposed of by the highest tribunal, or a tribunal of equal grade in all its intermediate stages, as New York. So has Iowa. So has the youngest State in the Union: and I think it is improper that a judicial system should be allowed to continue in existence for a single year which does not give as ample justice, and as ample facilities for the administration of justice by tribunals of the same grade in one State as in another; and it is one of the chief merits of the plan that I suggest, that there would be perfect equality as to all the States in the Union, and that it is based upon a system capable of expansion to any extent that may be desired for new States and Territories.

The objection of my friend from Missouri [Mr. GEYER,] arises from the fact that I provide for the existing Territories by making the chief justices of those Territories, associate justices in the court of appeals below. If that objection is well founded—and it occurred to me at the time that there might be an objection on that score—he has suggested the remedy, to provide for a district judge of the United States, for each of those Territories while a Territory. I do not know but that his suggestion is worthy of being incorporated in the bill. But that is a matter of detail, which will come up when we come to consider the different portions of the substitute.

I say again it is with the greatest deference and diffidence I have brought forward a measure of this kind. It is not new, as the Senator from South Carolina says; but it is taking old principles and applying them, so as to accomplish a result which we all acknowledge is desired. If the bill is not to be recommitted, I hope that, after a discussion of the general principles, we shall take the substitute section by section and modify each as we go along, in order to meet the views of the Senate. I am satisfied it is not perfect. No man could write a bill that should be perfect in all its sections; least of all could one with as limited experience as I have had in courts and jurisprudence be expected to do so. My object is to make this tribute to that profession towards which I bear a very high respect and a great deal of gratitude. I offer it in order that the Senate may dispose of it for what it is worth, after making such modifications as their investigations shall show to be right.

Mr. WELLER. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned to Tuesday.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 5, 1855.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

Mr. HUNT, by unanimous consent, reported, from the Committee on Military Affairs, a bill for the relief of Richard Fitzpatrick; which bill was read a first and second time by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and the bill and report ordered to be printed.

Mr. WALBRIDGE, by unanimous consent, presented the memorial of the New York Life-Saving Benevolent Association, and the memorial of all the Marine Insurance Companies of New York, asking for the fitting out an expedition for the rescue of Commander Kane, of the American Arctic Expedition, now in the Arctic zone; which was referred to the Committee on Commerce.

Mr. FULLER, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be allowed to employ a clerk, at a compensation not to exceed four dollars per day.

Mr. HILLYER, from the Committee on Private Land Claims, introduced, by unanimous consent, the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Private Land Claims be authorized to employ a clerk, at a rate of compensation not to exceed four dollars per day.

Mr. WARREN, by unanimous consent, from the Committee on Public Lands, reported back Senate bill (No. 277) for the relief of Theresa Dardenne, widow of Abraham Dardenne; which was read, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

Mr. LINDSLEY. I ask the unanimous consent of the House to withdraw from the files of the House the petition and papers of Benjamin Gregg, to be re-presented at a future time.

Mr. LETCHER. I object to it, unless copies be left on file, or unless he leaves the original, and takes copies.

Mr. LINDSLEY. I will leave copies on file.

The SPEAKER. An order to that effect will be entered.

Mr. LINDSLEY gave notice, that to-morrow, or on some future day, he should ask leave to introduce a bill for the increase of the salary of the collector of the port of Sandusky.

Mr. CURTIS. I ask the House to discharge me from further service upon the Committee of Claims. My duties on the Committee on Accounts are such as to render it impossible for me to serve upon the Committee of Claims during the remainder of the session.

The question was taken; and the gentleman was excused.

The SPEAKER thereupon appointed J. GLANCY JONES to fill the vacancy.

Mr. ELIOT, of Massachusetts, by unanimous consent, introduced a bill making appropriations for continuing the repairs of the injury done to the Government works at Plymouth Beach, Massachusetts; which was read a first and second time, and referred to the Committee on Commerce.

DELEGATE FROM NEBRASKA.

Mr. PHELPS announced that the Delegate from the Territory of Nebraska (NAPOLEON B. GIDDINGS) was present, and desired to take the oath of office.

Mr. GIDDINGS thereupon presented himself at the bar of the House, and the Speaker administered to him the usual oath of office.

RESOLUTIONS.

On motion by Mr. WARREN, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of the petition of sundry citizens of Madison county, New York, that the terms of the bounty land law be extended so as to give to each soldier in the war of 1812, without reference to the time they served, the benefits thereof, and that the same be laid on the table.

Mr. HOUSTON, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post road from Jasper, in Walker county, Alabama, to Elyton, in Jefferson county, in said State.

SENATE BILLS REFERRED.

The following bills and resolution from the Senate were then taken up, read a first and second time by their respective titles, and referred as indicated below:

A bill for the relief of Caroline B. Arnold. Committee on Military Affairs.

A resolution for the settlement of the claim of the late firm of C. M. Strader & Co., mail contractors. Committee on the Post Office and Post Roads.

A bill to increase the pension of Patrick C. Miles. Committee on Naval Pensions.

An act to extend the provisions of an act entitled "An act to provide compensation for the services of George Morell in adjusting titles to land in Michigan." Committee of Claims.

A bill for the relief of Betsy Whipple. Committee on Naval Pensions.

C. E. GRENEAUX.

The next bill in order upon the Speaker's table, was Senate bill (No. 531) for the relief of C. E. Greneaux; which was read a first and second time.

Mr. JONES, of Louisiana. I ask the consent of the House to put that bill upon its passage at this time. I will state, in advance, that this bill has been examined, I believe, by the Committee on the Judiciary of this House. It is a bill for the relief of a surety upon a bond. A bill was passed seven or eight years ago for the relief of other sureties, on the same bond. The petitioner in this case asks now that the same relief be extended to him, and that is to enable the Secretary of the Treasury to settle with him in such a manner as he may deem most advantageous to the public interest. Mr. Greneaux's property has already been sold on a judgment rendered on the bond. I have no doubt the Committee on the Judiciary, who have had this matter under consideration, will confirm the statement which I have made.

The bill, which was read *in extenso*, provides that the Secretary of the Treasury be authorized to examine into the claim of the United States against C. E. Greneaux, one of the sureties of Benoist Laurents, late a receiver of public moneys at the land office at Natchitoches, in Louisiana, and the circumstances of said Greneaux, and to settle and discharge such claim on such terms as he shall judge most for the interests of the United States, the same relief having been allowed in behalf of his co-sureties by an act entitled "An act for the relief of the estates of Benjamin Metoyer and François Garienne," passed March 3, 1847.

The bill was ordered to be read a third time; and it was read a third time, and passed.

Mr. JONES. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

Mr. PRATT. Has the bill passed?

The SPEAKER. It has been passed, and the question now is on the motion to reconsider and lay upon the table.

Mr. PRATT. I would ask whether there was a single gentleman upon this floor who heard the contents of that bill when it was read; or whether there was a vote aye or no upon its passage? I did not hear one. I did not hear the provisions of the bill, and do not know what it is for. I hope the vote by which it passed may be reconsidered. The noise in the Hall was so great that the members in this part of the Hall were unable to hear what the bill proposed to do.

The SPEAKER. The Chair will state to the gentleman from Connecticut, that the bill was very distinctly read by the Clerk at his desk. In the mean time vigorous efforts were made for the preservation of order in the Hall. At all events, no fault can be found with the Clerk. The bill has been passed. The motion now is to reconsider the vote by which it was passed, and to lay that motion upon the table.

The question was put; and, on a division, there were—ayes 50——

Mr. CHANDLER. I demand tellers.

Tellers were ordered; and Messrs. JONES, of Louisiana, and WHEELER were appointed.

Mr. JONES, of Louisiana. I wish to say a few words.

[Cries of "Withdraw your motion to reconsider!"]

Mr. JONES. Mr. Speaker, before asking the House to put the bill on its passage, I made a statement of the purpose which it had in view. I spoke in an audible tone of voice, and intended that every member in the Hall should hear what I had to say. On that statement, and on it alone, I asked that the bill be put on its passage.

I shall now reiterate what I then said, and hope that all may hear it. Mr. Greneaux, a gentleman of exalted character, and now Secretary of State of Louisiana, long years ago became surety on the bond of a receiver of public moneys at Natchitoches, in that State There were two co-sureties. That receiver became a defaulter. Suit was brought, and judgment being obtained, the property of Mr. Greneaux was sold under execution. In the mean time, the other sureties had died, and under our laws no execution could run against their property. The heirs of these gentlemen came here and asked for relief. A bill was passed for that purpose, and authorized the Secretary of the Treasury to settle with them in such manner as he might deem most advantageous to the public interest. That bill was passed some seven or eight years ago. The property of Judge Greneaux has been already sold. He now asks that a bill shall be passed for his relief, in precisely the same words of that passed for the relief of the other sureties.

This bill has passed the Senate, and is, in phraseology, exactly similar to that introduced by me several days ago, and referred to the Committee on the Judiciary. I am sure that it would receive the unanimous approval of the members of that committee. Knowing that the committee concurred with the Senate in the justice of the bill, I made the statement a short while since, and asked that the bill be put on its passage. I am not one who would attempt to take snap-judgment on this House, and I most cheerfully withdraw the motion to reconsider the vote by which the bill passed, and that that motion be laid upon the table. Gentlemen who oppose the measure can now take what action they may please in the matter.

Mr. PRATT. I am satisfied with the explanation made by the gentleman from Louisiana. I am prepared to vote for the bill now because I understand it.

Mr. HAVEN. Mr. Speaker——

Mr. PRATT. I move to reconsider the vote by which the bill was passed; and that that motion be laid upon the table.

The SPEAKER. The Chair thought the gentleman had finished his remarks, and recognized the gentleman from New York.

Mr. HAVEN. I am quite willing that this matter should be brought to immediate termination, but I am apprehensive, from what the gentleman from Louisiana now says, that I, and may be the House, misunderstood his first explanation. I would inquire whether the bill proposes simply to relieve Mr. Greneaux from a judgment against him, or whether it provides for the settlement of his account by the Secretary of the Treasury by which he is to receive back money already paid?

Mr. JONES. Not at all.

Mr. HAVEN. If the bill authorizes repayment we ought to reconsider it; if not, it ought to pass.

Mr. JONES. A large amount of the judgment is still unpaid, and the object of this bill is to authorize the Secretary of the Treasury to make such arrangement with Judge Greneaux, who is not able to pay the debt, as he may deem best for the public interest. Precisely the same relief has been granted to the other sureties.

Mr. HAVEN. I partially heard the first explanation of my friend from Louisiana. I listened to the bill, and thought it carried out the proposition he suggested, that is, to release Mr. Greneaux from the judgment against him; and, with that understanding, I was prepared to pass the bill. I understand him to say now that it is so. Such, I think, is the fair construction of the language of the bill. I think, therefore, that the bill has been properly passed, and now move that the vote by which it passed be reconsidered, and that that motion be laid upon the table.

The bill was again read through at the request of several members.

The motion to reconsider was laid upon the table.

REPORTS OF COMMITTEES.

Mr. HENDRICKS. I ask if the business now in order is not the reception of reports of a private nature from the standing committees?

The SPEAKER. That is the first business in order.

Mr. ETHERIDGE. I feel very confident the House will allow me to make a report from the Committee on Military Affairs. It will occupy but a few minutes.

Mr. HENDRICKS. I call for the regular order of business.

The SPEAKER then proceeded to call the committees for reports of a private character.

On motion by Mr. HOUSTON, the Committee of Ways and Means was discharged from the further consideration of Senate bill for the relief of the Office of Indian Affairs; and the same was referred to the Committee on Indian Affairs.

Mr. WENTWORTH, from the Committee on Commerce, reported back Senate bill for the relief of E. J. McLane; which was referred to a Committee of the Whole House, and made the order of the day for to-morrow.

Mr. UPHAM, from the Committee on the Post Office and Post Roads, reported a bill for the relief of Richard White and Samuel Sherwood; which received its first and second readings, was referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

Mr. STANTON, of Tennessee. The Committee on the Judiciary have instructed me to report back Senate bill for the relief of Israel Johnson. It presents no question upon which our committee can appropriately act, and we therefore ask to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs.

It was so ordered.

Mr. S., from the Committee on the Judiciary, also reported back Senate bill for the relief of J. H. F. Thornton, Lawrence Talliaferro, and Hay F. Talliaferro, sureties of D. M. F. Thornton, late a purser in the United States Navy; which was referred to a Committee of the Whole House, and made the order of the day for to-morrow.

Mr. S. also, from the same committee, reported a bill for the relief of Joseph Ridgely; which was read twice by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

Mr. WESTBROOK, from the Committee on Private Land Claims, reported a bill for the relief of Russell Minard, father of Theodore Minard, deceased; which bill was read twice by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

Mr. ETHERIDGE, from the Committee on Military Affairs, reported a bill for the relief of John Durgin, which was read twice by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

Mr. BOCOCK. I have two or three reports to make from the Committee on Naval Affairs, which I am not, at this moment, prepared to make. I ask the consent of the House to allow me to make them later in the day.

The proposition was assented to.

Mr. HENDRICKS, from the Committee on Invalid Pensions, reported sundry bills; which were read twice by their titles, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

The titles are as follows:

A bill for the relief of William Brown;

A bill for the relief of James McIntire;

A bill for the relief of Solomon la Follette;

A bill for the relief of Elizabeth Foman; and

A bill for the relief of Lomas C. Ramsey and Ananias Richardson.

Mr. H. also, from the same committee, reported back the following petitions; which were laid upon the table, and the committee discharged from the further consideration thereof:

Petition of Lydia Andrews, widow of Benjamin Andrews, a pensioner in the war of 1812;

Petition of Andrew Lawson, of Tennessee, praying for back pay;

Petition of L. J. Francisco and forty-five others, citizens of Ohio, praying that a pension may be granted to William Morris;

Petition of Comfort Willy, formerly widow of David Compernell, of New Hampshire, a soldier in the war of 1812, praying for a pension;

Petition of John Elwin, of Kent, New York, praying for a pension;

Petition of Thomas Poulson, of Pennsylvania, praying for a bounty land warrant in consideration of services in the war with Mexico;

Petition of Dudley F. Holt, a soldier in the war of 1812, praying for an invalid pension;

Petition of John Campbell, praying for a pension in consideration of his services in the war of 1812;

Petition of Edward Runney, of York county, in the State of Maine, praying for a pension in consideration of his services in the war of 1812;

Petition of Caleb Stover, of Rockland, Maine, praying for an increase of pension;

Petition of March Farrington, praying for an increase of pension;

Petition of R. J. Murray, of the State of Georgia, praying for a pension in consideration of his services in the Indian war of 1818;

Petition of the children of Joseph Dale for a pension on account of the death of their father from disease contracted in the service of the United States;

Petition of Richard Reynolds, for an increase of pension;

Petition of Henry Young, of York county, Pennsylvania, praying for compensation for disability incurred in the service of the United States during the war with Mexico;

Petition of Sally Sleyter, of Michigan, praying for a pension;

Petition of Hiram Seat, a teamster during the war with Mexico, praying for a pension;

Petition of Mrs. Rachel McMillan, praying for a pension;

Petition of John Morris, praying for a pension on account of disability incurred while in the service of the United States;

Petition of Luther Cole, of Montgomery, Vermont, praying for renewal of his pension; and the

Petition of General F. Dunckel, of New Jersey, a quartermaster in the war of 1812, praying for a pension from the time of his discharge.

Mr. STUART, of Ohio, reported a bill for the relief of Wyatt Griffeth, of Washington county, in the State of Tennessee; which bill was read twice by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

Mr. S. also, from the same committee, reported a bill to repeal an act entitled "An act for the relief of George M. Bentley, of the State of Iowa," approved August 5, 1854; which received the same order and reference.

Mr. S. also, from the same committee, reported back the following petitions; which were laid upon the table, and the committee discharged from the further consideration thereof:

Petition of Christopher H. Williams and others, citizens of Henderson county, Tennessee, in behalf of Thomas Boatwright;

Petition of Thomas J. Napier, praying for a pension; and the

Petition of Ebenezer Hitchcock, praying for a pension on account of disability incurred in the military service of the United States.

On motion by Mr. STUART, the Committee on Invalid Pensions was discharged from the further consideration of the petition of Jane Gaston, of South Carolina, widow of Joseph Gaston, praying that the pension granted to her husband may be continued to her; and the same was referred to the Committee on Revolutionary Pensions.

Mr. THURSTON, from the Committee on Patents, reported back the following petitions; which were laid on the table, and the committee discharged from the further consideration thereof:

Petition of Joseph S. Kite, praying compensation for his patent for safety beams in railroad cars, by which the dangerous consequences of the breaking those axles may be avoided;

Petition of A. Arnold, for the renewal of his patent; and the

Petition of James H. Stimpson, for an extension of his patent.

Mr. HILL, from the same committee, reported back the following petitions; which were laid upon the table, and the committee discharged from the further consideration thereof:

Petition of Duke Williams, praying Congress to grant him a patent;

Petition of William Atkinson, for an extension of patent for the manufacture of India rubber cloth;

Petition of N. W. Woodworth, administrator of William Woodworth, deceased, for the extension of a patent; and the

Petition of William Emmons, jr., praying that a patent may be granted for an invention of his son William Emmons, deceased.

Mr. STUART, from the same committee, reported a bill for the relief of Isaac Allen, of Turner, in the State of Maine, which has received its first and second reading; referred to a Committee of the Whole House, and made the order of the day for to-morrow, and ordered to be printed.

Mr. STANTON, of Kentucky. I am instructed by the Committee on Printing to report to the House a resolution, upon the adoption of which I demand the previous question. The resolution is as follows:

Resolved That twenty thousand extra copies of the President's message, delivered to this House on the 2d day of January, be printed for the use of the members of this House.

The previous question received a second; and the main question was ordered to be put.

Mr. STEPHENS, of Georgia. What message is it that the resolution proposes to print?

Mr. STANTON. The veto message.

Mr. STEPHENS. Then I am opposed to the resolution.

The question now being upon the adoption of the resolution,

Mr. STANTON demanded tellers.

Tellers were ordered; and Messrs. STANTON, of Kentucky, and WHEELER, were appointed.

The question was taken, and the tellers reported sixty-three in the affirmative.

Mr. CAMPBELL called for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDRICKS. Is it in order to move that the House resolve itself into a Committee of the Whole on the Private Calendar?

The SPEAKER. It is not in order, for the reason that the main question has been ordered to be put.

The question was taken, and it was decided in the affirmative—yeas 86, nays 51; as follows:

YEAS—Messrs. James C. Allen, David J. Bailey, Thomas H. Bayly, Barksdale, Barry, Belcher, Bell, Bocock, Boyce, Caskie, Clark, Clingman, Cobb, Craige, Curtis, John G. Davis, Dawson, Dowdell, Dunbar, Edmundson, Faulkner, Goode, Green, Greenwood, Grow, Sampson W. Harris, Hendricks, Henn, Hillyer, Hughes, Johnson, George W. Jones, J. Glancy Jones, Roland Jones, Kidwell, Kurtz, Lamb, Lane, Latham, Lewis, Lilly, Lindsley, Macdonald, McDougall, McMullin, McQueen, Macy, Maxwell, May, Morrison, Nichols, Orr, Bishop Perkins, John Perkins, Phelps, Phillips, Pratt, Riddle, Thomas Ritchey, Robbins, Ruffin, Seymour, Shannon, Shaw, Shower, Skelton, Samuel A. Smith, William Smith, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Stratton, Straub, Andrew Stuart, John J. Taylor, Teller, Thurston, Trout, Tweed, Wade, Walbridge, Warren, Wells, Westbrook, and Daniel B. Wright—86.

NAYS—Messrs. Benson, Bristow, Campbell, Carpenter, Caruthers, Chandler, Chrisman, Cook, Corwin, Cox, Cullom, Dick, Eastman, Edmands, Thomas D. Eliot, Etheridge, Fenton, Franklin, Goodrich, Hamilton, Aaron Harlan, Haven, Hiester, Hill, Howe, Kerr, Knox, Mace, Mayall, Middleswarth, Morgan, Norton, Mordecai Oliver, Parker, Pringle, Purycar, Ready, Russell, Sapp, Simmons, Alexander H. Stephens, John L. Taylor, Upham, Vansant, Walley, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, Wheeler, Yates, and Zollicoffer—50.

So the resolution was adopted.

Mr. STANTON, of Kentucky, moved to reconsider the vote by which the resolution was adopted, and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

Mr. BOCOCK. I ask now to report a couple of bills from the Committee on Private Claims, which I had not by me when that committee was called for reports, a moment ago. I merely wish to have them referred to a Committee of the Whole House.

The following bills were accordingly read a first and second time by their titles, referred to a Committee of the Whole House, and ordered to be printed:

Bill for the relief of William A. Christian; and

Bill for the relief of Sarah Morris, only heir of Robert Mitchell, deceased.

Mr. STUART, of Ohio, from the Committee on Invalid Pensions, reported back Senate bill (No. 192) for the relief of Amos Knapp, with a recommendation that it do not pass.

Mr. CARPENTER. I ask that that bill, instead of being laid on the table, be referred to a Committee of the Whole House.

Mr. STUART. I have no objection to its taking that reference. I move, therefore, that it be referred to a Committee of the Whole House.

It was so ordered.

Mr. HENDRICKS. I move that the House do now resolve itself into a Committee of the Whole on the Private Calendar.

Mr. ETHERIDGE. Will the gentleman from Indiana indulge me for a moment by withdrawing his motion? I have sent to our committee room for a resolution, which I ask to have read.

Mr. HENDRICKS. Certainly; I withdraw my motion for the present.

Mr. ETHERIDGE then reported from said committee a joint resolution for the relief of G. W. McCerran; which was read a first and second time by its title, referred to a Committee of the Whole House, and ordered to be printed.

Mr. COBB. I rise to a question of privilege. I am requested to ask that the vote by which the case of Duke Williams—reported by the Committee on Patents—was laid on the table, be reconsidered; and that the motion may lie over for the present.

The SPEAKER. The motion will be entered.

ENROLLED BILL.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled the following bill; which thereupon received the signature of the Speaker:

Act to incorporate the Mutual Fire Insurance Company of the District of Columbia.

PRIVATE CALENDAR.

Mr. HENDRICKS. I now renew my motion that the House resolve itself into a Committee of the Whole on the Private Calendar.

The question was put; and the motion was agreed to.

The House accordingly resolved itself into a Committee of the Whole on the Private Calendar, (Mr. PHILLIPS in the chair.)

The CHAIRMAN. The first bill on the Calendar is a bill for the relief of Samuel Colt.

Mr. LETCHER. This is objection day, I believe; and it has been the rule heretofore, on objection day, to commence at the point in the Calendar at which the committee left off on the previous objection day. I move the committee adopt that rule.

The CHAIRMAN. I understand that rule to depend upon the unanimous consent of the House.

Mr. LETCHER. No, sir; I think the majority can do it.

Mr. HAVEN. I believe the rule on the subject is express.

The CHAIRMAN. Then the first bill in order is House bill No. 361.

Mr. LETCHER. Well, I object to all on the Calendar down to that.

Mr. HAVEN. Is the question raised by the gentleman from Virginia [Mr. LETCHER] disposed of?

The CHAIRMAN. The gentleman from Virginia has objecte ll the bills down to No. 361.

Mr. HAVEN. I desire to say that the 30th rule of the House is express that the Chair shall commence calling the Calendar, on objection day, where he left off the previous day.

The CHAIRMAN. It amounts to the same thing as if the Chair had so ruled, inasmuch as objection has been made to all bills down to that point. It is, therefore, as the gentleman from New York requires it to be.

Mr. HAVEN. Yes, it amounts to the same point, but not on the same principle. [Laughter.]

House bill (No. 361) for the relief of the widow and children of Ezra Chapman, deceased.

The bill was read by the Clerk.

It directs the proper accounting officers of the Treasury to pay to the administrators of Ezra Chapman, deceased, for the benefit of his widow and children, $840, with interest from the 22d of March, 1838.

From the report it appears that Ezra Chapman claims to be the only son and heir-at-law of Ezra Chapman, deceased, who was an ensign in the Army of the Revolution, and died in the service on the 1st day of September, 1778, and, as such, was entitled to the provisions of the resolution of the Continental Congress, passed August 24, 1780, granting half-pay for seven years to the widows and orphans of the officers who had died in the service. It appears from the evidence presented by the memorialist, that his father, Ezra Chapman, senior, on the 6th day of August, 1777, entered into the service of the army as an ensign, and continued in service until the 1st day of September, 1778, when he died; that the said Ezra left a widow and one son, the memorialist, then about five years of age; and that neither the said widow or the memorialist, has ever received the seven years' half-pay of the said Ezra, deceased, to which his widow became entitled by virtue of the resolution of Congress, passed the 24th day of August, 1780.

Mr. PRATT. I wish to move an amendment to the bill: to strike out the words "together with interest thereon from the 22d day of March, 1838."

The question was taken; and the amendment was agreed to.

The bill was then laid aside, to be reported to the House with a recommendation that it pass.

House bill (No. 362) for the relief of the heirs and legal representatives of Joseph Savage, deceased.

The bill in this case directs the Secretary of the Treasury to pay to the legal representatives of Joseph Savage, deceased, five years' full pay of a surgeon's mate in the Continental line of the Army of the Revolution, with interest on the same from the 1st day of January, 1837.

It appears from the report in this case, that the said Joseph Savage was a surgeon's mate in the Virginia Continental line of the revolutionary army; that he entered the service in 1778, and remained therein until the disbanding of the army at the close of the war. His heirs, the petitioners, lay claim to the commutation pay to which officers of the revolutionary army who rendered service until the end of the war were entitled by act of Congress. They have failed to receive the said commutation pay because their said ancestor has been held not to come within the class of officers to whom commutation pay was promised.

Mr. LETCHER. I move to strike out so much of the bill as proposes to give interest.

The question was taken; and the amendment was agreed to.

Mr. LETCHER. I desire to offer a further amendment, in the shape of a proviso to the bill:

Provided, That said sum shall be received in full discharge of all demands against the Government on that account.

The question was taken; and the amendment was agreed to.

The bill was then laid aside, to be reported to the House with a recommendation that it do pass.

House bill (No. 363) for the relief of the heirs of Thomas Parks, deceased.

The bill in this case directs the Secretary of the Treasury to pay to the heirs and legal representatives of Thomas Parks, deceased, the sum of $800, with interest on the same from the 1st of January, 1830.

From the report in this case, it appears that Thomas Parks, during the war of the Revolution, was captain of a privateer called the Prudence, commissioned by Governor Trumbull, of Connecticut. That in the month of February, 1782, while cruising off the coast of Connecticut, he found floating and took up a quantity of sails and rigging, belonging to the British vessel-of-war Bedford, and which had been thrown overboard in a gale. That, in the month of April thereafter, he sold the sails and rigging to Captain Harding, then commanding the Continental vessel Confederacy; that they were sold to him as agent for the Government, and for the national benefit, for the sum of eight hundred dollars; that Captain Harding gave a receipt for the property, and promised to procure the money from the United States Government, and pay it over. That subsequently, a party of Tories made an incursion into Groton, broke open Captain Parks's house in the night, plundered it of everything valuable, and, among the rest of his papers, the said receipt.

Mr. TAYLOR, of New York. I see that the bill in this case provides for the payment to the "heirs *and* legal representatives." I move, therefore, to strike out the words "heirs and," so as to make the payment go to the legal representatives alone.

The question was taken; and the amendment was agreed to.

Mr. LETCHER. I now move my standing amendment, to strike out the provision for the payment of interest.

The question was taken; and the motion was lost.

Mr. LETCHER. Then I object to the bill.

Mr. SEYMOUR. That cannot be done now. It is too late.

Mr. HAMILTON. A member can object at any time before the bill is laid aside to be reported to the House, and this has not yet been laid aside.

The CHAIRMAN. Does the gentleman from Virginia insist upon his objection?

Mr. LETCHER. I do.

Mr. COBB. Then I call for tellers upon the gentleman's motion to strike out the interest.

Mr. WENTWORTH, of Massachusetts. Does not this objection to the bill come too late?

The CHAIRMAN. The Chair thinks not.

Mr. LETCHER. I will withdraw my objection if the House will strike out the provision for the payment of interest.

Mr. TAYLOR, of New York. Some of my constituents are interested in this bill, and I would rather have the interest clause struck out, than that the bill should be passed over.

The question was again taken upon the motion to strike out the interest, and it was agreed to.

Mr. LETCHER. I now move to add these words to the bill:

Provided, That the said sum be received in full of all demands against the Government, on that account.

The amendment was agreed to.

The bill was then laid aside, to be reported to the House with a recommendation that it do pass.

[A message was here received from the Senate, (the committee informally rising for that purpose,) by ASBURY DICKINS, Esq., their Secretary, informing the House that the Senate had passed a bill of the House making appropriations for the support of the Military Academy for the year ending June 30, 1856, with amendments, in which he was directed to ask the concurrence of the House.]

The committee resuming its session, the next bill which came up in order for consideration, was Senate bill (No. 72) for the relief of the heirs and representatives of Uriah Prewitt, deceased.

This bill provides authority to the heirs and legal representatives of Uriah Prewitt, deceased, to locate on any unappropriated public lands in the State of Louisiana, the quantity of four hundred and twenty-four acres.

The report was then read.

Mr. LETCHER. I should like to know how they can locate that quantity of land, four hundred and twenty-four acres? The public lands are laid off in divisions of given quantities, in half and quarter sections, &c., and there is no division which corresponds with four hundred and twenty-four acres.

Mr. SMITH, of Tennessee. I wish to submit a motion to obviate the difficulty which appears to arise in reference to this bill.

Mr. DUNHAM. If the gentleman will permit me, I will say that there is no difficulty at all. In locating lands parties must, of course, locate what they are entitled to, according to the regular division into which the lands are divided by the Government, and then, if they have more than they are entitled to, they can pay for the extra amount to the Government. An individual has a right to do so, in all cases where lands are located in that way. Besides that, there is no difficulty, for another reason, that in all the land States there are fractional sections of land of every quantity.

Mr. SMITH, of Tennessee. The claim in this case is evidently a just one for the whole amount specified in the bill. Therefore I propose to amend the bill so as to increase the quantity to such an amount as will make it conform to the number of acres contained in one of the regular Government divisions.

Mr. HAMILTON. If there is to be any more discussion on this subject, I shall object to the bill.

Mr. JONES, of Tennessee. I suggest to my colleague [Mr. SMITH] that it is a daily practice at the Land Office to issue scrip upon Virginia land warrants, in amounts which do not correspond to the regular divisions of the United States surveys, and when a person gets one of these warrants, and locates it upon the land, if there is an excess he pays the difference. So there is no difficulty. If the amount of land contained in this bill is right, let the bill pass with that amount.

Mr. SMITH. I wished only to avoid the objection which was raised by the gentleman from Virginia, [Mr. LETCHER,] and as it appears there will be no practical difficulty in the location of this amount, I withdraw my amendment.

The bill was then laid aside, to be reported to the House, with a recommendation that it do pass.

The next bill which came up in order for consideration was Senate bill (No. 306) for the relief of the legal representatives of James Erwin, of Arkansas, and others.

The bill, which was read *in extenso*, provides for the payment to James Erwin a remuneration for the losses sustained by him upon a contract made with the United States in 1834, and also to James Erwin and the heirs of Daniel Greenhouse, remuneration for losses sustained on a contract made by said Erwin and Greenhouse, in 1835, with the United States.

It appears from the report, that the claimant James Erwin, on the 30th of October, 1834, entered into a contract with Captain Jacob Brown, of the United States Army, to furnish to the United States a quantity of corn, beef, salt, and a number of pack-horses, wagons, teams, and teamsters, for the subsistence and transportation of a large number of Creek Indians, then about to be removed to their new homes west of Arkansas; and that he, in compliance with his contract, did provide and have ready, at the times and places required, the stipulated quantity of corn, and beef, and salt, and a number of wagons and teams to carry out his contract.

It further appears *no Indians came* to consume the corn, beef, and salt, or to give employment to his pack-horses, wagons, teams, and teamsters; and that, in consequence of this failure on the part of the Indians to emigrate, he sustained a heavy loss, and asks the United States to pay him for his losses.

It further appears that, on the 31st of December, 1835, fourteen months after entering into his first contract, the aforesaid James Erwin, and a certain Daniel Greenhouse, entered into two contracts with the before-mentioned Captain Jacob Brown, one of which was to subsist the emigrating Seminole Indians, and the other was for their transportation to the country west of Arkansas. This contract resembles the one for the removal of the Creek Indians, in terms and the result.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

House bill (No. 369) for indemnifying Moses D. Hogan for cattle destroyed by the Indians in 1842.

The bill provides that the Secretary of the Treasury be authorized to pay Moses D. Hogan, or his legal representatives, the sum of $500, in full satisfaction of his claim against the United States for cattle taken or destroyed in the year 1842.

It appears from the report, which was read *in extenso*, that, in August or September, 1842, Moses D. Hogan entered into a contract with Amos J. Bruce, then the acting sub-agent on the part of the United States for the Sioux Indians, near Fort Snelling, to furnish those Indians with beef and

stock cattle; and that having said cattle on hand, he proceeded to drive the said cattle to the point stipulated for their delivery; that when within about sixty miles of such place, a large band of Indians, supposed to be a band of the Sioux, fell upon them, rushed upon their drove of cattle, shooting some, and driving off others, to the number of twenty in all, valued at twenty-five dollars each.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

Senate bill (No. 114) for the relief of Thomas Pember.

Mr. HENDRICKS. That bill is reported with a recommendation that it do not pass. I object.

Mr. LETCHER. I ask the gentleman to withdraw his objection to enable me to submit the motion that the bill be laid aside, to be reported to the House with a recommendation that it do not pass. I do not see why these bills which are reported unfavorably upon by committees of the House should remain to fill up the Calendar.

Mr. HENDRICKS. I should have no objection to the suggestion of the gentleman from Virginia, if these bills could be finally disposed of here, but when they come before the House they may give rise to discussion, and prevent the passage of the other bills which we report with a recommendation that they do pass. I object.

Mr. LETCHER. If the gentleman refuses to withdraw his objection, of course I have nothing to say.

Senate bill (No. 115) for the relief of Samuel Mickum. [Objected to by Mr. HENDRICKS.]

Senate bill (No. 30) for the relief of Thomas Marston Taylor.

The bill provides that the proper accounting officers of the Treasury Department be directed to allow to Thomas Marston Taylor, a purser in the United States Navy, in the settlement of his accounts, for such deficiency as he shall show to exist by reason of his making deposits of Treasury notes in the Phœnix Bank, at Charlestown, Massachusetts, subsequent to April, 1842, and also to allow said Taylor such reasonable and proper expenses as he has actually incurred and paid, in prosecuting any suit brought to enforce the supposed priority of the claims of the United States over other creditors upon the assets of said bank in the hands of trustees, the proper evidence thereof being furnished by Taylor to the accounting officers aforesaid.

Mr. LETCHER. When that case last came before the committee, I stated that, if the gentleman who reported it was willing to accept an amendment by which no allowance should be made for lawyers' fees, I would not object. I am willing to accede to the same proposition now, if the friends of the bill wish it; otherwise I shall object.

Mr. WALLEY. I am authorized to state that the amendment proposed by the gentleman from Virginia will be accepted. But, at the same time, I hope the House will not adopt the amendment. It seems to me that it is a hard case that reasonable expenses in the prosecution of this suit should not be allowed; and especially when they have been allowed in other cases which are precisely similar to this. I, however, shall make no opposition to the amendment.

The amendment was agreed to.

Mr. LETCHER. I now propose to further amend the bill by adding, at the end, the following words:

Provided, That said sum shall be received in full of all demands against the Government on this account.

The amendment was agreed to.

The bill was then laid aside, to be reported to the House with a recommendation that it do pass.

Senate bill (No. 31) for the relief of Purser Francis B. Stockton.

The bill directs the proper accounting officers of the Treasury to pay Francis B. Stockton, a purser in the United States Navy, the sum of $67 57, being the amount of loss sustained by him by reason of making his deposits of public money in the Phœnix Bank, Charlestown, Massachusetts.

Mr. LETCHER. I think the same proviso had better be appended to that bill. I do not want to hear from these claims again hereafter. I move to amend by adding, at the end of the bill, these words:

Provided, That said sum shall be received in full of all demands against the Government on this account.

The amendment was adopted.

The bill was then laid aside, to be reported to the House with a recommendation that it do pass.

House bill (No. 387) for the relief of Francis Petit Smith. [Objected to by Mr. HAVEN.]

House bill (No. 394) for the relief of Nathaniel Goddard and others. [Objected to by Mr. HENDRICKS.]

Senate resolution (No. 8) for the relief of the owners of the steamer Fanny.

The joint resolution and report were read.

Mr. MILLSON. As that resolution involves a question of very considerable nicety and importance, one that was discussed in the Committee on Commerce at some length, it ought not to pass without consideration, and I, therefore, object to it.

Mr. HUNT. I hope the gentleman will state his objection.

Mr. MILLSON. I would do so with pleasure if I was at liberty to do so under the rules; but this is objection day.

Mr. DUNBAR. I hope the gentleman from Virginia will withdraw his objection. The matter can be decided as well now as at any other time. This is a Senate resolution. It has passed the Senate, and has been before the Committee on Commerce, and we may as well determine at once whether it shall pass or not.

Mr. MILLSON. I would withdraw my objection with pleasure, if it were competent for us to consider and discuss the resolution.

Mr. HENDRICKS. I object to further debate. The resolution is objected to, and must be passed over.

House bill (No. 397) for the relief of Mrs. Mary A. M. Jones. [Objected to by Mr. HENDRICKS.]

House bill (No. 401) to provide for three months' extra pay to the third regiment of Missouri volunteers. [Objected to by Mr. KERR.]

Senate bill (No. 35) for the relief of M. K. Warrington and C. St. J. Chubb, executors of Captain Lewis Warrington, and others. [Objected to by Mr. LETCHER.]

Senate bill (No. 300) for the relief of Thomas Rhodes. [Objected to by Mr. JONES, of Tennessee.]

Senate resolution (No. 19) for the relief of Rebeca J. Burdsall.

The bill was read. It directs the Postmaster General to pay to Rebecca J. Burdsall, widow of Ira Burdsall, late mail agent of the United States, the balance of pay for the current year to which her late husband would have been entitled had he lived.

Mr. HAMILTON. I object.

The bill was passed over.

House bill (No. 408) for the relief of Thomas Underhill, executor of Thomas Underhill, deceased.

The bill directs the Secretary of the Treasury to pay to Thomas Underhill, executor of Thomas Underhill, deceased, the sum of $11,055, in full payment for damages sustained and property used by the ninth regiment of the Virginia army of the Revolution. From the report it appears that about the commencement of the revolutionary war, the testator, Thomas Underhill, leased a farm lying in Northampton county, Virginia, for a term of years, including the hands, slaves, horses, and farming utensils generally, for £553, Virginia currency; that in 1778, the ninth Virginia regiment was quartered on said farm, took possession of it, burned the fences, prevented the slaves from laboring, and otherwise inflicted loss on the testator.

Mr. BAYLY, of Virginia. I move that the bill be laid aside, to be reported to the House with a recommendation that it do pass.

Mr. HENDRICKS. How much money does it appropriate?

The CHAIRMAN. Over $11,000.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

House bill (No. 409) for the relief of Stephen Lutz, of New York.

The bill directs the Secretary of the Treasury to refund and pay to Stephen Lutz, of New York, $500, with interest, at the rate of six per centum per annum, from the 10th of March, 1851, being the amount paid by him for thirty-one cases containing machinery and apparatus for the light, or lantern of a light-house, imported into the port of New York, in the United States, and which were, through mistake or inadvertence, sold by public sale, made by the direction of the then collector of the port of New York, as being property liable to the payment of duties, and which had remained in public store for more than nine months, without being claimed by any person, and on which no duties or expenses of storage had been paid.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

House bill (No. 413) for the relief of Henry Gardner and others. [Objected to by Mr. LETCHER.]

House bill (No. 422) for the relief of Conrad Wheat, jr., or his legal representatives.

Mr. HILLYER. I would state to the committee that a bill, identical with the one now before the committee, passed Congress at the last session. The next bill on the Calendar, (No. 298,) to confirm the claim of William H. Henderson, and the heirs of Robert Henderson, to five hundred acres of land in the Bastrop grant, is of the same character. I move that they be laid aside, to be reported to the House with a recommendation that they do not pass.

The motion was agreed to.

Senate bill (No. 170) for the relief of Mrs. Helen Mackay, administratrix of Lieutenant Colonel Æneas Mackay, late a deputy quartermaster general in the United States Army. [Objected to by Mr. FAULKNER.]

Senate bill (No. 285) for the relief of the heirs of Brigadier General Richard B. Mason.

The bill provides that "all the provisions of the act approved February 3, 1853, entitled 'An act for the relief of Brevet Brigadier General Riley, and to enable him to settle his accounts with the United States,' be applied to the heirs of Brigadier General Richard B. Mason, in reference to all moneys raised and collected by him for contributions, penalties, internal assessments, duties, or other objects, in California, from June 1, 1847, to July 15, 1849, and that the proper accounting officers of the Treasury Department, in settling the accounts of said Mason, be authorized and required to allow as a credit, a commission of one and a half per cent. upon the moneys so raised, collected, and disbursed by the said Mason while he was Governor of California, during the time stated above."

Mr. WHEELER. I wish to know if this officer received pay as a military officer during that time, and if he now asks for additional pay?

Mr. LATHAM. In reply to the gentleman from New York, I will state for the information of the committee, that General Mason, as a matter of course, received the compensation to which he was entitled as an officer of the Army. But the duties of a collector were imposed upon him, which were entirely different from those that belonged to his military office. He performed the duties of collector at the port of San Francisco; and had to collect all the revenue there which was to be paid into the national Treasury. The bill now under consideration, merely gives him a compensation in payment for the additional duties then imposed upon him. If this were a new matter, objection might very well be raised; but this whole question of giving compensation in such cases was fully argued, when the claims of General Riley was submitted to Congress; and it was then decided that the claim should be allowed.

Mr. WHEELER. What is the amount of the claim?

Mr. LATHAM. The whole amount of the claim that the heirs of General Mason would get, is less than $4,000.

Mr. WHEELER. How long was he collector of the port?

Mr. LATHAM. Some three years.

Mr. HUGHES. I understand that the gentleman will receive this pay as an officer. That being the case, I object to it.

Senate resolution (No. 14) authorizing settlements under certain mail contracts. [Objected to by Mr. GROW.]

Senate bill (No. 145) for the relief of John G. Camp.

The bill was read by the Clerk.

Mr. JONES, of Tennessee. As there seems to be no report in this case, I object to it.

Mr. MAXWELL. There is a report, for it was read at the last session of Congress.

Mr. SEYMOUR. The claim in this case is a well founded one, and I think I can state, in a few words, its merits. By a former construction of the law relating to marshals, they were not allowed for traveling expenses the same that was allowed them by a subsequent and existing construction of the law. A decision has been made by the Supreme Court giving marshals more than was allowed them at the Treasury Department. The marshal, in this case, under the present construction of the law, would be entitled to what he claims, but the account having been settled at the Treasury Department, it has been ruled out at that Department upon the ground that a matter having once been settled could not be again opened.

Mr. HENDRICKS. I wish to ask the gentleman from Connecticut, who reported this bill, a question. It is, whether all the marshals of the United States, during the same years, do not occupy the same position with this claimant, and whether the passage of this bill will not lead the way to the opening of all their accounts?

Mr. SEYMOUR. I did not report this bill. It was reported by the chairman of the committee, but I recollect that the subject was a matter of inquiry, and my impression is, that the result of that inquiry was, that very few claims would arise in consequence of the passage of this bill.

Mr. HENDRICKS. There certainly seems to be a chance for it.

Mr. STANTON, of Tennessee. I do not know of a single claim of this kind, other than the one now before the House. But if there were a hundred, it would be the duty of Congress to pay them.

Mr. LETCHER. Well, I know of claims of this kind which will be set up. I object to the bill, unless it be made general.

The bill was accordingly laid over.

Senate bill (No. 337) for the relief of Eliza M. Evans.

The bill was read.

Mr. LETCHER. This is a bill to pay interest from 1780, and nothing else, and I object to it.

Mr. LILLY. Will the gentleman allow the report to be read?

Mr. LETCHER. No, sir; I object, without the reading.

House bill (No. 451) for the relief of John H. King.

The bill, which was read, directs the Secretary of War to pay to John H. King $277 78, due to him for salary as director of the rifle factory at Harper's Ferry armory, from January 21, 1840, to June 10, 1841.

The report shows that the memorialist was an inspector at the Harper's Ferry armory in 1839 and 1840; that during the latter part of the year 1839, Captain John H. Hall, who held an office higher than that held by the memorialist, became incapacitated to perform the duties of his position, and that they were performed by the memorialist, as the next officer; that, on the 21st of January, 1840, Captain Hall still being sick, the superintendent of the armory gave the memorialist a written order to perform the duties of director temporarily; and that the memorialist continued to perform the duties of director until after the death of Captain Hall, when the memorialist, on the 10th of June, 1841, received a permanent appointment to the said position.

No objection being made, the bill was laid aside, to be reported to the House with a recommendation that it do pass.

House bill (No. 450) for the relief of James Greer, deceased. [Objected to by Mr. HAVEN.]

House bill (No. 453) providing for the grant of land to the Vermont volunteers, for their services at the battle of Plattsburg. [Objected to by Mr. HENN.]

House bill (No. 454) for the relief of Charles W. Carroll. [Objected to by Mr. LETCHER.]

House bill (No. 457) for the relief of Evelina Porter, widow of the late Commodore David Porter, of the United States Navy. [Objected to by Mr. LAMB.]

House bill (No. 465) for the relief of Isaac Adams. [Objected to by Mr. HILLYER.]

House bill (No. 469) for the relief of the legal representatives of Gustavus B. Horner, deceased.

Mr. FAULKNER. There is now a general bill before the Committee on Military Affairs in reference to the commutation of surgeons' mates, and I think it best to let this bill go over until that one has been reported and acted on. I object.

House bill (No. 470) for the relief of the heirs of Lieutenant Andrew Finly.

The bill, which was read *in extenso*, provides that the Secretary of the Treasury be required to pay to Nancy Hough, formerly Nancy Finly, for herself and the heirs of Andrew Finly, late a lieutenant in the Pennsylvania line in the Continental Establishment of the war of the Revolution, one year's extra pay of a lieutenant in said service, as promised in the resolves of Congress.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

Mr. MORGAN. I will withdraw my objection to the bill for the relief of the heirs of Brigadier General Richard B. Mason on one condition.

Mr. HENDRICKS. I object to going back.

Senate bill (No. 158) for the relief of David Myerle.

Mr. GREENWOOD. The gentleman from Pennsylvania, [Mr. FLORENCE,] who reported that bill, is absent, and I would suggest that it be passed by for the present.

Senate bill (No. 260) for the relief of Gideon Hotchkiss. [Objected to by Mr. READY.]

House bill (No. 483) for the relief of Andrew H. Patterson.

The bill, which was read *in extenso*, provides that the Secretary of the Treasury be required to pay to Andrew H. Patterson the sum of $6,802, for mail bags manufactured by him under a contract with the Post Office Department, entered into on the 23d of May, 1840.

Mr. LETCHER. When I was a member of the Committee of Claims, that bill was before the committee. We examined it particularly, and, I believe, came to the unanimous conclusion that it was right.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

Senate bill (No. 230) for the relief of Asbury Dickins. [Objected to by Mr. LETCHER.]

Mr. LANE, of Indiana. Do I understand the Chair to decide that, where a bill has been passed over, if the objection be withdrawn, the committee cannot again return and take it up?

The CHAIRMAN. Only by unanimous consent.

Mr. LANE. The gentleman from New York [Mr. WHEELER] objected to Senate bill No. 285, for the relief of the heirs of Brigadier General Richard B. Mason. I am satisfied that the objection would now be withdrawn, and that there would be no opposition to the bill being reported to the House, if the committee would consent to return to it.

Mr. LETCHER. I object to going back upon the Calendar until we have gone through with it.

Mr. READY. I move that the committee do now rise.

Mr. STANTON, of Tennessee. I demand tellers upon the motion.

Tellers were ordered; and Messrs. BOYCE and MCDOUGALL were appointed.

The question was then taken; and the tellers reported forty-one in the affirmative—a further count not being demanded.

So the committee refused to rise.

The CHAIRMAN. The Chair will state that there are quite a number of bills coming next in order upon the Calendar, which are accompanied by a recommendation that they do not pass. The Chair proposes that, by unanimous consent, these bills may be considered as objected to and passed over.

Mr. READY. I object, and ask that they may be taken up regularly.

Mr. HENDRICKS. I object to all these bills.

Mr. JONES, of Tennessee. I submit whether it is not in order to have these bills reported to the House, with the recommendation that the report of the Committee of Claims adverse thereto, be concurred in. It seems to me that it is hardly worth while to allow all these bills to remain upon the Calendar.

Mr. STANTON, of Tennessee. That course certainly would not be in accordance with the rule.

The CHAIRMAN. The bills will then be taken up in their regular order.

Senate bill (No. 148) for the relief of Zachariah Lawrence, of Ohio. [Objected to by Mr. READY.]

Senate bill (No. 311) for the relief of Michael Nourse. [Objected to by Mr. HENDRICKS.]

Senate bill (No. 53) for the relief of the sureties of Daniel Winslow. [Objected to by Mr. WHEELER.]

Senate bill (No. 86) for the relief of J. Boyd, of Louisiana. [Objected to by Mr. REESE.]

Senate bill (No. 89) for the relief of the legal representatives of the late Captain William G. Williams.

Mr. HAVEN. I suppose an objection to this bill will have the effect to leave it upon the Calendar.

The CHAIRMAN. That will be the effect of an objection.

Mr. HAVEN. Whenever this bill comes before the committee for discussion, I think I can be able to show that the report of the Committee of Claims ought to be reversed; with a view of securing an opportunity for that discussion, I object.

Senate bill (No. 87) for the relief of Jacob Gideon. [Objected to by Mr. JONES, of Tennessee.]

Senate bill (No. 325) for the relief of John McAvoy. [Objected to by Mr. WHEELER.]

Senate bill (No. 208) for the relief of John Devlin. [Objected to by Mr. HENDRICKS.]

Senate bill (No. 307) for the relief of Thomas C. Nye. [Objected to by Mr. JONES, of Tennessee.]

Mr. STANTON, of Kentucky. I move that the committee do now rise.

The motion was not agreed to.

The following Senate bills, reported with the recommendation that they do not pass, were severally objected to:

An act for the relief of Mary D. Blaney, widow of the late Major George Blaney;

An act for the relief of Rulif Van Brunt;

An act for the relief of the legal representatives of the late Colonel John Anderson;

An act for the relief of the legal representatives of Daniel Loomis, deceased;

An act for the relief of Lieutenant A. J. Williamson;

An act for the relief of Hezekiah Miller; and

An act for the relief of John P. McElderry.

Senate bill (No. 410) for the relief of James Dixon. [Objected to by Mr. STANTON, of Kentucky.]

House bill (No. 499) to refund to the officers of the customs, and others, of the district of Passamaquoddy, certain moneys. [Objected to by Mr. STANTON, of Kentucky.]

Mr. LETCHER. I move that the committee do now rise. We have got to a stopping point, I think, as all the bills are objected to as they come up; I ask for tellers on my motion.

Tellers were ordered; and Messrs. BOYCE and BOCOCK were appointed.

The question was taken, and the motion was agreed to—ayes 66, noes 25.

So the committee rose; and the Speaker *pro tempore* [Mr. JONES, of Tennessee] having taken the chair, the Chairman [Mr. PHILLIPS] reported that a Committee of the Whole House had had the Private Calendar under consideration, and had passed upon several bills, some of which they had amended, and others laid aside without amendment, and instructed him to report the same to the House, with a recommendation that they do pass; and, also, two several bills, with a recommendation that they do not pass.

Mr. WHEELER. I move that the House do now adjourn.

Mr. LETCHER. I hope the gentleman from New York will withdraw that motion, until the previous question can be moved on these bills.

Mr. WHEELER. Certainly; I withdraw it.

The SPEAKER *pro tempore*. It would require unanimous consent to order the previous question upon all the bills at once. Is there objection to that course?

Mr. MILLSON. I object to it. We got into difficulty last session, by pursuing that very course.

Mr. WELLS. I ask leave to introduce, for the purpose of reference merely, a joint resolution, "relative to the erection of the building in the city of Milwaukie, for the custom-house, post office, and the United States courts."

Mr. LETCHER. I object, unless I can hear the resolution read, so as to ascertain whether it is one of inquiry or of instruction.

The SPEAKER *pro tempore*. It is a joint resolution.

Mr. WELLS. My object is simply to have it referred to the Committee on Commerce.

Mr. LETCHER. Well, I take it that when the Committee on Commerce build light-houses outside the United States, they will probably spend more money on custom-houses inside. [Laughter.] On that ground, I object to the introduction of the joint resolution.

Mr. STANTON, of Kentucky. I move that when the House adjourns, it adjourn to meet on Tuesday next, Monday being the 8th of January.

Mr. HOUSTON. There was no quorum on the last vote.

The SPEAKER *pro tempore*. There has been no report of that fact to the House, though it may have been ascertained in committee.

Mr. HAVEN. I would suggest to the gentleman from Kentucky, that as we shall probably adjourn over Monday any how, we had better meet here to-morrow, and do something with some of these litigated claims.

Mr. STANTON. But is not to-morrow "objection day?"

Mr. HAVEN. No, sir.

Mr. STANTON. Then I withdraw my motion.

Several MEMBERS. "Oh, no."

Mr. STANTON, of Kentucky. I move that when the House adjourns to-morrow, it adjourn to meet on Tuesday next.

The SPEAKER *pro tempore*. The Chair would suggest to the gentleman, that it will be time enough to make that motion to-morrow.

Mr. STANTON. Time enough, if I can get the floor.

The SPEAKER *pro tempore*. The gentleman can always get the floor for that purpose when a motion is pending to adjourn, because it takes precedence.

Mr. STANTON. Well, I prefer to insist on my motion now.

Mr. HOUSTON. It is not a privileged motion.

The SPEAKER *pro tempore*. The gentleman from Kentucky [Mr. STANTON] asks the unanimous consent of the House to submit a motion that when the House adjourns, it adjourn to meet on Tuesday next.

Mr. PERKINS, of New York. I object.

Mr. STANTON. The motion is one of privilege.

The SPEAKER *pro tempore*. The Chair does not so regard it.

Mr. WHEELER. I move that the House do now adjourn.

Mr. BAYLY, of Virginia. I ask the gentleman from New York to withdraw his motion, until we pass those bills to which there was no objection in the committee.

Mr. WHEELER. I will do so. I withdraw my motion.

The House then proceeded to the consideration of the bills reported this morning from a Committee of the Whole on the Private Calendar.

The following House bills, reported by the committee, without amendment, were severally ordered to be engrossed and read a third time; and being engrossed, they were subsequently accordingly read a third time, and passed:

A bill for the relief of Thomas Underhill, executor of Thomas Underhill, deceased;

A bill for the relief of Stephen Lutz, of New York;

A bill for the relief of John H. King;

A bill for the relief of the heirs of Lieutenant Andrew Finly; and

A bill for the relief of Andrew H. Patterson.

The following Senate bills, reported by the House, without amendment, were severally ordered to be read a third time; and having been read a third time, were passed:

An act for the relief of the heirs and representatives of Uriah Prewitt, deceased; and

An act for the relief of the legal representatives of James Erwin, of Arkansas, and others.

The following bills of the House were reported by the committee, with amendments:

A bill for the relief of the widow and children of Ezra Chapman, deceased;

A bill for the relief of the heirs and legal representatives of Joseph Savage, deceased; and

A bill for the relief of the heirs of Thomas Parks, deceased.

The amendments of the committee were severally concurred in, and the bills were ordered to be engrossed and read a third time; and being engrossed, they were subsequently read a third time, and passed.

The following bills of the Senate were reported from the committee, with amendments:

An act for the relief of Thomas Marston Taylor; and

An act for the relief of Purser Francis B. Stockton.

The amendments were concurred in, and the bills were ordered to be read a third time; and having been accordingly read a third time, were passed.

The following bills were reported to the House by a Committee of the Whole, with a recommendation that they do not pass:

A bill for the relief of Conrad Wheat, jr., or his legal representatives; and

A bill to confirm the claim of William H. Henderson, and the heirs of Robert Henderson, to five hundred acres of land in the Bastrop grant.

Mr. HOUSTON. I move that the bills be laid upon the table.

Mr. CORWIN. I move that the committee be discharged from their further consideration.

The SPEAKER *pro tempore*. The committee reported them back to the House with a recommendation that they do not pass.

The question was taken upon Mr. HOUSTON's motion; and it was decided in the affirmative.

So the bills were laid on the table.

The SPEAKER *pro tempore*. The business now in order is the motion made by the gentleman from Indiana, [Mr. DAVIS,] that when this House adjourns, it adjourn to meet on Tuesday next.

Mr. STANTON, of Kentucky. Can the proposition be amended so as to provide that, when the House adjourns to-morrow, it adjourn to meet on Tuesday next?

The SPEAKER *pro tempore*. The Chair thinks not.

Mr. WHEELER. There is no quorum here, and I object to the motion.

The SPEAKER. The House can ascertain whether there is a quorum present by a vote upon the motion.

The question was then taken on Mr. DAVIS's motion; and, upon division, there were—ayes 20, noes not counted.

So the motion was not agreed to.

Mr. HAMILTON. I move that the House adjourn.

The question was taken; and it was decided in the affirmative; and the House, therefore, at twenty minutes past three o'clock, adjourned till to-morrow at twelve o'clock, m.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January* 6, 1855.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

Mr. BOCOCK. I hold in my hands a letter from the Secretary of the Navy addressed to me, as chairman of the Committee on Naval Affairs, explaining more particularly the recommendation in his annual report in relation to an increase of the Navy, which I ask to have printed.

There being no objection, it was so ordered.

Mr. MAXWELL. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That the President of the United States be requested to furnish to this House a statement of the number of persons holding office under the different Departments of Government, what number of these are of foreign birth, and what number of this latter class have been appointed since the 4th of March, 1853; said statement to specify the whole number, and the number of foreign birth in each different class of officers.

Mr. PERKINS, of New York. I object.

Mr. CLINGMAN. I ask unanimous consent to make a personal explanation, and which will take but a minute or two of the time of the House. It is due to some other gentlemen, as well as to myself, that I should make it. There is a statement in some of the newspapers in relation to the remarks of the gentleman from Virginia, [Mr. BAYLY,] the chairman of the Committee on Foreign Affairs, made the other day, upon the question of offering our mediation to the European Powers now engaged in war, which, as it has gone out, does a little injustice to myself and the other members of the committee. What I wish to state is, that when the Committee on Foreign Affairs, two or three weeks ago, with great unanimity authorized me to report the mediation proposition, the circumstance alluded to by the gentleman from Virginia was not known to the members of the committee. In point of fact, it was made known to me, as well as to the gentleman from Virginia, only on the very day previous to my speaking upon the subject. This fact ought to be understood, because the members of the committee would not probably have acted as they did with a knowledge of this circumstance.

I say further, that, when that communication was made, I informed the gentleman from Virginia that, in deference to the information, it would not be necessary for him to call the committee together to reconsider the subject, for that I would waive the right for the present to report upon the subject.

I may further say, that the information does not, in my judgment, change at all the propriety of making the movement I suggested. But, for reasons which it is not proper for me to state, I decline taking any steps at this time. This much I desire to be understood, in justice to the opinions of the committee, and to myself.

PRINTING OF MAPS.

Mr. RIDDLE. I am directed by the Committee on Engraving to offer the following resolution:

Resolved, That the Committee on Engraving be, and they are hereby, authorized to contract for the lithographing and printing of nine hundred and thirty sets of the maps and plates accompanying the President's message and documents, provided the cost shall not exceed $600

I merely rise to state that the committee did not think it necessary to print and lithograph maps and plates for the whole number of documents, as it would cost $12,000. They therefore recommend that a number sufficiently large for the use of members and the libraries, be printed, lithographed, and bound in calf.

The question was taken; and the resolution was agreed to.

ADJOURNMENT OVER.

Mr. McMULLIN. I move that when this House adjourns, it adjourn to meet on Tuesday next.

The question was taken; and the motion was agreed to.

PROPERTY DESTROYED BY THE BRITISH.

Mr. READY. I ask the unanimous consent of the House to grant me a request that has already been made on a former occasion. It is to set apart a bill for consideration on a particular day; and I ask permission, in connection with this application, to make a few remarks. It is a bill providing for the payment of property destroyed by the enemy in the war of 1812, in consequence of its having been taken into possession by our Army. The reason why I am so solicitous that this bill shall be made a special order, is that it will cover a large class of cases of a similar character. Numerous cases of the kind have been presented by individual applications to the different branches of Congress, which are now pending before the Committee of Claims, and before the committee of which I am a member. The examination and disposition of such claims, occupy weeks of the time of committees of this House before they are ready to report upon them. If the bill to which I have referred shall be taken up and disposed of, the whole subject will be disposed of by the consumption of one tenth less time than will be necessarily consumed if the House refuse to take up and consider this bill.

For the purpose, therefore, of economizing the time of the House, I move to make this bill, being No. 493 on the Calendar, the special order for next

Tuesday week, which will be the 15th day of the present month.

Mr. McMULLIN. I object to making a special order in this case.

EXTRA PAY TO PUBLIC PRINTERS.

Mr. READY. I now ask the unanimous consent of the House to introduce the following joint resolution, of which I gave notice a few days ago:

Resolved by the Senate and House of Representatives of the United States, That the joint resolution passed by the two Houses of Congress on the 10th day of June, 1854, entitled a joint resolution to fix the compensation of the employees in the legislative department of the Government, and to prohibit the allowance of the usual extra compensation to such as shall receive the benefits thereof, shall not be so construed as to increase the pay allowed by previous laws to the public printer of the two Houses of Congress.

The SPEAKER. The question is upon ordering the resolution to be engrossed, and read a third time.

Mr. READY. Before that question is put, I desire to say a few words. I wish first to remark, that in offering the resolution I did not intend to cast any reflection upon the public printers of either House of Congress. It is known to every gentleman here that these persons have claimed an additional compensation under the resolution of the last session, to which the resolution I have introduced refers, amounting to a very considerable sum—in one instance, I believe, to $15,000.

I desire to say further, that I can very well understand that those gentlemen believed they were acting upon a right which was secured to them by the resolution which passed last session. Indeed, sir, I will say, if I were proceeding as a public functionary to decide whether those gentlemen were entitled to claim such pay or not, I should hesitate long in construing that resolution before I should decide against them.

But while I say this, I say it under the conviction that it was not the intention of the House to confer upon those gentlemen any extra compensation for their services. For one, having voted for the bill, I have a right to speak. I never anticipated that that resolution would extend its benefits to the public printers. I supposed they were satisfied with the compensation already provided for them by existing laws. If I am not mistaken in the opinion I entertain, that this House did not contemplate extending any further benefits to them under that resolution, than those secured to them by previous laws, I trust there will be no objection to the resolution which I have offered.

Mr. ROBBINS. I would inquire of the gentleman from Tennessee, if it is his intention to ask the House to put this resolution upon its passage at the present time?

Mr. READY. I do propose to do so, and I demand the previous question upon ordering the bill to be engrossed, and read a third time.

Mr. PRATT. Will the gentleman from Tennessee withdraw his demand for the previous question, in order to allow me to move an amendment to the resolution? The resolution does not go quite far enough, although it is good as far as it extends. I wish to offer an amendment, so as to make the resolution include the Superintendent of the Public Printing, as well as the public printers. If the gentleman will allow me to offer that amendment, I shall vote for the resolution.

Mr. READY. I will withdraw my demand simply for that purpose.

Mr. PRATT. I now move to amend the resolution by inserting the words "and the Superintendent of the Public Printing," after the words "public printers."

Mr. READY. I renew the demand for the previous question.

Mr. SMITH, of Tennessee. I move to refer this resolution to the Committee on Printing.

The SPEAKER. The motion cannot be made, as the previous question has been demanded.

The previous question was then seconded, and the main question was ordered to be now put.

The first question being upon the amendment, it was put; and the amendment was agreed to.

The resolution, as amended, was then ordered to be engrossed and read a third time, and being engrossed, was subsequently read a third time.

Mr. READY. I move the previous question upon the passage of the resolution.

The SPEAKER. The Chair is informed that the resolution to which this resolution refers was approved on the 20th of July, 1854, instead of the date stated in the resolution. If there is no objection, that correction will be made.

No objection being made, the correction was made.

The previous question was then seconded, and, under the operation thereof, the resolution was passed.

Mr. READY moved to reconsider the vote by which the resolution was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

PRIVATE CALENDAR.

Mr. ROBBINS. I move that the House do now resolve itself into a Committee of the Whole on the Private Calendar.

The question was put; and the motion was agreed to.

The House accordingly resolved itself into a Committee of the Whole on the Private Calendar, (Mr. BOCOCK, of Virginia, in the chair.)

Mr. HENDRICKS. I move, by the unanimous consent of the committee, that the committee proceed to the consideration of bills which shall not be objected to, in the same manner as the committee proceeded yesterday. We came very near finishing the Calendar last evening, and for the purpose of disposing of the remaining cases to which there may be no objection, I make the motion I have indicated, commencing where the committee left off yesterday.

By unanimous consent, the motion was agreed to.

The first case which came up for consideration was House bill (No. 504) for the relief of Tunstall Quarles. [Objected to by Mr. HAMILTON, and laid over under the rule.]

House bill (No. 505) for the relief of the heirs of Rignald, alias Nick Hiliary, was taken up.

Mr. CHRISMAN. I understand the gentleman from Maryland [Mr. HAMILTON] withdraws his objection to the last bill which was taken up, for the relief of Quarles.

A MEMBER. This is not objection day, and he could not object.

The CHAIRMAN. The Chair wishes to state that his impression was, that, by unanimous consent, the committee determined to proceed to the consideration of such bills upon the Calendar as should not be objected to, in the same manner as if this were objection day, commencing where the committee left off yesterday. Under that understanding the Calendar has been taken up; and the bills to which no objection shall be made will be laid aside, to be reported to the House with a recommendation that they do pass. Objection was made to bill No. 504, and the Clerk has already proceeded to the next bill.

Mr. LANE, of Indiana. I object to going back, as desired by the gentleman from Kentucky, [Mr. CHRISMAN,] unless we go back and take up all the bills which were objected to yesterday, but to which objections were afterwards withdrawn.

The CHAIRMAN. That can only be done by unanimous consent; and it is too late to object to the present course of proceeding, as the committee has already proceeded to act, under the unanimous consent of the committee.

Senate bill (No. 169) for the relief of W. P. S. Sanger coming up in order, was read.

Mr. DUNHAM. I will state that there is no report in this case, or at least no House report, but I have in my possession a letter from Commodore Smith, which explains the whole matter. I ask that the letter, which I send to the Clerk's desk, may be read.

Mr. HAVEN. I have no objection to the letter being read; but I shall ask the gentleman who has charge of the bill to so amend it as to make compensation in dollars and cents. I object to the payment of these claims in unknown quantities.

The letter of Commodore Smith was read.

Mr. TWEED. I object to that bill.

The bill was accordingly passed over.

Senate bill (No. 338) for the relief of Robert C. Thompson, only surviving child and legal representative of William Thompson, deceased, formerly a brigadier general in the Army of the revolutionary war, coming up in order, was read.

Mr. HAMILTON. Is there a report?

The CHAIRMAN. The Chair will state that this is a Senate bill, and that the report, together with the other Senate papers, were lost by the Committee on Naval Affairs while the bill was before them.

Mr. HOWE. If the committee will allow me, I can state the circumstances of the case in three minutes.

The CHAIRMAN. The gentleman can proceed with his remarks, only by unanimous consent.

There was no objection; and

Mr. HOWE proceeded: General Thompson was a brigadier general in the revolutionary war. He died a prisoner on parol. He was amongst the first of the Pennsylvanians to enlist in the war. He fought in South Carolina, and distinguished himself in the battle of Charleston Neck. So much did he distinguish himself in this engagement, that, with Generals Moultrie and Lee, he received the thanks of Congress; and, at the very next vacancy that occurred, he was raised to the rank of a brigadier general. For five years he served as a brigadier general. Subsequently, however, General Thompson fought at the battle of the Three Rivers, and was taken prisoner. He died a prisoner on parol. This case has been examined by a Senate committee, and I understand the allowance of the claim was unanimously recommended. It has also been examined by a committee of this House, and received their unanimous approbation.

The application is for seven years' half-pay. It was proved to the satisfaction of the committee, as I understand, that he never received the half-pay. I have myself examined the papers, and I think they show a very clear case.

Mr. MILLSON. I desire to ask the gentleman from Pennsylvania at what time General Thompson died?

Mr. HOWE. I think it was in 1781.

Mr. HAMILTON. I wish to ask the gentleman from Pennsylvania what evidence there is that General Thompson never received the half-pay to which he was entitled?

Mr. HOWE. I understand that the Departments can furnish no evidence that he ever received it. The Pennsylvania rolls at Harrisburg show that he was entitled to it; but there is no evidence that it has ever been paid.

Mr. McMULLIN. I object to the bill.

The bill was therefore passed over.

Senate bill (No. 182) for the relief of Thomas Butler.

The act directs the Secretary of the Treasury to pay to Thomas Butler, of the city of New York, the sum of $2,922, being the cost of extra work performed, and of materials furnished, in the construction of a light-house on Execution Rocks, on Long Island Sound, by order of the engineer in charge, and not within the terms of his contract for the erection of such light-house.

The report was read by the Clerk.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

Joint resolution (No. 35) for the relief of Charles W. Morgan, William R. Rodman, and Edward Merrill.

The resolution provides that the accounts between the United States and Charles W. Morgan, William R. Rodman, and Edward Merrill, arising under a contract between them, entered into December 8, 1837, for the supply of oil and other articles for the light-houses, shall be audited, adjusted, and settled by the First Auditor of the Treasury, upon the principles of justice and equity, and in conformity with said contract, to the time of the abandonment or abrogation of the contract, in May, 1839.

The report shows that in the year 1839, a disagreement arose between the Treasury Department and the petitioners, as to the true interpretation of a contract for the supply of oil, &c., for the light-houses, for five years. The contractors demanded payment, about the first of April, for the amount of light-house supplies for the entire year, in conformity, as they alleged, with the fourth article of the contract, which says: "The said sum to be paid to the party of the second part on the 1st day of April in each year, or as soon thereafter as may be, during the continuance of this contract." The Secretary refused to make the payment, alleging that the law of the 31st of January, 1823, forbade him to pay for any supplies or articles until they were delivered. This was a

great disappointment and loss to the contractors; they had bought large quantities of oil and other articles for the fulfillment of their contract, to be paid for at this period. The Secretary persisted that he could not pay them, because he was forbidden by law; whereupon they, on the 25th of May, 1839, informed him as follows: "As the Secretary of the Treasury declines issuing a warrant for the amount of light-house supplies, as specially provided for in the contract with the Government, we regard this action as a violation of the contract, and respectfully inform you that we henceforth do not hold ourselves responsible for the fulfillment of any portion of its stipulations."

After the contract was thus abandoned, the Secretary of the Treasury purchased oil and other supplies for the light-houses on the best terms he could, and has attempted to hold these contractors responsible for the difference in cost between what he paid and that stipulated in the contract. For this purpose he commenced a suit against them in the year 1844, claiming a balance due the United States of $13,446 55; the contractors rendered their account, claiming that the United States owed them a balance of $24,530 99. This suit is still pending, and has never been brought to trial, for the reason, as the contractors allege, that the United States have never been ready.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

Senate bill (No. 301) for the relief of the representatives of Thomas D. Anderson, deceased, late consul of the United States at Tripoli.

The bill, which was read *in extenso*, directs the proper accounting officers of the Treasury to settle an account with the proper personal representatives of Thomas D. Anderson, deceased, late consul of the United States at Tripoli, for contingent expenditures of his consulate from December 31, 1821, up to the period when he ceased acting as such consul; and in full for all claims for such expenditures and other demands arising out of said consulate after December 31, 1821—to allow them at the rate of $750 per annum during the said period; which sum shall be paid to said personal representatives out of any money in the Treasury not otherwise appropriated.

The bill was laid aside, to be reported to the House, with a recommendation that it do pass.

Senate bill (No. 401) for the relief of William Duer.

The bill was read. It directs the Secretary of State to audit, settle, and adjust an account of the necessary expenses incurred by William Duer while consul of the United States at the port of Valparaiso, in Chili, during the year 1852, in the support and defense of William N. Stuart, an American citizen, arrested and arraigned before the courts of Chili upon a charge of murder, and for the transportation of said Stuart to the United States after his release, together with an equitable advance upon the amount thus ascertained, for the use of the money during the interval, and pay the same to William Duer, his heirs or assigns.

The report states the circumstances of the arrest and imprisonment of the petitioner, and that his release was procured by Mr. Duer with the assistance of the Hon. Balie Peyton, United States Minister to Chili, and recommends the allowance of the claim upon the statement of William L. Marcy, Secretary of State, that "while the Department cheerfully bears testimony to the diligence and discretion of Mr. Duer's official conduct in the case referred to, it is conceived that, in pursuing that course, he was merely discharging his duty under the forty-fourth article of the consular instructions." And further, that "when the compensation of an officer, whether by fees, or by salary, is established by law, it is inexpedient to grant him a gratuity for the faithful performance of his duty in any single case." That "this principle would seem to be particularly applicable to the consulate at Valparaiso, at the period adverted to, when the fees received by the consul afforded him a liberal compensation for his official services generally;" but that "any expenses which Mr. Duer may have incurred in protecting and defending Stuart are a fair charge against the Government, if Stuart was unable to defray them himself."

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

Senate bill (No. 361) for the relief of Frederick Vincent, administrator of James Le Caze, survivor of Le Caze & Mallet.

The bill was read. It directs the Secretary of the Treasury to pay to Frederick Vincent, administrator of James Le Caze, $4,890 82, which appears to be due to him on the books of the Treasury for advances made to the Government of the United States in 1783; and that he pay him interest on the sum, at the rate of six per cent. per annum, from December 31, 1846, when his claim was presented to Congress.

The report states that Le Caze & Mallet were merchants of Philadelphia. In the year 1783 the Government had dealings with them to the amount of $75,584 74. This amount was settled by the then Superintendent of Finance, and a balance was stated in their favor of $4,890 82. This settlement and balance were entered on the books of the Treasury of that date, and afterwards transferred to the books of the Treasury in the year 1794, after the present Government went into operation.

Before any provision had been made for liquidating and funding the public debt, Mallet died, and Le Caze, the surviving partner, whilst on a visit to his plantation, in the Island of Saint Domingo, was massacred in the insurrection which broke out in 1789.

There is not a shadow of doubt that this debt is due, and ought to be paid. The only doubt is, whether it ought not to be paid with interest. By the resolution of July 3, 1784, Congress promised that an interest of six per cent. per annum shall be paid to all creditors of the United States for supplies furnished, or service done, from the time that payment became due. There does not seem to have been any uniform rule practiced in relation to interest; sometimes it has been allowed, sometimes refused, and many of the acts are silent on the subject.

The Committee of Claims reported the bill with a recommendation that the following words be stricken out:

"And that he pay him interest on the said sum, at the rate of six per cent. per annum, from the 1st day of December, 1846, when his claim was presented to Congress.

The amendment was agreed to.

Mr. LETCHER. I move to further amend by adding, at the end of the bill, the following words:

Provided, That said sum shall be received in full of all demands on the Government on this account.

The amendment was agreed to.

The bill, as amended, was then laid aside, to be reported to the House with a recommendation that it do pass.

House bill (No. 520) for the relief of James Holstin.

The bill and report having been read, the bill was laid aside, to be reported to the House with a recommendation that it do pass.

House bill (No. 521) for the relief of William Case.

The bill and report were read. The bill was then laid aside, to be reported to the House with a recommendation that it do pass.

Senate bill (No. 251) authorizing the legal representatives of Antoine Vasquez, Hypolite Vasquez, Joseph Vasquez, and John Colligan, to enter certain lands in Missouri.

The act directs that the legal representatives of Antoine Vasquez, Hypolite Vasquez, Joseph Vasquez, and John Colligan, be authorized to enter, without payment, at any land office in the State of Missouri, in such quantities, agreeably to the United States surveys, as the claimants may desire, a quantity of land subject to private entry, not exceeding eight hundred arpens for each of the three persons first above named, and twelve hundred arpens for said Colligan, in lieu of, and in compensation for, a claim of that quantity allowed to them by the board of commissioners appointed for the final adjustment of private land claims in the State of Missouri, and confirmed to them by "An act confirming claims to land in the State of Missouri, and for other purposes," approved July 4, 1836; and that the register or registers of the land offices aforesaid shall receive the proper applications and proofs, and shall issue the necessary certificate or certificates, on return of which to the General Land Office, with proofs sufficient in the opinion of the Secretary of the Interior to establish the right of the claimants as such legal representatives, a patent or patents shall issue as in other cases.

Mr. WASHBURNE, of Illinois. I move to amend the bill by inserting the word "acres," instead of the word "arpens." Arpens are not known under our land system. I believe an arpen is equal to four fifths of an acre. I move an amendment, therefore, that instead of the words "eight hundred arpens," the words "six hundred and forty acres" be inserted.

Mr. HENDRICKS. Better object to the bill at once. I will have to object to it, if the amendment is insisted on, as it is not understood by the committee.

Mr. WASHBURNE. Then I withdraw my amendment.

The bill was laid aside, to be reported to the House.

Senate bill (No. 102) for the relief of the heirs and legal representatives of William Weeks.

The act directs that the heirs and legal representatives of William Weeks be confirmed in their claim to a tract of land, containing two thousand and thirty arpens, situated in the parish of West Feliciana, State of Louisiana, being the same granted to said William Weeks by an order of survey of "Grand Pre," then Governor of West Florida, May 31, 1806, according to the survey made by Ira C. Kneeland, deputy surveyor, under commission from said Governor, on the 22d of September, 1806, of record in the office of the register of the land office at Greensburg, Louisiana, and a patent shall issue therefor, provided that the act shall be held and taken only as a relinquishment on the part of the United States.

Laid aside, to be reported to the House.

Mr. READY. I objected yesterday to Senate bill 148, for the relief of Zachariah Lawrence, of Ohio, and the bill was passed over. I have since examined the claim, and am satisfied that it is just and that it ought to pass. I therefore ask the unanimous consent of the House to withdraw my objection.

Mr. LETCHER. Oh, no, we cannot go back.

Mr. McMULLIN. It is not regular thus to withdraw objections, because if the gentleman had not objected, somebody else might have. The bill must come up in regular order.

Mr. LETCHER. Let us go on regularly now, and when we have got through the Calendar this may be done.

Senate bill (No. 48) for the benefit of the heir-at-law of Lieutenant C. A. Wickliffe.

The bill directs the Secretary of the Interior to issue to C. A. Wickliffe a land warrant for one hundred and sixty acres of land, in satisfaction of the claim of Lieutenant C. A. Wickliffe, deceased, for bounty land under the act of Congress granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States, approved September 28, 1850.

The Committee on Private Land Claims report the following amendment as an additional section:

SEC. 2. *And be it further enacted*, That the Secretary of the Interior issue to Isaac Dun a land warrant for one hundred and sixty acres of land, in satisfaction of the claim of Captain George Dun, deceased, for bounty land under the act of Congress granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States, approved September 28, 1850.

Mr. LETCHER. I should like to inquire of the gentleman who made this report, why a different rule is adopted in this case from that adopted with others? Now, under the rule granting bounty lands, as I understand it, it is only to minor heirs of deceased officers and soldiers that land is given, but here it is proposed to give it to an adult—to the father, I believe, of the officer.

Mr. NICHOLS. I see that my name is recorded on the Calendar as having made the report in this case. I wish to correct that error, and to state that I have no knowledge of the case. The report is erroneously attributed to me. In reply, however, to the gentleman from Virginia, [Mr. LETCHER,] I would say that I am opposed to this system of enlarging the operations of the bounty land law of 1850, and I think that if it is to be enlarged at all, it should be done by a general act instead of by making special exceptions to the act itself.

Mr. LETCHER. Then I object to the bill. I do not see any reason why we should act in this way.

Mr. HILLYER. I hope the committee will per-

mit me to say a word in reply to what my colleague on the committee has stated.

The CHAIRMAN. The gentleman from Virginia [Mr. LETCHER] has objected, and discussion is not in order.

Mr. LETCHER. I withdraw my objection to the bill in order that the gentleman from Georgia may make the statement he desires to make.

Mr. HILLYER. I merely wish to state, that I remember very well when this case was before the committee. It was some months ago, but I do not remember, therefore, all the circumstances that occurred upon that occasion. We had considerable discussion then whether we should adopt the principle embraced in this report. The extension of proof in relation to pensions was very strongly opposed by several members of the committee. My recollection is, that the committee did finally conclude to report this bill, and submit it to the House, in order that they might determine whether the principles of the bill should be adopted or not for the future action of the Government. I concur fully in the view of this matter taken by my colleague on the committee, from Ohio.

Mr. HAVEN. I renew the objection.

So the bill was laid over, under the rules.

Senate bill (No. 334) for the relief of François Cousin.

The bill in this case provides, that François Cousin shall be confirmed in his title to all those parts of sections twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty-five, and thirty-six, in township eight south, of range twelve east, which are included within the limits of the original claim of the said François Cousin, filed before the commissioner to adjust private land claims in Louisiana; also, all that parcel of land described as section forty, in township eight south, of range twelve east, and section thirty-seven, in township eight south, of range thirteen east, all being in the parish of St. Tammany, and State of Louisiana.

From the report in this case, it appears that François Cousin, senior, father of the petitioner, about the year 1770, settled upon and cultivated a tract of land bordering on the bayou Lacombe, in the Province of Louisiana; that, from the affidavit of Charles Trodeau, late surveyor general of the said Province, it appears "that, in the year 1785, Mr. François Cousin presented four decrees, or grants, forming, together, forty arpens front on the right bank of the bayou Lacombe, and one hundred and twenty arpens in depth;" that the same were recorded by him in the record books, which were destroyed by fire in the year 1788.

It also appears, that said François Cousin, senior, continued to reside upon and cultivate the said lands until the time of his death, and that his son, the petitioner, has, since the death of his father, also resided upon and cultivated the said lands.

It also appears, that the claim of said François Cousin was filed with the commissioner to adjust private land claims in the Territory of Louisiana, who, in his report, classed the said claim among the "anomalous claims" as No. 21, and which was not confirmed by the commissioner, but favorably recommended for the consideration of Congress.

The bill was then laid aside, to be reported to the House with a recommendation that it do pass.

Senate bill (No. 223) for the relief of Susan Coody and others.

The bill in this case provides that the sum of $1,992 62 shall be appropriated, out of any money in the Treasury not otherwise appropriated, to be paid to Susan Coody and others, of the Cherokee tribe of Indians, for property destroyed near Fort Gibson by United States soldiers, on the 12th of March, 1845, in the proportion and sums respectively due them, according to the report of the Committee of Indian Affairs on the Senate of June 24, 1850.

The report, which was read, shows that the houses of Susan Coody and others were, in 1845, burned and destroyed by an armed band of soldiers stationed at Fort Gibson, (in the Cherokee country,) who were afterwards tried and convicted. The destruction of the house was attended by the loss of the contents of the same, consisting of furniture, clothing, &c. The applicants for remuneration were not implicated in any of the causes which led to this outrage upon those unoffending citizens of the Cherokee nation. It also appears that, by the law of Congress of 1834, the Government is liable to pay for all losses arising under such circumstances, if the offender is unable to pay the same.

Mr. LETCHER. I move to amend the bill by adding thereto the following words:

Provided, The said sum be received in full of all demands against the Government on that account.

The question was taken; and the amendment was agreed to.

The bill was then laid aside, to be reported to the House with a recommendation that it do pass.

House bill (No. 523) for the relief of Captain Isadore D. Beaugrand.

The bill, which was read, directs the Secretary of the Treasury to pay to Isadore D. Beaugrand, $242 45, for expenses incurred and money expended by him for subsistence, quarters, and transportation, furnished to E. D. Bradley's company of Ohio volunteers, from June 1, 1846, to the 5th of the same month, when they were mustered into the service of the United States for the Mexican war.

It appears from the report, that a company of volunteers for service in the Mexican war was raised in the vicinity of Sandusky, Ohio. That, previous to said troops being mustered into service, it became necessary to subsist the same at Sandusky, from the 1st to the 5th of June, 1846, inclusive; that the lowest price at which said troops could be subsisted, was eighty-one and a quarter cents per day, for boarding and lodging, and that this price *was actually paid* by Beaugrand, their lieutenant; that the amount so expended by Captain Beaugrand, including eighteen dollars paid for transportation of baggage and provisions between Lower Sandusky and Maumee City, was $250 21.

On presenting his account to the War Department, the item for transportation was allowed, and the daily allowance for subsistence and lodging reduced from eighty-one and a quarter cents to twenty-five cents, making the aggregate sum allowed $87 40, instead of $250 21, the sum actually expended by Beaugrand, and leaving a balance of $162 81; for which, together with interest on the same, he now claims payment.

Mr. LETCHER. I want to make an inquiry of the gentleman from Pennsylvania, [Mr. HOWE,] and it may be that, upon his answer, I shall let the bill be reported to the House with a recommendation that it do pass. The law referred to in the committee's report authorizes claims of this sort to be settled at the War Department. This seems to be the only case from the State of Ohio which remains unsettled; and the reason I understand to be, that the War Department, in the adjustment of the other claims, have allowed only twenty-five cents the day for feeding the soldier, while in this one eighty-one and a quarter cents the day is claimed. The gentleman may probably be able to remove the apprehension which I entertain in regard to the matter. At any rate, I can hear what he has to say. If eighty-one and a quarter cents be allowed this man for feeding the soldiers of his company, the probability is, that every other captain of a company who had to feed his soldiers will come back for the difference between eighty-one and a quarter cents and the twenty-five cents, which they have received. I do not want to establish any such rule as that. By the proviso to the act of June 2, 1848, it is provided, that proof shall be made, to the satisfaction of the Secretary of War, of the amount thus expended, and that the same was necessary and proper for the troops aforesaid. That covers everything, and the claimant ought to go, for the adjustment of his account, to the War Department.

Mr. HOWE. I reported the bill which is now under consideration, and, if there be no objection, I will make a brief explanation in reply to the gentleman from Virginia.

The CHAIRMAN. The gentleman from Virginia was allowed to make an inquiry of the gentleman from Pennsylvania, and unanimous consent being allowed the inquiry, the Chair is of the impression that the gentleman may reply to it.

Mr. HOWE. The allowance of twenty-five cents per day is the allowance to the States for the quartering of troops. This claim is for the quarter of troops before they were mustered into the United States service. The act is clear on this subject. The joint resolution of Congress of the 2d of March, 1847, authorizes the Secretary of War to cause to be refunded to the several States, or to individuals, for services rendered, acting under the authority of any State, the amount of expenses incurred by them in organizing, subsisting, and transporting volunteers previous to their being mustered into the service of the United States for the war; and, by the act of 2d June, 1848, the provisions of this resolution were "extended so as to embrace all cases of expenses heretofore incurred in organizing, subsisting, and transporting volunteers previous to their being mustered and received into the service of the United States for the present war, whether by States, counties, corporations, or individuals, either acting with or without the authority of any State, provided, however, that proof shall be made, to the satisfaction of the Secretary of War, of the amount thus expended, and that the same was necessary and proper for the troops aforesaid."

Now, this man presents himself here with proof that, during four or five days before the mustering of these troops into the service, he subsisted them at Sandusky, Ohio; that he was compelled to quarter them at the hotels of the place, and that eighty-one and a quarter cents the day each, was the lowest price at which he could procure them subsistence. Gentlemen will see, by reference to the report of the committee, that three of the delegation from the State of Ohio, now on this floor, [Messrs. GREEN, LINDSLEY, and EDGERTON,] have corroborated the statement made by the claimant. They state from their knowledge and acquaintance with Captain Beaugrand, that they are satisfied that he acted in good faith, and used all exertion to subsist his men at as low a rate as possible; and that the price of eighty-one and a quarter cents was, in their opinion, as low as subsistence and quarters could be obtained in the place at the time. He proves that the expenditure was necessary and proper, and that he obtained subsistence and quarters as cheaply as they could be obtained. It is under these circumstances that he asks, not bounty, but the repayment of the money expended by him in accordance with existing laws.

Mr. LETCHER. My friend does not meet the point. The law which he has referred to provides——

Mr. HENDRICKS. I object to further debate. If the gentleman from Virginia objects to the bill, let him do so without discussion.

Mr. LETCHER. I do object to it.

Joint resolution (No. 36) for the relief of Lieutenant J. C. Carter.

The bill, which was read, provides that, in the settlement of his accounts, Lieutenant J. C. Carter shall be allowed such expenses as were incurred by him whilst acting as purser on board the ship Massachusetts, undergoing repairs at San Francisco.

From the report of the committee, it appears that from the facts stated in Lieutenant Carter's application, taken in connection with the letter of the Secretary of the Navy, the committee feel no hesitation in recommending to the House that he should be allowed, in the settlement of his account whilst acting as purser on board of the Massachusetts, stationed at San Francisco, the account made out by him, and rendered to the Fourth Auditor, but which was rejected by that officer.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

House bill (No. 524) for the relief of Charles J. Porcher, acting purser of the brig Falmouth.

The bill, which was read *in extenso*, provides that the proper accounting officer be, and he is hereby, authorized and directed to pay to Charles J. Porcher, out of any money in the Treasury not otherwise appropriated, the amount properly payable to a purser of the rank assigned to a sloop-of-war, for his services as acting purser of the United States sloop-of-war Falmouth whilst on service in the Pacific ocean, from the date of the death of Purser William B. Hartwell until the appointment of John Y. Mason, jr., in his stead, to wit: from July 12, 1848, to March 14, 1850, deducting therefrom the amount paid to the said Porcher for the same period as commander's clerk.

From the report of the committee, which was read, it appears that Charles J. Porcher was the

commander's clerk on board the United States sloop-of-war Falmouth, in the Pacific, at the time of the death of the regular purser of said vessel, William B. Hartwell; that, by order of Captain Thomas Petigru, he was appointed to discharge the duties of purser of the vessel, and did so discharge them from the 12th day of July, 1849, to the 14th day of March, 1850, a period of eight months and two days, when he was relieved therefrom by John Y. Mason, jr., a purser assigned to duty on board the Falmouth by order of the Secretary of the Navy; and that he has received no compensation for the additional duty thus assigned to him.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

House bill (No. 526) for the relief of Jeptha L. Heminger. The bill was read. It directs the Secretary of the Interior to cause the name of Jeptha L. Heminger to be placed upon the roll of invalid pensioners, and to pay him at the rate of eight dollars per month during his natural life, commencing January 1, 1853.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

Senate bill (No. 191) for the relief of Thomas B. Parsons.

The bill was read. It directs the proper accounting officers of the Treasury to pay to Thomas B. Parsons the sum of three dollars per month from September 1, 1808, to June 1, 1835, the same being the difference between the rate of pension of a seaman and that of a coxswain, which grade he filled at the time of the injury.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

Senate bill (No. 276) for the relief of Mrs. Ann W. Angus.

The bill was read. It directs the Secretary of the Interior to continue to Ann W. Angus, for a further term of five years, from March 4, 1854, the pension heretofore paid her, and which expired on the 4th March, 1854, as aforesaid, provided that nothing herein shall be construed to entitle her to a greater amount than half the pay of her said husband in any one year.

From the report, it appears that the claimant is the widow of Captain Samuel Angus, formerly of the Navy of the United States, and that she asks a pension on account of the services of her husband, whose death was occasioned from wounds received in the service while fighting the battles of his country. The papers show that Captain Angus entered the service at the age of fifteen, in the year 1799, and remained in the service until the latter part of Mr. Monroe's administration, when he was dismissed, without a trial by court-martial, for writing a letter to the Secretary of the Navy which was not considered respectful. It also appears, that at the time of writing the letter, he was laboring under temporary insanity, of which President Monroe afterwards became satisfied, and recommended his successor, Mr. Adams, to reinstate him; saying, in his letter, "it comports with justice, as well as humanity, to reinstate Captain Angus." He was not, however, reinstated, in consequence of his being subject to fits of insanity, but was allowed a pension, which continued to his death, on the 29th May, 1840. During the whole period that Captain Angus was in service, up to the time of writing the letter above mentioned, he sustained the character of a brave and meritorious officer. He was wounded in four separate engagements with the enemy, and two of those wounds were upon the head. The evidence is satisfactory to the committee that his fits of insanity were occasioned by those wounds, and that they hastened his death. These wounds were also the occasion of his being a severe sufferer, and of great affliction to his family for many years. During this time he was also unable to make any provision for them, and in consequence left a widow and six children in destitute circumstances—appealing steongly to the justice of the nation to wipe away the stain unintentionally cast upon the character of an officer who had adorned his country's service.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

Mr. McMULLIN. It is evident that there is no quorum. I move that the committee do now rise.

Mr. HAMILTON. I demand tellers.

Mr. JONES, of Tennessee. Gentlemen who are opposed to rising had better withdraw their opposition and let the committee rise and report the bills which have been passed upon, because if we ascertain that there is no quorum here, the roll will have to be called, and as there will be no quorum, the bills will not be reported to-day at all.

Mr. TAYLOR, of Ohio. I hope the gentleman from Virginia will withdraw his motion.

Mr. McMULLIN. Well, I withdraw it, and object to the bill under consideration.

BILLS OBJECTED TO.

The following bills coming up in their order on the Calendar, were objected to, as indicated below, and passed over, under the rule:

Senate bill (No. 353) for the relief of the representative of Henry King, deceased. [Objected to by Mr. McMULLIN.]

Senate bill (No. 375) relative to the accounts of General Stephen Moylan. [Objected to by Mr. LETCHER.]

Senate bill (No. 252) for the relief of the personal representatives of William A. Slacum. [Objected to by Mr. WHEELER.]

House bill (No. 522) for the relief of the heirs and legal representatives of John Randon, deceased. [Objected to by Mr. LETCHER.]

House bill (No. 505) for the relief of the heirs of Rignald alias Nick Hilary. [Objected to by Mr. McMULLIN.]

Senate bill (No. 358) to make compensation to Henry Cronchey, for extra services. [Objected to by Mr. HENDRICKS.]

Senate bill (No. 128) for the relief of Hiram Paulding. [Objected to by Mr. SKELTON.]

Senate bill (No. 256) for the relief the West Feliciana and Georgia Railroad and Banking Companies. [Objected to by Mr. LETCHER.]

The next bill on the Calendar was House bill (No. 527) for the relief of Lot Davis.

Mr. McMULLIN. I object to that, also.

Mr. TWEED. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker *pro tempore* [Mr. JONES, of Tennessee] having resumed the chair, the Chairman [Mr. BOCOCK] reported that a Committee of the Whole House had had under consideration the Private Calendar, and had directed him to report to the House sundry bills, some with, and some without, amendments.

Mr. WHEELER. I desire to call attention to an error on the Calendar of the Committee of the Whole on the state of the Union. The bill "for the relief of the claimants of the private armed brig General Armstrong" was, by mistake, referred to that committee, instead of to a Committee of the Whole House, where it properly belongs. The gentleman from Louisiana [Mr. PERKINS] reported the bill, and he will confirm my statement that there has been a mistake in the reference.

Mr. PERKINS. Yes, sir; my attention has been called to the matter. The bill ought to have gone to a Committee of the Whole House, and I hope that it will be transferred to the Calendar of that committee, and take the place upon that Calendar which properly belongs to it.

No objection being made, the proposed transfer was ordered.

Mr. HENDRICKS. I move that the Committee of the Whole House be discharged from the further consideration of the bill for the relief of Lot Davis. It was objected to by the gentleman from Virginia, [Mr. McMULLIN,] but not because he disliked the bill, for there can be no possible objection to it. The objection of the gentleman places it where it can never be reached again.

The SPEAKER *pro tempore*. The bills reported from a Committee of the Whole House are the business first in order. The gentleman from Indiana asks, the Chair presumes, unanimous consent to discharge the committee from the bill he has named.

Mr. HENDRICKS. Yes, sir; it is a little pension bill, and a very meritorious case.

Mr. KNOX. I object.

Mr. HENN. Is it in order to call the previous question upon all the bills?

The SPEAKER *pro tempore*. It is, if there be no objection on the part of any member of the House. By unanimous consent, the bills may all be put upon their passage at the same time. Is there objection to that course?

Mr. MILLSON. Let them be reported by their titles.

Mr. HENN. Cannot we, by one vote, agree to the whole report of the committee?

Mr. MILLSON. I object to that.

The House then proceeded to consider the bills reported this morning by a Committee of the Whole House on the Private Calendar.

The following bills of the Senate, reported without amendment, were severally ordered to be read a third time; and having been read a third time, were passed:

An act for the relief of Thomas Butler;

An act for the relief of the representatives of Thomas D. Anderson, deceased, late consul of the United States at Tripoli;

An act for the relief of William Duer;

An act authorizing the legal representatives of Antoine Vasquez, Hypolite Vasquez, Joseph Vasquez, and John Colligan, to enter certain lands in Missouri;

An act for the relief of the heirs and legal representatives of William Weeks;

An act for the relief of François Cousin;

An act for the relief of Thomas B. Parsons; and

An act for the relief of Mrs. Ann W. Angus.

The following House bills and joint resolutions, reported back from the committee, were severally ordered to be engrossed and read a third time; and having been accordingly engrossed and read a third time, were passed:

Joint resolution for the relief of Charles W. Morgan, William R. Rodman, and Edward Merrill;

House bill for the relief of James Holstin;

House bill for the relief of William Case;

Joint resolution for the relief of Lieutenant J. C. Carter;

House bill for the relief of Charles J. Porcher, acting pursur of the brig Falmouth;

House bill for the relief of Jeptha L. Heminger; and

House bill for the relief of Lot Davis.

The following Senate bills were reported with amendments, viz:

Senate bill for the relief of Frederick Vincent, administrator of James Le Caze, survivor of Le Caze & Mallet; and

Senate bill for the relief of Susan Coody and others.

The amendments were severally concurred in, and ordered to be engrossed, and the bills, having been read a third time, were passed.

Mr. WHEELER. I move that the House do now adjourn.

The motion was agreed to; and

Thereupon, at twenty minutes past three, p. m., the House adjourned to Tuesday next at twelve o'clock, m.

IN SENATE.

TUESDAY, *January* 9, 1855.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of Friday was read and approved.

The Hon. JACKSON MORTON, of Florida, and the Hon. SAM HOUSTON, of Texas, appeared in their seats to-day.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that they had passed the following bills of the Senate without amendment:

A bill for the relief of the heirs and representatives of Uriah Prewitt, deceased;

A bill for the relief of the legal representatives of James Irwin, of Arkansas, and others;

A bill for the relief of Thomas Butler;

A bill for the relief of the representatives of Thomas D. Anderson, deceased, late consul of the United States at Tripoli;

A bill for the relief of William Duer;

A bill authorizing the legal representatives of Antoine Vasquez, Hypolite Vasquez, Joseph Vasquez, and John Colligan, to enter certain lands in Missouri;

A bill for the relief of the heirs and legal representatives of William Weeks;

A bill for the relief of François Cousin;

A bill for the relief of Thomas B. Parsons; and

THE CONGRESSIONAL GLOBE.

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33D CONGRESS, 2D SESSION. TUESDAY, JANUARY 9, 1855. NEW SERIES....No. 14.

A bill for the relief of Mrs. Ann W. Angus.

Also, the following bills of the Senate, with amendments:

A bill for the relief of Thomas Marston Taylor;

A bill for the relief of Purser Francis B. Stockton;

A bill for the relief of Frederick Vincent, administrator of James Le Caze, survivor of Le Caze & Mallet; and

A bill for the relief of Susan Coody and others.

Also, that the House had passed the following bills and joint resolutions:

A bill for the relief of Thomas Underhill, executor of Thomas Underhill, deceased;

A bill for the relief of Stephen Lutz, of New York;

A bill for the relief of John H. King;

A bill for the relief of the heirs of Lieutenant Andrew Finly;

A bill for the relief of Andrew H. Patterson;

A bill for the relief of the widow and children of Ezra Chapman, deceased;

A bill for the relief of the heirs and legal representatives of Joseph Savage, deceased;

A bill for the relief of the heirs of Thomas Park, deceased;

A bill for indemnifying Moses D. Hogan for cattle destroyed by the Indians in 1842.

A joint resolution for the relief of Charles W. Morgan, William R. Rodman, and Edward Merrill;

A bill for the relief of James Holstin;

A bill for the relief of William Case;

A joint resolution for the relief of Lieutenant J. C. Carter;

A bill for the relief of Charles J. Porcher, acting purser of the brig Falmouth;

A bill for the relief of Jeptha L. Heminger;

A bill for the relief of Lot Davis; and

A joint resolution explanatory of a joint resolution of the two Houses, approved July 20, 1854.

VETERANS OF THE WAR OF 1812.

Mr. CASS. Mr. President, I have a resolution to present, which I hope will pass, not only immediately, but unanimously. It is for the purpose of giving seats upon the floor of the Senate to the officers and soldiers of the war of 1812, now assembled in convention in this city. It is a small tribute of respect to patriotic men, once soldiers, but always citizens, who, in the days of their country's trial and weakness, bore her standard proudly, though amid many vicissitudes, to victory and to peace; and who now, in the days of her power and prosperity, have strong claims upon her affection and her gratitude. The recognition of their services, in all proper modes, is due, not less to our own justice, than to their worth. They voluntarily exchanged the hearth for the camp; and upon the sea-board, the frontier, and in a foreign land, they repelled the invader, resisted the Indian, and met and overcome disciplined troops, proud of their success in the Old World, and who anticipated, not a contest, but a triumphal procession in the New. And all this was done amid perils and privations incident to such a war under such circumstances, but which none can fully appreciate but those who witnessed and participated in them.

Many of these gallant men look upon this stately edifice, where we are now sitting, for the first time; but all of them know the worse than Gothic injury it received, and know, too, how soon it resumed its strength and beauty—a true emblem of the energy of our country.

And now, when no visible memorials remain to testify to those days and deeds of trial; when they have been swept away by the advancing tide of improvement, and when this great Republic has moved onward, carrying with it all the elements of power and prosperity, and with a rate of progress hitherto unknown in the history of the world, let us not forget those who, in the second war of Independence, maintained the principles and followed the examples taught to us, and to the world, in the first.

I was yesterday among those interesting remains of a great national struggle. I was proud to make one of them. It was a gratifying and imposing spectacle, and I thank God I have lived to see it. It excited emotions I should in vain attempt to describe. From the East and the West, from the North and the South, they have come together as they will never come together again till they meet in that great congregation where the human family must one day meet before the Judge of all the world.

Time has passed lightly over a large portion of those true-hearted men, considering the long interval which has elapsed since their military services and their visit to the seat of Government. The march of forty years has necessarily thinned their ranks and left its effects upon their frames; but it has not quenched the fire of their eyes, nor bowed their spirits, nor abated their patriotism, nor raised one doubt but that their country will always remember the old soldier.

I present the following resolutions, and ask the Senate to adopt them immediately:

Resolved, That the officers and soldiers of the war of 1812, now holding a convention in this city, be invited to occupy seats upon the floor of the Senate, without the bar, during the sitting of such convention.

Resolved, That the Secretary of the Senate communicate a copy of this resolution to the president of the convention for the information of the members.

The resolutions were considered by unanimous consent, and agreed to.

PETITIONS, ETC.

Mr. MASON presented the petition of Alexander R. Boteler, one of the heirs and legal representatives of Robert Stockton, an assistant quartermaster in the revolutionary army, praying the passage of an act for the settlement of his accounts; which was referred to the Committee on Revolutionary Claims.

Mr. SHIELDS presented a petition of soldiers of the war of 1812, residing in the fourth congressional district of Illinois, praying a grant of land and pensions; which was ordered to lie on the table.

Mr. WELLER presented the petition of Isaac Williams, praying a remuneration for merchandise and provisions distributed to the chiefs and people of the Coahuila and San Louis Rey tribes of Indians, at Rancho del Chino, California; which was referred to the Committee on Indian Affairs.

Mr. WELLER. I also present the petition of Isaac Williams and J. T. Warner, on behalf of the heirs of Pablo and José Apis. They represent that Pablo and José Apis obtained a grant from the Mexican Government on the 7th of November, 1845, of a large quantity of land in California, said to cover valuable mines. The heirs having no guardian to look after their interests, the claim was not presented to the board of land commissioners for adjudication; and the time has expired within which, according to law, such claims could be presented to the board. They ask that they may be allowed now to present their claim to the board, which is sitting in California. I move the reference of the petition to the Committee on Public Lands.

The motion was agreed to.

Mr. MORTON presented the petition of Dominic Lynch, praying to be allowed pay as master while he acted in that capacity on board the United States schooner Shark in 1840-41; which was referred to the Committee on Naval Affairs.

Also, the petition of Captain James Mc. McIntosh, praying compensation for losses sustained by the wreck of the United States schooner Firebrand, in 1819; which was referred to the Committee on Naval Affairs.

Also, the petition of Mrs. Jane McCrabb, the widow of Captain James W. McCrabb, late of the United States Army, praying an appropriation of certain moneys equitably due her deceased husband for special and extra-official services in the Florida war; which was referred to the Committee on Claims.

Mr. COOPER presented four petitions of citizens of Philadelphia, praying the establishment of a light-house at the lower end of Tinicum Island, in the river Delaware; which were referred to the Committee on Commerce.

Also, a petition of the Academy of Natural Sciences, of Philadelphia, praying that the earliest possible succor may be afforded to Dr. Kane and his companions, by sending out a relief expedition, under the auspices of the United States Government; which was referred to the Committee on Naval Affairs.

Mr. FESSENDEN presented a petition of soldiers of the war of 1812, and residents of Durham, Androscoggin county, Maine, praying pensions to the officers, soldiers, and seamen, who served in that war, and to the widows of those deceased; which was referred to the Committee on Pensions.

Also, the petition of Jesse Barker, praying to be allowed an invalid pension; which was referred to the Committee on Pensions.

Also, the petition of John Hinkley, grandson of John Hinkley, a captain in the revolutionary army, praying compensation for the services of his grandfather during the Revolution; which was referred to the Committee on Revolutionary Claims.

Also, the petition of Dorcas Carey, widow of Peter Carey, a soldier of the war of 1812, praying to be allowed the same amount of pension as was granted to her husband; which was referred to the Committee on Pensions.

Also, the petition of the heirs of Edward Green, praying to be allowed arrears of pay, bounty land, and extra pay, for his services as a soldier in the war of 1812; which was referred to the Committee on Claims.

Mr. WALKER presented the memorial of Telia M. Crosby, daughter of Andrew Crosby, late a purser in the Navy, who lost his life in the service, praying that the pension allowed her may be extended; which was referred to the Committee on Naval Affairs.

Mr. BRODHEAD presented a petition of citizens of Cumberland county, Pennsylvania, who served in the war of 1812, praying to be allowed bounty lands and pensions; which was ordered to lie on the table.

CAPTURE OF THE BRITISH SHIP LEVANT.

Mr. CLAYTON. Mr. President, I have been requested by Commodore Stewart and others, officers of the United States frigate Constitution, to present their memorial, praying for remuneration for the loss of the ship Levant, which became a prize of war to the frigate Constitution, on the 20th of February, 1815. It will be remembered, sir, that at that time the Constitution, commanded by Captain Charles W. Stewart, engaged two British ships of war, the Cyane of thirty-four guns, and the Levant of twenty-one guns, and after an action of some forty minutes, captured them both. They were afterwards carried into the harbor of Porta Praya, in the Island of St. Jago, one of the De Verdes—a Portuguese island. On the 10th of March succeeding, about twenty days after the capture, while these ships were lying under the batteries of the Portuguese Government, a squadron, composed of three British frigates, under the command of Sir George Collier, appeared off the harbor, and it became immediately necessary for the Constitution with her prizes to leave that port, because it was manifest that there was no disposition on the part of the Portuguese Government to protect her. The Constitution, with one of her prizes, the Cyane, escaped this squadron. She brought the Cyane to Boston, where she was condemned as a prize of war; and the officers and crew of the Constitution, under the act of Congress existing at that time in relation to captures of this description, became the sole owners of the vessel condemned as a prize. The Levant, however, was impressed and compelled to return under the guns of the Portuguese battery, and while lying there, she was captured without an effort on the part of the Portuguese batteries to prevent it.

I ought to remark also, sir, that while the Constitution was getting underway, the Portuguese

batteries fired upon her, and several shots struck her about the bows, and a number passed over her. There was manifested in the whole affair, on the part of the Portuguese, a decided hostility to us, and a decided partiality for the British squadron.

The Levant was recaptured clearly in violation of the neutrality of Portugal. Our own Government afterwards, in its correspondence, recognized the liability of the Portuguese Government for the capture of this ship by the British. A decision was made in the district court of the United States for the southern district of New York, to this effect: that the two ships captured by the Constitution were of superior force to her own, and therefore, under the operation of the act of Congress on the subject, the captors of course became entitled to the whole value of the ships captured. The Congress of the United States passed an act giving the captors of the Levant $25,000 for their gallantry, to be deducted out of such sum as should thereafter be paid by the Portuguese Government in consequence of the violation of its neutrality.

In the year 1851 a convention was made by this Government with Portugal. That convention was a settlement of the existing claims against Portugal. It embraced, amongst other things, provision for indemnity to the crew and officers of the privateer General Armstrong; but no provision whatever was made for the case which I have the honor now to introduce to the consideration of the Senate. It may be considered that, under the provisions of that convention, all the claim on Portugal has been entirely abandoned. If that be true, undoubtedly this Government has made itself responsible for the difference between the $25,000 which was advanced by the Government and the actual value of the ship.

But, sir, it is not my purpose, at this time, to enter into any discussion on the merits of the complaint. I merely rose to move the reference of the subject to the proper committee, which will, I trust, give it a thorough and attentive consideration. I move, accordingly, that the memorial be referred to the Committee on Naval Affairs.

The motion was agreed to.

REPORTS FROM STANDING COMMITTEES.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill from the House of Representatives, making appropriations for the support of the Army for the year ending June 30, 1856, reported back the same with sundry amendments.

Mr. SHIELDS, from the Committee on Military Affairs, to whom was recommitted a bill for the increase and better organization of the Army, and for other purposes, reported back the same with sundry amendments.

He also, from the same committee, to whom was referred a bill from the House of Representatives, for the relief of Charles H. Wilgus, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Jacob Dodson, a private of Captain Richard Owens's company in the California battalion, commanded by Lieutenant Colonel J. C. Frémont, in the war with Mexico, praying to be allowed bounty land, and other allowances granted by law to other volunteers in the same war, submitted a report, accompanied by a bill for his relief; which was read, and passed to a second reading. The report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Lieutenants John C. McFerran and Samuel D. Sturgis, praying that they may be allowed the difference between their pay in their regiments, and that allowed an assistant adjutant general, for the time they respectively performed the duties of the last named officer, submitted a report, accompanied by a bill for their relief, which was read, and passed to a second reading. The report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Joseph T. Walker, attorney in fact of sundry citizens of Florida, asking compensation for horses lost in the service of the United States, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of John Hudry, of Louisiana, praying remuneration for services and advances made for the defense of New Orleans in 1814-'15, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of William Wells and twenty-one other members of Captain Gee's company of Alabama volunteers, praying to be reimbursed losses sustained in the sale of their horses in Mexico, for which they were refused transportation to the United States, submitted an adverse report thereon; which was ordered to be printed.

He, also, from the same committee, to whom was referred the petition of Daniel Kelley, praying compensation for his losses and suffering during his imprisonment in the Island of Cuba, in 1816, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Isaac Hulse, asking indemnity for the injury sustained by his property in the erection of the barracks of the United States at Barrancas, Florida, submitted an adverse report thereon; which was ordered to be printed.

Mr. COOPER, from the Committee on Revolutionary Claims, to whom was referred a bill from the House of Representatives, for the relief of the legal representatives of Colonel John H. Stone, reported it back without amendment.

Mr. STUART, from the Committee on Public Lands, to whom was referred a bill amendatory of, and supplementary to, an act approved August 4, 1854, entitled "An act to graduate and reduce the price of the public lands to actual settlers and cultivators," reported it back with an amendment, in the form of a substitute.

NOTICE OF A BILL.

Mr. DODGE, of Wisconsin, gave notice of his intention to ask leave to introduce a bill for an increase of the pension of Captain Ephraim Shaw, late of the United States Army.

BILL INTRODUCED.

Mr. DOUGLAS asked and obtained the unanimous consent of the Senate to introduce a bill to authorize and facilitate the construction of a northern, a southern, and a central Pacific railroad, and magnetic telegraph through the territories of the United States; which was read a first and second time by its title, and referred to the select committee on the subject of a Pacific railroad.

PENSION, BOUNTY LAND, AND PATENT LAWS.

Mr. STUART submitted the following resolution for consideration; which was referred to the Committee on Pensions:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized to purchase for the use of the Senate, —— thousand copies of Bennett's Compilation of the Pension, Bounty Land, and Patent Laws: *Provided*, The cost of the same shall not exceed two dollars per volume: *And provided further*, That said work shall contain all the pension, bounty land, and patent laws that may be passed at the present session of this Congress.

SUBMARINE ARMOUR.

Mr. JAMES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs inquire into the expediency of obtaining submarine armours for the use of the naval service.

CONTINUANCE OF PENSION.

Mr. CHASE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Pensions be instructed to inquire into the expediency of continuing to Mrs. Lewright Browning, the pension allowed to her by the act of September 20, 1850.

REVOLUTIONARY CLAIMS.

Mr. EVANS. The bill "to provide for the final settlement of the claims of the officers of the revolutionary army, and of the widows and orphan children of those who died in the service," was partially discussed at the last session, but was not then disposed of. On my motion it was, during the present session, made the special order of the day for the first day of January instant. It so happened, however, that the Senate did not meet on that day, and the bill was not considered. I now move that the bill be taken up, merely for the purpose of making it the special order for next Thursday. I trust the Senate will agree to that.

The Senate, as in Committee of the Whole, resumed the consideration of the bill; and, on motion by Mr. EVANS, it was postponed to, and made the special order for, Thursday next, at one o'clock.

HOUSE BILLS REFERRED.

The bills and joint resolutions received from the House of Representatives were read twice by their titles and referred—

The bill for the relief of Thomas Underhill, executor of Thomas Underhill, deceased—to the Committee on Revolutionary Claims.

The bill for the relief of Stephen Lutz, of New York—to the Committee on the Judiciary.

The bill for the relief of John H. King—to the Committee on Military Affairs.

The bill for the relief of the heirs of Lieutenant Andrew Finly—to the Committee on Revolutionary Claims.

The bill for the relief of Andrew H. Patterson—to the Committee on Commerce.

The bill for the relief of the widow and children of Ezra Chapman, deceased—to the Committee on Revolutionary Claims.

The bill for the relief of the heirs and legal representatives of Joseph Savage, deceased—to the Committee on Revolutionary Claims.

The bill for the relief of the heirs of Thomas Park, deceased—to the Committee on Revolutionary Claims.

The bill for indemnifying Moses D. Hogan for cattle destroyed by the Indians in 1842—to the Committee on the Judiciary.

The joint resolution for the relief of Charles W. Morgan, William R. Rodman, and Edward Merrill—to the Committee on Commerce.

The bill for the relief of James Holstin—to the Committee on Public Lands.

The bill for the relief of William Case—to the Committee on the Judiciary.

The joint resolution for the relief of Lieutenant J. C. Carter—to the Committee on Naval Affairs.

The bill for the relief of Charles J. Porcher, acting purser of the brig Falmouth—to the Committee on Naval Affairs.

The bill for the relief of Jeptha L. Heminger—to the Committee on Pensions.

The bill for the relief of Lot Davis—to the Committee on Pensions.

The joint resolution explanatory of a joint resolution of the two Houses, approved July 20, 1854—to the Committee on Printing.

THOMAS MARSTON TAYLOR.

The Senate proceeded to consider the bills returned from the House of Representatives with amendments.

The bill for the relief of Thomas Marston Taylor, as passed by the Senate, proposed to direct the proper accounting officers of the Treasury to allow to Mr. Taylor, a purser in the United States Navy, in the settlement of his accounts, such deficiency as he shall show to exist by reason of his making deposits of Treasury notes in the Phœnix Bank, at Charlestown, Massachusetts, subsequent to April, 1842, and also to allow him such reasonable and proper expenses as he has actually incurred and paid, in prosecuting any suit brought to enforce the supposed priority of the claims of the United States over other creditors upon the assets of the bank in the hands of trustees, the proper evidence thereof being furnished by Taylor to the accounting officers.

The amendment of the House was to strike out the provision allowing Taylor the expenses which he incurred in prosecuting the suit referred to in the bill, and to insert, at the end of the provision allowing him the amount lost by his deposits in the Phœnix Bank, Charlestown, this proviso:

Provided, That the said sum shall be received in full of all demands against the Government on this account.

Mr. FISH. In order that this matter may be investigated, I move to refer the bill and amendment to the Committee on Naval Affairs.

The motion was agreed to.

SUSAN COODY AND OTHERS.

The bill for the relief of Susan Coody and others was returned by the House with an amendment, which was to add:

Provided, That the same shall be received in full of all demands against the Government on this account.

Mr. STUART. I suppose there are several bills of that character sent back to the Senate

with amendments, and I wish to suggest the propriety of referring them to the appropriate committees of the Senate. On looking over the proceedings on those bills in the House, it is obvious that the question of interest has been determined by an arbitrary rule, and it is about as arbitrary as that adopted by a gentleman of whom I have heard, that it was against his interest to pay the principal, and against his principle to pay the interest. [Laughter.] I wish to have these bills considered. That there are cases in which the Government ought to pay interest I think is very clear; and there are certain others, in which interest ought not to be paid. I desire the report of the proper committee of the Senate in each case, as to the propriety of paying interest in a particular case; and that report I, for one, am disposed to act on, and adhere to. This bill is one of that character; and there are others which I hope will be referred to the appropriate committee for examination. I move to refer this bill and amendment to the Committee on Indian Affairs.

The motion was agreed to.

LE CAZE AND MALLET.

The bill for the relief of Frederick Vincent, administrator of James Le Caze, survivor of Le Caze & Mallet, as it passed the Senate, proposed to direct the Secretary of the Treasury to pay to Frederick Vincent, administrator of James Le Caze, $4,890 82, which appears to be due to him on the books of the Treasury for advances made to the Government of the United States in 1783; with interest on the sum, at the rate of six per cent. per annum, from December 31, 1846, when his claim was presented to Congress.

The amendments of the House were to strike out the words:

"And that he pay him interest on the said sum, at the rate of six per cent. per annum, from the 1st day of December, 1846, when his claim was presented to Congress,"

and to add—

"*Provided*, That the same shall be received in full of all demands on the Government on this account."

Mr. STUART. I move that this be referred to the Committee on Revolutionary Claims.

The motion was agreed to.

PURSER F. B. STOCKTON.

The Senate proceeded to consider the amendment of the House to the bill for the relief of Purser Francis B. Stockton. As it passed the Senate the bill proposed to direct the proper accounting officers to pay to Purser F. B. Stockton $67 57, being the amount of loss sustained by him by reason of making his deposits of public money in the Phœnix Bank, Charlestown, Massachusetts. The amendment of the House was to add

"*Provided*, That the said sum shall be received in full of all demands against the Government on this account."

Mr. FISH. I move that the Senate concur in that amendment. The bill was reported from the Committee on Naval Affairs, and allows the amount which was claimed by purser Stockton. The proviso is merely one of precaution.

The amendment was concurred in.

ENROLLED BILL SIGNED.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that the Speaker had signed the following enrolled bill; which was thereupon signed by the President *pro tempore*:

A bill to incorporate the Mutual Fire Insurance Company of the District of Columbia.

EPHRAIM HUNT.

On motion by Mr. FESSENDEN, the bill for the relief of Ephraim Hunt was read a second time, and considered as in Committee of the Whole.

It is intended to direct the proper accounting officers of the Treasury to settle and adjust the claim of Ephraim Hunt, of the State of Maine, for bounty and pay for service, as a private in the Army of the United States, from the 25th of September, 1813, to the 14th of September, 1815, and to allow and pay him the same bounty and pay as he would have been entitled to receive if he had been regularly discharged.

In December, 1812, Mr. Hunt enlisted at Topsham, Maine, as a private in the service of the United States, as a volunteer for one year, and went, with his company, to Plattsburg, New York. He remained in the service until the 25th September, 1813, when he reënlisted into Captain Buck's company, United States Army. This enlistment was distinctly stated and understood at the time, to be for "during the war," and not for "five years." It was, however, held by the officers to be for five years. He continued in the service until the 14th September, 1815, when, the war being closed, he claimed that his term had expired, and requested his discharge, which was refused on the ground that the enlistment was for five years. Believing that he had faithfully served out his term of enlistment, he left the Army without his discharge, and without having received either his bounty or any pay for the time he had served. The accounting officers decided, on his application for pay, that he had forfeited all claim on the Government by the act of desertion. He is now in necessitous circumstances, advanced in years, and deprived of the use of his hands by the loss of his fingers, and prays that Congress will cause his pay and bounty, for services rendered in fighting the battles of his country in time of war, to be allowed to him.

The committee do not intend to sanction or excuse the course he adopted, but think he should have remained in service until he could have obtained his regular discharge; still, under the peculiar circumstances of the case, and in view of faithful services rendered during the war, and till some time after its close, they are of opinion that the Government ought not to withhold from the old soldier the small pittance to which his previous patriotic services had entitled him.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

SAMUEL A. BELDEN AND COMPANY.

Mr. MASON. There is a bill on the Calendar for the relief of Samuel A. Belden & Co. It was in some way erroneously indorsed that it had been referred to the Committee on Foreign Relations, and, treating it as a reference, that committee have considered it, and instructed me to report an amendment to the bill. I ask the Senate to be good enough to take it up, in order to rectify that error, and dispose of it.

The motion was agreed to; and the bill was read a second time, and, on motion by Mr. MASON, referred to the Committee on Foreign Relations.

Mr. MASON. The Committee on Foreign Relations having acted on it, I now ask leave to report the bill with an amendment. The committee acted on it under the misapprehension that it had been referred before. It is an amendment, by way of a substitute, to strike out all after the enacting clause, and insert:

"That the Secretary of the Treasury be, and he is hereby, authorized and directed to audit and settle an account of the duties paid by Samuel A. Belden & Co. to the officers of the United States charged with their collection, in the city of Matamoras, in the Republic of Mexico, while that city was in the military possession of the United States, upon the tobacco, and other merchandise imported by them into Matamoras during that period, and which, after the restoration of peace between the two countries, were disposed of, either in the form in which imported, or the proceeds of sales by seizure, confiscation, or sequestration, by the judicial authorities of the Mexican Government, or by their forced abandonment; and pay the amount thus ascertained to the said Samuel A. Belden & Co., out of any money in the Treasury not otherwise appropriated, upon the execution, by them, of a proper and legal assignment to the United States of all their right to the amount so refunded when recovered from the Government of Mexico."

Mr. MASON. The object of this bill is simply to refund to these gentlemen, who are merchants, the duties paid to the United States, while a part of Mexico was in the military possession of the United States, upon merchandise imported under the guarantee of the Government of the United States, which was afterwards seized and confiscated by the Government of Mexico.

The amendment was agreed to, the bill was reported to the Senate as amended, and the amendment was concurred in. The bill as amended was ordered to be engrossed for a third reading, was read a third time, and passed.

JUDICIAL SYSTEM.

On motion by Mr. BUTLER, the Senate, as in Committee of the Whole, resumed the consideration of the bill to modify and amend the judicial system of the United States, the pending question being on the motion of Mr. GEYER, made on Friday, the 5th instant, to strike out the first section of the bill, as follows:

"That from and after the passage of this act, the Justices of the Supreme Court of the United States shall not, as heretofore, be required to perform circuit duty; but they shall continue to have, and exercise, the same jurisdiction and powers now vested in them by law, within any of the circuits in which they may respectively reside, in allowing writs of habeas corpus and writs of error, granting injunctions, and doing all other acts which may be done at chambers, and out of term."

Mr. SUMNER called for the yeas and nays on the amendment; and they were ordered.

Mr. DAWSON. Do I understand this to be a test question, as to whether we shall reject the bill or not?

Mr. BUTLER. That is it.

Mr. FESSENDEN. It is to settle the question of the Supreme Court Judges performing circuit duties.

Mr. BELL. Mr. President, I must, for one, say that I shall vote against this proposition; but, so far as that vote is concerned, I wish to state that I do not regard it as a test question in reference to the adoption of that provision of the bill. It seems to be conceded by all that something is necessary to be done in consequence of the great accumulation of business on the docket of the Supreme Court within the last few years, and particularly since the extraordinary expansion of the Government over an amount of territory which was not contemplated at the organization of the court, nor, perhaps, when the Constitution was formed. My judgment is in favor of what has heretofore been called the representative system, on which the substitute proposed by the honorable Senator from Illinois [Mr. DOUGLAS] is based; and I should desire, if it were practicable, to allow a sufficient time to the Judges of the Supreme Court to undergo the labors which seem to be contemplated by that substitute, with that deliberation, with that degree of respite from continual labors which all men in this country engaged in intellectual pursuits imperatively require to enable them to do justice to their public functions; and I should prefer, taking that view of the subject, the proposition of the Senator from Illinois. It is, to speak in popular language, the popular and favorite proposition whenever the subject is mooted either in Congress or in the country. It is more in conformity with the spirit and structure of our Government that the judges, who are required to come up here and decide great constitutional and other questions in the *dernier resort*, shall be, in some sort, the representatives of the sentiments and of the local institutions of the several respective parts of the Union from which they come; and that, by that means, they shall keep up such an acquaintance, such a social personal connection, with the bar in the different sections as to give greater weight and satisfaction to their opinions when pronounced here on questions of appeal.

The greatest objection in my mind to the proposition of the Committee on the Judiciary, of which the Senator from South Carolina [Mr. BUTLER] is the able chairman, is the danger that it brings along with it of weakening, or lessening, the confidence of the people in that tribunal. If we can mould the bill into any shape which promises not to weaken that confidence and that hold which the Judges of the Supreme Court have now, by their annual peregrinations over the respective circuits, upon the people, I should be in favor of it.

But, while I give the preference to that feature, for the reasons which I have stated, in any new organization of the Supreme Court, at the same time it may turn out, upon examination, not to be practicable with the relief which seems to be necessary to be extended to the judges if they are properly to do their business, which has accumulated so much; and, therefore, in voting against the proposition to strike out the first section, I do not mean it to be a test question. I mean, however, Mr. President, so far as my vote goes, to hold up that proposition for investigation and examination before the Senate, to see whether it will be found, upon full examination, to be a practicable and feasible scheme, and one which is likely to answer all the purposes that the country and the court seem to demand, in order to discharge their duties properly. If that shall be found not to be so, I shall vote for the substitute of the honorable Senator from Illinois, or something like it; but if the contrary should be found, I am ready to risk the dangers of what is called a central tribunal.

I hope, sir, that some plan, some method may be agreed upon, by which, in some way, the old representative feature may be continued. At all events, we must do something to enable the court to discharge, with proper consideration and deliberation, the business which has accumulated upon their dockets. We must allow them to do that without subjecting them to such a task, such continued, incessant labor, at all seasons of the year, as they are now compelled to endure, and which no human constitution can stand. According to the organization of the courts at this time, if the Judges of the Supreme Court do the circuit duty expected of them, they are compelled to hold court in the most pestilential seasons of the year, in the extreme southern latitudes of the country. They must then either neglect their Supreme Court duties, or, when their labors are done at the seat of Government, they must, on account of the late rising of the Supreme Court, when the summer season commences, go still further south and hold their circuit courts, sometimes in the midst of pestilence, if they do their duty.

These things, I think, call for serious consideration on the part of the Senate and Congress of the United States. What relief we can bring to the court, we must bring. Therefore, I shall vote against the proposition to strike out the first section; not because my own judgment does not favor the substitute of the Senator from Illinois, for it does; but I am unwilling to throw out of view altogether the possibility or practicability of adopting that feature of the bill which is proposed to be stricken out.

Mr. MASON. Mr. President, the test, as I understand it, which is involved in the motion to strike out the first section of this bill, is a test of the sense of the Senate whether they will discharge the Judges of the Supreme Court from circuit duty or not, and nothing more. I shall give a very reluctant vote to discharge those judges from circuit duty; but I believe it is indispensably necessary to enable them to discharge their judicial functions. I apprehend there is hardly a Senator upon this floor whose attention has been called professionally to the organization of the judiciary of the country at large, both in the Federal and State Governments, who is not aware of the very great difficulty that environs the whole judiciary on the subject of the courts of ultimate appeal. I do not know of any State with which I have been familiar—I mean of the older States—where the dockets of the courts of ultimate appeal are not so clogged as to amount, in truth, to a denial of justice. It has become so in my own State, and I know it is so in some of the older States to which my attention has been directed. It has been found impracticable for the judges of the court of ultimate appeals to try the causes that are carried before them; and the consequence is, that men are ruined in their fortunes waiting for the administration of justice.

It is provided in Magna Charta, the chief muniment of popular right in England—a charter wrested, sword in hand, by the old Barons, from King John—that JUSTICE should be neither sold, denied, or DELAYED—*nulli vendemus—nulli negabimus aut differemus rectum vel justitiam*—the delay of justice being equal to the denial of justice, and the same principle is inscribed in our opinions of popular right derived from that sturdy ancestry. Now, what are the facts? We know that since the Supreme Court was organized under the Constitution, its business has been accumulating, compelling the judges to enlarge its terms from period to period, until, at last, it has been found impracticable for them to go through with the docket. Causes are accumulating there from year to year; and since California has been added, with the immense mass of land claims that have recently come from that State, it will be just as idle to expect that court to discharge its official duty, as it would be if you were to deprive the judges of their capacity. Well, then, what is to be done? If you send them upon circuit duty, as they are now sent, under the original constitution of the court, you take them, if they discharge the duty, from their judicial functions—the decision of causes—and send them traveling over this immense expanse of country, occupying weeks and months in their journeys over it.

I am free to admit, as I have said, that in voting against striking out this section, I shall give a reluctant vote; because I have been educated to believe that it is an important part of the judicial policy of the country to bring these judges into intimate connection, not with the people only, but with the bars of the different States. It was said, and I think with great truth, that it was an important matter that the Judges of the Supreme Court, holding circuit courts in the different States, should thereby become acquainted with the legal practice, with the usages, and, more than all, with the laws of the States. I am perfectly aware of the great advantage that would result to those gentlemen from bringing them in contact with the judiciary and the bar of the different States; and I am reluctant to part with it. But I am satisfied now, sir, that the thing is impracticable in the present extended condition of our country, and with our vastly increased population since the original judiciary act was passed.

The honorable Senator from Illinois, [Mr. DOUGLAS,] in the substitute which he has offered to the bill, proposes to send some of these judges, from time to time, even as far as California, to hold a circuit court. Now, I say to that honorable Senator, the thing is beautiful in theory—perfectly correct in theory—but absolutely impracticable to be carried out. Why, when those judges are placed upon the bench, they are men advanced in life. Many of them now, we know, are far advanced. You ought not to place a gentleman on that bench until years have matured his mind; and yet you propose to compel him, or some of his associates, to perform a journey periodically, which would startle all but the most enterprising of our population—a journey through two seas, and across the continent, and that to be done every year, in the discharge of his official duties. I wish it could be done. I believe it would conduce very much to the administration of justice, if it could be effected; but the thing is impracticable in itself. We know that the time which is consumed by the judges now, in making their circuits into the extreme South and West, is a very large portion of the time which ought to be devoted to their actual judicial investigation and judicial decision. I shall, therefore, sir, though with reluctance, vote against reorganizing the judiciary to that extent, and shall vote to retain the judges here, confine them to their appellate jurisdiction in the Supreme Court; and, if it be necessary, require them to enlarge their terms, and also, most cheerfully, to increase their compensation.

Mr. BUTLER. Mr. President, I have no idea now of indulging in debate, further than to make a single remark in relation to the question which is immediately pending. By the present state of the law the Judges of the Supreme Court are required to perform duties inconsistent with going upon the circuits. Even if they were to be confined exclusively to the business peculiar to an appellate tribunal, I believe they could not get through it during the year; and, from time to time, when we find that to be the case, acts of legislation are introduced here, requiring them to dispense with circuit duties, and to give a preference to the duties devolving on them as an appellate tribunal. We see that every day, and yet we quietly do by legislation what we are afraid to do in an open bill.

It seems to be the idea of some gentlemen that it is an advantage to a judge to travel through the country, that he may imbibe something of the spirit of popular jurisprudence—that he may imbibe it by traveling from one place to another. Sir, I would much prefer that he should imbibe the law in his library here. I do not yield to any of those wild notions that a judge is to be improved by riding through the country to get what is called the popular opinions of jurisprudence. I have no such idea; and consistently with the article of the Constitution, in reference to which this bill has been framed, I cannot, upon my oath as a Senator, say that I can require the Judges of the Supreme Court to do circuit duty. Gentlemen may indulge, if they choose, in the building up of fanciful and popular theories; and I observe the case is very different when it comes into the Senate, from the opinions which gentlemen entertain out of the Senate; but I say that the theory which has been asserted here, that the Judges of the Supreme Court must do circuit duty, is inconsistent with the very fact which is before us that they cannot do it; yet gentlemen will build up a theory in face of the fact, and in defiance of experience! I still intend to consult the article of the Constitution in reference to the judiciary. I differ from my honorable friend from Virginia; I am not one of those who believe that a judicial magistrate should become what is called a popular magistrate. I doubt very much whether a popular judge is not the most dangerous of judges.

Mr. MASON. The Senator ascribes to me an opinion which I do not entertain, and certainly have not expressed. I said this, and this alone: that I believed it would be valuable to these judges, and valuable to the administration of justice, that, instead of being retained at the seat of Government, they should be sent upon the circuits to get the advantage of being informed of the practice and usages of the bar in the several States, and more especially to become acquainted with the laws of those States; and, also, that it would be an advantage to them and to their duties to have them periodically sent to mingle more intimately with the people than they could do by a confined residence at the seat of Government. But if the honorable Senator means a political judge—I do not recollect the tenor of his expression, but I understood him to mean a judge who would allow his judicial opinions to be swayed by popular feeling—I am the very last man in the Senate, and in the country, to entertain such an opinion.

Mr. BUTLER. I should have inferred that from my general knowledge of my friend's character; but still there is an opinion abroad that we should infuse into the judiciary system of this country something of what is called popular sentiment—that is, the judges are to go off and imbibe it in New England, California, South Carolina, and so on, and come back freighted like a bee with honey, and pour it out in the Supreme Court. That is the hive in which they are to deposit and elaborate the honey. That is the notion. The Supreme Court Judges are to go out and extract knowledge, and information, and law, upon steamboats and in local jurisdictions. Sir, our forefathers had no such idea, for the Constitution is express that "the judicial power of the United States shall be vested *in one Supreme Court*"—I hope the reporters will take that with an emphasis—"in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish." With that Constitution before me, and the conviction upon my mind, and the unanimous opinion of the Judges upon the Supreme Court bench, and the opinion which has prevailed with every Chief Justice who ever sat upon that bench, and the opinion of every judge, I believe, who has had anything to do with this system, that the Constitution meant that the Supreme Court should be a separate court of appellate jurisdiction, I cannot agree to impose such duties upon the judges. Therefore, in proposing to relieve the judges of their circuit duties, I act in perfect conformity to the Constitution. When gentlemen speak of having these judges consult, in some measure, the tone of society in which they are, I grant it might be desirable; but I think it is inconsistent with the very implication contained in this Constitution that they should not go out and be affected by any local influences; but that they should be a separate court, unbiassed by any sectional or local influences whatever.

That is my opinion; but I do not know that I can say much more on this subject, unless it is that I may, in the close, meet the general objections which may be made to the bill. But my friend from Missouri [Mr. GEYER] has assailed the bill. Now, I think he has forgotten what took place in the Committee on the Judiciary; I know I have no right to mention what occurred in committee, but I may say, that not one member of that committee had his own individual ideas fully carried out in the bill; and it was, I thought, a fair understanding that we should present the only bill we thought could pass the body. If it does not pass, allow me to say, my section of the country can do without a Federal judiciary as well as any section of the Union. I do not know that they carry causes before it from any preference to it. Sir, though it is very common to throw out aspersions, or taunts, on South Carolina, for her peculiar institutions, I will say here, she is not a State in which a preference is given to the Federal courts, when her people have an option to go into the State courts; and I believe the same thing may be said of Georgia. Indeed, the old States, generally, are not those most interested in this question.

I have framed this bill from a conviction of duty, in reference to the condition of the new States.

Gentlemen have undertaken to say that the Judges of the Supreme Court must do circuit duty. Why, is not the fact before us that they cannot do it, and do not do it? Judge Daniel is required to hold circuit courts in Arkansas. When was he in Arkansas or Mississippi? He cannot be there and here at the same time. The same remark may apply to any judge who may be required to go to Texas. Who has gone to Texas, or any of those new States? They cannot do it; and yet gentlemen talk about requiring these judges to go on circuit. If Senators have a mind to take the responsibility of defeating the bill, I say, for one, I have as little interest in the question as any one else, and it is only from official responsibility, as chairman of the Committee on the Judiciary, that I have brought in and pressed the bill.

Mr. TOUCEY. I am very glad, Mr. President, that the issue is presented, as it is, upon the first section of this bill. It presents this question: Shall the Judges of the Supreme Court be multiplied so as to discharge the duties, not only of the Supreme Court, but of the circuit courts throughout the country, or will you confine them to their legitimate duties, appointing inferior judges to discharge inferior duties? Is there a member of the Senate who can doubt that the time is near at hand—if it has not already come—when it is an absolute impossibilty for the Judges of the Supreme Court to go through this Union and adjudicate those cases which are proposed to be adjudicated in the different localities? How long will it be before we shall have a hundred millions of people? How long before the judicial business of this country will be such that no nine men, sitting here, can, in the course of the year, hear and decide the cases which necessarily come into the Supreme Court? The duties of that court increase as our territory increases, as contracts increase, as the various sources from which the business here adjudicated comes, enlarge; and if the time has not already arrived, how long will it be before it will be impossible for one court, sitting here, to do more than adjudicate those cases which must come here?

Sir, the Supreme Court has original jurisdiction conferred by the Constitution. That cannot be enlarged, nor can it be diminished. It has also appellate jurisdiction. The original and appellate jurisdiction comprise the whole powers of that court. The appellate jurisdiction can be limited by act of Congress; that is, you may prevent small cases from being transferred to this court unless some great principle is involved, so that the amount in controversy in the individual case is of very little or no importance. I undertake to say, that, according to my experience and observation, the time has come when the original and appellate jurisdiction of the Supreme Court can scarcely be exercised by the judges who sit in the chamber below us. And no one can doubt that, if the time has not already come, a very short period only can elapse before they will be overwhelmed with duties here. What reason, then, is there for taking them away from their appropriate duties here? I think the time has come; but even if it has not come, under the inevitable state of things to which I have referred, ought we not at once to lay aside this system in that respect which has been outgrown by the country, and adopt one which is capable of being extended to every portion of the Union? I acknowledge that my opinion is very clear and decided that the duty has already been devolved upon us to make provision for every portion of the country.

Why, sir, there are large portions of the country which have no circuit courts held by Judges of the Supreme Court. It is impossible. They are deprived of the benefits which are accorded to the Atlantic States. The time will come when those portions of the country will be vastly more extended.

But I go further; I say the time has now come when the duties of the inferior courts, called "circuit courts," cannot be performed by the Judges of the Supreme Court without taking them away from the appropriate duties which are devolved upon them as Judges of the Supreme Court. During the session of the Supreme Court here in the winter, during that period when it must sit here, no business can be done requiring the presence of a circuit judge or a Judge of the Supreme Court, throughout this whole country. Then, when you come to the summer season, how can the judges of this court go into those regions, where men unaccustomed to the climate cannot go, for the purpose of residing or transacting business.

How, then, can you make the present system extend over the whole country? There is only one mode of doing it, and that is by increasing the number of judges who sit in the chamber below us, and when that is done what will be the constitution of this court? In my judgment, the greatest calamity that can be inflicted upon this country is, to multiply the judges of that court, until the responsibility which ought to rest upon them individually shall cease to rest upon them. I am not willing to have a Supreme Court of twenty or thirty to adjudicate the great questions which are brought into that court. In my judgment, it would be fatal to the judiciary that any such state of things should exist. On the contrary, the judges of that court should not be more numerous than they are at the present time; and they ought never to be increased beyond the number which occasionally sits, when the twelve judges of England are brought together.

Mr. BUTLER. There are fifteen judges there now.

Mr. TOUCEY. Between the two alternatives to which I have alluded, I can choose but one. I am utterly opposed to increasing the number of the Judges of the Supreme Court, and requiring them to go into the circuits. Well, then, what can be done? We all must agree that, if the time has not come, it is near at hand when it will be impossible for them to discharge their duties in the court above if you take them away from those duties and send them on circuit.

Now, sir, I advance a proposition which, it seems to me, no one can successfully controvert: That, in executing the power conferred on this Government under the Constitution, we should not be justified in taking the judges away from the Supreme Court to discharge the duties of inferior courts, if their presence is required in the Supreme Court. I think it is contrary to the theory of the Constitution; contrary to the principle of the Constitution; it is at war with the great object in view in delegating the judicial power conferred on this Government. That power is the sheet-anchor of our safety. It is the power by which this Government is held together by the enforcement of laws, by the adjudication of great questions which are agitated between different sections of the country. It is our imperative duty to uphold that power and to make it efficient. How can you do it unless you allow nine men here in this Capitol to sit and pass upon that class of questions which come before them, either by their appellate jurisdiction, or which are brought to their notice by the original jurisdiction conferred by the Constitution? Let them pass in judgment on those questions for the peace of the country, for the maintenance of the rights of this Government. I say it cannot be done under the present system; and I say that every gentleman who hears me must be satisfied that, if the time has not come, it is near at hand when it is incumbent upon us to adopt a system which is applicable to the actual condition of the country, and capable of indefinite expansion.

Sir, what is the objection to this bill? It is that Judges of the Supreme Court ought to go into the circuits for the purpose of learning the local law, and becoming familiar with the people. Why, sir, they are acquainted with the local law in the region from which they come, where they are authorized to discharge chamber duties under this bill, and where I would go a step further, and require that they should reside when they were not attending upon the Supreme Court. What is required of them by the substitute of my friend from Illinois? That a judge shall go into each of the circuits, and in the course of nine years, through the whole country. By this provision you would require a judge of the eastern circuit, who must be a great commercial lawyer—a great admiralty judge—familiar with the local laws of that section of the Union, to throw aside the knowledge which he possesses, and to go into California to adjudicate land titles, to pass his judgment upon a subject which he probably would tell you had never attracted his attention, unless casually in the Supreme Court. You would place him there upon a footing of equality with the district judges, whose voice would be equal to his. When he goes there, what would he say? He would say to his associate judges, "Gentlemen, you must decide this case; I know nothing about it." And on the other hand, if you take a judge from the remote West, who never has exercised admiralty jurisdiction, and carry him to New York or Boston, to adjudicate admiralty cases, he would say to the district judges, "Gentlemen, you are perfectly familiar with this subject; I have never given any particular attention to it; you may decide this case, and I shall acquiesce in the decision."

Under the substitute of the Senator from Illinois, the Judge of the Supreme Court presiding in the respective circuit courts of appeals, is not required to try jury cases; he is required merely to look upon the record, and, with his associates, pass upon a writ of error or upon an appeal on the facts presented in the case, without a jury, without a witness. That is what he does every day in the Supreme Court. The difference is that, by the substitute, you require him to go into a court of half a dozen district judges, where his voice upon a subject with which he is not perfectly familiar will be of no potency whatever; and he will be in a condition in which I think a man of learning and ability would not wish to be placed, to be called on to act with men who, in regard to the question before him, are perfectly at home, while to the subject he himself is perfectly a stranger.

The Judges of the Supreme Court should come from every portion of the country. I agree that every section of the Union should be represented; but there is no mode of enforcing that representation except in this body. By our action on nominations, you may require it. You may require, by law, that the judge shall reside in the circuit from which he is appointed, and I should be in favor of that provision. But when you have done that, you have done all you can do; you have exhausted your power over the subject. As I have already said, in the constitution of the Supreme Court, every portion of the country should be represented, and the combined knowledge of those gentlemen coming from all quarters of the Confederacy, and here passing upon cases, should be made useful in the labors of the court.

But, sir, I will not follow up this discussion. I say the motion which is now made brings us to this question: Can we, consistently with the public interests, if we have the power—which, I think, is contrary to the true theory of the Constitution, although it has been acquiesced in—demand of the Judges of the Supreme Court that they shall neglect their appropriate duties here, and travel over the country to hold circuit courts? When every hour of every day in the year is demanded for the transaction of the business which comes up into that court, by reason of the appellate and original jurisdiction conferred on it by the Constitution, is it right, is it just, is it according to the theory of the Constitution, is it carrying out the objects of the Constitution, to take the judges away from those appropriate duties, and require them to act as inferior judges in the different portions of this country? In my view, it is not right and proper that we should thus execute the duties which are devolved upon us. The original theory was, that a judge ought to sit at *nisi prius*, and try jury cases, as in England. No one now proposes, however, that that should be done here. The substitute of the Senator from Illinois proposes no such thing; but, according to that, you take a judge away from that practice with which he has been familiar, and you require him to go into California to look at the record, to form opinions, to aid the judges of the district courts, who are perfectly familiar with the law on the subject involved in the particular case, to adjudicate the case; and then it comes into the Supreme Court here, when he is called upon to act again. I am opposed, from any popular considerations, or from any antiquated considerations, to adopting any such course as that. I would meet the difficulty; I would look it in the face; and, if it be true that this country is expanding, growing, and its business enlarging, until it is impracticable for the Supreme Court to adjudicate the cases coming before it, I would meet that difficulty, and legislate

accordingly; and that, in my judgment, is done by the bill, the first section of which is proposed to be stricken out.

Mr. FESSENDEN. I understand the question before the Senate at the present time to be on striking out the first section of the bill, and that the object of the motion made by the honorable Senator from Missouri is simply to test the sense of the Senate as to whether, at this time, the Senate are prepared to say that the country ought to dispense, for the future, with any services of the Judges of the Supreme Court of the United States, on their respective circuits. That I suppose to be the simple question, and the sole object which the Senator wishes to attain.

For one, sir, I am not prepared to say, that I think the time has arrived, or that the necessity is upon us, when we must decide that all those duties, heretofore performed by the Judges of the Supreme Court on circuit, can be, or ought to be, dispensed with. One thing I believe, Mr. President, will be admitted, certainly by all the members of this body who are lawyers, and perhaps by all; and that is, that the system now in existence, is a most admirable system. It has given very great satisfaction to the country. It has proved, on trial, to be one which has resulted in great good, and I believe there are complaints of it nowhere. The judiciary act of 1789, has been considered as second only to the Constitution itself, in the wisdom of its provisions. If so, the question arises, whether there is, at present; such an absolute necessity as compels the country to abandon an important portion of that system, and resort to another?

Sir, it has been intimated by the honorable Senator from Connecticut, and by the honorable Senator from South Carolina, and perhaps it is true, (at least I know nothing to the contrary,) that the unanimous opinion of the present judges of the Supreme Court is that they cannot be called upon constitutionally to discharge circuit duties; and such I understand to be the opinion of those Senators. That might have been the theory of the Constitution, but it is hardly worth while to debate it now. Grant that it is so; yet it must be conceded that a practice to the contrary, under the Constitution and under the act of 1789, from the formation of this Government, has given a construction to the Constitution which no one at present will feel inclined to dispute.

Mr. TOUCEY. Will the Senator allow me to explain?

Mr. FESSENDEN. Certainly.

Mr. TOUCEY. I referred to the true theory of the Constitution, not for the purpose of making a question upon a point which has been acquiesced in since the foundation of the Government, but as a reason why we should now go back to what we think to be the true theory of the Constitution.

Mr. FESSENDEN. It would justify us, unquestionably, if we found it necessary; but I take it that there is no particular reason, arising from the proposed theory of the Constitution, why we should return to what was abandoned at the very formation of the Government, and has been continued in the same state ever since that time. It is of no consequence what it was, and the less we say about it the better, if uniform construction and practice have settled it otherwise. If such has been the construction of the Judges of the Supreme Court, it would seem to be implied that there was some good reason for it. They would have raised the question long before this, if it had not been for the very strong reason operating upon the minds of the judges, that it would be for the good of the country, or for the good of the court, that the question should not be raised. If it had not been their strong and decided impression and belief that the system adopted by the act of 1789 was a wise system, they would not have continued to go on in the discharge of duties onerous to them, and which they believed to be somewhat inconsistent with what the Senator from Connecticut calls the true theory of the Constitution.

On this point I have occasion to know something, because I was so told by a Judge of the Supreme Court, not now living—no less a man than the lamented Justice Story. He said that the judges of the old court were unanimously of the opinion that it was not the intention of the Constitution that the Judges of the Supreme Court should discharge circuit duties; but they were so decidedly of opinion that, if they were relieved from circuit duties, it would be injurious to the court itself, not only in the estimation of the country, but injurious to them as judges, in process of time, that they came unanimously to the conclusion that the provision was a wise one, and they would not question its constitutionality. He gave his reasons for it. Some of those reasons have been stated by Senators on this floor, and there are others which will suggest themselves to the mind of any man who reflects on the necessity of the matter. Take any set of men, of any reasonable degree of learning, and put them in one place to discharge a certain round of duties—that round of duties consisting simply of the study of books—and discharge them entirely from any opportunity of exchanging opinions with those with whom judges ordinarily come in contact, and they would unquestionably degenerate until they would become, as has been well said, mere paper judges. They would lose the confidence of the country That was Mr. Justice Story's opinion, and I believe myself it was a sound opinion.

Mr. BUTLER. How much would they get from their association here?

Mr. FESSENDEN. How much they would get from their association here, it is not for me to say; but I believe there is a great deal in the remark that men's minds, in order to be kept bright, must be brought into contact with the minds of other men of different pursuits from their own, as well as with those of similar pursuits. If I do not forget, in that conversation he stated that New York had once tried such a system, and established a court which was exclusively devoted to the decision of law questions, but that court had speedily lost the confidence of the people of that State, and was soon abolished. I do not recollect how that was, but the Senator from New York can inform me.

Mr. FISH. It was abolished, but I doubt very much whether that court lost the confidence of the community, and I am inclined to think a return to that system would give as good, if not a better court than New York has had for some years past.

Mr. FESSENDEN. That may be, but these matters are comparative, and whether this system is no better than that which New York has now, may be a question.

Mr. BAYARD. I would ask whether, in New York the judges who constitute the court of appeals do not sit in that capacity alone?

Mr. FESSENDEN. I am not familiar with the system which prevails in New York; I cannot speak of it, because I have not studied the system of that State. I do believe, however, that if we resort to a system such as this bill proposes, if we are to have judges residing here, (for very soon they would reside here,) discharging all their duties here, and those duties confined simply to a study of law books and decisions founded thereon, and to the hearing of arguments before them, without having the experience and observation which judges acquire upon circuit, the Supreme Court itself would degenerate, and would speedily lose the confidence of the country. Why, sir, there are too many in that court already for such a court as some gentlemen seem to desire. On that point, one idea suggested by the Senator from Connecticut is certainly observable for its importance. What assurance could we have under such circumstances, that the judges would be taken from different sections of the country? None at all; the Constitution requires no such thing, and we cannot limit the President in his selection of judges.

Mr. BUTLER. This bill provides for that.

Mr. FESSENDEN. This bill may provide for it; but I take it that it is very doubtful whether Congress can control the power of the President in reference to that matter. If, however, the system be observed of having circuit duties performed by the Judges of the Supreme Court, it follows, as a matter of necessity, that the judge would be taken from the section where his duties were to be discharged.

Sir, although I say this, and although I believe the interests of the country would be exceedingly endangered by resorting to a system, such as has been proposed by the Committee on the Judiciary, for the general reason which I have stated; yet I am not prepared to support the substitute which has been offered by the honorable Senator from Illinois. I do not understand that he offers it with any assurance that it will be supported, generally, but simply as a scheme upon which Congress may build one satisfactory to themselves. I believe that we can find something between the two systems which would answer a better purpose than either. It is my decided belief that, at the present time, it has become impossible for the Judges of the Supreme Court to discharge circuit duties in some sections of the country. They have not time to try questions of fact before juries; but, I am not satisfied that they could not be properly made an appellate court, on questions of law arising in the district courts, the jurisdiction of those courts being enlarged, and be able, at the same time, to discharge the duties that it would be necessary they should discharge here. I do not know how large the docket of the Supreme Court has become; but, at the present term it certainly is not very large. I believe that court finishes all its cases in the second year; that is to say, all suits which are entered upon the calendar this year are disposed of in the course of the succeeding year, and yet it does not sit here, ordinarily, more than three months in the year, and time is found, in all the old States, for the discharge of all the circuit duties which it is necessary they should discharge.

With regard to the circuit in which I live—the circuit presided over by Mr. Justice Curtis—I have no question that he has ample time to discharge all his circuit duties under the law, as it now stands; and besides those, all his duties here. He would have that time, even if the Supreme Court proceeded to clear the docket before them every year. If that be so, then, if you give him the time which is taken up in trying questions of fact, he would surely have ample opportunity to dispose of all the duties which might be imposed on him as an appellate judge, simply upon legal questions. How it would be in different sections of the country, I do not know; probably there would be some difficulty in the new States; but it does not, therefore, follow, that it is necessary to resort to the system proposed by the bill, at the present time. The necessity for it has not been demonstrated; and I will say to the Senator from Connecticut, that, so far as I am concerned, so strong is my impression, that a court constituted as this bill now undertakes to constitute the Supreme Court of the United States, would, in the process of a very few years, lose its high character, and fail to secure the confidence of the people; that, averse as I am to changing the tenure, I should much rather have the Constitution altered in such way as to limit the tenure by which the Judges of the Supreme Court hold their office, than consent to have such a court as the present bill would give us. I should be averse to a change of the tenure; I think it would be a calamity. I believe that the Judges of the Supreme Court of the United States ought to hold their offices by the tenure they do now; but I think there may be greater calamities than even a change of that tenure.

Rather than have a central court at this place, of five, or seven, or nine judges, appointed from wherever the Executive might choose to appoint them, holding their offices by the tenure of good behavior, and having no opportunity, (because they would have none,) and in process of time, very little inclination, to mix with the people and the bar of what are now their several circuits, I should prefer that the people should have that hold upon them, and that supervision over them, which arises from a limited tenure. But, sir, while the present system continues, or something as near to it as we can agree upon, I should be one of the last men to advocate, or give countenance in any way, to the idea that the Judges of the Supreme Court are to hold their offices by any other tenure than that by which they now hold them.

To be brief, Mr. President, I would not make an appellate court, such as is provided for by the amendment of the honorable Senator from Illinois; nor would I attempt, what I believe, with the honorable Senator from Virginia, to be utterly impracticable, the "rotatory motion," which the Senator from Illinois proposes, of the members of the Supreme Court over the country. Yet I believe an appellate court can be constituted, limited in its jurisdiction, which will effect the great object of relieving the Judges of the Supreme Court from a great part of their labors, and retain precisely what we wish to retain, the assurance that these judges

shall be appointed from different sections of the country, and the knowledge that a portion of their time will be spent in their circuits, in the active exercise of those duties which are akin to professional duties, which tend to keep the minds of men alive, and not to let them deteriorate in the mere unvaried round of the ordinary duties of a judge simply of a court of law.

I wish Senators to understand that I believe the present system is a good system; that it has given general satisfaction to the country; that it has been a safe system in all particulars; that the people of the country are attached to it; that, under it, we have had good and able judges, and shall be likely to retain good and able judges, upon whom the confidence of the country will rest. If the only reason for varying from it is a belief of the necessity for a change, I think we should still keep ourselves as near to it as we possibly can. Let us go no further than that necessity compels us to go. Let us not, at one stride, abolish all those features which have been found so beneficial in the constitution of the Supreme Court, and adopt a system against which the judgment of all the early judges of the court was expressed in the beginning, and on which they acted during the time they held their places on the bench.

I do not intend, at this time, to say anything about the details of the bill. They have not been discussed, and I do not understand that it is necessary, as yet, to examine them. I have said thus much merely to defend the vote I shall give in favor of striking out the first section, and with the further object of expressing my opinion that we ought not to vary a single hair's breadth further from the existing system than we are compelled to do under the pressure of absolute necessity. Thus far I am willing to go, but no further.

Mr. RUSK. Mr. President, the honorable Senator who has just taken his seat, designated the present as a most excellent system. He may think so; but it strikes me that it is partial in its operation. The same benefits are not extended to the State of Texas which are extended to the State of Maine. In Texas we have not the advantage of circuit court jurisdiction at all. We have no circuit courts of the United States there, and, therefore, we are not on an equality with other States.

As I understand the bill reported from the Committee on the Judiciary, its object is to remedy two evils. It seeks to treat all sections of the country alike, to give the same judicial facilities to the extremities which are given to the center. It proposes, also, to relieve the Supreme Court, or rather to relieve the suitors in that court, from a long delay which occurs there in consequence of that body not having time to discharge the appellate jurisdiction which comes before it.

The honorable Senator from Maine says, we must hold on to that feature of the present system which requires the Supreme Court Judges to perform circuit duties. What kind of a promise is it to the section of the country which I represent, that they shall be put on an equality with the State of Maine? That State is easily arrived at, and is in the immediate neighborhood of one of the Judges of the Supreme Court, to whom it may be no inconvenience to hold circuit courts in Maine; but in my section it is different. It has been already stated in debate that, although there is a circuit court jurisdiction extending to Arkansas, the Judge of the Supreme Court assigned to that circuit does not go there. I apprehend a great deal of mischief may result from this. A writ of error may be taken from the district court to the circuit court, but as long as the circuit judge does not go there, just so long that business cannot be attended to at all.

But, Mr. President, I cannot see the benefit which some gentlemen seem to think these judges derive from traveling through the country. Is it a physical possibility for them to go to California? Yet we know that some of the most important questions to be adjudicated by the Supreme Court, for a number of years to come, will arise in the State of California. Can any of the Judges of the Supreme Court go there? If they do, they must go there to learn; but it strikes me that the people of California would prefer to have a judge there who knew the law, so as to decide their rights promptly, rather than have one of the Judges of the Supreme Court coming there to learn their local laws. It seems to me that if they have in California, as I apprehend they have, judicial material, just as good, perhaps, as that of which the Supreme Court is made, it would conduce a great deal more to the ends of justice to have as judges those already versed in the local law of the county to decide questions which may arise there. A very small portion of the cases determined in California now come to the Supreme Court for final adjudication; most of them are finally decided in California, because appeals are not entered. Then would it not be better to have a judge on the ground who understood the local law and could decide properly, rather than to take one of the Judges of the Supreme Court, already loaded down with business—for it is upon that supposition, not denied, I believe, by anybody, that this bill is founded. Is it better to have a judge there qualified to discharge the duties, or to take one from the Supreme Court already overloaded with business, having more than they can possibly do, and send him all the way to California to learn the local laws?

I have not looked into this subject as much as I ought to have done, or as much as I intend to do during the discussion of this bill, for I apprehend it will take sometime to discuss it. My own opinion is, that the better system would probably be to dispense with the circuit courts altogether, and to curtail the jurisdiction of the district courts. I can never agree to go for the amendment suggested by the honorable Senator from Illinois, because it proposes a number of appellate courts which will involve much expense, and I can see no great benefit to be derived from them. It seems to me that they will open the door for a great deal of litigation, and will consume much time, which, I think, are evils to be avoided, in the administration of justice.

In my opinion, the preferable course would be to put an amendment to this bill, curtailing the jurisdiction of the district courts. That would be beneficial to the community. In every State there are State courts established, which are administering justice in a manner which commands the admiration of all. At the time of the adoption of the Constitution of the United States, it was uncertain what course the States would take in reference to a judicial system; and hence the judicial power of the Federal Government was given to the extent in which we find it, in order, that if the States did not establish courts where justice could be properly administered, the General Government might have power to do so. We were just coming out of the Revolution, at a time when it was very difficult to enforce rights before a court of justice. Experience, however, has shown that all the State courts may be safely relied upon. Suits in those courts are attended with less expense than suits in the United States courts. The jurisdiction of the district courts of the United States, I believe, extends to suits between citizens of different States, where the amount in controversy is even as low as $500. In some of the large States, especially the one which I represent, the cost of summoning witnesses, bringing jurors together, and similar matters, make the bill of costs, on an issue involving only $500, enormous. This is an evil which I should like to see remedied.

I shall vote, sir, against the striking out of the first section of this bill; for I believe that if that section be stricken out, the matter will end where it is; and we shall have no reform, but business will continue to accumulate in the Supreme Court and the other courts of the United States, without any means of disposing of it.

Mr. FISH. The Senator from Maine, [Mr. FESSENDEN,] a few moments since, appealed to me with regard to the organization of courts in New York. I was under a misapprehension with regard to the court to which he alluded. I supposed he referred to the original supreme court of the State of New York under its first constitution—the constitution which was abolished in 1822. I understand, however, from the Senator, that the court to which he alludes was that which succeeded it under the constitution of 1821, which was a court consisting of three judges sitting in *banc*, and trying merely the questions of law which were sent up from the courts of *nisi prius*. At that time there was a system of circuit judges holding the courts of *nisi prius*, and sending up a record. With regard to that court, I did not intend to express the opinion which I did. It was abolished, and abolished by pretty general consent, though there may be a difference of opinion as to whether the difficulty and defect existed in the court in *banc* or in the circuit system. I should be inclined to the latter opinion.

Mr. GEYER. Mr. President, the remarks made by honorable Senators, in this discussion, have confirmed me in the opinion which I entertained from the beginning, that it was important we should first settle the principle upon which to frame a bill of any sort. The bill reported by the Committee on the Judiciary contains two propositions, which, I think, ought to be voted upon distinctly, and separated from the consideration of the details of any bill. The first is that which proposes to withdraw the Judges of the Supreme Court entirely from circuit duty. If that be agreed to, it by no means determines what the system shall be, because we may still transfer the entire jurisdiction of the circuit courts to the district courts, and have no separate circuit judges. Then the bill in the fourth section makes another proposition, which is to appoint eleven circuit judges.

Now, sir, I have moved to strike out the first section of the bill for the purpose of testing the sense of the Senate on the first great question which is to be decided by them, before we determine upon any system whatever, or go into the details of any system—the question whether we shall centralize the Supreme Court, for that is the real question presented to us. The advantages derived from the present system are supposed to be, first, that the Judges of the Supreme Court, in attending the trial of causes in the circuits, become better acquainted with the local laws than they otherwise would be, and are, therefore, more competent to judge when questions are presented to them having connection with those local laws or arising out of them. The other and the great advantage is, that, as the court is now constituted, a representative system is established, which, although not absolutely obligatory by the Constitution, has been recognized here in the Senate and in the country as a thing not to be departed from. Judges are appointed from the various portions of the Union, and each section, having a distinct and separate interest and distinct systems of law, is represented in that court as it is now constituted. The danger is, that whenever you confine their duties to this place, and do not keep up the idea of distinct representation, you centralize the court, and bring the judges to reside in the immediate neighborhood of the seat of Government, and enable the Executive, whenever a vacancy occurs, to appoint from any portion of the Union. The consequence of this would be, that the power represented in the election of a President would be most powerfully represented in the Supreme Court. In the very nature of things it must be so. If you abolish the idea of a representative system in that department of the Government, you will bring to bear the influence of the power of the States in the organization of that court; and the weaker States will not be represented in it.

The bill proposed by the Committee on the Judiciary proposes to abandon all the great advantages which are supposed to have been secured by the present system. It abandons this representative principle. It abandons, also, the advantages which are supposed to be derived from the judges being sent out on the circuits to try causes.

It is said, however, sir, that the Judges of the Supreme Court are unable to perform all the duties now devolved on them. It seems to me that the first remedy naturally suggested for that evil, would be to cut down their jurisdiction, or divide the appellate power, as is proposed by the honorable Senator from Illinois, so that the business of the Supreme Court should be greatly diminished by the reduction of the number of causes brought before it.

It is objected to the system proposed by the Senator from Illinois, or a plan similar to it, that it will not answer, because the country will outgrow it. The first response I have to make to that is, that when the country does outgrow it, it will be a very simple operation to withdraw the Judges of the Supreme Court from the intermediate appellate courts, and leave those intermediate courts existing, composed of the judges of the district courts, to try causes, with a limited appellate jurisdiction from the respective district courts. If you

adopt some such system as that, you will have reduced the amount of business which is now imposed on the Supreme Court of the United States, and you will have adopted a system which, for the present at least, will keep up the idea of representation in the Supreme Court, to which I have referred, and postpone the time when this centralization is to take place. In other words, Mr. President, the proposition of the Committee on the Judiciary is to go to the extreme at once. The proposition of the honorable Senator from Illinois affects the present system in some of its details, and proposes to preserve as much as we can of its advantages, but more especially to preserve this representative quality in the constitution of the Supreme Court.

Mr. President, so far from its adding labor to the Supreme Court, the substitute of the honorable Senator from Illinois proposes only to divide the labor; that is, instead of having all the causes from all the courts of the United States, great and small, brought here to the seat of Government, to be adjudged in the Supreme Court, it proposes that a very considerable portion of them shall be decided by the intermediate appellate courts, for the establishment of which it provides. I do not know whether it provides that the decision of those intermediate appellate courts shall be final, but it ought to be so. The effect of this will be, that the Supreme Judge who goes to a circuit as a judge of the appellate court, will discharge a portion of the duties which now devolve on him in the circuit court; and that is all.

Mr. FESSENDEN. It might be modified so as to leave the appellate court for a whole circuit to consist of one Judge of the Supreme Court.

Mr. GEYER. Another modification has been suggested by the honorable Senator from Maine: that is, to make the Supreme Court Judge the sole judge of the appellate court. I was going to remark, however, that, if it should happen that a Judge of the Supreme Court should not attend, in some one of the circuits, to hold the appellate court, it could still be held by the district judges, if a majority of them should assemble there. The evil, under this plan, would not be greater than it is now, nor greater than it will be upon the plan proposed by the committee. I refer to the alleged evil of having a decision made by the district judges. As it is now, the Judges of the Supreme Court are relieved, in a great measure, from their circuit duties, and you have, in some States—Missouri is one of them—a nominal circuit court in which the judge makes his appearance once in two years.

An objection taken by the honorable Senator from Virginia to the substitute of the Senator from Illinois, is, that these Judges cannot possibly go to California. Now, I apprehend that when, according to the plan proposed by the Senator from Illinois, they are to receive mileage, as members of Congress receive it, for their travel, they will find it just as easy to travel to California and back again to the city of Washington, as it is to the Senators and Representatives from that State.

But, sir, as I have said, this system proposes now to retain as much of the existing plan, which has been found so much favored by the people of the United States, as we can consistently, with the amount of labor proper to be imposed upon the Supreme Court Judges. If hereafter it shall be found that they cannot perform their duties in the intermediate courts of appeals, I repeat, it will be the easiest thing in the world to withdraw them from those courts, without interfering much with their organization.

Sir, I hope that the honorable Senator from Tennessee, [Mr. BELL,] who opened the debate to-day, will reconsider the reasons upon which he based his intention to vote against striking out the first section of this bill. I will ask him what advantage he gains by it? If we go on without making up our minds, holding our opinions in suspense in reference to a system, how can we perfect any plan?

Mr. BELL. Will the honorable Senator yield me the floor for a moment?

Mr. GEYER. With pleasure.

Mr. BELL. I understood from several gentlemen, of more experience in the matter than myself, that the proposition of the honorable Senator from Illinois will actually afford no relief from the labors of the Judges on the Supreme bench, and I based my course on the supposition that we must do something, and that it was probable nothing effective could be done unless we adopted something like this feature. It may, perhaps, be thought proper to give the district courts final jurisdiction over cases involving larger amounts than those over which their jurisdiction is now final. That might be a relief to the Supreme Court. I understand, however, that the present Judges of the Supreme Court have, by great industry, and perseverance, and courage, dispatched a great deal more business than is usual, and that it is hardly possible for them to continue for any length of time to dispatch business as they have done recently. I have been told, also, that the proposition of the Senator from Illinois really gives no relief. Now, my mind is certainly suspended. I prefer the old idea of a representative system on account of the court itself; but it may not be possible to carry it out fully, and therefore I do not choose to give a vote which will say "that I will not grant any relief whatever, I will not diminish the labors of the Judges of the Supreme Court, on the ground that I would not, as it is called, centralize the court." I do not wish to be put in such a position.

Mr. GEYER. It has occurred to me that the proposition contained in the first section stands in advance of everything else; and if it be adopted by the deliberate judgment of the Senate, I shall feel bound, as I felt bound when I found myself in a minority on that question in the committee, to operate in perfecting the details of the bill. Whenever the Senate shall decide that in this reorganization of the judiciary, they will adopt the system proposed by the first section, I shall cooperate with the honorable chairman of the committee in endeavoring to perfect the bill upon that principle; and I suppose this question ought to be decided in advance of any attempt to settle details.

Now, the honorable Senator informs me that he does not find an adequate remedy in the details of the proposition submitted by the honorable Senator from Illinois. That may be true. It may be that that amendment is exposed to some objections, and serious ones, too; but it does not follow that it is the only alternative. It does not follow that we may not even constitute a court in which a Judge of the Supreme Court shall be the only judge, as an appellate intermediate court. But we ought first to decide upon the principle, unless we mean to go on and perfect the details of the bill, in an uncertainty about what we are going to do ultimately; and then, when the principle is adopted, we ought to go on and perfect the bill in its details, so as to carry out that principle. If we cannot make up a judgment on the principle, if we cannot think of any other proposition which is better, why, then, let us go on in the dark; but I am very sure that the fertile mind of the honorable Senator from Tennessee will suggest to him many plans which are better than that of centralizing the Supreme Court, for I look upon that with great apprehension. I am determined, so far as I am concerned, to postpone what I regard as an evil hour, as long as I possibly can; and I repeat again in the hearing of that honorable Senator, if the substitute, after being amended in its details, should be adopted, and under the plan which it proposes, it should hereafter be found that the judges are incapable of performing the duties which are imposed upon them, and it should become an inexorable necessity to abandon the representative system, it may be done.

Mr. BADGER. Mr. President, I believe the Senate is now engaged in considering propositions to amend the original bill, and the pending question is a motion to strike out the first section of the original bill. That section, if I understand correctly, proposes to discharge the Judges of the Supreme Court of the United States from circuit duty. I am opposed to striking out that section. I am very far from being desirous in what I am about to say in reference to the original bill, to commit myself against the substitute proposed by the Senator from Illinois, for I confess the present inclination of my mind is in favor of that substitute, with some modifications and alterations. But I understand we are now engaged in determining what shall be the form of the original bill, and, for the present, we put out of view the proposed substitute.

Now, sir, I am in favor of discharging the Judges of the Supreme Court from attending circuit duty, and in coming to that conclusion, I have yielded to the necessities, as I conceive them, of the country. I agree with my honorable friend from Missouri, [Mr. GEYER] that there are many reasons why, if it were practicable to do so, why, if the original dimensions of the United States had continued as they were, the system which assigns the Judges of the Supreme Court to circuits should be preserved. I have been, heretofore, entirely opposed to discharging the judges of that court from holding the circuits; I have felt that there were strong reasons why they should continue to be connected with the circuits; and I had occasion some years ago to express those opinions in the Senate.

But, sir, all these inquiries as to the particular advantages which would arise from the distribution of the judges upon circuits, in the administration of the law of the country, necessarily yield to considerations which render that distribution of the judges upon the circuits no longer consistent with the discharge of the ultimate and primary duties of their office. Sir, the United States have now sprung up to be a mighty empire in extent; and when you increase the size of your country to half a world, it is in vain to expect to retain the circuit system, which we borrowed from our ancestors, and which obtains in the small portion of the Island of Great Britain called England, and which we have heretofore been enabled to keep up but with manifold inconvenience, resulting from the accession of territory even before we had our territories upon the Pacific. One of two things must necessarily follow: If the Judges of the Supreme Court are, in the existing enlargement of this country, to be sent out to discharge circuit duties, either the duties which belong to them in the court of the last resort must be neglected or imperfectly performed, or you must practically discharge them from attending the circuits which the law nominally assigns them to attend, and thereby their connection with the circuits becomes entirely useless and merely formal.

Why, Mr. President, we know that Congress have, for some years, been under the necessity of discharging judges of that court from holding one of the two terms which is required, by law, to be holden of circuit courts throughout the United States. Congress have been obliged to do this from the conviction that it was impossible they could attend to the whole duties of the circuit and the whole duties of the Supreme Court. Now, you have added California; you have added Oregon; you have added Texas; you have more than doubled the territorial extent of the United States; and you propose to do what? To require these judges to hold a supreme tribunal here once in every year, and once in every year, also, to traverse circuits throughout this immense domain. It cannot be done, with any practical result of benefit to the country. We are placed in a situation where we are obliged to choose between an effectual discharge of the primary and proper duties of these judges, and, as incident to that, to discharge them from attending the circuits; or put them upon the circuits nominally, and surrender the effectual discharge of the first duties for which the court was established.

Even the extent of our territory, Mr. President, does not, by any means, express the difficulties which arise in maintaining the connection of these judges with the circuits. The business of the Supreme Court has increased, and is increasing, in a very extraordinary ratio, and the causes submitted for its adjudication have become, and are becoming more and more important in amount and complicated in their circumstances. It is upon that ground, and that ground only, that I have felt myself compelled to yield the strong attachments which I had to the circuit system, as originally constituted, and to choose between two things when both are not attainable. Now, sir, Congress has not the power to discharge those judges from attendance on the duties of the Supreme Court. That court is established by the Constitution. The court cannot, as I am perfectly satisfied, adequately discharge both; and I therefore think it is not only a measure of expediency, but of high duty, to relieve them from the performance of circuit duties.

Mr. CHASE. Before the vote is taken on striking out the first section of the bill, I move to amend that section by adding to it the following:

And no vacancy occurring in the office of Associate Justice of the Supreme Court shall be filled by a new appoint-

ment, until the number of the members of the court shall be reduced to six; and the Supreme Court shall thereafter consist of a Chief Justice and five associate justices.

It will be seen that this amendment is not designed to prevent the filling of a vacancy in the office of the Chief Justice. Obvious considerations suggest the propriety of filling any vacancy that may occur in that office by an unrestricted appointment. The proposed reduction of the entire number of judges to six, will be best accomplished by omitting to fill vacancies occurring in the office of associate justice.

I concur—my own observation and knowledge of the state of business in the Supreme Court and in one of the circuits, force me to concur—in the opinion that the Judges of the Supreme Court should be relieved of circuit duties; but I cannot consent to make a change so material as is contemplated by this bill without some provision for the reduction in the number of the judges. It was increased in the year 1837, I think, to its present number, for the purpose of enabling the Judges of the Supreme Court to fulfill the onerous circuit duties imposed on them by that and former acts. If they are now to be relieved from the performance of these circuit duties, it seems quite clear that the present number will be greater than the duties of the court, as newly constituted, will require. I submit this amendment, therefore, without designing, at the present moment, to go into any general discussion of this measure, as indicating the form which this section must receive, before it can have my vote.

Mr. BUTLER. Mr. President, if I were to vote for the amendment of the Senator from Ohio, it would be in conformity with my own opinion. I originally framed a bill which contained the essential principle expressed in this amendment. But, sir, the committee conversed very freely on this subject, and, as I said before, I did not hesitate to consult with the Supreme Court and the bar in the different sections of the Union. The result was a conclusion that the Supreme Court of the United States, having devolved upon it the high responsibility of deciding constitutional questions, could not sustain itself in the different parts of this Union if it should be reduced by death to five members and those five should live in one section exclusively.

I will not name the gentlemen, because, in doing so I might seem to be invidious; but suppose the Judges of the Supreme Court living in the northern section of the United States, or those living South, should be the first to die, and leave the court with five judges residing in one section of the Union. If they were to decide in the spirit of angels; if they were to consult Themis himself holding the scales of justice; if they were Mansfields and Marshalls; if they were the incarnation of the greatest jurists who ever lived, they could not give satisfaction in their decision of the constitutional questions, which might come before them. The judges themselves would not like to be reduced to that isolation, which would devolve on them a responsibility which they could not discharge satisfactorily to the country. That is the reason why I think it imprudent to reduce the number of judges on the Supreme bench. My opinion, however, is, that judges generally are honest men; and I say here openly, before the Senate, that, as far as I have had an opportunity of judging of the decisions of the Supreme Court, upon questions merely of law, on questions of equal justice, as involved in the Constitution of the United States, I see no reason, as a southern man, why I should distrust the northern judges. The same remark may be applied to the southern judges.

The judges of this high tribunal are under no temptation to do wrong; they have every inducement to do right. They do not stand in a position to abide by the popular judgment of the day. Their decisions live after them, and posterity, a posterity of lawyers, review them, and decide upon them. But, sir, in the present relations of the United States, that court could not sustain itself with the number contemplated by the amendment of the honorable Senator from Ohio.

In justice to myself, I say this much. I shall be obliged to vote against that amendment for the reasons I have stated; yet, if I had to consult entirely my own individual judgment, I should not be afraid to reduce the number of judges to five, and I should not care in what section of the country they might reside.

Mr. CHASE. Mr. President, I wish the honorable Senator from South Carolina would follow his own judgment in this particular case, rather than the determination of his committee, inasmuch as I find that his judgment concurs with mine, while his vote is likely to be against my amendment. I have no fear whatever, as long as the Supreme Court shall administer the Constitution and the law according to the dictates of its own unbiassed judgment, but that its decisions will command the respect of the country. I concur, cheerfully and heartily, with all that eulogy which was pronounced the other day upon the character, and acquirements, and integrity of the venerable Chief Justice and his associates, by the Senator from North Carolina, [Mr. BADGER.] The respect, and confidence, and attachment of the American people naturally attends the judiciary. It comes less into conflict with the prejudices and passions of men than any other department of the Government. It is a great arm of power, but its action is quiet and unobtrusive, and, for the most part, soothing and healing. So long as its functions are performed in a manner which commends itself to the conscience and reason of the people, the respect, the confidence, the attachment of the people will not be withdrawn.

Sir, the first question to be considered, at the present moment, in my judgment, is simply this: Is the number of judges provided for by my amendment adequate to the discharge of the duties which will devolve on the Supreme Court under the new order of things? No Senator, I believe, doubts that the number is sufficient. Then the next question is: Will the particular number suggested prove best adapted to the satisfactory decision of questions to be adjudicated? I cannot doubt that it will. It is large enough to allow the representation of every section of the country upon the bench. Hitherto, from the organization of the tribunal until this day, every section has been represented, not equally, indeed, but yet represented. I trust the day will never arrive when every section of the country will not be represented there.

Then, sir, consider the effect of the proposed number of judges upon the decisions to be made. What are the functions of this tribunal? It has an original jurisdiction, and it has an appellate jurisdiction. Its appellate jurisdiction is that which is of chief importance in this discussion. With six judges, no judgment of an inferior court, no matter how constituted, can be reversed, except by the concurrence of four. If the court is equally divided, the judgment of the inferior court will stand, as it ought to stand, affirmed, but no principle will be settled. Thus there can be no judgment settling a principle, either by affirmance or reversal, in which two thirds of the court, at least, must not concur. These four would doubtless represent widely separated sections of the country. These considerations, it seems to me, should recommend the amendment to those who desire stability, guarantied by public confidence, for the court. Decisions thus made will be most likely to command the respect of the bar, of the State courts, and of the people. Thus, sir, this amendment, from whatever point of view considered, seems worthy of that favor with which the Senator from South Carolina was disposed to honor it at first. I trust he will reconsider his purpose to vote against it, and that, at any rate, it may be adopted by the Senate.

The PRESIDENT. The question is on the amendment of the Senator from Ohio.

Mr. CHASE called for the yeas and nays; and they were ordered.

Mr. WELLER. I apprehend it will be impossible to pass upon this bill to-day. The amendment submitted by the Senator from Ohio is a very important one. If adopted, it will effect a radical change in the Supreme Court of the United States, and it certainly ought not to be acted upon hastily. I move that that the Senate adjourn.

Mr. JOHNSON. I hope the Senator from California will withdraw his motion for a short time, in order to permit me to make a statement of some importance

Mr. WELLER. Certainly.

The PRESIDING OFFICER, (Mr. COOPER in the chair.) As the pending bill is not disposed of, it will require unanimous consent to introduce any other subject-matter. The Chair hears no objection.

PACIFIC RAILROAD REPORTS.

Mr. JOHNSON. I simply desire to make a statement in regard to the reports of surveys for the railroad route to the Pacific, and to read a communication from the War Department. The reports which have been transmitted have been ordered to be printed, and some of the copies are ready for delivery to-day; but it seems that those reports are themselves incomplete, and there are others yet to be received. As erroneous conclusions may be drawn from what has been ordered to be printed, without the whole being laid before the country, I desire to read two communications, in order to prevent the drawing of such conclusions. First, I have a letter from the War Department:

WAR DEPARTMENT,
WASHINGTON, *January* 9, 1855.

SIR: I have the honor to submit herewith for your consideration a copy of a letter this day addressed to the Superintendent of Public Printing respecting the impropriety of issuing incomplete copies of the document now in course of preparation by this Department, containing reports of the surveys of railroad routes to the Pacific.

Very respectfully, your obedient servant,
JEFF. DAVIS, *Secretary of War.*

Chairman Committee on Public Printing,
House of Representatives.

The copy of the letter alluded to I shall also read:

WAR DEPARTMENT,
WASHINGTON, *January* 9, 1855.

SIR: I understand that the printed portions of the Pacific railroad report are to be laid before the members of Congress this morning. I must inform you that this document, in its present form, is incomplete. Other reports are yet to be added, and of those already printed nearly every one in it requires additional matter. It would be impossible to derive reliable conclusions from the reports in their present condition, and I should regret to have the document issue from your office until this Department shall have furnished the whole matter to be contained in it.

Very respectfully, your obedient servant,
JEFF. DAVIS, *Secretary of War.*

A. G. SEAMAN, Esq.,
Superintendent of Public Printing.

That is the matter in regard to those documents; and I desire it to go out at least simultaneously with the document itself. It will be impossible, on the part of the Committee on Printing, to stop the issuing of the document. The communication has been received from the Secretary of War too late for that purpose.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 9, 1855.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of Saturday was read and approved.

MILITARY ACADEMY BILL.

Mr. HOUSTON. I ask leave that the appropriation bill for the Military Academy, returned from the Senate with an amendment, be taken from the Speaker's table, and referred to the Committee of Ways and Means.

There being no objection, it was so ordered.

PENSION BILL.

Mr. HOUSTON. The bill making appropriations for the payment of pensions is also upon the Speaker's table. I suppose the House would act upon that bill without any reference of it. There are two amendments made to it by the Senate. One of these is an amendment reappropriating the balance now in the Treasury applicable to the payment of privateer pensioners. I suppose the House would agree to that amendment without discussion. There is a balance now in the Treasury under that head of appropriation, and the Senate propose merely to make it available. There are but few of the privateer pensioners now living, and the Senate have proposed, by their amendment, to make the balance in the Treasury available to the payment of these privateer pensioners.

The other amendment is one of more importance, and, in connection with it, I would ask for the reading of a letter from the Commissioner of Pensions in relation to it. I would, however, ask the vote on the first amendment to be taken first.

The SPEAKER. Is it the pleasure of the House to consider the amendment of the Senate to the bill indicated by the gentleman from Alabama, [Mr. HOUSTON?]

There was no objection.

The first amendment was reported, as follows:

At the end of the bill add the following, as a new section:

SEC. 2. *And be it further enacted*, That any moneys appropriated by the act of 31st May, 1854, "to supply deficiencies for the fiscal year ending 30th June, 1854," applicable to the payment of pensions of invalids who were wounded on board of private armed vessels during the last war with Great Britain, not required under the provisions thereof, be applied to the same purpose for the year ending 30th June, 1855.

The question was put; and the amendment was agreed to.

The second amendment was then read, as follows:

SEC. 3. *And be it further enacted*, That the widows of the officers, non-commissioned officers, marines, or mariners, who served in the Navy of the United States during the revolutionary war, and who were married since the first day of January, 1800, shall be entitled to pensions in the same manner, and to the same extent, as the widows of the officers and soldiers of the Army of the Revolution, under the second section of the act of February 3, 1853; and the pensions granted by this act, and those under the said second section of the act of February 3, 1853, shall commence on the 4th day of March, 1848.

Mr. HOUSTON. The reading of the amendment shows that it not only proposes to provide for the widows of sailors and mariners, but it proposes to extend the time of pensions granted by the law of February 3, 1853, back to 1848. The letter which I have from the Commissioner of Pensions, which, if the House desire to hear, I will ask the Clerk to read, states that it will require about $1,200,000 to commence operations under the amendment of the Senate to this bill. If the amendment pass at all, the appropriation made will amount to about $2,800,000. I hope the House will disagree to the amendment, for the reason that it is extending the pension system too far, unnecessarily so, as I think; and for another reason, which I think this House ought to duly consider, and with greater care than it has hitherto done, and that is to keep out of these appropriation bills legislation for general objects. It is impossible for us to conduct a discussion, and debate general legislation attached to appropriation bills, with that degree of satisfaction to ourselves that is desirable. I hope the House will, therefore, vote down the amendment of the Senate.

Mr. FENTON. I wish to inquire of the Chair if the bill now under consideration is open to amendment?

The SPEAKER. The amendment of the Senate may be amended.

Mr. FENTON. I then ask leave to offer the following amendment:

And be it further enacted, That any woman who was the wife or widow of an officer, non-commissioned officer, musician, private, seaman, or marine, who served in the Army or Navy of the United States in the revolutionary war, or in any subsequent war, or has since died in the land or naval service of the United States, shall also be entitled to the benefits of the pension laws, or of this act, but no woman shall receive a pension for any time during which her husband received one.

Mr. HOUSTON. I rise to a point of order connected with the amendment just offered by the gentleman from New York. It is true that the amendment of the Senate does propose general legislation, but it is equally true that the bill now under consideration is an appropriation bill. The point of order that I present is this, under a plain rule of the House, that no amendment can be proposed to appropriation bills in this House which is not in pursuance of law. The amendment offered by the gentleman from New York is not in pursuance of law, as it proposes general legislation, in direct conflict with the rules of the House; and although the amendment may be germane to the amendment of the Senate, yet it is in conflict with the rules of the House, and therefore I submit the question of order.

The SPEAKER. The rule to which the gentleman refers is couched in the following language:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law."

That rule would certainly control in an original bill, and in an amendment proposed to an original bill of this body; but the amendment offered by the gentleman from New York [Mr. FENTON] being consistent with the amendment of the Senate, the Chair considers it to be in order, governed as he must be by the action of the Senate in relation to the amendment passed by that body.

Mr. HOUSTON. Will the Chair allow me to make a suggestion? There are two rules that govern amendments made to appropriation bills. One is, that they must be germane to the subject-matter. This amendment is germane to the amendment of the Senate; but if the Chair will look at the other rule, he will find that it is entirely distinct from the one in relation to the applicability——

Mr. FENTON. I call the gentleman from Alabama to order.

Mr. HOUSTON. I am not out of order.

The SPEAKER. The Chair signified his desire to hear the gentleman from Alabama in any suggestion or additional views in reference to the point of order raised by him. "No appropriation shall be reported in such general bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law." Is not that the rule?

Mr. HOUSTON. Certainly, that is a rule of the House.

The SPEAKER. The Senate have violated that rule.

Mr. HOUSTON. I was just about to make a remark in relation to that point.

The SPEAKER. We cannot control the action of the Senate. The amendment proposed by the gentleman from New York [Mr. FENTON] is perfectly consistent with the amendment of the Senate, which we are obliged to recognize as a legitimate act of that body.

Mr. HOUSTON. I ask the attention of the Chair to the distinction between the two rules. If the point alone presented——

The SPEAKER. To what other rule does the gentleman refer?

Mr. HOUSTON. I will specify. If the point of objection presented by myself grew out of the rule which requires amendments to be germane, then I grant that the Chair would be right. But I ask whether this is not an appropriation bill? The mere fact of the Senate having violated our rules does not authorize us to repeat its violation. The bill comes back here from the Senate as an appropriation bill, evidently so. The amendment offered by the gentleman from New York is germane to the amendment of the Senate, but is offered in violation of the rule which says that all amendments of this kind shall not be considered in an appropriation bill.

The SPEAKER. The gentleman from Alabama will surely not ask the Chair to rule the amendment of the Senate out of order. The amendment offered by the gentleman from New York is perfectly consistent with that made by the Senate to the bill, and the Chair, therefore, is very clear, that the point of objection raised by the gentleman from Alabama cannot hold good.

Mr. HOUSTON. It is an amendment making an appropriation not authorized by law.

The SPEAKER. It is an amendment to an amendment which comes legitimately here.

Mr. FENTON. I do not propose to discuss the amendment I have offered. I would ask the Clerk to read it again to the House, and then have the question taken directly upon the proposition. It is a subject with which the House are all perfectly familiar, and I will not, therefore, trouble the House with any remarks at this time.

Mr. JONES, of Tennessee. This is a very important question, and the House is certainly not prepared to discuss it. I cannot tell, and I suppose many gentlemen here cannot tell, what kind of cases, and what number of cases, will be provided for by this proposition of the gentleman from New York, or what amount of burden it may impose upon the Treasury. In such a case as this, it seems to me, we should refer the matter to the standing committee of this House, whose duty it is to investigate cases of this character, and let them report upon it. Let us, through that committee, have the facts and the data before us, that we may act understandingly on such an important question as this.

Mr. HOUSTON. Did the gentleman from Tennessee make a motion to refer?

The SPEAKER. He did not. The Chair would inquire if the gentleman from New York has yielded the floor?

Mr. FENTON. I do not relinquish my right to the floor until the amendment is again read.

The amendment was again read.

Mr. WARREN. I rise to ask whether a motion has been made to refer the bill and amendments?

The SPEAKER. No such motion is pending.

Mr. WARREN. Then I move that the bill and amendments be referred to the Committee of Ways and Means.

Mr. HOUSTON. Upon that motion I call the previous question.

The previous question was seconded, and, under the operation thereof, the bill and amendments were referred.

MEDIATION OF THE UNITED STATES IN THE EASTERN WAR.

Mr. AIKEN. I ask the unanimous consent of the House to introduce, for the purpose of reference, a memorial of the Chamber of Commerce of the city of Charleston, which I send to the Clerk's table.

The memorial was read for information, as follows:

Extract from Minutes of the Chamber of Commerce of 29th December, 1854.

Whereas, this Chamber is deeply impressed with the serious disadvantages which accrue to the interests of commerce from the war in which the four great Powers of Europe are now involved, and cordially participates in the humane considerations which seek to effect a restoration of the blessings of peace: Therefore—

Resolved, That the tender of the good offices of our Government to the belligerents as a mediator, in such manner as the wisdom of the Government shall deem right and best, is earnestly and respectfully recommended to the serious consideration of our Senators and Representatives now in Congress assembled.

Resolved, That the President be directed to transmit copies of the foregoing to our Senators and immediate Representatives at Washington, with a request that they will present the same to their respective bodies.

Mr. WALSH. I object to the introduction of the memorial.

The SPEAKER. Objection being made, it cannot be received.

PACIFIC RAILROAD BILL.

Mr. McDOUGALL. I move that all debate in the Committee of the Whole on the state of the Union, upon House bill No. 295, be terminated on Monday the 16th day of January instant, at one o'clock, p. m.

Mr. LETCHER. What bill is that?

Mr. McDOUGALL. It is the Pacific railroad bill. The reports of the exploration and surveys are now being distributed, and the maps will all be prepared in a day or two. I trust the motion I have made will be agreed to.

Mr. JONES, of Tennessee. Is the motion open to amendment at this time?

The SPEAKER. It is.

Mr. JONES. Then I move to strike out the words "Monday the 16th," and insert in lieu thereof the words "Friday the 12th." The House will then have an opportunity to indicate their choice between the two periods of time.

Mr. McDOUGALL. I would state to the gentleman and to the House, that out of the time which I have included in my motion, there will be taken two private bill days; and if Friday is the day fixed for closing debate, the time will be too short to allow gentlemen to express their views upon so important a subject.

The SPEAKER. The Chair would remind the gentleman that debate is out of order. The subject itself is not debatable.

Mr. McDOUGALL. I know it is not, and I do not intend to debate it.

The question was then put upon the amendment of Mr. JONES, and, upon a division, there were fifty-seven voting in the affirmative; whereupon

Mr. JONES, of Tennessee, called for tellers; which were ordered; and Messrs. HILLYER and EDMUNDSON were appointed.

The question was then taken; when the tellers reported—ayes 61, noes 80.

Mr. HOUSTON. I demand the yeas and nays on the amendment.

[Cries of "No!"]

The yeas and nays were ordered.

The question was then taken; and the amendment was disagreed to—yeas 68, nays 96; as follows:

YEAS—Messrs. Abercrombie, Aiken, Willis Allen, David J. Bailey, Barksdale, Belcher, Bell, Boyce, Bristow, Caskie, Chastain, Churchwell, Clingman, Cobb, Curtis, Dawson, Dowdell, Dunham, Edmundson, John M Elliott, English, Faulkner, Fuller, Greenwood, Hamilton, Hastings, Hendricks, Henn, Hibbard, Hillyer, Houston, Ingersoll, Johnson, George W. Jones, J. Glancy Jones, Kidwell, Kurtz, Letcher, Lewis, Lindsley, Macdonald, McQueen, Maurice, Maxwell, Millson, Murray, Nichols, Orr, Peck, Phelps, Ruffin, Seymour, Shannon, Shaw, Shower, Singleton, Skelton, Samuel A. Smith, William R. Smith, George W. Smyth, Frederick P. Stanton, Stratton, John

J. Taylor, Trout, Vansant, Walsh, Witte, and Daniel B. Wright—68.

NAYS—Messrs. James C. Allen, Ball, Bennett, Breckinridge, Campbell, Chamberlain, Chandler, Chase, Chrisman, Clark, Cook, Corwin, Cox, Crocker, Cullom, John G. Davis, Thomas Davis, Dunbar, Edmands, Thomas D. Eliot, Etheridge, Farley, Fenton, Flagler, Florence, Franklin, Giddings, Goode, Goodrich, Goodwin, Grow, Aaron Harlan, Haven, Hiester, Hill, Howe, Hughes, Hunt, Keitt, Kerr, Knox, Lamb, Latham, McDougall, McMullin, Mace, Macy, Matteson, Mayall, Meacham, Middleswarth, Smith Miller, Morgan, Noble, Norton, Mordecai Oliver, Parker, Pennington, John Perkins, Pringle, Puryear, Ready, Reese, Richardson, David Ritchie, Robbins, Rogers, Rowe, Russell, Sabin, Sapp, Simmons, Sollers, Richard H. Stanton, Alexander H. Stephens, Hestor L. Stevens, Andrew Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Tweed, Upham, Wade, Walbridge, Walley, Warren, Elihu B. Washburne, Israel Washburn, Wells, Tappan Wentworth, Westbrook, Wheeler, and Zollicoffer—96.

So the amendment was rejected.

Mr. BOCOCK. I move to lay the resolution on the table.

Mr. ROBBINS. I demand the yeas and nays on the motion.

Mr. HAMILTON. I hope the gentleman will withdraw his call for the yeas and nays. Let us first see what is the strength of the motion to lay upon the table.

The question was taken; and the House refused to lay the resolution on the table, there being, on a division, only thirty-one in the affirmative.

The resolution was then adopted.

Mr. HOUSTON. I move to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

PAY AND MILEAGE OF W. D. W. DENT.

Mr. HILLYER. I ask the unanimous consent of the House for leave to introduce the following resolution, which I hope may meet the approbation of the body:

Resolved, That the Sergeant-at-Arms be authorized to pay WILLIAM D. W. DENT, of Georgia, who is detained at home by ill health, his per diem and mileage for the present year.

There was no objection.

The question was put on the resolution; and there were, on a division, ayes 73.

Mr. LETCHER. I demand the yeas and nays on the adoption of the resolution.

Mr. MORGAN. If the gentleman will strike from his resolution the provision for the payment of mileage, it may be acceptable to the House. We ought not to pay a man mileage who has not been here.

Mr. HILLYER. I withdraw the resolution.

GRADUATION BILL.

Mr. DAWSON. I call for the order of the day.

The SPEAKER. The first question under consideration is the bill to amend the act to graduate and reduce the price of the public land to actual settlers and cultivators, which was approved August 4, 1854.

Mr. DUNBAR. I would ask the gentleman from Pennsylvania to yield me the floor for a moment, that I may introduce a bill of which previous notice has been given?

Mr. DAWSON. I am sorry, but I cannot yield to the gentleman. If I indulged one gentleman, I must others who ask the same privilege.

The SPEAKER. The question immediately under consideration is the homestead amendment of the gentleman from Pennsylvania, [Mr. DAWSON,] as accepted by the gentleman from Tennessee [Mr. JONES] as a modification of his own motion.

Mr. JONES, of Tennessee. With the permission of the gentleman from Pennsylvania, I will now modify my amendment. After the words "be subject to private entry at," insert the words "or below," so that the section will read as follows:

"Any free person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, shall, from and after the passage of this act, be entitled to enter, at the rate of fourteen and one half cents per acre, to be paid at the expiration of five years from the date of such entry, one quarter section of vacant and unappropriated public lands, which may, at the time the application is made, be subject to private entry at, or below, $1 25 per acre, or a quantity equal thereto, to be located in a body, in conformity with the legal subdivisions of the public lands, and after the same shall have been surveyed."

I desire the homestead provision of the amendment to apply to the land the price of which has been graduated, or which may be graduated below $1 25 per acre, to include all lands subject to private entry at or below $1 25 per acre.

Mr. HOUSTON. Has the Chair disposed of the point of order which I raised on this amendment of the gentleman from Tennessee?

The SPEAKER. The Chair holds that the gentleman has the right to press his point of order. The Chair has already indicated what its decision would be.

Mr. HOUSTON. I have submitted the point of order. I shall say nothing about it.

The SPEAKER. The Chair rules the amendment of the gentleman from Tennessee to be in order.

Mr. DAWSON. Mr. Speaker, twice before the present occasion, it has been my fortune, in a somewhat prominent sense, to be the advocate before you of the great subject to which I have again to ask your attention. The thanks of the country are eminently due to this honorable body for the reception hitherto bestowed upon this measure, and the warm support which has here been extended to it. I am well aware that the signal favor which the homestead has met at your hands is in no degree owing to any merit in the advocacy of the bill, but solely to its own intrinsic excellence. It is yet appropriate to remark upon the ability and eloquence which the measure has heretofore elicited in its support from members of this House, by which its advantages have been illustrated to the mind of the country; and to hope that the same ardor and unanimity of sentiment which characterized your former action in regard to this subject, will be now once more manifested in its favor.

It will be recollected, Mr. Speaker, that, at the last session of Congress, the bill commonly known as the homestead bill was sent to the Senate, sanctioned by the overwhelming decision of this House, and that the Senate, avoiding a direct vote on its provisions, adopted, in lieu of it, the substitute of Mr. HUNTER. To that substitute there are many and grave objections, and it is now my purpose to seek a reëstablishment, with a few alterations, of the original bill. An examination of the Senate's substitute shows it to be a measure for the benefit of States, railroads, and speculators. Its adoption would be disastrous to the purity of legislation in the land States. Who does not know what a scramble would ensue in those States, amongst incorporated companies, to get possession of the lands of which that which has been carried on in Congress would be but a magnified reflection? Who does not see the innumerable charters which, under the influence of log-rolling in the Legislatures, would be brought forth to absorb for railroad purposes all the lands in these States, to the utter exclusion of the settler; which would cause immense quantities of bonds to be spawned over the country, make the competition for money unparallelled, and increase the rates of interest to an unprecedented extent. The starting of so many immature and impracticble schemes, by creating a fictitious demand for labor and the necessaries of life, would be most pernicious in its influence. Little by little the gigantic bubble would continue to swell and glisten until it should burst, and bankruptcy, in its most stupendous form, be the sequel. This is no picture of fancy, but one with which the American public are in fact unfortunately too familiar.

The provision of the substitute which professes to ingraft the homestead principle, viz: the eighth section, is a mockery. It apparently allows every head of a family, or male person of the age of twenty-one years, to enter a quarter section of unappropriated public lands, upon the condition of payment according to a graduated scale of twenty five cents per acre. But whether the settler shall be able to take any advantage at all of this provision, depends upon the adoption, or otherwise, by the States, of this provision of the Senate's substitute; since the States have the privilege under another section, of acquiring the absolute right to the public lands within their limits; and of disposing of them, and at such higher prices, as their wisdom shall direct, thus superseding the claim of the settler entirely. It is, at all events, manifest, that this graduation feature is one for the benefit of capitalists. Its effect will be to pass into the hands of such men, millions of acres, which will remain in a wilderness condition, it may be, for centuries, thus defeating the settlement of the country, and tending to build up a landed aristocracy. It is in direct antagonism to the policy of Mr. Jefferson, of destroying the rights of primogeniture and entail, and the removal of all unjust restrictions which tend to tie up property beyond the reach of the cultivator. It will be an approximation, so far as the different genius of the two Governments will allow, of the policy of the British Government, which has at length concentrated in the hands of some thirty thousand individuals, all the landed property of the Kingdom.

The reason for the policy of graduating and reducing the price of the public lands was in order that, by promoting large sales, the Government might be better enabled to discharge the public debt; but with the extinguishment of all the old debt, an inconsiderable existing debt and an overflowing Treasury, this reason has ceased. There being now no need of revenue from the lands, there should be a reversal of this policy, and the lands so disposed of, as best to promote settlement, and thus subserve the general interests of the country. The revenue from the customs is already more than sufficient to support the Government; and perhaps the greatest evils of our present political condition are those resulting from the struggles to get possession of the surplus of the Treasury. The true policy of the country is a poor Treasury and a rich people.

I feel, Mr. Speaker, in once more approaching this question, that we have already exhausted upon it the resources of argument. I propose, at this time, only a few remarks, such as seem warranted by a review of the whole question, by the light of the recent searching discussion which it has undergone in the coördinate branch of the National Legislature. So far from sinking in any degree under the weight of that discussion, I trust it is now apparent that at no time has this measure occupied a stronger position before the country than at present. A combination of untoward circumstances, quite unconnected with the merits of the homestead, have, for a time, interfered to prevent its passage by the Senate; but the "still small voice" of the people, speaking in the calm majesty of might and justice, is already rising above the jar of sectional and partisan interests, and insisting upon the adoption into the legal policy of the country of this, their favorite measure. Once more let us discharge our duty towards it. Let us calmly place before our fellow-citizens the grounds upon which rest the justice and policy of the homestead, and give it the sanction of our decided approval; and we can afford to wait the subsidence of these elements of opposition, which, varied and conflicting in their nature, are destined to a brief duration. A persevering, earnest, and steady support is what the country looks for at our hands—is what she has a right to expect—and will finally enable us to prevail.

It may be thought, indeed, by some that the passage, at the late session, of the land graduation bill has taken away much pretext for the farther pressure of the homestead; and has accomplished all that could be desired or hoped for by the friends of that measure. Surely, nothing can be further from the truth. It may be admitted, indeed, that the enactment of that bill was advancing a step in the right direction; but how limited the benefits which it confers in comparison with those sought by the measure under consideration. It is seen at once that, except as regards lands which have been ten years in market, the old land system remains unchanged by the graduation bill—a feature which renders it inapplicable to much of the land in the land States, and entirely so to that of the Territories. It is seen further, that as regards that class of lands which has been ten years in market, the reduction is only twenty-five cents an acre—a reduction which, as regards the class of settlers sought to be benefited by the provisions of the homestead, is quite too insignificant to be appreciated. The further reductions to seventy-five, fifty, twenty-five, and twelve and a half cents an acre—according as the lands have been fifteen, twenty, twenty-five, and thirty years in market—are still liable to the same objection. It is only when the lands have been thirty years subject to private entry, and, in consequence, are reduced to the *minimum* rate provided by the graduation bill, that the benefit becomes appreciable for that large class of settlers for whom the homestead bill was intended chiefly to provide. The conditions, however, under which the public lands become reduced to the lowest rates, are such as to limit it to

the smallest and most worthless portions of the lands in the States, and in the Territories it can have no application at all, and that, therefore, the great objects sought by the homestead remain still to be accomplished.

Let us proceed, however, to notice the few objections which, in the scrutinizing analysis which the subject has recently undergone in the other wing of the Capitol, Senators have thought proper to insist upon against the principles of the homestead bill. Thus, it has been contended by certain Senators of the old States, that the public lands not acquired since the deeds of session, cannot be disposed of except in accordance with the conditions of these instruments; and that, as regards subsequent acquisitions, the distinction proposed by this bill would be unequal, and therefore unjust. It can be successfully shown, however, as regards the first branch of this proposition, that in order to comply with that requirement of the deeds of cession, that the lands ceded should be regarded as "a common fund for the use and benefit of such of the United States as have become, or shall become, members of the Confederation or Federal Alliance of the United States, according to their usual proportions in the general charge and expenditure," that it is necessary to have reference to the conditions imposed by the eighth article of the Constitution of the Confederation, namely: that the proceeds from these lands "should be paid into the National Treasury according to the amount of real estate held in private hands in each State; and if any portion remain unexpended, that it shall be paid back, in the same proportion, to the States from which collected," and not distributed through the Treasury for general purposes.

Such was the rule under the Confederation, but it is evident that under the present Constitution it is wholly inapplicable, and impossible to be carried into effect. The revenue of the country, whether collected from the customs or the sale of the public lands, is paid into the National Treasury, without any reference to the rule embodied in the deeds of cession, and is applied for the "general welfare" under the limitations imposed by the Constitution of 1789, and without any reference to the eighth article of that of the Confederation. It is no longer possible to ascertain the proportion of each State in the "general charge and expenditure"—that phrase having relation to a *status* which has been wholly changed by the new Constitution—and no longer possible in the same way to pay back to the several States, parties to the "Federal Alliance," the surplus over the expenditures fixed by Congress.

It can be maintained, on the other hand, with irresistible strength of argument, that the States which were parties to the deeds of cession were also parties to the Constitution of 1789—an article of which confers the amplest powers of disposal of the public lands, which the passage of the homestead calls for. So incontrovertible is this fact, and so complete is the abrogation by the present Constitution of all conditions precedent in the deeds of cession, that it can hardly again be drawn into question.

As to the principles of the homestead being unjust to the old States, as regards the territory acquired since the deeds of cession, the objection will scarcely be deemed tenable—the subsequent acquisitions having been made subject to all the conditions and limitations of the Constitution, and falling therefore under the same rule of distribution. Besides it is to be remembered, that the old States have originally received grants of the lands within their limits, and have since converted and applied the proceeds. They have been also, and still continue, the objects of Government bounty in other ways. Have not liberal appropriations been made from time to time, for the improvement of rivers and harbors, in the old States? Has not the public money been expended there profusely for the construction of light-houses, coast defenses, and public edifices? And have they not been the greatest sharers in all the great measures of legislation, which mark the history of the country? If we speak only of the States of New England, and the sugar growing States of the south, have they not been the greatest gainers by the system of high duties? But it is impossible, by the same act of legislation, to benefit in the same degree a new country in the wilderness, and States which have a dense population, with few unoccupied lands. It is, however, sufficient to prove the impartial and paternal character of the Government, if all interests are duly remembered and benefited in turn.

But again, when we speak of benefiting the old States, surely we mean the *people* of those States, and not anything whatever of an inanimate nature, whether mountain or plain, field or forest, town or country. If so, the homestead is a measure in which the people of the old States will participate the most largely, because they have the largest number within their limits who can take advantage of its provisions. I know indeed that this very circumstance is made an objection to the homestead, because it is pronounced a temptation, an inducement, to a large class of the people of the old States to settle on the public domain.

But, if it be true that portions of the valuable citizens, whether native or foreign, of the old States, shall feel inducements presented them by this bill to emigration, is it any reason for withholding such inducements, that the landholders of New England, New York, and Pennsylvania, would thereby be deprived, to some extent, of their tenants, or that the demand for farms might be somewhat less active? Has it come to this, that our legislation in this direction must be limited to consulting for the interests of those who have land; and not at all to ameliorating the condition of those who have none? Have the rights of labor, then, no claims to recognition on the part of the National Legislature, except as secondary and subsidiary to those of landholders? Sir, I am free to confess that my reflections upon this subject have led me to very different conclusions. I am of opinion that Government, then, best discharges its multifarious and responsible duties, as far as practicable and legitimate, within the scope of its powers, by advancing every interest under its control. Sir, I feel convinced that no such remnant of feudal bondage, no such slavish doctrine as would tie the tenant to the soil of his employer, will ever find sanction in the free hearts of this land. Our ancestors had done with all that centuries ago, in the mother country, when, from the reign of Edward I., through that of Henry VII., and in that of Charles I., they finally succeeded in extinguishing the tenure of *villenage*, and converted all lands in the Kingdom into free and common socage. The legal systems of these States recognize nothing else. Our theory of social rights, embodied in that immortal preamble of Jefferson, recognizes nothing else. Sir, let us hear nothing more of injury to the old States by the passage of the homestead on any such grounds.

The assumption, however, that the passage of this bill would, for a time, operate unequally towards the old States by reducing the price of property there, is not well founded. Surely such a consequence would not be more likely to follow this measure than it would the preëmption system. Whatever irregularity might be the result of the introduction of the new policy, I believe it would be of brief duration, and quite inappreciable. Such are the energies of industry—such the stimulus of free institutions, that no field of enterprise will long remain unoccupied. The flood of prosperity which is continually rolling over the land, like water, is ever tending to a uniform level.

But to dispel the apprehensions of gentlemen, let us refer to the reality of things as exhibited by the experience of the country for the last seven years. A period of unprecedented prosperity in the departments of commerce, agriculture, and internal improvements—in which so many avenues of intercourse have been constructed between the seaboard and the valleys of the Mississippi and the St. Lawrence; and in which more than one hundred and forty-five millions of acres of the public lands have been disposed of, a good portion of which has been reduced under cultivation; there never was a period in which the prices of produce and real estate in the old States have been better maintained. Thus, notwithstanding the vast amount of the products of the interior which have been brought into competition with those of the old States, and notwithstanding the mighty stream of emigration to the West, by which their population has been annually carried off; the effect upon prices has not only been wholly unfelt, but the latter have even continued to advance.

A kindred objection to the last, is that which represents the free grants proposed by this bill as doing injustice to those who have heretofore purchased of Government, at $2 and $1 25 per acre. Here you make a distinction, it is said, which works injustice to former purchasers. But you made the same distinction, and created an inequality which worked the same injustice, when you reduced the price of the lands from $2 to $1 25 per acre; and still later, when, at the last session, you passed the land graduation bill. By this argument, whatever policy in regard to our land system we may first, by accident, have stumbled upon, that, with unchangeable tenacity, should be maintained. Such an argument is of no avail. You cannot tie up the hands of your successors in legislation; and the policy which is good for one generation may be totally unadapted to the next. "*Tempora mutantur, et nos mutamur in illis.*" The times change and we with them! Doubtless the feudal system, in the warlike times in which it flourished, in the middle ages, was a wise and useful institution. So, in the condition of things existing in Europe, a monarchy in some form may be the best Government for any given nation; though the progress of ideas, and of social amelioration, may in the next age, find it obsolete and *functus officio*. Sir, it is one thing to require a price for your domain, when the country is in need of a revenue; and another, and quite different one, to give it free to actual settlers, when it is no longer needed for revenue, and in order to carry out a great scheme of policy not less favorable to individuals than to all the great interests of the country—a policy which, more than any other, will offer its appropriate inducements to labor; will build up into organized societies the untenanted wilderness, and people the solitary leagues of fertile soil which stretch away from the confines of the States to the Western ocean.

It was insisted with much earnestness by a distinguished Senator from Delaware, [Mr. CLAYTON,] that this is a partial measure; that it is class legislation; that all men cannot turn farmers; and that, therefore, in order to equalize your bounty, you should grant money to those who cannot use land. But, tried by the test, it may safely be said, that never has a law of a beneficial character obtained a place upon your statute book, but what the interests for which it provided have been partial and limited. If this is a true objection, let me ask once more, does it not lie just as strongly against the preëmption system? Does it not lie just as strongly against a bill for the benefit of manufacturers?—for the benefit of soldiers and marines?—or for a bill raising the salaries of judges. If a man desires the special benefits of this legislation, let him bring himself within the class upon which the bounty is conferred. Let him fight the battles of his country; let him engage in the working of metals or the spinning of cotton; in the culture of cane and the boiling of sugar; or let him become a dignitary of the bench, and he will share directly in the benefits of the legislation, if it be special. These are all staple interests of the country, and it is competent for all to engage in them without let or hindrance. Who ever thought of making it an objection to the law allowing land bounty to the widows of soldiers, that unmarried women could receive no benefit therefrom? Who ever objected to the imposition of a forty per centum duty upon iron, that it did not benefit the boiler of salt? Or, who ever considered it doing injustice to the rest of the community that you appropriate money for the construction of marine hospitals, open only to seamen or boatmen?

Sir, the objection that the homestead will not directly benefit every class of industry in the country, and in equal degree, is of a kind similar to that in the instances just mentioned; and it is equally futile in all. Every man, whether rich or poor, has the power or privilege, if his circumstances will permit him—of which, as in other cases, he is left to be the judge—of becoming an actual settler on the public domain, and thus participating directly in the benefits conferred by this bill. We claim it, however, as a most positive and favorable distinction of this measure—which regards the cultivation of new soil, and bringing under civilizing influences new territory—that it does benefit, not the less surely and decidedly, because indirectly, the great interests of manufactures and commerce, and in a higher degree than any other special measure whatever.

Another ground of opposition, much insisted

on by distinguished Senators, is the favor shown by the bill to American residents of foreign birth. But what is the condition of things under the existing system? Foreigners, not even citizens, are allowed to settle on the public lands under the preemption laws of 1830 and 1841, and it has been deemed sufficient if they have become citizens at the reception of the patent for their locations. And by the very liberal provisions of the graduation bill passed at the last session, and approved August 4, 1854, "any person" can enter as an occupant, and settle upon the lands, and acquire a title and patent at the graduated and reduced rates. Upon what reasons of policy, of justice, of humanity, should more rigorous conditions be imposed upon any of the objects upon whom the provisions of this bill will operate? Is it proposed to exclude foreigners altogether? Then you must repeal the naturalization laws, and adopt a policy worthy of ancient Egypt, or modern Japan. But let us be careful in doing so, that we belie not the great principles which lie at the basis of our Government, and that we prove not ungrateful to the memories of our fathers, and to those noble and self-sacrificing spirits who were prodigal alike of their money and their blood, throughout the two wars which secured us in the establishment of our independence; and to the thousands who since have come to cast their lots with ours, incorporating themselves with us, becoming assimilated to our institutions and usages, and infusing an element of incalculable strength into our republican system.

I believe, sir, that it is a futile notion that, by any policy short of a repeal of the naturalization laws, and perhaps, even a prohibition to the exile of a "home and a country," you will be able to stop the influx of foreigners. The premium held out by our republican institutions will attract crowds, till the population of the continents shall at last be equalized. You cannot stay this resistless wave of immigration. The over crowded districts of the Old World will heave it upward and onward, and it must struggle for a subsistence and a home. It is then, far more philosophical to seek such a disposition of it as, from a source of mischievous irritation, shall convert it into one of profit to the State; and, while assimilating it to our institutions, shall make it tributary to the general prosperity.

It has, again, suited the purposes of the opponents of the bill, to view it as designed to offer bounties to interfere with the natural course of industry, converting the followers of commercial pursuits and mechanics, into farmers; and great evils have been predicted to follow from this disruption of old pursuits. The farmer, it is said, will not only have his land cheapened in the old States, by the withdrawal of population, but the price of produce will be reduced by the competition of the number of those who have turned farmers. In this anticipation, however, no account is taken of the overstocking of trades, professions, and business pursuits, and by the numbers which the advance of each fresh generation is annually pouring into their ranks. Poverty and want are the inevitable result to large numbers. By this bill, we only provide a refuge for this surplus, where by the "sweat of the brow" they may, at least, obtain a livelihood; for agriculture, as a pursuit, has this favorable peculiarity, that it enables its followers to obtain the means of living, if it does not furnish them with any great surplus for exchange. While in other callings, the ability of an individual to sustain himself, depends upon the quantity of his peculiar products which may be wanted by others; the agriculturist can live in a great measure on what he produces. Sir, if the prosperity of the old States depends upon a large surplus of poor population, so that labor shall be cheap and abundant, and if we are called upon to sustain this prosperity by so shaping our legislation as that the masses shall be kept ground down to the earth, in order that landed proprietors and capitalists shall receive extravagant rents and revenues, I, for one, shall ever protest against the wrong. I prefer, rather, a policy in accordance with the noble sentiment of the poet: *"Fiat justitia ruat cœlum."* Let justice be done though the heavens fall.

But the argument against the bill on the ground of injury to the old States, in the several phases in which we have considered it, is not borne out by the facts. It is shown, incontrovertibly, by statistics, that while the western States have been forming, the progress of the old States in wealth and population has been proportionate. An examination of the facts thus collected, discloses the interesting truth, that while in the last ten years the old States have advanced in population one hundred per centum faster than the most flourishing of the European States, the land States have, at the same time, received from them more than one fourth of their whole population. There is, in truth, no antagonism; and it is in vain that the opponents of the measure would attempt to create any. A benefit conferred upon one State is quickly diffused among all—thus resembling mercy in the quality ascribed to it by the great dramatist.

A Senator from Delaware, [Mr. BAYARD,] distinguished alike for his learning and legal acumen, has been pleased to term the measure "an illusion;" mark the words, sir, "an illusion"—there is nothing in it, he says, "it is all an illusion." I have no doubt, Mr. Speaker, that to the Jacobites of the seventeenth century, the abdication of James the I., and the accession of William of Orange, seemed at first "an illusion." But the succession of one line of the Stuarts was then broken, and the House of Hanover is still upon the throne of England. No doubt, when it was first urged, the claim of the Americans to the right of taxing themselves seemed to the whole people of England an "illusion," as did the plan of independence to the royalists in the Revolution; but this right has lately received a formal acknowledgment by the House of Lords with reference to Canada, and our independence has long been firmly established. Later still, the project of Catholic emancipation was, for years, deemed by Lord Eldon, and other Tory leaders in the Lords, as an "illusion;" but the Catholic relief bill is upon the statute-book as a law of the British realm. Illusions, too, were regarded, no doubt, the projects for reform in the English system of representation and the corn laws; yet everything necessary for the security of popular rights, in regard to these subjects, has been yielded to the perseverance of the people, supported by a great and just cause.

A distinguished Senator from Pennsylvania [Mr. BRODHEAD] has been pleased to plant himself in decided opposition to the measure upon the ground of constitutional difficulties, and upon a variety of other grounds, which he rather touches upon than develops. My answer to the honorable Senator's speech shall be brief and to the point.

On the constitutional topic, I will, in the first place, cite the third section of the fourth article. "Congress shall have the power to *dispose of*, and make all needful rules and regulations respecting, the territory and other property of the United States." I will next refer to the practice of the Government under this provision, and will point to the incorporation of the homestead principle in the bills for the organization of the Territories of Oregon and New Mexico. In illustration of the exercise by Congress of the general right to dispose of the public lands, so as to enhance the value of the rest, and to subserve other interests, I would instance, also, the grants to railroads and for school purposes, for the construction of canals, the improvement of navigable streams, and internal improvements, &c., which, in the aggregate, are found to have amounted, on the 30th September, 1854, to more than one hundred and fifty millions of acres.

I would next instance, in support of the same power, the opinions of the most eminent for ability and patriotism, and the most popular of our statesmen, living and departed. I would mention, as names which have sustained the theory and approved the practice, those of Jefferson, who proposed the settlement of a portion of the Louisiana purchase, west of the Mississippi, by conditional grants of one hundred and sixty acres of land—of Monroe and his Cabinet, of whom were Calhoun and Crawford, who, in 1819, approved the grant to the Connecticut asylum, of lands in Kentucky; and that of James K. Polk, who approved the incorporation of the homestead principle directly in the act erecting the Territory of Oregon. I would refer, for the same purpose, to that of Franklin Pierce, in his approval of an act passed at the last session of Congress, making gratuitous grants of lands to actual settlers in the Territory of New Mexico. I would also refer to the grant made to Isaac Zane, during the administration of Washington, of three tracts of land, for blazing a bridle path from Wheeling to Maysville, Kentucky; to the Florida settlement law, granting a quarter section of land on condition of occupancy for the term of three years; to the law of 1791, by which grants of land were made to settlers at Vincennes; to the act of 1792, by which grants were made to the Ohio company for actual settlers; and to the law of 1795, making a similar provision for settlers at Galliopolis. The principle has had the judgment and sanction of Jackson and Webster—names above suspicion for ability and patriotism—and is sustained by the highest authority of our living patriots and statesmen. The constitutional right of Congress to dispose of the lands in such way as their judgment may approve, is in clear and explicit language; and in the face of the unlimited exercise of the power, from the foundation of the Government to the present time, there is no man who can wink so fast that he cannot see it.

It has been remarked that none but "drunkards and loafers" will take advantage of this bill. That its benefits will inure almost exclusively to that class of our citizens. And is it to terms like these, stigmatizing as criminal and subjecting to ridicule the misfortunes of a portion of our countrymen, that we are called upon to listen, as to overwhelming arguments against the policy of this measure? Abusive and depreciating epithets are cheap, and ask not the aid of talents to give them point and effect. Their employment, on the contrary, argues the want of better capital for the service. The same style of argument was employed against the principle of free government, the great principle of political and civil equality as proclaimed by Jefferson; and even the benign religion of Christianity was derided in the persons of the humble fishermen who were its first propagators.

The class of men for whom this bill is intended to provide are not "drunkards and loafers." They are the same class who, under Washington, in 1776, erected the batteries upon the heights of Dorchester, and entered the town of Boston as General Howe withdrew. They are the same who, in the trying march from field to field, never lost a spark of their patriotic devotion, but, in the hour of disaster, like their gallant leader, still cast their eyes to the mountains as the *dernier resort*, and final refuge of their liberties. With Washington they fought bravely at Brandywine and Valley Forge, and witnessed, with him, the surrender of Cornwallis at Yorktown—the closing scene of the Revolution. They are the same class who, afterwards, in the struggle which began in 1812, in which the Young America was again called upon to contend with the power of England for the freedom of the seas, were found by the side of Jackson, at New Orleans, braving, with dauntless breasts, the British bullets and bayonets, and sending up the victorious shout from under that glorious banner, which they had borne to immortal triumph. They are the same who, with General Taylor, gathered unfading laurels upon the deadly field of Buena Vista; who landed with Scott at Vera Cruz, and accompanied him in his heroic march through the valley of Mexico to the gates of the city; and they are the same who, under its beetling walls, having extinguished, by sure aim, the lights upon the ramparts, fought afterwards through the gloom and confusion of night, and until the broad splendors of the meridian sun shone upon their flag of victory waving over the Plaza. They are not "drunkards and loafers," but of that class who, in time of peace, turn the furrow, and gather the harvest, and who constitute the bone and sinew of the land, from Maine to Texas. They are the men who repel savage violence from the frontiers, who fell the forests, and who are everywhere the chief producers of the substantial wealth of the country. They are of that class who swing the hammer and drive the plane; who plan and who build; and who are found at the awl and the last, at the printing press and the loom; of that class which tend the locomotive and guide the steamer; which constitute our mercantile marine; and which fill every class of industrial pursuits. It is the class which has produced Franklin, and Rittenhouse, and Godfrey, and Fulton, and Morse. I may go a step further, and say it is the class which produced Powers, and Cleavenger, and Greenough, and Crawford, and Mills, who, as with the chisel of Praxitiles, could almost make the marble speak; and West, who, as with the pencil of Raphael,

could almost "make the brook murmur down the painted landscape."

But, to take leave of the objections, and the ingenious gentlemen who urge them, let us pass, for a moment, to the merits of the bill. It strikes me, Mr. Speaker, that the proper point from which to survey this subject, is that which enables us to contemplate it as a great question of policy for the settlement of the public lands, and their removal from the halls of legislation. The unwieldiness and expense of the present system, and the degree to which it monopolizes and embarrasses congressional action, are potent reasons for a change. That a change must be made at no distant day, there can be no doubt; for these evils are increasing with each recurring year. In the new disposition which is to be made of this public property, I desire that, first and foremost, the actual settler should be remembered. Nor is it just that you should regard the disposition by this bill as a gift. It is right, rather, to consider, in addition to the nominal consideration of fourteen and one half cents per acre, which obviates any fancied constitutional scruples, and covers the original cost of purchase, and the extinguishment of the Indian title, the five years' occupation and cultivation as an ample compensation, as far better fulfilling the great object of disposing of the public lands, namely, of settlement, and the development of their resources, than the present system of selling at $1 25 the acre, to persons who buy with no intention of ever occupying the lands themselves, but solely to profit by the rise in value consequent upon the improvement of the neighboring lands by the labors of the actual settler.

In great questions of policy, it has been well said, other elements are properly to be considered, besides those of revenue; and a greater addition is thus made to the positive wealth of the country, and to her means of defense, than it is possible to procure by means of revenue arising from the sale of the lands.

We find, in referring to the history of that country from which we derive our representative system, and the doctrines of the common law, that the tendency of the best minds of the century that has just passed, was to the conclusion, as a distinct principle, that Government lands are most wisely administered in private hands. This principle has received emphatic recognition from one of her wisest statesmen. It was Edmund Burke who, in the English Parliament, more than seventy years ago, in advocating a policy, in its important aspects similar to that now proposed, uttered that remarkable declaration in regard to the alienation of the Crown lands of Great Britain, that "they should be thrown into the mass of private property, by which they will come, through the course of circulation, and through the political secretions, into well regulated revenue."

Once more let us revert briefly to the origin and progress of the principle of free grants, in consideration of settlement, which we now propose to erect into greater prominence in our land policy. In a speech which I had the honor to make before you at the recent session in advocacy of this measure, I was at pains to collect from our colonial history many striking instances in which, for the express purpose of settlement, extensive tracts of territory—portions of these now populous and flourishing States—were granted to one or a few individuals by Governments much less favorable to individual rights than our own. The grants now proposed, though small in amount, are, in part, for the same recognized purpose; and, while the land subject is thereby disposed of in this respect, the measure has this incidental recommendation: that it is chiefly the laboring class of our people—those for whom no direct legislation has ever been had hitherto—who will receive the first benefit of the measure. We may remember that it has been often urged as an argument for a high protective policy, and for a United States Bank, that those measures would "better enable the rich to take care of the poor." But if Government action may be invoked to favor directly the interests of a class who are capitalists and proprietors, in order that a benefit may flow indirectly to labor, what is there in reason to prevent us from conferring the same benefit more surely and directly? But the bill creates no odious or unjust distinction; and the wealthiest citizen, alike with the poorest, becomes entitled to the same privileges upon the conditions of settlement and cultivation.

Possessing, as this measure does, in my estimation, an importance far above the fluctuating influences of the times, I did not hesitate at an early day to give to it the whole of my humble influence. I have, in consequence, enjoyed the high honor of seeing it twice carried by a decided vote through this, the popular branch of the National Legislature, and of missing only by a little the seal of the senatorial approbation. And still the measure stands as high in my regards as ever. I still see it as far-reaching and salutary in its influence, and worthy of the most earnest attention of the most eminent statesmanship. It is still a measure promising more than any other to impart strength to the State, by unfolding her natural resources, and by providing her with a numerous population, attached to her by the ties of gratitude—by a love for the soil which furnishes them with a subsistence and a home, and which is *their own*—a population which is interested, in the highest degree, in the preservation of our Republican institutions; and whose virtues should be kept alive as the true vestal fires, which will preserve in its integrity the matchless fabric of American liberty for which our fathers fought.

It has been ascribed as the peculiar danger to the perpetuity of Democratic Governments, the temptation to yield to measures which promise a present, but temporary benefit, to the neglect of those whose benefits, though ever so great and decided, are yet remote. The consequence is, a restless and excited career, terminating early in national ruin. The remedy is, to be wise in time; and so to shape, by legislation, the policy of the country, as that, while the external prosperity of the individual may be promoted, the best guarantees may be provided for his advancement in intelligence, and his establishment in virtue. If the history of nations teaches anything at all, it is the emphatic lesson that Democratic institutions depend for their permanence less upon the intelligence than upon the *virtue* of the people. Hence the wisdom of those laws which tend to encourage such dispositions in the masses, and hence an argument, not inferior in strength to any, for the enactment of the homestead.

With the obstacles which, since its first introduction into this House as a distinctive measure, the homestead has encountered, and the struggles through which it has passed, we are all familiar. It is to this body that belongs the honor, which will perpetually endear them in the hearts of the people, of the initiative in recognizing, on a basis the most decided and liberal, of the great principle of *cheap homes*.

A word or two as to what I consider will be the most important effects of the measure. One, the most obvious, and not the least important, will be, the removal of this subject of the public lands, which has been so long the fruit of bitter contention, from the halls of legislation, and the arena of politics. Let us pass this bill, and we shall prove that Governments are not essentially selfish and exacting—treating the masses as subordinate to their rulers, and consulting much more the interests of favorites, of classes and corporations, than the rights of individuals, but that they are capable of rendering justice to all. Pass this bill, and you will strengthen the arm of the Government,—by creating a community of interest, and thus strengthening the ties which bind together the Government and citizen. Mr. Jefferson, in one of his letters to John Jay, remarked that "cultivators of the earth are the most valuable citizens. They are the most vigorous, the most independent, the most virtuous, and they are tied to their country, and wedded to its liberty and interests, by the most lasting bonds."

While the form of our Government secures equality of political rights, this measure will go far to secure equality of social condition; and we shall thus witness a reversal of the old system, by which, instead of exacting contributions from the citizen, the Government assumes the truly paternal function of encouraging him by its bounty. Let us pass this bill, Mr. Speaker, and incalculable are the benefits which we shall thus confer, not only upon the present, but unborn generations. You will thus send rejoicing into the bosom of many a family where, before, the discouragements of life had stifled ambition and effort. You will carry joy to thousands of firesides, and gladden the hearts of myriads throughout the country. Under its benign operation, the unreclaimed wastes in the great basin of the Mississippi, shall spring into a beauty and loveliness which shall be truly worthy of this golden age. There, upon the sea-like prairies, and far away upon the sources of the Yellow Stone, the Columbia, the Arkansas, and the Colorado, and many a stream which now "hears no sound save its own dashing"—under the shadow of the Stony Mountains and the Sierra Nevada, the happy settler will, under the provisions of your munificent policy, teach the wilderness to bud and blossom as the rose. Under the hand of industry thus wisely fostered and encouraged, waving fields will enrich the landscape; lowing herds and the noise of the arts will enliven those now inaccessible retreats; and still new settlers will rise up to avail themselves of this provision, and to bless you as its authors.

Under this provision of the homestead, in connection with that in regard to the Pacific railroad, which, I hope, will be so extended as to reach the Pacific, and invite to our shores the trade of Asia, a chain of cities, like that which marked the course of the India trade in Asia and Europe, along the shores of the Mediterranean and the Adriatic, will stud the vast expanse between the Atlantic and Pacific oceans; and from the sources of the Saskatchawan, on our northern border, even unto the Isthmus, will be eventually gemmed with populous and flourishing communities. Hand in hand these two great measures should penetrate the wilderness. The forest will then fall before them, and the fruits of nature, springing from the seed deposited by the hand of industry, will everywhere burst the sod. Civilization will then prosecute unimpeded her stately march—bearing with her the virtues, the arts, the graces, and refinements of life.

By passing this bill you extend the market for manufactures, and press into further requisition the Briarean hands of commerce. The locomotive will achieve fresh conquests over time and space, and the steamboat will continue to find new waters still unbroken by its revolving paddles, and with which its tireless strength may contend. Our mercantile marine, multiplied in countless numbers under this genial policy, will groan under kindly burdens, and whiten all the ocean. The world will be our tributaries, and our resistless energies will engage us in a prosperous exchange with every people upon earth. There is literally no limit to our prosperity, as I believe, to be immensely promoted by the measure under consideration, if only true to ourselves, and to that matchless bond of union which holds us together. Let us by this measure temper, by the thousand healthful influences springing from agricultural pursuits, the luxurious excesses to which the colossal achievements of our commerce and manufactures are tending, and we may rest in confidence, that, under Providence, the restless and Titanic movements of the age will eventuate in the welfare of the human race.

With the establishment of this measure, I should feel that my career as a legislator had not been fruitless. On the contrary, I should be proud of the accomplishment of a measure recommended alike by wisdom, policy, and justice. I should covet no higher honor than to be remembered in connexion with legislation like this. I may say further, in view of resigning, with the close of the present Congress, my authority into the hands of my constituents, that I am satisfied that no subject has, within the period of my membership here, came under our deliberations which, by its importance and beneficial character, was in any degree so well entitled to my labors.

Of that constituency to which I am about voluntarily to return, I must be indulged in a few words in conclusion. I must be allowed to express my proud sense of the honor which they have done me in twice making me their Representative upon this floor, as well as for that good will of which they have given me the most positive and distinguished testimonials. I am proud that, upon the spot which knew my infancy, and which has witnessed my struggles in the battle of life, I have been favored by the choice of a substantial, an intelligent, an industrious, and eminently virtuous community, as their Representative in the management of public affairs. I am proud to represent here a district, which, in the noble State of which it forms a portion, owns inferiority to

none. Others may be more populous, and more favored by commercial advantages, but none surpasses it in the wealth of its agricultural and mineral resources; in its capacity to sustain a great population; in picturesque beauty, and in the worthy character of its people. It was in this district, where noble mountains stoop their blue summits to fields of golden fertility and culture; and where forest-crowned hill and grassy valley are interspersed with delightful diversity, that the Father of his Country, after the disastrous field of Braddock, made among the first settlements upon the waters of the Youghiogheny. It was there on the banks of the Monongahela, near to the mountains through which its waters break their passage—a river than which no sweeter stream, of more gentle or beauteous flow, threads its way to the ocean—that Gallatin found his chosen retreat, of all the States besides. Learning has found, too, in its bosom, a happy abode, and colleges of reputable fame, bearing the names of Washington, of Jefferson, of Madison, and of Greene, are sending forth continual rays of intellectual and moral light to irradiate and beautify the popular mind. The home of enterprise not less than of wealth and of moral excellence, her adventurous sons are found pursuing their useful and thrifty callings along the Ohio and all the rivers of the Mississippi valley, from the mountains to the Gulf of Mexico. To my cherished home in that lovely valley, I am now satisfied to resign myself, conscious that in the discharge of my public duties I have not swerved a tittle, whether it regards party obligations, the interests of my constituents, or the welfare of my country.

Mr. SMITH, of Virginia. I would like to know what the proposition before the House is?

The SPEAKER. If it be the pleasure of the House, the amendment proposed by the committee to the original bill will be read.

Mr. CLINGMAN. The amendment is too long, and I object.

Mr. ORR. Has the morning hour expired?

The SPEAKER. It has not yet expired.

Mr. SMITH. I do not desire unnecessarily to take up the time of the House by having the bill and the amendments read, but I really wish to know what the particular question is before the House?

The SPEAKER. The proposition to be first voted upon is that of the gentleman from Tennessee, [Mr. JONES,] upon which the gentleman from Pennsylvania has been addressing the House.

Mr. SMITH. I simply desire to know if the proposition now under consideration is proposed as an amendment to the original bill?

The SPEAKER. The gentleman from Alabama, [Mr. COBB,] from the Committee on Public Lands, introduced a bill to amend the graduation bill of the last session, which was recommitted to that committee, and which they reported back with an amendment in the nature of a substitute, to which substitute the amendment offered by the gentleman from Tennessee [Mr. JONES] is now pending, and which will be first voted upon.

Mr. SMITH. I desire to have that amendment read, because it involves the homestead principle. We have already had one speech in its favor and it seems to me that gentlemen upon the other side should be allowed an opportunity to discuss it.

The SPEAKER. The amendment will be read, unless objection be made.

Mr. CLINGMAN. I understand that it was read the other day. It involves the homestead principle, with which we are all familiar, and there is no necessity for taking up the time of the House by having it again read.

Mr. SOLLERS. Is it now in order to move to strike out any particular portion of the bill?

The SPEAKER. Such a motion would not be in order now, because the motion to recommit will shut out all amendments until that motion is disposed of.

Mr. TAYLOR, of Tennessee. I hope the gentleman from Pennsylvania will withdraw the demand for the previous question. I wish to make a very few remarks upon the question of the homestead.

Mr. DAVIS, of Indiana. I object to all debate.

Mr. CAMPBELL. I move to lay the bill and amendments upon the table; and upon that motion I demand the yeas and nays.

Mr. COBB. I desire to make an appeal to the House.

The SPEAKER. Is it the pleasure of the House to hear the appeal of the gentleman from Alabama, [Mr. COBB?]

Several MEMBERS objected.

The yeas and nays were ordered.

Mr. ETHERIDGE. I ask the consent of the House that the amendment which I propose to offer may be read. When it is read, the House will then have the opportunity to take such action as it pleases.

The SPEAKER. The motion now pending is to lay the bill and amendments upon the table. No debate on the amendment is in order during the pendency of that motion. Is it the unanimous pleasure of the House that the amendment of the gentleman from Tennessee [Mr. ETHERIDGE] be read at the Clerk's desk?

There being no objection, the amendment was read, as follows:

SEC. —. *And be it further enacted*, That the benefits and provisions of this act shall never be deemed, held, or construed to apply to any person or persons other than natural-born citizens of the United States, and such other persons as at the time of the passage of this act shall have been naturalized, or become naturalized citizens, according to the existing laws of the United States regulating the mode and manner of naturalizing foreigners, and to no other person or persons whomsoever.

The question was then taken; and it was decided in the negative—yeas 65, nays 98; as follows:

YEAS—Messrs. Aiken, Appleton, David J. Bailey, Thomas H. Bayly, Ball, Belcher, Bell, Bennett, Benson, Bocock, Boyce, Campbell, Carpenter, Chase, Chastain, Clingman, Corwin, Craige, Crocker, Dick, Edmunds, Edmundson, Flagler, Franklin, Fuller, Goode, Goodwin, Hamilton, Aaron Harlan, Wiley P. Harris, Haven, Hibbard, Hill, Hunt, Johnson, Keitt, Letcher, McQueen, May, Meacham, Millson, Orr, Parker, Bishop Perkins, Powell, Pringle, Purycar, Ready, Reese, Riddle, Rogers, Rowe, Ruffin, Sabin, Seymour, Shaw, Shower, Simmons, William Smith, Sollers, John L. Taylor, Nathaniel G. Taylor, Walley, Daniel B. Wright, and Zollicoffer—65.

NAYS—Messrs. Abercrombie, James C. Allen, Benton, Breckinridge, Bugg, Carruthers, Chamberlain, Chandler, Chrisman, Churchwell, Clark, Cobb, Cox, Cullum, Curtis, John G. Davis, Thomas Davis, Dawson, Dowdell, Dunbar, Dunham, Eastman, Eddy, Thomas D. Eliot, John M. Elliott, English, Etheridge, Farley, Florence, Goodrich, Green, Greenwood, Grow, Hastings, Hendricks, Henn, Houston, Hughes, Ingersoll, George W. Jones, J. Glancy Jones, Roland Jones, Knox, Kurtz, Lamb, Latham, Lilly, Lindsley, McDougall, McMullin, Mace, Macy, Matteson, Maurice, Maxwell, Mayall, Middleswarth, Smith Miller, Morgan, Murray, Nichols, Noble, Norton, Olds, Andrew Oliver, Mordecai Oliver, Peck, John Perkins, Phelps, Pratt, Richardson, Robbins, Russell, Sapp, Shannon, Singleton, Skelton, Samuel A. Smith, William R. Smith, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, Stratton, Andrew Stuart, John J. Taylor, Thurston, Trout, Upham, Vansant, Wade, Walker, Walsh, Warren, Wells, Westbrook, Wheeler, Witte, and Yates—98.

So the House refused to lay the bill upon the table.

Mr. PERKINS, of New York. Is it in order now to move to commit this bill to the Committee of the Whole on the state of the Union?

The SPEAKER. It is not. There is a motion now pending to recommit this bill; and upon that there is a demand for the previous question, which cuts off all motions until it is disposed of.

Mr. DAWSON. I ask for tellers upon the demand for the previous question.

Tellers were ordered; and Messrs. OLDS, and DAVIS of Indiana, were appointed.

The House was divided; and the tellers reported forty-seven in the affirmative, (not a majority of a quorum.)

So the previous question was not seconded.

Mr. ORR. I move that the bill and the amendment be committed to the Committee of the Whole on the state of the Union, and that they be printed.

The SPEAKER. The House has refused to second the demand for the previous question. There is a motion pending to recommit the bill, but the motion of the gentleman from South Carolina will be first put.

Mr. SMITH, of Virginia. I rise, not to speak upon the bill, but to say a word or two in reference to its disposition at this time. I wish to say, that I hope the friends of the homestead bill will so dispose of it as to allow some opportunity for general debate, and to allow those who are not in favor of it, to express their opposition to its principles. I do not wish to speak now, because I have not come prepared to do so. I hope, therefore, the House will not sanction the course desired by the gentleman who introduced this bill, [Mr. DAWSON,] who, it will be remembered, both at the last session of Congress and at the present, made a speech upon the bill, and immediately moved the previous question. I desire to speak upon the subject, but I have been cut off by the previous question on both occasions

I hope the motion of the gentleman from South Carolina [Mr. ORR] will prevail.

Mr. CARUTHERS. I wish to offer an amendment to the bill, in order that it may go with the bill, if it shall be referred.

The SPEAKER. An amendment can only be offered by unanimous consent.

Objection was made.

Mr. WENTWORTH, of Massachusetts. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

[Mr. GREEN, from the Committee on Enrolled Bills, here reported as correctly enrolled the following bill; which thereupon received the signature of the Speaker:

An act to continue in force, for a limited time, the provisions of the act of Congress of 3d March, 1851, and the second section of the act supplementary thereto, of January 18, 1854, so as to enable the board of land commissioners in California to close their adjudications of private land titles in that State, and for other purposes.]

Mr. CAMPBELL. I am about to move the previous question upon the motion of the gentleman from South Carolina.

The SPEAKER. But the pending question is a motion that the House resolve itself into the Committee of the Whole on the state of the Union, made by the gentleman from Massachusetts.

Mr. JONES, of Tennessee. I ask the gentleman from Massachusetts to allow me, before the question is put upon his motion, to offer a resolution of instruction or inquiry to one of the standing committees of this House, upon a very important subject now pending before that committee. It will consume no more time than will be occupied in reading it.

Mr. WENTWORTH. I yield for that purpose.

The resolution was then read, as follows:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of making provision by law to apply the principles of the Florida armed occupation act, passed August 4, 1842, to the Territories of New Mexico and Utah, with a view to suppress Indian hostilities in said Territories.

The question was put; and the resolution was agreed to.

Mr. DUNBAR. I ask the gentleman from Massachusetts to allow me to introduce a bill, of which previous notice has been given, merely for the purpose of reference.

Mr. WENTWORTH. Certainly.

Mr. DUNBAR then introduced the following bill; which was read a first and second time by its title, referred to the Committee on Commerce, and ordered to be printed:

A bill making an appropriation for continuing the improvement of the channels of the mouths of the Mississippi river.

Mr. GREENWOOD. I appeal to the gentleman from Massachusetts to permit me to make a motion.

The SPEAKER. Does the gentleman from Massachusetts withdraw his motion to go into the Committee of the Whole?

Mr. WENTWORTH. For a moment.

Mr. GREENWOOD. I desire to submit a resolution, instructing the Superintendent of the Public Printing to cause to be bound the documents which have been laid on our tables this morning, the report of the explorations and surveys of the routes for the Pacific railroad.

Mr. JONES, of Tennessee. I would say to the gentleman from Arkansas, that it will be impossible for him to get them bound before this special order—the Pacific railroad bill—shall have been disposed of. The whole of them will hereafter be bound in leather, and delivered to each member in his regular set of documents. There is a full set of all the documents bound for each member.

Mr. STEPHENS, of Georgia. The documents, of which the gentleman from Tennessee speaks, will be in our regular series of documents, but it is desirable to have these bound separately.

But as the subject to which they relate is now under consideration, I suggest to the gentleman from Arkansas that perhaps it would now be better for each one to cut the documents for himself, and have them bound hereafter.

Mr. STANTON, of Kentucky. I would suggest to the gentleman from Arkansas, that an order might be entered up now, authorizing the Committee on Printing to have these documents bound hereafter.

Mr. GREENWOOD. Under the circumstances, I will withdraw my motion.

The question was then taken on Mr. WENTWORTH's motion; and it was agreed to.

The House accordingly resolved itself into the the Committee of the Whole on the state of Union, (Mr. ORR in the chair.)

THE PACIFIC RAILROAD—STEAMSHIPS BETWEEN SAN FRANCISCO AND CHINA.

The CHAIRMAN. The business before the committee is the consideration of the Pacific railroad bill, which has been made the special order for this day.

Mr. LATHAM. I move that the first reading of the bill for information be dispensed with.

The question was taken; and the motion was agreed to.

Mr. LATHAM. I move to strike out the first section of the bill for the purpose of submitting some remarks.

I rise, Mr. Chairman, to say a few words upon a subject of interest, not only to my constituents, but, I believe, to the whole country, in favor of the bill establishing a line of mail steamships between San Francisco and Shanghae, in China, touching at the Sandwich Islands, and at Japan. I am aware that the State which I have the honor in part to represent, has been looked upon in the House, and in the Senate, as a constant applicant for legislative favors, and a tax upon the United States Treasury.

California has been represented as swallowing up a large amount of our national resources; but the question, how much the wealth and enterprise of California has added to our national prosperity and power?—which is essential to a proper appreciation of the subject—is often lost sight of, or treated merely as incidental to the problem of finance and statesmanship.

Sir, I do not speak boastfully, when I venture to assert, that the achievements of California, though they may seem to be but the work of yesterday, mark an epoch in the history of the world. The settlement of the Pacific coast by our race, the discovery and exploration of the precious metals, the rapidly increasing intercommunication between the Eastern and Western shores of this continent, the opening of Eastern Asia to our commerce, the emigrant trade from China, the conclusion of a commercial treaty with Japan, the gravitation of the Sandwich Islands toward our Confederacy, and the new life now springing up in Australia and the Oceanic Islands, mark as distinct an era in the human race, and must lead to as complete a revolution in the moral, religious, and political condition of mankind, as was produced, four centuries ago, by the discovery and colonization of this continent. It was the discovery of America and of the capes, which transferred the seat of trade from the Mediterranean to the Atlantic States of Europe, swallowed up the Italian Republics, and gave, first to Spain and Portugal, and subsequently to Holland and England, the wealth and power resulting from navigation and commerce.

The discovery of America not only transferred *power* from one European State to another, but it also changed the relative condition of the people. Wealth, which at that time almost entirely consisted of lands, the exclusive possession of which, by a few nobles, furnished the basis of feudal tenures and a feudal aristocracy, found an equally potent factor in the accumulation of the precious metals, and the vast exchange of products traveling from hand to hand, which made their owners independent, rich, and powerful without the possession of lands and tenements; diminishing in the same ratio, the power and influence of the nobles. It gave birth to a class of wealthy merchants, navigators, and traders to which, subsequently, were added manufacturers and handicraftsmen, who soon struggled for, and obtained, political power.

The so-called "middle classes" of Europe owe their origin almost entirely to the New World, with which history, by a single leap, passed from feudal aristocracy and slavery to the emancipation of the laborers. The conquest of India might have given Europe an oriental caste, still further subdividing classes; the discovery of America, and its gigantic colonization, opened to *all* classes a field of hardy enterprise, which invigorated both the old and the new continents. The New World gave to the Old World, first wealth and prosperity, then political regeneration, and finally a new social development, improving the condition of individuals.

Now, I maintain, Mr. Chairman, that the occupation and settlement of California by our own hardy pioneers is destined to have the same influence on Asia, and all the people bordering on the broad Pacific, which the discovery and settlement of the eastern shore of America had on Europe. It will produce an entire revolution in the commerce, trade, and navigation of the East, followed by a complete change in the moral, religious, and political condition of the Asiatics, with whom we shall exchange our products, our wealth, and our ideas. The changes in Europe have been the work of some eight or ten generations; but in view of the astounding development of California within less than a decade, we have every reason to hope that, with the progress of science and the employment of such powerful agents as steam and electricity, the changes produced in the East will be so rapid, and so marked by their consequences, as to come within the sphere of our own observation, and inure to the advantage of the living. For the first time, in the history of the world, does a people of European origin—not a handful of adventurers, but a whole State, embodying all the arts of civilized life, and partaking of the highest political organization—wield power on the shores of the Pacific; for the first time does a great nation trade from shore to shore on that ocean. The road to India, which Columbus and his followers sought when they discovered America, is found. It crosses our continent; it is ours from ocean to ocean; subject to our laws, and open to our enterprise.

Never, in the history of the world, was there a greater mission intrusted to a more youthful and energetic people, combining in so eminent a degree, the patience and endurance of the agriculturist, with the venturesome spirit of the merchant, and the martial daring of the soldier. Unity of race, language, and organization, give momentum to our will, and effect and consequence to our acts. In less than a century we have risen from a handful of colonists to a great independent nation, taking rank with the proudest on earth; showing a law of progress and a series of improvements, the ultimate term of which dazzles the imagination. In this *law* of progress, in this *series* of improvements, we have reached, settled, and fructified California. We have, with its treasures, animated the commerce of the world, stimulated enterprise, and given a fresh impetus and new direction to the stream of European immigration to this country. If the growth of Europe has astonished and stupefied Europe, the unprecedented development of the wealth and magnificence of California has surprised and dazzled even the United States. Accustomed, as we are, to view, with comparative indifference, the unexampled history of our eastern and western States, we still lack the standard of comparison to measure the quickening process of wealth and power exhibited in our new empire on the Pacific. If it was the most daring and enterprising Europeans, who came to settle on our Atlantic shores, those who now emigrate from the Atlantic to the Pacific seacoast are certainly not among the most sluggish of our own race, or unwilling to assume new obligations, growing out of a new and healthful condition of private and public life. As all Europe contributed to settle our Atlantic borders, so every State of the Union contributes now its quotum of intelligence, enterprise, and daring to give vitality and strength to our splendid domain beyond the Rocky Mountains. If the old Atlantic States of this glorious Confederacy understand the process of crowding the events of centuries into the short space of decades, we, of the extreme west, advance with the speed of the sun, and fulfill the mission of a decade within the annual return of the seasons.

At this rate, we not only add most substantially to the power and influence of the Confederacy, but promise a quick and ample return for every legislative favor that Congress may think fit to bestow. I believe, Mr. Chairman, that California and Oregon are destined to reënact, on a large and magnificent scale, the part which Egypt played in the history and civilization of the Old World, and that San Francisco is to be the modern Alexandria through which the wealth of India is to be poured into our lap. As the Old World received its civilization from Egypt, so will a new civilization, science, and the doctrine of the living God, be carried from the western shores of this continent to reanimate the stagnant races of Japan, China, and the Indian Archipelago. Commerce is a greater fertilizer of the human intellect than war, and a better messenger of the religion of peace than the clang of swords or the roar of artillery.

This bill, sir, if it pass this House, will go far in aiding us to fulfill our great mission, and will do that for the advancement of the whole country which no other legislative act, involving no greater appropriation of money, is likely to accomplish in so short a time. We ask for nothing that will not, through us, benefit every other State in the Union; no commercial advantages, that shall not equally promote the trade and traffic of the Atlantic sea shore, and nothing that is not absolutely necessary to preserve that bond of fraternal union between all the States which is the cause of our strength, and the talisman of our national prosperity. I will not here detain the committee with elaborate statistics of the comparative commerce of England and the United States with China and the East Indies. These have been furnished by other persons, and may be consulted with advantage by those who wish to obtain accurate information on the subject. The reports of the British House of Commons, and of Congress, furnish all the required details. I would here observe, however, that all statistics of the China trade, whether British or our own, must be taken with a grain of allowance, as the official returns, in all cases, are intended to deceive the Chinese Government, and to conceal rather than reveal the truth to the trading community. Thus we have been told, in an official report made to this House, in 1848, that the "recognized" imports into China in 1844, on British accounts, amounted to nearly $16,000,000, consisting of woolen goods, cotton fabrics, including yarns, and raw cotton from India; and that, in the same year, there were smuggled into China forty thousand chests of opium, valued at $20,000,000.

Mr. WARREN. Will the gentleman from California state whose report he alludes to?

Mr. LATHAM. I allude to the report of Hon. Thomas Butler King, chairman of the Committee on Naval Affairs, made to this House in May, 1848. Of course, the latter is mere guesswork, while the former amount includes only that portion which was officially stated at the custom houses. The commercial statistics of a country are of little or no value when it must be admitted that the illegitimate, or smuggling trade exceeds the lawful trade by several millions *per annum;* and when the capacity for continuing that trade can only be estimated by the resources of a comparatively unknown Empire. We shall probably be not far from the truth when we assume that the imports of opium into China exceed the regular imports of dutiable articles by at least one hundred per cent., and that twenty per cent. of the opium smuggled into China is on American account.

This has been the opinion of Chinese merchants, as stated by Gutzlaff and Neuman, (unquestionable authorities on all subjects connected with the Chinese Empire,) and the Chinese merchants in the seaports and the interior are far better informed on such matters than the Mandarins. The civil war, too, which has now been raging for several years, and which may continue for several years longer, must furnish additional facilities to the opium smugglers; and if vice and debauchery usually follow the trail of armies, it is but reasonable to suppose that opium eating and smoking are now rapidly on the increase in every part of China.

The report above quoted gives the imports into China, on British accounts, as follows:

Woolen and cotton goods	$15,929,132
Opium	20,000,000
Total	$35,929,132

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or, in round numbers, $36,000,000. All the exports from China, exclusive of Sycee silver, fell short of $18,000,000; balance in favor of England $18,000,000. Such a trade cannot, in the natural course of things, continue long, especially as the freights are all earned by European or American vessels, and the imports into China are all for Chinese accounts and for Chinese consumption. The Chinese Government is, indeed, reduced to the alternative, either to allow and encourage the culture of opium, or to see the country and itself rapidly reduced to bankruptcy. It has not the power to prevent smuggling, which is carried on by armed vessels, the officers and supercargoes of which distribute both chests of opium and the Scriptures; and with the eagerness of the people to buy the poison, the trade which ruins the country is sure to make the fortune of the smuggler.

Our trade with China is yet in its infancy; we chiefly export thither cotton goods, which are acknowledged to be of a superior texture and better quality than the English, raw cotton, lead and ginseng. In 1845, our whole export to China amounted to little over $1,300,000, and very nearly the same amount of specie; while the exports from China to the United States, amounted, in round numbers, to $6,700,000; leaving a large balance in favor of China. Other statistical accounts, furnished by the British House of Commons, show an increase in the exports of China to foreign countries, but also a corresponding increase in the value of the opium smuggled into it. The balance of trade against the United States and in favor of China, had, in 1845, as above stated, already exceeded $5,300,000, and this balance was settled by bills on London, against shipments of specie.

In 1846 the balance of trade between this country and China was, in round numbers, but $4,600,000 against the United States; while British imports from China had fallen off some six millions, and exports to China $11,000,000; probably occasioned by their diminished capacity to buy either rags or poison. British trade with China depends on the capacity of the Chinese to pay in cash for articles they can no longer pay for in goods or products of their own; while *our* commerce with that country being, as yet, largely in favor of the Chinese, presents a considerable margin to be filled by the ingenuity and enterprise of our merchants. Our manufacturers may improve their fabrics or render them less costly; our navigators may reduce the commercial balance against us by earning freights; we may reship a portion of our imports from China to other countries; we may carry a portion of the British and other foreign imports into China, and we may discover new articles of consumption for the Chinese markets.

It seems to me, Mr. Chairman, that in all these respects we are better circumstanced than the British, and, in saying that, I would indicate that our commercial relations with China are capable of being improved beyond those of any other country.

In the *first* place, our own population and productions are increasing at a far more rapid rate than those of England, or any other country. Our general capacity for increased imports and exports must necessarily apply, also, to the China trade, and thus the broadest basis of an improvement is secured.

Second. We have it in our power, from the advantages of our geographical position, to diminish the distance between European and Chinese markets, to spread quicker and more general intelligence among our merchants on the Pacific and Atlantic coasts, and thereby to anticipate wants, assimilate tastes, and meet the demands of distant markets in advance of other nations.

Third. We have it in our power, with the diminished distances, to reduce the rate of *freights* between China and America, as well as Europe; being not only able, as I shall endeavor to show hereafter, to transport goods between these countries cheaper and quicker than they are now carried, but able to ship articles which would deteriorate or spoil on long voyages. In this will, perhaps, consist our greatest advantage; and,

Fourthly. We have a new species of enterprise—the passenger trade from China to California, and from California to China—opened to us, and are sure to retain it almost exclusively, if our merchants and shippers use the same degree of intelligence and watchfulness on the Pacific that is now employed to secure that trade on the Atlantic, between Europe and the United States.

I now propose, Mr. Chairman, to treat of these advantages in the order I have named them.

Our population may now be computed at twenty-five millions, and will, at the close of this century, reach in the neighborhood of a hundred millions, without approximating a ratio of density that could impair either our capacity to import from, or export to, foreign countries. Alexander Von Humboldt, and other writers on America, have estimated that the Mississippi valley could comfortably feed and clothe three hundred millions of people; and it is not presuming too much to allow a hundred millions for each, the Atlantic and Pacific slopes. The United States, then, without counting any addition to our territory, such as will undoubtedly be made in the course of this and the next century, can support five hundred millions of people, and is the only nation on earth whose homogeneous numbers will, in the course of a brief space of time, approach and surpass those of the Celestial Empire. Considering, at the same time, that the extent of our country is as large, our climate as varied, and our productions as diversified, as those of China, we have at once the largest basis of our increasing trade, and the greatest field of operation between mind and mind that was ever afforded to two such extensive branches of the human family. On one side is the oldest civilization on earth, immutable customs and usages established through the extent of ages; a very high, though stationary degree of industry, and great fondness of commercial pursuits, limited, however, by imperfect navigation, timid sailors, and a decided inferiority in ship-building.

On the other (our) side of the Pacific is a comparatively new but energetic people, coupling the strength and elasticity of youth with the gravity and experience of past ages; customs and habits everlastingly changing great, mobility, actuality, and adaptation to the greatest variety of human pursuits, unceasing activity of mind, unconquerable industry, great fondness of commercial enterprise, love of the ocean as a native element, and a nautical skill, which is already stretching out its hand to grasp the trident of Britain. Can we doubt on which side the commercial balance will finally incline? Is it possible for any present system of statistics to comprise all the elements of computation—all the elements of combination and permutation of which an intercourse with China—in other words, our trade with half the population of this globe—is susceptible? I believe not. As yet, we export nothing to China but cotton fabrics, (principally cloth and shirting,) raw cotton, lead, and ginseng; but who shall say that our exports to China shall always be limited to these articles, or to the contraband trade in opium? I am aware that it is not an easy matter to manufacture goods for China. Not only have the Chinese themselves attained a very high degree of perfection in all fabrics of a fibrous texture, but wages in China are so low, living so cheap, and the laboring classes so frugal and simple in their habits, that the only way to compete with them is by machinery. It is by machinery that the British manufacturers have been enabled to undersell the fabrics of Benares, even in India, and that they are now able to sell their inferior woolens even to China. Our manufactures are not inferior in genius and enterprise to the English, and there is no species of handicraft, however poorly remunerated, that can run a long race with the labor of machines.

A far greater obstacle to our trade with China, is the tenacity with which the Chinese, and, more or less, all Eastern people, cling to their established customs and usages. There is no such thing as "fashion" in China; it being an act of piety in a Chinaman to eat, drink, dress, ride, and walk like his ancestors. Nothing in China grows old, or out of date, and there is, consequently, no scope for innovation. If a Chinese artizan, buried some thousand years ago, were suddenly resuscitated, and placed in possession of the tools with which he was accustomed to work, he could instantly apply himself again to his trade and find the same kind of customers. Still, it remains to be seen whether in close contact with us, and with Europeans, they will be able to continue these habits, which, with them, partake of the substance of religion. Change their religion, or rather their idolatry, and you will change their habits. The Chinese have always been the most civilized people of Asia, and overrun only by Tartars, were the more disposed to adhere to their old rules of life, their customs and manners, as their conquerors themselves adopted them from reasons of statesmanship. But the very fact, that the Chinese do not change their fashions as we do, renders it more easy for us to manufacture for them by machinery. American fabrics would compete much more successfully with European, were it not that Paris and London set the fashions, and that the European manufacturer is thereby sure of being first in market. When our machines, as has, for instance, been the case in the article of *mousseline de laine*, are ready to enter into competition with them, the fashion is changed, and the manufacture of the article no longer remunerative. If, in regard to fashion, we were to take a little after the Chinese, it would do our New England, New York, Pennsylvania and Georgia manufactures no harm, and keep a larger portion of our California gold production at home to serve as capital for new enterprise.

If, then, we wish to manufacture for China, we must not expect to succeed with mere imitation of European articles. It will be a long time before Chinamen will be induced to wear swallow tailed coats, tight pants, or patent leather boots. Hence we must study their tastes, manners and customs, and adapt our fabrics to them. This is the way England does now, and this is the way the "Universal Yankee Nation," will do, whenever their love of enterprise shall be stimulated by a reasonable prospect of success. I have no fear that the Chinese will ever manufacture by machinery. Their dexterity is wholly confined to manual labor, and almost entirely excludes the idea of progress. In a country so thickly settled, that the people will not allow horses and oxen to do a part of their physical labor, it is not likely machines will be tolerated to compete with the wages of labor. Besides, as I have already remarked, the Chinese are a nation of empirics, who invariably fail in the application of a principle. They cannot generalize. They reduce nothing to a system; and being neither synthetic, nor analytical reasoners, lack the method by which discoveries and inventions are multiplied, and rendered useful to man. In contact with our reasoning, "calculating," ciphering Yankees, I have no fear but that they will be made to feel their inferiority, and, as is usual in such cases, *pay* for it.

I come now to the *geographical* advantages possessed by the United States over all other nations trading with China. These are manifold; but I shall content myself here with those which result especially from our position. We approach Japan and the eastern coast of Asia from the *Pacific* coast, without doubling the Capes; as soon, therefore, as a direct line of communication shall be established between our Atlantic and Pacific seacoast, we will avoid not only the casualties and dangers attending the circumnavigation either of Cape Horn or the Cape of Good Hope, but save time and expense, and prevent the deterioration of such articles of freight as are likely to be affected by a passage through the tropics. If flour and provisions are ever to be shipped to China, it will only be from our Pacific coast, and not on a long voyage from our Atlantic sea-ports round the Capes, where their quality would be impaired in

passing through the equatorial region. And as to the capacity of our Pacific possessions to produce breadstuffs, suffice it to say that the State of California alone has this year not only produced wheat enough to supply the wants of her whole population, but is actually shipping it to the New York market; to say nothing of Oregon or Washington Territories, as great wheat countries as there are upon the earth.

The sailing route from any of our large Atlantic ports to China, either round the Cape of Good Hope or the Horn, is from eighteen to twenty thousand miles. By the Panama route, the distance to Shanghae, via Aspinwall, Panama, and San Francisco, is only about eleven thousand miles; a saving, therefore, of from seven to nine thousand miles, or of fourteen or eighteen thousand miles, respectively, counting both the outward and the homeward passages. By the Nicaragua route, this distance is still further shortened, and by the Tehuantepec route, it will be again considerably reduced. It is believed that the trip from New Orleans to San Francisco, by the Tehuantepec route, can be performed easily in fourteen days, (perhaps in twelve days, if required;) and from twenty to twenty-five days would suffice for the trip of one of our large steamers from San Francisco to Shanghae. Add four and one half days for the distance from New York to New Orleans, (it will soon be performed in four days and a half,) and we shall have the whole distance from New York to Canton performed in forty-five days. Adding further ten days for the passage from New York to Liverpool, and thence another day to London, we shall have fifty-six days for the time a letter would be on the way from Canton or Hong Kong, by the American route, to the capital of England.

The overland mail from China to London, is generally sixty-five days on the way; so that, by the American steam route, which it is intended to establish, or rather complete, by the provisions of this bill, there would be a saving from a week to ten days over the English overland route, from Canton to London. But who does not know the value of early commercial intelligence, to doubt whether Englishmen would avail themselves of our American route to China, if it were certain that by it they would be furnished with the earliest news? As the case now stands, our merchants on the Atlantic coast obtain their information of China from England. The British East India merchant, therefore, is in possession of all the required commercial information from ten to twelve days sooner than our merchants in New York—a circumstance which will always enable the British East India merchant to avail himself of the first opportunities furnished by a favorable market. When commercial information shall be forwarded over the American route, *we* shall have the first news, and our merchants will be able to improve the first favorable turn in the market. We shall have news from China to New York in forty-five days, while the English, if persisting in the overland route, must be content to have it in sixty-five days. Who does not see that the quickness with which commercial intelligence will be conveyed, will serve to multiply commercial transactions, and to diminish the risks attending them?

In this calculation, I have only considered the mail route contemplated to be established by this bill, and the routes already established and in operation; but what if the projected Pacific railroad be completed, and the distance from San Francisco to New York accomplished in six days? What, if the subterraneous telegraph line, a bill for which has already passed the other House, be completed, and messages from San Francisco to New York, and from New York or any other town on the Atlantic to San Francisco, be sent in two days? Commercial intelligence will then be conveyed from China to New York in twenty two days, and to London in thirty-two days, or little less than *half* the time now required by the overland mail from India. The wants of the Chinese people, the state of their markets, the crops, the demand for foreign goods, in short, every thing that can affect commercial transactions with that distant country, will be known in so short a period, that no time will be lost in adapting trade and enterprise to the changes that may have taken place; and where one or two shipments are now made in the course of a year, under circumstances of no ordinary risk, three or four will then be made with comparative safety.

It is, therefore, but reasonable to say that the new line of mail steamships, as proposed, will find abundance of employment, not only by our own merchants, but those of Europe, and that it will form the most important and remunerative connection between the Eastern shores of the old Continent and the Western world. In the absence of large and expensive fleets, the regular visits of our mail steamships to the islands of the Pacific, and to Japan, as well as to the ports of China, themselves, will serve as a protection to our commerce, and lend a certain *prestige* to our navigators and hardy whalers in those seas. Our Government has been reproached, by foreigners, with not keeping a sufficient naval force in the Indian Archipelago and the Chinese seas, to protect our merchantmen, and it has been tauntingly asserted, that but for the British men of war, which act as high constables of those seas, scouring it of pirates, our commerce, in those waters, would be entirely annihilated. When our mail steamships shall regularly visit the coasts of China and Japan, touching at the Sandwich Islands, spreading intelligence in every direction, and increasing wealth by legitimate means, civilization and christianity will spread so rapidly, and extend their humanizing influence so far and wide that the maintenance of an armed force, for the protection of commerce, will be as unnecessary in those waters, as it is on the coast of Europe.

Our advantageous geographical position, as regards the Asiatic mail service, equally applies to *freights*. Freights are the great drawback to commerce; hence, whatever diminishes freights—that is, whatever renders the expense and time of carrying goods less—adds to the profits of commerce, and, to that extent, increases and extends it. I have already shown that the distance from Canton to London, by the way of San Francisco and New York, is scarcely more than one half of that around the Capes; still, against that we have to put the loading and unloading on our Pacific and Atlantic coasts, when we speak of freights. These processes involve great expense and some loss of time; and, in a considerable measure, counterbalance the advantages resulting from the shorter distance. Still, there are goods, not of a bulky nature, which are easily unloaded, and shipped again, and these would, no doubt, at once take the shorter route. Bulky articles would, probably, continue to be shipped from China and India, directly for their final ports of destination in Europe, until a ship canal is built across the Isthmus of Darien, or, until the greater speed of the Pacific railroad would weigh still more heavily in the balance of time, and saving of interest, against the cost of loading and unloading.

These considerations, however, apply only to the carrying trade between China and *England*, and not to the trade of our own merchants for distribution at home, or to the shipments of assorted cargoes. Let us have the mail service first, and thereby the requisite means of intelligence, and we may safely leave the rest to the genius and enterprise of our merchants. It is the exchanges of our own products for those of Japan and China, that we must look to, as the principal feeder of our commerce with the East; and these—as I have already observed—from the extent of our country, and the great variety of our own soil and climate, are so diversified as to furnish a substantial basis for a more extensive trade between two countries of the most gigantic dimensions, and almost infinite resources.

It remains for me to speak of another interesting relation that has grown out of our settlement on the Pacific coast, and the wealth and civilization to which these have given rise, within the last few years. Already a stream of emigration is setting toward California, from the Celestial Empire, and although that stream, after the immigrants have enriched themselves, is, in part, at least, flowing back to China, yet while it lasts, it affords the basis of a passenger and emigrant trade, the influence of which, on our commercial relations, is not yet sufficiently appreciated. The command of the ocean always belonged to the most commercial nation, and the greatest number of ships were always owned by that people who enjoyed the carrying trade in the bulkiest articles. Bulky articles make freights and employ ships and sailors; hence the nation which exports *bulky articles of its own growth*, has a very decided advantage over those whose exchangeable products occupy less space, and consequently employ less tonnage. We are, in this respect, most remarkably blessed by Providence; for our staple articles of export are all bulky, and furnish large employment to our shippers. Cotton, our most valuable article of export, is, perhaps, the bulkiest article known to commerce; next come flour, grain, provisions, potash, tar, turpentine, &c. These form the basis of a very large carrying trade, and secure to our shippers an outward freight. The exports of England and France are of a less bulky nature, and consist chiefly of manufactured articles. With the exception of wines and brandies from France, and hardware and crockery from England, almost all other articles of export from those countries, though of much value, occupy less volume, and therefore, make less *freight*. A single French ship laden with silks, lace, shawls, or other costly articles of toilet, may carry the return cargo for a dozen separate importations, in the shape of breadstuffs, provisions, lard, hides, &c., on all which freights have been earned, and ships and sailors furnished with employment. It is the nature of the exports from France, which, more than the geographical position of that country, or the want of enterprise, prevents her from becoming a great maritime nation. A cargo of British woolens, worsted, silk, or mixed, nay, even of her ordinary cotton goods, is far more valuable and less *bulky*, than the raw materials which make freights for England, and occupies, therefore, less shipping, and fewer hands on shipboard. Our exports of raw cotton alone furnish, probably, more employment to shippers than the whole imports into the United States from England.

It is clear, then, that our exports, in regard to bulk, exceed by far our imports, and that, consequently, if our trade were entirely confined to merchandise, many of our ships would be obliged to come home with but half a freight or in ballast. Still, having an outward freight secured, they could successfully compete with the ships of other nations, few of which would have either a full outward or homeward freight secured. But, of late, another species of trade has sprung up, adding largely to the remunerative profits of our merchants and ship-owners. It is the passenger and immigrant trade, which furnishes valuable home freights to all our ships bound for the coast of England, Ireland, or Scotland, the ports of the North Sea, Sweden, and Denmark, the Baltic, and the coast of France. It is precisely those countries which consume our great staples and pay the outward freight of our shippers, while the people of those countries themselves constitute the homeward cargo and make up a full freight.

It is the passenger trade which, in late years, has added so much to our shipping, and given such ascendency to our commercial marine, and I maintain that what the passenger trade has done for our trans-Atlantic commerce, it will also do for our commerce in the Pacific. Let a regular monthly or semi-monthly line of communication be established between San Francisco and the ports of China and Japan, and a valuable trade of that nature will spring up, in regard to which we need not apprehend any competition. Instead, as is now the case, carrying principally Chinese adventurers, indigent laborers, and vicious persons, between Shanghae or Canton, to California, Chinese gentlemen, wealthy merchants, and men of leisure, might visit our country and, perhaps, invest fortunes in our enterprises.

Mr. FARLEY. Has not the supreme court of California decided that the Chinese cannot be witnesses?

Mr. LATHAM. It has decided this only: that, under the laws of California, they cannot be witnesses against a *white* person, inasmuch as they come within the provision which excludes Indians—a "person who shall have one half of Indian blood shall be deemed an Indian"—from testifying in *criminal* cases against a white person.

I will state further—as I see the drift of the gentleman's question—that the class of Chinese in California are generally of the lowest order, being sent there frequently by foreign capitalists as *coolies*, who receive the products of their labor. This class are from the scum of the Chinese population, and cannot be considered a valuable acquisition to any community. Their political rights present serious questions, which, I know, have

already perplexed the government of California. But I am treating of the Chinese merely as a manufacturing and trading people, who have shown wonderful capacity in the arts, and China as an Empire whose products we must have. Hence the question, on what terms we may best secure their trade and commerce, to add to our own national wealth and prosperity?

But to proceed. At first, it was merely the hardy adventurer, or exile from Europe, who sought the shores of America; now, a perfect exodus from the British Isles and the European continent seems to be going on, depopulating whole States, and leading to a vast intercourse and an increasing correspondence, by letter and telegraph, between the two continents. Why should not similar changes be effected in the Pacific? The great mass of the Chinese and Japanese people are better educated than the masses in England or Ireland. There is not, within the whole Celestial Empire—missionaries tell us—a man who cannot read and write; and the Chinese are, besides, an inquiring, imaginative, venturesome people, confined and restricted merely by their Government, and that Government tottering to its foundation. When the Chinese called all other nations "barbarians," they evidently considered only their Asiatic neighbors, and so far as *they* are concerned, the Chinese had a right to boast of their superiority. They understand political economy and all other sciences better than any of their Asiatic neighbors; they are more enterprising, more industrious, more civilized, and more literary than any of them, and they are, withal, a people of agreeable, docile, and winning manners. Such a people, brought in close communication with our own, with thousands of their numbers now in California, already corresponding with their friends and relatives at home, cannot fail to undergo great revolutions, which will change their moral and social relations, and throw a large portion of them—the *débris* of shipwrecked political and religious parties—on the western shore of our continent.

Nor will it only be the trade, enterprise, and development of thought between the two continents which will be stimulated and promoted by the establishment of this line. All the beneficent influences I have described will equally extend to the Pacific islands—to those floating paradises that only require to taste of the fruit of knowledge to exchange their happy animal life for the delicious cares of a higher and nobler existence. The hardy seamen of our six or seven hundred whalers in the Pacific will no longer be cut off from regular and quick communication with their friends and kindred, but made to feel that they have a home on the western shore of our continent, from which their voices may be heard, their wants understood and supplied.

And whatever be the shock when the oldest nation on this earth meets the youthful energies of the newest born, when the slowly gathered experience of forty centuries meets the fructifying influence of general ideas, *it cannot be avoided.* It must be met; and it is better that we should meet it with all the peculiar advantages of our civilization and position completely within our control, than that we should procrastinate or suffer events to control our resolution. Our civilization, our society, our political organization must stand the Asiatic test as they stood the European, and control, remodel, and assimilate the new elements. I have no doubt, Mr. Chairman, but that the passenger trade from and to China, and the vast correspondence to which it will lead with that reading and writing Empire, will more than compensate the Government, in a pecuniary point of view, for the establishment of the line of mail steamships contemplated in this bill. I have no doubt but that it will be the first great step towards an entire revolution in the world's commerce, that it will change the complexion and political configuration of Asia, and give a new impetus and direction to the enterprise of our own people.

In behalf, then, of the great interests of humanity and civilization, of commerce and navigation, of our great national development, and the individual happiness and prosperity of our citizens dependent on the passage of this bill, I beseech the committee to give it the attention it deserves, and a support commensurate with the paramount considerations of statesmanship, which have already secured for it the approbation of the country. For be assured, that its passage by this House will be hailed as the cementing of another link in the perpetuity of the progress, power, and grandeur of the American Government.

Mr. CHANDLER then obtained the floor, but yielded to

Mr. CROCKER, who moved that the committee do now rise.

The question was put; and the motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, the Chairman of the committee reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly a bill to provide for the establishment of a railroad and telegraphic communication between the Atlantic States and the Pacific ocean, and for other purposes; and that they had come to no resolution thereon.

STEAMSHIP COMMUNICATION.

Mr. McDOUGALL, by unanimous consent, reported, from the Committee on the Post Office and Post Roads, Senate bill (No. 411) to establish a line of mail steamships between San Francisco, California, and Shanghae, China, touching at the Sandwich Islands and Japan.

The bill was read by its title, recommitted to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. JONES, of Tennessee, moved to reconsider so much of the vote last taken as recommitted the bill, and to lay that motion to reconsider upon the table; which latter motion was agreed to.

And then, on motion by Mr. COX, at three o'clock, the House adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

WEDNESDAY, *January* 10, 1855.

Prayer by the Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

PETITIONS, ETC.

Mr. FOOT presented the memorial of George P. Marsh, praying compensation for services under the act of August 11, 1848, imposing judicial duties on the minister resident at the Ottoman Porte, and for services under a special commission to Greece; which was referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. ATCHISON presented the petition of Michael Hennessy, praying for a pension on account of disease contracted while in the military service; which was referred to the Committee on Pensions.

Mr. SUMNER. I have been requested to present a memorial, signed by one thousand citizens of Massachusetts, chiefly from Springfield and its neighborhood, asking Congress to enact a law prohibiting the employment of officers of the Army in civil occupations. I hardly know to what committee this memorial should be referred; but, as it concerns a new topic, I move its reference to the Committee on the Judiciary.

The motion was agreed to.

Mr. RUSK presented the memorial of Mrs. Emma C. B. Thompson, widow of C. C. B. Thompson, late of the Navy of the United States, praying to be allowed the pension to which her late husband would have been entitled, if he had applied for the same; which was referred to the Committee on Pensions.

Mr. PRATT. I have been requested to present a memorial signed by, I believe, some hundred owners and masters of vessels engaged in the mercantile marine of the United States, in which they allege various evils as having resulted from the passage by Congress of the act abolishing corporal punishment of seamen, and ask for the passage of some law which will at any rate ameliorate the condition of the mercantile marine under that law, and enable them to enforce obedience on shipboard. I move that it be referred to the Committee on Commerce.

The motion was agreed to.

Mr. FESSENDEN presented the petition of Samuel B. Sawyer, grandson of Samuel Sawyer, deceased, praying to be allowed the commutation pay to which his ancestor was entitled as an officer in the revolutionary army; which was referred to the Committee on Revolutionary Claims.

Mr. TOUCEY presented a petition of Jeremiah Day and others, engaged in literary and scientific pursuits, praying that the works of the late Exploring Expedition under the command of Charles Wilkes, of the Navy, may be republished by Congress; which was referred to the Committee on the Library.

Also, the memorial of Thomas W. Powell, and E. Moore, praying to be released from liability as security for the appearance of Otho Hinton, charged with robbing the mail; which was referred to the Committee on the Judiciary.

Mr. WELLER presented the petition of William P. Buel, praying compensation for medical services to the third regiment of United States Artillery on board the steamer San Francisco and the ship Three Bells; which was referred to the Committee on Military Affairs.

Also, the petition of Major H. Day, Lieutenant George H. Paige, and other officers of the United States Army, praying remuneration for losses sustained by the wreck of the steamship Winfield Scott, on the Pacific coast; which was referred to the Committee on Military Affairs.

Mr. DAWSON presented the petition of Jane Irwin, praying to be allowed additional pay and bounty land on account of the services of her father, the late Colonel Jared Irwin, in the revolutionary war; which was referred to the Committee on Revolutionary Claims.

Mr. DODGE, of Iowa, presented a memorial of the mayor and aldermen and other citizens of Keokuk, Iowa, praying the establishment of a marine hospital at that place; which was referred to the Committee on Commerce.

Also, the petition of Allen A. Bradford, judge of the sixth judicial district of Iowa, and others, praying that Johnson Pierson may be remunerated for losses sustained by him in executing a contract for surveying the public lands; which was referred to the Committee on Public Lands.

Mr. CLAYTON presented the petition of Joel Ware, of Alleghany county, New York, praying that the present tariff may be so altered as to give ample protection and encouragement to all the varied productions of the United States; which was referred to the Committee on Manufactures.

JUDICIARY OF THE DISTRICT OF COLUMBIA.

Mr. BUTLER. I hold in my hand, sir, a memorial from citizens of the District of Columbia, saying that they are opposed to the reformation of the judiciary as proposed in a bill which is now before the Committee on the Judiciary. I will take this occasion to say, that, in presenting this memorial, I do not do so from any implication that I am opposed, as has been generally supposed, to a reform in the judiciary of this District. It is not proper, at this time, to enter into that question; but, so far as I have any control over the subject—(and I suppose I am regarded as having some control over it, for I receive communications every day on the subject)—I do not wish the people of this District to understand that I am either an advocate or opponent of any particular system. I certainly shall endeavor to perform my duty on the Committee on the Judiciary under the controlling influence of the Constitution of the United States. I ask that the memorial may be received, and referred to the Committee on the Judiciary.

It was so referred.

Mr. TOOMBS presented a petition of thirty-four members of the bar of the District of Columbia, praying the passage of the bill of the House of Representatives, for the reorganization of the judiciary of the District; which was referred to the Committee on the Judiciary.

NAVIGATION OF THE SAVANNAH RIVER.

Mr. DAWSON. I have received a letter from the mayor of the city of Savannah, Georgia, stating that the calamitous events of the past year have thrown a gloom over that city, and that they have prostrated its prosperity, in a great degree; and that the obstructions to navigation in the Savannah river, below the city of Savannah, are a great obstacle to the prosperity of the city. They were placed there by the General Government and ought to be removed. The mayor, in his letter, refers me to the fact, that the Senate of the United States have, for several successive sessions, passed a bill appropriating money for that purpose. I

am, therefore, requested, in the letter, to introduce a bill to effect that object, separate and distinct from any other bill. I give notice that I shall do so, to-morrow morning, or at some early day.

PAPERS WITHDRAWN.

On motion by Mr. PEARCE, it was

Ordered, That Rebecca P. Stansbury, one of the children of Thomas Peters, deceased, have leave to withdraw her petition and papers.

On motion by Mr. DAWSON, it was

Ordered, That the petition of J. B. Walbach, on the files of the Senate, be referred to the Committee on Military Affairs.

On motion by Mr. PRATT, it was

Ordered, That the memorial of the heirs of William Flannigan and William Parsons, on the files of the Senate, be referred to the Committee of Claims.

On motion by Mr. FISH, it was

Ordered, That Stephen Livingston have leave to withdraw his petition and papers.

ST. JOSEPH'S ORPHAN ASYLUM.

Mr. SHIELDS. The chairman of the Committee on the District of Columbia, a few days ago reported, with amendments, a bill "to incorporate the St. Joseph's Male Orphan Asylum in the District of Columbia;" but its immediate passage was then arrested, at my request, in order to enable me to examine the amendments. I promised that gentleman that if, upon examination, I should find no objection to the bill as amended—for the amendments of the committee were then adopted—I would call it up myself, or would permit him to do so. The gentleman to whom I refer is the honorable Senator from New Hampshire, [Mr. NORRIS,] who is in such a condition that he is unable to be here. As that is the case, I hope the Senate will agree to consider the bill now. Only one slight amendment, which has been agreed on by the honorable Senator and myself, is necessary. I move that the bill be taken up.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. SHIELDS. By an oversight the word "stockholders" has been used instead of "trustees," in the fourth section of the amended bill—the section in relation to individual liability. I move to strike out "stockholders," and insert "trustees."

The amendment was agreed to; the bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in. The bill, as amended, was ordered to be engrossed for a third reading, was read a third time, and passed.

REPORTS FROM STANDING COMMITTEES.

Mr. GWIN, from the Committee on Naval Affairs, to whom was referred the petition of Alexander F. Barnard, pilot of the United States steamer Michigan, praying to be allowed pay for the whole year, instead of for the time actually employed, submitted an adverse report thereon; which was agreed to immediately, as he suggested that such reports should be disposed of at once, instead of being allowed to encumber the Calendar by remaining unacted on.

He also, from the same committee, to whom was referred the memorial of Justin Spaulding, asking pay for his services as chaplain on board the ship Independence, submitted an adverse report thereon; which was agreed to.

He also, from the same committee, to whom was referred the memorial of Zelia M. Crosby, praying an extension of the pension allowed her, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

He also, from the same committee, to whom was referred the petition of J. S. Gregory and others, clerks in the navy-yard at Boston, praying to be placed on an equal footing, as regards their salaries, with the clerks of the navy-yard at Washington, asked to be discharged from its further consideration; which was agreed to.

Mr. EVANS, from the Committee on Revolutionary Claims, to whom were referred the following bills from the House of Representatives, severally reported them back with an amendment, striking out the interest allowed in each case:

A bill for the relief of the heirs of Larkin Smith; and

A bill for the relief of Daniel Bedinger's heirs.

Mr. DAWSON, from the Committee on the District of Columbia, to whom was referred a bill to incorporate the Friends' Aid Society of the District of Columbia, reported it back with an amendment in the form of a substitute. He said he should ask for its immediate consideration, but that he feared it would lead to discussion, and thus interfere with the morning hour.

THOMAS MARSTON TAYLOR.

Mr. FISH, from the Committee on Naval Affairs, to whom was referred the amendment of the House of Representatives to the bill of the Senate, for the relief of Thomas Marston Taylor, reported a resolution that the Senate do not concur in the amendment of the House, and asked for a committee of conference thereon; which was agreed to.

In accordance therewith, Messrs. FISH, GWIN, and SHIELDS, were appointed by the President *pro tempore* the committee on the part of the Senate.

CHARLES J. PORCHER.

Mr. GWIN. I am instructed by the Committee on Naval Affairs, to report back, without amendment, House bill "for the benefit of Charles J. Porcher, acting purser of the sloop-of-war Falmouth," and recommend its passage. Inasmuch as this bill has already passed the House, and is one of undoubted merit, I ask for its immediate consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

It is designed to authorize the proper accounting officer to pay to Charles J. Porcher the amount properly payable to a purser of the rank assigned to a sloop-of-war, for his services as acting purser of the United States sloop-of-war Falmouth whilst on service in the Pacific ocean, from the date of the death of purser William B. Hartwell, until the appointment of John Y. Mason, jr., in his stead, to wit: from July 12, 1848, to March 14, 1850, deducting therefrom the amount paid to him for the same period as commander's clerk.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

THOMAS WISHART.

Mr. EVANS. The Committee on Revolutionary Claims have authorized me to report back, with an amendment, House bill "for the relief of the administrator of Thomas Wishart," and recommend its passage.

Mr. HUNTER. I ask that, by general consent, the bill be now considered.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to direct the payment to the legal representative of Thomas Wishart, a lieutenant in the Continental army during the revolutionary war, of five years' full pay of a lieutenant of infantry, with interest thereon from January 13, 1834, when the first favorable report was made on the claim.

Mr. EVANS. The amendment of the committee is to strike out that part of the bill which allows interest, it being contrary to the practice which has heretofore prevailed.

The amendment was agreed to; the bill was reported to the Senate as amended; the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. The bill, as amended, was read a third time, and passed.

NOTICE OF A BILL.

Mr. FISH gave notice of his intention to ask leave to introduce a bill to provide for the construction of a suitable building for a custom-house, post office, and court-house, at Plattsburg, New York.

BILLS INTRODUCED.

Mr. DODGE, of Wisconsin, in pursuance of previous notice, asked and obtained leave to introduce a bill for the relief of Ephraim Shaler, which was read a first and second time by its title, and referred to the Committee on Pensions.

Mr. ATCHISON asked and obtained the unanimous consent of the Senate, to introduce a joint resolution authorizing the Secretary of the Interior to approve the accounts of the marshal of the district of Missouri, for furniture provided for the use of the circuit court of the United States for said district, at the April term of said court, held at St. Louis, in the year 1854; which was read a first and second time by its title, and referred to the Committee on the Judiciary.

RELIGIOUS LIBERTY ABROAD.

Mr. CASS. I gave notice some time ago that I should ask the Senate, at an early day, to take up the resolutions reported by Mr. Underwood, of Kentucky, on the subject of religious freedom for American citizens residing or traveling abroad. I now present those resolutions for adoption by the Senate. I do not ask that the question be taken on them at this time. My only object is to have the Senate appoint a day for their consideration. I further ask the Senate to assign the first Monday in February for the consideration of the resolutions. I am willing to agree to postpone them to that day, at the suggestion of some members of the Senate who are desirous of having time to look into the matter, and express their views in relation to it. I present the resolutions, and ask that they may be made the special order for the first Monday in February.

The resolutions are as follows:

Resolved, That it would be just and wise on the part of the Government of the United States, in future treaties with foreign nations, to secure, if practicable, to our citizens residing abroad the right of worshipping God freely and openly, according to the dictates of their own consciences, by providing that they shall not be disturbed, molested, or annoyed in any manner, on account of their religious belief, nor in the proper exercise of their peculiar religion, either within their own private houses, or in churches, chapels, or other places appointed for public worship; and that they shall be at liberty to build and maintain places of worship in convenient situations, interfering in no way with, but respecting the religion and customs of the country in which they reside.

Resolved further, That it would be just and wise in our future treaties with foreign nations, to secure to our citizens residing abroad the right to purchase and own burial places, and to bury any of our citizens dying abroad in such places, with those religious ceremonies and observances deemed appropriate by the surviving relatives and friends of the deceased.

The motion of Mr. CASS was agreed to, and the further consideration of the resolutions was postponed until Monday, February 5, and made the special order for that day.

SUSAN COODY AND OTHERS.

Mr. SEBASTIAN. The Committee on Indian Affairs, to whom was referred the amendment in the House of Representatives to the bill of the Senate for the relief of Susan Coody and others, have instructed me to report it back with a recommendation that the amendment be concurred in. It does not vary the provisions of the bill, and I hope the Senate will now agree to it.

The amendment of the House, which was to add at the end of the bill, "*Provided*, That the same shall be received in full of all demands against the Government on this account," was concurred in.

ENGRAVING AND LITHOGRAPHING OF MAPS AND CHARTS.

Mr. JOHNSON. I am directed by the Committee on Printing to report a joint resolution "providing for the engraving, lithographing, and publishing of drawings, maps, charts, and other papers of Congress."

The joint resolution was read a first time, and ordered to a second reading.

It proposes to direct that hereafter when any maps, charts, diagrams, or other engravings, shall be required to illustrate any document ordered to be printed by either House of Congress, it shall first be submitted to the Committee on Printing of that House ordering the printing of the document, and if they shall decide that such engravings are necessary for the proper understanding of the document, they shall so report to the House ordering it, and then shall direct the Superintendent of Public Printing, under their supervision, and in such manner as they shall direct, to contract for the engravings at such time as the public interests may require. It also proposes that the paper necessary for the execution of engravings shall be obtained in the same manner and under the same regulations as other paper for public printing under existing laws.

Mr. JOHNSON. I ask the Senate to act on this joint resolution now. It meets with the approval of the Secretary of the Senate, to whom this business has been heretofore confided; and also of the Committee on Contingent Expenses. I hope there will be no objection to it.

Mr. BADGER. I think that joint resolution had better lie over for a day, that we may look into it. This is a delicate subject, and should be carefully dealt with.

The PRESIDENT. Objection being made, the joint resolution cannot have its second reading to-day.

RELIEF TO DR. KANE.

Mr. BRODHEAD. The Committee on Naval Affairs, to whom were referred memorials from the Chamber of Commerce of New York; from James Brown and others, of New York; from the Board of Trade of Philadelphia; from the Board of Trade of Boston; from the Life-Saving Benevolent Association of New York; from the Marine Insurance Companies of New York; from the American Philosophical Society of Philadelphia, and others, asking Congress to extend relief to Passed Assistant Surgeon Kane, have instructed me to report a joint resolution "respecting the Arctic expedition commanded by Passed Assistant Surgeon E. K. Kane."

The joint resolution was read a first time and ordered to a second reading. It proposes to authorize the Secretary of the Navy to dispatch a suitable naval or other steamer, and, if necessary, a tender, to the Arctic seas, for the purpose of rescuing or affording relief to Passed Assistant Surgeon E. K. Kane, of the United States Navy, and the officers and men under his command. So much money as may be deemed necessary for that purpose, by the Secretary, is proposed to be appropriated. The steamer and tender are to be officered and manned by volunteers from the Navy, and others who may declare their willingness to be so engaged.

Mr. BRODHEAD. In view of the fact that, if we pass any resolution or act upon the subject at all, it should be speedily passed in order to be effective, I hope there will be no objection to the present consideration and adoption of the joint resolution recommended by the Committee on Naval Affairs.

Mr. BADGER. I suggest to my friend from Pennsylvania, that he had better, perhaps, allow hat resolution to stand for a day or two. There is no pressing necessity for acting on it now.

The PRESIDENT. It will lie over if objected to.

Mr. BRODHEAD. I ask for its immediate consideration, because there is a pressing necessity. If we are to send out any expedition, naval or otherwise, to be effective and afford relief, it should go early in the spring; but if we wait until the appropriation bills pass, I fear it will be too late. Still, if the Senator from North Carolina objects, of course the resolution must go over.

Mr. BADGER. I beg my friend from Pennsylvania to understand me. I did not propose at all that this resolution should lie over until the appropriation bills should be disposed of, because I well know that would be an ungenerous mode of procedure towards him, towards the resolution, and towards the meritorious person in whose favor the resolution is offered; but I think it will strike every gentleman that there would be a little precipitation in passing a resolution of this kind at once through the Senate. You will recollect, sir, that the persons engaged in this highly honorable expedition, in whose behalf it is now proposed to send another expedition, left the country in pursuit of Sir John Franklin. It is a very serious question, I think, whether we should engage in a succession of these expeditions, each new one to look after the one preceding it. It may be right, but I think we ought to reflect on it for a day or two. That is all I propose. I am willing to give my friend the earliest opportunity to call it up.

The PRESIDENT. Objection being made to its present consideration, the joint resolution cannot now be acted on. It must go over.

JOHN H. STONE.

On motion by Mr. COOPER, the Senate proceeded to consider, as in Committee of the Whole, House bill for the relief of the legal representatives of Colonel John H. Stone.

It proposes to require the Secretary of the Treasury to pay to the legal representatives of Colonel John H. Stone, the half-pay of a colonel in the Continental line of the army of the United States, to commence August 1, 1779, and to terminate October 5, 1804, the day of his death; it being then due and unpaid to him, in virtue of the resolution of Congress of August 26, 1776, which engaged to allow half-pay for life to such officers and soldiers as should lose a limb in any engagement, or be so disabled in the service of the United States as to render them incapable afterwards of getting a livelihood.

Mr. COOPER. Mr. President, perhaps it is right that I should briefly state the facts of the case. Mr. Stone was commissioned, as a captain, in January, 1776; in February, he was promoted to the rank of colonel, and served from that time until the first day of August, 1779. However, at the battle of Germantown he received several severe wounds—one a wound in the leg, by which he became lame for life, and another wound in the abdomen, which also disabled him. He was disabled during the whole of his life. In 1803 he applied, under a resolution of Congress, to the Secretary of War, for relief. The Secretary of War proposed to allow him a proportion of the amount to which he was entitled. He declined to receive it, and determined, as he informed the Secretary of War at the time, to appeal to the next Congress; but, before the next Congress met, he died. This claim has been presented from time to time, and has been passed on several occasions, by one House or the other, several reports having been made in its favor, and one or two adverse reports. The claim is undoubtedly a good one. It falls within the resolution of Congress of the 26th of August, 1776, which provided that, when a limb of any officer or soldier should be lost in the service of the United States, or when they should become otherwise disabled from performing the business by which a livelihood might be obtained, they should receive the amount which is provided for in this bill. That provision reads as follows:

"That every commissioned officer, non-commissioned officer, and private soldier, who shall lose a limb in any engagement, or be so disabled in the service of the United States as to render him incapable of afterwards getting a livelihood, shall receive, during his lifetime or the continuance of such disability, the one half of his monthly pay from and after the time that his pay as an officer or soldier ceases."

That is precisely what is provided for here. From the day Colonel Stone resigned his commission, on the 1st of August, 1779, to the period of his death in October, 1804, the bill provides that he shall receive half-pay. The committee have unanimously reported the bill, and it is certainly one of the most meritorious cases which has come before Congress.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

EXTENSION OF THE BOUNTY LAND LAWS.

Mr. BUTLER. I ask the Senate now to proceed to the consideration of the order of the day, the bill to modify and amend the judicial system of the United States.

Mr. BRODHEAD. Before we take up that bill, I should like to inquire of my friend from Michigan whether he has yet received from the Departments the information which will enable him to consent to the consideration of the bounty land bill, as soon as this bill shall be disposed of?

Mr. STUART. In reply to the Senator from Pennsylvania, I will remark that I have given that subject my constant attention. I waited upon the officers last evening, and they assured me that in the course of a day or two they would be ready to furnish me with the information I desire. They have the matter now in hand.

JUDICIAL SYSTEM.

The motion of Mr. BUTLER was agreed to; and the Senate accordingly, as in Committee of the Whole, resumed the consideration of the bill to modify and amend the judicial system of the United States.

When the bill was under consideration on the 5th instant, Mr. DOUGLAS moved to strike out all after the enacting clause and insert a substitute, which was published in the proceedings of that day. As, according to parliamentary usage, the original bill may be perfected before taking the question on the substitute, Mr. GEYER moved to strike out the first section of the bill, which is in these words:

"That from and after the passage of this act, the Justices of the Supreme Court of the United States shall not, as heretofore, be required to perform circuit duty, but they shall continue to have and exercise the same jurisdiction and powers now vested in them by law, within any of the circuits in which they may respectively reside, in allowing writs of *habeas corpus*, and writs of error, granting injunctions, and doing all other acts which may be done at chambers and out of term."

Yesterday, Mr. CHASE moved to amend the section proposed to be stricken out, by adding to it the following:

"And no vacancy occurring in the office of an associate Justice of the Supreme Court, shall be filled by a new appointment until the number of members of the court shall be reduced to six; and the Supreme Court shall thereafter consist of a Chief Justice and five associate justices."

The pending question is on this amendment.

Mr. TOUCEY. I shall vote against the proposed amendment of the Senator from Ohio. I am not willing now to enact any legislation of that kind, by this bill. The aim of the committee has been, to present a bill to the Senate which should apply to one great evil which is felt, and to leave out of the bill, all those questions which can with propriety and with advantage be disposed of afterwards. In framing this bill, the object was to innovate as little as possible; to take things as they are; to apply a remedy to the great evil which exists, and is, I believe, universally felt; and not to incumber this measure with any of these collateral questions. I shall, therefore, vote against this amendment, without committing myself as to any future action, with regard to the number of the Judges on the Supreme Court bench.

Mr. BAYARD addressed the Senate in support of the bill presented by the Committee on the Judiciary, and in opposition to the proposed amendment. His remarks, withheld for revision, will appear in the Appendix.

Mr. STUART. I suppose at this hour of the day we shall hardly proceed to a vote, and as there is a necessity for a short Executive session, I move to postpone the further consideration of this bill until to-morrow.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives by Mr. MCKEAN, Chief Clerk, announcing that they had passed the bill of the Senate for the relief of C. E. Greneaux, without amendment.

ENROLLED BILL SIGNED.

The message also announced that the Speaker had signed the following enrolled bill, which thereupon received the signature of the President *pro tempore:*

A bill to continue in force, for a limited time, the provisions of the act of Congress of the 3d of March, 1851, and the second section of its supplement of the 18th of January, 1854, so as to enable the board of land commissioners in California to close their adjudications of private land titles in that State, and for other purposes.

GIBBONS AND KELLY.

Mr. WELLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury furnish the Senate with all the original papers, including the report of the commissioner of customs, in relation to the claim of Gibbon and Kelly, the contractors for building lighthouses in Oregon and California, for the balance which they state is due them; and that he also report to the Senate the amount he has paid said contractors out of the appropriation of $59,134, made at the last session of Congress, to pay said claim, and how much of the said appropriation remains unexpended.

EXECUTIVE SESSION.

On motion by Mr. STUART, the Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 10, 1855.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

The SPEAKER presented to the House a communication from HON. Elisha Whittlesey, Comptroller of the Treasury, transmitting, in conformity with law, a statement of the accounts which have remained unsettled more than three years prior to the 1st of July last, on the books of the Second, Third, and Fourth Auditors of the Treasury, and on the books of the Register of the Treasury.

The communication was laid upon the table, and ordered to be printed.

The SPEAKER also presented a communication from B. B. French, Commissioner of Public Buildings, in compliance with a resolution of the House of Representatives, transmitting copies of all the contracts made in his office from January 1, 1854, to January 1, 1855, with the names of the applicants for said contracts, and the amount of their respective bids.

Mr. HAVEN. I would like to know upon whose call that information has been sent in?

The SPEAKER. It is an annual report, as the Chair understands, in conformity to a resolution of this House, of some years standing.

Mr. HAVEN. Then I move that it be laid on the table, and printed.

The motion was agreed to.

BILLS INTRODUCED.

Mr. PHILLIPS, by unanimous consent, introduced the following bill; which was read a first and second time by its title, and referred to the Committee on Commerce:

A bill to regulate the carrying of spirits of turpentine.

Mr. ELIOT, of Massachusetts. I ask the unanimous consent of the House to introduce one or two bills, merely for the purpose of reference.

Mr. CLINGMAN. I do not object to any of these things, if they come out of the morning hour.

The SPEAKER. The morning hour has not yet commenced. The business first in order is the consideration of the bill reported from the Committee on Public Lands, known as the land graduation bill, upon which the previous question has been demanded.

Mr. CLINGMAN. I do not object now, if the morning hour is considered as commenced.

The SPEAKER. The morning hour has now commenced, and the gentleman from Massachusetts asks leave to introduce two or three bills for the purpose of reference. The Chair hears no objection.

Mr. ELIOT thereupon, by unanimous consent, introduced the following bills; which were severally read a first and second time by their titles, and referred to the Committee on Commerce:

A bill making appropriation for continuing the improvement for the preservation of Great Wood's Hole harbor, Massachusetts;

A bill making appropriation for continuing the repairs of the breakwater at Hyannis harbor, Massachusetts;

A bill making appropriation for continuing the improvement of the harbor at New Bedford, Massachusetts; and

A bill for the preservation of the harbor of Nantucket, Massachusetts.

Mr. RICHARDSON, by unanimous consent, introduced the following bill, of which previous notice had been given; which was read a first and second time by its title, and referred to the Committee on Commerce:

A bill to improve the Mississippi river and its tributaries.

ZELIA M. CROSBY.

Mr. FLORENCE, by unanimous consent, changed the reference of the petition of Zelia M. Crosby from the Committee on Naval Affairs to the Committee on Invalid Pensions.

THE HOMESTEAD BILL.

Mr. HENDRICKS. I would ask if the homestead bill is not the business first in order during the morning hour?

The SPEAKER. It is.

Mr. HENDRICKS. Then I object to any business being done, except the consideration of that bill.

Mr. WARREN. Mr. Speaker——

The SPEAKER. The gentleman from Indiana has objected to the consideration of any other but the business belonging to the morning hour.

Mr. WARREN. I simply desire to put a question to the Chair. Has the call for the previous question on the commitment of the graduation bill and amendments been seconded?

The SPEAKER. It has not.

Mr. WARREN. Is a motion to strike out all after the enacting clause now in order?

The SPEAKER. No motion is in order until the question has been taken on seconding the demand for the previous question.

Mr. EDMANDS. I would ask the unanimous consent of the House for leave to introduce a bill of which I have given previous notice.

The SPEAKER. The gentleman from Indiana [Mr. HENDRICKS] objects to the consideration of any other business than that belonging to the morning hour. If that objection be withdrawn, the Chair will be pleased to receive the gentleman's bill. The previous question has been demanded. Is there a second?

Mr. HENN. What does the call for the previous question cover?

The SPEAKER. The call for the previous question will first apply to the motion to commit to the Committee of the Whole on the state of the Union.

Mr. HENN. There is pending, I believe, a motion to print, and I would inquire of the Chair whether the call for the previous question covers that motion?

The SPEAKER. It does. There are two motions pending—one to commit to the Committee of the Whole on the state of the Union and print, and the other to recommit to the Committee on Public Lands.

Mr. CAMPBELL. Then the pending motion is to commit to the Committee of the Whole on the state of the Union and print?

The SPEAKER. It is.

Mr. CAMPBELL. Yesterday when that motion was pending, I called for the previous question. I withdraw that call for a few moments, in order to submit a few remarks. I desire to state that I am in favor of a properly guarded and restricted homestead bill; but I do not believe in this system of tacking a great measure of that kind to the bill which came from the Committee on Public Lands. We passed a bill at the last session of Congress, which was returned from the Senate with what is commonly called HUNTER's substitute. That substitute is now upon the Speaker's table.

Mr. WARREN. I thought I understood the Chair to decide that there was a call for the previous question pending. If it is pending, then discussion is out of order.

The SPEAKER. The gentleman from Ohio called for the previous question yesterday, and he has now withdrawn it for the purpose of submitting a few remarks.

Mr. CAMPBELL. In my judgment, the best course for us to pursue during this short session, is to take the measure as it was matured by the Senate when we reach it on the Speaker's table. I myself regard that measure as one fraught with great danger to the interests of the new States. I think that it will tend to build up a system of monopolies which will prove disastrous. I wish the House, at the proper time, to take that bill up, and to make such modifications as it may deem best.

I repeat that I do not like this way of tacking the homestead bill to the bill for the graduation of the price of the public lands which came from the Committee on Public Lands, and then driving it through the House under the previous question. Therefore, I am in favor of the motion which has been submitted by the gentleman from South Carolina, [Mr. ORR,] to commit the bill and amendments to the Committee of the Whole on the state of the Union; and on that motion I now renew my demand for the previous question.

Mr. ORR. I shall say a few words and then withdraw my motion for reference to the Committee of the Whole on the state of the Union.

Mr. DAWSON. I would ask the gentleman to yield to me a moment, that I may make a brief reply to the remarks of the gentleman from Ohio.

Mr. ORR. The previous question has been called for, and neither of us have a right to the floor.

Mr. DAWSON. Then, will the gentleman from Ohio withdraw his call for the previous question for a short while, for reply to what he has said?

Mr. CAMPBELL. I should like to accommodate my friend from Pennsylvania; but we heard him yesterday in a very eloquent and able argument for an hour, and if I withdraw the call for him now, it will necessarily open the door for debate. I think that we ought to proceed to the consideration of other business, go to the Speaker's table, and then act on the bill as matured by the Senate, and, therefore, I cannot yield.

Mr. WASHBURN, of Maine. Mr. Speaker——

The SPEAKER. There is a call for the previous question pending, and unless the gentleman rises to a question of order, he is not in order.

Mr. ORR. I desire to withdraw the motion which I made yesterday; and, in doing so, to state my reasons. I hope the gentleman from Ohio will withdraw his call for the previous question for that purpose?

Mr. CAMPBELL. I withdraw the call for the previous question.

Mr. ORR. Mr. Speaker, I propose to withdraw the motion for the reference of the bill and amendments to the Committee of the Whole on the state of the Union. The friends of the homestead amendment are anxious to secure a direct vote on it. As suggested by the gentleman from Ohio, there is a homestead bill now upon the Speaker's table. The question is to be met by the House sooner or later, and I think the sooner it is met and disposed of the better. I am prepared to vote on it now, or at any subsequent day. I am opposed to the passage of the homestead bill. I did not vote against it on a former occasion, because I was then accidentally absent from the House. I think, with the amendment which I shall indicate, and with the amendment which has been proposed by the gentleman from Tennessee, [Mr. ETHERIDGE,] limiting the benefits of the provisions of this act to citizens of the United States, including only such foreigners as are now naturalized, the bill will be stripped of many of its most objectionable features.

Yet the bill will be insuperably objectionable to me on two grounds. In the first place, if the bill is passed, you will take a common fund belonging to all of the States, the old as well as new; and with it hold out an inducement for the population of the old States to leave them, and fill up the new ones, thus depriving us of our strength and wealth. And you do it by taking a common fund which belongs as much to us as it does to you of the new States. You induce people to remove from the old States, and make that inducement out of property which equally belongs to us. That is one of my insuperable objections to the amendment.

Mr. JONES, of Tennessee. With the gentleman's permission, I will interrupt him to make but a single remark. He says that this bill holds out inducement to the people of the old States to remove to the new ones, for the purpose of getting a common fund which belongs equally to both. He says that we shall thus deprive the old States of their benefit of that common fund. Now I ask the gentleman whether it will be ever possible to settle the new States, or to settle the public land, unless the settlers come from the old States? If you permit them to go there, and to settle and cultivate the public land, do you not benefit both the settlers and the old States? Do you not benefit the old States to the extent that, instead of leaving them and paying for the land, they get it by cultivating it.

Mr. ORR. I suppose that the natural increase of population, together with the emigration from abroad, would settle the new States as fast as is desired. But there is an inducement here held out to the man in an old State to emigrate to one of the new States or Territories, that when he shall get there he will receive one hundred and sixty acres of land. Many farmers who were doing well in the old States, who were comfortably housed and circumstanced, have been decoyed by such inducement to the West, and instead of being bettered, they have been injured in their pecuniary and personal condition. The other objection I have to indicate is this——

Mr. OLDS. I wish to ask the gentleman a question.

Mr. ORR. I will yield to the gentleman in a moment.

Mr. OLDS. The question I wish to ask is in reference to the very point the gentleman is now on. I wish to ask the gentleman if it has not been the policy of the Government, in all times past, in the organization of the Territories, to give the lands to the settlers for the purpose of inducing them to emigrate thither? I ask him if it has not been the uniform policy of the Government to hold out inducements for emigration, both from

the old States and the new, to the Territories; and if it has, whether the gentleman's argument does not apply with equal force against the policy which has been pursued with regard to the new States and Territories?

Mr. ORR. Mr. Speaker, the policy of which the gentleman speaks is of very modern origin, not more than five or six years old. If I mistake not, the first time the Government undertook to hold out inducements for settlers to emigrate to the Territories was by the law passed in 1850 for the benefit of the Territory of Oregon; and the gentleman knows as well as I do, the reason why that clause was inserted in the bill. It was a Territory very remote from us, and it was not at all certain that we should not be involved in difficulties with reference to it. The journey thither was a long and hazardous one, and the Government agreed to give the settlers three hundred and twenty acres each, not so much for the purpose of abstracting the population of the old States, as with a view of peopling this Territory for its own defence. I say, therefore, that this is altogether a modern policy. You cannot go further back in the organization of our Territories and find this policy ingrafted.

Mr. DAWSON. I beg the gentleman's pardon. It is a policy which is as old as the Government itself. Grants of land, on a large and munificent scale, with a view to settlement, have been almost coeval with the discovery of America. It was the policy of Mr. Jefferson, in proposing the settlement of a portion of the Louisiana purchase west of the Mississippi. It was the policy suggested by the law of 1791, by which grants of land were made to settlers at Vincennes. It was the policy of the law of 1792, making grants of land to the Ohio company for actual settlers. It was the policy in the law of 1795, making similar grants of land to the settlers at Gallipolis. It has been the policy of the Government almost from its earliest foundation down to the present time. It was the policy of the British Government in the settlement of New England, in the settlement of Virginia, and in the settlement of the very State which the gentleman himself so ably, in part, represents upon this floor. The whole Atlantic coast was settled by grants from the monarchs of England down to the Revolution of 1688, and many of the title deeds are now traced back to these very grants. The State which I have the honor, in part, to represent, stretching from the Delaware to the Ohio, and reaching to the lakes—a State numbering a population of more than two million and a quarter of inhabitants, unrivaled in its manufactures, and nearly so in its commerce, and containing a city upon the very spot where its illustrious founder first landed, unequaled in beauty, in institutions of learning, of art and benevolence—was granted to William Penn by James II., by patent duly confirmed.

And further, sir, it was this very policy, adopted by the British Government, which suggested the idea of the formation of this Confederacy, which is the boast of every American. Sir, the Confederacy of these States, was not a new idea. It was suggested by colonial settlements, based upon charters and grants of land, and the suggestion of a Confederacy, was, in consequence, a historical creation. It is to the adoption of that policy, to which we owe much of our growth, our present greatness and power.

Now, having disposed of this part of the gentleman's proposition, I desire to say a word further. The gentleman from South Carolina says, it is the policy of this bill to encourage emigration from the old States to the new States. I think not. I think it holds out no improper inducements, to citizens of the old States to emigrate to the West. But, I say to him, that if the tenantry in New England, in New York, in Pennsylvania, or in any portion of the South, can better their condition by emigrating and establishing freeholds for themselves in the great valley of the Mississippi, I, for one, say that the policy that encourages such emigration will meet my most cordial approbation. It is not against the public policy to establish a community of freeholders, all deeply interested in the preservation of our republican institutions.

The gentleman says that the natural increase, together with the foreign population, will settle up the new States fast enough. Now, sir, let me ask him if the natural increase in Kansas and Nebraska, together with the foreign emigration, would settle up those Territories and build them up into great States?

Mr. ORR. I asserted that the policy of making grants of land for the purpose of settling the Territories, so far as the action of the Government was concerned, was a new one. The gentleman professes to quote laws passed by Congress. Now, sir, if he will examine those acts he will find that in every single case they are local and special in their application. He will find that they are for some special purpose.

Mr. DAWSON. So much the worse.

Mr. ORR. No, sir; it is not so much the worse. This is the first time that this has ever been sought to be initiated a general policy of the Government. As to the original settlement of these States, or as to what the policy of the King of Great Britain was prior to the independence of the Colonies, I do not propose to discuss that; nor do I think it is a matter of very much consequence in determining what shall be our policy. I have only to reiterate the declaration I have already made, that it is a policy most ruinous to the old States to encourage emigration from them to the new States, and to furnish the means for that encouragement out of the common fund.

Mr. GROW. Will the gentleman yield to me for a moment?

Mr. ORR. I cannot yield further. I rose for the purpose of making a few very brief remarks, which should not occupy the House more than five minutes, but more than twenty minutes of my time have already been consumed by other gentlemen, and I shall not trespass much further.

One other objection which I desire to indicate to this bill, is this: The tendency now is, it seems to me, to make the people of the country lean too much upon the Government. It is a wrong policy. The Government should lean upon the people. It is time to stop the practice of appropriating the common funds of the Government for every conceivable purpose. It is centralizing in its tendency; and the passage of such an act as this will only serve to increase the tendency. I am, therefore, opposed to the passage of the bill. I think it ought to be defeated; but if it is to pass, I believe it would be less objectionable with an amendment which, if it is in order, I would like to indicate.

The amendment of the gentleman from Tennessee, [Mr. JONES,] as it now stands, fixes the price of the lands at fourteen and a half cents per acre. The price to be paid should, in no event, be fixed at less than twenty-three and a half cents per acre, which, the report of the Commissioner of the General Land Office says, is the cost of the lands, including the extinguishment of the Indian titles, surveys, &c. I would prefer, myself, to fix it, in round numbers, at twenty-five cents.

I have now said what I proposed to say; and, thanking the gentleman from Ohio for his courtesy in withdrawing the demand for the previous question, I resign the floor.

Mr. CAMPBELL obtained the floor.

Mr. ETHERIDGE claimed the floor.

Mr. CAMPBELL. I now renew the motion to refer; but, before I call for the previous question, I desire to say a single word.

The SPEAKER. If the gentleman from Ohio proposes to discuss the proposition, the Chair must award the floor to the gentleman from Tennessee, the gentleman from Ohio having once spoken upon the pending question.

Mr. CAMPBELL. I will not discuss it, then. I had supposed that, in yielding to the gentleman from South Carolina for explanation, I still retained the floor. Believing, however, that we can reach the whole matter in reference to graduating and reducing the price of the public lands by the Hunter bill, I move that this bill, with the amendments, be committed to the Committee of the Whole on the state of the Union, and upon that motion I demand the previous question.

The SPEAKER. The Chair may have done the gentleman from Ohio injustice inadvertently. If the gentleman withdrew the demand for the previous question, intending to resume the floor, not having yielded it, why he would have a right to go on now.

Mr. CAMPBELL. That was my understanding. But I only desire to say, that we have a bill here which came from the Senate, as a substitute for the homestead bill of last session, and which is known as the Hunter bill. I desire to see gentlemen upon this floor "face the music" upon the principles of that bill, especially my friends from Virginia; and it is for that reason that I desire this bill to go to the Committee of the Whole on the state of the Union, in order that they may meet the Hunter bill when we come to the Speaker's table.

It is not my purpose to consume the time of the House by discussing the merits of these several propositions. I therefore move the previous question upon the motion to commit the bill, and I will not withdraw it unless some gentleman wishes to submit an amendment.

Mr. COBB. Will the gentleman withdraw it for one moment, to enable me to make an inquiry of the Chair?

Mr. CAMPBELL. Let the gentleman indicate what the question is. It may be in the nature of debate.

Mr. COBB. The question is this: If the previous question be sustained, will it not cut off all the amendments that could possibly be offered to the homestead bill, and everything else?

Several MEMBERS. Of course it will.

Mr. COBB. I know it will, but I want the House to understand it.

The SPEAKER. The Chair will state what will be the effect of the previous question, in order that gentlemen may vote understandingly.

The amendment proposed by the gentleman from Tennessee [Mr. JONES] is not amendable at all, being itself an amendment to an amendment. The effect of ordering the main question will be to bring the House to vote first upon the motion to refer to the Committee of the Whole on the state of the Union and print. If that fails, then upon the amendment of the gentleman from Tennessee, and so on.

Mr. WASHBURN, of Maine. I would ask the gentleman from Ohio to withdraw his motion for the previous question to enable me to offer an amendment.

Mr. OLDS. No amendment would be in order.

The SPEAKER. The Chair has already stated, and now repeats, that the amendment proposed by the gentleman from Tennessee, and spoken to by the gentleman from Pennsylvania [Mr. DAWSON] yesterday, is not amendable, for the reason that it is itself an amendment to an amendment.

Mr. WASHBURN. Precisely. But I would inquire of the Chair if that amendment is to the first section of the bill?

The SPEAKER. The gentleman from Tennessee proposes an amendment to the amendment of the Committee on Public Lands to the original bill.

Mr. WASHBURN. Very well. Then I would respectfully inquire whether it is not in order to perfect the first section of the original bill before the vote is taken upon the substitute?

The SPEAKER. That is true. It would be in order, as the amendment of the committee is in the nature of a substitute.

Mr. WASHBURN. Then would this amendment be in order—to insert after the words, "public lands," in the first section, the words "shall be, and is hereby, repealed." My object is to repeal the graduation bill passed last session, believing it to have been a source of fraud and wrong.

[Loud cries of "Order!"]

The SPEAKER. The Chair thinks such a motion would be in order.

Mr. WASHBURN. Well, then, I offer that amendment.

The SPEAKER. But at this time the amendment is not in order, because the demand for the previous question is pending.

Mr. MAXWELL. I desire to inquire whether, if this amendment be adopted, it will be in order to add to the section the amendment indicated the other day by the gentleman from Virginia [Mr. LETCHER]—the Hunter land bill?

The SPEAKER. It will not.

The previous question was then seconded.

Mr. WASHBURN. Before the main question is ordered, I wish to understand whether the Chair ruled my amendment out of order?

The SPEAKER. Certainly. It was not in order, because of the pendency of the demand for the previous question.

Mr. WASHBURN. I understood that the gentleman from Ohio withdrew his demand for the

previous question on purpose to enable me to offer the amendment.

Mr. CAMPBELL. I did not withdraw it, because I believed the gentleman's amendment would not be in order.

Mr. OLDS. It is certainly too late to offer the amendment now.

The main question was then ordered to be put, being first upon Mr. CAMPBELL's motion to refer the bill and the pending amendments to the Committee of the Whole on the state of the Union, and that they be printed.

Mr. COBB. Is it in order now for the reporter of the bill to make a few remarks?

The SPEAKER. Not until the motion to commit has been decided and the House has indicated its purpose to take final action on the bill.

Mr. GROW. I would inquire of the Chair whether the amendment proposed by the gentleman from Virginia, [Mr. LETCHER,] Mr. HUNTER's bill, will go with this bill to the Committee of the Whole on the state of the Union if that reference is made?

The SPEAKER. It will not, because it is not pending as an amendment, or in any way attached to the bill.

Mr. DAWSON. I ask for the yeas and nays on the motion of the gentleman from Ohio.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 82, nays 89; as follows:

YEAS—Messrs. Appleton, Ashe, Thomas H. Bayly, Ball, Barksdale, Belcher, Bennett, Benson, Bocock, Boyce, Bristow, Bugg, Campbell, Carpenter, Caskie, Chase, Chastain, Clingman, Corwin, Craige, Crocker, Cullom, Thomas Davis, Dick, Edmands, Edmundson, Etheridge, Franklin, Fuller, Giddings, Goode, Goodwin, Hamilton, Aaron Harlan, Haven, Hibbard, Hill, Hillyer, Hunt, Johnson, Keitt, Kerr, Kidwell, Lamb, Letcher, Maxwell, Millson, Morrison, Orr, Parker, Pennington, Bishop Perkins, John Perkins, Powell, Pratt, Pringle, Puryear, Ready, Reese, Riddle, Rogers, Rowe, Ruffin, Sabin, Sage, Seward, Seymour, Shaw, Shower, Simmons, William Smith, William R. Smith, John L. Taylor, Teller, Thurston, Wade, Walley, Walsh, Warren, Israel Washburn, Daniel B. Wright, and Zollicoffer—82.

NAYS—Messrs. Abercrombie, James C. Allen, Willis Allen, David J. Bailey, Banks, Breckinridge, Chamberlain, Chandler, Chrisman, Churchwell, Clark, Cobb, Cook, Cox, Curtis, John G. Davis, Dawson, De Witt, Dowdell, Dunbar, Dunham, Eastman, Eddy, Thomas D. Eliot, John M. Elliott, Ellison, English, Farley, Fenton, Florence, Green, Greenwood, Grow, Sampson W. Harris, Hastings, Hendricks, Henn, Hiester, Houston, Howe, Hughes, George W. Jones, J. Glancy Jones, Knox, Kurtz, Latham, Lindsley, McDougall, McMullin, Mace, Macy, Matteson, Maurice, Mayall, Middleswarth, Smith Miller, Murray, Nichols, Norton, Olds, Andrew Oliver, Peck, Phelps, Phillips, David Ritchie, Robbins, Sapp, Shannon, Singleton, Skelton, Samuel A. Smith, G. W. Smyth, Frederick P. Stanton, Alexander H. Stephens, Hestor L. Stevens, Stratton, Straub, Andrew Stewart, John J. Taylor, Trout, Upham, Walbridge, Walker, Elihu B. Washburne, Wells, Tappan Wentworth, Westbrook, and Wheeler—89.

So the House refused to refer the bill to the Committee of the Whole on the state of the Union.

Before the result of the above vote was announced,

Mr. LEWIS said, I was within the bar when the House commenced taking the vote, but I went out for a moment, and was absent when my name was called. Am I entitled to a vote?

The SPEAKER. Was the gentleman within the bar when his name was called, or before the next name was called?

Mr. LEWIS. No, sir; I was not.

The SPEAKER. Then the gentleman has no right under the rules to vote.

Mr. LEWIS. Then, I wish to say that if I had been permitted to vote, I should have voted "aye"—that is, in favor of referring the bill to the Committee of the Whole on the state of the Union.

The question then recurred upon Mr. DAWSON's motion to recommit the bill to the Committee on Public Lands.

Mr. DAWSON. I hope there will be no objection to my withdrawing that motion, that we may proceed at once to vote upon the amendments.

Mr. BAYLY, of Virginia. I object, if nobody else does.

Mr. McMULLIN. I desire to know if it is not competent for me now to move to reconsider the vote by which the previous question was ordered?

The SPEAKER. It would be in order, perhaps, for the gentleman to move to reconsider the vote by which the main question was ordered to be put.

Mr. McMULLIN. I desire to inform the House, and my colleague, [Mr. SMITH]——

The SPEAKER. The gentleman is aware that debate is not in order.

Mr. McMULLIN. Then, sir, I move to reconsider the vote by which the main question was ordered to be put.

Mr. JONES, of Tennessee. I wish to make an inquiry of the Chair. Suppose the vote by which the main question was ordered is reconsidered, will it be possible for any amendments to be offered to this bill until the House has voted upon the pending amendment?

The SPEAKER. The Chair will again state to the House that the amendment proposed by the gentleman from Tennessee is not amendable under the rules of the House, that amendment being offered to an amendment to the original bill.

Mr. JONES. Well, it is not very probable that we shall get a vote upon that amendment without the previous question.

Mr. HOUSTON. Let us vote upon it, then.

Mr. McMULLIN. I do not desire to debate this question myself. My object is, to afford an opportunity to my colleagues [Messrs. SMITH and LETCHER] of discussing the measure. I am in favor of the amendment of the gentleman from Tennessee.

Mr. SMITH, of Virginia. I desire to make an inquiry of the Chair. I understand that the proposition now before the House is to recommit the bill with the amendments to the Committee on Public Lands. Now, if the bill is sent back to the Committee on Public Lands, will it not be open for debate after the action of that committee?

The SPEAKER. Certainly it will.

Mr. SMITH. Then I can see no objection to its re-reference to the Committee on Public Lands

Mr. McMULLIN. But I will say to my colleague that it is by no means certain that it will go to the Committee on Public Lands.

Mr. DAWSON. I move to lay the motion to reconsider upon the table.

The SPEAKER. The Chair thinks that motion is hardly in order. Certainly it cannot be necessary, as the motion to reconsider is not debatable.

Mr. McMULLIN. I do not desire to embarrass this bill at all. I am a friend to it; and if the friends of the bill desire its recommittal to the Committee on Public Lands, I will withdraw my motion to reconsider.

Mr. DAWSON. We do not desire it at all.

Mr. McMULLIN. Then I shall insist on the motion to reconsider.

Mr. WALSH. As there seems to be a great desire to get upon the record, and as it appears to be contagious, I may as well indulge in it myself. I would inquire of the Chair, at what stage of the proceedings these questions cease? [Laughter.]

The SPEAKER. All debate must cease the very moment the rules are enforced. [A laugh.]

The question was taken on the motion of the gentleman from Virginia, [Mr. McMULLIN;] which was not agreed to.

The question recurred on the motion to recommit the bill and amendments to the Committee on Public Lands.

Mr. JONES, of Tennessee. I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 85, nays 89; as follows:

YEAS—Messrs. Appleton, Ashe, Ball, Barksdale, Belcher, Bennett, Benson, Bocock, Boyce, Bristow, Bugg, Campbell, Carpenter, Caskie, Clingman, Cobb, Corwin, Craige, Crocker, Cullom, Thomas Davis, Dick, Dowdell, Edmands, Edmundson, Thomas D. Eliot, Etheridge, Flagler, Franklin, Fuller, Giddings, Goode, Goodwin, Hamilton, Aaron Harlan, Sampson W. Harris, Haven, Hibbard, Hill, Hillyer, Hunt, Keitt, Kerr, Kidwell, Knox, Lamb, Letcher, Lewis, Maxwell, Millson, Morrison, Norton, Orr, Parker, Pennington, Bishop Perkins, John Perkins, Powell, Pratt, Pringle, Puryear, Ready, Reese, Riddle, Rogers, Rowe, Ruffin, Sabin, Sage, Seward, Seymour, Shaw, Shower, Simmons, William Smith, William R. Smith, Sollers, John L. Taylor, Nathaniel G. Taylor, Teller, Walley, Warren, Israel Washburn, Daniel B. Wright, and Zollicoffer—85.

NAYS—Messrs. Abercrombie, James C. Allen, Willis Allen, David J. Bailey, Banks, Breckinridge, Caruthers, Chamberlain, Chandler, Chastain, Chrisman, Churchwell, Clark, Cook, Cox, John G. Davis, Dawson, De Witt, Dunbar, Dunham, Eastman, Eddy, John M. Elliott, Ellison, English, Farley, Fenton, Florence, Goodrich, Green, Greenwood, Grow, Hastings, Hendricks, Henn, Hiester, Houston, Howe, Hughes, Ingersoll, George W. Jones, J. Glancy Jones, Roland Jones, Kurtz, Latham, Lindsley, Macdonald, McDougall, McMullin, Mace, Macy, Matteson, Maurice, Mayall, Middleswarth, Smith Miller, Murray, Nichols, Olds, Andrew Oliver, Peck, Phelps, David Ritchie, Robbins, Sapp, Shannon, Singleton, Skelton, Samuel A. Smith, George W. Smyth, Frederick P. Stanton, Alexander H. Stephens, Hestor L. Stevens, Stratton, Straub, Andrew Stuart, John J. Taylor, Thurston, Trout, Tweed, Upham, Wade, Walbridge, Walsh, Elihu B. Washburne, Wells, Tappan Wentworth, Westbrook, and Witte—89.

So the bill was not recommitted to the Committee on Public Lands.

The SPEAKER. The question now recurs on the adoption of the amendment proposed by the gentleman from Tennessee, [Mr. JONES.]

Mr. HIESTER. Has the morning hour expired?

The SPEAKER. The morning hour has expired; but the main question having been ordered, no motion is in order till the bill with amendments be disposed of. The question now is on the amendment submitted by the gentleman from Tennessee.

Several MEMBERS. Let it be read.

The amendment was reported, as follows:

Strike out the following words:

Provided, That the portion of said law that has been construed as authorizing the entry of lands under said graduating act, or filing a declaration of intention to enter lands for the use of the applicant, and for the purpose of settlement and cultivation, shall hereafter be considered as authorizing an entry in such cases only on proof of actual settlement and improvement by the party making such application under such rules and regulations as may be prescribed by the Secretary of the Interior for that purpose.

And insert in lieu thereof, the following:

And be it further enacted, That any free person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, shall, from and after the passage of this act, be entitled to enter, at the rate of fourteen and one half cents per acre, to be paid at the expiration of five years from the date of such entry, one quarter section of vacant and unappropriated public lands, which may, at the time the application is made, be subject to private entry at or below one dollar and twenty five cents per acre, or a quantity equal thereto, to be located in a body, in conformity with the legal subdivisions of the public lands, and after the same shall have been surveyed.

SEC. 2. *And be it further enacted*, That the person applying for the benefit of this act shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before the said register that he or she is the head of a family, or is twenty-one years of age, and that such application is made for his or her exclusive use and benefit, and those specially mentioned in this act, and not, either directly or indirectly, for the use or benefit of any other person or persons whomsoever; and upon making the affidavit, as above required, and filing the affidavit with the register, he or she shall thereupon be permitted to enter the quantity of land already specified: *Provided, however*, That no certificate shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if, at the expiration of such time, the person making such entry, or, if he be dead, his widow, or, in case of her death, his heirs or devisee, or, in case of a widow making such entry, her heirs or devisee, in case of her death, shall prove, by two credible witnesses, that he, she, or they, have continued to reside upon and cultivate said land, and still reside upon the same, and have not alienated the same, or any part thereof, then, in such case, he, she, or they, shall be entitled to a patent, as in other cases provided for by law: *And provided, further*, In case of the death of both father and mother, leaving an infant child, or children, under twenty-one years of age, the right and the fee shall inure to the benefit of said infant child or children, and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children, for the time being, have their domicile, sell said land for the benefit of said infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States.

SEC. 3. *And be it further enacted*, That the register of the land office shall note all such applications on the tract books and plats of his office, and keep a register of all such entries, and make return thereof to the General Land Office, together with the proof upon which they have been founded.

SEC. 4. *And be it further enacted*, That if, at any time after filing the affidavit as required in the second section of this act, and before the expiration of the five years aforesaid, it shall be proven, after due notice to the settler, to the satisfaction of the register of the land office, that the person having filed such affidavit shall have actually changed his or her residence, or abandoned the said entry for more than six months at any time, then, and in that event, the land so entered shall revert back to the Government, and be disposed of as other public lands are now by law, subject to an appeal to the General Land Office.

SEC. 5. *And be it further enacted*, That if any individual now a resident of any one of the States or Territories, and not a citizen of the United States, but, at the time of the passage of this act, shall have filed a declaration of intention as required by the naturalization laws of the United States, and shall become a citizen of the same before the issuing of the patent, as made and provided for in this act, shall be placed upon an equal footing with the native-born citizen of the United States.

SEC. 6. *And be it further enacted*, That no individual shall be permitted to make more than one entry under the provisions of this act; and that the Commissioner of the

General Land Office is hereby required to prepare and issue such rules and regulations, consistent with this act, as shall be necessary and proper to carry its provisions into effect; and that the registers and receivers of the several land offices shall be entitled to receive the same compensation for any lands entered under the provisions of this act that they are now entitled to receive when the same quantity of land is entered with money, one half to be paid by the person making the application, at the time of so doing, and the other half on the issue of the certificate by the person to whom it may be issued: *Provided, however*, That all persons entering land under the provisions of this act shall, as near as may be practicable, in making such entries, be confined to each alternate quarter section, and to land subject to private entry: *And provided further*, That nothing in this act shall be so construed as to impair or interfere in any manner whatever with existing preemption rights: *Provided further*, That the provisions of this act shall be so construed as to authorize the class of persons provided for in the foregoing part of this act, who may not own one hundred and sixty acres of land, to enter, at the rate of fourteen and one half cents per acre, any of the public lands adjoining his or her farm subject to entry at the minimum price per acre, a quantity when added to what they now own, equal to one hundred and sixty acres, provided he or she shall cultivate the whole or a part thereof.

Mr. COBB. I believe now, Mr. Speaker, that I have a right to make a few remarks on the subject of this bill.

The SPEAKER. Yes; the gentleman from Alabama is entitled to the floor.

Mr. COBB. It is due to me, in behalf of the measure which I have presented by order of the Committee on Public Lands—by an almost unanimous order of that committee—that I should submit to this House a few facts, through which I may, perhaps, succeed in satisfying, if not members on this floor, at least, persons at a distance, of the course which we should pursue in connection with the subject now before the House. The amendment which I was ordered by the Committee on Public Lands to report to this House, is eminently proper. I suppose that, if the vote were taken by yeas and nays on that amendment, there would not be ten votes adverse to it. The measure which we have before us now is one not proposed by the friends, but by the enemies of the graduation bill. What I have, therefore, to complain of—and which I do complain of, though not in a feeling of bitterness—is the course of the gentleman from Pennsylvania, [Mr. DAWSON,] in proposing to attach to a measure which, perhaps, every member of the House would be willing to vote for by acclamation, another, and a different proposition, which is not, perhaps, so favorably regarded by this House.

If I were the author of a great measure, I would prefer to present it as a distinct and separate proposition, to be carried through upon its own merits, and thereby obtain more honor than if I were to attach it to a matter to which little opposition was made. The measure that I have had the honor to report to the House from the Committee on Public Lands, I am willing should stand upon its own merits. I say that I would not have attached a proposition in which I felt a deep solicitude to a measure to which nobody had any objection, and thus attempt to carry it through this House. So far as the homestead provision is concerned, which the gentleman from Pennsylvania proposes to attach to the graduation measure, I would respectfully ask that gentleman to withdraw it, and let the two provisions be voted upon by the House separately and distinctly. I have another measure, of less importance to the country, that I shall immediately offer when the Committee on Public Lands shall be called upon to report, to which the gentleman from Pennsylvania can attach his measure, and he will receive equally as much credit for his advocacy of the homestead, as he would by attaching it to a measure to which nobody has any objection.

Mr. DAWSON. In reply to the gentleman from Alabama, I would say, that there is nothing incongruous in these proceedings; and I would refer to the fact, that the gentleman himself, at the very last session of Congress, reported a bill graduating and reducing the price of public lands, with a homestead proposition attached to it. There is no impropriety in attaching the two measures together, and such a course seems to me eminently proper. As to the request of the gentleman from Alabama, that I would withdraw my proposition, I will merely say, that I have listened attentively to his suggestions, and I will certainly answer him when he has concluded his remarks.

Mr. COBB. I was anxious to allude to the very thing of which the gentleman has spoken; but it being a private matter, connected with a private effort, I felt a delicacy in doing so. As the gentleman himself has now opened the matter, I have no hesitation in now referring to it. I did report the graduation bill of the last session, with the homestead provision attached to it, and such a provision I will vote for to-day. It was the homestead provision, without the fifth section of the bill as now reported by the gentleman from Pennsylvania. I will state further, that I used every effort in my power, by constant appeals to that gentleman, to allow the two bills to pass together; but he refused to do so throughout, and voted against the graduation bill. He then refused to do it throughout, but he is now willing to attach his proposition to one that he refused to be connected with at the last session of Congress. Why did he fight against my measure so valiantly? Because he was afraid that it would prejudice the measure which he had in charge. Now, that the measure I reported has passed, and has been indorsed by the country, he is willing to attach his proposition to a bill that has been introduced here amendatory of the same.

I desire to state here, that I will vote for a homestead bill. I voted for that measure at the last session of Congress, and I advocated it upon every stump in my district, where I was called upon to make a speech. I am instructed, then, to vote for a homestead bill; but what kind of a bill must be presented that I will vote for? One thing I can assure gentlemen, that I am most decidedly opposed to its being attached to the graduation bill. I state further—and the gentleman himself knows it, and this House knows it—that if the homestead proposition is attached to this bill amendatory of the graduation bill of the last session—which relates merely to the machinery by which it is to be executed—that it will never pass the Senate. If I seek popularity at all, let me seek it upon a measure that I believe will pass, and not upon a measure that I believe will be defeated. I advocate the passage of the measure I have presented as a separate and independent proposition, because I am satisfied that it will pass both Houses.

The gentleman from Pennsylvania must know that his bill cannot pass the Senate, consequently, if it is attached to the graduation measure, both measures will inevitably be defeated, and the benefits resulting from my proposition will be lost to the country. If I had been as warm a friend of the homestead as he pretends to be, I would have brought it up at an early day of the session upon its own merits, so that we might have had a fair fight over the proposition of the Senate, as well as the proposition I have submitted. The gentleman knows, and I want the country to know, and that they may believe, that this is not the only chance they may have to get a homestead bill, through those measures which have received the consideration of this House. I want the country to know that a Senate bill lies on the Speaker's table, which, upon a motion made at the proper time, can be brought before the House for consideration in five minutes. This can be done; and then the gentleman from Pennsylvania can, as he announced to the country forty days ago, offer his proposition as a substitute for the Senate amendment. That is the way in which he could legitimately get at the matter. That is the way in which he could have submitted to the country, and to the House, his proposition, and in connection, too, with another proposition which the Senate had entertained, and sent here for our favorable consideration. The gentleman would have stood in as favorable a position in connection with that bill as he does at this time.

Now, as to the homestead bill which the gentleman has submitted. I voted last session for a similar one. True, he proposes that they shall pay the sum of fourteen cents per acre for it. I say I voted for one of a similar character—if the gentleman will examine the bill which I introduced and reported at the last session—absolutely the first bill introduced into the House of Representatives at the last session of Congress, and though it bears the number "thirty-seven," and his bears number "one,"—yet it was the first bill introduced, and the gentleman's bill was passed first by some kind of legerdemain—he will find it as I have stated. My bill was committed to the Committee on Public Lands, and they did not desire to report it back, until a matter of so much importance had received their mature consideration; while, on the other hand, the gentleman from Pennsylvania had his bill referred to his own committee, and without dotting an "i," or crossing a "t," it came back, and was reported to the House the very next morning. That was the way in which his bill gained an apparent priority to mine.

I voted for a bill containing the sixth section, last year, and why will I not do it to-day, if driven to do one thing or the other. Now one word to the gentleman himself; he is a lawyer, and I desire to state to the House and the country, that I am no lawyer. I am, in the language of my own country, a "clod-hopper," or in other words a farmer. I am not a lawyer, and not able to construe, with that scrutiny which lawyers are accustomed to exercise, the effects of the language used in a bill. But the gentleman from Pennsylvania, has repeatedly announced himself in this House, as being a lawyer, and that the fifth section of his bill would not allow foreigners, who should come into this country hereafter, to avail themselves of the benefits of the bill. I want that amended, and I want the gentleman from Pennsylvania, if he believes that to be true to-day, as he has heretofore stated, to accept the proposition of the gentleman from Tennessee, or allow the fifth section to be stricken out, in order to clear away the doubts that rest upon the provisions of this bill in that respect. I myself believe that they would be excluded, but I have no right to set up my opinion against that of lawyers. I find in that class of individuals a variety of sentiments upon the subject, but the gentleman from Pennsylvania, has announced to the country, as a lawyer, that it would exclude from its benefits those immigrants who should hereafter come into the country. If so, let us strike it out, and adopt the one offered by the gentleman from Tennessee.

Mr. ETHERIDGE. Will the gentleman allow me to correct him?

Mr. COBB. If I am wrong.

Mr. ETHERIDGE. I think the gentleman is most certainly mistaken, and that he does injustice to the gentleman from Pennsylvania.

Mr. COBB. Is he not a lawyer?

Mr. ETHERIDGE. Certainly he is; but the gentleman is mistaken in supposing that any lawyer believes that the substitute offered by the gentleman from Pennsylvania excludes foreigners who may arrive in the country hereafter, and become naturalized. Such a construction was given by some persons to the bill of last session; a construction, in my judgment, erroneous; but no one believes that the bill now before the House—I mean the substitute of the gentleman from Pennsylvania—will exclude them.

Mr. COBB. Then the gentleman has changed his position; and he is not entitled to the reputation—as a lawyer—I have always ascribed to him; for he repeatedly announced, as will be remembered by those who were here last session, that it did exclude those who should hereafter emigrate to the country. He declared that such was his intention, as I understood him; and, so understanding, I voted accordingly.

Mr. ETHERIDGE. That was last summer.

Mr. COBB. Yes, last summer; and does the gentleman from Pennsylvania shift his ground to-day?

Mr. DAWSON. If the gentleman will allow, I will refer him to the fifth section of the bill.

Mr. COBB. I rely upon the language of the gentleman, last session, and the announcement of the gentleman from Tennessee, [Mr. ETHERIDGE,] that it was believed, that the amendment did provide for the exclusion of foreigners, who should hereafter come into the country. If that is so, if it does so provide, I announce before Heaven and earth, I would not vote for any homestead bill containing that provision. I did not believe they did contain such a provision, but the lawyers are against me.

Mr. DAWSON. I have no hesitation, whatever, in referring the gentleman to the provisions of the bill. I meet the gentleman promptly and squarely. The fifth section is in the following language:

"*And be it further enacted*, That if any individual, now a resident of any one of the States or Territories, and not a citizen of the United States, but, at the time of the passage of this act, shall have filed a declaration of intention, as required by the naturalization laws of the United States, and shall become a citizen of the same, before the issuing

of the patent, as made and provided for in this act, shall be placed upon an equal footing with the native-born citizen of the United States."

The object of that provision was to exclude all foreigners who may come into the country after the adoption of this bill, from the benefits of its provisions.

Let me say a word in reply to the remarks of the gentleman from Alabama. I am glad he is coming up to the very point I wish to attain. I take occasion to refer him to the very law, of which he was the gentleman who reported it at the last session—I mean the graduation bill—and which he carried through this House. By the very terms of that bill, "*any person*," no matter whether a foreigner, no matter what his color or complexion, can come here and enter upon the public land, and acquire a title to the same, by payment, according to the graduated and reduced price. If the gentleman could be so liberal upon that occasion, and require not even the ordinary period of probation, the term of five years before naturalization, I think he ought not to stick at the provisions of this bill.

Mr. COBB. But the graduation bill does not propose to give away the land.

Mr. DAWSON. The gentleman will allow me to say that the amendment now proposed affixes fourteen and a half cents per acre as the consideration.

Mr. COBB. I will not ask the gentleman to put language into my mouth, though I need it much. If you will study the graduation bill closely, you will find who are the recipients of the benefits of that bill. You will find that the sixth section refers to certain preëmption laws. If the gentleman will examine those laws carefully, he will see who are entitled to become owners of the public lands.

Further, every State I suppose has the right—I am no lawyer, and I may run foul of the law again—I suppose every State has the right to say who shall hold lands within her jurisdiction, and of course, under the provisions of those laws, I suppose they can exclude such individuals as they deem proper.

I am not a lawyer. My actions here are, and have been, guided by common sense alone, at least what I possess of it.

Mr. ETHERIDGE. With the gentleman's permission, I will interrupt him for the purpose of saying a few words to my amendment.

Mr. COBB. First let me get through with my remarks. If I had been allowed to proceed without interruption, I should have finished what I had to say some fifteen minutes ago.

I shall now, Mr. Speaker, comment on the fifth section of the homestead amendment. On that section the entire amendment hangs. If that section be stricken out, I will say that there is no man in this House who will be readier to advocate and support the amendment adopted by the gentleman from Tennessee, on the suggestion of the gentleman from Pennsylvania. That section is ambiguous and of doubtful propriety, to say the least. Lawyers of great ability differ in regard to its construction. I want the matter settled one way or the other. If I vote, I want to vote for that which will, when passed, admit of but one construction. I desire this bounty to inure to the benefit of those now American citizens, and to no others. If the matter were left to my own judgment, I would say that the amendment does exclude from the benefit of its provisions all who may, after its passage, emigrate to this country; yet knowing that gentlemen of experience and high reputation in the law are at variance in regard to the construction, I deem it my duty to do now what I thought had already been done by the gentleman from Pennsylvania, while I was following in his wake.

Mr. DAWSON. If the gentleman will allow me, I will say a single word.

Mr. COBB. The gentleman from Pennsylvania had an hour yesterday, and he ought to be satisfied.

Mr. DAWSON. A single word.

Mr. COBB. I will tell the gentleman that he did well yesterday, and that he ought to be satisfied with the splendid effort which he then made. It would do credit to any legislator. But when one humble as myself is putting himself right before the House and country, he ought not to interrupt and embarrass.

Mr. DAWSON. I desire only to make a single word of explanation.

The SPEAKER. The gentleman from Alabama, the Chair understands, objects to yielding to the gentleman.

Mr. COBB. Let the gentleman explain.

Mr. DAWSON. I simply desire to reply to the suggestion of the gentleman from Alabama, that the bill, as it passed the House at the last session, and as submitted by me at the present one, was intended to exclude all foreigners who might hereafter emigrate to this country. If there be a shadow of a doubt in regard to that point, I have certainly, for one, no objection, if the House deem it proper, to the amendment indicated by the gentleman from Tennessee.

Mr. COBB. Let the gentleman strike that section out.

Mr. DAWSON. I would do so, but I have no control of the amendment. My friend from Tennessee has it in charge.

Mr. COBB. My friend from Tennessee told me, when I called his attention to the matter, that he intends the bill shall embrace in its provisions those who shall hereafter emigrate to this country; that the language will admit of no other construction. I have unbounded confidence in that gentleman. Since I have been a member of Congress, I have followed him through thick and thin; but I must confess that I begin to doubt whether his views on this subject should be made the law of the land. I am convinced that a distinction should be made between those who are now here and those who may hereafter emigrate; and as the gentleman from Tennessee has now assumed the parentage of the amendment, I may properly speak to him on it. If he intends to embrace all who may hereafter emigrate, then he goes beyond what was intended by the gentleman from Pennsylvania.

Mr. ETHERIDGE. Will the gentleman yield to me now?

Mr. COBB. I yield to the gentleman.

Mr. JONES, of Tennessee. As the gentleman has retailed private conversation between us, I hope that I may be allowed to put myself right in the matter.

Mr. COBB. I take all that I have said back if the gentleman thinks I have put him in the wrong. [Laughter.]

The SPEAKER. Does the gentleman from Tennessee [Mr. ETHERIDGE] yield to his colleague?

Mr. ETHERIDGE. My colleague must excuse me, but I cannot yield.

Mr. COBB. The gentleman will have opportunity for explanation in a little while.

Mr. ETHERIDGE. Mr. Speaker, the gentleman from Alabama stated, a few moments ago, and very emphatically, that if the substitute of the gentleman from Pennsylvania [Mr. DAWSON] did not exclude, by its provisions, those who might hereafter emigrate to this country, he was opposed to it.

Mr. COBB. Yes, sir; and I repeat it.

Mr. ETHERIDGE. The gentleman from Pennsylvania [Mr. DAWSON] read the fifth section, and stated that, in his judgment, that section would exclude all future emigrants. Then the gentleman is in favor of the amendment of which I have given notice. The declaration of the gentleman from Alabama is clear and unmistakable, that, without the amendment I propose, he would not vote for the substitute of the gentleman from Pennsylvania. The fifth section embraces all who, at the passage of the bill, shall have filed a declaration of intention to become citizens of the United States. The first section provides simply for any free person who is a citizen and the head of a family. If any legal gentleman be asked, under what section a future emigrant, becoming naturalized, can claim this bounty, he will reply that there are three qualifications necessary to entitle one to it—citizenship, majority, and being the head of a family. It was necessary, if you intended to provide for those who have emigrated here and filed their declaration of intention to become citizens, that you should do so by special provision. That is done in the fifth section. No lawyer, it seems to me, who understands the force of law or language, can read the first section of the substitute now pending, and say that a foreigner is not embraced by its provisions, *when he is naturalized*. If he be twenty-one years of age, the head of a family, and naturalized, he can, under this bill or substitute, claim the bounty provided for American citizens, and it will not depend upon the period of his naturalization.

The fifth section is pointed to by the gentleman from Pennsylvania. That section provides expressly for those who have filed their declaration of intention to become citizens, and for them only. But, sir, the friends of the proposition now pending disagree among themselves as to its meaning. I take it that my colleague [Mr. JONES] is in favor of embracing foreigners *hereafter* arriving in this country; and it, therefore, suits him. He may make it a little more explicit and emphatic to accomplish his purposes, but it is ample in its provision, and provides a homestead for all the world, if it should hereafter emigrate and become naturalized. I challenge any gentleman, who is a lawyer of ability and experience, to examine this substitute, and show me the section, or line, or word, which excludes any one *hereafter* coming to this country and becoming naturalized.

The amendment which I have offered is always "out of order." I make no complaint on that score. If the gentleman from Pennsylvania desires the exclusion of those hereafter emigrating to this country, let him accept my amendment. If the House desires to adopt my amendment—and I think it does—it can certainly find some mode by which to adopt it. It is strange that, if the body wishes the adoption of such an amendment as I propose, it cannot do so at any stage of the proceedings, especially when so large a majority seem to favor the principle. We shall present a remarkable condition of things, in this respect, by indicating that a majority of the House are in favor of a certain amendment, but that, under the rules, we are never in a position to incorporate it into the bill.

I repeat that I should be pleased to see any lawyer get up here, and give it, as his legal opinion, after full examination, that this bill excludes foreigners who may hereafter emigrate to this country. The gentleman from Pennsylvania readily turns to a section embracing within its provisions all persons who have declared their intention to become citizens, but which *excludes* no one. We can all understand that; but I wish to be shown the section, line, or word, which excludes future emigrants.

Mr. OLDS. I rise to a question of order. I submit that the gentleman from Alabama cannot give way to the gentleman from Tennessee to make a speech upon Know-Nothingism.

The SPEAKER. The Chair sustains the question of order. According to the practice of the House the gentleman from Alabama can only yield for explanation.

Mr. JONES, of Tennessee. I ask the gentleman to yield to me for a moment strictly for explanation.

Mr. COBB. I will yield to the gentleman.

Mr. JONES. By the first part of the substitute which I have offered, it is provided that any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, shall be entitled to avail himself of the benefits of this act. This is clear and definite. Should it pass, no person, under that provision, can receive or enjoy the benefit of these provisions, except citizens of the United States.

Mr. WALSH. I would like to ask the gentleman if the bill makes any provision for persons intending to become the heads of families? [Laughter.]

Mr. JONES. The fifth section of the bill provides:

"That any person who is now a resident of any one of the States or Territories, and not a citizen of the United States, but, at the time of the passage of this act, shall have filed a declaration of intention, as required by the naturalization laws of the United States, and shall become a citizen of the same before the issuing of the patent, as made and provided for in this act, shall be placed upon an equal footing with the native-born citizen of the United States."

Now, sir, by the fifth section of this act the first section is so far modified as to permit a resident of this country who is not a citizen, but who has declared his intention to become such under our naturalization laws, to enter one hundred and sixty acres of the public lands under the provisions of this act. But having entered it, and having remained upon it and cultivated it five years, he can still have no right to a title to the land; and a patent for it can, in no case, be issued until he

has perfected his naturalization and become a citizen of this country. Is there anything in that? I ask the House if there is anything wrong in it? But again, suppose any person comes into the United States after the passage of this law, does he acquire any right under it? There is not one of the provisions of this bill, either the fifth section, or any other, that can be made to apply to him while he remains an alien under our Government.

Mr. ETHERIDGE. I rise to a question of order. I was interrupted, and made to take my seat, because I was discussing the merits of the bill. My colleague is doing precisely the same thing.

Mr. COBB. Oh, the gentleman from Tennessee was just coming to the point the gentleman was speaking on.

Mr. JONES. Yes sir; I had just arrived at that point. Suppose a foreigner comes to this country after this bill becomes the law of the land, I say he will have no right to secure the title to one foot of land, under this bill, so long as he remains an alien. If he makes his declaration of intention to become a citizen, he can still secure no right, under the fifth section, or any other provision of the bill, until he shall have passed through the entire probation required by our laws, and shall have taken his final oath to renounce all allegiance to all other Powers, and to support the Constitution and laws of the United States; and then he will be an American citizen, and not a foreigner. He will then have become a citizen of the United States—an adopted citizen—and, according to my construction of right and justice, whenever you make him a citizen, whenever he is a citizen, either by birth or adoption, he should have all the rights and privileges which are granted by the Constitution of the country; and, so far as my vote is concerned, he shall have them.

If it is your desire to exclude all foreigners, then repeal your naturalization laws, and prevent them from becoming citizens. Then they will have no rights under this bill. Mr. Speaker, it is my opinion, that if we encourage, or if we permit foreigners to come to this country at all, the sooner we incorporate them with ourselves and make them citizens, after having undergone the necessary probation to qualify them for the enjoyment and exercise of the rights of citizens, the better.

The SPEAKER, (interrupting.) In the opinion of the Chair, the gentleman from Tennessee is transcending his rights, under the rule; the gentleman from Alabama having yielded only for explanation, and the attention of the Chair having been called to the fact by the gentleman's colleague, [Mr. ETHERIDGE,] he feels bound to interrupt the gentleman.

Mr. COBB, (resuming.) Some of my friends who are much older than I am—for I am a very young member—have thought that, perhaps, I ought not to have alluded to the private conversation which occurred between myself and the gentleman from Tennessee. I will say that, although it commenced as a private conversation between us, before it was concluded, there were, perhaps, a dozen persons present, and it seemed to me that it did not longer retain the character of a strictly private conversation. I will say, in answer to the gentleman from Tennessee, that if the position he assumes be correct, that the fifth section of this bill makes its benefits applicable to persons not in the country at the time of the passage of the act, after having undergone their five years probation, I am not willing to see it adopted. I repeat it, sir, I am not willing to see such a provision adopted. If it becomes necessary to provide for that class of persons, I am willing that another bill should be passed that shall make provision for them.

But I do not wish to make any such provision in this bill. I wish to provide for the people of the country who are now citizens, and not to anticipate the possible fact that others may come here. I am in favor, myself, of confining the benefits of this act exclusively to the American population. But, notwithstanding the explanation of the gentleman from Tennessee, I am still of the opinion—and I wish to state it, that I may not be misunderstood—that I have all along entertained, that the fifth section of this bill would not embrace the class of foreigners who shall arrive after the passage of the act, which the gentleman says it will embrace. But, as I have said, I am not learned in the legal construction of bills. I have no disposition to dispute the gentleman's opinion, so far as the construction of the bill which he offers as an amendment is concerned.

I have consumed far more of the time of the House than I intended when I first rose. I intended to occupy only seven minutes and a half; but the various interruptions to which I have been subjected have led me to trespass longer than I intended upon the time of the House. I have done now.

The question now being upon Mr. JONES's amendment,

Mr. MILLSON demanded the yeas and nays.

The yeas and nays were ordered.

Mr. STANTON, of Tennessee. I move that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair holds that that motion is not in order; the House having determined that the main question shall be now put.

Mr. CAMPBELL. I desire to be informed if the amendment offered by the gentleman from Tennessee before me, [Mr. ETHERIDGE,] is before the House?

The SPEAKER. It is not before the House.

Mr. CAMPBELL. So I understand; but some gentlemen around me suppose that it is pending.

The SPEAKER. And the Chair has explained, four or five times, the reason why it could not be before the House. That reason he will again repeat. The gentleman from Alabama [Mr. COBB] reported back, from the Committee on Public Lands, the original bill, with an amendment, in the nature of a substitute. The gentleman from Tennessee [Mr. JONES] has moved an amendment to that amendment; and, consequently, no other amendment can be entertained.

The question was then taken on Mr. JONES's amendment, and it was decided in the negative—yeas 72, nays 93; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, Breckinridge, Bristow, Chamberlain, Chandler, Chrisman, Clark, Cox, Curtis, John G. Davis, Thomas Davis, Dawson, De Witt, Dunbar, Dunham, Eddy, John M. Elliott, Ellison, Farley, Fenton, Florence, Goodrich, Green, Greenwood, Grow, Hastings, Hendricks, Henn, Hiester, Howe, Hughes, George W. Jones, J. Glancy Jones, Roland Jones, Latham, Lindsley, McMullin, Mace, Macy, Maurice, Middleswarth, Murray, Noble, Olds, Andrew Oliver, Peck, Phelps, Richardson, David Ritchie, Robbins, Sapp, Shannon, Singleton, Skelton, Samuel A. Smith, Frederick P. Stanton, Alexander H. Stephens, Hestor L. Stevens, Stratton, Straub, David Stuart, John J. Taylor, Trout, Tweed, Upham, Walbridge, Walker, Walsh, Elihu B. Washburne, Wells, Tappan Wentworth, and Westbrook—73.

NAYS—Messrs. Abercrombie, Aiken, Appleton, Ashe, David J. Bailey, Ball, Banks, Barksdale, Belcher, Bennett, Benson, Benton, Bliss, Bocock, Boyce, Brooks, Bugg, Campbell, Carpenter, Caruthers, Caskie, Chase, Chastain, Clingman, Cobb, Corwin, Craige, Crocker, Cullom, Dick, Dowdell, Edmands, Edmundson, Thomas D. Eliot, Etheridge, Flagler, Franklin, Fuller, Goode, Hamilton, Aaron Harlan, Sampson W. Harris, Haven, Hibbard, Hill, Hillyer, Houston, Hunt, Johnson, Kidwell, Knox, Kurtz, Lamb, Lewis, Maxwell, Smith Miller, Millson, Morrison, Nichols, Orr, Parker, Pennington, John Perkins, Phillips, Powell, Pratt, Pringle, Puryear, Ready, Reese, Riddle, Rogers, Rowe, Ruffin, Sabin, Sage, Seward, Seymour, Shaw, Shower, Simmons, William Smith, William R. Smith, George W. Smyth, Sollers, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Walley, Wheeler, Daniel B. Wright, and Zollicoffer—93.

So the amendment was rejected.

Before the result of the above vote was announced,

Mr. MATTESON stated that he was in favor of the amendment; but that, at the request of Mr. LETCHER, he had paired off with that gentleman.

Mr. KEITT stated that he had paired off with Mr. ENGLISH.

Mr. MILLSON moved to reconsider the vote by which the amendment was rejected, and also moved that the motion to reconsider do lie upon the table.

The latter motion was agreed to.

The question recurred on the substitute for the original bill, reported from the Committee on Public Lands.

It was read, as follows:

Be it enacted, &c., That so much of the act of August 18, 1854, entitled "An act to graduate and reduce the price of public lands to actual settlers and cultivators," as requires the affidavit of the applicant, under said act, to be taken before the register, or receiver, be, and the same is hereby repealed; and said affidavit may hereafter be taken before any officer authorized to administer oaths, under such regulations as may be prescribed by the Secretary of the Interior; and so much of said act as requires that the land entered for the use of an adjoining farm, or plantation, shall adjoin that tract, or tracts, actually occupied or owned as a farm or plantation, be, and the same is hereby, so construed as to include any tract, or tracts, that may corner with such farm or plantation: *Provided*, That the portion of said law that has been construed as authorizing the entry of lands under said graduating act, on filing a declaration of intention to enter lands for the use of the applicant, and for the purpose of settlement and cultivation, shall hereafter be considered as authorizing an entry in such cases only as proof of actual settlement, and improvement, by the party making such application, under such rules and regulations as may be prescribed by the Secretary of the Interior for that purpose.

SEC. 2. *And be it further enacted*, That hereafter, in addition to the affidavit now required by the provisions of said act, each applicant shall be required to make oath that he or she intends to appropriate said land to his or her own exclusive use or benefit, and he or she has not, directly, or indirectly, made any agreement or contract in any way or manner with any person or persons whatsoever, by which the title by which he or she might acquire from the Government of the United States, should inure, in whole or in part, to the benefit of any person except himself or herself. And no person shall be entitled to any of the benefits of said act who is not a citizen of the United States, or who has not filed his declaration of intention to become a citizen, as required by the naturalization laws.

Mr. JONES, of Tennessee, demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. McMULLIN called for tellers.

Tellers were ordered; and Messrs. PHILLIPS and INGERSOLL were appointed.

The question was then taken; and the tellers reported—ayes 84, noes 39.

So the substitute was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time, and being engrossed it was accordingly read a third time.

Mr. COBB. I call for the previous question on the passage of the bill.

Mr. HAMILTON. I ask for tellers on seconding the call for the previous question.

Tellers were ordered; and Messrs. EDMANDS and NOBLE were appointed.

The question was taken; and the tellers reported—ayes 80, noes not counted.

So the demand for the previous question was seconded, and the main question was ordered to be put.

Mr. JONES, of Tennessee. I desire to have that bill read, and particularly the latter portion of it, which defines who shall have the right of entering on the public lands.

Mr. COBB. I call the gentleman from Tennessee to order.

Mr. JONES. I am in order. I have a right to ask for the reading of the bill.

Mr. COBB. Yes, but you have no right to make a speech upon it.

The SPEAKER. Does the gentleman from Tennessee desire to have the bill again read?

Mr. JONES. Yes, sir.

Mr. COBB. I object.

Mr. JONES. Have I not a right to have it read, as it was not read on the passage?

The SPEAKER. The third reading of the bill has been had.

Mr. JONES. Yes, by its title.

The SPEAKER. By its title only, which is the reading, unless objected to. But it is competent for the gentleman from Tennessee to have it read *in extenso* by the order of the House.

Mr. JONES. I do not care about any part of it, except the latter clause relating to citizens and those who have declared their intention to become such.

The SPEAKER. Does the gentleman from Alabama object to that?

Mr. COBB. No, sir.

The SPEAKER. Then the clause will be read.

Several MEMBERS. Read the whole bill.

The bill was again read *in extenso*.

Mr. JONES. I ask the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was then taken, and there were—yeas 68, nays 95; as follows:

YEAS—Messrs. Abercrombie, James C. Allen, Willis Allen, Ashe, David J. Bailey, Ball, Barksdale, Benton, Bliss, Campbell, Caruthers, Chamberlain, Chase, Clark, Cobb, Cook, Cullom, John G. Davis, Dowdell, Dunbar, Eastman, Edmands, English, Etheridge, Farley, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Henn, Hibbard, Heister, Hillyer, Houston, Hughes, Ingersoll, Johnson, Knox, Lamb, Latham, McMullin, Macy, Maxwell, Smith Miller, Murray, Noble, Norton, Mordecai Oliver, Parker, John Perkins, Ready, Riddle, Sapp, Shannon, Singleton, William R. Smith, George W. Smyth, Frederick P. Stanton, Alexander H. Stephens, Hestor L. Stevens, Andrew Stuart, David Stuart, John J. Taylor, Walker, Walsh, Elihu B. Washburne, Wells, Westbrook, and Daniel B. Wright—68.

NAYS—Messrs. Aiken, Appleton, Thomas H. Bayly,

Banks, Belcher, Bennett, Benson, Bocock, Boyce, Breckinridge, Bristow, Brooks, Carpenter, Caskie, Chandler, Chastain, Chrisman, Clingman, Corwin, Cox, Craige, Crocker, Dawson, De Witt, Dick, Dunham, Eddy, Edmundson, Thomas D. Eliot, John M. Elliott, Ellison, Florence, Franklin, Fuller, Goode, Goodrich, Green, Greenwood, Hastings, Haven, Hendricks, Hill, Howe, George W. Jones, Roland Jones, Keitt, Kurtz, Lewis, Lindsley, Macdonald, Mace, Matteson, Maurice, Middleswarth, Millson, Morrison, Nichols, Olds, Andrew Oliver, Orr, Peck, Pennington, Bishop Perkins, Phelps, Phillips, Pratt, Pringle, Puryear, Reese, Richardson, Robbins, Rogers, Rowe, Ruffin, Sabin, Sage, Seward, Shaw, Shower, Simmons, Skelton, Samuel A. Smith, William Smith, Sollers, Stratton, John L. Taylor, Nathaniel G. Taylor, Teller, Trout, Upham, Wade, Walley, Israel Washburn, Tappan Wentworth, and Wheeler—95.

So the bill was rejected.

Mr. DAWSON. I move that we proceed to the consideration of business upon the Speaker's table, with a view of taking up the homestead bill as it came here from the Senate in its amended form.

Mr. HAMILTON. I move that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. SMITH, of Tennessee. I rise to a privileged question. I move to reconsider the vote by which the bill was rejected, and to lay the motion to reconsider upon the table.

Mr. COBB. Upon that motion I call the yeas and nays.

Mr. MACE. I move that the House adjourn.

Mr. PERKINS, of Louisiana. I desire to ask the Speaker what business will come up next in order during the morning hour?

The SPEAKER, (Mr. ORR temporarily occupying the chair.) The present occupant of the chair is informed that the diplomatic and consular bill will come up first in order, as the business of the morning hour.

Mr. SMITH, of Virginia. I ask the gentleman from Indiana to withdraw his motion to adjourn for a moment, and I will renew it.

Mr. MACE. In compliance with the gentleman's request, I withdraw my motion to adjourn.

Mr. SMITH. I desire to state to the House that——

The SPEAKER *pro tempore*. The gentleman from Virginia will not be in order in making any remarks. The first question before the House is the privileged motion, made by the gentleman from Tennessee, to reconsider the vote by which the graduation bill was rejected, and to lay the motion to reconsider upon the table.

Mr. SMITH. According to my promise, I then renew the motion to adjourn.

The question was taken; and it was decided in the affirmative.

The House thereupon, at three o'clock, p. m., adjourned till to-morrow at twelve o'clock, m.

IN SENATE.

THURSDAY, *January* 11, 1855.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

Hon. JUDAH P. BENJAMIN, of Louisiana, appeared in his seat to-day.

PETITIONS, ETC.

Mr. STUART presented the memorial, together with accompanying papers, of R. W. Thompson, asking compensation for services rendered as attorney to the Menomonee Indians; which was referred to the Committee on Indian Affairs.

Mr. CLAYTON presented the memorial of Mrs. Olivia W. Cannon, widow of the late midshipman Joseph S. Cannon, praying to be placed on the pension list; which was referred to the Committee on Pensions.

Also, the petition of Sarah Smith Stafford, only daughter of James B. Stafford, an officer in the navy of the Revolution, praying compensation for her father's services; which was referred to the Committee on Revolutionary Claims.

Mr. FISH presented the petition of Colonel E. Camp, praying compensation for fencing used by the United States troops for fuel, at Sackett's Harbor, in the year 1812; also for the occupation of his ground by said troops, and for lead used for making grape shot; which was referred to the Committee on Claims.

Mr. DAWSON presented a memorial of Daniel Campbell, Marshall Brown, and others, of the District of Columbia, praying the passage of a law to incorporate the Columbia Wood Gas Company; which was referred to the Committee on the District of Columbia.

Mr. SHIELDS presented the memorial of Jesse Steadman, a soldier in the war of 1812, praying to be allowed a pension on account of disability incurred while in the military service; which was referred to the Committee on Pensions.

Also, the memorial of the heirs of Robert McConnell, deceased, late of Alabama, praying indemnity for a negro, and other property, carried away or destroyed by the Creek Indians in 1813; which was referred to the Committee on Indian Affairs.

Mr. MASON presented the memorial of Thomas W. Tansill, praying to be allowed bounty land, additional pay, and allowances provided by the acts of March 2, 1833, and 1837, in relation to the marine corps, together with pay and allowances of a musician in said corps, from 17th January, 1837; which was referred to the Committee on Naval Affairs.

REPORT FROM A STANDING COMMITTEE.

Mr. HUNTER, from the Committee on Finance, to whom was referred, by mistake, the petition of Hall Neilson, praying the remission of interest on notes given the United States in payment for land, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

COMMITTEE ON ENROLLED BILLS.

On motion by Mr. JONES, of Iowa, it was

Ordered, That an additional member of the Committee on Enrolled Bills be appointed by the President *pro tempore*.

And Mr. BRAINERD was appointed.

BILLS INTRODUCED.

Mr. FISH, in pursuance of previous notice, asked and obtained leave to introduce a bill to provide for the construction of a suitable building for a custom-house, post office, and court-house, in Plattsburg, New York; which was read a first and second time by its title, and referred to the Committee on Commerce.

Mr. RUSK asked and obtained the unanimous consent of the Senate to introduce a bill to provide for the transportation of the mails, troops, seamen, military and naval stores, munitions of war, funds, and other property of the United States, from the Mississippi river to the Pacific ocean; which was read a first and second time by its title, referred to the select committee on the Pacific railroad, and ordered to be printed.

NAVAL DEPOT IN GEORGIA.

Mr. TOOMBS submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be requested to lay before the Senate all surveys and reports in his Department, upon the fitness of the harbor of Brunswick, in the State of Georgia, for a naval depot; and also his opinion upon the propriety of the establishment of such depot at that place.

FRANCIS W. RICE.

Mr. GWIN submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate, if not incompatible with the public interest, copies of all correspondence on the files of the State Department, in reference to the claim of Francis W. Rice, late United States consul at Acapulco, which may have been received by, or have emanated from, said Department since the 20th of July, 1852.

TEXAS TROOPS.

Mr. RUSK submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Secretary of War be required to lay before the Senate such information as may be in his Department, in reference to such troops of the State of Texas as may now be, or heretofore have been, in service in that State, and who have not been paid by the Government of the United States, together with estimates of the amount necessary to pay said troops.

MOSES D. HOGAN.

Mr. SEBASTIAN. I am instructed by the Committee on Indian Affairs, to whom was referred House bill for indemnifying Moses D. Hogan for cattle destroyed by the Indians in 1842, to report it back and recommend its passage. As it is a small bill, and one of undoubted justice, I hope it will be acted on now.

The Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to authorize the Secretary of the Treasury to pay Moses D. Hogan, or his legal representatives, $500, in full satisfaction of his claim against the United States for cattle taken or destroyed in the year 1842, by a band of Indians, supposed to be a portion of the Sioux, while he was conveying the cattle to a post of the United States, at or near Fort Snelling, in pursuance of a contract entered into with Amos J. Bruce, a sub agent of the United States for the Sioux Indians.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ROCK ISLAND, ILLINOIS.

Mr. SHIELDS. I hope the Senate will indulge me by taking up the bill to "authorize the sale of Rock Island, in the State of Illinois, and for other purposes." It was reported by the Committee on Public Lands early in the last session; but its passage was arrested here on account of the War Department objecting to the sale of a portion of the island. Since then we have agreed unanimously upon an amendment which we wish to have passed. I have submitted it to the chairman of the Committee on Public Lands, [Mr. DODGE, of Iowa,] and also to the Senator from Michigan, [Mr. STUART,] who is on the committee, and to the Secretary of War, and all agree to it. I shall, therefore, if the bill be taken up, move to strike out all after the enacting clause, and insert, as a substitute, the proposition which has received their sanction.

Mr. BAYARD. I hope, if that bill be taken up, that it will be with the understanding that at the expiration of the morning hour, we shall proceed with the unfinished business of yesterday—the bill to amend and modify the judicial system. I do not think any other bill ought to take precedence of that.

Mr. SHIELDS. This bill will pass without any difficulty. It will not interfere with the judiciary bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. SHIELDS. I move to strike out all after the enacting clause of the bill, and insert the following as a substitute:

That David B. Sears be, and he is hereby, authorized to enter the fractional quarter sections of land on Rock Island, in the Mississippi river, and State of Illinois, necessary to secure to him the full and complete use of the water-power as now improved and used by him on the north side of said island, (they being the east half of the southwest fractional quarter of fractional section twenty-nine, containing twenty-eight and ten one-hundreths acres; the southeast fractional quarter of the same fractional section containing four and nine one-hundreths acres; and the northeast fractional quarter of fractional section thirty-two, containing three and twenty-six one-hundreths acres; all of which are situated in township eighteen north of the base line, range one, west of the fourth principal meridian,) upon his paying to the receiver of public moneys at Dixon, the minimum price of $1 25 per acre for the same, upon which a final certificate and patent shall issue, as in other cases.

The amendment was agreed to. The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading. It was read the third time, and the question was, shall the bill pass?

Mr. DODGE, of Iowa. This bill, I believe, was reported by the Committee on Public Lands at the last session, if I recollect aright, by the Senator from Michigan, [Mr. STUART.] After that, there was some recommendation, or suggestion, received by the committee from the Secretary of War, touching the sale and disposition of Rock Island, which, I remember, made an impression on my mind at the time. Probably the bill, in all respects, was not such as it should be. I ask my friend from Illinois, therefore, to consent that the bill shall lie over until to-morrow.

Mr. SHIELDS. I believe the honorable Senator was not in his seat when I stated that I had prepared an amendment to this bill, which was satisfactory to the Department, to the committee, and to myself. That amendment has been adopted. It contains no provision for the sale of the island; it only proposes to give Mr. Sears a preëmption right to his small tract of land.

Mr. DODGE, of Iowa. Then I hope the bill will pass.

The bill was passed.

CONGRESSIONAL AND JUDICIAL COMPENSATION.

Mr. BADGER. I ask the Senate now to take up and dispose of the bill which I submitted early in the session, to increase the compensation of the Judges of the Supreme Court of the United States and members of both Houses of Congress.

Mr. BRODHEAD. If we are to lay aside the bill for the reorganization of the judiciary for the purpose of taking up any other, I must insist on proceeding with the bounty land bill. We considered it for two or three days, and then it gave way to the judiciary bill. It is an important public measure. I think we ought to do justice to the old soldiers before voting additional compensation to ourselves. I am for the bill of the honorable Senator from North Carolina, and I shall go with him for its consideration at the proper time; but it does seem to me that we ought to dispose of the bounty land bill which was under consideration a few days ago.

Mr. JOHNSON. If the honorable Senator from North Carolina, and the honorable Senator from Pennsylvania, will yield for the present, I should be glad to have an opportunity to call up a joint resolution which was yesterday reported by the Committee on Printing, in regard to a question, which is, I believe, by our rules, a privileged question, as being immediately connected with the transaction of the business of this body. I refer to the joint resolution in reference to the execution of the engraving of maps and charts for Congress. This is not the first time when that question has been presented to us. It was called to our attention at the last session, and recent events have shown the importance of prompt action on it. I do not believe the consideration of the resolution to which I have referred will consume much time, perhaps not more than five minutes. The Committee on Printing believe it should be passed at once, in order that Senators may be enabled to get perfect copies of the works which are to be distributed among the people. I ask, therefore, that we shall proceed to the consideration of that joint resolution.

The PRESIDENT. The question is on the motion of the Senator from North Carolina to take up the bill which he has mentioned.

Mr. BADGER. I perceive, sir, that, as usual, we are to spend the day in determining what business we shall take up. If gentlemen prefer that course, I shall make no objection. If it is not the pleasure of the Senate to proceed to the consideration of the bill which I have indicated, I shall be satisfied. All I want is a vote upon that question. If it is the pleasure of the Senate to proceed to the consideration of that bill, I think they ought to have an opportunity of doing so. All I ask is simply a decision of the Senate whether they will proceed to its consideration or not. Now, as to the bill of my friend from Pennsylvania, and the bill of my friend from Arkansas. On the first, I have already committed myself; I am a strong friend of it. In regard to the second, I know of no reason why I should not be in favor of it. But, at the same time, this bill of mine has been lying over for a long time; I have given way to everybody.

Mr. JOHNSON. Will the Senator allow me a word of explanation?

Mr. BADGER. Certainly.

Mr. JOHNSON. I have no objection to considering the bill which the Senator proposes; but I know that the joint resolution to which I referred will occupy but little time; and I believe that, by the rules of the body, the question to which it refers is a privileged question.

Mr. BADGER. Not here.

Mr. JOHNSON. Then I am misinformed. I know that such is the case in the other House, with the rules of which I am more familiar. I can assure the Senator that I did not oppose his motion from any desire to impede his wishes.

Mr. BADGER. I know that.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. BAYARD. I did not expect that this bill would come up this morning. I shall not now discuss it. I intend simply to assign the reasons why I shall be compelled to vote against it. If the bill looked to a change in the mode of compensating members of Congress, and proposed to allow them an annual salary, I could vote for it. That portion of it which proposes to increase the salaries of Judges of the Supreme Court, I should vote for cheerfully as a separate bill. I shall vote for the present bill if it be amended so as to be restricted to them. I cannot, however, vote for a bill increasing the present per diem allowance of members of Congress, though it is less than they ought to receive since the general increase in the cost of living; because I believe it would only perpetuate an evil system. I believe that the system of compensating members of Congress by an annual salary would work many benefits. The reasons for that conviction I have heretofore assigned to the Senate, and I shall not now repeat them. I cannot vote for any change in the present system unless it embodies that principle.

Mr. DODGE, of Iowa. I move to strike out all that portion of the bill which relates to an increase of the compensation of the members of the two Houses of Congress, and upon that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GILLETTE. This I regard as a vital question—at least as near the vitals as the pocket—and having but a short time to serve in the Senate, the few remarks which I feel it my duty to offer, if they should have no other merit, will have that, I trust, of disinterestedness and an eye single to the public interests. While I fully appreciate the expanded and liberal views of the distinguished Senator who introduced this bill, and accredit him a large measure of patriotism in the direction of public expenditure—his cardinal principle appearing to be, the greater the disbursements the more public prosperity—I must dissent from the proposition now before us. To increase the pay of Congressmen, would, in my opinion, increase the distempers of the republic, and the dangers which threaten its existence.

If the present compensation were really inadequate to the value of the services rendered; if the nation were actually receiving more than an equivalent for what it pays its congressional servants, then, sir, the proposition would commend itself to my cordial and earnest support; for I am no disbeliever in the Divine declaration that "the laborer is worthy of his reward"—that is to say, if he *earns* it, and do not approve, any more than the honorable Senator from North Carolina, of one man, or set of men, living on the unrequited, coerced labor of another man, or set of men. Such are not *my* ideas of justice or of honor. Against such wrongdoing, such extortion, such consummate injustice, the impartial Father of men has published his abhorrence in threatened woes, from which I am as anxious to escape as that Senator can be. The only true and safe rule is, do justly, and "render to all their dues." This is the proper principle on which to determine this question, as I think, and not, as the Senator insisted the other day, the cost of living here in Washington, which is more or less, according to individual habits, tastes, and preferences; the mode of living, the quantity, and quality of wine and stronger liquors, which may be thought necessary by some to stimulate their patriotism, and other vulgar and pernicious indulgences of depraved and groveling appetites. The truth is, a man may spend more or less here, as elsewhere, just as he chooses, so that we have no safe criterion in this direction.

When we consider the matter of compensation for services rendered, the amount actually earned is the main subject for consideration, and this should determine this question; for I maintain that Congressmen, like their constituents, should "eat their bread in the sweat of the brow," in obedience to the "higher law," or do without eating, if they will not resign, and give place to better men.

The question then resolves itself into this: are Congressmen paid already as much as they earn? I must say, I think they are; the people hardly receive in return their money's worth. Mr. President, I take no pleasure in saying it, but I have sometimes thought that the people are afflicted with a large number of unprofitable servants—present company excepted, of course, sir—who, should they escape that "outer darkness" which awaits incorrigible transgressors, will owe their deliverance, not to any salvation obtainable from such Acts as the atrocious Fugitive Act of the Thirty-First Congress, or the perfidious Nebraska-Kansas act of the Thirty-Third. The people, in some quarters, have concluded that such services are quite too dear at eight dollars a day, and do not care to have any more such, even at that price, judging from the bolt of doom which has fallen upon so many of their unfaithful servants, and which overhangs so many more. If Congressmen would have better pay, let them earn it fairly and honestly, by doing better work. Especially unpropitious is the present time for preferring such a claim—so soon after the audacious and execrable attempt "to crush out the spirit of liberty" from the hearts of the people, and the sublime and beautiful illustration of "popular sovereignty" in the recent election in Kansas, where, as we are informed by the Governor of that Territory and others, popular sovereignty had to run away from his own ballot-boxes, in order to save his democratic Highness from the bludgeons, bowie-knives, and pistols of an irruptive slaveholding sovereignty.

What foundation can Congressmen have of an equitable claim for eight dollars a day even, during the first month of each session, spent as it uniformly is, not so much in the service of the country as in holiday festivities and amusements? Little, indeed, earned during one third of this session, and twelve dollars a day this bill proposes to pay for that. I will not be a party to any such agreement.

Moreover, Mr. President, I do not understand, from any quarter, that the people now find the least difficulty in obtaining congressional servants at the present price of their service. The trouble rather is in making a selection among the multitude of aspirants. Even the honorable Senator himself, who introduced this bill, did not intimate any such embarrassment in North Carolina, nor appear to apprehend the least danger to that venerable State from the lack of good and true men, like himself, to defend her rights and maintain her honor on the floors of Congress; and sure I am, in that part of the country in which I am acquainted, there is no want of men "nothing loth" to be persuaded to serve their *dear* country in this Capitol for the present compensation. There can be no doubt on this point—every Senator knows there are public spirited, self-saving patriots enough in all the States and Territories who, if unable exactly to agree with the old Latin poet in the sentiment, *Dulce et decorum pro patriâ mori*—it is pleasant and honorable to die for one's country—are very willing to adopt the sentiment with the slight change of a single word, so that it will read: *Dulce et decorum pro patriâ vivere*—it is pleasant and honorable *to live* for one's country. Hence, sir, the proposition before the Senate seems to me entirely uncalled for and supererogatory. While the supply so greatly outruns the demand, I cannot understand the statesmanship, much less the economy, of such a proposition. Why, sir, should a man enter a shop in this city, and strangely insist on paying the shopkeeper fifty per cent. more than his price for certain goods, of which he has a superabundant supply—more than he can ever sell—he would be thought a little moonstruck, and a candidate for the insane asylum.

Is it not equally irrational, gratuitous, and unwise to propose that the people of this country, now bowed down to the very earth by financial embarrassments, should pay their congressional servants fifty per centum more than they now receive for their attendance here, when the aspirants are already so plentiful and persistent, as to be about as clamorous and annoying as the bawling hackmen that infest our railway stations? If the dear people will only patronize their coaches, they will be very well satisfied with forty cents a mile for travel, and eight dollars a day for service. Shall we offer them more, and thus multiply the number and intensify their avidity?

I have another objection to this bill, which to me, is insurmountable. It ignores the gross inequality and glaring injustice which exist in the present mileage of members of Congress, and admitted by every man whom I have ever heard express his views on the subject, except the Senator who introduced this bill. He said, if I recollect aright, that it is just, entirely just, as it is. Let us see how it operates. Those Congressmen from the remote parts of the country, actually receive some thousands of dollars more than members living near, and that merely for a few days extra travel in the public service. For

example, the Senator living in the remotest part of the most distant State receives as mileage for one session of Congress $5,482 40, while the nearest Senator receives but $33 60. Now, it is well understood that the actual expense of the journey in each case is but a pittance of the sums received, so that the most distant member receives one hundred and sixty-three times more as mileage than the nearest member, and all for a few days, perhaps weeks, of extra travel. The same proportion holds good for all intermediate distances. Thus, by this exorbitant mileage, established at a time when the actual expenses of traveling were very great, compared with the present reduced rates, were absorbed at the last session of the present Congress $451,662 82, the benefits of which accrued to the members according to their respective distances from the seat of Government. Now, sir, if this is justice, what is injustice? The rotten-borough system of Great Britain, of which we heard so much a few years since, hardly paralleled the rotten mileage system of the United States. Had there been coupled with the proposition before us a plan to reduce and equalize the mileage in such a manner as to do justice to all concerned, it would have been comparatively unobjectionable.

Had the distinguished Senator, with the advantages of his eminent abilities and ripe experience in the public councils, instead of bringing forward this proposition for the benefit of Congressmen, undertaken to devise some plan for the alleviation of the country from its financial difficulties, and brought in a bill to help the pockets of the people instead of those of Congressmen, it would have evinced a patriotism and fidelity worthy of its distinguished source, and won the favorable consideration of all who are truly concerned for the public interests. But the people are little thought of, except in the matter of their votes, while their servants are occupied with schemes to feather their own nests, and put money into their pockets.

The compensation of Congressmen and of the Judges of the Supreme Court of the United States, is now from one hundred to four hundred per cent. greater than that of our State Legislators and Judges. It would really seem, sir, if a State legislator can live on from two to four dollars a day, that a Congressman might possibly subsist on eight dollars a day, with his exorbitant mileage, and some ten or twelve hundred dollars as the value of congressional books received for his private library, to eke out his expenses; and if a State judge can baffle famine with the material aid of $2,000 or $2,500 a year, a United States judge might possibly keep the wolf from the door with the help of $4,000 or $4,500 a year.

But, if I am mistaken in these suppositions, sure I am, sir, the direct and ultimate tendency of this measure would be, to clothe this Government with additional consequence in the eyes of the country, and proportionally to belittle and disparage the State Governments; to rear a towering giant here, and make abject dwarfs there. I look with no complacency upon the aggrandizement of the Federal Government, but with dread and dismay. Its powers and influence are already fearfully great, and should be diminished rather than increased. Its Executive branch is already well nigh absolute, and is quick to seize upon any semblance of a pretext to exhibit its mighty power over the States, by ordering the military force at its command to outrage and dragoon them into submission to its imperious will. Far, far be it from me, sir, to do anything calculated to clothe this overgrown and menacing giant with stronger attractions and a mightier armor, lest he absorb and centralize within himself all that remains of the appropriate authority and influence of the States, and accomplish the fell purpose which, in his haughty arrogance, has been boldly declared, and "crush out the spirit of liberty" from the hearts of the people. Such are, briefly, my reasons for the vote which I shall give on this bill.

Mr. BADGER. Mr. President, I confess I have been greatly surprised, and I presume my surprise has not been greater than that of any other member of this body, at the character of the speech which we have heard to-day from the honorable Senator from Connecticut, [Mr. GILLETTE,] in opposition to this bill. It proposes to increase the per diem compensation of members of this and of the other House of Congress, and to increase the annual compensation of the Judges of the Supreme Court. The Senator objects against the proposition in both its aspects.

If I am able to understand the honorable Senator, the purpose, the end, the scope of his objection to increasing the compensation of members of Congress, it results in this: that the two Houses of Congress, at the last session, passed the Nebraska and Kansas bill. For the Senator says it is a matter of no sort of importance what may be the expenses of members of Congress, since those expenses, he says, may be enlarged or diminished according to the style and manner in which gentlemen live; that it is more expensive to use wine than it is to use cold water; that they, therefore, who choose to enhance the expense of living by using wine instead of cold water, make a voluntary addition to their expenditures at the seat of Government, for which no consideration is due and on account of which no payment should be made out of the public Treasury; but that the true criterion by which to estimate what should be paid to members of Congress, is the service which they render, the return which they make to their constituents for the compensation which they receive; and, he says, after the enormous exhibition made at the last session of Congress of a disposition to destroy and break down the spirit of liberty by the atrocious legislation of that session, it is obvious that we deserve nothing more than we receive, if, indeed, we ought to be allowed to retain that which the law now gives us.

Why, Mr. President, but for the remark coming from the honorable Senator from Connecticut; but for its being gravely delivered in the Senate; but for its emanating from a grave member of this body, it would seem that it could spring from nothing but an intense insanity of mind, which keeps forever present one single idea. Who expected this morning, when this bill of mine was called up, that we should have a dissertation upon the subject of the Kansas and Nebraska bill, the question of the fugitive slave law, and the general subject of Abolition agitation? Why, sir, have we got to be in that situation where nothing can be moved, nothing considered, nothing proposed, but it must resolve itself into an agitation of the slavery question?

Now, Mr. President, as to the inquiry what members of Congress deserve, what their services are worth? every gentleman must determine upon that point for himself. My own opinion—which I took the liberty of expressing in some remarks which I submitted when I introduced this bill—is that my own services are worth more than the compensation I receive; and, therefore, I shall, without any sort of hesitation, vote for a bill which will give me additional compensation. So with regard to every member of this body. If the honorable Senator from Connecticut is clearly and conscientiously of opinion that his services deserve no more than he now receives, why, of course, he will, as a conscientious and honorable man, vote against the measure.

But, sir, I submit to the Senate, and I submit to the country—for I am not disposed to enter into any investigation of that kind—to pass judgment upon the good taste of the honorable Senator, who has lately made his appearance in this body, in seizing this occasion, which has no connection under heaven with the agitating and agitated subjects to which he alludes, in making of this an opportunity for using terms offensive and reproachful to a large majority of his associates on this floor; and, more than that, sir, of using terms which imply offensive meaning, not only towards ourselves, but towards the large majority of those who, in times past, have preceded us in this body.

For my own part, it is entirely a matter of indifference what judgment the honorable Senator passes upon the bill of the last session for the organization of Nebraska and Kansas. I voted for the bill. I voted for it for reasons satisfactory to myself and assigned to the Senate and to this country, on the floor of the Senate. For those opinions which dictated that vote, and for that vote, I hold myself responsible to no man in this chamber. To my constituents I stand responsible for it, and to Him who is the Master of us all. The honorable Senator differed from me in opinion about that bill. A number of gentlemen on this floor differed from me about that bill. When the bill was before the Senate, they expressed their opinions on that subject in strong and decided terms. They voted against the bill. I felt myself as having no right to take any exception to the views which they entertained on the subject, or to complain of the votes which they gave upon the bill. I felt that they had the same equal rights which belonged to me, and that it would be indecent and unbecoming in me to call them in question for the discharge of duties which they owed, not to myself, but to the constituencies who sent them here and to their general opinion as to what the welfare of the whole country required.

Sir, I had hoped, if we could not escape from this species of discussion—if we were under the necessity of having it brought forward from time to time, *ad nauseam*, on this floor, that, at least, we might be allowed to pass upon a bill like this without having these extraneous, and, if they could have any influence, embarrassing considerations, brought before us.

The honorable Senator, if I understand him, objects to so much of the bill as proposes an increase of the compensation of Judges of the Supreme Court, upon two grounds. The first is, that the judges of the State courts are sufficiently paid with $2,000 a year, and therefore a compensation of $4,500 is sufficient to be paid to the Judges of the Supreme Court of the United States I leave that syllogism to the judgment of every man in the country. A judge in Connecticut, a judge in Massachusetts, a judge in Illinois, or a judge in North Carolina, receives $2,000 a year, and is sufficiently paid; therefore the associate justices of the Supreme Court are sufficiently paid with $4,500! That is the Senator's proposition, syllogistically stated. If there is any connection between the premises and the conclusion, I confess myself unable to see it; and so, I apprehend, will be every member of this body. And then the second objection, if I am able to understand the Senator, again resolves itself into slavery and anti-slavery agitation; he is unwilling to make any increase of compensation to the judges, because—why? Because they have resolutely endeavored to carry into execution a constitutional law of the United States. Now that is the whole matter.

Mr. President, I am sincerely sorry that the honorable Senator from Connecticut should have felt himself obliged, in point of duty, to bring forward topics of this kind on this bill.

Mr. GILLETTE. The Senator is mistaken, if he states that I object to it because of any decision of the Supreme Court. I do not recollect that I made any exceptions to the bill on that ground. My objection to it, was, that the tendency of it is to magnify this Government at the expense of the State governments. That was the point which I endeavored to present.

Mr. BADGER. I am very glad indeed to learn that I misunderstood the honorable Senator. Though he did not express himself distinctly in several of the remarks he made, I collected the general bearing of his objection to be, not what these judges had done in the Supreme Court, but what the Judges of the Supreme Court had done elsewhere, in the discharge of their circuit duties, towards enforcing a law of the United States which was obnoxious to popular opinion. So far from considering that as an objection to making them independent in their position, I should have supposed it would furnish a strong reason to every well constituted mind, why they should be made independent and capable, as well as willing, at all times to exert their legal and constitutional powers in support of the law, whether it met with popular favor, or whether it met with popular disfavor. But I am glad to understand that I misconceived the Senator; and I willingly, therefore, retract—I do it with great pleasure—the observation which I made in that connection.

But, Mr. President, I was about to say—and there to leave any question between the honorable Senator and myself—that I could but feel sorry that he should think it necessary, upon a bill of this kind, to introduce such topics as he has adverted to. We shall have agitation enough; we shall have angry discussion enough; we shall always find topics upon which we may bring forward remarks calculated to irritate here, and to irritate everywhere; but for God's sake do not let us *seek* occasion to drag in these topics, and to *force* upon us continually an angry or an unkind state of mind in connection with every subject of legislation.

Sir, I have submitted heretofore, (I do not choose to restate them; I am not in the habit of doing so;) the reasons why I think it preëminently impor-

tant and strictly just, and, in respect to the public, right and necessary that this additional compensation should be granted to both these classes of public servants.

The honorable Senator says, however, that, so far from there being a difficulty in procuring persons to represent the States on this floor, the difficulty often is in making a selection between those numerous candidates who are willing to engage in that public service at the present rate of compensation. Why surely, sir, so it is, and so, I trust, it ever will be, that there is some higher and nobler feeling or principle operating upon the minds of American statesmen and American citizens, than the mere consideration of making money in the service of their country. I should scorn myself if I were capable of being influenced, when my country needs my services, by inquiries whether I could add to my private fortune by discharging my public duty. I doubt not, if my own State were in a situation to need the services of her sons, at whatever personal sacrifice or inconvenience, without a penny of compensation, present or prospective, certain or contingent, she could look through the broad expanse of her territory and select at her pleasure, those upon whom she would devolve the discharge of this duty, rewarded by nothing but her approbation and the consciousness of right doing. But that is not the question for us. The question is whether a country abundantly rich, prosperous beyond example in the history of the world, shall tax the patriotic devotion of her citizens in the rendering of these public services, and leave them, not without accumulation of fortune—that is what no man asks—but subjects them, whilst they surrender their best days to their first duty—the service of the republic—to a gradual diminution of those private means by which they hoped ultimately to discharge their second duty, which is to leave their children in a state of competency when they themselves sink into the grave.

Mr. President, upon that subject I beg to say, that, while it would be right and proper that those services should be asked and received by the country, in its necessity and distress, if it were crippled and impoverished, not only at less pay than we now receive, but with nothing at all, and though we should all, I doubt not, render them with the utmost cheerfulness, at whatever expense or whatever sacrifice, is it right that the rich, the opulent, the prosperous, the mighty nation to which we belong, should ask such sacrifices from her public servants? It is not right, sir.

Now, though it may be, perhaps, a little out of taste, I will, with regard to myself, state what has been the result of congressional services upon me. I first left at home an honorable and lucrative profession. I stopped the income there upon which I had a right to depend, and upon which it was my duty to depend, both for myself for the present, and for those for whom I am bound to provide in the future. I came here, and I have now, exclusive of this session, served here through four Congresses, and every Congress has resulted in my being compelled to add from two thousand five hundred to three thousand dollars to my compensation received as a member of this body, in order to defray my expenses. What is true of myself, is true, I am sure, of many other of my friends on this floor. I ask, can that be right? Would the people of a great country, if they understood it, otherwise than scorn to receive services unrequited? I do the people of the United States the justice to believe that if this subject were properly understood by them, there would be a universal response from one end of the nation to the other—"It is unjust; it is unfair, it is unworthy of us; and let this wrong, this injustice, so unworthy of us, be at once corrected." Such remarks as these I could not have made at an earlier part of my service here without being misunderstood. My connection with the public service of the United States is soon to close. I shall leave this Chamber; I shall leave it to return to it no more; and I can, therefore, without impropriety, mention, in regard to myself, what can no longer be misunderstood as to its motive or purport, but which is calculated to show to the constituents of us all the condition in which they place their public servants here; which understanding, my conviction of their integrity and right feeling is such that I am satisfied they would demand its correction.

As to the mode in which honorable gentlemen who come here may chose to live, it is their concern; it is not the concern of the honorable Senator from Connecticut. If he chooses to pass his time in using libations of cold water, he has a perfect right to do it; and I am the last man on earth who would call him in question for it. I assume no jurisdiction or superintendence over his habits of life. If other gentlemen think proper to indulge in the fruit of the vine, he has as little right to exercise a supervision over their habits in that respect. That is a matter which every gentleman must regulate for himself: but upon that subject, I will say—it is due after what I have said, in justice to myself, to say—that my expenditures here have not resulted from extravagance of living; all my friends who best know my personal habits know that this is true; and therefore, I conclude that other gentlemen upon this floor who come here, and who live in the first-class houses in the city, where, I presume, it is expected members of Congress shall live; and who bring, as every gentleman ought to do who has them, his wife and children, to spend with him a portion of their time, occasionally in his company, must be placed in the same situation, in the ratio between receipt and expenditure, which I have realized in my own case. I do not regret the loss which I have sustained in the public service. Though I may not have been enabled to do anything for the country at large, and but little for the State which sent me here, I have this consolation: that at all times and on all occasions I have endeavored, to the best of my ability, to serve her and to serve the Union. I regret not what is past, but I desire, if possible, to prevent, to some extent at least, such occurrences for the future among gentlemen who may succeed me on this floor.

A few words now as to the amendment which has been moved by my honorable friend from Iowa. He proposes to strike out from this bill so much as provides for an increase of the compensation of the members of the two Houses of Congress. I shall vote against that amendment because I believe the increase ought to be made. It is just, it is reasonable, it is due that it should be made; and believing that, I will not consent to separate one meritorious class of public servants from another in the proposed increase. It is true, I admit, that when members of Congress pass a bill for the purpose of enlarging their own compensation, upon the first appearance, it strikes us as if there was something indelicate in it. But if there be an indelicacy, it is one which is forced upon us by the Constitution of the United States. That Constitution has not vested in any other public functionary or functionaries the power to determine on the compensation of the members of the two Houses. It has fixed that power here, and therefore, when there is a real cause for such an increase it is not indelicate because it is necessary. It is not indelicate, because there is no other tribunal to which we can refer the question. It is not indelicate; because, to say that, is to charge the framers of the Constitution with having imposed on Congress the necessity of indelicacy. Being right, I shall vote for it. Being right, I shall vote against striking it from the bill. If, however, it shall be the pleasure of the Senate to strike it out I shall still vote with great heartiness for the residue of the bill, being always willing, if I cannot accomplish all the good which seems to be before me, to accomplish as much of it as I can.

There is one remark which I ought to make—it is due to the occasion to make it—before I take my seat. The honorable Senator from Connecticut has alluded to what he considers the gross injustice of the present system of mileage; and, if I understood him rightly, he said that the injustice of it had been admitted by every gentleman whom he had heard express an opinion on the subject, except myself. Sir, if the honorable Senator had been a member of this body as long as I have been, he would have had an opportunity of hearing some of the most able and distinguished men who have ever sat in the halls of Congress, express the same opinion which I expressed. I will instance no other example than the late Mr. Calhoun. When on more than one occasion, we received propositions from the House of Representatives to limit and restrict the mileage, the Senate uniformly and clearly voted them down. On those occasions, the sentiments which I have expressed, were announced by other gentlemen, whose opinions were far more worthy of consideration than mine. It is manifest, too, upon a point of real, not imaginary, delicacy, why many gentlemen should not express opinions on that subject. I have expressed them, because, upon the question of mileage, I never had any interest. My own mileage has always been so small and inconsiderable, that if it had been stricken out, it would have made no material diminution in the amount of compensation which I received. For this reason it has happened that persons situated as I am, without interest in the question of mileage, have been those only who have taken any part in the discussions upon it. But we have shown over and over again by our votes, that a decided majority of the Senate consider the present arrangement as just. I consider it so. I have stated why I consider it so. I have never heard any answer given to the views which I expressed on that subject. Well, then, how stands the case? The honorable Senator from Connecticut thinks this system of mileage is grossly unjust and unequal, for which he gives no other reason than his own opinion. A majority of the Senate have, in all time past thought, and now think, that it is not grossly unjust and unequal. There stands the question.

I am sorry to have been led into this discussion. I did not intend this morning, to say a word on the subject.

Mr. CLAYTON. Mr. President, if I could give a vote on this question without being misunderstood, I should certainly prefer to remain silent; but for fear my vote may be misunderstood, I ask to be indulged in a very few remarks.

I have served, sir, for a long period in this body; and I concur with the honorable Senator from North Carolina, that the Senators of the United States are not compensated for the services which they render to the country. This much I will concede to the honorable Senator. Like him, years ago, I abandoned a lucrative practice to come here; but I will not indulge myself with speaking of the sacrifices which I have made. I know very well that there are no men in this country paid worse than the Senators of the United States who reside within five hundred miles of the Capitol. For this session my compensation, perhaps, is but little more than that of a page of the Senate; not half that of one of the messengers of the Senate. Under these circumstances, no man will pretend to say that the compensation is adequate for the services rendered.

My honorable friend from North Carolina has stated to us, in the course of his remarks, that the reason why he had never introduced a proposition of this kind before, until he was about to leave the Senate, was the apprehension that he might be misunderstood. That was a rational apprehension; and I stand now precisely in the attitude in which he stood, when he thought he ought not to move in the matter lest he should be misunderstood. He can vote for this measure without any imputation upon him. He will not receive under it anything which anybody will imagine could possibly have induced him to bring forward this bill. All men will acquit him of any impropriety. All will see the purity of motive by which he has been actuated. But, sir, with a large class of the community, how will the matter stand with me and other men, situated in like circumstances with me? Here are more than four years of my term of service remaining unexpired. I am called upon to vote for a proposition which is to put money into my pocket. I never did it; and if I continue to feel as I do now, I never shall. I did not come here for the sake of the compensation. I knew that it was inadequate when I accepted the commission; but I am willing to perform the service upon the terms on which I entered into the contract. When I find that the sacrifice is too great for me, I shall retire from the public service. But, sir, whenever a proposition is made here to do justice to other gentlemen, if I can possibly do it without committing myself, in such a way as, perhaps, to ruin my own usefulness amongst my countrymen hereafter, by subjecting myself to an imputation which I utterly scorn, I am willing to give a vote which shall compensate them. I am willing to vote now to increase the compensation of my successor, and those who come after us.

I do not think that the measure of justice proposed by the bill is equal among the Senators; but

I do not intend to discuss that point. I only wish to say, that to me, personally, the good opinion of that class of people who never will be made (as my friend seems himself to think,) to understand this subject, is of more value, by far, than all the increased compensation which may be given by the bill; and rather than lose that good opinion, I should give up the whole compensation.

This is a delicate and difficult subject to talk upon; I do not wish to say too much upon it. I repeat that I am perfectly conscious that the compensation is insufficient, and I am willing to vote sufficient compensation to others. I am willing and anxious to increase the compensation of my successor, but I cannot vote for the proposition in this bill, which increases the compensation of the present members of Congress, and puts money into my own pocket. Senators of the United States are not rewarded for their services. Perhaps it is not going too far to say, that the public servants of the people of the United States are worse paid than those of any other people in the world. Who of them is properly paid? The Judges of the Supreme Court are not sufficiently paid. For that portion of my friend's bill which proposes to increase the compensation of those judges I shall vote with all my heart; but I do not mean to place myself in a position so easily liable to misconstruction, as I should do, by casting a vote for increasing my own compensation.

Mr. TOUCEY. Mr. President, I did not intend to say anything with regard to this bill, and I shall now say but a few words, for the purpose, merely, of preventing an impression in any quarter, that the vote which I may give is for any of the reasons suggested by my colleague, [Mr. GILLETTE.] I differ from him totally. I think the compensation of members of Congress and of Judges of the Supreme Court is entirely inadequate and ought to be increased. I have nothing to say with regard to the impressions which may influence the minds of others. Every Senator and every Representative, voting upon this bill, must judge for himself; but I should be very unwilling to have it supposed, by any vote which I give, that I deem the present compensation of any class of officers mentioned in this bill, at all adequate—an assumption which is entirely contrary to the truth.

I think, sir, it is contrary to the true policy of this Government to exclude from public service, as a matter of necessity, a large class of men of the highest ability, who yet, from pecuniary considerations, are unable to devote themselves to the service of the country. I deem it contrary to the true popular principle, that it should be rendered impossible for men in moderate circumstances, without any independent income of their own, to enlist themselves in the public service; not that they would refuse to embark in it in a case of the highest necessity, but there are few cases where men are called upon, from the necessities of the occasion, to sacrifice themselves and their families in order to answer a call from the country, upon the bench, or in either House of Congress.

I am, therefore, willing to go for any measure which will accomplish the end I have in view, (that is, to place these servants of the public upon a footing which I think the public interests require,) if it can be done consistently with that, perhaps groundless, delicacy which has ever governed me in reference to the public service. The vote which I shall give upon this bill, is controlled by that consideration, and that consideration alone. I say nothing as to the impression of others.

Mr. BUTLER. I understood that the order of the day was the bill to amend the judicial system of the United States, and I hope we shall proceed to its consideration.

Mr. BADGER. Let us have a vote upon this bill.

Mr. BRODHEAD. It is quite evident that there are several Senators who desire to say a few words on this subject. The bill was unexpectedly taken up this morning. I hope it will go over until to-morrow morning, at any rate, and that we shall either take up the bill of the honorable Senator from South Carolina, or the bill to which I alluded early this morning. I move to postpone the further consideration of this subject until to-morrow.

Mr. BADGER. I have no objection to that, if we can postpone it until to-morrow, at half past twelve o'clock. I wish to have the bill disposed of; and I can tell my friends that, with their judiciary bills, and their old soldier bills, we may not get this up at all.

Mr. BRODHEAD. Then we had better provide for the old soldiers.

Mr. BADGER. The difficulty is, that we shall be certain to do that; but if we push this bill aside, we may not get it up again. Unless we can postpone it until to-morrow, at half past twelve o'clock, I shall resist the motion.

Mr. BRODHEAD. I make the motion to postpone the bill until to-morrow, at half past twelve o'clock.

The motion was agreed to.

REVOLUTIONARY CLAIMS.

Mr. EVANS. I wish to call up the bill which was made the special order for to-day; but I see that there is no chance to have it considered at present. I wish to call it up merely for the purpose of having it postponed until Monday. I refer to the bill to provide for the payment of revolutionary claims.

The PRESIDENT. As that bill was made the special order for to-day, it will not lose its place as a special order even if it should not now be taken up.

Mr. EVANS. Then I am satisfied.

JUDICIAL SYSTEM.

The Senate, as in Committee of the Whole, resumed the consideration of the bill to modify and amend the judicial system of the United States, the pending question being on the amendment of Mr. CHASE to add to the first section the following:

And no vacancy occurring in the office of an Associate Justice of the Supreme Court shall be filled by a new appointment until the number of members of the court shall be reduced to six; and the Supreme Court shall thereafter consist of a chief justice and five associate justices.

The question was taken by yeas and nays, with the following result:

YEAS—Messrs. Badger, Bell, Brainerd, Cass, Cooper, Fessenden, Fish, Foot, Gillette, Houston, Pearce, Rockwell, Rusk, Sumner, Wade, and Weller—16.

NAYS—Messrs. Adams, Allen, Bayard, Benjamin, Brodhead, Brown, Butler, Clayton, Dawson, Dodge of Wisconsin, Dodge of Iowa, Douglas, Evans, Geyer, Hunter, James, Jones of Iowa, Mallory, Mason, Morton, Pratt, Reid, Sebastian, Stuart, Thompson of Kentucky, Toombs, and Toucey—27.

So the amendment was rejected. The question recurred on the amendment of Mr. GEYER to strike out the first section of the bill, in the following words:

"That from and after the passage of this act, the Justices of the Supreme Court of the United States shall not, as heretofore, be required to perform circuit duty, but they shall continue to have and exercise the same jurisdiction and powers now vested in them by law, within any of the circuits in which they may respectively reside, in allowing writs of *habeas corpus*, and writs of error, granting injunctions, and doing all other acts which may be done at chambers and out of term."

The yeas and nays being taken on this proposition, resulted—yeas 12, nays 25; as follows:

YEAS—Messrs. Brown, Chase, Dodge of Iowa, Douglas, Fessenden, Foot, Geyer, Gillette, Jones of Iowa, Pratt, Sumner, and Wade—12.

NAYS—Messrs. Adams, Allen, Badger, Bayard, Bell, Benjamin, Butler, Cass, Dawson, Evans, Fish, Houston, Hunter, Mallory, Mason, Morton, Pearce, Reid, Rockwell, Rusk, Sebastian, Stuart, Thompson of Kentucky, Toucey, and Weller—25.

So the motion to strike out was rejected.

The PRESIDENT. The question is now on the adoption of the amendment offered as a substitute by the Senator from Illinois, [Mr. DOUGLAS.]

Mr. CHASE. I do not rise for the purpose of adding anything in support of the amendment which I offered; but as I happened to be out of the Chamber when the vote was taken upon it, I ask the unanimous consent of the Senate to be allowed to record my vote for it.

Mr. BADGER. That cannot be done. It is a bad precedent.

Mr. CHASE. I presume it can be done by unanimous consent.

The PRESIDENT. The rule is imperative, that "no member shall be permitted, under any circumstances whatever, to vote after the decision is announced from the Chair." Unanimous consent cannot dispense with this rule. The question before the Senate is on the substitute for the bill offered by the Senator from Illinois.

Mr. DOUGLAS. The Senator from Missouri [Mr. GEYER] proposes to offer some amendments to that substitute; perhaps other Senators have amendments to offer; I ask, therefore, that it be read section by section, so that amendments can be offered.

The PRESIDENT. That course will be pursued.

The Secretary proceeded to read the substitute by sections. It was published in the proceedings of Friday the 5th instant.

When the reading of the third section (which proposes to have a court of appeals in each circuit, composed of the district judges and the chief justice of any Territory or Territories, which may be in the circuit) was concluded,

Mr. DOUGLAS said: The Senator from Missouri has an amendment to offer to this section. He is not in at present, but he will be here in a few minutes. Let the reading be continued; we can afterwards recur to this section.

The Secretary continued to read the substitute. When he had read the fifth section, in regard to the terms and places of holding the circuit courts,

Mr. DOUGLAS said: I suppose it will not be necessary to fill those blanks in committee. The test question on the substitute can be taken without that; and if it be adopted in committee, I shall move to fill the blanks in the Senate.

The Secretary proceeded to read the sixth and seventh sections, but was again interrupted by

Mr. DOUGLAS, who said: The Senator for whom I sent is engaged, so that it is impossible for him to be here. On consultation with the chairman of the Committee on the Judiciary, [Mr. BUTLER] I understand there will be no objection on his part to postponing the bill until Monday, with the understanding that we shall then come here prepared to vote on this question. I therefore move its postponement until Monday next, with that understanding.

Mr. BUTLER. We must take it up then.

Mr. DOUGLAS. Yes, sir.

Mr. BUTLER. Make it the special order for one o'clock.

Mr. DOUGLAS. I include that in my motion.

Mr. BUTLER. It is very important that this bill should be disposed of, as I see it is in the way of a great many others; though I do not think that a very great objection, because some of the others might as well be dispensed with. However, I do not wish to deprive my colleague on the committee of the opportunity of proposing such an amendment as he may think proper. He is engaged in the court below, and both courtesy and respect for his judgment, induce me to yield to the motion of the Senator.

The motion was agreed to.

EXTENSION OF BOUNTY LAND LAWS.

Mr. BRODHEAD. I move that the Senate proceed to the consideration of the bounty land bill.

Mr. ADAMS. I claim precedence for a prior special order, which has already given way several times to other bills. It is the bill to establish the Department of Law, to prescribe certain duties of the Auditors and Comptrollers of the Treasury, and for other purposes. If it is not the pleasure of the Senate to consider that bill now, I shall not attempt to call it up again. I think it is necessary for the proper management and conduct of the Departments of the Government to have it passed; but, I repeat, if it is not the pleasure of the Senate to consider it, I shall not ask it again.

The motion was agreed to; and the Senate resumed the consideration of the bill "in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States."

When it was last under consideration, on the 4th instant, Mr. FESSENDEN had moved to amend it by inserting, in the first section, among those who are to be entitled to the benefits of the bill, the words:

"Or any armed force employed by any State for the protection of its territory, and whose services have been paid for by the United States, or who went as volunteers at the invasion of Plattsburg by British troops in September, 1814."

Mr. BADGER had moved to amend that amendment by striking out the words "and whose services have been paid for by the United States," and the pending question was on that amendment to the amendment.

Mr. STUART. I do not wish to delay action on the bill, but I barely desire to suggest to the Senator from Pennsylvania, that I have within the

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last hour received the information which was desired from the respective offices. I have not had time to examine it so as to present it in such a form as I should desire. It is past two o'clock, and I will merely suggest to the Senator whether we shall make any advance by taking up the bill now.

Mr. HUNTER. If it be the pleasure of the Senate to postpone the bounty land bill, we have an appropriation bill from the last session still undisposed of. It is the mail steamer bill, and it will probably take but a short time to dispose of it.

Mr. WELLER. The difficulty in the way of taking up that bill is, that the Senator from New York, [Mr. SEWARD,] who is now absent, has the floor upon it. I am sure he gave notice at the last session that he intended to speak at length on the subject, and I therefore presume he wishes to discuss it. If there is a reasonable prospect of his being here soon, I presume it should not now be taken up.

Mr. HUNTER. It has been postponed for some weeks for that purpose, and I do not think the public business ought to be longer delayed on that account.

The PRESIDENT. The bounty land bill is now before the Senate.

Mr. BRODHEAD. The Senator from Michigan [Mr. STUART] has the floor upon this subject. I do not wish unduly to press the consideration of the bill contrary to the judgment of the Senate, or in any manner to inconvenience the Senator from Michigan. As he states that he has just received the information which he sought at the Departments, I entertain the hope that it will be the pleasure of the Senate to proceed with the bill at this time. If, however, it is proper to take time to look over the papers which he has received, it will be for the Senate to say whether we shall proceed with it now or not. I do not wish improperly to press the bill.

Mr. STUART. I do not wish the Senator to understand that it was on my own account I asked for any time. It was rather with a view to save time. I do not think that the Senator is quite correct in saying that I have the floor on the bill. That is not my understanding of it. I intend to present these papers before the bill is disposed of; and, in what I said before, I only meant to suggest that if I could have until to-morrow to examine them, I might present the contents of them in a shape which would consume less time. If the Senate determine to proceed with the bill now, it will be no personal inconvenience to me.

The PRESIDENT. The question is on the amendment offered by the Senator from North Carolina to the amendment of the Senator from Maine.

Mr. WELLER. I desire to ask the Senator from North Carolina whether he proposes, by that amendment, to provide bounty land for the militia of the States of Ohio and Michigan who were called out on the occasion of a quarrel between those States about their boundary line? I refer to what is commonly known as the Wolverine war. And whether he proposes to extend it also to those who were called out by Iowa and Missouri in a war about their boundary? Those troops were called out by the States, and I desire to know whether he proposes to class them among the old soldiers in extending the benefits of this bill?

Mr. BADGER. I certainly did not have in my mind the war to which the Senator alludes, because I had never heard of it. I do not know anything about it; but the intention of my amendment is, that the benefits of this bill, if it should be passed, shall extend to those troops which were called into service by the authority of the States in any of the wars of the country, or for the protection of the States from invasion, or for putting down insurrections in the States, all these being duties of the General Government, although the United States may not have paid the troops so called out. In other words, I think the soldier who was engaged in one of the wars contemplated by the bill, and received no pay from the United States, is not the less entitled to the benefits of the bill because he did not receive that pay than if he had received it. That is the whole of it. It does not interfere with the previous description of the bill as to the wars in which the persons must have been engaged. It neither includes nor excludes wars that are not included or excluded in the previous portions of the bill. It simply proposes to give the benefits of the bill to the men who have served in any of those wars, even although they may not have been paid by the United States.

Mr. WELLER. The phraseology of the amendment will unquestionably allow all the persons to whom I have alluded to receive bounty lands; and all the troops who were called out by the State of Illinois to wage war against the Mormons will come in under the head of old soldiers and receive bounty lands. I believe the State of Texas called out a portion of troops to resist what she considered the unjust action of the Federal Government, and they would be included. Now, if it is intended by the Senator that all those persons shall come in and receive the bounty of the Government, his amendment, undoubtedly, will not receive my vote.

Mr. FESSENDEN. That difficulty can be obviated, in my judgment, by simply striking out of the original bill the words "and whose services have been paid for by the United States," and letting my amendment stand as I offered it. The motion made by the honorable Senator from North Carolina, is to strike out of the amendment those words, and then the class of persons alluded to by the honorable Senator from California would undoubtedly be admitted; but if you strike those words out of the original bill, and leave them in my amendment, then the persons alluded to by the honorable Senator from North Carolina will come in, and those alluded to by the Senator from California will not be included. The object, therefore, can be attained by striking the words out of the original bill, and leaving them in the amendment. That will accomplish both objects.

Mr. BADGER. After the suggestion of the Senator from Maine, I have no hesitation at all in withdrawing my amendment. If he thinks the object will still be accomplished in the manner which he proposes, and the difficulty suggested by the honorable Senator from California will be avoided, I have no objection to pursuing that course, leaving the words in the amendment, and striking them out of the bill. If the Senator is satisfied that what he states is correct, I withdraw the amendment.

Mr. CASS. I should like to hear the pending amendment read.

The Secretary stated that it was to insert the words proposed by Mr. FESSENDEN.

Mr. CASS. I should now like to hear the whole section read to which the amendment is proposed.

Mr. WELLER. Read the original amendment.

The SECRETARY announced that the pending amendment was to strike out of the first section the words "and whose services have been paid by the United States," so that the section would read:

"That each of the surviving commissioned and non-commissioned officers, musicians, and privates, whether of regulars, volunteers, rangers, sea fencibles, or militia, who were regularly mustered into the service of the United States, and every officer, commissioned and non-commissioned, seaman, ordinary seaman, marine, clerk, and landsman in the Navy, in any of the wars in which this country has been engaged, and each of the survivors of the militia, or volunteers, or State troops of any State or Territory, called into military service, and regularly mustered therein, shall be entitled to receive a certificate or warrant from the Department of the Interior for one hundred and sixty acres of land, or where any of those who have so served shall have received a certificate or warrant, he shall be entitled to a certificate or warrant for such quantity of land as will make, in the whole, with what he may have heretofore received, one hundred and sixty acres to each such person having served aforesaid."

The PRESIDENT. The question is on striking out of the first section the words indicated by the Secretary.

Mr. CLAYTON. I only wish to say, before the vote is taken, that I understand, without that amendment, such volunteers as the Plattsburg volunteers would not receive bounty lands. They have never received any compensation from the United States; and for that reason, by the terms of the bill as it now stands, they would be excluded altogether from its benefits. It would be perfectly fair that those who have not been paid shall receive bounty lands as well as those who have been paid.

Mr. COOPER. I am in favor of the proposition contained in the amendment, and I do not care how broad it may be made. I do not think that the public lands are likely to be better disposed of than by bestowing them upon those who aided in defending the country in the wars in which it has been engaged. I think it is a greatly preferable and more just method of disposing of the public lands than most of those which are in contemplation. It will at least afford to the old States, to the citizens of the old States who, in the wars preceding the one with Mexico, furnished most of the troops who were engaged in the service, a portion of the lands which they can hardly hope to receive under any of the newer systems that are contemplated by modern patriots. Therefore, although I do not wish it to go outside of soldiers who have actually performed services, I do hope that it will embrace all such. I do not think that the lands can be, or at least they are not likely to be, better bestowed than in this way. I am prepared to go that far, and even further, in compensating those who have served the country.

Mr. CASS. I should like to know whether the provisions of that section will extend bounty land to troops who have never been in the service of the United States; who were never placed, and refused to be placed, under the officers of the United States. If it will, I shall certainly vote against it. I am willing to vote to extend it to troops who were called out by the authority of any State. I am perfectly willing to extend it to the Vermont troops who went to Plattsburg. No troops could have behaved better than the militia of Vermont on that occasion. Unfortunately, at one time, the Governor of that State, in 1814, issued a proclamation, and called the militia of Vermont who were in the service of the United States out of that service, and required them to come home. They nobly refused, and went on, and would fight the enemy. I would pay them; but I never will give my vote to pay the troops who were not placed, and who were refused to be placed, under the United States officers. It is the treasure of the United States which we are disposing of; and if any State refused to place its troops under the officers of the United States, let us not pursue the course of extending the treasure of the United States in this manner to them.

Mr. BRODHEAD. I beg to repeat, sir, that these words were placed in the bill in order that the Pension Bureau might have some evidence, some record evidence, by which to test the correctness of the applications that might be made for bounty land. Most of the troops, all who rendered valuable services, have been paid by the United States. I therefore hope, sir, that the amendment will not prevail.

Mr. PRATT. There are antecedent words in the section, in the form of a restriction, which will enable the Government officers to decide upon the identity of the parties, as well as the words which are proposed to be stricken out. As I mentioned, in part, the other day, we had in the service a portion of troops who behaved as gallantly as any in the country, and who, if those words are retained, will be excluded from the benefits of the bill. I refer to the militia of Maryland. The antecedent words, to which I allude, are to the effect that the troops to whom the benefits of the bill shall be extended, shall have been mustered into the service of the United States. The Department, therefore, is in possession of the muster rolls, and they will identify the party who is to be paid just as much as would the fact of the payment by the United States. I have yet to hear from any one an answer to the argument of the honorable

Senator from Georgia, the other day, to show that when a soldier has been mustered into the service, and has actually served the country, why he should not receive bounty lands, because he had not been antecedently paid by the Government. I should rather think that the argument ought to be the other way. I hope, therefore, that those words will be stricken out. You will have the same means of identifying the party who is to receive the bounty land without them; and there can be no reason assigned why persons who have served the country, and were not paid, should not receive the bounty merely because, as the bill seems to suppose, they have not been so paid.

Mr. STUART. It seems to me that we are getting this thing into very great confusion. I understand that the amendment, which is in order, is that which has been offered by the Senator from Maine.

Several SENATORS. Oh, no.

The PRESIDENT. The question is on striking out of the first section the words, "and whose services have been paid by the United States."

Mr. STUART. Will the Chair inform me what has become of the amendment of the Senator from Maine? It was the pending amendment. The Senator from North Carolina [Mr. BADGER] had moved to strike out of that amendment certain words; but a short time ago he withdrew that amendment to the amendment. He cannot move to strike the words out of the original bill while the amendment of the Senator from Maine is pending. The question must first be taken on the amendment offered by the Senator from Maine, and then a proposition can be made to strike those words out of the bill.

The PRESIDENT. The Senator from Michigan is correct. The question is properly on the amendment offered by the Senator from Maine.

Mr. STUART. Let us have that read.

The amendment was again read.

Mr. PRATT. I ask for a division of that amendment. I am disposed to vote for the latter branch of it, but not for the first. I think, as the Senator from Michigan [Mr. CASS] has well said, the United States are under no obligation whatever to pay for troops mustered into the service of a State, when the State authorities, or the troops themselves, refused to be placed under the authority of the Federal Government. As he has correctly said, we are disposing of the property of the Federal Government, and we ought to give it only to those who were in the service of that Government. I ask, therefore, for a division of the amendment.

Mr. FESSENDEN. I wish to explain to the Senator from Maryland that the amendment does not touch that class of persons in any shape or form, because it applies only to persons whose services have been paid for by the United States. That provision is connected with my amendment. If the class of soldiers referred to by the Senators from Michigan and Maryland are covered at all, they are covered by the preceding parts of the bill, but not by the amendment, because to it is attached the additional phrase "whose services have been paid for by the United States," and it was not intended to cover them. It was only intended to cover the case of persons employed in a recent period to repel invasion from the frontier.

Mr. PRATT. The Senator has satisfied me. I have no objection to his amendment. I withdraw my call for a division.

Mr. STUART. I am very sorry to say that the Senator from Maine has not satisfied me. Probably it is my fault. I wish to look at the proposition of the Senator in two points of view. He proposes to insert a provision to grant bounty land to troops who have been called out by a State to protect its own territory. He says that the original words in the bill "whose services have been paid for by the United States" will exclude the men referred to by my colleague; but there is a proposition already introduced to strike those words out. Then, how will the amendment stand? It will stand without any such qualification.

Mr. FESSENDEN. I will explain the matter to the Senator, for he misapprehends it. The original section of the bill includes two classes of persons—first, the regular troops who were mustered into the service of the United States and paid by the United States; secondly, the volunteers and militia who were called out by the authority of the State Governments for military services, and mustered into the service—not mustered into the service of the United States; that is not the expression of the bill—and whose services have been paid for by the United States. That is the way it stands now. Whether those words should be stricken out or not, the Senate can decide; but the language of my amendment is, "or of any armed force employed by any State for the protection of its territory, and whose services have been paid for by the United States." Those are the words of my amendment, and I do not propose to have them stricken out. The Senator from North Carolina has withdrawn his motion to strike them out; therefore it does not include the class of persons alluded to by the Senator.

Mr. STUART. That disposes of the objection, so far as I have made it; but I should like to know now, from the Senator from Massachusetts, whether this Government has not paid the State of Massachusetts for the services of the soldiers who were refused to be placed under the authority of the United States—whether they have not been paid for within four or five years?

Mr. ROCKWELL. Certainly.

Mr. STUART. Then it does bring about precisely the objection that my colleague alluded to. The United States have paid them, and, therefore, the very evil to which my colleague alluded, is produced by the amendment. The Senator from Maine will see that his amendment will cover these Massachusetts militia, who refused to be put under the officers of the United States.

Mr. FESSENDEN. I can modify the amendment to meet the objection of the Senator. I can limit it to those who were called out by the State of Maine to defend its territory.

Mr. ROCKWELL. I do not know precisely how the question stands upon this amendment; but I have a word or two to say in relation to a subject that was opened the other day by the distinguished Senator from Michigan, [Mr. CASS,] and which has been also alluded to to-day by the Senator from Maryland, [Mr. PRATT,] and the other Senator from Michigan, [Mr. STUART.] If I understand this bill, and it has been so stated by the distinguished Senator himself repeatedly in this debate, it is to make a gratuity to the individual soldiers, or their representatives, who were engaged in the war of 1812. I do not propose now to reopen the controversy which existed at that time in relation to the troops, particularly of the State of Massachusetts, because I do not consider that it is involved in anything which is connected with this bill, and because it is a matter of history. By the verdict of history, that State will abide upon that question as upon all others. This question relates to the individual soldier alone, and to his representatives, and I ask if that question does legitimately arise here at all? If there was a controversy between the authorities of the State of Massachusetts and the authorities of the General Government, or a military officer of the General Government, that question was between that Government and the State of Massachusetts; but did not the soldiers and the subordinate officers perform service? Were they not ready to go wherever the authorities above them commanded them to go? And is it right now to exclude from this bounty those who exposed themselves to the hardships and perils of war, because those who had the command of them entertained different views from the Government of the United States? If this is a gratuity, in the nature of a reward to the individual soldiers, I ask where is the reason for the exclusion? Is it not right that they should receive the same compensation as any other soldiers who were in the service of the country? They were bound, as I understand it, to obey their officers, to go where they commanded, and to stay where they ordered them to stay.

Now, sir, I suppose this bill wants votes, and I intend to vote on this question upon principle. I am desirous of supporting the bill, but, I shall be compelled to say, that if this distinction be taken, either by this amendment or in any form, it will be unjust towards these soldiers. I can inform the distinguished Senator from Michigan, [Mr. CASS,] for whom, personally, no man in this Senate entertains a more profound and grateful respect, for his public services, as well in the military department of the Government as in the civil, that there were many of those soldiers who were as patriotic citizens as could be found in the armies of the United States or of any of the States. They were moved by as patriotic motives as ever actuated the breast of that Senator. They were ready and anxious to serve their country, wherever they were ordered to serve it; and, therefore, it seems that this exclusion is improper. When this bounty is to be given to those who left their homes and served their country, if it be stained by such a distinction as this, will it not justify me, will it not justify any honorable man, in opposing a bill which makes so invidious and unjust a distinction, as to the individuals upon whom it is to operate? Sir, I believe there is, in this Senate, a sense of justice which will perceive the injustice of this distinction.

It is true, that as the bill stands now, the class of soldiers referred to, is included, because the claim of the government of Massachusetts, for the money which was paid, has been recognised by this Government, and has been partially paid. The Senator from Michigan [Mr. STUART] is right upon that point. In the year 1850, when the bounty land bill was passed, by a construction of the Department, that pay was delayed. It was a difficult matter of construction, and they were not paid; but in 1852, by a statute that may be referred to, another act was passed with the express purpose and intention, of paying that class of soldiers. They have received forty acres of land under the construction given to the act of 1850, by the explanatory act of 1852. If this bill passes as it now stands, they will receive the balance, one hundred and twenty acres, deducting the forty acres which they have already received, from one hundred and sixty.

Sir, with the greatest confidence I venture to submit to the distinguished Senator from Michigan himself, that it is not right for him now to make this objection to this gratuity to the individual soldiers. Some of them I have seen here, sir, within the last few days, mingling with the other soldiers of the war of 1812. I have seen the same pride upon their brows, and the same patriotism is in their hearts, that actuated every one of that gallant band. It was so in 1812, and wherever in his command the Senator might have met them, he would have found no men who would stand by him better than they would.

Suppose the question should now be raised of paying the troops that were surrendered on a certain occasion in the last war. Would it be right to refuse bounty land to them because they were surrendered by General Hull in a way that was entirely beyond their control? Were not the surrendered troops in that army willing to serve the country? And does not that distinguished Senator know that there were among those troops those whose hearts burned with indignation at being compelled to be surrendered in that way? Have we not here precisely the same principle? Would you refuse to pay them, because, being bound by the orders of their superior officer, they were, though willing to serve their country, deprived of the opportunity of losing their lives in that service? It is part of our glorious history, in which that distinguished Senator bears so noble a part, that a portion of that army viewed with the utmost indignation the surrender to which they were compelled to submit. Now, I put the two cases together. If you adopt the principle as applicable to the soldier in the one case, how can you avoid it as to the soldiers of the Massachusetts line in the last war?

Mr. FESSENDEN. I find on looking at the original bill, that I am right in my construction of it. The Massachusetts soldiers alluded to are provided for in it. It makes no difference whether you strike out the words "paid by the United States" or not; because they have been paid, and they stand, therefore, provided for in the original bill, without my amendment. Hence that amendment will have no effect to carry the principle a single step further in the direction which the Senator from Michigan seems so much to deprecate, than the bill does itself. My amendment only provides for an additional class who are not open to his objection; I therefore shall leave it stand as I offered it.

Mr. CASS. The honorable Senator is under a misapprehension. The troops of that description do not come in under the original bill. They were never mustered into the service of the United States.

Mr. FESSENDEN. No, sir; and the bill does not provide that they shall be mustered into the service of the United States. It simply provides that they shall be mustered into military service. That is all.

Mr. CASS. Of course it must be into the service of the United States.

Mr. FESSENDEN. Not at all.

Mr. CASS. It could not be into the service of England or France.

Mr. FESSENDEN. But it could be into the service of a State.

Mr. CASS. The whole effect of the bill is that the troops shall be mustered by an officer of the United States. I now learn, for the first time, that these Massachusetts troops have been paid, and it has been within the last two years. For thirty-five years efforts were made to pay them without success. Then a provision passed, it must have been in some appropriation bill, *sub silentio* to pay them.

A SENATOR. A special law was passed.

Mr. CASS. It was a special law. Of course, the Executive Government could not have paid them. I, therefore, now learn for the first time, or, at least, I recollect for the first time, that such a bill was passed.

But, I merely want to state that I have not a harsh word to say on this matter. It is now a part of history; and if history, as has been said, is philosophy teaching by example, let it teach us to be just. No man can respect the State which the honorable Senator [Mr. ROCKWELL] so ably represents on this floor, more than I do. It was the very cradle of American liberty, and its whole course has left an impression on the pages of American history which time can never obliterate. But there was a very strange occurrence which took place, and which we may now talk about as history, more than forty years ago. It was a very strange occurrence. It was decided by the supreme judicial court of Massachusetts, that under the provision in the Constitution which authorizes the militia of the State to be called out to defend the country, the government of the State is to judge of the proper circumstances under which they shall be called out, and not the President. At the very time that that took place, Eastport, I think, was in possession of the British, and I am sure that a large portion of Michigan was; yet, the Governor of Massachusetts, I speak of it as a historical fact, declared, in his communication, founded on the decision of the supreme court of Massachusetts, that he had a right to determine when the contingency existed, and that the contingency which then existed did not justify the placing of the troops of the State under the orders of the United States.

These are historical facts, and I look upon them as gone by. My view is simply this: The honorable Senator says that it would be hard to deprive these men of the gratuity. I do not want to deprive them of it. It is a distinction I am unwilling to make. But upon what ground are we appropriating such immense quantities of the public land, or, in other words, public treasure? As I have before said, it must be for one of two things; it must be to reward men for their services, or it must be as an encouragement for future services, call it a gratuity, or what you will. Something ought to have been rendered to the United States, or else on what ground can you make such an appropriation? The men, to whom I alluded, rendered no services to the United States. It was not their fault, I grant. But there were thousands in Massachusetts who stayed at home, who were not called out, that rendered as much service to the United States as those men did who were called out, but who were refused to be placed under an officer of the United States. It was not their fault that they were not called out, nor that they did not go into the public service. I have no doubt that a very large proportion of them, if they had been called into the field, would have behaved as bravely as their fathers behaved. I am sure they would have done so if they had not been prevented. I have regretted, from that day to this, for the character of the common country, that the Governor of Massachusetts should have taken that course. But it serves to show us how strangely party, particularly when party is in a high state of excitement, operates upon the best minds.

There was his decision, supported by the supreme judicial tribunal of Massachusetts; and yet I do not suppose that there is a man in the Senate who would now get up and say that it was a correct construction, that the Governor of the State should have the power of determining the contingency in which the State troops should be called into the field, and that no officer, short of the President, could assume the joint command over the regulars and the militia. The spirit of the Confederation is gone. Those were the very times when the Confederation was wanting. In times of peace it could go on smoothly. Our institutions could then go on of themselves like clock-work. The public spirit of this country could even go on almost without institutions. It did so go on from 1783 down to the adoption of the present Constitution. I think it is one of the greatest honors which attaches to the American name that it could be so. How well was it proved in California? Put Americans where you will, throw them as waifs upon a distant sand-bar, and they will make a community in themselves.

I repeat, I shall not say one harsh word about this matter, with which the Senator from Massachusetts would be disposed to find any fault. I am reviewing the transaction as a matter of history, and I am saying to myself, have I the right to appropriate the public treasure to persons who never rendered the public any service? The State of Massachusetts should have paid those troops.

Mr. ROCKWELL. It paid the troops, and then the General Government refunded the money.

Mr. CASS. Then it came from the United States Treasury. I repeat, if they were not in the service of the United States, and rendered no service to the United States, they ought not to receive such compensation. That is all I say. I will merely add, in regard to the matter referred to by the honorable Senator, that I have had a great deal of feeling on that subject, but it has passed by.

Mr. TOOMBS. I regret very much to see this bill take such a direction as to exclude the Massachusetts militia. I do not think the case is very fairly stated by the Senator from Michigan. He says he will not pay them, because they rendered the United States no service. I take it, sir, that if you exclude all who did not render actual service to the United States in battle, ninety-nine one hundredths of the beneficiaries of the bill would be excluded. Even in the Revolution, we paid all the troops who were engaged in the particular defense of any State, as well as those who were engaged in the general defense of the United States. Now, these Massachusetts troops were called out for the defense of the United States. On account of a controversy between the President and the Governor of Massachusetts, the Governor refused to allow them to march out of the State, which, I think, is the hinge of the controversy; but they were under arms, ready to repel the common enemy, as thousands of other persons were.

Mr. CASS. Not under the officers of the United States.

Mr. TOOMBS. No, sir; but they were called out as State militia generally are, though they were refused to be placed under the command of the President of the United States. Now, sir, in the first place, these men ought not to be punished for any error—if error it was—committed by the Governor of Massachusetts. These people were not free to act as they chose. They were to obey their superiors, and were not to blame.

I do not think that the question is so well settled as the Senator from Michigan supposes it to be, that the decision of the supreme tribunal of Massachusetts was wrong. The Governor of Massachusetts may have decided wrong, but that he had the right of deciding, I think is clear. That is my judgment about it. At all events, I am not inclined to press the question so far as to exclude these men.

Mr. CASS. May I ask the Senator to repeat his position?

Mr. TOOMBS. I say that the Governor of Massachusetts may have decided wrong, but that he had the right to decide the question, I think, is perfectly clear under the Constitution.

Mr. CASS. You mean, in other words, that the Governor of a State has a right to determine whether the contingency exists which renders it necessary to call the militia out.

Mr. TOOMBS. Yes, sir, I mean to say that when the President of the United States calls on the Governor of a State for the militia of the State the Governor has the right, and it is his duty, to decide whether such a case exists as, under the Constitution, to authorize the call; otherwise he is merely an agent of the President of the United States, who could command the entire forces of this country for any purpose whatsoever, constitutionally or otherwise. That would be a necessary result from the position laid down by the Senator from Michigan.

Mr. CASS. Will the honorable Senator allow me to state that at the very moment at which that difficulty arose, the case provided for in the Constitution existed—two extremes of the country were in the possession of the enemy.

Mr. TOOMBS. It does not at all affect the constitutional principle in whose ever hands the country was.

Mr. CASS. But it shows the danger of the construction.

Mr. TOOMBS. Even the danger of a construction does not show the rightfulness or wrongfulness of the construction. If the entire republic were in the hands of an enemy, the Constitution would stand the same; it would not be affected by that. But I am inclined to waive that question.

I say, though, that the Governor of a State has the right to decide the question. The Governor of Massachusetts, I think, ought to have decided otherwise, and I should have so decided at the time; but I am not inclined, on that account, to punish the citizens of Massachusetts, or to withhold from them this gratuity—for it is nothing but a gratuity. It is a mistake, it is ideal, it is fanciful, to suppose that it is anything else; and they ought not to be excluded from it. The State of Massachusetts has been paid for the services, and I think the controversy ought to end. Even if these soldiers made a mistake, they were obeying the authorities of the State, and they erred on the side of patriotism in deciding for their own State against any authority whatsoever.

Mr. STUART. I only wish to say that I did not desire to embark in this discussion at all. The object I had in view has been accomplished. Senators were remarking around me, that the question alluded to was not involved. I believe that it is very clearly shown now that it is, and the only motive I had in view was to show that. I never indicated how I should myself vote upon it; but it is clear that the question, whether those individuals shall share equally with others, is involved in the proposition. Upon the history of that I do not propose to comment at this time. The remarks of the Senator from Georgia, I think it might be shown, are not in accordance with the Constitution of the United States; but that is immaterial.

The Senator from Georgia clearly desires to make this bill just as large as he can in its operation, because he means to vote against it in any event. He has announced the fact to us, that, fix it as you will, large or small, he intends to vote against it; and, therefore, his vote will be best sustained by making the bill as objectionable as possible. I am not disposed to controvert the point with the Senator. I am not at all disposed to deny that the bill has already assumed a form which will compel many of its original friends to vote against it. I should not be surprised if it should turn out so in the end; and those who do vote against it will find the same protection which the Senator from Georgia finds in it.

Mr. President, there is another objection to this bill which it would be well enough to think of in our boundless liberality. I do not know but that it may be improved; but as it now stands, the man who served his country, and the man who deserted the service of his country, stand upon an equal footing. Sir, the man who basely deserted his flag is to be paid under this bill a gratuity. There is no distinction made between the two cases.

Mr. BRODHEAD. We do not propose to pay deserters.

Mr. STUART. Unquestionably, under the language of the bill, a deserter is to be paid.

Mr. WELLER. It does not require that they shall have been honorably discharged. It simply requires that they shall have been mustered.

Mr. STUART. That is all. Is there anything in the bill that requires that the men should have been honorably discharged from the service of the country? As it stands here to-day, patriots and deserters, cheek by jowl, are to receive the bene-

fits of the bill together, and for what? As the Senator from Pennsylvania [Mr. COOPER] says, because he wants to have this bill distribute the public lands among the States. "Make it," says he, "as enlarged as you can, the larger the better. Bring in every man, woman, and child, that there is the slightest pretext for including, because I am for the bill for the purposes of distribution." I suggested that the other day. I said all I desired at that time was, that those Senators who wished to pass the bill for the purposes of distribution, should not suppose that we did not understand it. Being opposed to such a distribution myself, it will constitute one of the reasons why this bill cannot meet my support in its present shape. I only wish, at this moment, to excuse myself for having raised the suggestion that was implied in saying that I was mistaken. I shall vote against this proposition for the reasons which I suggested in the outset, and which seem to be admitted as involved.

Mr. MALLORY. It is very clear, from the tone of the discussion, that we cannot come to a vote upon this amendment to-day. That being the case, I feel constrained to move the postponement of the bill for the purpose of having an Executive session.

Mr. FESSENDEN. I hope the Senator will withdraw his motion for a moment. I wish to make an explanation in reference to the amendment which I have proposed.

Mr. MALLORY. The Senator can do that to-morrow. I am afraid we shall not have time to get through with the Executive business if we postpone it any longer.

Mr. FESSENDEN. I shall not occupy five minutes.

Mr. MALLORY. I withdraw the motion.

Mr. FESSENDEN. I am anxious, sir, to rescue my amendment from the difficulty which seems to be thrown around it, or which is proposed to be thrown around it by the Senator from Michigan. There are people in my own State who stand in the same category with the persons spoken of by the Senator from Michigan; and I would not have passed over that subject, had I not perceived that in this the attention of the Senator from Michigan was misdirected. Now, sir, if you will just look at the first section of the bill, you will see that it speaks of soldiers, &c., who were regularly mustered into the service of the United States. Then it comes to speak of the militia, and says, "each of the survivors of the militia, or volunteers, or State troops, in any State or Territory, called into military service, and regularly mustered therein"—not called into the military service of the United States, and regularly mustered therein.

Mr. STUART. Certainly; so I understand it.

Mr. FESSENDEN. Then came the words, "and whose services have been paid by the United States." That was in the bill of 1852. What was it intended to cover? Soldiers and militia, who were called out by the State, mustered into the service of the State, and who rendered service to the State in defense of their territory, and who had been paid by the United States, and thus recognized as having rendered service to the United States. I have occasion to know that, because the amendment was put in in the House of Representatives, as I am informed, for the express purpose of covering those called out in the war in that way.

Mr. STUART. That is precisely the ground I took; but I say that that covers these Massachusetts troops.

Mr. FESSENDEN. I say so, too. Precisely. And, therefore, I said nothing when it was suggested as an objection to my amendment. But that amendment does not cover the Massachusetts troops, because they were covered before. It says that the provisions of the bill shall be extended to any armed force called out by any State for the protection of its territory, and whose services have been paid for by the United States—not militia, not people regularly mustered, but people called out as an armed force, and who rendered services as an armed force, and whose services have been recognized by the United States as such as the United States ought to pay. Therefore, if my amendment be adopted, it does not include the Massachusetts troops or the Maine troops spoken of relative to the last war; but it simply includes a class who have been recognized by preceding bills, who have been partially paid, and who ought to receive this bounty as well as others, and who were precisely in the same category as those who were regularly mustered into the service.

Mr. MALLORY. I renew my motion to postpone.

The motion was agreed to.

THOMAS WISHART.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that the House had agreed to the amendment of the Senate to the bill for the relief of the administrator of Thomas Wishart.

PAPERS WITHDRAWN.

On motion by Mr. SHIELDS, it was

Ordered, That the papers in the case of Albert Hart be withdrawn from the files and referred to the Committee on Pensions.

On motion by Mr. MASON, it was

Ordered, That the petition and papers of William and Mary College be withdrawn from the files and referred to the Committee on Revolutionary Claims.

EXECUTIVE SESSION.

On motion by Mr. MALLORY, the Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 11, 1855.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

CHARTER OF GEORGETOWN.

Mr. HAMILTON. By some omission, a bill relating to the business of the District of Columbia, having reference to granting charter privileges to the city of Georgetown, was referred to the Committee of the Whole on the state of the Union, which was not ordered to be printed. I ask, therefore, that an order be made for its printing.

The SPEAKER. No objection being made, the order will be made.

MILITARY ACADEMY APPROPRIATIONS.

Mr. HOUSTON. I desire to report back the Military Academy appropriation bill; and I ask that it may be referred to the Committee of the Whole on the state of the Union, and printed. I also desire to ask that a communication from the Secretary of War to the Committee of Finance of the Senate, requesting "that certain modifications be made in the classification and compensation of clerks in the War Department," be also printed.

The SPEAKER. There being no objection, the orders will be made.

ADMINISTRATOR OF THOMAS WISHART.

Mr. SMITH, of Virginia. I ask the unanimous consent of the House to take up House bill No. 471, being "an act for the relief of the administrator of the heirs of Thomas Wishart," which has been passed by the Senate, with an amendment striking out the allowance of interest. The parties interested are willing to take it as it came from the Senate; and I beg that the House will now agree to the amendment of the Senate, so that the bill may pass.

The bill was then read through by the Clerk. It directs the Secretary of the Treasury to pay to the representatives of Thomas Wishart, late lieutenant in the Continental army of the United States in the war of the Revolution, five years' full pay of a lieutenant of infantry.

The amendment of the Senate is to strike out the following words:

"Also, the interest thereon from the 13th day of January, 1834, the time at which the first favorable report was made in behalf of the petitioners to this House."

Mr. SMITH. The heirs are willing to take the bill as it passed the Senate, although it diminishes, largely, their claim.

Mr. HAVEN. I think the amendment is a proper one, and, if the bill is now before the House, I move the previous question upon its adoption.

The previous question was seconded, and, under the operation thereof, the Senate amendment was concurred in.

ORDERS OF THE DAY.

Mr. STEPHENS, of Georgia. I call for the regular order of business.

The SPEAKER. The business first in order is the motion submitted last evening by the gentleman from Tennessee, [Mr. SMITH,] to reconsider the vote by which the bill to "amend the act approved 4th of August, 1854, entitled an act to reduce and graduate the price of the public lands to actual settlers and cultivators" was rejected, and to lay the motion to reconsider upon the table.

The question was taken; and the motion to reconsider was laid upon the table.

POST ROADS IN NEBRASKA, ETC.

Mr. GIDDINGS, of Nebraska, by unanimous consent, introduced a bill to "establish post roads in Nebraska Territory;" which was read the first and second time by its title, and referred to the Committee on the Post Office and Post Roads.

Mr. G. also introduced a bill "to protect the proprietors of towns in Nebraska Territory in their town sites;" which was read the first and second time by its title, and referred to the Committee on Public Lands.

Mr. G. also introduced a bill "for the survey and settlement of the half breed tract of lands in Nebraska Territory;" which was read the first and second time by its title, and referred to the Committee on Indian Affairs.

TAUNTON RIVER.

Mr. CROCKER, by unanimous consent, introduced a bill making appropriations for "continuing the improvement of Taunton river, in Massachusetts;" which was read the first and second time by its title, and referred to the Committee on Commerce.

DIPLOMATIC AND CONSULAR SYSTEMS.

The SPEAKER. The business first in order is the consideration of the following bill, reported from the Committee on Foreign Affairs:

A bill to remodel the diplomatic and consular systems of the United States.

Mr. PERKINS, of Louisiana. I am instructed by the Committee on Foreign Affairs to report to the House, and put upon its passage, the consular and diplomatic bill which it has had under consideration.

There are constantly referred to that committee claims of different kinds arising under our foreign intercourse, upon the justice and legality of which it is expected to give an opinion. The investigation of these claims involves a reference to the existing laws, and the customs and practice of the State Department. In the discharge of this duty, the committee have labored constantly under embarrassment, from the unsettled character of the rules regulating the duties and pay of our foreign agents. From a want of a thorough organization of the foreign service of the Government, in the first instance, reference has now to be had to precedent rather than established law. The consequence is, that a great variety of claims are annually presented against the Government through uncertainty as to what services are properly required to be discharged, and the remuneration that should attach to them. In deciding upon the claims of this character, the committee has had to be governed either by precedent or the peculiar circumstances of equity in each particular case.

In this, too, they have met with difficulty, for it has happened that our Secretaries of State have differed as to the rules that should govern in many of these cases, and the decisions of the Department have consequently changed with its administration. As the Committee on Foreign Affairs changes, too, with each Congress, some of its members going out and new ones being added, its decisions have increased the uncertainty. In order to relieve themselves and the House from the evils of this uncertainty, early last session the committee called upon the head of the Department of State for his views as to a thorough remodeling of our consular and diplomatic system, in order to its establishment on definite principles. The Secretary of State replied, referring the committee to the several plans heretofore proposed to Congress for that purpose, and to the expression of his predecessors in office upon them. He also offered the committee access to the suggestions of persons in the foreign employ and upon file in the Department. The report of Mr. Livingston, made to Congress

in 1833, and that of Mr. Buchanan, in 1846; the report of a special committee raised upon the subject in this House in 1845, and the bills introduced into Congress in 1844 and in 1846, and other plans prepared in the Department but never presented to Congress, were all examined. Consultation was had with those long engaged, both in the consular and diplomatic service of the country; and after examination and comparison, the result of the action of the committee was the report and bill unanimously presented to this House last session. That bill was printed and referred to a Committee of the Whole House. It was distributed among members of the House, and sent abroad to all our consular and diplomatic agents.

During the late recess of Congress numerous and valuable suggestions were received from those in the actual and past foreign service of the country; and, at the opening of the present session, the bill was taken up from the Committee of the Whole and referred back again to the Committee on Foreign Affairs, that it might be revised and improved in some of its provisions.

The bill that I have now reported to the House is the original bill thus matured. It has been modified in some of its minor details, but in its general character and principles it is identically the same bill that was originally reported. It omits some things contained in each of the bills heretofore before Congress, and embraces everything, it is believed, in which previous bills have been unanimous. Its provisions cannot, therefore, be regarded in the light of experiments, but rather as the results of the experience of all who have been heretofore occupied with, or have examined, the subject. In asking, Mr. Speaker, the attention of the House for a few moments, while I point out the reforms in our existing systems proposed by this bill, I am painfully sensible of my inability to make interesting to the House a subject necessarily of so much detail. I do not design to speak of the foreign policy of the country; nor of the necessity of some kind of machinery for conducting it. I take it for granted that the age of entire national isolation has passed, and that, however independent we may be of other Governments in our foreign policy, still we are now, and will ever be, necessarily bound to them, in a certain degree, by ties of commerce and humanity, that, with the increase of knowledge among mankind, will have the effect of bringing the people of this country more into connection with the people of the rest of the world, and will, at the same time, multiply the points of contact between our own and other Governments.

I will also, in what I have to say, take it for granted that a system of foreign ministers and consuls resident abroad, such as have been found necessary in the experience of all other civilized Governments, are also required under our own Government.

To the exertions of such a class of men, Wheaton, in his Law of Nations, has ascribed the great advance of Europe within the last century; and, as our forefathers, after trying special ministers during the Revolution, and under the Confederation, decided on the first nominations of foreign ministers (in 1790) under General Washington, that they should be *permanent*, and, as such, both ministers and consuls were at once, and have continued to be since, appointed, I shall take it for granted that their existence has been wisely provided for.

I wish simply to call the attention of members to some of the most striking evils in the machinery of our foreign intercourse, and I shall merely indicate, without arguing, the remedies proposed for them in the bill before the House.

The first great evil results from our having originally adopted, in 1789, with very little modification, the foreign system of the English Government.

It was the growth of institutions directly opposed in principle to our own, and its peculiarities ill-adapted to the nature of our Government at its origin, have grown with our development into great and positive evils.

The grade of diplomatic rank was artificial and involved.

It requires an expensive provision of outfit entirely unsuited to our institutions.

Its salaries were left chiefly to the discretion of the Executive.

It was without guards upon the action of ministers; and, as the foreign policy of the British Government was under the control of the British sovereigns, so, on our adopting its machinery, a larger share of influence and discretion was imposed by it upon the Executive of this country than was consistent with the theory of our Government.

The great interest, Mr. Speaker, felt at the formation of our Government, in adjusting internal affairs, and the establishment of the Constitution, as a kind of international law between the States themselves, diverted attention from the importance of a well-regulated foreign system, while the general confidence reposed in the moderation and good sense of General Washington, who was then President, checked all disposition to question the amount of power left to be exercised at his discretion. Thus, sir, while our Constitution, differing from the British Government, divided between the Executive and the Senate the control of foreign affairs, our early legislation conferred upon the President a degree of discretion over foreign intercourse more in accordance with the spirit of the English than of our own Government.

The first appropriation made by Congress for our foreign service in 1790—the first year of General Washington's administration—was $40,000; and it was to be paid out by him to such ministers as he should send abroad, with no other limit upon his discretion than that no minister should be paid more than $9,000 salary, exclusive of outfit, which should not be more than $4 500, nor the secretary of the minister more than $1,350.

General Washington exercised the power granted by Congress and appointed ministers and consuls abroad, with the highest salaries permitted by law. Having lived under the English diplomatic and consular systems, they were followed in their appointments in rank, except that no embassador was sent or received.

The term embassador, in diplomatic language, describes the *personal* representation of a sovereign, and differs from a mere minister in that the latter represents his nation.

The actual diplomatic grades were, minister plenipotentiary and envoy extraordinary, minister resident, and chargé de affaires, with secretaries for each legation.

In 1802, under Mr. Jefferson, these systems had been in existence a little more than ten years, and comprehended ministers plenipotentiary to France, England, Madrid, and Portugal, and a secretary to each legation—four ministers plenipotentiary, and four secretaries of legation.

A minister resident and a secretary of legation to the Hague—one minister resident, and one secretary of legation.

There were at the same time in service abroad, two sets of commissions, under the sixth and seventh articles of the treaty with Great Britain, with an agent attached, making in diplomatic service eighteen persons.

There were consuls general at Amsterdam, Algiers, Tunis, Tripoli, and Morocco—five consuls general.

Two agents for the relief of American seamen, one at London and the other at Kingston, Jamaica—two agents.

There were fifty-one consuls, three vice consuls, and four commercial agents, in the consular service—sixty-five persons.

Making in the foreign service of the Government abroad, in all, eighty-three persons.

Total expense of their salaries, $105,597 17.

The consuls general were salaried; consuls, and vice consuls, and commercial agents, were supported by fees.

From 1800 to the present time, our diplomatic and consular systems have remained without important modifications. In that period, we have made great advances in wealth and power.

	1800.	1850.
Population	5,305,925	23,191,876
Area of territory	820,680	2,936,166
Exports	$70,971,780	$151,898,720
Imports	$91,252,768	$178,138,318
Tonnage	972,492	3,535,454
Seamen	60,000	140,000
Commercial treaties with	5 nations.	19 nations.
Revenues of Government	$10,624,997	$43,375,798
Expenses of Government	7,411,370	43,002,168
Expenses of foreign service	153,000	412,789 71

Such has been the development, in fifty years, of the interests particularly affected by our foreign intercourse. My time will not permit me to enlarge on particular points; but I call attention to the fact, that coming into existence the first great neutral Power of the earth—with political institutions antagonist in principle to those of other Governments—we adopted their machinery for foreign intercourse, and that, during a period of sixty-five years—three political generations—we have maintained it without important modification.

2. That within the same period other Governments, with whom we hold intercourse, have greatly modified their systems, and Great Britain, whose system we more particularly copied, has several times (in 1815–'16–'25–'30–'31 and '50) thoroughly revised and changed hers in many important particulars so as to have it conform to the requirements of the age.

3. That every President of the United States for the last thirty years has been embarrassed by the defects of our foreign system. That every Secretary of State during that period has desired its reorganization, and that almost every Congress, through regular and special committees, has reported in favor of its establishment upon a new basis.

4. That the commercial interest of the country has repeatedly protested against the incompatibility of many of its provisions and their utter inadequacy to meet the wants of our extended trade; that the captains and seamen of our vessels abroad have constantly complained of its unequal and oppressive operation; and that our ministers and consuls, under Whig and Democratic Administrations, those in the actual and those in the past service of the country, have united in its condemnation.

5. That at many Governments where we are represented, our ministers have been without right of admittance to the royal presence, and forced to yield in dignity and position to the representatives of petty and comparatively insignificant States, from the simple circumstance of our not having adopted the grades of diplomatic rank—established at the treaty of Vienna, in 1815, and followed by all the other Governments of Europe—a modification simplifying diplomatic grades and involving no sacrifice of principle or increased expenditure.

6. That while those of our Ministers who accept diplomatic position merely for the sake of foreign travel, and who remain abroad only so long as the novelty of the life charms, and return home before they have acquired a knowledge of the language, or a familiarity with the public men and feeling of the nation to which they have been accredited, are extravagantly paid in salary and outfit, equal to $21,000 for a single year abroad, others of the same grade and to the same court, whose services, from a longer residence abroad, and a more intimate knowledge of foreign matters, may be supposed to be of, at least, equal value, receive at the rate of only $9,000 a year.

7. That while some of our consuls amass fortunes, making in some instances, from $5,000 to $15,000 a year, others, at points of much importance, are struggling on with a very bare support.

8. That with commerce spreading into every sea, and citizens establishing themselves in trade upon almost every coast the world round, and with legal provision for their protection, the agency for its execution is so defective as to make our law but little more, in many cases, than an instrument in the hands of citizens of foreign countries for our injury.

These evils the committee have thought originate chiefly in two causes—

First. Our having adopted a system cumbersome in its details, and unsuited to the nature of our institutions from the degree of discretion it has conferred upon the Executive.

Second. In our having retained this system as originally adopted, without modifying it, to meet either the requirements of our development or the changed spirit of the age.

I am not insensible, Mr. Speaker, to the difficulties with which the committee have to contend in effecting the reforms proposed by the bill they have reported.

I am aware that the very just and popular prejudice which exists against any change in the cautious and wise system of foreign policy inaugurated under the administration of General Washington, attaches in some degree to any change, even in the machinery of our foreign service.

I am aware that the subject of the reform itself

is peculiarly within the district of no member on this floor, and that it is in the power of any one, either from design or ignorance, to distort its provisions in a way to excite vulgar clamor. I am also aware, sir, that there are individuals of influence and respectability in the consular service to whose pecuniary interest it will be that this bill should not pass. But for these very reasons I expect to find support for the bill, in the good sense and reflection of members of the House.

The committee have desired to shape its provisions in strict accordance with our existing foreign policy; and, in the arrangement of its details, they have been governed only by principles of general application. In no instance are they aware of having been influenced by the private interests of any individual.

The bill, sir, appears to be a long one, but, in reality, it is not long. The changes proposed would not, if brought together, cover more than four of the twenty-three printed pages of the bill. One great evil at the present time is, that the law of our consular and diplomatic service, is scattered in various separate provisions all through our statute-books.

The present bill is a compilation of existing laws, placed in a proper connection, to render plain the few modifications proposed.* It simplifies their duties, and makes ministers and consuls respond more nearly to the purpose of their creation. It takes from them any other character, than that of representatives of their country, clothed with the influence and responsibilities properly belonging to such a position. It throws around them additional guards for the faithful discharge of official duty, and relieves them from temptation to sacrifice the public to private interests. It provides for them regular and economical support, in a way that, freeing them from the distrust and suspicion of personal gain in the transaction of public business, either with foreign authorities or our own citizens, is, at the same time, little burdensome upon the Treasury, and equal and just in its operation upon different interests.

The changes under the bill, may be briefly stated:

1. It abolishes the title of chargé d'affaires, raising all our diplomatic agents to the rank of ministers plenipotentiary, and simplifying our grades to correspond with the nature of our institutions, and the systems of international intercourse, adopted by the Governments of Europe, in 1815, at the treaty of Vienna.

2. It abolishes the outfit, equal to one year's salary, and a return allowance of three months salary, to every minister on his going to, and returning from, his mission; and provides salaries proportioned to the expense and dignity of the different positions.

3. It provides a secretary of legation for each mission.

4. The salary of none of our diplomatic or consular agents are to begin until after entering upon the discharge of their official duties, and to cease as soon as relieved of them by a successor.

5. It prohibits the absence of any minister from the country to which he is accredited, or any consular or commercial agent from his district, for a longer period than ten days, without leave from the President, and stops their salary for any absence over *ten days*, with or without leave of absence.

6. None but citizens of the United States are to be appointed to diplomatic or consular positions, or employed as clerks, or have access to the evidences of our foreign offices.

7. Consuls at all the principal ports are prohibited from transacting any business, either in their own name, or through the agency of other persons.

8. It substitutes fixed salaries for fees to consular and commercial agents; abolishes fees for passports, and all commissions upon money advanced as wages, or for the relief of seamen in distress; changes, in many particulars, and reduces the tariff of fees and commissions for other consular acts; defines, with more precision, the duties of consuls in the settlement of the estates of persons dying abroad; abolishes all sub-agents and vice consuls, and provides for the accounting for all fees and commissions to the Government to be used as a general fund to assist in paying consular salaries.

1. The bill abolishes the title of chargé d'affaires, and raises all our diplomatic agents to the rank of ministers plenipotentiaries.

The Congress of European Powers that met at Vienna on the settlement of peace in Europe, agreed upon a grade of diplomatic rank which, when generally adopted, should prevent all embarrassments of etiquette in the conduct of future negotiations. We were not a party to that Congress, and have never modified our system to correspond to the grades of diplomacy then established. The consequence has been that, at many of the European Courts, our Ministers have never been admitted to the presence of the sovereign except as a favor, and on public and State occasions, and in the transaction of business, and in the paying and receiving of visits—the representatives of the smaller courts of Europe have had precedence over them.

The grades, as established by the Congress of Vienna and amended by that of Aix-la-Chapelle, and at present recognized by European nations, are:

1. Embassador.
2. Envoys, Ministers, or others accredited to sovereigns.
3. Minister resident.
4. Chargés d'affaires, accredited to the minister of foreign affairs.

Embassador, in diplomatic language, is the representative of the *person* of a sovereign, and in this differs from a mere minister, who represents the nation. The bill raises all our missions to the grade of envoys extraordinary and ministers plenipotentiaries. This change involves no sacrifice of principles, nor additional expenditure. Representatives, with but one exception, below this grade, are considered as accredited to the minister of the foreign department, and not to the sovereign of the State. It is a distinction that, in point of fact, is recognized in the reception of ministers from foreign States, by our own Government and there is no reason why the embarrassment under which the present system places our own ministers abroad should not be removed.

Foreign ministers exist, and their rights, duties, and powers, are determined by general assent and the laws of nations. They are the necessary agents of communication between Governments. They represent the disposition and interests of our Government to the ruling power of other Governments. Under instructions, they negotiate treaties of commerce, give information about our laws, and in every way are expected by the cultivation of friendly relations and good understanding to exert themselves to preserve peace. Under such circumstances they should be free from all unnecessary embarrassment. If engaged in important negotiations, the good will of the ruler will greatly facilitate them, and this is best secured by personal intercourse. Under the bill, if adopted, this advantage will be secured, and our diplomatic grades at the same time simplified to the nature of our institutions. A law passed last year enabled all our representatives of the grade of chargé, to be accredited as ministers resident. This bill, by establishing but one rank for all, that of ministers plenipotentiary, will cause that, wherever we send a representative, he shall be recognized as the equal of the representative of any other country, and that, under no possible circumstance, can his rank be made an obstacle to his influence.

2. Secretaries of legation are provided for each mission.

The business transacted at some of our legations makes absolutely necessary an assistant of the minister. The increased travel of Americans abroad has made the giving and receiving of passports alone almost occupation for one man. The inquiry into the right to issue, in particular instances, these badges of citizenship; the examination of cases of wrong to American citizens, and the obtaining of redress; the preparation of information as to our local law and the customs of our ports, &c., &c., in reply to inquiries from the foreign Government, and various calls upon his attention, besides the preparation of weekly dispatches, require more time and labor than it is always at the disposal of the minister, called to act in a private matter, frequently at the very moment when engaged in perfecting some important treaty or negotiation under the law of nations. Through the want of secretaries of legations in 1830, there was scarcely an American legation abroad with a complete record of its negotiations, and our representatives were obliged to send home to the State Department for information, as to what their predecessors had done in particular matters, or rely upon information from the Governments with which they were in communication.

Nearly all the great Powers of Europe own hotels or residences for their representatives in the capitals of the countries to which they are accredited, and have attached to each legation one or more secretaries, whose especial business it is to guard its archives. England and France have several of these attachés to nearly all their missions. It is not proposed that the United States purchase residences for their ministers abroad, nor is it deemed advisable by the committee, but it is deemed highly important that there be a secretary to each legation. From the want of such heretofore, it has happened, in some instances, that papers of great value, belonging to the United States Government, have fallen into the hands of foreigners, and thus passed into the possession of the Government with which we were negotiating, causing serious embarrassment. We have already secretaries of legation to several of our missions. The bill proposes one with a small salary at each.

The bill abolishes all outfits and infits, and provides, instead, salaries proportioned to the expense and dignitary of the several missions. A provision for outfit and infit was originally made in imitation of the display that characterized the diplomacy of Europe. Court etiquette and State ceremony formerly occupied a great portion of the diplomatist's time. Cabinet secrets were confined to the few, and the giving of presents, and costly display in dress and living, were recognized as legitimate and practical modes of influence. At the foundation of our Government, therefore, these appendages may have been wisely provided for as adding to the dignity and influence of our foreign ministers. The means of travel were then more tedious and expensive. From Washington to London, by the best and most expeditious means of conveyance, costs now not more than $170; to Paris, $200; to Berlin, $250; to Vienna, $300; and less than this to most of the other European capitals. There did not then exist at the different Courts of Europe the same facilities for elegance and comfort in a temporary residence, and embassadors from one country to another were obliged either to carry these with them, or to incur great expense in their purchase. Outfits and infits for foreign ministers were, for this reason, furnished by all the Governments of Europe. Within the last sixty-five years, however, great changes have taken place in these respects in all the European States.

In illustration of the feeling of the day, I would recall to the recollection of the House the great embarrassment experienced by Congress in 1778, on the reception of M. Gerard, the first French minister. The subject was referred to a committee, composed of Richard Henry Lee, Samuel Adams, and Gouverneur Morris, whose report on the subject, turning on mere points of etiquette, was discussed for five days. In the end he was received with a degree of formality that cannot be read without a smile. But a short time before that, Silas Dean, our minister at Paris, wrote home from France to Congress, for some of the natural products of the country, to be given, by way of influence, as presents to the Queen. He said in his letter:

"The Queen is fond of parade; she loves riding on horseback. Could you send me a fine Narragansett horse

*The sections of this bill already in force, either by law or instruction of the State or Treasury Departments, are—

Sec. 9. Instructions, June 3, 1853.
Sec. 10. Instructions, June 3, 1853.
Sec. 11. To line 6. Law, 1 vol., statutes, 256.
" To line 9. Instructions in supplement, (note.) page 36. To line 15. Law, vol. 1, page 256. The rest of this section, page 4.
Sec. 12. To line 6. In circular, June 1, 1853, (except fees to the Government.)
Sec. 13. Circular, June 1, 1853.
Sec. 15. To line 6 Law 5, page 399; vol. 2, page 203.
" To line 78. In the spirit of supplement, page 53.
" The rest of this section in supplementary page 23.
Sec. 16. General instructions, cap. 4, article 34; and supplement, page 23.
Sec. 17. To line 7. United States law, page 203, sec. 3.
" The rest instructions of the Treasury.
Sec. 18. Nearly the same, with additional guards.
Sec. 19 and 20. Nearly the same.
Sec. 21. In general instructions, at page 12.
Sec. 22. Nearly the same as circular, June 1, 1853.
Sec. 23. General instructions, page 4.

or two, the money would be well laid out. A few barrels of apples, walnuts, cranberries, butternuts, &c., would be great curiosities."

During General Washington's administration, presents of form were given to foreign ministers; generally a chain and medal of gold; and there yet exists a letter of Jefferson's, dated New York, April 30, 1790, written to Paris, directing the manner in which the medal was to be cast. He inscribed it with "Peace and Commerce" on one side, and the date of the Republic on the other. We are accustomed to speak of the simplicity of those early days; but as late as 1816, there were in the State Department plates showing the pattern of dress, and amount of gold embroidery and lace to be worn by our ministers. Diplomacy, and the spirit of the age, has now outgrown all this, and a foreign minister is not now so much the *court congratulator*, as the *business* agent of his Government, and it is more his exact knowledge of the progress and development of the trade and material interest of his country, and the history of its law, and legislation, as affecting other countries, and indicating the spirit and tendency of public opinion at home, that gives him influence, than the costliness of his living or the degree of luster he can contribute to the brilliancy of court displays.

The provision, therefore, for outfits and infits, does not now accord either with the changed spirit of diplomacy or the principles upon which our other public servants are compensated. No longer necessary for its original purpose, it serves only to make unequal the salaries of our ministers, and in a degree to demoralize the whole diplomatic system—it pays for services before they are performed. A minister plenipotentiary, under our present system, appointed to represent us abroad, if he remains at his post but a single day, is still entitled to his outfit of $9,000. In practice, it has been that a person who is thus appointed, remains two years, draws an outfit of $9,000, a salary for two years of $18,000, and an infit of $2,250, making, in all, near $30,000 for two years—equal to a salary of about $15,000 a year, and then returns home to be succeeded by another, who pursues the same course. Where there is an exception to this, and one is suffered to remain abroad irrespective of party changes at home, from his superior fitness to represent the country, deprived of the advantage of this outfit—recurring every few years—he struggles on with an inadequate salary, and in the end returns in embarrassed circumstances.

Mr. SKELTON. Let me ask the gentleman a question. Will he point to that portion of the bill which abolishes outfits?

Mr. PERKINS. I thank the gentleman for putting the inquiry. In the opinion of the committee, the establishment of the regular salaries in the bill abolished outfits. They now exist at the discretion of the President. It is a singular circumstance that the first appropriation for foreign services, ($40,000,) was placed at the disposal of General Washington, without any limitation except that outfits and salaries were not to exceed $9,000. It was at his discretion whether they should or should not exist. The committee, however, anticipating such an objection as the gentleman has made, have introduced a section in these words:

"*And be it further enacted*, That the acts, or parts of acts, authorizing the payment of ministers, consuls of the United States, salaries, outfits and infits, clerk hire, and office rent, be, and the same is hereby, abolished."

Mr. SKELTON. That is not in the printed bill.

Mr. PERKINS. It is in the copy which is in the clerk's possession.

The effect of the allowance of outfit, when no longer required, has been to prejudice the popular mind against our ministers abroad, in the idea, that they are favored pensioners of a party executive. And, in point of fact, we may admit on both sides of the House, that these appointments have been too often conferred simply as the reward of partisan service; and that this fact, with the defects in the existing system, have contributed to make, what should be the distinct expression of national interest, the expression of executive favor.

From 1840 to 1853, in twelve years, the diplomatic expenses of Government were $3,656,202. Of this amount one sixth was expended in outfits. In one Administration, a single individual drew, and he drew it rightfully, under existing rules, $22,000 of outfits alone. The committee have thought that this was an evil which should be remedied, and it is accordingly abolished by the bill. Salaries, liberal, but not extravagant, are provided for all our ministers. The amount for each has been made to correspond, as nearly as possible, to the importance and necessary expense of getting to, and residing at, the missions. Our diplomatic establishment, if remodeled as proposed, will cost less than has been its average cost for the last ten years. It will be economy; for it will be a saving to the Treasury in defining the duties of our ministers, and preventing their outlay reaching anything like the amount possible in the frequent resignation and recall of ministers under our present system.

The bill further provides that the salary of representatives abroad shall not begin until after their arrival and actual entry upon the duties of their post, and that they shall cease so soon as they are relieved from those duties by a successor. It has been the custom heretofore for salaries to begin the day the commission has been received. By this means a minister appointed abroad, and not starting immediately on the receipt of his commission, or if starting, who has delayed on his way, has been in the habit of drawing salary up to the time of his relieving his successor. Thus, in addition to the evil of outfits, has been added that of the overlapping of salaries, by which two persons have received pay at the same time for the same service. For the actual minister abroad, who has been recalled, or has resigned, continues of right to discharge the duties of the office, and although the Government may decline to enter upon negotiations with him, as his successor has been appointed, still he draws salary, and is really minister until the arrival of his successor. It has been computed that, on an average, the ministers appointed from this country abroad, do not reach their post until near three months after the date of their commission. If he is at Washington he visits his home, makes his preparation, and then returns to Washington for instructions before starting on his mission. By the bill this double payment of services not rendered is prevented. The salary of the new minister is to begin only when he enters upon the duties of his office, and the salary of his predecessor ceases.

It is further provided that no minister shall be absent from the country to which he is accredited for more than ten days at a time without the permission of the President, and that if absent longer than that period, even by permission, that his salary shall cease during such absence. The importance of this provision will impress itself upon every one familiar with the past or recent history of our missions abroad. By making their salary dependent upon their actual residence in the country to which they are sent, the bill puts it out of the power of the President to confer what is sometimes called a roving commission, with nominal appointment to a particular point, but with the general privilege of traveling over Europe, at the expense of the Government. Under it, it is to be hoped, we will hear no more of United States ministers to Russia spending their winter in Italy, nor will there be distrust abroad and disquiet at home, occasioned from our ministers collecting at Paris from all the European capitals. The presence of the minister is insured at the point where he has duties to discharge. It is considered that these duties require his presence in the country to which he is accredited, and that he may legitimately extend his travels to the entire extent of that country. When he goes beyond its limits for more than ten days, it is presumed that he is without the line of official duty, and his salary ceases until his return.

The bill further provides for the location of the office of legation at a central and convenient place in the capital of the country, and that it shall be kept open daily during business hours, except on Sundays and holidays. It guards against abuse, by denying to consuls and commercial agents in capitals where the legation of the United States exists, the right to grant or verify passports, except in the absence of our diplomatic representatives, and takes from either the right to exact a fee for this service.

It further provides that no one who is not a citizen of the United States, and resident therein, or who shall be employed abroad in the service of the Government, at the time of his appointment, shall be eligible as representative abroad. By this means it seeks to make our representative national, both in character and sentiment.

It is unnecessary to enlarge upon any of these features of the bill. They commend themselves to adoption, on statement, and correct defects in our present diplomatic system, universally acknowledged. I doubt if there is any one present who does not acquiesce in their importance. I now come, Mr. Speaker, to the consular part of the bill.

Mr. ORR, (interrupting.) Before the gentleman leaves the point he is now on, I desire to ask him what will be the comparative expenses of the new system with that of the old, or existing system?

Mr. PERKINS. I thank the gentleman from South Carolina for a question which I expected to hear from some member of the Committee on Finance. I intended, before I had concluded my remarks, to have given the financial aspect of the bill; but, as the gentleman has called my attention to it, I will give it now.

Mr. ORR. I do not wish to interfere with the gentleman's course of remark.

Mr. PERKINS. In the year 1850, the entire expense to this country for its foreign diplomatic service was $397,314. The salaries proposed to be given by this bill will amount to only $322,000; making a saving of $75,314. The bill will accomplish this by a curtailment of the abuses of which I have spoken. I have here an estimate, with calculations attached, which I could read to the House, but I doubt whether it would at all simplify my explanation; I announce only the result.

Mr. SKELTON. I rise to ask a question of the honorable gentleman from Louisiana. This expenditure which he has stated to the House includes, I presume, other expenditures besides the regular salaries and outfits. Does it not?

Mr. PERKINS. I do not understand distinctly the question of the gentleman.

Mr. SKELTON. You have stated the expenses of our foreign diplomacy. I want to know if that does not embrace other expenditures besides salaries and outfits?

Mr. PERKINS. I am thankful to the gentleman from New Jersey for bringing to my mind a single estimate in this expense, which will illustrate to the House the necessity of the reform. I stated, in answer to his first question, that at the foundation of the Government, the only appropriation for foreign service was $40,000. Yet, for the want of the definite rules provided by this bill, everything being left to the discretion of the Executive, whatever the emergency of one moment has called for or justified under one Administration, has been a sufficient justification for the same outlay under the next; and thus, from time to time, from the first simple expenditure, everything is now indefinite, and the Secretary of State may justify almost any expenditure. Thus we have a $40,000 contingent fund for foreign missions, $40,000 contingent fund for foreign intercourse, and I do not know how many other estimates that I might enumerate in the same way. This bill excludes, and makes unnecessary, the estimate for foreign missions; thus cutting off, in one item, $40,000. It is in this way made the saving of the $75,000, to which I called the attention of the House.

I now proceed with the consular portion of the bill. It has been asked, why attach to a diplomatic bill a consular reform. The reasons, sir, were obvious to the Committee on Foreign Affairs. The evils of both systems are alike. At present there is no rule of this Government in reference to the charges of either consular or diplomatic agents, nor has it been possible to say when those charges are within rules and precedents. One Secretary of State justifies one, and another another. As an illustration, I may, perhaps, be allowed to state my own experience as a new member of this House. When I had something to report from my committee, I found no law to govern me. The experience of the chairman of the committee led me to the proper source—a source I certainly should never have thought of going to to guide me, and one which I cannot mention without being unparliamentary, and yet it was the only source from which I could receive the information which has enabled this House to act upon an important measure.

The consular system is a portion of the foreign service, and, therefore, properly attached to a bill to regulate the foreign service. They are appointed in the same way as the foreign ministers, by the Executive, and confirmed by the Senate. They report alike to the State Department. The reforms that affect the diplomatic service affect, to a certain degree, the consular service. The evils have the same origin. We copied from England their consular system, as we copied from England their diplomatic system. We have retained it without modification. One reform of this bill, which operates equally upon diplomatists and consuls is this, and I especially invite the attention of the House to it: Heretofore there has been nothing to prevent the Executive from commissioning to act as a foreign agent, the citizen of another Government. A person, for instance, who was in the employ of Austria—an Austrian subject—might hold the commission of this Government in Vienna and discharge the duties of American consul. In point of fact, the majority of those in our consular service were at one time foreigners, and armed with power to tax, to an indefinite extent, American commerce and American citizens in a manner most injurious to our interests, and of which I shall speak when I come to the question of fees under this bill.

One great reform which this bill proposes is, that no one but an American citizen shall be entitled to hold office under the Government in the foreign service. The provision, also, of which I have spoken retaining our ministers at their posts, is made by this bill to apply to consuls. Heretofore it has happened that an individual wishing to travel abroad, and with influence, has secured a foreign consulate. It gave him immunities and privileges. He met with a reception more honorable than he would have met as a citizen. There was no obligation upon him to remain at his commercial post. He might leave a foreign agent to discharge his duties, and, in point of fact, this has been frequently done, so that we would have a consul, for instance, at Liverpool, or Rio, or Havre realizing $20,000 from the commerce of the country in the way of fees, enjoying himself in foreign travel, while the the duties were discharged by a foreigner. This bill provides that any consul who leaves his post for more than ten days at a time shall lose his salary during his absence. We thus require in the consular, as in the diplomatic service, that our officers shall remain at their posts. At this point, I should prefer, if it is agreeable to members, that the House should go into committee, and I will finish what I have to say on the consular part of the system to-morrow.

Mr. CLINGMAN. I hope the proposition of my friend will be acceded to. It is desirable that the bill should be printed, with the additional sections which have not been printed. It can go into the Globe, and we can all see it to-morrow.

By general consent, the bill was ordered to be printed.

RAILROAD TO THE PACIFIC.

Mr. CLINGMAN. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair,) and resumed the consideration of the special order, House bill (No. 295) "to provide for the establishment of railroad and telegraphic communication from the Atlantic States to the Pacific ocean, and for other purposes," the gentleman from Pennsylvania [Mr. CHANDLER] being entitled to the floor.

Mr. CHANDLER addressed the House on the subject of the temporal power of the Pope, denying that he possessed any such power, and quoted many authorities in support of his position.

[His speech will be found in the Appendix.]

Mr. COX next obtained the floor, and addressed the committee upon the political condition of the country, justifying the efforts now making by the Know-Nothing party to eject the present Democratic Administration from power, and for restriction upon the political rights of foreigners under the American system.

[His remarks will be found in the Appendix.]

Mr. STEPHENS, of Georgia, obtained the floor, but yielded to

Mr. KEITT, who moved that the committee rise.

The question was put; and the motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, the Chairman of the committee reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly a bill to provide for the establishment of railroad and telegraphic communication between the Atlantic States and the Pacific ocean, and for other purposes; and that they had come to no resolution thereon.

ADDITIONAL ESTIMATES.

Mr. HOUSTON. I ask the permission of the House to present some additional estimates of the War Department, and have them printed.

A MEMBER. What are they?

Mr. HOUSTON. They are in reference to one of the fortifications at Charleston. I will not ask to have them read, but move that they be laid upon the table, and ordered to be printed.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, their Secretary, informing the House that the Senate have passed acts for the relief of Ephraim Hunt, and for the relief of Samuel A. Belden & Co., in which he was directed to ask the concurrence of the House.

Also, that the Senate had agreed to the amendment of the House to the bill of the Senate (No 31) for the relief of Purser Francis B. Stockton.

GRADUATION BILL.

Mr. COBB. As we did not consume the morning hour to-day with reports of committees, I ask the consent of the House to make a report from the Committee on Public Lands. We are desirous of getting through with our reports as soon as possible.

Mr. ORR. Do you wish to put it upon its passage?

Mr. COBB. No, sir. I desire to introduce the following bill:

A bill to amend an act approved the 4th of August, 1854, entitled "An act to graduate and reduce the price of the public lands to actual settlers and cultivators."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act approved 4th of August, 1854, to graduate and reduce the price of the public lands, shall be so construed that affidavits required by the third section of that act may be made before any officer duly authorized by law to administer oaths, under such rules and regulations as shall be prescribed by the Secretary of the Interior.

Mr. LETCHER. Is that one of the children of the old graduation bill?

Mr. COBB. No, sir; it is not.

The SPEAKER *pro tempore*, (Mr. JONES, of Tennessee, in the chair.) In the opinion of the Chair, if the gentleman makes his report, it will not come in under the morning hour.

Mr. COBB. I ask the unanimous consent of the House to present it.

Mr. WALSH. I object.

Mr. LINDLEY. I ask the unanimous consent of the House to introduce a bill to increase the salary of the collector of the port of Sandusky, Ohio.

Mr. LETCHER. I object to that bill.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled sundry bills; which were signed by the Speaker.

The titles are as follows:

An act for the relief of the representatives of James D. Anderson, deceased, late consul of the United States at Tripoli;

An act for the relief of Mrs. Ann W. Angus;

An act for the relief of James Erwin, of Arkansas, and others;

An act for the relief of François Cousin;

An act authorizing the legal representatives of Antoine Vasquez, Hypolite Vasquez, Joseph Vasquez, and John Colligan, to enter certain lands in Missouri;

An act for the relief of William Duer;

An act for the relief of E. C. Greneaux;

An act for the relief of Susan Coody and others;

An act for the relief of James Holstin;

An act for the relief of Thomas Butler;

An act for the relief of the heirs and legal representatives of William Weeks;

An act for the relief of the heirs and legal representatives of Uriah Prewitt, deceased;

An act for the relief of Colonel John H. Stone;

An act for the relief of Charles J. Porcher, acting purser of the brig Falmouth; and

An act for the relief of Purser Francis B. Stockton.

Mr. READY, by unanimous consent, reported, from the Committee of Claims, a bill "for the relief of Medford Coffey, of the State of Tennessee;" which was read twice by its title, and referred to a Committee of the Whole House.

And then, on motion by Mr. FLORENCE, the House, at five minutes before three o'clock, p. m., adjourned until to-morrow, at twelve o'clock, meridian.

IN SENATE.

FRIDAY, *January* 12, 1855.

The Journal of yesterday was read and approved.

On motion, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

DEATH OF HON. MOSES NORRIS.

Mr. TOUCEY. Mr. President, it falls to my lot to perform the melancholy task of announcing to the Senate the death of one of its members. The Hon. Mr. NORRIS, Senator from New Hampshire, is no more. He died at his lodgings in this city, of an affection of the heart, on Thursday evening, at half past eleven o'clock. Three days ago we saw him in the midst of us, in the fulness of life and health; but he was struck down in a moment, without consciousness; and, though he revived for a time, and was restored to the full possession of his faculties, yet a recurrence of the attack proved fatal. He has left a wife and family of children to feel bitterly their sudden bereavement.

Mr. NORRIS was the son of a revolutionary soldier. He was born at Pittsfield, in the State of New Hampshire, in the year 1799. He graduated at Dartmouth College with a high reputation for scholarship. He commenced the practice of law in his native town, and, soon acquiring the reputation of a sound lawyer and able advocate, he rose to eminence in his profession. He took a deep interest in public affairs; and, from early life, adhered to those political views which he ever afterwards maintained. In 1839 he was elected a member of the Legislature from Pittsfield. In 1840 he was chosen Speaker of the House, and presided in that body with distinguished ability and success. In 1841 he became a member of the State Council. In 1844 he was elected to Congress, and served in the House of Representatives the four succeeding years. In 1847 he was again a member of the Legislature of New Hampshire, and again Speaker of the House; and, while serving in that capacity, he was elected to the Senate of the United States for the term of six years from the fourth of March, 1849, and the same year took the seat which he occupied at the time of his death.

Such a record expresses the confidence reposed in him by the people of his native State better than any words of mine.

While he was a member of the House of Representatives he took an active part in debate. His leading speeches in that body were upon the great subjects of the tariff, the admission of Texas as a State, and the contested seats of the members from New Hampshire, and other States, who had not been chosen by districts, in conformity with the act of Congress. All these speeches were of marked ability, but that delivered by him in the Senate, upon the bill providing for the organization of Kansas and Nebraska was, perhaps, most distinguished in that respect, and attracted the largest share of public attention. In the great contest which resulted in the compromise measures of 1850, he was the firm and consistent advocate of those measures, and was never known to flag or to falter in their support. His views were enlarged and liberal, not limited to the State or section in which he lived, but comprehensive enough to embrace the whole country and all its interests. He was open and manly in his course, true to his principles and to his friends, reliable under the

pressure of difficulties, firm in the maintenance of right, greatly beloved by his family and by those who knew him best, and will be lamented by all. When such a man falls, his death is a public calamity.

I move, sir, the adoption of the following resolutions:

Resolved, That the members of the Senate, from a sincere desire to show every mark of respect to the memory of the Hon. MOSES NORRIS, late Senator from New Hampshire, will go into mourning for one month by the usual mode of wearing crape on the left arm.

Resolved, That a committee be appointed by the President *pro tempore* to superintend the removal of the remains of the Hon. MOSES NORRIS from his late residence, at four o'clock this afternoon, and that the Senate will attend the same.

Resolved, That, as a further mark of respect, the Senate do now adjourn.

Ordered, That the Secretary communicate these proceedings to the House of Representatives.

Mr. CASS. Another solemn warning has come to announce to us, that in the midst of life we are in death. Another member of this body, who, but a few hours since, was among us, engaged in all the busy occupations of life, has been suddenly called from the service of his country to the bar of his God. The emphatic words, "Be ye also ready," are written upon all the shifting scenes around us, and meet us day by day, from the cradle to the grave. Happy will it be for us, if the lesson they teach teaches us so to believe, and so to conduct, that the shadow of the dark valley through which we must pass, may be illumined by the faith and hope which the Redeemer has promised to all, who call upon him through the Gospel.

I did not rise for the purpose of pronouncing a eulogy upon our departed friend. Here, where he was known and appreciated, no such words are needed. I merely rose to offer my feeble testimony to his worth, and my tribute of sorrow for his loss. He was the sole representative of his State upon this floor, the State of my birth; and the land to which a grateful memory often reverts with pride and affection. This circumstance seems to render it not improper that I should take part in the ceremonies upon this melancholy occasion. It is not in my power to relate the incidents of his life; nor, indeed, is it necessary, for the Senator from Connecticut, [Mr. TOUCEY,] in the beautiful remarks to which we have just listened, has said all that was necessary, and has traced the course of this lamented citizen from his earliest career to his latest, showing the energy, and intellectual power, and moral worth, by which he reached his high position, without any of those adventitious circumstances which sometimes supply the want of merit.

I was in the habit of constant and friendly intercourse with him while he was a member of this body. No one could hold that relation without the most favorable impression of the qualities of his mind and heart. He had a native vigor of intellect, improved by study and reflection, which never failed to exhibit itself in his action and conversation. He had looked upon life with a careful eye, and his judgment was refined by much and varied experience. He had a most commendable firmness of purpose, which never gave way before danger or temptation, when his convictions were once formed, and to this he joined a probity of intention which gave weight to his opinion and the force of example to his authority.

In this high depository of national power he was national in all his views and votes. Not circumscribed by local considerations, nor influenced by local prejudices, but looking to the rights of all and to the good of all.

But he is lost to his State and to his country; to his bereaved family and his mourning friends. In the Providence of God he has been taken away, while yet in the strength of manhood. As men, so distinguished and so useful, fall one after another, we may humbly hope that He who calls them hence will guide others in the path of duty to serve their country and to promote the best interests of society.

The resolutions were unanimously adopted; Mr. FOOT, Mr. TOUCEY, Mr. FISH, Mr. DAWSON, Mr. JAMES, and Mr. SEBASTIAN were appointed a committee, under the second resolution, to superintend the removal of the remains of Mr. NORRIS, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 12, 1855.

The House was called to order at half past twelve o'clock.

The Journal of yesterday was read and approved.

DEATH OF SENATOR NORRIS.

A message was received from the Senate, by the hands of ASBURY DICKINS, their Secretary, informing the House of the death of Senator NORRIS, of New Hampshire, and of the passage by that body of the usual resolutions of respect to the memory of the deceased.

The message having been read—

Mr. MORRISON rose and said: Mr. Speaker, I rise to perform a melancholy and, to me, a most painful duty. I rise to ask the indulgence of the House while I submit for its adoption resolutions expressive of the respect which I am sure is felt by every member for my deceased colleague and friend, of whose death we have just been notified by the message from the Senate, which has been read from the Clerk's desk. I ask the indulgence of the House also, while I make a few preliminary remarks, before submitting the resolutions for its consideration.

It is meet that we should pause in our career of usefulness to pay a tribute of respect to the memory of one so justly honored and so recently and so suddenly withdrawn from our midst.

I do not rise for the purpose of pronouncing a formal eulogy upon the character of my departed colleague. His history, as a public man, is well known. It is engraven upon the records of his country, to whose service he has devoted his entire active life. He has been called from his elevated field of labor in comparatively early life, and while yet invested with the high distinction of representing the sovereignty of his State in the National Councils. But, sir, we have been admonished, again and again, since the commencement of the present Congress, of the uncertainty of human life, and of the emptiness of human ambition, even could our highest anticipations be realized. How true, how almost prophetic, was the language of our departed friend, when announcing, from his place on the floor of the Senate, the decease of his colleague in that body, but little more than one short year ago. On that occasion, he said:

"This lamentable event teaches us the all-important and solemn lesson, to be also ready, for we know not the moment when we, too, shall be called to our final account."

In my deceased colleague were combined all the elements that attach to a sound and judicious statesman, beyond almost any man within the circle of my acquaintance. He was firm and determined in the pursuit of what he believed to be right, and yet, during the whole course of his political life, he never permitted his intercourse with the world, nor the asperity of party and political feelings, to chill the warm sympathies of his heart. Those generous impulses, which so endeared him to all with whom he was connected, continued to burn with all the freshness of childhood, and his unselfish kindness retained all the warmth and ardor of youth.

Sir, I said that I did not propose to pronounce a eulogy upon the deceased. It is not my purpose to do so. This is not the time nor the place for that object. When I parted with him on Monday last, so far as external appearances indicated, he was in the enjoyment of his accustomed health and spirits. He passed the evening of that day with his family, at his lodgings, with his usual cheerfulness, until about eleven o'clock, when he was suddenly and violently attacked with the fatal malady which, in a few hours, prostrated all his vigorous and manly powers. He partially rallied, however, and his condition so much improved, that, until within a few minutes of his dissolution, his friends entertained flattering hopes of his ultimate recovery. He expired at about eleven o'clock last evening, at his lodgings in this city.

Although his death was sudden, it did not come without premonitory admonitions. He had had, from time to time, warnings that the work of death was going on within him; that the great central organ of life was subject to disordered action. He has remarked to me that he expected, when he should pass from the stage of life, it would be by some sudden derangement of the action of that organ, like that which has proved so startlingly fatal.

MOSES NORRIS was born in the town of Pittsfield, and State of New Hampshire, in the year 1799. He was the scion of a revolutionary stock, and inherited from a hardy and liberty-loving ancestry that ardent devotion to the principles of freedom and never-faltering attachment to the Constitution and the Union, which have distinguished his public career. He graduated at Dartmouth College, in his native State, in 1824. During his college course he sustained a high reputation as a scholar, and secured the lasting respect and warm attachment of his tutors and fellow-students. Having selected the profession of the law, and pursued the requisite course of study, he was admitted to the bar, and commenced the practice in his native county.

At the bar Mr. NORRIS soon obtained a high position, even amongst the able men who then adorned that profession in New Hampshire. He stood side by side with such men as Woodbury, Pierce, Atherton, the Bells—men of high and well-known eminence. He was not so much distinguished for brilliancy of rhetoric, as for sound discretion, clear discernment, good sense, and honesty of purpose, qualities which give confidence and command respect. He was ever guided by his clear judgment and sense of the right. In his native town and State he sustained a reputation as enviable as could be desired by members of the legal, or any other profession. He was a man of intelligence—a man of judgment—a man whose honesty of purpose was never questioned. Of him it might, with much truth, be said, "he was the noblest work of God," an honest man. For the last fifteen years of his life, Mr. NORRIS has been constantly in public life. He was first called to serve his native town in the Legislature of the State.

He was chosen in 1839, 1840, 1847, and 1848, a representative from his native town to the Legislature of New Hampshire. He was twice elected as Speaker of the House, and in that capacity he presided over the deliberations of the body with that quiet dignity which has always marked his public career, and pursued a course which rendered him, as far as he was known, as popular in the State as he had hitherto been in his native town.

In 1841 Mr. NORRIS was elected a Councilor of State, and served in that office for one year. In 1843 he was elected a member of this House, and again in 1845. For four years he served the State of New Hampshire in this House, in a manner well known to the country, and well known to those now present who served with him. In 1848 he was elected a Senator from his State to the Congress of the United States for six years. His term of office would have expired at the close of this session.

The career of the deceased may not, perhaps, have been as brilliant as that of some statesmen who have served the country on this floor, or in the other wing of the Capitol; but it was eminently useful, eminently practical, eminently national. As a debater his manner was clear, earnest, logical. He sought to convince by reasoning rather than by assertion. The country, sir, and perhaps many members in this House, will remember his efforts on this floor on the question of the contested election of 1844; again on the tariff question; and also his remarks here on the question of the annexation of Texas—all his efforts placing him as an able, convincing debater, occupying the front rank among the statesmen of the country. His speeches would do credit to any deliberative body in this country.

Such, Mr. Speaker, has been, in brief, the public career of the honored dead. So far as his career is known, I might appeal to the House and to the country if it was not such a career as would satisfy any reasonable ambition. In his whole course he has shown himself a devoted friend to his State, and a devoted friend to his country. When the political storm of 1850 threatened the perpetuity of the Union itself, he was among the first and foremost of the northern men to rally around the flag of Union and to save the Union from the wreck which menaced it. He stood there side by side with Webster, with Clay, with Cass, and with others who threw themselves, as patriots, into the breach. His course has ever been one of devotion to the Union, devotion to the country, perhaps as eminently so as that of any statesman in the land. I will not obtrude into the circle of

his private relations. He leaves a wife and six children. Their loss is irreparable. Devoted as he was to his country, he was equally devoted to his family. In all the relations of private and domestic life he was eminently exemplary, irreproachable, and beloved.

Sir, I would gladly extend further my remarks on this occasion, but I do not feel adequate to the task. It is not, perhaps, the time nor the occasion to dwell upon it. I ask the adoption of these resolutions:

Resolved, unanimously, That the House deeply lament the recent death of the Hon. MOSES NORRIS, late a Senator of the United States, from the State of New Hampshire, and that, as a testimonial of respect for his memory, the members of the House will wear crape on the left arm for thirty days.

Resolved, That the Clerk communicate a copy of the foregoing resolution to the widow of the deceased.

Resolved, That a committee be appointed by the Speaker, with such as the Senate have appointed, to superintend the removal of the remains of the deceased, from his late residence, at four o'clock this p. m., and that the members of the House will attend the same.

Resolved, As a further mark of respect, that this House do now adjourn.

Mr. BAYLY, of Virginia. You and I, Mr. Speaker, are among few of the members of this House who served with the deceased on this floor. That circumstance makes it not indelicate in me to gratify a heartfelt impulse on this occasion, and express feelings which I know that you, sir, would express, if you were occupying my position and I yours.

The gentleman from New Hampshire, [Mr. MORRISON,] speaking of Mr. NORRIS, felt it right to say that he did not aspire to the character of a brilliant statesman; but he had elements of character that are not too common, even with brilliant statesmen. He possessed, in an eminent degree, moral courage, and was not afraid, at any time, to do right. He never shrank from contest with error, because truth very often has severe conflict with error. I have seen him upon more than one occasion, as you have seen him, Mr. Speaker, display the great attribute of moral courage—to some of those occasions his colleague has referred. He was a good specimen of a New Hampshire Democrat; and while true to his own section of the country, he never forgot what was due to other sections of the country; and while true to his own constituents, he never forgot the rights of those of the rest of us. He always displayed here firmness and truthfulness of character; and what higher attributes can any man possess than these? New Hampshire has been sorely afflicted. During this very Congress she has lost two of her most distinguished statesmen. It was only at the beginning of the last session of Congress that the death of Mr. Atherton was announced here, and now we mourn the death of an equally worthy man.

Senator NORRIS died, as I have been told, of a disease of the heart, but it was not a moral disease of the heart. It was a physical one, and it may be some consolation to his family, to know that those who knew him here will testify that that heart never manifested a bad impulse.

Mr. PRESTON. I will attempt to add nothing to what has already fallen from the gentleman from New Hampshire, [Mr. MORRISON,] and the gentleman from Virginia, [Mr. BAYLY.] I will simply add, that as a further testimonial of the respect of this House, I hope that when it adjourns, it will adjourn to meet on Monday next. I make that motion.

The question was taken; and the motion was agreed to.

The question was then taken on Mr. MORRISON's resolutions; and they were adopted.

The House, thereupon, adjourned till Monday next, at twelve o'clock, m.

IN SENATE.

MONDAY, *January* 15, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of Friday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating a statement of the expenses of the national armories, and of the arms and appendages made thereat, during the year ending June 30, 1854; which was ordered to lie on the table, and be printed.

Also, a report of the Secretary of War, communicating a statement of the contingent expenditures for the military establishment for the year ending June 30, 1854; which was ordered to lie on the table, and be printed.

Also, a report from the Secretary of State, communicating a list of the clerks, messengers, and others, employed in the Department of State, during the year 1854, the State or Territory from whence appointed, and the amount paid to each.

Ordered to lie on the table, and be printed.

Also, a communication from the Secretary of the Interior, transmitting a communication and papers from the Commissioner of Indian Affairs, and asking for appropriations for objects therein mentioned; which, on motion by Mr. BADGER, was ordered to lie on the table, and be printed.

PETITIONS, ETC.

Mr. BADGER. I present the memorial of John Wilson and two hundred and two other Cherokee Indians, of the counties of Cherokee and Macon, in the State of North Carolina, complaining that money due to the heirs and representatives of deceased Cherokees, and placed by the Government in the hands of white men, has not been paid to those entitled to it; stating that, having purchased lands in the State of North Carolina, with a view to a permanent settlement therein, a large portion of the amount set apart annually for their removal and use, will, without some further legislation, fall into the hands of speculators and interested persons; and praying that the Government may cause such money to be paid directly to those entitled to it, without the intervention of such persons; and also that the Government pay them a principal sum equivalent to the amount of interest to which they are now entitled under the laws of the United States. I move to refer it to the Committee on Indian Affairs, and I venture to say that I hope that committee will give it their immediate attention; for these Indians are worthy and respectable, and, if they have suffered wrong, are entitled to redress.

It was so referred.

Mr. DODGE, of Iowa, presented the memorial of John Foy, praying to be reimbursed for damages done to his house in Washington city, by reason of the construction of certain works by the Government; which was referred to the Committee on the District of Columbia.

Mr. GWIN presented the memorial of John C. McLemore and others, citizens of California, praying that a port of entry may be opened at the junction of the Gila and Colorado rivers; which was referred to the Committee on Commerce.

Mr. SEWARD presented the petition of Eliza Henley, widow of John D. Henley, late an officer of the United States Navy, praying to be allowed an increase of pension, with interest; which was refered to the Committee on Pensions.

Also, the petition of George Gerrish and others, residing in New York and elsewhere, praying that steam ferry boats, having an upper deck, may be required to carry one of Thomas's safety cars; which was referred to the Committee on Commerce.

Mr. JONES, of Tennessee, presented a memorial of commissioners appointed by a General Assembly of the State of Tennessee, February 28, 1854, praying the aid of Congress in preventing the overflow of the east bank of the Mississippi river, caused by the leveeing of the west bank under certain acts of Congress appropriating lands for that purpose; which was referred to the Committee on Commerce.

Mr. WADE presented the petition of John Harmon and others, soldiers of the war of 1812, convened at Ravenna, Portage county, Ohio, praying that a pension may be allowed the survivors of that war, and to the widows of those deceased; which was referred to the Committee on Pensions.

Mr. WELLER presented the petition of Amos B. Eaton, praying to be allowed certain items which were rejected at the Treasury Department in the settlement of his accounts as a commissary of subsistence in the Army; which was referred to the Committee on Military Affairs.

Mr. MALLORY presented a petition of C. W. Reed and others, citizens of Sackett's Harbor, New York, praying the removal of obstructions, and the construction of a dock in that harbor; which was referred to the Committee on Naval Affairs.

Mr. FISH presented a copy of a report of a committee of the Board of Trade of Baltimore, in favor of a revision of the laws respecting emigrant and passenger ships; which was referred to the select committee appointed on the subject.

Mr. DODGE, of Wisconsin, presented the memorial of the grand jury of the district court of the United States for the Wisconsin district, praying an additional appropriation for the erection of a building for the post office, custom-house, and court-house at Milwaukie, in said district; which was referred to the Committee on Commerce.

Mr. CLAY presented an additional document in relation to the claim of Hugh Wallace Wormley; which was referred to the Committee on Naval Affairs.

Also, the petition of the heirs of Nathaniel Steele, praying indemnity for damages sustained by him in consequence of his ejectment by the United States troops from a tract of land, purchased of a half-breed Indian; which was referred to the Committee on Indian Affairs.

Mr. FESSENDEN presented a petition of soldiers of the war of 1812, residing in the State of Maine, praying that pensions may be allowed to the surviving soldiers of that war, and to the widows of those deceased; which was referred to the Committee on Pensions.

Also, the petition of Henry D. E. Hutchins, one of the heirs of Nathaniel Hutchins, deceased, an officer in the revolutionary army, praying that the commutation pay to which the deceased was entitled, may be paid to his heirs; which was referred to the Committee on Revolutionary Claims.

Also, the petition of John W. Pray, one of the heirs-at-law of John Pray, deceased, praying that the commutation pay to which his ancestor was entitled, may be paid to his heirs; which was referred to the Committee on Revolutionary Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. MALLORY, it was

Ordered, That the petition of Joseph Chaires, executor of B. Chaires, deceased, and of Gad Humphreys, and Pedro Miranda, on the files of the Senate, be referred to the Committee on Public Lands.

On motion by Mr. GWIN, it was

Ordered, That the petition of Henry Etting, on the files of the Senate, be referred to the Committee on Naval Affairs.

PETITIONS RECOMMITTED.

On motion by Mr. ALLEN, the petition of Sarah Larrabee, and the petition of Nancy Bowen, were recommitted to the Committee on Pensions.

HARBOR OF SAN FRANCISCO.

Mr. WELLER. I present the petition of residents and holders of property in the city of San Francisco, stating that that harbor and city are without adequate means of defense, so that, in case of war, a small foreign force, in the absence of American vessels of war, could easily destroy the city and the commerce of the United States on the Pacific; and that, in order to any proper protection of that place and of American commerce on the Pacific coast, it would be absolutely necessary that the fortifications of San Francisco should be immediately completed. The petitioners therefore pray that Congress will at once take the necessary measures to place the city of San Francisco, together with its harbor, in a proper state of defense. I move that it be referred to the Committee on Military Affairs.

It was so referred.

Mr. WELLER also submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to inform the Senate what progress has been made in fortifying the entrance to the harbor of San Francisco, California, and the present condition of said work.

REPORTS FROM STANDING COMMITTEES.

Mr. EVANS, from the Committee on Revolutionary Claims, to whom was referred a bill from the House of Representatives, for the relief of the children and heirs of Major General Baron de Kalb, reported it back without amendment.

Mr. DODGE, of Iowa, from the Committee on Public Lands, to whom was referred documents relating to the claim of Orman Randall, praying to be allowed bounty land, asked leave to be discharged from their further consideration, and that the petitioner have leave to withdraw his papers; which was agreed to.

Mr. ALLEN, from the Committee on Pensions, to whom was recommitted the petition of Catharine Clark, praying to be allowed a pension, submitted an adverse report thereon; which was ordered to be printed.

BILL INTRODUCED.

Mr. CLAY asked and obtained the unanimous consent of the Senate to introduce a bill to settle certain accounts between the United States and the State of Alabama; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

NAVY-YARD AT MEMPHIS.

Mr. JONES, of Tennessee, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs be requested to take into consideration the action of the Board of Mayor and Aldermen of the city of Memphis, on the subject of the navy-yard at that place, and that they report whether or not it is the interest and duty of the Government to accept of a retrocession of the yard as indicated in the resolutions of the Board of Mayor and Aldermen, which resolutions are hereunto appended, as follows:

"Whereas, we, the Mayor and Aldermen of the city of Memphis, view with deep regret what we conceive to have been hasty legislation in the late act of Congress, ceding the Memphis navy-yard and appurtenances to the city of Memphis, thereby depriving the citizens of the great valley of the Mississippi of the benefits of a great national work; and whereas, we deem this work of equal importance to any similar work in the eastern States, and that justice to the citizens of the great valley of the Mississippi demands its continuance; and whereas, the Board of Mayor and Aldermen of Memphis believe that Congress may, at its next session, be induced to reconsider its act ceding the Memphis navy-yard to the city of Memphis: Therefore,

Resolved by said Board, That, in our act receiving said navy-yard, we fully disclaim the design of holding it to our own use: *Provided*, That Congress shall, in its wisdom, in justice to the South and West, desire to reinstate said yard, not as a rope-walk *alone*, but as a depot of construction and equipment of Government vessels for the Navy, we shall deem it our duty, in consideration that Congress agree to carry out their original plan of keeping up and carrying on a navy-yard of construction at Memphis, to reconvey the navy-yard at Memphis, grounds, and appurtenances, to the General Government.

Resolved further, That the Mayor immediately notify the Secretary of the Navy, at Washington city, both by mail and telegraph, of the foregoing proceedings, with the request that he suspend the sale of the Government property at the Memphis navy-yard, now advertised to take place on the 1st of November next, until after the next meeting of Congress in December."

ENROLLED BILLS SIGNED.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that the Speaker had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill for the relief of the representatives of Thomas D. Anderson, deceased, late consul of the United States at Tripoli;

A bill for the relief of Mrs. Ann W. Angus;

A bill for the relief of James Erwin, of Arkansas, and others;

A bill for the relief of François Cousin;

A bill authorizing the legal representatives of Antoine Vasquez, Hypolite Vasquez, Joseph Vasquez, and John Colligan, to enter certain lands in Missouri;

A bill for the relief of William Duer;

A bill for the relief of C. E. Greneaux;

A bill for the relief of Susan Coody and others;

A bill for the relief of the heirs and legal representatives of William Weeks;

A bill for the relief of the heirs and legal representatives of Uriah Prewitt, deceased;

A bill for the relief of Colonel John H. Stone;

A bill for the relief of Charles J. Porcher, acting purser of the sloop-of-war Falmouth;

A bill for the relief of Purser Francis B. Stockton;

A bill for the relief of Thomas Butler; and

A bill for the relief of Thomas B. Parsons.

PACIFIC RAILROAD.

Mr. GWIN. The select committee on the Pacific railroad, to whom was referred the bill to authorize and facilitate the construction of a northern, a southern, and a central Pacific railroad and magnetic telegraph through the Territories of the United States, have directed me to report it back with an amendment. It is in the form of a substitute for the bill which I reported at the last session, for the construction of a railroad from the valley of the Mississippi to the Pacific ocean. That is the first special order which is before the body, and I give notice that I shall, on Monday next, move to take it up for consideration.

The same committee, to whom was referred a bill to provide for the transportation of the mails, troops, seamen, military and naval stores, munitions of war, funds, and other property of the United States, from the Mississippi river to the Pacific ocean, have instructed me to ask to be discharged from its further consideration.

The motion to discharge was agreed to.

TAMPA LAND DISTRICT.

Mr. DODGE, of Iowa. I am instructed by the Committee on Public Lands, to whom was referred the bill to amend the act to establish a land district in the State of Florida, to be called the district of Tampa, to report it back with a recommendation that it pass. As there is great necessity that the office, which was established at the last session of Congress, should be put under way, and as I know that my friends from Florida are very anxious for its passage, I hope the bill will be considered now.

The Senate, as in Committee of the Whole, proceeded to consider the bill. Its object is to authorize the appointment of a register and receiver for the district—their compensation to be the same as is, or may be, prescribed by law for the other land officers in the State.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MARY FELCH.

Mr. FOOT. The Committee on Public Lands have had under consideration the petition of Mary Felch, widow of Cheever Felch, a chaplain in the United States Navy, praying for bounty land, and have instructed me to report a bill for her relief.

The bill was read a first time by its title, and the report was ordered to be printed.

Mr. FOOT. I ask the unanimous consent of the Senate to consider that bill now; and, upon a simple statement of facts, no Senator, I think, will interpose an objection to its passage. It proposes to give a quarter section of land—one hundred and sixty acres—as bounty land to the widow of a chaplain in the United States Navy, who served fourteen years—a portion of his time in the Mediterranean sea, a portion of it on our western lakes, and a portion in superintending a surveying party in Alabama and Florida; and died on his way home, leaving this widow and six children—all daughters—in very destitute circumstances. That is the sum and substance of the report. It has received the unanimous sanction of the Committee on Public Lands; and I hope the bill will be passed now.

The bill was read a second time by unanimous consent, and considered as in Committee of the Whole. It will authorize the Secretary of the Interior to issue to Mary Felch, widow of the Rev. Cheever Felch, deceased, of St. Lawrence county, New York, a land warrant for one hundred and sixty acres, in consideration of her husband's services as chaplain, &c., in the United States Navy during the war of 1812 with Great Britain.

No amendment being proposed, the bill was reported to the Senate, and ordered to be engrossed for a third reading. It was read the third time, and passed.

DR. KANE'S ARCTIC EXPEDITION.

Mr. BRODHEAD. I ask the favor of the Senate now to consider the joint resolution respecting the Arctic expedition, commanded by Passed Assistant Surgeon E. K. Kane. There is a special reason for it, and I hope it will be considered at this time.

The motion was agreed to.

Mr. BADGER. I want to say to my friend from Pennsylvania that I have no disposition to interfere with the consideration of his resolution; but I hope he will allow me to have taken up, by common consent, the compensation bill, with the view of simply making it the special order for half past twelve o'clock to-morrow. Is there any objection to that?

Mr. BRODHEAD. That motion can be just as well made after we have considered this resolution as now.

Mr. BADGER. If my friend from Pennsylvania will only consider, we do not know what will take place to prevent it, if I do not get the opportunity to make my motion now. My bill was made the special order for half past twelve o'clock to-day.

Mr. HUNTER. With regard to that I have a word to say. Two of the general appropriation bills have been reported from the committee, and ought to be acted upon. I hope no more special orders will be made until we dispose of at least one of them.

Mr. BADGER. My friend from Virginia knows that the appropriation bills will pass the Senate.

Mr. HUNTER. Yes; but unless they are taken up at an early day, they will not pass in the best manner; they may go through in a hurry.

Mr. BADGER. Well, my bill is far more important than any appropriation bill. [Laughter.]

Mr. BRODHEAD. My friend from North Carolina knows what patience I have exercised in this matter.

Mr. BADGER. I wanted to help my honorable friend.

The PRESIDENT. The joint resolution is before the Senate as in Committee of the Whole.

Mr. BRODHEAD. The Committee on Naval Affairs have instructed me to move to modify the resolution, so as to make it read as follows:

That the Secretary of the Navy be, and he is hereby, authorized to procure and dispatch a suitable naval or other steamer, and, if necessary, a tender, to the Arctic seas, for the purpose of rescuing or affording relief to Passed Assistant Surgeon E. K. Kane, of the United States Navy, and the officers and men under his command: *Provided*, That said steamer and tender shall be officered and manned by volunteers from the Navy, and others who may declare their willingness to be so engaged.

The amendment was agreed to.

Mr. HUNTER. This is a proposition, if I understand it, to send another Arctic expedition in search of one which is commanded by Doctor Kane, in the Arctic seas. Now, sir, I very much doubt the humanity of these expeditions. I think the English experience is not encouraging. We ought to consider whether we may not be risking valuable lives in thus sending them in various expeditions to look for those who have heretofore gone. I do not see but that it will involve a series of expeditions. We may have to send another to look after this one. If so, there may be no end to it until there has been a great loss of life.

Mr. MALLORY. I was in hopes that the resolution would have been passed without any discussion; but the suggestion of the Senator from Virginia makes it necessary to say a few words in reply; and in doing so, I will take the opportunity to state some facts, of which, perhaps, the Senate may not be aware.

You recollect, sir, the noble generosity of a merchant of New York, Mr. Grinnell; a generosity which, I think, will be gratefully remembered by every liberal mind in this country; a generosity, too, which, I think, reflects high credit on our country at large, in enabling Doctor Kane to fit out this expedition in search of Sir John Franklin. The Navy Department, without any special appropriation on the subject, accommodated him to the extent of furnishing one third of the men, all the astronomical instruments, books, and papers necessary for the exploration, and gave him special instructions as to the investigation of certain scientific propositions connected with the Polar seas during his explorations, and instructed him to report to that Department the result of his investigations.

Dr. Kane started in May, 1853. His previous explorations in search of Sir John Franklin enabled him to form plans which certainly offered every probability of success. He left New York with a party of nineteen men; and, unlike Sir John Franklin, who was not found because those who followed him, had no clue to his movements; he has left behind him specific instructions as to how he might be followed and discovered if he should remain away beyond the time when he expected to return. The last news from him was received on the 23d of July, 1853. He was then at Upernavek, which is the extreme northern limit of the Danish settlements in Greenland. He had there procured a supply of sleds, Esquimaux Indians, and dogs. The sea was open, with some two hundred and sixteen icebergs in sight, and everything appeared propitious for the success of his undertaking. He was in high spirits. His plan was to seek Smith's sound, the northern inlet of Baffin's bay, and, with a stock of provisions, to go as far north, in a direct line, as he could go, and return to his ship, there pass the winter, and

in the spring of 1854 pursue his observations into the Polar sea, and return in the fall of 1854.

That was his plan. Now, he has failed to carry it out; and the inference which must be drawn by those who are familiar with that region of the world, is based upon the fact that Smith's sound has been entirely frozen across. He must have sought a harbor in the Polar seas, near Smith's sound, for his vessel, and there passed the winter. This has been the coldest winter in the Polar seas which has been known for seventeen years. Thus say all the whalemen in that region, and thus says, also, Dr. Rae, who has recently been on the track of Sir John Franklin. It is, therefore, impossible for Dr. Kane to return according to the plan laid down; but he has left certain instructions as to how to follow him. He was provisioned for two years, and with economy, and with the game that that region affords, he may make his provisions last two years and a half. This removes immediate anxiety for his safety; but unless search be made now, it will have to be delayed another year, probably to the destruction of the whole party.

The Senator from Virginia suggests that we may engage in a series of expeditions, and against the dictates of humanity. Why, we have the fact before us that Captain Englefield, who was dispatched in 1852, in search of Sir John Franklin, and went to Smith's sound, returned to Lancaster sound, examined Wellington straits, and had a steamer and tender precisely as this proposition contemplates, was gone altogether four or five months in the summer. In reporting this resolution, the committee understood that the examination of Smith's sound could be made in about four months, with the specific instructions which Dr. Kane left behind him. The exploring party will probably find on the outer edge of the ice, at Smith's sound, the Union flag, with the Union down, as a token of distress, and a watch for succor. There will be no risk to the following party, who may go in the expedition, if they follow the clue definitely given, and if Dr. Kane is not found there, the expedition will, probably, immediately return. But every information which we have of the expedition leads us to believe that Dr. Kane's vessel is certainly frozen in in Smith's Sound.

Mr. HUNTER. I am glad that my objection has elicited this statement of facts. I was not aware, before, of the fact that Dr. Kane will have left signals, probably monuments, by which his track may be discovered. I therefore make no further objection to the resolution.

Mr. BADGER. I desire to say that I was in the same position with my friend from Virginia. I, like he, was entirely ignorant of the careful forethought with which this gentleman made his arrangements. This will not be sending forth an expedition to wander over the seas without any certain guide as to the course they are to pursue; and, as I understand a large portion of the Navy are willing to volunteer to go in search of this generous hearted, noble young man, I certainly have no objection to the passage of the resolution.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The resolution was ordered to be engrossed for a third reading, and was read a third time, and passed.

COMMITTEE CLERK.

On motion by Mr. DOUGLAS, it was

Ordered, That the Committee on Territories be authorized to employ a clerk.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. WEBSTER, his Private Secretary, announcing that he had approved and signed bills of the Senate of the following titles:

A bill for the relief of the heirs and representatives of Uriah Prewitt, deceased;

A bill for the relief of the legal representatives of James Erwin, of Arkansas, and others;

A bill for the relief of Thomas Butler;

A bill for the relief of the representatives of Thomas D. Anderson, deceased, late consul of the United States at Tripoli;

A bill for the relief of William Duer;

A bill authorizing the legal representatives of Antoine Vasquez, Hypolite Vasquez, Joseph Vasquez, and John Colligan, to enter certain lands in Missouri;

A bill for the relief of the heirs and legal representatives of William Weeks;

A bill for the relief of François Cousin;

A bill for the relief of Thomas B. Parsons;

A bill for the relief of Mrs. Ann W. Angus;

A bill for the relief of Purser Francis B. Stockton;

A bill for the relief of C. E. Greneaux; and

A bill for the relief of Susan Coody and others.

JUDICIAL AND CONGRESSIONAL COMPENSATION.

Mr. BADGER. I now ask for the special order—the bill to increase the compensation of the Judges of the Supreme Court and of the members of both Houses of Congress.

Mr. HUNTER. I move to postpone all prior orders, for the purpose of taking up the mail steamer appropriation bill, and with the leave of the Senate I will make a short statement to show the necessity of acting upon it at once. It is a bill which should have been passed at the last session for the service of the present fiscal year. It is necessary that we should act upon it at once, because the fund out of which the parties have been paid has been exhausted. It is absolutely necessary, if we mean to keep the public faith, that we should do something with the bill, and that speedily. I think it will not take long. I hope it will be the pleasure of the Senate to postpone the prior orders to take it up.

Mr. BADGER. It is almost impossible for me to resist what the Senator from Virginia asks, he speaks in such a persuasive manner and gives such strong reasons; but I will say to him that my impression is we can dispose of my bill this morning; but if any difficulties arise on that subject, I shall cheerfully agree to its being postponed until half past twelve o'clock to-morrow. Now, will that answer his purpose?

Mr. HUNTER. I am willing to postpone it until half past twelve o'clock to-morrow, and I hope now to get up the appropriation bill. We can dispose of it to-day.

Mr. BADGER. I cannot resist the Senator. I move that the special order be postponed until half past twelve o'clock to-morrow. That will answer his purpose.

Mr. HUNTER. Then I move to postpone the prior orders to take up the mail steamer appropriation bill.

Mr. GWIN. I hope the judiciary bill will be taken up and completed to-day.

Mr. BADGER. We cannot do that.

Mr. HUNTER. We cannot complete that to-day, but we can complete the appropriation bill, and there is a pressing necessity for it to be acted upon.

Mr. BUTLER. I do not like to insist upon any right which I may have, if it interferes with what I suppose the Senator from Virginia regards as his duty in relation to these bills for the carrying on of the operations of the Government; but if the judiciary bill is to be postponed from day to day, because we can finish one bill to-day and another to-morrow, I may give it up. I have been two years working at it.

Mr. HUNTER. My friend from South Carolina did not hear the reasons which I gave why the Senate ought to act on the appropriation bill to-day. It is a bill of last session which has been laid over until now. It is necessary to act upon it, because the balance of the appropriation out of which the mail steamer service has been paid for is exhausted, and it is time we should dispose of this in one way or another. There ought to be money provided to meet the contracts.

Mr. BUTLER. I have no doubt the Senator will get his bill up. People who want money generally have the preference.

Mr. BADGER. I desire to be informed what has become of my bill?

The PRESIDENT. The question is on the motion of the Senator to postpone it, as the special order, until half past twelve o'clock to-morrow.

The motion was agreed to.

MAIL STEAMERS.

The PRESIDENT. The question now is on the motion of the Senator from Virginia.

Mr. BAYARD. That motion, I understand to be to postpone the special orders of to-day, to take up the mail steamer appropriation bill. I trust that course will not be taken. The bill to reorganize the judiciary is certainly of as much, and more importance to this country than the bill to which the honorable Senator alludes. But, I think, there is another reason for not taking up that bill. It contains something more than a mere appropriation. It is something more than a general appropriation bill; and I question much the policy of continuing, at the second session, a general appropriation bill, on which the two Houses have not agreed; and more especially when we have good reason to know that the same measure, under the same circumstances, is again before the House of Representatives.

I will say to the honorable Senator from Virginia, that we have differed in reference to a part of the provisions of the bill—the part on which the two Houses differed I have no desire to occupy the time of the Senate; but if this question must be taken up now, when there is an exactly similar bill pending before the House, which gives them an opportunity to revise their opinion, I shall debate it. If, on the contrary, the Senator is willing to let the result of the provision as to the notice for the purpose of lessening the compensation of the Collins line abide by the express will of the House on the bill now before them—a bill of a similar character—I shall be willing to take the vote without saying anything. Therefore, I think it will occupy less time, if the honorable Senator does not press his bill now. It will be doing more justice by letting the matter lie over for the revision of the House. If they should pass the bill which they have before them, with the provision which the honorable Senator desires should be acceded to on the part of the Senate, the vote may be taken here without any discussion as far as I am concerned.

Mr. HUNTER. I apprehend the Senator from Delaware is mistaken. The bill which is pending in the House relates to the next fiscal year, and not to the present; and I have been urged by the chairman of the Committee of Ways and Means to have some disposition made of this bill, so as to enable the House to know how to act on the subject. If it be the pleasure of the Senate to have it passed, let us dispose of it. If they think, with the honorable Senator from Delaware, that there is no necessity for it, let it be killed; but let us decide on it in some shape, in order to let the House know that they are to meet the wants of the service.

Mr. BAYARD. I think there is some mistake in reference to the matter. I do not see what there is to embarrass the House in reference to our action or non-action on this bill. The money, I understand, has been paid out of previous appropriations. If it is necessary to make the appropriation, it can easily be embodied in the bill which is before the House, as it was not agreed to at the last session. I cannot see that there is any reason for pressing this measure now, except that there may be some fears that the House will not adhere to their action in reference to the legislative provision which is embodied in the bill, and which they acceded to at the last session. I must discuss that question if the bill is taken up now. I shall waive it if it is not now taken up.

Mr. HUNTER's motion was agreed to—ayes 21, noes 16.

The PRESIDENT. The previous action of the two Houses upon the bill, will be read.

The Secretary read as follows:

IN SENATE OF THE UNITED STATES, *August* 3, 1854.

Resolved, That the bill from the House of Representatives, entitled "an act making appropriations for the transportation of the United States mails by ocean steamers and otherwise, during the fiscal year, ending the 30th of June, 1855," pass with an amendment to wit:

Page one, line eleven, after the word "dollars," strike out:

"And that the Secretary of the Navy is hereby directed, immediately after the 31st day of December, 1854, to give the notice provided in the first section of the act entitled 'An act to supply deficiencies in the appropriations for the service of the fiscal year ending 30th of June, 1852,' approved the 31st day of July, 1852, to terminate the arrangement for the additional allowance for the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, as therein provided.

IN THE HOUSE OF REPRESENTATIVES, *August* 4, 1854.

Resolved, That this House disagree to the amendment of the Senate to the bill of the House making appropriations for the transportation of the United States mail by ocean steamers or otherwise, during the fiscal year ending the 30th of June, 1855.

IN SENATE OF THE UNITED STATES, *August* 4, 1854.

Resolved, That the Senate insist upon their amendment, disagreed to by the House of Representatives, to the bill

No. 96, and ask a conference on the disagreeing votes upon said amendment; and

Ordered, That Mr. STUART, Mr. JAMES, and Mr. TOOMBS be the committee of conference on the part of the Senate.

IN THE HOUSE OF REPRESENTATIVES, *August* 4, 1854.

Resolved, That the House insist on their disagreement to the Senate's amendment to the bill No. 96; agree to the conference on said disagreeing votes; and that Mr. HOUSTON, Mr. MORGAN, and Mr. POWELL be managers of said conference on the part of the House.

IN THE SENATE OF THE UNITED STATES, *August* 4, 1854.

Mr. STUART reported that the committee could not agree.

Mr. PRATT moved that the Senate recede from their amendment.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The question is on receding from the amendment.

Mr. RUSK. I ask for the reading of the whole bill.

The bill was read. The third section is as follows:

SEC. 3. *And be it further enacted*, That the arrangements now subsisting for the transportation of the mails from New York to Liverpool; from New York, *via* Southampton, to Bremen; from New York, *via* Cowes, to Havre, and back; from New York to New Orleans, Charleston, Savannah, Havana, and Chagres, and back; from Panama to California and Oregon, and back; and from Charleston to Havana, and back; be terminated as soon as, in the opinion of the Postmaster General, it can be done, consistently with the public interest; and that the Postmaster General shall give notice of such termination accordingly: *Provided*, That, in the opinion of the Postmaster General, with the concurrence of the Secretary of the Navy and the Attorney General of the United States, the same may be done without a violation of any contract now lawfully binding upon the United States; and that the transportation of the mails on those lines be let to the lowest responsible bidders, after a public advertisement.

The PRESIDING OFFICER. The Chair will state the transactions of the last session in regard to the bill. It passed the House, and was sent here with a certain provision in it, which the Secretary has read.

Mr. BUTLER. That provision was to give the notice to the Collins line.

The PRESIDING OFFICER. That provision was to give the notice. The Senate passed the bill, with an amendment to strike out that provision. The House of Representatives disagreed to the amendment. The Senate insisted upon it. A conference was held between the two Houses, but without coming to any agreement on the question pending between them. A motion was made by the Senator from Maryland, [Mr. PRATT,] that the Senate recede from their amendment; and the question now before the Senate is on that motion. The provision, which the Senate struck out, is in the following words:

And that the Secretary of the Navy is hereby directed, immediately after the 31st day of December, 1854, to give the notice provided in the first section of the act entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852," approved the 31st of July, 1852, to terminate the arrangement for the additional allowance for the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, as therein provided.

Mr. BRODHEAD. Has the third section been agreed to?

The PRESIDING OFFICER. The only question between the two Houses is upon leaving the provision, in regard to the notice, in the bill as it came from the House, or striking it out, which is the amendment of the Senate. If the Senate recede, that provision will stand as a part of the bill, and the bill will be passed with the provision in it.

Mr. BRODHEAD. That amendment is not so objectionable as the third section.

Mr. RUSK. I hope the Senate paid attention to the reading of the third section of the bill, which, as the Senator from Pennsylvania has justly said, is the most objectionable feature in it. We have a number of ocean mail steamer contracts, and that section authorizes three officers of the Government to set aside those contracts, with the saving clause "if it can be done legally and properly." Now, it is very well known that some of the companies who are transporting the mail are anxious to sell to the Government a portion of their ships which are not precisely suited to their purposes, and supply their places with others. It is a part of the terms of the original contracts that they may, at any time, be terminated by the Government after running for a certain period—ten years, I believe—by taking the ships off the hands of the contractors at a valuation. The third section, which, by the way, has been agreed to by both Houses, devolves a responsibility upon three officers of the Government which I am unwilling to devolve upon them. It puts a power into their hands which I am very unwilling to vest in them, in reference to this measure. It is a very important one. Suppose they come to the conclusion that they can set aside these contracts—and do set them aside—they are to be authorized to go on and make new contracts without any control by Congress. If they set one aside, according to one of the terms of the contract, they may agree to another. It is a very large discretion to entrust to the Postmaster General, the Secretary of the Navy, and the Attorney General.

But, sir, suppose they terminate the contract, and take the vessels, is Congress prepared to sanction that? Is there a necessity for it? Suppose, on the contrary, they say the contracts have not been complied with, and that they can set them aside, and enter into new contracts, what is the result? All these companies will petition Congress for remuneration; and we do not know what kind of new contracts we should get. Some gentlemen think these are bad contracts; but we may get worse ones under the provision of this third section.

The bill, however, is in the condition that neither branch of Congress can now reach that third section to modify it in any way. The House put into the bill a provision to give notice of the termination of the extra compensation allowed to the Collins line of steamers. That provision the Senate struck out. The House disagreed to that amendment, and the result was a committee of conference. The committee reported that they could not agree; and the last motion pending at the adjournment of the Senate was to recede from the amendment. Now, if the Senate recedes, the third section will be the law of the land. Then you have to look to the consequences which will result to the service and the country from its adoption. If the Senate refuses to recede, a committee of conference between the two Houses will be the result, and that committee will have nothing before them but the question of notice. They could not touch the third section. They would only have to take into consideration the matter of disagreement between the two Houses. They could only reach the question of giving the notice to the Collins line.

I do not pretend to make any motion upon that subject; but it seems to me that the bill is not properly before the Senate now. It was one of the annual appropriation bills of last session. It was then defeated, to all intents and purposes, by not being acted upon. There is one provision in it which was to require certain things to be performed after the 31st of December last; but it reads the 31st of December next. However, I do not intend to cavil about that. My impression is, that the better course to pursue on the subject is to defeat the bill entirely; and then the Committee of Ways and Means in the House can send another bill here, and these matters can be attended to properly, with time for proper investigation, and without hasty legislation upon so important a subject. In order, therefore, to dispose of this bill, so as to enable the House to go on with another to supply its place, and in which all these matters can be reached—for they cannot be reached by the Senate and House of Representatives through a committee of conference on this matter, I move, as a test question, the indefinite postponement of the bill. I would move that it lie upon the table, but that would cut off debate.

Mr. MASON. When the law was passed in 1847, authorizing this contract, I was one of those who were utterly opposed to the general policy and character of the engagement. But the law passed; and the contract was made. Now what is the contract? My attention has been called to it since, because it is probably known to many Senators that the bill was brought unto us, in its present shape, at the very heel of the last session, when, I confess, for one, I knew nothing about it, and when it was almost impracticable that I could know anything about it. Now what is it? The contract was made on the 16th of November, 1847, in pursuance of the law that was passed in March 1847. It provides, at its close:

"It is understood and agreed further by the parties aforesaid, that this contract shall continue in force for the term of ten years, from the first of October, 1848.

This will bring its termination to the first of October, 1858; and until then, unless there be something in the contract authorizing us to terminate it, the subject is beyond our jurisdiction, if the faith of the country is to be observed. It is to extend to the first of October, 1858—

—"unless annulled by Congress; and that Congress may, at any period during its coming session, direct it to cease upon such conditions of equity and fairness as it may think it just towards the contractor to establish."

I suppose the fair construction of that would be, that the power to annul it was reserved to Congress, provided that power was exercised at the first session after the contract was made. But it seems that the contractors, having some misapprehension that this clause of the contract might admit of equivocal construction, addressed a letter, contemporaneous with the contract, to the Secretary of the Navy, and asked him to modify its terms in such a way as to make it explicit. On the 20th of November, 1847, four days after the date of the contract, Mr. Aspinwall, who, it seems, was one of the contractors, addressed a letter to the Secretary of the Navy, with whom the contract was made under the law, and said to him:

"On reading over the contract, one of my associates considers that the words 'during the coming session,' should be inserted after the word Congress, where first used in the last clause, in order to explain clearly the true meaning of the agreement. I have, therefore, requested Mr. Harris to return to Washington, that he might, with you, acknowledge the interlineation, and have the same attested by two witnesses. I do not doubt that you will consent to this explanatory interlineation."

The Secretary of the Navy replied to him, on the 22d of November, two days afterwards, thus:

"SIR: In reply to your letter of 20th instant, you are informed that the clause referred to, in the contract of Mr. A. Harris, was intended to reserve to Congress the power of annulling at the coming session. Its true interpretation is, that, if not exercised at the coming session, the contract will continue for ten years. In my report to Congress, I have stated such to be the terms of the contract, and have asked Congress to act definitely at this session on the subject, by annulling or approving for the term. I, of course, recommend their approval. There is an objection to altering the contract, after the execution of the same and the bond. This alteration is unnecessary, as the Department unhesitatingly declares, in this form, that the true interpretation of the contract, as it now stands, is that which the proposed alteration would give to it."

As far as I have the capacity to construe a contract, I should say the Secretary was right—that the contract gave to Congress the power to annul it, provided it was exercised at that coming session. But the contractors, thinking a doubt might arise, asked the Secretary to amend the contract by putting in a clause to make its true meaning clear. The Secretary said it was unnecessary, for its true meaning was already clear—that if the power was not exercised at the coming session, it was gone.

What is proposed by this bill? To delegate to three Executive officers a power to determine whether the Government can or cannot terminate the contract—a contract made by the authority of Congress—and which, for one of those who are called upon to decide, I am clear, in my judgment, you cannot terminate without violating it, and subjecting the Government not only to a charge of breach of faith, but to damages. The proposition is to delegate to the officers of the Government a power to do that which we ought not to do, if we undertook to exercise the power ourselves. I have said, and repeat, I was opposed to making these contracts; but I am sure there is no Senator on this floor, I hope there is no citizen in the country, who, when the contract was made, would authorize its violation, unless some fraud or impropriety was alleged. If we were to violate the contract, in thus terminating it, we should not only subject ourselves to the imputation of bad faith, but the Government also to the imperious necessity of retributing the injured company in whatever damages it should suffer.

I understood the honorable Senator from Texas to say that they might have the power to terminate the contract by taking away the ships. I should differ from him there altogether. The clause in the contract relating to the taking of the ships is very brief, and I shall read it to the Senate. It provides how the steamers shall be built, and then declares:

"That said steamers shall be so constructed as to be easily convertible into war steamers; that the Navy Department shall at all times exercise control over them, and shall at any time have the right to take them for the exclusive use and service of the United States, and to direct such changes in their machinery and internal arrangements a

the said Secretary may require, the cost of such changes to be ascertained by the bills actually paid therefor, and the proper compensation for the value of the steamers, when so taken by the United States, to be determined by appraisers to be mutually chosen by the parties, on which basis and determination, payment shall be made for such changes on such steamers by the United States, to said Harris, or to his assigns."

That clause reserves the authority to the Government, at its discretion, to take the steamers on paying for them; but is that a power to terminate the contract? Suppose the company has it in its power to carry on the contract?

Mr. RUSK. The very provision which the Senator has read from the contract, gives the power to terminate the service. I may have said terminate the contract. That may not be the technical phrase for it. But the Secretary of the Navy has, by the terms of the contract and the law, power to terminate the service by taking the ships. If all the ships are taken, the service, as a matter of course, is terminated.

Mr. MASON. That is the inference of the Senator.

"You take my life,
When you do take the means whereby I live."

The Senator may infer that if the ships are taken, the company could no longer continue the service, and it would be terminated. That may or may not be; but the power of the contractors, when the ships are taken, to continue the service within the terms of the contract, if they can procure other ships, so far as I can see, exists. I say, if it is in the power of the contractors, after the ships are taken, to continue the service with other ships, and to comply with their contract, they would have a right to do so as far as I know. We must construe this contract, I suppose, in good faith, and what is the meaning of it? With a view to induce the Government to make it, the idea was held out, and was afterwards incorporated into the contract, that it would be valuable to the Government to have such ships always at their hands in case it wanted them; and accordingly the law provided, and the contract carries it out, that the ships should be built of a certain construction, under the superintendence of the Secretary of the Navy, to be governed and controlled by him to a certain extent, and should be used for this mail service. It was provided that a certain number of ships, three I believe, should be built, and that during the contract, if the Government found it necessary to do so, it should have the power to take the ships; but, it was never contemplated for a moment by the contracting parties, that the Government should avail itself of that privilege, not for the direct purpose of bringing the steamers into the service of the Government, but for the indirect purpose of terminating the contract. That was never contemplated, I will guarantee.

I should say, therefore, that if you did terminate the contract, if you exercised the power, it would be inequitably done unless the Government, *bona fide*, wanted the ships for the public service; but whether it wanted them or not, the contract authorizes it to take the ships at a valuation. That it has a right to do within the letter of the contract; but if it takes them, the contract is not terminated, provided those who made the engagement can yet carry it on with other ships, within the terms of the contract; and they may have it in their power to do so.

I have been informed by those gentlemen who are interested in this contract that, in order to enable them to execute it, they have been obliged to provide a larger number of ships than the contract stipulated for, to supply the place of any that might be disabled, or which they had in the course of repair; and that they had been obliged besides that to expend a very large sum of money, amounting to $300,000 or $400,000 on the Pacific coast, where their contract exists, in the form of workshops, places of deposit, houses, and other buildings, involving a large sum of money to enable them to keep their ships properly.

They have suggested that as one cause of loss to them, which must necessarily ensue if the contract is terminated by the strong hand of the Government. If that be true, and I believe it is, and we terminate the contract in the way this bill proposes, I doubt very much whether a Congress will ever be called together hereafter, which will not find incumbent upon them a duty, from which the conscientious disposition of their constituents will never discharge them, to make full and ample compensation in damages for the violation of the contract.

But I say we have not the power to do what the bill proposes; and I should, therefore, be reluctant to use it. I understand the Senator from Texas to submit his motion as a test question; and I suppose those who agree with me will think that is the best course which we can pursue to get rid of the bill, because, in its present condition, it is the only method we can adopt which will defeat the obnoxious third section. The appropriations which were intended to be made at the last session, were not made, because the bill did not pass. They can be made at this session, and made upon some pending appropriation bill, without delay, I presume. I shall, therefore, vote for the motion of the Senator from Texas.

Mr. CLAYTON obtained the floor.

Mr. HUNTER. With the permission of the Senator, I wish to make a single suggestion. It is this: Perhaps time will be saved if we take the question at once on postponing the bill indefinitely. Upon that I am not disposed to say anything at present. The matter in which I feel most interested is the question of difference between the two Houses as to the notice to the owners of the Collins line of steamers, and if the Senate refuse to postpone the bill indefinitely, I may, perhaps, desire to be heard on the question of notice. If the Senate agree to the indefinite postponement, it will cut off all that I desire to say.

Mr. CLAYTON. Mr. President, I think it is a very fortunate thing that this bill did not pass at the last session of Congress. The question now before the Senate clearly involves the honor of this Government and the faith of Congress. The contract to which the Senator from Virginia [Mr. MASON] alludes is clear and distinct in its terms. Congress has no right to annul the contract except according to the stipulations contained in the instrument. They were, that, at the next session of Congress after the contract was made, it might be annulled; but there was no authorization given in the instrument to any subsequent Congress to annul that contract. If we were to proceed to do it, we should, in my judgment, show the extreme of bad faith towards these parties; and if I were the bitterest enemy of the contractors, I would not, under any circumstances, consent to get rid of the contract in this manner.

Sir, even at the next succeeding session of Congress after the contract was made, in my opinion, if the question had been presented whether the contract should be annulled or not, Congress ought to have acted itself, and not delegated the power to decide that question to the Attorney General, Postmaster General, or anybody else. The reservation of power to annul was to Congress alone; and it is that species of power which ought never to be delegated. But here, after that session of Congress has passed, we are asked to consent, not that Congress shall annul it directly, not that it shall be annulled by Congress, as the contract provided, or even by a subsequent Congress, but that it shall be annulled by agents appointed by a Congress which itself had no power to annul it. I trust, sir, that without any division among us, we shall consent to indefinitely postpone this bill, in order that we may take up the whole subject hereafter, and do justice to the parties, taking special care not to dishonor this Government. I am for the motion of the Senator from Texas.

Mr. WELLER. There is, no doubt, such a clause in the contract as was read by the Senator from Virginia; but there was also a clause in it which required that these vessels, which were to be used in the transportation of the mails, should be so constructed that they could be readily converted into steamships of war. It was, therefore, an object which the Government had in making the contracts, to induce the persons who agreed to transport the mail in ocean steamers, to construct the ships in such a manner that they could be readily used, if necessary, for war purposes.

The notice contained in the third section of this bill provides that the contracts shall be terminated, if, in the opinion of three officers who are named, it can be done legally. There is no one here who proposes to deprive these persons of their contracts. But for the discovery of gold in California, the contract for carrying the mails from Panama to San Francisco and Astoria, would have been most ruinous to the contractors; and I am willing that they shall be amply rewarded for all the risk which they ran at that time in entering into the contract. But suppose, sir, these vessels had not been constructed in conformity with the contracts; suppose none of them are now fitted for war purposes if they should be required by the Government for such purposes, then, I apprehend, legally, under the contract, it can be terminated on notice being given. By the provision of the contract which has been read by the Senator from Virginia, without the assignment of any reason at all, it might have been terminated at the succeeding session of Congress. If, however, it is found that they have not complied with their contract, then, I apprehend, the provision which was alluded to by the Senator comes in, and, upon a fair valuation of this property, it can be taken by the Government, and the contract itself terminated. It is very unfortunate, so far as California is concerned; because, by the terms of that contract, we have a semi-monthly mail at $730,000 a year; whereas, if it were now out of the way, we could readily procure a weekly mail for $500,000 per annum; so that, but for little more than one half what we now pay for a semi-monthly mail, we could obtain a weekly mail from New York to Oregon, by way of San Francisco. But, sir, nobody desires to terminate the contract in such a way as to inflict wrong on these parties. I would not consent myself to terminate the contract, except on paying them full and ample compensation for all the vessels which they have constructed under the contract.

Mr. CLAYTON. I only wish to add, that, whether the vessels are, or are not, what was expected of them, this Government has accepted them; and having accepted them, whether they were according to the original plan or not, it is precluded from making any objections to the plan which itself has accepted.

Mr. STUART. Mr. President, I do not desire to detain the Senate on this question; I wish only to express my gratification at what has been said by honorable Senators. It will be recollected that this bill was before the Senate at the last business night of the last session. By the reading of the bill this morning, it appears I was appointed as one of the committee of conference on it. It had become my duty to examine these questions, and to understand them fully; and reference to the proceedings will show that I voted against the third section on a motion to strike it out. I believe, as the honorable Senator from Virginia has said, that it is violative of the true principles of the contract and common justice, and I deemed it my duty on that occasion, in every way which was justifiable, to prevent the passage of this bill. I only rose at this time to express my gratification that the attention of honorable and distinguished Senators had been called to it; that we were now about to do what we were upon the very eve of preventing at that time—justice to all these people. Now, I have no doubt that, if the Senate adopts the motion, and indefinitely postpones this bill, we can bring up every question connected with these lines of steamers—both those referred to in the third section and those referred to in the notice—and dispose of them in such a manner as to do ample justice to the individuals concerned, while we maintain the honor of the Government. I hope to see it done, sir.

Mr. BRODHEAD. I shall vote for the indefinite postponement of the bill, because I believe both questions can be better considered either in a separate bill or upon another appropriation bill during the present session. Upon that ground I vote for the postponement, without committing myself on the other question.

Mr. BENJAMIN. I will merely call the attention of the Senate to the fact that this third section met with such strong opposition on the night of the 3d of August, when it was discussed at our last session, that repeated efforts were made to strike it out, not only in whole, but in detail, and upon no occasion then was there present in the Senate more than a bare quorum. The first effort made was upon my motion to strike out from the third section the words, "from New York to Liverpool, from New York, via Southampton, to Bremen, and from New York, via Cowes, to Havre and back." It was determined in the negative—yeas 16, nays 17—by one majority of a bare quorum of the Senate.

The next motion was by the Senator from Pennsylvania, who has just spoken. That Senator moved to strike out the whole of the third section. That was lost, only thirty-three members voting, a bare quorum—yeas 14, and nays 19. Finally, on the motion made by the Senator from Texas, [Mr. RUSK,] to strike out the notice, there was again a vote of but thirty-two members of the Senate—yeas 17, nays 15.

It is obvious, by a reference to these figures, that the Senate has had no fair opportunity of pronouncing its decision, as a Senate, on the questions involved in this bill, which involve the national faith and honor; I shall, therefore, vote for the indefinite postponement of the bill.

Mr. TOUCEY. Mr. President, these contracts were made under the authority of Congress. These vessels were built in accordance with those contracts, under the superintendence of the Navy Department. They have been accepted by the Government, and have performed the duties devolved on them by the contract, for a series of years. Now, if I understand the third section of this bill, it proposes that, without our forming an opinion on the subject, whether the other contracting parties have performed the contract, as made by them, and without investigation, we shall commit to three of our own officers the power, if they see fit, to break up this contract. I concur with the honorable Senator from Delaware, that it is a question of public faith—a question which, in my apprehension, rises infinitely above any pecuniary consideration. It is this consideration which decides my vote. I am in favor of the motion of the Senator from Texas, not because of any objection to the notice upon which the two Houses have differed, but on the ground that I would preserve the public faith, and abide by the contracts of this Government, at whatever pecuniary sacrifice.

Mr. BROWN. I am as much in favor of observing the public faith as my friend from Connecticut; but, if I understand the transaction, faith has not been preserved on the part of the owners of these ships. They were required, as has been already suggested by my friend from California, to build ships which should be easily convertible into war steamers. Have they done that? Is there any pretence that they have done it? I recollect that at the opening of the last session of Congress, a document was laid on our tables from the Navy Department, showing that an investigation had been made as to the capacity of these ships for war purposes, and that a naval board had unconditionally condemned the whole of them. This is the first time when Congress has been called upon to act on the subject since that report was sent in. We might very well have concluded, without such a report, that the vessels had been built according to contract; but, being officially notified from the proper Department, from the same Department under whose auspices these contracts were made, that they have not been complied with, ought not Congress to take notice of the fact that there has been no compliance on the part of the builders of the ships? The distinguished Senator from Delaware says, that whether they were built in compliance with contract or not, we accepted them. How did we accept them? Was Congress ever consulted as to whether they should be accepted? They were built. It was said they were built in compliance of contract. They entered into the service under the direction of the Navy Department, but getting an idea that they had not been built according to contract, the Secretary of the Navy instituted an investigation into that fact, and ascertaining that there had not been a compliance with the contract, he brought the subject to the attention of Congress. Ought we not to notice that fact at the first time when we are called upon to say that the contract is binding and valid?

Mr. TOUCEY. In reply to my friend from Mississippi, I would say that we are not now debating the question, whether these contractors have kept the contract. Congress is not called upon to pass on that question; and if we were, I should say to him that these vessels were built according to the instructions of the Government at the time, not variant from the contract. The parties constructing these vessels followed the directions of the Department, and after having built them in compliance with the views of the Government, and the instructions received, they were accepted. Not only the Executive, but the Legislative branch of the Government, has acted upon the hypothesis that they were built in accordance with the contract, as well as with the understanding of the Government as to that contract at the time.

Now, sir, we live in an age of progress; we live in a fast age; and if, after the lapse of six or seven years, from the new light thrown upon the subject, it appears that there are better modes of providing for the public service, and that these vessels will not answer the precise purpose for which they were intended, is that a reason why we should break up a contract which we have made? I am opposed to any such course as that. I am very glad to hear that the honorable Senator from Mississippi will stand by the good faith of the Government as firmly as any of us.

Mr. GWIN. I do not think this bill is in the proper form to accomplish the object which I, at least, desire. I am very anxious to establish a weekly line of steamers to California, and I have no doubt we can do it for the sum now paid for the semi-monthly line. I believe a bill can be matured and brought forward for that purpose which will meet the views of the contractors as well as of the Government, and that we can accomplish that object before this session closes. I am not in favor of the passage of this bill in its present form. At the same time, I believe the objects which are desired by most of the advocates of the bill can be accomplished by a new bill, which can be procured during the present session. I shall, therefore, vote for the indefinite postponement of this measure, with the hope that some arrangement may be made by which we shall have a weekly mail to California.

Mr. DIXON. I desire to inquire of the honorable Senator from California if there is any evidence before the Senate that the contract has not been complied with, or that the vessels which have been built in pursuance of contract have not been made in conformity with its requirements?

Mr. WELLER. I do not know that I understand the Senator precisely.

Mr. DIXON. I desire to know whether or not there is any proof before the Senate that the vessels were not made in conformity with the contract?

Mr. WELLER. I understood my friend from Mississippi to refer to a report made at the last session of Congress by the Secretary of the Navy, in which he says these vessels have not been constructed so that they can be used for war purposes. I do not recollect, myself, looking into that report. I know it has been generally represented to be the fact, that they have not been constructed in such a way that they could be used for war purposes. Whether that be the fact or not, I do not know.

Mr. BROWN. I will answer the question of my friend from Kentucky. At the last session of Congress there was a printed paper laid on our tables, showing that an investigation had been made into the question of the convertibility of these ships into war steamers, and that a board of Navy officers had determined that they could not be so converted. Not expecting this debate to come up, I have not the paper before me.

Mr. RUSK. That question is not before the Senate, and we cannot reach it at all on this bill. What relates to it has passed both Houses of Congress. We cannot offer an amendment to the third section; and, therefore, it is a useless consumption of time to debate it. I take issue with the honorable Senator from Mississippi on the question. I can show him that these vessels were built under the direction of the Navy Department, and that some of the best officers in the Navy approved of them. But that question is not now before us. The indefinite postponement of this bill does not conclude that question at all. In fact it opens the entire subject, so that all the facts can come before the Senate. On this motion, that point is not legitimately before us. It is a consumption of time to discuss it when the Senate is incapable, from the manner in which the bill is before it, from acting on the subject at all.

Mr. DIXON. Still the whole subject is before the Senate, and under their control, and they of course will act upon it according to their discretion. I understand from Senators that, there is a difference of opinion as to whether there is any evidence establishing the fact that the contract has not been complied with in the building of the vessels which the contracting parties stipulated to build. The honorable Senators who favor the indefinite postponement of this bill say, that the contract was complied with, and that the vessels were built according to the agreement. Those opposed to the postponement, maintain the converse of this proposition. Now, sir, admitting that the question is fairly and legitimately before the Senate as to whether that contract was, or was not complied with, still the question recurs as to the power of Congress to annul the contract as it now stands, the fact of the non-compliance being conceded.

I think the Senator from Virginia [Mr. MASON] was correct in the position he assumed that this contract had to be annulled at the specified time mentioned in the law under which it was made, or that notice should have been given at the specified time, by Congress, of its purpose to annul it. If that was not done within the time prescribed by the contract, or by the act under which it was made, then to my mind it is clear that any attempt now to annul it after the time specified is in derogation of the rights of the parties, and a violation of good faith on the part of the Government with its citizens. It appears to me that this Government, as party to a contract, cannot take upon itself the right of setting it aside without the consent of the other party. It may be, and perhaps is, the fact that you cannot compel the Government to comply with any contract it may think proper to make with a citizen; but, nevertheless, there is a great principle which should influence Governments, as well as citizens—I refer to the principle of honor. That principle of honor should be more binding on the Government than, even, on the citizen, to comply with any engagement into which it may enter with its citizens.

The Government should be the fountain of honor, and those who fill high places should, by their example in the discharge of their official duties, enlighten the people on the necessity of observing and keeping in good faith both moral and legal obligations, as well to themselves as to the Government. But if the Government forgets her obligations to the citizens, how can she expect the citizens to observe theirs to her? Let the Government not corrupt its citizens by becoming corrupt itself, and setting to them bad examples. Let it not cause them to become treacherous by first proving itself false and faithless to them.

If this Government is to make contracts with its citizens, and then violate and disregard them at pleasure, it proclaims to the people of this Republic that they, too, have the right to disregard the moral obligations of contracts, and violate them whenever they may think proper, provided they can escape the coercive power of the law. I am not in favor of any such precedent as this. I am opposed to the Government acting in bad faith with the citizen in any respect; and I never will, by any word or deed of mine, either publicly or privately, countenance, on the part of this Government, any act which would be degrading to the citizen, if committed by him, as it would be demoralizing to the nation, if done by the Government.

Sir, I do not think that the power to annul these contracts now belongs to Congress. There was a time when such power might have been exercised. That time has passed, and it is now too late to exercise it.

But, sir, I am in favor of the indefinite postponement of the bill on another ground. It is proposed to delegate the power of annulling the contract to a different agent than Congress; and I understand that, according to the provisions of the law under which the contract was made, this was a discretion to be exercised by Congress alone. To give this discretion to any body but that designated in the law would be an evident departure from the plain, express terms of the contract, which was made in pursuance of the law. Congress was the body to exercise its discretion in determining whether the contract should be set aside or not, and it would be acting in bad faith to the parties to transfer, without the consent of all concerned, such discretion to anybody else. I never will consent to give the power to any other persons than those to whom, under the contract, it was intended to be given, and to whom, in fact, it was given.

Sir, I did not rise to discuss this question. I agree, partly, with the Senator from Texas, that, perhaps, it is not proper now to discuss it. I

merely wish it understood that, in giving my vote on the proposition to postpone, I mean to uphold the honor of the country. I mean to stand by the public faith, which is pledged to those who have built vessels under their contract with the Government, and who have expended their money on the supposition that the Government would act in good faith with them. If the Government has made a bad bargain, let it take the consequences of its indiscretion in entering into an unfortunate obligation. I will not consent to relieve the Government from its obligations, merely because it may have made a contract which has not resulted so profitably as it anticipated.

Mr. HUNTER. Mr. President, I had not intended to say a word on the question of indefinite postponement; nor is it my purpose to say much now; but the debate has taken such a turn that it seems to me that I owe it to the committee, and perhaps to the other House, to show that they did not act on the presumption that Congress could set aside its contracts whenever it chose, but acted upon an interpretation, (whether right or wrong, yet an interpretation,) of the words of the contract itself, or, rather, the law under which the contract was made.

I did not intend to say anything on the question, because, practically, I believe that it is not of much importance. I believe that if the power was given, the Postmaster General would not think it expedient to exercise it. I believe he would not think that it was expedient for the Government to buy these ships, although he is of opinion, as he says in his report, that the words of the law give us the power to terminate the contract whenever we choose, on condition of taking the ships. That is the opinion of a great many. It was the opinion of the House of Representatives. It seems to me there are two sides to that question.

Now, sir, when it was provided that Congress should, at any time, take the ships upon valuation, what was meant by it? Is it to be supposed that after they had taken the ships they could have enforced the contract on the contractors? Could they take away from them the ships at valuation, and then say, "Sirs, you must go on with this contract?" Not at all. That would be manifestly unjust. Does not the rule operate the other way also? Was it not, perhaps, the intention of the framers of this law, to enable Congress, if they should become weary of the contract, to terminate it on paying for the ships, which Congress supposed, at the time they passed the law, would amply compensate the contractors for all their outlay. I merely say that there certainly is enough on this side of the question to justify the supposition that those who voted for this provision did not vote for it upon the belief that they could arbitrarily terminate a contract whenever they chose. But I did not propose to discuss the question, inasmuch as I did not suppose that, practicably, much was involved in the passage of this bill, so far at least as purchasing the vessels is concerned, because I do not believe the Postmaster General would think it politic to do that. I had rather determined to say nothing on the subject of indefinite postponement. The matter which interests me is the notice to the owners of the Collins line. I think that notice ought to be given. If the Senate shall not postpone the bill, I may have something to say on that question; but, in regard to this, I have said all that I shall say.

Mr. JONES, of Tennessee. I shall vote for the indefinite postponement of the bill, for the reasons which have been stated by gentlemen on this floor, because I am not willing to do any act of injustice; but in order to put myself right as to the meaning of the vote which I shall give, I desire to say that I should be willing to do whatever was compatible with honor, to serve the proposed notice on the Collins line of steamers; and in giving this vote I do not yield my position on that subject. If no other Senator will offer the proposition at the proper time I shall do it myself, to serve the notice on the Collins line.

The motion for the indefinite postponement of the bill was agreed to; and it was therefore rejected.

JUDICIAL SYSTEM.

The Senate, as in Committee of the Whole, resumed the consideration of the bill to modify and amend the judicial system of the United States, the pending question being on the substitute offered by Mr. DOUGLAS.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The last time this bill was under consideration, the Secretary had concluded the reading of the eighth section of the amendment which the Senator from Illinois proposes as a substitute. The residue of that amendment will now be read.

The Secretary proceeded, and concluded the reading of the substitute.

Mr. STUART. I wish to offer an amendment to the eighth section of the substitute. It will be seen, by reference to it, that it applies to a controversy which involves the constitutionality of a law, and provides that even such controversies shall not be carried to the Supreme Court, unless the matter in dispute be more than $2,000. Now, sir, whenever that question arises, I desire that the limitation should only be the general limitation of the jurisdiction of the court; for I deem it important that the constitutionality of a law should be determined, in all cases, if the party desired it, by the Supreme Court of the United States. The words which I propose to strike out, are: "If the matter in dispute exceeds the sum or value of $2,000."

The amendment was agreed to.

Mr. EVANS. There is one word in the tenth section of the substitute which I think had better come out. In that section there is a provision, "that the day of rendering the judgment or decree shall be deemed to have been the last day of the regular term." Now, it may be that the judgment might be rendered at an extra or special term. I would, therefore, suggest the propriety of striking out the word "regular," so as to leave the provision to apply as well to an extra, as to a regular term.

The amendment was agreed to.

The PRESIDING OFFICER. If no further amendment be moved, the question will be on agreeing to the substitute proposed by the Senator from Illinois.

Mr. BUTLER. I understood that the Senator from Missouri and the Senator from Illinois were in consultation as to some amendments. I do not like to interfere with the matter until they have offered those amendments. I wish to know whether my friend from Missouri has any to offer?

Mr. GEYER. Mr. President, having been absent during the last week, I do not know that I understand the exact position in which this bill now is. I was informed by the honorable Senator from Illinois, this morning, that a question would be taken, which would determine whether the Senate would adopt generally the plan proposed by him, to vest the jurisdiction of the circuit in the district courts, and to establish an intermediate court of appeals, and that, after that, his plan might be amended.

The PRESIDING OFFICER. The Chair will state to the Senator from Missouri, that the Senate is now engaged, as in Committee of the Whole, in perfecting the proposed substitute offered by the Senator from Illinois. It has been read through, and no material amendment has been made in it. The amendments which have been agreed to, are verbal ones. It is now open to any further amendments which Senators may choose to offer.

Mr. GEYER. I have a number of amendments to offer. The first is to insert, immediately after the first section of the Senator's substitute, these two sections:

SEC. —. *And be it further enacted*, That the Territories of Minnesota, Nebraska, Kansas, New Mexico, Utah, Oregon, and Washington, shall each constitute one judicial district, in which there shall be held a district court of the United States, to consist of one judge, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold his office during good behavior. He shall reside within the district for which he is appointed; and therein shall have and exercise the jurisdiction and powers which are or may be vested in the district courts and the judges thereof within their respective districts. He shall receive the same annual compensation allowed by law to the chief justice of the Territory forming his district; and when the office of chief justice in any Territory shall become vacant by the expiration of an existing term, or otherwise, no appointment shall be made to fill such vacancy, but the judge of the district court in such Territory shall be, in virtue of his office, chief justice of the supreme court thereof, and shall exercise the jurisdiction and powers, and perform the duties of that office, except that he shall not be required to hold any court inferior to the supreme court, or perform the duties of a judge thereof.

SEC. —. *And be it further enacted*, That the several district courts, and the judges thereof in vacation, shall have power, and it shall be their duty, to appoint clerks of their respective courts, and each of said clerks shall, before he enters upon the execution of his office, take an oath or affirmation, and give bond, as required by law. He shall reside and keep the records of his court at the place appointed for holding the court, and shall perform the duties and receive the compensation therefor prescribed by law; and every clerk of a district court now in office who shall not be reappointed, shall, as soon as his successor is appointed and qualified, according to the provisions of this section, deliver to him the seal, records, books, papers, and other documents appertaining to the office.

Mr. GEYER. Mr. President, the first of the two sections which I have proposed, is designed to obviate the principal objection which I mentioned the other day to the plan of the Senator from Illinois. The substitute proposed by him, arranges the Territories into circuits, and provides that the chief justice of the territorial supreme court shall sit in the intermediate appellate court which he proposes to organize. I thought that that arrangement was unconstitutional; because, inasmuch as this is to be a court organized as a part of the judicial system of the United States, under the Constitution, the judges must necessarily have a tenure during good behavior. It then provides that district judges shall be appointed for the Territories; and that, as soon as the term of any one of the chief justices of the Territories shall expire, or a vacancy shall otherwise occur, that office shall not be filled; but the judge of the district court shall become the presiding judge in that territorial court.

The other section is designed to provide for the appointment of clerks. Perhaps it would be better to take the question separately on each proposition; but unless that is desired, both can be acted on together. If this system be adopted, it will be seen, at once, that the clerks will have much more business, and business of more importance, to transact, than they have now; and it may become expedient to appoint other clerks in these different courts. Besides, the clerks of the circuit courts will be removed by the operation of this substitute, unless some provision of this sort is made, which will give to the judge of the district court an opportunity to select between the two, where the offices of circuit and district court clerks are divided. This is the sole object of the second section of my amendment.

Mr. DOUGLAS. I have no objection to the amendment; I think it is right.

The amendment was agreed to.

Mr. GEYER. I will now propose an amendment, consisting of three sections, as a substitute for sections three, four, and five of the proposition of the Senator from Illinois. My amendment proposes to organize this intermediate appellate court by a different name, and somewhat differently constituted. It also proposes to strike out that provision in the original amendment or substitute, which requires the Judges of the Supreme Court to be sent to the different circuits alternately, and provides for an allotment which may be changed from time to time, as the Supreme Court shall think proper.

The sections of the substitute proposed to be stricken out are as follows:

SEC. 3. *And be it further enacted*, That there shall be held in each of said circuits, once every year, a court of appeals, to be composed of one of the Justices of the Supreme Court, and of all the district judges in the respective circuits, and also of the chief justice of each Territory, in all cases where any Territory or Territories shall be included within the circuit. A majority of said justices and judges in their respective circuits shall constitute a quorum for holding said courts, in which the Justice of the Supreme Court of the United States shall preside, and in case of his absence, the oldest district judge in commission present shall preside; in the event there shall not be a quorum present on the day appointed by law for the opening of the court, the judges present shall be authorized to adjourn the court from day to day until a quorum shall appear, and if there shall be no quorum within — days from the first day of the term, they may adjourn the court until the next regular term, or until such day as they shall designate by an order upon the record; and in either case all causes shall be continued, and pleas and process stand over without prejudice to parties.

SEC. 4. *And be it further enacted*, That appeals and writs of error shall lie from each district court to the said court of appeals of their respective circuits, and also from the supreme court of any Territory to the said court of appeals, in all cases where a Territory shall be included within such circuit, in the same manner that appeals and writs of error now lie from the circuit courts to the Supreme Court of the United States; and the said court of appeals shall have power to hear and determine all writs of error and appeals that may be prosecuted from the district courts, in cases where appeals and writs of error now lie from the district courts to the circuit courts, and also in all cases where appeals and writs of error now lie from the supreme courts

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of Territories to the Supreme Court of the United States; and said appeals and writs of error shall be brought up and prosecuted in the said court of appeals, in the same manner and according to the same laws and regulations that now govern the circuit and district courts of the United States; and all appeals and writs of error now pending in the circuit courts shall be transferred to and prosecuted in the said courts of appeal, without prejudice to the parties, and in the same manner as if such appeals and writs of error had been taken subsequent to the period when this act shall take effect. The said courts of appeal shall have the same power and jurisdiction to hear and determine appeals and writs of error coming before them under the provisions of this act that the Supreme Court of the United States has to decide cases within its jurisdiction; and the same writs, process, modes of proceeding, and rules, that govern the Supreme Court, so far as they may be applicable, shall be in force and use in the said courts of appeal.

SEC. 5. *And be it further enacted*, That it shall be the duty of the Supreme Court, on or before the first day of January of each year, to assign to the several circuits the Justice of the Supreme Court who is to preside in the court of appeals in such circuit, and in the performance of this duty it shall be so arranged, unless there are especial reasons for making an exception to the general rule, that each of the Justices of the Supreme Court shall, in turn, preside in the court of appeals for each circuit in the order of the number of the circuits, to the end that each of the Justices of the Supreme Court shall preside in the court of appeals for each of the circuits once in nine years, and that, in no event shall any of the said justices preside in the same circuit two terms in succession.

The sections proposed to be inserted in lieu of hem, are the following:

SEC. — *And be it further enacted*, That there shall be held in each circuit, once in every year, a circuit court of the United States, to be composed of a Justice of the Supreme Court, who shall be allotted to the circuit in the manner hereinafter provided, and of the district judges in the circuit, a majority of whom shall constitute a quorum, for holding courts in which the Justice of the Supreme Court assigned to the circuit, or in his absence the district judge present oldest in commission shall preside. And in case there shall not be a quorum present at the commencement of a term, the judges present may adjourn from day to day not exceeding —— days; and if a quorum shall not appear before the expiration of that time, those present may adjourn the court until the next regular term, or until such day as they shall designate by an order entered of record; and, in either case all causes, records, and proceedings pending in the said court shall be continued to the next term so to be held without prejudice to parties.

SEC. —. *And be it further enacted*, That the Supreme court shall, during the first term of said court to be held after the passage of this act, allot to each circuit one of the justices of said court to preside in the circuit court within such circuit; and in case no such allotment shall be made by said court during the term aforesaid, the President of the United States may make such allotment of the said justice to the circuits as he shall deem proper; but in either case it shall be lawful for the Supreme Court at any term to make a new allotment, so that one justice be allotted to each circuit.

SEC. —. *And be it further enacted*, That the said circuit courts shall have appellate jurisdiction from the several district courts of the United States, and the supreme court of any Territory within their respective circuits, by appeal or writ of error, in all civil cases where the matter in dispute exceeds the sum or value of $100 exclusive of costs, to be exercised in the manner and under the regulations, limitations, and restrictions provided by law in like cases now within the appellate jurisdiction of the circuit courts. And all causes now pending in the circuit court of any district on appeal or writ of error, shall be transferred with the record and proceedings relating thereto, to the circuit court for the circuit embracing such district, and shall be therein heard and determined in the same manner, as if originally removed to such court by appeal or writ of error.

Mr. BUTLER. Mr. President, I wish to have this bill disposed of with as much dispatch as is practicable, provided it can be done by meeting the true issues involved in the different propositions. I ask, therefore, whether it will be in order, as a question of parliamentary precedence, to move to strike out the third section of the substitute of the Senator from Illinois, without affecting the motion made by the honorable Senator from Missouri, to insert other words? I wish to have an opportunity of moving to strike out that section. His motion is to strike out and insert. I ask the Chair whether my motion would be in order to strike out that section, by way of testing the question whether we are to have such an intermediate tribunal.

The PRESIDING OFFICER. The motion of the Senator from Missouri, being first made, must be first put. If he thinks proper to withdraw it, the Senator from South Carolina can then move the amendment which he has indicated.

Mr. GEYER. I presume the point can be reached by dividing my motion. Let the question first be taken on striking out.

The PRESIDING OFFICER. The rules of the Senate forbid the division of a motion to strike out and insert.

Mr. GEYER. I have known cases where it has been done.

Mr. DOUGLAS. Allow me to make a suggestion. We can best test the point which the Senator from South Carolina wishes to get at by a vote upon adopting the substitute for his bill, with the understanding that, if adopted, it shall be open to amendment, the same as if it had not been voted on. If it be agreed to, I shall move, or ask some other Senator to move, the reference of the bill, with all the amendments, to the Committee on the Judiciary, so that the details may be perfected carefully in accordance with the principle thus established. I would suggest, therefore, that Senators now allow the vote to be taken upon the substitute, merely to test the principle; and then, if the substitute be adopted, we can refer the whole subject to the Committee on the Judiciary in order that the project may be perfected in all its parts, in harmony with the principle established.

Mr. TOUCEY. I would suggest to my friend from South Carolina that, instead of a motion to strike out the third section, he should move to strike out the words "one of the Justices of the Supreme Court and," so as to leave the inferior court proposed by the substitute, to consist of district judges; and then the system will be that there be one inferior court between the Supreme Court and the district courts, and that that court shall be held by the judges of the districts within the circuit whatever that circuit may be. Now if that motion were made, and the vote of the Senate were taken upon it, it would settle the question, so far as this body is concerned, whether the Judges of the Supreme Court are to be sent away to traverse the country in order to compose a part of an intermediate court between the highest and the lowest.

The PRESIDING OFFICER. Does the Senator make the motion to strike out the words which he has indicated?

Mr. TOUCEY. I would if I had the power to do it; and I would suggest to the honorable Senator from Illinois, that if those words were stricken out, it would become comparatively indifferent to me whether the substitute be adopted, or the bill of the Committee on the Judiciary; for this reason, that the great evil under which the country is now laboring, and which will increase from time to time, until it becomes insupportable, will be removed by the bill in that form. It will then leave the judicial business of the country to be done by the Justices of the Supreme Court, here in the court of last resort; by the judges of the district courts, each in his respective district, at the outset, and then constitute an intermediate court composed of those district judges to decide upon writs of error, and appeals in the first instance from the district judge. This would accomplish a great object.

In my judgment, the only question now before the Senate, which is of any great importance, is the question whether we shall continue to send the Judges of the Supreme Court away from this field of their labors, (where their labors are of the highest importance; where it is indispensable that they should devote their whole time and abilities,) all over this country to act in a subordinate capacity upon an equality with the district judges in the intermediate courts, for the purpose of there hearing writs of error and appeals, which they hear here every day. If that question shall be settled in conformity with what seemed to be indicated by the vote of the Senate the other day, the rest of the bill can be disposed of very easily.

Mr. BUTLER. I do not agree at all with my friend from Connecticut. Now, my objection to this bill would be insurmountable, if it contained any provision at all for an intermediate court of appeals. As I understand my friend from Connecticut, he would be reconciled to the bill, provided the Justices of the Supreme Court be not required to be detailed to form a part of that court. I am opposed to an intermediate court of appeals altogether, and when the occasion shall arise, I intend to express myself freely upon that subject. Therefore, I prefer that my friend from Illinois should insist on his proposition to take a vote upon the substitute, and if the subject is to go before the committee again, let it go back with the understanding that the vote of the Senate shall be matured in its details, for I will not undertake to decide on the details of such a bill as this, without consulting all persons who may be concerned in carrying it out. I would not do it. It would be unsafe to try it.

Mr. DOUGLAS. I will ask, now, that we take the vote on the substitute, with the understanding that, if it prevails, I shall move its reference to the Committee on the Judiciary, together with all the amendments which are offered, or proposed to be offered, so that the committee may perfect the details. My object is to get a vote on the principle involved, so that the Judiciary Committee will know then precisely what the Senate expect them to do.

Mr. BUTLER. Certainly; I hope it will take that course, and I should like to hear the views of my friends in relation to this intermediate court, for I wish to reply to them.

Mr. DOUGLAS. I gave the general outline before in my remarks. I know the Senate wish a vote. I would gladly make a speech in reply to the Senators on the other side, but really I think the question has been so thoroughly discussed, that the Senate are prepared to act on the two principles involved in the two opposing systems.

The PRESIDING OFFICER. The Chair wishes to inquire of the Senator from Connecticut, if the Chair is to understand him as having moved the amendment which he indicated?

Mr. TOUCEY. I did not move the amendment, and I shall not, unless it accords with the views of the Senator from Illinois. I would not disturb the substitute as he has presented it; but I rise to say that I am very sorry to find that my friend from South Carolina is opposed to that provision in his own bill which establishes an intermediate court.

Mr. BUTLER. I have no such provision in my bill.

Mr. TOUCEY. The bill which the Senator reported from the Judiciary Committee, establishes an intermediate court between the Supreme Court and the district courts; and I have not understood that it was any part of the plan of the Judiciary Committee to abolish that intermediate court.

Mr. BUTLER. Mr. President, I am rather embarrassed at any difference of opinion between my friend from Connecticut and myself upon this subject, for I thought we understood each other very well. I think that the bill recommended by the Judiciary Committee preserves the principles of the present organization of the judicial system of the United States, so far as regards the circuit and district system. It makes a change, it is true, in reference to the Supreme Court; but so far as regards the substitution of the new judges, whom we propose to create by the bill, it is only making them perform the functions which have been performed, heretofore, by the Judges of the Supreme Court in the circuits. The judges, for whose appointment the bill provides, are circuit judges, to perform for each circuit exactly those duties which the Supreme Judges have been performing in the circuits. There is no intermediate court of appeals at all, it seems to me, provided for or recognized in my bill.

Whilst I am up, I may as well, in a very few words, state the reasons why I cannot support the proposition to establish intermediate courts proposed by my friend from Illinois.

Mr. President, an intermediate court, such as is provided for by the proposition of the honorable Senator from Illinois, will give a dignity to the district judges, by bringing them together, and constituting a tribunal like this, which will be extremely embarrassing, in my opinion, to the administration of the justice of the country. In the first place, it will be a tribunal which must

necessarily impede the judgment of the Supreme Court, as it must ultimately prevail. I will state, in but very few words, what would be its practical operation as it seems to me. Suppose a case is commenced in the district court by writ, an action of trespass, to try title, or an ejectment, or a suit to recover a bond, or a case where, for any other cause, you are not likely to recover judgment before a year has elapsed; and if there is anything in the defense, you know very well it would be postponed upon a motion. Then, sir, you carry it up to this intermediate court, which meets but once a year, and can meet but once a year. There is another year lost. It is very probable that the dockets of those courts might be crowded, and it may be that one of those cases carried there for the purpose of delay, would not be reached in three years. Then you carry it up to the Supreme Court, and you would have it another year there. Thus a party, having a plain bond or note, could not recover judgment in less than four years under the ordinary operation of that system; in not less than three years certainly; but I would go so far as to say four years. It may very well be said that such a court is an intermediate tribunal. I think it is a court for the arrest of judgment. That, it seems to me, is about the true state of the case. It is a very convenient court to impede the judgment which must ultimately prevail.

I have a radical objection to such a tribunal. Why, sir, in the ordinary administration of justice, is it not probable that there would be a division of opinion in a court composed of six judges? What party, under such circumstances, would not carry his case to the Supreme Court? It is said it will arrest appeals and prevent cases coming to the Supreme Court, because they will be decided in the intermediate court by a tribunal of sufficient authority to reconcile the parties to the judgment. We know that is not the effect. Parties are not going to be reconciled to any judgment of any intermediate court, if they think they have justice in their cause, and they find the court divided. Sir, do you suppose it might not be divided? Ordinarily, we know that litigation commences in division of opinion between parties themselves; counsel are employed, and perhaps they differ. Suppose you carry a case to such a court; and this congress of inferior judges (I do not use the term invidiously; I speak in the language of the Constitution, for district judges are "inferior" judges,) entertain some local opinion of law—I will not say sectional prejudice, which does not prevail in the United States generally—and that judgment should be given by the district judges in opposition to the presiding Justice of the Supreme Court. Why, sir, there is an adversary contest immediately. Suppose with that array of authority of this intermediate court, the question should be brought to the Supreme Court; at once you introduce into the judicial judgments the very elements of diversity. They could not agree.

My objection would be greater than that. You propose to give to this court important authority. Then suppose a series of decisions made in one part of the United States by one of these inferior courts, which never reach the Supreme Court, upon constitutional and important questions; and after the lapse of eight or ten years, the points which had been acquiesced in, and laid down as authority by this intermediate court, should be brought up to the Supreme Court. If they were wrong, it would impose upon the Supreme Court a duty of reversal, which, perhaps, it might not be willing to undertake with the weight of popular opinion, and the weight of the judgment of this intermediate court against it. If the judgment of the Supreme Court should be against the decision below, it would unsettle the law of the case, and there would always be uncertainty as to what would be the opinion of the Supreme Court. The opinion of that tribunal would always be a matter of conjecture with parties.

My friend from Illinois may say there is no danger on this point, because all constitutional questions will be carried up to the Supreme Court. I tell him it is not so. When the amount is small, parties will not pay large fees to lawyers to bring their cases to the highest tribunals recognized by the Constitution of the country, merely to establish a principle. The effect would be, that many cases which would be brought before this intermediate court, if the amount was not sufficient to authorize carrying it to the Supreme Court—but where a mere abstract constitutional principle was involved—would never receive the authoritative decision of the high tribunal, contemplated by the Constitution itself, to decide such questions.

Mr. President, I go further, and I say, that if the court below should be unanimous, with the concurrence of the Supreme Court Judge, and the judgment should be wrong—and there is no human tribunal infallible—I should more dread the unanimous opinion of that court upon some constitutional questions, than almost any other power; because, if the unanimous opinion of this intermediate court of district judges coming up here to the Supreme Court, were reversed, it would give rise almost to a popular controversy; and instead of the Supreme Court being a tribunal to decide merely upon law, you would have that court converted into a political deliberative body, to hear those appeals which would be made from the judiciary and the bar in the neighborhood in which the judgment was given.

My opinion is, that by this plan you send a Supreme Court Judge into the circuits to mingle with his adversaries at the beginning, with those who may regard him with some suspicion or jealousy. Some of them might consider him as a superior, or they might have, perhaps, a temptation to overrule him; and thus the authority of the Supreme Court Judge (although he might not be equal to some other judge in ability) would be impaired so far as it contributes to settle the Constitution, and the great rights of parties under the Constitution as the court is now organized. If he should come here to the Supreme Court with a majority against him, his authority here would be impaired; his authority there would be impaired; his general authority, as contemplated by the Constitution, would be impaired.

But, sir, who are the judges that are to be regarded as dignified enough to take cognizance of those great questions which will embarrass the administration of public justice? I do not speak invidiously; but I must say that they have never passed this ordeal as having such authority. And when they were confirmed by the Senate, as nominated to it by the President, under the authority of his constitutional obligations, these judges were not nominated, nor did we confirm them, except in reference to an extremely limited jurisdiction, and one which could always be corrected by having a Judge of the Supreme Court sitting with them as a circuit court, or, as my friend from Connecticut calls it, "an intermediate court," though I do not so regard it. It has always been understood that an appeal could come directly here within a limited time, and it would come with none of the armor which will be thrown over the judgment of the proposed intermediate court. By this proposition, it seems to me, you give to the intermediate court an influence over popular opinion which was never contemplated by the Constitution, and you give it in such a way as to derogate from the authority of the Supreme Bench, which is supposed to be competent for, and which has been organized in reference to, the settlement of grave constitutional and legal questions.

I did not intend, at this time, to go even as fully as I have gone into these matters. I wished my friend from Illinois to mention, in the first place, his reasons for the proposition, before answering them. I know that both of us are inclined to settle upon some system; and I will say to him that, if his substitute shall prevail, I will, in good faith, mature it as I best can, by taking it into fair consideration; and in the committee I would agree to refer it to the Senator from Missouri, who is considered its friend; or, at any rate, I will promise that it shall have no adversary influence to mar it.

Mr. DOUGLAS. Mr. President, I am certain that if it be referred to the Judiciary Committee, it will have an impartial, fair, and critical examination, by that committee, and especially by the learned chairman. It is with exceeding diffidence that I differ from him on this question, or presume to express an opinion at variance with his; but I am not able to see the force of the objection which he makes against what he calls the intermediate court. He objects first, that it will delay business. Let us look at that. Now, a case is decided in the district court; an appeal is taken to the circuit court, and from the circuit court to the Supreme Court. Under the substitute, it will be decided in the district court, an appeal taken to the court of appeals, and then to the Supreme Court. There will be the same number of appeals, therefore, under the substitute as under his system, according to his own theory. Hence, the whole objection which he makes to the number of appeals, and the delay, under this substitute, applies with the same force to his own system; and, consequently, I do not see the application of that argument as against the substitute now proposed.

Again, he objects that the district judges were appointed for a local jurisdiction, and not with that dignity which would be imposed on them when they were members of the proposed court of appeals, sitting upon an equality with a Judge of the Supreme Court. Let us examine whether that be so. Each of the district judges has been appointed under the existing laws, which provide that, on an appeal from his decision to the circuit court, he shall sit there with a Judge of the Supreme Court, constituting the circuit court, on an exact and perfect equality. The decision, therefore, of the district judge is made, under existing laws, equal to the opinion of the Supreme Judge when sitting and holding a circuit court. This substitute only puts him by the side of the same Supreme Judge, with whom he would have sat under the system which has heretofore been in operation. It does not, therefore, raise him to any higher grade. The difference which it makes is, that it brings up six district judges to sit by the side of one Supreme Judge, instead of making that Supreme Judge go and sit by the side of those six district judges in six different places. They are to sit by the side of each other with the same authority, with the power to overrule or affirm decisions, with the same weight attached to their opinions; but under the old system the Supreme Judge would have to hold his court in the six different districts, making two terms in each, or twelve terms a year. Under this system he goes into that one circuit, and all the district judges come to him, and they sit together and hold court once a year; but their relation to each other while holding the court, will be precisely the same under the substitute as under the old system. The dignity of the two sets of judges remains precisely the same; the authority attached to the opinion of either remains precisely the same. Hence, I do not perceive the force of the argument, that we are elevating the district judges to a position higher than that for which they were commissioned, or that we are reducing the Judges of the Supreme Court to a lower grade than they held by the law under which they were appointed.

Mr. BUTLER. I hope my friend will allow me to put my proposition in its true light?

Mr. DOUGLAS. With pleasure.

Mr. BUTLER. I do not think I said what the Senator ascribes to me. If I did, it was not what I meant. I said that the Senator proposed to constitute a tribunal of perhaps six judges, with a dignity and authority different from what would be possessed by a single judge.

Mr. DOUGLAS. That is an argument in favor of my substitute. One point which I make is, that the weight of authority in the intermediate appellate tribunal which I propose to create is greater than in the courts established under the old system. Therein consists its advantage; and the reason for this I will state. At present, when you appeal from the district to the circuit court, the appeal comes from the district judge to the same judge and one Judge of the Supreme Court. There is very little weight of authority in that appeal, for the reason that if they differ, there is no decision, and the case is certified to the Supreme Court; and if they agree, there was no necessity for the appeal. Then, as the matter stands at present, there is an appeal from the district court to a tribunal which has but little weight of authority, if any efficiency at all. I wish to change this system, and to establish courts of appeal on the plan indicated in my amendment, because there will be great weight and authority attached to the decisions of such a court composed of six district judges, with one Judge of the Supreme Court presiding. I think it will stop a great many appeals which now come to the Supreme Court, and thus relieve that tribunal from having its docket crowded with small and unimportant cases. It is for this very reason that there is great merit, as I conceive, in the substitute over the present system.

Sir, I shall not take up time in arguing this

question. I believe the Senate understand distinctly the principle involved in the vote which is about to be taken—whether or not the Judges of the Supreme Court shall be confined in their duties to the District of Columbia, or whether they shall go to the circuits in the country? If the substitute be adopted, as I said before, I shall move its commitment to the Committee on the Judiciary, together with all the proposed amendments, in order that the bill may be put in such a shape as the committee may think it ought to be to carry out the principle agreed to by the Senate.

The PRESIDING OFFICER. The Chair will remark, that the pending question is on the motion made by the Senator from Missouri, to strike out the third, fourth, and fifth sections, and insert the sections he proposes in lieu of them.

Mr. BUTLER. I understood that we should save a great deal of time, by testing this question in the way proposed by my friend from Illinois. I prefer it on that account, for if the bill is not to pass in one form or the other, the sooner we know it the better.

Mr. CLAYTON. I have felt some difficulty in regard to the question before the Senate, in deciding between the system proposed by the Committee on the Judiciary, and that proposed by the honorable Senator from Illinois. I have felt the weight of the arguments of the gentlemen composing the committee, and I agree with them thus far, that the day may come when it will be absolutely necessary for us to adopt the circuit court system, by increasing the number of the circuit judges as they propose. That will be an evil day when it does come. I would avoid it as long as possible. Their proposition is to increase now the number of circuit judges to eleven. That is a startling proposition on its own face. We certainly do not wish, if we can avoid it, to enter upon such an experiment. Let us put it off as long as we can, and maintain a proper system of judiciary without it. Now, sir, I wish, very briefly, to state what, in my own judgment, is the best system for us to adopt under present circumstances. Let those who shall come after us, when the country shall contain fifty or sixty millions of people, legislate for the circumstances that may exist then. Let us legislate for the country as it is now, and the system which I am about to suggest is, in my judgment, amply sufficient for the wants of the country at this time.

I would make no new circuit judges. I would take the district judges, in one or, if you please, two circuits, (one, however, I propose,) and I would constitute the whole of those judges a court, which you might call a court of errors, or a court in *banc*, to decide questions saved and reserved on trial before the district judges, either party to have the privilege of saving any point which appeared to him to be important on the trial before the district judge, for hearing before that court in *banc*, composed of all the district judges of the circuit. I would require this court to be held twice a year. I do not make it a *sine qua non*, that a Supreme Court Judge shall or shall not be a member of that court of errors or court in *banc*, as you may please to call it; but that court, thus constituted, would, in my judgment, be substantially the primary court. It would be the court which would, in the first instance, decide all important questions of law. As the gentleman from Illinois has said, it would undoubtedly arrest, as his proposition would, a great many of the cases; they would never proceed farther than that court, and, consequently, would never trouble the Supreme Court of the United States. It would, I think, undoubtedly be attended with this result: that the Supreme Court of the United States would not be crowded with near as many cases as we have now before it.

Again, sir, this would be a court of the highest respectability. I think my honorable friend from South Carolina, has not properly appreciated the standing, and the legal character of those who compose the district judges of the United States. They were appointed to give opinions on the bench, which should have equal weight with the opinions of the Supreme or circuit judge who sat beside them. So far as I have the honor of being acquainted with them, many of them are among the first jurists in the country; and a court in *banc* composed of all the district judges in a circuit, would be a court of the highest respectability and character, a court to which a suitor would be perfectly willing in any ordinary case, to submit as a final appellate court.

Then, from this court, of course there would be an appeal to the Supreme Court of the United States. That the Constitution compels us to make the court of last resort, with power to intervene on every question mentioned in the Constitution.

Now, sir, one of the most important principles to be kept in view in organizing the judiciary anywhere, is this: *Sit finis litum*. Constitute the court below the primary court, composed of such strength and character that the suitors will be content with the decisions of that court, and not be allured into the court of errors for justice. That is a miserable system which makes a bad court below and offers a man only the remedy of a good court above. The court below is by far the most important court in every system of judiciary. I would constitute this so as to make the court below a court which should satisfy the suitors, so that, unless some very extraordinary question of great difficulty on constitutional law should present itself, the party would be contented with the decision of the court below, and not go to the Supreme Court of the United States. Surely, such a system as this, such a system as that proposed by the Senator from Illinois, would arrest a great number of cases that are now necessarily driven into the Supreme Court of the United States.

Then, sir, if it should have the fortunate effect of curtailing the business of the Supreme Court, it would prevent the necessity of increasing hereafter the number of judges of that court. On all sides it seems to be considered an evil to increase the number of Judges of the Supreme Court. The idea, that which prevails here, and has always prevailed here for twenty years, to my knowledge, is, that if you increase the number of Judges of the Supreme Court of the United States, you make it a debating instead of a deliberative body; and therefore you destroy its dignity, its character, and its influence in the country. Well, sir, if we increase the number of judges to a very great amount, undoubtedly that will be the result; but if we should increase the number to twelve, the number of judges in England, I should not fear that we should thereby impair the usefulness of that court. Beyond that I would not go, and at present I do not feel disposed to increase the number there at all. When the necessities of the country shall require it, Congress may be driven to increase the number, perhaps, to twelve; but for the present I shall be perfectly contented with such a court as I have suggested. It is an approximation to the plan of the Senator from Illinois, which, for that reason, I prefer to the plan proposed by the Committee on the Judiciary. In the hope that when that proposition is adopted in lieu of the original bill, it may go to the committee, who will take into consideration the whole of those suggestions which have been thrown out in debate, and report the very best plan they can make for us, I shall vote for the substitute.

Mr. President, I am very apprehensive that the session is so far gone that we can do nothing effective during the time that is now allowed us. Let us not, however, because we have not time, be hurried into any new untried experiments upon a subject of this importance, without great and careful consideration. I am opposed to making eleven new circuit judges. I think that, though that presents relief to the Judges of the Supreme Court of the United States, it does not present any greater relief to them than the plan I suggest, and very little more than the plan suggested by the Senator from Illinois.

It has been well stated in the course of this debate, by one of the members of the Committee on the Judiciary, that the district judges in some of the cities of this Union are crowded with business, and have more than they can transact. I would remedy that difficulty wherever it exists, by appointing an assistant or additional judge, or by making a new district and dividing the business; but because we happen to be crowded with business in some of the large cities of the Union, it is no reason we should alter the whole system. Add new district judges; make new districts where they are necessary; and if this proposition to refer the whole subject to the committee shall succeed, I hope the committee will not forget to take into consideration this very idea of increasing the number of district judges where they are crowded with business, and also increasing the compensation of the district judges.

Now, I am not one of those who seek to maintain a system of economy by starving the judges. That is the worst economy to which Congress could possibly resort. I am for paying the Judges of the Supreme Court well, and the judges of the district courts well. If we, by a new system, increase the responsibilities and duties of the district judges, I would increase their salaries; and I would never be governed by the mere consideration of how much the judge did in the course of the year, how many cases he actually decided. That is not the true rule of compensation; for as you abstract a judge from all other business—because I hold that a judge should do nothing but attend to the business of his office, and engage in no trade—as by the appointment you abstract him from the pursuits of other men, and all other means of obtaining a livelihood, I would always pay enough to enable him to lead a studious life when engaged in the service of the Government. As part of the plan of reform, therefore, which I would recommend, I would say increase the compensation of the district judges, if you adopt the plan of constituting an intermediate court, composed of them as a court in *banc* from the decisions of each district judge below. I shall vote for the substitute, but with the hope and expectation that the committee will do this.

Mr. GEYER. Mr. President, I did not anticipate, on these amendments, a general debate relative to the merits of the plan proposed by the Senator from Illinois, and I do not intend now to be drawn into that debate; but I will take leave here to suggest to the honorable chairman of the Committee on the Judiciary, that when he expresses his determination to oppose all intermediate appellate courts, he, in fact, expresses a determination to oppose his own bill, and the judiciary system as it has stood from the foundation of the Government. There always has been an intermediate appellate court, and the only difference between that proposed by the Senator from Illinois, and that existing and proposed to be continued by the bill of the committee, with a somewhat different constitution, is, that one is composed of five or six, or a larger number of judges, and the other is composed of two; the one limits the jurisdiction of the appellate court—the circuit court as it now exists—to $2,000, and the other proposes to raise the limit: that is the difference. The Senator from Illinois proposes to constitute an intermediate appellate court, consisting of a Judge of the Supreme Court, and all the district judges in the circuit. The system proposed by the committee, is to constitute an appellate court in every district—six or seven appellate courts in each circuit, according to the number of districts there may be in a circuit—composed of two judges, a circuit judge, and a district judge.

I do not think, sir, I have not thought at any time, that we can, in the hurry and confusion in which business is sometimes transacted in the Senate, draw up amendments which would meet all objections that might be made to the details of the measure, and one evidence of it is to be found in the remarks of the honorable Senator from South Carolina in reference to this substitute. The substitute, as I propose to amend it, intends that the appellate jurisdiction of the Supreme Court shall extend to all cases where the sum in controversy exceeds $5,000, or where there is a constitutional question, or the construction of a law or treaty of the United States involved. In such cases an appeal or writ of error may be prosecuted directly from a district court as well as from a circuit court to the Supreme Court. That is the shape which it is intended the substitute shall assume. The details of the system cannot well be explained at large until we have something before us at which gentlemen can look. Now, if it be the understanding of the Senate, that, in the event of the adoption of the proposition of the Senator from Illinois in Committee of the Whole, I may be permitted to lay on the table the amendments which I propose, and have them printed and referred to the Committee on the Judiciary, so that when this system is agreed upon the details of the bill may be there arranged, I shall be content to withdraw the amendments which I have submitted with a view to have a test question at once, if the Senate are so disposed, between the two principal systems which have been suggested.

The PRESIDING OFFICER. That amendment being withdrawn, the question is on the substitute proposed by the Senator from Illinois.

Mr. MASON. It is desirable, I think, that we should have a session for Executive business this afternoon, and, therefore, I move to postpone the further consideration of the subject until to-morrow.

Mr. DOUGLAS. Allow me to suggest to the Senator from Virginia that we are about to take the vote of the Senate on the substitute, in order that, if it be adopted, we may recommit the bill to the committee. I hope he will withdraw his motion to allow us to take this test vote.

Mr. MASON. If that be the case, I waive the motion.

Mr. BELL. I do not wish to detain the Senate, but I understand that the vote which we are about to take is considered a test vote.

Mr. DOUGLAS. It is only a test on this principle.

Mr. BELL. I understand that, and that is what I object to. I object to having a test vote just now. I understand this is to be a test vote, whether it is the disposition of a majority of the Senate to separate the Judges of the Supreme Court altogether from circuit jurisdiction.

Mr. BUTLER. No, sir; we have already decided that.

Mr. BELL. I have asked the Senator from Illinois whether he considered that a vital part of his system, that the Judges of the Supreme Court should preside in these intermediate and appellate courts. I wish merely to throw out an idea. My inclination of opinion, as I expressed it the other day, is favorable to the general features of the proposition of the honorable Senator from Illinois, because it is more in conformity——

Mr. MASON. I hope the Senator will indulge me. I think it is manifest that the debate will continue.

Mr. BELL. I should be very sorry to prevent a vote being taken, but I merely wish to throw out an idea.

Mr. MASON. I should hear the Senator with great pleasure, but I know that others will follow him.

Mr. BELL. That is another thing. I give way.

Mr. MASON. I move that the further consideration of the bill be postponed until to-morrow, with a view of proceeding to the consideration of Executive business.

The motion was agreed to.

RETURN OF EXECUTIVE COMMUNICATION.

Mr. MASON. I move that the Senate proceed to the consideration of Executive business.

Mr. BADGER. I hope the Senator will withdraw that motion, in order that an error made this morning, through my instrumentality, may be remedied.

Mr. MASON. I withdraw the motion.

Mr. BADGER. This morning, soon after the meeting of the Senate, the President *pro tempore* laid before the Senate certain Executive communications, to the character and contents of which I did not pay any attention, and as no other Senator seemed to attend to them, I simply submitted, as each was read, a motion that each should be printed for the use of the Senate, supposing that they were communications such as the heads of Departments had the right to send to us. I find, sir, that a communication, on which I made that motion, from the Department of the Interior, is not such a communication as the head of a Department has any authority to send to this body. It is, in fact, in the form of a letter from the Secretary of the Interior, in which, on the authority of certain papers, he recommends certain appropriations.

Now, sir, we have had one or two irregularities of that kind heretofore, though they were arrested by the Presiding Officers, and not brought to the attention of the Senate. By an oversight of the President *pro tempore* this morning, this paper was communicated, and, on my motion, an order was made for its printing. It is perfectly manifest that no one has a right to communicate with either House of Congress, by way of recommendation, except the President of the United States; and no executive officer has any right to send anything here of any kind, except by virtue of an authority of law; as, for example, the law which requires the Secretary of the Treasury to make an annual report, or in answer to resolutions of the body. I move, therefore, to reconsider the vote ordering this paper to be printed, to the intent that I may withdraw that motion to print, and that the President *pro tempore* may have an opportunity of returning the paper to the Secretary of the Interior. I will not move its return, because that might seem to imply a censure where, I am sure, no wrong was meant. I move, therefore, to reconsider the vote by which the printing of the document was ordered.

The motion was agreed to.

Mr. BADGER. I now withdraw the motion, and hope the President *pro tempore* will return the paper to the Secretary of the Interior, and I ask that no notice be taken of it on the Journal.

The PRESIDING OFFICER. (Mr. HUNTER in the chair.) That course will be pursued if there be no objection.

There was no objection.

ENGRAVING OF MAPS AND CHARTS.

Mr. JOHNSON. As the difficulty which has existed in regard to the engraving connected with the public printing has been settled and arranged between the committees of the two Houses, I ask that the question may be taken up, and that the resolutions which I now send to the Chair, as a substitute for those which I offered the other day, may be read and passed.

The PRESIDING OFFICER. The resolutions will be read for information.

The Secretary read as follows:

Resolved, &c., That hereafter, when any charts, maps, diagrams, views, or other engravings, shall be required to illustrate any documents ordered to be printed by either House of Congress, such engravings shall be procured by the Superintendent of Public Printing, under the supervision and direction of such committee as the House ordering the printing of any such document shall direct.

Resolved, That the paper necessary for the execution of any such engraving shall be obtained in the same manner, and under the same regulations and restrictions, as are now provided by the act of 26th of August, 1852, for the obtainment of other printing paper.

Resolved, That all plates which have been engraved for any document ordered by either House of Congress, now under the charge of the Secretary of the Senate, or the Clerk of the House of Representatives, shall be placed in charge of the Superintendent of Public Printing.

Mr. WELLER. I prefer that the resolutions should lie over.

Mr. JOHNSON. I will inquire of the Senator from California if he has any particular object in asking that they shall lie over?

Mr. WELLER. My only object is that I may have an opportunity of looking at and examining them, before I am called on to vote upon them. It is a very important matter. It seems to me, from listening to its reading, to place large power in the hands of an officer, and I desire to see where I am going before I move in this matter.

Mr. JOHNSON. The Senator, at this stage of the proceedings, has not the power, by his single objection, to require that they shall lie over; and, so far as I am concerned, I shall not assent to any such course. I must ask the attention of the Senete to this subject. Sir, it has been lying over now from the last Congress. The same proposition, in substance, was then presented, and it has been here ever since. There has been a full conference between the committee of the House and the Committee of the Senate on this subject, and there is now no difficulty between them in regard to it. Being a matter of urgent public interest, it requires immediate action. If the Committee on Printing of this body is entitled to our confidence at all, it is proper that its recommendations in this matter should be considered. Every committee which has looked into the subject has agreed to the propriety of this proposition. It has been examined by the Committee on Printing of the Senate repeatedly; and, finally, it has been so arranged that all parties in this House, and in the other, interested in the matter, are satisfied. I refer, particularly, to the Secretary of the Senate, the Clerk of the House of Representatives, the committee of the House, and the committee of the Senate. If, now, under such circumstances, a matter of this sort, so simple in itself, must again be laid over, of course I shall submit to the will of the Senate; but I must protest against such a proceeding. The subject has been lying over from the time when it was brought to the attention of this body, some three years ago; and if it is not understood by this time, I do not know when it will be.

I know that this is a subject of such entire insignificance in itself, in the estimation of some gentlemen, that it does not attract the interest of members of this body, and there are few who will examine it; but when it comes up under circumstances like these, it may be thrown over on the pretense of examination, merely for the purpose of accomplishing a little delay. I do no charge any gentleman with such a design, but that I fear will be the effect.

I hope the Senate will take up these joint resolutions, and pass them at once. When I state here to the Senate, upon the responsibility of my official position, that they are satisfactory to all parties concerned, and that, in the judgment of the Committees on Printing of both Houses of Congress, they ought to be passed promptly, I trust they will be agreed to. I hope I may not be compelled again and again to persecute the Senate by calling their attention to them, and by asking them to do a necessary act, which ought not to be, and cannot be, passed by, without culpable neglect on our part. I ask for the consideration of the joint resolutions, and then, if there be objections to them, let them be stated, and let the resolutions be voted down, if the Senate think proper to do so, and I shall be relieved from further responsibility in regard to them. All I ask is a vote on the subject.

Mr. WELLER. I understand that this resolution was first read for the information of the Senate. I saw that it involved a matter into which I had not looked, and I chose to use my privilege as a Senator to object to its further consideration. I apprehend I have an undoubted right to do that. This matter is brought in here just at the very moment when the Senate is about to proceed to the consideration of Executive business, and some Senators have left their seats. I simply desired an opportunity to look into the subject, because I was called upon to vote on it Now, if there were anything unjust or unreasonable in this request, or if the Senate suppose I wa exercising a power which I have a right to do under the rules for the purpose of delaying the passage of these joint resolutions, the remarks of the Senator from Arkansas would be applicable; but I have simply desired an opportunity to look into them. If I have the power here as a Senator now to prevent the passage of these resolutions until I can look into them, I choose to exercise that right, and I do exercise it. I ask the Chair now whether, under the rules of the Senate, the objection of a single Senator does not necessarily pass this subject over until to-morrow?

The PRESIDING OFFICER. The Chair will state the question.

Mr. JOHNSON. Before the Chair decides that point, I wish the Senate to understand that these resolutions are not now presented here for the first time. When they were first presented, they were objected to by the Senator from North Carolina. They were then laid over in consequence of that objection. That being the case, they can no longer be laid over on such objections. Now, I ask the Senate to consider the subject. It was pending during the last Congress, but it has been opposed from time to time, and I can get no reason whatever for the opposition to it. If the Senator from California has not examined it, it is no fault of mine. The committee have examined it, and they ask action upon it. They do not wish to be under the painful necessity of consuming the time of the Senate on such a petty, trifling affair, as this is in comparison with the general business of the body.

The PRESIDING OFFICER. The Chair will state the question. The present incumbent of the chair was not aware, when the resolutions were sent up, that they had been previously read twice in the Senate. That, however, being the case, it was competent for the Senator from Arkansas to make his motion, and a majority can take up the resolutions. The Senator from California was, doubtless, led into error by the Chair, who said the resolutions were read for information, the Chair not being aware at the time that they had been previously read two separate times. It is, therefore, competent for the Senator from Arkansas to make a motion that they be taken up, and it is for a majority of the Senate to decide the question.

Mr. JOHNSON. I now ask that the resolutions may be read again, and I hope they will receive the attention of members of the Senate, so that they may see how simple, direct, and clear

their object is. Let them see whether there are any doubts as to their meaning or intention.

Mr. BRODHEAD. The resolutions have been read; we understand their general purport; and I rise for the purpose of making an inquiry or two of the honorable Senator from Arkansas.

Mr. MASON. Will the Senator indulge me, and allow me to submit a motion to postpone the subject, with a view of going into Executive session?

Several SENATORS. The resolutions have not yet been taken up.

Mr. MASON. Then, by general consent let them be passed over, or let the Senator withdraw his motion, and allow us to have an Executive session. We laid aside the judiciary bill, with the understanding that we should go into Executive session. These resolutions, it is evident, will provoke debate, and delay us.

Mr. JOHNSON. I have withdrawn this matter over and over again, and I cannot do so any more. It requires no debate. If gentlemen would allow members of committees to discharge the clear and distinct duties devolved on them, about which there is no doubt here, business would be conducted in a much better manner. In regard to this question, no person who has any connection with it in this House, or in the other, objects to the measure which I have proposed. I cannot withdraw my motion. I should be glad to accommodate the honorable Senator if I could.

The motion was agreed to; and the Senate accordingly proceeded, as in Committee of the Whole, to consider the joint resolutions providing for the engraving, lithographing, and publishing of drawings, maps, charts, and other papers for Congress.

Mr. BRODHEAD. My friend from Arkansas has said, that this is a small matter; but, sir, it strikes me that it is a matter involving a considerable amount of money, and a considerable amount of power. I do not understand the evil which is complained of, and which is to be remedied. These resolutions propose to substitute the Superintendent of Public Printing for the Secretary of the Senate and the Engraving Committee of the other House, for, if I understand the matter, this service is now performed by the Secretary of the Senate, and by the committee of the House of Representatives. My friend from Arkansas, on behalf of the Committee on Printing, proposes to change this system, and to confer the power upon the Superintendent of the Public Printing. Why? Has the committee of the House of Representatives, or the Secretary of the Senate, neglected or refused to do the duty? I should like to know how that is.

My friend from Arkansas has informed the Senate that this measure is proposed with the concurrence of the Secretary of the Senate. That may be, but it is not for that officer to say whether he concurs or does not concur in any such measure. It is his business to execute such orders as he may receive from the Senate, and I therefore take it for granted that it would be indelicate in him to say whether he desired to perform this duty or not. He may be anxious to get clear of it. The Superintendent of Public Printing has very large powers now; he has a great deal of business before him; and at the last session we gave him power to appoint two additional clerks. Now, if any of the gentlemen who have heretofore had this business in charge have either neglected to do their duty, or cannot perform it as well as the Superintendent of Public Printing, I should like to know the fact.

Mr. WELLER. Mr. President, during this debate I have had an opportunity of looking at the provisions of the joint resolutions, and of correcting an impression which was made on my mind by their first reading. I had supposed that they were joint resolutions proposing to take this power from the Secretary of the Senate, and to vest it in the Superintendent of Public Printing; but I find, by the provisions of the resolutions, that although this work is to be placed under the direction of the Superintendent, his actions are to be under the control and supervision of the Committee on Printing of the Senate. I do not see, therefore, how this power can be abused by the Superintendent of Public Printing; because, whenever the Senate sees proper to order a chart or a map to be published, that work is to be done by the Superintendent of Public Printing, under the direction and control of the Committee on Printing of this body. I cannot see, then, how any injury or inconvenience can result to any one. The Superintendent will always be under the direction and supervision of the appropriate committee of the Senate. That is the whole proposition.

Now, sir, I have attained what I desired at the outset, the opportunity of looking into the provisions of the resolutions, because I am not willing to take things here in a generous confidence. Although I have as much respect for the Committee on Printing as any Senator on this floor; yet, as I have in the past committed some blunders in voting for bills for which I ought not to have voted, I desire to have an opportunity of looking before I leap.

Mr. JOHNSON. Mr. President, if the honorable Senator from Pennsylvania had observed the statements which were made when this subject was before the Senate, on previous occasions, I think he would have had more knowledge of the subject than he seems to have had on this occasion. In the first place, the resolutions do not propose to interfere with the rights of any committee, either of this body or the other House. In the meetings of the joint Committee on Printing of the two Houses, that was a matter of contest, and it was feared by some members of the House committee that they would be treated with disrespect; or they thought, at least, that the usefulness of their committee would be impaired, and that thereby the committee might itself be annulled. That difficulty, however, has been satisfactorily settled; but we have stricken out of the resolutions that provision authorizing the committee to step outside the Halls of Congress and enter into a contract with individuals for the work. When you admit the power of a member of this, or the other House, to walk out of the Halls of Congress and make contracts in regard to our business transactions, involving the expenditure of money, you subject him to a degrading business, if not to one which may lead to corruption, from favoritism if not from worse considerations. Now, sir, that was one evil which we designed to prevent, not that any such thing had ever taken place, but I present it merely as a consideration which would strike the mind of gentlemen at once, as a temptation which ought to be removed.

As matters stand, at present, a book containing maps and charts, which is ordered to be printed, is put in the hands of one committee, as far as the engraving is concerned, and into the hands of another committee as far as the printing is concerned. In the Senate, the Superintendent of Public Printing takes charge of letting printing contracts, and the Secretary of the Senate takes charge of letting engraving contracts. In the House of Representatives, the Committee on Printing takes charge of that printing which goes to the Superintendent of Public Printing, and the Committee on Engraving takes charge of the engraving. In the Senate, the Committee to Audit and Control the Contingent Expenses of the body settles the bills, and adjudicates and determines the validity of the contracts.

Thus the whole matter is in great confusion, so that if you make an order at this session for documents to be distributed to the people, when do you get them? Why, sir, as to a very large portion, you do not get them at all; and instead of their being printed during the session of Congress at which they are ordered, and being delivered to members for distribution during that session, they are not completed sometimes until the next Congress thereafter; and then the President of this body, and the Speaker of the House are called upon to decide whether books, which were ordered for distribution by previous Congresses, belong to the members of the Congress ordering them, or to those who are members of Congress at the time they are completed who did not order them, and who perhaps never would have ordered them, and who may not distribute them.

The object of these joint resolutions was to concentrate this business as nearly as possible in the hands of a responsible officer, so that it should be done promptly and rapidly, and the public documents delivered during the session of Congress, if possible, but at least before the next Congress should assemble. That has not been done heretofore; it is to be hoped that, by means of these resolutions, it may be done hereafter. If they be not agreed to, I shall have a service thrown upon me, as a member of the Committee on Printing, which is a troublesome and unwelcome one at best; but I will try again, and see whether it cannot be done in the future. I hope, however, that this remedy will be applied now.

The PRESIDING OFFICER, (Mr. BADGER.) The Chair understands that the Senator from Arkansas proposed as a substitute for the joint resolutions, those which have been read.

Mr. JOHNSON. Yes, sir.

Mr. CASS. I do not know how it is with other members, but I can say for myself that I have only received a small part of the second volume of the Patent Office report for 1853. There is an intolerable delay somewhere. The President's message ought to go to the country soon after its delivery. It loses much of its value by delay, and yet we do not get it for distribution until six months or a year after it is sent to Congress.

The amendment offered as a substitute, was agreed to; the joint resolutions were reported to the Senate as amended, and the amendment was concurred in. The joint resolutions as amended, were ordered to be engrossed for a third reading, were read a third time, and passed.

EXECUTIVE SESSION.

On motion by Mr. MASON, the Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 15, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of Friday was read and approved.

The SPEAKER laid before the House a report from the Department of State, in compliance with law, showing the number of employees in that Department, pay, &c.; which, on motion by Mr. HOUSTON, was laid on the table, and ordered to be printed.

Also, a communication from the Secretary of the Treasury, submitting additional estimates of appropriations for the Territory of Kansas; which, on motion by Mr. HOUSTON, was referred to the Committee of Ways and Means, and ordered to be printed.

Also, a communication from the Department of the Interior, submitting a statement of additional estimates for appropriations for the Indian service; which, on motion by Mr. HOUSTON, was referred to the Committee of Ways and Means, and ordered to be printed.

Also, a communication from the War Department, transmitting a statement of the expenses of the military establishment during the year 1854; which, on motion by Mr. HOUSTON, was laid on the table, and ordered to be printed.

Also, a further communication from the War Department, transmitting a statement of the expenses of the national armories, &c., for the year ending the 30th June, 1854; which, on motion by Mr. HAVEN, was laid on the table, and ordered to be printed.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled an act for the relief of the administrator of Thomas Wishart; which thereupon received the signature of the Speaker.

Mr. HUNT, on leave, introduced the following resolution; which was read and adopted:

Resolved, That the Secretary of War be instructed to report to this House whether any, and, if any, what military defenses are necessary at Proctor's Landing, at the terminus of the Mexican Gulf railway, in Louisiana, for the protection of the country.

Mr. WALLEY, in pursuance of previous notice, introduced the following bills; which were severally read a first and second time, and referred to the Committee on Commerce:

A bill making an appropriation for continuing the sea-wall for the protection of Great Brewster Island, in the harbor of Boston, Massachusetts.

Also, a bill making an appropriation for the repairs of the sea-walls on Deer Landing and Lowell's Island, in Boston harbor, Massachusetts.

Mr. MILLER, in pursuance of previous notice, introduced a bill making appropriation to continue the improvements on the Ohio and Mississippi rivers; which was read a first and second time by its title, and referred to the Committee on Commerce.

Mr. STANTON, of Tennessee, in pursuance of previous notice, introduced a bill "to incorporate the Library of the Columbia Fire Company of Washington city;" which was read a first and second time by its title, and referred to the Committee for the District of Columbia.

QUESTION OF PRIVILEGE.

Mr. LETCHER. I rise to a question of privilege. As chairman of the select committee, engaged in the investigation of the Colt case, and other matters referred to in the resolution organizing that committee, I desire to submit a report, which will bring before the House questions of some interest and importance, as, I think, affecting the rights and privileges of the body. I ask that the report may be read at the Clerk's desk.

The report was read, as follows:

The committee appointed on the 10th day of July last, "to inquire whether money has been offered to members, or other illegal and improper means used to induce members to aid in securing the passage or defeat of a bill to extend Colt's patent for seven years; and also, whether money has been offered to members, or other illegal or improper means used, either directly or indirectly, to secure the passage or defeat of any bill before Congress, and that the said committee shall have power to send for persons and papers, with authority to examine witnesses on oath," beg leave to report, in part:

That in discharge of the duties imposed on them by order of the House, they caused several witnesses to be summoned, and of the number so summoned, was W. B. Chase. In obedience to the first summons, he appeared before the committee, and refused to answer various questions propounded, and which will be found in the proceedings of the committee, accompanying the report No. 353, presented to the House on the 3d day of August last, pages 81, 82, and 83.

Your committee further report, that on the 16th day of this month they caused the said W. B. Chase to be again summoned to appear on Monday, the 18th instant, before them, to testify further on the subject on which he had been previously interrogated. The Sergeant-at-arms made the following return on said summons: "Served, by personal notice this 16th day of December, 1854;" and the said Chase having declined to appear, in obedience thereto, the following resolution, submitted by Mr. ZOLLICOFFER, was unanimously adopted by this committee:

Resolved, That the committee call the attention of the House to the facts heretofore reported, in relation to the testimony of Mr. W. B. Chase, given before the committee on the 29th and 31st July, 1854, and that they report to the House the facts in relation to the repeated subsequent ineffectual efforts of the committee to induce Mr. Chase to appear before them and further testify.

Mr. LETCHER. Since the return which is referred to in that report, the Sergeant-at-Arms has made a fuller return, which I send to the Clerk's table to be read:

The return was read, as follows:

OFFICE SERGEANT-AT-ARMS,
HOUSE OF REPS. U. S., *December* 27, 1854.

HON. JOHN LETCHER, *Chairman of Select Committee:*

SIR: On the 16th instant, in obedience to an order of the House of Representatives, made at the instance of the select committee on the subject of alleged improper means used to procure the passage or defeat of a bill to extend Colt's patent or other bills before Congress, I served a summons, by personal notice, upon W. B. Chase, Esq., to appear and testify before the committee on the 18th instant. A second summons for the same person was placed in my hands on the 18th, requiring him to appear on the 20th instant. This I was not able to serve in season, as, notwithstanding diligent effort made by myself and deputy, we could not find him until the morning of the 20th, after the committee had gone into the session, and when the House was about to assemble. I then saw him in the Hall of the House of Representatives, and, reminding him of the previous service of summons, was about to serve the second, (although it was then too late to answer the purpose of the committee, if they desired to examine him on that morning,) when he stated that he declined to appear before the committee.

Very respectfully, your obedient servant,
A. J. GLOSSBRENNER,
Sergeant-at-Arms, House of Reps. U. S.

Mr. LETCHER. Mr. Speaker, very shortly after this committee organized during the last session of Congress, we proceeded to summon various persons to appear before us, to testify in regard to matters submitted to us, and charged by the resolution of this House. Of the number so summoned, many of them refused to answer the questions propounded by the committee, and our time being short at that particular period of the session, and the committee desiring to go as far into the investigation as possible, we declined to bring the matter to the attention of the House. Among others was this gentleman, W. B. Chase, and his testimony will be found on the 81st, 82d, and 83d pages of the report of the committee, and, perhaps, to a correct understanding of this matter, it would be well to have his testimony read at the Clerk's desk.

The testimony was then read, as follows:

Mr. W. B. Chase, being duly sworn, testifies as follows:

Question by Mr. Eliot.—Have you been engaged as agent or attorney, or otherwise, to aid the passage of Colonel Colt's application before Congress for an extension of his patent?

Answer.—Early in the session Colonel Clemens reminded me of the intimacy that had existed between Colonel Colt and myself, and asked me if I would assist him (Clemens) in furthering Colonel Colt's interests. I replied, I would do so cheerfully.

Question by Mr. Eliot.—Whether or not were you retained for that purpose; and if so, will you please state the service which you were to render, and the compensation paid or to be paid, and whether or not that compensation was absolute or contingent?

Answer.—I was not retained. The kind of service was not designated. No rate of compensation was named. No allusion was made to compensation at all.

Question by Mr. Eliot.—Will you state in what way, if at all, you have rendered aid to Colonel Clemens in prosecuting the application for that extension?

Answer.—By addressing communications to some of the members of Congress with whom I am acquainted, stating what I knew to be facts, in order to controvert statements which I knew to be false, which were industriously circulated by the opponents of Colonel Colt. The communications I refer to were in form of letter.

Question by Mr. Eliot.—Do you know, or have you reason to believe, that any gift of any kind has been made or offered to any member of Congress by Colonel Colt, or any one acting in aid of his application?

Answer.—I do not, sir. I have heard Colonel Clemens say he has distributed some pistols, and was sorry he had not more to distribute, in order that the arm might be thoroughly understood.

Question by Mr. Eliot.—Will you name the persons to whom such pistols have been given?

Answer.—I do not know, sir; Colonel Clemens did not say.

Question by Mr. Eliot.—Will you say whether any compensation has been made to you, and what, and by whom?

Answer.—None has been made to me whatever.

Question by Mr. Eliot.—Have you been employed by Colonel Clemens, in relation to the Colt patent, in any other way than as you have stated?

Answer.—None, sir.

Question by Mr. Eliot.—Do you know, or have you reason to believe, that any improper or unlawful means have been used by any person to affect the vote or the action of any member of the present Congress in aid of, or in opposition to, any bill now pending, or which has been pending, before Congress during the present session?

Answer.—I do not know yet. I have reason to believe, and in a few days shall possibly know positively, that votes were made for the Nebraska bill in consequence of a contract to build one of the six steam-frigates being given to George Steers, of New York. That is all I can say at present. I cannot give the names yet without occasioning trouble to parties who are not interested. The person from whom I got my information is not here. I do not know, positively, where he is.

Question by Mr. Eliot.—Will you state the name of the person from whom you obtained the information which you have?

Answer.—If I decline to answer that, it is more with the view to further the investigation than to retard it. I must decline it.

The witness was requested to withdraw whilst the committee decided whether an answer should be insisted upon to the last question; which was decided in the affirmative, and the clerk directed to notify the witness that he shall come prepared to answer the question on Monday morning at nine o'clock.

The committee then adjourned to Monday morning at nine o'clock.

MONDAY, *July* 31, 1854.

The committee met pursuant to adjournment. Present, all the members.

Mr. W. B. Chase again appeared before the committee, and the last question of Saturday being repeated to him, he makes answer as follows:

Answer.—I am sorry that you have forced me to appear discourteous, but I must still decline.

Question by Mr. Eddy.—Will you state the facts upon which your reasons for believing that votes were improperly made for the Nebraska bill are founded, in consequence of a contract to build one of the six steam-frigates with George Steers, of New York, as stated in a former answer?

Answer.—The facts are nothing more than that I was informed such was the case.

Question by Mr. Eliot.—Have you any knowledge in regard to any improper means used to affect the vote or the action of any member of the present Congress upon any bill which has been pending during this session, except as you have stated?

Answer.—I have not, sir.

Question by chairman.—To what members of Congress did you address the communications referred to by you? State the substance of those communications, and the time at which they were sent.

Answer.—I retained no list of the gentlemen to whom I addressed such communications; they were sent at various dates. The substance was a mere statement of facts to disprove the assertion of the opponents of Colonel Colt, that he had acquired large benefits from his invention.

Question by chairman.—Do you know, or have you reason to believe, that any Senator or Representative in the present Congress has received, or been promised money, or a loan of money, or stock, or other thing of value, either directly or indirectly, for his aid, favor, or influence in behalf of any patent bill or railroad bill, or that he has had notes indorsed, or proposed to be indorsed, by any applicant or any person interested in such bills?

Answer.—I do not know, nor have I any reason to believe that any favors have been granted or promised.

Question by chairman.—Do you know, or have you reason to believe, that any Representative or Senator in the present Congress is interested as partner, stockholder, or otherwise, in any patent bill or railroad bill which is now pending, or which has been before the present Congress?

Answer.—I have reason to believe that the Hon. Lewis Cass is a stockholder in the Oakland and Ottawa railroad.

Question by chairman.—State the reasons on which your belief is founded as to the interest of General Cass in said railroad?

Answer.—I was so informed by John H. Harmon, the recent Mayor of Detroit, and by other persons from Michigan, whose names I do not now remember.

Question by Mr. Eliot.—If, before the committee shall be discharged from this investigation, you ascertain any material facts upon matters concerning which you have been asked, will you furnish such facts to the committee?

Objected to by Mr. Eddy, as placing the committee in the attitude of asking a favor of the witness.

Upon the question, shall the question be put? the ayes and noes were as follows:

Ayes—Messrs. Letcher and Eliot.

Noes—Messrs. Eddy, Zollicoffer, Ruffin, Thurston, and Wheeler.

So the question was not put.

Question by Mr. Ruffin.—When you were spoken to by Colonel Clemens, and requested to aid in procuring the favorable action of Congress on the Colt patent extension, did you expect to receive a compensation?

Answer.—I did not.

Question by Mr. Ruffin.—Do you expect to receive a compensation of any kind, either directly or indirectly, for your services in behalf of Colt's patent extension?

Answer.—I do.

Question by Mr. Ruffin.—Is that compensation to be certain or contingent?

Answer.—I should expect it to be certain.

Question by Mr. Ruffin.—Has a reporter's desk been assigned you in the House of Representatives?

Answer.—It has, sir.

Mr. LETCHER. If my friend from New York wants to put a question, I will hear him with pleasure.

Mr. WALSH. I ask the gentleman whether this person, Chase, was notified to appear before the committee, and again refused?

Mr. LETCHER. So the Sergeant-at-Arms reports.

Mr. WALSH. Well, Mr. Speaker, as a personal friend of George Steers, I feel it due to him, as well as to myself, to say a few words in regard to the testimony which has just been read. In the first place, George Steers never got a contract to build one of these six steamers. George Steers was appointed a naval constructor for the special and sole purpose of building one of them. Not a dollar passes through his hands for any purpose connected with the ship. He has not the purchasing of a pound of nails—neither does he want it. He receives $2,400 a year, and pays some $3,000 for a ship yard, which he has absolutely abandoned up to the present time, so that he might be enabled to do full justice to the Government, and to his own reputation. That ship was not given to him through any influence brought to bear by any one—but as a high and just tribute to his own matchless genius. It was given to him as the architect of the world-renowned "America," and the modeler of the Collins and other celebrated steamers. To the immortal honor of the Secretary of the Navy, be it said, it is the first instance in the history of the nation, where the claims of humble and unobtrusive merit have been recognized in preference to pretensions, wealth, and influence. The result, sir, will amply vindicate the wisdom of that decision. Had wealth and influence controlled the selection of a builder for that ship, George Steers would have been the last man among all the applicants to have got her, and the country would have been deprived of the signal advantages which it will now derive from his honesty and transcendent skill.

Sir, I cannot permit the present opportunity to pass without stating that there are a number of miserable, scribbling lazaroni, who hang about this Capitol—fellows who modestly pretend to be regular correspondents for newspapers throughout the country, but who, in reality, are utterly incapable of properly writing a soap boiler's advertisement, [great laughter;] rascals, sir, who would not be employed by any reputable paper in the country at five dollars a week. A wretched set of petty larceny miscreants, who go about here levying contributions and black mail on every man who comes to Washington on business; basely pandering to the vanity of the weak portion of the members of this House, with the view of controlling their votes in favor of some of the vile schemes in which they are employed, and slandering the ablest and purest men in it, because, with becoming self-respect, they indignantly spurn their loathsome acquaintance.

Who is this fellow, Chase, for instance? this repulsive, sensual looking big beast? [Loud and prolonged laughter.] You all know him, and entertain, if you do not express it with equal

freedom, the same unmitigated contempt for him, and others of the same tribe, that I do. His disgraceful and atrocious conduct towards his own family, in Indianapolis, must be, and is, known to every member of the Indiana delegation upon this floor.

I am positively surprised, although I attribute it entirely to the almost culpable benevolence, and good nature of the Speaker, that these bogus correspondents, these disguised and depraved lobbyers should be suffered to pollute this Hall by their presence. To members they are worse than a nuisance, and to the legitimate reporters of the House, they are, constructively, a disgrace; and, in respect to this House, I trust that the Speaker will not only rid us of this fellow Chase, but also of that whole fraternity, as I have been afraid to bring an overcoat into the Hall and leave it hang outside the bar of the House while they are about. [Great laughter.]

Mr. LETCHER. Mr. Speaker, I regard this as a matter of great importance to the House—as one deserving to be seriously and carefully considered. The House will recollect that, in answer to one of the questions, this witness stated distinctly that he had reason to believe votes had been influenced in favor of a particular measure, which had created a great deal of excitement here and throughout the country. Well, sir, he declined, at that time, to give the House this information on the ground that he had not the facts so positively ascertained that he could undertake then to explain them without running the risk of defeating the object which the committee had in view in this investigation. That occurred on the 30th day of July last. When the committee resumed their labors this session, this witness was one of the earliest directed to be summoned to appear before us, in order that he might testify in regard to this matter, and furnish the House with information which he told us, at the time of his examination, he expected to be able to furnish in *a few days*. He declined to appear to answer to the summons; and in consequence of this fact, the committee have been brought to a halt. It is impossible for us to proceed with this investigation if we cannot compel the attendance of witnesses before us, whom we regard as important, and who, at least, have given indications on previous occasions that they possessed knowledge bearing directly on the matters referred to us for investigation.

It is also important, in another point of view, that we should be able to require from those who appear before us, answers to questions calculated to furnish the House with information in regard to the manner in which bills are passed in this body. Without some means of securing the attendance of witnesses, and of requiring them to detail what they know in regard to these matters, the committee had as well be disbanded. It was in consequence of these difficulties that I was directed to present this report to the House, and to ask for its action. I have been looking at some of the precedents, but I find no instance in which this matter has been settled by the action of the House of Representatives. Some years ago, a committee was raised here, by Mr. Stanly, of North Carolina, for the purpose of investigating certain matters which he regarded as important. Two witnesses appeared before that committee, and declined to answer questions on the subject. The facts were reported to the House, and after some debate, the matter was left without any definite action on the part of the body—without defining the duties of members, or prescribing, or settling, the powers of the House, and of the committees under it.

In discharge of our duty we report these facts, and ask the House to take such action as will enable us to proceed with the investigation.

Mr. STEPHENS, of Georgia. This question, Mr. Speaker, involves a very grave one, of very grave constitutional power. I should like to inquire of the gentleman from Virginia, who makes this report, what he proposes that the House shall do in the matter? What does he propose to do, supposing this individual still refuses to appear before the Committee?

The SPEAKER, (interrupting.) If the gentleman from Georgia, will allow the Chair, he has this moment received a note from W. B. Chase, which, perhaps, it is his duty to read, if the House desire to hear it.

[Cries of "No!" "No!" and "Yes!"]

Mr. FLORENCE. What is the nature of it?

The SPEAKER. It is addressed in respectful language.

Mr. LETCHER. I hope it will be read.

The SPEAKER then proceeded to read as follows:

"I have no objection to furnish the committee with the name of the individual who can testify to the matter alluded to. *If they can compel his attendance*, let them do so.

"W. B. CHASE."

Mr. STEPHENS. I move, then, that this report be laid upon the table. Let the committee go on with their investigations.

Mr. LETCHER. There is something more with regard to this matter. This individual has been summoned before the committee twice. He has known the purpose for which he was summoned, and yet he has refused, on both occasions, to appear, although he was treated respectfully on the previous occasions when he was before the committee.

Mr. STEPHENS. Well, sir, he says he will answer now, and what is to be done. I do not suppose the gentleman intends to punish him for what he has already done. I hope the House will take no other step in the matter; and I am glad this has occurred to prevent the necessity of any further steps, for, as I have said, a very grave question of constitutional power is involved. I am not prepared to say that this House has the power to punish this individual. I am very glad that the matter has taken the turn it has. Mr. Chase says he will name the person who can give testimony upon this subject; and it is very likely that, when he comes to name him, it will turn out to be somebody dead, or probably gone beyond the seas.

Mr. LETCHER. I do not understand the letter of Mr. Chase to state what my friend from Georgia seems to think it states. I do not understand him to say that he will appear before the committee at all. But he rather bids defiance to the committee than otherwise. He merely proposes to furnish the name of a witness—not to come before the committee himself and testify, as I understand him. I should like to know exactly how we are to understand what he has said at last. I ask the Speaker again to read the letter.

The SPEAKER. The Chair will call the attention of the House to the fact that there are certain words in the note which are underscored. It reads:

"I have no objection to furnish the committee with the name of the individual who can testify to the matter alluded to. If they *can compel his attendance*, let them do so."

The Chair will take occasion to state that he does not recognize the right of any person, not a member of Congress, to address letters to the House upon matters under discussion; but as this seemed to be directly in point, he thought it proper to leave it to the House to say whether they would receive it.

Mr. LETCHER. Then that communication is nothing more nor less than this: He intimates that it is not in the power of the committee to compel the attendance of the person whose name he proposes to furnish. He taunts the committee, and through them the House, with their inability to compel witnesses to attend, and to answer questions when they do attend. That is the whole amount of the matter.

Mr. BAYLY, of Virginia. Will my colleague permit me a moment?

Mr. LETCHER. I have nothing more to say, though I may offer a resolution before the matter is disposed of.

Mr. BAYLY. When we undertake to consider a question of this character it is important that we should see to what end it will tend; we had better see where we are going to land. When I commenced the study of law my preceptor told me that whenever I was applied to in a case, I should inquire first, what is the action? Next, what judgment do you want? And if you cannot get the remedy you want, what is the remedy? Well, sir, I have always found that a good rule through life.

Now, what is the action wanted here? What is proposed? Is there any law to meet the case? If there is not, what is to be proposed to meet the case? I do not see my way clear. I think it would be well for gentlemen to look into the powers of the House before they proceed further. In England, one of the most difficult questions that have occupied the attention of the House of Commons, has been this very question of privilege. It led to great difficulty there, and I would suggest to my colleague, [Mr. LETCHER,] that if he intends to make any point in the matter, he should look to it, and see what the legal regulations are upon which the matter should rest; because, if this House, under the impulse of the moment, should undertake to pass an informal resolution, outside of positively defined law, they might do a great wrong and injustice.

Suppose the witness should refuse to appear, what are you to do with him? Punish him for contempt? I should like any gentleman to show me the law authorizing it. And if he can show me the law authorizing it, I should like to know what is the penalty of that law? Would you send him to jail, or immerse him in damages?

Mr. MILLSON. If my colleague will allow me to interrupt him, I should like to put a question to the Chair, which I think bears somewhat upon the argument of my colleague. I desire to know whether the communication of Mr. Chase is to be regarded as a communication to this House, to be entered upon its Journal, or whether we are only to consider that the Speaker, in the exercise of his rights as a member, presented the contents of a communication, intended to be addressed to him? because, sir, if the communication is considered as before the House to be entered upon the Journal, then it will place this individual in such a position of antagonism to the committee as may make it necessary for us to proceed with more caution in determining the extent of the powers of the House. If, however, it is to be regarded as a mere suggestion of the Chair, communicating the willingness of the party to answer the question, then it presents a different question.

The SPEAKER. The Chair would not undertake to decide how the communication should be treated by the House. It is addressed, not to LINN BOYD, but to the Speaker of the House. Under the circumstances and without a moment's reflection, the Chair supposed that the attention of the House should be called to it, and the House should determine whether it should be read, or what disposition should be made of it.

Mr. BAYLY. There is no individual in this House, as I am sure the individual now occupying the Chair knows—

Mr. CLINGMAN, (interrupting.) Will the gentleman from Virginia allow me to make a suggestion merely? I understand that to-morrow the debate on the Pacific railroad is to be closed, and some gentlemen desire to discuss the subject to-day. It is the last day. This being a privileged question, I take it that it will come up in the morning hour, and the gentleman from Virginia, and others, will have time to look into the question, for it is an important one.

Mr. BAYLY. I do not want to look into it, I understand it now.

Mr. CLINGMAN. I thought the gentleman expressed some doubt as to the extent of our power.

Mr. BAYLY. No, sir, I beg your pardon. I expressed no doubt.

Mr. CLINGMAN. My object is to terminate this debate, for the present, by moving to go into the Committee of the Whole on the state of the Union. Will the gentleman allow me to submit such a motion?

Mr. RICHARDSON. I would say to the House that there are some matters which it is important to attend to before going into committee, this being Monday. I have a proposition to submit, to set apart some days for the consideration of Territorial business. It has not been yet done. It has been usual to do it before this period of the session. I desire to submit that motion to-day, because then if it is objected to, I can move to suspend the rules.

The SPEAKER. Does the gentleman from Virginia yield to the gentleman from Illinois?

Mr. BAYLY. No, sir. I will say to the House at once, that I want no time for consideration upon a question of this sort, for I think I understand it. But I am told that my friend from Georgia [Mr. STEPHENS] wishes the floor in Committee of the Whole, and that other gentlemen also desire to speak, and that there is but little time left. I will, therefore, yield the floor with the understanding that I retain it for to-morrow morning.

Mr. McDOUGALL obtained the floor.

Mr. HOUSTON. If the gentleman from California will permit me, I will suggest that some order should be made, or some general agreement come to as to the length of to-day's session. Some time has been unfortunately lost, and I suppose we could, by agreement, remain in session until late this evening, or have an evening session in committee.

Mr. McDOUGALL. I think myself that it is necessary that there should be an evening session, in order that the discussion on the bill under consideration may be completed by gentlemen who are prepared to engage in it.

The SPEAKER. The gentleman from Virginia [Mr. BAYLY] did not yield the floor to the gentleman from Illinois, [Mr. RICHARDSON,] but yielded for a motion to go into committee. Is it the pleasure of the gentleman from California that the gentleman from Illinois be allowed to submit his motion?

Mr. RICHARDSON. If it gives rise to any discussion, I will withdraw it.

Mr. LETCHER. I wish to make an inquiry of the Chair, in order that we may understand the position of this matter. If the House goes into committee now, will this question come up to-morrow morning?

The SPEAKER. As a matter of privilege, it will come up at any moment in the House.

Mr. RICHARDSON. It has precedence over everything.

Mr. HOUSTON. Would it be competent for us, by general consent, to agree to take a recess in committee from three to six, or half past six o'clock this evening?

[Cries of "No!" "No!"]

Mr. McDOUGALL. I yield to the gentleman from Illinois.

Mr. RICHARDSON. I move that the 29th, 30th, and 31st of this month, and the 1st of February, be set apart for the consideration of territorial business.

Mr. HOUSTON. What days of the week are those?

Mr. RICHARDSON. Monday, Tuesday, Wednesday, and Thursday—four days.

Mr. HOUSTON. I shall object, unless the gentleman will substitute Friday and Saturday for Monday and Tuesday.

Mr. MACE. If he does that, I shall object.

Mr. RICHARDSON. The committee were of the opinion that it would take a week to dispose of the territorial business. I believe, however, that we can dispose of most of that business in four days, and in order to accommodate every person, and to economise time, I ask for only four days. The gentleman from Alabama will gain nothing by objecting to my motion, for if I were to conform to the instructions of the committee, I should ask for an entire week. I hope the gentleman will withdraw his objection.

Mr. HOUSTON. I decline to withdraw it.

Mr. RICHARDSON. Then I must move to suspend the rules.

Mr. ORR. Is it competent, when the gentleman from Virginia [Mr. BAYLY] yielded the floor to the gentleman from California to make a specific motion, for that gentleman to yield it to another gentleman to move to suspend the rules?

The SPEAKER. It is not competent for gentlemen to barter the privileges of the floor.

Mr. RICHARDSON. I said to the gentleman from California, that if my motion gave rise to discussion, or to any consumption of time, I would withdraw it, and I now do so. On Monday next I shall move for an entire week.

Mr. MILLSON. Before the House goes into Committee of the Whole, I think it proper that we should dispose of a question which seems to me to partake of the nature of a question of privilege. Now, I am not altogether informed of the view the Speaker takes of the communication received from Mr. Chase. Certainly I should have objected, and, I believe, scores of other gentlemen would have objected to that communication being received as a part of the proceedings of the House.

The SPEAKER. The Chair thinks that it ought not to be received as a part of the proceedings of the House.

PACIFIC RAILROAD BILL.

Mr. McDOUGALL. I now move that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair,) and resumed the consideration of the special order, being the Pacific railroad bill, upon which Mr. STEPHENS, of Georgia, was entitled to the floor.

Mr. STEPHENS, of Georgia, said he did not rise to discuss the question pending, but to reply to certain remarks of Mr. CAMPBELL on a former occasion; remarking the last named gentleman, in his printed speech, had put language in his mouth which he did not utter.

The argument of the South has been to ask but few favors, and to request that the hands of the Government be kept out of their pockets; and yet the gentleman from Ohio said that while the South "asked nothing," she had largely profited by the acquisitions of Louisiana, Florida, and Mexican territory. In response to this, Mr. STEPHENS said that, by those acquisitions, the North got one million nine hundred and seventy-four thousand square miles, and the South but seven hundred and fifty-three thousand square miles, leaving out the Mesilla valley.

With regard to the remark of the gentleman about a movement to place ten millions of dollars at the disposal of the President, with a view to the acquisition of Cuba, he [Mr. STEPHENS] could say that he did not join in such a movement. Whether any other gentleman did so, he did not know; either by midnight or in open day. But he could tell the gentleman from Ohio that he was in favor of the acquisition of Cuba. He wanted the island, and he believed it would be for the interest of the country—more for the North than the South—to have it. The people of Cuba are oppressed; and he did not see why our citizens should not go thither to assist them in gaining their independence. He repeated, he was in favor of the acquisition of Cuba on the score of humanity, public interest, and statesmanship. Where was the objection? He could see none but blind and dogmatic nonsense.

Passing to another branch of the question, he proceeded to defend certain remarks he heretofore made to show that the labor of Georgia is more productive than that of Ohio, and replied to Mr. CAMPBELL's table on this and other points indicative of prosperity.

Mr. BOYCE obtained the floor.

Mr. CAMPBELL. Will the gentleman from South Carolina [Mr. BOYCE] yield me the floor for a moment?

Mr. S.'s speech will be found in the Appendix.

Mr. BOYCE. Certainly.

Mr. CAMPBELL. Mr. Chairman, I was exceedingly anxious to have had an opportunity of again meeting the gentleman from Georgia in his tables this morning. I am prepared to do so now; but I presume the gentleman from South Carolina would not be willing to yield the floor to me for that purpose. I therefore notify the gentleman from Georgia, that I shall not only prove that my tables were correct, but that the basis of these tables was correct. I am prepared to prove that now. Not, indeed, that I care about the triumph of Ohio over Georgia—because I rejoice with great joy to know that Georgia is prosperous—but for the reason that this discussion involves something of more consequence than the hay of Ohio and the cotton of Georgia. The gentleman arrayed his facts and statistics for the purpose of proving—pending the notice of the bill given by the gentleman from Indiana—that slave labor was better calculated to develop the resources of a country than free labor. That is the only view, sir, in which a statesman would undertake to discuss this question. It was in view of that that I entered the lists with the gentleman from Georgia before, and in the same view I shall pursue him to the best of my ability. I thank the gentleman from South Carolina for his courtesy in yielding me the floor.

Mr. BOYCE followed, and argued against the acquisition of Cuba. He contended that the true policy of the country was conservatism, not an indefinite extension of our territory. He denied that we needed Cuba as a military point, assuming that it is our settled policy not to permit that island to be possessed by any of the great European Powers. We should not, he contended, weaken our position by acquiring maritime colonies; and, although the annexation of Cuba would doubtless extend our commerce, yet this consideration was overruled by more important considerations. He entered into an argument to show that the acquisition of Cuba was a measure full of peril to the South.

[His speech will be found in the Appendix.]

Mr. SMITH, of Alabama, obtained the floor, but yielded to

Mr. HAMILTON. There are several gentlemen here, Mr. Chairman, who desire to speak on the subject under consideration; and as debate closes to-morrow at one o'clock, I move that the committee take a recess until seven o'clock this evening.

Mr. JONES, of Tennessee. The gentleman from Maryland says that several gentlemen wish to speak on the subject under consideration. I ask that gentleman what subject that is? [Laughter.]

Mr. HAMILTON. The Pacific railroad bill.

Mr. JONES. I ask him if we have ever had a single speech made upon it since it was made the special order?

Mr. HAMILTON. That is the very reason why there are so many gentlemen now wanting to speak on it.

The question being on the motion to take a recess till seven o'clock,

Mr. WHEELER demanded tellers.

Tellers were ordered; and Messrs. BRIDGES and STRATTON were appointed.

The question was taken; and the tellers reported—ayes 69, noes 62.

So the motion was agreed to.

The committee, therefore, at three o'clock, p. m., took a recess till seven o'clock, p. m.

The committee assembled at seven o'clock, p. m.

The CHAIRMAN, (Mr. ORR.) When the committee took a recess, they had under consideration the Pacific railroad bill, and the gentleman from Alabama [Mr. SMITH] was occupying the floor.

Mr. McMULLIN. We took a recess until seven o'clock. It is now half an hour past that time, and I regret to find so many seats vacant. Certainly those gentlemen who voted for the recess, ought to be present upon this occasion. I have risen for the purpose of suggesting to my friend from Alabama the propriety of allowing the committee to rise, so that we may have some gentlemen present to hear the speech of my friend. If, however, it is his purpose to speak for his constituents, or the gallery, I have no particular objection; but surely, if it is the purpose of my friend to be heard by his fellow-members, the committee ought to rise. I will not press this consideration upon the gentleman. It does seem to me that he ought to have more hearers in the House than he now has.

Mr. HOUSTON. I have no doubt that there will be more members in the House directly.

Mr. McMULLIN. Gentlemen all around me say, that there will be more members in directly, and I will, therefore, waive the motion I intended to make for the present.

Mr. SMITH replied, he surely should like to have all his fellow-members present; but he would not speak to them alone. He expected and intended that his voice should be heard in the remotest corners of this country. In fact, it was of small importance to him what was the size of his auditors on this occasion. A great Catholic Cardinal once said, "the pen is mightier than the sword." What he intended to say here would be put in print; and, however slight might be its effects on his friends present, he felt confident that the great truths he expected to utter would travel from one end of the country to the other.

Propositions had been made in this and the other House to repeal or modify the naturalization laws. The question was assuming proportions of considerable magnitude, and he might say the question was becoming the great question of the day. The time was coming when American legislators would be forced by the voice of the people to take a stand on this great question, and act. He believed that before this great question, which embodies the great idea of American nationality, all mere parties and party organizations will have to give way and retire. The party has already made itself felt. However mysterious and shady

its existence, the vituperation of the country press has been levelled.

His friends here, many of them, had entered into the discussion of the question with intense excitement. They beheld in this new order nothing good, but some shadowed giant, some fabulous Hercules, some "raw head and bloody bones," some mysterious destroyer, some lion endowed with voracious appetite, going about seeking whom it may devour. He had not been able to discern anything of this character.

So far as is known, this new party consists of, not exactly Cannibals, but free-born American citizens. Such an association is not more dangerous than a mixed association of natives and foreigners.

He assumed that such an association of native Americans could have nothing at heart but the glory, honor, and welfare of the country. They had but one object, and that was the purification of the ballot-box. This embraces the whole doctrine. He had no doubt they desire to exclude Catholics, not alone because they are Catholics, but because Roman Catholicism is so intimately connected with foreignerism that it is impossible to separate them. They would have to take the whole, or exclude the whole.

He proposed to take the thing by the roots. His first proposition was, no emigrant should be allowed to leave the ship he comes in until he renounces his allegiance to all foreign Powers, and swears *bona fide* to become an inhabitant of the United States, and this information shall be communicated to him by the captain of the ship before he takes passage.

Secondly, no emigrant shall be allowed to land until he produces a passport from the proper authorities of the United States resident of the country from which he comes; which passport shall embrace the requirements in the first proposition.

Thirdly, our consuls, or such other officers as shall be appointed for the purpose, shall be instructed to give a passport to no person unless he be of sound health and mind, and of good character for honesty and sobriety, certifying that the applicant has never been convicted of crime, and shall refuse passports to all notoriously seditious and rebellious persons, and paupers.

Fourthly, the naturalization laws to be so far repealed as to prevent all foreigners from voting who have not become naturalized, or who have not taken steps to become naturalized; provided all boys under the age of ten years shall, on becoming twenty-one, be considered citizens in every respect.

Mr. SMITH then proceeded to speak in terms of reprobation of the conduct of Kossuth, Kinkle, Mazzini, and other such characters. The disclaimer of Mr. CHANDLER, he said, amounted to nothing, as to the assumed temporal power of the Pope and the Church. He then proceeded to defend the secrecy observed by the Know-Nothings, and, in this connection, again referred to

Mr. CHANDLER, who asked, Do I understand the gentleman as saying that I opposed that society?

Mr. SMITH replied in the affirmative.

Mr. CHANDLER said he would scorn to oppose a society of which not a gentleman in the House had dared to avow himself a member.

Mr. SMITH said the sentiment was not more full of Jesuitism than the gentleman's speech. The only retaliation he could make was to recommend the gentleman to read his own speech.

In conclusion, he further defended the doctrine of the Know-Nothings.

[The speech will be found in the Appendix.]

Mr. HAMILTON, being one of the select committee to which was referred the question of the Pacific railroad, called the attention of the committee to the bill now before it for that purpose. He believed the proposed appropriation to be unwarranted by the Constitution; but, if warranted by it, it would be most dangerous for Congress to establish the proposed roads. No one having regard to the Constitution could sanction the passage of the bill. He showed the vast amount of land to be appropriated, and the millions of money required to carry the plan into effect. He examined the bill in all its details, commenting thereon until the expiration of the hour to which he was limited in debate.

[His speech will be found in the Appendix.]

Mr. BENTON obtained the floor, but yielded to

Mr. PERKINS, of New York. I move that the committee do now rise.

The question was taken; and the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, the chairman of the committee (Mr ORR) reported that the Committee of the Whole on the state of the Union had had under consideration the Pacific railroad bill, as the special order, and had come to no resolution thereon.

HOUR OF MEETING.

Mr. JONES, of Tennessee. I would suggest that, as debate on this subject closes to-morrow at one o'clock, the House may, by unanimous consent, meet at eleven o'clock.

[Cries of "Yes!" "Yes!"]

Mr. JONES. It will take some little time to get through some morning business; and then we can go into committee in time for the gentleman who has the floor [Mr. BENTON] to make his speech before the hour for the termination of debate arrives. This is entirely agreeable to the gentleman who has the floor; and I have no doubt it will be so to the House. I hope there will be no objection.

Mr. WITTE. I object.

Mr. JONES. Then I move to suspend the rules for the purpose of submitting the motion which I have indicated.

The question was taken; and the rules were suspended.

Mr. JONES. I now move that when this House adjourns, it adjourn to meet at eleven o'clock to-morrow morning.

The question was taken; and the motion was agreed to.

INTRODUCTION OF A BILL.

Mr. HAVEN. Although it is late, still I want to present for reference a bill, of which previous notice has been given, because it may be acted upon to-morrow morning.

The bill was accordingly read a first and second time by its title, as follows, and referred to the Committee on Commerce:

An act to provide for the navigation of the St. Clair river, in the State of Michigan.

Mr. FLORENCE. I move that the House do now adjourn.

The question was taken; and the motion was agreed to.

The House thereupon, at nine o'clock and ten minutes, p. m., adjourned to to-morrow at eleven o'clock, a. m.

IN SENATE.

TUESDAY, *January* 16, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

ENROLLED BILL SIGNED.

A message from the House of Representatives announced the signing, by the Speaker, of the enrolled bill for the relief of the executor of Thomas Wishart; which was thereupon signed by the President *pro tempore*.

DIPLOMATIC APPOINTMENTS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting, in compliance with a resolution of the Senate of the 3d instant, a statement of the names of the ministers, chargé d'affaires, and the secretaries of legation, of the United States, appointed since March 4, 1849, together with the dates of their commissions, the time of the commencement of their compensation, of their departure for their posts, and of their entering upon their official duties thereat.

Mr. BRODHEAD. As this message has been sent to us in answer to a resolution submitted by me, for the purpose of getting information which would enable us to properly consider and act upon the bill for remodeling the diplomatic and consular system of the United States, which, I hope, will reach the Senate in a few days, I move that it be printed for the use of the Senate.

The motion was agreed to.

VETERANS OF THE WAR OF 1812.

Mr. SEWARD. Mr. President, my voice, this morning, is not for war, but to utter an appeal to the justice and gratitude of the country, made by those who have illustrated their lives by deeds in the military service, in the wars which have contributed to establish the liberties and independence of the country. I have before me the memorial of the surviving officers and soldiers of the war of 1812, and I am requested by the officers of the convention of the veterans of that war, held in this city last week, to present their memorial to Congress. I present, therefore, a memorial signed by Brigadier General Hugh Dobbin, Brigadier General J. M. N. Hurd, two hundred and fifty captains, and one thousand four hundred and sixty subordinate officers and privates in the army of the United States during the war of 1812, praying for relief from the sufferings which they are enduring by reason of the incompetency of the laws designed by Congress to provide for them a proper support in their old age.

This petition is also accompanied by the memorial of eighty-three Indians, who were engaged in the service of the United States in the war of 1812, praying also for relief in their behalf. Probably it was the last case in which the native American warriors of this continent, of the aboriginal race, will ever be found enlisted for, or against, the liberties of the United States, as such.

I am also requested to present the petition of one thousand six hundred citizens of the United States, supporting the same applications.

The PRESIDENT. What disposition does the Senator wish to make of them?

Mr. SEWARD. I wish to have them all referred to the Committee on Pensions.

The PRESIDENT. They will be so referred.

Mr. SEWARD. I present, also, the petition of the Hon. S. D. Vanderzee and other citizens of the United States, for the same object, and ask for it the same reference.

It was referred to the Committee on Pensions.

PETITIONS, ETC.

Mr. PEARCE presented additional papers in the case of Robert M. Hamilton, United States consul at Montevideo, praying compensation for diplomatic services; which, together with the papers on file in relation to the same claim, was referred to the Committee on Foreign Relations.

Mr. CASS presented a petition of occupants of lands on Grand Traverse bay, in Michigan, praying to be protected in their titles to those lands purchased by them from the Indians; which were referred to the Committee on Public Lands.

Mr. TOOMBS presented seven memorials of citizens of the District of Columbia, praying the passage, by the Senate, of the bill of the House of Representatives to reorganize the courts of the District of Columbia, and to reform the laws thereof; which were referred to the Committee on the Judiciary.

Mr. BELL presented the memorial of W. H. Kennon, praying to be allowed the difference of pay between that of a purser on board of a sloop-of-war, and on board of a frigate, for the time he acted as purser on the steam-frigate Mississippi; which was referred to the Committee on Naval Affairs.

Mr. JONES, of Iowa, presented the memorial of James W. Schaumburg, claiming to be a commissioned officer in the first regiment of dragoons, praying to be allowed the undrawn pay and emoluments attached to the several grades to which he was entitled by regular promotion, withheld from him, as he alleges, by an arbitrary and unjust exclusion from the service; which was referred to the Committee on the Judiciary.

Also, a petition of solicitors and attorneys of Dubuque, Iowa, in favor of Mr. DOUGLAS's proposition to amend and modify the judicial system of the United States; which was ordered to lie on the table.

Also, the petition of Edmund H. McCabe, praying permission to enter lands equal in amount to those belonging to him which were illegally sold by the United States; which was referred to the Committee on Private Land Claims.

Also, a memorial of Lawrence Talliaferro, an officer wounded in the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

Also, a memorial of citizens of the District of Columbia, stating that they cordially approve the bill for reorganizing the courts in the District of

Columbia, and to reform and improve the laws thereof, passed in the House of Representatives, and praying that it may pass the Senate and become a law; which was referred to the Committee on the Judiciary.

Mr. DODGE, of Iowa, presented the petition of Mrs. Joanna McNamara, widow of Daniel McNamara, whose husband was killed while in the service of the United States, by the falling of the chain bridge over the Potomac river, above Georgetown, District of Columbia, praying to be allowed such relief as Congress may see fit, under the circumstances; which was referred to the Committee on the District of Columbia.

Also, a petition, signed by inhabitants of Waukon, Alamakee county, Iowa, asking the establishment of a mail route from Horden to Waukon, to pass through the town of Franklin, Iowa; which was referred to the Committee on the Post Office and Post Roads.

Mr. JOHNSON. I present the petition of L. C. Blakemore, the register of the land office at Fayetteville, Arkansas, and of D. W. C. Yell, the receiver of the public moneys at the same place, praying to be allowed the same per centum on the sales of the public lands as was allowed them previous to the passage of the act of August 4, 1854.

As a general bill granting relief in all such cases has already been passed by the Senate, I move that this petition be laid on the table.

The motion was agreed to.

Mr. BUTLER presented the petition of H. Y. Gray, praying remuneration for services rendered by him as clerk of the United States courts for the district of South Carolina, the services having been required under a resolution of the House of Representatives; which was referred to the Committee on the Judiciary.

Mr. SEWARD presented a memorial of master boat-builders, of New York, praying that passenger vessels may be required to carry Captain Thomas's life car; which was referred to the Committee on Commerce.

Also, the petition of Thomas H. Bingham, son of Ralph Bingham, a revolutionary soldier, praying remuneration for the services of his late father, and for the depreciation of the currency in which his pension was paid; which was referred to the Committee on Revolutionary Claims.

Also, the petition of Margaret Williams and Maria Wendell, children and heirs-at-law of Jacob H. Wendell, deceased, praying to be allowed the half-pay due their late father as a lieutenant in the Army of the Revolution; which was referred to the Committee on Revolutionary Claims.

Mr. SHIELDS presented the petition of Edmund H. McCabe, praying to be reinstated in the possession of certain lands improperly sold by the United States; which was referred to the Committee on Private Land Claims.

Also, the memorial of Lieutenant J. G. Benton, an officer of the United States Army, praying relief from an amount due on account of ordnance stores supplied to Parker H. French and a company of emigrants to California; which was referred to the Committee on Military Affairs.

Also, the petition of Brevet Major James Longstreet, of the United States Army, praying to be released from responsibility for certain United States subsistence stores obtained from him by a party emigrating to California, through fraud; which was referred to the Committee on Military Affairs.

Also, the petition of Brevet Major E. B. Babbitt, praying to be released from responsibility for certain United States quartermaster's stores which were obtained from him by a party emigrating to California, through fraud; which was referred to the Committee on Military Affairs.

REPORT RECOMMITTED.

On motion by Mr. BRODHEAD, the adverse report of the Committee on Pensions, on the petition of George Felker, was recommitted to the Committee on Pensions.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had passed the joint resolution of the Senate providing for the engraving, lithographing, and publishing of drawings, maps, charts, or other papers for Congress.

DAVID B. SEARS.

The message also announced that they had passed the bill of the Senate to authorize the sale of Rock Island, in the State of Illinois, and for other purposes, with an amendment.

Mr. SHIELDS. I ask that the amendment of the House may be acted on at once. It is simply to change the title, which the Senate inadvertently omitted to do.

The amendment, which was to amend the title of the bill so as to read "A bill for the relief of David B. Sears," was concurred in.

REPORTS FROM STANDING COMMITTEES.

Mr. BRODHEAD, from the Committee on Claims, to whom was referred the bill from the House of Representatives for the relief of L. R. Lyon, and Dean S. Howard, of the State of New York, reported it back without amendment.

Mr. SHIELDS, from the Committee on Military Affairs, to whom was referred the memorial of Charles McCormick, an assistant surgeon in the Army, praying to be allowed a percentage on money disbursed by him under the act of March 2, 1847, submitted a report, accompanied by a bill for his relief, which was read, and passed to a second reading. The report was ordered to be printed.

He also, from the same committee, to whom was referred the bill from the House of Representatives for the relief of John H. King, reported adversely thereon.

Mr. CLAY, from the Committee on Pensions, to whom was referred the bill of the House of Representatives for the relief of Anna E. Cook, asked to be discharged from its further consideration; which was agreed to. He also submitted an adverse report on the case, which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Jane Moore, widow of Stephen A. Moore, who was wounded in the battle of Little York, in the last war with Great Britain, praying a pension, submitted an adverse report thereon; which was ordered to be printed.

He also, from the Committee on Claims, to whom was referred the petition of W. J. Grayson, praying a commission on money received and paid by him, on account of the new custom-house at Charleston, South Carolina, submitted an adverse report thereon; which was ordered to be printed.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill of the House of Representatives, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1856, reported it back with sundry amendments.

MAURY'S WIND AND CURRENT CHARTS.

Mr. MALLORY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire and report as to the value to commerce and navigation, of Maury's wind and current charts, and upon the justice and the expediency of making suitable remuneration therefor.

ALLEN'S MAIL BAGS.

Mr. CASS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of introducing into the mail service Allen's air and water-tight mail bags, in the place of those now used.

BILL INTRODUCED.

Mr. FESSENDEN asked and obtained the unanimous consent of the Senate to introduce a bill making appropriations for the continuation and repair of certain public works in the State of Maine, heretofore commenced under the authority of law; which was read twice by its title.

INTERNAL IMPROVEMENTS.

Mr. CASS. I desire to call the attention of the Senate to the fact that some two weeks since, the honorable Senator from Louisiana, who is not now in his seat, [Mr. SLIDELL,] moved that the Senate take up for consideration his bill providing for the improvement of the mouth of the Mississippi, and it was assigned as the order of the day for last week on Tuesday. When that day came, it was passed by, owing to the press of other business. At the time when he made that motion I gave notice that when that subject was considered, I should ask the Senate to act upon the bill, reported from the Committee on Commerce, for the improvement of the flats of the St. Clair river, a vastly important improvement to the whole lake country. I think the Senator from Iowa [Mr. DODGE] gave notice of his intention to call up a bill providing for a similar improvement on the Upper Mississippi. Now, the honorable Senator from Louisiana is not here; I do not know when he will be enabled to return, and the session is passing away. I am exceedingly desirous myself that the bill to which I have referred should be disposed of. Still, I do not wish to claim any precedence for it over the other matter, if the honorable Senator from Louisiana, now in his seat, [Mr. BENJAMIN,] chooses to go on with the bill of his colleague, and ask us to take it up for consideration. I will not press my bill in preference to that; but if he does not, I shall then ask the Senate, in the first instance, to take up the bill to which I have referred.

Mr. BENJAMIN. That special order had not escaped my attention, but it had been brought to the notice of the Senate by my colleague, who is temporarily absent, and I was desirous of awaiting his return; but if the motion of the Senator from Michigan is to prevail, and that class of bills is to be taken up, then I should assume the responsibility of acting in the place of my colleague, and ask that this bill be taken up first in order, so as to avoid all risk of having it lost. If it be the pleasure of the Senate to fix some other day for the disposition of these bills in relation to internal improvements, I shall move to that effect, for such a day as may meet the convenience of members. I would ask the Senator from Michigan on what day he proposes to take up these bills?

Mr. CASS. I do not know how it may interfere with the business of the Senate, but I should like to have Monday next assigned for them.

Mr. SHIELDS. For all?

Mr. CASS. The bill of the Senator from Louisiana is the only one for which a positive order has been made; the others will follow in succession. I now move that the bill reported by the honorable Senator from Louisiana, with respect to the improvement of the mouth of the Mississippi, and the two bills to which I have referred—reported by the Committee on Commerce—one for the improvement of the navigation of the flats of the St. Clair, and the other for the removal of the Des Moines rapids—be made the order of the day for Monday next.

Mr. BADGER. I suggest to my friend from Michigan that that cannot be done without taking up the bills. The first motion is to take them up.

Mr. CASS. I move to take them up.

Mr. SHIELDS. There are other bills of the same character, which I shall call up at the same time, as they stand precisely on the same principle.

The motion to take up the bills was agreed to.

Mr. CASS. I now move that these bills be postponed to, and made the special order of the day for, Monday next.

Mr. SHIELDS. All the internal improvement bills?

Mr. BENJAMIN. In the order in which they now stand on the Calendar.

Mr. BUTLER. I must interpose, and say that it is not probable that, by that time, we shall get through with the judiciary bill, on which we have been at work. If we shall not dispose of it by that time, I must insist on its having the preference.

Mr. BENJAMIN. Let me suggest to the Senator from Michigan that we make these bills the order of the day for Wednesday next, instead of Monday. I am afraid the judiciary bill will push us over again on Monday.

Mr. CASS. That being the state of the case, I have no objection to naming Wednesday.

Mr. HUNTER. Allow me to suggest, that it would be better to fix on two weeks from to-morrow. There are several appropriation bills which will require to be acted on during the next week, and which it will be desirable to get out of the way of other business.

Mr. BENJAMIN. My impression is, that these bills will take no time at all. They have been already discussed in the Senate, and I do not presume that there is a gentleman here who desires

to debate them further. They will be passed or rejected, by a vote, without debate. I have no idea that any one wishes to debate the question involved in them.

Mr. CASS's motion was agreed to; and all the bills on the Calendar making appropriations for the improvement of rivers and harbors were postponed to, and made the special order of the day for, Wednesday, the 24th instant.

RAILROAD IRON DUTIES.

Mr. JONES, of Tennessee. I rise to ask the Senate to take up the bill granting to railroad companies three years in which to pay the duties on iron imported for railroad purposes, for the purpose of having it made the special order for a day which seems to be acceptable to the gentlemen with whom I have conversed on the subject. If it be important to pass the bill at all, the sooner it is done the better. I move to take it up for the purpose which I have indicated.

The motion was agreed to; and the Senate proceeded, as in Committee of the Whole, to consider the bill.

Mr. JONES. I now move that the bill be postponed to Friday, and made the special order for that day. I name it, because I learn that it is a day which will be acceptable to most Senators.

Mr. BRODHEAD. I wish to inquire of my honorable friend from Tennessee whether this bill has been considered by one of the standing committees of the body?

Mr. JONES. It has been before the Committtee on Finance, who have reported adversely to it.

Mr. WELLER. I desire to inquire whether Friday is not appropriated by the rules to the consideration of private bills? There are, on the Calendar, a large number of private bills, which ought to be disposed of. Many of them are meritorious claims, and ought to be passed promptly; and all of them should be acted on. I should be willing to make this bill the special order for Friday, if that day was not required to be devoted to private bills.

The PRESIDENT. The order setting apart Friday for private bills was made at the last session, and expired with that session. No order has been made on the subject at the present session.

Mr. WELLER. Then I give notice that I shall, to-morrow, introduce a rule setting apart Fridays and Saturdays for the consideration of the Private Calendar, and I ask that the notice be entered on the Journal.

The PRESIDENT. The question is on the motion made by the Senator from Tennessee, to postpone the further consideration of the bill before the Senate until Friday next, and make it the special order for that day.

The motion was agreed to.

CONGRESSIONAL AND JUDICIAL COMPENSATION.

On motion by Mr. BADGER, the Senate, as in Committee of the Whole, resumed the consideration of the bill to increase the compensation of Judges of the Supreme Court and members of both Houses of Congress.

Mr. DODGE, of Iowa. I believe that, when this bill was last under consideration, I moved to strike out so much of it as relates to the compensation of Senators and members of the House of Representatives. I ask now to be allowed to modify my motion, so as to strike out the same words, and insert in place of them the following:

And that, in lieu of the per diem and mileage compensation now paid to Senators and members of the House of Representatives, there be allowed, and paid to such Senators and members, an annual salary of $2,500.

The PRESIDENT. The yeas and nays having been ordered on the original amendment of the Senator from Iowa, it will require unanimous consent to allow it to be modified as proposed.

Mr. BADGER. Allow me, sir, though it is not material, here to say that the late Presiding Officer of the Senate, and late Vice President of the United States, [Mr. King,] distinctly decided on that provision in the rule of the Senate, that it does not require unanimous consent to withdraw or modify an amendment after the yeas and nays have been ordered; but that it can be done by leave of the Senate. That is the rule, and I know it was so decided.

Mr. SHIELDS. If the proposition be as I understand it to be, the first vote will be on striking out.

The PRESIDENT. The yeas and nays have been ordered on that question.

Mr. SHIELDS. And then the next question will be, whether we shall insert what has been sent to the Chair by the honorable Senator from Iowa. Now, I shall vote to strike out, but I am against inserting the provision proposed by the Senator, and, therefore, if it requires unanimous consent to receive this amendment, I object to it.

Mr. BADGER. If the Secretary will read the modified rule upon this subject, which authorizes the mover of a resolution or motion to withdraw it, I will then explain, in a very few words, what was decided by Mr. Vice President King.

The PRESIDENT. All difficulty can be obviated by putting the question as to whether the Senator from Iowa shall have leave to withdraw his original amendment.

The question was put; and leave was granted.

Mr. DODGE, of Iowa. I now offer the amendment which I before indicated, to strike out that part of the bill relating to members of Congress, and insert what has been read.

Mr. SHIELDS. I wish to ask whether this amendment is not susceptible of division. Can we not first vote to strike out, and not have a vote upon striking out and inserting at the same time? We might be willing to strike out the words, but not to insert those proposed by the Senator from Iowa.

Mr. BADGER. Let me appeal to my friend from Iowa to allow his original amendment to be put, to strike out this provision, because there are many Senators who would vote to strike it out, who would not be prepared to vote for the particular substitute which he has now offered; and there are many Senators who might be willing to strike this out, with the view of inserting another substitute. As the rule of the Senate forbids the division of a question on a motion to strike out and insert, I submit to him, as the easiest method of allowing us to get at the question, to withdraw this amendment, and offer his original one.

Mr. DODGE. For the consideration suggested by the Senator from North Carolina, I do it with great pleasure.

The PRESIDENT. Then the question will be on the original amendment of the Senator from Iowa, to strike out the words "and upon the per diem compensation of Senators, Representatives, and Delegates in Congress now allowed by law."

The question being taken by yeas and nays, resulted—yeas 24, nays 16; as follows:

YEAS—Messrs. Adams, Bell, Brainerd, Bright, Brodhead, Cass, Clayton, Dodge of Wisconsin, Dodge of Iowa, Fessenden, Foot, Gillette, Hunter, Johnson, Jones of Tennessee, Rockwell, Rusk, Seward, Shields, Sumner, Toombs, Toucey, Wade, and Weller—24.

NAYS—Messrs. Allen, Atchison, Badger, Benjamin, Brown, Butler, Chase, Clay, Evans, Geyer, Jones of Iowa, Mallory, Mason, Reid, and Thompson of Kentucky—16.

So the amendment was rejected.

Mr. GEYER. I move to strike out of the bill all that remains after the word "that," and insert the following:

From and after the passage of this act, the annual salaries of the several Justices of the Supreme Court of the United States, of the several judges of the district courts of the United States, shall be as follows, to wit:

Of the Chief Justice of the Supreme Court, seven thousand five hundred dollars.

Of the Associate Justices of the Supreme Court, seven thousand dollars each.

The judges of the districts of Connecticut, western district of Pennsylvania, northern district of New York, Maryland, western district of Virginia, western district of Louisiana, North Carolina, Georgia, Texas, Illinois, Michigan, and Wisconsin, to be twenty-five hundred dollars each.

The judges of the districts of Alabama, eastern district of Virginia, South Carolina, Missouri, and districts of Mississippi, to be three thousand dollars each.

The judges of the northern district of Florida, and the districts of Arkansas, to be two thousand dollars each.

The judges of the districts of Iowa, Rhode Island, Delaware, Kentucky, and Indiana, to be fifteen hundred dollars each.

The judge of the districts of Massachusetts, eastern district of Pennsylvania, and southern district of Florida, to be three thousand five hundred dollars each.

The judge of the southern district of New York, and the southern district of California, to be four thousand dollars each.

The judge of the district of Maine, eighteen hundred dollars.

The judge of the district of New Hampshire, fourteen hundred dollars.

The judge of the district of Vermont, thirteen hundred and seventy-five dollars.

The judge of the district of New Jersey, twenty-one hundred dollars.

The judge of the eastern district of Louisiana, five thousand dollars.

The judge of the districts of Tennessee, eighteen hundred dollars.

The judge of the northern district of California, eight thousand dollars.

SEC. 2. *And be it further enacted*, That the salary of the judge of the orphans' court of the district of Columbia be, and the same is hereby, increased to two thousand dollars per annum.

SEC. 3. *And be it further enacted*, That all acts or parts of acts inconsistent with this act be, and the same are hereby, repealed.

Mr. JOHNSON. I will ask the honorable Senator from Missouri on what ground it is that he has fixed the compensation of the district judges of the different States? I desire to ask him on what principle he computes the salary of the district judges of the northern district of Florida, and the districts of Arkansas, at $2,000 each, while $2,500, $3,000, and $5,000, are given to the district judges in other States? I would call his special attention to this fact, in regard to the State of Arkansas. The services rendered by the district judge there are peculiarly onerous. There are two district courts held there. The jurisdiction of the district court is not confined to the State of Arkansas alone, but extends to the Indian country, west of Arkansas, comprising a country almost twice as large as that State itself. The jurisdiction over that is given to the district court, and it is called the western district of the State of Arkansas. In addition to that, there was conferred upon the district judge of that court, circuit court powers. They are to be discharged also, which renders the duties at that point, as I said before, peculiarly onerous.

In addition to that, sir, we have this state of facts, with which the Senate is familiar, that no Judge of the Supreme Court of the United States, in the performance of circuit duties, goes to that State at all. The consequence is that the judge of the eastern district court has again heavy duties to perform; and, if you pay according to the amount of service rendered, or to be rendered, you will find that his pay, under any just scale, ought to be raised as high as any other circuit or district judge within the United States.

These are the simple facts. In the amendment, this judge is rated at $2,000. That is entirely wrong. I believe, though, it would have been better, in acting upon this bill, if the Senator had left out that portion of it, (though I shall make no motion to strike it out,) and attempted to regulate the salaries of the judges by another bill, which is now before the body. I must, however, protest against that portion of the amendment, and if it is adhered to, believing the salary of the district judge of that State, at $2,000, to be entirely too little, I shall be obliged to move an amendment; and if that is not granted, I shall be compelled to vote against the whole bill.

Mr. FOOT. I move to amend the amendment in the clause: "The judge of the district of Vermont, $1,375," by striking out "1,375," and inserting "1,500." I will state that I understand the Committee on the Judiciary took as the basis of their computation, for the sums which ought to be allowed the district judges, the sums paid by the several States to the judges of their supreme court. One thousand three hundred and seventy-five dollars has been the salary heretofore paid to the judges of the supreme court of the State of Vermont; but the Legislature, at its last session, raised it from $1,375 to $1,500. Therefore, to carry out the principle adopted by the committee, as the basis of computation, I move to strike out "1,375," and insert in lieu thereof "1,500."

Mr. TOOMBS. I reported, from the Committee on the Judiciary, the bill which my friend from Missouri has offered as an amendment, and I will state, in a few words, the principle upon which the Committee proceeded in fixing these salaries. The salary of the district judge of Arkansas is just where we found it. It is an exception to the principle; but it was beyond the local salaries of that State, and we had not power to reduce it. We found it above, but it could not be reduced to that standard.

The committee found it a matter of very great difficulty to agree upon what should be the salaries of the district judges residing in different portions of the Union, as they ought to be regulated by the different costs of living, the different amounts of labor, and the different prices of that kind of

talent. After a great deal of difficulty, we agreed to adopt what has been pretty generally, though not universally, adhered to heretofore—to leave the question to be determined by the State governments. We adopted, therefore, the general rule that we would give to the judges of the district courts of the United States the salaries of the judges of the supreme courts of the States in which their courts are held. That was subject to some variations. One was, in cases where the salaries of the judges of some local courts of the State, on account of different circumstances—the amount of business transacted, and the cost of living being higher in the place where they sat—were higher than were given to the judges of the supreme court. We made a change there. Such is the case in Ohio, and in some of the rest of the States. Where the district judges of the United States has to sit in the same place with such a local court, we considered that the same reason which influenced the judgment of the Legislatures of the States to raise the salaries of the local courts sitting there, was a sufficient reason to make the district judges of the United States, in such cases, an exception. Then we made, probably, some three or four additional exceptions. One was in the case of the judge at Key West, the southern district of Florida. There he is isolated from the State of Florida, and is rather a judge for the United States, who has very great and important duties growing out of the commerce of the whole United States, and inasmuch as he has to bring everything there to live upon, we thought that was a fair case for an exception, and consequently made it.

There are also other exceptions. One is the case of the judge of the district of Connecticut, who has been assigned, by law, to hold his court as well in the city of New York, out of his State, as in the State of Connecticut. Another exception to the principle which was made was, where a State had been divided into two judicial districts of the United States. In such a case we have given the judge having maritime jurisdiction, the highest compensation. We have given the judge of the western region of Virginia, and of New York, to illustrate the principle, a less amount of compensation than the judge of the eastern districts who have admiralty jurisdiction. So with California. Therefore, we graduated downward in those particular cases; but the general rule was to take the highest compensation fixed by the different States for the judges of their supreme tribunals.

Some of the States, it seems, have recently—since the committee reported this bill and adopted the rule—made a change in the compensation of their judges. Such is the case with Vermont, as the Senator from that State says. Therefore, his amendment falls within the principle which we have laid down.

As to the judge in Arkansas, he is already above it; and, for one, I think the principle adopted by the committee generally a sound one. I think that the Legislatures of the different States are the best judges of the compensation, and I am unwilling, as a general rule, to give a court of limited and inferior jurisdiction, like the circuit courts of the United States, a higher compensation than the Legislatures of the different States, who are our constituents, judge to be a fair compensation for the judges of the highest judicial tribunals of the States.

I approve of the principle adopted by the committee, and, for one, shall give my vote for it, unless a case is presented which ought clearly to be made an exception. I will take occasion to remark, that there is a clerical omission in the clause of the bill which gives a salary of $3 500. The word "Ohio" was omitted in drawing up the bill. It was a mere clerical error, and I shall move to amend it, when the amendment of the Senator from Vermont is acted upon, by inserting Ohio in the clause, which gives a salary of $3,500. He resides in Cincinnati; and the salary of the local court judges there is above that of the highest court in the State.

It is the same case with the judge in Michigan. He ought to be made an exception, residing, as he does, with a very inadequate salary, at Detroit—almost totally inadequate, and rendering it impossible for a proper man, with ability to discharge the duties, to reside in the city. We also made that an exception to the principle, for the clear and satisfactory reason that the salary allowed by the State would be altogether too low to allow him to live in the city.

The PRESIDENT. The question is on the amendment of the Senator from Vermont.

Mr. BUTLER. It seems to me that if we are to go on with the bill which we have had under consideration for some days past—the general judiciary bill—this should not be considered at present; for in that bill we provide for a different class of judges, to be called circuit judges, and if they are appointed, and receive the salaries provided for in that bill, $4,000, they would take off a good deal of business from the district judges, whose salaries you are now proposing to increase. It is very obvious that the district judges, in some portions of the United States, cannot perform their duties with their present salaries. I grant that. I am perfectly willing to take the plan recommended by the Senator from Georgia, [Mr. TOOMBS,] as the representative of the Committee on the Judiciary, as a fair plan; but I think it premature to take up this question now; and I wish my friend from North Carolina had insisted on his original proposition to mature that part of the bill in relation to members of Congress. I do not, of course, wish to interfere with the will of the Senate, but I throw out this suggestion for their consideration.

The PRESIDING OFFICER, (Mr. WELLER in the chair.) The question is on the amendment of the Senator from Vermont, to strike out $1,375, and insert $1,500, as the salary of the district judge for Vermont.

The amendment was agreed to.

Mr. BELL. On the principle which has just been recognized by the Senate, I move that, in the provision for the compensation of the district judge of Tennessee, the sum of $1,800 be stricken out, and $2,500 inserted in its place, on the ground that the judges of the supreme court of that State receive a salary of $2,500 per annum. I will state, as an additional reason why that judge should have a salary of the highest amount conceded by the principle of the Senator from Georgia, that there are three judicial districts in the State of Tennessee, and the district judge for that State is required to preside twice in each district in the course of the year. Every Senator, by looking at the State of Tennessee on the map, will find that it lies in the shape of an oblong, extending more than six hundred miles east and west, and only a little more than one hundred miles wide from north to south. Upon the principle stated by the honorable Senator from Georgia, I hope there will be no objection to this amendment to the proposition.

The amendment was agreed to.

Mr. TOOMBS. I now propose to insert Ohio among those districts the judges of which are to receive $3,500. As I stated before, it was omitted by mistake.

The amendment was agreed to.

Mr. FESSENDEN. I move to strike out $1,800, and insert $2,500, in the provision for the salary of the judge of the district of Maine. I cannot, Mr. President, give the same reason for it which has been given by the gentlemen who made the motions in reference to the States of Vermont and Tennessee. The highest salary paid in our State courts in Maine is $1,800, but I will state to the Senate that, in my judgment, and in the judgment of a large portion, if not all, the bar of the State, the salary is very much too small. I believe it to be a fact, that no man can accept the office of judge of the supreme court of our State who is not able to furnish himself with a part of the means necessary for his support, over and above the salary he receives. The present salary of $1,800 was fixed about twenty years ago. Since that time we have become a much larger State in population and business. Senators generally are aware of the fact that Maine is much the largest ship-building State in the Union; and from that matter of building ships arise many controversies which are heard in the district courts of the United States, and they are daily increasing. The city of Portland, where the district judge resides, and where he will be very likely to reside—for there the principal business is done—is a place which is very fast increasing in commercial importance; and, consequently, the business of the court has increased very much. I have received a letter from one of the leading members of the bar, residing in that city, calling my attention to the matter. I should have attended to it, of my own motion, if I had not received the letter.

Compare the State of Maine with several other States where a salary higher than $2,500 is allowed; compare the business done in the courts in the respective States, and it will be obvious that Maine, being a commercial State, must necessarily have a large amount of business before the United States courts.

I will state further, that the judge is obliged to hold his terms at three different points in the State, which is a large one, and, with his existing salary, it is impossible for him, with the increased rates of living, to get along as a judge in that position which a judge of a United States court ought to hold. The office should be held by a man of high character and position, and a sufficient salary should be attached to it to keep such men in the service. Besides, with the effort which is being made, and which Senators understand must be successful very soon, to throw a greater amount of business on the judges of the district courts, it must necessarily follow, that the salaries which have heretofore been given will be entirely inadequate. I hope, therefore, that the Senate will, under the circumstances, increase the salary which was fixed more than twenty years ago, and has been continued from that time to this.

The amendment was agreed to.

Mr. PEARCE. I move to strike out the word "Maryland" where it at present occurs in the amendment, and insert it after "Virginia," in the provision allowing a salary of $3,000. The object of this amendment is, of course, to put the district judge of Maryland on the same footing in regard to salary, as the judge of the eastern district of Virginia. What reason there could be to justify the discrimination which was made by the committee between them I know not. I suppose, however, the committee adopted, as their rule, the allowance of the salary given to the judges of the highest court in the State, which, in Maryland, at the present time, is $2,500. But I think, sir, it is scarcely proper that we should be governed in our determination in that respect by the inadequate allowance which may be made to its judges by the State of Maryland. That would be to subject our legislation to the control of State legislation. The judge of the district court of the United States for the district of Maryland, has a great many duties to perform. I believe that, in fact, his judicial labors are more numerous than those of the judge of the eastern district of Virginia, and quite as responsible. His court is almost constantly in session. The population of Baltimore, its foreign commerce, the maritime questions, and revenue causes, growing out of that commerce, produce so much business in the district court as to oblige the judge to make his residence in that city, where the expenses of living have greatly increased, and are so high as not only to justify, but to demand, the salary which I propose. His court is, and must be, open during the greater part of the year—probably more than ten months in twelve. Then, if you graduate salaries by the labor performed, by the importance of these labors, and by the necessary expenditures of the incumbent, you should, undoubtedly, allow to the district judge for Maryland the salary which I ask to have paid by this amendment.

The amendment was agreed to.

Mr. ALLEN. I propose to move an amendment to this proposition, so far as regards the State of Rhode Island. The compensation of the district judge there is fixed at $1,500 by this measure. Now, the duties of district judge in that State are greater than they are in either Maine, New Hampshire, or Vermont. Besides this, the sum is not equal to what is paid to the judges of the common courts in Rhode Island; and it will be impossible for a judge to support himself properly in that district with this salary. I propose to fix the sum at $2,200. I make the statement, which I have made in regard to the duties of the district judge of Rhode Island, on the authority of a letter which I have received from the Hon. Judge Curtis, who, I understand to state, that the duties of the district judge of Rhode Island are more than the duties of the district judge, either in Vermont, or Maine, or New Hampshire. Rhode Island is a manufacturing and commercial State. Her people make contracts in these matters with persons abroad, and they are such contracts as are brought before

the district and circuit courts of the United States. For this reason, the district court in Rhode Island has a great deal of business. I move, therefore, to strike out $1,500, and insert $2,200, as the salary of the district judge of Rhode Island. The amount now named in this proposition is not equal to the pay of the other judges of the State.

Mr. DAWSON. Mr. President, I did not design to make any proposition to amend this measure, as I understand from my colleague, [Mr. TOOMBS,] the member of the Committee on the Judiciary who reported it, that the salaries of the district judges of the United States were to be regulated by the amount of salaries received by the highest judicial officers in the respective States. I am willing to adopt that principle. I have no idea myself of holding out an inducement on the part of the General Government to take the best talents of the States and transfer them to the service of the General Government. The people of the States know best what the services of their highest judicial officers are worth, and they regulate the salaries accordingly.

My friend from Maine has had an amendment made increasing the salary of the district judge in his State to $2,500, upon the ground that the present salary was fixed twenty years ago; and yet, that Senator this morning voted to strike out the proposed increase of compensation to members of Congress, which was regulated thirty-seven years ago. He is unwilling to change our compensation, although he is willing to increase the salaries of the judges. The same remark, I believe, is true of other gentlemen who have moved amendments.

Now, sir, the principle which we all ought to regard in this matter, is to stand firm in favor of the States, and to recollect that our own people, in the respective States, are entitled to the best talent which each State has, in order to decide upon their rights, and not suffer the General Government, because it has more money, to increase the salaries, and thereby transfer the best talent from the States to the General Government. As this principle has been violated, I shall move to strike out $2,500, and insert $3,000, as the salary of the district judge for Georgia. The State of Georgia has sixty thousand square miles of territory, and there are two places for holding the district courts, more than three hundred miles apart, to each of which the judge has to travel twice a year. I was unwilling, as a State-rights man, to hold out to that judge a higher salary than is given to the judges of the supreme court of the State of Georgia; and hence I was prepared to abide by the salary recommended by the committee; but as a majority of this body have changed the principle, I notify the Senate, that I shall move to strike out $2.500 and insert $3,000, as the salary of the district judge of Georgia.

The PRESIDING OFFICER. The question now is on the amendment proposed by the Senator from Rhode Island.

Mr. ALLEN. I will modify my motion by proposing to strike out "Rhode Island," where the word at present occurs, and insert it immediately after "New Jersey," so as to read, "the judges of the districts of New Jersey and of Rhode Island, $2,100"

The amendment was agreed to.

Mr. SEWARD. On the same ground I propose to strike out, where they now occur, the words "northern district of New York," and insert the same words after "eastern district of Virginia;" so that it will have the effect to make the salary of the judge of that district $3,000, instead of $2,500. I need not detain the Senate with a statement of the reasons on which I propose this amendment. This judge has a very extensive jurisdiction, and very laborious duties for the whole year. Besides holding his courts, and attending to his duties in his own district, he goes to relieve the judge of the southern district of New York also; and to my knowledge, is holding courts there for a quarter or perhaps half the year. I met him there the other day. The salary of the judge of the southern district, is fixed at $4,000 by this proposition. That is all right. But the salary of the judge of the northern district ought surely to be increased.

Mr. BADGER. I wish merely to state, in consequence of the remarks of my friend from Georgia, [Mr. DAWSON,] that I do not think the principle on which this measure was reported, is at all interfered with by the amendments which have been made. My friend from Georgia, who reported it, [Mr. TOOMBS,] has stated that the principle which the committee adopted was that of making these salaries correspond to the salaries of the judges of the highest State courts, but that there were certain exceptional cases; and, so far as they were known to the committee, the committee provided for those cases; and, on particular grounds, made the salary of the district judges, in those cases, higher than the salary of the State judges. Now, all that has been done since the measure has been before the Senate, is to provide for one or two exceptional cases, which were not within the knowledge of the committee. Take, for example, the case in regard to the district judge of Maryland, where an amendment was made on the motion of my friend from Maryland. I recollect very well, that when a vacancy occurred in that office, during Mr. Fillmore's administration, and he had to appoint a successor to the gentleman who had died, he thought it so important that that judicial officer should be always in the city of Baltimore, that he required an assurance from the gentleman whom he appointed, that he would reside in Baltimore. Now, if a gentleman is obliged to reside in such a city as Baltimore, if he is obliged to remain there the whole year, for the purpose of attending to judicial business, and transacting an immense amount of business, it will be seen at once that it is a reason for varying from the rule which applies to the State judges, who are under no such necessity. So it is in regard to the motion made by the Senator from New York. The district judge of the northern district, residing in Buffalo, and discharging an immense amount of duty there, and called for three, or four, or five weeks, in the course of the year to relieve the judge of the southern district court in the city of New York—duties not imposed on the State judges—will strike every one as furnishing another exception. I do not consider these as variations from the principle, but as calling the attention of the Senate to certain exceptional cases, which were not within the knowledge of the committee.

Mr. CASS. I desire to vote for this bill if I can. I think the salaries of the Judges of the Supreme Court are at present too low, and the salaries of some of the district judges are too low; but it is evident that here is a contest for increasing the salaries of judges all over the Union. I am willing to take the measure as reported by the committee, but I say to its friends that there is great danger of overloading it.

The PRESIDING OFFICER. The question is on the amendment submitted by the Senator from New York.

The amendment was agreed to.

Mr. DAWSON. I now move to strike out the word "Georgia" from the $2,500 classification of salaries, and insert it in the $3,000 classification after "Virginia."

Mr. BUTLER. Let it be after South Carolina.

Mr. DAWSON. Well, I will move to insert it after "South Carolina," and I will say to my friend from North Carolina that my colleague, who reported this measure, intended to found it on the principle which I have stated; otherwise he would have proposed to change the salary of the district judge of Georgia. If he will not say now that if the salary of any judge should be raised, that of the district judge in Georgia should be increased, I will yield the point. The only ground upon which he refused to report it, was that he did not wish to violate the principle; but he has suggested to me that as that principle has been violated, it would be proper to propose to increase the compensation of the district judge for Georgia.

Mr. TOOMBS. I think it one of the most meritorious cases.

Mr. DAWSON. As my colleague says, it is one of the most meritorious cases in the bill; and as Georgia is called the "Empire State of the South," it ought to be put upon an equal footing with South Carolina.

Mr. BADGER. We are all for it.

Mr. DAWSON. Then I submit the amendment.

Mr. BUTLER. If my friend, the Senator from Georgia, will recognize the historical truth, that his is the Empire State compared with the nation of South Carolina, I will take his amendment. [Laughter.]

The amendment was agreed to.

Mr. JOHNSON. Mr. President, I have called attention, on previous occasions, to the case of the district judge in the State which I have the honor to represent in part. I now move to strike out from the $2,000 classification the words "and the districts of Arkansas" and to insert those words in the $2.500 classification, so as to allow a salary of $2,500 to the district judge for Arkansas. There are some peculiar circumstances in this case which I will bring to the attention of the Senate.

At the time the present district judge was appointed, and in fact from the first organization of a United States district court in Arkansas, $2,000 has been the salary of the judge. When the present judge was appointed, his duties consisted merely of holding one district court, and a circuit court, in conjunction with a Judge of the Supreme Court assigned for the circuit, at one point within the State. Since then, and while he has been upon the bench, which has not been very many years, the district has been divided, and a portion of the State laying on the western border, together with the Indian territory west of the State of Arkansas, has been set off into a new district, called the western district of Arkansas. It is made imperative on this judge to hold court in the eastern district, and also in the western district. He has to hold courts at two different places, more than one hundred and fifty miles apart; and, in regard to the Indian country west of Arkansas, the powers of the court have been enlarged to those of a circuit court, and the duties have, of course, been much more laborious than they were before that division.

I will not say there are gentlemen here who stickle on constitutional questions, for that would not be a respectful term, but certainly there are those who will hang very closely upon any question which involves the sanctity of the Constitution of the country Now, let me ask those gentlemen one question. The Constitution expressly provides that the judges of the United States shall "receive for their services a compensation which shall not be diminished during their continuance in office." This was designed to prevent their being legislated out of office, by being starved out. Now, let me ask what is the difference between reducing compensation directly, and so changing the duties of a judge by increasing the number of districts over which he shall preside, as practically to legislate him out of office by imposing upon him duties which he cannot perform for the salary given him? You may put a man out of office by abolishing the office itself; but even that is considered, by some gentlemen here, whose opinions are entitled to the highest respect, as an unconstitutional mode of proceeding. To reduce the salaries of the judges of the United States, is directly in the teeth of the Constitution. Then, how is it that you proceed to increase the duties of a court by adding additional districts, and imposing onerous extra duties, which have a tendency in the same direction? What difference is it, I say, to the individual who may be called upon to discharge the duties, whether he is legislated out of office by the Congress of the United States, by the reduction of his salary, or by an increase of his duties?

Sir, this is the attitude in which this matter now stands: The duties of the district judge in Arkansas are now about four times greater than they were at the time the present judge was appointed. He asks that Congress will consider that fact; and I ask, under these circumstances, that the addition may be made, because the salary is now too small; it is inadequate to the expenses. It is not sufficient compensation for a lawyer of the class required, to hold two district courts and a circuit court in one district, which embraces all the Indian tribes west of Arkansas, and thousands of white men who are amongst them, to take cognizance of all the offences committed in that large extent of country. I think, sir, that the salary ought to be enlarged at least $500, and then the compensation will be extremely moderate. I trust the Senate will agree to this small amendment.

The amendment was adopted.

Mr. RUSK. Mr. President, I perceive that the salary of the district judge for the State of Texas, is fixed at $2,500 by this proposition. The rule laid down by the committee, it seems to me, does not apply in all cases. It is true, that when the duties required of a United States judge are

about the same as those required of a State judge, in the same State, there ought not to be any distinction between the salaries of the two judges. So far as the service performed comes within that rule, it is a very good one; but in many cases the services performed by the State judges, are not one fourth as much as those performed by the United States judges, and in such cases, as a matter of course, it would be unjust to apply that rule. Now, sir, my honorable friend from Georgia, claimed that his State was the Empire State of the South. In point of population, and wealth, perhaps, I might concede that.

Mr. DAWSON. Let me correct my friend. I said she was called the Empire State of the South; I did not claim the title for her.

Mr. RUSK. Well, then, according to the honorable Senator, she is called the Empire State of the South. I believe she has about sixty thousand square miles of territory. My friend complained that the district judge for Georgia had to travel one hundred and fifty miles to hold court; but, I believe, they have railroads between the residence of the judge and the places of holding the courts, and that travel can be made in a few hours. Still he complains of the enormous distance of one hundred and fifty miles.

Mr. DAWSON. Three hundred and fifty.

Mr. RUSK. That does make a little difference. But, sir, in point of territory, I think, I may claim for Texas something like empire, for she has two hundred and seventy thousand square miles. There are four places in that State for holding the United States courts, and none of them are less than three hundred miles apart, and some of them are considerably over that distance. In one portion of the State the judge has to travel armed, and has some times to go in a great hurry, as it requires a fleet horse to save him from being scalped by the Indians. Now, according to the rule laid down by the honorable Senator from Georgia, I think I might safely claim for the district judge of Texas $3,500, as he has to hold court in four places and to travel more than three hundred miles between each place, in a country where the conveniences of travel are not such as they are in the State of Georgia; but, as it has been intimated that amendments are loading down the bill, I will simply move to increase his salary from $2,500 to $3,000.

Mr. STUART. I came into the Senate Chamber but a few moments ago, and I see that very great inroads are being made upon this bill. I came in while the honorable Senator from New York was speaking; and if there be any propriety in what has been adopted, on the motion of that honorable Senator, and also on the motion of the honorable Senator from Georgia, taking into consideration the motion just made by the Senator from Texas, certainly the way to reach it is to increase the salaries of all the judges named in that clause of the bill in which those cases occur. I therefore move to amend the motion of the Senator from Texas, by striking out $2,500 and inserting $3,000; so that all the judges named in that clause will stand at $3,000.

Mr. BADGER. What are the names of the States mentioned in the clause?

Mr. STUART. It will apply to the judges of the districts of Connecticut, western district of Pennsylvania, northern district of New York, Maryland, western district of Virginia, western district of Louisiana, North Carolina, Georgia, Texas, Illinois, Michigan, and Wisconsin.

Mr. RUSK. I fear that will complicate the matter. It will place the judge of western Virginia at $3,000.

Mr. STUART. It will increase all named in the class to that sum. Georgia, and northern New York, and Maryland, have already been taken from this clause, and raised to $3,000.

The PRESIDING OFFICER, (Mr WELLER.) The Chair would state that the amendment proposed by the Senator from Michigan embraces that of the Senator from Texas.

Mr. RUSK. Then I withdraw mine.

The PRESIDING OFFICER. The question will, therefore, be on the amendment submitted by the Senator from Michigan.

Mr. JOHNSON. It has been said that we are loading the bill down, and that the result will be its destruction. Then, does it not behoove the friends of the bill to look to it? Now, when a Senator from a State considers that $2,500 should be the compensation of the district judge in his State, why should another Senator thrust upon him $3,000? The Senator from Texas does not ask that, as I understand. We do not know that Senators will vote for it. Then, when we will not classify to reduce, why classify to increase the whole? I think we had better allow the matter to go on as it has been, and let us accommodate the bill as well as we can to what Senators ask, provided they do not ask what is unreasonable.

Mr. SHIELDS. I represent one of the judicial districts named in the clause referred to by the Senator from Michigan. I intended to allow the original bill to pass without offering any amendment, if other Senators were satisfied with that course; but as amendments have been made, I have thought it my duty to present the case of the judge in my State. I think it my duty to insist on raising his compensation, and I hope my friend from Arkansas, having succeeded in obtaining an amendment in his own case, will not oppose ours.

Mr. JOHNSON. Mr. President, I think the imputation of the Senator from Illinois is hardly merited. He intimates that I, having succeeded in my own case, ought not to interfere with other gentlemen. If that success which was attained in my own case had not been regarded by me, as a Senator from Arkansas, worthy and deserved, I should have scorned to ask it; I should have disgraced myself by demanding it. I hope the Senator himself would not be guilty of that which he seems to impute to others. If he would, it is for himself to reconcile it to his own convictions. I would not ungenerously oppose another in asking for anything which I might require for myself. I have barely suggested, that in classifying, in this instance, according to the amendment of the Senator from Michigan, he proposes to allow, in one State, a rate of compensation which the gentleman representing that State does not ask for.

The Senator from Texas proposes, as I understand, to increase the annual compensation of the judge in his State to $2,500, and forthwith a Senator from another State proposes, in the face of the fact which we all know, that this bill is in danger of being lost by being overloaded, to increase it to $3,000. At first, I confess I thought this movement was a stab at the bill; but I believe now that it was a sincere movement; but, though sincere, it is one which I cannot support. If the Senator from Texas had originally demanded it, and deemed it to be right, I do not know that I should have objected to it, for I certainly would not be so ungenerous as to oppose in others what I would ask for in my own case.

Mr. SHIELDS. Mr. President, I made no imputation against the honorable Senator from Arkansas, none whatever. I only stated that he had been successful in getting his own amendment. I aided him in getting it, and I expect him to aid us in getting our amendments.

Mr. BENJAMIN. Mr. President, I am a friend to this measure as it was reported from the Committee on the Judiciary. I have long been of opinion that the judges of the courts of the United States are not sufficiently paid for their labor. I am a friend to the principle of the bill as reported by the Judiciary Committee. My conviction is well settled that there is no propriety whatever in any legislation by Congress which will have the effect of elevating, in the eyes of the people, the local courts of the United States over the State tribunals in the respective States. I have remained silent, and given a silent acquiescence to every vote upon the amendments which have been offered by different Senators, for the increase of judicial salaries in their respective districts, because I saw from the movements around this room that those amendments would be agreed to, and it was my intention to reserve the right of moving a reconsideration of the vote on agreeing to the whole of those amendments; and I intend to do so. If gentlemen are really sincere in their desire to have the remuneration of the officers of the Federal judiciary increased to a fair amount, I think that the sense of this body has already been sufficiently shown, to evince the fact that such a bill can pass, and pass by a very large majority; but if, in nearly every district court of the United States, the judge of the Federal court is to be raised in grade above the judges of the local courts, if courts of limited jurisdiction, if courts of inferior jurisdiction, are to be placed, in the eyes of the people, as courts superior in importance to the highest tribunals of the State, it would be one step more, in my estimation, towards centralizing the power of the General Government, and accustoming the people to do what they do too much already, look upon their local State governments with depreciation, and look up to this Government, at Washington, as the great source of wealth, of honor, and of profit.

I think, sir, that the people of the several States of this Union have the right to look to all the talent of their respective States, and to have the selection of that talent, for the purpose of filling the offices of the local judicature. I hope that the day is long distant, when the action of the Congress of the United States will be such as to make men of talent and position, in the respective States, look away from home for position, for influence, and for office, and look to Washington alone as the source of power and position.

I think there is very great sense in what fell from the experienced Senator from Michigan, [Mr. CASS,] that gentlemen, in endeavoring to get local advantages for their respective officers, are loading this bill to such an extent, that it must fail. I am desirous to see a moderate advance in the salaries of the judicial officers of the United States. I believe that the principle reported by the Judiciary Committee, is a sound and correct one; and to that extent I am willing to vote for the advance, because I desire to do what is practical in legislation. I believe to that extent a bill can be carried; beyond that, it must fail; and, therefore, the true friends of the bill will join me in support of the motion to reconsider all the amendments. I shall make the motion when gentlemen have got through increasing the salaries in the different districts.

Mr. ADAMS. Mr. President, I should be perfectly willing to vote for any bill to abolish the circuit court duties of the Judges of the Supreme Court, and require of the district judges the discharge of the circuit duties now imposed on the two jointly or separately. Such a proposition, however, it occurs to my mind, would be more properly considered on the bill reported by the chairman of the Committee on the Judiciary, which has been laid aside for the consideration of this subject. As Senators have made their propositions for the amendment of this bill, I move, in order that we may proceed to the consideration of the judiciary bill, which has already taken up much time, that this bill, with all the amendments, be laid on the table.

Mr. BADGER. Do I understand the Senator to make that motion now?

Mr. ADAMS. Yes, sir.

Mr. BADGER. I hope the Senator will withdraw it, and let us advance with this bill, and see in what shape we shall put it.

Mr. ADAMS. If a majority are opposed to the bill at present, and would prefer to have these questions come up on the regular judiciary bill, we can lay this aside at once, and proceed to dispose of the other measure.

Mr. BADGER. We never can have a better time for this measure. It is a bill to increase salaries.

Mr. BUTLER. I hope my friend from Mississippi will withdraw his motion. We may as well go on with this measure, now that we have it under consideration.

Mr. ADAMS. I withdraw the motion.

Mr. BUTLER. I wish, Mr. President, to thank the Senator from Louisiana [Mr. BENJAMIN] for his remarks. This measure, as it was prepared by the Committee on the Judiciary, was founded on information which the Senate has not before it. My friend from Georgia, [Mr. TOOMBS,] on behalf of the committee, opened a correspondence with every part of the United States in relation to the salaries of the different judicial officers; and, after a full, and deliberate, and patient investigation, the bill which he reported is the result to which the committee has come. I do not say that the report of every committee is to be adopted blindly by this body; but I say, when a report has been made with reference to information before the committee, which has not been spread before the Senate, it is a more responsible form of regulating such matters, than is a general discussion in the Senate. I shall be bound to vote against the whole of the bill as soon as the provisions of the report of the committee are disregarded.

Mr. BADGER. I am very sorry, Mr. President, that my friends from South Carolina and Louisiana have taken the position which they have in regard to this measure. It has been reported by the Judiciary Committee no doubt after the best examination they could give to the subject before them. But, surely, it is no reproach to that committee that the Senate should think that certain salaries which they have reported are not adequate, under all the circumstances, to the importance of the office, or to the onerous nature of the duties which the judge has to discharge.

Now, sir, I do not agree with my friend from Louisiana, that the district judges of the United States are to be considered, in the sense in which he uses the term, as inferior tribunals. If he means inferior in respect to the Supreme Court of the United States, it is true. But, in comparison with the State courts, they are not inferior in importance.

Mr. BENJAMIN. The Senator will allow me to make an explanation. By "inferior" I meant nothing else than courts whose decision was subject to appellate jurisdiction.

Mr. BADGER. Now, Mr. President, let us see how that case stands. My honorable friend says the judgments of that court are subject to revision. In the first place, in civil causes the judgments of a circuit court of the United States are subject to revision only when the amount in controversy, exclusive of costs, exceeds $2,000. In all cases falling below that amount, the judgments of that court are final. Well, sir, by an act of Congress you have a provision authorizing questions to be certified to the Supreme Court, in case of a division of opinion between the judges of the circuit court; but what have you done? You have discharged the Justices of the Supreme Court of the United States from attendance upon one term of the circuit courts in each year, and at that term the district judge presides alone; so that there can be no division of opinion. However astute and ingenious the judge of that court may be, he must at last have but one opinion upon any one question presented before him. In that case the judgment of the court is final, and not to be reëxamined, unless the amount in controversy exceeds $2,000, exclusive of costs.

But, Mr. President, there is another jurisdiction of this court. It is a criminal court. It is true it is not a criminal court of general jurisdiction, but it is a court having jurisdiction of all offences against the United States committed within the district, or committed upon the high seas when the parties concerned shall be first brought into that district. Is there any revision upon the judgments of that court sitting as a criminal court? None. Unless there be two judges presiding, and an opposition of opinion exists, or is formally made, there is no tribunal on earth which can reëxamine the judgments of that court. A citizen may be arraigned, tried, and convicted before this one judge, without their being any appellate tribunal to interfere; he may be sentenced to a degrading punishment, ten years in the penitentiary, twenty years in the penitentiary, or he may be sentenced to receive a capital punishment. Now, sir, when we speak of judges exercising such awful and tremendous power in the last resort, it is difficult to find terms by which to measure the importance of the individual who presides in such a court and with such authority. How is it with the State courts? It is the case in my own State, and I presume it is the case in all the State courts that, from all the judgments in criminal cases, at least in cases of capital offences and of other felonies, there is a power of revision and reëxamination in the appellate tribunal of the State. But here in the United States courts the judgment of a single judge is final, whether it touches character, involves a loss of liberty, or ends in the loss of life itself.

Sir, when I consider the nature of this jurisdiction, of which I do not complain—I do not say that it is wrong; I think it is right—I realize the inexpressible importance of having men upon that bench of the first character for intellect, legal learning, unimpeached and unimpeachable integrity and fairness.

I think it is a mistake to suppose that this measure contemplates any such thing as my friend from Georgia [Mr. DAWSON] suggested—entering into competition to purchase up the first talent of a State. Usually we have but one district judge in a State; in some few cases we have two. Well, now, if any State is in such a situation that she has but one lawyer who is fit to preside in such a court, I say the United States ought to have him; but I am far from believing that any State of this Union is in such a situation. Can you not afford to allow the United States to have one of the best, or, if there be one who is preëminent, the best, when you reflect that in cases affecting the personal liberty, and character, and lives of your citizens, the determinations of that one judge are final, and cannot be reëxamined?

It seems to me, Mr. President, that, although in the sense in which my friend from Louisiana used the expression, as he explained it, they are inferior courts, because, in certain cases, their decisions can be examined; yet, when we come to look at it, the matter really stands thus: Only in a certain class of cases of civil jurisdiction, can there be a reëxamination of the decision of a district judge where he sits alone; and where he has a Judge of the Supreme Court with him in those cases, only upon a division of opinion can there be a reëxamination; and in criminal cases, where he sits alone, his is a supreme tribunal—supreme, because the judgments he renders cannot be reëxamined before any other tribunal. Therefore, I consider this court as of immense importance. I do not consider what has been done by the Senate as involving any invasion of the true principle upon which the measure was reported by the committee. The principle is right in general, but the exceptions are just as important as the general rule. I am, therefore, in favor of placing these judges in such a position as will give us an assurance that we can command the very best talents to exercise this high, important, and, in so many instances, final jurisdiction.

Mr. STUART. Mr. President, I made no reply to the remarks of the Senator from Arkansas, [Mr. JOHNSON.] I thought them indiscreetly offered, but I thought them precisely that class of remarks which the honorable Senator himself would reconsider at the proper time, and see their impropriety. The honorable Senator has fallen into an error. He remarked to the Senate that the Senator from Texas had proposed to raise the salary of the district judge in his State to $2,500, and that immediately I had submitted a motion, the effect of which would be to increase it to $3,000. Therein the honorable Senator is mistaken. The district judge in Texas, by the terms of the original proposition, is to have $2,500. He is placed in the $2,500 class with the other judges of the States whose names I have read. I stated that several judges in that class had been raised $500, and therefore the propriety of submitting a motion to raise the whole class $500. That is my motion, and that alone.

Now, sir, I did not design, nor will I now go into, any comparison between the cost of living, and the amount and importance of the duties of the district judge of the State of Michigan, and those of any other state in the Union. I indorse fully, everything that has been said by the honorable Senator from Louisiana, and the distinguished Senator from South Carolina, the chairman of the Committee on the Judiciary. I may say, without the least impropriety, that I commenced early with the members of that committee in reviewing this subject. I had several conversations with the honorable Senator from Georgia, who reported the bill; and I am prepared to say that in the main, and so far as my judgment goes, that bill does stand upon the right basis as a whole. If it shall turn out to be the pleasure of the Senate to change the basis, then it should be changed as a whole. The committee have acted not without advice or information. Great labor has been expended. Every effort has been made to place the subject upon its true basis. But, on coming into the Senate chamber this morning, I found that, in the class in which the committee had placed the district judge of Michigan, exceptions had been made, and the Senator from Texas rose to make another. Three had already been made, as I was informed. I therefore proposed simply to amend the sum, as affixed to the whole class, because the committee, with the best lights before them, had properly graduated the class.

Now, sir, I say in conclusion, that, if the majority of the Senate are disposed to do so, I shall most cheerfully return to the basis adopted by the able committee of the Senate. I have faith in their judgment and in their action; but it is obvious that a process has been going on here ever since this bill was taken up, of each Senator endeavoring to get something more for the judge in his State, thus destroying the basis upon which the committee founded their action. I think it is right—I think the honorable Senator from Arkansas will see its correctness when he comes to examine it—that the class, as reported by the committee, should be preserved. I could show, I think, without drawing at all upon the imagination—I think I could demonstrate by figures—that the judge residing in the city of Detroit, and performing the duties of district judge for the entire State of Michigan, (which, in a maritime point of view, the Senate will see at once exceeds almost any other State in the Union similarly situated—a State surrounded with maritime affairs,) has large, laborious, and important duties to perform, occupying his whole time, requiring him to live in a city where the cost of living is equal to what it is in Buffalo. On the motion of the Senator from New York, the salary of the judge residing in Buffalo, has just been raised to $3,000. The judge in Michigan stands in the same class. I think then the Senator from Arkansas will see the great propriety, for the present, at all events, of elevating the whole class in the proportion determined by the committee. That is the effect of my motion, and its only effect.

Mr. GEYER. Mr. President, I took the occasion presented for increasing the compensation of the Judges of the Supreme Court, to offer, as an amendment, the bill reported by the Committee on the Judiciary, to provide for the general revision of the salaries of the judges of the United States courts, because I thought it was time there should be some action upon it; and as almost all of us have been of opinion for several years, that the salaries ought to be increased, I thought it proper to bring forward the proposition now, so that it might be considered. I am afraid, sir, that the amendments which have been made, and are proposed to be made, will destroy the entire proposition submitted by the Committee on the Judiciary, and that we shall have to postpone, for another year, doing justice to the district judges especially.

It is now proposed to strike out $2,500, and insert $3,000 in the first clause fixing the salaries of the district judges, so that all named in that clause shall receive $3,000. This measure proposes an increase of the salary of almost every judge of the district courts in the United States. It does not go, in several cases, so far as I, individually, was disposed to go; but as a whole it is placed upon a principle upon which, I think, the entire Senate can stand. Now, in this clause, as it stands, there has been an increase of nearly all the salaries named in it from $500 to $1,000. The clause as it is, proposes to add $500 to the present salary of the judge of the northern district of New York, of Maryland, of the western district of Louisiana, of North Carolina, and of Texas; $700 to the salary of the judge in the western district of Pennsylvania, and in Wisconsin; $900 to the salary of the judge in the western district of Virginia; and $1,000 to the salary of the judges in Illinois and Michigan. Then, I submit to honorable Senators whether it is not better to take the measure as reported by the committee, rather than submit to hazard the postponement, for another year, of the increase of salary which it proposes. I am almost certain that if we go on as we are doing, each Senator being allowed to measure the value of the services of the judge in his own district, according to the standard he himself may raise, we shall swell the bill to such an amount that it cannot be passed through the other House, even if it can get through this.

There are some exceptions to the general rule laid down by the committee, in which a majority of the Senate will acquiesce. I may mention, as an example, the amendment moved by the honorable Senator from Vermont, [Mr. FOOT,] where it was proposed to place the district judge in that State upon a level with the judge of the highest State court in Vermont. There may be other exceptional cases, but I do not think that any of those now proposed by this general change is one of them. There are States and districts named in that clause in which, if it depended on me, I should be disposed to increase the compensation of the judge; but, judging from past experience, I fear

that we are likely now, if we load this bill, to fail again, during the present session, in doing justice to the judges of the several district courts, whose compensation is now below what they ought to have, in the judgment of us all.

Mr. MALLORY. Mr. President, I anticipate that a motion will be made to lay this bill on the table, and I am unwilling that a vote should be taken on such a motion without saying a few words on the subject.

After the remarks of my friend from Louisiana, it might be inferred that the friends of this measure should vote for the reconsideration of all the amendments. Now, I profess to be a friend of the measure; I believe that the judicial officers of the United States are not sufficiently paid; but, if no innovation had been made upon the principle adopted by the committee, of giving the United States judges the highest salary received by any judicial officer in the respective States, I should have contented myself with the report of the committee. I have a very great respect for the report of the Committee on the Judiciary, especially on a subject to which they have given their consideration. Upon their report of the necessity of the enactment of a law as to the organization of our courts, or the practice within the courts, I should hesitate long before I could differ with them. But when the question is upon the amount of money which is sufficient to maintain a judge in my own State, I do not yield to the Judiciary Committee on a subject of that kind. On the contrary, I think the information within my knowledge is much better for the formation of a proper opinion than that within the knowledge of the committee.

I am informed that the Judiciary Committee have instituted an inquiry in the different States as to the amount necessary for these salaries. Now, I can say to the committee, that it is the universal sentiment of the bar in the northern district of my State, that the district judge there is inadequately paid. He performs duty in three places, some four hundred miles distant from each other. He holds his fall and spring terms in three places. There is no railroad in the State on which he can travel; he must perform the journey on horseback or in carriages. It is, therefore, an exceedingly expensive district. There is no judge in any of the States which have been called to your attention who does more duty for less pay than the judge of the northern district of Florida.

The measure, as presented by the Senator from Missouri, includes the judge of the northern district of Florida and of the districts of Arkansas, in one class, at a salary of $2,000; but, on the motion of the Senator from Arkansas, the salary of the district judge in his State has been increased to $2,500. I was about to move an amendment to increase the salary of the judge of the northern district of Florida to $3,000; but, as he has been placed by the committee in the same class with the judge of Arkansas, I will content myself, when the proper time comes, with moving to increase his salary to $2,500.

Mr. CLAYTON. Mr. President, it appears to me that this subject has arisen for discussion before the Senate has decided the important question what system of judiciary should be adopted by this Government. Now, how can I vote intelligently on this question until I know the decision of the Senate in regard to the antagonizing propositions on that subject—the one made by the Committee on the Judiciary, and the other by the honorable Senator from Illinois, [Mr. DOUGLAS?] One of those propositions is to increase the judiciary of the country, by adding eleven circuit judges, with a salary of $4,000 each. These judges, according to that plan, are to sit by the side of the district judge in each district, and are to form, with him, a circuit court. By the other plan, all the district judges within a circuit, with one of the Supreme Court Judges, are to sit in appeals from the judgments of the district courts respectively. Thus, sir, you readily perceive that if the Senate shall adopt the plan proposed by the Senator from Illinois, the duties of the district judges will be immensely increased. For instance, according to that plan, the district judges of Virginia must come into Delaware, and the district judge of Delaware must go to Virginia, and the district judge of Maryland must go to both. So it is in regard to other circuits. Well, sir, the plan which I desire to see adopted, and which approximates, in some degree, to that of the Senator from Illinois, will certainly require the duties of the district judges to be doubled.

Now I should like to graduate the compensation according to the amount of service in some degree; although I do not think that a judge should be paid in proportion to the actual service rendered, as you would pay a day laborer. I have said before, and I say again, that I think we should always pay a judge enough to enable him to lead a studious life, while engaged in our employment; and that you are not to pay him, as you would sell tape by the yard, according to the number of cases he may decide in the course of a year. You should pay him enough to enable him to understand all the duties of his office; so that, whenever called upon, he will be fully able to perform them.

Sir, I rose for the purpose of asking the Senate to dispose of this question for the present by temporarily laying it on the table until we can ascertain the sense of the body in reference to the proposition of the Committee on the Judiciary, and the proposition of the Senator from Illinois. I move that it be laid on the table for the present, and if no other member will call it up when that question is decided, I shall do so myself.

Mr. GEYER. I wish to make some reply to the honorable Senator from Delaware, if he will withdraw his motion.

Mr. CLAYTON. I withdraw it for the accommodation of my friend.

Mr. GEYER. The Senator from Delaware objects to proceeding now with this measure, because we have not yet determined what judicial system shall be adopted. When we come to the bill for reorganizing the judicial department, objections are made to imposing additional duties upon the district judges because their salaries are too small, or because we do not know what compensation they are to have. Thus we are to measure the duties by the salaries, and the salaries by the duties, and leave both undetermined. Now, my idea is, and was when this bill was before the Judiciary Committee, that the salaries should be graduated according to the duties as they are now fixed by law, and not be left in an unsettled condition because other measures may be pending before the two Houses of Congress. If we impose additional duties hereafter, by any change of the system, it will be very easy to raise the compensation by adding a percentage. But we now have certain duties to be performed, and they are to be performed under a given state of circumstances which requires, in the judgment, I think, of a large majority of the Senate, that the salaries should be increased. I think it ought to be no longer postponed. We should act now upon the state of things as it exists; for if we wait until the judiciary bill shall be passed, it will, in all probability, be a long time after many of those who are rendering the service will have passed beyond our reach, because, according to present appearances, we are likely to end this session without taking any decisive vote upon the question involved in the judiciary bill. In the mean time many of these judges are toiling hard and expending much that we ought not to exact from them, without making some compensation. I trust, therefore, we shall adopt the proposition of the committee at once.

Mr. CLAYTON. I think my honorable friend from Missouri, if he were about to contract with a carpenter to build a house, before he undertook to settle the question of compensation to the carpenter, would first determine what should be the dimensions of the building. So, too, sir, if he were about to build a ship, he would like to know first, before he made a proposition as to how many dollars he would pay for that ship, what should be her tonnage, and how she should be equipped. Now, sir, before I vote a sum of money to each of the district judges for his compensation, I wish to know what the Senate intends he shall do, and how much labor he shall perform. Propositions are pending which will settle that point. We have, I trust, very nearly done debating the bill to reorganize the judiciary system. We have been at it for many days, and we probably should have come to a vote ere now upon it, if we had been considering it to-day; and even as it is, we may reach a vote upon it before we adjourn, or certainly to-morrow. By one proposition we are to pay a circuit judge $4,000, to sit by the side of the district judge in each district. By the other plan, we are to dispense entirely with the services of the circuit judges; and the district judges of the respective districts are to perform all the duties. By one plan, $44,000 in salaries is to be dispensed to the circuit judges, to perform the same duties which the district judges are to perform under the other plan. I am quite willing to give the $44 000, or part of it, among the district judges, if they are to perform the duties which, under the other plan, would be enjoined upon the circuit judges. Therefore it is that I say, let us know what we are going to do, before we undertake to say what we will pay. Let us know what we are to exact from the district judges, and then I shall be ready to say how much money I am willing to give. I renew my motion to lay the subject on the table.

Mr. TOOMBS. Will the Senator withdraw the motion, in order to allow me to make one suggestion?

Mr. CLAYTON. Certainly.

Mr. TOOMBS. We may get rid of our complication here very readily by simply defeating the amendment. It has come up here rather irregularly. I think we can easily dispose of the bill so far as it relates to the salaries of the judges of the Supreme Court of the United States; that is not a complicated question at all; but I suggest that it would not be proper to embarrass that measure with these other subjects. We can get rid of the difficulty by taking a vote and rejecting the amendment of the Senator from Missouri. If it be the pleasure of the Senate hereafter to bring up the salary bill, it can be done at any time on motion.

Mr. CLAYTON. I have no desire to defeat the bill; I should be willing and glad to vote some increased compensation to some of the district judges, in any event; and I only ask now that we may take up the proposition of the Committee on the Judiciary, and give it that respectful consideration to which it is entitled, before we take up this other question. If no other gentleman desires to debate the question, I will renew the motion to lay the subject on the table.

Mr. CHASE. I wish to say a word, if the Senator will withdraw that motion.

Mr. CLAYTON. I withdraw it.

Mr. CHASE. I think the time which has been spent to day, in considering the subject of salaries, has not been at all misemployed. We learn from the Committee on the Judiciary, the general principles which have governed them in the framework of this measure. We ascertained from the Senators from different States, the peculiar circumstances of their respective localities, and those which will modify, perhaps, in some degree, the conclusions at which that committee have arrived. We shall be able, after having fully considered these suggestions, to ascertain, with almost exact precision, what is required by the circumstances of particular cases, and also, what degree of relief can be afforded in conformity with the general principle, to which, for one, I feel disposed to adhere with the Judiciary Committee. I trust, therefore, that discussion will proceed at least for to-day.

I have another reason, however, for expressing that wish. I desire to submit an amendment, informally, in order that it may be printed, to the bill to amend the judicial system of the United States. I believe the fundamental idea of the committee, in drawing that bill, is a true one; that is, to relieve the Judges of the Supreme Court from their circuit duties; and I think that those who do agree upon that fundamental idea had better endeavor to frame a bill in accordance with it, rather than vote for the amendment submitted by the Senator from Illinois. Still, as the bill reported from the Committee on the Judiciary provides for a large augmentation of the circuit judges, while it provides for no reduction in the number of Supreme Court Judges, who are relieved from their circuit duties, I should feel obliged to vote, at present, for the substitute proposed by the Senator from Illinois, preferring it, on the whole, to the bill reported by the committee, although I agree in the general principle which the committee desire to carry out. I wish, therefore, to have an opportunity of submitting an amendment, which will adopt the general principle of the committee, and yet avoid all increase of the circuit judges, and devolve the jurisdiction of the circuit judges upon the district judges. I hope, therefore, the

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judiciary bill will not be taken up to-day, but that we shall proceed with the consideration of this subject.

Mr. JOHNSON. I desire to ask a question for information merely. The pending amendment is the one offered by the Senator from Michigan, and a motion has also been made by the Senator from Delaware, I think, to lay—what upon the table?

The PRESIDING OFFICER, (Mr. BADGER in the chair.) That motion is withdrawn.

Mr. CLAYTON. I moved to lay the bill upon the table.

The PRESIDING OFFICER. The motion was, that the bill lie upon the table; but that motion is withdrawn, and the pending question is on the motion of the Senator from Michigan, to strike out "$2,500," and insert "$3,000" in the third clause of the amendment.

Mr. JOHNSON. The motion, then, to lie upon the table is not pending.

Mr. CLAYTON. I wish to say to the Senator from Arkansas, that I moved to lay the bill upon the table, but, at the request of Senators, to permit them to make some remarks, I withdrew it. I have listened to those remarks, and I do not see that they affect the question at all, as to whether the bill should lie upon the table; and in order now to get at the consideration of the judiciary bill, I renew the motion that this bill lie on the table.

Mr. JOHNSON. If the Senator will allow me, I should be glad to ask him, before he resumes his seat, what will be the effect of his motion? Will not its direct effect be to defeat the whole bill?

Mr. CLAYTON. Oh, no!

Mr. JOHNSON. Will it come up again?

Mr. CLAYTON. It will not defeat the bill. On the contrary, the effect will be this: As soon as the Senate has decided what the system of the judiciary shall be, if it shall immediately take up the judiciary bill, and decide upon the duties which the judges will have to perform under that system, this bill can be again taken up; so that you will see I am friendly to the bill.

Mr. JOHNSON. Then, if the Senator will allow me, I will call his attention to this fact: There seems to be no contest with reference to the salary of the Supreme Court Judges, which is proposed in the amendment of the Senator from Missouri. There is no probability that the judiciary bill which may hereafter be passed, will materially alter their duties, or, at least, alter them to such a degree as that any one in this body would be desirous to change their salaries from the rate which we would now be willing to establish. Then, I call the attention of the Senator to the fact, that a motion to lay upon the table, if agreed to now, leaves the time when we can take the subject up again utterly indefinite; and it is not probable—I may almost say it is hardly possible—that it can come up again at all, in any of its branches, at the present session of Congress. I see that this bill will have to be rid of the question of the salaries of the district judges, who are proposed to be so materially affected by the reorganization of the judiciary, as it is presented in various schemes now before the body. Under these circumstances, would it not be better that some member of the Committee on the Judiciary should propose to strike out all that relates to the district judges, and leave them dependent upon the action which we shall hereafter take in reference to the bill for the reorganization of the judiciary; and thus permit us to go on and act upon that concerning which we may agree? We cannot now agree here, I think, in regard to the district judges; and if we do agree here, it is impossible——

Mr. TOOMBS. Will the Senator allow me to make a suggestion? We are now amending the amendment of the Senator from Missouri. No portion of it has yet been attached to the bill.

Mr. JOHNSON. Then it is not yet in the bill?

Mr. TOOMBS. No, sir.

Mr. JOHNSON. And if the whole matter is ordered to lie upon the table, the bill itself is gone, and nothing can be done on the subject. That is the reason why I suggest to the Senator that, by that course, more will be attained than he desires. Now, I have this object in view: I have, in my hand, an amendment, which, I give notice to the Senate, I desire to offer, and which has been carefully prepared with the counsel of those who are entitled to far more consideration than myself, in reference to the pay of members of the two branches of Congress. It is simply to alter their pay from a per diem compensation to a per annum salary, of such a reasonable amount that it shall not be beyond what the ordinary, or at least, the first class of clerks, who are employed by the Government, now receive. I want to offer that amendment; but if the bill is ordered to lie upon the table before it is offered, not even a vote can be had upon it.

Mr. CLAYTON. I certainly shall not move to lay it on the table, after having been informed by my friend from Arkansas that he desires to take such a course as he intimates. I was looking at the bill merely as a judiciary bill. I shall certainly interpose no objection to considering it, in order that the Senator may pursue the course which he has indicated.

The PRESIDING OFFICER. The Chair will state the position of the question. A motion was made by the Senator from Iowa to strike out of the bill the part which related to members of Congress, with the intention of moving to insert a different provision. The motion to strike out was agreed to; but before any motion was made to insert, the honorable Senator from Missouri obtained the floor, and offered the substitute which is now pending.

Mr. GEYER. Perhaps I can submit a proposition, with the unanimous consent of the Senate, which will remove all difficulty. If I could be allowed to withdraw all of the amendment which I have submitted except that which relates to the Supreme Court Judges, we could have a direct question between the mode of compensation proposed by the bill and that proposed by the amendment.

Mr. BUTLER. That would be best.

Mr. GEYER. Then I ask the consent of the Senate to do that.

The PRESIDING OFFICER. Will the Senate give leave to the Senator from Missouri to withdraw that part of his amendment?

There was no objection, and leave was granted.

The PRESIDING OFFICER. The pending question, then, is upon the motion made by the Senator from Missouri, by inserting in the bill the following, as a substitute:

From and after the passage of this act, the annual salaries of the several Justices of the Supreme Court of the United States shall be as follows, to wit:

Of the Chief Justice of the Supreme Court, $7,500.

Of the Associate Justices of the Supreme Court, $7,000 each.

Mr. JOHNSON. If it be a proper movement, I now offer the following, as an amendment:

SEC. —. *And be it further enacted*, That from and after the 4th of March, A. D. 1855, instead of the per diem compensation now allowed by law to Senators, and Representatives, and Delegates in Congress, there shall be allowed to each such Senator, Representative, and Delegate, a yearly salary of $2,500; and begin from the commencement of his term of service, if he should be then elected; and if not, then from the time of his election.

Mr. BUTLER. What about the mileage?

Mr. JOHNSON. Nothing is said in regard to it. I leave that as a matter of separate legislation; for, if the two are ever united, we shall never be able to do anything with either. Such has been our experience.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Arkansas to the amendment proposed to be inserted by the Senator from Missouri.

Mr. GEYER. I suggest to the Senator from Arkansas, that perhaps it would be better to offer that as a distinct amendment, so as to present the question distinctly on each branch of the subject. Unless we do that, it will become complicated.

Mr. JOHNSON. It is immaterial to me. I have no objection to doing that. If the Senator has a preference that way, I am willing to accommodate him.

The PRESIDING OFFICER. Then the question is on the amendment proposed by the Senator from Missouri.

The amendment was agreed to.

Mr. JOHNSON. I now renew my amendment.

Mr. ALLEN called for the yeas and nays; and they were ordered.

Mr. BENJAMIN. I ask the Senator from Arkansas if I understand the amendment aright, that it proposes to pay members of Congress at the rate of $2,500 per annum from the date of their election?

Mr. JOHNSON. No, sir; from the commencement of their terms of service. If the Senator will read it again, he will see that it reads from the commencement of their term of service, if they shall have been elected at the commencement of the next Congress.

Mr. BENJAMIN. But there are members of this body who were elected four years ago.

Mr. JOHNSON. This is only to take effect, as the Senator will see by the express terms of the amendment, from the 4th of March, 1855.

Mr. BENJAMIN. Let it be read again.

It was read accordingly.

Mr. BENJAMIN. I certainly cannot understand it. I think it is confused.

Mr. STUART. If the Senator from Arkansas would strike out the last part of the amendment, it would express his meaning. It would then direct that, from and after the 4th of March next, the pay of Senators, Representatives, and Delegates shall be $2,500 each; and that is what the Senator desires.

Mr. JOHNSON. There is yet more. There is a circumstance which requires something that is found in the last part of the amendment. As the amendment stands, if we now say expressly that a member shall be paid for his full term of service, no pay would be had for any service rendered previous to the 4th of March next. I think that is clear in the amendment. It was made so in reference to that which I know, I feel myself, and which I believe would impel every gentleman in this body, and in the other House, that, so far as possible, it should be made to apply to subsequent Congresses only, so as to free the question from any personal interest. But the design of the amendment also, is not to pay a member who may be elected after the Congress commences, from the commencement of the Congress, but only from the time of his election. For instance, this is the Thirty-Third Congress. On the 4th of March next, commences the Thirty-Fourth Congress. A good many members of the other House, and, perhaps, some of the Senate, will not have been elected by that time; and it will not do to say that they shall be paid from the 4th of March up to the time when they are elected, for they will not have been in the performance of duty. If you will read the latter part of the amendment, you will discover that, when the election has not taken place before, or at the time when the term commences, their pay shall not commence until the time when their election does take place. If the Senator will read it, I think he will find no difficulty in it; but if there is, amend it.

Mr. STUART. I have no disposition to interfere with the Senator's amendment; but, if he will listen a moment, I think he will see the propriety of modifying it. Though a member of the House of Representatives may not be elected until next May or June, he will be elected to a Congress whose term commences on the 4th of March preceding that time. For instance, this Congress will end on the 4th of March next, when a new one begins. Now, no matter when a gentleman may be elected to that Congress, his pay, under the Senator's amendment, will commence from and after the 4th of March. It is clearly so.

Mr. BRODHEAD. It is.

Mr. STUART. It proposes to give an annual salary; and that annual salary, in every case,

must begin from the 4th of March next, because that is the commencement of the next Congress.

Mr. JOHNSON. Those who are elected, then, will receive the pay, by the terms of the amendment.

Mr. STUART. If they are elected three months afterwards, they will also receive it, because they are elected for that Congress, and in two years from the 4th of March next, their term of office, as members of the other House, will expire, no matter when they are elected.

Mr. JOHNSON. What would the Senator then propose?

Mr. STUART. Simply strike out the latter part of the amendment.

Mr. JOHNSON. Would the Senator propose to pass a law to provide when a State, for instance, has not elected a Senator at the proper time, for paying an officer who is not in existence under the law or Constitution?

Mr. STUART. If the Senator will give me his attention for a moment, I am sure he cannot differ from me on this proposition. It is important that the pay of members of Congress should be uniform, and that each member should receive the same pay. They do now. Each member receives his eight dollars per day during the time that Congress is in session. It is proposed to substitute for that per diem a salary. Now, some States in the Union have already elected their members of Congress; but their term of office does not commence until the 4th of March next. Other States will elect them in March or April, and some not until August next; but they will still be members of the next Congress, and if they are to receive their $2,500 per annum, their pay must commence with the 4th of March next, or else you will have gentlemen in Congress receiving pay, not according to the time they serve, but according to the date of their respective elections, which the Senator and his amendment do not contemplate. Therefore, by striking out the latter part of the amendment, and simply saying that, from and after the 4th of March next, the pay of members of Congress shall be $2,500 per annum, he will accomplish his object.

Mr. REID. The case just put by the Senator from Michigan, is precisely the condition of North Carolina. The members of the House of Representatives in the Congress which commences on the 4th of March, are elected in North Carolina in August next. From the 4th of March until August, we have generally no members of Congress in the other branch; but our members, though elected in August, perform all the duties of other members of the House; and I think it would be unjust to pass an act which would deprive them of equal compensation with other members of that branch of Congress. This, I presume, was not seen by the Senator from Arkansas when he offered the amendment, and I trust he will so modify it as to embrace States in the condition of North Carolina.

Mr. JOHNSON. I have some reason to believe that the suggestion of the Senator from Michigan meets the approbation of the body, as I find no one objects to it; and I therefore assent to that alteration, as far as I am concerned. With the unanimous consent of the Senate, I will so modify the amendment by striking out all after the word "dollars."

There was no objection; and the modification was made.

Mr. MASON. I take it for granted the Senator will be allowed to modify his amendment in such a way as to answer his purpose.

The duty which is committed to us by the Constitution of fixing our own pay is a very delicate one, and one that always leads to trouble, and vexation, and annoyance. I am sure that the body of which I am a very humble member would be better satisfied if that duty had been reposed elsewhere; but we cannot alter the Constitution, and I do not know that it would have been in the power of the Constitution to have vested it any where else, so that we must act upon it. Now, sir, I was one of those who thought with the present occupant of the chair, [Mr. BADGER,] in his very able and lucid exposition of this subject a few days ago, that members of Congress are worse compensated for their services than almost any other branch of the Government. I confess for myself, having been honored for some years with a seat on this floor, I have felt the discharge of my duties here utterly inconsistent with my duties elsewhere. I am free to confess, as far as I am capable of ascertaining my condition in life, and my means in life, that, on the score of pecuniary compensation, I should be a large gainer were I to serve the country for ninety days in the year—certainly for sixty days—without compensation, than if I were to serve it, as I now do, nine or ten months in alternate years with the compensation we now receive. Dearly as I prize the honor conferred upon me by my State in sending me here, I should be very glad to make that arrangement. If I were to serve them gratuitously for ninety days, I should be a large pecuniary gainer when compared with serving it as I do at present. I am obliged to depend upon my yearly earnings for my support, as many other gentlemen here are; and I find my public duties, with the compensation which is paid, a very severe task.

But, sir, I am not permitted to reason in that way. I voted, a short time ago, against striking out of the bill the original proposition which had been placed there by its author, in the hope that something could be agreed upon which would enlarge to the proper extent the daily pay of members of Congress; though I knew there were great difficulties in it. Yet, reluctant as I am to do that which does not seem to be right, or which is a subject of misconstruction by some, and of perversion by many, I should have been gratified if I had felt that I could conscientiously vote for the motion to strike out, and leave things as they now are; but I could not do it, because I am not voting for my own case alone, but for the case of those who are around me here and in the other House. I am voting for them as well as for myself; and when I am satisfied that they do not receive an adequate compensation, or even a compensation proportionate to other officers of the Government, I am not at liberty to consult that delicacy, which I should otherwise be gratified to consult.

I must, however, take a different view of this proposition to pay a salary. We have had some admonition on that subject. I feel an assurance that, for some reason, the American people will not agree that an annual compensation shall be paid to members of Congress. We had once such a compensation law, at a very moderate sum, and it seemed to have met with the reprobation of the American people. I cannot, therefore, agree to vote for a compensation in the form of an annual salary.

Mr. BAYARD. The view which I take of the mode of compensation is precisely antagonistic to that of the honorable Senator from Virginia. I agree with him, that the compensation now accorded to members of Congress is not sufficient—is not in comparison with the duties to be performed, provided they are properly performed; and it is the fair construction that they are, if the individual is fit for his situation. An actual loss, in a pecuniary point of view, to great numbers of members of Congress, arises from holding their positions here.

But the honorable Senator objects to a provision for an annual salary, and prefers an increase of the per diem allowance. Reference has been made to the compensation law of 1815, as indicating that the sense of the people of this country is decidedly opposed to a compensation, by way of an annual salary. Mr. President, I have heard that stated before, but I have yet to hear the evidence for it. The compensation law of 1815 was, beyond all question, unpopular in the country; but, you may find other reasons for it, than in the fact that it turned the per diem into an annual salary. The reasons which made it so unpopular, if I am rightly informed, were two. In the first place, the then existing compensation was six dollars per day. The compensation bill doubled the compensation at the short session of Congress, and considerably increased it at the long session, because the long sessions then were not held much beyond the beginning or middle of May. The bill, though passed towards the close of the session, doubled the compensation for the existing session. That, in my judgment, was what created the feeling throughout the country. I have not yet heard any argument adduced to show why the people should object to an annual compensation more than to a per diem, while I see many evils flowing from the per diem principle.

Pass a bill granting annual salaries to members of Congress, and, my life on it, the long session will not extend beyond the 1st of May; and the actual expenses of Congress, taking in the contingent expenses and everything else, will be less than they now are; because the tendency now is to the prolongation of the sessions by a certain portion of each body; but under the change, the tendency would be the other way, and yet the business would be transacted. The best evidence I can give of that is that in the session in which the compensation law of 1815 was passed, the entire business before the body was disposed of; nothing was left unfinished, by the 29th of April. My own belief is, that the principle of per annum compensation would tend to the speedy transaction of business in Congress; the sessions would be shorter, and the tax upon the Treasury of the United States, even at the sum proposed by the Senator from Arkansas, would not be greater than it now is. I have sufficient confidence in my constituents to believe, that as reasoning men, when these matters come before them, they will be satisfied that their interests are consulted as well as what is due to ourselves, in passing a bill in that form. I can, therefore, vote for a proposition which increases the compensation of members of Congress by turning it into a per annum allowance; because I do not think it will increase the expenditures of the country. I cannot vote to increase the per diem allowance either twenty-five or fifty per cent., for I think that would only tend to the prolongation of the sessions of Congress, and to increase the expenditures.

Mr. BUTLER. This is a question, sir, as has been said by other Senators, of great delicacy, and it is one on which every Senator at least, should express his opinion in some form or other, though I suppose that expression might be very well conveyed in a vote. I am entirely in favor of the proposition offered by the Senator from Arkansas. I am reconciled to it by two considerations.

Suppose, by our vote, we were to say that the members of Congress should serve without any compensation at all, what would be the character of this Government? Why, we should throw it necessarily under the control of gentlemen of wealth. Wealthy men would be very glad, I suppose, to serve without any such compensation as we receive here; and, instead of this being a republican Government, looking somewhat to an equality of justice, we should have an aristocratic Government, regulated by the wealth and capital of the country; or if that were not the case, who would come here? If you were to propose that they should serve without any compensation, who would come here? As I say, either men of wealth, who could afford to come, or if any other class did come, it would be a needy class of adventurers, who would not expect to live by any fair employment, but must necessarily live by some oblique mode of taking money out of the Treasury.

I am therefore, sir, for having such a compensation as in the estimation of reasonable men would be just and proper as far as we can decide upon it, and that is the great difficulty. What shall be the measure of compensation? We all agree that that which is now allowed to members of Congress is not sufficient. I think that is the universal opinion, and, sir, if the compensation was to be regulated by any other tribunal than a self-constituted tribunal, as the Constitution has devolved it upon it, that tribunal, if it dispensed justice, would regulate the compensation differently and would increase it. I have no doubt about that. Then, sir, what shall be the measure, is the question? The great object of every State is to tempt to its councils men of ability, and of honorable ambition, men who do not look merely to that distinction which is to be awarded by any temporary position; not to that kind of ambition which would be tempted here by twenty-five hundred dollars, for we all know that twenty-five hundred dollars would not tempt any man of honorable ambition, looking to what he might make by his ability.

Well, then, how do the States expect their representatives to do their duty? They do not expect to reward them, to make them rich, or to compensate them for the professional losses which they suffer by coming into this body? It may be said, why will you come? That is a common inquiry. As my friend from Virginia says, why will you come when that certainty is before you?

Sir, it is not for the individual if he can serve his country to say whether he would come or not. His country has the right to ask him to come and perform its duties; and when that country has the right to ask him to come, will she be confined to the wealthy classes of gentlemen who might be induced to come here and serve for nothing? Sir, she ought to have a right to make her selection. The country should command the service of her best men upon this floor; and it is the dictate of justice that they shall not serve for an inadequate consideration. Enough should be given to afford them a reasonable compensation at least; and I do not think that this approaches to it.

Mr. TOOMBS. Conceding, sir, that the compensation of the members of this body, and of the other House, is too small, there has been a difficulty as to the way in which to remedy the evil. There is always a difficulty relating to a body fixing its own salary. I know but one rule to pursue. As the duty is intrusted to the Senate and House by the Constitution, our duty is to meet it promptly and fairly. Knowing the fact that the compensation is too small, and that it ought to be increased, I fully agree with the remarks of my friend from Delaware, that the basis ought to be changed, for I think it would be a great saving to the public to make the compensation an annual salary.

We know very well that the contingent expenses of the two Houses of Congress far exceed the pay of the members. Indeed, that is but a bagatelle compared with them. Every day we sit, three or four times as much money is thrown away as we receive for our compensation. It has become a very serious business, that the public men of the country should spend nine or ten months here, when many of us, and I among the rest, feel satisfied it is controlled by this miserable per diem system. Inasmuch, then, as it ought to be changed, having these views, and believing an annual salary to be better than the per diem, I will support the proposition of the Senator from Arkansas with pleasure.

The question was taken by yeas and nays on Mr. JOHNSON's amendment, and resulted—yeas 15, nays 29; as follows:

YEAS—Messrs. Atchison, Bayard, Benjamin, Brodhead, Butler, Dawson, Evans, Gwin, Johnson, Jones of Iowa, Mallory, Morton, Pearce, Sebastian, and Toombs—15.

NAYS—Messrs. Adams, Allen, Bell, Brainerd, Brown, Cass, Chase, Clay, Dixon, Dodge of Wisconsin, Dodge of Iowa, Douglas, Fessenden, Foot, Geyer, Gillette, Houston, Jones of Tennessee, Mason, Reid, Rockwell, Rusk, Seward, Shields, Sumner, Thompson of Kentucky, Toucey, Wade, and Weller—29.

So it was rejected.

Mr. ADAMS. I now renew the motion that the bill lie on the table.

Mr. JOHNSON called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 20, nays 24; as follows:

YEAS—Messrs. Adams, Brainerd, Brown, Clay, Dodge of Wisconsin, Dodge of Iowa, Evans, Fessenden, Foot, Gillette, Houston, Jones of Iowa, Morton, Rusk, Sebastian, Seward, Stuart, Thompson of Kentucky, Toucey, and Wade—20.

NAYS—Messrs. Allen, Atchison, Badger, Bayard, Bell, Benjamin, Brodhead, Butler, Cass, Chase, Dawson, Dixon, Geyer, Gwin, Johnson, Mallory, Mason, Pearce, Reid, Rockwell, Shields, Sumner, Toombs, and Weller.—24.

So the motion was not agreed to.

Mr. MASON. I move to postpone the further consideration of the bill until to-morrow, for the purpose of having an Executive session.

The motion was agreed to.

JUDICIAL SYSTEM.

Mr. CHASE. Before the Senate proceeds to the consideration of Executive business, I desire to lay upon the table, informally, an amendment to the bill to amend and modify the judicial system, in order to have it printed. I propose hereafter, when that bill shall again be before the Senate, to move to strike out all after the words "circuit duty," in the fifth line of the first section, and to insert:

But they shall continue to have and exercise the same jurisdiction and powers now vested in them by law, within any of the circuits in which they may respectively reside, allowing writs of *habeas corpus* and writs of error; and no vacancy occurring in the office of associate justice shall be filled by a new appointment until the number of justices shall be reduced to six; and thereafter the Supreme Court shall consist of a Chief Justice and five associate justices.

SEC. 2. *And be it further enacted*, That the circuit courts of the United States, as heretofore organized, be and the same are hereby abolished, and the district courts of the United States, and the judges thereof, besides the district court jurisdiction now conferred upon them by law, shall have, and are hereby invested with, all the jurisdiction and powers now lawfully exercised or possessed by the circuit courts of the United States, or the judges thereof, and the said district courts shall be held at the same times and places as are now established for the said circuit courts.

SEC. 3. *And be it further enacted*, That whenever any district judge, by reason of physical disability, interest, or having been of counsel in a cause, shall be unable to sit as judge at any term or in any particular cause, then on reasonable notice of such inability to sit being given by such district judge to the district judge of an adjoining district, it shall be the duty of the judge thus notified, and he is hereby authorized, to hold the term of the court or try the particular cause as the exigency may require.

SEC. 4. *And be it further enacted*, That all actions, suits, process, pleadings, and other proceedings of what nature or kind soever, depending or existing in the present circuit courts of the United States, shall be, and hereby are, transferred and continued over to the district courts, respectively, in which such actions, suits, process, or other proceedings, ought by law to have been originally instituted, had this act been in force at the time of the inception of any such action, suits, or other proceedings; and no process issued, or proceedings pending, in any or either of the said courts, shall be avoided or impaired by any change of organization made by this act; but all process, bail-bonds, or recognizances, returnable at the next term of any or either of the said courts as now by law established, shall be returnable and returned to the terms of the said district courts, respectively, next held according to this act, in the same manner as if so made returnable on the face thereof, and shall have full effect accordingly, and all continuances may be made to conform to the provisions of this act; and appeals, and writs of error, shall be allowed from the judgments, orders, and decrees of said district courts, in the same manner as now from the circuit courts.

SEC. 5. *And be it further enacted*, That all laws and parts of laws, inconsistent with the provisions of this act, be and the same are hereby repealed.

The amendment was informally received, and ordered to be printed.

EXECUTIVE SESSION.

On motion by Mr. MASON, the Senate proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 16, 1855.

The House met at eleven o'clock, a. m.

The Journal of yesterday was read and approved.

The SPEAKER laid before the House a message from the President of the United States, transmitting, in compliance with the resolution of the House of Representatives of the 28th ultimo, a report from the Attorney General, with accompanying documents, communicating information regarding a suit instituted in the Territory of Minnesota by the United States, against the Minnesota and Northwestern Railroad Company.

Mr. LETCHER. I move that the communication be referred to the Committee on the Judiciary, which has charge of the subject in the House, and be printed.

It was so ordered.

The SPEAKER also laid before the House a communication from the Clerk of the House, transmitting a list of the clerks thereof, their compensation, &c.; which was ordered to lie on the table, and be printed.

DAVID B. SEARS.

Mr. WASHBURNE, of Illinois. I ask to take from the Speaker's table Senate bill No. 195, for the purpose of having it put upon its passage.

Several MEMBERS. Oh, no; there is no quorum here.

Mr. HAMILTON. What is the bill?

Mr. WASHBURNE. If gentlemen will only hear the bill read, I am sure there will be no objection to its passage. It merely provides for giving a man a right to buy a piece of land. The title of the act conveys little information about it.

Several MEMBERS. Let it be read.

The bill was read *in extenso*. It provides that David B. Sears be authorized to enter the fractional quarter sections of land on Rock Island, in the Mississippi river, and State of Illinois, necessary to secure to him the full and complete use of the water-power as now improved and used by him on the north side of said island; they being the east half of the southwest fractional quarter of fractional section twenty-nine, containing twenty-eight and ten one-hundredths acres, the southeast fractional quarter of the same fractional section containing four and nine one-hundredths acres, and the northeast fractional quarter of fractional section thirty-two, containing three and twenty-six one-hundredths acres, all of which are situated in township eighteen, north of the base line, range one west of the fourth principal meridian, upon his paying to the receiver of public moneys at Dixon the minimum price of $1 25 per acre for the same, upon which a final certificate and patent shall issue as in other cases.

Mr. HOUSTON. I should like to know why the gentleman is so anxious to have special legislation in this matter?

Mr. WASHBURNE. I will answer the gentleman. Rock Island is reserved. Mr. Sears, at a very early day, made a small improvement——

Mr. HOUSTON. Reserved for what?

Mr. WASHBURNE. Reserved formerly for military purposes. Mr. Sears, at a very early day—some twenty years ago—made a small improvement at the head of the island. He expended all he had upon the improvement, and he has had possession of it, and resided there during that whole length of time. He comes here now, and asks that he may be allowed to purchase it at the minimum price. A bill for his relief has passed the Senate unanimously, and it now comes here for our approval. Mr. Sears is now in the city, desirous to have the bill passed, so that he may be thus enabled to obtain his improvement.

Mr. PERKINS, of New York. Do the improvements which he has made extend over all these sections?

Mr. WASHBURNE. Only over a few acres.

Mr. PERKINS. But you take parts of three or four sections.

Mr. WASHBURNE. The bill mentions the number of acres.

The bill was then ordered to be engrossed and read a third time, and having been engrossed, was read the third time, and passed.

Mr. WASHBURNE. I move to amend the title of the bill, so that it will read, "A bill for the relief of David B. Sears."

The SPEAKER. There being no objection, it will be so ordered.

Mr. WASHBURNE moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table, which latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate was here received, by the hands of ASBURY DICKINS, Esq., their Secretary, informing the House that they had postponed, indefinitely, House bill (No. 96) making appropriations for the transportation of the United States mail by ocean steamers and otherwise, during the fiscal year ending the 30th June, 1855.

Also, that they had passed bills of the following titles:

An act for the relief of Mary Felch, widow of the Rev. Cheever Felch, deceased;

An act to amend an act to establish a land district in the State of Florida, to be called the district of Tampa; and

A joint resolution providing for the engraving, lithographing, and publishing of drawings, maps, charts, or other papers for Congress; in which they asked the concurrence of the House.

CREDITORS OF TEXAS.

Mr. BRECKINRIDGE. I ask the consent of the House to allow me to report from the Committee of Ways and Means, by their direction, Senate bill No. 96, being "An act to provide for the payment of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9, 1850," with certain amendments, in order that they may be referred to the Committee of the Whole on the state of the Union, and printed for the examination of the members of the House.

The SPEAKER. There being no objection, it will be so ordered.

Mr. SMITH, of Texas. I ask permission of the House to have a substitute for the bill reported by the gentleman from Kentucky [Mr. BRECKINRIDGE] referred to the Committee of the Whole on the state of the Union, and printed.

Mr. BRECKINRIDGE. It was my intention to have asked that permission myself, in compliance with his request, when I made the motion I did, but it escaped my attention at the time. I hope that there will be no objection to the request of the gentleman.

There being no objection, it was so ordered.

BILLS INTRODUCED.

Mr. WADE introduced the following bills; which were severally read a first and second time by their titles, and referred to the Committee on Commerce:

A bill making an appropriation for continuing the improvement of the harbor of Cleveland, in the State of Ohio; and

A bill making an appropriation for continuing the improvements in the harbor at the mouth of Grand river, in the State of Ohio.

J. R. ROGERS AND OTHERS.

Mr. HOUSTON. I ask permission of the House to have printed a communication from the Indian Bureau, in relation to the claim of J. K. Rogers, for himself and the Cherokees in the States east of the Mississippi river, for additional *per capita* claimed to be due them by the express provisions of the treaties of 1835, 1836, and 1846. It relates to a proposition which will soon be before the House.

The SPEAKER. There being no objection, it will be so ordered.

LEVEEING THE MISSISSIPPI.

Mr. ETHERIDGE. I hold a memorial in my hands which concerns alone your constituents, Mr. Speaker, and mine. I desire to give it a particular direction; in a word, to refer it to a special, or select committee. I could not, with propriety, ask that favor, unless the House indulge me for a moment while I state what the memorial is, and what object I have in view in referring it to a select committee. I am confident the House will grant me the committee, if they will consent to hear my explanation.

It will be recollected that about the close of the last session of Congress, I presented a memorial from the Legislature of Tennessee, in relation to the effect of *leveeing* by the States of Missouri and Arkansas, of the right or west bank of the Mississippi river, under acts of Congress heretofore passed for that purpose. It was at so late a period of the session that I could not secure a favorable hearing for the memorial, and I therefore stated at the time, that I would bring it to the notice of the House at an early period of this session. The Legislature of Tennessee, at its last session, appointed commissioners and gave them extraordinary powers in relation to this subject of the overflow of the lands upon the east bank of the river, caused by the construction of a *levee* on the west bank in Missouri and Arkansas. These commissioners present the subject in their memorial for the consideration of Congress in a very respectful, yet earnest manner. I will not consume the time of the House by reading the memorial; but I ask, and I am sure the House will grant me the favor, of referring it to a select committee, and not to any of the standing committees of the House.

Mr. WARREN. I shall object to its reference at all.

Mr. ETHERIDGE. I did not yield the floor to the gentleman for objection.

The SPEAKER. The gentleman from Tennessee must recollect that he asked the unanimous consent of the House to present the memorial.

Mr. ETHERIDGE. I understood that the floor was given to me for the purpose of making an explanation, and I was proceeding with that explanation. I would not be willing to refer this memorial to any of the standing committees of the House, who are already loaded down with business. The memorial is a respectful one, and relates to a matter which affects materially the value of my constituents' lands, which are now subject to increased annual inundation, in consequence of the policy Congress has heretofore pursued in donating the public lands to Missouri and Arkansas, for the purpose of constructing a *levee* on the west bank of the Mississippi river.

What relief they are entitled to, if any, is a matter of inquiry; and I submit, while the interests of a portion of the people are so materially affected in consequence of their lands being subject to inundation, every year, by the action of the Government, that it is proper and right we should refer that question to some committee which will have time and opportunity to examine the matter. I respectfully ask the House, then, as it can do no harm, and may do good, that the memorial be referred to a select committee. I hope the House will, at least, grant me the committee.

Mr. WARREN. I made objection without having investigated fully the proposition of the gentleman from Tennessee, [Mr. ETHERIDGE.] I am willing to withdraw that objection, if he will permit a gentleman from my State to be put upon the committee, and not without.

Mr. ETHERIDGE. I will satisfy the gentleman from Arkansas in a moment that the matter does not affect the people of his State at all. The memorial contemplates relief only for that portion of the people who reside between Hickman, Kentucky, and the mouth of the Obion river, in Tennessee. I think it will be found, however, that the people residing south of this region have, also, just cause of complaint. I think that there is but a small portion, if any, of the country designated by the memorialists, which lies opposite the State of Arkansas; and the relief they ask is such as the people of Missouri and Arkansas have no just cause to object to.

The SPEAKER. Of what number will the gentleman have the committee consist?

Mr. ETHERIDGE. I will move that the memorial be referred to a select committee of five.

The motion was agreed to.

ENGRAVINGS FOR THE TWO HOUSES.

Mr. STANTON, of Kentucky. A few minutes ago a joint resolution passed the Senate by unanimous consent. It has been sent to this House, and here laid upon the table. I desire to ask the unanimous consent of the House to take up the resolution and pass it. The object sought to be accomplished by it is to facilitate the furnishing of the books ordered by either House. It is entitled "A resolution providing for the engraving, lithographing, and publishing of drawings, maps, charts, or other papers, for Congress." I ask that the resolution be read.

The joint resolution was read for information. It provides that when any charts, maps, diagrams, views, or other engravings, shall be required to illustrate any document, ordered by either House, such engraving shall be procured by the Superintendent of Public Printing, under the supervision and direction of such committee as the House ordering the printing shall direct. Also, that the paper necessary for the execution of all such engravings shall be obtained in the same manner, and under the same restrictions, as provided by act of August 26, 1852, for obtaining other printing paper. Also, that all plates which have been engraved for any document ordered by either House of Congress, and now under the charge of the Secretary of the Senate, or Clerk of the House of Representatives, shall be placed in charge of the Superintendent of Public Printing.

Mr. HOUSTON. I should like to ask the gentleman from Kentucky one question in relation to that bill. The last clause of that resolution, as I understand it, directs that all the engravings ordered by either House to be printed, shall be placed in charge of the Superintendent of Public Printing.

Mr. STANTON. Not at all. It only orders the plates to be so deposited.

No objection being made, the joint resolution received its several readings; and was finally passed.

Mr. STANTON moved to reconsider the vote by which the resolution was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

LANDHOLDERS IN THE VIRGINIA MILITARY DISTRICT.

Mr. TAYLOR, of Ohio. I ask the unanimous consent of the House to introduce a bill, the object of which is to correct a clerical error in a bill passed at the present session of Congress. The error was in enrolling the bill. The bill refers to the holders of lands in the Virginia military district in Ohio, which I in part represent. The Commissioner of the General Land Office is of opinion the error should be corrected, to enable him to carry out the intention of the law. The bill is entitled "A bill allowing the further time of two years to those holding land by entries in the Virginia military district in Ohio, which were made prior to the first of January, 1852, to have them surveyed and patented." I have in my hand a letter from the Commissioner of the General Land Office, which I will send to the Clerk's desk, and ask to have read.

The communication was read, as follows:

GENERAL LAND OFFICE, *December* 29, 1854.

SIR: I inclose herewith a copy of the act of Congress, passed on the 19th instant, in relation to allowing further time to perfect entries in the Virginia military district, Ohio, and respectfully call your attention to what I presume to be a clerical error; which, if not corrected, may admit a number of entries, made with Virginia State line warrants, which were not contemplated by the act of cession by Virginia, nor by the various acts of Congress making provision for the satisfaction, by survey and patent, of Virginia Continental warrants located in the military district, Ohio.

Certain entries have been made with State line warrants, in that district, through error on the part of the surveyor at Chillicothe, though patents therein have been refused by this office; but if the act inclosed is not explained, they must, if presented to this office, be patented, conformably to the provisions of the act mentioned, if such be its construction.

The act referred to reads thus:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the officers and soldiers of the Virginia line, or Continental establishment, their heirs or assigns, entitled to bounty lands, which have, prior to the first of January, Anno Domini eighteen hundred and fifty-two, been entered in the tract reserved by Virginia, between the Little Miami and Scioto rivers, for satisfying the legal bounties to her officers and soldiers upon Continental establishment, shall be allowed the time of two years, from and after the passage of this act, to make and return their surveys and warrants, or certified copies of warrants, to the General Land Office.

"Approved December 19, 1854."

The act was intended to embrace the Virginia line *on* Continental establishment.

I am, very respectfully, your obedient servant,

JOHN WILSON, *Commissioner.*

Hon. DAVID T. DISNEY,

Chairman Committee Public Lands, House of Reps.

Mr. TAYLOR. The sole object of this bill is to substitute the word "on" for the word "or," which was improperly introduced upon the enrollment of the bill.

Mr. BAYLY, of Virginia. I would rather look at the bill before it is passed.

Mr. TAYLOR. If the House will allow me, I will, I think, satisfy the gentleman from Virginia, in a few words, of the correctness of the bill. On the 3d of August last, I asked the unanimous consent of the House to introduce that bill, for the purpose of having entries, made prior to the 1st of January, 1852—about twenty thousand acres remaining unsurveyed—surveyed. The House passed the bill. It went to the Senate at too late a period of the session to allow them to act upon it. But the Senate, however, passed the bill at the present session. It became a law on the 19th of December. On being sent to the Land Office, it was found to be improperly and erroneously enrolled, "or" being inserted in place of "on."

The law now reads, "that the officers and soldiers of the Virginia line *or* Continental establishment," &c.; when it should have been "the Virginia line *on* Continental establishment." That error gives the benefits of the act to a class of persons not intended to be benefited by it. The phrase, "Virginia line *on* Continental establishment," was a technical phrase, which was well understood.

This bill is intended simply to correct that error.

Mr. BAYLY. I object to the bill until I look further into it.

Mr. TAYLOR. I ask, then, that the bill may be referred to the Committee on Public Lands.

Mr. BAYLY. I do not object to the introduction of the bill, and its reference, but I object to its being introduced and put upon its passage.

Mr. HAVEN. I want the ear of the gentleman from Virginia one moment. If he has not now a full apprehension of the character of this bill, I want to say to him that this House has passed this bill once, with the word *or* in it, and we propose now to pass it over again with the word *on* instead of *or*, and in other respects the same as the former bill, letter for letter, with out crossing a *t* or dotting an *i*. The Commissioner of the General Land Office says it ought to be so, in order to carry out the object we had in view in passing it. I therefore ask the gentleman to withdraw his objection.

Mr. BAYLY. I am not in the habit of making objections without having some meaning in the objection. I object, and I hope the gentleman from New York will be satisfied with that.

Mr. HAVEN. Certainly.

The bill was then referred to the Committee on Public Lands.

JAMES CAPEN.

Mr. EDMANDS. I ask permission of the

House to introduce a joint resolution, the object of which is, to pay to the administrator of a deceased pensioner, who has died since the last Congress, the amount due to him under a bill passed at the last session of Congress. It is entitled "A joint resolution to pay the pension due to James Capen to his administrator."

Mr. HAMILTON. Let it be read, that we may know what it is.

The resolution was read accordingly.

There being no objection, the resolution was read a second time, and ordered to be engrossed and read a third time; and being engrossed, it was read a third time, and passed.

TIMOTHY SABINE.

On motion by Mr. BENNETT, it was

Ordered, That leave be granted for the withdrawal of the petition and papers of Timothy Sabine from the files of the House, in order that they may be presented at the Pension Office.

SAMUEL A. BELDEN AND COMPANY.

Mr. SHANNON. I rise, Mr. Speaker, for the purpose of asking the unanimous consent of the House for leave to report, from the Committee on Foreign Relations, "A bill for the relief of Samuel A. Belden & Co." I should be gratified if the House would allow the bill to be put on its passage. There is a detailed report accompanying the bill, and, if desired, it might be read for the information of members.

Mr. HAMILTON. Let the bill be read for information.

The bill was read a first and second time by its title; and then *in extenso*.

Mr. SKELTON. I think that, instead of the bill being now put on its passage, it had better be referred, like other bills, to the Committee of the Whole on the state of the Union.

Mr. SHANNON. I am sure that the gentleman will interpose no objection to the passage of the bill when he hears the report of the committee. The question involved is a plain one. These parties ask that the Government shall refund them the duties which they paid on tobacco, and other merchandise imported into the city of Matamoros while that city was in the military possession of the United States—that merchandise, or the proceeds of its sale, having been confiscated or sequestered by the Mexican judicial authorities.

Mr. HUNT. I hope that the gentleman may be indulged in what he asks, and that the bill may be now put on its passage. The proposition is to refund the duties paid by citizens on merchandise introduced into Mexico while it was in the military possession of the United States, and which have now been withheld for upwards of seven years. The merchandise was to be free from further charge; but the Mexican authorities took it away from them, in violation of a treaty stipulation. The parties have lost the value of their goods; and, until justice can be done in regard to that loss, they ask that Congress shall refund the amount of duties actually paid, and which our Government has had the benefit of for seven years.

I hope, as an act of justice, that the bill will be passed by the House. Last year a report, making a statement similar to that which I have just made, was submitted by Mr. MASON, of the Senate. I mention this as part of the history of the country, and without breach of order. It is the judgment of all the committee that the claim is a just and proper one.

The SPEAKER. The bill contains an appropriation, and must, under the rules, receive its first consideration in the Committee of the Whole on the state of the Union.

Mr. HUNT. We can dispense with that rule on the present occasion by unanimous consent.

The SPEAKER. If it be the unanimous pleasure of the body to consider and pass the bill in the House, it can be done—that rule to the contrary notwithstanding.

Mr. HUNT. I trust that there will be no objection.

Mr. MILLSON. I would ask whether this is of that class of claims preferred some years ago, and which involved the right of the Government to collect duties in Mexico, while portions of that Republic were in possesion of our army? Gentlemen will recollect that there was considerable discussion as to the right of the Executive authority to impose such duties. That right was denied. Does this come within that description of cases? It strikes me that it does.

Mr. HUNT. There was no question by the parties as to the right in this instance. The parties paid the duties; and, inasmuch as they had not that protection of their goods guarantied by the payment of these duties, they ask that the Government shall refund the money of which the Treasury has had the benefit for upwards of seven years. Their goods were taken from them by the Mexican authorities.

Mr. MILLSON. Then the goods were taken from the claimants by the Mexican Government, and not our own Government.

Mr. HUNT. After the importation of the merchandise, a treaty took place between the two Governments The merchandise was carried into the interior and there seized by the Mexican authorities, in violation of that treaty. The citizen was despoiled of his property, on which were paid duties as a guarantee for its protection.

Mr. SHANNON. The report of the committee will exhibit to the House all the facts in the case, and I hope that it may be read.

Mr. MILLSON. It strikes me it was the misfortune of these parties, that the goods or merchandise on which they paid duties properly levied by the Government, were captured by the enemy. I do not feel disposed at this time, if other gentlemen desire the consideration of the bill in the House, to make objection to that course, but I cannot support the bill.

Mr HUNT. As there is no objection, I hope that the question will be put to the House.

Mr. SKELTON. I ask that the bill be referred to the Committee of the Whole on the state of the Union.

Mr. HUNT. Let the report of the committee be read. I am sure that it will be entirely satisfactory.

Mr. SKELTON. There is no question of doubt in my mind on the subject.

The SPEAKER. The report will be read.

The report of the committee was read at the Clerk's desk.

Before the reading of the report was concluded,

Mr. SKELTON objected to the reception of the bill.

Mr. HUNT. It is too late.

Mr. SKELTON. No, sir; it is not too late.

The SPEAKER. The bill was received without objection, and the gentleman from New Jersey himself moved to refer it to the Committee of the Whole on the state of the Union.

Mr. SKELTON. These papers were presented for the purpose of enabling us to understand the merits of the case, and decide whether the bill shall be received or not.

Mr. HUNT. No, sir.

Mr. SKELTON. If this course is to be pursued, I shall hereafter object to the introduction of any bill out of order.

Mr. HUNT. If the gentleman delights in objections, his objection is lost now.

Mr. SKELTON. I object to the reception of the bill.

The SPEAKER. The Chair decides that in this case the objection comes too late.

The reading of the report was then concluded.

Mr. SKELTON. I move to lay that bill upon the table. That motion is in order.

Mr. LETCHER. Is it in order to move to refer the bill to a Committee of the Whole House?

The SPEAKER. That motion is already pending. The motion first to be decided, however, is upon laying the bill upon the table.

Mr. LETCHER. Well, sir, I hope it will go to a Committee of the Whole.

The question was taken; and the House refused to lay the bill upon the table.

The question then recurred upon the motion to refer the bill to a Committee of the Whole House.

Mr. GROW. Is the motion debatable?

The SPEAKER. It is.

Mr. GROW. I have but a word to say. A few days ago I objected to the payment or refunding of duties paid upon goods which were afterwards consumed by fire. It seems to me that the case now under consideration appeals to us with not near the force of a case of that kind. It is, in fact, to commence the policy of buying up the claims of our citizens against the Mexican Government. Mexico took this property, and we are now asked to refund the duties upon property taken by the action of that Government. I can see no reason why we should set the precedent which this bill will set, if passed. If we are to protect the importer in the disposal of his goods after the duties have been paid and they are in his hands, why should we not also protect the consumer against all his losses after he comes in possession of the goods? I can see no reason why we should relieve one more than we should the other.

Mr. HUNT. There is the strongest reason for it. It is just, and justice is the highest policy of a State. This Government received the duties, and, in receiving them, guarantied to the importer protection for the purposes of trade. By an express treaty stipulation, the petitioner was guarantied protection in the disposal of his property. But Mexico, instead of carrying that treaty stipulation, in good faith, into effect, has robbed him of his property. He now comes, thus despoiled, and asks the Government to refund the duties.

Mr. GROW. Do I understand the gentleman that the Government when it receives a duty on goods guaranties the safety of the property imported into the country on which such duties have been paid?

Mr. HUNT. Yes, sir.

Mr. GROW. I do not so understand it.

Mr. HUNT. What are the duties paid for? If Government does not guaranty protection in the use of property for trade, why does it exact duties? What is the use of such a Government to the trader?

Mr. GROW. Will the gentleman allow me to answer the question?

Mr. HUNT. No, sir; I cannot give way further.

Mr. GROW. The gentleman should not ask questions if he will not allow me to answer them.

Mr. HUNT. I am not disposed to enter upon nice and technical questions, or to submit to a cross examination. The question before the House is one of justice and good faith. The money proposed to be refunded was paid to the Government. The Government entered into a treaty by which that property was protected; and by a violation of that treaty the petitioner has been deprived of his property. The report before the House shows that the authorities of Mexico had certified that the property was to be protected and to be free from charge, but that, notwithstanding the certificate, the property was, in violation of the treaty, sequestered, and made away with by Mexican authority. Under these circumstances the petitioner now prays that the amount of duties paid by him be refunded. The question, I believe, is upon a motion to refer to a Committee of the Whole, and does not at present, therefore, call for a fuller consideration of the matter to be disposed of. And, sir, I should not have been drawn into this expression of my views, but that I desired the petition should not be prejudiced by the remarks of the gentleman from Pennsylvania.

Mr. STANTON, of Tennessee. This is the first time that I have heard of this case; but it seems to me that the gentlemen who have spoken in reference to it, have not put it upon the true ground. It is well known, that at the time these duties were collected by the Government of the United States, that Government—I mean our own Government—was, in reality, the Government of Mexico; that is, it had military control of the country.

Mr. HUNT. I ask the gentleman to allow me to say, that I stated the fact to which he alludes in my first remarks.

Mr. STANTON. Certainly. But that is not the point to which I am coming. While the Government of the United States was in the military occupation of Mexico, it exacted certain duties upon goods imported into that country, under the implied guarantee that, then having control of the country of Mexico, the party paying the duties should be protected in the sale of his goods, and in their transportation through the country. In the mean time, however, while the goods were in the possession of the importer, the United States surrendered the control of that country into the hands of the Government of Mexico. That Government seizes the goods, and confiscates them. Do not gentlemen see that the Government of the United States, to some extent, became responsible for the whole value of the goods guarantied by it, this Government then having the control of the country, and exercising jurisdiction over it? I say this Government is, to some extent, bound to protect this party in the sale and disposal of his goods. But, sir, when Mexico obtained the

control of that country, she seized upon the goods, and the guarantee of this Government has not been carried out. Now, sir, I am not at all sure that this Government would not become responsible for the whole amount of these goods. It is certainly a very small thing upon the part of these parties that they should only ask that the duties be refunded.

The collection of duties upon goods is a very high act of authority; it is just what the Government of the United States does within its own territory; and it is bound, it seems to me, upon every principle of right and justice, to protect these parties in the exercise of the rights necessarily implied in the collection of those duties.

Mr. GROW. I desire to ask the gentleman a question. Were not these goods condemned by a judicial tribunal in Mexico, after an investigation—and was not that confiscation made after the American army had left Mexico?

Mr. STANTON. I do not know. I never heard a word about the case before. I take it for granted, that the fact stated in the report is true; that the goods were seized, and illegally seized, by the Government of Mexico. If there is any doubt about that fact, of course all that I say is uncertain.

Mr. SHANNON. After the goods had been detained at Matamoros for ten months, Mr. Belden obtained the proper powers from the Mexican authorities to carry the goods into the interior, to be disposed of in the City of Mexico, and in other interior towns. He sent the goods forward under the care of a conductor to Saltillo, a town some four hundred miles in the interior; and while the tobacco was in Saltillo, it was seized by the order of a judge, and confiscated. Mr. Belden had no opportunity whatever of answering the charge, or making any defense to the suit that was instituted against him. The goods were confiscated by the judge at Saltillo, and a heavy fine was imposed upon Mr. Belden.

Mr. GROW. What was the fine for?

Mr. SHANNON. The fine was imposed upon Mr. Belden on a charge that the goods had been illegally introduced into Mexico; but it was clearly proved by the evidence in the case, that the goods had been legally imported into that country, and that the duty had been paid to the officers of the United States. Mr. Belden had no opportunity whatever of answering the suit. He was distant four hundred miles, and had no opportunity of being heard, and never was heard.

Mr. LETCHER. I desire to ask the gentleman from Ohio a question. The bill, as I understand it, proposes to assign to the Government of the United States any claim that these parties may have on the Government of Mexico under the treaty. Is that so?

Mr. SHANNON. The bill proposes to refund to Mr. Belden the duties which he actually paid to the Government of the United States upon the condition that he will execute an assignment, in legal form, to the United States of any claim he may have upon the Government of Mexico.

Mr. LETCHER. Then my question is this: Is the Government of the United States to undertake to pay the claims that every citizen has upon a foreign Government?

Mr. SHANNON. I take it that the Government is bound to do one of two things, either to inforce the treaty stipulation that exists between Mexico and the United States, and compel the Government of Mexico to reimburse our citizens for damages sustained in consequence of the violation of the treaty, or to refund to Mr. Belden the amount of duties which he has paid.

Mr. STANTON. I stated, but a moment ago, that I had never heard of this case before, and know nothing of the facts. I was proceeding upon the supposition that the facts stated by the gentleman from Louisiana were true beyond any doubt. My proposition is simply this, that the Government of the United States being at the time sovereign in that Territory, having military occupation of it, and sole and entire control, and exacting duties upon goods with the implied guarantee that they were to be protected in the ordinary operations of trade in that country, when the Government of the United States transfers that authority to another power, and that power seizes and confiscates goods upon any pretext whatever, and especially upon the pretext that they were illegally introduced, the Government of the United States necessarily becomes responsible upon every principle of justice and equity. It seems to me that nobody can deny that.

Mr. BAYLY, of Virginia. I agree with the gentleman from Tennessee entirely in his propounding of the law on this occasion; and I beg leave, in this case, to refer to an authority which I had brought up here in a different case in name, though not very different in character. It is from a late decision of the British House of Lords, which was considered under the advisement of all the judges and the Lord Chancellor. In that case the Lord Chancellor said:

"It is admitted law that if the subject of a country is spoliated by a foreign Government, he is entitled to obtain redress from the foreign Government through the means of his own Government. But if, from weakness, timidity, or any other cause, on the part of his own Government, no redress is obtained from the foreigner, then he has a claim against his own Government. Here is a compromise of the two Governments; the question is, how far his claim is affected by it."

Mr. MILLSON. What authority is that?

Mr. BAYLY. The Lord Chancellor of England, as late as 1852; and I beg to call my colleague's especial attention to it.

Mr. SKELTON. I consider, Mr. Speaker, that this bill is improperly before this House; but I was prevailed on to give way in the objection which I raised, in order to hear a fuller explanation of the merits of the bill. After having heard the merits of the bill explained, I was more fully convinced that it should not be acted upon in this hasty manner. My objection then was ruled out, and the bill was presented to the House.

I have been tauntingly charged, Mr. Speaker, with being fond of objecting to bills. That I deny. I never object to a bill that is presented to this House, except I have some good grounds in my own mind for believing that such bill should not be immediately acted upon. In this matter, the House will bear me witness of the truth of what I state. Now, the discussion which we have had on this bill, shows that it is a bill of most important bearing; that it is a bill invoking the question of the right of citizens to indemnity from our own Government for depredations upon our commerce and property, committed within our own country, and in foreign countries. In this instance, we are called upon to make indemnity to a citizen of the United States for property of his destroyed in a foreign country. Sir, I take it for granted, that if this principle is to be established, it will have a wide application. The honorable gentleman from Virginia, [Mr. BAYLY,] who has just taken his seat, connects this case with a bill now pending before the House, known as the French indemnity bill. Now, that very connection shows the importance and magnitude of the question now before the House. I will not, however, occupy the attention of the House at this time by going into a full investigation of the principles of the bill. Time will not permit me to do so.

Mr. STANTON, of Tennessee. If the gentleman from New Jersey [Mr. SKELTON] will permit me, I wish to say one word on this matter. I desire simply to state that, although the passage read by the gentleman from Virginia [Mr. BAYLY] may be, and undoubtedly is, law, as adjudged by the court whose decision it is, yet I conceive that the principle of this bill stands upon even higher ground than that. I present it on the ground of the transfer of jurisdiction from the Government of the United States to the Government of Mexico, and of the necessary responsibility on the part of the Government of the United States, growing out of this interchange of jurisdiction. It is upon that ground that I place it, in addition to the grounds as stated by the gentleman from Virginia.

Mr. SKELTON. The gentleman's remarks show the importance of the bill now pending before the House, as embraced in a great question of international law, a question involving the rights of American citizens generally, not only in this country, but on the ocean, and in foreign countries. They show that this is a bill of that magnitude which should be fully discussed and considered. We should have the opportunity of debating the matter fully, before we establish a principle so important as this, embracing so large an amount of claims; opening the doors of the Treasury of the United States to indemnities for millions on millions of dollars.

The decision read by the gentleman from Virginia, [Mr. BAYLY,] is a decision of a British court, and it is for this House to determine whether we will base the action of our body upon decisions, not only of foreign courts, but of British courts. We are here for the purpose of acting as American statesmen, not as British monarchical statesmen. Whatever be the right of citizens of Great Britain towards our country, whatever rights that Government may have acknowledged as reposing in her own citizens, they have no weight with us or in a republican country like ours. The genius of our Government is different from that of any other Government on the face of the globe. Here power emanates from the people, and rights repose in the people, but in Great Britain power and rights descend from above to the people from the King.

Mr. STANTON, of Tennessee. I desire simply to ask this question of the gentleman from New Jersey, whether the Government of the United States ought to extend less protection to its citizens than the Government of Great Britain to its subjects?

Mr. SKELTON. I am not prepared to go into a discussion of the question, but I will say this, in reply to the honorable gentleman from Tennessee, that Great Britain claims to have control of her citizens, let them go where they will. She denies to her citizens the right of expatriation. She denies to her citizens the right to forswear their allegiance to that Government. That principle is now involved in the very question which the gentleman from Virginia has quoted, and in that particular there is not a member on this floor who will coincide with the decisions and the laws of the United States.

Mr. MILLSON. Mr. Speaker, has the morning hour commenced?

The SPEAKER *pro tempore*, (Mr. OLDS in the chair.) The morning hour has not yet commenced.

Mr. MILLSON. Then I would suggest to the gentleman from New Jersey to give way to a motion that the House resolve itself into the Committee of the Whole on the state of the Union, as the hour of the gentleman from Missouri [Mr. BENTON] is rapidly expiring.

Mr. SKELTON. I have just remarked that I do not purpose to debate this question at length, or go into the merits of it. Sufficient has transpired to show that this is a grave question, and one requiring grave deliberation. Therefore, to suit the views of friends, I demand the previous question on the passage of the bill.

Mr. MILLSON. I hope the gentleman will withdraw that demand.

Mr. SKELTON. Well, I withdraw my call for the previous question.

COMMITTEE OF THE WHOLE.

Mr. ORR. I move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken; and the motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair.)

PACIFIC RAILROAD BILL.

The CHAIRMAN. The business in order before the committee is the consideration of the bill providing for the establishment of railroad and telegraphic communication between the Atlantic States and the Pacific ocean, and for other purposes; and on that the gentleman from Missouri [Mr. BENTON] is entitled to the floor.

Mr. BAYLY, of Virginia. If the gentleman from Missouri will allow me, I will state that I will not, under the circumstances, press to take up the French spoliation bill now; but I will do it at the earliest possible moment after this day.

Mr. BENTON addressed the committee on the subject, saying he had put himself to some trouble to see and converse with business men, with practical men, to see whether there was anything feasible in his project. He had reason to believe that there was; that a private company of solid men are ready now to enter into arrangement for constructing this work with their own resources, without grants of money from the United States, without alternate sections of land, amounting to

many millions of acres, and without an army of regular soldiers to protect the road, and who themselves would need protection. He believed that such a company would be ready to enter upon the work, with the preliminary basis of the right of way through the Territories of Utah and Kansas, through the Territories of the United States, without limiting it; thereby steering clear of all constitutional difficulties, trusting to the States on this side and the State of California to make the conjunction.

[His speech will be found in the Appendix.]

The CHAIRMAN. The hour has arrived for closing the debate upon this bill, under the order of the House, but the gentleman from California, [Mr. McDougall,] who reported the bill, is entitled to one hour, under the rules, to close the discussion.

Mr. McDOUGALL addressed the committee during an hour, in reply to the remarks of the gentleman from Missouri, [Mr. Benton,] and advocating the construction of the Pacific road on the plan proposed in the committee's bill. His remarks will be found in the Appendix.

The CHAIRMAN. The Chair will now state the question. The original bill is before the committee, as introduced by the gentleman from California. It is open to amendment, and there are amendments to it already pending. The special committee to whom that bill was referred reported back a substitute. When the original bill shall have been perfected, then it will be in order to recur to, and offer amendments to, the substitute.

Mr. McDOUGALL. I would ask the Chair if I can withdraw the substitute?

The CHAIRMAN. The Chair thinks not, inasmuch as the substitute has been reported by the special committee, without the consent of that committee.

Mr. McDOUGALL. Cannot I withdraw it with the consent of the committee?

The CHAIRMAN. It may be withdrawn by the direction of the special committee.

Mr. McDOUGALL. Then I withdraw the substitute, in order that another may be offered by the gentleman from Louisiana, [Mr. Dunbar.]

The CHAIRMAN. There is an amendment to an amendment already pending to the original bill, which must be disposed of before any other amendment is in order.

Mr. DUNBAR. Is it in order now to offer a substitute for the bill?

The CHAIRMAN. It is not.

The first amendment pending was then reported. It was the motion of Mr. Yates to strike out "fifteen," in the first section, and insert "sixteen" in lieu thereof.

The amendment was agreed to.

The question recurred on the motion of Mr. Latham to strike out the first section of the bill.

Mr. LATHAM. I made that motion the other day merely for the purpose of submitting a few remarks. I now withdraw it.

Mr. CHAMBERLAIN. I desire to offer a substitute.

The CHAIRMAN. The Chair desires to state to the committee, that if any amendments are proposed to the original bill, they should be offered and considered before a vote is taken upon the substitute, for if a vote should be taken on the substitute, and it should be adopted, it would not be in order to return to the original bill for amendment.

Mr. WASHBURN, of Maine. Would it be in order, as a substitute has been offered, to move an amendment to that substitute, and have discussion and a vote upon it before amendments are offered to the original bill?

The CHAIRMAN. If no amendments are offered to the original bill, then the substitute is in order.

Mr. WARREN. I understand that the substitute has not been received.

The CHAIRMAN. It has been received, and is subject to be acted upon if there is no amendment offered to the original bill.

Mr. COBB. I desire to offer several amendments to the original bill.

Mr. CHAMBERLAIN. I have an amendment to offer in the nature of a substitute for the original bill.

The CHAIRMAN. The gentleman from Louisiana [Mr. Dunbar] has the floor to offer a substitute, and his substitute has been received.

Mr. CHAMBERLAIN. Is that a substitute for the entire bill?

Mr. DUNBAR. Yes, sir, it is.

Mr. CHAMBERLAIN. Then I would inquire of the Chair when my substitute will be in order?

The CHAIRMAN. When the amendment of the gentleman from Louisiana shall have been disposed of, the gentleman's substitute may, perhaps, be in order as an amendment to the substitute of the gentleman from Louisiana.

Mr. COBB. I desire to offer an amendment to the first section of the original bill, if that is in order.

The CHAIRMAN. It is now in order.

Mr. COBB. I move to strike out the following proviso:

Provided, however, That for such deficiency within the State of California, and also in lieu of all mineral lands in the said State which are excepted from the appropriation herein made, such selection may be made from any unoccupied and unappropriated lands of the United States, within said State of California.

It is scarcely necessary for me to state why I have offered that amendment. It speaks for itself.

If the principle of this proviso be applied to California, why not apply it also to other States? It is not necessary for me, Mr. Chairman, to attempt to discuss this question. It is one which commends itself to the consideration of every individual here. I believe that the proviso should properly be stricken out; but the committee will, of course, take that action with regard to it as it may judge best. I would state, however, that it is my desire and intention to offer several amendments to this bill as they come in order, although it comes from the committee of which I had the honor to be a member. It is well known that there are some provisions in the bill against which I have voted in the committee; and it is my privilege here to move to amend the bill, when we reach the various points at which my amendments will be appropriate.

I had hoped, Mr. Chairman, that I would have been able to have presented my views at length on this important question; but as others had obtained the floor, who are, perhaps, better qualified than myself to entertain the House, and to cast more light upon the subject than I could, I have been deprived of the opportunity which I had desired. I shall now, therefore, only avail myself of the opportunities of proposing amendments to the bill, at different points; and the arguments which I should have used before this House, in relation to the bill, I shall reserve for my immediate constituents, and make them before them during the next summer, when I will be on hand as a candidate for reëlection. As I said before, I had intended and desired to have, in this House, made known my views at length, but unfortunately I have not been able to get the opportunity of doing so. I hope my amendment will be adopted.

The question was taken on Mr. Cobb's amendment; and it was rejected.

The Clerk proceeded to read the second section of the bill.

Mr. SMITH, of Tennessee. I move to amend the second section, by striking out all after the word "aforesaid," in the tenth line, so as to make the section read?

And be it further enacted, That it shall be the duty of the Secretary of War of the United States, on the passage of this act, to cause advertisements to be published in at least two newspapers in each State, for a period not exceeding six months; which advertisements shall invite sealed proposals for the construction of each, or either of said railroad and telegraphic lines, of the quality herein provided, from the Mississippi river to San Francisco. The advertisement shall be published, with a copy of this act, and shall propose a cession of the said lands appropriated as aforesaid.

I propose this amendment, Mr. Chairman, for the purpose of expressing, in a few words, my idea of the proper mode and manner of the construction of the railroad from the Mississippi river to the Pacific ocean. I believe, sir, that there is a tangible mode by which the construction of this road can be materially aided by the Government of the United States. This bill, however, as it seems to me, is too comprehensive, too indefinite, and confers too much power upon the head of the War Department, and upon the Government, to admit of a speedy construction of the road from the Atlantic to the Pacific ocean.

Now, sir, under the second section of this bill, included in that part of it which I propose to strike out, the Secretary of War is authorized to make a contract for the construction of this road. He is authorized to oversee the construction of it. He is authorized to receive bids for it. When he does all this, he becomes, as it were, the president of a great line of railroad from the Mississippi to the Pacific ocean, and is required to control its government. My opinion is, that the Government is incompetent to construct such a work as this—wholly incompetent. It is unwieldy. And if you place it in the hands of the Government—as, in my opinion, this second section of the bill does—you place in the hands of Government a power which will enable it to defeat, in all probability for ever, the construction of this much desired work.

I look upon this as a most important project—*the* most important which has been contemplated or acted upon by Congress during the last half century. I look upon it as a project of the deepest interest to the people of the United States. I therefore wish to get at some tangible mode of carrying it out; and how is that to be done? Not, certainly, by vesting in the Government the power to construct it. Not by making the President of the United States the president of a railroad company. But it can be accomplished by a law providing that such company as will construct it may receive alternate sections of the public lands, as provided for in this bill, upon the completion of certain portions of the road. We thus would release the Government from the responsibility of that work. We would place its construction, not under the control of a head of a Department, but in the hands of the contractors; and when a section of the road was completed—say ten, twenty-five, fifty, or one hundred miles—the contractor would then, and not until then, be entitled to receive the appropriate quantity of alternate sections of the public lands along the line of the road. My word for it, if this be done, we will find companies coming forward from almost every State in the Union, willing to contract for the construction of this road; companies who will be able to raise the capital, and to construct the road within a reasonable time. And, sir, this will be the best appropriation of the public lands that can be made by Congress. I am willing to give it to them under these circumstances, and with proper restrictions, to insure the construction of the road. What will be the consequences of passing this bill as it stands? Why, sir, what we do this session of Congress will be repealed the next session; what we do this Congress will be repealed next Congress; and controlled, as it would be, by men who have no interest in it—by officers of the General Government—appointed for that purpose, such corruption, fraud, and peculation will creep into the whole concern as will, in my judgment, for a long time delay, if not forever defeat, the construction of this work, on which so much depends the interests of the whole country, its commercial and pecuniary prosperity.

[Here the hammer fell.]

Mr. McDOUGALL. I think the gentleman from Tennessee is altogether mistaken in relation to the bill. He certainly has not carefully examined it. By the contract provided for in this bill, there is no such thing as a railroad to be made by the Government, but it is only a contract preliminary to the organization and construction of a railroad; and when the contract is made, the relation of the Government to the road ceases. The object of the contract is simply this: that the Government shall not extend her aid, and grant her lands to irresponsible organizations, such as undertook the construction of the Texas railroad. The bill, I think, meets the views of the gentleman from Tennessee. If he is in favor of granting lands to aid a company in going on and completing the road, as he says he is, what objection can he have to this bill, which provides when the parties come forward and propose to construct the road, the Government shall take some guarantee that the organization is not a mere bogus one, but one of substantial strength to carry out a *bona fide* purpose and design.

Mr. SMITH. I wish to call the attention of the gentleman from California, to the last paragraph of the second section, which reads as follows:

"The Secretary of War shall contract for the construction and keeping up said road and telegraph line from the Mississippi river to the city of San Francisco."

Mr. McDOUGALL. The parties contracting stipulate to construct the road, to keep it in repair; and the Government has an object in giving its aid to the road, as they will have need to use it as much as the people will. The Government merely requires a stipulation upon the part of the parties to the contract, that they will go on and execute the work, survey and run the road; but with its control, management, and ownership, it has nothing to do. I may say distinctly, that, under this bill, the Government will not control one dollar of the stock, nor have any beneficial interest at all in the road, except in the mere contract for its use.

The question was then taken upon Mr. SMITH's amendment, and it was rejected.

Mr. SKELTON. I move to strike out the second section of the bill. I have seen some strange and nondescript bills since I have been a member of this House, but I confess that this bill is the most strange and nondescript of any that I have yet seen in the course of my legislation. We have here presented a proposition to build a railroad from the Mississippi to the Pacific, requiring the Secretary of War to issue proposals for that purpose; and while the heads of the Departments and the President of the United States are the agents for the execution of the work, and bound in issuing contracts for the construction of the work—in my opinion to pay for it—yet it is to be the property of a private company. A private company is to have the proceeds of the profits, and the Government of the United States is actually to pay $600 a year per mile for the transportation of the mails over a road which they have constructed from the public domain, and which has been superintended by the Secretary of War. The Government is not only required by this bill to issue advertisements for proposals in all the States of the Union, for the space of six months, but it has to pay for these advertisements and for the contracts, and to execute them, when the Secretary of War and the President of the United States make them. In addition to that, the Government not only builds the road, furnishes the means, pays all the incidental expenses, but actually binds itself to keep in repair the road thus built. It appears to me most strange and ridiculous to find statesmen here proposing to build a road from Government funds and Government domain, under the superintendence of Government officers, and yet denying that it will be a governmental work.

The gentleman from California complains that I do not understand the bill. If the gentleman possesses an intellect so far superior to mine, I think it is time that he should tell us whether this is to be a private or public enterprise; whether it is to be a corporate or individual transaction. I hope that the second section, which, as the honorable gentleman from Tennessee justly remarked, makes the President of the United States the president of a railroad company, will be stricken out. If the Government of the United States is to give lands for the construction of a railroad, we should know who are to have them, how the road is to be built, and whether the Government is to have any responsibility in keeping it in repair. It is passing strange, that the gentleman from California proposes to give somebody—nobody knows who—without an existence, either private or public, individual or corporate, public lands for the construction of a railroad, and after it is built the Government is to be held responsible for keeping it in repair, and paying an enormous amount to this somebody—nobody knows who—for carrying the United States mail and munitions of war over it. I hope that this section will be stricken out of the bill entirely, and that the Government will be released from any obligation of this kind. If we are to pay for the construction of the road by giving public lands to somebody, let us know who are to have them, and who will take the responsibility of keeping the road in repair. If we desire to transport our mails and munitions of war over the road, we can make contracts hereafter for that purpose.

Mr. McDOUGALL. The gentlemen who drafted the bill had no idea of presenting a bill to suit the particular views of the gentleman from New Jersey, or of any other particular individual, but to meet the wants of the whole people and the country.

Mr. SKELTON. Will the gentleman answer me one question?

Mr. McDOUGALL. Certainly.

Mr. SKELTON. Is this a Government or a private enterprise?

Mr. McDOUGALL. It is a private enterprise, aided by the Government, with a stipulation of forfeiture to the Government in case of non-completion of the work.

The question was taken upon Mr. SKELTON's amendment; and it was not agreed to.

Mr. FLORENCE. I move to strike out the word "two," in the second section, in the provision for advertising for bids in newspapers, and insert in lieu thereof the word "four." I suppose the object of that provision is to give publicity to the matter, if this act shall be passed. If that is the object, the publication in only two newspapers in each State is not sufficient. I do not propose to detain the committee by elaborating the idea suggested by my amendment, because it must strike with force the mind of every one present.

Mr. WALSH. Is an amendment to that amendment in order?

The CHAIRMAN. It is.

Mr. WALSH. Then I move to amend so as to provide that the "Daily Evening Argus" shall be one of the four. [Laughter.]

Mr. FLORENCE. I certainly have no objection to that.

The question was taken on Mr. WALSH's amendment; and it was not agreed to.

The question then recurring on Mr. FLORENCE's amendment, it was put; and the amendment was not agreed to.

Mr. WASHBURN, of Maine. I move to strike out the remaining part of the bill, and for this reason: This bill came before the committee as an original bill, reported by the special committee. It was afterwards amended by a substitute, upon which the committee relied. We now understand that the substitute has been withdrawn, and it is proposed, I understand, as soon as the discussion upon the original bill is terminated, to take up the substitute which has been or will be offered by the gentleman from Louisiana, [Mr. DUNBAR.]

Therefore, it seems to me, that the discussion of this bill, which nobody expects to pass, is idle. I hope the friends of the bill, of a bill, or any bill, will sustain the motion I have made, and let the debate be upon the substitute which will be proposed by the gentleman from Louisiana, or some other gentleman.

Mr. MILLSON. I will vote for the motion of the gentleman from Maine, at the proper time, with pleasure. But it is in order, first to perfect the bill which is before us, and, therefore, I move to strike out the words "Secretary of War," and insert in lieu thereof the words "Commissioner of Public Lands," in the following clause of the second section of the bill:

"That it shall be the duty of the Secretary of War, the Secretary of the Navy, and the Postmaster General, upon the passage of this act, to cause advertisements to be published in two newspapers in each State, and in the District of Columbia, for a reasonable time, not exceeding six months, which advertisement shall invite sealed and separate proposals for the construction," &c.

I propose to say but a word or two upon this subject, and I say that only because I cannot allow a bill so important as the one now under consideration, to pass without at least entering my protest against the principles upon which it is founded. If the power to construct this railroad rests upon the authority of the Government of the United States to dispose of the public lands, then, sir, the execution of it should be entrusted to the Committee on Public Lands, and not to the Secretary of War. But if, as the gentleman from California [Mr. McDOUGALL] said yesterday, the power is claimed as incident to the authority which is claimed for the Government to construct what are called military roads, then, as I deny that such powers can be derived from any such source, I move to strike out that part of the bill which proposes to confer the supervision of this work upon the Secretary of War.

I know that gentlemen frequently claim for the Government of the United States the power to construct military roads. What can be more vague than any such claim as this—and what outrage upon the rights of the States and the Constitution might not be exercised by it? What are military roads? Roads useful in war? Why, every railroad, every Macadamized road, every county road, and every by-path may be useful in time of war. The gentleman may as well talk about military steamboats, military banks, military cotton factories, and military barrels of flour. All these are useful in time of war, and with just as much reason may the Government take them under their control, in time of peace, as a necessary preparation for a possible war.

But if the authority of the Government extends to the construction, in time of peace, of such roads as these roads to the Pacific, as military roads, then why may we not construct a military road in China? for who knows but that, at some future day, the Government of the United States may contemplate the subjugation of the Chinese Empire? In that event, it might be very convenient to have a military road from Shanghai to Pekin. But will any one make so absurd a pretension?

A VOICE. That is beyond our jurisdiction.

Mr. MILLSON. A gentleman near me says that is beyond our jurisdiction. But he will remember that a member of the Cabinet said, some months ago, that he protested against the idea that there should be one construction of the Constitution within the United States, and another without the United States. I unite with him in that protest, and if the Constitution is the same within and without the United States, we have the same right to construct, in time of peace, military roads in foreign countries, on the ground that they may facilitate our military operations in time of war, that we have to make such roads as these now proposed within the United States, merely because they might be convenient in time of war.

It must be remembered that the argument, in this connection, is not as to the power of the United States to make internal improvements. I am not arguing that question. I am talking about military powers, and the extent of the authority of the Government with reference to the defense of the country, and the annoyance of her enemies in time of war. All these powers have relation to foreign countries, as well as our own, and can no more justify the appropriation of money for the construction of these railroads to the Pacific, in time of profound peace, as military roads, than they authorize such appropriations for the construction of similar roads, in time of peace, beyond the limits of the United States because they could be useful in case of war.

Mr. McDOUGALL. I did say, last evening, in reply to the remarks of the gentleman from Maryland, [Mr. HAMILTON,] that, if in no other way a road could be constructed to the Pacific, I did insist that it could be built upon the ground that it was necessary for military purposes. I so insist now. The reply made by the gentleman from Maryland then was, that we are a great and pacific nation, and will be always at peace; and, therefore, upon the ground of military necessity, no aid could be asked from the Federal Government for its construction. And I suppose the gentleman from Virginia [Mr. MILLSON] will reiterate the same opinion, that we are a great, pacific nation, in love with all mankind. Now, I do not understand how we, Vandals of modern times, infringing constantly upon our neighbors, can have the assurance of eternal peace.

Now, sir, I say that we in California are entitled, just as much as the city of New York, or Norfolk, to sufficient aid from the Government to protect and defend our people. Whence comes the power to build forts and arsenals, to maintain particular posts of the country against foreign arms? Can they be constructed in time of war? I venture to say, and do say, in a military point of view, that, for securing our country against foreign Powers, and in maintaining the Republic, this work is of more importance than all the forts and arsenals from Maine to Texas; more important than all the forts and arsenals you can construct from Santiago to the northernmost limits of Washington Territory.

But we have appealed to no such power. We do not ask that this shall be a Government work. We ask only that the Government may not make a profit out of the enterprise of private citizens.

The question was taken on Mr. MILLSON's amendment; and it was agreed to.

The question recurring on the amendment of Mr. WASHBURN, of Maine, it was agreed to.

The CHAIRMAN. The question now is upon the substitute which has been submitted by the gentleman from Louisiana, [Mr. DUNBAR.] It will be read by sections for amendment.

Mr. PERKINS, of New York. Let the substitute be read through, for information, before it is read by sections for amendment.

The CHAIRMAN. It will be read as the gentleman desires it.

Mr. CHAMBERLAIN. Is it in order at this time, Mr. Chairman, to submit another substitute?

The CHAIRMAN. The Chair thinks that it is; but he would say to the gentleman from Indiana that the regular and customary proceeding is first to go through with the first substitute, reading it by sections for amendment, and when we have gone through with it, then to receive the second substitue. The Chair only makes the suggestion to the gentleman, stating, at the same time, that his amendment, by way of substitute, is now in order, if he chooses to present it.

Mr. CHAMBERLAIN. I desire to submit my proposition in strict accordance with the rules of the body. As the Chair has suggested the regular and proper course, I shall pursue it.

The Clerk proceeded to read Mr. DUNBAR's substitute:

[This substitute, as modified by Mr. DUNBAR, on the suggestion of Mr. WASHBURN, of Maine, will be found inserted in a subsequent part of the day's proceedings.]

Mr. PERKINS, of New York. At the request of members around me, I withdraw the call for the reading of the substitute.

The CHAIRMAN. Then the Clerk will report it by sections for amendment.

Mr. CHAMBERLAIN. Mr. Chairman, would it avail me anything towards securing the floor to send my proposed substitute to the Clerk's table at this time?

The CHAIRMAN. Let the gentleman send it to the Clerk.

Mr. DUNBAR. I ask for the reading of my substitute, so that the committee may understand it.

[Cries of "No! let it be read by sections for amendment."]

The Clerk then completed the reading of Mr. DUNBAR's substitute.

Mr. DUNBAR. I consider this as a measure of the greatest importance. My constituents, and the State which I have the honor in part to represent upon this floor, are deeply interested in this measure; and I, therefore, with the consent of the gentleman from California, [Mr. McDOUGALL,] have offered this bill as a substitute for that now pending. The gentleman from California, in the eloquent argument which he addressed to this committee in closing the debate upon the bill, has explained fully the difference between this substitute and the bill then under discussion before the committee, and which was reported by the committee of this House for the establishment of two lines of railroad and telegraph from the Mississippi valley to the Pacific ocean. That bill which the gentleman discussed has now been withdrawn by him, and this substitute has been accepted in lieu of it.

I will state to the committee, that the substitute which I have offered is the bill which was introduced into the Senate by Senator DOUGLAS, which went to a committee of the Senate, and after having undergone some modifications, was unanimously reported back by that committee. It proposes to establish railroad and telegraphic lines to the Pacific by three different routes. One is the southern road, which is to commence west of the State of Texas, and to extend to the nearest point on the Pacific by whichever route may be most practicable. Another is called the middle route, and is to commence west of Missouri, and to extend to San Francisco. This is the route which the distinguished gentleman from Missouri [Mr. BENTON] considers the best. The third is the northern route, about which he made some remarks this morning, designating it a British route.

Now, Mr. Chairman, if gentlemen have had time to examine the surveys of these three routes which have been laid upon our desks, they will have perceived that they are all practicable for the construction of lines of railroad, and that the roads can be constructed without any extraordinary or unreasonable expenditure of money. They can be constructed as cheaply as any of the great railroads that have been made in the Atlantic States, as, for instance, the Baltimore and Ohio, or the New York and Erie. This is apparent from the surveys, and from the reports of the officers of the Government.

The substitute which I have offered will reconcile all differences and conflicts of interest between the different sections of the Union, and will give an opportunity for the construction of all the roads; and, I doubt not, that in time all three will be made.

[Here the hammer fell.]

Mr. WASHBURN, of Maine. I shall oppose the substitute of the gentleman from Louisiana, unless he will consent to certain amendments or modifications which I will suggest. The substitute, as it now stands, is, substantially, a bill setting apart a certain quantity of lands, and providing for the payment of a certain amount of money for a line of railroad; the route to be decided on, not by Congress, but by three gentlemen—very able and respectable gentlemen, no doubt—but they, and they alone, are to decide whether there shall be one, two, or three lines of road, and where they shall be. Now, unless the substitute is amended, so as to take away that discretion from the Secretary of War, the Secretary of the Navy, and the Postmaster General, I shall oppose it.

The substitute, as you will see, carries upon its face the idea which I have suggested. It begins: "That, with a view of aiding in the construction of *a suitable railroad* and telegraphic communication," &c.

Again, the second section provides:

"That it shall be the duty of the Secretary of War, the Secretary of the Navy, and the Postmaster General, upon the passage of this act, to cause advertisements to be published in two newspapers in each State, and in the District of Columbia, for a reasonable time, not exceeding six months, which advertisement shall invite sealed and separate proposals for the construction of *each or either* of said lines of road and telegraph," &c.

So that they may only advertise for one route and select that one, and nobody can interfere.

Again, the third section provides:

"That the Secretary of War, the Secretary of the Navy, and the Postmaster General, under the direction of the President, be, and they are hereby, authorized to contract with the party or parties whose proposals, as aforesaid, may be accepted for the full and complete construction and keeping up of *either line or each of said lines*," &c.

So that, although they may have advertised for all the lines, it is perfectly competent for them to accept only one, and to decide which one shall be constructed, and then all the powers and authority under the law will have become void, and the other roads cannot be built under this law. Therefore it is that I propose to amend the substitute; and I hope the gentleman from Louisiana will accept my amendments.

Mr. DUNBAR. I have no objection to accept the amendments.

Mr. WASHBURN. Then I will indicate them.

Mr. FLORENCE. I rise to a question of order. Has the gentleman from Louisiana a right to accept those amendments? I do not even know what they are, and I think I have the privilege of objecting. Has he any right to receive amendments when the subject is under discussion in Committee of the Whole?

The CHAIRMAN. Certainly; the gentleman from Louisiana has a right to modify his own amendment if he chooses to do so. Where can be the doubt about that?

Mr. FLORENCE. Well, I only desired to be informed. I did not know that the whole power of this House was in the hands of the select committee, or one of the members of it.

Mr. LETCHER. I move, Mr. Chairman——

The CHAIRMAN, (interrupting.) The gentleman from Maine [Mr. WASHBURN] is indicating certain modifications in the substitute which he desires to have made, and which the gentleman from Louisiana [Mr. DUNBAR] is willing to accept. As soon as he will have done that, the Chair will recognize the gentleman from Virginia.

Mr. WASHBURN. Inasmuch as the gentleman from Louisiana offers to accept my modifications, it will be unnecessary for me to trouble the committee with explanations. I propose, in the second line of the second section, to insert after the words "Secretary of War," the words "and Secretary of the Interior." So that the section will read:

That it shall be the duty of the Secretary of War and the Secretary of the Interior, upon the passage of this act, to cause advertisements to be published, &c.

In the sixth line of the same section, strike out the words "or either," so that the sentence will read:

Which advertisement shall invite sealed and separate proposals for the construction of each of said lines.

Then, in the third section, at the end of the forty-second line, add the letter "s" to the word "road."

Mr. McMULLIN. I rise to a point of order. I ask if my friend from Maine has not occupied his five minutes?

The CHAIRMAN. Yes; his five minutes has expired.

Mr. WASHBURN. I do not wish to occupy the time of the House, inasmuch as the modifications I desire to have made in the bill have been accepted. I was merely informing the House what those modifications were.

[The substitute of Mr. DUNBAR, as modified by himself, upon the suggestion of Mr. WASHBURN, of Maine, is as follows:

A Bill to authorize and facilitate the construction of a Northern, a Southern, and a Central Pacific Railroad and Magnetic Telegraph through the Territories of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That with the view of aiding in the construction of suitable railroads and telegraphic communications between the Mississippi valley and the Pacific ocean, there shall be, and is hereby, appropriated and set apart a quantity of public land equal to the alternate sections for the space of twelve miles on each side of said roads from their eastern to their western termini, as follows:

One road and telegraph, to commence on the western border of the State of Texas, and to pursue the most eligible route to the navigable waters of the Pacific, in the State of California; which line shall be known as the southern Pacific railroad;

One road and telegraph, to commence on the western border of the States of Missouri or Iowa, and to pursue the most eligible route to the bay of San Francisco; which line shall be known as the central Pacific railroad;

And one road and telegraph, to commence on the western border of the State of Wisconsin, in the Territory of Minnesota, and pursue the most eligible route to the navigable waters of the Pacific in Oregon or Washington Territories; which line shall be known as the northern Pacific railroad; such lands to be selected from the sections which shall be designated in the public surveys of said land (when made) by odd numbers, and to be held and conveyed as herein provided; and in all cases when the United States may have disposed of said lands or any part thereof, or shall from any cause be unable to convey a title thereto, the deficiency may be made up by the party or parties who may become entitled thereto from any unoccupied and unappropriated lands belonging to the United States within the distance of thirty miles of said road: *Provided, however*, That for such deficiency within the State of California, and also in lieu of all mineral lands in said State (which are hereby excepted from the appropriation herein made) such selection may be made from any unoccupied and unappropriated lands of the United States within fifty miles of said road in the said State.

SEC. 2. *And be it further enacted*, That it shall be the duty of the Secretary of the Interior to cause advertisements to be published in two newspapers in each State, and in the District of Columbia, for a reasonable time, not exceeding six months, which advertisement shall invite sealed and separate proposals for the construction of each of said lines of road and telegraph in the manner herein provided; said advertisement shall include a copy of this act as containing the terms upon which the United States are willing to contract for the construction of either of said lines of road and telegraph, and shall require separate sealed proposals, stating specifically whether it be for the southern, central, or northern line, and also—

First. The time in which the party or parties propose to construct, complete, and finish the entire road and telegraph ready for use, which period must not exceed ten years from the signing of the contract; and also, what extent and portion thereof they propose to complete and put in operation during each and every year.

Second. The time in which such party or parties will surrender and transfer, free of cost to the United States, for the purpose of being surrendered to several States as herein provided, the said road with its appurtenances and furniture.

Third. The sum, not exceeding three hundred dollars per mile, for carrying the United States mails daily both ways on said road, under the direction of the Post Office Department, for the period of fifteen years from the completion of the road; and, while in course of construction, for the portion in use and at what rate per mile, for a like period, and on the portions in use while being constructed, they will carry on said road, under the direction of the proper department, all military and naval stores, supplies, munitions, troops, and freights of all kinds for Government purposes, which sum or rate must not exceed that now paid in the aggregate for such service; and from and after the expiration of said period of fifteen years said transportation, postal, military, naval, and for every other Government purpose, shall be in like manner performed on said road, under the direction of the proper Department, at reasonable prices, not exceeding those usually paid for the time being on other first class roads, to be ascertained by Congress in the event of disagreement between the Government and the owners of the road.

SEC. 3. *And be it further enacted*, That the Secretary of War, the Secretary of the Navy, the Secretary of the Interior, and the Postmaster General, under the direction of the President, be, and they are hereby, authorized and

instructed to contract with the party or parties whose proposals, as aforesaid, for each of said lines shall be considered by them to be on the whole the most favorable for the full and complete construction and keeping up of each of said lines of road and telegraph, for which proposals shall be made complying with the terms of this act; the said contract or contracts to provide for the road or roads as herein described, and also for a telegraph line or lines on the most approved plan; and that the party or parties whose proposal or proposals shall be accepted shall each deposit with the Secretary of the Treasury the sum of $500,000, or the value thereof in bonds or certificates of stock of the United States, or State bonds, whose market value shall be at or above par at the time of making the said deposit, which may be subsequently drawn out by them in sums of $5,000, as the work proceeds, on the production of vouchers showing satisfactorily to said Secretary that an amount equal thereto has been applied in good faith to the construction of said road; and all obligations, contracts, and securities, shall be binding and obligatory in law on the contracting parties according to the exact terms of their respective obligations, contracts, and undertakings; all questions of damages and forfeiture by reason of any breach of said contracts being determined by the express terms of such obligations, contracts, and undertakings: *Provided*, That in all contracts made in pursuance of this act the provisions of the act shall be taken and considered as parts of said contracts in like manner as if the same were set forth in full in said contracts.

SEC. 4. *And be it further enacted* That in making said contracts it shall be stipulated that, for the sake of convenience, the said roads shall be divided into sections of one hundred miles each, and that none of said lands shall be conveyed to the contractors until one of those sections shall be completed and put in successful operation, when the President shall convey by patent to the contractors three fourths of the land pertaining to the section so completed, retaining the other fourth as security for the completion of the next section of one hundred miles; and when the second section shall be completed, the President shall, in like manner, convey to the contractors three fourths of the land pertaining to that section, together with the remaining fourth on the previous section, and so with each section, conveying three fourths and retaining one fourth as security for the completion of the next, until the last section of the road shall be finished and put in operation, when the President shall convey to the contractors the residue of the lands; and it shall also be stipulated in said contracts that the mails shall at all times be carried on said roads under the direction of the Post Office Department, and that all other transportation for the use of the United States, as provided in this act, shall be performed under the direction of the proper Department, and that the compensation therefor, at the prices specified in said contracts, in pursuance of this act, shall be regularly paid from the Treasury of the United States quarterly, or at such times as shall be agreed upon: *Provided*, That no money shall be advanced, nor shall any such compensation be made until the service, to the extent of the payment so made, shall have been first performed.

SEC. 5. *And be it further enacted*, That should any contracting party or parties substantially fail, neglect, or refuse to prosecute the work undertaken by said party or parties, in a manner to secure the completion thereof in compliance with their contract, and within the time stipulated, or should such party or parties violate the terms of the contracts, then all rights of said party or parties to said road, right of way, or property, shall be and become forfeited to the United States, and the United States may and shall enter upon and possess the same. In the event of such forfeiture, to be determined by the Secretary of War, Secretary of Navy, Secretary of Interior, and Postmaster General, with the approval of the President, said Secretary of War, Secretary of Navy, Secretary of Interior, and Postmaster General, shall proceed to relet the work remaining under such forfeited contract, and provide for the disposition of the work, done in such manner as will secure its earliest completion, in conformity with the provisions of this act: *Provided*, That they shall not stipulate on the part of the United States for any higher or other terms than are herein expressly authorized and provided.

SEC. 6. *And be it further enacted*, That the party or parties with whom the contract or contracts aforesaid shall be made, shall proceed, as soon as practicable after the execution of such contract or contracts, to locate the general route of said road or roads, and fix the eastern and western terminus of the same; and as soon as such general route or routes shall be determined, which shall not be more than two years from the date of said contract or contracts, a statement thereof shall be furnished by said party or parties to the Secretary of War, and as soon as practicable thereafter the President shall cause the public lands on each side of said route or routes, to the extent of at least forty miles, to be surveyed, and the Indian title thereto extinguished if practicable; and the provisions of the act of September, 1841, granting preëmption rights, and the acts amendatory thereof, shall be, and the same are hereby, extended to such lands, saving and excepting the lands herein set apart and appropriated for the use of said road or roads, as aforesaid: *Provided, however*, That the alternate sections and parts of sections of land which by this act shall remain to the United States, within the lines of twelve miles on each side of said road or roads, shall not be entered or sold, by preëmption or otherwise, for less than double the minimum price of the public lands when sold: *Provided, further*, That so soon as a contract shall be made as aforesaid for the construction of either or each of said roads, it shall be the duty of the President to cause the public lands for not exceeding forty miles on each side of so much of such route as the contractors thereof shall indicate, in pursuance of this act, to be withheld from settlement, sale, or occupation, until the lands shall have been surveyed and the alternate sections selected as provided in this act.

SEC. 7. *And be it further enacted*, That the party or parties receiving grants of alternate sections of land, under the provisions of this act, shall be required to sell and unconditionally convey one half of the same within five years from and after the issuing the patent for the same or any part thereof; and all lands so granted to such party or parties and remaining the property of such party or parties, or which may be held to the use or for the benefit of such party or parties at the expiration of ten years from the date of the patents, shall be and become forfeited to the United States.

SEC. 8. *And be it further enacted*, That the lands of the United States, for two hundred feet wide along the entire line of said road or roads, shall be, and is hereby, set apart and dedicated as a highway for railroad and telegraph purposes; and the said party or parties may take any earth, ground, stone, timber, or other necessary materials for the construction of said roads or telegraph from any adjoining lands of the United States. All contracts made in pursuance of this act for the construction and keeping up of a railroad or roads and telegraphic line or lines, shall provide for and require the railroad or railroads to be constructed in a substantial, thorough, and workmanlike manner, with all necessary drains, culverts, bridges, viaducts, crossings, turnouts, sidings, stations, watering places, and all other appurtenants, including the furniture and rolling works of the road or roads, equal in all respects to a road of the first class when prepared for business, with rails of the best quality, weighing not less than sixty-four pounds to the yard, and a uniform gauge throughout the entire length of each road; and shall also provide for and require a telegraphic line of the most substantial and approved description along the line of each road: *Provided*, They shall not charge the Government higher rates than they do individuals for like service.

SEC. 9. *And be it further enacted*, That the party or parties constructing or owning either of said roads, may at any time construct one or more additional tracks along said routes within the two hundred feet herein granted for the right of way. And all connections with said road or roads shall be made under the direction of the Legislatures of the States and Territories respectively, in which the same shall be constructed, and no road shall be made in pursuance of this act in the State of California, without the authority of the Legislature of that State, and then only by virtue of the authority of such State.

SEC. 10. *And be it further enacted*, That whenever the said road or roads shall be surrendered to the United States in pursuance of the provisions of this act and the contracts authorized by it, thereupon so much of said road or roads as may lie within any of the States, shall, with their assent, vest in and become the property of the State or States, within the limits of which the same may be located, subject to the use of the United States for postal, military, and all other Government service; and also subject to such regulations as Congress may prescribe, restricting the charge for transportation thereon. And all other States organized and admitted into the Union thereafter shall acquire the same rights, subject to like provisions and restrictions.

SEC. 11. *And be it further enacted*, That should the Secretary of War, Secretary of the Navy, Secretary of the Interior, and Postmaster General, under the first advertisement, fail to receive proposals in compliance with the provisions of this act for making all or either of said roads, it shall be the duty of the said Secretary to issue new advertisements in like manner for new proposals, once in each year, until each of said railroads and telegraphic lines shall be put under contract in pursuance of the provisions of this act, unless Congress shall otherwise order and direct.]

The CHAIRMAN. The first section of the substitute is now open for amendment.

Mr. LETCHER. Well, sir, that will not serve me a great deal. I propose to strike out the enacting clause of the bill. That, I believe, is about the surest and shortest way of getting to the end of the road, and I wish to get there as soon as possible.

Mr. McDOUGALL. I rise to a point of order. I ask, if after the general bill has been read, and a substitute offered for it, it is competent to move to strike out the enacting clause?

Mr. CAMPBELL. I submit that it is not in order to move to strike out the enacting clause.

Mr. LETCHER. Well, then, it was in order not many months ago, when we had the Nebraska bill up. [Laughter.]

The CHAIRMAN. The Chair is of opinion that the motion of the gentleman from Virginia [Mr. LETCHER] is in order, under the 119th rule.

Mr. CAMPBELL. I take an appeal from the decision of the Chair.

The CHAIRMAN. The 119th rule directs that a motion to strike out the enacting clause of a bill shall have precedence of a motion to amend, and, if carried, shall be equivalent to its rejection.

Mr. JONES, of Louisiana. I move that the committee do now rise.

The question was put and the motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, the Chairman of the committee reported that the Committee of the Whole on the state of the Union had had under consideration, as a special order, the bill for establishing railroad and telegraphic communication between the Atlantic States and the Pacific ocean, and had come to no resolution thereon.

Mr. HENDRICKS. I ask the unanimous consent of the House to introduce a bill of a private character.

Mr. WALSH. I object.

Mr. WARREN. I move that the House do now adjourn.

The question was taken, and the motion was agreed to, and

Thereupon the House, at five minutes past three o'clock, p. m., adjourned till to-morrow at twelve o'clock, m.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 17, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

SMITHSONIAN INSTITUTION.

The SPEAKER laid before the House the following communication, received from Hon. Rufus Choate, resigning his office as Regent of the Smithsonian Institution:

Hon. LINN BOYD, *Speaker of House of Representatives:*

I take leave to communicate to the two Houses of Congress my resignation of the office of Regent of the Smithsonian Institution.

It is due to the body which has been pleased to honor me with their trust for some years, and has recently conferred it for a new term, to say that this step is taken, not from any loss of interest in the welfare of that important establishment, but in part from the inconvenience experienced in attending the meetings; and in part, also, and more immediately, from my inability to concur or acquiesce in an interpretation of the act of Congress constituting the actual institution, and the Board of Regents, which has been adopted and is now about to be practically carried into administration by a majority of the board. That act, it has seemed to me, peremptorily "directs a manner" and prescribes a plan according to which it intends that the institution shall accomplish the will of the donor.

By the earlier law accepting the gift, Congress engaged to direct such a manner and to devise such a plan, and pledged the faith of the United States, that the funds should be applied according to such plan and such manner. In fulfillment of that pledge, and in the performance of its inalienable and incommunicable duty as trustee of the charity, that body, after many years of deliberation—from which it never sought to relieve itself by devolving the work upon the discretion of others—matured its plan, and established the actual institution to carry it out. Of this plan, the general features are sketched with great clearness and great completeness in the law. Without resorting for aid in its interpretation to its parliamentary history, the journals and debates, the substantial meaning seems to be palpable and unequivocal in its terms. By such aid it is rendered quite certain. A Board of Regents is created to administer it. Some discretionary powers, of course, are given to the Board in regard of details, and in regard of possible surpluses of income which may remain at any given time, while the plan of Congress is being zealously and judiciously carried into effect; but these discretionary powers are given, I think, *in trust for the plan of Congress, and as auxiliary to, coöperative with, and executory of, it.* They were given for the sake of the plan, simply to enable the regents the more effectually and truly to administer that very one—not to enable them to devise and administer another of their own, unauthorized in the terms of the law, incompatible with its announced objects and its full development, not alluded to in it anywhere, and which, as the journals and the debates inform us, when presented to the House under specific propositions, was rejected.

Of this act an interpretation has now been adopted, by which, it has seemed to me, these discretionary means of carrying the will of Congress into effect are transformed into means of practically disappointing that will, and of building up an institution substantially unlike that which it intended, which supersedes and displaces it, and in effect repeals the law. Differences of opinion had existed in the board from its first meeting, in regard of the administration of the act; but they were composed by a resolution of compromise, according to which a full half of the annual income was to be eventually applied in permanence to what I deem the essential parts of the plan of Congress. That resolution of compromise is now formally rescinded, and henceforward the discretion of the regents, and not the act of Congress, is to be the rule of appropriation, and that discretion has already declared itself for another plan than what I deem the plan of Congress. It may be added that, under the same interpretation, the office and powers of secretary are fundamentally changed from those of the secretary of the law as I read it, and are greatly enlarged.

In this interpretation, I cannot acquiesce; and with entire respect for the majority of the board, and with much kindness and regard to all its members, I am sure that my duty requires a respectful tender of resignation. I make it accordingly, and am your obedient servant,

RUFUS CHOATE.

WASHINGTON, (D. C.,) *January* 13, 1855.

Mr. MEACHAM. I ask the unanimous consent of the House to introduce a resolution of inquiry, founded upon that letter; and upon the resolution I demand the previous question.

The resolution was reported, as follows:

Resolved, That the letter of Hon. Rufus Choate, resigning his place as Regent of the Smithsonian Institution, be referred to a select committee of five, and printed; and that said committee be directed to inquire, and report to the House, whether the Smithsonian Institution has been managed, and its funds expended, in accordance with the law establishing the institution; and whether any additional legislation be necessary to carry out the designs of its founders; and that said committee have power to send for persons and papers.

Mr. ENGLISH. If I have a right to object to the reception of the resolution just proposed by the gentleman from Vermont, [Mr. MEACHAM,] I do so; and I move that the communication submitted by Mr. Choate be laid on the table, and ordered to be printed.

The SPEAKER. The resolution of the gentleman from Vermont, to refer to a select committee the letter which has just been read, is in order, in the opinion of the Chair. Upon the adoption of the resolution, the gentleman from Vermont demands the previous question. It is in order to make a motion to lay the matter upon the table.

Mr. ENGLISH. Then I make that motion.

Mr. MEACHAM. Will that motion carry the resolution with it?

The SPEAKER. It will.

Mr. MEACHAM. Am I not still entitled to the floor?

The SPEAKER. The gentleman from Vermont cannot retain the floor after moving the previous question. It is in order for the gentleman from Indiana to make the motion he does, as it is a privileged question.

Mr. MEACHAM. The resolution I offer is simply one of inquiry, made in respectful terms, and it appears to me that there can be no objection to it. If the motion of the gentleman from Indiana is pressed, I shall demand the yeas and nays.

Mr. BAYLY, of Virginia. I ask my friend from Indiana to withdraw the motion to lay upon the table. The resolution ought to go to the Judiciary Committee, and the clause providing for sending for persons and papers ought to be stricken out.

The yeas and nays were ordered.

Mr. CHANDLER. I would ask whether the motion to lay upon the table includes the motion to print?

The SPEAKER. It does include that motion.

Mr. CLINGMAN. The motion to lay upon the table and print would be a debatable motion.

The SPEAKER. It would scarcely be debatable, pending the demand for the previous question.

Mr. CLINGMAN. The demand for the previous question has not been seconded.

The SPEAKER. It could not be until there was a test vote.

Mr. CLINGMAN. If the gentleman from Indiana couples the motion to lay upon the table with the motion to print, I should think it would be debatable.

The SPEAKER. It cannot be a debatable motion, for the reason that the previous question is demanded upon the adoption of the resolution. The demand for the previous question must be first disposed of before discussion can be had.

Mr. JONES, of Tennessee. I would remark that no person has called for a division of the question to lay upon the table and print.

Mr. ENGLISH. If I have the right to do so, I propose to modify my motion, so as to lay the communication and resolution upon the table, and withdraw the motion to print.

The SPEAKER. The gentleman has a right to modify his motion and withdraw the motion to print.

Mr. ENGLISH. I then so modify my motion.

The SPEAKER. The yeas and nays have not been ordered upon the modification proposition.

Mr. BAYLY, of Virginia. The proposition being modified, how does the previous question apply?

The SPEAKER. The demand for the previous question will come up, should the House refuse to lay the resolution upon the table; and it cuts off debate until the House determine whether or not it will sustain the demand.

Mr. MEACHAM. I ask for the yeas and nays upon the modified motion.

The yeas and nays were ordered.

The question was then taken, and there were—yeas 81, nays 84; as follows:

YEAS—Messrs. Aiken, James C. Allen, Willis Allen, Thomas H. Bayly, Barksdale, Bell, Boyce, Breckinridge, Bridges, Caruthers, Caskie, Chandler, Chastain, Chrisman, Cobb, Colquitt, Craige, John G. Davis, Dawson, Disney, Drum, Dunbar, Eddy, Edgerton, Edmundson, John M. Elliott, English, Everhart, Faulkner, Franklin, Goode, Green, Greenwood, Hamilton, Sampson W. Harris, Hendricks, Hillyer, Houston, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kurtz, Lamb, Latham, Macdonald, Matteson, Maxwell, Millson, Morgan, Nichols, Orr, Packer, Pennington, Bishop Perkins, John Perkins, Phelps, Pringle, Reese, Thomas Ritchey, Robbins, Rogers, Ruffin, Shannon, Shaw, Shower, Skelton, George W. Smyth, Sollers, Frederick P. Stanton, Andrew Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Teller, Trout, Vansant, Walbridge, Walker, and Warren—81.

NAYS—Messrs. Appleton, David J. Bailey, Ball, Bennett, Benson, Bliss, Campbell, Carpenter, Chamberlain, Chase, Clark, Clingman, Cook, Corwin, Cox, Crocker, Cullom, Cutting, Thomas Davis, Dickinson, Ellison, Farley, Fenton, Flagler, Fuller, Goodrich, Goodwin, Grey, Grow, Aaron Harlan, Wiley P. Harris, Harrison, Haven, Hibbard, Hiester, Hill, Hughes, Hunt, Johnson, Kittredge, Knox, Letcher, Lilly, Lindley, Lindsley, McDougall, Mace, Macy, Maurice, Mayall, Meacham, Middleswarth, Murray, Norton, Andrew Oliver, Mordecai Oliver, Parker, Peck, Pratt, Puryear, Ready, Rowe, Russell, Sabin, Sapp, Seward, Simmons, Samuel A. Smith, William R. Smith, Richard H. Stanton, Hestor L. Stevens, Stratton, Thurston, Upham, Wade, Elihu B. Washburne, Israel Washburn, Wells, Tappan Wentworth, Westbrook, Wheeler, Yates, and Zollicoffer—84.

So the House refused to lay the resolution upon the table.

Pending the call,

Mr. KERR said: Is it in order to make an inquiry of the Chair at this time?

The SPEAKER. Only by the unanimous consent of the House.

Mr. KERR. There seems to be some misapprehension in regard to this matter. I suppose by laying the resolution upon the table that we do not accept the resignation of Mr. Choate.

The SPEAKER. The Chair understands the resignation to have been already received. The House received the letter, and it was read.

Mr. KERR. There seems to be some diversity of opinion in relation to the matter. My only desire is, that it shall be understood.

The question then recurred upon the demand for the previous question.

Mr. FRANKLIN. I would like to inquire of the Chair, if it is in order to move to refer this matter to the select committee already in existence upon the subject of the Smithsonian fund?

The SPEAKER. The demand for the previous question cuts off any motion, until the House determine whether they will second the demand.

Mr. FRANKLIN. I give notice that I shall make the motion to refer these papers to the select committee already existing upon the subject of the Smithsonian fund, which has this matter in charge, and is expecting to make a report upon it in a few days.

Mr. WASHBURN, of Maine, demanded tellers on the second to the demand for the previous question; which were ordered; and Messrs. GREY and WALKER were appointed.

The House was then divided; and the tellers reported—ayes 74, noes 72.

So there was a second; and the main question was then ordered to be put.

The question now being on the adoption of the resolution,

Mr. PRINGLE demanded the yeas and nays; which were ordered.

The question was then put; and it was decided in the affirmative—yeas 93, nays 91; as follows:

YEAS—Messrs. Abercrombie, Appleton, David J. Bailey, Ball, Banks, Bennett, Benson, Bristow, Bugg, Campbell, Carpenter, Chamberlain, Chase, Clark, Cook, Corwin, Crocker, Cullom, Curtis, Cutting, Thomas Davis, Dawson, De Witt, Dickinson, Eastman, Edgerton, Edmands, Ellison, Etheridge, Farley, Fenton, Flagler, Fuller, Goodrich, Goodwin, Grow, Aaron Harlan, Wiley P. Harris, Haven, Henn, Hiester, Hill, Hughes, Hunt, Johnson, Kittredge, Knox, Latham, Letcher, Lilly, Lindley, Lindsley, McDougall, Mace, Macy, Matteson, Maurice, Mayall, Meacham, Middleswarth, Murray, Norton, Andrew Oliver, Parker, Peck, John Perkins, Pratt, Preston, Puryear, Ready, David Ritchie, Rowe, Russell, Sabin, Sapp, Simmons, Singleton, William R. Smith, Richard H. Stanton, Hestor L. Stevens, Stratton, Thurston, Upham, Wade, Walsh, Elihu B. Washburne, Israel Washburn, Wells, Tappan Wentworth, Westbrook, Wheeler, Yates, and Zollicoffer—93.

NAYS—Messrs. Aiken, James C. Allen, Willis Allen, Belcher, Bocock, Boyce, Breckinridge, Bridges, Caruthers, Caskie, Chandler, Chastain, Chrisman, Clingman, Cobb, Colquitt, Cox, Craige, John G. Davis, Dunbar, Eddy, Edmundson, English, Everhart, Faulkner, Florence, Franklin, Goode, Greenwood, Grey, Hamilton, Harrison, Hendricks, Hillyer, Houston, Ingersoll, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kurtz, Lamb, Macdonald, McMullin, McQueen, Maxwell, Smith Miller, Millson, Morgan, Nichols, Olds, Mordecai Oliver, Orr, Packer, Pennington, Bishop Perkins, Phelps, Powell, Pringle, Reese, Richardson, Thomas Ritchey, Robbins, Rogers, Ruffin, Sage, Seward, Shannon, Shaw, Shower, Skelton, Samuel A. Smith, George W. Smyth, Sollers, Frederick P. Stanton, Straub, Andrew Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Teller, Trout, Vansant, and Walker—91.

So the resolution was adopted.

Mr. MEACHAM. I move to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider upon the table.

Mr. FLORENCE. I call for the yeas and nays upon the motion to lay upon the table.

The yeas and nays were ordered.

The question was then put; and it was decided in the affirmative—yeas 94, nays 82; as follows:

YEAS—Messrs. Abercrombie, James C. Allen, Appleton, David J. Bailey, Ball, Banks, Barksdale, Barry, Bennett, Benson, Bristow, Bugg, Campbell, Carpenter, Chamberlain, Chase, Clark, Cook, Corwin, Crocker, Thomas Davis, Dawson, De Witt, Dickinson, Eastman, Edgerton, Edmands, Ellison, Etheridge, Farley, Fenton, Flagler, Fuller, Goodrich, Goodwin, Grow, Aaron Harlan, Sampson W. Harris, Wiley P. Harris, Hastings, Haven, Henn, Hiester, Hill, Hughes, Hunt, Johnson, Kittredge, Knox, Latham, Letcher, Lilly, Lindsley, McDougall, Mace, Macy, Matteson, Maurice, Mayall, Meacham, Middleswarth, Murray, Noble, Norton, Andrew Oliver, Mordecai Oliver, Parker, Peck, Bishop Perkins, John Perkins, Pratt, Puryear, Ready, David Ritchie, Rowe, Sabin, Sapp, Seward, Simmons, Singleton, William R. Smith, Richard H. Stanton, Hestor L. Stevens, Stratton, Thurston, Upham, Wade, Elihu B. Washburne, Israel Washburn, Wells, Tappan Wentworth, Westbrook, Wheeler, and Yates—94.

NAYS—Messrs. Willis Allen, Thomas H. Bayly, Belcher, Bell, Bocock, Boyce, Breckinridge, Bridges, Caskie, Chandler, Chastain, Chrisman, Cobb, Colquitt, Craige, John G. Davis, Drum, Dunbar, Eddy, Edmundson, John M. Elliott, English, Everhart, Faulkner, Florence, Franklin, Goode, Greenwood, Grey, Hamilton, Harrison, Hendricks, Hillyer, Ingersoll, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kurtz, Lamb, Lewis, Macdonald, McMullin, McQueen, Maxwell, Smith Miller, Millson, Morgan, Nichols, Olds, Orr, Packer, Pennington, Phelps, Pringle, Reese, Thomas Ritchey, Robbins, Rogers, Ruffin, Sage, Shannon, Shaw, Shower, Skelton, Samuel A. Smith, William Smith, George W. Smyth, Frederick P. Stanton, Straub, Andrew Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Teller, Trout, Vansant, Walker, Walsh, Warren, and Witte—82.

So the motion to reconsider was laid upon the table.

ALMANZON HUSTON.

Mr. SMYTH, of Texas. I ask the unanimous consent of the House to take from the Speaker's table Senate bill No. 266, for the purpose of reference only to the Committee on the Post Office and Post Roads.

Mr. RICHARDSON. What is it about?

Mr. SMYTH. It is an act for the relief of Almanzon Huston.

The SPEAKER. The bill does not appear to be upon the Speaker's table.

Mr. SMYTH. I had the number of the bill from the Clerk.

The SPEAKER. Perhaps the bill is in the Committee of the Whole on the state of the Union.

Mr. OLDS. The gentleman is mistaken as to the bill being upon the Speaker's table. The bill to which the gentleman refers was reported back, last session, from the Committee on the Post Office and Post Roads, and was laid upon the table.

Mr. SMYTH. Then I ask the unanimous consent of the House that it may be re-referred to the Committee on the Post Office and Post Roads.

The motion was agreed to.

Mr. BRECKINRIDGE. I rise to a privileged question. Yesterday, when I reported the Texas bill to the House, from the Committee of Ways and Means, the House ordered the papers accompanying the bill to be printed. By mistake, the order was not entered at the Clerk's desk. I ask that the order may be now made.

The SPEAKER. If there is no objection the order will be entered, as the Chair remembers well that the order was made yesterday.

There being no objection, the order was entered.

Mr. SKELTON. I call for the regular order of business.

The SPEAKER. That is the consideration of "a bill for the relief of Samuel A. Belden & Co."

BILLS INTRODUCED AND REFERRED.

Mr. UPHAM. I request the gentleman from New Jersey to give way to me for one moment. I am situated in a most remote part of the Hall, and, as members are well aware, it is exceedingly difficult for me to obtain the eye of the Speaker. I have been for several days endeavoring to get an opportunity to introduce, for the purpose of reference only, several bills, of which previous notice has been given. I hope I may now be allowed to execute that long delayed purpose.

Mr. SKELTON. If I yield, there will be no end to similar applications. By this irregular mode of doing business, we are wasting the whole session, without accomplishing anything.

The SPEAKER. The gentleman refuses utterly to withdraw.

Mr. UPHAM. May I ask the House, under these peculiar circumstances, to suspend the rules to enable me to introduce the bills?

The SPEAKER. The rules can only be suspended on Monday, except by unanimous consent.

Mr. SKELTON. I will yield in this instance, but in no other.

Mr. UPHAM then, by unanimous consent, introduced the following bills; which were severally read a first and second time by their respective titles, and referred to the Committee on Commerce:

A bill for the preservation of the harbor of Lynn, in the State of Massachusetts;

A bill providing for the resurvey of the harbor of Rockport, in the State of Massachusetts;

A bill providing for the resurvey of the harbor of Annisquam, in the State of Massachusetts; and

A bill for the preservation of the harbor of Marblehead, in the State of Massachusetts.

Mr. SKELTON. I now ask for the regular order of business.

The SPEAKER. The business first in order, is a bill for the relief of Samuel A Belden & Co., and upon that bill the gentleman from New Jersey [Mr. SKELTON] is entitled to the floor, as he had it yesterday when the morning hour expired.

PERSONAL EXPLANATION.

Mr. COBB. Before we proceed to the consideration of that bill, I ask the unanimous consent of the House to make a personal explanation.

Mr. SKELTON. I yield for that purpose.

Mr. COBB. I will occupy but four or five minutes of the time of the House. I have been a member upon this floor for several years, and have, occasionally, been incorrectly reported. I have been reported to have said upon this floor, things which I never intended to say. However, I have generally been perfectly satisfied with reports made of my remarks, and, until recently, I have thought it better to suffer a little, than to trouble the House with an explanation of anything which I may have been erroneously reported to have said.

Until the last canvass, I never had any trouble in getting along with the reports of my remarks. Then I had a gentleman opposed to me, who took advantage of a word which I was reported to have said, but which I never said, and never intended to say, and that gave me a great deal more trouble, than it would be to occupy three minutes here in putting myself right.

I now attempt to do so. But before I do that, let me say, that I do not charge the reporters with any want of ability, or attention to their duties. What surprises me most is, that they (considering the difficulty of hearing in the Hall) report me, or any other person, as well as they do. With this word of explanation, I proceed to say, that, in the Globe of the 11th instant, I am made to say, in connection with my remarks when the homestead bill was under consideration, that I would not vote for a bill giving a home to the people of the United States, unless it had a provision in it that absolutely provided for persons who might hereafter come into the country.

I did not say that; or, if I did, I did not intend to say it. I intended to say I would not vote for a bill, the construction of which might, either by implication or otherwise, entitle persons who might hereafter come into the country to the benefits of the law. That is what I intended to say.

They make me say I would vote for a bill providing for population which might hereafter come into the country, disconnected with the bill then under consideration. I never intended to say that; but I did intend to say, that that would be a question to be determined by the wisdom of Congress when it should arise. Persons may hereafter come here, if this system works well, who may ask for the benefits of the bill. Then it will be for the wisdom of Congress to extend the provisions of the bill to that class of individuals.

Two or three words more. I am made to say that I was opposed to the *sixth* section of the homestead bill. I intended to say I was opposed to the *fifth* section. I was made to say, too, when I was referring to the second section of the graduation bill, that I referred to the sixth section, when there is not six sections in the bill which I reported at the last session of Congress.

I make these remarks to save me trouble hereafter, and in order that the gentleman who fought me in the last canvass, and all other persons, may know what I intended to say.

Mr. BALL. I wish to put a question to the gentleman from Alabama. I wish to ask him whether he was afraid that "Sam" would be after him? [Laughter.]

Mr. COBB. I have no reason to fear him. If there was a "Sam" in my district when I left it, he was not known. [Laughter.]

SAMUEL A. BELDEN AND COMPANY.

Mr. SKELTON. The bill which is now pending before this House for the relief of Samuel A. Belden & Co., is not only a bill of importance, but it is one of those bills which have crept into this House in a manner which we ought never to allow. Instead of having been referred to a standing committee, to be investigated by them, it has been brought here and introduced without any such reference, while the rules of the House require that such bills should not only be sent to standing committees for investigation, but shall be first discussed in the Committee of the Whole on the state of the Union.

Mr. SHANNON. I will say to the gentleman, that the petition of Belden & Co. was referred to the Committee on Foreign Affairs, and they, after having given the subject full consideration, directed me to report the bill to the House.

Mr. SKELTON. The gentleman's remarks illustrate the impropriety of hasty action. The passage of these bills in this Hall without the light necessary to intelligent action, is a great evil, and ought to be remedied. But that is not the only objection; for, by pursuing such a course, we do away with all regular business; measures which are introduced properly under the rules of the House are thrust aside for the consideration of others just brought to the notice of members. Unless the matter be now stopped, each and all of the committees will be prevented from making a single report on any subject referred to them for investigation. Things, by this practice, will be done during the session which ought not to be done, and many things will be left undone which ought to have received attention.

Mr. BAYLY, of Virginia. I beg my friend from New Jersey to allow me to make a single remark. It is due to myself that it should be made. I did not hear what he said, but I am told that it was that this report came from the Committee on Foreign Affairs without authority from that committee. Let me say to the House, that it would be impossible for me to allow any such thing as that to occur. I would certainly not sit here and let any member of that committee report a bill which had not been acted on by the committee.

This is one of a class of cases which was entrusted to the examination of the gentleman from Ohio, [Mr. SHANNON,] for the reason that, having been our Minister to Mexico, he was supposed to be better informed in regard to the questions involved than the rest of the committee. He was authorized to submit the report now before this body.

Mr. SKELTON. The gentleman does not understand my remark correctly. I repeat what I said; and it is, that this bill has not come to us in the regular order of business under the rules. The Committee on Foreign Affairs was not called on, and therefore had no authority, under the rules, to submit the report. I am sure gentlemen will agree with me, that this committee should not be granted privileges different from those enjoyed by the other standing committees. Many committees are now waiting to be called on for reports. They have business ready for regular action of the House—business far more important and urgent than that now under consideration.

Mr. Speaker, I have no desire to consume the time of the House, at this juncture, by any lengthy remarks. A few words more, and I shall have done all I desired to do in rising. This measure, as I remarked yesterday, involves an important principle. It not only acknowledges that we should indemnify these merchants engaged in commerce and trade for any losses which they may sustain, but it also goes behind the decisions of the judicial tribunals of Mexico, according to the remarks of a gentleman on this floor. If we are to open the door of the Treasury to this class of claims, I would ask whether, out of common prudence, we had not better proceed with caution?

But the gentleman from Tennessee [Mr. STANTON] appeals to us on patriotic grounds. He asks whether the Government of the United States will not extend the same measure of protection to its citizens that the Government of Great Britain extends to its subjects? That question ought not to go unnoticed. It appeals to our patriotism, and we should see whether or not it is founded on fact. When a member says that our Government ought not to give the same protection to its citizens that that of Great Britain does to its subjects, he stands on delicate ground. I undertake to say that our patriotism should be always regulated by prudence. While protecting the rights of one class of citizens, we should not trample upon those of another class. I have seen a good deal of such protection since I have occupied a seat upon this floor. Day in and day out men come here and demand protection from the American Government—but what kind of protection? What kind of protection is asked for by this bill? Is it equal protection—that protection allowed by the principles of equality and justice, which lie at the foundation of our Constitution and Government? Is it protection in sympathy with the genius of our Government? No, sir; it is no such protection. It is unequal protection. It heavily oppresses one class of our citizens—a class far better entitled to our protection than any other class.

Let us examine what the bill proposes to do. It proposes to take from the Treasury certain moneys, and to place them in the pockets of these claimants, who are traders and speculators. Where do these moneys come from? They come, sir, out of the pockets of the mechanic, the artisan, the farmer, and the laboring man—men who stay at home, and subsist themselves without speculations. They have a right to demand protection at our hands; and so long as I have a seat upon this floor, I shall do all in my power to prevent their being trampled on for the benefit of speculators and traders.

Mr. STANTON, of Tennessee. The gentleman says that the bill proposes to take money from the Treasury, which comes from the pockets of the mechanics and laborers of the country, to pay this claim. If this bill passes, I understand that it authorizes the taking from the Treasury of just exactly the amount of money taken from these parties by way of duties—nothing more, nothing less. The money was taken from the pockets of these claimants by the Government of the United States, under an implied, if not an expressed pledge, by the payment of the imposed taxes, to protect them in disposing of the goods which they imported into Mexico. They were invited, by the proclamation of the Government, to import their goods into that Republic while in our military possession.

If not trespassing too far on the indulgence of the gentleman, I will say something in reply to a direct allusion to myself, in reference to the protection extended by the British Government to its subjects compared with that to be extended by the Government of the United States. You will recollect, Mr. Speaker, that the gentleman from Virginia [Mr. BAYLY] read, yesterday, a decision of one of the British courts, to the effect that it was the duty of the Government of Great Britain to protect its citizens; and, if it failed to do so, that it was its duty to pay whatever loss was incurred by the citizen through violation of law by any foreign Government. The gentleman argued that while that might be good British law, it was not good American law. I simply ask whether the protection which the British Government would extend to its subjects in such cases ought not to be extended by the American Government to its citizens?

Mr. SKELTON. I will give the gentleman's question a direct answer. We should extend to our citizens all the protection which we can consistently with a due regard to the rights and claims of all; but we ought not to protect one citizen by invading the rights of other citizens. I hold that we should protect the rights of all citizens when we can do so without injuring the rights and interests of other citizens; but if, in protecting the rights of certain citizens, we invade the rights, pockets, and interests of other citizens, I say that we get into a monarchical system of protection, which, I am confident, the American people never will sanction. The gentleman's argument is fallacious.

Mr. MILLSON. With the permission of the gentleman from New Jersey, I will, in reply to the gentleman from Tennessee, [Mr. STANTON,] state a fact about which he seems to be either uninformed, or misinformed. He asked whether more was proposed by this bill than to pay these claimants from the Treasury of the United States just exactly the amount of money which they had paid into it. The present claimants never paid a dollar of it into the Treasury—not one dollar, sir.

Mr. HUNT. Let me ask the gentleman where he gets his information?

Mr. MILLSON. From the papers in the case.

Mr. HUNT. Statements made in the other House are different from those made by the gentleman, and I think that he is mistaken.

Mr. MILLSON. If the honorable gentleman will hear me read from the paper which I hold in my hand he will not think that I am mistaken. The present claimants, Belden & Co., purchased tobacco in Mexico which was imported by another house.

Mr. HUNT. That is only one item, and is susceptible of satisfactory explanation.

Mr. MILLSON. Belden & Co., did not pay the duties on that tobacco, but Turner & Renshaw. After having paid these duties, and after the termination of the war with Mexico, some difficulties arose between the Mexican authorities and the importers as to the granting of permits, and in consequence of these difficulties, Turner & Renshaw, as they themselves declare in the papers which I have before me, sold to Belden & Co. this tobacco, which they say was worth twenty-five dollars per quintal, at thirteen dollars per quintal. The present claimants themselves state, that they purchased the tobacco of the importers. And, sir, as the honorable gentleman from Louisiana has asked my authority for the fact, I will proceed to read it.

Mr. HUNT. No, sir, I did not ask the authority for the fact stated. I asked authority for the larger statement which the gentleman made. The gentleman's statement may be correct as to the importation of the tobacco, but it is erroneous when he says that Belden & Co. have never paid one dollar into the Treasury. They have paid largely upon many articles of merchandise. The tobacco is but a single and small item in a large account.

Mr. MILLSON I did not mean to be understood to say that Belden & Co. had never, in all their transactions, paid money into the Treasury. I am only speaking of this particular case. I thought the investigation only extended to this case.

Mr. HUNT. The proposed investigation extends to many particulars; and the bill authorizes the proper officer of the Government to ascertain the amount of duties paid on every one and on all of those particulars. Every dollar ascertained to have been paid, ought to be refunded.

Mr. MILLSON. I know nothing of the various transactions of Belden & Co. I am only alluding to the particular case before us. My sole object was, to reply to the interrogatory put by the gentleman from Tennessee; and I will read the statement of Turner & Renshaw themselves, in reference to it. They say:

"At different periods during the time this tobacco was kept on hand, by the denial of permits, portions of it were sold in and about Matamoras, at a very reduced price, and finally the last three hundred bales, or quintals, were disposed of to S. A. Belden & Co., at a very great sacrifice. The average rate at which these sales were made, including the sales at Monterey, was about thirteen dollars per quintal, and this is the last mode in which it could be sold; whereas, if proper permits had been granted when demanded, in a reasonable time, it might have been sold for an average price of about twenty-five dollars per quintal or bale."

And in the petition of Samuel A. Belden, which I have before me, he states, that in September, 1848, he became the consignee of a quantity of leaf tobacco, and finally purchased the same from the owners, Messrs. Turner & Renshaw, of New Orleans.

Mr. STANTON, of Tennessee. What I was about to say in reply to the gentleman from Virginia, is this: I stated yesterday that I was not acquainted with the facts of this case. I had never read a single paper in reference to it, and did not pretend to be acquainted with the facts. I stated then my view of the principle involved, and now I will say in reply to what the gentleman has said, that I do not think the fact he has disclosed here, makes the slightest difference. I think if the goods were taken from the purchaser, that he is entitled to have the duties refunded to the same extent that the importer would have been.

Mr. MILLSON. I will trespass upon the indulgence of the gentleman from New Jersey [Mr. SKELTON] but a moment longer. I did not intend to enter into a general discussion of the objections which may arise to this bill; I simply rose to set the gentleman right, or to answer an interrogatory which he had propounded. I say, then, that it is not the object of this bill to put into the pockets of Belden & Co. money which they have paid to the Government.

As these parties purchased the tobacco at the very reduced price of thirteen dollars per quintal, in consequence of the refusal of the Mexican Government to grant permits, and as they entered into the speculation with a full knowledge of the difficulties they had to encounter, and paid a price corresponding with the risks, I think that if anything is due to anybody, it is to the original importers who paid their money to the United States, and who, it seems, were compelled to sell their goods at a great sacrifice in consequence of the difficulties made by the Mexican authorities.

Mr. SMITH, of Virginia. I ask the gentleman from New Jersey to allow me a moment.

Mr. SKELTON. I cannot give way further. I will occupy the time of the House but a moment longer. The discussion which has taken place this morning fully, in my opinion, demonstrates that this bill should never have come before the House. The hot haste with which it came in here, together with the zeal with which it was pressed upon us, at once excited my suspicion. The manner in which I was assailed for objecting to it, also excited my suspicion.

Mr. FULLER. I should like to ask the gentleman from New Jersey a question, with a view of more fully understanding the merits of this claim. I ask whether this was or was not a claim presented before the Mexican Commission appointed under the treaty of Guadalupe Hidalgo; and, if it was not, whether it was not a proper claim to have been adjudicated by that commission?

Mr. SKELTON. Does the gentleman himself know the facts about which he asks?

Mr. FULLER. No, sir. I only asked for information. From the nature of the case, as disclosed to the House, it seemed to me that it was a proper claim to have been presented before that commission, and I desired to know whether such was the fact.

Mr. SKELTON. I do not know. But, sir, enough has been developed to show that this bill ought never to pass this House.

Mr. STANTON, of Tennessee. Will the gentleman allow me to state an additional fact in reference to the matter?

Mr. SKELTON. No, sir, I cannot yield further. The gentleman will allow me to answer the interrogatories that have already been put before he files others. The gentleman from Tennessee says this money is not to be taken out of the Treasury of the United States, but the bill proposes to refund the money which these parties have paid into the Treasury. He says it is only to pay back the duties which they have paid out of their own pockets. Now, sir, suppose we should pay back all the duties which individuals have paid into the Treasury, what would become of the revenue of the Government? Where should we get the revenue with which to carry on the Government?

Mr. Speaker, I will add but a few words more. I did not intend to be drawn into a discussion upon this bill, but I have been drawn into it by the intemperate zeal with which this matter has been pressed. The point presented is one of much importance, and should not be passed without full and thorough investigation.

We derive our revenues from the duties paid upon foreign goods which are imported into the country. And when a man has imported goods, and paid the duty imposed on them, that duty becomes a part of the value of the goods themselves in the hands of the merchant. The money paid into the Treasury of the United States is the money of the people of the United States, and when that money is taken out and paid back to the importer, a like amount must be raised upon some other imports to make up the deficiency which would necessarily arise in the revenue. I say that every dollar taken out of the Treasury of the United States to pay indemnities, or for any other purpose, creates a deficiency which must be made up by additional duties levied upon other goods, and must, in the end, come out of the pockets of the consumer.

Again, the gentleman talks about protection. Why, sir, the support of the Navy of the United States costs us annually not less than ten millions of dollars, and the great object in maintaining it is for the protection of our merchant vessels in foreign seas; and the class of men who, for the most part, furnish this protection, ask no protection in return. I agree with the gentleman that we should give protection to the American citizen wherever he may be. Yes, sir, wherever the American citizen may be—in whatever quarter of the world—he should find protection under the American flag.

But the protection of the lives of our citizens is one thing and the protection of property another. That presents quite a different question for our consideration. How far, when a man embarks in an expedition into a foreign country, we should protect his property, is entirely another question; because, when a man engages in an enterprise in which there is risk, he does it with the knowledge that there is risk; and in proportion to the risk and danger incurred will be his profit and reward, if he is successful.

I think, Mr. Speaker, that this question is of sufficient magnitude to deserve a more lengthy discussion; but I will not, at present, trespass further upon the time of the House.

Mr. MILLSON obtained the floor.

Mr. STANTON, of Tennessee. Will the gentleman from Virginia allow me to read a passage from Mr. Walker's proclamation?

Mr. MILLSON. Not at present. I wish to speak upon this question for about eight or ten minutes, and no longer. But, sir, the day is now considerably advanced, and although my remarks will take up very little time, yet, perhaps, there may be further discussion, and the yeas and nays may be called. I think it would be better, therefore, for the House to go into the Committee of the Whole on the state of the Union, and resume the consideration of the important bill now pending before it.

Mr. STANTON. I appeal to the gentleman to allow me to read a brief passage from this proclamation. It will not take two minutes.

Mr. MILLSON. Why, sir, I shall probably have occasion to reply and comment upon it, and therefore, the gentleman had better read it to-morrow. I can see no necessity for reading it now.

Mr. BAYLY, of Virginia. Will my colleague, before he submits his motion, allow me to say a word?

Mr. MILLSON. Why, that is exactly what I have just declined to allow the gentleman from Tennessee to do.

Mr. BAYLY. I merely wish to say to the House, that I hope the suggestion of my colleague will be acquiesced in, for this is a case to which I have given very little personal attention, and the course of the debate has been a source of embarrassment to me.

Mr. MILLSON. Before submitting any motion, I desire to say, that I do not regard this bill as so unimportant a one as the amount involved in it might seem to imply. It involves a very great, and, if my colleague will pardon me for saying so, a dangerous principle of international relations, and it is on that account, more than for the amount involved, that I think this bill should receive the deliberate consideration of the House.

I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

PACIFIC RAILROAD.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair,) and resumed the consideration of the special order, being the Pacific railroad bill.

Mr. LETCHER. I propose to withdraw the motion, which I submitted yesterday just before the committee rose, to strike out the enacting clause of the bill, and to let the committee go on and perfect the bill.

Mr. WHEELER. Has the gentleman any right to withdraw his motion, except by unanimous consent?

The CHAIRMAN. Certainly, he has the right.

Mr. LETCHER. Then I withdraw the motion.

The CHAIRMAN. The business in order is the consideration of the substitute proposed by the gentleman from Louisiana, [Mr. DUNBAR.]

The Clerk then reported the first section of the substitute, which is as follows:

That, with the view of aiding in the construction of suitable railroads and telegraphic communication between the Mississippi valley and the Pacific ocean, there shall be, and is hereby, appropriated and set apart a quantity of public land equal to the alternate sections for the space of twelve miles on each side of said roads from their eastern to their western termini, as follows:

One road and telegraph, to commence on the western border of the State of Texas, and to pursue the most eligible route to the navigable waters of the Pacific in the State of California; which line shall be known as the Southern Pacific railroad;

One road and telegraph, to commence on the western border of the States of Missouri or Iowa, and to pursue the most eligible route to the Bay of San Francisco; which line shall be known as the Central Pacific railroad;

And one road and telegraph, to commence on the western border of the State of Wisconsin, in the Territory of Minnesota, and pursue the most eligible route to the navigable waters of the Pacific, in Oregon or Washington Territories; which line shall be known as the Northern Pacific railroad; such lands to be selected from the sections which shall be designated in the public surveys of said land (when made) by odd numbers, and to be held and conveyed as herein provided; and in all cases when the United States may have disposed of said lands, or any part thereof, or shall, from any cause, be unable to convey a title thereto, the deficiency may be made up by the party or parties who may become entitled thereto from any unoccupied and unappropriated lands belonging to the United States within the distance of thirty miles of said road: *Provided, however*, That for such deficiency within the State of California, and also in lieu of all mineral lands in said State, (which are hereby excepted from the appropriation herein made,) such selection may be made from any unoccupied and unappropriated lands of the United States within fifty miles of said road in the said State.

Mr. PERKINS, of New York. Mr. Chairman, I move to strike out "twelve," in the seventh line, and insert "six." We have, in the bill before us, a proposition to induce the construction (if this scheme succeeds) of three railroads from the Mississippi river to the Pacific ocean, and to give every alternate section of land within twelve miles of the respective roads. The roads will average two thousand miles in length; and the land proposed to be given is equal, in the aggregate, to thirty-six miles in breadth, by two thousand in length—equal to seventy-two thousand square miles of land—a tract of country almost twice as large as the State of Ohio.

We have heard much said of late, by a party designating themselves as the American party, but recently as Know-Nothings, against foreigners, Catholics, and our naturalization laws. Sir, I am opposed to holding out inducements for such floods of foreigners to emigrate here. Can you build these roads without either drawing a great amount of labor from the productive industry of the country, or inducing millions of European laborers to come here to be thrown (on the completion of the road) landless upon the country for support, or to be precipitated, by some homestead bill, upon the public domain?

Sir, our public domain has been, and is, the greatest blessing ever conferred on any people. The price of land has been kept within such moderate prices that every industrious, frugal man has been able to become a freeholder, and his own employer. So we have a middling class large enough, and conservative enough, to preserve our institutions intact; but in 1790 we had but three million one hundred thousand free white population. Since that time half the valuable land of our vast domain has passed from the hands of Government to corporations, land monopolists, and settlers. We were, in 1850, nineteen and a half millions of people, having increased six times in sixty years. The same ratio of increase will make over a hundred and ten millions in 1910, (sixty years from 1850.) Sir, long before that, at the rate we are inviting foreign immigration and squandering our public lands, the Government of the United States will be stripped of its settleable domain. When that day shall come, the price of land will be such that, with rare exceptions, whoever shall then be born landless will die landless. Then, Mr. Chairman, comes a landless peasantry. I have seen enough of anti-rent, enough of recent proceedings about rents in New York, to look with fear and trembling for our institutions, when we shall have a large landless peasantry. And I cannot lend myself to these gigantic schemes, the end of which (if they are successful) will induce the immigration of millions of foreigners, and the speedy and unjust extinction of all the Indian tribes on our borders, and the stripping of this Government of its public domain. Evils, sir, which—as sure as cause and effect—will bring a test upon our institutions at which no reflecting man can look without the deepest anxiety.

Lest I may be misunderstood, I beg to say I never, since I left college, belonged to, or approved of, any secret society or organization. I believe them dangerous and wrong. At this day, I have no fear of foreigners or Catholics. I do not believe the Pope, or any European Bishop, has the least influence in our civil concerns. Sir, any scheme or party that attempts to make walls of partition, and dig gulfs to divide one class of religionists from another in civil affairs, or between the native born and immigrants whom we invite here to reside, are, in my judgment, doing a great wrong to our country. Great Britain tried, by pains and civil disabilities, for centuries to convert Ireland, but she failed. Almost all Governments have tried, by civil pains and penalties, to convert the Jew; and even Massachusetts Know-Nothings then, as now, undertook, about as wisely, two centuries since, to convert Quakers, or exclude from them country and office, as the Know-Nothings do the Catholics now.

If we intend to live in peace, if we intend to preserve our institutions, let all religionists be treated alike; dig no gulf between them; bring them all, Protestant and Catholic, Jew and Gentile, to the same schools, to the same ballot-boxes, to the same tribunals of law and debate, and to the same jury boxes. Then, indeed, we will be one people and indivisible. And then, neither the Priest or Pope will have, in civil affairs, any more influence with their Church than Protestant ministers with theirs. But drive them from the ballot-box, from office, when otherwise qualified, and they will deem themselves persecuted and proscribed. You create feelings which will drive their children from our common schools, aye, drive them for counsel to their Priests, and leave the Priests to obtain the same ascendency over the minds of their religionists, born in their Church here, that they have over the uneducated peasantry of Europe. Sir, in a word, I would willingly unite with the American party to prevent not only pauper and convict immigrants, but in any well digested scheme to lessen the number, who could be permitted to come here. But I am opposed to any alteration of the naturalization laws, except to prevent frauds under them; and am utterly opposed to anything that shall make, or tends to make, any civil distinction between different classes of religionists or citizens, native or naturalized.

Mr. WASHBURN, of Maine. I am opposed, Mr. Chairman, to the amendment offered by the gentleman from New York, [Mr. PERKINS,] for the reason that I think its tendency—if it were adopted—would be to defeat the object of the bill, which is the construction of one or more railroads to the Pacific ocean. I should desire very much to see a railroad built from the valley of the Mississippi to the waters of the Pacific. I believe such a work to be important in every point of view—important for military purposes, important for naval purposes, important for peaceful and commercial purposes, important for social purposes, and important for the sake of the safety of the Union. Therefore, sir, I am opposed to any provision, or any amendment, to that bill which I am certain must tend, if ingrafted on it, to defeat its object.

What is the effect of the bill as it now stands? It comprehends the idea of constructing three roads from the Mississippi to the Pacific. It provides for the setting apart of alternate sections of the public lands to the extent of twelve miles in breadth for each. And if proposals be made by competent parties—their competency to be proved in the best possible manner, to wit: their deposit of $500,000 as a guarantee for the fulfillment of their contract—if, I say, proposals be made by responsible parties, thus guarantied, coming within the conditions, provisions, and limitations of this act, then I care not if proposals are made for all the roads. If it shall be found, on examination and on exploration, that it is feasible and practicable to build all these roads, then I hope that men of capital shall be found willing to come forward and make proposals for the construction of each one of them—the southern, the central, and the northern. And, sir, why should we not give the alternate sections of public lands for such a purpose, when the effect of it will be to bring into market, at an increased value, the rest of the public lands, which would otherwise, perhaps, lie out of market for centuries? By having these railroads built, Mr. Chairman, we increase the value of these lands. By granting alternate sections for this purpose, the General Government does not, in the matter of dollars and cents, sustain any injury.

Now, sir, I wish to facilitate the construction of three, or two, or one railroad to the Pacific; and I do not care which. If it shall be found that the northern road is the best, the most feasible and practicable route, and if men of capital will come forward and make proposals for its construction, I shall be glad of it. If it shall be found that the central route is the best, the most feasible and most practicable, and if men of capital will come forward and make proposals for its construction, I shall be glad of that; and so too, of the southern line. And what do we give in exchange for this great public boon? Why, sir, we pay out of the Treasury of the United States for the accommodation and advantages which one or all of these roads would render to the Government what is rather less than that which we now pay for the single mail accommodation, not so well rendered. It will be saving to the Government, not only in the matter of time, which is everything now, but also in the matter of expense. We only grant to the company that constructs each of these roads, alternate sections of the public lands to the extent of twelve miles along the line; and we thereby bring into market the other alternate twelve miles, and render it much more valuable. I think the measure proposed is a great, a magnificent, a feasible measure. Can it be otherwise than constitutional? Is it not in every sense—in the strictest sense—in the eye of the strictest constructionist, in the eye even of the President, constitutional to grant lands within the Territories for purposes for which a prudent proprietor would himself grant them? So it seems to me that there cannot be, from any side, constitutional objections urged to the measure. It seems to me that the proposed bill does not, in the smallest degree, militate against the letter or spirit of the Constitution.

As a matter of fact, the bill meets the views and wishes of the country. It will open to trade and civilization the far off wilds, and will open to our commerce that field of greatness which now lies extended before the eyes of all men. I therefore trust that the committee will vote down all amendments that may be offered, as I believe that no amendment which can be offered to the bill, unless in accordance with the principles now contained within it, can, by any means, obtain the vote of a majority of the committee.

[Here the hammer fell.]

Mr. HENDRICKS obtained the floor.

Mr. WASHBURN. I ask the gentleman from Indiana to allow me one half minute to make an explanation, and to say that——

[Loud cries of "Order!" "Order!"]

The question was taken on Mr. PERKINS's amendment; and it was rejected.

Mr. HENDRICKS. I offer the following amendment; to strike out from the tenth to the fourteenth lines, inclusive, which read as follows:

"One road and telegraph, to commence on the western border of the State of Texas, and to pursue the most eligible route to the navigable waters of the Pacific in the State of California; which line shall be known as the Southern Pacific railroad."

I make this proposition, hoping that, hereafter, some gentleman will move to strike out all of this section which provides for the construction of a northern route, so that the bill will provide for but one route—the central.

I do not think that the Government of the United States ought to attempt, and I do not think that we can accomplish, the construction of more than one road from the Mississippi to the Pacific. If we do attempt to build more than one road, we shall be very likely to fail in its construction. We ought not, in my humble judgment, to make this

railroad to the Pacific an exclusively southern or a northern route; and I think that the whole country will be satisfied, and the commerce and trade of the whole country will be provided for by the construction of the central road. I have no doubt as to the practicability of the construction of a road to the Pacific; and when that question is to be settled, men from all parts of the country—north, south, east, and west—in my judgment, will unite in favor of the central route. If we come to that, the Government then may properly give its aid to the construction of the road. We do not need three railroads; and one, in my opinion, will be amply sufficient for our present purposes. If the Government gives its aid to the construction of any road, she ought so to extend her aid as to secure the construction of but one.

Mr. McDOUGALL. I am opposed to the amendment of the gentleman from Indiana.

If it is the design of the friends of a railroad communication to the Pacific to pass any law whereby that object can be accomplished, some such plan as that provided for by this bill must be adopted. This subject has been discussed in this and the other branch of Congress for the last five years; but the great difficulty in passing any law upon the subject, has always been the conflict between the local interests of different parts of the Union—northern, southern, and central interests. These have been sufficient, at all times, to break down any plan projected for the commencement of this work. With a knowledge of these facts, the committee of the House framed a bill for two roads, supposing that this course would unite the friends of the northern and southern routes. The central interest then complained, and said that they also wanted a road. The Senate committee adopted the suggestion made by the friends of the central route.

I wish to remark here, that the substitute now under consideration does not provide for the construction of any one road; but it simply provides that, if parties come forward and undertake the construction of a road, the Government will give them certain specific aid—such aid as the Government can afford to give. I do not expect that all three of these roads will be built; for we have not the resources of capital and labor to do so; but I have no doubt that the capitalists concerned in railroad enterprises, and the interests of the Pacific coast, will so combine, under this bill, as to secure the accomplishment of at least one road in a reasonable length of time. In ten years, if it appears that three roads are required for the business of the country—and I believe myself that more than one road is required for the business of the country—why, parties can come forward and accept equal terms, and we may have to meet the interests and demands of the country by the construction of three roads—the northern, central, and southern.

I can see no objection to the substitute under consideration; and I appeal to the friends of a railroad communication to the Pacific to secure its passage now. At an early day of the last session, I felt it to be my duty to introduce a bill for the construction of a road to the Pacific, and a select committee of thirteen was appointed, to whom the subject was referred. That committee considered the subject at great length, and, as the result of their action, presented a bill, which was reported to the House by myself, where it was discussed for some time. The Senate committee, about the same time, reported a bill also, for the construction of a road to the Pacific. The two committees came together; but they could not agree upon a plan; so, at that session, we were unable to secure any action upon the subject. The Senate committee, at a recent sitting, met and discussed the subject again, having under consideration the House bill, which they modified, and, as I think, improved. We now have presented to us a bill which is the result of the joint labors of the committees of both Houses, who have given their attention towards maturing a bill as will suit the views of all interested in the construction of a road to the Pacific. It is a bill as well matured as any bill that has ever been, or ever will be, before Congress; and if this bill cannot pass, none aiming to make a railroad communication to the Pacific can pass.

The question then being on Mr. HENDRICKS's amendment,

Mr. WHEELER demanded tellers; which were ordered; and Messrs. PARKER and ROWE were appointed.

The committee was divided; and the tellers reported—ayes 39; noes not counted.

So the amendment was rejected.

Mr. WARREN. I move to amend the first section, in the sixteenth line, by inserting, after the word "of," the word "Arkansas," so as to make it read:

One road and telegraph, to commence on the western border of the States of Arkansas, Missouri, or Iowa, and to pursue the most eligible route to the bay of San Francisco; which line shall be known as the Central Pacific railroad.

In offering this amendment, I must disclaim any intention to embarrass the ultimate passage of this bill. There has been no measure introduced into this House since I have had the honor of a seat upon this floor, of which I more heartily approve, than the one now under consideration. There is none, I conceive, fraught with so much importance to the whole country as this one. Though I use the word "Arkansas" in the amendment I have proposed, I disclaim all intention of making the matter a sectional measure. This is one of the measures which should be wholly divested of any sectional features whatever. This is a question in which the country, the whole country—the north, the south, the east, and the west—are equally interested. And yet I believe that nature has designed the country which I have the honor in part to represent, as the one through which this road should pass. While I believe that route more perfectly adapted for the construction of the work than any other, I should scorn to vote against any bill for the reason that it did not provide that the road should pass through my own State, or any other particular route. Whether it be a northern, a southern, or an interior route, I say to the committee, and to the House, that I am prepared to support it.

I believe the route I have indicated is a practicable one, and its adoption would be the better policy for us. We ought to look, in our investigations, to what would be the most practicable route. But still that is a minor consideration, and, indeed, a matter of no importance, when compared with the vast magnitude and importance of the work itself.

I represent upon this floor, probably, the most ultra Democratic constituency, more so, probably, than that of any gentleman who is entitled to a seat upon this floor. I represent what is termed a flat-footed, straight-out Democracy, who are always in favor of a strict construction of the Constitution. I represent that character of Democracy who instruct their Representatives to vote against all appropriations for the improvement of what you term rivers and harbors; and that, too, upon the great principle set forth in the veto of the Maysville road bill.

But, although I represent a constituency of that sort, I represent one sufficiently enlightened to believe this to be a great national project; and I come here instructed to vote for it without qualification. I will vote for a southern, a northern, or a middle route; and I indorse every word the gentleman from California [Mr. McDOUGALL] has said upon the subject to-day.

Mr. SMITH, of Virginia. I am surprised to hear the gentleman announce his purpose to vote for this bill, after the avowal that he represents a straight-out, old fashioned Democratic constituency. Surely, as a straight-out Democrat, he cannot find, in the Constitution, any authority for the building of this road. When I heard the gentleman explain the character of the constituency he represented upon this floor, I hoped I should find him opposed to the appropriation of any portion of the public funds to this great enterprise. It is very convenient, but I do not believe it is very sound flat-flooted Democracy.

The question was then taken upon Mr. WARREN's amendment; and it was not agreed to.

Mr. WALSH. Would a motion to strike out the whole of the first section be in order?

The CHAIRMAN. It would be.

Mr. WALSH. Then I make that motion, and I do it to enable me to say a few words in reply to the gentleman from Arkansas, [Mr. WARREN,] who has just taken his seat.

I did not intend to say anything in regard to this question. I have been satisfied to justify myself through my votes upon it; but when I hear a scheme of this character put forward in the sacred name of Democracy, I must protest against it. I have listened, with most profound attention, to the glowing descriptions, given by the gentlemen who have advocated this bill, as to the great and magnificent results which would flow from its consruction. I have no doubt that those results would be fully achieved. I have no doubt, if this Government, or any other Government, should build a road through the desert of Sahara, it would be of benefit to some individuals at each end of the line. But if the building of this road was to effect, not only all that has been claimed for it by its most enthusiastic and sanguine friends, but would also furnish food to the hungry, and clothes to the naked, and yet, were to furnish it by a violation of one letter of the Constitution, as I understand it, I should oppose it, as earnestly and vehemently as I now do.

Railroads will keep pace with the wants of civilization. There is an abundance of capital in the world, and if this road is to be constructed as provided for in the bill, it will be constructed by capitalists, who will amass all the valuable lands in the territory; and instead of settlements rolling along like waves upon the beach, it will simply give an open line through the country to aggrandize the individuals who engage in the enterprise.

The widest and most reckless construction put by the Federalists upon the Constitution, could aim at nothing beyond this; and if the scheme is to be perfected, in the name of all that is decent, let it be boldly and openly declared that it is a scheme to aggrandize a number of heartless speculators at the expense of the Constitution.

I, for one, as a Democrat, shall protest against furnishing the means or money of this Government to build this, or any other railroad; and so long as I hold a seat upon this floor, I will never vote to give a solitary inch of the public domain to railroads, corporations, indigent insane, or any other miserable transparent humbug brought here for the purpose of robbing the people, and violating the Constitution.

Mr. McDOUGALL. Mr. Chairman, I shall not argue the question of constitutional law with the gentleman; nor shall I boast of my qualities as a Democrat. I think that I understand the law and myself as well as the gentleman understands himself and the law. Nor shall I boast of my constituents, although they are as sound Democrats as can be found anywhere in the country. I assert that this proposed enterprise is constitutional for many reasons; but I am not disposed to argue them. I think that the true policy of the friends of the bill is to avoid further argument.

Mr. WALSH. And so I think.

Mr. McDOUGALL. I shall rise in opposition to amendments, and demand the vote without debate; that is, unless they are substantial and important ones.

Mr. WALSH. I demand tellers on my amendment to strike out the first section of the bill.

Tellers were not ordered.

The question was taken on Mr. WALSH's amendment; and it was rejected.

Mr. LETCHER. I move to strike out the words "twelve miles," and in lieu thereof to insert "one mile."

Mr. Chairman, I move the amendment, because I believe that this project is a speculation from beginning to end.

Mr. McDOUGALL. I rise to a question of order. If I am not mistaken, the question has already been taken on the gentleman's amendment.

Mr. LETCHER. The gentleman is mistaken.

The CHAIRMAN. The gentleman from Virginia will proceed.

Mr. LETCHER. I say that this whole Pacific railroad scheme is intended to be a great speculation.

Mr. McDOUGALL. A proposition to strike out the entire first section was made and voted down, and I would now ask the Chair, whether, such being the case, a motion is now in order, by way of amendment, to strike out particular words of that section? It strikes me not.

The CHAIRMAN. The Chair has no doubt of the gentleman's right to submit the amendment to strike out particular words after the committee has refused to strike out the section. The rule says, that a motion to strike out and insert shall be deemed indivisible; but that a motion to strike

out shall neither preclude a motion to strike out, or to insert. The amendment of the gentleman from Virginia is in order.

Mr. LETCHER. Mr. Chairman, when this Pacific railroad scheme was first introduced here, I find that it was proposed to take the public land within fifteen to twenty-five miles on either side of the road, with the privilege of going thirty or fifty miles on either side to make up any deficiency of public lands which might be ascertained within the first named distance. The next thing I find in connection with the matter is, that the Senator from Illinois [Mr. DOUGLAS] proposed to take from the public lands within ten miles on either side of the road, from end to end. The third proposition is the amendment now under consideration, which proposes that they shall take within twelve miles on either side of the road. I say that these facts—if facts can be relied on to demonstrate anything—demonstrate, clearly and conclusively, the design is, to see exactly what sort of a bargain they can make with the Government, and how much land they can get from it in this scheme of speculation.

There are other facts, sir, which I take for the purpose of illustration, in order to show that the conclusion which I have drawn is the correct one. When this thing was first proposed, the mails were to be transported for $600 the mile; now the price is reduced to $300 the mile, or just one half. The reduction has gone on just as the reduction in the quantity of land demanded. Just as the difficulties in getting it through have increased, has the scheme been reduced; and it is being reduced in the hope of bringing it within the capacity of the throat of the House to swallow.

The gentleman says that Democracy tolerates this bill. Well, sir, that may be; but I will frankly confess that I had no such idea of Democracy. I did not know that it came within gun-shot of any Democracy, until some eighteen months, or so, ago, when certain things occurred in a northern tour which induced me to believe that it might come in under a Democratic head. [Laughter.] Since that time I find that it has been Democratic to a great extent, and that it is now advocated as Democratic policy, as the very best policy for developing the resources of this Government, and for carrying out the great design which was intended to be effected by the Government in the construction of what are known as military roads. This is the first military railroad. We have had several mud turnpike military roads, with appendages of wells, to bring them within the provisions of the Constitution. I do not know what Democracy may be in Arkansas, but I do know what it is down in Virginia; and I know that, according to our standard, it does not come within a league of that standard. [Laughter.] But the gentleman from Arkansas, [Mr. WARREN,] I have no doubt, will say that I belong to what is known as the abstraction school. It may be so; I do not know how that is; but certain it is, that I do not measure my Democracy by ten, twelve, or twenty-five miles on either side of any road.

[Here the hammer fell.]

Mr. GREY. Mr. Chairman, I am opposed to the amendment offered by the honorable member from Virginia. The effect and the object of his amendment is to defeat this great national line of improvement, by preventing a donation of any lands to aid in its construction. Every member will assuredly agree with me that, so soon as the rapidly increasing *new* States shall have the strength, they will pass through Congress a law giving all the public lands to the States and Territories in which they lie. Then, sir, let us *now*, while we yet hold those lands subject to the disposal of the *National* Legislature, make such liberal grants as will secure the construction of *national* improvements.

The honorable gentleman says the proposition for a Pacific railroad and telegraph line is a scheme for speculation. Sir, if it is, let me remind this House that it will be a speculation in which all the States and Territories of this whole Union will be equally and alike interested.

Both the gentlemen from Virginia, [Mr. LETCHER and Mr. SMITH,] and others, argue that it will be unconstitutional, and against true Democratic doctrine, to appropriate public lands for building this "mighty highway," this "world's thoroughfare," which all must admit is a "national work."

Now, Mr. Chairman, I will not attempt an argument on that subject, because I think *precedent*—the action of previous Congresses and of previous Administrations, from the beginning of our Government down to the present time, ought to be regarded as having settled the proper construction of the Constitution upon that subject. I will remind the gentleman that it was a Democrat, *good and true*, who introduced into Congress the propositions which resulted in the large appropriations of public lands which secured the completion of the railroads from Chicago and from Galena, through Illinois to the mouth of the Ohio river, and also from Mobile to the mouth of the Ohio, and from the mouth of the Ohio, across the States of Missouri and Arkansas, to Texas. Aye, sir, and it was, too, by Congresses largely *Democratic* that the public lands were appropriated to aid in the construction of those lines of railroads.

Mr. Chairman, the proposition to build the "Atlantic and Pacific railroad" from New York, through our *own* country, to the Pacific, originated from the acquisition of our possessions on the Pacific. The necessity for getting to those Territories immediately, commanded the expenditure of private capital and individual enterprise, in building up and furnishing facilities for travel and transportation through the Mexican and Central American Governments, by the "Panama route," the "Nicaragua route," the "Ramsay," and other routes passing across where the land travel was shortest. But, sir, enterprising and patriotic *Americans* wanted an *American* route, passing from New York, through our own country, to the shores of the Pacific. It seemed to be conceded by all, that individual wealth and enterprise, together with aid from States, counties, and towns, could and would build the road on that part of the route between New York and the Mississippi river, but that the nation, through Congress, ought to, and would, aid in constructing that portion from the Mississippi river to the Pacific. Such, sir, was, and is at present, the public expectation; and was, and is, indorsed by the public sentiment of this Union.

You are aware, Mr. Chairman, that the several lines of railroad will soon be completed from New York and the eastern Atlantic cities to the Mississippi river, on each of the following routes, to wit:

From New York, by Baltimore and this city, across the southern Atlantic States, via Montgomery, Alabama, &c., to New Orleans and Vicksburg. Also, from New York, through Washington city, via Lynchburg and Abingdon, Virginia, Knoxville, Chattanooga, &c., to Memphis, Tennessee. Also, from New York, via Washington city by Charlottesville and Staunton, Virginia, and across the Kanawha valley, by mouth of Big Sandy, Lexington and Louisville, Kentucky, to the Mississippi river, below and near to the mouth of the Ohio. Also, from New York and Philadelphia, across Ohio, Indiana, and Illinois, to that great river, at different points.

Yes, sir, all these roads from the eastern Atlantic to that great river of the West, will soon be completed, without having been aided in their construction by the General Government. And, sir, it was in anticipation of the speedy completion of the roads on those routes that induced, during the first session of the last Congress, all those various rival propositions for grants of lands to aid in extending the national railroad, from the following points on the Mississippi river, to the shores of the Pacific, to wit: One proposition was for the road from New Orleans across; another for it from Vicksburg, another from Memphis; another from the mouth of the Ohio; another from St. Louis, and others from points on that river still further north.

Such, sir, were the rival propositions for fixing the starting points from the Mississippi to the Pacific, and they were *all* defeated, except the one fixing the point on that river opposite or near the mouth of the Ohio as the eastern terminus of that great national road. The Journals and the laws of Congress, and the laws of Texas, will prove that appropriations of public lands have already been granted, which will secure the building of the Pacific road from the mouth of the Ohio, across Arkansas and Texas, to El Paso, on the Rio Grande, which was our extreme western boundary in that direction, until the late acquisition, by the Gadsden treaty, of that territory between El Paso and the Pacific.

The reasons why the point on the Mississippi, at or near the mouth of the Ohio, was preferred above all others as the eastern terminus of a national road, are obvious. That may be said to be the mouth of all the rivers between the Alleghany and Rocky mountains.

The waters of the Cumberland and the Tennessee from the south, mingle there with the waters of the Missouri, the Mississippi, and the Illinois, from the Rocky mountains and the northern lakes; and also boats from the Alleghany, the Monongahela, the Wabash, &c., whether from Pittsburg to St. Louis, or to New Orleans, must pass the mouth of the Ohio. That point is half way from the head to the mouth of the Mississippi, and it is the point on that mighty river where the non-slaveholding and the slaveholding States come together. Thus, sir, it is not only geographically, but *politically, central*. Sir, when all these various propositions came before the last Congress, it was soon perceived that, if but one road was to be built, it would be impossible to obtain a grant of lands for building a national railroad from a point on the Mississippi river, below the mouth of the Ohio, from opposite a slaveholding State, or from a point north of the mouth of the Ohio, from opposite a non-slaveholding State. But the railroads passing from the lakes across Indiana, Illinois, &c., and also those from the south Atlantic and the Gulf of Mexico, from Mobile, Charleston, &c., could all conveniently connect at the mouth of the Ohio, with a *national* road from that point.

Sir, if but one road is to be built, by the funds of the General Government, from the Mississippi river to the Pacific, that road ought to start from the most *central* and national point on that river. I mean, sir, from that point which would be most accessible to all the States and lines of improvements east of that river.

Now, sir, I am willing that all three of these roads, provided for in this bill, may be built; and I am willing to give to each one of them equal congressional aid.

I will say to those who speak in terms of ridicule of the effort to build a road from the Atlantic to the Pacific, and who call it a humbug, and a mere scheme for speculation—I say, sir, that I ask such to investigate, and when they see that a line of railroad is now rapidly progressing towards completion from New York, across Maryland, by this city, and Virginia, by the mouth of the Big Sandy and Louisville, to the mouth of the Ohio; and when they see that the previous appropriations of public lands will insure the completion of the road from the mouth of the Ohio to El Paso, then, sir, I think they will admit that the passage of this bill will secure the completion of this great road through to the shores of the Pacific.

Mr. Chairman, if the State and individual subscriptions, and appropriations of public lands, will certainly enable the energetic and enterprising companies to complete this line of road from New York, across Maryland, Virginia, Kentucky, Arkansas, and Texas, to El Paso, is there one member in this House who will refuse to grant lands to aid in extending it across the six or seven hundred miles between El Paso and the Pacific?

Sir, last Congress was Democratic by a majority of about three to one; yet, sir, last Congress appropriated the lands for building the road *from the mouth of the Ohio, by Little Rock and Fulton, to the Texas border*.

Mr. Chairman, I regard this route through Texas as equally and alike convenient to the North and South, and to all the States that are east of the Mississippi river; for, sir, its eastern terminus at the mouth of the Ohio is equidistant from the important commercial cities on the northern and northeastern lakes, and those on the southern and southeastern cities.

[Here the hammer fell.]

The question was taken, and the amendment was not agreed to.

Mr. COBB. Did I understand the Chair to decide that the first section of the substitute could not be amended?

The CHAIRMAN. The Chair made no such decision.

Mr. COBB. Did I understand the Chair to decide that a motion to strike out and insert would not be in order?

The CHAIRMAN. The Chair has made no such decision. The first section of the substitute is open to amendment.

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Mr. COBB. I move, then, to strike out of the first section the following:

"That, with the view of aiding in the construction of a suitable railroad and telegraphic communications between the Mississippi valley and the Pacific ocean, there shall be, and is hereby, appropriated and set apart a quantity of public land equal to the alternate sections for the space of twelve miles on each side of said roads, from their eastern to their western termini, as follows:

"One road and telegraph, to commence on the western border of the State of Texas, and to pursue the most eligible route to the navigable waters of the Pacific in the State of California; which line shall be known as the Southern Pacific railroad.

"One road and telegraph, to commence on the western border of the States of Missouri or Iowa, and to pursue the most eligible route to the Bay of San Francisco; which line shall be known as the Central Pacific rrailroad."

and to insert as follows:

That, for the purpose of aiding and securing the construction of a railroad and telegraphic line from the Mississippi river, at a point not north of the thirty-seventh parallel of north latitude, to the city of San Francisco, in the State of California, there shall be, and hereby is, appropriated and set apart a quantity of land, equal to the alternate sections to the width of fifteen miles on each side of such road from the terminus thereof, on the Mississippi river, to the one hundred and sixth degree of longitude west from Greenwich; and from thence westerly to the eastern line of the State of California, alternate sections to the width of twenty-five miles on each side of such road; and from thence, through the said State of California, to the western terminus of such road, alternate sections to the width of fifteen miles on each side thereof; such lands to be selected from the sections which shall be designated in the public surveys of said land (when made) by odd numbers, and to be held and conveyed as herein provided. And in all cases when the United States may have disposed of any such lands, or shall, from any cause, be unable to convey a title thereto, the deficiency may be made up by the party or parties entitled thereto from any unoccupied and unappropriated lands belonging to the United States within the distance of thirty miles from the said road.

Those who are acquainted with the action of the committee of thirteen, which was raised upon this subject, will discover that this amendment corresponds with the first action of that committee, and with the plan which they at first recommended to be reported, in connection with the first section of the bill. That committee, however, as I understand, have recently held another meeting. Indeed, sir, I was notified to attend a meeting of our committee some time last week; but, in consequence of previous engagements, I was unavoidably absent. It seems that, at this meeting, they agreed to modify their former action, and to substitute the bill which is now before us in place of that reported by them.

Sir, I am opposed to this bill. I am opposed to this first section; and unless amended by the committee in the manner I have indicated in my amendment, I cannot vote for it. I will say further, that I cannot vote for authorizing the construction of three roads. The chairman of that committee [Mr. McDOUGALL] will bear me witness, that I have all along protested against the construction of more than two roads across the continent to the Pacific. In the early sessions of our committee it was agreed that we should recommend the construction of two roads—a northern and a southern one. We agreed that the northern route should tap the Mississippi at some point north of 37° north latitude, and that the southern route should tap the Mississippi south of 37°. I then supposed that our labors were regarded as completed, and a bill was reported to the House as agreed upon. But now it seems that the more recent action of our committee calls for the construction of three roads. Sir, when in committee, I strenuously opposed any plan that should embrace three roads; and I now tell the committee that I will not vote for any bill which authorizes them.

The amendment which I have offered conforms, so far as the southern route is concerned, precisely with the bill first reported by our committee, and which was agreed upon by them, as a compromise. Sir, this whole matter was up in our committee. It was fully discussed; and we then determined that we would not report more than two routes. We determined that the northern delegation should fix their route just where they pleased. And we determined to fix the southern route far enough to the north to satisfy, if possible, every portion of the country. We agreed that it might tap the Mississippi as far north as 37° north latitude; although by so doing, we did not consult the accommodation of the great majority of the people of the South. We were willing, however, to go that far by way of compromise; but when I am asked to do more than this, I cannot do it.

I am, to-day, ready to vote for a proper Pacific railroad bill. I am ready to vote for such a bill as was originally reported by the committee of which I am a member, with some modifications, which gives to the North a road, to the South a road, and furnishes ample accommodations to all sections of the country. I repeat, that I am ready to go as far north as 37° north latitude; but when you ask me to do more, my duty to the people whom I represent will not permit me; my own consciousness of right and justice—equal justice to the whole country, and a proper protection for the national Treasury—compel me to say that I cannot do more.

Mr. McDOUGALL. I wish very much that I could have framed a bill that would have precisely suited me, for the construction of a railroad to the Pacific; and which could have met with the approbation of the House. I should have liked it exceedingly; but I found that there were here two or three hundred men, who had each, just as much to say upon the subject as I had myself. I found that, to bring a measure before the House for the accomplishment of this object with any chances of success, must involve a compromise. I would not compromise a principle, but upon a matter of mere expediency I am willing to compromise.

Mr. BRIDGES, (interrupting.) I wish to ask the gentleman a question. I desire to know whether it was the intention in introducing this bill really to build three roads to the Pacific, or whether the object in providing for three routes, was not to make the measure more popular, and thereby increase the strength of the bill in the House?

Mr. McDOUGALL. It is for the purpose of satisfying all interests and sections of the country that we have reported three roads. It would be impossible to agree upon any one route that would satisfy the North, the Central, and the South; to satisfy them, therefore, we have agreed to report three separate routes. Now, my friend from Alabama was a member of the select committee, and I have been in frequent consultation with him, and I regret exceedingly that the committee has taken such action as cannot, under any circumstances, meet with his concurrence. But I think my friend from Alabama insists too much on having the measure exactly in his own way, if he is a true and honest friend of the measure.

Mr. COBB. Will the gentleman let me say a word?

Mr. McDOUGALL. In a moment, I will. I will say to the gentleman that the southern road, or the central road, will as well accommodate the people of Alabama as any road that could be established between the thirty-seventh parallel and the Gulf of Mexico.

Mr. COBB. Does the gentleman suppose that I am legislating here for the State of Alabama alone? Because, if he does, he is mistaken.

Mr. McDOUGALL. For Alabama first.

Mr. COBB. No, sir; my country first, and then my constituents.

[Cries of "Good!"]

Mr. McDOUGALL. I admire the sentiment of the gentleman from Alabama. But I say again, that we do not propose to build three roads; and I think that, if the people of Alabama could find no other way to the Pacific, they would not find it altogether impracticable to take the "British hyperborean" route.

The friends of this measure have thought it necessary to adopt the Senate bill as a compromise. The Senate measure is not a new one, as the gentleman intimates. It is the House measure, with only two material changes—incorporating another road, and striking out the military features of the bill.

The question was then taken on Mr. COBB's amendment; and it was rejected.

Mr. CHAMBERLAIN. I move, Mr Chairman, to amend the first section of the substitute proposed by the honorable gentleman from Louisiana, [Mr. DUNBAR,] by inserting after the word "the," where it first occurs in the seventh line, the word "third," and also by striking out the word "twelve," at the end of the same line, and inserting "forty" in lieu thereof. That amendment, if adopted, will make the clause read as follows:

That, with the view of aiding in the construction of suitable railroads and telegraphic communications between the Mississippi valley and the Pacific ocean, there shall be, and is hereby, appropriated and set apart a quantity of public land, equal to the *third* alternate sections for the space of *forty* miles on each side of said roads from their eastern to their western termini, &c.

Mr. Chairman, I offer that amendment for the purpose of calling the attention of the committee to what I regard as one very important feature in any measure which contemplates the successful prosecution, by the aid of this Government, of this magnificent scheme. My object is to incorporate, in a subsequent part of this bill, the homestead provision, which has been pending before this House, upon the basis of a proposition of which the following is the substance:

That the said lands, within forty miles on each side of said railroads, shall be disposed of in the manner following: First. *One third part thereof shall be set apart for donation to actual settlers*, under the provisions of this bill. Second. One third part thereof shall be set apart to be appropriated in aid of the construction of said railroads, as hereinafter provided. Third. One third part thereof shall be reserved by the General Government, to be disposed of as other public land.

Mr. Chairman, this bill (the substitute of the gentleman from Louisiana) contemplates the construction of railroads of some two or three thousand miles in extent. The original bill to which this substitute has been offered as an amendment, contemplates the establishment of military posts along the line of the roads for their protection. The substitute is silent on that subject. One of my objections to the original bill was the establishment of those military posts. This bill, by its very silence upon that question, is rendered still more objectionable.

How do you now propose to protect these lines of roads? I will suggest to you the only alternative left: apply the principle of the homestead bill to the lines of these roads; carry settlement along with them as their prosecution progresses; carry the plow and the hoe there, instead of the musket and the bayonet, and then away with your military posts.

Sir, if we adopt this substitute some such provision is most obviously indispensable.

I have heard objections to the idea of adopting the homestead policy as a part of this measure, predicated upon the ground that it would have a tendency to cheapen public lands, and hence to depreciate the value of the fund by which the Government proposes to aid this enterprise. This is all a mistake. You must settle up the lines of these roads; you must have homes for your laborers there, and encourage the settlement of the country across the continent.

Sir, if the homestead policy is not to be adopted, as a general measure, at least let its application—now become a necessity—be made along the lines of these three great roads.

[Here the hammer fell.]

Mr. RICHARDSON. Mr. Chairman, I am opposed to the amendment proposed by the gentleman from Indiana. The principle of the bill is extensive enough in itself, without drawing after it other important questions. It may be that there are gentlemen here who will vote for this appropriation of lands to aid in the construction of these roads who are opposed to the principle of the homestead bill.

But there are special reasons why the principles of the homestead bill—and I may as well state here, that I have uniformly voted for that measure, since I have had a seat in Congress—should not be applied to lands reserved by the

Government along the line where a road is to be constructed. The foundation upon which the power to construct these roads rests, is the power of the Government, the great land holder, to make improvements that will have the effect of increasing the value of the lands. The reserved lands along the lines of all the roads that have been constructed on this principle, have doubled in price and trebled in value.

I think, therefore, that the amendment proposed by the gentleman from Indiana, has a tendency to weaken rather than to strengthen the bill. The gentleman says that he is opposed to these military posts along the roads. It is inevitable, Mr. Chairman, that, so fast as you build the road, so fast as you carry the work forward, just so rapidly, and in advance of it, you send out the enterprising pioneer, more valuable than all your military force to protect your frontier.

Mr. CHAMBERLAIN, (interrupting.) I desire to ask the gentleman from Illinois one question, and that is, what effect this provision will have which is found in the sixth section of the bill on the very point in relation to which he is speaking? This bill expressly provides that all the land within forty miles on each side of the line shall be withheld from settlement and occupation. How does the gentleman reconcile that with his argument?

Mr. RICHARDSON. If this bill is defective in the respect the gentleman speaks of, strike it out. You do not correct it, nor remedy it by the proposition which the gentleman from Indiana [Mr. CHAMBERLAIN] has made to the House. That is my answer to the gentleman's question.

I desire, Mr. Chairman, to say one other thing in regard to this matter, although I am afraid I have not time to express my idea. I am for the construction of a road between the Mississippi valley and the Pacific ocean, because I think that it is necessary we should connect more intimately, by commercial relations, ourselves with the Pacific ocean. I do not care whether you build one, two, or three roads. I will vote for one, for two, or for three. I am willing to vote for the whole three, and leave the capitalists—those men who are looking for their cent per centum on investment—to determine which of them they will construct. If the middle route is the best and most feasible one, they will build that, or if the southern or northern routes appear to be the best, they will build either of them. Their great desire will be to reach San Francisco.

The question was taken on Mr. CHAMBERLAIN's amendment; and it was rejected.

Mr. GROW. Mr. Chairman, I propose the following amendment to the first section:

In the third line strike out the word "a;" in the fourth line strike out the word "telegraphic," and all after the word "ocean," in the fifth line; and insert in lieu thereof, as follows:

The lands of the United States for two hundred feet wide, along the entire line of any such railroad, or railroads, shall be, and is hereby, set apart and dedicated as a highway for railroad purposes; and any party, or parties, who shall construct such road, or roads, may take any earth, stones, gravel, timber, or other necessary materials, for the construction of said road, or roads, from any adjoining lands of the United States.

The section, if amended, would read:

That, with the view of aiding in the construction of suitable railroad communications between the Mississippi valley and the Pacific ocean, the lands of the United States, for two hundred feet wide, along the entire line of any such railroad, or railroads, shall be, and is hereby, set apart and dedicated as a highway, &c.

And strike out all the balance of the bill.

Mr. GROW. The amendment which I have offered, Mr. Chairman, proposes to give the right of way to any person, or persons, who will construct the railroad.

Mr. McDOUGALL. The gentleman from Pennsylvania proposes a substitute to a substitute. Is that in order, Mr. Chairman?

The CHAIRMAN. The Chair thinks the amendment of the gentleman from Pennsylvania is in order.

Mr. McDOUGALL. It appears to me, Mr. Chairman, to be, substantially, a substitute for the substitute which is now pending. It proposes to strike out the entire bill, substituting for it the amendment proposed.

The CHAIRMAN. The Chair is not very clear as to the latter portion of the gentleman's proposition being in order.

Mr. GROW. I will withdraw the latter portion of my amendment, and simply propose to amend the first section of the bill in the manner indicated.

The CHAIRMAN. Then the gentleman can go on with his remarks. The first portion of the amendment is certainly in order.

Mr. GROW. My amendment, Mr. Chairman, proposes to give to any company that will construct a railroad between the Mississippi valley and the Pacific ocean the right of way over the public lands of the United States, and the right to take materials for the purpose, off of the public lands adjoining their route. It gives a right of way for two hundred feet along the entire line; and what, I ask, should the Government do more? Gentlemen urge here the necessity and the importance of this work as a reason. That necessity, sir, and that importance would be, if we admit its force at all, a good reason why the Government should open communications from Maine to Louisiana. The reason given by the gentleman from Illinois, who has just taken his seat, [Mr RICHARDSON,] namely, that it is necessary we should have closer commercial connection with California, would be as good a reason why the Government should take stock and build roads from Maine to Louisiana, or New Mexico, or why it should unite in a similar manner any two sections of the Confederacy together. The argument, as to the importance and the necessity of the work, does not furnish a good reason why the Government should take part in it.

But it is said that private enterprise cannot accomplish such a gigantic undertaking, and that therefore, the Government should engage in it. Sir, I am not one of those who believe that private enterprise cannot accomplish this work. The city of New York alone, unaided by any public grant, but merely by her own enterprise, and her own capital, has built about a thousand miles of railroad. The New York and Erie railroad, which was completed by the capital of New York city, stretches out its arm and embraces Lake Erie. When that road was first projected it was thought that it would be impossible for private enterprise to accomplish it, and the State therefore engaged in the work. At last, after it was abandoned by the State, it was taken up by the private enterprise of the citizens of New York, and carried to a successful issue. From the western limits of Missouri to the city of San Francisco is only a distance of some fifteen hundred miles; and why, I ask, could not that be built by the enterprise and capital of our citizens, without the aid of the Government, when we find in the case of the New York and Erie railroad, one city of the Union constructing, by its own capital, two thirds of the length of road which it is now proposed to build, and which is represented as too gigantic a work for private enterprise to accomplish?

Now, sir, I hold that the private enterprise of the country is adequate to any purpose, or to any speculation which may hold out sufficient inducements to it; and while this proposed line of railroad holds out to capital the inducement of the great trade and the vast riches of India, we will not have long to wait before we will find the channel to this great trade opened by private enterprise. It will be merely a question of time. Why, then, should the Government step in and open up a channel of communication, and hasten, by a few years, the accomplishment of a work, which private enterprise, if left to itself, would undertake and carry out, whenever the inducements for doing so appear sufficiently strong. The argument that Government may properly do with the public lands what a prudent proprietor would do under similar circumstances, is the same old argument under which we have heard so often urged the granting of alternate sections to railroads. I do not indorse that construction of the Constitution; for, according to such construction, the Government should open up public roads, build school houses, erect churches, and do whatever else tends to enhance the value of property, and to encourage settlement. According to this construction, the Government should increase the value of the public lands by adopting such measures as tend to the general welfare of a community.

Mr. McDOUGALL. Will the gentleman from Pennsylvania inform me of the distinction which he draws, under the Constitution, between the right of Government to grant twelve miles, in alternate sections along the line, and its right to grant what he proposes, two hundred feet?

Mr. GROW. The difference is, that my proposition does not contemplate a grant of the public lands at all, but merely a right of way for the road.

Mr. McDOUGALL. Exactly; but the constitutional principle is the same.

Mr. GROW. The power of the Government to make public improvements is, I take it, denied by the gentleman from California himself, [Mr. McDOUGALL.] The gentleman proposes, in his bill, to grant alternate sections of the public lands to the company that may construct the railroad. I ask for the constitutional power vested in the Government to make any such grant, and I am told that Government has that power, because Government is a landed proprietor, and may make such disposition of its property as it may deem profitable." If this were so, then, of course, the Government might, with equal propriety, make a grant of money for the purpose. Government might as well appropriate money as land, for, in appropriating land, it gives away that which is its means for raising money. How, upon the ground of its right as a landed proprietor, is the Government to devote its means to the building of railroads, when it is denied the right of opening public roads, and building school-houses and churches, or any other public works, which contribute to the general welfare of the community? I deny that the Government possesses such powers under the Constitution.

Mr. RICHARDSON. It seems to me that the gentleman from Pennsylvania raises this question of constitutional power a little too late. Why, I have been voting with that gentleman for two or three sessions of Congress absolutely to give away the public domain, and now he interposes the objection of the want of constitutional power to build this road.

Again, the gentleman concedes, by the very amendment which he has introduced, the power of this Government to give to railroads the right of way. I ask what is the difference in principle between giving the right of way, and giving land to aid in the construction of a road? What is the object in giving the right of way? It is to aid in the construction of the road. What is the object in giving land to a railroad company? It is to do precisely the same thing. One is less, and the other greater, and that is all the difference. I have not read the Constitution as the gentleman has, nor do I look upon it in the light in which he does. When the principle is once conceded, that you can give any, the balance is limited only by discretion, and that is the only limitation there is upon it.

One word more. The gentleman says that the same plea of necessity that I urged for this donation of land would confer the power on the Government to construct a road from Maine to Louisiana. I wish I had time to speak of the condition of our possessions and countrymen upon the Pacific coast. What condition would they be in today, if the disturbed state of affairs prevailing in Europe should extend to this country? In such a crisis, what would be the condition of California, which has for years been pouring its golden treasure into our lap? The first blow that would be struck would deprive us of the richest possessions that we have gained since the formation of the Government. Will gentlemen tell me that it is not the duty of this Government to provide the means for the defense of our possessions upon the shores of the Pacific, by constructing a railroad over our own soil, by which we may transport men and munitions of war to repel any invasion? I claim that the Government has a right to do so, not only as a landed proprietor, but also by virtue of its duty, in time of peace, to prepare for any emergency.

[Here the hammer fell.]

The question was taken; and Mr. GROW's amendment was rejected.

Mr. DAVIS, of Indiana. I move to amend by striking out, in the sixteenth line, the words "or Iowa," and insert in lieu thereof, between "the lines of 39° and 40° of north latitude." I do not desire to make any extended remarks upon the amendment I have submitted. It is well known to the members of this committee that, during the last session of Congress, I had the honor of delivering my opinions fully upon this subject, of constructing a railroad from the Mississippi to the Pacific. At that time I took ground in favor of

one route, and that was the central route. I have seen, since that time, no cause to change my opinions as then expressed. I did indulge the hope that the proposition of my colleague, [Mr. HENDRICKS,] presented to the committee a few moments since, would have prevailed; but it has been voted down; and if this bill passes at all, it must pass with a proposition to build three railroads across this continent. So far as the northern route is concerned, or so far as the southern route is concerned, the constituency I have the honor to represent have very little interest; but so far as the central route is concerned, they have a very great interest.

I stated in my speech at the last session of Congress, that no bill that might be presented to this House, which left the power to establish the eastern terminus of this road to the company that might undertake its construction, would meet my approbation. The bill, however, now presented, leaves to the company that undertakes to construct this road the right to fix upon the point of terminus, both east and west. The point of terminus of a great national road, intended to accommodate the trade, travel, business, and commerce of the whole country, is left, sir, to be decided by any irresponsible company that may undertake its construction. Being interested in the central road, I desire to know, if I have to vote for this bill, the point, at least within six hundred miles, from which this road shall start when it leaves the western borders of the States. By the provisions of this bill, it starts at some indefinite point upon the western border of Iowa or Missouri, according to the discretion of the company that may undertake to construct it—a wide margin, sir, of six or seven hundred miles.

I say to the honorable gentleman from California, [Mr. MCDOUGALL,] who introduced this bill, that I never will, willingly, give my vote or sanction to a bill which intrusts the important power of determining the terminus and general route of the road to the hands of the company that construct the road, or intrusts it either to the hands of the Secretary of War, Postmaster General, or even the President of the United States. Never, never! I hold that Congress is the proper tribunal to determine the termini of the road; and, so far as I am concerned, I am willing, sir, to share my portion of the responsibility. If we have to take three roads, as proposed by this bill, I am willing, as a member of this House of Representatives, to take my portion of the responsibility of fixing the point of beginning and ending of each one of these roads. I had much rather do it than to trust it to the hands of these irresponsible companies, or to the hands of the President, or any of his officers. One word more, sir——

[Here the hammer fell.]

Mr. GROW. I am opposed to giving any land to this road. Now, for the reasons. The gentleman from Indiana [Mr. DAVIS] seems to think that the constitutional power to give these lands for railroads rests upon the same ground as——

Mr. MCDOUGALL. I call the gentleman to order. He is not speaking in opposition to the amendment.

Mr. GROW. The gentleman from Indiana is in favor of giving some lands to this road.

Mr. PHILLIPS. What is the amendment?

Mr. GROW. I hope the gentleman from California will not insist upon his nice point.

Mr. MCDOUGALL. I insist that the gentleman from Pennsylvania shall respond to the point now made.

The CHAIRMAN. The gentleman must confine his remarks to an opposition to the amendment.

Mr. GROW. I intend to apply my remarks to the amendment. It is claimed that the constitutional power here rests upon——

Mr. MCDOUGALL. I call the gentleman to order again.

The CHAIRMAN. The Chair cannot decide whether the gentleman is in order or not until he has indicated the course of his remarks.

Mr. MCDOUGALL. No question of constitutional power has been raised here.

The CHAIRMAN. The Chair would say that the gentleman should confine his remarks to a reply, showing why the amendment of the gentleman from Indiana should not be adopted. The gentleman from California requires that the rule shall be enforced.

Mr. GROW. Well; will the Clerk report the amendment again?

The amendment was again read.

Mr. GROW. I am opposed to granting any land between those lines of latitude, for the reasons which I will give. The Government has no power to grant these lands.

Mr. MCDOUGALL. That is not in response to the remarks of the gentleman from Indiana, and I call the gentleman to order.

Mr. GROW. I will give my reasons why the Government has not power. The Government cannot grant lands for the construction of railroads upon——

The CHAIRMAN. The Chair thinks the gentleman's remarks are not in order.

Mr. GROW. Well, I meet with so much difficulty, I will reserve my remarks for some other occasion.

The question was then put upon Mr. DAVIS's amendment; and it was not agreed to.

Mr. WHEELER. I propose to renew the amendment made by the gentleman from Virginia [Mr. LETCHER] yesterday; that is, to strike out the enacting clause of the bill.

Mr. PRINGLE. I rise to a question of order. The gentleman has no right, under the rules of the House, to move to strike out the enacting clause of the bill. I ask the Chair to decide the point of order.

The CHAIRMAN. The Chair overrules the point of order, and holds the motion to strike out the enacting clause to be in order.

Mr. PRINGLE. From that decision of the Chair, I take an appeal.

Mr. WHEELER. I call for tellers.

Mr. BALL. Will it be in order to move that the committee now rise?

The CHAIRMAN. It will.

Mr. BALL. Then I submit the motion.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, the chairman of the committee reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, the bill for establishing railroad and telegraphic communication between the Atlantic States and the Pacific ocean, and had come to no resolution thereon.

Mr. J. C. ALLEN. I move that the House do now adjourn.

Mr. HAMILTON. I ask the gentleman from Illinois to yield his motion for a moment, to enable me to make a motion to take certain papers from the files of the House.

Mr. ALLEN. I will.

COLONEL J. STEWART.

On motion by Mr. HAMILTON it was

Ordered, That leave be granted to withdraw from the files of the House the petition and papers of Colonel J. Stewart, for the purpose of reference in the Senate.

REGISTER TO THE BARK MARTHA.

Mr. AIKEN. Will the gentleman from Illinois allow me to report a bill from the Committee on Commerce?

Mr. ALLEN. Certainly.

Mr. WALSH. What does the gentleman propose to do with the bill?

Mr. AIKEN. I hope the gentleman will not object. I propose to put it upon its passage.

Mr. WALSH. Well, I will hear what it is.

Mr. FLORENCE. It is to change the name of a ship.

The bill to authorize the Secretary of the Treasury to issue a registry to the bark Martha, was read a first and second time.

The SPEAKER. The question is upon ordering the bill to be engrossed and read a third time.

Mr. WALSH. I would ask the gentleman from South Carolina what the name is to be changed from.

Mr. AIKEN. From Aquatic to Martha.

Mr. WALSH. Well, then, I have no objection, for I used to love a girl of that name. [Laughter.]

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was subsequently read a third time, and passed.

BILL INTRODUCED.

Mr. CARPENTER, by unanimous consent, introduced the following bill, of which previous notice had been given; which was read a first and second time by its title, and referred to the Committee on Commerce:

A bill for the repair and improvement of the piers at the mouth of the Genesee river, New York.

On motion by Mr. JAMES C. ALLEN, at three o'clock and thirty minutes, the House adjourned until twelve o'clock to-morrow.

IN SENATE.

WEDNESDAY, *January* 17, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

Hon. JOHN R. THOMSON, of New Jersey, appeared in his seat to-day.

COMMITTEE SERVICE.

Mr. TOUCEY, on his motion, was excused from further service on the Committee on Revolutionary Claims, and the President *pro tempore* was authorized to fill the vacancy thus created.

PETITIONS, ETC.

Mr. HUNTER. I present the petition of a committee appointed by a railroad convention, held at Richmond, Virginia, on the 5th of December, 1854, praying Congress to refund to railroad companies all duties paid on railroad iron since the 4th of March, 1851, and to reduce the duty on railroad iron hereafter to be imported. As the Committee on Finance have already reported on the subject, I move that this petition be ordered to lie on the table, and be printed.

The motion was agreed to.

Mr. SEWARD presented the petition of Frances M. Webster, widow of Brevet Lieutenant Colonel Lucien B. Webster, of the United States Army, who died of a disease contracted while in service during the war with Mexico, praying to be allowed all the immunities and emoluments which the pension laws allow to the widow of a lieutenant colonel; which was referred to the Committee on Pensions.

Also, a memorial of citizens of the State of New York, who served in the war of 1812, praying that all who received less than one hundred and sixty acres of land, under the act of 1850, may receive an additional quantity sufficient to make one hundred and sixty acres; and that all those who served in any war, and are not provided for by existing laws, may receive a like quantity, without regard to length of service; which was ordered to lie on the table.

Also, the petition of Christian F. Funch, praying that a register may be issued for a foreign-built bark, under the name of the "Lily," which was purchased by him, and repaired in the United States; which was referred to the Committee on Commerce.

Also, a petition of citizens of Oneida county, New York, praying that the President of the United States may be instructed to tender his friendly offices as a mediator between the European Powers now unhappily involved in war; which was referred to the Committee on Foreign Relations.

Mr. REID presented the petition of Captain S. L. Frémont, late an officer of the Army of the United States, one of those wrecked on the steamship San Francisco, asking that an act may be passed causing his accounts, as regimental quartermaster and commissary, to be settled at the Treasury Department; which was referred to the Committee on Military Affairs.

Mr. GEYER presented the petition of Edmund H. McCabe, of Missouri, praying to be allowed to locate a quantity of land, equal in quantity to that belonging to him, but which was illegally sold by the United States; which was referred to the Committee on Private Land Claims.

Mr. FESSENDEN presented the petition of citizens of Essex, Hancock county, Maine, and vicinity, praying the repeal of the fugitive slave law; which was ordered to lie on the table.

Also, the petition of William Allen, grandson of Jonathan Allen, an officer in the Revolution, praying that the seven years half-pay due his ancestor, may be paid to the heirs; which was referred to the Committee on Revolutionary Claims.

Mr. TOOMBS presented five petitions of citizens of the District of Columbia, praying the passage by the Senate of the bill of the House of

Representatives to reorganize the courts in the said District, and to reform the laws thereof; which wsa referred to the Committee on the Judiciary.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. RUSK, it was

Ordered, That the petition and papers of Richard S. Coxe, on the files of the Senate, be referred to the Committee on the Post Office and Post Roads.

On motion by Mr. BRODHEAD, it was

Ordered, That the heirs-at-law of Henry Miller have leave to withdraw his petition and papers.

On motion by Mr. STUART, it was

Ordered, That Edward Riddle, of Boston, have leave to withdraw his memorial, for the purpose of obtaining a copy of it.

REPORT FROM A STANDING COMMITTEE.

Mr. DODGE, of Wisconsin, from the Committee on Commerce, to whom was referred a memorial of the grand jury of the United States district court for the Wisconsin district, at January term, 1855, praying that the appropriation for a building for the post-office, custom-house, and United States court at Milwaukie, may be increased, reported a bill changing the appropriation for the erection of a building in the city of Milwaukie, for a custom-house, post office, and the United States courts; which was read, and passed to a second reading.

He also, from the same committee, to whom were referred resolutions of the Board of Council of the city of Rock Island, Illinois, praying that that place may be made a port of delivery, reported a bill to constitute Rock Island, in the State of Illinois, a port of delivery; which was read, and passed to a second reading.

PRIVATE BILLS.

Mr. WELLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That from and after the 20th instant, Friday of each week during the present session, shall be devoted to the consideration of the Private Calendar in preference to any other business.

HON. MOSES NORRIS.

Mr. TOUCEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the Senate be requested to communicate to the Executive of the State of New Hampshire information of the death of the Hon. Moses Norris, late a Senator from that State.

SAVANNAH RIVER.

Mr. DAWSON. In conformity with a notice which I gave on a previous day, I now ask leave to introduce a bill "to appropriate money to remove the obstructions in the Savannah river, below the city of Savannah, in the State of Georgia. I ask that it may be read twice, and made the special order for this day week, with other bills of a like character.

Leave was granted to introduce the bill; and it was read twice by its title, and postponed to, and made the special order for, Wednesday, the 24th instant.

JAMES POOL.

Mr. WADE. I am directed by the Committee on Claims, to whom was referred the petition of James Pool, to submit a report, accompanied by a bill for his relief. I ask the Senate to consider the bill now. It is for the benefit of a poor man, who has been waiting here for a long time, and it is proper that it should be disposed of at once.

The bill was read a first time, and ordered to a second reading. It proposes to direct the proper accounting officer of the Treasury to pay to James Pool $2,262 for money advanced by him to purchase corn for the Seneca and Shawnee Indians, in the spring of 1834, at the request of Governor Stokes, Indian agent, and interest thereon; and for interest on sundry sums advanced by him for the use of those Indians, between the years 1823 and 1838, which sums were not refunded until 1853, for want of appropriations for that purpose; and this amount is to be in full for all existing claims of Pool against the United States, growing out of any transactions with those tribes.

The PRESIDENT. The Senator from Ohio asks for the immediate consideration of the bill. It requires unanimous consent. Is there objection?

Mr. STUART. I do not propose to object to the consideration of the bill; but inasmuch as the report is not printed, I should be glad if the Senator from Ohio would state briefly what are the circumstances of the case.

There being no objection, the Senate proceeded to consider the bill as in Committee of the Whole.

Mr. WADE. The bill received the unanimous sanction of the Committee on Claims. Contrary to our usual custom, we propose in this bill to allow interest on certain advances made by this individual while he was engaged as a blacksmith among the Indians. It comes within the rule which has been adopted by the committee, and, I believe, sanctioned by the Senate. The sums which he paid out have since been refunded by the Government; the liability of the Government to pay them has thereby been acknowledged. His account was presented many years ago, and payment was refused barely because there was no appropriation to meet it. Under such circumstances, we have always allowed interest, I believe, and in no other case, so far as I know. This case, coming within the rule, we propose to award interest from the time when the presentation of the claim was made and payment was refused. That is the principle on which the bill is founded. The report is a long one, and sets forth all the facts.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

Mr. WADE. I now move that the report of the committee in this case be printed.

The motion was agreed to.

ENLARGEMENT OF GENERAL POST OFFICE.

Mr. BAYARD. I ask the Senate now to take up for consideration the bill reported by the Committee on Public Buildings "to authorize the enlargement of the General Post Office building." It is necessary for the convenient transaction of the public business that it should be passed at once. I received a communication from the Postmaster General, calling my attention to the subject, at the last session. I then endeavored to attach the measure to the civil and diplomatic appropriation bill; but finding that to be impracticable, I reported this bill from the committee at the present session. The consideration of the bill will not take many minutes. I move that it be now taken up.

The motion was agreed to; and the bill was accordingly read a second time, and considered as in Committee of the Whole.

It proposes to authorize the President of the United States to cause the General Post Office building to be enlarged according to the following described plan: The building, when completed, to cover the entire block bounded by E, F, Seventh, and Eighth streets, and to have a court-yard in the center, approached by an archway in the middle of the western front, sufficiently spacious for the ingress and egress of mail wagons; the present halls running parallel to Seventh and Eighth streets to be continued to F street, with rooms on each side, arranged to suit the purposes of the Department; accommodations to be made for the city post office on the center of the block on F street, and an arcade of about sixty feet in length to be made for a letter delivery; the arcade to be surmounted by a recessed portico of four columns, flanked by coupled pilasters. The fronts on Seventh and Eighth streets each are to have the present design of the south end repeated on the north end, and a portico of six columns, coupled at the corners, introduced in the center of the block. The style of architecture of the present building is to be carried out in the additions, and the whole is to be made thoroughly fire proof, and to be constructed under, and subject to, the direction of the President of the United States.

Mr. BAYARD. There is a blank in that portion of the bill which proposes to make an appropriation for the purpose indicated. I move to fill the blank with $300,000. The whole estimate for the complete enlargement is $650,000; but $300,000 is all that can be expended properly and judiciously during the next fiscal year. The plan of the enlargement has been adopted after much deliberation with the officers of the Post Office Department. It provides not only for the General Post Office, but also for the city post office, and affords ample room for both. The mode in which the building is to be constructed is pointed out in the bill in a definite manner, so as to insure that there shall be no alteration in the general course of the structure. None but internal alterations can possibly be made under the bill as it is framed. As the enlargement is absolutely necessary, I trust there will be no difficulty in passing the bill. Certainly we can make no better use of the public money lying in the Treasury, than to expend a portion of it in the construction of buildings adequate to the performance of the duties imposed on this Government, here or elsewhere. I send to the Chair a communication from the Postmaster General, which I ask may be read.

The Secretary read it as follows:

POST OFFICE DEPARTMENT, *June* 3, 1854.

SIR: Finding the present Post Office building entirely too small for the business of the Department, I requested the architect of public buildings to prepare plans and estimates for extending it. These plans I herewith submit to you, together with a report and estimate from Mr. Walter, and respectfully request you to bring the subject before the committee, with a view to such action of Congress in reference to it as may be deemed most expedient.

I am of opinion that these plans, if properly carried out, will afford ample and convenient accommodations, not only for the Post Office Department, but also for the city post office, which is now kept in a very frail and unsafe building adjoining the General Post Office building.

I am, very respectfully, your obedient servant,

JAMES CAMPBELL,
Postmaster General.

Hon. JAMES A. BAYARD,
Chairman Committee on Public Buildings.

Mr. BAYARD. I also hold in my hand a description, prepared by the public architect, of the internal arrangements and extent of accommodation under the enlarged plan. I do not know, however, that it is necessary to read it. I hope the Senate will pass the bill.

The PRESIDENT. The question is on the amendment of the Senator from Delaware to fill the blank with $300,000.

The amendment was agreed to; the bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read a third time, and passed

COMMODORE JONES.

Mr. GWIN. I move that the bill reported by the Committee on Naval Affairs, for the relief of Captain Thomas Ap Catesby Jones, be taken up. It was reported a long time ago. I think there will be no objection to it. It is important that it should be acted on at an early day, so as to be sent to the House in time for their action at the present session.

The motion was agreed to, and the bill was read a second time, and considered, as in Committee of the Whole. Its object is to direct the payment to Commodore Jones of the amount of salary of which he was deprived by the decision of a court-martial in 1851, with a proviso that the act is not to be construed as an expression of opinion upon the organization, conduct, or decision of the court.

Mr. STUART. I should like to hear the report in that case.

Mr. GWIN. I do not think the bill is accompanied by a report. I can state the facts.

The PRESIDENT. There is no report among the papers in the case.

Mr. GWIN. I will state briefly the reasons which induced the committee to report the bill. The case is an elaborate one. Commodore Jones was suspended by a court-martial which he contended, (and successfully contended in the estimation of some portions of the committee,) was not properly organized, and whose judgment was unjust to him. There was no objection in the committee, however, to granting relief; and in order that it might be granted, we agreed to give no opinion in regard to the organization of the court, which, it was contended, was improperly organized, or in regard to the decision, which it is alleged was not just. These allegations had so much weight that the President of the United States restored him; but the pay cannot be restored without an appropriation.

Mr. STUART. It seems to me that this case is one requiring, perhaps, more strictly than cases generally do, that the committee should have reported all the facts which guided them in their determination. The effect of the bill is to dispense with the action of a court-martial so far as the suspension is concerned. Its effect is to pay this officer the same as if he had never been tried and suspended. I can very well see that the President of the United States might, for obvious reasons satisfactory to himself, restore this officer to his

command, without, in any degree, intending thereby to affect the propriety of his suspension. It does not follow at all that, because he has been restored, the suspension was improper. There is no such inference to be drawn from it. Now, I think that before we, as a Congress, without any knowledge on the subject whatever, undertake to override the action of a court-martial, we should have the matter so expressed by a report of the proper committee as to place it beyond all doubt. I hope the Senate, at all events, at this time, will not pass the bill.

Mr. GWIN. The papers in the case are very voluminous. This court-martial was called to sit on the conduct of Commodore Jones in California, while in command of the Pacific station. The decision of the court-martial was looked upon as very unjust towards Commodore Jones, because of the organization of the court, and because *ex parte* testimony was taken, on which the finding of the court is based. It is a delicate subject between officers of the Navy. The President of the United States restored him before the time expired for which he was suspended from the Navy; but he could not give him his pay, and, therefore, he came before Congress for an appropriation. I have no doubt, that if the papers, which are very elaborate, were read to the Senate, the Senator from Michigan himself would be in favor of the bill; but I will consent that it shall lie over until to-morrow, by which time the papers may be examined. The Senator from Virginia, [Mr. MASON,] who is not now in his seat, is perfectly familiar with the case, and I am willing that it shall lie over until to-morrow in order that all the facts may be placed before the Senate.

Mr. STUART. I will ask the Senator a question, if he pleases. Was the sentence of suspension approved by the President?

Mr. GWIN. It was approved at the time, certainly; but Commodore Jones was afterwards restored.

Mr. STUART. Exactly. It is as I supposed. I hope the Senator's motion will prevail, so that the matter may be fully considered.

The further consideration of the bill was postponed till to-morrow.

SYLVESTER AND ALEXANDER HUMPHREY.

On motion by Mr. WADE, the Senate, as in Committee of the Whole, proceeded to consider House bill for the relief of Sylvester Humphrey, and the heirs of Alexander Humphrey, deceased.

The object of the bill is to direct the Secretary of the Treasury to pay to Sylvester Humphrey, and the heirs of Alexander Humphrey, deceased, the sum of $2,500—one moiety to Sylvester Humphrey, and the other moiety to the heirs of Alexander Humphrey, deceased—for rebuilding the wharf at Staten Island, after it had been destroyed by the storm of the 3d of September, 1821.

Mr. STUART called for the reading of the report of the Committee on Claims, and it was accordingly read.

It appears, from the report, that Sylvester Humphrey and Alexander Humphrey contracted on the 3d of July, 1820, with the collector of the port of New York, to repair a wharf at Staten Island, and, also, to build a new wharf at the same place, in a workmanlike manner, to be completed by the 10th day of June, 1821, for $13,499. They prosecuted the work with due energy, and finished the repairs of the old wharf according to contract. On examining the timber used in the old wharf, it was ascertained that the hemlock timber, with the bark on, was in a good state of preservation, while the hemlock, with the bark off, was, in a great measure, destroyed by worms. In consequence of this, the Government agent determined to use hemlock timber with the bark on, in the construction of the new wharf. Such timber could not be procured in market, and the contractors were compelled to seek it in the forest, cut it, and transport it to the place where it was to be used. This they did, at great expense, although it was not required by contract, but with the understanding that they were not to be prejudiced, in the case of a failure to complete the job within the time specified.

The contractors proceeded energetically, and would have completed the work within the time required by the contract but for the action of the Government officers, who insisted on fastening vessels to the new dock before it was finished. While it was in this condition a severe storm occurred by which thirty vessels were driven upon and over the wharf. In consequence of this the contractors suffered damage to the extent of $2,500, the amount provided by the bill to be paid.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

COURT-HOUSE AT KEY WEST.

On motion by Mr. MALLORY, the Senate, as in Committee of the Whole, proceeded to consider the bill to provide for the construction of a suitable building for the accommodation of the district court of the United States at Key West, in the State of Florida.

It proposes to appropriate $8,000 for this object.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives by Mr. McKEAN, Chief Clerk, announcing that they had passed a joint resolution to pay the pension due James Capen to his administrator.

CONGRESSIONAL COMPENSATION.

On motion by Mr. BADGER, the Senate, as in Committee of the Whole, resumed the consideration of the bill to increase the compensation of Judges of the Supreme Court, and of members of both Houses of Congress.

Mr. MALLORY. I move to amend the proposition of the Senator from Missouri, [Mr. GEYER,] which I understand is now pending, so as to fix the salary of the judge of the northern district of Florida at $2,500.

Mr. BADGER. That is all withdrawn. It is not before the Senate.

Mr. MALLORY. I was not aware of that.

Mr. TOOMBS. The Senator from Missouri has withdrawn all his amendments except that portion relating to the salaries of the Judges of the Supreme Court.

The PRESIDENT. If no further amendment be offered, the bill will be reported to the Senate.

Mr. WELLER. I have an amendment which I desire to offer as an additional section. It is to carry out the principles on which the bill was originally reported, of allowing the Federal officers the same compensation as is allowed for similar services by the respective States.

Several SENATORS. All that is withdrawn.

Mr. WELLER. I should like to know how much of the bill is really left.

Mr. TOOMBS. I will state that all that portion of the bill except what relates to the salaries of the Judges of the Supreme Court was withdrawn by my friend, the Senator from Missouri; and it now stands solely fixing the salaries of the Judges of the Supreme Court.

The PRESIDENT. The bill as it now stands will be read.

The Secretary read it, as follows:

That from and after the passage of this act, the annual salaries of the several Justices of the Supreme Court of the United States shall be as follows, to wit:

Of the Chief Justice of the Supreme Court $7,500. Of the Associate Justices of the Supreme Court, $7,000 each.

Mr. WELLER. Is that all the bill?

The PRESIDENT. Yes, sir.

Mr. WELLER. It is hardly worth while to amend that.

Mr. CASS. I should, myself, greatly prefer that the bill should remain in the state in which it was reported, taking in the whole judiciary. I should vote for that much more cheerfully than for this.

Mr. TOOMBS. The Senator is mistaken. This is not the bill to which he refers. The bill fixing compensation has not come up in order. The bill before us is one which was introduced by the Senator from North Carolina, fixing the compensation of Judges of the Supreme Court and of members of Congress. Those were the only two provisions in the bill of the Senator from North Carolina. Then the bill fixing the salaries of the district judges, which is reported from the Committee on the Judiciary, was moved as an amendment to it.

Mr. CASS. I understand it perfectly. Both bills were reported to the Senate by the committee, and both were put together and considered in one bill. Both relate to the same subject-matter; and I think, myself, they had better be acted on together. If any gentleman moves it, I shall vote for the proposition just as it came from the committee; and if no one else will do it, I shall move it.

Mr. BADGER. Let me suggest to my friend that that question has been passed on in committee. Let the bill be reported to the Senate, and then he can move his amendment.

The PRESIDENT. If no further amendment be proposed, the bill will be reported to the Senate.

Mr. GEYER. I wish to say, for the information of the honorable Senator from Michigan, that the reason why that amendment was withdrawn was that it was overloaded with other amendments; and as I did not approve exactly of the mode of increase of the compensation of Judges of the Supreme Court, proposed by the bill of the Senator from North Carolina, I thought proper to retain that part of the amendment giving a specific salary instead of an increase at a rate per centum. I thought the difference which has existed between the Associate Judges and the Chief Justice of the Supreme Court, was not maintained in the proposition to make an increase according to a rate per centum; and I preferred a specific salary. The bill reported by the Judiciary Committee still remains on the Calendar; and the reason why I withdrew that part of the amendment to which the Senator from Michigan has referred, was that I supposed Senators would reflect upon the proposition which had been partly debated yesterday, and would be prepared to act on the bill reported by the committee when it should come up for consideration in its order.

Mr. SEWARD. Mr. President, the time, perhaps, is a proper one for me to say what I have to say on this subject. I think that the suggestions which fell from the honorable Senator from Delaware, [Mr. CLAYTON,] yesterday, were very well timed, and I had hoped the Senate would promptly acquiesce in the proposition which he made, that we should defer further action on this bill until we should have perfected the judiciary bill itself. I am not indisposed to an increase of the salaries of the Judges of the Supreme Court; but I see, at the same time, that while this bill is under consideration here, we have another one immediately following it, the effect of which will probably be to reduce the amount of labor and of expenses which they incur in the performance of the duties of their offices. If that be so, then it is not necessary, nor is it wise or just to increase the amount in the same degree that we should increase it now, if the duties were to remain the same. I cannot vote for a salary so large for Judges of the Supreme Court as that proposed in this bill. I can vote for an increase short of that sum; but, if the bill come to a vote in its present shape, I shall vote against it.

There is, as it seems to me, a much stronger necessity for an increase of the salaries of some of the district judges than there is for an increase of the salaries of Judges of the Supreme Court; and I have in my mind the salary of the district judge in Michigan, which, I think, is only $1,200. I cannot consent to vote for a bill increasing to $7,000 the salaries of Judges of the Supreme Court, while the salaries of the judges of the district courts remain at the low figure which some of them now maintain. I hope, therefore, that it may be considered by those in favor of the passage of such a bill on this subject as can be fairly procured, whether it is not wise to pass upon the other bill, and see what are the duties to be performed by these judicial officers, and then make the compensation dependent upon the nature of the duties, and the extent of the expenses to which these officers will be subjected. I concur with the honorable Senator from Delaware in that view.

Mr. BADGER. I wish merely to say that I do not understand, as the Senator from New York does, that the effect of a bill discharging the Judges of the Supreme Court from the circuits is at all to diminish the time which they are expected to give to the public. If the two objects were compatible, as I have several times said, I would, myself, object to discharging them from circuit duty; but in the existing condition of things in the country, and in the existing amount and the daily increasing amount of business before the Supreme Court, it is, in my view, not practicable to keep the two duties united in the same set of officers. But the purpose of discharging the judges from the cir-

cuits is not at all that they shall be idle, but that they shall be able to sit here so long as is necessary to dispose of all the business before them, which they cannot do now in consequence of the recurrence once a year of the circuits which they have to attend. So far as the compensation is concerned and is to be paid for services rendered, the services will be the same in amount, and of a far higher character. In regard to compensation as a means of covering expenses, it will be still more necessary if the judges are to spend nine months here in the city of Washington instead of six. It seems to me, therefore, that this bill is proper, in any event, whatever disposition may be made of the bills pending for altering the judicial system.

Now, sir, in regard to the district judges, I agree with the Senator from New York perfectly. I think they are an overworked and underpaid set of public officers; and I am ready, with him, and with the Senator from Michigan, to go for a decided and liberal increase of their compensation; and, with those Senators, I am willing to put it upon this bill. I think it not an inappropriate place to put it. All that I wish to say is, that I think the Senator from New York is mistaken in supposing that the proposed alterations, or any one of them, now pending, in regard to the arrangement of the judicial system, whichever may be adopted, if either be adopted, will make the propriety of the pending proposition to increase the compensation of the judges a whit less necessary than if the system continues as it is.

Mr. SEWARD. Mr. President, I do not, probably, differ very much from my honorable friend from North Carolina on this question; but still we, probably all of us, take our ideas of what the exigencies are, from what falls within our own knowledge. The associate judge for the second circuit, Judge Nelson, sits here, as we all know, three months every year, at the term of the Supreme Court, and then I know that he goes from here to the city of New York, and from there to Albany, or to Canandaigua, and that he is occupied the whole year round in the discharge of the high duties of his office; and that besides the time which he bestows at *nisi prius*, there is also sitting in New York a district judge, able, learned, and competent, at an inferior salary, and that there, nevertheless, still remains the necessity of having, in addition to his aid, the assistance of one or two other district judges, either from the northern district of New York, or from Connecticut, or from Pennsylvania.

Now, my honorable friend may be very right in supposing that some of the judges will not find their labors diminished; but this judge of that court certainly will, if he is relieved from the performance of duties at *nisi prius*, for it is hardly to be expected that the Supreme Court of the United States will be required to be in session nine months in the year. Six months, I think, would suffice to do all the business they have.

The matter presses upon my mind that if there is any great injustice, and any great inconvenience anywhere, it is in regard to the compensation of the district judges. I, perhaps, would not insist on this, if it were not that the friends of this bill persevere in requiring a larger compensation to the Judges of the Supreme Court of the United States than I feel the public sentiment would justify us in paying at this time. Inasmuch as we are to do that, I wish that it may be balanced by doing what is still more important: justice to some of the district judges in the States. If the honorable Senator from Michigan or any other Senator will move that amendment, I shall, with pleasure, vote for it. If the salaries are brought within what seems to me to be a reasonable amount, I shall, with pleasure, vote for the bill.

Mr. CLAYTON. I do earnestly hope that we may be permitted to take up the bill for the reorganization of the judiciary, before we fix the salaries of the judges. It appears to me, as I said yesterday, that we have begun at the wrong end. I voted at the last session for the increase of the salaries of the Judges of the Supreme Court; but sir, if those judges are to be relieved from circuit duty, I wish to reconsider that matter. I am anxious to pay the judges well, but not enormously; and I am not satisfied with the amounts contained in the bill if they are to be relieved from all circuit duty.

I say, again, that I should be glad to know what duties and responsibilities devolve, not only on the Judges of the Supreme Court, but on judges of the district courts, before I vote on the question of salary. I shall not have any difficulty at all about fixing the salary. My principles on that subject are settled. I am for liberal compensation to the judges; but certainly I am not for voting the same amount of compensation to judges who have to ride over the country and perform circuit duty, and to those who are discharged entirely from that duty. I am not willing to vote the same amount of compensation to judges of the district courts of the United States who perform only the duties that are now enjoined on them by law, which I would gladly vote to them if they shall be called upon to perform all the circuit duties. Sir, I do hope this bill may be laid on the table for the present; and I make that motion.

The motion was agreed to.

Mr. BADGER. I did not understand, and I do not believe any one else understood the motion, for I did not hear my friend; but I cannot help it now.

Mr. JONES, of Iowa. Move a reconsideration.

Mr. BADGER. When I voted for it, I did not know what the question was. I move to reconsider the vote just taken, on laying the bill on the table.

Mr. TOOMBS. I ask for the yeas and nays. I see no reason for killing the bill in its present condition, except by a direct vote.

Mr. CLAYTON. The motion is not to kill the bill, but to lay it on the table, in order that we may proceed with the judiciary bill.

The yeas and nays were ordered, and taken with the following result:

YEAS—Messrs. Allen, Badger, Bell, Benjamin, Butler, Dawson, Dodge of Wisconsin, Douglas, Geyer, Gwin, James, Johnson, Jones of Iowa, Morton, Pearce, Rockwell, Shields, Thomson of New Jersey, Toombs, and Toucey—20.

NAYS—Messrs. Adams, Brainerd, Brown, Cass, Chase, Clay, Clayton, Dixon, Dodge of Iowa, Evans, Fessenden, Houston, Hunter, Mallory, Reid, Rusk, Sebastian, Seward, Stuart, Sumner, Thompson of Kentucky, Wade, and Weller—23.

So the Senate refused to reconsider the vote by which the bill was ordered to lie on the table.

ORDER OF BUSINESS.

Mr. HUNTER. I move that the Senate now take up the Army appropriation bill. It was reported some time ago, and I should like to have it disposed of.

Mr. BRODHEAD. I hope that, if we do not proceed with the judiciary bill, we shall finish the bounty land bill to-day. We are prepared to proceed with the consideration of that, and I am sure it will not take twenty minutes.

Mr. BUTLER. I hope, sir, the judiciary bill will at least be taken up, so that the amendments can be distinctly presented by the different gentlemen, and we may vote on them in a short time. I think we could dispose of the bill to-day. I, at least, wish to see the amendments. It may be that some may be offered to which I am reconciled, and that some bill, at least, may pass. I hope we shall persevere in proceeding with the regular order of business.

Mr. RUSK. I appeal to my honorable friend from Virginia to withdraw his motion to take up the Army appropriation bill. It will not be much debated, and a little delay cannot hurt it. Three or four days ago, on my motion, we adopted a resolution calling on the War Department for information in reference to some troops called out by the President for service in Texas, and not provided for by the appropriation bill. I apprehend an answer will be submitted in a day or two, and I hope the bill will be delayed until we can get the information necessary to offer an amendment on that subject.

Mr. HUNTER. I understand the Senator from South Carolina to say that he hopes to get through with the judiciary bill to-day. Under that hope, I will withdraw my motion for to-day, but I cannot wait two days. I must try it again to-morrow.

Mr. DOUGLAS. I presume we can take the vote in a few minutes on my substitute for the judiciary bill, with the understanding that, if adopted, it will be referred to the Judiciary Committee, together with all amendments, with an order to print them.

Mr. BUTLER. I hope the judiciary bill will be taken up and the amendments disposed of.

JUDICIAL SYSTEM.

The PRESIDING OFFICER, (Mr. STUART in the chair.) The hour for the consideration of the special order having arrived, the bill to amend and modify the judicial system of the United States is now before the Senate as in Committee of the Whole. The Chair understands the question to be on referring the bill and amendments to the Committee on the Judiciary.

Mr. BELL. I partake of the general anxiety that this bill shall promptly receive some expression of opinion from the majority in the Senate, in relation to the question presented by the amendment of the Senator from Illinois, [Mr. DOUGLAS,] and I shall confine the remarks which I propose to make within a very short limit. Nothing prompts me to speak, sir, at this time, but my anxious desire that the various propositions for remodeling the judiciary which have been presented, shall be moulded into such shape as to command the assent of a majority of the Senate, and that during the present session of Congress, short as it must be, we shall succeed in relieving the Judges of the Supreme Court from present obligations and duties, which I consider impossible for them to perform, either to the satisfaction of themselves or the country generally. I hope yet, that, without extending the discussion of the subject beyond this day, the Senate may come to a satisfactory decision.

Sir, no gentleman, whose remarks I have heard—and I have listened to all with attention—denies that it is expedient, under present circumstances, to devise some remedy for existing embarrassments, to make some new provision, some reorganization of the Federal judiciary. The great difficulty is in proposing any plan which seems likely to meet the approbation of a majority of the Senate. Now, sir, I do not mean to go over the grounds which have been occupied with so much ability by other gentlemen, or to enlarge upon the reasons and the necessity which exists for a modification of our present judicial system, for the more certain, full, and speedy attainment of justice in the judicial administration of the Government. That has already been so clearly demonstrated by others that it seems unnecessary to add anything on that point. I propose to submit a few observations directly to the points immediately before the Senate.

The first objection to the bill reported by the Judiciary Committee, is the proposition to separate the Judges of the Supreme Court entirely from circuit court duties. I have, upon a former occasion, expressed the inclination of my mind, if it were practicable, still to maintain the connection of the Judges of the Supreme Court with circuit duties in the various circuits of the United States, for reasons which have been fully stated by other gentlemen. In regard to that, as well as other features which have been proposed to be incorporated into this bill, I do not propose to express what my individual wishes and opinions are, so much as to throw out some ideas, to make such suggestions as I think may tend to harmonize the views and meet the assent of a majority of the members of this body. I am ready to agree to any proposition which does not violate any sound principle. I desire that something shall be done to accomplish the great object in view, to relieve the Judges of the Supreme Court from some portion of the duties now imposed upon them by law, and which have come to be too arduous and burdensome for their successful performance. I desire that this shall be done effectively, and in a manner satisfactory to the country, whether it be in conformity with my own individual preferences and opinions or not. Then, sir, I waive any objection which I feel to the separation of the Judges of the Supreme Court from circuit duties; and I believe a majority of the Senate have come to the same conclusion on this point.

The next objection taken to the bill reported by the Committee on the Judiciary, is the proposition to appoint eleven new circuit court judges. I believe this objection so formidable, and the repugnance entertained to it by a majority so great, that it is useless to insist upon its adoption. That being the case, the question is, what other plan or change of the present system can be devised to relieve the Judges of the Supreme

Court, and, at the same time, satisfy the country, by providing for a speedy and able administration of justice in the Federal tribunals?

The honorable Senator from Illinois [Mr. DOUGLAS] has prepared, with great care, and, no doubt, after mature consideration, a plan which he thinks will afford sufficient relief to the Judges of the Supreme Court, and, at the same time answer all the demands of the country upon this department of the Government. That proposition is, that all the district judges in each judicial circuit, together with one Judge of the Supreme Court, shall hold, annually, one term of a general court, or court of conference, to hear appeals and decide upon writs of error from the district courts; and that appeals and writs of error, within certain limitations, shall lie from this court of conference to the Supreme Court; and he thinks this modification of the present system will afford to the Judges of the Supreme Court all the relief that is desirable, while it will still maintain the representative feature in the present organization. That honorable Senator suggested that, in his opinion, the Judges of the Supreme Court, if his propositions were agreed to, would be able to discharge the business in the Supreme Court in three months; and that they could, also, preside in the intermediate appellate court, to be established in their several circuits, once a year, and have six months of relaxation from judicial labors.

The general features of the amendment proposed by the Senator from Illinois struck me favorably; but, upon further consideration on my part, and after hearing the views of several gentlemen better acquainted with the extent of the business in the Supreme Court than I am, I have become satisfied that this plan will not bring that relief to the Judges of the Supreme Court which the honorable Senator supposes it will; and furthermore, that it will not be satisfactory to the country. The first objection to it is, the interminable and vexatious delays to which it would subject the suitors who resort to the district courts of the United States for a decision of their causes. The intermediate appellate court proposed is to sit but once a year. If two terms of such a court could be held annually, that would obviate the objection of the delays in the final decision of causes in the district courts; but would it bring any relief to, or lessen the excessive burdens of, the Justices of the Supreme Court? If we provide for the holding of two terms of this intermediate court annually, then the Judges of the Supreme Court, after a session of not more than three months at Washington—and they could not sit longer—would be compelled to hold the first, or spring term, of the new court in their respective districts; and, if you assign them another term, the first will be scarcely over—at all events, the dog days of summer will scarcely have passed—before they will have to attend the second term; and at the close of that, they will have but short repose before they will have to recommence their labors in Washington. It is clear, then, that, to require the Supreme Court Judges to hold two terms annually of the new courts proposed to be established, would not diminish the burdens now imposed upon them; perhaps it would rather increase than diminish them. It was probably in view of this result that the honorable Senator from Illinois did not think it expedient to provide for more than one term of the new appellate court. But I think the honorable Senator has not duly considered the extent of the delays to which suitors would be subjected by his plan of providing for only one term in each year of the new appellate court.

The Senator suggested that these appellate courts shall be held in the month of May, soon after the judges, it is assumed, will be able to dispose of all the business on the docket of the Supreme Court. Well, let us suppose that the Judges of the Supreme Court can dispatch the business in that court in the time to which they will be thus limited, and that they will have strength and health enough to proceed to the places of holding the term of the appellate court, in their respective circuits; and, aided by their associates of the district courts, to dispatch all the business in that court; still what will be the consequences to the parties or suitors, whose causes have been taken to that court from the district courts? The district courts are held semi-annually, in each of the judicial districts in the United States. Then, it follows, that the cases on appeal, or writs of error, pending in the appellate court at each annual term of that court, must embrace the appeals and writs of error taken from the decisions made at the two preceding terms of each of the district courts in the circuit. Thus, it may be assumed, that one half the cases pending for adjudication, at any term of the appellate court, will have been decided in the district courts a year before the sitting of the appellate court. This is not all. We know that the decision of incidental points of law arising in *nisi prius* causes, and the misdirection, or supposed misdirection, of judges to juries, are prolific sources of appeals and writs of error to appellate courts; and we may take it for granted, that the appellate court proposed by the amendment of the Senator from Illinois, will, in very many cases, reverse the decision of the district judges and send them back for new trials in the district court; and even on a second trial below, new questions may arise, and the cause be taken a second time to the appellate court, where it may have to wait another year for a final decision in that court, and then be taken to the Supreme Court by either party feeling aggrieved. It will thus be perceived, that the delays necessarily incident to the plan proposed by the Senator from Illinois, may, and probably will, prove oppressive and intolerable.

For these reasons, I consider that, on the point of delay, there is a conclusive objection to the plan proposed by the honorable Senator from Illinois. I repeat, that I think it likely that he did not consider what delays might be the consequence of providing that such an appellate court should only be held once a year; and it would be inconsistent with his plan of bringing the relief, which all concede should be extended to the Judges of the Supreme Court, to provide for two terms of the appellate court in each year. He must see, on reflection, and other Senators must see, as well as I do, that if the Judges of the Supreme Court should be required to sit in the appellate court twice a year, no relief, no diminution of their labors would follow.

Then, Mr. President, however desirable it may be to preserve the connection of the Supreme Court Judges with the circuit courts, in whatever manner they may be constituted, I think it is apparent that that connection will have to be given up if we provide any remedy for existing evils.

Now, then, if we lay aside the idea, as I think we must, of appointing eleven additional circuit judges, what other remedy have we left? The only other admissible proposition is, to confide to the district courts the jurisdiction now exercised by the circuit courts of the United States. I perceive that the honorable Senator from Ohio [Mr. CHASE] has had laid upon our tables this morning an amendment which seems to have been drawn up with some care, having that object in view. For several days past, I have been revolving in my mind a similar plan—one which I thought would diminish the burdens of the Judges of the Supreme Court, and also be satisfactory to the country. I consulted several distinguished gentlemen of the Senate, of greater experience in the business of the Supreme Court than myself, upon the proposition I proposed to submit, and found that they were not indisposed to adopt it, as a mode of overcoming some of the impediments which threatened to defeat any plan which had before been suggested.

There is only one point of difference between my plan and that which has been submitted by the honorable Senator from Ohio. I propose that we organize the several district courts of the United States, as they are now established by law, or with such additions or alterations as may be essential or demanded by the extension of our territory, into circuits, and that they be arranged in such a manner that each district court may be held by three district judges. When we come to consider the increased responsibility which would attach to the district judges, in civil causes, by giving to them, and to them exclusively, the jurisdiction and powers of the present circuit courts, we shall see still greater reasons for making the modifications which I suggest of the proposition of the honorable Senator from Ohio. I propose to arrange the circuits in such a manner that three district judges shall hold the courts, in the respective judicial districts within their circuits, twice a year, as now provided by law. To carry out this plan it may be necessary to establish, in some of the States, an additional judicial district. By the organization which I propose, any man who has a suit in one of these courts, either as plaintiff or defendant, will see that he has a court entirely competent, in point of legal learning, taking the three judges together, and calculated to give as high security, for the able and impartial administration of justice, as the circuit courts, as now established, can give.

By this organization, by thus increasing the responsibilities we shall elevate the character of the district courts and judges, and, at the same time, improve their competency. In many judicial districts of the United States we need something of that sort; for many of the district judges have not the proper or a sufficient stimulus to accomplish themselves as judges by devoting themselves to studies connected with their official duties. While we thus multiply the labors, and increase the responsibility, of the district judges, an increase of their present salaries will necessarily follow; but such increase need not be greater, in most cases, than the Senate has already manifested a disposition to provide by the votes taken on the bill reported by the honorable Senator from Georgia, [Mr. TOOMBS.] It cannot be questioned, that, by this modification of the district courts, the suitors, and the public generally, will be even better satisfied, and inspired with a higher degree of confidence in their decisions than they can be in the decisions of one district judge, or even now, of a court held by that judge, and a circuit judge sitting by his side; especially in those causes which are precluded, by the existing limitations, from being taken to the Supreme Court.

The only question of difficulty, I think, which can arise in adopting the plan which I propose, will be, whether it is practicable so to arrange the judicial districts in the several circuits as to secure the attendance of three district judges to hold each court. I have already remarked that there may be some circuits or districts in which it may be found inconvenient or impracticable to carry out an organization requiring these judges to hold the district courts. This would be the case in some districts where the business is very large; but if the districts, as they now stand, cannot be conveniently arranged into circuits to carry out the design which I have in view, it will be very easy to add additional districts, and very few new districts can be necessary.

The most plausible objection which I have heard suggested, by any gentleman with whom I have conferred on the subject, was, that in the principal maritime districts, embracing New York, Boston, Baltimore, Philadelphia, New Orleans, and, perhaps, some other cities, cases of admiralty jurisdiction are so numerous, and of such daily occurrence, that it would be improper and inexpedient to call away judges from those districts for the purpose of holding courts in adjoining districts. That objection might be removed by creating additional districts, or appointing additional judges for those districts, and arranging them in such a manner that a district judge should always be at hand to make orders at chambers. The eastern district of New York might be divided into two, or even more, districts, in view of the great amount of business before the district court in the city of New York, if necessary. So in California. I suppose admiralty causes in San Francisco are so frequent and numerous, that it is probable it would not be expedient to require the district judge, at any time, to sit in any district court. But these are details to which it is not necessary now for me to dwell upon; all these difficulties can be easily overcome.

The plan which I propose, sir, I think would be well received by the country, particularly by those sections and districts which have never had the advantages or benefits of the present system. We know that, in some of the districts, as now established, the Judges of the Supreme Court have not been able to hold circuit courts. They would not have the physical ability to do so. Then, sir, with little or no increase of expense, we shall, by the proposed arrangement, have district courts as satisfactory to the people of the whole country as the present circuit courts of the United States, inspiring all the confidence which the circuit courts now do, and extending their benefits and advantages equally to all, without burdening the Judges of the Supreme Court by requiring them to attend them.

In every point of view in which I can consider the subject, I think the public would be well satisfied with such an arrangement. I do not propose to continue my remarks, for I hope we may come to a vote on the pending motion. I have thrown out these suggestions with the view that, if the bill goes to the Committee on the Judiciary, as proposed, they may take this plan into consideration, and reject or approve it, as they may think it expedient, or otherwise.

Mr. CHASE. I desire now to submit the amendments of which I yesterday gave notice. It is to strike out all after the words "circuit duty," in the fifth line of the first section of the original bill, and insert the following:

But they shall continue to have and exercise the same jurisdiction and powers now vested in them by law, within any of the circuits in which they may respectively reside, allowing writs of *habeas corpus* and writs of error; and no vacancy occurring in the office of associate justice shall be filled by a new appointment until the number of justices shall be reduced to six; and thereafter the Supreme Court shall consist of a Chief Justice and five Associate Justices.

SEC. 2. *And be it further enacted*, That the circuit courts of the United States, as heretofore organized, be and the same are hereby abolished, and the districts courts of the United States, and the judges thereof, besides the district court jurisdiction now conferred upon them by law, shall have, and are hereby invested with, all the jurisdiction and powers now lawfully exercised or possessed by the circuit courts of the United States, or the judges thereof, and the said district courts shall be held at the same times and places as are now established for the said circuit courts.

SEC. 3. *And be it further enacted*, That whenever any district judge, by reason of physical disability, interest, or having been of counsel in a cause, shall be unable to sit as judge at any term, or in any particular cause, then, on reasonable notice of such inability to sit being given by such district judge to the district judge of an adjoining district, and it shall be the duty of the judge thus notified, and he is hereby authorized, to hold the term of the court or try the particular cause, as the exigency may require.

SEC. 4. *And be it further enacted*, That all actions, suits, process, pleadings, and other proceedings, of what nature or kind soever, depending or existing in the present circuit courts of the United States, shall be, and hereby are, transferred and continued over to the district courts, respectively, in which such actions, suits, process, or other proceedings, ought by law to have been originally instituted, had this act been in force at the time of the inception of any such action, suits, or other proceedings; and no process issued, or proceedings pending, in any or either of the said courts, shall be avoided or impaired by any change of organization made by this act; but all process, bail-bonds, or recognizances, returnable at the next term of any or either of the said courts as now by law established, shall be returnable and returned to the terms of the said district courts, respectively, next held according to this act, in the same manner as if so made returnable on the face thereof, and shall have full effect accordingly, and all continuances may be made to conform to the provisions of this act; and appeals, and writs of error, shall be allowed from the judgments, orders, and decrees of said district courts, in the same manner as now from the district or circuit courts respectively.

SEC. 5. *And be it further enacted*, That all laws and parts of laws, inconsistent with the provisions of this act, be, and the same are hereby, repealed.

The PRESIDING OFFICER, (Mr. STUART.) In the present condition of things, that amendment can be received at this time only by unanimous consent. The Chair hears no objection.

Mr. CHASE. Mr. President, it will be seen at once what the object of this amendment is. I agree to the principle of the bill reported from the Committee on the Judiciary. This amendment preserves that principle throughout; and, if I understand the chairman of the Committee on the Judiciary aright, it embodies substantially the plan which he himself originally favored. It relieves the Judges of the Supreme Court from circuit duties. In this respect the provision of the committee's bill is retained. I shall not undertake to review the grounds upon which that relief is conceived to be indispensable. I concur in the views which have been so fully and clearly stated by other Senators on that subject, and by none with more clearness and felicity than by the honorable Senator from Delaware, who sits near me, [Mr. BAYARD.]

Next, this amendment avoids the objection urged with so much force by the honorable chairman of the committee, and by the honorable Senator from Delaware, against an intermediate court of appeals. That intermediate court, if established, would undoubtedly occasion much delay, much inconvenience, and much expense to suitors; and, so far as I am able to judge, would afford no benefit at all responsive to the magnitude of the inconveniences which it would occasion.

Next, my amendment abolishes the circuit courts, and thus attains the object desired by several Senators, who have spoken in the debate, and especially by the Senator from Tennessee, [Mr. BELL,] who last addressed the Senate. It devolves the jurisdiction of those circuit courts on the district courts, thus elevating the district judges to the rank of circuit judges throughout the country, giving them new responsibilities, a higher position, and a deeper sense, in my judgment, of their responsibilities and position.

In this way, Mr. President, some very important objects will be secured. The great end of the institution of courts of justice is security for property, life, and liberty to the citizen. This security should be attained in the most direct, the most simple, and the most expeditious mode possible. According to the provisions of this amendment, the original suit in each case will be brought in the district court, and will receive there a prompt and early determination. Two sessions of the Supreme Court will be held here in Washington each year, and if the parties be not satisfied with the decision of the court below, they will have a ready appeal to, and an early decision from, the Supreme Court; so that the speediest possible final adjudication of the case will be secured. These, in my judgment, are great advantages.

In the next place, Mr. President, justice will be comparatively cheap under the provisions of this amendment. The suitor, in most cases, will be obliged to resort to but one court, and, in no case, to more than two, for a final decision. In neither court can there be as much delay as under either of the other systems proposed. To save time is to save money; and, besides, prompt justice always costs less than dilatory justice in actual outlay.

Prompt justice then, and cheap justice, will be attained by this plan. In my judgment, it has a further recommendation. So far as I am able to gather the sense of the body from the remarks made by the Senators, no plan is likely to receive the sanction of the Senate which proposes a greater departure from the existing system. This plan has the merit of simplicity. It proposes no extensive changes, but simply modifies the existing system so far as to meet the existing exigency.

Sir, I concur fully in what fell from the honorable Senator from Tennessee. I think the suggestions which he made were suggestions of great value; and I should be extremely glad to see the ideas which he suggested incorporated into a bill; but I will submit to that honorable Senator whether it is expedient, at present, to attempt to so considerable a change as he suggests. If we attempt to remodel the districts of the United States by uniting several and providing a district court, consisting of the judges of two, three, or four districts, I fear we shall encounter difficulties and delays which may put all reform at hazard. I doubt very much whether any such bill as is necessary for that purpose, can receive the sanction of both Houses of Congress at this session. The proposed amendment, if adopted by the Senate, may.

The principle advanced by the honorable Senator from Tennessee, I adopt; I give it my hearty concurrence. My only objection to acting on it at this time, is the fear, that by attempting to introduce into this bill too much, we shall lose everything. I trust it may be the pleasure of the Senate to act upon this amendment—I am quite indifferent in what form—either by referring the whole bill back to the Judiciary Committee, or by disposing of it now, and ascertaining what the judgment of the Senate really is. I take it, that the division of opinion is substantially between two plans—the one retaining the general principle of the Judiciary Committee, and relieving the Supreme Court Judges; the other establishing intermediate appellate courts, and requiring in these the attendance of those judges.

I have no desire to detain the Senate, but I have thought it my duty to submit these brief remarks in explanation of the amendment which I have had the honor to offer. I trust it may receive an indulgent consideration.

Mr. WELLER. Mr. President, I think the motion to recommit this bill to the Committee on the Judiciary is premature. I think it is highly desirable that we should obtain some vote which may be regarded as a test vote. Here are two distinct propositions for the reorganization of the judiciary of the United States. All the Senators seem to agree in the opinion that in order to make the judicial system more efficient, it is necessary to reorganize it. A portion of the Senate prefer the old system of circuit judges; in other words, they desire to retain what is usually denominated the representative system. There are other Senators again, who have satisfied themselves that you ought not to impose any circuit duties whatever on the Judges of the Supreme Court. Now, I think it is high time we were taking the latitude and longitude of our position. Let us ascertain, in the first place, whether it is the intention of the Senate so to reorganize the judiciary as to exempt the Judges of the Supreme Court entirely from circuit duty? If such be the opinion of the Senate, I can readily perceive how we might very soon agree as to the manner in which that should be accomplished. But, sir, the great difficulty in determining all questions of this sort arises from the fact, that nine tenths of the Senators on this floor belong to the legal profession; and hence, whenever we come to a question which involves the reorganization of the judiciary, or which belongs or is in any way connected with that profession, the contrariety which very generally exists among us, is exhibited. "Doctors disagree," and this is, unfortunately, the case oftentimes with lawyers.

Mr. President, I have a decided preference for the representative system, if that system be practicable; in other words, I am unwilling to relieve the Judges of the Supreme Court from the performance of circuit duties, unless their duties in this city require as much of their time and attention as we ought to demand from public officers. The whole question, so far as I am concerned, is a question of fact merely. Has the business of this court so increased as to require as much of the time and attention of the judges in this city as you ought to demand? Sir, the law is a progressive science. It requires constant application and study, in order to enable judges faithfully and properly to discharge the various duties which are imposed on them. Some time, too, should be given for relaxation. Now, if the business of the country has so accumulated as to require as much of their time and attention here as ought to be demanded for the public business, then I am willing to relieve them from the performance of circuit duty—not otherwise. If the circuit system is practicable, I, of course, prefer it.

There is another question. To say the least, it is exceedingly doubtful whether, under the Constitution of the United States, you have the power to impose circuit duties upon the Judges of the Supreme Court. Suppose that, under this reorganization, some one of those judges should refuse to go to that distant country from whence I come; suppose that they should regard the hazards, by land and sea, as far too great to justify them in opening a circuit court in the State of California; where is the power in this Government to compel that judge to go there? Do you desire to adopt a system which may deny to one portion of the Confederacy the rights and privileges which were intended to be secured under your judicial systems to all portions of the Union?

I ask you, Mr. President, and I ask the Senators here assembled whether there is any power in this Government to compel one of the Judges of the Supreme Court to go and perform circuit duties in the far and distant State of California? If there be no power, why attempt to impose the duty upon him? I may be told that he could be impeached; but, sir, Mr. Jefferson denominated the impeachment clause in the Constitution as a mere "scarecrow." It is worse than that—it is a *humbug*. In order to successfully impeach a judge for that, it would require two thirds of the Senate to say that they believed that, under the Constitution, Congress had the power to impose those circuit duties upon him. We find, however, that the only power given by the Constitution is to establish "one Supreme Court, and such inferior courts as Congress may, from time to time, ordain and establish." I think it is exceedingly doubtful whether under this clause you can impose on the Judges of the Supreme Court any duties which properly appertain to an inferior court.

In my judgment, so far as expediency is concerned, it is a matter of small importance whether you impose circuit duties on the Supreme Court Judges or not. I should not be afraid to have them sit in this city. I have the highest degree of confidence in the integrity, patriotism, and capacity of all the members of that court. I have none of the fears or apprehensions which

seemed to disturb the mind of Mr. Jefferson nearly half a century ago, when, I believe, he was led to declare that the Federal judiciary "was a subtle *corps* of sappers and miners who were constantly working under ground to undermine the formation of our confederated fabric." There may have been something in the decisions of that day which would induce an Executive officer to entertain such feelings towards that court; but whatever might have been the opinion entertained then, the experience of fifty years has demonstrated that in that court you find the bulwark of constitutional liberty.

But for the fact that that court is so organized as to represent the various sections of this Union, that sectional feeling which has now and then broken out in some portions of the Confederacy, might, ere this, have disturbed the Constitution itself. Notwithstanding the excitement which has oftentimes prevailed in this country—notwithstanding the violent contests for political power which have shook the Republic from the centre to the circumference, no one has ever assailed the purity or integrity of our judges. That court has stood unmoved amidst the most violent storms—its members unassailed when party spirit raged in its wildest form.

But Mr. President, adopt whatever system you may, I am anxious that that portion of the Union from which I come shall have the benefit of our judicial system. I understand that even in Arkansas, no circuit judge has held court there. If the Judges of the Supreme Court are unwilling to go to the State of Arkansas or Florida, how much more unwilling would they be to take all the hazards of a voyage of five or six thousand miles to the Pacific coast?

I have made these remarks, Mr. President, simply for the purpose of directing the attention of the Senate to the necessity of determining something before we refer this bill to the Committee on the Judiciary. Let us determine this leading question, whether we shall relieve the Supreme Court Judges from the circuit duties or not? And then, that question being determined, I apprehend the Committee on the Judiciary could very readily bring in a bill which would meet the approbation of the Senate. I have no fears, such as seem to have been entertained by other Senators, from the judges being brought in contact with the people. A portion of the Senate who advocate the representative system, claim that it is exceedingly desirous that the Judges of the Supreme Court should intermingle with the bar and the people of the respective districts. I never knew a public officer injured by an association with the people. I think he would be much more apt to be contaminated if he were sitting in this city, with the shuffling, trading, professional politicians around him, who annually vegetate in this capital. The judges will be much more apt to be contaminated by a contact with them, than by a contact with the people of the circuits. In the one case they would breathe a wholesome atmosphere—in the other an atmosphere calculated to corrupt and destroy honest principles.

Mr. BAYARD. Mr. President, I have but a few remarks to make, and I shall confine myself entirely to the amendment of the Senator from Ohio. I will state what, with me, is the greatest objection to it.

There is much in the amendment to commend itself to the consideration of the Senate. It abolishes any intermediate court of appeals between the inferior court, which has original jurisdiction, and the Supreme Court of the United States. I confess I have never felt that there was any absolute necessity for any intermediate court of appeals. But the difficulty which meets the proposition of the Senator from Ohio, and which seems to me to be insuperable, is that, by it, you are only removing the saddle from one horse to another. The present bill is rendered requisite by the fact that it is impracticable for the Judges of the Supreme Court to perform their duties here in the appellate court, properly and with due deliberation, and also to ride the circuits. The amendment proposed by the honorable Senator from Ohio, while it relieves the Judges of the Supreme Court from being overworked, places such a weight of duty on the judges of the district courts, in many of the large districts, that I hold it would be absolutely impracticable for them to perform those duties.

Am I not right, sir? Will not the honorable Senators from Massachusetts, from New York, from Pennsylvania, from Maryland, from Louisiana, and from California, say that, if you add the civil and criminal jurisdiction of the circuit courts of the United States to the duties of the district courts in those States, which are mainly in cases of admiralty jurisdiction, the judges could not get through with the mass of business which would be thrown upon them? If that be so, beyond all question it would produce delay in justice.

Sir, there is no more simplicity, in point of fact, in this amendment, except avoiding the intermediate appellate court, than there is in the mode proposed by the Committee on the Judiciary. We leave the system as it now is, with the exception of withdrawing the individuals who are to sit in the circuit court, and restoring the capacity of the circuit court to sit twice a year, in fact, which the law now nominally requires. In order to accomplish that, we ask for the appointment of circuit judges as an independent body. You thus have the advantage to which the honorable Senator from Michigan [Mr. CASS] alluded, on a former occasion, of having two judges sit in the circuit court, and you have a sufficient number of tribunals of original jurisdiction to enable those judges to accomplish their duties within a reasonable time.

If, however, you could remove the difficulty of impracticability, arising from the weight of labor which you would throw on the judges of the district courts in the commercial districts, by transferring to them the circuit court jurisdiction, I do not know that I should object to that portion of the honorable Senator's plan. My opinion is, that with the information I have, it would be absolutely impracticable in those large districts for the district judges to get through with the business that would be thrown on them. In the southern district of New York now, the district judge is unable to perform the duties devolving on him merely as district judge.

Then, as to the second portion of the honorable Senator's proposition to reduce the Judges of the Supreme Court to six, my own opinion, as I have before stated, coincides with that view. I have hesitated between six and eight as the proper number of Judges of the Supreme Court. I am sure an even number is best. But the committee agreed to leave the Supreme Court untouched in this bill, except so far as to withdraw the judges from circuit duties, and I cannot depart from that determination, though if the honorable Senator from Ohio will introduce another bill for the purpose of reducing the number of Supreme Court Judges either to six or eight, as vacancies occur, I should cheerfully vote for it.

Mr. BUTLER. Mr. President, I hope that some vote will be taken, by which we may get rid of one or the other essential features of the opposing propositions which are before us. My friend from Illinois suggested, the other day, when the subject was under consideration, that without any vote being taken on subordinate amendments, to perfect one system or the other, we should take a vote on the general principle involved in his substitute, establishing an intermediate appellate court. I hope the vote will be taken, so as to test the sense of the Senate whether that system shall prevail. If it be the sense of the Senate that it should be adopted, let us know it at once. If it be the sense of the Senate that it should not prevail, we could then consider the amendment of the honorable Senator from Ohio. If I cannot obtain the system which has been presented by the committee, it is possible that I may readily adopt the plan of the Senator from Ohio. At the proper time I shall give the reasons why I cannot consistently, with my duty as a member of the Committee on the Judiciary, take that plan at this time. I rose, however, to suggest the propriety of taking a vote on the substitute of the Senator from Illinois, and then let us go to the general bill.

Mr. GEYER. My understanding was the same as that of the Senator from South Carolina. I supposed we were about to take a vote which would test the principle between these two propositions, and then, whichever might remain, would be sent to the Judiciary Committee with the amendments proposed. But, sir, the amendment of the Senator from Ohio has been entertained and a vote is to be taken on it.

The PRESIDING OFFICER (Mr. STUART.) The Chair will state to the Senator from Missouri that the pending question, as he understands, is on the motion to refer the bill and amendments to the Committee on the Judiciary, and the amendment of the Senator from Ohio was only received by unanimous consent in order that it may be so referred if that motion shall prevail.

Mr. GEYER. I did not understand that there was a motion to refer.

Mr. DOUGLAS. Who made that motion?

The PRESIDING OFFICER. The Chair receives his information from the Secretary, who informs him that it was made by the Senator from Illinois.

Mr. DOUGLAS. I made no such motion. I gave notice that I should make such a motion as soon as the vote should be taken on my substitute.

Mr. BUTLER. I hope the vote will be taken distinctly, whether the principle of the amendment of the Senator from Illinois shall be adopted.

The PRESIDING OFFICER. After the statement which has been made by the Senator from Illinois, of course there is no motion pending to refer the bill to the Committee on the Judiciary, and the question will therefore be on the amendment which has been proposed by the Senator from Ohio to the original bill, that being in order before the question is taken on the substitute.

Mr. GEYER. I understand the proposition submitted by the Senator from Illinois, and accepted by the Senator fram South Carolina, was that we should take a vote upon the proposition of the Senator from Illinois, merely as a test vote; and that, if by that vote, it should be discovered that the Senate preferred the bill reported by the Committee on the Judiciary, it should still be open to amendment; and so, if it preferred the system of the Senator from Illinois, that should be open to amendment; and that, finally, all the amendments should be referred to the Committee on the Judiciary.

But, sir, my object in rising now is to call the attention of the Senator from Ohio, to some very striking defects in his amendment. It provides that the Supreme Court Judges shall perform circuit duties in the circuits in which they respectively reside. I suppose his design was to make them perform those duties in the circuits to which they are respectively allotted; for now he will find two of those judges residing in the same circuit, and they might all, under this bill, be in one circuit. Another defect is, that it transfers the entire jurisdiction of the circuit courts, appellate as well as original, to the district courts, and directs that all those cases which are there pending on appeal or writ of error, as well as those originally brought in the circuit courts, shall be transferred, with the papers, to the respective district courts. Another defect is, that no provision is made for appeals or writs of error from the district to the Supreme Court of the United States, or any limit to the jurisdiction. These provisions will be indispensable, if his amendment is to be adopted as part of the bill.

Mr. CHASE. Mr. President, if the Senator from Missouri will do me the favor to look at the fourth section of my amendment, he will find that the appellate jurisdiction is very carefully provided for. I think the provision by which the district courts are substituted for the circuit courts, is also properly framed. If, however, there are any verbal changes which are required to give complete effect to the idea of the amendment, I am entirely content that they should be made. I rise, however, at this moment, merely for the purpose of saying that I have no wish whatever, to press this amendment at this time, if it be the pleasure of the Senate to take a vote upon the amendment offered by the Senator from Illinois; and for the purpose of allowing the vote to be taken upon his proposition, I shall withdraw this, and submit it hereafter when I can do so in order.

I wish to say, however, at this point, that I withdraw this amendment somewhat contrary to my own judgment. As between the plan reported by the Committee on the Judiciary, and the plan of the Senator from Illinois, I should feel myself constrained to vote for the latter, if both remain unchanged. I entertain, however, decided objections to that plan, and concur in the principle of the bill reported by the committee. My whole purpose, in presenting this amendment, was to relieve the bill of the committee from some objections which I knew prejudiced it with some Senators. My amendment is fortunate enough, I

am glad to find, to meet the approbation of the members of the Committee on the Judiciary in its substance, its principle, and generally, I believe, in its details; and yet, for some reason, the members of that committee seem to think they are in duty bound to oppose it for the present. Under these circumstances, I prefer to withdraw the amendment and let the vote be taken on the substitute of the Senator from Illinois. If that amendment shall be rejected, I will afterwards offer it again.

Mr. WELLER. As I said a short time ago, it is exceedingly desirable to obtain a test vote on this question. For the purpose of accomplishing that object, I move that this bill with all the pending amendments, be recommitted to the Committee on the Judiciary, with instructions to report a bill providing for relieving the Judges of the Supreme Court from the performance of all circuit duty. That, I think, is a fair way of testing the question. Then the Committee on the Judiciary will be enabled to frame a bill in accordance with the vote of the Senate. I move that the bill and amendments be recommitted, with these instructions.

Mr. BADGER. I wish to suggest to the Senator from California, that he would accomplish what I know he aims at, more distinctly, by moving to recommit the bill with instructions to discharge the Judges of the Supreme Court from holding any other court than the Supreme Court.

Mr. WELLER. That is the object, and it will be accomplished by that mode, perhaps in a better form than that I proposed myself. I accept that modification. I ask for the yeas and nays on my motion.

The yeas and nays were ordered.

Mr. CHASE. This will carry with it the amendment which I have submitted?

The PRESIDING OFFICER. Yes, sir; all the amendments which have been proposed are embraced in the order.

Mr. CASS. Mr. President, I shall not take part in this general discussion. It is in far better hands than mine. It is in the hands of those professional gentlemen whose duties in life have necessarily called their attention to the subject. They all seem to me to unite in the opinion that the labors of the Supreme Court are now too great to be discharged by the judges under the present system. That seems to be the unanimous opinion of the Senate. On that point, I wish, in a few words, to express my views.

This country has advanced, we all know, in territorial extent and numbers, and in all the elements of power and prosperity, in a most wonderful manner. It is not singular, therefore, that the necessity of judicial changes has advanced likewise. The details of the system may require alteration, but it does not, therefore, follow that in meeting the present exigencies we should depart from the great principles established at the foundation of this Government and continued to the present time. In 1789, when this Government was established, the principle was adopted of sending the Judges of the Supreme Court round to the circuits. In 1802, after a hard political contest, the only act that ever trenched on that system was repealed. I hold in my hand the debates on that occasion, and amongst others, the observations of Mr. Jackson, a most eminent Senator from Georgia at that time, stating in very strong terms, the necessity and the propriety of sending the judges to hold the circuit courts of the United States. He gives reasons for this which seem to me to be unanswerable. I shall not detain the Senate by detailing the advantages of such a course. They must strike every Senator; they have already been well stated. It is good for the judges in the discharge of their duties; it is good for the people, that they shall be acquainted with the bar, and the institutions of the respective States; it is good that they shall acquire a familiarity with the practice of the different portions of the Union, which local knowledge alone can give; it is good that they should take possession of public confidence, by administering justice in the several localities of the Union.

Why, sir, there is no circuit which you can now establish where the duties would be half as onerous to the judges as were the duties in the circuits established in 1789. As late as 1807, Kentucky, Ohio, and Tennessee formed one circuit, and a Supreme Court Judge had to hold courts in each district every year—two at Lexington, one at Nashville, one at Knoxville, and two at Chilicothe. Such are the facilities of intercourse at the present day that it is much easier to discharge the duties in any circuit now than it was at that time.

Mr. President, throwing aside, for the present, the consideration of details, I am willing to exonerate the Judges of the Supreme Court from any unnecessary duties, and to give them a compensation in proportion. I wish to preserve the great principle which has hitherto been observed in our judiciary system. The substitute of the honorable Senator from Illinois, in my opinion, does well preserve it, and I am therefore in favor of the principle of his proposition. Sir, we want public confidence in the judiciary. I do not wish to have them sitting all the time in a room in this Capitol. I do not wish to have them in Washington all the year. I prefer that they should go around among the States, and I would send them through the several circuits. I would let them go to different circuits in succession, so as to become acquainted with the local institutions and the people in every circuit. If you shut them up here, they become a centralized, metropolitan court, almost as much shut out from public view as the Veiled Prophet was. I want the public to see them. I think it is vastly important, for the faithful execution of their duties, that it should be so. The honorable Senator from Illinois stated, in strong and just terms, the reasons for this, and I need not repeat them.

Mr. President, I would make no rash experiments on the judiciary. Of all the departments of this Government, it should be touched most lightly. It lives and breathes upon public confidence. The judiciary is neither the purse nor the sword. It cannot carry into effect a single decree without calling upon the other departments of the Government to aid it. We have gone on well, under the present system. There is no instance of a charge of corruption against any member of the Federal judiciary, from the commencement of the Government down to the moment when I am addressing the Senate. They have gone on well, and they deserve all credit.

Mr. President, it is an impressive spectacle—almost a sublime one—to see nine men, all of them of mature age, and some of them in the extremity of human life, sitting here in the Supreme Court, establishing great principles, essential to private and to public prosperity, and to the duration of the Government; whose influence is felt through the whole Union, and whose decrees are implicitly obeyed. It is the triumph of moral force. It is not the influence of the sword. On the continent of Europe you do not find an officer without a sword by his side. The first thing that attracts your attention, on landing on the continent of Europe, is a sword with a man tied to it. So it is from one end of that continent to the other. You cannot enter a court of justice there without passing a sentinel at the door. Here we have nothing of the kind; and my desire is to have a judiciary dependent on moral, and not on physical force. I repeat, it is a great moral spectacle to see the decrees of the Judges of our Supreme Court on the most vital questions obeyed in such a country as this. They determine questions of boundaries between independent States, proud of their character and position, and tenacious of their rights, but who yet submit. They have stopped armed men in our country. Iowa and Missouri, I think, had almost got to arms about their boundary line, but they were stopped by the intervention of the court. In Europe, armies run lines, and they run them with bayonets and cannon. They are marked with ruin and devastation. In our country they are run by an order of this court. They are run by an unarmed surveyor, with his chain and his compass; and the monuments which he puts down are not monuments of devastation, but peaceable ones. Yes, Mr. President, more secure than that great Asiatic wall which passes for hundreds of miles along the frontier of China, going neither to the right nor to the left, crossing valleys and mountains, which was erected under the mistaken idea that it might be substituted for courage and patriotism, and which is now only a memorial of material power, and of moral and physical weakness. But, in our country those lines are run under the direction of the Supreme Court. If I do not mistake, there is a case of that description now pending before that court, between two of the southern States, but on that point the Senator from North Carolina [Mr. BADGER] is better informed than I am. It is a most honorable and noble spectacle to see the proud, independent members of this Confederacy coming to the bar of this court, and laying their cases before it.

For these reasons, sir, I say again, I would preserve, as much as possible, the great principles which were established on this subject at the foundation of the Government. Although, I am pretty much of an "Old Fogy," as every body knows, I have accommodated myself to the progress of the age; but, sir, in this day of change, I would hold on to the judiciary, which has done so well.

Mr. BADGER. I shall vote, with great pleasure, for the motion submitted by the honorable Senator from California; and after making that statement, and before recording the vote which I shall give, I wish to state very briefly the reasons for it.

I agree in almost everything that has been so forcibly and eloquently spoken by the honorable and distinguished Senator from Michigan, [Mr. CASS.] I should, with him, be extremely sorry to see the day when the decrees of our courts could only be enforced at the point of the bayonet, and when the usual appendages of a court of justice should be armed sentinels stationed at the doors. I agree with him, also, that the great Chinese wall presents to us a stupendous exhibition of physical strength accompanied with moral and intellectual weakness; and I would far rather have, for my own country, that barrier of protection against foreign inroads which she has always possessed, and now possesses, in the courage and patriotism of her sons. I agree with him, also, that it is desirable that the judges sitting in the court of last resort should be accustomed to the transaction of business habitually in the courts below; and I think such occupation in the court below tends to keep the intellectual faculties of the judge bright and active, and to bring him in contact with the daily application of the practical business of life and the courts to those rules which he settles in the court of final resort.

But, sir, as I said briefly the other day, the circumstances of our country are changed. With an empire embracing almost half a world, it seems to me impracticable that we can have judges to traverse all the States of the Union for the purpose of holding circuits, and at the same time to discharge with effect, and in the manner the country has a right to expect them to be discharged, the duties which devolve upon them as the tribunal in the last resort. It is true, as the honorable Senator says, that, in consequence of the improved facilities of travel, distance is not now the obstacle to a convenient administration of justice in distant places which it was in the year 1789, or in 1802. But, sir, the business of the country has accumulated beyond example. The courts below, in the larger portions of the Union, are burdened with business. The court above, in the last resort, is overwhelmed with business; and, under such circumstances, if the judge could be transmitted to the place at which he is to discharge his duty, either from the seat of Government or his residence, with the speed of the telegraph, we should not be placed in the condition in which we were in the year 1802. The judge then traveled slowly, it is true. He took an ordinary post-coach, and made his five or six, or, perhaps, only his three or four miles an hour; and he arrived in the place in which he was to hold his circuit court after a travel which had occupied a period of time that would now send him half round the globe. But when he arrived there he had a small docket to deal with. In a few days everything was disposed of; and, with the same mode of traveling, he could return to his home. Now, the increase of business in the circuit courts, and the increase of business in the Supreme Court, put together, constitute a case in which, if the time of traveling were entirely stricken out of the computation, the same judges cannot effectually and successfully discharge the duties of both courts.

It would seem to me, therefore, however desirable it is in point of fact—and I agree with the honorable Senator from Michigan; I think it is desirable in point of fact—that the connection of the Judges of the Supreme Court with the circuit court should be maintained; we are now placed in such a situation that we cannot maintain that

connection without sacrificing the highest and most important duties which those judges have to discharge. It is a great mistake to suppose that the judges of that court, with the business as it now exists, to say nothing of the immense accumulation of that business which we may shortly expect, can dispose of it as it comes before them, and prevent a ruinous delay of justice, with less than a session of six months every year. They now sit every alternate year six months, and, in the intervening year three months. They devote themselves assiduously to their duties. It is a court of immense labor, as well as of vast jurisdiction; and yet they find it impossible to keep pace, in the reduction of the number of cases upon the docket, with the additions that constantly flow in. I think that, if the judges were now discharged from all circuit duties, and had liberty to give themselves up simply to the discharge of their functions in the Supreme Court here, it would be within bounds to say that they would have to be in session seven months every year.

I also agree with the honorable Senator from Michigan that, in itself, it is not desirable that the judges should be kept always at the seat of Government. I see and feel the force and propriety of his suggestion; but, at last, the court must be held at the seat of Government. The judges must be where the court is to be held; and if the whole of the time, which it is reasonable to expect the officers to give up to the discharge of public duties, is required for the court, and the court must be held here, it results, as an inevitable necessity, that the judges must be here.

This, therefore, is a choice between two evils, and the comparative estimate of the advantages and disadvantages of various systems. I am fully satisfied, with my friend from South Carolina, [Mr. BUTLER,] that the first step necessary to be taken, is to discharge the judges from circuit duties —and by circuit duties, I mean, precisely what this instruction conveys—from the duty of holding any other court than the Supreme Court—not at all to discharge them from the function, or deprive them of the power of granting those writs which become necessary in the preliminary steps, or in the subsequent progress of actions which are depending. That power must be left with them for public convenience, that they may always be as accessible as possible, when those emergencies arise that require its application.

Now, sir, I say it with regret, I feel a strong conviction upon my mind that we shall do nothing with this subject at this session. However desirable it may be to do it, I believe that such is the difference of opinion in this body, on the various plans proposed, that we shall not be able to accomplish a union upon any one of those which are now presented for our consideration. For myself, sir, there are advantages and disadvantages in each of these plans; and, sometimes, when I look at the advantages of one, I find myself strongly drawn towards it. Sometimes I have felt that strong inclination towards the plan proposed by the Senator from Illinois. At other times it appears to me that there are disadvantages connected with it, and advantages in other systems that should have a superior controlling force. Then, again, I am far from being satisfied that, upon calm reflection, the plan proposed by the Senator from Ohio [Mr. CHASE] may not turn out to be the best; and I have besides, a strong impression upon my own mind that the best system, at last, that could be devised, would be that of circuit courts to be held with the district judges; and that, without any intervening tribunal whatever, a direct appeal or writ of error should be had to the Supreme Court of the United States. I look upon this interposition of courts of appeals as a great mischief. There must be a court, in the first instance, in which the cause and the parties can be heard; there must be a high tribunal of ultimate resort, in order that principles may be settled and understood everywhere alike; and I doubt exceedingly whether any step beyond this is not a mischief disproportioned to any substantial advantages which may be derived from it. Viewing the subject in this light, I repeat, I have no hope that we shall be able to agree on any plan for revising the judicial system at this short session; and now to deduce the conclusion from what I have said, I shall vote for this reference. If it is the sense of the Senate to discharge the Judges of the Supreme Court from holding any other court, than the Supreme Court, I shall then, for one, be prepared to make the selection between the system which proposes to have inferior circuit judges appointed, and that which proposes to constitute the judges of the district courts in a circuit into the circuit court, and that, also, which I would suggest, to constitute each district judge as a court of circuit jurisdiction, and to give an appeal directly to the Supreme Court of the United States.

In one view, Mr. President, I do not agree with what has been stated by several gentlemen, and that is, that they do not desire to see a court held with but a single judge. My own observation and experience, which have not been small, in the profession, have led me strongly to believe that, in a jury court, there should never be more than one judge, and that, as you multiply the number of judges in such a court, so do you detract from the efficiency and the respectability of the tribunal. Questions arise and are discussed there which ought to be promptly decided, and any exhibition before the juries, and the people attending the court, of conflicting opinions between the judges, of discussions, doubts, and divisions, tend, in a strong measure, to diminish the moral influence which the courts should have. Let there be one judge in a jury court—one judge of promptness and decision, for a prompt and speedy administration of justice; and then, when questions are involved that require a revision and a settlement by one general rule, for the benefit of the country, take those questions to a superior tribunal, that there may be debate, discussion, comparison of opinion, and a wise and judicious solution of those questions.

On the contrary, Mr. President, if the Senate should not concur in this measure of discharging the Judges of the Supreme Court from holding any other courts of their own, I shall, for one, be disposed to give up the prospect of doing anything at this session; and then my own view would be this, and I commend it to the consideration of my friends from Texas and California. If those judges are not to be discharged from circuit duties, bring in a bill to add such a number to the court, that the circuits may be made smaller, and the judges be enabled to devote more time to the business of the country here than, under existing circumstances, they can. I do not say this because I desire an increase of the number of judges in that court of itself. I think, as an appellate tribunal, it is too large already. I agree with the honorable Senator from Ohio, [Mr. CHASE,] that six judges are as many as should sit in such a court. But we are selecting the best available machinery within our power to decide the great legal business of the country. If you discharge the judges from attending to other courts, reduce their number reasonably. If the Senate will not agree to that, add three judges to the bench, make the number twelve; and when that is done, you can not only afford facilities equal and fair to every portion of the Union, but you will be able to relieve the judges, in some degree, from the enormous pressure of their circuit duties, which are a great conflict with their higher duties in the Supreme Court. Having thus, Mr. President, explained the views which will influence my vote, I shall not take any further part in this discussion.

Mr. BROWN. I have forborne thus far to take any part in this discussion, and, certainly, I do not intend now, when the Senate is wearied with it, to enter into any debate upon the question. I shall vote for the proposition to refer the whole matter back to the Committee on the Judiciary; but in doing that, I want to save this point: I do not intend to be understood, in giving that vote, to be in favor of the instructions which go with the motion. I have never yet given my assent to a proposition to relieve the Judges of the Supreme Court from circuit duties. I exceedingly doubt the propriety of it; and after having listened to Senators on all sides, during several days of debate, those doubts have not been removed. I shall vote for the reference for the reason assigned by the Senator from North Carolina, [Mr. BADGER.] It seems to be apparent that nothing is to be done during the present session; and I suppose it will be as good a grave to bury it in as any other, to send it back to the committee, where, I suppose, it will sleep during the balance of the session.

Mr. BUTLER. Will the Senator vote for the instructions?

Mr. BROWN. I say I am opposed to the instructions, and make these remarks to save the point. In voting for the reference, I do not mean to vote in favor of the proposition contained in the instructions. But I do not care, sir, to discuss the question, which I might, under other circumstances, be disposed to do, when I see the Senate is weary of the debate.

Mr. SEWARD. I should have been content to give a vote for this reference, if it had not been accompanied with instructions for which I could not vote without subjecting myself to misapprehension. I was absent from the city when the consideration of this bill was commenced, and the feeling it excited in my mind was one of deep solicitude. I came back to my seat with a single earnest desire to save as much of the ancient judicial system of the United States as could be saved from a wreck.

Now, sir, I think, I always have thought, and (perhaps it may be an error) I probably always shall continue to think, that of all the departments of this Government, the Judiciary is the only one which approaches the absolute in its form. It is protected and secured against responsibility to the people on all sides. That, I believe to be necessary, and, therefore, I have always acquiesced in it; but I think it was brought within the general principles of our republican system of Government, by the provision which requires the Judges of the Supreme Court to attend to the transaction of business at *nisi prius;* and that is the last feature in the judicial system which I shall be willing to give up. I, therefore, cannot vote for a motion which instructs the committee to abolish that as the means of relief. Notwithstanding it may be that the great increase of the business in the country shows that there is a necessity for a modification of the system, and that that is the only available one, or the most available one, I wish to reserve that question for the last. There would seem to be some other way in which this great inconvenience can be surmounted. I hope there is. I shall labor on, in the expectation that the intelligence and patriotism of some members of the Senate will suggest a remedy which will enable us to remove the inconveniences, at the same time that we retain the cardinal principles of the judiciary system.

Mr. DIXON. Having been absent in the State of Kentucky when the bill was taken up, and during the whole period of time that it has been previously under discussion, I have merely risen to place myself right upon the record. I shall vote for the motion of the honorable Senator from California, to refer the bill to the Committee on the Judiciary with instructions, reserving to myself, however, the right, when it is reported back to the Senate, of voting upon the question of relieving the Judges of the Supreme Court from all circuit court jurisdiction, as, in my judgment, I may think proper. I think the views presented by the honorable Senator from North Carolina [Mr. BADGER] so clear and so lucid, that I have great doubt whether it is not absolutely necessary, under the circumstances, that the Judges of the Supreme Court should be relieved from circuit duties. On this, however, I desire to reserve to myself the right of forming an opinion matured by the information which we may receive, and by the discussion which it will undergo by the committee to whom I desire it to be referred. I doubt very much, sir, whether the Judges of the Supreme Court will not find that the whole of their time may be profitably employed to the whole country in the examination of the various records submitted to them, and the great questions of law which arise out of them, and which will necessarily occupy all their time, to the exclusion of any that might be devoted to circuit duties.

The question being taken by yeas and nays on Mr. WELLER's motion, resulted—yeas 21, nays 25; as follows:

YEAS—Messrs. Adams, Allen, Badger, Bayard, Bell, Brodhead, Brown, Butler, Chase, Dixon, Dodge of Iowa, Evans, Foot, Houston, Pearce, Reid, Rockwell, Sumner, Toucey, Wade, and Weller—21.

NAYS—Messrs. Atchison, Benjamin, Brainerd, Bright, Cass, Clay, Dawson, Dodge of Wisconsin, Douglas, Fessenden, Geyer, Gillette, Gwin, Hunter, James, Johnson, Jones of Iowa, Morton, Rusk, Sebastian, Seward, Shields, Stuart, Thomson of New Jersey, and Toombs—25.

So the motion was not agreed to.

The PRESIDENT. Does the Senator from Ohio renew his amendment?

Mr. CHASE. I prefer, sir, to withdraw the amendment which I have offered, until a vote is taken upon the amendment of the Senator from Illinois. I therefore withdraw it with the intention of renewing it, in case that amendment be rejected, if it be the sense of the Senate, as I think is evident, to act upon the subject without a reference. I shall, therefore, vote in such a manner as to bring the amendment which I have offered before the Senate. I shall vote against the amendment of the Senator from Illinois, intending to offer mine after that question has been decided.

Mr. BENJAMIN. I do not understand the vote of the Senate as affording the inference ascribed to it by the Senator from Ohio. I think there has been a change in the convictions of Senators in regard to the proposition first voted on, in relation to the circuit duties of the Judges of the Supreme Court of the United States. When that question was first before the Senate, there was evidently a majority inclined to agree upon the proposition which came from the Committee on the Judiciary, to confine those judges to the duties of an appellate court here at Washington. I was not present when that vote was taken. I should have voted against any such proposition. I concur heartily with every word that fell from the honorable Senator from Michigan, [Mr. CASS.] I agree fully with him, and I agree fully with the Senator from New York, [Mr. SEWARD,] that one of the most valuable features of our judiciary system, one without which it is utterly impossible that it could command the confidence of the people of the United States, is that feature which brings the Judges of the Supreme Court into constant contact with the people in different circuits. In my part of the country, as far as I know the feelings and sentiments of my own constituency, I am satisfied that confidence in that court would not survive the change for five years. I consider the vote just given by the Senate as equivalent to an expression of opinion, on their part, that the Judges of the Supreme Court of the United States, are still to continue in the discharge of those duties, which they have been discharging since the formation of the judiciary system of the Government; and I think the proper course to pursue now would be to refer the amendment of the Senator from Illinois, which preserves this feature of duty on the part of the Judges of the Supreme Court, to the Judiciary Committee for the purpose of having the system matured. I agree with the main features of that amendment. I think, without doubt it can be improved; but I believe upon the principles which lie at the bottom of it, we can agree on a judiciary bill.

Mr. BUTLER. I think it will be as well to dispose of this bill by a motion to lay it on the table, for I have stated already that I have had conferences with the committee of the other House, with the Judges of the Supreme Court, and with persons living in different parts of the United States; and though I did not say that the bill recommended by the committee was my favorite, yet, in the ordinary course of events, by the increase of business, the celerity with which it is brought forward, and the magnitude of the causes which go into that court, I will tell gentlemen who have this popular theory, that, in spite of all their opinions, it will become, from necessity, a separate court of appeal which cannot do circuit duty. That must either be the case, or you must let business accumulate in it, and not have it attended to at all. Sir, it has come to that already; and I tell gentlemen who choose to have this old system preserved, when in fact it must be broken down by necessity, that we had better do it by intelligent legislation than let it take that course by a process of events which will have no provision made for the circuit system. We can make some provision for the administration of justice in the circuits now, when we have the fact before us that the Supreme Court will become exclusively one of appellate jurisdiction.

I am not particular about this. So far as regards California, Michigan, Arkansas, Texas, Wisconsin, and Iowa, if they can do without the kind of justice provided by the Constitution, I am perfectly satisfied; but in twenty years—twenty years! sir, in ten years—from this time, I believe the business of the court will so far increase that instead of having two hours to argue causes, the counsel will be limited to one hour. But here is the theory of gentlemen: we make them better judges, by sending them upon the circuits. I have not said otherwise. If there was a limited number of causes to be considered in the court here, it would be all very well; but when you overwork the judge, you make him a worse appellate judge, and a worse circuit judge; he cannot act well in either capacity. You will have him to travel on steamboats in order to get democratic notions! You will have him imbibe them on steamboats, and then come back here with them! You had better, as I said before, let him imbibe his opinions on law from his library of law books. But, having discharged my duty, if the Senate prefer the measure of the honorable Senator from Illinois, I hand it over to its friends, giving them the assurance that I will endeavor to make it as tolerable as it can be made, for that is all that can be done with it.

Mr. DOUGLAS. I now make the motion to refer the bill, and all the pending amendments, and such as Senators choose to lay on the table, and have ordered to be printed, to the Committee on the Judiciary.

A SENATOR. With instructions?

Mr. DOUGLAS. No, sir; with no instructions. I regard the vote which has been given, as a test only on one point, that the Senate are not prepared to release or discharge the Judges of the Supreme Court from circuit duties. That being the case, I think that the Committee on the Judiciary, with the aid of the lights which the discussion has thrown on the subject, can now take the matter in charge, and make such a bill as will be agreed to by the Senate.

Mr. RUSK. The Senator from Louisiana and the Senator from Illinois take it for granted that the Senate has changed its opinion, and that it is not now in favor of relieving the Judges of the Supreme Court from circuit duties. Now, sir, I beg leave to say that I voted against the reference. I was one of the number which made that very decision of the Senate, upon which both the Senators come to the conclusion that the bill of the committee, in substance, has been rejected, and that the Senate is in favor of continuing the Supreme Court Judges in the discharge of circuit duties. I have no such idea. I should vote to discharge those judges from circuit duties.

The reason why I voted against the reference of the bill to the committee was this: We have taken but one test question on several propositions. There are others undoubtedly coming up. So far as I am concerned, I would vote to abolish the circuit courts altogether, and to vest all the inferior jurisdiction exercised by them in the district courts, and I would curtail the business there. I believe they take jurisdiction now in cases where the sum involved is $500. I would increase that to $5,000. That would get them clear of a great many causes. It was for the purpose of seeing the sense of the Senate tested on cases of this description that I was unwilling to refer the bill again to the committee. I believe that a recommittal of it to the Judiciary Committee will determine its fate, for we are within five or six weeks of the close of the short session.

The question is by no means decided, in my judgment, as the Senators from Illinois and Louisiana, take it for granted it is. The fact is, the only direct vote on the question, which they take for granted as being now decided, was the other way, and in favor of relieving the Supreme Court Judges from circuit duties. I have not had much experience in the practice of courts; but my own opinion is, that that is the only way by which we can enable that court to discharge its duties properly. They cannot discharge the duties of circuit judges, and also attend to the accumulating business which is before the Supreme Court, if the statements which are made be correct.

We have not judges enough; but the country, I think, is not prepared to increase the number. The result will be just as it has been for several years past. The system will operate partially. When the judges can reach the States, those States will have the benefit of a circuit court jurisdiction; and when they cannot reach the States, they will not have that benefit; and we shall have a system, brag as much as we please over it, wanting in one of the principal elements which should commend the judiciary system, that is, impartiality. Sir, the furthest State in the Union is entitled just as much to its rights under the judiciary system, as the nearest State to the seat of Government; and without the increase of the number of Judges of the Supreme Court, under the present system, the duty which we owe to those States cannot be discharged.

Mr. DOUGLAS. If the Senator from Texas desires to get a test vote, let the Senate vote on my substitute, with the understanding that that shall be a test, and that it shall afterwards be referred to the Committee on the Judiciary to be matured. My object is to get some test vote; so that the Judiciary Committee may know on what principle their bill is to be framed. I would give them the widest discretion as to the form and mode in which they shall carry out that principle.

Mr. WELLER. Let us have a vote on the substitute.

Mr. DOUGLAS. Then I withdraw my motion to refer, and ask that the vote be simply taken on the substitute as a test vote.

Mr. BAYARD. I have but one suggestion to make. I desired to have a test vote. I had my fears that the vote on the motion which has lately been decided would not be strictly a test vote. It seems that the Senate is nearly balanced in opinion as to the propriety of relieving the Supreme Court Judges from circuit court duties. If the Senate adopt any system which does not so relieve them, I think it would be better to refer the matter to a select committee. The Committee on the Judiciary had their own conflicts of opinion. A majority of them arrived at the conclusion that the only practicable mode in which you could reorganize the system was, by relieving the Supreme Court Judges from the circuit court duties. That was urged upon them all. They all felt the absolute necessity of it. Having arrived at that conclusion, I think it would be unreasonable to refer back to them a plan which they consider to be utterly impracticable. If the Senate regard the plan of the Senator from Illinois as practicable, let it carry it out here as well as in the country; but I think the Committee on the Judiciary would be an improper committee to refer the matter to again, after having already submitted a bill which expressed their views adverse to this proposition.

The PRESIDENT. The question is on the amendment of the Senator from Illinois.

Mr. DOUGLAS called for the yeas and nays; and they were ordered, and taken—yeas 19, nays 26, as follows:

YEAS—Messrs. Atchison, Benjamin, Bright, Cass, Clay, Clayton, Dodge of Wisconsin, Dodge of Iowa, Douglas, Fessenden, Foot, Geyer, Gwin, Jones of Iowa, Sebastian, Shields, Stuart, Thomson of New Jersey, and Wade—19.

NAYS—Messrs. Adams, Allen, Badger, Bayard, Bell, Brainerd, Brodhead, Butler, Chase, Dawson, Evans, Gillette, Houston, Hunter, James, Mason, Morton, Pearce, Reid, Rockwell, Rusk, Seward, Sumner, Toombs, Toucey, and Weller—26.

So the amendment was rejected.

Mr. BUTLER. I move that the bill lie upon the table.

Mr. GWIN. I hope the motion will be to indefinitely postpone it. That will get us clear of it.

The yeas and nays were called for, and ordered.

Mr. STUART. I hope the Senator from South Carolina will withdraw that motion, and submit another for the indefinite postponement of the bill. If it is only ordered to lie on the table, it can be taken up again at any time.

The question being taken by yeas and nays on Mr. BUTLER's motion, resulted—yeas 18, nays 26; as follows:

YEAS—Messrs. Adams, Atchison, Bayard, Benjamin, Butler, Cass, Clay, Dixon, Dodge of Iowa, Douglas, Evans, Fessenden, Gwin, Jones of Iowa, Seward, Stuart, Toombs, and Wade—18.

NAYS—Messrs. Allen, Badger, Bell, Brainerd, Bright, Brodhead, Chase, Clayton, Dawson, Dodge of Wisconsin, Foot, Geyer, Gillette, Houston, Hunter, Johnson, Morton, Reid, Rockwell, Rusk, Sebastian, Shields, Sumner, Thomson of New Jersey, Toucey, and Weller—26.

So the motion that the bill lie upon the table was not agreed to.

Mr. CHASE. I now offer my amendment.

Mr. STUART. I move to postpone the further consideration of the bill until the first Monday in December next.

Mr. CHASE called for the yeas and nays, and they were ordered.

Mr. CHASE. I wish to make an appeal to the members of the Judiciary Committee, and to the Senate. It seems to be settled by the votes already taken, that there is a majority here in

favor of relieving the Judges of the Supreme Court from circuit duties. The only difference among those who constitute it relates to the mode in which this shall be effected. Now the best plan, it seems to me, is the simplest plan, and that simplest plan is, to relieve the judges from these circuit duties, and devolve them upon the district judges. That establishes the general principle, and accomplishes what is most desirable, and by the most simple process. The effects of this legislation I do not wish to discuss. They have been explained sufficiently by other Senators. It is enough for me to say that I am satisfied, by their argument, that these effects will be beneficial to the court and the country.

Now, the only objection which has been urged against the amendment which I have had the honor to propose, and which is a proposition intermediate between the plan of the Judiciary Committee and the plan of the Senator from Illinois, is, that it devolves immediately too much labor upon the district judges. That is the only objection I have heard. It may be well founded; but if such be the fact, here and there, in some of the larger cities of the Union, should we, therefore, do nothing this session? Should the Senate, on account of a partial inconvenience, which may be easily remedied hereafter, refuse to do what all agree to be desirable? Why, sir, nothing will be removed from the control of Congress by the adoption of the plan which I propose. You accomplish two objects. You relieve the Supreme Court Judges from their circuit duties, and you devolve those duties upon the district courts; and that is all; hereafter you can increase the number of district judges, as is proposed by the Senator from Tennessee, [Mr. BELL,] or you can relieve the district judges of a portion of the duties devolved upon them, as is suggested by the Senator from Texas, [Mr. RUSK,] by increasing the amount necessary to give jurisdiction. The whole subject of the judicial system will still be completely within the control of Congress; and any defects ascertained by the working of the plan proposed, can be remedied without difficulty hereafter.

Why, then, should we postpone this bill, and refuse to make a desirable reform, because no one is able to obtain that which he would wish? I could frame a better plan, according to my own judgment, than that which I have proposed; but I proposed this, because I prefer to adopt the general principle of the Committee on the Judiciary, and adhere to it throughout, changing details only, so far as seems necessary, in order to conciliate the suffrages of a majority of Senators. I hope, therefore, that the indefinite postponement may not be agreed to, and that we may have a vote on my amendment, and the bill.

Mr. DAWSON. In the course which I have pursued on this bill I have uniformly been governed by the Committee on the Judiciary. I find that committee are now divided, and I think it utterly impracticable for us to settle, at this time, upon any satisfactory bill. I have come to the conclusion, therefore, to vote for the postponement of the question, thinking that, during this short session, we shall not be able to agree upon any satisfactory bill that may be presented. I think this is evident from the course of the various gentlemen who compose the committee. I shall, therefore, vote for the postponement.

Mr. BAYARD. The honorable Senator from Georgia is mistaken in supposing that at least a majority of the committee have any difficulty in concurring, as to the bill which has been reported to the Senate. They have not varied from that. A majority wish to adhere to it as the proper system. The difficulty is really in ascertaining the sense of the Senate. We have had two or three test votes, but no one can, from any of those votes, draw a conclusion as to what is the will of the Senate on the question of relieving the Judges of the Supreme Court from circuit duties. The difficulty rests there—not with the committee. But I shall also vote for the motion to postpone the bill, on account of the fact which has been stated, that there is no mode in which we can expect to reorganize the judiciary of the United States by a bill to be passed during the present session of Congress; and I never go for the impracticable. Time and experience, Mr. President, are very powerful persuaders; and I am satisfied, in my own judgment, that Congress must come to the system that the committee have recommended. Time and experience will enforce it.

Mr. STUART. I had desired, on several occasions, to present some views to the Senate on this question; but I have come to the conclusion now, that it would be useless to go into the subject at this time. I think that the votes which have been taken, for the purpose of ascertaining, if possible, the sense of the Senate, have proved the inutility of attempting anything at this session. The Senator from Ohio has made an appeal to the Senate to retain this bill. For the purpose of giving the Senate an opportunity to consider that appeal, I move an adjournment.

The motion was agreed to, and

The Senate adjourned.

IN SENATE.

THURSDAY, *January* 18, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

COMMITTEE ON REVOLUTIONARY CLAIMS.

The PRESIDENT *pro tempore* appointed Mr. BRAINERD a member of the Committee on Revolutionary Claims, to fill the vacancy occasioned by the resignation of Mr. TOUCEY.

INDIAN HOSTILITIES.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a letter from the Secretary of War upon the subject of Indian hostilities.

The President states that the employment of volunteer troops, as suggested by the Secretary, seems to afford the only practicable means of providing for the present contingency. There is much reason to believe that other cases similar in character to those particularly referred to in the papers accompanying the message, will, at an early day, require vigorous measures, and the exhibition of a strong military force. The proposed temporary provision to meet the special demand, so far from obviating, in his judgment, only serves to illustrate, the urgent necessity for an increase of the regular Army at least to the extent recommended by him in his late message. Unless by the plan proposed, or some other equally effective, a force can be early brought into the field adequate to the suppression of existing hostilities, the combination of predatory bands will be extended and the difficulty of restoring order and security greatly magnified. On the other hand, without a permanent military force of sufficient strength to control the unfriendly Indians, it may be expected that hostilities will soon be renewed, and that years of border warfare will afflict the country, retarding the progress of settlement, exposing emigrant trains to savage barbarities, and consuming millions of public money. The state of things that is shown to exist is calculated to augment the deep solicitude which has been for some time awakened in the country, and been earnestly expressed in previous messages and in annual reports of the Secretary of War; and calls urgently for immediate action by Congress.

Mr. GWIN. I cannot permit this message to be referred to the Committee on Military Affairs without expressing my gratification that the Government proposes to adopt prompt measures to protect the emigrant routes to California and Oregon. There have been a great many depredations committed upon the emigrants during the last year. They have been robbed and murdered at various points on various routes; and it is absolutely necessary that some such measure as is proposed by the Secretary of War should be promptly acted upon and sanctioned by Congress. I understand, from hearing the message of the President read, that he asks for authority to call out three thousand mounted volunteers, border men, who are always ready at short notice, to come into the service; and, with this force and a portion of the regular Army, to chastise those Indians. This is the only course that can now be adopted which will give any guarantee of safety on these emigrant routes. The Indians have become so audacious, by the impunity that has heretofore attended their depredations, that they levy contributions on the emigrants who pass over the plains; and if their demand is not complied with, they instantly resort to robbery and even massacres.

Now, Mr. President, if we can get these volunteers, rangers, like those who followed such commanders as Colonel Hays and Major McCullough, in the Texan Indian wars, and elsewhere, I have no doubt that in less than six months these Indians will be properly chastised. We must have an overland route to California; and the long delay of Congress in passing the Pacific railroad bill forces us to look to other means of communication with, and defence of, the Pacific coast of the United States. I trust the Committee on Military Affairs, in addition to reporting a bill ordering the volunteers to be called out, will, at the same time, provide for building a military road through the Territories of the United States, and the establishment of suitable military posts, so that we may have permanent protection for the emigration that passes over the plains to California.

We must also, Mr. President, have an overland mail. I have prepared a measure to establish a weekly express mail, for rapid communication across the continent, the pioneer of a regular line of mail stages, so as not to be entirely dependent upon the ocean route, which I will read to the Senate:

A Joint Resolution for the establishment of an express mail weekly between St. Louis, Missouri, and San Francisco.

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the Postmaster General of the United States be, and he is hereby, directed, without delay, to contract with the best and most responsible bidder, who shall offer, after ninety days public notice, to contract to carry an express mail, weekly, each way, between St. Louis, in Missouri, and San Francisco, in California, in ten days from city to city. No letter sent by such mail to weigh more than one half ounce; all letters sent by it to be prepaid, and to be charged fifty cents postage wherever mailed in the States. The contractors to be subject to the laws which govern other mail contractors; but a failure (from any cause whatever) to complete a trip within fifteen days shall work an absolute forfeiture of the compensation for such trip. The route between the two cities may be selected by the contractor; but, after the second year, shall not be changed without the consent of the President of the United States. The contract shall exist ——— years, and no longer. The compensation shall not exceed five thousand dollars per trip, through and back. The President of the United States shall establish five temporary military posts at proper points on said route when selected; the posts to be located at suitable intervals in the Territories lying between Missouri and California, and with exclusive reference to a thorough protection of the mail from hostile Indians, which may be relocated at his pleasure. The contractor shall have a right, under the sanction of the Secretary of the Interior, to occupy so much of the lands of the United States, not exceeding one section at any one point, as may be necessary to the convenient transaction of his business as mail contractor at the several stations he may occupy, for that exclusive purpose, and shall have a preëmption right, not exceeding one hundred and sixty acres, to said land at said stations when brought into market for sale, provided such preëmptions do not cover town sites. And said Secretary shall acquire from Indian owners, when necessary, the right to establish suitable stations at convenient intervals along the route that may be selected to carry the express mail. The contractors shall not be required to leave or receive letters from more than four intermediate points, nor to carry more than two hundred pounds of letters each way for the aforesaid compensation; whenever the letters conveyed exceed that weight, he shall, for the overplus, receive a *pro rata* allowance. The four intermediate postmasters shall be allowed to detain the mail at their offices not to exceed twenty minutes each. No schedule of arrivals and departures at the termini of the route, except by mutual agreement, shall be changed by the Postmaster General, without giving the contractor ninety days notice. At the intermediate offices, the days of arrivals and departures may be fixed by the contractor. The mail shall be accompanied through exposed portions of the Territories by a guard; to be selected, armed, and paid by the contractors; necessity of a guard, on any portion of the route, to be determined by the Postmaster General. After the first year's service, for three consecutive failures to deliver the mails at either end of the route within fifteen days after its reception by the contractor, the President of the United States may order an annulment of the contract. The service to be commenced at a period not later than one year from the date of the contract.

I hope this measure will receive prompt and favorable action on the part of the Committee on the Post Office and Post Roads, to which it will be referred. The citizens of California and Missouri are ready to make such a contract, and have the express in successful operation in six months. They are already moving in favor of a mail stage route, and this will give them that immediate Government aid which is necessary to put such a stage route into successful operation.

The cost of this weekly express cannot exceed $260,000 per annum, and the postage on letters weighing two hundred pounds will give the Department a revenue largely exceeding the amount that will be paid to the contractors under the restrictions of the joint resolution. When it is

reported back from the Post Office Committee, which I trust, it will be speedily, I will demonstrate the practicability of establishing this express route, and its eminent utility. Already we have telegraph lines to Kansas, on this side, and to the Sierra Nevada, at Placerville, from the Pacific, which will shorten the time of actual communication from New York to San Francisco to eight days, as the express is required to make the time from St. Louis to San Francisco in ten days. In a short time after the express is established, the telegraph will extend, and our communication will soon be brought down to six days.

The immediate expenditure of a million of dollars on a military road through the Territories, from Missouri to California, will be eminently useful and economical to the Government. It will cause speedy settlements on the road of hardy pioneers, who would keep the Indians in check, and save millions of expense in Indian wars. And, sir, it will people California and Oregon, and enrich the western States, by supplying them with a sure and safe market for their surplus stock. There are not less than ten thousand well armed and well mounted Indian warriors on the great central emigrant route, prepared and eager for war. The sooner we chastise them the better. I move that the message be referred to the Committee on Military Affairs, and that the message and accompanying documents be printed.

The motion to refer was agreed to.

The PRESIDENT. The question is on ordering the message and documents to be printed.

Mr. WELLER. As one of the members of the Committee on Military Affairs, I shall endeavor to procure the speedy action of that committee on this message. It is indispensably necessary that this Government should take some steps to protect its own citizens in passing from one portion of the Union to the other. Emigrants passing to the Pacific coast must be protected. This can only be done by increasing the military force. There is an absolute necessity for the establishment of military posts, and a large body of troops in that section of the country, in order to give that protection. It is the first duty of the Government to protect its citizens; and I cannot see how that can be accomplished unless it gives protection to them when passing from one portion of the Union to the other. Those who desire to emigrate from the east to the far and distant west, have a right to claim the protection of the Government while passing through the Territories of the United States. It has not heretofore been given, and, as a consequence, a great number of our people have been butchered, and a vast amount of property destroyed. If the plan recommended by the President be carried out by Congress, it will be given, and the Government will then do what ought to have been done long since. There are, on the usually traveled emigrant route, large bodies of hostile Indians, whose depredations have already deterred emigration to California, and inflicted a great injury upon that State.

I will not trespass upon the time of the Senate. My only object in rising was to express my thanks to the President for invoking the attention of Congress to this important subject, and to assure the Senate it shall be brought before the Military Committee for action, at once.

Mr. RUSK. I hope, while the committee are protecting the emigrants who pass from one section of the country to the other, that they will also take into consideration the protection of citizens living on the border of our settlements who are constantly exposed to the depredations of the Indians—as is the case in my own State.

The motion to print was agreed to.

THE SMITHSONIAN INSTITUTION.

The PRESIDENT. I lay before the Senate a communication from Hon. Rufus Choate, one of the Regents of the Smithsonian Institution. It will be read:

The Secretary read it. [It is a copy of the letter addressed to the Speaker of the House, and will be found on page 282, of this volume.]

Mr. PEARCE. Mr. President, I desire to make a suggestion in regard to the disposition which shall be made of this paper. Before I do so, however, I ask the indulgence of the Senate while I submit a very few remarks.

The paper, sir, is one of unusual character. It purports to be a resignation by a gentleman holding a public trust under the appointment of Congress, and assigns reasons for the resignation. The first is the inability of the party resigning to perform the duties of his trust; that is to say, to attend the meetings of the institution, without which attendance he cannot perform the duties of his trust—quite a sufficient reason, and one which, perhaps, has been of equal weight for the last seven years as now. The second reason is, his inability to concur with the majority of the Board of Regents in the interpretation which they have given to the statute establishing the institution. If the letter of resignation had terminated there, I should not have had a word to say; but it goes much further. It is, in effect, nothing more than we have seen in the public prints for the last year, though, of course, in very different language, and instigated by purposes very different from those which I hope and believe actuate the retiring regent.

It sets forth, sir, that Congress has established a plan for the conduct of this institution, has prescribed a manner in which the regents shall manage its affairs; that the act sketches with clearness and completeness the principal features of this plan; that they are quite apparent without reference to the parliamentary history of the act; that, with that, they are unmistakably clear. Then he charges that the majority of the Board of Regents, who have the misfortune to differ from the retiring regent, have subverted that plan established by Congress, have departed from the manner in which Congress prescribed that the affairs of the institution should be conducted, and diverted the application of the funds from the objects prescribed in the law, have appropriated them to objects not mentioned in the law, incompatible with the prescribed objects, and not warranted, either by the letter or spirit of any of its provisions; that thus the Board of Regents have substituted their will for the will of the National Legislature, and have, in effect, repealed the act of Congress.

Sir, these are very grave charges. I happen to be one of those who have been thus contumacious, who have thus endeavored to subvert the will of the National Legislature, and to repeal the act of Congress, for the faithful execution of which I had pledged everything which a man of honor could pledge, by the acceptance of the trust. Sir, I cannot but feel sensibly the reproach conveyed in this letter, and I feel it not only sensibly, but with something of indignation. I have one consolation, however: I do not stand alone in the interpretation which I have given to this act. I am consoled for differing from the brilliant parliamentary and forensic orator who is the author of this letter, by reflecting that I am sustained in my opinion by men of such weight of character as cannot well be exceeded in this country. Let me mention a few of them. In the first place, I will mention him who holds the first rank as a jurist in the United States; first, unquestionably, in position, and, as I believe, not surpassed either in the variety and extent of his legal learning, the vigor and acuteness of his logical faculties, or the purity of his professional and private life, by any man in this country, or elsewhere—I mean Chief Justice Taney, with whom I consider it to be exceedingly fortunate that I concur in opinion on this question.

Next, sir, I may be allowed to mention a gentleman from Georgia, a member of General Jackson's Cabinet, his first Attorney General, for many years a distinguished ornament of this body, and now, in spite of years somewhat advancing, retaining all the vigor of those physical and intellectual faculties which made Mr. Wirt characterize him, thirty years ago, as a man of splendid ability, and who at this time maintains, as he has done for thirty years, a proud position in the front ranks of his noble profession—I mean Mr. Berrien, of Georgia.

Then, sir, I may mention a gentleman who was also once an Attorney General of the United States, Secretary of the Treasury, and Minister to England and to France, himself more intimately connected with this institution than any other person whom I know, having been the agent appointed by the Government of the United States to proceed to London and prosecute the suit in chancery, upon which the determination of this fund depended; a gentleman of ample ability, of high cultivation, and mature experience—I mean Mr. Richard Rush, of Pennsylvania.

I shall not, in his presence, bestow any eulogium upon my friend the honorable Senator from Virginia, [Mr. MASON,] who is one of those who have concurred with me. But even in his presence I may say this much: that for many years—more perhaps than he would be glad to acknowledge—he has been engaged in a large and successful practice, and in the higher walks of his profession; and that this furnishes some small reason to infer that he is quite competent to construe an act of Congress.

Of the other members of the Board of Regents who concur with me, I need not make mention, further than to say that, though not legal men, they are all men of great eminence in this country, and their eminence has been recognized in the high public positions which they have occupied, and still occupy and adorn.

As I have said before, sir, this is some small consolation to me for venturing to differ from Mr. Choate, who so unqualifiedly condemns all those who oppose him. There is something rather peremptory, I think, in the manner in which he announces his opinion in regard to the construction and violation of this law. I do not find it qualified by the expression of the possibility of any misconstruction on his part, by the admission that intelligent and honorable men might well differ in regard to that construction. Far be it from me, sir, to impute to those who differ from me any want of intelligence or sincerity. The Senator who sits beside me [Mr. DOUGLAS] is one who differed from me in the board; but nothing has ever occurred because of that difference to diminish the respect which I entertain for himself, his talents, and abilities.

Well, now, let us see, for a moment, what are those requirements of the law, which, in the opinion of Mr. Choate, the regents have neglected or violated? The act organizing the Smithsonian Institution has prescribed certain definite objects, due attention to which the regents undoubtedly are bound, in good faith, to pay. It has required us to erect a building, such as was described in the act—a building upon a large and liberal scale—sufficient for the reception and arrangement, upon that scale, of collections of natural history, including a geological and mineralogical cabinet, a museum, library, chemical laboratory, a gallery of art, and lecture rooms. These are all the objects specified in the act.

There is another clause in the law which authorizes the Board of Regents to apply such funds of the institution as are not specifically appropriated by the act, or required for the purposes mentioned in it, to such other purposes as they may deem best suited to carry out the purposes indicated in the will of Mr. Smithson, the founder of the institution. That is the clause to which, I presume, Mr. Choate refers, when he says there are some discretionary powers which he seems to think very insignificant, and which are given to the regents, in his opinion, only to enable them to carry out the details of the plan prescribed by the act of Congress, or, as merely subsidiary to the general authority which Congress had bestowed upon the regents in regard to the library, museum, and gallery of art.

But, sir, while Congress has thus prescribed, generally, the features which they chose to give to this institution, I apprehend it will be found, on an examination of the instrument, that the discretionary powers conferred upon the regents are far larger than those ascribed by the retiring regent. The Board of Regents have recognized fully and constantly the obligation upon them of every requisition contained in that law, and I think they have faithfully fulfilled those requisitions. They have erected the building required by law; they have designed and completed it upon a large and liberal scale. They have made provision for the collection and arrangement of objects of natural history. They have made appropriations for a library, and have made a beginning with a gallery of art. They have established a chemical laboratory, which is one of the objects enjoined in the act; and they have provided lecture rooms specified in the law. They have not appropriated a very large portion of the funds of the institution for the library, though, in this respect, the amount applied has been far greater than is generally supposed; and that is, after all, the real gist of the controversy.

It is singular, that, in the act of Congress there is

a limitation upon the appropriations for a library, and no limit to the appropriations which may be made for any other of the designated objects. The limitation in the library expenditure was rather inappropriately added to one of the sections of the bill to which it was not germane. It forbids the application of more than $25,000 per annum to that purpose; but the act does not, anywhere, require the regents to expend annually that amount. It establishes no minimum below which they shall not fall in their appropriations; but it simply establishes a maximum, beyond which they shall not go. That has been done by Congress, in regard to the library, but in regard to no other object of expenditure. Well, sir, the regents, in their discretion, have not thought it necessary or expedient to expend the whole amount of the sum to which they were limited by that provision of the act, and hence, I think, all the difficulties in regard to this matter. They could not understand the words "not exceeding $25,000," to mean not less than $25,000, or to mean nearly $25,000, or to signify anything else than that such was the utmost limit of expenditure authorized by the act for this purpose. The words necessarily imply that the regents might expend less than that sum, and the question, how much less, was one purely for their discretion.

The regents supposed that, when the act of Congress made it their imperative duty to provide a suitable building, with proper and necessary lecture rooms, Congress did not mean those lecture rooms to be empty and voiceless. They supposed that the lecture rooms could only be used by employing lecturers, and causing lectures to be delivered. They thought that a necessary and irresistible inference. They did not suppose that this was any strained construction—any forced implication; but that it followed as necessarily as light follows the rising of the sun. As the provision for lecture rooms was mandatory, there was not even a discretion as to lectures. They were a matter of course, and the regents would have been justly censurable if they had failed to adopt this necessary means of giving utility to the lecture rooms.

Congress further made it the imperative duty of the regents to establish a chemical laboratory. For what purpose? Why, I presume for physical researches. If not for that, then for no purpose. It was idle and nugatory in Congress to require the Regents of the Smithsonian Institution to establish a chemical laboratory, if they were to make no researches. For the purpose of illustration of lectures, a little apparatus would have been all-sufficient. The regents have felt themselves bound to encourage researches, and have considered that they were authorized not only to direct researches in physical science, but to publish them; for this institution, we must remember, is "for the increase and diffusion of knowledge among men;" and if we are bound to have a chemical laboratory, and if we are as necessarily bound to cause researches to be made, I would ask, of what use are the researches? how shall we increase and diffuse knowledge of them among men, if we seal them up, and do not publish them to the world? As the collections of natural history would be nothing more than a show, if we were satisfied with merely placing and arranging them in a musuem, we think that they should be described. They can best be made available for the increase and diffusion of knowledge by causing them to be described by scientific men in memoirs, such as are published by the institution. We have thought, then, that publication was as necessary a result, from the express powers of the grant, as any other duty which the regents had to perform.

We did not think that the sole limit of our power. We did suppose that, under the large discretion given in the ninth section of the act, it was the regents who where to consider how much of the funds of the institution were properly to be applied to the objects specified by the act. Since Congress itself has not told us how to apportion the funds of the institution among those objects, it followed, therefore, that the regents must have a discretion in that regard, and if they have a discretion, where is the limit? Nowhere, except that we may not expend more than $25,000 on the library in any one year. Then we supposed the general provisions of that ninth section, which gave us the right to apply the funds not wanted for the other objects in such manner as we might think most conducive to the purposes of Smithson's will, was ample enough to justify us in instituting researches, and making publication of the results.

Here is the section in question:

SEC. 9. *And be it further enacted*, That of any other moneys which have accrued, or shall hereafter accrue, as interest upon the said Smithsonian fund, not herein appropriated, or not required for the purposes herein provided, the said managers are hereby authorized to make such disposal as they shall deem best suited for the promotion of the purpose of the testator, anything herein contained to the contrary notwithstanding.

It does not confine the discretion of the regents to the details necessary in carrying out the specified objects, but extends it to other objects, being such as they shall deem best suited for the promotion of the purpose of the testator; that is, the increase and diffusion of knowledge among men. So that it is not, as Mr. Choate supposes, merely a trust for the designated objects, but for such other purposes as correspond with the intention of the will, anything else contained in the act to the contrary notwithstanding. Under the authority of this section, we have thought proper to stimulate researches not prosecuted within the walls of the building, nor confined to specimens of natural history deposited in its collections. They are described in the plan of organization, and include historical, ethnilogical, and statistical inquiries, meteorological observations for solving the problem of American storms, and experimental problems in electricity, light, &c., &c. To this may be added the publication of reports on the new discoveries of science, of a character highly useful and practical.

It has been supposed, sir, that the true interpretation of this act could be found by going outside of the law. Mr. Choate has intimated, in his letter, that if we look at its parliamentary history we shall see what is its true interpretation. I understand to what he refers. The original bill was introduced into the House of Representatives; a substitute was offered for the bill reported by the committee; that substitute was amended by striking out some of its provisions and inserting one or two others, which do not affect this question. The intimation is, that, if we look to the proceedings of the House of Representatives (not of the Senate, because in the Senate there was no discussion of the bill, and the amendments offered and rejected do not furnish evidence of the construction given to it by that body) we shall find that such amendments were made as are inconsistent with the construction which the regents now give to the act. Principally they were two. There was a specific provision requiring professors and lecturers to be employed. That was stricken out. Very true; but then there was left in the bill the provision for lecture rooms, which I think I have shown, imperatively required that there should be lectures, and, of course, authorized the employment of persons to lecture.

Then there was a provision in regard to researches and publications; that was stricken out, too; but, I think, I have shown that the duty of the regents was to institute researches and make publications under the law as it stands. And when we look at the circumstances attending the striking out of those provisions, we find this to be the fact. The provision in regard to researches and publications authorized Congress to call upon the regents at any time to cause those publications to be printed and supplied to members of Congress, to be distributed as public documents. Now, it may very well have been that those who voted to strike out this provision were induced to do so by the single item of it which I have just mentioned, or they may have thought these provisions superfluous, being well supplied by the large discretionary powers given in the ninth section which I have quoted. It is, however, neither according to legal rules nor right reason to look to the speeches and proceedings of the legislature for the construction of a statute, which is itself the embodiment of the legislative will, and furnishes copious sources of construction by the examination and comparison of its various provisions and the admitted purpose of its enactment. Certain it is that the striking out of those specific provisions cannot invalidate the general grants of power, and the necessary implications from those grants, which I have mentioned.

Now, we have a library of fifteen thousand volumes, for the most part composed of the most valuable works pertaining to all branches of human knowledge, besides ten thousand parts of volumes and pamphlets. Their literary and scientific value is to be weighed, not counted. The money value of our library is estimated by the officers of the institution at $40,000. We have a museum, the money value of which is estimated at $30,000. We have apparatus valued at $10,000.

This is what the regents have done in direct pursuance of the objects prescribed by Congress; and the other things which they have done—the publications they have made—they suppose not to be incompatible with the expressed objects of an institution "for the increase and diffusion of knowledge among men," not to be violative of the letter or spirit of the law, but to be wholly consistent and in harmony with it, and auxiliary to the objects which are provided for in the law. The publications not only diffuse knowledge among men, but they bring back to us, in liberal abundance, the transactions and publications of learned societies in other countries, and thus furnish us with valuable works pertaining to all branches of knowledge, many of which are not to be purchased with money, and enable us to carry out one requirement of the law—the GRADUAL formation of a library.

In regard to the resolutions of compromise, to which Mr. Choate has referred, the repeal of which is the great ground of complaint, here allow me to say—for I will not consent to detain the Senate much longer—those resolutions were passed at the organization of the institution. They proposed an equal, or nearly equal, division of the funds of the institution between the objects specified in the law, and the auxiliary objects which we are justified by the letter and the spirit of the law, as I think I have shown, in pursuing. Well, sir, it occurred to the regents recently—for some time past it has been a matter of consultation among them—that it would be well to repeal those resolutions of compromise; that there was no propriety in the Board of Regents, at the commencement of the organization of the institution, tying their own hands, and those of their successors, so as to compel a particular scale of appropriation throughout all time. It has been supposed to be right to leave them unfettered, so that they may annually make appropriations such as are, in their judgment, according to the intrinsic importance of the objects appropriated for, and in fulfillment in good faith of the purposes of the law, for that we have never lost sight of. Now let me read to the Senate one of the resolutions adopted by the board, which are the cause of Mr. Choate's resignation. One repeals the compromise resolutions which I have mentioned. The other is in these words:

Resolved, That hereafter the annual appropriations shall be apportioned specifically among the different objects and operations of the institution, in such manner as may, in the judgment of the regents, be necessary and proper for each, according to its intrinsic importance, and a compliance in good faith with the law.

That is the resolution which is considered as subverting the plan established by Congress, as repealing, in effect, the act of Congress, and setting up the will of the regents in place of the will of the National Legislature!

Something is said in the letter about the greatly augmented powers of the secretary of the institution. I know of no augmentation of the power of the secretary. A question has arisen as to his right to discharge one of his assistants. The board have determined that he has a right to discharge any of his assistants without a reference to the board. They, however, have a controlling authority over the whole subject; and if the secretary should abuse his power in that respect, they would remove him, as they can at any time remove all or any of his assistants, or the secretary himself. I may add, sir, that the secretary of the institution is a gentleman, as well as widely known to the world of science; a profound philosophic scholar, and a man of pure and stainless life.

Mr. President, considering the form in which this matter has been brought before us—as a solemn appeal from a retiring member of the Board of Regents to the Senate, and to the public—it has seemed to me that it would be proper that the Senate should investigate the subject. It has occurred to me that it would be proper to appoint a special committee for that purpose. I make this suggestion, but I do not submit any motion. If I were to submit such a motion, according to parliament-

ary usage, I should be put on the committee as chairman—a position which I could by no means think of accepting. It would, I think, be neither delicate, nor in any respect proper, that a member of the Board of Regents should sit in judgment on his own cause, and over his fellows from whom he has differed. I throw out the suggestion, however, with the hope that some Senator will submit the proper resolution.

Mr. MASON. Mr. President, I regret that the learned and distinguished gentleman who has declined further service in this public trust, should have accompanied his resignation by a communication of the character which has been commented on by the honorable Senator from Maryland. I regret it because it is impossible that such a communication should be allowed to pass in silence when addressed to the Senate, where are found some of those who have been associated in that trust with the writer of the letter. I regret it, because it is unpleasant and ungrateful to speak of the opinions or conduct of those who are absent; but I feel at liberty to do so on the present occasion, because the gentleman who has written this letter has chosen to challenge opinion here.

Now, sir, what has been done? A regent of the Smithsonian Institution, who has been connected with it, I believe, from the foundation of the institution, occasionally as a member of this body, chosen a regent by the vote of the Senate, and occasionally as a citizen at large, clothed with the high honor (for it is a very high honor) of an administrator of this trust, has declined further service; and has assigned, as one of the reasons, and as this paper alleges the dominant reason for declining it, that he does not agree with his associates in their mode of administration. I do not feel at liberty to say that such a course of conduct would not be expected of one so honored, because the gentleman who wrote the letter is absent; but I should say that, according to my ideas of what is due to the trust, if he believed there was maladministration, it was the very last occasion when he should have resigned; he should have remained there in order that the inquiry which he has provoked might be conducted in his presence, and, to some extent, under his guidance.

But, sir, he has resigned the trust, and, in doing so, he has shot a Parthian arrow at those who were associated with him. What is the character of his letter? None can read without being struck with its tone, which was so justly animadverted upon by my co-regent, the honorable Senator who has just addressed you. I have been accustomed, Mr. President, to find, in that profession to which I belong, and of which I am a very humble member, that, whether at the bar or on the bench, the surest, the soundest, and the ablest intellect, gives its judgment with diffidence, courtesy, and respect for the opinions of others. I have generally found, too, in my experience of the world, that the soundest judgment is the judgment which is accompanied by such diffidence. Now, what is the tone of this communication? The confident tone of Sir Oracle—of one whose judgment cannot be impugned, and should not be questioned. "*I* cannot be wrong," says the writer of this paper, in substance, "let others vindicate their judgment if they can." That is what he says, and he has assigned, as the startling reason for resigning this trust, that he differed from his associates in the construction of an act of Congress; there is no impropriety even hinted in the conduct of his associate-regents; but he rests it exclusively on the ground that they have misinterpreted the law which created the trust, and there is no appeal from the decision of the learned gentleman who pronounces the judgment. *That* is infallible.

Sir, I have known instances—others, more experienced than I am, have known of more—where the judgment is found darkened in the flashes of a brilliant mind; a mere rhetorician should never aspire to the judgment seat. I would appeal to the experience of the world to say, whether there is not an infirmity attendant upon such minds, which never admit that they may be wrong. The calm, sedate, deliberate, slow, and cautious mind, brings you to a correct conclusion; and when attained, submits it with deference and respect to those who are to pass upon it. Confidence, that confidence which precludes doubt, does not belong to those who are capable of pronouncing judgment.

Mr. President, I shall not go over the ground so lucidly occupied by the very able gentleman who preceded me, with whom I have been associated in this trust. It is a pure, a high, and honorable trust, one conceived by a noble mind—the late James Smithson. He pursued science as the great mistress of his affections; he pursued it to his grave; and he left behind him this legacy. To whom? He had the world to choose from. He was an Englishman. He had never been upon this continent. He possessed a large fortune. The high benevolence of his nature determined him, when he left the world, to devote that fortune, in the hands of others, to the pursuit of science, when the world closed upon him. As I have said, he had the world to choose from, and he signalized this country and its institutions by his choice. He left his fortune to the UNITED STATES, in trust for the establishment of an institution at Washington, "for the increase and diffusion of knowledge." Where? In Washington? In the United States? Upon this continent, broad as it is? No; "AMONGST MEN" is the language of the trust.

If I am capable of reading the signs of the times, there are those, of whom we have plenty, Heaven knows, around us everywhere, who look upon a public fund, no matter to what object it has been devoted, or how small the trust, as a thing to be scrambled for, and appropriated by the first needy or lucky adventurer. For the last twelve months the newspapers have been full of intimations, coming, generally, from the northern and eastern sections of the country, throwing suspicion and doubt upon the management of this trust, intimating that it has been perverted from its original purpose; in substance, that it was in improper hands, and should be taken from them; invoking, in some insidious manner, the action of Congress upon the subject; and all for what? To get hold of the fund. What use was to be made of it after it was thus obtained, those best know who join in the pursuit. Let me be understood. I ascribe no such motive to the very learned and distinguished writer of the letter before us. I have the honor only of a very formal acquaintance with him; but I know his history and his character, and that assures me he can never lend himself to any unworthy purpose; but yet I have strong reason to believe that, if the objects which he seems to have in view, could be obtained, this pure and simple trust, which has been accepted by the American people, would be debased into a mere pecuniary job.

Sir, the letter of Mr. Choate, unfortunately, brings back into the Halls of Congress the great controversy which attended this fund when it was first brought into the country. There was a great struggle for it among the men of science, in the mechanic arts, and in other of the useful and honorable pursuits of life. The parliamentary history to which the writer has referred in the letter shows it. There were those who believed that this fund should be devoted exclusively to a library, to a great collection of books, books in every department of science, of art, and belles lettres. The writer of this letter shows that he was one of those who desired so to devote it; to a library—a library, to the exclusion of everything else—a collection of books. I am free to believe, and declare, that I entertain no doubt this learned and distinguished gentleman believed that the best mode of increasing knowledge, as well as diffusing it amongst men, was to establish a library. But suppose it were done. There is an annual revenue derived from the Smithsonian fund, of some $30,000 or $40,000. So much is to be devoted *in perpetuo*, I suppose, to the purchase of books, which are to be stored here on shelves, in the city of Washington; and who is to read them? Why, sir, the members of Congress have little time to read the books which accumulate here in the public library. The citizens of Washington form a very small portion of the people of these United States; and thus this great trust, which was intended for MANKIND, would be limited to the walls of Washington.

There is another great objection to it. Books are derived from booksellers. Booksellers are connected with bookmakers, and bookmakers and booksellers, with that hungry legion, who all live, and of whom some grow rich, on the spoils of genius and industry. Then there are the papermakers, and the book printers, and publishers, and the stereotypists, all, all, would be hovering around this fund, to say nothing of factorage, commission, foreign travel to pick up rare works, and the ten thousand jobs that follow in such a train, where money is to be spent by law in large, annual, stated sums to buy books; and at last what would you have done? Why, you would have taken this great, noble, beneficent donation to mankind, and converted it into a fruitful job for every race of needy and artful adventurers.

Sir, if a library is to be established at Washington for public use, vote the money from the Treasury. Smithson did not intrust this fund to you for such a purpose, or he would have said so in his will; and he has not said it.

I have said that it is unfortunate that this matter should again be brought before the Senate. The battle was fought here for years. That parliamentary history to which the writer of the letter has had reference, shows it. He claims that, under the true interpretation of the act of Congress, the library scheme prevailed. A majority of those who have been associated with him in the Board of Regents have decided otherwise. They understand the law to mean that discretion is vested in the Board of Regents to build up a library in this great institution, in such manner, and at such time, as they shall find most conducive to the great objects of the trust. That is all. Sir, this battle should not be fought over again. I trust we shall not present to the European world, whence this fund is derived, the spectacle that, at this early day, when the streams of light and knowledge which, I hope, are to flow from this institution, have hardly yet made their appearance, that we are scrambling indecently over the cradle of the trust.

I have said, Mr. President, that this is a pure trust. There is, fortunately, no emolument of any kind attendant upon its administration. I have been, for some years, honored by the Senate of the United States as one of the managers of that trust. I conceive it to be a very high honor. It is because of the duty which I owe to the trust thus committed to me that I detain the Senate for a few moments.

I perceive that the subject has been taken up in the other House, at the instance of one of the regents, [Mr. MEACHAM,] an honorable member there, who, as the journals have been published, it is now fair to say, voted with the writer of this letter. On his motion, a committee has been raised, which is, perhaps, proper enough; but I must say, with very great respect for that body, that the committee has been vested with very extraordinary power for such an inquiry—the power "to send for persons and papers." This would seem to convey an imputation that the body of gentlemen who are charged with the administration may require a police officer or a messenger from this Capitol to get from them papers or other evidence. I regret it, sir; but straws show how the wind blows, and this strange and exigent demand of power for the committee has its own meaning, which time may disclose.

I am indisposed, sir, to commit myself, as to any present disposition of this paper, and I submit, therefore, to the honorable Senator from Maryland that, for the present, it would be better to allow it to lie on the table until it can be considered by the Senate, what disposition should be made of it.

Mr. PEARCE. I beg leave to say, in regard to the suggestion of the honorable Senator from Virginia, that I remain of opinion that this paper should be referred to a select committee of this body. I do not think that the fact that it is the subject of investigation by a committee of the House of Representatives, should operate to prevent us from committing it to a committee of our own body. I have no doubt that House took such action as seemed to them to be proper; but, I submit, with due respect to the House of Representatives, that, no matter what may be the action of that House, it is for the Senate to act independently. However, I make no motion for reference to a select committee, because I am a member of the Board of Regents, and I do not wish to sit in judgment on my own cause, or over my fellow regents.

Mr. DOUGLAS. I regret, Mr. President, that there should have been a necessity, in the estimation of any gentleman, to bring the affairs and

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management of the Smithsonian Institution before Congress for its action. As has been stated by the honorable Senator from Maryland, in terms kind and respectful, I am one of those who had the misfortune to differ from a majority on the decision of the various questions referred to in this paper. I do not read the letter of Mr. Choate in the same sense with my colleagues who represent the Senate in that institution, [Messrs. PEARCE and MASON,] in regard to its spirit. I am unable to perceive that there is anything disrespectful or unkind, either in the terms of the letter, or in the mode in which he has expressed his ideas. I have listened to that gentleman, in the discussions before the Board of Regents, with admiration for his ability and his eloquence, and with equal admiration for that high courtesy which characterized everything that he said and did. Although there is a firmness and a directness in which he has expressed his opinions in the letter of resignation, I am unable to perceive that there is either an arrogance or anything else which ought to be considered disrespectful. After expressing his opinions, and stating the construction of a majority of the board, he says:

"In this interpretation I cannot acquiesce; and with entire respect for the majority of the board, and with much kindness and regard to all its members, I am sure that my duty requires a respectful tender of my resignation."

In other places, in expressing his opinion, he says, "the law, it seems to me, is so and so." I think there is a respect and kindness running through the whole letter which should characterize one gentleman of high attainments and bearing towards another who is his equal, accompanied, however, with the firm conviction, on his part, that the law has not been interpreted in that sense in which it should have been according to its terms.

I confess, sir, that I concur fully in that firm conviction of his, and I do not hesitate to express it boldly and plainly; and yet I am incapable of entertaining an unkind feeling, or giving expression to an unkind inuendo, or of entertaining for a moment a doubt but that each and every regent has acted conscientiously according to his sense of duty. It is a case where there is a diversity of opinion; where each gentleman intrusted with the exercise of discretion, where discretion was necessary, and interpretation where interpretation was necessary, has performed his duty conscientiously as he read it in the law. Still, I must say that my interpretation of that law is different from that of the honorable Senator from Virginia, and the honorable Senator from Maryland, and of a majority of the regents. It is also true that the gentleman whose great name and many public services, and private and public virtues, have been so well portrayed by the Senator from Maryland, concurred with the majority, and to that extent the weight of authority is cast in the scale against the side which I embraced. I do not wish to detract one iota from the high eulogium which the Senator has pronounced on those gentlemen. With all respect for them, and for their opinions, I must take the law itself as my rule of guidance while performing a trust imposed on me.

It may be that my mind is somewhat biased by the proceedings, discussion, and action in the House of Representatives when this institution was established I, at that time, participated, to some extent, although in a small degree, in the proceedings which took place in regard to the creation of the institution. I at no time allowed my feelings to become enlisted, much less excited, on the subject. But when all the various plans were presented there for the organization of the institution, and especially the library plan, as a principal feature, not an exclusive one, in antagonism to a plan that the library should be a subordinate feature, or that there should be no library at all, it is my firm conviction that Congress, by its action, did sanction the policy of a library as a principal, but not an exclusive, feature in the institution. In other words, the plan proposed by Mr. Marsh, of Vermont, in opposition to that of Mr. Hough, of New York, did prevail, and the main features of Mr. Marsh's plan tended to the establishment of a library. The library plan, as it was called, having prevailed, there was a limitation on the amount of funds to be devoted to that plan, inserted in the law, which was, that out of the $30,000 of income of the institution, not exceeding $25,000, should be appropriated to the library.

I do not hold that the regents are compelled to appropriate to a library, the sum of $25,000 each year; but I do hold that the law in its terms, when carefully examined, contemplates the library as a prominent object in the institution, and that at least a majority of the funds should be expended in the building up of the library. That is my interpretation. I am aware that when the institution was first organized, these same diversities of opinion arose, and a compromise was effected, by which it was agreed that the funds should be equally divided. When I came into the institution, a few months ago, as one of its regents, I was willing to abide by that compromise. I could not have agreed to it originally, because I think the fair interpretation of the law contemplated that the larger portion of the fund should be applied to the establishment of a library; but, as they made an equal division, I was willing to acquiesce in it, in order to avoid the appeal which is now made to Congress and to the country, and thus perhaps endanger, to some extent, the reputation of the institution.

I expressed these opinions to my brother regents freely; but, I trust, with proper respect. I differed from their opinion. Such was, such is, my conviction. I did not deem it my duty to resign because I was overruled. I was willing to acquiesce in the decision, because I had not the power, according to the law, to override it, and because every other regent had the same right which I had to express and entertain his opinion. Yet, sir, when the question arises, no matter how often it may arise, whether that interpretation of the law, which has been given by the board, be a correct one, until I change my opinion, or until Congress shall modify the law, I must adhere to my original convictions.

I regret, sir, that there should be the slightest feeling displayed in this discussion. Really, a charitable fund for such high and noble purposes, ought to be administered in a spirit of kindness and charity. I cannot accede, therefore, to any intimation that those who act with me, or those who do not concur in the interpretation which has been given to the law, are actuated by any but the highest and purest motives.

Mr. MASON. Does the Senator understand that anything fell from me to question the motives of the gentlemen who differed from us in that matter?

Mr. DOUGLAS. I do understand that the Senator from Virginia supposed it to be prompted by improper motives to get possession of the fund, on the part of some persons.

Mr. MASON. I thought I was understood. I said that, unless I misconstrued the signs of the times, this great and eager anxiety out of doors, manifested by popular and inflammatory addresses through the public press, showed that there was an earnest design outside to get hold of the fund. I never expressed, for I certainly never entertained, a doubt that honorable gentlemen who differed with me in our judgment as to the construction of the statute, were actuated by as stern a sense of duty as I was. I have always so expressed it.

Mr. DOUGLAS. Mr. President. Then I understand the Senator as not impugning the action or motives of any of the regents with whom he has been associated; but I must say that I have not seen anything to leave an impression on my mind that whatever action was prompted out of doors, meant to get possession of this fund, or to squander it, or to apply it to any improper purposes. On the contrary, I believe it arises from that same feeling which has been evinced in the differences of opinion which have existed from the time the institution was first proposed to be organized up to this day, as to what was the true application of the fund. Those who supposed that their opinions had received the sanction of Congress in the organic law of the institution, now think that that object has been defeated by a wrong construction given to that organic law. It is a firm conviction, as I believe, on their part, that the law has not been carried out according to its terms. It certainly has not been according to their understanding of its terms. I believe that there is no portion of our community, certainly there are no persons entitled to notice, who would wish to pervert this fund to any other object than that to which it was dedicated by Smithson's will. I believe that the persons to whom the Senator referred are stimulated by the purest motives to carry out that object, under the conviction that the mode in which the trust is now being administered is neither in accordance with the will nor of the law. It is a difference of opinion—a difference of opinion sincerely entertained—and one which we should, therefore, meet with the spirit of firmness, of candor, and of kindness.

I regret that the discussion has arisen, rendering it necessary to go into an argument to show which is right, and which wrong, in the construction of the act. In fact, sir, I believe I will not allow myself to be drawn into an argument on that question. If this matter is to be referred to a committee, certainly any discussion of that question would be more appropriate after a report of the committee. I shall, therefore, content myself with saying that my firm conviction is, that the only difference which has arisen in the management of the institution is a difference on two points; first, as to what direction this fund ought to take; secondly, the belief that a direction has been given to it, which is not authorized by the law creating the institution. I am under the impression that some regents have voted in the minority on this question, not because they believe the original plan adopted by Congress was the best, but because they felt themselves compelled, under the law as it stood, to vote as they did.

Mr. BADGER. Mr. President, I do not exactly agree in the suggestion thrown out by my friend from Maryland, that it is necessary that the letter which is before the Senate, should become the subject of investigation by a committee of this body; but I shall, notwithstanding, readily yield my own notions upon that subject to the wish he has expressed. Allow me, however, to present very briefly the views which have struck me on this occasion.

The very eminent and distinguished gentleman who has sent in this letter of resignation, has assigned two reasons why he retires from assisting in the management of this trust fund. One is, that he cannot give the time necessary to attend the meetings of the Board of Regents. As has been said by my friend from Maryland, this is a full, ample, and perfect reason, not only why he is excusable for retiring, but why it is his bounden duty to retire; for, while he holds a place there the public has a right to expect him to give the necessary time to discharge its duties. So soon as he ascertains that he cannot, consistently with his other engagements, give that time, he is bound to retire and to give way to some other gentleman who may have both the inclination and the power to render the service which the country expects from a member of that Board.

I wish very sincerely, Mr. President, that the letter of resignation had there closed, because I, for one, am unable to give any appropriate character to the residue of the letter. It must be viewed in one of three aspects: either as an appeal to Congress from the judicial decision which has been pronounced by the Board of Regents upon the interpretation of that act; or as an appeal to Congress against the malversation of a certain class of public officers, to the intent that their misconduct may be exposed and that some steps may be taken, either for their punishment or removal; or else as an intimation that the distinguished gentleman who writes this letter thinks that there should be some amendment of the law

by the intervention of the legislative power of the two Houses of Congress.

In regard to the first view, I cannot myself understand how this body, or the other House of Congress, is to exercise a judicial supervision upon the question of the interpretation of this law. It is our business to make laws; it is the business of other officers and classes of persons to expound and execute those laws. In a strict judicial sense, we cannot exercise any jurisdiction or supervision over the judgment which may be so pronounced; and, therefore, considering the letter in that respect, it seems to me totally inappropriate to any functions which either this or the other House of Congress can legitimately exercise.

If it be considered as a letter intended to communicate to the two Houses of Congress malversation in the conduct of these public officers, however proper that application may be to the other House, it is plainly out of place here. The other House, from what we learn of their published proceedings, seem to have taken the subject up in that idea, that this is an imputation by the writer of the letter that a gross abuse has been practised by the majority of the Board of Regents in the administration of this fund; and they have accordingly raised a committee, referred the letter to the committee, and vested them with the power of sending for persons and papers—a power appropriate to the investigation, if the object be what I have just said, but utterly inappropriate and absurd supposing it to be a mere question of legislative inquiry with a view to found legislative action thereupon. If it is a question of the interpretation of a law, do you want to send for persons and papers to enable you to interpret a law? What papers will you send for to enable the committee of the House of Representatives to ascertain what is the meaning of this law? Do you want the statute? Surely the committee can get that without having a power to send for papers. Do you want the proceedings which took place at the time when this law was enacted, the parliamentary history of it? Surely that can be obtained without a power in the committee to send for papers or for persons. But if you suppose the investigation is pursued for the purpose of ferreting out a delinquency, an abuse, a malversation; then that part of the resolution becomes all appropriate, and the object is to drag up witnesses and compel them to testify to the conduct of the perpetrators in this stupendous fraud, not only on the law of the country, but on the noble charity which they are appointed to administer. If that be the aspect in which this subject is taken up, we have nothing to do with it; we should not commit ourselves in advance upon it; for, suppose the proceedings of the House of Representatives should result in preferring articles of impeachment, for example, against the Chief Justice, it would be very indelicate and improper for us in advance to form and deliver a solemn opinion upon the question whether there was just cause for the impeachment.

Then there is only one other respect in which this residue of the paper can be supposed, as it seems to me, to be intended to have any influence upon Congress; and that is, that the honorable and distinguished gentleman who writes this letter, knowing that we have no judicial power over the interpretation of the law, and therefore cannot, by any judgment of ours, ascertain that what has been heretofore done in its interpretation has been done wrongfully, in a judicial sense, and knowing that it is not a proper subject for an investigation, with a view to a criminal prosecution by impeachment, sends it to the two Houses of Congress, as a recommendation that they shall institute an inquiry, with a view to an amendment of the law. In this latter view, it strikes me as exceedingly inappropriate for any gentleman, not a member of these bodies, or one of them, and not coming here in the character of a petitioner asserting a claim against the Government, to undertake to advise us of the propriety of further legislation.

I say, therefore, Mr. President, that I regret very much that this truly distinguished gentleman, of whom the American people have reason to be proud as one of their sons, gifted as he is, and distinguished as he has been in his past course, did not content himself with resigning his position for the very ample and sufficient reason which he first gives, that he is unable to discharge the duties required of him. I regret it also, because, if I collected the scope of that letter accurately from its reading—for I had not seen it before—it seems in any view to present this state of the case—the writer meets with his brother regents; a certain question arises, what shall be done in the management of the institution? That inquiry involves a question as to the just interpretation of the law; the best and the legal means of carrying out the great purpose of the donor. That matter is the subject of discussion and debate among them. The majority of the regents decide against him, and immediately he retires from the institution, and interposes an appeal to Congress against the majority of the body, of which he is a member.

Again, sir, it seems to imply this: Distinguished and elevated as that gentleman is, and high and important as are the services which he has rendered to his country, and which he is now able to render in this or any other station to which the voice of his countrymen or the public authorities may call him, I think the whole tone of that part of the letter slightly exaggerates the importance to the public of the event which it communicates; namely, his retiring from the Board of Regents.

Besides, considering also (for I think my friend from Illinois did not succeed exactly in vindicating that part of the letter) the suggestion which my friend from Maryland made, that there is a tone of confidence, of unmistakable and unmistaken certainty, with which the distinguished writer announces his opinions upon the interpretation of this law—which I think my friend from Illinois will pardon me for saying at least borders a little, very little, upon the confines of arrogance, for I beg my friend to consider against what an array of judgments the opinion of that distinguished writer is given.

Mr. DOUGLAS. Consider the names on the other side.

Mr. BADGER. The names on the other side have not been yet given; but I am very certain that my friend before me, [Mr. DOUGLAS,] whose name is one of them—and it is a name of weight and authority in this country, and elsewhere, where it is known—is one of the last persons who would announce his opinion, without the expression of some deferential conception that, after all, perhaps he might be mistaken. Now, I must say, I think it is due to truth, and the occasion, to say (and I believe the whole Senate will agree with me) that, whether the distinguished writer be correct or not in his opinions, that part of the letter is in very bad taste.

Believing, Mr. President, that there is nothing for us to do but accept the resignation of this gentleman, and to accept it with regret because of his eminent talents and high position and undoubted patriotism, and therefore his capacity and willingness to be useful, I should think that the subject might be allowed to drop; but, nevertheless, I yield to the suggestion of my friend from Maryland. He has intimated that he desires that this should be the subject of investigation, and I am willing to move that it shall go to a committee; but I am not prepared to say that it is proper, on this occasion, to select a special committee. This is a question of judicial interpretation—of legislation to be founded upon a judicial interpretation—if the committee in the Senate shall be of opinion that the regents have mistaken the true construction of this law. We have a committee, a standing committee of this body, composed of eminent lawyers, abundantly able to reëxamine this subject, so far as it needs reëxamination, and so far as this House has any jurisdiction over it. I am not, therefore, for passing over that committee upon a judicial question, to raise any select committee. It is a question of law—the interpretation of a statute. If we are not satisfied with the judgment given in the Board of Regents; if such a board of men, aided in their opinions by the illustrious Taney, do not convey to us a conviction that a statute has been rightly interpreted, let it go to that committee of this body. It is a proper organ to examine, and investigate, and report upon strictly legal inquiries. I therefore move the reference of this paper to the Committee on the Judiciary.

Mr. SEWARD. Mr. President, I should not speak at all on this question, if it were not that I think the Senate has a duty to discharge to itself and to its dignity. I need not say that I entertain as profound a respect and admiration for the distinguished gentleman who sent this communication here as any other person in the House, or in the country. I take the occasion thus early to say that I have formed no opinion upon the merits of the question which has been raised by that communication. I deem it my duty, as far as possible, to hold my mind free and open for the purpose of forming an opinion hereafter.

Sir, I cannot consent, for one member of this body, to send this communication to the Committee on the Judiciary, or to a select committee, because, although I believe it to have been intended with the best motives, and to have been entirely unexceptionable in the view of the writer, yet I think it is derogatory from the dignity of the Senate. What is it, sir? It is a resignation of an officer. Every citizen of the United States has a right to hold an office if he can get it; and certainly every citizen of the United States holding an office, has a right to resign it; and it is not necessary for him, in order to be relieved from the burden of the office, to assign any reason or excuse whatever. Whatever may be said by way of apology or excuse, or reason, or justification, does not alter the character of the act itself. It is an absolute resignation. It is complete. It is final. The Senate has nothing to do but to file it. It is done. The Senate cannot compel the individual to retain his office. They cannot ask him to take it back again, however high he may be. They can reappoint him, but they must receive his resignation as a complete act.

According to my humble judgment, what this retiring regent ought to have done, was to send a letter to the President of the Senate, saying, in so many words: "Sir, I resign the office of Regent of the Smithsonian Institution." It is true that a regent, like every other public officer, has a right to inform the public and to inform Congress, if he pleases to do so, of the grounds why he declines a further continuance in the discharge of a public trust; but that should be, not by a letter explaining his reasons for his resignation, but it should be done through the public press, or otherwise, so as not to make the table of the Senate bear the burden of all personal, and political, and other explanations of persons retiring from public office.

It is manifest that the honorable and distinguished gentleman has not considered the legal nature and the official character of the act he was performing. I say, then, this resignation was complete and absolute when the words "I resign this office" were written, but that is not the whole of the communication. We are, besides, favored with an explanation of the reasons why he resigns. This is either for the information of the public, (and if so, it ought not to have been made to the Senate of the United States,) or else it is for the purpose of instructing the Senate in regard to the question which is discussed in the paper. If that honorable and distinguished gentleman wished to instruct the Senate upon the merits of the question out of which his resignation has arisen, he had the right to come before this body in a respectful manner, by petition, by memorial, or by official communication, as a regent of the institution; but he disclaims the privilege and the right of addressing us as a Regent of the Smithsonian Institution, because, in the very act of representing his views to the Senate, he resigns that office, and shows that he leaves the Senate and the country to take care of the question as they best may.

I think, then, that what is due to this occasion, is to lay this letter on the table. Then, I agree with the honorable Senator from Maryland, and the honorable Senator from Virginia, and others, that there is, in the occasion itself, in the subject-matter which has come to the knowledge of the Senate, that which may very properly require an inquiry. I think that inquiry ought to be made by the Senate, out of regard to the public interests, the public welfare, and the honor and dignity of the country, and not upon a communication, which is of so unusual and extraordinary a character as this.

Mr. BUTLER. Mr. President, I do not know that I concur entirely in the conclusion of the honorable Senator from New York, but I must say that I agree, in the main, with the purport of his remarks. I hope that my friend from North Carolina will, therefore, withdraw his motion to refer this paper to the Committee on the Judiciary. What is the paper? Is it the resignation of an office? If so, there it should terminate. Is it an

accusation against those with whom this gentleman has been associated? If so, as my friend from North Carolina has remarked, I cannot approve its taste. Is it for the purpose of bringing this subject into debate in the Senate? If so, I think its purpose mischievous. Is it for the purpose of making an issue in relation to this fund, which is calculated to involve, perhaps, as has been intimated, different views in different parts of the country? If so, it is a purpose which is criminal.

In every point of view, whether I regard the taste of the paper as an accusation of those with whom this gentleman has been associated, or whether I regard it as designed to bring this subject into popular discussion, I cannot approve its tone. I am bound to say that much; but if it be for the purpose of bringing the subject before the Senate, it cannot be so effectually done as it would be by making the report of a committee the vehicle of his views. I hope, therefore, my friend from North Carolina will withdraw his motion to refer this paper to the Committee on the Judiciary.

Mr. BADGER. I am satisfied, sir, after the remarks made by the honorable Senator from New York, that my first inclination on this subject was correct, and that is, that we have nothing to do but accept the resignation. I yielded, however, because my friend from Maryland, who occupies a peculiar and delicate relation to this subject, intimated his desire for a committee to investigate it.

Mr. PEARCE. Will my friend from North Carolina allow me to interpose?

Mr. BADGER. Certainly.

Mr. PEARCE. I am anxious that the question should be referred to a committee. I am quite content that the paper should be received and laid upon the table; but I do desire, as the Senator from New York has said, that the subject-matters which are referred to in the letter, should be submitted to a committee of this body for consideration. I hope, therefore, that the proposition of the Senator from New York will be adopted, and the paper laid on the table; and that some gentleman will move a resolution directing a committee (and I now prefer that it should be the Committee on the Judiciary) to inquire what, if any, action is proper to be taken by the Senate in regard to the Smithsonian Institution. That committee was organized at the beginning of the session, without reference to this question. I am willing and desire that the matter should take the regular course, and be referred to that committee, whose appropriate duty it is to construe the acts of Congress, which are drawn into question.

Mr. BADGER. I now withdraw my motion for reference, and move that the paper lie on the table.

Mr. WELLER. I am exceedingly anxious to terminate the debate, and proceed to the consideration of some practical business. This question, however, ought to be decided. Here are three Regents of the Smithsonian Institution, who have brought to the consideration of the Senate the important fact that they differ as to the construction given to a law of Congress, or as to the proper mode of using the fund which they have been appointed to administer. Now, I think it very important that Congress should determine that question, because we have been notified, by the debate to-day, that that difference of opinion does exist; and after this paper shall have been disposed of, if no other Senator makes the motion, I shall submit one to instruct the Committee on the Judiciary to consider and report on this subject.

The PRESIDENT. The question is on the motion of the Senator from North Carolina, that the paper lie on the table.

The motion was agreed to.

Mr. CLAYTON subsequently said: Mr. President, as the Senator from California [Mr. WELLER] did not follow up his proposition, I desire to offer the following resolution:

Resolved, That the Committee on the Judiciary inquire whether any, and, if any, what action of the Senate is necessary and proper in regard to the Smithsonian Institution.

I believe that this resolution is in accordance with the general sentiment of the body. I do not purpose to debate it; but I will say now, that I hold it to be the duty of the Senate of the United States to sustain the regents of this institution, whenever the Senate thinks they are right. When an imputation is cast on those gentlemen, it ought not to be left to be a matter of conjecture or doubt in the country, whether the Senate thinks they ought to be sustained or not. For my own part, I do thoroughly concur in the opinion which has been given by a majority of the regency. I have been of their opinion since the institution was first established.

I had the honor, as a member of a committee of this body, some eighteen years ago, to report the bill, which was afterwards enacted into a law, accepting the bequest of Smithson; and I well remember that, upon that occasion, there was a diversity of sentiment in this body in regard to the propriety of accepting the bequest, for it was said confidently, by some gentlemen, that it would turn out that this Government was incapable of administering the fund as the testator intended. I was then of a different opinion, and I am now. I have observed, with some interest, the progress of this institution, and the course adopted by the regents, from the origin of the institution, and their course has, on all occasions, so far as I have been able to understand it, met with my unqualified approbation.

The question which divided the regency was one which arose in the very origin of the institution. There were many gentlemen who thought the funds should be devoted to the purpose of a library. I never thought so. I undertake to say, that was not the sentiment of the Senate which accepted the bequest. An institution whose object is to increase and diffuse knowledge among men, to be confined, or the greater part of its action to be confined, to the mere purchase of books—books to be placed here in this District, where they could be visited by gentlemen of wealth from abroad, to be sure, and where they could be searched and examined by persons who are on the spot! That, however, would be one of the most futile, and, in my humble judgment, most ineffectual methods which could be devised, to diffuse knowledge among men. The plan adopted by the regency is one calculated to diffuse it among men in all parts of the civilized world.

But, sir, I will not take up the time of the Senate in discussing this question. The Committee on the Judiciary are fully capable of examining and deciding on judicial questions. I think they ought to make an inquiry, in order that, if the regents are right in the interpretation they have given to the law, they should be sustained by the judgment of the committee, and by the judgment of the Senate. I move the adoption of the resolution which I have submitted.

The resolution was considered, by unanimous consent, and agreed to.

PETITIONS, ETC.

The PRESIDENT. Petitions will now be received.

Mr. CASS presented the petition of John Vanblarcum, praying that an appropriation may be made to test, by experiment, a new method, invented by him, for the transportation of the mails; which was referred to the Committee on the Post Office and Post Roads.

Mr. THOMSON, of New Jersey, presented the memorial of Enoch Moore, late inspector of the customs for the port of San Francisco, praying indemnity for the loss of clothing, caused by the wrecking of a vessel on which he was engaged in the discharge of his duty; which was referred to the Committee on Commerce.

Mr. FISH presented a petition of underwriters, ship-masters, and merchants of the port of New York, praying that the joint resolution of the House of Representatives, for the erection of a light-house on Cape Race, Newfoundland, may pass the Senate; which was referred to the Committee on Commerce.

Mr. HUNTER presented a memorial of the heirs of Samuel Scott, praying to be allowed to enter the bounty land due their ancestor as a major in the revolutionary army, which they were unable to do within the time prescribed by law, in consequence of their papers being mislaid by the officers of the Government; which was referred to the Committee on Revolutionary Claims.

Mr. SUMNER presented the petition of William C. Fay, praying that a register may be issued for a foreign-built vessel, under the name of The Foundling of Boston, purchased by him, and repaired in the United States; which was referred to the Committee on Commerce.

Mr. CLAYTON. I present the petition of Aaron Haight Palmer, praying compensation for services rendered by him in communications made by and under the direction, and with the approbation of three Secretaries of State, I believe, and of several committees of this body. I shall not undertake to state the matters set forth in the petition; the committee, of course, will inquire into them. I only wish to say, as an act of justice to this gentleman, that, from all the information which I have had an opportunity of receiving heretofore, in another position, I believe he is entitled to more credit for getting up the Japan expedition than any other man I have heard of. He has thrown more light on it, and given more information on the subject to the State Department and to the Congress of the United States, than any one else. His merits, however, in this particular will be canvassed by those to whom the petition will be referred. I move its reference to the Committee on Foreign Relations. I also ask that it may be printed.

The motion to refer was agreed to, and the proposition to print was referred to the Committee on Printing.

PAPERS WITHDRAWN.

On motion by Mr. JONES, of Iowa, it was

Ordered, That Lucy Tate have leave to withdraw her petition and papers.

REPORTS FROM STANDING COMMITTEES.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the bill of the House of Representatives, for the relief of William Case, reported it back without amendment.

Mr. WELLER, from the Committee on Military Affairs, to whom was referred the petition of George W. Torrence, a soldier in the late war with Mexico, praying compensation for injuries received while in the discharge of his duty, submitted a report, accompanied by a bill for his relief; which was read and passed to a second reading. The report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Dr. William P. Buel, praying compensation for medical services rendered to the third regiment of United States artillery, on board the San Francisco steamship, submitted a report, accompanied by a bill for his relief; which was read and passed to a second reading. The report was ordered to be printed.

NOTICES OF BILLS.

Mr. HUNTER gave notice of his intention to ask leave to introduce a bill amending the acts relating to copper coins.

Mr. GWIN gave notice of his intention to ask leave to introduce a bill for the establishment of an express mail, weekly, between St. Louis, Missouri, and San Francisco, in California.

JOINT RESOLUTION INTRODUCED.

Mr. CHASE asked and obtained the unanimous consent of the Senate to introduce a joint resolution, authorizing the President of the United States to contract with Hiram Powers for a work of art; which was read twice by its title, and ordered to lie on the table and be printed.

PASSENGER VESSEL PENALTIES.

Mr. FISH. I am instructed by the select committee to whom was referred the bill "to remit certain penalties in favor of passenger vessels," to report it back with amendments. I ask the Senate now to put the bill on its passage. I do not believe it will occupy more time than will be necessary for the mere reading of the bill. I explained its object when I introduced it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. The amendments reported by the committee, which are simply to make the meaning of the original bill more clear, were agreed to.

Mr. BENJAMIN. I wish to say a few words on this bill, not so much, perhaps, for the use of the Senate, as to aid in the immediate passage of the bill in the other House. The bill is reported by the select committee in relation to passenger ships, and it is meant to remedy a very grievous state of things now existing, in consequence of a change recently made by the Secretary of the Treasury in the construction of a passenger law

I think there are some eight or ten German ships now under seizure in the port of New Orleans alone, under circumstances which I shall state.

Those ships left the United States last summer, having fortified themselves with certificates from the custom-house officers themselves, stating the exact number of passengers which, under the law, those vessels were authorized to carry. I hold some of those certificates in my hand. They read as follows:

I, Thomas C. Porter, Surveyor of the Customs for the port of New Orleans, do certify that the Bremen ship called Hermann, whereof A. Ruhmann is master, of Bremen, to be of the following dimensions:

Length, 150 feet 10 inches.
Breadth, 32 feet 2 inches.
For depth, 16 feet 1 inch; making 716 54-95 tons.
369 steerage passengers.

SEAL. Given under the seal of the Surveyor's Office, this twenty-second day of June, 1853.

W. L. PORTER, *Deputy Surveyor.*

I, James M. Vandergriff, United States Measurer of Vessels, do certify, that the ship called Hermann, of Bremen, to be of the following capacity, for the carriage of steerage passengers:

Clear superficial feet of lower deck, from ship's stem to transom	3998
Clear superficial feet of poop deck house	1177
Entitled to carry on lower deck	285
Do. do. poop deck house	84
Total number of steerage passengers	369

J. M. VANDERGRIFF,
United States Measurer and Examiner of Vessels.

These vessels left the United States with these certificates, and returned with the precise number of passengers which they were informed by the certificates of the custom-house officers they were entitled to carry. Upon their return, they were seized for a breach of the revenue laws, and the captains were prosecuted, criminally, for bringing back that number of passengers. This state of things arose from the fact that, during the summer, while these vessels were absent, the Secretary of the Treasury changed the construction of the law as it previously existed, and determined that the poop deck house ought not be measured in ascertaining the capacity of a vessel for carrying passengers under the passenger law. These vessels left Europe before information of the change could have reached there. The change may be right; the Secretary of the Treasury, I think, was right in making this change of construction; but, at all events, the owners of the vessels ought to be informed of it before their vessels are seized, or the captains are prosecuted, criminally, for a breach of the law. Under these circumstances, I trust the bill will be passed without objection.

The bill was reported to the Senate, as amended, and the amendments made as in Committee of the Whole were concurred in.

Mr. WELLER. I was not in when the bill was explained. I wish to inquire whether it has been reported by any committee? I have had no opportunity of examining it, but I judge from its title that it relates to a question on which legislation is rather a delicate matter.

The PRESIDENT. The bill has just been reported from a select committee.

Mr. WELLER. I should like to have an opportunity of seeing what it is. We cannot legislate on this subject without affecting very large interests in which California is deeply concerned.

Mr. BENJAMIN. I will say to the Senator from California that this bill is purely temporary in its character. It is only designed to operate on a class of vessels which have not had time to receive information of the construction placed by the Secretary of the Treasury on the passenger law. It will cease to operate in the course of a month or two. It is no permanent change in the passenger laws. The bill was explained when it was introduced; it was referred to the select committee appointed to consider the general subject of the passenger laws; and is now reported by them, with a recommendation that it be passed.

Mr. WELLER. I make no objection to it.

The bill was ordered to be engrossed for a third reading, was read a third time, and passed.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had passed a bill to issue a registry to the bark Martha.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker had signed the following enrolled bills and joint resolution; which were then signed by the President, *pro tempore:*

A bill for indemnifying Moses D. Hogan for cattle destroyed by the Indians in 1842;

A bill for the relief of David B. Sears;

A joint resolution providing for the engraving, lithographing, and publishing of drawings, maps, charts, and other papers of Congress.

JUDICIAL SYSTEM.

Mr. BRODHEAD. I hope it will be the pleasure of the Senate to take up and dispose of the bounty land bill. The honorable Senator from Michigan [Mr. STUART] has valuable and definite information on the subject, and I have prepared a modified bill which I think will meet the general concurrence of the Senate.

The PRESIDENT. The unfinished business of yesterday—the bill to modify and amend the judicial system of the United States—is first in order.

Mr. HUNTER. That ought to be disposed of.

Mr. STUART. I wish to suggest to the Senator from Pennsylvania, that the Senate is now ready to dispose of the judiciary bill. Let us get it out of the way.

Mr. BRODHEAD. I yield only to the judiciary bill.

The PRESIDENT. The bill to modify and amend the judicial system of the United States is now before the Senate, as in Committee of the Whole. The question pending at the adjournment last evening, was on the motion of the Senator from Michigan, [Mr. STUART,] to postpone the further consideration of the subject until the first Monday in December next.

Mr. HUNTER. I shall not detain the Senate; I only wish to say that I should have been willing to vote for the bill reported by the Committee on the Judiciary, but as it is evident that we can do nothing on the subject at this session, I shall vote with those who go for an indefinite postponement.

Mr. TOUCEY. As the bill of the committee has not yet been amended by the Senate, I shall vote to proceed with its consideration, and against the postponement.

The question being taken by yeas and nays; resulted—yeas 29, nays 13; as follows:

YEAS—Messrs. Atchison, Badger, Bayard, Benjamin, Brodhead, Brown, Butler, Cass, Clay, Clayton, Dawson, Dixon, Douglas, Evans, Fessenden, Foot, Gwin, Houston, Hunter, James, Jones of Iowa, Jones of Tennessee, Mallory, Pearce, Reid, Rusk, Seward, Shields, and Wade—29.

NAYS—Messrs. Allen, Bell, Brainerd, Bright, Chase, Geyer, Gillette, Morton, Rockwell, Sebastian, Sumner, Toucey, and Weller—13.

So the motion to postpone was agreed to.

EXTENSION OF BOUNTY LAND LAWS.

Mr. BRODHEAD. I renew my motion to take up the bounty land bill.

Mr. HUNTER. Do I understand that the Senator from Pennsylvania thinks that bill can be disposed of to-day?

Mr. BRODHEAD. Yes, sir.

Mr. HUNTER. If so, I shall not press the Army appropriation bill to-day, although I am anxious that we should dispose of it.

Mr. SHIELDS. I hope the honorable Senator from Virginia will insist on considering the Army appropriation bill to-day. There is a necessity for speedy action upon it. I am afraid the bill of the honorable Senator from Pennsylvania cannot be finished to-day.

Mr. BRODHEAD. I beg to say to my friend from Illinois that, in my opinion, it will not take twenty minutes to dispose of my bill if we proceed with it to-day.

Mr. SHIELDS. Very well; I yield.

Mr. BRODHEAD's motion was agreed to; and the Senate accordingly, as in Committee of the Whole, resumed the consideration of the bill, "in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States."

Mr. FOOT. When this bill was last before the Senate, I moved an amendment to the effect that the Plattsburg volunteers should be included within its provisions. This was accepted by the Senator from Maine, [Mr. FESSENDEN,] as an addition to an amendment which he had previously offered; and that amendment of his, as thus modified, is, as I understand, the question now pending before the Senate.

The PRESIDENT. The question is on the amendment of the Senator from Maine, to insert in the description of the beneficiaries of the bill the words "or of any armed force employed by any State for the protection of its territory, and whose services have been paid for by the United States, or of any who went as volunteers at the invasion of Plattsburg by the British troops in September, 1814."

Mr. FOOT. Mr. President, when this bill was under consideration some days ago, I moved an amendment to the effect that the Plattsburg volunteers should be included within its provisions. This was accepted by the Senator from Maine [Mr. FESSENDEN] as an addition to an amendment which he had previously offered, and that amendment, so modified, is the question now pending before the Senate, as I understand it; and on the latter clause of that amendment particularly, which was accepted by the Senator from Maine, on my suggestion, I desire to submit a very few remarks, in addition to what I took occasion to address to the Senate at the time I moved the proposition. I had hoped that such a proposition would meet with no resistance and no objection in this body, especially from the friends of the bill. I still entertain the hope that all opposition to a proposition so manifestly just as this is, will be withdrawn, or, at least, that it will be overcome by the voice of the Senate. I undertake to say that no class of beneficiaries, included within the provisions of the bill, present stronger claims upon the consideration and bounty of this Government, as none rendered more essential services to the country in the war of 1812 than those Plattsburg volunteers. Your country, at the time, was invaded by a hostile army of fourteen thousand strong, and where you had no adequate regular force to resist its march; and these volunteers, obedient to the call of duty and patriotism, turned out upon the first sound of alarm, met that invading army upon the field of battle, routed and drove them back over the Canada line. They, indeed, turned the fortunes of the day, saved your regular troops from a disastrous defeat, and delivered your country from the presence and the depredations of a hostile and predatory army, boastful and confident of victory. The 11th day of September, 1814, is little less memorable in the annals of the last war with Great Britain than is the 8th of January, 1815. Both are canonized in the grateful recollections of the American people. The battle of Plattsburg was to the war of 1812 what the battle of Saratoga was to the war of the Revolution; and the honors and the glory of that day belong, in good part, to those in whose behalf, as an act of impartial justice, I ask you to extend the benefits of this bill.

As the claims and services of these volunteers are very well set forth in a report made to the House of Representatives by the Committee on Military Affairs, in March, 1850, and as the report is not a long one, I will take leave to read it:

MARCH 28, 1850.

Mr. J. A. KING, from the Committee on Military Affairs, made the following report:

The Committee on Military Affairs, to whom was referred the petition of the volunteers of Vermont for compensation for services at the battle of Plattsburg, in 1814, report:

That it appears from the petition of more than two hundred volunteers from the State of Vermont, that they, and many of their deceased companions, were at Plattsburg, in the month of September, 1814, and were present at the battle of the 11th of that month, serving under the immediate orders of General Strong, of that State, and under the command of General Alexander Macomb, who held the garrison at Plattsburg at that time; that, while engaged in their ordinary occupations, they heard that the British army, of fourteen thousand men, under Sir George Provost, accompanied by a powerful fleet, had invaded the neighboring State of New York, with the avowed purpose of conquering the fort at Plattsburg, and the American fleet then lying at anchor in the lake; that General Macomb, with a garrison of only fifteen hundred men, had, in this imminent peril and emergency, called upon the Governors of Vermont and New York for a militia force; and, as the population of that part of New York was sparse, and a large number of men could not be suddenly collected in season to repel the enemy, the alternative was presented to them of volunteering to cross the lake, and to hasten to the aid of their brethren, whose firesides were threatened by a powerful foe, or to await the attack upon their own soil. They preferred the former; and, leaving their plows in the furrow, and the tools of their trade where last used, they seized their arms and reached the field of battle in time to take their part in the decisive check which was then given to the British army; that, having done their duty, and seen the army of the enemy in full retreat, and his fleet in the possession of the gallant McDonough and his brave sailors; and, no further aid being required at their hands, they returned, as they came, without any compensation for their services beyond the share of common glory which each had a right to claim for himself and his State; that they come now before Congress to ask for such compensation for their short but

efficient services on that memorable occasion as has been awarded to others, under similar circumstances, and particularly to a regiment of militia, (the fourth regiment, second brigade, and third division of Vermont,) suddenly collected by its colonel, and also present and aiding in the defense of Plattsburg, on the 11th of September, 1814, the officers and men of which regiment were allowed, by the act of 1848, a compensation equal to one month's service on that occasion. As no distinction can be made between the services rendered by these two brave bodies of men, so should there be no difference in their compensation; and, when the statement made by the petitioners is fully sustained and borne out by the official dispatch of the commanding general, it is recommended that a bill be prepared authorizing and directing the proper accounting officers of the Treasury to adjust, settle, and pay a compensation to the volunteers of the State of Vermont who were present at the battle of Plattsburg, and to the representatives of those that are dead, which shall be equal to one month's services each.

In this connection, I will further claim the indulgence of the Senate by reading a paragraph or two from General Macomb's report of the battle of Plattsburg, in which he pays a just tribute to the services of the Vermont volunteers:

HEADQUARTERS, PLATTSBURG, *September* 15, 1814.

SIR: I have the honor to communicate, for the information of the War Department, the particulars of the advance of the enemy into the Territory of the United States; the circumstances a tending the siege of Plattsburg, and the defense of the posts intrusted to my charge.

The Governor General of the Canadas, Sir George Prevost, having collected all the disposable force of Lower Canada, with a view of conquering the country as far as Crown Point and Ticonderoga, entered the territories of the United States, on the first of the month, and occupied the village of Champlain; there avowed his intensions, and issued orders and proclamations, tending to dissuade the people from their allegiance, and inviting them to furnish his army with provisions. He immediately began to press the wagons and teams in the vicinity, and loaded them with his heavy baggage and stores. From this, I was persuaded he intended to attack this place. I had but just returned from the lines, where I had commanded a fine brigade, which was broken to form the division under Major General Izard, ordered to the westward. Being senior officer, he left me in command, and, except the four companies of the sixth regiment, I had not an organized battalion among those remaining. The garrison was composed of convalescents and recruits of the new regiments, all in the greatest confusion, as well as the ordnance and stores, and the works in no state of defense. * * *

From the 7th to the 11th, the enemy was employed in getting on his battering train, and erecting his batteries and approaches, and constantly skirmishing at the bridges and fords. By this time, the militia of New York, and the volunteers of Vermont, were pouring in from all quarters. I advised General Mooers to keep his force along the Saranac, to prevent the enemy's crossing the river, and to send a strong body in his rear to harass him day and night, and keep him in continual alarm. The militia behaved with great spirit after the first day, and the volunteers of Vermont were exceedingly serviceable. * * * *

At dusk the enemy withdrew his artillery from the batteries, and raised the siege; at nine, under cover of the night, sent off, in a great hurry, all the baggage he could find transport for, and also his artillery. At two next morning the whole army precipitately retreated, leaving the sick and wounded to our generosity, and the Governor left a note with a surgeon requesting the humane attention of the commanding general. * * * * * * * * * *

The light troops, volunteers, and militia, pursued immediately on learning of his flight; and some of the mounted men made prisoners five dragoons of the nineteenth regiment, and several others of the rear guard. A continual fall of rain and a violent storm prevented further pursuit. Upwards of three hundred deserters have come in, and many are hourly arriving. We have buried the British officers of the army and navy with the honors of war, and shown every attention and kindness to those who have fallen into our hands. * * * * The loss of the enemy in killed, wounded, prisoners, and deserters, since his first appearance, cannot fall short of twenty-five hundred, including many officers, among whom is Colonel Wellington, of the "Buffs."

At this point I will read a few sentences from Thompson's Civil History of Vermont:

"About the 1st of September, Governor Prevost entered the territory of the United States, at the head of fourteen thousand men, and advanced towards Plattsburg, which was garrisoned by only one brigade, under General Macomb, the main northern army having marched to the westward. On the 7th of September, the enemy appeared before Plattsburg, and were employed in getting on their battering train, erecting batteries, and in skirmishes with the Americans, but did not make a general assault till the arrival of their flotilla.

"In the mean time every effort was made to call in the neighboring militia. Expresses were sent into Vermont, and the Green Mountain boys, without distinction of party, shouldered their guns, and hastened forward to repel the invasion; and in the part which they took in the subsequent conflict, they nobly sustained their high character for firmness and bravery."

This testimony is abundant, Mr. President, to prove the great importance and value of the services of those volunteers, and their fidelity and devotion to the interests and honor of the country upon that trying occasion. Sir, I should reproach myself as derelict in the discharge of my duty towards those brave and true men, and patriots, were I to fail to urge their claims upon the favorable consideration of this body, when you are proposing to bestow a bounty upon all who have ever, at any time, been regularly enrolled in the service of the country, in any of its wars, and been paid by the United States, without reference to the length of service, as the bill now under discussion proposes to do. The discrimination which the bill makes, as it now stands, is manifestly invidious and unjust. You offer a bounty to one who has rendered service in a war, and has been paid for it, and withhold it from another who has rendered like service, and, it may be, vastly more important service, and who has not been paid for it. The mere statement of the case shows forth the palpable injustice and gross partiality of this discrimination, and I insist upon it there is not a sound and defensible reason for it.

But, says the honorable Senator from Pennsylnia, [Mr. BRODHEAD,] who has taken the very vigilant charge of this bill, this will be extending its provisions too far; it will embrace too large a number; the law could not be executed; it will increase the facilities to frauds upon the Government, &c. I answer, as the bill already embraces everybody who has ever been enlisted in the service of the country, in any of its wars, and who has been paid for it, however short that service may have been, why not take in the small remnant who have been left out, and excluded by the conditions of enrollment and payment, but who have rendered actual and most important services, at a most important and critical time, and who are equally meritorious, to say the least, and not the less meritorious because they have not been paid; certainly not the less meritorious, no one will undertake to say; because, in the hour of their country's need, they left their fields and their workshops, and hurried away to the field of battle without stopping for a regular enrollment? They drove that invading army from your borders, and restored quiet and security to the inhabitants of your northern frontier, and then returned to their homes and to their daily toil. Not the less meritorious are they, that they did not take care that their names were enrolled for payment, or that they have never called upon the Government, even for a just remuneration, until long years afterwards, when they found the Government, in the fullness of its Treasury, and in the magnitude of its domain, dealing out pensions and bounty lands to almost everybody else.

The objection that this will extend the provisions of the bill too far, and embrace too large a number, is not a very satisfactory reason for an act of admitted and manifest partiality. Besides, sir, it comes too late. You have already extended the provisions of the bill either quite too far, or not quite far enough. The objection has already lost its application, and, therefore, its force. The bill adopts the principle of granting a bounty to all who have ever rendered even nominal service in war, and now we only ask you to extend it so far as to reach all who have rendered actual services in times of pressing emergency. We ask you, only, in other words, to make your bill equitable and impartial in its operation.

The objection that the law cannot be executed, I regard as a mere chimera—as a naked and unsustained assertion. If the law could be executed as the bill now stands, embracing all who have ever been mustered into the military service of the country, or their generation after them, it is idle to pretend that it cannot be executed if it be made to embrace the comparatively small addition of the unenrolled and unpaid volunteers who, in a time of imminent peril, went out to the aid of your regular troops, and saved them from defeat, and your country from dishonor. I apprehend there will be no great difficulty in the execution of the law.

The objection that it will open a wider avenue to the commission of frauds upon the Government, I have before endeavored briefly to answer. I repeat, the evidence of the services of unenrolled volunteers can be made as clear, as conclusive, and as reliable as though their names figured upon a muster-roll. Moreover, if frauds continue to be practiced upon the Government, as most undoubtedly they will, you may be assured that it will be by other means and by other modes than by attempting to show a volunteer service at Plattsburg or anywhere else, which, in reality, was never rendered. Besides this, Mr. President, your Government peculators and your public plunderers, usually strike at higher game; they strike for a richer prize than the paltry consideration of a quarter section of public land. I dismiss this objection as of very little weight.

Mr. President, I was exceedingly gratified, when this bill was last under consideration the other day, to hear the distinguished Senator from Michigan [Mr. CASS] award the tribute of his high commendation to the conduct of the Vermont militia, during the war of 1812. I can assure the honorable Senator that his commendation will be as highly appreciated as it is well deserved. It is true, as was stated by the honorable Senator on that occasion, that the Governor of Vermont, in November, 1813, issued a proclamation ordering the immediate return to the State of a certain brigade of militia who had previously passed over to the opposite side of the lake, into the State of New York, where an invasion of the enemy from Canada was daily apprehended, and directing them to hold themselves in readiness to receive the orders of the State authorities, and to protect and defend the exposed frontiers of our own State. Lake Champlain was also, at that time, in possession of the British fleet, our own not having been fitted out until the following spring. Its borders were exposed to attack; and, in fact, two or three hostile demonstrations had already been made upon the Vermont side. It is true, also, that that brigade of volunteer militia refused to obey that summons. Since reference has been made to that proclamation, and as it has often been made the subject of severe animadversion, it is but right and just that I should read it to the Senate, in order that the reasons assigned by the Governor himself may be the more fully understood, and his motives the better appreciated:

By his Excellency MARTIN CHITTENDEN, Esq., Governor, Captain-General, and Commander-in-Chief in and over the State of Vermont.

A PROCLAMATION.

Whereas it appears that the third brigade of the third division of militia of this State has been ordered from our frontiers to the defense of a neighboring State; and, whereas, it further appears, to the extreme regret of the Captain-General, that a part of the militia of said brigade have been placed under the command, and at the disposal of, an officer of the United States, out of the jurisdiction or control of the Executive of this State, and have been actually marched to the defense of a sister State, fully competent to all the purposes of self-defense, whereby an extensive section of our own frontier, is left, in a measure, unprotected, and the peaceable, good citizens thereof are put in great jeopardy, and exposed to the retaliatory incursions and ravages of an exasperated enemy; and, whereas, disturbances of a very serious nature are believed to exist, in consequence of a portion of the militia having been thus ordered out of the State; Therefore, to the end that these great evils may be provided against, and, as far as may be, prevented for the future—

Be it known, that such portion of the militia of said third division as may be now doing duty in the State of New York, or elsewhere, beyond the limits of this State, both officers and men, are hereby ordered and directed, by the Captain General and Commander-in-Chief of the militia of the State of Vermont, forthwith to return to the respective places of their usual residence, within the territorial limits of said brigade, and there to hold themselves in constant readiness to act in obedience to the orders of Brigadier General Jacob Davis, who is appointed, by the Legislature of this State, to the command of said brigade.

And the said Brigadier General Jacob Davis is hereby ordered and directed, forthwith, to see that the militia of his said brigade be completely armed and equipped, as the law directs, and held in constant readiness to march, on the shortest notice, to the defense of the frontiers; and, in case of actual invasion, without further orders, to march with his said brigade, to act, either in coöperation with the troops of the United States, or separately, as circumstances may require, in repelling the enemy from our territory, and in protecting the good citizens of this State from the ravages of hostile incursions.

And in case of an event so seriously to be deprecated, it is hoped and expected that every citizen, without distinction of party, will fly at once to the nearest post of danger, and that the only rallying word be "our country."

Feeling, as the Captain General does, the weight of responsibility which rests upon him, with regard to the constitutional duties of the militia, and the sacred rights of our citizens to protection from this great class of the community, so essentially necessary in all free countries, at a moment, too, when they are so eminently exposed to the dangers of hostile incursions and domestic difficulties, he cannot conscientiously discharge the trust reposed in him by the voice of his fellow-citizens, and by the Constitutions of this State and the United States, without an unequivocal declaration, that, in his opinion, the military strength and resources of this State must be reserved for its own defense and protection, *exclusively*, excepting in cases provided for by the Constitution of the United States; and then, under orders derived *only* from the Commander-in-Chief.

Given under my hand, in Montpelier, the 10th day of November, in the year of our Lord, 1813, and of the independence of the United States the thirty-eighth.

MARTIN CHITTENDEN.

That brigade company published an answer to this proclamation. That answer is so character-

istic of the spirit and illustrates the valor, the determination, the "real grit," if I may so say, of these volunteer defenders of the country, that the Senate will pardon me for reading it in this connection:

ANSWER TO GOVERNOR CHITTENDEN'S PROCLAMATION.

To his Excellency MARTIN CHITTENDEN, ESQ., *Governor, Captain General, and Commander-in-Chief in and over the State of Vermont:*

SIR: A most novel and extraordinary proclamation from your Excellency, "ordering and directing such portion of the militia of the third brigade in the third division of the militia of Vermont, now doing duty in the State of New York, both officers and men, forthwith to return to the respective places of their usual residence," has just been communicated to the undersigned, officers of said brigade. A measure so unexampled requires that we should state to your Excellency the reasons which induce us, absolutely and positively, to refuse obedience to the order contained in your Excellency's proclamation. With due deference to your Excellency's opinion we humbly conceive that, when we are ordered into the service of the United States, it becomes our duty, when required, to march to the defense of any section of the Union. We are not of that class who believe that our duties, as citizens or soldiers, are circumscribed within the narrow limits of the town or State in which we reside; but that we are under a paramount obligation to our common country, to the great Confederacy of the States. We further conceive that, while we are in actual service, your Excellency's power over us, as Governor of the State of Vermont, is suspended.

If it is true, as your Excellency states, that "we are out of the jurisdiction or control of the Executive of Vermont," we would ask from whence your Excellency derives the *right*, or presumes to exercise the power, of ordering us to return from the service in which we are now engaged? If we were *legally* ordered into the service of the United States, your Excellency must be sensible that you have no authority to order us out of that service. If we were *illegally* ordered into service, our continuance in it is either voluntary or compulsory. If voluntary, it gives no one a right to remonstrate or complain; if compulsory, we can appeal to the laws of our country for redress against those who illegally restrain us of our liberty. In *either* case we cannot perceive the right your Excellency has to interfere in the business. Viewing the subject in this light, we conceive it our duty to declare unequivocally to your Excellency that we shall not obey your Excellency's order for returning, but shall continue in the service of our country until we are legally and honorably discharged. An invitation or order to desert the standard of our country will never be obeyed by us, although it proceeds from the Governor and Captain General of Vermont.

Perhaps it is proper that we should content ourselves with merely giving your Excellency the reasons which prevail upon us to disregard your proclamation; but we are impressed with the belief that our duty to ourselves, to the soldiers under our command, and to the public, requires that we should expose to the world the motives which produced, and the objects which were intended to be accomplished by, such an extraordinary proclamation. We shall take the liberty to state to your Excellency plainly our sentiments on the subject. We consider your proclamation as a gross insult to the officers and soldiers in service, inasmuch as it implies that they are so *ignorant* of their rights as to believe you have authority to command them in their present situation, or so *abandoned* as to follow your insidious advice. We cannot regard your proclamation in any other light than as an unwarrantable stretch of Executive authority, issued from the worst of motives, to effect the basest purposes. It is, in our opinion, a renewed instance of that spirit of disorganization and anarchy which is carried on by a faction, to overwhelm our country with ruin and disgrace. We cannot perceive what other object your Excellency could have in view, than to embarrass the operations of the Army, to excite mutiny and sedition among the soldiers, and to induce them to desert, that they might forfeit the wages to which they are entitled for their patriotic services.

We have, however, the satisfaction to inform your Excellency that although your proclamations have been distributed among the soldiers, by your agent delegated for that purpose, they have failed to produce the intended effect; and although it may appear *incredible* to your Excellency, *even soldiers* have discernment sufficient to perceive that the proclamation of a Governor, when issued out of the line of his duty, is a harmless, inoffensive, and nugatory document—they regard it with mingled emotions of pity and contempt for its author and as a striking monument of his folly.

Before we conclude, we feel ourselves in justice to your Excellency, bound to declare, that a knowledge of your Excellency's character induces us to believe, that the folly and infamy of the proclamation to which your Excellency has *put your signature*, is not wholly to be ascribed to your Excellency, but chiefly to the evil advisers with whom we believe your Excellency is unhappily encompassed.

Signed by all the officers of the brigade.

After the reading of that document, Mr. President, the conduct and the character, the stubborn valor and the patriotism of the militia of Vermont, I am quite sure, will require no further vindication at my hands, before this body.

This proclamation of Governor Chittenden, however, excited less of censure and of indignation, than his subsequent refusal to order out the militia of the State, after the actual irruption of the enemy into our territory on the opposite side of the lake in the State of New York. He, however, called upon them to turn out as volunteers, and in his annual message to the Legislature, in the month of October, after, he took occasion to commend them for their promptness, their bravery and their brilliant success.

I am not to be understood, Mr. President, as attempting to impeach the conduct, much less to impugn the motives or the patriotism, of Governor Chittenden. I am merely stating historical facts. He acted, I have no doubt, upon the honest convictions of his own judgment, and from a sincere regard to what he deemed to be the best interests, the honor, and the safety of the State. He acted certainly not inconsistently with his political faith. He was a Federalist of the old school, and a persistent opponent of the war, and of the Administration of Mr. Madison. He was a member of Congress in the House of Representatives at the time of the declaration of war, and was the only member from the Vermont delegation in either House who voted against that declaration. The following year he was elected Governor of the State of Vermont by the Legislature, after a protracted struggle, by a majority of a single vote, the people having failed to make an election in the popular canvass, no one having received an absolute majority of all the votes cast, as required by the constitution of that State. He was reëlected, in 1814, by the Legislature, the people having again failed to elect, as in the preceding year. The popular sentiment of Vermont was in favor of the war, and of the Administration of Mr. Madison, as indicated by all the elections, except in 1813 and 1814, when the parties were nearly balanced. The State cast its electoral vote for Mr. Madison, as it had before done for Mr. Jefferson, and as it afterwards did for Mr. Monroe. Vermont was emphatically a Republican State. Without calling in question, then, the purity of his motives, it is apparent that the sentiments and the course of action of Governor Chittenden in reference to the war, were not in accordance with the predominant sentiment of the State. But here I may be allowed to claim for his action the charitable consideration of our Democratic friends upon the opposite side of the Chamber, in view of the fact that he afterwards attached himself to the Jackson Democracy, as did many of the leading Federalists of my State, and that he remained through life a most respectable, prominent, and influential member of that party.

Mr. President, I have been prompted to say this much by way of explanation, and of vindication, chiefly on account of a remark that was thrown out by the Senator from Pennsylvania the other day, while he was addressing the Senate in opposition to my proposition; the purport of which was, that he had heard of certain militia companies in New England who had refused to march beyond the limits of their State, and which, in the connection in which it was uttered, might be construed as having reference to the militia of my State. As a representative from that State, I could do no less than attempt to vindicate the character of her militia, whose bravery and whose gallant bearing had won the applause and the admiration of the country, from an implied aspersion, however remote the implication might be. With these remarks, I submit the question upon my amendment to the judgment of the Senate.

Mr. CASS. I have listened with great pleasure and interest to the remarks of the honorable Senator in vindication of the military character of the militia of his State, and I thank him for them. I had myself, upon my table, the very proclamation and answer which the honorable Senator has read. They were fresh in my memory; and I had them here to read; but it is unnecessary to do it; nor is it necessary that I should comment much upon them.

The difficulty was, that strange passions were in operation; strange doctrines were taught; strange proceedings took place in those days, derogatory to American patriotism, injurious to the cause of our country, and encouraging to the enemy in the efforts that he was making in the idle and vain hope of subduing us. Like the honorable Senator from Vermont, I view this subject historically. Every feeling connected with it has gone by; and in the few words that I mean to say to-day, I have reference to this transaction solely as history. It is good to look back. There are impressive chapters in our history that it would be good to read; and there is none more impressive than this very chapter containing the narrative of the internal difficulties that divided us. It is good to look to the past, Mr. President. It will give us wise suggestions for the present, and solemn warning for the future.

Why, Mr. President, that very proclamation of the Governor of Vermont shows the state of mind in which it was issued. I do not intend to impeach his motives. I am as well aware as the honorable Senator can be, that he was under the influence, the monomania, if I may so call it, of the overwhelming party feeling of that day. We all know that many a man in the country rejoiced at the first great victory that attended the English in the capture of Detroit; and many a man in the country regretted the capture of the Guerriere in that first and noble action under Hull, when it was taken by the Constitution. It is difficult to realize these facts; but they are so.

The Governor of Vermont said to the militia, when he endeavored to call them home, "You are wanted to defend your own State, and not the State of New York." All know, as well as you and I know—he would have known in his sane moments—that it was the duty of the General Government to defend the whole Union, and it only can judge what force is wanted. And what makes it worse, Mr. President, it is evident from the proclamation that he did not need the militia. He only called them to be ready to repel invasion. The invasion had not taken place; and the honorable Senator knows that every Green Mountain boy in the State would have risen if the British had put their foot on the frontier. He knows it as well as I do. It was not necessary to recall that brigade. The Governor could have armed his other militia, and held them in service ready to meet the incursion of the enemy. He did recall that brigade, Mr. President; but it is one thing to call spirits from the vasty deep, and it is another thing for them to come. Those men were animated by the spirit of Ethan Allen, and of the other noble men of Vermont who fought the battles of Bennington and Saratoga, and whose blood was poured out on many another battle-field. They were animated by that spirit, and they would not come. They chose, as you have seen in the noble paper which has been read, to go and meet the enemy—not to seek shelter at their own firesides. I honor them, and I would vote for almost anything for them. Those are my feelings.

The other day, when this subject was up for discussion, the honorable Senator from Georgia [Mr. TOOMBS] who, I am sorry to see is not in his seat, replied to a remark of mine, that I supposed those strange doctrines which were afloat, and pertinaciously adhered to, at that day, had been abandoned. I had heard of the doctrine for thirty years, and I had heard no defender of it. I thought they had gone by with the actions and the passions which reigned at that day. But, no; the Senator from Georgia, for whom I have great respect, said he believed that the Governors of the States had this right of determination. He said at once frankly that he believed the Governor of Massachusetts had mistaken the state of things; that, although he had the right to determine the propriety of calling out the militia, he had failed in the application of it; for the circumstances did require the militia to be called out. Now, Mr. President, I would not say a word at this time, if I were going to argue the point myself. I would wait until the return of the honorable Senator from Georgia; but I do not mean to argue it myself at all. I mean that James Madison, and James Monroe, and William B. Giles shall answer it. They can do it better than I can, and I will read a few words from each to show what were the doctrines which were settled when this subject was fairly considered, and which, I supposed, every man adhered to at this day. In the first place, Mr. President, what is the provision of the Constitution on the subject? It is that

"The Congress shall have power" * * * "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

In 1792, only three years after the adoption of that Constitution, when the men who had the principal hand in its adoption were yet upon the stage of political action, and at a time when, at the head of the Government, was the man who had been at the head of the convention which framed the Constitution, this act was passed:

"*Be it enacted, &c.*, That whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation, or Indian tribe, it shall be lawful for the President of the United States, to call forth such number of the militia of the State or States, most conve-

nient to the place of danger, or scene, of action, as he may judge necessary to repel such invasion, and to issue his orders for that purpose, to such officer or officers of the militia as he shall think proper," &c.

By the act of 1792, the power was transferred to the President by Congress to call out such portions of the militia of the country as might be required by the exigencies of the time. Now, Mr. President, how can that power be vested in any body but the head of the Federal Government? How can it be vested in that of the individual States without absolute destruction to our country? Recollect, Mr. President, that those provisions are meant to meet the case of a war. They are not needed in time of peace. As I said, at such a time we go on very well; but they are made to meet the case of war. You have now thirty-one Governors of States. If thirty-one men are all to concur in calling out the militia, who can see where you are to be led? You know, as well as I do, that it would become a local question. Every State would want to defend its own frontier; and there is no man who has read the history of the Revolution, and especially the letters of General Washington, but who knows that that was one of the difficulties which the country encountered during the revolutionary contest, and under the old Confederation, and which rendered the present Constitution necessary. There was a race among the several States as to which should keep most troops. It was a natural feeling. That feeling was to be counteracted by a more energetic Government, charged with power over the whole forces of the country. Can this power be executed by them, or must it be executed by the General Government, which is responsible to all, and put there by all, and which has the information which all those local officers cannot possibly be in possession of?

Mr. DAWSON. With the permission of my friend from Michigan, in the absence of my colleague, I will propound to him a question. If the President of the United States gives an order for the militia of a State, has not that order necessarily to go through the commander-in-chief of the State?

Mr. CASS. I do not know that it has, by the Constitution?

Mr. DAWSON. And if it has, is the Governor as a mere subordinate officer, bound to execute the order of the President of the United States, as a matter of course?

Mr. CASS. That is the very point on which the question turns. It is the very point on which I am going to read the authorities. In my opinion, nothing can be clearer than that it is the duty of the Governor of a State to call out the militia of the State when the President declares, under the authority conferred by the Constitution, that a contingency has arisen which demands them to be called out.

Mr. DAWSON. I know that my views are strictly State-rights; and the point I wanted to get at was, whether the Governor of a State was a subordinate officer, and bound to obey; and whether, if he did not perform the order of the commander-in-chief, the President of the United States, he was to be subjected to a court martial like any other subordinate officer.

Mr. CASS. It is not a militia or military question at all. He is not acting as a militia man. It is his duty, as the Executive, under the provision of the Constitution, to call out the militia when the exigency requires it, and that exigency is to be judged of by the President. If the honorable Senator will wait a few moments, I will show him far better reasoning than my own—that of Mr. Madison and Mr. Monroe, and a committee of five members of the Senate, able and capable men, upon the very point which we are now discussing.

Nothing illustrates the consequence of this doctrine more than the very case under consideration. In June, 1812, war was declared. Immediately after war was declared, the British got possession of the upper district of Michigan. They got possession of Eastport a few months before. They had been ranging along the coast with a hostile squadron, at any time prepared to make a descent on our territory, and yet, in July, 1812—I think, on the 18th or 20th—the Governor of Massachusetts tells the General Government that the exigency pointed out by the Constitution has not occurred—in other words, that there is no danger of invasion. I take it, that neither the honorable Senator from Georgia, nor anybody else, will contend that the invasion must actually take place before you can prepare for it. You must not wait to permit the enemy to land before you make preparation; but the militia are to be called out to repel the invasion, under the construction which has been given to the Constitution from the commencement. The Governor of Massachusetts refused to call out the militia at that time, when the country was actually invaded. He refused to do it, as I tell the honorable Senator, when the British were ranging on the coast from the Bay of Fundy to St. Mary's.

Mr. President, we must recollect the strange state of things connected with our country at that time; we must recollect that it was, for years, a *quasi* war between us and England, the advantages being all on her side. It cannot escape our recollection, that the Chesapeake, sailing out of our country was attacked by the British ship Leopard, and men impressed from her, and I can repeat to this very day, though I have not read it for years, the beautiful paragraph in the proclamation of Mr. Jefferson, which he issued on that memorable occasion. After recapitulating the outrageous conduct of the British, and the spirit of forbearance which this Government had exercised, he goes on to say, that, at length, they had transcended all former acts of violence, and brought the national feeling to a crisis, and the Government to a necessary pause. You were liable at any time to an invasion from the moment war was declared, and I repeat, the Governors of all the New England States, not Massachusetts alone, put that construction upon their powers, and held back their militia; and still worse, Mr. President, that doctrine continued down to 1814. Down to August, 1814, after this Capitol had been burnt by a Gothic enemy, and when the battle of North Point had to be fought, where the citizens of Baltimore nobly defended their own town, and repulsed the enemy, the Governor of Massachusetts refused to call out the militia, and place them under the orders of the United States. That is a historical fact.

I repeat, Mr. President, I did not rise to argue this point at all. These are simply prefatory observations. I will now begin by reading the message of Mr. Madison, announcing to the Congress of 1814 this doctrine:

"Among the incidents to the measures of the war, I am constrained to advert to the refusal of the Governors of Massachusetts and Connecticut to furnish the required detachments of militia toward the defense of the maritime frontier. The refusal was founded on a novel and unfortunate exposition of the provisions of the Constitution relating to the militia. The correspondences which will be laid before you contain the requisite information on the subject. It is obvious that, if the authority of the United States to call into service and command the militia for the public defense can be thus frustrated, even in a state of declared war, and, of course, under apprehensions of invasion preceding war, they are not one nation for the purpose most of all requiring it, and that the public safety may have no other resource than in those large and permanent military establishments which are forbidden by the principles of our free Government, and against the necessity of which the militia were meant to be a constitutional bulwark."

In 1814, the committee of the Senate called upon the Executive for his views in relation to the matter. Mr. Monroe was then Secretary of War. Like a true patriot, he had exchanged the Department of State, where the duties were comparatively light, to take, under critical circumstances, and at the request of the President, the Department of War, and I have here his reply to the request of the committee of the Senate.

In that report he states the points which have been raised. These points are stated by the Governor of Massachusetts in his communication to the Secretary of War. He says that he had called upon the members of the judicial tribunal of the State, agreeably to the provision of its constitution, to ascertain their opinions upon these two questions:

First. Whether the commanders-in-chief of the militia of the several States have a right to determine whether any of the exigencies contemplated by the Constitution of the United States exist, so as to require them to place the militia or any part of it in the service of the United States, at the request of the President, to be commanded by him, pursuant to acts of Congress.

Second. Whether, when either of the exigencies exist authorizing the employing of militia in the service of the United States, the militia thus employed can be lawfully commanded by any officer but of the militia, except by the President of the United States.

To these two questions, the answer of the supreme tribunal of Massachusetts was, that the Governors had the right to determine the exigency; and, that when the militia of the State were acting in conjunction with the military forces of the United States, or with the militia of the other States, there was no officer but the President himself in person who could take the command of them; so that the detachments of militia of the thirty-one States of the Union, if now called out under such a doctrine, would have thirty-one commanders, and they would probably have to resort to the Grecian method of taking the command day by day. That was the decision of the supreme court of Massachusetts. Now, what does Mr. Monroe say:

DEPARTMENT OF WAR, *February* 11, 1815.

SIR: I have had the honor to receive your letter of the 7th ultimo, stating that the Military Committee of the Senate had observed that difficulties had arisen between the authorities of the United States and some of the individual States, respecting the relative command of the officers of the regular Army, and of the militia, when called to act together, and were desirous of such information on the subject as this Department might possess, and of its opinion whether some legislative provisions might not be adopted which would tend to heal such differences; to prevent the recurrence of the like for the same causes; and to facilitate the operations of the Department in other respects.

My late indisposition will, I trust, explain satisfactorily to the committee the cause of the delay of my answer, which I have much regretted.

In complying with the request of the committee, it has appeared to me advisable to communicate all the documents in this Department relating to the objects of its inquiry. By a detailed view of the several measures which have been adopted by the President, since the war, for the defense of the country, in discharge of the duties imposed on him by the Constitution and laws of the United States; of the objections to those measures by the Executives of some of the States; and of the correspondence between this Department and the military authorities acting under it with the Executives of such States, the committee will see the grounds of the differences which have attracted attention, and be enabled to judge how far any legislative interposition may be useful or proper.

The paper A contains a copy of the letters of the Secretary of War to the Governors of the several States, detailing their respective quotas of militia, under the acts of Congress.

B is a copy of a report of the Secretary of War to the Military Committees of the Senate and House of Representatives, bearing date on the 21st day of December, 1812, communicating a division of the United States into military districts, then contemplated by the Department of War, with the reasons for it; which division, with certain modifications, was afterwards adopted. This report treats on some subjects not immediately within the scope of the call of the committee, yet treating, in all its parts, on the important subject of defense, and thereby intimately connected with the object of the call. I have thought that a view of the whole paper, at this time, would not be unacceptable.

C is a copy of the answers of the Governors of several of the States to the Department of War, on the requisitions made for parts of their quotas of militia under the several acts of Congress, and of the correspondence which passed between them and the Department of War, and the commanders of the military districts acting under it within which those States were.

D is a copy of a correspondence between the Governor of New Jersey and the Department of War, relating to the appointment of the Governor of New York to the command of the miltary district No. 3; a copy of this correspondence is presented, to communicate to the committee every circumstance that has occurred relating to the command of the militia in the service in the United States.

It appears, by these documents, that the Governors of Massachusetts, Connecticut, and Rhode Island, have objected to the requisitions made on their several States, for parts of their respective quotas of militia, on the following grounds: First. That the President has no power to make a requisition for any portion of the militia, for either of the purposes specified by the Constitution, unless the Executive of the State, on whose militia such call is made, admits that the case alleged exists, and approves the call. Second. That, when the militia of a State should be called into the service of the United States, no officer of the regular Army had a right to command them, or other person, not an officer of the militia, except the President of the United States in person. These being the only difficulties which have arisen between the Executive of the United States and the Executives of any of the individual States, relative to the command of the militia, known to this Department, are, it is presumed, those respecting which the committee has asked for information.

By these documents it is also shown that certain portions of the militia were called out by the Executives of these States, and a part of them put into the service of the United States. These doctrines were, nevertheless, adhered to. I do not go into a detail on these points, deeming it unnecessary, as all the facts will be found in the documents.

Respecting, as I do, and always have done, the rights of the individual States, and believing that the preservation of those rights in their full extent, according to a just construction of the principles of our Constitution, is necessary to the existence of our Union, and of free Government in these States, I take a deep interest in every question which involves such high considerations. I have no hesitation, however, in declaring it as my opinion, that the construction given to the Constitution by the Executives of these States, is repugnant to its principles and of dangerous tendency.

By the Constitution, Congress has power to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions; to provide for organizing, arming, and disciplining the militia, and for

governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

The President is likewise made Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States.

The power which is thus given to Congress by the people of the United States, to provide for calling forth the militia, for the purposes specified in the Constitution, is unconditional. It is a complete power, vested in the National Government, extending to all these purposes. If it was dependent on the assent of the Executives of the individual States, it might be entirely frustrated. The character of the Government would undergo an entire and radical change. The State Executives might deny that the case had occurred which justified the call, and withhold the militia from the service of the General Government.

It was obviously the intention of the framers of the Constitution, that these powers, vested in the General Government, should be independent of the States' authorities, and adequate to the ends proposed. Terms more comprehensive than those which have been used cannot well be conceived. Congress shall have power to provide for calling forth the militia to execute the laws of the Union. What laws? All laws which may be constitutionally made. Whatever laws are adopted for that purpose, within the just scope of that power, which do not violate the restraints provided in favor of the great fundamental principles of liberty, are constitutional, and ought to be obeyed. They have a right to provide for calling forth the militia to suppress insurrections. This right is also unqualified. It extends to every case of insurrection against the legitimate authority of the United States. It may be said that the Government may abuse its authority, and force the people into insurrection, in defense of their rights. I do not think that this is a probable danger under our system; or that it is the mode of redress, even if such abuse should be practiced, which a free people, jealous of their rights, ought to resort to. The right which they have to change their Representatives, in the legislative and executive branches of the Government, at short intervals, and, thereby, the whole system of measures, if they should think proper, is an ample security against the abuse, and a remedy for it, if it should ever occur.

Congress have also a right to provide for calling forth the militia to repel invasions. This right, by fair construction, is, in my judgment, an exemplification of the power over the militia, to enable the Government to prosecute the war with effect, and not the limitation of it, by strict construction, to the special case of a descent of the enemy on any particular part of our territory. War exists; the enemy is powerful; his preparations are extensive; we may expect his attacks in many quarters. Shall we remain inactive spectators of the dangers which surround us, without making the arrangements suggested by an ordinary instinctive foresight for our defence? A regular Army, in sufficient extent, may not exist. The militia is the principal resource. Is it possible that a free people would thus intentionally trammel a Government which they had created for the purpose of sustaining them in their just rank, and in the enjoyment of all their rights, as a nation, against the encroachments of other Powers, more especially after they had experienced that reliance could not be placed on the States individually, and that, without a General Government thus endowed, their best interests would be sacrificed, and even their independence insecure? A necessary consequence of so complete and absolute a restraint on the power of the General Government over the militia, would be to force the United States to resort to standing armies for all national purposes. A policy so fraught with mischief, and so absurd, ought not to be imputed to a free people in this enlightened age. It ought not, more especially, to be imputed to the good people of these States. Such a construction of the Constitution is, in my opinion, repugnant to their highest interests, to the unequivocal intention of its framers, and to the just and obvious import of the instrument itself.

The construction given to the Constitution by the Executive is sanctioned by legislative authority, by the practice of the Government, and by the assent and acquiescence of all the States, since the adoption of the Constitution to the period of the late unhappy differences, respecting which the committee has desired to be informed. By the law of 1795, the President is authorized to call forth the militia for the purposes mentioned in the Constitution, by a direct application to the militia officers, without any communication with, or reference to, the Executive of the individual States, and penalties are prescribed for carrying the law into effect, should resort to them be necessary. It merits attention, in regard to the question under consideration, that the power given to the President to call forth the militia, is made dependent, by this law, on the fact of an invasion having actually occurred, but takes effect in case of imminent danger of it.

In the year 1795, the President of the United States, on the certificate of a Judge of the Supreme Court, that an insurrection existed in the western part of Pennsylvania, called out the militia of several of the States, including the militia of Pennsylvania, to suppress it; which call was obeyed. In this instance, the assent of the Governor of Pennsylvania, to the existence of an insurrection, was not asked. General Washington, who then held the office of Chief Magistrate, relied exclusively on the powers of the General Government for the purpose. The opinion of the same Chief Magistrate, of the power of the General Government over the militia, was also made known by another distinguished act of his administration. By a report of General Knox, the then Secretary of War, to Congress, this doctrine is maintained to the utmost extent, and exemplifications of it insisted on, which prove, that, from the nature of our population, the militia was the force which, in his judgment, ought principally to be relied on for all National purposes.

In the instances under consideration, powers are granted to Congress for specified purposes, in distinct terms. A right to carry powers, thus granted, into effect, follows of course. The Government to whom they are granted must judge of the means necessary for the purpose, subject to the checks provided by the system. It adopts a measure authorized, supervises its execution, and sees the impediments to it. It has a right to amend the law to carry the power into effect. If any doubt existed on this point, in any case, on general principles, and I see cause for none, it cannot in the present—a power having been explicitly granted to Congress, by the Constitution, to pass all necessary and proper laws for carrying into execution the powers which are vested in the General Government.

Equally unfounded, in my opinion, is the other objection of the Executives of the States above mentioned, that, when the militia of a State are called into the service of the United States, no officer of the regular Army, or other person, not a militia officer, except the President of the United States, in person, has a right to command them.

When the militia are called out into the service of the United States, all State authority over them ceases. They constitute a part of the National force, for the time, as essentially as do the troops of the regular army. Like the regular troops, they are paid by the nation. Like them, their operations are directed by the same Government. The circumstance, that the officers of the militia are appointed by, and trained under, the authority of the State, individually, (which must, however, be done according to the discipline prescribed by Congress,) produces no effect on the great character of our political institutions, or on the character and duties of the militia when called into the service of the United States.

That the President alone has a right to command the militia in person, when called into the service of the United States, and that no officer of the regular army can take the command in his absence, is a construction for which I can see nothing in the Constitution to afford the slightest pretext. Is it inferred from the circumstance, that he is appointed commander-in-chief of the militia when called into the service of the United States? The same clause appoints him commander-in-chief of the land and naval forces of the United States. In construction of law he is commander-in-chief, though not present. His presence is not contemplated in either case. Equally necessary is it in the one as in the other. What has been the practice under the Constitution, commencing with the first Chief Magistrate, and pursuing it under his successors, to the present time? Has any President ever commanded, in person, either the land and naval forces, or the militia? Is it not known that the power to do it is vested in him, principally, for the purpose of giving him the control over military and naval operations, being a necessary attribute of the Executive branch of the Government? That, although he might take the command of all the forces under it, no President has ever done it? That a provision for the actual command is an object of legislative regulation, and the selection of the person to whom committed, of Executive discretion.

Under the commander, all the officers of every species of service and corps, regular and militia, acting together take rank with common consent, and perfect harmony, according to an article of war, sanctioned by the Constitution. By this article, the officers of the regular army take rank of those of the militia of the same grade, without regard to the dates of their commissions and officers of any and every grade of the militia, take rank of all officers of inferior grade of the regular army. When these troops serve together, they constitute but one National force. They are governed by the same articles of war. The details for detachment, guard, or any other service, are made from them openly. They are, in truth, blended together, as much as are the troops of the regular army when acting by themselves only.

The idea advanced by the honorable judges of Massachusetts, that, where the regular troops and militia act together, and are commanded in person by the President, who withdraws, there can be no chief commander, of right, of either species of force, over the whole, but that regulars and militia, as implied, may even be considered as allied forces, is a consequence of the construction for which they contend. It pushes the doctrine of State rights further than I have ever known it to be carried in any other instance. It is only in the case of Powers who are completely independent of each other, and who maintain armies, and prosecute war, against a common enemy, for objects equally distinct and independent, that this doctrine can apply. It does not apply to the case of one independent Power who takes into its service the troops of another; for then the command is always at the disposal of the Power making war, and employing such troops, whether regular or militia. How much less does it apply to the case under consideration, where there is but one Power, and one Government, and the troops, whether regular or militia, though distinguished by shades of character, constitute but one people, and are, in fact, countrymen, friends, and brethren.

The President is in himself no bond of union in that respect. He holds his station as commander-in-chief of the land and naval forces, and of the militia, under a Constitution which binds us together as one people, for that and many other important purposes. His absence would not dissolve the bond, would not revive discordant latent claims, or become a signal for disorganization.

The judicious selection of the chief commander, for any expedition or important station, is an object of high interest to the nation. Success often depends on it. The right to do this appears to me to have been explicitly vested in the President, by the authority given to Congress to provide for calling forth the militia, for organizing, arming, disciplining, and governing them, when employed in the service of the United States, and by the powers vested in him as Chief Executive of the United States. The rights of that highly respectable and virtuous body of our fellow citizens are, I am persuaded, completely secured, when the militia officers commanding corps are retained in their command—a major general over his division, a brigadier general over his brigade, a colonel over his regiment, and the inferior officers in their respective stations. These rights are not injured or affected by the exercise of the right of the Chief Magistrate; a right incident to the Executive power, equally applicable to every species of force, and of high importance to the public, to appoint a commander over them, of the regular Army, when employed in the service of the United States, if he should deem it expedient. The rights of the militia officers, and those of the General Government, are strictly compatible with each other. There is no collision between them. To displace militia officers for the employment of regulars, or to multiply commands of a separate character, especially of small bodies, for that purpose, would be improper.

In dividing the United States into military districts, and placing a general of the regular army in command in each, with such portion of the regular force, artillery, and infantry, as could be spared from other service, it was the object of the President to afford the best protection to every part of the Union that circumstances would admit of, with the least burden which might be possible to the people. These commanders were especially charged with the defense of their respective districts. It was enjoined on them to watch the movements of the enemy, to communicate them to the Government, and to execute its orders in summoning to the field, on menace of invasion, such portions of the quotas of the militia of each State within their respective districts, as had been provided for by act of Congress, and detailed by this Department, as were thought necessary.

When this arrangement was entered into, it will be observed that there was no menace of immediate invasion, and but few militia in the field. It was intended as a measure of precaution, to guard against possible, but, as was hoped and presumed, distant dangers. The Executive then had no alternative between that arrangement and any other. The militia officers of rank afforded none. They were at home—for the Executive has no power, under existing laws, to call them into the field without a command of men suited to their rank; and even when thus called forth, their term of service must expire with that of the men whom they command. These facts show that nothing was more remote from the intentions of the Government than to disregard the just claims of our fellow citizens of the militia. They show, also, how difficult it is to provide, by any arrangement which can be adopted, for a general and permanent defense of our principle cities and seaboard, without employing officers who are always in service, in the principal commands at least, for the purpose.

It is admitted that, by the increased pressure of the war, in consequence of which much larger bodies of militia have been called into service, and with them many general officers of experience and merit, these difficulties have proportionably diminished. Of these officers several have been already advanced to distinguished commands, with great satisfaction to their fellow-citizens, and advantage to their country. The committee may be assured that opportunities of this kind, regarding the obligation of a just responsibility, will be seized by the Executive with pleasure.

How far these differences may be healed, or the recurrence of the like in future be prevented, by legislative provisions, the committee, on a full view of these documents, and on a due consideration of the whole subject, will be able to decide. It is proper, however, to remark, that the divisions of the country into military districts, so far as relates to that special object, requires no legislative sanction, if, indeed, it admits of one. The definition of boundary was intended for the purpose of prescribing a limit to the civil duties, if they may be so called, rather than the military, of the commander of each district; rather to the period preceding an invasion, with a view to the necessary preparatory measures for repelling it, than after it should take place. An invasion by a large force would probably require the concentration of all our troops along the seacoast, who might be brought to act in it. In such an event, all limitations of boundary to the several commanders would cease. The march of the enemy would regulate that of our armies, who would, from every quarter, be directed against them.

I have the honor to be, with great respect, your most obedient and very humble servant,

JAMES MONROE.

This, Mr. President, is what Mr. Monroe said. In addition to that I will read the report of the committee of the Senate, to whom that subject was referred. I will name the members of that committee; some of them at least will be familiar to every member of the Senate. They were William B. Giles, of Virginia, Mr. Brown, of Louisiana, Mr. Turner, of North Carolina, Mr. Bibb, of Kentucky, and Mr. Gorman, all very prominent and able men in their day. They were all unanimous on this point. The report was made by Mr. Giles. I will read it:

"The Committee of the Senate on Military Affairs, understanding that serious differences of opinion existed between the Executive authority of the United States and the authorities of some of the individual States, respecting the relative powers of the General and State Governments over the militia, deemed it an incumbent duty on them to ask for information upon that highly interesting subject, with a view of interposing, if found practicable, so ne legislative provisions for the mutual accommodation of such differences. For this purpose, on the 7th of January last, in virtue of instructions from the committee, a letter was addressed to the honorable Secretary for the Department of War, a copy of which accompanies this report; and, in reply thereto, the committee received from him the letter and documents which also accompany this report.

"Although the return of peace has, for the present, relieved the committee from the necessity of providing a legislative remedy for these unfortunate differences, yet the committee conceive that the points in question are of vital importance to the essential rights and powers of the Government of the United States, and that the pretensions of the authorities of the States of Massachusetts, Connecticut, and Rhode Island, set up in opposition thereto, if now acquiesced in, might be resumed by the State authorities in the

event of a future war, and thus deprive the Government of the United States of some of its most efficient, legitimate means of prosecuting such war with vigor and effect, the committee have, therefore, thought proper to present the papers concerning this subject to the Senate for consideration.

"Whilst the committee will refrain from entering into arguments to fortify the grounds taken by the Executive Government on this subject, and explained in the letter of the Secretary for the Department of War, they feel themselves impelled by a sense of justice to express a decided approbation of its conduct in supporting and preserving the Constitution of the United States against the effects of the pretensions of the State authorities aforesaid, which, after full consideration, the committee believe not warranted by the Constitution nor deducible from any fair and just interpretation of its principles and objects. The direct and inevitable tendencies of those pretensions, in the opinion of the committee, would be to deprive the Government of the United States of powers essentially necessary to ensure *the common defense*, one of the great objects committed to its charge, to introduce discordant and contradictory counsels into the National deliberations, upon a point, too, of all others most requiring union of thought and of action; to change the fundamental character of the Constitution itself, and thus eventually to produce its destruction by debilitating the Government, and rendering it incompetent to the great objects of its institution, and to substitute in its stead the dismemberment of these United States, with all the horrible consequences respectively resulting from disunion."

I shall not add one word to that.

Mr. FESSENDEN's amendment was agreed to.

Mr. BRODHEAD. I have examined the communications received by the honorable Senator from Michigan, [Mr. STUART,] from the Land and Pension Bureaus. In view of the facts therein stated, and in view of the suggestions of many Senators around me, I have prepared a substitute for the entire bill, and as soon as the amendments are disposed of, I shall offer it. I may observe, too, that it is pretty much the original bill as it was introduced by me. It contains limitations and restrictions which will make the machinery work.

Mr. FOOT. I desire to ask the honorable Senator from Pennsylvania if his substitute embraces the substance of my amendment?

Mr. BRODHEAD. I believe it does not; and I would observe to the Senator from Vermont that, although his amendment may be right enough in itself, if you put in a little amendment here, and a little amendment there, you will jar the machinery. If the case of the soldiers whom he represents is so meritorious, a separate and independent bill should be passed for their relief. I have received many applications myself from those engaged in the Patriot war, and from some of the militia in the Florida wars; but, Mr. President, we must confine ourselves to those who have been regularly mustered into the service of the United States and paid, otherwise you will open the door too wide.

I have framed the substitute with a view to its passage. It would be much better to pass it, restricted as it is, this session, than to pass one the next Congress with much more enlarged provisions, because many of the persons intended to be benefited thereby will have sunk into the grave before that time. It is desirable, therefore, that we should pass some bill during the present session.

Mr. SHIELDS. I desire to submit an amendment, which I wish to follow that offered by the Senator from Maine. It applies to a class of soldiers who, I think, are not provided for in the bill, if I understand its provisions. That is the rangers, who fought, and who protected the frontiers against the Indians, and who were always engaged in *quasi* wars. I do not know any troops more meritorious. My honorable friend from Wisconsin [Mr. DODGE] understands their merit and services, perhaps, better than any other gentleman.

It is also intended to provide for chaplains who served in the Army during the several wars. I can testify, from my own knowledge, that some of those chaplains hazarded their lives as much as any soldier in the army; and I think they ought not to be forgotten. These two cases I think ought to be provided for. They are as meritorious as any class to whom the benefits of the bill are to be extended. The bill, as it will be observed, makes very little provision for our western States, and I think we ought to give this provision to those who were engaged in defending our frontiers. My amendment is to insert:

That the provisions of this bill shall apply to the troops who served as rangers for protecting the frontier settlements against the Indians, and to all the chaplains who were attached to, and who officiated with the army in any of the wars of the country; and in case of the decease of such rangers or chaplains, then to their descendants, as provided for by the bill in other cases.

The amendment was agreed to.

Mr. BADGER. I desire now to renew the amendment which I offered, but withdrew in order to give an opportunity to have the amendment of the Senator from Maine acted upon. It is to strike out of the first section the words "and paid by the United States."

On motion by Mr. STUART, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 18, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

SMITHSONIAN INSTITUTION.

The SPEAKER announced the following as the members of the select committee, raised for the purpose of investigating the management of the Smithsonian Institution:

Mr. UPHAM of Massachusetts, Mr. WITTE of Pennsylvania, Mr. TAYLOR of Tennessee, Mr. WELLS of Wisconsin, Mr. PURYEAR of North Carolina.

The SPEAKER. The Chair would state that, the gentleman from Vermont, [Mr. MEACHAM,] at whose instance the committee was raised, was not placed on it at his own request. He is one of the Regents of the Smithsonian Institution, and thought that, under the circumstances, he ought not to serve on the committee. Had he not requested to be excused from service, he would have been put, according to custom, at the head of the committee.

INDIAN HOSTILITIES.

The SPEAKER laid before the House the following message from the President of the United States:

To the Senate and House of Representatives:

I transmit herewith a letter of the Secretary of War upon the subject of Indian hostilities. The employment of volunteers, as suggested by the Secretary, seems to afford the only practicable means of providing for the present emergency.

There is much reason to believe that other cases, similar in character to those particularly referred to in the accompanying papers, will, at an early day, require vigorous measures and the exhibition of a strong military force. The proposed temporary provision to meet a special demand, so far from obviating, in my judgment, only serves to illustrate the urgent necessity of an increase of the regular Army, at least to the extent recommended in my late annual message. Unless, by the plan proposed, or some other equally effective, a force can be early brought into the field, adequate to the suppression of existing hostilities, the combination of predatory bands will be extended, and the difficulty of restoring order and security greatly magnified. On the other hand, without a permanent military force of sufficient strength to control the unfriendly Indians, it may be expected that hostilities will soon be renewed, and that years of border warfare will afflict the country, retarding the progress of settlements, exposing emigrant trains to savage barbarities, and consuming millions of the public money.

The state of things made known by various letters, recently received at the War Department, extracts from a portion of which are herewith inclosed, is calculated to augment the deep solicitude which this matter has for some time past awakened, and which has been earnestly expressed in previous messages, and in the annual reports of the Secretary of War.

I respectfully submit that the facts now communicated urgently call for immediate action on the part of Congress.

FRANKLIN PIERCE.

WASHINGTON, *January* 16, 1855.

Mr. FAULKNER. I move that the message be referred to the Committee on Military Affairs, and be printed.

The motion was agreed to.

COMMUNICATIONS FROM DEPARTMENTS.

The SPEAKER laid before the House a communication from the Treasury Department, transmitting estimates for additional appropriations for the Mint and the branch at San Francisco, California, for the current fiscal year; which, on motion by Mr. HOUSTON, was referred to the Committee of Ways and Means, and ordered to be printed.

Also, a communication from the Navy Department, transmitting, in compliance with law, the names of the clerks and other persons employed in that Department during the year 1854, or any part thereof, the time employed, sum paid, and residence of each at the time of appointment; which, on motion by Mr. HOUSTON, was laid upon the table, and ordered to be printed.

Mr. HOUSTON. I have a communication from the Treasury Department, transmitting additional estimates of appropriation for the branch Mint at Charlotte, North Carolina, which I ask may be laid upon the table, and ordered to be printed.

The motion was agreed to.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; which received the Speaker's signature:

An act for indemnifying Moses B. Hogan for cattle destroyed by Indians in 1842;

An act for the relief of David B. Sears;

A resolution providing for the engraving, lithographing, or publication of drawings, maps, charts, or other papers, for Congress.

SWAMP LANNS.

Mr. WARREN. I ask the unanimous consent of the House for leave to report, from the Committee on Public Lands, in reference to certain matters which have been referred to them for consideration. They will involve no controversy.

Mr. SKELTON. What do you propose to do if the reports are made?

Mr. WARREN. I only desire to get the reports out of my hands. I am instructed to report back House bill (No. 217) to enable the State of Arkansas and other States to reclaim the swamp and overflowed lands within their limits, and ask that it be laid upon the table. The matter has been settled by a bill which has already passed the House.

The bill was laid upon the table.

BOUNTY LANDS.

Mr. WARREN. I am instructed by the Committee on Public Lands to ask that that committee be discharged from the further consideration of fourteen petitions and memorials, praying that the bounty land law shall be amended so as to increase the bounty to one hundred and sixty acres; and that they be laid upon the table. They are mostly from citizens of the State of New York. The same question has been at least forty times reported on adversely by the committee, and with a full statement of their reasons for so doing.

The committee was discharged from the further consideration of the petitions and memorials; and they were laid upon the table.

THOMAS MARSTON TAYLOR.

Mr. MACDONALD. The Senate have asked a committee of conference on the disagreeing votes of the two Houses on Senate bill (No. 30) for the relief of Thomas Marston Taylor; and I now move that a committee of conference be agreed to, and that the Speaker appoint the managers on the part of the House.

The motion was agreed to; and the Speaker appointed Messrs. MACDONALD, LETCHER, and WALLEY, as the managers on the part of the House.

SAMUEL A. BELDEN AND COMPANY.

Mr. MILLSON. I demand the regular order of business.

The SPEAKER. The regular order of business is the consideration of the bill for the relief of Samuel A. Belden & Co., on which the gentleman from Virginia is entitled to the floor.

Mr. PHELPS. I hope the gentleman from Virginia will permit me to present to the House letters from the Secretary of the Navy, submitting estimates of additional appropriation for the support of the Navy, that they may be ordered to be printed.

Mr. MILLSON. I do not object if that is the only business desired to be done.

Mr. WHEELER. If the gentleman from Virginia withdraws his objection I renew it.

Mr. HOUSTON. If the gentleman will look at the matter, he will see that these estimates are intimately connected with the naval bill soon to be before us for action. We ask the printing of these estimates for the convenience of the House, and that alone.

Mr. WHEELER. I withdraw my objection.

The letters were laid upon the table, and ordered to be printed.

CUSTOM-HOUSE AT CAMDEN.

Mr. STRATTON. I ask the unanimous con-

sent of the House for leave to introduce the following resolution:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of providing for the erection of a suitable building for a custom-house and post office in the city of Camden, New Jersey.

There was no objection, and the resolution was adopted.

Mr. MILLSON. I insist on the regular order of business.

Mr. McDOUGALL. I ask the unanimous consent of the House for leave to introduce a resolution.

The SPEAKER. Objection is made by the demand for the regular order of business.

Mr. LETCHER. I rise to a privileged question. I move to reconsider the vote by which the resolution introduced by the gentleman from New Jersey [Mr. STRATTON] was passed. I now ask its reading, as I did not hear it read before. [Laughter.]

The resolution was again read by the Clerk.

Mr. LETCHER. We had a very large business in the way of custom-houses and marine hospitals at the last session, and I should like to have a respite of at least twelve months between these strong doses of that sort. I hope the vote will be reconsidered.

The SPEAKER. If discussion arise on the motion to reconsider, the Chair decides that the motion can only be entered, and that the regular order of business must be proceeded with.

Mr. LETCHER. Then enter it, and I shall be at it after a while. [Laughter.]

Mr. STRATTON. I move to lay the motion to reconsider upon the table.

The SPEAKER. The Chair has decided that the motion to reconsider can only be entered. Its consideration cannot interfere with the regular order of business. Otherwise, the gentleman's motion would be in order.

SAMUEL A. BELDEN AND CO.—AGAIN.

Mr. MILLSON said: Mr. Speaker, when I inquired of the honorable gentleman from Louisiana, [Mr. HUNT,] the day before yesterday, as to the objects of this bill, I certainly had no idea that it involved questions of such serious magnitude. I then intimated opinions which have been dissented from by several gentlemen, and as I have had no opportunity to defend them, I have now sought the floor for that purpose, and to comment on certain doctrines which have been advanced by some of the advocates of the measure. But, that the House may the better understand the subject, I will first make a brief statement of the facts.

During the Mexican war, Turner & Renshaw imported at Matamoras, then in possession of our army, a quantity of tobacco, on which they paid the military contributions exacted by our Government. By the treaty of peace between the two Governments, it was stipulated that the merchandise brought into the country during our occupation of it should be exempt from confiscation, and, in certain cases, from any further duty or tax. As to this tobacco, however, difficulties, the precise nature of which is not very clearly stated, subsequently arose, and the Mexican authorities refused or delayed to grant the permits that were demanded for its transportation into the interior. At this time our Government had, of course, ceased to have any control over any portion of the population residing in Mexico, or over their effects.

Turner & Renshaw declare that, in consequence of these wrongful proceedings of the Mexican authorities, they were much injured, and were compelled to sell their tobacco at a very great sacrifice. They sold three hundred quintals of it to the petitioners, Belden & Co., for only $13 per quintal, though they declare that, if proper permits had been granted when demanded, in a reasonable time, it might have been sold for an average price of about $25 per quintal.

Well, sir, Belden & Co. having purchased the obacco at these reduced rates, and after being subject to still further delays, finally obtained, as they state, permits to transport it into the interior.

But, they say, at the city of Saltillo the tobacco was seized by the order of some Mexican judge, without stating any cause for this outrage, and that a citation was afterwards issued by the court, commanding the claimant, Belden, to appear before it, within twenty days, and show cause why the tobacco should not be confiscated. He did not, however, appear before the court; because, as he says, it would have been inconvenient and ruinous for him to be absent from his business, and because the time was not sufficient to enable him to attend the court at Saltillo, which was four hundred miles distant. Certain it is, that he failed to appear before the court, and that the tobacco was confiscated, and he condemned to pay a fine of about $26,000. He says that to this day he does not know the cause of this extraordinary act, but has only heard that he was charged or suspected of smuggling.

It appears that an execution issued upon this decree, and was levied upon the property of Belden & Co., at their place of business. The decree imposed a fine of about $26,000, and provided the alternative punishment of imprisonment until the fine was paid. Belden says that he believed—whether justly or not, I have no means of determining—that his further residence in Mexico would only be at great hazard of his life, and he left the country, protesting against the proceedings of the Mexican authorities, and intending to demand redress from the Government of the United States.

The petitioners then applied to the Department of State, complaining of the wrongs done them, and of the violation of the treaty, and the case became a subject of negotiation between our Government and Mexico. While these negotiations were pending, the papers connected with the case were called for by the Senate, and were communicated in part by President Fillmore, who stated that, as the claim was a subject of negotiation, he did not deem it expedient at that time to make public the reserved documents. They then presented a petition to the Senate, asking for prompt action and redress for losses sustained; upon which petition a report was made in 1852, by Mr. Mason, chairman of the Committee on Foreign Relations, expressing the opinion that there had been a flagrant violation of the treaty by the judicial department of Mexico, but declaring that the claim was against Mexico, and no relief was due by the United States to the petitioners. Two years afterwards, indeed, the chairman of the Senate committee—the good Homer sometimes sleeps—so far modified the former report as to recommend a return of the duties paid on the tobacco.

Mr. BRIDGES. Did I understand, correctly, the gentleman from Virginia to say that Belden & Co. were summoned before a judge to answer a charge of smuggling?

Mr. MILLSON. No, sir; I did not say so.

Mr. BRIDGES. I wish to know whether that was the charge?

Mr. HUNT. No, sir.

Mr. BRIDGES. Then I wish to know what the charge was?

Mr. MILLSON. I said that a citation was issued, commanding Belden & Co. to appear before the court. But Samuel A. Belden says that he did not know what he was summoned there to answer, though he has since heard that he was charged with smuggling.

Mr. HUNT. I do not understand the gentleman from Virginia to say that any citation was ever served on Mr. Belden.

Mr. MILLSON. Yes, sir.

Mr. HUNT. At what time? In time for him to be present? Because the evidence shows that it was a physical impossibility for him to appear. Three days were allowed him to go four hundred and twenty miles, in that country. It was a mockery. The whole proceeding was a mockery.

Mr. MILLSON. The honorable gentleman did not attend to me, perhaps, as carefully as he should have done.

Mr. HUNT. I am sorry for it. I do not wish to do the gentleman injustice.

Mr. MILLSON. I stated that the claimants alleged that they had received twenty days' notice, which they did not deem sufficient notice to enable them to travel four hundred miles.

Mr. HUNT. They only received three days' notice from the time of service.

Mr. MILLSON. The gentleman is mistaken.

Mr. HUNT. I am not mistaken, I think.

Mr. MILLSON. The petition of Samuel A. Belden says: "Some months subsequently your petitioner was cited, by an order from the district court, to appear at Saltillo within twenty days, to show cause why said tobacco should not be confiscated."

Mr. HUNT. I will not interrupt the gentleman now. I will explain the matter when he has concluded his remarks.

Mr. McMULLIN. The point at issue between the gentleman from Louisiana [Mr. HUNT] and my colleague seems to be as to the extent of the notice served upon the parties—whether it was twenty days or only three days. Can my colleague inform the House at what time the notice was served?

Mr. MILLSON. Samuel A. Belden states that he was ordered to appear at Saltillo within twenty days.

Mr. HUNT. I hope the gentleman from Virginia will be allowed to proceed without interruption. We shall get along much better in that way.

Mr. MILLSON. But it is wholly immaterial, in my view of this case, whether it was twenty or two thousand days. I mentioned it merely as a part of the narrative. I am now stating the facts that the House may judge of the nature of the claim. It will presently be seen how little importance I attach to this point of difference, whether the gentleman or myself be right in our impressions about the length of the notice.

Now, then, this bill proposes to do what? To refund to the petitioners the duties which were paid upon this tobacco, though they never paid a cent of the duties upon it, so far as the documents in this case show, for they purchased the tobacco from Turner & Renshaw; and also, I presume, to refund the military contributions which they may have paid upon all the goods that were taken in execution for the fine of $26,000 imposed by the Mexican tribunal. So much for the facts.

I now propose, Mr. Speaker, to reply to some of the arguments which have been made by gentlemen who have addressed the House in favor of the bill.

The gentleman from Tennessee [Mr. STANTON] says, and the gentleman from Louisiana, [Mr. HUNT,] seems to be of the same opinion, that the payment of duties was a guarantee of governmental protection of the goods upon which the duties were paid, and that the deprivation of the possession of the goods entitled this party to claim the return of the duties; and he actually holds the Government of the United States responsible for the value of the goods themselves. And my colleague [Mr. BAYLY] rose, and stated his concurrence in the law, as propounded by the gentleman from Tennessee. Sir, I am compelled to dissent from these opinions of the public law, held by the honorable chairman of the Committee on Foreign Affairs, and by the chairman of the Committee on the Judiciary, that the levying of duties upon goods is a guarantee of protection in the enjoyment of the goods.

Mr. STANTON, of Tennessee, (interrupting.) I do not desire to interrupt the gentleman; but he does not state my proposition fairly. I presume he has no design to misrepresent.

I did not say that the levying of duties imposed upon the Government an obligation to protect the party in the enjoyment of the goods. But I did say, that the Government of the United States stipulated expressly—and I have before me that stipulation—that it would provide that no further duties should be imposed, and that no confiscation should take place of such goods as had been introduced under the proclamation; and I say that it is the duty of the Government of the United States to protect the importer to the extent of the obligation assumed in that proclamation, and that the levying of duties itself implied that the Government of Mexico should not be permitted to levy other duties, or impose confiscation, or charges of any kind; or throw any embarrassments in the way of the ordinary commercial operations of the American citizen introducing the goods into the country.

Mr. MILLSON. The statement of the gentleman from Tennessee, [Mr. STANTON,] to which I have alluded, was doubtless consistent with the view he has just expressed, and there was nothing in my statement at all inconsistent with the explanation now given. I did not intend to represent the gentleman as maintaining any other doctrine than that which he has just announced. But, his doctrine is, that the imposition of duties upon goods during the time that this territory was in the military occupation of the United States, gave an implied guarantee of protection by the United States. He relies upon the fact that this Government had control of the country, and exercised

jurisdiction over it. Now, this is precisely the point of his argument which I am undertaking to reply to. The control and jurisdiction of the United States in Mexico were certainly not greater than within their own territory; and let us see, sir, whether the collection of duties at home, where our jurisdiction is more perfect than it was in Mexico, gives any guarantee for their protection afterwards. Why, sir, so far from it, the control and protection of the Government of the United States over all goods on which they receive duties cease the moment the duties are paid. At that very instant of time the merchandise ceases to be under the protection or control of the United States, at that very instant it comes within the control of the States, is protected by the laws of the States, and is subject to the regulation of the States. All our license laws in the States depend upon this doctrine.

How can the treaty made with Mexico, for the benefit of our own citizens, add anything to the obligation or the liabilities of our Government. It may, and it did give her a right to interfere for their protection, but certainly did not impose any liability upon her to them. It may have given her a right to punish Mexico for any outrage practiced upon them, in violation of its provisions, as she may punish her own citizens for similar outrages in violation of her laws; but will it be pretended, that if a man is despoiled, in the United States, of goods on which he has paid duties to the Government, the Government is therefore bound to make good his loss, or even to refund the duties? No one carries the doctrine to this extent; and yet no proclamation that the Government may issue can hold out stronger inducements to importation than our acts of Congress, fixing the duties on imports. And if there is no such liability for loss when merchandise is imported under the law, as will be admitted on all sides, how can it be said that such liability can arise out of the introduction of goods into a foreign country, under a proclamation?

My colleague, [Mr. BAYLY,] in indorsing the legal principles announced by the gentleman from Tennessee, [Mr. STANTON,] read an extract, which he commended to my special attention, from a recent opinion of the Lord Chancellor of England, to the effect that if a person is spoliated by a foreign Government, and if from weakness, timidity, or any other cause, on the part of his own Government, no redress is obtained from the foreigner, he has a claim on his own Government.

Sir, this is most extraordinary doctrine; and I can well imagine the shade of Jeremy Bentham frowning indignantly upon the Lord Chancellor as he uttered this sentiment in his place in the House of Lords. What, sir! That a Government which from weakness, timidity, or any other cause, fails to obtain redress for a wrong done to one of its own citizens is bound to make compensation for that injury itself! Sir, that is a doctrine, which, it seems to me, is as much opposed to good sense as it is to the unbroken practice of all nations, from the earliest times to the present moment. It is a familiar principle of national law, that the right to declare war belongs to the sovereign, and that it ought never to be exercised except where the public interest demands it. What would be the condition of feeble nations, if this were the received law? What might be the fate of the little republic of San Marino? What temptations would it not hold out to some grasping Power, to offer such violence to the citizens or subjects of a weak neighbor, whose territory it coveted, that it might be provoked to a declaration of war, resulting, of course, only in its subjugation and destruction! No, sir, there is no such principle of mutual assurance in the social compact.

It seems to me, sir, that the authority of Grotius, founded, as it is, upon the practice and usages of nations, in ancient and modern times, is much more worthy of respect. He says, that "a prince is not always obliged to take up arms, whatever just reasons of complaint any particular subject of his may have, unless all, or most of his subjects would be sufferers on that account; for it is a sovereign's business to have greater regard for the whole than the part; and the larger the part is, so much the more does it approach to the nature of the whole." Grotius, in his elucidation of this doctrine, adverts to that memorable parable of our Saviour, in which he says, that if one king is going to make war with another king, he sitteth down first and considereth whether he be able with ten thousand to meet him that cometh with twenty thousand.

But the gentleman may say, that if the sovereign does not choose to wage war, he is bound to make compensation to the subject who is injured. Sir, has our country, has any nation, ever acted on this principle? If that be sound doctrine, why do we not pay to the Spanish claimants the whole amount of the indemnities which they demanded from the Spanish Government? We stipulated with the Government of Spain, at the time of our acquisition of Florida, that we would reserve from the purchase money to be paid for that Territory, the sum of five or six millions of dollars, out of which the claims of our citizens against the Spanish Government should be paid. But these claims amounted, in the aggregate, to more than $30,000,000. We did not choose to declare war against Spain to enforce the payment. And are we, I ask, bound to make compensation to those who received no satisfaction, or only partial satisfaction, from the award of the board of commissioners? Who will say that we are?

But, sir, the gentlemen seem to think that under the treaty with Mexico guarantying the right to sell the merchandise on which the military contribution had been levied, the Government of the United States is bound to make amends. Let us see what would be said of a similar claim of Mexico founded upon this very treaty. California was a part of the territory ceded to us by Mexico. It is now a State. We stipulated that the inhabitants residing there should be protected in the enjoyment of their liberty, their property, and their religion. Now, let me put to the honorable gentlemen a case which may occur.

Let us suppose that spirituous liquors on which duties were paid to the Mexican Republic, before the cession of California to the United States, should be confiscated by the State of California, under the provisions of some law prohibiting the sale of ardent spirits, and confiscating the property when attempted to be sold. Will the gentlemen tell me that the Republic of Mexico would have a right to demand redress of the Government of the United States, and that it would be bound to pay to the injured party the value of the ardent spirits so confiscated, or even to refund the duties collected by her, because of our supposed violation of the treaty?

But, sir, there is another serious objection to the principles of this bill. Belden & Co. did not even invoke the aid of the civil tribunals of Mexico. So far from defending his case before the tribunal to which he was cited, and carrying up the case to the highest appellate court within the Republic of Mexico, he did not even obey the summons. I can only regret that my colleague, [Mr. BAYLY,] when he yesterday announced his approval of the doctrine of the public law, as laid down by the gentleman from Tennessee, [Mr. STANTON,] had not evinced more respect for the authority of the statesmen of our own country.

I will cite the opinion of Mr. Jefferson, when Secretary of State, communicated in a correspondence with Mr. Hammond, the British Minister, some sixty years ago, in which he states it to be a rule as, indeed, it is maintained by all writers, I believe, on international law, that a foreigner cannot appeal to the political authority of any country until he has exhausted all his remedies before the courts. The case was one originating in Massachusetts. A British subject had captured a vessel belonging to a citizen of that State, and it had been condemned as prize of war. The captor afterwards came within the jurisdiction of the State, where he was arrested and a judgment obtained against him for the value of the vessel, and he was imprisoned in default of payment. When a remonstrance was made by Mr. Hammond, the British Minister, to Mr. Jefferson, he replied that the party ought to have appealed from the decision of the court, and that he had no right to make a demand upon the Government of the United States for redress, until he had exhausted his remedies before the courts of justice. Belden & Co., so far from having exhausted all their remedies before the courts, did not even appear before them, but contented themselves with filing a protest, appealing, not to the Mexican Government, but to our own Government. Mr. Jefferson, in a most lucid and admirable State paper which I have repeatedly read with great pleasure, and in which he reviews the whole of our existing relations with Great Britain, connected with the complaints made on both sides of the violation of the treaty of peace of 1783, states to Mr. Hammond:

"The administration of justice, is a branch of the sovereignty over a country, and belongs exclusively to the nation inhabiting it. No foreign power can pretend to participate in their jurisdiction, or that their citizens received there, are not subject to it. When a cause has been adjudged according to the rules and forms of the country, its justice ought to be presumed."

In a letter of Mr. Jefferson, to Mr. Genet, who also complained of injustice done to citizens of the French Republic, in violation of the treaty with France, Mr. Jefferson, who certainly will not be suspected of undue deference to the judicial tribunals, informs him that the courts of the United States would do justice between the parties, and that the Government cannot interfere with them in the exercise of their proper authority.

Sir, in cases like this, it strikes me as being of very doubtful propriety, for the legislative department of the Government to interfere with the Executive in reference to matters occurring in a foreign country, between the Government of that country, and persons residing there. These are subjects of extreme delicacy, and we would be very jealous of such interference ourselves. In my opinion, they ought to be left where the Constitution has placed them—with the Executive authorities of the two countries. We know nothing about the existing state of the negotiations. We know nothing of the grounds on which Mexico seeks to justify her conduct. The statements and affidavits are altogether *ex parte*, and very indefinite, at best. We do not know whether the claims of Belden & Co. against Mexico, which certainly are for a very large amount, are well founded or not. We ought, therefore, to be slow even in expressing opinions as to any violation of the treaty.

I do not admire the position in which some politicians would place the country. It does not become us to assume a hectoring, blustering, challenging gait towards every other nation upon the face of the globe. It is a dangerous doctrine that we are to supervise the relations between American citizens, who choose to reside in foreign countries, and the Governments under which they may prefer to live. It does not become the legislative branch of this Government to erect itself into an appellate tribunal from the decisions of foreign courts. Especially does it seem to me to be improper for this Government to take an assignment of this claim, either in whole or in part, as is proposed in this bill, and then, it may be, to enforce its collection at the point of the bayonet. Let us wait the termination of the negotiations upon this subject. We do not know in what state they now are, nor have we ever been in a condition to understand the case properly, as all the documents have not been communicated to Congress. As to the justice of the claim, even against Mexico, I can, therefore, come to no final opinion. I do not impeach it. I know that a judgment, or decree, was entered against the claimants, and that their property and effects were seized to satisfy it; but their claim for compensation is against the Mexican Government, and not the Government of the United States. They have no claim, even for a return of the duties paid upon the goods, nor would they have, if they had paid the duties themselves. But they have paid, as I have shown, no duties on the tobacco which was seized. The duties were paid by other parties. The claimants purchased tobacco, and not a claim for duties. Turner & Renshaw sold merchandise to Belden & Co., and not a claim against the United States for military contributions paid by them. If I were wrong in all the views I entertain of international law, I say, upon the plain ground upon which this claim comes before us—the asking a return of duties not paid by the claimants, but by others, asking a return upon the ground of difficulties opposed, and obstacles placed in the way of the disposal of goods, when it was, perhaps, on account of those very difficulties and obstacles that they were enabled to purchase the property at the price they gave—they have no just ground to demand indemnity from the Government of the United States.

But, however that may be, his claim should be sent to the Committee of the Whole, and discussed there. Already has too much time been

wasted in debating this question. Already are questions of great importance suffering from the tardy action of this House. Already has half the session elapsed, and we have reason to apprehend that the great and beneficent measure for reducing the duties on imports, upon which the eyes of the country have been turned with such anxious expectation, may be defeated, in consequence of the obtrusion of unimportant matters, having far less claim upon us, and our habit of adjourning at an early hour. For these reasons, and because my friend from New Jersey, [Mr. SKELTON,] at my request, withdrew his demand for the previous question, I feel compelled to renew that motion.

Mr. HUNT. I hope not, upon the generosity and fairness of the gentleman's character.

Mr. MILLSON. I have not the least objection to withdraw it, if the gentleman from New Jersey [Mr. SKELTON] will consent.

Mr. HUNT. Perhaps the gentleman from New Jersey will be willing to hear this matter discussed.

Mr. SKELTON. I cannot; for the question is only upon a motion to refer the bill.

Mr. HUNT. I hope the House will vote it down.

Mr. ORR. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken; and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair.)

PACIFIC RAILROAD BILL.

The CHAIRMAN. The business before the committee is the consideration of the bill to provide for the establishment of railroad and telegraphic communication between the Atlantic States and the Pacific ocean, and for other purposes. The pending question is upon an appeal from the decision of the Chair.

Mr. PRINGLE. I would inquire whether it is in order to debate the question now pending before the committee?

The CHAIRMAN. Debate having been closed by order of the House, no debate upon the question of order is now in order in the Committee of the Whole.

Mr. PRINGLE. Will the Chair state the question, and also read the 119th rule of the House, and the note appended thereto?

The CHAIRMAN. The pending question before the committee is an appeal taken by the gentleman from New York [Mr. PRINGLE] from a decision of the Chair ruling the motion of the gentleman from New York city, [Mr. WHEELER,] to strike out the enacting words of the bill, in order. The gentleman from New York appeals from the decision of the Chair, and the question will be, "Shall the decision of the Chair stand as the judgment of the committee?"

The Chair rules the motion in order under the 119th rule of the House, to which he invites the attention of the committee, and also to the note explanatory thereof.

The rule says:

"A motion to strike out the enacting words of a bill shall have precedence of a motion to amend; and, if carried, shall be considered equivalent to its rejection."

The note explanatory is as follows:

"The Manual states that if a committee be opposed to the whole paper or bill, and think it cannot be made good by amendment, the committee cannot reject it, but must report it back to the House without amendment, and there make their opposition. In 1814 a Committee of the Whole struck out the first and only section of a bill and so reported to the House. Mr. Speaker Cheves refused to receive the report on the ground that it was tantamount to a rejection of the bill, which the committee had not power to do. After this, that the merit of the question might be tested in Committee of the Whole, rule 119 was adopted. The Manual provides that a paragraph or section may be first amended by its friends, so as to make it as perfect as they can before the question is put for striking it out. By this rule (*i. e.*, rule 119,) it is *expressly established* that a motion to strike out, for the purpose of destroying, shall be paramount to a motion to amend. Rule 139 provides that the Manual shall govern in cases in which it is applicable, where it is not inconsistent with established rules. In the case, then, of giving precedence to motions to insert or to amend over motions to strike out or reject, it is clearly inconsistent with an established rule, and consequently the practice of the House for the last few years has been in violation of the 119th rule."

Mr. CAMPBELL. The construction given by the Chair to the rule is substantially the allowance of the previous question in Committee of the Whole.

The CHAIRMAN. Debate is not in order.

Mr. CAMPBELL. I am only giving my reasons for asking the reading of another rule.

The CHAIRMAN. Let the rule be indicated, and the Chair will have it read.

Mr. CAMPBELL. I ask for the reading of the 127th rule.

The 127th rule was read by the Clerk, as follows:

"Upon bills committed to a Committee of the Whole House, the bill shall be first read throughout by the Clerk, and then again read and debated by clauses, leaving the preamble to be last considered; the body of the bill shall not be defaced or interlined; but all amendments, noting the page and line, shall be duly entered by the Clerk, on a separate paper, as the same shall be agreed to by the committee, and so reported to the House. After report, the bill shall again be subject to be debated and amended by clauses before a question to engross it be taken."

Mr. WASHBURN, of Maine. I should like to have the 34th rule read. It seems to me to abrogate the one which has just been read.

The 34th rule was then read by the Clerk, as follows:

"No member shall occupy more than one hour in debate on any question in the House, or in committee; but a member reporting the measure under consideration from a committee, may open and close the debate; provided that where debate is closed by order of the House, any member shall be allowed, in committee, five minutes to explain any amendment he may offer; after which, any member who shall first obtain the floor, shall be allowed to speak five minutes in opposition to it, and there shall be no further debate on the amendment; but the same privilege on debate shall be allowed in favor of and against any amendment that may be offered to the amendment; and neither the amendment nor an amendment to the amendment, shall be withdrawn by the mover thereof, unless by the unanimous consent of the committee."

The CHAIRMAN. The Clerk will now read the 134th rule.

The 134th rule was read, as follows:

"The rules of proceeding in the House shall be observed in a Committee of the Whole House, so far as they may be applicable, except the rule limiting the time of speaking; but no member shall speak twice to any question until every member choosing to speak shall have spoken."

Mr. JONES, of Tennessee. Does the Chair decide that the motion to strike out the enacting clause of the bill is in order?

The CHAIRMAN. The Chair so decides.

Mr. JONES. There is an appeal from that decision?

The CHAIRMAN. There is, and the question now is, "Shall the decision of the Chair stand as the judgment of the Committee?"

Mr. JONES. I would ask whether it would not be in order for the committee to report the bill to the House with the recommendation that it be rejected?

The CHAIRMAN. Certainly.

Mr. JONES. The proposition to strike out the enacting clause amounts to a recommendation of the Committee of the Whole on the state of the Union to the House that the bill be rejected, and, in my judgment, therefore clearly in order.

Mr. CAMPBELL. If gentlemen enter into debate, we should like to take a small turn on this side of the Hall.

The CHAIRMAN. Debate is not in order.

Mr. WASHBURN, of Maine. Is it in order to submit a motion equivalent to the rejection of a bill, so long as any member has amendments to offer, and desires to speak on it? The 34th rule, which is subsequent in time to the 119th rule, gives the right to five minutes' debate for, and five minutes against any amendment, and was evidently intended to prevent the application of anything like the previous question in Committee of the Whole House on the state of the Union. I submit the point for the attention of the Chair.

The CHAIRMAN. There is a question of order now pending, and the Chair cannot entertain two questions at the same time.

Mr. WASHBURN. I only suggested the question as bearing on the 119th rule.

Mr. DAVIS, of Indiana. Suppose the decision of the Chair is sustained, and the committee then strike out the enacting clause of the bill, will any further amendment be in order?

The CHAIRMAN. It will not.

Mr. DAVIS. That being the case, I wish to make an appeal to the gentleman from New York, [Mr. WHEELER,] who submitted the motion yesterday, to withdraw it, that I may offer an amendment to the bill, which, I think, will satisfy all parties, and put the bill in a condition to claim my vote.

Mr. WHEELER. I would have no objection to withdraw my motion had not the gentleman from California [Mr. MCDOUGALL] given the committee notice that the friends of the bill would vote down all amendments, and they have voted down all amendments.

Mr. PRINGLE. I demand tellers on the question of sustaining the Chair's decision.

Tellers were ordered; and Messrs. PRINGLE and ASHE were appointed.

The question was taken; and the decision of the Chair was sustained, the tellers having reported—ayes 82, noes 51.

The question then recurred upon the motion to strike out the enacting clause of the bill.

Mr. MCDOUGALL. I think there is some misunderstanding, upon the part of the House, as to the course proposed to be pursued by the friends of this bill; and that it may be understood what the friends of the bill think the most desirable course to pursue, I will make a suggestion.

Mr. GROW. I rise to a question of order. I ask if there is an amendment pending?

The CHAIRMAN. The gentleman from New York moved to strike out the enacting clause of the bill.

Mr. GROW. Is that motion debatable?

The CHAIRMAN. It is in order to speak in opposition to the motion.

Mr. GROW. Then I ask that the gentleman may be confined in his remarks strictly to opposing the amendment.

The CHAIRMAN. As the amendment, if adopted, will be tantamount to the rejection of the bill, the Chair thinks that the whole bill is open for discussion.

Mr. MCDOUGALL. If the gentleman from Pennsylvania wants to consume time he may interrupt me again, for I do not propose to consume anything like five minutes. Sir, I think it will be better to continue this bill in committee for some little time longer, perhaps for the remainder of the day, and see whether, upon discussion, some subsequent amendment may not be adopted which will prove satisfactory to all the friends of the bill. After the bill has been well discussed here, if the motion to strike out the enacting clause is deemed necessary or desirable to get the bill out of the committee, I will not object.

Mr. HOUSTON. I should like to ask the gentleman from California what time he would think a desirable one to make this motion?

Mr. MCDOUGALL. I will say to my friend from Alabama, that I shall consult what I think to be the most prudent course upon the subject.

Mr. WHEELER. I demand tellers upon the motion to strike out the enacting clause.

Tellers were ordered; and Messrs. JOHNSON and COOK were appointed.

The committee was divided; and the tellers reported fifty in the affirmative; and a further count not being desired, the motion was not agreed to.

Mr. DAVIS, of Indiana. I move to amend by striking out, in the first section of the bill, from the tenth to the twenty-third line, as follows:

"One road and telegraph, to commence on the western border of the State of Texas, and to pursue the most eligible route to the navigable waters of the Pacific in the State of California; which line shall be known as the Southern Pacific railroad.

"One road and telegraph, to commence on the western border of the State of Missouri or Iowa, and to pursue the most eligible route to the Bay of San Francisco; which line shall be known as the Central Pacific railroad.

"And one road and telegraph, to commence on the western border of the State of Wisconsin, in the Territory of Minnesota, and pursue the most eligible route to the navigable waters of the Pacific in Oregon or Washington Territories; which line shall be known as the Northern Pacific railroad."

And to insert the following:

One grand trunk central railroad, to be constructed from some point on the western boundary of the State of Missouri or Iowa, between the 39th° and 41st° of north latitude, on the nearest and most practicable route to the city of San Francisco on the Pacific ocean, and two branch railroads, diverging from said central road, at or near the 103d° of west longitude; from thence through the Territories of the United States in the direction of the city of Memphis, in the State of Tennessee; and one diverging from the said central road at or near the point aforesaid, and running through the Territories of the United States to the most eligible point on the western shore of Lake Superior.

I have but a single word to say in reference to this amendment. I am very well aware that too much time has already been taken up in the dis-

cussion of the subject. I am aware, also, that no remarks that I can make will change a single vote upon this subject. I stated to the committee yesterday, and I will now repeat, that I am opposed to the construction of three roads to the Pacific.

But, sir, if the amendment I have proposed shall prevail, we shall authorize the construction of one main road to the Pacific ocean and two branches. Now, sir, if this amendment shall prevail, it will save one half the expense which will be required to carry out the plan proposed in the substitute now pending.

Again, sir, it will accommodate the North by furnishing an outlet in connection with the main road, starting at about the one hundred and third parallel of longitude. And it will, on the other hand, accommodate the South, by giving them an outlet in the direction of Memphis, in the State of Tennessee. It will, therefore, accommodate, not only the central portion of the country, but the North and the South also.

Now, sir, I desire that we shall adopt a plan which will bring the construction of a road to the Pacific within the capital of the country, and within the energies of the Government. The proposition I have submitted is a plain one. If it is sustained by the committee I shall vote for the bill. If it be not, I shall take the matter into consideration. [Laughter.] Now, sir, I have said what I wished to say upon the subject, and I ask for a vote upon the amendment.

Mr. SMITH, of Virginia. I am opposed to the amendment of the gentleman from Indiana, and I will merely remark to the House, that it is obvious, from the character of this discussion, that it is a great work of internal improvement that is contemplated. Now, it is known to the House that the power claimed on the part of the Government by the friends of this measure, and of the various propositions which have been submitted, has been, over and over again, denied by one class of politicians in this country. But, sir, gentlemen ought to come to it, and let it be distinctly understood, if they carry this bill, that the repudiation of that power is no longer to be regarded as one of the cardinal principles of the Democratic party.

Sir, we have heard the doctrine announced here, on various occasions, that the Federal Government is a great proprietor. I deny that the Federal Government can, in any sense, be regarded as a great proprietor, within the terms of the Constitution. I say that the General Government is but a trustee—in all respects but a trustee, and in no sense whatever can be regarded as a great proprietor. Why, sir, under that term the largest class of powers known within the scope of governmental action can be claimed. What power cannot be claimed under the doctrine that this Government is a great proprietor?

Mr. McDOUGALL. I call the gentleman to order. He is discussing a constitutional question, and not opposing the amendment of the gentleman from Indiana.

The CHAIRMAN. The rule requires the gentleman to confine himself strictly to opposition to the pending amendment.

Mr. SMITH. If the amendment involves an appropriation, either of land or of money for a railroad, does not that involve the constitutional right to make such appropriations? And is not that the character of the proposition of the gentleman from Indiana? I hold, therefore, that I am strictly conforming to the rule.

But, sir, I did not rise with any hope that anything I could say would have any effect upon the House, for, I grieve to say, that there is a manifest purpose exhibited in the official action of this Congress to take into its own hands all the powers known to the Government—not the powers of the Constitution restricted and limited, as they were designed to be, but all the powers that are known to any Government. This is no longer a Government of delegated powers; it is no longer a Government of limited powers; it is no longer the Government of a trustee, but the Government of a great proprietor, rising above the limitations of the Constitution, and exercising powers not conferred upon it by that sacred instrument.

Well, sir, I am one of those—few though they be—who raise their voices against the present tendencies of the official agents of the Government.

The CHAIRMAN, (interrupting.) The Chair thinks that the course of remark in which the gentleman is now indulging is not strictly in order.

Mr. SMITH. Well, sir, then I will only enter my protest against this whole scheme. I am opposed to the amendment.

Mr. HENN. I would ask the gentleman from Indiana to modify his amendment by striking out the 39th° and 40th°, and inserting the 37th° and 43d°, so as to leave more room for a starting point on the frontier. At present the amendment confines it to a space of sixty miles, and in that space of sixty miles there is but one available starting point.

Mr. DAVIS. My amendment gives from the 38th° to the 41st°.

Mr. HENN. Well, I ask the gentleman to modify it so as to give from the 37th° to the 43d°. That will cover the mouths of all the great streams running west of the Rocky mountains.

Mr. DAVIS. I will consent to that modification.

Mr. McDOUGALL. I claim five minutes to speak in opposition to the amendment of the gentleman from Indiana. The friends of the bill have an absolute right, under the rule, to oppose that amendment, and they have not yet done so.

The CHAIRMAN. The gentleman from Virginia [Mr. SMITH] has already opposed the amendment.

Mr. McDOUGALL. No, sir; he did not speak to the amendment at all.

The CHAIRMAN. A portion of his remarks was held by the Chair to be in opposition to the amendment.

Mr. McDOUGALL. Well, then, I will only say, that if this amendment is adopted, it will destroy the bill.

[Cries of "Order!" "Order!"]

The CHAIRMAN. The Chair rules that further debate is not now in order.

Mr. JONES, of Louisiana. I would inquire of the Chair whether, since the amendment has been modified by the gentleman who offered it, debate upon it, in its modified shape, is not in order?

The CHAIRMAN. The Chair holds, under the practice of the committee, that a modification does not entitle gentlemen to further speeches, either in advocacy or in reply.

Mr. JONES. It is clearly a new amendment.

Mr. SMITH, of Virginia. I would inquire if the proposition, as modified, is the same proposition which has been discussed?

The CHAIRMAN. The modification does not entitle gentlemen to discuss the amendment a second time, according to the uniform practice of the committee.

Mr. SMITH. I do not want to discuss it myself. I only wish to give the gentleman from California a chance.

Mr. WARREN. I desire to ask the gentleman from Indiana to accept of a further modification, and substitute the 33d° for the 37th°. [Laughter.]

Mr. DAVIS. I decline to do so, and call for tellers on my amendment.

Tellers were ordered; and Messrs. GOODE, and JONES of Louisiana, were appointed.

The committee was divided; and the tellers reported—ayes 80, noes 52.

So the amendment was adopted.

Mr. McDOUGALL. I move to strike out the enacting clause of the bill. I am not disposed, Mr. Chairman, to labor here, and to engage in controversy on a subject-matter from which there can be no good or beneficial results. The bill, as now amended, provides for a main trunk railroad, branching at 103° of longitude, and running south to Memphis, and north to Lake Superior. The gentleman who introduced that proposition certainly was no engineer. He should have known that no railroad was ever constructed, taking the sections of the large rivers, running along the avenues of the Mississippi, north and south.

Mr. LETCHER. I rise to a question of order. What is the amendment on which the gentleman from California is speaking?

The CHAIRMAN. It is a motion to strike out the enacting clause of the bill.

Mr. McDOUGALL, (continuing.) More than that. Every member of this body, whether a friend of the measure or an enemy of the measure, knows this: that without the union of the friends of a Pacific railroad, without the entire union of hem, no bill can pass either this House or the Senate; and words would only be wasted on the subject. I hope that the friends of the bill—of a substantial bill—of a bill which can have a chance of passing this body and of passing the Senate—will stand up for the proposition which I have submitted, to strike out the enacting clause; and I shall, then, on going into the House, move that the enacting clause be reinserted and offer a substitute.

Mr. CAMPBELL. I am opposed to the motion of the gentleman from California, [Mr. McDOUGALL.] In the first place, I regard that system of disposing of bills in Committee of the Whole, as fraught with a great deal of danger, because I think it is contrary to the spirit of the rule, with due deference to the opinion of the Chair and of the House.

Now, sir, in relation to this great national measure, I desire to say that I am friendly to it. I am only surprised at the opposition which comes to it from certain gentlemen from Virginia, who deny the constitutional power of Congress to vote any lands, or money either, to build an actual railroad to the Pacific; men who, not many months ago, voted thousands and tens of thousands of dollars to pay the Irishmen for driving the stakes, the surveyors for running the line, and men for cutting stakes and marking places on them with red chalk. And if they could find power to authorize the expenditure of money for such purt pose, in the initiatory steps of the work, I will point them to the same clause of the Constitution for the power to appropriate land or money to carry out the work.

But, Mr. Chairman, this House is not, in my judgment, prepared now to legislate understandingly in regard to these three great roads. But the time will come—perhaps, before many years—when there will be, I do not doubt, three railroads to the Pacific. Let us commence doing what we can now. Let us make a concentration upon some one point, if we intend that our legislation shall be practical. The time will come, perhaps, when objection will be removed to a southern route, and the time, I apprehend, will come when the objection of the gentleman from Missouri, [Mr. BENTON,] in relation to a northern route, will be removed. He thinks that it is a little too near the British line; but I am inclined to believe that before the lapse of many years, the British Provinces will become a part of this country, and then the northern route will be as national as the central route now is. But that time has not yet come. I feel, at this time, the force of the objections presented by the honorable gentleman from Missouri to the northern route. When the time shall arrive in which the British Provinces become a part of this Confederacy by honest purchase, and not by any filibustering policy, then we will have to consider the question of a northern route.

I will state, in conclusion, that, if the gentleman from California [Mr. McDOUGALL] expects to carry his bill by this system of cutting off the head and sticking it on again under the screw of the previous question, he will find an opposition from a quarter he little expected. The plan he proposes is not the way to carry a measure like this. I have witnessed the passage of one measure in that way, and the country has put the seal of its everlasting disapprobation upon it; and I intend to strike——

[Here the hammer fell.]

Mr. CHAMBERLAIN. I wish to inquire, at this stage of the proceedings, whether a motion that the committee rise would be in order? I would make the motion, at the suggestion of the gentleman from California, that the committee rise——

The CHAIRMAN. Further debate is not in order; but a motion that the committee rise would be in order.

Mr. CHAMBERLAIN. I would like to state simply a reason for making such a motion.

The CHAIRMAN. If there be no objection, the gentleman can state his reason.

Mr. CHAMBERLAIN. If the committee agree to rise, a motion might be made in the House for the postponement of this special order to some day a week hence. I am satisfied that the action of the House upon this question now will jeopardize the success of the whole measure.

Mr. HAMILTON. I will inform the gentleman, if we get into the House, that I shall object to the motion that he suggests.

The CHAIRMAN. The question now before the committee is upon the motion to strike out the

enacting clause of the bill; and upon that motion tellers are demanded.

Tellers were ordered; and Messrs. WHEELER and HILLYER were appointed.

The question was taken; and the tellers reported—ayes 84, noes 49.

So the enacting clause was stricken out.

Mr. HAMILTON. I move that the committee rise.

The question was taken; and it was decided in the affirmative.

So the committee rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being House bill (No. 295) "to provide for the establishment of railroad and telegraphic communication between the Atlantic States and the Pacific ocean, and for other purposes," which they had directed him to report back to the House with the enacting clause stricken out.

Mr. McDOUGALL. I hope the friends of a railroad communication with the Pacific coast will concur with me in opposing the recommendation of the committee, so that we, who are interested in continuing the enacting clause of the bill, may have a subject-matter to act upon in the House.

Mr. GROW. I rise to a question of order. Debate has been closed upon the bill by an order of the House, and I object to all debate unless it is in order.

The SPEAKER *pro tempore*. The bill is now before the House, and the Chair knows of no rule by which the bill is not open to discussion.

Mr. GROW. Was not the debate closed by order of the House?

The SPEAKER *pro tempore*. The order of the House only closed debate upon the bill in the Committee of the Whole on the state of the Union. The bill is now before the House, and is open to debate.

Mr. BENTON. I have a motion to make, which, I believe, takes precedence.

The SPEAKER *pro tempore*. (Mr. JONES, of Tennessee.) There is no motion in order while the gentleman from California is upon the floor. It cannot be taken from him for the purpose of submitting a motion.

Mr. CHAMBERLAIN. I desire to propound a question to the gentleman from California.

Mr. McDOUGALL. I will hear it.

Mr. CHAMBERLAIN. The gentleman from California calls upon the friends of this measure to oppose the recommendation of the committee. I desire to know, if the recommendation is non-concurred in by the House, what bill will be pending before the House—the original bill, the substitute, or the substitute as now amended by the committee?

Mr. McDOUGALL. That will be a matter for the Chair to decide.

Mr. HAMILTON. I should be pleased if the Chair would give his opinion.

Mr. McDOUGALL. I ask the Chair if it is now in order to move a substitute?

The SPEAKER *pro tempore*. It is not in order to move a substitute pending the recommendation of the committee to strike out the enacting clause. That question takes precedence of any motion to amend.

Mr. BENTON. I have a motion which takes precedence.

The SPEAKER *pro tempore*. But the gentleman from California is upon the floor, and it cannot be taken from him for the purpose of submitting a motion.

Mr. McDOUGALL. I wish now to have it understood that, as far as I have been able to learn,—and I have made the subject my careful business since I arrived in this city, a year ago last November,—this bill is one which conforms more fully than any other with the views of those who are in favor of a railroad to the Pacific. I came from my people, from my distant home, for the purpose of soliciting of the Federal Congress aid in securing a communication between the Atlantic States and the Pacific ocean, so that we may no longer be compelled to pass through hostile tribes of Indians at the hazard of our lives, or of passing through the tropics, where life is also in peril. I might say that I left this body last August for the purpose of returning to California, and I could not make my home without going into an atmosphere poisonous to my system, and I reached home an invalid. On my return I met the same difficulty, the same brigand, upon my route, and I suffered the same consequences. Every one who travels from here to California, does so at the peril of life.

California is a part of this Confederacy, a part of this Union, entitled to a communication with her sister States, entitled to attention at the hands of her sister States. I came here from my people—severed from me now by deserts—to ask a communication, to ask a road; not, to be sure, to ask three roads, but one, which will answer our purpose. One is all I expect at the hands of this House. Since I first came here, I have industriously made it my business to ascertain what kind of a measure would suit this and the other body, constituting the Congress of the United States. My first proposition was the bill I introduced, upon which the select committee was organized, and which provided for only one road. A committee of thirteen was appointed from different parts of the Union, and they adopted the plan of two roads. The Senate committee were not able to agree upon any bill at the last session. Mr. SEWARD had his plan; Mr. FOOT had his plan; Mr. RUSK had his plan; Mr. DOUGLAS had his plan, and Mr. GWIN had his; and, in the conflict of opinion, all concurrence of action failed.

This session the same committee took up the House bill, modified, amended, and changed it, and introduced the plan of three roads. I have understood, by constant communication with members, that that bill, providing for three roads, would best suit the members of this body. I am satisfied that any modification, in substance, of that measure now, will result in its certain defeat. I am satisfied of this, not alone from my own conviction of what is proper and right, but by communication with almost every member upon this floor.

If my mission is to be answered here; if I am to take back to my State the assurance that a direct communication will, a few years hence, be opened between the Atlantic and Pacific coast; if I am to assure them of a safe and expeditious path across the desert and mountains, so that they will not be compelled to spend a month incurring the dangers of the sea and of the isthmus, or the dangers of the savage tribes, who have frequently cut off whole companies, and butchered men, women, and children, without distinction; if I am to tell them that they may come to the Atlantic States, and visit their friends and relatives, that they may come for the transaction of business, private or public, without facing the dangers to which I have alluded; if I am to tell them, when their coast is threatened by a foreign foe, that here is an iron communication whereby your friends can come, with munitions and means of war, to rescue them from impending danger, and stand between them and sacrifice;—if I am to do these things, I want to take home to them the assurance of the passage of this bill, as, substantially, the only means of doing so. And now I appeal to all the members of this House, if they intend to do anything, this is about the only way in which it can be done.

Mr. WALBRIDGE, (interrupting.) I would simply say, that I desire the gentleman from California to indicate the course he desires the friends of this measure to pursue, that they may be able to determine whether they will stand by him or not.

Mr. WASHBURN, of Maine. I wish to inquire of the Chair, whether it would be in order for the gentleman from California, before he resumes his seat, to move a substitute for the original bill, or another bill; and then call the previous question on it?

The SPEAKER, (Mr. JONES, of Tennessee, in the chair.) The Chair is of the opinion that the question before the House is on the recommendation of the Committee of the Whole on the state of the Union, to strike out the enacting clause of the first bill, (No. 395,) reported by the gentleman from California, [Mr. McDOUGALL,] that that is the only question, and that it is not in order to submit any motion to amend pending the motion to strike out.

Mr. BENTON. I desire to submit a question that is in order.

The SPEAKER. Does the gentleman from California yield to the gentleman from Missouri, that he may indicate his proposition?

Mr. McDOUGALL. I yield for that purpose.

Mr. WASHBURN, of Maine. Although the question now is on the recommendation of the Committee of the Whole on the state of the Union, to strike out the enacting clause, I would ask whether it is not in order, as it was ruled to be in order on the Nebraska bill, to submit a substitute for the bill before calling for the previous question? I think that, on the occasion referred to, such a motion was introduced by the chairman of the Committee on Territories, and sustained.

The SPEAKER. The recollection of the Chair is, that, on that occasion, the previous question was called as soon as the recommendation of the committee was made; that the recommendation was voted down, and the previous question being exhausted, a substitute was offered, and the previous question called on it.

Mr. WASHBURN. Will the previous question be exhausted by vote on the recommendation of the committee? Or, if that recommendation be voted down, will it run to the engrossment of the bill?

The SPEAKER. The Chair is of the opinion that it would be exhausted after the vote on the recommendation of the committee.

Mr. DAVIS, of Indiana. The first question to be decided by the House is, as I understand, on concurrence in the committee's recommendation. If that be voted down, will not the bill be then open to amendment?

The SPEAKER. It will. Does the gentleman from California yield to the gentleman from Missouri, [Mr. BENTON,] to indicate his proposition?

Mr. McDOUGALL. Yes, sir.

The clerk then read the following paper, sent to the Speaker by Mr. BENTON:

Motion to commit the bill and amendments, and proposed amendments, to a select committee of thirteen members, with instructions to report a plan to construct a railroad and telegraph line from the western boundary of some western State, to the eastern line of California, by private means; the said road and telegraph line to be confined to the Territories of the United States, with a view to connect with similar State improvements at each end of said line.

Mr. BENTON. Now, Mr. Speaker.——

Mr. McDOUGALL. I cannot yield further.

The SPEAKER. The gentleman from Missouri cannot take the floor from the gentleman from California, to submit his proposition.

Mr. BENTON. How long does the gentleman's five minutes continue?

The SPEAKER. He has an hour. The five-minute rule only operated in committee.

Mr. McDOUGALL. I have been doing my best, Mr. Speaker, to properly discharge my duty. I came here with the right to a response in this matter from the House of Representatives, and this Congress. I hope the report of the Committee of the Whole on the state of the Union will not be concurred in. If it is not concurred in, I shall move, as a substitute, the bill of the select committee, as offered by the gentleman from Louisiana, [Mr. DUNBAR,] and amended by the gentleman from Maine, [Mr. WASHBURN.] I move non-concurrence in the committee's recommendation, and call for the previous question.

Mr. CAMPBELL. I move to recommit the bill to the Committee of the Whole on the state of the Union.

The SPEAKER. The previous question being demanded, the Chair decides the motion out of order.

Mr. CAMPBELL. But the call for the previous question has not been seconded.

The SPEAKER. No motion to refer is in order while the demand for the previous question is pending.

If the House refuses to second the call for the previous question, the motion of the gentleman will then be in order.

Mr. CAMPBELL. Then I hope the House will non-concur, and let the bill be recommitted.

Mr. LETCHER. Is it in order to move to lay the whole subject upon the table?

The SPEAKER. It is.

Mr. LETCHER. Then I submit that motion, and demand the yeas and nays on it.

The yeas and nays were ordered.

The question was taken; and Mr. LETCHER's motion was disagreed to—yeas 54, nays 129; as follows:

YEAS—Messrs. Abercrombie, Thomas H. Bayly, Belcher, Benton, Bocock, Boyce, Bridges, Caskie, Chastain, Colquitt, Curtis, Everhart, Franklin, Fuller, Gamble,

Goode, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Hibbard, Houston, George W. Jones, J. Glancy Jones, Keitt, Kerr, Kidwell, Kittredge, Kurtz, Letcher, Lewis, McCulloch, McMullin, McQueen, May, Millson, Murray, Nichols, Andrew Oliver, Orr, Bishop Perkins, Powell, Puryear, Reese, Ruffin, Shaw, Shower, Skelton, William Smith, Stratton, Trout, Vansant, Wheeler, and Witte—54.

NAYS—Messrs. James C. Allen, Willis Allen, Appleton, David J. Bailey, Ball, Barksdale, Barry, Bell, Bennett, Benson, Bliss, Breckinridge, Bristow, Campbell, Carpenter, Caruthers, Chamberlain, Chase, Clark, Cobb, Cook, Corwin, Crocker, Cumming, Cutting, John G. Davis, Thomas Davis, Dawson, De Witt, Dickinson, Disney, Drum, Dunbar, Eastman, Eddy, Edgerton, Edmands, John M. Elliott, Ellison, Etheridge, Farley, Faulkner, Fenton, Flagler, Florence, Goodrich, Goodwin, Green, Greenwood, Grey, Harrison, Hastings, Haven, Hendricks, Henn, Hiester, Hill, Hillyer, Hughes, Hunt, Johnson, Roland Jones, Knox, Lamb, Latham, Lilly, Lindley, Lindsley, Macdonald, McDougall, Mace, Macy, Matteson, Maurice, Maxwell, Meacham, Middleswarth, Smith Miller, Morgan, Mordecai Oliver, Parker, John Perkins, Phelps, Phillips, Preston, Pringle, Ready, Riddle, David Ritchie, Robbins, Rowe, Russell, Sabin, Sage, Sapp, Seward, Shannon, Simmons, Singleton, Samuel A. Smith, William R. Smith, G. W. Smyth, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, David Stewart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Upham, Walbridge, Walker, Walley, Warren, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Daniel B. Wright, Yates, and Zollicoffer—129.

So the House refused to lay the bill upon the table.

Mr. WALBRIDGE. I demand tellers on seconding the call for the previous question.

Tellers were ordered; and Messrs. HUGHES and STRAUB were appointed.

The House was divided; and the previous question received a second, the tellers having reported —ayes 83, noes 49.

Mr. McDOUGALL. What does the Chair decide in regard to the previous question?

The SPEAKER. When the vote is taken on the motion to strike out the enacting clause, the previous question is exhausted.

Mr. BAYLY, of Virginia. Suppose the House does not concur with the committee, what then?

The SPEAKER. Then the bill is open to amendment.

Mr. BAYLY. And discussion?

The SPEAKER. Open to both.

Mr. CHAMBERLAIN. Does the Chair refer to the original bill?

The SPEAKER. Yes, sir.

The main question was ordered to be now put.

Mr. FAULKNER. I call for the yeas and nays on concurrence with the report of the Committee of the Whole on the state of the Union.

The yeas and nays were ordered.

The question was taken; and the report of the Committee of the Whole on the state of the Union was non-concurred in—yeas 57, nays 118; as follows:

YEAS—Messrs. Abercrombie, Aiken, David J. Bailey, Thomas H. Bayly, Belcher, Bocock, Bridges, Campbell, Caskie, Chastain, Colquitt, Crocker, Faulkner, Franklin, Fuller, Gamble, Goode, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Hibbard, Hill, Houston, George W. Jones, J. Glancy Jones, Kerr, Kidwell, Kittredge, Kurtz, Letcher, Lewis, Lilly, McCulloch, McMullin, M. Queen, Maurice, Millson, Murray, Nichols, Andrew Oliver, Orr, Peck, Bishop Perkins, Powell, Puryear, Reese, Ruffin, Shaw, Slower, Skelton, William Smith, Stratton, Trout, Vansant, Wheeler, and Witte—57.

NAYS—Messrs. James C. Allen, Willis Allen, Appleton, Banks, Barksdale, Barry, Bell, Bennett, Benson, Benton, Bliss, Bristow, Bugg, Caruthers, Chamberlain, Chase, Chrisman, Clark, Cobb, Cook, Corwin, Cox, Cullom, Cutting, John G. Davis, Dawson, De Witt, Dickinson, Disney, Dunbar, Eastman, Eddy, Edgerton, John M. Elliott, Ellison, Etheridge, Everhart, Farley, Florence, Giddings, Goodrich, Green, Greenwood, Grey, Harrison, Hastings, Haven, Hendricks, Henn, Hiester, Hillyer, Hughes, Hunt, Johnson, Roland Jones, Knox, Lamb, Latham, Lindley, Lindsley, Macdonald, McDougall, Mace, Macy, Matteson, Maxwell, Meacham, Middleswarth, Smith Miller, Morgan, Norton, Mordecai Oliver, Parker, John Perkins, Phelps, Preston, Pringle, Ready, Riddle, David Ritchie, Robbins, Russell, Sabin, Sage, Sapp, Seward, Simmons, Singleton, Samuel A. Smith, William R. Smith, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, Andrew Stuart, David Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Upham, Wade, Walbridge, Walker, Wally, Warren, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Daniel B. Wright, Yates, and Zollicoffer—118.

So the House refused to strike out the enacting clause of the bill.

Mr. McDOUGALL. I now submit, as a substitute for the entire bill, the proposition offered in committee by the gentleman from Louisiana, [Mr. DUNBAR,] with the modifications of the gentleman from Maine, [Mr. WASHBURN.]

[This proposition will be found in proceedings of 16th January, pp. 281–2.]

I also propose to correct a typographical error in the twenty-sixth line, by adding after the word "mile," the words "per annum." I propose, also, to insert in the third line, after the word "mile," the same words. I make these changes in order to express more fully the object sought in drawing up the amendment.

Mr. STANTON, of Tennessee. I ask the gentleman from California to give way, to enable me to move that the House adjourn, to enable the friends of the bill to consult with each other.

Mr. McDOUGALL. I will yield for that purpose if, by so doing, I do not lose possession of the floor.

The SPEAKER *pro tempore*. If the gentleman yields for a motion to adjourn, he will be entitled to the floor when the bill again comes up.

Mr. McDOUGALL. I will move to recommit the bill, and yield to the gentleman from Tennessee.

Mr. STANTON, of Tennessee. Before moving to adjourn I desire to inquire of the Chair whether, if the House adjourns in the present stage of the bill, the bill will come up as unfinished business in the morning?

The SPEAKER *pro tempore*. The Chair supposes that, inasmuch as this bill is the special order, it will remain before the House until disposed of.

Mr. STANTON. Then, with the permission of the gentleman from California, I will move that the House do now adjourn.

Mr. DAVIS, of Indiana. I wish merely to say that, when this bill comes up to-morrow for consideration, if the House fail to sustain the demand for the previous question, I intend to offer the substitute which we had under consideration when we were in Committee of the Whole on the state of the Union.

Mr. HOUSTON. I hope the gentleman from Tennessee will withdraw the motion to adjourn. I have on my desk the pension appropriation bill, with the action of the Committee of Ways and Means upon it. It will not take more than ten minutes to dispose of it, and I hope the House will allow it to be taken up and disposed of.

Mr. STANTON. I have no objection to withdrawing the motion to adjourn to allow the gentleman from Alabama to report the bill indicated by him, but not to take action upon it.

Mr. HOUSTON. I do not wish to report the bill unless it can be acted upon. I prefer to keep it in the hands of the Committee of Ways and Means.

Mr. STANTON. Then I insist upon the motion to adjourn.

Mr. MILLSON. As it is very early in the day to adjourn, I demand the yeas and nays.

The yeas and nays were not ordered.

The question was then put; and the motion was agreed to.

And thereupon, at twenty-five minutes past three o'clock, the House adjourned until to-morrow, at twelve o'clock, m.

IN SENATE.

FRIDAY, *January* 19, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

PETITIONS, ETC.

Mr. HOUSTON presented a memorial of Cherokee Indians, residing east of the Mississippi, praying that the amount set apart by the treaty of 1835–'36, may be paid to each of them separately; which was referred to the Committee on Indian Affairs.

Also, a petition of John S. Van Rensselaer and Zachariah Lawrence, in behalf of the delegations from the States of New York, Maine, and Ohio, to the national convention of the soldiers of the war of 1812, recently held in Washington, District of Columbia, proposing certain provisions respecting the appointment of pension agents to be incorporated in any act which may be passed by Congress granting bounty land and pensions to the soldiers of that war; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN.

On motion by Mr. JAMES, it was

Ordered, That Thomas Brownell have leave to withdraw his memorial and papers.

On motion by Mr. MORTON, it was

Ordered, That the petition of the executor of John J. Bulow, jr., deceased, on the files of the Senate, be referred to the Committee on Claims.

On motion by Mr. FISH, it was

Ordered, That leave be granted to withdraw the memorial of Alexander J. Da Cruz, Luis Vidal Cezar, and Bentos Pacheco dos Santos; the memorial of Amaral and Bastos; and the memorial of Manuel A. T. Barboza, claimants to indemnity for the seizure of the brig Susan, by the United States brig Perry.

REPORTS FROM STANDING COMMITTEES.

Mr. WELLER, from the Committee on Military Affairs, to whom was referred the petition of Amos B. Eaton, praying to be allowed certain items which were rejected at the Treasury Department, in the settlement of his accounts, as a commissary of subsistence in the United States Army, reported a bill for his relief; which was read, and passed to a second reading.

Mr. SEWARD, from the Committee on Commerce, to whom was referred the joint resolution from the House of Representatives, authorizing the President of the United States to adopt measures to procure the erection of a first-class lighthouse on Cape Race, reported it, with an amendment, in the form of a substitute.

Mr. STUART, from the Committee on Commerce, to whom was referred the bill making appropriations for the improvement of the harbors on lakes Ontario, Erie, St. Clair, Huron, Superior, and Michigan, reported it with amendments.

Mr. BRODHEAD, from the Committee on Claims, to whom was referred the memorial of Mrs. Jane McCrabb, widow of the late Captain John W. McCrabb, assistant quartermaster of the United States Army, praying an appropriation of certain moneys equitably due her deceased husband, for special and extra-official services in the Florida war, submitted a report, accompanied by a bill for her relief; which was read, and passed to a second reading. The report was ordered to be printed.

Mr. DODGE, of Wisconsin, from the Committee on Commerce, to whom was referred the pitition of Enoch Moore, praying to be allowed compensaion for loss of clothing, &c., on board of the bark Oriole, wrecked at the mouth of the Columbia river, while he was in the service of the Government, reported adversely thereon.

Mr. FISH, from the select committee, to whom was referred the bill for the better protection of life and health on board of passenger ships, reported it, with amendments.

BILLS INTRODUCED.

Mr. GWIN, in pursuance of previous notice, asked and obtained leave to introduce a joint resolution for the establishment of an express mail, weekly, between St. Louis, Missouri, and San Francisco, California; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

THOMAS MARSTON TAYLOR.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they agreed to the conference, asked for by the Senate on the disagreeing votes of the two Houses, on the bill of the Senate for the relief of Thomas Marston Taylor, and had appointed Mr. MACDONALD, of Maine, Mr. WALLEY, of Massachusetts, and Mr. LETCHER, of Virginia, managers at the conference on their part.

BARK COLONIST.

Mr. SEWARD. The Committee on Commerce, to whom was referred the petition of Christian F. Funch, have instructed me to report a bill to authorize the issue of a register to the bark Colonist, by the name of the Lilly. As it is a matter to which there can be no objection, I ask for the immediate consideration of the bill.

The bill was read a first and second time, and considered, as in Committee of the Whole.

The Colonist was a British bark, purchased and now owned by Christian F. Funch, of New York; and the bill is to authorize the issuance of a register to it, under the name of the Lilly, if it shall be proved to the satisfaction of the Secretary of the Treasury, that the cost of repairs made in the United States, after its purchase, is equal to three fourths its value at the time of the repairs.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

BARK FOUNDLING.

Mr. STUART. I am instructed by the Committee on Commerce, to whom was referred the petition of William C. Fay, a citizen of the United States, praying that a register may be issued to a foreign bark, picked up at sea with no one on board, brought into Boston, libeled, and sold at auction by the United States, and purchased by him, to report a bill to authorize the issue of a register to the bark Foundling, of Boston. I ask the unanimous consent of the Senate to consider it now.

The Senate, as in Committee of the Whole, proceeded to consider the bill. No amendment being proposed, it was reported to the Senate, and ordered to be engrossed for a third reading. It was read the third time, and passed.

BARON DE KALB.

Mr. EVANS. By a resolution adopted some days ago, Friday was set apart for the consideration of private bills.

The PRESIDENT. The Secretary reports that it does not operate until next Friday.

Mr. EVANS. I hope, then, I shall be allowed to call up at this time the bill from the House for the relief of the children and heirs of Major General Baron de Kalb. It was somewhat at my instance that it was not acted upon when it came from the House of Representatives, and I feel it is a duty which I owe as well to myself, as to those who are to be benefited by it, to call it up at an early hour. I hope, therefore, the Senate will now take up and dispose of this claim which has been seventy-five years before Congress.

Mr. GWIN. I will state to the Senator from South Carolina that two days ago a bill for the relief of Commodore Jones was laid over on account of the absence of the Senator from Virginia. I think it will occupy but a short time, and I am anxious to have it disposed of.

Mr. EVANS. I shall have no objection to taking it up after this is disposed of.

Mr. EVANS's motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

In consideration of the claims, services, and sacrifices of the late Major General Baron de Kalb in the war of the Revolution, it is proposed to direct the Secretary of the Treasury to pay to his children and heirs $66,099 76.

The bill was reported to the Senate, without amendment, and ordered to a third reading. It was read the third time, and passed.

COMMODORE JONES.

On motion by Mr. GWIN, the Senate, as in Committee of the Whole, resumed the consideration of the bill for the relief of Captain Thomas Ap Catesby Jones.

Mr. STUART. When I objected to the consideration of the bill the other day, it was stated by the Senator from California [Mr. GWIN] that the honorable Senator from Virginia [Mr. MASON] could explain to the Senate the grounds upon which the case stood. I objected to it for the reason which I then considered, and consider now, a very valid one—that it was a case highly important in its character, inasmuch as it purposes to set aside, in fact, a portion of the finding of a court-martial, and that the committee who reported the bill, reported it without any accompanying explanation of the facts. It seemed to me to be a case which required, in itself, a very full statement to the Senate of all the facts connected with it. Now, sir, if the facts can be presented to the Senate, I am not prepared to say that I shall object to the passage of the bill; and I hope that some Senator, the Senator from Virginia or some other, will give the Senate a very full statement of the case.

Mr. MASON. I suppose it is known to the Senate, doubtless it is to the honorable Senator from Michigan—it is certainly known to the country—that Commodore Jones was, at the instance of the Navy Department, I think, some two or three years ago, brought to trial before a court-martial for certain alleged irregularities in the course of his official conduct in California, very soon after the making of the treaty with Mexico, by which California was acquired. It is very well known to the country that a peculiar state of things existed in California at that time, when it was *in transitu*, between an organization and the want of an organization; and the actual duties, authority, and responsibility of our military commanders there, whether of the Army or of the Naval service, were not very clearly defined. Commodore Jones was the commander of the squadron upon that coast, and, according to my general recollection, was instructed by the Navy Department to exercise certain duties and authorities as connected with that service. The court-martial which sat on his case were in session some two or three months. I do not speak very confidently as to the time, but they were a long time in session. They took an immense deal of evidence, and made, in consequence, a very large report, which I have not read. I read, from time to time, as it was published in the papers, portions of the testimony which was taken. I could not—it was not in my power—go into the merits of the inquiry conducted by that court-martial. It was alleged, however, I know, as one reason for Executive interference after the court had pronounced their judgment, that testimony had been received, by that court, of an *ex parte* character, without the knowledge of Commodore Jones, or of his counsel, and after it was announced that the whole testimony was before the court.

The court, in their sentence, found the Commodore guilty as to some of the charges—what they were I cannot recollect—and not guilty as to others; but the result of it was that they sentenced him to be suspended from active command for a period of time—probably three years—and, during that period, to be deprived of the pay and emoluments of his commission. Commodore Jones is a gentleman whom I have known all my life. For him I have felt the greatest respect, and, in his position as an officer of the Navy, I have felt a very deep interest. After his suspension he came to me, as one of the representatives of the State—for he is a Virginian, by birth and education—to ask the President of the United States to review the judgment of the court-martial upon its merits, and upon other grounds, on the allegation—which seemed to be sustained by the testimony—that the court had admitted evidence after they had pronounced the evidence closed, and without his having an opportunity of replying. I made the application to the President—the late President Fillmore. According to my recollection he declined it, on consultation, I suppose with his advisers, upon the ground that it was not competent for him to review the action of the court. At a subsequent day during that Administration, however, the President interfered so far as to remit the sentence of the court, as far as he had the power to do it, by restoring Commodore Jones to his active command in the Navy for the unexpired period, whatever it may have been—probably twelve or eighteen months; but he had no power to affect that portion of the sentence which related to the pay.

I understood, at that time, the opinion of the Executive to be—and it may have been a correct opinion—that it had no power to review or reverse the sentence of the court; but none doubted that the Executive could remit the penalties imposed by the court, so far as the Executive had the power. The Executive, whose duty it was, of course, to inform itself of the record, with that information, did remit the sentence so far as it involved the active command of the officers; and he was returned to his command.

The present application on the part of Commodore Jones is to complete what was left incomplete, by allowing him to draw his pay and emoluments for the time that he was deprived of his command. That is addressed to the discretion of Congress, I apprehend, and purely to its discretion.

I would never, I hope, in view of my duty to the Government, advise that Congress should undertake at all to review or to reverse the action of a court, whether military or civil, unless under charges of flagrant delinquency, or impropriety, or something of that sort, which is not alleged here. But I understand the practice of the Government to be, without interfering with the sentence of the court at all, without questioning the rightfulness of the judgment given, if the merit of the officer, before the sentence was pronounced, was such as to invoke it at the hands of Congress, to remit the penalty as far as it may be in the power of Congress to do it. Such is the tenor of this bill. It simply provides that the pay of which Commodore Jones was deprived, while the sentence was in operation, shall be restored to him—remitting, thus far, the penalty of that judgment; and upon the terms of the bill, it expressly excludes any inference that Congress, in passing it, meant to question the action of the court in any form. I would not leave that open to implication.

Who is this officer? He is among the oldest of our naval captains. I believe not the very oldest, but among the oldest. He has, perhaps, performed as much active service as any officer in the Navy, and, during the late war, when he was a younger man, the most efficient service, as the annals of the country show. Mr. President, some three years ago, that officer did us the honor, at our mess in the city of Washington, to call one morning to pay a visit. The pavements were covered with ice and sleet; and when he left us and took his leave, he fell upon the pavement, and we found him there utterly disabled. I am at liberty to speak of this, because it passed under my eye, and, I am free to admit, made a very powerful appeal to my sensibility, although it was before he had been subjected to the official action of the Government.

Mr. BUTLER. It was afterwards.

Mr. MASON. My friend from South Carolina says it was afterwards. Perhaps it was. I know it made a very strong appeal to my sensibilities. He fell upon the pavement, was disabled, and was brought into the house. The fear was that he had dislocated his shoulder, and it was necessary to strip his clothes from his shoulder to see the extent of the injury, and we there found the honorable wounds and scars that he had received during the war. The shoulder was utterly disabled. The joint was destroyed. The power of controlling the arm was gone; and the marks and cicatrices were upon his person. He told us that, unfortunately having lost the control of that side of his person, he had been unable to preserve his balance, and thus fell upon the pavement. We saw there the condition of his person. He had lost the free and efficient control of the muscles on that side. Where did he get those wounds? He got them, sir, in the preliminary defense of New Orleans. I think I may appeal to my recollection of the history of that day—it was impressed upon my mind at the time—that it was by the flotilla, commanded by this officer, that the whole British fleet was delayed several days in its approach to New Orleans, giving time to General Jackson to complete his organization. It was in that fight he was thus disabled.

Such was his service. I speak of that as one instance only of what was rendered by this officer to the country during that war; and what does he ask now? Doubtless we are bound to presume—for, as I have said, I have not inquired into its merits—that, for some course of conduct, he had sufficiently incurred the censure of the Navy Department to require that the penalties should be imposed upon him. They did not deprive him of his commission, or dismiss him from the Navy, but they punished him by imposing a temporary disability. That temporary disability was not considered by the court, or in public estimation, as a very great hardship, unless accompanied by a deprivation of his pay in the meantime. That was the penalty imposed for the offense, whatever it was. The Executive, before the time expired, restored to him his rank, and active service. It could not remit so much of the penalty as deprived him of the pay for the time the sentence was in force. I know nothing, or very little, of the pecuniary condition of the gentleman. I do know enough, however, to be informed that the loss of his pay during that period of one or two years, whatever it was, has subjected him to very serious personal inconvenience.

I will not detain the Senate further than to say that, in my view, this is nothing but an appeal to the Senate, a request to the Senate, to remit the penalty which has been undergone, by paying the money, of which, by that sentence he was deprived; but with a salvo in the bill that it is not to be considered in the slightest degree to express an opinion upon the merits of the judgment in the case.

Mr. GWIN. I stated the other day, when the Senator from Michigan [Mr. STUART] called for the report of the committee on this case, that the papers laid before the committee were very voluminous. The committee examined them, and they came to the conclusion that Commodore Jones was entitled to the relief which he asked, and that

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they could grant it without passing any censure on the court which tried him. There were opinions expressed in regard to the finding of the court, of its injustice to Commodore Jones, by the ablest members of the legal profession in this city, which were before the committee. I will ask the Secretary to read the concluding portion of the opinions given by General Walter Jones, Richard S. Coxe, and Joseph H. Bradley, who are men of eminent ability, in which they state, after an examination of the whole case, that injustice was done to Commodore Jones. The committee did not choose, however, to make that declaration in the bill which they reported. When such eminent members of the bar were of opinion that the finding of the court was not legal or just towards Commodore Jones, it was a sufficient ground for the committee to report in favor of granting the relief asked for. It is merely a restoration of pay to an officer who has been for nearly fifty years in the Navy, and who has rendered most meritorious services to the country. I will send to the Secretary an extract from the opinions to which I have referred, and I hope the Senator from Michigan will pay attention to its reading.

The Secretary read as follows:

I do not deem it necessary to extend this review of the case to each separate item in the allegations having reference to this money; for, if I am right, as I feel confident I am, so far they are all covered by the remarks I have already made. I have made this review with the main purpose of arriving at satisfactory results, without regard to whether they should be for or against you; and I have come to the clear conclusion, that the findings of the court, when they are against you, are erroneous, and the sentence is therefore illegal, and ought not to be affirmed.

I am, sir, your most obedient servant,

JOS. H. BRADLEY.

I have carefully examined and reëxamined the views as above expressed by my friend, Mr. Bradley, and heartily concur in them. RICH. S. COXE.

March 14, 1851.

I have most carefully and dispassionately reviewed and considered the principles of law and the facts involved in the charges and specifications upon which Commodore Jones was tried before the late naval general court-martial, whereof Commodore Stewart was president, and I remain under the clearest and deepest conviction that there was no sufficient proof of any one fact that ought to have subjected him to the imputation of any criminal motive or act in the judgment of any tribunal, whether administering justice under the law martial, or under the municipal laws of the land. Still, I should have been far less astonished if the court had brought in a general and unqualified verdict of guilty than I was at seeing the piebald verdict of half-way conviction and half-way acquittal which has been actually returned by the court.

That facts are found *proven* against the whole weight of the evidence, and against all the plainest conclusions judicially deducible from it, seems to me quite demonstrable, but the irreconcilable and opprobrious contradictions between such of the court's *findings* as go to criminate, and such as go to exonerate the accused, is palpable on the face of the verdict itself. I think the dilemma on which the verdict of the court is hung, must be apparent to every judicial mind. The acts and intents whereof he is acquitted were indispensable to his conviction on those whereof he has been found guilty. His acquittal of the one shames his conviction of the other. The morality is, if possible, worse than the law, when it is adjudged to be no *fraud* in an officer to appropriate a certain sum of the public money to his own use, and, in the next breath, adjudged that the same identical sum of money was, in fact, *scandalously appropriated to his own use, in the scandalous violation and abuse of a public trust, prostituting his office and command to the purposes of his private traffic and gain, giving an evil example, and being scandalous conduct, tending to the destruction of good morals.*

I think this judicial confusion of the most indispensable principles of right and wrong, of honor and dishonor, of fairness and fraud, is of far more "*evil example*," and tends far more strongly "to the destruction of good morals," than would thousands of malversations and peculations committed by officers intrusted with the custody of public money.

All the half-way acquittals and half-way convictions on the other branches of the accusation are of analogous absurdity, and fall precisely, in principle, under the like censure. The party stands convicted of certain facts, from which all the venom in which they were first steeped is completely washed away, while some new venom, concocted by an undivulged process, is superinduced.

I conclude with expressing my hearty concurrence in the views of the case taken by Mr. Bradley, and only regret that I have not time to corroborate his conclusions by remarks on the evidence in detail. WALTER JONES.

March 14, 1851.

Mr. GWIN. I have only a few words to say in addition. As I stated, it was not the object of the committee to go even into an argument to show that there was equity in the bill, much less to show that, in the minds of eminent members of the legal profession, the action of the court was unjust to Commodore Jones. I will state another fact. The most important witness for Commodore Jones, his private secretary, Colonel Stewart, who was summoned to appear before this court-martial to give testimony, could not get there in time. The steamers then left California for New York only once in thirty days. He started by the first steamer after he received notice, but before he arrived here the decision was rendered. He assures my colleague and myself, that his testimony would have entirely exonerated Commodore Jones from the judgment which was rendered against him. Every means was taken to get him before the court, but it was impossible. The remoteness of California at the time, resulting from having only one steamer a month, rendered it impossible. If he had been there, his testimony, I have no doubt, would have resulted in the acquittal of Commodore Jones. He was his private secretary, and was cognizant of the facts of the case, as no other man could be. Under the circumstances, without giving any opinion adverse to the court, (for we have not gone into that question,) the committee thought that, from the equity of the case, we should pass the bill.

Mr. CLAYTON. I shall vote for this bill with great pleasure. I am glad that the committee has found some means of relief for this gallant officer. I do not rise at all to go into the argument which has been well explained and enforced by the committee, but I do wish to state a little incident connected with the history of this gentleman, which is appropriate to the question before us. All that the Senator from Virginia has said of him, and of his heroism, and gallantry, and patriotism in the last war, is true. Sir, when you walk down the western terrace of this Capitol, and look at that beautiful monument which was erected to the memory of the heroes of the American Navy who fell at Tripoli, among the beautiful statuary there you behold the Muse of History, recording, as she was originally represented, the achievements of the American Navy.

When the British took and burnt this Capitol, during the last war, a captain of the British Navy, I grieve to say it, sir, aided the barbarian soldiers and sailors who mutilated that beautiful monument. A greater evidence of their own barbarity could not have been given; but that officer, who assisted in mutilating that monument, took from the hand of the Muse of History the pen that was in it, declaring that history had no pen to record the achievements of such a Navy as ours, with a feeling as insulting as that which was shown by the barbarian Gaul, when he threw his sword into the balance at Rome. Sir, in that action, which the Senator from Virginia has alluded to, before the battle of New Orleans, that officer, who thus publicly insulted the American Navy and this country, fell by the hand of Thomas Ap Catesby Jones. He died by his hand; and I thank God that I have an opportunity now of giving my vote in a case like that before me, to relieve this gentleman from imputations that are not warranted, in my judgment, to be properly imposed on him. I shall gladly vote for the bill, and in giving my "aye" in its favor, I shall raise my voice at least an octave higher than its usual note.

Mr. MALLORY. Mr. President, as a friend of the bill, I regret that the opinion of counsel has been introduced and read. I do not think it tends to strengthen the case of Commodore Jones. In voting for this bill, I do not design or desire to express any opinion upon the conduct of the court which tried him. That court was composed of high-toned, honorable men, no less so than Commodore Jones himself. In my judgment the court was conducted properly. In voting for this measure, if I vote for it at all, I do so on conditions entirely outside of the action of the court. I do not think that the finding of a court martial, deliberately made, and affirmed by the President on mature inquiry, should be brought into this body for reaffirmance, investigation, or inquiry. If it should, it would involve us in controversy which would occupy this body for months. The officers who tried this gentleman are not here; they cannot be heard; but if he has been improperly convicted from malice, hatred, envy, or uncharitableness, it must pass as a stigma upon themselves.

It will be seen that the bill itself contains a clause providing that it shall not be held to impugn the finding of the court, or to express the opinion of Congress upon the organization or conduct of the court, or words to that effect. That clause was put in by the committee, at my suggestion, so as to avoid any controversy as to the conduct of the court-martial. In the committee room, I took this view of the case; that the moral effect of the court-martial on Commodore Jones himself and on the efficiency of the naval service, had been attained by the conviction which he had undergone; and why should we not, in the declining days of this gentleman—who has shed so much glory on his country, who has risked his life in her defense; who has seen some nineteen years of sea-service, and whose name is recorded on the bright pages of the country's history—why should we not smooth his path to the grave? He is poor; but he does not come here as a pauper to ask a pittance. History shows us what he has done. It shows that he may properly appeal to the Naval Committee, and to Congress, to remit this penalty, because it does not do away with the moral effect, or impair the finding of the court-martial at all. In that view of the case, I regret that the opinion of counsel has been read, because undoubtedly that opinion was but a one-sided affair, prepared expressly to present Commodore Jones's case in the most favorable light to the Executive for his action.

In referring to the services of Commodore Jones—which services alone have induced me to vote for this bill—I revert, with a great deal of pleasure, to the fact that Commodore Jones entered our naval service in 1805. Trusting to no person for the facts, I have made the inquiry myself. I find that from 1808 to 1812, Commodore Jones was actively employed in the duties of his profession upon the coasts of Alabama and Louisiana. He entered the war there in 1814, and Congress has already, in a very able report, decided upon his services, and those of Commodore Patterson, on those coasts. The executive documents of the Government show that their importance has always been recognized. I may also refer to the fact that Commodore Jones, as a naval commander, was the first officer who ever opened any international negotiations between ourselves and the Sandwich Islands, and who placed prominently before this country the great importance of those islands, in a commercial point of view, to our country. And as has been justly said by the honorable Senator from Virginia, he now carries in his body the ball which he received at New Orleans from the enemy, when attacked by nine times his force. The circumstances of that occasion were such, that any officer, no matter what his position was, would be justified in leaving his vessels, and joining the party on shore. But he defended them to the last against nine times his number.

Now, sir, we have no titles for the living; we have no Westminster Abbey for the dead; and when a man, occupying this position, comes before us, and asks for the mere paltry sum of money which has been abstracted from his pay, after he has spent his life-time in the service of his country, I, for one, cannot reject his application.

Mr. BUTLER. Mr. President, my friend from Virginia knows that I have felt a great deal of difficulty in reconciling myself to vote for this bill. I am free to say here now, that I shall vote for it somewhat in the spirit which actuated the Roman people when they called upon Scipio to answer charges made against him. His reply was, "this is the day upon which I fought the battle of Zama." He was not tried, sir. In that spirit, I am perfectly willing now, in some measure, to

bestow the honors of the country upon Commodore Jones by the vote I shall give. I am free to say, I had friends upon the court-martial that tried him. I saw that hero during the time he was under trial, and I was present on the occasion alluded to by my friend from Virginia; and if ever I have seen a human being who has suffered the tortures of punishment, it has been Commodore Jones. He believed that the sentence was unjust. Far be it from me to say so; because I will not, in any honor which I may bestow on this hero, obliquely, or in any other way, throw censure on those who tried him. It was competent for the President certainly to remit the punishment, or, in other words, to pardon him. The province of pardon belongs to the President. This is but a legislative pardon; and I view it in that light. I regard it as a precedent which it may be very difficult hereafter to avoid; but I am willing to vote for the bill, considering it in the light in which it has been presented by others—that Commodore Jones has won victories for this country; that he has, in my opinion, suffered punishment enough. What he suffered upon hearing that he was convicted of any charge, was sufficient punishment for a man of his sensibility and honor. I do not say that the court were not all right; but I say that after he has suffered what I believe to be a punishment adequate for the offense, I am perfectly willing now to remit all that I can remit to him, and give him pay for the time he was suspended from command.

Mr. BADGER. Mr. President, I shall be compelled, very reluctantly, to vote against this bill; and I wish to state, in a very few words, why I must do so. My friend from South Carolina has well said that this is a legislative pardon. It is a legislative pardon, proposed to be extended to a naval officer who has been convicted, and punished, by a court of his brother officers. It either involves in it the idea, or the declaration, that the officers of that court have been guilty of wrong in the decision which they have pronounced; that they have either ignorantly mistaken the law, or the facts of the case, or have willfully disregarded the obligations of their duty, or it does not imply this. If it implies this, it is a jurisdiction which I think Congress ought not to assume, it is a jurisdiction which does not belong to us. It is a question which, from the very nature of the case, we cannot investigate and determine upon with justice and propriety; it is a question which, from the very nature of the case, is not intrusted to our decision; it is a question, as I apprehend, with which we have nothing to do.

In the other aspect of the case, which is that in which it is put by the honorable Senator from Florida, the bill assumes that the judgment was right. I must assume that it was right. It was a sentence given by a large body of this distinguished officer's fellow officers, having the same nice sense of honor and integrity which he has, having the same sympathy which he would have had for others similarly situated; and, we must therefore suppose, compelled to the result at which they arrived, by the overpowering force of the testimony submitted to them. It was the function of the court to decide the question of guilt according to the rules of law and evidence, and then to apportion the punishment according to their notions of what the demerit of the case required. When they had done that, their proceedings, of course, went into the proper Department for the purpose of reëxamination. They have then assumed the character of a sentence, pronounced by a competent and unexceptionable court, receiving the approval of the head of the Government. I must therefore suppose that, in this instance, the distinguished officer whose case is before us, has been disposed of with justice administered in mercy.

Now, sir, with regard to the return of money which this bill proposes, I can have, personally, no objection. I have no unkind feeling towards this gentleman—quite the contrary; but I cannot fail to perceive that, as my friend from South Carolina has justly said, this is a precedent, the consequences of which it is difficult to foresee, and from which it will be impossible to disentangle ourselves. It is the commencement which will lead to a system of applying to Congress whenever a sentence shall have been pronounced which involves a pecuniary loss upon an officer of the Navy, and, of course, upon an officer of the Army, which has received the sanction of the Commander-in-Chief, to call upon Congress to return the money, either upon the ground that, on a revision of the sentence, they think it was wrong, or that the faculty of mercy ought to have been exercised by the President; or on the ground that the officer formerly rendered distinguished services, and should, therefore, be exempt from the consequences which would fall on another in a like case.

It strikes me, that this must necessarily lead to the weakening of discipline, in the military service of the country; to the establishment of distinctions, which ought not to exist; to the interpolation in our code of the proposition that if an officer has once well and faithfully served his country, he stands in relation to discipline for his subsequent conduct upon a different footing from other officers in the Navy; and, as a necessary and inevitable consequence, as it seems to me, that there shall be two grades of obligation upon the officers in this service—one requiring a strict submission to the discipline of the service, a quiet acquiescence in the consequences of a violation of that discipline; and the other, upon the ground of former services, releasing one officer from the obligations which rest upon another.

Now, sir, as a measure affecting the service, I cannot see the propriety of the passage of this bill. In my judgment, we cannot yield to it without establishing a dangerous precedent, which will be felt by us hereafter, embarrassing to ourselves, and having a most injurious influence upon the discipline and subordination of the service. But for these considerations I should gladly vote to pass the bill. It would give me a sincere gratification to vote, as my friend from Florida has said, anything that would serve to relieve and gild the declining years of this gallant officer; but the great interests of the naval service of the country, and, as connected with that, of the Army service of the country, I think, ought not to be surrendered to any considerations of private hardship in a particular case.

Mr. BAYARD. Mr. President, I agree entirely with the honorable Senator from North Carolina. If discipline is to be enforced in your Navy at all, it should be enforced in all grades. In this case you have the judgment of a court-martial sentencing a distinguished officer, in consequence of charges against him, to suspension for three years, I think it was, from pay and emoluments. I understand that, in revising that sentence, the Executive remitted a portion of the penalty, reducing it to eighteen months. If past services are to operate as an immunity from the consequences of subsequent misconduct, then you impugn the judgment of the court, which the bill does not purport to do. The principle would be a dangerous one in our country.

But there is a still further objection to our action in this case. Under the Constitution of the United States, if I read it rightly, the pardoning power, the power to remit penalties or forfeitures of any kind, is vested in the Executive authority; and it would be an invasion, on our part, of that authority, if we were to interfere now after the President has had the power to revise the case, and has approved the sentence. If we should undertake, under such circumstances, to remit the penalty or forfeiture, on the ground of the previous services of the party, it would be, on the part of Congress, an assumption of the functions of the pardoning power in the particular case. I am unwilling to set such a precedent, no matter how distinguished the service of the officer, and no matter what branch of the public service it applies to. I cannot, therefore, vote for a bill which, I think, establishes so dangerous a principle.

Mr. SEWARD. Mr. President, I was very much affected by the remarks which were made by the honorable Senator from Virginia, [Mr. MASON,] and also by those made by the honorable Senator from Florida [Mr. MALLORY] and by the honorable Senator from Delaware, [Mr. CLAYTON.] I am desirous to give a vote in accordance with the suggestions which they have made; but I concur with the last two Senators who addressed the Chair on this subject, that I cannot vote for this bill, notwithstanding the proviso which is contained in it, without subjecting myself to the consequences, in my own judgment, at least, of having acted so as to impair the effect of the sentence of a court-martial, and so to weaken discipline in the Navy of the United States.

I beg leave to suggest to the friends of this bill a proposition on which I think we can all agree; and that is, that it be referred again to the Committee on Naval Affairs, and that they shall report a bill proposing, in some way, some token of the estimation of Congress for the gallant services of Commodore Jones, without any allusion whatever to this court-martial. I shall, for one, vote for such a bill with great pleasure, and I believe that all will do the same. If a bill should be presented for that purpose, and not merely to give him so much back-pay, whatever that amount may be, or whatever its value may be, we should all be happy to concur in it.

Mr. RUSK. Mr. President, I know of no such consequences to result from a vote of the Senate in favor of this bill, as are apprehended by the Senator from North Carolina [Mr. BADGER] and the Senator from Delaware, [Mr. BAYARD,] who are concurred with by the Senator from New York. Commodore Jones was tried by a court-martial on certain charges preferred against him. The court found him guilty on some of those charges, and suspended him from his command for three years without pay. This, I believe, was the sentence of the court-martial. I understand the President has relieved him from the suspension from his command; he has, therefore, remitted that part of the punishment inflicted by the court. There remains only his suspension from his pay for the three years; but, the President not having the power to remit this portion of the punishment, the Committee on Naval Affairs propose that we shall do it.

Sir, in giving a vote to relieve Commodore Jones from this punishment, I do not, by any means, wish to be understood as disapproving of the finding of the court-martial. The Commodore is a gallant man; he is old, and is said to be poor; he has done the country service; and so far as my vote goes, I am willing to remit this portion of the punishment to which he was sentenced. I do not think that, by this vote, I cast any imputations whatever upon the finding of the court-martial; certainly, I do not mean to do so.

Mr. STUART. Mr. President, I am not desirous to detract at all from what has been said by honorable Senators respecting the services of this officer. I award to him, as cheerfully as other Senators do, great credit for services hitherto performed for his country. It was not upon that ground that I made the objection in the first instance. I have listened attentively to all that has been said by honorable Senators for the purpose of ascertaining, if I could, that the first impression which I had upon hearing the reading of this bill was an improper one; but I submit to the candor of those Senators themselves that nothing which has been said has at all affected the question of the propriety of the interference of Congress in the manner proposed.

I said the other day that it seemed to me this was one of a class of cases, of all others, requiring, before the Senate act upon them, a full, complete, and minute report of every fact connected with them. I submitted that it was not to be inferred from the fact that the President had reinstated this officer in command, that he ought to draw his pay for the time he was suspended; and I will now submit, in connection with this remark, another. I think it was of the highest importance for the committee who presented this bill to have reported to the Senate the effect of the order reinstating him. I think it is by no means clear that the effect of that order is not to give him his pay.

Sir, the authority to "grant reprieves and pardons," to remit fines and penalties, is one conferred on the President in general terms by the Constitution of the United States, and I call the attention of Senators to the fact, that it was in the power of the President, not only to remit the suspension, but to remit the effect of that suspension upon this officer's pay also. I think it will be found that this question has been investigated and decided in England in favor of the proposition that a pardon does restore the officer to the very position he occupied before he was suspended, entitling him to all the emoluments of his office in the *interim*. At any rate, it certainly is important for the committee and for the Senate to inquire into the effect of the reinstatement.

Again, Mr. President—for I do not desire to

detain the Senate unnecessarily—how proper, how satisfactory it would have been to have had the opinion of the President, or of the Secretary of the Navy, or of both, as to the effect upon the naval service of this proposed action of Congress to see that the discipline of that important arm of the Government will not be impaired if Congress shall interpose in this instance, in consideration of the great merit of this officer in past life, to give him his intermediate pay.

Mr. BUTLER. How is the fact? Since he has been restored, he has been drawing pay, I suppose.

Mr. STUART. Certainly. The questions which I have suggested, are, in my judgment, vital to the determination of this case. I thought so when the bill was first read to the Senate; and my subsequent reflection, based on the facts which have been placed before the Senate to-day by honorable Senators, only tends to confirm me in this belief. Here is the remarkable fact, that the court-martial, in this case, was composed of the most distinguished officers in the naval service of the country, headed by Commodore Stewart, a gentleman who could not help being the professional and personal friend of this officer. Sir, every emotion which the honorable Senator from Delaware [Mr. CLAYTON] has depicted here so eloquently to-day before the Senate, must have prevailed, to even a greater extent, if possible, in the bosom of Commodore Stewart in behalf of his fellow-soldier; and yet he, with other names equally gallant and equally meritorious, found himself compelled to suspend this officer from the service. The late President of the United States, of course, upon an investigation of the case—for no Senator will undertake to say that the late President, Mr. Fillmore, would approve this sentence without an examination—approved the sentence as reluctantly as the honorable Senator from Delaware himself would.

Mr. BADGER. Will the Senator allow me a moment?

Mr. STUART. Certainly.

Mr. BADGER. I used an expression myself which implied what the Senator himself has just stated; but I think it a little inaccurate. When a court-martial is called by order of the Secretary of the Navy, and the sentence is anything short of dismission, the proceedings do not go before the President, but they go before the Secretary of the Navy. The revision which was made in this case by Mr. Fillmore, was upon an application to pardon or remit. It amounts to the same thing in substance. I merely wished that the Senator and myself should not appear to make a mistake.

Mr. STUART. The Senator is much better advised, of course, than I am on this subject. I made the remark because I asked a question the other day of the honorable Senator from California, if the President had approved the finding of the court, and he answered that he had.

Mr. BADGER. It came before him subsequently, on an application for pardon. It amounts to the same thing, however.

Mr. CASS. It must have come before him, then.

Mr. BADGER. Why?

Mr. CASS. The Secretary of the Navy could not have remitted the punishment.

Mr. BADGER. I say on the second occasion it came before the President, so that it is the same thing.

Mr. STUART. It does not at all affect the question. I was only arguing to show that the proper authorities, under the laws of the United States concerning the Navy, had found this sentence to be proper. Now, sir, it will require a pretty bold legislator, without a report of a committee showing us the facts, without a recommendation from the Navy Department, to step in here and, by legislation, set aside the finding of the court. Does not the bill do that? Why, the President of the United States has restored the officer to his command; that disposes of that part of the case. If Congress pays him his intermediate emoluments, he is not only as well off as if he had never been suspended, but he is better off, for he gets pay for two years' service without performing any. And upon what authority? I submit again that, if the President of the United States, in restoring this officer to his command, thought he ought to receive his intermediate emoluments, it was the clearest case in the world for him to say so to Congress, if he doubted his own authority to give that effect to his order. It is clear, to my mind, that Congress ought not to act without such a recommendation, because the honorable Senator from Florida is correct when he says that Congress should not undertake to revise the finding of a court-martial—a subject which belongs exclusively to the Executive Department. It is the duty of Congress to pass laws. It is the duty of the Executive Department to see that they are executed. What are we proposing to do now? We are proposing to say that the action of that Department, as evinced in the finding of this court-martial, is erroneous and improper, and ought to be set aside. That is as clearly outside of the power of the law-making portion of this Government, as it would be to undertake to make a treaty with England.

Sir, I am as desirous as any Senator on this floor can be, not only to do justice to this gallant officer, but to signalize him in any manner consistent with my duty; and I beg leave to say now, once for all, that, in nothing that I have said or may say, do I desire any gentleman anywhere to understand me as being behind him who is foremost in his awards of merit to this officer. But, sir, can we do this? Can we do it according to the plain provisions of the Constitution of the United States, and remain within the proper sphere of our duty? If we can, ought we to do it without a recommendation from the Department which, under the Constitution, has the supervision of these affairs?

Mr. MASON. If the Senator will allow me, I will ask the Secretary to read the letter from the Secretary of the Navy to Commodore Jones, remitting the sentence. He will see from the terms of it, that it was done on the recommendation of the Navy Department, by the President.

Mr. STUART. I shall be very glad to hear it.

The Secretary read the letter as follows:

NAVY DEPARTMENT, *February* 23, 1853.

SIR: It gives me much pleasure to inform you that the President of the United States, upon a consideration of your case, as represented to him by the Department, has been pleased to direct that the residue of the term of suspension to which you were sentenced by a naval general court-martial, in February, 1851, be remitted, and that you be "restored to the service."

This remission will take effect from the 22d instant, from which date you will consider yourself as waiting orders.

I am, respectfully, your obedient servant,

JOHN P. KENNEDY.

Com. THOS. AP C. JONES,
United States Navy, Prospect Hill, Virginia.

Mr. STUART. Mr. President, that letter is read very opportunely, for it prefaces what I was about to say, and it is this: With great propriety, the President might restore an officer to a command, when, with equal propriety, if he had the power, he might not restore him to his past emoluments. It will never do to say that, because a man has performed eminent services to his country, he is not to be found guilty for misconduct. The President, therefore, might well say that the punishment in this case was sufficient. The officer had then been suspended from the service for two years; during that time he had lost his pay and emoluments; and the President might well say that, in his opinion, it was a sufficient punishment; and, in coming to that conclusion, he might and ought to take into consideration the very great services of the officer. Still, it is not at all to be inferred from that fact, that he should be restored to his first position, and suffer no penalty whatever. That will be the effect of this bill if it passes. It will be as if the court-martial had found him not guilty.

Now, Mr. President, I cannot consent, either to detain the Senate longer on this question, or to vote for the bill as it stands. I wish I could vote for it. I frankly say to you, sir, and to the honorable Senators present, that no act of my life would be connected with more pleasurable emotions, than to vote for this bill as it stands; but I consider myself imperatively commanded, by the Constitution and my duty, to withhold that vote. The amount of money involved is nothing; it is a mere bagatelle; it would not seriously affect an individual in his private affairs; but the principle involved in the bill, is one of immense importance.

Mr. GWIN. Mr. President, I should not say another word in regard to this matter if the Senator from Michigan had not so often repeated the intimation that the Committee on Naval Affairs had been deficient in their duty, in not making a report in this case.

Mr. STUART. I beg to say to the Senator now, if he will allow me, that if any such inference can properly be drawn from the remarks which I made, I wish to retract the whole, for I had no such design.

Mr. GWIN. Then I shall not allude to that matter; but there is one doctrine which the Senator has advanced, that I must disapprove. It is, that we are here merely to register the edicts of the President of the United States, or his Secretary of the Navy, or his Secretary of War, in regard to court-martials on officers of the Army or Navy. I undertake to say, this is the first time such a doctrine has ever been asserted on this floor; certainly, it has never been practiced here, for it is notorious that the Senate have checkmated the Executive in courts-martial. When court-martials, approved by the Secretary of War and the President of the United States, have dismissed officers of the Army, this body has stopped promotions and required the President to restore them; and I venture to say, that if this court-martial had dismissed Commodore Jones from the Navy, the question would have come up here and we should have reversed the order of the court-martial. The facts would have justified the Senate in doing so. What Commodore Jones most complained of, was that they put it out of the reach of the Senate to do him justice on a full examination of the case. I protest against any such doctrine as that the finding of this court precludes the Senate from acting on the merits of the case, if we choose to do so; but we do not choose to do that here. The committee rest the bill on the equities of the case. There was a difference of opinion as to the finding of the court; and hence, we did not pretend to impeach their action. It was alleged that there were some irregularities; that there was important testimony not taken, and this is known to be true. Under all the circumstances, the members of the court, as well as the petitioner before the Senate, being veteran officers, it was thought best, by the Committee on Naval Affairs, not to go into the merits of the case.

Mr. BUTLER. I wish to suggest that this case be postponed; for the more I hear of the discussion the more my doubts increase.

Mr. WELLER. Mr. President, if I were to allow my personal feelings to control my public action, I might feel disposed to vote against this bill. In the year 1850, Commodore Jones was in command on the Pacific coast. It will be recollected that the State of California had very great difficulty in obtaining admission into the Union. During the excitement which was consequent upon the neglect of Congress to provide for our admission, there was a large public meeting held in the city of San Francisco, numbering, perhaps, some six or eight thousand people. I took occasion there, in a public speech, to say that, in the event that Congress refused to admit us into the Union, we must necessarily have some Government; and, in order to maintain that Government, we must have money, and that the surest and most effective way of obtaining that money, would be to seize on the custom-house. This remark was tortured, by the public press, into an allegation on my part, that the people ought to proceed at once to take possession of the custom-house. Commodore Jones, at a dinner party shortly afterwards, having heard this report, said that, in the event it was true, he would have the pleasure of hanging Colonel WELLER at the yard-arm of his vessel. [Laughter.] I never denied the construction given by the newspapers to that remark, for I abstain from contradicting anything that I see in the public prints. I have found out, that whilst I am denying one charge, they are inventing half a dozen new lies upon me. All that I did say, was that we must have an organized Government to protect our persons and property; and if Congress did not see proper to give it to us, we must take care of ourselves. We could not allow the Federal Government to collect revenue from our people, whilst it refused to give us any sort of protection.

But, sir, enough of this. The President of the United States has seen proper to relieve Commodore Jones, so far as he could relieve him, from the judgment of the court-martial. The legislative department of the Government is now called upon to relieve him, so far as they can, from that judgment. He has been restored to his position

in the Navy, and it is proposed by this bill to give him the pay during the time of his suspension. I vote for it upon the broad principles of equity and justice. Here is an old and gallant officer, one who has performed distinguished services for the country; he has been made the subject of a court-martial, and, in the absence of his testimony, he has been convicted. I have the assurance of the gentleman who acted as the private secretary of Commodore Jones—I allude to Colonel Stewart—a gentleman of high character, that if he could have gotten here from California, as he intended to do, in time to give his testimony before the court, many of those transactions on which the judgment of the court-martial was rendered, would have been satisfactorily explained.

Now, sir, if I know these facts, I cannot hesitate, so far as my vote will go, to relieve him from all the penalties imposed on him by that court-martial. I do not know that the court-martial, with the testimony which was before them, could have found otherwise than they did. No matter whether they acted correctly, or not; when I am called upon to do a simple act of justice to a brave and gallant officer, who has served this Government faithfully, I shall not stand upon technicalities to find a pretext for voting against it. I think the power is here. I think that under our form of Government, we, and we alone, have the power to restore the pay of this officer during those two years. I shall not deny it to him. I care not what precedent it may establish. Whenever I am called upon to do justice, and I am satisfied from the facts, where the justice lies, I shall not refuse it. As a Senator, I have a right to vote him his pay, and I intend to do it.

Mr. TOUCEY. I do not, Mr. President, with all respect for the opinions of others, entertain any doubt that it is competent for Congress to grant to Commodore Jones the pay of which he was deprived during his suspension. I think it can be granted by no other power. The President has done all he could do upon the facts which have since been disclosed; that is, to pardon; or, in other words, to remit the unexpired portion of the sentence of the court-martial. It was not competent for the Executive branch of the Government to pay during the period when, by law, the officer was suspended, as he certainly was by the sentence of the court-martial, approved by the President, under the operation of an act of Congress.

Now, sir, if I understand the case, there was evidence very material to Commodore Jones, which it was not in his power to present to the court-martial, and that the effect of that evidence has been a remission of his sentence. We are now called upon to grant him his pay. A gallant officer of the Navy, who has never been dismissed from the service, but suspended upon a trial which appears to have taken place upon a partial view of the case, makes this request.

I have confidence in the report of the Naval Committee on this subject; and until I hear that report questioned, the effect of which is that in justice and equity he is entitled to this pay, I shall confide in it. Having the power to apply a remedy, I am willing in this and all other cases similarly situated, to apply the remedy which the Constitution has put into our hands.

Mr. BAYARD. Mr. President, the principles involved in this case, seem to me to become more grave as we proceed. I do not mean to deny that where there is oppression in the performance of the duties of a court-martial, in the sentence imposed, or in the finding of the court, even though it be approved by the Executive of the United States, Congress have a right, as a supervisory power, to protect the officers of the Army and and Navy from that oppression. But, sir, this bill proceeds upon no such ground. There is no report from the committee, stating the facts of the case. There is no statement giving the judgment of the committee that there was injustice done to Commodore Jones, either by oppressive acts on the part of the court, or by an accidental defect of testimony on his part. Senators now tell us, on this floor, that if certain witnesses had been present, the sentence would never have taken place, or it would have been remitted at an earlier day, before the party suffered under it; but where are those facts reported by the committee? Are we, in the discussion of a bill reported by the committee on a totally different ground, professing expressly not to impugn the decision of the court, to take statements of the personal knowledge of individual Senators, in order to revise the action of a court-martial? Will such a course lead to justice? Will it not establish a precedent alarmingly dangerous, and open the door hereafter, in every case of a decision of a court-martial, after a subsequent lapse of years, either from personal or political bias, to come in and overturn a just decision? Sir, I should be sorry to see the discipline of the Navy, as regards its superior or inferior officers, placed in a position of that kind.

If the committee to whom this case has been referred, will report to us a state of facts showing either that the court-martial, from an accidental want of proper testimony on the part of Commodore Jones, arrived at an erroneous conclusion in his conviction; or that they imposed an improper sentence on him, and that if that testimony could have been presented to the court, in all human probability, the judgment would have been different from it—with that state of facts before me, I might exercise this discretion. I admit that no President now, after a portion of the time has expired, could remit the sentence for that portion for which it has been executed by the lapse of time. I admit that, if such be the case, Congress alone can give relief; and if a proper case were made out for that relief on the report of a committee, I should cheerfully vote for it on that ground.

Sir, I go further. If the proper committee will say to us, on facts stated and clearly proved, that there was oppression from any cause, in the sentence which was pronounced by the court and approved by competent authority, under the Constitution, I should be willing to make the grant embodied in this bill, for the benefit of the officer, but I am unwilling, without a single fact reported which would justify me in doing it, to revise the past action of a previous Administration in the ordinary course of its duty, and to revise it by casting an imputation, which you do certainly by this bill, upon all the officers who constituted that court, and who voted in favor of the imposition of the sentence which it pronounced.

Mr. HOUSTON. Mr. President, if I understand this bill, it does not propose to cast the slightest reflection upon the court-martial, or upon any member of it; but the bill expressly contains a proviso exonerating them from any imputation whatever. So far as that point is concerned, therefore, I have no difficulty; nor, in fact, have I any difficulty at all as to the course I shall pursue in voting upon this bill. I must confess that opinions have been advanced here to which I cannot assent; for instance, the notion that this body has the power to revise the proceedings of courts-martial, and restore officers who have been dismissed by a regular legal proceeding. I deny that the Senate has any such power. I insist that the decisions of courts-martial, when ratified by the Executive of the country, are final as to the removal or suspension of any officer, so far as his rank or command is concerned, either in the Army or the Navy.

The President has the power to nominate; the Senate has the power to reject his nominations. It cannot constrain the President to nominate any particular individual for any office or situation. We have a revisary power upon his acts when he nominates public officers; but we cannot dictate to him what measures he shall adopt in relation to the Army or the Navy, so far as the rank of the officers is concerned. That, however, is not a question necessarily involved in this bill. The question is, whether Congress will grant to this officer the pay to which he would have been entitled if he had been continued in active service during the time for which he was suspended by the decision of the court-martial. The President saw proper to restore him to his command after the suspension had operated for some time. The question now, is, whether, during that time which elapsed between the sentence of the court and the remission by the President of the residue of the punishment, the Congress of the United States think proper to allow him his pay? I believe he is entitled to it.

Sir, I am not afraid of setting a precedent in this case. If a precedent had existed, I suppose the pay would have been granted as a matter of course. I think legislation is independent of all precedents. They are intended to regulate judicial decisions where some great principle is involved. The action of Congress, which is called for in this case, is merely remedial. It is an appeal to Congress to interpose where the present laws are not commensurate to the exigency of the case presented to our consideration. I grant there is no precedent for this, but I do not need a precedent for doing justice. I do not think that this would form a precedent for any subsequent case, because it is not probable that there will ever be a case with precisely the same facts and circumstances. This is an appeal to the judgment of the Congress of the United States, whether this should be done upon principle. I think it is but an act of justice that this pay should be accorded to the officer—not because he was peculiarly meritorious, though I grant that he was, and performed faithful service. I have known him personally for more than thirty years, as an active, efficient, and gallant gentleman in the service. But, independent of that, if I had never known the individual, and this case were presented to me for my action, as it stands, disconnected from all other considerations, I should vote to allow him his pay and emoluments from the date of the suspension up to the time of his pardon. I think he is entitled to this amount. He was prejudiced to that extent by the action of the court-martial. We have not heard a solitary word to show that he was charged with any misconduct or impropriety, or anything more than slight omissions; and, perhaps, without a full hearing upon them the sentence of the court-martial was predicated. The Executive, in his consideration of the case, and with a full view of the circumstances, rendered reparation so far as it was in his power to do it. Now, it is in the power of Congress to give to this officer what he asks. It is but a mere pittance when compared to the treasure of the nation. It would be a great relief to him in his present circumstances, and but a slight reward for his gallant services in days gone by. I will not chaffer over a measure like this, nor consent to have its consideration lead to a consumption of time and an expenditure of money more than equal to the amount which would be given to the individual by the bill.

Sir, I shall vote for this bill from a full conviction that, in so doing, I am rendering but sheer justice to an individual, and that I am relieving my country from a reproach of pitiful meanness, which, it seems to me, can reflect no honor upon the individuals concerned in it, or upon the country.

Mr. BADGER. Mr. President, I wish to say a few words in consequence of what has fallen from the honorable Senator from Texas, who has just taken his seat. If I understood him aright, he intimated that the proceedings of this court-martial were approved with precipitation, without due examination and inquiry, and without properly weighing the nature of the charges, and the evidence which was offered in support of them. Now, sir, if the honorable Senator intended to impute anything of that kind to the gentleman who was then at the head of the Navy Department, an honorable friend of mine, William A. Graham, of North Carolina, I must be permitted to say that he is entirely mistaken in the supposition whicat he makes. That gentleman is entirely incapable in any case, but especially in one concerning the reputation and feelings of an honorable and distinguished officer, of disposing of anything without careful investigation and full inquiry. I am sure that the honorable Senator from Texas, if he supposes to the contrary, is under an entire mistake.

Mr. HOUSTON. Mr. President, I stated that, when the matter was submitted to the head of the proper Department, or to the Executive himself, he, with mature deliberation, and, as I had no doubt, with discretion, made reparation, so far as was in his power, by granting the pardon. I did not intend to cast the slightest reflection on that gentleman, but to say that, so far as the case could undergo a careful revision by the head of the Department, it had been done, and relief was granted, so far as he could grant it. The honorable Senator from North Carolina must have entirely misapprehended what I said, for I did not intend to reflect, in the slightest degree, either on the then head of the Navy Department—for whom I have the highest respect—or on the then Executive of the nation.

Mr. MALLORY. I have an amendment which

I desire to offer to the bill, which is, to add the following words:

And provided, That, in the opinion of the President of the United States, the same may be done without detriment to the naval service.

I offer this amendment to meet the objections which have been thrown out by various Senators. In my judgment, the discussion has taken a range which the bill does not warrant, because it already provides that this act is not to be construed as an expression of opinion by Congress, on the organization, conduct, or decision of the court. I had supposed that that saving clause would confine the discussion here within the narrow limits of the question, whether this be or be not a just recognition of the past services of Commodore Jones. As it has been said that an act of this kind by Congress might possibly interfere, in some way, with the naval discipline, I propose to confide that question to the President, who is made, by the Constitution, the commander-in-chief of the Navy. As he cannot legislate money out of the Treasury into the pocket of Commodore Jones, I propose to let the bill pass as it is, but to leave it to take effect, if, in the judgment of the commander-in-chief, the discipline of the naval service will not be impaired thereby.

Mr. DIXON. Mr. President, I shall vote for this bill, and I shall do it without any apprehension that I am casting any reflection whatever upon the members of the court-martial who rendered the decision against Commodore Jones. That decision, if not technically reversed, was rendered nugatory, so far as the restoration of the officer was concerned, by the action of Mr. Fillmore, who was then President of the United States. I do not understand that the object of this bill is to revise the decision of the court-martial, or, in any way whatever, to interfere with it. It only proposes to give to Commodore Jones the amount of money to which he would have been entitled if he had not been suspended from his command. The power of Congress to do this, it seems to me, cannot be questioned. It comes properly within our legitimate authority, and, in no respect whatever, interferes with any right of any other Department of this Government. It is a question which appeals merely to the discretion of Congress, as to whether they will make the allowance or not.

For my own part, taking into consideration the gallant services of this officer, and the condition in which he now is, so far as pecuniary affairs are concerned, as they have been represented to me, I shall readily vote for granting the amount which is proposed to be given to him. I fear that he will greatly suffer if he does not receive it. I think it due to him, as far as possible, to reinstate him in the public estimation. I think it due to him, whilst we do not interfere with the decision of that Department of the Government, which had the right to pronounce judgment on the case, to exercise a sound discretion ourselves, and restore him, so far as we can, to all the rights and honors of which he has been deprived. In view of all the facts, I shall vote most cheerfully for the bill, believing that it is but an act of justice to him which ought not to be withheld from him.

The PRESIDENT. The question is on the amendment of the Senator from Florida, to add, at the end of the bill, the following words:

And provided, That, in the opinion of the President of the United States, the same may be done without detriment to the naval service.

Mr. TOUCEY. I think, sir, we are competent to pass on the question, whether it will be detrimental to the naval service or not. This is the exercise of legislative power; and I am not willing, in a case like this, and, perhaps, not in any case, to pass a law, and then leave it to the Executive to say whether that shall be a law or not. I would rather do for myself what belongs properly to my own position. I prefer that this body should do what belongs to the Senate, and leave the Executive to do what belongs to that department of Government.

Mr. MASON. Mr. President, I presume nobody asserts authority in the Congress of the United States to revise the action of the Executive in any matter under the Executive control. Nobody, I presume, asserts a power in the Senate to revise the action of the Executive in reference to this court-martial. The Executive alone has the authority over that matter; the power resides there, and nowhere else. Now, what has been done? The Executive Department, in the proper discharge of its duty, caused an inquiry to be made by a military court into charges against this officer. That was a matter competent for the Executive alone. The court-martial found the officer guilty of some of the charges, and acquitted him as to others; and, as their judgment declared, (for I have looked at the paper since, and refreshed my recollection,) because of those charges of which he had been found guilty, they sentenced him to be suspended for five years from active service, and for one half of that period to be deprived of pay and emoluments. That was the sentence of the court. It was approved by the Secretary of the Navy, the only officer who could approve it under the authority of the President; and there it remained until the expiration of some two or three years, when another Secretary of the Navy, the successor to the gentleman who approved it, recommended to the President to do all the Executive could do—remit the residue of the sentence; and he did it in complimentary terms. The remainder of the sentence was remitted.

I have thus given the Executive action on the subject. The Executive could not order this money to be refunded. The pay was stopped under competent authority. He appeals to Congress, and asks that Congress will do that which the Executive cannot do—mitigate the sentence, so far as they can mitigate it, by directing that the pay and emoluments, which have been stopped, shall be repaid. Well, suppose it should be done, what will be the effect of it? Why, sir, the police of the service has been vindicated, under the Executive authority, through a court-martial. The penalty has been inflicted. The officer has been deprived of service for some time, and his pay has been withheld. Now, what is sought? In consideration of the services, to restore that pay. That is all. He is an old man. He has been for more than forty years in the public service. His life has been devoted to that pursuit; and if you deprive him of his pay for two and a half years, how is he to obtain his support? He can devote himself to nothing else. If he had been a young man, he might have gone at that time into the mercantile marine, but it was impossible for him to do it.

Sir, in the military department of the Government, what is more usual? It has been done over and over again. It is considered, by the courts, necessary to vindicate the authority of the law, or to vindicate the police of the service, to inflict penalties, sometimes of a very serious character; and yet, under such circumstances, that the Executive Department that inflicted the penalty, has immediately remitted it. It was done in the case of Colonel Frémont. He was brought before a court-martial, found guilty of the offenses charged against him; and yet, because of the circumstances attendant upon the case, the President approved the sentence, and then restored him to his rank; but he did not accept it. I think it was done in the case of Lieutenant Hunter—commonly called Alvarado Hunter; and yet, after the sentence was approved, it was remitted. In other words, the justice of the law, and the police of the service, have been properly vindicated; and under the circumstances attending the case, the penalty, or a portion of it, has been remitted; and that is the only ground on which I can put it.

Mr. STUART. I am not going to continue this discussion. I wish frankly to state why I cannot agree with the reasoning of some Senators, and especially of the Senator from Kentucky, [Mr. DIXON.] He says he can vote for this bill, because in no sense does it interfere with the finding of the court-martial. Now, suppose that on the very day when the finding of that court-martial was registered, Congress had passed a law giving this officer his annual pay and emolument; it would certainly have been construed by everybody to be a direct interference with the action of the court-martial. It surely can be no less an interference, if we wait for three or four years, and then do the same thing. So you may state any number of cases upon this principle, and the result of the reasoning must be the same. The court-martial decided, as part of the punishment, that he should not have his pay. This bill proposes that Congress shall turn round, and say by law, that he shall have it. That is the plain case; and yet Senators seem to conclude that it does not interfere with the finding of the court-martial.

Sir, take another view of the subject. While this officer was suspended from his command, he had no more right to receive pay from the Treasury of the United States than if he had never been in the service; and it may, perhaps, be a little difficult to determine the authority of Congress to grant one thousand, or two thousand dollars, to this individual, and not to any other individual whom they may choose to indicate, because, I say, he was suspended from his command, and, being suspended, the law gives him no pay.

It seems to me, therefore, and I submit it with great respect, that the reasoning of the honorable Senators, who sustain the bill, is not sound, and that the question results after all in this: whether Congress, in view of the circumstances, see fit, by law, to give to this man this amount of money. As I have said before, I should not hesitate at all about doing that, if I believed that we were not overstepping the true bounds which control the legislative power of Congress. But other Senators think differently; and I am not discussing the question with a view to convince them, but simply to vindicate the vote which I shall be compelled to give.

Mr. MALLORY. After consultation with some of the friends of the bill, I think it proper to withdraw my amendment.

The PRESIDENT. As there has been no action of any sort upon it, the Senator has a right to withdraw it.

Mr. DAWSON. I do not rise to make a speech, but to suggest one consideration in reply to my friend from Michigan. He has likened this to the case of a donation to Commodore Jones. Let us see whether that really be the case. The money has already been appropriated to pay that officer, with other officers of the Navy; and that money, under the appropriation laws, is now in the Treasury subject to his draft; but he cannot obtain it in consequence of the decision of the court-martial, suspending his right to draw it. Then the question is, who has the power to restore to Commodore Jones the right to draw that money? The Senator from Michigan supposes the President of the United States, who granted the pardon, had that power. I submit, however, that he had it not, and if the President had desired to restore the money to Commodore Jones, he could not have done so, because, as it seems to me, his pardon must act prospectively and not retroactively. He could no more order the money to be paid than he could wipe out the stain imputed to Commodore Jones by the suspension from active service from the time of the decision of the court-martial to the granting of the pardon. Under the Constitution of the United States the President could not restore to Commodore Jones the pay of which he had thus been deprived. Who alone has the power to do it? The Congress of the United States. If President Fillmore had desired to do it, he had no authority for the purpose.

Then, what is the appeal of Commodore Jones to us? Not to change the decision of the court-martial in that regard; not to impute blame to the President of the United States, who pardoned him; but to ask of Congress to do an act of justice to him, which, from the character of our Government, and the nature of the pardoning power vested in the President, could not be done by any other authority. We, in the last resort, can interfere and restore to him that which, in all human probability, the pardoning power would have done, if the President had the right to do it. Such is the position of the case. It is upon this ground that I vote in favor of the bill. I vote for it because, as I construe the Constitution, the President had no power to restore the pay, but we alone have the right of allowing Commodore Jones to receive the money already appropriated to him, and now standing to his credit on the books of the Treasury of the United States.

Mr. SEWARD. Mr. President, I wish I had understood this subject as well when this debate began as I do now. It would have relieved me of some considerable difficulty, I think. I have not yet been fortunate enough to hear the sentence or the pardon read. But in reflecting on the whole subject in the light which has been thrown on it during this debate, I am satisfied of this: that either the President of the United States has or has not remitted this judgment of the court-martial—I mean, remitted it fully and absolutely. If he has, there is no judgment, no censure, no con-

demnation, and no stain remaining against this officer. In a court of justice, if a conviction is pleaded against a party, he is at liberty, if he can present one, to produce a pardon; and whenever that pardon is produced, the effect of it is to render the judgment or sentence absolutely void—not merely to avoid it prospectively, but to avoid it retroactively, and it is just as if no judgment had ever been pronounced.

Now, then, the President of the United States has, by the Constitution, full and unlimited power of pardon. He has the right to remit the whole of a sentence. He can do it by piece-meal; he can release a part, remit a part, or he can absolutely extinguish the whole. He either has done this, or he has not done it. If he has done it, there is no necessity for this proposed law, unless, perhaps, it may be necessary to make an appropriation to pay what would have accrued before, and that can come under any other bill as well as this. Or he can do it yet; and I submit to the friends of this bill, whether, if the pardon does not go to that extent, it is not best to have it go to this extent, so that this individual can go to the accounting officer of the Treasury and get his pay, and then if there be any difficulty about it we can provide for it. I think there is a disposition all around the Senate, to award this sum of money to the officer; but the difficulty we have, is about establishing a precedent which will be injurious hereafter in its effect on the discipline of the Navy. I am sure it would be gratifying to this officer himself, to receive it in the way I have suggested.

Mr. BADGER. I am not going into the discussion of this bill; but as the Senator from New York has announced certain legal principles which I do not think are clearly right, but a portion of which, I think, are certainly incorrect, I do not wish the matter to pass with the idea that there is a general concurrence of the Senate in what he has said. I would not have the friends of this measure trust to the ability or power of the President of the United States now, to remit this sentence, so as to entitle Commodore Jones to receive the money which, as my friend from Georgia has said, is already appropriated; because the appropriations are made every year for all the officers in the naval service. The view which I would intimate on that subject is this: It is not in a strict sense true that, whenever a pardon is granted, it has the effect of placing the party just where he would have been if no sentence had been pronounced. When a pardon is pleaded upon the arraignment of the individual, it discharges him from all further proceedings. If it is pleaded after a conviction, and in bar of the sentence, it stops and suspends the proceedings from that moment. But if a man receives a sentence, and that sentence is executed, completely executed, I do not know any ground for saying that a subsequent pardon will have any effect whatever upon the past transaction. It would be manifestly improper that it should have.

Mr. BUTLER. I desire, for my own instruction, to ask my friend from North Carolina, not only as a lawyer for whose legal opinions I have great respect, but as one who is somewhat familiar with the naval service, whether at the time the President assumed the function of granting a pardon, it was competent for him, then, in that pardon, to have remitted the fine, if you choose to call it a fine, or to have remitted the pay of this gentleman?

Mr. BADGER. I was just about expressing my view on that subject. I will state my opinion on the point. I utter it with no confidence at all. It is what now seems to me to be the true rule on the subject; but in that I may be mistaken; for I have given it no careful application, and I have practiced my profession too long to have any great confidence in opinions hastily conceived. But this strikes me to be the state of the case: Until the sentence is executed, it is always in the power of him who has the authority to grant a pardon, to annul it. It appears to me that if, at the time the President of the United States remitted the residue of the suspension, instead of doing that, he had simply pardoned the whole offense, the effect of that would have been to enable Commodore Jones then to draw from the Treasury the pay which had accrued, which regularly would have been due to him, which was appropriated for him, which was lying in the Treasury for him, and which he was only prevented from obtaining by the obstacle interposed by the sentence of suspension. That is the notion I have of it; but I do not advance it as an opinion which is beyond dispute.

A pardon, then, would not have reversed the fact, that he had been two years out of service; because, in the nature of things, that is impossible to man; but every consequence then resulting from the judgment, which was still capable of being removed, it strikes me, would have been removed, at that time, by a plenary pardon. Why should it not be so? This was an officer in the service. Here was an appropriation for his pay. What prevented him from getting it? This conviction; this sentence approved by the President. When the President, in the exercise of his high pardoning powers, says: "I absolve and discharge this officer from the offense of which he has been convicted," then immediately, as to everything that is capable of being restored, the party stands as if he had not been convicted. My impression is, he would then have a right to go to the accounting officers and demand his pay.

But, Mr. President, I may be very much mistaken in this view which I entertain, for I see that my friend from Connecticut, for whose opinion I entertain a profound respect, does not agree with me. But in this, I feel considerable confidence, and therefore, I say I would not have the friends of this measure trust to the intimation thrown out by the Senator from New York, for after a sentence is fully executed, I do not see how the power of pardoning can have an operation or effect upon it.

Mr. TOUCEY. My honorable friend from North Carolina misapprehended me entirely. I think that the President has the power of remitting the unexecuted part of the sentence, but that, further than that, he has no power. The President who approved the decision of the court-martial had the power of pardon if he chose to exercise that power. The sentence takes no effect until it is approved; but, when he approves of it and allows it to stand, and it is in part executed, neither his successor nor himself can remit the executed part of the sentence. It stands on the same ground precisely as if a fine were imposed, and that fine had been paid into the Treasury. The pardon of the offense could not authorize the taking of that money out of the Treasury. Nor if it were a corporal punishment, would it be possible for the pardon of the President with the remission of the penalty, to relate back, and undo what had been done.

Mr. BROWN. You could not unhang a man. [Laughter.]

Mr. TOUCEY. You could not unhang him, as my friend from Mississippi says; nor, if there was any other punishment, could it be undone; and when the pay is suspended, it stands suspended by law, until the power is exercised of remitting what remains of the sentence. That, however, does not come into collision with the action of the previous Executive, or of the existing Executive himself, if he acts in pardoning as well as in approving.

I think, therefore, there is no power in this Government that can give to Commodore Jones pay during the period of his suspension, except Congress, and Congress, in exercising that power, does not come into collision either with the court-martial or with the Executive. Hence, as I said before, as there is no question made on any side that equity and justice require that this shall be paid to this distinguished and valuable officer, I shall, under the circumstances existing in the case, cheerfully give my vote for the bill.

Mr. BAYARD. Mr. President, with great deference to the honorable Senator from Connecticut, I feel some doubts about the view which he takes of the effect of the pardoning power. In the case of a fine, to which he has likened a case similar to the present, there can be no doubt that, after the money has been paid into the Treasury, no act of remission by the President could take it out of the Treasury; but the fine might have been imposed ten years before, and if it had not been paid into the Treasury, the exercise of the power by a subsequent President would remit the fine.

Now, sir, the question might well arise, whether if, during the time when this suspension was to take effect—during the three years—the President of the United States chose to remit the sentence, could the money be considered as paid into the Treasury? The sentence is a continuous whole; and it is a very grave and doubtful question, whether the effect of the remission would not necessarily entitle the party to his pay during the whole period of time. I cannot see the analogy between this case and the case of the payment of a fine into the Treasury. There is no money paid into the Treasury here. There was a suspension for three years in consequence of the judgment of the court-martial, approved by the proper officer. That suspension is continuous. After it expires, you may place it in the same class with a fine paid into the Treasury; but, until it does expire, it is a matter of grave doubt in my mind whether the intervening action of the President would not necessarily limit the effect of the whole sentence. That, however, may be a matter for judicial decision.

Mr. MALLORY. I wish to ask my friend from Delaware one question, and that is, whether or not unexpended balances of appropriations do not revert to the Treasury every two years; whether, under that circumstance, the money does not go into the Treasury without an act of Congress?

Mr. BAYARD. There is a distinction between the cases. I am not speaking of what appropriation we may make in an appropriation bill; but of the question of the right of the party to his pay under the law. That is the question. It is not whether unexpended balances have been paid back into the Treasury. There is no specific appropriation made by law for the payment of this particular officer; there is a general appropriation for the payment of the officers of the Army and Navy. That point, perhaps, would not, in my judgment, affect the case in the view which I take of the law. I suggest the question only as a matter of grave doubt. I am, by no means, satisfied on the subject; but the inclination of my mind is that the effect of the Executive remission of pardon, unless it was limited to the latter portion of the punishment, would entitle the party to his pay during the whole time, if the remission or pardon took place during the period originally fixed for the suspension. If, in the mean time, the money had gone into the Treasury, I admit it would require an act of Congress to make a re-appropriation; but I am speaking of the legal effect upon the offense, and the punishment for that offense, by an exercise of the Executive power to pardon, during that period of time.

Mr. SEWARD. The Senator from Delaware [Mr. BAYARD] is clearly and certainly right, and that would appear at once, if we had before us the form of a pardon as it is always written. That form will be found in Lilly's Entries, or any other book of English precedents. A pardon is in this form: "Whereas a judgment was rendered in a certain court"—describing the judgment and sentence—"now, therefore, the people, or the President of the United States"—or whatever the pardoning power may be—"do hereby remit, release, and discharge the said A B of and from the said judgment, and from the sentence, and from all the consequences which follow it." So that the effect of a pardon is, when pleaded, or produced anywhere, to entirely supersede and annul the judgment, just as if it had never existed. The disability to receive the compensation for the two years only existed by reason of the pronouncing of this judgment. When the pardon took effect it removed the disability, and the party was at liberty to go to the Secretary of the Treasury and receive his pay, just as if it had never been forfeited. It may be true, that it is necessary to provide an appropriation to carry it into effect; but I am sure there is no necessity for a special law.

Mr. BUTLER. Mr. President, if the doctrine which has just been stated by the honorable Senator from New York be true, I do not know how many naval officers may not go to the Treasury and claim their pay, for I understand there are a great many instances in which, after a certain lapse of time, a pardon has been extended to those who have been suspended by the sentence of a court-martial. If that pardon extended so far as to enable them now to go back, and claim pay for time ten years ago, or twenty years ago, by virtue of the pardon, it is certainly what the country has never understood to be its operation.

Sir, the question which I put to my honorable friend from North Carolina sometime ago has not yet been answered. That question is, how far

the President, by the competency of his constitutional authority, had a right to qualify the pardon at the time he granted it to Commodore Jones, in February, 1853. If he then stated to Commodore Jones, "this pardon is to take effect three months from this time; you are to regard yourself as under the sentence of the court until three months from the present day," I think it would have been perfectly competent for him to say so. Was it not equally within the power of the President at that time—and that is the question—to say to Commodore Jones, "Sir, I restore you your sword, with the further qualification that so much of the sentence of the court as has deprived you of pay, shall be annulled?" Was it competent for him to have said that? If it was, and he did not say so, then it seems to me the pardoning power of the President has excluded us from that kind of jurisdiction which it is proposed to exercise over this case.

Mr. STUART. That certainly is the very point which exists in this case. What I sought to show in the outset was, that the President, having remitted only a portion of this suspension, it was not to be inferred that he had remitted the portion already past; but it is clear that the pardoning power, upon the well settled principles of law—and I have the books before me—is as extended as the Senator from New York has stated. It is as if there had never been any conviction. There are certain occurrences which you cannot wipe out. As has been said here, if a man has been hung, you cannot restore him to life; or if he has suffered ten years' imprisonment in the penitentiary, you cannot wipe out that fact; you cannot take away the time for which he was so imprisoned. But as to everything which has not been executed, and, as to everything which is executed, that can be restored; that is the effect of the pardon.

Now, suppose that this court-martial had fined this officer $1,000, and then the President had pardoned him without qualification, could anybody have collected the fine against him? He could plead his pardon; and the effect would be as if no judgment had ever been rendered by the court. Suppose he had paid the $1,000, and the President had unqualifiedly pardoned him, would it not give him the right to have the money returned? Suppose he should demand it; the accounting officer would say, "we hold it in virtue of the finding of the court-martial;" he pleads the pardon, which is, in legal effect, as if no judgment had ever been rendered; what is the effect of that?

Here is a suspension of pay, I will say to the Senator from Georgia, not a suspension of an appropriation. When he applies at the Treasury for pay, they show him the judgment of the court-martial, and say "you have no right to it; here is the judgment of law, which prevents you from drawing it;" but when the President gives him a general pardon, he pleads that, and then there is no suspension.

Sir, I have insisted that the effect of this bill—the President not having given him a general, but a qualified pardon—was to interfere directly with the Executive power; and there can be no doubt, I think, in the mind of any gentleman who will examine the subject, that, if the President had given him a general pardon, he would have been allowed his pay in the *interim*, according to every well-settled principle of law. Then how it is possible to conclude that the effect of this bill is not an interference with the Executive power under the Constitution, I confess my inability to perceive.

The bill was reported to the Senate without amendment, and the question was stated to be on ordering it to be engrossed for a third reading.

Mr. STUART. I ask for the yeas and nays on that question.

The yeas and nays were ordered, and being taken, resulted—yeas 26, nays 17; as follows:

YEAS—Messrs. Allen, Bell, Brodhead, Brown, Clayton, Dawson, Dixon, Dodge of Iowa, Fessenden, Foot, Gwin, Houston, Hunter, Johnson, Jones of Iowa, Jones of Tennessee, Mallory, Mason, Morton, Reid, Rockwell, Rusk, Shields, Thompson of Kentucky, Toucey, and Weller—26.

NAYS—Messrs. Badger, Bayard, Benjamin, Brainerd, Bright, Cass, Clay, Evans, Fish, Fitzpatrick, Geyer, Gillette, James, Seward, Stuart, Sumner, and Wade—17.

So the bill was ordered to be engrossed for a third reading. It was then read the third time, and passed.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. WEBSTER, his Secretary, announcing that the President had this day approved and signed a joint resolution, providing for the engraving, lithographing, and publishing of drawings, maps, charts, and other papers of of Congress.

PARMELIA SLAVIN.

On motion by Mr. SEWARD, the bill for the relief of Parmelia Slavin, late the wife of John Blue, deceased, was recommitted to the Committee on Pensions.

COMMITTEE SERVICE.

Mr. DAWSON. It is known that a vacancy has occurred in the Committee on the District of Columbia, caused by the lamented death of its late chairman, [Mr. Norris.] The vacancy has not been filled. I move, therefore, that the President *pro tempore* be authorized to fill it.

The motion was agreed to.

HOUSE RESOLUTION REFERRED.

The joint resolution from the House of Representatives to pay the pension due James Capen to his administrator, was read twice by its title, and referred to the Committee on Pensions.

BARK MARTHA.

The bill from the House of Representatives to authorize the Secretary of the Treasury to issue a register to the bark Martha, was read a first and second time by its title.

Mr. SEWARD. This is a bill which is a matter of course, and as there is a necessity for its immediate passage, I ask for its consideration now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. Its object is to authorize a register to be issued for the bark Martha, of Charleston, South Carolina, formerly a British vessel, called the Aquatic, but now owned by John W. Colwell, a citizen of South Carolina—the vessel having been brought into the port of Charleston in a disabled condition, and condemned as unseaworthy; but which he caused to be repaired and refitted for sea; but before the register shall issue, it must be proved to the satisfaction of the Secretary of the Treasury that the cost of the repairs made in the United States, after the purchase of the vessel by the present owner, exceeds three fourths of the original cost of building a vessel of the same tonnage in the United States.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting a report of the Chief Engineer, in answer to a resolution of the Senate, calling for information as to what progress has been made in fortifying the entrance to the harbor of San Francisco, California, and the present condition of the work; which, on motion by Mr. WELLER, was referred to the Committee on Military Affairs, and ordered to be printed.

Also, a communication from the Secretary of War, (in answer to a resolution of the Senate, instructing him to report the information required to be obtained, respecting the deepening of the communication between Lakes Huron and Superior, by a proviso in the civil and diplomatic bill of March 3, 1853,) transmitting a report of the Colonel of Topographical Engineers, containing the information required, and stating the reasons why the Department was not able to furnish it at the last session; which was ordered to lie on the table, and be printed.

Also, a message from the President of the United States, in further compliance with the resolution of December 5, requesting copies of the correspondence between General Wool, and the different Departments of the Government, transmitting a report from the Secretary of State, with accompanying documents; which, on motion by Mr. WELLER, was ordered to lie on the table, and be printed.

Also, a message from the President of the United States, transmitting a letter from the Secretary of the Interior, and covering a communication from the Commissioner of Indian Affairs, asking that certain appropriations may be made for the service of the Indian department; which was referred to the Committee on Finance, and ordered to be printed.

RECLAMATION OF CRIMINALS.

Mr. BENJAMIN. I offer the following resolution:

Resolved, That the Committee on Foreign Relations be instructed to inquire into the expediency of providing, by law, for the reclamation, under the extradition treaties of the United States with foreign countries, of fugitives from the justice of the United States, and of the several States and Territories, and for defraying the expenses of such reclamation; and that they report by bill or otherwise.

I wish to call the attention of the Committee on Foreign Relations to this subject. I have had occasion lately, through the State Department, to make reclamation abroad for the return of a fugitive from the justice of the State of Louisiana. The State Department promptly interfered in the matter, and did what was required; and now a draft has been drawn by our Minister at Paris for expenses incurred. There is no appropriation at all for services of that kind, and indeed the Department is entirely without any rules of action on the subject. I make this statement with a view to call the immediate attention of the committee to the resolution.

The resolution was agreed to.

EXTENSION OF BOUNTY LAND LAWS.

Mr. BRODHEAD. I ask the Senate now to proceed to the consideration of the unfinished business of yesterday—the bounty land bill.

Mr. JONES, of Tennessee. I do not propose to oppose the motion of my friend from Pennsylvania; but it will be remembered by the Senate that, on my motion, the bill granting to railroad companies an extension of time within which to pay the duty on iron imported for railroad purposes, was made the special order for one o'clock to-day. By agreement with the Senator from Pennsylvania, I have consented to allow his bill to be taken up to-day, and to ask the Senate to meet to-morrow for the purpose of disposing of the bill to which I have referred.

Mr. BRODHEAD. I hope we shall be able to dispose of the bounty land bill to-day, so that it may not interfere with other general business.

The PRESIDENT. The bill "in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," is now before the Senate, as in Committee of the Whole. The pending question is on the motion of the Senator from North Carolina, [Mr. BADGER,] to strike out the words, "and whose services have been paid by the United States."

Mr. BADGER called for the yeas and nays on his amendment, and they were ordered.

Mr. CLAYTON. I understand the question to be whether we shall strike out those words which prevent a soldier who has not been paid anything from receiving bounty land under this bill. The bill, as it stands, authorizes grants or donations of land only to those who have been heretofore paid. Why should we refuse them to those who have not been paid?

The question being taken by yeas and nays on the amendment, resulted—yeas 23, nays 17; as follows:

YEAS—Messrs. Atchison, Badger, Bell, Benjamin, Brainerd, Bright, Butler, Clayton, Dawson, Evans, Fessenden, Fish, Foot, Geyer, Gillette, James, Jones of Tennessee, Mallory, Morton, Pearce, Rockwell, Seward, Sumner, and Wade—23.

NAYS—Messrs. Allen, Brodhead, Brown, Cass, Clay, Dodge of Wisconsin, Dodge of Iowa, Houston, Hunter, Johnson, Jones of Iowa, Mason, Reid, Shields, Stuart, Toucey, and Weller—17.

So the amendment was agreed to.

Mr. BROWN. I have an amendment to offer, as an additional section:

SEC. —. *And be it further enacted*, That this act and the bounty land laws heretofore passed by Congress, shall be so construed as to extend their benefits to Indians in the same manner, and to the same extent, as if the said Indians had been white men.

If I were certain that the Senate had paid any attention to that amendment, I would not say a word in relation to it. I take it for granted that they understand it.

The amendment was agreed to.

Mr. BELL. I wish to offer an amendment of which I gave notice on a former day. It is to insert in the first section, after the words "ser-

vice of the United States," and after "mustered therein," the following:

And each of the surviving volunteer officers and privates who, in any of the wars in which this country has been engaged, performed military service against the public enemies, though not called regularly into the service of the United States.

The first section of this bill professes to grant the bounty which is proposed to be given by the bill, to all who have been engaged in any of our wars since the Revolution, and even in that war; but the limitation is, that they shall have been called and regularly mustered into the service of the United States. Sir, the heroes of King's Mountain were not called or mustered into the service of the United States, and though, perhaps, there may be but few survivors of that memorable battle, I question much whether there are any proposed to be benefited by the bill who have stronger claims upon us. But, independent of that, I am averse to this failure to recognize their claims to the bounty or the notice of the Government being any longer permitted by Congress. Not one of those men who volunteered had time to consult the officers of the General Government. They banded themselves together, elected their own officers, without a muster-roll even, so far as we know, and achieved that victory, the most important of the Revolution.

The bill professes to go back to the war of the Revolution; and, sir, if the Congress of the United States, professes to do justice to those who performed military service for the country, it ought to remember that there is a remnant of that gallant band. Not only the head of it, but the largest proportion of it has passed away forever. They never, when living, received any recognition of their claims upon the bounty of the Government. No one of the officers or privates, unless he afterwards became an officer in the regular army, was ever recognized as entitled to a pension under the acts of 1818, or 1832, or any other act, upon the ground simply that they performed this brilliant service within thirty days, and were not six months, or three months even, in service. They were excluded from all the other bills. This is but a small claim set up now to the bounty of this land bill, when others who performed far less service, and a good many of whom never performed any act of military service, have been paid pensions during a long life. I hope the amendment will be agreed to.

Mr. WELLER. I think it must be obvious to the Senate that it will be utterly impossible to pass this bill in the shape in which it now stands. So many amendments have been made, that it is utterly impossible for any one to ascertain what will be the probable effect of the bill. I have no doubt that, in the shape in which it now stands, it will require some two hundred millions of acres. I think it very unfortunate that we have adopted the system of giving bounties to able-bodied men. If I had to adopt a system myself, I would prefer giving liberal pensions to those who were wounded or disabled in the public service. I do not see the propriety of giving to an able-bodied man one hundred and sixty acres of land. You would afford a sufficient inducement to men to engage in the military service of the country, if you undertook to say, by your laws, that, in case they became disabled in the public service, or were killed, their wives and children should be provided for. That, in my judgment, would be a much preferable system to this one of giving the public lands. I would have this Government adopt the children of those officers and soldiers who fall in its military service, and have them educated until they arrive at a proper age.

I shall propose, if amendments are to be made, to increase the amount that is paid under existing laws to those who are upon the pension rolls. Now, if a man loses an arm or leg in the public service, he receives a pension of eight dollars a month—ninety six dollars a year. That is no provision whatever. It is no compensation for that man who has been lost to his family by the loss of a limb in the public service. I shall propose, therefore, to amend this bill by providing for an increase of twenty per centum upon the amount now paid to every pensioner, if a commissioned officer, upon your pension roll, and thirty-three per centum on that paid to non-commissioned officers and privates, who were wounded or disabled in the public service.

Mr. BELL. I do not understand that the argument of the honorable Senator was directed against my amendment. I think it wholly inapplicable, unless he proposes to extend pensions to those to whom the amendment relates. They have been denied it heretofore, upon the ground that they were not long enough in service. The acts of 1818, 1828, and 1832, excluded them upon the ground that they were not six months in the service. The amendment will add but little—perhaps not a score—to the number of those who may receive the benefits of the bill.

Mr. BUTLER. I have just received a communication from one of the Departments, which makes it necessary to go into Executive session. I therefore move to postpone the further consideration of the bill until to-morrow.

The motion was agreed to.

ADJOURNMENT TO MONDAY.

On motion by Mr. CRAYTON, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

EXECUTIVE SESSION.

On motion by Mr. BUTLER, the Senate proceeded to the consideration of Executive business; and after sometime spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 19, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

WITHDRAWAL OF PAPERS.

On motion by Mr. CLARK, it was

Ordered, That leave be granted to withdraw the petition and papers in the case of Zerah Whitney, for the purpose of presenting the same in the Senate.

ADDITIONAL ESTIMATES.

Mr. HOUSTON, by unanimous consent, from the Committee of Ways and Means, presented additional estimates from the Navy Department; which were laid upon the table, and ordered to be printed.

VOLUNTEER TROOPS.

Mr. FAULKNER. I ask the unanimous consent of the House to report, from the Committee on Military Affairs—in response to a communication from the President of the United States, which was received yesterday, and referred, by the House, to that committee—a bill for the suppression of Indian hostilities; and I trust that the House will also, in view of the blood of our citizens which has already been shed on our frontiers, and in view of the alarming state of hostility which now exists—large and powerful tribes of hostile Indians having collected upon our northwestern border—I say that, in view of these facts, I trust the House will not only give their consent to allow me to report the bill, but that they will fix an early day for its consideration.

Mr. HAMILTON. I desire to know what bill that is?

The SPEAKER. It is a bill for the suppression of Indian hostilities.

Mr. HAMILTON. Is that the bill for increasing the Army of the United States?

Mr. FAULKNER. I will tell the gentleman what it is if he will allow me. The gentleman will recollect that, yesterday, at twelve o'clock, a special message was received from the President of the United States, communicating the alarming intelligence that a large and powerful tribe of Indians are now engaged in active hostilities upon our northwestern frontier. This bill is in response to that message, and in response to the recommendations of the President. It provides that a force of mounted volunteers shall be raised, not to exceed three thousand, to be called into service for a period not exceeding eighteen months, and they are to be disbanded earlier than that time if their services shall be no longer necessary.

Mr. HAMILTON. Does this bill provide for anything else than what the gentleman has stated?

Mr. FAULKNER. It provides for nothing else.

Mr. HAMILTON. Does it provide for a permanent increase of the Army?

Mr. FAULKNER. Certainly not.

Mr. EDGERTON. And for the very reason that it does not, I shall be constrained to object to the introduction of the bill. I am opposed to the raising of any volunteer force.

Mr. RICHARDSON. I hope my friend from Ohio will withdraw his objection; and, if he will allow me for a moment, I will state the reasons why it seems to me he should do so. There is no doubt of the fact that there is now a large body of Indians centering upon our frontiers north of the Kansas river, and that they are preparing for active and extensive hostilities. And unless the Government meets them in the spring with a force large enough to intimidate them, you will protract, for many years, such a war as they can carry on. By sending a force of three or four thousand troops there, as early as practicable in the spring, you will strike a determined blow, and you will save all the expense, all the trouble, and all the bloodshed, which will otherwise ensue.

I am satisfied that the force proposed to be raised by the bill, which the gentleman from Virginia asks to introduce, is the best force that can be raised for the purpose of protecting your frontier. The force is to be raised for a particular purpose—for a particular service. I will state to the gentleman that the Indians have already collected a band of three or four thousand warriors, ready to commence hostilities. They are the most warlike tribes upon our whole frontier, or anywhere in North America. A process has been going on with them for many years, interesting in itself, it is true, but dangerous in its results, of incorporating the tribes overcome by them into their own bands, instead of destroying them; and this process has gone on until they have become the terror of those vast plains, not only to the whites, but to the Indians themselves.

In view of these facts, I am satisfied—and if the gentleman from Ohio will examine the evidence, I think he will become satisfied—that it is the determination of these Indians to commence hostilities as soon as the emigrants begin to cross the plains.

Mr. EDGERTON. I will state, that so far as my observation is concerned, the experience of the Government in the past, in calling out volunteers, has has been particularly unfortunate. If any force is to be sent for the purpose which has been indicated, I am satisfied that the regular Army is the best. The volunteer force has always been found to be the most expensive. And so far as the suppression of Indian depredations, or Indian hostilities, is concerned, I am still further satisfied that the surest way to protect the emigrant—the surest way to protect the settler against either, is to withdraw the military forces of the country altogether from the Indian country. That is my belief, and that is the reason why I object to this bill. I must persist, therefore, in my objection to the introduction of the bill, and especially as it provides for the raising of a volunteer force.

Mr. FAULKNER. I ask the gentleman from Ohio at least to withdraw his objection to this extent: I ask that he will permit me to report the bill and have the order to print made, and then I will move that it be referred to the Committee on Military Affairs.

Mr. HAMILTON. Let the bill be printed by unanimous consent, without being reported.

Mr. EDGERTON. I have no objection to the bill being printed, unless it will have the effect to help along the passage of the bill. I shall object to anything that will have that effect.

Mr. FAULKNER. Well, sir, I give notice to the House, that I will press the bill to its passage at the earliest possible moment; and that, if necessary, I will move to suspend the rules on Monday, for that purpose.

Mr. LANE, of Oregon. I wish to ask the gentleman from Ohio one question. He has said that he believes the raising of volunteer forces has been unfortunate for the country; that they are the most expensive. Now, I would like to ask him what he thinks of the battle of Buena Vista? Did he think that unfortunate?

Mr. EDGERTON. I did not call in question the value of the volunteer force in Mexico. I simply stated that, so far as the volunteer force in the Indian country was concerned, it has been unfortunate and expensive. I think the records of the War Department would show that every volunteer force sent into our Indian country has produced injury instead of benefit; and, therefore, I insist upon my objection.

Mr. HOUSTON. I call the gentleman to order.

The SPEAKER. All debate is out of order.

Mr. FAULKNER. Did I not understand the gentleman from Ohio as withdrawing his objection to the extent of permitting me to have the bill reported and printed, and then recommitted to the Committee on Military Affairs?

Mr. EDGERTON. If that action is going to further or secure the passage of the bill, I object to it.

Mr. FAULKNER. Will the gentleman permit me, then, to have the bill merely printed?

Mr. HAMILTON. Just printed, and nothing more.

Mr. EDGERTON. No, sir; I may as well object. I am opposed to this thing *in toto*—from beginning to end.

REFUNDING OF DUTIES.

Mr. FULLER obtained the floor.

Mr. FENTON. I rise to a privileged question. Instructed by the Committee on Commerce, at the last session, I had the honor to report House bill No. 407, to refund to certain individuals duties paid upon goods destroyed by the fires in New York and San Francisco. The gentleman from Virginia [Mr. MILLSON] moved to reconsider the direction given to the bill which was referred to a Committee of the Whole House, and placed upon the Private Calendar. I now desire to call up that motion to reconsider, and move to lay it upon the table. I have merely to state to the House that I make this motion with the full knowledge of the gentleman from Virginia, and that it will not incur his opposition.

The SPEAKER. The gentleman from New York cannot take the floor from the gentleman from Maine, [Mr. FULLER,] for the purpose of calling up the motion to reconsider.

Mr. FULLER. I will give way for a moment, for the purpose of enabling the gentleman from New York to call up that motion to reconsider, and have it disposed of. I understand that it will not take many minutes.

Mr. JONES, of Tennessee. What is the regular order of business?

The SPEAKER. The further consideration of the report of the Committee of the Whole on the state of the Union, made yesterday.

Mr. JONES. Well, I think we had better proceed with that, and get through with it.

Mr. FULLER. Inasmuch as I had the floor, I think I ought not be deprived of it.

The SPEAKER. The gentleman from Tennessee has a right to call for the regular order of business.

Mr. FULLER. Then I ask the gentleman from Tennessee to withdraw his call.

Mr. JONES. I am willing that the regular order of business should be postponed until the motion to reconsider shall be disposed of.

Mr. HUNT. I call for the regular order of business.

RAILROAD TO THE PACIFIC.

The SPEAKER. The regular order of business is the consideration of House bill No. 295, "to provide for the establishment of railroad and telegraphic communication between the Atlantic States and the Pacific ocean, and for other purposes." The pending motion is to recommit the bill, and the gentleman from California [Mr. MCDOUGALL] is entitled to the floor.

Mr. McDOUGALL took the floor.

Mr. BLISS. Will the gentleman from California allow me a few minutes of his time?

Mr. McDOUGALL. How long?

Mr. BLISS. I will limit myself to any time you choose.

Mr. McDOUGALL. I will yield to the gentleman for a few moments.

Mr. BLISS. Mr. Speaker, as one member of the special committee having in charge the subject of the Pacific railroad, I have felt a desire to improve a few moments to express to the House the views which I entertain upon this subject; more particularly the views which I entertain as to the appropriate policy to be adopted to carry out what seems to be almost a common sentiment in this House, and which is known to be a common sentiment in the country; that is to give success to the design to construct a communication, by railway, with the Pacific ocean. I know that there is a class of politicians who pronounce this project, as they do every other which is brought forward, unconstitutional. There always was a limited set of politicians, not involving the sense of the country, who would dispute the right of a poor devil afflicted with the itch to scratch himself. [Laughter.] But the people do not raise this technical consideration, and it does not exist in the sense of this body.

Mr. BOCOCK, (interrupting.) I do not understand the circumstances under which this speech is being made to the House. Has the gentleman from California a right to yield the floor to that gentleman to make a harangue here upon the constitutionality of a Pacific railroad?

The SPEAKER. The gentleman from California yielded the floor for the purpose of explanation.

Mr. BLISS. I am not going to speak on that point. I am enjoying the indulgence of the gentleman from California, to address the House for a few moments upon this subject.

The SPEAKER. Which can be done only by the unanimous consent of the House. If the rule is insisted on by the gentleman from Virginia, or by any other gentleman, the gentleman from Ohio cannot proceed.

Mr. BLISS. I am not accustomed to trespass upon the time of the House, and I ask leave now to speak for a few moments upon one feature of policy connected with our action upon this bill.

The SPEAKER. Is it the pleasure of the House that the gentleman from Ohio be permitted to proceed?

[Cries of "Yes!" "Yes!" and "Go on!"]

Mr. BLISS. I was about to say, then, Mr. Speaker, that this great unanimity of sentiment in this House, in favor of a railroad to the Pacific ocean, ought not to be sacrificed, but it ought to be cultivated, because it is not only in consistency with the best interests of the country, but with the will of the country.

The danger of defeat which this bill has already incurred, arises from the fact that there is a difference of opinion on the details of the measure to be adopted. The great danger is, that the thing cannot have birth at all. And why? Some gentlemen say that it is preposterous to legislate for the construction of more than one railroad to the Pacific, and others say that it is preposterous to undertake to legislate for one road, and one only. The people of the southern portion of the Confederacy have confidence enough in themselves to believe that they could construct the road, through their section of the country, if Congress will give them the privelege of competing in that matter. The people of the central portion of the Union have confidence that they could do it, and just such confidence inspires the people of the North.

The proposition which was submitted to the House yesterday, gives scope to all these sentiments, gives opportunity of competition to each section, and tends to unite all in a common purpose; and every vote which looks to the abstract consideration of constructing a railroad, was given yesterday in support of that proposition; the sense of the House was overwhelmingly in favor of it. But it also appeared very clearly that if an effort were made here to rely upon the claims or pretensions of any given section of the country, then this bill must be defeated. This thing was apprehended before by me. It was apprehended by a majority of the committee, and it now stands out so clearly in its exhibition, that it seems to me no gentleman can mistake it. Some proposition, therefore, similar in character to that which was introduced and considered here yesterday, will be adopted, or else we shall have no Pacific railroad; at least we shall have none constructed by the aid of the Government. Such a thing must work itself out, and our children, or rather the children of gentlemen who stand in the position of paternity, [a laugh,] may live to see it accomplished.

But, sir, what is the great objection to Congress making an appropriation for the construction of three roads? I admit that the passage of this bill does not give a certainty that the three lines will be constructed. I do not care whether it will be so or not. We cannot legislate against nature; we do not want to legislate against nature. If the lynx-eye of capital cannot perceive an advantage in constructing a railroad at the North, the enterprise will not be engaged in. If the natural advantages of the central line of railroad are not sufficient to justify its construction, that line will not be put under contract; and so of the other line. Why, then, let people experiment for themselves upon all these routes; and if they do succeed in building them all, I ask, in the name of reason, what is the objection? What objection can there be to the construction of a northern railroad, if it can be accomplished? What objection, under like circumstances, can there be to the central or to the southern? No gentleman can reasonably object to it.

Neither is there any objection arising out of the extent of the appropriation made. Why, of what serious consideration—as a matter of economy—is the appropriation, for the construction of a railroad, of twelve miles in width of the lands of the Government through that region of mountain and desert? Supposing that the appropriation were double what it is, it would fall far short of what we ought to do in favor of that most stupendous project that was ever yet conceived. I do not suppose—neither does any gentleman here—that an appropriation of lands will be sufficient to build this road; but it will act as a stimulus to its construction, and will carry with it the right of way, and lay the foundation for private enterprise and private capital, which must be relied upon, after all, for the performance of this great work. Without legislation of the kind proposed, nothing will be done for years. Nothing will be done by any partial legislation, by any legislation looking to the favoritism of a particular route, to the disregard or disfranchisement of other routes. If such legislation be insisted on, then the measure will be defeated in the House. We must, in that case, trust to a higher degree of patriotic magnanimity in some succeeding Congress, than there is in this, or else we must give up all hopes of a Pacific railroad.

Now, I ask, when will a Congress be assembled which will combine more rational elements, more patriotic devotion to the interests of the country, or more of that comity of feeling which enables gentlemen to compromise sectional or individual sentiments, than this does? Will it be next session? Will there be such a comity of feeling in the next House of Representatives? So far as the Democratic majority in the House is concerned, I think we do not hope for such a result. [Laughter.]

I trust that, in view of these considerations, those gentlemen who are really friendly to the success of the Pacific railroad, will abandon all idea of securing exclusive advantage to any one section; and that whatever they may believe of the capacity or fitness of other routes to be made available in the method contemplated, they will have generosity enough to unite upon a general proposition, and produced in such a manner as may reconcile all. Give capital its unrestricted field to work in; give enterprise its chance; give the citizens throughout the different sections of the country, who are interested alike in this great subject, an opportunity to employ their funds, to employ their genius, to employ their industry and perseverance in such a way as to them may appear best calculated to promote their interests. If we come to that point, then I think a bill can be passed which will have the effect of starting the enterprise, and putting the wheels in motion. But until we come to that, the bill remains under such a mountain of opposition that no power of its friends can avail in its behalf.

Mr. McDOUGALL resumed the floor.

Mr. BAYLY, of Virginia. I hope the gentleman from California will allow me to say a word. The gentleman yielded half his time to the gentleman from Ohio, [Mr. BLISS,] but I will not ask him to yield me the other half. [Laughter.] All that I have to say to the House at this time is, that I wish gentlemen to read the history of the South Sea scheme. Let them look at that, and when they do so, they will see what sort of a scheme this Pacific railroad is.

Mr. McDOUGALL. I understand that there are some gentlemen in the State of Virginia, and elsewhere, who consider the Great West a bubble, and the Pacific coast a mere idea. I do not think that gentlemen entertaining these views of the Great West and the Pacific coast, ought to control legislative action in this House.

Mr. FLORENCE. Will the gentleman from California permit me to ask the gentleman from

Virginia [Mr. BAYLY] whether the South Sea scheme was printed by order of the House?

Mr. McDOUGALL. It is evident, from the proceedings of yesterday, that there is a large majority in this body in favor of giving aid and assistance for the construction of a railroad to the Pacific. This, I think, was clearly and distinctly demonstrated by the vote of this House, as placed upon record. The friends of this measure, as a general proposition, favored an adjournment yesterday, so as to see if they could, by any means, secure unanimity of action. The result of such deliberation as could be had was this, that all the friends of the enterprise generally, apart from any specific plan, should unite in pursuing such a course here to-day as will demonstrate whether or not there is a majority in this body in favor of any one plan in aid of this enterprise. They propose, if defeated upon one project, to try another. If the bill that has been matured by the committees of the Senate and the House, and which I have offered here as a substitute, does not meet with the approbation of the majority of the House, perhaps the proposition of the gentleman from Indiana [Mr. DAVIS] may meet with the concurrence of the majority of the House. If his proposition does not meet with general concurrence, then there may be another proposition submitted. We have been discussing this question, of building a road to the Pacific, for a year past; and much time has been spent both in the Senate and the House in the discussion of the subject. It is time now that we should proceed to some definite action, and ascertain not merely whether the plan now presented, just as it is, meets with approbation, but whether a bill can be passed at all. I believe the bill now under consideration to be the best, the strongest, and the fairest bill.

I hope that all the friends of this railroad enterprise, who are in favor of giving the aid and encouragement of this Government to the work, will stand by the substitute offered by the committees of both Houses. As I took occasion to state, a few days since, when I first introduced the subject upon this floor. I am not the champion or advocate of any particular plan, but I desire that we should proceed to take the initiative, and lay the foundations of the work in some form. I understand that the gentleman from Indiana [Mr. DAVIS] wishes to offer, in the House, the amendment that he offered in committee yesterday. A majority of the committee sustained the amendment of the gentleman, before they passed a vote recommending the House to strike out the enacting clause of the bill. It may be due to the gentleman from Indiana, that his proposition should be voted upon first. I hope, if that fails, when the question comes upon the passage of the bill, that all the friends of the Pacific railroad will unite, and give us an opportunity to test the strength of the measure. The gentleman from Indiana may be able to carry the amendment, without having the strength to carry the bill, and why? Because those gentlemen from Virginia, and from other portions of the country, who are opposed to the entire project, will vote to amend the bill in that shape, if they think that thereby they will be able to impair its strength. I am willing, so far as I am concerned, to have a vote taken upon the proposition of the gentleman from Indiana, and I hope that the friends of railroad communication to the Pacific, will stand together, man to man, every one of them, until it shall appear whether any practical result can be made to follow from the labors of the committees of the Senate and the House.

Mr. COBB. I would ask the gentleman from California to state what was the object in changing the location of the southern road—the first reported by the committee of thirteen—to a terminus now upon the western borders of Texas, thereby depriving the southern road of the facilities that might be offered, in granting lands for about eight hundred miles from the Mississippi river, to the western borders of said road?

Mr. WARREN. I desire to ask the gentleman from Alabama whether he would give his consent, in the event the amendment offered by myself should prevail, to inserting, after the word "Missouri," the word "Arkansas?" I understand the gentleman from California as not objecting to that amendment.

Mr. COBB. The gentleman proposed his amendment in connection with three routes. I would not, as I said before, vote for any bill which provided for the building of three roads. The southern route terminates upon the western borders of Texas. Then we must rely, evidently, upon Texas to build the road, in order to enable us to connect it with the Pacific ocean. According to the proposition now submitted, I wish my southern friends to understand that we cannot get to the Pacific ocean unless we go through Texas.

Mr. McDOUGALL. The southern route was made to terminate at the western limits of Texas almost expressly to accommodate the gentleman from Alabama, who was a member of the select committee, and was the champion of the Texas road. I understood that a road from the western limits of Texas would exactly suit the views of the gentleman from Alabama.

Mr. DAVIS, of Indiana. I ask the gentleman from California to yield me the floor for the purpose of introducing my amendment.

Mr. McDOUGALL. I will do so.

Mr. DAVIS. I move, Mr. Speaker, to strike out from the substitute offered by the gentleman from California all from line tenth to the word "railroad," in line twenty-third, inclusive, as follows:

"One road and telegraph, to commence on the western border of the State of Texas, and to pursue the most eligible route to the navigable waters of the Pacific in the State of California; which line shall be known as the Southern Pacific railroad.

"One road and telegraph, to commence on the western border of the State of Missouri or Iowa, and to pursue the most eligible route to the Bay of San Francisco; which line shall be known as the Central Pacific railroad.

"And one road and telegraph, to commence on the western border of the State of Wisconsin, in the Territory of Minnesota, and pursue the most eligible route to the navigable waters of the Pacific in Oregon or Washington Territories; which line shall be known as the Northern Pacific railroad."

And to insert the following:

One grand trunk central railroad and telegraphic line from some point on the western boundary of the State of Missouri or Iowa, between 37° and 43° of north latitude, on the nearest and most eligible route to the city of San Francisco on the Pacific ocean; and also two branch railroads and telegraphic lines, one diverging from the said central road at some eligible point east of the Rocky mountains, between the 103d and 105th parallel of west longitude, and running through the Territories of the United States, in the direction of Memphis in the State of Tennessee; and one diverging from the said central road at the point last aforesaid, and running through the Territories of the United States to the most eligible point on the western shore of Lake Superior.

The SPEAKER. The Chair would remind the gentleman from Indiana that there is a pending motion to commit the bill, which will preclude any amendment until it is disposed of. The motion was made by the gentleman from California yesterday.

Mr. McDOUGALL. I withdraw that motion.

Mr. DAVIS. If the amendment which I have offered shall prevail—as I hope and trust, and believe, it will—I shall then move to amend this substitute of the gentleman from California, in other respects, so as to make it consistent with itself.

I shall occupy but a few moments in the discussion of this question. It is unnecessary for me to do so, and were it necessary, the condition of my health to-day would prevent it. This question has been agitated in this House, and the other House in Congress, for the last twelve months. I took occasion, during the last session, to give my views upon it, and at that time advocated the central route. Since that time I have investigated this question still further, and such investigation has further confirmed me in the views I then entertained; that the central route was the best route, the most national route, and the one most likely to be constructed, if we construct either of the routes proposed.

Now, sir, the question has come down to this: whether we shall pass a bill authorizing the construction of three roads across the entire continent, or whether we will construct one road across the continent. This is the question to be determined, and I hope and trust that the vote which may be taken upon the amendment proposed by me, may be regarded by every member of this House as a test vote upon the question. There is no use of bandying words upon this question. We will have to meet the question as it is, and now is the time to do it, that we may get rid of it as soon as we can.

Mr. JONES, of Louisiana, (interrupting.) I shall trespass upon the time of the House, with an expression of the views and opinions I may entertain upon this subject, but for a few moments only.

I think, sir, that the object which all the friends of a railroad to the Pacific have, is, to pass such a bill as will enable us to build a road from the Atlantic to the Pacific coast. I say such ought to be the object of the friends of this enterprise. If that be the object which we all have in view, I submit to the gentleman from Indiana, [Mr. DAVIS,] that his amendment will necessarily defeat that object; because the amendment is sectional in its character. I look, Mr. Speaker, upon any road which may be built, the effect of which would be to unite the Atlantic and Pacific, as a national road. I would as soon vote for a road running in one latitude as another, if the result would be to unite the two oceans. But, sir, when the country from which I come is excluded, when it is absolutely excluded by the amendment proposed by the gentleman from Indiana, the duty which I owe to my constituents, and my self-respect, compel me to vote against it.

Now, what can be the objection to throwing the whole western frontier open to competition? We are not building this road. The Congress of the United States is not building this road; but, it is affording, it is true, some assistance to any company which chooses to build the road. I ask the gentleman from Indiana, and any other gentleman of this House, what objection can there be to leaving to the company which may build the road the selection of departure from the eastern border? Is that not fair? Is it not just? The bill which was introduced as a substitute affords this opportunity. The only border State, from lake Superior on the one side, to the Gulf of Mexico on the other, excluded, as the eastern terminus, is the State of Arkansas; and I am satisfied that the gentlemen representing that State do not object to the substitute offered by my colleague [Mr. DUNBAR] on that score. Why, then, shall gentlemen from the northern States attempt our total exclusion from the benefits of this great enterprise?

I have no objection to gentlemen from the North fixing their point of departure wherever they please. I am perfectly willing they should fix it in their own way; but I ask that they will not exclude the South altogether, and say we shall have no road whatever.

Mr. OLIVER, of Missouri. I desire to ask the gentleman from Louisiana whether he believes that the United States can build the three routes contemplated in this bill? Does he believe it practicable? Does he believe the construction of the three routes to be within the capacity of the Government of the United States?

Mr. JONES. The gentleman asks whether I believe that the United States is competent to build the three roads which are proposed by this bill. I answer, if the United States were competent to build five hundred roads, it would never get my support to build the first foot of road. But I do not understand that the Government of the United States is to build any road, or any part of any road, though the Government tenders to any company which chooses to build the road, certain assistance. The work, however, to be done under this bill, can, in no sense, be regarded as a Government, but as purely a private work. Leave it to the builders of the road to locate it, and then you will have it where it ought to be—where nature intended it should be. Fix the line of the road in an arbitrary manner, as is proposed by the gentleman from Indiana, [Mr. DAVIS,] and you defeat the whole enterprise.

Mr. OLIVER. I would ask the gentleman whether he does not regard the construction of a railroad from the Atlantic to the Pacific ocean as a great national work? And further, if it be a national work, whether it becomes members of the House to discuss the question in reference to particular localities, or sections?

Mr. JONES. I will answer the gentleman with a great deal of pleasure. I consider any road constructed from the Atlantic to the Pacific seaboard, whether by private enterprise, or by means of corporations, as a great national work. If the gentleman means to ask me whether it is a road to be built by the Government, I will tell him in reply, that I consider it no such road. He further asks, whether in the consideration of such a great work as this is, ought localities, or sections at all to be mentioned? I say no; and I have been contending that we shall leave the starting point of

the road, as the bill offered by my colleague does, open to the determination of the capitalists of the country.

Mr. OLIVER. Let me interrupt the gentleman at this point. He concedes that the projected road ought be regarded as a great national enterprise, and that the question ought not be discussed on local and sectional grounds. But he does not admit that the road ought to be constructed by the Government. I submit then, if it is to be a national enterprise, whether it should not be so located as to dispense its blessings equally to every section of the Union? If so, I would ask the gentleman, why it should not be located, as near as may be, to the center of the Union, to the center of the States and Territories, and to the center of business and population? Can it be called a national road, if located in the northern or southern part of the Republic?

Mr. DAVIS. I cannot yield further.

Mr. JONES. I must ask the gentleman to permit me to submit a few more remarks. The gentleman from Missouri, as the gentleman from Indiana will perceive, has consumed most of my time. My object in rising was, Mr. Speaker, merely to protest against this being made a local measure. I have objected, and do now object to the amendment proposed by the gentleman from Indiana, and for the reason that it is local in its character, and altogether precludes the portion of the Union which I more particularly represent from any participation in the benefits of this great enterprise.

With regard to the question of this being a national measure, I have to say, Mr. Speaker, if capitalists choose to build three roads, let them do it. I have no objection to aid in the building of the three roads by grants of the public land; but, so long as I have the honor to occupy a seat upon this floor, I shall never, though ever so deeply interested in the success of the enterprise, vote for it as a great national, a great Government work. I believe the Government has no power to build such a work, nor is it pretended that any such thing is contemplated by the bill under consideration.

Mr. DAVIS. The gentleman from Louisiana says that my amendment is sectional in its character—that it looks like sectionalism. You know, Mr. Speaker, as well as this House, that I am not, and never have been, a sectional man. From the commencement of my service here up to the present moment, at no time, could anybody successfully charge me with sectionalism as a member of Congress.

Mr. JONES. I hope the gentleman will let me explain. I most cordially indorse every word which the gentleman has said in regard to his not being a sectional man. There is no gentleman upon this floor, from the North or South, freer from the charge of sectionalism than the gentleman from Indiana. I intended no such charge against the gentleman; I am sure that I made none. I simply stated what I believed would be the effect of his proposition. In my opinion, it *does* exclude the South.

Mr. DAVIS. Mr. Speaker, I shall now proceed to state my reasons for opposing the construction of three roads. Before I do so, however, let me turn for a moment to my friend from California, [Mr. McDOUGALL.] In his printed remarks, he uses the following language:

"I hope that the friends of the bill—of a substantial bill; of a bill which can have a chance of passing this body, and of passing the Senate—will stand up for the proposition which I have submitted, to strike out the enacting clause; and I shall, then, on going into the House, move that the enacting clause be reinserted, and offer a substitute."

He says, again, in reference to my amendment:

"The gentleman who introduced that proposition certainly was no engineer. He should have known that no railroad was ever constructed, taking the sections of the large rivers, running along the affluence of the Mississippi, north and south."

No, Mr. Speaker, I am no engineer; nor is my friend from California an engineer. If he is, I think that he has got a little musty since his entrance into this body. He complains of this being an expensive road—at least, the inference from his remarks is, that these branches will cost a great deal of money because they run in a certain direction; but, at the same time, he tells us that it will be all right and correct to construct three roads across the Rocky mountains, and lead to a comparatively small expenditure of money. That is the fair inference from his remarks. Now, the distance from Memphis to the point of intersection, near the 103d° of west longitude, is about eight hundred miles. The distance from same point to Lake Superior is, also, about eight hundred miles—sixteen hundred miles in all—a shorter distance than that of either of the three proposed routes, because they run across the continent. What is the character of the country over which these branches run? It is the best land of God's green earth for railroad purposes. It is smooth and level. The roads across the Rocky mountains have, on the contrary, to go across high hills, wide and deep ravines. There is no similarity between the roads, so far as expense is concerned. By my plan heavy expense is saved, and the construction of one central railroad across the continent to the Pacific ocean is, at the present time, made somewhat feasible.

So much for that argument. But, sir, the gentleman from California says we must have a substantial plan. A substantial plan! I would like to know why the plan I have proposed as an amendment to this bill, is not, at least, as substantial as that recommended by the gentleman from California? Will it not cost less money? Will it not accommodate a greater amount of trade and travel, and a greater amount of the commerce and wealth of the entire country? And when this Government expends its money and donates its land for the purpose of constructing a railroad, ought it not to take into consideration the number of persons, the amount of trade and travel, and the amount of commerce and wealth that are to be accommodated by that road? That is the point.

But, sir, the gentleman from California asks, what objection there is to the adoption of this plan for the construction of three roads? Sir, I say it, and I say it with no disrespect to the honorable gentleman, that, in my opinion, you cannot construct three roads; first, because they are unnecessary. There is no need for them. There is no necessity for them. The trade and travel, the commerce and business of the country, can be all accommodated with one road. Yes, sir, one road will do more business than we shall ever require to be done; and that being the case, why should we get into a controversy about the matter? Why should we undertake to do more than we can do?

Again, the gentleman from California says, why not open the three roads to the capital and enterprise of the country? I will answer the gentleman. If you open the project for three roads you must invite the private capital of the country to construct them; for I will admit, in all frankness, that it is to the private capital of the country that we shall have to look, at last, to construct either of the roads. It is to the private enterprise of the country that we must look, for the meager donation of land which this bill contemplates will go but a little ways towards the construction of the road. But when you open three distinct routes; when the Secretary proceeds to advertise for three roads to be constructed across the continent, you will find the capitalists of the country very cautious how they invest their money in any of them, because it will occur, as a matter of course, that, if one is constructed, there will be no occasion for the others; and the result will be, that nothing will be accomplished, because capitalists cannot be induced to invest their means in any of the roads.

These are some of the reasons why I am opposed to authorizing the construction of more than one road. Now, I ask the House to look at my proposition. What is it? Why, sir, I have provided for one grand central railway, to be constructed across the middle of the continent. Sir, I wish I had a map here; I wish every man in this House, interested in this great work, would cast his eye upon a map of the country, and see what is proposed to be done, and who is to be accommodated by it. I say, the road I have proposed, is to run across the middle of the country, where the God of nature himself intended it to run. The South have no right to complain, because we extend an arm to the South, which is to invite the trade and travel, the commerce and business of that portion of the country. And again, the North have no right to complain, for we extend also, an arm to the North, and invite capital, trade, and business to come in from that quarter of the country. And the business of the central portion of the country is also provided for. That is the condition of the matter. And I repeat, what I have already said, that, with all due respect to the gentleman from California, I tell the House, that three roads across the continent cannot be constructed, if you pass a bill for that purpose.

Mr. HENDRICKS. If my colleague will yield to me a moment, I wish to suggest to the peculiar friends of this measure another reason why they had better adopt the amendment suggested by my colleague, who now holds the floor, which, I think, may have an important bearing upon the vote given by the House upon this question. There are a good many gentlemen in the House who would not vote for a road at all except for the great necessities of the country, which demand it. Some of us will go for one road because the country imperiously requires a road between the Atlantic States and the Pacific ocean. I say this consideration may justify some of us in voting for one road when we might not be justified in voting for three. I cannot, in the discharge of my duty as a member of this House, and I believe there are a good many upon this floor who will not, vote to commit this Government to the construction of three roads to the Pacific ocean. The Government does not require three roads to carry the mails of the United States. It does not require three roads to carry soldiers across the country. It does not require three roads to transport the munitions of war which it may wish to transport across the country; and, sir, I cannot vote to commit the country to their construction.

Mr. JONES, of Louisiana. Will the gentleman from Indiana allow me to say a word?

Mr. DAVIS. How much time have I left?

The SPEAKER. About half an hour.

Mr. DAVIS. I will yield to the gentleman.

Mr. JONES. I wish to ask the gentleman from Indiana [Mr. HENDRICKS] this question: the gentleman says he is willing to vote for one road; is he willing to vote for one road, and leave it to the company which is to build it to select the eastern terminus of that road?

Mr. HENDRICKS. I would sooner vote for that proposition than for one embracing three roads, like that urged by the gentleman from California; but I would much prefer the proposition of my colleague, [Mr. DAVIS,] which is to construct one road, and, to a certain extent, fix the terminus of that road; and for this reason: the Congress of the United States, in passing this law, proposes to build the road for Government purposes, and should have a voice in determining the location of the road. It is the duty of the Government to see that it is located in such a way as will best serve the interests of the United States. And, again, the Government is to be a large stockholder in the road. By giving its land, and by pledging its funds to the amount of $300 per mile per annum, for all time the Government becomes a very large stockholder, and ought to be heard in fixing the terminus of the road.

Mr. WALBRIDGE. I would not ask the gentleman from Indiana [Mr. DAVIS] to yield me the floor, but for the fact that certain gentlemen in this House have specified certain contingencies under which they would not give their votes for this bill. Now, that his health has drawn him from the arena, his colleague behind him has also served notice that he cannot vote for the railroad bill under certain circumstances. Now, I desire the exponent of the Pacific railroad measure—the able and accomplished chairman of the select committee—to indicate whether he intends that the substitute of the gentleman from Indiana shall override his proposition? Shall the friends of that substitute serve notice in advance, that unless that substitute prevails, their opposition must be counted upon? If so, I then call upon the friends of the original measure to stand by it. That measure is not sectional. It contemplates three roads, but there is nothing compulsory in it. It donates so much of the public lands, and gives to capital the right of designating which of the three routes they will pursue. Capital is keen and clear-sighted, and will select the best route for itself. It only asks this donation of lands.

Mr. McMULLIN, (interrupting.) I thought the gentleman from New York rose to ask a question.

Mr. WALBRIDGE. I rose because I understood that the gentleman from Indiana was kind enough to give me the floor.

Mr. McMULLIN. I rise to a question of order. My understanding was, that the gentleman from New York obtained the floor for the purpose of propounding a question to the gentleman from Indiana.

Mr. WALBRIDGE. I rose for no such purpose.

Mr. McMULLIN. Then the gentleman said one thing and meant another.

Mr. WALBRIDGE. Well, then, sir, I will put myself right by asking a question now.

The SPEAKER. The gentleman from New York could have the right to the floor, by the permission of the gentleman from Indiana, for explanation only. If the gentleman goes beyond that he is not in order.

Mr. WALBRIDGE. Well, in order to bring myself within the rule prescribed by my friend from Virginia, I will put a question to the chairman of the select committee on the Pacific railroad. I will ask him whether he intends the friends of this measure to vote for the substitute, and thus strike down the original proposition, because we have had notice served upon us by two of the accomplished members from Indiana, that, under certain circumstances, they will not vote for the bill, or whether he intends his original proposition to stand upon its intrinsic merits?

Mr. DAVIS. I guess the gentleman is about done. [Laughter.]

Mr. WALBRIDGE. I took the floor by the courtesy of the gentleman, and I must be done when that expires.

Mr. DAVIS. I am the best natured man in the world. [Laughter.]

Mr. WALBRIDGE. That is very evident.

Mr. DAVIS. I have been distinguished for it all my life.

Mr. McDOUGALL. [Mr. DAVIS again yielding the floor amidst considerable laughter.] I wish to say that I do not think there should be any misunderstanding or controversy here amongst the friends of the general proposition; and, in that spirit, I consented that the gentleman from Indiana should offer his amendment without calling the previous question on my own measure. That measure I prefer myself, and I shall stand by it. I am willing, however, that the gentleman from Indiana should test the strength of his proposition.

Mr. LANE, of Oregon. Will the gentleman from Indiana allow me to trespass on his good nature for ten minutes of his time? [Laughter.]

Mr. HAMILTON. I give notice now that I shall object to these inter-Pacific speeches if the enemies of the bill are not to be permitted to say something. If this floor is to be farmed out to the friends of the bill, I stand here to object to these interruptions.

Mr. DAVIS. Let me say a word in reply to the remark just made, before I pay my addresses to my good and kind friend from Oregon. The gentleman from Maryland says that the floor has been "farmed out" to the friends of this measure. He is the last man in this House whom I should have expected to make such a charge as that, because he knows and you know, Mr. Speaker, that the enemies of this bill have shared as much of the time, since I have had the floor, as its friends, especially the enemies of my particular proposition. And now you know that I *cannot* refuse to yield the floor to my good friend from Oregon. It would be cruel in the extreme. [A laugh.]

Mr. LANE. I am much obliged to my friend from Indiana for his kindness. I have, sir, for the last twelve months, listened more or less to discussions upon this railroad project. I have heard, with great pleasure, my friend from California advocate and defend the necessity of a railroad, from the eastern portion of our continent to the Pacific. I hail from that portion of the country. It is the Pacific that gives character to this project, and makes it necessary to build the road, and I want to say a few words about the several routes, because I am personally acquainted with them.

Mr. HAMILTON, (interrupting.) Much as I esteem my honorable friend from Oregon——

Mr. LANE. I do not want to be interfered with by my friend from Maryland. I hope he will allow me to speak just ten minutes, by way of giving a history of these routes.

Mr. HAMILTON. I would do almost anything to gratify the gentleman from Oregon; but the gentleman from Indiana has the floor to make a speech, and I do not think he ought to farm out the floor to the friends of the measure who have power and capacity to make themselves heard in this House, and give the opponents of the bill no opportunity of being heard. I know the previous question is to be called on this bill.

Several MEMBERS. We will vote it down.

The SPEAKER. The gentleman from Maryland calls to order, and the Chair must state that the gentleman from Oregon cannot make a speech whilst the gentleman from Maryland is occupying the floor.

Mr. LANE. I want only to explain, and I will thank the gentleman from Maryland to let me do so.

The SPEAKER. The Chair gives notice that he will confine the gentleman strictly to explanation, and explanation alone. The Chair is bound to do it, being called upon to execute the rule.

Mr. LANE. I want to explain the route over which this bill proposes that the roads shall pass. [Laughter.]

The SPEAKER. Is it the pleasure of the House that the gentleman from Oregon should make a speech of five or ten minutes length?

[Loud and general cries of "Yes, yes."]

The SPEAKER. Unless objection is made, the gentleman will proceed.

No objection was made.

Mr. LANE. I am very much obliged to the House, Mr. Speaker. I want to say a word or two about the extent of the country on the Pacific. We have there, sir, 20° of latitude, or very nearly that. There is more coast upon that side of the continent than upon this; there are more degrees of latitude. There is an immense country there suited for cultivation and settlement, and equal to any portion of this continent, or of any other continent on the face of the earth.

Now, sir, I want to say a word or two about the necessity of more than one road to the Pacific. Suppose this country should be thrown into a war with the combined Powers of Europe—and they are looking at us with a jealous eye; they do not like to see us grow up and become the greatest nation on the face of the earth—in the event of a war with the combined powers of Europe, in the present condition of the country, how could you defend the Pacific coast?

Now, Mr. Speaker, in the event of such a state of things, as I have alluded to, coming to pass, without our having a railroad between the Atlantic States and the Pacific ocean, our possessions on the Pacific coast would fall a prey to the enemy in less than thirty days after war had commenced. Therefore, in a military point of view, for the defense of the country, railroads are necessary.

Now, Mr. Speaker, I want to say a word or two about the Southern route proposed. I have traveled over that portion of the country, and am well acquainted with its great features. I will give the House a correct view of it, and I hope the House will recollect what I tell them in respect to it. The country from the Mesilla valley to the Pacific ocean, by San Diego, and running through the northern portion of Sonora, is the best district of country that I have ever traveled over. A large portion of it is agricultural. The soil is rich and fertile. The grazing is superior, in my opinion, to that in any other portion of the world. Cattle can be raised there easier than anywhere else that I have ever seen. Rain comes at all seasons of the year, summer and winter. I stopped at a station that had been abandoned more than fifty years—at San Bernardino—and although a white man had not lived there for half a century, and the Indians had been perpetually killing the cattle, yet they were very numerous and in good condition.

Such, Mr. Speaker, is the description of country through which the southern line of railroad to the Pacific would penetrate. And I would here say to my friend from Indiana, [Mr. DAVIS,] that it does not, as he seems to suppose, cross the Rocky mountains. The line where the road would run never comes in contact with the mountains. There are no mountains there—they do not extend to that portion of the country. There is not a foot of the country which is not fit for roads; not a foot where good natural wagon roads cannot be had. There are good wagon roads through the country now. I, Mr. Speaker, am not a professional engineer. I am not a practical railroad man. But I know this practically, and am not mistaken about it. You can carry out your settlements there, and settle up that country, and you can there establish a defense against Indian depredations, which will enable you to throw your troops anywhere on the Pacific coast.

Then, sir, why not also build a central road—a middle road—by way of the South Pass, the summit of the Rocky mountains? Where is the country better adapted for building a railroad than this? None on the face of the earth. The slope of the hills is so gradual that you do not know when you have ascended and reached the summit. Then you can carry that road to San Francisco, or to Oregon. But I want the House to know that I do not ask for the road to be run through the Territory of Oregon. I am not selfish or sectional in my views. I am for this whole country, for every inch of it; I love every inch of the American soil, from the lakes of the North to the southern extreme of the country. But, sir, the necessities of the country are such that we ought to have a middle road. It is not too much that we should have a central road; and then, sir, if necessary, why not give us a northern road, too? Is there anything in the Constitution furnishing a reason why Congress should not appropriate land for this purpose? Can Congress make a better disposition of the public lands? In what way can Congress dispose of them, which would more promote the interests of the whole country, than by giving them to assist in the construction of a railroad between the Atlantic States and the Pacific ocean? Is there any constitutional objection to Congress making that disposition of the public lands? Is there any other way in which greater benefits can be conferred by the public lands? I do not believe that Congress can better dispose of the public domain.

Now, Mr. Speaker, having, through the courtesy of the gentleman from Indiana, [Mr. DAVIS,] been enabled to submit my views thus briefly to the House, I must yield him the floor. It is the first time that I have had the opportunity of saying one word on the subject, and I regret that I have not now time to say more.

Mr. DAVIS, of Indiana. If there were time, I should like very much to accommodate the honorable gentleman from Oregon, [Mr. LANE.] There is no man on this floor, or anywhere else on earth, that I would rather accommodate than that gentleman. But I have a word or two further to say before my time expires. Let me first, however, reply, for one moment, to what the honorable gentleman from Oregon has said. I think, Mr. Speaker, that, when a central road is built to the Pacific ocean, it will fully accommodate the Territories of Washington and Oregon; as travel can be carried on by boats around the Pacific coast.

This, sir, is an experiment; the fact of constructing this railroad at all—put it in the most favorable light you can—is nothing but an experiment; and a vast undertaking it is.

Mr. FULLER, (interrupting.) I would like to ask the gentleman one question.

Mr. DAVIS. I will yield for a question.

Mr. FULLER. I would ask the gentleman whether he has made any inquiry, and whether he is able to give the House any data as to what would be the cost, supposing the road already made, and exclusive of the expense of building it, of transporting a ton of freight to the Pacific ocean?

Mr. McDOUGALL. According to the tables made out and published in Hunt's Merchants' Magazine of June, 1853, the running cost of transporting a ton of freight three thousand miles, would be $9 90.

Mr. FULLER. I ask the gentleman if there is any road in the United States which transports freight at that rate?

Mr. McDOUGALL. No, sir. I say the running cost of the road for a ton of freight for three thousand miles, would be $9 90; but if charged at the rate of prices which exists on the Baltimore and Ohio railroad, the transportation would cost about $15 a ton.

Mr. DAVIS. Now, I cannot yield the floor any more. I have but a minute or two left, and I cannot possibly finish all that I have to say in that time. There is one thing which gives an answer at once to the gentleman from Missouri, [Mr. BENTON.] It is this, that, if the great central railroad was constructed, it would be a highway of nations, and would make Europe on the one side, and Asia

on the other, our tributaries for the transportation across our continent. And, sir, the profits arising from passengers alone over that central road, would make it a great paying road, to say nothing whatever of the freights passing over it.

I desire to reply, for one moment, to the honorable gentleman from New York, [Mr. WALBRIDGE.] That honorable gentleman said that I had served a notice upon this House that, if my favorite proposition were defeated, I intended to vote against the proposition of the gentleman from California, [Mr. McDOUGALL.]

Mr. WALBRIDGE. I but did the gentleman justice.

Mr. DAVIS. Sir, I have made no pledge on this floor in respect to what I would finally do on this issue or question. I said, yesterday, that if my proposition were defeated, I would take the matter under consideration; and I am taking it under consideration just as rapidly as I can. [Laughter.]

Mr. Speaker, let me say a few words in relation to the constitutional scruples which some of my friends from Virginia entertain.

A MEMBER. Not the gentlemen from Virginia alone. [Laughter.]

Mr. DAVIS. Well, as to the constitutional objections of the gentlemen from Virginia and others! This bill proposes to give not one dollar of money out of the public Treasury for the construction of this road. It proposes simply to grant twelve miles of land on each side of the road for the purpose of aiding in its construction. Now, I want the honorable gentlemen on this floor, who have made objections on constitutional grounds, to answer me one question. A session of Congress has not transpired, since I have been a member upon this floor, in which grants of lands have not been made for the purpose of constructing roads and other works of internal improvements through the Territories. We make no proposition here, by the terms of this bill, to construct a road through the States. Not at all. I would vote against any proposition, let it come from what quarter it might, which winked at the idea of constructing a national road through the States by the General Government.

I am no lawyer; but I believe I can understand the plain reading of the Constitution. For many years there has not been a session of Congress in which grants of lands, for the purpose of making military or postal roads through the Territories, have not been made. And yet, when we come here to-day, before an American Congress, asking an appropriation of lands for the purpose of constructing a great national work—which is to be the carrying line across the continent, between Europe on the one side, and Asia on the other—a great national work, intended to accommodate the entire country—we are to be met with the objection that it is unconstitutional, and we ought not to make it. Are we to be met, at this late hour, with the objection of my friends from Virginia, and elsewhere, that such a grant of land would be unconstitutional, and that we ought not to make it? I regard the sanctity of the Constitution as highly as any man upon this floor. I stand here a Representative, and have taken an oath to support that Constitution; and I had rather that my right arm should fall palsied from its socket, than to give a vote which would violate the express letter and terms of that Constitution.

Mr. GROW. I am unwilling to interrupt any gentleman while speaking; but, knowing the good nature and proverbial kindness of the gentleman from Indiana, I desire his indulgence for a few minutes, as it is the only way that I can get the floor, since the gentleman proposes to call the previous question, which, if sustained, will cut off all debate.

We have an express grant in the Constitution to make all "needful rules and regulations" for the disposal of the public lands, so that, under that power, there is no restriction, save the discretion of Congress. But Congress cannot exercise one grant of power in such a way as to conflict with any other power. And as Congress has not power, in my judgment, to build railroads by a direct appropriation of money, how can it be done indirectly by an appropriation of land? But the friends of this bill ask, what is the difference, in constitutional power, between granting the alternate sections and a right of way? Under the doctrine of "eminent domain," the company would have no right to pass over the public lands without the permission of the Government. To relieve them from this legal trespass, we grant the right of way—a mere easement, the fee remaining in the Government, and all rights granted would revert to it, should the road at any time be abandoned. The grant is made, not for the purpose of aiding in building the road, but merely to permit a passage over your lands, without subjecting the company to an action of trespass. So this grant has nothing to do with the grant of homesteads to settlers. For, in that case, we are merely exercising the discretion conferred on Congress by express grant, and that, too, in conflict with no other grant of power or the want of it.

As this point was made on me in the discussion yesterday, and as this is the only opportunity I shall have to answer it, I am obliged to the gentleman from Indiana for his kind indulgence in permitting me an opportunity.

Mr. DAVIS. I made no point upon the gentleman the other day, in reference to this constitutional question.

Mr. GROW. I did not mean the gentleman from Indiana, but the gentleman from California, [Mr. McDOUGAL,] and from Illinois, [Mr. RICHARDSON.]

Mr. DAVIS. If I had made the question, I should have done it in this wise: I voted for the homestead bill. I believe that the Constitution guaranties the power to Congress to make grants for railroads, just as much as it does to grant homesteads to actual settlers. If there is any gentleman in this House—I care not how much legal acumen he is possessed of—who will point out the distinction between the two, I will resign my seat. There is no such distinction, and it all lies in the imagination of gentlemen. Whenever a proposition comes up here for the purpose of making grants of land for railroad purposes, as has been the case ever since I have had the honor of a seat upon this floor, it has been met with the same objection. The question then comes down to this: what shall we do? The gentleman upon my left, [Mr. McDOUGALL,] in his remarks yesterday, said that he had no idea in what way the measure under consideration could be rendered most popular, so as to command the vote of this House. I do not know, nor do I pretend to say, what strength my proposition has upon this floor; but I do know one thing, that, unless we meet upon this common ground between the North and South, unless we take one road, and make that the actual road, extending its benefits to every portion of our common country, we shall experience great difficulty in passing any measure for the purpose of constructing any of these roads.

The gentleman from Louisiana [Mr. JONES] says, that his portion of country is entirely cut off from the benefits of this bill, and entirely excluded from the advantages resulting from this measure. When we come to make a great national road, when we act as national men, and intend to do a national thing, is it possible that we can run this road into every portion of the common country for the purpose of accommodating everybody? If we have any measure of a national character before this body, is it wise to change and modify it so as to suit the particular local interests of every member upon this floor? No, sir! Upon this great measure, I have never been governed in my action here by local, sectional feelings; but always by high, national considerations. But my time is about to expire, and, before I take my seat, I will move the previous question.

Mr. BAYLY, of Virginia. I hope the gentleman from Indiana will withdraw the demand for the previous question.

Mr. DAVIS. There are a number of gentlemen, for whom I entertain great respect, who desire to make a few remarks upon this question. If I yield to one, I must to another; and I am under a promise to the honorable gentleman from California, [Mr. McDOUGALL,] that, when I closed my remarks, I would demand the previous question.

Mr. BAYLY. I would appeal to the gentleman from California——

[Cries of "Order!" "Order!"]

Mr. CAMPBELL. I wish to make an inquiry of the Chair. I wish to know if the demand for the previous question be seconded, whether it will be in order at any time to move to recommit this bill to the Committee of the Whole on the state of the Union?

The SPEAKER. Such a motion would not then be in order.

Mr. CAMPBELL. I desire to have an opportunity to test that motion, and I hope, therefore, that the House will vote down the demand for the previous question.

Mr. McDOUGALL. I wish to say, in reply to the gentleman from——

[Cries of "Order!" "Order!"]

The SPEAKER. The House refuses to hear the gentleman, and discussion would not be in order.

Mr. TAYLOR, of Ohio. Will my friend from Indiana [Mr. DAVIS] withdraw the demand for the previous question for five minutes? I promise to renew it.

Mr. CAMPBELL. I demand tellers.

Mr. WARREN. I desire to make an appeal to the gentleman from Indiana, to modify his amendment, for I am anxious to see the friends of the bill support it. If he will adopt the modification I suggest, it will remove, as I think, from his amendment everything of a sectional character. I ask him to insert, intead of 37° of latitude, 30° of latitude, and to commence on the western borders of Missouri or Iowa.

Tellers were then ordered; and Messrs. CAMPBELL and GOODE were appointed.

The question was taken; and the tellers reported —ayes 81, noes 83.

So the previous question was not seconded.

Mr. TAYLOR, of Ohio. It is not my purpose to trespass long upon the attention of this House; but, sir, I have sat here a patient member of this House since the 4th day of December, listening to discussions of propositions of various kinds, none of which should command more profound respect than the one now under consideration. And I have been surprised, sir, when believing that two thirds, if not four fifths, of the American people desire the construction of a railroad to the Pacific ocean, that there has been any gentleman disposed to proscribe a portion of this House, to prevent legitimate debate upon so important a measure. The friends of this bill, Mr. Speaker, have afforded the enemies of it an opportunity to destroy the prospect of a railroad from California to the eastern States, by moving, yesterday, or the day before, to strike out the enacting clause of the bill. As a friend of the great Pacific project I voted against that motion. I desire, if practicable, to vote for one great Pacific railroad to connect the eastern States of this Union with the great State of California, on our Pacific sea-coast. I believe the demands of commerce, the intelligence of the country, and two thirds of the population of the country, require the construction of that great work, on a plan properly matured by the Congress of the United States. And now, sir, what do we behold here? After having devoted one week to the discussion of this great measure, in which only two or three speeches have been made directly upon the subject, gentlemen refuse us the poor privilege of a five minutes debate, in which to express our opinions upon this great national measure. How have they done this? By moving to strike out the enacting clause of the bill, which motion amounts to closing debate under the five-minute rule, and thereby nullifying the rule, which accords to members the right of speaking five minutes upon the question. There are scores of gentlemen upon this floor whose constituents would like to hear them upon it, and who desire to speak upon it. I have sat here a long while struggling to get an opportunity to express the opinions I entertain, until, at last, I have succeeded in getting the floor, and having it, I shall endeavor to trespass upon the attention of the House but a short time.

Mr. Speaker, in my humble judgment this matter is a subject of so much national importance that this House ought, without a moment's delay, in the present confused state of the subject, to recommit it to the select committee, already raised upon the subject, or to a new select committee, at whose head—and I say it without intending to cast any reflection upon other gentlemen of the House—the very eminent, distinguished, and learned gentleman from Missouri [Mr. BENTON] should be placed, that he may bring to bear upon the question all his enlarged experience and extensive knowledge, and let that committee report to this House upon the subject of the great national central Pacific railroad. What is the condition of

the House at this present moment? You have a question before you of great national importance, and yet I am unable to get a copy of the bill. The substitute proposed is a Senate measure, and we have no copy of that or the House bill. I am called upon now to vote for an amendment offered by the gentleman from Indiana, [Mr. DAVIS,] a most reasonable amendment, as it appears to me, so far as I can ascertain what it is; but I have no copy of the bill, and cannot know exactly what its effect is. We are called upon to pass finally upon this great question, without even having the bill printed, in order that we may inspect it, and ascertain its provisions. It is all wrong. I am a friend to the Pacific railroad, without reference to the particular route; but, in my humble judgment, the wants of the country demand but one great road to the Pacific.

Mr. McDOUGALL. I wish to correct the gentleman.

Mr. TAYLOR. I cannot yield to the gentleman at present.

I do not think, Mr. Speaker, that the necessities of the country require the construction of three railroads such as is proposed in the substitute of the honorable gentleman from Louisiana, [Mr. DUNBAR.] That substitute provides for three railways and three telegraph lines to the Pacific, and a grant of the alternate sections of the public land within twelve miles on either side of each, making, in point of fact, a grant of the alternate sections of the public land within seventy-two miles along the line of these works to run through the Territories of the United States, lying between this and the Pacific sea-board. I may be wrong in this, but I am not, for one, prepared, without examination by a select committee, of the various documents and maps submitted to us by the proper authorities, and their report thereon, to vote a grant of the alternate sections of the public land within seventy-two miles of this great work. I am not prepared to vote for three separate lines of telegraph to the Pacific. I do not think that the country requires them; but I do think that the country requires one great national highway to the Pacific ocean. And for one, Mr. Speaker, I now stand ready to give my vote for a road across the continent, fixing the termini at St. Louis, or Kansas, in Kansas Territory, on the western border of Missouri, and at San Francisco. And I shall vote to grant, as I had the honor and pleasure to do, to such company as may be incorporated by the Congress of the United States, or by the Territories within whose limits the lands lie, or in any other way which may be deemed best, the alternate sections of the public land within six miles on each side of the road—a grant similar to that made a few years ago to the States of Illinois, Alabama, and Mississippi.

Sir, on the 17th of September, 1850, this House voted a grant of land to Alabama, Mississippi, and Illinois, and thus did Congress do itself great honor; for it enabled those States to construct one of the greatest national works ever undertaken in this country. That work has, in a great measure, been completed within four or five years. Look at the great State of Illinois, with her seven or eight hundred miles of railway. The construction of that road brought the public lands immediately into the market, and the United States did not lose a single dollar by the grant. On the contrary, besides losing nothing in the raising of the alternate sections to double the usual price, the Government had the vast highway from Chicago to Mobile, and passing through five States of the Union, put in rapid construction. It has now nearly arrived at completion. It is curious to analyze the vote on that occasion. I have it before me. The bill passed one hundred and one to seventy-five. We heard no constitutional scruples then from any gentleman of the Democratic party about granting alternate sections of the public land for so important a national purpose. I find that the members from Texas, (Messrs. Kaufman and Howard,) than whom there were not more talented gentlemen in this House, voted in favor of the measure, with the gentleman from South Carolina, [Mr. OAR,] the gentleman from Georgia, [Mr. STEPHENS,] and eminent gentlemen of the Democratic party. They voted, side by side, with Mr. King, of New York, and other intelligent Whigs, who were capable of taking an enlarged view of the national question, and with all respect to those who differed from them, who brought honor upon themselves and credit to the country for voting so large a grant of land.

Mr. Speaker, it was with a view to strengthen the bonds of this Union, as much as to aid the great State of Illinois, and make rapid sale of our waste and unappropriated public lands, that I voted for that great national measure. The States of Alabama, Mississippi, Tennessee, Kentucky, and Illinois, which intervened between the Gulf of Mexico and the lake, have thereby been cemented and bound together by the National Legislature of the country, of which they all form component parts. Shakspeare well says, as I am reminded by the presence of the gentleman from New York, [Mr. HUGHES:]

"The friends thou hast, and their adoption tried,
Grapple them to thy soul with hooks of steel."

I would bind the States together with indissoluble ties of interest, as well as by consanguinity and affection.

And, with the same high national view, I had the honor to vote, a few years ago, for large grants of land to the State of Missouri, for a road leading from St. Louis southwest, and from St. Joseph to Hannibal. I should have preferred one, a single route, from St. Louis west, for this great object, but, to conciliate my Democratic friends, and to conciliate local interests, I gave up a little of my own opinion, and voted generously for those two great grants of land to the State of Missouri; and thus three hundred and fifty miles of this great national Pacific highway are now being built. I rejoice that I gave these votes.

But what have we now before us? Why, sir, we have before us a subject of the greatest possible national importance. We have a State on the Pacific which is a miracle to ourselves; a State which has grown up, in five or six years, to be one of the most important in the Confederacy, and now contains within its limits the third city in point of commerce. We have some fifteen hundred miles of Pacific sea-coast; we have, with that coast, a vast deal of land, and a far greater extent of water communication. The tide of emigration steadily flows west; and the organization of the Territories of Kansas and Nebraska has invited the adventurous, the spirited, the very *élite* of our people to emigrate to these new places of abode. Every day we have indications of the importance of connecting the Pacific with our Atlantic coast by railway. Let the inquiry be as to the best route and mode of construction, and which will lead to the least expense; but what we do, let us do quickly.

What is the best way for its construction? In my judgment, we ought to refer the whole matter to a special committee of thirteen of the most intelligent gentlemen upon the floor, of those best conversant with the northern, the southern, and the central proposed routes. Let that committee take the matter fully into consideration, and report a plan. Such a plan as they might adopt I believe would pass Congress at this session.

I have some other reasons against the building of three roads. In my opinion, there is something of sectionalism in that project. I say nothing of the local feeling of gentlemen; it is natural; but I submit, whether one great national highway, speedily made, would not tend greatly to cement and strengthen the bonds of this Union, and hold us in fraternal concord? Sir, we want to make this great link in this great chain of railroad. There are now many railroads extending from New York, Philadelphia, and Baltimore westward, and there are roads extending from St. Louis to the western border of the State of Missouri now almost completed. Here you have thousands of miles of railroad already made in the States; and a great connecting link through the Territories of the United States is what this bill provides for. We have but to aid in establishing a road to the borders of the State of California, and I believe that State will construct one through the State, from the eastern border to the Pacific, herself, though I rejoice to believe that Congress will render her prompt and efficient aid in accomplishing that object.

Sir, I listened, the other day, with great pleasure to the able and elaborate remarks of the distinguished gentleman from Missouri, [Mr. BENTON,] upon this subject. I think the country is greatly indebted to him for the addresses which he has recently delivered in the large cities throughout the country, as well as for his able and eloquent speech the other day in this House. His knowledge of the country for the last forty years, his study of its physical geography, his large and comprehensive views of this subject, as a great national question, are well known to the people of the United States, and commend his plan for the accomplishment of this great object eminently, in my view, to their judgment; and, sir, the plan which he proposes in this House is, in my view, with some modifications, eminently entitled to our regard. I differ from him in saying that Congress should only give the right of way through the public lands in the Territories of the United States to a company, for the purpose of building a road, when they have given so much of the public lands in the States of Illinois and Missouri to aid in the construction of railroads in those States.

Sir, I have no constitutional scruples in reference to donating the public lands to aid in the construction of railroads. I would, to-day, vote to grant alternate sections to the extent of six miles, or twelve miles, on each side of this railroad, to aid in its construction. But, sir, I do not think the country is ready for the construction of three roads to the Pacific, and I think that opinion will suggest itself to the people of the country. But I think the country is ready for one road; and that road should commence somewhere on the western border of Missouri, and continue to the State of California, as near the route now pursued by emigrants to that State as practicable. But it seems to me that the best plan we can adopt, for the present, is to refer this whole subject to a committee of thirteen, to be appointed by the Speaker. Let that committee take the subject under consideration, and report as early as possible; and, I believe, we can carry the measure through Congress during its present session.

Mr. Speaker, I have spoken these words upon the impulse of the moment, because I thought the course pursued by the gentleman from California and his friends, in moving to strike out the enacting clause of the bill in the Committee of the Whole on the state of the Union, and in prohibiting debate upon the subject, was calculated to alienate the friends of the measure, on this side of the House, from this great national highway, which I, for one, as an humble member of this body, feel the strongest interest. Before taking my seat, I desire to inquire of the Speaker if a motion to refer this bill to a committee of thirteen would be in order?

The SPEAKER. That motion is in order.

Mr. TAYLOR. I then move to refer the bill and amendments to a committee of thirteen, to be appointed by the Speaker, without instructions, and, upon that motion, I demand the previous question.

Mr. BAYLY, of Virginia. I ask the gentleman from Ohio to withdraw the demand for the previous question.

[Cries of "No!" "No!"]

Mr. BAYLY. Well, sir, I desire to know if nobody is to be heard upon this subject but the friends of the bill?

Mr. TAYLOR. I have no wish to stifle debate upon this or any other question. I will withdraw the demand for the previous question, if the gentleman from Virginia wishes it.

Mr. BAYLY then obtained the floor.

Mr. PHELPS. I ask the gentleman from Virginia to give way for a moment to enable me to appeal to the gentleman from Indiana, [Mr. DAVIS,] to modify the amendment which is now pending.

Mr. BAYLY. I will yield to the gentleman for that purpose.

Mr. PHELPS. The amendment now pending, offered by the gentleman from Indiana, I believe, makes the road commence somewhere on the western border of Missouri or Iowa, between the parallels of 37° and 43° north latitude. Now, sir, there is a road in the State of Missouri already in the processs of construction, for which the grant of land from the Government, to which the gentleman from Ohio just now alluded, was made, terminating on the western border of the State, at some point near the 37th parallel of latitude. Now, I desire the gentleman to extend the limit for the commencement of the road 1° south, and make it 36° instead of 37°. I will say 36° 30′, but I do not like to fix that point, and I therefore ask the gentleman to make his southern limit at 36° instead of 37°.

Mr. DAVIS, of Indiana. I have already en-

larged the limits which I at first proposed, but, to gratify my friend from Missouri, I will still further modify it and accept his proposition.

The SPEAKER. In the opinion of the Chair the gentleman from Indiana can only modify his proposition by unanimous consent, inasmuch as a proposition to recommit is pending.

Mr. PECK. I object.

Mr. PHELPS. In the present stage of proceedings the gentleman from Indiana would have the right to withdraw his amendment; and I think he has equally the right to modify it.

The SPEAKER. The practice of the House has been both ways, and the Chair will rule that the gentleman may modify his amendment.

Mr. DAVIS. I then modify it as suggested by the gentleman from Missouri, by substituting 36° for 37°.

Mr. CHAMBERLAIN. With the permission of the gentleman from Virginia, who holds the floor, I wish to suggest to the gentleman from Ohio, [Mr. TAYLOR,] that he make his committee to consist of thirty-one members instead of thirteen.

Mr. TAYLOR. I prefer the number of thirteen.

Mr. CHAMBERLAIN. I will then move to amend by substituting the number of thirty-one for thirteen.

Mr. BENTON. I am anxious, Mr. Speaker, to make a few remarks to the House on certain points which I had not referred to in my speech, but members need hardly go to the trouble of changing their seats for the sake of hearing what I say, as I intend to be very brief.

The pending motion, is I believe, to refer the bill to a select committee. That is the motion which I made yesterday. I inserted thirteen as the number of which such committee was to consist, but I am very willing to change the relative position of the figures—to put the three first, and let the committee consist of thirty-one. I only wish, Mr. Speaker, to say a few words, which I hope will apply to the points which I think it is material the committee should understand. The bills that we have before us—substitutes and all—propose, I think, to give its privilege to a company of individuals, not incorporated. That, I believe, is the case. Now, I hold it to be impossible that any work of this magnitude can be carried on by a company without the benefit of a corporate name and seal with which they can continue their business and take whatever steps are necessary to conduct it. I hold it to be impossible for a number of persons to carry on business with all the changes of partnership constantly occurring from deaths, sales of interests, and changes of partners, without a corporate authority. And that, sir, is a vital objection to all the bills which are before us, substitutes and all.

Passing now from that to objections which occur immediately in the substitute—the first road proposed is a southern road. It gives a point of commencement which is tangible. We know where it is—the western frontier of Texas! So far, so good! We know where the point of commencement is. But, then, where is to be the other end of the road? Every gentleman whom I have heard speak on the subject seems to have the impression that the road is to run to the Pacific ocean. I do not read any such provision in the substitute. As I read it, the road is to go to the waters of the Pacific ocean—to the navigable waters of the Pacific ocean—without even stating whether it is to be to the south or to the north—without even confining the terminus to the Territory of the United States. And, sir, we cannot read the proceedings of the Southern Convention which assembled at Charleston last spring, and at New Orleans this winter, without being impressed with the fact that there is a numerous and respectable portion of the southern people desirous of having the terminus of this southern line on the Gulf of California. No person on this floor, I am sure, contemplates that idea, but the bill is open to that interpretation, and being open to it, and it being a point which is advocated by a numerous and respectable body of men in the south, I think that if we intend to confine the road to the Territory of the United States, we should be explicit; and if we intend that it shall extend to the Pacific ocean, we ought to be explicit. These are my opinions.

Mr. McDOUGALL. Will the gentleman from Missouri permit me to make a remark?

Mr. BENTON. Oh, no. I have but little time to occupy, and I must occupy it myself. The gentleman from California has his own time to make any remarks he desires, and I never interrupt him or anybody.

Mr. Speaker, this southern road is to go to the navigable waters of the Pacific ocean. What interpretation may not be given to that provision? It is not a water where sails may be used, but it is a water which can be traversed by batteaux with the help of poles and portages. That is the construction which the law gives to the term "navigable." Then, according to this construction and to this provision, the terminus of the road may be located on the Gila, or the Colorado. It may stop short of the Pacific ocean; or it may go to New San Diego—not San Francisco. I am against this uncertainty. It is not necessary for me to suggest that the road will be constructed out of the Territories of the United States. It is but necessary to make the suggestion, to satisfy you, sir, and this House that such a thing can be done; and it is the business of legislation to guard against such a thing. We want a fixed point at both ends; we want the road to go towards San Francisco, and connect with a road going there.

So much for that ground. While it is required to go to the navigable waters of the Pacific ocean, is it required to connect with any river, rail, or post road, or telegraphic communication which goes to the Pacific? It is required not to connect with anything upon God's earth, except to land in a wilderness. So much for the southern road. What does the northern road say, for every gentleman who has spoken here has assumed that there are to be three roads to the Pacific? It says that it goes to the navigable waters of the Pacific, waters either in the territory of Washington or Oregon. Where do you find those navigable waters? You may find them in the very gorges of the Rocky mountains, as may be proved by the batteaux of the Hudson Bay Company, which have been traversing the streams there for forty years. Then, this northern road is to land there, in the gorges of the Rocky mountains, unconnected with anything by which we can get to the Pacific ocean at any point.

In the name of all that is rational, what object can the United States have in making roads which are to terminate in a wilderness? There are seventy two miles wide of alternate sections of land to be given for the construction of these three roads. Great God! is not that enough to make us pause and consider? Can we swallow seventy-two miles of public lands without taking time to consider its enormity? Can we give land enough to make two great States, without knowing where the roads are to go? The friends of the central road have been cut off from beginning to end by motions, the effect of which has been to stop the discussion which its friends were anxious to have, and to cut off all motions in its favor. The previous question was demanded, but not sustained, and, having escaped that danger, we have now got into a place where I do feel that the House should take time to consider what they will get for fifty millions of acres of public lands, before they give it away, with such exclusive privilege of carrying the mails of the United States, and having all its transportation. As far as the central road is concerned, some concession has been granted to us by the little struggle which we have been enabled to make. I say that the central road alone, upon which people will travel, and follow their own business, and go their own way—upon which fifty thousand people, grandfathers, fathers, and children, go every year with their flocks and herds, across the country—upon which all the emigration to the Pacific winds its way—I say this road has been outlawed by every bill presented to this House, not only not provided for but provided against, until we have now forced a place for it in this bill. We have fought it into recognition. The bill is no longer to make one road south of the 37th° of latitude and one north of the 37th° of latitude, as it was when first brought in. It is no longer an outlawry of the central route; that route now has a chance, and if it was a fair one it might do; but it is not fair. Secret bidding, and three gentlemen to decide, two of them carefully selected from the South, I fear for the result; for I know a good deal about the sealed bids, because I was indoctrinated into their nature forty-three years ago by an old stage contractor, who told me all about the tricks, legerdemain, and means which were used, presents inclusive, to find out each others bids, and to underbid fraudulently, or collude with one another; and how it was that in so many cases the real biddings were rendered inoperative by men who got hold of threads to secret intelligence, and got contracts or property to gamble upon in the stock exchange. It is the case with all secret biddings—all the sealed bids—that men bid, and somebody sees through the seals, thick as they may be. If there was to be fair bidding, done openly, capital against capital, I believe the central route would stand a very fair chance; but with secret bidding, I say farewell to a central route. Men of straw, who have nothing to lose, and all to gain, can underbid real capitalists; and they can always find out what the secret bids are. I will suppose a case, and it is only a case of supposition, that persons may wish to get up a stock company, to go upon the gambling exchange of London and New York: what better stock can they have for that purpose than seventy-two miles wide of alternate sections of lands, or even forty-eight miles, if we have but two roads, or even twenty-four miles, if we have but one road? with an act of Congress, giving the exclusive right to carry the mails, at $300 a mile, which, multiplied by three, is $900 a mile, and also have the exclusive right to fetch and carry for the United States, the Government of the United States being its customer? What an inducement for men of straw and cunning, with much impudence and no money, to come in and underbid capital, cost what it may, go with their shares to London or New York, and sell them there for what they will bring—everything they get being clear gain. If this measure be committed to a committee of thirty-one, or thirteen, to report a plan to this House, not to force it upon them for their adoption, but to lay it before them for their consideration, it is my opinion that the public interests will lose nothing at all, by considering this subject thoroughly, and in all its stages.

I repeat: we are deceived with these three roads to the Pacific. Two of them are to stop at its navigable waters, and where they have no connection except with these navigable waters. Are they to stop there; and every one paddle his own canoe after that? Is the magnetic telegraph also to make junction with these navigable waters! The central route will have junctions, and proper ones, at both ends. At the Missouri line it will be in communication with the Missouri State railroad—with the steamboat navigation of the whole valley of the Mississippi—with the magnetic telegraph communicating from that point with the whole Union, and with Canada and Nova Scotia besides—and also with stage lines and all the common country. At the other end it is to be the same thing. It will go into the valley of San Joaquin, where it will meet steamboat navigation—telegraphic lines now working—a railroad now in progress—stage roads and common roads—and will land people where they want to go, that is to say, to the rich and golden part of California. It is the only route in the bill that professes to go to San Francisco. By my plan it would go to the California line, in the direction to San Francisco, but not into the State, for my principles do not admit that. State rights are something, besides a name, with me. Are the other two roads to go into the State of California? Then they come under the ban of the river and harbor *veto* message. Are they to be smuggled in to avoid a veto? Why indefinite in their western terminations? My belief is that the southern route is to go to New San Diego, to supersede San Francisco; and that is an object which cannot be avowed, and therefore, the bill is made indefinite to permit to be done what cannot be avowed. I hope the bill will be committed, and give us a chance for consideration.

Mr. WASHBURN, of Maine. The gentleman from Missouri [Mr. BENTON] cannot have read very attentively the bill which is now before the House for their consideration. He says that, under the provisions of this bill, the central route will not stand any fair chance of success; that if the bids were to be open, and men of capital were not subject to be met by men of straw, the central route would stand a good chance, and be as likely to obtain the contract as any other route. If the gentleman had read the bill carefully, he would have seen, by the amendments which have been

introduced and adopted, that whenever proposals are made, within the terms of the act, there is no discretion left with the members of the Cabinet, who are to decide upon the bids. They are bound, imperatively bound, when proposals are offered, which comply with the conditions of the law, to accept them, or the one most favorable where more than one bid is made for the same route, and to enter into a contract, or contracts, in pursuance of the bid which is accepted, and some one must be, if coming within the requirements of the act; so that, if parties, either associations of capitalists, or corporations, come forward and submit proposals to build the roads, or either of them, and the proposals are such as the law requires, there is no discretion upon the part of the Secretaries, and they must accept them, and enter into a contract for the road, or so many of them as are thus bid for.

But these associations, or corporations—for either individuals or corporations may make propositions—are not to be, and cannot be, merely men of straw. They cannot be, by the provisions of the bill itself. They must be men of capital. They are required, before they enter upon the execution of the work, or have the contract confirmed by the Government, to deposit half a million of dollars with the Secretary of the Treasury, as security for the performance of the work. That amount must remain with the Secretary as a guarantee, until the work is done, or to be drawn only as it is performed. And, moreover, the land which the Government proposes to grant in aid of the execution of the contract, is not to be conveyed, or patented to the contractors, until the completion of the particular work for which any specific portion of the lands is to be conveyed.

Under this bill, then, there is no chance for gamblers, mere stock speculators, and men of straw. It is as good a bill, as well guarded and protected as any bill of the kind that has ever been drawn; and I think it would be difficult to make it, at the same time, more effective and more safe. When, then, gentlemen get up here and undertake to oppose the bill for reasons such as those urged by the gentleman from Missouri, [Mr. BENTON,] and others, I am compelled to believe that they do not desire the passage of any feasible railroad bill at the present time. When a bill is so well guarded, and provided with restrictions and limitations so wise and practical, for securing the faithful fulfillment of the contract or contracts with the Government of the United States as this is, and gentlemen make such objections to it as have been urged here, I cannot think that they are extravagantly in favor of constructing any road to the Pacific at the earliest practical moment.

The gentleman from Missouri objects that this bill does not contemplate, or rather secure, the building of a railroad to the Pacific, but that contracts are authorized to be made under it, which may terminate, if I understood him, at the head of navigation on any stream flowing into that ocean. Does that gentleman, or any gentleman, believe that any corporation, or association of individuals, would build any such road, and that their interest would allow them to stop at any such point as he has indicated? They would be compelled, by the necessity of the case, to carry it to the point upon the Pacific ocean the most available and practically advantageous to the trade and commerce of the country; and, on examining the bill, it will be perceived that, in reference to the northern and central routes, the language clearly excludes the gentleman's construction, while in regard to the southern, no other fair or just construction can be given.

But, Mr. Speaker, how is this? It has been objected here that we are providing for a grant of seventy-two miles in width of land to the three roads. That is a mistake. The bill provides for but thirty-six miles, in all, for the three different roads. They may all be built, or not. One may be built, or two, or all. Do we not know that it has been the desire of this country, for the last ten or fifteen years, to see a road constructed across the continent, connecting the Atlantic and Pacific oceans? Is there a measure, of purely national concern, in which the constituents of all of us are so deeply and thoroughly interested, as this of connecting the two sides of the continent by a railroad? They are interested in it, and I think they generally believe we have constitutional power to accomplish the work, and that it is the high, and special, and emphatic duty of Congress to take early and practical measures to see that it is done at the earliest reasonable period, and to initiate now the measures by which it may be commenced as soon as the condition of the times shall permit, and prosecuted to its completion.

Now, the question is, how can it be done? Can it be done by the passage of a bill providing for the construction of a single line, terminating at specified points here and there? Who believes it? Do not we all know that the attempt to secure a railroad has been delayed for half a dozen years—a dozen years—because men could not agree upon a single line? They never have been able to agree upon a line, and never will be. When gentlemen tell us here that we can agree upon a certain line, I tell them that their course is calculated to defeat any road, because it is palpable, it is most transparent, that we, two hundred and thirty-four members, never will agree upon a single line. Never.

Then, sir, if we must take it for granted that we never can agree upon any one line, we must provide for more, or give up all hopes of having a railroad. And this is the question for us to decide to-day. Will we provide for more than one road, or decide that there shall be no road? Do, sir, as you may, profess as you may, say what you will, the interpretation the country will put upon any action of Congress which looks to the recommitment of the bill at this late day, or to an agreement upon a specific route, will be that it is unfavorable to this great work of the age.

And, sir, what is the objection, what the real and substantial objection, to providing for the construction of three roads, if capital can be found to build them upon the terms specified in the bill before us? This bill provides for the grant of twelve miles, on either side, in alternate sections, to each road. Under it the roads will be constructed, or they will not be. If they are not constructed, not an acre of the public lands will be disposed of, and not a dollar will go out of the Treasury. If they are constructed, you grant to those who may build them one half the lands within twelve miles on either side, and then double the price of the remainder. You bring the land into market, and thereby facilitate the opening up and settlement of the country. Let the southern road be built, if capital will go there. The country will not be injured in any respect. Let the central road be built, if it can be. Shall we suffer anything thereby? Not at all. Let the northern road be built, if capital can be attracted thither, as I believe it can be, and will be first of all. If all can be built, we shall have three lines of communication between the East and the West, and in constructing them we shall have actually lost nothing. We shall have suffered nothing; but have received more than we have given. We shall have provided for communications from the one side of the continent to the other, by which at all times military and naval supplies and stores, freight and commodities of those kinds for which rapid transportation is everything—the mails may be carried from one ocean to the other, involving the payment of less money than the Government now pays for poorer and less valuable services. All these, to say nothing of the vast accommodations afforded to passengers and general commerce; and if but one line results from this action, we have, substantially, the same results. So that it seems to me, in any point of view in which we may consider it, nothing will be lost to the country by the passage of this bill; and as I am sure this is the only bill which can be passed, I hope and trust that every friend in the House of this road, or of any road, now or hereafter, will unite in sustaining this bill, because all here must see, and the people will see, that this is the only bill that can possibly be passed in this House, and a vote against this is, substantially, a vote against any and all bills.

Then, if this is the only one that can succeed, shall we not pass it? Men of common sense, men of judgment and practical wisdom, throughout the country, will perceive that this is the only bill which can become a law; and now let us take it and adopt it, though you or I may believe that it is not the best possible bill. Let us act here as practical men, in favor of a Pacific road. I may be in favor of one scheme, but I may not be able to get it; and if I cannot accomplish my object in my own way, I will do the best I can, and take that plan which comes nearest to my views, if it is not liable to insuperable constitutional or other objections; and I repeat, that, in my judgment, this bill is not exposed to such objections. I believe that it is as well matured, guarded, and restrained against abuse, as any bill well can be. The principles of the measure having been discussed in the country, and in Congress, for years, and having been specially considered here during the last and the present session of Congress, by all sides and sections, it seems to me that we can as well come to a decision now as at any other time; and further, that any attempt to recommit the bill to the Committee of the Whole on the state of the Union, or a special committee, or in any way to send it out of the House in its present stage of progress, is, in effect, however intended, an attempt to strangle and defeat it. Such motions can hardly be expected, by those who make them, to forward any bill; for nobody can imagine that a bill now committed to the special committee, or the Committee of the Whole on the state of the Union, without being made the special order, could, by any possibility, be acted on at this session.

Therefore, seeing the bill in its present condition, how far we have forwarded it, the amount of the discussion which it has received, and the certain effect of the adoption of motions to commit, I now demand the previous question, and hope the friends of the bill will stand by me.

Mr. CAMPBELL. If the gentleman will withdraw his call for the previous question, I will renew it.

Mr. McDOUGALL. As chairman of the select committee on this subject, I think that I ought to have the privilege, as a matter of courtesy, to respond to the remarks just made.

Mr. CAMPBELL. I trust the gentleman will withdraw his demand for the previous question.

[Cries of "No! hold on to it!"]

Mr. WASHBURN. I withdraw the previous question for the gentleman, provided he will renew it in five minutes' time.

Mr. CAMPBELL. The gentleman from Maine has occupied much time, and he has now limited me to five minutes; but I am satisfied with it; I thank him for it.

I think, Mr. Speaker, that the discussion of this matter, upon this floor, has gone about far enough. The gentleman from Maine seems to think that all that is necessary to enable a legislator to understand this great subject is to hear speeches in this Hall. A few days ago we had the reports of exploring expeditions placed upon our desks, at a vast expense to the people of the country. We had maps and the profiles of the various routes drawn and printed for our use; and I now venture to say that there are not ten men upon this floor who understand the facts and figures therein set forth, who have applied themselves to getting a knowledge of the topography of the country. Yet the gentleman asks us to act finally, and upon the speeches made here, most of which have been made for Buncombe, and nothing more. I am in favor of such a delay as will enable the Representatives of the people to act with their eyes open. Gentlemen may call that skulking the question, and may intimate that our constituents will have something to say because of our unwillingness to dash hastily into this great measure. I shall take care that my constituents are fully advised of the reasons which actuate me.

I indicated, yesterday, my intention to move to recommit the bill to the Committee of the Whole on the state of the Union; but understanding, this morning, the Speaker would decide (and I have no doubt, when I look into the matter, decide properly) that, if the bill goes back to the Committee of the Whole on the state of the Union, it will again become the special order, and shut out the other important business of the session—hence it is that I am for recommitting to a select committee; and I wish to advise those who feel as I do upon the subject, that the only way to dispose of the matter, and prevent its clogging up the business of the House for the balance of the session, is to carry the motion submitted by my colleague [Mr. TAYLOR] to recommit to the special committee. My time having run out, I now renew the call for the previous question, and say that I shall not withdraw it for anybody.

Mr. McDOUGALL. I do not think that is just towards me.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. MONDAY, JANUARY 22, 1855. NEW SERIES.....No. 22.

Mr. CAMPBELL. I was cut down to five minutes, and I shall not withdraw it for anybody.

[Mr. GREEN, from the Committee on Enrolled Bills, reported, as correctly enrolled, bills of the following titles; which received the Speaker's signature:

An act for the relief of Sylvester Humphrey and the heirs of Alexander Humphrey, deceased; and

An act for the relief of the children and heirs of Major General Baron de Kalb.]

Mr. SEWARD. I move that the House do now adjourn.

The question was taken; and the House refused to adjourn.

Mr. WHEELER. I demand tellers on seconding the demand for the previous question.

Tellers were ordered; and Messrs. WHEELER and HAMILTON were appointed.

The House was divided; and the tellers reported —ayes thirty-seven, noes not counted.

So the previous question did not receive a second.

Mr. McDOUGALL obtained the floor.

Mr. McMULLIN also rose, and said: I rose for the purpose of addressing the House, but as the Chair has awarded the floor to the gentleman from California, I desire to inquire whether that gentleman has not once addressed the House upon this question? If he has, I claim the floor under the rules of the House?

The SPEAKER. The gentleman from California addressed the House upon the proposition submitted by the gentleman from Indiana, [Mr. DAVIS,] but not upon the motion to commit, which is now pending.

Mr. McDOUGALL. I might understand the motion made by the gentleman from Ohio, [Mr. TAYLOR,] to commit this bill to a select committee of thirteen, and the same motion, which was reported by the gentleman from Missouri, [Mr. BENTON,] as a sort of equivocal personal compliment to the chairman of the select committee, which had this subject in charge. I say I might take it as a compliment to myself, and I will consider it as such, for the purpose of returning thanks for the very handsome compliment thus paid. But, sir, further than that, I do not choose to regard it in that light. It is not the object of the gentleman and his friends, in moving to refer this bill to a new select committee, to secure from that committee a better bill, but it is their object, as expressed by the gentleman from Ohio, [Mr. CAMPBELL,] to dispose of the bill for the present; in other words, to bury it, for this Congress, in the tomb of the Capulets.

Mr. TAYLOR, of Ohio. Will the gentleman yield to me for explanation?

Mr. McDOUGALL. No, sir. I do not yield to the gentleman.

Mr. TAYLOR. If the gentleman alludes to me, I disclaim any such intention in the motion I made.

Mr. McDOUGALL. I do not give way to the gentleman; but sir, I will prove that the intention, or, at least, the effect of the motion, if carried, will be to bury this proposition for the present session of Congress. And why? Sir, we have this subject now regularly before the House. We have the results of an elaborate investigation, not only of the House committee, but of the committee raised upon the subject in the Senate. And I state here, in my place, that the House is not only in possession of the particular measures proposed by the committees in the two Houses, but they are also, in possession of the various measures which have been prepared by various gentlemen upon this floor, which may be brought forward, and voted upon by the House. If the gentleman from Ohio, has a plan, let him bring it forward, and test it earnestly in the House. If the gentleman from Missouri has a plan, let him bring it forward, and test it earnestly by a vote of the House, now, while the matter is under consideration. Does the honorable gentleman want time to mature his opinions? Has not his forty years' experience given him time to mature his opinions? He surely cannot wish the matter recommitted for that. His plan is a simple, plain proposition, to give the right of way to some private company to construct the road. There is no need of a committee of thirteen, or a committee of thirty-one, to consider that. Sir, we are a committee of more than two hundred, and can consider it instantly.

If the gentleman from Ohio has a plan which he desires to have tested by a vote of the House, let him bring it forward. He has had time enough to prepare it, and he has the ability. There is no need of a committee of thirteen; let him bring it forward to this committee of two hundred and thirty-four members, and allow it to be tested.

But, sir, this is not what gentlemen want in seeking to recommit this bill. The matter has been before the House since early in the last session of Congress, and gentlemen cannot complain that they have not had time enough. No, sir; these gentlemen want it to make future political capital out of. They want to get to Congress, they want to get to the Senate, or they want to accomplish some other object upon this capital. It is thus that this great work has been sacrificed for years. They want it for the next senatorial fight, or for the next congressional fight; and if they can keep it along for two years, it will make excellent capital for a presidential fight. It will furnish excellent stock for future campaigns.

But, sir, that these gentlemen do not mean to do anything definite in reference to this great measure during the present session, is evident from the very nature of the case. Suppose another select committee is raised, they will require time to mature a bill. After they have matured it, I ask when will they get the consent of the House to report it? They must wait until all the regular standing committees have been called. The Committee on Public Lands are now being called, and have been before the House since nearly the very commencement of the session. When they are through, the Committee on the Post Office and Post Roads will occupy a week or two, if they are reached, which I doubt whether they will be in the course of the present session. Now, sir, any gentleman upon this floor, who knows the condition of the business of the House, must know that if this committee should be raised without the unanimous consent of the House, no report could possibly be made. And if it could be made, and referred to the Committee of the Whole on the state of the Union, it could never be reached in the regular order of business. I say, therefore, that the sole purpose in the course of the gentleman from Ohio, and his friends, is to reserve this as capital for some political fight in the future.

Does the gentleman from Ohio say he has not fully matured his views, and that he is not prepared to bring them before the House in a definite form? Sir, why is he not prepared? Does he not understand the subject? He professes to understand it. And that he has the ability to put his views in shape and bring them before the House, no gentleman can doubt. And if he does bring his proposition forward, and submit it to the House, is there any danger that it will not be understood by the House? No, sir. The subject is as well understood now as it will be at any future period.

Now, sir, I do not claim that the select committee appointed during the last session of Congress, and who have had this matter under consideration ever since, are altogether as competent as the gentleman from Ohio, and the twelve or thirteen gentlemen who would be associated with him. But it seems to me that, as that committee reported to the House in February last, and laid their report upon the table of every member in the form of a bill, he has had time to mature his views in reference to it, and that, if he designed to make opposition to it, he should have done it in some reasonable time, and not have waited until the very heel of the session.

Mr. TAYLOR, of Ohio. The gentleman speaks of me as the chairman of the committee I have proposed to raise. Sir, I beg to state that I have no desire to be appointed on such a committee at all. I am already a member of three committees of the House, and have more business in connection with them than I can discharge.

Now, sir, I beg to assure the House that I did not intend to say anything derogatory to the honorable gentleman from California. On the contrary, I admire the zeal with which he has prosecuted the interests of the State which he so ably represents. But, sir, as to the time we have had to consider this subject, the gentleman must recollect that we have had about a bushel of documents presented before us within the last three days, comprising the results of the surveys in the two or three expeditions which have been sent out. It is impossible that all these documents can have been examined by the members of the House.

Mr. McDOUGALL. Mr. Speaker, I do not take it as any matter of offense. It would not disturb me at all if the House should think proper to refer the subject to a different select committee. But I insist upon it, that no member friendly to this measure, or who expected legislation on the subject during this Congress, would make such a proposition. The gentleman from Ohio is an old member of this House, and understands its rules for conducting business, and he must know that, if this subject is referred to a committee such as he proposes, there is an end of the matter for this Congress.

Now, sir, I would respond to the gentleman from Missouri, [Mr. BENTON,] but his points are so absolutely and totally pointless that they require no response. He says that these contracts are not to be let to a corporation, but to persons, and, therefore, that an association of individuals short of a corporation could undertake the enterprise. Now, sir, the bill provides as well for letting the contracts to corporations as to individuals. A corporation may become a party, and "party" is the term used.

But, then, the gentleman says that the western terminus of the southern road is on the navigable waters of the Pacific. Why was not the gentleman ingenious enough to say, on the navigable waters of the Pacific *in the State of California?* Why did he not state that the bill says specifically that it shall be in the State of California?

Mr. RICHARDSON. Read the language of the bill.

Mr. McDOUGALL. Here it is: "pursue the most eligible route to the navigable waters of the Pacific in the State of California." What ground, then, is there for saying that the terminus may be on the navigable waters of the Pacific in the Territories of Oregon and Washington? The gentleman says that navigation commences on the rivers just west of the Rocky mountains. He has ascertained that as a matter of history, and as he is a very accurate man, I have no doubt that he is correct. Well, suppose the bill gives power to terminate the road there, does the gentleman suppose that that amounts to a practical objection? Does he suppose that any one is going to terminate a railroad there? Of course not. These captious objections are only designed to embarrass the friends of the railroad measure. When sincere men undertake to discourse about a thing in which they take a real interest, they talk sincerely. I undertake to say that the gentleman was not sincere in any of his exceptions to the bill.

Sir, I care nothing now about any rivalry between committees. I take this motion as no reflection on the present select committee, but I protest against any friend of legislation on this subject, during the present Congress, sustaining this motion, because it is bound to defeat all action this Congress. I demand the previous question.

The previous question received a second, and the main question was ordered to be put, being first upon Mr. CHAMBERLAIN's motion to amend the motion of Mr. TAYLOR, of Ohio, by providing that the special committee should be composed of thirty-one members instead of thirteen.

The amendment was rejected.

The question recurred upon Mr. TAYLOR's mo-

tion to refer the whole subject to a select committee of thirteen.

Mr. CAMPBELL called for tellers.

Tellers were ordered; and Messrs. WHEELER and HAMILTON were appointed.

The question was taken; and the tellers reported—ayes 90, noes 75.

Mr. McDOUGALL demanded the yeas and nays.

The yeas and nays were ordered.

Mr. INGERSOLL. I move the House do now adjourn.

Mr. WHEELER. On that motion I ask for tellers.

Tellers were ordered; and Messrs. GOODE and GOODRICH were appointed.

The question was taken; and the tellers reported—ayes 83, noes 74.

So the motion was agreed to; and

Thereupon the House, at thirty-five minutes past three o'clock, p. m., adjourned till to-morrow at twelve o'clock, m.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January* 20, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

THE BARK FOUNDLING.

Mr. WALLEY. I ask the unanimous consent of the House to take from the Speaker's table a bill granting a new register to the bark Foundling, which came from the Senate yesterday.

The bill was read a first and second time by its title, as follows:

An act to authorize the issue of a register for the bark Foundling, of Boston.

Mr. WALLEY. I ask that the bill be put upon its passage.

The bill was ordered to be read a third time; and having been read a third time, was passed.

MESSAGE FROM THE PRESIDENT.

The SPEAKER laid before the House a message from the President of the United States, transmitting, in further compliance with the resolution of the House of Representatives of 27th July last, a report from the Secretary of State, on the subject of the case of Walter M. Gibson.

On motion by Mr. HAVEN, the message and report were referred to the Committee on Foreign Affairs, and ordered to be printed.

INTRODUCTION OF BILLS.

Mr. GIDDINGS, of Nebraska, by unanimous consent, introduced bills, of which previous notice had been given; which were read a first and second time by their titles, as follows, and referred as indicated below:

A bill to establish land offices in Nebraska Territory. Referred to the Committee on Public Lands.

A bill to authorize the surveying, marking, and opening of roads in Nebraska Territory. Referred to the Committee on Public Lands.

Mr. RICHARDSON. In reference to the latter bill, I would state to the House that the Committee on Territories have this subject under consideration; and, during the session, I believe all bills, for like purposes, have been referred to that committee. I move that this bill be referred to the Committee on Territories.

It was so ordered.

Mr. OLIVER, by unanimous consent, introduced a bill, of which previous notice had been given; which was read a first and second time by its title, as follows, and referred to the Committee on Public Lands:

A bill to amend an act, approved 4th August, 1854, entitled "An act to graduate and reduce the price of the public lands to actual settlers and cultivators, and to legalize certain entries made under said act."

Mr. FULLER. I ask the unanimous consent of the House to report a bill for the purpose of having it, and the accompanying correspondence, referred. It is a bill in pursuance of the recommendation of the President of the United States, to carry out the reciprocity treaty between the United States and Great Britain.

The bill was read a first and second time by its title, as follows, and referred to the Committee of the Whole on the state of the Union, and ordered to be printed:

"A bill to amend an act to carry into effect the treaty between the United States and Great Britain, signed the 6th of June, 1854, and approved the 5th of August, 1854."

Mr. JONES, of Tennessee. For the first time since I have been a member of this House, I ask permission to introduce a bill, of which previous notice has been given. It is as follows:

A bill to amend an act entitled "An act to reduce and graduate the price of the public lands to actual settlers and cultivators," approved August 4, 1854.

It is a bill demanded by the interests of a great many persons, in all the States where the graduation bill operates, and it is simple in its character, having but a solitary provision in it. It is merely to permit those persons who are desirous of entering lands under that act to make the affidavits required by law, before officers authorized to administer oaths, under such rules as the Secretary of the Interior may prescribe.

Mr. HAMILTON. Read the bill, for information.

The bill was then read through by the Clerk.

Mr. TWEED. I object.

Mr. HAMILTON. I call for the regular order of business—the consideration of the bill which has been under discussion for several days.

PACIFIC RAILROAD AND TELEGRAPH BILL.

The SPEAKER. The business first in order, is the consideration of House bill No. 295, "to provide for the establishment of railroad and telegraphic communication between the Atlantic States and the Pacific, and for other purposes." The pending motion is the question to refer the subject to a select committee of thirteen, upon which proposition the yeas and nays have been ordered.

Mr. WARREN. I desire to know if a motion to reconsider the vote by which the previous question was ordered would be in order?

The SPEAKER. The Chair thinks that such a motion would be in order, but the question is not debatable.

Mr. WARREN. I desire to submit the motion, provided I am permitted to give the reasons which induce me to submit the motion.

The SPEAKER. It is not in order to discuss the subject at all.

Mr. WARREN. Will the Chair state to what extent the previous question will operate?

The SPEAKER. The previous question having been ordered to be put, brings the House to vote, first upon the motion to commit the bill to a select committee of thirteen. If that motion fails, it will bring the House to vote upon the pending amendment, and then upon the bill itself.

Mr. WARREN. I would then ask the gentleman who moved the previous question to withdraw it until I can submit the amendment.

The SPEAKER. It is not in the power of the mover of the previous question to withdraw it. It is now an order of the House; and the gentleman cannot reach his object without reconsidering the previous question.

Mr. WARREN. I desire very much to submit an amendment that divests this whole subject of anything of a sectional character. I have such an amendment prepared; and I would ask the consent of the House to have it submitted.

Several MEMBERS objected.

Mr. JONES, of Tennessee. I move to lay the whole subject upon the table.

Mr. McDOUGALL demanded the yeas and nays; which were ordered.

Mr. WALLEY. Before the vote is taken, I wish to make an inquiry of the Chair. I understood that the affirmative and negative of the question had both been propounded—the question to be taken by tellers; but, before the vote was declared, a motion was made, and entertained by the Chair, to have the question taken by yeas and nays. Is it competent, then, in this stage of the question, to have a new question submitted?

The SPEAKER. The motion to lay upon the table is in order by the express rules of the House.

Mr. WALLEY. After the affirmative and negative sides of the question are put?

The SPEAKER. Most certainly.

The question was then taken upon Mr. JONES's motion; and there were—yeas 49, nays 125; as follows:

YEAS—Messrs. Abercrombie, Aiken, Ashe, Belcher, Bridges, Carpenter, Caskie, Chastain, Churchwell, Cobb, Colquitt, Craige, Curtis, Edmundson, Fuller, Goode, Grow, Hamilton, Aaron Harlan, Hastings, Hibbard, Houston, Ingersoll, George W. Jones, J. Glancy Jones, Keitt, Kerr, Kittredge, Kurtz, Letcher, McMullin, McQueen, May, Millson, Morrison, Murray, Orr, Bishop Perkins, Puryear, Rogers, Ruffin, Shaw, Shower, William Smith, Trout, Vansant, Walsh, Wheeler, and Witte—49.

NAYS—Messrs. James C. Allen, Willis Allen, David J. Bailey, Ball, Barksdale, Bell, Bennett, Benson, Benton, Bliss, Breckinridge, Bristow, Campbell, Caruthers, Chandler, Chase, Chrisman, Clark, Clingman, Corwin, Cox, Crocker, Cutting, John G. Davis, Thomas Davis, Dawson, Dickinson, Disney, Dunbar, Eastman, Eddy, Edgerton, John M. Elliott, Ellison, Etheridge, Everhart, Farley, Faulkner, Flagler, Florence, Giddings, Goodwin, Green, Greenwood, Grey, Wiley P. Harris, Harrison, Haven, Hendricks, Henn, Hill, Hillyer, Hughes, Hunt, Johnson, Roland Jones, Knox, Lamb, Latham, Lilly, Lindley, Lindsley, McCulloch, Macdonald, McDougall, Macy, Matteson, Maurice, Maxwell, Middleswarth, Morgan, Nichols, Noble, Norton, Mordecai Oliver, Parker, Peck, Pennington, John Perkins, Phillips, Pratt, Preston, Pringle, Ready, Reese, Richardson, Riddle, David Ritchie, Thomas Ritchey, Robbins, Rowe, Russell, Sage, Sapp, Seward, Shannon, Simmons, Singleton, Samuel A. Smith, William R. Smith, George W. Smyth, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Thurston, Tweed, Upham, Wade, Walker, Walley, Warren, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Daniel B. Wright, Hendrick B. Wright, Yates, and Zollicoffer—125.

So the House refused to lay the bill and amendments upon the table.

Pending the call of the roll,

Mr. OLIVER, of New York, said: I would have voted in the affirmative upon this question, had I not paired off with my colleague, Mr. WALBRIDGE of New York.

The question then recurred upon referring the bill and amendments to a select committee of thirteen.

Mr. WARREN. I wish to know whether it would be in order for the gentleman from Indiana [Mr. DAVIS] to accept a modification of his amendment?

The SPEAKER. It can be done only by the unanimous consent of the House.

Mr. WARREN. I ask, then, the unanimous consent of the House to offer a proposition of the character I have suggested.

Mr. LETCHER. I object.

The question was then taken; and there were—yeas 71, nays 117.

YEAS—Messrs. Ball, Belcher, Bennett, Benton, Bridges, Campbell, Carpenter, Chandler, Chase, Colquitt, Corwin, Craige, Crocker, Curtis, Thomas Davis, Dick, Dickinson, Disney, Dunham, Everhart, Faulkner, Fenton, Flagler, Goode, Goodwin, Grow, Hamilton, Aaron Harlan, Harrison, Hastings, Haven, Hill, Hillyer, Houston, Hunt, Daniel T. Jones, George W. Jones, J. Glancy Jones, Kittredge, Kurtz, Letcher, Lilly, McCulloch, McQueen, Maurice, Middleswarth, Millson, Morgan, Morrison, Murray, Peck, Pennington, Bishop Perkins, Pringle, Puryear, Ruffin, Russell, Sage, Sapp, Shaw, Simmons, William Smith, William R. Smith, Stratton, John J. Taylor, John L. Taylor, Trout, Vansant, Wade, Tappan Wentworth, and Wheeler—71.

NAYS—Messrs. Abercrombie, Aiken, James C. Allen, Willis Allen, Appleton, Ashe, David J. Bailey, Barksdale, Barry, Bell, Benson, Bliss, Bocock, Boyce, Breckinridge, Bristow, Bugg, Caruthers, Caskie, Chamberlain, Chastain, Chrisman, Churchwell, Clark, Clingman, Cobb, Cook, Cox, Cutting, John G. Davis, Dawson, Dunbar, Eastman, Eddy, Edgerton, Edmundson, John M. Elliott, Ellison, Etheridge, Farley, Florence, Fuller, Gamble, Green, Greenwood, Grey, Wiley P. Harris, Hendricks, Henn, Hughes, Johnson, Roland Jones, Keitt, Kerr, Knox, Lamb, Lane, Latham, Lindley, Lindsley, Macdonald, McDougall, McMullin, Macy, Matteson, Maxwell, May, Smith Miller, Nichols, Noble, Norton, Mordecai Oliver, Orr, Parker, John Perkins, Phelps, Phillips, Pratt, Preston, Ready, Reese, Richardson, Riddle, David Ritchie, Thomas Ritchey, Robbins, Rogers, Rowe, Seward, Shannon, Shower, Singleton, Samuel A. Smith, George W. Smyth, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, Nathaniel G. Taylor, Thurston, Tweed, Upham, Walker, Walley, Walsh, Warren, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Westbrook, Witte, Daniel B. Wright, Hendrick B. Wright, Yates, and Zollicoffer—117.

So the House refused to refer the bill to a select committee of thirteen.

Pending the call of the roll,

Mr. OLIVER, of New York, said: I would have voted in the affirmative upon this question, had I not paired off with my colleague, Mr. WALBRIDGE, of New York.

The question then recurred upon the amendment offered by the gentleman from Indiana, [Mr. DAVIS.]

Mr. DAVIS, of Indiana. I wish to inquire if the previous question will be exhausted when the vote upon my amendment is taken?

The SPEAKER. In reply to the gentleman from Indiana, the Chair begs leave to state, that the previous question first applied to the motion to commit the bill to a select committee. It will

apply equally to the pending amendments, and then to the engrossment of the bill, if the House sees fit to adopt them.

Mr. CAMPBELL. I move to recommit the bill to the Committee of the Whole on the state of the Union, and upon that motion I ask the previous question.

The SPEAKER. The motion of the gentleman from Ohio is not in order, as the previous question is operating upon the bill, which will bring the House to vote, first upon the amendment of the gentleman from Indiana, and then upon the engrossment of the bill.

Mr. WARREN. The vote now to be taken is upon the amendment of the gentleman from Indiana, [Mr. DAVIS.] I now desire to ask the consent of the House to state the character of the amendment that I will offer to that amendment.

Mr. CAMPBELL. I object.

Mr. WARREN. I am aware that it was not in order, except by the unanimous consent of the House, to offer such an amendment as I propose, but I indulged the hope that the House would grant me consent to offer it.

The amendment offered by the gentleman from Indiana [Mr. DAVIS] was then read, as follows:

Strike out from the substitute offered by the gentleman from California all from line tenth to the word "railroad," in line twenty-third, inclusive, as follows:

"One road and telegraph, to commence on the western border of the State of Texas, and to pursue the most eligible route to the navigable waters of the Pacific in the State of California; which line shall be known as the Southern Pacific railroad.

"One road and telegraph, to commence on the western border of the State of Missouri or Iowa, and to pursue the most eligible route to the Bay of San Francisco; which line shall be known as the Central Pacific railroad.

"And one road and telegraph, to commence on the western border of the State of Wisconsin, in the Territory of Minnesota, and pursue the most eligible route to the navigable waters of the Pacific in Oregon or Washington Territories; which line shall be known as the Northern Pacific railroad."

And insert the following:

One grand trunk central railroad and telegraphic line from some point on the western boundary of the State of Missouri or Iowa, between 39° and 43° of north latitude, on the nearest and most eligible route to the city of San Francisco, on the Pacific ocean; and also two branch railroads and telegraphic lines, one diverging from the said central road at some eligible point east of the Rocky mountains, between the 103d and 105th parallel of west longitude, and running through the Territories of the United States, in the direction of Memphis, in the State of Tennessee; and one diverging from the said central road at the point last aforesaid, and running through the Territories of the United States to the most eligible point on the western shore of Lake Superior.

Mr. PERKINS, of Louisiana. I ask the unanimous consent of the House simply to have read an amendment, which I send to the Clerk's desk, and which the Louisiana delegation desire to have accepted by the gentleman from Indiana.

Mr. LETCHER. I object.

Mr. PERKINS. I only ask that it may be read.

Mr. JONES, of Tennessee. It is not in the power of the gentleman from Indiana to modify his amendment now, is it?

The SPEAKER. It is not.

Mr. HUNT. But the amendment may be read by unanimous consent.

The SPEAKER. The amendment is very short, and will be reported.

It was read, as follows:

Strike out all after the word "commence," in the tenth line, to the word "Texas," in the eleventh line, and insert in lieu thereof the words, "on the western border of the State of Texas, Arkansas, Missouri, Iowa, or Wisconsin."

Strike out all after the word "California," in the thirteenth line, to the word "railroad," in the twenty-third line.

The following is the portion of the bill to which the amendment refers, with the parts proposed to be stricken out included in brackets, and the words to be inserted, in italics:

One road and telegraph, to commence [on the western border of the State of Texas,] *on the western border of the State of Texas, Arkansas, Missouri, Iowa, or Wisconsin*, and to pursue the most eligible route to the navigable waters of the Pacific, in the State of California; [which line shall be known as the Southern Pacific railroad.

One road and telegraph, to commence on the wstern border of the States of Missouri or Iowa, and to pursue the most eligible route to the Bay of San Francisco; which line shall be known as the Central Pacific railroad.

And one road and telegraph, to commence on the western border of the State of Wisconsin, in the Territory of Minnesota, and pursue the most eligible route to the navigable waters of the Pacific in Oregon or Washington Territories, which line shall be known as the Northern Pacific railroad.]

The SPEAKER. The gentleman from Louisiana asks the gentleman from Indiana, by the unanimous consent of the House, to amend his proposition in accordance with the paper read at the Clerk's desk. Is it objected to?

Mr. LETCHER. Yes, I object.

Mr. PECK. Upon the amendment of the gentleman from Indiana, I ask the yeas and nays.

The yeas and nays were ordered.

The question was then taken, and it was decided in the affirmative—yeas 104, nays 91; as follows:

YEAS—Messrs. Abercrombie, James C. Allen, Willis Allen, Ball, Belcher, Bennett, Bridges, Bugg, Campbell, Carpenter, Caruthers, Chandler, Chase, Cook, Corwin, Crocker, Curtis, Cutting, John G. Davis, Dick, Dickinson, Disney, Dunham, Eddy, Ellison, English, Etheridge, Everhart, Faulkner, Fenton, Flagler, Gamble, Giddings, Goode, Goodwin, Grow, Hamilton, Aaron Harlan, Harrison, Hastings, Haven, Hendricks, Henn, Hibbard, Hill, Daniel T. Jones, J. Glancy Jones, Kerr, Kidwell, Kittredge, Knox, Kurtz, Lamb, Letcher, Lilly, Lindley, McCulloch, McMullin, Maurice, May, Middleswarth, Smith Miller, Millson, Morgan, Murray, Nichols, Norton, Andrew Oliver, Mordecai Oliver, Parker, Peck, Pennington, Bishop Perkins, Phelps, Powell, Pratt, Pringle, Puryear, Reese, Richardson, David Ritchie, Thomas Ritchey, Robbins, Rogers, Rowe, Russell, Sage, Sapp, Simmons, Richard H. Stanton, Stratton, Andrew Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Trout, Tweed, Vansant, Walsh, Tappan Wentworth, Wheeler, Hendrick B. Wright, Yates, and Zollicoffer—104.

NAYS—Messrs. Aiken, Appleton, Ashe, David J. Bailey, Banks, Barksdale, Barry, Bell, Benson, Benton, Bocock, Boyce, Breckinridge, Bristow, Brooks, Caskie, Chamberlain, Chastain, Chrisman, Clark, Clingman, Cobb, Colquitt, Cox, Craige, Thomas Davis, Dawson, Dunbar, Eastman, Edgerton, Edmands, Edmundson, John M. Elliott, Farley, Florence, Fuller, Goodrich, Green, Greenwood, Grey, Wiley P. Harris, Hillyer, Houston, Hughes, Hunt, Johnson, George W. Jones, Roland Jones, Latham, Lewis, Lindsley, Macdonald, McDougall, McQueen, Macy, Matteson, Maxwell, Morrison, Noble, Orr, John Perkins, Phillips, Ready, Ruffin, Sabin, Seward, Shannon, Shaw, Shower, Singleton, Samuel A. Smith, George W. Smyth, Sollers, Frederick P. Stanton, Hestor L. Stevens, Straub, David Stuart, Thurston, Upham, Wade, Walbridge, Walker, Walley, Warren, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Westbrook, Witte, and Daniel B. Wright—91.

So the amendment was agreed to.

Pending the call of the roll,

Mr. LATHAM said: I ask the unanimous consent of the House to explain the reason of my vote?

Mr. WHEELER. I object.

Mr. LATHAM. I appeal to the gentleman to permit me to state, in one moment, the reasons for my vote. I feel deeper interest in this measure than any gentleman present, excepting my colleague, and I am anxious to prevent any subsequent misconstruction of my motive in voting upon the present question.

Mr. WALSH. I object.

Mr. LATHAM. Then call my name; I vote no.

Mr. DAVIS, of Indiana. I move to reconsider the vote last taken, and to lay the motion to reconsider upon the table.

Mr. WENTWORTH, of Illinois. Yeas and nays upon that.

Mr. RICHARDSON. I hope the gentleman will not insist upon his motion.

Mr. DAVIS. I withdraw it for the present.

Mr. HAMILTON. Then I move to reconsider the vote, and to lay the motion to reconsider upon the table.

Mr. RICHARDSON. Upon that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. WENTWORTH. I wish to ask the Chair a question in reference to a point of order. I do it that members may have information by which to govern their votes. If this motion is carried, can we then go back?

[Cries of "Order!" "Order!"]

Mr. WENTWORTH. Will not the passage of this motion be tantamount to killing the whole bill?

[Cries of "Order!" "Order!"]

The SPEAKER. It seems to be objected to that the Chair should give the explanation desired. Being in the nature of debate, the Chair has no right, nor has any other member, to give the information asked for.

The question was then put; and it was decided in the affirmative—yeas 108, nays 93; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, Ball, Belcher, Bennett, Benton, Bocock, Bridges, Bugg, Campbell, Carpenter, Caruthers, Chandler, Chase, Churchwell, Cook, Corwin, Craige, Crocker, Curtis, Cutting, John G. Davis, Dick, Dickinson, Disney, Dunham, Edmundson, Ellison, English, Etheridge, Everhart, Faulkner, Fenton, Flagler, Fuller, Gamble, Goode, Goodwin, Grow, Hamilton, Aaron Harlan, Harrison, Hastings, Haven, Hendricks, Hibbard, Hill, Ingersoll, Daniel T. Jones, J. Glancy Jones, Kerr, Kidwell, Kittredge, Knox, Kurtz, Lane, Letcher, Lewis, Lindley, McCulloch, Macdonald, McMullen, McQueen, Mace, Maurice, May, Meacham, Middleswarth, Millson, Morgan, Morrison, Murray, Nichols, Norton, Andrew Oliver, Mordecai Oliver, Parker, Peck, Pennington, Bishop Perkins, Phelps, Powell, Pratt, Pringle, Puryear, Thomas Ritchey, Robbins, Rogers, Ruffin, Russell, Sage, Sapp, Simmons, Sollers, Richard H. Stanton, Stratton, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Trout, Vansant, Walsh, Tappan Wentworth, Wheeler, Witte, Hendrick B. Wright, and Yates—108.

NAYS—Messrs. Aiken, James C. Allen, Appleton, David J. Bailey, Banks, Barksdale, Barry, Bell, Benson, Bliss, Boyce, Breckinridge, Bristow, Brooks, Caskie, Chamberlain, Chastain, Chrisman, Clark, Clingman, Cobb, Colquitt, Cox, Thomas Davis, Dawson, Drum, Dunbar, Eastman, Eddy, Edgerton, Edmands, John M. Elliott, Farley, Florence, Giddings, Green, Greenwood, Grey, Wiley P. Harris, Henn, Hillyer, Houston, Hughes, Hunt, Johnson, George W. Jones, Roland Jones, Keitt, Lamb, Latham, Lindsley, McDougall, Macy, Matteson, Maxwell, Smith Miller, Noble, Orr, John Perkins, Preston, Ready, Richardson, Riddle, David Ritchie, Rowe, Sabin, Seward, Shannon, Shaw, Shower, Singleton, Samuel A. Smith, George W. Smyth, Frederick P. Stanton, Hestor L. Stevens, Straub, Andrew Stuart, David Stuart, Thurston, Tweed, Upham, Wade, Walbridge, Walker, Walley, Warren, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Westbrook, Daniel B. Wright, and Zollicoffer—93.

So the motion to reconsider was laid upon the table.

Pending the call of the roll,

Mr. McDOUGALL said: I change my vote, and vote in the affirmative, for the purpose, in case the proposition fail, to carry out the understanding of the friends of the bill.

The SPEAKER. The question is now upon ordering the bill to be engrossed, and read a third time.

Mr. JONES, of Tennessee. Is not the question upon the adoption of the substitute as amended?

The SPEAKER. The Chair begs pardon. It is upon the adoption of the substitute as amended, by the amendment of the gentleman from Indiana, [Mr. DAVIS.]

Mr. McDOUGALL. I wish to inquire of the Chair whether it is now in order to make some corrections in the balance of the bill, in order to make it correspond to the amendment which has been adopted?

The SPEAKER. No amendment is in order, except by unanimous consent.

Mr. WHEELER. I object.

Mr. DAVIS, of Indiana. There are some few verbal amendments which ought to be made, but, perhaps, they are immaterial.

Mr. HAMILTON. I object to all amendments.

Mr. McDOUGALL. Then I hope the friends of the bill will vote for this measure.

Mr. WENTWORTH, of Illinois. I call for the yeas and nays upon the adoption of the amendment, as amended.

The yeas and nays were ordered.

Mr. KERR. Will it be in order now to move to lay the substitute, as amended, upon the table.

The SPEAKER. The Chair thinks it will be.

Mr. KERR. Then I make that motion.

Mr. LATHAM. Yeas and nays upon that motion.

The yeas and nays were ordered.

Mr. FLORENCE. I move the House do now adjourn.

The motion was not agreed to.

Mr. KERR. I have been earnestly requested to withdraw my motion for the present, and I will do so.

Mr. WALSH. I renew the motion to lay the substitute, as amended, upon the table.

Mr. SAGE. Yeas and nays upon that motion.

The yeas and nays were ordered.

The question being taken by yeas and nays upon the motion, resulted—yeas 79, nays 123; as follows:

YEAS—Messrs. Abercrombie, Aiken, Ashe, David J. Bailey, Belcher, Bocock, Boyce, Breckinridge, Bridges, Brooks, Caskie, Chastain, Churchwell, Clingman, Cobb, Colquitt, Craige, Curtis, Dunbar, Eastman, Edmundson, Fuller, Goode, Grow, Hamilton, Aaron Harlan, Wiley P. Harris, Hastings, Haven, Hibbard, Hillyer, Houston, Hunt, Ingersoll, Daniel T. Jones, George W. Jones, J. Glancy Jones, Keitt, Kerr, Kidwell, Kittredge, Kurtz, Letcher, Lewis, Macdonald, McMullen, McQueen, Maxwell, May, Middleswarth, Millson, Morrison, Murray, Andrew Oliver, Orr, Pennington, Bishop Perkins, Phillips, Powell, Puryear, Reese, Rogers, Ruffin, Russell, Seward, Shaw, Shower, Singleton, William Smith, William R. Smith, Stratton, Trout, Vansant, Wade, Walsh, Wells, Wheeler, Witte, and Hendrick B. Wright—79.

NAYS.—Messrs. James C. Allen, Willis Allen, Appleton, Ball, Banks, Barksdale, Barry, Bell, Bennett, Benson,

Benton, Bliss, Bristow, Bugg, Campbell, Carpenter, Caruthers, Chamberlain, Chandler, Chase, Chrisman, Clark, Cook, Corwin, Cox, Crocker, Cutting, John G. Davis, Thomas Davis, Dawson, Dick, Dickinson, Disney, Drum, Dunham, Eddy, Edgerton, Edmands, John M. Elliott, Ellison, English, Etheridge, Everhart, Farley, Flagler, Florence, Gamble, Giddings, Goodrich, Goodwin, Green, Greenwood, Grey, Harrison, Hendricks, Henn, Hill, Hughes, Johnson, Roland Jones, Knox, Lamb, Latham, Lilly, Lindley, Lindsley, McDougall, Mace, Macy, Matteson, Maurice, Meacham, Smith Miller, Morgan, Nichols, Noble, Norton, Mordecai Oliver, Parker, Peck, John Perkins, Phelps, Pratt, Preston, Pringle, Ready, Richardson, Riddle, David Ritchie, Robbins, Rowe, Sabin, Sage, Sapp, Shannon, Simmons, Samuel A. Smith, George W. Smyth, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, Andrew Stuart, David Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Thurston, Tweed, Upham, Walbridge, Walker, Walley, Warren, Elihu B. Washburne, Israel Washburn, John Wentworth, Tappan Wentworth, Westbrook, Daniel B. Wright, Yates, and Zollicoffer—123.

So the House refused to lay the bill upon the table.

The question recurring upon the adoption of the amendment as amended,

Mr. HAMILTON said: I desire some information, so as to understand how we are to vote upon this question. If I understand it, the original proposition, as reported by the Committee——

[Cries of "Order!" "Order!" all over the Hall.]

The SPEAKER. The original bill was reported by the committee of thirteen. A substitute for this bill was offered by the gentleman from California, [Mr. McDOUGALL.] The House has adopted an amendment to that substitute, and the question is now upon adopting the substitute as amended.

Mr. HAMILTON. If we vote down this amendment——

[Cries of "Order!" "Order!"]

The SPEAKER. The question is not debatable.

Mr. ABERCROMBIE. I move that the House do now adjourn.

The question was put; and the motion was not agreed to.

The question was then taken by yeas and nays on the adoption of the substitute as amended, and resulted—yeas 122, nays 79; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, Appleton, Ball, Banks, Bennett, Benson, Benton, Bliss, Bristow, Bugg, Campbell, Carpenter, Caruthers, Caskie, Chamberlain, Chandler, Chase, Cook, Corwin, Cox, Crocker, Cutting, John G. Davis, Thomas Davis, Dawson, Dick, Dickinson, Disney, Drum, Dunham, Eddy, Edgerton, Edmands, Ellison, Etheridge, Everhart, Farley, Flagler, Florence, Gamble, Goodrich, Goodwin, Green, Greenwood, Grow, Aaron Harlan, Harrison, Haven, Hendricks, Henn, Hill, Hillyer, Hughes, Daniel T. Jones, J. Glancy Jones, Kerr, Knox, Kurtz, Lamb, Latham, Letcher, Lilly, Lindley, Lindsley, McCulloch, McDougall, Mace, Macy, Matteson, Maurice, Meacham, Middleswarth, Smith Miller, Millson, Morgan, Murray, Nichols, Norton, Mordecai Oliver, Parker, Peck, Pennington, Bishop Perkins, Phelps, Preston, Pringle, Ready, Richardson, Riddle, David Ritchie, Thomas Ritchey, Robbins, Rowe, Russell, Sabin, Sage, Sapp, Simmons, Samuel A. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Straub, Andrew Stuart, David Stuart, John L. Taylor, Nathaniel G. Taylor, Thurston, Tweed, Upham, Walbridge, Walker, Walley, Warren, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, Westbrook, Yates, and Zollicoffer—122.

NAYS—Messrs. Abercrombie, Aiken, Ashe, David J. Bailey, Thomas H. Bayly, Barksdale, Barry, Belcher, Bell, Bocock, Boyce, Breckinridge, Bridges, Brooks, Chastain, Chrisman, Clark, Cobb, Colquitt, Craige, Curtis, Dunbar, Eastman, Edmundson, Faulkner, Fenton, Franklin, Fuller, Goode, Grey, Hamilton, Wiley P. Harris, Hastings, Hibbard, Houston, Hunt, Johnson, George W. Jones, Roland Jones, Keitt, Kidwell, Kittredge, Macdonald, McMullin, McQueen, Maxwell, May, Mayall, Morrison, Noble, Andrew Oliver, Orr, John Perkins, Phillips, Powell, Puryear, Reese, Rogers, Ruffin, Seward, Shannon, Shaw, Shower, Singleton, William Smith, William R. Smith, George W. Smyth, Hestor L. Stevens, Stratton, John J. Taylor, Trout, Vansant, Walsh, Wells, John Wentworth, Wheeler, Witte, Daniel B. Wright, and Hendrick B. Wright—79.

So the substitute, as amended, was adopted.

Mr. DAVIS, of Indiana. Is the previous question exhausted?

The SPEAKER. It is not.

Mr. DAVIS. Is not the next question upon ordering the bill to be engrossed and read a third time?

The SPEAKER. It is.

Mr. DAVIS. Before that question is taken, I move to reconsider the vote last taken, and to lay the motion to reconsider upon the table.

The question was put; and the latter motion was agreed to.

Mr. JONES, of Louisiana. I now move to lay the bill upon the table.

Mr. GOODE. I call for the yeas and nays upon that motion.

The yeas and nays were ordered.

Mr. JONES. I withdraw the motion to lay upon the table, at the request of friends around me.

Mr. LETCHER. Then I renew the motion, and upon it, I call for the yeas and nays.

The yeas and nays were not ordered.

The question was then put upon Mr. LETCHER's motion; and it was not agreed to.

The question recurring upon ordering the bill to be engrossed and read a third time,

Mr. BOCOCK demanded the yeas and nays upon it.

The yeas and nays were ordered.

Mr. WARREN. I would inquire of the Chair, if this bill is removed from the operation of the previous question, before it is ordered to be engrossed, whether it could be amended? I ask the question with a view to make a motion to reconsider, if I can effect the object I have in view, by so doing.

The SPEAKER. After the bill has been ordered to be engrossed and read a third time, a motion to reconsider is in order; and if the motion to reconsider prevail, then the bill will be open to amendment.

The question was taken on ordering the bill to be engrossed and read a third time; and it was decided in the affirmative—yeas 104, nays 97; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, Appleton, Ball, Banks, Benson, Benton, Bliss, Bristow, Bugg, Campbell, Carpenter, Caruthers, Chamberlain, Chandler, Chase, Clark, Cook, Corwin, Cox, Crocker, Cutting, John G. Davis, Thomas Davis, Dawson, Dick, Dickinson, Disney, Drum, Dunham, Eddy, Edgerton, Edmands, Ellison, Etheridge, Everhart, Farley, Flagler Florence, Gamble, Goodrich, Goodwin, Green, Greenwood, Harrison, Hendricks, Henn, Hughes, Hunt, Johnson, Knox, Lamb, Latham, Lindley, Lindsley, Lyon, McCulloch, McDougall, Mace, Macy, Matteson, Meacham, Middleswarth, Smith Miller, Morgan, Noble, Norton, Mordecai Oliver, Parker, Phelps, Preston, Pringle, Ready, Richardson, Riddle, David Ritchie, Thomas Ritchey, Robbins, Rowe, Sabin, Sage, Sapp, Samuel A. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Straub, Andrew Stuart, David Stuart, John L. Taylor, Nathaniel G. Taylor, Thurston, Tweed, Upham, Walbridge, Walker, Walley, Warren, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, Westbrook, Yates, and Zollicoffer—104.

NAYS—Messrs. Abercrombie, Aiken, Ashe, David J. Bailey, Thomas H. Bayly, Barksdale, Barry, Belcher, Bell, Bocock, Boyce, Breckinridge, Bridges, Brooks, Caskie, Chastain, Churchwell, Cobb, Colquitt, Craige, Curtis, Dunbar, Eastman, Edmundson, Faulkner, Fenton, Franklin, Fuller, Giddings, Goode, Grey, Grow, Hamilton, Aaron Harlan, Hastings, Haven, Hibbard, Hill, Hillyer, Houston, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kidwell, Kittredge, Kurtz, Letcher, Lewis, Lilly, Macdonald, McMullin, McQueen, Maurice, Maxwell, May, Millson, Morrison, Murray, Nichols, Andrew Oliver, Orr, Peck, Peckham, Pennington, Bishop Perkins, John Perkins, Phillips, Powell, Pratt, Puryear, Reese, Rogers, Ruffin, Seward, Shannon, Shaw, Shower, Simmons, Singleton, William Smith, William R. Smith, George W. Smyth, Stratton, John J. Taylor, Trout, Vansant, Wade, Walsh, Wells, John Wentworth, Wheeler, Witte, Daniel B. Wright, and Hendrick B. Wright—97.

Mr. DAVIS. I move to reconsider the vote by which the bill was ordered to be engrossed and read a third time; and to lay the motion to reconsider upon the table.

Mr. McDOUGALL. And I demand the previous question on the passage of the bill.

Mr. WHEELER. I demand the yeas and nays on the motion to lay the motion to reconsider upon the table.

Mr. DAVIS. I withdraw my motion to reconsider, and lay upon the table.

Mr. McDOUGALL. Now let the bill have its third reading.

Mr. WARREN. I rise, Mr. Speaker, to what I deem a privileged question, and that is, to reconsider the vote by which the bill was ordered to be engrossed and read a third time. I submit the motion with a view of getting in the amendment which I have been pressing all along. And on that motion, I shall demand the yeas and nays.

Mr. HOUSTON. I do not think, that even if reconsidered, you can get your amendment in.

The SPEAKER. The Chair will explain the present condition of the bill. The bill was ordered to be engrossed and read a third time, by a vote of the House. The gentleman from California [Mr. McDOUGALL] then rose in his place, was recognized by the Chair, and demanded the previous question on the passage of the bill. The gentleman from Arkansas, [Mr. WARREN,] as he had the right to do, moved to reconsider the vote by which the bill was ordered to be engrossed and read a third time. The proposition, though in order, is not debatable, pending the demand for the previous question. It will be open to discussion, if the call for the previous question be voted down.

Mr. JONES, of Tennessee. Has the bill been read the third time?

The SPEAKER. It has not.

Mr. JONES. Then I presume that the previous question cannot be called on the passage of the bill; and that the gentleman from Arkansas is in order.

The SPEAKER. The gentleman from California was entitled to the floor, and demanded the previous question, before the gentleman from Arkansas submitted his motion to reconsider.

Mr. WASHBURN, of Maine. If the motion submitted by the gentleman from Arkansas prevails, will it then be in order to make amendments? Or would the previous question be still in force to exclude them?

The SPEAKER. The previous question would exclude amendments.

The bill being engrossed, it was read a third time.

Mr. CAMPBELL. I move to lay the motion to reconsider upon the table.

Mr. WARREN. I demand the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. KERR. I move that the House do now adjourn.

Mr. WHEELER. I demand tellers.

Tellers were ordered; and Messrs. BOYCE and MACY were appointed.

The question was put on the motion to adjourn; and the tellers having reported, ayes 91, noes 84,

Mr. DAVIS, of Indiana, demanded the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

The question was taken on the motion to adjourn, and it was decided in the negative—yeas 96, nays 100; as follows:

YEAS—Messrs. Abercrombie, Aiken, Appleton, Ashe, David J. Bailey, Thomas H. Bayly, Ball, Barry, Belcher, Bell, Bennett, Boyce, Breckinridge, Bridges, Bristow, Bugg, Chamberlain, Chandler, Chase, Chastain, Colquitt, Corwin, Craige, Crocker, Curtis, Thomas Davis, Dick, Eastman, Etheridge, Fenton, Florence, Franklin, Giddings, Goode, Goodwin, Grey, Grow, Hastings, Haven, Hendricks, Hibbard, Hillyer, Daniel T. Jones, Roland Jones, Kerr, Kittredge, Knox, Letcher, Lewis, Lilly, Macdonald, McMullin, McQueen, Matteson, May, Meacham, Middleswarth, Morrison, Murray, Norton, Orr, Peck, Peckham, Pennington, Bishop Perkins, Powell, Pringle, Ready, Reese, David Ritchie, Robbins, Ruffin, Sabin, Sage, Sapp, Seward, Shaw, Simmons, Singleton, Samuel A. Smith, William Smith, William R. Smith, Frederick P. Stanton, Richard H. Stanton, John J. Taylor, Thurston, Wade, Walsh, Warren, Elihu B. Washburne, Wells, John Wentworth, Wheeler, Witte, Daniel B. Wright, and Hendrick B. Wright—96.

NAYS—Messrs. James C. Allen, Willis Allen, Banks, Barksdale, Benton, Bliss, Bocock, Campbell, Carpenter, Caruthers, Caskie, Chrisman, Cobb, Cook, Cox, Cutting, John G. Davis, Dawson, Dickinson, Disney, Drum, Dunbar, Dunham, Eddy, Edgerton, Edmands, Edmundson, John M. Elliott, Ellison, English, Everhart, Farley, Faulkner, Flagler, Fuller, Gamble, Goodrich, Green, Greenwood, Hamilton, Aaron Harlan, Harrison, Henn, Hill, Hughes, Hunt, Johnson, George W. Jones, J. Glancy Jones, Keitt, Kidwell, Kurtz, Lamb, Lane, Latham, Lindley, Lindsley, McCulloch, McDougall, Mace, Macy, Maurice, Maxwell, Smith Miller, Millson, Morgan, Nichols, Noble, Andrew Oliver, Mordecai Oliver, Parker, John Perkins, Phelps, Phillips, Pratt, Preston, Puryear, Richardson, Thomas Ritchey, Rogers, Rowe, Shannon, Shower, George W. Smyth, Hestor L. Stevens, Stratton, Andrew Stuart, John L. Taylor, Nathaniel G. Taylor, Trout, Tweed, Upham, Walbridge, Walker, Walley, Israel Washburn, Tappan Wentworth, Westbrook, Yates, and Zollicoffer—100.

So the House refused to adjourn.

The SPEAKER. The question now recurs on the motion to lay the motion to reconsider the vote by which the bill was ordered to be engrossed and read a third time upon the table.

Mr. WARREN. I withdraw the motion to reconsider.

The SPEAKER. The question then recurs on seconding the call for the previous question, upon the passage of the bill.

Mr. MILLSON. I demand tellers.

Tellers were not ordered.

The call for the previous question received a second, and the main question was ordered to be now put.

Mr. SMITH, of Virginia. I move that the House do now adjourn.

Mr. PECKHAM. I demand the yeas and nays on the motion to adjourn.

Mr. PRINGLE. I demand tellers on the yeas and nays.

Tellers were not ordered; nor were the yeas and nays.

Mr. KEITT. I demand tellers on the adjournment.

Tellers were ordered; and Messrs. PECKHAM and KERR were appointed.

The question was taken on the motion to adjourn, and it was agreed to, the tellers having reported—ayes 93, noes 76.

Thereupon, at three o'clock and twenty minutes, p. m., the House adjourned until Monday at twelve, m.

IN SENATE.

MONDAY, *January* 22, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of Friday was read and approved.

CREDENTIALS PRESENTED.

Mr. CASS presented the credentials of Hon. JOHN S. WELLS, appointed by the Governor of New Hampshire to fill the vacancy occasioned by the death of Hon. Moses Norris. The credentials were read, and the oath prescribed by law having been administered to Mr. WELLS, he took his seat in the Senate.

PETITIONS, ETC.

Mr. STUART presented the memorial of Zerah Whitney, a soldier in the war of 1812, praying to be allowed arrearages of pension for disability incurred while in the United States service; which was referred to the Committee on Pensions.

Mr. RUSK presented the memorial of George Simpton, a captain in the revenue service of the late Republic of Texas, praying to be placed on the same footing as the officers of the late Texas navy; which was referred to the Committee on Naval Affairs.

Mr. SUMNER presented two petitions of citizens of Delaware, praying the mediation of the United States to put a speedy termination to the war now waging in Europe; which were referred to the Committee on Foreign Relations.

Also, two petitions of citizens of Delaware, praying a reduction of the rates of ocean postage; which was referred to the Committee on the Post Office and Post Roads.

Mr. SEWARD presented the petition of Jacob Kerr, praying compensation for four land warrants for one hundred acres each, delivered by him to a United States surveyor for location, and by him converted to his own use; which was referred to the Committee on Private Land Claims.

Mr. MORTON presented the petition of Lieutenant James Totten, United States Army, praying to be reimbursed expenses for selling at auction certain United States commissary stores; which was referred to the Committee on Military Affairs.

Also, the petition of William Goff, a revolutionary soldier, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. PETTIT presented the memorial of John Heneage, employed on the reporting corps of the Senate, during the first session of the present Congress, praying the same allowance as was made by the Senate to the reporters of that body; which was referred to the Committee on Retrenchment and Reform.

Mr. ROCKWELL presented the memorial of Joseph Warren Newcomb, grandson and legal representative of General Warren, who fell in the battle of Bunker's Hill, praying to be allowed bounty land; which was referred to the Committee on Revolutionary Claims.

Mr. FESSENDEN presented the petition of Almond E. Osgood and others, keepers of lighthouses in district No. 1, in Maine, praying an increase of compensation; which was referred to the Committee on Commerce.

Mr. BUTLER presented the petition of R. Finley Hunt, and others, citizens of Washington, opposed to the bill now before the Senate, for reorganizing the judiciary of the District of Columbia, and praying that a convention of the people of the District may be authorized for the purpose of preparing, for the action of Congress, a code of laws for said District; which was referred to the Committee on the Judiciary.

Mr. CASS presented the petition of Abby Chaplain, late the widow of Josiah Snelling, deceased, an officer in the Army, praying a pension; which was referred to the Committee on Pensions.

Mr. DODGE, of Iowa, presented the petition of William S. Oliver, a soldier in the late war with Mexico, praying a pension on account of injuries received in service; which was referred to the Committee on Pensions.

Mr. PEARCE presented the memorial of Thomas Coward, a lieutenant on board the private armed vessel Chasseur, in the war of 1812, praying a pension on account of wounds received in battle; which was referred to the Committee on Pensions.

MOWING AND REAPING MACHINES.

Mr. SEWARD presented the memorial of Howard & Co., against the renewal of the patents of Cyrus H. McCormick and Obed Hussey, for improvements in reaping machines; which was ordered to lie on the table.

Mr. SEWARD. I am instructed to present to the Senate concurrent resolutions of the Legislature of the State of New York in relation to the extension of patents; which I ask may be read and laid upon the table.

The resolutions were read. They declare that in the judgment of the Legislature the sentiment of the people of that State is opposed to the passage of any law by Congress extending the time of any patent or patents heretofore granted to Cyrus H McCormick, Obed Hussey, or Moore & Hascall, or to either or any of them, for mowing or reaping machines.

Mr. STUART. If the Senator will allow me, I wish, before the question is taken on ordering those resolutions to lie on the table, to say a few words. As a representative of the State in which one of the individuals mentioned in the resolution resides, I wish to interpose my protest against his being brought into that sort of company. I have had some opportunity, heretofore, to discuss his claims in opposition to the claims of others; but my principal object now is to apprise the Senate that this is but the commencement of a scheme, concocted by individuals who oppose the extension of these patents, to perambulate the entire Union, and to get resolutions of instructions passed in every State in which they can get them. I only want to apprise the Senate that that is the plan, and that it is as unmeaning as it would be if we were to sit here and listen to the blowing of the wind, because you may go to the Legislature of any State in this Union, where these patentees do not themselves reside, and get such resolutions of instruction. They mean nothing. The plan has been gotten up in this city; it has been concocted since the commencement of the present session of Congress; and it has sought to bring to bear a supposed public opinion indiscriminately against these men. Now, sir, I submit that the opinion of no Senator upon any such topic as that should be influenced in the least by such proceedings. The Legislatures have no examination of the questions connected with the applications for the extension of the patents; the facts are not before them, they have no cognizance of the matter at all; they cannot discriminate between those who are meritorious and those who are not. This is the work merely of an agent of certain manufacturers, who desire to add to their wealth out of the inventive genius of deserving men. I only wish to apprise the Senate, and, perhaps, the country, of the sort of machinery that is set in motion.

The resolutions were ordered to lie upon the table.

REPORTS FROM STANDING COMMITTEES.

Mr. ALLEN, from the Committee on Pensions, to whom was referred the petition of Mrs. Rachael McMillan, widow of Robert McMillan, late a surgeon in the United States Army, praying a pension, submitted an adverse report thereon.

He also, from the same committee, to which was referred a petition of inhabitants of Maine, praying that pensions may be granted to the officers and soldiers of the last war with Great Britain, who were imprisoned at Halifax and Dartmoor, and to the widows of those deceased, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred the petition of Harriet H. Saunders, widow of Camillus Saunders, an officer of the United States revenue cutter service, who was lost on board the cutter Hamilton, praying a pension and the petition of Jane M. Rudulph, of Charleston, South Carolina, widow of Captain Thomas C. Rudulph, late a captain in the United State; revenue service, praying a pension, asked to be discharged from their further consideration, and that they be referred to the Committee on Finance; which was agreed to.

Mr. EVANS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the petition of James W. Sheahan, praying compensation for reporting the trial of George A. Gardiner, for one of the select committees of the Senate, in March, 1853, submitted a report, accompanied by the following resolution:

Resolved, That the Secretary of the Senate do pay to James W. Sheahan, out of the contingent fund, the sum of $286 80, being at the rate of $3 per column, for reporting the trial of George A. Gardiner, in full satisfaction of his claim.

He also, from the Committee on Revolutionary Claims, to whom was referred the bill from the House of Representatives, for the relief of William A. Duer, John Duer, and Beverly Robinson, trustees of the estate of Sarah Alexander, widow of Major General William Alexander, commonly known as Lord Stirling, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Anne Royal, widow of Captain William Royal, of the Revolutionary army, praying that she may be allowed and paid interest on the amount due her late husband, or for some other relief, asked to be discharged from its further consideration; which was agreed to.

Mr. DODGE, of Iowa, from the Committee on Public Lands, to whom was referred the memorial of Hall Neilson, praying the remission of interest on notes given the United States, asked to be discharged from its further consideration, and that it be referred to the Committee on the Judiciary; which was agreed to.

He also, from the same committee to whom was referred a bill to establish the office of surveyor general of Utah, and to grant land to actual settlers therein, reported it back with an amendment.

Mr. BROWN, from the Committee on Indian Affairs, to whom were referred documents in relation to the claim of John Rogers, to compensation for the storage of provisions procured by the Government for the Chickasaw Indians, in 1837, with a resolution of the Senate on the subject, submitted a report, accompanied by a bill for his relief; which was read and passed to a second reading. The report was ordered to be printed.

NOTICE OF A BILL.

Mr. FOOT gave notice of his intention to ask leave to introduce a bill for the erection of a marine hospital at Burlington, Vermont.

ANALYSIS OF GUANO.

Mr. CLAYTON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of State be directed to communicate to the Senate the results of the analysis of a new variety of guano, made by E. N. Horsford, under instructions from the State Department.

MEXICAN BOUNDARY.

Mr. GWIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be requested to transmit to the Senate copies of the report and map of A. B. Gray, late United States surveyor of the Mexican boundary, made to that Department in 1853, explanatory of his action whilst a member of the commission appointed to run and mark that line.

EXPEDITION TO JAPAN.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be requested to communicate to the Senate a copy of Commodore Perry's report of the naval expedition to Japan, and that the same, with the maps, charts, and drawings accompanying, be printed, together with five thousand additional copies for the use of the Senate, and that five hundred of such copies be delivered to him. And that, if the Senate shall adjourn before such report shall be received, the said report be sent to the Secretary of the Senate.

JOSEPH WEBB.

On motion by Mr. FESSENDEN, the Senate,

as in Committee of the Whole, proceeded to consider the bill from the House of Representatives for the relief of Joseph Webb. It will increase the pension of Joseph Webb to eight dollars per month from the 1st of January, 1852, during his life.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

SAMUEL PRIOLEAU.

Mr. EVANS, from the Committee on Revolutionary Claims, to whom was referred the bill from the House of Representatives to repeal the act for the relief of the legal representatives of Samuel Prioleau, deceased, reported it back without amendment, and asked for its immediate consideration.

The Senate, as in Committee of the Whole, proceeded to consider the bill. No amendment being proposed, it was reported to the Senate, ordered to a third reading, read the third time, and passed.

ROCK ISLAND.

Mr. SHIELDS. I desire to make a correction in the report of some remarks which I made a few days ago. I have not the remarks before me now, but the Secretary of War has called my attention to a slight mistake in them, and I want to seize the first opportunity to correct it. The Committee on Public Lands at the last session reported a bill for the sale of Rock Island, to give the right of way to a railroad across it, and also to give the right of entry to a man named Sears. The Secretary of War objected to the sale of the island, and in order to obviate that objection, I offered an amendment, when the bill was taken up some days ago, to strike out all in relation to the sale, and confine it to the case of Sears. I stated that I concurred with the Secretary of War in his objection, and that, concurring with him, I offered the amendment. I am reported as having stated that I showed the amendment to the Secretary. I merely stated that I concurred with him in his objection, and concurring with him, I offered the amendment. It is a small matter; but my attention has been called to it, and I make the correction.

ARSENAL AT FAYETTEVILLE, IN NORTH CAROLINA.

Mr. BADGER. I ask the unanimous consent of the Senate to introduce, for the purpose of reference, a joint resolution authorizing the Secretary of War to sell a portion of the site of the arsenal at Fayetteville, North Carolina, and to purchase other lands with the proceeds of such sale.

Unanimous consent was given, and the joint resolution was introduced, and read twice by its title.

Mr. BADGER. I desire to say, sir, that the resolution, of which some prompt disposition should be made, is for the purpose of authorizing the Secretary of War to dispose of a portion of the site purchased by the United States for an arsenal at Fayetteville, (that portion being useless to the Government,) in order that he may purchase, with the proceeds of that sale, another portion of land, which is highly important to the uses of the Government, and to the security and protection of the arsenal itself. I will send to the Chair certain papers from the proper authorities evincing the propriety of such a measure, and ask the reference of the joint resolution, with the accompanying papers, to the Committee on Military Affairs. I beg to call the attention of my friend, their chairman, [Mr. SHIELDS,] to it.

The joint resolution, with the accompaying papers, was accordingly referred.

SUPPRESSION OF INDIAN HOSTILITIES.

Mr. SHIELDS. I am instructed by the Committee on Military Affairs to report a bill for the suppression of Indian hostilities. It has been prepared by the War Department, and considered by the committee, and I am instructed by the committee to report it now, for the purpose of having it printed. My intention is, as instructed by the committee, to move to attach it, as an amendment, to the Army appropriation bill; and I hope that will be taken up as soon as possible. I wish this bill to be printed now, in order that Senators may understand its provisions when the Army bill shall be taken up. Its object is to raise volunteers. It has already appeared in some of the papers of the city, although not reported in either House of Congress.

The bill was read, and ordered to a second reading.

The PRESIDENT. It will be printed, as a matter of course.

MAIL ON THE MISSISSIPPI.

The PRESIDENT laid before the Senate a communication from the Postmaster General, in reply to the resolution of the 13th instant, in relation to the establishment of a mail on the Mississippi river, under the act of Congress of August 5, 1854.

The Postmaster General states that he invited proposals, by public advertisement, on the 29th of August last, for conveying mails from Cairo, by Memphis, Napoleon, Vicksburg, Natchez, and Baton Rouge, to New Orleans and back, daily, in safe and suitable steamboats; and also from Rock Island, by Hampton, Port Byron, Cordova, Albany, Fulton, Savannah, Le Claire, Camanches, Lyons, Sabula, and Bellevue, to Galena, three times a week, in safe and suitable steamboats; and that Sherly, Roe & Sherlock bid $300,000 per annum for the advertised service between Cairo and New Orleans, or $325,000, and supply, in addition, three times a week the post offices at Columbus, Hickman, New Madrid, Ashport, Osceola, Pecan Point, Randolph, Hickman's Bend, Fulton, Oldham, Napoleon, Victoria, Gaines's Landing, Columbia, Greenville, Point Worthington, Grand Lake, Princeton, Lake Providence, Talula, Pecan Grove, Millican's Bend, and Young's Point; or $350,000, and supply these points, with those named in the advertisement, daily. The only other bid was from A. J. Cain, at $185,000 per annum for the advertised service. On the Rock Island and Galena route no bid was received in the prescribed time. The only bid was one received after time from J. R. Jones at $50 the round trip, equal to $7,800 per annum.

Separate routes were also advertised from Cairo, by Columbus, Hickman, New Madrid, Ashport, Hickman's Bend, Fulton, Oceola, Pecan Point, Randolph, and Oldham, to Memphis, and Vicksburg to Napoleon, three times a week. On the former J. B. Hall bid $30,000, A. J. Cain, $30,000, Samuel Tate $40,000; on the latter no bid was received. The boats now conveying mails between New Orleans and St. Louis supply Natchez, Vicksburg, Napoleon, Memphis, Hickman, and Cairo, daily, at twenty dollars per trip. The Louisville boats touch at the same points, except Hickman, at twenty-five dollars per trip, six times a week, and all other offices of importance between Cairo and New Orleans twice a week, at $800 per trip.

Thus the whole cost during the year ending 30th June last, for daily mails between New Orleans and Louisville, and New Orleans and St. Louis, including the offices named in the late act of Congress, and semi-weekly to the numerous other offices on the Ohio and Mississippi rivers, and special daily service a part of the year between Vicksburg and New Orleans, twice a week between Memphis and New Orleans, and six times a week between St. Louis and Keokuk, amounted to but $112,485 per annum, while the lowest bid under the late advertisement was $185,000 per annum for the limited service therein specified between Cairo and New Orleans.

Under such circumstances the bids, for the service contemplated by the act of Congress, appeared to him so extravagant, as to induce him to defer any acceptance. He felt further justified in such course by the fact that there were then no great mail lines in operation, with which to connect the proposed one at Cairo, making its principal support dependent on the Department; but now by the completion of the Illinois Central railroad to Cairo, such a large accommodation of trade and travel may be reasonably anticipated as will go far towards sustaining a line of boats, and thus reduce the cost of mail service.

The importance of such steamboat service, both for trade and travel, will be further enhanced by the completion of the Ohio and Mississippi railroad, from the east to its point of intersection with the Illinois Central, which is expected to take place by April or May next; thus tending to a further reduction of the cost.

Having failed to obtain acceptable bids, after duly advertising for them, as directed by the act, he is now engaged in efforts to put on the service by private contracts, as authorized by the provisions of that act.

Two special agents have been instructed to repair to Cairo, and attend to the regular shipment of the mails, by transient boats, from that point for all the points named in the act of Congress, until permanent arrangements can be made.

Mr. JONES, of Tennessee. That letter is in response to a resolution of the Senate adopted two or three weeks ago, calling upon the Postmaster General to inform us whether the act of August 5, 1854, had been complied with. It is always unpleasant, sir, and on this occasion it is even painful, to find myself compelled to complain of one of the officers of this Government. My feelings towards that officer personally are of the kindest character. I esteem him as a gentleman; but whatever my personal relations to him may be, it does not exonerate me from the discharge of my public duty here. I feel, sir, that the Postmaster General, in refusing to execute the plain requirements of the law, has outraged the rights and the interests of my constituents, and has treated with indifference, if not with contempt, the legislative department of this Government.

In order that the Senate may understand this question, I beg that they will allow me very briefly to go back and take it up from its beginning; I will not detain them long.

It is known to you, sir, and to every Senator upon this floor, that the trade and commerce upon the Mississippi river and its great tributaries, amount to more than two hundred millions of dollars per annum, the shipments from New Orleans alone, exceeding one hundred millions of dollars, passing through, and draining, a portion of the commerce of more than half the States of the Union; and yet, sir, with this immense commerce, and the necessary mail facilities that should attach to that commerce, we have been steadily denied, from the beginning of the Government down to this date, any of those facilities of postal arrangement that are accorded to every other portion of the Union. The people in the valley of the Mississippi, laboring under this disadvantage, have, from time to time, from year to year, through a series of almost twenty years, remonstrated, petitioned, appealed, begged, and entreated, the Post Office Department of this Government to accord to them benefits and privileges similar to those accorded to others. All those petitions and remonstrances, coming from State Legislatures, from individuals, from large communities, and from small communities, were treated with silence and contempt.

In 1851, when I was honored with a seat upon this floor, the Legislature of my State had appealed, time after time, for the redress of this grievance. I was charged especially to see whether something might not be done to relieve us from the difficulties and disadvantages under which we labored. I came here, and went to the then Postmaster General, Judge Hall. I stated to him all the facts connected with the subject, and asked him to give us some mail facilities upon the Mississippi river and its leading tributaries. He was inexorable in his determination not to do so. I went to his Assistant Postmaster General, a western man, who, I knew, understood our wants and necessities, and the interests of that section of country. He concurred with me, and in his report recommended the establishment of a mail service upon the Mississippi river from St. Louis to New Orleans, and from Louisville to New Orleans. The then Postmaster General, Judge Hall, refused to permit his assistant to make that recommendation in his report, but struck it out. All hope, therefore, failed of getting any redress there.

Soon afterwards that Postmaster General retired, and another came in. I renewed the application to that officer, and I met with the same fortune that I had met before—a cold and indignant repulse. Driven, then, as a last alternative, when all hope had fled of getting redress at the proper Department—what occurred? Sir, it is within your remembrance, and within the recollection of many Senators here, that we came to the Congress of the United States to ask them to redress the wrongs under which our constituents labored in the valley of the Mississippi.

Now, Mr. President, if I know my own con-

stituents—and I think I do—if I know the spirit and genius, and temper of the people of that valley, they have never importuned Congress for anything that was not right. They have never been suppliants here for anything they were not entitled to. They have borne their just proportion of the burdens of the Government whenever taxes were to be levied, they bore their portion of them without one murmur, without one complaint. When levies were made upon their purses or persons, whether in treasure or blood, they met the demand as promptly as any portion of this Confederacy. Therefore, sir, I think they are entitled to an equal participation in its benefits. They have not had that equal participation, and in view of that injustice we came to the Congress of the United States, and in 1852, upon a full presentation of the case, by an almost unanimous vote of the Senate, and by an equally decisive vote in the House of Representatives, a law was passed directing the Postmaster General to establish the service. I have the law before me, and as it is short, I beg to read it:

"*And be it further enacted*, That it shall be the duty of the Postmaster General to issue proposals and contracts for the transportation of a daily mail between Louisville and Cairo, St. Louis and Cairo, Cairo and Memphis, Memphis and New Orleans, and to supply such intermediate points as he may order from time to time, on suitable and safe steamboats."

Here is a plain act of Congress, passed in 1852, directing the Postmaster General to establish this mail service. What followed? The then Postmaster General issued his proposals to carry the mail; and, not content with a simple execution of the law, giving us the daily mail service, he issued proposals for a double daily mail service. Bids were received. The bid of Glover & Mather, for $450,000, was accepted for this service. It was more than we asked for; it was more than the law required. He went far beyond our requirements, or the demands of the law. It was a few days before he retired from office. The bid was accepted. Yourself, sir, I believe, and some other Senators, seeing that he had gone beyond what was necessary, or what could probably be executed, called upon the incoming Postmaster General, Mr. Campbell, who is now in office, and asked him to suspend the acceptance for a few days, in order that it might be investigated. Mr. Campbell did suspend the acceptance for a few days, until he satisfied himself that you were right, and that the contract was wrong.

He then proposed to Glover & Mather to make a new contract. They made a new contract; and I have it here now. In it they propose to carry a daily mail from Louisville to New Orleans for the sum of $200,000 per annum. That contract was made. The boats were prepared. They were at the landing. The day was appointed for the reception of the mails. The demand was made; but the agent of the post office refused to deliver the mails; and upon what pretext? Upon the flimsey, miserable pretext that there was some freight upon the boat. There is not a word in the contract about freight being carried—not a word; but upon that pretext the mail was refused to be delivered, and the refusal was continued, although they demanded it day after day, and day after day, until, at last, the agent of the Department himself released them from the obligation of continuing the demand. Thus, under that pretext, we were denied the benefits of a plain act of Congress, which had received the sanction of the Senate, of the House of Representatives, and of the President. It had all the forms of law, all the sanctions of law, all the responsibilities of law; and yet, sir, one of the officers of this Government had the boldness, the temerity to set at defiance the plain written letter of the law, upon a pretext—a contemptible, miserable humbug of a pretext.

Thus, after we had been driven from the Department to appeal to the magnanimity and justice of Congress for redress of the wrongs upon our constituents, and Congress had passed the law, we were still refused the mail, because the Postmaster General took upon himself to set it aside; and what followed? In 1854 we came here again. No mails are given to us. We have none of the facilities which are accorded to other portions of the Union. We appeal again to Congress in 1854. Congress pass another act of the same character, almost in the same words as the former, directing again, in the most emphatic, positive, and unmistakable terms, the Postmaster General to establish that mail service. It was not enough that we passed one act of Congress, and sent it to the Executive officers of the Government—not enough that he shall scorn and despise, and treat with contempt that act; but we pass another; and what is the fate of that? Let us see.

That last act, passed in 1854, required the Postmaster General to establish the mail service. He has not done it. We call upon him to answer why he has not done it. He has sent us his answer. I propose to examine that answer. In the first place, he says that he has declined to make a contract, because the bids were too high. The Postmaster General must presume very largely I think, upon our ignorance on this subject. I do not mean to use any offensive term towards him; it is not my habit; but I must be permitted to say that, when he states to the Congress of the United States, as one reason why he has not established this mail line, that the bids were too high; and that he therefore felt himself constrained to deny them. Let us see. Glover & Mather proposed to carry the mail daily from Louisville to New Orleans, for $200,000 per annum, and to forfeit for every loss they met, double the amount they were entitled to receive. From Louisville to New Orleans is a distance of one thousand five hundred miles. The mail was to be carried daily. That would make five hundred and forty-seven thousand five hundred miles, during the year, from Louisville to New Orleans; and five hundred and forty-seven thousand five hundred miles back, would make one million ninety-five thousand miles, which Glover & Mather would have traveled during the year. They proposed to travel those one million ninety-five thousand miles per annum for $200,000. How much is that a mile? It amounts to eighteen cents and five mills per mile. Let us see what is paid for other similar service. Take the ocean mail steamers from New York to Liverpool. The distance is three thousand miles. They are to make twenty-six voyages, or fifty-two trips per year—three thousand miles out and three thousand in, making during the year one hundred and fifty-six thousand miles which those steamers have to travel to carry the mail. What do they receive? They receive $858,000; or $5 50 for each mile they carry the mail. Glover & Mather were to receive eighteen cents and five mills a mile; and the Postmaster General tells us he could not make the contract because it was too extravagant! And yet we are paying the ocean line $5 50 a mile—just thirty times as much!

Again, for the transportation of the mail from Washington City to New York, I undertake to say it is more than one hundred per cent., and I believe it costs more than three hundred per cent. above what Glover & Mather offered to carry it for from Louisville to New Orleans. I will go further, without pretending to know more than other gentlemen ought to know, and I undertake to say that there is not a contract with the Post Office Department for any similar service which is within one hundred per cent. of the bid that was made by Glover & Mather; and yet the Postmaster General says, "I decline to make it, because you ask too much for it."

The Postmaster General makes another objection. He says, and I hope the Senators representing the Mississippi valley will notice these points:

"The boats now conveying mails between New Orleans and St. Louis supply Natchez, Vicksburg, Napoleon, Memphis, Hickman, and Cairo, daily, at twenty dollars per trip."

The boats running from St. Louis are to supply these points daily! Now, will any Senator pretend to say, in his place here, that a boat goes down daily from St. Louis that can supply those points with a daily mail service? I undertake to say, upon my responsibility, and I am willing to risk this with the Post Office, if, upon that route, we were to depend upon boats from St. Louis to those points, we should not average, the year round, one mail during the week; whereas the Postmaster General tells us, in his written communication, we get a daily mail by the boats from St. Louis. But that is not half as bad as some other statements. He goes on to say:

"That the whole cost during the year ending 30th June last, for daily mails between New Orleans and Louisville, and New Orleans and St. Louis, including the offices named in the late act of Congress, and semi-weekly to the numerous other offices on the Ohio and Mississippi rivers, and special daily service a part of the year between Vicksburg and New Orleans, twice a week between Memphis and New Orleans, and six times a week between St. Louis and Keokuk, amounted to but $112,485 per annum, while the lowest bid under the late advertisement was $185,000 per annum for the limited service therein specified between Cairo and New Orleans."

Mr. President, I would not speak disrespectfully of the humblest officer in this Government, if I know myself; but when the Postmaster General made that statement, he did it certainly under the grossest ignorance that ever blinded the imagination of man—he certainly could not have understood what he was writing, or else there is some other greater error than that. He tells the Congress of the United States, that he is getting a daily mail service from Louisville to New Orleans, and from St. Louis to New Orleans, for the small sum of $112,485 a year. Now, sir, the facts are not so. We get no daily mail service at all, and for weeks we have not had a solitary mail for Louisville, or St. Louis; yet, the head of one of the Departments of the Government, tells us we are getting a daily mail service for $112,458 on the Mississippi river.

I can give my own experience on that point. During the summer months, it has very often occurred that for twenty, twenty-five, twenty-eight, and as high as twenty-nine days, we have not received a mail by the river. I have been twenty-nine days three or four times, in getting papers from the city of Washington; and yet we are told we get a daily mail service! It is an insult to the intelligence of the people of the valley of the Mississippi, and a tax upon their patriotism, to ask them to endure such abuses. You know, sir, that the rivers are now in a good boating condition. We are getting, according to the Postmaster General, a daily mail service the year round. This is the most favorable season of the year, as every one knows. Well, sir, I have here the envelope of a letter which was received from Memphis on the evening of the 20th, post-marked January 4th! It has been seventeen days coming here from Memphis, with a regular daily mail service, according to the Postmaster General, from New Orleans to Louisville and St. Louis! But more than that: on the 4th, a bond was executed in the city of Memphis—a contract with the Postmaster General in Washington city. That bond was mailed on the 4th. I called last week every day, except one, at the post office, to get it, in order that my constituent might receive the pay due to him. Up to this morning I was wholly unsuccessful. I was gratified to find this morning that it had arrived—being eighteen days out from Memphis, upon this daily mail service of the Postmaster General. If there is no injustice in all this, I should like to know where injustice is to be found?

But the Postmaster General goes on to say that he is getting this service at $20 a trip. Now, every man who has ever been on the Mississippi river knows exactly how much that is to be trusted. What does the Postmaster General mean when he tells us that he is getting this service performed at $20 a trip? He says in the very identical paragraph that it is a daily service. Now, you know, Mr. President, and every man who has ever been on the Mississippi river knows just exactly what they mean by this daily mail service at $20 a trip. A freight boat starts from St. Louis to New Orleans. The Postmaster General has his agent upon the shore. He says to the captain, "how much will you take this mail for?" "I will take it just as any other freight, and I will deliver it at Memphis, and Vicksburg, and the other points as you say. I will take it just as freight." But does that captain bind himself to deliver the mail at any specified time? Not at all. He never can do it; he never dreamed that he would do it; and you cannot show a contract in the world by which it was ever done. They take it as freight, and they deliver it when they get to the point. If they get there in two days they deliver it, or if in two months they deliver it. I have been as long as five days getting from Nashville to the mouth of the river, only two hundred miles, on one of those boats. That is the daily mail service which the Postmaster General offers to the valley of the Mississippi. That is the daily service he gets for $20 a trip; and that is the service he tenders to us in lieu of two specific declarations of the Congress of the United States.

Mr. President, we talk about our free country and our glorious institutions; but suppose a prime

minister in one of the despotisms of the Old World should take upon himself to set aside the plain declaration of the law! Why, sir, the Crown itself would not dare to do such a thing. And yet, here, one of the adjuncts of the Executive Department of this Government takes upon himself, not only to set aside one act of Congress, but, when you come to reform and reindorse it by legislative power, he again takes it upon himself to set that aside, and then tells us he thought he was doing better by making some other arrangement. It is enough for him, I think, to execute the law. If there is anything wrong in making it, we are responsible. The law required him to execute these contracts. He has refused to do it. He has treated us with silence, with indifference, with contumacy, and with contempt. I, for one am not willing to bear it any longer. I mean to remonstrate, in the name of my constituents, against this outrage. We are held responsible and accountable at home. Yet, sir, an executive officer of the Government interposes between the law-making power of the Government, and the execution of that law, and sets it at defiance!

What remedy should be adopted, I will not say, I will not trust myself to say. If I were left to the suggestions of my own mind, my own convictions of what is due to the legislative department of the Government, I might go further than prudence would suggest. Therefore, I make no suggestion. Having full confidence in the Committee on the Post Office and Post Roads, I am willing to leave it there. But I do ask the Senate of the United States to vindicate their own position, their own self-respect, by having this law executed or repealed. Either see that it be executed, or repeal it. If a law made here in all the forms, with all the sanctions, and by all the power of a legislative proceeding, may be set aside by one of the subordinates of the Government, your boast about the institutions, and the legislative power of this Government is a mere pretext and a miserable humbug to the deluded and honest man. These are the feelings which I have. I shall willingly vote for the reference of the communication.

Mr. RUSK. Mr. President, I am not sufficiently familiar with the fact to offer a satisfactory answer to the honorable Senator from Tennessee. I have, however, some knowledge of the general facts in reference to the mail service on the Mississippi and Ohio rivers. The question is before the Committee on the Post Office and Post Roads on a complaint made by Glover & Mather, that their contract was set aside by the Postmaster General, and it is undergoing a course of investigation. We have not yet decided on it; whenever we do so, the Senate, of course, will be entitled to the benefit of the facts elicited by our examination.

Some years ago the proposition was made to require the Postmaster General to contract for the transportation of a daily mail on the Ohio and Mississippi rivers. Efforts of that description had been made before, and had resulted in a failure to carry daily mails, not, perhaps, the whole length, but some distance along each of these rivers. Efforts had been made by former Postmasters General to carry a daily mail, but they had resulted in failure, and, also, in applications, as it was natural, by the parties taking the contracts, for damages for losses which they had sustained. For a part of the year the Ohio river is not navigable. I warned the Senate of these difficulties at the time when they passed the law requiring absolutely a daily mail. I am not prepared to say that the people of the valley of the Ohio and Mississippi have not been neglected as to their mail service; but, at the same time, I feel fully authorized in saying that it is impossible for anybody fully to execute, in steamboats, a contract to keep up a daily mail between Louisville and New Orleans, because the stages of water in the summer time will not permit it.

Well, sir, I understand there are other difficulties. Sometimes these rivers are filled with freight and passengers boats—for they carry both freight and passengers. The owners of a set of boats become contractors for carrying the mail. When that is the case, I understand, (I do not know positively how this may be,) the other lines combine to drive them off, and in this way, I have heard that one or two lines were driven off. I know I have frequently seen rival lines at some of the points on those rivers. Whenever one line gets a contract for carrying a daily mail, the other boats (because it takes away, of course, part of their profits) reduce the prices of freight and passage, so as to draw off business from the contract line. This is one obstacle.

On the whole, it is a very difficult matter, and should be thoroughly investigated. I have not fully examined it, but I shall do so. I pointed out these things at the time when the two declaratory acts of Congress were passed. I told the Senate then, that, for a portion of the year, in consequence of low water, it would be utterly impossible that a daily mail could be constantly carried. However, I shall investigate this matter. I hope it will go to the Committee on the Post Office and Post Roads. I will investigate the facts connected with it. I will also investigate it on the memorial which has gone before the committee. If the committee find that the Postmaster General has been derelict in duty, we shall feel no such partiality towards him as not to state the fact. If, on the contrary, we find that he has done the best he could, we shall equally state that fact, without entering into any controversy about it.

Mr. JONES, of Tennessee. I wish to say a word in reference to a remark made by the Senator from Texas, in order that he may have all the facts in making this investigation. He states that, for a portion of the year, the difficulty of navigating the Ohio river is very great. That is true. We all know that, and understand it. But that has nothing to do with this contract. That was a matter for the contractor to undertake himself; and for every failure, he was to forfeit double the amount he would otherwise receive for the trip, according to the terms of the contract. But even supposing the Postmaster General had got the service at $112,000, as he alleges—which is a great mistake—then take the position assumed by the Senator from Texas, that failures, during low water in the summer season, would occur, and make deductions for those failures from the contract of Glover & Mather, to carry a daily mail for $200,000, and you will have reduced it down to but little more than $112,000, for which the Postmaster General says, triumphantly, he has got the service, although everybody who ever lived on that river knows that we do not get such service. That is a point I make: that it was a part of their contract, when they failed to carry the mail according to its terms, to forfeit double the amount of pay which they were to receive from the Government for that trip; so that we had full indemnity on the part of the Government.

Mr. RUSK. The result of the knowledge of the fact that they are bound to make failures is, they will make high bids, and the Government has to take the risk of those failures; so that it is a very difficult matter.

Mr. BENJAMIN. Mr. President, I have in my hand the Congressional Globe of August last, containing the debate on this very proposition for carrying a daily mail on the Mississippi river. It arose on a section offered, as an amendment to the Post Office appropriation bill, by my friend from Mississippi, [Mr. BROWN,] in these words:

"*And be it further enacted*, That the Postmaster General be authorized and required to establish a mail on the Mississippi river, from Cairo to New Orleans, and contract for the same in one line, or in such divisions and sections, or both, as will be most compatible with the public interest; and to facilitate the execution of this section, the Postmaster General may make immediate temporary arrangements for carrying said mail by separate boats; and if he fail to obtain separate boats, after advertising for thirty days, he may make private contracts for carrying said mail. Said mail shall not be carried more than seven, nor less than three, times a week, each way; but if the Postmaster General is of opinion that a daily mail is needed over one part of the route, and tri-weekly mails over another part, he may contract accordingly."

A debate sprung up upon that proposition, and numerous Senators expressed their disinclination to vote for this additional section to the bill, on the ground that there was already an act of Congress in force making it directly the duty of the Postmaster General to establish this service, and that it was beneath the dignity of Congress to re-enact laws, when they were treated with contempt and neglect by the Executive Department of the Government. You, Mr. President, were one of the Senators who expressed that view. Other Senators upon the floor did the same. Upon that occasion, I, however, made a remark, which I will read; and I will also read the sentiments of one or two Senators, as expressed when I made that remark. I said in the debate:

"I now move, as an amendment, the section which was offered by the Senator from Mississippi, and rejected."

It is necessary to state, in this connection, that the Senator from Mississippi offered his section in Committee of the Whole. It was rejected. When the bill was reported to the Senate, I moved its insertion a second time, and upon that second motion, the friends of this daily mail on the Mississippi river, succeeded in having the section inserted into the law. I said this:

"It may be a matter perfectly agreeable to gentlemen on this floor to give a vote of censure against the Postmaster General, and I do not know that I should be disposed at all to object to their gratification of that desire if it were not at the expense of my constituency, and, as I believe, of the interests of the whole valley of the Mississippi. Now, sir, unless some amendment of this kind is put in this bill, it is perfectly certain we shall remain subject to the same inconveniences in the valley of the Mississippi to which we are now subject, and have been for the last five or six years. Gentlemen object to the passage of this amendment on the ground that the law, as it was passed two years ago, provided a daily mail for us of the valley of the Mississippi; and to our remonstrances that we do not get that mail, that we are deprived of the facilities which all other portions of the Union enjoy, the answer is, that it is the fault of the Postmaster General; that the Postmaster General does not execute the law; and that the law is well enough as it is, and that the evident intention is to pass a vote of censure on him. Now, sir, if they will offer a distinct and independent vote of censure on the Postmaster General, I may vote for it, so that I can get my mail; but to take the postal service of the whole valley of the Mississippi and sacrifice it to the mere gratification of a desire to reprimand the Postmaster General for his neglect of his duties, is what I think the Senate, on reflection, will not be willing to do."

Upon that, sir, some remarks were made, and you yourself [Mr. BRIGHT] declared:

"I do not know, Mr. President, how the Senate may construe the vote which has been taken. Whether they concur in the opinion expressed by the Senator from Louisiana, or not, is a matter of very little consequence so far as the merits of the question are concerned. The Senate having voted by yeas and nays on this question understandingly, I feel quite sure they will not reverse that vote without some other and better reason than any yet offered. Now, sir, I repeat"——

Here is your statement, at the last session, in the debate upon that section:

"I repeat that the law which has been read authorizes the Postmaster General, without another word of legislation, to enter into a contract to carry the mail to and from any points between Louisville and New Orleans. And permit me to say, that I am quite as anxious to see this much needed service in operation as any Senator present, and will aid in such legislation as may be necessary to effect the object; but I cannot consent to redeclare a law so plain in all its provisions as the one which has been disregarded and not executed in this instance."

That was your opinion, sir; and you voted against the amendment upon the ground that the Postmaster General was derelict in his duty in not executing the law, according to the plain intent of the statute, as passed in the year 1852. But my friend from California [Mr. WELLER] said that he could not concur in this view. He joined me in aiding in the passage of this section, and his reason is thus stated:

"I do not undertake to censure the Postmaster General. It is a matter of no sort of consequence to me whether he has acted properly or not in the past. I desire to put the law in such a shape that he will not *dare*, as an Executive officer, to refuse to carry it out."

Mr. President, he has dared, and he has reported to the Senate that he has dared to do so.

Mr. BROWN. Before the vote is taken, I desire to say a word. I have waited to see if any one had more to say in explanation of the course of the Postmaster General than has already been said by the Senator from Texas, [Mr. RUSK.] We have heard the Postmaster General in his own vindication, and we have heard the Senator from Texas, and, if no one else desires to speak, I will proceed very briefly to assign the reasons why I am not satisfied.

This is a matter of great concern to a part of my constituents—of so much concern, indeed, that I cannot permit it to pass by without stating to the Senate, and to the country, how my constituents have been treated. For years, as their representative in this and the other House of Congress, I have labored to have this mail on the Mississippi established. But I have, under this and preceding Administrations, labored in vain.

In the year 1852, Congress passed this law:

"It shall be the duty of the Postmaster General to issue proposals *and contract* for the transportation of a daily mail between Louisville and Cairo, St. Louis and Cairo, Cairo and Memphis, and Memphis and New Orleans, and to supply such intermediate points as he may order, from time to time, on suitable and safe steamboats."

It will be seen that this act made it the *duty* of the Postmaster General to issue proposals, AND CONTRACT for carrying the mail. How that duty was performed, the Senator from Tennessee [Mr. JONES] has already explained. A good deal of maneuvering occurred; and, after the lapse of two years, the law was not complied with. Congress took the matter in hand again; and, as soft words seemed to have had no effect, they determined to try what virtue there was in stones. On the 5th of August, 1854, it was enacted:

"That the Postmaster General be authorized and DIRECTED to establish a mail on the Mississippi river from Cairo to New Orleans, and from Keokuk, Iowa, to Galena, in Illinois; and that he contract for the same in one line, or in such divisions or sections, or both, as may be most compatible with the public service; and to facilitate the execution of this section, the Postmaster General may make immediate temporary arrangements for carrying said mail by the trip; and if he fails to obtain acceptable bids, after advertising for thirty days, he may make private contracts for carrying said mail, and the said mail shall be carried daily from Cairo to New Orleans; but the Postmaster General is authorized, at his discretion, to restrict the delivery of the mail at all other points than Cairo, Memphis, Napoleon, Vicksburg, Natchez, Baton Rouge, and New Orleans, to three mails a week each way: *Provided*, Nothing herein contained shall be so construed as to impair the rights of parties heretofore contracting for said service."

It will be seen that the act is mandatory. It DIRECTS the Postmaster General to establish a mail on the river. Smarting under the apparent contumacy of an executive agent, Congress used strong language. They *directed* the mail to be established. Six months have passed away, and the direction has not been complied with. The Postmaster General has been called on for his reasons, and he has assigned them. The question now arises, are these reasons sufficient to justify an executive officer in failing to fulfill the directions of the law? In my judgment they are not.

The law is ample in its provisions. It first *directs* the Postmaster General to establish the mail, and then it gives him unlimited power. He is authorized to contract for the service in one line, or in such divisions or sections as may best accomplish the end directed. He was empowered to make private arrangements for temporary service; then to issue proposals for bids for permanent service; and, if this failed, to make private contracts. And, finally, no limit was fixed as to the cost of the service. So determined was Congress to have the mail—so important did they properly conceive it to be, that they *directed* the Postmaster General to establish it, and they clothed him with plenary powers for that purpose. How he has discharged his duty under the law is seen by his own report. Has there been any effort in good faith to execute the law?

It is admitted that the directions of Congress have not been complied with. The mail has not been established. The Postmaster General says he issued proposals, and that the bids were all extravagant; and he, therefore, rejected them. I need not repeat what the Senator from Tennessee [Mr. JONES] has so well said in regard to the extravagance of those bids. In my judgment, they were not so extravagant as to justify their rejection under a law commanding the service. But suppose they were, were the powers of the Postmaster General exhausted when he rejected bids because they were extravagant? Certainly not. I had an eye to this very state of things when I drafted this section of the law; for, as the Senate knows, I introduced it. I anticipated a quibble to avoid its execution; and for that very reason provided that, in case acceptable bids were not received after thirty days' notice, the Postmaster General should have authority to make private contracts. Now, sir, how has this last part of the law been executed? We are told that the Postmaster General is trying to make contracts. How trying? With whom, and where at? On these points he leaves us in blissful ignorance. In another part of his report he gives us, inadvertently, a little peep behind the curtain as to those trials. He tells us, in plain English, that when a certain RAILROAD is done, then he will make a contract. If this means anything, it means that Congress has no business to direct a mail to be put on the river until the Central Illinois railroad is done, and if Congress presumes to give such directions, he, the Postmaster General, will nullify the law.

Who gave the Postmaster General authority to postpone the execution of the law until the railroad was finished. Did Congress pass a law directing the Postmaster General to put a mail on the river when the Central Illinois railroad, or when any other railroad was done? No, sir, no! His directions were to establish the mail, and this self-constituted injunction of his does not furnish even decent pretext for not doing it.

The bids, he tells us, were all extravagant. Well, sir, why has he not, in compliance with the law, made private contracts. He does not tell us so; but we are left to infer that no one would contract to carry the mail, except at an exorbitant price. If this ground be taken, then I answer that it was not left to the Postmaster General to refuse the service on grounds like those. From prudential motives, he was not absolutely required to accept a bid. But the plain meaning of the law is, that he may reject a bid, if he can make a private contract on better terms. And this discretionary power he affects to construe into authority to refuse the mail altogether, unless he can purchase the service on terms that *he thinks* reasonable. He was left, I repeat again, no discretion so far as the establishment of the mail was concerned.

The Postmaster General was not *directed* to make contracts, if he could do so on terms that he thought reasonable. He was directed to establish the mail, and, in refusing to do so for the reasons given by himself, he simply sets the law at defiance, and says to Congress, I will not execute your orders unless it suits me. If an executive officer may take this ground, and maintain it, Congress had better dissolve, and turn over the law-making power to another department of the Government.

There are other matters in this report to which I desire to call special attention. The Postmaster General says: "The boats now conveying the mail between New Orleans and St. Louis, supply Natchez, Vicksburg, Napoleon, Memphis, Hickman, and Cairo, daily," &c.;

Sir, it will be news to my constituents that they get a daily mail by these boats.

But again: he says "the Louisville boats touch at the same points daily, except Hickman," &c. This is capital. If this statement is to be relied on, the people of Natchez and Vicksburg—and it is for them I speak on this occasion,—receive a *double daily* mail by the river the year round. Truly, sir, if this is correct, they complain without cause. But is it correct? there's the rub. No, sir, it is not correct. I do not say the Postmaster General misrepresents the facts wilfully. I know he does not. In all the relations of private life I have found him a gentleman. He will not tell an untruth; of this I am assured. But he is deceived. On this point of delivering double daily mails at Natchez and Vicksburg, he is simply mistaken. He tells us he pays for this service. All I have to say on that point is, that if he pays for delivering two mails a day at Vicksburg and Natchez, by St. Louis, or Louisville, and New Orleans boats, he is cheated. No such service is performed.

I do not mean to say that there may not be a day, or several days, when these mails are delivered, as the Postmaster General says. But this I say, there is no regular or reliable mail service on the river of any kind—none such as approaches an apology for the service directed by the act of 1854; and this the Postmaster General knows, if he understands what is going on in his Department.

But again: "*All other* IMPORTANT *offices*," says the Postmaster General, "*between Cairo and New Orleans are supplied twice a week.*" If this were true it would be no compliance with the law. The law requires *three* deliveries per week each way. But I undertake to say these intermediate offices are not supplied once a week, and, in the summer months, scarcely once a month. The Postmaster General is again at fault on this point.

Who told the Postmaster General to supply only the IMPORTANT offices? Who told him that if A or B lived at an office not *important* in his judgment, they should be cut off from all mail facilities? Is it to be understood by the planters on the Mississippi, and all others interested in the commerce of that river, that they must live near an *important* office, or Judge Campbell does not think it worth his while to send them a mail? and if offices between Cairo and New Orleans do not at least get two weekly mails, are its patrons to console themselves with the reflection that those who live near important offices fare better? These are important questions.

But, sir, the Postmaster General is egregiously mistaken. There is not an office, important or unimportant, between the Tennessee line and New Orleans, on the Mississippi side, that gets two regular mails a week the year round. Sometimes they get more, sometimes less, and very often, none at all. And this must always be the case, so long as the Postmaster General refuses to make any permanent arrangement, and relies, as he now does, upon mere chance, to get boats to carry the mail. As things have been, and now are, if boats go on the regular river trade, the mail goes also, and if not, the mail stops. Who would think of sending a mail from Washington to Alexandria, only when it suited a hackney coach to carry it? And of how much greater consequence must it be to send the mail on the Mississippi river with certainty, and not wait for uncertain chances of having it taken by a mere transient trading boat?

There are other points in this report to which I might properly call attention. But I did not rise so much to criticise the report, as to protest against Judge Campbell's refusal to execute the law. Its terms are plain, and it was his bounden duty to have complied with them, and not, as he has done, wasted his time in framing excuses for not doing it.

My friend from Texas [Mr. RUSK] has put in a sort of defense for the Postmaster General. He will have the thanks of that officer for his kindness, I am sure. The defense, however, does my friend's goodness of heart more justice than it does his information. He says the Ohio river is often so low that it is impossible to run mail boats on it, and this, he thinks, may be some excuse for the Postmaster General not establishing the mail on the Mississippi river. This excuse escaped the ingenuity of the Postmaster General. It was left to the astuteness of my friend from Texas to discover that a want of water in the Ohio was a good excuse for not carrying the mail on the Mississippi. Though I think the Postmaster General is sometimes mistaken, I doubt if he does not think a mail might be carried on the Mississippi if the Ohio dried up entirely. At all events, he made no excuse of this kind for refusing to comply with the law.

I have made these remarks in no complaining or captious spirit towards the Postmaster General. My constituents have complained; and again and again they have complained of a want of mail facilities on the river. I went to work, when a member of the other House, to secure them these facilities. I pursued the subject there and here, and when Congress had so far seconded my efforts as to *direct* the mail to be established, I thought it a little hard that an Executive officer—and he not the highest in the land—should interpose to prevent it. I could have stood a presidential veto. But I protest against nullification by the Postmaster General.

I am now done with this subject. I have done everything in my power. I have moved this law, and aided in its passage. The Postmaster General refuses to execute it. If my constituents complain, I point them to the President. He approved the law, and he is bound to see it faithfully executed.

Mr. DIXON. I rise merely to say that I agree fully with my friend, the Senator from Tennessee, in the lucid exposition which he has given of this whole subject; and while I would not pretend to suggest what would be the proper remedy in the case, I cannot but feel that the course of the Postmaster General, in refusing to carry out the plain provisions of this law, subjects him to the just and rightful censure of all those people in the United States who are interested in the carrying of the mail between the points proposed by the law. It seems to me that the provisions of the law are too clear to admit of any doubt as to what the duties of the Postmaster General are. He is required, under the provisions of the law, to make a contract. As to the terms of the contract, I do not understand that the law gives him any particular discretion, except that he was to make the contract in such a way as should best subserve the interests of the country. He was required to make the contract. The reason which he gives for not making it, is, that he cannot make a contract without paying too much for the services

which are proposed to be rendered. Is it a matter of discretion with him to determine whether he is to pay too much or too little for the services to be rendered? The law makes it his duty to put out the contract to the lowest bidder. When he has discharged his duty in offering it to the lowest bidder, then at once it becomes his duty to make the contract with the lowest bidder, in conformity with the plain provisions of the law. Now, when he comes here to the Senate of the United States and says the reason why he has not complied with the law, is, that he considers that the lowest price bid was too much for carrying this mail, surely he takes upon himself the exercise of a discretion which never was intended to be confided to him by the legislative department of this Government.

Sir, the Congress of the United States were the best judges of whether this mail should be carried between the points proposed or not. They have, in their discretion, determined that it should be carried. They have committed to his discretion the right to enter into these contracts—nay, they have made it his duty to enter into the contracts; and now he refuses to do it, upon the shallow pretext that, in his judgment, he could not do it without subjecting the Government to too great expense. He takes upon himself the right of deciding a question which does not properly belong to him, and casts an imputation upon the good sense of the Congress of the United States, in requiring him, by a law which they passed, to make a contract which was necessary for the benefit of the people of that section of the country.

For myself, without intending to cast any imputation whatever on the Postmaster General, (for I entertain for him high respect,) I must say that, in refusing to enter into a contract which the law plainly required, he has, in my humble opinion, transcended his powers, and set at defiance the settled law of the country.

On motion by Mr. RUSK, the letter of the Postmaster General was referred to the Committee on the Post Office and Post Roads.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that they had passed the bill from the Senate to authorize the issue of a register to the bark Foundling, of Boston.

AMENDMENT OF THE RULES.

Mr. JOHNSON. A few days since a joint resolution was passed to regulate the mode of procuring engraving and lithographing for Congress. The passage of that joint resolution makes it necessary to have an addition to our rules, or else to make a special order in every instance where engraving is necessary to accompany a public document. I am, therefore, instructed by the Committee on Printing, to offer the following resolution, and ask for its immediate consideration:

Resolved, That the 34th rule be amended by adding to the clause relating to the Committee on Printing the following: The said committee shall also supervise and direct the procuring of maps and drawings accompanying documents ordered to be printed.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BADGER. I will ask my friend from Arkansas whether the word "procuring" is sufficiently extensive to cover the object?

Mr. JOHNSON. Yes, sir; the Committee on Printing think so. The object is to have the matter provided for by our rules, and thus save the trouble of passing a special resolution whenever any lithographing or engraving is necessary.

The resolution was agreed to.

COMMITTEE CLERKS.

Mr. BADGER. There was an oversight in regard to the clerks of our committees, committed at the last session, which was then rectified on my motion. I submit a resolution to accomplish the same object now:

Resolved, That such of the clerks to the standing committees of the Senate as have been on duty since the first day of this session, be paid therefrom.

The resolution was considered by unanimous consent, and agreed to.

EXTENSION OF BOUNTY LAND LAWS.

On motion by Mr. BRODHEAD the Senate resumed the consideration of the bill, "in addition to certain acts granting bounty lands to certain officers and soldiers who have been engaged in the military service of the United States," the pending question being on the amendment of Mr. BELL to insert among the beneficiaries of the bill:

And each of the surviving volunteer officers and privates who, in any of the wars in which this country has been engaged, performed military service against the public enemies, though not called regularly into the service of the United States."

Mr. BELL. I desire to modify the proposition submitted by me, by striking out the word "volunteer" on the suggestion of several gentlemen. Then it will cover several other classes of persons to be provided for, who they think stand in the same relative position towards the objects of this bill. I modify the amendment by striking out the word volunteer, so that it will now read:

And each of the surviving officers and privates, who, in any of the wars in which this country has been engaged, performed military service against the public enemy, though not called and regularly mustered into the service of the United States.

The amendment was agreed to.

Mr. SEWARD. I wish to ask the honorable Senator from Pennsylvania whether the amendment in relation to extending the benefits of this bill to the Indians engaged in the war of 1812 is included?

Mr. BRODHEAD. I do not know.

Mr. STUART. There is nothing of that kind, I believe.

Mr. SEWARD. Such an amendment was offered.

The PRESIDENT. It was included on the motion of the Senator from Mississippi, [Mr. BROWN.]

Mr. SEWARD. Has it been adopted?

The PRESIDENT. Yes, sir.

Mr. DODGE, of Iowa. I wish to inquire whether its provisions are extended to the negroes who fought in the wars of this country?

The PRESIDENT. There is no clause of that kind in the bill, I believe.

Mr. BRODHEAD. I now desire to offer a substitute for the entire bill. I do not think that it can be executed in its present form. It covers too much ground. It has too many novel provisions which have never been in a bounty land bill before. The land warrants under it will not be worth anything; and I doubt very much whether we shall have land enough upon which they could be located. It goes back to the Revolution; it includes all who were engaged in the Revolution, their widows, and, in case of the death of a revolutionary officer or soldier, it goes to his heirs, to his children—not alone to the minor children, because the word "minor" has been stricken out. It includes those who were in the service of the States for the protection of the States, who were not regularly enrolled and paid by the United States. I think, therefore, in view of the information which the honorable Senator from Michigan [Mr. STUART] has obtained from the Pension and the Land Offices, that the Senate will see the propriety, nay, more, the necessity of coming back to something like the original bill which I introduced.

I therefore move a substitute for the entire bill, which restricts the operations, and confines the benefits of the bill to those who have been engaged in the military service of the United States since 1790. It contains this proviso also, to meet the suggestion made by the Senator from California [Mr. WELLER] the other day:

Provided, That a person so having been in the service, shall not receive said land warrant, if it shall appear by the muster-rolls of his regiment, or corps, that he has deserted, or was dishonorably discharged.

It strikes out the restriction of twenty-eight days in the original bill, and inserts fourteen, and strikes out "or by credible witnesses," so as to make the service appear upon the muster-rolls. As we have reduced the time of service to fourteen days, we make it necessary that it should appear upon the muster-rolls.

Mr. President, the substitute which I now propose has been carefully prepared, on consultation with those who have been engaged for years, and who are now engaged, in the execution of similar laws; and that is the only way in which a bill of this kind can, with safety, be framed. I believe the substitute which I offer will be much more satisfactory to the soldiers of the war of 1812 than the bill as it is amended, because it is framed with a view to its passage. It is much better to pass a bill in this restricted form, at this session, than one much larger and more extended in its provisions two years hence, because most of the men whom it is intended to benefit will, in the mean time, have sunk into the grave; for most of them now are sixty years old. I have brought forward this measure in good faith. I have not attempted to enlarge its provisions and kill it with kindness.

These are the reasons which now induce me to offer this substitute. It presents a test question between the scheme which I now present and the bill as it has been amended by the Senate.

The PRESIDENT. The Senator moves to strike out all after the enacting clause, and insert what will be read.

Several SENATORS. It is not necessary to read it.

Mr. SHIELDS. We all understand it. It has been lying on our tables. But I would suggest to my honorable friend from Pennsylvania, that the same work will have to be done over again. All the amendments will be brought anew, and you will then have to go through the same labor if this substitute should be adopted.

The PRESIDENT. If there be no objection, the reading of the proposed substitute will be dispensed with. Is there objection? The Chair hears no objection.

Mr. GWIN. It is pretty evident, after what the Senator from Pennsylvania has said, that we shall have to do this work over again, because the majority of the Senate have put the amendments upon the original bill, which he now proposes to strike out. In order to get clear of the whole subject, I move to postpone its further consideration until the first Monday in December next, and upon that motion I ask for the yeas and nays.

Mr. BRODHEAD. I have no objection to that as a test question.

The yeas and nays were ordered.

Mr. BRODHEAD. My friend from Illinois says we shall have to do this work over again. I do not think so. We have the bill as amended by the Senate before us now, and we have the scheme presented as a substitute. It presents a plain question. The Senate can easily understand the bill as amended; they can easily understand the substitute which I have presented. I think we are prepared to vote upon it. I hope, therefore, the postponement will not be agreed to.

The question being taken by yeas and nays, resulted—yeas 8, nays 43; as follows:

YEAS—Messrs. Adams, Benjamin, Clay, Dodge of Iowa, Gwin, Johnson, Jones of Iowa, and Sebastian—8.

NAYS—Messrs. Allen, Bell, Brainerd, Bright, Brodhead, Brown, Butler, Cass, Chase, Clayton, Cooper, Dawson, Dixon, Dodge of Wisconsin, Douglas, Evans, Fessenden, Fish, Fitzpatrick, Foot, Geyer, Gillette, Houston, Hunter, James, Jones of Tennessee, Mallory, Mason, Morton, Pettit, Reid, Rockwell, Rusk, Seward, Shields, Stuart, Sumner, Thomson of New Jersey, Toucey, Wade, Weller, Wells, and Wright—43.

So the motion to postpone was not agreed to.

Mr. CLAYTON. My honorable friend from Pennsylvania objects to the bill as it has been agreed to by the Senate so far, because it is too extensive. He says the bill is loaded down; and he thinks it cannot be executed. Now, sir, with great deference to my friend from Pennsylvania, I must say that I can see no difficulty in executing the law. Where is the difficulty? It is very true, that if the bill were restricted as he had originally drafted it, the officers who will take charge of this matter, having the rolls before them, might find it much easier to execute the law, than it will be now. Under the bill, as it stands, they will be compelled, in cases where applicants come before them who are not to be found upon the rolls, or who have never been paid for their services in the war of 1812, to resort to evidence *aliunde* in order to satisfy them of the correctness of the claim of the applicant; but this is a part of their duty. I am satisfied that much of this objection comes from some of those officers. We do not propose to increase their salaries or compensation; but we do propose to add a little more service to them. Sir, let them perform the service, and if there is any injustice to them, if they are crowded with business in consequence of the passage of the bill, we can remedy that difficulty hereafter. But it cannot be the fact that the bill cannot be executed. As my friend from Georgia, [Mr. DAWSON,] who sits near me suggests, they only work now from nine to three; and for the benefit of the old sol-

diers of 1812, why may they not well spare another hour?

Sir, my friend from Pennsylvania is doubtless anxious, as I am, that something shall be done for the soldiers of the war of 1812. Now, let me tell him that I am satisfied the bill, in the position in which the Senate now has it, is vastly stronger than it was as he originally presented it. He shakes his head. There is a difference of opinion between us, then, on that point. I am satisfied that the bill is much stronger in its present position; and further, it does better justice to all classes of the people of the country.

The idea has been frequently thrown out here, that this bill will take up too much public land. Did we hear such an objection as that when the proposition was made to compensate the soldiers of the Mexican war? Land was given in that case to young men, most of whom are living; and when we have done this, can we do nothing for the soldiers of 1812?

Mr. President, I do not wish to protract this debate, for I know well that too much time has already been consumed in the discussion of this subject; but I do anxiously hope that the bill, as the Senate has now matured it, may be finally passed.

Mr. DAWSON. Mr. President, I should be very willing to vote with the Senator from Pennsylvania for the substitute which he has presented, if I thought his bill would not be embarrassed by doing so. I advance a proposition which I believe will be assented to by nearly every Senator here, when I say that there is a determination on the part of Congress to get rid of the public lands. The homestead bill, with its provisions, is now before Congress. This bill is before us. One or the other measure will, in all probability, pass both Houses during the present session. It is now an alternative presented to my mind, whether, on the one hand, we shall use the public lands to invite foreigners from every clime to come here and receive them under the homestead bill, or whether, on the other hand, by a bill similar to the one before us, we shall give the lands to the soldiers of the revolutionary war, to the soldiers of the war of 1812, and their descendants, and to those who have fought with the Indians, in defense of the frontiers for these very lands. With this alternative before me, with this position now presented to the public mind, I choose to vote for the present bill, and I do it upon principle. The public lands have been obtained by the blood and treasure of the country, and they should belong to the people who spent their money and shed their blood in defense of the country, by means of which the lands were acquired. On what motive should we supersede them and invite others to take the advantages which have resulted from the shedding of their blood and the spending of their money?

Sir, I have been uniformly opposed to any improper distribution of the public lands. I have been in favor of distributing their proceeds among the States. But as I am well convinced that no vote of mine could do greater justice to the American people than the one which I am about to give in favor of this bill, I shall vote for it. I do so out of no unkindness to any persons who may come to this country to settle in it; but I do it as an act of justice to the soldiers who have fought our battles, and to their descendants. I do not desire to present this as a question upon which we are to divide. I would vote to-day for a bill to distribute the proceeds of the public lands among all the States, as the most just and proper one. That is a principle upon which I have stood for years; but as that cannot be done, and as you are disposed to give away the lands, the only question is, to whom will you give them? I say to those who are best entitled to them. Next comes the question, who are best entitled? Those who paid and fought for them, and I will vote to give it to them and to their descendants.

Mr. WELLER. Before the vote is taken on the substitute proposed by the Senator from Pennsylvania, I desire to move an amendment to the original bill, as an additional section:

SEC. —. *And be it further enacted*, That from and after the passage of this act, all persons now enrolled on the invalid pension list shall be entitled to receive, if a commissioned officer, twenty per cent. upon the amount now allowed, and non-commissioned officers and privates forty per cent. on the amounts now allowed or paid under existing laws.

Mr. BRODHEAD. I do not understand the Senator from California as offering this as an amendment to my substitute, but as a proposition to amend the original bill.

Mr. WELLER. That is what I propose, and that, of course, takes precedence of a motion to strike out all the original bill and insert a substitute. The first question, therefore, must be on my amendment. I will state to the Senate that I believe the whole amount paid to those on the invalid pension list is a little over five hundred thousand dollars a year. This proposition, if it should become a law, would probably increase the amount, which would be paid to them, some two hundred thousand dollars a year. My only object is to make what I consider ample provision for those who have been wounded or disabled in the public service. They are first entitled, I think, to justice from the Government before you give land to able bodied men.

Mr. STUART. Mr. President, as I wish to submit some views on this bill, I shall, with the indulgence of the Senate, avail myself of the present occasion to do so. I have been waiting for several days for an opportunity of doing so, after all the amendments to the original bill should have been offered, and before the question should be taken on the substitute proposed by the Senator from Pennsylvania.

Mr. WELLER. The question is now on my amendment.

Mr. STUART. But let me tell the Senator that his is only one of a score. Probably there are several of them yet to be offered; and I hope he, and the Senate, will indulge me in stating my views at this time. In doing so, I ought to say, after what has been suggested by the Senator from Pennsylvania, that I shall not attempt to enlighten Senators upon the question. I have no belief that I am in possession of anything like the knowledge which they have. My effort will be simply to show to the Senate why I cannot, according to my views of propriety, support the bill as it now stands.

After the Senate printed the bill, as amended on the first or second day of its consideration, I made application to the sources where I supposed the information existed in regard to the effect of that bill. It will be recollected by the Senate, that, as the bill then stood, it was much more limited in its application than it is now. I applied to the Commissioner of Pensions, among others, to know, from the best lights which could be derived from his office, what would be the amount of land required to satisfy the provisions of the bill as it then stood. He answered me, that it would require 78,081,800 acres. He states it in divisions:

	Acres.
For services in revolutionary war	26,666,560
For services in the Army in all wars since 1790	42,478,280
Add amount to Mexican soldiers	936,960
For services in the Navy in the last mentioned wars	5,600,000
For services other than in wars	24,000,000

Making the total which I have stated.

It will be conceded by every gentleman who has given any attention at all to the subject, that the bill as it now stands is more than doubled in the influence which it will have upon the public lands than it was at that time; that is to say, it will require more than double the quantity that would have been required as the bill stood when I presented it to the consideration of this officer. The whole surveyed lands of the United States, as returned in 1853, were about one hundred and sixty-seven millions of acres, about double the quantity named in this statement. These surveyed lands are almost entirely within the States. But a small portion of the Territories has been surveyed. It may then be safely assumed that the bill, in its present form, will consume every acre of the public lands which are within the borders of the organized States. This may be fairly regarded as the extent of the proposition in its effect upon the public lands. Is any Senator, except he who favors, as the Senator from Georgia says he does, a distribution of the public lands in some way, prepared to vote for such a disposition of them?

It will be seen, at a glance, from this statement, that very many considerations enter into the effect of this bill. In the first place, let us regard its effect upon the Treasury of the United States. One hundred and sixty-seven millions of acres of land, being all that is surveyed, may, under the operation of the graduation law, be estimated as worth to the Government $150,000,000, because they will not all be taken up by actual settlers under the graduation law. The proposition, in a pecuniary point of view, therefore, is to take out of the public Treasury, at one blow, $150,000,000 worth of public property. How much will it cost to pay it? It must be recollected that, in the mean time, the land system is to be retained; because this bill provides for its execution by the present land officers, from the Commissioner of the General Land Office down. What is the actual cost of the system to the Government? Not less than half a million of dollars a year. Take it at that for the next twenty-five or thirty years, and it will amount to a very large sum. The estimate of the Secretary of the Interior for the expenses of the Land Office department during the present fiscal year was over $675,000; so that I may safely say that, during the next quarter of a century, the cost of maintaining the Land Office department will be not less than half a million of dollars annually.

What has been the demand for public lands? For the last ten years the figures show an average of not exceeding four millions of acres annually. How long, at this rate, will it take to consume the one hundred and sixty-seven millions of acres provided by this bill? Why, sir, it will approach half a century; it may, with confidence, be stated at thirty or forty years. Then, if you have to pay half a million of dollars annually for your land system, the expense of maintaining that system for thirty years will be $15,000,000. It would be well to pause and consider who is to pay this large amount. The land system more than supports itself under existing laws; but if you take away from that system the means by which it is to be supported, it falls as a direct tax upon all the people of the United States; and for what object?—because it is well enough to keep the object in view. I shall, by-and-by, treat of the object.

In addition to this—passing now to the business in the Pension Office—the Commissioner of Pensions, in a communication which I have before me, says that one hundred additional clerks will be required for four years to dispose of the claims for lands provided for in the bill, as I presented it to him; and the annual cost of this would be $155,000. As the bill now stands, the labor will be doubled, and consequently, this estimate must be doubled.

Inasmuch as I am only going to show my own reasons for not voting in favor of this bill, I shall not detain the Senate beyond a general statement. I have already said enough to show what the effect will be upon the General Government, and its Treasury. I propose now to see what will be its effect upon the land States.

Sir, in the State which I have the honor in part to represent there are reported to be sixteen millions of acres of undisposed of public lands. The whole area of the State is something over thirty-five millions of acres. Then, nearly one half of that State is unoccupied, and the land unsold. Suppose, now, that one hundred and sixty-seven millions of acres be placed in the market; when will that land be occupied? Who is to occupy it? The demand is stated by the Commissioner of the General Land Office to be four million acres annually, taking an average of the last ten years. You will see, therefore, that the effect of this proposition upon every land State is of the worst possible character. I have said to the Senate, on previous occasions, that the worst condition of things for the land States, is for the Government of the United States to hold the lands, and refuse to sell them, because they cannot even be taxed. The next worst thing in order is, for them to be held by speculators, because it prevents settlement. We are called upon to throw into the market a sufficient amount of warrants to cover all the lands that lie within the land States as organized, excluding California, and subject that scrip to be accumulated in the hands of speculators, who can locate the land at a nominal sum, and hold it during their pleasure.

Now, let me ask the Senator from Georgia, [Mr. DAWSON,] who has repeated to the Senate several times his idea of excluding foreigners from any participation in the public lands, whether it has ever struck him that foreigners may buy up the scrip which will be issued under this bill, and

locate the land with it? And more than this, that foreign Governments may buy it up, and put their paupers on the land when they get ready. Has it ever struck him that, by issuing scrip in this way, and passing it into the hands of speculators, it will be brought down to a mere nominal sum; and that, by this means, the very door which the Senator so much apprehends, will be opened? Its very effect must be to pass the scrip into the hands of immense capitalists. The invitation is, therefore, given to persons abroad to come here, and to shingle over the public lands of these United States with warrants, to hold them, and to send their own citizens to them whenever they choose. I think it would be very well if these points were considered by some of the gentlemen who seem to be so much afraid that a foreigner should be permitted to cultivate some of our lands.

The Senator from Georgia says he has not been able to discover the difference between a bill of this sort and a homestead bill. Much as that homestead bill was discussed at the last session of Congress—much as the Senator has, doubtless, paid attention to it himself—he has not yet discovered the difference; upon this country and upon the States of this Confederacy, between that bill which occupies the land and cultivates it, and this which passes it into the hands of enormous speculators in enormous quantities. The one gives you people; and, sir, it has passed into an adage, from one of the most brilliant speeches that was ever made, that people constitute a State. Give us people in the new States, and we will see that they make good citizens, if they are not good now. The new States have received, and received freely, emigrants from the old States of the Union and from Europe indiscriminately; and I have yet to learn that there is a State in this Union which has been injured by its foreign population. I have yet to learn that there is an agricultural community on the face of the earth which is essentially inimical in its sentiments to republican institutions. I think it was Mr. Jefferson who said that great cities are great sores upon the body-politic; but, sir, the people in the agricultural districts, the cultivators of the soil, no matter whether born under an eastern or a western sun, are the men who always sustain republican institutions. I have said here repeatedly, and I do not hesitate to say it again to-day, that this Government could do nothing better than to secure upon every quarter section of the public domain an actual settler, with his wife and family, cultivating the soil. The question of whether they get one dollar or one million for it, would be of little or no consequence.

Again, sir, the Constitution provides that when new States are admitted into this Union, they shall come in upon an equal footing with the original States in all respects whatsoever. This provision has never yet been literally carried out, and it probably never will be. The old States came into the Union owning and holding all the lands within their borders. When the new States are admitted into the Union, the Government of the United States retains the title to all the lands within their borders which have not been already sold by the General Government. As some sort of equivalent for this, Congress has given to the new States donations of land for educational purposes. Seventy-two sections or more have been given to each State for the purposes of a State university; every sixteenth section in all the land States, and in some the thirty-sixth section also, has been granted for the purposes of common schools; lands for purposes of internal improvement have been granted to them; salt springs have been granted, and land for the erection of State buildings. What will be the effect now upon our university fund, upon our common school fund, which consists of every sixteenth section in the State, if you place in the market at this day scrip enough, at something about six cents an acre, to buy up all the public land in the State? How can we maintain our common schools? We have fixed the price of the reserved school sections in our State at about four dollars an acre; and as fast as settlement progresses they bring that price. The fund is gradually enhancing. It is nearly enough now to support our common schools without any taxation, and what is true of Michigan is doubtless true of the other land States. But, sir, put all the land in market by the issue of this scrip, at something like six cents an acre, and what can we get for our school sections? Education then, which lies at the very basis of free Government, receives its death blow in the new States at the hands of Congress by the passage of this bill in its present shape.

But, again, sir, the construction given to the existing laws, (those laws which amount almost to a condition of our coming into the Union as new States,) is to allow us a certain percentage on the proceeds of all lands sold within our borders; but it is also the construction of the laws, that where public lands are paid for by land warrants, we do not get a farthing. As I have already said, there are over sixteen million acres of public land in Michigan, and if this bill passes, we shall not get a single penny of the five per cent. fund, to which we are entitled on the sales of those lands. I ask Senators from the new States, yea sir, I ask Senators from the old States, is this fair? Is it fair to retain in the hands of the General Government the title to the soil, thus putting us in an inferior position to the old States, and after having extended to us these equivalents, now to step in, and at one fell swoop take them all away from us? I think, and I confess, that I have thought with some confidence, that it was neither reasonable nor proper. Sir, (Mr. GEYER in the chair,) your own State has something over twenty millions of acres, if I recollect aright, of unsold land. Arkansas has about two thirds. Florida is in the same condition with over two thirds of her land unsold. I believe there are only two of the land States which are reduced so low as to have little over one third of the whole area of the States unsold. I have stated the effect of the bill on those States. You have made grants of land to railroad companies, who have constructed their roads in good faith; you have said the alternate sections shall not be sold for less than $2 50 an acre; but under this bill, the sections adjoining the reserved sections will not bring over six cents an acre.

Mr. President, I might consent, perhaps, to suffer some large share of the effect of this bill upon the public Treasury and upon the new States, if it were to carry out in any degree the proposition which it contains upon its face; but it will be found, I think, before this question terminates, that the true friends of the soldiers of the war of 1812 will not be among those who vote for the greatest enlargement of the bill. To obviate, in some degree, the evils to which I have thus briefly alluded, the honorable Senator from Delaware, [Mr. CLAYTON,] who saw those evils, moved an amendment which, on the motion of the honorable Senator from Iowa, [Mr. DODGE,] was still further amended, by which the location under these warrants is restricted to six hundred and forty acres in a township. In reference to that matter, the Commissioner of the General Land Office, after giving the amount of all the public lands in the United States, says what I beg leave to read to the Senate:

"But if the principle be finally adopted that has already received the sanction of the Senate, that not more than six hundred and forty acres of these warrants shall be located in any one township, there is not space enough in the land States on which to locate them, including all California, Oregon, Washington, Utah, New Mexico, Kansas, Nebraska, and the Indian Territory, mountains, deserts, and all."

The reason is very evident: one thirty-sixth part of all the land that there is within the United States would be only a little over thirty-three millions of acres. This bill, as I presented it to the Commissioner, called for seventy-eight millions of acres. As it stands now, I have said to the Senate, it is double that amount, and, therefore, here is a provision standing in your bill by which you cannot locate one third—not over one sixth of the land which will be granted, according to its present provisions, if you take all the land there is within our borders; and yet the Congress of the United States is deliberately legislating here with a view to help the old soldiers! Another thing is ascertained, and any gentleman can see, by a computation, precisely its effect. I stated before, and, as some gentlemen thought, pretty strongly, that, under the provisions of this bill, the warrants, even for one hundred and sixty acres, would not be worth enough to buy a soldier a hat. What does the Commissioner of Public Lands say upon the subject? Following up what I have just read, he says:

"It is thus shown that the warrants could not be located—and if that restriction was withdrawn, that they would not probably yield to the holders more than twelve and a half cents an acre, or twenty dollars for a quarter section of one hundred and sixty acres. To do this, the people of the United States would be taxed heavily in keeping up the land system, without the slightest prospect of benefit from it. The whole of the public domain would be uselessly frittered away, and the hope held out, of benefit to the old soldiers, would be worse than delusive."

I said, sir, that I might consent to a serious injury upon the land States, if it were to do something for this meritorious class of men; but if, under a bill which only took seventy-eight millions of acres, the warrants would not be worth more than twenty dollars for a quarter section, what will they be worth under a bill which takes all the land in the land States, amounting to nearly one hundred and seventy million acres? Why, sir, the idea of their being a benefit to the soldiers, it seems to me, is ridiculous upon its face. I submitted to the Commissioner of Pensions the question, what would be the effect of striking out of the bill, as it then stood, the words, "whose services have been paid by the United States?" The words have since that been stricken out of the bill. Let us see what he says on that point:

"You also ask me what will be the effect of erasing from the bill the words, 'and whose services have been paid by the United States?' I know of no data by which to estimate the number that would be let in by this amendment. I do know that a large number of military companies were formed and mustered, and stood in readiness to enter the service when called for during the war of 1812, who yet never rendered any service, and consequently were not paid. If this class of persons are to be let in, and are permitted to establish their service by parol evidence, I fear that almost every person who was in any military organization during any of said wars, will claim to be beneficiaries under the law. The effect of this amendment will be to increase the beneficiaries to an almost unlimited extent."

Now, let us see whether the Commissioner is justified in this statement. We have got in, under the provisions of the bill, every man who was ever mustered into service, either by the United States, or by State authority. We have got in every man who was engaged in the Revolution, or in any other war. We have got in all the rangers who fought as border men in the west with the Indians. We have got in the Indians themselves. We have got in the men who fought the patriot war, and the men who were suggested by the honorable Senator from California, [Mr. WELLER,] who fought the Michigan and Ohio war in 1836. Every man that was ever called out, either to protect the United States, or a single State, is embraced within the provisions of this bill. Is not the Commissioner right when he says this will increase the effect of this bill to an enormous extent? No man can calculate it. Why, sir, what are the frauds committed under the existing laws? Every gentleman connected with the Department will tell you that they are very numerous. Some of them they have been able to ferret out; but others not. The mass of them have been yet undetected, and in carrying out the provisions of any bill like this, large quantities of land will be fraudulently obtained.

What, then, do you do for the old soldier? In the first place, you hold out to him a mere delusion, as I have shown; and, in the next place, you disgrace him. You not only profess to give him the avails of a quarter section of land, which, in fact, will not fetch him $12 50, but you place him in company with men of inferior merit—with those who deserted the very flag that he fought to sustain. There is not a single provision in this bill which limits its effects to those who have been honorably discharged.

Mr. BRODHEAD. My substitute does.

Mr. STUART. I am speaking of the bill as it stands. Deserters, cowards, and the basest men who ever lived in the land, are to be given one hundred and sixty acres, side by side with the men who maintained the honor and integrity of your country.

Mr. President, when legislators are about to proceed to this pass, it is impossible not to see that there is a motive other than benefit to the meritorious soldier; and that motive is found in the desire to take from the land States all the benefit growing out of the land system. It amounts to no less than this: that, after having brought those States into the Union in an inferior position, the pledge of the Government, fixing in the State of Michigan, as in all other new States, the right to the five per cent. fund, is to be taken ruthlessly away. For what? Why, to get at something

which is akin to distributing the lands among all the States. I have shown you that our university and common school fund is to be destroyed at a blow; for our lands will not be worth anything, and will not avail us anything for a quarter of a century under this system. I beg liberty to repeat again the effect upon the five per cent. provision. I say the honor of the country is pledged in giving it to the States. Sir, I would not utter a rash saying anywhere, if I knew it, much less here in my place in the Senate; but I will call the attention of honorable Senators to the consideration, whether, if you thus falsify your own solemn compacts with the States which you have admitted into the Union, they will stand by their agreement not to tax your lands? Will they do it? Ought they to do it? Will you not, therefore, produce local and sectional difficulties, the end of which no man can foresee?

What, then, Mr. President, is there left of the sacred provisions of this bill? It is destructive to the interests of the United States pecuniarily. It is destructive of the fundamental interests of the States of the Union, respectively, in which the public lands lie, because it destroys their educational fund, and deprives them of any pecuniary receipts from the sale of the lands. It is destructive of the interests of the soldier himself, because he gets a mere bagatelle—ten or twelve dollars is all. It is destructive of the morality of the whole people, for it inspires in them a disposition to make fraudulent claims, and to support them by fraudulent statements, in order to come in under the bill. You have cut loose every restriction; you have not got a single record that is a landmark by which you can be guided to determine who are the beneficiaries under it. Parol evidence that a man has been under arms anywhere, entitles him to receive the benefits of this bill.

I asked a question of the Commissioner of Pensions, what would be the effect of restoring the word "minor," before "children," and he answered me that the restoration of that word to the bill would reduce the quantity of land taken by it forty millions of acres; forty millions out of seventy-eight millions; more than half. Now, what propriety is there in giving one hundred and sixty acres of land to a grown-up, able-bodied man, because his father some day shouldered a musket? If you are going to reward merit by the bounty of the General Government, why not adopt some rule by which to select meritorious men? The only criterion in this case is, that the father of the applicant, at some day, shouldered a musket to protect his State, or the United States, to put down an insurrection, as a border man to shoot an Indian, or something of that kind.

I think, if we are going to make donations of the public lands, can we do very much better. I do not hesitate to say that, unless Congress possess an unlimited control over the public lands, in my humble opinion—and I speak it deferentially—there is no power granted to us under which we can pass a bill like this. Can you give a man one hundred and sixty acres of land, because his father was in the Revolution? If so, you can give him one hundred and sixty acres because he was not there; for the reason is just as sound in the one case as in the other, on the point of constitutional power. Has this man become entitled to it on that account, and does the conclusion follow legitimately and constitutionally from the premises? Would it not be better to give one hundred and sixty acres of land to the sons of some of the distinguished men who have adorned the civil service of the country? Can you not select from the galaxy of names that has now passed from the stage of action, those who have rendered as much service in civil capacities, as those who have enlisted in the Army and deserted it? Would it not be as well to give to the sons of some of those distinguished patriots one hundred and sixty acres of land because their fathers were patriots, as to give one hundred and sixty acres of land to a man because his father was enlisted and deserted the flag of his country? Here stands your bill to-day, with no restriction to exclude deserters. Even if you have the power, is it sound policy, is it wise, can you maintain good faith with the States, can you maintain good faith with your own consciences, and do this?

Sir, I know the difficulty that may surround any gentleman who opposes this bill, when there is a clamor for the old soldiers. I have seen that before. I stood in Congress upon an occasion when there was a proposition to make bounty land warrants assignable, and the gentlemen who composed the body clamored for it to benefit the old soldiers, but the pockets of almost every one of them were filled with the warrants, the legality of which they wished to fix by law; yet, when the proposition came up to pay the registers and receivers of the land offices for locating those warrants, the same men who were overflowing with patriotism for the old soldiers, and who held the old soldiers' warrants in their pockets, refused to give the land officers any compensation whatever.

When we commenced the consideration of this bill, I expected that I should be called upon, in the end, to vote against it, and I intended to put myself in a position where I could say to those soldiers, those brave and good men who deserved something of the country, "I am ready, at any day, and upon any occasion, to vote for a bill which does this thing for you; I have always been ready to do it." I hope that, without the charge of egotism, I may say that, in the Thirtieth Congress, the first in which I was honored with a seat in either Chamber of this Capitol, I declared my disposition to give one hundred and sixty acres of land to every individual who had been enlisted and served in the war of 1812, or in the revolutionary war, and it was put down in the House of Representatives as a proposition so monstrous that it would not be entertained for a moment.

I am ready now to vote for a proposition giving to every man and every widow embraced within the law of 1850, without regard to the time of service, one hundred and sixty acres of land; and I may be permitted to say, with all respect to the honorable Senator from Pennsylvania, that I think that is the best form in which the bill could be passed. It could be done in one section, by simply saying that every individual entitled to land under the law of 1850 should receive enough to make up one hundred and sixty acres. That is what the delegation representing the old soldiers, composed of honorable and intelligent men, asked of the Committee on Public Lands of the Senate, as the chairman of that committee [Mr. DODGE, of Iowa] will recollect. Sir, those honorable men never asked that Indians, and negroes, and deserters, should be placed upon an equal footing with them. They never asked that the men who deserted when they stood by the flag, should be paid for that desertion, as they were paid for their patriotic services. A single section, I say, extending the law of 1850 in its terms, so as to give one hundred and sixty acres, instead of limiting the quantity according to the term of service, would carry out fairly and fully the intention of those men.

But I am willing to vote for the substitute now proposed by the Senator from Pennsylvania. I know it will require many millions of acres of land to execute it; but as I have said, I am willing to go largely beyond what my own judgment would dictate, for the purpose of giving some real benefit to these men. That substitute strikes out deserters; it limits the bounty land to those who served at least fourteen days; and it requires record proof of it; so that you can tell who has been a soldier and who not. That proposition is confined, in the case of the death of a soldier, to his widow or minor heir; and, sir, if there be within this land a widow or a minor heir of a man who has periled himself in the service of the country, I am willing to be liberal with that widow, and that minor heir, to the extent of one hundred and sixty acres of land. Further, I am ready to go to the extent suggested by the Senator from California, in the amendment now pending to the original bill, and give such persons an invalid pension in certain cases. But, sir, I can never consent to a bill which consumes the lands of the Union; which inflicts the most serious injury on the Treasury of the United States; which falsifies your solemn engagements with the land States; which degrades the meritorious soldier, by placing him side by side with the deserter; and which, in a pecuniary point of view, at most, cannot give him more than $12 50 if he gets one hundred and sixty acres of land. Such injustice I never can vote for.

Mr. President, a few words in respect to the suggestions which the Senator from Georgia has made in regard to the effect of the homestead bill, and I shall have done; because, I say again, I rose to-day simply to discharge a duty to myself, and to my own constituents, and not with the hope of changing a single vote in the Senate. The Senator from Georgia has intimated that this is an alternative proposition between a homestead bill and this; that either one of them takes the whole public domain, and that, so far as the United States are concerned, therefore, the result is alike. It strikes me that no such condition of things can happen, when you require a man to settle upon the public lands and cultivate them. The consumption of the public lands cannot, under any homestead law, exceed five millions of acres, annually, because in that case the sale cannot go beyond the demand. The individual who takes the quarter section of land is to live upon it. He cannot take it by proxy. He cannot buy a land warrant, or a scrip, and put it in his pocket and sit down at home; but he has to move on to the land, cultivate it, and occupy it; and thus the Senator will see that the consumption of the public lands, in that way, could not exceed five millions of acres, annually. Besides, the homestead bill, as passed by the Senate, contains no such provision as the Senator suggests. The sense of the Senate was brought to a test on that question at the last session, and that test determined that those who held lands under the homestead provision within the States, should be only such as, by the laws of the States themselves, were permitted to hold lands. It leaves it, therefore, to any State of this Union, by its own laws, to indicate the persons who should hold land under the homestead bill. In the Territories it changed no existing law of the country; but it adopted precisely the principle of the preëmption law, which required either that the man should be a citizen of the United States, or that he should have declared his intention to become such; and by complying with either one of these provisions, he was to become an owner, under the homestead bill, of one hundred and sixty acres of land within any of the Territories. Then there is no such condition, no such alternative, as the Senator from Georgia apprehends; but, sir, if there were, I should be willing, if I were going to discuss that question with the honorable Senator, to yield the whole ground that he asks; I should be willing, for the purposes of the argument, in comparing it with this bill, to say that any foreigner, the moment he landed upon our shores, might take a quarter section of land under the homestead provision; and even then I say, it is infinitely better than the provisions of this bill; for, under this bill, a foreigner can buy at twelve and a half cents an acre, any quantity of your public land, and hold and keep it, at his pleasure. A foreign Government, as I have said, can buy it up, and throw their own paupers on it. There is not a single restriction, not a single limitation in the bill, which cuts out a foreigner. But, Mr. President, I expect that, if the Senator is driving at this Know-Nothing business, there is something worse than that in it. I suppose a man may actually take a quarter section of land under this bill, and, at the same time, have been born in a foreign country. I expect there were men in our Revolution, I expect there were men in the war of 1812, who fought as bravely as any other men, that were born out of this country, who will be beneficiaries under this bill. So far as I am concerned, I shall never inquire where a man was born in order to determine my opinion of his respectability, or his qualifications. If there is anything in that argument at all, I think it is in favor of the man who was born in a foreign land, under an oppressive Government, who is willing to leave his home, and the graves of his ancestors, to shake off his allegiance to the Crown, and come here into this country, and agree to be, and actually become, a good citizen of the United States. He is a much more meritorious man than the man who was born here, and could not help it, if there be anything at all in the view to which I have just alluded.

But, sir, all these elements have to come into this bill; and I am only prepared to say in conclusion that, for the reasons which I have briefly stated, I can never support the bill as it now stands. I have been anxious from the beginning, and I am now, that the bill shall receive a shape in which I can support it. I shall not detain the Senate by saying anything about the opinions which I entertain of the gallant men who have been engaged in the service of this country. Their eulogium

consists in their own acts. There is no man sufficiently talented, nor is there any language sufficiently comprehensive to add a single letter of eulogium to those men beyond that which their own conduct furnishes; and, sir, if not under this bill, at some day, I doubt not, I shall have an opportunity of doing them justice.

The following are the documents referred to:

PENSION OFFICE, *January* 8, 1855.

SIR: I have examined the accompanying bill for a public act, being Senate bill No. 511, with a view to estimate the number of beneficiaries within its provisions, and the quantity of land it would require to satisfy their demands. The limited time I have had to do this, is my apology for the errors I may have committed.

The beneficiaries of the bill may be classed as follows:

I. Those who served in the Army or Navy of the United States during the revolutionary war, or their widows or children.

II. Those who have served in the armies of the United States in any of the wars since 1790, (except the war with Mexico,) or their widows or children.

III. Those who have served in the Navy of the United States, in any of the last mentioned wars, or their widows or children.

IV. Those who have been called into military service, other than in war, and paid by the United States, or their widows or children.

I estimate the whole number of persons engaged in the land and naval service during the revolutionary war to be 500,000. At least one third of this number will be beneficiaries, either personally, or by their widows or children, under this bill. One third of 500,000 is 166,666. It will require 26,665,560 acres of land to satisfy these claims.

The number of men who have served in the armies in the various wars since 1790, except the war with Mexico, has been estimated at 531,729. Of this number, 48,143 have already received one hundred and sixty acres of land each. This will leave 483,586 who have not received that quantity. I estimate that two thirds of this number will be beneficiaries under this bill. Two thirds of 483,586 is 322,391. To satisfy these claims in full, would require 51,582,560 acres of land. But 58,408 of these persons have received eighty acres each, and 110,791 have received forty acres each. The whole number of acres thus received is 9,104,280, and will leave due this class, upon this estimate, 42,478,280 acres of land. To this number should be added 7,808 persons who served in the war with Mexico for less than twelve months, and have received but forty acres of land each. These will, under this bill, be entitled to one hundred and twenty acres each, in addition, making 936,960 acres.

I have not been able to ascertain the number of persons who have served in the Navy of the United States during the wars since 1790 with any certainty; but I estimate that the number of that class of beneficiaries cannot be less than 35,000. It would require 5,600,000 acres to satisfy this class.

The whole number who have been called into military service other than in war, and paid by the United States, cannot be less than 25,000. This class will include all that have been called out to quell insurrection, or repel invasion, commencing with the whisky insurrection in Pennsylvania, and ending with the disturbances on the northeastern frontier. I estimate that 15,000 of this number will be beneficiaries, and will require 2,400,000 acres.

The following is a summary of the preceding estimates:

1. For services in the revolutionary war,	26,666,560	acres.
2. For services in the Army in all wars since 1790	42,478,280	"
Add amount due Mexican soldiers	936,960	"
3. For services in the Navy in the last mentioned wars	5,600,000	"
4. For services other than in wars	2,400,000	"
Total	78,081,800	"

You have desired me to give you my opinion as to the difficulties in executing such a law, and the time requisite to effect it. In my opinion, it will take fifty seven years, or one hundred men three and one half years to execute such a law. If this law is to be executed in the Pension Office, we should require this addition to our present force, and suitable rooms for their accommodation.

The greatest difficulties I now apprehend in adjudicating claims under this law will arise from the provision giving the bounty to adult children, and permitting the service of the soldier to be proved by parol evidence. The minor children of a deceased person are usually in the same family, or neighborhood, and can be easily ascertained. But adult children are frequently scattered in different quarters of the globe. Each child of a deceased soldier may claim the whole bounty, and after offering evidence that the other children have not been heard from for seven years, and having obtained the bounty, some other child, from a distant State, may make the same claim, and sustain it with similar evidence. But I regard the provision allowing the service of the soldier to be established by parol evidence as extremely dangerous. It would be very much less hazardous, if the minimum service was one month. But under this bill it is one day. Now, if this may be established by the testimony of two witnesses, every person who happened to visit a place where soldiers were quartered in service, will be likely to establish a claim; for the fact that he was with the army will be easily remembered, while it may not be so easily remembered that he was there only as a visitor.

I regret that I have not had time to answer your inquiries more in detail, but I think this will give you, substantially, my views upon this subject.

I have the honor to be, very respectfully, your obedient servant, L P. WALDO. *Commissioner.*

Hon. CHARLES E. STUART, *United States Senate.*

PENSION OFFICE *January* 10, 1855.

SIR: In my letter to you of the 8th instant, I ought to have stated that the whole amount of land warrants, issued to September 30, 1854, for military service in all the wars in which this country has been engaged, is 33,578,732 acres.

You now ask me to state how the restoration of the word "minor" to the bill, before the word "children," will affect the estimates in my letter of the 8th instant. In my judgment, it will reduce the quantity of land more than one half. It can be hardly possible that there are now many minor children of revolutionary soldiers. The whole number of revolutionary pensions now upon the list, is one thousand and sixty-nine males, and five thousand nine hundred and eighty-two females. This will be about the number of beneficiaries of this class, if the word "minor" be restored to the bill.

Neither can there be a large number of minor children of soldiers of the war of 1812. Most of the beneficiaries in this class must, therefore, be adults; and, if it be limited to the soldier and his widow, it must reduce the estimate full one half. The same is true of the sailors in the same war, and also of all that were called into service before that war. I think it a fair estimate that the restoration of this word will reduce the amount of land in the estimates 40,000,000 acres.

You also ask me what will be the effect of erasing from the bill the words "and whose services have been paid by the United States?" I know of no data by which to estimate the number that would be let in by this amendment. I do know that large numbers of military companies were formed and mustered, and stood in readiness to enter the service when called for, during the war of 1812, who yet never rendered any service, and consequently were not paid. If this class of persons are to be let in by this amendment, and are permitted to establish their service by parol evidence, I fear that almost every person who was in any military organization during any of said wars, will claim to be beneficiaries under the law. The effect of this amendment will be to increase the beneficiaries to an almost unlimited extent.

You also inquire what will be the increased annual expense of the Pension Office, if required to execute this law? This will depend upon the action of Congress. If it desires to have the law executed within four years from the date of its passage, we shall need one hundred additional clerks of the various classes, whose annual salaries will amount to about $135,000; and the contingent expenses must be increased about $20,000 annually. If we are furnished with a less number of clerks, the expenses will be proportionably less, and the execution of the law correspondingly postponed.

I have the honor to be, very respectfully, your obedient servant, L. P. WALDO, *Commissioner.*

Hon. CHARLES E. STUART, *United States Senate.*

GENERAL LAND OFFICE, *January* 9, 1855.

SIR: In answer to your oral inquiries, as to the cost of satisfying warrants that will be issued if the bounty land bill now before the Senate is passed, the effect of those warrants on the revenue from public lands, and the probable value of those warrants in the market, if issued, I have the honor to state that, from the estimate furnished by the Commissioner of Pensions, it appears that that bill will require the issue of 546,865 warrants, embracing 78,081,800 acres. On this basis the cost will be as follows:

For each warrant a patent and record must be prepared. For 546,865 patents, the parchment paper will cost 6¼ cents each	$34,189
For 1,100 volumes of records, at $15	16,500
For 25 patents per day, 300 days to year, at $1,200 per annum	87,600
For 25 records	87,600
Correspondence, 4 clerks, at $1,600, (20 years,) and 800 letter records, at $12	130,400
Posting 30 warrants per day, 300 days to year, at $1,200 and $1,400	79,300
100 tract books, at $15	1,500
Accountants, 4 clerks, at $1,600, (20 years)	128,000
2 per cent. fees to register and receiver	1,952,000
Stationery, (20 years)	10,000
Total	$2,527,089
Should the 2 per cent. to the registers and receivers be paid by the holder of the warrant amounting to	1,952,000
The estimated expense to the Government would be	575,089

In attempting to make an estimate of the effect these warrants will produce on the revenue from the public lands, it is necessary to review the several elements that enter into the calculations.

In this, as in all other matters of trade or barter, the demand and supply affect the value. For the last two years, the demand for public land has been heavy; partly caused by the natural increase in the population of the country; in part by the migration from the eastern States; very much by the heavy immigration from foreign countries; but probably more from speculating motives, as good investments for the large amount of surplus capital in the country. The reaction that has taken place, and consequent pressure in the money market, and the falling off in immigration, will materially reduce this demand, for some years to come at least; and a further reduction will be caused by the amount of lands belonging to individuals, that will be forced into market by that pressure. In reviewing these elements, I think that about 3,000,000 of acres per annum will be the average disposed of for some years to come. But suppose 4,000,000 be estimated, it would require about twenty years to absorb these warrants, if all the entries were made with them. This will not, probably, be the case; though there is but little doubt that all the lands at one dollar and twenty five cents, at one dollar, and at seventy-five cents per acre, will be entered with them. This will leave the Government only the fifty cents, twenty-five cents, and twelve and a half cent lands, from which to derive a revenue. From these classes, I think that the amount received in cash would not exceed $500,000 per annum, for about 2,000,000 of acres, averaging at twenty-five cents per acre. In fact, the lands, so far from being a source of revenue, would not pay expenses. The other 2,000,000, at the higher rates, would probably be entered with warrants.

The next question presented, is the probable value of those warrants in the market, if issued?

If the Commissioner of Pensions could issue five hundred of those warrants per day, allowing three hundred working days in the year, it would require nearly four years to issue the whole of them; allowing, however, for the necessary delay in commencing, and the tardy manner in which the claims will come in towards the close of the business. Let us estimate that it will require double that time, or eight years. We would thus have a supply, in eight years, of about 80,000,000 of acres, with a demand of only 2,000,000, or five times as many each year as would or could be used.

There would be no minimum fixed for these warrants, as in the case of those issued for services in the Mexican war, where a certificate of $100 United States six per cent. stock was issued to those who preferred it to a land warrant. In that case the price of the warrant could not fall below the value of this stock, which was generally above par. Here, however, as already stated, it would require all the entries at and above seventy five cents per acre, to absorb the 2,000,000 per annum, and probably a great part of the fifty cent class. If, then, the demand was equal to the supply, they would not rise to even fifty cents per acre. But in eight years the supply would be sufficient to meet the demand for forty years. On the average, then, that is, in twenty years, the principal invested in these warrants, if put out at interest, and the interest reinvested, would increase more than three-fold. The warrants would have no such increase, and, consequently, such sum only could be obtained for them as would, at that time, at compound interest, amount to the nominal value of the warrants. If fifty cents per acre was that nominal value, and it is shown that it could not be more, then fifteen cents per acre would be all that could be obtained for them on this basis—and allowing the difference between their nominal and cash value, it would not exceed twelve and a half cents per acre.

But if the principle be finally adopted that has already received the sanction of the Senate, that not more than 640 acres of these warrants shall be located in any one township, there is not space enough in the land States on which to locate them, including all California, Oregon, Washington, Utah, New Mexico, Kansas, Nebraska, and the Indian Territory, mountains, deserts, and all.

The entire area, estimated in table E, of the report of last year, of the unsold and unappropriated lands of the United States, was 1,360,070,681 acres. There are thirty-six sections, of 640 acres each, in a full township—consequently only one thirty-sixth part of each township would be subject to such location, or one thirty-sixth part of the whole. One thirty-sixth part of 1,360,070,681 is only 37,779,741 acres, or less than one half of the estimated amount of the bounty land grant.

It is thus shown that the warrants could not be located, and if that restriction was withdrawn, that they would not, probably, yield to the holders, more than twelve and a half cents per acre, or twenty dollars for a quarter section, of one hundred and sixty acres. To do this, the people of the United States would be taxed heavily in keeping up the land system, without the slightest prospect of benefit from it—the whole of the public domain would be uselessly frittered away, and the hope held out of benefit to the old soldiers, would be worse than delusive.

You are aware that I am, and always have been, friendly to granting bounty lands to the old soldiers who periled their lives, and freely shed their blood for their beloved country; but, carried to the extent contemplated by this bill, instead of a reward for patriotism, it would prove a mortifying and vexatious disappointment.

From a letter to Hon. A. C. DODGE, of 24th August, 1852, (copy inclosed,) you will perceive that, at that time, when the minimum price of the public lands was $1 25 per acre, it was estimated that the issue of fifty-eight millions additional warrants, would reduce the value of those warrants to fifty or twenty five cents per acre. The present estimate is in fair proportion, in view of the reduced price of the public lands under the graduation law.

Very respectfully, your obedient servant,

JOHN WILSON, *Commissioner.*

Hon. C. E. STUART, *Senate.*

Mr. DAWSON. Mr. President, I will make a brief reply to the Senator from Michigan. He reduces all his arguments in opposition to this bill to about four; and they may be concentrated into one idea, that the provisions of the bill will injure what he calls land States. There are now one hundred and seventy millions of acres of surveyed public lands within the limits of the United States, owned by the Government, excluding the lands lying in the State of California and those in the Territories. The aggregate of lands supposed now to be owned by the United States altogether, is about one billion seven hundred millions of acres. (1,700,000,000.) The objections to allowing the old soldiers, as they are called, to take these lands are, first, the expense; and then the indignity shown to them by presenting them with such a gift in consideration of past services. The Senator says the expenses incurred by the Government will be the salaries of one hundred additional clerks, who will be necessary to facilitate the Pension Office in passing on the rights of the old soldiers, and he says further, that it will take

about eighty millions of acres to supply what we consider a just tribute to the worth and to the services of those men, and to their descendants.

Mr. STUART. As I wish the Senator to proceed on the basis which I stated, I will correct him. I stated that this bill, as it now stands, would take double the land which the bill that I presented to the Land Office, and on which these calculations were based, would require.

Mr. DAWSON. Well, suppose it does! But now I will ask the Senator whether he was not a warm advocate of the homestead bill, which invited any man within the United States, or within the limits of the world, who would come here and declare his intention to become a citizen, to go and settle upon the public lands, and if he remained there for five years, that he should have one hundred and sixty acres, without fee or emolument?

Mr. STUART. Certainly I was.

Mr. DAWSON. Then what becomes of the Senator's argument, that this bill will be a disgrace on the Union, by impairing the value of the school fund, and the five per cent. fund, reserved to the new States by compact, when the very proposition which the Senator himself urged, at the last session, at once denied the probability of a dollar going into the Treasury from the sale of the public lands? The Senator's own argument cuts from ear to ear, and exhausts the vitality of his position at once.

The next objection is, that the bill will take eighty millions of acres, and thus diminish the financial resources of the country. Why, sir, would not the homestead bill have supplied the demand, whether it amounted to fifty or one hundred million acres per annum, and would not the public lands be gone by that bill? And if it were a bill without limitation, year after year would have gone by until the public lands were exhausted, and not a dollar would go into the State treasuries from the five per cent. fund, and their school funds would be valueless.

But, sir, the Senator says, that by striking out the word "minor" before "children," we add forty millions of acres to the bounty granted by the bill. Did the motion to strike out the word "minor" come from the friends of the bill? Was it not my honorable friend himself who made that motion? Why did he make it, if the effect was to add forty millions of acres to the appropriation made by the bill?

Mr. STUART. Does the Senator intend to say that I made the motion to strike out the word "minor?"

Mr. DAWSON. I understand the Senator from Michigan voted for it.

Mr. STUART. Not at all. The amendment was moved by the Senator's colleague, [Mr. TOOMBS,] with the avowal, made at the time, that he was opposed to the bill, and desired to make it as obnoxious as he could. I voted against it.

Mr. DAWSON. I thought I heard the Senator from Pennsylvania charge the Senator from Michigan with being friendly to that proposition in order to make the bill unpopular.

Mr. STUART. The Senator is mistaken. The Senator from Pennsylvania found some fault with me, because I moved to strike out the limit of the service of thirty days; and when I was objecting to striking out the word "minor," he brought up that as an argument of inconsistency against me.

Mr. DAWSON. I do not intend any such thing; I accept the Senator's explanation; but the vote which was given for that proposition was certainly to make the bill unpopular. It is immaterial who voted for it. It was distinctly announced at the time what the object was; and, of course, all who voted to strike out the word "minor," did it for the purpose of making the bill as objectionable as possible to the Senate. But, sir, I waive that point.

The Senator from Michigan next rallied Senators from the land States, and told them to come up in opposition to the bill, on the ground that people, and not land, made a State. Sir, he is right; and if people do make a State, is it not the policy of the land States to invite people to go within their limits? Does not this bill invite the soldiers of the revolutionary war, and their descendants, and the soldiers of the war of 1812, and their descendants, the worthy men who fought our battles, and those who have descended from them, to go there? And how do you propose to induce them to go? By giving them one hundred and sixty acres of land on which they can settle.

Mr. BADGER. A homestead.

Mr. DAWSON. Yes, sir; it is a real homestead. What stronger inducement can the land States desire to cause population to go within their limits? The argument of the Senator upon the question of population will not answer; for this bill is an invitation for all men who have not landed property or attachments to particular States, to go within the limits of the new States, and settle upon the land, which is the subject of this gratuity of the Federal Government.

But, Mr. President, let me show that the doctrine of the Senator from Michigan will not be sustained even in the land States. He says that the warrants will be reduced so low that the old soldiers will not have enough profit out of them to buy a hat. Cannot that argument be turned against the Senator? If the General Government propose to put down the price of one hundred and sixty acres of land to ten dollars, will it not invite population to the new States? The Senator depreciates the value of a one hundred and sixty acre warrant to a ten dollar hat; then is it not an encouragement to men who wish to change their residence to pay the hat for the one hundred and sixty acres of land? The Senator calls on those representing the land States to go against this measure; and yet, according to his own view, it is calculated to bring population to those States. His objection in that regard, therefore, falls.

Then what is the next objection presented by the Senator? It is that this bill is an indignity offered to the old soldier, that he is put in company with deserters and others. Sir, because a thousand men, deserving of honor and respect, of good feeling and support from the Government, should happen to be associated with one or two bad men, will you vote against all, merely on that ground? Why does not the Senator move to strike out deserters? It can be done yet. I believe, in fact, a provision was put in to exclude them. The whole argument of the Senator is like a sieve, it cannot hold water.

Again, the Senator insinuates that I am unkind to foreigners. Sir, have you ever heard me deny that any foreigner who comes to this country has not a right to purchase the public lands? Have I ever uttered a sentiment which would go to deprive him of the power of holding public land? No, sir; the sentiment I uttered was, that I would not hold out the public land as an inducement for the lowest class of European population to come here and settle upon it without price; I would not give to them more rights than I would give to my own native people. That is all that I have said on that subject; and if that be Know-Nothingism, I have found out what it is without knowing anything about it. [Laughter.]

But the Senator from Michigan says, capitalists, foreigners of immense wealth, will come here and buy your public land in large quantities, and bring their paupers and escaped convicts, and settle them upon it. This is an argument which I never before heard used, and one which, it seems to me, can scarcely have weight upon a proposition such as this, and before a body like this, especially when the distinguished Senator from Iowa, [Mr. DODGE,] and the distinguished Senator from Delaware, [Mr. CLAYTON,] both have had inserted in the bill a provision to prevent an existing apprehension of any such difficulty; and now not exceeding six hundred and forty acres can be located by any one man within the same township, under this bill. What, then, becomes of the idea of giving to foreign capitalists the control over the soil of the States? It exists not in fact.

The Senator from Michigan brings before us the opinion of the Commissioner of the General Land Office, who tells you that these warrants could not be located over the present surface of the surveyed public lands, and why? Because this very bill, as it stands, is a restriction on the sale of those land certificates in the market, and confines the owner to the possession himself, and offers a strong inducement to him to leave his native home and settle within the limits of another State.

What further argument is there? The Senator called upon the representatives of the land States to rally in opposition to this measure, to vote against granting land to the men, and their descendants, whose blood, worth, and valor, put us in possession of those States, now called the land States, which you are occupying and enjoying. They are to be denied this bounty, and why? Because it will diminish the price of the public lands, so as to stop money going into the Treasury from their sale, and thus the land States will lose their five per cent. fund. The Senator thinks this will create sectional jealousy and irritation, amounting almost to revolution. Cannot those of us who vote for this appropriation of the public lands say at once, especially to Michigan, "we do not desire to injure you; your own representative voted for a homestead bill calculated to produce the same effect;" and why did he do it? He says to encourage population to go into the State; to increase their prosperity by inviting people there. When we are doing the same thing, and are also paying a debt of gratitude to the revolutionary soldiers and their descendants, and our soldiers in our other wars, the principle is precisely the same.

But, sir, there is a still higher feeling about this matter. Look at the grants to the land States. Look at those to Michigan. At the last Congress we appropriated, I think, seven hundred and fifty thousand acres of public lands, to open her Sault Ste. Marie canal, as a great public measure for the public convenience, but decidedly for the interest of the great and growing State of Michigan. Other bills, three, I think, in number, my watchful and distinguished friend, the elder Senator from Michigan, [Mr. CASS] has already upon the table, for the advancement of his own State; and I honor him for it. He does not wish to see the public lands going to pay a debt of gratitude to the common people who have fought the battles of the Republic throughout the Union; but he wants them for the State of Michigan, to open canals for the prosperity of that individual State.

A further argument of my friend on this subject is, that this bill will affect the consciences of gentlemen who vote for it; he cannot well see how a conscientious Senator could reconcile himself to vote for the bill, because he says it impairs the land fund, and diminishes the value of the school lands in the public land States. The only reply I have to make to that is, that Congress has the power to manage the public lands, and I have the example of the Senator from Michigan, to give a vote which will have no greater or different effect from that which the homestead bill would have had.

Now, allow me to say a few words as to the policy of this measure. I do not think I have failed, from the time I have had the honor of being a member of Congress, to announce that I was opposed to any disposition of the public lands that would not bring money into the Treasury—that I wanted the proceeds of the sales of the public lands, in the first instance, to defray the expenses of the Government, and thereafter to diminish taxation on the people generally throughout the United States by reducing the tariff. That was a proposition on which I stood for years. When the process commenced in 1839-'40, of distributing the public lands in a different way, and making large appropriations to different States, and not to the States in general, I changed my mind, and came to the conclusion that the public lands belonged to the States of this Union; that after the payment of the debt created by the Revolution, the public lands, under the various contracts by which they were ceded to the General Government, became the property of the people at large, that if they were to be distributed without consideration, they should go to the whole people; and that the best mode to do so was by dividing the proceeds of their sale annually among the States, according to a ratio which should be adopted to carry it out. That became a party question in that day. I was in the minority. We failed to have this distribution of the proceeds of the public lands; and we have failed to the present hour.

Then came up the homestead bill, at a time when the public mind was disquieted, when you could hear in private and in public conversation that the public lands were a source of immorality, a source of speculation and of bad conduct generally, in relation to their disposition, not only by outsiders but insiders; and that combinations were being formed to promote internal improvements in the new States, and deprive the old States of any benefit at all out of the proceeds of the

land, to aid in their internal improvements. I opposed that. I opposed it upon principle, but with candor. I expressed my opposition from the place which I now occupy, as my friend from Iowa [Mr. DODGE] knows, and I never have changed my view on the subject; and it was because equal justice was due to every State of this Union, and partial justice I never would loan myself to aid. But I found I was then in a minority. It could not be well resisted. Public opinion was excited, and public opinion has grown to be very strong on that subject, because it is a subject of public justice which every honest man, whether educated or uneducated, can well comprehend and understand; and the theme, north, south, east, and west, is that we must put an end to the system of giving public lands to one State in preference to others, when all are equally entitled to them.

But, sir, when that system of railroad arrangement seemed to be at an end, the idea was thrown out that the lands were ruining the country; that we must have them occupied; that we must throw them into the market, and give them to those who should bid lowest; or, in other words, that whoever would go and settle upon them for five years should be entitled to the lands, and should receive a patent for them from us without fee or reward; not recollecting that those of us who dwelt in the old States, descended from the sires of the Revolution, who lived at the homesteads of our ancestry, and in the neighborhood of their graves, could receive no benefit from this system, unless we were to deny the place of our nativity, disconnect ourselves from our family relations, and settle in a distant part of the country This was well calculated to work up feelings in the bosom of every man who thought on the subject. I opposed that proposition with no prejudice, with no unkindness towards any man of my race, whether of one clime or another. I opposed it upon principles of justice and equity; and when I stand upon them I never falter. My friends around me will sustain me in the assertion that I have never gone to the right or the left of that proposition, but uniformly have stood upon it. I found that the Representatives of the people in the other House had the power to pass such a measure as is repulsive to the feelings of my nativity, my love for the place of my birth; that they were about to take all this domain from those who would not go into another State, and give it to whom, I will not describe. That is the so called homestead bill.

Sir, the lands are to go. Every one of us says so. Not a Senator on this floor can say now that he looks for any great pecuniary advantage to the General Government from the sale of the public lands. We wish to dispose of them. Here is a proposition to grant them to those men who fought in the war of the Revolution, and in the war of 1812, and to their descendants. My heart and my judgment come to the conclusion instantly that if the public lands are to be given away, they should be given to worthy men, and to the children of worthy men—to those who risked their lives in defense of our country, as the most worthy. But my friend asks why not give them to the civilian? Would he vote for that? If we put in the bill a provision for grants to sons of distinguished civilians, would he vote for it? Certainly not. Why then present that argument? It was merely to invalidate the claims of the soldiers of the Revolution, and of the war of 1812, and their descendants, and not to affect them, for his heart, I know, beats as strongly for them as that of any man on this floor. But he thinks the State of Michigan will be injured by our paying a debt of gratitude to the soldiers of the Revolution, and his devotion to his own State will make him forego the feelings of his heart, which I know would be in favor of discharging a debt of gratitude to those soldiers.

When you come to reduce the whole of his argument down to a point, it results in nothing else than this—that he is fearful the bill may, in some degree, injure the prosperity of Michigan. My opinion is the very contrary; for if his argument be true that the public lands will come down to the value of twenty dollars for every one hundred and sixty acres, then it will be a glorious era in this country, when the landless man in every State in the Union can pack up his goods and go to a place where he can get one hundred and sixty acres of land for twenty dollars.

The bill, in all its aspects, it seems to me, ought to receive the approval of those who are now against it as well as of those who are for it, for it disposes of the public lands, disperses our population, and gives to our landless people a home at the rate of twenty dollars for one hundred and sixty acres. Hence it is that I shall vote for it. There are objections to the bill. There are propositions there that I should vote against. But I have lived long enough to know that no bill of such magnitude can ever receive the united approval of a body of sixty-two intelligent men. Our nature, the character of our intellect, prevents our agreement on propositions of this sort. I agree, however, with at least seven tenths of the provisions of the bill; and, because I cannot go the other three tenths, I will not do injustice to my judgment, but submit to the frailty of human nature, and do the best I can.

Again, sir, my friend from Kentucky, [Mr. THOMPSON,] has just notified me that this day forty-one years ago the battle of the River Raisin was fought, when the best blood of old Kentucky was shed. And, now, to-day, although in the beginning of the war those men of the farm, of the shop, and of almost every place in Kentucky, who volunteered to go out in defense of the country, were slain and lost to their families and to the Union, their children must not be forgotten. We must not say, because they did not survive the battle-field, and to-day come here with all the glory which is always thrown around the survivors of such fields, that their heirs shall have nothing. The loss to the children of the father, and to the widow of the husband, was something. It creates a feeling within me that I cannot well suppress. The man, if his arm was broken would have received a pension; and if he died, his widow would get it; but, if, unfortunately he fell upon the battle-field, neither his widow nor his children, under the view of some gentlemen, should be respected for his actions. Sir, when I am selecting the beneficiaries of my bounty, I will select those who are most deserving; and in casting my mind over the whole American people who have acted for the benefit of the country, there are none, in my judgment, more entitled to our gratitude and support than the men who are named in the bill.

Mr. BADGER. The debate, sir, has taken a wide range, and is obviously bringing up the discussion of the whole land policy of the country. I perceive, also, that it is taking another direction, which, to me, is fraught with some degree of anxiety and alarm. The honorable Senator from Michigan has brought forward, on this occasion, a term which is not parliamentary. He has talked about conscience; and when I hear that word in the Senate, I fear that we are approaching some excitement which may end in a violation of the rules of order. [Laughter.] Under these circumstances, it seems to me that the time has arrived when, and the occasion requires that, I should submit the motion that the Senate do now adjourn.

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 22, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of Saturday was read and approved.

The SPEAKER laid before the House a communication from the War Department, in reply to a resolution of the House, instructing the Secretary of War to report whether, in his opinion, any military defense is necessary for Proctor's Landing, at the terminus of the Mexican Gulf railroad, Louisiana, transmitting a report from the chief engineer, giving the required information; which was laid upon the table, and ordered to be printed.

Mr. PECK, by unanimous consent, presented a joint resolution of the Legislature of the State of New York, protesting against the reissue of patents to Cyrus H. McCormick, Obed Hussey, or Moore & Hascall, for reaping machines; which was laid on the table, and ordered to be printed.

TERRITORIAL BUSINESS.

Mr. RICHARDSON. I ask the unanimous consent of the House to allow me to introduce a resolution, setting apart the 29th, 30th, and 31st days of the present month for the consideration of territorial business.

Mr. COBB. I object.

Mr. RICHARDSON. I move to suspend the rules to enable me to submit the resolution.

Mr. COBB. You cannot do that.

Mr. RICHARDSON. Why can I not make the motion?

The SPEAKER. There is already a special order pending before the House, upon which the main question has been ordered, which, as the gentleman must be aware, cannot be interfered with by a motion to suspend the rules.

Mr. HAMILTON. I demand the regular order of business.

RELIEF OF THE KANE EXPEDITION.

Mr. PENNINGTON. I hold in my hand the memorial of the Governor of New Jersey, the President of the Senate, and the Speaker of the House of Representatives, and of sundry members of the Legislature of that State, asking that an expedition may be fitted out by the Government of the United States, for the relief of Dr. Kane and his companions, in the Arctic expedition, which it seems to me presents a case which ought to be presented in open House. I ask that the memorial may be received, and referred to the Committee on Naval Affairs.

There being no objection, the memorial was received, and so referred.

Mr. CHANDLER. I rise to ask the unanimous consent of the House to take from the Speaker's table a joint resolution from the Senate, for the relief of the expedition of which mention has been made in the memorial just presented by the gentleman from New Jersey. If anything is to be done for the relief of this expedition, it must be done quickly. I trust the House will indulge me in having the resolution taken up and disposed of.

Mr. SMITH, of Virginia. I desire to know what is the condition of this joint resolution?

The SPEAKER. It is upon the Speaker's table. The gentleman from Pennsylvania asks the unanimous consent of the House to take it up and have it put upon its passage.

Mr. SMITH. I object, and call for the regular order of business.

Mr. EDGERTON. I ask the unanimous consent of the House to submit a resolution calling for information from the Secretary of the Interior.

Mr. LETCHER. I object, and call for the regular order of business.

Mr. EDGERTON. I hope the gentleman will withdraw his objection and allow this resolution to be adopted. It is merely a resolution for information.

Mr. LETCHER. I would do it cheerfully to accommodate the gentleman; but there are half a dozen others who are seeking the floor, and if I give way to one, I must to all. I demand the regular order of business.

Mr. HENN. I ask the gentleman to withdraw his demand to allow me to present certain joint resolutions of the Legislature of Iowa.

Mr. SMITH, of Virginia. They can be presented and referred at the Clerk's table.

The SPEAKER. The Chair will state that it is usual to have resolutions of the Legislatures of States presented in open House.

Mr. LETCHER. If I withdraw my demand for one I must for another; and I decline. I demand the regular order of business.

PACIFIC RAILROAD.

The SPEAKER. The regular order of business is the consideration of the bill "to provide for the establishment of a railroad and telegraphic communication between the Atlantic States and the Pacific ocean, and for other purposes." The question now pending, is upon the passage of the bill; upon which the main question has been ordered.

Mr. HAMILTON. Upon that question I demand the yeas and nays.

The yeas and nays were ordered.

Mr. CAMPBELL. Is this the Pacific Railroad bill?

The SPEAKER. It is.

Mr. CAMPBELL. I move to reconsider the vote by which the main question was ordered to be put, with a view of then submitting the motion that it be recommitted to the select committee.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. TUESDAY, JANUARY 23, 1855. NEW SERIES...No. 32.

Mr. McDOUGALL. I move to lay the motion to reconsider upon the table.

Mr. CAMPBELL. Upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. FLORENCE. I rise to a question of order. I desire to inquire if the gentleman from Ohio, who makes the motion to reconsider, voted in the affirmative upon ordering the main question?

The SPEAKER. There was no division of the House upon that question.

The question was then taken; and the motion decided in the negative—yeas 87, nays 104; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, Banks, Benton, Bliss, Bristow, Bugg, Caruthers, Chamberlain, Chrisman, Clark, Cook, Corwin, Cumming, Cutting, John G. Davis, Thomas Davis, Dawson, De Witt, Drum, Eastman, Eddy, Edgerton, Ellison, English, Etheridge, Everhart, Farley, Florence, Gamble, Green, Greenwood, Grey, Andrew J. Harlan, Harrison, Hendricks, Henn, Hughes, Johnson, Knox, Lamb, Lane, Latham, Lindley, Lindsley, McCulloch, McDougall, Mace, Macy, Matteson, John G. Miller, Nichols, Noble, Norton, Olds, Mordecai Oliver, Parker, Phelps, Ready, Richardson, Riddle, David Ritchie, Robbins, Sabin, Sapp, Shannon, Samuel A. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, Andrew Stuart, John L. Taylor, Nathaniel G. Taylor, Thurston, Tweed, Upham, Walbridge, Walker, Walley, Warren, Elihu B. Washburne, Wells, Westbrook, Yates, and Zollicoffer—87.

NAYS—Messrs. Abercrombie, Aiken, Appleton, Thomas H. Bayly, Barksdale, Barry, Belcher, Bell, Bennett, Benson, Bocock, Boyce, Breckinridge, Bridges, Brooks, Campbell, Carpenter, Caskie, Chase, Chastain, Clingman, Cobb, Colquitt, Cox, Craige, Crocker, Cullom, Dick, Dickinson, Disney, Dunbar, Edmands, Faulker, Fenton, Flagler, Franklin, Fuller, Giddings, Goode, Goodwin, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Wiley P. Harris, Hastings, Haven, Hibbard, Hillyer, Houston, Hunt, Ingersoll, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kittredge, Kurtz, Letcher, Lewis, Macdonald, McQueen, Maurice, Maxwell, May, Middleswarth, Millson, Morgan, Morrison, Murray, Andrew Oliver, Beck, Peckham, Pennington, Bishop Perkins, John Perkins, Powell, Pratt, Pringle, Puryear, Reese, Ruffin, Russell, Seward, Shaw, Shower, Simmons, Singleton, William Smith, William R. Smith, George W. Smyth, Stratton, John J. Taylor, Teller, Trout, Vansant, Wade, Israel Washburn, John Wentworth, Tappan Wentworth, Witte, and Daniel B. Wright—104.

So the House refused to lay the motion to reconsider upon the table.

The question recurred upon Mr. CAMPBELL's motion to reconsider the vote by which the main question was ordered to be put.

Mr. CAMPBELL. I desire to inquire whether, if that vote is reconsidered, it will then be in order to move to recommit the bill to a select committee?

The SPEAKER. Such a motion, according to the practice under the present occupant of the Chair, will be in order.

Mr. CAMPBELL. Then I desire to inform the House that I will submit a motion of that kind if the vote is reconsidered.

Mr. WARREN. I desire to know whether, if this motion prevails, it will then be in order to amend the bill?

The SPEAKER. The bill will then be in a condition for amendment or commitment.

Mr. BOCOCK. Not until the vote is reconsidered by which the bill was ordered to be engrossed.

The SPEAKER. That is true.

Mr. CAMPBELL. I would ask whether a motion to reconsider the vote on the engrossment has not been submitted and laid upon the table?

Mr. McDOUGALL. It has not.

Mr. CAMPBELL. I think the Journal of Saturday will show that fact. The motion was submitted by the gentleman from Indiana, [Mr. DAVIS.]

The SPEAKER. And subsequently withdrawn by him. No such vote was taken.

Mr. WARREN. I desire to ascertain whether I understand the Chair correctly.

The SPEAKER. The Chair will state the exact effect of the motion. If the vote by which the main question was ordered to be now put be reconsidered, and the House should see proper to reconsider the vote by which the bill was ordered to be engrossed and read a third time, it may be committed, but only after the vote by which it was ordered to be engrossed has been reconsidered. Before that vote is taken, however, it may be recommitted to the select committee under an express rule, but it cannot be committed to a new committee. That is the recollection of the Chair with regard to the rule. But the reconsideration of the vote by which the bill was ordered to be engrossed, will place it in a condition to be committed or recommitted.

Mr. WARREN. I would inquire further, whether the time for making the motion to reconsider has not elapsed?

The SPEAKER. It has not.

The question was then taken on Mr. CAMPBELL's motion; and it was decided in the affirmative—yeas 105, nays 92; as follows:

YEAS—Messrs. Aiken, Barksdale, Barry, Belcher, Bell, Bennett, Benson, Bocock, Boyce, Breckinridge, Bridges, Brooks, Campbell, Carpenter, Caskie, Chase, Chastain, Clingman, Cobb, Colquitt, Corwin, Cox, Craige, Crocker, Cullom, Dick, Dickinson, Dunbar, Eastman, Faulkner, Fenton, Flagler, Franklin, Fuller, Giddings, Goode, Goodwin, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Wiley P. Harris, Haven, Hibbard, Hillyer, Houston, Hunt, Ingersoll, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kidwell, Kittredge, Kurtz, Letcher, Lewis, Macdonald, McQueen, Maurice, Maxwell, May, Middleswarth, Millson, Morgan, Morrison, Murray, Andrew Oliver, Orr, Peck, Peckham, Pennington, Bishop Perkins, John Perkins, Pratt, Pringle, Puryear, Reese, Ruffin, Russell, Seward, Shaw, Shower, Simmons, Singleton, William Smith, William R. Smith, George W. Smyth, Stratton, Straub, John J. Taylor, Teller, Trout, Vansant, Wade, Walsh, Warren, Israel Washburn, John Wentworth, Tappan Wentworth, Wheeler, Witte, and Wright—105.

NAYS—Messrs. James C. Allen, Willis Allen, Appleton, Ball, Banks, Benton, Bliss, Bristow, Bugg, Caruthers, Chamberlain, Clark, Cook, Cumming, Cutting, John G. Davis, Thomas Davis, Dawson, De Witt, Disney, Drum, Dunham, Eddy, Edgerton, Edmands, John M. Elliott, Ellison, English, Etheridge, Everhart, Farley, Florence, Gamble, Goodrich, Green, Greenwood, Grey, Andrew J. Harlan, Harrison, Hendricks, Henn, Hughes, Johnson, Knox, Lamb, Latham, Lindley, Lindsley, McCulloch, McDougall, Mace, Macy, Matteson, Meacham, John G. Miller, Smith Miller, Nichols, Noble, Norton, Olds, Mordecai Oliver, Parker, Phelps, Preston, Ready, Richardson, David Ritchie, Robbins, Rowe, Sabin, Sapp, Shannon, Samuel A. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Andrew Stuart, David Stuart, John L. Taylor, Nathaniel G. Taylor, Thurston, Tweed, Upham, Walbridge, Walker, Walley, Elihu B. Washburne, Wells, Westbrook, Yates, and Zollicoffer—92.

So the vote by which the main question was ordered to be put was reconsidered.

Mr. CAMPBELL. I understand that it is now in order to move to recommit the bill to the select committee heretofore constituted.

The SPEAKER. Under rule 120 it is in order. That rule is as follows:

"After commitment and report thereon to the House, or at any time before its passage, a bill may be recommitted."

Mr. CAMPBELL. Well, then, sir, I make that motion; and, as it is debatable, I propose to call the previous question in one moment. The bill is evidently very imperfect. This House certainly has not had time to examine the vast amount of information which has been reported to it at an enormous expense, and yet I feel that it is due to the select committee that the bill should be recommitted to that committee instead of having a new committee raised. I therefore move that the bill be recommitted to the select committee, and upon that motion I demand the previous question.

Mr. WASHBURN, of Maine. Will the gentleman withdraw the demand for one moment to allow me to ask a question?

Mr. CAMPBELL. I will withdraw the motion for the previous question, for the purpose of hearing the gentleman's inquiry, retaining the floor however.

Mr. WASHBURN. I would ask the gentleman to withdraw it sufficiently long to enable me to move to reconsider the vote by which the bill was ordered to be engrossed on Saturday, in order that I may then move to amend the bill.

Mr. CAMPBELL. I cannot withdraw the previous question for any such purpose.

Mr. WASHBURN. Will the gentleman hear me for a moment? If the vote on the engrossment should be reconsidered, my purpose would then be to offer an amendment which is, substantially, the substitute offered by the gentleman from Louisiana, [Mr. DUNBAR.]

Mr. CAMPBELL. I will say, Mr. Speaker, in regard to this matter, that I think we have been floundering about in the dark long enough for a short session. It is time that we should send this bill back to the committee in which it originated, in order to have it perfected, and in order that we may derive from the various reports of the surveys, the information so essential to correct legislation. We all know that there are other very important measures before Congress, and I do not want this bill to clog the business of the session any longer.

Mr. RICHARDSON. I want to ask the gentleman from Ohio a question. Why not move to lay the bill on the table? It is very apparent that the gentleman does not wish it to pass.

Mr. CAMPBELL. Well, I do not wish to give the bill a decisive blow of that kind. I am for the great idea of a connection by railway between the Atlantic and the Pacific oceans.

Mr. McDOUGALL. I would ask the gentleman from Ohio whether he will amend his motion so as to fix a day on which the committee shall report as early as this week?

Mr. PRESTON. Say next Thursday, at twelve o'clock.

Mr. McDOUGALL. That will test the sincerity of the gentleman.

Mr. BENTON. I have a question of privilege, sir, on behalf of the dead—the privileges of the dead, sir. I wish to know whether that select committee did not report in full, and whether it is not *functus officio*? This is a proposition to refer the subject to the dead.

The SPEAKER. The rule is very clear as to the right to recommit, ordinarily. The select committee of the last session having reported in full, might, perhaps, be considered extinct; but the Chair feels authorized to receive a motion to recommit to that particular committee, and holds such a motion to be in order. The Chair thinks that if such a motion should prevail, the committee would, in that case, be still in existence. That seems to be the fairest construction the Chair can put upon the rules, in response to the question raised by the gentleman from Missouri.

Mr. CAMPBELL. I do not suppose that the inquiry of the gentleman from California [Mr. MCDOUGALL] was made for the purpose of endeavoring to place me in a false position in relation to this measure. I will not accept such a modification of my motion as he suggests, for the reason that it would be utterly impossible for the members of this House to examine in a week—I might almost say a month, if they discharge their other duties—the various reports and all the information upon this subject.

Mr. WASHBURN, of Maine. Will the gentleman from Ohio [Mr. CAMPBELL] allow me one question.

Mr. CAMPBELL. No, Mr. Speaker, no more questions. I now move the previous question on the proposition to recommit the bill to the select committee of thirteen.

[Cries of "Question!" "Question!"]

Mr. SMITH, of Virginia. Notwithstanding the call for the previous question that has just been made by the gentlman from Ohio, I suppose it is in order to move to lay the whole subject on the table.

The SPEAKER. It is in order to make such motion.

Mr. TWEED. Although a friend of the bill, Mr. Speaker, I move to lay the whole subject on the table.

[Loud cries of "Question!" "Question!" "Order!" Order!"]

Mr. SEWARD. I should like to know the effect of recommitting the bill to the select committee. Would they have the power of amending it?

The SPEAKER. It can be amended by that committee.

Mr. FLORENCE. And at what time, Mr. Speaker, could that committee make their report?

The SPEAKER. The Chair must refer gentlemen to the rules of the House, which are for

their guidance as well as for his. The question is now on seconding the demand for the previous question.

Mr. TWEED. I desire to know, Mr. Speaker, what has become of my motion to lay the whole subject on the table?

The SPEAKER. The Chair understood that the gentleman from New York had withdrawn his motion.

Mr. TWEED. No, sir; I have not withdrawn it.

The SPEAKER. Then the Chair asks the gentleman's pardon. I have done my best to hear what is said, and thought the gentleman had withdrawn his motion. The question, then, is on the motion submitted by the gentleman from New York, to lay the whole subject on the table.

Mr. WENTWORTH, of Illinois. And on that motion I ask for the yeas and nays.

The yeas and nays were not ordered—twenty-six gentlemen only rising in their seats.

Mr. WENTWORTH. I call for tellers on the yeas and nays.

Tellers were not ordered.

Mr. TWEED. As I find I cannot get the yeas and nays on my motion, I now withdraw it.

The SPEAKER. Then the question is on seconding the demand for the previous question.

Mr. WARREN. I desire to know whether the gentleman from Ohio would not accept a modification of his motion, so as to instruct the select committee of thirteen to report to this House within two or three days?

Mr. CAMPBELL. I have already answered a like question a short while ago. I will not consent to the proposed modification, for the reason that the very object which I have in view would be defeated thereby.

[Cries of "Question!" "Question!"]

Mr. HAMILTON. It would require a vote of two thirds of the House to make that order, and I object.

The question being on seconding the demand for the previous question,

Mr. KERR asked for tellers.

Tellers were not ordered.

The previous question was seconded—95 voting in the affirmative, and 58 in the negative—and the main question was ordered to be put, which was, "Shall the bill be recommitted to the committee of thirteen?"

Mr. FLORENCE called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 101, nays 105; as follows.

YEAS—Messrs. Abercrombie, Thomas H. Bayly, Barksdale, Barry, Belcher, Bennett, Benson, Bocock, Bridges, Campbell, Carpenter, Caskie, Chandler, Chase, Clingman, Cobb, Colquitt, Corwin, Craige, Crocker, Cullom, Curtis, Thomas Davis, Dick, Dunbar, English, Faulkner, Fenton, Flagler, Franklin, Fuller, Giddings, Goode, Goodrich, Goodwin, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Wiley P. Harris, Hastings, Haven, Hibbard, Hillyer, Houston, Hunt, Ingersoll, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kidwell, Kittredge, Kurtz, Letcher, Lewis, Lyon, McQueen, Maurice, Maxwell, May, Middleswarth, Millson, Morgan, Morrison, Murray, Andrew Oliver, Orr, Peck, Peckham, Pennington, Bishop Perkins, John Perkins, Phillips, Powell, Pringle, Puryear, Reese, Ruffin, Russell, Sapp, Seward, Shaw, Shower, Simmons, Singleton, William Smith, William R. Smith, Stratton, John J. Taylor, Teller, Trout, Vansant, Wade, Walsh, Wheeler, Witte, and Daniel B. Wright—101.

NAYS—Messrs. Aiken, James C. Allen, Willis Allen, Appleton, David J. Bailey, Ball, Banks, Bell, Benton, Bliss, Boyce, Breckinridge, Bristow, Bugg, Caruthers, Chamberlain, Chrisman, Churchwell, Clark, Cook, Cox, Cumming, Cutting, John G. Davis, Dawson, De Witt, Dickinson, Disney, Drum, Dunham, Eastman, Eddy, Edgerton, John M. Elliott, Ellison, Etheridge, Everhart, Farley, Florence, Green, Greenwood, Grey, Andrew J. Harlan, Harrison, Hendricks, Henn, Hughes, Johnson, Knox, Lamb, Lane, Latham, Lindley, Lindsley, McCulloch, Macdonald, McDougall, Mace, Macy, Matteson, John G. Miller, Smith Miller, Nichols, Noble, Norton, Olds, Mordecai Oliver, Parker, Phelps, Pratt, Preston, Ready, Richardson, David Ritchie, Thomas Ritchey, Robbins, Rowe, Sabin, Shannon, Samuel A. Smith, George W. Smyth, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, Andrew Stuart, David Stuart, Nathaniel G. Taylor, Thurston, Tweed, Upham, Walbridge, Walker, Walley, Warren, Elihu B Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Hendrick B. Wright, Yates, and Zollicoffer—105.

So the House refused to recommit the bill to the select committee of thirteen.

The question recurred on the passage of the bill.

Mr. WARREN. I move to reconsider the vote by which the bill was ordered to be engrossed and read a third time; and I will state to the House that I make this motion with a view of offering an amendment.

Mr. CAMPBELL. I move to lay the motion to reconsider on the table.

The SPEAKER. The Chair must decide, under the rule, that the motion to reconsider the vote by which the bill was ordered to be engrossed and read a third time cannot be in order, for the reason that the House has, by its vote, determined that the main question on the passage of the bill shall now be put.

Mr. RICHARDSON. And the House has reconsidered that vote.

The SPEAKER. That order of the House was made on Saturday last. This morning, on the motion of the gentleman from Ohio, [Mr. CAMPBELL,] the vote of the House of Saturday, ordering the main question to be put upon the passage of the bill, was reconsidered. After the submission of the motion to recommit, on the demand of the gentleman from Ohio, the House again voted that the main question should be put. The Chair is of opinion that the House cannot reconsider the vote by which the main question was ordered to be put more than once. That reconsideration has been had. The House, therefore, having ordered the main question to be now put, it is not in order to reconsider, or to amend, or to recommit.

Mr. WARREN. Then I withdraw my motion. [Laughter.]

Mr. WENTWORTH, of Illinois. I understand that the motion——

Mr. JONES, of Louisiana. I rise to a privileged question.

The SPEAKER. The gentleman from Louisiana will state his question of privilege.

Mr. WENTWORTH. I have risen to a question of privilege, too. It is this: I understand that the motion which has just failed to pass, was the motion to recommit. I voted against recommitting the bill, as I supposed we could go back and reconsider the vote by which the bill was ordered to be engrossed and read a third time. As the Chair decides that cannot be done, I now move to reconsider the vote by which the House has just refused to recommit the bill.

[Cries of "Exactly!" "That is right!"]

The SPEAKER. The motion of the gentleman from Illinois is in order.

Mr. WENTWORTH. And on my motion to reconsider I ask the yeas and nays. There are several gentlemen who voted under the same impression.

Mr. SOLLERS. Is it now in order to move to lay the motion of the gentleman from Illinois on the table?

The SPEAKER. That motion would be in order.

Mr. SOLLERS. Then I make that motion.

Mr. WASHBURN, of Maine. And on that I call for the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. A motion has been made by the gentleman from Illinois, [Mr. WENTWORTH,] that the vote by which the House refused to recommit the bill be reconsidered; and the gentleman from Maryland [Mr. SOLLERS] moves to lay the motion to reconsider on the table. The question is on the latter motion.

The question was taken; and it was decided in the negative—yeas 98, nays 103; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, Appleton, Banks, Bell, Benton, Bliss, Breckinridge, Bristow, Bugg, Caruthers, Chamberlain, Chrisman, Churchwell, Clark, Cook, Corwin, Cox, Cumming, Cutting, John G. Davis, Dawson, Dickinson, Disney, Drum, Dunham, Eastman, Eddy, Edgerton, John M. Elliott, Ellison, English, Etheridge, Everhart, Farley, Florence, Green, Greenwood, Grey, Andrew J. Harlan, Harrison, Hendricks, Henn, Hughes, Johnson, Knox, Lamb, Latham, Lindley, Lindsley, McCulloch, McDougall, Mace, Macy, Matteson, John G. Miller, Smith Miller, Nichols, Noble, Norton, Olds, Mordecai Oliver, Parker, Phelps, Preston, Ready, Richardson, David Ritchie, Thomas Ritchey, Robbins, Rowe, Sabin, Shannon, Samuel A. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, Andrew Stuart, David Stuart, John L. Taylor, Nathaniel G. Taylor, Thurston, Tweed, Upham, Walbridge, Walker, Walley, Warren, Elihu B. Washburne, Israel Washburn, Wells, Tappan Wentworth, Westbrook, Hendrick B. Wright, Yates, and Zollicoffer—98.

NAYS—Messrs. Abercrombie, Aiken, David J. Bailey, Thomas H. Bayly, Ball, Barksdale, Barry, Belcher, Bennett, Benson, Bocock, Boyce, Bridges, Brooks, Campbell, Carpenter, Caskie, Chase, Chastain, Clingman, Cobb, Colquitt, Craige, Crocker, Cullom, Curtis, Thomas Davis, Dick, Dunbar, Faulkner, Fenton, Flagler, Franklin, Fuller, Giddings, Goode, Goodrich, Goodwin, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Hastings, Haven, Hibbard, Hillyer, Houston, Hunt, Ingersoll, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kidwell, Kittredge, Letcher, Lewis, Lyon, Macdonald, McQueen, Maurice, Maxwell, Middleswarth, Millson, Morgan, Morrison, Murray, Andrew Oliver, Orr, Peck, Peckham, Pennington, Bishop Perkins, John Perkins, Phillips, Powell, Pringle, Puryear, Reese, Rogers, Ruffin, Russell, Sapp, Seward, Shaw, Shower, Simmons, Singleton, William Smith, George W. Smyth, Stratton, John J. Taylor, Teller, Trout, Vansant, Wade, Walsh, John Wentworth, Wheeler, Witte, and Daniel B. Wright—103.

So the House refused to lay on the table the motion to reconsider the vote by which the House had refused to recommit the bill.

Mr. WENTWORTH. I now ask for the yeas and nays on my motion to reconsider.

The yeas and nays were ordered.

Mr. WASHBURN, of Maine. Would it be in order now, Mr. Speaker, to move to reconsider the vote by which the bill was ordered to be engrossed?

The SPEAKER. It would not.

The question was taken; and it was decided in the affirmative—yeas 103, nays 100; as follows:

YEAS—Messrs. Abercrombie, Aiken, David J. Bailey, Thomas H. Bayly, Ball, Barksdale, Barry, Belcher, Bennett, Benson, Bocock, Boyce, Bridges, Brooks, Campbell, Carpenter, Caskie, Chase, Chastain, Clingman, Cobb, Colquitt, Craige, Crocker, Cullom, Curtis, Dick, Dunbar, Faulkner, Fenton, Flagler, Franklin, Fuller, Giddings, Goode, Goodrich, Goodwin, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Wiley P. Harris, Hastings, Haven, Hibbard, Hillyer, Houston, Hunt, Ingersoll, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kidwell, Kittredge, Letcher, Lewis, Lyon, Macdonald, McQueen, Maurice, Maxwell, Middleswarth, Millson, Morgan, Morrison, Murray, Andrew Oliver, Orr, Peck, Peckham, Pennington, Bishop Perkins, John Perkins, Phillips, Powell, Pringle, Puryear, Reese, Rogers, Ruffin, Russell, Sapp, Seward, Shaw, Shower, Simmons, Singleton, William Smith, George W. Smyth, Stratton, John J. Taylor, Teller, Trout, Vansant, Wade, Walsh, John Wentworth, Wheeler, Witte, and Daniel B. Wright—103.

NAYS—Messrs. James C. Allen, Appleton, Banks, Bell, Benton, Bliss, Breckinridge, Bristow, Bugg, Caruthers, Chamberlain, Chrisman, Churchwell, Clark, Cook, Corwin, Cox, Cumming, Cutting, John G. Davis, Dawson, De Witt, Dickinson, Disney, Drum, Dunham, Eastman, Eddy, Edgerton, Edmands, John M. Elliott, Ellison, English, Etheridge, Everhart, Farley, Florence, Green, Greenwood, Grey, Andrew J. Harlan, Harrison, Hendricks, Henn, Hughes, Johnson, Lamb, Lane, Latham, Lindley, Lindsley, McCulloch, McDougall, Mace, Macy, John G. Miller, Smith Miller, Nichols, Noble, Norton, Olds, Mordecai Oliver, Parker, Phelps, Pratt, Preston, Ready, Richardson, David Ritchie, Thomas Ritchey, Robbins, Rowe, Sabin, Shannon, Samuel A. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, Andrew Stuart, David Stuart, John L. Taylor, Nathaniel G. Taylor, Thurston, Tweed, Upham, Walbridge, Walker, Walley, Warren, Elihu B. Washburne, Israel Washburn, Wells, Tappan Wentworth, Westbrook, Hendrick B. Wright, Yates, and Zollicoffer—100.

So the vote by which the House had refused to recommit the bill to the select committee of thirteen was reconsidered.

Mr. WENTWORTH. I now desire to move to recommit this bill to the committee of thirteen, with instructions to report back the three bills on Thursday next.

Mr. HAMILTON. That is not in order.

Mr. WENTWORTH. Can we not instruct the committee when to report?

The SPEAKER. The House cannot instruct the committee. It would require a suspension of the rules to reach the object of the gentleman from Illinois.

The question recurred on the motion to recommit the bill.

Mr. DAVIS, of Indiana, demanded the yeas and nays.

The yeas and nays were ordered.

Mr. WENTWORTH. I desire to know, Mr. Speaker, whether we cannot instruct the committee when to report?

The SPEAKER. No.

Mr. HAVEN. Is this an unqualified vote to recommit the bill to the committee of thirteen?

The SPEAKER. It is an unqualified vote to recommit the bill to the committee of thirteen, which committee, the Chair holds, is in existence for all purposes connected with this particular bill.

The question was taken; and there were—yeas 103, nays 103; as follows:

YEAS—Messrs. Abercrombie, Aiken, David J. Bailey, Thomas H. Bayly, Ball, Barksdale, Barry, Belcher, Bennett, Benson, Bocock, Boyce, Bridges, Brooks, Campbell, Carpenter, Caskie, Chase, Chastain, Clingman, Cobb, Colquitt, Craige, Crocker, Cullom, Curtis, Dick, Dunbar, Eastman, Faulkner, Fenton, Flagler, Franklin, Fuller, Giddings, Goode, Goodrich, Goodwin, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Wiley P. Harris, Hastings,

Haven, Hibbard, Hillyer, Houston, Hunt, Ingersoll, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Kerr, Kidwell, Kittredge, Kunz, Letcher, Lewis, Lyon, Macdonald, McQueen, Maurice, May, Middleswarth, Millson, Morgan, Morrison, Murray, Andrew Oliver, Orr, Peck, Peckham, Pennington, Bishop Perkins, John Perkins, Powell, Pringle, Puryear, Reese, Rogers, Ruffin, Russell, Sapp, Shaw, Shower, Simmons, Singleton, William Smith, William R. Smith, George W. Smyth, Stratton, John J. Taylor, Trout, Vansant, Wade, Walsh, John Wentworth, Wheeler, Witte, Daniel B. Wright, and Hendrick B Wright—103.

NAYS—Messrs. James C. Allen, Willis Allen, Appleton, Banks. Bell, Benton, Bliss, Breckinridge, Bristow, Bugg, Caruthers, Chamberlain, Chrisman, Churchwell, Clark, Cook, Corwin, Cox, Cumming, Cutting, John G. Davis, Thomas Davis, Dawson, De Witt, Dickinson, Disney, Drum, Dunham, Eddy, Edgerton, Edmands, John M. Elliott. Ellison, English, Etheridge, Everhart, Farley, Florence, Gamble, Green, Greenwood. Grey. Andrew J. Harlan, Harrison, Hendricks, Henn, Hughes, Johnson, Keitt Knox, Lamb, Lane, Latham, Lindley, Lindsley, McCulloch, McDougall, Mace, Macy, Matteson, Maxwell, John G. Miller, Smith Miller, Nichols, Noble, Norton, Olds, Mordecai Oliver, Parker, Phelps, Pratt, Preston, Ready, Richardson, David Ritchie, Thomas Ritchey, Robbins, Rowe, Sabin, Seward, Shannon, Samuel A. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Andrew Stuart, David Stuart, John L. Taylor, Nathaniel G. Taylor, Thurston, Tweed, Upham, Walbridge, Walker, Walley, Warren, Ellihu B. Washburne, Israel Washburn, Wells, Tappan Wentworth, Westbrook, Yates, and Zollicoffer—103.

The Chair voting in the negative, the House refused to recommit the bill to the committee of thirteen.

Mr. MILLSON. I desire to ask the Chair if a motion to reconsider the vote by which the House refused, on Saturday, to commit the bill to a select committee, will be in order?

The SPEAKER. It will not be in order, for the reason that the bill is not in a stage for commitment.

Mr. MILLSON. I presumed that would be the reply of the Speaker. I then ask if it would be in order to submit a motion to reconsider the vote by which the House ordered the bill to a third reading and engrossment on Saturday, and then to get it into a condition by which the bill may be again committed to a select committee.

The SPEAKER. The Chair has already stated this morning, that a vote of the House ordering the main question to be put cannot be reconsidered more than once. The main question was ordered upon the passage of the bill on Saturday, reconsidered again, and reordered to-day by the House. The Chair thinks that, under the rules, it cannot be reconsidered a second time; unless that order of the House can be removed, it is impossible, in the opinion of the Chair, under the rules, to reconsider the vote by which the bill was ordered to a third reading.

Mr. MILLSON. Will the Chair allow me to make a suggestion?

The SPEAKER. The Chair would be pleased to hear the gentleman.

Mr. MILLSON. I remember that the Chair expressed the opinion this morning, that it was not competent a second time to move to reconsider the vote by which the main question was ordered to be put. I only wish to suggest to the Chair that the House will not be reconsidering the same question a second time, for the main question on Saturday was a question as to the passage of the bill.

The SPEAKER. Alone?

Mr. MILLSON. Alone; whereas to-day there was another question interposed, and that was the motion of the gentleman from Ohio, to refer the bill to a select committee. The questions, therefore, are not the same; and if the Chair will oblige me by hearing a single suggestion further, I will state that even upon the broad ground, which I do not think exists here, of the capacity of the House to reconsider the last vote which they may have taken, in a question involving even more interest and importance than the bill before the House—the passage of the celebrated compromise act of 1850—when the Speaker decided that it was not competent for the House to reconsider the question a second time, I felt myself constrained, although violently opposed to the bill, and in favor of the results of the Speaker's decision, to appeal from that decision, and I voted to reverse it. I do not think the Chair will see that that question is necessarily presented to-day; but the intrusion of the motion of the gentleman from Ohio [Mr. CAMPBELL] puts this question in an entirely different condition. If the Chair should decide that it does not, with great deference to the superior knowledge of the Chair in the rules of the House, I shall feel constrained again to submit the question for the decision of the House.

The SPEAKER. The Chair cannot change his decision. On Saturday the House ordered the main question to be put upon the passage of the bill. This morning the House reconsidered the vote by which the main question was ordered to be put on Saturday, which places the House in a condition, if it chooses so to do, to have considered the question by which the bill was ordered to a third reading. The House did not choose to do that, and, upon a motion submitted to recommit the bill, the main question was again ordered; which covered the vote upon the passage of the bill as well as the motion to commit. The House refuses to recommit the bill; which brings the House precisely to the condition in which it found itself this morning, when it reconsidered the vote ordering the main question. The question is precisely in the same condition, and the Chair, with his present understanding of the rules, cannot change his opinion that it is incompetent for the House to reconsider the second time the vote by which the bill was ordered to be engrossed and read the third time.

Mr. MILLSON. On Saturday the main question was ordered; that is to say, the House determined that the question on the passage of the bill should be put. To-day the main question is ordered; that is to say——

Mr. McDOUGALL. I ask whether this debate is in order? I object to the gentleman's proceeding.

The SPEAKER. The gentleman from Virginia [Mr. MILLSON] is called to order, and the Chair must state that debate is not in order, the main question having been ordered to be put. The Chair hopes to be indulged in presenting a case. Suppose a bill is ordered to be engrossed; the House reconsider the engrossment, amend the bill, and then engross it. Can you reconsider the engrossment a second time?

Mr. MILLSON. I think so.

The SPEAKER. The Chair does not, and therefore, as the Chair understands, the gentleman from Virginia appeals from the decision of the Chair.

Mr. MILLSON. Believing that the Chair is in error in the decision which he has made, I respectfully appeal from that decision.

Mr. ORR. I move to lay the appeal of the gentleman from Virginia upon the table. We can never end legislation, if we can reconsider a vote half a dozen times.

The SPEAKER. The Chair begs leave to remark, as there seems to be some interest upon this particular vote, that he does not intend to commit himself as in favor of the bill by voting against its commitment, as he is opposed to the bill.

Mr. WALSH. I rise to an important question of order, whether it is proper, when the previous question has been put and sustained, for the Speaker to deliver his sentiments upon the subject? [Laughter.]

The SPEAKER. The question is out of order, because it comes too late. [Laughter.]

Mr. WALSH. Is it not well taken?

The SPEAKER. Most certainly. [Laughter.]

Mr. CRAIGE. I believe we have a standing rule which prevents members from going to the Clerk's desk when a vote is being taken.

The SPEAKER. It is in violation of the rules for members to go to the Clerk's desk during the call of the yeas and nays. The Chair hopes that gentlemen will remember this rule and obey it.

Mr. MILLSON. As some of my friends prefer to present the question of order I have submitted when there is more probability of obtaining a vote upon it free from the bias operating upon the present occasion, I will withdraw my appeal.

The SPEAKER. The question now recurs upon the passage of the bill.

Mr. McDOUGALL demanded the yeas and nays; which were ordered.

Mr. WALSH. I wish to call the attention of the Speaker to the fact, that members are in the habit of going to the Clerk's desk when a vote is being taken. I now give due notice, that the first gentleman that I catch there, I shall call the attention of the House to the fact.

The SPEAKER. The Chair would be pleased to have the aid of the gentleman from New York in enforcing the rules.

The question was then taken upon the passage of the bill; and there were—yeas 109, nays 97; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, Appleton, Ball, Banks, Bennett, Benson, Benton, Bliss, Bristow, Bugg, Campbell, Caruthers, Chamberlain, Chandler, Chrisman, Clark, Cook, Cox, Cullom, Cumming, Cutting, John G. Davis, Thomas Davis, Dawson, De Witt, Dick, Dickinson, Disney, Drum, Dunham, Eddy, Edgerton, Edmands, John M. Elliott, Ellison, English, Etheridge, Everhart, Farley, Florence, Gamble, Goodrich, Goodwin, Green, Greenwood, Grey, Andrew J. Harlan, Harrison, Hendricks, Henn, Hughes, Johnson, Knox, Lamb, Latham, Lindley, Lindsley, Lyon, McCulloch, McDougall, Macy, Matteson, Middleswarth, John G. Miller, Smith Miller, Noble, Norton, Olds, Mordecai Oliver, Parker, Phelps, Ready, Richardson, Riddle, David Ritchie, Thomas Ritchey, Robbins, Rowe, Russell, Sabin, Sapp, Shannon, Samuel A. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, Andrew Stuart, David Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Tweed, Upham, Walbridge, Walker, Walley, Warren, Ellihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Yates, and Zollicoffer—109.

NAYS—Messrs. Abercrombie, Aiken, David J. Bailey, Thomas H. Bayly, Barksdale, Belcher, Bell, Bocock, Boyce, Breckinridge, Bridges, Brooks, Carpenter, Caskie, Chase, Chastain, Clingman, Cobb, Colquitt, Craige, Crocker, Curtis, Dunbar, Eastman, Faulkner, Fenton, Flagler, Franklin, Fuller, Giddings, Goode, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Wiley P. Harris, Hastings, Haven, Hibbard, Hillyer, Houston, Hunt, Ingersoll, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kidwell, Kittredge, Letcher, Lewis, Macdonald, McQueen, Maurice, Maxwell, May, Millson, Morgan, Morrison, Murray, Nichols, Andrew Oliver, Orr, Peck, Peckham, Pennington, Bishop Perkins, John Perkins, Phillips, Powell, Pratt, Pringle, Puryear, Reese, Rogers, Ruffin, Seward, Shaw, Shower, Simmons, Singleton, William Smith, William R. Smith, George W. Smyth, Stratton, John J. Taylor, Trout, Vansant, Wade, Walsh, Wheeler, Witte, Daniel B. Wright, and Hendrick B. Wright—97.

So the bill was passed.

Pending the call of the yeas and nays,

Mr. CORWIN said: I have paired off with Mr. McMULLIN upon this question. He would not vote for the bill in any situation; I am in favor of the bill, and had I not paired off, I should vote for it.

Mr. MACE, also, said: I desire to withdraw my vote, and to state the reasons for so doing. On Saturday I agreed to pair off with Mr. EDMUNDSON, of Virginia. He stated to me that he should probably leave the city, but was not certain that he should go, and, at the same time, said, if he went he would drop me a line informing me of the fact. I have received no such note, but am now informed by a gentleman from North Carolina, that Mr. EDMUNDSON desires to pair off with me. I therefore ask permission to withdraw my vote.

Mr. BOCOCK. I would inquire of the gentleman whether he did not, a few moments ago, vote upon a motion to recommit this bill to the committee of thirteen?

Mr. MACE. I did.

Mr. BOCOCK. Then I ask him whether he ought not to withdraw that vote, also?

Mr. MACE. I was not informed, until a moment ago, of the wish of Mr. EDMUNDSON. I was ignorant of it at the time I voted.

The SPEAKER. Unless objection is made, the gentleman will be permitted to withdraw his vote.

Mr. WALSH. I object to the withdrawal.

Mr. MACE. I desire to have this matter placed right upon the record. I did not know of the wishes of Mr. EDMUNDSON until this moment.

Mr. BAYLY, of Virginia. The gentleman can correct his vote by a motion to reconsider.

Mr. WALSH. The gentleman can better correct it by changing his vote.

Mr. PRATT, also, said: While I wish to avoid all votes to kill the bill by indirection, at the same time I am against the passage of the bill, and therefore vote No.

Mr. HILL said: I was not within the bar when my name was called. Had I been in my place, I should have voted No.

Mr. McDOUGALL. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

Mr. BAYLY, of Virginia. As the vote upon the motion to recommit was lost by the mistake of a vote, I hope the House will not lay the motion to reconsider upon the table.

Mr. BRIDGES. I demand the yeas and nays upon the motion.

The yeas and nays were ordered.

Mr. JONES, of Louisiana. I move that the House do now adjourn.

The question was put; and the motion was not agreed to.

Mr. JONES, of Tennessee. If this motion to lay the motion to reconsider upon the table should fail, and the motion to reconsider the vote by which the bill was passed should be carried, the previous question having been exhausted upon the passage of the bill, would it not be in order then to move to recommit the bill to a select committee?

Mr. RICHARDSON. I call the gentleman to order, and ask for a vote. I ask that all these questions may be decided when they properly come up in their order?

The SPEAKER. It has been usual for the Chair to make such explanations as will enable the House to vote understandingly upon the questions before them. It seems to the Chair that he should respond to the inquiry made by the gentleman from Tennessee.

Mr. RICHARDSON. I do not object, then.

The SPEAKER. The gentleman inquires whether it is competent to reconsider the vote by which the bill was passed, and then to reconsider the vote by which the bill was ordered to be engrossed, and then to move to recommit the bill.

Mr. TWEED. Would an objection by any member of the House prevent the Chair from responding to the question?

The SPEAKER. It would not. It is in order for the House to reconsider the vote by which the bill was passed, and then to recommit it. It is also in order for the House to retrace its steps still further, and reconsider the vote by which the bill was ordered to be engrossed, and read a third time, and then to amend or commit the bill, the previous question being then out of the way.

The question was then taken upon the motion to lay the motion to reconsider upon the table; and resulted—yeas 97, nays 106; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, Appleton, Banks, Benton, Bliss, Bristow, Bugg, Caruthers, Chamberlain, Chandler, Chrisman, Clark, Cook, Cox, Cullom, Cumming, Cutting, John G. Davis, Thomas Davis, Dawson, De Witt, Dick, Dickinson, Disney, Drum, Dunham, Eddy, Edgerton, Edmands, John M. Elliot, Ellison, English, Etheridge, Everhart, Farley, Florence, Gamble, Green, Greenwood, Andrew J. Harlan, Harrison, Hendricks, Henn, Hughes, Johnson, Knox, Lamb, Latham, Lindley, Lindsley, McCulloch, McDougall, Macy, Matteson, John G. Miller, Smith Miller, Nichols, Noble, Norton, Olds, Mordecai Oliver, Parker, Phelps, Preston, Ready, Richardson, Riddle, David Ritchie, Thomas Ritchey, Robbins, Russell, Sapp, Shannon, Samuel A. Smith, Soilers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, Andrew Stuart, David Stuart, John L. Taylor, Nathaniel G. Taylor, Thurston, Tweed, Upham, Walbridge, Walker, Walley, Warren, Elihu B. Washburne, Wells, Tappan Wentworth, Westbrook, Yates, and Zollicoffer—97.

NAYS—Messrs. Abercrombie, Aiken, David J. Bailey, Thomas H. Bayly, Barksdale, Barry, Belcher, Bell, Bennett, Benson, Bocock, Boyce, Breckinridge, Bridges, Brooks, Campbell, Carpenter, Caskie, Chase, Chastain, Churchwell, Clingman, Cobb, Colquitt, Craige, Crocker, Curtis, Dunbar, Eastman, Faulkner, Fenton, Flagler, Franklin, Fuller, Giddings, Goode, Goodrich, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Wiley P. Harris, Hastings, Haven, Hibbard, Hill, Hillyer, Houston, Hunt, Ingersoll, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kidwell, Kittredge, Kurtz, Letcher, Lewis, Lyon, Macdonald, McQueen, Maurice, Maxwell, May, Middleswarth, Millson, Morgan, Morrison, Murray, Andrew Oliver, Orr, Peck, Peckham, Pennington, Bishop Perkins, John Perkins, Phillips, Powell, Pratt, Pringle, Puryear, Reese, Rogers, Ruffin, Seward, Shaw, Shower, Simmons, Singleton, William Smith, George W. Smyth, John J. Taylor, Teller, Trout, Vansant, Wade, Walsh, Israel Washburn, John Wentworth, Witte, Daniel B. Wright, and Hendrick B. Wright—106.

So the House refused to lay the motion to reconsider upon the table.

The question recurring upon reconsidering the vote by which the bill was passed,

Mr. JONES, of Tennessee, called the previous question.

The previous question was seconded; and the main question was ordered to be now put.

Mr. STANTON, of Kentucky. I move the House do now adjourn.

The question was put; and the motion was not agreed to.

Mr. McDOUGALL. I demand the yeas and nays upon the reconsideration of the vote by which the bill was passed.

The yeas and nays were ordered.

The question was then taken; and resulted—yeas 100, nays 94; as follows:

YEAS—Messrs. Abercrombie, Aiken, David J. Bailey, Thomas H. Bayly, Barksdale, Barry, Belcher, Bennett, Benson, Bocock, Boyce, Breckinridge, Bridges, Brooks, Carpenter, Caskie, Chase, Chastain, Churchwell, Clingman, Cobb, Colquitt, Craige, Crocker, Dunbar, Eastman, Faulkner, Fenton, Franklin, Fuller, Giddings, Goode, Goodrich, Goodwin, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Wiley P. Harris, Hastings, Haven, Hibbard, Hill, Hillyer, Houston, Hunt, Ingersoll, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kidwell, Kittredge, Kurtz, Letcher, Lewis, Lyon, Macdonald, McQueen, Maurice, May, Middleswarth, Millson, Morgan, Morrison, Murray, Andrew Oliver, Orr, Peck, Peckham, Pennington, Bishop Perkins, John Perkins, Phillips, Powell, Pringle, Puryear, Reese, Rogers, Ruffin, Russell, Sapp, Seward, Shaw, Shower, Simmons, Singleton, William Smith, George W. Smyth, Stratton, David Stuart, John J. Taylor, Teller, Trout, Vansant, Wade, Walsh, Wheeler, Witte, Daniel B. Wright, and Hendrick B. Wright—105.

NAYS—Messrs. James C. Allen, Willis Allen, Appleton, Banks, Barry, Benton, Bliss, Bristow, Bugg, Caruthers, Chamberlain, Chandler, Chrisman, Clark, Cook, Cox, Cumming, Cutting, John G. Davis, Thomas Davis, Dawson, De Witt, Dickinson, Disney, Dunham, Eddy, Edgerton, Edmands, John M. Elliott, Ellison, Etheridge, Everhart, Farley, Florence, Gamble, Green, Greenwood, Grey, Andrew J. Harlan, Harrison, Hendricks, Henn, Hughes, Johnson, Knox, Lamb, Latham, Lindley, Lindsley, McCulloch, McDougall, Macy, Matteson, Smith Miller, Nichols, Noble, Norton, Olds, Mordecai Oliver, Parker, Phelps, Pratt, Preston, Ready, Richardson, David Ritchie, Thomas Ritchey, Robbins, Sabin, Shannon, Samuel A. Smith, Soilers, Hestor L. Stevens, Andrew Stuart, John L. Taylor, Nathaniel G. Taylor, Thurston, Tweed, Upham, Walbridge, Walker, Walley, Warren, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Yates, and Zollicoffer—91.

So the bill was recommitted to the special committee of thirteen.

Previous to the announcement of the above vote, Mr. STUART, of Michigan, stated that he had voted in the affirmative for the purpose of being enabled, under the rules, to move a reconsideration.

Mr. BRECKINRIDGE. I rise to what I consider a privileged question.

Mr. JONES, of Tennessee. I move to reconsider the vote by which the bill was recommitted; and that that motion be laid upon the table.

Mr. McDOUGALL. I move that the House do now adjourn.

The SPEAKER. The gentleman from Tennessee can have his motion for reconsideration entered, but he cannot take the floor from the gentleman from Kentucky, [Mr. BRECKINRIDGE,] who states that he has a privileged question to submit to the House. The Chair will now hear the gentleman's privileged question.

Mr. BRECKINRIDGE. I suppose that a privileged question can be considered at any time. If the House will bear with me a moment I will not abuse its patience.

Mr. BAYLY, of Virginia. If the gentleman have the unanimous consent to proceed, unanimous consent must also be granted for reply.

Mr. BRECKINRIDGE. The Texas bill reported from the Committee of Ways and Means, with accompanying papers, has been printed, and is now in the possession of the House.

Mr. WHEELER. I object to discussion out of order.

The SPEAKER. Debate is not in order.

Mr. BRECKINRIDGE. Is it in order to ask the unanimous consent for my proposition?

The SPEAKER. It is.

Mr. BRECKINRIDGE. I was going on to make a brief preliminary statement, but as I have been called to order, I suppose that I will not be allowed to proceed in it.

[Cries of "Go on!"]

The SPEAKER. Is it the pleasure of the House to hear the gentleman's statement?

Mr. SOLLERS. I move that the House do now adjourn.

The SPEAKER. The gentleman has not the floor to make the motion.

Mr. WHEELER. I object to debate.

Mr. BRECKINRIDGE. Then, without further words, I ask the unanimous consent of the House to allow Senate bill No. 96, commonly known as the Texas bill, to be made the special order for one day, Thursday, the 1st of February, in order that it may be disposed of in one way or the other.

[Cries of "Agreed!" "Agreed!"]

Mr. BRECKINRIDGE. If objection be made, I shall move a suspension of the rules.

Mr. LETCHER. I object.

Mr. BRECKINRIDGE. Then I move a suspension of the rules for the purpose which I have indicated.

Mr. JONES, of Tennessee. Does not my motion for reconsideration take precedence? Mine is with regard to a special order, and the subject now under consideration.

The SPEAKER. The gentleman from Tennessee will agree with the Chair on a statement of the case. The gentleman from Kentucky [Mr. BRECKINRIDGE] rose in his place, was recognized by the Chair, and moved, as he had the right to do, his motion for a suspension of the rules. The right of the gentleman from Tennessee to recon-

So the House determined to reconsider the vote by which the bill was passed.

Mr. JONES, of Tennessee. I now move to recommit the bill to the select committee; and upon that I ask the previous question.

Mr. GREENWOOD. I move the House do now adjourn.

[Mr. GREEN, from the Committee on Enrolled Bills, here reported as correctly enrolled bills of the following titles; which thereupon received the signature of the Speaker:

An act to authorize the issue of a register to the bark Foundling, of Boston; and

An act to authorize the Secretary of the Treasury to issue a register to the bark Martha.]

The SPEAKER. The question is on the motion to adjourn.

Mr. SOLLERS. Upon that I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. SOLLERS. I call for tellers.

Tellers were ordered; and Messrs. SOLLERS and HIBBARD were appointed.

The question was taken; and the tellers reported twenty-eight in the affirmative—noes not counted.

So the House refused to adjourn.

Mr. WASHBURN, of Maine. I ask that the demand for the previous question may be withdrawn until a motion is submitted to reconsider the vote by which the bill was ordered to be engrossed. My object is, if the reconsideration be had, to introduce an amendment in substance the same as that presented the other day by the gentleman from Louisiana, [Mr. DUNBAR.]

[Cries of "Order!"]

The SPEAKER. The gentleman from Maine is out of order. Discussion is not in order; and the Chair now informs gentlemen that he will enforce the rules of the House at all hazards.

The call for the previous question received a second; and the main question was ordered to be now put.

The question then recurred on the recommitment of the bill to the special committee.

Mr. McDOUGALL. I demand the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. STANTON, of Tennessee. I move that the House do now adjourn.

The question was taken, and the House refused to adjourn.

[Cries of "Call the roll!"]

The question was taken on the recommitment of the bill; and it was agreed to—yeas 105, nays 91; as follows:

YEAS—Messrs. Abercrombie, Aiken, David J. Bailey, Thomas H. Bayly, Barksdale, Belcher, Bell, Bennett, Benson, Bocock, Boyce, Breckinridge, Bridges, Brooks, Campbell, Caskie, Chase, Chastain, Churchwell, Clingman, Cobb, Colquitt, Craige, Crocker, Cullom, Dunbar, Eastman, English, Faulkner, Fenton, Flagler, Franklin, Fuller, Giddings, Goode, Goodrich, Goodwin, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Wiley P. Harris, Hastings, Haven, Hibbard, Hill, Hillyer, Houston, Hunt, Ingersoll, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kidwell, Kittredge, Kurtz, Letcher, Lewis, Lyon, Macdonald, McQueen, Maurice, May, Middleswarth, Millson, Morgan, Morrison,

sider the vote of recommitment is not cut off. Under the rule and practice of the House, it will be entered, to be hereafter called up for consideration.

Mr. JONES. But this Pacific railroad bill is the special order.

The SPEAKER. It is not the special order, for it has been recommitted.

Mr. JONES. Has it not been the practice to submit motions to reconsider, and dispose of them at the time?

The SPEAKER. That is the practice, when the gentleman gets the floor, and first submits such a motion. The gentleman from Kentucky was recognized before the gentleman from Tennessee. The Chair would have recognized the gentleman from Tennessee, had he known what was his object in rising.

Mr. JONES. I understand that the gentleman from Kentucky only wants his motion entered.

The SPEAKER. Then the gentleman's proposition, if there be no objection, will be now entertained.

Mr. BRECKINRIDGE. Does it require the unanimous consent of the House, to allow the question to be now taken on my motion for the suspension of the rules?

The SPEAKER. It does not.

Mr. BRECKINRIDGE. Then I stand by my motion.

The SPEAKER. If it be the pleasure of the House, the motion of the gentleman from Kentucky will be entered, and the motion of the gentleman from Tennessee, to reconsider the vote by which the Pacific railroad bill was recommitted to the special committee, be considered at this time.

Mr. McDOUGALL. I object.

Mr. RICHARDSON. I understand the Chair to decide that, when the gentleman from Kentucky obtained the floor, there was no special order intervening?

The SPEAKER. Yes, sir; and that the gentleman from Kentucky has clearly the right to the floor, and the motion which he has submitted.

Mr. JONES, of Tennessee. Let me say a word in regard to the motion of the gentleman from Kentucky. If he will move that the bill which he refers to shall be made the special order of the day in the Committee of the Whole on the state of the Union for one day, and that, if unfinished at the adjournment of the House, it shall cease to be the special order, I shall support his proposition; otherwise, I shall oppose it.

Mr. BRECKINRIDGE. I have made my motion, and it is with the House to reject, or adopt it.

Mr. JONES. If the gentleman will move that the bill be made the special order for one day, and no more, I shall go with him.

[Cries of "Order!"]

Mr. WHEELER. I object to discussion.

Mr. JONES. I only wish to say to the House that the effect of the gentleman's motion, if adopted, will be this: If the bill is not acted on during the day for which he proposes to make it the special order, it will come up the next day as the unfinished business.

Mr. BRECKINRIDGE. I hope that I may be allowed to state my motion again to the House: It is, that the Texas bill be made the special order of the day on Thursday, the 1st of February, and I trust that the House will take it up and dispose of it that day, and not throw it over from day to day.

The SPEAKER. If made the special order for one day, it will not remain the special order for two days.

Mr. JONES. Let me ask the Chair a question. If the bill be considered in the Committee of the Whole on the state of the Union during the day indicated, and, at the adjournment of the House, it is unfinished, will not the chairman of the committee, on its again assembling, decide that it comes up as the unfinished business? That has been the uniform practice heretofore; and when appeals have been made the chairman's decision has been sustained.

Mr. STUART, of Michigan. When the vote was being taken on the motion for recommitment of the Pacific railroad bill, I gave notice of my voting in the affirmative for the purpose of moving a reconsideration. Have I not the right to submit that motion now?

The SPEAKER. The motion to reconsider has been already submitted.

Mr. McDOUGALL. I move that the House do now adjourn.

Mr. TWEED. I demand tellers.

Tellers were ordered; and Messrs. DAVIS, of Indiana, and HUGHES were appointed.

The question was taken; and the motion was agreed to, the tellers having reported—ayes 94, noes 86.

Whereupon the House (at four o'clock, p. m.,) adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

TUESDAY, *January* 23, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

PETITIONS, ETC.

Mr. SEWARD presented the memorial of Husted and Kroehl, civil engineers, of New York, praying to be authorized to remove the obstructions at "Hell Gate," within ten years, and to defray the expenses of the same by levying a tonnage duty on all vessels passing through them during that period; which was referred to the Committee on Commerce.

Mr. BROWN presented the petition of Silas Stockwell, praying permission to locate a military land warrant issued to William G. Shaw, and by him transferred to the petitioner to secure a debt; which was referred to the Committee on Public Lands.

Mr. BENJAMIN presented the petition of Cephise Piseros, widow of Louis Labranche, of the parish of St. Charles, Louisiana, praying the confirmation of her title to a certain tract of land in said parish; which was referred to the Committee on Private Land Claims.

Mr. RUSK presented additional documents in the case of George Simpton; which were referred to the Committee on Naval Affairs.

Mr. GEYER presented a memorial of citizens of the District of Columbia, jurors of the criminal court, opposed to the bill for the reformation of the judiciary of the District, and in favor of a convention of the people of the District of Columbia, to prepare and report a code of laws for the government of the same; which was referred to the Committee on the Judiciary.

Mr. FESSENDEN presented the petition of Caleb Frye, one of the heirs of Nathaniel Frye, an officer in the Revolution, praying to be allowed commutation pay; which was referred to the Committee on Revolutionary Claims.

Mr. BELL presented the memorial of Jean Baptiste Faribault and Pelagie Faribault, praying payment of the price agreed upon with the Secretary of War, for the purchase of an island at the confluence of the Mississippi and St. Pierre rivers, for a military post; which was referred to the Committee on Military Affairs.

Mr. GWIN presented the petition of John Guest, a Lieutenant in the Navy, praying compensation for services in surveying the coast between Appalachicola, in Florida, and the Mississippi; which was referred to the Committee on Naval Affairs.

Mr. WRIGHT presented the memorial of Solomon Andrews, praying compensation for the use, by the Post Office Department, of his inventions of the clam-shell lock for securing mail bags; which was referred to the Committee on the Post Office and Post Roads.

Mr. HUNTER presented a memorial of shipmasters in the United States, praying such further legislation by Congress as will enable them to enforce discipline, and prevent insubordination on ship-board; which was referred to the Committee on Commerce.

REPORTS FROM STANDING COMMITTEES.

Mr. CHASE, from the Committee on Claims, to whom was referred the petition of John Garvin, praying to be allowed compensation for disease contracted while in the service of the United States as adjutant in Colonel Cobeau's regiment of Pennsylvania volunteers, submitted an adverse report thereon; which was agreed to. The report was ordered to be printed.

Mr. SEWARD, from the Committee on Pensions, to whom was referred the petition of Raymond Williams, praying to be allowed back pension, submitted an adverse report thereon; which was ordered to be printed.

Mr. HUNTER, from the Committee on Finance, to whom were referred the petition of Harriet H. Saunders, and the petition of Jane M. Rudulph, praying to be allowed pensions, asked to be discharged from their further consideration, and that they be referred to the Committee on Pensions; which was agreed to.

CONVICT AND PAUPER IMMIGRATION.

Mr. COOPER. I desire to lay the following resolutions upon the table. To-morrow morning I shall ask the indulgence of the Senate, for a few minutes, to explain the reasons why they are offered:

Resolved, That the President of the United States be, and he is hereby, respectfully requested to cause the Secretary of State and the Secretary of the Treasury, respectively, to communicate to the Senate such information as may be contained in their several Departments, relating to the transportation of convicts and paupers into the United States from foreign countries, and what agency the Governments to which they belong have had in sending them hither. Also, such information as they may possess relative to the voluntary immigration into the United States of the above classes, the numbers of each that have arrived here within the last two years, whether voluntary or through the compulsory agency of their respective Governments.

Resolved, That the Committee on the Judiciary be, and the same is hereby, instructed to inquire what legislation, if any, be necessary to prevent the Governments of foreign countries from transporting into the United States, convicts and paupers. Also, whether any, and what, legislation is necessary to prevent the voluntary immigration into the United States from foreign countries of either of the above classes of persons.

BILL INTRODUCED.

Mr. FOOT, in pursuance of previous notice, asked and obtained leave to introduce a bill to establish a marine hospital at Burlington, Vermont; which was read twice by its title, and referred to the Committee on Commerce.

ENROLLED BILLS SIGNED.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that the Speaker had signed the following enrolled bills:

A bill for the relief of Sylvester Humphrey, and the heirs of Alexander Humphrey, deceased.

A bill for the relief of the children and heirs of Major General Baron de Kalb.

The PRESIDENT *pro tempore* signed the above mentioned bills.

ZEBINA RAWSON.

On motion by Mr. PETTIT, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House for the relief of Zebina Rawson. It is to direct the Secretary of the Interior to place the name of Zebina Rawson on the pension roll, at eight dollars per month, from March 1, 1852, during life.

The bill was reported to the Senate without amendment, and ordered to a third reading. It was read the third time, and passed.

WILLIAM HANKINS.

On motion by Mr. REID, the Senate, as in Committee of the Whole, proceeded to consider House bill for the relief of William Hankins. Its object is to authorize the Secretary of War to pay him $244 80 in full discharge of all claim against the United States, growing out of a contract made August 15, 1835, for the delivery of wood at Fort Johnston, North Carolina.

On the 15th of August, 1835, a contract in writing was made between Hankins and Lieutenant J. H. Winder, acting assistant quartermaster, on the part of the United States, by which he agreed to deliver and cord in the woodyard at Fort Johnston, North Carolina, two hundred and thirty cords of the first quality oak wood, to be delivered, fifty cords by the 31st December, 1835; fifty cords by the 1st March, 1836; fifty cords by the 1st May, 1836; fifty cords by the 1st July, 1836; and thirty cords by the 1st August, 1836; for which he was to receive $4 89 per cord. Hankins delivered the first fifty cords of wood, for which he received his pay. He delivered also fifty additional cords of wood, for which he has, as yet, received no pay. Lieutenant Winder having been relieved from duty at Fort Johnston, and Major Saunders appointed to succeed him, a disagreement arose between Major Saunders and Hankins, in consequence of which no further deliveries were made. Hankins claims as due to him the price of the two hundred and thirty cords, alleging his readiness to comply with his contract with the Government, deducting the fifty cords

already paid for; but payment is limited to the price of the second delivery of fifty cords.

The bill was reported to the Senate without amendment, and ordered to a third reading. It was read the third time, and passed.

PATENT LAWS.

Mr. JAMES. I ask the Senate to take up the bill, reported from the Committee on Patents and the Patent Office, "to amend the several acts now in force relating to the Patent Office," for the purpose of making it the special order for Saturday next.

The Senate proceeded to consider the bill; and, on motion by Mr. JAMES, it was postponed to, and made the special order for, Saturday next, at one o'clock.

JAMES WRIGHT, JR.

On motion by Mr. BELL, the Senate, as in Committee of the Whole, proceeded to consider House bill for the relief of James Wright, jr., of the State of Tennessee. It will increase his pension from $5 33 to $8 per month, from May 1, 1854, during his life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GARDINER'S ARMY DICTIONARY.

Mr. BRODHEAD. At the last session I submitted a resolution, inquiring into the expediency of purchasing a number of copies of Gardiner's Dictionary of the Army. I ask for its consideration at this time.

The resolution is as follows:

"*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of purchasing ——— copies of Gardiner's Dictionary of the Army, for distribution among the Senators."

The resolution was considered, and agreed to.

PACIFIC RAILROAD BILL.

Mr. GWIN. The copies of the Pacific railroad bill, which was reported by the select committee at the last session, and which is the first special order after the bounty land bill, have been disposed of. I move that it be again ordered to be printed, so that each Senator may have it upon his table.

The motion was agreed to.

NAVIGATION OF THE PATAPSCO.

Mr. PRATT. At the last session of Congress I had the honor to report, from a select committee, a bill for the improvement of the navigation of the Patapsco river, and to render the port of Baltimore accessible to the war steamers of the United States. I understand that the various bills for internal improvements have been made the special order for to-morrow. I desire that that bill may be taken up, to make it the special order for the same time.

The PRESIDENT. That order will be made, unless objected to.

There was no objection.

ORDER OF BUSINESS.

Mr. HUNTER. I move to postpone all prior orders, for the purpose of taking up the Army appropriation bill.

Mr. BRODHEAD. I hope that will not be done. We can dispose of the bounty land bill to-day. I think Senators are prepared to vote upon it without further debate; and I hope that my friend from Virginia will not press the Army bill until we get through with it.

Mr. HUNTER. I have been waiting from day to day under that hope; but the Army appropriation bill is pressing on us. The chairman of the Committee on Military Affairs will tell you that it is necessary we should act on some of the propositions which will probably be submitted to it. I think we ought to take up the general appropriation bills in preference to others.

Mr. BRODHEAD. I hope not.

The PRESIDENT. The Senator from Virginia moves to postpone the prior orders for the purpose of taking up "an act making appropriations for the support of the Army for the year ending June 30, 1856."

Mr. BRODHEAD. I must say that if the bounty land bill be now postponed for the Army appropriation bill, and we go on with the appropriation bills, it will be utterly impossible to get it up hereafter; I look, therefore, on the motion which the Senator from Virginia has made as a test question.

Mr. SHIELDS. I think the honorable Senator from Pennsylvania is mistaken in making this a test question. I am decidedly in favor of the bounty land bill; but the Army appropriation bill has been suspended in this body for a great many days, waiting for some distinct action on the other bill; and it cannot, in justice to the Army and the country, be postponed longer. We cannot hang up an appropriation bill in this way, waiting for legislation on other bills, without really doing great injustice to the public service and to ourselves. I am in favor of the bill of the Senator from Pennsylvania. I have stated that before; and the honorable Senator knows it to be the case; but, as a matter of imperative duty, I am compelled to do what I can to aid the honorable Senator from Virginia in bringing up the Army appropriation bill. I hope the Senator from Pennsylvania will consent to allow us to take it up without any conflict. He ought not to make it a test question, because some of us feel compelled to insist on the consideration of the Army appropriation bill as a matter of duty. I should regret, exceedingly, to see any test taken on the bounty land bill which would do it so much injustice. If it be done, it will be by the honorable Senator, and not by the friends of the bill.

Mr. BRODHEAD. The Army appropriation bill, I understand, has passed the House of Representatives; the bounty land bill has not. That is sufficient reason for proceeding with it; I hope therefore, the motion will not succeed.

Mr. HUNTER. This is no test upon the merits of either bill. It is a mere question of priority of business. I think that this appropriation bill has already been lying here unacted on, as long as a general appropriation bill ever did lay here without action of the Senate. It is time, it seems to me, that we were proceeding to those measures which are always considered first—the general appropriation bills.

Mr. BRODHEAD called for the yeas and nays on the motion; and they were ordered; and being taken, resulted—yeas 21, nays 23; as follows:

YEAS—Messrs. Adams, Benjamin, Bright, Brown, Butler, Clay, Dodge of Wisconsin, Dodge of Iowa, Fitzpatrick, Geyer, Gwin, Hunter, James, Johnson, Morton, Pettit, Shields, Toucey, Wade, Weller, and Wells—21.

NAYS—Messrs. Allen, Bell, Brodhead, Cass, Chase, Clayton, Cooper, Dawson, Dixon, Foot, Gillette, Houston, Jones of Tennessee, Pratt, Reid, Rockwell, Rusk, Seward, Stuart, Sumner, Thompson of Kentucky, Thomson of New Jersey, and Wright—23.

So the Senate refused to consider the Army appropriation bill.

EXTENSION OF BOUNTY LAND LAWS.

On motion by Mr. BRODHEAD, the Senate resumed the consideration of the bill "in addition to certain acts granting bounty lands to certain officers and soldiers who have heretofore been engaged in the military service of the United States," the pending question being on the motion of Mr. WELLER, to add the following as an additional section:

And be it further enacted, That, from and after the passage of this act, all persons now enrolled upon the invalid pension list shall be entitled to receive, if a commissioned officer, twenty per cent. upon the amount now allowed; and non commissioned officers and privates forty per cent. on the amount now allowed or paid under existing laws.

Mr. TOUCEY. Mr. President, if there be any class of men in the country entitled to the consideration of Congress, it is the class of invalid pensioners. Since the laws conferring those pensions were passed, the value of money has largely depreciated; and those men who have lost their limbs in the public service are left without an adequate support. If the provision made many years ago was just then, it is unjust now. What is the pittance of ninety six dollars a year to a soldier who has lost his arm? What is the pittance of $360 a year to an officer who has lost a right arm? If it was sufficient formerly, it is very inadequate now; and, as I remarked in the outset, if there is any class of men in the country entitled to justice, and to the consideration of Congress, it is this class of men. I shall vote, therefore, most cordially, for this amendment of my friend from California.

Mr. BRODHEAD. This, I understand, to be an amendment to the original bill, and not to the substitute which I have submitted. I think there are two decisive objections to it. It is out of time and out of place; first, because there is already a bill pending on the subject, as I understand, which does the same thing that the amendment does; and second, it seems to me that it is out of order. This is a bounty land bill. The amendment which the Senator from California offers, is a pension bill. I think they should be in separate bills.

The question being taken; the amendment was decided to be rejected.

Mr. WELLER. I ask for the yeas and nays on that amendment.

The PRESIDENT. It is too late. The Chair has decided the question.

Mr. WELLER. Well, I will take the opportunity of offering it when the bill shall be reported to the Senate. It will be in order then.

The PRESIDENT. The bill has been reported to the Senate.

Mr. WELLER. I will present it at some other time.

The PRESIDENT. If no other amendments be offered, the question will be on the substitute of the Senator from Pennsylvania.

Mr. CLAYTON. I have an amendment, to come in at the end of the first section of the bill, to exclude from the original bill, as it stands, deserters. The honorable Senator from Michigan, yesterday, insisted upon it that deserters could receive bounty land under this bill. Now, I intend so exclude them by a positive provision that they thall not be admitted to its benefits. I wish to perfect the original bill before the question is taken on the substitute. I move to insert, at the end of the first section:

Provided, That the person so having been in service, shall not receive said land warrants, if it shall appear that he deserted or was dishonorably discharged from service.

The amendment was agreed to.

Mr. STUART. I desire to submit a few remarks in reply to what was said by the Senator from Georgia [Mr. DAWSON] yesterday, although I shall do it very briefly. The Senator objected to my argument, which, I stated to the Senate, was made only to justify my own vote; and I must say that I think he objected to it in language quite denunciatory. Now, I propose to examine the grounds on which that honorable Senator proceeded, and to see if he was correct.

In the first place, he sought to deny the effect that I showed this bill would have upon the Treasury of the United States; but, in the end, he was forced to admit it, and he answered it by saying that the lands were to go at any rate. What is his reason for that statement? Why, sir, that if they do not go under the provisions of this bill, they are to go under the provisions of a homestead bill, which, in his own language, is to invite all the foreign pauperism of Europe here. Let us see whether the Senator is right in that conclusion. A homestead bill similar to that was before the Senate at the last session, and it was rejected, by substituting in its place a graduation bill presented by the Senator from Virginia, [Mr. HUNTER.] The sense of the Senate at that time was understood to be against a homestead bill.

Mr. DAWSON. As I do not desire to reply, unless it becomes absolutely necessary, I will correct the Senator at once. The bill, as it passed the House of Representatives, is a different bill from the one which we substituted. That substitute is now pending in the House of Representatives. There is as much ground for supposing that one may pass as that the other will. I know that a substitute was adopted here, embracing the graduation system; but it has not received the sanction of the other House.

Mr. STUART. I think I shall show that the Senator is still mistaken. I say the sense of the Senate was taken upon a homestead bill, and was against it, and a graduation bill was substituted. At the present session of Congress, in the House of Representatives, the proposition has been renewed, and in a more favorable form, to suit the views of gentlemen similar to those entertained by the honorable Senator from Georgia, and it has been rejected by the House.

The Senator is also mistaken in supposing that the homestead bill, as it was sent here by the House at the last session, contained any invitation to foreigners. The first section of that bill provides: "That any free white person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the

United States," shall be entitled to take land under that bill. Therefore, a man must have resided in this country, if of foreign birth, five years before he could be entitled to take land under that bill. The idea that paupers were to come here, and remain five years, without anything to live on, until they could become citizens of the United States, the Senator will see, is without any foundation. He is totally mistaken in that.

Mr. DAWSON. I would ask is that the homestead bill?

Mr STUART. That is the bill as it passed the House and was reported to the Senate.

Mr. DAWSON. Last year?

Mr. STUART. At the last session. There is another particular in which the honorable Senator is mistaken. He says that in the first place the effect of this bill upon the land States will not be such as I contended; but in the next place if it be so, and my constituents shall find fault with him and other Senators for voting for this bill, he can point them to the fact that I set the example by voting for a homestead bill which would have produced the same effect. The Senator is mistaken in that. I have shown him that that bill could have produced no such effect. But, sir, I must say to the honorable Senator that I never voted for it. He is mistaken, therefore, again. I never voted for that bill or for any other homestead bill. The question in the Senate was, as I said, upon the substitution of the bill of the Senator from Virginia, and I voted for that.

The Senator said that the effect of this bill and the effect of the homestead bill must be similar upon the land States, and upon the lands reserved to those States for educational purposes. Now, sir, I will attempt to show that the Senator is mistaken there also. Let us take a practical illustration. We will suppose that under the homestead bill, which gave away land without price, settlers surround the school sections in the State of Michigan, and cultivate the soil for five years, which is the only mode in which they could get it under that bill. By that very act, they elevate the value of the school sections four-fold. The moment you surround an uncultivated section of land with quarter section cultivations in farms, you have elevated the price of that section of land four-fold.

Now, sir, under this bill there is no necessity for settlement. This bill does not propose to give lands to those who go and occupy them; but it proposes to put into the market about one hundred and sixty-seven million acres in the shape of land scrip to be bought up by anybody, and held by anybody, until they see fit to locate. If they locate, it must be in large quantities, because it will be seen that the amendment which has been offered and adopted, furnishes no protection at all to the States so far as residence is concerned; it only requires that individuals shall not locate in a township more than a section of land. It is evident, therefore, I think, that the Senator is mistaken in his conclusion upon that subject.

The Senator speaks of the very great donations of public lands which have been made to the new States. Fifty-two million acres is all that had been granted to them up to 1853; and of this fifty-two million about twenty-five million were for bounty lands. For educational purposes there had been donated eleven million one hundred and ninety-nine thousand nine hundred and seventy-three acres, for internal improvements sixteen million six hundred and seven thousand and thirteen acres, and for bounty lands twenty-four million eight hundred and forty-one thousand nine hundred and eighty. Then only about twenty-five million acres of the public lands have actually been granted to the new States.

The Senator referred to the appropriation of land which was made for the St. Mary's canal, connecting the waters of Lake Superior with the lower lakes. If I am not mistaken, the Senator did not vote for that grant. In fact, I believe he is opposed to all grants to the new States for railroads or other purposes; and he only justifies himself for his change of position, by saying that the lands are to go at any rate, but his opinion remains the same. Sir, the honorable Senator is not the first individual who has gone from one extreme to the other. He has maintained, for years, opposition to all these grants, and maintained, as he says, the doctrine of distribution among the States; he has left that position now, and goes for the quickest possible squandering of the public lands. Certainly that is as untenable as his former position. The grant of land for the St. Mary's canal is vastly more beneficial to Ohio, Pennsylvania, and New York, than to Michigan. It is beneficial to Michigan, I grant; but that was not the ground on which the grant was made by Congress. It was based upon the ground that it was a benefit to the nation at large, to the whole United States; that Lake Superior, like the other great northwestern lakes, was a border water, and that the defense of the country required that there should be access between that lake and the lakes below. Upon that ground the grant is tenable. The State of Michigan was made the mere agent to expend the fund arising from the sale of the land, deriving no benefit, except the incidental benefit which she derived in common with all the United States. But, sir, how the Senator finds, in that donation of the public lands, any such principle as the one which I contended against in this bill, I confess myself entirely unable to discover.

The Senator certainly made some pretty strong remarks. He said that my argument was like a sieve; it would not hold water anywhere. Sir, it has long ago been ascertained, that assertion will not do as a substitute for facts. Nor are assumption and denunciation any good substitutes for reason and logic. I did show, what the Senator admitted, the destruction to the financial affairs of the Union, growing out of the squandering of all the lands lying within the borders of the organized land States, excluding California. The Senator admitted this; but answered that they were to go at any rate. I have shown that that is not so, if the opinion of the present Congress is to be taken as the guide. I showed the effect upon the land States. The Senator admitted it, but said the same effect was to happen because a homestead bill was to pass. That, too, is contradicted by the action of both Houses of the present Congress. The Senator said that I voted for the homestead bill. That, also, is a mistake, for I never voted for one at all. The Senator stated that the homestead bill, as passed by the House and sent here, was an invitation to foreigners. An inspection of it shows that none but citizens could take land under it. In that he is mistaken.

Now, sir, I shall not undertake to say of the Senator's argument, as he did of mine, that it will not hold water; but I shall ask him to examine this subject a little more maturely, and to answer for himself—I say it with great respect for him as a personal friend—whether he has not fallen into some slight errors in the course of this debate. The first one with which he started was, that I myself had moved to strike out "minor" from the bill. I corrected the Senator by an interruption at the time; but seeing that that course of correction would be very difficult, and might interrupt him improperly, I let it go; but I correct him now.

I have only one suggestion to make to the Senator. I never intended to charge him, as he seemed to think I did, with hostility to foreigners. I recollected that the Senator had said a good deal about them, from time to time, in the discussion of the homestead and other measures. He says he never voted against the right of foreigners to buy land. I presume that is so; and I presume it is true of every other gentleman in Congress; but so far as the Senator's language has been concerned, he will concede that he has sought to establish some discrimination. So far as his vote went upon the Nebraska and Kansas bill, he voted for the motion of the Senator from Delaware, [Mr. CLAYTON,] to take from the residents there, who were not citizens, the right to participate in organizing the territorial governments. In the language of the Senator, he has discriminated against them; so far as that act is indicative, he has discriminated against them by his votes; but if he will show me, or state that, at any time, he has voted to place foreign-born citizens—I will not say those who have declared an intention to become citizens, but those who are foreign-born, and have become citizens under our naturalization laws—on an equal footing with native born citizens, or if he says he is in favor of it now, then I shall certainly yield that point; but upon every other, I think the honorable Senator will see, upon a revision, that he certainly was slightly mistaken as to the facts.

Mr. DAWSON. Mr. President, it was far from my intention, yesterday, to be the least denunciatory. It is not my habit, manner, or feeling; and I beg the Senator to understand that there was not the least personal feeling in the matter, or the least disposition to interfere with his argument.

Mr. STUART. I have no doubt of it, sir.

Mr. DAWSON. When I used the words which I did, in the warmth of debate, that his argument would not hold water, that it was like a sieve, I meant to refer to what he said in favor of the homestead bill. If his argument in favor of the homestead bill was good, the last one he made against this bill was bad, for the two cannot stand together.

Now, sir, in relation to the supposed errors which I have committed. I have not seen, until this moment, a single word of the observations which I made yesterday. But a few minutes ago I commenced to read my remarks of yesterday as taken down by the stenographer; and I have just reached this point, which I will read from the report of what I said yesterday:

"But now I will ask the Senator whether he was not a warm advocate of the homestead bill, which invited any man within the United States, or within the limits of the world, who would come here and declare his intention to become a citizen, to go and settle upon the public lands, and if he remained there for five years, that he should have one hundred and sixty acres, without fee or emolument?

"Mr. STUART. Certainly I was."

Mr. STUART. Yes, sir. The Senator of course does not understand me as committing myself to such a homestead bill as he had there described, because he was talking, he will admit himself, about the homestead bill of the last session.

Mr. DAWSON. Then the Senator certainly announced that he was in favor of such a proposition when I propounded the interrogatory to him concerning it. Take him then on the homestead bill of the last session. He announces as one of my mistakes of yesterday, that the homestead bill of the last session was confined to citizens of the United States. Now, my friend, (I shall continue to call him so,) is greatly mistaken as to the bill itself. He has forgotten the sixth section of that bill. The first section says "citizens of the United States," but the sixth section of that bill is in these words:

SEC. 6. *And be it further enacted*, That if any individual now a resident of any one of the States or Territories, and not a citizen of the United States, but, at the time of making such application for the benefit of this act, shall have filed a declaration of intention as required by the naturalization laws of the United States, and shall become a citizen of the same before the issuance of the patent, as made and provided for in this act, shall be placed upon an equal footing with the native-born citizen of the United States."

That is the point to which my argument was directed; and that is the point on which the interrogatory was propounded yesterday, and I believe I made no mistake upon that point.

The other arguments which the Senator begs me to review are upon the question of expense, and the effect of the bill on the finances of the country. My whole position yesterday was founded on the fact that the public lands, in my judgment, were to be regarded no longer as a source of revenue. I announced that whether the homestead bill or this bill should pass during this session, I looked upon the lands as in the train going on to be given away; or, in other words, to be used up for other purposes than to have the proceeds go into the Treasury. Hence it was that I argued in favor of this proposition against the homestead bill; and my reply to the Senator was, that the same argument which he used against this bill, would be applicable against the homestead bill.

I do not see that there is any other suggestion of the Senator which needs a reply. I am unwilling to continue this discussion any longer upon points merely of personal mistake, or of individual misapprehension. I shall content myself with stating the ground on which my remarks of yesterday were based.

I support this bill, as I stated yesterday, as an alternative proposition to the homestead bill, which is founded on the principle of giving a tract of one hundred and sixty acres of public land, without fee or reward, to any man who will go from any part of the United States and settle on it, and also to any man from Europe, after declaring his intention to become a citizen and living on the land for five years. I suppose the words

"now a resident," in the sixth section of the homestead bill of the last session, were intended to restrict the gift, in regard to foreigners, to those who might be in the United States at the time of the passage of the act; but it also spoke of a foreigner who, "at the time of making his application for the benefit of this act, shall have filed his declaration of intention as required by the naturalization laws." Would not this have created a doubt on the point? And would it not present a strong inducement to future Congresses to pass a law extending the benefits of the homestead bill to all persons who had signified their intention to become citizens? Was I not, therefore, justified in assuming that the effect of that homestead bill would be, in a few years, to exhaust the whole of the public domain? There would be no inducement to a man to buy lands at the Government price when he could get them for nothing. No one would buy for speculation, for he could not sell the lands. Thus all hope of realizing anything from the public lands would be effectually gone; and the public domain would be exhausted. My friend from Michigan thinks this bill will have the same effect. I have not denied it. I founded my remarks upon what he declared, that the public lands were to be exhausted, and not to be a source of revenue. I based my argument upon that statement of his.

Mr. STUART. I do not desire, sir, to continue this discussion any more than the Senator from Georgia does; and I will not do so, but for a single remark. The Senator has read the sixth section of the homestead bill of last year, and supposes that is an answer to my position. The sixth section constitutes only an exception to the general rule. The general rule is laid down in the first section, that, in order to receive benefit under that act, a man must be a citizen of the United States. But there is an exception made as to those who are, at the time the bill passes, a resident of the States or Territories. Now, how does the Senator reconcile that with his declaration that that bill, as a whole, was an invitation to men to come here from abroad, and take the public land? Sir, it could not be; because any foreigner who should come here after the passage of the bill would be obliged to live here five years, and become a naturalized citizen before he could take an acre under it; and therefore the Senator's argument of invitation falls to the ground.

Sir, there was another objection which I meant to have stated in the outset. The Senator said—and I certainly thought that he said it without sufficient reflection—that I had called upon the representatives of the land States to rally against this bill, and oppose anything like justice to the old soldiers, because it would be injurious to the interests of the new States. Why, sir, I had announced my intention to vote for the substitute offered by the Senator from Pennsylvania, which gives to every soldier, and to every soldier's widow and minor child, one hundred and sixty acres of land. But I had said also, in terms that could not be misunderstood, that I did not intend to be driven into a bill for the purposes of a distribution of the public lands, under the pretext of doing something for the old soldiers, when, in fact, I showed that their one hundred and sixty acres of land would not be worth ten dollars.

Mr. SEWARD. Mr. President, the question I understand to be on the substitute offered by the honorable Senator from Pennsylvania.

The PRESIDING OFFICER, (Mr. CLAY in the chair.) The question is on the amendment offered by the Senator from Pennsylvania, [Mr. BRODHEAD,] as a substitute for the original bill.

Mr. SEWARD. The object of that substitute is to reduce the amount of this appropriation. It is a very laudable and proper object, if it can be attained consistently and with justice. But it strikes me, sir, that the substitute is objectionable on the ground that it attains that object inconsistently and unjustly; that there is an antagonism between the principles on which the substitute rests, and the object of the bill which is under consideration. The principle of the bill is to provide an acknowledgment, by way of donation, on the part of the Government, to the officers and soldiers who have served in the several wars in which the United States have been engaged. If the bill proposes to appropriate too large an amount of the public lands, the reduction, to be made consistently with the objects of the bill, must be by reducing the amount of the public land which is to be appropriated to each individual. That, however, is not proposed. On the other hand, the honorable Senator from Pennsylvania proposes that you shall give the largest quantity of public lands which is asked by any person, to each of the individuals whom he favors by his substitute; but he reduces the aggregate amount by striking out some of the classes who were to come into the division. What are the classes that he strikes at? They are the volunteers in those wars. I object to this upon the ground that it is inconsistent. There are two classes of soldiers in all our wars—one, those who are known by the name, not necessarily a reproachful one, of mercenaries, or soldiers for hire, professional soldiers, those who enlist for the compensation which the Government renders. There is the other class of volunteers; those who are not soldiers by profession, but who are in the civil avocations of life. These volunteers are persons who are moved by a spirit of patriotism irrespective of compensation. They do not serve, generally, throughout the whole of a war; but they enlist as volunteers, to resist an invasion of a particular portion of the territory of the United States, and to defend their homes, their families, and their firesides. They are, of the two classes, the most meritorious. Moreover, they never engage in the public service, except at some sacrifice—the sacrifice of the profits of the civil occupations in which they have been engaged; and often the engagement, for however brief a period, in the public service, results in disastrous losses to them, and embarrassments in their financial concerns. Such was the case of the volunteers who resorted to the defense of Plattsburg, in the war of 1812, from Vermont, and from the State of New York. They dropped their sickles upon the harvest field, and they repaired and tendered their services, and supported the tender of them with bravery, and with devotion to the interests and glory of the country. They never retired until they had driven the invader back into the foreign country from which he came.

Now, then, to make a discrimination between those who served as regular soldiers and those who served as volunteers under such circumstances, is unjust, as it seems to me, and tends to discourage that which is the most important military institution of this country, and of all free countries, that is, the militia. We must always have a small standing army. We have that only at the sacrifice of some republican principle, and at some risk to republican institutions. But the true military institution of a republican Government is the militia, and the true military spirit to be encouraged, is the militia spirit of this land. We all know how valiant and how effective that auxiliary was in the war of 1812; and we all know how loyal and effective it was in the Revolution. You know, sir, perhaps better than I do, [Mr. CLAY in the chair] how effective it was in all the southern and western campaigns during the war of 1812.

It is on this ground, therefore, that I must make up my mind, either to vote against this bill altogether, or to go for it in the state in which it stands now, so far as this question is concerned. I believe this disposes of the principal arguments in favor of the substitute, except those contained in the views which have been presented in the speech which has been made to us by the honorable Senator from Michigan, [Mr. STUART.]

We are alarmed by him by the aggregate amount of the donation. It is, indeed, very large, but it is only the casting up of a debt, and frightening us from the payment of a debt, by showing us how much we owe. If we attempt to pay at all, we should pay all. If we attempt to reduce the amount, to make a part of the loss fall on those who are entitled to payment, then the loss should fall equally, and not discriminating and establishing classes between the beneficiaries.

But, sir, in point of fact there is no very great force in this objection. Five years ago the Secretary of the Treasury reported to the President that there could not be expected from the avails of the public lands any revenue for the use of the Government for a period of eighteen years. It was upon that hint that I went over to the support of the homestead principle, because I considered that a fund which was dried up for a period of eighteen future years, was practically dried up altogether. The sum of $150,000,000, at which the appropriation made by this bill is estimated by the honorable Senator from Michigan, is $150,000,000 which the Treasury of the United States is never to have. It must go in some way; either in a homestead law, or under appropriations, the benefits of which will inure to the country largely, or be awarded to internal improvements, or education. If the Treasury is never to be benefited any more by any direct receipts as revenue from lands, this bill commends itself, in the largest and most liberal form, as a substitute for what I would have in the homestead bill.

Nor do I think it is likely to prove so injurious to the new States as the honorable Senator from Michigan imagines; and I have no doubt he is very honest, as I know he is very learned, in his reasons on these subjects. I think the time has practically gone by, sir, when large tracts of land will be taken by speculators. That a large portion of these lands will go into the possession of persons who served in the wars; that another large portion will go into the hands of their widows and children, is also very probable; and for the rest, if the land shall come to be so low in value as the honorable Senator supposes, it will afford no occasion for speculation. Speculators will not purchase tracts so cheap to hold them, and pay taxes on them until they advance in market, more especially as there is no reason to apprehend that the Government of the United States will hereafter be less liberal in its grants of public lands for public objects than it has been heretofore. It may, for a time, affect the prosperity of the funds of some one or more of the new States, but that will be but brief and temporary. They will find, I think, their lands settled just in proportion as the prices of the lands are reduced; and with the occupation, and settlement, and cultivation of their lands, their fiscal resources will be improved more than the loss of this five per cent. fund. Their educational institutions, also, will find support in new and ever multiplying settlements, which will compensate them abundantly for any temporary depreciation in the value of the reserved lands for the support of that great interest.

Under these circumstances, I have made up my mind to vote for the bill as it stands, in preference to the substitute of the honorable Senator from Pennsylvania.

Mr. WELLER. Before the question is taken on striking out the original bill, and inserting the substitute of the Senator from Pennsylvania, I have an amendment to offer to the original bill. It is to add, as an additional section:

SEC. —. *And be it further enacted*, That from and after the passage of this act, all persons now enrolled upon the invalid pension list, shall be entitled to receive, if a commissioned officer, twenty-one per cent. upon the amounts now allowed; and non-commissioned officers and privates, forty-two per cent. on the amounts now allowed or paid under existing laws.

I ask for the yeas and nays on that amendment.

The yeas and nays were ordered, and being aken, resulted—yeas 29, nays 13; as follows:

YEAS—Messrs. Allen, Badger, Benjamin, Brown, Cass, Chase, Clay, Dixon, Dodge of Wisconsin, Dodge of Iowa, Fessenden, Geyer, Houston, Johnson, Jones of Iowa, Jones of Tennessee, Pettit, Reid, Rusk, Sebastian, Seward, Stuart, Sumner, Thompson of Kentucky, Toucey, Wade, Weller, Wells, and Wright—29.

NAYS—Messrs. Bayard, Brainerd, Brodhead, Clayton, Cooper, Dawson, Evans, Fish, Fitzpatrick, Foot, Gillette, Mason, and Morton—13.

So the amendment was agreed to.

The PRESIDING OFFICER, (Mr. CLAY.) The question is now on the amendment of the Senator from Pennsylvania to strike out all of the bill after the enacting clause, and insert a substitute, which will now be read.

The Secretary read it, as follows:

That each of the surviving commissioned and non-commissioned officers, musicians, and privates, whether of regulars, volunteers, rangers, or militia, who were regularly mustered into the service of the United States, and every officer, commissioned and non-commissioned, seaman, ordinary seaman, marine, clerk, and landsman, in the Navy, in any of the wars in which this country has been engaged since seventeen hundred and ninety, and each of the survivors of the militia, or volunteers, or State troops of any State or Territory, called into military service, and regularly mustered therein, and whose services have been paid by the United States subsequent to the eighteenth day of June, eighteen hundred and twelve, shall be entitled to receive a certificate or warrant from the Department of the Interior for one hundred and sixty acres of land; and where any of those who have so been mustered into service and paid, shall have received a certificate or warrant, he shall be entitled to a certificate or warrant for such quantity of land as will make, in the whole, with what he may

have heretofore received, one hundred and sixty acres to each such person having served as aforesaid: *Provided*, the person so having been in service shall not receive said land warrant, if it shall appear by the muster-rolls of his regiment or corps that he deserted, or was dishonorably discharged from service.

SEC. 2. *And be it further enacted*, That in case of the death of any person who, if living, would be entitled to a certificate or warrant as aforesaid under this act, leaving a widow, or, if no widow, a minor child or children, such widow, or, if no widow, such minor child or children, shall be entitled to receive a certificate or warrant for the same quantity of land that such deceased person would be entitled to receive under the provisions of this act if now living: *Provided*, That a subsequent marriage shall not impair the right of any such widow to such warrant, if she be a widow at the time of making her application: *And provided further*, That those shall be considered minors who are so at the time this act shall take effect.

SEC. 3. *And be it further enacted*, That in no case shall any such certificate or warrant be issued for any service less than fourteen days, except where the person shall actually have been engaged in battle, and unless the party claiming such certificate or warrant shall establish his right thereto by record evidence of said service.

SEC. 4. *And be it further enacted*, That said certificates or warrants may be assigned, transferred, and located by the warrantees, or their heirs-at-law, according to the provisions of existing laws regulating the assignment, transfer, and location of bounty land warrants.

SEC. 5. *And be it further enacted*, That no warrant issued under the provisions of this act shall be located on any public lands, except such as shall at the time be subject to sale at either the minimum or lower graduated prices.

Mr. BRODHEAD called for the yeas and nays; and they were ordered, and being taken, resulted —yeas 29, nays 20; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bright, Brodhead, Brown, Butler, Cass, Chase, Clay, Dodge of Wisconsin, Dodge of Iowa, Fitzpatrick, Geyer, Gwin, Houston, Hunter, Johnson, Jones of Iowa, Mason, Pettit, Reid, Rusk, Sebastian, Stuart, Sumner, Toucey, Weller, and Wright—29.

NAYS—Messrs. Badger, Bell, Brainerd, Clayton, Cooper, Dawson, Dixon, Douglas, Evans, Fessenden, Fish, Foot, Gillette, Jones of Tennessee, Morton, Pratt, Seward, Thompson of Kentucky, Wade, and Wells—20.

So the substitute was agreed to.

Mr. STUART. I wish to offer an additional section, simply to make the bill conform to the present bounty land laws in respect to the execution of it by the land officers. It is to add:

And be it further enacted, That the registers and receivers of the several land offices shall be severally authorized to charge and receive for their services in locating all warrants under the provisions of this act, the same compensation or per centage to which they are entitled by law for sales of the public lands at cash, at the rate of $1 25 per acre; the said compensation to be paid by the assignees or holders of such warrants.

I will only say to the Senate, that I copied this provision from the existing law in respect to the location of bounty land warrants.

The amendment was agreed to.

Mr. WELLER. I desire now to offer, as an amendment to the bill in its present shape, the same proposition which was, on my motion, added to the original bill. It is to insert the following as an additional section:

SEC. —. *And be it further enacted*, That from and after the passage of this act, all persons now enrolled upon the invalid pension list shall be entitled to receive, if a commissioned officer, twenty-one per cent. upon the amounts now allowed; and all non-commissioned officers and privates forty-two per cent. on the amount now allowed or paid under existing laws.

Mr. BRODHEAD. I have some doubt whether an amendment of this sort is in order at any time, and especially at this time, when the bill is in its present condition. I do hope that my friend from California will not further embarrass this bill by the introduction of new matter. This is a bounty land bill, and I think that the matter of pensions should come up in a separate and independent bill.

Mr. WELLER. I have no desire to embarrass the bill; I am only laboring to put it in a shape which will justify me, and perhaps other Senators, in voting for it. If this amendment be incorporated in it, the bill will be a tolerably fair one; unless it be inserted, it will, in my opinion, be a very unfair one. I move the amendment, therefore, in good faith. If it be adopted, I shall vote for the bill, and if it shall not be adopted, I shall vote as I think best hereafter.

Mr. DAWSON. I wish to ask my friend from California, whether the very persons he proposes to include will not receive one hundred and sixty acres under this bill? If that be so, it can do them no injustice, for they get a bounty already by way of pension, and one hundred and sixty acres besides.

Mr. WELLER. My only object is, to make better provision for those who, in my judgment, have the strongest claims on the Government; I speak of those who have been broken down and disabled in the public service. I desire to make a strong distinction between the able-bodied man and the one who has lost a leg or an arm in the military service. Under your present pension laws, if a man has lost a leg or an arm, he receives eight dollars per month; and where a man has lost both legs, if a private, he is entitled to sixteen dollars a month. This, in my judgment, is no remuneration at all; I desire to go further than this. I think these men have a stronger claim, not only on the sense of justice, but on the sympathies of Congress, than the able-bodied men who are asking you for one hundred and sixty acres of land. I make a distinction, I say, between one who served ten days and received no wounds, and one who served, perhaps, two or three years and was forever disabled by that service.

Mr. MASON. The bill as it now stands amended by the substitute proposed by the Senator from Pennsylvania, which has just been adopted, is in such a condition as will require me to vote for it; but I wish to say that in voting for it, I do not act according to my own sense of what may or may not be right in the subject-matter. It was the pleasure of the Legislature of Virginia, at their last session, to instruct their Senators to vote for a bill giving to all who were engaged in the war of 1812—substantially engaged, I mean—and to the widows and minor children of such as may be dead, an amount of land which, with what they have already received, will amount to one hundred and sixty acres for each. I have, therefore, no discretion in the matter. How I should exercise that discretion, if I were at liberty, it is, perhaps, unnecessary to say; but in giving the vote which I shall give for the bill, if it remains as it is, I shall be deferring to the opinion of the General Assembly of Virginia, whom I consider as my constituents, that it is wise that this justice should be done; but if the amendment proposed by the Senator from California prevails, it will materially alter the bill. What other votes it may lose, I do not know, but my impression is that it must lose mine.

Mr. RUSK. I should not trouble the Senate, but for the fact that a few minutes ago I voted for this amendment to the original bill by mistake. I supposed the question was on the substitute of the Senator from Pennsylvania, and voted "aye." I had no idea it was upon the proposition of the Senator from California. I have no objection, if these pensions are too small, to increase them upon proper investigation; but it is improper to add such a pension to this bill. There are a great many pensioners who have come in under the general law and received, as the Senator from California says, some eight dollars and some sixteen dollars a month; but I remember that there are others who come in at a very high figure, the pension, to some of them, I think, being thirty or forty dollars monthly. I know that a number of bills of that description have passed here within my recollection, giving pensions enormously large in proportion to those received by others. Now, this amendment adds to the pension of both classes twenty per cent. The truth is, it is not appropriate to this bill. It is a matter which should be investigated and acted on with an understanding of what we are really doing.

In the first place, it is not, as I said, appropriate to this bill; in the second place, we have had no investigation of a committee on the subject; and, in the next place, it is not doing strict justice to the pensioners themselves, because it increases all. It makes no discrimination. It increases the pensions of these poor men who, under the pension laws, receive only eight dollars a month, and at the same time makes a proportionate higher increase to those who receive forty dollars a month, as some do under special laws. Under such circumstances I shall vote against the amendment.

Mr. BADGER. I wish to say that I shall vote in favor of the amendment moved by the Senator from California; and by way of explaining my reasons for doing so, I will state that I adopt the speech the Senator made as my own—I mean the last speech he made; I do not mean to pass any judgment on the merits of his first one. [Laughter.]

Mr. CHASE. I voted for this amendment before, upon the grounds which have been so well assigned by the Senator from California. I prefer it, however, very much in the shape in which he originally offered it. As it now stands, it provides for an increase of twenty-one per cent. to one class and of forty-two per cent. to another class. It will be difficult of execution in its present shape, and I would suggest to the Senator to restore it to its original form of twenty per cent. and forty per cent.

Mr. WELLER. I accept that modification.

Mr. CHASE. I shall vote for the amendment as it now stands; but I would suggest to the Senator from California whether, in order to avoid the objection of the Senator from Texas, it would not be better to make it apply to those pensions which are granted by general laws and not by special acts. That class of pensions, to the operation of this bill upon which the Senator from Texas objects, are all of them created by special laws. If the amendment is made applicable only to pensions granted by general laws, it can by no possibility work any injustice; on the contrary, it makes the pensions now simply equal to what they would have been at the time they were originally granted. The depreciation in the value of money, the advance in the price of all the articles of subsistence, is such that to add this amount to these respective pensions would really do nothing more than carry out the original intention of the framers of the act. Looking upon it in this light, and hoping that the Senator may think proper to modify it so as to apply to general laws, I shall vote for it.

Mr. WELLER. I have no objection to that.

The PRESIDENT. Is the modification accepted?

Mr. WELLER. It is.

Mr. BADGER. So as to include pensioners, whose pensions have been granted by any general law or laws.

The amendment was agreed to.

Mr. BROWN. I have an amendment to offer as an additional section:

And be it further enacted, That the provisions of this act, and all the bounty land laws heretofore passed by Congress, shall be extended to Indians, in the same manner, and to the same extent, as if the said Indians had been white men.

The amendment was adopted unanimously the other day, and if nobody is disposed to discuss it, I am not.

The amendment was agreed to.

Mr. BUTLER. I understand that by the provisions of the substitute just adopted, widows of revolutionary officers and soldiers are excluded. I wish to put them on an equality with Indians, [laughter,] and therefore I move this amendment:

And be it further enacted, That the widows of officers and soldiers of the revolutionary war be entitled to the benefits of this bill.

Mr. BRODHEAD. Mr. President, if it is the intention of the Senate to proceed with these amendments, and thus to break down the bill again, going over the same ground we have before gone over, of course, I can interpose no objection; but I had hoped that when we took a vote on the substitute which I offered, there would be an end of these amendments. They have heretofore been introduced into the original bill, and they have been voted out by the adoption of the substitute. The scheme which I presented as an entire scheme, has been adopted by the Senate in opposition to the amended bill. Now, it does seem to me that any further amendments, as additional sections, to include what we before rejected, are out of order. I endeavored to obtain the yeas and nays on the amendment proposed by the Senator from California, which introduced new matter relating to pensions, but I could not obtain them. I shall not trouble the Senate much more on this subject.

Now, in regard to the amendment offered by the Senator from South Carolina, giving lands to the widows of soldiers of the Revolution, I have to say there are but very few living, if any.

Mr. BUTLER. Why should they not have it?

Mr. BRODHEAD. The gentleman from South Carolina asks "why should they not have it?" and Senators from other States will say "why should not this class have it?" and thus you will have the bill in such a shape that it cannot be executed. The Senate have admitted this by adopting the substitute which I offered. I trust they will adhere to the determination evinced by the adoption of that substitute.

There is another objection, sir, to the amendment proposed by the Senator from South Carolina, and it is that the widows for whom he proposes to provide already receive pensions under existing laws. Those receive pensions who were married half a century after the Revolution. You cannot in a general bill provide for every class of persons who have been engaged in the military service; and the question is, whether, by attempting to get too much, you may not lose all. I think the friends of the bill had better stand by it as it is, without introducing pension provisions, without going back into the Revolution, and attempting to provide more liberally for those who are already provided for. Why, sir, the Commissioner of Pensions reports that there are but about a thousand on the pension roll who were engaged in the Revolution; they receive pensions. Before this law can be signed and carried into effect, three fourths of them will be in their graves, perhaps all of them. So, too, with the widows who lived with them during the time of the Revolution. Why, therefore, embarrass this bill by introducing their names, or attempting a provision for them?

I do not wish to prolong debate on this subject. I hope some gentleman will move a reconsideration of the vote on the amendment offered by the Senator from California, so that we may take the yeas and nays upon it.

Mr BUTLER. Mr. President, the Senator from Pennsylvania says that the widows of revolutionary soldiers have already been provided for. They have never been provided for, sir; all that has been bestowed upon them has been an inadequate provision; but let me say to that Senator, that I myself know venerable widows, now living in the State of South Carolina—not many, I only know three—venerable relicts of revolutionary soldiers, who, to this day, have never received one cent in virtue of their marriage, and for the reason that the revolutionary soldier was required to perform six months' service, or his widow could get nothing under the pension laws. They have been excluded; and does the gentleman tell me that this amendment, providing for the few surviving widows of revolutionary soldiers, will at all interfere with the passage of the bill? Sir, I, at least, will be reconciled to it by the fact that I can, by a provision of this kind, make an expression of my gratitude, if nothing else, to them. If a discrimination is made in favor of the widows and children of the soldiers of the war of 1812, many of whom now live to take care of themselves, I will vote against the bill, because it contains so many who are able to provide for themselves, and excludes the venerable relicts of revolutionary heroes.

Mr. BADGER. Mr. President, I assure my friend from Pennsylvania that I am as sincerely desirous of the passage of this bill as he is, or any other gentleman upon this floor; but I think my friend exacts rather too much of us when he insists that we shall take the bill just in the form in which he thinks it is best. Upon that subject, with all possible respect for him, he must allow me to claim for myself, and other members of this body, the right of consulting our own judgments. He thinks his substitute is in the best possible form. I do not. He thinks he has embraced every class which it is proper to provide for in this bill. I entertain a different opinion; many other Senators entertain a different opinion. He thinks that putting in the proposed clauses will jeopard the passage of the bill. We think otherwise. Now, upon all these questions, as well as upon every other, each gentleman must determine for himself.

Permit me to say, also, to my friend from Pennsylvania, that I think he has misunderstood the purport of the vote by which his substitute was adopted. I think the state of the case upon the subject is this: The Senate had voted against my friend from Pennsylvania so often, in putting amendments upon his original bill against his decided and earnest protest, that, when the question came up on adopting his substitute, if the Senate had not voted it in, he might have been led to infer that there was some personal feeling in voting against him all the time. [Laughter.] Well, now, sir, the Senate have voted in his substitute; but the Senate have not changed the opinion under which they put the amendments upon the original bill; and, therefore, having gratified him by striking out the original bill, as we had amended it, and putting in his substitute, which is substantially the original bill as he introduced it, we are under the necessity, in order to carry out our views, to put upon the substitute ingrafted into the bill the very amendments which were in the matter stricken out of the bill; because in no other way can we reconcile our desire to gratify him with our fixed conviction that our public duty requires us to enlarge the provisions of the bill.

Now, sir, a word as to the pending amendment, the proposition of my friend from South Carolina, to make a small provision for the widows and orphans of revolutionary officers and soldiers. What possible objection can any man, living upon American soil, and inheriting and enjoying at this day the blessings achieved for us by the valor of our revolutionary sires, have to interposing this provision? Why, the Senator from Pennsylvania says there are few of them. The Senator says that, before this bill can be signed, and have the force of law, nearly all of those who now remain will have sunk into the grave. Then surely there can be no objection in any man's mind, on account of the amount which will pass to the class of persons whom my friend from South Carolina designs to provide for. For my own part, sir, if I can do anything here or elsewhere, by which I can testify the sense which I entertain of the services rendered by that gallant band of men in our revolutionary conflict; if I can, by a vote upon this bill, minister anything to comfort the declining years of a single surviving widow or orphan of those who fought for us in that great struggle, I shall do it with pleasure; and I wish to Heaven, sir, that there were thousands left to enjoy this benefaction from their country, and to whose hearts we might communicate a sense of gladness, not only springing from the relief of wants in their declining years, but a far higher and holier feeling of satisfaction from the conviction it will impress upon their minds, that their husbands and fathers have not been forgotten by their country. Sir, I shall vote for the amendment with exceeding cheerfulness.

Mr. BRODHEAD. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HUNTER. Mr. President, I have been instructed by the Legislature of my State to vote for a bounty land bill for the soldiers of the war of 1812, and for their widows and minor children. For such a bill I am anxious to vote, in order to carry out the wishes of my State. But, sir, if we come to add to this bill provisions materially interfering with our pension system, we shall not only be doing what, in my humble judgment, we are not prepared now to do with the information before us, but we shall certainly jeopardize the passage of the bill in the House of Representatives, even if it should go through this body.

I rose to say that I was opposed to the addition made by the amendment of the Senator from California, because I thought that it was impolitic and improper to mingle the general subject of pensions with that of bounties. This was intended as a bounty land bill. It was not designed, I presume, when it was offered, to interfere with the general subject of the pension system of the country. I think that, when that subject is taken up, it ought to be thoroughly examined, and changes ought not to be made in it until after we have carefully considered their consequences. Do we know the consequence of meddling with the present system generally? Is it a system which has proceeded so slowly and increased so lightly, that we should be anxious to seize every opportunity to enlarge it? I believe that if we look into its history we shall find that the appropriations for pensions increase faster in time of peace than they do in time of war.

Sir, in connection with that system there are provisions which are necessary in order to secure the Government against fraud. When the Secretary of the Interior suggested them, and they were sent here, and an effort was made to incorporate such provisions in one of the general appropriation bills, the attempt was resisted; and we were told that, perhaps, we should have some general provision in order to guard against those evils. If we are to raise the pension system generally, we ought also to provide the proper checks; and I must say, that, if we raise the pensions of invalids, I do not see why the motion of my friend from South Carolina is not quite proper. It seems to me that, if we take up one branch, justice will require us to go on through the several classes to whom pensions are allowed, who are all meritorious. If it is right on the ground that the value of money has changed, that reason applies as much to one class as another. Now, sir, are we ready to go into this; and can any man tell me the effect of this proposition, if we should put it upon the bill? It is, if I understand it, to raise the pensions granted to revolutionary widows twenty per centum.

Mr. BUTLER. No, sir; only to give them bounty lands.

Mr. HUNTER. Only to give the widows bounty lands?

Mr. BUTLER. That is all.

Mr. HUNTER. If that be the amendment, it is much more appropriate and germane to the bill than the one which was offered by the Senator from California, and which was adopted. I thought this was a proposition to increase their pensions. Certainly they are as much entitled to an increase of pensions as the other class.

Mr. BUTLER. I wish it to be distinctly understood that I want to put the venerable widows of the officers and soldiers of the Revolution on a footing with the widows of the officers and soldiers of the war of 1812. Can a discrimination between them be allowed? I should dislike to see such a discrimination made, and I hope, therefore, my amendment will be adopted.

The question being taken by yeas and nays, resulted—yeas 43, nays 1; as follows:

YEAS—Messrs. Allen, Badger, Bell, Benjamin, Brainerd, Bright, Brown, Butler, Chase, Clay, Clayton, Cooper, Dawson, Dixon, Dodge of Iowa, Evans, Fessenden, Fish, Fitzpatrick, Foot, Gillette, Houston, Hunter, James, Johnson, Jones of Iowa, Jones of Tennessee, Mason, Morton, Pratt, Reid, Rockwell, Sebastian, Seward, Shields, Stuart, Sumner, Thompson of Kentucky, Toucey, Wade, Weller, Wells, and Wright—43.

NAY—Mr. Brodhead—1.

So the amendment was agreed to.

Mr. TOUCEY. Mr. President, it is not often that I have occasion to reply to anything which comes from my friend from Virginia, [Mr. HUNTER.] I am in favor of this bill, notwithstanding the amendment which has been made upon the motion of my friend from California, increasing the pensions of the crippled soldiers, the men who have lost an arm or any other limb in the service. There is a distinction between that class of pensioners and all other pensioners. If my recollection serves me, they become entitled to those pensions as a matter of contract. When they enter the military service, they do so upon the contract, that if they lose a limb, or are otherwise disabled in the line of their duty, they shall be provided for by the Government, according to existing laws. Hence, when the compensation which is given to them has become inadequate, by the depreciation of money, the question is an entirely different one from what would apply to the other classes of pensioners whose claims rest entirely upon the voluntary bounty of the Government For this reason, if we adopt the provisions of this bill, and give an increase of pay to this class of pensioners, it will constitute no foundation whatever for increasing the pay of those upon the general pension list, for the reason that one is a bounty, and the other is a debt of justice.

Mr. FOOT. Mr. President, I have an amendment to offer as an additional section:

SEC. —. *And be it further enacted*, That the provisions of this bill shall be applied to and embrace those who served as volunteers at the invasion of Plattsburg, in September, 1814.

This amendment was adopted as part of the original bill, without a dissenting voice in the Senate. I have no further explanation to make of it at this time.

Mr. CLAYTON. I ask my friend from Vermont to consent to a slight modification of his amendment, so as to include volunteers in Delaware whose condition is precisely like that of the Plattsburg volunteers. During the war of 1812 the British fleet blockaded the Delaware. Commodore Berresford, with a line-of-battle ship and several frigates and sloops-of war kept the Delaware bay generally completely subjected to the British power; so far, indeed, that no common craft could escape them. At length, being without provisions, the Commodore called upon the town of Lewistown, in the State of Delaware, for one hundred beeves, and other provisions. The Gov-

ernor of the State replied to him "Come and take them." The British made an attack upon the town, which lasted during the night. They bombarded it. Men from the country all around the neighborhood were summoned immediately, without a call from the General Government, to defend the town and their firesides. Those men marched, some of them, from twenty to thirty miles with their muskets. Two or three thousand men having assembled at Leweston, they succeeded in defending the town against the British forces.

Those men are just in the situation of the Plattsburg volunteers. They have received nothing from the Government. The bill, as it now stands, excludes them. Worthier men than many of them are probably not to be found. I see no principle on which others are to be paid and they excluded. The whole affair was, perhaps, as creditable to the country as any other which occurred at that time. The town was successfully defended by the valor of these men, and they ought not to be refused a participation in the benefits of the bill merely because they were not mustered into the service, but went forward at the call of the Governor of the State, from a sense of duty, with their weapons, to defend one of the towns of the country which was attacked by the enemy. I hope my friend will accept the modification which I suggest.

Mr. BRODHEAD. I shall say nothing on the amendment; I simply ask for the yeas and nays.

The yeas and nays were ordered.

Mr. FOOT. I shall very cheerfully vote for the proposition of the honorable Senator from Delaware, as a separate and independent one; but I prefer that the vote should be taken upon my amendment, as it now stands, without any modification, for the reason that, if I accept the proposition of the honorable Senator from Delaware, I shall receive like appeals from other quarters, and I prefer that each proposition should stand independently, on its own merits. For this reason I must beg to be excused from accepting the proposition of the Senator from Delaware as part of my amendment.

The question being taken by yeas and nays on the amendment, resulted—yeas 26, nays 8; as follows:

YEAS—Messrs. Allen, Badger, Bell, Brainerd, Bright, Clay, Clayton, Cooper, Dawson, Douglas, Fessenden, Fish, Foot, Gillette, Houston, Reid, Rockwell, Seward, Shields, Stuart, Sumner, Thomson of Kentucky, Wade, Weller, Wells, and Wright—26.

NAYS—Messrs. Brodhead, Brown, Dodge of Iowa, Fitzpatrick, Hunter, Jones of Iowa, Mason, and Rusk—8.

So the amendment was agreed to.

Mr. FESSENDEN. I move to insert after "1812," in the first section of the bill as it stands, the words "and of any armed force employed by any State in defense of its territory, and whose services have been paid for by the United States."

Mr. BRODHEAD. I raise a question of order on that amendment. It proposes to amend the substitute which has been adopted. I do not think that is in order.

Mr. FESSENDEN. All these amendments are propositions to amend the substitute. That is the nature of the amendment which has been offered by the Senator from Vermont.

Mr. FOOT. The Senator can offer his proposition as an additional section. Then it will be in order.

Mr. WELLER. It is not in order to modify the substitute which has been adopted; but additional sections can be added to it.

Mr. FESSENDEN. Then I offer the amendment as an additional section.

Mr. STUART. I should like to know the phraseology of the section which it is proposed to add.

Mr. WELLER. The only difficulty is whether, if adopted, it will not be inconsistent with the substitute already adopted by the Senate. We may add it as a new section, provided it does not conflict with that which has already been passed on by the Senate.

Mr. FESSENDEN. I cannot see how it conflicts with the bill, any more than does any other amendment which has been adopted. There have been several amendments adopted, adding new clauses. This is exactly of that class.

The PRESIDENT. It is for the Senate, and not for the Chair, to say whether or not the amendment is inconsistent with what has already been agreed to.

Mr. FESSENDEN. This is to provide for a class whose services have been paid for by the United States, and is clearly in conformity with the present provisions of the bill, although it is offered as an addition to the bill.

Mr. WELLER. I understand that the substitute which has already been adopted, provides that none shall be entitled to the benefits of the bill, unless they have been mustered into the service of the United States. Now, the amendment proposed by the Senator from Maine is to go beyond that, and to give land to those who have not been mustered into the service of the United States, but who were called out by State authority, and were subsequently paid by the United States. It seems to me, therefore, that, to this extent, it is in direct conflict with that portion of the bill to which I have already alluded, which requires that the beneficiaries under the bill must have been mustered into the service of the United States.

Mr. FESSENDEN. The Senator from California is certainly in error. As was explained the other day, there are two main clauses in the bill, one providing for those soldiers who have been called out and mustered into service by the United States, and the other for those who have been called out by the States, and mustered into the military service by them, and not into the service of the United States, but who have been subsequently paid by the United States. These are the two classes provided for by the bill. My amendment provides for a class who were not regularly called out as soldiers, and who were not mustered into service, because there was no time to muster them when they were called out, but who were subsequently recognized by the Government of the United States in the same manner with those who were called into the military service, and regularly mustered and paid by them. That is all. It applies only to a very small class of persons in one State.

I may add, what I said the other day, that, under the existing bounty land law of 1852, a large portion of these men received bounty land; but when a new Secretary came into office, he placed a different construction on the law, and refused to grant patents to this class; so that, as the matter stands now, a portion of them have received bounty land, and another portion have not received it. This amendment is to provide for those who have not been treated as the favored portion have been. They have been recognized by the Government of the United States, by their services being paid for, and I see no reason why they should be excluded from this bounty. My amendment is:

And be it further enacted, That the provisions of this act shall be extended to any armed force employed by any State in defense of its territory, and whose services have been paid for by the United States.

Mr. STUART. Now, I think the Senate may, if they choose, come to an understanding as to what shall be done with this bill. Here is a clear case. The Senator from Maine says the amendment only applies to a few individuals in one State. They are known to be those who were called out by the State of Maine during the troubles respecting her boundary—a trouble which has sometimes been denominated the Aroostook war; they were in no actions; they were in no condition of sufferings; they were called out but a few years ago, when there was plenty, as there is now, in the State of Maine. They were as well taken care of as any individuals could be away from their own homes under such circumstances. They performed no service in war. There was no public enemy for them to encounter. There was no declaration of war. It was a simple question of boundary between the State of Maine and a foreign Government, which was subsequently adjusted by treaty. The State liberally paid for the time of the men, and the Government of the United States has refunded the money which she paid. Now, I ask if, in any sense, such men are to be considered as on an equal footing with the soldiers of the Revolution, and the soldiers of the war of 1812?

Sir, I differed from the honorable gentleman who has charge of this bill, in respect to the propriety of seeking to exclude the soldiers of the Revolution and their widows, and I have voted differently from him on that question; although I certainly award him merit for his motives in seeking to keep this bill in a form in which it will not be very objectionable. I also voted for the amendment of the honorable Senator from Vermont. There is a similarity between the condition of the men included in the bill and those for whom that amendment provides. They volunteered and went to Plattsburg. They exposed their lives; they were ready to go to any extent. It was at a time when men suffered. It was a time when it required stout hearts to volunteer in the service of the country against a foreign enemy in the field. But, sir, to undertake to extend the provisions of a bill for the benefit of such individuals who served their country in the most patriotic manner, to persons called out to settle a simple question of boundary in a State, when there was no war, it seems to me, is to introduce into the bill a principle which is without propriety or limitation.

As I have said, I think the Senate may here, with propriety, if I may be allowed the suggestion, determine, by a vote of yeas and nays on this amendment, the character of the bill. I confess that, if the Senate, on the call of the yeas and nays, shall express their sense in favor of putting in this provision, we may as well go back and bring in the soldiers of the Patriot war, those engaged in the boundary disputes between Ohio and Michigan, and between Iowa and Missouri; and in every other difficulty which has ever existed in this country, so as to give bounty land to a man who never shouldered a musket; and all this when we are pretending—I say pretending, sir—to do something for the soldiers of 1812.

Mr. SHIELDS. Do not forget the Mormon war.

Mr. STUART. Yes, certainly; the Mormon war, and everything of this kith and kin. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. FESSENDEN. Mr. President, I have no desire that the Senate should vote under any misapprehension in regard to this amendment. I do not pretend that there is any peculiar merit in the case; nor do I perceive that there is any very peculiar merit in a large portion of the cases covered by the bill. The Senate will observe that the bill, as it now stands, covers all those cases where the country was actually at war, where soldiers were out for fourteen days. The Senate very well understand that in those fourteen days they saw no battle, they went into no conflict, they were exposed to no danger, they suffered nothing, but were merely mustered into service, and kept for a time, until their presence was found unnecessary. Very frequently men were summoned for the protection of the sea-board, and were kept together for a few days, and then discharged and sent home. The provisions of the bill apply to all these.

The Senate will excuse me for saying that I do not understand that it is the sole object of the bill to pay men for actual services and sufferings; but, so far as it applies to men at all, it is founded on the idea that they were ready to turn out when their country needed their services, and to render assistance if their assistance should be found necessary. That I take to be the leading principle. It is not asked whether any particular soldier was in battle, or was exposed to severe or peculiar danger. I consider that a very large portion of the bill is a mere gratuity—a gratuity which Congress are disposed to afford more for the sake of encouraging a spirit which will lead men to defend the country, than to reward particular services which have been rendered.

In manifesting this disposition to serve the country on a particular occasion, in defense of the territory of the United States, which forms a part of the territory of a State, against a public enemy, a foreign foe, I do not see that it makes a great difference whether war has been declared previous to the rendition of the service or not. In this particular case, no war was existing between the United States and Great Britain; but Great Britain, acting through the Province of New Brunswick, sent an armed force of soldiers into the territory of the State of Maine, and seized and carried off a number of its citizens. This was on the frontier, in the woods, away from settlements; but the news was brought to the seat of Government. A force of volunteers was raised on the instant, to go up and defend the territory of Maine, which was also the territory of the United States. It formed part of the United States. These men went there, and

served without being mustered into actual service, and protected that portion of the country from the soldiery of a foreign foe until a sufficient force could be raised and regularly mustered into the service to perform the same duty. They served longer, in point of fact, than those who were regularly mustered. There was no war declared; there was no actual fighting after they went there; for their very presence protected the country, and protected themselves. Sir, it was not an easy thing to march into the woods, as they did, in the middle of winter, and spend months there. I do not pretend that they are, therefore, entitled to this bounty; but I say they are just as much entitled to it for the spirit that they manifested, for the ardor they felt, and for the willingness they showed to protect the country—because it was the country at that time—as others who were mustered into the service in the course of a war, and who were out for, perhaps, fourteen days, because fourteen days' service is the limitation in the bill.

Further, I will say that those services thus rendered have been recognized by the Government of the United States as rendered to the United States, and the men have been paid as soldiers, in the same manner as those who were subsequently mustered and took their places, were paid, and who will receive bounty land under this bill, in my judgment.

This is a simple statement of facts in regard to the circumstances. As I said before, part of these men have actually received land under the act of 1852, and a part have not. It is for the Senate, under these circumstances, to say whether they are or are not entitled on the principle of the bill. The principle is not that of having seen a battle, not of having actually bled or exposed themselves to danger and suffering in actual conflict in defense of the country. They do not come under that category; but allow me to say again, that a large portion of those included in the bill, as it stands, do not come within that category. It is for the Senate to say whether those meritorious men shall be included or not. I leave the question in their hands.

Mr. WELLER. Mr. President, I shall be compelled to vote against this amendment. It seems to me that there is no shadow of justice in it. These men were called out by the authorities of the State of Maine, to aid the Governor of that State in extending its laws over what it claimed to be its territorial limits. Now, if you extend your bounty land system to those men, I cannot see why you should not extend it to those persons who may have been called out by the Marshals of the United States to aid in the execution of the laws of this Government. Unfortunately, sometimes, because of sectional feeling in particular localities, the United States Marshal is required to call upon a military force, or to procure a *posse* to aid him in the execution of the laws of the Union. Every man so called out is as much entitled, in my judgment, to bounty land from this Government as those troops who were called out by the State of Maine. Sir, it seems to me that it would be an insult to call these men soldiers of the United States. There was no public enemy in the field for them to meet. There was a question of boundary in dispute; and the Governor of the State, in order to execute the laws, within what he deemed to be the limits of that State, called for these military services. I think the Government of the United States went quite far enough in paying the troops so called out. Surely they have no sort of claim upon us for bounty land. If, however, they are to receive it, I should be willing to extend the measure so far as to take in all the military forces who have been called out in New England and other portions of the Union to aid in executing the laws of this Government.

Mr. FESSENDEN. The Senate will observe that there is a great difference between a contest with the soldiers of a foreign Government and a mere domestic quarrel at home.

Mr. DODGE, of Iowa. Mr. President, it seems to me that the argument of the Senator from Maine, in support of his amendment, when stripped of verbiage, is, that, his is a bill of plunder and pillage, and being so, he is in for a portion of that plunder and that pillage for the benefit of his constituents. Sir, this bounty land bill, like every other bill upon which we legislate, is in danger from excess. You can scarcely adopt any bounty land system when there is not the most imminent peril of destroying it, from the very excess to which it is carried. With this bill, we have arrived at a point when we are to decide whether it is to be kept within some reasonable limits, or whether it is to be spread out as it was before the substitute of the Senator from Pennsylvania was adopted.

Allow me to say, sir, although I do not see how I can vote for the bill, unless it be kept within proper and reasonable limits, that there is not a created man who more highly appreciates their services, and who is more desirous of rewarding the soldiers of the Revolution, and of the war of 1812, than I am. I am willing to go as far as to vote for the bill as it has been amended by the adoption of the substitute of the Senator from Pennsylvania. It embraces the militia who served for four or five years in the State of my friend from Florida, who have already received forty acres. Every one of them will get one hundred and twenty acres more, without any trouble, under this bill as it stands. The bill as it stood before the substitute was adopted, embraced the men who were called out by the proclamation of Mr. Van Buren, in 1837–'8, during the Patriot war, which he sought to suppress. The original bill was extended beyond any bounds to which it could reasonably go, and the question is presented to individuals like myself, who are most anxious to vote something to the soldiers of the war of 1812, and of the Revolution, and their heirs, whether we can support the bill or not. Certainly we cannot, if it is to be extended beyond its present limits.

I hope and trust the Senate will reject the amendment of the Senator from Maine, and stop where they are now; because, if this amendment shall be adopted, its effect will be to bring in others, and we shall have a struggle such as is witnessed on a log-rolling internal improvement bill. When you bring up a bill of that character, there are certain national objects on which all agree; but immediately each member seeks to get something for his district or State, whether expedient on principle or not. That seems to be the case now in reference to this matter. I trust the amendment will be rejected, and that we shall keep the bill within such bounds as those who feel like I do can vote for it.

Mr. ADAMS. Mr. President, I desire to say a few words merely for the purpose of explaining the vote which I expect to give upon this bill. I have every desire to make full, fair, and ample compensation to every man who may have rendered, or may hereafter render, service to the country, either in a military or a civil capacity; but in doing that, I cannot consent to perpetrate a palpable act of injustice. If I understand the bill right, it gives to the man who served for fourteen days precisely the same bounty land as it gives to the man who served for three, or four, or five years. Such a mode of compensation is outrageously unjust to those who served a long time. That I cannot sanction, whatever may be my desire (and I profess to have an anxious wish) to fully compensate those who have rendered services to the country. The man who went out and remained fourteen days, and then returned to the care of his family and to his business, and thereafter remained at home, is, according to this bill, to receive the same compensation as the man who went to the camp, and remained under arms for a year, or for a number of years, to the detriment of his private business. This is an act of injustice to which I cannot consent.

We can only grant these bounty lands, it seems to me, on the assumption, which I have no doubt is correct, that the Government did not pay these brave men a fair compensation for their services. Whenever you make a proposition as a gratuity to any man, or any set of men, I cannot vote for it; nor can I agree to consent to the palpable injustice which this bill does to the meritorious class who served for a long period. I shall, therefore, vote against this bill as it stands; although I should be pleased to pay every man who has not been fully paid a fair compensation in proportion to the service which he rendered to the country.

Mr. DODGE, of Iowa. I move to amend the amendment by adding the words "or Territory," after "State."

The amendment to the amendment was agreed to.

The question recurring on the amendment as amended, it was taken by yeas and nays, and resulted—yeas 16, nays 30; as follows:

YEAS—Messrs. Badger, Benjamin, Brown, Clayton, Cooper, Douglas, Fessenden, Foot, Gillette, Mallory, Morton, Pratt, Rockwell, Sumner, Wade, and Wells—16.

NAYS—Messrs. Adams, Allen, Bell, Bright, Brodhead, Butler, Clay, Dawson, Dodge of Wisconsin, Dodge of Iowa, Evans, Fitzpatrick, Geyer, Gwin, Houston, Hunter, James, Jones of Iowa, Mason, Pettit, Reid, Rusk, Sebastian, Shields, Stuart, Thompson of Kentucky, Thomson of New Jersey, Toucey, Weller, and Wright—30.

So it was rejected.

Mr. SHIELDS. I desire to offer an amendment in the form of an additional section. It refers to non-combatants, it is true, but, at the same time, it ought to meet the approbation of the Senate. It is to make the bill apply to chaplains who served with the Army in the various wars; and although they took no part in the fighting, they still should get this bounty:

SEC. — *And be it further enacted*, That the provisions of this bill shall apply to the chaplains who served both with the Army, and in the several wars of the country.

Mr. DOUGLAS. I am under the impression that my colleague is mistaken in supposing that the chaplains took no part in the fighting. I know some who did as much fighting as praying. Some of them were the most efficient men in the Army—particularly in the western wars. I do think they ought to be placed on an equality with the soldiers. [Laughter.]

The amendment was agreed to.

Mr. BADGER. I offer the following amendment, to come in as an additional proviso at the close of the first section:

And provided also, That where any such officers, soldiers, or volunteers may have been called out under the authority of any State, they shall be entitled to the benefits of this section, although not paid by the United States.

Mr. BRODHEAD called for the yeas and nays; and they were ordered.

Mr. DODGE, of Iowa. I wish to amend that amendment. I know that my friend from North Carolina will, with great pleasure, accept what I propose, when I suggest it to him. He always desires to be comprehensive and embrace as many as possible. My amendment is to add the words "or Territory," after "State."

Mr. BADGER. I will do it with pleasure, if my friend will vote for the amendment after I have accepted his modification.

Mr. DODGE, of Iowa. That, I announce most positively, I will not do. I will make no bargain with my friend.

Mr. BADGER. Ah! then, I cannot accept it. [Laughter.]

The PRESIDENT. The question is on the amendment of the Senator from Iowa to the amendment.

The question was taken; and it was agreed to.

The PRESIDENT. The question now is on the amendment as amended.

Mr. BRODHEAD. If that be agreed to, I look upon it as the destruction of the whole bill.

The question being taken by yeas and nays, resulted—yeas 15, nays 28; as follows:

YEAS—Messrs. Badger, Benjamin, Clayton, Cooper, Douglas, Evans, Fessenden, Foot, Gillette, Morton, Pratt, Rockwell, Seward, Sumner, and Wade—15.

NAYS—Messrs. Adams, Allen, Brainerd, Bright, Brodhead, Brown, Clay, Dawson, Dodge of Wisconsin, Dodge of Iowa, Fitzpatrick, Geyer, Houston, Hunter, Johnson, Jones of Iowa, Mason, Pettit, Reid, Rusk, Sebastian, Shields, Stuart, Thompson of Kentucky, Toucey, Weller, Wells, and Wright—28.

So the amendment was rejected.

Mr. CLAYTON. I offer the following amendment:

SEC. —. *And be it further enacted*, That the provisions of this act be applied to those who served as volunteers at the attack on Lewistown, in Delaware, by the British fleet in the war of 1812-'15.

The principle which has been applied to the Plattsburg volunteers, applies exactly to these. There was no time for the Government to call them out and muster them into the service. The fleet was in the bay. It made an attempt to lay the town under contribution. The people of the State resisted. They came from all quarters as soon as the cannonade commenced, served as long as the fleet remained in the bay, and then returned to their homes. They fought as gallantly as any men in this country. They defended the town against the whole British fleet, who bombarded it for three days and nights. Many of those men were never on the muster-rolls of

the Army; but they stand in the same situation as the Plattsburg volunteers. Senators must certainly be well enough versed in the scenes of the last war, to know the history of that bombardment. The British fleet exhausted all their ammunition upon it before they retired; and when they got home, they reported that they had bombarded a walled town. It stands upon the entrance of the ocean, open and high, and they believed, because it stood the shot so well, that it was a walled town, and that, therefore, they did not succeed.

These men stand precisely on the ground of the Plattsburg volunteers. There was no time for the Government to muster them into the service. The British commenced the attack. As soon as the alarm was given these volunteers assembled in defense of the country. They defended the soil as long as there was any danger, and then returned home. Hundreds of them have never been paid a cent.

Mr. DODGE, of Iowa. I do not remember exactly the phraseology of the amendment of the Senator from Delaware.

Mr. CLAYTON. It is precisely similar to the Plattsburg amendment.

Mr. DODGE, of Iowa. I think, sir, there is an important omission in it, to which I wish to call his attention. I apprehend it does not provide for the gallant mothers and daughters who run shot for, and sustained, and assisted those suffering and fighting soldiers during that attack of three successive days and nights; and who, if the males are entitled to bounty land, certainly ought not to be neglected. I merely draw my friend's attention to that. I am sure that will be sufficient to lead him to insert the necessary words.

Mr. CLAYTON. My friend from Iowa may spare his patriotic sensibility. I will simply state a fact. Upon the occasion to which I have referred, the British commander sent a message to the Governor of Delaware, who was in Lewistown, before he commenced his attack, to let the women and children be carried from the town. The answer was, "Fire away; they are already taken care of." They had been taken three miles away. There is no need, sir, of the amendment of the Senator from Iowa. We always take good care of the women and children in Delaware. [Laughter.]

Mr. DODGE, of Iowa. I am glad to hear it; but I must say, in reference to the western country, that there are numerous cases in which mothers and daughters have performed the services to which I have alluded, when their settlements were attacked in the night, and they had not the opportunity to be thus removed. And I think, sir, if we are to go on extending the bill in this way, it ought to provide for those mothers who acted such a noble part, and who sustained their sons, and provided them with that which was necessary while they were fighting the battles of the country.

The PRESIDENT. Does the Senator from Iowa offer an amendment?

Mr. DODGE, of Iowa. No, sir.

Mr. CLAYTON called for the yeas and nays on his amendment, and they were ordered; and being taken were—yeas 21, nays 20; as follows:

YEAS—Messrs. Adams, Badger, Bell, Benjamin, Brainerd, Clayton, Cooper, Dodge of Wisconsin, Evans, Fessenden, Foot, Geyer, Gillette, Morton, Pratt, Rockwell, Seward, Shields, Sumner, Thompson of Kentucky, and Wade—21.

NAYS—Messrs. Allen, Bright, Brodhead, Brown, Clay, Dawson, Dodge of Iowa, Fitzpatrick, Houston, Hunter, Jones of Iowa, Mallory, Mason, Reid, Rusk, Sebastian, Thomson of New Jersey, Toucey, Weller, and Wright—20.

So the amendment was agreed to.

Mr. BADGER. I find, upon a suggestion made to me by a friend, that the amendment which I offered was in a form to include an object which I did not contemplate, and do not wish to attain—that is the introducing, to the benefits of the bill, of troops who may have been called out in the States in feuds and intestine commotions. I desire now to offer an amendment so precisely drawn as to accomplish the very object which I had in view, and which was to give the benefits of this section to troops who have been called out in a public war for the purpose of resisting a public enemy, and embodied under the State authorities, but who may not have been paid by the United States. I offer this amendment, to come in as an additional proviso at the end of the first section of the bill:

And provided also, That where any such officers, soldiers, or volunteers, may have been called out and embodied by authority of any State, to resist a public enemy, they shall be entitled to the benefits of this section, although they may not have been paid by the United States.

Mr. BRODHEAD. Mr. President, I rise only to ask for the yeas and nays. The amendment, if agreed to, will be the destruction of the bill.

The yeas and nays were ordered.

Mr. PRATT. The Senator says, as he said before, that this amendment will be the destruction of the bill. The only argument offered against it is his assertion, that it will be the destruction of the bill. If we are to be guided by that assertion, it will be destructive of the amendment. Now, what is his objection to the amendment? The honorable Senator supposes the objection to be that, if it be adopted, there will be no means by which you can ascertain the beneficiaries of the bill with as much certainty as can be done under the bill as it stands. The pay list is the criterion by which you are to ascertain the parties who are to receive the benefits of the bill, as it now stands. If you adopt the amendment, it will be the list, furnished by the different States, of the militia of those States who have been mustered into the service of the United States. I apprehend that such a list would furnish as accurate a criterion by which to judge of the beneficiaries of the bill as the other.

If you look to the reason of the thing, I defy any Senator to say that he is not in favor of the amendment. Why, sir, there are many people in the county in Maryland, in which I formerly lived, adjoining your seat of Government, who, during the war, were men of large fortune and wealth. They volunteered in the militia service of the State, and were mustered into the service of the United States. They never asked for, or received, any pay; yet the muster-roll shows they were in the service, and fought the battles of your country, while the British were making their attacks. They have never received any pay; but why, in all reason, should not those men be paid? Their services are ascertained with as much accuracy as the soldiers of Pennsylvania, or elsewhere, who have been paid.

But, again, I suggested the other day, when a similar amendment was before us, that it is very doubtful to my mind whether, under the provisions of this bill, any soldiers who were enlisted in the service of the country in Maryland would receive the bounty, for the reason that the State of Maryland has paid them; but up to this very day the pay has not been received from the Federal Government. We passed, at the last session, a bill to give to the State of Maryland a part of that pay. It has not yet passed the House of Representatives, and I do not know that it will pass. The question, therefore, might be raised whether they would be entitled to receive the bounty under the provisions of the bill. But, sir, no one can assign any reason why a man who has fought, provided you ascertain the fact that he was a soldier of the country and fought the battles of the country, and has not been paid, should not receive the bounty rather in preference, than otherwise, to the man who has fought and has been paid.

Mr. SHIELDS. If I understand the amendment aright, it goes much further than the honorable Senator imagines. It goes so far as to include all the militia who have been called out by any State of the Union under any apprehension of invasion; and that, I apprehend, will include nearly all the militia of the sea-board States.

Mr. PRATT. It requires that they shall have been mustered into the service of the United States.

Mr. SHIELDS. No, sir; it does not.

Mr. PRATT. Then so alter it. I would only vote for it in that shape.

Mr. SHIELDS. That is not the amendment, as I understand it. The words are "called out and embodied by authority of any State to resist a public enemy." I apprehend that will include nearly all the militia of the several sea-board States at that time, whether they were mustered into the service or not. It will go much further than I suppose the honorable Senator ever intended.

Mr. DOUGLAS. If I understand the amendment, it is to apply wherever they were mustered into the service of a State, whether in the service of the United States or not. In that case it will include a very large and meritorious number of patriots who have served their States against a public enemy. I have but one regret at the offering of it; and that is that it will deprive my humble self of the power of voting on it, on the ground that I am interested in it.

Mr. PRATT. I move to insert in the amendment of the Senator from North Carolina, after the words "public enemy," the words "and who have been mustered into the service of the United States."

Mr. BADGER. I hope that will not be agreed to; and I think my friend is mistaken as to the necessity for introducing those words. If these men were called out by the authorities of a State for the purpose of resisting a public enemy in time of war, no man can assign a reason why they should not receive the benefits of this bill, although they were not formally mustered into the service of the United States. Are we to announce beforehand, in view of any future war, in order, as far as we may, to damp the energy of the people of the respective States of the Union, when they are called together by the executive or legislative authority of the State, that whatever service they may render in repelling a public enemy from our borders, Congress will consider them as not entitled to the bounty it may confer upon others? I hope we shall not do that, sir. My amendment is now sufficiently guarded. The troops must be called out and mustered into service by the authority of a State. They must be called out and mustered for the purpose of resisting a public enemy. That implies a state of war, and that they are called out for the purpose of resisting that enemy in that war. Well, now, if it so happens that the United States have not paid those troops, is that any reason why they should not receive, is it not a greater reason why they should receive, the benefits of this system of bounty which the bill proposes to establish?

Now, Mr. President, I know, in regard to my own State, that troops were called out during the war with England. They were called out on a sudden emergency. They were mustered into the service of the State. They were marched, in the service of the State, from the interior to the sea-board. They were paid by the State. They were never paid by the United States. Now, I should be exceedingly glad to know why persons standing in that situation have not just the same claim upon the Government of the United States as the other classes who are mentioned in the bill? Recollect, this bill does not propose to pay a debt. It does not propose to appropriate land for the purpose of meeting any engagement on the part of the United States. It is a pure donation for past services to the country, for which we did not contract to give this bounty. That is the whole of the bill. Then, sir, if a class of men are called out by State authorities, upon a sudden emergency, with no opportunity to apply to the authorities of the United States to muster them into the service of the United States—if they are mustered into the service of the State—if they march against the common enemy of the country, I should be very glad to know why they have not the same claim as others to the bounty of Congress, although they were paid by the State, and not by the United States? That is the case, and other like cases, for which I endeavor to provide. A principle of equality requires that the provision should be applied to them as well as to others.

Mr. PRATT. I know that my distinguished friend from North Carolina may suppose that if the amendment which I have offered to his amendment should be adopted, it will destroy entirely the utility of his amendment. That proceeds upon the hypothesis that it is of no kind of consequence whether the soldiers were not only called out by the State authority of Maryland, but were mustered into the service of the United States and paid, or not.

Mr. BADGER. Not at all.

Mr. PRATT. I understand, but this will meet that view with the amendment which I have proposed. If a vote be taken on the amendment as offered by the Senator from North Carolina, it must be defeated; but if it be amended as I propose, so that the proposition will only be to pay the soldiers of the United States, those who have been actually brought into the service of the

Federal Government, then I say that it cannot be rejected; and I want the yeas and nays to show who will vote against it. I hope my friend will accept my amendment.

Mr. BADGER. No, sir, I understand the effect of this. Some gentlemen here are opposed to this bill. My friend from Maryland is not. They will vote to encumber my amendment with any provision that they think will make it unacceptable to a majority of the Senate. Let us see the argument of my friend. The troops in Maryland were called out by the State authority; they were mustered into the service of the United States, but were not paid by the United States. Well, he says, amend my amendment in the way he suggests, and the Maryland troops will be provided for. I do not offer my amendment solely for the benefit of the Maryland troops. I admit that they ought to be provided for; but I have stated to him another case which ought also to be provided for. It was one in which, upon a sudden emergency, troops in my State were called out and marched from the interior to the sea-board for the purpose of repelling an impending attack, and were paid by the State. My friend says he does not want to pay them; he does not want to give them the benefits of this bill. Now, I want to know why?

Mr. PRATT. I will tell the Senator.

Mr BADGER. Well, sir.

Mr. PRATT. According to my notion, although this is a bounty, the provisions of the bill are only to confer the bounty upon the beneficiaries of it for services rendered to the United States. The land which is to be given, is land belonging to the Federal Government. It is for services rendered by those in the service of the Government to whom the property belongs, that the land is to be given. That is the principle of the bill. Now, if the Senator's amendment be adopted, it does not only meet the case to which he has referred, and which I have no doubt is very proper, but it will meet a thousand other cases, which, in his judgment, are not proper to be met—cases where a State has called out the militia of the State, however unnecessary, provided the United States had declared war against any other nation. If a war had been declared against Spain, and there was not a single Spaniard within a thousand miles of the State, and the Governor of the State called out the militia for the purpose of muster, or any other purpose—if there was an actual existing foreign war, they would come in under his amendment. But they are not mustered into the service of the United States until their services are required under the Federal officers for the benefit of the Federal Government.

Mr. BADGER. The whole substance of my friend's objection to the amendment which I have proposed is this: let the amendment be so worded as to include the troops in Maryland, and a very valuable object is accomplished. Now, I am in favor of giving the bounty to the Maryland troops; but I do not think that the beginning, the middle, and the ending of the duty of this Government is to the troops in Maryland. My honorable friend says they must be mustered into the service of the United States. Why? Why? What criterion is that? Have they rendered any better service to the country than if they were embodied by a State authority, provided they are embodied to resist the public enemy? My honorable friend says we might have a war with Spain, and there might not be a Spaniard on this continent. Then, sir, the troops could not be embodied for the purpose of resisting an enemy, because I suppose every man will understand that it would be an absurdity to embody a parcel of troops with any arm that has been heretofore used in the military service of the world, to resist a set of Spaniards on the other side of the Atlantic. They must come within the reach, actual or potential, of some sort of arm known to mankind, or else you cannot possibly resist them.

Mr. PRATT. Will my honorable friend allow me?

Mr. BADGER. No, sir; I am afraid you will spoil my speech.

Mr. PRATT. I think I should.

Mr. BADGER. I do not think you can. Go on.

Mr. PRATT. I want my honorable friend to say how it would be so absurd for the Governor of a State to imagine that, although a public enemy was, for the time being, on the other side of the Atlantic, they might come here; and, therefore, if he were to call out the militia of the State, under the imagination that it was possible the public enemy might come here, they would, under the amendment, be paid, although, in point of fact, they never did resist the public enemy at all, and were never mustered, or contemplated to be mustered, in the service of the Federal Government for the purpose of resistance.

Mr. BADGER. My friend's answer only involves this—that he can suppose a case where the executive and legislative authorities of a State ought all to have been put in an asylum; and, therefore, if they were all lunatics, they might have done the absurdity against which he intends to provide by the amendment which he offers to mine. That is the effect of it.

Mr. WELLER. Give us the case.

Mr. BADGER. I have given it already. I know a case in my own State in which the troops were called out on a sudden emergency, for the purpose of resisting an impending attack on the sea-board. They marched from the interior to the ocean. They were paid by the State; not by the United States. If we look to the Constitution of the United States, we see a clear authority left to the States upon that subject. They are prohibited from engaging in war, except they are actually invaded, or in such imminent danger of invasion as will not give them an opportunity of applying to the central authority of the country. The effect of the incorporation of the amendment of the Senator from Maryland in what I propose would be, that we should announce beforehand, and to all time, that if the citizens of any State are embodied under the authority of that State to resist any invasion, however sudden, and however absolutely necessary it may be that immediate resistance should be opposed in order to repel it, yet they will be considered as out of the charities of the General Government, for they will have done no service to the Union by protecting its soil from the invasion of a foreign enemy; they will have done no service to the Union by driving a public enemy from that soil! Why? Because the necessities of the case required them to act before they could consult the authorities of the General Government. Is there any logic in that? Does it meet any response from a patriotic heart? Is not the service the same which is rendered to the country in the one case as in the other? And do you not, by this unjust and odious discrimination, do all that you can to prevent the State authorities, in any sudden emergency, from calling forth their troops, and repelling the public enemy, by informing them beforehand, that if they do so, Congress will consider the officers and soldiers who served on the occasion, as not entitled to their bounty at all?

Sir, I am in favor of paying the troops called out in the State which my honorable friend so ably represents; but if his amendment is put upon mine, if such an odious discrimination is to be made, I shall undoubtedly vote against my own amendment.

Mr. PRATT. I submit to my honorable friend himself whether, upon more calm reflection, he will not consider that the argument which he has made consists in denunciation, in using terms—not reason. He asks what patriotic heart would respond to this amendment, if the one which I have proposed to it be adopted; or, what patriotic heart could resist the amendment which he has proposed?

Mr. BADGER. What patriotic heart could respond to the discrimination?

Mr. PRATT. He says further, that every Legislature and every Governor who would act upon the hypothesis which I have put, you must imagine fit for a lunatic asylum. Sir, I do not propose to enter into an argument upon that at all; but let me put this case to the honorable Senator himself. Does he not know that, in times of peace, the militia of every State are organized by the State authority itself; that they are called out in every State of the Union, in times of peace, by State authority, and that they are paid by the State government for the days of the year when they are called out for the purpose of militia muster? Now, suppose a war were to be declared by Great Britain to-morrow, under our existing laws, the militia, according to the present organization of Maryland, and, I suppose, in the State represented by the honorable Senator himself, meet once, or twice, or three times a year, for the purpose of drill; and for the days that they do meet they are paid by the State government? Here, then, in the case which I suppose, of a declaration of war by Great Britain, there would be a public war. Under the State authority, the militia are all embodied, and meet once a year, and they are all paid. Then there is every single feature of the amendment which the honorable Senator proposes; yet there is no public enemy nearer than the island of Great Britain; and there is no arm which has yet been invented which could reach from here to London; but those militia would come in under the amendment unless my proposition be agreed to.

The militia are already embodied in every State of the Union. The guns belonging to the Federal Government—your muskets and your cannon—are sent to every State of the Union from the Federal armories. I think, sir, my friend cannot answer the proposition. If war were declared by Great Britain to-morrow, under the present organization of the militia in every State of the Union, as soon as they had one meeting which was paid for by the State Government, it would, with the Senator's amendment, bring them in as beneficiaries under this bill. If the Senator takes the broad ground that we should distribute the public lands as widely as possible, and that these would be as beneficial objects for this distribution as any other, I might be willing to go for it; but I cannot see that there is any reason why the militia coming within the purview of his amendment should be taken in preference to any other citizen of the United States in the granting of this bounty.

Mr. BADGER. My friend says that, upon the terms of the amendment, if, in a war with Great Britain, the troops in any State were called out for the purpose of drill, in the ordinary militia operations of any State, they would be entitled to the bounty. I have only to say that, if he thinks so, he and I differ entirely. I can conceive the case of a public war, and the militia being called out for the purpose of drill, but not to resist a public enemy. I suppose everybody else can do so; and my amendment proposes only to extend the benefits of the bill to those who have been called out in the case of a public war by the authority of a State, and embodied to resist the public enemy. It is a strange idea of my friend from Maryland, that persons engaged in the ordinary drill, if there happen to be a war, are called out to resist the public enemy. That seems to be a strange notion.

I think I may say that my friend has said nothing to relieve his objection from what I have stated: that if there were no soldiers belonging to an enemy on this side of the Atlantic, no Governor of a State, no Legislature of a State would call out the troops to resist them, until we get arms of sufficient strength to reach across the broad Atlantic. I hope the amendment of my friend from Maryland will not be agreed to.

Mr. RUSK. I have voted against amendments introducing into the bill two classes who were not mustered into the service of the United States, but I shall vote for this; and I desire to say a word or two in explanation of my votes. I voted against the Plattsburg amendment. They were not mustered into the service of the United States, and I voted against the amendment; but I do not wish to make a discrimination. I am unwilling to select one State, and extend the benefits of the bill to a class of men, and not extend it to the same class in all the other States of the Union. I have no doubt that the case is as stated by the honorable Senator from North Carolina, that the militia were called out by the State for the purpose of resisting the public enemy. In the other cases they were called out by the States for the purpose of defending their territory. Those cases have been put into the bill, and as the Senate has put them in, I cannot agree to make discrimination by voting against this amendment. The number who may be brought in under it does not alter the principle. If there were five hundred thousand, the principle is the same. I voted against both those amendments; but, I repeat, I will not cast a vote to exclude one State from the benefits of a principle which has been extended to another State.

Mr. THOMPSON, of Kentucky. It is very well known, sir, that I am in favor of this bill and of its provisions as originally proposed, but

it seems to me that the number of amendments, the different views that are expressed, and the contrariety of opinion that we see exhibited here, show that there is no probability that we shall agree upon anything in the shape of a bill that the Senate will pass upon to-day. I do not know how it may be as to any other time. And, sir, being for the bill, and things being in the entanglement that we see, I move that the Senate do now adjourn.

The motion was not agreed to.

Mr. PRATT's amendment to the amendment was not agreed to, there being, on a division—ayes 12, noes 21.

The question then recurring on Mr. BADGER's amendment, it was taken by yeas and nays, and resulted—yeas 24, nays 16; as follows:

YEAS—Messrs. Allen, Badger, Benjamin, Brainerd, Butler, Clay, Clayton, Cooper, Douglas, Evans, Fessenden, Fitzpatrick, Foot, Gillette, James, Jones of Tennessee, Mallory, Morton, Rockwell, Rusk, Seward, Sumner, Wade, and Weller—24.

NAYS—Messrs. Bright, Brodhead, Dawson, Dodge of Wisconsin, Dodge of Iowa, Houston, Hunter, Jones of Iowa, Mason, Reid, Sebastian, Shields, Stuart, Toucey, Wells, and Wright—16.

So the amendment was agreed to.

Mr. SHIELDS. I offer the following amendment:

SEC. —. *And be it further enacted*, That the provisions of this bill shall apply to the rangers who served on the frontiers against the Indians.

Mr. STUART. I move that the Senate adjourn.

Mr. DOUGLAS. I trust we shall get through with this bill before we adjourn.

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 23, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

Mr. HARLAN, of Ohio, obtained the floor.

Mr. CLINGMAN. I insist upon the regular order of business. I do not know for what purpose the gentleman from Ohio has risen, but I object to anything out of order.

Mr. HUNT. I hope the gentleman will, at least, permit me to have a communication from the Secretary of War referred to the proper committee.

Mr. HARLAN. I simply desire to report, from the Committee on Commerce, a bill to change the name of a vessel. I hope the gentleman will not object to that.

Mr. CLINGMAN. I see there are a good many gentlemen seeking the floor. I think we had better have the regular order of business.

Mr. FULLER. I would suggest to the gentleman from North Carolina, that a half hour every morning would dispose of all business of this kind.

Mr. CLINGMAN. I insist upon the regular order of business.

The SPEAKER. Unless the motion made yesterday, by the gentleman from Tennessee, [Mr. JONES,] to lay upon the table the motion to reconsider the vote by which the Pacific railroad bill was recommitted to the select committee, be called up, the business first in order will be the bill for the relief of Belden & Co.

Mr. JONES, of Tennessee. I presume it is the wish of the House to dispose of my motion this morning; but, at the same time, I should prefer that there should be a full House, or something like it, when the question is taken.

Mr. FULLER. I would suggest to the gentleman from North Carolina that he had better withdraw his demand for the regular order of business for a few minutes.

Mr. CLINGMAN. I will withdraw it for ten minutes.

NEW REGISTER.

Mr. HARLAN, of Ohio, then, by unanimous consent, reported, from the Committee on Commerce, a bill "to change the names of the American-built vessels J. H. Holmes and Franklin Pierce;" which was read *in extenso* by the Clerk.

The bill was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time, and passed.

OFFICIAL DELINQUENCY IN KANSAS.

Mr. EDGERTON. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That the Secretary of the Interior be requested to communicate to the House, at his earliest convenience, what steps have been taken to carry out the stipulations of the treaty with the Delaware Indians, of May 6, 1854, as far as relates to the lands ceded in trust to the United States. Also, all the evidence in his Department touching the unlawful occupation of portions of that cession, or any other Indian lands in Kansas Territory, or any trespasses on the same; and what participation any Army officers at Fort Leavenworth have had in making settlements on the Delaware cessions or any other Indian lands; also, whether any officers of the civil, military, or Indian service in that Territory, have been charged with speculating in Indian lands, and if so, the evidence; also, whether any complaints have been made that the military does not respond there to the proper demands of the Interior Department, and if so, the evidence; also, whether any charges of official delinquency have been made against the Commissioner of Indian Affairs, if so, what; and all the information in the Interior Department connected with these inquiries.

Mr. TWEED. I object.

Mr. ORR. I trust the gentleman will withdraw his objection.

Mr. TWEED. I object to the introduction of the resolution, because it is going a round about way to make charges against officers of the Army.

Mr. EDGERTON. I hope the gentleman will withdraw his objection.

Mr. TWEED. I will withdraw it.

There being no objection, the resolution was then received and passed.

TERRITORIAL BUSINESS.

Mr. RICHARDSON. I ask the unanimous consent of the House to set apart Monday, Tuesday, and Wednesday of next week, for the consideration of territorial business.

Mr. BRIDGES. I wish to inquire of the gentleman from Illinois how many railroad bills are to come up as territorial business?

Mr. RICHARDSON. There are none coming from the Committee on the Territories. As to what has been reported by the Committee on Public Lands I have no knowledge, and can give the gentleman no information.

Mr. BRIDGES. Will the gentleman permit me to ask him to exclude railroad bills from the business he proposes to make the special order?

Mr. RICHARDSON. I have no control over the matter. I ask that the regular territorial business may be made the special order.

Mr. BRIDGES. Then I object.

Mr. RICHARDSON. Well, sir, rather than to accomplish nothing, I will accept the proposition of the gentleman, and exclude railroad bills from the territorial business, which I ask the House to make a special order.

Mr. BRIDGES. Then I withdraw my objection.

The proposition of Mr. RICHARDSON was then acceded to.

Mr. JONES, of Tennessee. I rise to a privileged question. I move to reconsider the vote by which the territorial business was made the special order, and to lay the motion to reconsider upon the table.

Mr. FULLER. I hope the gentleman will not make it the special order for Monday. If that is the proposition, I object.

[Cries of "Too late!"]

Mr. HOUSTON. It is too late to object, for the order has already been made by the House. I think Monday should be included in the special order; for we shall do nothing else if it is not.

Mr. FULLER. If it is too late to object, I hope the House will reconsider the vote by which the order was made.

The SPEAKER. The Chair would suggest to the gentleman from Tennessee, [Mr. JONES,] that it is hardly necessary to move to lay the motion to reconsider upon the table, as the motion to reconsider is not debatable.

Mr. JONES. I have no objection to withdrawing the motion to lay upon the table.

The question was taken; and the House refused to reconsider the vote by which the order was made.

Mr. EDGERTON. I rise to a privileged question. I move to reconsider the vote by which the resolution offered by myself some minutes ago was adopted, and to lay the motion to reconsider upon the table.

The question was taken; and the latter motion agreed to.

NAVIGATION LAWS.

Mr. FULLER, by unanimous consent, introduced a bill "to amend and consolidate the navigation, revenue, and collection laws of the United States, and for other purposes;" which was read a first and second time by its title, and referred to the Committee on Commerce.

MILITARY DEFENSE OF LOUISIANA.

Mr. HUNT. A communication was yesterday received by this House from the War Department, in relation to the military defense for a certain point in the State of Louisiana, which was laid upon the table, and ordered to be printed. I ask that the House will reconsider its action in disposing of that communication, and that it may be referred to the Committee on Military Affairs.

It was so ordered.

A. J. HEATON.

Mr. MACE, by unanimous consent, and in pursuance of previous notice, introduced a bill "for the relief of Andrew Jackson Heaton;" which was read a first and second time by its title, and referred to the Committee on Public Lands.

RAILROAD IN KANSAS.

Mr. WHITFIELD, by unanimous consent, and in pursuance of previous notice, introduced a bill "granting the right of way to the Wyandot and Pawnee railroad through the public lands in Kansas Territory;" which was read twice by its title, and referred to the Committee on Public Lands.

Also, a bill "granting Fort Scott reserve to the Territory of Kansas for school purposes;" which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. COBB. I think that last bill should have been referred to the Committee on Public Lands.

Mr. WHITFIELD. I will simply say that it relates to a reserve in Kansas Territory which is under the control of the military authorities.

Mr. COBB. It relates to a grant of land, nevertheless. I have no particular objection, however, to the reference.

WITHDRAWAL OF PAPERS.

On motion by Mr. TWEED, it was

Ordered, That leave be granted for the withdrawal from the files of the House of the petition and papers of William Brown, and that they be referred to the Committee on Pensions.

IMPROVEMENTS IN NEW JERSEY.

Mr. PENNINGTON, by unanimous consent, and in pursuance of previous notice, introduced a bill "for continuing the improvement of the harbor of Newark and of Passaic river, and of Newark bay, in New Jersey;" which was read a first and second time by its title, and referred to the Committee on Commerce.

P. S. RIDGWAY.

Mr. STUART, of Ohio, by unanimous consent, reported, from the Committee on Invalid Pensions, a bill "for the relief of Paul S. Ridgway, of Ohio;" which was read a first and second time by its title, and referred to a Committee of the Whole House.

NEW REGISTER.

Mr. CUTTING. I ask the unanimous consent, of the House to take from the Speaker's table a Senate bill to authorize the Secretary of the Treasury to grant a register to the bark Colonist. The vessel is nearly ready for sea, and the case requires immediate action.

No objection being made, the bill was taken from the Speaker's table, and read a first and second time by its title, as follows:

An act to authorize the issue of a register to the bark Colonist by the name of The Lilly.

The bill was then ordered to a third reading; and was subsequently read a third time, and passed.

BILLS REPORTED.

Mr. FAULKNER, by unanimous consent, reported, from the Committee on Military Affairs, the following bills; which were severally read twice by their respective titles, ordered to be printed, and referred as indicated below:

An act for the construction of military roads in Oregon Territory. Referred to the Committee of the Whole on the state of the Union.

A bill granting a pension to Joseph McCormick. Referred to a Committee of the Whole House; and

A bill authorizing the Secretary of War to purchase sites, and contract for the erection of arse-

nals in Texas and New Mexico, and in the Territory of Washington or Oregon. Referred to the Committee of the Whole on the state of the Union.

Mr. F. also, from the same committee, reported back, without amendment, Senate resolution "in relation to surgeons' mates in the Army of the Revolution." Referred to the Committee of the Whole on the state of the Union.

BILLS INTRODUCED.

Mr. LINDSLEY, by unanimous consent, and in pursuance of previous notice, introduced the following bills; which were read a first and second time by their respective titles, and severally referred to the Committee on Commerce:

A bill for preserving and improving the harbor of Sandusky City, Ohio;

A bill for completing the west pier at Huron, Ohio; and

A bill for the repair and completion of the east and west piers at Vermillion, Ohio.

Mr. INGERSOLL. I now call for the regular order of business.

Mr. JONES, of Tennessee. I ask for the consideration of the privileged motion submitted by me yesterday evening.

NAVY-YARD AT BRUNSWICK.

Mr. SEWARD, by unanimous consent, presented the petition of one hundred and twenty-five citizens praying for the establishment of a navy-yard at Brunswick, Georgia.

Mr. S. said: I ask the indulgence of the House while I make a few remarks in relation to that petition.

No objection was made.

Mr. SEWARD. Early during the last session of Congress I introduced a resolution, which I had referred to the Committee on Naval Affairs, in relation to the establishment of a naval depot at Brunswick, in the State of Georgia. That subject has also been referred to the same committee during the present session. I want now to call the attention of the House, and of the country, to this question, and to ascertain whether the regular standing committees have a right to control the business of this House, to make their committee rooms the graves of the public business, and to destroy the independence and strike down the power of the Representatives of the people in the legislation of the country. In connection with this subject, it is proper for me to remark, that $3,000,000 were appropriated for the purpose of constructing six steam frigates, as it was understood that the defense of the country demanded that expenditure of money, and that the relations which this Government sustained to Cuba required that some means of defense should be adopted. In March, I believe, the President of the United States sent a message to Congress specially on that subject. The Committee on Foreign Affairs, to whom that matter was referred, have allowed it to sleep from that time to this. And I have been utterly astonished at that, from the fact that, when that message was presented to the House, the chairman of that committee [Mr. BAYLY, of Virginia] got up and made a speech, asserting that the message excited his admiration. And yet no report has since been made on that subject.

Now, sir, I want the country to understand that the business in Congress is managed more by committees, and that committees possess more power in legislation than the House of Representatives itself, under the present system. It is so, not only with the committee to which I have specially alluded, but with the other committees, also; and I here assert my opinion that two thirds of the legislation of Congress is managed by the heads of Departments, instead of being managed by the Representatives of the people.

Mr. INGERSOLL. I rise to a point of order. I made no objection to the gentleman from Georgia being permitted to make a speech, because I supposed that his remarks would be confined to the subject of the petition which he presented, and that those remarks would be very few. I object to his being allowed to make a speech on a different subject.

The SPEAKER. The extent to which the gentleman may go, was certainly not marked out by the House for the guidance of the Speaker, but the House gave him unanimous consent to make a speech, and the Chair will not undertake to confine him to any particular course of remarks.

Mr. BAYLY, of Virginia. I entirely acquiesce in the sentiment expressed by the Chair; but I hope it is understood that I am to be permitted to reply to the gentleman from Georgia.

Mr. SEWARD. I complain that the system is a crying evil, and believe that, if committees are permitted to carry on the business of the country in this way, it will give rise to a system of corruption in this Government. I do not wish to be understood as making any charges of corruption against committees; I make no such charges; but I say that the tendency of this thing is evil; and, as a Representative here, standing on this floor, I am not disposed to see the rights and interests of my constituents sacrificed and buried by committees, at their whim, in their committee rooms. These committees are not the judges of what the country may want; and it is their business either to make a favorable or an adverse report on the matters referred to them, and then leave the House to take action upon their report, and let the Representatives of the people decide what is proper and what is not proper.

If the Committee on Naval Affairs had investigated the subject in connection with the establishing a naval depot at Brunswick, it would have been ascertained that it is one of the best harbors on the South Atlantic coast; that the location is exceedingly healthy; that it is accessible to the finest timber region in the world; that any quantity of pine and white-oak timber necessary for the building and repairing of vessels could be procured at comparatively little expense; and that an abundant supply of provisions could be had as cheap or cheaper than in any market in the United States; that no contagious diseases or epidemics have ever prevailed there; and that every consideration that could be offered to convince the judgment, would have satisfied them of the fitness of this point for a naval station; and that the wants of the Government demanded that this point should be selected for this purpose, and the works erected to make it available.

Large quantities of timber are now procured adjacent to Brunswick, and shipped to other points north, for ship building; and so far as the wants of the Government are concerned, it would be a great saving to establish a navy-yard at Brunswick. But the committee have thought proper to stifle inquiry, by taking no action thereon.

It is proper, as I have made complaint against the standing committees of this House, that I should again advert to the Committee on Foreign Affairs. The President, in his message in reference to our difficulties with Spain, informed the country that aggressions had been committed upon our rights, and our national flag insulted, and asked Congress to furnish provisional means for the vindication of the rights of our citizens, and for the protection of the national honor; which the chairman of this committee [Mr. BAYLY, of Virginia] said excited his admiration; and yet, sir, even until now, that gentleman has been as silent as the grave upon this subject. And because of this silence, Congress has not acted. The annual message of the President being silent upon this subject, the country was somewhat surprised; and I can only find a reason for this in the fact, that the Representatives of the people here did not sustain him, and their want of action is justly attributable to the refusal of the Committee on Foreign Affairs to place the House in possession of such information as was necessary to enable them to act wisely and understandingly. What else, sir, must necessarily have followed from this course? From the necessity of the thing, Mr. Soulé, our Minister to Spain, was forced, under instructions from his Government, to abandon the high position he had assumed in the early part of his mission, for the protection of American rights and honor. He must have felt humiliated; and, under this mortification of feeling, he could do nothing else but resign. For this the President is not to blame. If there is any censure due, the fault rests upon this committee, and nowhere else. Having said this much, as the time of the country is precious, I will close my remarks.

Mr. INGERSOLL. I now call for the regular order of business.

CORRECTION OF THE JOURNAL.

Mr. CARPENTER. I rise to a question of privilege. In relation to the motion made yesterday by the gentleman from Tennessee, [Mr. JONES,] to recommit the Pacific railroad bill to the select committee of thirteen, I find that my vote is not recorded. I voted in the affirmative, and I ask that my vote be so recorded.

Mr. KEITT. Yes; I heard the gentleman from New York [Mr. CARPENTER] vote aye.

There being no objection, the Speaker directed the vote of Mr. CARPENTER to be placed upon the minutes.

Mr. INGERSOLL. I now insist upon the regular order of business.

THE PACIFIC RAILROAD BILL.

The SPEAKER. The question before the House is on laying on the table the motion to reconsider the vote by which the House yesterday recommitted the Pacific railroad bill. Does the gentleman from Tennessee [Mr. JONES] withdraw his motion to lay on the table?

Mr. JONES. No, sir. I do not.

The SPEAKER. Then the pending question is upon laying the motion to reconsider on the table.

Mr. FLORENCE. On that motion I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 95, nays 94; as follows:

YEAS—Messrs. Abercrombie, Aiken, Thomas H. Bayly, Ball, Belcher, Bell, Bennett, Benson, Bocock, Boyce, Breckinridge, Bridges, Brooks, Carpenter, Caskie, Chandler, Chase, Chastain, Churchwell, Clingman, Cobb, Colquitt, Craige, Crocker, Cullom, Curtis, Eastman, Faulkner, Fenton, Flagler, Franklin, Fuller, Giddings, Goode, Goodwin, Hamilton, Aaron Harlan, Haven, Houston, Hunt, Ingersoll, Daniel T. Jones, George W. Jones, J. Glancy Jones, Keitt, Kerr, Kidwell, Kittredge, Kurtz, Letcher, Lewis, McQueen, Maurice, Maxwell, May, Meacham, Middleswarth, Millson, Morgan, Morrison, Murray, Andrew Oliver, Orr, Packer, Peck, Pennington, Bishop Perkins, Phillips, Powell, Pratt, Pringle, Puryear, Reese, Rogers, Ruffin, Russell, Sage, Sapp, Seward, Seymour, Shaw, Shower, Simmons, Skelton, William R. Smith, George W. Smyth, John J. Taylor, Teller, Trout, Vansant, Wade, Walsh, Wheeler, Witte, and Hendrick B. Wright—95.

NAYS—Messrs. James C. Allen, Willis Allen, Banks, Barksdale, Barry, Benton, Bliss, Bristow, Caruthers, Chamberlain, Chrisman, Clark, Cook, Cox, Cutting, John G. Davis, Thomas Davis, Dawson, Dick, Disney, Drum, Dunbar, Dunham, Eddy, Edgerton, Edmands, Ellison, Etheridge, Everhart, Farley, Florence, Gamble, Greenwood, Grey, Andrew J. Harlan, Wiley P. Harris, Harrison, Hendricks, Henn, Hill, Howe, Hughes, Johnson, Roland Jones, Knox, Lamb, Lane, Latham, Lindley, Lindsley, McCulloch, McDougall, Macy, Matteson, Smith Miller, Nichols, Noble, Norton, Olds, Mordecai Oliver, Parker, John Perkins, Phelps, Preston, Richardson, David Ritchie, Thomas Ritchey, Robbins, Sabin, Singleton, Samuel A. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Straub, Andrew Stuart, John L. Taylor, Nathaniel G. Taylor, Thurston, Tweed, Upham, Walbridge, Walker, Walley, Warren, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Daniel B. Wright, Yates, and Zollicoffer—94.

So the motion to reconsider the vote by which the Pacific railroad bill was recommitted to the select committee was laid upon the table.

Pending the announcement of the vote,

Mr. HIBBARD said: Mr. Speaker, I have paired off on this bill with Mr. APPLETON, who is in favor of the bill. I, therefore, do not vote.

Mr. SHAW. I desire to state, Mr. Speaker, that Mr. WADE, of Ohio, is necessarily detained from his seat in the House by indisposition.

Mr. READY. I desire to state that I have paired off on this bill with Mr. SMITH, of Virginia, who would have voted no.

SAMUEL A. BELDEN AND COMPANY.

The SPEAKER *pro tempore*, (Mr. RICHARDSON in the chair.) The bill for the relief of Samuel A. Belden & Co. is the business pending as first in order. The gentleman from Virginia [Mr. MILLSON] moved to commit it to a Committee of the Whole House; and upon that motion has called for the previous question.

Mr. HUNT. Mr. Speaker——

The SPEAKER *pro tempore*, (interrupting.) No debate is in order till the demand for the previous question be disposed of.

Mr. HUNT. I am happy to say, sir, that the honorable gentleman from Virginia [Mr. MILLSON] tells me he desires to withdraw that motion.

The SPEAKER *pro tempore*. Does the gentleman from Virginia withdraw his demand for the previous question?

Mr. MILLSON. I moved the previous question under these circumstances: The gentleman from New Jersey [Mr. SKELTON] had asked the

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previous question, and at my request he withdrew that demand. I do not recollect that I stated to him distinctly that I would renew the demand, but that, I presume, was implied, and therefore it was that I felt myself constrained to renew the application for the previous question. If I had it in my power I would withdraw it.

Mr. HUNT. Then I hope the House will vote it down as an act of justice. The other side of the question has been heard, while the case of the claimants has not been stated, nor has the report been read.

Mr. MILLSON. I withdraw the demand for the previous question.

Mr. HUNT. Mr. Chairman, the bill before us corresponds exactly with the bill on the same subject lately sent by the Senate to this House. It is so clear and just that I thought it would have passed after a discussion of a few minutes. As, however, the gentleman from Virginia has made a long and elaborate argument against it, I feel it my duty to make such a reply to that argument as will enable the House to form a correct judgment on the matter submitted to their consideration.

Belden & Co. were merchants. They were established at Matamoras, during the late war with Mexico, and carried on an extensive commercial business at that place, and in the interior of Mexico, while our troops held military possession of the country. They had large means—a commensurate credit, and a high reputation for fair and honorable dealing. The Administration of our country at that time, claimed the power, not only of levying contributions upon the enemy in their sea ports, towns, and provinces in our military possession by conquest, for the purpose of defraying the expenses of the war, but also the power of establishing a temporary military government over such sea-ports, towns, and provinces, and of prescribing the conditions upon which commerce with such places should be permitted. [Ex. Doc., 1st sess. 30th Cong., p. 352, President's letter.] A war tariff was prepared by the Secretary of the Treasury, and the ports and places of Mexico in our possession were opened to the commerce of all neutral nations, as well as our own, upon the payment of the prescribed duties. In his report, recommending the tariff to the President, the Secretary says:

"In opening the ports of Mexico to the commerce of the world, you will present to all nations with whom we are at peace the best evidence of your desire to maintain with them our friendly relations, to render the war to them productive of as little injury as possible, and even to advance their interests, so far as it safely can be done, by affording to them, in common with ourselves, the advantages of a liberal commerce with Mexico."

Under this tariff, and the encouragement held out to trade by the Administration, merchants imported largely, and $7,000,000 were raised for the maintenance of the war. Among the importers were Belden & Co. The amount of the duties paid by them on foreign and domestic goods, exclusive of any claim for the tobacco, harped upon with such earnestness by the learned and ingenious gentleman from Virginia, is upwards of $25,000. The proof of this statement is now before me, in the receipts from the collector at Matamoras, which have been handed to me since the commencement of this discussion. The duties on the tobacco are not one twenty-sixth part of the duties paid by Belden & Co. And I would be willing, as a friend of the bill reported by the Committee on Foreign Affairs, to allow them to be stricken out of the claim, to be investigated by the Secretary of the Treasury. But as the tobacco was made a pretext for the wrongs which have destroyed the fortune of Belden & Co., and driven them to ask relief at the hands of Congress, it is proper and necessary to make an explanation in regard to it.

The tobacco in question was imported into Matamoras by Turner & Renshaw, of New Orleans, in May and June, 1848, while our troops held military possession of that port. Turner & Renshaw, of course, as the importers, paid the duties. Turner & Renshaw held the tobacco until February, 1849, when Belden & Co. purchased it. At the time of the purchase, Mexico was in possession of the country, having been reinstated some months previously. Turner & Renshaw had in vain endeavored to obtain permits from the Mexican authorities for the transportation of the tobacco into the interior for sale. The tobacco was deteriorating, too, by keeping. Under these circumstances the sale was made. By the sale Belden & Co. were subrogated to the rights of the seller—to the duties as well as to the tobacco. It was said by the gentleman from Virginia, that Belden & Co. purchased from Turner & Renshaw at the great sacrifice of the latter. This is a mistake. The price paid was, of course, far less than that expected to be realized by a sale in the interior, if such a sale could be made; but it was a fair price, covering more than the original cost of the tobacco, the freight and the duties. This is demonstrated by reference to page thirty-two of the evidence, where, it appears on calculation, that the original cost of each bale was $4 52. The price paid by Belden & Co. was thirteen dollars. But the price is of no consequence. Profit is the life of trade, and the merchant buys cheap to sell to his advantage. Besides, Turner & Renshaw, who have complained that they were not allowed permits for the sale of their tobacco, have never claimed the duties on the tobacco, and they never will claim them, for they have parted with their right to them. When Mexico was restored to the sovereignty of the country, an inventory was taken of the stock of our merchants, and a stamp or seal was put on all imported tobacco by the administrator of tobacco, Don Pedro Jose de la Garcia—for, apart from the treaty of peace, the trade in tobacco was a monopoly under the Government of Mexico.

Belden & Co. kept the tobacco for more than ten months from the time of purchase before they could procure permits to send it into the interior for sale. This leads us to show what were the rights of Belden & Co. under the treaty of peace which restored the country to Mexico. Read the treaty, article nineteen, clauses one and three. (By these clauses it was stipulated that the tobacco should be exempt from confiscation, and, on its leaving for the interior, should also be exempt from all tax duty or impost of any kind whatsoever, and should not be subjected to any charge whatsoever upon the sale thereof.) Under this treaty, Belden & Co., having at length, on the 19th of September, 1849, obtained permits, or *aguias*, from the estanco or administrator of tobacco, sent his tobacco by a conductor to the interior. Before leaving Matamoras the stamps were examined and approved. The tobacco was carried through Monterey, where the stamps must have been respected. On arriving at Saltillo, about four hundred and twenty miles from Matamoras, the conductor stopped for some repairs to his wagons. The tobacco was there seized by order of a district judge, Miguel Gomez de Cardenas. The conductor testifies that he had, previous to the order, called on the administrator of tobacco at Saltillo, and shown him the permits, or *aguias*, and informed him that he would pursue his journey as soon as he had made the necessary repairs. And he continues, that he "was required to appear before the judge of the district of Coahuila of said city; that the said judge—and here the House will have a fine picture of that Mexican justice to which the gentleman from Virginia would have Belden & Co. resort—that the said judge, *without giving any reason for so doing, peremptorily ordered him to leave said tobacco with the administrator of tobacco of said city.*" The witness adds, that the administrator gave him a receipt for two hundred and ninety-nine bales of tobacco, and *forcibly took possession of the same.* It should be remembered, that it was of this court that the honorable gentleman spoke, after his American habit of considering law, of notices, and judgments, and executions!

Mr. Clark, a merchant, who was at Saltillo at the time, says that, to the best of his belief, "the aforesaid district judge showed him the lawful *aguias*, signed by the administrator of the tobacco monopoly at Matamoras, and assigned as a reason for his having ordered a seizure of said tobacco, his—the district judge's—*suspicion* of the legality of the introduction of said tobacco into the Mexican territory." And this suspicion—the false pretext of judicial rapacity and oppression—in contempt of the genuine permit of the administrator of tobacco at Matamoras, and in flagrant violation of the treaty of Guadalupe Hidalgo, prohibiting the confiscation of the tobacco, &c., has been alluded to, as if it were a ground of judicial action which should shut the doors of Congress against the relief of Belden & Co. The tobacco was seized on the 20th October, 1849. Some months afterwards Belden was cited to appear before the judge within twenty days; and subsequently an order was given confiscating the tobacco, and ordering Belden to pay a fine of $26,000; and, in default of payment, it was further ordered that Belden's property should be seized, and sold to pay the same. And in addition to all this, an order was issued for the arrest of Belden.

The gentleman from Virginia seemed to think that the notice to Belden was a *bona fide* and timely one. This is a mistake. It is true that Belden said he received an order to appear at Saltillo *within twenty days;* but he also said that the time allowed him was not sufficient to enable him to attend the court at Saltillo, which was four hundred miles distant; and he afterwards mentions particularly the insufficiency in a statement prepared by counsel for him: "The notice having been given to him at Matamoras only three days before it was consummated."

Mr. STANTON, of Tennessee, (interposing.) The statement of the commissioner is, that some months subsequent, he was cited, by order of the district court, to appear at Saltillo within twenty days, to show cause why said tobacco should not be confiscated. I take it for granted that the order was that he should appear within twenty days from the time of the order. That makes it perfectly consistent with the statement of the petitioner that he had only three days notice; because it would require seventeen days to go from Saltillo to Matamoras.

Mr. HUNT. It was physically impossible for him, under the notice, to appear within that time. That is an important fact. The notice itself was a mockery; and there is no man in his senses who can deny it, after due reflection, and with a knowledge of the facts. The whole proceeding was a mockery, a scheme of robbery, and plunder.

Under the orders of the district judge of Saltillo, all the property of Belden & Co. was seized and sold, and sacrificed; and Belden compelled to fly for his liberty. Had he been foolish enough to attempt to go to Saltillo, he would, to use the current expression in Mexico, have been lost by the the way, that is, disposed of so as never to be heard of again.

Under these circumstances, Belden, in 1852, stated his complaint to Congress, and prayed for relief. A report was made by the Senate, after a careful investigation as to the seizure and confiscation of the tobacco, and the fine and the sacrifice of Belden's property, and the order for his arrest and imprisonment.

The report considered Mexico as liable for the losses suffered by Belden, but it said nothing of the duties. In a report made this year by the same committee, they recommend the refunding of the duties. (Read the report and the bill.)

I am of opinion that the bill ought to pass. It is just and equitable. The Government encouraged the trade. The Government received the duties. The levying and receiving of the duties carried with it the obligation to protect the trade of the importer. This obligation was recognized by the Government itself, in the making of the treaty. It stipulated with Mexico that the imports should not be confiscated—that they should be exempt from confiscation, although the importation of the same be prohibited by the Mexican tariff—that they should be, upon their leaving for the interior, exempt from all duty, tax, or impost, of every kind, under whatsoever title or denomi-

nation; and that they should not be subjected to any charge whatsoever. (See article nineteen of the treaty.) This was an ample stipulation for protection. The obligation of this stipulation rests on our Government, towards our citizens. It cannot be repudiated, or transferred to Mexico. To say that our Government owes no protection to the trader, is to say, that in receiving the duties she was laying a snare for him; that in making the treaty she was betraying him to the enemy; delivering him up like a sheep, to be shorn. Sir, this is not my idea of an honorable and paternal Government. The duties have been paid without any consideration, and Government is bound to refund them.

The question before us relates now only to the duties. An honorable gentleman has objected to the assignment of the interest of the importer in the bill to the United States. But I see no objection to that assignment. Mexico ought to be made to refund to our Government what our Government is obliged to pay on her account, for wrong done through misplaced confidence in her. And, sir, for the honor of our country, I trust that our Government will promptly compel her to pay not only the duties, but the amount which Belden & Co. are entitled to, for the loss and injuries they have received at her hands.

There is another reason why the Government should pay the duties. In making a treaty, a short time since, with Mexico, our Government paid her millions without stipulating for the payment, by Mexico, of the just claims of our citizens. This, in my opinion, strengthens the obligation to refund the duties, and especially as the conduct of the judicial tribunal of Mexico towards Belden & Co. had been, previous to the treaty, declared to be, by the Senate report, a flagrant violation of the treaty of Guadalupe Hidalgo.

One honorable gentleman said, the Government, in case of loss of goods by fire, would not be bound to refund the duties. But the present is not a case of casualty. In this case the citizen has suffered through the act of his Government, in the transfer of her sovereignty to a Power that has oppressed him.

Another gentleman argued that the duty of protection should cease as soon as the duties were paid. He says, that at the very instant of time the merchandise ceases to be under the protection or control of the United States, at that very instant it comes within the control of the States, is protected by the laws of the States, and is subject to the regulation of the States. The habit of considering State-rights has misled the gentleman. When the duties were paid to the United States, there was no second sovereign power at Matamoras, no State of this Union to assume any responsibility. The United States was the sole and responsible power, and the payment of the duties did not put the imports out of the pale of sovereign protection.

I am afraid that I have trespassed too long on the patience of the committee. I will therefore notice but one plea more from the opponents of the bill.

An honorable member said that Belden & Co. were *speculators, merchants*, and warned the House against refunding the duties; as leading to the oppression of the mechanic, and other laboring classes, from whom, he says, the revenue is derived.

Sir, a sneer at commerce will avail nothing in this place. If the merchant is a speculator, he is an honorable speculator. Trade is advantageous to society, and is conducted on just principles. If the merchant makes a profit, the purchaser receives a fair consideration. The merchant is a man of honor, and deals on honor. His word is his bond—a bond far stronger than any mere pecuniary obligation. Commerce, Mr. Speaker, is known by the multitude of her blessings. She civilizes and enlightens the nations. She supplies us with many of our comforts, and nearly all our luxuries. She walks hand in hand with agriculture and manufactures—supporting them, and supported by them; and the arts and sciences follow in her train.

But it is said, that to refund the duties, is to oppress the mechanic. Sir, I say that we are all equally concerned for justice; that not to refund the duties is to do injustice; and that injustice to Belden & Co. is the oppression of the mechanic.

It was suggested to me by my friend, the incumbent of the Chair, [Mr. RICHARDSON,] that in order to disembarrass the bill from all difficulty, it would be well to throw off the duties upon tobacco, in the amount to be investigated by the Secretary of the Treasury. In conformity with that suggestion, I propose that a proviso to that effect be added to the bill before the House, and I offer an amendment for that purpose.

The SPEAKER *pro tempore*, (Mr. RICHARDSON.) The motion of the gentleman is not now in order, as there is a pending motion to commit, during which no motion can be made.

Mr. STANTON, of Tennessee. It was not my intention, when I first made some suggestions in reference to the proposition now before the House, to enter into any discussion of the facts, or indeed of the principles involved in this case. I had no such idea, because I never heard of the case until it was presented on the morning on which I made some suggestions in reference to the principles which, it seemed to me, ought to govern the decision of the case. But, sir, by the elaborate argument of the gentleman from Virginia, [Mr. MILLSON,] made the other day, it seems to me to be necessary for me to say a single word—and I shall be very brief—in vindication of the view of the case I then took.

I asserted, upon that occasion, that the fact that the Government of the United States held possession of certain portions of Mexico—almost the entire territory belonging to that Government—the fact that the Government of the United States invited the citizens of the United States to import goods, for sale, in that territory, exacting from them a certain amount of duties upon the importation, necessarily implied an obligation on the part of the Government of the United States to protect the importer in the sale of those goods.

Now, sir, it was not merely an implied pledge on the part of the Government of the United States, but it was a pledge expressly given in all the public proclamations made at that time from the Treasury, with the approval of the President. I have an extract from one, which will be found in the public documents of that period, and in the Union of 10th January, 1847, in which Mr. Walker, the Secretary of the Treasury, with the President's approval, declares to the public it is intended to provide by the treaty of peace, that all the goods imported during the war into any of the Mexican ports in our military possession, shall be exempt from any new import duty or confiscation by Mexico, in the same manner as if such goods had been imported and paid import duties prescribed by the Government of Mexico; and that those who imported goods shall have the right to take the goods for sale to any place in possession of the United States. That was the express pledge. The gentleman from Virginia [Mr. MILLSON] seems not to have comprehended the force of the position which I took. He argues in this wise:

"This Government had control of the country, and exercised jurisdiction over it. Now, this is precisely the point of his argument which I am undertaking to reply to. The control and jurisdiction of the United States in Mexico were certainly not greater than within their own territory; and let us see, sir, whether the collection of duties at home, where our jurisdiction is more perfect than it was in Mexico, gives any guarantee for their protection afterwards. Why, sir, so far from it, the control and protection of the Government of the United States over all goods on which they receive duties cease the moment the duties are paid. At the very instant of time the merchandise ceases to be under the protection or control of the United States, at that very instant it comes within the control of the States, is protected by the laws of the States, and is subject to the regulation of the States. All our license laws in the States depend upon this doctrine."

Now, Mr. Speaker, I have not said that it was the duty of the Government of the United States, under all circumstances, to protect the goods imported into that country. I have not maintained that it was the duty of the Government to protect them from robbers and guerrillas in Mexico, or from fire, or any other incidental cause by which a loss might fall upon the importers. All that I have maintained is, that it was the duty of the Government to protect them from imposition on the part of the Government of Mexico—to protect them from confiscation on any pretext whatever connected with their importation.

The testimony to which I have looked somewhat since this case has been under examination, shows clearly and distinctly, beyond all question, that these goods were imported during the war; that difficulties were thrown in the way of their being carried into the interior for sale for a period of ten or twelve months; and that finally, when legal permission was given by the proper authorities, and they were transported into the interior, on a mere pretext, a mere subterfuge, a slight suspicion that they had been smuggled into the country, they were seized and confiscated. The Government of the United States has evidenced its sense of the obligation to protect importers of goods under these circumstances, by the fact of having entered into the treaty, some clauses of which were read by the gentleman from Louisiana, [Mr. HUNT.] It has assumed and acknowledged the obligation on the part of the Government to protect the goods from seizure and confiscation by the Government of Mexico; and that is all I have contended for.

If the Government fairly endeavors to obtain satisfaction from Mexico, I grant that the party has no right to call upon the Government to reimburse his loss. I did not understand the gentleman from Virginia to maintain that, under all circumstances, a Government which could not, and did not, obtain redress from a foreign Government, would be responsible to the citizen. If the Government makes proper endeavors, uses all reasonable exertions to accomplish the object, and fails to do so, I do not pretend to say that the Government, under these circumstances, would be responsible to the citizen; but I do maintain, if the citizen has been despoiled by a foreign Government, and the Government of the United States has opportunity to obtain redress, and fails to do so; if it bargains with the rights of the citizen for some advantage to itself, that, on every principle of equity and justice, the Government of the United States ought to reimburse the citizen. That is the position which I assumed, and I think it is a sound one, in spite of everything which the gentleman from Virginia has said, or can say, against it. I understand the reports of the Senate Committee on Foreign Affairs to have been to this effect precisely. The first report, made in 1852, was to the effect that this was a valid claim against the Government of Mexico, which the United States Government ought to urge by diplomacy. Then, during the present, or the last session of Congress—I do not know which—the same committee took up the same subject, and declared that the Government of the United States having subsequently made a treaty, that having had an opportunity to present this claim, and having failed to obtain redress—having paid the Government of Mexico $10,000,000—she ought not to pay the amount of money of which the claimants in this case have been robbed, but that she ought to refund at least the duties which she took from them—merely to refund the amount which the Government has taken from the pockets of these parties, and put into the Treasury. I say that, if there has been a failure on the part of the Government of the United States to press this claim to a satisfactory adjustment, if it has suffered the occasion to pass by on which the adjustment might have been made, and demand made on the Government of Mexico, then, in justice, she ought to pay the citizen the full amount of his claim.

Mr. READY. Let me ask my colleague whether the claimants notified our Government of their loss?

Mr. STANTON. Long since.

Mr. READY. At what time?

Mr. STANTON. In 1849.

Mr. READY. Previous to these treaties?

Mr. HUNT. The notification was made as soon as the robbery took place. The claimants made frequent protests before the authorities in Mexico. The case attracted universal attention throughout the United States. I believe that it is a peculiar one—*sui generis*—and that there is no other surrounded by the same circumstances. Therefore, it cannot lead to the repayment of duties in any other case. It is a wrong, for which these parties ought to have relief.

Mr. GIDDINGS. Can the gentleman from Tennessee tell us why the negotiators of the treaty omitted this case? What is their excuse?

Mr. STANTON. I cannot. I know nothing about it.

Mr. GIDDINGS. Has the Department been called upon for information with regard to the point?

Mr. HUNT. I am happy to say, in reply to the gentleman, that all the evidence which I read this morning was drawn from the Department by

a call of the Senate. This matter has been submitted to the Government, and it intends to do what is right with the power which has done wrong. Here are men who have been made bankrupt by the action of our Government. The Government has received duties from them upon goods; and, instead of protecting them, has allowed them to be made away with, to their great loss.

Mr. GIDDINGS. One question further, if the gentleman pleases. What is the reason assigned by the Government now that this case was omitted? What is the cause of the omission?

Mr. HUNT. I cannot answer the question. I am not a champion of this Administration. But, sir, we all know that, in purchasing lately of Mexico a portion of her territory—and we paying many millions of dollars—no provision at all was made for this case, or for the payment of the claim of any other citizen of the United States against her.

Mr. STANTON. I think if these gentlemen will look at the case really presented to the House, they will see——

Mr. GROW. I would like to ask the gentleman from Tennessee the same question which was asked the other day, when this subject was up for consideration, but which then received no answer. Why was not this claim presented before the commission which was raised under the treaty of Guadalupe Hidalgo?

Mr. STANTON. I will answer the gentleman. This claim was not brought before the commission of which he speaks, for the reason that it has occurred since the close of the war. That treaty provided only for claims of our citizens arising prior to the war; and this case, therefore, could not have been brought before that commission.

Mr. GROW. Well, sir, now let me ask the gentleman another question. I understand the gentleman to say that this claim arises under the treaty made with Mexico at the close of the war. Now, sir, if that treaty was made at the close of the war, how could it include this claim, which arose subsequent to the war?

Mr. STANTON. I did not say this claim was included in any provision of any treaty. But I say that the protection which the Government of the United States are bound to provide for its citizens is provided under the treaty made with Mexico at the close of the war. And it was stipulated in that treaty that the Government of Mexico should not do precisely what they did do in this case.

Now, sir, this is the whole state of the case: These goods were imported into Mexico while that country was under the military occupation of the United States. Sir, the Government of the United States—as it is admitted on all hands—is bound to furnish protection to all American citizens importing goods into that country while it was under our military occupation. I mean protection from confiscation, and protection from the Government of Mexico. These parties now ask the Government of the United States, not to reimburse the whole amount of the goods, but to prosecute the matter against the Government of Mexico, and, in the mean time, as a partial redress, that the Government shall refund to them the duties which have been paid into the Treasury of the United States upon these goods, which have been unjustly confiscated by the authorities of the Mexican Government. That is the whole case.

Mr. FULLER. Will the gentleman from Tennessee permit me to ask him a question; for I desire to understand this matter before I am called on to vote upon it?

Mr. STANTON. Certainly.

Mr. FULLER. Were not these duties rightfully collected upon the part of the Government of the United States?

Mr. STANTON. I have never heard anything to the contrary.

Mr. FULLER. And afterwards these goods were wrongfully taken by the Mexican authorities?

Mr. STANTON. The gentleman states correctly.

Mr. FULLER. Then does it not present precisely a claim upon the part of our Government against the Mexican Government, for having wrongfully despoiled one of our citizens of his property?

Mr. STANTON. There is no doubt about it.

Mr. FULLER. Then I want to know how this claim arises for the refunding of the duties which were properly collected, when the goods were sold and transported into the interior of the country, where they were wrongfully taken? I have never known the Government to refund the duties paid by citizens, in our own country, except in cases where the goods were destroyed while in the hands of the importer, while the goods remained in the original packages unopened.

Mr. STANTON. That is true; but, sir, these packages were unbroken. They were transferred into the interior in the original packages, under the seal of the American authorities, and that Government was under obligation, in accordance with the stipulations of the treaty entered into with the United States, not to confiscate them.

Now, the ground upon which I place this claim is this: The relief which is proposed to be afforded to these parties by this bill, is simply to refund the duties which have been collected by the United States upon these goods. The Government of the United States exacted duties upon the goods, and, in exacting them, placed itself under obligations to protect the parties, to a certain extent, in their sale and disposal. Sir, these parties have not been protected in the sale of their goods. The Government of Mexico has violated its obligation to protect them, and up to this time has failed to satisfy them for the violation of its obligations. And now they ask, as a partial relief, that, under these circumstances, we shall simply refund the money which has been paid to the Government of the United States upon a guarantee of protection, which guarantee has not been carried out. That is all. It is true that this claim ought to have been collected when the late treaty was negotiated with Mexico, by which $10,000,000 was paid to that Government. And, sir, from the fact that no effort was made to collect it on that occasion, I conceive that the whole responsibility rests upon the shoulders of the Government of the United States, and that the whole amount of the claim ought to be paid from the Treasury of the United States.

Mr. SKELTON. Will the gentleman allow me to ask him a question?

Mr. STANTON. Oh, certainly.

Mr. SKELTON. I wish to know, in the first place, if these parties have any power of attorney to receive these duties in behalf of the importers? The goods were sold by the importers to the claimants, and it seems to me that if we are to refund the duties at all, we should refund them to the importer who paid them, and not, second-hand, to these parties. How do we know, if we refund the duties now to these parties, that the original importers will not come and ask that they shall be refunded over again to them?

Mr. STANTON. Why, Mr. Speaker, the fact that the goods in the original packages have been transferred to another American citizen, is sufficient to prevent it. The transfer of the goods includes all claim for duties paid. The importer was not despoiled of his goods. But, on the contrary, he disposed of them and transferred them to the present claimants, who were despoiled of them, and he can, therefore, have no claim in reference to the duties paid.

But, sir, this is only applicable to a very small portion of the goods on which it is asked that duties shall be remitted; and I understand the gentleman from Louisiana [Mr. HUNT] agrees to abandon that portion of the claim, which is quite insignificant in comparison with the other merchandise on which it is proposed the duties shall be refunded.

Mr. ORR. I ask the gentleman from Tennessee to give way to allow me to move, or that he will himself move, to amend the bill so as to put it in the shape indicated by the gentleman from Louisiana.

Mr STANTON. I have no objection to the amendment being made.

Mr. ORR. I will then move to strike out the words "tobacco and other," so that it will read "upon merchandise imported by them."

A MEMBER. That is not in order. There is a motion to commit pending.

Mr. ORR. Well, then, I ask the gentleman to withdraw his motion to commit, and allow the amendment to be made, and then he can renew his motion to commit, if he desires it.

The SPEAKER. The gentleman from New Jersey [Mr. SKELTON] moved to commit the bill to a Committee of the Whole House, and no motion to amend is in order until that motion is disposed of.

Mr. STANTON. I have but a word more to say, and that is in relation to those legal proceedings about which the honorable gentleman from Virginia [Mr. MILLSON] had so much to say, and in reference to which he expressed his astonishment—I am not sure, but his amazement; though I am glad to see he has left the expression out in his printed speech. I hope the reporter will leave it out in mine if I express amazement that the honorable gentleman should have given utterance to such opinions as he has in reference to those Mexican proceedings. The gentleman quoted from Mr. Jefferson, as follows:

"The administration of justice is a branch of the sovereignty over a country, and belongs exclusively to the nation inhabiting it. No foreign power can pretend to participate in their jurisdiction, or that their citizens received there, are not subject to it. When a cause has been adjudged according to the rules and forms of the country, its justice ought to be presumed."

Well, sir, I admit that the justice of the decision ought to be presumed if there were not facts to show that there is no justice in it. Everybody knows the irregularity of proceedings of this kind in Mexico. And everybody who will take the trouble to examine the papers in this case will see that there can be no doubt of the irregularity and utter injustice of the whole of these proceedings.

Sir, these goods were marked with the seal of the public authorities at the city of Matamoras. They were carried into the interior with the permits in the hands of the wagoners, or the owner of the wagons who went with them, and they were seized and violently taken from him, upon the pretense or suspicion that they had been smuggled into the country. The court, after confiscating these goods, passed an order for the imprisonment of the party, and another order for his appearance within twenty days of the time to answer to the charge. Well, sir, this last order was received as it seems from all the testimony, but three days before the time the party was to appear. The order of the court was, that he should appear within twenty days. He received that order seventeen days afterwards, and had three days to travel four hundred and twenty miles. These being the facts of the case, the gentleman from Virginia, [Mr. MILLSON,] expresses his opinion, that the party ought to have made his appearance there, and appealed from the decision of the court with an order for his imprisonment staring him in the face!

Mr. BRIDGES. I wish to inquire of the gentleman whether Belden, instead of appearing before the court in pursuance of that notice, did not run away and escape from Mexico?

Mr. STANTON. He did, sir; and I think that any gentleman who has any knowledge of the ordinary mode of proceeding in that country, under that Government, will justify him in doing so, and pronounce his decision a wise one, to appeal to his own Government, instead of attempting to appeal from such legal proceedings as those were. This is all I have to say upon the subject. I shall vote for the bill as it may be amended.

Mr. BAYLY, of Virginia. I wish to say something upon this question; but I do not wish to do it to-day. I move that the House resolve itself into the Committee of the Whole on the state of the Union, with a view of taking up the French spoliation bill.

Mr. HUNT. I hope the House will dispose of the bill now before it; and which has been so amply discussed.

Mr. BAYLY. My purpose is to call up the French spoliation bill, if I can get a majority to do so.

Mr. KERR. I call for tellers.

Tellers were ordered; and Messrs. KERR and WHEELER were appointed.

The House divided; and the tellers reported seventy-nine in the affirmative.

Mr. JONES, of Tennessee. I demand the yeas and nays.

The yeas and nays were ordered.

The question was then taken on Mr. BAYLY's motion, and it was decided in the affirmative—yeas 107, nays 64; as follows:

YEAS—Messrs. Abercrombie, Aiken, Appleton, Thomas H. Bayly, Ball, Banks, Belcher, Bell, Benson, Bristow, Bugg, Campbell, Caruthers, Chamberlain, Chandler, Churchwell, Clingman, Cook, Cox, Crocker, Curtis, Thomas Davis, Dick, Dickinson, Disney, Dunbar, Edgerton, Edmands, Etheridge, Everhart, Farley, Fenton, Flag-

ler, Florence, Franklin, Fuller, Gamble, Giddings, Goodrich, Grey, Aaron Harlan, Andrew J. Harlan, Harrison, Hastings, Haven, Hughes, Hunt, Ingersoll, Johnson, J. Glancy Jones, Keitt, Kerr, Lane, Lyon, McCulloch, Macdonald, McDougall, Mace, Macy, Matteson, Maurice, Meacham, Middleswarth, Millson, Norton, Mordecai Oliver, Parker, Peckham, Pennington, Bishop Perkins, Pratt, Pringle, Ready, Reese, Riddle, David Ritchie, Thomas Ritchey, Robbins, Rogers, Russell, Sabin, Sage, Sapp, Shower, Simmons, Samuel A. Smith, Frederick P. Stanton, Richard H. Stanton, Straub, Andrew Stuart, John J. Taylor, John L. Taylor, Teller, Trout, Tweed, Upham, Vansant, Wade, Walbridge, Warren, Elihu B. Washburne, Israel Washburn, John Wentworth, Tappan Wentworth, Westbrook, Wheeler, and Yates—107.

NAYS—Messrs. David J. Bailey, Barksdale, Barry, Bennett, Benton, Bocock, Boyce, Breckinridge, Bridges, Carpenter, Caskie, Chase, Chastain, Chrisman, Clark, Cobb, Colquitt, Corwin, Craige, John G. Davis, Dawson, Dunham, Eastman, Ellison, Greenwood, Grow, Hamilton, Hendricks, Henn, Hill, Houston, Daniel T. Jones, George W. Jones, Roland Jones, Kidwell, Knox, Kurtz, Lamb, Latham, Letcher, Lindsley, McQueen, Smith Miller, Morrison, Murray, Nichols, Noble, Olds, Orr, John Perkins, Phelps, Phillips, Puryear, Ruffin, Seward, Shaw, Singleton, Skelton, William R. Smith, George W. Smyth, Hestor L. Stevens, Nathaniel G. Taylor, Walsh, and Daniel B. Wright—64.

So the motion was agreed to.

Mr. SEYMOUR paired off, on the above vote, with Mr. LILLY.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SEYMOUR in the chair.)

FRENCH SPOLIATIONS PRIOR TO 1800.

Mr. BAYLY. I move, in pursuance of the notice that I gave to the House of my object in moving to go into committee, that we take up the first bill on the Calendar, which is the French spoliation bill.

The CHAIRMAN. The consideration of that bill is the first business in order.

Mr. HOUSTON. I have, I suppose, a right to ask for a vote upon taking up one of the appropriation bills. I therefore move to take up House bill No. 580, which is one of the regular appropriation bills.

Mr. FLORENCE. Which one?

Mr. HOUSTON. The fortification bill.

Mr. RICHARDSON. I desire to make a personal explanation, which will occupy only a moment. Some ten days ago I agreed to pair off with Mr. ELIOT, of Massachusetts, on the French spoliation bill, he [Mr. ELIOT] being in favor, and I opposed to it. This morning, at the request of my friend, General SHIELDS, I agreed to pair off with my colleague, Colonel BISSELL, who is confined to his room by sickness. I had forgotten that I had made an arrangement with Mr. ELIOT when I made the agreement with General SHIELDS. I hope some opponent of the bill will agree to pair off for to-day with Colonel BISSELL. Believing, as I do, that the measure is wrong, and that this Government is not bound to pay the demand, I shall regret if the bill shall lose any of its friends by any forgetfulness of mine.

Mr. BRECKINRIDGE. I will extricate my friend from Illinois from his difficulty by pairing off, for to-day only, with Mr. BISSELL, as I am obliged to be absent from the House for the remainder of this day's session.

Mr. HOUSTON. I will change my motion, and move to take up the civil and diplomatic appropriation bill.

Mr. CLINGMAN. I rise to a question of order. My point is this, that the French spoliation bill being reached upon the Calendar, and being called, the proper question is, whether the committee will consider it. If the committee refuses to consider it, why then the gentleman can move to take up some other bill which has not been reached. The Chair will recollect that that was the course taken at the last session, at the time we were endeavoring to get up the Nebraska bill.

Mr. HOUSTON. The gentleman is evidently mistaken as to the practice of last session. The rules expressly secure to any member of this body who desires to make a motion to take up an appropriation bill, the right to have a vote taken upon it.

The CHAIRMAN. The Chair will refer to the rule.

Mr. BAYLY. I hope my friend from North Carolina will not press his question of order. After all, it depends upon the will of a majority of the committee.

Mr. CLINGMAN. Well, sir, I will waive the point of order.

Mr. ORR. Then I ask for tellers on the motion of the gentleman from Alabama.

Tellers were ordered; and Messrs. KERR and NOBLE were appointed.

The CHAIRMAN. The first bill on the Calender is the French spoliation bill. The gentleman from Alabama [Mr. HOUSTON] moves to take up the civil and diplomatic bill in lieu of that bill. The question is on that motion.

The committee was divided; and the tellers reported—ayes 56, nays 98.

So the motion to take up the civil and diplomatic bill was not agreed to.

THE FRENCH SPOLIATION BILL.

The CHAIRMAN. The matter before the committee is the bill numbered on the Calender 237, being a bill to provide for the ascertainment and satisfaction of the claims of American citizens for spoliations committed by the French, prior to 31st July, 1801.

Mr. BAYLY. I do not, Mr. Chairman, at this short session of Congress, when there are so many questions of pressing importance before us, propose to detain the committee on a question of this sort for any length of time, because, I presume that if there be one question with respect to which the statesmen of the United States are better informed than any other, it is this question, in reference to the French spoliation bill. It has been reported on for half a century, almost always in favor of the bill. It has passed through the two Houses of Congress frequently, but not at the same session. I only want to call the attention of the members of the House to the difference between the two bills.

The bill before the committee is one which was reported by me from the Committee on Foreign Affairs. There is an inaccuracy in it which probably was not the fault of the Clerk, for, in the Committee on Foreign Affairs, we struck out that provision of the bill which provides for issuing stock, and in view of the large surplus in the Treasury, we provided for a direct appropriation of $5,000,000. The Senate bill, which I shall, before I sit down, move as the substitute for ours, differs from ours only in this: that it provides for a direct appropriation from the Treasury, and provides, also, for the appointment of a solicitor on the part of the Government, to appear before the board of inquiry and see that justice is done.

I shall say nothing, Mr. Chairman, about the merits of the bill. Having reported it, it will be my duty to conclude the debate, and, therefore, I shall not trouble the committee just now, but will ask that the committee do rise and stop debate, as I do not suppose that any gentleman desires to debate this question in this short session—a question in respect to which the first intellects of the country have decided; such men as Marshall, Giles, Livingston, Webster, and I will not add the gentleman from Missouri, [Mr. BENTON,] because he is now present, and I will not class him with the dead. But, sir, the question has been entirely exhausted in discussion, and I have nothing to say, except it be in reply. I move the Senate bill as a substitute for the House bill.

[Cries of "Question!" "Question!"]

The CHAIRMAN. The Clerk will proceed to read the bill proposed as a substitute.

Mr. BAYLY. I want to say one other word in respect to this bill before it be read. I think that bill is unusually well guarded in its provisions. One of the objections which this bill has always encountered, has been that there would be no end to the claims which would be made under it. By this bill we appropriate $5,000,000 for the payment of those claims, and by the provision of the bill itself, the presentation by the claimant of his claim before the commission, is the relief of the Government from everything where satisfaction is not awarded.

Mr. ORR. I desire to propound one or two interrogatories to the gentleman from Virginia, [Mr. BAYLY.] I desire to inquire from him—his attention having been drawn to this subject—what is the probable aggregate amount of those claims growing out of the French spoliation?

Mr. BAYLY. That is a matter which will have to be ascertained under this bill. But does the gentleman raise any question upon that point because the bill appropriates $5,000,000, and provides that the very act of presenting a claim to this board, is a relief of the Government from all further claims?

Mr. ORR. Will the gentleman from Virginia indicate about the amount—as I suppose he is well informed upon the subject—of these French spoliation claims?

Mr. BAYLY. They are like unascertained damages, and we have, therefore, provided against any injustice in that respect.

Mr. HIBBARD. If my recollection serves me aright, it was estimated by Mr. SEWARD, in a speech made in the Senate, that the amount of these claims was between $30,000,000 and $40,000,000. I would ask the gentleman from Virginia if that is not the probable amount?

Mr. BAYLY. I believe no such thing; but, on the contrary, I believe that $5,000,000 will satisfy all the claims against the Government which will be adjudicated, and the bill protects the Government in that respect. It was with care that I looked to that matter, as it was my duty to do. The bill provides for an appropriation of $5,000,000 to be distributed *pro rata* in satisfaction of all these claims. The very presentation of the claim, by the very terms of the bill, is a release of the Government from everything except the dividend which the board of commissioners may award.

Mr. HIBBARD. I wish to ask the gentleman from Virginia whether, in his opinion, if we pay these $5,000,000, we do not virtually admit the justice of a greater amount above $5,000,000, and whether the creditors are barred from applying to the Government? By so doing we admit the justice of a claim, if I am not mistaken, of between $30,000,000 and $40,000,000 without interest, but with interest, a claim of about $100,000,000.

Mr. BAYLY. The answer I make the gentleman is a very plain and simple one. The claimants are satisfied with this bill. They have been kept for fifty years out of what I believe to be as righteous a claim as ever existed against any Government on the face of the earth. You have now compelled them, by a sort of duress, to limit their claims to $5,000,000; and they are willing to take this amount in final satisfaction of their claims, as the bill provides. Although I am in favor of this bill, and the satisfaction of the claims as provided under it, and come here and advocate its passage, I will say to the gentleman from New Hampshire, that I will stand by him to protect the Government against any future claim.

Mr. HIBBARD. I will state to the gentleman from Virginia, that I have seen the final passage of a good many claims, and have found that the claimants always come in for the residue of their claims, and they generally get it.

Mr. CUTTING. I am requested to state, by my friend from Massachusetts, [Mr. APPLETON]—and I believe I can give no better authority to this House—that, according to the best estimates and information collected upon this subject, the total amount of all these claims is from $10,000,000 to $12,000,000.

Mr. ORR. Without interest?

Mr. CUTTING. Yes, sir.

Mr. ORR. I do not propose to make a speech upon this subject. I am opposed to the original bill, as well as to the substitute which has been moved by the honorable gentleman from Virginia, and shall vote against both. I desired to ascertain the supposed amount of these claims, but the gentleman from Virginia has not been able to give me any specific information upon that subject. According to the information given by the gentleman from New York, [Mr. CUTTING,] these claims will amount to between $10,000,000 and $12,000,000 without interest. Now, if there be an obligation upon the Government to pay any of these claims whatever, and if that obligation commenced at the time of the treaty with France, as is contended by the advocates of this scheme, in 1800 or 1801, I do not perceive how it can refuse to pay interest upon the whole amount of these claims, because they have been constantly knocking at the doors of Congress and asking you for their payment. The payment of these claims has not originated from any delay or neglect upon the part of the claimants themselves; and if the proofs which they now offer are deemed satisfactory, they should have been equally so when the demand was first made—the case is no stronger now than when first presented. Admitting this conclusion to be correct, how

much will your $10,000,000 or $12,000,000 amount to, with interest at six per cent., from 1801 to the present time?

Mr. PECKHAM. I desire to ask my friend from South Carolina, whether that has been the principle upon which he has acted in this House?

Mr. ORR. There has not been a claim since I have been a member of this House, that I now recollect, which has come before the House for its determination, of the class of cases to which this French spoliation bill belongs.

Mr. PECKHAM. The principle has been frequently here.

Mr. ORR. I have, in some instances, voted for the payment of interest by the Government; but, as a general rule, I have voted against it. I think it is the correct rule, upon the ground that Congress is presumed, when the proofs of a claim are *satisfactory*, to make immediate compensation. Many claims, when presented, are defective in proof, and are suspended or postponed until cumulative evidence is supplied. Would it be proper in such case to allow interest?

Mr. WARREN. I desire to ask the gentleman from South Carolina what the amount of the debt involved has to do with the liability of the Government to pay it?

Mr. ORR. I propose to discuss that point shortly; and, in doing so, trust I shall most satisfactorily respond to the question propounded by the gentleman from Arkansas. I had a purpose in view in propounding the interrogatory I did to the honorable gentleman from Virginia, [Mr. BAYLY,] to know the amount of these claims. I desired to be informed whether $5,000,000 would cover them or not. It is perfectly apparent that that amount will not satisfy them. I was anxious to have learned the supposed amounts of these claims from the gentleman from Virginia, and put upon the record his admission that $5,000,000 would not half pay the claims, without interest; but I failed to do so. I obtained the information I desired, which I regard as reliable, from the honorable gentleman from New York, [Mr. CUTTING,] who gave it as coming from the accurate and thoroughly intelligent gentleman from Massachusetts, [Mr. APPLETON,] that the whole amount of these claims was from $10,000,000 to $12,000,000. I propose to make this application, and the gentleman from Arkansas [Mr. WARREN] will perceive why the amount involved here enters into the consideration of this question. You pass a bill here appropriating $5,000,000 to liquidate and satisfy these claims in full, although the claims may reach $12,000,000.

Mr. BRIDGES. I wish to propound one question to the gentleman from South Carolina.

Mr. ORR. Let me finish answering the question asked by the gentleman from Arkansas, and then I will yield the floor to the gentleman from Pennsylvania.

The gentleman from Virginia says that the presentation of the claim before the board for a share of the $5,000,000 proposed to be appropriated by this bill, is, *ipso facto*, a discharge of any further liability and obligation upon the part of the Government; and yet the $5,000,000 appropriation is an admission that you are liable in equity and good conscience to pay these claims.

Mr. CLINGMAN. Will the gentleman allow me one moment?

Mr. ORR. When I have finished this single argument I will, and I cannot until then. When you pass this bill, you have conceded the obligation and liability of this Government to pay these demands. You have conceded that the Government is bound to protect all those who have suffered from spoliation, because if that be not the principle upon which you act, how will you justify the payment of the $5,000,000? But you pay that sum, and there remains unpaid perhaps $7,000,000 more, equally just—proven by the same evidence. You, by the same act which admits the justice of the claim, deprive them of one hundred and fifty per cent. or more on the original claim, all of which is just and ought to be paid, if any is admitted. What will be the result, then, of your policy? In what form will these parties, who have received only half their honest dues, come before you? What will they say? They will say to you that by your action you have recognized the obligation and binding validity upon the Government, to pay the whole demands, and will it not be true? Can human ingenuity deny the justice or logic of the allegation? You will attempt to relieve yourselves from the obligation by saying "We compromised with the claimants, and they agreed to take $5,000,000. You cannot therefore claim more." A great Government acknowledges the justice of the demand of its citizens for $12,000,000, and then says, if you will be content to take $5,000,000 and give us a full acquittance, we will pay that sum; otherwise we will pay you nothing. Is there a gentleman here who would not feel humiliated at such a declaration? The gentleman from Virginia [Mr. BAYLY] himself, says that these parties are under a sort of duress, and are willing to take $5,000,000 for their claims. Would it be generous—would it be just to take advantage of their restrained position and pay but $5,000,000, when you owed $12,000,000 or perhaps $14,000,000? If the Government is bound, by national law, by justice to its citizens, to pay $5,000,000, it must sooner or later discharge that obligation. You may guard your present bill with limitations, with provisos—with declarations that it is in full satisfaction of all demands—but my word for it you will eventually be compelled to pay it all, when you once concede any liability, as you will do by passing this bill.

Mr. BAYLY, of Virginia. Will the gentleman from South Carolina allow me a word now?

Mr. ORR. Certainly.

Mr. BAYLY. I dislike to interrupt the gentleman, but as he is arguing upon the supposition that my explanation was unsatisfactory, it is due to me that I should be permitted to make it more satisfactory.

I stated to the gentleman, as distinctly as I knew how to do it, that it was impossible for me to tell—and I undertake to say, that it is impossible for anybody to tell—the extent of these claims; because that is to be adjudicated by a board of commissioners, fortified by every sort of guard that a court could be fortified with, and they are to ascertain the amount.

Now, I say further, that I have not an idea that one tithe of the claims which are supposed to exist will ever be made good before that board. They will not be made out. In the first place there are a good many who suppose that they are interested in this bill, whose claims occurred subsequent to the year 1800. This bill provides that those claims which were taken care of by the treaty negotiated by Mr. Rives, are not to come in under this bill. I have do doubt that a great many persons suppose that they have claims when they have not. But I am not a commissioner, or the judge of that matter. I cannot tell the gentleman to what extent that board will adjudicate claims; but I do say, that I believe that this $5,000,000, if it does not do entire justice, if it does not come up to the rule of *strictissimi juris*, will be satisfactory to the claimants; and I do not believe this Government will ever be called upon again in reference to the same matter.

Mr. CLINGMAN. With the permission of the gentleman from South Carolina, I wish to make a single suggestion. This is a judicial question, and I wish to present this point for consideration: Our Government was not primarily liable for these claims. Now, suppose these claimants were injured to the extent of $10,000,000 or $12,000,000. That would have constituted a good claim against the French Government to that extent. We became liable, because the French Government released us from the performance of certain guarantees, and the extent of our liability will depend upon the extent of that guarantee. We agreed to guarantee the West India islands to France, but England took them away, and the French Government demanded satisfaction of us. To induce the French Government to release us from that guarantee, we agreed to release her from these claims of indemnity, brought against her by our citizens. If we consider that that guarantee is only worth the sum of $5,000,000, we could only be liable to make satisfaction to that extent to the claimants. It is in that way we became liable at all.

I do not know that this Government is under obligation to pay any claims for damages which our citizens have suffered at the hands of foreign Powers. We are bound to obtain satisfaction from such foreign Governments, but we are not bound to go to war for that purpose. Whatever sum, in satisfaction, we may get out of a foreign Government, we are bound to pay over.

Mr. HIBBARD. Do I understand the gentleman from North Carolina to say that he puts the liability of the Government to pay, upon the ground that we took the property of these claimants for public uses? If so, should we pay them what we received, or the worth of the property which we took? I understand the latter to be the true law. We should pay them the value of the property which we took. If we afterwards went to war with France, a state of real, or *quasi* hostility, would, perhaps, on grounds of international law, be a discharge of all claims.

Mr. HUNT. I rise to a question of order. I object to these interruptions as irregular, and ask the Chair to enforce order. Let every gentleman be heard in turn.

Mr. CLINGMAN. I was about to say, that the gentleman from New Hampshire [Mr. HIBBARD] misunderstands the point I make. I maintain that we got a certain satisfaction from France, by her releasing us from a binding guarantee. It would have been the same thing if we had received $5,000,000 in money from France. We should turn over to the claimants all we got, and they have no right to ask anything more.

My object was to call the attention of the gentleman from South Carolina [Mr. ORR] to the circumstances under which we became liable, and to say that if we thought that the release from that guarantee, by which we were bound, was worth only $5,000,000, we are not bound to give anything more than that sum to the claimants.

Mr. BRIDGES. I should like to ask the gentleman how it matters what the claims may amount to, provided the claimants voluntarily agree to take the $5,000,000 in full payment of them?

Mr. ORR. I will answer that question, as, perhaps, it is pertinently put. How are you to resist the obligation to pay demands which may be made upon you hereafter, when the $5,000,000 has been distributed among the claimants, who receive it under "duress?" How are you to resist the obligation to pay over to them, at a subsequent period, all that is not provided for by this bill? If there is any obligation to pay the $5,000,000, is the obligation any less to pay the whole sum? Would any common law or chancery court declare valid an acquittance obtained from a party under duress?

Mr. WASHBURN, of Maine. If the gentleman from South Carolina will look at the eleventh section of the bill, he will see that only those who do present their claims are bound. Therefore, any claimant who does not present his claim is not, by the terms of the bill, barred from applying to Congress hereafter. Any claimant, however, who does so says: "You offer so much now. I may not get it, if I claim the whole, in ten or twenty years, and perhaps never. Therefore, rather than fail at the present time by asking Congress for the whole, I will take the chance, judging for myself, and come in and freely receive the amount you propose to give, and discharge the Government forever from the debt."

Mr. ORR. I am much obliged to the gentleman from Maine for his suggestion. It had escaped my observation that the claimants who do not choose to come forward and receive their share of the $5,000,000 provided for in the bill, can come back here at the next session, or at any following session, and ask that Congress shall pay them the full amount of their claim. And after you have paid one sum, after you have admitted the equity and justice of the claim in one aspect, how could the gentleman deny them in another? What response could Congress make? Would it be that your citizens had come forward, according to the provisions of the bill, and said that they were willing to take the $5,000,000 in full satisfaction of their entire claim?

But, Mr. Chairman, when the justice and equity of the remaining $7,000,000 is equally apparent, would any committee have the boldness, the effrontery, sir, to rest the refusal of Congress to pay the balance, upon the ground that the claimants, being in our power, and denied half the amounts justly due them, agreed, for $5,000,000, to cease all further demand? Would it be honest for this Government to take any such position? If the claim is just, pay it. If the money is not in the Treasury to pay it, issue stocks for that purpose. Fund the debt—pay it any way; but do not say that, having the claimants within our

power, we shall do them half justice, or third justice, by paying them third or half of the amount of their rightful claim. I trust that I may never see the Government assume such a position. If the claim is just, pay the whole amount.

Is it due? that is the question. What are the circumstances connected with this claim? How often has it been presented and defeated? The claim was presented very soon after it had originated. It has been annually before Congress for the last forty or fifty years, and it has always been defeated up to this time. True, it was passed in 1846, but it was vetoed by the then President of the United States. You come forward now, when all the evidence of the want of justice and obligation on the part of the Government to pay the claim has passed away, when the claimants have been piling document upon document, stating and restating every line and word of any book or paper in their favor, strengthening their case as ours weakened, and say of those who have gone before us—for it is tantamount to saying there was a valid obligation resting on Congress to pay this claim—that they refused to pay what was most justly due. As was suggested to me a moment ago, Mr. Chairman, our ancestors were poor, but honest; and though they had not their coffers filled with gold and silver, as we have our coffers, still they paid all demands which they acknowledged to be due. If they did not pay the money down they gave their obligations. They funded the debt growing out of the revolutionary war; and, sir, it is no response now to say the country was poor then, and that that was the reason these claims were not paid. If the claims had been just the obligation on the part of the United States would have been recognized, and arrangement made for their payment; but, for the period of forty or fifty years, these claims, as they found their way into the Halls of Congress, were again and again defeated.

The gentleman from Virginia [Mr. BAYLY] speaks of the long array of great names who have discussed in favor of this question. Well, sir, there have been very many great men who discussed this question on the other side; gentlemen of character, intelligence, and discrimination; statesmen who impressed their genius upon the age in which they lived—such men as Calhoun, Wright, McDuffie, and others. They opposed this claim. So great names fail to determine the question in favor of the claimants. You are now to concede a claim which has slept—no, not slept, I beg the claim's pardon—[laughter]—for these claimants have not allowed it to sleep, there scarcely being one session of Congress since it originated during which it has not been presented and considered. You are to vote a claim just which has been voted otherwise, time and again, by Congress for forty-odd years, and that, too, without debate, or a tittle of additional evidence.

Mr. RIDDLE. The gentleman from South Carolina has given as a reason why these claims should not be paid, that they have been before Congress for forty years, and have never passed but once, when they were vetoed by President Polk. I would ask him to state, with his usual candor, whether any bill making appropriations for the adjustment of these claims was ever voted on, in either the Senate or House of Representatives, when a majority was not found in its favor? Is not the delay rather to be attributed to our rules, than to the fault of the claimants?

Mr. ORR. Mr. Chairman, I am not prepared to respond definitely to the gentleman at this time. My impression is, that, in a large majority of cases where votes have been taken in either House of Congress, they have been in favor of the payment of the claims. But the gentleman need not attempt to deduce from this an argument that they are right. How does the gentleman know that, during the series of forty years this matter has been under discussion, the failure of the two Houses to vote for the bill in the same session was not a fair and strong indication that the claims were not just, and ought not to be paid?

Mr. FLORENCE. I ask the gentleman from South Carolina, to permit me to refresh his memory in regard to the history of the legislation at the last Congress. By some legislative legerdemain, which nobody seemed to understand, the French spoliation bill was, one morning, by an unfortunate motion of the gentleman from Virginia, placed under one hundred or two hundred other bills upon the Speaker's table. Although there was a clear and decided majority in this House in favor of the bill, to dig it up from its buried depth, and once more bring it to light, still that never could be done, because of the rules of the House.

Mr. BAYLY, of Virginia. I hope the gentleman will withdraw his remark that it was an unfortunate motion of mine, for I do not generally make unfortunate motions. [Laughter.]

Mr. WASHBURN, of Maine. I think the motion was made by the gentleman from New Hampshire.

Mr. FLORENCE. I hope the gentleman will permit me to ask him another question.

Mr. ORR. One at a time. Let me answer the inquiry just made, and then I shall yield to the gentleman. The gentleman speaks of some legislative legerdemain by which this bill failed to receive final action at the last Congress, although there was a majority in favor of it. Now, Mr. Chairman, I have devoted a little attention to the rules of the House, and if I had been occupying the Speaker's chair at the time, I should have made precisely the same decision in reference to the question as was made by the Speaker [Mr. BOYD.] The gentleman speaks of the bill being placed under some two hundred others. He knows the rules well enough to know, that after one hour had been devoted to the calling of committees for reports, any gentleman might have taken the floor, and moved to go to the business upon the Speaker's table.

If the gentleman's friends, or rather the friends of the bill, had been true to the bill, if they had been as anxious to pass it as the gentleman seems now to believe, I have no doubt it would have been passed. If they had really felt the anxiety and solicitude which they are now represented to have felt, they would have gone to the business on the Speaker's table at the expiration of the morning hour, and have cleared it of every bill there, and secured the much sought action.

Mr. WASHBURN, of Maine. Will the gentleman allow me to ask him a question?

Mr. ORR. Not now. The gentleman speculates as to the reasons why the bill was not taken up. He says that all the time there was a clear majority in favor of it. Well, sir, that is a mere matter of opinion. There may, and there may not have been.

Mr. WASHBURN, of Maine. Will the gentleman allow me now to interrupt him?

Mr. ORR. I will hear the gentleman's question.

Mr. WASHBURN. I think the gentleman from South Carolina, if he will recollect the proceedings of the last Congress in reference to this measure, will agree with me that it was defeated in the same way in which it had been defeated several times in previous Congresses. If I remember correctly, the bill passed the Senate early in the first session of the last Congress, and came to the House. Upon the motion of some gentleman—I think it was the gentleman from Virginia, [Mr. BAYLY]—the House did proceed to its consideration, or, at least, action was taken progressing towards its direct consideration. And the motions which were made were evidently sustained by a clear majority of the House.

Mr. FLORENCE. Certainly; there was a large majority of the House in favor of it.

Mr. WASHBURN. Well, sir, when the bill was reached it was in this position: The gentleman from Virginia, or some one, I forget who, moved to refer the bill to the Committee of the Whole on the state of the Union, pending which motion the gentleman from New Hampshire [Mr. HIBBARD]—I think it was—moved that the House adjourn. The question was then raised by the gentleman from Virginia, or some other memoer, whether, in case the House adjourned in that stage of the proceedings, the bill would go to the Speaker's table. The Speaker, or the person occupying the chair at the time, expressed the opinion—though, perhaps, not absolutely and unqualifiedly—that it would not, upon which the House adjourned, and——

Mr. ORR. I thought the gentleman was going to propound a question to me.

Mr. WASHBURN. I am going to presently. [Laughter.] With the gentleman's permission, however, I will proceed to state——

Mr. ORR. The gentleman has my permission to ask me a question, if he wishes, but not to proceed with a history of the legislative proceedings upon this bill.

Mr. WASHBURN. Well, then, I ask the gentleman if I have not stated the matter right? [Renewed laughter.]

Mr. ORR. Why, sir, in the "noise and confusion" that prevailed in the Hall, I did not hear what the gentleman's statement was. [Great laughter.]

Mr. Chairman, it is a very easy matter, when bills are proposed here, and gentlemen do not choose to take the responsibility of voting directly upon them, to give them the "go by," by allowing them to sleep for six months upon the Speaker's table, and in various other ways, and thus defeat them, when, if they came to a direct vote, they might pass. For myself, I do not conceive there has been, at any time since the veto of Mr. Polk, a majority of the House of Representatives in favor of the passage of this bill. I believe the veto of President Polk went a great ways towards effectually destroying the validity of this claim in the public estimation. I think it was a good landmark, and a landmark that ought to be adhered to. I do not know that it ought to be adhered to as a party measure, but if there were no higher considerations operating upon gentlemen upon this side of the House, I think they should at least manifest a disposition to sustain the action of President Polk. I think they should scrutinize closely any claim which has been presented here over and over again for forty years, once vetoed and again presented, before they agree to pass it.

Mr. PERKINS, of New York, (interrupting.) I have looked at Mr. Polk's veto message some time since, and I cannot remember that he assigned any other reason than that we were then at war, and could not spare the money. I ask the gentleman, now that the Treasury is full, whether that reason is applicable? [Laughter.]

Mr. ORR. Mr. Chairman, my friend from New York has not read President Polk's veto message with the care and astuteness with which he usually reads State papers. If he had, he would have found some other reasons than that we were engaged in a foreign war, and had not the money to spare. If that had been the only reason, he would not have been justified, in the public estimation, in vetoing the bill.

But, to come back to the point where I was interrupted. And let me say that I had no expectation of saying anything upon this subject, until I saw the bill was about to go by default. The gentleman from Virginia [Mr. BAYLY] indicated his purpose, if no gentleman desired to say anything upon the subject of the bill, to move that the committee rise and report it to the House, but at the same time, as he said, with no desire to press the motion, if any gentleman desired to discuss the bill. I wanted to propound a question to the gentleman, which I did; and it is out of that that this debate has arisen. When I had succeeded in fixing, by the admission of the friends of the bill, the claims for French spoliations at from ten to twelve millions dollars, I then desired to know of the gentleman from Virginia how he could justify himself in paying five millions for a just claim of ten millions. Sir, I ask this House, in all honesty and fairness, if they can consent to ask a citizen of the United States to receive fifty cents on the dollar as payment of a just claim against the Government?

Sir, you will find that the restriction at the close of this bill will not operate as a restriction at all. You will find that when five millions are expended, these applicants will come here for the balance of their claim, and the Government, having established the validity of the claim itself, will be bound to pay it. You will find that, if you pass this bill, the Government will not be relieved from its liabilities, on account of these French spoliations, until thirty, forty, or fifty millions have been absorbed from the national Treasury.

Mr. CHANDLER. I have risen for the purpose of making a few remarks, not to be dignified with the name of a speech, upon the subject now under consideration, and especially upon the remarkable course of argument pursued by my friend from South Carolina, [Mr. ORR,] and my friend from New Hampshire, [Mr. HIBBARD.] They have very carefully enforced upon the committee the fact, that a much larger amount than

is provided for in the bill under consideration, is due these claimants. I am reminded of an anecdote of two men, who were called on by their landlady to settle their bills. When the bill was presented to one, he reduced it fifty per cent. for over charges, paid the amount, and went on his way. The other found that not half enough had been entered, and the landlady posted up the account again; but the next morning she found he was missing. "Well," said she of the last one, "he is the very best person I ever saw to settle, but the very worst to pay." [Laughter.]

Now, sir, I very much fear it will be much the same way with my friend from South Carolina, and my friend from New Hampshire. They are very anxious to make out a larger amount than we have provided for. They are very anxious to make out that forty or fifty millions are due.

Mr. HIBBARD. My position is this: that upon the principle that would make five millions due, a larger sum is due. The exact amount I could not say. My judgment is, that nothing is due.

Mr. CHANDLER. The gentleman then admits that he is in the category of the last person; he does not mean to pay anything. [Laughter.]

Mr. HIBBARD. No, sir; not one cent.

Mr. CHANDLER. Mr. Chairman, I have but a few more words to say. The gentleman from South Carolina, in his argument, speaks of ethics. Is it the ethics of the House of Representatives of the United States, in the first place, for fifty-three years to refuse compensation to claimants because the sum is large, and then, at the end of the fifty-three years, to plead, in abatement that the claims are old?—for it is that. Thirty reports have been made to both Houses of Congress upon these claims, all in favor of them, all going to establish, not only the justice of the claims of the American citizens upon the French Government, but the transfer of those claims from France to our Government by the treaty of 1800.

Gentlemen who hear me know that, by our early treaty with the Government of France, by which we acquired some aid from them in our Revolution, we agreed to defend their West India possessions. We agreed to stand between the British Navy, or the navies of any other nations, and the unprotected French possessions in the West Indies, with the few gun-boats, and other small vessels, which we then had. I am reminded by my friend from Virginia [Mr. BAYLY] that, by that treaty, we undertook to protect all the French possessions on this continent. That only adds force to the argument. It is cumulative at every point. Well, sir, we were unable to do it, and we purchased off, and now we want to pay with $5,000,000 for that impossibility of discharging an obligation which we had assumed.

Sir, though that may have been the first treaty that we purchased off from, it is not the last; but it is the only one that we have not paid for. Within a year, the Government of the United States, finding itself unable to fulfill the treaty of Guadalupe Hidalgo, has paid $10,000,000 to the Mexican Government to escape from the consequences of violating that treaty; paid to a foreign Government $10,000,000 to be freed from the stipulations of a treaty; and now, when a case of the same character is presented to us, something is said here about ethics. Sir, it was the opinion of Washington, I think, that it is as good a motto for a people, as for an individual; for a nation, as for a man, that "honesty is the best policy." This is the origin of the claims for French spoliations upon our commerce—mostly upon the vessels that were engaged in conveying the productions of the bays and inlets upon our coast to the European markets. These, in many instances, were taken and destroyed, and where they were so destroyed, the claim may be established. But a considerable portion, I believe, of the claims which will be made upon the Government, will be for the detention of vessels, and these may possibly swell the amount up to $10,000,000 or $12,000,000. Whether these can be allowed in commercial law, or, what is still stronger, commercial custom, is a matter to be settled by the commission that shall be appointed. But the claims for spoliations, for the destruction of our ships and harbors, cannot be denied.

Somebody said here in my hearing, that France had never recognized these claims. Sir, France did recognize them in the treaty of September, 1800, and transferred them to us by that treaty. The report of Mr. Livingston, of which I have but an abstract before me, fully proves—

1. That the claims in question were admitted to be just and valid by France and the United States during the negotiations which terminated in the convention of 1800.

2. That France paid these claims by presenting counter claims as an offset, which were accepted as such by the United States; and

3. That the United States, by thus releasing France from the claims of American citizens, and appropriating them to her own use in satisfying the claims of France upon her, has made herself justly liable for their payment.

That is the state of facts as set forth by Mr. Livingston, and that last is the deduction which that great, clear-headed, just man made from the state of facts presented to him. I see not how we can escape the conclusion. Do not let us hear again anything about the amount of the claims. Gentlemen say that if the amount is $10,000,000, then $5,000,000 will not pay it. But, sir, there is a provision in the bill that that sum shall close the claims, and there is a stronger provision, or, if I may be allowed such a mode of expression, there is a want of *provisions*, that will insure the acceptance of it. Want and destitution are in the families of the claimants, and the palsied widows and hungry children look to us, not for charity, not for eleemosynary aid, but for the just and honest payment of a debt which we owe as much as we owe any claimants upon the Treasury of the United States.

Sir, it is contrary to good manners and to good morals to set up a claim of abatement in consequence of time. The statute of limitation runs not in favor of the nation in that form. The parties who are here ask of the Government of the United States, not what this Government has received—not half of it, not a quarter of it, for $200,000,000 would not have created a fleet, sustained an army, and carried on such a war as would have been necessary for the defense of the French possessions on this continent, and in the West Indies. Gentlemen must see that the Government would be a large gainer, even though we should pay ten times the amount proposed in this bill.

But, Mr. Chairman, American legislators will not regard it in that light. American legislators will not let the *honor* of the United States be weighed against a few dollars and cents. If the Government of our country has not received a dollar's advantage, the promise that it made to pay hese claims should have secured their payment. No man can regard this question as an American and an American legislator, without feeling that he is bound in honor to respond to the application of these claimants, and establish a tribunal by which their claims may be tested.

Let me not be told that the time for such a proceeding is past. Let me not be told that an American President vetoed the bill. He did it, sir, not because he did not think that the Government was bound in honor to pay the claims, but because he felt that he should dishonor the Treasury again if he should sign that bill at that moment, when five millions were wanted, if they could be obtained, to carry on a costly war.

I have no disposition to occupy the time of the committee on this subject. We have before us, Mr. Chairman, other business of vast importance to attend to. We have before us business of very great consequence, which ought to be settled. But we have not one bill before us, Mr. Chairman—and I appeal to the gentlemen of the House to confirm what I say—we have no bill before us, and we never will have a bill before us, which more concerns the honor of the American nation than this bill which we are now discussing. I will now yield to the gentleman from South Carolina, [Mr. KEITT.]

Mr. KEITT. Mr. Chairman, I have endeavored, in my examination of this subject, to arrive at its merits. I confess it is surrounded with much of difficulty and embarrassment. Two questions present themselves to my mind: 1. Whether there is any binding obligation upon us to pay any sum to the claimants under French spoliations upon our commerce? and 2. What sum, if such obligation exists?

Is there any binding obligation upon us? It is clear that the spoliations were committed upon the property of our citizens, and that they have never been indemnified. It is equally clear that we acquired a release from a treaty obligation to maintain the claim of France to the West India Islands, by releasing the claim of our citizens to indemnity from France for spoliations committed upon their property. Was not this so considered at the time? Twenty-nine reports, I believe, have been made to Congress, and only one of these has been a majority report against the justice and equitable obligation of these claims. I remember, too, that while all the facts were fresh and vivid in the public mind, General Marion, of my own State, made a report in favor of their validity. He was a man without stain, and without reproach. Lowndes, too—a name embalmed in our hearts—attested them.

If, then, there be any liability, the second question arises, what is the amount? This cannot be ascertained. The prejudices, the passions, the mists of more than fifty years have gathered around these claims. If the Government owes something, and the amount cannot be ascertained, may we not enact a compromise upon these claims? We were not compelled to go to war with France to obtain indemnity for these claimants, and although we obtained a valuable consideration for releasing France from them, we may, I think, fairly compromise upon them.

I will not press this matter. I think there is an obligation upon the Government; I think so because of the facts above recited; I think so because of the deliberate opinion of my distinguished colleague in the Senate, [Judge EVANS,] whose accurate information and judicial sagacity and weight, invest any cause with high sanctions. I think, too, the amount is difficult, if not impossible, of liquidation; and, therefore, I am willing to settle the claims for the amount in the bill, if the Government is fully secured against any future claims on account of these spoliations.

Mr. LETCHER. I do not desire, Mr. Chairman, to make a speech at present; but I mean to indicate an amendment which I shall offer to this bill at the proper time. I shall propose to add, at the close of the fifth section of the bill, this proviso:

Provided, That no insurance office, or company of insurers, or assignees of insurers, shall receive any indemnity whatever under this act; and no assignee of original claimants, other than insurers, shall receive anything more than they actually paid for the claims they hold; and it shall be the duty of every claimant to lay his claim before the Secretary of the Treasury, showing its origin and the character in which he claims, with the amount actually paid by him when he claims as assignee; and the truth of all statements so made shall be inquired into under the directions of the Secretary of the Treasury, by the Solicitor of the Treasury, and some accounting officer, with power to send for persons and papers, and to examine witnesses on oath, and take their testimony in writing; and in all such cases the burden of proof shall lie upon the claimant, subject to be invalidated by counter testimony; and no money shall be paid, in any case, until the claim has been so examined and reported to the Secretary of the Treasury, and approved by him.

Mr. LETCHER. I submit the motion that the committee do now rise.

The question was taken; and the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, the Chairman of the committee reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and especially Senate bill No. 117, commonly called the French spoliation bill, and had come to no resolution thereon.

Mr. BAYLY. I now move the usual resolution, to stop debate on this bill in the Committee of the Whole on the state of the Union in two hours after that committee shall have resumed its consideration.

[Cries of "Oh, no!" "No!"]

Mr. BENTON intimated, in a low tone of voice, that the effect of this was to gag the expression of opinion.

Mr. BAYLY. The gentleman from Missouri [Mr. BENTON] seems to think that I am trying to gag gentlemen who may desire to speak on this bill. So far from that, sir, my friends all over the House know that, in proposing two hours for the closing of debate, it was against the wishes of the friends of the bill, who thought that that time was too long, inasmuch as the subject is well understood, and the House is ready to vote.

Mr. ORR. I move to lay the resolution closing debate on the table.

Mr. WARREN. I move that the House do now adjourn.

Mr. ORR called for tellers on that motion.

Tellers were ordered; and Messrs. BOYCE and LYON were appointed.

The question was taken, and the tellers reported—ayes 72, noes 72.

Mr. FLORENCE demanded the yeas and nays; which were not ordered.

The Speaker voting in the affirmative, the House then adjourned, at twenty minutes past three o'clock, till to-morrow at twelve o'clock, m.

IN SENATE.

WEDNESDAY, *January* 24, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, information in reference to such troops of the State of Texas as may now be, or have heretofore been, in service in that State, and who have not been paid by the United States, and the amount necessary to pay said troops; which was referred to the Committee on Finance, and ordered to be printed.

PETITIONS, ETC.

Mr. SEWARD presented the memorial of Herrick Aiken, presenting, for the consideration of Congress, his views as a practical inventor, of the operation of the present patent laws, and proposing an amendment to the same; which was ordered to lie on the table.

Also, a petition of citizens of Ontario county, and four petitions of citizens of Madison county, New York, praying additional grants of bounty land to such of the soldiers of the war of 1812, and to the widows and heirs of those deceased, as have not received one hundred and sixty acres of land, and that each officer and soldier of said war, and the widows of those deceased, may be allowed a pension; which was ordered to lie on the table.

Mr. RUSK presented the memorial of William Archer, praying the construction of a railroad and telegraph from the Atlantic ocean to the Bay of San Francisco, and the enactment of a law for the protection of the gold in California; which was referred to the select committee appointed on the subject of the Pacific railroad.

Mr. JONES, of Iowa, presented the petition of Anthony Phelps, a revolutionary soldier, praying a pension; which was referred to the Committee on Pensions.

Also, the petition of Eliza Gibbons, mother of Thomas E. Gibbons, who died in the naval service, praying a pension; which was referred to the Committee on Pensions.

Mr. SHIELDS presented the memorial of the Metropolitan Mechanics' Institute of Washington, in the District of Columbia, praying a charter of incorporation; which was referred to the Committee on the District of Columbia.

Mr. HOUSTON presented the memorial of Edward D. Tippett, praying the appointment of a committee to examine a method invented by him of navigating the air, and an appropriation to enable him to exhibit it; which was referred to the Committee on Patents and the Patent Office.

Mr. MALLORY presented the memorial of G. A. Magruder, a lieutenant in the Navy, praying to be allowed the pay of a captain during the time he acted in that capacity on board of the frigate Columbia; which was referred to the Committee on Naval Affairs.

Mr. CHASE presented an additional document in relation to the petition of Mrs. Lewright Browning; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN.

On motion by Mr. DODGE, of Iowa, it was

Ordered, That John T. Hildreth have leave to withdraw his petition and papers.

ENROLLED BILLS SIGNED.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that the Speaker had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*.

A bill to authorize the Secretary of the Treasury to issue a register to the bark Martha; and

A bill to authorize the issue of a register to the bark Foundling, of Boston.

EXECUTIVE SESSION.

Mr. BADGER. I wish to ask the Senate to take a very short Executive session, for a purpose which I cannot now explain to the Senate. It will occupy but a few minutes. If we get involved in the business of the day, we shall certainly adjourn without giving me the opportunity to submit the motion. I therefore submit the motion now to go into Executive session.

The motion was agreed to; and the Senate proceeded to the consideration of Executive business. After some time spent therein, the doors were reopened.

REPORTS FROM STANDING COMMITTEES.

Mr. ALLEN, from the Committee on Pensions, to whom was referred the petition of John T. Sprague, in behalf of Margaret S. North, praying that a pension may be allowed her, submitted an adverse report thereon; which was ordered to be printed.

Mr. SEWARD, from the Committee on Commerce, to whom was referred the memorial of Husted & Kroehl, praying to be authorized to remove the obstructions at Hell-Gate, within ten years, and to defray the expenses of the same by levying a tonnage duty on all vessels passing through that passage during that period, reported adversely thereon, and asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred so much of the President's message as related to the commerce of the United States, reported a bill to amend "an act to carry into effect a treaty between the United States and Great Britain," signed on the 5th of June, 1854, and approved August 5, 1854; which was read, and passed to a second reading.

He also, from the Committee on Pensions, to whom was referred the petition of Chambers C. Mullin, praying to be allowed a pension, submitted an adverse report thereon; which was ordered to be printed.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred the petition of Johanna McNamara, widow of Daniel McNamara, who was killed while in the civil service of the Government, praying to be allowed some compensation in consideration of her loss, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill from the House of Representatives granting certain additional powers to the Corporation of Washington, reported it back with sundry amendments.

Mr. BENJAMIN, from the Committee on Commerce, to whom was referred a memorial of commissioners appointed by the General Assembly of Tennessee, February 28, 1854, praying the aid of Congress in preventing the overflow of the east bank of the Mississippi river, caused by the leveeing of the west bank, under acts of Congress appropriating lands for that purpose, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a petition of citizens of Tampa, Florida, praying an appropriation for coppered stakes to mark out the channel of Hillsborough bay and river, from the Big Oyster bar to the town of Tampa, and a beacon on Long bar, at the entrance of the river channel, asked to be discharged from its further consideration; which was agreed to. The committee have submitted the petition to the Light-House Board, who promise to examine into the matter, and report at the next session of Congress.

He also, from the same committee, to whom were referred the following bills, asked to be discharged from their further consideration, and that they lie on the table, on the ground that the objects sought to be attained had been included in a general appropriation bill for like improvements, already reported by the Committee on Commerce:

A bill for continuing the improvement of the harbor of Waukegan, Illinois, on Lake Michigan;

A bill to continue the improvement of the harbor of Chicago, in the State of Illinois; and

A bill making an appropriation for the continuation of the breakwater in the harbor of Burlington, on Lake Champlain.

The motion to discharge the committee from their consideration was agreed to.

Mr. SHIELDS, from the Committee on Military Affairs, to whom was referred the memorial of Alexander Randall, executor of Colonel David Randall, late deputy paymaster general of the United States Army in Mexico, praying that a law may be passed by Congress authorizing the settlement of his claim for services as receiver of duties and assessments levied in the city of Mexico, for the support of the Army of the United States, submitted a report, accompanied by a bill for his relief; which was read, and passed to a second reading. The report was ordered to be printed.

Mr. DAWSON, from the Committee on the District of Columbia, to whom was referred the bill from the House of Representatives authorizing the corporate authorities of Georgetown to impose additional taxes, and for other purposes, reported it back with sundry amendments

Mr. JONES, of Iowa, from the Committee on Pensions, to whom were referred the following petitions, submitted adverse reports thereon; which were ordered to be printed:

The petition of Elizabeth S. R. Sailly, praying a pension;

The petition of Sarah Vincent, widow of John Vincent, praying a pension; and

The petition of John S. Devlin, praying a pension.

Mr. TOUCEY, from the Committee on the Judiciary, to whom was referred the bill of the House of Representatives to reorganize the courts in the District of Columbia, and to reform and improve the laws thereof, reported it with amendments.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. WEBSTER, his Secretary, announcing that he had this day approved and signed an act for the relief of David B. Sears.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had passed a bill of the Senate authorizing the Secretary of the Treasury to issue a register to the bark Colonist under the name of The Lilly.

Also, a bill to change the names of the American-built vessels J. H. Holmes and Franklin Pierce.

LE CAZE AND MALLET.

Mr. BRAINERD, from the Committee on Revolutionary Claims, to whom was referred the amendment of the House to the bill for the relief of Frederick Vincent, administrator of James Le Caze, survivor of Le Caze & Mallet, reported it back, and recommended a concurrence therein.

The bill is to direct the Secretary of the Treasury to pay to Frederick Vincent, administrator of James Le Caze, $4,890 82, which appears to be due to him on the books of the Treasury for advances made to the Government of the United States in 1783, with interest on the sum, at the rate of six per cent. per annum, from December 31, 1846, when his claim was presented to Congress.

The amendment of the House was to strike out the words:

"And that he pay him interest on the said sum, at the rate of six per cent. per annum, from the 1st day of December, 1846, when his claim was presented to Congress,"

and to insert:

"*Provided*, That the same shall be received in full of all demands on the Government on this account."

The amendment was agreed to.

ALEXANDRIA AND WASHINGTON RAILROAD.

Mr. DAWSON. The Committee on the District of Columbia have instructed me to report a bill in relation to the Alexandria and Washington Railroad Company, and I ask that it may now be put upon its passage.

The bill was read a first and second time by unanimous consent, and considered as in Committee of the Whole.

It will authorize the company to extend their

road from any point on the Virginia side of the Potomac to which it may be constructed, into the District of Columbia, connecting with the Baltimore and Ohio railroad depot; to establish a steam ferry for the purpose of the connection, if necessary; to make the necessary piers and fixtures for constructing and operating it; and to exercise all the rights and privileges conferred upon the company by the act of August 3, 1854, authorizing the extension of the road into the District by crossing the Potomac at or above the aqueduct of the Alexandria canal, in like manner as if the road shall be constructed as contemplated by the act. It will also repeal the provisions of the act of August 3, 1854, which are inconsistent with it.

Mr. DOUGLAS. I wish to suggest to the author of the bill an amendment which I think ought to be incorporated into it. It is this: that in crossing the streets, the road shall not cross them upon a level with the street. That would prevent a great deal of danger.

Mr. DAWSON. The bill does not relate to that. It is merely to authorize the company to make a connection across the river.

Mr. DOUGLAS. Yes, sir; but I understand that they will run the road through the city also, as well as establish that connection.

Mr. DAWSON. That is authorized by the charter of last year; and this has nothing to do with that at all. It is merely to authorize them to cross the river.

Mr. SHIELDS. Will it not cross Pennsylvania avenue?

Mr. DOUGLAS. Unless this is passed they cannot put in operation the charter of last year; and I do think that, in authorizing this, we ought to provide that the road shall cross the streets either above or below the level. There is more danger to life, there are more casualties incurred, from the crossing of cars on the level of the streets, in the running over of teams, and carriages, than perhaps from any other cause; and, I believe, in no other country but this is that allowed to be done. They can either put the track so high as to pass over the street, or sink it a little lower. I think that in the national capital we ought to protect the inhabitants from the casualties which are constantly occurring by running over carriages and persons, and the consequent loss of life. I am unwilling to authorize the construction of any road unless there be a provision of that kind; and I shall move an amendment to that effect, and hope the Senator will accept it.

Mr. DAWSON. The bill authorizing the extension of the road through the city has already been passed. This has nothing to do with it except to authorize them to run a steam ferry across the river. The limitation of the powers of the company is sufficiently provided for in the bill; and it can produce no injury whatever.

Mr. SHIELDS. As it seems to be necessary to examine and consider this a little more, I will move its postponement for the present for the purpose of taking up the Army appropriation bill.

Mr. DAWSON. I hope the question will be taken on the bill, because it is so absolutely necessary. The Long Bridge will have to be removed; and they will not attempt to place their rails across it. There is nothing wrong about the bill.

Mr. STUART. I hope the Senator from Georgia will allow the bill to pass over until to-morrow, in order to have it printed, so that we can look at it and see what it is.

Mr. SHIELDS. I make a motion to that effect.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. SHIELDS. I move that the Senate proceed to the consideration of the Army appropriation bill.

Mr. COOPER. I laid resolutions upon the table yesterday, and gave notice at the time that I would ask the indulgence of the Senate this morning, for a few minutes, and but for a very few, to give my reasons for calling for the information which is contemplated by them. I shall occupy but a very short time. I do not like to interfere with my friend; but I find that when I give way once, I am called upon to give way again; and it is not often I trouble the Senate for a purpose of this kind.

Mr. SHIELDS. I regret exceedingly to be called upon to give way; but in a case of this kind I cannot persist. I will state the reason why I press this bill, and then I will give way. The Army appropriation bill has been long here—I think some weeks. We have generally complained that the House does not send the appropriation bills to us in sufficient time for us to consider them properly, but that they postpone them to the end of the session. This bill has come into this body for the purpose of obviating that objection. The Department calls upon us to pass it as soon as possible. The chairman of the Committee on Finance, and the chairman of the Committee on Military Affairs, are told that it is indispensable, and we are held responsible for not seeking to bring it forward. I will also state that a message has come to us from the President, and has been on our table for some days, which says that we are in imminent danger of an Indian war. The Indians are forming, and are likely to come down on the frontier settlements; and something ought to be done immediately to prevent it. So that it is important to consider the bill. If, however, the honorable Senator will occupy but a few minutes, I will give way for him.

Mr. COOPER. I will postpone the remarks which I have to make—and they are very few—until to-morrow, and make them during the morning hour. That will, perhaps, be more satisfactory.

Mr. HUNTER. I hope that suggestion will be adopted.

Mr. EVANS. I suppose that the special orders have a preference. We have a bill before us which proposes to discharge the obligations of the Government to the officers of the Revolution. It has been in the Senate ever since the 6th day of February last. On two occasions I succeeded in getting it up for consideration; but it was postponed on one excuse and another, and it is here now, the 24th of January, unacted upon. It has been partly acted upon twice, and I think it is entitled to the preference over all other bills. I hope, therefore, the Army appropriation bill will not be taken up to force it out of its proper position. I beg leave to say now that I do not propose to discuss it. I trust I have too much good taste to say again what I have said already; and I shall add very little to it. I do not suppose it will take ten minutes to consider the bill. I am willing to take a vote upon it. I am not very solicitous about the result of it; but, until its fate is determined, the Committee on Revolutionary Claims do not know how to act. There are numerous cases which this bill provides for the settlement of in the Department. If the bill is to be rejected, and not acted upon at all, it is the duty of the committee to report on those cases; but, as the matter stands, we do not know what to do, whether to report or not. I hope, therefore, the Army bill will not be taken up in preference to the order of the day. There are two bills before it; but I have the consent of the Senators who have them in charge to pass over them for the purpose of taking up this bill. I therefore move that the Senate pass by the other special orders, and take up the bill to provide for the final settlement of the claims of the officers of the revolutionary army, and of the widows and orphan children of those who died in the service.

The PRESIDENT. The first question is on the motion made by the Senator from Illinois, [Mr. SHIELDS.]

Mr. CASS. This is the second day which has been assigned for the consideration of bills—three or four, I think—providing for improvements in particular cases, which are very important in themselves, and which, perhaps, less than any others, bring up no constitutional question. This is the second day which has been specially assigned for them. You know, as well as I do, the nature of the business; and unless some of these subjects are taken up soon, they will certainly fail. I presume the Army appropriation bill will pass in a few minutes; but if we let these go by again, the session may pass away without our doing anything.

Mr. SHIELDS. If the Army appropriation bill passes in fifteen minutes, it certainly will not be any obstruction or obstacle to those matters to take it up now. Besides, my experience has been that these appropriation bills are never passed over when the chairman of the respective committees come in and say they are necessary for the public service. The honorable Senator from Virginia, [Mr. HUNTER,] who has reported the Army bill, has been endeavoring to call it up day after day, but it has been postponed merely on account of the bounty land bill. I now, as chairman of the Committee on Military Affairs, come forward and state that the Department considers the exigency such as to require that it should be acted upon as promptly as possible.

Mr. CASS. Although the Army appropriation bill may lead to but little discussion, I do not wish to run the risk of putting these other subjects aside. Matters may be introduced on that bill which will lead to discussion; and, I repeat, if the improvement bills are displaced, nothing may be done with them this session.

Mr. HUNTER. There are matters connected with the Army appropriation bill which certainly require the early consideration of the Senate. What they may determine, I know not; but those subjects should be acted on at once. As the chairman of the Committee on Military Affairs has said, the question of employing volunteers against the Indians is before us. The Secretary of War is of the opinion that there is danger of an Indian war, and he thinks it expedient to employ volunteers. Some action ought to be taken at once in regard to it. These are subjects which we are anxious to bring before the Senate, to have their determination in regard to them.

Mr. PRATT. I desire to make a remark in support of the proposition of the Senator from Michigan. It is known to the Senate that, weeks ago, the subject of internal improvements was made the order of the day for to-day.

Mr. CASS. The second time.

Mr. PRATT. Yes, sir, for the second time. If, therefore, the Senate postpone this order of the day, it will be evincing, on its part, an indisposition to take up the subject at all. I am well satisfied that a large majority of the body are disposed to vote for the appropriations contained in the bills which we have made the order of the day. I do not know that they will provoke discussion at all. They will not necessarily lead to it, because, as the Senator has correctly remarked, they do not conflict with the veto message of the President on the subject of internal improvements. They steer entirely clear, I think, of the objections which he has raised in that message. I hope, therefore, that that subject will be taken up, and that the Senate will proceed to act upon those bills to-day. We have been in session more than a month, and I think we have not adopted a single important practical measure since we have been assembled. We should do something. We have occupied days and weeks, almost a month, I think, with the discussion of a bill which, I believe, the honorable Senator who introduced it now abandons to its fate, after all that discussion. I hope we shall take these bills up. They will certainly be of some practical utility to the country.

Mr. BRODHEAD. As my friend from Maryland has alluded to me, I must say that I do not desire to abandon the bounty land bill; but I must deliver it over to those who have amended it with so much care and attention. They have incorporated into it a pension bill. They have so enlarged its provisions that I scarcely know my own bill. It goes beyond the scope and design which I intended to give it when I introduced it. I therefore deliver it over to the tender mercies of the distinguished Senator from Delaware, [Mr. CLAYTON,] aided by my colleague and the accomplished Senator from North Carolina, [Mr. BADGER,] hoping that they will be more successful than I have been.

Mr. BENJAMIN. The first bill in order, among the special orders for this morning, is the one to remove obstructions to navigation in the mouth of the Mississippi river, at the Southwest Pass and the Pass a l'Outre.

The PRESIDENT. There are other special orders before that.

Mr. BENJAMIN. I am speaking of the special orders which were made for this morning.

Mr. HUNTER. I hope the question will be taken.

Mr. BENJAMIN. I hope, to arrive at some practical result, that the Senate will take into consideration the motion which I now submit, to take up the bill that I have mentioned.

The PRESIDENT. The motion of the Senator from Illinois is pending.

Mr. BADGER. I shall certainly vote for the motion which my friend from Illinois has made.

I do not see how it is possible to resist the zeal and earnestness with which he presses his measure, especially when seconded by the anxious, imploring looks of my friend from Virginia, [Mr. HUNTER.] He looks forward with dread to the last night of the session, with all the appropriation bills still undisposed of. I do not think it is just to him, I do not think it is just to the Government, after the statement of my friend from Illinois, to refuse to take up the bill. But, permit me to say that my friends around me are under a little mistake as to the prior orders. The first business in order, if I understand the rules, is the unfinished business of yesterday. It takes precedence of all other business, and that is the bounty land bill; or the bill for the benefit of poor soldiers and their widows and children. Now, sir, I was going to call that bill up, and insist upon it as justly entitled to precedence over all the others alluded to by my friends from South Carolina, Louisiana, and Michigan; but it is impossible to resist the appeal made by my friends from Illinois and Virginia. I think we ought to take up and pass the Army appropriation bill. It will not take long; but if it should, it is a stronger reason why it should be taken up now. Hereafter we shall not have the time to give to that, when we are called upon to pass the larger appropriation bills.

Mr. SHIELDS's motion was agreed to—ayes 24, noes 13.

ARMY APPROPRIATION BILL.

The Senate accordingly proceeded, as in Committee of the Whole, to consider the bill from the House of Representatives, making appropriations for the support of the Army for the year ending the 30th of June, 1856.

The Committee on Finance had reported it with an amendment, which was to strike out—

For repairs, preservation, and contingencies of arsenals, $50,000,

And insert—

For arsenals, including the purchase of sites for new arsenals in Texas and New Mexico, and the erection of suitable magazines and other arsenal buildings in Texas, California, Oregon, and New Mexico, $268,175.

Mr. SHIELDS. I do not think that amendment ought to be adopted at this time. It is a very large appropriation of money for new arsenals. It has not passed under the review of the Committee on Military Affairs, and has not been examined by that committee. To me it does not seem to be the right kind of legislation to appropriate such an immense sum for this purpose now.

Mr. CASS. What is the amount?

Mr. HUNTER. The amount estimated was $268,175.

Mr. SHIELDS. I will state to the honorable Senator, who is chairman of the Committee on Finance, how the matter stands, as I am, perhaps, a little better acquainted with it than he is, having had occasion to examine it. It has become almost a system of speculation to purchase arsenal sites for the Government at immense expense, then to erect expensive buildings on those sites, and, in a few years, come to Congress to have the arsenal sites sold or otherwise disposed of. My friend from North Carolina [Mr. BADGER] the other day presented a proposition to have the arsenal grounds at Fayetteville, in his State, sold; and we are every day receiving such applications. I think it is time there should be some general system upon this subject. A few arsenals—one in the northeast, another in the southeast, and so on, will be amply sufficient; but this is a most extravagant species of legislation.

Mr. HUNTER. I would state, in regard to this matter, that the House of Representatives seem to have entertained the opinion of the chairman of the Committee on Military Affairs, and reduced the estimate; but I consulted with the Department upon the subject, and it was the opinion of the Department that the original estimate ought to be restored, and that it would be good economy to restore it, because it would enable them to preserve the military stores and arms. A portion of this appropriation is to establish arsenals in some of the new States and Territories in which there are none. I have no personal or special knowledge on the subject. The Committee on Finance were governed by the recommendations of the Secretary of War, who was again consulted by us after we found the estimate had been reduced by the House. It was his opinion that it was necessary, and we deferred to that opinion. I do not feel any special interest in the amendment; the Senate can decide upon it as they think best.

Mr. RUSK. Mr. President, I am rather astonished at the statement of the honorable Senator from Illinois. It may be true that the system of which he speaks has prevailed in places where they have no use for arsenals, because there are no troops there. It may be true that there has been some very improper conduct under that head; but is it right that, because of improper conduct committed by those who do not need them, the Government should deny these facilities to places where these arsenals are necessary in order to protect the interests of the Government? Most of this appropriation is for California, New Mexico, Texas, and Oregon. To my certain knowledge, the United States have no suitable buildings in Texas in which to put their ammunition and arms. What is the result? You have troops there; and there is a pressing necessity for more troops than you have there, to protect the inhabitants against marauding Indians. If you have a necessity for troops, ammunition and arms are also necessary. These are exposed to the weather without any means of taking care of them; and the result is great injury to the service, and a greater loss to the Government than the amount of this appropriation.

Sir, I apprehend that the Secretary of War understands this business quite as well, perhaps, as a committee of this House. I protest against the principle that the people of California, of Oregon, of Texas, and of New Mexico, shall be subjected to inconveniences, as an expiation for the sins of others in making speculations out of arsenals. It may have been done; I know nothing about it; I have not resided where it has been done; but I protest against punishment for faults committed by others being bestowed on the new States where these arsenals are absolutely necessary.

Mr. SHIELDS. I know the honorable Senator takes a deep interest in this matter, because it embraces his own State, and leads to a large expenditure of money there; and I regret exceedingly to be compelled, from a sense of duty, to oppose any measure in which he takes an interest; but, sir, what is the object of these arsenals? To preserve arms and ammunition. How many of them should there be for that object in these United States, taking the whole country together? Not more, perhaps, than the number provided for in this amendment. Do you suppose that we are compelled to pile and stock away such an amount of arms and ammunition as to require large arsenals at all these different places? I have examined this subject thoroughly, as far as I could make myself acquainted with it; and my impression is, that we should have an arsenal in the northeast, embracing New England and New York, an arsenal in the southeast, embracing a certain region there, an arsenal in the northwest, one in the southwest, and so on. But here an arsenal site, with "suitable magazines and other arsenal buildings," is proposed to be provided for Texas, for New Mexico, for California, and for Oregon. My opinion is, that there are not arms and ammunition enough at all these places to fill one arsenal. I regret, as I said, to be compelled, from a sense of high duty, to oppose this amendment. We are about to incur a very large expense in the protection of our distant Territories. That expense I will freely vote for and recommend; but I cannot vote for what I believe to be an unnecessary, useless, and uncalled for expenditure, so far as the protection of the country is concerned. You might as well throw the money into the Mississippi as spend it in this way. I shall vote against it. There is already an arsenal in California; at least there has been an appropriation for one.

Mr. RUSK. There is none in Texas.

Mr. SHIELDS. There is plenty of room in Texas to store away all the arms and ammunition they have. Throughout the whole northwest there is not one arsenal that you can properly call an arsenal; in the southwest it is the same. The arsenals which are there are now being broken up, and the parties concerned are calling upon us to have them sold and disposed of, after the Government has expended two hundred, three hundred, and sometimes four hundred thousand dollars on one of them. I say again, that I must vote against this expenditure, because I know that it is unnecessary.

Mr. WELLER. Mr. President, the appropriation of $268,175 which the chairman of the Committee on Finance now moves to insert in conformity with the estimates, is made up of a great number of items. It includes an appropriation for the arsenals at Alleghany, Augusta, Appalachicola, Charleston, Detroit, Frankford, Fort Monroe, Kennebec, Mount Vernon, New York, Pikesville, Washington, Watervliet, and Boston, and arsenals in Texas and New Mexico. The whole amount which it is proposed to appropriate, is $268,175. If the Senator from Illinois can show me that an arsenal is not necessary at any of these points for which we propose an appropriation, I will go with him in striking that from the bill.

At the last session of Congress there was an appropriation made for the construction of an arsenal at Benicia, in California. The representation which was made by the War Department in reference to that arsenal was, that a large quantity of ammunition, including an immense amount of powder, had been kept in a frame building; that in the fall season, the hills and lots adjacent being covered with wild oats, as is usually the case, took fire, and that fire, before it could be arrested, reached within fifty yards of the arsenal. That was assigned last year, by the officers, as a reason why an arsenal should be constructed at Benicia, so that the ordnance stores could be properly taken care of. An appropriation was made for the purpose; and now the Secretary of War asks for $40,000 to complete the arsenal which has thus been commenced.

These works are indispensable for the preservation of the public property. It will be utterly impossible to keep the public arms and ammunition in good order and preservation without the construction of these buildings, where they can be safely kept. If, therefore, the Senator from Illinois can show me that an arsenal is not necessary at a single point for which we now propose an appropriation, I will go for its abolition; in other words, I will vote against an appropriation for that work. But, I undertake to say, he will find, upon examination, that nearly all, if not all, of these works are indispensable, and that the public interest requires that the whole amount estimated should be appropriated.

I have no doubt arsenals are equally necessary in the State of Texas; I know they are in New Mexico. If you intend to preserve the public property there, if you wish to have your Army at all times in a condition to act efficiently against the great body of the Indians who are congregated there, you must make these appropriations for arsenals or places where arms and ammunitions can be properly taken care of.

Mr. SHIELDS. I do not wish to waste the time of the Senate on this subject. I regret that my friend from California thinks this appropriation absolutely necessary. I cannot agree with that honorable Senator, for I think it is not necessary, and I have not the least idea that it is indispensable. No Senator in this body has gone further than I have in making all necessary appropriations for the protection of our recent territorial acquisitions; but what I believe to be wholly unnecessary, I shall oppose. I oppose this measure for the simple reason that the honorable Senator knows as well as I do, that we are coming in with propositions here that will be very expensive, and we ought not to force upon the Government or the country anything but what is necessary and indispensable at this time. I do not think this is so.

Mr. WELLER. I desire to ask the Senator from Illinois, at what point provided for in this appropriation, he supposes it is unnecessary to have arsenals? They are all named in the report of the Secretary of War. If the Senator will be good enough to point out the places where public arsenals are not needed, the Senate can judge of the propriety of making the appropriation.

Mr. SHIELDS. There is an arsenal now at Benicia, in California, that will contain all the arms in the United States.

Mr. WELLER. It has not yet been finished. Part of this appropriation is for its completion.

Mr. CASS. I shall vote against this appropriation, on the ground that I prefer that the Committee on Military Affairs should examine this point and decide the question. There is much

justice in what the honorable Senator from Illinois has said on the subject of arsenals. There is a disposition to increase the number. Now we have two armories of construction, call them arsenals or not, as you please. We do not want any more; they are enough. The facilities of transportation are so increased that you can transport arms from Harper's Ferry, or Springfield, to any point required; and by multiplying them you only multiply the difficulties and expenses. We certainly do need depots in various parts of the Union, in which to deposit the arms as they are wanted, and some, perhaps, in which they may be repaired. A system of repairs was commenced in some arsenals, but it has been discontinued because it was found that the object was not worth the expenditure. It may be, and no doubt is, true that depots should be provided in various parts of the country. We need magazines and depots in which to put the arms; and, in some places, arsenals for repair are required. But as the honorable Senator has said, there is many a State in the Union without an arsenal; one is not necessary in each State. I am perfectly willing to vote for whatever is necessary, but I do not want to multiply these arsenals unnecessarily, and it seems to me there is such a disposition. I prefer that the Military Committee should examine this point, and make a special report.

Mr. RUSK. The State of Texas, which I represent, has a thousand miles of frontier exposed to the depredations of hostile Indians; and if there is in that State any building belonging to the United States sufficient to shelter the arms and ammunition of a single company, I should be glad if the honorable Senator from Illinois, or the honorable Senator from Michigan, would point it out. Now, it is no argument against this proposition to say that you have multiplied arsenals in places where they are not needed—in States not exposed to the depredations of Indians, and not requiring them. They have no troops, and why is there a necessity for any arsenals there? That is very correct; but you send troops to the frontier of Texas. It is the same case with California, New Mexico, and Oregon. You send troops there for the purpose of protecting the frontier. It is necessary that those troops shall have arms and ammunition; and what shall they do with them? Shall they throw down their powder and arms, and allow the rain to fall on them? Is it proper that the Government should be entirely destitute of any means whatever of sheltering the arms and ammunition which they send there for the use of the troops? If so, let the amendment be rejected; if not, it should be adopted.

Mr. SHIELDS. I shall unite with my honorable friend from Texas, or the Senator from California, or any other gentleman, in making ample provision for a depot of arms at all the necessary points of the nation, as stated by the Senator from Michigan; but let us have it systematically. Does not the honorable Senator suppose that Kansas and Nebraska are as much exposed now as Texas—even more so. Texas has population to protect itself; the scattered settlements in these Territories have not. Are not depots of arms as necessary there as in Texas? What I want, is to have the thing done systematically and fairly all over the country, and not have it confined to a few appropriations for a few places. I am prepared to support a system which will accommodate the whole country. The honorable Senator from Missouri [Mr. ATCHISON] suggests to me that there is not a military post in the country which has not some kind of an arsenal attached to it. Thus, ample provision is made for the ammunition and arms at each post, and it is not necessary to construct an immense building for that purpose. I desire to see posts established in the Indian country for the protection of the emigrant routes and the frontier, and ample provision made for arms at those posts; but I do not want money to be spent unnecessarily in building magnificent structures. That is what I object to.

Mr. RUSK. In the name of common sense, what sort of magnificent structures could be built at half a dozen places for $268,000?

Mr. SHIELDS. It will require $2,000,000 to finish them; that is the reason I object to it. This is only the commencement.

Mr. RUSK. "Sufficient for the day is the evil thereof." If we are hereafter asked to appropriate $2,000,000, I shall vote against it myself. I hope the amendment will be read, to see whether there is any ground for the Senator's statement.

The Secretary read the amendment.

Mr. RUSK. The honorable Senator says he will go with me for a general system. He admits the force of my argument. There is no preparation now, in my State, for taking care of the arms and ammunition. He has been chairman of the Military Committee for a long time, and I have not seen that general system.

Mr. SHIELDS. Will the honorable Senator permit me to tell him the reason?

Mr. RUSK. Certainly.

Mr. SHIELDS. I have found that in those new countries where a post is established, that post is a sufficient protection for the arms and ammunition for that region; but, as the country advances and increases in population, an arsenal built now must be removed and placed in a new position three years from this time. That is one of the objections.

Mr. RUSK. Then, as the population of the United States is always pushing out, according to that reasoning, there never would be an arsenal built; you would have to throw down your arms and ammunition without any means of protecting them.

Another argument of the Senator is, that Kansas and Nebraska should be also provided for. I have not objected to that; but I do not represent them. I take it for granted that the Secretary of War, who is in communication with the troops, and knows their necessities, has a little better information on this subject than I have; and I vote according to his estimate. I state from personal knowledge, that you have not a single place in the State of Texas belonging to the United States, which is fit to take care of the arms and munitions of even a solitary company; but if you desire to keep them in that condition, if you desire to have troops on the frontier, and send out arms to be destroyed, it is well enough to pay no heed whatever to the Secretary of War.

Mr. HUNTER. I only rise to state that an explanation of every item which composes this sum total of $268,175 will be found in the annual estimates, beginning at page 239, and ending at page 249. A particular explanation will be found there of every item which is asked for by the Department. I can only state, that the explanation seemed to be satisfactory, and the Department was of the decided opinion that it was a measure of economy, because it was necessary to provide buildings either by erecting or renting them, in order to protect the arms, and not suffer them to be wasted, as they would be if there were no buildings for their protection. If we are to have buildings, it is better to erect them than to rent them; and it was supposed to be a measure of economy to proceed gradually, as we are proceeding, in order to provide arsenals enough to take care of all the arms and ammunition at different points of the country. In so large a country as this, we are obliged to establish them at a great many points, and, for that reason, I presume, this amount has been asked. It seems to me not very large, when we consider the number of arsenals to which it is to be applied. It is useless to weary the Senate by reading the many pages of estimates which refer to the subject; the Senate would not listen to me if I should attempt it.

Mr. DODGE, of Iowa. Do I understand the amendment moved by the Committee on Finance to be the one recommended by the Secretary of War.

Mr. HUNTER. Yes, sir.

Mr. RUSK called for the yeas and nays on the amendment; and they were ordered; and being taken, resulted—yeas 23, nays 18; as follows:

YEAS—Messrs. Adams, Bayard, Brown, Clay, Dodge of Wisconsin, Dodge of Iowa, Fitzpatrick, Geyer, Gwin, Houston, Hunter, Johnson, Jones of Iowa, Mallory, Pratt, Reid, Rusk, Sebastian, Stuart, Thomson of New Jersey, Toucey, Weller, and Wright—23.

NAYS—Messrs. Benjamin, Brainerd, Bright, Brodhead, Cass, Chase, Cooper, Dawson, Fessenden, Fish, Foot, Gillette, Jones of Tennessee, Pettit, Rockwell, Seward, Shields, and Wade—18.

So the amendment was agreed to.

Mr. HUNTER. I am instructed by the Committee on Finance to move to amend the item, "for subsistence in kind," by increasing the appropriation from $1,104,855 to $1,381,068 75.

This is a restoration of the original estimate. The estimate from the Department was for this amount, but it was cut down in the House to $1,104,855. Upon this subject, also, we consulted the Department, and it was the opinion there that it would be impossible to get on with a less amount of money than this. Here, sir, is a letter which was sent to me, in reply to verbal inquiries which I made at the War Department, which I ask may be read.

The Secretary read as follows:

WAR DEPARTMENT, WASHINGTON, *January* 10, 1855.

SIR: In reply to your verbal inquiries in regard to the estimates of the subsistence department for the service of the next fiscal year, I have the honor to transmit herewith a report from the commissary general of subsistence, and to inform you that his opinion, that it would be unsafe to diminish, in any particular, the estimate for "subsistence in kind" for the Army, is concurred in by this Department.

Very respectfully, your obedient servant,

JEFF. DAVIS, *Secretary of War.*

Hon. R. M. T. HUNTER,
Chairman of Committee on Finance, Senate.

OFFICE OF COMMISSARY GENERAL OF SUBSISTENCE,
WASHINGTON, *January* 10, 1855.

SIR: To meet the verbal inquiries made by the chairman of the Committee on Finance of the Senate, I have the honor to report—

First. In my last "annual estimate," dated 16th October, 1854, I estimated the ration at twenty-five cents, because of the increase in price of nearly every article composing the ration—fresh beef alone having risen over fifty per centum.

The same reason governed me in estimating the ration at twenty-five cents, in my annual estimate, dated October 19, 1853.

Second. Twenty cents may be a full allowance for the ration as purchased in bulk in the market; but the estimated price (twenty-five cents) is expected to cover the whole expense of this Department, until the ration is delivered to the soldier; as follows:

Erecting bake ovens;
Expenses of packing and packages;
Cost of tools, weights, and measures; and
The per diem to assistants to the assistant commissaries of subsistence, per act August 4, 1854.

Third. The estimate is made for the entire strength of the Army, "as if it were full."

Experience has proved that, to supply our Army, as now scattered, with subsistence, it is necessary to forward an additional supply of nearly thirty per centum to make up for losses by shipwreck and by land transportation, by wastage, decay, and deterioration of the stores in storehouses.

In providing for the full number of any force, its casualties and want of numbers about make up for the losses above mentioned in subsistence.

Any deduction in the number of men estimated for, must therefore be met by a corresponding increase of the value of the ration.

In conclusion, I would respectfully state that, in consideration of the present state of the provision market, (some of the European Governments are already purchasing in our markets,) it would, in my opinion, be unsafe to diminish, in any particular, the estimate for "subsistence in kind" for the Army.

Most respectfully, your obedient servant,

GEORGE GIBSON, *Commissary General.*

Hon. JEFF. DAVIS, *Secretary of War.*

The amendment was agreed to.

Mr. HUNTER. I offer another amendment, from the Committee on Finance, to insert after the appropriation for lake surveys:

For surveys for military defenses of the sea and inland frontier, $15,000.

That is according to estimate.

The amendment was agreed to.

Mr. HUNTER. I offer the following amendment, from the Committee on Finance:

For printing a new system of light infantry and rifle tactics, to be stereotyped, with engraved plates, and for procuring distribution to the militia of the United States of the books of tactical instruction, including the system of regulations now in course of preparation, $30,000.

That is according to an estimate from the Department of War. The Secretary of War is anxious to have this book stereotyped, because it will be wanted hereafter, and constantly wanted, for the use of the regular Army and militia of the United States. Here is a letter which was addressed to me on that subject, and I ask that it be read.

The Secretary read it, as follows:

WAR DEPARTMENT, WASHINGTON, *January* 10, 1855.

SIR: I have the honor to recommend that an appropriation of $30,000 be made in the Army appropriation bill now pending in the Senate, for printing a new system of light infantry and rifle tactics, to be stereotyped, with engraved plates, and for procuring, for distribution to the militia of the United States, —— books of tactical instruction, including the system of regulations now in course of preparation.

With regard to the first of these objects, I have to refer the committee to the report herewith transmitted, of the board of officers by which the system of light infantry and rifle tactics was prepared, and adapted to our service, and to the inclosed copies of communications from other experienced officers respecting the value of the system.

The distribution of works of tactical instruction to the militia has been heretofore recommended in the annual

reports from this Department, and the commanding general; and I deem it unnecessary to repeat the considerations therein set forth, as to the propriety of this measure.

Very respectfully, your obedient servant,

JEFF. DAVIS, *Secretary of War.*

Hon. R. M. T. HUNTER,
Chairman Committee on Finance, Senate.

Mr. PRATT. This may be a very small sum; but it occurs to me that it is a very useless expenditure to stereotype a book in an age like this, and a book upon such a subject, when the military tactics of the world are improving every day. It is proposed to stereotype a book of practice to-day which may be altered to-morrow, or next year. I think this should not be done. If the system be erroneous, this might keep it in existence in the country longer than it would be if the book were not put in that permanent form. I greatly prefer it should not be stereotyped. We live in an age, I think, when nothing ought to be stereotyped; nothing is sufficiently permanent to require it.

Mr. HUNTER. Mr. President, stereotyping is here a measure of economy. It will not require much additional expense to stereotype the work, and it is necessary that a great many copies of this book should be printed, in order to disperse it among the people, particularly amongst the militia. It is to introduce a new system of tactics upon which we have a report of a board of officers—a system of tactics for light infantry, rifles, and skirmishers. I understand it is to enable our Army to make progress according to the improvements of the age on such subjects, that this system has been proposed; and, sir, as a system has been adopted, it is necessary that the means of informing the people and officers in regard to it, should be placed within the reach of the Department. It is a small, and, I believe, a necessary appropriation.

Mr. SHIELDS. I think the honorable Senator is right. This change is deemed necessary; and, I think, it is necessary, and especially in those branches of instruction. This is the only way, it seems to me, in which this improvement can be effected.

Mr. PRATT. Well, sir, let it be passed.

Mr. WELLER. I suppose the main advantage we derive from this appropriation is to attain uniformity in the mode of drilling the troops in the several States. We have a very small standing Army, and whenever we are involved in a war we are necessarily compelled to call upon the different States for militia and volunteers. It is very important that there should be uniformity in the manner of drilling in the respective States, so that when they are brought into one field together they will all have the same tactics.

The amendment was agreed to.

Mr. HUNTER. There are no more amendments from the Committee on Finance.

Mr. SHIELDS. I have some amendments to offer, from the Committee on Military Affairs. The first is to insert:

For repairs, improvements, and new machinery at Springfield armory, $54,000. For new machinery at Harper's Ferry armory, $20,000.

Mr. HUNTER. I would ask if that is according to estimate.

Mr. SHIELDS. I hold the estimate of the Secretary of War in my hand. It can be read if desired.

Mr. HUNTER. It is sufficient that there is an estimate. I do not ask for its reading.

Mr. SHIELDS. I have presented the amendment according to the estimate of the Department.

The amendment was agreed to.

Mr. SHIELDS. I offer the following amendment as an additional section:

SEC. — *And be it further enacted*, That the board of officers appointed under the sixth section of the act "making appropriations for the support of the Army for the year ending the 30th June, 1853," approved August 31, 1852, is hereby authorized and directed, in addition to the powers and duties already conferred upon it, to extend its examinations to claims arising from the destruction of property by the troops serving under the command of Lieutenant Colonel John C. Frémont, in California, in the years 1846 and 1847, by his orders, as well as for the destruction of property by the enemy, caused by the occupation of the claimant's premises by the said United States troops. That the said board is empowered to summon and examine witnesses under oath, and take testimony, if necessary, in California and elsewhere. That for the payment of the claims reported favorably upon by the board, in its report to the Secretary of War, dated the 5th of December, 1854, (Executive document 8, Thirty-Third Congress, second session,) including that numbered 197, being the claim of Santiago E. Arguello, and amounting to $11,584, and for the compensation of the members of said board for and during their period of service as such, at a rate not exceeding $3,000 per annum each, deducting therefrom their Army pay, the sum of $40,548 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated. And the Secretary of the Treasury is hereby authorized and directed to pay to the treasurer of said board, out of any money in the Treasury not otherwise appropriated, the sum of $10,000 for the contingent expenses of the said board, including therein office rent and clerk hire, stationery, fuel, the payment of witnesses' fees duly summoned by the board, at a rate not exceeding those paid by the United States district court in California, or elsewhere, as the case may be, the traveling expenses of said board, not exceeding sixteen cents per mile to each member, and other incidental expenses.

Mr. HUNTER. It seems to me that this is matter for a separate bill. It ought not to be placed on a general appropriation bill. I do not see why we should provide for claims on this bill. The amendment is a provision for claims against the Government. Surely this is not the place to make such a provision. It ought to be in a separate bill.

Mr. SHIELDS. This board was originally organized by a clause in an Army appropriation bill. Under the Army appropriation bill approved August 31, 1852, the Secretary of War appointed this board by virtue of a provision in it. The board proceeded in the investigation of the claims, allowed some, rejected others, and suspended others for want of proof. The proof cannot be procured in Washington; and the object of this provision is to enable the board to proceed to California, where the proof exists, and finish the investigation. The investigation has been commenced by these three officers; and, permit me to say, no board could have been managed with more skill, ability, and integrity, than this has been. The only question, the honorable Senator will see, is, whether we shall stop in the middle of this affair, or whether we shall conclude it at once. This is the only mode of pursuing it.

Mr. HUNTER. It seems to me that it is a very grave question, whether we shall put claims on a general appropriation bill. I do not think we should be justified in doing so, because we can find some instance in which a contrary practice has been pursued by the Senate. I know we can find in a great many appropriation bills items that ought not to have been put upon them, which were incongruous with the general object of the bills. Here is a provision for the payment of the awards of a board. I will ask the honorable Senator from Illinois whether he believes the award in the case to which I refer is right.

Mr. SHIELDS. The Committee on Military Affairs examined the subject carefully. The board was appointed by the War Department, under a provision contained in the Army appropriation bill——

Mr. HUNTER. I think the Senator does not understand me. I asked him if he had examined the claim which is proposed to be paid by this amendment? The committee select one claim, and they propose that it shall be paid.

Mr. SHIELDS. That claim has been passed on by the board, and allowed, and it has also been received and considered by the Committee on Military Affairs.

Mr. GWIN. And a bill for the relief of the claimant passed the Senate two or three years ago.

Mr. SHIELDS. But it was not passed by the House. The object is to make up for the *laches* of Congress in relation to this particular claim. The honorable Senator will see that the only question is, whether we are to finish this matter now, and let the board proceed to the conclusion of the business for which it was organized; or whether we shall let the matter remain as it is, unfinished, and drop off in the middle of the proceeding. The officers who constitute this board are Colonel Smith, Major Lee, and Colonel Thomas; and they have already proceeded so far with the investigation, and understand the subject so well, that no new board could accomplish what they can, or accomplish it in half the time. They have allowed a portion of the claims, and rejected others. The remainder have been suspended for want of proof, and we propose to give them authority to proceed to California, and determine them there, where all the evidence can be procured.

Mr. HUNTER. I am not objecting to the board, but I am objecting to the selection of one private claim, which, I understand, was passed in a separate bill before, and inserting it in a general appropriation bill, thus giving it a priority over other claims. The same reason might be alleged in favor of every other just claimant who might seek to get his claim inserted in some appropriation bill.

Mr. SHIELDS. At the last session, all the claims which were allowed by this board, were paid under a clause in the Army appropriation bill, except this one. By some means, it was omitted when the others were paid. This is to include a claim which was neglected, at that time, in a similar bill.

The amendment was agreed to.

Mr. SHIELDS. I have another amendment to offer, from the Committee on Military Affairs, as a new section:

SEC. 3. *And be it further enacted*, That the provisions of an act entitled "an act for the payment of civil officers employed in the Territory of New Mexico while under military government," approved July 17, 1854, be, and the same are hereby, extended to embrace the case of Lieutenant Colonel J. M. Washington, deceased, late of the Army, for and during the period of his appointment and service as military Governor of New Mexico, *ex officio*, superintendent of Indian affairs, and commander of the troops, prior to the formation of the civil government.

Colonel Washington, who perished on board the steamer San Francisco, as brave an officer as ever served in the United States Army, was omitted from the appropriation made on a former occasion, for the compensation of those who acted as Governors under what is called the Kearny code, which allowed the Governor $2,000 a year, I believe. Perhaps he was omitted in consequence of the sad catastrophe which terminated his life. This amendment is to pay to his representatives what the Kearny code allowed him for the short time he acted as Governor of New Mexico, a little over a year, I think.

Mr. HUNTER. This is as good a private claim as the other, and as that was inserted in the bill, I suppose this should also be included.

The amendment was agreed to.

Mr. SHIELDS. The next amendment is to add the following, as an additional section:

SEC. 4. *And be it further enacted*, That the sum of $30,000 be and the same is hereby appropriated, to be expended under the direction of the War Department, in the purchase and importation of camels and dromedaries, to be employed for military purposes.

The amendment was agreed to.

Mr. SHIELDS. I have another amendment to offer, from the committee, as a new section:

SEC. 5. *And be it further enacted*, That the provisions of the first section of the act entitled "an act making appropriations for the support of the Army, for the year ending the 30th of June, 1851," approved September 28, 1850, granting extra pay to the officers and enlisted men of the Army serving in Oregon and California, be extended to the officers and men composing the garrison of the post of Fort Laramie, on the Oregon route, for the same period of time as was allowed by the sixth section of the act of the 3d of March, 1853, to the officers and men of the companies of the regiment of mounted riflemen that garrisoned Fort Laramie; and that the provisions of the same section of the same act be also extended to the officers and men composing the escort to the Mexican boundary commission, while they were serving as such escort.

Mr. GWIN. I wish to ask the chairman of the Committee on Military Affairs a question in relation to this amendment. A few years ago we passed an appropriation giving extra compensation to the officers of the Navy, seamen, and marines who served on the Pacific coast from the Mexican war up to the passage of the law of September 28, 1850. The officers and soldiers of the Army stationed in California have ever since been petitioning to be put on the same footing with the officers and sailors of the Navy, and I should like to know from the chairman of the Committee on Military Affairs whether that committee has taken the subject into consideration? I know that memorials have been sent to them on the subject time and again; and surely there can be no reasonable objection to placing those men in the same position with the officers and sailors of the Navy who received extra pay under like circumstances.

Mr. SHIELDS. This amendment does not touch that point at all. When the proper time comes, I shall explain the action of the committee to which the Senator from California refers. When I state the object of this amendment, he will understand it immediately. A rifle company which happened to be at Fort Laramie, at a certain period, received extra pay, the same as was allowed to the officers and men in California, New Mexico, and Oregon; but, by some oversight, the other soldiers and officers who were stationed at Fort Laramie, at the same time, did not receive

the extra allowance. There are only a few of them, and it is but an act of justice to put them on the same footing with the rifle companies who received the extra pay.

Mr. GWIN. The Senator did not understand my question, or, at any rate, he has not answered it. I wished to know if the committee intended to offer an amendment to include the class to whom I referred? My reason for asking the question is, that if the committee do not intend to move it, I shall offer it as an amendment to the present proposition. I cannot present it in order, unless as an amendment to an amendment reported by a committee. For this reason, unless the committee propose to provide for the case, I shall be compelled to offer an amendment to this amendment, to put them on the same footing.

Mr. SHIELDS. I shall be ready, when the honorable Senator makes the motion, to state the action of the committee in regard to the subject. At present I have confined myself to an explanation of the amendment before the Senate.

Mr. GWIN. If the Senator will offer an amendment to put the officers and soldiers of the Army on the same footing with the officers and sailors of the Navy, I shall have nothing to say on the subject; but if not, I shall be compelled to move an amendment to his proposition to include them.

Mr. SHIELDS. I have no such amendment in preparation.

Mr. GWIN. Then I give notice that, after the bill shall be reported to the Senate, and before the question shall be taken on concurring in this amendment, I shall move to amend it, so as to include those to whom I have referred.

The amendment was agreed to.

Mr. SHIELDS. The Committee on Military Affairs have also authorized me to offer this amendment, as an additional section:

SEC. 6. *And be it further enacted*, That the same allowance in respect of rations be hereafter made to the military commandant of the Schuylkill arsenal, in the quartermaster's department, as to the commandants of the arsenals in the ordnance department.

This is in conformity with the recommendation of the War Department. I hold in my hand a letter from the head of the Department on the subject; but I presume there will be no objection to the amendment, and no necessity for reading the letter.

The amendment was agreed to.

Mr. SHIELDS. I have, also, a further amendment to offer:

SEC. 7. *And be it further enacted*, That the military store keeper at Rome arsenal, New York, be allowed, from the 1st day of October, 1842, the same compensation as is authorized by the act of the 23d of August, 1842, to be paid to the store keepers at the Washington, Pittsburg, and Watervliet arsenals, and that there be paid to military store keeper J. S. A. Beale, twenty dollars a month for and during the time he has performed the duties of commissary and assistant commissary of subsistence, and quartermaster.

The amendment was agreed to.

Mr. SHIELDS. The next amendment is to insert the following, as an additional section:

SEC. 8. *And be it further enacted*, That the laws granting extra pay to the officers and soldiers who have served in California, apply to chaplains who were attached to the Army in California during the period embraced by such laws.

Mr. HUNTER. I should like to have an explanation of that amendment. I do not understand it.

Mr. SHIELDS. Extra pay was allowed to the officers and soldiers who served in California during the time when it was supposed that the rates of living there were exceedingly exorbitant; but in the law allowing that extra pay, the chaplains who were there with the Army, and subjected to the same expense, were omitted; and this is to put them precisely on the same footing. They were omitted because they did not happen to be commissioned officers.

The amendment was agreed to.

Mr. SHIELDS. I have another amendment:

SEC. —. *And be it further enacted*, That the appropriation of $70,000 made by the Army appropriation bill of 1854, for the purchase of breech-loading rifles, shall be applied, if the Secretary of War shall deem any application of the same necessary to the service, to the purchase or manufacture of rifles or muskets of the best and most approved quality.

Mr. CASS. I should like to know the object of this amendment. I have stated to the Senate before, that there is no use of piling up arms in our armories and arsenals to a large extent. I have thought for years that the ordnance department of this country has gone far enough, and that we had better stand still. All the experience of Europe shows that we are making arms which, from day to day, become almost useless, and we are put to an enormous expense either to throw them away or adapt them to new improvements. The result of the experiments which have been going on in Europe has been to throw away almost all the small-arms, which they have been using. There are improvements in the manufacture of arms every day. Such being the case, I am willing to accumulate materials, but I would stop the manufacture. We have a million of small-arms now on hand—as many, I stated to the Senate on another occasion, as Napoleon had when he commenced the campaign against Moscow. We do not need them; they are liable to decay. It is proposed that we shall go on and make just the same appropriation for the manufacture of arms that we did forty or fifty years ago, without any regard to the change of circumstances. I have no objection to this amendment, if it be necessary; but I do not see the necessity. Yet I have great faith in my friend who is at the head of the Committee on Military Affairs, and I am inclined to trust to his judgment on matters which come within the cognizance of his committee. The war now going on in Europe will not close without vast improvements in every species of fire-arms. That being the case, I do not see why we should be accumulating arms which we shall have, in the end, to throw away. That is the difficulty which suggests itself to my mind.

Mr. SHIELDS. I agree with every word which the honorable Senator from Michigan has said, and this amendment accomplishes what he desires. It is not making a new appropriation. The appropriation referred to in the amendment was made last year, and it was confined to what is called a breech-loading rifle. The object of this amendment is to enable the War Department to avail itself of that appropriation to introduce any new improvement which may be made in fire-arms, and may be proved to the world to be useful by the war to which the Senator alludes.

Mr. CASS. I shall not oppose it.

Mr. WELLER. I desire to ask my friend from Illinois whether this has ever been passed upon by the Committee on Military Affairs?

Mr. SHIELDS. The amendment was agreed to by the committee.

Mr. WELLER. I certainly did not understand, as a member of the committee, that they ever passed on the amendment in this shape.

Mr. SHIELDS. I believe the honorable Senator was not present on the occasion when the committee agreed to report this amendment. An appropriation of $70,000 was made at the last session for the purchase of breech-loading rifles. This amendment widens the authority conferred by that act, and enables the Secretary of War to use that sum to purchase the best possible fire-arms that he can find.

The amendment was agreed to.

Mr. SHIELDS. I now offer two amendments, which I desire to have acted on together.

The Secretary was proceeding to read one of the amendments, which proposes to appoint three commissioners to treat with the Indians for their lands, and to negotiate with them respecting future peaceful relations. The other amendment was understood to be a series of sections to authorize the President of the United States to call out three thousand volunteers to suppress Indian hostilities.

Mr. RUSK. That will evidently lead to discussion. I have an amendment to propose, based on an estimate of the War Department, which was not sent in time for the action of the committee. I hope the honorable Senator will give me an opportunity to offer it before action is taken on the proposition which he has just submitted.

Mr. SHIELDS. I am willing to accede to that request.

The PRESIDING OFFICER, (Mr. STUART.) If there be no objection, the amendment which has been presented by the Senator from Illinois will be passed by informally, for the purpose of allowing other amendments to be offered. The Chair hears no objection.

Mr. RUSK. I offer an amendment to come in after the appropriation for the pay of the Army:

For pay, supplies, and traveling expenses of six companies of mounted volunteers, called into service by the Governor of Texas, and mustered into the service of the United States, $137,755 38.

I have here the estimate on which this amendment is based:

Estimate of amount required to pay six companies of Texas volunteers, (called into service by Brevet Major General P. F. Smith, United States Army,) for six months, under the act of 19th March, 1836:

Six companies for six months	$118,076 04
Estimated traveling allowance	19,679 34
Amount	$137,755 38

BENJAMIN F. LARNED,
Paymaster General.

PAYMASTER GENERAL'S OFFICE, *January* 16, 1855.

There is also accompanying this estimate a letter from the Secretary of War showing the propriety of the amendment.

Mr. HUNTER. Let that letter be read.

The Secretary read as follows:

WAR DEPARTMENT,
WASHINGTON, *January* 21, 1855.

SIR: In answer to the resolution of the Senate of the 11th instant, "that the Secretary of War be required to lay before the Senate such information as may be in his Department in reference to such troops of the State of Texas as may now be, or heretofore have been, in service in that State, and who have not been paid by the Government of the United States, together with estimates of the amount necessary to pay said troops," I have the honor to state, that the only troops which are believed to come within the terms of the resolution are the six companies of mounted volunteers, called out by Major General P. F. Smith, commanding the department of Texas, and mustered into the service of the United States at Austin, Texas, on the 1st November last, to serve for six months. The muster-rolls of these companies not having yet been received at the Department, no exact estimate of the amount necessary to pay them can now be made. The one made by the Paymaster General, and submitted herewith, is conjectural; but the amount of it, ($137,755 38,) if appropriated, will probably be sufficient for the purpose.

Very respectfully, your obedient servant,
JEFF. DAVIS, *Secretary of War.*

Hon. J. D. BRIGHT, *President pro tempore of the Senate.*

The following is the Paymaster General's letter referred to:

PAYMASTER GENERAL'S OFFICE, *January* 16, 1855.

SIR: I have the honor to submit herewith, in compliance with the resolution of the Senate, dated the 11th instant, an estimate of the amount required for the payment of six companies of Texas mounted volunteers, called into service by Brevet Major General P. F. Smith, for the period of six months.

The estimate includes subsistence and forage for the whole period, there being no muster-rolls to show whether these allowances were furnished in kind. The item for "traveling allowance" is, for the same reason, entirely conjectural.

I have the honor to be, very respectfully, your obedient servant,
BENJAMIN F. LARNED,
Paymaster General.

Hon. JEFF. DAVIS, *Secretary of War.*

The amendment was agreed to.

Mr. JONES, of Tennessee. I am instructed by the Committee on Military Affairs to offer an amendment comprising two additional sections. The first section is a bill which was passed by the House of Representatives at the last session, and sent to the Senate; and the second section is an amendment made by the Senate to the House bill. The bill was lost for want of time. It makes no appropriation of money. I think it is very important to the country and to the interests of all concerned. The amendment is:

SEC. —. *And be it further enacted*, That the annual distribution of arms to the several States, under the act approved April 23, 1808, entitled "An act making provision for arming and equipping the whole body of the militia of the United States," shall be hereafter made according to the number of their Representatives in Congress respectively; and that arms be distributed to the Territories and the District of Columbia in such quantities and under such regulations as the President in his discretion may prescribe.

SEC. —. *And be it further enacted*, That the Governors of the several States and Territories be, and they are hereby, authorized to sell, to the best advantage, the arms heretofore distributed, or which may be hereafter distributed, under the act of April 28, 1808, and invest the funds arising out of such sales in other arms more suitable for the purpose contemplated by said act.

Mr. HUNTER. I would ask the Senator from Tennessee if this proposition is recommended by the Department, or does it come from a committee?

Mr. JONES, of Tennessee. It comes from the Committee on Military Affairs. I will state to the Senator from Virginia the circumstances, and then I am sure he will have no objection. The first section of this amendment was a bill which was passed by the House of Representatives and sent to the Senate at the last session. The Senate committee amended it by adding a second section.

The bill passed its second reading, but was lost for want of time. The first section of the amendment provides that, in the distribution of arms among the States, they shall be distributed according to the representative population. They are distributed now according to the militia returns made by the several States to the War Department, which are very uncertain. For instance, some States have the militia organized; others have not. Some get four times as many arms as another twice as large. Georgia has no organized system, and Delaware has; and, under the present plan, Delaware gets more arms than Georgia. This proposition simply equalizes it by requiring the arms to be distributed according to population, as represented by representation in the Congress of the United States.

The second proposition of the amendment, is to authorize the Governors of the several States to sell such portion of the public arms as have been deposited with them as they deem necessary, and invest the money in other arms of better character. That grew out of a proposition, made by several States to the General Government, to exchange the old musket, that was made twenty years ago, for the improved musket now. The Government cannot do that, without exhausting our public arsenals of all the arms we have. They are on deposit with the States; they are useless for all practical purposes of war; the old muskets we had twenty years; the old Hall rifles, which are not worth their weight in railroad iron, are lying in my State, by thousands and tens of thousands, and are utterly worthless to the country. This section simply provides, that the Governors of the States may sell the old arms, and reinvest the money in some arm that is useful.

Mr. HUNTER. I will ask the Senator from Tennessee, if he has so guarded the amendment, that it applies to arms now on hand? because, otherwise, it may give the Governors power to change the description of arms, and they may sell those hereafter received.

Mr. JONES, of Tennessee. If it does not prevent that, I will have it do so. That was the object.

Mr. HUNTER. Let it be read again.

The Secretary read the amendment.

Mr. HUNTER. I move to strike out the words "or which may be hereafter distributed."

Mr. JONES, of Tennessee. I accept that amendment. The object is simply to get at the old arms, which are useless.

Mr. DODGE, of Iowa. I suggest to the Senator an amendment to add after "Representatives" the words "and Senators," so as to distribute arms according to the number of Senators and Representatives of each State.

Mr. JONES, of Tennessee. I have no objection to that; I accept it.

Mr. WELLER. The amendment, I believe, was agreed to, striking out "hereafter," so that they shall not be authorized to dispose of arms hereafter distributed.

The PRESIDING OFFICER. That modification was accepted by the mover of the amendment.

Mr. WELLER. I suppose the only object is to get rid of useless muskets heretofore distributed.

Mr. JONES, of Tennessee. That is it.

Mr. DAWSON. Do I understand the word "Senators" is proposed to be inserted.

The PRESIDING OFFICER. The Senator from Tennessee accepted that modification.

Mr. DAWSON. I hope not. It would give to the State of Delaware three times as many arms as she would be entitled to.

Mr. CLAYTON. No, sir.

Mr. DAWSON. She has one Representative and two Senators, and that proposition would give her three times as much as she is entitled to.

Mr. CLAYTON. To distribute the arms according to the number of Representatives, would be to deprive those States which have but one Representative and a large fraction, of their just rights. If the Senator from Georgia wishes to adopt the principle of Federal population, why not say so? I prefer the amendment as it stands, modified on the suggestion of the Senator from Iowa, to distribute arms according to the number of Senators and Representatives of each State.

Mr. JOHNSON. I wish to ask the Senator from Tennessee whether his amendment contains any limitation, or direction, or guidance to the Governors of the different States in purchasing these new arms. I believe that his amendment leaves it entirely to the Governors to invest the proceeds, as each may think proper, in any description of arms. If that should be done, there would be no uniformity; at least, an entire uniformity would be very improbable. One State may introduce one description of arms, and another, a different one; and they may go into schemes which are afloat, purchase various descriptions of arms, and none have the description used in the United States service, which, if called upon by the country, they should be able to avail themselves of, in the ordinary tactics of the country.

Now, I suggest, whether they ought not to be made, in the purchase of these arms, to conform to the classes of arms used by the troops of the United States, instead of being left free to enter into any speculations or improvements, and thus ultimately lose the whole fund.

Mr. JONES, of Tennessee. In answer to my friend from Arkansas I will state, that the suggestion which he makes would fail to obviate the very difficulty under which we labor. He proposes to require the Governors of the several States, in making the new purchase, to conform to the arms now used by the Government of the United States. That is the very difficulty which I desire to remedy. In my State there are many thousands of the old fashioned Hall rifles which have been adopted by the Government of the United States; and which are as useless as so many pop-guns. If you require the Governors of the States to purchase the same character of arms, they may just as well hold those they now have. What I desire to accomplish is, that the Governors of the States may be invested with power to sell such arms as are useless, and to appropriate the proceeds of the sales to the purchase of such arms as the public service may require. We can place no restriction on it that I see. We must leave that to the discretion of the Governor. He is responsible to his State; the arms are under his control and discretion. Now, under this amendment, he has no other discretion than to sell them, and reinvest the proceeds in such arms, as, in his judgment, in the exercise of his legitimate authority, are best for the public service. If we are to go back and reinvest the money in the same character of arms we have already got, there is no necessity for a sale. We want to get arms which are useful. Whether you restrict them to muskets or not, is a matter of indifference to me; but if we are to have the musket let us have a better one than we have now.

I do not care whether they purchase arms of one man or another. I have no interest in it. But I am willing to leave that to the Governors of the different States. I am willing to trust the Governor of Arkansas to determine whether he will have Sharp's rifle, or the Hall rifle, or a musket. That is immaterial to me. We have a variety of arms in the public service. We have Sharp's rifle, Hall's rifle, the musket, and the common American rifle used in the military service of the United States, and I think it perfectly safe to leave it to the discretion of Governors what arms they shall purchase. They will be bound to invest the money in good faith in arms for the public service. Whether they take one gun or another I am willing to leave to them.

Mr. HUNTER. I think there is much force in what was suggested by the Senator from Arkansas, [Mr. JOHNSON,] that it is desirable the militia should be armed uniformly. It is just as desirable as that they should be drilled uniformly and have the same system of tactics. The Senator from Arkansas proposes to put some restriction on the Governors, so as to require them to buy the same arm as is used by the United States. They might lay out the money in some new invention, some arm not usually used.

Mr. JONES, of Tennessee. I will obviate that difficulty. I will accept that amendment, because there is not an arm used in this country which is not in the service of the United States. I make that restriction.

Mr. JOHNSON. Then I will propose to strike out the word "Governors," and insert "President of the United States;" so as to have the money pass into the Treasury, and then distribute arms to the value of that money to the States. I propose to insert the President of the United States, or the Secretary of War, so as to carry out this object.

Mr. JONES, of Tennessee. I cannot agree to take from the States the arms deposited with them. They belong to the States. They were placed there by law, under the supervision of the Governor and Legislature. I am not willing to divest them of that authority. I am not willing to transfer it to the Secretary of War. I have no right to do so. I am not instructed or authorized by my State to give back her arms to the President of the United States, or to the Secretary of War. If we are not able to manage our own arms, we shall not call upon anybody else to manage them for us. If the Governors and Legislatures of the States cannot sell the arms they have, if they are deemed useless, let them keep them as they are, and not send them back to the President of the United States or to the Secretary of War to determine what character of arms the people of Tennessee, or any other State, may want. I would rather the proposition should fail than send the arms back to the Secretary or President.

Mr. PRATT. I should always feel disposed to follow the course indicated by a standing committee, and more especially in regard to a subject on which I am so entirely ignorant as military affairs; but it strikes me that there is a practical difficulty in the object designed by the honorable Senator from Tennessee. It is to authorize the Governors to sell what? Why, sir, arms, which he describes as being altogether useless. Well, now, if they be useless, how can they be sold? Who will buy them? Would the people of Tennessee buy an arm which was altogether worthless? I doubt it.

Permit me also to suggest, that I think the object of the honorable Senator would be met by adopting a course something similar to this: Suppose, instead of directing the arms to be sold by the States, he should propose to direct the Secretary of War of the United States to send to each State, where these useless arms have heretofore been distributed, arms which are now known to be useful, of equivalent value with those useless arms, and let the States return to the Federal Government the arms which have been sent to them, and are of no service. That would be practicable. We could understand that. The people of each State would then get some arms which would be serviceable to them, and the arms which have been given to them and have turned out to be good for nothing, would be returned to the Government who sent them. That would be a practical measure, and I think it would attain, perhaps, the object of the Senator from Tennessee.

Mr. JONES, of Tennessee. The very suggestion made by the Senator from Maryland, was the one made to the Military Committee, out of which this amendment grew. A proposition was made by two or three States to exchange the old arms deposited with the States for new arms then in the service of the country. We submitted that question, I think, to the Secretary of War, and upon an investigation it was found that, if that system were adopted, every arm in the national arsenals would be exhausted, and still there would not be half enough to supply the demand from the States. Then we cannot do that. If we had accepted that proposition to exchange the old arm for the improved arm, all the arms now on deposit with the Federal Government would be exhausted, and we should have nothing for national defense. We should have adopted that suggestion if we could, but it was found to be impracticable.

Another proposition which was made was, that the States should be allowed to send the useless arms to the national armories and have them refitted, and made useful to the country. The Department informed the committee that it would cost eighty cents a piece to convert the old musket into the new musket, or, rather the flint lock into the percussion lock. When we came to add the cost of transportation to the armories and back, we found it would cost the States more than the arms were worth.

Mr. JAMES. And then they would be good for nothing.

Mr. JONES, of Tennessee. The Senator says they would be good for nothing. I do not know about that. There was, however, this difficulty: the Government would not agree to exchange, because they had a great many more arms with the States, on deposit, than were in the national arsenals. We could not agree to send them from the States to the national armories to be refitted,

because it would cost more to send them there and back than it would to refit them. The amendment proposes to authorize the Governors of the States to sell the old arms for what they will bring, and reinvest the proceeds in such arms as are used by the United States.

Mr. JOHNSON. The Senator from Tennessee remarked, in answer to the suggestion to insert "Secretary of War," that the arms belonged to the States themselves, and that he would not agree to take them from under their immediate jurisdiction and entire control. Am I correct in that?

Mr. JONES, of Tennessee. That is my opinion.

Mr. JOHNSON. Then if they belong to the States entirely, what have we to do with the subject? Why are we legislating in regard to their sale? If the arms belong to the States, what right have we to say they shall or shall not sell them? I cannot but believe, that, if the authority to sell be given in this way, in many instances, in the different States, the arms on hand will be sacrificed. I imagine they are not so utterly useless now as the Senator thinks. I have no doubt the Hall rifle is worthless; but I have no idea that all the arms are in that condition, or that they could not be used upon any sudden emergency. It is plain to my mind that, if the arms be sold in this way, they will be sacrificed in most instances; and even if they should be sold for anything material, the proceeds will be invested in all the little inventions in fire-arms which speculators may have on hand. In this manner, the original appropriation of arms will go for nothing. It will become a mere fund for experiment, and the encouragement of little inventions in arms. I think so, because there is no limitation as to caliber; no requirement that the arms purchased shall be of the same character with those used by the troops of the United States, under the regulations which are laid down by the Department of War.

In order to obviate these objections, I move to amend the amendment by adding this proviso:

Provided, That no arms be so purchased or provided except such as may be of the same description and caliber in use in the Army of the United States.

Mr. JONES, of Tennessee. I accept that with a great deal of pleasure. I have no difficulty about it. But I wish to put myself right in regard to a remark made by my friend from Arkansas. I stated I was not willing to take these arms from the jurisdiction of the States to which they belong. The Senator says I am mistaken. This is what I understand to be the law of 1808, distributing these arms: They are deposited with the States, subject to the control of the governments of the States, the Federal Government having no jurisdiction over them, except when they are needed for the defense of the country and for the arming of the militia, they may be required to be thus used. They are as essentially subject to the control and direction of the States as any other property of theirs, the Federal Government having no power over them except the isolated power to require them to be used by the militia of the States when the militia are called out in defense of the country. The Governors of the States are using these guns every day. There are not less than ten thousand of them now in the hands of individual militia in the State of Tennessee, which were deposited with the State by the General Government. If they belong to the General Government, the State has no right to use them for this purpose. The Federal Government has deposited them subject alone to the condition which I have stated. They are to be kept by the State, to be used for the defense of the country, and when the General Government orders out the militia, or requires the militia to be ordered out by the State governments, these arms are then to be put in their hands. That is the condition of the law.

Mr. WELLER. It seems to me that the Senator from Tennessee does not answer the objection of my friend from Arkansas. If his doctrine be true that the property is in the States, the States require no consent of Congress to sell or dispose of the arms. But I think they are distributed among the States as trustees for the Federal Government. The States hold them for a specific purpose. That purpose is pointed out in the law; and I apprehend there is no authority in a State to sell, or otherwise dispose of this property, or divert it to any other purpose than that designated in the law under which they are distributed. This morning we made an appropriation of $30,000 for the purpose of publishing a system of tactics, with a view of distribution among the various States of the Union. The chief reason why I voted for that amendment was, because it was important that we should have uniformity in the manner in which our soldiers are drilled in the respective States, so as to make them the more effective when they are brought into the public service against a common enemy. Now, it is just as important to have uniformity of arms in your Army as it is to have uniformity in drilling the soldiers. If the amendment originally proposed by the Senator from Tennessee be adopted, there will not be that uniformity among the respective States of the Union which, in my judgment, is necessary in order to produce efficiency in the common arms.

Mr. JONES, of Tennessee. I accept the amendment of the Senator from Arkansas.

Mr. WELLER. Then I have no sort of objection to the proposition of the Senator from Tennessee, because the amendment of the Senator from Arkansas obviates the whole difficulty in my mind, which was that it might lead to a want of uniformity in the character of the arms adopted by the troops in the respective States.

The PRESIDING OFFICER. The Chair understands the Senator from Tennessee to accept the modification. The question, then, is, on the amendment as modified.

The amendment was agreed to.

Mr. SHIELDS. I now propose the amendments which I have sent to the table in relation to raising a volunteer force.

Mr. JOHNSON. We shall not get through with that question to-day, and I hope, therefore, the Senator will allow me to make a motion to strike out a clause of the bill which, I think, ought to be taken out. It is a matter of much less importance than that which he proposes.

Mr. SHIELDS. I yield.

Mr. JOHNSON. I move to amend the bill by striking out the last clause of the first section in these words:

"For the Capitol extension, $325,000."

I make this motion, not because I am opposed to the appropriation; not because I shall not vote for it at the proper time, but because it seems to me that the Army appropriation bill is not the place for it. The extension of the Capitol, for the use of the Congress of the United States of America, is surely a civil and not a military matter. An appropriation for it belongs properly to the civil and diplomatic bill, where it has heretofore uniformly been included. There has been until now no variation from the practice of putting appropriations for this object in the civil and diplomatic appropriation bill. The effect of retaining this clause in the present bill will be to set a precedent changing the character of the service. When you put money to be used for this object in an appropriation bill, different from that which appears to assimilate itself to the subject-matter, it is the first step in a road which will lead, you know not where.

This Capitol is not a fort. It is not an arsenal. It is not a barrack for troops. It has no connection with military affairs. I would gladly vote to keep the Army disconnected from this portion of the public buildings. The appropriation does not rightfully belong to this bill. To retain it here is against all precedent. There is no sympathy, no connection between the object of the appropriation and its position in this bill.

I am aware, sir, that the charge of the work for the extension of the Capitol has been assigned to the Secretary of War. To that I do not object at all. There may be, and doubtless is, peculiar fitness in assigning that service to the supervision of the present Secretary of War. I do not understand that it has been committed to him in virtue of his position as presiding over the military affairs of the country. I take it that the President has assigned to that officer this particular service as peculiarly appropriate to his capacity, judgment, and taste; and not because of his having charge of the military affairs of the country. Now, it is proposed to take the appropriation for this civil service—the extension of the Capitol—from its regular position in the civil and diplomatic bill, and place it upon the military appropriation bill. On the same principle, if, to-morrow, we should lose the services of the present Secretary of War by death or resignation, and there should be circumstances making it appropriate to commit the matter to the charge of the Postmaster General, we should have to change the position of the appropriation, and insert it in the Post Office appropriation bill. There might, sometimes, be propriety in committing the subject to the judgment of the Attorney General or Secretary of the Navy, for the time being; and on this principle you would, on every such change, be compelled to place the appropriation in a new bill. The effect of this would be, that whenever any gentleman would have occasion to refer to the laws to find the sum appropriated for this object, he would be unable to ascertain it without a vast amount of labor and trouble. Thus business would be thrown out of its true order. I prefer to keep business in its proper order.

It may possibly be, since this bill has been sent to us in advance of the other appropriation bills, that the object was to insure the more speedy passage of this appropriation, so that the work may progress. That would seem to be the reason on a superficial examination; and if that were the reason, it would be an apology—perhaps a good one—for changing the position of the appropriation. I understand, however, that such is not the case. There is now on hand from $600,000 to $800,000 of former appropriations for the work, and that sum cannot be used up before the civil and diplomatic appropriation bill, where this clause regularly belongs, will have passed both Houses of Congress, and become a law of the land.

Sir, it is just by such steps as these that the whole direction of affairs may ultimately be changed. I look upon this as a dangerous precedent, which may result in placing the whole control of the public buildings in the hands of the military, rather than the civil department of the Government. I have made the motion to strike out this clause, not because I am opposed to the amount of the appropriation—not because I wish to cast any reflection on those who have placed it here—but simply for the reason that this is an irregularity, an innovation which ought not to be encouraged.

Mr. BAYARD. Mr. President, if this were to make a precedent, I admit the objections of the honorable Senator from Arkansas would be quite sufficient to induce me to vote in favor of striking out this appropriation; but it seems to me that it is too late in the day now to make an objection merely on a question of irregularity, if there be no intrinsic objection to the appropriation itself. I know not under what circumstances this appropriation was attached by the House of Representatives to this bill, but the appropriation itself is not objected to. It is founded on the estimate of the appropriate Department. It is a proper appropriation, and one which ought to be passed. It is here. What precedent does it make? Why, sir, you cannot take up a single appropriation bill which you have passed for many years back in which you cannot point out irregularities much greater than this. Why should you strike out a proper appropriation from this bill, to be made, probably, the subject of future discussion, or contest in some other shape, when it comes up in another bill? I confess I cannot see the force of the objection.

This is making no precedent, for since I have been a member of the Senate, I have not seen a single appropriation bill which has not contained from one to ten, or twenty irregularities much greater than this. I do not see that it can have any influence hereafter, as a precedent in the case of the superintendence of the direction of any other buildings under any other Department, and that, therefore, the appropriation for that building must be in the bill connected with the appropriations for that Department. I do not think that is the object. I am utterly ignorant of the reason why the House of Representatives put the clause in this bill. I think that probably it was more by accident than anything else; but being proper in itself, I see no reason to revise the action of the House of Representatives in this particular, unless there be some objection to the appropriation. I cannot consider the question of irregularity as any real objection, for if that be considered a good ground it would be sufficient to cause the rejection of every appropriation bill which has been passed for the last six years at any rate.

Mr. JOHNSON. I consider it evident that

this clause, as it stands in the bill, changes the direction of the appropriation as to its location at any rate. A few years hence, it may be necessary for those not aware of this direction, to search for the appropriations which have been made for the extension of the Capitol. The first place to which a person would naturally look for such an appropriation, would be the civil and diplomatic appropriation bills. On looking at those bills, he would find, that for four sessions past, if not more, we had regularly made appropriations for the extension of the Capitol in those bills. When he had proceeded in his examination that far, he would go on through all the civil and diplomatic bills, and he would find nothing more on the subject. Then he must go back and hunt through the other appropriation bills.

Mr. BAYARD. Allow me to make a suggestion. If the object was to ascertain the number and amount of the appropriations, it would not be necessary to resort to the bills. That can always be found on the books of the Department where the disbursements are made. There is no difficulty in tracing the appropriations without the bills.

Mr. JOHNSON. But, sir, a Senator, on many occasions, may go to a Department, and go repeatedly, and come away without receiving any satisfaction in the shape of information; and members will naturally rely for their information on the public records and libraries which are here, to give them the true history of the past. It seems to me that, by our action, we ought to secure as much facility and regularity as possible in the transaction of our business. There is no haste in this case, which requires this appropriation to be made immediately. There is no urgent reason why we may not wait until the passage of the civil and diplomatic appropriation bill. The chairman of the Committee on Finance I hope will state to the Senate if such be the case. But, even if there were a necessity for passing it immediately, I should vote against retaining it in this bill, because I do not believe that it has properly any business here. This is not the place for such appropriations. They have never been put here, and they never ought to be put here.

Mr. HUNTER. Mr. President, I should regret to see this appropriation stricken out. We all know that this was a matter of great controversy at the last session in the House of Representatives, and I should not desire to see that subject mooted there again. There is a necessity for some appropriation, and for this appropriation, in order to carry on the work in the extension of the Capitol. It might, perhaps, have been well if it had been introduced in another bill; but still, it seems to me, that is too small a matter to justify us in striking out the appropriation now; and reopening the subject for discussion. I presume the reason for inserting the appropriation here is, that the work is under the charge of an engineer, and that engineer belongs to the War Department. Why this was done originally, it is hardly worth while now to explain. I believe that arrangement has worked well. I think we have seen good fruits arising out of it. It was not done from any idea, as the Senator from Arkansas seems to suppose, that the Secretary of War was peculiarly fit to manage such matters; but because it was believed that the engineer who had charge of it was managing it well; and inasmuch as he belonged to the War Department, the appropriation, I suppose—I never inquired the reason—was put into this bill.

Now, sir, I do not think that the vain effort to preserve congruity in the index to our laws would be a sufficient reason for striking this appropriation out of the bill. That evil has gone so far; the subjects which have been included in the various appropriation bills have been so multifarious, that, I think, we should not remedy the evil much by striking out this particular appropriation. I should be glad, therefore, if my friend from Arkansas would permit it to remain. I do not think it can lead to any mischief, and it may save us some trouble. I know that he feels the necessity for continuing this building; and I do not suppose he desires to reopen the discussion, in the Senate or the House of Representatives, upon that formerly much-vexed question of civil and military superintendence. I am sure I do not wish to see it reappear either there or here. I hope, sir, that the clause will be retained.

Mr. CASS. Mr. President, there is much justice in the objection stated by the honorable Senator from Arkansas. I have had some occasion lately to revert to the earlier statutes of the Government, and it is singular what simplicity there is pervading them all. You can tell, from the very title of a bill passed in those days, almost everything that is in it. Now you know nothing of the contents of a statute by its title. The most heterogeneous objects are brought together; and those unwilling to vote for all of them are compelled to vote against the whole measure, or to hazard losing very important propositions which they would desire to see carried. If this were a question of first instance I should agree with the Senator from Arkansas; but, as has been well said by the Senator from Virginia, here is the appropriation in this bill, and I can see no particular propriety in striking it out. I do not suppose that at this time of day we can change the plan for the building.

By way of illustrating the tendency to which I have referred, I may allude to the fact, that the honorable Senator from Illinois is about to propose, as an amendment to this bill, a proposition for the increase of the Army. It should not be here. This is a bill of appropriations to carry into effect existing laws. The question involved in the proposed increase of the Army is a very grave one, and it should not be in this bill. I am not opposed to the measure in itself, but I doubt the propriety of inserting it in this bill, though I do not suppose that anything I can say will prevent its insertion. I merely mention it as an illustration.

I rose principally, sir, to say that, some time since, when this bill was referred to the Committee on Finance, I stated that, when the subject came up for consideration, I should ask the chairman of the Committee on Public Buildings, my honorable friend from Delaware, [Mr. BAYARD,] some questions in relation to the probability of accomplishing the three great objects of light, hearing, and means of heating, in the new Chambers for the Senate and the House of Representatives. Since then I have seen the superintendent of the work, a very intelligent man, and a most excellent officer; and although I have doubts, great doubts, about the result, (I state it here, and I am willing that it shall go on record that I have doubts about the result,) I have satisfied myself that the building has made such progress that it will be almost impossible now to make any alteration. I have doubts whether you will be able to hear in that building, and those doubts are confirmed by the experience of the whole world. Architects sacrifice everything to beauty. They appeal to the eye, and not to the ear; and it never seems to enter into their heads that the first object of a room is, that it shall be such as to allow hearing. Such a building as this presents a great problem, and that problem is, simply, how you are to hear everywhere anything that may be spoken anywhere. It is not like a church, where the pulpit is in a particular place, nor like a room with a French tribune, where you can stand in one place, and can be heard distinctly all over the room; but you are to hear distinctly from any portion of the room; and, in my judgment, nothing but the greatest simplicity and destitution of ornaments, plain walls, no arches, no domes, will remedy the difficulty. I do not know that it can be reached in this building.

I understand that the experiments made on this subject lately, by the British Government, have cost them upwards of a million of dollars. They have been changing and rechanging their plans, and I do not understand that the objects have yet been attained there. Sir, it really does appear to me, looking at the present building, that it has, as the poet says,

> "Windows that exclude the light,
> And corridors that lead to nothing."

Here we have lamps burning in the middle of the day, in all the corridors through which we pass to reach this Chamber. It is a shame to have such a building. I repeat, all is sacrificed to the eye.

Mr. President, it has seemed to me that the air and the light of heaven were good enough; but the new room designed for the Senate Chamber, in the Capitol extension, I understand is not exposed to the atmosphere on any side. It is absolutely in a state of isolation. There are passages between the walls of the new Senate Chamber and the extension wall of the building, preventing the air of heaven from coming in. The air is to be pumped up, or pumped down, by some kind of a machine, nobody knows what. I think, however, it is too late now to make any changes in it. I must leave to my successors to ascertain whether the building will suit them or not. I doubt the result of the experiments which have been made; they have not succeeded elsewhere; if they have led to anything recently, it has been at a great cost.

I shall not detain the Senate. I merely wished to state the reasons why I would not press the inquiry which I intimated on a former occasion I should make. I was afraid, and I am yet afraid, that the new Chambers for the two Houses will not answer the purpose of hearing, which is the first purpose. I have seen the superintendent, a most excellent man, whom I have known for many years, and I have come to the conclusion that the building has now advanced to such a state, that to undertake to alter it, would be impolitic, if not useless.

Mr. JAMES. If the chairman of the Committee on Public Buildings [Mr. BAYARD] will make an answer to the inquiries of the honorable Senator from Michigan, I should much prefer to have him do it. If, however, it is left to me to answer the honorable Senator, I am prepared to do so.

Mr. BAYARD. I did not understand the Senator from Michigan as addressing any inquiries to the Committee on Public Buildings, or, of course, I should answer them.

Mr. CASS. The view which I presented was a mere speculative one of my own. I stated the reason why I did not push the inquiries which I had intended to make. Still, I should be happy to hear the views of the Senator from Rhode Island.

Mr. JAMES. I shall occupy the attention of the Senate for but a few minutes. As it is a subject on which there has been much controversy and great difference of opinion, I think it would be well to state, briefly, the facts of the case.

Mr. President, the construction of a room combining all the principles which shall render it the most advantageous at the same time, for speaking, hearing, and ventilation, is an art so difficult in its details, that, in rooms of any considerable magnitude, the desired effects have seldom, if ever, been produced. In the case of the Capitol extension, it has been the object of those gentlemen having charge of the work to avail themselves of all past experience, and, by calling to their aid philosophic principles and numerous experiments, to conquer the difficulties as far as possible, and to furnish, for the use of the Senate and House of Representatives, Halls as nearly perfect as the nature of circumstances will permit. From what I have learned of the plans and details adopted with regard to these Halls, my belief is, that the efforts expended upon them will prove eminently successful.

Sir, I would first call attention to the forms of these Halls, which are, in my opinion, the best for the purpose that could have been devised. For the accommodation of the Senate and House of Representatives, even limited to their present numbers, rooms of larger areas than those of the rooms now occupied by these bodies are evidently required; and, when we consider that the number of members of each House of Congress is continually on the increase, the want of additional space becomes still more apparent. The crowded state of our galleries, too, render it highly expedient that the accommodations for visitors should be enlarged, that our fellow-citizens who assemble here from every part of the Union, from time to time, may be enabled, with comfort, to listen to the debates in Congress, and witness its proceedings. Due attention has been paid to both these objects, in the construction of the new legislative Halls; in consequence of which, the Senate Chamber contains an area of about nine thousand square feet, and the Representative Chamber an area of about twelve thousand square feet. To accommodate these large spaces to the human voice and the human ear, is the object with which the forms and finish of the walls to inclose these spaces has been studied and adopted. The forms of both Chambers are oblong. The Senate Chamber being one hundred and thirteen feet three inches long, by eighty feet wide, and the Repre-

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sentative Chamber one hundred and thirty-nine feet long, by ninety-three feet wide. Cubical contents of Senate Chamber, two hundred and fifty-six thousand eight hundred and sixty feet; cubical feet of House of Representatives, three hundred and ninety-six thousand five hundred and seven feet.

The spaces thus confined within these walls, appear, on the first thought, to be large to be filled with an ordinary human voice. But experience, which, by the way, is the best and only sure test, shows that, all other circumstances being favorable, even larger spaces are easily filled, while others of much smaller dimensions, under circumstances of an unfavorable character, present far greater difficulties. In the largest theaters, for instance, where there are no obstructions to sound, the lowest and softest tones of voice from the stage are distinctly heard in every part of the house; while in many halls and churches of very limited dimensions, it is with much difficulty that the speaker can fill the space with his voice, and cause himself to be distinctly heard and understood. In the former case, the rooms are high and properly arched, and without columns, panels, &c., to break the volume of sound, or to cause its reverberation. In the smaller rooms, perhaps, these low ceilings, groined arches, ornamented with panels or block work, or both, and supported by heavy columns, all obstruct the volume of sound, and break it into fragments. Perhaps, also, by having the walls themselves improperly constructed, or constructed of improper materials, the sound reverberates, and thus very much enhances the evil. Sound, like liquids and solids, is subject to the laws of motion and the laws of projectiles, and somewhat in accordance with those laws, aided by experiment and experience, should everything pertaining to rooms for public speaking be calculated.

The propulsion of the human voice may be considered as analogous to that of a stream of water from the pipe of a fire engine. Soon after it has been propelled from the pipe, it begins to expand, and like the projected stream of water, the volume of sound projected from the lips, though unbroken in a clear space, immediately expands in all directions, and will be as distinct to the farthest limits to which its projectile force can throw it, as at the point from which it is projected, provided there be no obstructions or impediments in the way. On the other hand, where obstructions or impediments intervene, it will either rebound, and thus produce an embarrassing echo, or be broken up, perhaps, and produce several echoes, and render the articulation of the speaker indistinct, and be productive of as many different, and probably discordant sounds, as there are various obstructions and impediments in the way.

Sir, it too frequently happens that architects, rejecting philosophical principles, and the lessons of experience, labor to embellish and ornament rooms designed for public speaking, with the view rather to architectural elegance, than to the laws of acoustics. Hence the complaints so general of rooms hard to speak in, and which difficulty is most frequently attributed to the large dimensions of such rooms, instead of the true causes. Probably there are few, if any, rooms in existence, so large that a speaker may not be distinctly heard in any part of them, while speaking in an ordinary tone of voice, in which the effect of the voice is not destroyed or impaired by architectural means. Rows of columns, paneled walls and ceilings, with deep indentations, projecting block work, and groined arches, all separate or combined, serve to break the volume of sound into fragments, which renders it extremely difficult for the hearer to understand, while it embarrasses the speaker, and painfully enhances the labor of utterance. These difficulties, as well as those originating in a disagreeable reverberation of sound, can be avoided only by the rejection of those architectural embellishments that are calculated to produce them, and by the adoption of walls of a plain and simple style, and composed of suitable materials. I have, sir, examined the plans, the designs, and the drawings, for the rooms intended to be occupied by the two Houses of Congress, which are now in process of construction, and do not entertain a doubt that they will be found, as far as speaking and hearing are concerned, all that could be desired.

Those rooms are not to be encumbered either with columns, groined arches, deep indentations, or bold projections. The whole, though elegant—I would say, magnificent—will be plain and simple; the ceiling of glass and iron, and the walls of brick, faced with marble. For this reason, there will be nothing to break the volume of sound; and I see no reason to doubt that, even the Representative Chamber, with its large dimensions, will be as fine a room to speak in as any other one in the country. Besides this, the arrangements of the corridors are such that all sounds from without will be absolutely and entirely excluded, and thus all interruptions and embarrassments from that source prevented.

Mr. President, much has been said, in connection with the Capitol extension, on the subject of ventilation, and doubts raised, and objections stated, as to the mode that has been adopted. Ventilation is a difficult affair to manage in rooms as large as those intended for the Senate and House of Representatives, and requires a great deal of study, the exercise of sound judgment, and a close calculation. There are but three modes of ventilation which would probably suggest themselves: First, by means of doors and windows opening into the exterior atmosphere; second, by forcing air into the upper part of the room; and, third, by supplying the fresh air by means of air chambers beneath, through apertures in the floors. The first of these methods, it will at once be seen, is entirely impracticable. To attempt ventilation in this way, would be to admit into the rooms the exterior air, which would also admit with it, all exterior sounds, causing great embarrassment and annoyance. Besides, horizontal drafts through rooms, are always dangerous to health, and, in cold or wet weather, when it would be necessary to have doors and windows closed, the atmosphere of the room would become extremely impure, oppressive, and unhealthy. Of these facts, we have sufficient evidence from our experience in this room, without resorting to speculative philosophy.

Of the second method, that of forcing pure air into the upper portion of the room, though considered by many entirely practicable and efficient, I have entertained some doubts, and entertain them still. I have no doubt, air, that by this method a sufficient quantity of pure fresh air can at all times be supplied; but, as this air must descend to the floor, and in doing so, pass through and mingle with the ascending column already vitiated, my apprehension is, that it will itself become impure by means of the admixture. This is one of the methods proposed to be adopted by those having the charge of the Capitol extension; but lest this might not prove all that might be wished, they have also made due provision, if necessary, to carry out the third one—to ventilate the rooms by means of air chambers beneath the floors. By this method, as well as by the other, the atmospheric air will be forced in, in a condensed state, by means of a steam engine, and its tendency to expansion will naturally produce an ascending current for the constant and requisite supply of the space above. Whatever may be the result of the other method, I cannot entertain a doubt of the complete success of this.

In the next place, sir, the question of temperature is connected with that of ventilation. It has been found absolutely impossible to keep up an uniform temperature in a room of large dimensions, either by means of fires in stoves, hot-air furnaces, or fire places. As fires are either increased or suffered to subside, the general temperature will be varied; and as the heat from these sources is radiated from certain points, it can never be uniformly distributed. Hence, near the fire place, the stove, or the register of a hot-air furnace, you may find the mercury up to 90°, while in some other portions of the room it has mounted no higher than 50°. Either mode of ventilation proposed, will entirely obviate this difficulty. The entire body of air collected in the air-chambers, from time to time, and without coming in contact with heated metallic substances, will be raised, in cold weather, to any required temperature by means of hot water, and be so admitted as to pervade at once every portion of the area; and, by that means, the temperature of the room may be kept constantly at any given point, and uniform throughout. In hot weather, when an increase of warmth is no longer required, and a cooling influence becomes more desirable, then, the spaces into which the air will be compressed, withdrawn from the rays of the sun, and the influences of the exterior atmosphere, will act as a refrigerator, and have the tendency to render the atmosphere of the room fresh and cool, without exposure of its occupants to unhealthy currents.

Mr. President, I am entirely confident that one of the two methods provided for, will be found fully and completely adequate to the purpose of ventilation and warmth, and am not prepared to say that either will fail. My confidence in those who have charge of the work is such, and in the plans proposed, that I have no hesitation in predicting their complete success, and in saying that, in my opinion, the arrangements, when carried out, will give entire satisfaction.

Mr. President, before dismissing this subject, I feel it incumbent on me to compliment the gentlemen who have the charge of this great work as superintendent and architect, Captain Meigs and Mr. Walter. The energy and good taste which these gentlemen have displayed, and the judgment and rapidity with which the work has been prosecuted up to this time, and the prompt and judicious preparations made for its future progress, and final speedy accomplishment are worthy of high praise. It is my belief that it could not have fallen into better hands; and that the whole, when it shall have been completed, will stand as an enduring monument to their fidelity and skill, and the honor of our country. It is to be hoped, sir, that no impediment may be thrown in their way, and that all needful facilities may be extended to them, to carry out and perfect the noble design without unnecessary delay. I feel assured, sir, that they will most fully discharge the duties of their trust, if from Congress they may receive, as I have no doubt they will, as they have heretofore done, due encouragement and aid.

Mr. CASS. Mr. President, I would not have it supposed at all that, because I made an allusion to this subject—for it was no more than that—I therefore expressed any doubt as to the qualifications of the architect or superintendent. I intended no such thing. No such idea entered my mind. The superintendent of the work is an officer of the Army, whom I have known for a long time. He is entitled, both by character, talent, and conduct, to the highest consideration. I have great confidence in him; but it is the subject about which I doubt. The honorable Senator from Rhode Island [Mr. JAMES] has a right to speak on it with far more certainty than I have; but he will recollect that there never was an architect, or a projector of any sort who had any plan or project, who was not sure it would be successful. This is a part of human nature, and a very necessary part, I suppose, in order to induce success. Perhaps Napoleon's success was owing, in a great measure, to his firm belief that he would be successful. The author of every project is certain that it will succeed.

We have a practical illustration on this subject in the difficulty which has been experienced in England; and I rose particularly, at this time, to ask the colleague of my honorable friend from Rhode Island [Mr. ALLEN] to state a fact to which he called my attention the other day, that there recently appeared in the Edinburgh Review an article confirmatory of what I have stated to the Senate in regard to this matter. The best talent of England has been employed on the subject for many years. Each man in succession

was certain that he would succeed—just as certain as any one here can be; but we know that the result has been a failure.

The problem to be solved in the construction of a room for a body like the Senate or House of Representatives, is an intricate one. It seems to me that we shall not have a proper room for the purpose, unless we have a plain oblong or square brick building, without a single ornament, inside or out. Such is my belief; but I do not wish to go into the subject; I desire merely to ask the honorable Senator from Rhode Island [Mr. ALLEN] to state a fact which he stated to me the other day, confirmatory of the doubts which I have suggested, showing that doubts may reasonably be entertained without any imputation on anybody. It certainly was far from my inclination to cast any imputation.

Mr. ALLEN. I will merely state, that in England they have pursued almost the same process, I presume, that is now being taken here by our present architect in building the additional wings to the Capitol. They have expended on the new Houses of Parliament, £250,000 sterling, or about $1,200 000. The projects for warming and ventilating the Houses there having turned out to be a complete failure, in the month of June last, I think, they gave directions to begin *de novo*, for they found it was impossible to warm and ventilate the Houses. I think they had two steam engines, somewhat similar in their operations to the plan now adopted here. I think the results here will be about the same.

Mr. BRODHEAD. How is it as to hearing there?

Mr. ALLEN. The hearing is very indifferent, indeed.

Mr. BAYARD. Mr. President, I am not an architect, nor should I obtrude my own individual knowledge to supervise the details of the construction of a work of this character. I should in that, as in every other case where I had anything scientific to be done, trust it to those who had considered the matter, and in whose judgment and skill I placed confidence, and whom I supposed to have sufficient knowledge for the purpose. In regard to the last remark of the honorable Senator from Rhode Island, [Mr. ALLEN,] I must say that I think he is mistaken in supposing that the plan here is the same as that adopted in the new Houses of Parliament in Great Britain. They may have points of similarity, but if I understand them correctly, there is a wide difference between the two. There is a great difference between attempting to give ventilation to a room by introducing the atmosphere from below, and attempting to force it downwards. There is an entire difference of principle between the two; and the failure in the British Houses of Parliament arose from an attempt to force the atmosphere down. As to the structure of the rooms, I know of no similarity between these Chambers and the British Houses of Parliament at all; not the remotest similarity in the style of the interior arrangements. There is none in the proportions of the room, and the mode in which it is arranged. I have been in the British Houses of Parliament, and I can say, from personal observation, that the structure of those rooms, and that of the Chambers for the two Houses of Congress in the Capitol extension, is without similarity.

I shall not, however, attempt to go into the details of this matter for the reasons which I have stated. My principle is this: I should endeavor to select, (either as a public man, acting for the public, or as a private individual in private life, acting in reference to a matter scientific in its character,) a competent individual. I hold that whether I am instructed in the particular art or not, every man can tell, in his own art, whether a person claiming to know anything of it, is a man of common sense, or a pretender. That far I think you can judge. The moment a man satisfies me that he has a knowledge of the subject matter on which he undertakes to act as a man of science, if I have no reason to suspect his integrity, I would not set up my own uninstructed judgment against his superior knowledge of the work for which he was peculiarly skilled from education and practice.

That is exactly the state of things in regard to this building. Honorable Senators may suggest that it ought to be constructed in a particular mode. Are they architects? Can they tell what are the difficulties to be encountered? Certainly it may be true that architects have very often failed in the buildings which they have constructed; but the question is not to be determined in that way. The question is, where is the greater probability of failure—in employing a man of science practically acquainted with the subject, or in taking the opinions of a political body which must be very ignorant of works of that kind? Sir, if I might be allowed an illustration, I would say that, in the conduct of a cause, I should think it just as reasonable if my client should undertake to tell me how to conduct the pleadings in his case, as for me to undertake to instruct an architect, skilled in his profession, a man of high character and integrity, in the structure of a building which I employed him to erect. I might be wrong, as a lawyer, in the conduct of the pleadings of a case; I might commit errors—the ablest lawyers have committed them—but the question is, where is the greater probability of error, when a man undertakes to supervise and correct his own lawyer in a matter in regard to which he is perfectly ignorant, or in leaving it to the discretion of the lawyer on a subject with which he is personally acquainted? That is my principle of action.

I have no doubt that when the temple of St. Peter's was erected, there were men who thought it would be an entire failure. I have no doubt that if their judgments, and suggestions, and cavils, if I may so speak, had been followed out, St. Peter's never would have been erected. I do not suppose a great public building ever was erected without suggestions of numerous kinds being made by men not competent to decide on the question.

It seems to me that the only safe course for the Congress of the United States to pursue is, to take care that the individuals whom they entrust with the construction of the building of the character they design, and the object they intend to accomplish in having it constructed, are men of integrity, men of known science and character; and leave the rest to the probability that they will perform their duties properly. I have entire confidence in the present superintendent of the extension of the Capitol. I should be unwilling to set up my unaided judgment, and my want of knowledge of the details of the construction of a building, against a man whom I know to be competent. The evidence is complete, if you will turn and read your Executive documents of the last session, that he tried numerous experiments—that he not only did not rely upon his own knowledge, but that he resorted, through the medium of the President, to a commission to investigate the principles in reference to acoustics, which were to be applied to the construction of this building.

That commission consisted of Professor Bache, Professor Henry, and another eminent man here; and they agreed in all the general principles of the construction. Human protection can go no further. He may fail. He has no object to spur him on except the desire of success. He derives no additional emolument out of the construction of the Capitol. He thinks he will make for his country the most perfect legislative Hall ever erected, and will, of course, thereby entitle himself to the gratitude of his country for the services he has performed. That, I believe, is the sole motive which is operating on him. I believe he is competent in point of intellect; I believe he is competent in point of experience; I believe he is competent in point of knowledge; I think he is a man of genius in his profession. I am not willing to criticise or cavil upon his plan. I am willing to run the hazard of the determination of this work under such auspices. I doubt whether we should be ever able to construct *any* building at all, if the unaided judgment of different Senators was to point out the mode in which the various details should be arranged.

Mr. JOHNSON. I understand the Senate Chamber in the new building is to be so enclosed as to be nowhere, in its exterior, open to the light. It is to be isolated and surrounded by passages, and, for all that I know, by other rooms.

Mr. BAYARD. It is to be lighted from above.

Mr. CASS. And ventilated from below.

Mr. JOHNSON. That makes the case, I believe, lighted from above, and ventilated from below. I understand, in fact, that the ventilation is to be given us by a steam engine. Is there to be one for each House, or for the whole Capitol?

Mr. JAMES. Will the Senator allow me to say one word?

Mr. JOHNSON. I shall be glad to have that question answered; and then, with one more question, I shall be done. Are there to be one or two steam engines employed in the ventilation?

Mr. JAMES. One in each wing.

Mr. JOHNSON. Is the engine to be directly beneath the Senate? [Laughter.]

Mr. JAMES. I do not know where it is to be placed.

Mr. JOHNSON. I should be glad to know, because I have heard of explosions of steam engines. [Laughter.] I have heard of one character in history who has certainly attained very great notoriety, by an attempt to produce an explosion under a legislative body. Guy Fawkes, I believe, piled his combustibles beneath the Parliament building; but when he got in, and while he was preparing his magazine there, thank God, as the people said at that time, he was detected before he accomplished it, and was arrested. I have never yet heard of one being blown sky-high; but this engine is to be placed beneath the Chamber. I should be glad to ask the Senator of how many horse-power it is to be? [Laughter.]

Mr. JAMES. I refer the honorable Senator to the architect.

Mr. JOHNSON. He is beyond these walls, and I have no power to bring him here. I supposed the committee, who understand all their business, could explain and give me all these little items. I should like to know that, because, with the calculation of the horse-power, I shall be able to understand how high I am to ascend, if this is finished in my day. [Laughter.] Now, I do not like this thing of steam engines and explosions. We have been legislating against them all the time. They are the saddest disasters in the world that occur. I do not care about being celebrated by a great monument built up in memory of the whole Senate, and detailing a disaster here from a steam engine which we ourselves have enacted shall be put beneath our feet—for what? To produce the same effect that a lady will produce with a little tongue—a blowing up. [Laughter.] We are to be shut in all around, with not even the opportunities for light and air which are furnished us here. I have heard of this repeatedly. If, as the idea seems to be, ventilation be to blow up everything, the biggest blow will come when the steam engine bursts. [Laughter.] There will be a ventilation. The very occasion itself will ring with that ventilation. I appeal against the steam engine, if it is to be directly under us. [Laughter.]

Mr. BADGER. The honorable Senator from Michigan, [Mr. CASS,] in the first remarks which he made, threw out doubts and apprehensions which I entertain myself, and from which I must confess I am not entirely relieved by the explanations which have been given to us. I have no interest personally in the inquiry as to what will be the construction of the new Chamber, the advantages or disadvantages of it in regard to the capacity for hearing speakers, or the facility with which they can deliver themselves, or as to the ventilating or heating of it; but still on account of many of my honorable friends who are here and who will have the opportunity of occupying that Chamber, and on account of our successors and their successors, I feel a considerable degree of anxiety upon the question which now has been alluded to.

My friend from Michigan has suggested that, although these things are proposed upon scientific grounds and by very scientific men, all history and experience have shown us that, whatever may be the talents of the individual, and his sincerity and his confidence, an unfavorable issue is not an unlikely event. Now, sir, in old times there was a notion of resorting to a natural process for the purpose of ventilating a chamber. The idea was that if you would have an opening at the top, or near the top, the heated air would take itself out; and by having some convenient openings at the bottom, or near it, the cool air would come in. That went upon the principle that nature acts by a sort of moral suasion. I should have been exceedingly gratified myself if that old system had been adhered to; but, then, my friend from Michigan must remember that this is an age of progress. This is an age of steam. Everything has been, or is to be, altered. He will recollect that in a very high dramatic authority a certain patient was once informed by a medical professor, that,

whereas originally the liver was placed upon the right and the heart upon the left of the body, the college of physicians had altered that whole business, and had made them shift to different places. [Laughter.] So my friend must recollect it is to be now. This is the age of steam. Formerly the cool air was allowed to come in below, and the heated air to pass out above. Now, the action is to be reversed. Science is to be brought to bear on the subject. A steam engine is to be constructed; and the cool air is to be forced down from above, and the heated air forced out below; and why should it not be done?

Mr. BRODHEAD. It is the very reverse.

Mr. BADGER. It is the other way. Well, in the old times it did not require any great force to get cool air in below and heated air out at the top, if a place was only made for it to come in and go out at. But what I want to call attention to is, that after all that has been said on this subject, the plan is settled. The old method was liable to some difficulties. The Senator from Rhode Island [Mr. JAMES] has mentioned one of them. If you build a big fire, or if you let in heated air by registers, as I believe they call them, you will still have this result, that one part of the room will be warmer than another. Well, now, sir, there is no possible mode of preventing that in any apartment, except by converting it into an oven, heating it, and closing it up; and from everything that I have been able to understand of the present project that is exactly what we propose to do in regard to the intended Senate Chamber. It is to have no outside wall at all. It is to be shut in. It is not to communicate externally with either the air, or the light of heaven. It is to be an oven, [laughter,] closed in on all sides; and the way you are going to get air into it is, by a forcing pump moved by a steam engine.

I do not wish to be understood as doubting at all that this experiment will succeed. I have as high an opinion of the gentleman who has originated the plan, as any member of the Senate who has spoken. I hope and I believe that it will succeed, but I am hoping against hope, and believing against faith. [Laughter.] But if I could have the regulation of this thing, I would go back to the old fashioned notions of our forefathers. When we want cool air in a room, I would open a window and let it come in itself. It needs no forcing. It comes with readiness if you give it a fair opportunity. Then with regard to the heated air, which, by a provision of nature, I am told, for I do not understand these things philosophically, will gradually get higher and higher as it gets warmer and warmer, you have nothing to do but to have a comfortable little ventilator at the top, and you will soon get rid of it. But this, sir, is the age of improvement; this is the age of progress; and I fear that my friend from Michigan and myself will, in consequence of the remarks we have made to-day, be stamped "old fogies" forever. [Laughter.]

But, now, I wish to ask, what has all this investigation and inquiry to do with the question before the Senate? My friend from Arkansas [Mr. JOHNSON] says that this appropriation of $325,000 is out of place; it ought not to be in this bill. If we are to follow the suggestions thrown out in the discussion, it ought not to be in any place, it would be inappropriate to any bill; we ought to turn back and reverse our course, and alter all that has been done, and make a new experiment about the compulsory introduction of air and heat upon some other plan. But we should be no better off if we did that. It is too late to resort to the old fashioned natural way of having at least one outside to a room. We are now going to accomplish, in regard to the Senate Chamber, precisely what an agriculturist in the State of my friend from Pennsylvania, is once said to have done in order to avoid trespasses from the squirrels upon his corn—to have a field without any outside row to it at all. [Laughter.] Therefore, it seems to me, that the whole discussion is beside the principal question which is before the Senate. None of us are going to retract from this experiment. We are are all willing to believe and trust, whatever our fears may be. We all have the highest confidence in the direction under which the building is placed. We are all willing to prosecute the design.

But I say to my friend from Arkansas, that the appropriation is a good one, and a wise one. It is not for too large an amount. It is to be devoted to an excellent object; and I am willing to take it whenever it comes. I should not have thought of putting it in here; but I shall vote against striking it out; and if my friend from Arkansas will move an amendment to it, that no steam engine shall be placed under the proposed Senate Chamber until he leaves the Senate, I will vote for it with great pleasure. [Laughter.]

On motion by Mr. ADAMS,

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 24, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

The SPEAKER. The business first in order is the motion of the gentleman from South Carolina, [Mr. ORR,] to lay upon the table the resolution introduced by the gentleman from Virginia, [Mr. BAYLY,] to close debate on the French spoliation bill.

Mr. ORR. I propose to withdraw the motion to lay on the table the resolution to close debate on the French spoliation bill, with the view of offering an amendment to terminate the debate to-morrow at three o'clock. If that amendment should not be adopted by the friends of the bill, and they insist upon closing the debate to-day, I will then renew my motion to lay the resolution upon the table. I hope, however, that the friends of the bill will give us till three o'clock to-morrow to discuss the question.

Mr. JONES, of Tennessee. I hope that the House will give the gentleman from South Carolina [Mr. ORR,] permission to add to his amendment a proviso, that, in discussing this question, members shall confine themselves to the merits of the bill under consideration.

Mr. ORR. I have no objection to such an amendment.

Mr. HOUSTON. To accomplish the object of the gentleman from Tennessee, I propose to offer the following resolution, and I hope there will be no objection to it:

Resolved, That, for the remainder of the present session, all debate in the Committee of the Whole House on the state of the Union shall be confined strictly to the question under consideration, unless during such evening sessions as a majority of said committee may order for the exclusive purpose of general debate.

Several members objected.

Mr. HOUSTON. Will it be in order as an amendment to the resolution of the gentleman from South Carolina, [Mr. ORR?]

The SPEAKER. It will not be in order.

Mr. FLORENCE. I desire to say, as far as I can speak for the friends of the bill, that the proposition of the gentleman from South Carolina will entirely meet their approbation. They do not desire to stifle debate.

BILLS INTRODUCED.

Mr. ETHERIDGE, by unanimous consent, reported, from the Committee on Military Affairs, a joint resolution for the relief of James Hughes; which was read a first and second time by its title, and referred to a Committee of the Whole House on the Private Calendar.

Mr. CLARK asked and obtained the unanimous consent of the House to introduce bills; which were read the first and second time by their titles, as follows, and referred to the Committee on Commerce:

An act making an appropriation for the improvement of the harbor of New Buffalo, Michigan;

An act making an appropriation for the improvement of the harbor at the mouth of South Black river, Michigan;

An act making an appropriation for the improvement at the mouth of the Muskegan river, Michigan;

An act making an appropriation for the improvement of the harbor at the mouth of Grand river, Michigan;

An act making an appropriation for the improvement of the harbor of Black lake, Michigan; and

An act making an appropriation for the improvement of the harbor of St. Joseph, Michigan.

Mr. PHELPS asked and obtained leave of the House to introduce a bill "for the relief of James Poole;" which was read the first and second time by its title, referred to the Committee of Claims, and ordered to be printed.

FRENCH SPOLIATION BILL.

Mr. WARREN. I rise to a privileged question. I demand the regular order of business.

The SPEAKER. The regular order of business is called for, and the question first to be taken, is upon agreeing to the amendment of the gentleman from South Carolina [Mr. ORR] to the resolution of the gentleman from Virginia, [Mr. BAYLY,] to close debate upon the French spoliation bill.

Mr. ORR. Was there any objection to the suggestion of the gentleman from Tennessee, [Mr. JONES,] that the debate should be restricted exclusively to the question under consideration?

Mr. HUNT. No question was taken upon it.

The SPEAKER. Is there any objection to the modification of the gentleman from Tennessee, [Mr. JONES,] that, upon the particular bill under consideration, the debate shall be confined exclusively to its merits?

Mr. HUNT. I object. We want an unrestricted debate.

Mr. JONES, of Tennessee. I then move to amend the amendment of the gentleman from South Carolina by inserting one o'clock to-morrow as the time for closing the debate, so as to give the gentleman from Virginia [Mr. BAYLY] time to make his speech after the debate is closed, and dispose of the bill to-morrow.

Mr. ORR. If the amendment of the gentleman from Tennessee should be adopted, I intend to defeat the resolution by moving to lay it upon the table, or in any parliamentary way that I can.

Mr. CHANDLER. I would ask the gentleman from South Carolina whether it would not be well to delay his proposition until the gentleman who has charge of this bill shall be in his seat? The friends of the bill have no desire to stifle debate.

Mr. ORR. I would say to the gentleman from Pennsylvania that the Speaker announced, as the regular order of business, the consideration of this resolution. It is the first business in order, and must be first disposed of.

The question was taken upon Mr. JONES's amendment to the amendment of Mr. ORR; and it was not agreed to.

Mr. JONES, of Tennessee. I now move to insert two o'clock, in place of three o'clock.

The question was taken; and the motion was not agreed to.

The question was then put upon Mr. ORR's amendment; and it was agreed to.

The question then recurring upon the amendment of Mr. BAYLY, as amended, it was put; and decided in the affirmative.

So the House determined to close debate at three o'clock to-morrow.

Mr. ORR moved to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. WARREN. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HOUSTON. Let us do the morning work first.

Mr. LETCHER. I rise to a question of privilege. My question of privilege is the matter introduced by me a week ago, in reference to evidence before the Colt investigating committee, and which matter I have delayed calling up, in deference to the wishes of others, from time to time, until I feel that, in duty to the committee, of which I am only representative here, I can delay no longer.

The SPEAKER. If the House refuses to go into the Committee of the Whole on the state of the Union, the gentleman's question of privilege will be in place.

Mr. KERR. I call for tellers upon the motion to go into committee.

Mr. JONES, of Tennessee. I call for the yeas and nays.

The yeas and nays were not ordered.

Tellers were then ordered; and Messrs. WHEELER, and JONES of Pennsylvania, were appointed.

Mr. LETCHER. To avoid all difficulty about

the matter, I withdraw my application now, and give notice that on Friday morning I will call it up.

The question was then taken; and the tellers reported—ayes 89, noes 39.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SEYMOUR in the chair.)

The CHAIRMAN. When the committee was last in session, it had under consideration the French spoliation bill, and had come to no resolution thereon. The gentleman from Virginia is entitled to the floor.

Mr. LETCHER. Mr. Chairman, I do not propose to make a speech at this time. I shall content myself to say what I have to say at some other stage of the debate. I surrender the floor now to one who can occupy it more usefully than I can—the distinguished gentleman from Missouri, [Mr. BENTON.]

Mr. BENTON then addressed the committee during an hour, in opposition to the bill. [His remarks, withheld for revision, will be found in the Appendix.]

Mr. DISNEY addressed the committee in favor of the bill. [His remarks, withheld for revision, will be found in the Appendix.]

Mr. CHAMBERLAIN. I would inquire whether the general discussion of this question was limited, this morning, before the House resolved itself into the Committee of the Whole on the state of the Union?

The CHAIRMAN. It is to close at three o'clock to-morrow.

Mr. CHAMBERLAIN then made an hour's speech against tendering to the Powers engaged in the European war the mediation of the United States. He desired our Government to confine itself within the limits of its own legitimate sphere of action, and not only to let other people alone, but to let its own people alone also.

[This speech will be found in the Appendix.]

Mr. ORR. I now move to amend the bill by striking out the first section.

Mr. HAMILTON. I was going to suggest to the gentleman from South Carolina that he might yield the floor for the purpose of a motion that the committee do now rise.

Mr. ORR. I should do so, but the gentleman from Massachusetts [Mr. GOODRICH] desires I should leave the floor to him for a moment, which I do.

Mr. GOODRICH. I desire to ask the permission of the committee—and I know they will grant it, because it will save time—to publish some remarks which I have prepared on another subject. I should not think of occupying the time of the committee on any other subject than that before it; for I know the great interest that is felt in it. I desire to present some calculations, together with some remarks, on the subject of our revenue laws, in connection with the tariff. My attention was called to this subject by seeing that a resolution was passed in the caucus of members of Congress some time ago. I simply ask the permission of the House to publish what I have prepared.

[Cries of "Agreed!" "Agreed!"]

[The speech of Mr. G. will be found in the Appendix.]

Mr. GOODRICH. I move now that the committee do rise.

Mr. ORR. I yield the floor for that purpose.

Mr. SMITH, of Virginia. I would suggest that there are several gentlemen in the House who wish to speak on this bill; and they should have an opportunity of doing so.

Mr. ORR. I should consider it an act of courtesy upon the part of the committee to allow me to proceed with my remarks in the morning.

Mr. HENN. Is it in order to modify the motion that the committee rise, so that other gentlemen may speak this evening, and the gentleman from South Carolina [Mr. ORR] speak in the morning.

The CHAIRMAN. It is not in order.

The question was then taken; and it was decided in the affirmative.

So the committee rose; and the Speaker having resumed the chair, the Chairman of the committee reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and especially Senate bill No. 117, commonly called the French spoliation bill, and had come to no resolution thereon.

Mr. SMITH, of Virginia. As it is understood that several gentlemen wish to speak upon the French spoliation bill, I move that when we adjourn to-day, we adjourn till to-morrow at eleven o'clock.

Mr. SOLLERS. I object.

Mr. SMITH, of Virginia. I move that when the House adjourns, it adjourn to meet to-morrow at eleven o'clock.

Mr. HENN. I object.

CORRECTION.

Mr. SHAW. During the vote upon the Pacific railroad bill, yesterday, at the request of the gentleman from Ohio, [Mr. GREEN,] I stated that he was detained in his room in consequence of indisposition. Upon recurring to the proceedings of yesterday, in this morning's Globe, I find that I am reported as having made such an excuse for Mr. WADE, of Ohio. I simply state the fact, that the proper correction may be made.

On motion by Mr. KEITT, by the unanimous consent of the House, Senate bill (No. 523) "to establish a court for the investigation of claims against the United States," was taken from the Speaker's table, read the first and second time by its title, and referred to the Committee on the Judiciary.

On motion by Mr. HAMILTON, the House then adjourned, at twenty minutes past three o'clock, till to-morrow at twelve o'clock, m.

IN SENATE.

THURSDAY, *January* 25, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

The PRESIDENT *pro tempore* appointed Mr. REID to fill the vacancy in the Committee on the District of Columbia, caused by the death of Mr. Norris.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a report from the Secretary of the Interior asking, certain appropriations for the payment of the Cherokee Indians; which was referred to the Committee on Finance, and ordered to be printed.

Also, a message from the President of the United States, transmitting a report of the Secretary of the Interior and of the Postmaster General, together with accompanying documents, communicating what has been done in execution of the act of Congress of August 2, 1854, entitled "An act to provide for the accommodation of the courts of the United States in the district of Massachusetts, and in the cities of New York and Philadelphia." The President, in his message, states that he has deemed it best, under the circumstances, not to enter into any contracts for the purchase of sites, but to submit all proposals, made in response to public advertisement for several weeks in the principal newspapers in each of the cities designated, to Congress, for such action as it may deem proper to take in fulfillment of the original design of the law.

On motion by Mr. BRODHEAD, the message, with the accompanying documents, was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

PETITIONS, ETC.

Mr. SEWARD presented the petition of N. Westcott and others, citizens of the State of New York, in behalf of Gabriel Denton, an officer in the last war with Great Britain, praying that he may be placed upon the pension list; which was referred to the Committee on Pensions.

Also, a memorial of inhabitants of East Pembroke, New York, praying the immediate passage of the homestead bill; which was ordered to lie on the table.

Mr. ROCKWELL presented the petition of Huldah Butler, daughter and heir of Colonel John Brown, who was killed in battle in the revolutionary war, praying to be allowed half-pay commutation; which was referred to the Committee on Revolutionary Claims.

Mr. SUMNER presented two petitions of citizens of Delaware, praying the mediation of the United States between the different contending Powers in the war now waging in Europe; which were referred to the Committee on Foreign Relations.

Also, two petitions of citizens of Delaware, praying the reduction of the rates of ocean postage; which were referred to the Committee on the Post Office and Post Roads.

Mr. COOPER presented the memorial of T. B. Tilden, praying the purchase, by the Senate, of the new edition of Mitchell's Universal Atlas; which was referred to the Committee on the Library.

Mr. PRATT. I desire to present the petition of the heirs-at-law of James Harper, who represent that their father was a brigade quartermaster in the Virginia line of the revolutionary army; and that the State of Virginia issued to him scrip to the amount of five thousand three hundred and thirty-three acres. They complain that the Department here has curtailed the amount by one half. They suppose themselves to be entitled to the whole amount of scrip issued to their ancestor by the State of Virginia; and they therefore ask relief from Congress. I move that the petition be referred to the Committee on Public Lands.

The motion was agreed to.

JOHN T. WATMOUGH.

Mr. CLAYTON. I have been honored, sir, by the request of John T. Watmough, to present his memorial to the Senate of the United States, asking for the continuance of his pension, granted to him in consideration of severe wounds received in the last war with Great Britain, and particularly the wounds received at the storming of Fort Erie. I do not present this as an ordinary case, but as an extraordinary one. This gentleman, many years ago, served in Congress, in the other House. While I was a member of this body, I became well acquainted with him, and I have seen one of the wounds that was inflicted upon him by the British at the storming of Fort Erie. To give the Committee on Pensions, to whom I am about to move to refer this petition, and the Senate, some just idea of the services and sufferings of this gentleman, I will read a part of a report of General Gaines, who was his commander, and who certifies, in the strongest language, to his merits as an officer and a soldier. Describing the storming of Fort Erie, and the terrible battle which occurred in the night, he says in the end of his report:

"It was near four o'clock—and *daylight*, which of all things was then most desirable, was just beginning to dawn upon the contending forces—when Watmough, having partially recovered from the blow of a handspike, by which he had been knocked down in the assault on the half bastion, finding near it a six-pounder that had been silenced by the fall of a part of its gunners, loaded and opened a fire upon the enemy, then very near him. In this renewed effort he was soon cut off by a ball through his breast, from the last fire of the enemy's musketry. About this time the platform of the half bastion was blown up, and the enemy's columns that had been drawn up before it were driven back, and hastily retreated. The whole of his right wing had been forced to retreat more than half an hour previous to this explosion. I soon after found Watmough weltering in his blood, and though, to all appearances, mortally wounded, he still retained his senses and self possession, notwithstanding it was evident that an ounce ball had passed through him, within an inch or two of his heart. He soon after gave me a detailed account of the occurrences of the assault on the half bastion, which corroborated the account given me by our beloved Williams, within the few hours in which he languished after the battle, and before his death, during the greater part of which he also retained his senses."

I shall send this report of General Gaines, with the memorial, to the Chair; and I move that the report and the memorial be referred to the Committee on Pensions; and I hope that committee will act speedily upon the subject, so that this gentleman—one of the most meritorious of all the soldiers and officers of the war of 1812—may receive some support, now much needed by him, from the Government of his country in his declining years.

The memorial was referred to the Committee on Pensions.

REPORTS FROM STANDING COMMITTEES.

Mr. ALLEN, from the Committee on Pensions, to whom was referred the petition of Harriet H. Saunders, widow of Camillus Saunders, an officer of the United States revenue cutter service, who was lost on board the cutter Hamilton, praying a pension, and the petition of Jane M. Rudulph, praying a pension, submitted an adverse report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Emily L. Slaughter, widow of Commodore Slaughter, of the Navy, praying a pension, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was recommitted an adverse report of the Committee on Pensions, on the petition of John Brown, praying back pension, to commence from the time he was disabled in the last war with Great Britain, submitted an adverse report thereon; which was ordered to be printed.

Mr. JONES, of Iowa, from the Committee on Pensions, to whom was referred the petition of Margaret C. Hanson, widow of Weightman K. Hanson, an officer of the Army, who died of disease contracted in the service, praying that her pension may be made to commence from the day of the death of her husband, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of George Felker, praying that the children of George Felker, his father, may be paid the amount of pension due him at the time of his death, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of the heirs-at-law of Captain William Underwood, a soldier of the revolutionary war, praying an increase of pension, asked to be discharged from its further consideration, and that the petitioners have leave to withdraw their petition and papers, on the ground that the Commissioner of Pensions has informed the committee that the case can be adjusted at his office, if application be made to him.

The report was concurred in.

Mr. SEWARD, from the Committee on Pensions, to whom was referred the petition of Oakley H. Wright, praying a pension in consideration of his services in the Navy in the Tripolitan war, and bounty land for services as a soldier in the last war with Great Britain, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill from the House of Representatives for the relief of Jeptha L. Heminger, reported it back without amendment. He also submitted a report on the subject; which was ordered to be printed.

Mr. STUART, from the Committee on Commerce, to whom was referred the petition of Jeremiah Moors, praying compensation for services performed and losses sustained in the construction of a light-house on Big Thunder Bay Island, in Lake Huron, submitted a report, accompanied by a bill for his relief; which was read, and passed to a second reading. The report was ordered to be printed.

Mr. FOOT, from the Committee on Public Lands, to whom was referred the petition of Susan Palmer, widow of Junius B. Palmer, an officer of the New York volunteers, in the last war with Great Britain, praying to be allowed bounty land, submitted a report, accompanied by a bill granting bounty land to Susan Palmer; which was read, and passed to a second reading. The report was ordered to be printed.

THOMAS MARSTON TAYLOR.

Mr. FISH. The committee of conference on the disagreeing votes of the two Houses on the bill of the Senate for the relief of Thomas Marston Taylor, have instructed me to make a report, recommending that the Senate recede from its disagreement to the amendment of the House. As the papers in the case are in the House, I ask for no action on the report at present, but that it lie on the table.

The PRESIDENT. That course will be pursued.

BOUNTY LAND BILL.

Mr. WELLER. I move to reconsider the vote by which the amendment moved on the day before yesterday to the bounty land bill, by the Senator from North Carolina, [Mr. BADGER,] was agreed to. I do not ask that the motion shall be considered now. I simply desire that the motion be entered upon the Journal. I make the motion to-day because it is the last day on which the reconsideration can be moved.

The PRESIDENT. The motion will be entered.

Mr. BRODHEAD. As my friend from California has moved a reconsideration of that vote, I give notice to the Senate that, at the earliest practicable moment, I shall move to take up the bounty land bill.

NAVIGATION OF THE OHIO.

Mr. CHASE asked and obtained the unanimous consent of the Senate to introduce a bill to provide for the improvement of the navigation of the Ohio river; which was read twice by its title, and, on motion by Mr. CHASE, made the special order of the day for Monday next, when it is expected the other bills for river and harbor improvement will be considered.

CONVICT AND PAUPER IMMIGRATION.

On motion by Mr. COOPER, the Senate proceeded to consider the following resolutions, submitted by him on the 23d instant:

"*Resolved*, That the President of the United States be, and he is hereby, respectfully requested to cause the Secretary of State and the Secretary of the Treasury, respectively, to communicate to the Senate such information as may be contained in their several Departments, relating to the transportation of convicts and paupers into the United States from foreign countries, and what agency the Governments to which they belong have had in sending them hither. Also, such information as they may possess relative to the voluntary immigration into the United States of the above classes, the numbers of each that have arrived here within the last two years, whether voluntary or through the compulsory agency of their respective Governments.

"*Resolved*, That the Committee on the Judiciary be, and the same is hereby, instructed to inquire what legislation, if any, be necessary to prevent the Governments of foreign countries from transporting into the United States convicts and paupers. Also, whether any, and what, legislation is necessary to prevent the voluntary immigration into the United States from foreign countries of either of the above classes of persons."

Mr. COOPER. Mr. President, my object in presenting the resolutions which have just been read is to obtain, in the first place, such authentic information from the Departments of State and of the Treasury as may be in their possession, relative to the number of foreign convicts and paupers arriving annually in the United States, either voluntarily or through the compulsory agency of the Governments to which they belong; and, in the second place, to procure, if possible, such legislation as will prevent the country from becoming the asylum and refuge of thieves, burglars, and paupers sent from abroad.

I presume, Mr. President, Senators are aware that a policy, which scarcely seeks concealment, prevails amongst several of the States of continental Europe, in virtue of which, convicted and unconvicted criminals and paupers are transported to the United States, at the expense, and by the direction of their Governments. This policy, which is as unjust as it is unfriendly, should be put an end to by legislation, if it cannot be accomplished by negotiation. Nations in amity with us have no right to make of the United States a penal colony; yet they are becoming so, by the toleration with which our Government has regarded the practice of sending hither paupers and felons. There is scarcely an emigrant ship which arrives in our ports that is not, to some extent, freighted with this kind of cargo. This has long been an evil; but latterly it has increased in magnitude, and to such an extent as to be justly regarded with alarm. But a month or two since, a single vessel landed in New York one hundred and fifty paupers, and fifteen or sixteen convicts, wearing, as the badges of their conviction, chains upon their limbs. More recently, another vessel, freighted with a similar cargo, was wrecked on Sable Island, from whence the passengers were carried to Halifax, and from Halifax were brought to New York, by the way of Boston. By an affidavit made by one of these passengers, it appears that they are natives of Switzerland, who, being unable to support themselves at home, were sent hither at the expense of the municipality to which they belonged. The following is the affidavit:

"*City and County of New York*, ss.: We, the undersigned, being duly sworn, do depose and say out, that we and our families, whose number is correctly taken down opposite to our names, on the foot of this affidavit, are natives of Switzerland; that they were poor in their own country and could not support themselves there any longer; that therefore the mayor of their village has paid their passage money direct to New York, and that therefore their passage money has not been paid by these deponents; that they embarked at Antwerp on board the ship Arcadia, which vessel was intended for New York, but wrecked at Sable Island; that they sailed from Boston on board the passenger steamboat State of Maine, and arrived in the port of New York on board the said steamer on the 2d day of January, 1855; that they are now quite destitute and without any means for support, except from commissioners of emigration; and further they do not say.

[Here follow signatures.]

"Sworn before me this tenth day of January, 1855.

"EDWARD CASSERLY,
Commissioner of Deeds."

But it is not only thriftless paupers who are sent hither to add to the burden of our poor laws, and stand between native misfortune and the relief provided for it by charity. Felons, convicts, deep-dyed in crime, are sent to this country by their Governments. Lately, the Sardinian Government shipped to New York, on board a national vessel, (the Degennes man-of-war,) thirty-four convicted criminals. Whether they have yet arrived, I am not able to say. But that they were shipped for the port of New York there is no doubt. The Tribune has the following paragraph in relation to the subject:

"Information has been received here, from a private source worthy of the highest confidence, to the effect that the thirty-four persons in question are not mere political offenders, but are convicted criminals of the most dangerous description, taken from the prisons of that country."

It is a common practice in several of the States of continental Europe to auction off to the lowest bidder, to the person who will bring them hither cheapest, their paupers, and, in some instances, the inmates of their prisons and penitentiaries. Agents of the great passenger lines of packet ships are maintained in these States for the purpose of making arrangements with the municipal authorities of the various towns, for the removal of their paupers to Antwerp, Bremen, Havre, or other sea-port towns, with a view to their transportation to the United States. In England, or rather Ireland, a similar system is pursued; and Miss Dix, amiable, benevolent, and philanthropic, as she has proved herself to be, by a life of devotion to the interests of suffering and unfortunate humanity, writes to her friends in this country from Ireland, where she is now sojourning, in terms of indignation, excited by witnessing the practices of the English Government, in pouring upon our shores the polluted population of their hospitals, alms-houses, and prisons.

Mr. President, it is time that a stop should be put to these practices on the part of the Governments of Europe. If it cannot be effected by negotiation, surely we have the power to do it by legislation. The inherent right of every community to protect itself against the contagion of vice and crime, as well as of disease, will hardly be questioned. We have our quarantine laws to protect us against the introduction of small-pox, cholera, and other kinds of pestilence; and these laws we enforce even to the detriment of commerce. But hitherto we have neglected to guard ourselves against a more destructive pestilence than small-pox or cholera. While our sea-ports and the gates of our cities and towns have been closed against the contagion of disease, they have been opened wide to admit the more fatal contagion which is flowing upon us, in the shape of pauperism and crime, from the prisons and lazar-houses of Europe. We dread fever and the plague, and endeavor to exclude them, while "the pestilence which walketh in darkness and blighteth at mid-day," has been suffered to enter without let or hindrance. It is time we should open our eyes and look the evil in the face; we should examine our prison and alms-house statistics, and provide a remedy, cost what it may.

An insult to our flag, by a failure to salute it with the required number of guns, a refusal to indemnify a citizen for a wrong committed on his person or property, or the neglect of some point of national etiquette by a foreign Government, is always followed by a demand for explanation and apology; and if explanation be denied, our national pride takes fire, and war, *ultima ratio regum*, the last argument of Kings, is immediately threatened. But against emptying upon us the contents of hospitals, and houses of refuge, and prisons, we have nothing to object; we are tamely acquiescent, for fear that opposition might be construed into hostility to other classes of immigrant foreigners, whose votes may be esteemed necessary to the success of this party or that. Operated on by motives so unworthy and unmanly, American statesmen and legislators have stood by, with folded arms, and permitted the fairest heritage that Heaven has ever vouchsafed to a people to be overrun by the inmates of foreign prisons, and the corrupted and impoverished hordes of foreign

capitals. I am willing that this country should continue to be the asylum of the oppressed of every land, that out of its abundance the virtuous needy should be fed as heretofore; that in its institutions, they should find protection for person and property. But, Mr. President, the time has come when the door of admission should be closed forever against all settled and legalized paupers, and all persons convicted or suspected of crime, who shall be sent hither through the agency of their respective Governments. If a stop be not speedily put to this kind of immigration, the fountains of public morality will be corrupted, and the public safety compromised. Can it be otherwise, when those who are brought here are the vicious, the turbulent conspirators against order, pickpockets, thieves, burglers, and murderers? These people are the stuff of which mobs are made; they are the class which invade the purity of the ballot-box, and interfere with the elective franchise.

In the great cities of the Republic, in New York, Philadelphia, Boston, Baltimore, St. Louis, and New Orleans, the evils which have grown out of the admission of these classes of immigrants have become gigantic—frightful. Not only have the irresolute and timid become alarmed at the magnitude of the mischief which threatens the public peace and endangers the public morals, but firm-minded and far-sighted statesmen have likewise seen and appreciated the imminence of the danger, and the necessity of prompt and energetic measures to arrest it. The Mayor of the city of New York refers to the subject in a late message to the aldermen and members of the common council, and has, also, addressed a communication on the same subject to the President of the United States. The following is an extract from his message:

"It has long been the practice of many Governments on the continent of Europe, to get rid of convicts and paupers by sending them to this country, and most generally to this port. The increase of crime here can be traced to this cause rather than to defect in the criminal laws or their administration. An examination of the criminal and pauper records, shows conclusively that it is but a small proportion of these unfortunates who are natives of this country. One of the very heaviest burdens we bear is the support of these people, even when considering the direct cost; but when estimating the evil influences upon society, and the contaminating effect upon all who come within the range of their depraved minds, it becomes a matter exceedingly serious, and demanding immediate and complete eradication. I know of no subject of more importance; certainly we have the power to protect this city against the landing of so vile an addition to our population; the health, as well as the life and property of the people for whom you legislate, requires some action at your hands. I am confident the General Government will listen to any representations from you relating to it, and interpose its national authority in our behalf. On the 2d instant, I made this grievance the subject of an official communication to the President of the United States."

By the extract from the message, which I have just now read, but a very few of the dangers and mischiefs to which the country is exposed from this class of immigrants have been adverted to. But it exhibits enough to lead to inquiry; and an inquiry into the poor and criminal statistics of the country is well calculated to startle the equanimity and alarm the apprehension of every Christian and patriot in the land. But before I proceed to call the attention of the Senate and country to the startling facts which these statistics exhibit, I desire to advert briefly to another mischief, not wholly, but, nevertheless, to some extent, the result of admitting into the country the idle and turbulent spirits sent hither in order to relieve their own Governments of their dangerous presence. I refer, Mr. President, to the practice now prevalent in the larger cities, of organizing volunteer companies and battalions composed wholly of foreigners, bearing foreign names, wearing foreign uniforms, and parading under foreign colors. In New York, Boston, and elsewhere, you hear of German Yagers, French Chasseurs, Irish Greens, Swiss Guards, &c.; and I am informed that in the first named city there is a brigade composed entirely of Irishmen, and called the Irish brigade. Now, sir, this is all wrong, and would be tolerated by no other Government on the face of the earth.

When, by the liberal character of our institutions, and the blessings and advantages which our laws confer, the subjects of other Governments were invited to our shores, it was never intended they should enter into separate organizations, civil or military, or cultivate an *esprit de corps* amongst themselves, calculated to leave them foreigners in feeling and in habits, though dwelling in our midst, and owing allegiance to our laws. Naturalized foreigners should renounce all allegiance to their former Governments, both in substance and in form, and identify themselves with the country of their adoption in the most unreserved manner. Let them, if they please, unite with our volunteer and militia organizations for the purpose of acquiring a knowledge of the use of arms; but let them beware of forming separate organizations, by which jealousy may be excited, and doubts of their attachment to their adopted country, and its people, created. Such organizations of naturalized citizens, officered by foreigners in strange dress, and mustering under strange flags, will never be tolerated by the mass of the American people. Their own banner—the glorious stars and stripes—borne over their own and their fathers' heads, both by land and sea, on many a bloody day, is, with them, a holy emblem—holy as the Ark of the Covenant to the Israelites of old, and associated with memories that consecrate it in every American heart. No heraldic blazonry, no matter how ancient, no matter who may have borne it, or over what fields of deathless renown it may have floated in triumph, can ever be compared, in our eyes, with the simple "stars and stripes." To raise another is to destroy the idea of unity which it represents, to intimate a doubt of its perpetuity, and manifest a preference that is repulsive to every feeling of our hearts. Foreigners, therefore, who have renounced their allegiance to Kings, and made themselves sharers with us in the heritage of liberty and all its concomitant advantages and blessings, should cast behind them the insignia of tyranny and rally with their native brethren in hearty accord, under the banner of freedom—the starry flag of the Republic. If they be Americans in heart, it will cost them nothing to organize, and if need be to fight and die beneath its folds. This flag has waved over the heads of heroes; and though it was ridiculed but a few years since, as a piece of "striped bunting," it now floats in every sea, in proud equality with the tri-color of France and the St. George of England; its shadow affording protection to those who have a right to claim it, in every quarter of the globe. Why, then, should naturalized citizens apparently repudiate it, by raising another? And why above all, organize separately, when duty and sound policy alike urge them to make their fellowship with us perfect by unity of action in every possible case? If they have brought with them feelings of attachment to their native land, let them cherish them in their hearts, for such feelings are amiable and exist in every generous bosom. No one will find fault with them for indulging in memories which carry them back to the homes of their childhood; and no one will complain, even if they should confess, that there are things and places dear to their hearts, in the land they have left. All we ask of them is, that having been received as brethren, they should conduct themselves as such, and not as rivals or enemies.

It may be alleged, Mr. President, that these people are none the less attached to our institutions because they have formed military associations, with a view to qualify themselves to defend and uphold them. I do not charge them with a want of devotion to our institutions. I have only complained that they have formed separate organizations; that they have not, as both policy and safety require, associated with them native-born citizens; that these separate organizations are calculated to excite jealousy; and that between these foreign organizations and similar native organizations there is danger of collision, and of such a character as is frightful to contemplate. If, instead of being formed of foreigners alone, these companies and battalions had been composed of something like equal proportions of natives and foreigners, the danger that is to be apprehended would cease to exist, or exist only in a modified form. From these organizations there is nothing to be gained, even by those who compose them. On the contrary, the suspicion and jealousy which they excite operate to their disadvantage. And here, Mr. President, allow me to say, that, while I have not questioned the patriotism of the mass of those who compose these military organizations, I think there is reason to believe that many of the individuals belonging to them are desperate characters, who would not greatly deplore such a collision, as is not improbable in the present excited state of the public mind. The great mass of their own countrymen—those who come here, in good faith, to seek a livelihood and a home, are seldom found connected with these associations as members. Engaged in subduing the wilderness of the far West, or pursuing their avocations in the cities and towns, they have neither time nor disposition to unite with them. But too generally, if the testimony on the subject is to be believed, they are composed of the idle and dissolute, of those who, fond of the excitement of military shows, have no fixed purpose in view, while the number of the substantial men of business, whose thrift would be a guarantee for the preservation of order, is comparatively small. Under these circumstances, it is time that steps were taken to correct the evil.

I am aware, Mr. President, that it is not fully within the constitutional competency of Congress or of the General Government, to provide what might be regarded as an adequate remedy for the mischiefs but too likely to grow out of these organizations. The President of the United States has but a modified control over the volunteers and other militia of the several States. To the States, therefore, and the Governors of the States, it belongs to remedy the presently existing evil. But Congress, also, has a duty to perform in reference to this subject, by providing, as far as possible, against the admission into the country of those dangerous and desperate men who come here from foreign work-houses and prisons by the compulsory agency of the Governments to which they belong. If an adequate security against the future transportation of this class of men into the country cannot be provided by negotiation, it should be done by legislation. Congress has the power to make such regulations as will effectually close the door against the admission of this class of immigrants; and it will be recreant to one of its highest duties if it should fail to exercise it. Not only is the corruption of the public morals to be apprehended from the admission of these men, but the public peace and security are likewise endangered by it. Private property, health, life, morals, reputation, everything dear to communities and individuals, is endangered by receiving this class of men. The evil is not a new one, it is true; but it is frightfully on the increase. A number of years ago, during the period, I am informed, that General Samuel Smith was Mayor of the city of Baltimore, a ship-load of Hessian convicts, two hundred and sixty in number, were brought into port, with manacles and fetters still remaining on their hands and feet. General Smith, having discovered the character of the passengers, detained the vessel at Fort McHenry until he could communicate with the Secretary of State, at Washington, on the subject, which he did. By the latter, however, he was informed that there was no remedy—there being no law to prevent their landing; and so the citizens of Baltimore were obliged to look on and see two hundred and sixty convicts landed in their midst, and turned loose upon society. So desperate, too, was the character of these men, according to my informant, that they had to be brought over in chains, and were actually landed with their handcuffs and fetters upon them.

Lately (so lately that they have probably not yet arrived) the Sardinian Government, as I have already stated, sent over, in a national vessel, (the Degennes, man-of-war,) thirty or forty convicts, men of desperate fortunes and lives; old convicts, who will here become schoolmasters of vice and learned professors of crime. Is it not time, Mr. President, in view of such facts as these, that the most vigorous measures should be adopted to prevent the country from becoming a mere penal colony of the Governments of Europe? Hating our institutions, and jealous of the unexampled progress of the nation in wealth, power, and greatness, yet afraid to assail us openly, does not their conduct, in this respect, almost look as if it were the result of a determination on their part to corrupt the fountains of our prosperity by sapping the morals of our people. For a far less offense than that which is continually being committed against us by the Governments of continental Europe, war would be justifiable. But to this extremity we need not proceed. There are other remedial means less costly, and more effectual, if not to punish the offending Governments, at least to prevent the recurrence of the offense; and to

these we must have resort if we would stay the flood of pauperism and crime flowing in upon us from the Old World.

And who, Mr. President, permit me to ask, will resist the attempt, or be offended at its success? Will the honest foreigner—who comes, *bona fide*, to escape oppression at home and enjoy liberty here—object because we refuse to permit the asylum which he has sought as a home for himself and his children to become the refuge of thieves, and murderers, or the thriftless inmates of European work-houses? Our advantage, and the advantage of our children, will be his advantage, and the advantage of his children, from generation to generation. Him, therefore, we cannot offend by pursuing the course which the national safety demands. Who, then, will complain? It is easy to answer: Those whom we shall offend—the unfeeling, but calculating despots who send hither, by compulsion, the wretched and miserable inmates of their alms-houses and hospitals, reduced to poverty and want, and afflicted by disease in consequence of the burdens and hardships occasioned by unjust wars, waged for conquest or to gratify pride. They will complain, (but not openly,) because, instead of fifty shillings paid per head for transporting paupers to this country, treble that sum will be required to maintain them at home. Another class may also object to the measures which we may take for our own security—I mean the convicts and felons, who will be left to expiate their crimes in the solitude of native prisons, instead of pursuing a career of prosperous villany here, because their rulers will not dare to turn them loose at home, though willing to do it here.

I now beg leave, briefly, to call attention to the state of pauperism and crime in the United States, as disclosed by the census, prison discipline societies, and other similar associations. And first, I refer to pauperism as it existed in 1850.

The foreign population of the United States, in 1850, as compared to the native, was nearly as one to ten, there being 21,947,274 natives, and 2,244,602 foreigners. The whole number of paupers supported, wholly or partially, in the last mentioned year, was 134,792; and of this number, 68,538 were of foreign birth, leaving but 66,434 natives.

In 1850 the number of paupers supported in the poor-houses of Massachusetts, and who received partial support out of doors, was 15,777; and of this number 6,530 were native, and 9,247 foreigners. In New York the whole number was 59,855; and of this 19,275 were natives, and 40,580 foreigners. In Pennsylvania the whole number was 11,551; and of this 5,898 were natives, and 5,635 foreigners. In Rhode Island, the whole number was 2,560; and of this 1,115 were native, and 1,445 foreigners.

I shall pursue these statistics of pauperism no further, being compelled to turn to a calendar of crime absolutely sickening in its details. And I shall first call attention to the number of criminals who were convicted by the courts of several States in 1850. In Connecticut the whole number of convictions was 850; and of these, 545 were natives, and 305 foreigners. In Illinois the whole number convicted was 316; and of these 127 were natives, and 189 foreigners. In Maine the whole number convicted was 744; and of these 284 were natives, and 460 foreigners. In Massachusetts the whole number was 7,250; and of these 3,336 were natives, and 3,884 foreigners. In Missouri there were 908 convictions; and of these 242 were natives, and 666 foreigners. In New York the number of convictions was 10,279; and of these 3,962 were natives, and 6,317 foreigners. In Pennsylvania the number of convictions was 857; and of these 594 were natives, and 293 foreigners. In Vermont the number convicted was 79, of whom 34 were natives, and 45 foreigners.

By a table published in the Compendium of the Seventh Census, giving the number of convicts in the prisons and penitentiaries of the several States, out of every ten thousand of the population, the proportion of natives and foreigners in that number is as follows:

In Maine, out of every ten thousand, is five foreigners to one native. In Kentucky, six to one. In Mississippi, ten to two. In New York, three to one. In Tennessee, fifteen to two. In Vermont, eight to one. In South Carolina, twenty-eight to one. In Alabama, fifty to one. In Georgia, six to one. In Indiana, four to one; and the average in all the States is a fraction less than six to one.

But it is in convictions for capital offenses that the proportion of foreign and native-born becomes startling. It is true, I have found no extended data from which to make the comparison. But out of two hundred and twenty convictions which took place, in about eighteen months, in seven States, viz., in New York, Pennsylvania, Missouri, Louisiana, New Jersey, Massachusetts, and Maryland, there were one hundred and thirty-eight of foreigners to eighty-two of natives. But our wonder at the magnitude of the proportion of foreigners to natives vanishes when we recollect that hundreds and thousands of convicts, from European work-houses and prisons, are annually landed on our shores. Trained to crime at home, and sent hither only because their presence endangers the peace and security of society in their native country, these men arrive here, in many instances, direct from prison, and consequently destitute of means of support. To obtain it, they betake themselves to their old courses; and not only do they commit crimes themselves, but lead those with whom they become acquainted on their voyage, and who are equally needy, into their perpetration. These facts account, to some extent, for the enormous disproportion between the amount of crime perpetrated by the native and foreign-born. But it is not only the convicts who are sent hither and their pupils, who figure so large in the dark calendar of crime. The paupers, who are brought here by the compulsory agency of their Governments, being thriftless at home, become criminals here. Idleness is too often the parent of vice, as well as of want. At home, in their own country, idleness begot want; and here, both together beget crime. Here, then, is another reason why the amount of crime committed by foreigners rises in such huge disproportion above the amount committed by natives.

I do not wish to be understood, Mr. President, by what I have said just now, that poverty or even declared pauperism furnishes evidence of guilt. By no means, sir, would I be so understood. I am aware that in European countries, especially, there are so many clogs to industry, so many burdens to be borne, and so much precariousness in the means of procuring a livelihood, that the honest and virtuous, as well as the idle and vicious, often fail in doing it. In those countries where every hour of the laborer's time is required to provide a scanty subsistence for himself and his family, a visitation of providence, afflicting him with disease, may render him destitute, and compel him to seek the aid of public charity, or see his family starve before his eyes. Here, where wages remunerate better, though disease and affliction should overtake the laborer, restoration to health may restore him to the possession of competence; but there, in the countries to which I have referred, if the laborer should get behind hand but for a month, or even a week, he becomes a slave, and his life a struggle with want. For desiring to free himself from the hardships of his condition, and find a happier home and plenty in a land of plenty, no one can find fault. To such our doors have been always open, and against them, I trust, they will never be closed. Those who come to this country, fugitives from injustice and oppression, to cast in their lot and become one with us, will always find a welcome. It is not against the immigration into the country of such as these that objection is made. It is only against the admission of the turbulent, evil-doers, conspirators—not against thrones and throned oppression, but against society—that I object. Against the admission of these, and the admission of paupers, declared such by law, and sent to this country by the compulsory agency of the Governments to which they belong, I object in the name of the American people; and here to-day, in my place in the Senate, ask that measures may be taken to prevent it for the future. I ask this in the name of the naturalized as well as of the native citizens. I ask it in the name and on the behalf of all who have a stake in our institutions, of all who desire the preservation of social order, who value the purity of the public morals, the freedom of the elective franchise, and who are interested in transmitting to posterity unimpaired the heritage of liberty which our fathers left us. But the preservation of this heritage, glorious, beneficent, as it is, is impossible, if we permit it to be invaded by men, trained to vice in the work-houses and prisons of Europe, and sent here to propagate disorder and crime. This class of foreigners, taught at home to repudiate everything venerable in human institutions, have already raised the standard of Atheism and irreligion in our cities, and declared a war of extermination against the dogmas of every creed—against the faith which supported man in the past, and the hope which animates him for the future. If these apostles of vice and disorder are to be reinforced continually with fresh recruits from the prisons of the Old World, we will soon find that our statistics of crime will need revision; mobs, riots, murders will be multiplied; our courts of criminal jurisdiction must be increased in number, and our work-houses and penitentiaries require extension. It is to prevent all this, at least as far as it is possible, that I ask the interposition of Congress and of the State Legislatures within their respective spheres.

Mr. BRODHEAD. Mr. President, I desire to make a word of comment on the subject to which my honorable colleague has referred. I have listened with interest—as I always do—to his remarks, and my principal purpose was to ascertain what practical measure he proposed on this subject. It is much easier to make a speech on a subject of this kind than it is to introduce a bill which conforms to the Constitution. Now, sir, he has not told us in what mode he proposes to remedy the evil of which he complains.

Mr. COOPER. Will my colleague allow me to interrupt him?

Mr. BRODHEAD. Certainly.

Mr. COOPER. If my colleague had paid attention to what preceded my speech he would have known the practical intent of it. There was a resolution proposed by me, calling for information, and on that information I stated, in the course of my remarks, I expected action would be taken. I introduced two resolutions, one requesting the President, through the Departments of the State and Treasury, to furnish us with information; and another, asking the Judiciary Committee to act when such information should be received. Sir, my colleague has once or twice latterly, (once yesterday,) very ungraciously, as it seemed to me, referred to his colleague. He ought to be well enough acquainted with his colleague to know that he will not permit himself to be twitted or censured, for the mere purpose of being twitted and censured.

Mr. BRODHEAD. Mr. President, there is no occasion for any irritation of manner on the part of my colleague, or any language calculated to excite unkind feelings. I stated yesterday, that in delivering over the bounty land bill, I delivered it to my distinguished friend from Delaware, [Mr. CLAYTON,] aided by my honorable colleague and the accomplished gentleman from North Carolina, [Mr. BADGER.] They had succeeded in introducing amendments which, I thought, destroyed its purpose. I assure my colleague that I alluded to that fact in no unkind spirit.

Now, sir, I think there was nothing in the remark which I just made to cause any irritation of feeling or manner on the part of my colleague. He knows that he has a right to introduce a bill on this subject to remedy the evil of which he complains; and I wanted to know how, by such a bill, he could comply with the Constitution, and not interfere with State sovereignty. It is a subject over which I supposed the States had jurisdiction, and they have exerted it. Years ago they exerted it, and the authority has been sustained by the Supreme Court of the United States. In the State of New York every foreigner who comes there is taxed; every ship-owner that brings a cargo of foreigners must give security that they will not become paupers chargeable upon the city. Do not the States and local corporations sustain foreign poor? Then where is the jurisdiction in Congress? Congress has power to "establish a uniform rule of naturalization," and that is all. Hence it was that I wished to know what practical measure of relief my colleague had to propose. I am opposed as much as he is to the introduction of foreign paupers and criminals into the United States.

And now, Mr. President, since my honorable colleague has answered me in this spirit, I must be permitted to say that he is very late in the day in bringing forward this subject; for one month ago, on the motion of the honorable Senator from

Mississippi, [Mr. ADAMS,] the whole matter was referred to the Judiciary Committee. That Senator made a speech upon that occasion. The very subject-matter contained in the second resolution of my colleague is now pending before the Judiciary Committee, upon the remarks and bill of the honorable Senator from Mississippi, who especially directed their attention to the subject.

Mr. President, it must have been known to my colleague—it was known to me, it is known to almost all intelligent men in this country—that this species of improper immigration has been thrown upon our country; but how can we propose relief here? If he knows of any mode of relief, I should like to know why it was not brought forward here at an earlier day. I presume my colleague was embarrassed on this point, as I have been, because I do not know how to frame a bill which would not conflict with State authority, State rights, and State jurisdiction. All the Atlantic States have inspection laws, quarantine regulations, &c.

My honorable colleague has referred to improper associations of foreigners. He has condemned such associations; and I have nothing to say at this time in their defense, and, therefore, presume he will have no objections to accepting an additional resolution. One of his resolutions makes a call on the Departments; the other instructs the Judiciary Committee on the subject. As he has referred to improper associations, I will ask him to add the following as an additional resolution:

Resolved, That all secret organizations for political purposes are contrary to the genius of our institutions, and dangerous to the liberties of the people.

Mr. COOPER. You can offer it as an amendment.

Mr. BRODHEAD. I had hoped my colleague would have no objection to a resolution of that kind.

The PRESIDING OFFICER, (Mr. BENJAMIN.) The question is on the adoption of the amendment.

Mr. WELLER. Mr. President, I desire to move to amend the amendment which has just been proposed by the Senator from Pennsylvania, [Mr. BRODHEAD,] by adding to it the following resolutions:

Resolved, That in our system of Government, free speech and open discussion are essential, not only for the purpose of instructing the public mind, but also to secure a due responsibility to the people in regard to political action, and that all societies which deliberate and determine upon measures of public policy, secretly and apart from their fellow-citizens, pursue a course which must become dangerous in a popular Government, and will destroy, in the end, that fraternal feeling and sense of common interest so necessary amongst citizens of the same State or Confederacy.

Resolved, That the establishment of religious freedom in this country was one of the great objects of the Constitution of the United States, which provided no other qualification for office, in point of faith, than an oath to support that Constitution, which prescribes that "no religious test shall ever be required as a qualification to any office or public trust under the United States," and declares that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;" and any political combinations, therefore, which seek, in any manner, to attain the ends thus prohibited, through the elective franchise, violate the spirit, although they may evade the letter, of the Constitution as fully and completely as if the same objects were accomplished under the forms of law.

I submit these resolutions in addition to the resolutions offered by the Senator from Pennsylvania. I shall have accomplished my object if I can procure a vote of the Senate upon these principles. I do not desire to discuss them unless they meet with opposition; but if there be any Senator here who desires to take issue upon the principles enunciated in these resolutions, I shall be very glad to break a lance with him. I offer these resolutions for the consideration of the Senate, and upon their adoption I ask for the yeas and nays.

Mr. BRODHEAD. I accept the amendment of the Senator from California. Let us have a vote on it.

Mr. BAYARD. I do not purpose at all to discuss these resolutions. The first resolution offered by the honorable Senator from Pennsylvania [Mr. COOPER] is a resolution of inquiry. I have never known a resolution of inquiry to be objected to in this body. It is to obtain information in an official form, which we all of us may have attained, but probably imperfectly and partially, in a variety of modes, through newspapers and otherwise. I can see no possibility of obtaining the information in any other way. I do not presume to inquire into any object which the honorable Senator may have in seeking the information.

The second resolution, referring the subject to the Committee on the Judiciary is, in my judgment, evidently premature; because, until you obtain the information, I do not see what you have to refer for the purpose of legislative action; and it seems to me that the second ought not to be adopted. The other resolutions which have been introduced by the other Senator from Pennsylvania, [Mr. BRODHEAD,] and by the Senator from California, propound principles to which I fully assent; but it seems to me that we should not deal in abstractions here in the Senate, unless there be some object to be effected by them outside of the enunciation of abstractions. If so, the object ought to be declared; and we ought to know the effect those resolutions are expected to have. As to the propositions themselves, it seems to me we can all agree to them; but why are we called upon to vote on such abstractions now? Is there any measure before us which requires it? If not, on what principle should such resolutions be passed? And if they shall be appended to the first resolution of the honorable Senator from Pennsylvania, [Mr. COOPER,] which was a mere resolution of inquiry, for which, as such, I am perfectly willing to vote, I shall move to lay the whole subject on the table.

Mr. HUNTER. I move to postpone the prior orders, that we may take up the Army appropriation bill.

The PRESIDING OFFICER. What disposition shall be made of these resolutions? They are pending.

Mr. HUNTER. I move to postpone them. I include all prior orders in my motion.

Mr. CASS. I do not mean to interpose the slightest objection to that; but I wish to express the hope that as soon as the Army appropriation bill shall be disposed of, the Senate will take up the bills which are pending, to continue some of the most important improvements in the country. I do not oppose the proposition of the Senator from Virginia, but I hope we shall have an opportunity to dispose of the bills to which I have referred.

Mr. CLAYTON. I do not propose to interfere at all in the debate which has arisen on the resolutions presented by the Senator from Pennsylvania.

Mr. HUNTER. The motion before us is not on those resolutions, but on taking up the Army appropriation bill.

Mr. CLAYTON. The motion was to postpone the resolutions, and I have risen to debate that motion. An allusion was made to me, in common with two other gentlemen, by the Senator from Pennsylvania, [Mr. BRODHEAD,] in which, if I understood him, he chose to say, that he had delivered over the bounty land bill to the gentleman from North Carolina, his colleague, and myself. Now, sir, I do not know what authority that honorable Senator has for delivering over to me a bill which is before this body. If the Senate of the United States refer a bill to me, I will take charge of it. Nor do I know any reason why the honorable Senator should desire to confer upon me the labor of carrying through the bounty land bill. He spoke of some amendments that had been made by us. Why, the honorable Senator certainly has no objection to the little amendment which I caused to be put into the bill. It is an amendment which is perfectly harmless, and was intended to bring within the provisions of the bill the volunteers who defended their country when the British fleet in the Delaware attacked Lewistown.

Now, with regard to the point to which I suppose the objection of the honorable Senator was addressed——

Mr. HUNTER. I dislike to interpose; but I must ask whether it is in order to debate an amendment to the bounty land bill, which is not before us, on a motion as to the priority of business?

Mr. CLAYTON. Very well, sir; then I make the point on the gentleman from Virginia, that it is perfectly competent for me to show good cause why the bounty land bill should be taken up in preference to his bill, and why the order which he desires should not be made. We have learned to-day, for the first time, the reason why that bill has been postponed, and the Army appropriation bill taken up in preference to it. If the honorable Senator will have a little patience, I will give him an argument in opposition to his motion.

But, sir, not to be interrupted in what I was saying in reply to my friend from Pennsylvania, I desire to say again that all his objections seemed to me to be addressed to the amendment which was offered by the Senator from North Carolina, [Mr. BADGER,] and for the reason, as I suppose, that that amendment was carried here in opposition to the gentleman's wishes, he declines touching the bounty land bill any more, and consents that the Army appropriation bill shall be taken up, and that overslaughed. Indeed, if I understand the honorable Senator aright, he is now opposed to the bounty land bill. If I am wrong, as I trust I am, the honorable gentleman can correct me.

Mr. BRODHEAD. My friend is certainly wrong; I said, this morning, when I induced my friend from California to move a reconsideration of that vote, that I should press the bounty land bill at the earliest possible moment.

Mr. CLAYTON. I am very happy to hear that, and I will join the gentleman in pressing it. I insist, now, that it should be taken up in opposition to the motion of the gentleman from Virginia. It has been overslaughed; and why? Is there any measure more important or more urgently demanding the consideration of the Senate of the United States than that? It was in progress the day before yesterday; but yesterday we heard not a word about it.

I was about to address some remarks to the Senate in vindication of the amendment moved by my honorable friend from North Carolina. Perhaps, however, it would be more proper to leave the vindication of his amendment to himself; and I shall do so, because I do not wish to occupy, unnecessarily, the time of the Senate; but I say, now, that I stand here ready to coöperate with my friend from Pennsylvania, in taking up the bounty land bill. I admit that it is not, in all respects, exactly as either of us would wish it; but he knows well—for he has served long in Congress—that scarcely any bill of a general nature like this, passes Congress except by compromises of opinion; and we are compelled, on all occasions like this, to defer to the wishes and sentiments of others. We yield something of our own opinions in order to obtain a great good. That is the case with the bill to which I now refer. I say again, sir, it is not exactly all that I would have it; but, I trust, if there be defects in it, they will be amended by the House of Representatives. That is the place to correct any error into which we may fall, if we cannot agree among ourselves to correct it.

With regard to the resolutions offered by my friend from Pennsylvania [Mr. COOPER] I have nothing now to say. I only wish to remark, that I see nothing whatever objectionable in them. I did not expect, at this time, that a general discussion would have been introduced into this body upon a question of national interest such as is suggested by the resolutions offered by way of amendment. Should the discussion upon the questions thus suggested proceed, I tell the gentleman from California and others, that I am not unwilling to take my part in it; but at this late stage of the session, the discussion of a question of such magnitude as is embraced in the amendments proposed, could not possibly be had here without interfering with the vital interests of the country by obstructing measures of the most pressing importance now before Congress.

For the reasons I have given, I hope the prior orders will not be postponed for the purpose of taking up the Army appropriation bill. But if it be an amendable motion, I move to substitute the bounty land bill in lieu of the Army appropriation bill; and I desire the question may be taken on that, if it can be done. It is entitled to preference; it was in progress of discussion when this bill was brought in and interfered with the regular consideration of that which we have debated *de die in diem*. And when we were about to take a final vote on the bounty land bill, we were arrested by the Army appropriation bill. I hope the friends of the bounty land bill will not agree to take up the Army appropriation bill until that is disposed of. Is it in order to make the motion I have suggested?

The PRESIDENT. The question must be put

on these motions in the order in which they are moved. The question is on the motion of the Senator from Virginia to take up the Army appropriation bill.

Mr. CLAYTON. I hope that motion will be rejected.

The motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. WEBSTER, his Secretary, announcing that he had approved and signed a bill to authorize the issue of a register to the bark Foundling, of Boston.

ENROLLED BILLS SIGNED.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that the Speaker had signed the following enrolled bills; which were then signed by the President *pro tempore:*

A bill to authorize the issue of a register to the bark Colonist, by the name of The Lilly.

A bill for the relief of Frederick Vincent, administrator of James Le Caze, survivor of Le Caze & Mallet.

ARMY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, accordingly resumed the consideration of the bill from the House of Representatives, making appropriations for the support of the Army for the year ending the 30th June, 1856, the pending question being on the amendment of Mr. JOHNSON to strike out the clause appropriating $325,000 for the Capitol extension.

The amendment was rejected.

Mr. SHIELDS. I now offer the sections which I sent to the Chair yesterday. I desire to have them read in the same connection as one amendment.

The Secretary read as follows:

SEC. —. *And be it further enacted*, That the President is hereby authorized to appoint three suitable persons as commissioners to proceed to the Indian country to enter into negotiations, and to conclude treaties of amity, with such Indian tribes as may be disposed to preserve friendly relations with the United States, and to extend to such tribes the most positive assurances of protection and security, so long as they strictly adhere to their treaty obligations. Such commissioners shall report to the President, and to such military commanders as he shall direct, the names of the several tribes who may thus be entitled to protection and security; and also such tribes as continue refractory, refuse to enter into amicable negotiations, and who persist in maintaining an attitude of hostility to the United States. And said commissioners shall be paid out of any money in the Treasury not otherwise appropriated, the same per diem allowance, and mileage allowed to members of Congress during the time of service of said commission.

Whereas, the peace and security of the frontiers of the United States, and of their routes of emigration, demand the prompt and effective chastisement of outrages recently committed by the Sioux, and other powerful tribes of Indians on both sides of the Rocky mountains; and, whereas, it is eminently desirable that such demonstration of the power of the United States shall be made in the accomplishment of said object as will not only effect a speedy termination of present hostilities, but insure the future good behavior of the lawless tribes generally, as well as of those now actively hostile: Therefore,

Be it further enacted, That, for the purposes above recited, the President be, and he is hereby, authorized, in addition to the employment of any military force of the United States which may be disposable, to call for and accept the services of any number of mounted volunteers, not exceeding in all four regiments. Said volunteers shall serve for eighteen months after they shall have arrived at the place of rendezvous, unless sooner discharged by the President. Each regiment to consist of one colonel, one lieutenant-colonel, one major, one adjutant, who shall be selected from the lieutenants of the regiment, one chief musician, two regimental buglers, and ten companies. Each company shall consist of one captain, one first lieutenant, two second lieutenants, five sergeants, five corporals, and seventy privates. All commissioned officers of each regiment to be chosen in the manner prescribed by the laws of the State or Territory where they may be organized; and all vacancies that may occur while in the service, shall be filled according to the laws of the State or Territory where raised and organized.

SEC. —. *And be it further enacted*, That any number of friendly Indians, not exceeding in all five hundred, who may offer their services as mounted rangers, scouts, guides, and hunters, may be accepted by the President, and shall be organized into companies of not less than eighty men, including such chiefs, sub-chiefs, and officers, as they may select, not to exceed, however, three chiefs or officers to each command; the whole to be under the immediate command of such officer as the President may direct; to serve, as well as the volunteers, for eighteen months after they shall have arrived at the place of rendezvous, unless sooner discharged by the President: *Provided, however*, That in the event the commanding general shall find it necessary or expedient to divide the Indian force herein provided for into companies, or squadrons for detached service, he may place such companies or squadrons under the immediate command of such officers as he may select: *And provided further*, That the said volunteers shall be liable to serve on horse or foot, as the President may direct.

SEC. —. *And be it further enacted*, That said volunteers shall furnish their own horses and horse equipments, and, when mustered into the service, shall be armed at the expense of the United States, and, until discharged therefrom, shall be subject to the rules and articles of war.

SEC. —. *And be it further enacted*, That the volunteers who may be received into the service of the United States by virtue of this act, and who shall be wounded or otherwise disabled in the service, shall be entitled to all the benefits which may be conferred by existing laws on other persons wounded or disabled in the military service of the United States.

SEC. —. *And be it further enacted*, That the pay of the said volunteers, including compensation for the use and risk of horses, not killed in battle, shall be as follows:

For officers of all grades, the pay and emoluments of the like grades in the present corps of mounted riflemen of the United States Army: for sergeants, one dollar and twenty-five cents per day; for corporals, farriers, blacksmiths, and musicians, one dollar and ten cents per day; and for privates, one dollar per day; that the pay of the chiefs and sub chiefs of the Indian force authorized by this act shall be that of the grade which corresponds to the number of men under their command, respectively; and the pay of the warriors shall be that of the privates authorized by this act: *Provided, however*, That if any mounted volunteer, other than a commissioned officer, shall not keep himself provided with a serviceable horse and horse equipments, the said volunteer shall forfeit half his daily pay during the period of such service dismounted: *And provided further*, That the pay herein allowed shall be in lieu of all pay, allowances, and bounties now authorized, or which may hereafter be authorized, by law, except clothing, rations, and commutation in money of clothing, and excepting, also, such claims as may be valid under existing laws for wounds or disability incurred in service, or for horses killed in action.

SEC. —. *And be it further enacted*, That the President be, and he is hereby, authorized to prescribe, and to vary from time to time, as may be, in his judgment, expedient, the arms and equipments of the volunteers herein authorized to be accepted, or of any portion thereof.

SEC. —. *And be it further enacted*, That the President be, and he is hereby, authorized to add to the medical corps of the Army of the United States such number of assistant surgeons, not exceeding six, as may be, in his judgment, expedient; the officers so added to be appointed in the same manner, and to be, in all respects, on the same footing as the officers of the said corps now authorized by law.

SEC. —. *And be it further enacted*, That in the event that any portion of the Army of the United States now serving on foot, shall, as provided in section two of an "Act to increase the rank and file of the Army, and to encourage enlistments," approved June seventeenth, eighteen hundred and fifty, be required to serve as mounted troops, the said troops, if not exceeding, in all, four companies, shall be on the same footing, as regards pay and allowances, with the present corps of mounted riflemen of the United States Army.

SEC. —. *And be it further enacted*, That, to enable the President of the United States to carry into effect the provisions of so much of this act as relates to the employment of an additional military force, and preventing or suppressing Indian hostilities, such sum of money as may be necessary be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. STUART. I do not propose to discuss this proposition at this time, but only to suggest that there should be a division of this amendment as it stands; so that a separate vote may be taken on the question of appointing commissioners, and upon the proposition to increase the Army.

Mr. BADGER. I understand the Senator from Illinois offered them as separate amendments; but asked that they might be read together so as to enable us to understand the whole proposition.

Mr. STUART. I understood yesterday that the Senator proposed both as one amendment; but if he proposes them as separate amendments, that, of course, will answer my purposes.

Mr. CASS. Mr. President, there is one provision of that amendment which I wish my friend from Illinois would abandon. I have an insuperable objection to it. I am willing to give to the Government all proper means that may be necessary to defend the frontier. A nation of twenty-five millions of people has power enough in its own citizens to protect itself without calling upon Indians to fight its battles. There is a provision in this amendment for employing five hundred Indians. We ought not to carry such a measure into effect. From the day of the debarkation of the Mayflower almost down to this day, it has been a very difficult and an interesting problem to know what we are to do with the Indians. I suppose the first European pilgrims had hardly landed on the western shores before it was seen that the tide of civilization must roll onwards; though he would have been a prophet indeed who could have foreseen that it would roll on with such overwhelming force, and would so soon sweep before it these aboriginal remnants of the American race. We have attempted, from the foundation of the present Federal Government, and before indeed, to adopt some policy that would preserve them. But we have pushed them onward and onward into the interior. We have tried to fix them upon reservations, surrounded by our settlements. We have assigned to them separate farms, and we have provided missionary establishments and agricultural and mechanical teachers for them, and made various other experiments. But all in vain; so that in the older portions of the Union, there is scarcely one of them remaining, even as a memorial of what has been.

Sir, we have recently made another effort which promises more salutary results than any other experiment which we have made. We have collected west of the Mississippi the remnants of some of the most powerful, and they have always been some of the most intelligent and well behaved tribes—the Wyandots, Shawnees, Delawares, and Ottawas. I know many of them personally. I have been with them in peace and in war. They are intelligent men, and good citizens, and they have been faithful to the Union in the most trying times. If we only go on as we have now begun with that experiment, which assigns tracts of land to them, to be occupied individually, and eventually to make part of them our citizens, we may hope for the most humane and beneficial consequences. We have also, west of the Mississippi, the southern tribes, the Cherokees, the Choctaws, and the Creeks. The gentlemen from the southwest know their condition better than I do; but I think it is a most promising one. What we have to do now is, to keep them from war, and from their return to their predatory habits, and to their barbarous institutions.

Let me tell you, sir, that one great difficulty in the way of the progress of Indian civilization is, the idea instilled in them from early life that there are but two employments which it is honorable for the men to engage in, and these employments are hunting and war, the pursuit of their game and the pursuit of their enemies; all other labor devolves upon the women. In all our efforts at their civilization, the first thing we have to do, is to break this traditionary chain of connection which binds them to a state of war; but now, sir, it is proposed that the bloodhound shall be unleashed again, and that the Indians shall be baited to war by the United States.

I will show you, by the action of the Continental Congress, the noble conduct of the noble men who then managed the destinies of the American people. In 1775, they reprobated the proposition of subsidizing Indians, and of employing them in the struggle before them, though conscious of their own weakness and the might of their antagonist. That there were some corresponding spirits in the British Parliament is evident from the memorable and eloquent apostrophe of the elder Pitt, one of the most striking and beautiful to be found in the whole history of forensic debates. Appealing to the portraits upon the tapestry that covered the walls, he told the Lords that their ancestors were looking down upon them, and would frown indignantly at the proposition to employ the Indians to fight the battles of the white man.

And this sentiment was responded to by the Continental Congress, to which I have referred, in 1775, and whose resolution, adopted the 30th June of that year, is in these words:

"That the Committee for Indian Affairs do prepare proper talks to the several tribes of Indians, for engaging the continuance of their friendship to us, and neutrality in our present unhappy dispute with Great Britain."

And on the 17th of the following month it was again resolved, in the same spirit of humanity:

"That it should be recommended to the commissioners of the northern department to employ Mr. Kirkland among the Indians of the Six Nations, in order to secure their friendship, and to continue them in a state of neutrality, with respect to the present controversy between Great Britain and these Colonies."

That was the revolutionary doctrine and practice. How was it in 1812, in our second struggle for independence with England. I hold in my hand the talk of Mr. Madison to all the Indian tribes. At that time our strength was feeble when compared to what it now is. In that talk, after Mr. Madison had recapitulated the causes which had driven the United States to war, and the objects they sought to attain, what did he go on to say to the Indians? Did he invite them to take up the tomahawk? Did he fawn to their passion for blood, and summon them to a contest in which they had no part? Did he unchristianize them?

No, sir; no. Many of them were then converted Christians, and many more of them are so now. They were summoned to prayer and praise by the solemn sound of the church-bell breaking upon the wilderness. Did he invite them to drown its voice by the barbarous war-drum? Did he ask them to sing the war-song instead of the song of praise to the Redeemer in their poor but beloved churches? Did he desire them to dance the war-dance, in their school-houses and council houses, thus restoring their pristine condition, at the expense of the progress that had been made, and the hopes of the future? I will let that eminent patriot and statesman answer these questions. Here are his words, and they are worthy of our country, for whom they were spoken, and worthy of James Madison, who spoke them:

"It is for the good of all the red people, as well as the people of the eighteen fires, that a stop should be put to this mischief. Their warriors can do it. They are gone and going to Canada for this purpose. They want no help from their red brethren. They are strong enough without it. The British, who are weak, are doing all they can by their bad birds, to decoy the red people into the war on their side. I warn all the red people to avoid the ruin this must bring upon them. And I say to you, my children, your father does not ask you to join his warriors. Sit still on your seats, and be witnesses that they are able to beat their enemies, and protect their red friends. This is the fatherly advice I give you."

That very year a council was held in the northwest, under the direction of the Government, by Governors Meigs, Worthington, and Morrow, all of whom deservedly occupied seats on this floor before our day, and all of whom were high in the confidence of the country. What was said then?

"The council with the Indian tribes on the western frontier having been concluded, the commissioners deem it their duty to give to their fellow-citizens a concise view of the proceedings and result.

"The commissioners, according to their instructions, have endeavored to ascertain their views and dispositions. They informed them of the inevitable consequences of any act of hostility on their part; that the President stood in no need of their assistance in the war with Great Britain, and that for their own sakes, he desired them to remain quiet and pursue their usual occupations. The chiefs, in behalf of the tribes that attended, have made professions of friendship and attachment to the United States, and have, in the most positive manner, declared their intention to adhere to, and observe, the existing treaties, to remain neutral in the present war, and to reject the overtures of the British (which they state to have been repeated and pressing) to engage in it."

Such, sir, was the policy of the United States at the commencement of the war of 1812, and so it continued for more than a year, and during that time not an Indian was called to war by our Government. And when this policy was changed, it was changed with great reluctance, and only because it was found, by dear-bought experience, that, if the Indians were not for us, they would be against us. They could not resist the temptations held out to them by the British authorities. They were urged by promises of land and money, and goods and whisky, to join the English standard. Probably most of the Senators know, historically or traditionally, but I know it from having been at the scene of operations, that American scalps were paid for, exchanged for British gold, and, so far as I have information, I am not aware of a single act of humanity which was approved, or of cruelty which was condemned, by their Christian allies. I do not suppose that the British Government at home knew the full details of these barbarities. But they sanctioned the system, and provided the means, and well was the work done by their agents, and especially by a monster in a human shape named Elliott, a refugee during our revolutionary war, and the very incarnation of fiendish cruelty. As I said, this appeal to the worst passions of the Indians, they had not the firmness to resist, and having once snuffed the scent of blood, they followed it to its source. Our Government became convinced, by many a terrible inroad, that but one course remained to us, and that was, to summon the Indians living within the United States to our standard, for no such invitation was given to a single Indian living in Canada.

A treaty for this purpose was held at Greenville, in 1814, under the direction of the President, by General Harrison and myself, which was the first council in the northwest called together to explain to the Indians the condition in which they were placed, and invite them to join us. They were told by the authority of the Government: "We have always desired you to sit still, but you would not; to remain quiet, but you will go to war; and now if you don't join us, it is evident that you will pass over to our enemies. Here is our tomahawk, we invite you to take hold of it with us;" and they did so. They held a great council among themselves, and then danced a great war dance, and each chief, after recapitulating his acts of bravery, advanced to the commissioner, and taking hold of the tomahawk, flourished it, and said he would consider it his own. This narrative, sir, is painful, even though the Government was fully justified by events they could not control. But I trust I shall never live to see a recurrence of such a scene. No one can pretend that these friendly Indians would join the hostile ones, under any circumstances, and go to war with us. They have no powerful nation to impel them to deeds of blood, to promise them protection, and to pay them for the work of destruction. Not a single war drum would be heard through the regions occupied by them, nor would their peace be disturbed by one act of violence.

We have no excuse, therefore, for the adoption of such a measure arising out of the disposition of the Indians, and we have as little arising out of the condition of our country. With its population and all its elements of power, it needs no recourse to the feeble remnants of a fallen race to aid us in following upon the deserts and in the forests their brethren of the same family, like them, the heirs of the former possessors of this continent. It would be a blot upon our national escutcheon in the eyes of the world. What a spectacle for the nations of Europe, to behold the great American Republic calling for a few partially civilized Indians to aid in the prosecution of a war against the remoter tribes! No. We need no such assistance, and I totally misunderstand the sentiment of the country if it desires it. The proposition for an invitation extends to all Indians not in hostility, whether they have commenced the work of civilization or not. Of course, throughout the vast regions roamed over by this race, volunteers may be engaged, and thus feelings of bitter and deadly hostility will arise whose effects may be felt during long years to come. And revenge is sure to do its work, and embroil them with one another. You cannot tempt them, or compel them to strike at their own people, without the most fatal consequences. I repeat, sir, I believe the proposition is repugnant to the feelings of the American people, as I certainly consider it to all the claims of humanity; and I entreat my honorable friend from Illinois [Mr. SHIELDS] to withdraw it.

I again say, sir, that I am ready to vote for any additional strength which is necessary for the defense of the country, and I do not doubt but that the conduct of some of the Indian tribes in the West, requires the display, and, it may be, the employment of force. Though I am free to confess that I have heard statements here to-day, which seemed to me to exaggerate the danger. There may be the number of Indians in the western regions stated by the chairman of the Military Committee—one hundred and eighty-five thousand—but I must say that I look upon these estimates of Indian population with much doubt, as my experience teaches me that they are almost always greatly overrated. A person, looking at this number, and calculating the number of warriors it would give, and then apprehending that these could be brought together to act in concert against us, would evince little knowledge of their character and condition. They cannot be brought together, and kept together in large masses. They cannot be fed. They are divided into smaller tribes and bands, with a great deal of intestine jealousy, which prevents efficient concert. Their women and children must be taken care of, secured, and fed; and all these circumstances, as well as others, which I shall not touch upon at present, combine to prevent their acting together in large masses. What we want is an active force, well commanded and well led, prompt in its movements, and ready to follow the Indians into their deepest recesses. I believe that comparatively a small mounted party, thus composed, would march unchecked through any portion of our Indian country. There are thousands and thousands of brave men upon the frontier, American citizens, who owe allegiance to their country, and would be ready and proud to render it, by rallying around its standard at any moment when required. They would scatter the Indians as chaff is scattered before the whirlwind. But, sir, if fight you must, do your own fighting; keep the red man from war! Civilize him, if you can; and do not assume the responsibility, before God and the world, of putting blood in his path, and tempting him on.

Mr. SHIELDS. Mr. President, if I understand my honorable friend from Michigan aright, his only objection to the measure now under consideration is, that provision authorizing the employment of Indians. I have offered two amendments. The first provides for the appointment of three commissioners to proceed to the Indian country, ascertain the condition of the tribes, enter into arrangements and negotiations, make treaties of peace and amity with any or all of those tribes, if possible; and whenever a tribe enters into negotiations, and makes a treaty of this kind, the commissioners are to be empowered to give that tribe protection and security against any molestation whatsoever. This, therefore, is a measure of peace, and, I presume will meet with no objection from any quarter. This amendment originated with the Committee on Military Affairs. It is brought forward by us, and I am happy to say that the President of the United States seemed to be gratified at it. He was pleased with the amendment. He assured me, and the committee through me, that his only object was peace and to prevent war, and this amendment has met his hearty and cheerful approbation.

The second amendment, which I have had the honor to offer, is one prepared by the War Department. It has been slightly changed from its original form. I shall not refer to the change now, though I may do so on a future occasion. The proposition is to authorize the President to accept the services of volunteers, not to exceed three thousand men in any case. Those men are to serve for a term not longer than eighteen months in any event. It also provides for five hundred Indians, on which the honorable Senator from Michigan has commented.

I confess that when the committee considered the matter, I did not like that provision. It struck me precisely as it strikes the honorable Senator from Michigan. I felt that it would be liable to misconstruction. I took occasion to converse with the Secretary of War on the point. The honorable gentleman at the head of the War Department assured me that the object of employing these Indians was not to raise the tomahawk, as supposed by the honorable Senator from Michigan; he was as much averse to that as any man in the United States could be; but that his object was, simply, to employ them as guides and scouts, for the purpose of giving information to the troops, and for no other purpose. He said he would never consent for turning the Indian loose upon his brother Indian. He assured me that some of those semi-civilized tribes, to which the honorable Senator has referred, the Delawares, the Shawnees, and others, were more alarmed at the condition of the Indian country than the whites themselves. Those Indians are more afraid of the aggressions of the wild tribes than are the whites, and they are asked for as a military force to accompany the army for the purpose of giving information, acting as guides and scouts, and not for the purpose of aiding in conflict. But, sir, I anticipated an objection to this provision of the amendment, and, for one, I shall not insist upon it for a single moment. If the honorable Senator moves to strike out, I shall have no objection.

I have felt that there was great responsibility on the Committee on Military Affairs in this matter. I hold in my hand the message of the President of the United States on this subject. The President, as the Executive head of the nation, deems it his duty at this time to call for this force, and he gives his reasons in his message. I will read that portion which relates to this point. He says:

"On the other hand, without a permanent military force, of sufficient strength to control the unfriendly Indians, it may be expected that hostilities will soon be renewed, and that years of border warfare will afflict the country, retarding the progress of settlement, exposing emigrant trains to savage barbarities, and consuming millions of the public money."

Accompanying this message is a report from the Secretary of War, in which he takes occasion to speak of the inadequacy of the regular force for the protection of the country, and refers to the fact that Congress has, by some means or other, although notified of this inadequacy for two sessions past, made no provision to remedy it He

also refers to his previous reports, in which he urged on Congress the necessity for an increase of the regular Army. In his annual report of 1853, he urged it upon the consideration of Congress with great force and earnestness. In his late report of 1854, at the commencement of this session, he made the same powerful appeal to Congress. Nothing, however, has yet been done on the subject. The regular Army has not been increased. The force in the Indian country is confessedly inadequate to protection. It is a force to provoke and invite aggression, but not a force to protect either the emigrant routes through the Indian country, or the frontier settlements.

Sir, as the organ of the Military Committee, I have had occasion, again and again, to bring the subject to the consideration of this body. It is due to that committee to say that not a single appeal has been made by the Executive which the committee have not unanimously responded to. Every man on the committee, whether he was the political friend of the Executive or not, has concurred in our action. There has been but one feeling, one sentiment, and one voice in the Committee on Military Affairs in relation to this matter; we have acted together as a unit. For this body, also, I can speak. Every measure which has been recommended for the increase of the Army, and the improvement of its efficiency, has met a hearty response in the Senate; but somehow or other, (I cast no reflections on any person or any branch,) nothing has been done to increase the regular Army.

Now, sir, let me give an illustration, to show how wholly inadequate that Army is for the great purposes for which it is intended. Why, it is not even a sufficient police force. It is only about ten thousand men in all, scattered over a vast continent. Let me take, as an illustration, the military department of the West, which includes the country between the Mississippi river and the Rocky mountains, except the departments of Texas and New Mexico. There is in that department one hundred and eighty thousand Indians. What is our military force in that country? One thousand eight hundred and fifty-five officers and men; one hundred and eighty thousand Indians, and one thousand eight hundred and fifty-five officers and men to protect that immense frontier!

Mr. CASS. I suppose that is the number on the rolls.

Mr. SHIELDS. Yes, sir, that is the number on the rolls, and not the effective number of bayonets capable of performing service. Now, I ask any honorable Senator whether all the whites in that immense region are not at the mercy of the Indians? One hundred and eighty thousand wild Indians, and not quite two thousand men scattered over that whole country to protect our principal emigrant routes to Oregon, to Utah, to New Mexico, and to California. There is not one soldier there to one hundred Indians. And permit me to say, that the few men who are there, would be better out of that country. They invite aggression by their presence. Their small number has taught the Indians to contemn their force; and, unfortunately, at one of the forts the Indians not only attacked a little band of soldiers, but annihilated and exterminated them. This is the result of the present condition of things.

When you turn to the Department of Texas, things are not much better; but I have such a high opinion of the Texans, that I do not think they need quite so much protection as the poor fellows who are traveling across the plains. I think that men, who, in the infancy of their State, defended themselves against all Mexico, can protect themselves against the Indians; but still, so far as the United States are concerned, they might as well be left undefended.

The same remark is true with regard to New Mexico. My honorable friend before me [Mr. HOUSTON] knows the character of the population of that Territory—civilized Indians and Mexicans. These wild Indians go there and carry off their wives, their children, their cattle, and their horses, with impunity; and I am informed by an officer whom I saw the other day, who has come directly from that country, that they have now some three or four thousand New Mexican women and children in captivity. That number has been carried off even since they came under the Government of the United States. They expected protection from us. Some of them rejoiced in the change, because, above all things, men desire protection for life and property. Yet, sir, they have been more harrassed by the Indians since they became a part of this country than even while they were under the feeble Government of Mexico.

California is very nearly in the same condition; but, as I said in relation to Texas, the Californians are able to make a tolerably good defense in case of necessity. Oregon and Washington Territories are in a much worse condition. In Utah, I take it for granted, they have men and women enough to fight their own battles. [Laughter.]

Sir, in the country thus wholly exposed, are the great emigrant routes to California and Oregon. The emigrants who pass over them are liable to be attacked by hostile Indians, and the frontier settlements are in danger. We learn from information which has been transmitted to us by the Secretary of War, from the officer commanding at Fort Laramie, that a confederation is in progress amongst the hostile tribes for the purpose of descending upon the frontier settlements this spring, and carrying general extermination along with them.

Mr. HOUSTON. Where is that?

Mr. SHIELDS. At the head waters of the Missouri and the Platte; the names of the tribes are given in the report. The great Sioux tribe itself, consisting of a variety of branches, can bring from six to eight thousand warriors into the field. That is the force of only one tribe—nearly all hostile at this time. That tribe is entering into confederations with some others for this purpose. Is it not desirable to prevent this, if possible?

Then the object of this measure is not to have an Indian war. I know of nothing I should deplore more at this period of our history than an Indian war; I agree with my honorable friend from Michigan on that point. The object is to prevent such a war. From all the information which has reached the Departments, unless there is some demonstration of force made speedily, nothing on earth can prevent a general Indian war. The Secretary of War, judging from the reports made to him, says there are, at this moment, in a state of hostility a sufficient number of Indian tribes to muster forty thousand warriors, and that unless something be done promptly, those forty thousand warriors can be brought into the field by the tribes in a state of hostility. If we should have a general Indian war, with forty thousand warriors on one side, I consider that five or eight thousand troops might march through the Indian country, but not conquer the Indians. We cannot conquer them in that way. It will take years to conquer them. Nothing can conquer them but extermination. Instead of meeting the force you send against them, they will elude your force, and pounce upon the unprotected and defenseless frontier settlements, and ravage them.

Sir, I have had the honor of leading volunteers and also regulars, and I know the respective merits, I think, of the two forces. For mere fighting, when they are let loose, I would depend as much on the volunteers as on any force on the face of the earth; but I do not look upon volunteers as by any means the best force for this purpose; and, therefore, I regret exceedingly the necessity which compels us to raise such a force. They are not so well adapted for keeping the peace as they are for fighting. I have had my fears of the result; and those fears I have expressed freely to the head of the War Department and to the President. I fear that if we raise three thousand volunteers, and add to them a thousand or two thousand regulars, and put all under the command of a gallant military leader, then, as my honorable friend [Mr. CASS] said, on a celebrated occasion, "war is inevitable." But I am happy to say that the President gives all assurances that his object is to prevent an Indian war. I have the highest confidence in his conduct in this respect. He will send out these commissioners immediately, when he has authority to appoint them, and they will use every effort to prevent the necessity even of raising this force. He may be compelled, perhaps, to raise a small number to send out with the commissioners; but his intention is not to raise the three thousand men if he can avoid it. He does not wish to call out a man more than is absolutely necessary; but he says, the Secretary of War says, all our military commanders and Indian agents tell us, that less than three thousand ought not to be sent into that country if there is any hostility. A less number would be of no use; they would be worse than useless.

We propose to arm the Executive with the power to call out three thousand volunteers, if necessary. He says it is necessary. He says the crisis calls for it. He says there is such an emergency, that the power ought to be granted now. I should like to know who will take the responsibility here in the Senate, without adequate information on the subject, to say there is no such necessity? Is not the President the proper person to judge of the necessity? He has the means of information. The agents report to him; the officers report to him. Acting on this assumption, the Committee on Military Affairs could not hesitate to recommend the grant of this power; but, at the same time, there is not a member of that committee who does not agree with me in deploring any such necessity, and still more in deploring an Indian war.

I do not know, sir, that it is necessary for me to say more on this subject. I will consent to strike out that part of the amendment which authorizes the employment of five hundred friendly Indians. I did not like it originally. I went to see the Secretary in relation to it; and I must say, in justice to that honorable and distinguished gentleman, who manages his Department with such efficiency, that he has no idea of using them as warriors, but merely to keep them back, and employ them as scouts and guides.

Mr. BELL. I understand that the first question to be decided by the Senate is the proposition to appoint three commissioners to treat with the Indians. That measure, the honorable chairman of the Committee on Military Affairs [Mr. SHIELDS] informs us, emanates from that committee, and is not in pursuance of an Executive recommendation. I wish to ask that honorable Senator to explain the grounds on which it is thought necessary to make such a provision, which is directly in conflict with an existing law. I refer to the law adopted by both Houses of Congress, after great deliberation, breaking down the old system of appointing special commissioners to make Indian treaties. I cannot say that, when that law was proposed, it had my hearty concurrence in all its provisions *in extenso;* but it has been adopted by Congress, and the recent treaties which have been negotiated, have been made in pursuance of it.

In 1850 or 1851, I think, there were two sets of Indian commissioners of like character with those indicated in this proposition. One of them was a board, who were required to proceed to the Indians along the line between Mexico and the United States; perhaps (though the statute was silent on that point) they were expected to travel in company with the military escort and convoys of our commissioners who were appointed to arrange the boundary line under the treaty of Guadalupe Hidalgo. The second of those boards of commissioners was one which was established for the purpose of treating with the California Indians. These boards were established upon the ground that commissioners appointed specially with a view to these objects, having no interest connected with the separate local divisions of the different tribes, would be more apt to succeed in making beneficial treaties with the Indians, and conciliating their friendship, and suppressing hostilities, than commissioners appointed under the general practice of the Government previous to that time. Before that, commissioners had been nominated pretty much at the pleasure of the President, and sent *ad libitum* to make treaties with the Indians. The next year after this was done, however, after a full examination of the subject, and after a report from the Commissoner of Indian Affairs, or the Secretary of the Interior, that whole policy was pronounced to be useless, and worse than useless, involving an expenditure wholly unnecessary to the Government, and leading to no result but the increase of Executive patronage. It was then strenuously argued and successfully maintained, in both Houses of Congress, that the superintendents of the various Indian departments upon our frontier, both on the Pacific coast and this side of the Rocky mountains, ought to be presumed to have such an intimate knowledge of the Indian tribes, their character, their grounds of complaint, and the mode of successfully approaching them,

as to be enabled to treat successfully with the Indians, and get inserted in the treaties stipulations favorable to the interests of the United States, and such as would be calculated to preserve peace with the Indian tribes.

Mr. SHIELDS. I understood that the honorable Senator asked me to explain this amendment. I can do so now, if he desires it.

Mr. BELL. I can hear the honorable chairman now; but I have only a very few remarks to make myself.

Mr. SHIELDS. I shall wait until the Senator concludes.

Mr. BELL. I was proceeding to state that the law to which I referred was based upon the supposition, by Congress, that the Indian superintendents who, from practice and experience, and a knowledge of Indian character, and particularly of the wants and complaints of the various tribes in their neighborhood, ought to be presumed to be the best informed men on the subject, and would be most likely to be efficient commissioners in making treaties. It was then proclaimed that, if the superintendents employed in the various Indian departments, (appointed regularly by the Executive, with the sanction of the Senate of the United States,) were not men who could be trusted in making treaties with the various tribes in their neighborhood they should not have their positions. It was presumed that no men should hold these places unless they were competent for this.

Objection was made—and I remember very well to have stated it briefly myself—to allowing Indian agents of particular tribes to make treaties with those tribes. It was thought that they were not, perhaps, the most proper persons to be commissioned to make treaties with the tribes for which they were agents, because, however honest and patriotic such men might be when they received their appointments, yet the interests, and influences, and temptations which surround them on the frontier are such that we could not safely intrust them with the making of treaties with the tribes for which they were appointed agents. It was urged, however, that the superintendents of the various Indian departments, under the supervision of the Commissioner of Indian Affairs himself, or with the aid of experienced officials connected with the Indian department, were the proper persons to be intrusted with this high power, and that it was an act of unnecessary expenditure to appoint special commissioners to make every new treaty with an Indian tribe. Complaints were made of the expenses which had occurred in the Indian department in carrying out a policy so entirely unnecessary. Congress, with great unanimity, abolished the whole system, and enacted a new law limiting such appointments to the officials of the Government.

Well, now, sir, allow me to make an application of the argument which was then used. What reason is there for supposing that the superintendents of Indian affairs in Washington and Oregon Territories would not be the proper persons to arrange treaties, and ascertain the sentiments of the tribes in their respective Territories? Probably, they could ascertain and report at once to the Executive the disposition, whether hostile or peaceable, of the various small remnants of tribes in those Territories. If the superintendent in Oregon is not competent to do this, he ought not to be superintendent; and the same remark is true of the superintendent of Washington. So, sir, in New Mexico. What reason can be assigned why the superintendent of Indian affairs there ought not to make these treaties? We might associate with him, if you choose, an officer of the Army, or a civil officer in his neighborhood, or any of the Indian agents; but why is not the superintendent the proper person to sound the disposition of the various Indian tribes in his neighborhood? If the superintendents are not competent, if they are not well informed, they should not be in their present positions; and if we have such men in their places, it is the fault of the Executive and of the Senate. Why cannot the superintendents of Indian affairs be trusted? We have a superintendent at St. Louis. He is not presumed to be connected, by prejudice or bias, with the interests of any of the Indian tribes on the frontier, over whom he has a general superintendence. I might, if I were well acquainted with their names, or characters, or capacities, enumerate the various agents on the frontier who are in the habit of coming in contact with the Indians, who know, or ought to know, the disposition of the various tribes in their neighborhood.

It may be said that they are not acquainted with the disposition of the wild, roving tribes—the Arabs of the plain on this side of the Rocky mountains, and in the gorges of those mountains. That is very likely; but on the other hand, let me ask, how it is expected that peaceable men from the interior of the country—if such men shall be appointed commissioners under this provision—or men from the frontier, will be able to find them and ascertain their disposition? How are these men to catch the wild Indians, and sound them? I suppose we must give them full notice, as was given to the tribes with whom a treaty was made at Fort Laramie some time since. We must spread the information far and wide among the roving tribes, and invite them to a peace conference. That is the only way they could act. But, sir, are not our present Army officers at the different stations, Fort Laramie, Fort Leavenworth, and other places where we have troops; are not the Indian agents, who come in contact with the Indians daily; are not the Indian superintendents, who exercise a general supervision over them, the men who would be the most likely to succeed, in a short space of time, in getting at the various roving tribes, and accomplishing the very object the Senator from Illinois says this Government has at heart—to preserve peace on the frontier? Would not these men be most likely speedily to get information, so as to advise the President whether it would be necessary to dispatch the volunteers at once, or to delay a portion of them, or all of them, to see whether there was any danger of war on the frontier?

From what I have said, it will be perceived at once, that my purpose is to ascertain what use there is in appointing these three commissioners, and not trusting this power to the superintendents and agents, who have been intrusted with it heretofore, and whom alone the law requires to be entrusted with it? If there are any sufficient reasons why this change should be made, of course I shall yield my opposition to this proposition; but it does seem to me that the Government would be more likely to receive authentic information, in a short space of time, of the dispositions of the Indians, from the reports of superintendents, and agents, and officers, at our various forts and outposts, who probably know at this time as much as they will be likely to know within a brief period, of the designs of the various roving bands. I understood the honorable Senator to say that there were one hundred and eighty thousand wild Indians. Surely that must be a mistake.

Mr. SHIELDS. I said that was the number of Indians there.

Mr. BELL. I thought it must have been a mistake to imagine that there was that number of wild Indians. I understood the honorable Senator, then, to say that there are one hundred and eighty thousand Indians in that country, and only eighteen hundred soldiers; and I believe he does not include the Indians in Texas in that statement.

Mr. SHIELDS. There are one hundred and eighty thousand Indians in the western military department, which extends from the Mississippi river to the Rocky mountains, excluding Texas and New Mexico. Of course, all the Indians are not wild Indians. Included in this number are the Delawares, and a few small tribes which have treaties with the United States. If we were to include the whole number of Indians, I suppose it would amount to something like four hundred thousand.

Mr. BELL. Within the territories of the United States?

Mr. SHIELDS. Yes, sir.

Mr. BELL. I do not propose to go into that subject now; but I really think that there must be some mistake in supposing that there are one hundred and eighty thousand Indians west of the Mississippi, excluding Texas and New Mexico. On a former occasion, when I went into an investigation of that point, with the lights before us, I came to the conclusion that the roving Indians were about forty or forty-five thousand. I think this calculation was made at the time when it was proposed to collect the wild Indians at Fort Laramie, and make treaties with them. An appropriation was made for that purpose; but I do not recollect how many they succeeded in getting together. If there are only about forty thousand wild Indians, they are not so numerous as is supposed; and, I presume, that these are the only Indians about whose disposition the Government is uninformed. I presume there can be no doubt as to the friendly disposition of the Indians immediately on our borders, such as the large and flourishing tribes west of Arkansas, who, I believe, alone amount to fifty-eight thousand. It is the disposition of the wild tribes which we wish to ascertain. We wish to find out whether they are for peace or for war. It is proposed to see whether they will take some annual gratuity, and remain at peace, as those did who met at Fort Laramie, a few years ago. Then I put it to the honorable Senator, whether the Indian agents and superintendents, and Government officials now on the ground, could not, in a shorter space of time, better answer the purposes of the Government, and of the country, in getting reliable information? Why, then, should they not be entrusted with the duty of sounding the disposition of these roving bands?

Mr. WELLER. Will the Senator from Tennessee allow me to read a short paragraph from the report made by Mr. Schoolcraft, on Indian statistics, showing the number of Indians on the new line of frontier acquired by the treaty of Guadalupe Hidalgo? With the Senator's permission I will read it.

Mr. BELL. Very well.

Mr. WELLER. Mr. Schoolcraft says:

"The entire number of Indians on the new line of frontiers acquired since the treaty of Guadalupe Hidalgo, and of the Pacific territories, is shown to be 168,002, namely: Texas, 29,575; New Mexico, 58,480; California, 45,235; Oregon and Washington, 22,733; and Utah, 12,000. The gross numbers would, at the usual rate of computation for women and children, and old and superannuated men, give 33,600 fighting men."

Mr. BELL. Is that the whole number in our new acquisitions?

Mr. WELLER. There are thirty-three thousand warriors in the new acquisitions.

Mr. BELL. Do I understand the honorable Senator to assert that thirty-three thousand warriors have been added to the Indian country by the Mexican treaty?

Mr. WELLER. Yes, sir. According to Mr. Schoolcraft's statement, one hundred and sixty-eight thousand Indians have been added, giving, at the usual computation, over thirty-three thousand warriors. I should remark, however, that this statement embraces Texas.

Mr. BELL. That opens a larger field than I propose to go into now. I do not mean, at this time, to go into the question, whether or not there is a necessity for raising these volunteers. If there is, if a crisis has arrived, rendering their employment necessary, no man will vote for raising them more cheerfully than I will; but I should like to hear the evidence on which the idea of such a crisis is sustained. If there were such a large number of warriors as the Senator from California supposes, it would afford ground for apprehension. My object, however, was not, at this time, to go into that question; but my purpose was to speak as to the proposed appointment of commissioners.

Mr. SHIELDS. Let me read a few words from the last annual report of the Secretary of War, on this subject:

"We have a sea-board and foreign frontier of more than ten thousand miles; an Indian frontier, and routes through the Indian country, requiring constant protection, of more than eight thousand miles, and an Indian population of more than four hundred thousand, of whom probably one half, or forty thousand warriors, are inimical, and only wait the opportunity to become active enemies."

Mr. BELL. I do not wish to go into that matter now, as I hardly think it necessary to do so. I do not believe that there are four hundred thousand Indians in the whole territories of the United States. I have looked at Mr. Schoolcraft's book, and I believe I have seen before the statement which was read by the honorable Senator from California, and I think it not so unlikely that we acquired as great a number as one hundred and sixty-eight thousand by the treaty of annexation, as the other statement is. But I believe we have always exaggerated the number of Indian tribes in the interior. We formerly estimated them at three hundred thousand before the treaty by which we acquired New Mexico and California, though I think it a very large estimate. Since then, the number has generally been estimated, in round numbers, at four hundred thou-

sand. Now, it is stated, that there are two hundred thousand of them disaffected. That, at the usual computation of one warrior to every five souls, which, I think, is an approximate estimate, gives forty thousand warriors as the number likely to become hostile. If that be true, we ought to have ten thousand volunteers instead of three thousand. If there be any imminent danger of hostilities, and if it be true that there be such a large number of hostile Indians, three thousand troops will be a very small force to oppose them.

The honorable Senator from Illinois knows, from the part which I have taken in the Committee on Indian Affairs, that I have regarded the increase of our regular Army as inevitable from the recent great extension of our Indian frontier, both west and east of the Rocky mountains. I cannot but think that, if the statement which the Senator from Illinois has just read be correct, it will require ten thousand troops to keep the Indians in check. Three thousand men will not maintain peace on the extensive line of frontier, including New Mexico, California, Utah, the western part of Texas, and the western border of the old States and Territories. Besides, we have Oregon and Washington Territories to protect. Causes for rupture continually arise when our population is extending on both sides of the Indians. The close contiguity of the races excites passions which lead to disturbances. Besides, we have to protect the different lines of emigration which we have in our Territories. We are not contented with having our old emigrant route; but we have recently marked out another line—I mean the Governor Stevens route; I do not know how better to designate it. We have indicated our disposition to establish posts along that line, and we have thus aroused the jealousy of the various Indian tribes in that neighborhood. It may be that the greatest probability of the supposed threatened hostility is along that very line; but no matter on what line it be, or whether it be on all together, if there be such a hostile disposition existing in the minds of the Indians on account of the white settlements encroaching on them, and interfering with their game and means of subsistence, three thousand volunteers or mounted men, with all your regular Army, will not protect the frontiers and hold the Indians in check.

But, sir, I had supposed that, before this time, energetic measures would have been taken to conciliate the friendship of these tribes. I expressed that opinion before this. I do not wish it to be understood, however, that I am opposed to the amendment of the honorable Senator in regard to raising a volunteer force. I do not propose to oppose it until I am better informed on the subject than I am now. It seems to me, however, that by annual gratuities or annuities to the Indians, or by distributing provisions and subsistence, to a small extent, we should, with one third, nay, not more than one fourth of the expenditure which this provision will cost, succeed far better in preserving peace with the Indians, than if we had ten thousand troops on the frontiers.

It may be that the result of the policy indicated by the honorable Senator from Illinois will be the selection of experienced and able commissioners—men acquainted with the Indian character; not appointed for the mere purpose of bestowing office—though, of course, that might always be expected to enter into such matters. I do not impute to the President any such disposition. If the result should be the selection from our frontier of such men who are sincerely desirous of maintaining peace, I believe it would be the most economical appropriation we could make to institute such a commission. But, sir, I must tell the honorable Senator from Illinois, that, from my past experience, I have not full confidence in such a plan. I have seen, on former occasions, the result of these commissions. I aided once, when I was a member of the House of Representatives, in getting a commission appointed to sit, I believe, for two or three years. I had great expectations of the important benefits which that commission would confer on the country; but I was wholly disappointed; and yet the men who were then at the head of the Government were as patriotic as those who are now at its head; they were men in whom we could repose as much confidence as we can repose in the present Administration, or as we are likely to repose in any succeeding Administration. We were, however, wholly disappointed in regard to that commission. There was considerable expenditure involved in it. There was a greater show and parade of the benefits which were supposed to be likely to accrue to the country by the appointment of the commission than any real or substantial advantage from it.

If the object be what I have just intimated, perhaps it may be desired to put one thousand or three thousand volunteers on our frontier, and hold them in check, as well as the Indians, until three experienced, able, patriotic men, appointed as commissioners, can call together the various nomadic tribes, the wanderers of the desert, sound their disposition, and make treaties with them. If that be so, the commissioners should have authority to make liberal treaties, to grant them annuities, or deliver provisions in kind once or twice a year; for, sir, the Indians must be fed or they must be exterminated. We are wresting their means of subsistence from them by the advance of our settlements. When the white population approaches them they lose their game; and hence, I say, they must be fed or exterminated. In that view of the case, if the alternative is now clearly perceived by the Government, that, if they do not accede to liberal propositions for the annual subsistence of the Indians, there is no recourse but to pursue them to their fastnesses in the mountains in winter, and all other seasons of the year, and to exterminate them, prompt measures should be taken. If commissioners are to be appointed, they ought to have ample powers, and Congress should indicate the policy which they wish them to pursue, by making appropriations to enable them to subsist and preserve peace with the Indians until treaties can be made by the Government, satisfactory to the Indians themselves, and to the country.

The PRESIDING OFFICER, (Mr. FOOT, in the chair.) The question is on the first section of the amendment offered by the Senator from Illinois.

Mr. RUSK. That provides for the appointment of commissioners.

The PRESIDING OFFICER. Yes, sir.

Mr. RUSK. I hope it will not be agreed to. I do not see any necessity for it. It looks very well on paper as a precautionary measure to avoid a war; but, in my judgment, it is more likely to produce than to avoid one. We have agents and superintendents who understand all the questions that could arise with the Indians much better than a new body of men selected here and sent out among them could possibly do. If it is necessary, therefore, to hold any talks with the Indians, it would be a great deal better to let them be conducted by men who are acquainted with their habits and ideas, and who are, and have been, among them, than to take strangers. These offices would be sought after by politicians.

Mr. SHIELDS. Will the honorable Senator permit me to make a little explanation?

Mr. RUSK. Certainly.

Mr. BELL. Will the Senator permit me to read the law to which I referred?

Mr. SHIELDS. I do this in reply, principally, to the honorable Senator from Tennessee, but it may also throw out some ideas for the Senator from Texas, and he can judge of their force. The view which the committee took of this matter, and I certainly heartily concur with them, was, that if we are to employ three thousand volunteers, and add to that volunteer force two thousand regulars, and place at the head of that army of five thousand men a general in the United States Army, and send them into the Indian country, it would be war. No gentleman understands this better than the honorable Senator from Tennessee. The men who committed the massacre at Fort Laramie, the men who have destroyed the mail carriers, the men who have robbed our trains, those outlaws and brigands—for the Indians have outlaws and brigands amongst them as well as white men have, who put their own rules and regulations at defiance as well as ours—would elude the army and escape from it, and fly to the mountains. But when you send three thousand volunteers, and two thousand regulars, under a general, and he goes and makes war upon them, all the peaceable tribes, hearing of the force which is coming against them, will fly to arms in self-defense, and unite with those men who are now hostile. They will expect to be exterminated if they do not; and you will have a general Indian war, ending in what I should deplore of all things on earth—a general Indian extermination; because, sir, you have no place for the removal of those Indians to. You cannot do as we have done in Georgia, and on the sea-board. You cannot remove them further west.

Then, what is proposed? That three commissioners shall go out with what I will call the olive branch. We propose to send able and competent men out there, for I take it for granted that the Executive will appoint such men. If it is liable to be mismanaged, that is a danger which attends other things as well. Those commissioners are to go out to the Indian country.

I hold in my hand the report in regard to the Indians. If the honorable Senator will examine it carefully, he will see that the great Sioux family, which can bring from six thousand to eight thousand warriors into the field, have among them some that are hostile and will come to no terms. For instance, there are the Brulies, who massacred the men at Fort Laramie. Then, they have the Oyer-lal-lah, and some others, who are peaceful, and want peace. Now, will the honorable Senator not separate these men from the hostile Indians? Would he turn the army loose upon all these and confound them together? Will he send an army against them before he gives the peaceable ones assurances that they will be protected and defended? Does he not know (no gentleman knows better) that in these Indian wars the army attacks the Indians who are generally peaceful, and remaining and living in little peaceful villages; that the hostile men fly to the mountains and elude the army; and that on both sides it is the destruction of the innocent? for the Indians come down and attack the peaceful settlers on the frontier, and devastate them, and the army retaliates by destroying also whatever Indians they meet. Would he, with the information which he has before him, send out an army of, say, five thousand men, or three thousand men, under a general, for the purpose of war, without making some effort to give those poor tribes who are anxious for peace, assurances of protection?

In reply to my friend from Tennessee, I will say that these are the facts, and when he examines the reports he will find them to be so. These Indians, having committed a variety of depredations, are now in a state of alarm. They are organizing; they are forming a confederation. They are preparing for war, because they expect chastisement and punishment. He will find that some of the tribes, which have been guilty of the enormities, have fled back to the peaceful tribes, and are now engaged in organizing them to prepare for a general war. They are attempting to establish a general confederation. The object of this commission is to prevent that confederation—to prevent those men who are hostile from combining with them the others who are anxious for peace.

The honorable Senator says our agents are sufficient to do what the commission can do. If that be so, why have they not done so already? They have failed in doing it. But, sir, the commission will be authorized to unite with them the agents to aid and assist them; and I hold that it is due to the moral conscience of the nation that you should make every effort for peace, and for protecting the peaceable men, before you let your army loose upon them. Unless such efforts are made, I should hesitate to raise this force, for I should feel a responsibility in seeing one drop of Indian blood shed unnecessarily. It must be one of those cases when there is no other remedy, in which I would let the army loose upon them. I did not believe there was an honorable Senator in the body, or a man in the United States, who could object to sending a peaceable commission before you send an army against them. I know that you may, when you send out a general at the head of an army, instruct him not to attack the peaceful tribes; to discriminate between the innocent and the guilty; and to make treaties also; but, for one, I never would intrust the sword and the olive branch to the same man—never. The man who goes out with the sword, will go to fight; he will go to carry on the war. The men who accompany him will press him into it if he hesitates. He loses his reputation as a general, if he acquires a reputation as a peacemaker. I know that to be the case. I should dislike such a function myself. He will be pressed on by the volunteers. They

will go there to fight. They will not be satisfied unless they do fight; and it will be a most inglorious war—and not only inglorious, but commence it, and no man can tell when it will terminate. We know that the Indians have acquired immense information latterly in relation to fire-arms. Our traders have sold them the best rifles, the best muskets, and plenty of ammunition. My opinion is that the traders are at the bottom of a great deal of this mischief. The Indians, therefore, are now a very formidable body, and would employ for many years, any force that we can send against them.

Sir, I come back to the original proposition. It is to prevent this war—to chastise the outlaws and brigands, who are prowling about the emigrant line. That is the purpose; and we desire the commissioners, in connection with other agents of the Department who are out there now, to visit those who are not thus engaged, and give them the assurance which this proposition provides for. Has the honorable Senator any objection to that? Will the commissioners provoke the Indians? Will they excite war? Can they do any injury? Can they do any harm? The sending of such a body of men, for such a purpose, is, in my humble opinion, due not only to ourselves, but to the country. I repeat, what I said before, that it meets not only with the hearty approval of the President, but he seemed to be rejoiced at having it in his power to prevent the shedding of the blood that might otherwise be shed, in the conflict between our men and the Indians.

Mr. RUSK. I would go as far as the honorable Senator from Illinois to prevent war; but I must be excused from sustaining this proposition, for, in my judgment, the means which it proposes are not likely to accomplish the object. If we go back, it will be seen that we are unprotected on all these lines. The Secretary of War has asked for regular troops, who are not likely to go into the depredations which the honorable Senator expects. These he proposes to call out. A part of the honorable Senator's speech has been a sort of attack on the war part of the amendment. It has a peace part and a war part combined. It provides for raising three thousand troops; but they are not be called out until the three commissioners visit the Indians. He says the Indian agents can do nothing with them.

Mr. SHIELDS. I did not say that the troops were not to be called out. I did not contemplate such a thing.

Mr. RUSK. How is it to be regulated?

Mr. SHIELDS. I leave that to the President.

Mr. RUSK. Which would go first?

Mr. SHIELDS. I suppose the honorable Senator knows that the three thousand men cannot be raised in a day. I suppose that five hundred or one thousand can be raised in Missouri before they can in New York; and with those, or with five hundred regulars, which would be still better, the commissioners can advance, and if they can thus accomplish the object, the President will raise only as many as are necessary.

Mr. RUSK. Then it is to be a mixed commission, as I understand it. These commissioners are not to go out first. They are to go accompanied by a military force sufficient to protect them. You have agents there who know, or ought to know, the Indians. The office was instituted for the purpose of getting those who were familiar with the Indians to discharge its duties, and explain the duties of the Government to the Indians. But, says the Senator, they cannot do anything. They cannot accomplish any desirable object; but it is likely to be accomplished by three commissioners. Here is the establishment of three officers, and the incurring of a considerable amount of expense. They would not have more influence over the Indians than the intelligent agents who are already amongst them, and who certainly have an advantage over any stranger that may be selected. I am very well aware that politicians will seek these offices. Well, those commissioners are to go out and hold a talk with the Indians. They are to go to offer the olive branch of peace. If they go by themselves, the Indians will very likely think that we are afraid of them, and that we do not intend to chastise them at all. If they go as the honorable Senator proposes they shall go, with the military force, I know enough about the Indians to know that they will do nothing with the peace agent, but will go to the captain. The best way to the Indian's, and especially the wild Indian's, good graces is to excite his fears.

But here will be a division of counsels. Three commissioners are to go out; and what will be the result? We shall get a batch of treaties which we shall have to reject. The commissioners will be sent out to accomplish an object. They will have to accomplish something. They must make treaties. Cannot that be done as well without the additional expense? Cannot it be done just as well by the agents and superintendents whom you have among the Indians now? And is it likely that they are to agree? One of the most important things in the intercourse with the Indian is to keep the same talk to him. If a commissioner goes and tells him one thing, and then a general goes along and tells him another, he is distracted. He will believe the general, certainly. He will believe the man who has a force at the back of him. So that, in my judgment, it will not accomplish the object which the Senator says he has in view, and which, I have no doubt, he has, and which is desirable to prevent any bloodshed or war. If it were likely to accomplish that object, I would vote for it cheerfully; but I say it is not likely to take a single step towards the accomplishment of it. On the contrary, it is likely to produce confusion. The Indians have been in the habit of talking with the agents who are among them. They believe that those agents have been sent to them by the Government—by the President. When you send your commissioners, will they hold the same sort of talk? If not, there will be confusion. Is it likely, not knowing what has happened before, not knowing anything about the habits of the Indians, that they will be likely to follow precisely the same line of policy which has been pursued before?

Mr. SHIELDS. If the honorable Senator will permit me, I will state the amendment provides that the commissioners shall report to the General in command as to the disposition of the tribe, &c.

Mr. RUSK. There is another confusion. The commissioners from what they see and hear—no doubt they will get plenty of promises—may think that the talk is enough to give assurance of peace; the general may think it is not. There will thus be divided counsel. Where will be the responsibility? The general will throw it off upon the commissioners, and the commissioners upon the general. If you want the duty performed, select a proper agent, and put the responsibility upon him, and give him no excuse by which he can throw it off.

Mr. JOHNSON. I was not in the Committee on Military Affairs when this subject was acted on. If I had been there, I would have suggested——

Mr. WELLER. Will the Senator allow me to make a remark? I believe the details of the amendment, as now proposed by the chairman of the Committee on Military Affairs, were never committed to a meeting of that committee. All that I understood the committee to agree to was, to raise three thousand volunteers for a period of eighteen months, as called for by the President. They were to be organized in the manner in which the law of 1846 provided for the organization of the volunteers called out for the Mexican war. But, I am sure, as a member of that committee, I never should have agreed to the organization of a band of Indians to aid the white men in prosecuting this war. In other words, I have never been consulted, so far as the details of that amendment are concerned; and, therefore, I hold myself at liberty either to go for it in its present shape, or to suggest any modification which, in my judgment, may be proper.

Mr. SHIELDS. The Committee agreed upon two things: First, the appointment of three commissioners, for the purpose of making peaceable accommodations with the Indians. The Senator agreed to that.

Mr. WELLER. That is true.

Mr. SHIELDS. They agreed upon giving three thousand volunteers, as the Department wished them. Does the Senator agree to that?

Mr. WELLER. No; I do not.

Mr. SHIELDS. It is a question of veracity, it seems.

Mr. WELLER. I said "no" to that question for this reason. I did not know what plan the Secretary of War proposed to adopt in organizing the three thousand. All that I assented to was, that three thousand volunteers should be given to the Executive to put down these Indian disturbances.

Mr. SHIELDS. Well, Mr. President, I do not want to get into a difficulty here. We had the message of the President and Secretary before us, and we agreed upon two things. I appeal to the other members of the committee in regard to it. One was the appointment of three commissioners to proceed to the Indians and carry the olive branch. The other was—and I was as reluctant as any one upon that point—to give the Executive what they demanded, and to leave the responsibility upon the Executive. I took the amendment which the Department had prepared, for the three thousand volunteers, understanding that that was the opinion of the committee, and instructed by the committee on that point, I have presented it here. But I repeat, as I have already stated, I am willing and anxious that the part of the amendment providing for employing Indians should be stricken out. That does not meet my approval at all; and I only reported it in conformity with what I believed to be the instructions of the committee, just to let the Executive be responsible for the act, and to give them what they called for. I therefore offered the amendment, prepared, as it was, by the Department. The only change made in it was one which the honorable Senator himself urged upon us, and which was very correct; that is, to give the volunteers the power of appointing their own officers.

Mr. JOHNSON. In regard to the employment of Indians I have now nothing to say, as that provision has been stricken out by the assent of the Senator who proposed the amendment. In regard to the suggestion which is made by the Senator from Tennessee, as a modification of the amendment which is offered by the Senator from Illinois, relating to the appointment of the three commissioners, I have a word or two to say. The law, as it now stands, which was passed on the 27th of February, 1851, provides, as follows:

"That hereafter all Indian treaties shall be negotiated by such officers and agents of the Indian department as the President of the United States may designate for that purpose; and no officer or agent so employed shall receive any additional compensation for such service."

That was adopted, if I recollect aright, upon full discussion. It was reported and debated, I believe, at full length, according to my memory. I was then connected, in the other branch of Congress, with the Committee on Indian Affairs. It was adopted to get rid of a class of officers connected with the Indian service, passing under the style of commissioners, who were unsuited entirely to the purpose, and from whose action, in connection with the public service, there had originated misfortunes and erroneous steps in regard to the policy of the Government.

The proposition, then, Mr. President, suggested by the Senator from Tennessee, is to strike out of the amendment so much as relates to the appointment of commissioners, in connection with the present proposition for the organization of a force to go out amongst the Indians, to make treaties. The condition in which we would be left by adopting that suggestion is palpable, and, I think, if it be adopted we shall be in a better situation than if the amendment be agreed to as it has been offered by the Senator from Illinois. What will be attained by the appointment of these commissioners? Under the law, as it now stands, only the agents can be employed who are already connected with the Indian service, and who are, in some measure, familiar with the character of the Indians, and with the policy and intentions of the Government with reference to them. If these commissioners are not conceded, to what quarter will the President look for agents to make treaties of peace with the Indians? It will become his duty, under the express provision of the act of February 27, 1850, to take those who are now in the service. For instance, if more than one is needed, the superintendent of the Indians in the West can be taken for that purpose, and sent upon these expeditions, which it is not expected will consume any very great length of time; or, if only one is needed, he can leave off the superintendent, and take the agent who is connected with the tribe, and leave him to treat with them.

It is to be presumed that the individual who is now connected with the agency established in a

tribe with whom a treaty will have to be made, is more familiar with their wants and complaints, and with the policy that the Government may wish to adopt with reference to the particular tribe, than any other individual that can be transmitted to it. He is certainly more familiar with what he had pledged the Government to do. It may be well that some one else should be associated with him; so that, if he has made improper pledges, they may be arrested; but it is certainly to be presumed that those agents who are among the Indians will have more of the confidence and the ear of the Indians, than any that can be transmitted to that country, who are unaccustomed to Indian habits and to the Indian tribes with whom they will have to deal. That is the condition in which we shall be left if the commissioners are not to be appointed. In making the selection of the agents, the President can take from any part of the Indian service, either from the bureaus here, or from any portion of the agents of the different tribes at the West who may be nearest to the tribes with whom the Government will desire to deal.

I hope, sir, that the suggestion of the Senator from Tennessee will be agreed to, and that we shall have no more commissioners appointed. The class of commissioners who had been appointed, and who led to the enactment of the law of February, 1851, had been such as were forced upon the President. Say what we will for the anxiety which we ought to admit exists on the part of every President of the United States to appoint proper officers, it is yet often the case that the sternest President is unable to appoint men whom his judgment would tell him would be the better men for the post. It is also often the case, if not always, that the President himself is not well suited to judge upon the qualifications of different applicants for offices, and consequently political friends, or persons who may be around him, or members of Congress, whether political friends or not, force upon his consideration the appointment of such men as are totally and wholly unfit for the place, and ignorant of its duties. It was to get rid of that class of appointments, a class, as they were termed in that day in the debates, of broken-down politicians, who were transmitted upon these errands in the performance of these duties, for the sake of giving them a place to go to, and something to support themselves upon, that the law was passed, as well as to render the public service effective in itself by the appointment of those who were competent, from their knowledge of the Indians, to perform and discharge the duties of the office in the best manner. I shall, therefore, support the amendment to the amendment which is suggested by the Senator from Tennessee, to strike out all that portion which relates to the appointment of three commissioners.

Mr. HUNTER. This whole subject is one of great difficulty and embarrassment. At least, sir, it has given me much anxiety. The proposition for a commission has, in certain aspects of the case, some recommendations. If we are to send out an army of volunteers—three thousand, as is proposed by the amendment—amongst the Indians, I fear a long and dangerous war is almost inevitable. If such a force as that should be sent out, then I understand it to be the proposition of the Senator from Illinois not to revive the old system, which was very properly put down, but to send along with it a commission, to treat for peace; and looking to it as offering some hope, some very faint hope, of arresting those difficulties, if the selection should be wisely made, I have come to the conclusion that I will vote for such a commissioner in the event that the three thousand volunteers should be raised. Of course it will depend upon the selection which the President may make, whether the commission would be of any use or not. He might, undoubtedly, select persons to go with the officers in command of the force, who might have experience and knowledge of the Indian character and habits, and be of service in preventing the results which I apprehend from raising such a body of volunteers, and sending them among the Indians.

But, sir, I would propose, instead of these volunteers, to raise, at once, two regiments of regulars, and some five hundred rangers. I would prefer to substitute another force, which I believe would be much better fitted for the end, and which might be raised without leading to the result which I apprehend from sending three thousand volunteers out among the Indians, from the habits of the volunteers, and the strong temptation which would exist in the mind of an ambitious officer to perform some exploits, or do something by which he might acquire fame and reputation.

Believing this, and intending, before the vote is taken upon the amendment, to offer some such amendment to that amendment, I would prefer that the vote upon this should be taken after it is decided whether we shall raise the three thousand volunteers, or give two regiments of regulars and a company of rangers, which would amount to a force of something like fifteen or sixteen hundred men. It would save much money, and, I believe, would furnish the Government with far more efficient means for restraining the outrages in such a manner as would prevent war; because it would be more under the control of the Department than if we raise the force which is proposed. If volunteers are to go out, I think we had better send the commission with them. I do not know that it would be of much service, but still there is some faint hope that perhaps they might be of service in treating, and preventing the outrages and Indian hostilities. But if, on the contrary, we raise the other forces which I suggest, then I see no necessity for sending such a commission; and I believe myself that would be the better plan.

Mr. SHIELDS. I agree with the Senator in his remarks, that these volunteers are only troops for an emergency, that the regular troops are always the best troops to keep peace among the Indians; and that that cannot be done permanently except by a permanent force, not by a movable operating army. But it will take some time to organize three or four regiments of regulars. I believe the Senator knows also, that if the bill in relation to the regulars, should pass this session, the force could not be organized before the fall. Now, the danger, if I understand it, is to be apprehended in the spring. The apprehension is that, in the spring the Indians will burst upon the settlements; and these volunteers are merely to meet that emergency. I see the difficulties which are in the way; and I should prefer the regular troops by far.

Mr. HUNTER. I will suggest to my friend from Illinois, that they could, no doubt, raise five hundred rangers as soon as they could the volunteers, and those, with some three or four hundred dragoons, who are at the service of the Department, would at once furnish a force in the spring of some eight or nine hundred men to start with, and we might raise the regiments of regulars by the time they should be wanted.

Mr. SHIELDS. I will ask, sir, because I will take to-night to consider the proposition, whether the Senator will aid us in putting the recommendation of the Executive to increase the Army by four regiments, in place of this amendment?

Mr. HUNTER. I cannot; I have said what I would do. That is as far as I would go. My object is to supply a sufficient force of regulars to prevent these outrages, and not to raise such an army of volunteers as would invite war, and, I am afraid, lead to an Indian war, the end and consequences of which no man can foresee.

Mr. SHIELDS. Does not the honorable Senator know that, at the last session, we passed a bill through the Senate, which has never been touched in the House, to increase the Army? This bill may meet the same fate again; and how do we stand before the country? for the President has made the call upon us.

Mr. HUNTER. Perhaps the Senator does not understand me. I agreed to vote for the proposition which I suggested as an amendment to his, on this bill.

Mr. SHIELDS. That is for two regiments and five hundred rangers.

Mr. HUNTER. Two regiments, which would amount to one thousand two hundred and eighty men, and then five hundred rangers.

Mr. SHIELDS. I do not think the force at all sufficient.

Mr. GWIN. What is the pending question?

The PRESIDING OFFICER. It is on the first section of the amendment, which provides for the appointment of a commission.

Mr. GWIN. I am not in favor of that proposition. I do not think it is necessary to provide commissioners. It seems to me that the best commissioner who could be sent would be the General-in-Chief; that he would be the proper man to determine when the Indian treaties should be made. If you send a force, rely upon it there will be fighting, especially if you send volunteers. You cannot collect three thousand mounted men or rangers, and put them in the field under the command of such a general as they would choose—and I hope they will have their own selection—without having a skirmish with the Indians of some character or other; and there should be no party in connection with them who would disturb the military operations of the General-in-Chief. If these three thousand volunteers are to be selected as volunteer forces, in my opinion that is indispensable, unless the plan of the Senator from Virginia is so enlarged as to create military posts while these military regiments are to be raised. We must have a large force, and we must have a military road, guarded by military posts through the country, and upon which pioneers can settle, and keep the Indians in subjection in all time to come. If we go to war with them, we ought to make it a final war. If this force is to be called out, it seems to me they should have the selection of their own commander. It is rarely the case that we meet with such an instance as this. There are large bands of armed Indian warriors to be encountered, and the commander should be the commissioner. He should have power to make war and peace with the Indian tribes. My impression is, that the proper plan by which to obtain permanent peace with the Indians would be to have permanent troops, and to establish permanent military posts along the emigrant route.

Mr. SHIELDS. I want to understand the honorable Senator's proposition. If I understand him, he desires that these volunteers should select their own general.

Mr. GWIN. Certainly.

Mr. SHIELDS. Who is to command them in this campaign?

Mr. GWIN. Certainly; and that that general should be the commissioner to treat with the Indians, instead of having a separate board of commissioners. I think they might interfere with each other. I am of the opinion that we never can have that road properly protected and kept clear of Indian depredations, unless we have a permanent military road through the territories of the United States, with military posts, at which a portion of the Army shall be established, and upon which there shall be settlements of pioneers, who will very soon keep the Indians down. I am in favor of the plan, and of having it speedily brought before the Senate in some form in which it can be voted upon on this bill; for I agree with the honorable Senator from Illinois, if we do not put on this bill what we propose to do, it will probably be lost in the other House.

Mr. HOUSTON. I desire to make some observations on this subject before it is disposed of. I wish to make a number of remarks, for I shall not confine myself to the proposition of employing an Indian force, or to the question of appointing commissioners to treat with the Indians, but shall take a wider range.

Mr. BADGER. I will submit a motion to adjourn, if the honorable Senator will give way.

Mr. HOUSTON. I was just on the point of doing so myself. I move that the Senate adjourn.

The motion was agreed to; and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 25, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a message from the President of the United States, transmitting a communication from the Secretary of the Interior, recommending an appropriation for the payment of a small balance due the Cherokee Indians; which, on motion by Mr. HAVEN, was referred to the Committee of Ways and Means, and ordered to be printed.

The SPEAKER also laid before the House a message from the President of the United States, transmitting reports of the Secretary of the Interior and the Postmaster General, together with accompanying documents, communicating information of the progress made under the act of Congress of August 2, 1854, entitled "An act to pro-

vide for the accommodation of the courts of the United States in the cities of New York, Philadelphia, and Boston."

Mr. WITTE. I understand the message just laid before the House by the Speaker to have reference to a subject which was submitted to the President, by resolution passed at the last session of Congress, clothing him with authority to make additional contracts for the purchase of sites, in the cities of New York, Philadelphia, and Boston, for court-rooms and post offices. I understand from the message that the President has deemed it advisable not to exercise the authority conferred upon him. He has also submitted to the House the various propositions which have been made, but declined to make a selection. It is true, that the act gave him no authority to make a final and positive purchase. It gave him only the power to select the sites, requiring him to submit his action for our decision.

The act is one of some moment. It is of the greatest importance, at least to the cities of New York, Philadelphia, and Boston, that a selection should be made—first, with regard to the fitness of the sites for the purposes for which they are intended, and then with regard to the sums which will be necessary to expend in their purchase. There are a number of propositions presented; and I have no doubt that you will find embraced in them offers for sites both fit and unfit, of low price and high price; and this House is now called upon to make a selection and decide in the case. I would ask that the message and accompanying documents be referred to a select committee of five, with instructions to examine the subject, and report, in order that the House may be able to give a correct decision in regard to this matter.

Mr. HOUSTON. Does the message refer alone to court-houses, or does it embrace the whole subject?

Mr. WITTE. It embraces the whole subject.

Mr. HOUSTON. I think the communication had better go to the Judiciary Committee, although I have no objection to a reference of the subject to a select committee.

The question was taken on Mr. WITTE's motion; and the message and accompanying documents were referred to a select committee.

ENROLLED BILLS.

Mr. DE WITT, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles:

An act for the relief of Frederick Vincent, administrator of James Le Caze, survivor of Le Caze & Mallett; and

An act to authorize the issue of a register to the bark Colonist, by the name of The Lilly.

Which thereupon received the signature of the Speaker.

DR. KANE'S EXPEDITION.

Mr. CHANDLER. I ask the unanimous consent of the House to have taken from the Speaker's table, a joint resolution of the Senate with reference to the expedition under Dr. Kane. If I am allowed a few moments to make an explanation, I shall be able to remove the misapprehension under which gentlemen have labored, and especially the honorable gentleman who objected to the consideration of the resolution a few days since.

Mr. MILLSON. I think it is a very inappropriate time to call up the resolution now, as it will lead to debate. I was about to suggest, a moment or two since, that, as the House had agreed to close the debate upon the French spoliation bill at three o'clock this evening, it is desirable that we go into the Committee of the Whole on the state nf the Union early, and take up the special order.

Mr. CHANDLER. Does the gentleman from Virginia object?

Mr. MILLSON. I think the gentleman will see the propriety of an objection being made at this time.

Mr. CHANDLER. The consideration of the resolution will not occupy more than ten minutes.

The SPEAKER. Is there objection to the consideration of the resolution?

Mr. HAMILTON. I object, if there is to be action upon it.

TERRITORIAL BILLS.

Mr. FAULKNER. I ask the unanimous consent of the House to make reports from the Committee on Military Affairs, having reference to the territorial business, which has been set apart for consideration on Monday, Tuesday and Wednesday next. My object in reporting the bills at this time, is, that they may be printed and in a condition to be acted upon by the House, when they proceed to the consideration of the special order next week.

Mr. EDGERTON. I would inquire of the gentleman if the bill providing for three thousand volunteers is one of the bills which the gentleman desires to report.

Mr. FAULKNER. It is not; but I shall ask the unanimous consent of the House to take up that bill on Monday next, or move a suspension of the rules for the purpose.

The SPEAKER. The gentleman from Virginia asks the unanimous consent of the House to make a report connected with territorial business, that the bills may be referred, in order to be placed in a condition to be acted upon when territorial business comes up under the special order next week.

Mr. LETCHER. What are the reports about?

The SPEAKER. Territorial business.

Mr. LETCHER. Yes; but what sort of territorial business?

Mr. FAULKNER. I think the gentleman from Virginia is aware they are not railroad bills.

Mr. LETCHER. Are they military road bills?

Mr. FAULKNER. I think most of them are adverse reports, and there are no railroad bills among them. I want to place them in a condition to come before the House on Monday, Tuesday, and Wednesday, which are set apart for the consideration of territorial business.

Mr. LETCHER. I have no objection to that, but I am opposed to all roads, and if there are any road bills, I object.

Objections being made, the report was not received.

FRENCH SPOLIATION BILL.

Mr. BAYLY, of Virginia. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The Chair announced that the motion was agreed to.

Mr. MILLER, of Indiana. I ask that the other side may be counted.

The SPEAKER. The Chair inquired, before he announced his decision, if a further count was required, and he heard no response.

Mr. MILLER. A further count was required in this part of the House.

The SPEAKER. This is the first the Chair has heard of it, but he will recognize the requirement as in time.

Mr. ORR. I submit that it is too late. It is immaterial whether the call for a further count was made or not, as long as it was not heard by the Chair.

The SPEAKER. That is a very rigid rule the gentleman from South Carolina would have followed. The Chair does not desire to entrap the House or any portion of its members, and will put the question again.

Mr. SEYMOUR. I call for tellers.

Tellers were ordered and Messrs. EDMUNDSON and PHILLIPS were appointed.

The question was then taken; and the tellers reported—ayes 96, noes 29.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SEYMOUR in the chair.)

The CHAIRMAN. The committee at its last session, had under consideration House bill (No. 117) to provide for the ascertainment and satisfaction of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801. The pending question is upon the amendment proposed by the gentleman from South Carolina, [Mr. ORR,] to strike out the first section of the substitute proposed by the gentleman from Virginia, [Mr. BAYLY.] Upon that question the gentleman from South Carolina [Mr. ORR] has the floor.

Mr. ORR. Mr. Chairman——

Mr. GIDDINGS, of Ohio. I rise to a question of order. The rules of this House provide that no member shall speak more than once to the same question without leave of the House, unless he be the mover, proposer, or introducer of the matter pending, in which case he shall be permitted to speak in reply, but not until every member, choosing to speak, shall have spoken.

Mr. ORR. Yes, sir; but I have the start of the gentleman upon that question.

Mr. GIDDINGS. I claim the floor from the gentleman under that 37th rule of the House.

The CHAIRMAN. But there is another rule of parliamentary practice which governs the House, and that is, that on an amendment being moved, a member who has spoken to the main question may speak again to the amendment. The pending question is upon the amendment.

Mr. PHELPS. I ask the gentleman from South Carolina to yield me the floor for a moment, for the purpose of explaining the course I shall pursue upon the question under consideration.

Mr. ORR. I will yield for that purpose.

Mr. PHELPS. I desire to state to the committee the course I shall pursue on all questions pertaining to this bill. The rules of this House provide that "no member shall vote on any question, in the event of which he is immediately and particularly interested." My interest was acquired by no act of mine, but came to me by inheritance, through my maternal grandfather, who was interested in a vessel which was seized and confiscated by the French cruisers; and in the event of the passage of this bill, something would be due to his heirs.

I make this statement because no opportunity will be afforded to me when the bill shall come into the House, and I desire to place upon the record the reasons why I shall not vote upon this question.

Messrs. ORR and MILLSON addressed the committee in opposition to, and Messrs. PHILLIPS and BAYLY of Virginia, in favor of the bill. [Their speeches, withheld for revision, will be found in the Appendix.]

Mr. BAYLY, having concluded his remarks, moved that the committee rise.

Mr. WASHBURNE, of Illinois. Why not move that the committee rise and report the bill to the House with a recommendation that it pass?

Mr. BAYLY. I have no objection to making the motion in that form.

Mr. ORR. I submit that the motion is not in order. The bill has not been read by clauses.

The CHAIRMAN. The regular order will be for the bill to be read by sections for amendment.

Mr. STANTON, of Tennessee. Is not the motion that the committee rise in order?

The CHAIRMAN. Not if it includes the motion to report the bill to the House.

Mr. BAYLY. If there is an amendment pending, as I understand there is, of course it is not in order to move to report the bill to the House.

The CHAIRMAN. There is an amendment pending which the Chair understands to be in the nature of a substitute. The Chair will rule, therefore, that the original bill must first be read by sections for amendments to perfect it, and then the vote taken upon the substitute.

Mr. SKELTON. I move that the committee do now rise.

Mr. GREENWOOD. Upon that motion I demand tellers.

Tellers were ordered, and Messrs. SOLLERS and FULLER were appointed.

The question was then taken; and the tellers reported—ayes 76, noes 69.

So the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SEYMOUR reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the French spoliation bill, and had come to no resolution thereupon.

JAPAN EXPEDITION.

Mr. BOCOCK, by unanimous consent, introduced the following resolution; which was referred, under the rule, to the Committee on Printing:

Resolved, That the Secretary of the Navy be requested to communicate to this House a copy of Commodore M. C. Perry's report of the late expedition to Japan, and that ten thousand extra copies of the same, together with the maps, charts, and drawings accompanying, be printed for the use of the House, and that five hundred additional copies be printed for the use of the said Commodore Perry.

BOARD OF CLAIMS.

Mr. JONES, of Pennsylvania. I desire to

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move to reconsider the vote by which a bill from the Senate, commonly known as the board of claims bill, was referred to one of the committees. I do not ask for action upon the motion now, but I desire that it may be entered.

Mr. EDDY. I ask the unanimous consent of the House to introduce a bill for the purpose of reference only.

Mr. WALSH. I object.

Mr. SOLLERS. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at ten minutes before four o'clock, p. m.) the House adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

FRIDAY, *January* 26, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

PRIVATE BILL DAY.

Mr. EVANS. Is it in order to make reports this morning?

The PRESIDENT. By a resolution adopted on the 17th instant, private bills only can be considered to-day.

Mr. HUNTER. Can that order of business be changed by a majority of the Senate, if they choose to do so?

The PRESIDENT. No, sir, it will require unanimous consent to proceed to other business.

Mr. HUNTER. I will make the effort; I ask the unanimous consent of the Senate to postpone the prior orders, for the purpose of taking up the Army appropriation bill. I think we ought to dispose of that to-day.

Mr. PETTIT. If the Senator will allow me to have one little private bill passed, he shall have my consent.

Mr. EVANS. If he will allow me to have half a dozen passed, he will have mine.

Mr. HUNTER. Of course, the consent must be unconditional, if it be given at all.

Mr. PETTIT. Then I cannot consent.

The PRESIDENT. Objection being made, the Senate must proceed to the consideration of private bills.

BENEDICT J. HEARD.

The first bill on the Calendar was the bill reported from the Committee on Claims, for the relief of Benedict J. Heard. It proposes to require the proper accounting officers of the Treasury to audit, adjust, and pay the claim of Benedict J. Heard, of St. Mary's county, Maryland, for indemnity for the destruction of his dwelling house and other buildings, by the British forces, in the year 1814, from such competent evidence as may be exhibited to them within six months after the passage of the bill.

Mr. STUART. I ask for the reading of the report in this case.

Mr. PEARCE. I can state to the Senator from Michigan that this is one of a class of cases which underwent discussion at the last session, at great length, and were finally carried by a deliberate vote of the Senate. It is one of the class which was discussed by my colleague, [Mr. PRATT,] and the Senator from Delaware, [Mr. BAYARD.] This claim stands on precisely the same footing with the rest, which were allowed by the Senate.

Mr. FESSENDEN. I should like to hear the reading of the report.

The PRESIDENT. As the reading of the report is called for, it will be read.

The report was accordingly read, from which it appears that the Committee on Claims, in all such cases, have adopted the principle that whenever property of a citizen has been destroyed by a public enemy, in accordance with the usages of civilized warfare, because of its use or occupancy by the forces of the United States, the citizen is entitled to compensation to the extent of his loss. The inquiry in this case, therefore, is, whether the property of Mr. Heard was destroyed under such circumstances as to bring it within this principle? In 1814, a British naval force occupied the Patuxent river, and held command of its waters until after the destruction of the Capitol, in the month of August of that year. The militia of Maryland were called out by the authority of the Federal Government, to resist the landing of the enemy; and frequent engagements ensued, which generally resulted in the repulse of the British. Colonel Heard was the owner of a valuable estate on the Patuxent river, on which he had a large mansion and several out-houses, which were burnt and destroyed by the British on or about the 12th of July, 1814. M. C. Jones, whose high character, the committee say, for integrity, intelligence, and veracity, is as satisfactorily vouched for as could be that of any member of the Senate, swears that he was attached to a troop of horse, and was ordered by the officer in command, with others, to take possession of, and occupy, the house of Mr. Heard on the night previous to its destruction. He says that a card, marked "officers' rooms," was, by order of one of the officers, attached to the door of one of the rooms; and that another card, marked "men's quarters," was, by order of the same commanding officer, attached to another room of the house. According to his statement, the next morning this detachment of American troops was ordered to join the main force of our army, and they left the cards attached to the doors. When they retired, the British, whose vessels were lying in the river opposite to, and in view of the house, landed and burnt the dwelling and the out-houses of the petitioner. The committee give full credit to the statement of Mr. Jones, and therefore, as the military occupancy of the buildings, according to the usages of civilized warfare, authorized the destruction of the property by the enemy, they think the Government is clearly liable to make indemnity to the extent of the loss.

Mr. BAYARD. Mr. President, I hope this bill will be postponed for the present, and for a reason which I will state. It is one of those cases in which, on an investigation of the testimony, there cannot be a shadow of doubt about the fact, that the main witness, on whom the committee relies, is mistaken. I have some memoranda in reference to the names of the witnesses and the facts, which, not expecting the bill to come up this morning, I have not brought with me to the Senate Chamber; but I think that if I had the papers before me, I could demonstrate, beyond the possibility of doubt—I speak in strong language—to any gentleman who would take the trouble of listening to me for a short time, that the bill is founded in a mistake, on the part of one of the witnesses of the claimants, who swears in direct contradiction to the evidence of five or six other witnesses, and in opposition to the statement of the claimants. On the testimony originally presented, the bill was negatived by the Senate, as not coming within the sound principle; but, subsequently, after the death of the original claimant, testimony was brought forward in opposition to the evidence of other witnesses, and of the claimant himself in his lifetime, on which the present bill is founded.

I think I can show that there can be no shadow of doubt that the testimony on which this bill is based is an entire mistake. By taking the papers accompanying the bill now, I might probably be able to do it; but it would take a longer time than if I had my memoranda with me. Then, I could make a succinct statement, in which, I think, I could satisfy any Senator that this claim rests on an entire misapprehension on the part of a single witness, whose testimony is opposed by that of every other witness, and of the original claimant himself. In other words, I mean to say, that the state of facts sworn to by all the witnesses on the part of the claimant, when the claim was originally presented, and by the injured party during his lifetime, is utterly inconsistent with the state of facts on which a single isolated witness now undertakes to prove the claim, after the death of the original claimant. I think I can show that fact; and if I could, surely the bill would be rejected. While on the latter state of facts, the party has been supposed by the committee to be entitled to relief, yet on the former he is entirely without remedy. I prefer, therefore, that the bill should go over, particularly as my honorable friend from Maryland, [Mr. PRATT,] who takes a great interest in these cases, is not now present. He differs from me in opinion; but I think I can show the truth of what I have alleged.

Mr. PEARCE. I regret that the Senator from Delaware desires that this bill should go over; but the reasons which he assigns for that wish are, of course, satisfactory to me. I think, perhaps, when the bill is regularly taken up for discussion, it may appear that he is not so entirely accurate in his recollection of the facts as he supposes. However, it is perfectly proper that, after such a statement as that, the bill should be put aside for discussion.

The PRESIDENT. The further consideration of the bill will be postponed until Friday next.

CAPTAIN VOORHIES.

The PRESIDENT. The next bill is one for the relief of Captain Philip F. Voorhies, United States Navy.

Mr. MALLORY. I reported that bill from the Committee on Naval Affairs. The Senator from Louisiana, [Mr. SLIDELL,] who is not now in his seat, requested me, if the bill should come up in his absence, to procure its postponement; and, at his request, I move that its further consideration be postponed until next Friday.

The motion was agreed to.

RICHARD W. MEADE.

The next bill on the Calendar was one to settle the claim of the legal representatives of Richard W. Meade, deceased; which the Senate proceeded to consider as in Committee of the Whole.

Mr. STUART. I should like to have the report of the committee read.

Mr. WELLER. It is a very voluminous one. The Senator does not want the whole of it read, I suppose.

Mr. STUART. I do not want to pass such a bill without knowing something about it.

The Secretary proceeded to read the report, but was interrupted by

Mr. STUART. I understand this is a question which involves several hundred thousand dollars, and the report seems to be a very voluminous one. I therefore suggest whether we had not better informally pass it over, and proceed with others of less magnitude. I move its postponement until next Friday.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had passed a joint resolution authorizing the President to give the requisite notice for terminating our reciprocity treaties of commerce and navigation in certain cases.

BRIG GENERAL ARMSTRONG.

Mr. PETTIT. I ask the indulgence of the Senate to take up a bill which cannot occupy more than a minute. It is House bill for the relief of the heirs of Joseph Gerard. There can be no cavil about it at all.

Mr. STUART. I must object to that course of procedure to-day. I have no doubt that what the Senator says is correct in respect to the bill; but the same thing is true of many others. There are a class of cases on the Calendar equally meritorious, to which no attention has yet been given; and, if the Senate has been right in setting aside to-day for the consideration of the Private Calendar exclusively, we certainly should proceed in the order of business.

Mr. PETTIT. To save time, I will waive my request.

The PRESIDENT. The next bill on the Calendar is one for the relief of the claimants of the private armed brig General Armstrong; which is

now before the Senate, as in Committee of the Whole.

The bill proposes to direct the Secretary of State to examine and adjust the claims of citizens of the United States growing out of the destruction of the private armed brig General Armstrong, belonging to the port of New York, destroyed by a British force in the neutral port of Fayal, in September, 1814, and to settle them upon principles of justice and equity, and to pay the amount which may be found due to the claimants, or their legally authorized representatives.

Mr. WELLER. In order to obviate some of the objections which were raised to the bill, when it was under consideration at the last session, I have the following substitute to propose for the bill:

That the Secretary of State be, and he is hereby, authorized and directed to examine and adjust the claims of Captain Samuel C. Reid, owners, officers, and crew of the private armed brig General Armstrong, belonging to the port of New York, destroyed by a British force, in the neutral port of Fayal, in September, 1814; and to settle and adjust the same upon principles of justice and equity. And that he be, and is hereby, authorized and directed to pay the amount which may be found due to the said Captain Samuel C. Reid, the legally authorized representative of the owner, officers, and crew, out of any moneys in the Treasury not otherwise appropriated; which amount shall not exceed $131,600, being the sum demanded by the Government of the United States from the Government of Portugal, for the loss and damages sustained by the destruction of said brig.

Mr. FESSENDEN. I do not understand the exact nature of the order that has been passed in regard to these private bills for to-day. Was the suggestion of the Senator from Michigan that we should lay aside those which are objected to?

Mr. STUART. My suggestion simply was, to proceed with the bills in the order in which they stand on the Calendar. That is all.

Mr. EVANS. My recollection is, that this bill was rejected at the last session, and a motion was made by the Senator from Missouri, [Mr. GEYER,] afterwards, at the instance of the Senator from Georgia, [Mr. TOOMBS,] to reconsider the vote by which it was rejected.

Mr. WELLER. The motion to reconsider was acted upon, and that brings us now to vote upon the orginal bill.

Mr. EVANS. I do not remember that the motion to reconsider was agreed to.

The PRESIDENT. The bill was reconsidered by a vote on the call of the yeas and nays. That restored it to its original place on the Calendar, and the question now is on the amendment offered by the Senator from California.

Mr. FESSENDEN. I would like to inquire from the Senator from California what difficulty the amendment proposes to obviate?

Mr. WELLER. The Senator will discover that the latter clause of the substitute which I have proposed as an amendment, limits the amount which is to be paid under the bill. There is no limitation whatever in the original bill. The amendment which I propose does limit the amount which shall be paid.

Mr. FESSENDEN. It changes the mode of payment also. It is all to be paid to one individual, instead of to the several persons interested.

Mr. WELLER. It is to be paid to that individual as the legally authorized agent; and as a matter of course, he must produce the evidence that he is legally authorized.

Mr. FESSENDEN. I do not know that I have any particular objection to the amendment; but I have an objection to the bill in any shape in which it may be put.

The amendment was agreed to; and the bill was reported to the Senate as amended.

Mr. STUART. I should like to have the facts of the case either stated by a Senator, or else to have the report read.

Mr. CLAYTON. Let the report be read.

Mr. WELLER. A very full report was presented by the Senator from Louisiana [Mr. SLIDELL] at the last session. I have also in my hand, a report which was made by the Committee on Foreign Affairs, in the House of Representatives. Either one of them will be sufficient to put the Senate in possession of all the facts upon which the bill is based; but, perhaps, it would be better to have the report presented by the honorable Senator from Louisiana read. I therefore ask the Secretary to read it.

The Secretary read the report, which has been heretofore published.

Mr. WELLER. I desire to move a modification, in the concluding part of the substitute which I have proposed. It is to make it read "Captain Samuel C. Reid, owners, officers, and crew, or their legally authorized representatives."

The amendment was agreed to.

Mr. CLAYTON. I do not propose, sir, to go into an argument upon this question; but I will make a brief statement, showing why the bill, as a matter of justice to the claimants, should be passed. While I occupied the position of Secretary of State, my attention was specially attracted to the claims of this Government on Portugal. Many of those claims had been neglected for a period of nearly thirty years, not because the Government of the United States had not demanded the payment of them, but because the Government of Portugal had resolutely held out against all the demands which were made. I remember the case of a man who was a citizen of Maine, a ship-master, and the owner of a vessel that went into the harbor of Lisbon, with boxes of specie in her hold. They were all taken by the police of the city by violence, and kept by the Government; and that, too, after the judicial tribunal of Portugal had adjudged that it was illegal. It seemed as if that Government had resolved to turn a deaf ear to our demands for justice.

Then, sir, there were cases calculated to excite the attention of Americans connected with her conduct in the war with England. Not only was there the case connected with this brig, but there were others, and among them was the case of the Constitution frigate, which, after the capture of the Levant and Cyane, took the Levant into Porto Praya, one of the Portuguese settlements; and when a British squadron, of three times the force of the Constitution, appeared off the port, and the Constitution attempted to escape with her prize, the Portuguese authorities, instead of furnishing protection to the Constitution, as it was bound to do by the law of nations, actually fired upon her as she left the port, and the result was, the loss of the Levant.

In the case now before us, it is impossible, I think, for any fair and candid man to look at the evidence without being satisfied that the Government of Portugal evinced the strongest partiality at the time of the destruction of the General Armstrong. It has been often said, and that is the only excuse rendered, that she was not able to resist the British squadron that appeared off the port at that time; but, sir, she made no effort. The Armstrong was under the very guns of the battery, and not a single effort was made by the Governor of the port to protect the privateer. And not only was no effort made to protect her, but when some thirty or forty American seamen, who were in port at the time, and witnessed the attack by overwhelming numbers of the enemy, attempted to go on board the privateer to assist, the Governor refused them permission to go. The privateer was destroyed under circumstances which will ever be regarded as highly honorable to the American name and character. I shall not repeat them. They have been dwelt upon too often. The justice of the claim on Portugal I do not think any man will question. That there was an error in the opinion of the Prince arbiter, I think no one will deny. Why, sir, it would seem to any man, who looked into the documents, impossible that he could have read the evidence; for he founds his determination on a fact directly contradicted by all the testimony in the case; and that was, that the American privateer was the assailant of this overwhelming force of British frigates. None but madmen would, under such circumstances, have made the attack. Unless we fancy Reid and his crew insane, we cannot imagine that they would have provoked an attack upon them, when there was such an overwhelming force at the mouth of the harbor, ready to destroy them. I assume, therefore, that every man is satisfied that this decision of Louis Napoleon was an error.

Then, sir, the only remaining question is, upon what grounds is this Government answerable? It is to that particular that I desire to direct the attention of gentlemen. This claim was prosecuted, under the administration of General Taylor with vigor. It is my deliberate opinion that the Government of Portugal would ultimately have been induced to settle the claim. Such was my confident expectation and belief. They had agreed to pay the other claims which were recovered afterwards, before I went out of office, in consequence of negotiations which I had with them; but they held out with regard to the Armstrong claim, and they were evidently instigated to hold out by the British Minister, Sir Henry Bulwer. He desired to confer with me on one occasion, in regard to the matter; but I declined any conference with him on the subject. I thought the British Government had no right to interfere. We could not claim anything from them, because the peace of 1815 settled all our claims against them; and they had, I thought, and still think, no right to interfere in our claims against Portugal.

Well, sir, at this crisis, when all the other claims were agreed to be paid, and I verily believe this was also about to be paid, the President died. Within three days after my successor went into office, he agreed to refer the claim to the Prince Louis Napoleon. I know that, because he called upon me, and in the course of the conversation notified me that he had made that arrangement with Mr. Figaniére, the Portuguese Minister. The proposition to refer had been made to me repeatedly. It seemed as if they were willing I should choose the arbiter. They offered to refer it to three civilians, or to one civilian, or to any crowned head in Europe. I refused. I thought the circumstances of the case so clear against that Government, and her conduct so atrocious, that there ought to be no reference of a claim which was so clearly right.

But the case was finally referred, without the consent of the parties interested. They were not here. It was impossible that they could have assented to the arbitration. They had no idea that there would be a reference. They had no perception of it. On the contrary, they were encouraged to believe that they were about to recover their claim; and, therefore, they remained silent. Then, sir, the question arises, how far is the Government liable in the event of thus referring to arbitration.

Mr. BENJAMIN. Were the claimants aware of the reference prior to the award?

Mr. CLAYTON. I am not aware of that. I cannot say. But, as I was proceeding to say, the first question which arises is, how far is the Government answerable to its citizens in a clear case in their favor, in referring it without their consent? Then, so far as there is any evidence in relation to the matter, it appears, from the testimony on the table, that these claimants were never heard before the French Emperor in reference to the claim. They were told by the Secretary of State that the treaty did not allow of it. Now, we know that Mr. Rives never appeared before the arbitrator; he never made a statement in behalf of the claimants, nor took any interest in the case; because he had no instructions to do so. On the other side of the matter, the Portuguese Government was sustained by its minister and counsel. It was a one sided hearing, such as that we could hardly expect any justice from it. Now, having handled the matter in that manner, I am compelled, as a just man, to say that, in this case, the claimants have a clear right to compensation from the United States. That is my deliberate opinion.

As to the effect which the allowance of the claim would have as a precedent, let me say that you are not likely ever to have another case of this description. There was hardly ever such a case before. But the effect of this precedent would be to teach those who should do battle in the cause of this country in her future wars, that other nations shall be compelled to respect the laws of nations and the rights of belligerents. During the war with Great Britain we had repeated instances in which they met our vessels at friendly ports, and destroyed them, in opposition to the laws of nations. I wish to show, now, and at all times hereafter, that we do not mean to sit down, submissively and quietly, under such gross violations of the law of nations; and I wish to teach those of our seamen and soldiers who shall do battle in our behalf, that we mean to protect them, and to compensate them, when they have sustained losses in fighting for the flag of their country, although the law of nations shall be violated by the enemy. I hope the bill will pass.

Mr. JONES, of Tennessee. I desire to ask the Senator from Delaware a question. I desire to know whether there is any proof that the claim-

ant had, at any time, objected to the reference anterior to the award?

Mr. CLAYTON. I am not able to say. I have seen no proof of the claimants' consent to the reference. I am told by them that they never consented to it; that they did not consent at any time afterwards. When they learned that their claim was referred, they had no power to withdraw the reference. They submitted to it, of course, after they had no power to withdraw it, and the matter had been deliberately agreed to be referred. They could not prevent it; but they never acquiesced, and never consented to the award. So far as their own action was concerned, it was a forced acquiescence. After the Government had referred it, how could they withdraw it?

Mr. JONES, of Tennessee. That was not the question. The simple question was, whether they assented or objected to the reference? The honorable Senator says he does not know. Another question which I would like to ask the Senator is, whether or not those claimants were advised of the fact of the reference at an earlier day, and whether it was not perfectly competent to have appeared before the Emperor of France?

Mr. CLAYTON. I presume not. The statement in the report is, that they were denied the right to submit a written argument, and the only mode in which it could be submitted was through the minister.

Mr. WELLER. The report made by the Senator from Louisiana, accompanying the bill, states the facts which were presented to the committee. Amongst others, this fact is presented:

"A treaty was concluded on the 26th of February, 1851, and ratified by the Senate on the 10th of March. This treaty was proclaimed on the 1st of September, 1851. Louis Napoleon, President of the Republic of France, was chosen as arbitrator. The claimants then submitted to the Department of State, and filed a written argument, with the request that it should be transmitted to the arbitrator chosen by the high contracting parties. The Secretary of State, Mr. Webster, refused the application, on the ground that the terms of the treaty did not permit of it, and the claimants were deprived of the privilege, and debarred of the benefit of being heard, through their counsel and agent, in support of their demand."

I think the facts submitted to the Committee on Foreign Relations show that these persons protested against the claim being submitted to an arbitrator. They also show that they made every effort to be heard, through the State Department, in regard to the claim, after it had been referred to the arbitrator. That was denied to them, and it is upon that ground, in my judgment, that the Government of the United States, in justice to the claimants, has become liable for this demand.

Mr. STUART. My recollection of the consideration of this case by the Senate, at the last session, has been refreshed by the statements and the reading of the report to-day. I voted against the bill, at that time, without stating any reasons. I beg to state, in a few words, why I shall now vote against the bill—why I think the indemnification should not be made by this Government.

The history of the case shows that the attention of the Government had been drawn to it frequently for a long series of years, and by all the ability which, during that time, has filled the State Department. The honorable Senator from Delaware, [Mr. CLAYTON,] while occupying the post of Secretary of State, presented this claim against the Government of Portugal in the strongest possible light, and he pressed it, sir, to a point which should call the attention of the Senate to the very effect, now pending, not only upon the claimants in this case, but upon the policy of this Government hereafter. He said that if delay much longer continued, on the part of the Government of Portugal, the Executive would feel himself compelled to present the subject to Congress, adding that, in his opinion, (speaking for the Executive Department,) there was no valid objection to the claim. Now, sir, let us suppose that the President had presented this claim to Congress under the views then entertained by the Senator from Delaware, acting as Secretary of State. If Congress had adopted his views, as we are bound to suppose they would have done, in what position would the country have been placed? Here is a claim, valid in the opinion of this Government, against that of Portugal, the payment of which is refused. The attention of Congress is called to the question, as the last resort under our form of Government. Then, unless the claim is paid within a given time, we must either declare war, or we must submit it to an arbitrator, or we must stand humiliated before the world. One of these positions we must occupy.

The honorable Senator passing out of that Department, his place was filled by another, who submitted to the ordinary mode of determining claims of this character, when Governments themselves cannot agree—an arbitration; not only the ordinary mode, Mr. President, but the mode which is preferred in the present condition of civilization, to that of a resort to arms. The claimants knew that such a submission had been agreed to, because they asked to file an argument. The testimony, therefore, is conclusive that they knew it.

Is there anything in the testimony which has been read, to show that they protested against that course of procedure? Nothing; and it is to be recollected that in all these questions coming before Congress, the strongest case is always made up against the Government, on behalf of which nobody appears before our examining committees. These claims are pressed either by claimants themselves, or by agents, and the strongest *ex parte* statement that the case is capable of receiving, is submitted by the agent or the claimant. The facts, then, at this point show, that before an investigation of this question was entered upon by the arbitrator, the claimants knew that it had been submitted.

It is said that the Government ought not to have made this submission in such terms as they did; it is said that the treaty ought to have provided that the claimants should be heard. Why, sir, that is a question belonging solely to the sound discretion of the Government; and I call the attention of the Senate to the fact that this is not a case that has sprung up in a moment; it has occupied the attention of the country, and the Executive Department, as the honorable Senator from Delaware has just informed us, for some thirty years, and I beg leave to say again, at the expense of a repetition—for it is important in this instance—it received the consideration of the very ablest men that ever filled the State Department, and who among them was more distinguished than the late lamented gentleman who held the office at the time it was submitted to arbitration?

The submission having been made, what does the arbitrator say, for I apprehend he stands in a position as arbitrator in this case—to say nothing of the position he occupies before the civilized world—to entitle his assertions, as an arbitrator, to credit. What does he say? He states that after the most careful investigation he has arrived at the conclusion—and it seems from the facts just read by the Senator from California that the case had been held under advisement by the arbitrator for something like a year—that Portugal is not liable.

It is said that the pretense set up by Portugal is a mere pretense; that is to say, that the officers of this privateer were themselves the aggressors; but that fact seems to have been found against them.

The case then resolves itself into this—for I am not going to detain the Senate with any argument—is this Government prepared to adopt the principle that a private claimant against a foreign Government shall have the control over the mode of negotiation for the adjustment of the claim? If it is, then this Government will be forced to war whenever the private claimant sees fit so to direct the negotiations that war shall become inevitable; and I submit that this very alternative was presented in this case. I hope the honorable Senator will not understand me as objecting to the position taken by him as Secretary of State; on the contrary, I think it was a sound and proper one; but I say, if it had been followed up by his successor, and this question had been presented to Congress by the President, we were upon the very eve of war. Humiliation we could not and would not have submitted to. War, then, or arbitration was the only alternative. The arbitration has been had; and now it is said that because the mode of arbitration is not satisfactory to the private claimant, the Government has rendered itself liable to pay the amount. Sir, I think that the $130,000 which, by the amendment, is now sought to be established as the amount with which to adjust the claim, is entirely insignificant; yes, sir, it becomes contemptible, even, in comparison with the magnitude of the principle that is involved; because it will be in vain, if the Government adopts the principle in this case, that hereafter we shall undertake to distinguish between it and any other, the result of which shall not be satisfactory to the claimant. If the arbitrator here had reversed his decision and adjudged that some indemnification was proper, we should have heard nothing of an objection to the mode of proceeding.

Here, then, was an acquiescence; so that we may say to the claimants, as the rule of law says to every other principal, if you knew what had been done by your agent, and did not object to it, you are bound by it, so far as third persons are concerned. These claimants knew that the submission had been made. They knew that it had been made by a treaty which precluded an argument, for they were told so by the then Secretary of State. There is no evidence before the Senate that they objected. The submission was acquiesced in. The decision is adverse. The Government of the United States is bound by it, and so are the claimants. So that, Mr. President, upon both positions, if you take the question of submission, and the knowledge of the submission on the part of the claimants without objection, they are bound; if you go beyond that, which I believe is the true doctrine, even if this fact does not exist, and say that the Government of the United States, in negotiating with foreign Governments in respect to private claims, has a right to exercise its own discretion in respect to the mode of negotiation, then the claimants are bound by it; for, sir, it seems to me that it will never do to establish the doctrine that negotiations with foreign Governments are to be guided and directed by the private claimants.

All I desired to do was, simply to state, in as brief a manner as possible, the reasons why I shall not vote for the bill. Having done that I am content.

Mr. BROWN. Mr. President, as I voted for this claim before, and intend to do so again, I desire, in a few words, to assign the reasons which govern that vote.

The facts in the early history of this case seem to be well understood, and about them there is little or no controversy, here or anywhere else. That the brig General Armstrong was attacked by a greatly superior force, in a neutral port, where she made a most signal defense; one which reflected high honor upon the nation, and upon all the parties engaged on our side of the controversy, seems to be everywhere admitted. That she was attacked in violation of the law of nations, seems never to have been disputed at any time. Through all the changes of Administration, there has not been found a Secretary of State, or a President who has not insisted that the attack was in violation of law, and that an obligation was thereby imposed upon Portugal to indemnify the claimants. Portugal resisted, and our Government continued to insist upon satisfaction until we were brought, under the Administration of the late General Taylor, almost to the very verge of a conflict with that Government, growing out of this claim.

Portugal has been discharged; and the question arises, by whose agency? It is admitted that the Secretary of State of the United States agreed to an arbitration of the case; and it is nowhere insisted that he consulted the clients of the Government—for I shall so treat them—as to whether the case should be thus submitted or not. Assuming that he had the right to do so, he exercised it, and submitted the case to arbitration without their consent. The submission was to the late President of the Republic of France; but before he rendered his decision he became the Emperor of that country.

Now, sir, I am not going into any minute investigation of each particular fact in the progress of this case; but I shall endeavor to touch on those facts which are most prominent, and, in my judgment, ought to govern our decision. Up to the point where we now are there seems to be no controversy about the facts; but the Senator from Tennessee asks whether it was not within the knowledge of these claimants that the case was submitted, and whether they protested against it? Well, sir, I apprehend that, if an attorney employed to prosecute a suit decides it out of the ordinary course of his profession, he will render himself liable if the money is lost; in other words, if I employ you, Mr. President, or any other gentleman, as a lawyer, to prosecute my case, and

you submit it to arbitration without my consent, you render yourself liable to me for whatever damage I may sustain thereby. But it is said that you may protect yourself by a charge that I had knowledge of the fact that there had been such a submission, and that I did not protest against it. If this be not a violation of one of the established rules of law, it comes so exceedingly close to it that I hardly perceive the difference. It is an attempt to force on the claimants here the proof of a negative. If the Government gave them notice, it is the duty of the Government to show that the notice was given. If they had notice, let those who take the affirmative of that proposition come forward with the proof, and not impose on the claimants the necessity of proving a negative—that they did not consent.

My own clear judgment is, that the Government of Portugal having been originally liable, and our Government having discharged that liability by its own mismanagement of the case, has obliged itself to make indemnity to these claimants; and upon that broad principle I shall place my vote. I will not follow the lawyers through all the little technicalities of the case, seeking a little technical objection here, and another one somewhere else, by which we may discharge ourselves from an honest obligation to these parties. Sir, who is the claimant, and what were the services rendered by him in the beginning of this claim? As gallant a soldier as ever drew a blade in defense of his country; a man who, by universal consent, fought the most gallant action that was ever fought upon the bosom of the waters, in proportion to the numbers employed. When before, sir, in the history of naval warfare has it been known that a little brig, with five or six guns and ninety men, could stand out in noble resistance against more than five times its strength, and come out of the conflict with only two men killed, when there lay dead on the decks of the enemy some three or four hundred? When this transaction first occurred, if history speaks truly, it electrified every American heart from one extremity of the Union to the other. I dare say, if, at that time, the gallant old captain who stood upon the deck of the Armstrong in this conflict, had come to his Government, and asked for payment for his ship, it would have been rendered, and there would have been no caviling about it. The Government would have said: "Here, my gallant son, take the money, and we will demand a return of it from Portugal; but so far as you are concerned, your ship shall not be sacrificed unlawfully in the defense of your country, and we stand by and permit it to be done without making an effort to save you and your men from ruin." In such a case as this, sir, I cannot persuade myself to sink down to the mere technicalities of the lawyer, for there is too much in the history of the case, too much in the gallantry of the great and good old man who prefers the claim, for me to descend to those little particulars.

Sir, Captain Reid is not known to this country alone as the commander of the armed brig in this conflict. Fix your eye as you come to the Capitol upon that flag which waves over us to-day, and ask who is its author? Sir, the author of that flag, the man who designed it, is the claimant in this case. It was under his humble roof, by the hands of his wife and daughters, that the first flag that ever floated over this Capitol was manufactured. In every way he has manifested his devotion to his country, his deep and lasting devotion to America, to her institutions, and to her honor; not only toiling in season but out of season in her defense; and shall we, the representatives of the States, stand here to-day caviling upon little miserable technicalities of the law, such as lawyers resort to in courts of law, and courts of equity, to avoid the payment of honest claims? I have great respect, not only personally, for my friend from Michigan, [Mr. STUART,] but I have the greatest respect for his astuteness as a lawyer; and if he were in court to-day pleading for some man who was trying to resist the payment of an honest claim, I should applaud his technicalities and say they were well taken. His was a lawyer-like speech. I am not prepared to say that, according to the strict rules of technical law, it was not a correct speech. As between A and B—A trying to avoid the payment of an honest debt on a technicality—I think the speech would have been well delivered; but I think it was out of place in the Senate of the United States for a great nation to attempt to get rid of an honest claim, preferred by a high-souled and patriotic citizen, who has shed his blood in defense of the country, who has reflected glory upon his flag. For myself, sir, I repeat, I am satisfied this Government has made itself liable, in law, for the payment of the claim; but whether liable or not, I am going to vote on the broad principle that old Reid fought the battle, that somebody was responsible for the loss of his ship, that that responsibility has been removed from the party who was clearly liable, and that we ought to make up the damage.

Mr. FESSENDEN. Mr. President, I have, in common with all other members of the Senate, the highest respect for the opinion of the honorable Senator from Delaware; and if I could predicate my action upon the opinion of any Senator contrary to the conclusions at which I have arrived, from an examination of the case itself, I should be very glad to shield myself for my vote, by citing that opinion.

But, sir, my attention has been particularly called to this matter, I believe, by the friends of the claim. I examined it at their request, and I have subsequently received a communication, purporting to be a circular, which, I believe, was originally published as a communication in one of the newspapers of this city, which, I suppose, was addressed to every member of the Senate, arguing the case in favor of the claim. I read that with care; and I then reverted to the argument which was had here when this question was before the Senate on a former occasion, and also to the papers in the case which I have examined, and I have come deliberately to the conclusion that there is no shadow of justice or right in the claim itself; and I cannot help stating, as briefly as I can, what are the grounds of my opinion.

The Senate will remember that at the last session a vote was taken upon this subject, and, I believe, after full argument only twelve members of the Senate were found who voted in favor of the claim. We have not had any new facts presented to us. The same report has been read that was read before; and in the face of it, without any new facts, and solely on the ground of an amendment, which renders the bill much more objectionable in my eye than it was as it stood before, we are now called upon to reverse that decision. Now, let us look at the case briefly.

This vessel, the General Armstrong, was fitted out as a privateer, by certain persons for their own purposes, for purposes of gain by following this kind of warfare upon the high seas. While she was engaged in that pursuit, she put into a neutral port—the port of Fayal. While lying there, contrary to the laws of neutrality, a British fleet attacked the vessel in that port, and destroyed her. She made a most gallant defense, but was finally conquered and destroyed.

Mr. President, when this question was before presented to the Senate, the position was taken that by that very act, Portugal, the neutral power, become responsible to us. That position was answered; and I have not heard it adverted to again here, though some Senators, in their remarks, seem to suppose that responsibility to be admitted, from the style in which the claim was prosecuted against that Government. But, sir, a moment's consideration satisfied the Senate before, and would satisfy them again, that that of itself presented no ground whatever for a claim upon Portugal, provided she was in reality neutral in relation to the matter; and I believe it is not pretended that she was not so. That, she was responsible by the law of nations, if she acted in good faith, I believe no gentleman will calmly pretend; because, as was pertinently inquired on a former occasion here, what would be the consequence if a weak nation was bound to respond in pecuniary damages for every loss a strong one choose to inflict upon its enemies within her jurisdiction, and which she had no power to prevent?

Sir, I go further, and say that she was not bound, unless she chose, to take any part in the contest. All that is required of a neutral Power under such circumstances is, that she shall not aid the enemy, directly or indirectly; but if her conduct is such as to manifest complicity with the enemy, she then loses her character as a neutral and makes herself responsible. In this case, however, no claim was made on Portugal on that ground.

This doctrine of the law of nations is perfectly sustained by our treaties. It was recognized by our earliest treaties with France and Spain, and it was recognized, I think, in 1840 by our treaty with Portugal. The provision of those treaties is, substantially, that each party will endeavor in good faith and to the best of its ability, to prevent any outrages upon the property of the other within its jurisdiction, and that if such outrages should take place, it will endeavor to procure satisfaction for them; and that is all any nation is bound to do.

I dissent, then, from what has been assumed by some gentlemen, that there was the slightest responsibility on the part of Portugal to respond pecuniarily in damages to this Government for the loss of this vessel. If that be the case, in what state does the question present itself to us? The claim was made against Portugal at once. The report assumes that Portugal admitted the claim to be a just one; but there is no such admission anywhere in the papers. There is nothing in the correspondence on the part of Portugal, admitting her responsibility. The first ground she ever took positively on the subject, was a denial of her responsibility. To be sure, the minister of Portugal at the time addressed a letter to the minister of this country, in which he stated that the Prince Regent had made a claim on the British Government, for indemnity for the injury done to her neutrality, and to her citizens, and also for the injury done to the property of the citizens of this Government; but he did not admit that Portugal was responsible, in case Great Britain should not respond to that claim thus made. I take it, therefore, that the statement made in the report, on that subject, is erroneous in fact, and that no such admission was ever made by the Government of Portugal.

Thus the matter went on for several years, without indemnity being obtained, until at last, under the administration of General Taylor, the claim was renewed and pressed in very strong and imperative language. Before any conclusion was had, another Administration came into power, and the whole question was submitted to an arbitrator. Now, the point has been raised whether that submission was with the assent of the claimants. I say, it makes no sort of difference whether it was with their assent or not. No one will pretend that the Government is bound to go to war for a claim of its citizens, if it chooses to settle the claim in any other way. If the doctrine be once advanced and recognized, that the claimants must we consulted in such cases, to what consequences would it not lead? Imagine in what a situation the Government would be, if there were five hundred claimants, and it must previously obtain the assent of every one of them, before it could submit a question to arbitration, or failing in that, must resort to the *ultima ratio*, and declare war against the offending power. No such idea can be sustained. In point of fact, however, it appears that this whole transaction was known to the claimants in this case. I do not say that they were consulted upon the question whether the claim should be submitted to arbitration; but they knew the fact, and they interposed no objection to it, and if they had made objection it would have been of no consequence, for their objection, was not a matter of importance one way or the other. It was the duty of this Government to submit the matter to arbitration. It would have been the most unwise thing in the world to declare war for such a trifling matter, if it could be settled in any other way. It was submitted to arbitration—not submitted by the Secretary of State or by the President alone; but it was done by a treaty. A treaty was made by which compensation was given for other claims and this particular claim was submitted to arbitration. That treaty was approved by the Senate of the United States. This action, therefore, was not the action of the President alone, or of Mr. Webster, who was then Secretary of State; but it was the action of the Government. A treaty was made by which this claim was referred to arbitration, and other claims were paid. That treaty was sent to this body, and approved by two thirds of the Senate, and probably unanimously; and we are now called upon to review our own action, and not merely the action of an officer of this Government.

I have before me a letter from the present Secretary of State, in which he says, it appears from the files of the Department that these claim-

ants had notice of all these matters. Of course they were not allowed to be heard before the arbitrator. Neither this Government, acting in the place of the claimants, nor the Government of Portugal had a right to be heard before the arbitrator; and neither was heard. It is not customary, nor by any means necessary, that such cases should be argued. The case was made up in writing and submitted. The idea has not been advanced from any quarter that all the proofs and papers in relation to the claim which were ever submitted to the Government of the United States were not laid before the arbitrator and by him passed upon after a deliberate examination. At any rate, he had it in his hands for a year, and he decided, after examination and deliberation, against the claim.

Now, sir, under such circumstances, ought we to be called upon to review the decision? Ought we to be so guilty of disrespect to ourselves, to the Government which made this treaty, to the Senate which confirmed it, and to the arbitrator who decided the case upon all the papers ever presented by the claimants to this Government, as to suppose that there has been a mistake or an error in the decision of the judge? We must remember, too, that he is the only person who has ever had occasion to examine both sides of the case. He is not, and probably cannot be, accused of being influenced by any considerations except those which should influence an officer in the high position which he occupied, and acting as he did act in relation to the matter.

Mr. BUTLER. Who was the judge?

Mr. FESSENDEN. Louis Napoleon. Sir, I think my friend from Mississippi will see that this is not a mere technical lawyer's objection. If this claim were to come before Congress in the shape of a gratuity to be paid to Captain Reid and those who were engaged with him, for the gallant services which they rendered on that occasion, it would stand in a very different light. Now it comes to us in the shape of a claim for the whole amount of their losses; and, as I shall presently show, not only for the whole amount of their actual loss, but for what advantages they expected to gain if the voyage had not been broken up. The claim is presented against us because, instead of declaring war against Portugal for this individual claim, our Government chose to submit it to an arbitrator, with the assent of the Senate, and with the assent of all the component parts of this Government, whose assent was necessary to a full decision on the subject.

I hold then, sir, most distinctly, that no consent to the submission on the part of the claimants was necessary, and no protest on their part would have been of any consequence. The Government simply did its duty to the country. The case was submitted fairly, because all was presented that related to it. A decision has been had against the claimants on the ground assumed by the arbitrator. Whether that decision be right or wrong, it is not for me to say. Undoubtedly the claimants are not satisfied; but the decision has been given by a disinterested arbiter.

Mr. BROWN. If my friend from Maine will allow me, I would call his attention to this point in the case. In submitting the claim of Captain Reid, it was not a naked submission; but the Government did it in consideration of having something else secured. It seems that our Government was prosecuting a number of claims against Portugal. Portugal agreed to pay the residue of them, if this Government would allow the case of Reid to be submitted to arbitration. There was a consideration passing to the Government for the submission. The offer of Portugal was, that, in consideration of the arbitration in this case, she would pay the residue of the claims. That is evident. The submission was made without consultation with Captain Reid, as is apparent by a letter of Mr. Webster, which I have now before me. This shows that it was done against the protest of Captain Reid. On the 5th of September, 1850, Captain Reid wrote to the Secretary of State, protesting against the submission.

Mr. FESSENDEN. Will the honorable Senator read the protest, so that we may understand it?

Mr. BROWN. This is the letter:

NEW ORLEANS, *September* 5, 1850.

SIR: I perceive it is proposed to refer the claim of the owners of the brig General Armstrong to the King of Sweden for arbitration.

Then the proposition was to refer it to the King of Sweden, or any other friendly Power.

I hope the Department of State has made no final arrangements in this case, under the present circumstances; and I desire that it may be left open until I can have a conference with you on the subject. I shall be in Washington city within thirty days. There are matters of great importance which I desire to explain to the Department in person. I hope no step will be taken which will compromise the rights of the claimants until I can have the pleasure of seeing you.

With great respect, I have the honor to be your obedient servant, SAMUEL C. REID, Jr.,

Sole and only authorized agent of the claimants of the brig General Armstrong.

Hon. DANIEL WEBSTER,
Secretary of State of the United States.

Here is Mr. Webster's letter in response:

DEPARTMENT OF STATE,
WASHINGTON, *September* 13, 1850.

SIR: In answer to your letter of the 5th instant, received this day, I have to inform you that the offer made to Mr. Clay by Count Tojal, to pay the several claims preferred by the American Government against that of Portugal, with the exception alone of that of the General Armstrong, which is to be referred to the King of Sweden, or any other friendly Power chosen by the United States and Portugal, has already been accepted by your Government, and the fact of acceptance formally announced to Portugal, through its diplomatic representative here.

I am, sir, respectfully, your obedient servant,
DANIEL WEBSTER.

SAMUEL C. REID, Jr., *Agent of the claimants of the brig General Armstrong, New Orleans, Louisiana.*

Now, sir, I suppose there can be no difficulty, with that response before us, in saying that the case was submitted to arbitration against the protest of the claimants, and that it was done for a consideration, Portugal saying, "We will pay you the remainder of the claims, if you will arbitrate this."

Mr. FESSENDEN. Where does the honorable Senator find that?

Mr. BROWN. In the correspondence. The very letter which I have just read, speaks of the offer, "to pay the several claims preferred by the American Government against that of Portugal, with the exception alone of that of the General Armstrong."

Mr. FESSENDEN. That is stating merely what the treaty is.

Mr. BROWN. It is stating what the Portuguese proposition was.

Mr. FESSENDEN. Then I will send to the table, and ask to have read, a letter of Mr. Marcy on this subject.

The Secretary read the letter, as follows:

DEPARTMENT OF STATE,
WASHINGTON, *February* 11, 1854.

SIR: Your letter of the 7th instant, requesting that the Committee on Foreign Relations may be furnished with any evidence on file in this Department, going to show that the case of the General Armstrong was referred to the arbitrament of the President of the French Republic, either *against or without* the consent of the claimants, together with any suggestion which I may think proper to make in relation to the justice of the claim, or the propriety of its being allowed, has been received.

From an examination of the files of the Department, it appears that, pending the negotiations which terminated in the convention with Portugal of 1851, two letters were addressed to the Secretary of State on the subject of the reference of the Armstrong claim to the arbitration of a third Power; one, dated August 26, 1850, by S. C. Reid, "late commander of the privateer General Armstrong," and the other, dated September 5, 1850, by S. C. Reid, jr., "sole and only authorized agent of the claimants," in the case. Copies of these letters, and of the replies thereto, are herewith enclosed.

There are several other letters from the last named gentleman on the same subject, and of subsequent dates, among the files of the Department, from which it would appear that the claimants in the case had acquiesced in the decision of their Government to agree to refer their claim to arbitrament. If a different opinion was entertained by them, it is, at least, certain that their authorized agent did not, in any letters to this Department, protest against that decision, or intimate doubts as to its propriety or expediency.

Regarding the claim above alluded to as definitely settled, so far as this Department is concerned, by the decision of the arbiter to whom, by mutual agreement of the contracting parties to the convention of 1851, it was referred, I conceive that I cannot, without neglecting very important and pressing business, devote sufficient time to the case to enable me to understand all the facts in regard to it.

I cannot countenance the principle that where this Government is called on by a citizen of the United States to interpose for the purpose of recovering claims against any other Government, proceeds in good faith for that purpose and fails in its object, or obtains what may be regarded as an inadequate indemnity, it places itself in a situation to be called on to pay the claims or to satisfy the expectations of the claimants. Our Government is but an agent in such cases, and unless it acts against the expressed or known wishes of those who have invoked its interposition, it does not, as I conceive, incur any liability whatever to the claimants.

I have the honor to be, sir, very respectfully, your obedient servant, W. L. MARCY.

Hon. J. M. MASON, *Chairman of the Committee of Foreign Relations, United States Senate.*

Mr. BROWN. I wish to read another letter, to show that this was a proposition, on the part of Portugal, to pay certain other claims if we would submit this one to arbitration:

DEPARTMENT OF STATE,
WASHINGTON, *August* 29, 1850.

SIR: In reply to your letter of the 26th instant, I have the honor to inform you that, after due consideration, it has been deemed proper to accept the offer of the Portuguese Government to pay all our claims, excepting that of the Armstrong, &c., and to refer this to the King of Sweden, or the President of the French Republic, as arbiter.

I am, sir, respectfully, your obedient servant,
DANIEL WEBSTER.

Captain SAMUEL C. REID, *late Commander of the Privateer General Armstrong, in behalf of the claimants.*

Now, if I am not sustained in my declaration that this was a proposition on the part of the defendents in the action, so to speak, to pay some dozen or twenty clients, if the attorney would arbitrate the claim of another client, I have wholly misunderstood the English language. It was a proposition on the part of Portugal to pay everybody else, if our Government would consent to an arbitration of this case. It did consent, but against the protest of the parties, as I showed by the first letter of Mr. Webster, which I read.

Mr. FESSENDEN. I cannot come to the conclusion which my friend from Mississippi does, in reference to that matter. If I understand those letters—and I have read them before—the facts are these: In the first place, Captain Reid addressed a letter to Mr. Webster, in which he stated that he had learned from rumor that the subject was about to be submitted to arbitration, that he had no doubt whatever was done would be done with wisdom and propriety, but he wished to have some communication with the Department on the subject before any final arrangement should be made. Mr. Webster replied that the matter was substantially closed. Captain Reid then addressed another letter to the Secretary of State, expressing a wish to be heard. Mr. Webster merely responded that the question had been submitted. And now, Mr. Marcy, the present Secretary of State, says there are other letters in the Department, showing conclusively an acquiescence in the course which was taken. For this reason, recourse should not be had merely to those letters written by Mr. Webster, which were all that seemed to be called for by the committee.

But, sir, I go further, and say that I do not hold, in any shape or form, to the doctrine which has been advanced on this subject. I contend that, if a claimant calls for the interposition of his Government, he must submit to the course which that Government sees fit to take, in accordance with the law of nations, and his protest is of no consequence. Sir, has a man the right to insist that this Government shall go to war on account of his private claim, and shall resort to none other of the modes pointed out by the law of nations which are customarily adopted, in order to have that claim settled? The idea is preposterous. Captain Reid, as the agent for the owners of the brig, never proposed to withdraw the claim from the control of his Government; he never demanded back his papers, and said he would take care of the case himself; but, knowing the facts, he allowed the matter to go on, under the control of the Government, and that Government took the only course which it could take with propriety, and the claimants acquiesced in that course; for Mr. Marcy says, there are letters on file showing their acquiescence. Under that state of facts, can it be contended, for a moment, that they have a right to complain?

Sir, how is it that the Senator from Mississippi can argue, as he does, that our Government received a consideration for submitting the case to arbitration? Why, sir, the course which was adopted was eminently proper. There were some half a dozen claims or more presented by this Government against Portugal, and the Government of Portugal was ready to agree to the payment of every one of them except this; and in regard to this one she disputed her liability. If I have a dozen acknowledged claims against an individual, and one which is disputed, would it be strange if we should agree to adjust those which were undisputed, and submit the one upon which we could

not agree, to arbitration? When this claim was placed in the hands of the Government of the United States, it became a claim of the Government, and not of Captain Reid and others. The Government was the party to prosecute it. The Government was authorized either to declare war, or to negotiate, or to place it in the hands of an arbitrator, as it pleased. Our Government was the prosecutor, the claimant, the party before the world; and when it could not succeed in obtaining payment for the claim, it chose a disinterested person to settle the question, as it had an unquestionable right to do.

It has not been contended, in any quarter, that, in the course of arbitration, all the papers, and everything in relation to the claim which had any proper bearing upon it, were not properly and fairly submitted to the arbitrator, and that his decision was not made in good faith. Still, in the face of that fact, we are called upon to nullify a treaty which we made, to set aside the course which was adopted by the consent of all the coordinate branches of the Government which could be called upon to consent. The issue was unfortunate; but the claimants acquiesced in the submission. We are requested to pay them, because they could not get payment from Portugal. The idea to me is a remarkable and a strange one; and I do not see—I have not been able to discover, since the discussion commenced, either at the former session or at this—a single just or tenable ground on which it could be based.

I stated before that if the bill were simply to pay a certain amount of money to Captain Reid, and the officers and crew of his vessel, to remunerate them for their services on this occasion, it would present a very different question, and if we had a constitutional right to make such an appropriation, I might vote for it; but I can see no ground on which we should be called upon to pay for the value of this vessel. When her owners fitted her out, they subjected her to the chances of war. The issue has been unfortunate for her, and she has been lost. She was not in the service of the Government. She could receive, by way of prize, the proceeds of her captures. She went into service, under the recognized laws of the land, only a *quasi* Government vessel, cruising on her own account, and for her own benefit, and she must take the consequences of the position in which she placed herself.

Sir, there is one ground, and only one, on which I can imagine, for a single instant, that there might be a shadow of claim on this Government. I will state that to the Senate. If the Senate say it is a sufficient ground, they are at liberty to do so; but, to my mind, it is not. This was an act of the British Government outside of the ordinary usages of war; the vessel was not taken in fair fight on the high seas; she was pursued, contrary to the laws of nations, into a neutral port, and there, by a species of piracy—because it was contrary to the law of nations—she was attacked and destroyed. If the Senate should be of opinion that our Government never should have made peace with Great Britain without providing for remuneration for such an act, it is a ground which might be fairly argued; but I am not prepared to assent to it, because I hold that it is unquestionably the doctrine of the law of nations, as it is ordinarily understood, that, so far as regards each other, when enemies meet, no matter where, on neutral ground or not, they may fight, and the wrong they commit is not to each other, but to the neutral power whose inviolability they outrage.

I do not know, sir, whether Senators are aware of the fact, that remuneration has already been made, to a certain extent, to Captain Reid, and his officers and crew. In 1834—I hold the act in my hand—a law was passed by Congress to divide the sum of $10,000 among Captain Samuel C. Reid and the officers and crew of the private armed brig General Armstrong. I suppose that sum was presented in consideration of their gallant services on that occasion. Perhaps it might have been somewhat as payment in advance for the matter to which my friend from Mississippi alluded—the design of the flag which floats over the Capitol. I may be permitted to remark here, that if any payment is to be made for that service, it would be well to put it in a separate bill, because, certainly, it has no effect at all, by way of argument, on a question of this kind. The individual merits of the officers of this brig are not involved in this question. The sum of $10,000 was granted as long ago as 1834 to the officers and crew of this very brig. Though the present claim was not then before them in this shape—for it had not then been submitted to arbitration—that appropriation may be regarded as expressive of the feeling of Congress; and now, after the time has long gone by, and they have been remunerated for their gallant services on the occasion, this question comes up with reference to payment for the vessel, cargo, and outfits.

Although it is of no particular consequence in itself, allow me to call attention to the sum which it is here proposed to appropriate. I do not understand upon what ground this sum is predicated. The claim made by our Government on Portugal, so far as it covered the cost of the vessel and the outfits, was but $42,000. A claim was submitted to the Government of Portugal at the same time of $50,000 additional for the expected profits of the cruise of the Armstrong, I believe; but the $42,000 covered the cost of the vessel and outfits. Now, I wish to ask the Committee on Foreign Relations how much they allowed for the expected profits of the cruise. You may fairly estimate the sufferings of the officers and sailors, perhaps; but how is this sum of $130,000 made up? What is the ground on which such an amount of money is claimed? Surely, nothing ought to be allowed beyond the value of the vessel and outfits; and perhaps a sum of money, as I stated before, in consideration of the gallant services of these men; but, beyond all question, nothing should be appropriated to the owners of the vessel for what they expected to gain, but did not gain in consequence of its loss. The bill, as it stands, is not to allow the Secretary of the Treasury to ascertain the value of the vessel and armament, and everything connected with it, and how much the sailors lost in reference to their own wages and services, and then pay the amount to each one; but it is to pay the sum of $130,000 to the person who represents himself to be, and probably is, the agent of the claimants; that is, so much to each of the seamen on board the vessel, or, if they are dead, to their heirs, or whoever may be interested in the matter. The bill is wrong in itself in regard to the sum. It is wrong in regard to the mode of distribution, in my judgment, as it stands now. I fear it will be likely to go into the hands of men who have not an interest anything equal to the amount which we are urged to pay. There is no valid claim, in my opinion, to be deduced from anything I can draw from the papers, or upon any principle advanced by any Senator here, in debate or otherwise.

Mr. BAYARD. Mr. President, the human mind arrives at different conclusions from different modes of reasoning; and though I agree somewhat with the general principles of the argument of the honorable Senator from Maine, I arrive at the same conclusion as the honorable Senator from Mississippi, but perhaps not on the same grounds. I propose to state briefly the reasons why I voted in favor of this claim at the last session of Congress, and why I shall vote for it again.

As to the latter part of the remarks of the Senator from Maine in reference to the amount of the claim, I give no opinion. The bill does not provide, I understand, that the sum of $130,000 shall be paid; but that is a limitation on the amount. It is not to exceed that sum. The provision is that the claim shall be settled on the principles of justice and equity. That is the ordinary form in which you pass bills for the relief of individuals when the exact sum is not known; and it is left to the Departments to ascertain the amount on the proofs in the case. That is the substance of the bill, and it sufficiently answers the latter part of the remarks of the Senator from Maine.

But, Mr. President, the question is, is the party in this case entitled to relief? The main ground on which I am disposed to vote in favor of the bill, is one which I think has not yet been stated in debate. Perhaps I may have been biased in my judgment of the case by the very high opinion which I have formed of the gallantry of Captain Reid, in this action with the British in the war of 1812. I do not, for a moment, deny that when a Government undertakes to prosecute a claim for its citizens against a foreign Government, those citizens are bound by its action. I admit that a wide discretion must be allowed to the Government, acting as agent for an individual in such a case; and if the Government chooses to refer it to arbitration, and the arbitrator decides against the party, that founds no claim upon the part of the individual as against the Government, no matter whether he protests or not against the arbitration. I think, however, there are certain great principles of justice which ought to always be adhered to. If the Government, in the submission of a question to arbitration, violate a great and substantial principle of justice, I look upon it as a gross neglect, which renders the Government responsible to the claimant, if his rights be prejudiced by its action. The ground on which I based my support of the claim at the last session, was, that as the papers were then presented to us, it appeared that, after the arbitration was agreed upon, the claimant applied to the Government to give him the right to be heard by written argument; or, through its own diplomatic agents, to appear before the authority which might be appointed by the Emperor of France to decide the question; but that right of hearing was refused. A construction was put upon the treaty that the claimant could not be heard; that only the original papers, exchanged in the negotiations between the Governments, could be before the French Emperor, in order to form his decision.

Well, sir, looking on that decision as an atrocity throughout, unsustainable by any known principle of law, but a perversion of facts from beginning to end, I cannot believe that it would have been made, if our Government had not rejected the right of the claimant to be heard by his counsel, or, if not by his counsel, by its own agents, before the authority deputed by the French Emperor to examine the case. I therefore conceive that this party has lost a decision in this case, from what I term the gross neglect of our own Government, arising from a misconstruction of a treaty which does not preclude the right to be heard. That is a great principle of justice which I never would deny. "Strike but hear" is a principle which applies in all ages, and in all times; and in this country no man who wishes to be heard in defense of his rights, should be refused a fair opportunity to be heard in vindication of those rights when they are to be decided upon. It is on this ground that I shall vote in favor of the claim, as an obligation on the Government.

There is added to this a further ground which, I admit, has probably strengthened my opinion. You have a right, beyond all question, to give gratuities for noble actions done in war; and if I had some doubts upon the other ground, I must look to this transaction as it occurred. It is true this was a case of a private armed vessel, but it was a private armed vessel which stood out from its class altogether; which performed services that exhibited, on the part of the commander and crew, a gallantry which was surpassed by no vessel in your employ during the war of 1812. The attack made on this vessel was not, as the honorable Senator from Maine supposes, outside the law of nations; but it was a gross violation of the law of nations. Great Britain attacked the vessel in the harbors of Portugal, and the want of national power on the part of Portugal to protect that vessel, in my judgment, created an undoubted obligation on the Portuguese Government to pay for the damage.

Sir, I have looked at the facts of the case, and I consider the decision of the arbitrator as one not to be tolerated at all as regards its justice or equity. That it binds this Government I admit; but under all the circumstances, looking at the gallantry of these men in that action—which reflected splendor upon the history of this country—I would treat this as if it were a national vessel, and give to these parties, not the paltry sum of $10,000, which was no remuneration at all, but I would act on the same principle that the Government did in the case of the Wasp and the Frolic. In that case, the officers and crew of the Wasp, after an action of great gallantry, captured the Frolic; but, unfortunately, immediately after the action, both vessels were captured by a superior force. Remuneration was made by Congress. Acting on that principle, as we cannot obtain indemnity from the foreign Government, and more especially as the claim was lost, in my judgment, from an act of negligence or misapprehension on the part of our own Government, in the interpretation of a treaty, I shall feel myself at

liberty to vote such an appropriation as, on the principles of equity and justice, ought to be made. I understand the term "on the principles of equity and justice" to have a settled meaning at the Treasury Department. It is held not to include prospective profits, but actual losses sustained by the destruction of the vessel and its armament at the time. That is what I suppose the bill will entitle the claimants to receive, and for that sum I am perfectly willing to vote on the grounds which I have stated.

Mr. CLAYTON. Mr. President, I do not propose to occupy the attention of the Senate, by replying to all the remarks of the Senator from Maine; but some of his positions were so extremely defective in my view, that I beg leave to call attention to them.

The honorable Senator announced, with great confidence, and repeatedly announced it to be clear doctrine, that where a private claimant had a claim in the hands of this Government against a foreign country, the Government here has absolute control over the claim, and has the right to refer it, with or without his consent; and that in the event of its referring it without his consent, it is in no case responsible to the claimant, in consequence of the loss of the claim. Now, sir, I do not deny that this Government could have taken this claim and released it to the Government of Portugal, precisely as it released the claims of its citizens for spoliations committed by the French prior to 1800. Nobody denies that.

Mr. FESSENDEN. Perhaps I stated the point a little stronger than I meant it. What I meant to say was, that the Government had perfect control as to the mode in which it would manage the claim, not that it had a right to give it up without responsibility.

Mr. CLAYTON. Then the honorable Senator restricts his position to this: that the Government has a perfect right to manage the prosecution of the claim in such mode as to it seems proper. I will take the position now assumed, and I desire to analyze it, and to call the attention of Senators to it, to see how far that doctrine can be assumed by men who are anxious to maintain the rights of their countrymen, as well as the rights of this Government.

Is it true that the State Department has it, at this moment, in its power to refer any case there pending without consulting the claimant? Undoubtedly it can do it; but the Government is answerable in damages to the claimant, on every fair and honorable principle, if it does this without the claimant's consent, and neglects its duty in the prosecution of the claim. If we are to establish such a principle as that contended for by the honorable Senator from Maine, the people of the United States ought to be made aware of it. It is most remarkable, if the State Department has it in its power, without giving notice to a single one of all the numerous claimants on foreign Governments, to refer their claims to anybody it pleases, and not be answerable for the loss of the claim. That statement amounts to very little else than this: that the Government can give up a claim, release it, and not be answerable. Now, sir, I hold it to be clear, that the Government has no right to refer the claim of any man intrusted to it for prosecution, without his consent.

In this case, the claim was referred to arbitration without the consent, and without the knowledge of the claimant. He had not the slightest information that such a thing was in progress. The papers show exactly the opposite of what the honorable Senator contended for in this respect. Within three days after the matter came into the hands of my successor in the office of Secretary of State, he agreed to refer it. I know this of my own knowledge. At that very moment the claimant was confidently expecting that his claim would be paid. Other claims had been given up, and he had every reason to suppose that this, also, would be paid. The claimant wrote to the Department for information, and received the answer which was read by my friend from Mississippi, that the claim had been referred. Afterwards the treaty was made, in pursuance of an arrangement, long before agreed on, between Portugal and this Government, and the reference was confirmed.

The Secretary of State, (Mr. Marcy,) whose communication is on the table, speaks of acquiescence. But what sort of acquiescence was there, or could there have been? The claimant had no power to withdraw the reference. It was beyond his reach. The language of the Secretary of State, in reply to his letter, was, that the proposition to refer was accepted, and this was before he had the slightest knowledge that the claim was about to be referred. Talk about acquiescence after you have decided it!—after the Government is so committed that it cannot retract! Talk of his acquiescence merely because he writes, and, as the Senator from Maine says, does not expostulate or protest! He had protested before, but he had found his protest insufficient. Another protest was utterly useless; he did not make any more; therefore the argument is that he acquiesced! That is the whole of the argument of acquiescence. The man did all he could to prevent the reference; and, after he found that it was of no use to make any opposition, he desired to be heard by an argument, but he was denied that.

But, Mr. President, the position contended for by my friend from Maine, that this Government has the right to refer all the claims in its hands to anybody it pleases without the consent of the claimant, is one which I utterly deny. He seemed to consider that the Government had in this case, before the reference was made, arrived at that point where the only alternative was reference or war. That is not the fact. If this Government had informed Captain Reid, "We are about to refer your claim; what do you think of that?" he would have come forward, as he had done before, and said: "No; do not refer it; abandon it; do not prosecute it, if you please; but do not refer it." If the Government thought arbitration was the proper mode, and the party thought it was not, the Government ought to have been controlled by the wishes of the claimant, so far as to conform to his opinion, and stop the prosecution of the claim. The alternative of war or reference was never presented; but I contend that Mr. Reid had the right to say to the Government, "Either go on and prosecute my claim, as you have done, or abandon the prosecution of it, and drop it." Had he not the right to say, "Do not refer it, for I know I shall lose by it?" Undoubtedly; I think every gentleman will agree with me he had that right. If he had not, he had no right whatever in the matter. Well, sir, he never was allowed to exercise his right; the case was referred without his knowledge; and then, again, it is most apparent that the case was arbitrated and decided without a hearing on his part. On that ground, I hold, that Government is answerable.

The Senator from Maine has referred to the law by which $10,000 was appropriated for the officers and crew of the General Armstrong. If that was voted as part payment of the claim now before us, it is a recognition of the claim, and the Government is bound to see what is the extent of it, which is the purport and object of the bill. If, on the other hand, the $10,000 was appropriated as prize money for a different object, it has nothing to do with the subject; but if it was a payment towards the Armstrong, the claimants certainly were not satisfied with that $10,000. No man will pretend that $10,000 covers the value of the brig and her equipment, or approximates to the real amount of the losses of the parties. If, then, as the gentleman contends, this was a payment towards the Armstrong, it was a recognition on the part of the Government of its liability, and there is an end of the argument.

Mr. SEWARD. Mr. President, I do not think there is any necessity for any intricate refinement about this subject. I do not believe there is any great dispute in point of fact between gentlemen who take different views on the question, about the principles of the law of nations applicable to it. It seems to me to be a plain, simple question, and one which is to be decided upon the principles of common honesty and common sense.

Sir, I certainly think that when a great nation like this gets involved in war, and invites its citizens to take up arms in its defense, on the sea or on the land, it is under very considerable obligations to see that those citizens who engage in its defense shall have the protection which the law of nations affords to them at the hands of neutral Powers; that they shall be secure, so far as neutral Powers owe the duty of protection. In the very incipiency of the transaction, that relation between the Government and the citizen created a very strong obligation on the part of the Government towards Captain Reid and those who were associated with him. But, on the other hand, I do not maintain that the Government is always obliged to go to war—to resort to the extreme remedy known to the law of nations—in order to obtain redress for every citizen injured at the hands of foreign Powers. Far from it. The first duty of a nation is to secure the interests of all its people, and the individual interest must be sacrificed often to the public exigency. The public welfare must be maintained, though the individual interest is ruined or lost. So in this case. If we were a feeble nation, or if we were prosperously engaged in the arts of peace, I should not hold that it was the duty of the United States to go to war against Portugal, in order to compel the redress of a private injury which had been suffered by an individual citizen, at the hazard of breaking up the great interests of the whole Commonwealth.

All that, however, is foreign to the present case. The Government might excuse itself from even entertaining the claim of Captain Reid against the Government of Portugal. That is foreign, also, to the case, because the Government did entertain the question, did take up the claim, and engaged to prosecute it. When the Government assumed to prosecute the claim, it became liable, as I said before, to act with common honesty, with common integrity, and with common diligence as an agent, and no more.

The Government having assumed to prosecute this claim against Portugal was at liberty at all times to abandon the prosecution when it found redress could not be obtained without resort to war, or when it found that the great and general interests of the whole Republic would have been compromised so much as to render war inexpedient. That would have discharged the Government, and under those circumstances there would have been no obligation at all; but this also is foreign to the case, because the Government, instead of prosecuting the claim to that point, or abandoning it in preference to prosecuting by hostilities, assumed to dispose of it in another way, which was to refer it to arbitration.

Well, sir, the Government had a right to do that, but it was to do it in such a way that it should afford the individual claimant a fair opportunity to obtain the redress in that way. If the Government has performed that duty, with ordinary judgment and with ordinary care, the individual is remediless. The question is, whether the Government has done so? It has constituted an arbitration, but it was a secret one. It has constituted an arbitrator, and authorized that arbitrator to decide upon the question in silence and in secrecy.

Now, I submit to the honorable gentleman from Maine, and to every other honorable Senator, whether there is ever such a thing as an arbitration in which all that is required of the arbitrator is to decide, and not to hear and try? There has been no hearing, no trial of this claim, before the arbitrator. The Government either did or did not stipulate that there should be a hearing and trial. If it did so stipulate, it has failed either to appear itself by its minister, or to notify the claimant, so that he could appear before the arbitrator, make his allegations, give his proofs, and submit his case for the consideration of the arbitrator. No such thing appears in the case; but, on the contrary, the Government did not take care to stipulate for such hearing, and the consequence has been that this claim of one of her citizens, large to him, small to her, was carelessly and heedlessly thrown before the President of France, and probably as carelessly and as heedlessly passed upon in entire disregard of the first right of a party in every human tribunal, and of the first duty of a judge in every tribunal—that of hearing the allegations and proofs of the parties.

This is the state of the case. It has been disposed of in that way. Somebody is to blame for it. If it be the party himself, he is entitled to no redress; but there is no allegation of that kind, for the party was not consulted about the reference, and when it came to his knowledge he protested against it; but the Government went on without giving him notice to appear, and without appearing itself. Under these circumstances it is a misfortune which has befallen him from the conduct of the Government, which is not criminal, nor is it to be censured, because a great Government like this has a great many duties and a great

many responsibilities, and it would be strange indeed if there was not somewhere, at some time, some error in its conduct, as well in relation to the interests of private individuals as to those of a public nature. When such a thing occurs, it is a misfortune of the Government which ought not to be visited on one individual citizen, but should be borne by all its citizens alike, as the consequence of an unfortunate error that has happened in a Government which, in the main, performs its duties well and faithfully to all its citizens.

Mr. JONES, of Tennessee. I did not intend, Mr. President, to take any part in this discussion, nor do I propose to do so now. The questions which I propounded to the honorable Senator from Delaware, [Mr. CLAYTON,] at the commencement of the debate, were put in good faith, with a desire to get such information as would enable me to arrive, if possible, at the same conclusions to which he has come. I have been anxious, from the first presentation of the claim since I have been here, to vote for it if I could. I was not able, however, at the last session of Congress, to satisfy myself to vote for it, nor am I now satisfied to do so.

I feel the full force of every consideration which operates upon the patriotic mind of the Senator from Mississippi, [Mr. BROWN.] I think my heart beats as responsively to emotions suggested by the gallant conduct of the commander and crew of the General Armstrong as that of the Senator from Mississippi, or any other Senator. That Senator supposes that the opposition to this claim is descending to the technicalities of law. If that shaft was intended for me it does not strike me, for I do not profess to belong to the honorable class of special pleaders. My object has been to arrive at the truth, to ascertain the facts, so as to be able to give a vote which would satisfy my own convictions of public duty, and be in accordance with the suggestions of my heart. In addition to those patriotic emotions which seem to animate my friend from Mississippi on this occasion, I have another reason for desiring to vote in favor of this claim. That reason is of a personal character. I know the parties interested. They have the warmest sympathies of my personal regard; but, sir, such considerations are not enough for me. I am here to perform a public duty, and I shall dare to do it according to my own judgment and the convictions of my own good sense.

I desire that the claimants shall have the full benefit of the interrogatory which I propounded to the honorable Senator from Delaware. I have received a note from the agent of the claimants, in which he says, they never knew of the arbitration until after the treaty was made. I will give them the full benefit of this denial.

I find myself embarrassed when I presume to differ from the honorable Senator from Delaware on a question of this kind. His experience, his long connection with the Government, and particularly his relations to this claim, render it a bold task for me—a man of modesty and delicacy, I trust—to dare to differ from him. I must, however, look at the records for myself. The honorable Senator says there is no evidence of an acquiescence by the claimants in the submission of the claim to arbitration. That is a question between him and the present Secretary of State, who tells us there is such evidence. In such a condition of things I am constrained to take the written official declaration of the present Prime Minister as conclusive on that point. On this subject the honorable Senator from New York made a statement which was new to me. He said this arbitration was a secret one. Will the honorable Senator tell us where he gets his information?

Mr. SEWARD. Perhaps the word "secret" was too strong a one. I supposed, however, the honorable Senator would understand it. I meant that it was an arbitration in which the parties were not heard.

Mr. JONES, of Tennessee. I am glad the Senator has made the explanation, but I think he is equally at fault in his present statement. It was no secret arbitration, because the treaty authorizing it was published to the world. The honorable Senator from Delaware admits that it was not secret, for he says he knew of it three days after Mr. Webster came into the State Department.

Mr. CLAYTON. Will the Senator allow me to explain?

Mr. JONES, of Tennessee. Yes sir.

Mr. CLAYTON. The matter was privately, not publicly, communicated to me. Having heard shortly after I left the Department, that the incoming Administration was about to refer the Armstrong claim, I ventured to drop a note to the President requesting his particular attention to the negotiations going on, and I requested that, if there was any difficulty in regard to some of the points of difference, I might have an opportunity of explaining them. I was shortly afterwards called upon by the Secretary of State, and his first remark to me was, that he had agreed to refer the Armstrong case. I said nothing about that. It was a confidential communication to me, and it was kept secret, so far as I was concerned.

Mr. SEWARD. I perceive that the honorable Senator from Tennessee has extended the meaning of the words I used more broadly than I designed. I did not intend to imply that the transaction of making the treaty was secret, but that the examnation, the proceeding itself, was secret.

Mr. JONES, of Tennessee. The Senator from Delaware says that the Secretary of State communicated to him, confidentially, the state of the negotiations in reference to the brig General Armstrong. Well, sir, it appears, from the letters which were read by the Senator from Mississippi, that the claimants themselves were advised of it. Captain Reid, in one of those latters, asked Mr. Webster not to take action until he reached Washington, and he said that he would be here in time. Then the claimants were advised of the intention of the Secretary of State to agree to such a reference.

Mr CLAYTON. It will be remembered that President Taylor died on the 9th of July, 1850. On the 18th or 20th of July, Mr. Webster became Secretary of State. About the 23d of July, the Portuguese Minister and the Secretary of State agreed to refer the Armstrong case to the arbitration of Louis Napoleon, on the ground, as I was told by Mr. Webster, that he was the President of a Republic. The letter which was read by the Senator from Mississippi, to which my friend referred, containing the remonstrance of Captain Reid against the reference, or asking an opportunity to be heard before the negotiation should be settled, was dated the 29th of August. Another of his letters was dated in September. Th question had then been determined; there was an end of it; and he could not possibly do anything about it.

Mr. JONES, of Tennessee. I inferred from the letters read by the Senator from Mississippi, that the claimants did know the purpose of the Secretary of State to agree to the reference, and they asked an extension of time until they could be heard on the point.

The honorable Senator from New York has explained that, by the use of the term secret, he did not mean that the treaty had been secret, but that the arbitration was conducted secretly after it was agreed upon. I should like to have proof on that point. The information which I have upon the subject, and I consider it reliable, answers two objections to the arbitration—one made by the Senator from New York, and the other by the Senator from Delaware. The Senator from New York says the hearing was secret, and nobody was permitted to appear on either side. On the other hand the Senator from Delaware says the Portuguese Government was permitted to appear, but these claimants were not. The gentlemen do not agree upon that point. Now, I am informed, from a source which I consider reliable, that the Portuguese Government never did appear before the arbitration in any other sense than that in which any Government appears.

The Portuguese Minister at the court of France sent in to Louis Napoleon, the arbiter, all the documents and papers of that Government in reference to the subject, and I understand that the American Minister, Mr. Rives, did precisely the same thing. Neither Government appeared before the umpire, except by the simple presentation of the papers on file in the archives of each Government. If that was not fair, and equitable, and just, I should like to know what would have been.

Sir, it seems to me that, by the passage of this bill, we shall be going to a very great length. This Government, in its wisdom, in the adjudication of a claim submitted to it, selected, as the wisest and best policy, a reference of that claim to an arbitrator. That arbitrator was then high in the confidence of the American people, if I may be allowed the expression. He took up the papers which were referred to him, and made a decision upon them. That decision, to my regret, to your regret, sir, to the regret of every Senator here, turned out to be adverse to the interests of some American citizens. What is done forthwith in the American Senate? The arbitration is attacked, the arbiter is said to have acted in secret, and without examination. The Senator from New York intimated that he had disposed of it as summarily as his own caprice may have suggested, without an examination of the case. Bet the umpire has told us, that he examined it deliberately. He made that statement on his responsibility as a man, and as the representative then of a great Republic, and an impartial umpire chosen by the United States. I think that, by this course, we are treating him with great indifference, if not with absolute contempt. This is one objection which I have.

I wish I could be justified in giving a vote in favor of this bill; but, under the circumstances, I cannot do so. I regret that I feel compelled to vote against it. I had not intended to say a word on the subject. I was seeking information. The gentlemen who advocate the bill differ among themselves as to the facts, and I can see no reason which would justify me in setting aside the award which was rendered, at the request of our own Government, under all the solemnities which attend such a proceeding.

Mr. CLAYTON. I wish to read a brief extract from the report of the committee, in reply to one suggestion of the Senator from Tennessee. The committee say:

"It is evident, from the letter of Mr. Rives, that he never was consulted or advised with in regard to the rights of the claimants, nor was he invited, or permitted, at any time to appear before the 'Prince President,' or 'Emperor of France,' to make any statement, or explain any fact or argument in behalf of the claimants in this arbitration."

The letter will sustain this statement.

Mr. JONES, of Tennessee. It is just as I supposed. The Minister of the Portuguese Government submitted his papers, and I understand that Mr. Rives did the same thing. It would have been exceedingly indelicate on the part of Mr. Rives to endeavor to appear there as an advocate, or special pleader, without authority from his Government. He did all that he was required to do, and all that the Portuguese Minister was permitted to do.

Mr. BAYARD. Mr. President, I do not think this is a case of special pleading at all. It is a case in which a great principle of justice has been violated—violated by the act of our own Government. It is a case in which a treaty referred a single claim—not a variety of claims—to the decision of a foreign Government. I do not deny the right to do this; I do not question the propriety of such a reference in cases of this kind; but, unless I am grossly mistaken, you can find in the annals of our country no instance in which such a construction was ever given to such a treaty as was done in this case by our Secretary of State. The construction of the treaty, according to that officer, was, that the party whose interests were involved should not be heard in support of his rights, when those rights were about to be passed upon. When the party applied for permission to present his case—not on special pleadings, but on the great principle on which it rested—a fair investigation of the facts was refused, on the ground that the terms of the treaty, as concluded by his own Government, repudiated his privilege to be heard in defense of his rights, when those rights alone were the subject of contest under the treaty. I consider the denial of the right to be heard as an outrage on all principles on which justice should rest.

Mr. JONES, of Tennessee. Do I understand the Senator to say that the agent of the claimants was denied the privilege of being heard before the arbitrator?

Mr. BAYARD. I say that it appears from the papers in the case that, when the claimant applied to the Secretary of State of the United States for permission to forward a written argument, it was declined, on the ground that neither party could be heard under the treaty. It was declined by the Secretary of State under his construction of the treaty.

I say that, if that be the true construction, it is a treaty which stands alone in the history of civ-

ilized nations. A single case involving the rights of a single individual, was referred to arbitration, and the Government denied to him the right to have a proper exposition of the facts of his case, and the principles upon which it rested, laid before the individual who was finally to determine it. This is what I have objected to.

Mr. WELLER. Mr. President, I am exceedingly anxious to close the debate on this question. I do not know how to attain that object—certainly not by continuing the discussion myself; and really I can add very little to what has been so well said by the various Senators who have advocated the claim. As a member of the Committee on Foreign Relations, by whom this bill is reported, I ought to say a few words. I was somewhat surprised to learn, from the remarks of the Senator from Tennessee, that one of the objections to the allowance of the claim, was, that it might be considered as insulting to the Emperor of France, who was selected as the arbitrator to decide it. Sir, when that arbitrator shows, by his own statement, and upon the face of his award, that he did not understand the facts, I think I am at perfect liberty to disregard the decision which he has made. The award of the arbiter is based on the assumption that the boats which were sent out from the British squadron in the night time were unarmed, and that therefore the American brig General Armstrong, in opening its guns on those boats, commenced the fight—in other words, was the aggressor. I say the award shows that the only ground upon which the arbitrator refused to allow the claim, was that there was no evidence that those boats, which had thus been sent out from the British squadron to the General Armstrong, were armed. Is there any sensible man in the world, except the Emperor of the French, who would ever raise the presumption that the vessel of one nation, which was engaged in war with another nation, would, in the night time, under cover of darkness, send a boat alongside the other vessel, without her men being armed? When an arbitrator shows that he does not take the trouble to investigate the facts, or when he raises a presumption which is against common sense itself, I am under no obligations to respect his judgment. The facts in this case show that these men were armed; that there were two men killed and one wounded upon the General Armstrong by a discharge of musketry from these boats. That they had gone there for hostile purposes, is beyond doubt. That many of them were killed in attempting to board and obtain the possession of that brig, is equally certain. That they were met as American tars usually meet their enemies—in the spirit of determined, unyielding resistance, is now a part of the history of the country These men, only ninety in number, killed and wounded more than two hundred of the British before the brig was captured.

I grant that the first guns were fired by the American vessel. Those boats were coming alongside; they were armed. They were hailed first by the American crew, and upon receiving a reply, the American vessel immediately opened upon them. Does any man in his senses suppose that Captain Reid would have brought on this battle purposely, that he desired to have a contest when he had but seven guns and only ninety men under his command, against one hundred and thirty-six guns, in full battery, in the possession of the British? Sir, it would have been an act of madness which would have consigned Captain Reid to a lunatic asylum for life; and yet this is the ground on which the arbiter proceeds to award judgment against Captain Reid. It is upon the ground that he commenced the battle, and must take the consequences which resulted from it. To commence a battle with seven guns and ninety men against one hundred and thirty-six guns, as I said before, would be an act of madness which no sane man would perpetrate. Still, the Senator from Tennessee supposes that it would be disrespectful and discourteous to the arbitrator to set aside his award! But it is no disrespect to the Emperor. We have acquiesced in his decision so far as Portugal is concerned. We have submitted to his award, however unjust, and released Portugal forever from all demands on account of this outrage. But, in doing this, we have, as I think, assumed the debt due Captain Reid.

Mr. President, let me tell the Senator that from 1814 down to 1851, our Government persisted in declaring that this was a just and equitable demand against the Government of Portugal. The whole correspondence shows that from the time of the transaction, down to its final settlement, the State Department was pressing the claim, and even threatening war in the event of Portugal refusing to allow it. Sir, the declaration made by the Senator from Delaware, [Mr. CLAYTON,] when he was Secretary of State was equivalent to a threat of war, if the claim should not be paid. Now, does the Senator from Tennessee object to our doing justice, simply because an arbitrator, who has not taken the trouble to investigate the facts, or who has raised presumptions against common sense, says all these declarations on the part of our Government were false and unfounded? Is the Senator from Tennessee prepared to say that for more than one generation we have been prosecuting an unjust demand against Portugal? Sir, if his doctrine be true, it places us in the humiliating position of having threatened war for the nonpayment of an unjust demand. The earnest and zealous manner in which this claim was pressed by our Government can only be justified upon the ground that it was clear and incontestable.

Mr. President, the first question is, was this a just demand against the Government of Portugal? Is there a Senator within the sound of my voice who does not believe that it was a just, fair, and honorable demand against the Government of Portugal? Does any man believe that this was not such a violation of the law of nations as justified our Government in even threatening war, unless the claim was duly paid? If it was a just demand—and you have the declaration of every Administration from the date of the transaction to this, to that effect—then this Government, by entering into a negotiation which prevented these parties from recovering that demand, has placed itself in the position of Portugal, and is now liable for the payment of the claim. Sir, when I say this, I lay down the public law which is recognized among all civilized nations, in the very language in which it was recently uttered by the Lord High Chancellor of England. In Great Britain a private individual may sue the Government if he has a just demand against it; but here in this country, no matter how just the demand a private citizen may have against the Government, he is compelled to present his memorial, and subject himself to the delay of long speeches in both branches of Congress. In a recent case in Great Britain—De Bode *vs.* Regina—this doctrine was enunciated by the Lord Chancellor:

"It is admitted law, that if the subject of a country is spoliated by a foreign Government, he is entitled to obtain redress from the foreign Government, through the means of his own Government; but if, from weakness, timidity, or *any other cause*, on the part of his Government, no redress is obtained from the foreigner, then he has a claim against his own country."

I agree with the Senator from Delaware, [Mr. BAYARD,] that the treaty in this case was the first ever made referring claims to arbitration where there was no stipulation for a hearing of the parties. The Secretary of State, Mr. Webster, refused to receive a written argument of the claimants in this case in order that it might be transmitted, through our minister at France, to the arbitrator, on the ground that there was no stipulation in the treaty which made provision for any such thing. I say that is an anomaly in the history of this Government. You have prevented these parties being heard before the arbitrator. You have affirmed, from the outset, that this was a just and fair demand against Portugal. You have entered into a negotiation which has utterly prevented them from obtaining any redress. Now, I hold, under these circumstances, that, according to public law, you yourselves have become responsible for their payment. If the United States, in order to settle difficulties of long standing with a foreign Government, has found it expedient to sacrifice the just and fair claims of one of its citizens, it is, I think, bound, by every principle of equity, to discharge it.

Is there anything unjust in this? My friend from Mississippi showed that the Government of the United States, in order to secure other claims upon Portugal, saw proper to agree that this one should be arbitrated. Was it because the Government of the United States doubted the justice of the claim? Was it because there was any doubt as to the legality of this demand against the Government of Portugal? No, sir, for all the correspondence between Portugal and the United States, and between this Government and our foreign agents abroad, shows that we have always affirmed this to be a clear and indisputable demand against Portugal. Here, then, was the consideration acting upon the mind of the Government of the United States. In order to obtain the payment of other demands, it agreed to an arbitration of this, which it had affirmed from the beginning to be a just, clear, and incontestable claim. In my judgment, it is too late for the Government of the United States to come in now and refuse payment of that claim for which they have been willing in times past to go to the extremity of even declaring war with Portugal.

But, sir, I do not desire to continue this discussion. My main object is to get a vote upon the bill. It seems to me the question is a very simple one. If this was a just and equitable demand against the Government of Portugal, and if, by making the treaty of arbitration it has been lost to the claimants, then the Government of the United States, by every principle of justice, is under an obligation to indemnify them. I say now, as I have said on other occasions, that I do not stand upon technicalities in the payment of these claims. I shall not take up the time of the Senate in speaking of the gallantry of these men, of the unequal contest which they waged with the British. It is enough for me to say now, that that page of history which records the action is one of the brightest pages in the history of the war of 1812. If this be a just and fair claim, let us not stand here quibbling upon mere points, technical in their character, when the justice of the demand is apparent to everybody. Let the brave and gallant men, whose daring feats have excited the admiration of every true American, feel that their Government is not ungrateful.

Mr. DAWSON said, Mr. President, I do not desire to detain the Senate, but I wish to say a few words, as the main question involved in the bill has not yet, in my judgment, been fairly presented to the Senate. The Administration who negotiated the treaty of 1851 with Portugal, seem to be censured for the manner in which they submitted the proposition for the payment of the brig General Armstrong to an umpire. Let us look at the case, and ascertain whether there is any ground for this insinuation.

For nearly forty years there had been a discussion between the United States and Portugal in relation to the claim for this vessel, and no final action upon it. This body has not expressed its approval of the justice of the claim. There had been no action by which its justice was established. The ground upon which Portugal refused to pay it was that, by the law of nations, she was not responsible, by way of indemnity, for the loss of this vessel within her waters. Gentlemen assume that, when there are two powerful belligerents on sea and land, and one of those belligerents goes into a neutral port, belonging to a weaker Power, and there sustains injury, that Power is bound to grant indemnity. This is a principle which should not apply where the neutrals used all the means in its power to prevent it.

As I have said, there was a controversy in this case; and how was it decided? Not by any act of the Government unknown to the claimants, as a brief statement of facts will show. Negotiations to obtain indemnity for the loss of this vessel were pending between the Government of Portugal and the United States, during the time when my friend from Delaware [Mr. CLAYTON] had the honor of presiding over the foreign affairs of the country. He could not bring the matter to a successful termination; but it seems, if his service had been prolonged in that Department, he might have succeeded in doing so. He seems to think that his successor in office did an act which was calculated to impair the right of the claimant. The only response I have to make to that is, that for forty years the same position of affairs had existed as existed when my friend from Delaware left the office of Secretary of State. When Mr. Webster came into power, he continued to negotiate for the payment of the various claims which this Government preferred against Portugal, amounting, I think, to five in number. The Government of Portugal agreed to pay them all, except the one for indemnity for the brig General Armstrong, and a treaty to that effect was made between the two Governments, and concluded on the 26th of February, 1851. The proceedings which led to

that treaty were known to the claimants in this case. Captain Reid, as early as August, 1850, wrote to Mr. Webster, asking him to suspend the matter for thirty days. Is there any doubt about the suspension of the negotiations for those thirty days? None. He wrote again, through his son, in September, 1850. Was there any protest in opposition filed to the treaty? No, sir.

The treaty was submitted to the Senate of the United States five months afterwards, in 1851, for their ratification—a treaty between Portugal and the United States to close all existing difficulties between the two nations and their citizens, by which treaty this claim was submitted to arbitration. My friend from California must pardon me for saying that whenever the articles of agreement for the submission of a difficulty to an arbiter are specific, and the terms of the submission are contained within the articles, nothing beyond the limits of those articles can be brought to bear on the question, and Mr. Webster, in my judgment, would have been guilty of great impropriety if he had suffered a written argument to be sent from this country by counsel, in behalf of the claimant, to instruct the arbiter who was selected as umpire to decide on a particular principle. The articles of submission precluded any such thing. Now, sir, what were those articles? In the treaty of the 26th of February, 1851, I find this provision:

"ART. 1. The high contracting parties, not being able to come to an agreement upon the question of public law involved in the case of the American privateer brig 'General Armstrong,' destroyed by British vessels in the waters of the Island of Fayal, in September, 1814, her most faithful Majesty has proposed, and the United States of America have consented, that the claim presented by the American Government in behalf of the captain, officers, and crew of the said privateer should be submitted to the arbitrament of a sovereign potentate, or chief of some nation in amity with both the high contracting parties."

What, then, was the question submitted? It was, whether the public law—the law of nations, under the circumstances of the case, considering the occurrences which took place at Fayal—imposed the obligation of payment upon Portugal. It was, whether a neutral Power, either strong or weak, should be rendered responsible for the payment of any loss sustained by belligerents in consequence of a violation of neutrality within her ports. It seems to me that the law of nations lays down no such rule as that, *in every case*, a neutral Power is bound to make indemnity for such occurrences. Suppose that, at the present time, a French vessel should find its way into the Chesapeake bay, and there anchor, and where we had no means of defense, no military fort, no soldiers, no national vessels. Then suppose a Russian vessel, or fleet, should come to the same port, and here, within our own waters, destroy that French vessel, or capture it. But to state the case more analogous: Suppose that, instead of such an attack being made in our waters, it should be made within the dominions of one of the weak Governments of South America, which have neither a naval nor a land force to protect their territory against such an infringement of the law of nations, are we to establish the principle that, in all such cases, the Government whose neutrality is violated shall be made responsible? Upon what ground can we do it? If it be done at all, it must be upon the ground of justice. The laws of nations are founded upon justice and natural right. A strong nation has no right to force its own views on a weak one.

Mr. WELLER. Does the Senator undertake to say that, by the terms of the treaty of 1851, which he has read, this Government agreed to leave to the Emperor of France the decision of the question, whether it was a violation of the law of nations for the British vessels to fire upon an American vessel in a neutral port? Does he say that the only question submitted to the Emperor of the French was as to the construction to be given to the law of nations? Does the Senator suppose that this Government would ever submit a question of that sort to arbitration? Was it not a question of fact which was submitted to the arbitrator, whether, under the circumstances of this case, there had been a violation of the obligations of the neutral Government?

Mr. DAWSON. I will answer the Senator by reading the words of the treaty:

"The high contracting parties, not being able to come to an agreement upon the question of public law involved in the case of the American privateer, General Armstrong"——

Mr. WELLER. I apprehend the reason was that the parties differed as to the facts; and the Emperor, in his award, puts the decision on the ground, not that it was not a violation of the law of nations, but that the battle was commenced by the Americans instead of the British; in other words, that the American brig had fired on unarmed boats approaching it at night. That is the ground on which the Emperor decided the question.

Mr. DAWSON. The Emperor, in making that decision, perhaps, did not touch the last point, but he went on, under a subsequent article of the treaty, which involves the proposition of which my friend speaks. That article is in these words:

"ART. III. So soon as the consent of the sovereign, potentate, or chief of some friendly nation, who shall be chosen by the two high contracting parties, shall have been obtained to act as arbiter in the aforesaid case of the privateer brig 'General Armstrong,' copies of all correspondence which has passed in reference to said claim between the two Governments and their respective representatives, shall be laid before the arbiter, to whose decision the two high contracting parties hereby bind themselves to submit."

Now, sir, mark the words of the submission, "all correspondence which has passed in reference to said claim between the two Governments," was to be laid before the arbitrator, whoever he might be, and upon the facts therein contained, his decision was to be final and conclusive. His decision, under the second article, was, that the facts did not justify the Government of the United States in pressing the Government of Portugal to a war for the payment of the claim.

Sir, I believe it has been urged by my friend from Delaware, or, if not by him, by some other Senator, that the Government of the United States failed to discharge its duty to the citizen whom it was representing in this case, by not procuring all the facts to be laid before the arbitrator. Where is there a particle of evidence to justify such an imputation on the memory of Daniel Webster, who was then Secretary of State? Where is there the least ground upon which you can charge him with a dereliction of duty in his position? Nowhere. Every paper was submitted which was required by the treaty, and to have done more would have been a violation of the treaty.

The Senator from Delaware, [Mr. BAYARD,] I think, said all the facts had not yet reached Louis Napoleon, and that every man had a right to be heard. He spoke earnestly against denying the right to be heard; but, sir, the articles of the treaty, by which the points in controversy were submitted, are to govern in such matters. According to Vattel, the arbitrator must proceed in precise conformity with the rules laid down in the articles of submission. Did the treaty of 1851, which was ratified by this body, authorize any individual to argue the question before the Emperor on behalf of the United States, or on behalf of Portugal? Not at all.

But, sir, this brings me to the next point. Why has Portugal invariably alleged, up to this date, that she ought not to be held liable? Here I may perhaps be allowed to reveal a little history. I presided, on one occasion as late as two o'clock in the morning, over a discussion, which was very amiably and complacently carried on, on this question. I acted as arbitrator, and the law of the case was argued by my distinguished friend from Delaware [Mr. CLAYTON] on the one side, and Mr. Figaniére on the other. I heard the whole argument, and every time my friend from Delaware made a point, his demonstration was as clear as a problem in Euclid. "Fig, you'll have to pay, and we'll take it in white port." [Laughter.] At the time, my friend will recollect that, in this controversy, I sustained him as to all our claims against Portugal except one. I thought then that he was carrying the law a little too far. I perceived the belligerent tone and manner of my friend at that day. Perhaps he had some of the heat of the late Mexican war pressing on him at that time. He made Mr. Figaniére very uneasy; but, sir, I hesitated then and now in laying down the law of nations to be, that a weak Power like Portugal, or like one of the South American States, which has not the means of enforcing its neutrality, shall be driven to be answerable, in the way of damages, for all the consequences growing out of a violation of its neutrality by a powerful belligerent nation.

Mr. CLAYTON. I wish to put a question to my friend. He thinks that, as the Government of Portugal was weak, and, as he says, not able to protect the privateer, she was not answerable. That is his argument.

Mr. DAWSON. Yes, sir.

Mr. CLAYTON. One other question. If the Government of Portugal was not answerable, because she was weak, and this Government afterwards, with a full knowledge of the fact that this outrage had been committed by a British fleet on an American privateer, made peace with Great Britain without providing for the indemnity to the persons who were wronged, according to the law of nations, as my friend will admit, is not our Government answerable to the claimants?

Mr. DAWSON. I should think not. Great Britain was answerable to Portugal for a violation of the laws of neutrality, and she should have paid Portugal the indemnity; and if Portugal had received the indemnity from England, it would have been her duty to pay it over to these claimants. But suppose England refused to pay, the last power that was left to Portugal for the enforcement of the claim was the power to make war. Suppose she was too weak to drive England into payment, shall her national weakness be used by a great Power like the United States to compel her to make the indemnity which she has not been able to recover from the nation which committed the wrong? Sir, these things should be regulated by considerations of justice and equity, and by an appeal to the sense of duty and right which exists between man and man, and nation and nation. A powerful man may, perhaps, compel another to do a wrong, or submit to injustice; a weak nation can be driven into submission by a stronger one; but it is not just.

Sir, the treaty in this case provided for a submission to the arbiter of the correspondence between the two Governments containing the facts of the case. Vattel says, that whenever articles of arbitration are written, and the question is submitted to a distinct Power, if there be no fraud, no want of kindness, nothing to lead the mind of either of the submitting parties to the belief that dishonesty has interfered with the decision, honor, and national law, the confidence which should be observed between nation and nation, require that the decision of the umpire shall be respected. Where is the indication here that Louis Napoleon was governed by any unkind feelings towards the United States? This was a question of doubt, and that doubt was submitted to his decision, and we, as an honorable body, when there is no imputation cast upon the character of our arbiter, are bound to acquiesce in his award.

But, sir, have we not the same power to force England to pay the claim? It is a debt due to us, but it is contended, according to national law, Portugal must get the claim for us; in other words, our right is against England, through Portugal. Now, is there any national law, any law regulated by justice, which would say that the United States should not have the power to enforce payment of the claim from England? The reply which will be made to this, I know, is, that England and the United States were belligerents at the time of the loss of the Armstrong, and that all differences existing between the two countries were merged and settled by the treaty of 1815. What influence that may have had over the Government of Portugal, I cannot tell. I am satisfied with knowing that this claim existed, and I am one of those who would sustain it upon proper principles, even down to the present hour; but there must be an end put somewhere to all controversies between nations.

When the question was submitted to arbitrament, was there any other remedy left to the United States to close the claim, except that of going to war? Is there any Senator on this floor who will urge that it was not within the discretion of the nation whether it should declare war or do any other act to enforce the debt of a citizen against a foreign country? Why, sir, it is a matter of pure discretion on the part of the Government. It is bound to protect the citizen, but it is not bound to involve the rest of the citizens in a war for the debt of a particular individual. Will it be contended that Captain Reid has not had the influence of the power of the Government to procure a settlement of the claim? If the Government failed in obtaining it, what course was left? Either to arbitrate or go to war. We chose arbitration. All admit that to be a good and proper course. It is said, however, that these parties never submitted to that arbitration. I think they did. They were notified of it in August, 1850, and asked

thirty days to be heard before Mr. Webster. Thirty days passed off. They wrote again in September, 1850. The treaty was not concluded until the 26th of February, 1851; and hence it is that Mr. Marcy, the present Secretary of State, says there is evidence on record of the submission of the parties to the arbitrament.

Sir, can it be that the Government of the United States, in taking control of the claim of a citizen against a foreign country, is to be controlled by that citizen in the manner in which it is to seek redress for him? Is that citizen to go to the Government and prescribe what it shall do? When the Government takes charge of his claim, he abandons his own individual right to prosecute it. He does it, because of his individual weakness and inability to sustain it. He asks the Government to interfere. When the Government interferes, is it subject to his control, like a lawyer is to the control of his client? Surely not. When such questions are prosecuted by the Government, they involve grave and important considerations, and become matters of public policy. The question is submitted to the Government on the same principle which would urge me to surrender a private right for the benefit of the country. It is a sort of eminent domain which the Government exercises—a right to control the individual action of a citizen for the good of the country.

This brings us back to the question, are these parties entitled to the payment of this claim from the United States? There has been a doubt about it for nearly forty years past. The two Governments could not agree upon it; and we submitted it to a third party—to an honest man, as we supposed. Is there any evidence that he failed to act honestly? Is there any evidence that we failed to do our duty towards those citizens? Their claim has been decided against them; and after the decision is made, they come here and ask us to reopen the whole question, throw an imputation upon our own Government, and an insinuation against the arbiter whom we had chosen. It is an insinuation that he must have been governed by some strange infatuation, or he would never have made such award. Sir, was not the question one of doubt? If it had been a case admitting of no question, would our Government have submitted it to another power for decision? No, sir, it was a question of uncertainty; it was one of great doubt. It must interest every one who belongs to a weak nation. It involves the question whether a neutral power, which is so weak as to be unable to enforce its neutrality, shall always be held liable to make indemnity to powerful belligerents for injuries which it was unable to prevent. It is a grave question. It involves too many considerations to allow it to be disposed of in this hasty manner. The presentation of this claim now, insinuates that Daniel Webster did not fairly present the rights of an American citizen against a foreign Government, and that the arbiter whom we chose has not made a right decision.

Sir, I admit the gallantry and the valor of Captain Reid. The consequences of the battle of Fayal entitle him to my warmest sympathies; and, as my friend from Maine has remarked, if this were a proposition to make an appropriation in consideration of his gallant services, it would be an entirely different question; but when you call upon me to reopen such a solemn transaction as this, where there has been a treaty, and the arbitration of a foreign Power, and when that reopening casts imputations on the dead, I shall never consent to it.

Mr. BAYARD. The honorable Senator from Georgia introduces into the discussion a new argument, and as I differ from him entirely as to the principle of the law of nations which he has advanced, I will trespass upon the time of the Senate, very briefly, while I state the principles which I suppose to apply.

The honorable Senator assumes that Portugal, being the weaker power, was not bound to make reparation for the injury committed by the British force within her borders. Sir, I hold, and I supposed, until the honorable Senator stated the principle to be the reverse, that we all held it to be clear and undoubted, that whenever a community or people assume to themselves nationality and the rights of neutrals, they are bound by the corresponding duties of neutrals; and that a nation cannot allege her own weakness to escape from the obligations that are imposed upon her. Therefore, it is a settled principle, that a nation, being bound to cause the rights of other nations to be respected within her dominions, if she does not protect them, (every nation being presumed to have power to make reparation to the individual,) she is bound to make that reparation. She is held responsible. I did not suppose that was contested at this day. Yet, the honorable Senator assumes the ground, that the weakness of a nation will authorize her, though she has assumed the rights of nationality, to escape from the duties which attend upon that nationality.

Sir, I hold that doctrine not to be tenable. When a people hold themselves out as a nation, and claim the rights of a nation, they are bound by the duties of nations; and, as one of these duties, they are bound to protect, within their own jurisdiction, the rights of neutrals, and for every unjust violation of them they are responsible. I admit unhesitatingly, that, being bound to redress the wrongs perpetrated by another foreign nation, her right of redress is against the one who commits the wrong. She is bound to make reparation to the injured party. The United States, in this contest, could make no claim upon Great Britain. They were at war; but the law of nations and neutral territories is to be respected, and within the limits of that neutral territory, one nation has no right to make war upon the other. If she does, she violates the rights of the neutral nation; and if that neutral nation does not prevent it, she cannot plead, as her excuse, her weakness. She becomes, therefore, responsible to the injured party; and, under the same law of nations, she has a right to claim redress from the party which commits the injury, because, in the pursuit of war, that party violated her rights of neutrality.

That, sir, I understand to be the principle. The honorable Senator put a case as an illustration. He asked if a French vessel was to come into the waters of the Chesapeake, where we had no forts and no frigates, and a Russian vessel was to come in and destroy her, whether we would be bound to make remuneration? Beyond all question, yes; and we would also have a claim for remuneration upon Russia, and, if she did not grant it, we would go to war with her. Even before the French Government would claim it from us, we could claim reparation and redress for the injury done to our neutrality towards a nation in peace and amity with us. That is the position which I take. It is the duty of every nation, if she calls herself a nation, and claims the rights of a nation, to bear the responsibilities of a nation, and to perform the duties incumbent upon her.

I go further. The honorable Senator, it seems to me, has assumed a ground that Portugal never ventured to assume for herself. He has assumed what the French Emperor never pretended to assume in his decision upon the case; for, as I understand, he admits the principle as I have stated it, but he gets out of the application of the principle by equivocating on the facts of the case. He puts his decision on the ground that the General Armstrong fired first in invasion of the rights of a neutral port. He does not put his decision on the ground that Portugal would not be liable under the laws of nations, if she could not resist the aggression and prevent it; but he puts it on the ground that the General Armstrong fired first at the boats which were approaching her from the British vessel; and that, therefore, she must be assumed to have commenced the strife, because she fired first; and, on that ground, we had no right for reparation at the hands of Portugal. He admits the principle of the law of nations, which I have stated, but in this manner evades its application.

I therefore used the language, in speaking of this case, that I considered the decision an atrocity. I think so still. I do not mean by that to arraign the individual character of the Emperor of France, for he had nothing personally to do with the investigation, I suppose, or of the Minister, or of the particular individual he appointed for the purpose of adjudicating upon the case; but I do mean to say, that so palpably erroneous is the decision, that I cannot account for it in any other mode than this: that the great principle of justice was violated which would have enabled the party to make a statement of the facts of his case, and an exposition of the principle of law which was to sustain these facts, as the ground of the claim, and that that was violated by the terms of the treaty.

I make no attack on Mr. Webster, Mr. President; but I suppose he was a man. I suppose, in the multiplicity of his engagements, he may have overlooked some things. No man acknowledges more than I do his great services to the country, and his ability; but still he might commit an error. If this treaty bears the construction which is given to it—which I do not think myself—of excluding the right of the party to be heard in support of his claim, that treaty being confined to the single isolated claim, then I say it was a treaty made by the United States which violated a primary principle of justice. The honorable Senator may tell you that the arbiter was too great and distinguished a potentate; but who is there that cannot decide a case better by hearing the arguments on both sides? If John Marshall could be instructed, and if the Supreme Court of the United States have changed their opinions by the argument of counsel, surely there is nothing in the character of the Emperor of France that cannot, also, be instructed upon an argument made by counsel in reference to such a claim.

Mr. President, I therefore can, in no mode, account for the decision which was made in this case than by the reasons which I have given. I can in no other wise explain the palpable error of the decision, except by supposing that the facts of the case were not really put before him in their proper position. If that be so, and if, by the terms of the treaty, the right to be heard was excluded, it violated one of the first rights which the citizen ought to have; and we are bound to compensate him.

Now, sir, as regards the treaty, I take a different view from the honorable Senator. In the second article it recites that the parties are unable "to come to an agreement upon the question of public law involved in the case of the privateer brig General Armstrong." That is a mere recital, not an agreement of the parties. The parties then agree to refer the claim—"the United States of America have consented that the claim presented by the American Government, in behalf of the captain, officers, and crew of the said privateer should be submitted to the arbitrament," &c. The agreement there is to submit "the claim." What would that mean, in ordinary language? It would mean, of course, accompanied by the principle of law to govern it. They submit the facts of the case, and on them the decision was to be made on an established principle of public law. They state that there has been a disagreement, and the claim is submitted to the decision of the arbitrator, which necessarily involves the facts, as well as the principle of law to be applied to those facts.

The third article then stipulates:

"So soon as the consent of the sovereign, potentate, or chief of some friendly nation, who shall be chosen by the two high contracting parties, shall have been obtained to act as arbiter in the aforesaid case of the privateer brig General Armstrong, copies of all correspondence which has passed in reference to said claim between the two Governments and their respective representatives, shall be laid before the arbiter, to whose decision the two high contracting parties hereby bind themselves to submit."

Now, sir, the construction given to that article is, that it excluded the right of the claimants to be heard. The object was to bind Portugal as well as this Government, particularly Portugal; and, therefore, all the official papers in the case were to be laid before the arbitrator. But is there anything in the treaty which says that the party shall not have the right to make a statement of the facts in the case, and the principles of law which apply to the case? Would a judge or arbiter, in that or any other case, not decide more probably aright after having heard both sides, than if he excluded that right? There is nothing in the language of the treaty which excludes it. It contains a stipulation for the presentation of the papers, but there is nothing in it to exclude the right to give further and other testimony. There is nothing in it to exclude the right to make comments upon those papers, through the proper representatives of the Government, and to sustain the claim of the party; and if there be not that, and the Secretary of State of the United States yet did refuse to the party to forward his argument, or to procure the American minister to be heard in support of the claim, then, I say, he denied a great right to the party; and, as the decision was atrociously wrong, I can

attribute the wrong to no other ground than the want of a full and fair hearing in order to enable the arbitrator to decide it properly upon just principles.

Mr. President, if, on the contrary, you hold that the treaty does exclude the right, then, I say, the Government made a treaty in that case which it has made in no other. It made a treaty which denied a right that ought, in all cases, to belong to a party, and more particularly in a case which involves his rights alone, and those of no other class of persons whatever. If it did deny that right, it presents a case which, in equity and justice, calls for remuneration. You have now a commission in Great Britain to decide upon cases which are pending between the two Governments. Do you suppose the claimants would be satisfied if their cases were sent to be decided there upon the documents and correspondence of the two Governments, without the party having the right to present his claim on the principles and facts relating to it, and an argument in support of the principles to govern his case? It would be an atrocity, and it will always be, as it always has been, so considered in any case in which it is undertaken so to decide upon the rights of parties. You must give them the right to be heard—the right to present the case in such a form as they see fit—so that the principles of law may be investigated and the case fairly adjudged; and that can only be done by a full and fair hearing.

Mr. President, I have taken up more time in the discussion than I desired. I am influenced by something more than the interest which I feel in the commander of the Armstrong, for the decision which was made, under the circumstances attending it, makes it a case of great moment, and should lead the Senate to a favorable vote upon it. The claim has been spoken of as having been for forty years urged by this Government, without relief, and that there must be great doubt about it. Let me but say, that if I am not mistaken—I cannot recollect it positively; it is a long time since I read about the case—I have a strong impression on my mind that in the early correspondence between the two Governments, Portugal admitted her liability. I can easily understand that, as the national pride of Great Britain was involved in this matter, her influence over Portugal, a nation bound to her by all the ties that can bind one nation to another—almost, indeed, a subsidiary nation—would protract the settlement until we should finally be almost driven to a war in order to obtain justice.

Mr CLAYTON. There cannot be a doubt in regard to the suggestion made by my colleague, in the conclusion of his remarks. When we look at the facts of the case, there cannot be a doubt about it. It will be found that the Government of Great Britain held herself, through the whole of this controversy, as a substantial party to it. In order to understand our position precisely, let us look back a little to the facts.

New Orleans was attacked shortly after the destruction of the Armstrong. An expedition destined to succor the British army at New Orleans was on board of the ships that blockaded the Armstrong, and attacked her in the harbor of Fayal, in September, 1814. The British admiral with a seventy-four gun-ship, some frigates, and two sloops-of-war, appeared off the port, when the Armstrong had gone into the harbor for the purpose of procuring water, and determined at all hazards, although it was not his main object—he ought not, according to his instructions to have stopped there—to destroy that privateer, on account of the injury she had done to British commerce. He made a desperate effort and lost more than two hundred men in the gallant fight. The British expedition was so crippled, that one of the sloops-of-war had to return to England laden with the wounded Englishmen; and, sir, the expedition was so long delayed in consequence of this very battle, that the succor destined to have been carried to New Orleans, did not arrive in time to take part in the battle. Indeed there are many who believe that we owe the safety of New Orleans, on that occasion, under God, to the circumstances which occurred in September, 1814, when this privateer was destroyed, and to the gallant men who fought on that occasion, and who crippled that expedition so completely that it could not arrive in Louisiana in time. He was compelled, as I have said, to return with a cargo of wounded seamen and marines to England.

It may seem surprising to those who are not acquainted with all the facts, that such a deep interest should be taken in this question by the Senate of the United States, at this late day. Sir, it was a point upon which Great Britain and the United States felt as acutely, and as deeply, as upon any other. Great Britain felt that she had been deeply injured by this privateer, not only before this battle, but particularly at the time of it. She made constant efforts, from the beginning to the end, to prevent the claimants from being indemnified. The evidence of her influence is to be found everywhere; and there cannot be a doubt in the mind of any rational man, that whatever influence she had with the French President, or Emperor, as he afterwards became, was exercised to the utmost against these claimants. It was for that reason, and knowing that, that I never would have agreed to refer the matter to him or to any Power she could possibly have any influence over. Why, sir, Portugal herself undoubtedly had the assistance of England through the whole negotiation. She had no influence here, we would not listen to it; but there, before the French President, I insist upon it, it was exercised, and exercised to the destruction of the interests of these claimants. One fact I desire to mention, which has not been before mentioned. The award is signed by the President of the French Republic. In point of fact it was not made by him until he became Emperor, but in order to make it appear to be signed by the French President it was ante-dated. Now, what influence could have been exerted to make him do that? If it was not a reference to the French Emperor, then he had nothing to do with it after he became Emperor; and in order to nail the matter he ante-dates his award, and signs it as President of the French Republic.

Mr. President, I shall not enter into a discussion of the question which has been so ably argued by my colleague, in reply to the honorable Senator from Georgia, but I submit to him that a little calm reflection will satisfy him of the total error which he has made in the argument that a weak nation is not responsible under the law of nations, and is not bound to obey the laws of neutrality. Such a principle never can be adopted by us with any regard to our safety. Mr. President, I put again, to my honorable friend from Georgia, who discussed this question so much at length, the question, if this Government is to place the decision in this case upon the ground that the Government of Portugal was weak, and therefore not answerable for the claim, does it not follow, as an irresistible inference, from that, that when this Government made a treaty of peace, and released the claim upon Great Britain, it became responsible for the amount of the damages? The Senator is driven irresistibly to that conclusion, if what he premises be correct, that a weak nation is not answerable for what she does.

My friend has thought proper to allude to a little conversation that occurred in my office, in which some discussion was had between Señor Figaniére and myself. It is true we did meet, as my friend states, on one occasion. He was present, and, among other arguments or statements made by the Portuguese Minister, it was asserted that the Government of Portugal was poor, and that we ought not to press her for that. I think that my friend who was appointed so jocularly as arbitrator on that occasion, decided in my favor. I clearly understood him that he decided Figaniére should pay in port. I did say, jocularly, on that occasion, "If you have not anything else to pay it in, we will take it in port." I said this, however, with perfect respect to the Portuguese Minister, who, on all occasions, so far as I had an opportunity to see, was a gentleman in every sense of the word.

Mr. STUART. I sent, sir, a short time ago, for the treaty which has been alluded to, with the view of taking the floor, and reading it and commenting upon it when the honorable Senator from Georgia had concluded. He has, however, presented the facts connected with it so strongly and plainly, that I do not desire to do it; but I do desire to call the attention of three or four Senators to the position which they have taken, and to seek to show that that position is not founded in the facts. They assume that the facts were not before the French Emperor. To assume that, is to deny that for forty years the respective Secretaries of State have not been able to present the facts. The treaty says, in so many words, that all the correspondence in the case shall be presented to the arbiter, be he whom he may. The case shows that all that correspondence was presented to him. Now, can anybody state, or, in other words, is there any evidence before the Senate, that the facts were not presented? I differed from the honorable Senators in the outset; but if you admit their premises, that the Government has not the right to submit the case without all the facts and all the arguments being submitted, then, I ask, has the Government been thus derelict in this case? To decide that in their favor, you must decide that those gentlemen, the ablest in the country, could not argue a case as well as somebody who might be employed by the claimants.

The facts, then, were before the French Emperor, if it was possible for them in thirty-odd years to be presented. The arguments were before him, if it was possible for such honorable gentlemen as the Senator from Delaware, and the late Daniel Webster, and other gentlemen of equal ability, to present them. Now, then, before it is contended, as the Senator from Delaware does contend, that the Government has thus made itself liable, the proof should be conclusive that, if the claimants had been heard, they would have presented such facts as could satisfy the Senate that the case would have been differently decided. They wish now to have an appeal from the Emperor Napoleon, who heard the case upon a full discussion on both sides, and have the case decided here in the Senate of the United States against him, upon an imperfect hearing on one side.

That is the remarkable position in which gentlemen are placed here, some of whom seek to say that we are insisting upon a technicality. The Emperor says—I shall not read it—that it is evident from the proof in the case, it is evident from the correspondence submitted in the case, that the boats of this vessel fired first. We are called upon to undertake to decide that they did not. That question has been argued, I say, by the several Secretaries of State in the strongest terms. That argument, with the facts to support it, was presented to the arbiter. He decided that the testimony in the case showed that these boats fired first. That is called monstrous. It is a monstrous conclusion, we are told. I think it is not a very great stretch of imagination when the other additional fact is considered, that there were only two men killed and seven wounded on the part of the privateer, while there were between two and three hundred killed and wounded on the side of the British forces. It might be pretty well asked, if those boats were equally armed, and so superior in numbers, why they did not do more injury? At all events, when the Senator from California asks, is there a Senator here who denies the correctness of the claim? I answer him, yes, sir; I deny it upon the judgment of the arbitrator who has heard all the testimony and the argument on both sides; and before the judgment of any court, or any arbiter, who has heard both sides, is to be overthrown, a clear and indisputable case is to be made out against him.

Mr. CLAYTON. The honorable Senator adverts to the fact that nearly three hundred were killed and wounded on the part of the British, and only two killed on our side; and if I understand him, he seeks to show that we were not at a disadvantage, and might have been the aggressors. Why, my honorable friend, if he will look at the evidence, will see that the British made two attacks that night upon the privateer. They attacked her by surrounding her with barges filled with men. The privateer was armed with a forty-two pounder loaded with grape up to the muzzle; and every discharge of the gun killed many men.

They attempted to climb the sides of the vessel, but the captain and men cut off their hands and arms as fast as they appeared. When their ammunition was exhausted, they seized the round shot piled for the purpose upon the bulwarks, and hurled them upon the heads of the British in the boats below. Many of the barges were thus sunk. This was one of the most remarkable actions that ever occurred; but there is nothing in the facts of the fight from which gentlemen can infer that our men were the aggressors.

Mr. STUART. I heard the honorable Senator state that, at the last session, with as much power of influence and argument as I ever listened to in my life. It was perfectly thrilling; and, I doubt not,

that when he presented this case to the Portuguese Government, he presented it with equal ability upon all occasions. What does the Emperor say?

"Considering that if it be clear that, on the night of the 27th of September, some English long boats, commanded by Lieutenant Robert Fausset, of the British Navy, approached the American brig, the 'General Armstrong,' it is not certain that the men who manned the boats aforesaid were provided with arms and ammunition. That it is evident, in fact, from the documents which have been exhibited, that the aforesaid long boats having approached the American brig, the crew of the latter, after having hailed them, and summoned them to be off, immediately fired upon them, and that some men were killed on board of the English boats and others wounded—some of whom mortally—without any attempt having been made on the part of the other boats to repel at once force by force."

There is the opinion of the court, upon hearing the facts and the arguments on both sides, determining that these British boats came alongside, were hailed, and, not making a satisfactory response, they were fired into, in the first place, by the privateer; and yet, sir, I say the Senate of the United States is asked to take an appeal from that decision. It is a decision made upon the hearing of both parties, and upon the best arguments that could be made by living men, I believe, for none are abler than those who had argued the case. The arbiter having heard both sides, and rendered that decision upon the facts, the Senate is asked to take an appeal from it, upon an imperfect hearing on one side, and overrule the judgment. I cannot do it.

Mr. BAYARD. It seems to me that the great fallacy in the honorable Senator's argument is, that he charges us with inconsistency, because we have advocated the principle of a full hearing on the part of the claimants, before the French Government, and that the denial of that rendered the United States responsible; and, at the same time, he says, we are attempting, by an *ex parte* judgment, to condemn the Emperor of the French. Sir, I was not aware that the Emperor of the French was a part of this bill at all. It is a bill containing a grant to citizens of the United States, for services rendered and injuries sustained. But the hearing would not be *ex parte* if it was otherwise, because it is very evident the Emperor of France has very strong and powerful advocates on the floor of the Senate—more than I supposed could be found here for such a purpose.

But I think I can satisfy the honorable Senator, from his own showing, that it must be from the necessity of the case that there was no hearing. In the diplomatic correspondence in reference to the transaction, can the honorable Senator point out to me any time when the Portuguese Government took the ground that, in point of fact, the first aggression was committed by the General Armstrong? No, sir, no. The attention of her own representatives was never called to such a thing. No such question of fact was ever made. No such investigation of the testimony was necessary; because the Government of Portugal never intended to assume such a ground, but the Emperor of France, on an unargued case, gets rid of the subject by assuming a matter of fact which the whole testimony goes to deny. He assumes that these boats were peaceably approaching the General Armstrong, and that she was the first aggressor; and that there is no evidence that they had arms or ammunition on board. The whole thing is an illusion, in my judgment; and if the case had been properly presented, on the facts and the questions which necessarily arose to the individuals appointed by the Emperor of France to examine the matter, I cannot but believe that a different conclusion would have been arrived at.

Mr. CHASE. I move that the Senate adjourn.

The motion was not agreed to.

Mr. CASS. I desire to say a very few words, as I am now called upon to vote upon the bill. I shall vote for it. I am not sure but that my impressions respecting this action may have produced an effect on my judgment. I have not examined the facts for a great many years; but they were so well known to the country, and produced so firm an impression at the time, that they never can be forgotten. It was one of the most gallant fights that ever took place in war. It was equally creditable to the captain and his crew, and equally glorious to the country; and from that day downwards it has been ranked amongst the most glorious achievements of our Navy.

Now, sir, the attack upon the General Armstrong was a most atrocious violation of the laws of nations on the part of England. Nobody doubts that; and I say, Mr. President, it was a continuation of those series of gross aggressions commencing in General Washington's day, and continuing until 1815, which marked the whole course of England. It stood alongside of the burnings, the impressments, the fictitious blockades, and all the other series of the violations of the law of nations—alongside of the Berlin and Milan decrees, and everything like them, by which the common sense of men was shocked. There is no doubt in my mind, that the privateer General Armstrong had gained such a reputation for her good conduct and gallantry, that she was peculiarly obnoxious to the Government of England, and particularly to the English merchant marine; and it was a great object to gain possession of her.

I am not going into all the circumstances connected with this matter. There are equitable subjects with it, that justify, in my opinion, a grant by the Government for the losses sustained. Other gentlemen have examined the question much more fully than I can do. I wonder myself that it was ever submitted to arbitration. So far as respects the general principle, I should just as soon think of submitting to arbitration a question of jurisdiction over the city of Washington, as to submit the question of the responsibility of the Portuguese Government for this atrocious violation of the law of nations. But it has taken place. There is no imputation on the head of the French Government, I take it for granted. Whether acting in his present capacity, or as President, he had no more to do with the decision than I had. It was made by some French juris-consults—no doubt very able men, but they took a very one sided view of the case. It is clear that our Government has always insisted on this principle. If it is not, how can we support the claim? From the first inception of the claim to this day, the Government has insisted on the liability of the Portuguese Government, and I never heard it contended before that it was not liable. I do not suppose the Portuguese Government put it on the ground that it was not.

What is the doctrine? I take it to be very clearly this: that a belligerent has no right, by the law of nations, to enter within a foreign neutral territory, whether it be actually its land territory or its territory of three marine leagues, and commit an aggression upon another Power, with whom it is at war. I take it, there is doubt about the general principle; but I do not agree with some gentlemen who ask why we surrendered it to England? We never had a claim against England. The belligerent that commits this gross violation of the law of nations, is not responsible to the other belligerent. He is responsible to the neutral. The doctrine is clear, there is no doubt about it. I will read a few words, from an excellent authority, on the subject:

"The capture of ships within the territory of a neutral State, or within three miles of the coast, or the capture of ships beyond the territory by boats within the territory is illegal, with respect to the neutral sovereign, but not with respect to the enemy."

That is the general doctrine. The peculiar doctrine to which I refer is also laid down here, that it is a question between the belligerent and the neutral.

Mr. DAWSON. Has not this Government a right to call upon Great Britain for redress?

Mr. CASS. No, sir; it is most distinctly laid down, that it is a violation of the law of nations, for the redress of which the injured belligerent party must resort to the neutral. That doctrine is explicitly laid down in the book which I have before me, "Wildman's International Law," and I refer the honorable Senator to the one hundred and forty-eighth page, where it is distinctly laid down.

Now, Mr. President, with respect to the pretext given for this decision, that the General Armstrong fired first, I suppose that the power of defense is not confined simply to resistance when assailed by your adversaries. You may repel an invasion before it takes place. You may defend a fort before the enemy fires upon you, by all the laws of nations and of men. It is an act of defense if justified by the nature of the attack. In a time of profound peace, such a vessel, situated as the Armstrong was, with boats approaching her, and the parties in the boats not giving an account of themselves, would have the right to fire; and more especially would it be the case in a time of war, when a hostile squadron was there. In the name of common sense, what could she suppose those boats were approaching her for at night, but to capture her? If their arms were in the bottom of the boats, or hidden away, is that any reason why the Armstrong should take no measures of protection, but permit them to board her? I take it that what I lay down is the true doctrine. I am surprised that the decision of the French Government turned upon that point. It seems to me a very strange one. This, Mr. President, is all I have to say. I should not have said a word if I had not been compelled to vote.

Mr. BUTLER. Do I understand that it is the purpose of the Senate to take a vote on this bill now?

Mr. WELLER. Yes, sir.

Mr. BUTLER. I cannot vote, with justice to my judgment, without saying two or three words. I came very reluctantly into the Senate, and if I had not listened so far as to impose upon me the responsibility of deciding as a Senator, I would willingly have escaped the vote which I shall give. According to the position taken by my honorable and able friend from Delaware, it seems to be assumed, upon his part, that Portugal was under an indisputable—yes, sir, I use the word—indisputable obligation to this Government to indemnify for the loss of the General Armstrong. Well, sir, I do not go behind the record to say whether, by the law of nations, there was such an indisputable obligation on the part of Portugal, as to subject her to this liability, but I do go thus far, and say that it was as competent for this Government to submit the matter to arbitration, as it was to go to war for her citizens; and if we submitted it to the judgment of the French Emperor, or the French President, I say, good faith, and comity, and all that concerns the judgment of so high a tribunal, if it cannot command entirely our respect and approbation, it must at least command our submission to it.

Mr. WELLER. So far as Portugal is concerned, but not as to our liability to our citizens.

Mr. BUTLER. I say we must submit to it so far as regards that. It has been decided that Portugal was under no obligation to pay the claim. If it be assumed that that throws it on this Government, it is nothing more nor less than making the Federal Treasury an insurance for the claim.

Mr. HOUSTON. I shall have to vote upon this subject, and I have very little to say upon it. I have taken up no time of the Senate thus far this session, and I shall now take but a few moments. It appears, from all that I can glean in regard to this matter, that the claimants were not consulted in relation to the reference to the arbitration of the Emperor of France. The Government assumed the right to refer it. The demand was against Portugal for a violation of the law of nations. The individuals had no recourse upon England. The only recourse was upon their own country, to see that their rights, as individuals, were vindicated. It was referred, as I have stated, and it appears, according to the extract read by the Senator from Michigan, [Mr. STUART,] contained in the decision of the Emperor of France, that it was not ascertained that the boats which went to attack the General Armstrong were armed when they were challenged, and that a response not being made, they were fired into.

Hence it is, that the French Emperor decided that the aggression was on the part of the American vessel. Now, sir, I should like to know what induced those boats to go unprepared. Are we not to act upon the presumption that they were there to board the vessel; that they had gone to attack it? If they launched their boats, and advanced within hail of the American vessel, and would not answer, they ought to have been fired into and sunk, every one of them. If this Government referred the subject to a foreign potentate for arbitration, without the consent of the individuals interested, and the decision was adverse to the interests or the claims of the individual, I do believe that the Government has rendered itself responsible to the individuals for indemnification. If the decision is wrong, the honorable Senator from South Carolina says we ought to submit to it.

Mr. BUTLER. After agreeing to submit the matter, good faith requires it.

Mr. HOUSTON. In good faith and good principle, I would do no such thing. Where the rights of an individual are concerned, I would demand nothing but what was right, and I would submit to nothing that was wrong, no matter from what source it comes. Upon that principle, and believing that the United States are responsible to these individuals for having compromised their rights without their full assent and acquiescence, and without an opportunity to exhibit their demand fairly before the umpire, I shall vote for the bill.

Mr. CASS. I desire just to read a paragraph from Wildman's Institutes of International Law:

"The capture of ships within the territory of a neutral State, or within three miles of the coast, or the capture of ships beyond the territory by boats within the territory, is illegal, with respect to the neutral sovereign, but not with respect to the enemy. The privilege of territory will not of itself inure to the protection of property; unless the State from which that protection is due, steps forward to assert the right, it is not competent to the party to whom the property belongs to avail himself of that plea."

There is a sentence which I will read. It seems as though it were made for this very case:

"The act of sending out boats to make a capture, is an act directly hostile, not complete indeed, but inchoate and clothed with all the character of hostility."

The PRESIDENT. The question is on ordering the bill to be engrossed for a third reading.

Mr. STUART called for the yeas and nays; and they were ordered.

Mr. JONES, of Tennessee, when his name was called, said: I should vote against the bill if I had not paired off with the Senator from Missouri, [Mr. GEYER,] who would have voted for it.

Mr. BENJAMIN said, I vote "aye," for the purpose of moving a reconsideration.

The question being taken by yeas and nays, resulted—yeas 22, nays 17; as follows:

YEAS—Messrs. Bayard, Bell, Benjamin, Brown, Cass, Clayton, Cooper, Dodge of Iowa, Douglas, Foot, Houston, Jones of Iowa, Morton, Pettit, Reid, Rockwell, Rusk, Seward, Thomson of New Jersey, Weller, Wells, and Wright—22.

NAYS—Messrs. Allen, Brainerd, Bright, Brodhead, Butler, Chase, Clay, Dawson, Evans, Fessenden, Fitzpatrick, Gillette, Hunter, Pearce, Stuart, Sumner, and Wade—17.

So the bill was ordered to be engrossed for a third reading.

ADJOURNMENT TO MONDAY.

On motion by Mr. BUTLER, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

The Senate then adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 26, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

TREATIES OF COMMERCE AND NAVIGATION.

Mr. FULLER. Before the House proceeds to the regular order of business, I ask permission to report back, from the Committee on Commerce, a joint resolution referred to it. I presume that, when the resolution is read, no gentleman will object to it.

Mr. LETCHER. What is to be done with it?

Mr. FULLER. I propose to put it upon its passage.

Mr. LETCHER. Read it for information.

The Clerk read the joint resolution, as follows:

A Joint Resolution authorizing the President to give the requisite notice for terminating our reciprocity treaties of commerce and navigation in certain cases.

Resolved, That the President be, and he is hereby, authorized to give the requisite notice for terminating our reciprocity treaties of commerce and navigation in cases where the term stipulated for the continuance of their operation has expired, with such Powers and States as, in his opinion, manifest illiberality in their commercial intercourse with the United States.

No objection being made, the joint resolution was received.

Mr. HAVEN. I have nothing to say in reference to the joint resolution. I understand that it ought to pass, inasmuch as it is necessary to get rid of some onerous impositions upon our commerce abroad. I rise, simply, to move the previous question.

The previous question received a second; and the main question was ordered to be put.

The joint resolution was then ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time.

The question now being, "Shall the joint resolution pass?"

Mr. BAYLY, of Virginia, called for the reading of the resolution, and it was again read.

REPORTS OF TERRITORIAL BILLS.

Mr. RICHARDSON. Monday, Tuesday, and Wednesday next have been set apart for the consideration of territorial business. I have sought the floor this morning to ask permission of the House to allow some reports of bills to be made, in order that they may be referred and printed.

The SPEAKER. Is it the unanimous pleasure of the House to receive the reports referred to by the gentleman from Illinois, being of a territorial character, in order that they may be referred and printed, with a view to their consideration during the special order next week?

No objection was made.

ST. CLAIR FLATS.

Mr. SAGE presented the joint resolutions of the Legislature of New York, in relation to the improvement of the St. Clair Flats; which were referred to the Committee on Commerce, and ordered to be printed.

BELDEN AND COMPANY.

Mr. HUNT. I desire to have a vote taken on the matter of Belden & Co., which has been fully discussed.

REPORTS OF TERRITORIAL BILLS—AGAIN.

The SPEAKER. The business first in order is the question on the passage of the joint resolution reported by the gentleman from Maine, and which is immediately before the House. Unanimous consent has, however, been given for the reception of reports of a territorial character.

Mr. HUNT. I thought they had been disposed of.

The SPEAKER. They have not yet been received.

Mr. TAYLOR, of Ohio, from the Committee on Territories, reported back a bill "making an appropriation for completing the public buildings of Oregon Territory;" which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. T. also, from the same committee, reported a joint resolution "authorizing the Legislative Assembly of Utah to continue their session for a term not exceeding sixty days instead of forty, as heretofore provided;" which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. FARLEY, from the same committee, reported a bill "making appropriation for improving certain military roads in the Territory of Minnesota;" which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. RICHARDSON. I am desired by the Committee on Territories to report a memorial from the Legislative Assembly of the Territory of New Mexico, asking an appropriation to preserve the archives of said Territory; and I ask, as it refers to land rates, that the memorial be referred to the Committee on Public Lands.

It was so ordered.

Mr. RICHARDSON. I am desired to report from the same committee, and to ask to have printed, two bills appropriating money to complete public buildings in the Territories of Nebraska and Kansas.

The bills were read a first and second time by their titles, as follows, referred to the Committee of the Whole on the state of the Union, and ordered to be printed:

Bill to provide for the erection of public buildings in the Territory of Nebraska; and a

Bill to provide for the erection of public buildings in the Territory of Kansas.

Mr. STANTON, of Tennessee. I ask permission to report some private bills, simply for the purpose of reference.

The SPEAKER. The order of the House, by unanimous consent, is to receive reports of a territorial character only.

Mr. HUNT. I now ask the House to take a vote on the matter of the Belden bill.

The SPEAKER. The gentleman from Louisiana [Mr. HUNT] will allow the Chair to ascertain whether or not there are other territorial bills to be reported.

Mr. HUNT. Certainly, sir.

The SPEAKER. The Chair would also remind the gentleman from Louisiana that the House was in the act of voting on the passage of the resolution offered by the gentleman from Maine, [Mr. FULLER,] from which the House paused for a moment only to allow the introduction, by unanimous consent, of some territorial bills; and the House is now acting under unanimous consent for that purpose.

REPORTS OF COMMITTEES.

Mr. FAULKNER. The Committee on Military Affairs, to which were referred certain matters, have directed me to make the following reports thereon, and ask that they be printed:

Report relative to an appropriation of $15,000 for the purpose of building a depository of arms at the territorial capital of Washington Territory; and a

Report on the memorial of John P. Butler and other citizens of Marion county, Missouri, asking an appropriation to aid in the construction of certain roads in Nebraska, Washington, and Oregon Territories.

The reports were ordered to lie on the table, and be printed.

Mr. STANTON, of Tennessee, by unanimous consent, reported, from the Committee on the Judiciary, the following bill and joint resolution; which were respectively read a first and second time by their titles, referred to a Committee of the Whole House, and ordered to be printed:

Bill for the relief of Frederick Griffin; and a

Joint resolution to fulfill the stipulations of the ninth article of the treaty of 1819, between the United States and Spain.

Mr. BAYLY, of Virginia. I am instructed by the Committee on Foreign Affairs to report back to this House an act to provide for the settlement of the French spoliation claims, and I ask the unanimous consent of the House to make such report.

RESOLUTION TO TERMINATE TREATIES.

The SPEAKER. The gentleman must withhold his report until the House has disposed of the joint resolution reported by the gentleman from Maine, [Mr. FULLER,] from the Committee on Commerce. It was introduced by unanimous consent. The question before the House is on the passage of the resolution.

Mr. BOYCE. Is it too late now to move to refer that resolution to the Committee of the Whole on the state of the Union? It strikes me that this is a very important matter, and ought to be considered in that committee.

The SPEAKER. It is too late now to make that motion, unless the House reconsider the vote by which the resolution was ordered to a third reading.

Mr. BOYCE. Then I move that the House do reconsider that vote.

Mr. FULLER. I only wish to state to the gentleman from South Carolina [Mr. BOYCE] that that resolution was referred to the Committee on Commerce a year ago.

Mr. BOYCE. Well, explain it to us.

Mr. FULLER. The resolution which I have introduced was prepared at the State Department, and is reported by the Committee on Commerce, in accordance with the views entertained by that Department. The object of it is simply to enable the President to give notice to the Danish Government to terminate the existing treaty, by which our commerce or navigation going into the Baltic pays, at Elsinore, enormous Sound dues. I refer the gentleman to a very extended Executive document, sent into Congress in reply to a resolution calling on the President for information on this subject, and which has been printed. Under the language of existing treaties, it is considered that the President would not be authorized in taking the initiative in the matter without some action on the part of Congress authorizing him to do so. It is for that purpose that the resolution is reported.

Mr. BAYLY, of Virginia. I hope that the motion of my friend from South Carolina [Mr. BOYCE] will prevail, with this amendment, that he move to refer the resolution, not to the Committee of the Whole on the state of the Union, but to the Committee on Foreign Affairs. That com-

mittee has already got the subject before it; and it is one not so far removed from doubt and difficulty as a casual observer might suppose. I would rather, therefore, that our committee should have an opportunity of looking at it, and so I move that the resolution offered by the gentleman from Maine, be referred to the Committee on Foreign Affairs.

The SPEAKER. That motion is not in order, unless the House reconsider the vote by which the resolution was ordered to a third reading.

Mr. BAYLY. Of course, I understood that; but the gentleman from South Carolina has moved to reconsider.

The question was taken on Mr. BOYCE's motion; and it was not agreed to.

The question recurred on Mr. FULLER's resolution; and it was passed.

Mr. HUNT. I desire now that the House will come to a vote on the Belden matter.

Mr. FENTON and Mr. FAULKNER, (at the same time.) I hope the gentleman from Louisiana will yield the floor for a moment.

Mr. HUNT. I will give way to one gentleman, but I cannot do so further. I desire that the vote may be taken on the Belden matter.

Mr. HAVEN moved to reconsider the vote just taken, by which the joint resolution was adopted; and also moved that the motion to reconsider do lie on the table; which latter motion was agreed to.

Mr. FENTON. I rise to a privileged question.

Mr. BAYLY, of Virginia. I move that the rules of the House be suspended, and that the House do now resolve itself into the Committee of the Whole on the state of the Union.

Mr. HUNT. I hope the House will not go into the Committee of the Whole on the state of the Union without disposing of the Belden case.

Mr. FAULKNER. I rise to a privileged question.

The SPEAKER. The gentleman from New York [Mr. FENTON] also rises to a privileged question.

Mr. FENTON. I rise to a privileged motion. I renew the motion I made a few days since, to lay upon the table the motion of the gentleman from Virginia, [Mr. MILLSON,] which was to reconsider the vote by which the bill "to refund duties on goods destroyed by fire at New York in the year 1845," was referred to a Committee of the Whole House.

The SPEAKER. The Chair will state to the gentleman from New York, that there is precisely such a motion pending before the body. The motion made by the gentleman from Virginia, [Mr. BAYLY,] to go into the Committee of the Whole on the state of the Union, will take precedence of the privileged motion of the gentleman from New York.

Mr. FAULKNER. I wish to submit whether my motion is not a privileged one at this time.

The SPEAKER. The Chair intended to hear the motion of the gentleman from Virginia, but the gentleman from New York [Mr. FENTON] first addressed the Chair, announcing that he had a privileged question.

Mr. FAULKNER. I understood that the House has unanimously determined that all bills relating to the Territories should be received this morning.

The SPEAKER. The gentleman is correct in saying that the House did receive reports relating to the Territories; but that time has passed, and the House have finished that business. The gentleman from Virginia did not avail himself of the privilege at the time, and the House is now engaged in other matters.

Mr. HILLYER. As it is Friday, I move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

The SPEAKER. That motion is in order.

Mr. HUNT. I hope that the gentleman from Georgia will withdraw that motion and allow the vote to be taken upon the bill which has been under discussion several days since—the case of Belden & Co.

Mr. LANE, of Oregon. If the gentleman from Georgia will give way to the gentleman from Louisiana, I wish to ask him to allow me a few minutes time to make a personal explanation.

Mr. HILLYER. I have no objection to giving way to the gentleman from Louisiana, for a vote upon the bill to which he refers.

Mr. LANE. I will then ask my friend from Louisiana to give way for a few moments. I desire to ask the House to allow me to make a personal explanation.

Mr. HUNT. Certainly.

The SPEAKER. The first proposition to be voted upon is the motion of the gentleman from Virginia, [Mr. BAYLY.]

Mr. EDGERTON. I rise to a privileged question. I move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

The SPEAKER. That motion takes precedence of the motion made by the gentleman from Virginia, [Mr. BAYLY.]

Mr. HUNT. Can the gentleman from Ohio take the floor from me for the purpose of submitting the motion indicated by him?

The SPEAKER. The Chair will state that such a motion is always in order when a gentleman can get the floor.

Mr. HUNT. Just so; but can a gentleman get it when I am occupying the floor?

The SPEAKER. There was no gentleman legally occupying the floor when the gentleman from Ohio [Mr. EDGERTON] made the motion. The bill for the relief of Belden & Co. will be first in order, if the House refuse to go into the Committee of the Whole on the state of the Union, or a Committee of the Whole House on the Private Calendar.

Mr. LANE, of Oregon. If the House will allow me the privilege of making a very few remarks, by way of personal explanation, I shall be very much gratified. If they do not, I shall ask for the privilege of doing so at some other time.

Mr. EDGERTON. I have no objection to hearing the explanation of the gentleman from Oregon.

Mr. LANE. It will be recollected by every member of the House, present upon the occasion, that, some time since, when the Indian appropriation bill was under consideration, a conversation took place between me and my honorable friend from Alabama, [Mr. HOUSTON,] the chairman of the Committee of Ways and Means. I inquired of him at that time, whether an appropriation was provided, by the bill then under consideration, for defraying the expenses of holding treaties with the various tribes of Indians in Oregon living west of the Cascade mountains, for the purpose of extinguishing their possessory rights to the country. I made the inquiry, and I am sorry that there was no report of it. I then stated that the Indians living west of the Cascade mountains claimed the country of the Willamette and Umpqua valleys—that portion of the country which had been claimed, occupied, and cultivated by white people, the Government having never paid the Indians anything for their rights. I desired that they should be paid for their possessory rights, and, therefore, I inquired of the chairman of the Committee of Ways and Means whether a sufficient appropriation had been provided for that purpose. I further stated that there were some Indians in Oregon with whom we could not treat, for reasons which I had not then time to give. I will read an extract from an Oregon paper, which contains the reasons for the statement I then made, why we could not treat with some of the Indians of Oregon Territory. I desire the House to listen attentively to these reasons, which are very brief, and it will be at once seen whether they are valid or not.

[Since making the remarks, the paper from which I read has been misplaced, and I now give from memory the substance of the article then read to the House:]

"News having been received, by a party of American citizens, of the massacre of Ward's company of emigrants, a party of eighteen left Fort Boise on the 22d for the scene of the outrage. On arriving on the ground, they found five wagons burned, and five dead bodies horribly mutilated. At the distance of four hundred yards they found four more bodies, and a little further on the body of a young female, afterwards ascertained to be Miss Ward, with marks of the most brutal violence on her person, a hot iron having been thrust into her person, evidently while she was still alive. Near the body of Miss Ward was found that of Mrs. White, her head beaten to a jelly, and her body bearing many other marks of brutal violence. A short distance from these bodies was found the encampment of the perpetrators of the massacre, consisting of sixteen willow lodges. The lodges were wholly deserted; but in the encampment were found the bodies of three of Mrs. Ward's children, roasted to a crisp. Near by lay the body of the mother of these children, scalped, stripped of her clothing, with several cuts and bruises on different parts of her person, and wounds showing that the savages had tortured her, while still alive, with a heated piece of iron, supposed to be a bolt taken from one of the wagons. Some of the children have not yet been found, and are supposed to have been carried away by the savages, destined to more lingering, and, if possible, to more fiendish tortures."

The extract which I have read will give the House an idea of the terrible mode of punishment, and the mode of inflicting cruelties upon women and children. I have seen so many men killed in battle and otherwise, that to know that a man has been killed or murdered, does not present itself to me with so great horror as it does to others less familiar with such scenes. But I must confess that the blood chills in my veins, and my feelings are wrought up to the highest pitch, when I read accounts of such horrible cruelties as the one which I have just read.

I said, upon the occasion to which I have referred, that there were Indians in Oregon with whom we could not treat. I used, upon that occasion, strong language, saying, as western men usually express themselves, on hearing of an Indian outrage, that they ought to be scalped.

I have been in battles with the Indians, have seen many of them killed, but have never seen them scalped by a white man, even when he had the opportunity to do so; but I have seen many white persons who have been killed by the Indians, scalped, and otherwise horribly mutilated and disfigured.

In a paper published in Ohio, I find a criticism of my remarks, and the conversation I held on that occasion, with the honorable chairman of the Committee of Ways and Means. The criticism emanated from the lobby of this House, I suppose. Some person, within hearing of that conversation, made a skeleton report—whether it was made by that "big sensual looking beast," as my friend from New York [Mr. WALSH] terms a certain individual who, by the courtesy of the Speaker, occupies a reporter's desk in this House, I cannot say. I regret to be compelled to make this allusion to the individual referred to, whether he be guilty or not; for, in my nature, I hate a coward, and therefore I would not speak of a man who is capable of such conduct. This is the criticism:

"An instance of elegant pronunciation, illustrated by a humane sentiment, was given in the National House of Representatives, a few days since. An Indian appropriation bill was under discussion, when the Delegate from Oregon undertook to enlighten the House. 'Mr. Speaker,' said he, ''taint no use trying to civilize the Indians of Oregon. They care nothing about treaties. They'll rob and murder whenever they can get a chance. The only way to treat the critters is to *scalp* 'em.'"

The author of this criticism attributes to me cant phrases, which self-respect, habit, and a due sense of the proprieties of debate, with a tolerable knowledge of correct English, acquired by some application to books, and long personal intercourse with gentlemen of education and refinement, forbid me to use. Some gentlemen may afford to indulge in such phrases, for the amusement of themselves, and others of an equally vitiated and prurient taste. Respect for myself and my position, forbid me to attempt it.

I have been a friend of the Indians in my personal intercourse with, and the official relations which I have sustained towards, them. I have done, I believe, as many acts of kindness to them as any other man who has had the management of Indian affairs. I have their confidence, I think, to an extent which no man has surpassed. To show to what extent I possess their confidence and good will, I will mention an incident, which happened not more than eighteen months ago. On the 24th of August, 1853, we, the citizens of Oregon, had a bloody conflict with the Indians, in which, for a long time, it was doubtful on which side the advantage lay, when they called out to know who had the command. It was answered that I was there, or, as they familiarly call me, "Joe Lane." They then asked to treat. Blood was hot on both sides, and I felt that I had rather fight forty battles than to make a treaty. But, when the application came from the Indians, I ordered the firing to cease, held a talk with the officers and men, and having intimated to them a wish that, if dealt with treacherously by the Indians, I might not perish unavenged, I went, though faint with loss of blood, and suffering severe pain from a wound received in the conflict, into their line of defenses, where, seated on a log, with their chief, we agreed, after a brief consultation, upon the preliminaries of a treaty of peace,

which might prevent the further shedding of blood. The preliminaries here agreed upon formed the basis of a treaty, which was afterward concluded, by which the Indians, for a consideration, sold their lands to the United States, except a small reservation. This treaty has been faithfully observed, and peaceable relations maintained between the Indians and whites. A result which, while I am willing to give full credit to both whites and Indians for the disposition they have shown to observe the faith of treaties, is to be ascribed, in a great measure, to the energy, vigilance, and efficiency of the gallant Captain A. J. Smith, of the United States Army, assisted by an adequate military force and efficient agents, on whom has devolved the duty of guarding and protecting the settlers, and enforcing, on their part, and on the part of the Indians, also, the observance of the treaty. Every act of mine, while in the management of Indian affairs, ought to have satisfied everybody that I am disposed to treat the Indians and all men with humanity. It is my nature to be humane. There was something in the Indian character which struck me as wild, romantic, and interesting; and, therefore, when I undertook the management of their affairs, I felt a peculiar interest in that people.

I will cite one case, though I am sorry to find it necessary to do so. Several years before I arrived in Oregon Territory, our Methodist brethren had sent into that Territory several preachers, as missionaries, among whom was one Dr. Whitman, distinguished for his kindness and generous feelings. Upon his arrival in that Territory he established a mission upon the Wylatpue. He devoted his time and attention to the improvement of the Indians. He taught them the art of agriculture, and other useful arts, as far as he could. His strongest and most ardent desire seemed to be to improve their condition. About the time he had made considerable progress, and had succeeded beyond his expectations, the Indians rose, without any cause, and murdered him, his wife, and others, and took as prisoners those who were stopping at his mission. When I left the States for Oregon, knowing that this massacre had taken place, I made up my mind to punish the guilty. Soon after my arrival there, I notified them that there was a cause of difficulty between us, which would prevent friendly relations while that cause of difficulty continued to exist, and that was the murder of Dr. Whitman and his family. I told them that the perpetrators of that massacre must be punished before we could have peace; but that I wanted to discriminate between the innocent and the guilty—that in war we could not do that. I told them that they knew who the guilty parties were, and I demanded that they should deliver them up, or I should feel it my duty to inflict punishment upon the whole nation, without discrimination. This matter occupied my attention for about twelve months, and finally ended by the delivery up to me of the guilty parties. When taken, they agreed to go to Oregon City with me, with the understanding that they should have counsel, and a fair trial before a jury of our countrymen. They were willing to abide their fate. When we arrived in Oregon City, we found the citizens highly excited. There was no jail there, and the Indians were placed in a small house on the Island, near my mill office, where they were made comfortable, and carefully watched by day and night. The good people, who had known and loved Whitman and his wife—the parents of the children who had been murdered in cold blood—came to me in crowds, saying that the Indians would escape, and, therefore, that summary punishment ought to be inflicted upon them. My reply was, that I had promised the Indians, in their own country, to give them a fair and impartial jury trial, and that, so long as my life and strength lasted, my promise should be observed. But if the jury found them guilty, I assured the people that they should be hung. At no time was public opinion ever stronger against me than on that occasion The Indians were tried, convicted, and sentenced to death. They were hung, as they deserved; and then I received justice at the hands of my countrymen, and made peace with their nation.

I could mention many other cases; but this one, I am sure, is evidence sufficient of my earnest desire to treat with these, and all other Indians, in a kind, correct, and honest way. My life has been placed in jeopardy for the preservation of peace with them. But, let me say, at the same time, that I shall never be willing to make peace with any who massacre our people in cold blood, until the guilty ones have been punished. And peace will never be made, with my consent, with the Indians who have committed the foul murder of which I have read an account to the House, until the murderers have been punished. In their massacre of women and children, old and young, we should never forgive them until they have yielded up the criminals to justice. And I propose, Mr. Chairman, if this House shall not take steps in the matter, to exile myself from my wife and children to aid in their chastisement. I am a man of peace; I love peace; but I shall never accept it from the enemies of our people, let them come from what quarter they may. I shall never be at peace with invaders upon our soil; nor shall I make peace with Indians who have burned my neighbors at the stake, torturing them the while in demoniacal glee, until justice shall be satisfied.

I will say, for the benefit of my friend from Ohio, [Mr. EDGERTON,] that the withdrawal of troops from the Indian country will not insure peace. On the contrary, bloodshed and widespread ruin will be the consequence. The time has arrived when our Government should take prompt and efficient measures to punish these, and other Indians, for the horrible murders and other cruelties perpetrated by them upon our people who attempt to cross the plains to our Pacific possessions. Their blood appeals to us for revenge; their cries and shrieks while being roasted and tortured; their bones bleaching on the wild desert; the agonies of afflicted families and friends, all cry aloud for satisfaction. In view of these things, as well as the further fact, officially communicated to the House and the country, that the Indians are in hostile array against our people, determined to cut off every party which shall attempt to cross the plains the approaching spring, can it be possible that the Representatives of the people will hesitate to act promptly in providing the necessary troops to punish the guilty and to protect the innocent? I hope not. I resorted to every possible means to preserve friendly relations with the Rogue River Indians, and to prevent the massacre of our people. But their character, like that of most of the warlike tribes, is full of deceit. They feign good words and friendly demeanor towards those they intend to destroy. Time and again have I heard them recount their adventures, as they lounged around their camp-fires, telling of their secret tricks and cunning, how they surrounded their enemies in the gloom of night, and murdered them while they lay asleep; and men, too, with whom they had smoked in peace and concord the evening previous. They have done wrong, and, for their wrong doing, they ought to be punished.

These Indians, I say, made peace with us in 1851. Then I undertook, at great trouble and expense, to return to them their women and children who had been captured by Major Kearny, who commanded the force which invaded their country. On that occasion I was a volunteer, and served in the ranks. Captain Stuart was killed in the war. Major Kearny said that he would take the women and children to California with him and return them by steam to Oregon. After journeying about one hundred miles, this gallant officer became satisfied that his plan was impracticable; and, partly at my own expense, I took these women and children back to their own people. I watched over them, fed them, and prevented any infringement upon their rights. On their return peace was made—a peace which lasted until 1853, when they again got it into their heads to murder white people. They never give warning of their fell intentions. Jumping into the unsuspecting and unprotected settlements, they murdered and burnt all they could lay their hands upon.

Mr. EDGERTON. Let me ask the gentleman from Oregon what is the character of Joel Palmer, the superintendent of Indian affairs in Oregon?

Mr. LANE. He is an honest, sensible, and good man; and the people of Oregon are a law-abiding, honest, and gallant people.

Mr. EDGERTON. I propose, with the consent of the gentleman and the House, to read what Mr. Palmer says in his last official report to the Commissioner of Indian Affairs, in regard to Indian murders and depredations.

[Cries of "Read!"]

Mr. EDGERTON. He writes as follows:

"From the frequent recurrence of similar atrocities against the Indians in southern and southwestern Oregon, the conviction is forced upon me, that a premeditated and combined effort, on the part of reckless and evil disposed whites roaming through that country, has been, and continues to be made, to plunge the Government into another Indian war, and carry out their favorite scheme of annihilating these Indians.

"These miscreants, regardless of age or sex, assail and slaughter these poor, weak, and defenseless Indians with impunity, as there are no means in the hands of the agents to prevent these outrages, or bring the perpetrators to justice.

"There are many well-disposed persons in that district whose sense of justice and humanity revolts at such inhuman scenes; but, through fear, or some other cause, they are silent. It is presumed that many unite and take part in these deeds of horror as means of self-preservation, their fears being wrought upon by reckless and lawless persons, lest the appearance of opposition to their conduct might subject them to a doom similar to that which befals the Indian."

This gentleman frequently, in his reports, alludes to massacres, on the part of the whites, which would justify retaliation on the part of the Indians.

Mr. LANE. Mr. Palmer is a good man. In the extract which the gentleman has read, he refers to the Indians who live west of the Cascade mountains, and for the purchase of whose land I inquired of the chairman of Ways and Means, whether an appropriation had been made to satisfy them.

The Indians who massacred Ward's party live four hundred miles to the east; and I am of the opinion that Mr. Palmer has not seen them since he passed through their country on his way to Oregon. He, I know, would be as ready as any other man, to turn out and inflict suitable punishment upon these Indians for that dreadful massacre. These are the facts. Let them go before the country; that is all I ask.

Mr. Speaker, the history of Indian wars is well understood by the members of this House. The sufferings of the people from these causes, in the early history of our country, must be familiar to all. Every attempt at peace failed, until Wayne, by his great victory in 1795, in the Maumee towns, taught them the power of our arms, and the advantages of peace. The lessons then taught them they did not soon forget. Jackson, at a later period, in 1813, after much severe fighting, inflicted upon the Indians of the Southwest, at the great battle of the Horseshoe, a punishment deserved, but severe, which kept all the tribes of that region at peace from that time to the present. Indeed, the result of his gallant achievements in Indian warfare, has been to secure not only peace and quiet, but the removal of many tribes to a beautiful country west of the Mississippi, where they are now undergoing the process of civilization, and rapidly rising in the scale of moral elevation.

The warlike tribes hanging on our emigrant routes must not be permitted to murder our people with impunity. Humanity itself demands that this thing should be stopped. No philanthropist, no man, however mild his temper, or kind his disposition may be, can object to the infliction of punishment, when that alone will save the effusion of blood, and prevent the innocent from suffering. These Indians must be taught a lesson similar to those above referred to. They must be made to feel our power, and to know that they cannot murder our people with impunity. Then, and not till then, can we have peace with them—lasting peace The sooner, then, we accomplish this the better.

Now, Mr. Speaker, in conclusion, allow me to say, that I have seldom had occasion to complain of unfairness on the part of editors and publishers. My experience convinces me that the great body of newspaper editors and publishers are highly honorable men—men of education and talents—who seek to do right, by fair and honorable means, but few among them ever seeking to injure others without cause. Believing this, I leave the miserable criticism that induced these remarks, with its contemptible author, to the scorn of all just men, without further remark.

I am very much obliged to the House for their kind indulgence in allowing me to make this personal explanation.

BELDEN AND COMPANY.

Mr. HUNT. The honorable gentleman from Ohio [Mr. EDGERTON] has been kind enough to say that he would withdraw the motion to go into a Committee of the Whole House. The bill

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for the relief of Belden & Co. is, therefore, regularly before the House, and I call for a vote upon it.

Mr. EDGERTON. I will say to the House that this is objection day, and that there are several cases upon the Private Calendar in committee which have not been passed upon; but if the gentleman from Louisiana can get a vote upon the bill for the relief of Belden & Co., I would like to have it taken; and I therefore withdraw my motion.

The SPEAKER. The Chair will say to the gentleman from Louisiana, and to the gentleman from Ohio, that there is pending a motion to go into the Committee of the Whole on the state of the Union, which will take precedence of the bill for the relief of Belden & Co.

Several Members. Withdraw the motion.

The SPEAKER. Will gentlemen allow the Chair to state the business before the House? The Chair was proceeding to say, that if the House should vote down the motion to go into a Committee of the Whole House, and to go into the Committee of the Whole on the state of the Union, there is still another motion, made by the gentleman from New York, [Mr. Haven,] to lay the motion to reconsider the vote by which a joint resolution was this morning passed upon the table. When this motion is disposed of, the bill to which the gentleman from Louisiana has referred will come up regularly in order.

Mr. BAYLY, of Virginia. The gentleman from Ohio [Mr. Edgerton] having indicated his willingness to withdraw his motion to go into a Committee of the Whole House, if the House will come to a vote upon this Belden case, I am willing to withdraw my motion to go into the Committee of the Whole on the state of the Union for that purpose. I withdraw my motion; and, as I am entitled to the floor upon the bill for the relief of Belden & Co., I demand the previous question.

The SPEAKER. The Chair has already stated that the motion made by the gentleman from New York, [Mr. Haven,] to lay the motion to reconsider the vote by which the joint resolution in reference to terminating certain treaty stipulations was passed upon the table, must first be put.

The question was taken; and the motion to reconsider laid upon the table.

The SPEAKER. The bill for the relief of Belden & Co. is now before the House.

Mr. McMULLIN. What has become of the motion to go into a Committee of the Whole House?

The SPEAKER. It was withdrawn.

Mr. McMULLIN. I renew the motion.

Mr. HUNT. I hope the gentleman will not insist upon his motion.

Mr. McMULLIN. I have repeatedly yielded, as have other members upon this floor, to the gentleman from Louisiana, as a matter of courtesy, to enable him to get his bills before the House, out of the regular order of business, and I decline to yield now, to pass this bill, or any other bill.

Mr. HUNT. I think I am entitled to say a word in reply. This is not my bill. A similar bill has passed the Senate; and, as to this particular bill, it was reported by the Committee on Foreign Affairs. I have looked into this matter, because I felt an interest in it, and because I had been requested to do so. If the gentleman declines to withdraw his motion to go into a Committee of the Whole House, I hope the House will vote it down.

Mr. SOLLERS. Upon that motion I demand tellers.

Tellers were ordered; and Messrs. Keitt and Wheeler were appointed.

The question was taken; and the tellers reported —ayes thirty-seven—a further count not being demanded.

So the motion was not agreed to.

The SPEAKER. The question again recurs upon the passage of the bill for the relief of Samuel A. Belden & Co.

Mr. EDGERTON. I demand the previous question.

The previous question was seconded, and the main question ordered to be now put.

The question now being, first, upon committing the bill to a Committee of the Whole House,

Mr. CAMPBELL demanded tellers; which were ordered; and Messrs. Keitt and Letcher appointed.

Mr. LETCHER. I demand the yeas and nays.

Several Members. Withdraw it; we will vote it down.

Mr. LETCHER. Very well, I will withdraw it for the present.

Mr. CLINGMAN. I understand the call for the yeas and nays has been withdrawn, to be renewed if the House votes down the motion to commit. I shall vote in the negative, but I want the House to determine the matter definitely. I renew the call for the yeas and nays.

The yeas and nays were ordered.

Mr. BAYLY, of Virginia. From public considerations I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee. We are acting under the previous question.

The SPEAKER. The motion is not in order, for the reason that the main question has been ordered to be put.

The question was then taken; and it was decided in the negative—yeas 87, nays 97; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, David J. Bailey, Barksdale, Barry, Benton, Bocock, Boyce, Bridges, Bristow, Caskie, Chastain, Chrisman, Cobb, Colquitt, Craige, Curtis, Dawson, Edgerton, Ellison, English, Fuller, Goode, Hamilton, Sampson W. Harris, Wiley P. Harris, Hastings, Hendricks, Henn, Hibbard, Hillyer, Houston, Ingersoll, Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Kidwell, Kittredge, Kurtz, Lamb, Lane, Letcher, Lewis, Lilly, Lindsley, Lyon, Macdonald, McMullin, McQueen, Smith Miller, Millson, Morrison, Murray, Nichols, Peck, Peckham, Bishop Perkins, Phelps, Powell, Rowe, Ruffin, Russell, Seward, Shower, Singleton, Skelton, Samuel A. Smith, William R. Smith, George W. Smyth, David Stuart, John J. Taylor, Trout, Vansant, Walsh, Wheeler, Witte, Daniel B. Wright, Hendrick B. Wright, and Zollicoffer—87.

NAYS—Messrs. Aiken, Appleton, Thomas H. Bayly, Ball, Belcher, Bell, Bennett, Benson, Bliss, Bugg, Campbell, Carpenter, Caruthers, Chandler, Chase, Clingman, Cook, Corwin, Crocker, Cullom, Thomas Davis, De Witt, Dick, Dickinson, Dunbar, Edmands, Edmundson, Thomas D. Eliot, Etheridge, Everhart, Farley, Faulkner, Fenton, Florence, Franklin, Gamble, Goodrich, Goodwin, Greenwood, Grey, Aaron Harlan, Haven, Hill, Howe, Hughes, Hunt, Keitt, Kerr, Knox, Latham, McCulloch, McDougall, Macy, Matteson, Maurice, Meacham, Middleswarth, Morgan, Norton, Mordecai Oliver, Parker, Pennington, John Perkins, Phillips, Pratt, Preston, Pringle, Puryear, Ready, Reese, Thomas Ritchey, Rogers, Sabin, Sage, Sapp, Shannon, Simmons, William Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, Andrew Stuart, John L. Taylor, Teller, Thurston, Tweed, Upham, Wade, Walker, Walley, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, and Yates—97.

So the House refused to commit the bill.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WASHBURN, of Maine. I demand the previous question on the passage of the bill.

The previous question received a second; and the main question was ordered to be put.

Mr. JONES, of Tennessee. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. HILLYER. I ask for the reading of the bill in full.

The Clerk read the bill *in extenso*.

Mr. LETCHER. I did not hear the reading very distinctly. Does it provide redress for illegal seizure, or for any sort of seizure?

The Clerk again read that portion of the bill which is as follows: by "seizure, confiscation, sequestration," &c.

Mr. HUNT. Seizure by the Mexican authorities—illegal seizure, of course.

Mr. SMITH, of Virginia. Has the previous question been called?

The SPEAKER. It has; and the main question has been ordered to be now put.

Mr. SMITH. I should like very much to say a few words about this bill.

Mr. KERR. I suppose that the House will, by unanimous consent, allow that verbal amendment to be made.

Mr. HUNT. I hope it will. The question of the gentleman from Virginia was an argumentative question, intended to injure the bill.

Mr. WALSH. What is the amendment?

Mr. KERR. To insert the word "illegal" before "seizure."

Mr. WALSH. I have no objection to its being inserted before and after. [A laugh.]

There being no objection, the amendment indicated by Mr. Kerr was made to the bill.

The question was then taken, "Shall the bill pass?" And it was decided in the negative—yeas 85, nays 88; as follows:

YEAS—Messrs. Abercrombie, Appleton, Thomas H. Bayly, Ball, Belcher, Bell, Bennett, Benson, Benton, Bugg, Campbell, Carpenter, Caruthers, Chandler, Chase, Cook, Corwin, Crocker, Cullom, Thomas Davis, De Witt, Dick, Dickinson, Dunbar, Edmands, Edmundson, Thomas D. Eliot, Etheridge, Everhart, Farley, Fenton, Goodrich, Goodwin, Aaron Harlan, Hill, Howe, Hunt, Kerr, Knox, Latham, Lyon, McDougall, Macy, Matteson, Maurice, Maxwell, Meacham, Middleswarth, Morgan, Norton, Peckham, Pennington, John Perkins, Phillips, Pratt, Pringle, Puryear, Reese, David Ritchie, Thomas Ritchey, Rogers, Rowe, Sabin, Sapp, Shannon, Simmons, William Smith, William R. Smith, Frederick P. Stanton, Richard H. Stanton, John L. Taylor, Teller, Thurston, Upham, Walker, Walley, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, and Yates—85.

NAYS—Messrs. Aiken, James C. Allen, Willis Allen, David J. Bailey, Barksdale, Barry, Bocock, Boyce, Bridges, Caskie, Chastain, Chrisman, Cobb, Colquitt, Craige, Curtis, John G. Davis, Dawson, Disney, Drum, Dunham, Edgerton, John M. Elliott, Ellison, English, Florence, Fuller, Gamble, Goode, Hamilton, Sampson W. Harris, Wiley P. Harris, Hastings, Haven, Hendricks, Hibbard, Hillyer, Houston, Ingersoll, Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Kidwell, Kittredge, Kurtz, Lamb, Lane, Letcher, Lewis, Lilly, Lindsley, Macdonald, McMullin, McQueen, Smith Miller, Millson, Morrison, Murray, Nichols, Orr, Parker, Peck, Bishop Perkins, Phelps, Ready, Ruffin, Russell, Seward, Shaw, Singleton, Skelton, Samuel A. Smith, George W. Smyth, Straub, David Stuart, John J. Taylor, Trout, Tweed, Vansant, Walsh, Warren, Wheeler, Witte, Daniel B. Wright Hendrick B. Wright, and Zollicoffer—88.

So the bill was rejected.

Mr. EDGERTON. I rise to a privileged question. I move to reconsider the vote just taken, and to lay the motion to reconsider upon the table.

Mr. CAMPBELL. I move that the House resolve itself into a Committee of the Whole House.

Mr. BAYLY. I hope not just now.

Mr. JONES, of Tennessee. The motion of the gentleman from Ohio [Mr. Campbell] cannot take precedence of the motion of his colleague to reconsider and lay on the table.

Mr. CAMPBELL. I presume it does to-day.

Mr. JONES. They are both privileged motions.

Mr. CAMPBELL. But this is private bill day.

The SPEAKER. The motion to lay the motion to reconsider on the table is also a privileged one, and, in the opinion of the Chair, takes precedence.

Mr. CAMPBELL. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 88, nays 92; as follows:

YEAS—Messrs. Aiken, James C. Allen, Willis Allen, David J. Bailey, Barksdale, Barry, Bocock, Boyce, Bridges, Bristow, Caskie, Chastain, Chrisman, Cobb, Colquitt, Craige, John G. Davis, Dawson, Drum, Dunham, Eastman, Edgerton, John M. Elliott, Ellison, English, Florence, Fuller, Gamble, Goode, Hamilton, Sampson W. Harris, Wiley P. Harris, Hastings, Haven, Hendricks, Henn, Hibbard, Hillyer, Houston, Ingersoll, Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Kidwell, Kittredge, Kurtz, Lamb, Lane, Letcher, Lewis, Lilly, Lindsley, Macdonald, McMullin, McQueen, Smith Miller, Millson, Morrison, Murray, Nichols, Mordecai Oliver, Orr, Peck, Bishop Perkins, Phelps, Powell, Ready, Ruffin, Russell, Seward, Shaw, Singleton, Skelton, George W. Smyth, Hestor L. Stevens, Straub, Andrew Stuart, John J. Taylor, Trout, Tweed, Vansant, Walsh, Warren, Wheeler, Witte, Daniel B. Wright, and Zollicoffer—88.

NAYS—Messrs. Abercrombie, Appleton, Thomas H. Bayly, Ball, Banks, Bell, Bennett, Benson, Benton, Bugg, Campbell, Carpenter, Chandler, Chase, Clingman, Cook, Corwin, Crocker, Cullom, Thomas Davis, De Witt, Dick, Dickinson, Dunbar, Edmands, Edmundson, Thomas D.

Eliot, Etheridge, Everhart, Farley, Franklin, Goodrich, Goodwin, Grey, Aaron Harlan, Hill, Howe, Hughes, Hunt, Knox, Latham, Lyon, McCulloch, McDougall, Macy, Matteson, Maurice, Maxwell, Meacham, Middleswarth, Morgan, Norton, Andrew Oliver, Parker, Peckham, Pennington, John Perkins, Phillips, Pratt, Pringle, Puryear, Reese, Richardson, David Ritchie, Robbins, Rogers, Rowe, Sabin, Sage, Sapp, Shannon, Simmons, William Smith, William R. Smith, Frederick P. Stanton, Richard H. Stanton, David Stuart, John L. Taylor, Teller, Thurston, Upham, Wade, Walker, Walley, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, and Yates—92.

So the House refused to lay the motion to reconsider upon the table.

The question recurred on the motion to reconsider the vote by which the bill was rejected.

Mr. WASHBURN, of Maine. I move that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HILLYER. I move that the Houre resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. JONES, of Tennessee. I move the previous question on the motion to reconsider.

The SPEAKER. That motion will be entered.

Mr. JONES. It is a privileged motion, is it not?

The SPEAKER. The motion to reconsider is, but it is always in order to go into the Committee of the Whole on the state of the Union. The Chair had doubts whether it would take precedence——

Mr. JONES. Can a motion to go into commitee take precedence of the motion to reconsider?

The SPEAKER. The Chair was about to state his opinion upon that point, if the gentleman will allow him. The gentleman from Tennessee raises a question of order in reference to the motions now pending. One of those motions is to reconsider the vote by which the House refused to pass the bill for the relief of Belden & Co.; another is, that the House resolve itself into the Committee of the Whole on the state of the Union; and still another is, that the House resolve itself into a Committee of the Whole House on the Private Calendar. The Chair thinks the latter motion is first in order.

Mr. KERR. On that motion I demand tellers.

Tellers were ordered; and Messrs. KEITT, and WASHBURN of Maine, were appointed.

The question was taken on Mr. HILLYER's motion; and the tellers reported—ayes 71, noes 89.

Mr. ORR. I call for the yeas and nays.

The yeas and nays were not ordered.

So the House refused to resolve itself into a Committee of the Whole House on the Private Calendar.

The question recurred on the motion to go into the Committee of the Whole on the state of the Union.

Mr. HENDRICKS demanded tellers.

Tellers were ordered; and Messrs. JONES, of Tennessee, and BENSON were appointed.

The question was taken; and the tellers reported—ayes ninety-seven, noes not counted.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. SEYMOUR in the chair.)

FRENCH SPOLIATION BILL.

The CHAIRMAN. When the committee last rose it had under consideration House bill No. 117. General debate having closed, the Clerk will proceed to read the original bill by sections for amendment.

The Clerk proceeded to read the bill by sections for amendment.

Mr. LETCHER. Is that the House bill or the Senate bill?

The CHAIRMAN. It is the House bill; the substitute will be open to amendment afterwards.

Mr. LETCHER. I propose to add a further proviso at the end of the first section. I will move it, however, to the substitute.

Mr. PERKINS, of New York. I move to amend the first section of the bill by striking out the word "five," in the fourth line, and inserting in lieu thereof the word "six," so as to make the appropriation $6,000,000, instead of $5,000,000.

It appears to me, Mr. Chairman, that the merits of this bill, and the facts on which they rest, may be stated in a very few minutes. On the 6th of February, 1778, the then Government of the United States entered into a treaty of alliance with France, by which it agreed to guaranty forever to France all her American possessions; and by the treaty of commerce, of the same date, the United States agreed by treaty that France, in the case of war, might bring her prizes into American ports. Those stipulations were not fulfilled upon the part of the United States, and letters of marque and reprisal were issued by France, and a great amount of property of different descriptions was taken. Before the treaty of September 30, 1800, and after the formation of the Constitution, the Congress of the United States passed a law annulling these clauses of that treaty. The treaty in 1800, as made by the commissioners, made provisions for negotiations for counter claims between the two Governments, and the section of the treaty to which I have referred was stricken out.

It is now said that there was a war between the United States and France that canceled all the claims of private citizens. I deny that there was a war; and if there was a war it was one carried on by letters of marque and reprisal. If war was carried on, it was substantially done by merchants in the way of reprisal for the capture of their property. The Government of the United States did not carry on any war, although they passed laws for raising an army. After the merchants had vindicated their own rights by the capture of some French property, France became alarmed for the safety of her commerce, and came forward and negotiated the treaty of September, 1800; and our Government, wishing to make peace and come to a good understanding with France, released these claims, which I regard as a full and valuable consideration for the twelve or five millions, or whatever damages the American merchants sustained. I never was more surprised in my life than to hear the distinguished gentleman from Missouri [Mr. BENTON] liken the American claims of some five or twelve millions of dollars to the exchange of two puppies. The negotiations led to the treaty of 1803, through the instrumentality of which we acquired, for a mere nominal sum, Louisiana, and the State in which the honorable gentleman from Missouri [Mr. BENTON] lives. Without release of the claims of our merchants, the treaty could never have been negotiated. We should not have got clear of the obligations of the treaty of 1778. Hostile feelings would have grown more and more intense between two nations until actual war had ensued. This treaty, and the release of our merchants claims, and the friendly relations established between France and us, led France, when Louisiana became menaced by Great Britain, to sell it to us for a mere nominal sum. Sir, the direct consequences of the release of those claims were the peace, friendly relations, and prosperity resulting from the treaty of September 30, 1800; and the consequence of those friendly relations was the treaty of 1803, ceding to us Louisiana—a cession doubling our domain, and from which, independent of other national advantages, we have, and shall, if we choose, receive hundreds of millions of dollars for the lands acquired by that treaty. I withdraw the amendment.

Mr. BAYLY, of Virginia. I object to the withdrawal of the amendment, as I wish to speak in opposition to it. The gentleman from New York, [Mr. PERKINS,] as a matter of course, understands my objection. I wish to appropriate $5,000,000, and $5,000,000 only, for the payment of these claims, and I hope the friends of the bill will vote down all amendments naming a different sum. I believe that a bill was never more fully considered and discussed than the one now under consideration.

It has been said—and I suppose that was the object of the gentleman from New York, [Mr. PERKINS,] in moving his amendment to increase the sum from $5,000,000 to $6,000,000—that the sum named in this bill was not sufficient for the purpose of satisfying these claims. But the very fact that we appropriate $5,000,000 for this purpose, and provide that the amount shall be distributed *pro rata* among the claimants, affords a security to the Government that all the solicitors upon the face of the earth could not afford—and why? Because it makes every claimant who has a good and valid claim the antagonist of those who present spurious claims. The best security which the Government has is to give a specific sum, and if it does not amount to the whole sum claimed, so much the better, because before that board of commissioners every valid claimant becomes a solicitor for the Government against spurious claimants. I hope that the bill may be passep as it is presented in its present form. I have no interest in this matter; and it is impossible that I should have any interest in it. I have every reason to believe that the claimants are satisfied with the bill as it is, and I prefer that it should appropriate too little rather than too much, not that I wish to do injustice, not that I wish to fall short of our obligations, but because I wish to put the bill in a condition by which the honest claimants—those having real claims—will be made solicitors, and because it is to be a *pro rata* distribution in behalf of the Government and the Treasury, before a tribunal that will be the most effective in the world for this purpose. We have seen evidence that it will be so in the history of several commissions that have been instituted for the settlement of claims. In the commission constituted by the treaty of Ghent a specific sum was provided for the settlement of the claims there to be adjudicated, and the vigilance of the real claimants was such that there is now, at this moment, a balance received from the British Government that has not yet been distributed. I hope the bill may not be amended, but pass as it is now presented. We have a great deal of business to do; and I hope, if the friends of the bill wish to pass the bill at all, that they will vote down all amendments.

The question was then taken on Mr. PERKINS's amendment; and it was rejected.

Mr. PHILLIPS. I beg leave to offer the following as an amendment, to come in at the end of the first proviso:

Provided, That the sum of $5,000,000 shall be in full discharge of all claims for French spoliations, whether the said claims shall be presented to the Commissioners or not.

Mr. WASHBURN, of Maine. I would ask the gentleman from Alabama to refrain from offering the amendment he has suggested until we have passed upon the original House bill, which is now in committee, and reach the substitute of the Senate. I would suggest to him to change his amendment, by moving to strike out the remaining part of the House bill, so that we may immediately proceed to the discussion of the substitute, and thereby save a good deal of time in the committee.

Mr. PHILLIPS. It is perfectly immaterial, so far as I am concerned. I desire to have the amendment that I suggest incorporated in the bill that may pass this House.

Mr. WASHBURN. I would suggest to the gentleman to offer the amendment, then, to the substitute.

Mr. PHILLIPS. As I understand the question, the bill now being read by the Clerk is open to amendment, and is in the process of being amended.

The CHAIRMAN. That is so. The Chair would state to gentlemen that the rules require that the original bill shall first be read through, so that it may be amended, should any gentleman desire to offer an amendment. After the original bill shall have been read through and amended—if amended at all—the question will then be upon the adoption of the substitute of the gentleman from Virginia, [Mr. BAYLY.] That substitute will be open to amendment when reached.

Mr. PHILLIPS. I would inquire, if we pass by this bill without the amendment which I have offered—and which I think is material to be incorporated with it—and the question should come upon the substitute, and the substitute be lost, whether I would not be precluded from offering my amendment to the original bill?

Mr. HOUSTON. I desire to say that, if my colleague wishes the benefit of his amendment against any contingency, the better plan would be, to attach it both to the original bill and the substitute. The gentleman will see that a contingency might arise, under which the original bill may be adopted and the substitute voted down; so that the only way of being certain of the benefits of the amendment is, to attach it to the original bill and to the substitute.

Mr. PHILLIPS. The remarks of my colleague meet my views, and I move the amendment to the original bill, now under consideration, because, if I do not move it now, it is evident that a contingency may arise in which I might not be able to avail myself of it; that is, in case of the rejection of the substitute.

The amendment was again reported by the Clerk.

Mr. PHILLIPS. I think the propriety of that amendment is evident. Nor, sir, do I understand, so far as I have been able to have any intercourse with those who have this bill in charge, that they intend it shall have any other construction than such as will be given to it should the amendment I have proposed be attached to it.

But, sir, it is a matter too important to leave in doubt. If the bill may be considered as importing a full release, without the proviso, the only objection which can be made to the proviso I have offered, is, that it is unnecessary. We had better incur the risk of making assurance doubly sure, than the hazard of leaving open a question of this importance.

Therefore, as it is understood in all parts of the House, that the United States, having the right to affix the value which they consider the releases of the French Government called for, and that, having fixed that value at the sum of $5,000,000, it seems to me they have the right to, and ought to, guard themselves against any future claims arising out of the same transaction hereafter; and that the proposition which I have made ought to meet with the consent of the friends, as well as the opponents, of the bill.

Mr. ORR. If I understand the state of the question now, we may save very much of the time of the House by proceeding directly to the consideration of the substitute. I understand the friends of the bill expect to pass the substitute. If that is so, it is certainly unnecessary that we should consume time in the consideration of the original bill, when it is proposed to take the vote directly upon the substitute.

I am very much opposed to the passage of this bill in any form; but while that is so, I do not wish that unnecessary time should be consumed upon it. I therefore propose that, by unanimous consent, the committee shall dispense with the further reading of the original bill, and that the substitute shall be immediately taken up, read by sections, and be open to amendment.

[Cries of "Agreed!" "Agreed!"]

Mr. BAYLY. The gentleman from South Carolina has rather made a question of order than a reply to the argument of the gentleman from Alabama, [Mr. PHILLIPS,] and I wish to reply to what he has said.

The CHAIRMAN. If there be objection made to the proposition of the gentleman from South Carolina, the Chair thinks the original bill must be read through.

Mr. WALSH. I do most decidedly object.

The CHAIRMAN. The bill must be then read through.

Mr. ORR. My proposition being objected to, I give notice, with a view of saving the time of the House, that when it shall be admissible—which will be after the present amendment is disposed of—I shall move to strike out of the original bill all after the enacting clause. By doing that we can get at the substitute immediately. I do not think it necessary to consume any more time in reading the original bill.

Mr. BAYLY, of Virginia. I agree with the gentleman from South Carolina in his remarks; yet I wish to reply to the remarks of the gentleman from Alabama, [Mr. PHILLIPS.]

Mr. ORR. The gentleman can do that when the amendment shall be offered to the substitute.

Mr. PHILLIPS. I withdraw my amendment, if there is no objection.

No objection being made, the amendment was withdrawn.

Mr. ORR. I now move to strike out all after the enacting clause of the bill; and I make the motion with a view of reaching the substitute immediately.

The CHAIRMAN. The Chair thinks it requires unanimous consent to make that motion, as the rules require that the bill shall be read through by sections.

No objection to the motion being made, the question was put; and the further reading of the original bill was dispensed with.

Mr. BAYLY, of Virginia. My substitute is already offered, and, I suppose, it will be read by sections, for the purpose of amendment.

The CHAIRMAN. It will be so read.

Mr. PARKER. We have not heard the substitute read, and it strikes me that we had better have it read entirely through first, and afterwards read by sections for amendment.

The CHAIRMAN. The Clerk will read the bill through.

The Clerk read the substitute *in extenso*.

The substitute was then read by sections, as follows, for amendment:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That satisfaction shall be made, as hereinafter provided, to an amount not exceeding five millions of dollars, to such citizens of the United States, or to their legal representatives, as had valid claims to indemnity upon the French Government, arising out of illegal captures, detentions, forcible seizures, illegal condemnations, and confiscations, committed prior to the ratification of the convention between the United States and the French Republic, concluded on the thirtieth day of September, one thousand eight hundred, the ratifications of which were exchanged in the thirty-first day of July following: *Provided*, That the provisions of this act shall not extend to such claims as are stipulated for, and embraced in, the convention between the United States and the French Republic, concluded on the thirtieth day of April, one thousand eight hundred and three, and for the liquidation and payment whereof provision is made in the said convention; nor to such claims as were allowed and paid, in whole or in part, under the provisions of the treaty between the United States and Spain, concluded on the twenty-second day of February, one thousand eight hundred and nineteen; nor to such claims as were allowed, in whole or in part, under the provisions of the treaty between the United States and France, concluded on the fourth day of July, one thousand eight hundred and thirty-one: *And provided, also*, That in all cases of transfer or assignment, except gifts or donations, no assignee shall be entitled to receive an amount beyond the consideration paid, and interest thereon.

Mr. LETCHER I move to strike from the first section the words "and interest thereon."

Mr. Chairman, as this clause of the first section of the substitute stands now, it is legislation directly in favor of *speculators* and against the *bona fide* holders and owners of the claims. In all transfers no claimant shall be entitled to receive an amount beyond the consideration paid, "and interest thereon." The speculator who has gone into the market and has taken advantage of the necessities of the individuals around him, for the purpose of driving a hard bargain, and has driven that bargain, is, by this section of the bill, as it now stands, entitled to interest on the amount of his contract for this debt, while the individual who has held it and transmitted it as a *gift* to his children, is to be denied the benefit of interest; and that, too, under a bill which provides that a *pro rata* distribution of the fund shall be made. You increase the amount to the speculator by giving him interest, and you leave the original claimant without one dollar of interest, and thereby legislate to the speculator's advantage, and against the interest of the *bona fide* holder and owner.

Then, besides, if you allow interest you thus magnify the claim of the speculator to a sufficient amount to augment it, in many instances, beyond the original amount of the claim. For example, suppose the speculator has purchased a claim for twenty-five cents upon the dollar, if you allow interest upon it from the time these spoliations took place, you will probably enlarge the amount to a sum greater than the original claim which he purchased.

Now, sir, is that right? Ought this House to legislate in this way for the advantage of the speculator?—the man who lives upon the misfortunes of others—the man who gets his gains by grinding the face of the poor. Ought he to have favor shown to him, when he has taken advantage of the necessities of a poor original holder of a claim which this House says is just? Why is it not provided that none of these claims shall bear interest? or why is it that interest is not, also, allowed to the original holders of the claims? Why is it that, of all the parties who are provided for under this bill, interest is to be allowed to those only who are the least worthy and the least deserving?

I hope this amendment will be adopted by the committee, and that they will provide for the correction of this extraordinary provision in the bill.

Mr. BAYLY, of Virginia. I will explain to my colleague—I am afraid not to his satisfaction, but I think to the satisfaction of the House—what is the meaning of that provision. It was to meet the very objection that there have been transfers of these claims to assignees, for less than their value, or for sums less than those called for upon the face of the claims. I say it is to meet this objection that the bill provides that these claims shall be razeed, and the amount called for upon the face of the claims not allowed. But when you have razeed these claims, and the claimants have been cut down to the amount which they have paid for them, I say it is but fair that you should allow them interest upon the sum they have paid.

Mr. PECKHAM. If the gentleman will allow me, I will say that there may be cases under this provision where the assignee will obtain more than he would have done if he had been the original holder instead of the assignee. This ought not to be.

Mr. BAYLY. I have no objection to such a proviso as the gentleman from New York suggests, but first allow me to get through with what I had commenced to say. I say it is but justice to the assignee, when you have cut down the amount of his claim to the sum actually paid by him, that you should allow him interest upon that sum, though, as the gentleman from New York suggests, the sum, with the interest, should not exceed the original amount of the claim.

Now, sir, in reply to my colleague, [Mr. LETCHER,] I will say that this provision was put in the bill by the very men who are fighting the assignees of these claims; by the very men who are fighting those men whom my colleague calls speculators. It was put in to prevent them from getting more than the money which they have paid down. I will not object to the amendment suggested by the gentleman from New York, that the amount, with the interest, shall not exceed the amount of the original claim. I will agree to such an amendment with a great deal of pleasure; but I will not agree that the assignee, who has paid down his money, shall be razeed on the face of the bond, and then excluded from receiving any interest upon that sum.

Now, sir, one other remark, while upon this matter of assignment. I have looked into this subject with a degree of care which I seldom give to anything, because I have felt great interest in it, and I do not believe there is a case of the assignment of one of these claims existing upon the face of the earth, unless it has been in case of bankruptcy or insolvency. I do not believe there is a case; and if any gentleman in this House, better informed upon the subject than I am, will tell me of one, I will be obliged to him. I do not believe anybody can be found who has been fool enough to speculate in these French spoliations; but if such a man can be found, I should be glad to know it.

Mr. LETCHER. Well, sir, if nobody has been fool enough to speculate in these claims, why do you provide for these speculators at all?

Mr. BAYLY. I can answer that question. It was precisely to meet the class of objections which my colleague has made.

Mr. PECKHAM. I desire to ask the gentleman from Virginia, who moved the pending amendment, if he will accept the modification I have proposed?

Mr. LETCHER. I do not understand precisely what it is.

Mr. PECKHAM. To provide that the amount to be allowed the assignees shall not, with interest, exceed the amount of the original claim.

Mr. LETCHER. Oh no. That will not do at all.

The question now being upon Mr. LETCHER's amendment,

Mr. JONES, of Louisiana, demanded tellers.

Tellers were ordered; and Messrs. MACY and CHAMBERLAIN appointed.

The question was taken; and the tellers reported—ayes 77, noes 80.

So the amendment was rejected.

Mr. SMITH, of Virginia. Mr. Chairman, I move to strike out the whole proviso, which is as follows:

And provided, also, That in all cases of transfer or assignment, except gifts or donations, no assignee shall be entitled to receive an amount beyond the consideration paid, and interest thereon.

Mr. Chairman, as I understand it, we are undertaking to pay a debt which this Government owes. It is alleged, whether truly or falsely, none of us know, that persons have purchased some of these claims, and we are undertaking to interfere with the legal rights of the parties to those transactions. This proviso undertakes to say that the purchasers, who have bought these claims in good faith, shall not have the subject-matter that they have purchased. It undertakes to say that, and also limits the purchaser to the sum he actually paid, and interest upon that sum.

Now, I ask this committee, upon what principle they undertake to establish a right to do that? If I buy a bond—everybody is familiar with that instance—if I buy a bond for one hundred dollars, and pay only twenty-five for it, the debtor cannot satisfy that debt by proving that I paid only twenty-five dollars for the bond. Every lawyer in this Hall understands that to be the law of the country; and yet, sir, this attempt to restrict the rights of purchasers is exactly illustrated by the case which I have stated. What right have we to do such a thing? The proposition just now submitted and voted upon, not only contemplated this thing, but undertook to go beyond that, and to confine the purchaser to the sum of money paid for the claim without interest at all. You will not let the man have the original article he purchased, and you will not let him have the money he paid for it, with the interest that is naturally and legitimately accruing upon it. I cannot, for my life, understand why it is that, in rendering justice to these parties, we should undertake to interfere with such transactions as these?

Sir, I was sorry to hear the gratuitous allegation of the able and efficient Representative of the "Tenth Legion," [Mr. LETCHER,] that there was a "grinding of the faces of the poor" in this transaction. Why, I hold that immense benefit results from purchasing the claims of parties whose necessities require them to sell. So far from "grinding the faces of the poor"—an assumption wholly unwarranted, it seems to me—it may be that, by such transactions, the immediate creditor has been saved, perhaps, from absolute want and ruin.

Now, then, gentlemen of the committee, I say that we ought not—lawyers as many of us are, and seeking to dispense justice between the parties interested in this long delayed settlement—we ought not to interfere with the rights of the parties; and say to the man, who fifty years ago, advanced his money on the faith of the Government, that he shall be cut down to what my colleague calls the "little pittance," but what was the actual consideration paid for the transfer.

For these reasons, and looking at the subject in what I deem an elevated light, I think the proviso ought to be stricken out; and I think that is the necessary consequence of the action of the committee in refusing to agree to the amendment of my colleague. With these remarks, I submit the question to the consideration of the committee.

Mr. CRAIGE. I am somewhat surprised at the amendment proposed by the gentleman from Virginia, [Mr. SMITH.] I have always believed before, that he was one of those who legislated for the many, and not for the few; that he was one of those who legislated for those who but seldom derive any bounty from this Government, and who only ask the Government to let them alone. But in this instance, it seems to me, that, so far from legislating for those who ought to receive the bounty and the benefits of this Government, he is legislating for a class of land-sharks and pirates that ought never to receive the countenance of this, or any other Government. I know not whether it be so or not, but I have heard it stated in this House, and elsewhere, that many of these claims have been hawked and peddled about the country for years, commanding not even a bid from any man of sane mind, until, at length, some land-shark or pirate, who desired to pilfer the public Treasury of the country, bought claims amounting to ten, fifteen, and twenty thousand dollars, for three, four, five, or, perhaps, ten dollars, or anything less that would enable the claimants to live till another day.

Mr. SMITH, of Virginia. I desire to ask the gentleman if he knows of a single case of the kind, and if it is right, in legislation, to refer to that common bawd—rumor?

Mr. CRAIGE. I know of no such case myself.

Mr. WALSH. I will inform the gentleman from Virginia, if the gentleman from North Carolina will permit me, that if he does not know any such case, I do.

[Loud cries of "Name it!"]

Mr. WALSH. Andrew Fisher, of New York, sold his claim for three per cent., to a Wall street broker, and it is not the only case.

Mr. CRAIGE. I am very much indebted to the gentleman from New York for the information, and am very sure that that is not the only case. But, what has been the legislation of Congress so long as those who claimed to have been injured by the Government were the only claimants? For nearly twenty years they were seeking redress here; but the committees never reported in their favor until assignees got control of it, who managed to get a select committee appointed from among the friends of the measure; and since that time it has not only been recommended by different committees, but it has also passed one or other of the two Houses of Congress at different sessions.

Now, why is this? What is the secret of it? I wish the gentleman himself would answer that. Is it that the original claimants were not able to substantiate their claims? or that they ought not to have been paid that which they seek now to recover? or that they did not understand those appliances, which other persons understand; which these land-sharks and land-pirates understand in all Governments; which are understood and practised by those stock-jobbers in this country, who are becoming the great corrupting element of the nation, as they have become in England, and almost all other countries? These persons do understand the appliances to be used; and since they have got the assignments of these claims into their hands, they have besieged the halls of legislation, and succeeded in having this bill passed, by one or other House, from time to time. I will not say that they have succeeded by any direct appeals to particular individuals, but they have resorted to all sorts of means and measures for the purpose of procuring the passage of this bill; and if it does pass, it will be, not for the benefit of those who have really suffered from the injuries committed upon their commerce previous to 1800, but for the benefit of those whose principal support consist in their happy speculations on the misfortunes of others. Therefore, Mr. Chairman, I hope that the amendment will not be adopted. I hope that we are not to be called upon here to legislate for the benefit of those who live by speculating on the misfortunes of others. I hope that, in our action, we will legislate for the whole country, instead of legislating for the benefit of a few privileged classes.

[Here the hammer fell.]

Mr. PECKHAM. Is it in order, Mr. Chairman, to offer an amendment to the amendment?

The CHAIRMAN. The Chair thinks it is. The Chair understands that we are treating this substitute as in the nature of an original bill, and are proceeding by way of amending it by sections. The Chair is, therefore, inclined to think that it is in order to move to amend the amendment.

Mr. WASHBURN, of Maine. I think the Chair misunderstands the action of the committee.

Mr. HOUSTON. The matter which we have been discussing, is itself an amendment to an amendment; and if the Chair extends it further, there will be no end to these assignments. The proper way, I suppose, would be to treat the substitute before the committee as an amendment, which it really is. It is an amendment, and the proposition to amend that is an amendment to an amendment; and that is as far as the Chair can administer that rule.

Mr. WASHBURN. It was so understood by the House.

Mr. DISNEY. I do not think it at all material, Mr. Chairman, whether the suggestion of the gentleman from Alabama [Mr. HOUSTON] be entertained or not; because, admitting that the substitute—as in truth it legally is—is an amendment, then the proposition of the gentleman from Virginia, [Mr. SMITH,]—to wit: to strike out certain words contained in that substitute—is an amendment to an amendment; and, therefore, it being an amendment in the second degree, it would be contrary to parliamentary law to receive the amendment of the gentleman from New York, [Mr. PERKINS,] which is, not to amend that offered by the gentleman from Virginia, but to amend the original amendment, to wit: to amend the words proposed to be stricken out previous to the question on striking out being taken.

The CHAIRMAN. The Chair would remark that it did not understand what proposition the gentleman from New York intended to submit; but it considers an amendment to the amendment in order.

Mr. PECKHAM. I propose to amend the words which are proposed to be stricken out, by adding, at the end of the section, the following proviso:

Provided, The sum do not exceed the amount to which he would be entitled if such assignee were the original holder.

The original section, Mr. Chairman, provides that, in all cases of transfer or assignment, except gifts or donations, no assignee shall be entitled to receive an amount beyond the consideration paid, and interest thereon. Now, it may be possible that the true construction of this section, as it now stands, is, that a person will not be benefited by being an assignee more than if he were an original claimant; or, perhaps, the true construction may be that he would be entitled to receive beyond the amount he could get if he were an original holder. But, certainly, the matter, as the section now stands, is left somewhat in doubt. If the construction be given to the proviso affirmatively, then there might be instances in which the assignee, receiving the consideration he had given, and interest thereon, would get much more than the original holder would have gotten. And if that be so, then certainly the possibility of such a construction being given ought to be guarded against. This proviso which I have submitted so qualifies it, that in no event can the assignee get more than the original claimant would have been entitled to get under this bill. I myself am inclined to think that the section is loosely drawn in this respect—that it affords but little protection against exorbitant demands on the part of assignees. Besides, it does not propose to say at what time assignments must have been made, so as to bring them within the meaning of the act. For instance, after this bill shall have passed, a holder might assign his claim to another for much more than he paid himself, and that new assignee would be entitled to receive a *pro rata* on the amount he had advanced; so that in the case where a man may have paid three per cent. for an assignment of a claim, he may sell it at fifty per cent., and then, under the terms of this bill, this last assignee comes in for the amount he had paid. Therefore, it does seem to me, that it is rather loosely drawn in that respect; still I do not propose to amend that portion of it.

Mr. JONES, of Tennessee. I am against the whole bill; but really it does seem to me that this proviso to the first section is intended to, and must, of inevitable necessity, completely protect the rights of the original claimants—of those who have suffered from spoliations themselves, or their ancestors. What is the provision? It is, that in all cases of transfer or assignment, no claimant is entitled to receive an amount beyond the consideration paid, and interest thereon. Now, sir, it does not provide that the assignee shall receive the consideration paid, and the interest at six per cent., but it becomes the duty of the commissioners under the bill to receive all the claims, and adjudicate the original amount to be paid on each. Your bill provides for an appropriation of $5,000,000 to be disbursed *pro rata* among the legal claims thus ascertained by the board. Suppose they should find the aggregate to be $10,000,000, then they diminish the claim fifty cents in the dollar. But here is a claim which some assignee has presented—his original claim was $50,000, and he would receive in that case, $25,000. Suppose that some other claimant should come up and say that $25,000 which he would receive under this award is much more than the consideration paid and the interest due, then of course it would have to be scaled down to an amount not exceeding the consideration he paid for the claim, with the interest due. This, sir, I think, is the clear and inevitable construction of this proviso, and is, indeed, an effectual means of protecting those in whose hands the original claims are.

The CHAIRMAN. The question is on the adoption of the amendment of the gentleman from New York to the amendment of the gentleman from Virginia.

The question was then taken; and the amendment to the amendment was adopted.

Mr. LETCHER. It seems that my colleague [Mr. BAYLY] and myself cannot understand each other in the mode of calculation; and I wish to amend the bill in such a way that the commissioners who have charge of these claims will be able to understand how to make the distribution when the claims come before them. I propose to amend

the proviso by inserting, after the word "receive," the words, "a dividend upon," so that it will read:

And provided, also, That, in all cases of transfer or assignment, except gifts or donations, no assignee shall be entitled to receive *a dividend upon* an amount beyond the consideration paid and interest thereon.

I do not exactly understand how it is, that my colleague [Mr. BAYLY] over the way, arrives at the conclusion he does from the premises which he lays down. I think I can satisfy him that he is altogether wrong, and that the only way in the world by which you can get at this thing, and do justice to the different parties interested, is to adopt some such amendment as I have indicated before. Let me give an illustration, which will show the necessity for the adoption of such an amendment as I have suggested. Suppose my colleague held one of these claims, and I had paid to him twenty-five cents on the dollar for it, and that on this claim interest had been running for upwards of fifty years: in sixteen and two thirds years my capital would be doubled upon that outlay, and in three times that period of sixteen and two third years, at six per cent. interest, I would have the original amount of the claim, as it was in his hands prior to the transfer to me at twenty-five cents on the dollar. Is not that clear? A party who holds a claim as a gift, and who transmits it to his wife or child, never disposes of it at all, and that party comes in under your bill, and files a claim before the commissioners for the full dollar. You give him no interest, but I, who paid twenty-five cents, by the addition of the interest provided for in this section of the bill, have run up my amount to the full dollar. In other words, I paid twenty-five cents, and receive fifteen cents more than I paid; but the individual who holds a claim, and gives it to his child, receives nothing but the original amount, unaccumulated by interest or anything else to raise it.

This bill speaks of a *pro rata* distribution, but how is it proposed to be made? In the first place the speculator is to be exempted from it. He is to have his capital and interest upon it, until that capital and interest will run up to the amount of the original debt, and then he comes in for a *pro rata* distribution, not on the *twenty-five cents* upon the dollar, but on the *one dollar*. By the amendment which I propose, I provide that this whole matter shall be brought into hotch-potch; that all the parties shall be convened before the commissioners; that their debts shall be ascertained whether they have been acquired by speculation, or otherwise; that the capital of each and every one shall be fixed and ascertained by the commission; and upon that capital I propose that a distribution shall be made. I propose, then, in making this distribution, that a dividend shall be provided for upon that principle.

A word or two as to another matter. My colleague over the way [Mr. BAYLY] seems to regret that I undertook to speak of this matter as a matter of speculation. History characterizes it as a speculation, and the very course taken by the holders of these claims shows whether the passage of this measure is a speculation or not. The original holders of these claims slumber in their graves. Are they here in this House? are their widows and orphans here?

[Cries of "Yes!" "Yes!" "Yes!"]

The men who are here, clamoring for the passage of the bill, are the men who have chiseled the widows and orphans out of their claims, at a ruinous sacrifice. It is a bill for the benefit of these parties——

[Here the hammer fell.]

Mr. BLISS. It is impossible, however near you may approach to it, with all the wisdom of the world, to make a wrong thing right. It is impossible, I perceive here, after listening to the wise gentlemen who have discussed this matter, to adopt any other rule than the ordinary rule of law and business, in order to adjust this matter safely and properly. By the laws of our country, a man may assign a *chose in action*, and the assignee in courts of justice is admitted to the rights of the assignor to collect. It is said that, many years ago, the individuals who held these claims, failing to get the justice they sought at the hands of Congress, made an assignment of their claims. Now, suppose these claims were negotiated thirty years ago at thirty per cent. I ask you if it was not better for the poor men, the holders of these claims, thirty years ago, to collect thirty per cent. upon them, and apply the money they received for the support of their families, and to defray their personal expenses, than to wait thirty years and get the full amount of their claims? It might have been then an act of absolute benevolence upon the part of any assignee to one of these claims, to have taken it at an amount much less than its full face. But we are legislating upon a supposition that so much was due, and as we do not know all the circumstances surrounding the transfer of these claims, it is wrong for us to assume that such transfers were speculative and fraudulent, and amounted, as has been said, to grinding the faces of the poor, and then for us to say that, although the Government absolutely owes this amount, it shall be paid only in part, because the purchasers come knocking at the doors of Congress.

Mr. CRAIGE, (interrupting.) Do I understand the gentleman as saying that I acknowledged that the real claimants have knocked at the doors of Congress, and been refused admission?

Mr. BLISS. I was not replying to any remark of the gentleman.

Mr. CRAIGE. I never acknowledged the justice of the claims at all.

Mr. BLISS. I say that we have no more right to discriminate between the holders of these claims than we have to discriminate between the payee and assignee of an obligation in law. We should dispose of all these claims upon the same principle, certainly, until some evidence shall be given of extrinsic circumstances, that show the assignees to be less meritorious than the original holders, and then there will be no need of discussing the question of interest, and contemplating the possibility of the assignees who purchased claims for a sum less than their face, getting more at the hands of the Government than the original claimants, for they get just what they ought to get, and just what is due, and the Government pays just what it ought to pay, and what it owes, and I may well say again, that in all probability, the necessitous holders of these claims have absolutely derived pecuniary advantage to themselves from the power they had to negotiate them, many years ago, for a less sum of money than was apparent on their face.

The question was then taken upon Mr. LETCHER's amendment; and it was not agreed to.

The question recurring upon the amendment of Mr. SMITH, of Virginia, it was put; and the amendment was not agreed to.

Mr. PARKER. I have an amendment to offer to the first section, and will send it to the Clerk's desk.

The amendment was reported, as follows:

Strike out the whole of the third line and to the end of the word "dollars" in the fourth line, and insert the following: That in full satisfaction of the claims in this section contemplated, the sum of $5,000,000, or so much thereof as may be required, shall be paid as hereinafter provided.

The words proposed to be stricken out by the amendment are as follows:

"That satisfaction shall be made as hereinafter provided, *to an amount* not exceeding $5,000,000."

Mr. PARKER. I am a friend to this bill, have all along intended to vote for it, and still intend to do so, if I can have it amended in a few particulars. I am anxious to have it so changed as to leave upon its face no color to the idea that we are not paying every farthing that is due, in order to avoid difficulties hereafter in regard to this class of claims. It will be noticed by the chairman of the committee which reported this bill, [Mr. BAYLY,] if he will examine the amendment I propose, that it covers the whole case of the giving compensation to those claimants whom he has contemplated, and, I trust, as he contemplates; but it has this additional feature in it: In the third and fourth lines which I propose to strike out, and also in other places, the committee will observe that there is contained an implication that we are paying only *a part* of the amount to which we consider those claimants are really entitled. Now, I am not willing to go for this bill upon any such supposition as that. If this be an honest debt, we ought to pay it to the uttermost farthing. But if it be not honest, we ought to discountenance it altogether. There is no gentleman upon this floor who would not feel himself dishonored, if he were able to pay a just debt against himself, when the debt was presented to him, if he did not pay the whole amount, instead of forcing upon his creditor a part for the whole. Now, my amendment contemplates the idea that this is the whole amount; that it does not simply give the amount of five millions of dollars, but the full amount of the just claim.

It has been frequently stated during this discussion, and especially by the gentleman from South Carolina, [Mr. ORR,] that one great objection which he had to this bill was, that it was conceded that these claims amounted to a much larger sum than that. I know it is so stated; but these claims all stand in the nature of unliquidated damages, and this House is called upon, as a jury, to ascertain what is the real amount of those damages. I am willing to call it $5,000,000, and say that it shall stand at that, and shall, in no case, now or hereafter, be deemed more than that.

Mr. PHILLIPS. I would say to the gentleman that his amendment covers, in part, the amendment I proposed to offer to the original bill; and I suggest to the gentleman, with the view of accomplishing all by one amendment, that he should add to his amendment the words, "in full of all claims, whether presented or not."

Mr. PARKER. I would say to the gentleman that I have an amendment in my drawer, prepared several days ago, which meets all that is not fully provided for in the bill on that point precisely, but the proper place for introducing it is in the eleventh section of the bill, where it is provided that "the $5,000,000 shall be in full discharge of all claims for compensation for the class of cases provided for in this act, and that the presentation of any claim or memorial to the commissioners for adjudication, under this act, shall be taken to be a release and discharge of the United States from all other and future compensation that he, she, or they, may be entitled to receive under the provisions of this act." Now, I propose to make clean work of this matter—close it out forever, so far as is possible, for this Congress. Hence, should we ever reach the eleventh section, I would add to that this proviso:

Provided, That in case any holder of any claim contemplated by this act, shall fail, for any cause, to present the same for adjudication and adjustment, as herein provided, such claim shall forever after be deemed and taken as altogether invalid, in whose hands soever the same may be.

I wish to observe, further, before my time expires, that I deem it important to say to these claimants everywhere, and to express the idea everywhere, upon the face of this bill, that we hereby pay these claims to the full extent of our liability. The object of my amendment is to accomplish that end.

The committee will notice that the first section of this bill, in the third and fourth lines, reads thus: "That satisfaction shall be made as hereinafter provided, *to an amount* not exceeding $5,000,000," &c. In other words, "that *to that extent*, we will make satisfaction," which of itself is a strong implication that there is still another amount behind which we are not going to pay. My amendment precludes that idea. It proceeds upon the supposition that we pay the whole amount, and, indeed, upon the supposition that the amount provided may not be needed, as only so much of the $5,000,000 is to be paid as may be required.

It was stated yesterday, in debate upon this bill—and such is, also, the documentary proof—that the Government of the United States, at one time, proposed to take of France the sum of $2,000,000 in full satisfaction of these claims for spoliation. That was a long time ago, and the interest has now amounted to quite as much as we now propose to give. There are those upon this floor who insist that, originally, these claims amounted to ten or twelve millions of dollars. Now, I want the House to pass upon it in such form as to say we are willing to pay $5,000,000, and no more, deeming that the full and fair amount of the damages. Thus we shall do something, I hope, to get rid of all difficulty hereafter.

Mr. BAYLY, of Virginia. I am really surprised at the course this debate has taken, in some respects. I understand the rule of construing a statute to be, to take the whole statute together into consideration. I have no objection to the amendment of my friend from New York near me, [Mr. PECKHAM,] but I believe it is wholly unnecessary. I think the argument of my friend from Tennessee upon that subject was conclusive. The bill provides, after the ascertainment of the

amount of the claims, for a *pro rata* distribution of the fund, and nobody can get more than their share of the fund.

Now, the gentleman from Indiana [Mr. PARKER] says, that we ought to provide for a full discharge. It is impossible that a bill could be more explicit than the bill as it is.

Mr. PARKER. The gentleman misapprehends me.

Mr. BAYLY. It says that this is to be in full discharge.

Mr. PARKER. I admit that; but that is not my argument, nor my amendment. I admit that it appears, by the eleventh section, to be in full discharge. I want to destroy the idea that we are paying less than what is due. I know by the provisions of the bill that these claimants are precluded from setting up any further claim.

Mr. BAYLY. A large degree of the uncertainty in the legislation of Congress grows out of this abundant caution. A large degree of the errors in decisions grows out of making amendments to prevent error. You amend and amend until the amendments themselves become the chief source of difficulty.

I wish, Mr. Chairman, I could have been afforded an opportunity to reply to my colleague [Mr. LETCHER] directly. He said a great deal about speculators. The gentleman from Missouri, [Mr. BENTON,] the other day, said a great deal about claim agents. He said that he never allowed them to approach him. I do. I am not afraid to talk to intelligent men, who are in charge of business before Congress. Some of the highest intellects in England devote their lives to appearing before the committees of the Houses of Parliament. And I am not afraid to talk to such men. On the contrary, I feel relief, very often, when I have a case in hand, to have gentlemen—informed claim agents—call on me. I am not afraid of their corruption; nor that they will delude my intellect. I am willing to listen to their arguments, just as when I was upon the bench I was willing to listen to counsel. I do not dodge them. I do not make it impossible for them to approach me, because I feel nothing that makes me suspect unworthy influence will be exerted.

[Here the hammer fell.]

The question was taken on Mr. PARKER's amendment; and it was rejected; there being, on a division, only fifty-three votes in the affirmative.

Mr. BARRY. I move to strike out the first section; and I do so for the purpose of stating, very briefly, my objections to the bill, because that section goes to the whole of the case.

Mr. SEWARD. I hope the gentleman will first let me submit an amendment to the section before he moves to strike it out.

Mr. BARRY. I yield to the gentleman for that purpose.

Mr. SEWARD. I move to add to the first section the following proviso:

Provided, That in the division, after the award of the commissioners as to the amount of each claim, respectively, if the five millions hereby appropriated is insufficient to pay the aggregate amount of claims, then the original claimants, or their legal representatives, shall receive the principal amount of their claims, and the balance applied to the payment of the assignees *pro rata*. But if the five millions should exceed the amount of the aggregate of claims, then the original claimants, and the assignees upon the amounts they respectively paid, shall receive interest on their claims: *Provided*, That the interest shall not, with the principal, exceed the five millions of dollars.

Mr. Chairman, the object I have in offering that amendment is this: I desire to secure to the original claimants the full amount of their claims, provided the $5,000,000 is insufficient to pay the entire amount claimed; and then to the assignees, who have purchased original claims at less than their full value, the balance. In the event of the $5,000,000 exceeding the amount of the entire claim, I propose that the original claimants shall receive dollar for dollar of their claims, with interest, and the assignees interest on the amount which they advanced upon these claims, running the interest account up to $5,000,000, and not letting it exceed that sum.

I think that is a fair proposition—one that, without doing injustice to any party, meets with the views of the gentleman from Virginia, [Mr. LETCHER.] Nobody is injured; the original claimants get their pay; the assignees get their pay to the amount of moneys advanced. Then, when you come to make up the interest account, they get interest on the original amount advanced by them, and the original claimants get interest on their amount, until it runs up to the balance of the $5,000,000. This is an equitable distribution. It gives justice to all parties, if there is any justice in the bill.

Mr. BAYLY. It seems to be the idea of some gentlemen, that what of the $5,000,000 exceeds the award is to be added to the award. We have a public law on that subject. If the $5,000,000 exceeds the awards made by the board of commissioners, the excess goes back into the Treasury. There are many cases in point.

Mr. SEWARD. I understand the gentleman's position. It is correct in principle. I admit that corporations ought to receive interest as well as private individuals. If the money is due the assignees, according to the gentleman's position, then it must be due to the original claimants. My amendment provides for the payment of interest when the claims are all paid.

Mr. BAYLY. I have only five minutes to reply to the gentleman's amendment, and he must excuse me for interrupting him.

Mr. Chairman, in respect to this matter of assignee, I undertake to say here—and I do not believe that the lawyers of this House will differ from me—that the whole effect of this bill, to use a legal expression, is to substitute the assignee for the original claimant. He stands upon no better footing. It is only a case of substitution; and I wish to know on what principle of justice the assignee has not the right to be substituted for the assignor? I should like to hear some lawyer give me the reason why, in a case of this sort, there is no right of substitution?

Mr. SEWARD. I hope the gentleman will not misunderstand me. I do not want to create a distinction between these classes of creditors. I did not do it. The gentleman did it himself in framing the bill. My own opinion is, that these persons are just as much entitled to receive dollar for dollar as the original claimants themselves. I do not care whether they paid fifty cents on the dollar, or two cents on the dollar. That is a matter with which the Government has nothing to do. If I go into the market and purchase Government securities at half their value, that is a matter with which the Government has nothing to do. They must pay dollar for dollar, and so it should be in this case.

The question was then taken on Mr. SEWARD's amendment; and it was not agreed to.

Mr. WRIGHT, of Mississippi. I move to amend the first section by striking out the following words:

"*And provided, also*, That in all cases of transfer or assignment, except gifts or donations, no assignee shall be entitled to receive an amount beyond the consideration paid, and interest thereon"—

and inserting:

Provided, also, That if the amount of said claims exceed the sum of $5,000,000, the rule of distribution shall be as follows, to wit: Interest shall be computed on all claims where there has been no assignment, but in cases of assignment interest shall only be computed on the consideration paid by the holders, and a *pro rata* distribution be made among all said claimants according to the above rule.

Mr. Chairman, the object of that amendment is to determine the priority of distribution, in the event that the amount of claims, with interest, exceeds the sum of $5,000,000, which, I believe, both the friends and the opponents of the bill have, in the course of the running discussion upon the subject, admitted that it would—indeed, almost all of them have said that the whole amount, with interest, would reach thirty or forty millions; and hence the necessity of determining the priority of distribution.

I have understood the object of the friends of the bill is to make a clear, clean sweep of the entire claim, by the passage of this measure. If that be the fact, we ought to be just to all parties interested in these claims. Well, sir, to accomplish that object, you must allow the assignees of claims just so much as they have paid in consideration of their claims. You must, then, compute interest upon the claims of the original holders; and you must compute it upon the amount actually paid by the assignees; then make a *pro rata* distribution of the $5,000,000 among them, and you will do equal justice to all parties. I have nothing to say in reference to these sharpers—these Shylocks—who crowd these Halls, elbowing members of Congress daily, inviting them to hot suppers and warm dinners; treating them to champagne, [laughter;] I say I have nothing to say in reference to this class of persons. I hope some gentleman will introduce some provision which will prevent the claim agents from receiving one dime in this case. I think it would be good policy for the Government to take some measures by which claim agents should not be encouraged to hunt up old claims which have been permitted to slumber in the tomb of the Capulets for fifty years, and press them upon Congress. But I desire to protect the original claimants as far as I can, at least in this case. I have, therefore, moved an amendment which will do equal justice to all parties, and I hope the committee will adopt it.

Mr. McMULLIN. It is not my purpose to reply, in the five minutes to which I am entitled, to the remarks of the gentleman from Mississippi, who has just taken his seat. I am opposed to the amendment of the gentleman from Mississippi, and opposed to the whole bill; but since we have had so many attacks within the last few days from various quarters upon the class of gentlemen called claim agents, I think that one word, at least, should be said in their behalf.

Sir, there may be, and there doubtless are, men around this Capitol, acting as claim agents, who are unworthy men. But it is also true, that there are others who are worthy men. I happen to know some gentlemen who are here acting as claim agents who are as honorable men as there are about this House; yes, sir, as honorable men as there are upon the floors of Congress.

I am opposed to this bill for various reasons; but I do not intend to urge my objections to it upon this occasion. My purpose in rising was to move that the committee rise, and, with a view of giving gentlemen an opportunity to investigate this subject more fully, I now make that motion.

Mr. LYON. I demand tellers.

Tellers were ordered; and Messrs. WASHBURN, of Maine, and KURTZ were appointed.

The question was then taken; and the tellers reported—ayes 78, noes 74.

So the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SEYMOUR reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly House bill No. 117, commonly known as the French spoliation bill, and had come to no resolution thereon.

Mr. BAYLY, of Virginia. I move that the House again resolve itself into the Committee of the Whole on the state of the Union, so that we may finish the bill to-day.

[Loud cries of "No!" "No!" and "Adjourn!"]

Mr. BAYLY. Very well; then I shall move to strike out the enacting clause of the bill the next time we go into committee.

Mr. ORR. I am going to submit a motion to adjourn; but before doing so, I desire to ask the unanimous consent of the House that the substitute for the bill which we are considering in committee may be ordered to be printed. It can be printed by to-morrow morning; and as it has never yet been printed, and members have no way of seeing it, I hope there will be no objection to the order being made.

Mr. BAYLY. It has been printed in the Daily Globe. It was printed there several days since, in order that members might have an opportunity of examining it.

Mr. WASHBURN, of Maine. It will be found in the Globe of day before yesterday.

Mr. JONES, of Tennessee. But members have not all got the Globe which contains it.

Mr. ORR. I have sent for a copy of the substitute, and have been unable to procure one. It has never been printed by order of the House.

Mr. FLORENCE. It is very difficult to get a copy of the bill, and surely no one can object to the printing of it.

About a dozen members here rose, and simultaneously addressed the Chair, and great confusion ensued, several members remaining on their feet and speaking at the same time.

The SPEAKER. The Chair cannot well understand *more* than five members at a time. When that number is multiplied, confusion is apt to ensue. [Laughter.] Gentlemen must resume their seats. Is there any objection to the motion to print?

Mr. PRINGLE. Yes, sir. I object to it.

Mr. ORR. I move that the House do now adjourn.

Mr. EDGERTON. I ask the gentleman from South Carolina to withdraw that motion for a moment, to enable me to withdraw a motion to reconsider which I submitted to-day.

Mr. ORR. Certainly. I withdraw the motion.

Mr. EDGERTON. Then, sir, I withdraw the motion which I made this morning to reconsider the vote by which the bill for the relief of Belden & Co. was rejected.

Mr. JONES, of Pennsylvania. I rise for the purpose of asking the same privilege in regard to a motion which I submitted yesterday, under a misapprehension; a motion to reconsider the vote by which the board of claims bill from the Senate was referred to the Committee of Claims. I wish to withdraw the motion.

The SPEAKER. When did the gentleman submit the motion?

Mr. JONES, of Pennsylvania. Yesterday.

The SPEAKER. When was the bill referred?

Mr. JONES, of Pennsylvania. The day before yesterday.

The SPEAKER. Then it requires the unanimous consent of the House to withdraw the motion.

Mr. JONES, of Pennsylvania. Well, sir, I ask the unanimous consent of the House.

Mr. JONES, of Tennessee. The motion to reconsider was made yesterday, and the gentleman can withdraw it to-day, because it could have been made to-day.

The SPEAKER. The gentleman is mistaken. The vote which the gentleman from Pennsylvania moved to reconsider was taken the day before yesterday. Is there objection to the withdrawal of the motion to reconsider?

No objection was made, and Mr. JONES accordingly withdrew the motion.

Mr. ORR. I understand that the objection is withdrawn to the printing of the substitute for the French spoliation bill, and I hope the order to print will now be made.

Mr. PRINGLE. I made the objection and I withdraw it.

The SPEAKER. Is there any further objection?

Mr. WALSH. Before answering, I will ask if the gentleman from South Carolina knows that the bill will be printed by to-morrow morning, if the order is made?

Mr. ORR. I suppose it will.

Mr. WALSH. If it is, it will be printed a great deal faster than any printing that has ever been done for this Houee.

No objection being made, the substitute was then ordered to be printed.

Mr. ORR. I move that the House do now adjourn.

Mr. BAYLY. I demand the yeas and nays upon that motion.

[Loud cries of "Oh, no!" and "Withdraw it."]

Mr. BAYLY. Well, I will withdraw the call for the present, and call for tellers.

Tellers were ordered; and Messrs. BOYCE and LYON were appointed.

The question was taken; and the tellers reported—ayes 75, noes 60.

So the motion was agreed to; and thereupon (at four o'clock, p. m.) the House adjourned till to-morrow at twelve o'clock, m.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January* 27, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, submitting an estimate to give effect to the law for the better preservation of life and property from vessels shipwrecked on the coasts of the United States; which was referred to the Committee of Ways and Means, and ordered to be printed.

DREDGE IN THE HARBOR AT OSWEGO.

Mr. GOODWIN, by unanimous consent, introduced a bill, of which previous notice had been given; which was read a first and second time by its title, as follows, and referred to the Committee on Commerce:

Bill providing for the working of the United States steam-dredge boat in the harbor of Oswego, on Lake Ontario, State of New York.

APPLICATION OF THE TREATY OF 1795.

Mr. KERR. I ask the unanimous consent of the House to offer a resolution, which will be read for information:

Resolved, That the President be requested to inform this House, if not incompatible with the public interests, whether, in any correspondence between the Minister of the United States at Madrid, and the Spanish Government, or otherwise, it is insisted by the latter that the treaty of 1795, between Spain and the United States, is not applicable to the Spanish colonies, and that American citizens residing in said colonies are not entitled to the benefit of the provisions of said treaty.

Mr. BAYLY, of Virginia. I move that that resolution be referred to the Committee on Foreign Affairs.

Mr. KERR. I would ask my friend from Virginia why the resolution which I have introduced should be referred to the Committee on Foreign Affairs?

Mr. BAYLY. Because it is "the tomb of the Capulets." [Laughter.]

Mr. KERR. I thought it right, Mr. Speaker, to offer the resolution, and I hope it will not be referred to the Committee on Foreign Affairs. I think it is important that we should have the information sought. I have introduced the resolution at the suggestion of a distinguished citizen, who has represented this nation abroad, and who thinks that it is a matter of very great importance that the information sought should be laid before the country. I presume it is known to every gentleman in this House, that the Spanish Government does insist that the treaty of 1795 is not applicable to the colonies. Spain is in the habit now of denying to the American citizens residing in the Island of Cuba the right to use her courts of justice for the purpose of collecting their debts, which right has been stipulated for in the treaty of 1795. She denies the protection which, by the provisions of that treaty, she guarantied to our citizens, restricting it to the limits of Spain alone, and, therefore, I think it of vast importance to the proper understanding of the relations between this country and Spain, that we should be informed, and correctly informed, of the position which that Government occupies now in relation to the construction of the treaty of 1795.

Mr. PECKHAM, (to Mr. KERR.) Move the previous question.

Mr. BAYLY. I move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of disposing of the French spoliation bill.

The SPEAKER. Does the Chair understand the gentleman from North Carolina [Mr. KERR] as yielding the floor entirely, or merely for a motion?

Mr. KERR. I yield the floor entirely. I have finished all that I desired to state in reference to my resolution.

Mr. BAYLY. Then I move that the House go into the Committee of the Whole on the state of the Union.

COLT'S PATENT.

Mr. LETCHER. I rise to a question of privilege. I am desirous, this morning, of calling up the report of the special committee, of which I am chairman, which was charged with the investigation of certain matters connected with Colt's patent, and other things.

Mr. WASHBURN, of Maine. I rise to a question of order. It is this: that it is not in order for the gentleman from Virginia [Mr. LETCHER] to call up a question of privilege pending the motion of his colleague [Mr. BAYLY] to go into the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair is of opinion that the resolution introduced by the gentleman from North Carolina, [Mr. KERR,] having been received by unanimous consent, should be first disposed of.

Mr. KERR. Well, then, if it be in order, I move the previous question on the adoption of the resolution.

The previous question was seconded; and the main question was ordered to be put.

The question was first put on the motion to refer the resolution to the Committee on Foreign Affairs; and it was not agreed to.

The resolution was then adopted.

BELDEN AND COMPANY.

Mr. STEVENS, of Michigan. I rise to a privileged question. I move to reconsider the vote by which House bill No. 651 was rejected. I voted against the bill.

Several MEMBERS. What bill is it?

Mr. STEVENS. The bill for the relief of Belden & Co.

Mr. EDGERTON. I move to lay the motion to reconsider on the table.

Mr. LETCHER. I have a question of privilege pending before the House.

The SPEAKER. The motion to reconsider, made by the gentleman from Michigan, [Mr. STEVENS,] will be entered, and called up when it comes in order.

Mr. CAMPBELL. I submit that that is not in order.

The SPEAKER. That motion cannot take precedence of the motion to go into the Committee of the Whole on the state of the Union, and assuredly not of the motion of the gentleman from Virginia, [Mr. LETCHER,] which is one of equal privilege. In the opinion of the Chair, it is competent for the House, although it may be engaged in considering a matter of privilege, by a vote of the House to go into the Committee of the Whole on the state of the Union, and the Chair will put that proposition first.

Mr. LETCHER. That will depend upon whether the gentleman gets the floor for that purpose.

Mr. HAMILTON. I think the gentleman from Michigan [Mr. STEVENS] was laboring under a misapprehension when he stated that he had voted with the majority against the bill in question.

Mr. LETCHER. Am I not entitled to the floor, Mr. Speaker?

The SPEAKER. A question of order arises between the gentleman from Maryland [Mr. HAMILTON] and the gentleman from Michigan, [Mr. STEVENS,] in respect to the vote of the latter, and, consequently, as to his right to make the motion to reconsider.

Mr. HOUSTON. I should like the Clerk to read the list of yeas and nays, to show how the gentleman from Michigan voted.

The SPEAKER. It does not appear that the gentleman from Michigan voted on the passage of the bill at all; and, his name not being in the yeas and nays, he has no right to move to reconsider.

Mr. WHEELER. If I should make the motion which the gentleman from Michigan has just made, as I have voted to lay the bill on the table, would that motion take precedence of the motion to go into the Committee of the Whole on the state of the Union?

The SPEAKER. It is not the vote to lay the bill on the table which the gentleman from Michigan proposed to reconsider; it is the vote on rejecting the bill.

Mr. WHEELER. Then I move to reconsider the vote; and on that I call the previous question.

The SPEAKER. At this stage of the proceedings the motion of the gentleman from New York [Mr. WHEELER] can only be entered; but it cannot take precedence of the two pending questions.

Mr. EDGERTON. I move to lay the motion to reconsider on the table.

The SPEAKER. The gentleman from Ohio cannot get the floor to make that motion. The motion to go into the Committee of the Whole on the state of the Union will take precedence.

Mr. EDGERTON. Then I rise to a privileged question. I move that the House do now resolve itself into a Committee of the Whole on the Private Calendar.

The SPEAKER. That motion is in order.

Mr. BAYLY. And if that motion be voted down, then my motion comes up to go into the Committee of the Whole on the state of the Union, and take up the French spoliation bill.

The SPEAKER. Yes.

The question was taken on Mr. EDGERTON's motion; and it was not agreed to.

The question was then taken on Mr. BAYLY's motion; and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SEYMOUR in the chair.)

FRENCH SPOLIATION BILL.

The CHAIRMAN. When the committee rose, it had under consideration House bill No. 117, being "a bill to provide for the ascertainment and satisfaction of claims of American citizens, for spoliations committed by the French prior to the 31st day of July, 1801." The pending question is on the motion of the gentleman from Mississippi [Mr. WRIGHT] to strike out and insert, as follows. Strike out the following words:

"*And provided, also*, That in all cases of transfer or assignment, except gifts or donations, no assignee shall be entitled to receive an amount beyond the consideration paid, and interest thereon."

And insert in lieu thereof, the following:

Provided also, That if the amount of said claims exceed the sum of $5,000,000, the rule of distribution shall be as follows, to wit: interest shall be computed on all claims where there has been no assignment; but, in cases of assignment, interest shall only be computed on the consideration paid by the holders, and a *pro rata* distribution be made among all said claimants, according to the above rule.

Mr. BAYLY, of Virginia. I wish to offer an amendment.

The CHAIRMAN. An amendment is not in order at this time, as an amendment is already pending.

The question was then taken on Mr. WRIGHT's amendment; and it was rejected.

Mr. BAYLY. I move to strike out the enacting clause of the bill; and in doing so, I am free to say that I wish to bring the House to a vote—a fair and considerate vote, to be given after discussion and debate, and not upon a snap judgment—for every man in this House is as well acquainted with the merits of the bill as he ever will be. I move, then, to strike out the enacting clause.

Mr. ORR. I confess I am somewhat surprised at the motion which has been made by the honorable gentleman from Virginia, [Mr. BAYLY.] I had supposed that he would have allowed those who desire to perfect this bill the opportunity of spending a few brief hours—at least until three o'clock—before he made a motion of this kind. I have an amendment which I desire to offer to the original bill, in order to perfect it. It is an amendment which ought to be adopted, and I have no doubt there are other amendments that ought to be adopted. It would seem that the gentleman from Virginia understands the strength of his forces, and that he is determined that the details of this bill shall not be examined into; that they shall not be picked to pieces—as they may be picked to pieces during the course of the next three hours—and that the committee shall adopt a policy which is intended to be——

Mr. BAYLY, (interrupting.) Will the gentleman allow me to interrupt him at this point? I will not press the motion I made, at this time, because I wish to give gentlemen time to perfect the bill; but I give notice—with so much business before us and so little time in which to dispose of it—that I shall press it in the course of this day.

Mr. PECKHAM. I would ask the gentleman from South Carolina of what possible use is his proposed amendment?—because the motion of the gentleman from Virginia, to strike out the enacting clause of the bill, necessarily precludes all amendments afterwards.

Mr. ORR. I will say, in reply to the gentleman from New York, that, so far as I know, there is no gentleman of the opposition here who is disposed uselessly to consume the time of the House. Those who are opposed to the bill, especially those gentlemen who have been heard upon the subject, ought, at least, to be allowed to indicate their objections to the bill and its principal features.

The CHAIRMAN. The Chair understands that the gentleman from Virginia [Mr. BAYLY] has withdrawn his motion.

Mr. ORR. I propose to add, at the end of the first section, the following proviso:

And provided further, That no transfer, or assignment, made after the 27th day of January, 1855, shall be recognized by the said board.

I was inclined—and I invite the attention of the friends of the bill to the amendment—to fix the period at which assignments should not be recognized antecedent to the time named in the amendment; and that there might be no ground for objection whatever, I have made the time the 27th of January. If gentlemen will examine the last proviso, they will discover that it provides that no claimant shall be entitled to receive an amount beyond the consideration paid, and interest thereon, except gifts and donations. That class of assignments, gifts, and donations, is not embraced here. Look at the operation of this thing. Suppose a person, five years ago, purchased scrip at three cents on the dollar. Seeing that the bill is likely to pass, or that it has passed, he puts it into the hands of a friend, although no papers have passed between them. That friend comes in and claims a *pro rata* distribution of the $5,000,000. If the person who, five years ago, purchased a claim at three cents on the dollar, and if he is entitled to interest upon the three per cent. from the period of the purchase down to the present time, what will prevent the claimant from going to his neighbor, when he sees that the bill has passed, and turning his claim over to him for ninety-nine cents on the dollar? Unless the amendment I have proposed be adopted, the proviso will prove a perfect nullity.

Mr. BAYLY, of Virginia. I do not think that the gentleman from South Carolina [Mr. ORR] has exhibited his usual sagacity upon this occasion. Does anybody believe that the provisions of this bill are to be construed after its enactment and not before? If it passes, and receives the signature of the President, when does it legally take effect? Does it not take effect at the time it is passed? But the gentleman says that frauds may be practiced, by assignments being made after the passage of the bill. Why, will not the commissioners have to look into that matter, and will it not be a part of their duty? How, on the face of the earth, is it possible an inquisition, in that respect, can be made except in the case of frauds——

Mr. ORR. Suppose the bill passes here to-day. It has to be sent to the Senate for the action of that body, and it may not be taken up and acted upon by them for two or three weeks. Persons holding claims of this description, finding that the bill has passed the House, make a transfer of them before the bill passes the Senate.

Mr. BAYLY. The answer I make to the gentleman is the simplest in the world. In the first place, I do not believe that there have been any transfers of these claims to any considerable extent.

Mr. PECKHAM. Insurance companies are assignees.

Mr. BAYLY. I do not believe that.

In the next place, the other point which the gentleman from South Carolina makes, is one in relation to fraud, which the commissioners, of course, if the testimony establishes it, would set aside.

Mr HENN. I wish to ask the gentleman from Virginia a question. I wish to ask whether this bill, as printed and laid upon our tables this morning, is like the substitute which the gentleman and his friends propose to carry?

Mr. BAYLY. No; not precisely. There are some words left out.

Mr. HENN. Do not the words left out relate to gifts and donations?

Mr. BAYLY. There is an error in that respect; I do not know how it happened. The bill which I propose to have passed has the words in it.

The CHAIRMAN. Before we proceed further, it is proper, perhaps, that the Chair should say to the committee that there is an error in the printed bill as laid upon the tables of members this morning. In the twenty-sixth line of the first section, after the word "assignment," the words "except gifts or donations," should be inserted, and in place of the word "claimant," the word "assignee" should be inserted, so as to make it conform to the bill proposed by the gentleman from Virginia [Mr. BAYLY] as a substitute. The proviso will then read, "that in all cases of transfer or assignment, except gifts and donations, no assignee shall be entitled to receive an amount beyond the consideration paid, and interest thereon," &c.

The question was then taken on Mr. ORR's amendment; and it was not agreed to.

Mr. BARRY. I propose to amend by striking out the words "five millions of dollars."

I propose to strike out the sum named in the bill for this reason: those who have advocated this bill here, have done so on the ground that there was a legal and moral obligation upon the Government to pay these claims. It is admitted, on all hands, that they exceed the amount named in the bill very largely, and why is no provision made at once for paying the whole?

Is it not a humiliating position for this Government to occupy, to acknowledge the existence of a just debt, and yet to scale it down arbitrarily? There may be occasions that justify such a course on the part of Governments; Texas may have been excused by her necessities for scaling the debts contracted in establishing her independence; these United States might have been excused if, after the Revolution, when the Treasury was bankrupt, and the nation exhausted by war, they had scaled their debts. An individual is excusable if he compounds with his creditors when wholly unable to discharge all his debts; but for this Government, with a Treasury abundant to repletion, after acknowledging a debt as legal, to propose to pay it at less than the amount confessed to be due, is, and, I hope, will continue to be, an anomaly in our history.

What a contradiction does this Government present, when, on the same day, we are buying up our stock at twenty per cent. premium, and cutting down, by an arbitrary act of its own, a debt of its voluntary acknowledgment, to thirty, fifty, or seventy cents in the dollar. It is a novelty in political economy, and in political morals, to pay a premium on our debt, and to secure yourself against the consequences of your generosity by robbing some other creditor of an equal or larger amount. The bill provides that, after the claims for indemnity are examined, if they exceed $5,000,000, there is to be a ratable deduction upon all that are allowed, so that the aggregate shall not exceed that sum, and that the sum thus received shall be taken in full discharge of the entire claim, interest and principal. What excuse can we give for such a course?—not poverty, for our Treasury bursts with its fullness; not the invalidity of the claims, for we acknowledge the justice of as many as we recognize and pay a distributive share upon. There is but one measure for the dealing of a Government able to fulfill its contracts, and that measure is *justice*. If these claims are just, pay them all, every cent that your commission adjudges by our treaties and the laws of nations we are liable for. If they are unjust, pay nothing, not even buy peace of the claimants by payment of one dollar. Let the example of that justice here, which you would practice in private life, pay all that you owe, if you are able, as soon as you admit the debt, and pay the residue if ever it is in your power.

Another thing, sir. While the Government is buying in its stock at twenty-odd per cent. premium, this bill proposes to issue other stock to the beneficiaries under it, which, I suppose, also will be purchased in at twenty-odd per cent. premium, and thus, perhaps, indirectly, some compensation will be made the claimants for the scaling process to which they are to be subjected by the first section of the bill.

Mr. BAYLY, of Virginia. The gentleman from Mississippi will allow me one word here. This board of commissioners is to sit two years, and no part of the sum awarded by them shall be paid until the expiration of that time. The bill proposes to pay the sums which may be awarded by the commissioners in five per cent. stocks, which, I believe, are not above par now, and we do not know what will be the condition of them two years hence. It is not proposed to make any direct appropriation of money from the Treasury, because the bill does not go into effect until two years from this time.

Mr. BARRY. True, we cannot foresee the future, and we cannot see how the issue of stock will make the debt easier to be paid; and it may, also, make it much more difficult to pay.

But further, the receipts by the claimants of the sum provided in this bill will not bind them, and no gentleman will pretend that it will bind them. If they have a good claim under this bill, and are scaled down, they have an equally good claim against us for the residue. If your commission recognizes a claim of one thousand dollars, and under the scaling system established, the owner gets but half that sum, how can you escape the conclusion that you have paid one half illegally, or that you unjustly withhold the other half—

either you keep that which is not your own, or you have paid that which you ought not to have paid.

I fear, sir, that the passage of this bill is a new form. It is but the beginning of the end. We know how adroitly these things are managed. Custom-houses have begun with appropriations of a few thousand dollars, which have, in the end, cost, perhaps, as many hundred thousand dollars. Once begin appropriating for a purpose, and there is no end of it, as long as there is an excuse for asking more. Some gentlemen will, perhaps, vote for this bill who are not absolutely satisfied of its justice; but, to procure release from a claim which seems plausible, and certainly pertinacious, they are willing to give $5,000,000 to be rid forever of the claim. To them it is a question of vital importance to determine what are the probabilities that this sum will appease the claimants who beset the Government. To them I say, that a receipt obtained by the Government, under such circumstances, is worthless. A future Congress may be importuned, with equal justice and more plausibility, into a future appropriation, as you have been into this. Would you, sir, weigh as a feather a receipt in full to the Government against satisfactory proof that more was unpaid? Such a paper, signed by mistake, or under the duress of impending starvation, which, by all accounts, has been hanging over these claimants since 1803, is utterly valueless. A future Congress will have the same right, and be under the same obligation, to pay the residue of the debt that we are under to pay the first distributive share of $5,000,000; no more, and no less. There is no just measure of payment but the liquidation of the whole indebtedness.

The creditors have a purpose in securing the $5,000,000. After their claims are once recognized by part payment, the unpaid portion will be worth far more in the dollar than the whole claim now is. The whole enginery of importunity, supplication, of pictured want and starvation, by which the sympathies of the people and of Congress have been appealed to, will be tried again. In a few years a new generation of the descendants of the original claimants, who seem to be an alarmingly prolific and unfortunate stock, will be on hand; claim pressing will have been moulded into a system, and transmitted with the unsatisfied claim; and I fear that, as long as one dollar is unpaid, or one descendant of the originals or assignees to urge it, Congress will not be free from this subject.

Mr. KERR. I have investigated this claim with as much care as I am capable of bestowing upon any subject, and I am thoroughly satisfied that this is a debt which the Government honestly owes, and one which it ought to have paid fifty years ago.

It strikes me as a remarkable circumstance, that gentlemen rise here and deny, in the first place, that anything is due, and then object to the bill because we propose to pay too little; that is to say, only $5,000,000. The argument is, that we propose to pay $5,000,000, whereas we owe $20,000,000. Now, this argument certainly is not well offered by the gentlemen who oppose the bill. If those for whose benefit the bill is designed, are satisfied with $5,000,000, surely those who are opposed to the bill, out and out, ought not to object that we pay too little. I wish to vote for a bill to pay as much of the debt as we can get Congress to consent to pay. If Congress now will pay only $5,000,000 I will vote for that sum. Having paid this, if hereafter it should be shown that only one third or one half has been paid, I would be willing to vote for the residue, and as long as I participate in the public councils of the country, I shall always vote to appropriate money, without regard to the amount, to pay any debt the Government owes. I hold that the Government dishonors itself by refusing to pay its just debts, or by doing that which would dishonor the citizens who compose the Government, were the act individual and not national. The Government ought to be as honest as the citizens who compose it are required to be, by force of moral law and public sentiment, in their intercourse with one another.

I agree with the gentleman from Mississippi, [Mr. BARRY,] that this bill will not be an estoppel of future claims. I do not believe the creditors owning these claims will be estopped; nor do I desire that they shall be. I desire to pay what is due them. I desire to do it because it is a debt; and if they can hereafter show that they have not been paid the whole amount, I would vote to pay them the residue. I have heard remarks made here on this bill, which are inappropriate to this Hall. I have heard it said that, for the passage of this bill, we shall be held accountable to our constituents; that it is a large sum of money to vote away; and that our constituents will hold us responsible for it. If my constituents ever supposed that I would withhold my vote for an appropriation of money for the discharge of an honest obligation of the Government, because of its amount, they entirely mistook my character. If they want an individual who will vote against appropriations simply because they contain large sums, without reference to the justness of their character, they can get somebody else to take my place; for I always aim to act upon the honest convictions of my judgment; and I shall always vote for appropriations of money out of the public Treasury to discharge all honest debts of this Government, if it takes every cent in that Treasury to accomplish the object.

If we do not mean to pay debts, then let us not incur them. If this Government does not mean to pay what is due to the citizens interested in this bill, why did the Government surrender the rights of those citizens in adjusting its difficulties with another nation? If she did not mean to be responsible, she had no right to make a surrender of the rights of our people in her negotiations with France; and the time to look to the amount of expenditure is before the debt is incurred. It will not do, after one has acted the part of a spendthrift, and finds himself overwhelmed by pecuniary embarrassments, to say, I cannot pay my obligations; they are too great for me. The time to talk about the amount and to calculate the sum is before the indebtedness has been incurred. After the debt has been incurred, the only inquiry for an honorable man is, how much will it take to discharge the obligation? and that should be the basis of settlement, if it takes all that he is worth, and more beside.

Again I repeat, that I am not to be deterred in my support of this bill by any reference to the amount due, or to the fact that only part is now being paid. If I cannot do my whole duty now, I will do as much of it as I can, and hope to do better hereafter.

Mr. PHILLIPS. Will it be in order, Mr. Chairman, to submit an amendment before the question is taken on the motion of the gentleman from Mississippi to strike out?

The CHAIRMAN. An amendment to that portion proposed to be stricken out by the gentleman from Mississippi, [Mr. BARRY,] is now in order. His amendment is to strike out the words "to an amount not exceeding $5,000,000."

Mr. PHILLIPS. I propose to amend by increasing the amount one dollar; and I do it for the purpose of making a few remarks in reply to the gentlemen from Mississippi and North Carolina, [Messrs. BARRY and KERR.] My friend from Mississippi seems to think that it is an unanswerable objection to the bill, that if the claims are just, then it is dishonorable in the Government to settle for less than their full amount. In the appropriation of the amount of $5,000,000, this Government exercises its judgment in reference to the value of the claims as they existed against the French Government. They were never adjudicated upon, and claims for damages have never been adjusted. While in this condition, this Government, having unsettled questions of indemnity arising under treaty stipulations, enter into convention, by which they mutually relinquish their claims, in which relinquishment these claims for spoliation are included.

Now, this bill is drawn upon the idea, not of any original indebtedness of this Government to make good the losses, but upon the use which this Government made of these claims, in effecting their arrangement with France. What value, in this arrangement, was the relinquishment of these claims, is the question which can only be resolved by the judgment of this House; and if we pass the bill, that judgment will be pronounced. From this judgment there is no appeal, but as far as we can make it, it is final and conclusive. This, it seems to me, is a full answer to the gentleman from Mississippi.

The gentleman from North Carolina, who votes with me for the passage of the bill, says that he considers the parties will not be released by accepting of the provisions of the bill; and that they would have a right to apply hereafter for any balance due on their claims; and that they ought to to be paid in full. It is true, sir, that no act we can pass is binding upon a succeeding Congress. But, so far as we are concerned, the act is complete, and by its express provisions, all claims, whether presented or not, to the board of commissioners, are completely extinguished.

Mr. CAMPBELL. Mr. Chairman, I have spent much of my time, during the last few years, in the examination of this question; but I have never occupied one moment in its discussion. I do not propose now to do anything more than to say that I am a friend of the bill; and further, to say to the gentleman from Virginia, who has given notice of his purpose to bring this bill before the House, by what I regard as illegitimate means, that I think he will do his cause great wrong. I am only surprised that the gentleman from South Carolina brings before the committee his complaints on the subject of striking out the enacting clause, and forcing the bill through, under a gag, in the Committee of the Whole on the state of the Union.

Mr, ORR. I call the gentleman to order. He is not opposing the amendment under consideration; and if he be allowed to proceed, I shall not have opportunity for reply.

The CHAIRMAN. The gentleman is out of order in speaking to other matters than those embraced by the amendment.

Mr. CAMPBELL. The gentleman from Alabama moved to increase the appropriation one dollar, and if my remarks are not as pertinent as those which he made, then I shall yield. But when the motion is made, of which the gentleman from Virginia has given notice, he will submit, I hope to have the opportunity of expressing my opinion in reference to the system of dragging measures out of the Committee of the Whole on the state of the Union, and into the House, by riding down the rights of the minority.

The question was then taken on Mr. PHILLIPS's amendment; and it was disagreed to.

Mr. WASHBURN, of Maine. I move to reduce the appropriation one dollar; and I do so for the purpose of saying to the committee that I hope the gentlemen who are disposed to discuss this question will not discuss its general merits, but make, and explain, and oppose the amendments which they may deem of importance and necessary. We have gained nothing since the gentleman from Virginia withdrew his motion to strike out the enacting clause in the way of amending or perfecting the bill.

I desire to say another word, and then I shall be done.

Mr. WHEELER. I call the gentleman to order; he is not confining his remarks to his amendment.

The CHAIRMAN. The gentleman is not in order. His remarks must be confined to the explanation of his amendment.

Mr. WASHBURN. I am not in favor of increasing the appropriation, as the gentleman from North Carolina [Mr. KERR] was, but for reducing it, if anything. But I must say, that I disagree with that gentleman, although I admire and respect the elevated tone of feeling which he manifested. It seems to me that he misunderstood the question.

In this case the claimants consider the amount appropriated as all they can ever reasonably expect to obtain from the Government, and they come forward and say to Congress that they consider this amount as sufficient to satisfy their claims in full. I have not heard any person, interested in these claims, say that he desired more, and they are willing to take this as a final settlement. The amount of the claims may be more, and they may be less. The claims remain unsettled, and it may be difficult hereafter to obtain evidence. I repeat, therefore, that these claimants, being satisfied that $5,000,000 is all that they will, in all probability, be able to get, are willing to take that amount, and to discharge, to release, the Government from all liability in the matter forever hereafter. Well, sir, Congress, taking them at their word, and giving them all they have asked, is, without doubt, forever discharged from all further obligation in the matter; and the claimants are, in my judgment, beyond all doubt,

estopped from ever prosecuting their claims hereafter. This is all I desire to say upon the subject.

Mr. JONES, of Louisiana. Before the gentleman yields the floor, I desire to ask him one question. The gentleman states that these claimants have come forward and asked Congress to give them this amount, and they will be satisfied. Has the evidence of that application been published, so that gentlemen who have doubts upon the subject may examine for themselves?

Mr. LETCHER. That is right, let us have the evidence.

Mr. WASHBURN. I will say, that such is the general understanding. I have never heard any individual——

[Here the hammer fell.]

Mr. HIBBARD. I am opposed to the amendment of the gentleman from Maine, and hope it will not be adopted. As I said before, I think that nothing is due upon these claims, and, of course, that nothing should be paid. The reasons for that opinion I shall not take up time now to explain. They have been already stated by other gentlemen. But I think if we are to pay anything we should pay what is honestly due upon the principles assumed by the bill, and what the majority, whose votes will carry the measure, must believe to be the amount, if they believe that anything is due.

By granting $5,000,000 for this purpose, we admit the justice of these claims. Their validity being established, the principle on which they rest being settled, the holders will, of course, come forward for the residue, which should be paid by the same rule that dictated the payment of the original sum. That residue is conceded to be large. The gentleman from Massachusetts, across the way, [Mr. APPLETON,] as I understood him, stated the amount to be $12,000,000. My impression is, that it has been estimated to be more by well-informed friends of the bill; and that the whole sum, with interest, would be over $30,000,000, and, perhaps, $50,000,000. This bill, if passed, will be a precedent—the entering wedge for abstracting this amount from the Treasury. Does any gentleman suppose that these claimants can be precluded, by anything we do here, from hereafter presenting their claims, or the Government from allowing them? No, sir, they will present their claims; and, upon the principle recognized by the enactment of this bill, they must be granted. Let no gentleman deceive himself by supposing that this will be the end of the matter. Sir, it will be but the beginning of the end. I have seen too much of final settlements of this nature not to foresee the final consequences.

The gentleman from Virginia [Mr. BAYLY] has said that his purpose is not, and that his action will not be hereafter, to ask for anything more. Such, no doubt, will be his course, because he says it. But how will it be with other friends of the measure? Will they or do they intend to be precluded from favoring a reopening of the matter hereafter. By no means, sir. They will come again upon the Treasury with new demands, fortified by the action now proposed. This opinion I expressed at the commencement of the discussion, and it is verified by what has occurred here to-day. The gentleman from North Carolina, [Mr. KERR,] an intelligent friend of the bill, who knows its nature and what its results will be, has just avowed that the passage of the bill will be no estoppel for the future; that the claimants can, and will, come here for the residue. He said his object in voting for the measure was to get as much as he could now, and the balance hereafter. The frankness of this avowal does credit to the gentleman's candor, and I call the attention of the committee to it. It discloses the true intent, and the undoubted effect of this bill, if it should become a law.

Mr. WHEELER. I rise to a question of order. The gentleman from New Hampshire is not speaking to his amendment.

Mr. HIBBARD. I have offered no amendment.

Mr. WHEELER. Well, the gentleman is not speaking in opposition to the pending amendment.

Mr. HIBBARD. I am speaking in opposition to the amendment of the gentleman from Maine, and I am speaking, as I conceive, directly to the point. I hope my time will not be taken up by interruptions.

If this bill passes, and we admit that $5,000,000 is due, it will hereafter be established that, in principal and interest, from thirty to fifty millions are due by the same rule.

I am far from admitting the justice of any claim for interest in case the allowance of principal were just; but I have no doubt the claim will be made, and fear it will be recognized.

I repeat that I think nothing is due. The original nature of the claim was, at least, questionable. If anything was ever due, the obligation was dissolved by the state of war which actually existed with France. And if it be true, as alleged, that the Government afterwards conducted so as to become liable to these creditors, the true measure of liability would be, not what value the Government might have got for a relinquishment of the claims, but what they were actually worth at the time they were taken. If, as I believe, they were worth nothing, the Government should pay nothing. But if gentlemen are ready to pay $5,000,000, why not the whole amount? Let us meet the question fairly and boldly, and not, by indirection, prepare the way for an expenditure we dare not authorize directly.

Mr. WASHBURN, of Maine, by unanimous consent, withdrew his amendment.

Mr. HARRIS, of Mississippi. I propose to reduce the appropriation to $1,000,000. Mr. Chairman, I have not been able to satisfy my mind that the appropriation of any sum for these claims would be proper, and for that reason I should like to see this bill guarded by a provision which will effectually cut off all future applications and appropriations, so that this may not have the appearance of a mere installment upon the claims. It has been asserted throughout this discussion, by almost every member who engaged in it, that if this Government is liable at all, it is for an amount at least double the sum appropriated by this bill. If this view of the case be correct, I can well understand the force of the remarks of my friend from South Carolina, [Mr. ORR,] in his first speech upon this subject, and of the remarks of my colleague [Mr. BARRY] on the same subject. They seemed to experience a feeling of embarrassment, in which I, and doubtless others, shared, at the outset—an embarrassment occasioned by the provisions of a bill which presents the singular anomaly of a bill with no right side to it. The sum appropriated seemed to them too large for the Treasury, and too small for the claimants—too large as an appropriation, and too small as a payment—like Fanny Ellsler's dress, too short for the gallery, and too long for the pit. But, sir, I have come to the conclusion that there is no wrong in cutting down the claims to $5,000,000, whatever may be the amount insisted on by the claimants.

This Government is in no wise bound to respond to all the losses occasioned to our citizens by illegal captures by the French Government. If bound at all, it is only to the extent of what this Government might have been able to obtain from the French Government by a continuance of negotiations; and what that amounts to it is impossible to determine. It is asserted that France had admitted her liability for these claims. This is a very loose and very inaccurate assertion. To what extent did France admit her liability? For what particular claims did she admit herself to be liable? Is it at all certain, sir, that any one of the claims which may be presented to the commissioners, under the provisions of this bill, will be a claim which France intended to acknowledge, and which this Government might have secured by a continuance of negotiations? It is by no means certain. I attach but little consequence to the guarantee which France, before the convention of 1800, declared would not be insisted on. The value of the release of a guaranty which France had, through her authorized diplomatic agents, abandoned, did not amount to a sixpence. It, therefore, furnishes no criterion of the amount which we ought to pay. Then, sir, as neither the actual amount of losses sustained by individuals, nor the value of the release of the guarantee furnishes a basis for the adjustment of these claims, it is competent and right for this Government to fix the amount of the indemnity at one million, or five millions, or ten millions, according to its own estimate of what it ought to pay. Gentlemen persist in characterizing these claims as a debt due by the Government, and fix its amount at the nominal sums claimed of the Government. It is not a debt, and the nominal amount of the claims is not the measure of what the Government ought to pay.

Mr. LYON. Mr. Chairman, I shall oppose any reduction of the amount claimed by the claimants under this bill. They are willing to take the $5,000,000. I understand, from good authority, that the evidence of a majority of these claims is on file at the office of foreign affairs, in the city of Paris; and that all the evidence in connection with them is to be found there; that they were not only recognized by the French Government, but also that the entire amount was but $7,267,000. I make this statement with due deference to the different conclusion come at by the gentleman from Massachusetts, [Mr. APPLETON,] who has, probably, investigated this subject, but I have it from high authority.

Now, one word in reference to this miserable picayune system of grinding down the faces of these people, not only to $5,000,000, but to $1,000,000. The mode of argumentation is very extraordinary. One gentleman—the gentleman from New Hampshire, [Mr. HIBBARD]—says that the amount proposed in this bill is not enough; and he swells up the amount of the claims to $35,000,000. Another gentleman says that these claims have been sold for three, four, and five per cent.; and the pious horror and patriotic devotion of the gentleman from New York [Mr. WALSH] is waked up at the thought that one of his friends sold his for three per cent. [Laughter.] Another gentleman says that there are "land sharks" and "land pirates." Why, sir, I honor the man who would come to the poor beggar who had a claim, and say, "I will give you three per cent. on your claim to get you out of the poor-house, and to enable you to buy a crust of bread." Many of those men, sir, are now in their graves, and their descendants now living are poor and penniless; they have a just and honest claim to compensation, and they are willing to commute for $5,000,000.

Mr. WALSH. If my friend will permit me, I will say that it would be a very great blessing to the country if those who bought their claims had followed, and far greater if they had preceded, them to the grave. [Laughter.]

Mr. LYON. *De gustibus non disputandum.* [Laughter.]

Mr. WALSH. Will the gentleman translate that? [Renewed laughter.] I am not classical enough to understand it.

Mr. LYON. The simple meaning of it is, that "I will not differ with the gentleman from New York." [Laughter.]

Mr. WALSH. I dispute the translation. [Laughter.]

Mr. LYON. The discussion reminds me very much of the lady who met a beggar in the street. The beggar simply asked for a penny. "Ah, no," said she; "when I can give you a double eagle after my income increases, I shall be very happy to do so, which will probably be in a year or two." Meantime the beggar perishes with hunger. These claimants are to be turned off, and to be refused the penny which is necessary for present consumption; and the gentlemen who have been kind enough to purchase and make advances upon these claims are to be treated in the same way. The very fact that they were worth but three per cent. shows that they had been below par, and that only those above want had been able to hold on to them till the present day. This subject has been illumined by the light of the intellects of Jefferson, Jay, Livingston, and Webster; and I fervently hope that, at this late day, our Republic will not prove herself ungrateful of the sacrifices of its citizens.

[Here the hammer fell.]

The question was then taken on Mr. HARRIS's amendment; and it was rejected.

Mr. WARREN. I move, Mr. Chairman, to strike out the enacting clause of the bill, and I do it, not for the purpose of indicating how I shall vote——

Mr. CLINGMAN, (interrupting.) Will the gentleman, before he makes that motion, allow me to send up an amendment to this section of the bill, which I think important. I do not think there will be much difference of opinion about it, and I hope the gentleman will hear it read.

Mr. WARREN. I will state to the gentleman from North Carolina, that I would withdraw the motion for his benefit as readily as for any other

gentleman upon this floor; but that we have consumed time unnecessarily upon this measure, no gentleman here can, for a moment, doubt.

Mr. PARKER. I rise to a question of order. I would inquire of the Chair whether the amendment proposed by the gentleman from Mississippi [Mr. BARRY] has been voted upon? My recollection is that it has not.

Several MEMBERS. It has not.

Mr. PARKER. If it has not, then I make the point to the Chair whether the amendment proposed by the gentleman from Arkansas is in order. It is certainly not germane to the amendment of the gentleman from Mississippi.

The CHAIRMAN. If the gentleman from Indiana will refer to the rule, he will find that it reads as follows:

119. A motion to strike out the enacting words of the bill shall have precedence of a motion to amend.

The Chair is inclined to think that, under that rule, the motion is in order, taking precedence, as it does, by the express terms of the rule.

Mr. PARKER. I believe I am correct in supposing that no vote has yet been taken on the amendment of the gentleman from Mississippi, [Mr. BARRY.]

The CHAIRMAN. That vote has not yet been taken.

Mr. WARREN. As I before remarked, I submit this motion because I am of the opinion—and I think every other gentleman upon this floor will concur with me in that opinion—that we have already consumed time enough in reference to this proposition. It is not a new question. It has been pending in this country too long for any gentleman upon this floor to say that he does not fully understand all the merits of the proposition, if any there be. Let us not, then, waste further time upon the matter. Let my motion prevail, and let us go into the House and have a direct vote on the proposition, and then every gentleman's position will be known to the country by virtue of the record. This is too grave a measure for us to remain in Committee of the Whole to make amusement about it. There is either an honest and correct debt on the part of the Government, or there is no liability at all. If there is no liability, and the members of the House are convinced of that fact, let them vote against it. If, on the contrary, it is a just debt, there is no use in our staying in committee to talk about the amount. The amount is a matter of no consequence at all. The only question involved is, is the liability correct? I am prepared to place my opinion in reference to its correctness upon the record, and I apprehend that every gentleman upon this floor is prepared to do the same.

As I said before, I make the motion not with any view of indicating my position with reference to the bill. I make this remark, not because I am in the least degree afraid of stating my position, but my object in submitting my motion is, to get the measure into the House, and to get it into the House fairly, that we may vote upon it. This is the reason I submit my motion, so that when the bill does come into the House, we may vote upon it with effect, and our votes may be known to the country. We talk about amending this bill; and gentlemen offer amendments upon amendments to it; but if we are to pass a bill for this purpose at all, we cannot, in my opinion, get a better bill than the one we now have. If this bill do not succeed, no bill, it seems to me, can. Therefore, I hope that my proposition will prevail, and then let the motion to strike out the enacting clause be either sustained or rejected in the House.

Mr. CLINGMAN. I am opposed to the motion of the gentleman from Arkansas, [Mr. WARREN,] and I desire to offer an amendment, by which the Secretary of the Treasury will be authorized, in lieu of issuing stock, to pay the money. I supposed, until this morning, that the bill had been put into that shape. When it was before the Committee on Foreign Affairs, I indicated that proposition, and it was agreed to that it would be put into that shape. I then stated, and I now state, that I will not vote either for this, or for any one of the annual appropriation bills, which provides that, instead of paying the amount out of the Treasury, we are to create a debt payable in twenty years hence. I hold that when we have a full Treasury we ought to pay our debts, instead of creating new ones.

Mr. DISNEY. Will the gentleman from North Carolina permit me to make a suggestion?

Mr. CLINGMAN. Certainly.

Mr. DISNEY. I simply desire to suggest to the gentleman from North Carolina, that if the proposition of the gentleman from Arkansas should succeed, and if the report be made by the committee to the House, and that report be disagreed to—as it must be, if the friends of the bill are in the majority—the question will then come up on agreeing to the substitute, as offered by the gentleman from Virginia, [Mr. BAYLY,] and pending that question the gentleman from North Carolina [Mr. CLINGMAN] can offer his amendment.

Mr. CLINGMAN. I understand that, but I cannot give way further. My object is to settle this matter now; for if I should attempt to get in this amendment when the bill comes before the House—and if I failed in getting it in because the previous question was in the way—then I would have to vote against the bill, as most assuredly I would. Although I have no doubt that this is a just debt, still I will delay the payment of any just debt rather than create indebtedness on the part of our Government in this way, and let this claim take its chance next session. Neither will I vote for the proposition to pay members of Congress—myself included—by the issue of stock payable twenty years hence. I will say further to the committee, in order that it may not be understood that this is a recent idea in my mind, that it was my impression the bill had been reported in the shape which I indicate. That shape certainly had been given to the bill in the committee, and, by some oversight, it was sent out just as it now is. I desire to move that amendment, because, if the bill should go into the House in the shape in which it now is, I should be sorry to be compelled to vote against it, because I am satisfied that it is a just demand, and I would be, unquestionably, compelled to vote against the bill as it now stands.

Mr. BAYLY. I hope the gentleman from Arkansas will withdraw his motion for a moment.

Mr. WARREN. I gave up my time to the gentleman from North Carolina, but I am sorry I cannot comply with the request of the gentleman from Virginia, [Mr. BAYLY.]

Mr. BAYLY. Just as you please. I hope, then, that the motion will be voted down.

Mr. BOCOCK. I should like, Mr. Chairman, before any vote is taken, to explain the reason why I shall not vote.

[Cries of "Proceed!"]

Mr. BOCOCK. After a good deal of investigation, Mr. Chairman, I had come to the conclusion that this case was not fully made out, although there was in it a good deal of show of reason. I therefore expected to vote against this bill. In that state of mind, while sitting yesterday beside my friend from New York, [Mr. TWEED,] he said he had some business to attend to for his constituents, which he expected would engage him to-day, but that he would be here notwithstanding, unless he could get some gentleman who stood in the opposite position to him in regard to this bill, to engage not to vote on it. I told him that I was against the bill, while he was in favor of it, and as I expected myself to be engaged in some business to-day, I would undertake not to vote in his absence. He is not here to-day, and, therefore, I do not intend to vote.

Mr. BRECKINRIDGE. I only desire to say that, on this measure, I have paired off with Hon. JOHN SCOTT HARRISON, of Ohio—who has been called home by the illness of his mother—he being for the bill and I against it.

Mr. BENSON. It seems, Mr. Chairman, that there is, at present, no legitimate motion before the committee except to strike out the enacting clause of the bill, and that debate is exhausted, so that no further remarks are now in order on that motion. If it should prevail, I shall be precluded from giving the reasons why I shall vote most cheerfully for the bill, believing it, as I do, but tardy justice to those who have long suffered for want of action upon this important class of claims.

But, as a matter of accommodation to my colleague, [Mr. MAYALL,] who has desired me to make the request, I ask permission for him to print the remarks which he has prepared on the subject of this bill, but is unable to submit on account of ill health.

[Cries of "Yes!" "Yes!" "Agreed!"]

Mr. McMULLIN. I object.

Mr. WENTWORTH, of Illinois. I hope that all members who desire to let their views be known on this bill, will have their remarks printed, and let us proceed to pass the bill.

The permission asked by Mr. BENSON was accorded.

[This speech will be found in the Appendix.]

Mr. WALSH. Is it in order, Mr. Chairman, to move to amend the enacting clause of the bill?

The CHAIRMAN. The Chair thinks not; the rule is peremptory.

Mr. JONES, of Tennessee. Can the enacting clause not be amended before striking out?

The CHAIRMAN. The Chair thinks not.

Mr. FLORENCE. Is the committee not required first to vote on the amendment suggested by the gentleman from Mississippi?

The CHAIRMAN. The Chair thinks not; the rule is peremptory on this subject, if the gentleman from Pennsylvania will be good enough to hear it read. It is, that the motion to strike out the enacting clause of a bill shall have precedence of the motion for amendment.

Mr. GOODE. I desire to ask the Chair what will be the form of the report to be made to the House?

Mr. FLORENCE, (interupting.) Does the gentleman from Virginia [Mr. GOODE] take the floor from me?

Mr. GOODE. I desire the gentleman from Pennsylvania to know that I would not take the floor from him.

The CHAIRMAN. The gentleman from Virginia is recognized, and will proceed with his remarks.

Mr. WARREN. Is the proposition of the gentleman from Virginia in order?

The CHAIRMAN. The Chair does not know what proposition he intends to submit.

Mr. WARREN. Then I rise to a question of order, which I think is a good one.

The CHAIRMAN. The gentleman from Arkansas will state his question of order.

Mr. WARREN. The debate on the amendment submitted by myself is closed, and I see no reason why a vote should not be taken immediately upon it.

The CHAIRMAN. The Chair overrules the point of order. The gentleman from Virginia will state his proposition.

Mr. GOODE. I desire to have such information as will enable me to vote properly on the pending question. I wish to know what will be the report that will be made by the chairman of the committee to the House, in the event of this motion of the gentleman from Arkansas prevailing? Will the Chair report to the House that the first section of the bill has been stricken out, and will this be his whole report?

Mr. DISNEY. Yes.

Mr. GOODE. And this is equivalent to a proposition to reject the bill?

The CHAIRMAN. So the Chair supposes.

Mr. GOODE. Then there will be no report of the various amendments?

The CHAIRMAN. No.

Mr. GOODE. Then I am prepared to vote to strike out the enacting clause of the bill.

Mr. McMULLIN. I desire to know of the friends of the bill, and especially of my colleague, whether—if the motion now pending should prevail——

Mr. WARREN, (interrupting.) It does not seem to me to be a legitimate mode of legislating to require a gentleman in advance to state what course he would take. I would take the course prescribed by the rules, and I do not see why I cannot demand a vote upon the proposition I have submitted.

The CHAIRMAN. The Chair is inclined to the opinion that the gentleman from Virginia [Mr. MCMULLIN] is not in order.

Mr. McMULLIN. I desire to ask my colleague, and those who are the friends of the bill, if the motion of the gentleman from Arkansas prevails, will they then move the previous question precluding all amendments.

Mr. CAMPBELL. I desire to ask the Chair whether it is in order to offer an amendment to the amendment?

The CHAIRMAN. The Chair thinks that no amendment is in order while the motion to strike out the enacting clause of the bill is pending.

Mr. CAMPBELL. I move to amend by inserting the following words:

Be it enacted by the Senate and House of Representatives of the United States, in Congress assembled.

The CHAIRMAN. The Chair rules the amendment out of order.

Mr. CAMPBELL. From that decision I appeal, as I have certainly a right to move to amend.

The CHAIRMAN. The Chair rules the point of order made by the gentleman from Ohio against him, and he will state his reasons therefor, so that the committee may understand the question.

A motion is made by the gentleman from Arkansas [Mr. WARREN] to strike out the enacting clause of the bill. The gentleman from Ohio [Mr. CAMPBELL] moves to amend the motion by inserting the words indicated by him a few moments since.

The Chair rules the amendment out of order, upon the ground that the motion pending is not a motion to amend. The motion pending is made under the rules, and it is a motion of a peculiar character, as will be seen by reading the rule:

"A motion to strike out the enacting words of the bill, shall have precedence of a motion to amend."

The motion, from its very nature, in the opinion of the Chair, is not amendable, any more than a motion to adjourn; and the Chair therefore overrules the point of order. From that decision an appeal is taken; and the question now before the committee is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. CAMPBELL. I withdraw the appeal; and I would inquire whether the Chair has decided the motion to strike out the enacting clause to be in order, and whether any appeal has been taken from that decision?

The CHAIRMAN. No such point of order has been taken.

Mr. CAMPBELL. I raise the question, then, whether it is in order to move to strike out the enacting clause.

The CHAIRMAN. The gentleman from Arkansas moves to strike out the enacting clause, and the gentleman from Ohio raises the question, that the motion is not in order. Whatever doubts the Chair may have had upon that question, the precedents are such that he does not feel himself at liberty to disregard them, and he, therefore, rules the motion of the gentleman from Arkansas to be in order.

Mr. CAMPBELL. From that decision I take an appeal, and I call for tellers.

Mr. MILLSON. Is the question of appeal debatable?

The CHAIRMAN. The question is not a debatable one.

Mr. WARREN. I rise to a question of order, that the gentleman from Ohio is too late in raising his question of order.

The CHAIRMAN. The appeal having been entertained, it is now too late to raise another question of order. The question now is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. CAMPBELL demanded tellers, which were ordered; and Messrs. WHEELER and INGERSOLL were appointed.

The question was taken; and the tellers reported—ayes 96, noes 31.

So the decision of the Chair was sustained.

Mr. ORR. I move that the committee rise.

The question was taken; and a division being had, there were—ayes 37, noes 86.

Mr. FLORENCE. I ask for tellers upon the motion that the committee rise.

Tellers were ordered; and Messrs. WHEELER and KEITT were appointed.

The question was put; and decided in the negative, the tellers having reported—ayes 32, noes 97.

The question recurring upon the motion of Mr. WARREN, to strike out the enacting clause of the bill,

Mr. LETCHER moved that the committee proceed to the consideration of the civil and diplomatic bill.

The CHAIRMAN. The Chair would say to the gentleman from Virginia, that the committee having taken up this bill, proceeded with it, and debate having been closed upon it by order of the House, it is not in order now to make that motion.

Mr. LETCHER. I appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from Virginia moves that the committee proceed to the consideration of the civil and diplomatic bill. The Chair rules the motion out of order, upon the ground that this bill being under consideration, and debate having been closed upon it by order of the House, the committee cannot proceed to any other business. From that decision appeal is taken, and the question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. McMULLIN. Will my colleague withdraw his appeal for a moment, to allow me to submit a motion?

[Cries of "Order," "Order."]

The CHAIRMAN. There is objection.

The question was put; and the decision of the Chair was sustained.

Mr. McMULLIN. I would inquire of the Chair if it is in order to move to lay aside this bill, with a view to take up the civil and diplomatic appropriation bill?

The CHAIRMAN. The Chair thinks that the order of the House is conclusive, and requires this bill to be proceeded with and reported to the House.

Mr. HENDRICKS. Is it not in order to take a vote upon the motion made by the gentleman from Arkansas?

The CHAIRMAN. It is in order, when we can get to it, but gentlemen have a right to make other motions in order.

Mr. HENDRICKS. Well, I insist upon a vote upon that motion, and I object to any and everything else not strictly in order.

Mr. SEWARD. I move the committee do now rise.

Mr. CUTTING. I move to amend the motion by adding "and report the bill to the House."

Mr. SEWARD. Of course. I accept it.

The question was then taken; and the Chair deciding that it was lost,

Mr. SEWARD called for tellers.

Tellers were not ordered.

Mr. WARREN. From what I have observed for the last few minutes, I am satisfied that gentlemen are serious in wanting to amend the bill, and I therefore withdraw my proposition.

Mr. WHEELER. If the motion is withdrawn, I renew it.

Mr. BAYLY. I object.

Mr. WALSH. Mr. Chairman.

The CHAIRMAN. Will the gentleman suspend until order is restored.

Mr. WALSH. I will, if it is understood that I have the floor.

The CHAIRMAN. The Chair thinks that the rule, requiring a vote to be taken, applies only to amendments, and not to a motion of this kind; and, therefore, this motion is withdrawable by the mover.

Mr. WHEELER. Then I renew it.

Mr. WALSH. The Chair awarded the floor to me, and I temporarily gave way; and no gentleman can make a motion while I have the floor.

Mr. FLORENCE. I think it is a question whether the gentleman from New York or the gentleman from Pennsylvania has the floor.

The CHAIRMAN. The Chair is inclined to think the gentleman from New York is entitled to the floor.

Mr. WALSH. I wish to address a few remarks, as a preface to a motion, to the gentlemen who have voted as I have, during the whole of this question. It is this: in my mind there is an evident majority of this House in favor of passing this bill, and we may as well meet the question now as at any other time. Any further delay is only a captious opposition. For that reason I have refrained from making speeches and motions, relying upon justifying myself by voting against this measure, which I regard as one of the most infamous and atrocious measures ever brought before a public body. But still I will not retard the public business, and am ready to meet the question now.

Mr. FLORENCE. Mr. Chairman, desiring the passage of this bill, because I believe it to be just and righteous, and fully appreciating and agreeing to the suggestion made by the gentleman from New York, [Mr. WALSH,] I hope the course proposed may be followed.

Mr. MURRAY. What is the question before the committee?

The CHAIRMAN. The Chair supposed that the gentleman from Pennsylvania rose for the purpose of offering an amendment.

Mr. FLORENCE. I understand the gentleman from New York to move that the enacting clause be stricken out.

Mr. WALSH. The gentleman's declaration has gone a great deal faster than my declaration. I made no such motion.

Mr. FLORENCE. Then I move to strike out the enacting clause; and I do so, Mr. Chairman, because I do not believe there is a single gentleman upon this floor who has not his mind made up to vote either for or against this measure. I conceive it eminently just. I avoided participating in the debate, because I supposed gentlemen had examined for themselves all the evidence which had been presented, *pro* and *con*, and arrived at a conclusion which would govern their votes.

I do not sympathize in the attacks which have been made against those who have used their best endeavors to get these claims through Congress. In the city of Philadelphia—which I have the honor, in part, to represent upon this floor—there are hundreds of persons who are now in destitution and suffering, who would be relieved the moment this bill was passed. Insurance, or other companies, or claim agents, have nothing to do with these claims. Under the impression that we are now ready to vote on the question, and agreeing with the gentleman from New York, [Mr. WALSH,] that further opposition may be regarded as captious and factious, I now move to strike out the enacting clause of the bill, and ask the friends of the measure to come up, with a steady and determined purpose, to crush out opposition fairly and honestly, because I acknowledge here, as I do everywhere else, the right of the majority to rule.

Mr. ORR. I do not know, Mr. Chairman, but what the gentleman from Pennsylvania would find it a rather difficult matter, to crush out the opposition in this Hall, if that opposition choosed to continue resistance to his motion. The opposition here have not indulged in any factious proceeding; nor has there been any desire to defeat the bill by unfair means. Representing, at least one of the opposition, I stated this morning, that all we desired was, that we should be allowed the opportunity to indicate amendments; and that whenever it was evident amendments and motions were made, verily for the purpose of consuming time, gentlemen might make their motion to strike out the enacting clause. It is now only two o'clock; and we have been in the consideration of the bill but one hour to-day. That time might have been occupied in debate. Gentlemen might have had chance to express the opinions which they entertain. Many have not done so.

Still, gentlemen talk about the great length of time consumed. Sir, there has been but little time consumed by this bill. When was it taken up? It has been under consideration about three and a half days. Five millions of dollars is the appropriation—one million for each day.

Mr. MILLSON. Let me correct the gentleman in the matter of chronology. We have been only about two hours in voting on the amendments to this bill; one hour yesterday and another to-day.

Mr. ORR. I have no desire to make any factious opposition; but I would remark to gentlemen, who indicate an intention of forcing this bill through, that they may find it a difficult matter to do so.

Mr. BAYLY, of Virginia. With the permission of the gentleman from South Carolina, I will appeal to the gentleman from Pennsylvania, in order to obviate all trouble in the matter, that he withdraw his motion to strike out the enacting clause, and let gentlemen submit their amendments. Let us wait awhile, but not longer than for this day.

Mr. ORR. So far as I am concerned, I am free to say, that I have no objection at all to gentlemen coming to final action on the subject to-day.

Mr. CAMPBELL. With the gentleman's permission, I simply desire to say, that the gentleman from Pennsylvania may crush out some of the friends of the measure by the course he indicates. I am a friend to the measure; I believe it to be just and righteous, and expect to vote for it; but, sir, if gentlemen have amendments to propose, and desire to fairly discuss them, I shall go for giving them that right.

Mr. FLORENCE. I desire to explain.

Mr. ORR. I yield only for explanation.

Mr. FLORENCE. My friends misunderstand me. I stated to the committee——

[Cries of "Order!"]

The CHAIRMAN. The gentleman is in order, the gentleman from South Carolina having yielded to him for the purpose of explanation.

Mr. FLORENCE. The gentlemen from South Carolina and Ohio did not understand my proposition correctly. I said crush out opposition *fairly and honestly*. [Laughter.] I made that qualification.

Mr. ORR. I have no objection to that at all.

Mr. FLORENCE. I also said, that I agreed with the gentleman from New York, that further opposition to the bill might be regarded as factious or captious. Now, Mr. Chairman, in order to gratify gentlemen who seem to be so exceedingly sensitive on the subject of striking out the enacting clause—I do not forget my participation in sustaining, and maintaining, and perfecting such a motion on a previous occasion, and I have no regrets for so doing, for I consider it one of the events of my life of which I have good reason to be proud—to gratify the gentlemen I have referred to, I now withdraw the motion which I submitted.

Mr. LETCHER. I send to the Clerk's table the following amendment:

And provided, further, That no insurance office, or company of insurers, or assignees of insurers, claiming as assignees, or in right of any person or persons, whose losses they may have adjusted, shall receive any indemnity whatever under this act.

Mr. Chairman, that is a portion of the amendment which I indicated my purpose to offer some days ago, which was then printed for the consideration of the House. It is offered in good faith, and I think that it can be sustained by good and substantial reasons. These insurance companies were engaged in the particular line of their business at the time these policies of insurance were given. They received compensation, in the shape of policies, at the time they were granted, and if the vessels were lost, those who are here as part and parcel of the losers received their compensation in return from these insurance offices. Now, sir, as the insurers made and pocketed the profits, as the parties insured have been amply compensated by the insurance offices, I can see no sort of reason for including these parties within the terms of this bill, and voting money from the Treasury to them. This was a fair business transaction; protection has been given all around to the parties; profit has been given to one, and indemnity has been enjoyed by the other. Under these circumstances, I think that there ought not to be any opposition to a proposition of this kind, and that these parties ought not to be included within the provisions of the law. As this matter was discussed somewhat by my colleague, [Mr. MILLSON,] the other day, and as I intend to offer none but *bona fide* amendments, I shall occupy no more time in discussion.

Mr. TAYLOR, of Ohio. I am a friend of this bill, but I am opposed to the amendment of the gentleman from Virginia. I have sought the floor to state that I am surprised at the sensibilities, which have been manifested by a portion of the members of the House, in reference to the payment of these claims which may be awarded to assignees and insurance companies, for claims which arose some fifty or sixty years ago.

By reference to the very able report made by Mr. Caleb Cushing, the present Attorney General of the United States, in the year 1840, I find that the number of memorialists for indemnities for French spoliations was then one thousand and eleven, of which four hundred and sixty were original claimants, four hundred and seventy-nine were the heirs and representatives of deceased persons, and only eighteen insurance companies, as assignees for original claimants for losses incurred which were covered by insurance—making more than nine hundred original claims of the one thousand and eleven memorialists in the hands of the original claimants, or their heirs, and legal representatives, in 1840, when this very able report of the present Attorney General was made to this House.

Now, Mr. Chairman, it matters not to me—and if I could shape this bill according to my own sense of right and duty, I would strike that proviso altogether from the bill, and allow insurance companies, and others who are *bona fide* assignees of claims for valuable consideration, to come in upon the same footing with the original holders. Sir, I have no doubt as to the validity and honesty of these claims for French spoliations. I have long desired to see them paid; and paid without any invidious discrimination. And here permit me to say what I believe, that whilst our Government is honest and magnanimous in its dealings with foreign nations, and in the payment of its public debts or obligations, held by the citizens of foreign Governments, it is altogether too parsimonious and dilatory in the payment of obligations due our own citizens, and shown by the best evidence to be due them upon every principle of right and justice.

Sir, these claims have had more endorsements of their justice and validity, than any claim that has ever been presented since the foundation of the Government. They have been reported favorably upon by some thirty odd committees of this House and the Senate, and have repeatedly passed one or the other of the two branches of Congress. A bill for their liquidation and payment, passed *the House and the Senate in* 1846, and was vetoed by Mr. President Polk, simply upon the ground, as he states in his veto message, which I have before me, that the Government was then engaged in a foreign war, that we were borrowing money, and that we had not any surplus in the Treasury. That it was *inexpedient* to pay the claims then, under all the circumstances.

Sir, it matters not whether these claims are for an amount larger or smaller than is provided for in this bill. It provides, as I understand, for settling them in full, and appropriates a sum not to exceed $5,000,000 for their payment. Sir, I rejoice to have an opportunity of doing justice to a so long delayed, but so meritorious a class of claimants.

Many of the original claimants have long since gone to their graves, and their children are now seeking, at your hands, that justice which you refused to render to their fathers. Mr. Chairman, this subject has been considered and favorably reported upon by the best minds of the nation. This bill has been examined carefully, and I trust it will pass without further delay.

Mr. CLINGMAN. Is a further amendment in order?

The CHAIRMAN. It is not.

Mr. MILLSON. I demand tellers upon the adoption of the amendment of my colleague.

Tellers were ordered; and Messrs. KURTZ and MACY were appointed.

The question was taken; and the tellers reported—ayes 48, noes 78.

So the amendment was rejected.

Mr. WHEELER. I move to strike out the enacting clause of the bill.

[Loud cries of "No!" "No!"]

Mr. WHEELER. Vote down the motion, then.

Mr. ORR. I hope the gentleman will withdraw the motion for a moment, to allow me to make one single remark to the House.

Mr. WHEELER. I will withdraw the motion for the accommodation of the gentleman from South Carolina, if he will promise to renew it; but upon no other condition.

Mr. ORR. I cannot agree to renew it. I only wish to say to the House——

Mr. WHEELER. I do not withdraw the motion.

Mr. ORR. Well, I am opposing it. We have now tested the material points involved in this first section, and I therefore hope that the Clerk will be allowed to proceed with the reading of the second section, and so on until we get through the bill. If there is anything that requires amendment in the subsequent sections, amendments can be offered as we come to them.

Mr. WHEELER. I made a motion to strike out the enacting clause of the bill, and I have not withdrawn it.

Mr. FLORENCE. Why cannot you take the flag of truce that the gentleman from South Carolina run out just now? [Laughter.]

Mr. BAYLY. I am opposed at this time—but it will not be long—to the motion of the gentleman from New York.

The CHAIRMAN. The Chair ruled, on a former occasion, that this motion was debatable. Upon examining the rule, however, the Chair finds that the five-minute debate is confined to amendments. This motion is not in the nature of an amendment.

Mr. BAYLY. I acquiesce in that decision.

The CHAIRMAN. The Chair, therefore, decides that the motion is not debatable.

The question was then taken on Mr. WHEELER's motion; and it was rejected.

Mr. MILLSON. I would, sir, very readily acquiesce in the suggestion of my friend from South Carolina, [Mr. ORR,] to leave the first section and proceed to the second, but that I have an amendment, one which I deem substantial and material, which I desire to offer to the first section of the bill. It is to add at the end of that section the following:

And provided further, That the indemnity due to any insurance company claiming as assignees, or in the right of any person or persons whose losses they may have adjusted, shall be ascertained by deducting in every case the amount of any premium of insurance they may have received.

Mr. Chairman, I have already given my reasons at large for entertaining the opinion that no indemnity at all should be paid to the insurance offices, because I do not consider them as sufferers from French spoliations; their profits have been made from French spoliations. Their fortunes have been built up by French spoliations, and the dividends which they distributed to their stockholders have been drawn from the sufferings of those who were the actual sufferers by the spoliations of the French.

Entertaining these views, I should have been pleased if the amendment of my colleague [Mr. LETCHER] had been adopted; but as it has pleased the committee to reject it, I now offer this proposition, which I believe ought to be acceptable to the friends of the bill themselves, because it is designed to make the bill consistent with itself. I do not know but that a liberal construction of the provisions already inserted in the bill would exclude from the benefits of the distribution insurance offices to a larger amount than the excess of the indemnity over the amount of premiums received. But, sir, they are not technically assignees. They do not derive their claims by virtue of an assignment, the consideration of which is the premium paid; but they come in as the assignees of the original claimants upon the payment of the whole loss.

Now, sir, the committee can readily perceive that, if the amendment is rejected, this will be the condition of things: These assigneees, these insurance companies, have already received $50 on the $100 from the insurers as a premium. They will, then, in addition, get an allowance on the $100, to the whole amount of the loss; so that they will actually receive an allowance on a capital of $150, when all the private claimants receive an allowance on only $100.

Gentlemen around me, who are friends of the bill, say that this amendment is right. I cannot see on what ground it can be resisted as wrong by those who are voting for the clause restricting the indemnity claimable by assignees to the amount of the consideration, and the interest upon it. Have not the insurance offices received fifty per cent.? Are they sufferers to a larger amount than fifty per cent.? Most unquestionably not. The insurers have borne the remaining loss, and unless you deduct from the amount of the indemnity upon which the compensation is to be estimated the premium of insurance received by them, then, as a necessary consequence, they will be receiving fifty per cent. more than private claimants, when, by every consideration of justice and equity, they ought not only to receive less than private claimants, but, as I honestly believe, ought to be excluded from the distribution altogether.

Mr. PHILLIPS, (Mr. MILLSON yielding the floor.) I merely desire to say that I consider, as a friend of the bill, that the amendment is founded upon principles of justice and equality. If it is not adopted, an insurance company which may already have received a premium, would share in the distribution of the indemnity. If, for instance, $5,000,000 of claims should be presented and $5,000,000 distributed, an insurance company which insured to the amount of $1,000 would get $1,000, while, at the same time, it would already have received, from the party insured, the amount of his premium. It would, therefore, under this bill, stand in a better position than the original claimant, which certainly cannot be the design of any gentleman upon this floor.

Mr. PECKHAM. In other words, the insurance company would get more than the loss.

Mr. MILLSON, (resuming.) Now, sir, will you discriminate in favor of corporations against the very individuals whose sufferings have been so feelingly depicted by gentlemen upon this floor? I cannot but believe that this portrait of human suffering is somewhat imaginative and fanciful, for, though I know many of these claimants, and many of them reside within my district, I do not know one who is in a state of want and penury. But, however that may be, in the adjustment of claims, we have no right to proceed——

[Here the hammer fell.]

Mr. STANTON, of Tennessee. I do not intend to say anything as to the merits of the bill, but to address myself directly to the merits of the amendment proposed by the gentleman from Virginia. His argument is, in effect, that the insurer, the underwriter, having received a premium for his risk, is not entitled to the same measure of remuneration for losses as the individual who has lost property, and been paid by the insurance offices.

Now, sir, it was shown very clearly yesterday, by the gentleman from Virginia, [Mr. BAYLY,] that the possibility, nay, the probability, of indemnity by the foreign Government being enforced by our own Government, necessarily entered into the calculations, as to the value of the risk and the consideration to be paid, both of the insurer and the insured.

Mr. BAYLY. The gentleman is mistaken.

Mr. STANTON. I am not mistaken; for it amounts to the same thing—whether we are to pay the underwriter nothing, or a portion of the consideration which he has paid for these losses.

Mr. CUTTING. Will the gentleman from Tennessee allow me to correct an error?

Mr. STANTON. Certainly.

Mr. CUTTING. I think, Mr. Chairman, that there is some misunderstanding in reference to the question of fact, as it bears upon the underwriters; and, if the committee will allow me, I will explain what I understand to have been, not merely the engagement of the insurance companies, but the character and nature of the claims which they would present to this commission, in the event of this bill being passed. I think that my friend from Tennessee [Mr. STANTON] does not comprehend the meaning of the gentleman from Virginia, [Mr. BAYLY,] but that he alludes to the amendment offered by Mr. LETCHER, which the committee voted down. The proposition of the gentleman from Virginia [Mr. MILLSON] is, that in settling the claims of the underwriters, there should be deducted the amount of premium which they had already received, because, according to the judgment of that gentleman, that premium would be in addition to the amount they would get from the board. But there is an error on this subject, which I shall endeavor to explain briefly—and it is this: the contract of insurance between the underwriters and the owners of property, is substantially a contract of indemnity—a contract by which the underwriters become sureties to the owners of the property for certain risks which that property takes.

In order to ascertain what are the respective rights of these parties, the committee will understand that the merchant values his property at its value, and adds to that the premium of insurance, and usually a certain amount, say ten or more per cent., with a view to cover the probable profits. Hence, if he have an invoice of cargo worth $800, when he comes to insure that cargo, in order to save himself from loss, he adds to the $800, first the premium of insurance which he will pay to the underwriter, and, second, the amount of his probable profits; and upon that value of $800 he insures for $1,000. And then he agrees, at the time, with the underwriter, that if, by any of the perils insured against, this property shall be diminished in value to an extent exceeding one half, then he will hand over to the underwriter all his right in the property, and the underwriter will pay him for the total loss; and thus disengage him from an enterprise which embarrasses the merchant, and enables him, with fresh capital, to go into new enterprises. The underwriter, therefore, by the terms of his contract, steps into the shoes of the owner of the property, and takes possession of it; but because he has paid $1,000, he does not necessarily succeed to $1,000 worth of cargo. He merely stands in the place of the owner of the property, as if that owner of property had not been insured at all; and when he goes to the board of commissioners, he does not present his claim for the amount of the total loss which he has paid. With that the board of commissioners has nothing to do. But he presents, simply, to the board the original papers, and the original demand of the owner of the property, as if that owner had not been insured.

Mr. MILLSON. The bill provides that only the consideration shall be received, and the interest due thereon.

Mr. CUTTING. I should like to end my explanation, because it strikes me that the matter is very clear.

[Cries of "Go on." "Go on."]

The CHAIRMAN. Is it the will of the committee that the gentleman from New York [Mr. CUTTING] be permitted to proceed with his remarks?

[Cries of "Yes!" "Yes!" "Agreed!"]

Mr. WALSH. I object.

Mr. CUTTING. The consideration, then, as the committee will see, is this, that the insurer who has paid by way of total loss, first, the whole value of the cargo, $800; second——

Mr. MILLSON, (interrupting.) As the gentleman from New York has been permitted to proceed with his observations, I wish to say to him that the present bill is framed on the principle that the assignee—and the insurance companies are only assignees, and my amendment applies solely to them—is merely to recover the amount of the consideration; and therefore my amendment, pursuing the same principle, declares that from the amount of the indemnity shall be deducted the amount of premium.

Mr. CUTTING. The gentleman from Virginia still mistakes it. I will then proceed to my illustration.

The CHAIRMAN, (interrupting.) The gentleman from New York [Mr. WALSH] has objected.

[Cries of "His objection is too late!" "Go on!"]

Mr. CUTTING. I do not wish to obtrude myself upon the attention of the committee. I only desired to impart my opinion as to what will be the practical operation of this thing.

[Cries of "Go on!" "Go on!"]

Mr. CUTTING. Not in the absence of the gentleman's withdrawal of his objection; and certainly I would be the last person to ask the gentleman from New York to withdraw his objection, or to ask anything in the way of favor or courtesy from him.

The CHAIRMAN. Then, the gentleman from New York [Mr. WALSH] objecting, the Chair is not free to permit his colleague to proceed.

The question, then, is on the adoption of the amendment proposed by the gentleman from Virginia, [Mr. MILLSON.]

Tellers were demanded and ordered; and Messrs. HOUSTON, and JONES, of Louisiana, were appointed.

The question was taken; and the tellers reported—ayes 55, noes 74.

So the amendment was rejected.

Mr. LETCHER. I propose to strike out the words "five millions," and insert in lieu thereof "five hundred thousand."

I offer this amendment merely for the purpose of saying that I am entirely satisfied the friends of this bill do not intend that any amendment whatsoever shall be made to it, of any character whatsoever, or for any purpose whatsoever. Satisfied of that fact, I now say that, so far as I am concerned, they may make a motion to strike out the enacting clause, or anything else, and I will vote with them to put an end to a scuffle which promises no manner of profit, and which promises nothing more or less than that the majority will have it as they have determined beforehand. I withdraw my amendment.

Mr. CLINGMAN. I offer the following amendment, to come in at the end of the section:

And provided, That in lieu of issuing stock as hereinafter provided, the Secretary of the Treasury may, in his discretion, make payments in money from the Treasury, for the several amounts.

The Secretary of the Treasury should pay the money, and I understood the bill was to be reported in that shape. I took it for granted that it was so reported.

Mr. BAYLY. The point made by my friend from North Carolina, [Mr. CLINGMAN,] is one in respect to which it is absolutely necessary that I should be heard by the committee. This board is to sit for the period of two years. The bill provides for the payment of these claims in five per cent. stock, and I would prefer, if the board were to sit to-morrow, that the claims should be paid from the Treasury the day after they were adjudicated; but the bill provides for five per cent. stock to meet demands which will not arise for two years after the passage of the bill. I mean to deal with this House in all candor, and it is that only which has given me the little influence I have; and I say to them that, upon consultation with my friend from Tennessee, [Mr. JONES,] I find that he has an amendment which will meet the case perfectly, which I am determined to offer in the House, when we get the bill out of committee. It is not the time for me to move it now. The amendment proposes simply to strike out from the clause that reads:

"And such certificate of stock shall be redeemable at the pleasure of the United States, at any time after twenty years from the date of the termination of this commission."

The following words:

At any time after twenty years from the date of the termination of this commission.

So that it will then read:

And such certificate of stock shall be redeemable at the pleasure of the United States.

The present law will provide for the case, if you strike out the words I have suggested.

Mr. CLINGMAN. Will the gentleman from Virginia allow me to make a single suggestion?

Mr. BAYLY. Let me finish this point, and then I will listen to the suggestion of the gentleman from North Carolina. We have provided in this bill, that the board of commissioners shall sit two years; and if you adopt the amendment suggested by the gentleman from Tennessee, [Mr. JONES,] then you make these certificates of stock redeemable at the pleasure of the Government. If, in two years hence the Government is in a condition to pay from its Treasury the awards made by the board of commissioners, then it can redeem these certificates of stock. By simply striking out the words which my friend has indicated, you meet the whole case. It is not necessary to provide for an appropriation from the Treasury, as my friend from North Carolina [Mr. CLINGMAN] seems to think, because, if you make this stock—which is a five per cent. stock—redeemable at the pleasure of the Government, they will pay the cash, if the condition of the Treasury will allow it.

In looking two years ahead, when this commission is to expire, would it not be better to leave the bill as it is, so that if we are not then in a condition to pay the money we could issue stocks, its equivalent? If the enacting clause of the bill is stricken out, I shall propose the amendment which the gentleman from Tennessee suggests, in the House. The proposition to make these certificates of stock redeemable at the pleasure of the Government, is equivalent to the proposition to pay the awards in money.

Mr. JONES, of Tennessee. A substitute for the original bill, proposed by the gentleman from Virginia, is pending before the committee, and he has a right to modify it by striking out the words he has indicated, without making a motion to amend. I presume the friends of the proposition will be willing to adopt it when we come into the House.

Mr. BAYLY. My friend from Tennessee has acted with great firmness and candor in this matter, and I make the modification accordingly.

Mr. CLINGMAN. I was about to suggest that the issuing of stock in any shape was attended with some expense. My amendment simply proposes that the Secretary of the Treasury may, in his discretion, pay the money awarded, if he thinks proper. What objection can there be to it?

Mr. BAYLY. Sir, is not that the effect of the bill as modified upon the suggestion of the gentleman from Tennessee? Will anybody dispute it?

The question was then taken upon the amendment offered by Mr. ORR, and it was not agreed to.

Mr. JONES, of Tennessee. As I understand the gentleman from Virginia, he has adopted my suggestion, and modified his substitute accordingly.

The CHAIRMAN. The Chair so understands it, and the Clerk will make the alteration accordingly.

Mr. WALBRIDGE. I move that the committee do now rise, and report the bill with the amendments to the House.

Mr. JONES. I would say to the gentleman from New York, that the question must first be put upon the adoption of the whole substitute as amended.

The CHAIRMAN. The gentleman from Tennessee is correct, and the motion of the gentleman from New York is not now in order.

Mr. PARKER. I have an amendment which I wish to offer.

Mr. WALBRIDGE. I wish to know if the motion I made was not in order, and legitimate?

The CHAIRMAN. It is not in order, as long as any gentleman desires to offer an amendment.

Mr. PARKER. I propose an amendment which I hope will be accepted. It will strengthen the bill.

The amendment was read, as follows:

Add to the eleventh section the following:

Provided, however, That in case any alleged holder of any claim contemplated by this act shall fail for any cause to present the same for adjudication and adjustment, as is herein provided, such claim shall forever after be deemed and taken as altogether invalid, in whose hands soever the same may be; it being the true intent and meaning of this act that the proper amount of indemnity for the damages herein provided for, cannot be considered in the aggregate to exceed the amount herein appropriated, however much the claims for indemnity in the aggregate may exceed that sum. And, should the board of commissioners, under their rules and regulations of allowance, find a larger aggregate, the reduction (*pro rata*) then required shall only be considered as a mode of ascertaining the true amount of damages sustained in each case.

Mr. BAYLY, of Virginia. I have not a particle of objection to that amendment, but this—and the gentleman from Indiana will appreciate it—that the substance of his amendment is in the bill now.

Mr. PARKER. The gentleman is certainly mistaken, for it is impossible for him to point me out the place where it is to be found in the bill. On the contrary, the bill is full of implications directly the reverse of my amendment. Will the gentleman accept my amendment?

Mr. BAYLY. I will make no difficulty about it, though I see no need of it, as it is in the bill now.

Mr. PARKER. But the apprehension exists all over this House, that such is not the bill now, but the very reverse of it. One great objection which has been made to this bill is, that it is an opening wedge to future claims, and we do not preclude that idea by the terms of the bill.

Mr. BRIDGES. I would refer the gentleman of Indiana to the commencement of the eleventh section of the bill, upon that point.

Mr. BAYLY. My friends desire that I should withdraw the point I made as to that amendment being in the bill now, and to acquiesce in this amendment. I will hear the amendment read again.

The amendment was again read.

Mr. BAYLY. I will accept the amendment as a modification of the substitute.

Mr. BARRY. I move to strike out the first section. I make the motion to enable me to state my objections to the bill, and in doing so I shall quote a portion of the veto message of President Polk. I shall read that for the purpose of answering statements which have been made here that Mr. Polk vetoed the French spoliation bill, because we were then engaged in a war, and for some other incidental reasons, which implied that he assented to the justness of the claims, and recognized them as obligatory.

Mr. Polk says this in his message:

"The short time intervening between the passage of the bill by Congress and the approaching close of their session, as well as the pressure of other official duties, have not permitted me to extend my examination of the subject into its minute details. But, in the consideration which I have been able to give to it, I find objections of a grave character to its provisions." * * * * * *

"It is scarcely probable, if the claim had been regarded as obligatory upon the Government, or constituting an equitable demand upon the Treasury, that those who were contemporaneous with the events which gave rise to it, should not long since have done justice to the claimants."

* * * * * * * * *

"During this extended course of time, embracing periods eminently favorable for satisfying all just demands upon the Government, the claims embraced in this bill met with no favor in Congress beyond reports of committees in one or the other branch. These circumstances alone are calculated to raise strong doubts in respect to these claims; more especially, as all the information necessary to a correct judgment concerning them has been long before the public. These doubts are strengthened in my mind by the examination I have been enabled to give to the transactions in which they originated.

"The bill assumes that the United States have become liable, in these ancient transactions, to make reparation to the claimants for injuries committed by France. Nothing was obtained for the claimants by negotiation; and the bill assumes that the Government has become responsible to them for the aggressions of France. I have not been able to satisfy myself of the correctness of this assumption, or that the Government has become in any way responsible for these claims. The limited time allotted me before your adjournment, precludes the possibility of reiterating the facts and arguments by which, in preceding Congresses, these claims have been successfully resisted."

* * * * * * * * *

"Why this unusual mode of satisfying demands on the Treasury has been resorted to, does not appear. It is not consistent with a sound public policy. If it be done in this case, it may be done in all others. It would form a precedent for the satisfaction of all other stale and questionable claims in the same manner, and would, undoubtedly, be resorted to by all claimants, who, after successive trials, shall fail to have their claims recognized and paid in money by Congress." * * * * * *

"These claims are estimated to amount to a much larger sum than $5,000,000, and yet the claimant is required to release to the Government all other compensation, and to accept his share of a fund which is known to be inadequate. If the claims be well founded, it would be unjust to the claimants to repudiate any portion of them, and the payment of the remaining sum could not be hereafter resisted. This bill proposes to pay these claims, not in the currency known to the Constitution, and not to their full amount."

Now, sir, the amendment which was offered by the gentleman from Indiana, [Mr. PARKER,] and accepted by the gentleman from Virginia, [Mr. BAYLY,] is worth the paper it is written upon, and no more, except that it expresses the intention of this Congress. You are proceeding to legislate for yourselves, but the next Congress may look upon the matter differently, and future Congresses will say, you have recognized these claims by paying $5,000,000, and here are others which are due, and not paid under that law; and the same moral obligation will rest upon them to pay the balance, which rested upon us to pay the $5,000,000.

The man ought to be driven out of decent society who would shelter himself behind a receipt from the claimants, when the Government acknowledges that there was more due than has been paid. Receipts extorted in this way are obligatory upon no man, and no nation ought to resort to them. If you owe a debt, pay it all, to the last farthing, and if you do not owe it, pay nothing. Do not shelter yourselves from future claims by saying that, in voting the $5,000,000, you provided that there should never be paid any more than the $5,000,000.

Mr. WALBRIDGE. I understood that further time was granted for legitimate discussion and amendment, and for that purpose alone. Those proposed have been acceded to by the friends of the measure. It is evident that, if this discussion be further protracted, we shall not terminate our proceeding in this matter to-day; and understanding that the suggestion of the gentleman from North Carolina, in reference to stock, has been adopted, as well as that of the gentleman from Indiana, I now move that the committee rise and report the bill.

Mr. PECKHAM. There are verbal amendments to the bill which ought to be made in committee, and I hope the gentleman will withdraw his motion for a moment for that purpose.

Mr. WALBRIDGE. It is evident to us all that, unless the committee now rise and report this bill, the matter will go over to the next week. Then other questions will be before us for consideration—questions of vital importance, and demanding prompt attention. I therefore insist upon my motion.

Mr. BRIDGES. I call the gentleman to order.

Mr. PECKHAM. Let me say that, since the amendment of the gentleman from Indiana [Mr. PARKER] has been adopted, the entire eleventh section is rendered unnecessary. It is superfluous, and ought to be stricken out.

The CHAIRMAN. The gentleman from New York moves that the committee do now rise and report the bill. There is pending an amendment, in the nature of a substitute, and, until it has been acted on, the gentleman's motion is not in order. The question now is on the substitute offered by the gentleman from Virginia, [Mr. BAYLY.]

Mr. SEWARD. What becomes of the motion to strike out the enacting clause?

The CHAIRMAN. It was withdrawn.

Mr. FAULKNER. I desire to offer an amendment, in the following words:

Be it further enacted, That satisfaction shall also be made, as hereinafter provided, to an amount not exceeding two millions of dollars, to such citizens of the United States, or to their legal representatives, as had valid claims to indemnity upon the British Government, arising out of the violation, by Great Britain, of the seventh article of the treaty of 1783, and which claims were surrendered and abandoned by our Government by the treaty between the United States and Great Britain, signed on the 19th day of November, 1794.

[Cries of "Order!"]

Mr. WASHBURN, of Maine. I rise to a question of order.

The CHAIRMAN. Let the gentleman state his question of order.

Mr. WASHBURN. The gentleman's amendment relates to another question from that of the bill, and, being otherwise than germane, is, under the rules, out of order.

The CHAIRMAN. The Chair understood the gentleman from Mississippi [Mr. BARRY] to move that the words "five million" be stricken from the first section. That amendment has not been acted on.

Mr. BARRY. I withdrew the amendment.

The CHAIRMAN. The Chair decides the amendment of the gentleman from Virginia [Mr. FAULKNER] out of order.

Mr. HOUSTON. I do not want to make a speech. I desire simply to call the attention of the gentleman from Virginia [Mr. BAYLY] to the eighth section, where provision is made for paying the expenses of the adjudication of these claims before the commissioner. I propose to strike out the latter portion of the section, and insert so as to make it read that the expenses of this adjudication shall be paid out of the sum therein provided for; that is, out of the $5,000,000.

Mr. BAYLY. I do not think that is right; but I accept the amendment.

[Cries of "No!" "I object!" all over the Hall.]

Mr. BAYLY. Very well, then; let the amendment be voted on.

Mr. HOUSTON. I shall occupy the attention of the committee but a moment. My understanding is, that the course I have proposed is the usual one pursued in such cases. I do not see any reason why the Government should pay the expenses of the litigation which may be carried on between various parties who may claim portions of this fund. It is not the fault of the Government that the litigation is carried on, and the litigation being vital to the establishment of the claims, I do not think that the Government ought to pay its expense.

Mr. PRESTON. I am opposed, Mr. Chairman, to striking out the few thousand dollars embraced in the ninth section of the bill, for the purpose of the Government hearing, auditing, and determining whether it is to pay all of these claims or not. I am in favor of the bill, and it does strike me that if we dedicate $5,000,000 for the payment of these claims—not knowing the custom to which the gentleman from Alabama has alluded—it is but a small concern for a great Government to deduct from these people, who have been waiting for fifty-odd years to have justice done them, the few thousand dollars which are to pay the secretary, the attorneys, and commissioners. I have supported the chairman of the committee which reported this bill throughout, but I do protest against his accepting this amendment, for the dignity of Congress and the Government. I do not know what may have been the custom before, but these are means which we desire to provide, in order to insure justice to citizens whom we are bound to protect by every national and moral obligation. If we vote anything, I am opposed to keeping an account current of the little expenses of litigation. I do not want that, any more than the salaries of the judges, and secretaries, and other expenses of the Supreme Court shall be added in the bill of costs for the purpose of making that a self-sustaining tribunal. I know no such principle there, and I see no necessity for any such here. I think it becomes us to pay them, and I do not want to abate one jot or one tittle of what is due them.

Mr. ROWE. Is it in order to move to strike out the enacting clause?

The CHAIRMAN. It is. Does the gentleman make that motion?

Mr. ROWE. I yield to the request of gentlemen not to make it at present.

The question was then taken upon Mr. HOUSTON's amendment; and it was not agreed to.

Mr. WALBRIDGE. I move that the committee do now rise and report the bill to the House.

The CHAIRMAN. That motion is not in order, there being still an amendment pending.

The question was then taken upon Mr. BAYLY's amendment, to substitute the Senate bill, as modified, for the House bill; and it was agreed to.

Mr. WALBRIDGE. It being now in order to move that the committee rise and report the bill to the House, I submit that motion.

The CHAIRMAN. The motion is in order if no gentleman desires to submit any further amendment.

Mr. WARREN. I have an amendment to submit. I move to amend the bill by striking out the enacting clause.

The CHAIRMAN. The Chair would suggest to the gentleman that the same object may be accomplished by adopting the motion of the gentleman from New York, to rise and report the bill to the House.

Mr. WARREN. My only object is to put an end to further discussion, and to the offering of further amendments, and to bring the committee to a final vote.

[Loud cries of "Question!" "Question!"]

Mr. WARREN. I withdraw the motion.

The question then recurred upon the motion that the committee rise and report the bill to the House, and being put, was decided in the affirmative.

So the committee rose, and the Speaker having resumed the chair, the Chairman [Mr. SEYMOUR] reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 117, "to provide for the satisfaction of claims of American citizens for spoliations committed by the French prior to the 31st day of June, 1801," and had directed him to report the same to the House with an amendment, and with a recommendation that it do pass.

Mr. BAYLY, of Virginia. I demand the previous question upon the engrossment of the bill.

The previous question was seconded; and the main question ordered to be put.

The question being first upon the amendment reported by the committee.

Several MEMBERS demanded that it be read.

Mr. JONES, of Tennessee. I wish merely to say, that, as the amendment has been read in committee, it is not necessary that it should be read again. If the bill is ordered to a third reading, I give notice that I shall demand the yeas and nays upon its passage.

Mr. ORR. Is there but one amendment reported?

Mr. BAYLY. That is all.

The amendment was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was read the third time.

Mr. BAYLY. I demand the previous question upon the passage of the bill.

Mr. CLINGMAN. I desire to know whether the amendment suggested by the gentleman from Tennessee, to allow the money to be paid out of the Treasury of the United States, if expedient, is incorporated in the bill?

Mr. BAYLY. It is, and also the amendment suggested by the gentleman from Indiana, [Mr. PARKER.]

The previous question was then seconded; and the main question ordered to be now put.

Mr. GREENWOOD. I demand the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was then taken; and decided in the affirmative—yeas 110, nays 76; as follows:

YEAS—Messrs. Abercrombie, Aiken, Willis Allen, Appleton, Thomas H. Bayly, Ball, Banks, Belcher, Bell, Bennett, Benson, Bliss, Bridges, Brooks, Campbell, Carpenter, Caruthers, Chamberlain, Chandler, Clingman, Cook, Corwin, Crocker, Cullom, Cutting, Thomas Davis, De Witt, Dick, Dickinson, Disney, Edmands, Thomas D. Eliot, Everhart, Farley, Fenton, Flagler, Florence, Franklin, Fuller, Gamble, Giddings, Goodrich, Goodwin, Hastings, Haven, Hill, Howe, Hunt, Ingersoll, J. Glancy Jones, Keitt, Kerr, Kittredge, Knox, Latham, Lyon, McCulloch, Macdonald, McDougall, Mace, Macy, Matteson, Maurice, Maxwell, May, Meacham, Middleswarth, Morgan, Norton, Packer, Parker, Peck, Peckham, Pennington, Phillips, Pratt, Preston, Puryear, Ready, Reese, Riddle, Robbins, Rogers, Russell, Sabin, Seymour, Shower, Simmons, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, John L. Taylor, Teller, Thurston, Trout, Upham, Vansant, Wade, Walbridge, Walker, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Wheeler, Yates, and Zollicoffer—110.

NAYS—Messrs. James C. Allen, David J. Bailey, Barksdale, Barry, Benton, Bugg, Caskie, Chastain, Chrisman, Cobb, Colquitt, Cox, Craige, John G. Davis, Dawson, Dunbar, Dunham, Eastman, Eddy, John M. Elliott, Ellison, English, Etheridge, Faulkner, Goode, Greenwood, Hamilton, Aaron Harlan, Andrew J. Harlan, Sampson W. Harris, Wiley P. Harris, Hendricks, Henn, Hibbard, Hillyer, Houston, Johnson, Daniel T. Jones, George W. Jones, Roland Jones, Kidwell, Kurtz, Lamb, Letcher, Lewis, Lilly, Lindsley, McMullin, McQueen, Smith Miller, Millson, Morrison, Murray, Nichols, Noble, Orr, John Perkins, Powell, Thomas Ritchey, Ruffin, Sapp, Seward, Shannon, Shaw, Singleton, Skelton, Samuel A. Smith, William R. Smith, George W. Smyth, Andrew Stuart, David Stuart, John J. Taylor, Walsh, Warren, Daniel B. Wright, and Hendrick B. Wright—76.

So the bill was passed.

Pending the call of the roll,

Mr. ROWE stated that he had paired off with Mr. MAYALL.

Mr. EDGERTON stated that he had paired off with his colleague, Mr. OLDS.

Mr. WALLEY stated that he had not voted, thus far, upon the bill in any of its stages of progress, and should not vote on its passage, for the reason that he was personally interested in its passage.

Mr. CAMPBELL stated that his colleague, Mr. HARRISON, had been called home by the illness of his mother, or that he would have been here and voted for the bill; and that he had paired off with Mr. BRECKINRIDGE.

Mr. BAYLY moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

The title of the bill was then read, as follows:

An act to provide for the ascertainment and satisfaction of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801.

Mr. WALSH. I move to amend the title by striking out what has just been read, and substituting what I send to the Clerk's desk.

The Clerk proceeded to read the amendment, which is as follows:

An Act to successfully accomplish the following objects:

1. To enable sundry unscrupulous and grasping companies, speculators, and brokers, to still further aggrandize themselves in the sacrilegiously assumed name of the widows and orphans, by preying upon whose helplessness and necessities they have already amassed fortunes.

2. To replenish the purses and brighten the mercenary hopes of the several agents, lobbyers, &c., of Washington, who are personally interested in its passage, and also to embolden those *modest* and *conscientious* worthies to renewed and increased efforts to deplete the National Treasury so effectually, as to hereafter preclude the possibility of its funds ever again reaching one inch above low water mark.

Before the reading of the amendment was concluded, the Clerk was interrupted by shouts of "order," and a dozen members rising to questions of order.

Mr. BAYLY. That amendment is certainly not in order as an amendment to the title of that bill.

Mr. WALSH. There is no question at all about it. It is in order.

Mr. LETCHER. Let the amendment be read. How can we tell whether it is in order or not until it has been read.

Mr. WHEELER. I object to the reading.

The SPEAKER. Upon what ground does the gentleman object?

Mr. WHEELER. Because it is an insult to the House.

The SPEAKER. The Chair decides that the amendment may be read.

The reading was then concluded.

The Chair was proceeding to put the question on the adoption of the amendment——

Mr. EDGERTON. I demand the yeas and nays upon its passage.

Much confusion prevailed in the Hall.

[Cries of "Let's have the yeas and nays!" "Let's see who will vote for the amendment!" "It's an insult to the House!" &c.]

The yeas and nays were ordered.

Mr. BAYLY. The Chair having decided the amendment to be defeated——

The SPEAKER. The Chair made no such decision. The yeas and nays were called before the Chair announced any decision.

Mr. BAYLY. Well, sir, I move to reconsider the vote by which the title was adopted, and to lay the motion to reconsider upon the table.

The SPEAKER. The title has not been adopted.

Mr. WASHBURN, of Maine. I rise to a question of order. I submit that the amendment offered by the gentleman from New York is not in order.

The SPEAKER. The Chair decides that the amendment is in order. It is as competent for the House to amend the title of a bill as it is to amend the bill itself.

Mr. WARREN. I rise to what I deem to be a privileged question. I move to lay the amendment of the gentleman from New York on the table.

The SPEAKER. That would carry the bill with it.

Mr. WARREN. Then I take it back. [Laughter.]

Mr. WASHBURN. I insist upon my question of order. I do not believe it is in order to amend the title of the bill by inserting what the gentleman from New York has moved. It is a direct insult to the House as I regard it.

The SPEAKER. The Chair does not like to determine such nice questions. He decides the amendment to be in order.

Mr. WASHBURN. I appeal from that decision.

Mr. BAYLY. I hope the gentleman from Maine will withdraw his appeal, and let us vote down the amendment without further delay.

Mr. FLORENCE. I rise to a point of order. My point of order is this: I submit that the language of that amendment is historically untrue, [laughter,] that it is indecorous in expression, and that it is a reflection upon what has been ascertained to be the will of the majority of the members of the Senate and of this House. Sir, it is language that ought not to be permitted to be considered in a legislative body.

The SPEAKER. The gentleman from New York thinks very differently; and it is for the House to determine. [Laughter.]

Mr. BAYLY. I hope my friend from New York will withdraw his amendment.

Mr. WALSH. I trust no gentleman who voted for this bill will object to having its real object set forth in the title. I cannot withdraw my amendment.

Mr. ORR. Do I understand that there is an appeal from the decision of the Chair pending?

The SPEAKER. There is.

Mr. ORR. Very well; if gentlemen want to continue here longer over this bill, I move that the House adjourn.

Mr. WASHBURN. I will withdraw my appeal.

Mr. HENDRICKS. I object to the withdrawal of the appeal, and ask the yeas and nays upon it.

Mr. EASTMAN. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. WASHBURN. I withdraw my appeal from the decision of the Chair.

Mr. ORR. Then, if the appeal is withdrawn, I withdraw my motion to adjourn.

Mr. MACE. I move the previous question.

The previous question received a second, and the main question was ordered to be put; being first upon the amendment to the title of the bill, proposed by Mr. WALSH.

Mr. PECK. I ask for the yeas and nays on the amendment of my colleague.

The yeas and nays were ordered.

Mr. ORR. I renew my motion that the House do now adjourn, and upon it I demand the yeas and nays.

Mr. BAYLY. Mr. Speaker, I beg that gentlemen——

The SPEAKER. A motion to adjourn has been made, and no debate is in order.

Mr. BAYLY. I know that debate is not in order; but I hope that I may be indulged in asking that the call for the yeas and nays on the amendment shall be withdrawn, and then I feel sure that my friend from South Carolina will withdraw the motion to adjourn.

Mr. ORR. I will withdraw the motion to adjourn, if the call for the yeas and nays on the amendment is withdrawn. My wish is to get clear of the bill.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

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Mr. BAYLY. Then my friend from South Carolina withdraws his motion.

Mr. ORR. I do, but with that understanding.

The SPEAKER. The yeas and nays on the amendment can only be dispensed with by unanimous consent, the House having voted that the question shall be taken by yeas and nays. If there be no objection, the order for the yeas and nays can be withdrawn.

Mr. CAMPBELL. I object.

Mr. PECK. I object. My colleague [Mr. WALSH] has power to withdraw his amendment.

Mr. LETCHER. I renew the motion to adjourn, and I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. ORR. I move that when this House adjourns, it adjourn to meet on Tuesday next; and upon that motion I demand the yeas and nays.

Mr. BAYLY. Will my friend withdraw that motion?

Mr. ORR. I will, to enable the gentleman to submit a motion to which, I presume, the friends of the bill will agree.

Mr. BAYLY. I move to reconsider the vote by which the yeas and nays were ordered on the amendment.

Mr. CAMPBELL. That motion is not in order.

The SPEAKER. It is a course of proceeding that the Chair has never witnessed upon this floor. It is not competent for a majority of the House to control the thirty members who ordered the vote to be taken by yeas and nays.

Mr. JONES, of Tennessee. I suppose, that if one fifth of the members present did not vote against the reconsideration, the order could be reversed.

The SPEAKER. The Chair knows of no such case whatever.

Mr. BANKS. If the Chair will allow me, I will state that I think there are precedents in the practice of the House in past years, where an order for the yeas and nays has been reconsidered; the Speaker decided that a majority could reconsider that vote, and the question immediately recurring upon ordering the yeas and nays, if one fifth of those present did not vote for it, then the yeas and nays were not ordered.

The SPEAKER. It is clearly not in the power of a majority of the House to control the thirty members who ordered the yeas and nays.

Mr. BAYLY. I have temporarily fallen into an error. The Speaker has decided right, and I withdraw the motion to reconsider.

Mr. GREENWOOD. I have not participated in the discussion which has taken place in relation to this bill. I am opposed to the bill, and voted against it; but I cannot vote for the amendment proposed to the title. A clear majority has passed the bill, and I am quite willing to leave the matter there.

Many MEMBERS. That is right.

Mr. GREENWOOD. I hope that the gentleman from Ohio, [Mr. CAMPBELL,] who objected to the withdrawal of the yeas and nays, will withdraw that objection, and allow us to vote down the amendment.

Mr. CAMPBELL. I cannot withdraw it.

Mr. ORR. Then I renew my motion that, when the House adjourns, it adjourn to meet on Tuesday next, and upon it I demand the yeas and nays.

Mr. DISNEY. I rise to a point of order. The House having previously determined to devote Monday to the consideration of territorial business, I hold that is not competent to entertain a motion in contravention with that order.

The SPEAKER. The Chair overrules the point of order, being unable to agree with the gentleman from Ohio in that proposition.

The yeas and nays were not ordered on Mr. ORR's motion.

The question was then taken; and the motion was disagreed to.

The question recurred on Mr. LETCHER's motion, on which the yeas and nays had been ordered; and it was decided in the negative—yeas 32, nays 120.

So the House refused to adjourn.

The question then recurred on Mr. WALSH's amendment, on which the yeas and nays had been ordered.

Mr. BAYLY, of Virginia. I ask the gentleman from New York to withdraw his amendment; he has had his fun, and I hope he will now withdraw it.

Mr. WALSH. When I offered that amendment, I supposed there would have been no——

Mr. EDGERTON, (interrupting.) I object to the gentleman's withdrawing his amendment. It is before the House, and must be voted on.

Mr. WALSH. Can I not explain the reason why I offered it?

The SPEAKER. The main question having been ordered to be put, no debate is in order.

[Cries of "Question!" "Question!"]

The question was taken, and it was decided in the negative—yeas 1, nays 120; as follows:

YEAS—Mr. Walsh—1.

NAYS—Messrs. Aiken, Willis Allen, Appleton, Thomas H. Bayly, Ball, Banks, Belcher, Benson, Bliss, Bridges, Bristow, Brooks, Bugg, Campbell, Carpenter, Caskie, Chandler, Cobb, Corwin, Crocker, Cullom, Curtis, Cutting, Thomas Davis, Dawson, De Witt, Dick, Dickinson, Disney, Dunbar, Edgerton, Edmands, Thomas D. Eliot, Everhart, Farley, Faulkner, Florence, Franklin, Fuller, Gamble, Giddings, Goodrich, Goodwin, Greenwood, Aaron Harlan, Sampson W. Harris, Hastings, Haven, Henn, Hillyer, Houston, Howe, Hunt, Ingersoll, Johnson, J. Glancy Jones, Roland Jones, Keitt, Kerr, Knox, Lamb, Lindsley, Lyon, McCulloch, Macdonald, McDougall, McQueen, Mace, Macy, Matteson, Maurice, May, Middleswarth, Morgan, Morrison, Murray, Nichols, Noble, Norton, Packer, Peck, Pennington, Phillips, Pratt, Preston, Puryear, Ready, Reese, Riddle, Robbins, Rogers, Russell, Sabin, Sapp, Seymour, Shannon, Shaw, Shower, Simmons, William R. Smith, George W. Smyth, Richard H. Stanton, Hestor L. Stevens, John J. Taylor, John L. Taylor, Teller, Thurston, Trout, Upham, Vansant, Wade, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Wheeler, Yates and Zollicoffer—120.

So the amendment of the gentleman from New York was not agreed to.

Mr. WALSH. I rise to a privileged question; I move that the vote which has been just taken be reconsidered, and that the motion to reconsider do lie on the table. [Laughter.]

Mr. BAYLY. I have no objection to that, Mr. Speaker.

The SPEAKER. The gentleman will remember that under the rule, a member voting in the majority can alone move to reconsider. [Laughter.]

The title of the bill was then agreed to without amendment.

Mr. FLORENCE moved to reconsider the vote by which the title of the bill was adopted, and, also, moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

Mr. FLORENCE. I move that the House do now adjourn.

The question was taken; and the motion was agreed to.

The House thereupon, at four o'clock, p. m., adjourned till Monday, at twelve o'clock, m.

IN SENATE.

MONDAY, *January* 29, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of Friday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of State, communicating, in compliance with a resolution of the Senate, a report of Professor E. N. Horsford upon an analysis of a new variety of guano in accordance with instructions from Hon. William L. Marcy, Secretary of State, in which the Professor states that the new variety contains 15.59 per cent, of ammonia, and that it may safely be said to be on a par with the best average samples of Peruvian, and greatly superior to many. The report was ordered to lie on the table, and be printed.

PETITIONS, ETC.

Mr. GWIN presented the petition of J. Williams, on behalf of his minor children, Maria Merced, and Maria Francisca Williams, praying that the tract of land known as Rancho Santa Anna del Chino, about which there was a diversity of opinion in the board appointed to settle private land claims in California, may be confirmed to said minor children without regard to the two years' limitation; which was referred to the Committee on Private Land Claims.

Also, the petition of William Leonard, praying indemnification for depredations committed by the Pawnee Indians, on his cattle, while being driven from the Atlantic States to California; which was referred to the Committee on Indian Affairs.

Also, the petition of Roger B. Ironside, praying compensation for medical attendance on the Shasta Indians in California, under the authority of the United States agent for those Indians; which was referred to the Committee on Indian Affairs.

UNEMPLOYED WORKINGMEN.

Mr. SEWARD. It cannot be unknown by the Senate, that the present winter is marked by extreme depression of enterprise in every department of mechanical and manufacturing industry in the country, and that the result of this general depression is a peculiar and unlooked for inactivity in the city of New York. During two or three weeks which I spent there in the season of the holidays, the customary festivities of the city were saddened by assemblages of unemployed mechanics and workingmen in the Park; and my walks at night brought me sometimes in contact with persons of the same class, soliciting relief, which their honest pride forbade them to ask by daylight. Two things are remarked on this subject, by most candid persons. First, that there was nothing fictitious in the statements of the distress that had thus fallen on an industrious class of the population; and, second, that their conduct was, in the main, not unworthy of themselves as American citizens, in an emergency so painful.

A very respectable committee have waited upon me and requested me to present to the Senate, a memorial of these impoverished mechanics and workingmen, with which request I am now to comply. I will not detain the Senate by detailing minutely the contents of this petition. I will remark only, that it is temperately and becomingly expressed; that it recites the distress that I have described, and traces it to causes which, in the judgment of the memorialists, were adequate to such effects; and that, in regard to the form of relief, the memorialists have decided to ask Congress for the passage of a homestead bill, with such additional legislation as will, in their judgment, be unexpensive to the Government, while it will enable the unemployed workmen to move to and enter into the occupation and cultivation of homesteads on the public domain.

I commend the subject to the careful consideration of the Committee on Public Lands, to whom I move the reference of the memorial.

The motion was agreed to.

Mr. BRODHEAD presented the memorial of the heirs of Richard H. Kern, deceased, an assistant engineer in the Topographical Bureau, who was massacred by the Indians while attached to the surveying expedition under Captain Gunnison, praying to be allowed his pay from the time of his death to the return of the expedition, and the expenses incurred by him in preparing to join the same; which was referred to the Committee on Military Affairs.

Mr. WELLER presented the petition of John Roony and others, invalid pensioners, praying an increase of the amount allowed to invalids who were injured in the war with Mexico; which was referred to the Committee on Pensions.

Mr. WRIGHT presented the memorial of Charles W. Dennison, late United States consul for British Guinea, praying the reimbursement of expenses incurred by him in procuring information and collections in agriculture, commerce, mechanics, and science, in South America, for the Patent Office, under directions of the Department of State; which was referred to the Committee on Patents and the Patent Office.

Mr. FESSENDEN presented the petition of Robert Morton, legal representative of one of the children of Abigail Morton, deceased, praying that the pension allowed her as the widow of a revolutionary officer may be paid to her children; which was referred to the Committee on Revolutionary Claims.

Mr. JONES, of Iowa, submitted an additional document in relation to the claim of John S. Devlin, for pension; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. SUMNER, it was

Ordered, That Barton Ricketson have leave to withdraw his petition and papers.

On motion by Mr. JONES, of Iowa, it was

Ordered, That the petition of John S. Devlin, together with the adverse report of the Committee on Pensions on the same, on the files of the Senate, be referred to the Committee on Pensions.

REPORTS FROM STANDING COMMITTEES.

Mr. MALLORY, from the Committee on Naval Affairs, who were instructed, by a resolution of the Senate, to inquire into the subject, reported a bill to compensate Lieutenant Matthew F. Maury, United States Navy, for his wind and current charts and sailing directions; which was read and passed to a second reading. He also submitted a report on the subject; which was ordered to be printed.

Mr. JONES, of Iowa, from the Committee on Pensions, to whom were referred the following petitions for allowance of pensions, asked to be discharged from their further consideration, as the cases were provided for in a general bill reported by the Senator from Alabama, [Mr. CLAY,] and which, he said, would be taken up in a day or two:

Petition of Mrs. J. Josephine McClelland;

Petition of Mrs. Mary A. M. Jones;

Petition of Mrs. Irene G. Scarritt; and the

Petition of Mrs. Frances W. Webster.

He also, from the same Committee, to whom were referred documents in support of the claim of Hiram Seat to a pension, for services as a teamster in the war with Mexico, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Levi C. Harris, praying to be allowed a pension, submitted a report, accompanied by a bill for his relief; which was read and passed to a second reading. The report was ordered to be printed.

He also, from the same committee, to whom was referred the bill of the House of Representatives, for the relief of Mrs. Anna W. Angus, widow of the late Captain Angus, United States Navy, reported it back without amendment.

Mr. EVANS, from the Committee on Revolutionary Claims, to whom was referred the bill of the House of Representatives for the relief of the widow and children of Ezra Chapman, deceased, reported it back without amendment. He also submitted a report theron; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill of the House of Representatives for the relief of the heirs of Lieutenant Andrew Finley, reported it back without amendment. He also submitted a report on the subject; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill from the House of Representatives for the relief of Nathaniel Reddick, administrator of Richard Taylor, deceased, reported it back without amendment. He also submitted a report on the subject; which was ordered to be printed.

Mr. SEWARD, from the Committee on Pensions, to whom was referred the petition of Mrs. Jane A. Brower, widow of Charles B. Brower, late a lieutenant in the United States Army, who died of a disease contracted in the Mexican war, while in the line of his duty, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom were referred the petition of Myles T. Woolley, and additional documents, praying a pension, submitted an adverse report thereon; which was ordered to be printed.

Mr. GWIN, from the Committee on Naval Affairs, to whom was referred a communication of the Secretary of the Navy on the subject of introducing submarine armors into the Navy, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom were referred the following petitions, &c., asked to be discharged from their further consideration; which was agreed to:

Petition of W. H. Kennon, praying to be allowed the difference of pay between that of a purser on board of a sloop and on board of a frigate, for the time he acted as purser on the steam frigate Mississippi.

Message from the President of the United States, communicating, in compliance with a resolution of the Senate, the fourth meteorological report of Professor Espy.

Resolutions of the Legislature of Maine, in favor of the abolition of the spirit rations in the United States Navy.

Petition of watchmen of the Navy Department, praying to be allowed compensation for extra services.

Petition of Henry Ruggles of Brooklyn, New York, praying that authority be given to the proper Department to exchange waste land belonging to the Government, at Brooklyn, for land of the petitioner adjoining the navy-yard at Brooklyn.

EXPEDITION TO THE NORTH PACIFIC.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be requested to communicate to the Senate, copies of all reports or correspondence of Commander Ringgold, commanding the expedition to the North Pacific ocean, together with the maps, charts, and drawings of any surveys made during his voyage, with the hydrographic reports and sailing directions accompanying them, to be printed, together with five thousand additional copies for the use of the Senate, and that five hundred such copies be delivered to that officer; also, that, if the Senate shall have finally adjourned before the report of the said Secretary, in answer to this resolution shall have been received, the said report shall be sent to the Secretary of the Senate, to be printed, and sent as above, to the members of the Senate and the officer above named. And that five hundred copies of Commodore Perry's report heretofore ordered to be printed, be for the Navy Department.

NAVAL ASTRONOMICAL EXPEDITION.

Mr. FOOT submitted the following resolution, which was considered by unanimous consent, and referred to the Committee on Printing:

Resolved, That there be printed five thousand additional copies of the "Report of the United States Naval Astronomical Expedition to Chili," and that two hundred and fifty of said copies be allotted to the use of Lieutenant J. M. Gillis.

THE LATE TEXAS NAVY.

The Senate proceeded to consider, as in Committee of the Whole, the bill to provide for the surviving officers of the late Texas navy, and, on the motion of Mr. WELLER, it was recommitted to the Committee on Naval Affairs.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had passed a bill to provide for the ascertainment and satisfaction of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801.

Also, that they had passed the following resolutions of the Senate:

Resolution respecting the Arctic expedition commanded by Passed Assistant Surgeon E. K. Kane.

Resolution relative to the construction of the laws for the allowance of additional compensation to the clerks in the Census Bureau.

FEES OF TERRITORIAL OFFICERS.

Mr. DOUGLAS, from the Committee on Territories, reported a "bill to extend to the Territories generally, the laws regulating the fees and compensation of officers, and the suitors of the United States courts in Oregon;" which was read and ordered to a second reading.

Mr. DOUGLAS. I ask for the present consideration of the bill, and I will explain its purpose. About two years ago, we passed a fee bill for the United States courts, which, as I supposed, applied to all the States and Territories; but it has been construed, at the Treasury Department, to apply only to the States and to the Territory of Oregon. This bill is to declare that it shall have the same effect in the other Territories as in the Territory of Oregon. Under the law, the clerk is entitled to $500, unless his fees amount to that sum. If they amount to that, he gets no pay from the United States. This is simply to extend the provision to the new Territories, so that, if the fees of the clerks do not amount to $500, they shall be made up to it, the same as in the States. It is now construed to apply to the States and the Territory of Oregon. I presume there can be no objection to it. The reason why I ask for its consideration now, is, that to-day, to-morrow, and the next day, are territorial days in the other House, and unless it be considered now it cannot be acted on there this year.

The bill was read a second time and considered as in Committee of the Whole. It proposes to extend the provisions and principles of the act of February 26, 1853, entitled, "an act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," to all similar officers in all the Territories of the United States, and that the same fees and compensation authorized by the act in the Territory of Oregon be allowed in each of the other Territories to similar officers. The act is to have effect from and after the date of the approval of the act of February 26, 1853.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

SECRETARY OF MINNESOTA.

Mr. DOUGLAS. I am also directed by the Committee on Territories to report a joint resolution for the relief of the Secretary of the Territory of Minnesota, and I ask that it may be considered now, for the same reason, viz. that to-day and the two following days have been set apart in the House for territorial business.

The joint resolution was read twice by unanimous consent, and considered as in Committee of the Whole. Its object is to require the accounting officers of the United States Treasury to allow to the Secretary of the Territory a credit for $885, in the settlement of his account, that being the amount of an account paid by him for collating, noting, indexing, and superintending the publication of the laws of the Territory, for the years 1849, 1851, 1852, and 1853; and for indexing, and, in part, reporting the decisions of the supreme court of the Territory for 1850 and 1851, agreeably to the provision of a joint resolution of the Legislature, passed in March, 1853.

Mr. DOUGLAS. The Secretary was directed by the Territorial Legislature to have that work done, and it was done accordingly. Doubts, were, however, entertained at the Treasury Department as to whether that was in strict conformity with the organic law of the Territory. That it is a case of merit there is no doubt, I believe. I hope it may be passed now.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EFFICIENCY OF THE NAVY.

Mr. MALLORY. By direction of the Committee on Naval Affairs, I report a bill to promote the efficiency of the Navy. In doing so, Mr. President, I desire to say to the Senate that the Committees on Naval Affairs of the two Houses have despaired of obtaining congressional action upon those general reforms which have been recommended by the Secretary of the Navy; and they have called upon him to suggest a single reform, which lies at the basis of all others. He has done it; and the bill, as now reported, is, in fact, the bill of the Navy Department, concurred in by the committees of the two Houses. It embraces but a single feature, and involves no additional expenditure of money for naval defense. I desire to give notice to the Senate, without having the bill made the special order for any particular day, that I shall call it up at the very earliest moment, deeming it of very great importance for the efficiency of the naval service.

The bill was read a first time, and ordered to a second reading. The report was ordered to be printed.

BRIG GENERAL ARMSTRONG.

Mr. BENJAMIN. I desire now to make the motion, of which I gave notice on Friday, to reconsider the vote on the engrossment of the bill for the relief of the claimants of the private armed

brig General Armstrong; and, also, on the amendment offered by the Senator from California.

The PRESIDENT. The first question will be on taking up the bill for the purpose of enabling the Senator to make the motion.

Mr. BENJAMIN. I understand I have the right to submit the motion, and let it lie on the table for action hereafter.

Mr. BADGER. The usual course is to enter the motion.

The PRESIDENT. That will be done.

PUBLICATION OF DEBATES.

Mr. BADGER. I submitted, at the last session, a resolution for the purpose of paying the editors of the National Intelligencer for the publication of certain reports of proceedings of the Senate. I was obliged, in consequence of ill health, to leave here before the adjournment last session, and I have had no opportunity of calling the attention of the Senate to it until now. I ask that the resolution, which I have modified, be taken up, read, and disposed of. I hope there will be no objection to gratifying me in this. It is not long that I shall have the opportunity of asking any favors from the Senate.

Mr. HUNTER. Will the Senator consent to lay it aside if it leads to debate? If he will, I shall not object to taking it up.

Mr. BADGER. If it is not disposed of when the hour fixed for the special order arrives, I will, of course, consent to let it go over.

The Senate proceeded to consider the resolution.

As modified, it is as follows:

Resolved, That the Secretary of the Senate pay, from the contingent fund of the Senate, to the proprietors of the Union, National Intelligencer, and Sentinel, for publishing the debates and proceedings of the Senate for the last and present Congress at the rate of $4 50 per column: *Provided*, That neither of said journals which may have already been paid for any portion of the above service, shall be again paid for the same.

Mr. FITZPATRICK. I can see no necessity for adopting that resolution. We might, with the same propriety, extend it to the New York Herald, and all the other papers in the country which publish reports of our debates. We have a corps of reporters. All our debates are published in the Globe, and sent to the world under the sanction of the Senate, and it seems to me strange that we should now take a wider range, and include all the press in this city. I will inquire of my honorable friend from North Carolina, if the resolution embraces the reports of last session?

Mr. BADGER. Yes, sir.

Mr. FITZPATRICK. If I am not mistaken, there was a proposition of that kind made at the close of the last session, and voted down by this body. Now, sir, what great object can be accomplished by the adoption of such a resolution? A very large expenditure would evidently accrue to the Government by paying for the publishing of the debates in those papers. The debates are open to the press throughout the country; and many of the leading presses have published them. But what can we accomplish by this resolution? We have all our debates in an authentic form, under the sanction of the Senate, sent to us, as I before remarked, by the able reporter whose compensation we have increased for the express purpose of excluding all other papers. A much heavier expenditure is embraced in that resolution than would seem to strike the Senate; and we ought not, in this hurried manner, to attempt to give so wide a range to the press of this city, for you may, with as much propriety, include all the presses throughout the country. If it would tend to enlighten the public mind, if there was any practical result to be accomplished by it, I should not oppose it; but I call upon the Senate to scrutinize the resolution before they agree to pay from the Treasury such a vast amount of money as will be paid if we include the papers which are embraced in it. I dislike to oppose anything proposed by my honorable friend; but looking at the public interest, and standing in the relation which I do to the Committee on Printing, to which the resolution has not been referred, I must object to it—especially after the proposition has once been rejected by the Senate.

Mr. BADGER. I am not going to enter into a debate on this subject. I wish to say but a few words. This proposition is not suddenly sprung upon the Senate. It has been long upon the table—ever since the middle of last session; but, as I have already explained, in consequence of my compelled absence from the Senate towards the close of the session, caused by ill health, I had no opportunity of calling it up. The Senator asks, why do this? The debates are now reported fully and ably. So they are, sir; but the object of this is to pay those who have put the debates, so fully and so ably reported, into the widest circulation through the country. That is all. We all know that the Daily Globe is not taken extensively——

Mr. FITZPATRICK. I desire to ask my friend if that resolution was not disposed of at the last session?

Mr. BADGER. It was on the table; but I had not then an opportunity to call it up.

Mr. FITZPATRICK. There was a resolution of a similar character voted on and rejected.

Mr. BADGER. It was a different resolution.

Mr. CLAYTON. Mr. President, I only wish to say that, like the Senator from North Carolina, but for indisposition at the close of the last session, I should have moved to take up that resolution in his absence. I hope it will now be agreed to.

Mr. DODGE, of Iowa. I do not think this resolution should be agreed to. I do not think the papers mentioned in it have any claim whatever upon the Senate, for the publication of the debates of this body which they have published. It is known that we have gone to most extraordinary expense for the publication of the reports of our proceedings, and that that expense has increased enormously, and at no time was it increased to a greater extent than during the last session. The proposition amounts to this: We pay a corps of reporters a given amount, and give them extra compensation for reporting the debates. We pay a very large sum to John C. Rives, for we have doubled, and more than quadrupled, the number of Globes which we take. Now, sir, the papers mentioned in the resolution have published a synopsis of the debates for their own purposes, to increase their own circulation, and to add to their profits. Two of them, formerly, had contracts with us for the reporting of our proceedings; but, after some time, they informed us that they must cease to report our proceedings, on the ground that the prices were inadequate. They have, however, for their own private purposes, furnished to their readers a synopsis of the reports, and probably, on some occasions, some particular debates, and now the proposition is to pay them for that. They have, in my opinion, no sort of claim to any such compensation; and I hope the Senate will not award it.

Mr. FITZPATRICK. The question of publishing the debates was very elaborately discussed at the last session of Congress. It underwent a very rigid scrutiny before the Committee on Printing on a memorial from the gentleman who publishes the Globe. At that time each Senator was entitled to twelve copies of the Congressional Globe and Appendix. It is within the recollection of every gentleman who hears me speak, that this body was occupied for two or three days—perhaps two days exclusively engaged—in the discussion of the question as to the increased compensation to the publisher of the Globe. It is also in the recollection of Senators that the increase did not receive my sanction, though I was entirely willing to agree with the committee in awarding him a reasonable compensation, by subscribing for an additional number of Globes; but, instead of receiving twenty-four copies, the Senate determined that each Senator should receive about ninety copies.

Mr. BADGER. Ninety-three.

Mr. FITZPATRICK. Ninety-three to each Senator. That, according to my understanding, settled the question, and confined the paid publication exclusively to our own reporter; yet, now, as the Senator from Iowa says, after those papers have published such portions of the proceedings of this body as they deemed calculated to interest their readers, and obtain for those papers an increased circulation, we are called upon to pay them. Mr. President, it involves a heavy expenditure of the public money; and for the purpose of avoiding an expenditure which I believe to be unnecessary, I ask the Senate not to give this resolution its sanction. I call for the yeas and nays upon its adoption, that we may see who are disposed to add such an expense to the Treasury.

The yeas and nays were ordered.

Mr. ADAMS. I should prefer that the vote should not be taken on the resolution this morning. I know that the Senator from Georgia, who is absent, [Mr. TOOMBS,] is very decidedly opposed to it; if he were here, he could give his objections, which, it seems to me, from a conversation I have had with him, would be conclusive to every one. What is the consideration for voting the sum of thirty or fifty thousand which is proposed to be given to those papers? They print a portion, or all, of the proceedings of this body, and of the other House, as they may think proper. They publish such speeches as suit their taste, or as they think will increase their own circulation. I ask you, sir, if almost every other paper in the United States does not perform the same service to the country? Have they not, then, just as much claim to the consideration of Congress for a pension? It would certainly be nothing else than a pension—a pension of ten thousand dollars to each of these papers, for, if you make the calculation, you will find that it will amount to that, or even to a greater sum. Other papers throughout the country, obtain this information at much greater cost than they do, and publish it to as large, and some of them, perhaps, to a much larger number of readers. Why is it then, that these papers, simply because they happen to be located in the city of Washington, should have this preference over other papers which render precisely the same service to the country—if, indeed, it be a service.

I can see no propriety in it. They have no contract with the Government. There is no obligation, either express or implied, that the Government shall pay for publishing such information as will promote their circulation. They keep no reporters, or if they do, it is unnecessary. We pay the best reporters in the world—the reporters for the Globe—to furnish all the information contained in those papers; and they have nothing to do but to extract it, and publish it immediately, as other papers in the country do. If there be any other reason for it, except that it is a gratuity, I have been unable to see it; I have heard no man suggest it.

I know that it is an unpleasant duty to oppose a proposition of this sort. These are the principal papers of the District of Columbia. Their conductors are conversant with the labors of the members of this body, and of the other House; and they can give a man character at home for usefulness, or a want of usefulness here. With many, therefore, it is an ungracious task to vote against giving them ten thousand dollars for the puffing of one, and the detraction of another. Yet there is an obligation resting upon every Senator to perform his duty to the country; and why you should tax the people these thirty or fifty thousand dollars to grant a gratuity to these papers, I am unable to see. I have heard no reason assigned for it—I can see none for it—and I therefore move that the resolution lie upon the table.

Mr. BADGER. I hope the Senator will let us vote on the resolution. It will take less time.

Mr. ADAMS's motion was agreed to—ayes 22, noes 16.

BOUNTY LAND BILL.

Mr. BRODHEAD. I hope the Senate will now take up the bounty land bill, and dispose of it. I think it will not occupy twenty minutes. I am sure the Senate is ready to vote on the motion made by the Senator from California, [Mr. WELLER,] to reconsider the amendment offered by the Senator from North Carolina, [Mr. BADGER.] All the amendments have been offered, and there is but one vote to be taken. The bill has been long before the Senate, and I think that we are prepared to vote upon it this morning.

Mr. GWIN. The Senator from Pennsylvania says that, if his bill be taken up, it will be disposed of without debate, or, at most, in twenty minutes. Mr. President, our experience has taught us that the Senator's twenty minutes may be like Senatorial speeches of "one word," which run to one hour. If I thought this bill could be disposed of in four hours, I would not interpose; but we have heard the same thing before from the Senator, in good faith, too; but when it is taken up, Senators must express their views, and offer their amendments. I hope the Senator will let us dispose of the Army appropriation bill, which is the unfinished business of Thursday.

Mr. CLAYTON. I ask for the yeas and nays

on the motion of the Senator from Pennsylaania to take up the bounty land bill.

Mr. HUNTER. Before the question is taken, I will suggest to my friend from Pennsylvania, that we can probably dispose of the Army appropriation bill to-day or to-morrow, if he will let us go on with it now. It was the unfinished business when we adjourned on Thursday, and, therefore, it comes up first in order to-day. The Senator from Texas [Mr. HOUSTON] has the floor, and I hope we shall proceed with it.

Mr. BRODHEAD. If I believed the consideration of the bounty land bill would take over half an hour, or an hour, I would yield to the suggestion of the Senator from Virginia; but I feel certain that, in view of the pressure of business upon the Senate, Senators are ready to vote without speaking further upon it.

Mr. SHIELDS. I feel very desirous to have a vote upon the bounty land bill; but we are now in the middle of the consideration of the Army appropriation bill, and I certainly cannot consent to take up the bounty land bill until that be disposed of. I hope the Senator will permit us to proceed with the Army appropriation bill, and finish it to-day; which I think we shall be able to do.

The question being taken by yeas and nays, resulted—yeas 23, nays 24; as follows:

YEAS—Messrs. Badger, Bell, Brainerd, Brodhead, Butler, Clayton, Cooper, Dawson, Fessenden, Foot, Houston, Jones of Tennessee, Pettit, Pratt, Reid, Rockwell, Seward, Sumner, Thompson of Kentucky, Thomson of New Jersey, Wade, Wells, and Wright—23.

NAYS—Messrs. Adams, Allen, Benjamin, Bright, Chase, Clay, Dodge of Wisconsin, Dodge of Iowa, Douglas, Evans, Fitzpatrick, Geyer, Gillette, Gwin, Hunter, James, Jones of Iowa, Pearce, Rusk, Sebastian, Shields, Stuart, Toucey, and Weller—24.

So the motion was not agreed to.

ORDER OF BUSINESS—FRENCH SPOLIATION BILL.

Mr. HUNTER. I now move to postpone the prior orders, for the purpose of taking up the Army appropriation bill.

Mr. CLAYTON. Mr. President, I shall certainly interpose no objection to taking up, at the earliest possible moment, the bill referred to by the honorable Senator from Virginia; but a bill of great importance has just been returned from the House of Representatives, with two amendments, the consideration of which, probably, will not occupy the attention of the Senate for ten minutes, it being the general disposition, so far as I understand the views of the Senate on the subject, to acquiesce in the amendments of the House. I refer to the bill which has been pending before Congress for more than fifty years, to indemnify the claimants for the spoliations committed by France, prior to the year 1800. Now, if my friend from Virginia will yield for a few minutes, we shall relieve those who have been suffering for want of this justice for fifty years. I trust he will consent to let that bill be taken up, for I think it can be disposed of without debate.

Mr. HUNTER. I hope the Senator from Delaware will allow it to lie over until to-morrow, so that we may examine the amendments. I have not seen them. Let us go on with the Army appropriation bill to-day; and the Senator can call up the bill to which he refers to-morrow, in the morning hour. This will facilitate business by giving us an opportunity to look into the amendments. Let them be printed.

Mr. CLAYTON. It is very hard to resist the application of the Senator from Virginia. If he will tell me he does not understand the amendments, I shall, of course, consent to give him time to examine them.

Mr. HUNTER. I assure the Senator that I have not read them; I have not even seen them, as yet.

Mr. CLAYTON. Then I move that the amendments be printed, and that the subject be made the special order for to-morrow, at half past twelve o'clock.

The PRESIDENT. The first question must be on the motion of the Senator from Virginia, to take up the Army appropriation bill.

Mr. CLAYTON. I think the Senator gave way for me.

Mr. HUNTER. I am willing to yield the floor for a motion to print. I hope the Senator will ask no more than that.

Mr. CLAYTON. I ask for the printing of the amendments, and that the subject be made the special order for to-morrow at half past twelve o'clock. There can be no harm in that.

The PRESIDENT. The Senator from Virginia submitted the first motion. Does he withdraw that motion?

Mr. HUNTER. If it is in my power to hold on to my motion I would rather do so.

Mr. CLAYTON. But the Senator gave me the floor, and I made my motion after he gave me the floor.

The PRESIDENT. The Senator from Delaware moves to take up the bill which has been received from the House of Representatives.

Mr. DODGE, of Iowa. I suppose the object of that motion is thoroughly understood. It is for the purpose of having the amendments printed, and I presume there can be no objection to that.

Mr. CLAYTON's motion was agreed to; and the bill from the House of Representatives, "to provide for the ascertainment and satisfaction of claims of American citizens for spoliations committed by the French prior to the 31st of July, 1801," was read a first time.

Mr. ADAMS. One reading is enough for that bill to-day.

The PRESIDENT. This is a House bill, which will now have its second reading if there be no objection.

Mr. HUNTER. I object to its second reading. I wish it to lie over until to-morrow.

Mr. CLAYTON. I renew the motion to print the amendments, and make the bill the special order for to-morrow at half past twelve o'clock.

The PRESIDENT. There are no amendments. It is a bill of the House.

Mr. CLAYTON. There are amendments to the Senate bill. The bill, as returned from the House, is not the bill which was sent from the Senate. It is materially changed in two particulars; it must, therefore, undergo another vote of the Senate. In order that the Senate may entirely understand the question, I move that the bill from the House, which is really an amendment to the bill of the Senate, be printed for the use of the Senate, and made the special order for to-morrow, at half past twelve o'clock.

Mr. HUNTER. That motion cannot be entertained, as the bill is not before us. It is a House bill, the consideration of which has been objected to.

The PRESIDENT. There is nothing upon the bill to show that it was ever in the Senate before. It is an original bill, marked House bill, No. 117.

Mr. CLAYTON. I know that, but substantially it is the Senate bill, with two amendments, which will probably not occupy the Senate ten minutes

Mr. HUNTER. That does not vary the question of order. It is a House bill, and I have objected to its second reading to-day.

The PRESIDENT. If the Senator objects, it must lie over, as a matter of course.

Mr. WELLER. I ask, by unanimous consent, to be allowed to submit a motion that the bill be printed for the use of the Senate.

The motion was agreed to.

ARMY APPROPRIATION BILL.

Mr. HUNTER. I renew the motion to take up the army appropriation bill.

Mr. CASS. I do not rise to interpose any objection to that motion; but to say that in the arrangements which may be made about the business of the Senate, I trust the important bills, with respect to certain great improvements, to which I have already called the attention of the Senate, will not be overlooked; but that the Senators who have brought them forward will urge their consideration at the earliest opportunity. I trust the gentleman from Louisiana, [Mr. BENJAMIN,] on whose motion a day was fixed, sometime since, for the consideration of those bills, will not overlook them.

Mr. HUNTER's motion was agreed to; and the Senate accordingly resumed, as in Committee of the Whole, the consideration of the bill from the House of Representatives, making appropriations for the support of the Army, for the year ending the 30th of June, 1856, the pending question being on the amendment submitted by Mr. SHIELDS, to provide for the appointment of three commissioners to negotiate with the Indians, and for the raising of four regiments of volunteers to suppress Indian hostilities. The first question was stated to be on the first branch of the proposition.

Mr. HUNTER. I shall vote against the amendment proposed by the Committee on Military Affairs; but, as it is my purpose to offer a substitute for that amendment, perhaps this is as good a time as any to have it read for the information of the Senate. I send to the Chair an amendment which I shall offer as the substitute for the second proposition of the Committee on Military Affairs, and I ask that it be read.

The Secretary accordingly read it as follows:

And be it further enacted, That there shall be added to the Army two regiments of cavalry, organized as the regiment of mounted riflemen of the existing force.

And be it further enacted, That the President be, and he is hereby, authorized to call for, and accept, the services of any number of mounted volunteers, not exceeding in all five hundred officers and men, to be organized as hereinafter directed, who shall, as circumstances may direct, be employed as rangers, scouts, spies, and hunters, and serve for twelve months unless sooner discharged; and the sum of —— dollars, out of any moneys in the Treasury, not otherwise appropriated, be, and the same hereby is, appropriated, to carry the provisions of this act into effect: *Provided*, That the number of privates for each company of volunteers herein organized shall not exceed sixty four; *And provided further*, That the said volunteers may be required to serve on foot, if circumstances should render such service necessary.

And be it further enacted, That the said volunteers shall furnish their own horses and horse equipments; and, when mustered into the service, shall be armed at the expense of the United States, and, until discharged therefrom, shall be subject to the rules and articles of war, and shall, in all respects not set forth in the provisions and limitations of this act, be organized in the same manner with the present regiment of mounted riflemen of the United States Army.

And be it further enacted, That the said volunteers so offering their services, may be accepted by the President in companies or squadrons, whose officers shall be appointed in the same manner prescribed by law in the several States and Territories to which said companies and squadrons shall belong.

And be it further enacted, That the volunteers who may be received into the service of the United States by virtue of this act, and who may be wounded or otherwise disabled in the service, shall be entitled to all the benefits which may be conferred by existing laws on other persons wounded or disabled in the service of the United States.

And be it further enacted, That the pay of said volunteers, including compensation for the use and risk of horses not killed in action, shall be as follows: For officers of all grades, the pay and emoluments of the like grade in the present corps of mounted riflemen of the United States Army; for sergeants, $1 25 per day; for corporals, blacksmiths, farriers, and musicians, $1 10 per day; and for privates $1 per day: *Provided however*, That if any mounted volunteer, other than a commissioned officer, shall not keep himself provided with a serviceable horse and with serviceable horse equipments, the said volunteer shall serve on foot, and shall forfeit one half his monthly pay during the services of such regiment, dismounted: *And provided further*, That the pay herein allowed shall be in lieu of all pay, allowances, and bounties, now authorized by law, except rations, clothing, and commutation in money of clothing, and except all such claims as may be valid under existing laws, for wounds or disability incurred in service, or for horses killed in action.

And be it further enacted, That the President be, and he is hereby authorized to prescribe and to vary, from time to time, as may be in his judgment expedient, the arms and equipments of the volunteers authorized to be accepted, or any portion thereof.

And be it further enacted, That, in the event that any portion of the Army of the United States, now serving on foot, shall, as provided in section second of an act "to increase the rank and file of the Army, and to encourage enlistments," approved June 17, 1850, be caused to serve as mounted troops, the said troops, if not exceeding in all four companies, shall be on the same footing as regards pay and allowances with the present regiment of mounted riflemen of the United States Army.

And be it further enacted, That the officers and men of the two regiments of cavalry provided for by this act, shall be entitled to the same provisions for wounds and disabilities, and their widows and children to the same allowances and benefits, in every respect, as are allowed to those of other troops composing the Army of the United States; and the officers and men shall be subject to the rules and articles of war; and the men shall be recruited in the same manner as other troops, and with the same conditions and limitations.

Mr. HUNTER. I do not offer this yet; but I shall offer it when the second branch of the proposition of the Senator from Illinois comes under consideration. I mean the proposition to provide for raising three thousand volunteers. I am not quite ready to fill the blank in my amendment, but I suppose it should be filled with about two millions of dollars.

Mr. STUART. The honorable Senator from Texas, [Mr. HOUSTON,] is entitled to the floor, and I do not wish to detain it from him, but I rise to suggest to the Senator from Virginia, to have his amendment printed. That will give us time to examine it before it be finally acted upon.

Mr. SHIELDS. If I understand the matter,

the honorable Senator from Virginia, offers his proposition as a substitute for the amendment which I have had the honor to present.

The PRESIDENT. It has not been offered; it has been read for the information of the Senate only. The question is still on the first section of the amendment of the honorable Senator from Illinois.

Mr. HUNTER. I intend to offer it as a substitute for the second branch of the proposition of the Senator from Illinois, when that comes up.

Mr. SHIELDS. Let me suggest to the honorable Senator from Virginia to offer it now as a substitute, because I shall then be prepared to move to amend the substitute. I believe that is allowable; and if we can get the substitute in an acceptable form, it may be that the committee will abandon the original proposition; but it will depend altogether upon that. It is competent, I believe, to proceed to the amendment of the substitute before it is voted upon.

The PRESIDENT. Yes, sir; or it is competent for the Senator from Illinois to withdraw the amendment he has offered.

Mr. HUNTER. I have not offered my proposition. I merely give notice that I shall offer it as a substitute for the second branch of the proposition of the Committee on Military Affairs.

Mr. RUSK. There are two amendments, as I understand, presented by the Senator from Illinois: one to provide for the appointment of commissioners to negotiate with the Indians, and the other for raising three thousand volunteers. Perhaps they were offered as one amendment.

Mr. STUART. No, sir; they were offered as separate amendments.

Mr. RUSK. Then the question will first be on the proposition to appoint three commissioners?

The PRESIDENT. Yes, sir; that is the pending question.

Mr. WELLER. I understood the honorable Senator from Illinois, the other day, to strike out that portion of his amendment which provides for the enlistment of friendly Indians. It is better that that should be understood.

Mr. SHIELDS. I stated that the provision for the employment of those Indians was introduced on the recommendation of the Department, and that I felt it to be my duty to present it as such; but that I was willing that it should be stricken out, because it had not been submitted to the Committee on Military Affairs.

Mr. WELLER. Mr. President, I said, the other day, that this amendment had never been formally passed on by the Committee on Military Affairs; I meant the details of it. There seemed to be a difference of opinion then between the chairman of the committee and myself, and some persons have supposed that I impeached the correctness of his statement. I intended no such thing. I simply intended to say that the details of the amendment which he submitted had never been passed on by the Committee on Military Affairs. The committee agreed to report in favor of appointing three commissioners to negotiate, if possible, a peace with the Indians. They also agreed to give the President what he asked for—three thousand volunteers. The Senator from Illinois understood the agreement of the committee to be to give the volunteers, in the manner he asked for them. I did not so understand it. I desired that the volunteers should be organized in conformity with the law under which volunteers were organized during the Mexican war. The Senator from Illinois, however, supposed that the instruction of the committee was not only to give the three thousand volunteers, but to give them in the manner in which the Executive had asked for them. There was the only point of difference between the honorable Senator and myself. Certainly, I did not design, in any way or form, to impeach the correctness of his statement.

Mr. SHIELDS. So I understood. I know the honorable Senator would not say anything which was intended at all to reflect on my course. He is correct in his statement. The committee agreed upon two propositions, first, the appointment of three commissioners, and next, to give the Executive the force for which he asked. The honorable Senator will also recollect that I was instructed to confer with the President and Secretary of War, and to bring forward their plans. I did so. Those plans were not afterwards submitted to the committee; for the committee gave me a *carte blanche*, I may say; I was to go and confer with the President and Secretary of War, and report a proposition granting the Executive what he asked. I brought forward what the Executive proposed; but the committee, in one sense, was not responsible for that part of it; nor did I hold myself responsible. I only brought forward the plan of the Executive.

Now, sir, upon the point immediately before us, in order to get my proposition fairly and clearly before the Senate, I withdraw, for the time being, the section in relation to the appointment of commissioners, and present the sections in relation to the volunteers. To the amendment, as it thus stands, the honorable Senator from Virginia can offer his substitute. Then we can proceed to amend the substitute, and if it be amended in such way as to be acceptable, it will perhaps supply the place of the proposition of the committee. I shall not, however, withdraw the amendment in relation to the volunteers, until I find that an adequate force is to be supplied in their place.

Mr. HUNTER. As the honorable Senator has withdrawn that part of the amendment in relation to the appointment of commissioners, I offer the proposition which has been read, as a substitute for the residue of the proposition.

Mr. SHIELDS. Perhaps I may as well state now, what is my proposed amendment to that substitute. It is to insert the following, in lieu of the first section of the substitute of the gentleman from Virginia:

And be it further enacted, That there shall be added to the Army two regiments of infantry, and two regiments of cavalry, organized as in the existing force; that the officers and men authorized by this act shall be entitled to the same provisions for wounds and disabilities, and the same provisions for widows and children, and the same allowances and benefits in every respect, as are allowed to other troops composing the Army of the United States. They shall be subject to the rules and articles of war, and the men shall be recruited in the same manner as other troops, and with the same conditions and limitations.

Mr. HUNTER. If the Senator from Texas does not wish the floor, I shall take the occasion to say a few words on the amendment.

Mr. HOUSTON. The Senator may have five minutes.

Mr. HUNTER. I do not wish to go on if the Senator is willing to proceed.

Mr. HOUSTON. Mr. President, before the Senate proceed to vote upon the adoption of the policy now proposed, I think it would be well to examine the causes which have led to the present condition of affairs, and then to inquire into the best means for the restoration of peace upon our Indian frontier. An examination of this sort will inform us whether there is any necessity for an increase of the military force of the country.

I am aware, sir, that, in discussing subjects which relate to the Indians, or to their rights, I shall command but little sympathy from the Senate, and not much from the country. They are a people isolated in their interest, and solely dependent for protection and justice upon the Government of the United States. How far justice has been accorded to them in the past, or how far it is, in all probability, to be awarded to them in the future, is a matter beyond speculation. If we are to judge from the past experience of our times, we should infer that there is but very little hope of anything being done for the red man; and we should infer that, in the opinion of his white brethren, his doom has already been written and recorded.

Mr. President, the Indians have been charged with an aggressive and hostile spirit towards the whites; but we find, upon inquiry, that every instance of that sort which has been imputed to them, has been induced and provoked by the white man, either by acts of direct aggression upon the Indians, or by his own incaution, alluring them to a violation of the security of the whites. They have tempted the cupidity of the Indians. If a lawless fellow happens to prove vagrant to his band, and throws off all the rules and restrictions imposed by the chiefs on their warriors, and chooses to involve his nation in a difficulty by taking the life of a white man, if he can do so, as he supposes, with impunity, his action is charged to his tribe; but they should not be held responsible. Sir, we have seen thrilling accounts of sanguinary massacres, which alarm us at the first blush; and if we are to believe the paragraphs disseminated through the medium of the newspaper press, we should suppose, in reality, that the Indian was as barbarous as he had ever been, and that all the assaults or massacres, as they are termed, are unprovoked and wantonly inflicted on the defenseless white man. As an instance of this, let me mention the massacre at Fort Laramie, and from that instance you can pretty accurately deduce the true condition of other acts of a similar character. What were the circumstances in connection with that case?

During the last summer, some bands of the Sioux nation of Indians were encamped within six miles of Fort Laramie. They were in amity with the United States, and on terms of friendship and good feeling with the officers and men of the neighboring fort. A man from a neighboring tribe whose relatives had, a year before, been slaughtered by the troops at Fort Laramie, happened to be among these bands of Sioux. Some Mormon emigrants passed by the camp of the Indians, and a cow escaped from them, made towards the village, and the Mormons pursued her, but unsuccessfully. The Indian to whom I have referred, by way of revenge for the loss of his relative, slaughtered the animal. Complaint was made at Fort Laramie. The chiefs instantly said that they would see that reparation was made for the injury which had been done. Was this satisfactory to the commanding officer? No, sir; but he detailed a lieutenant, or brevet lieutenant, with a company, for the purpose of arresting the Indian. The company arrived at the encampment of the Indians with a piece of artillery. Demand was made of the chiefs; but this Indian said to them, "I have taken a lodge here; I am willing to die; you have nothing to do with this matter; you have no concern with it; the responsibility is not upon your people, but it is upon me alone." So soon as this reply was given to the lieutenant, he fired and crippled one of the principal chiefs, and killed a man. The delinquent still refused to give up. After that, the chiefs rallied and exhorted the men to commit no outrage; their influence controlled the action of the Indians; but a drunken interpreter, who was calculated to incite the lieutenant to action, caused him, no doubt, to fire his cannon. The next thing was, that the war-whoop was sounded, and the lieutenant and part of his men were killed. The others dispersed, were pursued by the Indians in hot blood, and every man was slaughtered.

This is a succinct narrative of that event. Were the Indians to blame? He who violates a law is the man who is responsible for the consequences of that violation. The Indian intercourse laws of the United States, have pointed out the manner in which to proceed in such a case. If a citizen sustains injury from any tribe, or from an individual of a tribe, information is to be given to the Indian agent for that tribe. He is immediately to make a demand upon the chiefs of the nation. If they do not surrender the individual, which, in all probability they would do immediately, if they were treated in good faith, deduction is made from their annuities for the amount of the injury, and there the matter stops. If no annuities are due to them, rather than bring on war, the United States Treasury is responsible to the individual who has sustained loss. These are the provisions of the intercourse laws. In this case, did either of the officers make a demand on the chiefs? The chiefs sent an assurance that justice would be done, and the individual given up, though he did not belong to their band. The officers, unwilling to receive that assurance, dispatched a handful of men against several lodges of Indians, and among whom there had been some ground of complaint. The consequences which I have narrated, resulted from this indiscretion and violation of law. It was a violation of law, for no demand was made upon the chiefs for indemnity, and no response was received from them. These gallant gentlemen thought they should go there and make war. They are paid for it; "it is their vocation." Are such men entitled to sympathy? Are they entitled to respect? But their conduct alarmed the Sioux; and because that tribe proposed to confederate with other tribes, we are asked to increase the military force of the country; forsooth, we are to wage war upon the winds, for you might as well do it, as upon the prairie Indians

But this is not all that grew out of that transaction. A clamor is raised about the mail party who were destroyed subsequently to that. It

was very natural to expect that it would be done. The Sioux chief who was wounded on the occasion to which I have referred, was taken to the Arkansas, and there he expired in consequence of the injury he had received. His kindred resolved to revenge his death. The Indian appreciates the ties of kindred far beyond any white man. They may have less intelligence; but the chords of nature are stronger, the sensibilities of the heart more lively than those which stimulate our Christian, enlightened action. It is well known that the grief which resounds through the Indian camp, when a warrior or chief expires, or when a relative dies, is like the wailing of Egypt. When this chief expired, his friends sought for a white man, that they might take vengeance on him—not for those who had inflicted the wrong, but whoever they might happen to find among the whites. They first came upon the mail party. One, who was not a relative of the chief, said to one of his kindred, "there is a white man, you can now take vengeance on him; you are a coward if you do not do so." He said, "I am no coward; but if you say it, I will kill him." Then he went and killed two out of the three composing the mail party.

Now, sir, what had been the condition of the Indian country previous to these occurrences? I have been assured by gentlemen who have passed from California to Fort Laramie, a distance of one thousand four hundred or one thousand five hundred miles, that they met individuals traveling alone through that vast region. They passed through a wilderness of one thousand four hundred or one thousand five hundred miles unassailed, and without injury from any one. Did this look like a desperate feeling on the part of the Indians, when they allowed unprotected individuals, sometimes singly, occasionally in small companies of three or four persons, to pass through their country unmolested? No, sir. It is some sudden act of wrong and outrage which stimulates the Indian to aggression. He has no inducement to it unless he expects great plunder, because he is very well aware that if he cultivates kind and friendly relations with the whites, he can receive from them supplies that he cannot obtain in any other way—things which gratify his taste for dress, and supply his wants and appetites. For this reason, the Indian is always disposed to be in peace and friendship with his white neighbors if he can.

I have given some illustrations of the so-called Indian outrages. I may refer to another one, which not long since took place in Oregon, and which is given, in some quarters, as a reason why an increase of the Army is required. I refer to a recent massacre of the Indians at a ferry house in Oregon, as described by the agents and superintendents of that Territory. A number of miners to the amount of forty, associated together to attack a village of seventy Indians, men, women, and children, without any means of defense, with only five pieces of fire-arms, pistols, and guns, and two of them entirely useless. The officer, who reports the action, describes in a most military and elegant style, the manner in which he assaulted the village in three divisions. They were entirely successful; killed some sixteen men, killed one squaw, and wounded a couple, and no children—that was merciful! But, sir, they scattered the warriors who were there defenseless, and applied the torch to their wigwams. We are told by the gallant gentleman who reported the matter, that the next day the Indians were there hovering about the mouldering ashes of their wigwams. This gallant and chivalrous man, wonderful to relate, says he did not lose a man in the attack! Was he not lucky? [Laughter.] That fellow must look out for a brevet; though I hope he will hardly come here claiming bounty land. [Laughter.]

This act is denounced by the agent and superintendent as most cruel and barbarous. The poor creatures were willing to do anything and everything which was asked of them. They denied every charge that the malicious and the wanton had brought against them; and the truth of their narrative is indorsed by the agent, a man of intelligence. I do not know him; but his report bears the impress of intelligence and integrity.

Well, sir, these circumstances, it is said, call for an army of three regiments, or eighteen hundred men. What are they to cost? Five millions of dollars is the amount which it is proposed to appropriate by the bill which was reported by the Senator from Illinois. We are to appropriate $5,000,000 to bring on a great Sioux war, to meet a most wonderful confederacy, which, it is said, is forming among the Indians. Why, sir, they cannot keep together, because they are starving in little bands, even in those parts of the country where they can command the most game. How could they remain embodied for any length of time without supplies, without animals, and without food, when their women and children are starving? How could they, under such circumstances, remain a mighty confederation, to sweep our frontier? Why, sir, from the display that is made, by the terrible cry of alarm, one would think that New Orleans itself could hardly be safe, but that the Indians would sweep down the Missouri and Mississippi, and carry death, destruction, and devastation in their course!

Are these causes calculated to produce such mighty effects? Is it proper that the nation should be involved in a general Indian war at this time? Is it proper that $5,000,000 should be expended from the Treasury to begin this war? If this be done, what will be the consequence? The Indians will not be embodied to meet you. Your troops will hear that in some direction there is a Camanche, or a Kioway, or an Osage camp, and they will advance upon it with "all the pomp and circumstance of glorious war." A morning gun will be fired as a signal to rise and prepare for the march. On such an occasion, with the bugle sounding in advance, how beautiful must be the reflection from the arms and banners floating in the prairie! That is to be the spectacle which is to amuse or drive the Indians ahead. They are to meet the Indians on a trackless waste. You might as well pursue the course of a ship's keel on the ocean as to pursue the Indians of the prairies. They would disperse, and your Army would be left there; and they, perhaps, surrounding you, in the distance, and laughing at the glorious pomp with which you were marching through their prairies. You will not get them to embody; and if you could, they would show you their power. If you take men there, and make a display without efficiency, you provoke their ridicule and supreme contempt.

But, Mr. President, the course which has been pursued, since the days of William Penn to the present moment, has not been entirely successful in conciliating the Indians. Under the management of Washington, of the first Adams, of Madison, of Monroe, of the second Adams, of Jackson, and of Polk, we have, with few exceptions, been very successful in maintaining peace with them. The suggestions made by our fathers, in relation to their civilization and humanization, are exemplified and illustrated in the present condition of the southern tribes, who have received the greatest benefits of the light shed on them; and they have responded to it by the cultivation of mind, by the development of resources, both physical and intellectual, which reflect luster on their character. Cannot the Indian now be influenced in the same way, by the same means? Have we no landmarks to guide us? Have we not experience to teach us? Have we not humanity to prompt us to march on in the path which is already laid out before us?

Sir, how different is the policy now pursued from what it once was? I must read, for the instruction of the Senate, an extract from the last annual report of the Commissioner of Indian Affairs, and I beseech their attention to it, because it contains more good sense and reflection than I could impart in the same number of words. It will be necessary, in the examination of this subject, in relation both to the Indians and the Army, to see in what manner they harmonize with each other, and how far the one is necessary to the success of the other. The Commissioner of Indian Affairs, in his report to the Secretary of the Interior, describes a transaction to which I wish to call attention:

"As heretofore reported to you, an association of persons has undertaken to appropriate to their own use a portion of the land ceded by the Delawares, fronting on the Missouri river, and south of Fort Leavenworth; have laid out a city thereon, and actually had a public sale of the lots of the same on the 9th and 10th of October last. These unlawful proceedings have not only taken place under the eyes of the military officers stationed at the fort, but two of them are said to be members of the association, and have been active agents in this discreditable business. Encouraged by these proceedings, and prompted by those engaged in them, other persons have gone on other portions of the tract ceded by the Delawares in trust to the United States, and pretend to have made, and are now making, such 'claims' as they assert will vest in them the lawful right to enter the land at the minimum price under the preemption law of July 22, 1854."

This is a specimen of the aid and succor afforded by military commanders to the agents to maintain and preserve peace among the Indians. These are the gentlemen to whom the agents look for coöperation in the discharge of their duties, and to afford equal protection to the Indians against aggressions from the whites, as to the whites against aggressions from the Indians. Such a transaction as is here disclosed is an act of unmitigated infamy in the officers who have lent themselves to it. I hope the Executive, in the plenitude of his power, and in the exercise of a wise and just discretion, will erase their names from the records of the country, and redeem our annals from infamy so blackening as this. Think, sir, of an officer wearing an American sword, adorned with American epauletts, the emblem of office and the insignia of honor and manly pride, degrading himself by a violation of the faith of his Government, rendering him a disgrace to the uniform which he wears and the earth upon which he treads!

It will be recollected that the Delaware Indians owned one million eight hundred thousand acres of land. They ceded one million three hundred thousand acres to the Government of the United States for $10,000, reserving to themselves the land on which the city referred to has been laid out, on the banks of the Missouri. They confided five hundred thousand acres to the Government of the United States, as they could not themselves dispose of it, except to the Government; and, believing that it would be a source of wealth and independence to them, they have granted it to the Government, in trust, to be sold by the Government, the right of possession remaining in them until it should be disposed of. It appears, from the commissioner's report, that persons have gone and taken possession of this land. If they have not done so, they ought to be vindicated against the charge. I regard it as authentic and official, and until it is controverted, I have nothing to extenuate; nor do I set down aught in malice. Justice requires me to state the facts.

Mr. President, I said to the Senate, on a former occasion, that eighteen tribes of Indians had been located by this Government within the limits of the present Territories of Nebraska and Kansas, and that most of them had been removed there from the east of the Mississippi. They were located there under the faith of solemn pledges, that while grass grew, or water ran, or the earth brought forth its fruits, they should remain on the lands assigned to them unless they chose to abandon them, and that they should not be included within the boundaries of any State or Territory. Notwithstanding this, these Indians were embraced within the Nebraska and Kansas bill. They were taken in—yes, sir, as strangers are sometimes "taken in." What is now their condition, and what must it be in after time? On this point let the Commissioner of Indian Affairs speak. In his recent report he says, in reference to the Nebraska and Kansas Indians:

"In the recent negotiations for their lands, the Indians dwelt upon the former pledges and promises made to them, and were averse generally to the surrender of any portion of their country. They said that they were to have the land "as long as grass grew, or water run," and they feared the result if they should consent to yield any part of their possessions. When they did consent to sell, it was only on the condition that each tribe should retain a portion of that tract as a permanent home. All were unitedly and firmly opposed to another removal. So fixed and settled was this idea, that propositions clearly for their interest were rejected by them.

"The residue of the tribes who have recently ceded their lands should, therefore, be considered (subject, in a few cases, to a contraction of limits) as permanently fixed. Already the white population is occupying the lands between, and adjacent to, the Indian reservations, and even going west of and beyond them; and at no distant day all the country immediately to the west of the reserves, which is worth occupying, would have been taken up. And then the current of population, until within a few years, flowing only from the East, now comes like an avalanch from the Pacific coast, almost overwhelming the indigenous Indians in its approaches. It is, therefore, in my judgment, clear, beyond doubt or question, that the emigrated tribes in Kansas Territory are permanently there—there to be thoroughly civilized, and to become a consistent portion of the population; or there to be destroyed and exterminated. What a spectacle for the view of the statesman, philanthropist, Christian—a subject for the most profound consideration

and reflection! With reservations dotting the eastern portion of the Territory, there they stand, the representatives and remnants of tribes once as powerful and dreaded as they are now weak and dispirited. By alternate persuasion and force, some of these tribes have been removed, step by step, from mountain to valley, and from river to plain, until they have been pushed half way across the continent. They can go no further; on the ground they now occupy the crisis must be met, and their future determined. Among them may be found the educated, civilized, and converted Indian, the benighted and inveterate heathen, and every intermediate grade. But there they are, and as they are, without standing obligations in their behalf of the most solemn and imperative character, voluntarily assumed by the Government. Their condition is a critical one; such as to entitle them not only to the justice of the Government but to the most profound sympathy of the people. Extermination may be their fate, but not of necessity. By a union of good influences and proper effort, I believe they may, and will, be saved, and their complete civilization effected.

"Be that as it may, however, the duty of the Government is, in my opinion, plain. It should fulfill, with the greatest promptness and facility, every treaty stipulation with these Indians; frown down, at the first dawning, any and every attempt to corrupt them; see that their ample annuities are directed faithfully to their education and improvement, and not made the means of their destruction; incessantly resist the efforts of the selfish and heartless men who, by the specious plans and devices for their own gain, may seek to distract and divide them; require diligence, energy, and integrity, in the administration of their affairs, by the agents who may be intrusted with their interests and welfare, and visit the severest penalty of the law on all who may violate its salutary provisions in relation to them. Let these things be done; the coöperation of the civil officers, magistrates, and good citizens of the Territory secured, and the most active efforts of the friends of the benevolent institutions now existing among them, be brought into exercise for their moral culture; and, by harmonious and constant effort and action, a change may, and, it is believed, will, be brought about, and Kansas become distinguished as a land in which the complete and thorough civilization of the red man was worked out and accomplished."

Sir, it is the violation of treaties and the bad faith of the white man, and his aggressive course, that cause the inquietude of the Indian, and we feel it very much in the section of country in which I live. There is a remedy; and that remedy must be applied, or the Indians exterminated, at an expense ten times beyond what would civilize, in half a century, every red man who walks upon the soil of America. I have seen tribes rise from a state of barbarism to a condition in which they are as civilized in their institutions, in their religion, and in their social refinement and habits as citizens of the United States; and all this has been done within half a century. These things are as possible now as at any former time; and a sum, very easily calculated, less than the amount estimated as necessary to raise these troops and subsist them for one year, would civilize every Indian on the continent, set him down on a piece of land, and give him "a local habitation and a name." Is it not worth an attempt? Is it not worth accomplishment? Sir, let me give you some experience in relation to Indians.

The United States have regiments in Texas, and Texas is considered by some as a burden on the Treasury. Texas, it is said, exhausts the Army of the United States, and withdraws them from more eligible stations to protect her frontier. I will show you, sir, how that is. In 1843 and 1844 Texas had a war on hand which had been brought about by an invitation, at a former period, to chiefs to come in and treat, when they were taken prisoners, and a fracas ensued in which sixteen were murdered. That took place in the year 1840, and peace was not restored until 1843, when the head of the Government of Texas went about the work of their civilization. He went into the wilderness, on the prairies, and there met the Indians, who would not trust themselves within the timbered land, nor near any place where there was a possibility of ambuscade. A treaty was there made, which not only stayed the tomahawk, and the scalping knife, but preserved peace and safety on the frontier until 1849. We were for six years without massacre, without conflagration, without prisoners being taken. Not a Texan was killed in that time by the Indians. One man was killed near the Indian country, but whether by the Mexicans or Indians was a doubtful question; at any rate he was not scalped.

Now, sir, how was this done? By what means? By pursuing a policy which had been initiated in 1836, but was disrupted in 1838, and a war brought upon the entire borders of that young Republic. The old policy was reëstablished in 1843. Resistance was made to it, as there was to every attempt made to establish a Government. There was an attempt, on the part of some villains, to resist everything like order and organization, and throw the Government into anarchy and misrule; but it failed. These Indians had been our enemies; they had been exasperated further by unprovoked aggressions upon them, and upon harmless traders; but the proper conciliatory disposition soon won their regard and affection. What was the expense of all this? I am almost afraid to state it, for I fear it will not be credited when we see the enormous estimates now made for the expense of treaties with the Indians. Sir, every dollar given to the Executive of Texas to consummate these treaties, to feed the Indians, to make presents, was just $10,000; and he rendered vouchers for the last cent. For this sum peace was accomplished and maintained, the safety and protection of our frontiers insured, and the Indians made peaceable and happy.

When Texas was annexed to the United States, these Indians, on account of faith having been maintained with them by the then Executive of Texas, refused to meet and confer with the commissioners sent to them by the President of the United States, until they had the sanction of the Government of Texas; and the symbols of confidence were put in the hands of the commissioners before the Indians would treat with them. A treaty was then negotiated. What was the history of it? One of the commissioners, a noble and gallant gentleman, who afterwards fell at Chepultepec, in Mexico, at the head of his regiment, was too much indisposed to render any assistance. His co-commissioner assumed the whole business; and what did he do? He had the Indians' names signed with a mark on a sheet of paper, had it attested, and brought it on here. He made large promises to the Indians; he assured them of an annuity of $14,000, to be paid annually, at a certain trading house; but when he wrote his treaty (for he did not write it until he came here, when he appended to it the sheet containing the signatures,) it contained a provision that they should receive barely $14,000 as a full acquittal. It cost $60,000 to negotiate this treaty, as the records of the Treasury show. This is a sum equal to the price of six years peace between the Indians and the Government of Texas. Perhaps, however, the people of Texas were better then than now. Since that time they have been associated with the people of the United States. I simply state facts; I leave the inferences to others.

Sir, if the agent appointed by Mr. Polk, who has been restored by the present Executive—it is a bright spot in his Administration, and I commend him for it—had never been removed, there would have been peace to this day on the borders of Texas; but as soon as the Indian agent who was appointed to succeed him went there, he must forsooth establish a ranche; he must have a farm. The Indians who had been settled there from 1843 up to 1849, had been furnished by the Government of Texas with implements of husbandry, with seeds of every description, and they were cultivating their little farms. They were comfortable and independent. They were living in perfect peace. If you can get Indians located, and place their wives and children within your cognizance, you need never expect aggression from them. It is the Indian who has his wife in security, beyond your reach, who, like the felon wolf, goes to a distance to prey on some flock, far removed from his den; or like the eagle, who seeks his prey from the distance, and never from the rocks about his eyrie. The agent to whom I have referred lost two oxen from his ranche where he employed a large number of cattle. He went to the officer in command of Fort Belknap, got a force from him, and then marched to those Indians sixty miles from there, and told them they must pay for the oxen. They said, "We know nothing about your oxen; our people are here; here are our women and children; we have not killed them; we have not stolen them; we have enough to eat; we are happy; we have raised corn; we have sold corn; we have corn to sell; we have sold it to your people, and they have paid us for it, and we are happy." But, they were told, "You must leave here." The agent and the military gentlemen scared off the Indians from the limits of Texas, and drove them across the Red river to the Wichita mountains, taking every horse and animal they had to pay for the two oxen. This was done by an accredited officer of the Government, and by another who disgraced the epaulets he wore! Are such things tolerable, and to be tolerated in the present age and condition of our Government?

What was the consequence? Those Indians felt themselves aggrieved. They saw that a new *régime* had come; they had had the era of peace and plenty, and now they were expelled by a different influence. They felt grateful for the benign effects of the first policy towards them, and that only exasperated them to a greater extent against the second; and they began to make incursions, ready to take vengeance on any white men they might meet in their neighborhood, and slay whoever they might find. They made their forays from the opposite side of the Red river, from the Wichita mountains, and came like an avalanche upon our unprotected citizens. There is one fact showing how your interference with the Indians within her limits has injured Texas.

There is another fact in connection with the Indian policy of Texas which I shall mention. How was it with the Wichita Indians? Texas sought to conciliate them; they lived beyond her borders, and made incursions from the limits of the United States into Texas, while she was an independent Republic. She did everything in her power to bring about peace with them, and, through the friendly Indians, was pacifying them and pacificating their disposition. One of their chiefs, with his wife and little child, and twelve of his men, came to Fort Belknap. Some one hundred and fifty or two hundred miles west of the fort, in Hanson's valley, property had been stolen by Indians. It was not known which out of thirteen different tribes had taken it; for outlaws occasionally congregated from each, half a dozen of them stealing off from their tribes, with the influence of no chief operating upon them. They were outlaws, careless of the destiny of their tribes, and reckless of the crimes which they might commit, so that they could gratify their cupidity and recompense their daring. These men had taken some property. Dragoons came on in the direction of Red river, and reached Fort Belknap. So soon as they arrived, the officer said to this chief: "Sir, I retain you as a prisoner. It is true, you came under a white flag; but I am an officer; I have the power; I take you prisoner, and you must stay here a prisoner until the horses are brought back. Your men must stay, too, except one, whom I will send to your tribe with intelligence of the fact." The chief said: "My tribe have not committed the robbery; it is a great distance from me; it is in another direction. I come from the rising sun; that is, towards the setting sun; I was far from it; you are between me and it; I did not do it." "But," said the officer, "you are a prisoner." The officer put him in the guard-house. Imprisonment is eternal infamy to an Indian. A prairie Indian would rather die a thousand deaths than submit to the disgrace of imprisonment. You may wound and mutilate him as you please, you may crush every limb in the body of a prairie Indian, and if he can make no other resistance, he will spit at you when you come within his reach. This chief, meditating upon his deep disgrace, knowing that he was irreparably dishonored, unless he could wash out his stains with blood, resolved that night that he would either die a freeman or rescue himself from dishonor. He rose in the night. He would not leave his wife and child in the hands of his enemy; so he took his knife, and stabbed his squaw and little one to the heart. Not a groan was heard, for he well knew where to apply the poignard. He went and shot down the sentinel, rushed upon the superior officers, was shot, and perished like a warrior, in an attempt to wipe a stain from his honor. His men fled and returned to their tribe, but it was to bring blood, carnage, and conflagration upon our settlements. They came not again as brothers to smoke the calumet of peace, but with brands in their hands to set fire to our houses. Contrast that with the previous years; contrast it with the harmony which had before existed, and you see the lamentable result of sending, as Indian agents and Army officers to take charge of the Indians, men who know nothing about the Indian character, and who are either broken-down gentlemen's sons, or scamps and loafers, or officers who are ignorant of everything they should be acquainted with, in order to understand Indian life.

Well, sir, how can Texas expect peace, how

can she expect protection to her citizens? Not from your army. It has never given her protection; it is incompetent to give protection; and it is a reproach to the country. I will not say to the men who command it, for they are clever men; but I say they know nothing about the Indians, and I shall prove it. Texas deserves protection, and she can have it if a rational effort be made to give it to her, but not by your troops. What sort of protection can she expect from hostile Indians when the commanding officer of that military department a gallant gentleman, who has borne himself nobly in the heat of battle, skillful in design, bold and gallant in execution, and in all the martial arts replete, but amongst the Indians a perfect novice, a mere child—has issued an order that no Indian shall go within twenty miles of a fortress on the frontier of Texas. Is not that smart? [Laughter.] The Indians think, "Very well, you say the Indians shall not come within twenty miles of your forts, and we say your men shall not come within twenty miles of us, or we will shoot them." That is a pretty good notion for an Indian; it is very natural. The boundary is fixed by the white man, and the Indian lives up to it.

Well, sir, there is a remedy for all this, and it is very easy to apply it; but how are we circumstanced there? It is supposed by some that we are deriving great aid from the Army, and that the greatest portion of the disposable forces of the United States is in Texas, and protecting it? How can they protect us against the Indians when the cavalry have not horses which can trot faster than active oxen, and the infantry dare not go out in any hostile manner for fear of being shot and scalped! Can they pursue a party, who pounce down on a settlement and take property, and reclaim that property? Have they ever done it? Did the old rangers of Texas ever fail to do it, when they were seated on their Texas ponies? They were men of intelligence and adroitness in regard to the Indian character, and Indian warfare. Do you think a man is fit for such service who has been educated at West Point Academy, furnished with rich stores of learning; more educated in the science of war than any general who fought through the Revolution, and assisted in achieving our independence. Are you going to take such gentlemen, and suppose that by intuition they will understand the Indian character? Or do you suppose they can track a turkey, or a deer, in the grass of Texas, or could they track an Indian, or would they know whether they were tracking a wagon or a carriage. [Laughter.] Not at all, sir. We wish, in the first place, to have men suited to the circumstance. Give us agents who are capable of following out their instructions, and who understand the Indian character. Give us an army, gentlemen, who understand not only the science of command, but have some notions of extending justice and protection to the Indian, against the aggression of the whites, while they protect the whites against the aggressions from the Indians. Then, and not till then, will you have peace.

How is this to be done? Withdraw your army. Have five hundred cavalry, if you will; but I would rather have two hundred and fifty Texas rangers, (such as I could raise,) than five hundred of the best cavalry you could raise. I would have five hundred infantry, so placed as to guard the United States against Mexico, and for scouting purposes. I would have five trading houses from the Rio Grande to the Red river for intercourse with the Indians. I would have a guard of twenty-five men out of an infantry regiment, at each trading house, who should be vigilant and always on the alert. Cultivate intercourse with the Indians. Show them that you have comforts to exchange for their peltries; bring them around you; domesticate them, familiarize them with yourselves. Let them see that you are rational beings, and they will become rational in imitation of you; but take no whisky there at all, not even for the officers, for fear their generosity should let it out. Do this, and you will have peace with the Indians. Whenever you convince an Indian that he is dependent on you for comforts, or for what he deems luxuries or elegancies of life, you attach him to you. Interest, it is said, governs the world, and it will soon ripen into affection. Intercourse and kindness will win the fiercest animal on earth except the hyena, and its spots and nature cannot be changed. The nature of an Indian can be changed. He changes under adverse circumstances, and rises into the dignity of a civilized being. If you war against him, it takes a generation or two to regenerate his race, but it can be done. I would have fields around the trading houses. I would encourage the Indians to cultivate them. Let them see how much it adds to their comfort; how it insures to their wives and children abundaut subsistence, and then you win the Indian over to civilization; you charm him, and he becomes a civilized man.

Sir, while people are seeking to civilize and christianize men on the banks of the Ganges, or the Jordan, or in Burrampootah, why should not the same philanthropic influences be extended through society, and be exerted in behalf of the American Indian? Is not the soul of an American Indian, in the prairie, worth as much as the soul of a man on the Ganges, or in Jerusalem? Surely it is. Then let the American Government step forward; let it plant the standard of regeneration and civilization among the Indians, and it will attract the imitation of the citizens in their philanthropic efforts. I am willing to appeal to the venerable Senator from Michigan, who knows what an Indian is, and what his disposition is, perhaps more thoroughly than I do myself. To him would I defer, but to no other man, for a certain and intimate knowledge of the Indian character.

There is another point in connection with the dealings of the Government with the Texas Indians to which I will advert. There are the Camanches of the woods, and the Camanches of the prairie. The Texas Indians do not receive their annuities in Texas, but they are brought into Kansas, a great distance from us, where they receive the munificence of the Government in their annuities, on the east of the Red river and the Arkansas. What is the consequence? They believe Texas is not their friend or that the Federal Government, from their crude notions of it, would pay them in Texas, and would not make them travel over rivers, and through trackless prairies, to receive their presents. They return to Texas, not with feelings of respect for the benefits they receive, but with contempt. This is bad policy. You should distribute your presents to the Texas Indians; in Texas. Her territory is broad enough; her domain is fertile enough; her character is high enough to justify you in doing so. She has done much for herself—more than this Government has ever done for her.

In order to treat with the Indians properly, as I have said, you should take away your troops, except the portion I have stated. The Indians, all but a few tribes, the Osages, Kiowas, the Caddoes, and, I believe, some of the Osages, are disposed to be hostile. As to the disaffection of the Siouxs, I look on it only as an uprising to resist aggression. They were fired on by artillery and small arms, without provocation, and it is but natural that they should resist. Theirs is not a confederation to assail the whites, but to protect themselves. I justify them in doing it. I am sorry there is a necessity for it; but if I were upon their border, and they proposed a confederacy to repel cruelty and butchery, I would join them; and he would be a dastard who would not.

When gentlemen speak of a war upon the Indians, have they considered the consequences? You may succeed in killing their women and children, but it is a remarkable fact that you kill but very few of the warriors. Those who march with martial display upon the Indians, find them to-night at one point at dark; they may see the smoke of their fires; and at dawn to-morrow they will be fifty or seventy miles away, with their caravans, and every child and woman, not even a dog being left behind. What army that you could send of three thousand men, or any other number, could effect anything by making war upon the Indians? Why, sir, it would be like the redoubtable exploit of the celebrated King of France, who "with forty thousand men marched up a hill, and then marched down again." [Laughter.] Yes, sir, that I predict would be the history of such a campaign.

To accomplish the object here contemplated, it is proposed to spend $5,000,000. As I have said before, that amount of money would civilize every Indian on the continent, if you sent men of intelligence and capacity among them to do it. I have been delighted with the reports which I have had the opportunity of glancing at, accompanying the annual report of the Commissioner of Indian Affairs. One from a gentleman who now occupies a seat in the other House, [Mr. WHITFIELD,] gratified me exceedingly. I have had the pleasure of seeing him but once since my arrival. I knew him, when a youth, in Tennessee, and he has more than met my expectations; though then they were not indifferent. He has proved himself to be a man of fine perceptions, of excellent judgment, and of good heart. He has capacity to treat with and to reclaim the Indians; and, I doubt not, that he and other gentlemen who could be associated with him, could go to the Indians with five hundred troops, if you please—not march through the Indian country, but send word to the chiefs; let them know they had a force, and there is not a chief, who has had any relations with the United States, but would come forward willingly, make treaties, and maintain them in good faith. But you must establish trading houses; you must protect them, and then you may command the Indians absolutely, and you will have no murders upon your roads.

Sir, would it not be much wiser to send a few wagons with presents than to send an army? Would not the object be effected much sooner by sending commissioners under the control of the Government with presents? The Executive and Senate are the treaty-making power, and all that is necessary for Congress to do, is to make an appropriation for the purpose. Would it not be much easier to take a few vehicles to transport presents to the Indians, and would not the object of attaining and preserving peace be much sooner effected in this way than by an army? While you were clothing and equipping your army, and marching it there, the Indians might kill half the people on the frontier. Your army would have to march thousands of miles to reach them; but commissioners could go quietly along, with four or five hundred troops, or as many as might be necessary; I would leave that to their discretion; I would select men of capacity for fighting as well as for treating. Send such men, and there will be no trouble in bringing about peace. My life upon it, five millions of dollars would suffice to civilize every Indian who has ever been in treaty with the United States, and settle him in a quiet and comfortable home.

Some time since the present agent in Texas was ordered to lay off a section of country in that State for the use of the Indians. He did so. He said to the fierce Camanches, "Come here, my brothers, and settle down." They have done so. The Indians to whom I before alluded, who were driven off by the former agent, after robbing them of their horses, upon the assurances given at the return of the present worthy and intelligent agent, faithful to his trust, came back in perfect confidence, and set themselves to building their houses to shelter their women, old men, and children, while the warriors went out to kill game. There they are. The southern Camanches went within the border, and said, "Let us settle;" but they were immediately told, through the influence of the Army, I suppose, that they must not settle there. I saw, not long since, a letter from a most intelligent gentleman, who said that the officer at Fort Belknap, with three companies of rangers, and two of regulars, was daily expecting to make a descent on the poor Indians who had been settled there by the agent, under the pledges of the Government, which promised them that they should have a country where they should throw away the arts of the wild and the red man, and become domestic, agricultural, and civilized in their pursuits. They have acquiesced in that policy of the Government, but are in constant dread lest the military gentleman in command of the fort, in order to gain laurels and acquire glory, and do honor to his profession, may make a descent with the regulars and volunteers, or rangers, upon the poor Indians. If intelligence of such a descent should arrive, I should not be surprised. I shall be distressed, to be sure; but it will only be one of a thousand distresses which I have felt at the wrongs inflicted on the Indians.

I have before spoken, Mr. President, of the talk as to the Army being applied to the defense of Texas. What is the efficiency of that Army? There are three companies at Fort Belknap. What force do you suppose they have? They have the incredible amount of efficient force, (and

part of them on the alert, reconnoitring and scouting) of just sixty men. There were sixty men out of three companies! Now, how many men constitute a company?

Mr. SHIELDS. Sixty-four.

Mr. HOUSTON. They have not one-third of the requisite number. The amount at a fort where there are two companies, is thirty men. This is the protection you afford to Texas. The commanding general of that military department, as I before stated, has said, that an Indian shall not come within twenty miles of the forts, or he will be shot. Well, sir, I should feel a little ticklish were I in his position, and had so small a force. It may be wise in this officer to keep the Indians at a distance. If he can keep them twenty miles off, they will never attack his forts. We have no efficient force in Oregon. I have discovered in looking over the reports that at the fort, at the ferry house, where the massacre of such unprecedented atrocity took place, there were but four soldiers. This is the protection your Army affords!

Now, sir, is it politic to increase the regular force of the United States? To govern a country well, where intelligence predominates over selfishness and interest, I think the smaller the army is the better. I have had some experience in that; and it does seem to me that the army is rather a fine little thing kept for show than any useful purpose. It is very well to take care of arms and ordnance stores, and army stores which would be useful in time of war. It is necessary, I think, to have an army for that purpose. You may have as great a stock of science as you please; but it does not follow that you are bound to make an officer of every gentleman you educate at West Point. I do not think it would be wise policy to extend the Army to suit the establishment of the Military Academy, but rather the Military Academy to the interests and exigencies of the country. That is my opinion about the Army.

The nominal number of the Army is fourteen thousand. There is not a vacancy, I presume, for an officer in the whole service. According to the data I have before me, and the items I have given, I suppose there are about four thousand five hundred men in the service. To make the actual number of fourteen thousand complete, you would have to make the nominal force three times fourteen thousand. Let the head of the Department show that they can keep this establishment perfect before they go to ingrafting new limbs on it, in its present imperfect condition. Let the trunk be sound before you graft it. I know that the officers will never be less than the establishment; and if the soldiers be less than the establishment, it shows that it is too large, and ought rather to be reduced. Whenever we see that the present establishment is kept in order, and the requisite number of men to make it complete, always in the service, it will commend itself to consideration; and if a greater amount of force or a larger establishment be necessary, it would be acceded to. I do not, however, now see any necessity for it. If you increase it, it will never get less. We know that, even when the Army is increased in time of war, there is difficulty in reducing it to a peace establishment afterwards. It has always been the case, and always will be, that a man, by once holding an office temporarily, acquires a claim to it which is enforced by relatives and friends; and the Army thereby will become an eye-sore to the people and a carbuncle upon the body-politic.

It may be asked, sir, how I would furnish protection to the emigrants who travel on the plains to California and Oregon. I would fix a proper season at which they should take their departure from Fort Laramie. I would have them depart in companies, each company consisting of about one thousand emigrants. Out of these one thousand, the usual proportion would be about two hundred and fifty men. I would give them a guard of two hundred and fifty more, making five hundred men to each company. I would have them start in three several bodies in the course of the year, so that they should accomplish the trip properly, and let them start at such distances that they should not be more than one hundred miles apart. In this way they would be enabled to march across the plains without difficulty. I would have a fort at each end of the road to prevent the passage of a company incompetent to defend themselves, and not let them undertake to cross the wilderness alone. This is the course which I would pursue, and, I think, in this way perfect security would be given to the emigrants. Thus, if our citizens would make the venture, they would have an escort and a protection capable of resisting all the Indian power which might come upon them.

Sir, in the course of my remarks I have said some things which might seem to bear upon the officers of the Army as a class. My partialities for military men, and for gentlemen of the Army, are of a character not to be doubted. I know their high-toned feeling, their honorable bearing, and their chivalry; and when I commented upon some of them, I only spoke of such as brought themselves within the purview of my remarks by impropriety of conduct, deserving the reprobation of every man who appreciates honorable feelings, integrity, and truthfulness. As a class, however, I admire and respect them. I have experienced their hospitalities. Once I enjoyed their association with pleasure; and my recollections of early habits, formed in their companionship, always mark a verdant spot in memory's waste. It is only the guilty and the culpable that I condemn.

Sir, I believe the honorable chairman of the Committee on Military Affairs has withdrawn that portion of the amendment relating to the appointment of three commissioners to treat with the Indians. I have, therefore, nothing to say about that proposition, as it is one of the things which are gone by. But, Mr. President, if we wish to do good to the Indians, we have it in our power; if we wish to destroy them, we can starve them out. If we intend to save them, we can do it by appealing to their best feelings. There is one pathway to an Indian's heart. If you show him that comforts and benefits are to result to his wife and children, you may command him absolutely and he yields implicitly. He has no opposing thought to their interest. I have always seen that if you could impress an Indian with the conviction that comfort and security would inure to his squaw and pappooses, from the adoption of a particular policy, he would submit to it. My colleague [Mr. RUSK,] knows that this is the way to the heart of an Indian. The proudest warrior is humiliated at the thought of his wife and little ones being in the least uncomfortable. Whenever an Indian intends to conciliate the whites, he brings his family and settles as near as he can to a fort or agency, and says "here are the hostages I give you for my fidelity to you; if I do wrong, I know they will suffer; they are dearer to me than my life." The Indians can be brought around trading-houses.

I have lost all hope of the stations in Texas doing any good. I would not have more than twenty-five men at a trading house to give protection, in the event of any ebullition among the Indians of a violent character. It would be entirely accidental if such a necessity happened around the trading houses, as to require protection to be given to the caravans emigrating to California and Oregon. I would encourage the Indians in the arts of peace. You need no armies; you need no Indian allies to butcher them. All you have to do is to maintain your faith in carrying out the treaties which have been made, and not directly or indirectly encourage men to violate every principle of honor and humanity, and deride even faith itself.

Mr. JONES, of Tennessee. Mr. President, as a member of the Committee on Military Affairs, who concurred in the amendment which has been submitted by the Senator from Illinois, the chairman of that committee, I feel that it is my duty, not only to the chairman, but to myself, to express to the Senate, as briefly as I may, the reasons which influenced my judgment in assenting to the proposition submitted by him.

The amendment of the Committee on Military Affairs is moved on the recommendation of the President of the United States, sustained by a communication from the Secretary of War. At this point, sir, I may be allowed to say that this debate is one very anomalous in the history of legislation. I confess that I find myself somewhat embarrassed, when I stand here to advocate a proposition emanating directly from the head of an Administration to which I am known to be opposed in its general policy, and the introduction of which into office, I strenuously resisted. My position is somewhat anomalous when I behold those gentlemen who were so active, energetic, and clamorous in giving being and existence to this Administration, standing out in bold opposition and defiance to its suggestions. Why, sir, instead of finding the distinguished Senator from Texas in the very van—instead of perceiving his white plume leading on the Administration forces upon this great question—we find him in opposition to the Administration. I confess, this strikes me with much astonishment. Great as is this astonishment, it is not at all lessened by another fact—that I behold the distinguished Senator from Virginia, the right arm of this Administration, standing out in opposition to one of its recommendations. Under such circumstances, it is with the utmost deference that I attempt to say a word in vindication of this proposition.

I am very happy that the seeming misunderstanding between my friends and colleagues on the committee, the Senator from Illinois and the Senator from California, has been removed this morning. The difference was more seeming than real. There was not, in point of fact and substance, any real difference between them. That has been adjusted; and I come now to consider very briefly the reasons and circumstances under which this recommendation of the committee has been presented to the Senate.

You will remember, sir, that but a few days ago we received from the Chief Executive of the nation, whose peculiar province and duty it is, under the Constitution, to take cognizance of the safety and interests of the country, so far as its defenses are concerned, a communication, in which he advised us—of what? The fact that he had received such information from the officers of the Government as to satisfy his mind that, unless some speedy action were taken by the Congress of the United States, Indian hostilities of the most terrific character were to be expected upon our borders. In view of the imminency of the danger which imperiled us, and in the solemn discharge of one of the highest responsibilities devolved upon the Executive, he felt himself constrained to inform Congress of that fact; and, as a means of protecting the interest of the country, of guarding its safety, and of preserving the lives of its citizens, he called on Congress, in the most earnest and impressive manner, to place at his disposal a force sufficient to avert these evils.

Now, sir, I ask you, and I ask every Senator here, whether a communication such as that, coming to us with all the solemnities and sanctions with which it comes, is not entitled, at least, to respectful consideration. When gentlemen rise in the Senate, and tell us that there is no necessity for such an armed force, they come in direct collision with the President of the United States, and assume to know more than he does upon this delicate and important subject, though it is his province and his duty to know and understand the whole question.

The matter does not stop there. The President of the United States, in the exercise of a power conferred on him by the Constitution and the laws, has selected a gentleman to preside over the military department of the Government. In his wisdom and judgment he has selected a gentleman whom he believes to be eminently qualified for the discharge of the duties of the station. The whole country have acquiesced in that decision. It has been considered that the appointment was judiciously made. Then, when that officer, the second in command, so far as we are concerned, comes and says to us, that there is a necessity for immediate action, should we doubt it? I will read his own language, and I beg to commend it to my friends on the other side of the Chamber, who differ from the President and the Secretary of War on this subject, and who assume to know more than they have dared to communicate to us. In his communication, the Secretary of War says:

"Since the date of that report, intelligence received from officers on the frontier, and through the Department of the Interior from Indian agents, and other sources, show that the Indians of the western prairies and mountains are in hostile and defiant attitude, that several of those tribes have entered into combinations for the purpose of making a general war upon the whites during the approaching spring and summer, and that those tribes can bring into the field from four to six or eight thousand warriors. Had the increase of the Army, which was urged in my report of December, 1853, been, at an early period, authorized, the force at the disposal of the Department would have been sufficient to prevent these combinations, and, in all probability, would have preserved the lives of many valuable citizens from Indian massacre. This measure, however, has not been acted on, and at this advanced period, should the

bills, now pending in Congress, be passed, it will be found too late to organize a regular enlisted force, and place it in position in season to prevent the anticipated attack, or to suppress it until after much mischief shall have been done. The only course now left to the Department in anticipation of the proposed increase, is the employment of a volunteer force to coöperate with such of the regular troops as can be collected for the present emergency, and it is accordingly recommended that authority be asked of Congress to call into service three thousand mounted volunteers, to be organized into companies, squadrons and battalions, and to serve for a period of eighteen months, unless sooner discharged."

Thus, we find ourselves informed by the Secretary of War that the danger is so imminent as to make it his duty, under the suggestions of the President of the United States, to ask Congress to place at the disposal of the President an armed force of three thousand volunteers, in order to preserve the peace, defend the frontier, and protect the lives of our citizens. Now, sir, I ask you, and I ask every Senator here, whether we are prepared to take the responsibility of presuming to know more upon the subject than those whose peculiar business it is to be informed upon it? Has the President of the United States misinformed Congress? Has the Secretary of War misrepresented the facts of the case? If so, there may be some justification or pretext for setting aside the recommendation which he makes; but he tells you, under all the responsibilities which attach to him, not only as a gentleman, but as a person high in the confidence of this Government, that he has such information, derived from various sources, as renders it perfectly certain to his mind, that such a force as we propose to grant is essential to the preservation of the peace, the honor, and the safety of the country. Are gentlemen prepared to take the responsibility of setting aside this testimony, and, without any better means of information than is possessed by the President and the Department of War, say they will not grant to them that which they ask?

Mr. President, ever since I have had the honor of a seat in this body, I have been a member of the Committee on Military Affairs; and from the first session I have been here, if I am not greatly mistaken, the committee have been urging on the Congress of United States, the importance, the necessity, of an increase of the Army. If you will refer to the reports and speeches made by the chairman of the committee, you will find that he assumed the very ground which is now occupied; and the very contingency which he predicted, is now upon us. You were told three years ago—and the warning has been reiterated at every session since then—that unless you increased the Army, and gave the Department men enough to protect the frontier, Indian hostilities would inevitably be the result. Now, when they are upon us, gentlemen stand back and say they will not furnish the force immediately necessary, but will allow an increase of the regular Army. If that increase of the regular Army could be immediately rendered efficient and available, I should, myself, be in favor of that plan; but the Secretary of War says it is impossible to organize regular forces and bring them into the field in time to avert the impending storm. If there be any blame attaching to anybody for the present condition of things, it attaches to the Congress of the United States, and not to the President, or Secretary of War, and certainly not to the Committee on Military Affairs, of which I am an humble member. We have asked you, from year to year, to increase the Army, expressly on the ground that, in its existing organization, in point of numbers, the Army is, and has been, wholly insufficient to afford to the frontier that protection which the emergencies of the country require. Now, when the misfortune is upon you, when the calamity is at your door, you retreat and fall back on the proposition which you have rejected for the last three years.

Sir, we are told by the President and his Secretary of War, that they learn with certainty, from the most reliable sources—from officers of the Army, Indian agents, and others—that such a combination is going on among the Indian tribes on the frontier, as to make it indispensable for our peace and safety to send an armed force there speedily. Suppose we refuse to accede to the proposition which they make, and the calamity which is apprehended should come upon the country; and blood-shed, massacre, and slaughter, the butchery of women and children, should be the result, I wish to know who is ready to take the responsibility? For myself, sir, I am not ready to take that responsibility. If that blood is to be upon the skirts of anybody, let it not be upon mine. And, when the Senator from Texas speaks so feelingly and eloquently of the wrongs perpetrated upon the red man, I would that I had a power and an eloquence equal to his, that I might portray some of the cruelties, some of the enormities, and some of the barbarities which his cherished red men have perpetrated upon white American men, women, and children, whom they have slaughtered in cold blood. There is no tear of sympathy for the white man, and for his wife and innocent children slaughtered by the savages; but there are rivers, oceans, of tears for the wrongs of the red man.

I am not here to legislate for Indians. I am here to legislate for white folks and negroes, and not for Indians. I have no Indian constituency, and I confess that I have no great sympathy for them. When I remember their barbarities in my own State, when I see there the graves made by their hands, this heart of mine has no warm, impulsive feeling for them; I would do them no wrong; I would give them all the protection which can be accorded to them; but I would protect our own citizens against them. They should perpetrate no outrage upon our citizens if I could avert it. Now, when they are banding together, and organizing themselves into a formidable force of eight thousand or ten thousand warriors, and we come here and ask that a force of three thousand volunteers shall be sent there to protect American citizens, we are told that it is nonsense; that there is no use for it at all, and that if we send a few traders there, and do not send any whisky, and bring the Indians around our posts, cultivate peace with them, and keep our army at home, there will be no trouble. Well, sir, I am not a military man, as you know, and I should not pretend—I suppose it would be a piece of arrogance in me—to differ from the distinguished Senator from Texas; and I do not, therefore, advance any opinion of my own on the subject; but I take the opinion of the President of the United States and his Secretary of War, and I state that as against the opinion of the distinguished Senator from Texas.

The Senator says, that all we have to do with the Indians is, to cultivate peaceful relations with them. Well, sir, has not that been the policy of this Government ever since we have been a Government? He certainly knows that. He knows more of the Indian character than I know, expect to know, or ever desire to know—for I have no particular affinities for them. He says, himself, that he knows more about the Indian character than any man now living, except the distinguished Senator from Michigan. I believe that to be true, and therefore I shall not be guilty of the temerity, the rashness, the insolence, if you please, of daring to express an opinion adverse to that of the distinguished Senator from Texas in regard to Indian character. But I shall be permitted to say, (and I hope I shall not expose myself to his anathemas in saying it,) that I think all our efforts at civilization have, to say the least of them, been crowned with limited success. My opinion—not entitled to much consideration I grant—is, that you may exhaust all the stores of benevolence, you may exhaust all the stores of human sympathy and human kindness, in your attempts to civilize the Indian, and at last he will be an Indian still. But grant that the estimate formed of them by the Senator from Texas be correct. While you are attempting to civilize them, if you see them banding together in a hostile attitude, in a manner calculated to alarm the fears of the country, will you, under a vague and indefinite notion of sympathy, stand back and refuse to put yourselves in a position to defend yourselves against an attack, if it shall be made upon you?

Something has been said about the danger of sending out volunteers. I do not remember who said that; but I ask the question, and I would like some Senator to tell me, where is the difference between that and raising new regulars and sending them out! You are afraid to send volunteers. Why? Because, you say, they are impetuous, they are headlong, they are impulsive; they go out to fight, and fight they will. Well, then, if fighting men are not wanted we ought not to raise them. But who is to command them? Are they not to be under the same man? Are they not to be under the control, and direction, and government of the very men who command the regular force? The honorable Senator from Virginia recommends that we shall, at once, raise two regiments, to be regulars, and send them upon this duty. He is afraid to trust the impetuous character of the volunteer. In what will one of these new regulars differ from a volunteer? He will be a new recruit taken from just the same line that the volunteer comes from. He will be a volunteer, in one sense, for five years, while the others would be volunteers for eighteen months. I ask you, if you have a particle more protection against the enthusiasm of character in the volunteer, in the one case than in the other. If you want to avoid this impetuosity of character, this excitability of temperament, take your old regulars now, and do not wait to raise new troops at two or three months' warning, and send them out; because they will not have been in the service long enough to have been drilled and trained; they will not have seen duty enough to fit them for the calm and quiet details of military life.

The Senator from Texas objects, again, to this proposition. He says that this recommendation is a pretext, and that it is to end in a war; and he is utterly opposed to the proposition, because he is sure that, if we send out three thousand volunteers under the direction of the President, officered by officers of the regular Army, war must inevitably result from it. That may be true, Mr. President. I cannot tell. I should deplore it as much as that honorable Senator himself. But if he has these fears and these apprehensions, is it enough to shield him, is it enough to satisfy his judgment and conscience, that it is not our duty to afford protection to American citizens? You are afraid that their impetuosity will lead us into a war with the Indians. I may fear it, and deplore it; but that fear is not enough to deter me from giving protection to our own citizens. The Indian war, he seems to think, is an error. Now, sir, in view of that very fact, in view of that very apprehension, the Committee on Military Affairs submit to you a proposition—and what is it? It is, that the President shall be authorized to appoint three commissioners. We do not pretend to limit the President in the selection of those commissioners. Some have said that commissioners have heretofore failed; that may be so; and that they ought to be taken from those who are conected with the Indian Department. The honorable Senator from Texas alluded to a gentleman in the other branch of Congress from my State, and said, send him there. If I understand the allusion—and I apprehend I do—I agree fully with the Senator from Texas, and if I were the President of the United States, authorized to appoint the commissioners, I should select that gentleman; and I am willing to trust and believe that the President will do the same thing. I have perfect confidence in his capacity, and in his knowledge upon that subject, and his peculiar fitness for the position. But, sir, it was to obviate the very danger that the Senator from Texas seems to fear, that we propose that the President shall appoint three commissioners, either to go with the army, or to precede the army. When we have taken the only step which the Senator says it is necessary to take; when we have taken the step which he says is all sufficient; if that be true, then there is no danger of war. His argument utterly fails, then, it seems to me. He is afraid of war; and he says, send commissioners. Very well; we agree to that; we want to avert the war, and we propose to send commissioners. But suppose they fail? If they succeed, all is right, all is well; we shall have peace and quiet. But, Mr. President, suppose they fail, and war, with all its atrocity, comes upon us. Then I want to know where the responsibility will attach?

I am, Mr. President, as much opposed as any man to extending the power or the patronage of the Executive arm of this Government. I am as much opposed as any man to any conflict or interference between the separate departments of the Government. While I would repulse, with every means in my power, by indignation and protest, and by all honorable means the slightest encroachment upon the legislative department, or its functions by the executive, I would, at the same time, defend the executive in the proper discharge of its functions. The President has performed his

duty to the country, under his responsibility, so far as this recommendation goes, and I mean to stand by it, in its spirit and in its letter. If he is not informed; who ought to be informed? He is a sworn officer of the Government as you are and I am; and if we take it upon ourselves to disregard his warnings, and the admonitions and testimony which he sends here, I think we shall be taking a very dangerous step—one that may involve us in difficulties, and lead to melancholy disasters.

The Senator from Texas spoke, with his usual feeling and eloquence, of the wrongs committed upon the Indians. He gave us a beautiful treatise upon Indian faith and Indian character. I have no doubt, Mr. President, that this very address which has been delivered to us to-day, will be read in after time with infinite interest by many who are yet unborn. I say, as a treatise, it was beautiful, but he must allow me to say, with the profoundest respect, that, in my opinion, it never touched the question. What have we to do with Indian character upon this subject? What have we to do with the history of the Indians under the administration of that distinguished Senator as President of the Republic of Texas? That is not the question. Those things have passed away, and are become part of the history of the country. We may read them with infinite pleasure and delight, as we do; but, sir, it is a very feeble argument (I say it respectfully) against the proposition made to raise a force to save the country from the horrors of Indian barbarity and bloodshed.

The Senator says, if you want to preserve peace with the Indians in Texas, you must not take them away to a distance to pay them their annuities. I know nothing about that. You may pay them anywhere you please; and if the Senator will satisfy the President that it is best to pay them in Texas, I take it for granted the President will have it done there; but, to save my life, I cannot see the difference, whether the annuities are paid on the one side of the line or the other. It is enough for them to know that they get the money, and that this Government has acted in good faith, and carried out their treaty stipulations.

He says, however, that another difficulty arises in the defense of the frontier, which gives us a great deal of trouble—the utter incompetency or imbecility of that particular branch of the service which appertains to the command of the Army there. I am not sure that I know who is in command there; but if I do, it is Persifer Smith. The Senator pays a very high and deserved compliment to the military service and the distinguished ability of Persifer Smith as a military leader and hero; but, after all, while he knows everything about civilized warfare, when he comes to whipping Indians he is a mere child. That, I think, will be news to the people of Texas. I do not know how that is; but if he is incompetent for his situation, the President ought to remove him; that is the President's duty. If he is not fit for the place, let the President be advised of it, and send some man there who is competent. I take it for granted, however, that Persifer Smith is competent for any military position which may be assigned him either in civilized or savage warfare; and I think I should be willing to trust him; but if he is not, recall him, and send somebody else.

The Senator wants to protect the frontier, as everybody does, and he gives us his plan. Now, Mr. President, I like that plan pretty well in some things, and in others I do not exactly see how I can reconcile the various positions he assumes. He says he can protect the emigrants, in the first place, how? By starting three trains at an interval of a hundred miles apart, putting two hundred and fifty soldiers to each train. Well, sir, that will take seven hundred and fifty soldiers upon the line to California, and an equal number of seven hundred and fifty upon the line to Oregon. Then you have fifteen hundred men raised, for what purpose? Raised for the identical purpose that the President recommends in his message, and there the President and the Senator from Texas agree precisely. The President says, and the Secretary endorses him, he wants to prevent this Indian war, these Indian aggressions, and afford protection for the emigrants. They ask for three thousand men to do all this. The Senator from Texas says fifteen hundred men will protect the emigrants. Admit it to be true, and I have no doubt it is true, then the Senator from Texas, and the President, and the Secretary of War concur, at least, in that particular. The remaining fifteen hundred, I presume, the Senator says ought not to be raised. Why not? He admits protection is wanted upon the border of Texas; he admits that protection is wanted elsewhere.

Then is it not going a little too far to say, that the additional fifteen hundred, outside of the fifteen hundred that he accepts for the emigrant trains, is too large a force for that purpose? The only difference between the recommendation of the Senator from Texas and that of the President, is between fifteen hundred and three thousand men; and I will show, from the Senator's own remarks, that the number which he advocates would not do. He wants fifteen hundred men to protect the emigrant trains to California and Oregon. Then he tells us about a massacre that occurred in Oregon; and what does he tell us? What was the cause of that massacre, or rather, why was it not averted and prevented? He tells us that we had but four men in the fort on duty. There is an argument that cannot be answered in favor of increasing the Army.

Mr. HOUSTON. If the Senator will permit me, there are several inaccuracies in his apprehension of what I said. He says that the cause of those Indians breaking the ferry house, was that there were but four troops in Oregon. It was not at all a want of atrocity on their part; but at the fort at which the agent took up his residence there were only four men; and when they had unnecessarily and improperly brought on a war, the inhabitants had to suffer from it, as they had no defense there of a regular military force.

Mr. JONES, of Tennessee. The point is the same, and the point which I make is this: If we had had a sufficient military force there, that massacre would have been averted; and that very argument shows to my mind, conclusively, the necessity and importance of increasing your military force. When you rely upon your regular force, it is found to be insufficient. The President tells you, through the Secretary of War, that you cannot rely upon the regular force, because they cannot be brought into the field in time to avert the danger.

But I think the figures of my friend from Texas are a little wrong. He is great on the Indians; but I do not think his figures are good. He says that he would give to each of these trains—each train I believe to contain a thousand—two hundred and fifty soldiers to protect them. Then you have two hundred and fifty soldiers for every thousand emigrants. I understand that last year there were twenty thousand emigrants; and if you give two hundred and fifty soldiers to each thousand, instead of having an addition of three thousand to your army, you will have five thousand; so, that if the Senator's figures are carried out and you make the calculation, you will find that the three thousand will be a mere fraction of the number necessary to protect the trains.

I understand from the Senator from California, [Mr. WELLER,] that they had as many as forty thousand emigrants. Then, according to the ratio assumed by the Senator from Texas, we must have ten thousand volunteers to go there to protect them.

But, again, the Senator says that, our army is already fourteen thousand strong, and I infer, therefore, he is opposed to its increase. Without an explanation, an improper impression might be made upon the public mind in regard to it. Ostensibly the American army is fourteen thousand strong; but what is the real army? What is the actual force in service at any one time? I undertake to say, from the best information, I believe, having the authority of the greatest military captain, not only of this country but of the world, that it does not exceed ten thousand men. A deficit of four thousand at least, will always be found occasioned by death, expiration of time, and desertion; and while the army is nominally fourteen thousand, it is really not more than ten thousand.

Mr. President, perhaps I have said as much as I ought to say on this subject. I thought it due to myself, and the committee, to vindicate the course which we felt ourselves constrained to take. I shall not be charged, I hope, with desiring to favor the pretensions, or to carry out the views, of the present Administration. I do not think that there is any party in this question. It is above party. It is a question respecting the defence of the country; and, sir, I belong to that class of politicians—and I hope ever to belong to it—who are ready to vote the last man in the United States, and the last dollar in the National Treasury, to vindicate its honor, or to preserve the lives and fortunes of its citizens. If it takes $3,000, I will vote them: if it takes $500,000,000, I will vote them; if it takes thirty thousand men, or three hundred thousand men, to vindicate the honor of the country, or to protect the lives of its citizens, I am ready to vote them all, and take the responsibility. I have said all that I intended to say.

Mr. HOUSTON. The honorable Senator from Tennessee, in the course of his remarks, has fallen into several errors; he certainly has misapprehended me as to the import of my remarks about the force necessary to guard the emigrants. I estimated them, perhaps, at three thousand annually; I do not care whether it be three hundred or three hundred thousand; but in proportion as they are numerous, they will afford themselves efficient means of defense; and, according to my calculation, in twenty thousand there would be furnished five thousand fighting men. Then, as to a smallar force, if they were organized in the march, a small addition of soldiers would be sufficient to give them all the protection that would be necessary. It is necessary to subdivide them into such companies as can conveniently travel together, on account of grass, water, and other supplies that they must procure on the prairies.

As to the Army and its efficiency, I remark, that if the Army were filled up to the amount that is necessary, it would take three times fourteen thousand nominally, to furnish an efficient force of fourteen thousand in the field. I estimate the efficient force at about one third of the number that appears on paper.

Mr. SHIELDS. Will the Senator permit me interrupt him?

Mr. HOUSTON. With great pleasure.

Mr. SHIELDS. The legal or authorized force is a little over fourteen thousand, but the actual force is about eleven thousand. That disparity will always exist between the legal and the actual force, owing to death, sickness, disease, desertion, and the expiration of the time of enlistment.

In passing over the plains, to which the honorable Senator alludes, I understand from emigrants that it would be impossible to take them together in bodies of a thousand men. They have to go in small parties, on account of grass, water, and other necessaries; and the smaller they are, the more convenient they are for the purposes of traveling.

Mr. HOUSTON. Then, Mr. President, for security, it will be necessary to keep encampments in sight from Fort Laramie until they reach California. If they are ever out of sight of a guard sufficient to protect them, they are liable to depredation. If small companies of only a hundred men can thus travel, they will travel at their own risk and go to their certain destruction, unless the Indians are conciliated; and that shows the necessity of conciliating the Indians. The honorable Senator from Tennessee says that it is an imperative necessity to send the army. He says if the commissioners fail, you must have recourse to chastisement, but if they succeed, the force of three thousand men will be unnecessary.

The Senator kindly, and complimentarily said, I had not touched the subject. I will not say the same of him, for he has not only touched it, but he has entered into it so profoundly that in its depths he is undiscoverable. He was so profound in his observations, that he went beyond our comprehension. But, Mr. President, my life upon it, and I do not say it lightly, if from three hundred to five hundred men were taken by the three commissioners; or, if they limited their escort to forty, or fifty, or one hundred men, they would succeed in conciliating every Indian on this side of the Rocky mountains, if in the mean time the white men do not commit aggression. If you send such discreet men as I can select, you can keep peace; and yet, upon the contingency that they may not succeed, you are to go to the expense of an army. But if we cannot keep up our present establishment of fourteen thousand complete and effective for actual service, with all the resources of this nation, its increased bounty, and pay, and rations, let us give up the army; let them go to more useful

employments. What is the use of talking about making the establishment commensurate with the present wants, if you cannot keep up the present establishment to the necessities and exigencies of the country? Let them do that, and expose the fallacy of the theory which says, that we must keep on increasing the Army until we get the requisite number to keep up to the established standard. Let them reduce the officers to the number of men. That is the way to do it. We must have some criterion to go by; and until we do it we shall never have an efficient Army. The Army is small enough. Its efficiency is the great object. Now, fourteen thousand men are sufficient for all the exigencies of the country; and we must have some mode to give the emigrants security, or they must go at their own hazards or adventure. I desire to give them protection. You have to rely upon the disposition of the Indians for security to our emigrants. Unless you conciliate them, all the armies we can take will never give the emigrants protection. What kind of protection can you give to emigrants for a space of fifteen hundred or eighteen hundred miles. You can give no protection at any distance where the troops would be a mile apart, for the unprotected emigrants might be attacked and slaughtered before any succor could come to them. Sir, it is the feelings of the Indians which you have to conciliate; it is their friendship, their confidence you must obtain. Treat them with justice and liberality, and a hundredth part of the money which you spend in supporting the Army will keep them faithful. They will not violate a treaty unless the aggression is commenced by the whites. A few outlaws of a tribe may, but in such a case the tribe will not sacrifice its annuities for the lives of outcasts. It will either execute them or hand them over to the military authority of the country for condign punishment.

In this way, a few examples would have an electric influence upon all the tribes, for they have a more direct communication than the United States Government possesses with all its mail facilities, until it establishes a telegraph. They carry intelligence a hundred miles in twenty-four hours, and do you think that the laying off of this town in Kansas is not already communicated to every tribe of Indians in the prairies? Yes, it is; they know that the white man has told the Indians, the Delawares, a lie; they know they have stolen their land; they know there is no faith to be reposed in them. Keep faith with them, send men who are wise and instructed in the Indian disposition and character, and they will give you peace—my life upon it. You have not a solitary man between the Mississippi and the Pacific coast but knows that all the money in the Treasury lavished, will never give you peace or protection to the emigrants, until you have the confidence and the friendship of the Indians. Were you to pay ten thousand, or a hundred thousand, or two hundred thousand dollars to keep the troops there, they would render no aid of importance to the emigrants, unless you secure the friendship of the Indians. Whenever that is secured you will have peace, but as long as you rely on military force to give protection to the emigrants, you will not have peace.

Mr. JONES, of Tennessee. The Senator from Texas falls back again upon his old subject. I do not question anything he says about Indian character. I told him in the beginning, that I would not differ from him on that point. But the Senator says if we send the commissioners there with five hundred men, he will lay down his life if they do not effect peace with the Indians. Now, Mr. President, there is nothing in the proposition of the committee that conflicts with that at all. The committee recommend the appointment of three commissioners; you may send them in advance of the Army, or you may send them with five hundred men, or with one hundred men; but I say again, we must provide for the safety of the country in the possibility of a failure. The Senator's saying that he believes the commissioners would succeed, does not secure that result. I have no doubt he believes it sincerely; but where interests so vast and important as these are suspended, it will not do to take the mere judgment of any fallable man. He expresses an opinion predicated upon large experience. I am willing that that opinion shall be taken in its fullest extent; but still, if he were endowed with infinitely more wisdom than he has, and all the experience upon the earth combined together in regard to the Indians, I would not be willing to hazard the lives of American citizens upon a mere opinion. We seek to make the thing safe as far as we can. We wish to send the commissioners in advance, with a small detachment. If they make peace there will be no necessity for sending a military force, and they can be disbanded with the slight expense which may have been incurred; but if the commissioners fail, we want something upon which we can rely; we want some guarantee, some protection for the lives of the women and children who may be in danger. That is the difference between the Senator and myself.

The Senator alluded to a remark which I made, and which I made most respectfully, without intending any disrespect, that I thought he had not touched the main question. Perhaps I could not see it, because of an obtuseness of perception on my part. I am willing, in deference to the Senator, to suppose it was so; but, sir, if he touched it, and I was not able to see that he did—if I am not able to see "what is not to be seen"—I hope he will pardon my blindness. If I went under the question, the Senator will allow me to say, in the most complimentary terms, that in his eloquence and sympathy for the Indians, instead of descending to it, he went so far above it as to be beyond the ken of ordinary perceptions. He was as much above it as I may have been below it.

The Senator says, why increase your army? You have fourteen thousand now as the legal force; but, according to the honorable Senator from Illinois, eleven thousand of actual force. The honorable Senator from Texas says you cannot keep the fourteen thousand full, and, therefore, why attempt to raise any other regiments? Mr. President, if that is not an argument perfectly conclusive, I give it up! You have ten regiments. The deficit in the army occasioned by death, sickness, expiration of time, and desertion, amounts to an average of ten per cent. The Senator's argument is, do not increase it to twenty, because you can not keep ten regiments up now. You would only have the same deficit in the increased number of regiments. You have a deficit now of four thousand in the legal force of fourteen thousand. Increase the number to eighteen thousand, and you will have the same proportion of deficit, so that instead of having eleven thousand in actual service, you will have but fourteen thousand. There is the difference—a very plain one to everybody.

Mr. HOUSTON. I did not say it was necessary to send any troops. You may, if you please, not send five hundred. You need not send them unless to guard against accident. There is no war, sir, to defend. There are no aggressions on the part of the Indians. They have made no war. They intend not to make any other war than such as may be necessary to repel the aggression of the whites. The war in California was made by outlaws, as has been reported by the accredited officer of the Government. They were outlaws, and no resistance was made by the Indians. On the line from Fort Laramie, where all this mighty flame has burst up, it was an aggression upon the Indians. No war was made by their bands. They took no lives, but they took some property, as a remuneration for the outrage committed upon them, so that the war is on our part; and as far as they have gone, it is a moderate measure of retaliation that they have meted out, when you consider the disposition of the Indians. There is no war. It is a cry of war; but there is no war. The commissioners could reach there much sooner than the army could, and they will give peace. After these aggressions had been committed by the whites, and the Indians wished to approach Fort Laramie and make concessions, the officer there would not receive them, nor permit it to be done. That does not look like hostility on the part of the Indians. It looks like hostility on the part of the officers. The officers treat them like dogs; they offer every indignity to them; they spurn them like so many curs about their places, and will not let them come within twenty miles of their garrisons. If an enemy is about to invade them, if a soldier has been killed, any depredation done, or any combination is forming to steal horses or mules from the garrison, a friendly Indian will not dare to come to advertise the officer of it, and put him on his guard. It is the incompetency of our officers, their ignorance of the characters, necessities, and true interests of the Indians, that involves us in difficulty. They ought to be instructed, or displaced by the President of the United States, and competent men, of wisdom and discretion, who have a regard for their honor, and the honor of the country, should be sent out. That will give us peace and security, and nothing else will give it. We cannot guard a frontier of five hundred, or a thousand, or ten thousand miles. You cannot keep a line of soldiers there. As I tell you, the forts in Texas are of no use. The Indians can penetrate to the seaboard, and commit aggressions, and not pass within twenty miles of a fort; so that it is perfectly ridiculous. Establish commerce, make treaties, show the Indians that it is their interest to maintain faith on their part, and to punish their outlaws, and, if you will punish yours, you will have as perfect harmony as there is between Maryland and Virginia.

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 29, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of Saturday was read and approved.

EXPEDITION IN SEARCH OF DR. KANE.

The SPEAKER laid before the House a communication received from the Hon. James Pollock, Governor of the State of Pennsylvania, transmitting the copy of a preamble and resolution, adopted by the Legislature of that State, now in session, entitled "A resolution in favor of an expedition to rescue Dr. Kane and the crew of the Advance," requesting that the same be laid before the House of Representatives.

Mr. FLORENCE. I move that the communication and resolution be referred to the Committee on Naval Affairs.

Mr. CHANDLER. I rise with a view of calling the attention of the House to the subject referred to in the resolution of the Legislature of the State of Pennsylvania, and of asking the consent of the House that I may direct attention to the joint resolution which is on the Speaker's table, from the Senate, with reference to an expedition for the rescue of Dr. Kane. I desire that that joint resolution may be read, and that I may be allowed to offer a word of explanation; after which, I presume, no gentleman will oppose taking action upon it; and on the passage of such resolution I ask the previous question.

The resolution indicated, was reported, as follows:

Senate resolution No. 33, respecting the Arctic expedition, commanded by Passed Assistant Surgeon E. K. Kane.

Resolved, &c., That the Secretary of the Navy be, and he is hereby, authorized to provide and dispatch a suitable naval or other steamer, and, if necessary, a tender, to the Arctic seas, for the purpose of rescuing or affording relief to Passed Assistant Surgeon E. K. Kane, of the United States Navy, and the officers and men under his command: *Provided*, Such steamer and tender shall be officered and manned by volunteers from the Navy, and others who may declare their willingness to be so engaged.

Mr. CHANDLER. I desire to offer a word of explanation——

Mr. FLORENCE. Oh, never mind; it is unnecessary, as everybody is in favor of the proposition.

Mr. CHANDLER. Of course; still, if allowed, I will offer an explanation to meet any single objection that may be made; and then I move the previous question.

Mr. COBB. I desire to know whether this subject is regularly before the House; and if not, I object to its introduction.

Mr. CHANDLER. If the gentleman from Alabama [Mr. COBB] will allow me to make one word of explanation, I am sure he will not object.

Mr. COBB. If I am allowed, I will make this brief statement: The Committee on Public Lands stand here ready to present reports and cannot do so, and they labor under the disadvantage of appearing to be careless in the discharge of their duty. Other committees are, every day, allowed to take precedence of the Committee on Public Lands and present their reports, whereas that committee has been trying for the last four weeks, and cannot get an opportunity of reporting.

Mr. ORR. This matter is not a report from a committee. I ask the gentleman from Alabama to withdraw his objection.

Mr. CHANDLER. I hope the gentleman will do so; and I promise that I will not occupy five minutes of the time of the House.

The SPEAKER. Has the gentleman from Alabama withdrawn his objection?

Mr. COBB. I have not.

Mr. WARREN. I call for the regular order of business.

Mr. CHANDLER. Then I move a suspension of the rules to admit action upon the resolution.

The SPEAKER. There is already a motion pending to suspend the rules, which will take precedence of the motion of the gentleman from Pennsylvania.

ORDER OF BUSINESS.

Mr. RICHARDSON. I desire to make a short statement to the House.

Mr. WARREN. I rose a moment ago to call for the regular order of business, which I now do.

The SPEAKER. The regular order of business will be the call for reports of a territorial character from the several standing committees.

Mr. RICHARDSON. Mr. Speaker, there are a great many gentlemen here who have bills which they want to have introduced for the purpose of reference. If these bills are deferred longer, and not introduced until a later period of the session, then they cannot get action upon them. I have felt, and I feel now, that by the unanimous consent of the House—and for my part I was willing to consent to it—one hour of every morning should be appropriated for the disposal of business by suspending the rules, &c. I propose now to appropriate one hour for that purpose.

Mr. BOCOCK. Will the gentleman from Illinois allow me one moment?

Mr. RICHARDSON. Certainly.

The SPEAKER, (interrupting.) Is the proposition of the gentleman from Illinois agreed to?

[Cries of "Yes!" "Yes!"]

Mr. LETCHER. I move that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of taking up the territorial business according to the order of the day.

Mr. BOCOCK. The gentleman from Illinois [Mr. RICHARDSON] had the floor and was addressing the House in reference to the proposition which he had made. In that state of things, without his yielding the floor, I rose and asked him to let me say one word by way of explanation, and he did so. Now my colleague over the way, [Mr. LETCHER,] cannot get the floor from me or from the gentleman from Illinois, to make the motion which he has submitted.

The SPEAKER. The gentleman from Virginia [Mr. BOCOCK] will recollect that the remarks made by the gentleman from Illinois, and himself, were entirely out of order, and that the motion of the gentleman from Virginia, his colleague, is in order, and as he demands the putting of his motion, the Chair, under the rule, feels bound to do it.

Mr. BOCOCK. I want to submit a proposition in reference to the public business.

[Cries of "Question!" "Question!"]

Mr. BRECKINRIDGE. I desire to make an inquiry from the Chair on a point of order before that motion is put. I desire to ask the Chair this: If the House shall, for a few moments, refuse to go into the Committee of the Whole on the state of the Union for the purpose of taking up the territorial business, will the motion which I submitted last Monday, asking one day for the consideration of the Senate bill in reference to the Texas creditors, be in order? And after disposing of that, the House can then go into Committee of the Whole on the state of the Union, for the purpose of transacting territorial business?

The SPEAKER. In reply to the gentleman from Kentucky, the Chair states that, under the special order, it is the duty of the Chair first to call for reports of a territorial character from the committees; then—if there be any such—to dispose of bills of a territorial character on the Speaker's table. That being done, and the House refusing to go into the Committee of the Whole on the state of the Union, the House will be brought back to the original business of the morning.

Mr. BRECKINRIDGE. I hope the House will, for fifteen minutes, refuse to go into the Committee of the Whole on the state of the Union, so that I may get a vote upon the motion to suspend the rules, which I made last Monday, in regard to the Texas creditors' bill.

Mr. CHANDLER. I am informed that my friend from Alabama, [Mr. COBB,] who now understands the nature of the bill I asked to be considered, will withdraw his motion.

Mr. COBB. I do not withdraw my objection upon any such ground; but I wish to have the resolution disposed of.

The SPEAKER. The gentleman from Virginia [Mr. LETCHER] submits a motion that the House resolve itself into the Committee of the Whole on the state of the Union. The gentleman from Pennsylvania [Mr. CHANDLER] appeals to the gentleman from Virginia to withdraw his motion, in order that the House may take up the joint resolution indicated by him some moments ago.

Mr. LETCHER. I have been appealed to by gentlemen all around to withdraw my motion, but, I think, we had better take up the business set apart for to-day.

The question was then taken on Mr. LETCHER's motion, and the House refused to go into the Committee of the Whole on the state of the Union.

Mr. CHANDLER. Is there objection to the consideration of the joint resolution for the relief of Dr. Kane?

Mr. WARREN. I call for the regular order of business.

The SPEAKER. The regular order of business being called for, reports connected with territorial business are first in order from the standing committees.

Mr. CHANDLER. Do I understand the gentleman from Arkansas [Mr. WARREN] as objecting to the introduction of the joint resolution indicated by me?

The SPEAKER. The Chair understands the gentleman as objecting.

Mr. BRECKINRIDGE. I am not remarkably well versed in the rules, but I am advised by a friend who is, that the motion made by me last Monday, in reference to the Texas creditors' bill, and which was entered on the Journal, is now in order.

The SPEAKER. It cannot be in order so long as there is territorial business before the House.

Mr. HUNT. Would it not be in order, if the House agree to dispense with action upon territorial business for an hour?

The SPEAKER. The House refuse to do that; one objection being sufficient.

Mr. HUNT. I hope that the House will take up the motion of the gentleman from Kentucky, [Mr. BRECKINRIDGE.]

Mr. JONES, of Tennessee. I move to postpone the special order for one hour.

Mr. RICHARDSON. I hope that the House will agree to the motion made by the gentleman from Tennessee, [Mr. JONES,] for I am satisfied that we will economize time by so doing. We may dispose of more territorial business in that way than by persisting to go into the Committee of the Whole on the state of the Union immediately.

The question was taken upon the motion; and the consideration of the special order was postponed for one hour.

Mr. CHANDLER. I now ask the unanimous consent of the House to take up the joint resolution for the relief of Dr. Kane, and I move to suspend the rules for that purpose.

The SPEAKER. There is a motion already pending to suspend the rules, made by the gentleman from Kentucky, [Mr. BRECKINRIDGE,] which is the first business in order.

Mr. BRECKINRIDGE. I wish to offer a substitute for the resolution I proposed last Monday. I will state to the House, that if the motion to suspend the rules is agreed to, I will call the previous question, and we will then be able to dispose of the matter in a few minutes.

Mr. McDOUGALL. Will my friend allow me to report a bill for the purpose of reference merely?

Mr. BRECKINRIDGE. I will have no objection, if the House consents to it.

The SPEAKER. Some five or six gentlemen have indicated their purpose to report bills for reference. Is it the pleasure of the House that reports should be made at this time?

Mr. CLINGMAN. I insist upon the regular order of business.

Mr. BRECKINRIDGE. I move to suspend the rules, then, for the purpose of introducing the following resolution:

Resolved, That Senate bill No. 96 be made the special order for the 5th day of February, and that debate in Committee of the Whole House on said bill, shall cease at three o'clock, p. m., on that day, if the committee shall not sooner come to a conclusion upon the same, and the committee shall then proceed to vote upon such amendments as may be pending and offered to the same, and shall then report it to the House with such amendments as may have been made to it by the committee.

Mr. McDOUGALL. I move to amend the resolution by making the time for the special order the 6th, instead of the 5th day of February, which comes on Monday.

The SPEAKER. The resolution is not yet before the House; but only a motion made by the gentleman from Kentucky to suspend the rules for the purpose of introducing it.

Mr. BRECKINRIDGE. At the suggestion of gentleman around me, I accept the modification proposed by the gentleman from California, and I will make the time for the special order the 6th day of February, instead of the 5th.

Mr. HOUSTON. I wish to ask the gentleman from Kentucky, or the Chair, a question, whether under the resolution the bill proposed to be made the special order for one day, may not occupy a week under the five-minute debate, to the exclusion of all other business?

Mr. BRECKINRIDGE. I have no doubt the House will dispose of it in one day, in some form or other.

The question then being upon the suspension of the rules,

Mr. SKELTON demanded the yeas and nays; which were not ordered.

The question was then taken; and there were—ayes one hundred and six, noes not counted.

So the rules were suspended.

Mr. BRECKINRIDGE moved the previous question upon the adoption of the resolution; which was seconded, and the main question ordered.

The question was then taken; and the resolution was agreed to.

Mr. BRECKINRIDGE moved to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

THE KANE EXPEDITION—AGAIN.

Mr. CHANDLER. I now ask the unanimous consent of the House to take up the joint resolution from the Senate with reference to the relief of Dr. Kane. If there is any objection, I move a suspension of the rules for that purpose.

Mr. JONES, of Tennessee. I ask for the yeas and nays on the motion.

The yeas and nays were not ordered.

The question was taken; and the rules were suspended.

The Senate bill referred to was then taken up, and reported to the House.

The SPEAKER. The gentleman from Pennsylvania and the House will remember that no disposition has yet been made of the resolutions of the Pennsylvania Legislature. If it be the pleasure of the House they will be referred and ordered to be printed.

Mr. BOCOCK. It is not necessary to refer them. I move that they be laid upon the table and printed.

The motion was agreed to.

Mr. CHANDLER. Mr. Speaker, I am sure that if I could be allowed a hearing, simply by way of explanation, this House would at once adopt the joint resolution. Especially when I state that the Legislatures of three States have asked for its adoption, and that two committees of this House, that of the Navy and that on Commerce, are ready to report in its favor; and more especially when I state distinctly that it is not a plan to add another link to an interminable chain of exploring expeditions. And as there is a great and most natural impatience to proceed to other business, I promise to call the previous question upon the passage of the joint resolution, so as to give the House an opportunity to vote one way or other on the question. I, of course, have no doubt which way they will vote.

All know the origin of this expedition, and the object of its repetition. The vessel is supplied

gratuitously by Mr. Grinnell, of New York; is commanded by Dr. Kane, of the United States Navy, and the crew is principally supplied from the naval service of the United States. Mr. George Peabody, a generous-hearted, true American, residing in London, contributed $10,000 towards the expenses of the expedition. Dr. Kane bears with him direct instructions from the Secretary of State, and letters have been transmitted to the Danish and other Governments having possessions in the direction of Smith's Sound, requesting directions to their officers to render all assistance to Dr. Kane's expedition, as to a national vessel of this Government.

Dr. Kane's instructions were to proceed directly to that point, which constituted the *ultima thule* of his former voyage, and, securing his vessel, to take boats, sledges, &c., and by the direction of Esquimaux and others, to press onward as far north as possible, being careful to return to spend the darkness of the winters of 1853 and 1854 in the brig; then, in the spring of 1854, to push on to the north of places he had previously reached, and when he had deposited provisions, to return back to the vessel at the close of the summer of 1854; and having accomplished this, he was to return directly home.

The last letter received from Dr. Kane was written 23d July, 1853. He was then at what sailors call "the jumping-off-place," the utmost extent of the Danish settlement, or Greenland. He and his crew were in excellent health, and all full of hopes of accomplishing a great result. At that time, two hundred and sixteen icebergs were seen floating about; these all indicated a very open state of the Sound above them, and, of course, fair hopes of an easy passage from Baffin's Bay, through Smith's Sound, into the Polar Sea. This expectation, expressed by Dr. Kane, has been fully sustained by the returned British ships and the whalers from that region, who speak of 1853 as a remarkably open season. If gentlemen have recently looked at the map of that part of the world, they will recollect that Smith's Sound, or, rather, Smith's Straits, forms a narrow passage of about twenty-five miles in width, through which the Arctic and Baffin's Bay, and, by the latter, the Atlantic communicate together. The intention, then, was for Dr. Kane to take his brig, as, of course, he did, through Smith's Sound during the summer of 1853, and secure her under the lea of some promontory at the entrance of the Arctic Sea, on the east side of the sea and the south side of the promontory, if possible; and then, as I have previously remarked, proceed by sledges, boats, &c., &c., northerly, and, on reaching his ship, he was to return, in the summer, through Smith's Sound to Baffin's Bay, the Atlantic, and home.

But, it will be recollected that the winter of 1853-'4 was one of the most rigorous ever known. Nothing on record exceeds the weather which was experienced in the high northern latitudes. Such is the testimony of the English expedition, such the statement of all who have been into Baffin's Bay since 1853. The whalers have been wholly unable to reach their ordinary cruising grounds. Thirty out of fifty of these whalers returned without any oil, and most of the others succeeded in taking merely enough oil to supply their binnacle lamps. The result of the excessive cold has been the entire blocking up of Smith's Sound. The south winds blew up into its southern side the floating ice, and the north wind piled on top of that accumulation the floating debris of the Arctic. So that we fully understand that Smith's Sound, through which Dr. Kane passed, in the summer of 1853, northward, to make his harbor on the southeastern side of the Polar Sea, was one impenetrable ice field during the summer of 1854.

Smith's Sound has been opened only three times within the memory of man, and the severity of the winter past, leads to no hope that it will be open in the summer of 1855. The ice forms a completely impassable barrier to his return. It would be impossible to get through it, and no effort that he could make would be sufficient to save himself and his companions, without taking his vessel around through Smith's Sound, or else to have another vessel meet him at the head of Baffin's Bay, or the southeastern part of Smith's Sound. The provisions which Dr. Kane took out, were only sufficient to supply the party up to mid-summer, 1855, and that with the utmost economy in its use, and long dependence upon seals, bears, reindeer, foxes, and fowl. Beyond the middle of September, 1855, every soul of that expedition must perish of starvation, unless relieved by some vessel sent to them.

I am aware that many persons will say, "If Dr. Kane went after Sir John Franklin, and now another expedition is to go after Dr. Kane, who shall say that another may not be asked for to look after that which we desire to have sent?" The thought is natural. But care has been taken in that regard.

Sir John Franklin either mistook or neglected the orders which he received, to place signals and monuments at his various places of landing, and wherever he made a rest; and, also, at given points, so that, whatever might happen to him, his discovery, accidents, and suffering, should be made public. He seemed to have placed few or none such, and hence the utter fruitlessness of search. Nothing of Sir John Franklin is found but his bones and a few articles of his personal property. He died, and made no sign; or, if he left any monuments to indicate and secure a record, they were not so conspicuous as to be discovered by others.

Dr. Kane, aware of this, and made fully sensible of the importance of such a course, made all proper arrangements; so that, should he be sought, the track, till the last mile of his onward voyage, or the last moment of his effort, should be distinctly made known.

The following is Dr. Kane's plan of procedure:

"On reaching the highest navigable point on the eastern side of Smith's Sound—and by navigable I mean wherever, by utmost effort, our brig can be urged—we seek a harbor in some indented cape, if possible, projecting into the channel and *opening to the south and west*. Such, both by theory and experience, I deem best suited for a good protection and an early liberation from the ice.

"Tell father, for I know that he jots down upon his chart every clue to my whereabouts, that I will be disappointed if I do not winter north of Cape Hasherton, and that at Cape Alexander or Cape Hasherton, I will deposit my cairn and boat, for retreat. If I have to be sought for, let parties reach one, or other, or both of these points, and then divide into sledge and boat expeditions, which should follow separately the sea-coast lines of Ellesmore and Prudhoe's Islands. Somewhere upon these will be found information or traces of my movements, and my point of boat debarkation, should I meet an open water, will be designated.

"My preference will be to the eastern side of all water courses, or the western coasts of all northerly trading lands.

"Glass jars will be used for the deposit of papers. One in the center of cairn, one foot from base; the other ten feet from said center due north—true, and not magnetic. This north will be further indicated by the traces of a fire—a little anthracite coal cinder—or even three stones placed in a line twenty feet from the center of the cairn, and so in our computed meridian as to serve as a pointer or index of the seat of the deposit at ten feet distance. This deposit will not exceed in depth one foot, and a stratum of stones will, if possible, be placed six inches below. Even the slight depth will require a pick ax; we will not have time for the three feet holes of our English friends."

You will see, then, that any expedition now to be sent, will only have to proceed to the head of Baffin's Bay. If Smith's Sound is open, it may pass up into the edge of the Polar Sea, and then reach the vessel of Dr. Kane. All the plans of Dr. Kane lead to the full conclusion that he returned to his vessel in September, 1854, with a view of escaping into Baffin's Bay as soon as the ice should open. He then would, of course, remain on board during the winter of 1854 and 1855, as he had done during the winter of 1853 and 1854. When Dr. Kane left home, he made, to his father and friends, something like the following remark and suggestion: Do not be alarmed at every rumor, nor at a delay of one year; but if I am not at home at the close of the season of 1854, then you may ask Congress to look for me and my men. And having thus made these arrangements, which would lead him to hope for succor, he will, of course, await it; and when the rescuing vessel shall arrive, its commander will find outside, and below the Sound, the indication of Dr. Kane's whereabouts—some carn, some deposited glass vessel, or, more probably, the American flag flying, and a guard encamped at the flag staff. This is the only hope of salvation to the gallant officer and his picked crew. The British vessels were withdrawn last June, so that Smith's Sound and its vicinity are wholly unvisited, wholly provisionless.

Mr. Speaker, this expedition bears with it a national character, most of the men belong to the national service, and the report of its commanding officer must, by order, be made to the Navy Department. It is eminently due, then, to the service, that we send a proper vessel to relieve the men.

But, Mr. Speaker, these men are Americans, our brethren, with all our privileges, all our sympathies; shall they vainly expect relief? I feel that I should be doing injustice to the members of this House, were I to urge it further. I desire to say, however, that Dr. Kane is one of those rare men who present themselves for usefulness and admiration in channels that few navigate. His life has been one of peril and enterprises, of noble daring and patriotic devotion. He did, indeed, volunteer in this glorious work, and when funds were wanting, poured in every dollar of his savings in life, and then went forth and lectured to obtain some more. He goes without hope of reward; shall he stay without hope of rescue?

And, Mr. Speaker, every man in that vessel has claim upon our regard and our assistance. They are doing honor to the nation. Let them be rewarded.

I have spoken for my gallant, generous-hearted townsman, because I know that any help for him would be spurned that was not, also, for the humblest man on board. I speak for him without forgetting that there are at his home the patient father, the anxious mother, and the loving kindred—their sorrows and their anxiety are unobtrusive—but not a father here will be unmindful of that relation, and rejoice that patriotism and justice consent to the indulgence of human sympathy.

I feel assured, Mr. Speaker, that if, instead of a band of warm-hearted, noble-minded Americans now suffering in that little vessel, hundreds of miles from all habitable land, the sufferers were a band of convicts escaped from some penal colony, the spirit of humanity always manifested in this Congress would release them from their distressing position. So much would be due to true benevolence. We, then, cannot be astonished at the action of the Senate on those resolutions; and no one can be surprised at the alacrity of this House to vote at once a hearty concurrence in the action of the Senate.

I call the previous question.

The previous question was seconded; and the main question was ordered to be now put.

The main question being "Shall the resolution be read a third time?" was put; and decided in the affirmative.

The resolution was subsequently read a third time, and passed.

Mr. CHANDLER moved to reconsider the vote by which the resolution was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

BILLS INTRODUCED.

Mr. McDOUGALL. I ask the unanimous consent of the House to report some bills, for the purpose of reference only.

Mr. JONES, of Tennessee. Unanimous consent is asked to report bills. I shall not object to any bills offered in that way, with this understanding, that none of them are to be brought back and put upon their passage by a motion to reconsider.

Mr. McDOUGALL. Not by me.

The SPEAKER. The Chair would remark, that if such should be the understanding, we can, in twenty minutes, run off every bill in the House. The Chair will so understand it, if there be no objection.

No objection was made.

The following bills, introduced by Mr. McDOUGALL, were then read a first and second time by their titles, and referred as indicated below:

A bill releasing to the city of San Francisco certain Pueblo lands, in pursuance of the decree of confirmation of the commissioners to ascertain and settle private land claims in the State of California. Referred to the Committee on Military Affairs.

A bill to provide an express mail overland, from St. Louis to San Francisco. Referred to the Committee on the Post Office and Post Roads.

THOMAS MARSTON TAYLOR.

Mr. WALLEY. I rise to a question of privilege. I desire to make a report from a committee of conference.

The SPEAKER. That is in order.

Mr. WALLEY, from the committee of conference on the part of the House, upon the dis-

agreeing votes of the two Houses upon the bill for the relief of Thomas Marston Taylor, made a report, by which it appears that the Senate recede from their disagreement.

The report was then agreed to.

NATURALIZATION LAWS.

Mr. TAYLOR, of Tennessee, by unanimous consent, introduced the following bill, of which previous notice had been given; which was read a first and second time by its title, and referred to the Committee on the Judiciary:

A bill to establish a uniform rule of naturalization, and to repeal certain acts heretofore passed on that subject, and for other purposes.

HON. WILLIAM B. W. DENT.

Mr. HILLYER. I hope the House will indulge me one moment in making a personal explanation. Two weeks ago, the gentleman from Pennsylvania [Mr. DAWSON] had the floor, and called for the regular order of business, but, at my request and solicitation, he permitted me to introduce a resolution authorizing the Sergeant-at-Arms to pay to the Hon. Mr. DENT, of Georgia, now absent from the House, in consequence of ill health, his mileage and per diem. He did so upon the assurance that the resolution I proposed to introduce would consume but a moment of the time of the House. However, upon its being introduced, some question arose, and the yeas and nays being called for and ordered, and more time being consumed than I supposed would have been, the gentleman from Pennsylvania requested and urged me to withdraw the resolution. As his courtesy had permitted me to introduce it, I felt bound to withdraw it, and did so. I now ask the unanimous consent to introduce the resolution I now send to the Clerk's table:

Resolved, That the Sergeant-at-Arms be authorized to pay Mr. W. B. W. DENT, who is confined at home by sickness, his mileage and per diem for the present session.

Mr. LETCHER. I object to the introduction of that resolution.

Mr. HILLYER. I move a suspension of the rules of the House for the purpose I have indicated.

Mr. LETCHER. And on that motion I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. PRATT. I should like to ask the gentleman from Georgia one question. Did Mr. DENT leave his home during this session, or at any time before its commencement, to come to Washington, with a view of taking his seat?

Mr. HILLYER. I have been informed that Mr. DENT did leave his home to come to Washington, but that on his way he was taken sick, and was unable to proceed further. I cannot vouch for this fact of my own knowledge. I am sure, however, that his health is so bad as to prevent his coming here and engaging in the transaction of the public business. Such is the fact beyond all question.

The question was put on the adoption of the resolution; and on a division there were—ayes sixty-five——

Mr. RICHARDSON. I demand tellers.

Tellers were ordered; and Messrs. DAVIS, of Indiana, and WHEELER were appointed.

The question was taken; and the resolution was rejected—the tellers having reported ayes sixty-nine—less than two thirds of a quorum.

NAVAL BILLS.

Mr. BOCOCK. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That Thursday, the 1st, Friday, the 2d, and Saturday, the 3d day of February next, be set apart for the consideration of bills of a public character, which have been, or may be, reported from the Committee on Naval Affairs.

Mr. HOUSTON. I object to the introduction of the resolution.

Mr. BOCOCK. I move a suspension of the rules, for the purpose which I have indicated. I am fully convinced that, unless something of the sort proposed be done, the bills acted on by the Committee on Naval Affairs will remain unconsidered during this session. The business is important and urgent, and I hope the resolution will be adopted. I demand tellers on the motion.

Tellers were appointed; and Messrs. GREY and BOCOCK were appointed.

Mr. BOCOCK. At the suggestion of some members, I shall modify my resolution so as to strike out Friday, which is objection day for private bills.

The question was taken; and the resolution was rejected—the tellers having reported—ayes forty-six, less than two thirds of a quorum.

PAPERS WITHDRAWN.

On motion by Mr. STUART, of Michigan, it was

Ordered, That leave be granted for the withdrawal from the files of the House of the petitions and papers of Ambrose Rappelle and Mr. Castello, in order that they may be referred to committees of the Senate.

HEIRS OF WILLIAM VAN WART.

Mr. EDMUNDSON, from the Committee on Revolutionary Pensions, reported back Senate bill (No. 346) for the relief of the heirs-at-law of William Van Wart, deceased, with a recommendation that it do pass; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CORRECTION.

Mr. CURTIS. I rise to a privileged question. Last Saturday, when the question was on the passage of the French spoliation bill, I voted in the affirmative, but I do not find my name upon the record. I ask that it may be placed there.

There was no objection, and it was so ordered.

BILL INTRODUCED.

Mr. SINGLETON, by unanimous consent, introduced a bill; which was read a first and second time by its title, as follows, and referred to the Committee of Ways and Means:

A bill for the benefit of the Post Office Department and the Mississippi Central railroad.

The SPEAKER. With the consent of the House, the Chair will make a suggestion, which, if adopted, he is sure, will do away with the struggle now going on between members to get the floor. It is, that all bills for reference merely, be now received. The reception will not consume more than ten minutes of the time of the body. Is that the understanding?

Mr. WARREN. Before that proposition is executed, I have a resolution which I desire to offer.

The SPEAKER. Then the Chair does not make any proposition.

The bill was referred to the Committee of Ways and Means.

Mr. HENN. I rise to a point of order. I understand that no business is in order except the introduction of bills for reference.

The SPEAKER. The Chair does not so understand it.

Mr. HENN. Then I object to further proceedings of this kind, and call for the regular order of business.

The SPEAKER. The regular order of business is motions to suspend the rules; and this kind of proceedings are, therefore, in order.

VERIFICATION OF FOREIGN INVOICES.

Mr. RUFFIN. I beg leave to submit a resolution for reference only.

Mr. MURRAY. I rise to a privileged question. I desire to make a report from the Committee on Printing.

The SPEAKER. The Chair decides that the gentleman from New York cannot take the floor from the gentleman from North Carolina for any such purpose.

Mr. RUFFIN. It will only take a moment to dispose of my resolution. The resolution I propose is in the following words:

Resolved, That the committee be instructed to inquire what further legislation, if any, is necessary to prevent fraud in the verification of foreign invoices.

There being no objection, the resolution was received and adopted.

COMMERCE WITH JAPAN.

Mr. WALBRIDGE. I ask the unanimous consent of the House to introduce a resolution for the purpose of reference. It is as follows:

Resolved, 1. That the recent naval expedition to Japan, which resulted in the treaty concluded on the 31st March last with that Empire, is one of great value in its consequences to the commercial interests of the country; and the distinguished officer in command, Commodore M. C. Perry, who successfully conducted the negotiation, is entitled to the thanks of Congress.

2. That the further extension of our commercial intercourse with the East is of primary importance to the people of the United States, and it is the duty of our Government to promote this object by taking measures for further treaty stipulations, with a view to a more general extension to our trade of the ports of Japan and China, and to stimulate freer commercial intercourse with those nations.

Mr. ENGLISH. I object to the introduction of that resolution.

Mr. WALBRIDGE. I move to suspend the rules, to enable me to introduce it.

Mr. JONES, of Tennessee. I would suggest to the mover of that resolution, that he allow it to go to the Committee on Foreign Affairs for their consideration, and allow them to bring it up in the House after their examination.

Mr. WALBRIDGE. I stated in the outset that I desired only to introduce the resolution for reference.

Mr. ENGLISH. With that understanding, I withdraw my objection.

The resolution was then received and referred.

EXTRA COMPENSATION TO CENSUS CLERKS.

Mr. ORR. I ask the unanimous consent of the House to take up from the Speaker's table Senate resolution No. 30, for the relief of some poor clerks. The whole amount involved will not exceed $1,800.

The resolution was read by its title, as follows:

Joint resolution relative to the construction of the laws for the allowance of additional compensation of clerks in the Census Bureau.

Mr. JONES, of Tennessee. I object.

Mr. ORR. Will the House indulge me in an explanation of one minute?

The SPEAKER. Is it the pleasure of the House to allow the gentleman from South Carolina to make a speech one minute long? [Laughter.]

There being no objection,

Mr. ORR proceeded. The clerks now employed in the Census Bureau have been receiving a compensation only at the rate of $1,000 per annum since the 1st of July last, owing to the interpretation which has been given to the civil and diplomatic bill of last year. This will give them only some $400 each. They are all picked clerks, and the books we have received show the industry with which they have pursued their work. I move to suspend the rules for the purpose of taking up the resolution.

Mr. HOUSTON. The civil and diplomatic bill contains every dollar estimated for by the Department for these clerks. There is no provision there cutting off anything from the compensation of the census clerks. It is in pursuance of the estimates of the Department.

Mr. ORR. There is a provision in the civil and diplomatic bill cutting off these census clerks from their extra compensation after the 1st of July last.

Mr. HOUSTON. It was in accordance with the recommendation of the Department.

Mr. ORR. Exactly; but this resolution is to remedy a defect in that recommendation.

The question being upon the motion to suspend the rules,

Mr. ORR demanded tellers; and they were ordered; and Messrs. EDMUNDSON and PENNINGTON were appointed.

The question was taken; and the tellers reported—ayes ninety; a further count not being demanded.

So the rules were suspended, and the joint resolution taken up.

The resolution was read *in extenso*. It provides that the act "making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1855, and for other purposes," approved August 4, 1854, be so construed as to extend to the clerks employed in the Census Office the same additional compensation as was granted under the act approved April 22, 1854.

Mr. ORR. The act of April, 1854, alluded to in that resolution, increased the compensation of the clerks in the Departments generally. It provided, however, that it should terminate on the 31st of June, so far as the clerks in the Census Bureau were concerned. It was supposed at that time that the work would be completed, but it was not, and the clerks were continued at the rate of $1,000 per annum, under the provisions of a former act of Congress, and they were paid out of an unexpended balance for the benefit of the

Census, from the 1st of July to the 1st of December. This bill proposes to give them an additional compensation of some $400 each.

I will state further, for the benefit of the House, that the Superintendent of the Census has resigned his position. He resigned, I think, about the 1st of December, and gentlemen who have an apprehension that the Census is to become a permanent fixture upon the Government, may have those apprehensions removed at once. I move the previous question upon the passage of the resolution.

Mr. ROBBINS. I ask the gentleman from South Carolina, before he calls the previous question, to allow me to offer an amendment to the joint resolution, so as to embrace the clerks in the State Department. They have been omitted in all the acts to which he has referred. They have never had any advantage from those acts of which other clerks have received the benefit.

Mr. ORR. I should be glad to accommodate the gentleman from Pennsylvania, but I could not in good faith, allow an amendment to come in now, of which the House was not advertised when the vote was taken to suspend the rules. I must, therefore, insist on the demand for the previous question.

The previous question received a second; and the main question was ordered to be put.

The joint resolution was then ordered to a third reading, and was subsequently read a third time, and passed.

Mr. ORR moved to reconsider the vote by which the joint resolution was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

CONTESTED ELECTION CASE.

Mr. SEWARD. I ask the consent of the House to introduce a resolution, accompanied by a brief report from the Committee on Elections, to provide for the payment of Mr. Ingersoll, an ex-member of Congress, for services in the Twenty-Sixth Congress. I hope the resolution will be read for information, in order that the House may understand the merits of the claim.

Mr. OLDS. What are you going to do with it?

Mr. SEWARD. To have it passed.

Mr. OLDS. Not now?

Mr. SEWARD. I am going to try.

The resolution was then read, as follows:

Resolved, That the Clerk of this House pay to Charles J. Ingersoll, of Pennsylvania, out of the contingent fund, the same per diem and mileage as is allowed to members of Congress, computing the same from the commencement of the Twenty-Sixth Congress to the 30th day of July, 1840, inclusive, for contesting the seat between him and Charles Naylor, that being the day on which the case was decided.

Mr. LETCHER. I object to that resolution.

Mr. SEWARD. Then I move to suspend the rules.

Mr. JONES, of Tennessee. I ask for the yeas and nays upon that motion.

The yeas and nays were not ordered.

Mr. SEWARD. I ask the consent of the House to make a brief explanation in reference to this matter.

Mr. LETCHER. If the resolution is debated, does it not go over?

The SPEAKER. Certainly it does.

Mr. SEWARD. I do not desire to debate it, unless the House is willing to hear a brief explanation.

Mr. LETCHER. It was debated last session, and the session before, and the session before that.

The SPEAKER. In cases where the States are regularly called for resolutions, the rule to which the gentleman from Virginia [Mr. LETCHER] refers would operate, and the resolution would go over if debate should arise upon it. But the proposition now before the House, is to suspend the rules for the purpose of introducing the resolution. The resolution is not yet before the body.

Mr. SEWARD. I have not troubled the House much this session, and I hope I shall be allowed to make a brief explanation connected with this matter.

The SPEAKER. Is it the pleasure of the House that the gentleman from Georgia be allowed to make a brief explanation?

No objection was made.

Mr. SEWARD. Mr. Speaker, the resolution which I desire to introduce, is intended to provide for the payment of an amount which, I think, is justly due to Mr. Ingersoll. The House will probably remember, that, in the Twenty-Sixth Congress, there was a very protracted dispute, growing out of the New Jersey contested election. At the same time there was a contest pending between Mr. Ingersoll and Mr. Naylor from the State of Pennsylvania. Owing to the great importance of, and the great interest felt in referenee to the New Jersey contest, the Pennsylvania contest was deferred and delayed until it was settled.

Mr. Ingersoll came here, commissioned by the Governor of Pennsylvania; Mr. Naylor came here, with the certificate of the judges of election, which grew out of a peculiar statute in the State of Pennsylvania. Mr. Naylor took the oath, and was admitted to a seat upon this floor. Subsequent to that time, a few days afterwards, Mr. Charles J. Ingersoll contested his seat.

Now, I hold it to be a sound principle, that whenever a member comes here commissioned by the State, he ought to receive compensation, whether he is allowed to take a seat upon this floor or not. I do not believe that any member of this House can assign any good reason why a person coming here, with a commission in his hand, if his claim to a seat is rejected, should not be entitled to pay. No man of sense, being clothed with that authority, would stay at home, and not come here and contest his right to a seat.

A MEMBER. Pay has always been allowed in such cases.

Mr. SEWARD. I do not know what the practice may have been. I do not know of any settled precedents in politics, legislation, or anything else just now. The whole country is perfectly at sea. But I go upon the principles of right. It was the duty of Mr. Ingersoll to come here. He owed it to the district that elected him, or that cast its vote for him. It was his duty, under the Constitution, to come here, and if, unfortunately, the House decided against him, either by the force of party power, or from any other consideration, and excluded him from a seat, it is unjust to refuse to pay him.

Having said thus much, if the House is not willing to pay him, I shall not feel aggrieved.

Mr. JONES, of Tennessee. I desire, with the permission of the House, to say just a word or two. My own opinion is, that the House which decides a contest for a seat upon this floor, should decide, also, whether the contestant shall be paid or not. He should not be paid by a subsequent House. For one, I never vote to pay a contestant unless he establishes his right to a seat, or that the sitting member is not entitled to the seat which he occupies.

The question now being upon the suspension of the rules,

Mr. DAWSON demanded the yeas and nays.

Mr. WASHBURN, of Maine. They have already been refused.

The SPEAKER. The yeas and nays have been refused by the House.

The question was then taken on Mr. SEWARD's motion; and (two thirds not voting in favor thereof) the rules were not suspended.

BUSINESS OF THE JUDICIARY COMMITTEE.

Mr. STANTON, of Tennessee. I send a resolution to the Clerk's desk, which I have been instructed to offer by the Committee on the Judiciary, and if there is any objection to it, I shall move to suspend the rules.

I will state, with the permission of the House, that many important matters have been placed in the hands of the Judiciary Committee, which, we think, could be disposed of in a day, and which it is of great consequence to the country to have taken up and acted on. I am only doing my duty in offering the resolution, and I hope there will be no objection to it.

The resolution was read, as follows:

Resolved, That the 7th day of February next be set apart for the consideration of business of a public character reported, or to be reported, by the Committee on the Judiciary.

Mr. HOUSTON. I object to the resolution.

Mr. STANTON. Then I move to suspend the rules.

Mr. BLISS. I ask for tellers on that motion.

Tellers were ordered; and Messrs. OLDS, and TAYLOR of Tennessee, were appointed.

Mr. HENN. I call for the yeas and nays. I want to see if one committee is going to have precedence over another in this House.

The yeas and nays were not ordered.

The question was taken; and the tellers reported—ayes 100, noes 24.

So the rules of the House were suspended.

BUSINESS OF THE NAVAL COMMITTEE.

Mr. BOCOCK. Mr. Speaker, I ask to be excused from further service on the Committee on Naval Affairs of this House; and I want to state, very briefly, the reason why I do so. The Committee on Naval Affairs some time ago, in last session, matured several important bills to bs presented to the House. The whole of the session, however, was employed in the discussion of other matters; and although some of the features of these bills were added to the naval appropriation bill, while it was under consideration here, they were ruled to be out of order. Gentlemen on all sides of the House told us then, "This is not the time, nor is it the place, for the consideration of these questions." We were promised by various gentlemen—among others, by the gentleman from Alabama, I think, [Mr. HOUSTON]—that, at the proper time, and under proper circumstances, the Committee on Naval Affairs should have a hearing for the business which they had prepared with great care and great labor. This session of Congress has come, and it has gone to this point. During its progress, from its opening until now, what has the House done? It has set apart and consumed a considerable length of time in the discussion of the Pacific railroad bill, which has resulted in nothing. We had submitted this morning, by the honorable gentleman from Kentucky, [Mr. BRECKINRIDGE,] a proposition to set apart a particular day for the consideration of what I consider to be in the nature of a private bill—the bill to pay the Texas creditors. We have particular days set apart for the consideration of territorial business. Under these circumstances I submitted, this morning, from the Committee on Naval Affairs, a proposition to appropriate two days for the consideration of important business of this committee—business of the highest importance; business which the Departments have been urging upon the attention of Congress; business which the whole country is calling for action upon at the hands of this Congress. When I submitted the proposition it was voted down. The gentleman from Tennessee [Mr. STANTON] subsequently came forward and asked to have a particular day set apart for the consideration of business of the Judiciary Committee. Immediately after the rejection of the proposition to set apart time for the consideration of business of the Naval Committee, the proposition of the gentleman from Tennessee, for a similar object, is agreed to. It seems to me, therefore, to be entirely unnecessary, Mr. Speaker, that the Committee on Naval Affairs should mature any further business. At any rate, it seems to me to be entirely improper that I, who have asked this favor from the House, and been refused it, should continue longer in the position which I occupy on the Committee on Naval Affairs. I ask, therefore, to be excused from further service upon it.

Mr. STANTON, of Tennessee. I submit a question of order, whether, after the suspension of the rules, the motion of the gentleman from Virginia is of such a privileged character as that it would be in order at this time?

Mr. RICHARDSON. I rise to another question of order. The time appropriated for territorial business has now, I believe, arrived.

Mr. STANTON. The rules have been suspended. Mr. Speaker——

Mr. OLDS. I rise to a privileged question.

The SPEAKER. The Chair decides that, according to the practice of the House since he has served in this body, a gentleman is allowed at any time to ask to be excused from serving on a committee. It is a convenient rule, at least; and, in the opinion of the Chair, it is courteous and proper that the question should be put whether the gentleman from Virginia will be excused.

Mr. PHILLIPS. If that is the question before the House, would it be in order to make a remark on the subject as to whether the House should excuse the gentleman from serving on the Committee on Naval Affairs?

The SPEAKER. That debate, then, must be a very limited one.

Mr. PHILLIPS. It will be, sir, so far as I am concerned.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. TUESDAY, JANUARY 30, 1855. NEW SERIES.....No. 29.

I trust the House will not excuse the gentleman from Virginia from service upon the Committee on Naval Affairs, and I do trust, after the statement which has been made by my friend from Virginia to this House, that some gentleman who voted in the majority upon the motion to set apart a day for the consideration of the business suggested by him, and defeated that motion, will move to reconsider the vote, so that the Committee on Naval Affairs may have extended to it the privilege asked of disposing of the important business pressing before them.

Mr. WASHBURN, of Maine. Why does not the gentleman from Alabama submit the motion himself?

Mr. PHILLIPS. Would it be in order for me to make that motion?

The SPEAKER. It would not be in order, unless by the unanimous consent of the House, because there is already a special order now in operation.

Mr. BRECKINRIDGE. Upon the point of excusing the gentleman from Virginia from further service upon the Committee on Naval Affairs, I have only one remark to make. I hope that my friend will not be excused, and that he will withdraw his application for excuse. I am satisfied from what I saw in the House after I came here this morning, and upon inquiries I made in regard to the motion which I intended to submit, to get a day fixed for the consideration of the Texas creditors' bill, that the difficulty which the gentleman from Virginia experienced in getting a day set apart for the consideration of the business of the Naval Committee arose, not from any indisposition upon the part of the House to dispose of the business ready to be reported from that committee, but from the fact that he had fixed upon an unfortunate day. I know that there are a great many gentlemen upon the floor who had their hearts set upon the day he had fixed for the consideration of what they considered very pressing business. My original resolution embraced the very days which the resolution of the gentleman did, and I changed the time in order to avoid any conflict or confusion that might grow out of it.

The SPEAKER. The consideration of the special order was postponed one hour, which expired some five minutes ago. The gentleman from Illinois [Mr. RICHARDSON] insists upon the execution of the special order.

Mr. STANTON, of Tennessee. I hope the demand for the previous question on my resolution will be entered upon the Journal.

The SPEAKER. That can be only done by the unanimous consent of the House, if the gentleman from Illinois insists upon the special order.

Mr. RICHARDSON. I gave way for an hour only to the consideration of business that did not relate to the Territories. I cannot depart from the determination I then expressed. I ask that committees be called in their regular order for territorial business.

The SPEAKER. After the request of the gentleman from Virginia [Mr. BOCOCK] is disposed of the Chair will state the order of business.

Mr. ORR. I hope the gentleman from Virginia may be induced to withdraw his request.

Mr. SEWARD. I ask the consent of the House to make a brief statement in regard to this matter.

The SPEAKER. Is it the pleasure of the House to hear the gentleman from Georgia?

Mr. FLORENCE. I submit that what the gentleman desires to say, has nothing to do at all with the subject-matter before the House. It has no reference to any remark made by the chairman of the Naval Committee in asking to be relieved from the performance of his duties. I earnestly pray that there will be no more indulgence.

The SPEAKER. The Chair does not understand for what object the gentleman from Georgia has arisen—a matter which he can, perhaps, explain himself. The Chair does not know whether he intends to submit a motion or not.

Mr. FLORENCE. I think that we ought to sympathize with the gentleman from Virginia, and not with the gentleman from Georgia.

The SPEAKER. The Chair hears no objection to the gentleman from Georgia making his statement.

Mr. SEWARD. A few days ago I made some charges of rather a strange character against the Naval Committee. At that time I was under the impression that they were rather remiss in their duties, as I had some business before them, in which I felt considerable interest, that I considered did not receive the attention which it merited. I am sorry that my colleague, who is a member of that committee, did not afford me, at the time, the explanation which he has subsequently done, as it would have prevented the necessity of making the remarks I did. I believe that the Naval Committee have faithfully discharged their duty, and have done all they could to present the business before them for the consideration of the House; but the time has been so much taken up with the consideration of special orders, that it has been impossible for them to present such matters to the House as they desired to present. I hope the chairman of the Committee on Naval Affairs will withdraw his application to be excused from further service on that committee; but in anything I have said, I do not wish to withdraw that which I said the other day in reference to the Committee on Foreign Affairs. [Laughter.]

Mr. WENTWORTH, of Illinois. Is this matter debatable?

The SPEAKER. It is not.

Mr. WENTWORTH. I understand that two or three gentlemen have given their reasons to this House why the Judiciary Committee are stronger than the Naval Committee. I wish to know why I may not be permitted to show that there is more patronage at the disposal of the Judiciary Committee than the Naval in the increase of the salaries of judges and the division of States into new judicial districts. Can I go on?

The SPEAKER. Is it the pleasure of the House that the gentleman from Illinois make a speech?

Several MEMBERS objected.

Mr. JONES, of Tennessee. I do not wish to make a speech, but to make a personal appeal to my friend from Virginia [Mr. BOCOCK] to withdraw his request to be excused from service on the Naval Committee at this time. I ask him to withdraw it for the present, and renew the request in the morning, if, upon mature deliberation, he thinks that he ought to do it.

Mr. FLORENCE. I earnestly trust that the gentleman from Virginia will yield to the appeal.

Mr. BOCOCK. I did not intend to say a word further upon this matter. The House is, of course, the best judge of what is intended by its own action. I took my position upon a public view of this question, and I looked at the matter as it would appear to the public. I cannot conceive that the action of the House would present any other appearance to the public than that there was something wrong in regard to the management of the affairs of the Naval Committee. The House are, of course, the best judge of that matter, and they must act upon it as they think best.

The SPEAKER. The question now pending is, "Shall the gentleman from Virginia be excused from further service on the Committee on Naval Affairs?"

The question was taken; and it was decided in the negative.

Mr. STANTON, of Tennessee. I understood the gentleman from Illinois [Mr. RICHARDSON] to be willing, before he insisted upon the special order, that I should simply call for the previous question upon the adoption of my resolution.

The SPEAKER. The Chair understood the gentleman from Illinois as insisting upon the special order.

Mr. OLDS. I insist upon the regular order.

TERRITORIAL REPORTS.

The SPEAKER. Reports of a territorial nature are in order from the Committee of Ways and Means.

Mr. STANTON, of Kentucky. Has the Committee of Elections been called?

The SPEAKER. It was called, but no one answered.

Mr. STANTON. I took the floor to offer a resolution from that committee, but was interrupted by some one taking the floor for other purposes.

The SPEAKER. The report will be received now.

Mr. STANTON. I am instructed by the Committee of Elections to offer a resolution to authorize the Clerk of the House to pay to JAMES CARR LANE, Delegate from New Mexico, his mileage and per diem.

Mr. JONES, of Tennessee. Does that come in under the head of territorial business?

Mr. STANTON. I only desire to have it referred to a Committee of the Whole House.

The SPEAKER. It is not territorial business.

Mr. JONES. I object.

The SPEAKER. The gentleman from Kentucky proposes to submit the resolution to a Committee of the Whole House that it may go upon the Private Calendar. The Chair decides that it is a private bill.

Mr. JONES. Then it cannot be reported at this time.

The SPEAKER. It cannot, if objected to.

Mr. JONES. I object.

The SPEAKER. It is not, then, in order, under the resolution of the House. Reports from the Committee of Ways and Means are in order.

Mr. HIBBARD. The Committee of Ways and Means, to which was referred Senate bill (No. 305) to direct a reëxamination of the accounts between the United States and the State of Maryland, have instructed me to make an adverse report thereon; and as it proposes to make an appropriation, I move that it be referred to the Committee of the Whole on the state of the Union, and that the bill and report be printed.

Mr. JONES, of Tennessee. Is that territorial business?

The SPEAKER. It is not.

Mr. RICHARDSON. Then I object to it.

The SPEAKER. The report cannot be received. Only reports relating to territorial business are strictly in order.

The call of committees was then resumed.

Mr. DISNEY, from the Committee on Public Lands, to which was referred the memorial of the Legislative Assembly of the Territory of New Mexico, in relation to the preservation of the archives of said Territory, reported back the same with a recommendation that it be referred to the Committee on Territories.

It was so referred.

On motion by Mr. DISNEY, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of the following bills and petitions, and that the same be laid on the table:

H. R. No. 557. A bill for the relief of the owners and occupants of the town of Omaha city, in the Territory of Nebraska, and for other purposes.

H. R. No. 607. A bill to exempt certain town sites, in Nebraska Territory, from sale and preëmption.

H. R. No. 639. A bill to protect the proprietors of towns, in Nebraska Territory, in their town sites.

The petitions of Madison Mills, of F. J. Marshall and others, and of John Ellis and others, in relation to town sites in Kansas and Nebraska Territories.

Mr. DISNEY, from the Committee on Public Lands, reported House bill (No. 688) to amend an act approved 26th August, 1852, entitled "An act to reduce and define the boundaries of the military reserve at St. Peter's river, in the Territory of Minnesota," and for other purposes; which was read a first and second time, committed to the Committee of the Whole on the state of the Union, and ordered to be printed.

On motion by Mr. DISNEY, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of the petition of Nancy Taylor, and other citizens of Washington Territory, for an amendment to the law of that Territory, and that the same be laid upon the table.

Mr. DISNEY, from the same committee, to which was referred the bill of the Senate (No. 129) entitled "An act to authorize the sale of

reserved lands, and for other purposes," reported the same without amendment.

Ordered, That the said bill be committed to the Committee of the Whole on the state of the Union, and be printed.

Mr. DISNEY, from the same committee, reported a bill (H. R. 689) to establish the office of surveyor general of Utah, and to grant lands to actual settlers therein; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. HENN, from the same committee, to which was referred bills of the House of the following titles:

A bill to regulate the location of bounty land warrants in Oregon Territory; and

A bill to establish an additional land district in the Territory of Oregon; reported the same severally, with amendments.

Ordered, That said bills be committed to the Committee of the Whole on the state of the Union, and be printed.

Mr. CUTTING. The Committee on the Judiciary, which was charged with the following resolution of the House, have directed me to report a joint resolution:

Whereas, the law organizing the Territory of Minnesota, in the last clause of section six, in the following terms, viz., "All laws passed by the Legislative Assembly and Governor, shall be submitted to the Congress of the United States, and, if disapproved, shall be null and of no effect," reserves to Congress the right of reviewing and disapproving all laws passed by said Territorial Legislature: Therefore—

Resolved, That the acts of said Territorial Legislature, as certified to this body, be referred to the Committee on the Judiciary, and that said committee inquire into the propriety of declaring the act chartering the Minnesota and Northwestern Railroad Company null and of no effect, and that they make report to this House of their action in the premises,

The resolution was reported, as follows:

A resolution to disapprove and disaffirm an act of the Legislative Assembly of the Territory of Minnesota, entitled "An act to incorporate the Minnesota and the Northwestern Railroad Company."

Mr. CUTTING. Mr. Speaker, I am directed by the Committee on the Judiciary to make a brief statement of the circumstances connected with the act proposed to be disapproved, and upon which this report is founded. It is within the recollection of the House that, at an early day of the last session, a bill came from the Senate granting portions of the public land to the Territory of Minnesota, to aid in the construction of a railway. And about the same time, in pursuance of notice, another bill was introduced in this House, by one of the honorable members from Michigan, having the same object in view. While these two bills were pending——

Mr. RICHARDSON. I would suggest that this joint resolution be referred to the Committee of the Whole on the state of the Union, and that the explanation be postponed until that time.

Mr. CUTTING. When I have made the statement which I hold to be due to the committee of which I am a member, I shall then take the sense of the House as to what disposition shall be had of the matter.

When interrupted, Mr. Speaker, I was observing that, while these two bills were under consideration—the one from the Senate and the other originating in this House—an act was passed by the Territorial Legislature of Minnesota—approved by the Governor thereof—on the 4th day of March, incorporating the Minnesota and Northwestern Railroad Company.

It is necessary that I should draw the attention of the House to one of the provisions of that act. It was provided that the lands which had been, or might at any time thereafter be, granted by the United States to the Territory of Minnesota, to aid in the construction of this railroad, should be, and thereby were, vested absolutely in the individuals composing this company, without the necessity of any further deed or grant; so that the title, by virtue of this act, to all these lands was, as far as this territorial act could make it, perfect. The amount of land disposed of by these bills to aid Minnesota was eight hundred and fifty-two thousand four hundred and eighty acres.

The bill which came from the Senate was referred to the Committee on Territories, and, having been reported on favorably by that committee, was referred to the Committee of the Whole on the state of the Union. After discussion in committee, that bill was reported back to the House with amendments. One of these amendments was carried in the House, and then, on motion, the bill was laid upon the table. Subsequently, the bill, which had been introduced on notice by one of the honorable members from Michigan, and referred to the Committee on Public Lands, was reported back by the same gentleman, and was retained in the House, and, after various questions taken on it, was finally passed. But inasmuch as anterior to that action there had been the territorial act, now proposed to be disapproved, passed, by which the title, in fee, to all these eight hundred and fifty-two thousand four hundred and eighty acres were vested in this Minnesota and Northwestern Railroad Company, this House declared that no portion of the lands provided for by that bill should inure to the benefit of any railroad corporation, constituted *or* organized. As this Northwestern Railroad Company had been constituted by law, but not organized, it came within the direct purview of the act of this House, and was intentionally excluded from any benefit from the grant of these lands. After this bill had passed, it is within the recollection of the House that an unauthorized alteration of it was made by effacing the word "*or*," and inserting the word "*and;*" so that the act was made to read—that no portion of the lands thus granted should inure to the benefit of any railroad company, constituted *and* organized. But as this railroad company was only constituted, and not organized, it was thus made to escape from the provisions of the act thus spoliated; and it became entitled, by that alteration, in connection with the act which we propose to annul, to these lands—thus perverting the act, by the alteration, to the exact contrary of what the House had determined.

This bill went to the Senate, and from there to the Executive. Having been approved, it was returned to this House. It was approved by the Executive on the 29th of June, and on the 30th June, or the 1st of July, as quick as news could reach the city of New York, a meeting was held by certain individuals at the Astor House, who there, in point of form, organized this Northwestern Railroad Company, and claimed the title, in *fee-simple*, to these eight hundred and fifty-two thousand acres of land, and insisted that they had acquired hereby a vested and perfect title thereto.

It having been suspected that some unauthorized and fraudulent alteration had been made in the act, a committee of investigation was raised. The result was two reports; and a bill being introduced by a portion of the committee of investigation, declaring the construction of the act as it passed this House, on motion of an honorable gentleman from North Carolina, [Mr. CRAIGE,] everything but the enacting clause was stricken out, and a section repealing the act granting these lands to Minnesota, was substituted and carried. After this repeal had thus been consummated by the House, the Senate, for want of time to concur in the House bill, amended a private bill by adding a section repealing the Minnesota land bill, and in this form returned it to this House, which concurred, and was approved by the President.

Notwithstanding this repeal this railroad company insisted that it was beyond the power of this House, beyond the power of Congress to repeal a statute which had vested a right, or interest in lands in the Territory of Minnesota; and that, therefore, their title to these lands, claiming under the Territory of Minnesota, had not been, and could not be, impaired by any act of Congress. Shortly afterwards, and as early as the 23d day of October—I desire the House to notice dates—the district attorney of the United States for the Territory of Minnesota, without any instructions from any Department, without the knowledge of any Department, and in violation of his official duty, commenced an action, in the name of the United States, against this Northwestern Railroad Company, the object and purpose of which was to enable the title of this company to these lands to be adjudicated. It was an action of trespass for entering upon these lands, and cutting down timber, and carrying it away. It was commenced on the 23d of October. The pleadings are exceedingly voluminous; but within the remarkably short space of twelve days the summons were served, declaration filed, plea put in, replication to the plea filed, and demurrer to the plea; issue was thus joined, the cause set down for argument, argued and decided against the United States, and all in twelve days! So that on the suit, which was commenced on the 23 l of October, there was judgment entered on the 4th of November absolutely against the United States, without any power to amend the pleadings, or without any further action there. This judgment was consummated on the 9th of November. From this judgment a writ of error was brought to the Supreme Court of the United States, and the cause was docketed here on the 21st of January. And the first knowledge, or notice, official or unofficial, that any of the Departments of Washington had of the existence of this action was the docket of the cause in this city on the last mentioned day.

Now, Mr. Speaker, the Committee on the Judiciary, without entering into the disputed ground as to the right of the people of a Territory to legislate upon matters involving the great fundamental principles pertaining to their general regulations, are of opinion it cannot be denied, and, I apprehend, it will not be denied, that Congress has the power to protect the public lands against territorial aggression, and against territorial legislation, in opposition to the landed rights of the United States. The act enables Congress, at all events, to disapprove of acts of self-protection, which affect the rights of property in the United States.

Again, Mr. Speaker, there is another ground, and a ground which, I think, appeals very strongly to every member of this House who desires to see the public duties of our officials conducted with decorum, and with a proper regard for the preservation of the proprieties of official life. It is this: When the Committee on the Judiciary came to look at the names of the persons mentioned in the territorial act proposed to be repealed, who were to receive this grant of eight hundred and fifty thousand and odd acres of the public lands, the committee found that one of the immediate grantees of the Government was the Governor of that Territory, who signed the bill, and another was the secretary of the Territory, who certified the bill.

When, therefore, we find a territorial act passed for the benefit of Governors and secretaries, and public officers of the Government, concerned officially in the passage of the act, having for one of its objects the acquisition of the public lands, I take it for granted that the matter being brought to the attention of the House, they will promptly disapprove of, and disaffirm such an act. I submit that there can be no question of the power or the propriety of the action of Congress, when they find that there has been territorial legislation for the benefit of the private interests of Government officials in opposition to their public duties, to pass an act disapproving of and disaffirming the transaction.

In answer to the question put by the gentleman from Ohio, [Mr. CAMPBELL,] whether this territorial act was known to the House at the time of the passage of the act of Congress granting the land, I cannot answer, because the answer would involve a knowledge of what others know, and of which, of course, I know nothing.

Mr. CAMPBELL. In relation to that point, if the gentleman will allow me, I will say, that, as one of the friends of the bill making the grant, I feel authorized to say, that many of those who voted for the bill originally, were entirely ignorant of any such territorial act as that chartering the Minnesota and Northwestern Railroad Company. It was developed, in fact, in the course of the investigation, which took place near the close of the last session; and that committee had no doubt that something was wrong, from the very moment that they had the charter before them. The investigation, however, was prosecuted so near the close of the session, that we had no time to do anything more than to partially correct the sanction by Congress of this enormous fraud, which these parties have since resorted to the judiciary of the country to establish, and to defeat the action of Congress.

Mr. CUTTING. One suggestion in addition, and but one more. It will be in the recollection of the House that by the act of Congress of the 3 l of March, 1849, establishing the Territory of Minnesota, it was expressly provided, that all the territorial acts of that Territory should be sent to Congress for their approval or disapproval, and that, in the event of the disapproval of Congress of any act, it should become null and void. Hence, all persons taking titles under such territorial acts before they have been submitted to Congress for their

approval or disapproval, take them subject to that risk. It is declared by public law, with which every man is necessarily assumed to be conversant, that such territorial acts will be of no validity if, when presented to Congress, they should meet with its disapproval. Therefore, any man, no matter whether he was a party or privy to any of these extraordinary transactions, when he took a venture under a territorial act which had never been presented to Congress, necessarily took it at the risk, and subject to the right, of disapproval upon the part of Congress.

Now, sir, at this stage of the session, and especially as my attention has been called to the urgency of time by the gentleman from Illinois, [Mr. RICHARDSON,] it strikes me that it will be better to call the previous question, unless there is some strong reason upon the part of some one why it should not be done. I propose, therefore, unless the gentleman from Illinois objects, to put the resolution upon its passage, and to call the previous question.

Mr. RICHARDSON. I have no objection to the course the gentleman proposes to pursue. I know of no reason why the resolution should not be passed at once. My suggestion was for the purpose of economizing time.

Mr. HUGHES. I understood my colleague in his remarks to implicate the conduct of the district attorney for the Territory of Minnesota. Now, sir, I rise simply for the purpose of asking the House—that gentleman being from the State of New York, which I have the honor in part to represent—not to come to any hasty conclusion unfriendly to that officer, or in reference to the conduct of that officer, until they have had an opportunity of knowing definitely in relation to the facts of which my colleague speaks.

Mr. CUTTING. I can furnish the gentleman with definite information in relation to the matter of which he speaks. Upon the investigation of those who have the right to investigate and the power to act, and in answer to a resolution of this House, we have here the report of the Attorney General, which has been printed and distributed amongst the members of the House, which sets forth the proceedings of the district attorney They were, as it appears, so flagrant in their character, that those who had the power and the duty to adjudicate in reference to it, felt it to be their duty forthwith to dismiss the district attorney from office. Now, I apprehend it would be unbecoming in this House to take any action to call in question what has been done by these authorities, or to go behind the proceedings of those whose duty it was to make this investigation.

Mr. HUGHES. I have only to say in reply, that I have heard of the rumor of which he speaks, and that I have heard that it is only a rumor. I understand that the matter is still held in abeyance, and that the district attorney of Minnesota has not been removed. I desire further to say that I am personally acquainted with Mr. Warren, and that I know him to be an honorable, high-minded gentleman, and I believe he would do nothing, as district attorney, incompatible with the public interest, or unbecoming his official position. But all I ask is that the House will not judge hastily in relation to this person without affording him an opportunity of being heard.

Now, sir, one word more. My colleague has spoken of the argument made by the district attorney in the case which has been presented. I desire to ask him if he has read the able argument made by the district attorney on that occasion, in defense of the United States?

Mr. CUTTING. If my colleague undertakes to deny the charges made against the district attorney, so be it.

Mr. HUGHES. Not at all.

Mr. CUTTING. But the district attorney's guilt or innocence does not weigh a feather in determining the matter before the House. The Territorial Legislature of Minnesota have passed acts which, if allowed to stand, will violate the will of Congress, and I ask the House whether they will delay their action now, because the gentleman from New York desires to protect the district attorney? No, Mr. Speaker, these are collateral issues, and should be tried at the proper time and place, but not here.

Mr. LANE, of Oregon, (Mr. CUTTING yielding the floor.) Mr. Speaker, it will be well recollected by every gentleman here that this bill occupied the time set apart for the consideration of territorial business last session, and defeated the action of the House upon many important measures. I am satisfied that the bill was "conceived in sin, and brought forth in iniquity." [Laughter.] Enough has been said on the subject, and the House is prepared to pass the joint resolution. I, therefore, ask the gentleman from New York, if he is a friend to the Territories, to insist upon the previous question. I hope the law will be repealed.

Mr. CUTTING. Under that request, which I perceive is the unanimous desire of the House, I insist upon the demand for the previous question.

Mr. HUGHES. Will the gentleman waive it for one moment?

[Loud cries of "No!" "No!"]

Mr. HUGHES. I have been misunderstood.

Mr. CUTTING. If the gentleman will look at page forty of the official correspondence, he will find that the Attorney General has returned to this House the fact, that that district attorney has been removed from office.

Mr. HUGHES. I wish to say a single word.

Mr. CUTTING. No, sir; the House desires that I should press the demand for the previous question, and I must insist on it.

Mr. HUGHES. Well, I hope the House will vote it down.

The previous question received a second, and the main question was ordered to be put.

The joint resolution was then ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time.

Mr. CUTTING. I now demand the previous question on the passage of the resolution.

The previous question was seconded, and the main question was ordered to be put.

Mr. STUART, of Ohio. I ask for the yeas and nays on the passage of the resolution.

The yeas and nays were not ordered.

The joint resolution was then passed.

Mr. CUTTING moved to reconsider the vote by which it was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message, in writing, was received from the President of the United States, by SIDNEY WEBSTER, Esq., his Secretary.

TRANSIT RAILROAD COMPANY.

Mr. CUTTING. I have a further report to make from the Committee on the Judiciary.

Mr. HUGHES. Will my colleague allow me the floor for a moment?

Mr. CUTTING. Yes, sir, I will yield to my colleague for a moment.

Mr. HUGHES. I find that I have been misunderstood. I was not opposed to the passage of the bill introduced by my colleague at all. But, inasmuch as my colleague rather animadverted on the conduct of Mr. Warren, I asked the members of the House not to prejudge the case until Mr. Warren should have an opportunity of being heard.

Mr. CUTTING. I so understood. I did not understand that my colleague was opposed to the joint resolution.

Mr. RICHARDSON. I rise to a question of order. I object to the discussion going on, and call both the gentlemen from New York to order.

Mr. CUTTING. The Committee on the Judiciary, to whom was referred the resolution to which I alluded sometime since, have also instructed me to report a joint resolution disapproving of what I may call the twin or sister act to this Northwestern Railroad Company. On the same day that that corporation was created, a territorial act was passed incorporating a railway, part and parcel of, and joining to this northwestern trunk, by the name of the Transit Railroad Company, and we find that the Governor and Secretary of that Territory are both of them parties of and beneficiaries under this territorial act. I am, therefore, instructed to report a bill to the House.

Mr. RICHARDSON. I rise to a question of order. By the resolution setting apart these three days for territorial business, railroads were excluded, and I insist upon the execution of the order.

Mr. CUTTING. This is the antipode of a railroad.

Mr. RICHARDSON. I cannot help that. It relates to a railroad.

Mr. CUTTING. Oh, no, to the public lands.

Mr. RICHARDSON. Everything in relation to railroads is excluded by the order.

Mr. CUTTING. I demand the previous question on the joint resolution.

The SPEAKER. The Chair doubts whether this is a railroad bill in the sense in which the House made the order.

Mr. RICHARDSON. If there are no more of these railroad bills, I will waive the point of order.

Mr. CUTTING. I have no more.

Mr. RICHARDSON. Then I will not press the point of order.

The SPEAKER. The Chair wishes to decide according to the law. The order of the House was, that railroad bills should be excepted. This is not a railroad bill in the sense which the House intended.

The joint resolution was then read a first and second time by its title, as follows:

A joint resolution disapproving of the act of the Legislative Assembly of the Territory of Minnesota entitled "An act to incorporate the Transit Railroad Company."

Mr. CUTTING. I now demand the previous question.

Mr. PECKHAM. I only want to say one word, and that is, how are we going to get along with this "popular sovereignty" doctrine, established by the compromise measures of 1850?

Mr. CUTTING. Certainly I shall not undertake to instruct a gentleman so learned in those matters as my friend. [Laughter.]

Mr. PECKHAM. That is the only thing that troubles my conscience.

Mr. RICHARDSON. Your conscience must be very easy, if that is all that troubles it.

The previous question received a second, and the main question was ordered to be put.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read a third time.

The question being on the passage of the joint resolution,

Mr. CUTTING. I call for the previous question.

Mr. STUART, of Ohio. I call for the yeas and nays; and on the call for the yeas and nays, I ask for tellers.

Tellers were ordered; and Messrs. PRESTON and EDMUNDSON were appointed.

Mr. WARREN. I move that the rules be suspended, and that the House do now resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. The House being in the act of dividing, the Chair thinks that the motion of the gentleman from Arkansas is not in order.

The House was divided; and the tellers reported —ayes forty-five—a sufficient number. So the yeas and nays were ordered.

Mr. WARREN. I now move that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. There is an additional reason why that motion is not in order. The main question has been ordered to be put, and that must operate before the motion would be in order.

Mr. WARREN. Very well.

Mr. PHILLIPS. Will it be in order, Mr. Speaker, to state the reason of a vote before the name is called.

The SPEAKER. The Chair believes the rule cuts off from all explanation of the reason of a vote.

The Clerk commenced to call the roll.

Mr. ROWE. I desire to ask a question.

The SPEAKER. It is not in order.

Mr. ROWE. Then I cannot vote intelligently.

The SPEAKER. The Chair would call the attention of the gentleman from Arkansas [Mr. WARREN] to an error which the Chair fell into. The previous question has not been ordered, and, therefore, the gentleman's motion to go into the Committee of the Whole on the state of the Union is in order.

Mr. WARREN. Then I insist upon my motion.

Mr. CAMPBELL. I would inquire of the Chair whether the call of the roll had not commenced?

The SPEAKER. The previous question had not been ordered, and the Chair was mistaken.

Mr. WASHBURN, of Maine. Yes; but the calling of the roll had been commenced.

The SPEAKER. The Chair understands that no response was made.

The question was then taken on Mr. WARREN's motion; and it was not agreed to.

Mr. CUTTING. I now demand the previous question on the passage of the joint resolution.

The previous question received a second, and the main question was ordered to be put, which was, "shall the joint resolution pass?"

The question was taken; and it was decided in the affirmative—yeas 116, nays 16; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, Appleton, Ashe, David J. Bailey, Ball, Belcher, Bennett, Benson, Bliss, Bocock, Boyce, Bristow, Brooks, Bugg, Campbell, Carpenter, Caruthers, Chamberlain, Chase, Chrisman, Clingman, Cook, Corwin, Craige, Crocker, Cullom, Cutting, De Witt, Dick, Dickinson, Dunbar, Edgerton, Edmundson, Thomas D. Eliot, John M. Elliott, Ellison, Etheridge, Everhart, Farley, Faulkner, Flagler, Florence, Franklin, Fuller, Gamble, Goode, Goodrich, Goodwin, Grey, Aaron Harlan, Wiley P. Harris, Hill, Houston, Howe, Hunt, Daniel T. Jones, George W. Jones, Kittredge, Lamb, Lane, Letcher, Lewis, Lindsley, McCullock, McMullin, McQueen, Mace, Matteson, Middleswarth, Millson, Morgan, Morrison, Murray, Nichols, Norton, Andrew Oliver, Mordecai Oliver, Orr, Parker, Peck, Peckham, Bishop Perkins, Powell, Pratt, Ready, Reese, David Ritchie, Thomas Ritchey, Rogers, Ruffin, Russell, Sabin, Sapp, Seymour, Shaw, Singleton, Skelton, William Smith, William R. Smith, George W. Smyth, Andrew Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Thurston, Tracy, Trout, Wade, Walley, Elihu B. Washburne, Israel Washburn, Tappan, Wentworth, Daniel B. Wright, Hendrick B. Wright, and Yates—116.

NAYS—Messrs. Thomas H. Bayly, Barry, Clark, Cobb, John G. Davis, English, Green, Greenwood, Hendricks, Henn, Phillips, Richardson, Seward, Hestor L. Stevens, Upham, and Warren—16.

So the joint resolution was passed.

Pending the announcement of the vote,

Mr. COX stated that if he had been within the bar when his name was called, he would have voted aye.

Mr. KERR and Mr. WHEELER made similar statements.

Mr. ROWE stated that, as he could not get the information he sought as to the question, he did not understand it, and, therefore, did not vote.

Mr. RICHARDSON. Would it be in order, Mr. Speaker, to send the pages outside to inform gentlemen who left the Hall that the vote is now over, and that they need not be afraid to come back to their seats? [Laughter.]

The SPEAKER *pro tempore*, (Mr. WARREN in the chair.) The Chair does not suppose it necessary to do so; a quorum has voted.

Mr. CUTTING moved to reconsider the vote by which the joint resolution was adopted, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

Mr. PARKER, from the Committee on the Judiciary, asked to present certain reports from that committee, for the purpose of having the committee discharged from the further consideration of the subject.

Mr. RICHARDSON. I object to their introduction, as they are not on territorial business.

The SPEAKER. Under the special order of the House, nothing is in order except territorial business; the reports offered to be presented by the gentleman from Indiana not being on territorial business, are out of order.

Mr. FAULKNER. I am instructed by the Committee on Military Affairs to report back House bill No. 606, providing for the construction of roads and bridges, and the improvement of rivers in the Territory of Kansas, and to provide for the trigonometrical survey of said Territory. The committee has had the same under consideration, and has directed me to make an adverse report with respect to all of the objects of the bill, except as to the construction of military roads, and to ask to have the bill referred to the Committee of the Whole on the state of the Union.

The bill was read a first and second time by its title, and referred to the Committee of the Whole on the state of the Union.

Mr. FAULKNER. I ask that the bill and the report be ordered to be printed.

It was so ordered.

Mr. FAULKNER. I ask to report from the Committee on Military Affairs, a bill for the protection of the inhabitants of the Territories.

Mr. EDGERTON. I would inquire of the gentleman from Virginia whether that is the bill providing for the enrollment of the three thousand volunteers?

Mr. FAULKNER. I answer that it is.

Mr. EDGERTON. Then I object to it.

The SPEAKER, (to Mr. FAULKNER.) What is the character of the bill?

Mr. FAULKNER. It is a bill which calls out three thousand volunteers for the protection of the Territories.

Mr. EDGERTON. I raise the question of order, whether that is territorial business?

The SPEAKER. The Chair thinks it is not territorial business in the sense of the resolution of the House.

Mr. FAULKNER. Then I ask the Chair whether I can now move to suspend the rules to enable me to report this bill? I sought the floor this morning, in order to move a suspension of the rules, under the apprehension that, when I came to report the bill at this time, this point of order would be raised.

The SPEAKER. It is not now in order to move a suspension of the rules, the House being acting under a special order.

Mr. FAULKNER. Well, I shall not take an appeal from the opinion of the Chair, simply for the reason—even if I did not entertain respect for the decision of the Chair—that this bill is now pending as an amendment to the Army appropriation bill in the Senate, and thus we shall have an opportunity of acting on it in the course of one or two days.

Mr. FAULKNER, from the Committee on Military Affairs, made adverse reports on "the bill to transfer Fort Scott reserve to the Territory of Kansas, and for other purposes;" also, a resolution of the House, instructing that committee to inquire into the expediency of providing for the payment of certain militia in the Territory of New Mexico, called out in 1854 for the suppression of Indian hostilities; also, the resolution asking to have refunded to the Territory of Utah, expenses incurred by said Territory in suppressing Indian hostilities in 1853; which reports were severally ordered to be laid on the table and printed.

Mr. FAULKNER. I will ask the indulgence of the House to permit me to have laid on the table and printed, the evidence of General Scott, and of those other officers who were summoned before the Committee on Military Affairs in reference to the reorganization of the Army.

It was so ordered.

Mr. PHILLIPS. I am instructed by the Committee on Territories to report a bill extending the jurisdiction of the State of California eastwardly to Carson valley, and for other purposes; which I ask to have referred to the Committee of the Whole on the state of the Union.

Mr. MACE. Is that in order?

The SPEAKER. The Chair thinks it is not in order.

Mr. PHILLIPS. It has reference to a portion of Utah, separated from that Territory by a range of mountains, which makes it inaccessible to the population residing in the valley.

The SPEAKER. It is not in order.

Mr. FARLEY, from the Committee on Territories, introduced a bill "making an appropriation for a military road in the Territory of Nebraska;" which was read the first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. HENDRICKS. I am instructed by the Committee on Invalid Pensions to report back House bill (No. 545) to provide for the allowance of invalid pensions to certain volunteers in the Indian wars in Oregon Territory.

It relates to territorial business, and proposes to place upon the pension list the names of those volunteers who were wounded and disabled in the Indian wars in the Territory of Oregon. The gentleman from Oregon [Mr. LANE] desires that this bill should come before the House during the three days devoted to territorial business; and I will therefore report it back, with the consent of the House, without any action upon the part of the committee.

Mr. LETCHER. I would ask if a bill that provides for the allowance of certain invalid pensions to volunteers is a territorial bill?

Mr. HENDRICKS. I will state that the bill was first referred to the Committee on Military Affairs, and by that committee sent to the Committee on Invalid Pensions.

Mr. JONES, of Tennessee. I think that some committee ought to report upon it, and give us the facts in the case. It seems that the Committee on Military Affairs have got clear of it, without making a report upon it to the House; and now the Committee on Invalid Pensions have returned it to us without making a report. If they will state the facts of the case, we may be prepared to act upon it.

Mr. LANE, of Oregon. I do not intend to insist upon having this bill introduced as territorial business, although I regard it as strictly territorial. It is a bill to allow pensions to certain persons who have been wounded or disabled in the Indian wars in Oregon Territory, and who were engaged in the defense of the people of that Territory, under the call made upon them to turn out for that purpose. Many of these persons were disabled, from wounds received while so engaged, and the bill simply proposes to grant them a pension for their services.

Mr. HENDRICKS. If the gentleman would allow me, I wish to say, that it is not very important that the bill should be examined by any committee. It is very simple in its provisions, and the House will easily understand it by merely hearing it read. It proposes simply to allow persons disabled in the Indians wars in Oregon, the same pensions allowed to persons of the same grade in the regular Army, disabled in such service.

The SPEAKER. Is the objection withdrawn?

Mr. LETCHER. I raise the question of order, that the bill does not relate to territorial business.

The SPEAKER. The Chair decides that it is not territorial business.

Mr. RICHARDSON, from the Committee on Territories, reported back, without amendment, Senate bill entitled "An act making an appropriation for the construction of certain military roads in the Territory of Nebraska;" which was read the first and second time by its title, and referred to the Committee of the Whole on the state of the Union.

The SPEAKER. The following territorial bill upon the Speaker's table was reported at the last session, with a recommendation that it do not pass:

House bill (No. 317) to establish the office of surveyor general of Utah, and to grant donations of land to actual settlers, and for other purposes.

Mr. RICHARDSON. I move to lay the bill upon the table.

The question was taken; and the bill was laid upon the table.

COMMITTEE OF THE WHOLE.

Mr. RICHARDSON. I now move that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The question was taken; and it was decided in the affirmative.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union (Mr. PHELPS in the chair) on the special order, being business relating to the Territories.

STATE GOVERNMENT IN OREGON.

The CHAIRMAN. The business first in order is the consideration of bill (No. 332) to enable the people of Oregon Territory to form a constitution and State government, and for the admission of such State into the Union.

The Chair will take occasion to remark that he shall rule, as he has done on previous occasions when he has been presiding in the Committee of the Whole, in the consideration of territorial businees, that gentlemen who address the committee must confine their remarks strictly to the subject under discussion.

When this bill was under consideration at the last session of Congress, the committee had adopted it as far as the fifth section. The Clerk will now read the fifth section, with the amendment then adopted.

The section was read, as follows:

SEC. 5. *And be it further enacted*, That the district judge, attorney, clerk, and marshal, contemplated by this act, shall each be allowed the same compensation and fees that are severally allowed to the same officers in the State of California by act of Congress, to be paid in the same manner.

The amendment already adopted, inserted after the word "judge" the words "shall be allowed the annual salary of three thousand dollars each, and the"——

The Clerk will report the pending amendment offered by the gentleman from New York, [Mr. CUTTING.]

It was read, as follows:

Strike out the words "State of California," and insert in lieu thereof the words, "the southern district of New York."

The question was taken upon the amendment; and it was agreed to.

Mr. WASHBURN, of Maine. I would inquire of the Chair, whether it is in order to go back on the bill and offer amendments to the preceding sections?

The CHAIRMAN. It is not.

Mr. WASHBURN. The Chair, then, holds that we must take the bill where we left it at the last session?

The CHAIRMAN. The Chair rules that we must resume the consideration of the bill at the point where we left off last session.

The reading of the bill having been finished, and no further amendments being offered, it was laid aside, to be reported to the House with a recommendation that it do pass.

TERRITORIAL LIBRARIES.

The next bill which came up in order was joint resolution (No. 22) making an appropriation for the purchase of territorial libraries.

The bill, which was read, proposes to appropriate the sum of $500 for the purchase of territorial libraries for each of the Territories of Minnesota, Oregon, Utah, and New Mexico.

Mr. BERNHISEL. I merely desire to say that such a bill was passed at the last session of Congress.

Mr. RICHARDSON. How much does the bill appropriate?

The CHAIRMAN. Five hundred dollars each.

Mr. RICHARDSON. I move to amend the joint resolution by inserting a clause to appropriate to each of the Territories of Nebraska and Kansas $5,000, to purchase books for them.

Mr. JONES, of Tennessee. I would say to the gentleman from Illinois, and to the gentleman from Kansas, [Mr. WHITFIELD,] that estimates have been submitted by the proper Department for purchasing libraries for those Territories of Kansas and Nebraska. The Committee of Ways and Means have agreed to those estimates, and will report them to the civil and diplomatic bill when it comes up.

Mr. HOUSTON. I would say to my friend from Tennessee, if the committee see fit to put the appropriation in this bill, it will save the Committee of Ways and Means the trouble of offering the amendment to the bill to which he has referred.

Mr. WHITFIELD. I understand it is customary to give to each of the Territories, at the beginning, the sum of $5,000 for the purchase of a public library, and then $500 annually thereafter. The Territories of Nebraska and Kansas have not yet received their $5,000. I have no choice whether the sum is included in this bill, or be appended to the civil and diplomatic bill. But I hope it will be included in one or the other.

Mr. RICHARDSON. I am not sure that the gentleman from Kansas is exactly correct in his statement. We do not appropriate $500 annually. We do not appropriate $5,000 to each Territory, so far as I know, to begin with. The sum of $500 additional appropriation is to buy books necessary for them, for public use; and as much as is necessary for that purpose, Congress, from time to time, appropriates, whether it be $500, more or less.

I move my amendment, to insert $5,000, and leave the bill in other respects as it is.

Mr. HOUSTON. The gentleman from Illinois is laboring under a slight mistake as to the $500. A bill to appropriate such a sum was pending at the last session of Congress, when the civil and diplomatic bill was acted upon, and the former bill not having been agreed to at the time, the $500 proposed to be appropriated in it, was put upon the civil and diplomatic bill. The Committee of Ways and Means have a letter from the Comptroller of the Treasury, showing the fact that $5,000 have been appropriated to all the Territories at the start. There is no annual appropriation, but occasionally small sums are appropriated to the Territories for the purpose of enabling them to accomplish particular things. The $500 referred to in this bill, was appropriated at the last session, and I think that the proper motion is now to strike out and insert.

Mr. RICHARDSON. The information given by the gentleman from Alabama [Mr. HOUSTON] is such as I did not have in my possession at the time. I have not recurred to the subject, with the present exception, since the last session of Congress. The sum proposed enables the Territories to buy what books they may want in their libraries. I do not see the necessity for the provision of $500 annually to each Territory.

I move to so amend the bill that it will provide only for the appropriation of $5,000 to each of the Territories of Kansas and Nebraska for the purchase of territorial libraries.

The question was taken; and the amendment was agreed to.

The bill was then laid aside, to be reported to the House with the recommendation that it be passed as amended.

EXPENSE OF A CODE OF LAWS FOR UTAH.

A joint resolution authorizing the accounting officers of the Treasury to adjust the expenses of a board of commissioners appointed by the Territorial Assembly of Utah to prepare a code of laws, was read *in extenso*.

Mr. BERNHISEL. Mr. Chairman, as a resolution similar, almost the same as the one under consideration, was passed at the last session, I move that it be laid aside, to be reported to the House with the recommendation that it do not pass.

The question was taken; and the motion was agreed to.

FORT ON PEMBINA RIVER.

House bill (No. 477) for the erection of a fort on or near the Pembina river, in the Territory of Minnesota. The bill was read *in extenso*.

Mr. WHITFIELD. Mr. Chairman, I propose to amend the bill, so as to provide for the establishment of one or more forts within the Territory of Kansas. I know that a very few days have been set apart for the consideration of territorial business, and I shall consume as little time as a proper explanation of such amendment may demand. The officer who was sent out by the Department here in reference to the matter, recommends the establishment of one or more military posts in that Territory. I could satisfy the committee, I am sure, of the necessity for these posts; but, as I have remarked, I shall not consume the time of the committee.

Mr. RICHARDSON. I would ask the gentleman from Virginia, [Mr. FAULKNER,] who is at the head of the Committee on Military Affairs, whether he has any proposition to submit to the House for the erection of forts and arsenals in the Territories of the United States? Or has the subject been at all brought to their attention?

Mr. FAULKNER. The subject has been before us; and the gentleman, by looking at the Calendar, will find the fourth after the bill now under consideration, a bill authorizing the Secretary of War to purchase sites, and contract for the erection of arsenals in Texas and New Mexico, and in the Territory of Oregon. Beyond that, however, the committee have not had action in the matter.

Mr. RICHARDSON. I will ask the gentleman further, that we may all understand this matter, whether the War Department will not need arsenals and forts in the Territories of Kansas, Nebraska, and Minnesota?

Mr. LETCHER. Is there any amendment pending?

The CHAIRMAN. The amendment which the Delegate from Kansas has indicated, is now being reduced to writing.

Mr. WHITFIELD. I move to amend by adding the following words:

That a fort be erected on the Arkansas river, in the Territory of Kansas, at or near the point where the road from Independence to Santa Fé crosses said river.

Mr. LETCHER. I want to offer an amendment before the close of the section.

The CHAIRMAN. The gentleman's amendment has the precedence.

Mr. LETCHER. I move to strike out the words "the purchase of a site and."

It strikes me as somewhat remarkable that the Government of the United States wants to buy a site for a fort when it owns three fourths of the land in this Territory now. There is something in it which I cannot understand, and I should like to have it explained.

Mr. RICE. The point of Pembina is in the Indian country. I believe that it has not been customary for the United States to purchase lands from the Indians upon which to erect forts and arsenals. The words indicated may properly be stricken out. I was not aware that they were in the bill.

Mr. FAULKNER. I wish to make one remark in reply to my colleague, [Mr. LETCHER.] These words are uniformly inserted in all bills of this character. Surely it would not be supposed that the Secretary of War would make the purchase unless it were in some manner necessary. If the land upon which it was proposed to erect the fort belonged to the Government, of course the Secretary of War would not purchase. All that the provision proposes, is to leave it to the Secretary of War to select the point at which the fort is to be located, and in case the point selected does not belong to Government, to leave it discretionary with the Secretary of War to purchase of the proper owners. Of course the United States would not purchase the land unless the circumstances rendered it necessary. All that is proposed is to leave this discretionary power in the hands of the Secretary, which, I think, my colleague will find no reason to object to.

Mr. LETCHER. To take away this discretionary power is precisely what I propose to do. If the Secretary of War could go to the locality himself, and make the selection from his own observation, he might obtain proper information as to the best point to be selected; but when he is obliged to depend upon the information of those who are interested in disposing of their land, he is not very likely to obtain correct information, and for this reason, I want these words stricken out.

The question was taken; and Mr. LETCHER's amendment to the amendment was adopted.

The question then recurred upon the adoption of Mr. WHITFIELD's amendment as amended.

Mr. WHITFIELD obtained the floor.

Mr. LECTHER. Will the gentleman from Kansas allow me to ask him one question?

Mr. WHITFIELD. Certainly.

Mr. LETCHER. How much money does the gentleman want to build his fort?

Mr. WHITFIELD. Only a very small amount.

Mr. LETCHER. Why not, then, put the amount in the amendment, so that we may know what it is?

Mr. WHITFIELD. I desire to state to the committee that, upon the whole route from Independence to Santa Fé, a distance of eight hundred miles, the emigrants are afforded no protection whatever. The course of the emigrant route lies along the Arkansas river, and every spring and summer thousands of emigrants pass over it. The military post upon the route has been abandoned, and the soldiers who are sent out there in the summer, leave that vicinity in the fall, because there is no place for them to winter in. It is one of the most important military roads in the western country. And, sir, as to the amount of money which will be required to construct it, I hope the gentleman from Virginia will not be very particular about that. I do not know the precise amount that will be required; but I know that it will cost but a very small amount, and that it is an absolute necessity that the fort should be erected. Unless it is, we shall be left, for a large portion of the year, without any protection whatever.

The CHAIRMAN. The Chair asks of the gentleman from Kansas with what sum he proposes to fill the blank in his amendment?

Mr. WHITFIELD. I do not know what sum will be required.

The CHAIRMAN. The Chair would suggest that it be filled with the same amount as was just now designated for a similar purpose in another locality.

Mr. WHITFIELD. I have no objection to that.

Mr. JONES, of Tennessee. I hope the gentleman from Kansas will modify his amendment so as to provide for the erection of a military post instead of a fort, as it now stands. I do not know,

but it seems to me that there is no necessity of the erection of a fort in that locality. As the amendment now stands, the Secretary of War may think it his duty to commence the erection of a fort, and we do not know what amount it will cost to complete it. What they want is a post—a military post—and not a fort, as I understand it; and I hope the gentleman will so modify his amendment.

Mr. LETCHER. I should like to make another inquiry of the gentleman from Kansas. Has the Secretary of War, or any one connected with the War Department ever recommended the erection of this fort? Have we any estimates upon the subject?

Mr. WHITFIELD. I have no official knowledge of that fact.

Mr. LETCHER. Then it seems to me we ought to be informed what is the recommendation of the War Department in reference to the matter, before we make this appropriation.

Mr. HOUSTON. I will state to my friend from Virginia, in relation to these military posts, that it is usually left at the discretion of the Secretary of War to select their precise locality. The appropriation is usually made for military posts, and then they are established under the rules of the War Department, at the discretion of the Secretary of War. There is usually no specific direct appropriation for any one particular point, and if you can find any estimates of that sort, I think it is quite unusual. I repeat, that the usual practice has been to make the appropriations for military posts in gross, and leave it with the Secretary of War to make the particular applications as he may think proper.

Mr. LETCHER. The gentleman from Alabama did not exactly apprehend what I said. I take it for granted that whenever these military posts are to be established, or whenever the Secretary of War thinks it necessary that new ones should be established, he suggests it in his report to Congress, and submits his estimates for the appropriation which he asks Congress to make.

Mr. HOUSTON. The Secretary of War suggests that a certain number of military posts are needed at certain portions of our frontiers, but the appropriations are not made for any particular point. That is left a matter discretionary with the Secretary of War to determine.

Mr. LETCHER. Well, has he suggested that any military post is necessary for this locality? We are designating a particular point; has he suggested that this military post is necessary?

Mr. WHITFIELD. I will state this fact for the information of the gentleman from Virginia: An officer was sent out, under the direction of the War Department, last spring, with power to select a point somewhere on the Arkansas river for the establishment of a military post or fort. I had many interviews with that officer, and traveled with him. I know that he was directed to select a point at which to establish a military post.

I will state, as a further reason why there is a necessity for the establishment of this military post or fort, that the Indian agent has now no place where he can remain through the winter in that part of the country. The troops remove away in the fall, and there is no place for him to remain.

Mr. Chairman, allow me to state once more, that, if there is any point in the great West where a military post or fort is eminently needed, it is upon the Arkansas river. If gentlemen desire it, I am willing to leave it discretionary with the Secretary of War to locate it at any point upon the Arkansas river. I will fill the blank with $5,000, and am willing that the word "post" shall be substituted for "fort."

The amendment, as modified, was then reported, as follows:

And be it further enacted, That $5,000 be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the erection of a military post on the Arkansas river, in the Territory of Kansas, near the point where the road from Independence to Santa Fé crosses the Arkansas river, in said Territory.

Mr. RICHARDSON. Mr. Chairman, this is a subject to which I have not, of course, devoted as much attention as the members of the Military Committee. I know nothing about the necessity for these appropriations in this exact specific shape. There can be no doubt that there will have to be appropriations made for the erection of posts, or forts, if you please—and I acknowledge that I do not know exactly the point where one begins and the other ends—to a larger extent than the Military Committee have reported. It may be, as the gentleman from Alabama, [Mr. HOUSTON,] the chairman of the Committee of Ways and Means, suggests, that the appropriation is made in gross and expended under the direction of the Secretary of War. I do not know that we could, by indicating the points where the posts are to be established, exactly accomplish what we desire by the passage of this bill. I apprehend that, during the next summer, it will be necessary to have a force, either stationary or moving, upon our lines of communication with our western country; and I called the attention of the chairman of the Military Committee to the subject with a view of ascertaining from him any knowledge he might have of the desire of the War Department with reference to the construction of both forts and arsenals on the frontier.

Mr. LETCHER. Will the gentleman allow me to make a suggestion that will probably relieve us from this difficulty?

Mr. RICHARDSON. I will.

Mr. LETCHER. I would suggest that the gentleman should submit a motion to pass this bill by until to-morrow, and, in the mean time, information can be obtained in regard to it.

Mr. RICHARDSON. I think it would be better that we should pass by the bill until to-morrow.

Mr. HOUSTON. I will suggest an amendment which will obviate the difficulty and the necessity of passing the bill by. My own opinion is in concurrence with that of the Delegate from Kansas, that a military post is necessary somewhere in that region. If he will so modify his amendment as to leave the selection of the precise location to the military department of the Government, then it seems to me there can be no further objection to it.

Mr. TAYLOR, of Ohio. I have prepared an amendment, which, I think, will meet the views of the gentleman from Alabama, if the Delegate from Kansas will accept it.

Mr. HOUSTON. What is it? Let me hear it.

Mr. TAYLOR. It is to add at the close of the section the following:

And the further sum of $5,000, out of any money in the Treasury not otherwise appropriated, be, and the same is hereby, appropriated, to be expended under the direction of the Secretary of War in the establishment of one or more military posts in the Territory of Kansas.

Mr. WASHBURN, of Maine. Add the words "if he shall deem the same necessary."

Mr. TAYLOR. Yes, sir; I will add those words.

Mr. HOUSTON. That will do, if the gentleman from Kansas will accept it.

The CHAIRMAN. Does the gentleman from Kansas accept that as a modification of his amendment?

Mr. WHITFIELD. I am willing to modify my amendment by inserting the words, "or such other point on the Arkansas river as the Secretary of War may indicate."

Mr. HOUSTON. That will do.

Mr. LANE, of Oregon. If the Delegates from Kansas and Minnesota, and the committee, will listen to me for a moment, I desire to make a suggestion.

Now, sir, it seems to me that it would be a very strange proceeding to establish forts or military posts in Kansas and Minnesota, and leave the great emigrant road from the Atlantic States to the Pacific entirely unprotected. Forts afford but partial protection in an Indian country. If you keep a proper force—a mounted force along the route—you can afford protection, but not otherwise. We want active, efficient, vigilant mounted troops. They are better than forts in an Indian country; for the Indians go right up to the walls of the forts and kill the people, drive away the cattle, and commit every other kind of depredation.

If, however, it is determined to go into a system of forts or posts, I ask this committee if they will neglect the great emigrant route to the Pacific? No such massacres have occurred in any part of America as have been perpetrated upon that route. The road is a long one. A gentleman here talks about eight hundred miles. Why, sir, it is twenty-four hundred miles to the Pacific, and there are no troops on the route; there is no protection for the people passing in that direction. Forts, with infantry troops, would not protect the road. You must have posts, it is true; but it should be left to the Secretary of War to provide posts for the troops. Let them be the right description of troops—mounted men, ready to dash out and escort the people traveling across the country, or to punish the Indians when they commit murder or depredations of any kind.

Sir, if this bill is to be passed, I would like to see it so amended as to authorize the Secretary of War to establish a line of posts along the great road to the Pacific; also, a line of posts, if he chooses, from the State of Missouri to Santa Fé, and wherever else it may be necessary and proper for the protection of emigrants and settlers.

Defenses of this kind afford no protection and give no security without efficient mounted forces at each post. The committee had better pass this bill over, and provide for an active, efficient mounted force, authorizing, at the same time, the Secretary of War to prepare winter quarters for them.

For my own part, I would not have troops that would live in quarters. I would like troops that would live in the open air, that would go where the Indians go; follow them into the mountains, and into their hiding places, punish them for their offenses, and teach them to know us and to feel our power. I hope that this bill will be passed over until we can consult the Secretary of War—say until the day after to-morrow.

Mr. RICE. The Secretary of War has been consulted in reference to this bill. The settlement, Mr. Chairman, contains about four thousand inhabitants. They are on the British line, and are twenty days' march from the nearest settlement south. Some of the inhabitants have been murdered, and every year since the settlement has been made, their cattle and horses have been stolen from them by the very Indians against whom you now propose to send a force of three thousand men in other Territories. We have about from forty to fifty thousand Indians in the Territory of Minnesota, and yet we have never cost the Government a dollar for Indian wars. All that we ask now is a small force there; a company of infantry would form a nucleus, a sort of depot for arms and ammunition, which would enable the citizens to protect themselves. We do not ask for mounted men there. At present we have a collector of the port stationed there. Our laws are being constantly violated. The subjects of the Hudson's Bay Company come over frequently and seize American citizens with impunity, take them across the line, and try them according to the laws or rules of the company. I believe the Secretary of War has recommended this. I know that, in 1848 or 1849, he sent officers there to select a site for the purpose. A site has been selected, and all we want the Government to do is to furnish us with means to protect ourselves, and I hope, therefore, the bill will not be laid over.

Mr. WASHBURNE, of Illinois. Living, as I do, in the neighborhood of my friend from Minnesota, [Mr. RICE,] I can bear testimony to the truth of what he has stated to the committee, in regard to the great and urgent necessity which there is for the establishment of this fort at Pembina. I trust that this proposition will not be encumbered with that of the gentleman from Kansas, [Mr. WHITFIELD,] and if that gentleman will not withdraw his amendment, I hope the committee will vote it down, and recommend that the bill, as reported by the Committee on Military Affairs, be passed.

Mr. HENN. I believe that the Committee on Military Affairs have passed over, and not provided for, the most important points as military posts—that is, points where there are hostile Indians, and where they have shown hostility within a short time past—in other words, in the hunting grounds of the Sioux and the Omahas. I think the whole question should be left to the discretion of the Secretary of War, and let him establish any further posts he may deem necessary. I propose the following amendment, as covering both the Territories of Kansas and Nebraska:

SEC. 2. *And be it further enacted*, That for the establishment of military posts in the Territories of Kansas and Nebraska, at such points in said Territories as the Secretary of War may designate, the sum of $10,000 be, and the same is hereby, appropriated.

Mr. WHITFIELD. I accept that amendment.

Mr. FAULKNER. I have but one additional remark to make to the committee in reference to this bill. The Secretary of War is fully apprised of the importance of having a military post at this point, Pembina, and I will call the attention of the committee to his letter to me, on this and other subjects which engaged our attention. His letter is as follows:

WAR DEPARTMENT, WASHINGTON, *June* 30, 1854.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th instant, inclosing a memorial from the Legislature of Minnesota for the establishment of a military post on or near Pembina river, in latitude 49° north, for the protection of citizens of the United States, and Indians resident within our borders, from the attacks of the British settlers at Selkirk.

In reply to your request for the views of this Department on the application, I can say that there is very little doubt of either the propriety or necessity for a fort at the point indicated; but, at the present time, there is neither money to construct, nor men to garrison one, at the disposal of the Department, and it was mainly to give security to such exposed sections of country that the increase of the army was asked for in my late annual report.

With our present limited force, many assailable points necessarily remain unguarded; and all that can be done is to occupy the more important positions.

Should the required increase of the army be authorized by Congress, it is within the views, as it will then be within the means, of the Department to station a company near Pembina, for the protection of the people in that section of the country.

The memorial of the Legislature is herewith returned.

Very respectfully, your obedient servant,

JEFF. DAVIS, *Secretary of War.*

Hon. C. J. FAULKNER, *Chairman Com. Military Affairs.*

Mr. WASHBURNE, of Illinois. The bill makes an appropriation for the erection of a fort at this point.

Mr. FAULKNER. Yes; the bill makes an appropriation for the establishment of a fort, but the men are yet wanting to garrison these forts; and the Secretary tells you he cannot defend the country, he cannot do what you call upon him to do in the shape of your appropriations, because he has not the men to garrison the forts.

The question was taken on Mr. HENN's amendment; and it was agreed to.

Mr. JONES, of Tennessee. I move to amend the original bill by striking out the word "fort," in the seventh line, and inserting in lieu thereof the words "military post," so as to make it read, "in the purchase of a site and the erection of a military post in the Territory of Minnesota."

Mr. McDOUGALL. I should like to know what difference there is between the word "fort" and the words "military post?"

Mr. JONES. I suppose the words "military post" to mean a place where we would have troops stationed, and where they would have barracks, but where they would have no works or fortifications, or what is generally understood as forts, to erect. I suppose it is not desired to have forts erected there, but mere stations—military posts with barracks—for the accommodation of the troops there located.

Several MEMBERS. Yes; that is right.

Mr. McDOUGALL. Is not a fortified post a fort?

Mr. JONES. Yes; all forts are posts, but all posts are not necessarily forts.

Mr. RICHARDSON. I propose that Mr. Webster be consulted on that part. [Laughter.] He will satisfy us of the meaning of the two words.

The question was taken on Mr. JONES's amendment; and it was agreed to.

Mr. WASHBURNE, of Illinois. I propose that the bill be reported to the House with the amendments, and with the recommendation that it do pass.

Mr. LETCHER. I move to lay the bill aside until the Secretary of War can be consulted. We have a multitude of military gentlemen here on the other side of the House, and no two of them have yet agreed in opinion on this matter. The military gentleman from Iowa, [Mr. HENN,] and the military gentleman from Alabama, [Mr. HOUSTON,] cannot even agree.

Mr. HENN. I beg pardon of the gentleman from Virginia. I do not claim to be a military man.

Mr. LETCHER. I thought the gentleman from Iowa was a military man. The military men certainly disagree very much in opinion. But as the gentleman disclaims the appellation, I come pretty much to the conclusion that none of them are military men, [laughter,] and that we had better consult somebody who knows something about the matter. I therefore move that the bill be passed by till to-morrow.

Mr. HOUSTON. My military friend from Virginia [Mr. LETCHER] has certainly not been paying attention to what occurred, or he would not have said that the gentleman from Iowa and myself have disagreed. There is no evidence of any disagreement between us.

Mr. LETCHER. My colleague over there, [Mr. FAULKNER,] who represents the military branch of this Government, says he cannot get along without men, and that it is the opinion of the Secretary of War that military posts are of no manner of account, unless there are some men to be put into them. Now, in that state of the case——

A MEMBER. Has the Secretary of War said so?

Mr. LETCHER. Yes; he has deliberately expressed that opinion.

Now, in that state of the case, we had better ascertain, first, whether we are going to have men to take charge of this post before we build it. I think it is well enough for us to see about that.

Mr. WASHBURNE, of Illinois. I understand that the Secretary of War has been consulted, and that he has written a letter upon the subject, which the chairman of the Committee on Military Affairs has made known to the House. I certainly cannot see what is to be gained by passing over this matter until to-morrow.

Mr. LETCHER. If the gentleman from Illinois recollects, the Secretary states distinctly, as to this point in Minnesota, that he has not a solitary man to put there to guard it, unless we pass the bill providing for the three thousand volunteers.

The question was then taken upon Mr. WASHBURNE's motion; and it was decided in the affirmative.

So the bill was laid aside, to be reported to the House with a recommendation that it do pass.

The CHAIRMAN. The business next in order is the consideration of Senate bill No. 60, being an "An act authorizing the construction of a subterranean line of telegraph from the Mississippi or Missouri river to the Pacific ocean."

Mr. GREENWOOD. I move that the committee rise.

The question was taken; and decided in the affirmative.

So the committee rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of Union had had the state of the Union generally under consideration, and particularly the special order relating to territorial business, and had directed him to report House bill No. 332, joint resolution No. 22, and House bill No. 477, with amendments; also, joint resolution No. 23, with a recommendation that it be rejected; and, also, Senate bill No. 60, upon which they had come to no conclusion.

Mr. RICHARDSON. I ask the House to pass the bills that have been reported from the Committee of the Whole on the state of the Union.

The SPEAKER, (Mr. JONES, of Tennessee, temporarily occupying the chair.) The business first in order is the bill of the House (No. 332) to enable the people of Oregon Territory to form a constitution and State government, and for the admission of such State into the Union.

The amendments of the committee were concurred in; and the bill ordered to be engrossed and read the third time; and having been engrossed, was read the third time, and passed.

The SPEAKER. The joint resolution (No. 22) making an appropriation for the purchase of territorial libraries, has been reported with amendments.

The amendments were concurred in; and the bill finally passed.

Mr. LANE, of Oregon, moved to reconsider the vote by which the bills were passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. PHELPS. The next business is the consideration of joint resolution (No. 23) authorizing the accounting officers of the Treasury to adjust the expenses of a board of commissioners appointed by the Territorial Assembly of Utah to prepare a code of laws. The Committee of the Whole on the state of the Union report it to the House with a recommendation that it be rejected. I move to lay the resolution upon the table.

The question was taken; and the resolution was laid upon the table.

The SPEAKER *pro tempore*. The business next in order is the consideration of House bill (No. 477) for the erection of a fort on or near he Pembina river, in the Territory of Minnesota, reported with amendments.

The amendments were concurred in; and the bill, having passed through its several readings, was finally passed.

Mr. HOUSTON. I move to amend the title of the bill by adding at the end, "and for other purposes," so as to embrace other objects.

The SPEAKER *pro tempore*. There being no objection, the title of the bill will be so amended.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote last taken, and to lay the motion to reconsider on the table.

The question was put; and the latter motion was agreed to.

BILL INTRODUCED.

Mr. COBB. I ask the unanimous consent of the House to introduce a bill, of which previous notice has been given, merely for the purpose of reference.

Mr. LETCHER. Let it be read for information.

Mr. COBB. It is a bill to confer a pension.

No objection being made,

Mr. COBB introduced the following bill; which was read a first and second time by its title, and referred to the Committee on Invalid Pensions:

A bill granting a pension to Micajah Ricketts.

On motion by Mr. LETCHER, the House then, at three o'clock and forty-five minutes, adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

TUESDAY, *January* 30, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a communication from the Secretary of the Interior, with accompanying documents, recommending that the appropriations asked for therein be made; also, suggesting a modification of the existing laws, so as to enable the President more effectually to carry into effect the treaties with the different Indian tribes in Kansas Territory. The President, after stating that he will maintain strictly, and in good faith, all treaty obligations with the Indians, recommends that provision be made, by law, requiring the lands which are to be sold on account of the Indians, by the Government, to be appraised and classified, a minimum price to be fixed, for a less sum than which no sales are to be made without further provision of law, and authorizing the sale of the lands in such quantity, and at such times and places, as the obligations of the Government, the rights of the Indian tribes, and the public interest, with reference to speedy settlement, may render expedient.

The recommendations of the Secretary of the Interior, include an amendment to the general appropriation bill, appropriating $162,000 to meet any deficiency which may arise in the appropriation of 4th August, 1854, for collecting revenue from the public lands, owing to the great increase in the sales thereof. He also recommends that, in view of a similar increase, an appropriation be made of $127,000 for the service of the fiscal year ending June 30, 1856. The Secretary further recommends an increase in the amount heretofore estimated for by him for surveying in Kansas and Nebraska for the year ending June 30, 1856, to the amount of $47,000, and to enable the President to carry out the treaties lately entered into with various Indian tribes, he recommends an appropriation of $20,000, in addition to the appropriation heretofore made for surveys under said treaties.

The message was, on motion by Mr. WELLER, referred to the Committee on Indian Affairs, and ordered to be printed.

PETITIONS, ETC.

Mr. FOOT presented the petition of the heirs of Scott Campbell, praying to be confirmed in their title to a tract of land and the payment of the

annuity secured to him by the treaty of 1837, between the United States and the Sioux Indians; which was referred to the Committee on Indian Affairs.

Mr. CLAYTON presented the petition of Frederick Griffing, praying the payment of a balance due him by the United States of the purchase money for certain property at Brooklyn, sold by him to the Government; which was referred to the Committee on the Judiciary.

Mr. SEWARD presented a petition of J. S. Wright, remonstrating against the renewal of the patents granted to Cyrus H. McCormick, Obed Hussey, and More & Hascall, for improvements in reaping machines, unless, by a general law, extending all other patents issued for those improvements; which was ordered to lie on the table.

Mr. DAWSON presented the memorial of John Shaw, praying compensation for his services as a spy on the frontier of the Upper Mississippi, during the last war with Great Britain, and remuneration for provision and ammunition furnished for the use of certain companies of rangers during the said war; which was referred to the Committee on Pensions.

Mr. ALLEN presented an additional document relating to the petition of Christopher Cory, praying Congress to test his discovery in relation to the "potato rot;" which was referred to the Committee on Agriculture.

Mr. BROWN presented the petition of Ebenezer Clark, praying that the name of the schooner Henry Plantagenet may be changed to A. G. Brown; which was referred to the Committee on Commerce.

Mr. GWIN presented the memorial of Oscar F. Johnston, a passed midshipman in the United States Navy, praying to be allowed the difference of compensation between a midshipman and a passed midshipman from the date of his promotion to the date of his warrant; which was referred to the Committee on Naval Affairs.

Mr. SEBASTIAN presented a resolution of the General Assembly of the State of Arkansas, in favor of extending the limits of the Champagnalle land district; which was referred to the Committee on Public Lands.

Mr. CASS presented the petition of Hyacinth Riopel, praying that the heirs of Ambrose Riopel may be confirmed in their title to certain lands in Michigan; which was referred to the Committee on Private Land Claims.

Mr. BRODHEAD presented the petition of Anna Tongue, heir and legal representative of John Stewart, deceased, praying to be allowed the commutation pay due him as an officer in the revolutionary war; which was referred to the Committee on Revolutionary Claims.

PAPERS WITHDRAWN.

On motion by Mr. MORTON, it was

Ordered, That leave be granted to withdraw the petition and papers of Calvin Read.

REPORTS FROM STANDING COMMITTEES.

Mr. SHIELDS, from the Committee on Military Affairs, to whom was referred the petition of Lieutenant James Totten, United States Army, praying to be reimbursed expenses for selling at auction certain United States commissary stores, reported a bill for his relief; which was read and passed to a second reading.

He also, from the same committee, to whom was referred a joint resolution, authorizing the Secretary of War to sell a portion of the site of the arsenal at Fayetteville, North Carolina, and to purchase other lands with the proceeds of such sale, reported it back without amendment.

He also, from the same committee, to whom were referred the memorials of Lieutenant James G. Benton, Brevet Major E. B. Babbitt, and Brevet Major James Longstreet, praying to be released from responsibility for certain United States subsistence stores obtained from them through fraud, for a party emigrating to California, submitted a report thereon, accompanied by a bill for their relief; which was read and passed to a second reading. The report was ordered to be printed.

Mr. GWIN, from the Committee on Naval Affairs, to whom was referred the petition of John Guest, a lieutenant in the United States Navy, praying extra compensation for surveying on the coast between Appalachicola and the Mississippi, submitted a report, accompanied by a bill for his relief; which was read and passed to a second reading. The report was ordered to be printed.

BILL INTRODUCED.

Mr. GWIN asked and obtained the unanimous consent of the Senate, to introduce a joint resolution for the relief of John G. Laub, a clerk in the office of the First Comptroller of the Treasury; which was read twice by its title, and referred to the Committee on Claims.

COLLINS LINE OF STEAMSHIPS.

Mr. JONES, of Tennessee, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be requested to ascertain what the Collins steamers have received from freights and passengers, from the time they commenced running to the present time.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McKEAN, Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses, on the bill of the Senate for the relief of Thomas Marston Taylor.

Also, that the House had passed the following bills and joint resolutions:

A joint resolution to disapprove and disaffirm an act of the Legislative Assembly of the Territory of Minnesota, entitled "An act to incorporate the Minnesota and Northwestern Railroad Company;"

A joint resolution disapproving of the act of the Legislative Assembly of the Territory of Minnesota, entitled "An act to incorporate the Transit Railroad Company;"

A bill to enable the people of Oregon Territory to form a constitution and State government, and for the admission of such State into the Union;

A joint resolution making an appropriation for the purchase of Territorial libraries; and

A bill for the erection of a military post on or near the Pembina river, in the Territory of Minnesota, and for other purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker had signed the following enrolled bills: which were thereupon signed by the President *pro tempore:*

A bill for the relief of Joseph Webb;

A bill to repeal an act for the relief of the legal representatives of Samuel Prioleau, deceased;

A bill for the relief of William Hankins;

A bill for the relief of James Wright, of Tennessee; and

A bill for the relief of Zebina Rawson.

WITHHOLDING OF APPROPRIATIONS.

Mr. JOHNSON. I desire to present a resolution of inquiry in regard to an abuse existing in my State, the responsibility of which rests upon the Departments here. I am tired of running to the Department and asking the reasons for such delays as I am about to bring to the notice of the Senate; and now I wish to bring the matter before the Senate, and to say that hereafter I shall pursue the same course with them when they do not attend to their business. I offer this resolution:

Resolved, That the President be requested to cause the Senate to be informed of the causes of the delays which have occurred during the years 1853 and 1854, in furnishing the marshal of the western judicial district of the State of Arkansas, with the funds necessary to defray the expenses of the district court of the United States for the western judicial district.

Mr. President, I know that the funds referred to in this resolution have been regularly appropriated from year to year. In May, 1853, a requisition was made by the marshal for the amount deemed to be necessary to defray the expenses of the court for the November term of 1853. He sent estimates of the necessary amount six months in advance, but the funds were never furnished to him by the Department until April, 1854. Again, a requisition was forwarded about the 4th of September, 1854, for the expenses of the last November term, but the funds are not there yet.

The laws require the marshals of the United States to make prompt reports to the Department of their expenditures, but it is impossible that statements of their accounts can be returned here within the time prescribed by law, if the subordinates of the Department will not take such steps as are necessary to have the funds at the proper place to enable the marshals to use them to defray the expenses of the courts. Since I have been a member of Congress, there have been constant complaints from the officers of these courts, in regard to the manner in which their monetary affairs are conducted by the subordinates of the Departments.

Sir, as I have said, I do not intend to make any more complaints at the Departments in relation to this matter; but I desire to have the inquiry made by the Senate. It is evident, from the facts which I have stated, that there is some strange neglect, some outrageous abuse, and whoever is responsible for it should be promptly dismissed by the President. I do not know who is the cause of it, and I do not inquire, for I do not wish to make any personal assault upon him; but if the neglect is not clearly and reasonably explained, he ought, unquestionably, to be immediately dismissed from the public service, whoever he may be.

The jurisdiction of the district court of the United States for the western district of Arkansas reaches beyond the limits of our State to the boundary of New Mexico. The jurors are brought to the court from distances of between fifty and one hundred miles; and witnesses sometimes have to travel three hundred miles. The witnesses and jurors do not receive their fees in consequence of the funds not being there. They, however, receive certificates of the amount to which they are entitled, and they have to sell these certificates in the town where the court is held, at whatever discount may be required. I am assured that poor people who have been summoned as witnesses or jurors have actually been compelled to sleep out of doors because they had not received the money to which they were entitled. They were not able even to get the commonest accommodations. Instances of that sort have been known, and surely it is time that they were corrected. Neglect which leads to such consequences should be severely reprimanded.

As I have before stated, application has been made for the necessary funds six months in advance, and estimates furnished to the Department, showing for what purposes they would be needed, but they were not furnished until months after the court had adjourned. Neglect of this sort is so outrageous, that I think the officer responsible for it ought to be immediately removed, unless he can satisfactorily explain the reasons for the delay. I ask for the adoption of the resolution which I have submitted.

Mr. GWIN. Mr. President, I am glad that this subject has been brought to the notice of the Senate by the Senator from Arkansas, but I am sorry that his resolution does not take a wider range. What he says in relation to his own State in regard to one officer, is true in regard to all the branches of the public service in my State. Instead of promptly sending there the money which Congress appropriates for expenditures on the public works, half the fiscal year is generally lost before the money reaches there, and then the matter is in such a complicated form that it is difficult to make the funds available at once. Sir, there is a radical defect in the system, somewhere. It ought to be cured by Executive action, or by legislation. I wish the Senator had presented his resolution in such a shape as to authorize the Committee on Finance to inquire how it happens that, when we have an overflowing Treasury, with millions of dollars appropriated for the public service, the money does not reach the place where it is to be expended until half the fiscal year expires. This is the case in my own State. It is a great evil, and it ought to be remedied.

The PRESIDENT. It requires unanimous consent to consider the resolution now.

Mr. CASS. I should like to hear it read.

The Secretary accordingly read it.

Mr. CASS. I did not call for the reading of the resolution with any view to stop the progress of the inquiry, but I wish to ask the honorable Senator whether the money has been drawn from the Treasury?

Mr. JOHNSON. I do not know how that is. I suppose it has not been drawn, or it would have reached the marshal.

Mr. CASS. I shall not oppose the resolution. I wish to only say that it is not well for us here to

throw out imputations on the Executive officers. There is great difficulty in scattering money profusely all over the country. We all know that there are proper guards, explanations, and statements, which are required at the Treasury. There may be an abuse; but it does not follow that there has been any great neglect or abuse, because payments have been delayed. I think that, until the facts are ascertained, it is not best to go on and make charges against anybody.

Mr. GWIN. The honorable Senator from Michigan knows perfectly well that when appropriations are made, before a marshal, or any other disbursing officer, can get the money, requisitions have to be issued here; but those requisitions never get to the officers, and they cannot draw the money. There is no authority given to them to draw the money to be expended for the public service. They are not permitted to issue requisitions, but the money is drawn on drafts from the Treasury Department.

Mr. CASS. No man knows that better than I do. I know that in the first instance, after an appropriation is made by Congress, no money goes from the Treasury without a requisition from the proper Department, and then a warrant from the Secretary of the Treasury on the Treasurer for the amount. These certificates are not issued merely on the authority of the appropriation, but in many cases the Department requires local information. Whether that has been received in this instance, or not, I do not know. With the circumstances of this particular case I am not acquainted. I am perfectly aware of the fact that money cannot be drawn without a requisition. Drafts are authorized to be made by the disbursing agents, but they cannot be paid until the regular Treasury process is gone through with.

Mr. JOHNSON. I know nothing about the local information of which the honorable Senator speaks; but I do know, that money has been appropriated by Congress to defray the expenses of the United States courts. I know, in the next place, that it is customary for the marshals to make estimates of what those expenses will be, and how much money they will require. They are to furnish those estimates to the Department in time, so that the money can be transmitted to the place where the court is held, at the proper period. In this case, in 1853, estimates were transmitted to the Departments six months before the meeting of the court, and the money did not arrive until months after the court had met and adjourned. I am also aware of the fact, that in 1854 the estimates were sent here in September, in full time to enable the money to be sent there by the commencement of the November term, but the funds have not yet been sent there.

I know very well, sir, that the Secretary of the Treasury, or the Secretary of the Interior, does not take charge of these petty minor matters. They are left in the hands of subordinates, and those subordinates are the culpable persons. Gentlemen in both branches of Congress are required to be running constantly to the Departments to get information on such subjects. For my part, I am sick of doing so, and hereafter I propose to make the inquiries here. I wish to announce, also, that unless some reasonable excuse or justification for such conduct be offered, in my opinion, the officers guilty of it ought to be dismissed from the public service. I do not, however, as the Senator from Michigan seemed to imply, wish to cast any imputation upon them now, because I do not know the reasons for their conduct; I only know that the money has not gone there, and that the delay looks to me as most unreasonable. They may, however, be justifiable; but, if not, they should be promptly dismissed. I ask for the information for the benefit of the Senate with a view to future legislation, if legislation shall be deemed necessary; and I see no reason why the resolution should not be adopted.

Mr. CASS. I shall, of course, vote for the resolution, as it is a resolution of inquiry, but in addition to what I have already stated, I wish to say that something often depends on the state of the accounts of the disbursing officer. These may, sometimes, be in such a condition that the Treasury Department will not remit him any money until his accounts be settled. Delay often arises from that state of things. I mention this as one of the incidental matters connected with the subject. I know nothing at all about the circumstances of this case; but it does not follow, of course, because the money was not instantly remitted, that there was any fault here; that is all I have to say.

Mr. WELLER. Mr. President, in my judgment, this is a proper subject of inquiry for the legislative department of the Government. We have undertaken to make certain appropriations of the public money. We, alone, have the power to decide whether money ought to be appropriated for the public service. It is the duty, as I understand, of the Executive Department to proceed to expend the money which we appropriate, in the manner in which it is directed by the legislative branch of the Government. Now, sir, cases have occurred, during the past year, where Congress made large and liberal appropriations of public money for works of improvement in my own State, where the agents of the Executive Department here utterly failed, until more than half the fiscal year elapsed, to provide any portion of the money thus appropriated.

During the last session of Congress, upwards of $200,000 was appropriated for the Indian department in California; but an amendment was inserted on that appropriation which required that the existing superintendent should settle all his accounts with the Department before any portion of that appropriation should be placed in his hands. The President, knowing that it was utterly impossible for that superintendent to close his accounts within the year, was compelled to turn him out, and to appoint another in his place. The Senators from the State were compelled to acquiesce in this, because we were satisfied that the interest of the Indian department in our State required that the $200,000 should be expended within the year. We knew the condition of the Indians; we knew that not only inconvenience but great suffering and hardship would ensue in the event of the money not being expended. Not a single dollar of that money reached the State of California until the very last month of the year. The superintendent of Indian affairs was compelled to borrow money, upon his own credit, to carry on the operations of his department, after the legislative branch of the Government had made ample appropriation.

Sir, somebody is to blame for this; and when I find an Executive officer derelict in his duty, I have independence enough to say it, and I care not on whom the blame may eventually attach. I will give another instance. An appropriation of upwards of $300,000 was made last year for our navy-yard in California, but no portion of that appropriation reached the agent charged with the expenditure until the last month of the year—the month of December. I call the attention of Senators to this fact, that, notwithstanding we appropriate the public money time after time, the Executive branch of the Government, by a failure to have it transmitted at the proper period, have inflicted irreparable injury upon some sections of this country.

The resolution was agreed to.

ARSENAL AT FAYETTEVILLE, NORTH CAROLINA.

Mr. SHIELDS. I am instructed by the Committee on Military Affairs, to whom was referred the joint resolution authorizing the Secretary of War to sell a portion of the site at Fayetteville, North Carolina, and to purchase other lands with the proceeds of such sale, to report it back. The honorable Senator who introduced it [Mr. BADGER] takes a great interest in it, and, if there be no objection, I should like to have it put on its passage now.

Mr. HUNTER. I hope not. I hope we shall take up the Army appropriation bill, and sit it out, that we may finish it to-day.

Mr. SHIELDS. I yield for that purpose.

ARMY APPROPRIATION BILL.

Mr. HUNTER. I move to take up the Army appropriation bill.

Mr. WADE. I should like to make a report.

Mr. HUNTER. I hope the Senator will not press it. We are anxious to get through with the bill to-day. I think we can find enough to sit it out, and finish it, and it will be out of the way to-morrow, for I shall not then press another appropriation bill.

The motion was agreed to—ayes 24; noes 16.

The Senate, as in Committee of the Whole, accordingly resumed the consideration of the bill of the House of Representatives, making appropriations for the support of the Army for the year ending the 30th of June, 1856. An amendment was offered by Mr. SHIELDS, on behalf of the Committee on Military Affairs, on the 24th instant, to authorize the President to appoint three commissioners to proceed immediately to the Indian country, negotiate treaties of peace and amity with such tribes as would enter into them, and report the names of the refractory bands or tribes to the President, and such military commanders as he might designate. It also proposed to authorize the President to call for, and accept, the services of four regiments of mounted volunteers, for the purpose of maintaining peace on the Indian frontiers of the United States, chastising Indians who might commit outrages, and protecting the routes of emigration to California and Oregon. Yesterday, Mr. SHIELDS withdrew, temporarily, that portion of his amendment relative to the appointment of commissioners, whereupon Mr. HUNTER, as a substitute for the residue of the amendment, submitted a proposition to increase the regular Army by the addition of two regiments of cavalry, and to authorize the President to accept the services of five hundred mounted volunteers as rangers, guides, and scouts. Mr. SHIELDS moved to amend this amendment, so as to provide for an addition to the regular Army of two regiments of cavalry, and two of infantry. The pending question is on this amendment to Mr. HUNTER's substitute for the original amendment.

Mr. FITZPATRICK. As I am a member of the Committee on Military Affairs, and concurred in the amendment reported from that committee, I think it proper to put myself right in reference to the vote which, perhaps, I may be called on to give on this question. I fully concurred in the amendment reported by the chairman of the committee. It is the plan which has been suggested by the President of the United States, and by the Secretary of War, and is the plan which I believe ought to receive the sanction of this body.

In reference to the proposition to send out three commissioners, I will remark that it did not originate with me; but I concurred in it for the purpose of producing unanimity of action in the committee. If it had been adopted, it might have done some good; it certainly could not have done any harm. So far from regarding this as a measure of war, I believe that it is essentially a measure of peace. My conviction is, that to avoid war, you must convince the Indians that you can control them. By that, I believe, you can prevent war.

There is another branch of this subject, Mr. President, which seems to be distasteful to a portion of the body, and that is the employment of five hundred Indians, for which the Secretary of War asks. I have not believed, for a moment, that it was the desire of the President, or of the distinguished gentleman who recommended it, to use that portion of the force as warriors upon their fellow red men. Their main service will, perhaps, be regarded as very important in another sphere, which I will allude to hereafter. The Government has not been engaged in such a war for years, if I recollect aright, in which they have not availed themselves of the services of a portion of the tribes engaged from some quarter. Advert to the war of 1812. Had not General Jackson a force of Cherokees and Choctaws under his command? Refer to the celebrated Seminole war. Were there not Indian forces under the command of our officers? Then look to the outbreaks in many of the States—particularly the State in which I have the honor to reside—had we not the auxiliary aid of a large portion of the friendly Indians in quelling that outbreak? Certainly we had. In winning them to peace, we had an army staring them in the face, and demonstrating that we had the power to control them.

It is a vast extent of country over which this force is destined to act. The question is argued upon the hypothesis that we are to send an invading army of three thousand men to a particular point in New Mexico, the frontiers of California, Oregon, or Utah. I do not understand that to be the fact. It is a force which is to be added to the regular force of the United States, for the purpose of operating over the entire frontier, to prevent

hostilities. What was designed to be the function of the Indian force contemplated by the Secretary of War? It was to act in the capacity of scouts, guides, and outposts, to guard the army and apprise it of the approach of the enemy; and not only that, sir, but they would be powerful instruments in pursuing the hostile Indians, and conducting our army to their hiding places. What is the character of the country to which the army is proposed to be sent? Is it not a vast plain—in many places a wilderness? And what would the proposed American troops, taken from the States, who never trod the soil before, know of the gorges of the mountains through which they would have to pass? Would not these Indians, natives of the country, taken from the different tribes, be all important to conduct our army into the various positions for the purpose of meeting the wild Indians, and reclaiming them to the paths of peace? I am of the opinion that an Indian force is essentially necessary to any army that goes to that country. We shall not only accomplish this, but we shall accomplish another very important item.

It is known to gentlemen, who know anything of the Indian character, that we do not propose, arbitrarily, to force any members of a tribe into the service; but they are to be yielded by the assents of the head men, the chiefs of the different tribes; and, in doing that, we shall identify the friendly portion of every tribe with the army, and the peaceful walks of the people of the country, and prevent them from going to war. Go now to any tribe, and consult it as to the number of warriors it will yield to accompany the army on an expedition of this kind; and, if that tribe, in council, determines to send so many warriors—"braves," as they term them—they will become at once our friends and allies, and we shall win them from the wild and hostile portion of the red men. Is there nothing accomplished in that, sir?

The Indian question is one which is pregnant with importance. It has occupied a good deal of my attention for years. There are matters lying behind the outbreak, for the last few years, which bring on discontent among this remarkable people. It has been the policy of the Government, I think, since 1832, to congregate all the tribes in a great nation west of the Mississippi. When you force a large portion of Indians from their homes, and the homes of their fathers, and carry them to another country, you carry many of them there with feelings of prejudice and hostility to our people. And do you stop with that? No, sir. You engender an unkind feeling among the resident tribes where you throw them, because you hem them in, and deprive them of their game and hunting grounds. All these things have tended, for a series of years, in my opinion, to produce an unfriendly feeling on the part of many of the tribes who have been carried there by the coercion of the Government; and you engender, also, a hostile and unfriendly feeling on the part of the Indians in the vicinity to which you have carried those tribes. These are the things which have operated on my mind. I witnessed the departure of ten thousand of them on one occasion. Where did you carry them? You carried them west of the Mississippi—to the Cherokees, the Choctaws, and the Chickasaws; and it was with great difficulty that outbreaks could be suppressed in that country, even when so much intelligence characterizes a large number of the population of those tribes. These are elements and natural causes which are calculated to produce a bad feeling on the part of many intelligent men among those tribes. Well, sir, did you increase the affection for this Government when you carried such a vast number of red men to that country, and planted them down where the wild Indian roams, to deprive him of the means by which he lives? They have been told that their Great Father, the President, has done it. It is a matter of surprise to me that we have had as little confusion and discord in the vicinity of many of them as has characterized them hitherto.

I look with favor upon the proposition to raise a force of Indians to conduct our Army properly in pursuit of the hostile and wild Indians, because I believe it to be a very important branch of the public service. This opinion is not peculiar to me. The plan has been adopted from time immemorial in this country, when engaged in wars and conflicts with the Indians. It is the opinion of a very distinguished and competent officer, if I am not mistaken, who is now engaged in the service. This is the remark of Lieutenant Colonel Hoffman, in a communication to the Secretary of War:

"I respectfully suggest that twelve or fifteen Delawares be sent out with each command, to serve as guides and scouts. Without their assistance, troops would find it difficult, if not impossible, to overtake Indians who are flying from them. They may be engaged at Fort Leavenworth very readily."

That is the language of a gentleman who lives in the country, who is conversant with the habits and manners of the Indians, whose calling has been war, and whose province it has been to instruct himself in the best and most legitimate method of warfare in order to protect his country. Is not what he says entitled to consideration and respect? It seems to me it is. The whole history of the country is replete with evidences that friendly Indians have been used, or employed by the Government in our wars with the Indians, not to destroy unnecessarily, however, their own brethren; they are not put in the front of the battle, or made to bear the heaviest burden, but they are most usually employed in a peculiar way, because they possess a very remarkable knowledge over the white man of the wilderness country. I think the Secretary of War was right and showed his admitted sagacity in recommending the employing this force, and I think experience, in our armies heretofore, establish the fact. If the troops do not possess themselves of that class of people as guides, they will find themselves very much at fault, I apprehend, in the country. I deem it proper to make these remarks in vindication of my course in concurring with the committee in asking for that number of Indians, and in vindication of the high source from which the recommendation came. They were not designed, I presume, to be taken from one tribe and used in a solid body. They are to be attached to every wing of the Army in the region of country where it becomes necessary to guard the frontiers.

It appears to me, Mr. President, that in our deep sympathy for the Indians, we have almost lost sight of our own population. It seems to me that, in our anxiety to avoid any wrong to the red man, we are really wronging and endangering the lives of our own citizens. Have we forgot the bloody massacre of Lieutenant Gunnison? But the other day we were told of a massacre more bloody, if possible, near Fort Laramie, of Lieutenant Grattan. That has been alluded to in a way to throw more or less reproach upon those in command in that expedition. I confess, judging from the testimony, that it is a matter about which some persons might come to a different conclusion from that to which I have come. It was alleged by the distinguished Senator from Texas, [Mr. HOUSTON,] yesterday, that the commanding officer ordered the first gun to be fired, and between that and the next fire the chiefs were exhorting their young men not to return the fire upon the white men. That is one version of the story. But if you will turn to the documents you will find that the Indians were in a state of great readiness, so much so that they almost instantaneously annihilated the small detachment of our own troops. Is it not remarkable that a people so friendly, and not expecting war, should be in such a perfect state of readiness for it, and is it not equally remarkable that so friendly and so deep a sympathy, under the circumstances, should be enlisted for that peculiar people? They were there, it is said, to receive their annuities. But what is the statement of Mr. Vaughan, one of the agents? He says they were there with arms in their hands, and the bloody tragedy shows they were ready, at a moment's warning, to strike, and that they did strike, and strike bitterly the gallant band in the wilderness, far from the protection of this powerful Government. With all our sentimentality and deep solicitude for the red man, it is a simple question, how are we to protect him and at the same time secure our own citizens from aggressions and injury?

Have the Senate read the documents sent to us by the Secretaries of War and of the Interior? Is there nothing due to our little Army, which has been cut up into such small detachments that they cannot withstand even the wild men? Does not the President of the United States tell you that the force is not sufficient? Have we not been told the same thing in the communication of that distinguished gentleman who occupies the position of Secretary of War, and who has seen some service in that perilous and often-times inglorious warfare? They all tell us so, sir; and I ask you if these facts have not all been laid before the Senate, and have Senators read the communications? It seems to me not. I shall not detain the Senate with the long details of these things; but, for the information of gentlemen whose province it may not have been to examine particularly these matters, I will ask the Secretary to read a part of one commuaication from a gentleman who is now in the other House, Mr. WHITFIELD, formerly an Indian agent, and now Delegate from Kansas Territory. It was written from Fort Laramie, August 29, 1854. His high position is ample guarantee of the truth of his statement.

The Secretary read as follows:

"The great majority of the Indians in this agency, have no respect for the Government; they think, that Uncle Sam is a weak old fellow, and could be easily overcome; and they have good reasons for coming to that conclusion. Nearly every party of emigrants that pass through their country, have to pay their way with sugar and coffee; knowing this, every train furnish themselves with an ample supply. The military posts located in this agency, are perfect nuisances. The idea, that one company of infantry can furnish aid and protection to emigrants who pass through this agency, is worse than nonsense. They can protect themselves no further than their guns can reach; they have no effect upon the Indians so far as fear is concerned; they neither respect nor fear them; and as to protecting the traveler on the road, they are of no more use than so many stumps. There are no roads in the United States that need protection so badly, as the North Platte and Arkansas roads. Property to the value of several millions of dollars pass over these roads annually; nearly every emigrant party are subject to annoyance from the time they leave the frontiers. On the North Platte road, the Pawnees and others have stolen property to the amount of several thousand dollars, and committed several murders; and the time has certainly arrived when American citizens should be permitted to travel on this continent, without being annoyed by bands of worthless Indians. The road leading up the Arkansas river has been but little traveled until the last two years. Exclusive of the large amount of merchandise annually transported over this road to Santa Fé, stock, to the value of thousands of dollars, has passed this route to California this year. Roads so important as these, should be guarded by a force sufficient to protect the lives and property of persons seeking homes in California, and a market for their stock, &c. Strong military posts should be built on the Arkansas and South Platte rivers."

Mr. FITZPATRICK. There is another extract from a letter of Mr. Vaughan.

The Secretary read the following:

"It is true they have been counselled by their agents, for years past, that, if they did not desist from going to war, and committing depredations, the consequence would result in troops being sent amongst them, and force them into measures, to all of which they have turned a deaf ear, lulling themselves into security by the impression that they cannot be reached.

"The Brulies from the Platte, the Ouh-papas, Blackfeet Sioux, a part of the Yanctonnais, Sans Arc, and Minecougan bands of the Missouri, openly bid defiance to the threats of the Government, and go so far as to say that they do not fear the result, should soldiers come to fight them. The rest of the tribes in this agency are disposed to do right, and many of them, at once, would unite in exterminating the above bands. Several of them have come voluntarily to me, and stated that any information that might be required, should a force be sent here to chastise these, they will hold themselves in readiness to give any information relative to their locality and movements in their power, and render any assistance that may be required of them."

Mr. FITZPATRICK. I will ask for the reading of another extract from a letter written by the same gentleman.

The Secretary read as follows:

"On the following day the whole of these Indians moved off. They are now scattered in small bands within sixty to one hundred and fifty miles of this place, and are trying to enlist the Indians in this section of the country to join them in a general war on all the whites. They keep war parties continually on the road between this and the Platte, and any white man found on the road will certainly be killed by them. They state openly, that next spring they will keep parties constantly on the emigrant route, and kill all they find.

"I assure you, that my situation here, as well as that of all the traders, and their men, at present, is perilous in the extreme. There is but one course for the Government to adopt, and that must be done promptly—to send a sufficient number of troops of the *proper kind*, and pursue the bands of Indians who have been concerned in this affair, and chastise them in such a manner, that they will not only respect, but fear, the Government in future. Without a salutary lesson, there is no knowing to what extent they will commit murder and depredations on the whites."

"On my way to this place, a few days since, I arrived at the Yanctonnais village of Sioux Indians, encamped on the river about one hundred miles above this place. They generally belonged to a band who have always been more or less averse to carrying out the provisions of the 'Laramie treaty.' I immediately called a council with the chiefs and braves, and, after talking over all matters with them, and giving them good and proper advice, which I thought they received in the spirit I intended they should, I made them a present of some tobacco, provisions, &c., when, to my surprise, the principal chief, called 'Red Leaf,' arose, with the knife in his hand, cut all the bags containing the provisions to pieces, scattering their contents on the prairie,

then threw the keg of gunpowder in the river, and about fifty of them discharged their guns at it. This band of Indians have been very refractory for a number of years. The different agents who have seen them have all told them that troops would be sent to chastise them if they did not alter their conduct. They regard this now as only a threat; and, until the presence of troops intimidates them, they will always be dangerous and troublesome.

"At Fort Clark I found one hundred lodges of Aukipapas, Blackfeet, and Sioux Indians, who had been waiting there a month to see me. In the council I held with them, the principal chiefs told me that they would not receive any presents from the Government, and to do what I pleased with their portion of goods, for they did not want them; that they preferred the liberty to take scalps, and commit whatever depredations they pleased, in preference to goods from their Great Father. They talked very hostile; and I replied to them, that just as certain as the sun rose and set, their Great Father would not only chastise them for their bad conduct, but for the indignity offered to him in not receiving their presents.

"Very respectfully, your obedient servant,

"ALFRED J. VAUGHAN, *Indian Agent.*

"Colonel ALFRED CUMMING,

Superintendent Indian Affairs, St. Louis, Missouri."

Mr. FITZPATRICK. I present these extracts simply as a portion of the testimony on which the President deemed it his solemn duty to make his communication to Congress. Facts of a similar character were communicated to the Department twelve months ago. They have been communicated now, and I say, not in the language of prophecy, but as the opinion of an humble member of this body, that the sooner we organize a force, not to exterminate these unfortunate beings, but to reclaim them "from the error of their way," the sooner shall we put a stop to the Indian war. I think I speak advisedly, for I have seen some little of the Indian character. The President, the highest functionary known to the Constitution, tells you that there is an absolute necessity for more troops; that the Army of the United States is not sufficient to guard the western frontiers. If his recommendation is not regarded, in a few years—perhaps I might say months—the whole western frontier will be affected by warlike operations. I do not desire the extermination of the Indians. I have as much sympathy for them as I, perhaps, ought to have; but I trust I shall not forget what is due to my own people. Look at the vast amount of property, which the gentleman I have alluded to, in the other branch of Congress, says is always in danger. Does he not tell the Commissioner of Indian Affairs that, unless an army is placed there to strike terror into the minds of the Indians, the consequences will be serious to our people? It seems to me that nothing more could be said, or should be required to be said, to convince this honorable body of the necessity of granting a sufficient force to the constitutional authorities to maintain peace and protect our frontier.

My honorable friend from Texas says that these Indians have been wronged; that they have been attacked. It is almost impossible to prevent aggressions on the red men, as well as upon the white; but we have seen enough, and heard enough, from the communications which have been made to us, to convince every mind of the absolute necessity of granting the additional force to protect the country. What is the plan suggested by the Senator from Texas? It is to put a stop to all emigration until a sufficient force can be congregated at a particular point to protect themselves in going across the plains. I ask the honorable Senator what they would do with this force? Take two hundred as the basis of a force sufficient to defend themselves. I beg the Senate to listen to this:

"I must communicate to you, also, a decision of a meeting of the half breeds and Indians of Pembina county, held a few days before my departure for Washington, in which it was resolved, that next summer, after the first hunting trip, a party of war of about five thousand men shall go up the Missouri, a little below Fort Mandon, and there separating in two corps, one each side of the river, will come down the Missouri and put to death all living beings they will meet on their way."

I ask my honorable friend what two hundred men could do with a force of that kind, when they have deliberately determined to ascend the Missouri river to a particular point, separate on each side of the river, and go off to destroy everything in their march down it? What protection could a force, of the kind the Senator suggests, have, in opposition to twenty-five hundred men like those? They would stand about as long as the unfortunate Grattan stood before the fifteen hundred near Fort Laramie. The news would electrify the country, that the Indians had butchered and destroyed a large number of our people.

What is the object of the message of the President of the United States? It is to avert that, and to throw into the country, in time, a sufficient force to arrest the aggressions of the Indians, and to shield our own fellow-citizens. With these views, Mr. President, I concur cordially in the recommendation of the President.

I did not rise to prolong this discussion. I rose simply to say to the Senate that, although I concurred in the whole amendment of the committee, although I believe it to be the best system that could be adopted to protect the country, with great deference to gentlemen who, I presume, know more on this subject than I claim to know, I am prepared to unite and cooperate heartily and cordially with the majority of the body in getting the best I can: because I believe there is a necessity for it. The high functionaries have discharged their duties in bringing this subject to our attention, and presenting their plans. It now devolves on us to perform our duty, and if we fail to do so, the responsibility will rest upon us, and not upon the Administration.

Mr. RUSK. I am glad to hear the honorable Senator from Alabama make the declaration he does; because my opinion is, that if we contend for more than the honorable Senator from Virginia has proposed in his amendment, we shall be likely to do as we have done at several former sessions, lose the whole. I understand that the proposition to call out three thousand volunteers has been withdrawn, and that the amendment pending is that offered by the Senator from Virginia, to raise two regiments of mounted men, and five hundred rangers, which the Senator from Illinois proposes to amend by the addition of two regiments of infantry, and the exclusion of rangers.

For eight or nine years past we have had possessions upon the Pacific ocean, to which it has been the policy of the country to invite an overland emigration. A very large emigration has gone there, and has been of immense service to the United States. Every steamer that arrives on the Atlantic side from California (and they come about once in two weeks) brings you $1,000,000 in gold, and sometimes a much larger quantity. These hardy pioneers have been forced either to go across the plains, with the exposure incident to traveling through an unsettled country, or, at very large expense, to go outside of our own country, through an unhealthy climate, across the isthmus. All these hardships have been encountered at a time when your Treasury was full and overflowing. There are five or six routes across our own territory to our possessions and settlements on the Pacific ocean; and upon not one of them are the property or the families of the emigrants safe. For years past they have not been safe, because the Indians on the plains—although it is but recently that, on the more northern routes, they have commenced to commit depredations and take life—were constantly levying black-mail upon the weaker parties who traveled across the country. As soon as the Indians came upon them, they were compelled to give up part of their property. It has been a regular business with the Indians to go on these routes, and make these demands of the emigrants. Poor people, who were going to a new country for the purpose of mending their circumstances, have been actually taxed by these Indians, to whom they were compelled to give almost all they had, for the purpose of escaping with their lives; and this, too, while this Government has had a full and overflowing Treasury.

Sir, upon every principle of justice, all your citizens are entitled to the protection of this Government. They have not received it, and where is the fault? The emigrant routes are unprotected; some of the States of the Confederacy are unprotected; several of the Territories are unprotected; and you cannot carry the mails, from one settlement to another, without a large armed guard. Your mails are attacked—a constant occurrence in my own State, and so it is upon the other lines of travel. The mails are frequently captured, the carriers killed, and the property which is being used in the transportation of the mails is taken by the Indians. When such occurrences take place there is fault somewhere. There is plenty of money in the Treasury. The fault is not upon the Executive, nor upon the Secretary of War, because, before these difficulties became so serious and threatening as they are now, both those functionaries asked of Congress an increase of the military force. They have insisted on an increase; and bills have been reported in both branches of Congress to effect the object. The honorable Senator from Illinois has done his duty in presenting bills here constantly for the increase of the military force, but they have not been passed, and things remain as they are. It is charged that we have now too large a military force. Why, sir, every man that can be used is put upon these lines, and the utmost exertions are made by the War Department, by the President, and by the troops; but it is utterly impossible for them to cover a sufficient extent of ground, with their small number, to afford adequate protection. I have already asked who is to blame for this state of things? The fault rests with Congress. Now, I wish to appeal to those members of the Senate whose constituents are subjected to none of these privations and difficulties, to join those of the frontier in extending protection to the travelers, from whose exertions they, in return, receive so much benefit, as it is admitted, on all hands, has been received from the labor and enterprise of the hardy pioneers who have gone out and settled on the Pacific coast. The fault, I repeat, is in Congress; and it now rests with Congress to apply a remedy.

The proposition before us has been treated, to some extent, as a war measure; but, in my view, it is a preventive measure. What has been read, at the request of the honorable Senator from Alabama, is true. It is true that all those Indian tribes who have had but little intercourse with the United States do not know our power, and unless they see that power they regard the United States as inferior. Is it likely that they should regard us in any other light? Here are citizens traveling through that country and these Indians march up and demand half they have, and they have to yield. Who is the inferior there? The Indian regards himself as the superior, and whenever he has power he will exercise it.

In the first place, it is a duty to the emigrants to make their travel safe; but besides, it is an act of mercy to the Indians themselves, because they are now acquiring habits which will involve them in war. The Government may not throw the arm of protection around its citizens; but one thing is very certain; whenever they become sufficiently strong themselves, and have grown tired of waiting for the action of the Government, they will avenge their own wrongs on the Indians, and then you will be involved in a war. The expenditure sought by the amendment will be but as a drop in the bucket, compared with what you will have to encounter after much mischief has been done.

Sir, I fully appreciate the anxiety of my friend from Illinois, the chairman of the Committee on Military Affairs, and I concede that all the force for which he asks is necessary; but, at the same time, I want to make an appeal to him. Two mounted regiments will afford protection, and will, in my judgment, stop these difficulties. These two mounted regiments I believe we can get; but if we ask for four regiments, my opinion is, judging from the experience of the past, and the temper of both Houses of Congress now, that we shall make a failure. Give us, then, this protection.

There is another advantage to result from this measure. Even those who now believe that two regiments will not be sufficient, will see the beneficial results in the protection which will be afforded to emigrants, and the change which will be produced in the conduct of the Indians. I am not for exterminating the Indians; I do not want an Indian war; the President does not want an Indian war; nobody wants it, and the people of the frontier least of all. Congress has adopted, and made some liberal appropriations for, another policy, and it is the only policy which will, in my judgment, founded on some slight acquaintance with Indians, have any effect upon them; that is to settle them down, stop their roving about. Game is getting scarce, and the time is favorable for the accomplishment of such an object. The Government has already made liberal appropriations for that purpose. The older stock you cannot get to work; that is out of the question; to steal and to fight are all they will do; you cannot make them work; but the women and children, who

have all the work to do in their camps, who are oppressed, in the first place, with having more to do than they coveniently can, and in the next place with being almost in a state of starvation on account of the scarcity of game, will go to work. They will raise crops sufficient to live upon, and by that means you will overcome their roving disposition; you will take away the temptation to commit depredations; and if you ever civilize and save them, this will be the only way. If you accomplish this, you must show them that you are able to check and punish them if they seek a living by what are to them the easier methods of war and plunder. The younger stock are susceptible of being trained to work. The experiment has been tried with other tribes, and some of them are almost as good agriculturists as any people in the United States. In this way, and in no other, can these tribes be preserved. You may neglect or refuse to give the Secretary of War the necessary means of checking the hostilities and aggressions of the Indians; the present condition of affairs may go on; the Indians may continue to rob and murder emigrants and travelers on the frontier; but the population there is increasing every day, and when those persons are satisfied that this Government cannot protect them, and when their numbers are sufficient, they will begin to protect themselves, and the first step they will take in the matter will be an extermination of the Indians as far as they can reach them. If we would avert this, we should afford prompt protection to them.

Under these circumstances, I shall vote against the amendment adding four regiments; and I hope the friends of the measure will support the amendment providing two regiments of mounted men and five hundred rangers.

Mr. HUNTER. Mr. President, when the Senator from Illinois offered his amendment to this bill for three thousand volunteers, it was urged as a reason for proposing such an amendment to a general appropriation bill, which is so unusual, that there was a pressing necessity for some force in order to provide against the danger of Indian outbreak and disturbance. I have always opposed any effort to put upon the general appropriation bills anything which looked towards the general legislation of the country, because I knew from experience that it led to conflicts between the two Houses, which were neither profitable nor becoming; but, in this instance, I was willing, in view of the emergency under which we were acting, to do what might be necessary in order to prevent this outbreak and to avoid, if possible, this Indian war which seems to be threatening us. I was willing to do just so much as might be necessary to meet this emergency; but I was not then willing, nor am I now willing, to do more upon this bill than may be necessary to meet that precise case. I think that would justify us in a departure from the ordinary rules of legislation, however salutary they may be. But, sir, in regard to anything further and beyond this, it seems to me so eminently proper that it should be the subject of separate and independent legislation, that I will not dwell further on that subject.

As I have said, I felt the necessity for doing something to meet this emergency, and I turned to the subject and considered it most anxiously in order to ascertain what that emergency was, and what would be the adequate remedy. I did not believe that the adequate remedy consisted in raising three thousand volunteers and sending them out amongst the Indians. I feared, and I think I feared with reason, that such a step would inevitably lead to a disastrous Indian war, which, by prudence and proper precaution, might be avoided. It seemed to me that, to the extent to which it was proved that there was a demand for steady, constant, military service, in order to prevent outbreaks, and guard the emigrant trains, that demand should be met by an addition to the regular force; because regular troops are much cheaper; because they are more efficient; because they are more easily managed; and, in this way we should be in less danger of provoking an outbreak, less in danger of those accidents which are so apt to occur with volunteer forces, by which we might be involved in war.

The next question, then, to be considered was, what was the amount, and what was the least amount, which would be sufficient in order to provide for this steady military service which would be required hereafter from the nature of our Indian frontier, and from the stream of emigration which is constantly pouring, from sea to sea, across the continent. I consulted those who were better judges than myself on such subjects, and I found that it was the opinion of skillful, prudent, experienced men, that two regiments of mounted men would be adequate in order to protect the emigrant trains and to provide against occasional Indian disturbances, unless there should be a general war. And, upon consulting the reports of the Indian agents, and some of the Indian agents in person, whom I have seen, I came to the conclusion that, so far as there is any demand for service now, the provision contained in my amendment for five hundred rangers and the two mounted regiments, would be sufficient.

I do not think, sir, that evidence has been shown of an intention on the part of whole tribes to make war upon us. It seems that the temptation to plunder the trains passing along the country through which these tribes roam has been too strong for the forbearance of some of the bands in the tribes, or portions of them. Parts of them have plundered the trains, parts of them have committed outrages, but I believe the tribes themselves have never considered themselves as committed, in their tribal character, to stand by those who have done this; and I am inclined to think that, if we make a demonstration of the proper force, and treat with them in the proper manner, we shall be able to settle these disturbances, and prevent outbreaks in the future, with the force provided in the amendment. But, sir, while some force is necessary to meet this emergency, I am convinced, from all that I hear from those best acquainted with the subject, from the reports of the Indian agents, that there must be some increase of force in order to make a more respectable appearance in the eye of those tribes; they must see that we have the power and the means to inforce obedience when obedience is necessary and proper. Looking to that, I came to the conclusion that I would vote for this amount of force, which is believed, by prudent and experienced men, to be enough; but I will vote for no more, because I am not willing to do more on this bill, or, indeed, anywhere, than the emergency of the case requires. That is the whole extent to which, in my opinion, the regular Army should be increased; and I am willing to do that now, and upon this occasion, in order to provide for this emergency, and in order to prevent the creation of this large volunteer corps, which would be not only more expensive now, but would lead, I fear, to most dangerous results hereafter.

I am utterly opposed to the amendment of my friend from Illinois, who proposes to increase these two to four regiments. I believe that if he should succeed in so transforming my amendment, he will lose the whole, and that it will be impossible to carry it through. Even if he could get it passed as an independent bill, it does not follow that he could carry through a measure for increasing so largely the standing Army of the United States upon an appropriation bill. The House of Representatives might be willing to provide for this emergency which is pressing on us; and to the extent to which it is necessary to raise troops, to provide for it, they might be willing to do it here; and when once convinced of the emergency for which they ought to provide, they would inquire whether it should be done by regulars or volunteers. I believe that the amendment which I have offered might be carried; but I have no idea that we could carry through on this bill a proposition for raising four additional regiments. I will go further, and say we ought not to carry it. This is enough, and we ought not to do more than enough.

Mr. SHIELDS. Mr. President, there seems to be but little difference between the honorable Senator from Virginia and myself at this time, and, if I understood aright, the Senator from Texas who last spoke, [Mr. RUSK,] there is, in fact, no difference between us. The Senator from Texas admits that the force for which I ask, and which is proposed by my amendment, would not be too much to answer the purposes demanded, but he thinks that a provision for that force cannot be carried through, and, therefore, he is willing to take the proposition of the Senator from Virginia. I understand that to be the view of the Senator from Texas who has spoken to-day, and who, in my opinion, made a very sensible and practical exposition of the nature of this case. He considers that the force which I ask for would not be too large to accomplish the object intended, though he thinks that my amendment cannot, perhaps, be carried through at this session. I differ from the honorable Senator in this. I think it is for us to determine the force that is sufficient, necessary, and adequate to the object, and then let the responsibility of refusing that force fall upon those who choose to refuse; I say that, also, to the honorable Senator from Virginia.

The Executive, from the information which it has received, brings forward a proposition here for three thousand volunteers. The Executive says the emergency is such that they are needed for operations during the coming spring. The honorable Senator from Virginia, and others, refuse to give those volunteers. The volunteers were not intended to take the place of the regular Army, or to obviate the necessity of an increase of the regular Army, but to supply an immediate, urgent, pressing emergency. If there be such an emergency, (and the Executive, I take it, is the power to judge of that,) these volunteers, or some other equivalent force, are demanded at this time. Now, does the Senator from Virginia present that equivalent when he refuses to grant the volunteers? The Executive (charged with the investigation of this subject in the first instance, having all the means of ascertaining the condition of the Indian country and the disposition of the Indian tribes, and who would be derelict in the performance of his duty, if he did not present this proposition,) says that three thousand volunteers are necessary. Now, we change that; and what is offered as an equivalent? The honorable Senator proposes two regiments of mounted troops, and five hundred rangers. I say that, in my humble opinion, that force is not sufficient.

Sir, the other honorable Senator from Texas [Mr. HOUSTON] presented to us yesterday his views in relation to the Army. I shall not say that I was disappointed, but I must confess that I expected a higher practical presentation of this subject than was given by that honorable Senator. He spoke of the difference between what he calls the actual force and the authorized legal force of the Army. The authorized legal force at present is fourteen thousand, and the actual force is between ten thousand and eleven thousand. Now, the proposition which I present to the Senate would raise the authorized force to about eighteen thousand, but the actual force only to about fourteen thousand; because you must always deduct about one fourth from the legal force in order to give you the actual effective force. The question then is, are fourteen thousand men sufficient, at this time, for the protection of our Territories and the emigrant lines? I find, in turning to the annual report of the Secretary of War, much information on this point, and permit me to say that, if honorable Senators would consult that able report, I think they would find less difficulty in meeting this subject practically. I perceive it is stated in that report that in the military department of Texas, (and I ask the Senator from Texas to pay a little attention to this,) there are thirty thousand Indians. Of our present Army, we have given to Texas two thousand eight hundred and eighty-six regulars, for the protection of that department. With thirty thousand Indians, she has two thousand two hundred and eighty-six regulars. In addition to that, Texas has six companies of Texan volunteers, which the Government pays a dollar a day to each man. These six companies cost the United States more than all the regulars in the State. In the bill now under consideration, an amendment has been inserted appropriating nearly $200,000 to pay Texas for volunteers, in addition to the two thousand two hundred and eighty-six regulars. Yet the Senator from Texas said yesterday that Texas never had been protected by this Government; that the Government does nothing for Texas; that Texas has been overlooked by the United States. We have in that State nearly three thousand regulars, and six hundred of their own men, paid at an enormous expense by this Government to protect them against thirty thousand Indians; still they say they are not half protected; they have been neglected.

Now, let us turn to their poor, feeble, helpless neighbor, New Mexico, that has no Senators

here to advocate her claims, and her wants, or to tell her wrongs. She has no voice here, as Texas has. Sir, New Mexico has an Indian population of fifty thousand, twenty thousand more than Texas. Those fifty thousand Indians have entered into no treaties with the Government, and they acknowledge no submission to it. How is New Mexico protected and defended? She has a force of only one thousand six hundred and fifty-four officers and men to protect her against fifty thousand Indians. She has no volunteers, she has been allowed none; and she has only half the regular force that Texas has. That is the condition of New Mexico; but she has no one here to advocate her claims; there is no voice from that poor, silent, helpless Territory, to tell the condition of her people. I stated the other day that an officer directly from New Mexico had informed me, that about a thousand New Mexican women and children had been made prisoners within the last three years by the savage Indian tribes, and are now in captivity. He told me that the Indians walk into their little pueblos, with their rifles and their tomahawks in their hands, and if they do not give them what they want, they seize their women and drag them away, and even tear the children from the mothers' breast. Yet there is no one to say New Mexico is not protected; but a Senator from Texas rises here, and tells you his State has never been protected, is not protected now; and at the same time he refuses to give any additional protection to any of the Territories. I cannot understand such reasoning, and such argument.

I might go through the documents, and show that New Mexico has no protection; and that the force contemplated by my amendment will not give her adequate protection. Why? The Senator from Texas [Mr. RUSK] has already said there are three or four emigrant lines. The force proposed by the Senator from Virginia, being a mounted force, will operate, or ought to operate, upon those emigrant lines. I wish to have two additional regiments of infantry, one to be established as a permanent force in New Mexico, and the other as a permanent force in Oregon and Washington Territories. Has that honorable Senator thought of Oregon and Washington, and examined the condition of those Territories at this time? Has he not perceived that the Snake Indians there are in a state threatening desolation to those Territories? Does he not know that his two mounted regiments, when you cut them up into little detached parties, will not be half sufficient even to protect the emigrant lines? Does he not know that permanent, established, forces are better for overawing the Indians who have not declared hostility, than any mounted troops?

The proposition, therefore, now under consideration, is this: You refuse to give the Executive the volunteers. From the first, I have thought, myself, that those volunteers might be hazardous; I was afraid they might involve us in war; I did not press that provision, but I insist upon giving, as an equivalent for that volunteer force, two regiments of cavalry and two of infantry. To what extent will this increase the Army of the United States? To about fourteen thousand effective men. With my proposed increase, the actual force of the whole Army of the United States will not be more than about fourteen thousand effective men. Give Texas what she has now—three thousand, or nearly three thousand. Then give New Mexico nothing like what Texas says is necessary to her, and so on; and what kind of a force will you have throughout the Territories? Sir, I say less than this is no substitute for the demand of the Executive. If we give a force at all, let us give what is considered an adequate force, and one that will accomplish the object. Where is the necessity of dealing with it in this manner? Does the honorable Senator from Virginia suppose that, if the Indians are in a disturbed, excited, and hostile state, two regiments of cavalry will be sufficient to protect the whole sea-board of the Pacific, including Washington and Oregon, even leaving California to take care of herself? Do not the Senators from California know that they have not sufficient protection? Will they not tell you that the protection afforded now is no protection for California?

Well, sir, if California and Texas, strong and powerful States, be in that condition, what is the condition of a poor, helpless place like New Mexico? If she had Senators here, as those States have, then you would hear very different stories from those presented by honorable Senators in this body. I have taken up their case. I have seen some of those Indians for whom my honorable friend from Texas, [Mr. HOUSTON,] who spoke yesterday, has such a generous, warm heart. I unite with him in that feeling. He thinks they ought to be civilized; so do I. Let us civilize them; but until they are civilized, in God's name, let us keep them from taking the scalps of the whites; that is what I desire. Let us civilize them. I will join him in any practical plan to civilize the Indians of this continent; but until that be accomplished, I object to his remedy. If I understand it, he inclines to withdawing the whole Army of the United States. That is his proposition. He has no very high opinion, I believe, of the Army generally. In that I differ from him. I have had a little connection with that Army for a short time; and permit me to express to that honorable Senator the impression they made upon me. Taking them generally, I have never associated with more honorable, high-minded men than the officers of the Army. I think they would compare pretty well even with honorable Senators. That is my opinion, and I have had a little experience in both positions. Some of them are not good men. There are some mean men in the Army; but, as a body, I do not think the honorable Senator has done justice to the gallant Army. If I understand him, he thinks it is an army of show—an army merely for parade.

Mr. HOUSTON. Will the gentleman permit me to interrupt him?

Mr. SHIELDS. Certainly.

Mr. HOUSTON. The gentleman has a right to understand my language as he may think proper; but I made no such insinuation as that they were an Army merely for show. As I may find it necessary to reply, I shall now make only one remark in relation to the officers of the Army. While those gentlemen demean themselves in a manner becoming and suitable to the uniform they wear, and the condition they occupy, no member of the Senate has a higher appreciation of their character or their profession, than I entertain. As a body of gentlemen, long experience has taught me to appreciate them highly, and I shall always cherish that feeling towards them, which arises from a conviction of their chivalry, their honor, and their gentlemanly bearing. I shall say no more now, as I may be called upon to reply to the Senator.

Mr. SHIELDS. Mr. President, I am very happy to hear the honorable Senator present that view of the case. I perhaps misunderstood him. He alluded, I have no doubt, to some particular cases, but he did not specify them.

Mr. HOUSTON. I specified the case of Lieutenant Grattan, and others, who treated the Indians like dogs.

Mr. SHIELDS. I am happy to have the Senator's testimony in connection with my own in favor of the gallantry, the chivalry, and the honor of the officers of the Army. I do not pretend that they are all so, but, I think, on the average they may be considered about as honorable and honest as any other class of our countrymen.

There is another point to which I wish to advert. The honorable Senator [Mr. HOUSTON] seemed to think that the Army performed very little service to the country, and was rather intended for show than use. I have not read his speech as published this morning, but I speak from what I thought I heard yesterday. In my humble opinion, there is no army whose duties are what are called peaceful, who perform more trying, disagreeable service than the Army of the United States. Away on the frontier; far from their homes; far from the white settlements; in the woods, you may say; far from the comforts of civilization, they are in a kind of banishment, performing the most disagreeable of all duties—watching trains and looking after wild Indians. For my own part, I cannot imagine persons thrown into a more disagreeable service than officers and soldiers who are now acting on our frontier. I dislike very much to hear it said that they do nothing, that they are a mere show or parade Army, or anything of that kind, knowing, as I do, that they perform a great deal of very hard, very ungracious, and very disagreeable service.

I do not wish to occupy any further time in discussing the question. What I believe—and the honorable Senator from Virginia cannot answer it, no Senator in this body can—is, that this force which I have now proposed as a substitute for the volunteers, is not more than sufficient. I believe it is not sufficient. I want to know if any Senator will rise in his place and say he is satisfied it is amply sufficient to protect the emigrant lines and our frontier settlements? I think not. What kind of a force is this? The Executive has sent us a request for a certain amount of force; saying it is necessary; and a Senator rises up here and says, "in the first place, we cannot carry a proposition for that force, in my opinion; and in the next place, I think that force is not necessary." Is that the course which we should pursue?

The Senator from Texas [Mr. RUSK] who spoke to-day, says there has been great neglect in relation to this increase of the Army. Well, sir, let us make up for that neglect; let us vote the force demanded; let us give the President the means to protect the white settlers and emigrants, and to protect the Indians also. That is my opinion of our duty. Upon that I rest the case. I wish any gentleman to tell me if New Mexico, Washington, Oregon, Kansas, and Nebraska Territories, and the emigrant lines, can be protected with a less force than that proposed in the amendment which I have had the honor to offer? Why, sir, if any Senator will take the trouble to run through the documents, he will see, as I have already stated, that it is only putting two or three thousand men to protect one of those immense military departments, where there are upwards of one hundred thousand Indians. Who will say that such a force is too much? Why should there be hesitation in agreeing to the proposition suggested by the Executive? I trust the Senate will agree to my amendment.

Mr. DAWSON. Mr. President, as a member of the Committee on Military Affairs, perhaps it is incumbent on me to state the reasons why I shall vote with the chairman of the committee on this question. It is admitted on all hands that a force is necessary to be raised for the defense of our Indian frontier, and of the emigrant lines to California and Oregon. How was the committee to act, and how is Congress to act on that subject, except from the information which they may obtain in relation to the necessity of this increase of the Army? Where were we to apply for the information necessary to control our action? It seems to me we should apply to the Executive of the United States, the commander-in-chief of the Army and Navy. Have we received the information necessary to enable us to act? We have, sir. A communication on the subject was received by this body from the President, and referred by the Senate to the Committee on Military Affairs. On the suggestions of the President, that committee has acted. How have the minority of the committee, those known, or supposed, to be actuated by feelings of opposition to the present Administration, acted on this question? They have waived all feeling; they have forgotten their party relations; and, burying party feeling in patriotism, have come forward to sustain the recommendation of the Administration which seems to have but few friends among its own supporters on this question. They did what they thought was proper, in the discharge of their duty to the country, by recommending the strengthening of the Army which defends it.

The President called upon us for an increase of the Army. In what manner? By volunteers, which can be brought into the field immediately for the protection of the frontier and the emigrant lines. The Secretary of War—than whom there are few or none who understand better the duties of the Department over which he presides—asks you to grant him liberty to employ that force. He has communicated the information upon which his request is founded. In accordance with his request, and in conformity with the information which he presented to the Senate, the chairman of the Committee on Military Affairs was authorized, with unparalleled unanimity, by the committee, to go to the President and the Secretary of War, and ascertain all that he could from them in relation to the present necessity, and then bring their proposition before the committee for action. That proposition was laid before the committee. They have adopted it, and presented it to this body.

Now, sir, what is the antagonistical proposition? It comes from the chairman of the Committee on Finance—the Chancellor of the Exchequer—the fiscal committee of this body, assuming the war power, and declaring that the Committee on Military Affairs, sustaining the War Department, is incapable of judging of the necessities of the country, and that the financial department shall control the War Department. Sir, it is a strange condition of things to see me standing here to-day, sustaining the measures of the President and the Secretary of War, while their friends oppose them on grounds strange and extraordinary. How will the country understand this proposition when it is stripped of its verbiage and plainly presented to them? The President and the Secretary of War are counteracted by their own friends, who state that their minds have come to a conclusion different from that of the Administration. They say that they have received information from gentlemen, who are competent to give it, and on whose judgment they rely. My friend from Virginia stated that to be the case with him. Is not this an intimation that the President and Secretary of War are not so competent to present information upon which the Senate can rely, as other gentlemen—probably officers of the Army, or Indian agents—are to communicate facts upon which the Senate should act? Who are these men that have conveyed this information to the Senator? Who are the individuals on whose information he is willing to bring his mind to the conclusion that the proposition of the President and Secretary should not be adopted? Now, as a Senator, what am I to do? Take the recommendation of the President and his Secretary of War, for I know not the outside gentlemen, whose competency is so great that they should be relied upon in preference to the Executive Department.

Mr. RUSK. Will the Senator allow me to interrupt him?

Mr. DAWSON. Yes, sir.

Mr. RUSK. A bill has been reported from the Committee on Military Affairs, of which the honorable Senator is a member, to provide for four additional regiments for the regular Army. Such reports have frequently been made heretofore, but they have always failed. Then, if we cannot get four regiments, are not two better than none? The proposition of the Senator from Virginia gives us the two. I hope we shall take that; and if the proposition to raise four regiments can be passed, the bill on the table, to which I have referred, can be called up and passed in such a shape as to provide for the other two regiments. My fear is, that by trying to get the four regiments we shall lose the whole.

Mr. DAWSON. Mr. President, has it come to this, that, in a body, two thirds of whose members are Administration men, and at a time when the frontier is suffering, when not only women and children, but men are frightened, and emigrants are clamoring for protection, it is to be brought forward here as an argument that the recommendation of the Executive cannot be sustained, because the representatives of the States, and of the people, will not pass a law for the protection of the people! This, in my opinion, is no argument at all. It implies a want of patriotism; it implies a want of just reflection on the part of the Congress of the United States, to urge such a consideration.

It is said, however, that this measure cannot be passed. It is said that it has not been passed before. Why? Was there any alarm on the frontier then? Was the suffering condition of New Mexico then such as it has been stated to be now, by the chairman of the Committee on Military Affairs? Had the President of the United States, and the Secretary of War, then laid before you the calamitous condition of that section of the Union? Certainly not; and this may be some reason why the increase was not made before. It is almost an insult to the representatives of the nation to suppose that they would be derelict in duty under such circumstances as now exist. It is certainly an unkind allegation to come from the friends of the Administration, to say this ought not to be done, and cannot be done. Why, sir, the Executive arm of the Government has scarcely ever been so weak in this country that, in a just cause, it could not command a majority of Congress, even though a majority of both Houses were of opposite politics from the Administration. In this case, the party to which the Administration belongs is overwhelmingly in the majority, and yet we are told that the President's recommendation cannot be carried out?

Mr. President, I have not made these remarks with any feeling as a party man; for, on this subject, I have yielded every feeling of that sort, and, in the language of my friend from Tennessee, [Mr. JONES,] I go for the protection of the country. The authority which has a right to call upon us has demanded this. If any calamity should befall the country, if men, women, and children should suffer from a failure on our part to agree to the recommendation of the President of the United States, where will the responsibility rest? In the first place it would have rested on the Committee on Military Affairs if they had failed to discharge their duty; but irrespective of differences on political questions, all the members of the committee united to sustain the recommendation of the President of the United States and the Secretary of War, and we are driven here on this floor to fight for it. The friends of the Administration tell us that they are not for the measure which it has recommended, but that they wish to diminish the requisition to two regiments, and five hundred mounted volunteers, and that everything else is unnecessary. One Senator tells us that he is against the proposition of the committee because he has received information, not from the legitimate or constitutional source, but from outsiders, showing him that it is unnecessary. If I were to attack the Administration in that way, it would be charged on me as unkindness, growing out of opposition to it.

Sir, in an hour like this, when there is danger of an Indian war, no man should think of his party relations; no one ought to hesitate about a mere division of opinion. Yet, at this time, when the frontier is suffering, we are called upon to listen to dissertations about the christianization and civilization of the Indian, although the only point now before us is, protection against savage barbarity. It is not a question of benevolence, whether we can convert the Indian, and make a civilized man out of him; but it is a proposition to protect our own people against his present savage ferocity. It is nothing more nor less than this. While we are disputing here on a question of this kind, the frontier may be actually in imminent peril.

My friend, the chairman of the Committee on Military Affairs, at the request of the Executive Department, prepared this amendment; and proposed to insert it on the Army appropriation bill, in order to expedite the bringing of the force into the defense of the country. My friend from Virginia says he has waived all opposition to incorporating it into this bill, and he has very properly done so; but he presents another proposition in antagonism to it, which is calculated to lead to delay. The Committee on Military Affairs have concurred with the Executive Department on this subject. We have done so unanimously. We believe that a force of three thousand men is not too much. The mode of bringing them into the field is another question. All we ask now, is an appropriation to raise the troops, and when we have done that, we shall have discharged our duty.

Although the Committee on Military Affairs may be mistaken in their judgment, and may have improperly indorsed the wishes of the President, they ought to be presumed, at least, to know as much as the Committee on Finance in relation to those things which are necessarily thrown before them for investigation. But, sir, like many other committees, our influence, I know, is but limited. Our investigations command but little confidence. We do not speak *ex cathedra*. We only speak as so many persons; and it is the weight which belongs to our recommendations, especially when they are in conformity with the suggestions of the Executive, on which we expect to carry them. If this were a question of finance, of raising revenue to sustain the Army, the Committee on Finance would have my support, because I invariably consider that they understand the questions submitted to them, and upon which their minds are necessarily brought to bear. We, however, cannot grumble, as members of the Committee on Military Affairs, when we perceive that the Executive himself, and the Secretary of War, seem not to be heeded by their own political friends. For this reason, I do not feel in the least incommoded by the course which is being taken; nor shall I complain of it; nor should I have said a word, but for the fact that yesterday the chairman of the committee referred to my friend from Tennessee and myself as concurring in the report of the committee. We did so, and we are now prepared to assume the responsibility which that concurrence devolves on us. We are prepared to sustain the President of the United States and the Secretary of War in their recommendation. We believe that they are acting from pure principles of patriotism, and a desire to protect the country. This measure is, in our judgment, calculated to do this, and hence we concurred in the report of it.

Mr. PEARCE. Mr. President, I agree with the Senator from Virginia [Mr. HUNTER] in much that he has said. I think his general observations on this subject just, and his objections to the employment of a volunteer force seem to me invincible, and yet, sir, I prefer the proposition of the Senator from Illinois to that of the Senator from Virginia. I think that the increase of the regular Army, which the Senator from Illinois proposes, is demanded by the general exigencies of the service. I think the necessity of this increase has been manifested for many years, or rather since the acquisition of these extensive Territories which have fallen to us within the last eight years. Those of us who were here then must recollect that one of the objections urged to those large acquisitions, was, that they would render inevitable a very large increase of the regular Army, if we meant to extend protection to the Territories which we were thus acquiring, and which stood so much more in need of protection than any other part of the United States. We have acquired, within the last eight years, a territory quite as large as the original territory of the Union, considerably more than a million of square miles, a territory sparsely settled, for the most part inhabited only by fierce bands of Indians, not familiar with our power, not accustomed to respect our Government, habituated to a life of savage predatory incursions and warfare. Besides the settlements which are to be protected in those distant and thinly peopled regions, we are called upon to protect our emigrants passing from the Atlantic to the Pacific coast.

Sir, all this renders necessary the increase of force which has been asked for by the Senator from Illinois. I suppose the Senate are quite well aware that the greater proportion of the regular Army now has been drawn off to these new countries, to defend Texas, California, and New Mexico, Oregon, and Washington. In all the United States east of the Mississippi, we have a military force of only one thousand five hundred and seventy-four officers and men, of whom five hundred are in Florida alone. In Texas, which is a military department, there are two thousand miles of routes through the Indian country, over which emigrants are frequently passing to New Mexico and the Pacific. In this department there are two thousand eight hundred and eighty-six officers and men to keep in check thirty thousand Indians, for the most part predatory, and to repress hostilities on the Mexican frontier. In the department of New Mexico, with a larger Indian population, more unused to the authority of the United States, and trained to plunder and violence, we have one thousand six hundred and fifty-four officers and men. In the rest of the vast region between the Rocky mountains and the Mississippi, the Indian population of which is estimated at one hundred and eighty thousand, and many of whom are hostile in feeling to us, we have one thousand eight hundred and thirty-five officers and men to man our posts and protect the emigrants to California, and Oregon, and Washington. In the department composed of these last Territories and State, with Utah, in which the Indian population is supposed to be over one hundred and thirty thousand, and where there are two thousand miles of emigrant routes through their country, we have one thousand three hundred and sixty-five officers and men—our whole effective force is about eleven thousand men—six thousand of whom are scattered through the vast Territories acquired within the last few years, and more are now imperatively demanded for the same service, and were under orders at the beginning of this session. All this I learn from the Secretary's report.

So pressing have been the demands, and so inadequate the forces to be supplied, that our regiments of artillery are no longer receiving the

training, and exercised in the practice necessary to perfect them in that arm of the service to which they belong. They are, for the most part, serving as infantry. Many of our forts on the maritime frontier are left unguarded and uncared for by their proper occupants—the soldiers of the United States. In some cases a sergeant and a handful of men are stationed at a fort; in others somebody otherwise unconnected with the Army is placed in charge, and a few laborers are hired to do necessary work. Now it is proposed to take from the fortresses, where there is a company, the half of that company. Such are the make-shifts of the military service in our great country.

The artillery are not, in fact, artillery. They are not prepared now, if an exigency should arise requiring their services, to do themselves the credit and the country the justice which they would do if we kept them at the places to which they should be properly assigned—our fortifications.

Well, sir, the proposition originally introduced by the Senator from Illinois, was to give three thousand volunteers to the President, in consequence of the threatening aspect of our Indian relations in the northwest. That seemed to be objected to by almost every one. The proposition of the Senator from Virginia is to give two regiments of mounted men, regulars, and five hundred volunteers. The five hundred volunteers would be insufficient for the purpose of overawing the Indians from whom hostilities are feared, and, therefore, I think it is manifest his amendment will not answer the desired purpose. The President never contemplated the employment of volunteers as dispensing with the necessity of that increase of the regular Army for which he asked. It was only preliminary to it—to occupy the ground which they would occupy as soon as they should be raised and organized.

I think every consideration prompts us to the employment of regulars instead of volunteers, and the necessity of the increase of the Army, from the general considerations stated, must be apparent. So, also, it seems to me there is a particular necessity at this time for that increase. I confess I have greater apprehensions than the Senator from Virginia, if not as great as any Senator who has spoken on this subject, of an extensive Indian outbreak. I have had occasion, since the President's message was sent to the Senate, to examine a variety of papers in the War Department, which have been recently received. I have seen a letter from Lieutenant Fleming, who commanded at Fort Laramie, near which the massacre of Lieutenant Grattan and his party took place. I have seen a remarkably well written letter from Major Winship, who is, I believe, an Indian agent, and who furnishes most accurate and reliable information, and another from an intelligent gentleman returning from California, who was at Fort Laramie on the day of the massacre of Lieutenant Grattan's party, and at the time of that occurrence was at the house of Bardeau, an Indian trader, within sight of which the massacre took place, who witnessed the whole transaction from the roof of the house. From all these papers I am inclined to think that, so far from this massacre owing its origin to the killing of a cow, as some suppose, that unfortunate affair was but an incident and a consequence of premeditated hostility on the part of the Indians, who had been encamped near that fort for some days. And so far from condemning that unfortunate young officer, who sacrificed his life from a sense of duty, I feel disposed to applaud him and exalt his memory, because I think he laid down his life in discharge of what he considered to be due to personal honor and military duty.

It is impossible to read the statement of Major Winship without perceiving that those three bands of Indians, numbering between one thousand and fifteen hundred men, one of whom had killed the cow which led to this affray, were in a state of ill-feeling, at all events, towards the United States troops and authorities. When the animal was killed, and the emigrant went to the fort to ask that a demand should be made for the punishment of the offender, the head chief was sent for, and at first promised to deliver him up; afterwards he invited the United States officer, commanding at Fort Laramie, to send to his camp and get the man. Lieutenant Fleming accordingly sent Lieutenant Grattan with twenty nine men for this purpose. They found the Indians encamped in such a position as to show that an ambuscade was their intention. Two of the bands were encamped parallel with the road; the third, the Brulé band, in the midst of whom the offender had taken refuge, was between their encampment and the river. The officer in command of the detachment had to pass through the first two encampments to reach the third. He was surrounded by nearly fifteen hundred men in a state of great irritation, and evidently prepared for what followed. The gentleman who saw the affair from the top of Bardeau's house, says they surrounded him within the space of twenty or twenty-five yards. The chiefs told him that they had difficulty in restraining their young men. The officer saw—he could not fail to see—that they meditated hostilities, and wanted only a pretext. He was in a situation from which he not only could not retreat with honor, but could not retreat at all. He was compelled to fight, and to lay down his life as he did. The surrender of the fugitive had been promised, and the promise was not fulfilled. Lieutenant Fleming had been invited to send this detachment for him. The Indian chiefs had chosen their ground and arranged their men with judgment, so that the detachment must be surrounded if they persisted in executing their purpose, and the young warriors were seen to post themselves in some coppice, near by the encampment. Every arrangement of the savages indicated a premeditated attack upon the troops.

There is some discrepancy in the evidence, as to whether the firing was commenced by Lieutenant Grattan's command, or by the Indians. But there are some circumstances which go to satisfy me that the Indians made the attack; not with rifles, to be sure, but with arrows, which, at twenty-five yards distance are quite as effective as, and probably more serviceable than, rifles, because they can shoot more rapidly. The traveler who saw the affray from Bardeau's house, did not see the flight of arrows, but he saw the firing of the guns; and the arrows might easily have been shot without his seeing them. But very few Indians were wounded in the contest; only one chief was killed, and two or three were wounded. It is impossible to suppose that twenty-nine men armed with muskets would have discharged their muskets into such a body of men as the Indians there collected, without doing more damage than that. Besides, they fired both their howitzers once. Yet every soldier was massacred, except one man who escaped to the fort, and soon after died, while the ineffective fire of the troops could only have been caused by the sudden, and, at the moment, unexpected discharge of the Indian arms, in the prosecution of that hostility which they entertained. The savages then proceeded to carry off the goods and stores from the storehouses where they had been deposited; and from that time down to the period of our latest intelligence from that country, they have manifested a very fierce spirit of revenge. They talk of "thirsting for war, and of wiping out the whites," one of their peculiar expressions, and a very significant one. The Indian traders who have been residing among these bands, we are informed by these papers to which I refer, have withdrawn from their stations in the Indian country, because they are satisfied, from the language and conduct of those Sioux, that their intention is to enter into hostilitities, and considered neither their property nor their lives to be safe. They do not know the power of this country. They exaggerate their own and they diminish ours. They are disposed to try the fortune of war with us, preferring, as they told Mr. Vaughan, the Indian agent, to steal horses and take scalps to receiving the presents which the United States make them. Since this massacre a party of the same Indians has attacked the mail wagons, killing several men, and carrying off, among other things, $10,000 in gold.

In this state of things, it seems to me that the general necessity for an increase of our military force becomes still more urgent. Then the question arises, shall this increase be volunteers or regulars? Almost every one admits that we must have two regiments of mounted men. It ought to be remembered also, that in some parts of the country we want foot soldiers. I understand, for example, that a regiment of infantry is very much needed in Oregon, where there are, particularly in the eastern part of the Territory, some powerful and warlike tribes, who are in a state of discontent, particularly the Snakes, as mentioned by the Senator from Illinois. Well, sir, I think no one can hesitate to prefer the employment of regulars, if he has any regard to expense. I always knew that volunteers were much more expensive than regulars, but I did not know how much greater was the expense of maintaining volunteer than regular forces until I procured an estimate from the War Department on the subject, which I have in my possession. According to this estimate, the sum required to organize, equip, and maintain for one year two regiments of cavalry, on the basis of sixty-four privates to a company, is as follows: For pay, expense of recruiting, subsistence, quartermaster's department, and medical department, $1,288,584. The cost of two infantry regiments for the same time, would be $901,625; making a total expense for the regular forces of $2,189,209. There are three thousand one hundred and fifty-four in four regiments, estimating the companies at sixty-four men. The cost of the mounted volunteers proposed to be raised by the original amendment of the Senator from Illinois, would be $3,695,899 for one year, from which we have to deduct $203,742, the estimated cost of five hundred Indians for the year. Make this deduction, and we should find a difference of $1,302,848 less expense in the organization and maintenance for one year of three thousand one hundred and fifty-four regulars than of three thousand volunteers.

It is also to be remembered, that, at the close of the year, at least three fourths of the dragoon horses of the regular Army would still be in the possession of the United States, and you would have to add about $200,000 for this item, which would make a difference of $1,500,000. There is another thing to be considered, that, at the expiration of the term of service of the volunteers who furnish their own horses, they will have claims for horses lost in the service; and it seems to me that it would be a very safe allowance to add $150,000 for this item; so that really, all things considered, the expense of maintaining equal bodies of regulars and volunteers is in favor of the regulars as one to two. On the score of expense, therefore, it seems to me that there can be no hesitation in giving the regulars the preference to volunteers.

Gentlemen best acquainted with the subject seem to consider, as the Senator from Virginia does, that regulars are much to be preferred to volunteers for this service for other reasons. They are under stricter discipline. They can be more easily restrained. They can be used to overawe the Indians, and to prevent hostilities. Volunteers cannot be used to prevent hostilities; they wish to rush into a conflict at once; they seek to increase and multiply hostilities. They go out, as some gentleman from the West has well said, for a fight, and a fight they will have. If they fight, and pursue the Indians, they will kill a great many, and break up and scatter the bands; but after a while, when you have withdrawn your forces, what will be the consequence? The Indians, in a state of desperation and revenge, will renew the conflict, and you will then have to employ regulars after all, or summon together new volunteers at fresh expense.

I think, therefore, we cannot do better than adopt the proposition of the Senator from Illinois; but if the Senate shall not adopt it, I shall be forced to take the proposition of the Senator from Virginia, because I prefer that to calling out three thousand volunteers. I think, however, the Senate should act for itself independently on this subject. If the other House of Congress do not choose to adopt the proposition, they can modify it as suits themselves, and then we can agree with them or not, as to us seems best. But the two Houses of Congress being of equal and independent authority in such matters of legislation, it becomes us to govern our course by our own judgments, uncontrolled and unaffected by the supposed judgment of the other House, which, indeed, may not prove to be such as some Senators anticipate. I will add, sir, that, at this period, when labor finds less reward than usual, and extraordinary want afflicts a part of our people, we shall probably find that the recruiting service will proceed with unusual dispatch.

Mr. HUNTER. Mr. President, the Senator from Georgia [Mr. DAWSON] has taken me to task for my relations to the Administration. He seems to think that I am bound to sustain every propo-

sition that comes from the Administration, in so many letters and figures, and he boasts that he is doing so. Well, sir, if that is the rivalry upon which he invites me to enter, I assure him that I willingly yield him the palm, because I do not hold myself bound to register the edicts of any power whatever. But I will say, in relation to this matter, that I suppose the best service I can render to the Administration, and to my friends, is to contribute all in my power to sound legislation. If I can aid in producing a sounder state of legislation than one which is proposed, I certainly render one of the best services which I can render to those who are in power, and who will have to execute it.

But, sir, is the gentleman from Georgia—this new-made Administration man—so literal in his obedience as he boasts of being? The proposition of the Administration was for three thousand volunteers. Does he adhere to that? If I understand him, he is ready now to abandon it, if you will give him four regiments of regulars. I understand the chairman of the Committee on Military Affairs is ready to abandon that if you will give him four regiments of regulars; so that it seems they, too, claim the right of judgment in relation to the merits of the propositions. I am sure that, if the Administration and the War Department had to choose between three thousand volunteers, without any addition to the regular Army, and the proposition which I have made, they would take mine in preference to that. They would doubtless prefer the three thousand volunteers and the four regiments; but if they could get only one or the other they would take my proposition. I believe they would prefer four regiments to two; but in that I differ from them, and I give my vote according to my judgment, and not according to theirs.

But the Senator from Georgia objects that this is a proposition from the Committee on Military Affairs, with which he seems to think the Committee on Finance have nothing to do. Why, then, do they offer it as an amendment to a general appropriation bill, which comes from the Committee on Finance, and for which that Committee is responsible? Why do they not adhere to their original independent measure, and bring that up as a separate bill? If they had done so, they would have found the members of the Committee on Finance no more disposed to meddle with their measure than those of any other committee.

The Senator also objects to my saying that I had consulted with gentlemen whom I supposed were experienced and had knowledge of such subjects, who thought the provision I proposed to make would meet the emergency. Sir, we have the testimony of a man, of whom I think we may say, without doing injustice to any other, that he is, perhaps, better acquainted with the subject than any gentleman on this floor, and as well acquainted with it, as any in the United States—I mean the distinguished Senator from Texas, who has spoken to-day, [Mr. RUSK]—that my proposition will meet the emergency. He comes from a district of country which is supposed to be threatened with this danger; and he says my amendment is satisfactory. Did you not hear the other Senator from Texas, [Mr. HOUSTON,] who also is familiar with this matter, say it was not necessary to make the addition which had been proposed to the volunteers?

Now, sir, in regard to this subject there are two sources of authority. There is the Commissioner of Indian Affairs and the Department of the Interior, who gather their information from one source; and there is the Secretary of War, who gathers his from another. In order to ascertain fully what is the evidence in the case, we must examine both. When you do that, I think it will be found that the evidence, as far as it is published, sustains the view which I have taken, that there is no imminent prospect of a general Indian war. If there were such a prospect of an Indian war from the British line down to the Gulf of Mexico, the provision which the Committee on Military Affairs has proposed, would not be adequate, for three thousand volunteers would not be enough to meet all the warriors whom those Indian tribes could put into the field. You find that one account is given to us by the Senator from Maryland, [Mr. PEARCE,] which he has gathered from letters from officers of the Army, of the recent outbreak near Fort Laramie; and you find another account in the report of the Commissioner on Indian Affairs, who gives us the statements of the agents. I understand that one of the former agents—the present Delegate from Kansas—has letters in his pocket from some of the agents who have written to him that the Indians would give up the offender in that particular case. I have not seen the letters; but I asked permission to see them, for I understand there are letters to that effect. I know, too, that Major Neighbors, the Indian agent in Texas, has lately made a report, in which he says the Camanches are more peacefully inclined now than they have ever been, that they are disposed to settle on their reservations. And he speaks well of that policy.

Still, sir, all the agents admit that there is a disposition on the part of the roving tribes to plunder the emigrant trains as they pass from one side of the continent to the other, and that some force is necessary in order to check those attacks upon the trains. Those persons who ought to know something about it, have been of opinion that two mounted regiments will be sufficient. I will go further, sir, and say that I believe if you were to ask the Secretary of War himself whether those regiments would not be sufficient to meet that emergency of which I have spoken, and which is the only one that I believe to exist, he would say this provision would meet that emergency. Now why should I vote for more than enough to meet what is the actual demand upon the country for military support and assistance? Why should I go beyond that?

Mr. SHIELDS. Let me say to the honorable Senator that the Secretary of War has already asked for three thousand volunteers for the immediate emergency, and also for four regiments, two of mounted men and two of infantry. Now, I suppose what the honorable Senator means to say is, that the Secretary of War will accept just what you give him; that is, he will try to do the best he can with whatever force you allow him; but he will tell you that he considers four regiments as hardly enough, not for war, but to prevent a war.

Mr. HUNTER. Mr. President, I have just said that, in the opinion of the Secretary of War, there is a greater emergency than I believe to exist. I have said that the Secretary of War desires not only the four regiments of regulars, but the three thousand volunteers. I believe that he thinks it would be well to raise them all; in that I differ from him. What I did say was, that, for the emergency of which I spoke, (that is, to provide for the necessity of guarding the emigrant trains and of putting down occasional outbreaks along the line,) I thought he would admit that the force I propose to give would be sufficient, if that were the whole extent of the emergency. That he thinks there is a greater emergency, I have already acknowledged and said. That, however, is a quertion of fact for the Senate to decide; it is a question of fact for Congress to decide upon all the rights which are before them. I have a great respect, sir, for the opinions of the Secretary of War upon such subjects; I know he would recommend nothing that he did not believe to be necessary; but, at the same time, I must be allowed to exercise my individual right of judgment. I, too, have a conscience and an intellect—a poor one, it is true; but still, I am responsible for acting up to such lights as have been given to me, and I must act according to my own sense of right, and not according to the opinions of another.

I have said that, after an attentive examination of the reports from the Indian department, as well as from all that I could gather from both Departments, I came to the conclusion that the emergency was not as pressing as other gentlemen seem to have supposed. If I believed that there was imminent prospect of a general Indian war, I would not do as the honorable Senator from Georgia proposes to do—give up the proposition for the three thousand volunteers, because they are asked for as an immediate force. If I believed an Indian war were inevitable, I should go for that, and for the other measure, too. But why does he give it up? Not that he is not for it; I presume he is for it; but because he thinks he cannot carry both, and he believes it expedient to carry the provision for four regiments of regulars. I believe he cannot carry the four regiments of regulars; but I think he can carry the two regiments of regulars, and five hundred volunteers. Upon that question of expediency he has one opinion, and I have another. He acts upon his, and I upon mine. He may be better informed; he may have better sources of information than I have; but we are each responsible for acting up to such lights as we have. I believe that, if we do raise the force, if we do make the provision which my amendment seeks, we shall do all that will be necessary, and we shall realize the good effects of it, and we shall find that more was not necessary.

Mr. DAWSON. Mr. President, I shall not enter into any controversy with my friend from Virginia as to which is the better Administration man. I have never claimed to be an Administration man; but I have claimed to have confidence in their recommendations, when those recommendations are based upon an absolute necessity, and go towards protecting our fellow-citizens on the frontier. It seems, however, from what has been said by the Senator from Virginia, as if the Executive Department had a couple of heads. He seems to rely upon the Secretary of the Interior as the proper person to give information on this subject.

Mr. HUNTER. I said I went to both sources. I did not undertake to decide between them; but I said I thought we ought to examine all the evidence.

Mr. DAWSON. My impression was formerly that the various Departments of the Government concentrated all their information in the President, and that he was the only channel through which we were to receive suggestions on subjects coming within his province, on which we could officially rely. I am so little of an Administration man that I knew nothing of the division of sentiment between the Secretary of the Interior, on the one hand, and the President of the United States and the Secretary of War on the other. I did not know before that there was such a controversy. I did not know that we were to be called upon to decide which understood the subject best; nor did I suppose there was a division of opinion created here by the officers in the Department of the Secretory of the Interior.

Mr. HUNTER. I hope the gentleman will allow me to state what I did say?

Mr. DAWSON. Certainly.

Mr. HUNTER. What I stated was, that there was a contest between those from whom the heads of these Departments derived their information. There is a contest between the Indian agents and the officers of the Army, and there has been ever since the Department of the Interior was created. There is a double head, and hence some of the mischiefs under which we are now laboring.

Mr. DAWSON. Well, sir, who is the responsible person to whom we are to look for the correction of this difference of opinion? Am I to go to the Secretary of the Interior, and ask what the President of the United States ought to have done? I should think not. It seems now, that there is a difference of opinion on the subject. But what I complained of, in my friend from Virginia, was not that he was not a good Administration man, but that he did not give that credit and confidence to the representatives of the President and the Secretary of War that he gave to the statements of outsiders. That is the ground upon which our variance originated. I have always preferred, as a Senator, to take the information which I desired to control my action, as a member of this body, through the President of the United States. The President has communicated to us the necessity for the measure before us, and I beg leave to read a few words from the letter of the Secretary of War accompanying that communication of the President. The Secretary of War says:

"Since the date of that report, (referring to his last annual report), intelligence received from officers on the frontier, and through the Department of the Interior from Indian agents, and other sources, show that the Indians of the western prairies and mountains are in hostile and defiant attitude, that several of those tribes have entered into combinations for the purpose of making a general war upon the whites during the approaching spring and summer, and that those tribes can bring into the field from four to six or eight thousand warriors. Had the increase of the Army, which was urged in my report of December, 1853, been, at an early period, authorized, the force at the disposal of the Department would have been sufficient to prevent these combinations, and, in all probability, would have preserved the lives of many valuable citizens from Indian massacre. This measure, however, has not been acted on, and at this advanced period, should the bills, now pending in Congress, be passed, it will be found too late to organize a regular enlisted force, and place it in position in season to prevent the anticipated attack, or to suppress it until after much mischief shall have been done."

THE CONGRESSIONAL GLOBE.

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This is the information communicated to us by the proper authority; and hence it was, that the President proposed that we should immediately raise three thousand volunteers. The Senator has asked whether I have yielded my desire to raise that force? Not at all. Not the first word has fallen from my lips to give authority for such an idea. The object of the committee was to place it within the power of the President, through his Secretary of War, to give immediate protection, which they so strongly represent to be necessary. For doing this, and for sustaining the President and the Secretary of War in this recommendation of theirs, I am called a new convert in support of the Administration; and the Senator from Virginia says he dislikes such a competition, and claims to act independently upon his own sense of duty and his own judgment. Who ever denied him the right of doing that? All that I said was, that he was doing injustice to one of the Departments of the Government, when he chose not to rely upon their official statements, but to take outside information. When we come to reduce the matter to a point, it seems that there is a difference of opinion in the Cabinet, and that the Interior Department claims the right of conducting war affairs, and managing governmental policy in regard to wars with the Indians. I would not say this, but the Senator seems to indicate that the source of the information, on which we are to rely, should be obtained from the Interior Department. He tells us that there are two sources, and he chooses to take the information from the Department of the Interior.

What I said—and I said it with all kindness and friendship for the Senator—was, that I would rely upon the information communicated to us by the Executive. The official information transmitted to us by the President and Secretary of War, will always be respected by me, and I shall never fail to concur in their recommendations, when the object is to defend our people on the frontier—men, women, and children, who are exposed to danger. If I had consulted my party feelings, I might have been inclined to oppose the granting of the volunteers asked for by the Executive; but I felt that a crisis had arrived, when political feelings should not be allowed to influence my judgment. Under such circumstances, I came to the conclusion to support this measure of the Administration. Perhaps I was too free with my friend from Virginia when I said he was going against it.

I stated before that the Committee on Military Affairs, after a full investigation of the subject, came, with great unanimity, to the conclusion that the Executive Government, through its proper departments, should be relied upon in their statement of the emergency which was impending, and that we should not hesitate to respond to the call made by the President and Secretary of War. Even if we felt a doubt on the subject, our duty towards the citizens on the frontier and the emigrants requires that the benefit of that doubt should be made to inure to their protection. For this I have been arraigned as a new convert to the Administration; but I say now that I am willing, on all occasions, to do what I deem proper for the interests of the country. When this Administration, or any other, pursues a high-minded and honorable course, lays down its position and asks me to do my duty as a citizen, I shall not allow my official position or political affinities to swerve me from the discharge of my duty.

The Senator from Virginia seems to think that I insinuated that he ought not to have any judgment on this matter because he was the chairman of the Committee on Finance. That is not what I said. I did say that every man should be presumed to know more on those subjects which he most studied than on others, and that every Senator should be supposed to understand the subjects referred to him, and which he had investigated. I stated that the chairman of the Committee on Military Affairs had thoroughly examined this question, that those associated with him on the committee had joined him in doing so, and that this afforded, at least, a presumption that they understood the facts. If the Senator from Virginia has better information, it is because he has consulted outsiders. Outside information shall not control me in the discharge of my duties as a member of the Committee on Military Affairs, but I will go to the proper source from which such information ought to emanate, and if I am furnished with such facts as to convince me that the measures proposed are proper for the safety of the country, I will sustain them. I certainly intended no disrespect to the Senator from Virginia when I alluded to him as the head of the Committee on Finance. His vindication seems to be that this measure is proposed as an amendment to an appropriation bill which comes from his committee, and, therefore, he supposes he has a right to control it. The proposition has been presented by the Committee on Military Affairs. As there is a pressing emergency, he has proposed to incorporate the measure into an appropriation bill, in order to expedite its passage through both Houses of Congress. That is the reason why it has been proposed to be inserted in this bill, and it is a sufficient answer to the remarks of the Senator from Virginia on this point.

Sir, I concur in the deserved compliment paid by the Senator from Virginia to my friend from Texas, [Mr. RUSK.] The ground upon which the latter Senator based his argument, was an apprehension that the measures which he desired could not be passed. He is justified in giving his vote according to that opinion. My reply simply is, that the emergency is so pressing, the necessity is so great, and the duty of Congress is so plain, that I do not doubt the passage of any measure necessary to protect our borders and preserve peace. I cannot believe otherwise, until I see the action of Congress upon it.

Mr. RUSK. Mr. President, the honorable Senator from Georgia expresses full confidence that the proposition to add four regiments to the Army will prevail, if it be attached to the appropriation bill. Now, I have just as firm a confidence in the opposite opinion. This is not a question of the precedence of committees, nor is it a question of party drill, or disagreements between different members of the Administration, or between the Administration and its friends here. The question before us is, whether we shall afford protection to the frontier settlers of the country, and to the emigrants who pass across the plains to the Pacific coast. Ever since this Administration came into power recommendations have been made for an increase of the Army to meet the necessities of the country. The proper officers, foreseeing that the difficulties which are now upon us would ensue from the exposed condition of our country, asked for an increase of the Army. The Committee on Military Affairs reported in favor of that proposition, but Congress has not agreed to it. The measure has been before Congress for two years; but still the Army has not been increased, and the frontier yet remains unprotected.

Now, sir, it happens to be the opinion of a majority of those Senators whose constituents are the most interested in this matter, who are the most exposed to these depredations, that, on this bill, you cannot carry the proposition to raise four additional regiments. It happens, also, to be their opinion, that, if you give them two regiments of regulars and five hundred rangers, as proposed by the Senator from Virginia, the protection which they seek will be afforded. The honorable Senator from Georgia will not give us this protection, because he says we must go the whole figure, or get nothing; we must, as good party men, come up to the recommendations made by the President, and, as a matter of etiquette, we must agree to the proposition of the Committee on Military Affairs, and must take four regiments, or nothing. That is his argument. He says he has no doubt that the provision for raising four regiments can pass, because the emergency is so pressing that Congress will see the propriety of passing it. I have very great doubts of it. Suppose the honorable Senator should be mistaken in his belief, what will be the result? Suppose we insert in this bill the provision for raising four regiments, and it fails; we shall be then just where we have been for the last two years, without any protection for the frontier, and we shall be forced to this position on a matter of etiquette, according to his argument. If, however, he should be correct in his supposition, no damage can result from agreeing to the amendment of the honorable Senator from Virginia. If his idea be correct, surely the provision for two mounted regiments of regulars and five hundred rangers, will pass both Houses of Congress. I have certainly every reason to believe that it will receive the favorable action of the Senate.

Mr. PRATT. Will the honorable Senator permit me to ask him a single question?

Mr. RUSK. Certainly.

Mr. PRATT. I wish to put a question to the honorable Senator, because I have a strong reliance on his judgment in such matters as this, which, I am free to admit, I have not in the judgment of some of those who have spoken upon it. I wish to ask him whether four regiments are not necessary for the military service of the country? Does he not believe that the amendment of the honorable chairman of the Committee on Military Affairs ought to be adopted? Is it not right, in his judgment?

Mr. RUSK. I shall not vote for that amendment. I shall vote for raising two additional regiments.

Mr. PRATT. I do not ask how the Senator will vote, but whether it is not right and proper to raise the four regiments?

Mr. RUSK. Not on this bill, and for the reason that, if it be attempted here now, it will prove a total failure.

Mr. PRATT. The Senator's argument is, that it is not right that it should pass because he thinks it cannot pass.

Mr. RUSK. If the honorable Senator will give me time I will explain the matter to him. If the provision for four regiments can pass, certainly the provision for two cannot fail. In my opinion—I judge from the past as well as the present—the attempt to raise four regiments will result in total defeat, and we shall be left without any increase of force. My opinion further is—and in this I concur with a majority of those whose constituents are most deeply interested—that if you attach the two regiment provision to this bill it will pass both Houses of Congress, and protection will be afforded to us. The honorable Senator from Georgia, and the honorable Senator from Maryland, seem to think that the proposition to raise four regiments will pass because it ought to pass. Then why can they not allow us to obtain these two regiments now, and afterwards call up the bill for raising four regiments, and act upon it as an independent measure? I ask them to yield a little to our opinions, based on the experience of a two years' attempt to get protection from Congress.

Mr. SHIELDS. Let me say to the honorable Senator that, if we now adopt the provision for two regiments, there will be no possibility of obtaining the other two regiments of which he speaks.

Mr. RUSK. I do not think there is much possibility of obtaining the four regiments anyhow.

Mr. SHIELDS. Let me ask the Senator whether he is not now giving his opinion in relation to the House of Representatives, and not in relation to this body? Is he not speculating as to the temper of the House—not the temper of the Senate?

Mr. RUSK. I am speaking from experience.

Mr. SHIELDS. I mean to say that four regiments are necessary, and that, if we make the effort, we can pass a provision for four regiments as well as we can for two regiments and a fraction.

Mr. PRATT. Pass it here—in this body?

Mr. SHIELDS. Yes, sir; pass it here; and if we stand together we can get it passed in the

House; but if we provide now for only two regiments and a fraction, we shall get no more for sessions to come.

Mr. RUSK. Well, sir, that same game has failed to win for years back. The Administration which preceded this asked for an increase of military force, but it was not granted. This Administration has made a similar recommendation, but no increase of force has yet been granted. Now the gentlemen are seeking to kill the frontier with kindness. If they should insist on the four regiment proposition, and it should fail now, as it has failed heretofore, what will be the effect? Will it not be just the same to the frontier as though they had voted against giving any protection at all? If the emergency of which gentlemen speak operates on both branches of Congress, so as to make a majority of each willing to grant four regiments, they will surely have no objection to inserting two of those regiments in this appropriation bill, and providing for two more in their proper place. I repeat, Mr. Fillmore and the present President of the United States have asked for additional military force to protect the frontier, but it has not been granted. Now, in my judgment, if you insert in this bill a provision for four regiments, you will defeat the whole measure, and we shall still be without protection. I ask Senators—for the protection of the frontier, for the protection of the emigrant routes to Oregon and California—to adopt the amendment of the Senator from Virginia, and give us two regiments of mounted men and five hundred rangers. After we shall have done that, I shall cheerfully join gentlemen in taking from the table and passing the bill to provide for two additional regiments of infantry.

Mr. BELL. Mr. President, if the question were to turn on the argument of the honorable Senator from Texas, [Mr. RUSK,] I should forbear to make any observations on the subject. I am aware that it is one with which he is familiar, and that his parliamentary experience authorizes him to speak with some confidence in regard to it. I should like to know why, if the House should come to the conclusion that something was necessary to be done, and we should agree to the proposition to raise four regiments, they might not reduce the number to two if they thought four too many? If the House should do this, should we not then have the subject within our control. I am at a loss to perceive why the Senator from Texas supposes we shall endanger the whole proposition for increasing the Army by voting for a greater increase than the House would agree to. If it turns upon that, I do not think there is much in the argument.

Mr. RUSK. I have already stated that an increase of the Army has been asked for by the Executive for four years past, and at the end of the four years we have not obtained it.

Mr. BELL. We may suppose, however, that the evidence which has been adduced by the statements which were read from the Secretary's desk to-day, taken from the communications of the President and Secretary of War, has had some effect not only upon the Senate, as we plainly perceive, but also upon the House of Representatives. Under this state of things, if the Senate should agree to increase the regular Army by the addition of two regiments of infantry and two regiments of mounted men, and the House should be of opinion that two regiments would suffice, would it not be perfectly competent for them to cut down the proposition of the Senate from four to two regiments of regulars, and to grant five hundred volunteers as proposed by the honorable Senator from Virginia? What is to forbid them doing this? Or is it to be supposed that the House would be of the opinion that no increase of the military force of the country is necessary for the defense of the frontier? I think, on the whole, that we hazard nothing in acting upon our own judgment as to the necessary increase of the military force.

The original proposition of the President, approved by the Secretary of War, was, as I understand it, that there should be an increase of the regular Army to the extent of four regiments; and that, in addition to this increase, in order to answer the present exigency, as a defense against threatened combinations on the frontier, a force of three thousand volunteers ought to be immediately called out. By what seems to be the pretty general sentiment of the Senate, it is considered inexpedient to grant three thousand volunteers; and it is not sought now to grant more than five hundred. As a substitute for the proposition to grant four regiments of regular troops, and five hundred volunteers, the Senator from Virginia proposes to allow two regiments of mounted men, regulars, and five hundred rangers, or twenty-five hundred in place of four thousand five hundred regulars and volunteers, recommended by the Executive.

The question now presented to the Senate is, whether only two regiments should be added to the regular Army of the United States, or whether, according to the views presented by the honorable Senator from Illinois, it is not expedient that there should be an increase of at least four regiments of regulars, even if we abandon the idea of any greater number of volunteers than five hundred? Let us look at this point. The present nominal force of the Army of the United States, is fourteen thousand, under the legal organization of the military establishment; but, according to the experience and observation of military men, (owing to the condition of military service, the impediments to regular recruiting to fill vacancies and supply casualties,) the proportion of eleven to fourteen is about the proportion of effective to nominal force. This ratio is not only at the present moment, but is likely to be for the future, the proportion of the effective to the nominal force of the rank and file. The honorable Senator from Illinois thinks that if we abandon the idea of authorizing the calling forth of three thousand volunteers, as recommended by the Executive, two regiments of mounted men, with the five hundred volunteers proposed by the Senator from Virginia, will not be adequate to the defense of the frontiers, in the present exigency. Well, sir, according to the proportion which I have stated of eleven to fourteen, the effective increase of the military force proposed by the honorable Senator from Virginia, will be only between fourteen and fifteen hundred of the rank and file of the regulars, and from four to five hundred volunteers. It is likely that when you organize your volunteer force, and march them to the frontier, there will not be more than four hundred effective men; but suppose there should be five hundred, you will not, according to the proposition of the Senator from Virginia, have an effective increase of both regulars and volunteers, of more than eighteen or nineteen hundred rank and file.

Now, what is the great increase which, it is said, is proposed by the honorable Senator from Illinois? He proposes to add four regiments of regular troops, two of infantry, and two of mounted men. What will be the probable effective increase made by that proposition? When those regiments shall be recruited, if the proportion of eleven to fourteen be continued, you would have about two thousand eight hundred effective men, and no more rank and file—not equal to the three thousand volunteers proposed by the Executive. The entire increase suggested by the Senator from Illinois is only about two thousand eight hundred effective men, and that proposed by the Senator from Virginia is about one thousand eight hundred.

Sir, let us look at the present condition of the country. I do not wish to go into it in any detail; but I think, on a question of this sort, we are bound to consider what force the necessities of the country, at the present time, call for. The effective rank and file of the United States Army amount, now, to about eleven thousand men. We have two thousand four hundred miles of seaboard on the Atlantic. Along this sea-board we have numerous fortifications, which are not garrisoned. I understand that, in some of them, there are hardly enough troops to keep them in order, and preserve them from dilapidation. We have one thousand six hundred miles of ocean border on the Pacific, in front of the State of California and the Territories of Washington and Oregon. We have no fortifications there, except one in course of construction near San Francisco. We have no barracks there, no arsenals for the deposit or construction of arms; and still we have one thousand six hundred miles of ocean border there. Then, we have a line of frontier extending from the mouth of the Rio Grande, up that river, and thence to the Pacific ocean, on the line between the United States and Mexico, which is somewhat more than one thousand five hundred miles. We know that exigencies are likely to arise at any time upon that border, and we ought to have military forces stationed at proper intervals along it, wherever it is likely they would be useful in repressing disorders, irregularities, and incursions. I say nothing of the border between the United States and the British possessions in the north. It is not, perhaps, necessary at this time to take that into consideration, though some reference ought to be had to it when we come to estimate the standing military force of the United States, at all times ready to defend our frontier against insolence and aggression.

I have stated the extent of our foreign borders to be more than ten thousand miles. In addition to this, we have an internal frontier demanding, in the present condition of affairs, the attention of the legislative and executive departments of the Government, more than our external frontier. We have, in round numbers, eight thousand miles of internal frontier, infested by numerous and warlike Indian tribes, not only on this, but also on the other side of the Rocky mountains. The honorable Senator from Illinois has referred to statements verified by the reports from the Executive Departments, showing that in Texas alone there is a body of thirty thousand Indians, the largest proportion of whom are prepared to become hostile, and to menace the peace and safety of the border white settlements whenever sufficient temptation is offered to their cupidity, or to their natural instinct for warfare.

In New Mexico, we have an Indian frontier of about fourteen hundred or fifteen hundred miles, with about fifty thousand wild Indians; I do not include the Pueblos; but the Navajos and Apaches, and other wild tribes, who have not acknowledged the authority of the United States and are not accustomed to our power—wild Indians who have for centuries lived by depredations upon the industry, and the fruits of the toil of the Pueblos or civilized Indians, and the Mexicans upon their borders, east and south of them. It will be generations before these fifty thousand Indians can be brought into subordination. But few of them have cultivated fields. It is their natural, normal state, to live by depredations upon their industrious and civilized neighbors.

Then look to the condition of things in California. I do not speak now of her ocean frontier. There is no exigency or crisis existing to call particular attention to that. But there you have an internal border infested by numerous small tribes of Indians, who are estimated, I believe, to amount to fifty thousand. We have been repeatedly urged, on this floor, to make large and liberal appropriations to establish some policy which would repress the hostile dispositions of those Indians; but we have not yet succeeded, nor are we likely soon to succeed in subduing their warlike propensities.

In Oregon and Washington Territories we have an Indian frontier of seven hundred or eight hundred miles in extent, also infested with numerous small tribes of Indians, with a general disposition to be hostile whenever they find the frontier unprotected. So on our frontier on this side the Rocky mountains, from the British possessions to the south, a thousand miles in extent. To be sure, we have nothing to apprehend from the southern tribes, situated west of Arkansas on that line; but they form only a small proportion of the large frontier, extending from the 49th parallel of north latitude to the Rio Grande on the south, leaving out of consideration Texas, for I have referred to her before.

Besides these, we have Utah; and there we have not only to look after the Indians who are disposed to be hostile, but we have other reasons, if we consult the true interests and policy of this country, why the Great Salt Lake valley and the Territory of Utah should, at all times and under all circumstances, be occupied by at least one regiment of regular troops. I was originally opposed to the formation of that country into a territorial government. I voted against it, even when it was presented as one of the famous compromise bills of 1850. I repudiated the idea of establishing an independent Territory with such large limits, and putting it under the control of a people with whom we had no security that we should not be in hostile conflict within five years, or a shorter period of time. Less than one regiment ought never to be established there, not only to defend the Mormons against the incursions of Indians, as it is our duty

to do, for they are part and parcel of our territory, but to display the power of the States of the Union, and the other Territories of the United States to those people.

But, sir, as I stated the other day, I do not compute the whole number of Indians within the boundaries of the United States at four hundred thousand. I think, after the examination I have given to the subject, that three hundred thousand or three hundred and twenty thousand, is the utmost limit of their numbers. We are prone to exaggerate the number of Indians; but even if there should be one hundred and fifty thousand, instead of two hundred thousand, as some suppose, disposed to become hostile, they are enough to indicate what true policy dictates to this Government in fixing its military establishment for the protection of the frontier.

Sir, I have spoken, on former occasions, of the disposition of those Indians, from whom danger is apprehended, of their savage habits, of their natural propensities and instincts, of their normal condition, their passion for war. A desire for war is not only an instinct with them, but it is a tradition which has been inculcated on them from their birth. It seems to be the universal passion of their race. I do not lay stress on the propensity of the Indians to become hostile, but I think great weight should be given to the fact that many of these tribes have never been addicted to habits of peace and cultivation; and besides, they have their natural instincts for war. One generation is not sufficient to bring them within the pale of civilization, and induce them to settle down quietly in villages, and cultivate fields, and rely on their industry for support and subsistence. We must look at this fact, and above all, we must look at the prospects which we, by our own policy, have held out to them. We must consider that they are savage, wild Indians, native children of the forest, habituated to war not only during the present generation, but having all their passion for glory and distinction founded upon feats of arms.

We must not forget that the history of this country has shown that these people, although divided and mutually hostile, a they often are among themselves, have had sufficient policy and sagacity to organize formidable combinations against the encroachments of the whites on their territory. When our commissioners go to treat with the Indians for more land, they seldom meet an old chief who does not throw it in the teeth of our commissioners and of their Great Father. This is the continuation of a system which has been pursued from the time when the white man first planted his foot on this continent. The Indians are capable of combination; they are capable of organizing formidable confederacies; of burying the tomahawk as between themselves, and making a common attack upon the encroachments of the whites on the frontiers. You have been encroaching on their hunting grounds. They understand this perfectly, as well as we do. The effects and consequences of it they appreciate as clearly as we do. We are not only encroaching on them from the east, but from the west also. We are drawing them within a circle, though not with the design of exterminating them, and destroying the game from which they and their forefathers have derived subsistence for centuries; but they see very well that, whatever our intention may be, the consequence to them is the same. We are drawing lines around them, not with the same intention, but with the same certain effect which follows the toils of the huntsman in the highlands of Scotland, or upon our western frontier, who form a circle, and drive the game within a focus, so as to give them a greater power over it. The Indians understand these things just as well as we do, although they have no books and no written history; but yet, by tradition and native sagacity, they appreciate it perfectly.

The considerations which I have presented should, I think, induce us now to fix our military establishment, if it be in our power, upon such a scale as will at least have a salutary effect in restraining their wanton depredations upon the frontiers of the whites, both east and west of the Rocky mountains. This, however, is not the only thing which we should consider, in determining upon this proposition. I agree with my friend from Texas, who spoke yesterday, [Mr. HOUSTON,] that the true policy of the country is to cultivate peace and friendly and amicable relations with the Indians, both as the cheapest system of policy which the United States can adopt, and the most reconcilable to principles of humanity, and most consistent with the dignity, character, and honor of a powerful nation like this. I concur with him to a great extent, as to the effect which may be produced by a careful and prudently devised system for tempting as many of these tribes as possible from the chase and from war, and bringing them to seek their subsistence from agriculture, confining them to villages, and to the fields of industry which may be set apart for them by the Government of the United States. I concur with him, that the larger portion of the Indians are susceptible of being thus ruled, because it is a mode of ruling them by kindness. It is the most economical system that can be adopted by the United States, and the most effective in regard to the larger portion of the Indian tribes.

I think, however, that my honorable friend from Texas is in error upon one point. He does not seem to give due weight to the consideration that, upon our extended Indian frontier, there is always mixed up with border settlements a class of men who have no objection to an Indian war, but to whom an Indian war is rather a God-send. It affords them an opportunity to gratify the passions which are natural to them, and by habit, or from something else, perhaps from cupidity, they itch after the fine lands in the possession and under the control of the Indians. Besides, there are some outlaws whom it is impossible for any Government, no matter upon what principle it may be organized, to control. The honorable Senator from Texas did not seem to take into the account the inevitable aggressions which will be made by our own border people, or a portion of them, upon the Indians. No man in the Senate has a better knowledge of the Indian character than that honorable Senator. He knows they are suspicious, resentful, and revengeful. He has given one instance of it, and excused it on the ground of the passions excited in these people when injury has been done to them.

Sir, when depredations are committed upon them, when their villages are destroyed, and their chiefs or warriors slain, by a few lawless banditti from among the white men, they frequently do not stop to consider whether such aggressions represent the sentiment of the whole people of the United States, but they immediately rush to arms, and seek instantly to gratify their revenge. They forget all our efforts for their good; all our humanity and benevolence, and all our attempts to preserve peace among them; and, in a moment, precipitate themselves upon the unoffending frontier of the United States, and slaughter and destroy all they can.

I think the chief error of the honorable Senator, from Texas, who addressed the Senate yesterday, is, that he did not seem to take into consideration the danger which there is of aggressions on the Indians from the lawless white men along our extended frontier. It will be impossible, with all the arts he proposes to practice, the establishment of trading posts, supplying their wants, and gratifying their fancy, to protect them from those aggressions, unless we have some military force adequate for the purpose. He does not seem to estimate the necessity of having an imposing force—I do not say a large force—upon such an extended frontier for this purpose; but I think a little reflection will satisfy every gentleman of its importance.

Now, sir, throw out of view altogether the Atlantic and Pacific coasts, and suppose we should remove all our regular troops from the fortifications on the Atlantic to our western Indian frontier this side of the Rocky mountains, and that all our disposable forces on the Pacific coast should be thrown on the border settlements west of the Rocky mountains, and we should then form a cordon of posts around New Mexico and the west of Texas, and two or three on the boundary line between the United States and Mexico. Where is your effective force to accomplish these objects? Your Army now contains no more than eleven thousand effective men, rank and file. The honorable Senator from Virginia, with this extensive frontier, proposes an increase of eighteen hundred men. I appreciate the motives of the honorable Senator from Virginia, as the guardian of the public Treasury, standing in his position, and feeling it his duty to guard it against profuse or unnecessary expenditures. All that he proposes to concede is eighteen hundred men for this extensive frontier, under present circumstances, and, according to his arguments, for any exigency likely to arise in the future.

Now, let me appeal to that Senator, as a gentleman whose thoughts are turned mainly to economy and to the protection of the Treasury against profuse and unnecessary expenditures, whether economy would not be better consulted by providing an adequate force for our extended interior border, than by an inadequate one? Why, sir, from the Cherokee country, west of Arkansas, to the British boundary at the north, is an extent of six or seven hundred miles. There are the western borders of Minnesota, of Iowa, and of Missouri to be defended. I speak not now of Nebraska and Kansas, because they include the whole of the territory from the western boundary of those States to the crest of the Rocky mountains; but I speak of the frontier of Minnesota, and of the States to which I have referred; and I say that I think a force of less than two thousand men would be wholly unfit to give them proper security. I do not mean a force to go on military expeditions, regularly, or at short intervals, into the interior of the Indian country. That subject has been very well handled by the honorable Senator from Texas. I agree with him, that it is preposterous to march one thousand mounted men in any direction, in order to overtake two thousand, or one thousand, or even five hundred Indian warriors. They disperse as soon as your force is in array, and you have to pursue them to the gorges of the mountains. Your men are not mounted in a manner to pursue them. They can always flee, and escape you. What I propose, is, that we should have a force stationed at proper and suitable points along our extended interior border. Posts should be selected by military gentlemen, whose profession it is to select proper points for military establishments. We should have such force at each as would demonstrate to the Indians that there is a power in their neighborhood which is able and disposed to chastise their aggressions at any time. In this way, more than in any other, we shall prevent these aggressions which are likely, if not prevented, to lead to a general war.

I am very well aware, sir, that this question is not considered by the Senate with that gravity which, in my opinion, it deserves. It is a question upon which I do not think honorable Senators can arrive at a conclusion without serious reflection. We have information before us, but that information is conflicting. If, by any imprudence of ours, we provoke a war, either by carrying military expeditions into their country, or by leaving our frontier inadequately defended, and there should be a combination even between one third of the numerous Indian tribes upon that border, we are in danger, during every season adapted to military warfare, of having the flames of Indian war kindled upon our borders, to which the Florida war will be but a rush-light. What did that cost the Government? Forty millions of dollars, and that war was against but a few hundred warriors—there were not a thousand of them. The incidental expenses of that war swelled its cost to more than $40,000,000. I would direct the attention of the honorable Senator from Virginia to this fact. He is the natural guardian of the public purse, by his official position as chairman of the Committee on Finance. Sir, the economy which would save the difference between two regiments of mounted men and five hundred volunteers, on the one hand, and four regiments on the other, may kindle the flames of war that will cost you $10,000,000 a year to extinguish. I stated, the other day, that if you do provoke such a war as that upon the frontier settlements of the United States, $10,000,000 a year, for a series of years, will be required. Five millions will not approximate to it. You can have no Indian war upon our border east of the Rocky mountains which will not be communicated by sympathy to the western side of those mountains; and almost all, if not all, the tribes upon the Pacific coast will be brought also into a state of hostility.

I repeat, again, they are aware of the consequences of the advance of population east and west upon their old hunting grounds. I understood, when I investigated the subject, and I believe I can state with some confidence that there are forty-five thousand wild roving Indians who do not

think of ever settling down in the neighborhood of any post or fort, and of seeking subsistence by agriculture. There are at least twenty, or thirty, or forty thousand west of New Mexico. Who has ever heard of any disposition on their part to settle down? Who expects it in the present generation? When I speak of forty-five thousand of roving prairie Indians, the Arabs of our deserts, not his side of the Rocky mountains, I do not mean to include the Indians of New Mexico. There are some thirty or forty thousand, some say fifty thousand; and if they are restrained, as probably they will be from late occurrences, from depredations upon New Mexico, they must subsist by depredating upon the peaceful inhabitants, the Pueblo Indians, and Spaniards settled in New Mexico.

Here, sir, then, instead of two hundred thousand wild Indians likely to become hostile, I only assume there are one hundred thousand; and about fifteen thousand of them will be warriors. What is their condition? How are they to live? How are they to subsist? Either by plunder, or by the aid which they receive from their more powerful and flourishing and industrious neighbors or protectors, the sovereigns of the territory, the masters who can claim the territory on which they reside. I said the other day, as lying at the very foundation of our policy, that there are only two alternatives: You must feed or you must exterminate these hundred thousand Indians. I will only assume that there are about one hundred thousand; which, I think, is about a third of the whole aggregate amount of the Indians in the United States, and it is only one fourth of the assumed aggregate of four hundred thousand. I will assume that there are only one hundred thousand who are dependent exclusively upon the chase for subsistence. They can bring only fifteen thousand warriors into the field, most of them mounted upon good Indian durable horses. I assume that those fifteen thousand, unless you subsist and feed them, can keep in alarm and excitement, and reasonable or rational fear of constant incursions, the entire territory of two thousand miles. Those fifteen thousand warriors—it is unnecessary to assume that there will be forty thousand—do not go in large forces. Five hundred, or perhaps a thousand, will be the utmost they will ever muster in one body; and whenever you send a force of troops to meet them they will flee and escape from you. I said the other day that the alternative is to subsist these Indians—and in a few years it will come to that question—or exterminate them. Therefore, I agree with the honorable Senator from Texas. It is not only more consistent with the feelings and character of the people of the United States to subsist them, but it would be the most economical plan of meeting their necessities.

In a few years it must come to that dire necessity. You are penetrating their country as the other honorable Senator from Texas [Mr. RUSK] stated, on four or five distinct routes of emigration. Honorable Senators have said that thirty or forty thousand emigrants go upon those routes annually to California, New Mexico, Oregon, or Washington. They intersect the route of the buffalo, the principal, almost the exclusive source of subsistence for the Indians, in four or five different directions. The Indians see that their only hope of natural subsistence is likely to be cut off. Therefore, sir, I say that our true policy is to conciliate the Indians, and make liberal treaties with them. Promise them—and when we promise, always comply—a liberal distribution of provisions in kind, year and year, and perhaps twice a year upon our border, both east and west; but, at the same time, it is indispensably necessary to keep an adequate force distributed upon both those borders, in order to show the Indians that any ingratitude on their part for the liberality of the United States will be promptly punished; not by moving a large army with banners in array, but by having troops upon our frontier, with horses as fleet as their own, and with men trained to the service. You will find them in the gorges of the mountains, and they can be tracked by such men as we had of old in the frontiers of Kentucky and Tennessee, on the borders of the Cherokee nation, the land from which my honorable friend from Texas sprung. That is the only way to do it—to have an adequate force, not in large numbers, but distributed at proper points all around our western frontier, and the frontier the other side of the Rocky mountains; and also to keep up the liberal distribution of the means of subsistence. The Indians must live. They will live or they will die with their arms crimsoned in the blood of the frontier settlers. You must have the subsistence; but you must also have the force to show that if they do not accept our charities and be peaceable, but still pursue their native instincts for war, we have the power to chastise them.

These are the grounds upon which I think the increase of the regular Army to two thousand eight hundred men is not too small an increase. I willingly abandon the idea of employing volunteers. I would have voted for it on an exigency; but I agree with some gentlemen that I do not think the exigency is so pressing.

I opposed the proposition of appointing three commissioners. I did it upon calling to mind some past experience on the subject, when commissioners were sent to our western frontier upon a similar occasion, recollecting how total the failure was, and how grievously disappointed were not only myself, but all those who concurred with me in the proposition of the Executive. Politicians are too often sent out with no knowledge of the Indian character, and no adequate comprehension of our true Indian policy. I do not care what the disposition and intentions of the President or Secretary of War may be, I know how difficult it is, the way things are managed now-a-days, and not now only, but for the last twenty or thirty years, for him to carry out his own wishes. The commissioners could perform no valuable service that cannot be better performed by our agents, now in our official employ upon our frontiers.

I suppose that the idea was that the commissioners should go in advance of the troops. I understand now they were expected to go at the head of, perhaps, five hundred, to penetrate the Indian country, and hold out, it is said, the olive branch of peace, backed by a military force close in the rear. As I said to one gentleman, in private conversation, and I should like to know from the Senator from Texas on that subject, what would such a man as General Jackson make of the three commissioners, who would go to govern and control him, when he was sent into an Indian country to repress Indian hostilities? Why, sir, on the first day's march he would put them under arrest, probably. The army, in a case of that description, could not advance at all. The supposition was, that the commissioners were immediately to inform the officer which of the tribes of Indians were disposed to be peaceable, so that he should know where he should direct the force; whether he should march in one direction or not.

But, sir, are not the agents as likely to obtain this information? We established the policy which is now in operation some three or four years ago. It has worked well; there is no necessity for a resort to the former policy of appointing men here who are unaccustomed to the Indian character, or to the wants of the Indian tribes. But it may be said, that the President would be sure to appoint such men. If they will attempt to select gentlemen competent and experienced in Indian affairs to be our superintendents and agents, I will go with them to appoint such, because I think they may have a proper perception of the true policy of the Government, and of the management of Indian affairs. As to obtaining information, the Indian agents can get it much more speedily; they can tell more readily what tribes are hostile, and what are not, if we desire to know that before we determine whether to send the three thousand men. Those men can go with the olive branch, a few days in advance, if you please, or at the head of a detachment of three hundred or four hundred men, into the Indian country.

From these various considerations, sir, I think, for the purpose of repressing hostilities on both our borders east and west of the Rocky mountains, two thousand and eight hundred of an increase in the regular Army, rank and file, is the very minimum which ought to be adopted by the Senate, and be carried through Congress. The honorable Senator from Texas says you are disregarding the recommendation of those who are most interested in the frontier; that they ought to know better, and that they will feel the consequences of the action of the Government. I repeat the sentiment with which I commenced, in reply to the honorable Senator from Texas, if there is any contingency at all, any necessity for an increase of the Army, if we make the increase, let it come down to what they think expedient. It will be in the power of the Senate to agree to that; and I say, with cordiality, I would agree to it if it should be only one regiment, if they would agree to no more. I will agree to the proposition of the honorable Senator from Virginia, if that is the ultimatum or the limit to which they will go.

Mr. WELLER. I do not know whether it is the intention of the chairman of the Committee on Finance to sit out this bill to-day?

Mr. HUNTER. I hope we shall try to sit it out.

Mr. WELLER. I have a remark or two to make upon this subject, as I come from a section of the Union which will be deeply affected by the course the Senate may see proper to adopt. There seems to be no difference of opinion in the Senate as to the necessity of increasing the military force of the country, however widely we may differ as to the amount of that increase, or the manner in which it should be made. The Senator from Georgia seems to claim a great deal of credit for sustaining the proposition made by the President of the United States, for the purpose of giving protection to our frontier settlers. Now, sir, the executive branch of the Government, year after year, has called upon the legislative department for an increase in the Army. The reasons for that increase have been assigned. There have been citizens of the United States murdered on their way over the plains. The property of our citizens has been destroyed. The Executive now comes before us and asks for an increase in the Army in order to give that protection; and my friend from Georgia makes a merit of going for it! I never doubted that that Senator, or my friend from Tennessee, who also seems to claim to be the friend of the Administration, would stand by the Government when that Government was likely to be involved in war, either with Indians or with foreign nations. I therefore think there is no particular credit to be given to those Senators, because their parts of the country are just as much interested in having the frontier protected as others. As Americans, they cannot but feel as much interest in the question as we who live on the frontiers. Sir, it is not a party recommendation. It is the Executive officer of the Government asking for an increase of the military force in order to give protection to the frontiers, and to the emigrants passing from the Atlantic to the Pacific. I never supposed, for a moment, that any of the party feelings which have controlled the conduct of the Senator from Georgia, would be allowed to control his action when called upon to vote for such an increase to protect our helpless, our defenseless frontier. His constituents, and the constituents of other Senators, are passing through the Indian country on their way to God's chosen land, (California,) and they are demanding protection against the tomahawk and scalping knife of the Indian. If the Federal Government has become so weak that it cannot extend this protection, it will soon cease to command the confidence or respect of the people.

Now, Mr. President, as to the force proposed to be raised. The proposition made by the President of the United States was, for Congress to grant authority to raise three thousand volunteers. That proposition met with the approval of the Committee on Military Affairs. However widely they might have differed from the President as to the propriety of raising three thousand volunteers for such a service, they did not hesitate when the Executive officer of the Government, with all his responsibility resting upon him, asked for that increase. But that proposition has been withdrawn. There are now two amendments before the Senate: One is offered by my friend from Illinois, [Mr. SHIELDS,] to increase the regular Army of the United States, by the organization of four additional regiments; the other is the proposition of the Senator from Virginia, [Mr. HUNTER,] to increase it by the organization of two mounted regiments, and five hundred rangers. If the object be to meet the present difficulty only; if you merely desire to give to the President of the United States a sufficient force to repress Indian hostilities; if you only desire to give to him a force sufficient to afford protection to the emigrants passing from the Atlantic to the Pacific side of the continent, then, in my judgment, you will have fully attained that object by the adoption of the amendment of the

Senator from Virginia. I say that two additional regiments, properly placed upon the emigrant routes, with the establishment of military posts at convenient points, and five hundred rangers to keep the connection between those posts, in my judgment, would give all the protection which the people of that section of the Union desire. Then military posts ought, for the present, at least, to be established within fifty miles of each other. Then our citizens will soon settle around those posts where the land is susceptible of cultivation, and will soon be strong enough to defend themselves. Establish these posts, and our enterprising citizens will soon give you a daily line of stage coaches from St. Louis to San Francisco. Give us protection against the Indians, and we shall have a daily line of stages through this much misrepresented country.

I wish it to be understood, however, that I am in favor of an increase of the Army, in the manner proposed by the Senator from Illinois. I believe that the public interest requires that it should be increased at least four additional regiments. You have gone on and extended your country, until you have added almost a continent to your acquisitions. You have acquired, since the treaty of Guadalupe Hidalgo, one hundred and sixty-eight thousand Indians within your limits. If the Army of the United States has been only large enough to afford protection in times past, then, in my judgment, it is demonstrated that it is too small now. I do not know of any Senator, except the Senator from Texas, [Mr. HOUSTON,] who has complained that the Army has ever been too large. If it has not been too large, I say, in years that are past, then, since these acquisitions, it is clearly too small. I go, therefore, for an increase of the Army; but, as I said before, if your only object is to provide a military force to disperse these Indians, to repress insurrections, to quiet the Indians, to prevent the difficulties upon the frontiers, then what is proposed by the Senator from Virginia is amply sufficient. Two additional regiments of mounted men, with five hundred rangers, and the force already stationed in Utah and New Mexico will, I think, be entirely sufficient. A great deal will depend upon the manner in which the force would be stationed. All that will be necessary, in my judgment, will be the establishment of military posts in that region of country, with a band of rangers to act as scouts and keep up the connection between the posts extending from the Rio Grande to the California line.

There are none of us who desire an Indian war, and more especially is that State from which I come, averse to it. A large portion of our population—the most valuable portion of our population in California—reach that country by the overland route. They go with their families. They go with their stock. They contribute to the wealth of our State much more than those who reach there by the ocean steamers. We desire, therefore, above all things, to keep that line of communication open and undisturbed, so that the emigrants passing there, with their valuable stock, shall not sustain loss, either in their property or their lives. A majority of those who have been regarded as our most valuable citizens have passed over the plains, and such will probably be the case in years to come. Whilst you are expending thousands in keeping up a communication with California by sea, I have a right to demand that those overland emigrants shall not be abandoned to the tender mercies of the ruthless savages. As long as they stand upon American soil, they have a right to demand protection.

I agree with the Senator from Texas that many of those wars have been provoked by bad white men. It has sometimes been the case that a large party of emigrants, wending their way to California, finding that some of their property had been destroyed by Indians, have inflicted summary vengeance upon them. Upon the next party that came along, which was not so strong—perhaps they had women and children—the Indians took their revenge. So far as that party was concerned, the attack was wholly unprovoked; but you have to look back to the one which preceded it in order to determine who was originally in the wrong. Sir, many years ago, when an allusion was made to the aggressions inflicted by the Indians upon the white men, as recorded in history, it was significantly remarked by an Indian, "The Indians have no historian." We may say so; at this day, Mr. President, they have no newspaper to record the outrages which white men may commit upon them; and hence, as the Senator from Texas has well said, we oftentimes do them injustice. The barbarities of the red men are published and republished in a thousand presses, but no chronicle records the outrages perpetrated by the white man; the story of his wrongs is untold, unrecorded.

I desire, so far as I am concerned, to adopt a system of conciliation; but I hold that it is utterly impossible to conciliate those who are now upon your frontiers in open arms against you. They have tasted of blood, and the strong arm of military power alone can restrain them. That the Sioux Indians are now confederating in anticipation of a general war with the Government, is undeniable. Those Indians made a treaty with Colonel Mitchell in 1850. Before the treaty was ratified by the Senate of the United States, it was openly disregarded, openly violated. Official notice of the fact was transmitted to the Department here, that immediately after the treaty they had notoriously disregarded it; and they are now confederating together in anticipation of a war with this Government. They feel and know that their outrages cannot be suffered to pass unpunished. To avoid a repetition you must teach them that our Government will never allow such barbarities to pass unrevenged. Until they feel and know the power of the United States, they never will respect the rights of our people. If we would restrain them, we must make them *fear* war. A weak nation never commands their respect.

Now, Mr. President, I would not go so far as the Senator from Tennessee, [Mr. BELL.] I understand him to say that there ought to be at least a full regiment stationed in the Territory of Utah. If the Senator will take the trouble to look, he will find that there are only twelve thousand Indians in Utah; and if it requires a full regiment to control twelve thousand there, how many regiments would be required to control fifty-eight thousand in New Mexico? There are fifty-eight thousand there at this time, and it would require some five regiments, according to the calculation of the Senator from Tennessee, to preserve and protect the rights of our people in that Territory. I do not desire to increase the Army beyond the absolute wants of the country. Further than this I cannot, dare not, go. I should like, however, to ask some gentleman, who has more experience than I have, what difference there would be, in time, between the raising of volunteers for the frontier, and the raising of two regiments of regulars as proposed by the amendment? because the President has told us that there is an immediate demand for the troops; and if the regulars cannot be organized in as short a time as the volunteers, or nearly in as short a time, then, as a matter of course, it would be better to send a volunteer force. If, as the President represents, the case admits of no delay, *time* becomes an important element in the determination of this question. I wish the force raised at once, in order that no blame whatever may attach to the legislative department of the Government.

I think the volunteer force is the best in the world for fighting; but for repressing Indian disturbances, for restoring peace and tranquillity to the frontier, for conciliating the Indians, I do not think that they are the best. As the Senator from Maryland has well remarked, "they generally go out to fight, and, unfortunately, many of them might be disposed, upon their return, to boast of the number of scalps they took during their campaign." I say, therefore, for the purpose of preserving the peace and quiet of the country, for the purpose of bringing the Indians under the subjection of our Government, and induce them to respect the rights of our people, your regular force is far preferable to the volunteers; especially if connected with the proposition to raise five hundred rangers, as the Senator from Virginia proposes. If a general Indian war should ensue, then your volunteers would be found the most effective in chastising them. If I were sent out to conciliate the Indians, and bring them under subjection by acts of kindness, I would prefer the regulars. If I desired to chastise them, and force them to submit, give me volunteers.

Mr. President, I am sorry to see that these Indians are fast fading away; and I apprehend there is quite as much sympathy, among many Senators on this floor, for the poor and unfortunate Indian as was exhibited yesterday by the Senator from Texas. I desire to protect them. That their extermination, in the end, is inevitable, no man can fail to see. I grant you, that many tribes have made progress in the arts and sciences. The Cherokees, the Choctaws, the Chickasaws, and the Creeks have made rapid advancement, within the last generation, in everything that tends to ennoble human nature. We are making an effort upon the shores of the Pacific to civilize and Christianize them. We have our military reservations. We have adopted the policy of gathering the different tribes from the mountains and valleys into those reservations, where they can be taught the art of agriculture; where they can be induced to labor sufficiently to procure for themselves the necessaries of life. So far as the experiment has been tried, it has been eminently successful. The young Indian boys, under the direction of the superintendent, acquire a knowledge of plowing and farming quite as readily as any of the white boys of our own country. The men will sometimes work five or six days industriously, every hour, from the rising to the setting of the sun. They will then abandon it, return to the mountains, and wander for days and weeks, until they are starved out, and then they will return to the reservations, and again engage in work. They will soon abandon their resort to the mountains and look upon the reservation as their home. They will soon abandon their roving habits, and settle down upon the comfortable farms provided for them by the Government. Here, away from the contaminating influences of a different race, under the benign influence of a humane Government, their existence may be prolonged, and the blow which we are compelled to inflict, rendered as light as possible.

Sir, the Indians are fast fading away. My attention was called, the other day, to a report made by the Indian agent in California to the superintendent, with regard to the diminution in the number of the Indians located in the four counties of Nevada, Yuba, Sierra, and Placer. These counties have very rapidly settled up with a white population during the last five years. In 1849, there were in those four counties ten thousand and seventy Indians. At the close of the year 1854, there were three thousand eight hundred and sixty. That is all that were left. They have not been scattered abroad; they have not wandered into the mountains, or distant lands; but they have gone to "that bourne from whence no traveler returns." The small pox, that fatal disease, has broken out among them, and those Indians, numbering ten thousand and seventy in 1849, have, in the lapse of four years, been reduced to three thousand eight hundred and sixty. Sir, I confess the contemplation of this picture excites all the sympathy of my nature. Thousands of them who wandered undisturbed over the towering mountains and productive valleys of my adopted State, have been swept away by the tide of emigration, and are now in the land of spirits where "the wicked cease from troubling, and the weary are at rest."

I do not doubt that this has been the case with the Indians in every portion of the State of California. Our population there is scattered throughout the whole length and breadth of the State. The white man has gone into the gorges of the mountains. He has gone upon the rivers and water courses. He has dammed their rivers in the pursuit of gold. He has driven their fish from their streams. He has destroyed their timber. They have no longer an acorn upon which to subsist. Sir, in my judgment, at this very hour there are thousands of Indians in the State of California who are dying from starvation; and would you ask me to engage in a war of extermination against those poor and defenseless and wretched beings? That they have committed outrages upon white men is unquestionably true; and I undertake to say that there has been as much humanity shown by the people of California, in their conduct towards the Indians, as in any of the frontier States of this Union. Californians have never treated them with injustice or inhumanity. But the Indians are there. To remain in our midst is impossible. Their subsistence has been taken from them. Their fish have been driven down to the bay of San Francisco, or to the lower portion of the Sacramento or San Joaquin. They are now

either compelled to steal or starve. If they steal the property of the white man, he takes the law into his own hands, and avenges his own wrong, and a war of extermination is inevitable.

It is no pleasure to a man, whose heart is in the right place, to reflect upon these things. It is not a pleasure for us to look over this extent of country and see hundreds of tribes, once powerful in their day, and numbering their thousands of warriors, who have gone down to their graves in penury and want. The sovereigns of this great and mighty Republic, which now attracts the wonder and admiration of the world, have long since disappeared before the unrelenting, the resistless march of the white man. We may for a time, upon our reservations, afford them subsistence; we may teach them the art of agriculture, and disabuse their minds of the impression that labor is degrading; we may prolong their existence; but, sir, in the end their destruction is inevitable. It is utterly impossible for them to live in contact with the white man; it is for them a mere question of time; but whatever we can do to alleviate their sufferings; whatever we can do to soften the blow which stern necessity seems to require us to inflict upon them, as humane and Christian men we ought to do it. If we can adopt any policy which will save them from destruction, elevate them in the scale of moral beings, and contribute to their happiness, we are under the highest obligations to do so. Unless that can be done under the system adopted in my own State, I despair of accomplishing it.

But, Mr. President, I did not intend to speak upon this branch of the subject. I only desired to say that, so far as the repression of Indian hostilities is concerned, so far as giving security to the emigrants on this route to California is concerned, the amendment proposed by my friend from Virginia will effect the object. I shall be content, I am sure, with that. And now, Mr. President, there ought not to be any difference of opinion on this subject. The Executive branch of the Government has warned us against the dangers; he has told us, upon more than one occasion, that, unless the military force is increased, the destruction of the lines of our people upon the frontier is inevitable. We have disregarded those warnings. I have made every effort in my power to increase the Army, and thus give the necessary protection. If there be any more blood shed on that frontier; if the poor emigrant is to be stricken down by the hand of the Indian for want of protection, the responsibility must rest with the Executive, not with me. I shall take care that my hand, at least, shall be clear of their blood; and I say to the Senate now, that unless you increase your military force, you will prevent emigration to California, overland, during the coming season. It will be utterly impossible for any man, or any party of men, to make the way overland, unless you have a military force to protect them. Around the military posts, settlements will soon grow up, and the white man will very soon be strong enough to protect himself. You established a military post at very great expense at Fort Reading, on the upper waters of the Sacramento river; and you are now about to abandon it. At the time it was established, there were numerous tribes of Indians there; but, under its protection, white settlements have been made around it, and the fort is no longer necessary. You propose to remove it one hundred and fifty miles further to the north. So it will be, in my judgment, if military posts are established in Utah, New Mexico, and on the route to California. Settlements will spring up around them, and will soon be strong enough to protect themselves. That, it seems to me, is the true policy to pursue. I ask no more for my own people than I am willing to extend to others.

The PRESIDING OFFICER, [Mr. BADGER in the chair.] The question is on the amendment of the Senator from Illinois to the amendment of the Senator from Virginia.

Mr. HUNTER called for the yeas and nays, and they were ordered.

Mr. HOUSTON. I desire to occupy as little time as possible, but I feel called upon to make some reply to gentlemen who have spoken. As the day, however, is far advanced, I move that the Senate do now adjourn.

Mr. HUNTER. I hope not. I hope we shall sit the bill out.

The motion was not agreed to—ayes 13, noes not counted.

Mr. HOUSTON. Mr. President, thus far in the session I have not seen so much urgency displayed. However, it is not the first time that I have seen the gag system inforced, in the discussion of matters of great importance. I well recollect during the last session, at the hour of three in the morning, when a majority had the control of the Senate, it seemed convenient for them to deny the free discussion of the subject which was under debate. If, sir, it is supposed on this occasion that any benefit can result to the country by, and that its immediate necessities are such as to require, this extraordinary degree of precipitancy, I hope that we shall derive the full advantage of it.

I have every disposition, Mr. President, to accord to the Administration, to the Executive of the country, all the aid that may be required for the protection of our citizens, no matter upon what part of the frontier they may be located. I have every disposition, and have ever evinced a disposition, to accord to Senators a privilege that appears usual, if not as a matter of right, as a matter of courtesy; and when it is denied to me I feel not the least degree of inconvenience.

Mr. PEARCE. I ask the Senator to give way for a motion to adjourn.

Mr. HOUSTON. Certainly.

Mr. PEARCE. I then move that the Senate do now adjourn.

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 30, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a communication from the President of the United States, transmitting therewith a communication, of the date of 29th instant, from the Secretary of the Interior, with accompanying papers, and recommending that the appropriations therein asked for (additional appropriations for the survey of the Territories of Kansas and Nebraska) be made.

The communication further suggests a modification of existing laws, with a view to enable the President to carry into effect existing treaties with the different Indian tribes in Kansas Territory.

It further recommends that provision be made, by law, requiring the lands which are to be sold on account of the Indians by the Government, to be appraised and classified; a minimum price to be fixed, for a less sum than which no sales shall be made without further provision of law; and authorizing the sale of lands in such quantities, and at such times and places, as the obligations of the Government, the rights of the Indian tribes, and the public interest, with reference to speedy settlement, may render expedient.

Mr. ORR. I move that the communication be referred to the Committee on Indian Affairs, and printed.

The motion was agreed to.

PAPERS WITHDRAWN.

On motion by Mr. CULLOM, it was

Ordered, That leave be granted to withdraw from the files of the House the petition and papers of the late Hon. Samuel Hogg, for the purpose of reference to the Committee on Pensions.

ST. JOSEPH'S MALE ORPHAN ASYLUM.

Mr. DAVIS, of Indiana. I ask the unanimous consent of the House to take from the Speaker's table a very short bill, the purpose of which is the accomplishment of a benevolent object for the District of Columbia. It will take but a moment to pass it.

Many VOICES. What is it?

Mr. DAVIS. It is a bill to incorporate the St. Joseph's Male Orphan Asylum in the District of Columbia. It is very short, and its passage will consume but a moment. I therefore hope the House will give its unanimous consent to take it up.

No objection being made, the bill was taken up for consideration, and read by its title, as follows:

An act to incorporate the St. Joseph's Male Orphan Asylum in the District of Columbia.

The bill having been read *in extenso*, was then ordered to be read a third time.

It was subsequently read a third time, and passed.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, Esq., their Secretary, informing the House that the Senate had passed a bill and joint resolution of the following titles:

An act to extend to the Territories generally the laws regulating the fees and compensation of officers and suitors in the United States courts in Oregon;

A joint resolution for the relief of the Secretary of the Territory of Minnesota:

In which he was directed to ask the concurrence of the House.

BILLS INTRODUCED.

Mr. MILLER, of Indiana, by unanimous consent, introduced the following bills and joint resolution, of which previous notice had been given; which were severally read a first and second time by their titles, and referred as indicated below:

A bill for the relief of R. A. Clements, administrator of James A. Mullican. Referred to the Committee of Claims.

A bill for the relief of Thomas B. Graham. Referred to the Committee of Claims.

A bill establishing the compensation of registers and surveyors in certain cases. Referred to the Committee on Public Lands.

A joint resolution providing for the adjustment of the accounts of John Wise, Samuel Wise, and William J. Wise. Referred to the Committee on the Post Office and Post Roads.

BENNETT'S DIGEST OF PENSION LAWS, ETC.

Mr. ROWE. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That the Clerk of the House be authorized and directed to purchase twenty thousand copies of Bennett's Digest of the Pension, Bounty Land, and Patent Laws, &c., for the use of the House: *Provided*, That the cost of the same shall not exceed two dollars per volume: *And provided further*, That the same shall contain such laws relative to pensions, bounty lands, pay of the Army, and patents, as may be passed by the present Congress.

If any objection be made, I shall move to suspend the rules to enable me to introduce it.

The SPEAKER. Such motion would not be in order except on Monday, under the rules of the House.

Mr. ROWE. I desire to read two communications, which I hold in my hand, in relation to this matter, and recommending the work. One is from the Third Auditor of the Treasury Department, and the other from the Commissioner of the General Land Office.

Mr. RICHARDSON. I desire to ask my friend from New York if it is his purpose to put this resolution upon its passage?

Mr. ROWE. It is.

Mr. RICHARDSON. If it were his purpose to refer it merely, I would have no objection to its introduction, but otherwise I object, for I do not want to get into any discussion of any such matters on this day, which is set apart for the consideration of territorial business.

The SPEAKER. The resolution will be read for information.

The Clerk commenced the reading, but was interrupted by

Mr. JONES, of Tennessee. I also object to its introduction.

Mr. ROWE. I hope the gentleman from Tennessee will allow the communication to be read.

Mr. LANE, of Oregon. I call for the regular order of business.

Mr. ROWE. I hope the House will indulge me in remarks for a few moments. It is very seldom that I trouble the House in relation to any matter, and I have endeavored, for several days, to get the floor, to enable me to introduce this resolution. The members of the House well know how difficult a matter it is for a modest man, at any time, to get the floor, and I trust I shall be allowed to proceed.

The SPEAKER. Is the objection withdrawn?

Mr. JONES, of Tennessee. It is not.

BILLS INTRODUCED, ETC.

The SPEAKER. Objection being made, further remarks are not in order.

Will the Chair be allowed, at this time, to make

a suggestion to the House, and to the chairman of the Committee on Territories?

[Cries of "Yes!" "Yes!"]

The SPEAKER. A great many members upon this floor have bills which they wish to introduce or report for reference only. It would be a great relief to them, and to the Chair, if those bills could be run off this morning, provided they give rise to no debate, and with the understanding that they are not to be brought back by motion to reconsider, and put upon their passage.

Mr. RICHARDSON. Mr. Speaker, I am anxious, for one, to progress as rapidly as possible with the territorial business. I am aware of the desire of gentlemen to introduce bills for reference, and shall gratify them so far as I am able to. With unanimous consent, I propose that a short time this morning be set apart for the reception of bills for reference only.

The SPEAKER. Say twenty minutes.

Mr. JONES, of Tennessee. I do not object, provided the understanding is that the bills are not again to be brought before us by motion for reconsideration.

The SPEAKER. Is there objection to the proposition?

There was no objection.

Mr. HOUSTON. Mr. Speaker, I have endeavored, for the last two or three weeks, to get an opportunity for calling up the bill which proposes to modify the existing tariff. That there may be no misunderstanding, I propose now to give notice in the House that, if I can get the floor on next Thursday, I shall move to go into the Committee of the Whole on the state of the Union, for the purpose of taking up and considering that bill. I feel it due, as well to those who oppose the measure as to those who favor it, to make this public announcement in advance, so that all who desire to vote upon it may be present when the question is taken. If the House agree with me, I shall ask that the vote on the motion to go into the committee be considered a test. If the vote be adverse to the motion, I shall then ask the House to proceed to the consideration of other bills—considering the vote as conclusive that the subject will not be touched during this session.

Mr. HIBBARD, from the Committee of Ways and Means, reported back, without amendment, Senate bill (No. 305) entitled "An act to direct a reëxamination of the account between the United States and the State of Maryland," with the recommendation that it do not pass; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

Mr. JAMES C. ALLEN, from the Committee on Revolutionary Pensions, reported a bill; which was read a first and second time by its title, as follows, referred to a Committee of the Whole House, made the order of the day for to-morrow, and, with the accompanying report, ordered to be printed:

A bill for the relief of Philip R. Rice, deceased.

Mr. WENTWORTH, of Massachusetts. I am instructed by the Committee on Commerce to report adversely on the petition of Israel S. Smith, and to move that it be laid upon the table, and the accompanying report ordered to be printed.

The SPEAKER. The unanimous understanding of the House was that bills should only be received for reference, and that no motion should hereafter be made for reconsideration.

The question was taken; and the motion to lay upon the table and print was agreed to.

Mr. WENTWORTH, from the Committee on Commerce, reported back, without amendment, Senate bill (No. 356) for the relief of George Dennett, of Portsmouth, New Hampshire, with the recommendation that it do not pass; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

Mr. RICHARDSON. I do not desire to interpose any sort of objection, but it seems to me that this is not the character of business which we understood was to be received.

The SPEAKER. The Chair will not allow anything to come in which may give rise to debate. Such was the unanimous order of the House.

Mr. WENTWORTH, from the Committee on Commerce, reported back a bill to regulate the carrying of turpentine on board of vessels propelled, in whole or in part, by steam, with the recommendation that it do not pass; which was laid upon the table, and the accompanying report ordered to be printed.

On motion by Mr. WENTWORTH, it was

Ordered, That the Committee on Commerce be discharged from the further consideration of the petition of citizens of Oswego for refunding duties paid on Canadian products at Oswego, subsequent to October 18, 1854, and the resolution repealing so much of the act of March 2, 1851, as prohibits the receipt of commissions by officers of the customs upon the northern, northeastern, and northwestern frontiers, and that they be laid upon the table.

Mr. HOWE, from the Committee on Military Affairs, to which was referred the petition of Lieutenant John Clark, submitted an adverse report thereon; which was laid upon the table, and ordered to be printed.

On motion by Mr. HOWE, it was

Ordered, That leave be granted for the withdrawal of the petition and papers of Lieutenant John Clark from the files of the House, for the purpose of presentation to the proper Department.

Mr. HOWE, from the Committee on Military Affairs, reported back Senate bill (No. 254) for the relief of Catharine B. Arnold, without amendment; which was referred to a Committee of the Whole House, made the order of the day for to-morrow, and, with the accompanying report, ordered to be printed.

Mr. MACE, from the Committee of Claims, reported back Senate bill (No. 464) for the relief of Israel Ketchum, without amendment; which was referred to a Committee of the Whole House, made the order of the day for to-morrow, and, with the accompanying report, ordered to be printed.

Mr. WALLEY, from the Committee of Claims, reported a bill for the relief of William Irvin, deceased; which was read a first and second time by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and, with the accompanying report, ordered to be printed.

Mr. RICHARDSON. I rise to a question of order. I understood the agreement was that gentlemen were to waive the opportunity for introducing bills which they desired to get before the House for consideration. If these reports are allowed to consume the time set apart for that purpose, I may as well now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. Let the committees wait to submit their reports in regular order.

The SPEAKER. Bills are now being received for reference. The Chair will receive none but those which are proposed to be referred.

Mr. DISNEY, from the Committee on Public Lands, reported a bill; which was read a first and second time by its title, as follows, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed:

A bill to amend the act of Congress approved May 23, 1844, entitled "An act for the relief of citizens of towns upon lands of the United States, under certain circumstances."

Mr. STANTON, of Tennessee. I have been instructed, by the Committee on the Judiciary, to submit adverse reports upon sundry memorials and petitions, which, I presume, may be presented in gross.

The SPEAKER. The gentleman's proposition is not in order, as it would lead to the consumption of the time set apart by the special order of the House for the reception and reference of bills.

Mr. FRANKLIN, by unanimous consent, introduced a bill; which was read a first and second time by its title, as follows, and referred to the Committee on Commerce:

A bill to reëstablish Snow-Hill, Maryland, as a separate collection district.

Mr. EDDY, from the Committee on Revolutionary Claims, reported a bill for the relief of the heirs of Thomas Morris; which was read a first and second time by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and, with the accompanying report, ordered to be printed.

Mr. PHILLIPS. I ask the unanimous consent of the House for leave to introduce the petition of several hundred citizens of Alabama, asking the repeal of all duty on railroad iron.

The SPEAKER. The gentleman's proposition is not in order, under the unanimous order of the House.

Mr. EDDY, by unanimous consent, introduced a bill; which was read a first and second time by its title, as follows, and referred to the Committee of Claims:

A bill for the relief of D. B. Myers.

Mr. EDGERTON, from the Committee of Claims, reported a bill for the relief of William Hagerty; which was read a first and second time by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and, with the accompanying report, ordered to be printed.

On motion by Mr. RICHARDSON, the following Senate bill and joint resolution were taken from the Speaker's table, read a first and second time by their titles, and referred to the Committee of the Whole on the state of the Union:

A bill to extend to the Territories generally the laws of the United States regulating the fees and compensation of officers;

Joint resolution for the relief of the secretary of the Territory of Minnesota.

Mr. BOCOCK, from the Committee on Naval Affairs, reported back a bill for the relief of Rebecca Winn, widow and executrix of the last will and testament of Timothy Winn, deceased, late a purser in the United States Navy, accompanied by a report; which was referred to a Committee of the Whole House, and ordered to be printed.

Mr. MORGAN, by unanimous consent, introduced a bill providing for the working of the United States steam dredge-boat in the harbor of Sodus, in Cayuga, and Sodus in Wayne county, New York; which was read a first and second time by its title, and referred to the Committee on Commerce.

Mr. READY, from the Committee on Commerce, reported back a bill for the relief of Thomas J. Johnson; which was referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

Mr. HENDRICKS, from the Committee on Invalid Pensions, reported a bill for the relief of the assignee of bounty land warrant No. 27,849, issued to William Phillips and Sarah Carner; which was read a first and second time by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

Mr. H., from the same committee, reported back a bill increasing the pension of Anthony Walter Bayard; which was referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

Mr. H., from the same committee, reported back Senate bill (No. 447) to increase the pension of Patrick Miles; which was referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

Mr. FAULKNER, from the Committee on Military Affairs, reported a bill for the relief of William G. Preston, late a captain in the war of the United States with Mexico; which was read a first and second time by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

Mr. NICHOLS, from the Committee on Private Land Claims, reported sundry bills; which were severally read a first and second time by their respective titles, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed:

A bill for the relief of George Rush, of Thurston county, Washington Territory;

A bill for the relief of James P. Roane; and

A bill confirming a land claim to Elijah White, of Washington Territory.

Mr. HARLAN, of Ohio, from the Committee on Public Lands, reported back a bill for the relief of John R. Bowes, agent in charge of the property of the United States, at Michigan City, in the State of Indiana; which was referred to a Committee of the Whole House, made the order

of the day for to-morrow, and ordered to be printed.

Mr. TAYLOR, of Ohio, by unanimous consent, introduced the following resolution; which was read, considered, and adopted:

Resolved, That the Committee on Commerce be instructed to inquire what further legislation, if any, is now necessary in relation to the light-house system of the United States; and that they report what light-house dues or tolls are now imposed by foreign nations on the vessels and commerce of the United States; and, if any are imposed, that said committee report what changes should be made by the Government of the United States, to aid in upholding our light-house system; and that they report by bill or otherwise.

Mr. SEYMOUR, from the Committee on the Judiciary, reported a bill, as a substitute for a bill already before the House, more effectually to provide for the punishment of certain crimes against the United States; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. WRIGHT, of Mississippi. I ask the unanimous consent of the House to introduce the following resolution, for the purpose of reference:

Resolved, That the President of the United States be requested to communicate to this House, as far as may be compatible with the public interest, copies of the correspondence between the diplomatic agents of this Government and the Government of Spain, touching the causes disturbing the friendly relations between the two Governments, and the instructions from the Department of State to the diplomatic agents of this Government in relation to the same. And also, copies of all the correspondence between the Government of the United States, and those of France and Great Britain, in respect to the Island of Cuba, which may not have been hitherto communicated to Congress.

I move that the resolution be referred to a select committee.

Mr. CLINGMAN. I presume there will be no objection to the passage of the resolution. It is in the usual form of resolutions for information.

Mr. WRIGHT. I will then ask that it be adopted.

There being no objection, the resolution was received and adopted.

Mr. CLINGMAN moved to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; which were signed by the Speaker:

An act for the relief of James Wright, jr., of the State of Tennessee;

An act to repeal an act for the relief of the legal representatives of Samuel Prioleau, deceased;

An act for the relief of Zabina Rawson;

An act for the relief of Joseph Webb; and

An act for the relief of William Hawkins.

Mr. RICHARDSON. I move that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

TELEGRAPH TO THE PACIFIC.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair,) and resumed the consideration of Senate bill (No. 60) authorizing the construction of a subterranean line of telegraph from the Mississippi or Missouri rivers to the Pacific ocean.

The Clerk proceeded to read the bill *in extenso*.

Mr. JONES, of Tennessee, (interrupting.) I would inquire if this bill is properly before the committee—if it is a territorial bill?

The CHAIRMAN. The Chair will decide as soon as the bill shall have been read. The reading was called for yesterday.

Mr. JONES. It seems to me that it is to connect two States.

The CHAIRMAN. The Chair is ready to decide the question now.

Mr. FARLEY. I merely wish to suggest that the special order assigning this day and two others to the consideration of territorial business, included everything reported from the Committee on Territories, except railroad bills.

The CHAIRMAN. The Chair understands that the bill proposes the establishment of a line of telegraph from the Mississippi or Missouri rivers to the Pacific ocean, with grants of lands in the Territories of the United States to aid in the construction of that line of telegraph. In the opinion of the Chair, the bill is in order.

Mr. JONES. Well, sir, if the Territories are willing to give up their business for this sort of thing, let them do it.

The reading of the bill was then concluded.

Mr. FARLEY obtained the floor.

Mr. LANE, of Oregon. That bill is a very important one, and I desire to make a suggestion in regard to it. I am satisfied that all the time set apart for territorial business will not be sufficient to enable the committee to come to any decision upon it. And I ask, therefore, that the gentleman from Maine will—if the bill is to be considered as territorial business at all—consent that it be laid aside till the other territorial bills are disposed of.

Mr. FARLEY. I cannot consent to that proposition. At the same time I do not desire to occupy the time of the committee——

Mr. RICHARDSON, (interrupting.) Will the gentleman from Maine allow me to make a single suggestion?

Mr. FARLEY. Of course.

Mr. RICHARDSON. This bill, Mr. Chairman, is a very important one; there is no doubt about that. I am satisfied of the disposition on the part of the House to transact territorial business, and I know, and believe, that the Committee on Territories can get the consent of the House to come to a vote upon this matter after it shall have been discussed; and I trust that gentlemen will discuss it within a reasonable time, and let us go to the consideration of other business. I am sure that I can say, and that the House will believe the statement, that I shall not endeavor, by any means, to take advantage of the absence of members for the purpose of passing this bill. I know it is an important one, and I mean that, if it is to be passed at all, it will be passed fairly and validly by a full House, and not by any sort of legerdemain.

Mr. JONES, of Tennessee. Now that the bill has been read through, I rise to make a question of order; and that is, that this bill is not properly before the committee, because it is not designed, or intended, or calculated, for the benefit of the Territory, but for the benefit of the State on this side of the Territory, and of the State on the other side of the Territory; and the mere fact that it is proposed to establish this telegraphic line through the Territory, does not, in my opinion, constitute it a territorial bill.

Mr. FARLEY. I rise, also, to a question of order.

Mr. DISNEY, (to Mr. JONES.) That question of order has already been decided by the Chair.

Mr. JONES. I submit the question of order to the Chair.

The CHAIRMAN. The same point of order as that now raised by the gentleman from Tennessee was raised a few minutes since, and the Chair then ruled that the bill before the committee was in order, and that it was a territorial bill within the meaning of the resolution of the House. The Chair overrules the point of order.

Mr. JONES. And from that decision of the Chair I wish to appeal.

Mr. HAMILTON. I would draw the attention of the Chair to one fact. This telegraph is to extend to San Francisco, in California. It is, therefore, palpably a State measure.

Mr. FARLEY. There is a provision in the bill, Mr. Chairman, which——

Mr. RICHARDSON, (interrupting.) Will the gentleman from Maine permit me to make a single suggestion?

Mr. FARLEY. Certainly.

Mr. RICHARDSON. It is this: It is true that the bill provides for a line of telegraph from a point inside of one State to a point inside of another State. But, all that granted, the power to construct the line resides in the Territory, and the bill makes no donation anywhere except in the Territory.

The CHAIRMAN. And it is upon that ground that the Chair has decided the bill to be in order. From that decision the gentleman from Tennessee appeals.

Mr. WASHBURNE, of Illinois. I submit that the point of order was raised too late.

The CHAIRMAN. It was not raised too late, for the Chair has entertained it.

Mr. FARLEY. I desire to state that the provisions of this bill are entirely confined to the Territory, and do not touch any of the States.

[Cries of "Order!" "Order!"]

The question being "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. HAMILTON. I demand tellers.

Tellers were ordered; and Messrs. FARLEY, and JONES of Tennessee were appointed.

The committee was divided; and the tellers reported—ayes 73, noes 48.

So the decision of the Chair was sustained.

Mr. LETCHER. I rise to a question of order. My question of order is this: that this bill is not territorial business, because it is, as it declares upon its face, a bill for the benefit of the two individuals named in it, neither of whom is a resident of the Territory, but both of whom live in the State of Maine.

The CHAIRMAN. The Chair has already decided that question of order. The gentleman from Tennessee [Mr. JONES] twice raised the question that this was not a territorial bill, and the Chair has twice overruled the question of order, and from the last decision the gentleman appealed, and the committee sustained the decision of the Chair.

Mr. DAVIS, of Indiana. Will the gentleman from Maine yield me the floor for a moment?

Mr. FARLEY. Certainly.

Mr. DAVIS. This is a very important bill, Mr. Chairman, and yet I presume there is not one man in twenty on this floor who has ever seen the bill till this moment. Would it be in order, for the purpose of facilitating the business of the committee, to move to pass by this bill, informally, till to-morrow, that we may have time to look at it?

Mr. FARLEY. I submit that the gentleman from Indiana cannot take the floor from me to make a motion of that kind.

Mr. DAVIS. I got the floor by the courtesy of the gentleman.

Mr. FARLEY. Yes; but not for that purpose.

The CHAIRMAN. The floor was awarded some time since to the gentleman from Maine, who only yielded it to allow of a question of order being raised; and the gentleman from Indiana is not entitled at this time to take the floor for the purpose of making the motion he proposes.

Mr. FARLEY. I propose to consume only such portion of the time of the committee as will be necessary to enable me to explain fairly the provisions of the bill under consideration. I do not believe it necessary that I should enlarge upon the subject embraced in the bill, for the reason that the subject is one which has attracted general attention; and the other reason is, that the provisions of the bill are simple in their nature and easily understood, if gentlemen will only take the trouble of reading them. I think I am justified in saying that the public sentiment of this country is in favor of a more direct and speedy communication between the old States and the Pacific coast than we now enjoy. There are two modes of communication to which public attention has been directed—railroad and telegraphic. Single and united, they will, in time, be constructed. The measure I propose is not antagonistic to the construction of a railroad, and it is not antagonistic to the construction of a railroad and telegraph united. I present it here as an independent measure, not at all hostile to the railroad project. There are no exclusive privileges given by the bill, and there is nothing in the bill which, if it is passed, and the telegraph is constructed, will militate, in the slightest degree, against the future construction of a railroad from the Mississippi river, or any other point, to California. This measure has this great recommendation in its favor: that the construction of this telegraphic line admits of an early completion. There is no difficulty in constructing a subterranean line of telegraph through the Territories of the United States. Through a prairie country, all that is needed, is to run a plow, or a succession of plows, and then lay down the wire. The parties named in the bill have the fullest confidence that they can complete this work in two years after they commence building it. Now, it may be suggested that the work is not practicable, and that the experiment has not been tested. All I have to say in reply is, should the objection be raised, that the experiment has been tested in Europe, in a great many instances, with perfect success. There are arguments greatly in favor of a subterranean line over

an air line of telegraph, which will be perfectly apparent to any one who gives any attention to this subject. Let me say, in relation to this matter, that, through these Territories, uninhabited as they are, except by Indians, the construction of an air line would be impracticable, while, in my opinion, that of a subterranean would be entirely practicable.

It may be said—and this is the only objection I have heard raised against this measure—that the line would be destroyed by the Indians. But the parties interested in this matter anticipate little trouble upon that account. They think that they will be able to protect it against the Indians, not by offensive, but by peaceable measures, by a distribution of presents, or, to use a common expression, by getting on the right side of them. One remark further in relation to this matter. The parties named in the bill do not ask the Government to protect the telegraph after the line is constructed. The Government, by the provisions of this bill, is not under the slightest obligation to protect it, and the responsibility of so doing falls alone upon the parties themselves. They have no reason to doubt that they will be successful in protecting it.

I desire now, in as few words as possible, to state the substantial provisions of this bill. It gives, in the first place, the right of way through the public lands of the United States for the construction of the line; and if these parties have to go into a State to construct the line; as they will in some State or other, as the bill requires that the line should commence at some point on the Missouri or Mississippi rivers; and if they commence the construction of the line at some point in the State of Missouri, they must go to the Legislature of that State for the legislation necessary to carry out their purpose; and if they commence it at some point in the State of Louisiana, they must go to the Legislature of that State for the same purpose. If gentlemen will look at the second section of the bill, they will see what the provisions are in relation to the construction of this line. The requirements are such as to compel the parties to lay down a line of the best description. There are certain privileges given to the Government under this bill, to which I invite the attention of gentlemen. If the line is constructed, the Government of the United States is to have the right of sending over the line eight thousand words per month; and it is to have the prior use of the line to any extent within its capacity upon such terms as Congress may prescribe.

One word as to the rates which the parties are allowed to charge, which are ten dollars for each message of ten words or less, from any point on the Missouri or Mississippi rivers, or wherever the line may commence, to San Francisco. This charge may seem high. The rate that we now pay for a telegraphic message of ten words, from this city to New York, a distance of two hundred and forty miles, is fifty cents. At the same rate, taking into consideration the distance from the Mississippi river to San Francisco, two thousand four hundred miles, and the greater cost of a subterranean over an air telegraphic line, these parties would charge at the rate of thirty dollars for ten words; but, by the provisions of this bill, they cannot charge over ten dollars for a message of ten words.

One word as to the difference of cost between a subterranean and air line telegraphic communication. The average cost of the air line, as I am informed, is about $150 per mile. The cost of this line will be nearly seven times as much, so that the rate which these parties would be allowed to charge under this bill, taking into consideration the distance and the increased expense of the subterranean over the air line telegraph, would be much less in proportion than the rates charged upon the line between this city and New York, and other lines in the country. The parties are required, by the bill, to keep the line in operation; and in case they should fail, for a period of six months, to keep it in operation, the whole line is forfeited to the Government of the United States.

I desire now to call the attention of the committee to the important part of the bill, so far as the Government of the United States is concerned. The bill makes a conditional grant of land, amounting to two millions of acres, to be taken along the line of the telegraph through the Territories, within fifteen miles on either side of it, and if, in two years after the line has been completed, the Government has not caused them to be surveyed, then the parties are to have the privilege of relocating the like quantities of land in any of the now existing Territories which is subject to private entry or sale. This grant of land is, I suppose, the feature of the bill to which the most opposition will be made. Now, the question first comes up, what is this grant worth? In the report made upon the subject, the land taken along the line is estimated to be worth sixty-two and a half cents an acre. Will any gentleman say that it is too low a valuation? If it is a correct valuation, the grant is worth $1,250,000. Now, for what the Government grants it gets in return what I have just mentioned—the right of sending over the line ninety-six thousand words annually, which, at the rate of charges allowed under the terms of this bill, is worth to the Government $96,000 a year.

I have thus stated the principal provisions of this bill. Now, one word as to the power of this Government to make grants of this nature. I hold, sir, it is entirely constitutional, as well as expedient. We have a State, a War, a Navy, and a Treasury Department, and it is certainly in the power of the Government, in its discretion, to authorize those Departments to resort to those means of communication with the different parts of the country which may be necessary for carrying out their undoubted powers. Has not Congress the right to authorize the State, the Treasury, the Navy, and the War Departments, and every other department of this Government, to contract for the transmission of their messages and letters? Certainly Congress possesses the power. These Departments have business daily to transact at distant points, and messages to transmit, which must go in some way or other—by express, by railroad, or in some other way. Cannot the Government authorize those Departments to contract for the transmission of those dispatches? Can it not, as is proposed in this bill, authorize those Departments to send those dispatches over the line of telegraph which is proposed in this bill? That is exactly what the bill proposes.

Mr. Chairman, after all, I think this question is purely a question of expediency, for I apprehend that no gentleman will make the point as to the constitutionality of the provisions of this bill. It is a practical question, and the question left for us to decide is this: Is the Government so far interested in the construction of a telegraph line between the Mississippi or Missouri river and San Francisco, as to be justified in making the proposed line? Well, gentlemen might, perhaps, differ in opinion—some may think Government will have frequent occasion to use it, while others might think the Government would have little occasion to use it. Now, in order that there may be no doubt upon this point—a point which I consider the main one in this discussion—I shall presently send to the Clerk's desk, letters which I have received from the Secretaries of the Treasury, State, War, and Navy Departments, in reply to letters I addressed to them, making inquiries as to the extent their several Departments would be likely to use this line in case the bill should pass and the line should be constructed.

Mr. Chairman, whatever necessity may exist, at the *present time*, for the use of such a line on the part of the Government, that necessity will continue to exist; and not only to exist, but to increase with every year which rolls over our heads. The increase of our population and the increase of our business will enhance the use and convenience of this line with every year that passes away.

But I promised not to detain the committee. I desire to send to the Clerk's desk, letters from the Secretaries of State, Treasury, War, and Navy relating to this matter. The letters from the Secretaries of War and Navy cover letters from the heads of bureaus under those Departments, some of them entering fully into this subject.

One letter, that of General Gibson, at the head of the general subsistence department, expresses the opinion of its writer, that his bureau would use the line, in time of peace, to the extent of two hundred words a month, should the line be put in operation. There are eight bureaus in the War Department, and if all of them used the line proportionally, it would amount, in the aggregate, to sixteen hundred words per month, for that Department alone, equal to one fifth of the amount of the privilege of sending ninety-six thousand words annually, which the Government is to have by the provisions of the bill.

I ask that the the letters may be read, and then I will close with but few additional remarks.

The Clerk read the letters, as follows:

TREASURY DEPARTMENT, *December* 16, 1854.

SIR: I have the honor to acknowledge the receipt of your letter of the 14th instant, submitting, on behalf of the Committee on Territories, a bill authorizing the construction of a subterranean line of telegraph from the Mississippi or Missouri river to the Pacific ocean, and in reply to your inquiries, to state that this Department would, probably, find very frequent occasions for availing itself of the facility of communication with its officers on the Pacific coast, by means of the proposed telegraph, should it be established. This, however, would not diminish the necessity for the transmission of the same matter in writing by mail, in more exact and extended communications.

The requisite official authority so essential in much of its correspondence to the legal discharge of its duties, would, also, render it necessary for the Department to transmit its orders in writing, by mail, though the telegraph would still be called into frequent requisition as a useful auxiliary in cases requiring promptness and dispatch.

Very respectfully, your obedient servant,

JAMES GUTHRIE,
Secretary of the Treasury.

Hon. E. W. FARLEY, *Member of Committee on Territories, House of Representatives, Washington city.*

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DEPARTMENT OF STATE,
WASHINGTON, *December* 19, 1854.

SIR: I have received your letter of the 16th, and have examined the copy of the bill which accompanied it, relative to a line of telegraph between the Mississippi and the Pacific. The provisions of the bill appear to me to be fair and judicious. In answer to your specific inquiry, whether, if the line of telegraph proposed to be authorized should be constructed, and go into operation, it would be used by this Department for the purpose of facilitating its business, I have to state, that it would unquestionably be found convenient, useful, and frequently indispensable for that purpose. The clause in the bill, which imposes a penalty for divulging dispatches of the Government, may be considered to be a wise precaution. The absence of such a check upon the indiscretion or infidelity of the operators on existing lines, has sometimes occasioned no little uneasiness.

I have the honor to be, sir, very respectfully, your obedient servant,

W. L. MARCY.

To the Hon. E. W. FARLEY, *House of Representatives.*

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WAR DEPARTMENT,
WASHINGTON, *December* 29, 1854.

SIR: I have the honor to acknowledge the receipt of your letter of the 14th instant, inclosing a copy of a bill "authorizing the construction of a subterranean line of telegraph from the Mississippi or Missouri river to the Pacific ocean," and asking to be informed of the extent to which it would be used by this Department, especially in time of war.

In reply, I transmit you reports from the chiefs of the military bureaus of this Department, to whom your letter and the bill were referred, from which you will perceive that such a line of telegraph would be a great convenience in time of peace; but the exact extent to which it would be used cannot be estimated. In time of war, the importance and advantage of it would be very great.

Very respectfully, your obedient servant,

JEFF. DAVIS, *Secretary of War.*

Hon. E. W. FARLEY, *House of Representatives.*

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NAVY DEPARTMENT, *January* 19, 1855.

SIR: I have the honor to acknowledge the receipt of your communication of the 11th instant, inclosing a copy of a bill to authorize the construction of a subterranean line of telegraph from the Mississippi or Missouri river to the Pacific ocean, upon which you desire from me a further expression of opinion as to the importance of such a line of telegraph to the Navy Department, and the extent to which it would be used in time of peace and in war, as an aid to this Department, in facilitating its business at San Francisco, and generally on the Pacific coast.

To aid me in arriving at some conclusion in this matter, I referred your letter, and the copy of the bill which accompanied it, to some of the chiefs of bureaus, copies of whose replies are inclosed herewith.

It is impossible for me to conjecture, with an approximation to accuracy, as to the number of words, or the frequency, with which the proposed telegraphic line would be used. I can well conceive of many advantages, even in time of peace, but in time of war they would be surely multiplied.

Our growing and promising intercourse with China and Japan, the enlargement of our trade and commerce in the Pacific, the completion of a navy-yard at Mare Island, will all tend to increase our naval forces in those regions, and if we can communicate by telegraph, through San Francisco, naval orders, in peace and war, will very often, if not generally, be transmitted in that way. Indeed, I am satisfied, it would produce a facility for sending or countermanding orders by which much money could be annually saved.

With very great respect, I am, sir, your obedient servant,

J. C. DOBBIN.

Hon. E. W. FARLEY, *House of Representatives.*

Those letters, coming from important Departments of the Government, settle the question as to whether the Government would have any use for the line; and I shall say nothing more on that point. Let me now refer to a point which I have omitted, and that is in reference to the construction of the line, and its protection from the Indians. The bill provides that there shall be stations

at every one hundred miles. At those stations, besides the operators, the parties must have men to protect and repair the line. Three or four hundred men are all that are necessary to the protecting and keeping the line in order.

I do not consider it necessary, Mr. Chairman, to say anything of the advantages which are to accrue to the country by the construction of this line of telegraph. There is not, probably, a State in this Union which is not connected with California by social or business relations. The truth is, that every great interest of the country would be benefited by the construction of this line. I believe that we have now the opportunity, by the passage of this bill, to confer great and lasting facilities of intercommunication upon the country. I do not see that the Government can at all suffer from the construction of the line as proposed. The Government is to risk nothing. The Government is not to give an acre of land until the line is completed. There is certainly no cheat here; no chance for deception. The grant is conditional on the completion of the line. The Government is not required to spend a dollar in the protection, or preservation of the line. All that responsibility and expense falls upon these parties. It is not to be supposed that this Government will ever, of itself, construct a railroad or telegraph line to the Pacific coast. If either is constructed it will be by individual enterprise, aided and encouraged by the Government.

Now, I would ask, necessary as this line of telegraph is to every section of the Union, whether it is not wise and judicious in the Government to make the grant of lands which is proposed? It risks, it hazards nothing. The responsibility is entirely upon these parties. There is a remuneration for the lands. The Government is privileged to send annually ninety-six thousand words over the line, which is equal to eight per cent. upon the value of the lands proposed to be granted, valuing them at the same price the Government placed upon its lands donated to its soldiers in the Mexican war. They had $100 in scrip, or one hundred and sixty acres of land. Those soldiers had the right to select their lands in the States as well as the Territories. The parties to this bill are restricted to the Territories. They cannot select their lands in the States.

If these parties fail to carry out, in good faith, what they offer to do, the next, or a future, Congress may confer the proposed grant upon other parties, or withhold it.

They ask no exclusive privileges; the bill gives them none. They offer to do a certain work on fair terms; and it is for us to say whether the contract shall be made.

The parties in this bill, Mr. Chairman, are citizens of the State of Maine. One of them is President of the Maine Telegraph Company, owning a line leading from Boston to the east line of the State of Maine. The other is the superintendent of the same line. They are gentlemen of integrity, and of the highest respectability. They are men of property, and among the "solid men" of the country. Thus much I feel it my duty to say in their behalf. I presume they are acquainted with few gentlemen of this House. Those who do know them will, I am sure, bear witness to the truth of what I say. They are in earnest about this thing. Did I not know that they were, I would not stand here to-day advocating the passage of the bill. Pass it, and I believe that they will carry out just what they propose. I believe that they will put this line through in two years from the time they commence operations. They have the fullest confidence in their power to do it.

One word as to the amendments which have been proposed; for I may as well say now all that I have to say on the subject. This is a Senate bill. It passed that body at the last session, came here, and was referred to the Committee on Territories. I have been instructed to report it back, with several amendments. The insertion of the words "or Missouri river," in the fourth line of the fourth section, is merely to supply a clerical omission. The words "now existing," are proposed to be inserted, and for this reason: the bill gives the parties the right to select their lands along the line within the Territories through which it runs. It may happen that, before the line is completed, Kansas, Nebraska, and other Territories, will be admitted into the Union. If so, by construction, as the bill now stands, they may be excluded from selecting lands within that State. The amendment is to provide against any such construction.

There is another amendment, which commences in line twenty-three, section six, which excludes these parties from the right to select lands which have been reserved by the Government for any purpose whatsoever.

There is another amendment in section seven, to insert the words "States or." By the provisions of that section, without the amendment, all injuries to the line of telegraph, or any property belonging thereto, shall be declared to be willful and malicious trespasses, and that they shall be punished as such; and extends the laws of the United States for the protection of property, and the punishment of offenses, in the Territories through which the line passes, so far as they are applicable, to the line of telegraph in the Territories. It is proposed to amend by inserting the words "States or," so as to make the provision apply to the public lands in the States through which the line passes.

Mr. Chairman, I believe this bill is in as good shape as it is possible to put any bill designed to carry out the purposes for which this is designed. The subject has been before the past and present Congress. The bill was fully discussed in the Senate, and I believe the interests of the United States are as well guarded as it is possible to guard them. I believe that all the obligations that are necessary to be imposed upon the parties, are contained in this bill. Now, sir, if a majority of this committee are in favor of the measure, I hope they will pass it without adopting any unnecessary amendments.

Mr. LANE, of Oregon. I just want to make a suggestion. This House, Mr. Chairman, has set apart three days for the consideration of territorial business. A good portion of yesterday, as every member knows, was not taken up with the consideration of territorial business. And now, up to this time—nearly two o'clock—this day has gone without the consideration of any territorial business. There are many bills before us that are strictly territorial bills, providing for the interests of the people living in the Territories. Among these bills, I will mention one to establish an additional land office in the Territory of Oregon. At this time, Mr. Chairman, many of the people of that Territory have to travel with their witnesses three or four hundred miles to prove their claims, and at very heavy expense.

Mr. FARLEY. I rise to a point of order.

Mr. LANE. I do not yield for the gentleman's point of order.

Mr. FARLEY. The gentleman refuses me the courtesy which I extended to him a short time since.

Mr. LANE. I did not call the gentleman to order; and if he says I did, he is a liar.

Mr. FARLEY. You are a d——d liar.

[At this point Mr. LANE advanced towards Mr. FARLEY with threatening gestures, but was arrested in his progress, by several members, who interposed to prevent difficulty. The greatest confusion prevailed in the Hall. Members left their seats and crowded around the two gentlemen. The Chair called loudly to order, and directed the Sergeant-at-Arms to restore order. The Sergeant-at-Arms proceeded, as directed, to that part of the Hall where the difficulty had occurred, and, after some minutes, order was restored.]

Mr. DAVIS, of Indiana. Order having been restored, I do not rise for the purpose of making a speech, or of replying to the speech of the gentleman from Maine. I indicated, some moments ago, that, should I be able to get the floor again, I intended to make the motion that this bill be informally passed by until to-morrow. I desire now to make that motion. Before doing so, however, I will simply remark to the House that this bill involves the grant of two millions of acres of the public lands, which fact, aside from other considerations connected with the bill, is of sufficient importance to make it desirable that it should receive the serious consideration of the House before they undertake to pass it.

Sir, as a member of this House, I generally keep up with its business, perhaps, as closely as most men; but I confess that I never saw this bill until it was called up this morning, and laid upon my table. Now, sir, the gentleman from Maine has, this morning, made a speech in support of this bill. He has produced his documents. They can be printed this evening, or in the morning, and in the mean time, the members of the committee can examine the bill and the documents, and be able to come to a correct conclusion as to what is right and proper to be done in the premises. Therefore, for the purpose of facilitating the public business, and for the purpose of allowing the committee to go on with the legitimate territorial business before it, I move that this bill be laid aside, informally, until to-morrow.

Mr. McDOUGALE. I object to its being passed by.

Mr. DAVIS. Very well; then go on and take up the time of the committee.

Mr. BENTON. With all due respect to the gentleman from Oregon, [Mr. LANE,] and to other gentlemen who desire that the House should transact business in which they themselves are concerned, I deem it right to let that gentleman know, and the committee know, the scope which I think can be admitted in the consideration of this bill. Under the decision which has been made, I am of the opinion that all the railroad bills, and all the telegraphic bills, common road bills, which have been drawn up, or which can be drawn up, may be offered as amendments to this bill.

The CHAIRMAN. The Chair feels called upon to state to the gentleman from Missouri, that, under the order of the House setting apart three days for the consideration of territorial business, all railroad bills are expressly excluded from consideration. The Chair would, therefore, rule that railroad bills would not be in order as amendments to this bill.

Mr. BENTON. Well, sir; railroad bills are first cousins to telegraph bills, and, by a provision in the latter part of this bill, it is closely allied to one. Now, I deem it proper to state, that no bills of this character can pass until I have exhausted all the time which the rules of proceeding will allow me, either here in committee or in the House; I will fight it to the last minute of my time.

Mr. LANE. If the gentleman will allow me, I will now do what I intended to do when that fellow called me to order.

[Great sensation, and loud cries of "Order!" during which Mr. FARLEY made a remark, which the reporters were unable to hear, owing to the confusion that prevailed.]

The CHAIRMAN. The Chair cannot allow any disrespectful remarks to be made. Order must be observed in the committee.

Mr. LANE. I correct that. I hope to be respectful. I do not rise to excite any angry feeling. I am not angry. I was never so cool in my life. But I want to ask the members of this committee—I want to ask the Representatives of the American people to recollect that these three days have been set apart for the consideration of territorial business. There is business of importance to the Territories pending before us, and I ask this committee, respectfully, as a favor to the Territories, to devote what remains of the three days to the proper and legitimate business of the Territories.

Mr. Chairman, I have no objection to this bill being considered or passed. I am not an enemy of the bill. But I am satisfied now, as I was when this bill was taken up this morning, that, if it is pressed, it will take up every moment of what remains of the time assigned for the consideration of territorial business. I therefore beg the members of the House to pass over this bill until the proper business of the Territories has been disposed of; and then, if there is time to take up this bill and pass it, why, in God's name, let it be passed. I am not prepared to say whether, if I had a vote, I would vote for it or against it. At any rate, I am not an enemy of the bill. But I repeat, that I hope the committee will give us the balance of to-day and to-morrow for the consideration of territorial business. If there is then time to consider this bill, it can be taken up. I move that the further consideration of this bill be postponed until after the territorial business proper shall have been disposed of.

Mr. FARLEY, (Mr. BENTON yielding the floor temporarily.) I ask the indulgence of the committee to say a few words. The opposition which has been made to the bill now under consideration has been of a most extraordinary character. It is an opposition of a character that I did not at all anticipate when the bill came up this morning.

It cannot be said that this measure has been sprung upon the House or upon the committee. It has been before the House during the whole session. It came here at the last session. I have only done my duty in trying to get it in a position where it could be acted upon. I consider it of great importance, not only to the States, but to the Territories through which this line is to pass. In a few years, settlements will be made all along this line. I think that it is properly a territorial bill. I believe that, but for the kind of opposition which has been made here this morning, this discussion would have nearly closed by this time. I regret the kind of opposition that has been made to it. It does not intimidate me at all. I fear not that kind of opposition, especially when I know that I am right, let it come from whatever quarter it may.

I now ask that the committee will act upon this measure, and decide it in one way or the other. I ask that the committee will not set the bill aside until it has been finally acted upon.

Mr. BENTON, (resuming.) When I yielded the floor to the member from Maine, I supposed that he was going to say something in relation to the motion submitted by the gentleman from Oregon—perhaps to agree to it. I did not expect him to renew his speech upon the merits of the bill, and I must protest against the time he occupied being taken out of my hour.

The CHAIRMAN. The Chair must remark to the gentleman from Missouri, that the usual ruling of the committee has been to compute the time from the moment the floor is assigned to a gentleman. The time he has yielded to the gentlemen from Oregon and Maine will come out of his hour. That has been the ruling of the committee. The Chair will further state, that the gentleman from Oregon had not the floor to make any motion.

Mr. BENTON. I desire a deduction of the time occupied by the gentleman from Maine. With respect to the gentleman from Oregon, I cheerfully yield the time he occupied to him, for I think the day is his, and that he ought to have it.

Mr. Chairman, this is "an act authorizing the construction of a subterranean line of telegraph from the Mississippi or Missouri river to the Pacific ocean." Subterranean! Sir, if the gentleman from Maine lived a little nearer to the country through which this line of telegraph is to pass, he would know that some of the Indians who inhabit that country are diggers—root diggers. They live by digging. They understand it perfectly. You may make a hole anywhere in the ground, and cover it up, and by looking at it they will know that there is a hole there. [Laughter.] And they will probe it and find what is there. Sir, the business of hiding and finding is a profession pursued by the entire body of the Indians, and the entire body of the white people engaged in business or commerce from the Mississippi to the Pacific. It is called *caché* from the French verb *cacher*, to hide. Everything wished to be saved is hid in the ground, and a continual search goes on among all the Indians to find everything that may be so hid; and most expert they are at it. This is to be a "subterranean" line—subterranean, and, I suppose, subaqueous, also. It is to be made in a plow furrow. A plow is to be run from the Mississippi to the Pacific, and the wires laid in the furrow.

Two millions of acres of land for this purpose! I undertake to say that two millions of men could not protect it from these diggers. I undertake to say that the best men of Maine—and there are as good men there, as vigilant and brave, as there are in the world—might stand straddling the line of a dark night [laughter] and the Indians would come and cut it under them; they would come and see what was there, and take away anything they might think of use. That is the law of the prairies; and I wish gentlemen to understand this. You might have a line put up in the air; but the idea of that plow line from the Atlantic to the Pacific, showing its course the whole distance like a mole track, is preposterous. The bill proposes to appropriate two millions of acres; but such a latitude of choice was never known. Two millions of acres of land for running a plow line—one line, one furrow, no matter how shallow—is to be appropriated to said Alden and Eddy, their heirs or assigns. These assigns! Mr. Chairman, these assigns!! The moment I see that word "assigns" I start up—bubble stock rises before me, to be gambled for in the exchanges of New York and London. Just as much will be done as will make that stock salable in market, and then whatever is got is all clear gain. The expense comes out of the pocket of our old relation, "Uncle Sam," who, being supposed to have no children, must have assigns. [Laughter.]

These gentlemen (Alden and Eddy) are authorized to construct, at their own expense, a line of telegraph at such point as may be hereafter selected. Now, sir, what liberty of selection! The Mississippi river covers, I believe, seventeen parallels of latitude; and they can select from any point on that river, which washes many States, and it must cross a State to get East or West from the river. There is, sir, what I think we may call a cateplasm in the concluding portion of the clause, in the shape of legislative consent by the States, to this Federal Government running telegraphic lines through them. Sir, the fathers of our country knew nothing at all about this cateplasm; but legislated in the mode prescribed in the Constitution, which could not be altered by the consent of a State.

Well, sir, the sixth section provides that, upon the completion of said line of telegraph, and so soon as the same shall be put in successful operation, and the free use thereof tendered to the Government of the United States, there shall be issued to said Alden and Eddy, their heirs, or assigns, in exchange and payment for the free and prior use of said line in perpetuity, land warrants for two millions of acres, excluding all mineral lands, which two millions they are authorized to select and locate, as follows: From and after said completion they shall have the right to select, from any of the public lands along and within fifteen miles of said line of telegraph, in the *now existing* Territories, not before sold or appropriated, any quantity not more than a section, and in alternate sections.

What a latitude of selection is there given to them! They can select within fifteen miles of the line of telegraph, anywhere in an expanse of seventeen parallels of latitude. From that they are to run as they please, here and there, in search of good land, zig-zag, like the Virginia corn-field fence, through the best tracts, and through the richest lands that can be found, from the Mississippi to the Pacific ocean. There is a great latitude there. They are not to take land, but they are to take land warrants, and though, at present, these warrants may not be reduced to subdivision, they will, like the Virginia military land warrants, come down to forty acres before the assigns get them. The result will be that they will pick out the eyes of the country; will select the best land everywhere; they will take every spring, every grove of timber, every tract of rich land, and every dominating point they can find—the passes in the mountains, fords, ferries, &c. Where unsurveyed lands shall have been selected, the President of the United States shall cause the same to be surveyed, if practicable, and if, after two years from the completion of the line, said lands shall not have been surveyed—what then? Then it shall be optional with said Alden and Eddy, their heirs or assigns, and they shall have the right, to relocate the like quantities of land in any *now existing* Territories, in alternate sections, where they have been surveyed, and shall then be open to private entry or sale. Such a thing was never asked before, much less granted. What are these parties to do? They are to keep up this line forever, perpetually, so long as water runs and grass grows. Then the United States are to have the use of it to eternity; they are not limited to the age of Methuselah, which I think would be enough, but go on to eternity. It is a bargain for eternity. But I will find out a creep-hole for this eternity; I would not give a straw for such an eternity. Old as I am, I would not be willing to accept a lease of my life for the eternity which this thing will have, so far as the United States use of it is concerned.

"*Provided*, That, in the event a railroad to the Pacific ocean shall be located on or near said line of telegraph, before said patents shall be issued, the grant of land contemplated in this section shall be so located as not to interfere with the location under any grant Congress may make in aid of the construction of said railroad."

Then comes a provision extending the penal laws to those who violate and trespass upon this line. That is the protection which this bill affords against the depredations of the Root Diggers. These penal laws are to protect it. I would like to see one of our marshals catch a Root Digger, and, punish him, criminally, for having dug up this line, as dig it up he would to see what it was, and to take everything which he could make into a string, or a point of an arrow, or to kindle the fire with. How would you apply your laws to him? I now come to what is the creep-hole of this whole thing:

"That said Alden and Eddy, their associates and assigns, shall, at their own expense, keep said line of telegraph in working order, and, at their own cost, operate the same, transmitting said Government dispatches and communications at all times, when said line shall be in working condition,"——

Creep out hole number one.

—"as requested by the officers or authorized agents of said Government; and if they shall at any time unreasonably refuse so to do, or shall neglect, for the space of six successive months, to operate said line—unless prevented from so doing by some unforeseen disaster,"——

Creep out hole number two.

—"or some unavoidable calamity,"——

Creep out hole number three.

—"arising from sickness of operators"——

Creep out hole number four.

—"or from Indian hostility and depredation"——

Creep out hole number five.

—"said line of telegraph, with all its appurtenances, shall be forfeited to, and become the property of, the United States."

That being the case, I shall do all I can to prevent the United States from being the owner of any such property in working, or not working, condition.

At the end of two years, when one message is sent through, two millions of acres of land are to go to these parties. They get pay in hand for services to be rendered to eternity. When they get hold of this land once, it is gone forever. There will be an eternal end of it to us. When this furrow has been run once, and the telegraph line laid down and covered over, all the parties will have to do is to let the work go to the Government, and in six months the ruins of it belong to the United States. And what are the United States to do with it? How many men will they employ to operate and protect it, and what will it cost? Twenty-odd years ago, when the proposition was made for the Government to raise live-oak for our Navy, I said, at the time, that I would undertake to predict that every cubic foot of live-oak we would get from our plantations would cost us a cubic foot of silver; and the only qualification that I make in regard to this telegraphic line is, that we will pay a cubic foot of gold. It will be the same with everything the Government undertakes to do—this telegraph line inclusive, if so unfortunate as to become its owner; and that they will be pretty sure to do in the first six months after it has carried through one message. The Government is put forward as the party to be benefited; but it is a line for the public, for everybody; and this governmental business, which is a mere incident common to every line, is to give us jurisdiction, and make it constitutional. Why not christen it a "military telegraph," and so bring it under the war power, or a "commercial telegraph," and so bring it under the power to regulate commerce? But where is it to begin for the benefit of the Government? Not here, where the Government is, but where the parties please, from the head to the mouth of the Mississippi. Then the Government will want another line to get to it, nearly as long as itself. This is beautiful accommodation to the public.

The Government is no hand to carry on business of any sort. The cheapest way is to go into open market, and pay down for each thing it buys, and for each job it gets done. That is the only way to protect itself from the fate of "Moses Primrose" at the fair.

Now, Mr. Chairman, we know something about this country between the Mississippi and the Pacific ocean, and upon that knowledge, I, for one, am ready to say no telegraph can be protected except it is in conjunction with a road, either common or railroad. It must be a road on which people live and pass continually, to take care of it. Inhabitants and continual passers alone can protect it—and it had better be in the air than in a plow furrow, so shallow as to be easily raked up. But it will be cheap, very cheap, much cheaper than

posts, to put it in this plow furrow. And what a price to give for plowing—plowing one furrow! Two millions of acres of choice land. Make the road first. People will collect upon it as pigeons upon a roost, and may protect it: without such settlement, it will be dug up, from one end to the other, for the wire, the gutta percha, and everything about it.

A telegraph will be made and established, and that by private enterprise, the moment a road, either a common road, which we hope to have done at once, or a railroad, which we hope will come in time. A telegraph line will be a part of any road.

But what are the people of California and Missouri now doing? Not able to get an appropriation from Congress to make a common road, they grope their way through the wilderness, as did the children of Israel to the Promised Land. And what is the result? The people of California, with Adams & Co. at their head, are about to establish a common road. At St. Louis, the wealthiest people have had a public meeting, in which they undertook to meet the people of California in the construction of a common road.

More than that. The Boston Company of which I spoke, would make a common road at once, and a line of telegraph would go with it—and go with it as a private enterprise, which the owners would keep up for the sake of its use, and not for the stock to go upon the exchange of London and Paris.

I hope, then, Mr. Chairman, this bill will be rejected, and that this telegraph line will wait the fate of a common road bill, or of a railroad bill, and that it will pass upon the foundation that the Government pays for what it gets, and for no more than what it gets; and above all, *above all*, that the Government shall not pay in advance for work to be done five or ten thousand years hence, according to the bill—pay in advance for work to be done in eternity. Never was such a thing heard of before. Who is there in private life would contract to pay the whole amount down for any work for himself, and take an obligation to perform the work for an eternity ahead? Who would make such a contract to keep his farm in repair—his fence in repair? Who would make a contract, the consideration to be paid down at once on the one side, and the service on the other, to be performed between this and eternity? We make no such bargains for ourselves, and I, for one, will make no such bargain for the United States.

Then this bill has in it a principle against which I have waged war, certainly through the entire period of my congressional existence. I have waged war during that whole time against the whole idea of the Congress of the United States contracting legislatively with every set of men upon the face of the earth. I do not care how respectable they are. The member from Maine says these are honorable men. Granted; but they are mortal men, and can die as soon as dishonorable men; and where is our eternal wire workers and operaters then? I cannot contract with any set of men upon that principle. Let Congress make the law by which the work is to be done, but let the administrative part of the Government let out the contract, and have it taken to the best advantage, but let us not join the administrative department of the Government with that of the legislative department—not make laws, and at the same time make the contract in the law by which the thing is to be done. I have opposed that always. I have seen the working of this thing continually, and I have never seen an instance in which the Government of the United States was not most deplorably worsted.

Mr. LATHAM obtained the floor.

Mr. FARLEY. Will the gentleman from California give way to me for a moment?

Mr. LATHAM. I will.

Mr. FARLEY. I was entirely sincere when I said, a short time ago, that I was anxious, so far as I was concerned, to shorten the discussion of this question; because I do not believe it is necessary to have a long discussion in order that a committee may understand it.

I rise for the purpose of making a proposition. I understand the gentleman from California [Mr. LATHAM] purposes to speak in favor of the bill. I presume, after him some gentleman would like to speak against the bill. What I propose is this——

Mr. LATHAM. I did not intend to occupy more than fifteen minutes of the time of the committee.

Mr. FARLEY. I make this proposition: that one hour be allowed for discussion in committee to the friends of the bill, and then one hour to the opponents of the bill, after which the committee shall rise for the purpose of terminating debate in the Committee of the Whole on the state of the Union. I believe it is my privilege to have an hour for the discussion of the measure after the debate shall be closed; but I shall not probably consume more than ten minutes.

The CHAIRMAN. That can be done only by unanimous consent.

Mr. EDDY. I object to any such arrangement.

Mr. RICHARDSON. I will move that the committee do now rise, for the purpose of submitting a motion to terminate debate in the committee.

Mr. HOUSTON. Will the honorable chairman of the Committee on Territories allow me to make a suggestion to him?

Mr. RICHARDSON. I will.

Mr. HOUSTON. If the gentleman from Illinois proposes to press this bill to a vote, it will be utterly impossible to accomplish that object in the balance of to-day and to-morrow, the time set apart for the consideration of territorial business. As there are other bills he would like to pass, I suggest that he allow this bill to be passed over for the present, until those other matters are disposed of. The debate on this bill will be extended a considerable length of time.

Mr. RICHARDSON. I am much obliged to the gentleman for his advice. I do not choose that gentlemen, by telling me they are opposed to bills, and by consuming the time of the House in debating them, shall induce me to depart from what I deem my duty in the discharge of public business.

Mr. HOUSTON. One word in reply. I have not offered the gentleman advice, nor do I propose to do it. I have not opposed the bill, nor do I expect to oppose it, further than by my vote. I have not opened my mouth on the subject, except just now; and if I have trespassed upon the rights of my friend from Illinois I regret it. I had no intention of doing so.

Mr. RICHARDSON. I do not say the gentleman trespassed upon my rights.

Mr. WHEELER. I demand tellers on the motion that the committee do now rise.

Tellers were ordered; and Messrs. WHEELER and BOYCE were appointed.

The question was taken; and the motion was agreed to; the tellers having reported—ayes eighty-six, noes not counted.

The committee accordingly rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the bill pending for the construction of a telegraph line to the Pacific coast, under the special order of the House, and had come to no resolution thereon.

Mr. RICHARDSON. Do I understand the gentleman from California does not intend to consume more than fifteen minutes?

Mr. LATHAM. My remarks will not extend beyond fifteen minutes.

Mr. RICHARDSON. I move that debate be closed upon the telegraph bill within one hour after its consideration shall be again resumed in Committee of the Whole on the state of the Union.

[Cries of "No! limit it to thirty minutes."]

Mr. RICHARDSON. I wish to give the opponents of the bill a fair chance.

The question was taken, and Mr. RICHARDSON's motion was agreed to.

Mr. RICHARDSON. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken; and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair.)

Mr. LATHAM. Mr. Chairman, the position of California toward this Union is a singular one; and I think that, if search was made through the records of the past, the parts of no other Government would be found to sustain such a relative position towards each other. If you take the most expensive way of getting to that State it occupies some twenty-five days. If you take the route which the large mass of your people, and which the Government itself is always bound to go in the transportation of its troops, stores, and armaments, it occupies from four to six months; and, as a general rule, one of the long routes (across the plains) can be traveled but at a particular period of the year. I know very well, Mr. Chairman, or, at least, I believe, that a large majority of this House, and particularly the gentleman from Missouri, [Mr. BENTON,] for whom I have the profoundest respect, are friends to the State of California; and I am not now raising my voice, as the Representative of that State, in the way of complaint against the action of the General Government towards her. But I do say in my place, and I desire it may be put upon the record, that gentlemen of this House, who represent other parts of this Union, and who say they have the interest of the Government at heart, that, by their failure to act upon this and other important measures connected with California, are making stabs at our nationality, virtually ostracising it from the principles of the General Government. Why, sir, we are as completely at the mercy of any foreign potentate or Power who desired to exercise their sway in invading California, as a pigmy would be in the hands of a giant. Our laws are every day disregarded by foreign vessels. They come in and insult our national flag, and they go out again upon the high seas. Our Government has no power there to assert and maintain its prerogatives and its dignity. It is but a short while since a French vessel came to San Francisco with Russian prisoners on board. Those prisoners, by their friends, went before the United States court and sued out a writ of habeas corpus. The writ was served by the United States marshal on the officer of the vessel, commanding him to bring these men before the court and show cause why they were detained. What did the vessel do? She immediately spread her canvas to the breeze and passed out of the golden gate, laughing to scorn the authority of the United States. Our Government was perfectly powerless. It did not have even a vessel of war there to assert its dignity and maintain the power of its courts.

Sir, I say here—to be brief in this matter—that in case there should be any conflict between this Government and any other Power—I make no exception, any Government that has a Navy, that has ships or vessels of war, may come unharmed into the port of San Francisco; that they will go up the river; that they will take possession of the country and levy subsidies upon the inhabitants to an extent that will enable them to successfully battle with the Atlantic cities or the Atlantic States.

Well, what do we want? That is the question. We want the means of communication with the Atlantic States. That is what we want. We care not where it comes from. We care not how it comes. For one, I never stop to ask myself about these propositions. I do not stop to quarrel with the particular wording of the bill, nor do I stop to inquire whether certain men are likely to get the credit of a measure. It is enough for me to know that the bill is one that will tend to bind the State of California more closely to this Confederacy. When I know *that*, I am for it, first, last, and all the time.

Sir, we are perfectly powerless. My colleague and myself have appealed to this House, time and again, during this present Congress, to give us some sort of a Pacific railroad. Cut it down, deprive it of all its features, only leave us a bare skeleton, but leave us something upon which we can go before the country, and with the moral power of the Government's sustaining the measure, thus proving to the people that our Pacific possessions are regarded as a part of the Federal territory. Now we have another measure, the pending bill. In reference to its particular features, upon a minute examination, I can see many things that I cannot vote for, many things that, when the bill comes up for consideration by sections, if no other gentleman does it, I shall move to amend. But the principle of the bill is right. The policy of the bill is right, and may be carried into successful operation. Every single feature of it, when considered in the abstract, independent of the

wording, may be carried out. This Government does not forfeit or risk its title to one single acre of land of the two millions of which the honorable gentleman from Missouri spoke in such terms of ridicule. Not one single acre will ever pass into the hands of this company, or into the hands of any other company, until the whole line of telegraph is completed to the satisfaction of the Government of the United States.

The honorable gentleman from Missouri [Mr. BENTON] started out with the assumption, upon which his argument was founded—and I know that the whole strength of the opposition to this bill is founded upon the same point—that the plan is not a practicable one. Well, sir, whose risk is that? Admitting, for the sake of argument, that it is impracticable, it is at the risk of the company who undertake to carry it out. Suppose you pass the bill, and, after making the effort, these men find that the completion of this work is not practicable, they are the losers, and not the Government. If they are willing to incur the risk and the responsibility, we risk nothing by it. If, after having commenced, they find themselves compelled to abandon the project, they not only lose the capital invested, but they lose the work, the materials, and everything connected with it. They must go on and complete it, and put it in operation within the space of two years. That is in accordance with the provisions of the bill. But, sir, I apprehend that this measure can be carried out at first if at all. The opposition that will be made—if opposition is made—will be in the outset, and not in its final operation. If these Indians are going to dig up these wires, if they are going to destroy the work, I ask you if they will not be likely to do it at once—at first? And if they do destroy it, I repeat, the Government will not be the losers, because the fee-simple of not one acre of land will pass out of their hands until the whole line is put in working order.

I confess that this is, to my mind, a stupendous undertaking upon the part of these men. But, sir, when the line has been completed, and the Government is called upon to transfer the lands into the hands of these men, it will not do it without a consideration. The Government is, by the terms of the bill, to receive eight per cent. per annum upon the entire grant, to say nothing of what the construction of the line will save to the Government. Why, sir, when now a vessel of war comes into the harbor of San Francisco the usual custom now is for them to write to the Department at Washington for orders, and to wait for a reply. It requires thirty days for their letter to reach here, and thirty days for the orders from the Department to go back, and the vessel is thus compelled to wait for sixty days in the Bay of San Francisco, at an expense to the Government of $500 per day. But, sir, if the provisions of this bill are carried out, the Government will be allowed the free use of the line to a specific extent, and many thousands of dollars will be saved every year. This example is but one among many. The gentleman from Maine, who opened the discussion upon this bill, told the committee that the value of these lands, from computations made by him, was about sixty-two and a half cents per acre. Now, sir, at this rate the two millions of acres, which this bill grants, would cost $1,250,000. The number of words which the Government are to transmit free of cost across the continent, would amount to about $100,000 per year, if paid for. In other words, the Government will receive a perpetual benefit amounting to eight per cent. upon the whole value of the grant.

The greatest objection to this bill, to my mind, upon which the gentleman from Missouri dwelt upon very properly and very forcibly, is this: It gives to these parties the privilege of going beyond a certain limit in the selection of their lands. The paragraph in the bill to which I allude, is in the following language:

"Where unsurveyed lands shall have been selected, the President of the United States shall cause the same to be surveyed, if practicable; and if, after two years from the completion as aforesaid, said lands shall not have been surveyed, it shall be optional with said Alden and Eddy, their heirs or assigns, and they shall have the right, to relocate the like quantities of land in any now existing Territories, in alternate sections, when they have been surveyed, and shall then be open to private entry or sale."

That portion of the bill I regard as exceptionable. I think it should be stricken out, and that these men should be confined in the selection of their lands to within a certain distance of the line of telegraph.

It is suggested by the gentleman from Ohio [Mr. DISNEY] that that would be exceedingly unfair, because many of the lands along the line would be valueless. Now, sir, I take it for granted that these men would locate their telegraph line where settlements would most probably take place. It would be for their interest so to do, because they would, by that course, derive the greatest advantage from the sale of their lands.

One thing more, and I shall have done. I know very well that there are many gentlemen here—and that was the line of argument pursued by the gentleman from Missouri—who are opposed to the creation of any company of this kind, or of making any grant to them, because they retain a hope that, before this Congress terminates, or, at least, during the next Congress, a grant will be made for the purpose of constructing a railroad to the Pacific, and that a telegraph line will go in company with the railroad.

Mr. BENTON. A railroad or a common road—either one or the other.

Mr. LATHAM. Now, Mr. Chairman, I want to know if a telegraph is not as liable, and much more so, to be destroyed by Indians if it is in the air as if it is under ground? Is there any gentleman here who, in his calm judgment, would pretend to say that a telegraph in the air would not be exposed to far more danger of destruction than one under ground?

As to running the telegraph along with the railroad, every gentleman knows that it would take a long series of years to build the road. If we can judge at all from the history of those railroads already constructed in this country, taking into consideration the extent of a Pacific railroad, and the great difficulties which will have to be surmounted, this Government on the one side, and the people on the Pacific coast on the other, will have to wait fifteen or twenty years before it can be built. Ten years is the very shortest time in which the most enthusiastic suppose that it can be built. Sir, you might as well ask us to wait until the whole country is settled up and organized into States, and until this territory teems with population, and sends its representatives here. Then the people along the line will have power of their own to build a telegraph and railroad, and will ask no assistance from this Government. If that is the line of argument that gentlemen wish to adopt, let them say so. If they think that neither of these propositions can be carried out, because there is no population in the basin which lies between the Mississippi and the Rocky mountains, let them say so; but do not let them believe that they can carry out these measures by individual enterprise until that period arrives.

I wish to call the attention of the committee to the fact that there is not a Government upon the face of the earth that aspires to political eminence, and to the power and position that we do, but what has seen fit to bind the extremities of its empire together by means of these subterranean telegraphs. There are 175 telegraphs running from the city of Paris to the extremities of the French Empire; 22 to Lisle, communicating in two minutes; to Brest, 80, giving knowledge in ten minutes; to Strasburg, 46, running in six minutes and a half; and to Calais, 27, going in three minutes—all communicating within the space of ten minutes from the seat of power to the extremities of the nation. When the French made their expedition against Algiers, so perfect was their system of telegraphs, that they had a nocturnal telegraph. At posts they had lanterns, with powerful magnifying glasses and strong reflectors, lighted with gas. In the German Empire there are telegraphs of this kind running along all the public roads. There are one thousand eight hundred miles of this telegraph in the kingdom of Prussia, and now Russia is adopting the same policy and connecting the remotest portions of her Empire together by means of the subterranean telegraph. But this Government, which has the power, I maintain, which has the control of all portions of its territory for all purposes connected with its own maintenance and the protection of its own citizens—this Government, alone, will not assert this right; will not maintain its own dignity by binding the extremities of its territory with hooks of steel, or with wires of electricity; but they, on the contrary, are willing that that portion of the Confederacy which has already added $298,000,000 in gold dust to the wealth of the country——

Mr. BRIDGES, (interrupting.) I would ask the gentleman whether he has any idea how much it would cost a mile to construct this telegraph?

Mr. LATHAM. Yes, sir; I have. It will cost $1,250 a mile. I say that a State occupying this relative position toward the General Government ought to have those ordinary facilities extended to it which the Government has within its power, for the purpose of preserving its unity.

Mr. Chairman, there are other remarks which I desire to make, but an unwillingness upon my part to occupy the attention of the committee, and a desire that this bill should be brought to a vote, induce me to sacrifice my own sense of duty, in the presentation of these facts and considerations, to the wish of the committee as already indicated.

Mr. CRAIGE. I desire to say but a single word, and I intended to have asked the gentleman from California a question before he took his seat. I was much struck with the remarks which he made with regard to the telegraphs which they have in Russia and France. The gentleman seems to think that, if they have them there, there is no difficulty in our having them here. He seems to have forgotten entirely that this is neither a consolidated republic, nor a consolidated monarchy, but that we are a confederation of thirty-one independent States, and our Federal Government a Government of limited powers, and, therefore, that the argument applying to France and Russia, does not apply to the Government of the United States.

Mr. LATHAM. No doubt, in my desire to be brief, I did not connect my ideas as I wished to do, and would have done if I had had more time allotted to me. But, surely, the gentleman from North Carolina does not pretend to say that this Government, although it is a Federal Government, and one of limited powers, has not the power to make a grant of lands in its Territories, over which it has supreme control, for any purpose which tends to further the interests of the Federal Government as a Government.

Mr. CRAIGE. The gentleman spoke of regarding this Government as a unit, and I merely rose to say that I can never recognize such a doctrine, either here or elsewhere.

Mr. McDOUGALL. I expect to take no part in this discussion, because my colleague has expressed the views which I should have advanced to the committee. But, I wish to say here that I have some knowledge of the country through which this telegraph is to run, and that I do not deem it an impracticable scheme. The connection of the Government with it is simply this: the Government proposes, according to this bill, to give two millions of acres of land, worth not more than half a million of dollars; it proposes, upon the completion of the line of telegraph, to concede these lands by way of purchasing the right to use the line for Government purposes. That is the proposition now. It involves no question of constitutional law. It is simply whether the Government will undertake to purchase the right to use the line for Government purposes after it is finally completed. I can see no sound objection to the bill itself. It involves no questionable principle. I believe it to be practicable, and, I think, that, as a matter of policy and economy, the bill should pass.

Mr. BENTON. I address myself to the Delegate from Utah, [Mr. BERNHISEL.] I wish to be informed to what use it is supposed the digger Indians would apply the wires, the platina? I wish to ask the Delegate from Utah to what use he believes the digger Indians would apply these wires? I will state what I think on that point. These diggers have, each one, a stick, a long slender stick, with a hook at the end of it, and the purpose of these sticks and hooks is described in Frémont's report of his expeditions. The Delegate from Utah says he has seen thousands of them. Mr. Frémont reports that he saw no diggers without this long slender stick, with a hook at the end of it. The object of the hook is to assist them in pursuing the lizard, a chief article of food with them. The lizard runs for his life, when he sees one of these diggers with his stick, and gets into a hole. The Indian puts in this hooked stick and brings it out, and quick he is broiled and eaten. Now, this wire will be a God-send to these diggers. They

will consider it the greatest benefit you have ever conferred upon them. They will bless this Government for it—for this liberal supply of fifteen hundred or two thousand miles of wire, every part of which they will cut into three inch pieces and make into hooks, to hook out these lizards—so much better for that purpose than a crook at the end of the stick. In that point of view, it will be a God-send to the Indians, but destruction to the lizards. [Great laughter.] It is no laughing business. It will be an immense accommodation to the digger Indians, but cruel upon lizards. [Laughter.]

Mr. LANE, of Oregon. I rise only to ask the committee to lay over this bill until the other territorial business be completed, and I make that motion that it be so passed by.

The CHAIRMAN. The Chair states, in reply to the gentleman from Oregon, that the House has, by resolution, closed debate on this bill in one hour after the passage of that resolution; and that his motion cannot be entertained. After debate expires by that limitation, the committee will proceed to vote upon the amendments, and will report the result to the House.

Mr. LETCHER. Will it be in order to move that the committee rise and report the bill to the House with a recommendation that it be rejected?

The CHAIRMAN. It will be in order.

Mr. LETCHER. Then I submit that motion.

The CHAIRMAN. The motion cannot be entertained until the amendments shall have been disposed of.

The Clerk proceeded to read the bill by sections for amendment.

The third section having been read—

Mr. FARLEY. I wish to inquire from the Chair, if this is the proper time to act upon the amendments proposed by the Committee on Territories?

The CHAIRMAN. It is the proper time to act upon the amendments that may be offered, either by any member or by the Committee on Territories.

Mr. RICHARDSON. The Committee on Territories has submitted amendments to the Senate bill.

The CHAIRMAN. We have not yet reached that point where the first amendment applies.

The Clerk proceeded to read the fourth section.

The CHAIRMAN. The Committee on Territories has reported an amendment to this section: It is as follows:

Section four, line three, after the word "Mississippi," insert the words "or Missouri river."

So as to read:

"That for the transmission of all private dispatches and communications over said main line between the Mississippi or Missouri river, and the Pacific, the toll or charge," &c.

The question was taken; and the amendment was concurred in.

After the fifth section was read—

Mr. SKELTON. I propose to offer the following amendment to that section:

In line thirteen, after the word "appurtenances," insert the words, "and lands acquired under this act."

So as to make it read:

—"said line of telegraph, with all its appurtenances and lands acquired under this act, shall be forfeited to, and become the property of, the United States."

I think, Mr. Chairman, that if we desire to protect the Government from frauds, this amendment is necessary. This section which I propose to amend, provides that, in case the company neglects to operate the line for the space of six months, then the line shall revert to, and become the property of, the United States. Now, sir, the reason why I I am not friendly to this bill is—and the friends of the bill seemed not to have removed this objection—because I deem the measure to be impracticable. I do not believe that this line can be put into operation, and kept in working order, so as to afford profit to the builder; and I believe that if it is constructed, and properly constructed, it will eventually revert to the United States, and become the property of the Government of the United States. I do not desire that the United States shall be the owner of that line, for I am opposed to the idea of multiplying the patronage of the General Government. I would like to see, as a friend of the Union, and particularly of California—although the gentleman from California [Mr. LATHAM] seems to think that the opponents of this bill are not the friends of that State—not only telegraphic wire communication, but a railroad, binding and connecting together the most distant States of the Union, in yet stronger bonds than now exist. But when we engage in operations of this kind, it is necessary that we should ask ourselves if it is possible to accomplish the object we have in view in the way provided in this bill. I think not. If the bill passes without the amendment I have suggested, it will enable the individuals having charge of the work to construct the telegraphic line in some way, whether proper or improper, and in a cheap manner. In my opinion, a telegraphic line can be constructed from the extreme Western States to the Pacific coast, for a less amount than the lands proposed to be given for that object are worth. I believe this can be done, and leave a large balance in the hands of the individuals constructing the line, thereby affording a great speculation to the parties interested. I believe they can turn over to the Government of the United States a telegraphic line, and still have a large profit in their pockets; but I do not believe that the time has arrived for the construction of such a line, nor do I believe that the method proposed here for constructing it is the proper one. I have no doubt, in regard to the telegraph, as well as the Pacific railroad, that, whenever either project is carried, it will afford an immense profit to those engaged in the speculation. When the proper time arrives, the capitalists of the country will engage in the construction of these works, and they will do it in such a manner as to afford a permanent and profitable advantage to our common country.

I am opposed to giving the public lands to companies for the purpose of constructing such works as proposed in this bill, without any certainty that the advantage proposed will inure to the benefit of the people of the United States. It is for that reason I have offered the amendment; so that, if these parties should fail in their enterprise, the Government of the United States may not lose the whole of these lands. The parties should be compelled, in such an event, to return the bonus which we gave them for the construction of this line.

The friends of this bill have told us that it is to be an individual enterprise—to be constructed by the aid of private capital. If it be a private enterprise, why should the Government of the United States furnish the means for the construction of this line? It is true, it is a private speculation when men get hold of these lands; but not in the sense in which gentlemen consider it can this work be called a private enterprise. I offer this amendment in good faith, and not with the view of delaying the action of this committee. I will not longer detain the committee, because there is very important business with regard to the Territories still to be acted upon, and because this matter ought to be disposed of immediately, although I would like to examine the provisions of this bill in minute detail. I hope, therefore, that the amendment I have offered may be adopted for the reasons I have suggested. I desire, should the bill pass, that the Government may be protected against any frauds which might be perpetrated by the individuals engaged in the construction of the work.

Mr. WASHBURN, of Maine. If any amendment is to be made, it seems to me that it should not be the one which the gentleman from New Jersey [Mr. SKELTON] has offered. If an amendment of that character is to be adopted, it should be limited to such lands as shall not have been sold in good faith by these parties or their assignees, at the time when they may have failed on their part to perform according to the terms of the act. The lands may have been sold, and conveyed by them to honest parties in good faith before such time; so that the gentleman will see that his amendment should be made applicable only to such lands as may remain unsold in their hands at the time when such failure occurs. It seems to me that there is no occasion whatever for the amendment of the gentleman from New Jersey, and no propriety in its being adopted. Its tendency will be to defeat this undertaking altogether; and it is for the committee to inquire and decide whether or not they are disposed, upon the whole, to have this telegraphic communication upon these conditions, and at this price. There can be no question, in the mind of any gentleman here, or anywhere else, as to the importance of having a telegraphic communication for the transmission of important intelligence between the Atlantic and Pacific States. It is not necessary to consume the time of the committee in extended observations on that point. The value of such communication is obvious and indisputable. If, then, it be a matter of great interest and importance to the Government and the people on both sides of the continent that there should be this telegraphic connection, we should inquire, as reasonable, common-sense, and practical men, how it is to be accomplished, and when? Can we secure the establishment of a telegraphic line between the Mississippi and the Pacific on such terms and by such means as are safe and prudent? and are propositions, embracing such terms and means, now before us?

Mr. RICHARDSON, (interrupting.) I wish to make a single suggestion to the gentleman. The security that the Government has that this telegraphic line will be constructed and kept in good repair is this: It will cost between two and three million dollars to build it, and the lands which these individuals get will not amount in value to more than one sixth of that amount. The company will not surrender the telegraphic line, costing between two and three million dollars for the purpose of getting a grant of lands which do not amount in value to more than one sixth of that amount, and, therefore, I see no necessity for the adoption of the amendment suggested by the gentleman from New Jersey. The penalty affixed for a failure to work the line, is a forfeiture of that which will cost the company infinitely more than the land is worth.

Mr. WASHBURN. Undoubtedly so. It is not likely that these men will go on and make a sham line; but they will be held to perform the conditions on their part expressed or implied in the act, in good faith; to make a substantial line—such a one as is contemplated by the bill—and until that is done, do you suppose that the Commissioner of the General Land Office and the Secretary of the Interior would permit warrants to be issued to them? Unquestionably not. And if there were any belief, any suspicion, indeed, of fraud upon the part of these individuals, before the officers of Government would convey an acre of land to them, they would submit the whole matter to the consideration of Congress.

Mr. SKELTON, (interrupting.) Will the gentleman from Maine answer me one question?

Mr. WASHBURN. I will hear it.

Mr. SKELTON. If he believes this bill will pass, and go into effect, and be practical and successful, can my amendment do any hurt? If he does not believe it will go into effect, what objection can he have to the amendment?

Mr. WASHBURN. It may do harm, and in this way: These gentlemen I know. They are respectable men, and men of ability. As my colleague [Mr. FARLEY] well said, they are solid men, and have full faith and confidence in the practicability of this enterprise. They have studied it for years, and have posted themselves up on the matter.

Mr. FARLEY, (interrupting.) Will the gentleman allow me to make one suggestion?

Mr. WASHBURN. Certainly.

Mr. FARLEY. The grant of land is conditional upon the completion of the line. Not an acre is to be granted until the line is fully completed. When it is completed the transfer takes place. Suppose these parties wish to dispose of these lands, such an amendment as that proposed by the gentleman from New Jersey would operate as a cloud upon the title, and nobody would buy. It would ruin the title in the hands of these men.

Mr. WASHBURN. Of course it would injure, if not destroy, the value of the grant; because, after the two years, all who buy, would be held to buy with a knowledge of this reserved right on the part of the Government; and this consequence would be that no man would purchase these lands, knowing that the Government might come in, some ten or fifteen years hence, and claim them as forfeited. It would defeat the very object of the grant, and render it extremely difficult, if not impossible, for these men to obtain the means necessary to enable them to prosecute their undertaking, which is to involve an expenditure of from two to three millions of dollars. They must have some means independent of their own; and though they cannot have the lands until the enterprise is completed, yet the expectation that may fairly

and justly entitle themselves to it, might, and undoubtedly would, aid them to procure the means necessary for the work, of those who, having confidence in the intregrity of the parties and the feasibility of the enterprise, would be willing to lend them such assistance as should be found necessary for the accomplishment of the undertaking.

Now, as my colleague said, there is no risk in this matter. If these parties construct this line, it must be a substantial line; their own security, all their hopes of adequate returns involve this. I understand they intend to lay the line two and a half feet below the surface of the ground. That is the *furrow* they intend to plow. Thus they will secure it from ordinary accidents, and against the action of frost. They intend, in good faith, to go forward and construct this work, and, in order to be able to do it, they ask that, when it shall have been accomplished in a substantial, workmanlike, and thorough manner, they shall have these lands conveyed to them—conveyed for what? not as a gift, but for a price. It is simply a contract for a sale of the land of the United States, the title to be passed hereafter, for a valuable and wholly adequate consideration.

No gentleman here, however strict his views as to constitutional power, will say that the Government has not clearly the right to sell these lands to these men, or to any other men, for a price—for so much money, or money's worth in accommodations necessary for the Government.

That is the whole question here. The gentleman from Missouri [Mr. BENTON] has said that such a line will be cut up and destroyed; that it will be exposed to depredations by the Indians continually, and be of no actual value to the Government. Is it so? If the Indians are as numerous, as dangerous, and mischievous as he suggests, he has given us a conclusive and perpetual answer to the idea of constructing a common road, or a railroad, from the Mississippi to the Pacific; for, if the Indians are thus mischievous, we cannot construct and preserve any of those means of communication. I do not believe there is any considerable danger to be apprehended from the depredations of the Indians. There may be difficulties in the beginning, but I do not imagine they will be serious or long continued. But, however this may be, it is the concern and the risk of these parties, for the fact will be demonstrated before the time arrives for passing the title to the lands. If they can once construct the line, and place it in working order, from one end to the other, we need not fear any serious and long continued interruptions afterwards. If, then, these gentlemen can accomplish this work, can give to the Government, and to the people, all these great accommodations, and yet ask nothing until it is accomplished, until they have shown to Congress and to the country that the line has been constructed and put in working order, and that communications can be sent, daily and hourly, from any part of the Union to the Pacific, let them do it, and then pay them what seems to me a moderate sum for the advantages secured to the Government, to say nothing of the vast benefits accruing to the people whose interests we are bound to respect.

I hope the amendment of the gentleman from New Jersey will not be adopted.

Mr. SMITH, of Virginia. I suppose that debate is open generally upon this bill?

The CHAIRMAN. General debate is not yet closed.

Mr. SMITH. I desire to call the attention of the committee—for it seems to me very little attention has been given to it—to the character of this bill, and especially to the character of this amendment. I suppose it is very clear that the amendment ought to be adopted, if the bill is to pass.

I understand it is proposed by this bill that these gentlemen, who are mentioned in it, shall be authorized to build a telegraph line at their own expense; but, on looking through the bill, I find it is a bill allowing them to build it at the public expense. There is a very palpable inconsistency in the terms of the bill which cannot fail to strike the committee with wonder and surprise. Suppose these gentlemen fail in their undertaking—suppose they give it up in conformity to their obligations—I ask the committee what is to become of these lands? You give them the land—give them the pick of the whole country, give them the absolute title—and then they may abandon the line to the United States, and where are your public lands? I ask the friends of this bill, do they mean by this bill to pillage the country? I do not hesitate to denounce the bill as the most extraordinary ever brought before Congress.

Mr. WASHBURN, (interrupting.) Does the gentleman from Virginia understand that not an acre is to pass into their hands until the line is constructed and put in working order?

Mr. SMITH. I suppose it is so; but the gentleman is perfectly aware that it will not take two million acres of land to put up the line.

Mr. WASHBURN. I understand it will cost from two to three millions of dollars to construct it.

Mr. SMITH. That is all in your eye. We are too familiar with telegraphing business to believe that. Here is an attempt to divest the Government of property which is utterly indefensible, it seems to me, when you look at it through the great principles of the Constitution and common sense. The very idea of building a line through the wilderness, is itself an absurdity—I say it in no disrespect to any gentleman—but, I repeat, it is an absurdity. It is impracticable to put this work in operation in the present unsettled condition of that country. It is utterly impracticable. It is manifest that there are other purposes than those which meet the eye. I say, then, sir, that if we mean to go on with this road system of legislation, one which seems to invite the whole country to plunge their hands deep into the public Treasury, if that be the reckless determination of the House, let us, at least, observe some of the decencies connected with every measure, however obnoxious it may be.

Let us do that. Here is a bold proposition manifestly to take possession of a large amount of the public land, and for a purpose which is, in itself, wholly impracticable. Put in operation to-morrow, it could not endure three months without extensive interruptions. Our soldiers, with rifles, and revolvers, and bowies in their hands, cannot protect this country without having numbers of them massacred and cut up, and then how is it possible that these men are to do it? It must be evident to gentlemen that this is only one of the Utopian experiments of the day, an experiment, too, by which it is hoped to establish reality out of the public treasure.

I again repeat, let the amendment be adopted. Let it be interposed as a matter of decency, as some precaution; and when interposed, then let the question come before the country and this House whether that bill shall be passed. I hope, may be against hope, that it may not. I do hope, although one branch of the Government has given it its sanction, that this House will interpose its check—its constitutional check—to this system of legislation which is exciting the indignation of the country, and is calculated to bring the sigh from every breast which loves utilitarian policy and the limitations imposed by the Constitution of the United States. I pray the House to pause over this system of recklessness, this palpable disregard of all the duties imposed upon us; and especially not to invite every harpy in the country to come here for encouragement in any wild scheme of speculation.

Mr. FARLEY. Mr. Chairman, I will state to the committee why the parties ask the aid of the Government. It is well known, that investments in stocks of telegraph companies, have not, as a general thing, been profitable in this country. It cannot be supposed that, if there is granted to these parties merely the right of way, they can get the stock taken and the line constructed through the Territories? The country through which the line is to be run is a wilderness, inhabited by savages. The distance is two thousand four hundred miles.

Mr. SMITH. I say that the money cannot be raised for the construction of the line as a private enterprise. The stock will not be taken.

Mr. FARLEY. I am now stating why the parties interested in the bill ask the aid of the Government in their enterprise. If the right of way is only given, the parties could not get the whole amount of the stock taken. They can get a portion taken up; but, with the aid of the Government, and with the stock they can get taken up, they can complete the whole line. It is for that reason they come here and ask for a grant of lands. For the grant, the Government will be amply compensated

The CHAIRMAN. The time fixed by the House for the close of the debate has now arrived. Under the rules, the gentleman from Maine, [Mr. FARLEY,] who reported the bill, is entitled to occupy the floor for one hour.

Mr. SMITH. Let me ask the gentleman from Maine this question: If the Government gets a renumeration by these privileges which the bill accords to it for the lands proposed to be granted, would it not be better, according to the good old fashioned system of exchange, for the Government to pay when it wants the service, and that, in the mean time, the individuals should build the line at their own expense?

Mr. FARLEY. I shall make the answer to the gentleman's question the commencement of my concluding remark upon this bill. By the provisions of the bill, the Government will daily pay for what it receives, and daily receive pay for the lands granted. There can be no question that, if the line were in operation to-day, the Navy, War, and Treasury Departments would have occasion for its use.

One word now as to the cost of the line. It is estimated to cost $1,150 per mile. That includes cost of wire, laying down, buildings at the stations, which are to be within one hundred miles of each other, transportation of material—indeed, it includes everything going to the construction of the line. The existing lines in this country have been constructed, on the average, at acost of $150 the mile. It costs more for the line in this instance, for many reasons. Gentlemen who have given the underground telegraph any attention, know that the wire has to be coated with India rubber, or gutta-percha, which is expensive.

I shall now, Mr. Chairman, occupy but a few minutes in reply to some of the objections which have been made to the bill. The gentleman from Missouri [Mr. BENTON] has leveled a battery of ridicule against it. I know that it is sometimes effective; but I trust that the members of the committee will not allow their action to be controlled by ridicule, no matter how respectable its source. I hope the measure will be acted upon with reference to the considerations properly belonging to it.

It is said that there will be difficulty with the Indians; I do not pretend that there will not be difficulty; but, whatever it may be, it will yearly diminish. Within a few years the last of the red men will have died upon his native soil, or have been driven into the Pacific ocean. But whatever difficulties there may be, these parties do not ask the Government to protect the line. They take upon themselves all the expense and responsibility. I ask whether it is fair to urge such an objection to the bill?

But it is said, so soon as the lands are located, those parties will abandon the line. Is that probable? This line will cost, as it is estimated, $2,760,000; and it is to be constructed and put in operation before an acre of land is acquired. Is it probable, then, that these parties, after building the line, will forfeit it for these lands, when, by keeping up the line, they get both line and lands? It is improbable that they will do any such thing.

But it is objected that the Government are contracting in advance for the perpetual use of the line. I confess, sir, that I cannot see the force of the objection. If it is for the interest of the Government to have the use of the line at all, I cannot see the objection to contracting in advance. As I remarked before, the question resolves itself into a mere matter of expediency. If gentleman are of the opinion that the Government will have occasion to use the line in case it is constructed, then why not contract for its use now, especially if that is the only way the construction of the line can be secured?

There is a provision in the bill which gives the Government the right to transmit over the line ninety-six thousand words per annum, and to Congress the right to regulate the rate of charge for all beyond that, so that it seems to me that the Government is really securing an equivalent for the grant it makes.

Another objection is, that these parties will have the power of constructing the line in a zig-zag course across the continent to San Francisco. Why, sir, the first section of the bill requires them to construct the line in as "direct a line as practicable." They have not the right to take a

zig-zag course. Nor would it be for their interest so to do. The shortest line will be the least expensive.

So far as the States are concerned through which the line is to pass, this bill confers no power upon the parties, further than the *right of way* through the public lands belonging to the United States, lying in such States.

Mr. Chairman, I believe, I have now noticed about all the objections which have been brought against the various provisions of this bill, and I will not detain the committee longer by any general remarks.

Mr. WALBRIDGE. I do not wish to terminate this debate if it is in any respect desirable that it shall proceed. If, however, the friends of the bill do not wish to continue it longer, I shall submit the motion that the committee rise, and report the bill to the House with the recommendation that it do pass. If no friend of the bill desires to speak, I shall insist upon that motion.

The CHAIRMAN. The gentleman from New York cannot submit that motion while there is an amendment pending.

Mr. RICHARDSON. I ask for a vote upon the amendment pending.

The CHAIRMAN stated the question to be upon the amendment of Mr. SKELTON, upon which tellers had been called.

Mr. KEITT. I withdraw the demand for tellers.

Mr. BRIDGES. I renew it.

Tellers were ordered; and Messrs. BENSON and ENGLISH were appointed.

The question was then taken; and the tellers reported—ayes 62, noes 59.

So the amendment was agreed to.

The next amendment, reported by the Committee on Territories, was to strike out the word "Territories," in the twentieth line of the sixth section, and to insert the words "now existing Territories," so that the clause, as amended, would read:

Where unsurveyed lands shall have been selected, the President of the United States shall cause the same to be surveyed, if practicable; and if, after two years from the completion, as aforesaid, said lands shall not have been surveyed, it shall be optional with said Alden and Eddy, their heirs or assigns, and they shall have the right, to relocate the like quantities of land in any now existing Territories, in alternate sections, where they have been surveyed, and shall then be open to private entry or sale.

Mr. LETCHER. I propose to amend that section by striking out all after the word "telegraph, in the twelfth line, to the word "and," in the fourteenth line. If my amendment is adopted, it will read:

That upon the completion of said line of telegraph, as aforesaid, and so soon as the same shall be put in successful operation, and the free use thereof, as hereinbefore provided, tendered to the Government of the United States, there shall be issued to said Alden and Eddy, their heirs or assigns, in exchange and payment for the free and prior use of said line in perpetuity, as aforesaid, land warrants for two millions acres of land, excluding all mineral lands, which they are hereby authorized to select and locate as follows: from and after said completion they shall have the right to select from any of the public lands along and within fifteen miles of said line of telegraph, in alternate sections.

Mr. RICHARDSON. The question will first be taken, I suppose, upon the amendment of the Committee on Territories.

The CHAIRMAN. Yes; the proposition to perfect must first be considered. The Committee on Territories have reported an amendment to perfect that portion of the section which the gentleman from Virginia proposes to strike out, and the question must be taken on that amendment before it is taken on the motion to strike out.

Mr. LETCHER. If that amendment of the committee should be adopted, will it then be in order to move to strike out what I propose?

The CHAIRMAN. It will be in order.

The question now being on the amendment reported from the Committee on Territories,

Mr. FARLEY demanded tellers.

Tellers were ordered; and Messrs. FARLEY and WHEELER were appointed.

The question was taken; and the tellers reported—ayes 68, noes 50.

So the amendment was adopted.

The question recurred upon Mr. LETCHER's amendment.

Mr. LETCHER. Heretofore, when public lands have been asked for the purpose of improvements of any kind, we have been told that the object in making the donations was to give enhanced value to the alternate sections of land reserved along the lines. This bill proposes what no other bill donating alternate sections of the public lands has ever done. It proposes not to require the parties to take their alternate sections along the line from the commencement of the work to the close of it, but, with the amendment which has just been adopted, it allows them to go anywhere in the seven organized Territories of the United States, and take the entire amount of two millions of acres of land.

Mr. RICHARDSON. I will say to the gentleman that I intend myself to make a motion to effect the very object he has in view, by amending another portion of the bill, immediately succeeding this. I shall move to strike out all after the word "practicable" in the sixteenth line, to the word "and" in the twenty-sixth line.

Mr. LETCHER. And to put in what?

Mr. RICHARDSON. To put in nothing. The remainder of the section will then read:

"Where unsurveyed lands shall have been selected, the President of the United States shall cause the same to be surveyed, if practicable; and as fast as selections and locations of said lands shall thus be made, the Commissioner of the General Land Office is hereby authorized and required to issue patents to said Alden and Eddy, their heirs or assigns, on application therefor: *Provided*, That in the event a railroad to the Pacific ocean shall be located on or near said line of telegraph before said patents shall be issued, the grant of land contemplated in this section shall be so located as not to interfere with the location under any grant Congress may make in aid of the construction of said railroad."

Mr. LETCHER. Then, sir, that will not do at all. I want to do exactly what these gentlemen, and my friend from Illinois amongst the number, have always maintained that it was the duty of Congress to do when donations of the public lands were made. If you say that this line of improvement will enhance the value of the land to such an extent that you will give the alternate sections to these corporators, then I want them to take their alternate sections as the work progresses. You have always made such a provision in regard to railroads, and I want the same thing done here. These gentlemen come in here—for this is nothing more nor less than a private bill—under exactly the same sort of influences as operate upon every man throughout the country. They come here for these schemes because they promise them profit. They come here asking these lands under the idea and with the full conviction that, when they get them from the Government, they will be the means of giving to them a handsome profit for the labor and time expended by them in the prosecution of this work. That is the controlling influence upon all of them; and in that view of the case, as it is an enterprise projected by themselves for profit, I want to see the rights and the interests of the Government guarded; and I want them so guarded that the Government will get an equivalent for what it is proposed that it shall give here.

[Here the hammer fell.]

Mr. RICHARDSON. I want to show this guardian of the public interests that his amendment proposes to give this company more than I am willing to let them get. We propose by the bill to limit the appropriation of land along the line in the Territories. The gentleman from Virginia [Mr. LETCHER] proposes to strike out the words "in the Territories," and to leave it how? Why, to leave the bill granting land along the line both in Territories and States.

Mr. LETCHER. If the gentleman will permit me, I will tell him that I do not mean to do any such thing. I have other amendments to propose, to follow this amendment, if the gentleman will be only patient enough to wait until I get to them. He will then see in good time whether or not I propose to do what he says.

Mr. RICHARDSON. I do not know as to that. I am only speaking now of the amendment which the gentleman has proposed.

Mr. LETCHER. I could not offer more than one at a time.

Mr. RICHARDSON. Well, when the gentleman has proposed his other propositions, then I will determine what the effect of them would be. Until then, however, he will pardon me if I say that I am ignorant as to what he may purpose to do in the future, and am not desirous to anticipate it.

I have said, Mr. Chairman, that the effect of the gentleman's amendment is to grant more land to this company than is granted by the bill, and I will show that it is so. It proposes to strike out the words "in the now existing Territories not before sold or appropriated, any quantity not more than a section." Well, how does that leave it? Why it gives to the company the right to the land within fifteen miles of the telegraph line, wherever it is constructed, from the Mississippi river to the Pacific ocean. That would be the effect of the gentleman's amendment; thus making good what I said in the outset. Sir, I am opposed to that proposition. I am not willing, in this discussion, to follow the gentleman in regard to his assertion, or rather his declaration, as to the character of these men who come here for the purpose of seeking, in their private enterprise, to plunder the Government. This Government, if it wants to use a line of telegraph ought to pay for it. If the line is to be constructed, and if it is of interest to the Government, the Government ought to pay for it. It ought not to be said, and it cannot be said, that this House of Representatives, this American Congress, composed of men of the highest intellect which the country can claim, cannot so frame a bill as that speculators will not plunder the Government under it. Sir, that is a reflection upon them, which I am not willing to make, or to hear made, without disclaiming it. I do not believe that it is so. I have not the opinion, and I trust in God I never shall have, that other gentlemen seem to entertain in regard to the legislation of Congress.

Mr. KEITT. I desire, Mr. Chairman——

The CHAIRMAN, (interrupting.) Debate is exhausted on the amendment of the gentleman from Virginia, [Mr. LETCHER.]

Mr. SKELTON. I move that the committee do now rise.

The CHAIRMAN. The gentleman from New Jersey [Mr. SKELTON] has not the floor to make that motion. The gentleman from South Carolina [Mr. KEITT] is entitled to the floor.

The question was taken on Mr. LETCHER's amendment; and it was not adopted.

Mr. GREENWOOD. Will the gentleman from South Carolina yield me the floor to propose an amendment?

Mr. KEITT. I do so.

Mr. GREENWOOD. I move to amend the bill by striking out the word "if" in the sixteenth line of the sixth section, and inserting after the word "surveyed" the words "as soon as;" and after that shall have been disposed of, I will move to strike out the residue of the section down to the word "provided."

Mr. LETCHER. That would allow the company to locate on reserved lands.

Mr. GREENWOOD. No, sir; I do not propose to strike out the provision at all; I merely propose to strike out all after the word "surveyed" in the sixteenth line, down to, and including, the word "sale" in the twenty-second line.

The CHAIRMAN. Before the question is taken on the amendment just proposed by the gentleman from Arkansas, it must first be taken on the amendment submitted by the Committee on Territories.

Mr. FARLEY. As a friend of the bill, I see no objection to the amendment proposed by the gentleman from Arkansas, if I understand it correctly. Do I understand him to propose to strike out all after the word "surveyed" in line sixteen?

Mr. GREENWOOD. Yes, sir.

Mr. FARLEY. Down to the word "sale" in line twenty-two?

Mr. GREENWOOD. Yes, sir; and to insert the words "as soon as" in lieu of the word "if." If my amendment be adopted, the section will read thus:

That upon the completion of said line of telegraph, as aforesaid, and so soon as the same shall be put in successful operation, and the free use thereof, as hereinbefore provided, tendered to the Government of the United States, there shall be issued to said Alden and Eddy, their heirs or assigns, in exchange and payment for the free and prior use of said line in perpetuity, as aforesaid, land warrants for two millions acres of land, excluding all mineral lands, which they are hereby authorized to select and locate as follows: From and after said completion, they shall have the right to select from any of the public lands along and within fifteen miles of said line of telegraph in the now existing Territories, not before sold or appropriated, any quantity, not more than a section, and in alternate sections. Where unsurveyed lands shall have been selected, the President of the United States shall cause the same to be surveyed as soon as practicable: *Provided*, That they shall not relocate on any lands which have heretofore been reserved to the United States for any purpose whatsoever, and all such lands be, and the same are hereby,

THE CONGRESSIONAL GLOBE.

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exempted from the operation of this act. And as fast as selections and locations of said lands shall thus be made, the Commissioner of the General Land Office is hereby authorized and required to issue patents to said Alden and Eddy, their heirs or assigns, on application therefor: *Provided*, That in the event a railroad to the Pacific ocean shall be located on or near said line of telegraph before said patents shall be issued, the grant of land contemplated in this section shall be so located as not to interfere with the location under any grant Congress may make in aid of the construction of said railroad.

Mr. KEITT. If compatible with my conception of the power of Congress over the public lands and over the public interests, I should cheerfully, Mr. Chairman, vote for this bill, which proposes, as I understand it, to construct a line of telegraph, two thousand miles long, between the Mississippi or Missouri river and San Francisco. What is it proposed that the Government shall give in aid of this work? It is proposed that the Government shall donate—I beg pardon, I do not like that word "donate," shall grant—alternate sections of land along the line. Not money, but land. On what ground has Congress hitherto given away alternate sections of the public lands? On the ground that the work which they gave these sections in aid of would enhance the value of the remaining sections. Now, the question arises, will this telegraphic line enhance the value of the remaining alternate sections of the public lands, and if so, how? How are the people on each side of this line to be benefited by it? Will they receive any telegraphic communications? And how and in what manner are they to be benefited? My friend from Illinois says it is to benefit the Territories and the States through which it runs; not to enhance the value of the alternate sections.

Mr. WASHBURN, of Maine, (interrupting.) I think the gentleman from South Carolina misapprehends the matter.

Mr. KEITT. I am speaking of the observation of the gentleman from Illinois. I know not how true it is. Now, what is the Government to get in exchange for this appropriation of two millions of acres? But gentlemen say you will get messages from California. Upon what subjects, I beg to know? The amount of gold in the market, and ready to be shipped? But, pray, what has the Government to do with that? and what has the Government to do with the pecuniary interests of individuals, however ramified they may be? It may be an important consideration in the market to know how much gold is to be shipped here; but what has the Government to do with it? Then this Government is to build a line of telegraph, over which no communication of any importance is to be sent—it is to build a line of telegraph for the purpose of receiving information here which is to be used by individuals in the market, and which is of no interest to the Government whatever. Granted, the practicability of the route. You are to give the public lands for no consideration whatever, to be cast like juggler's balls from one to another, not for the purpose of benefiting the whole, but for the purpose of benefiting individuals.

Mr. JONES, of Louisiana. Is an amendment now in order?

The CHAIRMAN. There is an amendment pending offered by the gentleman from Arkansas, [Mr. GREENWOOD.]

Mr. JONES. My purpose is to offer an amendment which, I think, will materially improve the bill; but I will not offer it at present.

Mr. PECK. I move that the committee rise.

The question was taken; and it was decided in the affirmative.

So the committee rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order relating to territorial business, being Senate bill (No. 60) authorizing the construction of a subterranean line of telegraph from the Mississippi or Missouri river to the Pacific ocean, but had come to no resolution thereon.

Mr. GREENWOOD. To enable us, if possible, if I can get the attention of the House for a moment, to get through with the territorial business to-morrow, I will move that when the House adjourns, it adjourn to meet at ten o'clock to-morrow.

Mr. WHEELER. I object.

On motion by Mr. LETCHER, the House then adjourned, at twenty minutes past four o'clock, till to-morrow at twelve o'clock, m.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 31, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

CORRECTING THE JOURNAL.

Mr. RICHARDSON. I rise to make a correction of the Journal. I find that the order in which I introduced a bill and resolution yesterday, and which were referred to the Committee of the Whole on the state of the Union, has been changed by the Journal. I made the motion in reference to the joint resolution concerning the pay of the secretary of the Territory of Minnesota first, and then followed the motion in reference to the act regulating the fees of certain officers in the Territories of the United States.

The SPEAKER. There being no objection, the alteration desired by the gentleman from Illinois will be made.

Mr. EDMUNDSON. I rise for the purpose of making a correction of the Journal. I am not recorded as having voted upon the French spoliation bill. I voted in the negative; and there are several gentlemen around me both, friends and opponents of the bill, who recollect that I voted in that way.

The SPEAKER. There being no objection, the proper correction will be made.

REPORT OF ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled resolutions of the following titles; which thereupon received the signature of the Speaker:

A resolution relative to the construction of laws for the allowance of additional compensation to the clerks in the Census Bureau; and

A resolution respecting the Arctic expedition commanded by passed Assistant Surgeon E. K. Kane.

EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a communication from the War Department, in compliance with the "act more effectually to provide for the necessary defense by establishing uniform militia through the United States," approved March 2, 1853, containing an abstract of the returns of the militia of the States and Territories, with their arms, accouterments, and ammunition, taken from the returns received by the Department; which was laid on the table, and ordered to be printed.

QUESTION OF PRIVILEGE.

Mr. STANTON, of Tennessee. I rise to a question of privilege—at least, I suppose it to be such a one. A few days ago an order was made by the House that the bill for the establishment of a court to adjudicate claims against the Government should be referred to the Committee on the Judiciary; where I think it ought properly to go. By some error in the Journal, it was sent to the Committee of Claims. The motion that it should go to the Committee on the Judiciary was made by the gentleman from South Carolina, [Mr. KEITT,] and an order to that effect was accordingly made.

Mr. JONES, of Pennsylvania. The bill to which the gentleman from Tennessee refers, was referred to the Committee on the Judiciary upon the motion of the gentleman from South Carolina, [Mr. KEITT.] Having understood myself that it had been before the Committee of Claims in the Senate, I immediately suggested that it be referred to the Committee of Claims in this body. It was my impression at the time, that such alteration in the Journal was made, and it was not until the bill was brought before the Committee of Claims, of which I am a member, and acted upon by that committee, with instructions to report it to the House with a recommendation that it do pass, that I was informed it had been referred to the Committee on the Judiciary.

The SPEAKER. The gentleman temporarily occupying the chair directed the Clerk, as the present incumbent of the chair is informed, to enter the bill upon the Journal as having been referred to the Committee of Claims.

Mr. LETCHER. I was occupying the chair at the time, when the suggestion was made that the bill came from the Committee of Claims in the Senate, and that it should be referred to the same committee in the House. I then remarked, let it go there, then.

Mr. JONES. I recollect that such was the case.

Mr. STANTON, of Tennessee. I merely wish to say that, upon that very day, I had sought——

Mr. RICHARDSON. I rise to a question of order. I demand the regular order of business, and insist that this matter is not a question of privilege.

The SPEAKER. The Chair so decides. The proper time for amending the Journal has passed, and if objected to, it cannot be done.

Mr. STANTON. I desire to say simply, as the other committee is ready and willing to report the bill, I have no objection. My only object was to get the matter before the House.

TERRITORIAL BUSINESS.

Mr. HAVEN. If it be in order, I move that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. RICHARDSON. I hope the gentleman will permit me to make some reports in reference to the business before the House to-day.

Mr. HAVEN. If it is necessary to make reports relating strictly to terrritorial business, I will withdraw the motion for that purpose.

Mr. RICHARDSON. That is all.

Mr. HAVEN. I withdraw the motion.

The SPEAKER. Reports are in order from any committee of the House relating to territorial business.

Mr. HOUSTON. I wish to ask an order from the House to print a substitute which I propose to offer to a bill, whenever it may come up, in reference to the tariff.

Mr. WHEELER. I object.

The SPEAKER. It can only be done by unanimous consent, and objection is made.

RIGHT OF SUFFRAGE IN THE TERRITORIES.

Mr. RICHARDSON. The Committee on Territories, to which was referred a bill to regulate and make uniform the right of suffrage in the several Territories of the United States, have directed me to make an adverse report thereon. The gentleman [Mr. ZOLLICOFFER] who introduced the bill desired to be heard upon the subject, but, I understand, is willing to yield his purpose at this time, as this is the last day allowed us for the consideration and disposition of territorial business, and will avail himself of some opportunity which may be presented hereafter, when some other bill is up, to discuss this question and explain the bill.

Mr. ZOLLICOFFER. I desired an opportunity to explain the objects of the bill upon which the gentleman from Illinois, from the Committee on Territories, has made an adverse report. But being informed that this is the only day remaining for the consideration of territorial bills, I do not propose to make that explanation now. I move that the bill be referred to the Committee of the Whole on the state of the Union, and printed.

The question was put; and the motion was agreed to.

MINNESOTA RAILROADS.

Mr. RICE offered the following resolution:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress does hereby disapprove and declare null and void the following acts, and all other acts and parts of acts, of the Legislature of the Territory of Minnesota, incorporating railroad companies, or authorizing the con-

struction of any railroad or railroads within the limits of said Territory, to wit:

1. An act to incorporate the Minnesota Western Railroad Company, approved March 3, 1853;

2. An act to incorporate the Louisiana and Minnesota Railroad Company, approved March 5, 1853;

3. An act to incorporate the St. Paul and St. Anthony Railroad Company, approved March 2, 1853;

4. An act to incorporate the Mississippi and Lake Superior Railroad Company, approved March 5, 1853; and

5. An act to incorporate the Lake Superior, Puget's Sound, and Pacific Railroad Company, approved March 5, 1853.

Which several acts, and all other acts and parts of acts heretofore passed by the Legislature of Minnesota incorporating railroad companies, or authorizing the construction of a railroad or railroads, in said Territory of Minnesota, be, and the same are hereby, disapproved and rendered null and void.

Mr. GREENWOOD. I would inquire if it is proposed to act upon that resolution now?

The SPEAKER. The Chair does not know what disposition the gentleman proposes to make of the resolution.

Mr. COBB. I raise a question of order upon the resolution.

Mr. RICE. I propose to put the resolution upon its passage immediately.

Mr. WHEELER. I object.

Mr. RICE. I do not wish to consume the time of the House upon this subject.

Mr. HENDRICKS. I wish to know if the resolution comes in only by unanimous consent, or has the gentleman the right to introduce it?

The SPEAKER. The Chair thinks, as it relates to Territories, it is in order. If not objected to, the resolution will be again read.

Mr. WHEELER. I object to its being read again.

Mr. RICE. I do not wish it to appear abroad that this House has legislated one company out of existence for the purpose of building up another. It will consume but a moment to put this resolution through, and I hope it will be done, so that it can be acted upon in the other end of the Capitol.

Mr. DAVIS, of Indiana. Is this resolution in order as territorial business?

The SPEAKER. The Chair thinks it is.

Mr. RICE. Day before yesterday, the Judiciary Committee reported two joint resolutions disapproving of certain acts of the Legislature of Minnesota, incorporating certain railroad companies. The gentleman from New York [Mr. CUTTING] will bear me witness that I wished, at the time, to have the resolutions so amended as to disapprove of all other acts of said Legislature incorporating similar companies. I deem it proper to state that the committee acted upon all acts of the kind that were brought to its notice, and I must also do the gentleman from New York the justice to say, that he promptly signified his willingness to have included the acts embraced in the resolution just read, had they been placed in his possession. Under the previous question, the resolutions were passed, which prevented me from making any explanation at the time.

It appears that the Legislature has incorporated seven railroad companies; two of the charters were disapproved of on the 29th instant, leaving five yet in existence.

I will frankly state, that it is my earnest desire that the grant made to the Territory at the last session may yet be saved, and that it may be disposed of, for the purpose of uniting the waters of the Mississippi and the St. Lawrence at their highest navigable points. I must also say that I believe the people of Minnesota are fully competent to correct whatever errors they may have heretofore committed, and regret that Congress should have deemed it necessary to interfere with our local legislation; but since such has been the case, I deem it my duty, not only for the credit of this House, but for the welfare of my constituents, that one step more should be taken, by disapproving of all railroad charters heretofore passed by our Legislature. By refusing this, the result will be to legislate one company out of, and another company into, existence; and that other not only incorporated without due consideration, but held by a company of Wall street land catchers.

By the numerous railroad companies incorporated in Minnesota, it will appear evident to this House that speculators have had their nets set, ready to catch the first fish that might swim that way; and now that you have made a beginning, I hope you will destroy all of those nets, and not leave one to be benefited by the destruction of the others; or, in other words, I hope this joint resolution will pass, for then it cannot be said that Congress destroyed one corporation for the purpose of building up another. If it is in order, I move that the joint resolution be put upon its passage.

Mr. RICHARDSON. Upon that I move the previous question.

The previous question was seconded; and the main question ordered to be now put.

Mr. CUTTING. I wish to say one word. I came in after the gentleman from Minnesota [Mr. RICE] had made his observations. I would respectfully submit to the gentleman, that the action of the Committee on the Judiciary was based upon a reference, near the close of last session, of the session laws of Minnesota, and their report was based upon what those laws presented. Now, it by no means follows, because the House was competent to form a judgment in relation to laws before it, it therefore can undertake to act upon laws which have never been submitted to it.

Mr. RICHARDSON. I call the gentleman to order.

The SPEAKER. Debate is not in order.

Mr. LETCHER. I call for the reading of the names of the parties set forth in those acts as corporators.

Mr. HAVEN. Of course, Mr. Speaker, remark is not in order, since the main question has been ordered to be now put.

Mr. WHEELER. And I object to any being made.

Mr. JONES, of Louisiana. I object to all debate on the question.

Mr. HAVEN. I rose simply for the purpose of moving that the resolution be laid upon the table. It seems to be extensive, and ought to receive examination at our hands.

Mr. KERR. Mr. Speaker, would it be in order to move that the resolution be referred to the Committee on the Judiciary?

The SPEAKER. The motion is not in order, for the reason that the call for the previous question has been seconded, and the main question has been ordered to be now put.

Mr. STANTON, of Tennessee. I rise to a question of order. I maintain that it is in order to call for the reading of the laws which we propose to disaffirm by the resolution now under consideration, so that we may know what we are disaffirming.

The SPEAKER. That would be a very legitimate cause of debate, but all debate has been cut off by the previous question. The Chair can decide nothing in order except voting.

Mr. HAVEN. Is it not in order to move that the resolution be laid upon the table?

The SPEAKER. The gentleman's motion is in order, but debate is not.

Mr. LETCHER. Is it not in order to have the names of the parties corporators read to the House?

The SPEAKER. It is not, except by unanimous consent.

Mr. DAVIS, of Indiana. I demand the yeas and nays on the motion to lay the resolution upon the table.

Mr. STANTON. I hold the bills which are proposed to be disaffirmed as part of the resolution now before the House—as part of the subject matter upon which we are acting—and that, therefore, the House is entitled to hear them read.

Mr. BENTON. That is my opinion.

The SPEAKER. The Chair does not remember that so reasonable a request as the one made by the gentleman has ever been refused by the House; but he cannot decide that the gentleman has the right, under the rule, to the reading of the bills.

Mr. JONES, of Louisiana. I have already objected to the reading of the bills. My objection is not withdrawn.

The SPEAKER. Being called on to do so, the Chair may, under express rule, put to the House the question whether bills shall or shall not be read.

Mr. HENDRICKS. As many gentlemen around me desire to know what it exactly is they are called upon to vote for, I move that the vote by which the main question was ordered to be now put be reconsidered.

The SPEAKER. The motion to lay upon the table is first in order.

Mr. HAVEN. I have no objection to withdraw my motion to lay the resolution upon the table, for the purpose of reconsidering the vote by which the main question was ordered to be put.

The question was taken; and the vote by which the main question was ordered to be put was reconsidered.

Mr. HENDRICKS. This seems to be a very important question, and I move that the resolution be referred to the Committee on the Judiciary, in order that it may be examined into and reported on.

Mr. HAVEN. I call for the previous question on that motion.

The call for the previous question received a second, and the main question was ordered to be now put.

The question was taken; and the resolution was referred to the Judiciary Committee.

TELEGRAPH TO THE PACIFIC.

Mr. RICHARDSON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. COBB. Before the question is taken on the gentleman's motion, I move to reconsider the vote by which the bill to regulate and make uniform the right of suffrage in the Territories of the United States was referred to the Committee of the Whole on the state of the Union, so that the motion may be entered upon the Journal.

The motion for reconsideration was entered.

The question was taken on Mr. RICHARDSON's motion; and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair.)

The CHAIRMAN. When the committee was last in session, it had under consideration the bill authorizing the construction of a subterranean telegraph from some point on the Mississippi or Missouri river to the Pacific ocean.

The pending amendment is that moved by the gentleman from Arkansas, [Mr. GREENWOOD,] to strike out the words, "if practicable," and insert "as soon as practicable;" so that the section will read, if amended:

Where unsurveyed lands shall have been selected, the President of the United States shall cause the same to be surveyed as soon as practicable, &c.

Mr. GREENWOOD. Mr. Chairman, I understand that a proposition is to be made by which we shall get rid of this bill at an early hour. My only object in proposing the amendment was, that if the bill was to pass, it should be perfected in some of its details. The chairman of the Committee on Territories desires to submit a substitute for the bill now under consideration, embracing only the first and seventh sections of that bill, which will merely grant the right of way. With that view, by consent of the committee, I withdraw my amendment.

There was no objection, and the amendment was withdrawn.

Mr. RICHARDSON. After consultation with the gentleman from Maine, [Mr. FARLEY,] who is my colleague on the Committee on Territories, and the gentleman who had, yesterday, the charge of this bill, and by his agreement and consent, I move the following substitute for the bill, and hope that it may be adopted:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Hiram O. Alden and James Eddy, their successors, associates, and assigns, are hereby authorized and empowered to construct, at their own expense, a line of telegraph from such point on the Mississippi or Missouri river as they may hereafter select, through the public lands belonging to the United States, over which lands the right of way, two hundred feet in width, for that purpose is hereby granted, to San Francisco, in California, in as direct a line as practicable.

SEC. 2. *And be it further enacted*, That all voluntary or intentional injuries to said line of telegraph, or to any property thereto belonging, shall be deemed, and are hereby declared, to be willful and malicious trespasses, and shall be punished as such; and all laws of the United States now in force in any Territory thereof, or which may hereafter be enacted for the better security and protection of property, and applicable to such offenses, shall be, and they hereby are, extended, for the protection of said line of telegraph, into and over all the territory belonging to, and under the jurisdiction of, the United States, through which the same may be constructed; and all legal process and proceedings for the detection and punishment of the aforesaid offenses shall be within the jurisdiction of the courts, and shall be issued and executed by the proper law officers in the *States* or organized Territories.

Mr. RICHARDSON obtained the floor.

Mr. BENTON also rose.

The CHAIRMAN. The gentleman from Illinois is entitled to the floor. Before the gentleman proceeds, however, the Chair will state that the committee was proposing to consider the bill by sections, and that, if required by any member, its consideration will be concluded by sections, before the amendment of the gentleman from Illinois is considered.

Mr. RICHARDSON. I will state to the committee that if any person objects, if it is not the unanimous consent that the amendment may be offered, I shall pursue a different course.

Mr. BENTON. I understand the substitute which has been read to dispense entirely with the two millions of acres of land. This choice, out of fifteen miles on each side of the line, for two millions of acres, I understand the member from Illinois [Mr. RICHARDSON] to say has been dispensed with by the unanimous consent of the parties who were in the bill. [Mr. B. paused. The member from Illinois was silent.] Sir, with that understanding, I wish to invoke—if it is possible for me to invoke—the serious attention of the House to the consideration of the spectacle we behold.

Yesterday these people must have two millions of acres of land, with the right to choose within fifteen miles on each side of the line, and to have the privilege of locating warrants for this land in any of the existing Territories. Yesterday we must have it fought out here until late in the afternoon, when I set the lizards upon them, and I believe the lizards drove them out. [Laughter.] Yesterday they must have two millions of acres; this morning they do not ask an acre; take the rest of the bill without them. Why, sir, you have heard the snake story—gentlemen have all heard of the snake story—but this beats even that. A man told his neighbor that he had seen five thousand snakes together. "Why," said the other, "that is preposterous, nobody ever saw five thousand snakes together." "Well, I saw five hundred." "But five hundred is a great number of snakes to be seen together." "Well, fifty." "But it will not be believed that you saw fifty snakes together." "Well, twenty-five." "But twenty-five is a very large number of snakes to be seen together." "I say I saw twenty-five, and I will not fall another snake." [Laughter.]

Now, here these parties fall two million snakes right at once. They give up the whole. Sir, is not this making a sport of legislation and of the property of the United States? Are we to allow legislation to be trifled with in this manner? Are we to have bill after bill brought in here, giving five, ten, fifteen, and twenty miles of land on each side of the line, and then falling five or ten miles, and taking what they get. But here are two millions and fifteen miles on either side of the line, and all given up, and the money part only retained—falling two millions at once! and thus cutting it down to no land, only the money in the bill. I say it is sporting with legislation, it is worse; it is an insult—sir, it is an outrage—I denounce it as an outrage. I denounce it as disreputable to the American Congress to suffer such games of brag to be played upon it.

Gentlemen seem to think it now a very innocent matter, reduced to ask the right of way two hundred feet wide; it is a great fall; but, sir, we create an interest in this line if we grant it, and against any other telegraphic line that may be proposed to be constructed, in good faith, along the line of a railroad or common road.

I propose to move an amendment to some bill, when it shall become proper, for the construction of a common road and telegraph line, and this grant, if made, will create an interest against it—a counter interest, sufficient to defeat it—defeat the only kind of line that can be protected.

[Here the hammer fell.]

Mr. BENTON. I move to lay the whole matter upon the table.

A MEMBER. That is not in order.

Mr. RICHARDSON. Mr. Chairman, I will make a motion upon which I can make some remarks, for I desire to make some. I move to strike out the enacting clause of the bill.

Mr. JONES, of Tennessee. That is not debatable.

Mr. RICHARDSON. Yes, it is debatable. Mr. Chairman, the gentleman from Missouri assumes that this is legislation for gentlemen in the bill. Sir, I spoke of a conference between the gentleman from Maine [Mr. FARLEY] and myself. He having had charge of the bill in the House, it was due to the relations existing between him and myself, that I should do so. The gentleman from Missouri, upon that statement of mine, gets himself into about the position of the boy who found himself worked up into so furious a condition that he said to his father, "Hold me, or I shall do something terrible!" "What will you do, my son?" "I will run out and pull a board off the pig pen!" [Laughter.]

Sir, there was about as much foundation for the excitement of the boy as there was for that of the gentleman from Missouri. Is there anything discreditable, Mr. Chairman, in this House of Representatives, in the Congress of the United States, to confer with gentlemen who have been your associates upon this floor, or to speak of the concurrence in the measure I propose of the gentleman who has had charge of this bill in the House? If there is, I am guilty, and condemn me.

Sir, I trust I can turn with as much pride and as much pleasure upon the past as the gentleman from Missouri. There is as little stain upon my escutcheon as there is upon his. I will compare records. I will compare anything with him. I ask no favors of him in the contest. I am his equal in everything. The gentleman has been very liberal in his denunciations. But, sir, respect for the past, as its memories cling around me—as I trust they ever will—restrains me in the contest. That should be taken into consideration in what has taken place this morning. There is something due to the past; there is something due to age, and I accord it here. I forbear, therefore, to characterize him and his remarks as I should do but for that.

Mr. BENTON. The member from Illinois says he will enter into a comparison of characters with me, and that he will claim the benefits of the comparison. Sir, I beg to be excused from the comparison, and accord to him everything he asks—all the difference he claims—but no comparison. I excuse myself from that.

Now, Mr. Chairman, before I proceeded with my remarks I paused, and asked the member from Illinois whether I had understood him aright, that he had consulted those who were interested in this bill, when the House yesterday was detained until a late hour in the effort to get two millions of acres of land for these parties, in addition to the money, and whether the same parties had not come here this morning and asked for the passage of the bill without the grant of a single acre, and with the money alone? I asked for an answer; but I received none. I took his silence for an affirmative. I now apprehend that there is a difference, for I admit no distinction, in the persons interested in the bill. He says the members in charge of the bill were those with whom he consulted.

In my mind, this is a distinction without a difference. I look upon the members from Maine as knowing the will of their constituents, and as truly representing them here. I regard these gentlemen as speaking for their constituents, and as not agreeing to this great change in this bill without their consent. For, sir, it is impossible to suppose that any person would alter the bargain, to the extent to which it is now proposed to alter it, without the consent and knowledge of those who are to be interested in the bargain. It is impossible, sir, to conceive such a thing. I look upon it as clear that these two men of Maine, who, demand two millions of acres of land, in addition to the money, to have consented to take the money pay without the land.

But, sir, I will now leave the individuals named in the bill, and come to the members who yesterday moved and supported this bill, granting two millions of acres, in addition to the money pay, to the company; who pushed the demand to the suppression and injury of other territorial business, and deprived the Territories of the benefit of the little time which was appropriated to them, and who kept us here to an unusually late hour in the evening, in resisting the two million acre bill. So, sir, I now drop the persons named in the bill, and come to the members who, yesterday, fought it out nearly as long as villains fought at common law with their cudgels—nearly till the stars appeared in the evening. I come to them, and I want them to give the reason why they wanted two millions of acres of land, in addition to the money, yesterday, and why they want no land this morning? Any of them that please can answer that inquiry. I wait the answer. (None.) If the member from Illinois [Mr. RICHARDSON] comes within the category, if he voted for the two million acre bill yesterday, and gives it up this morning, he may, *if he pleases*, answer that inquiry. I ask nothing, sir—nothing from him.

And, Mr. Chairman, although I am a little advanced in years, yet I hold that I have a right, while I am here, to defend the Treasury of the United States, and the public lands of the United States. The Treasury of the United States, and the public lands of the United States, are not a Sebastopol. They cannot stand a siege, sir. They cannot resist the allies. Had it not been for the help of the little lizards yesterday, I do not think the lands could have been saved—been saved so successfully as they have been. Sir, I repeat, our Treasury, and our public lands, are not a Sebastopol. They cannot stand sieges. They cannot resist the allies. [Laughter.] If cannonading and bombarding will not do, sapping and mining will. Old or young, sir, I have a right to defend the Treasury and the public lands of the United States. I move to lay the whole matter on the table.

[Here the hammer fell.]

The question was taken on the adoption of Mr. RICHARDSON's amendment; which was agreed to, and the bill was laid aside to, be reported to the House with the action thereon.

MILITARY ROAD IN OREGON.

House bill (No. 543) for the construction of a military road in Oregon Territory came up next in order for consideration.

The bill was read by the Clerk. It appropriates the sum of $30,000 for the construction of a military road from Astoria to Salem, in the Territory of Oregon, under the direction of the Secretary of War, pursuant to contract to be made by him.

There being no amendments to be offered, the bill was laid aside, to be reported to the House with a recommendation that it do pass.

ERECTION OF ARSENALS.

House bill (No. 670) authorizing the Secretary of War to purchase sites and contract for the erection of arsenals in Texas, New Mexico, Washington, and Oregon, was next taken up.

The bill was read. It instructs the Secretary of War to contract for the purchase of a site and the erection of an arsenal in the State of Texas; for the purchase of a site and the erection of an arsenal in the Territory of New Mexico; and for the purchase of a site and the erection of an arsenal in the Territory of Washington, or in the Territory of Oregon, as to him may be deemed the most expedient.

Mr. LETCHER. I propose the following amendment to that bill:

Strike out the words "the purchase of a site, and," in the fifth line, and the same words in the seventh line, so as to make the bill read:

That the Secretary of War be, and he is hereby, instructed to contract for the purchase of a site and the erection of an arsenal in the State of Texas; the erection of an arsenal in the Territory of New Mexico, and for the erection of an arsenal in the Territory of Washington, or in the Territory of Oregon, as to him may be deemed the most expedient.

My object in submitting that amendment, Mr. Chairman, is, that these Territories, for the most part, belong to the Government of the United States; and I cannot see the slightest necessity in the world for instructing the Secretary of War to purchase sites where we own nineteen twentieths of the whole Territory. I hope, therefore, my amendment will be adopted.

The question was taken; and the amendment was agreed to.

Mr. WHITFIELD. I move to amend the bill as follows:

After the word "Oregon," in the eighth line, insert the following words: "and for the erection of an arsenal in the Territories of Kansas and Nebraska."

I will state, Mr. Chairman, in support of this amendment, that there are, perhaps, more Indians in our Territories than in any of the other Territories of the United States, and there is as much need for arsenals in Kansas and Nebraska as in any other portion of the western country.

Mr. FAULKNER. I should be sorry, sir, to oppose any motion from the gentleman from Kansas, but I am not aware——

Mr. HAVEN, (interrupting.) I only desire to say to the gentleman from Virginia, that we, in this

part of the House, cannot hear a word he says, and yet we are very desirous to hear the reasons why we ought to authorize these arsenals to be built. If the gentleman will give us some good reasons, I will vote for them. If not, I will vote against them.

Mr. FAULKNER. The proposition now before the committee does not properly involve a discussion of the matters contained in the original bill. It is an amendment, offered by the Delegate from Kansas, to authorize the construction of arsenals in the Territories of Kansas and Nebraska. Sir, I am not apprised by the War Department, or from any other source, that arsenals are at this time required by any public necessity in Kansas or Nebraska. That military posts are required in those Territories I have no doubt; but I have not seen or heard anything to satisfy me of the necessity of establishing arsenals there, and I hope the amendment will be rejected.

Mr. WHITFIELD. As I stated before, there are, probably, more Indians in Kansas and Nebraska than in any of the other Territories of the Union. I was not aware that, before a measure could pass this House, certain men must say that it ought to pass. I am certainly under obligations to my friend from Virginia for that information. Being a new member, I was not aware of that fact.

If gentlemen will examine the geography of the country, they cannot fail to be satisfied that, if arsenals are wanted anywhere in this Union, they are needed in the Territories of Kansas and Nebraska.

Mr. GIDDINGS, of Nebraska. I should like to have the phraseology of the amendment changed so as to read "an arsenal in Kansas and one in Nebraska."

The CHAIRMAN. The gentleman from Kansas has a right to modify his amendment.

Mr. WHITFIELD. I will agree to that modification.

Mr. WHEELER. I want to know from the chairman of the Military Committee whether this recommendation comes from the War Department or from his committee?

Mr. FAULKNER. I tell the gentleman that it neither comes from the Committee on Military Affairs nor from the War Department, so far as I am advised.

Mr. WHEELER. Then I hope the amendment will be voted down.

Mr. HENN. I hope the committee will not vote it down because the Military Committee have not paid attention to this matter. It is a notorious fact that more Indian depredations have been committed in Kansas and Nebraska, between here and the Pacific ocean, than in any other part of the country. Even officers of the Army have been murdered there, and, if there is a necessity for military posts anywhere in the United States, such a necessity exists in reference to those two Territories. I hope the gentleman from Virginia will not throw cold water on the amendment, because he has not had time to investigate the subject, or because the Delegates have not been here long enough to refer the matter to him.

Mr. GREENWOOD. I would call the attention of the committee to the fact that the bill does not provide for an absolute construction of these arsenals, but that it is left to the discretion of the Secretary of War. The language is "as to him shall seem most expedient."

Mr. BRIDGES. I understand that the word "expedient" refers to the erection of an arsenal in the Territory of Washington, or in the Territory of Oregon.

Mr. GREENWOOD. And if the amendment is adopted, the word "expedient" will apply to it also.

Mr. FAULKNER. The gentleman from Arkansas is mistaken in the construction which he gives to the section. The only discretion designed to be conferred by that section is, that it authorizes the Secretary of War to locate one of these arsenals either in Oregon or in Washington. The original recommendation of the War Department applied to Oregon when Oregon and Washington constituted one Territory. The Territories have since been separated, and, by some act of legislation here, the very land upon which it was contemplated to erect one of these arsenals in Oregon, has been disposed of, and the Department will, in all probability, be driven to the necessity of erecting the arsenal in Washington.

The purpose of this bill is to require the Secretary of War to locate one arsenal in Texas, and one in New Mexico, and it leaves it optional with him to locate another either in Oregon or Washington.

Now, sir, the gentleman from Iowa [Mr. HENN] says that I ought not to oppose a proposition of this kind, which the Military Committee has not had time, or has neglected, to consider. Sir, the Committee on Military Affairs has never neglected to consider any proposition which has been referred to it.

Mr. HENN. I beg the gentleman's pardon. I did not say that the committee had neglected to consider it. I said that the Delegates had not been here long enough to have the subject referred to the committee.

Mr. FAULKNER. Why, sir, we have been in session every day for the last week or ten days, and have been inviting all those gentlemen who had business of a territorial character, to bring it to our consideration. We desired to act upon every proposition they submitted. Many were submitted and acted upon; but this was never, upon any occasion, submitted to our consideration.

Mr. HENN. The Delegates from these Territories only came here within the last six weeks. They are both new members, and they probably could not arrange all their business so as to bring it properly before the committees. Some allowance should, therefore, be made for them.

Mr. FAULKNER. A just allowance should, undoubtedly, be made for gentlemen situated as the Delegates from Kansas and Nebraska are; but I would not carry that indulgence so far as to grant all their requests, no matter how unreasonable. The amendment offered by the gentleman I regard of this character. For the last three or four years the Executive Department of the Government has been urging upon Congress the necessity of establishing arsenals in Texas, New Mexico, and on the Pacific coast. There is not, at this time, in all Texas or New Mexico, one suitable building, belonging to the Government, for the safe-keeping of arms, powder, &c. The Secretary of War has carefully considered the points where they are wanting, and he has presented strong and unanswerable arguments for their prompt establishment. Why should such a bill be encumbered with propositions to establish arsenals in Kansas and Nebraska? From what source do we acquire information that they are needed? What sort of arsenals do the gentlemen from Kansas and Nebraska want there? Certainly not arsenals of construction; and as for places for the safe-keeping and preservation of arms, I presume the buildings about Forts Leavenworth, Kearny, and Laramie will, for the present, at least, afford ample accommodation. What they want in Kansas and Nebraska are not arsenals, but military posts. And I am prepared to unite with these gentlemen in increasing the regular Army of the United States, and in placing an adequate supply of money in the hands of the Secretary of War to establish military posts at such points in these western Territories as may be deemed necessary to control the movements of hostile Indians throughout that frontier. I have been asked what are the views of the Department of War as to the propriety of increasing the number of our military posts in the northwest. I have no hesitation in saying that, if you will furnish the Secretary of War with means and men, he will increase the force now at Fort Laramie, which is wholly inadequate for the purposes of protection and defense, and that he would establish at the trading stations of Fort Pierce, Fort Union, Pembina river, and other points, a chain of military posts that would furnish the most ample protection to the emigrant settlers. But he is left without adequate means to discharge his duty to the country, and the responsibility is upon Congress. I am, therefore, for every proper means of protecting these Territories; but I am not advised that the establishment of arsenals there is among them.

Mr. HENN. I wish to ask the gentleman from Virginia one question: What kind of an arsenal he proposes to establish in New Mexico?

Mr. FAULKNER. It may be an arsenal of construction, or it may be an arsenal of depot, as the War Department shall determine.

Mr. HENN. Is it intended for an arsenal of construction?

Mr. FAULKNER. It will be in the power of the War Department to determine which the public interest most requires. I presume it is designed at present as a building for the safe-keeping of arms and munitions of war.

Mr. HENN. I ask the gentleman if it is necessary to establish an arsenal of construction there?

Mr. FAULKNER. I think that it is not at this time necessary to have an arsenal of construction in New Mexico.

Mr. HENN. Why not, then, provide for an arsenal in Kansas?

Mr. FAULKNER. There is no necessity for any arsenal, either of depot or construction in Kansas, so far as I am informed.

Mr. GREENWOOD. In my opinion, it should be left discretionary with the Secretary of War whether arsenals should be located in the Territories of Oregon, Washington, Kansas, or Nebraska.

The question was taken upon Mr. WHITFIELD's amendment; and it was rejected.

Mr. HAVEN. Inasmuch as it seems to be the inclination of the committee to sustain the original bill, I would ask them to amend it by striking out the word "instructed," in the third line, and inserting in lieu thereof the words "authorized, in case, in his opinion, the public interests require it," so that it will read:

That the Secretary of War be, and he is hereby, authorized, in case, in his opinion, the public interests require it, to contract for the purchase of a site and the erection of an arsenal in the State of Texas, &c.

Mr. FAULKNER. I do not object to that amendment.

The question was then taken on Mr. HAVEN's amendment; and it was agreed to.

Mr. HAVEN. I will ask the committee to adopt one more amendment; to add, at the end of the bill, the following:

And the authority herein conferred, may be exercised in reference to either one or more of the points herein named.

Mr. LANCASTER. I move to amend by striking out the word "or," and inserting the word "and," so that the bill will provide for the erection of an arsenal in the Territories of Washington and Oregon,

I will say, in support of this amendment, that, if there be a spot in all our dominions where an arsenal is required for the protection of its inhabitants, it is Washington Territory; and Puget's Sound in that Territory, in my opinion, is the proper place for the establishment of such an arsenal. We are separated from the Territory of Oregon by our mountains and streams, and we are surrounded by most warlike tribes of Indians. Close upon us on the north, are the British possessions, and in close proximity to us, is one of the most powerful tribes of Indians that exist upon the North American continent, who have often made descents upon our inhabitants, and driven them into fortifications. The Territorial Legislature of Washington has memorialized Congress for the establishment of an arsenal upon Puget's Sound, and I hope that the amendment which I have proposed may be adopted by this committee.

Mr. JONES, of Tennessee. I merely wish to say that, under the bill as it stands, the Secretary of War has discretion to establish an arsenal in either one of these Territories. I should think that it might be located somewhere equally near upon the borders of these two Territories, where it would sufficiently meet the wants of both.

Mr. LANE, of Oregon. The bill, in its present shape, provides for the purchase of a site and the erection of an arsenal in the Territory of Washington or Oregon. I have no doubt that the Secretary of War will do what is right in the matter, and if the arsenal ought not to be built in Oregon, let it be established in Washington. Leave it discretionary with the Secretary of War to say where the arsenal shall be established. I will further state that one arsenal is enough for both Territories. If the Secretary of War, in his wisdom, says that the arsenal should be in Washington Territory, let it be so; if in Oregon, let it be so.

Mr. FAULKNER. In this connection I will remark, that we have already established an arsenal upon the Pacific coast at Benicia; and one for Oregon and Washington Territories, I think, will be sufficient.

Mr. LANCASTER. The intelligence will be received by the inhabitants of Washington and Oregon Territories with displeasure and disap-

probation, that measures honestly presented and urged by the people of Washington Territory, should continue to meet with the opposition of the Delegate from the Territory of Oregon.

Mr. LETCHER. Mr. Chairman——

Mr. LANE. Now, I ask this committee if that is just?——

The CHAIRMAN. The gentleman from Oregon having spoken once upon this amendment, the gentleman from Virginia is recognized by the Chair.

Mr. LANE. I ask the gentleman to yield to me for a single moment.

Mr. LETCHER. I will.

Mr. LANE. I ask this committee if the charge of the Delegate from Washington is just? I have already stated that I have no objection to the location of the arsenal in Washington Territory, if the Secretary shall so decide to locate it. If he decides in favor of Washington, be it so. The bill leaves it to the Secretary of War to establish it in the one or the other, as shall seem to him best. The public service does not require that there shall be two. I ask nothing for Oregon which is not right. Let her stand alongside of her sister Territory, Washington, upon her own merits and claims; and if the Secretary of War, in his discretion, shall see fit to locate the arsenal in the Territory of Washington, I shall never complain. I ask not that it shall be placed in my Territory. I do not want it in my neighborhood. Let it be located with reference to the good of the Territories, of which the Secretary of War is a good judge. The gentleman from Washington has no ground for his charge.

Mr. LETCHER. I think we had better look to two or three things before we go on in this way. We have bills pending in Congress for supplying the country with soldiers, either volunteers or regular regiments in the Army, and it does seem to me, before we undertake to build any more arsenals, that we should ascertain whether we have soldiers enough to take care of them. It has been a general complaint all over the country that we have not men enough to fill up the regular Army, and yet we are multiplying posts and establishing, arsenals which require a portion of the Army to guard them. At the same time complaint is made that you have not men enough for the daily and regular service.

Besides, I would inquire of my colleague [Mr. FAULKNER] whether there is not a general law upon the statute-book authorizing the Secretary of War to dispose of the arsenals of the United States, and whether, at this very time, a contract is not in progress between certain parties in Rome, New York, for the sale and purchase of the arsenal at that point? If the Secretary has been invested with authority to dispose of them, why should we go on and multiply them, merely for the purpose of opening the door for further sale of Government property, at a price not one half what it cost the Government?

Again, how much is it proposed that these arsenals shall cost? I see nothing at all, in this bill, which limits the amount. The sum is unlimited. Here are four or five arsenals provided for, and they may cost, as far as this bill is concerned, twenty, fifty, or five hundred thousand dollars.

If you make them arsenals of construction, you must have a multitude of men to take care of them. You must have a competent force for that purpose. If you make them arsenals of deposit, you get rid of a part of the expense, so far as construction is concerned. Now, what is proposed to be expended upon each of these arsenals? Nothing is said upon that point, and I hold that, before the question is taken, we ought to ascertain the amount which will be necessary for their construction. I hold that, when the House undertakes to pass bills which require the expenditure of money, they should have some definite knowledge to guide them as to the amount they are about to vote away. Let us have it limited. Let us understand what it is to be. Let the whole country know, when a bill is passed, appropriating money, that it is for a given amount, and for a specific purpose.

Mr. FAULKNER. The reason why this bill has assumed its present shape, proposing to authorize the erection and construction of arsenals without any definite appropriation, has arisen from this fact: Whenever any member of the Committee on Military Affairs of this House has risen for the purpose of offering an amendment to the Army appropriation bill, asking for an appropriation for such a purpose as this, he has been at once arrested in his purpose by an objection from the chairman of the Committee of Ways and Means—and he has always been sustained by the House—that the amendment was out of order, because there was no existing law authorizing the erection of arsenals at such a particular place. Now, sir, year after year has this appropriation been asked for in the Army appropriation bill, and year after year has it been refused by this body, because there was no existing law authorizing the erection of arsenals at the points indicated.

Now, sir, it was to guard against that difficulty that, soon after the duties of the committee fell upon me, I think, last summer, I reported bills for the erection of arsenals at these points. They have been repeatedly and urgently asked for by the Government. Throughout the whole of Texas there is not a single place for the deposit of arms. So in New Mexico, and, until recently, none in California, and none in Oregon and Washington Territories.

If the gentleman from Virginia will refer to the estimates for appropriations, which are placed in the hands of every gentleman in this House, he will find the sum which it is expected will be necessary to erect these buildings, if Congress shall authorize their construction, and those sums will be provided in the general appropriation bill, if these arsenals are authorized by Congress. He will find the estimates on page 247. I will not read them, or the remarks of the War Department in support of them. The gentleman can examine them for himself. They show the necessity for the construction of these arsenals, and for the cost of each of them in Texas and New Mexico at $32,500. If the gentleman chooses, he can appropriate these sums by this bill, which will meet with my concurrence.

Mr. LETCHER. My colleague does not meet the point I presented. I asked him why the amount of expenditure was not provided for in this bill. His reply is, that he is embarrassed by the action of the chairman of the Committee of Ways and Means, and that this is merely an initiatory step, and the amount of expenditure will be contained in the general appropriation bill. But if the amount is put into this bill, the Committee of Ways and Means cannot interfere, because, if this bill appropriates the amount, it provides for exactly what is wanted, and the sum will not have to be put into the general appropriation bill.

Now, to accomplish that object, I propose to add, at the end of the bill, a second section providing that the sum of $32,500 be appropriated for the erection of each of these arsenals.

The CHAIRMAN. That amendment is not in order until the pending amendments are disposed of.

The question was then taken upon the amendment proposed by Mr. LANCASTER; and it was not agreed to.

The question recurring upon the amendment offered by Mr. HAVEN, it was put; and the amendment was agreed to.

Mr. LETCHER. I now move to amend by inserting, after the first section, the words "and that a sum not exceeding $32,500, for the erection of each of these arsenals, is hereby appropriated."

The amendment was agreed to.

The bill was then laid aside to be reported to the House with a recommendation that it do pass.

PUBLIC BUILDINGS IN OREGON.

The next bill which came up in order was House bill (No. 542) making an appropriation for completing the public buildings of Oregon Territory.

The bill was then read by the Clerk.

Mr. RICE. I move to amend the bill by adding the following as an additional section:

SEC. 3. *And be it further enacted*, That the sum of $11,500 be, and the same is hereby, appropriated to complete the territorial capitol, to build a territorial work-shop for the territorial prison in the Territory of Minnesota, in accordance with estimates made by the agent appointed by the Secretary of the Treasury; said sum to be expended under the direction of the Secretary of the Treasury.

Mr. Chairman, the only information which I have on the subject is obtained from the following communication, to which I call the attention of the committee:

TREASURY DEPARTMENT, *January* 27, 1855.

SIR: I inclose herewith extracts from a letter received from Henry F. Masterson, Esq., agent of this Department for the public buildings in Minnesota, and a copy of a letter from the warden of the prison in that Territory, both relating to the necessity of further appropriations for those buildings.

Referring to the appropriations heretofore made for those works, I have to state, that such grants were for the exclusive use and benefit of Minnesota in its territorial capacity, and were not for any purpose connected with the business of this Department, or any other branch of Government. It is, therefore, for Congress to determine whether an additional appropriation shall be made for the purposes estimated for, or whether the amount already donated to Minnesota has been sufficient.

Very respectfully, your obedient servant,

JAMES GUTHRIE,
Secretary of the Treasury.

Hon. H. M. RICE, *House of Representatives, Washington.*

ST. PAUL, MINNESOTA, *January* 2, 1855.

SIR: * * * I would also respectfully solicit your attention and favorable consideration to the necessity of a further appropriation by Congress for these buildings.

I inclose herewith a communication from the warden of the prison, in regard to the necessity of a work shop. Such a building is clearly necessary for the prison; and I think $5,500 is a reasonable estimate of its cost.

In my estimate of work for the capitol, sent you September 27th, I stated that I had not included all that was necessary to complete it, but only what I proposed applying the present appropriation to; that the basement was unfinished, and wholly unfit for use; that the windows required blinds, the brick walls painting, &c.

I now find that, owing to insufficient data, I estimated the cost of inclosing the capitol grounds with iron much too low, and that to do it as it ought to be done, will require an addition of $1,500. I also find that more repairs are necessary than I then believed. Notwithstanding the repairs made to the roof and cupola, they still leak very badly, and the building will soon be greatly injured. It cannot be stopped without great repairs, which will cost a large sum; but it will be economy to stop it at whatever cost.

Owing to the want of drainage, water stands in the basement most of the year; and its freezing will, in the end, injure the foundations of the building in a great degree, besides other evils arising from standing water.

To make up the deficiency for the fence, construct sufficient drains, finish off the basement, paint the building, put blinds on the windows, erect lightning protectors, make thorough and sufficient repairs of the roof and cupola, and set out trees in the grounds—which are wholly destitute of such ornaments—will require at least $6,000, making, with the sum estimated for the work-shop, $11,500.

* * * * * * * * * * * *

You will see that a considerable portion of this work is absolutely necessary to preserve the property; and, certainly, if Congress has gone to the expense of building the capitol for us, it will not refuse to make the previous expenditure useful for the purpose intended.

Most respectfully, your obedient servant,

HENRY F. MASTERSON, *Agent, &c.*

Hon. JAMES GUTHRIE,
Secretary of the Treasury, Washington.

TERRITORIAL PRISON,
MINNESOTA TERRITORY, *November* 28, 1854.

SIR: I wish to call your attention to the great want of a work-shop at this prison. The work shops which are now used are of wood, and entirely unfit for use during the winters of this latitude.

There is needed, and absolutely required, a work-shop where the labor of the convicts can be carried on under the eye of one or two guards, and where they can be kept at work at a less expense for fuel during the winter than is at present the case.

I have estimated the cost of a stone building, such as is needed for the immediate wants of the prison, and find the same to amount to five thousand five hundred dollars, ($5,500.) I have urged the attention of our Delegate in Congress to this matter, and trust that you will call the attention of the honorable Secretary of the Treasury to the same in season to have the necessary appropriation made at this session of Congress.

Yours, respectfully,

F. R. DELANO,
Warden Minnesota Ter. Prison.

H. F. MASTERSON, Esq., *Disbursing Agent,*
United States Treasury Department.

Mr. LETCHER. Mr. Chairman, we are appropriating year after year for the completion of these buildings, but they are never finished. During the last session the following provision was inserted in the appropriation bill:

"For finishing the capitol and territorial prison in the Territory of Minnesota, and draining and fencing the grounds of the same, $10,000; to be expended under the direction of the Secretary of the Treasury."

Now, it seems that that money has been expended, that the grounds are not inclosed, the buildings unfinished, and that they are asking $11,500 more to accomplish what we were assured, last year, $10,000 would do; and the only ground upon which it is asked, that I can see, is, since Congress has been liberal heretofore, the Territories trust it will continue to be liberal in granting these appropriations.

One of the objects of this appropriation is for the construction of a work-shop. They have, I take it, some sort of a house there at this time; and, if I understand the letters which have been

read, they have a wooden work-shop connected with the territorial prison. But that is not sufficient, and they ask Congress to make an appropriation for a more substantial one—perhaps a larger one—in order that convict labor may be brought into competition with the labor of the common laborers throughout the Territory. This thing is obnoxious in a great many places; and if they are getting along with this prison, as it now stands, through the liberality of Congress, which built it, I think they ought to be content.

And besides, Mr. Chairman, I think when this House appropriates money on estimates to accomplish a particular result, that they ought to require that that result shall be accomplished from the money appropriated. Here are estimates founded on data at the time. The House gave the amount, in accordance with the data then made; and after that money is all expended, they come back and ask, upon new data, for a sum exceeding, by $1,500, the whole amount asked for a year ago to accomplish the very result which they now have in view. In addition to all this, we have seen here, of late years, as these Territories are multiplying, that the expenses of the territorial governments are running up to a monstrous extent—far exceeding the cost of territorial governments in the early and more economical age of the Republic.

There ought to be, in my view, some stop to this thing. When these Territories have been accommodated to such an extent as exhibited, I think Congress ought to stop, and allow them to do something for themselves. It seems to be expected now by them that Congress shall bear all their expenses in the erection of their public buildings, and contribute everything that is necessary to get them into full operation. Every session these Territories come in here for appropriations, for the construction of capitols, for the construction of prisons and work-shops, and for various other items, until the whole foots up to a monstrous amount for each of the Territories.

I have not had the time to collect the whole of these expenditures in one amount, and compare it with the amount expended for like purposes in former times, but I think that if you will compare the cost of the Territories for the last five or ten years with a like period of time anterior to that period, you will find that the cost now exceeds, by three-fold, the cost of the Territories in the better and purer days of the Government.

Mr. RICE. The gentleman from Virginia is mistaken in one or two points. The appropriation at the last session of Congress was not based upon any estimates from any Department or proper authority. These buildings have heretofore been erected under the charge of the Governor and Legislature of the Territory. My attention was called to the fact that they had become very much injured from their having remained for some time in their incomplete condition, and I called upon the Department and upon the Committee of Ways and Means for aid, but I could get no recommendations and no estimates. I then, at a venture, asked that $10,000 should be appropriated. Congress appropriated that amount. But to provide certainly that the money should be expended judiciously, I drew up the amendment so as to have it expended under the direction of the Secretary of the Treasury. That officer appointed an agent to superintend the work—a competent man. He has discharged his duty satisfactorily to the Department. He has expended the money; but owing to the great damage which the buildings have sustained in consequence of the very imperfect manner in which they had been constructed, that sum was found to be insufficient.

And now, sir, in respect to the amount of money which has been expended by the General Government for the benefit of the Territory of Minnesota, I will say, that the General Government annually expends $130,000, in order to help pay the postage in the State of Virginia, while Minnesota has paid something over and above her postal expenses. And besides this, Minnesota pays annually thousands and thousands of dollars into the Treasury, by the sale of her public lands. But, sir, if it is the wish of Congress that the Legislature, in that hyperborean region, should hold its sessions in the open air; if they wish that the prisoners in that region should be compelled to work in the open air, they can so provide.

Mr. WASHBURNE, of Illinois, obtained the floor.

The CHAIRMAN. The Chair desires to call the attention of the gentleman from Ohio, [Mr. TAYLOR,] and the gentleman from Oregon, [Mr. LANE,] to the first and second sections of the bill under consideration, in which, in the apprehension of the Chair, there must be a clerical error. The bill makes an appropriation of $67,000, and provides that $40,000 shall be expended in one manner, and $37,000 in another; making the entire appropriation $77,000. The Chair thinks there is a clerical error, and that it should be corrected.

Mr. WASHBURNE. That has nothing to do with the matter immediately before the committee.

The CHAIRMAN. It has not; but the Chair desires that the error may be corrected, and that the bill may be properly before the committee.

Mr. TAYLOR, of Ohio. It is a clerical error, and should be $27,000 instead of $37,000.

The CHAIRMAN. The error will be corrected.

Mr. WASHBURNE. I think the committee will have no difficulty in relation to the amendment brought forward by the gentleman from Minnesota when they come to understand it. I am somewhat familiar with this matter. I recollect what took place the last session. When the territorial business was under consideration in the House, the gentleman from Minnesota stated that these buildings were in an unfinished and incomplete condition, and that an appropriation was necessary to complete them. I think he read a letter from the Governor of the Territory upon the subject. In the absence of all estimates in regard to the matter, he moved that $10,000 be appropriated for the purpose of completing the capitol and inclosing the grounds. The amendment was agreed to, and the bill became a law. The same bill provided that the appropriation should be expended under the direction of the Secretary of the Treasury.

In accordance with the provisions of the act, the Secretary of the Treasury appointed an agent to disburse the money, who saw that the money was properly applied; but he found that the amount was not sufficient to complete the building and fence the grounds. This agent now comes here and tells us, in a letter which was read at the Clerk's desk, that a further appropriation will be necessary to accomplish the purpose for which the original appropriation was intended. The gentleman from Minnesota informs us, that, in consequence of the manner in which the building was constructed, from the severe frosts which occur in that region, the water which had collected upon the roof had frozen, and so seriously injured the building that it took a very considerable sum to repair the damages thus occasioned. This disbursing agent of the Secretary of the Treasury, who has had this whole matter in charge, and who is the proper person to look to for correct information in these matters, now tells us that these additional sums are necessary to carry out what appeared to be the intention of the last Congress.

Then there is another item to which the gentleman from Virginia [Mr. LETCHER] has referred, and to which I now desire to call the attention of the committee—I mean the item for a work-shop in the territorial prison. The present work-shop is a mere shanty, and is totally unfit for any human being to live in in the winter time in those hyperborean regions, which the Delegate from Minnesota has so properly characterized them.

Now, sir, these buildings are built by the Government for the use of the people, and it is right and proper that they should be put in a proper condition, so that they may be preserved; and this has always been done in other Territories. It is simply a question of completing and preserving the public buildings of the Territory.

Something has also been said in regard to the expenses of these Territories. Now, I call the attention of the committee to the fact that Minnesota is the largest, most beautiful, and, in many respects, the best Territory in the United States. And I ask, gentlemen, also, to look at the expenses incurred for that Territory, compared with the expenses of most of the other Territories. There has hardly been a dollar expended by the Government there to put down Indian hostilities. We have never had estimates coming in here of hundreds of thousands of dollars to cover the expenses of Indian wars in that Territory, as has been the case in reference to nearly all the other Territories.

And allow me to say, still further, that I do not believe this niggardly economy in regard to the territorial domain of the United States, should be applied to the Territory of Minnesota. The land in that Territory nearly all belongs to the United States, and the hardy pioneers there are now paying their last dollar into your Treasury here, to secure themselves a home. The amount of money you are there every week receiving from the sale of your public lands, amounts to hundreds of thousands of dollars annually. In a case of this kind, we should pursue a liberal and enlightened policy, and enact liberal and proper laws. I hope the amendment will be adopted.

Mr. SMITH, of Virginia. The fashion used to be, when a Territory was formed, to incur the expense of putting up a plain and substantial house, in which the little business of the Territory should be performed. But that fashion is disappearing. These rich Territories, such as Minnesota, are not satisfied with such claims upon the public Treasury; but they want to get a capitol built, for the service of the future State, at the public charge. That is the new policy. Hence it is that magnificent buildings are projected and heavy appropriations asked for out of the public Treasury of the Union.

I do not wish to occupy the time of the committee, but there is another view of this subject. It is not good policy to terminate a job. It is better to come here, year after year, asking for additional appropriations. It reminds me of an anecdote I once heard: Once upon a time there was, as there is now, a shop in my native village, and during the winter season most of the hands were dismissed. Well, when one of them returned in the spring, meeting with an old acquaintance, who had been retained during the winter, he asked him what he was at work on. "Still upon that body," was the reply. "Not painting upon that same body yet?" "Why," was the answer, "do you think I am such a silly fellow as to work myself out of a job!" And so it is with these gentlemen in the Territories—they will not work themselves out of a job. It is good policy for them, to be sure, but the question is, whether it is good policy for the Treasury of the United States.

The question was taken on Mr. RICE's amendment; and it was adopted.

No further amendment being proposed, the bill was then laid aside, to be reported to the House with a recommendation that it do pass.

LEGISLATURE OF UTAH.

The next business in order was joint resolution (No. 46) authorizing the Legislative Assembly of Utah to continue their session for a term not exceeding sixty days, instead of forty days, as heretofore provided.

The Clerk read the resolution *in extenso*.

No amendment being proposed to the joint resolution, it was laid aside, to be reported to the House.

MILITARY ROADS IN MINNESOTA.

The next bill on the Calendar was House bill (No. 680) making appropriation for improving certain military roads in the Territory of Minnesota.

The bill having been read *in extenso*, and no amendment being proposed to it, was laid aside to be reported to the House.

PUBLIC BUILDINGS IN NEBRASKA.

The bill next on the Calendar was House bill (No. 681) to provide for the erection of public buildings in the Territory of Nebraska.

The bill appropriates $20,000 for the construction of public buildings in the Territory of Nebraska, to be expended under the direction of the Governor of said Territory, provided that the money shall not be expended until the Legislature shall have fixed by law the permanent seat of government.

Mr. RICHARDSON. There is an error in that bill; the amount ought to be $25,000. I move to add $5,000.

Mr. HENN. I wish to ask the chairman of the Committee on Territories if the sum of $25,000 was not appropriated last session for the construction of buildings in the Territory of Kansas?

Mr. RICHARDSON. Twenty-five thousand dollars was appropriated for each of these Territories, as I understand it.

Mr. HENN. I do not so understand it. Twenty-five thousand dollars was appropriated for Kansas, and nothing at all for Nebraska.

Mr. RICHARDSON. Then the bill should be amended so as to make the sum $50,000.

Mr. GIDDINGS, of Nebraska. I was going to remark that no appropriation has yet been made for Nebraska for this purpose. I move, therefore, to strike out "$25,000," and insert "$50,000" in lieu thereof. That will place us upon an equality with our sister Territory.

I will make the further remark, that the expense of building will be greater in Nebraska than it will be in Kansas, for the reason that we are further from the market, and have to pay more for the transportation of our material.

Mr. RICHARDSON. We cannot depart from the rule laid down of appropriating this amount for the Territories. I think, however, that the amendment of the gentleman from Nebraska ought to prevail.

Mr. HOUSTON. If the gentleman from Illinois desires to restrict the expenditure of this appropriation he had better extend the restriction, so that it will embrace the $25,000 appropriated at the last session.

Mr. RICHARDSON. Nothing was appropriated for this Territory at the last session.

Mr. HOUSTON. Which Territory is it?

Mr. RICHARDSON. Nebraska.

Mr. HOUSTON. I thought the bill applied to both of them.

The question now being upon the amendment proposed by Mr. GIDDINGS,

Mr. HENN demanded tellers.

Tellers were ordered; and Messrs. WHEELER and EDMUNDSON were appointed.

The committee was divided; and the tellers reported—ayes 79, noes 41.

So the amendment was agreed to.

The bill was then laid aside to be reported to the House with a recommendation that it do pass.

PUBLIC BUILDINGS IN KANSAS.

House bill (No. 605) to provide for the erection of public buildings in the Territory of Kansas was then taken up.

Mr. RICHARDSON. I move to amend the bill, so as to make the proviso as to the expenditure of the money applicable to the appropriation of last session, so as that neither appropriation can be expended till the Legislature of the Territory of Kansas shall have fixed the seat of government.

Mr. LETCHER. I want to add a further amendment in the way of a provision, by adding the words "or until the title is secured to the United States."

Mr. RICHARDSON. I accept the proposition of the gentleman from Virginia.

The bill, as amended, reads:

That the sum of $25,000 be, and the same hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, for the continuation and erection of public buildings for the use of the Legislature of the Territory of Kansas, to be expended under the direction of the Governor of said Territory: *Provided*, Said money, or any part thereof, or any portion of the money heretofore appropriated for that purpose, shall not be expended until the Legislature of said Territory shall have fixed, by law, the permanent seat of government, or until the title to such site shall have been secured to the United States.

The question was taken; and the amendment was adopted.

The bill was then laid aside to be reported to the House with a recommendation that it do pass.

Mr. HENN. I understand from the gentleman from Illinois that he has accepted the amendment of the gentleman from Virginia.

Mr. RICHARDSON, (interrupting.) In respect to the bill just passed by the committee, did the gentleman from Virginia mean that the title should be secured to the General Government or to the government of the Territory?

Mr. LETCHER. To the General Government, certainly.

Mr. RICHARDSON. Then I entirely misapprehended the proposition.

Mr. LETCHER. The title to most of the land belongs to the General Government now, and I want this site to be located on the Government lands, or, in the event of its being located on the Indian lands, then I want the Indian title to be extinguished, and the title secured to the United States.

Mr. RICHARDSON. I do not wish now to consume time, but the title to the property ought to belong to the territorial government.

Mr. LETCHER. Why?

Mr. RICHARDSON. This is a donation made to the Territory for the purpose of erecting public buildings for the use of the government of the Territory, not for the use of the General Government. And when the Territory becomes a State the building will belong to the State. That has been the practice of the Government from its foundation to this moment.

Mr. LETCHER. The General Government owns the Territory. The Territory is nothing but the child of the United States Government; and the expenditure by the United States Government for this child bears exactly the same relation which the expenditure of the gentleman from Illinois would bear to his child. The Government owns the Territory now; when it becomes a State, this building, having been erected by the Government, goes, of course, to the State.

Mr. RICHARDSON. If that is the manner in which my friend from Virginia intends to deal with his children, it is one which I myself cannot commend. I cannot reconcile to myself the propriety of giving it when a child that which I take away from it as a man.

Mr. LETCHER. The gentleman does not understand me at all.

Mr. RICHARDSON. I do not think the gentleman understands himself.

Mr. LETCHER. Certainly, I do; and if the gentleman from Illinois is inclined to understand, I will make him do so. I said that the Territory bore to the General Government precisely the same relation which the minor boy bears to his father, who enjoys, when of age, the estate given to him when a minor; and so, when the Territory becomes a State, this property goes to it.

Mr. RICHARDSON. Do I understand the gentleman from Virginia to assume, as a legal proposition, that a child cannot hold an estate?

Mr. LETCHER. No; I do not assume that.

Mr. BRECKINRIDGE. I object to this sort of legal discussion. [Laughter.]

Mr. LETCHER. But I assume this: that the father regulates expenditures for the benefit of the child.

Mr. RICHARDSON. We will not dispute about that.

Mr. LETCHER. And that the father is very apt to hold the title to an estate himself until the child is old enough to take charge of it.

Mr. WHITFIELD. I hope my friend from Virginia will withdraw his amendment.

The CHAIRMAN. The Chair announces that the amendment of the gentleman from Virginia is before the committee, inasmuch as the gentleman from Illinois appears to have accepted it, through a misunderstanding.

Mr. LETCHER. As I understand it, the amendment has been adopted.

The CHAIRMAN. It is true; the vote has been taken upon it.

Mr. RICHARDSON. When we get into the House I shall endeavor to remedy it.

Mr. WHITFIELD. I ask my friend from Virginia to withdraw his amendment.

The CHAIRMAN. The Chair thinks it is too late to discuss the amendment, as it has been already adopted, and the Chair has announced that the bill was laid aside to be reported to the House with a recommendation that it do pass.

Mr. HAVEN. I wish to know whether the bill appropriates twenty or twenty-five thousand dollars. I understood the gentleman from Illinois [Mr. RICHARDSON] as offering an amendment to insert "five" after the word "twenty," so as to make it twenty-five thousand dollars.

The CHAIRMAN. The bill reads $20,000.

Mr. BRIDGES. I wish to ask the chairman of the committee who reported the bill, whether the sum of $25,000, appropriated at the last session, is to be expended by the Governor of Kansas, and whether he has not commenced expending the money, or entered into a contract for that purpose?

Mr. WHITFIELD. I will state that no location has yet been made of a seat of government for Kansas, and not one dollar of money has been expended for that purpose.

Mr. BRIDGES. Does the bill give the Governor the power of selecting a site?

Mr. WHITFIELD. It does, but an amendment was offered by the Committee on Territories, in regard to this matter, which will relieve the Governor of a very unpleasant duty.

Mr. BRIDGES. I wish to know whether the Governor has made a location?

Mr. WHITFIELD. He has not.

Mr. RICHARDSON. I wish to state——

The CHAIRMAN. Further debate is not in order, the bill having been laid aside to be reported to the House.

MILITARY RESERVE AT THE ST. PETER'S.

The CHAIRMAN. The business next in order is House bill (No. 688) to amend the act approved 26th August, 1852, entitled "An act to reduce and define the boundaries of the military reserve at St. Peter's river, in the Territory of Minnesota, and for other purposes."

Mr. EASTMAN. I would like to hear the chairman of the Committee on Public Lands give the history of this bill, and explain the principles upon which it is based, as undoubtedly he can, especially the first section. As to the second section, I shall move to strike it out.

Mr. DISNEY. In answer to the gentleman from Wisconsin, I will ask the Clerk to read the following papers, which give a history of the whole matter. In the first place, I will ask the Clerk to read a letter from Mr. Wilson, the Commissioner of the Land Office.

The Clerk read as follows:

GENERAL LAND OFFICE, *December* 13, 1854.

SIR: The joint resolution in relation to the lands within the former military reserve, at Fort Snelling, referred to by you, is herewith returned; and, in relation thereto, I have the honor to suggest that it be amended so as to embrace a class of cases that I understand exists in the Territory of Minnesota, where parties have settled on unsurveyed lands, laid off town sites thereon and sold lots, and the county sites have been located in those towns, under acts of the Territorial Legislature.

I also suggest that provision be made in it for the case of the Rev. Mr. Gear, who had an improvement made within the reserve for a home in his declining years. In several communications to this office, Mr. Gear is stated to be a most worthy and exemplary minister of the Gospel, who had faithfully discharged the duties of his office, and won the confidence and respect of the whole community. An attempt was made to wrong him of the land, but such were considered the merits of his case, that instructions were sent to land officers to withhold from the public sale, the land claimed by him, till the action of Congress could be had in the matter.

Much has been said in relation to extending the preemption privilege to settlers within the former Fort Snelling reserve. The chief objections are—

1. The value of the lands.

2. That two or three individuals designated, will be specially benefited thereby.

In relation to the first of these I would state, that the improvements of the settlers have made the lands valuable, as without them they would be worth no more than the mass of the public domain of like character; and it would be a strange policy, and wholly inconsistent with the uniform policy of our Government to speculate on the labor, toil, and improvements of the actual settler. Every preemption law is a flat contradiction of such a measure.

In relation to the second, it is evident that all laws of this character benefit some more than others; and surely there could be no weaker argument used than that the many should be wronged, to prevent the benefit of the few. I know but one of the gentlemen referred to, and have no wish to advance his interests over those of any other person. Principle alone should govern in this case, and the broad principle is, that laws should have general and uniform bearing, and the good of the masses consulted, whether the few should be specially benefited or injured. This is evidently the view taken of this case by the Legislature of the Territory, whose memorial to that effect is with the papers.

I see among the papers a printed card, the object of which is evident on the face; but as it is not signed, and no one seems willing to endorse its sentiments, it is, of course, entitled to no consideration.

Inclosed I send you a draft of a substitute proposed for the original bill, containing the provisions here alluded to.

Very respectfully, your obedient servant,

JOHN WILSON, *Commissioner.*

To Hon. D. T. DISNEY, *House of Representatives.*

Memorial to Congress relative to preëmption rights to settlers on lands recently embraced in the military reserve of Fort Snelling.

To the Honorable Senate and House of Representatives of the United States in Congress assembled:

This memorial of the Legislative Assembly of the Territory of Minnesota respectfully showeth: That on the lands formerly embraced in the military reservation at Fort Snelling, in this Territory, and now soon to be offered at public sale to the highest bidder, by provisions of the late Congress reducing the limits of said reservation, many persons have made settlements and improvements, not for any purposes of speculation, but in good faith, as actual settlers seeking to make homes for themselves and their families, which homes and improvements constitute their entire worldly possessions. That by offering lands so settled to the highest bidder, this meritorious class is exposed to the merciless cupidity of avaricious speculators; that this class, composed of those who are the pioneers of new countries, making the wilderness to blossom like the rose, and creating demand for the public domain, deserves from the General Government the same protection granted by preemption laws to settlers on other public lands. We therefore, your memorialists, respectfully pray you so to amend

your act above mentioned, as to secure to those who have made settlements in good faith, and reside upon these lands, the right to enter, prior to the public sale, lands to cover their improvements at the minimum price of one dollar and twenty-five cents per acre.

N. C. D. TAYLOR,
Speaker House of Representatives.
S. B. OLMSTEAD,
President of the Council.

Approved, February 2, 1854.
W. A. GORMAN.

SECRETARY'S OFFICE, ST. PAUL, *April* 4, 1854.
I hereby certify the foregoing to be a correct copy of the original memorial on file in this office.

J. TRAVIS ROSSER,
Secretary of Minnesota Territory.

Mr. DISNEY. Those members who have paid any attention to the bill and the papers which have just been read at the Clerk's desk, will see that no argument is needed on my part. The Commissioner of the General Land Office has given the reasons for the passage of his bill. It provides that the lands in this reserve shall be disposed of as public lands are disposed of under the general land law regulating their disposal and sale. There is nothing else in it, save the solitary provision in relation to the individual designated in the second section of the bill, allowing him the preëmption right to the tract indicated in that section. I repeat there is nothing in the bill but the subjecting the land in the military reserve, to the general land law, now in force, providing for the sale and disposal of the public lands.

Mr. EASTMAN. Other gentlemen may be satisfied of the correctness of this bill, but I am not. In reference to preëmption rights allowed by this Government, I think the whole system of preëmption allowed upon lands reserved by the Government, as in the present case, is wrong. There was a large reserve, which settlers generally could not settle upon, with any expectation of being allowed to retain it, as long as it remained so. Large settlements were made in that immediate vicinity before the reserve was taken off by the Government. After the reserve was set off, there were certain men, influential, perhaps,—I do not know who,—who, by the strong arm of money, went upon the land and made preemption rights, either by themselves or by men employed for that purpose. And the poor men, those who had but little money, and but few friends, were driven away, and prevented from going there, and entering into a fair and equal competition for those lands. It seems to me that to extend the preëmption law to such men as those I first mentioned, is, to say the least, to set a bad precedent.

The only fair way of disposing of public lands of this character, is to put them up at public auction, and let those have them who will pay the highest price in open and fair competition. How came these improvements there, and how came these men who claim preëmption rights upon them? The law did not authorize the improvements to be made, or the men to settle upon the lands. To use the ordinary term applied to them, if they "squatted" upon the lands, they must be content to take the consequences of that act.

It seems to me that the only fair course the Government can pursue, is to offer those lands for sale at public auction, and thereby allow the whole public to compete for them. Then, if the land is worth ten dollars an acre, it will command that sum, and if it is worth only $1 25 an acre, it will only sell for that amount. If it is worth a hundred or five hundred dollars an acre, as some of it is, the Government of the United States will be no poorer in consequence of offering it at public auction.

A word in relation to this second section. I know nothing about this Rev. E. G. Gear, except that he was a chaplain to the Army, and that he made his settlement upon a portion of this reservation, while he was chaplain to the Army, and as such receiving the pay and emoluments pertaining to that position. Now this was a Government reserve, and I ask what right had this man, any more than any other poor man, to go and make improvements upon it. All other men who attempted to enter upon this reserve, at another time, were driven off. But here was a man, in the employment of the Government, receiving the pay and emoluments of his office, who was permitted to locate and make improvements upon a part of this reserve, and now he asks you to protect him by allowing him to enter his improvements at $1 25 an acre.

This reserve is near Fort Snelling, and is very valuable. If it should be offered for sale at public auction it would command a large price. It may be said, in answer, that, if you do not pass this bill as it is, giving him that right, the poor man will be deprived of his improvements. If he went on to the land in violation of law, and had no right to make the improvements, he must take the consequences of his acts, as other people are obliged to do, who are placed in similar circumstances. It seems to me this bill is all wrong, and ought not to pass.

Mr. WASHBURNE, of Illinois. I know very little about this bill now under consideration, having never seen it until it was laid upon my table this morning. It seems, however, to be a bill unanimously reported by the Committee on Public Lands, and appears reasonable and just in its provisions. But I see that the second section provides for reserving the preëmption right of the Rev. Mr. Gear, to which my friend from Wisconsin [Mr. EASTMAN] objects.

Now, I wish to say a word to the committee in regard to this second section, and the individual mentioned in it. The Rev. Mr. Gear has been a chaplain at Fort Snelling, "the time whereof the memory of man runneth not to the contrary." He is a man eminent for his virtues and piety. He went there at a very early day, and has been ever since upon that frontier, discharging every duty imposed upon him by the obligations of his sacred office. By the consent, as I understand, of the officers of the Government, and of the Government itself, he was permitted to take up a little patch of land, upon which he has long resided, and has cultivated from that day to this. All that is asked on his behalf is, that he may have the benefit of the preëmption principle, recognized from the earliest period of the Government.

Mr. WHEELER. How much land is there?

Mr. RICE. One hundred and sixty acres.

Mr. WASHBURNE. It is only just we should allow this man the right we allow to every other man by our preëmption laws—giving him the benefit of his own labor and improvements. As I understand the objection made by the gentleman from Wisconsin, [Mr. EASTMAN,] it is that he had no right upon that land. He had a right there, because he went upon it by the consent of the Government, and remained there by the consent of the Government from the time he entered upon it down to this time. If he is not protected by this bill—and he has had possession some twenty years, as I learn—the consequence will be that speculators will be permitted to come in and receive the benefits of this man's improvements. I trust the committee will not sanction such a proceeding, but will pass this second section just as it is, and protect this excellent man, who is so worthy the protection of Congress.

Mr. HENN. I would ask the gentleman from Illinois whether Mr. Gear has not done more service for the Government, in preventing Indian hostilities than the land is worth ten times over?

Mr. WASHBURNE. Yes, sir. Everybody who knows that gentleman will fully attest the valuable service which he has rendered the Government upon the frontier. I mentioned this morning, in debate, the fact that Minnesota had not, like most of the other Territories, been devastated by Indian wars, which had cost the Government hundreds and thousands of dollars. This is owing, I think, in a great measure, to the character of the people of that Territory. The influence of men of the high character of Mr. Gear has contributed to insure us peace among all those roving Indian tribes, and saved the Government vast sums of money.

Mr. RICE. Mr. Chairman, I have been greatly surprised at the remarks of the gentleman—I mean the member from Wisconsin, [Mr. EASTMAN.] He, a western man, asks by what right the people went upon this land? They went upon it with the same right that settlers have gone upon all other United States lands. All the lands in our other Territories have been settled in precisely the same manner.

This military reservation of Fort Snelling was a very large one, and I shall now proceed to explain the reasons for its being so large. I went there when there was not a white family within three hundred miles of the fort, outside of it. Its military reservation was large, because the garrison required a great deal of hay and fire-wood. The line was run so as to embrace land from which these essential articles could be supplied. A few years ago the extent of the reservation was diminished, the wood and hay having been exhausted on a portion of it. What was cut off from the reservation was settled on under the general preemption law. In 1852, for a similar reason, the reservation was further reduced. Notwithstanding these reductions, the reservation now covers an extent of nine miles in circumference. Settlers are not allowed to go upon the present reservation.

By reference to the act of 1852, however, I am of the opinion that a fair construction would be that it ought to be subject to the preëmption laws. That construction has been given to the act by some of the highest officers of the Government, and under that construction settlers have gone upon it. They have cultivated the land upon which they settled, and made improvements upon it. In my hand I hold a list of the men, women and children, upon this reservation, exclusive of those upon town sites. There are five hundred of them; and their names are put to a petition, which gentlemen may be assured, by looking at it, is not penned by the nimble hands of speculators. Here, also, is an accurate list of the improvements upon the reservation. I shall not call it a military reservation, for it is not a military reservation. The military reservation proper still stands; this bill does not affect it. The improvements are valued at $1,246,000.

Under these circumstances, Mr. Chairman, it cannot be wondered at that I am surprised any western man would rise here, and ask this body to allow speculators to put in sealed bids against these hardy pioneers—in fact to allow the settlers to be turned out of house and home and deprived of their improvements. This surely is not the treatment which this Government should give these men whom the goddess of liberty sent into the great West to enlarge the area of freedom. When gentlemen want to kill measures like this they raise the cry of "Speculators!" "Speculators!" Speculators is always the cry. This cry, however, will not deter us from setting the facts of the case before the committee, relying on it for the granting of what is justly due to all our citizens. There is a very valuable point upon this reservation. It is occupied by some fifteen hundred men, and in the bill there is a clause to extend so much of the act of 1844 as regulates the sale of town sites. This does not look like taking the land from the settlers. On the contrary, the provision is for the purpose of giving each settler his own little piece of ground, whether it embraces sixty feet, or one hundred and fifty feet. This, then, refutes the argument about speculators.

There is another consideration: The people of that far north—and I am proud to have it in my power to say so—have erected the first bridge across the Mississippi river. It is one of the most magnificent wire suspension bridges in the country; and we give its owners, under this bill, the one hundred feet wide of the reservation upon which its western end rests. The bill also gives the builders of churches, school-houses, and colleges upon the reservations their improvements and the land upon which they are constructed.

One word before I take my seat in reference to the Rev. Mr. Gear. I have known him long and well, and I have only known him to respect and admire his many virtues. He has been at Fort Snelling for twenty years; is now aged and crippled, and has a large family depending upon him for support. His salary was $800 the year. The officer in command of the fort gave him permission to cultivate lands, which, at the time, the member from Wisconsin would not have bought at fifty cents the acre. It was given to him as a farm and garden, and to it he has devoted his extra time and means. When the squatters came, when the settlement of the reservation commenced, settlers—I do not like to use the word——

Mr. BENTON. Use it, sir! Use it.

Mr. RICE. Well, then—scoundrels—took his improvements from him. Why did they do so? Because, sir, they knew that his age and infirmities prevented him from making resistance. They knew full well that his religion precluded him from asserting his rights.

In conclusion, I may say, without fear of successful contradiction, that there was never a more just proposition presented for the consideration of this body. These men do not ask for a grant

of the land. No, sir; they are willing to pay for it. I opposed a similar bill at the last session, because it allowed one or two men to take these town sites all to themselves. They are denied exclusive privileges by this bill. The land goes in lots to those who have settled upon it, never mind who they may be. I trust the bill may be passed.

Mr. WHEELER. I am somewhat surprised, Mr. Chairman, that the passage of this bill is asked because this man is a preacher. He was sent out to that country to preach peace, and he was paid for going. Because he has done what he agreed to do we are now to give him extra emolument.

Mr. RICE. Nothing is asked for him but that he shall be allowed to pay for the land he has improved.

Mr. WHEELER. According to the gentleman's own statement he has been violating the law for twenty years.

Mr. RICE. No, sir. He went upon the land, which it is proposed we shall allow him to pay for, by permission of the War Department.

Mr. WHEELER. If permission was granted, it was without any legal right on the part of the War Department. The gentleman does not gain anything in either view of the case.

This preacher has put up, according to the statements which have been made, some paltry houses upon this land; but he does not ask for the improvements. No, sir, he asks and desires to get the one hundred and sixty acres of land.

Mr. WASHBURNE. He asks only what every settler asks, and has been granted.

Mr. WHEELER. The gentleman's remark does not apply to military reservations. I do not like either to oppose or vote for this bill, on the ground simply of this man being a clergyman. But appeal is made that he is aged and decrepid, and has depending upon him for support a great many children. Now, there are many men in the country similarly circumstanced, who would like to be helped in just the same manner. Why should we discriminate? If this man has served his country long and well, put him upon your pension roll. Without detaining the committee further, I shall simply say that I shall vote against the bill.

Mr. RICHARDSON. Mr. Chairman, there is a single view of this subject which, it strikes me, must dispose of all the objections which have been made. When settlers go upon lands to which the Indian title has not been extinguished, or which have not been surveyed, and having endured the hardships of the wilderness, make improvements which have the effect to hasten the settlement of the country, is it to be urged as an objection to these men getting a title to their lands that they were trespassers upon the public lands? Has that been the policy of the Government? It has not been the policy of the Government in the past. It has been your policy to extend the protecting arm of the Government over the first settlers and explorers of your country. Sir, it is a sound policy. It is one which has borne your flag to where it is now floating upon the other side of the continent. It is one which, if it had not been extended to your early settlers, by giving them the right of preëmption, by giving them the right to enter their home and to purchase the lands upon which they have made improvements, if you had not protected these "trespassers," if you choose to call them by that name, your public lands would not have been settled to near the extent they are now settled, nor would your country have been near as prosperous as it now is.

Sir, do you tell me that it is reasonable, that it is right, that it is just, that it is proper, that when this man has gone into the wilderness, felled the savage forest, and made his home valuable, that you should permit his land to be put up at auction, and bid upon by the man who has remained in the bosom of society, and who has amassed the wealth that will enable him to outbid the poor settler? If the past policy of the Government has been worth anything, it has been for the protection of those settlers—those trespassers, if you please—from coming into competition, when the lands come into market, with speculators.

Mr. HENDRICKS. I desire to ask the gentleman a question in relation to what he speaks of as the past policy of the Government in such cases. I ask him if the Government has ever legalized entries of this sort, where persons have gone upon the public lands before they have been surveyed and brought into market? I do not now recollect a single case where such a thing has occurred.

Mr. RICHARDSON. I will refer the gentleman to three or four cases where the same thing has occurred precisely, and I could refer him to many more. The town of Burlington, in the State of Iowa, was settled in precisely the same way, and the claims of the settlers confirmed by the Government. In Fort Madison the same was true, and the same was also true of Dubuque, Iowa. And, sir, wherever we have had military stations the same policy has prevailed in every single instance.

Mr. HENN. I wish to ask the chairman of the Committee on Territories if we have not passed a bill during the present week covering a precisely similar case? Did we not pass a bill granting preëmption privileges to a settler upon Rock Island, in the Mississippi river?

Mr. RICHARDSON. I was on the point of alluding to the very case to which the gentleman from Iowa has called my attention. Rock Island was a military post in the Mississippi river; it was the last point at which the Indians made their stand prior to their emigration west of the Mississippi. The whole island was a military reservation, and it is only within two or three days, I think—certainly within the last week—that this House passed a bill confirming the title to certain lands upon this reservation, upon which he had located, and allowing him to enter it at $1 25 per acre. The land is now worth some seven or eight thousand dollars. But when he entered upon it it was not worth $1 25 per acre. And, sir, will this Government place itself in the attitude of claiming to receive for itself the toil and labor of a citizen for nothing? The Government does not need the money, and it would be an act of gross and outrageous injustice if it did.

There can be no reason why we should change our policy in relation to this matter, and I will not trouble the committee by further remarks in relation to it.

Mr. MACE. I wish to speak one word in reference to the true character of this case. The bill provides that this poor old minister shall have the privilege, before these lands are offered in market, to buy his little home at $1 25 per acre. It is urged by gentlemen who object to the bill, that the land should be put up at auction and sold to the highest bidder. Now, then, suppose this plan was carried out, and the bidders were assembled, I ask you, Mr. Chairman, if you suppose any honest, honorable man, would bid against this person for his home? The answer at once is, that he would not. Then, sir this whole question resolves itself into this one proposition: Will you permit a mean, contemptible scoundrel to attend the sale and purchase this old man's home from him. That is all there is of it.

Mr. SKELTON. I desire to ask the gentleman from Indiana one question for information. What quantity of land will each of these claimants get under this bill?

Mr. MACE. They cannot get more than one hundred and sixty acres each.

Mr. WASHBURNE, of Illinois. Some of them will not get that.

Mr. RICE. I will state that some of the claimants will not get more than ten acres, some will get forty or fifty, and according to the provisions of the bill, none of them can get more than one hundred and sixty acres.

Mr. SKELTON. Is this town land?

Mr. RICE. It is land which these claimants have improved and lived upon.

Mr. SKELTON. What is the value of the improvements?

Mr. RICE. Why, I suppose they have expended a million and a half of dollars there.

Mr. GREENWOOD. Is this subject amendable?

The CHAIRMAN. It is.

Mr. GREENWOOD. Well, sir, I send up an amendment to the Clerk's table, which I desire to have adopted. I offer it as an additional section. It is in the following words:

And be it further enacted, That Hugh Reed, of White county, in the State of Arkansas, be, and he is hereby, authorized to enter, free of cost, one hundred and sixty acres of any of the unappropriated public lands, to enable him to educate three children presented him by his wife at the same birth.

[Laughter.]

The CHAIRMAN. The chair is of opinion that the gentleman's amendment is not in order.

Mr. WALBRIDGE. I call for a vote upon the question.

Mr. RUSSELL. It strikes me that there should be an amendment in the sixteenth line of the first section. I move to insert after the word "circumstances," the words "proof and payment," so as to make the clause read:

And where any of said lands come within the provisions of the act of May 23, 1844, for the relief of the citizens of towns upon the lands of the United States, under certain circumstances, proof and payment shall also be made within three months after the passage of this act; and in either case, if the entries are not made within that time, the claim shall be forfeited.

This amendment is necessary to make the sentence grammatical.

The amendment was agreed to.

Mr. WALBRIDGE. I now move that the bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

SALE OF MILITARY RESERVES.

The next bill upon the Calendar was Senate bill (No. 129) to authorize the sale of reserved lands, and for other purposes.

The Clerk read the bill *in extenso*.

Mr. EASTMAN. I submit that that bill is not in order. It is not a territorial bill, and has been improperly placed among the territorial business.

Mr. DISNEY. The gentleman from Wisconsin is a little too fast. It is true that the bill relates to military reserves generally, but the particular cases now calling for action under this bill are in the Territories.

I desire to say further, that there is at present no law authorizing the sale of any military reserve either in a Territory or a State. There is no law authorizing any functionary of this Government to sell or dispose of any of the military reserves after they shall have been abandoned for military purposes. Now, such cases are continually occurring in the Territories, and some provision ought to be made to dispose of the military reserves thus abandoned.

The CHAIRMAN. The bill is general in its character; it applies to all the public lands which have been reserved for military purposes, and, therefore, in the opinion of the Chair, it is not a territorial bill.

Mr. HENN. I would suggest to the Chair that the bill was reported from the Committee on Public Lands, under the call for reports of a territorial character.

The CHAIRMAN. The Chair thinks that the bill has been improperly reported and taken up during the special order for terrritorial business. It is not in order.

SURVEYOR GENERAL OF UTAH.

The bill was accordingly passed over, and the committee proceeded to take up the next bill upon the Calendar, being House bill (No. 689) to establish the office of surveyor general of Utah, and to grant land to actual settlers therein.

Mr. RICHARDSON. I object to the consideration of that bill at this time.

The CHAIRMAN. Then the Chair will put the question to the committee, whether the bill shall be passed over.

Mr. LETCHER. What is the objection?

Mr. RICHARDSON. I do not want to have the bill considered now.

Mr. DISNEY. I do not desire to press any course of action that might come in conflict with the general wish of the committee. But this bill is a very important one. There is a necessity for a survey of the public lands in the Territory of Utah, and for the establishment of the office of surveyor general. To that extent, therefore, the bill is exceedingly important—quite as important as any other territorial bill before the committee. Why, in view of this fact, the chairman of the Committee on Territories would pass it by, it remains for him to say.

The CHAIRMAN. The Chair must remark that the question whether the committee will proceed to the consideration of the bill, must be decided without debate.

Mr. RICHARDSON. I desire to make a single

remark in reply to the gentleman from Ohio. That gentleman knows that we have but a few hours left for the disposal of territorial business.

The CHAIRMAN, (interrupting.) No debate is in order. The rule upon the subject is as follows:

"In the Committee of the Whole on the state of the Union, the bills shall be taken up and disposed of in their order on the Calendar, but when objection is made to the consideration of a bill, a majority of the committee shall decide, *without debate*, whether it shall be taken up and disposed of or laid aside."

Objection being made to the consideration of this bill, the question is, "Shall it be laid aside?"

Mr. RICHARDSON. I withdraw the objection, as we shall probably be left without a quorum if a division takes place.

Mr. WASHBURNE, of Illinois. I renew the objection.

The CHAIRMAN. Then the question must be taken upon laying the bill aside.

Mr. HENN. I call for tellers.

Tellers were ordered; and Messrs. WHEELER and BOYCE were appointed.

The committee was divided; and the tellers reported—ayes 63, noes 58.

So the bill was laid aside for the present.

Mr. WHEELER. I move that the committee do now rise.

The question was then taken; and the motion was disagreed to.

BOUNTY LANDS IN OREGON.

House bill (No. 544) regulating the location of bounty land warrants in Oregon Territory, was next taken up.

The bill authorizes any person residing in the Territory of Oregon, who is now, or may hereafter become, the legal holder of a bounty land warrant, to locate the same on any surveyed land in said Territory, not in the possession of any other lawful claimant, on making notification of such location in due form in the land office established in said Territory. The second section of the bill authorizes any legal holder of a bounty land warrant, residing in the Territory of Oregon, to locate the same on any fraction of a section, or fractions of sections in said Territory, not in the occupation of any other lawful claimant or claimants as shall be equal, in the aggregate, to the number of acres specified in the warrant.

The CHAIRMAN. The Committee on Public Lands have reported this bill with an amendment, to strike out all after the enacting clause, and insert the following:

That those persons who may be entitled to a donation in the Territory of Oregon, under existing laws, and who are authorized to make payment therefor at $1 25 per acre, may, in lieu of such payment, locate specific portions of the land thus donated with a military warrant or warrants, each warrant to cover a tract as near the denomination of the warrant as practicable, payment being made for any excess in quantity in any one of said locations.

SEC. 2. *And be it further enacted*, That any resident of the said Territory of Oregon who is the holder and owner of a military bounty land warrant certificate, and who is the grantee of such certificate, and not the assignee, may locate the same on any surveyed public land in said Territory, not in possession of, or claimed by, any other lawful claimant; which locations shall be made in the same manner and be governed by the same rules as is now, or may hereafter be, prescribed in the location of warrants on other public lands of the United States.

The question was taken on the adoption of the foregoing amendment; and it was adopted.

Mr. FULLER. I would inquire of the chairman of the Committee on Public Lands whether there has been any instance in which donations of lands have been authorized to be made, where they had not been surveyed previously. If there is anything about our land system that I admire, it is the system of surveys, which is so well calculated to prevent litigation. I should like to hear an explanation upon the subject before I vote for a bill of this description.

Mr. HOWE. The bill may be exactly right in every particular, but I would be glad to know, from some of the friends of the measure, what reason there is for adopting a different rule in Oregon from that prevailing in other Territories. If the bill is correct, I am prepared to vote for it.

Mr. HENN. I will state to the gentleman from Pennsylvania, that it is impossible for a person residing in Oregon to use a land warrant at all, although he may receive it himself for his services. The object of this bill, in the first place, is to enable him to locate land with his warrant, instead of money, as he is now authorized to do, the same as in the States. In the second place, the bill authorizes a person who served for a warrant himself, to locate it upon any surveyed public lands in the Territories. It is merely extending privileges to the people of Oregon that are possessed in other parts of the country.

Mr. WADE. I should like to ask the gentleman from Iowa whether this bill permits the location of any lands which are not surveyed?

Mr. HENN. Not at all.

Mr. LETCHER. The phraseology of this bill seems to be a little curious: "Shall locate specific portions of the land donated."

Mr. HENN. I will state to the gentleman from Virginia, that the bill was drawn up by the Commissioner of the General Land Office, and the committee adopted the phraseology used by him.

Mr. LETCHER. Why locate upon donated lands?

Mr. HENN. At present, persons locating land are required to pay money for it, and this provision is made so that the land warrant may be used in the place of money.

Mr. LANE, of Oregon. I wish to say that the donation law donates to actual settlers any unoccupied surveyed lands that they may choose. A subsequent law authorizes them to perfect their title by paying $1 25 an acre instead of claiming under a four years' residence.

The bill was then laid aside to be reported to the House with a recommendation that it do pass.

OTHER TERRITORIAL BILLS.

The following bills, coming up in their order, were then considered, and laid aside to be reported to the House with a recommendation that they do pass:

A bill to establish an additional land district in the Territory of Oregon;

A bill for the construction of certain military roads in the Territory of Kansas;

A bill making an appropriation for a territorial road in the Territory of Nebraska; and

An act making appropriations for the construction of certain military roads in the Territories of Nebraska and Washington;

HOUSE BILL NO. 698.

The next bill which came up for consideration, in order, was House bill (No. 698) to amend the act of Congress, approved May 23, 1844, entitled "An act for the relief of the citizens of towns upon lands of the United States, under certain circumstances."

The bill having been reported,

Mr. LETCHER said: I rise to a question of order. The bill which has just been reported does not come up for consideration under the resolution of the House, devoting Monday, Tuesday, and Wednesday to territorial business. It does not relate to territorial business.

Mr. DISNEY. I desire to make a statement in regard to this bill, to which the gentleman from Virginia objects. The bill under consideration grew out of the condition of the inhabitants of the Territories of Kansas and Nebraska, and is intended to meet their case. Various applications have been made to Congress in reference to the provisions enacted by Congress in relation to town sites in Kansas and Nebraska. There have been some half dozen bills introduced and referred to the Committee on Public Lands, and they disposed of the whole of them by proposing an amendment to the general law, which will cover their case.

Mr. LETCHER. I want to ask the gentleman from Ohio one question. Is there a surveyed town in either of the Territories of Kansas and Nebraska?

Mr RICHARDSON. There is in Minnesota and Washington.

Mr. DISNEY. There are surveyed lands in the various Territories, including Kansas and Nebraska.

Mr. LETCHER. I mean towns. I ask if there is a survey town in either of those Territories?

Mr. DISNEY. Towns have been located and are now occupied; and the parties interested have made application to Congress for a special act for their benefit, and out of those applications has grown the bill now under consideration before the committee.

Mr. LETCHER. I will give the reasons for my course in regard to this bill. The Delegate from Utah has been ruled out almost altogether thus far, he having had but one bill, in which he is more immediately interested, presented to-day. If these bills, not relating to territorial business, are to be permitted to come up for consideration he is practically excluded altogether. Now, if we are to attend to territorial business, let those measures occupy the attention of this committee, and let every Delegate have an equal right upon this floor.

Mr. DISNEY. I did not conclude what I had to say.

The CHAIRMAN. The Chair would inquire of the gentleman from Virginia if he objects to the consideration of this bill.

Mr. LETCHER. I do.

The CHAIRMAN. The gentleman objects; and the first question is, will the House lay aside the bill? That question is not debatable.

Mr. HAMILTON. Has the Chair decided the question of order?

The CHAIRMAN. The other question is first to be decided.

Mr. LETCHER. I do not withdraw my question of order, and I want the decision of the Chair upon the general character of this bill.

Mr. DISNEY. I wish to say, if the gentleman from Virginia knew all the facts in this case, he would be the very first member in this House to insist upon the consideration of this bill. If he knew the operation of it, and the abuses at which it is leveled, he would be the last man to object.

Mr. LETCHER. I will say to the gentleman I do not raise the question upon such grounds. My objection is based upon consideration entirely independent of the abuses which the bill is designed to remedy. I want all the Delegates to have an equal chance in this committee, and if all bills of this character—not relating to Territorial business—are to be considered, there is one Delegate who will have no chance.

The CHAIRMAN. The bill which has been reported, and now under consideration, is general in its provisions, and is applicable to States as well as to Territories, and, therefore, is not entitled to be considered under the resolution of the House setting aside the three days for the consideration of territorial business. The Chair holds the point of order well taken, and rules the bill out of order.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. DICKINS, its Secretary, notifying the House that the Senate had agreed to the report of the committee of conference upon the disagreeing votes of the two Houses, upon the amendment to the bill of the Senate (No. 30) entitled "An act for the relief Thomas Marston Taylor."

And that the Senate has passed a bill of the following title:

Senate bill, (No. 538,) An act for the relief of Jacob Dodson.

SECRETARY OF MINNESOTA TERRITORY.

The next bill which came up in order for consideration was Senate resolution (No. 29) for the relief of the Secretary of the Territory of Minnesota. The bill was read *in extenso*.

Mr. EDGERTON. I rise to a question of order. It is, whether that bill is in order under the resolution restricting us to the consideration of territorial business?

The CHAIRMAN. The Chair is inclined to think that it is a private bill.

Mr. RICHARDSON. I desire to call the attention of the Chair, for a moment, to one point. This bill relates to the salary of an officer of a Territory.

Mr. WASHBURNE. I ask the gentleman from Ohio to allow a letter I have, in reference to this subject, to be read, and I think he will not object to the consideration of the bill.

The CHAIRMAN. The salary of the secretary of the Territory of Minnesota is, like the salary of any other officer under the Government, provided for by law. It is, therefore, in the opinion of the Chair, a private, and not a territorial bill; no more so than a bill for the relief of any other officer. The Chair holds the point of order well taken, and rules the bill out of order.

SURVEYOR GENERAL OF UTAH.

House bill (No. 689) to establish the office of surveyor general of Utah, and to grant land to actual settlers therein, was again taken up and reported to the committee.

The CHAIRMAN. The Chair would state that he was misinformed in relation to House bill (No. 566) to extend to the Territories generally the laws regulating the fees and compensation of officers, and the suitors of the United States courts in Oregon, as to its being improperly placed upon the docket.

Mr. RICHARDSON. I withdraw my objection to the bill (No. 689) in reference to Utah.

Mr. JONES, of Tennessee. I move that the bill for the relief of the secretary of the Territory of Minnesota be reported to the House with a recommendation that it be referred to a Committee of the Whole House.

Mr. WASHBURNE. I wish the gentleman would so modify his motion as simply to refer it back to the House.

Mr. JONES. By no means.

The CHAIRMAN. The Chair would say that the motion of the gentleman from Tennessee cannot be entertained, except by unanimous consent.

Mr. JONES. Well, then, I withdraw my motion, and let it remain in the Committee of the Whole on the state of the Union, where it is now.

Mr. RICHARDSON. It is right that it should go to a Committee of the Whole on the Private Calendar.

Mr. JONES. I will say, then, if it goes to the House upon a recommendation to send it to a Committee of the Whole on the Private Calendar, the previous question will be called, and, without an opportunity to look into it, to examine it, to object to it, or have a report upon it, the House will be called upon to vote upon it.

Mr. RICHARDSON. I will say to the gentleman, that I will save him all trouble of that sort, as far as I can, and will aid him in giving it the proper direction by sending it to a Committee of the Whole on the Private Calendar.

COMPENSATION OF TERRITORIAL OFFICERS.

House bill (No. 566) to extend to the Territories generally the laws regulating the fees and compensation of officers and the suitors of the United States courts in Oregon, was next taken up in its order upon the Calendar, and reported to the committee.

Mr. WASHBURNE, of Illinois. I raise a point of order upon that bill.

The CHAIRMAN. The Chair has not read the bill, as it has not been printed. If the Chair is correctly informed, it provides that the fees prescribed by the fee bill, passed sometime since, at the last session of Congress, he believes, shall regulate the fees and compensation which the clerks and marshals of the United States shall charge in the Territories.

Mr. McQUEEN. If I understood the bill when it was read, it provides for the same fees to the judicial officers of the Territories as were given to those officers in California by the act of 1853. If so, I trust that gentlemen will refer to that act, which was passed in consideration of the peculiar circumstances surrounding the case, before they act upon this measure. If they do examine it, they will find an exorbitant scale of fees, which should not be allowed in this instance.

The bill was then laid aside to be reported to the House with the recommendation that it do not pass.

HOMESTEAD BILL FOR UTAH.

House bill (No. 689) to establish the office of surveyor general of Utah, and to grant land to actual settlers thereon.

Mr. WASHBURNE, of Illinois. How does that bill get before the committee?

The CHAIRMAN. It is the only bill upon the Calendar which is not disposed of. It was passed by some time since.

Mr. LETCHER. I move to dispense with the first reading of the bill, and that the Clerk proceed to read it by sections for amendment.

The question was taken; and the motion was agreed to.

Mr. JONES, of Tennessee. I understand, Mr. Chairman, this is the only bill undisposed of now upon the Calendar, of territorial business. Then, to see whether the committee is willing to do some justice, at least, to the Territory of Utah, which it has to the other Territories, and understanding that this bill is, in substance, if not in language, exactly like that of the last session, which was passed for New Mexico, I move to strike out the enacting clause. This will bring the committee to a vote. If a majority is willing to give the same law in this matter to Utah which the other Territories have had, then let them do it. We recollect, Mr. Chairman, the discussion—the protracted discussion—which took place at the last session on amendments to the bill with regard to the peculiar institutions of the people of that Territory; and if we get involved in a similar discussion now we could not, were we to sit here for the next week, dispose of the measure. We could not, in my opinion, even under the five-minute rule of debate, get it out of committee within a week. To test the sense of the body upon the subject, I have moved to strike out the enacting clause.

Mr. DISNEY. I desire to say a single word. [Cries of "Let us vote!" "Question!"]

Mr. BERNHISEL. I trust the gentleman may be indulged in an explanation.

Mr. DISNEY. Let the vote be taken.

The question was taken; and Mr. JONES's motion was agreed to; and the bill was then laid aside to be reported to the House with the action thereon.

Mr. JONES. I move that the committee do now rise.

The question was taken; and the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the special order on territorial business, and had directed him to report sundry bills, some with and some without amendment; in which it asked the concurrence of the House.

Mr. RICHARDSON. Mr. Speaker, I suggest to the House that the Clerk read over the titles of the bills just reported, and that when he has finished all those to which no objection has been made, they be voted on *en masse*. It is important this business should be disposed of this evening. If allowed to go over it may be superseded.

Mr. ROWE. I move that the House do now adjourn.

Mr. RICHARDSON. I hope the gentleman will withdraw his motion to adjourn until I can get the unanimous consent of the House to have these bills taken up and acted on to-morrow?

Mr. ROWE. I withdraw the motion to adjourn.

The SPEAKER. The gentleman from Illinois demands the previous question upon all the bills which have been reported from the committee.

Mr. WHEELER. What has become of my motion to adjourn? I made the motion, and have not withdrawn it.

The SPEAKER *pro tempore*. No such motion has been pending.

Mr. WHEELER. I certainly made the motion.

The SPEAKER *pro tempore*. The gentleman's colleague from New York [Mr. ROWE] was recognized by the Chair. The Chair, however, recognizes the gentleman now. Does he move that the House adjourn?

Mr. WHEELER. I do.

The motion was not agreed to.

Mr. RICHARDSON. There is a number of bills reported from committees to which there is no objection, and there are several others to which gentlemen are opposed. My proposition now is, that the House pass at once such of the bills as there is no objection to, and allow the previous question to be seconded upon the others, and then, if the House do not wish to dispose of them this afternoon, let it adjourn.

The SPEAKER *pro tempore*. The gentleman's proposition will be acted upon, unless there is objection.

Mr. WHEELER. I object.

Mr. RICHARDSON. Then go on with the bills in their regular order.

Mr. PRATT. The chairman of the Committee of Ways and Means, this morning, tried to get the consent of the House to print a substitute for a bill modifying the existing tariff laws. I understand the gentleman who then objected is now willing to withdraw his objection. As this is a matter of considerable importance to some of my constituents, I ask the unanimous consent of the House, now, that the substitute may be printed.

Mr. RITCHIE, of Pennsylvania, Mr. PRINGLE, and others objected.

Mr. PHILLIPS. I now call for the regular order of business.

TELEGRAPH TO THE PACIFIC.

The SPEAKER *pro tempore*. The regular order of business is the consideration of Senate bill (No. 60) authorizing the construction of a subterranean line of telegraph from the Mississippi or the Missouri river to the Pacific; and the question pending is upon the engrossment of the bill.

Mr. WHEELER. Upon that question I demand the yeas and nays.

Mr. RICHARDSON obtained the floor.

Mr. HAMILTON. I move to lay that bill upon the table.

Mr. RICHARDSON. Is the gentleman from Maryland entitled to the floor to make that motion?

The SPEAKER *pro tempore*. He is not.

Mr. RICHARDSON. I move to substitute for that bill the one I offered in committee this morning.

Mr. PHELPS. I rise to a question of order. The bill was reported from the Committee of the Whole on the state of the Union, with the recommendation that the enacting clause be stricken out. The amendment of the gentleman from Illinois is, therefore, not in order until the question has been taken upon concurring in the report of the committee.

Mr. RICHARDSON. The gentleman from Missouri is correct.

Mr. CRAIGE. Did I not understand the gentleman from Illinois to propose that such bills as were objected to should be passed over without consideration to-day? If that is the understanding, I object to this bill.

The SPEAKER *pro tempore*. The Chair will state to the gentleman from North Carolina that the gentleman from Illinois proposed that the Clerk should read the bills by their titles, and those to which no objection was made passed *en masse*. But his proposition having been objected to, the bills come up regularly in their order for consideration.

Mr. RICHARDSON. I desire once more to make a proposition to the House in reference to this particular bill. If the House will give its consent to put the bill in such a position that it can be called up hereafter for a vote of the House, I will not ask for a vote upon it now.

Mr. CRAIGE. I have no objection to that.

Mr. KEITT. I desire to inquire of the Chair whether, in case the House adjourns in its present stage of proceedings, these bills will come up to-morrow morning for the action of the House?

The SPEAKER *pro tempore*. The Chair is of the opinion that business relating to the Territories having been made the special order for three days only, and the time set apart being limited to to-day, if the House should now adjourn, the bills would all, in the morning, be found upon the Speaker's table.

Mr. KEITT. And come up for action?

The SPEAKER *pro tempore*. And would not come up for action until every other bill upon the Speaker's table had been taken up and disposed of.

Mr. WASHBURN, of Maine. I wish to make a suggestion to the House. I ask the Chair whether, by unanimous consent, the amendment proposed by the gentleman from Illinois to the bill for a subterranean telegraph cannot be received, the previous question ordered upon all the bills, and the House adjourn, without sending the bills to the Speaker's table?

The SPEAKER *pro tempore*. The Chair will state that, if the previous question is ordered upon the bills, the substitute of the gentleman from Illinois can still be offered to the bill for the construction of a subterranean telegraph. That bill, however, being reported from the committee with the recommendation that the enacting clause be stricken out, the amendment is not now in order.

Mr. WASHBURN. My proposition is this——

Mr. HAMILTON. I object to the gentleman's proposition.

Mr. RICHARDSON. For the purpose of saving these bills from going to the Speaker's table, I will enter the motion to recommit all of them.

The SPEAKER *pro tempore*. That motion will be received, if there is no objection.

Mr. JONES, of New York. Is that motion in order?

The SPEAKER *pro tempore*. It is, if no one objects.

Mr. SEWARD. I should like to know what would be the effect of the motion?

The SPEAKER *pro tempore*. To keep the bills before the House.

Mr. SEWARD. Then I object.

Mr. RICHARDSON. Well, sir, as I seem to be unable to make an agreement with anybody but myself, I see no other course than to ask the House to proceed with the business in its regular order.

[Cries of "That's right." "Go on."]

Mr. RICHARDSON. I ask, then, for a vote upon concurring with the committee in striking out the enacting clause of the telegraph bill.

Mr. TAYLOR, of Ohio. I wish to inquire if we could not take such of these bills as do not give rise to objection, and put them upon their passage at once?

The SPEAKER *pro tempore*. The gentleman from Illinois has asked the consent of the House to adopt that course, but it has been objected to, and cannot be agreed to except by unanimous consent. The Chair will, however, put the question to the House once more. If there is no objection, the Clerk will read the bills by their titles, and such as are objected to will be laid aside for further action.

There being no objection, the Clerk proceeded to read the title of the first bill, as follows:

A bill authorizing the construction of a subterranean line of telegraph from the Mississippi or the Missouri river to the Pacific ocean.

Mr. LETCHER objected; and the bill was passed by.

OTHER TERRITORIAL BILLS.

House bill (No. 543) for the construction of a military road in Oregon.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURNE, of Illinois. I move that the vote be taken upon all the bills together that are not objected to.

The SPEAKER *pro tempore*. If there be no objection, the Clerk will read the bills by their titles, and the vote will be taken upon such as are not objected to *en masse*.

There being no objection, the Clerk proceeded to read the titles of the bills, as follows:

Joint resolution authorizing the Legislative Assembly of Utah to continue their sessions for a term not exceeding sixty days, instead of forty days, as heretofore provided. [Objected to by Mr. STUART, of Ohio.]

The following House bills, reported from the Committee of the Whole without amendments, were then ordered to be engrossed and read a third time; and being engrossed, they were severally read the third time, and passed:

A bill making appropriations for improving certain military roads in the Territory of Minnesota;

A bill to establish an additional land district in the Territory of Oregon;

A bill making an appropriation for a territorial road in the Territory of Kansas;

A bill authorizing the Secretary of War to purchase sites and contract for the erection of arsenals in Texas and New Mexico, and in the Territory of Oregon;

A bill making an appropriation for completing the public buildings of Oregon Territory;

Senate bill (No. 435) making appropriations for the construction of certain military roads in the Territories of Nebraska and Washington, reported without amendment, was ordered to a third reading; and subsequently read the third time, and passed.

The following bills, reported with amendments, were then taken up, the amendments were concurred in, the bills were ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and severally passed:

A bill making an appropriation for completing the public buildings of Oregon Territory; and

A bill authorizing the Secretary of War to purchase sites and contract for the erection of arsenals in Texas and New Mexico, and in the Territory of Oregon.

The titles of the bills were severally amended, so as to make them conform to the amendments adopted.

House bill (No. 591) to provide for the erection of public buildings in the Territory of Nebraska, reported from the Committee of the Whole on the state of the Union with an amendment, was next taken up, and the amendment was concurred in.

Mr. LETCHER. I move further to amend that bill by adding the same restriction in regard to the selection of a site for these public buildings as was inserted in the Kansas bill, on my motion, while we were in Committee of the Whole. It was an unusual provision in the Kansas and Nebraska bill to allow the Governors of those Territories to select the sites, and I want the restriction to apply to both of them.

Mr. RICHARDSON. The amendment proposed by the gentleman from Virginia is wrong. If these public buildings are to belong to anybody, they ought to belong to the Territories, and hereafter to the States to be formed out of those Territories. After the contest of last session about military men regulating and controling public works, the gentleman ought to be the last to propose to strike out the Governors of the Territories and place this duty in the hands of military men. I demand the previous question.

Mr. LETCHER. I wish to say a single word in reply to the gentleman. I have not moved to deprive the Governors of this right at all; so that the gentleman was striking in the wrong direction, and in utter ignorance of what he was hitting at. [Laughter.]

Mr. GIDDINGS, of Nebraska. I ask the gentleman from Illinois to withdraw the previous question for a moment.

Mr. RICHARDSON. I will do so.

Mr. GIDDINGS. I wish to say a word or two in answer to the gentleman from Virginia, in relation to the power of the Governors in locating the seats of government in these Territories. No such power is given them. They are given the right to select the point at which the first Legislature shall be convened; but after that, it is left to the Legislature to decide at what point the future capitol shall be located. I hope the gentleman will not attempt to place restrictions upon Kansas and Nebraska that have never been placed upon any other Territories under the Government of the United States.

The question being on the adoption of Mr. LETCHER's amendment,

Mr. WHEELER demanded tellers.

Tellers were not ordered.

Mr. LETCHER. Mr. Speaker, as I see that my amendment cannot pass here, I will withdraw it, so as to avoid the probability of the House finding itself without a quorum.

[Cries of "Good!" "That is right!"]

Mr. MORGAN. I renew it.

Mr. LETCHER. Renew what?

Mr. MORGAN. Renew the proposition withdrawn by the gentleman from Virginia.

Mr. TAYLOR, of Ohio. I do not understand what that proposition is, and I wish it to be reported. I hope, therefore, that the gentleman from New York will send his amendment up to the Clerk's desk, so that we may know what it is.

Mr. MORGAN. The Clerk has the amendment before him.

Mr. LETCHER, (amid roars of laughter.) No, he has not; it is an amendment only by a sort of understanding between the Clerk and myself.

Mr. MORGAN. I ask the Chair what motion have we been acting on here just now?

The SPEAKER *pro tempore*. The proposition of the gentleman from Virginia. [Laughter.]

Mr. EDGERTON. I rise to a question of order. I do not know that the gentleman has a right to ask that question.

The SPEAKER *pro tempore*. If the gentleman from New York sends his amendment to the Chair it will be reported.

Mr. BRIDGES. I ask the gentleman from New York to reduce to writing his amendment, proposition, or whatever it is.

Mr. MORGAN. It is very extraordinary, sir, when we have been just acting upon a proposition, that we do not know what it was about. [Laughter.]

The SPEAKER *pro tempore*. It is just as extraordinary for the gentleman from New York to make a motion and not know what it was.

[Roars of laughter, and cries of "Question!" "Question!"]

The SPEAKER *pro tempore*. The question is on ordering the bill to be engrossed and read a third time.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read a third time and passed.

House bill (No. 605) to provide for the erection of public buildings in the Territory of Kansas came up next in order.

Mr. LETCHER. If I have the liberty of doing so, I withdraw the amendment which I offered to this bill.

Mr. PHELPS. Or the House can vote it down.

Mr. MORGAN. Have I a right to know what that amendment is?

The SPEAKER *pro tempore*. Yes, the first amendment is as follows; at the end of the eighth line add the following:

"Or of any portion of the money herctofore appropriated for that purpose."

Mr. PHELPS. That amendment is right; let it be adopted.

The SPEAKER, *pro tempore*. The gentleman who offered it in the committee asks to withdraw it, if he has the power.

Mr. RICHARDSON. No; that amendment is right; it provides that the Government shall not have the disposal of the money until the site is fixed.

The SPEAKER *pro tempore*. Then this is not the amendment which the gentleman from Virginia proposed to withdraw?

Mr. LETCHER. No, sir.

The question was taken; and the amendment was concurred in.

Second amendment:

At the end of the bill add the following:

"Or till the title of the site for said building be secured to the United States."

Mr. RICHARDSON. That is the amendment which the gentleman from Virginia proposes to withdraw.

Mr. LETCHER. Better let us vote upon it.

The question was taken; and the amendment was rejected.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

House bill (No. 688) to amend the act approved 25th August, 1852, entitled "An act to reduce and define the boundaries of the military reserve at Saint Peter's river, in the Territory of Minnesota," and for other purposes.

Mr. LETCHER. I object.

The bill was laid aside.

House bill (No. 544) regulating the location of bounty land warrants in Oregon Territory; which was reported with an amendment by the Committee of the Whole on the state of the Union.

The question was taken on the amendment, and it was concurred in.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read a third time, and passed.

House bill (No. 689) to establish the office of surveyor general of Utah, and to grant land to actual settlers therein.

Mr. DISNEY. The Delegate from Utah desires a further opportunity to claim the consideration of the House with respect to this bill—a course which, I may add, is somewhat in conflict with my own views. I have suggested to him that the better way would be—as it is, in one respect, a bill to which nobody has any objection—to save as much of the bill as there is no objection to and to have it passed; and that is the portion of it providing for the creation of the office of surveyor general. I suggested this in order that, if that were done, the Government might go on and survey the lands. It was advisable, I thought, that this course should be pursued in order that we might avoid the heretofore vexed question in relation to Mormonism. But the Delegate from Utah prefers that the entire bill should be lost, rather than be limited down to what I have mentioned. There is nothing in the bill except the provision to establish the office of surveyor general and the provision to extend donations of land to actual settlers, having no allusion whatever to the principles I have mentioned. It is according to the general principle of donations which have been made in the organization of all our Territories. It extends the principle of preëmption in particular cases, where the inhabitants, from the necessity

of the case, though they cultivate their fields, are compelled, from considerations of security, to reside in villages. That is all there is in this bill.

Mr. MILLSON. I desire to ask the gentleman a question. I would call his attention to the phraseology of the bill.

Mr. RICHARDSON. The agreement made by the House was, that if objection was made to any of the bills, that we should go back to the first bill objected to. I wish to place these bills in a condition to be acted upon. I move, therefore, to recommit them.

Mr. MILLSON. I was about to ask a question of the chairman of the Committee on Public Lands. The second section of the bill gives to every white male citizen of the United States, without any limitation as to age, a quarter section of land. I think the qualification made there with respect to persons above twenty-one years, applies only to unnaturalized applicants for citizenship.

Mr. DISNEY. I will only say, in reply to the gentleman from Virginia, with regard to this question of time, that it is not an opportune moment to go into questions of grammatical construction—proper enough in their way and in their time. I have indicated my desire that so much of the bill as provides for the creation of the office of surveyor general shall be retained, so that the Government may go on and survey these lands. I repeat, that the Delegate from the Territory of Utah seems to think that the general settlement of the country, by donations to actual cultivators of the soil, is more important to them than the creation of the office of surveyor-general. I, then, conform my action to his wishes, in order to give him the opportunity he desires; and I move, therefore, that the bill be recommitted to the Committee of the Whole on the state of the Union, which carries the bill over and keeps it upon the Speaker's table.

The SPEAKER *pro tempore*. There are four bills to which objection has been made, the titles of which are as follows:

A bill to amend the act approved 26th August, 1852, entitled "An act to reduce and define the boundaries of the military reserve at Saint Peter's river, in the Territory of Minnesota," and for other purposes;

A joint resolution authorizing the Legislative Assembly of Utah to continue their sessions for a term not exceeding sixty days, instead of forty days, as heretofore provided;

An act authorizing the construction of a subterranean line of telegraph, from the Mississippi or Missouri river, to the Pacific ocean; and

A bill to establish the office of surveyor general of Utah, and to grant land to actual settlers thereon.

Mr. RICHARDSON. I would ask if Senate bill No. 60, authorizing the construction of a subterranean line of telegraph from the Mississippi or Missouri river to the Pacific ocean is not the first bill in order, it being first objected to?

The SPEAKER *pro tempore*. It would be first in order.

Mr. RICHARDSON. I move, then, to take up that bill.

The SPEAKER *pro tempore*. Is there objection to the previous question being taken upon this bill?

[Cries of "Yes!" "Yes!"]

Mr. RICHARDSON. The House do not seem to understand that the bill is reported from the committee with a recommendation striking out the enacting clause. You cannot move to amend the bill while that motion is pending. If you move the previous question upon it, you will be brought to a vote upon the bill as it is. If the House will agree to non-concur in the action of the committee, bring the bill before them, allow me to offer a substitute, move the previous question upon it, and pursue the same course with the other bills, I will then agree to an adjournment, which will bring them all up again.

The SPEAKER *pro tempore*. The Chair will state, that the previous question called upon the bill, the enacting clause of which the Committee of the Whole on the state of the Union have recommended to be stricken out, will operate only upon that bill, and when the question shall have been taken upon striking out the enacting clause, the previous question will be exhausted; but if the House shall refuse to strike it out, the bill will be open to amendment.

Mr. RICHARDSON. I move the previous question upon it.

Mr. EDDY. I wish to say that I have paired off with the gentleman from California, [Mr. LATHAM,] who has been called away to Baltimore upon very pressing business, upon all questions affecting this bill, he being in favor of it, and I being against it.

Mr. LETCHER. It is manifest that there is no quorum here; and, before the vote is taken, I move that the House adjourn.

Mr. RICHARDSON. I move to recommit all the bills still unacted upon to the Committee on Territories; and I ask the gentleman to withdraw his motion to adjourn, so the motion I make may be entered upon the Journal.

Mr. LETCHER. I withdraw my motion for that purpose.

The SPEAKER *pro tempore*. There being no objection, the order will be made as requested by the gentleman from Illinois.

Mr. LETCHER. I now move that the House adjourn.

The SPEAKER *pro tempore*. The Chair will explain. There are three bills which have been reported from the Committee of the Whole on the state of the Union, and have been objected to when reported by their titles. The gentleman from Illinois asks the unanimous consent of the House to enter a motion in the case of each of these three bills, that they be recommitted to the Committee of the Whole on the state of the Union. If there be no objection to that motion, it will be entered. The Chair hears no objection, and the motion is entered.

Mr. PRATT. I understand my friend from Pennsylvania withdraws his objection to the printing of the bill to which I referred a few minutes since. The objection being withdrawn, I ask that the bill may be printed.

Mr. WHEELER. I renew the objection, and move that the House do now adjourn.

Mr. PRATT. I ask the gentleman from New York to withdraw his objection and his motion. I ask it as a personal favor.

Mr. WHEELER. I withdraw it.

No further objection being made, the bill referred to was ordered to be printed.

Mr. ROWE, by unanimous consent, presented certain resolutions of the Legislature of the State of New York; which were laid upon the table, and ordered to be printed.

And then, on motion by Mr. WHEELER, at four o'clock and twenty-five minutes, the House adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

WEDNESDAY, *January* 31, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating an abstract of the militia of the several States and Territories, with their arms, accouterments, and ammunitions; which was ordered to lie on the table, and be printed.

PETITIONS, ETC.

Mr. SEWARD presented resolutions of the Legislature of New York, in favor of granting pensions to the surviving soldiers of the Indian wars of 1791, 1792, 1794, and 1795, and to the widows of those deceased; which was referred to the Committee on Pensions.

Also, the petition of Christian F. Funch and Andrew J. Meincke, citizens of the United States, praying that a register may be issued for the ship Dina, formerly of Russia, which was sold for debt by the United States marshal, and purchased and repaired by the petitioners in the United States; which was referred to the Committee on Commerce.

Mr. DOUGLAS presented the petition of Lorin Blodget, praying an equitable hearing and adjustment of his claims against the Smithsonian Institution, for services rendered and expenses incurred; which was referred to the Committee on the Judiciary.

JACOB DODSON.

Mr. WELLER. I ask the Senate to take up for consideration the bill which has been reported from the Committee on Military Affairs, for the relief of Jacob Dodson, a colored man, who is now in the employ of the Senate. It is a bill which has been considered by the committee, and I presume there will be no objection to it.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole. It proposes to direct the proper accounting officers to allow Jacob Dodson, a colored man, (who, on the 7th of July, 1846, at the American Forks, in California, volunteered as a private for, and during, the war, in Captain Richard Owen's company of the California battalion, and who was discharged therefrom on the 14th of April, 1847, at Los Angeles,) the pay and allowances to which he would have been entitled under the existing laws, if he had been legally enlisted in, and honorably discharged from, the service of the United States, deducting therefrom the sum of $281 paid to him by Colonel J. C. Frémont, as a member of the exploring expedition within the period named.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

FRENCH SPOLIATION BILL.

Mr. CLAYTON. I ask that the bill of the House of Representatives, "to provide for the ascertainment and satisfaction of claims of American citizens for spoliations committed by the French, prior to the 31st day of July, 1801," may now be taken up and read a second time. I do not propose that the Senate shall take any further action on it to-day, than have it read a second time. It is not intended by its friends to refer it to any committee; but I give notice that I shall on to-morrow call it up for consideration and action.

Mr. DAWSON. I hope we may be allowed the morning hour, without interference, to get through with reports from the standing committees. I shall oppose any departure from that usual order of business.

Mr. CLAYTON. The Senator opposes the second reading of this bill, which is a mere matter of form, in order to enable us to get at it to-morrow; that is all. Now if the gentleman will proclaim his hostility to the measure at once, we shall understand him.

Mr. DAWSON. I am very much astonished at the course of my friend from Delaware. I have heretofore voted for this bill, and I shall do so again; but I cannot see why the morning hour should be taken for this purpose. Why should we not be allowed the morning hour in which to present reports from our committees? I had no idea that my friend would get in such a state of excitement; but if the Senate are ready to agree to his suggestion, I withdraw all opposition to it.

Mr. CLAYTON. I thank the gentleman for that. I hope he will cool off himself, and hereafter not fire until he gets near enough. Now he has gone off without cause. If he had waited, the bill might have been read a second time, and disposed of for to-day.

The motion was agreed to; and the bill was read a second time.

Mr. CLAYTON. I move that its further consideration be postponed until to-morrow, and I give notice that I shall then call it up for the action of the Senate.

The motion to postpone was agreed to.

REPORTS FROM STANDING COMMITTEES.

Mr. EVANS, from the Committee on Revolutionary Claims, to whom was referred the bill of the House of Representatives for the relief of Thomas Underhill, executor of Thomas Underhill, deceased, reported it back with amendments. He also submitted a report on the bill; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill from the House of Representatives for the relief of the legal representatives of Everard Meade, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill from the House of Representatives for the relief of the legal representatives of Henry Hoffman, submitted an adverse report thereon; which was ordered to be printed.

Mr. CLAY, from the Committee on Pensions, to whom was referred the petition of William

Goff, praying to be allowed a pension on account of services in the war of the Revolution, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of the heirs and legal representatives of Captain Thomas Dinsmore, a soldier in the war of 1812, praying to be allowed arrears of pension alleged to be due him at the time of his death, submitted an adverse report thereon; which was ordered to be printed.

Mr. GWIN, from the Committee on Naval Affairs, to whom was referred the memorial of Oscar F. Johnson, a passed midshipman in the United States Navy, praying to be allowed the difference of compensation between a midshipman and that of a passed midshipman, from the date of his promotion to the date of his warrant, submitted a report, accompanied by a bill for his relief; which was read and passed to a second reading. The report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Thomas Tansill, for bounty, additional pay, and allowances provided by the acts of March 2, 1833, and 1837, in relation to the marine corps, and pay and allowances of musician in said corps, from 17th of January, 1837, submitted an adverse report thereon, on the ground that he entered the public service as an indentured apprentice, and not by enlistment, and that on the discharge of the petitioner in 1839, he acknowledged to have received all his pay, clothing, and emoluments, of every description whatever. The report was ordered to be printed.

MARINE HOSPITAL AT BOSTON.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be directed to consider the expediency of authorizing the construction of a new building for the marine hospital, in the neighborhood of Boston, in order to furnish fit accommodations to its increasing number of patients.

NOTICE OF A BILL.

Mr. PEARCE gave notice of his intention to ask leave to introduce a bill to provide for the accommodation of the courts of the United States, for the district of Maryland, and the post office, in the city of Baltimore.

HOUSE BILLS AND JOINT RESOLUTIONS REFERRED.

The joint resolution from the House of Representatives authorizing the President to give the requisite notice for terminating our reciprocity treaties of commerce and navigation in certain cases, was read a first and second time by its title, and referred to the Committee on Foreign Relations.

The bill to change the names of the American-built vessels J. H. Holmes and Franklin Pierce, was read twice by its title, and referred to the Committee on Commerce.

The bill for the erection of a military post on or near the Pembina river, in the Territory of Minnesota, and for other purposes, was read a first and second time by its title, and referred to the Committee on Military Affairs.

The bill to enable the people of Oregon Territory to form a constitution and State government, and for the admission of such State into the Union, was read twice by its title, and referred to the Committee on Territories.

The joint resolution making an appropriation for the purchase of territorial libraries, was read a first and second time by its title, and referred to the Committee on Territories.

The joint resolution to disapprove and disaffirm an act of the Legislative Assembly of the Territory of Minnesota, entitled "An act to incorporate the Minnesota and Northwestern Railroad Company," was read twice by its title, and referred to the Committee on Territories.

The joint resolution disapproving of the act of the Legislative Assembly of the Territory of Minnesota, entitled "An act to incorporate the Transit Railroad Company," was read a first and second time by its title, and referred to the Committee on Territories.

THOMAS MARSTON TAYLOR.

The PRESIDENT. A message has been received from the House of Representatives, announcing that they have concurred in the report of the committee of conference, on the disagreeing votes of the two Houses on the bill of the Senate for the relief of Thomas Marston Taylor. The report is, that the Senate recede from their disagreement to the amendment of the House.

Mr. BADGER. The report of this committee of conference was made something like a week ago, but the papers being in the possession of the House, it could not be acted upon by the Senate at the time. We are now informed, however, by the House, that they have concurred in the report of the committee. I move a similar concurrence on the part of the Senate.

The motion was agreed to.

VINDICATION OF HON. J. A. BAYARD, DEC'D.

Mr. BAYARD made some remarks on certain passages in the works of Mr. Jefferson, now being published by authority of Congress, in which there are reflections on the Hon. James A. Bayard, deceased, father of the present Senator, for the part he took in the contest for the Presidency between Mr. Jefferson and Mr. Burr. Mr. PEARCE, Mr. CASS, Mr. HUNTER, and Mr. MASON also spoke on the same subject, of which a full report will be found in the Appendix.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that they had passed the bill of the Senate to incorporate St. Joseph's Male Orphan Asylum in the District of Columbia.

ARMY APPROPRIATION BILL.

The Senate resumed, as in Committee of the Whole, the consideration of the bill from the House of Representatives, making appropriations for the support of the Army for the year ending the 30th of June, 1856, the pending question being on the amendment of Mr. SHIELDS to the amendment of Mr. HUNTER, (which is to provide for two additional regiments of regular cavalry and five hundred rangers,) to substitute for that provision two regiments of infantry and two of cavalry.

Mr. HOUSTON. Mr. President, I am impressed with the belief that any effort of mine, on the present occasion, will be unavailing for the accomplishment of the object which I have in view; but, nevertheless, I regard it as an imperative duty to do everything in my power to prevent the adoption of a course of policy which I consider detrimental to the peace and security of our frontier settlements.

I admit, sir, that the measure proposed by the Senator from Illinois, [Mr. SHIELDS,] as chairman of the Committee on Military Affairs, is presented to the Senate in an imposing manner. It seems to be indorsed by the Secretary of War and the President of the United States; but, though I entertain full respect for the opinions of those distinguished gentlemen, I must be allowed liberty to investigate the subject for myself, and to put my own construction on the facts which are laid before us. It is not sufficient for me that a measure comes here indorsed by the recommendation of the Executive. If I entertain a different view from the Executive on any point, I must act, as a Senator, on my own judgment, and not in subserviency to the views of others. Are we to acquiesce in the proposition now presented to us, because the Senator from Tennessee [Mr. JONES] and the Senator from Georgia [Mr. DAWSON] tell us it is indorsed by the Executive Departments, and has received their approbation? Are we to become the mere recording instruments of the opinions of the Executive, without the privilege of investigating subjects, and acting on them independent of those influences which may be brought to bear on us? For my own part, Mr. President, I shall, when placed here for the purpose of deliberation and action, always exercise my own opinions, however much I may defer to the recommendations and opinions of others, as I am responsible, not only to my constituents, but to the nation.

I must confess, Mr. President, that I cannot regard the necessity as urgent as it seems to be esteemed by other gentlemen, and by those who have recommended it. It seems to be a measure of war, and retaliation for wrongs done; it is a measure which, we are told, is necessary to save our frontiers from aggression, and to protect them against violence and warfare. I cannot arrive at that conclusion. However misguided I may be, or however obtuse my faculties, I cannot see the slightest indications of a disposition, on the part of the Indians, to wage hostilities against this country, or to endanger the lives of our citizens, if a correct policy were pursued. Sir, we must go to the origin of this matter, to see how far causes have influenced the present condition of things. We shall then be in a situation to apply the necessary remedies, and to secure our frontiers against aggression. In the first place, we are informed by the Secretary of War that—

"During the past year the Sioux had committed many depredations upon the property of the emigrants passing Fort Laramie on their route to Oregon and Utah. On the 19th of August, Lieutenant Grattan, of the 6th infantry, was sent, by the commander of the post, with thirty-five men to arrest an offender. This entire force was massacred by the Indians, with the exception of one man who escaped severely wounded, and subsequently died. The circumstances of this affair were at first involved in obscurity; but authentic details have since proved that the massacre was the result of a deliberately formed plan, prompted by a knowledge of the weakness of the garrison at Fort Laramie, and by the temptation to plunder a large quantity of public and private stores accumulated at or near that post. The number of the Indians engaged in the affair was between fifteen hundred and two thousand men."

It is very strange that numerous outrages have been committed, as we are told by the Secretary of War. Sir, what are the facts? Not a single outrage was committed upon the frontier in the vicinity of Fort Laramie but this; and how was it produced? Was it produced by the Indians? We are told by the Secretary, too, forsooth, that an ambuscade was laid for the purpose of decoying this lieutenant, and massacreing him and his party. Strange it was, indeed, that he should not have discovered that ambuscade, when he, for the distance of a mile or more, had marched through the Indians, with two pieces of artillery, to arrest an Indian, without requiring the chiefs, or waiting for them, to surrender the offender. But what was the offense? The killing of a crippled cow. That embraces the repeated outrages upon the people in the vicinity of Fort Laramie, and on the route to Oregon and to California!

Let us look into the facts. We are told by a most intelligent gentleman, General Whitfield, an Indian agent, that these Indians had committed no depredations until they were fired upon, and one of their chiefs wounded. That took place before they attempted to retaliate; and even then, in the first instance, they abstained from anything like retaliation, through the influence of their chiefs, until the artillery was fired upon them. Did that look like an ambuscade, which was laid, or a deliberate design to massacre the party? Sir, these are facts. They are not deductions. They are verified by as gallant a man as ever was in a camp of the United States—a man of intelligence, and of character. What was the condition of the Indians there? Why, sir, they had been promised annuities. They were aware that the goods had arrived there. They had been there for nearly three weeks. The Indians had patiently waited. Their provisions were scarce. The agent was expected to return daily, and did soon return and possess himself of all the facts. The individual who was relied on by the War Department, made an authentic statement to the agent, which was verified by no less than seven witnesses who were on the ground, that the aggression was made by the lieutenant, and at the instigation of a drunken interpreter, from whom the lieutenant had taken a bottle of whisky, and had thrown it down and broken it. Who can suppose that such a medium through which to communicate to the Indians was calculated either to inspire respect or confidence, or that he was a very suitable medium through which to present grave matters, and make reclamation for a cow?

Sir, that cow is to become the wonderful prodigy of the present age, and she is to enlist the sympathies of the whole country for the lieutenant and his company, who fell victims to indiscretion and rashness. Doubtless, induced by the language of this drunken interpreter, he acted with the indiscretion that would characterize youth, but not the deliberation of manhood, and yet this country is to be involved in a war, the least expense to be attached to which will be $5,000,000. It will be an expensive cow; and after you have carried on the war as long as the war continued in Florida, and it has cost you another forty-five millions, you will end it in the same way, by peace. When

they have boundless deserts, and mountains, and fastnesses, and plains in which to find security, and when those in Florida, who were hemmed in in an isthmus or a cape, could not be reduced by the Army of the United States, and the militia of the South, how are you going to take troops thousands of miles to subdue these Indians in the illimitable West? It is impossible that it can be done, Mr. President. Then you will have to purchase peace; and, beside all that, for ten years to come, you will have to increase your officers, your clerks in your accounting offices, to pay for the lost horses, and the incidental losses and injuries done.

But, we are told by the honorable Senator from Alabama [Mr. FITZPATRICK] that there is great danger from the Indians, in large bodies of two thousand five hundred, sweeping down the Missouri river and the Mississippi, and that carnage, massacre, and slaughter, will be the consequence of it. Much respect as I have for the honorable Senator—and I assure you it is of the most sincere character—I cannot agree with him on these Indian subjects, though he has lived in a State contiguous to the Indians, but of a character very different from those of the plains. The Indians of the plains are *sui generis* when compared with others. They are not like the Indians located in the towns or wigwams of the South; they have no marks of civilization in their habits. The want of contact with the whites has deprived them of a thousand advantages which the Indians of the South possessed from the earliest recollection of the Senator.

But, sir, how would a force of Indians embody themselves on the frontiers and remain for twenty days embodied? It cannot be done. My honorable colleague [Mr. RUSK] well knows that they cannot do it, unless they have the appliances and comforts of the white man; unless they have stock from which they can prepare provisions for the occasion, and produce grain. It is impossible, sir, and it is now their daily employment, with the exception of a few outlaws or war parties that occasionally go out to engage in hunting, to support their women and children, and to keep them from starvation. Yes, sir, it is impossible that they can embody themselves, and remain fourteen days embodied, in an attitude menacing to the security of our frontier settlements.

I apprehend no danger. We find, from every circumstance, that the Indians there are perfectly disposed to peace and conciliation. There is no disposition to go to war, except on the part of some outlaws in each tribe, who may go on predatory excursions, regardless of the authority of their chiefs; but the chiefs have influence enough, for they are despotic, their power is absolute, and if you will give them time they will control the tribe, and those fellows will be surrendered, and make an atonement for their crimes. They will be surrendered, for, after the killing—I will not call it massacre—or after the repelling of the attack made by Lieutenant Grattan and his party, which terminated so disastrously to them, amounting almost to their entire extermination, the Indians, aware of the impropriety of the consequences, and of the difficulty of having the facts presented to this Government, and apprehending the involvement of their wives and children in difficulties, and that they should be harassed and reduced to starvation to an extent greater than they had yet experienced, came forward with propositions to make reparation for the injury done, and to surrender the offenders. But the officer did not receive them. No, sir, he drove them off; "Away, sir, I want nothing to do with you." If you wish to have a force, under such circumstances, exercising no more discretion or precaution than is here evinced, sufficient to protect our frontier, you will have to maintain three hundred thousand, instead of three thousand. Why could he not have said to the Indians: "Bring in the chiefs, I will await the decision," or, "The agent will be here, or is here; talk to him;" but no, sir, the officers were willing to take the responsibility without referring it to the agent.

And here we find a discrepancy between the report of the head of the Indian bureau and the Secretary of War. We find that the Indian agent, in detailing the facts, gives them as they are, perfectly authenticated by the best evidence; and we find the officers giving a different glossary. These statements have to be reconciled. If I wished information in relation to the Army purely, I would, with great pleasure and respect, go to the Secretary of War, for I know his intelligence would respond to any inquiry that is proper to his duty; but if I want information in relation to the Indians, I go to the head of the Indian bureau, where I expect to find an able, intelligent, and attentive gentleman. In the present instance, I am happy to say that I fully appreciate his conduct. I respect his capacity and his consistency in the discharge of the duties assigned to him.

Sir, do we find in the report of the Secretary of War as complete information in relation to Indian matters as we receive from the Commissioner of Indian Affairs? I think not. In relation to the recent outrages against the Delaware Indians, in the usurpation of their territory in disregard of every pledge made by this Government, we find that the Secretary of War has not reported the delinquency, or the criminality, of the officers engaged, but it comes in an authentic shape from the Commissioner of Indian Affairs. What should be done in relation to this matter, it is not necessary that I should say. I gave my opinion the other day in relation to what ought to be done.

Mr. SHIELDS. The honorable Senator alludes to the delinquency of some officers of the Army. Now, when charges are made against certain officers, I want to get at their names. Let them be punished if they have committed a fault. I do not like to hear a general accusation without specifying the names of the individuals. Will the honorable Senator mention them?

Mr. HOUSTON. I assure the Senator that I do not exactly recollect; but I am perfectly willing to go as far as the Commissioner of Indian Affairs. Doubtless they are matters of delicacy; and as an investigation may be pending—a court of inquiry, or a court-martial—in relation to the officers, he may not think proper to exhibit their names to the public. But he says that two officers of the Army were engaged in it; and I go as far as I am justified, in giving a statement which is authentic, I have no doubt—I am afraid it is; I wish I had a doubt. Our functionaries there, whether civil or military, are bound to protect the Indians equally with the whites. I want to see the officers impressed fully with the importance of their responsibilities. I want to see them as ready to maintain the dignity and character of the United States, and preserve, unsullied, its integrity, as I do, its arms and its chivalry. It is as much their duty to do so; and there is a chivalry always in protecting the weak against the strong, the defenseless against the aggressor. If the honorable chairman of the Committee on Military Affairs is prepared to say that no officer of the Army has been concerned in this nefarious transaction, I am perfectly willing to waive it. If I have done injustice, show it to me, and I will take it back. But if the Senator is not prepared to do it, I insist upon it, as a matter of grave consideration and import to the honor of the nation, that it devolves the responsibility on the Executive of prompt action.

Mr. SHIELDS. The honorable Senator will see, I think, the propriety of my request. He presents a report of the Commissioner of Indian Affairs, charging two officers of the Army with delinquency.

Mr. HOUSTON. Criminality.

Mr. SHIELDS. That is still worse; but he does not enlighten the Senate, or the world, as to who the two officers are; and yet he expects that we can answer for some two officers somewhere. Now, what I ask, in justice to the Army, in justice to the Senate, and in justice to the War Department, is, that the honorable Senator specify who the men are, and what the criminality is of which they have been guilty, and then I will join him in punishing them.

Mr. HOUSTON. The report is made by the Commissioner of Indian Affairs, and is predicated upon the statement of General Whitfield. The gentlemen named are, Major Maclin and Major Ogden, of the United States Army. If they are innocent of this, I most heartily hope—having known one of them, and felt an interest in his appointment—they will be enabled to vindicate themselves most fully, and to establish the character which, I believe, they were entitled to up to this time, or until this information came.

Now, Mr. President, here was a report made in relation to the Indians at Fort Laramie. We are told that, for three years, these recommendations for an increase of the Army have been before the Senate; and yet, wonderful to tell, all the outrages that have been committed upon the emigrants to California, and Oregon, was the crippled cow transaction. Three years ago there was a call for this as loudly as there is now, and yet no disastrous consequences have taken place; for, if Lieutenant Grattan had never gone there, there would never have been any difficulty; or if, previous to that time, the Army had not gone and committed outrages upon the Indians across the Missouri river, there would not have been any difficulty.

Here, sir, by way way of digression, I will state that Governor Stevens, with sixty men, and comparatively few presents, perhaps not amounting to more than $5,000 in value, traveled through all the hostile tribes from Fort Laramie, or where he first struck the Indian country, to Oregon, and never met with molestation. He conciliated them all; and he speaks of their great anxiety to conciliate the United States, and the great respect and hospitality with which he was treated. Sometimes his men were in numbers of four, or greater or less, as it happened, and they were always in perfect security, and treated with the utmost hospitality. He often ventured himself with three or four men into the midst of Indian lodges, and received their hospitality; and when he rose from a council, in which all his men had been seated on handsome buffalo skins, those skins were carried to his tent as an expression of respect and hospitality. The Indians could, at any time, have annihilated his whole command; but he was a gentleman of discretion, and possessed of as much chivalry as any one who wore the uniform of the United States. That shows you that there is no actual danger.

We hear constantly of traders going through the country; and when a gentleman here felt some little alarm on one occasion, and described his situation as most critical, he said that traders had gone out when these occurrences took place at Fort Laramie, and he would have sent for them, only he was afraid they would all be massacred. The Indian traders have gone on. They have nothing to defend them. They have no guards, no arms; and yet a simple trader, with persons enough, Indian or white, to pack and convey the articles of traffic which he possesses, or the proceeds of his trade, can go through the whole Indian country, and not meet with the slightest molestation or injury. How does this happen, Mr. President? Does it happen that the Indians are hostile, and that they will not attack a weak party; that they want the United States to send armies to hurl defiance at them? Sir, their complaint is, whenever aggression has been said to have been committed by them, or whenever they have retaliated, that it has been because the white man first blooded the path, and they wished to walk, too, in a path of blood. Yes, sir, that is the secret of it. When our traders can go from Fort Laramie, or from the frontier of Missouri, Iowa, Wisconsin, and Minnesota, to the Pacific ocean, with perfect impunity, and return laden with stores from the desert or the wilderness, obtained in traffic with the Indians, I say when our troops are injured, there is a fault somewhere, and that fault is in not cultivating kind relations with the Indians, and treating them with justice and humanity. It is the interest of the traders to conciliate them, and we never hear of their being robbed. We are told that the Indians exact black mail from our emigrants to California. Yes, sir, they do; because persons who have preceded them have provoked and irritated the Indians. I grant you that no caravan ought to go without some military protection. The male portion of the party well armed, with a small military force, can always defend themselves against as many Indians as can remain embodied in any country where the buffalo is not abundant. I am for giving ample protection, whatever it may be, to the emigrant trains; but they should go in such detachments or caravans as will render it convenient to afford them subsistence, for I would not that one scalp should be taken.

I can exemplify, to some extent, an impression that I have when I contrast war measures with peace measures. I well recollect in 1835, 1836, 1837 and 1838, in Texas, we had peace. The Camanches would come down to the very seaboard in amity and friendship, would repose confidently in our dwellings, would receive some

trifling presents, and would return home exulting, unless they were maltreated, or their chiefs received indignities. If they did receive such, they were sure to revisit that section of the country, as soon as they went home, and fall upon the innocent. They were sure to do it; while other rivers and water courses remained in perfect security, and the Indians never depredated. I recollect one instance that occurred with the people of Colorado. The Indians invested it much, and made frequent incursions. The Brazos was perfectly secure. The commissary of that colony, held under Mexico, treated the Indians kindly. He had been reared on the frontiers of Tennessee, when that was a wilderness. His forefathers were among the first settlers of the Territory of Tennessee. He conciliated the Indians by proper treatment. The people of Colorado, some sixty miles off, went over and seized some friendly Indians in a village on the Brazos, which gave protection to the frontier for women and children. They knew it was destruction to them, for they made an inroad into that portion of the territory. So to involve them in an equal dilemma with the people of Colorado, a company went over, seized the women and children there, tied them to trees, and held a council as to the course that ought to be taken, whether they ought to be killed or not. Some of them, the most chivalrous or clever, returned. Others went back, and murdered them all but one. Then war came upon Brazos also. It was a signal for the people of Brazos to suffer, and they had to make common cause with the people of Colorado in resisting the Indians. So you see what mischievous men will do. Not satisfied with the reward of their own deeds, or the consequences resulting from them, they will go and provoke wrong upon others. There are some people who only live in mischief, turmoil, and agitation.

For the years I have mentioned, in Texas, we had perfect peace; and, mark you, it did not cost the Government $10,000 a year. We had no standing army. A new Administration came in, and the Legislature immediately appropriated $2,000,000 for the creation of two regular regiments. Those regiments were raised. What was the consequence? They said that the policy had changed in the inauguration of the President. He announced the extermination of the Indians. He marshaled his forces. He made incursions on a friendly tribe, who lived in sight of our settlements, where the arts of peace were cultivated and pursued by them—by agriculture and other arts, and by the exchange and traffic of such productions of the soil as were convenient. They lived by traffic with Nacogdoches. The incursion was made, and it was announced formally by the Cabinet that they would kill off "Houston's damned pet Indians." Well, sir, they killed a very few of them; and my honorable colleague knows very well, if it had not been for him, they would have licked the regular army—as the Indians said; I was not there.

The Cherokees had ever been friendly; and, when Texas was in consternation, and the men and women were fugitives from the myrmidons of Santa Anna, who were sweeping Texas like a simoon, they had aided our people, and given them succor; and this was the recompense. They were driven from their homes, and were left desolate. They were driven up among the Camanches. What was the consequence? Every Indian upon our borders, from the Red river to the Rio Grande, heard the alarm. They learned that extermination was the cry; and hence it was that the flood of invasion came upon our frontiers, and drenched them with blood. The policy was pursued, and a massacre of sixteen chiefs at San Antonio, who came in amity for a treaty, took place. That was in 1840. Before this Army was raised, they had been in the habit of coming down for purposes of peace and commerce. But an army of invasion that marched through the settlements, one hundred or one hundred and fifty miles, through populous portions of the country, I grant you avoiding the dense settlements, went to Linville, upon tide water, rifled the stores, and slaughtered the men, if there were any, and their childrens' brains were dashed against the walls of their peaceful habitations. The exterminating policy brought it on. The country became involved in millions of debt, and the Indians in the State were kept in constant irritation.

That was in 1840; and it was not until the year 1843, that intercourse could be had with them through the medium of the pipe of peace, the wampum, and the evidences of friendship. Then, what I related the other day occurred, and kind relations were again brought about, which subsisted until 1849. For the last year there has not been the life of a citizen lost on our borders that may be attributed to the Indians. One old man and three children were found near Medina, and another man was found, not scalped, and we know not by whose hands he came to his death—whether he was killed by Indians or Mexicans. They have detected companies of felons there, white and black, associated with Mexicans, stealing horses, and running them through the wilderness to Red river. The garrison, they knew, was there, and they can dodge them, and go within one mile, or twenty, or thirty, just as they please. They are perfectly harmless.

They have killed ten soldiers—and why? Because the soldiers insulted them. Whenever they get the chance, they treat them like dogs. What did they do? The agent went and made an agreement with the principal officer, for the Indians, to enable them to subsist, that they should have a certain amount of powder and lead; that the settler should be permitted to sell it. The commanding officer was absent. Perhaps the young lieutenant, or the junior—I hope the Senator will not ask for the name, for, indeed, I have forgotten it —was in command. The Indians came in, and asked the settler for powder. He said, "No; there is no powder; you cannot get one grain of powder or lead." "Why," say they, "our women and children are crying now for bread, and we want to go out and kill game to satisfy our women and children; we want the powder." "No, you cannot get powder," says he. "If you drive us off, we will have to go and join the northern Camanches. We have always been disposed to be friendly, but we cannot stay and starve. We must go and join the stronger party." "Well," says the officer, "you may go." "But," say they, "if war comes on." The reply is, "War is my trade; bring it on as soon as you please." They separated; and we have heard that that agent had to send two hundred miles a friendly Delaware Indian, before he could overtake that band, and, with difficulty, he got them back. He had to traverse and ride seven hundred miles to effect the restoration of harmony.

That is the way they manage. If these are the gentlemen that are to hold the lives and property, and the security of our citizens in charge, I want them to be men of some discrimination, some wisdom, some little experience, not those who have just burst from the shell, and who have got a good deal of it in their heads—not children just burst out from their nests in the Military Academy, without ever having seen an Indian, and knowing nothing of their disposition. Send men of age and discretion, who have some sympathy for the whites, if they have no respect for the Indians. Then, sir, you may dispense with a great deal of the force which you now have, or ought to have, to make the Army efficient.

Now, you see the consequence of this wiping out of the Indians, and making them respect you. Whenever you attack them, you embody them; for we are told by an agent, Mr. Vaughan, a gentleman of high respectability, as I understand, that the Indians are disposed to live in perfect amity with the United States; and that they do not only say that they are disposed to be at peace, but that they report the hostility of other Indians, and say that they will coöperate with the whites in giving them any information and aid that they possibly can; and will assist them in a conflict with hostile Indians; so that there is no danger to be apprehended. If you conciliate but one part, the others will not attempt to enter into hostilities. It is for the accomplishment of this, that I desire to see the appliances of peace, not of war, used. Here, for instance, Mr. Vaughan says:

"The Brulies from the Platte, the Ouh-Papas, Blackfeet, Sioux, a part of the Yanctonnais, Sans Arc, and Minecougan bands of the Missouri, openly bid defiance to the threats of the Government, and go so far as to say, that they do not fear the result should soldiers come to fight them."

That is all hearsay. It is reported as hearsay, not as being authentic.

"The rest of the tribes in this agency are disposed to do right, and many of them at once will unite in exterminating the above bands. Several of them have come voluntarily to me, and stated that, should a force be sent here to chastise these, they will hold themselves in readiness to give any information relative to their locality and movements in their power, and render any assistance that may be required of them."

Well, now, when you can divide the Indians in this way and have one party, suppose you were to send two hundred men against hostiles, you could acquire an equal Indian force, so as to countervail them, and the whites would determine at once the preponderance in favor of our Government. Mr. President, I assure you I cannot agree to the proposition. Besides, the general objections which I have to the increase of the Army as the policy of the Government, I will say that we have enough in the present force, if properly employed, with the exception of the convoys necessary to the emigrant trains, and it would be very easy to digest a system for that purpose short of the contemplated three thousand troops.

Sir, I discovered furthermore, that in the plan suggested, the section of country from which I come is left entirely free from all the influences of its provision and all its benefits. My honorable colleague says, that those who are in danger ought to feel for home. I say so too, but I am sure he has not looked into this, and exercised his accustomed sagacity, or he would perceive that Texas has not been mentioned in this provision; but it relates to the emigrant routes of California. Texas is to be put out of the way.

There is nothing central there—no preponderating political influence there. Texas is neglected.

I made a proposition the other day, that, if the troops are to be called out, and one fourth of the money were given to our agent that would be annually expended, I would stake my life upon the event that we should have perfect peace there; and the influence of peace there would radiate to the Pacific. Justice will be done. Their wants will be supplied. We must remember, sir, there is a race of mortals wild, who rove the desert free. They owe no homage to the written rules which men have made; owe no allegiance to the idle forms which art suggests; but, proud of freedom in their native wilds, they need but competency's aid to make them blest. Well, sir, feed them. You have it to do, or you have to kill them. Which is the most expensive, leaving out the humanity of the thing? If you merely regard it as a matter of dollars and cents, you will find that to feed them is cheaper than to kill them, though you should not lose a human life, nor the labor or the exposure of the citizens, and suffer the casualties which would be brought upon them by a war.

I go for conciliation; and I come here, Mr. President, to legislate in part for Indians, but not to legislate for Indians to the exclusion of the whites. But, the honorable Senator from Tennessee, [Mr. JONES,] for whose eloquence and high conceptions I have great respect—though I do not, in everything, coincide with him—differs from me. I must be permitted to make a commentary upon a few sentences which appear in the remarks that he made the day before yesterday. He said:

"I am not here to legislate for Indians. I am here to legislate for white folks and negroes, and not for Indians. I have no Indian constituency; and I confess that I have no great sympathy for them. When I remember their barbarities in my own State, when I see there the graves made by their hands, this heart of mine has no warm, impulsive feeling for them. I would do them no wrong; I would give them all the protection which can be accorded to them; but I would protect our own citizens against them. They should perpetrate no outrage upon our citizens if I could avert it."

Mr. President, the Senator says he has no Indian constituency. I have none; and, moreover, Mr. President, I have no Buncombe constituency, either. [Laughter.] I have a very proud and exalted constituency. They are pretty much self-existent, and independent. But, Mr. President, I come here to legislate for Indians. I find them embraced within the pale of our Constitution. It points out the course for me to pursue in relation to them in my legislative action. The principles of our Government, independent of the express letter of the Constitution, would suggest to me what course to pursue. They are here recognized by the action of this body in the ratification or rejection of treaties which have been made with them. I grant you it is a farce which has lost now even the solemnity of a farce, if it ever had any; but still I come here to legislate for the Indians. To tell you the truth, sir, it is always with great reluctance that I see the subject of legislation for

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negroes introduced into the Senate. I do not think it a proper place for it. I have never recognized the right of the Senate to do it, and I never will; and there I take issue with the honorable Senator in that particular.

But, independent of that, the Indians are a people who are upon our borders. We are brought in contact with them. We have taken their soil, their country. They have yielded to superior intelligence, and to the spirit of domination inherent in our race. They are a feeble race, yielding to the pressure of circumstances, and to the mastery of white men. But, sir, if they are inferior, and have fallen beneath our prowess, and they are prostrate, let us raise them up; let us elevate them; let us bring them to equality with ourselves as to intelligence, for they are not inferior in native capacity, they are not inferior in the employment of mechanical arts. What did the Senator from California [Mr. WELLER] say yesterday? He stated that the wild Indian boys, who were taken in California, and put to agricultural pursuits, learned with the same readiness that the white boys did, to plow, and the arts of agriculture, so far as they had been tried. It was manly testimony, and it commends the gentleman and his experience to consideration. He tells you, too, that a few years ago, there were not less than ten thousand Indians in four counties, who have now dissolved and melted away, until but a fraction over three thousand remain. With the vast number that are still there, perhaps the proportion of diminution will soon be as great. We ought to look with some degree of commiseration upon these people. It is not the duty of every gentleman to feel sympathy for them, but he should feel a manly respect for himself; he should feel for humanity in any shape, for a merciful man will be merciful to his beast. They are degraded and sunk by their contact with the white man. They have, unfortunately, first to learn his vices, and, by degrees, to glean his virtues. But yet we see, under these influences, nations rise, become respectable, intelligent, scientific, and not only scientific, or learned, but we find them with their judicial department, their political department, their administrative department, and their Christian department. You find, in the last twenty years, not less than seventy ministers of the Gospel have grown up among the Creeks, the last to raise a hostile arm against the United States. Why not produce the same result with other tribes? My distinguished friend from Michigan [Mr. CASS] well knows that the Indian is susceptible, not only of improvement, rapid improvement, proportioned to the facilities afforded to him, but that he has as high and generous impulses as ever swayed the human heart; or quickened life's vital current; and who, when their friendship is plighted, would give their life to redeem you from an adversary's blow. Yet these men are not worth legislating for! Were their existence to terminate, and not to go beyond this earthly sphere, were there no eternity to receive the undying spirit of an Indian, humanity would bid us do justice to the red men. But they have an undying spirit, and if you inflict wrongs upon them and they are unredressed, the accountability may be beyond my power to tell; but the honor of this nation demands the maintenance of good faith towards them. Have we heard that any efforts have been made to redress the wrongs recently inflicted on the Delawares? No, sir, we have not heard that the military there have interposed and driven the offenders from their land. It is not neutral territory; it is their property; and the United States is pledged, by treaty, and by honor, to protect them in its possession. They have delegated a trust to the United States to sell this land if they dispose of it for their benefit; but they have not given it to the aggressor. Will the Government permit their wrong to go unredressed? Where is the military authority there, that they do not expel the aggressors, in obedience to the intercourse law—persons who are there without permission? Sir, the nation's honor grovels in the dust, its ermine is soiled, its glories are clouded.

Mr. President, I am reluctant to detain the Senate; but I must take the liberty of making a suggestion, and it may be regarded, in the character of prophecy or fancy, as may be most convenient and acceptable. Raise the three thousand troops, make a general war with the Indians; and it will take five years to terminate it. It will become a focus of excitement. It will virtually arrest emigration to California and to Oregon. It will cost you fifteen millions of dollars, and you then will have to approach these Indians through the medium of pacification. Send your wise men, three commissioners, if you please, and send two or three hundred men, as discreet men might designate, and you will make peace with every man in the course of nine months, and give perfect security to your emigrant trains. You will not hear of bloodshed, unless it results from a spirit of retaliation provoked by the whites. This being done, you would have the blessed reflection that you have saved the effusion of human blood. The women and children of the Indians will be preserved. But if you call the attention of the warriors to war and battle, and to marauding, by way of retaliation, upon your trains, starvation will ensue for want of the means of subsistence. Mark these words; pacific force will give peace and save millions of money, a hostile force will expend millions, waste human life, and dishonor the nation.

Mr. DODGE, of Iowa. Mr. President, the measure of increasing our military force, comes strongly recommended to us, by both the President and Secretary of War. Those recommendations are but earnest repetitions of what these officers and their immediate predecessors have strongly urged upon Congress at previous sessions; and in addition to the increase of our regular Army, we have recently received from the President, a special message, requesting us to authorize him to employ three thousand volunteers for the defense of our extended frontier, now believed to be menaced by Indian warfare. This force has been called for, because of the delay in voting the regiments so long and repeatedly asked, as an addition to the regular Army, and, under the belief that, if those regiments were now granted, they could not be raised in time to meet the exigencies of the public service. In view of the danger to our frontier settlers, and to the overland emigration to California and Oregon, I think the recommendations wise and judicious. It is not proposed that these volunteers shall become a part of the permanent force of the Army, nor remain in service over eighteen months. I know they can be brought into the field immediately, armed, mounted, and equipped, ready to accompany emigrants, build forts, or operate wherever there is likely to be difficulty between the whites and the Indians, or between the different tribes.

President Pierce, in his annual message at the commencement of this session says:

"The experience of the last year furnishes additional reasons, I regret to say, of a painful character, for the recommendation heretofore made to provide for increasing the military force employed in the territory inhabited by the Indians. The settlers on the frontier have suffered much from the incursions of predatory bands, and large parties of emigrants to our Pacific possessions have been massacred with impunity. The recurrence of such scenes can only be prevented by teaching these wild tribes the power of, and their responsibility to, the United States. * * * * * The public mind of the country has been recently shocked by savage atrocities committed upon defenseless emigrants and border settlements; and hardly less by the unnecessary destruction of valuable lives, where inadequate detachments of troops have undertaken to furnish the needed aid."

President Fillmore said:

"Texas and New Mexico are surrounded by powerful tribes of Indians, who are a source of constant terror and annoyance to the inhabitants. Separating into small predatory bands, and always mounted, they overrun the country, devastating farms, destroying crops, driving off whole herds of cattle, and occasionally murdering the inhabitants or carrying them into captivity. The great roads leading into the country are infested with them, whereby traveling is rendered extremely dangerous, and emigration is almost entirely arrested. The Mexican frontier, which, by the eleventh article of the treaty of Guadalupe Hidalgo, we are bound to protect against the Indians within our border, is exposed to these incursions equally with our own. The military force stationed in that country although forming a large portion of the Army) is represented as entirely inadequate to our own protection and the fulfillment of our treaty stipulations with Mexico. The principal deficiency is in cavalry, and I recommend that Congress should, at as early a period as practicable, provide for the raising of one or more regiments of mounted men."

Mr. President, there can be no doubt if our present regular force was required anterior to the vast acquisitions of territory growing out of the Mexican war—and no one has ever denied that it was—the proposed augmentation of that force is called for to protect and defend our frontier thus extended. Of this I am perfectly certain; and, representing as I do, in part, a frontier State, and feeling the deepest solicitude for the welfare and lives of the infant settlements west of my State, I should feel that I was derelict in duty if I failed warmly to support these Executive recommendations.

Besides the information which has reached us from the heads of the Government, I have received much from private sources, with some of which I beg to trouble the Senate. A correspondent writes me from Council Bluffs, Iowa, under date of the 2d instant, thus:

"Numerous petitions are in circulation among the citizens of the counties north of this, for the establishment of a fort near the mouth of the Sioux river, and it is much needed I assure you. The Siouxs own the land down to the mouth of that river, and these Indians are continually on this side, and on lands owned by the whites. They are becoming very saucy and very troublesome. There is a universal apprehension of serious difficulty with them this winter or the coming spring. The Yanctons pretend to claim this side, down and to the Boyer river, and assert boldly their intention of coming over on our side to plant corn on the bottom next spring. They have made a business of pulling up every stake, and destroying the mounds in the Government surveys; in fact Government must do something with them soon."

Another, from Nebraska Territory, whose letter bears date the 8th instant, says:

"Governor Cumming has issued a proclamation recommending the organization of two regiments of volunteers for the protection of the border settlements in the Territories, and of emigrants crossing the plains to Utah and California. Should the Government take any steps towards furthering this object, we ask that the forces placed in requisition be taken from this Territory. We think it would be the best policy for Congress to pass a law authorizing the President to call into service one or more territorial regiments, instead of sending on regular troops. Those who would constitute the armed force in such case, are much better acquainted with the Indian country, and, as a consequence, would be much more effective in pursuing and conquering those hostile tribes."

Another, from Iowa, under date of the 14th instant, says:

"I have lately returned from California. I have been three trips across the mountains and back since 1850. There are a large number desirous of going across this season, if they could have any protection against Indian outrages. The Pawnees and Sioux are the worst Indians on the plains. The Sioux have never behaved so badly as they did the last season. The officers, from the highest to the lowest, give the Indians a paper, requiring the emigrants to give the Indians provisions. If they were to do this to all the Indians who present them with papers, it would consume all their provisions before they had gone over more than one third of their journey. The Indians claim this for our traveling through their country; but it is supposed, by emigrants, that they have been treated with for the right of way by the Government. Iowa has a deep interest in this matter, and does as large a business in driving stock and trading to California as any State in the West; and I think nothing short of western volunteers will do much with these Indians. There could be any number of volunteers raised in Iowa, and the western part of Missouri, to attend to them. There could be one hundred volunteers raised in Van Buren county, and ready to march in a week from the time of the call."

Governor Hempstead, in his annual message to the Legislature of Iowa, in December last, says:

"It should be remembered that Iowa is a frontier State; portions of our northern and western boundaries are subject to the incursions of Indians, who have but recently disposed of their right to the soil, who return for the purpose of hunting, and not unfrequently commit depredations upon the white inhabitants before the United States troops, or any effective military force, can be obtained to repel them. It is, therefore, prudent and necessary that we should have such a military organization as will enable us, in a case of emergency, to defend ourselves and protect our citizens.

"In July last, I received information from the counties of Cerro Gordo, Floyd, Bremer, Chickasaw, Franklin, and others, that a large body of Indians, well armed and equipped, had made demonstrations of hostilities, by fortifying themselves in various places, killing stock, and plundering houses, and that many of the inhabitants had entirely forsaken their homes, and left a large portion of their property at the mercy of the enemy; praying that a military force might be sent to protect them and their settlements. Upon

the reception of this information, an order was immediately issued to General John G. Shields, directing him to call out the City Guards, of Dubuque, and such other force as might be necessary, not exceeding two companies, to remove the Indians from the State."

If our Army should be increased to the largest number proposed, it would have but a force of fourteen thousand seven hundred and thirty-one officers and men; but the Secretary of War, than whom no one is more competent to judge, states, that large allowances must always be made for absentees, invalids, &c., and that the effective force, under the proposed organization, would probably never exceed eleven thousand. Any one, even slightly acquainted with the nature of an army, will at once perceive that the Secretary is right in his estimate as to what will be the actual number of men ready for service. This diminution occurs from the rapid succession of casualties, from sickness, accidents, expirations of enlistments, desertions, and death. Looking to the condition of our Army in times past, we find its available force is always a fourth, frequently a third, less than that authorized by law.

Our sea-board and foreign frontier, without counting the doublings and indentations of the coast, exceeds ten thousand miles. We have double lines of Indian frontier and routes through the Indian country, amounting to more than eight thousand miles, upon which we not only owe it to our own citizens to protect *them*, but are bound by treaty obligations and the dictates of humanity, to protect the weaker from the stronger tribes of Indians.

Our fortifications and military posts have been greatly increased since the conclusion of the war with Mexico, and they, of course, require more force to occupy and defend them. The Indian population embraced within our present limits is estimated, by the Secretary of War, to be four hundred thousand—of which probably one half, or forty thousand warriors, are believed to be hostile, and quite ready to become our active enemies. The older sisters of the Union should not forget that, by a policy, over which the West had no control, almost the entire Indian population of the United States is concentrated on the weakest portion of our frontier—the southwestern, the western, and the northwestern States and Territories. They have not only been located there, but many of them are filled with revenge, for defeats and mistreatment which they suppose themselves to have received in States now relieved of their presence. They are placed in ready communication with the wild Indians of the West, those powerful and warlike tribes in the direction of Mexico, the Rocky mountains, and the northwest. Tribes which have never crossed steel with us, and who will ever be found ready to join in any inroad upon our frontier.

Anxious as I am, Mr. President, for the passage of these measures, looking to the defense of my constituents and neighbors, I should not have consumed any of the precious time of the Senate with these remarks, had it not been for the, to me, extraordinary speech of the Senator from Texas, who sits furthest from me, [Mr. HOUSTON.] I have seldom listened to a speech, from the views and sentiments of which I more thoroughly dissented than I do from those advanced by him, and but for my personal knowledge of his identity, I could not have believed that I was listening to the pupil of Jackson, who bears upon his person enduring and honorable memorials of those bloody contests into which the Tennesseeans were forced by the atrocities of the Creek and other tribes of the southwest, during our late war with Great Britain. His speech, if I correctly apprehended it, was little short of a direct attack upon the people of the frontier, and the Army of the United States; or rather, an indictment of every man who wears the epaulettes of his country, or marches under its flag. I was glad that the Senator from Illinois [Mr. SHIELDS,] called upon him to name the men who have been guilty of the outrages which he charged. The Senator from Illinois called on him to name them, because he is anxious to preserve the honor of the country, and unwilling to screen Army officers, or any other individuals in authority, from the merited chastisement of public opinion, or the just sentence of a court-martial. Sir, I think I may presume to speak for the Secretary of War, (whom I know well, but have seen only once during this session, and then only for a few minutes,) and for him who wields, for the time being, the destinies of this Republic, that if the Senator will name the men who have committed the outrages of which he complains, and make out his case, they will be arraigned before a court-martial in double quick time, and if found guilty, those epaulettes and swords which they have disgraced, will be stripped from their shoulders and taken from their sides. That I guarantee, and again call upon the Senator to name the officers who have been guilty of this alleged misconduct.

Mr. President, how strangely does the remarks of the Senator from Texas, [Mr. HOUSTON,] to which I am replying, contrast with the speeches which were made by his able and efficient colleague [Mr. RUSK] but a short time since, to induce the Senate to ratify the late treaty with Mexico. That treaty has been made public, and, therefore, I have a right to speak of it, and of the arguments which were used in favor of its ratification. The principal one being to get rid of our liability under the eleventh article of the treaty of Guadalupe Hidalgo, by which we were bound to protect the Mexicans from Indian incursions and depredations. Our inability to comply with this treaty stipulation was forcibly shown by referring to the fact that we were unable to save from pillage and massacre our own citizens. Sir, those eloquent appeals of that Senator [Mr. RUSK] are still ringing in my ears. He described to us in words of living truth, I am sure, the forays which the Camanches were wont to make upon the Mexican and Texan people. Day after day he depicted to us the horrors of Camanche cruelty and barbarity. He described the dreadful system of slavery and cruelty to which they subjected their prisoners, and the large number of Mexican women and children, who were in that miserable condition; one far more lamentable than any ever ascribed to the negroes of the South, even by the most crazy and fanciful abolitionist who ever spoke or wrote upon that subject. He told us of the dreadful servitude and scourge to which these unhappy people were subjected by the barbarous Camanches; the recital of which, in his nervous and manly style caused the Senate to thrill with pity.

I do not now refer to this subject to animadvert in the slightest degree upon the arguments or conduct of that distinguished Senator upon the treaty to which I refer. On the contrary, I award to him praise for the unflagging devotion which he has ever manifested to his State, and for his extraordinary tact and skill in serving her upon two memorable occasions which have fallen under my observation. But whether in secret or open session, the whole Senate will bear me witness to the frequent references made by that Senator to the utter inadequacy of the protection afforded by our Government to his constituents, and of the number of them which had fallen and were falling under the merciless Indian hatchet, yet his colleague now rises upon this floor and tells us that the Indians never commit outrages—that they only act upon the defensive and are forsooth a most harmless and docile people. Sir, let me read a short extract from a letter by a recent Governor of Texas, Governor Wood, to the late Secretary of War, devoted to the subject of the defenses of his State. He says:

"A considerable portion of this force, being infantry and artillery, is wholly unadapted to the peculiar service required against these tribes, who, by many successful forays, have possessed themselves of large herds of horses, and who move uniformly upon horseback, and with great celerity. Companies are stationed from fifty to one hundred miles distant from each other, along a line running, as I have before said, through a sparsely settled region, and intersected at numberless points by a character of country well calculated to shelter their approach and afford them an undetected ingress into the settlements, where, in obedience to their savage instincts, they plunder and murder, and, before troops can be had from any station, they are beyond the reach of pursuit, and secure in their fastnesses."

* * * * * * *

"There have been at least one hundred and fifty persons killed in the vicinity of Corpus Christi within a year, an incredible amount of property carried away and destroyed, and the settlers, in many instances, entirely broken up, and driven from their homes.

"The utter futility of all mere treaty restraints with such a people, without fixed habitations or pursuits, or of the means of offering adequate guarantees for their observance, and into whose social system the right to steal and kill, is incorporated as fully as their right to breathe the common air, needs no demonstration. The history of the past is pregnant with its confirmation. They can only be restrained by motives of fear, awakened by the presence of a power ready and able to punish them. The condition of things alluded to, must, and will continue, unless arrested by a military force adapted to, and adequate for, the purpose."

When I read this statement of the Governor of Texas, and recall to mind the cogent and powerful arguments of the Senator from Texas, [Mr. RUSK,] in favor of an increase of the military power of this Government, I must confess that I am still more astonished, if not confounded, at the remarks of the other Senator from Texas, [Mr. HOUSTON.] Sir, as before remarked, I was gratified that the Senator from Illinois, [Mr. SHIELDS,] as an impartial man, equally so between the North and South, as one who embraces within his political affections every portion of our extended Confederacy, without regard to mere State lines or geographical distinctions, gave the facts and the figures in regard to the present disposition of our military forces. It was such as fully to rebut the statement of the Senator, [Mr. HOUSTON,] that Texas received no protection, and desired none. The report read by the Senator from Illinois showed a very large proportion of our present small military force, to be in and upon the frontiers of Texas, and in addition thereto the employment and payment, by this Government, of several companies of Texas volunteers. I would not take from Texas any portion of that force. I am desirous that she should be protected throughout her length and breadth. Knowing the necessity to exist for an efficient force in that quarter, I am willing to grant it, and should be gratified to see it led by a soldier of her own, whom I lately saw in this Chamber—Ben McCulloch—who so distinguished himself by his gallantry and officer-like conduct in our late war with Mexico—a partisan officer, who threw himself in the front ranks wherever danger was to be met, and who aided, amid the shower of bullets with which our Army was received, to plant, in triumph, the star-spangled banner upon the stony walls of Monterey—his intrepidity having made him an object of scarcely less curiosity to Ampudia and the Mexicans, than was General Taylor himself. I should be glad to see him placed at the head of one of the proposed new regiments. I am willing to intrust the peace of the frontier to his prudence and discretion, as well as to his valor, believing that he is a man who has a head for some other purpose than to wear a hat upon it, and that he has other and higher attributes of character than mere physical or brute courage.

I understood the Senator from Texas to say that in all the conflicts between the white and the red men on the frontiers of this country, his own race were in the wrong, and that their murderous and thieving propensities were the causes of the conflicts which have taken place between the races. If I am wrong, I wish to be corrected.

Mr. HOUSTON. If the gentleman calls on me, I will explain to him with great pleasure.

Mr. DODGE, of Iowa. Before yielding the floor to the Senator, I wish to call attention to another remark of his. I understood him to say—I trust, on account of the chaplet of renown which adorns his brow, that I misunderstood him—he would take the side of the Indians against the whites, on account of his conviction of the wrong which they have endured and are still suffering from the whites.

Mr. HOUSTON. I am very happy to state that the gentleman labors under a misapprehension on both those points. What I stated was, that I never in my life knew a case where a treaty had been deliberately violated by any tribe of Indians. I admitted that individuals might have committed depredations in violation of treaties, and that the whites would seek redress immediately of the tribes, and thus war might be brought on. I said also, that these Sioux talked of embodying themselves to resist the whites, and that if aggressions were made upon them for the purpose of destroying them, and I was in their neighborhood and identified with them, I would help them to resist wrong, and outrage, and oppression. That is what I said.

Mr. DODGE, of Iowa. The declaration, upon the part of that Senator, went to every Indian war or disturbance which we have had in the northwest, or in the southwest, as I understood it.

Mr. HOUSTON. I do not know the particulars of the transactions to which the Senator alludes.

Mr. DODGE, of Iowa. Within my own day, we have had in my section of the country, two

Indian wars, besides minor difficulties, one in 1827, and the other in 1832. The senior Senator from Michigan [Mr. CASS] was then Governor of the Territory [Michigan] in which they originated, and I appeal to him to say whether that war of 1827 was not commenced by the cold-blooded murder of unoffending men, women, and children, by those Indians now so eulogized by the Senator from Texas.

The Senator from Michigan will attest the truth of what I say, when I assert that that war was commenced by a party of Winnebagoes, headed by their chiefs, "Red Bird" and "Sun," who entered the peaceable domicile of a Frenchman, in the suburbs of the town of Prairie du Chien, and there began their work of death. Before they approached his house, finding that the gun which the chief carried was too long to be secreted under his blanket, they deliberately had it cut off by a blacksmith in order that it might be fired at their intended victim without his knowing whence his death shot came. After having partaken of his hospitality, and while sitting at the table, "Red Bird," with all the coolness of the assassin, without seeming to look at him, fired straight to the heart of the Frenchman, who fell dead at his own table. Another white man, and all the Frenchman's children, save one, were murdered. By a miracle, as it were, his wife escaped, as did one of their children, less than eighteen months old, whose throat they supposed they had cut when they scalped its head. A treaty was afterwards negotiated with this tribe, and a Senator who sits near me [Mr. DODGE, of Wisconsin,] was instrumental in affecting a treaty stipulation, by which some pecuniary provision was made for this child, which, when brought into the presence of the assembled chiefs and braves with its scalped head, caused them to bow in humiliation and shame.

The same blood-thirsty party repaired to Prairie la Crosse, and recruiting their numbers, resolved to attack two keel boats, manned by white men, whom they supposed would fall easy victims, as they believed them to be without arms. But in this they were mistaken. These boatmen had discovered those feelings of hostility which the Sioux's now manifested, and were fortunately furnished with arms by the late Colonel Snelling, then in command of Fort Anthony, on the St. Peter's river. To this circumstance alone did they owe their lives! These Indians commenced a cross fire upon them as they were descending a narrow arm of the Mississippi, and some of the more daring ones actually boarded the boats and were killed upon their decks—they killing, however, and wounding a considerable portion of our men. This occurred in 1827, and after a series of campaigns, and the loss of an entire season by the settlers in that section of the country, the Indians were forced to treat and to give up the murderers.

But how was it in 1831, and in 1832, when what is called the Black Hawk war occurred? At that time the brave and humane, but now departed, Edmund Pendleton Gaines—than whom a better soldier or a truer man, in every respect, never lived—commanded the troops at Fort Armstrong, now called Rock Island. These Indians had sold to the United States all the country which they owned in Illinois, as far back as 1808. But they returned in 1831, in large numbers, and attempted to expel the white settlers in sight of and almost under the guns of the fort, destroying their crops and their stock. They may be truly said to have invaded a sovereign State, which had been admitted into the Union in 1818. General Gaines expostulated with them, and warned them of their inevitable destruction, if they persevered in their hostile intentions. But Black Hawk and his followers, seeing there was not a sufficient force of regulars to chastise them, continued to occupy their defiant attitude until the Governor of Illinois, at the head of some two thousand men, advanced to the aid of General Gaines. At the approach of this force they returned to their own land on the west side of the Mississippi.

General Gaines, anxious to prevent the effusion of blood, invited Black Hawk, and the other chiefs and braves of the Sac and Fox tribes, to meet him in council. They did so. The General gave those Indians some ten thousand bushels of corn, and innumerable presents of various kinds, in consideration of which, they stipulated not again to return to the east side of the river, nor further to molest the whites. That, mark you, was in 1831; but, in the spring of 1832, Black Hawk, at the head of his followers, reinvaded Illinois, at the head of some six or eight hundred mounted men. General Atkinson, then at the head of the United States troops, called for a force of Illinois and Michigan volunteers; but sought, by every means in his power, to prevent the spilling of blood. It was in furtherance of this wish of the General that the agent of those Indians, the lamented St. Vrain, a brother-in-law of my colleague, and the father of a family of four or five children, went in advance of the troops; he, speaking the language of those Indians, appealed to them to desist from their warlike purposes; he assured them of the fate which awaited them; but his appeal only resulted in the loss of his life, and the mutilation of his body. Cannibal-like they ate his flesh and drank his blood. But, sir, he fell at the post of duty in the cause of humanity, and was a man, who, if he had been in the place of our consul at Cuba, when the brave, if misguided, Crittenden and his compatriots met their bloody grave on that island, would have thrown himself between Concha's rifles, and those murdered patriots, and told the cowardly Spaniards to fire upon his countrymen through the body of the accredited representative of the American Government. Was this evidence of a friendly spirit?

Sir, I cannot but be astonished, at this day, when I think of the early Indian wars in Kentucky, Tennessee, and other western States, to hear it said that our frontier people are to bear the blame of all our past Indian difficulties. You might as well tell me that the unoffending Captain Gunnison and his peaceful party sought to menace and outrage the Indians, when, in a moment, while at their morning's repast, they were precipitated into eternity by an unseen but savage foe. Mr. President, are the Senators from Florida willing to sit here and allow it to be said that they and their constituents, (particularly General Thompson, once a member of the other House,) were the cause of all the bloodshed in that Territory; that they brought on this war by their bad faith towards the Seminoles. I know, sir, that the carping spirit of Abolition has charged that the Florida war was a war for negro slavery and Indian oppression.

Mr. MALLORY. Will my friend from Iowa, at this point, allow me to say a few words?

Mr. DODGE, of Iowa. Certainly.

Mr. MALLORY. Mr. President, I listened with no less surprise than did my friend from Iowa, to the declaration of the honorable Senator from Texas, which declaration in effect is, that in the whole course of his experience, he has never known a treaty between ourselves and the Indians to be violated by the Indians. That would be an extraordinary declaration coming from any quarter; but coming from the quarter whence it does, from one to whom we all naturally look for information on this subject, I confess I was surprised. Certainly the Florida war, which has just been alluded to by my friend from Iowa, is within the recollection of the Senator from Texas.

Mr. HOUSTON. The gentleman must recollect, that when that occurred, I had not been in the United States for some seven years, and was not conversant with the current events. I left the United States in 1829, and, I believe, the Florida war was in 1836; so that I could have no knowledge of the attending circumstances.

Mr. MALLORY. Well, sir, if the honorable Senator bases his declaration on the ground that he, in the neighboring State of Texas, was ignorant of the facts on which the Florida war originated, it becomes more incumbent on me, at the present time, in connection with passing circumstances, to state the facts. Sixteen of the Seminole tribe, after they had thoroughly examined the western country, to which it was proposed to remove them, signed a treaty with Colonel Gadsden on the part of the United States, by which they undertook to remove to the west, and part of them did move, but a portion of the Indians refused to do so on any terms. The Government of the United States, in great kindness and charity to this remnant of cut-throats, allowed them to remain there. Every peaceable effort was made to induce them to go west; but finally, when the United States told them they must go, the Indians commenced the outbreak by putting to death, in the most cruel and barbarous manner, the gentleman who has been alluded to, the Indian agent, General Thompson; and from that day to the close of the war, the aggression, in every instance, was on the side of the Indians. You cannot lay your finger on a spot of soil on the surface of the globe which has been so disgraced by scenes of bloodshed, and rapine, and murder, as the State of Florida, by those Indians whom the Senator from Texas so much eulogizes.

Mr. HOUSTON. I wish to ask the Senator a question. I did not expect that he would state the origin of the personal difficulty between Thompson and the Indians, which cost him his life; but as he has adverted to it, I wish to ask whether it did not grow out of his conduct towards them? Did not the violence grow out of his conduct as their agent?

Mr. MALLORY. I have no doubt that the conduct of Thompson, the Indian agent, towards the Indians, might have been given as an excuse by themselves; but the death of Thompson grew out of their immediate determination to disavow the treaty, set it at nought, and nullify the authority of the United States. That was the first act of the war. They commenced it by killing the agent who had the immediate control over them, and from that day to the close of the Florida war the universal practice of the Seminole Indians was to return every act of kindness of the Government, by every possible aggression. They were never known to spare age, sex, or condition. They were never known to have an opportunity of taking life in any shape, where they did not gratify it. Why, sir, the Senator must know that the taste of blood is just as natural to the Indian as it is to the tiger. He would be false and recreant to his instincts if he were not to obey it. Are we to be told that such men as these do not violate treaties, in the face of the fact that the hostilities in Florida have cost the Government $15,000,000, and the lives of some of the bravest and best men in the country, and when the frontier settlements were broken up by the Indians entering the farm houses at the dead hour of night, and not even leaving the stock upon the farm alive. Sir, there never was a contest on the face of the earth which was so much characterized by everything cruel and blood-thirsty, as disgraced the Indians in the Seminole war.

Mr. DODGE, of Iowa. If it were becoming or proper in me, I would admonish the Senator from Texas to beware how he caters to that sickly sentimentality which I fear he is exciting in regard to this measure. It is a feeling which, if others had not met it as became Americans and patriots, his State would not now be a member of this Confederacy. I beg, however, to call that Senator's attention to a portion of the history of his own gallant Republic; and I never think of it but as a part of my common country of which I feel proud. His glorious services in the field and in her revolution were ascribed by the exponents of that feeling to which he has catered, with being actuated by nothing more nor less than a design to revive slavery within a State larger than the empire of Napoleon in his most palmy days. The administration of his departed chief, of whose memory I know he is tenacious, was also iniquitously and unjustly charged with having planned the revolution of Texas for the purpose of extending slavery. Those accusations were just as untrue as those which are made against the people of the northwest, let them emanate from what source they may.

Mr. President, this is an old hobby, if I may be allowed the expression, with the Senator from Texas. At the risk of being tedious, I beg leave to read a short extract from a speech which I made on a former occasion, upon the bill to which I thought he referred in a spirit of great unkindness and severity several times during his remarks—the Nebraska and Kansas bill of last year. In the course of debate on that bill, I said:

"Mr. President, the Senators from Massachusetts and Texas, [Messrs. EVERETT and HOUSTON,] for whom I have the most profound respect, in their speeches against this bill, invoked all the sympathies that are naturally felt for the fate of that fast fading race, over whose unburied bones, in the older portions of our Republic, its people are daily walking. I yield to no man in a just and proper appreciation of the rights of the aboriginal inhabitants of this country. But those rights, I think, are amply guarded; if not, I invoke the ingenuity and experience of that Senator who is best informed on this subject to protect them, and preserve inviolate the faith of treaties."

Now, sir, let me address an *argumentum ad hominem* to the Senator from Texas. The interests of the Indians have engaged the attention of

numerous gentlemen. The Senator from Arkansas [Mr. JOHNSON] is the author of a proposition to ameliorate their condition. I ask the Senator from Texas, who has manifested so much feeling for them, why he has not brought forward a series of measures for their benefit, for their preservation, and for their protection? Who is more competent to do it? He has not done it during the whole course of his legislative career. Why has he not employed those talents with which God has endowed him, as my friend from Arkansas and others have, in pressing public measures to benefit the condition of the Indians. But, instead of doing this, his purpose seems to be to condemn all that others have done or propose to do. But let me continue the extract which I was reading from my remarks on the Nebraska and Kansas bill:

"I say of this race, as I have said of the African, it is the decree of Almighty God that the Indian shall give way to the Anglo-Saxon, and that that philanthrophy which blubbers over it is sickly indeed. In our onward course we are but pursuing the example set us by the Pilgrim fathers. These pious and most excellent old gentlemen resolved, if I have read aright some portion of their history, that Massachusetts was God's country, that His country was the inheritance of His children, and that they were the Lord's children; and, acting upon that principle, our nation has been peopled.

"Would you reinstate upon its surface the once powerful tribes who inhabited the Atlantic slope of this Union? Would you bring back Tecumseh and Pontiac, with their followers, to the banks of the Wabash or Detroit rivers? Would you recall Black Hawk and Keokuk, with their once powerful and confederated tribes, to Iowa? No, sir, no; you would not do any of these things; and yet to stay the car of progress there are those who would fain clog its wheels with somber and imaginary histories of Indian wrongs and Indian sufferings.

"But, sir, I owe it to the Government of my country, to declare my settled and honest conviction that it has been governed by high principles of honor, humanity, and justice in all its intercourse with these people. Unlike every other Government which preceded ours, we have recognized their title to the lands over which they roam—have treated with them as independent people—paid them valuable considerations for every foot of soil they claimed, and have sought, by every means in our power, to ameliorate their condition, notwithstanding the dreadful provocations we have had to incite us to pursue an opposite course. Treachery and cruelty, with a few creditable exceptions, have been their leading characteristics. The "Prophet" threw his arms around General Harrison's neck and kissed him—while pointing to the low grounds near the Tippecanoe for his encampment—intending, at the time, to surprise and murder the General and his men, if possible, while sleeping in their tents; which he and his warriors attempted that very night, by rushing past the sentinels and attacking the sleeping soldiers, tomahawk in hand. Black Hawk and his followers invaded the sovereign State of Illinois in hostile array, after having twice sold all their claim to lands with the limits of that State."

Sir, while this debate was progressing yesterday, I received some important information from Major Gilpin, who accompanied Colonel Doniphan on his justly celebrated expedition, rivaling those of antiquity, at the head of his gallant regiment of Missouri volunteers, who marched over the Mexican cannon at Sacramento, and entered Chihuahua in triumph, forming a junction with General Taylor. The conduct of those men during that expedition showed, as Americans ever will show, generous feelings, and a desire to protect the weak and the helpless. They found the Camanches were superior, in point of strength, to the Mexican inhabitants. When they passed through some of the Mexican villages, they found that they had been devastated by the Camanches, and that the Mexican women had been carried into captivity. Those brave men pursued, upon their fleet horses, the Indians, overtook them, and at the risk of the poisoned arrow, reclaimed Mexican women, and returned them to their relatives, with whom, as a nation, we were at war.

Major Gilpin, who resides at Independence, Missouri, informed me that, during the past year, fifteen of his intimate friends have been killed in the Indian country. He is remarkably intelligent, and is as well acquainted with our Indian relations as any gentleman of my acquaintance; and he gives it as his opinion that, during the fifteen years he has resided on that frontier, there never was a time when more danger to American citizens, in traveling across the plains to Oregon and California, or to Santa Fé, was to be apprehended than at the present. He fears that, unless something be promptly done, more American citizens will fall under the Indian hatchet than are proposed to be raised by this measure. We well know that, at the time when the British were resisting our settlements on the Pacific frontier of the Union, the Hudson's Bay Company placed British rifles in the hands of the Indians, and rewarded them for scalps of Americans. It was estimated that more than five hundred of our people fell in Oregon by British rifles during the joint occupancy of that Territory.

Mr. President, there was, in the latter part of the remarks of the Senator from Texas, an intimation which I heard with profound regret. It was, that these troops were not to be raised for his own particular locality—that they were not for the benefit of Texas, but for the protection of the emigrant routes to Oregon and California.

Mr. HOUSTON. That was no complaint of mine. What I said was in reference to the apprehensions of my colleague, that I presumed he had not discovered that Texas was omitted in this provision. I did not complain of it, for I do not want your troops there.

Mr. DODGE, of Iowa. Well, sir, comparisons are invidious, and sometimes odious. If I could venture to address a word of advice to my respected friend from Texas, who last addressed the Senate, I would say that I think, if there is any man on God's earth who can be trusted to attend to the interests of Texas, all and singular, it is the Senator nearest to me, [Mr. RUSK,] without saying aught against the other Senator.

Mr. HOUSTON. I concur with you fully.

Mr. DODGE, of Iowa. Sir, I am not disposed to complain that Texas employs too large a portion of the Army of the United States; but, after the facts which my friend from Illinois has presented, I think it is very evident that she has her full share of our present Army. As the Senator has made that point, I may be allowed to refer to another in this connection. Congress, at its session of 1845–'46, authorized a rifle regiment to be raised, as soon as the vanguard of our pioneers to the Pacific had scaled the Rocky mountains for the purpose of settling in Oregon. This was done to protect emigrants in their passage through the desert over which these worse than Scythians or Arabs roamed, ready to attack our people and levy tribute on them, who would pounce upon them from every tree and rock. That rifle regiment was placed under the command of Persifer F. Smith, and an appropriation was made for the purpose, in order to protect that frontier and those emigrants. This was before the acquisition of California. That regiment, however, was taken off to bear a part in our glorious war with Mexico, and a small portion of it has since been returned to that frontier; but it is entirely inadequate for the purposes of defense. I refer to the fact only to show the necessity which seemed to exist even then for additional force; and certainly that necessity is greater now. I believe the largest portion of that regiment is now in Texas; but of this I do not complain.

Mr. President, if it were not that I believe the Senator from Texas to be a patriotic and honest man, devoted to his country and her interests, and who would not use his high position upon the floor of the Senate of the United States, or elsewhere, to electioneer for the presidency or any other office, I should be disposed to say that the several speeches which he has made on this subject have been directed to that section of the country in which he does not live, with a view to ulterior purposes. I should believe this, if the remarks which he has made had come from any one else. Let me tell him, or others who may seek to ride upon this hobby, that there are two sides to this question. I freely admit, in respect to my Whig friends, that I have not seen the slightest manifestation of party feeling from them on this occasion. By his victories he has aided in extending the limits of the Republic, and in this way additional savages have been brought within our limits. If my people are to be scalped by those savages; if they are to be dragged from their homes to defend the country; and if he interposes, and denies that which the British Government extends to its subjects everywhere—protection to individual men; if the people of the West be denied that protection, without which Government is worth nothing, we shall remember those by whose agency it is done.

Mr. President, I have made these allusions in no unfriendly spirit. That Senator knows, or, if he does not, I do, that I entertain for him feelings of great kindness. I will now take occasion further to say that, if he should be the nominee of that political party in this country, with which I expect always to act, in the next presidential canvass, I can and will support him with great pleasure, *provided*, always, that he shall come out boldly and squarely against Know-Nothingism, and in favor of religious freedom, and against the persecution of any man on account of the place of his birth. I do not mean to insinuate, or assert, that such considerations as those to which I have referred have influenced the Senator from Texas; but we must recollect that now-a-days scarcely any measure can be proposed that is not, in some mode or other, brought into the whirlpool of politics, and upon which men will not mount as a hobby for the sake of obtaining popularity and catering to prejudice.

Mr. HOUSTON. Mr. President, I hardly know what to say in reply to the honorable Senator from Iowa, for I hardly know what to think of his speech. [Laughter.] If I were to characterize his remarks in any way, I should say that they were, at least, very remarkable. In the first place, let me say to that honorable Senator, and to the honorable Senator from Florida, that they were talking about things of which I knew very little, for I was not in the United States when the occurrences to which they alluded took place, and I was not, therefore, familiar with the history of those wars. If I am not mistaken, however, it was an outrage of a very delicate character which brought on the Florida war.

Mr. MALLORY. That is a mistake, sir.

Mr. HOUSTON. Well, sir, that was the report which was brought to Texas. Whether it was true or not, I do not know; but that was the information which I received from people from that section of the country. As for the Black Hawk war, I know little or nothing about it; for in Texas, at that time, we had no mail communications with the United States, and we got but few papers from the States, so that I remained uninformed in relation to those matters; but no doubt they were very exciting. The Senator from Iowa said the Black Hawk war was brought on by a council of the nation; but I have heard that an examination of the circumstances will show that the first outrage was committed by an individual, not by the concurrence of the nation, though they afterwards became involved in the general war. In that statement, I believe, I am sustained by the history of the times. I have already stated that occasions occur where outlaws among the Indians commit acts of aggression on the whites, and the whites immediately retaliate on the Indian nations, and those nations, in self-defense, become involved in war; but I never knew a case where a treaty, which was made and carried out in good faith, was violated by the Indians. In Florida, the Indians complained that they had been deceived in the treaty, and that the boundaries assigned were not as they understood them; and they killed their own chiefs. It was charged that some of the agents were involved in speculations to a great extent, dependent on the treaty. I recollect it was so stated at the time.

I think, sir, the Senator's speech was of a remarkable character in relation to politics and other matters, which I am sorry that he has introduced. He has undertaken to admonish me, and for this admonition I am much obliged to him. His experience, his superior opportunities, may entitle him, in the opinion of others, to the right of admonishing me; and I am perfectly willing, on that point, to yield my own opinion to what may be the general impression of the body. I did not provoke his remarks by any allusion to any one, predicated upon my own disposition to arraign the conduct of others; nor have I asserted anything in regard to the officers of the Army, but what are matters of fact taken from the official documents. When I made suggestions of a speculative character, I gave them as such.

But, Mr. President, the Senator from Iowa has said that he would not have been astonished if the rankest Abolitionist had made such a speech, and had avowed such sentiments as I did. He says that, if a man in western New York had presented such views he would not have been surprised. Now, I wish to know what connection my remarks had with Abolition? What connection had they with any one in western New York? In what respect have I catered to any prejudice or morbid sensibility? I have stood here alone in this body, against a powerful array of talent and influence, contending for what I conceived to be

a great principle, and which must obtain or the Indian race be exterminated. In regard to that principle, I have the concurrence of the Senator from Tennessee, [Mr. BELL,] who was once Secretary of War, and as such had control of the Indian department, and who has, since that period, been a prominent member of the Committee on Indian Affairs of the Senate. I believe that my opinions are also concurred in by the Senator from Arkansas, [Mr. SEBASTIAN,] who is the head of the Committee on Indian Affairs. I can inform the Senator from Iowa that I will sustain him to the extent of my humble abilities in any measure he may introduce in favor of the Indians, and for the establishment of a policy which will ultimately benefit them and reflect credit upon the Government of the United States.

I have not been regardless of what I considered the honor of the United States, and the interest of the Indians. In no instance have I been remiss in these particulars. I could not cater to any passion or prejudice on this subject, because I know of no societies in the North, or in the South, or in any section of this Union, for the advancement of the civilization of the Indians. If such societies exist, I am not in correspondence with them, nor am I aware of the existence of any such associations. Then, for what ulterior purposes could I advocate the rights of the Indians, or invoke the justice of this Government towards them? Could it be any expectation of political benefits? None upon earth. I presume the Abolitionists are perfectly absorbed in the subject of Abolition. For myself, I would rather see them turn their attention to the amelioration of the condition of the Indians on our western wilds, or to the reclamation of those whom they hold in slavery. There are not less than two thousand prisoners in the hands of the Camanches; four hundred in one band, in my own State. The prisoners can be reclaimed from those Indians, who are coming down to settle upon their reservations. They take no prisoners but women and boys. The boys they treat with a degree of barbarity unprecedented; and their cruelties towards the females are nameless and atrocious. Our Government is silent in relation to them. Has humanity no claims upon us in this respect? Has justice no demand unanswered? Sir, we have not seen the facts to which I have just alluded impressed on a page of our official communications from the War Department. The officers stationed near the places where those transactions have taken place have not reported them. No effort has been made to obtain appropriations for the reclamation and redemption of those prisoners. This is a subject which calls aloud for the humane influence of the Senator. There is no sickly sentimentality in this, but a manly upheaving of soul, that, in commiseration of suffering humanity, demands that the Government shall rescue them from the most cruel and unrelenting bondage.

I have been accused of catering to a morbid, sickly sentimentality. Sir, I never yielded anything of my own conscientious convictions to consult the opinions of others. I never stooped to solicit office; but I have received and accepted it to my own disadvantage. I might have hated the Indians, if I had a soul no bigger than a shell bark. [Laughter.]

In my boyish days, before manhood had hardened my thews and muscles, I received balls and arrows in this body, in defense of suffering humanity, particularly women and children, against the Indians; and I aided in reclaiming the brightest spot of the South—Alabama. When I remember that, in those early days, I assisted in rescuing females and children from the relentless tomahawk and scalping knife, it seems to me that the charge that I have stooped to court favor by the expression of my sentiments on this question, is one which falls harmless at my feet.

I hardly know what to think of the gentleman's remarks as to catering for the presidency. I hardly know what to say about the extraneous subjects which he has introduced. I suppose the shortest way of naming what he intended to allude to, is by the term "Know-Nothing." Now, of the Know-Nothings I know nothing, [laughter;] and of them I care nothing. But if the principles which I see charged to them in many instances are the principles which they seek to carry out, I can say to gentlemen that I concur in many of them. If their object is to resist the encroachments of one religion or sect upon another, I am with them. I say, resist all such encroachments, and leave all religion uncontaminated by the perversion of power that might accidentally result in proscription and the inquisition. "I'll none of it;" I am opposed to and would prevent such a result.

I admit that we are all descended from foreigners, because, originally, there were no natives here who were white men. Many of those foreigners who originally came here were baptized in the blood of the Revolution; but they were not such men as are now coming to our shores, and should not be named in connection with those who are spewed loathingly from the prisons of England, and from the pauper houses of Europe. Such men are not to be compared to our ancestry, or to the immigration which, until recently, has come to our shores from foreign countries. If the object of those to whom the Senator from Iowa has referred, be to prevent men of infamous character and paupers from coming here, I agree with them. I would say, establish a law requiring every person from abroad, before being received here, to bring an indorsement from one of our consuls abroad, and produce evidence of good character from the place whence he emigrates, so that, when he comes here, we may receive him into full communion with all the rights guarantied to him by the laws which may exist at the time of his immigration. But, sir, to say that a felon, who left his prison the day he sailed for this country, or, perhaps, was brought in chains to the vessel which bore him here, is, in five years, to stand an equal with the proudest man who walks on our soil, the man who has shed his blood to consecrate liberty and his country, is not the kind of arrangement that I go for.

Mr. MALLORY. Will the Senator from Texas allow me to ask him one question?

Mr. HOUSTON. With pleasure.

Mr. MALLORY. As the subject of Know-Nothingism, as it is called, has been brought here——

Mr. HOUSTON. I have not introduced it, and I am not going to comment on it.

Mr. MALLORY. Precisely so; the Senator has not introduced the subject, and perhaps he is not responsible for its introduction; but he is undertaking to say what he himself thinks upon it. Now, as he is speaking on the subject, I should like to understand distinctly whether he approves or does not approve of so much of the creed attributed to the Know-Nothings as would make those who profess the Roman Catholic religion ineligible to office?

Mr. HOUSTON. I would vote for no such law.

Mr. MALLORY. I asked the gentleman whether he approved that or not—not whether he would vote for it.

Mr. HOUSTON. No, sir; I could not approve of such a law. But the proscription which is charged on those to whom allusion has been made, is no more than formerly existed between Whigs and Democrats. When party discipline was kept up, if a Whig voted for a Democratic candidate he was ruled out of his party and branded as a deserter; and if a Democrat voted for a Whig he was disowned by his party. That species of political proscription will exist everywhere, according to the notions of people. I do not set up my opinion as the doctrine by which others are to be governed. I am governed by my own principles, and my own sentiments, and I have a right to vindicate them, and I am responsible for them to the world. When the Senator from Iowa supposes that I would cater for the presidency of the United States, he does me great injustice. I would not cater for any office beneath Heaven. But, Sir, I know one thing: if it were to be thrust upon me, I should make a great many changes in some small matters. [Laughter.]

Mr. DODGE, of Iowa. Mr. President, I have no desire to prolong this controversy with the Senator from Texas. No man understands better than I do, how much I must suffer in any intellectual contest with one so skilled and renowned in debate, almost as much so as he is in arms. I know his ability to say as much on one side as on the other, a manifestation of which we have had in the conclusion of his remarks. [Laughter.]

Sir, I charged, and I repeat the charge, that the speech of the Senator from Texas would have done well if delivered by a Massachusetts Federalist, or for a man from western New York—that region in which all the *isms*, from anti-masonry down, have originated. I have read the speeches of these eastern gentlemen, and I am aware of the manner in which this Indian question has been dragged into politics in times past; and I know the purpose to which it is to be again prostituted in the approaching presidential canvass; I see attempted in connection with the Kansas and Nebraska law, the appeal that is to be made to couple with that measure, this one, which is to provide for the defense of the country. I repeat, so far as I am concerned, that as long as I have a voice or a vote, I will remember those who refuse to give us protection.

We know that the best talent of the country in each House of Congress, has been employed in trying to devise some plan by which the Indians, as they become civilized, should be incorporated into the Union and represented in Congress. My purpose, in addressing the *argumentum ad hominem* to the Senator from Texas, was to know what practical measure he proposed. In his speech, yesterday, he made the modest declaration that himself and the venerable Senator from Michigan knew more upon this subject than all the rest of the Senate. His words were, that he would yield the palm touching Indian affairs to that Senator alone. Being aware of his superior knowledge, and recollecting his past associations and acquaintanceship with these people, I asked, as a matter of practical legislation, why he had not furnished the country with some plan by which this fast fading race was to be reclaimed from its down-trodden condition? He has complained of officers of the Army and of Indian agents, who are removed thousands of miles from the place where they are attacked. I believe these officers and agents, in the main, to be high-minded, honorable men and patriots, desirous of serving their country and discharging their duty faithfully; but why does he not bring forward his bills of pains and penalties against those dishonest officers, who have caused, as he thinks, bloodshed and violence? I pledge myself to sit here all night, to vote for such measures as may be necessary to correct the evils of which he complains.

The Senator from Texas has opposed every measure for the increase of our military force. He is even inimical to raising five hundred cavalry; and yet he refers to the condition of those New Mexicans who are now the prisoners and slaves of the Camanches, and asks why they have not figured in the reports? It seems as if there were some men who can never perceive anything right in the administration of their own Government. There were those who charged that the Florida war was caused by an attempt to interfere with the relations of the Seminole Indians to the negroes. Now, the allegation is, that the officers of the Government have been derelict in their duty towards the Mexican prisoners in the hands of the Camanches.

Mr. HOUSTON. The honorable Senator says it is charged that the Florida war began by an interference with the connection between the Indians and their negroes. I hope he does not intend to say that I made any such charge?

Mr. DODGE, of Iowa. Certainly not; but it has been repeated by others. Column after column in the Congressional Globe is filled with such asseverations by Abolitionists in the House of Representatives, ever since that war commenced; and their speeches have been rehashed all over Massachusetts and western New York, and other places. It was charged that that was a war for slavery, for the perpetuation, the extension, and the maintenance of slavery; and the allegation was, that the war was brought on by attempting to take away from the Seminoles runaway negroes who had sought shelter amongst them. I never believed that it had the least foundation in fact.

Suppose any one of the agents of the Government had interfered, under the orders of the Administration, or been conspicuous in the transactions to which the Senator has referred, the very persons who are now pouncing down on them for discharging their duty as they have done, would have been loud in condemnation of such course. The extraordinary inconsistency of the Senator from Texas is shown by his condemnation of the Government officers for not doing the very things which they call upon him to give them

a mounted military force to do, but which he refuses.

Sir, I had hoped that my friend from Texas would have met that political question to which I incidentally alluded, as I trust it will be, by his political associates. It is a question which will go to the polls, which will be brought before the Democratic National convention, whether it shall meet at Baltimore or Cincinnati, and which we must face in every portion of this Republic. I trust it will be met as becomes the followers of Jefferson and Jackson—the opponents of the alien and sedition laws—the men who have had upon them the responsibility of administering this Government, almost from its commencement down to the present day, and who have filled the statute book with proper laws upon the various subjects of congressional action. I had hoped that my friend would have met this question as became a man occupying his high position; by a bold, unqualified declaration, on his part, of hostility to the purposes of those to whom I alluded. He has not done so. It is a matter of profound regret with me that he has not. But, sir, I will not prolong this discursive debate.

Mr. HOUSTON. Mr. President, I am very sorry that my young friend from Iowa, for whom I entertain so much respect, should have acted as he has done. He certainly has gone beyond anything that I had imagined. He supposes that my object in addressing the Senate on this Indian subject was to connect it with the Nebraska and Kansas bill. I have not thought of that bill except that I alluded to the manner in which it was passed yesterday evening, when the Senate refused, rather discourteously, as I thought, to adjourn to enable a Senator to speak; but I now take back what I then said, for the Senate did afterwards adjourn. I alluded then to the manner in which the passage of the Nebraska bill was effected, but I have not thought of it in the speeches which I have made upon our Indian relations. I have sought to let it go by and rest in peace. I have not been anxious to renew the controversy in regard to it. If it is for good, I hope good will result from it; if for evil, I hope the least possible evil will be the result. I have nothing to do with that now, and I shall not allude to it further.

The Senator from Iowa says that I have attacked the Indian agents and the officers of the Army. I have not reflected upon a single agent of this Government. If I think honestly that a measure recommended by the Administration is impolitic, unwise, and unproductive of good to the country, I have the undoubted right to oppose it in argument, and to vote against it. That is a privilege which pertains to me as a Senator from one of the States of this Union. I have a right to exercise that privilege. It arrogates nothing to myself, and, therefore, I shall exercise it. It is not, however, to be supposed, because I vote against this measure, that I am opposed to the Administration, or find fault with its every act. If the gentleman had reflected, he would have come to the conclusion that the Administration has done so many good acts that I cannot particularize them; and because I do not concur in this measure, it is not condemnatory of the general course of the Administration. All I have to do, at present, is with this measure.

The Senator from Iowa misapprehended me in another respect; and that was, in supposing that I was opposed to raising even five hundred men. I say, raise that number; raise men enough to go as convoys or guards to the emigrating parties; and, besides that, send out commissioners who are wise and discreet men—such as were taken to explore the promised land of Canaan in olden times. Let them go and bring reports of the feelings of the Indians, and see whether good fruits will not result. Let them go there, and make treaties with the Indians. Let them take two hundred, or three hundred, or five hundred men with them. If I were going, I should not take more than three hundred. Indeed, I believe one hundred would be sufficient to meet the Camanches; for I think some sixteen or eighteen soldiers scared them so much that they would not encamp within seventy miles of them. [Laughter.] One hundred Americans, with Sharp's rifles, would subdue the whole of them, if they could get the Indians to come to them. There is the difficulty. You know there is an old adage about catching birds. Nurses tell children to put a little salt upon their tails, and you have them. [Laughter.] You cannot catch these fellows in that way. You cannot get near enough to them; and there is the difficulty.

But, sir, in order to sustain what I said in relation to officers of the Army, I wish to read an extract from the last official report of the Commissioner of Indian Affairs and the Secretary of the Interior:

"As heretofore reported to you, an association of persons has undertaken to appropriate to their own use a portion of the land ceded by the Delawares, fronting on the Missouri river, and south of Fort Leavenworth; have laid out a city thereon, and actually had a public sale of the lots of the same on the 9th and 10th of October last. These unlawful proceedings have not only taken place under the eyes of the military officers stationed at the fort, but two of them are said to be members of the association, and have been active agents in this discreditable business. Encouraged by these proceedings, and prompted by those engaged in them, other persons have gone on other portions of the tract ceded by the Delawares in trust to the United States, and pretend to have made, and are now making, such 'claims' as they assert will vest in them the lawful right to enter the land at the minimum price under the preëmption law of July 22, 1854."

There is the authority from which I drew my conclusions in relation to the conduct of those officers. I have not branded them with any opprobrious terms. If they are innocent, what I said cannot injure them; if they are guilty, there is no condemnation too deep for them.

Mr. DODGE, of Iowa. I hope the Senator from Texas will name the persons who have been guilty of the conduct to which he has alluded.

Mr. HOUSTON. I have given the quotation from the official documents.

Mr. DODGE, of Iowa. The point I make is, that the Senator has introduced that matter which has no sort of connection with the subject before us, with the design of defeating and embarrassing a great Administration measure. Army officers, like other persons, are liable to do wrong and to act improperly. They may have done so in the case to which he has alluded, and if so, the character of the Secretary of War is a sufficient guarantee that they will be arraigned and tried. In regard to that transaction I have before me a memorandum which has been handed to me by Colonel Roberts, one of the officers stationed at Fort Leavenworth. It is in the following terms:

"For sixty years the President has had the power to make military reservations on Indian lands. Under this power the reservation of Leavenworth was made, before the lands of the Shawnees and Delawares were surveyed. When their lands were laid off, they came up to the military reservation at Fort Leavenworth; they did not and could not embrace *that!* Since their lands were surveyed the military reservation has been reduced, and the lands between the *new military lines* and the Indian lines became public land of the United States. They were *never lands* of the Indians. The decisions of the Supreme Court of the United States have repeatedly been given to this point. These lands, the moment they became useless for military purposes, were in the situation of all other public lands, liable to the preëmption laws of Congress. Military officers, as other citizens, had a clear right to occupy them, to locate them, and to use them as other citizens of the United States. Where, then, is the *criminality* of these military officers?"

Touching these Delaware lands, I have to say that I hope the treaty will be executed in good faith, judiciously, and properly. I ask, however, what has the conduct of one or two individuals, quartermasters or others, who may be speculating persons, to do with a great measure connected with the peace of the frontier and the defense of our emigrant routes, from the Missouri river to the Pacific ocean? What I complained of was the introduction of such matters into the discussion of the measure before the Senate.

Mr. HOUSTON. I will tell the Senator the reasons why I referred to that transaction. In the first place, it was to demonstrate the fact that aggressions are committed upon the Indians; and is not this calculated to dissolve the bands of peace, and bring on war? In the next place, this country is under the control of the military; and why have they not restrained those people from such an outrage?

Mr. PETTIT. Mr. President, I had proposed, after the discussion of this subject had taken so wide a range, to discuss the question at some length myself, and had made some notes for that purpose, taking a view entirely different from any which has been presented; but I am now prepared to say that I will forego that intention with pleasure to myself, if the Senate are ready to take the vote.

Several SENATORS. We are ready for the vote.

Mr. CASS. I had intended to make some remarks on this subject, and I can hardly do justice to my own vote without making some explanation of the reasons which govern it. I have not courage, however, to detain the Senate this evening, and if they desire to take a vote now I shall forego any remarks which I might wish to make.

Mr. PETTIT. If the Senator from Michigan desires to address the Senate to-morrow, I will move an adjournment.

Mr. CASS. I have no desire of my own strong enough to postpone any action the Senate wish to take; but gentlemen will perceive that many questions have arisen, in connection with this subject, which are deeply interesting, perhaps the most interesting that can be presented to the American people, historically and politically. I do not think the day has been lost.

Mr. BUTLER. If the Senator will give way, I will move that the Senate adjourn.

Mr. BROWN. If the Senator from South Carolina will withdraw his motion to adjourn, I will move that the amendments be printed.

Mr. BUTLER. I withdraw the motion to adjourn.

Mr. BROWN. I think the amendments should be printed, before we are called upon to vote on them. The amendment proposed by the Senator from Virginia covers three or four pages of foolscap, closely written. After examining it, I must say, there are some things in it which I do not understand. In looking over the manuscript I perceive a palpable contradiction in some of the provisions in that amendment, and I think it ought to be printed. I move, therefore, that all the amendments before us be printed.

The motion was agreed to.

RECONSIDERATION OF A VOTE.

Mr. SEWARD. I ask the unanimous consent of the Senate to allow me now to submit a motion to reconsider the vote by which the resolution which I yesterday presented for the publication of the report of Commander Ringgold was adopted. I ask that the motion lie on the table for the present.

The PRESIDENT. If there be no objection, the motion to reconsider will be entered on the Journal. The Chair hears no objection.

JAPAN EXPEDITION.

Mr. STUART. I am informed that there is a communication on the table from the President of the United States, which has some connection with the report of Commodore Perry. I ask that it be presented, and ordered to be printed.

There being no objection, the PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating, in compliance with a resolution of the Senate of the 6th of December last, a report from the Secretary of the Navy, with accompanying documents, in relation to the naval expedition to Japan, and the proceedings and negotiations resulting in a treaty with the Government of that Empire.

Mr. MASON. I move that the message and accompanying papers be referred to the Committee on Foreign Relations. The committee will hereafter report, in due time, in favor of printing them, if it be necessary. I wish to give the committee an opportunity of examining the papers.

The motion was agreed to.

Mr. BUTLER. In moving an adjournment, I distinctly wish to be understood, that I do not make the motion for the purpose of having the floor to-morrow. But for the intimations which have been given by other Senators of a desire to address the Senate, I should not make the motion. I move that the Senate do now adjourn.

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 1, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a communication from the Treasury Department, submitting the annual report of the Secretary of the Treasury of the funds held in trust for the Chickasaw Indians. Referred to the Committee on Indian Affairs, and ordered to be printed.

Also, a communication from the Post Office Department, transmitting, in compliance with a resolution of the House of Representatives of the 2d January, 1855, a copy of the condition contracts made by Postmaster General Hubbard with Messrs. Ramsey and Carmick, on the 3d of March, 1853, for the extension of two of the trips on the New Orleans and Vera Cruz line, from Vera Cruz, Mexico, via Acapulco, to San Francisco, in California. Also, copies of all the correspondence relative to the same, and to the change of schedule proposed on the line from New Orleans to Vera Cruz.

The communication was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

PERSONAL EXPLANATION.

Mr. HAVEN. I desire here, Mr. Speaker, to raise a question, which I think may be regarded in the light of a privileged one.

During the last session of this Congress, the Committee of Ways and Means, by its chairman, [Mr. HOUSTON,] reported a bill for the purpose of regulating the tariff. The bill was reported under a suspension of the rules of the House. That suspension was made upon my motion, for the purpose of enabling the chairman of the committee, of which I was a member, to report the bill. I see that it is entered upon the Journal, and it is also printed upon the face of the bill, that I reported the bill. I speak of the majority bill.

I desire to do justice to the chairman of that committee. He reported the bill, and not myself. The motion I made was a motion to suspend the rules to enable him to report. I think by some confusion the Clerk entered me as reporting the bill. I desire to give the chairman of the committee [Mr. HOUSTON] the entire credit of that bill, and to restore to him its paternity, also. For the purpose of making the matter appear right upon the record, and to do justice to all parties, and especially as members are constantly coming to me from all parts of the House to inquire what it means, I send to the Clerk's desk a resolution, which I shall ask the House to adopt.

The resolution was read, as follows:

Ordered, That it be entered upon the Journal, that the bill of the House (No. 403) "reducing the duties on imports, and for other purposes," reported, on the 19th of June last, from the Committee of Ways and Means, was reported by Mr. HOUSTON, and not by Mr. HAVEN, as it appears upon the Journal of that date.

Mr. HAVEN. I move the adoption of the resolution.

Mr. STANTON, of Kentucky. I rise to a question of order. I think the resolution is not in order, it being, in effect, an attempt to alter the Journal of the House of last session.

Mr. JONES, of Tennessee. I hope the gentleman will not object to it. There can be no good objection.

Mr. HAVEN. It does not alter the Journal of the last session.

The SPEAKER. The Chair would remark that the proposition is not to change the Journal of last session at all. It is simply to explain upon this Journal an error which crept into the Journal of last session. In that view of the case, the Chair overrules the question of order, and decides the resolution in order.

The question was then taken; and the resolution was adopted.

CHANGE OF REFERENCE.

On motion by Mr. JAMES C. ALLEN, it was

Ordered, That the Committee on Revolutionary Claims be discharged from the further consideration of the petition and papers of the heirs of Nathan Taylor, and that the same be referred to the Committee on Revolutionary Pensions.

Also, on motion by Mr. JAMES C. ALLEN, it was

Ordered, That the Committee on Revolutionary Claims be discharged from the further consideration of the petition and papers of the heirs of Thomas Roll, and that the report be laid on the table.

TERRITORIAL BILLS.

Mr. CLINGMAN. I call for the regular order of business.

Mr. RICHARDSON. There were several bills yesterday reported from the Committee of the Whole on the state of the Union, in relation to Territories.

Mr. GREENWOOD. Will the gentleman from Illinois yield to me a moment?

Mr. CLINGMAN. I insist upon the regular order of business.

Mr. RICHARDSON. I would accommodate the gentleman, but the gentleman from North Carolina insists upon the regular order of business. I desire to take up that unfinished business, and have it acted upon and disposed of.

The SPEAKER. The Chair understands that the occupant of the chair [Mr. JONES, of Tennessee] at the time those bills which were reported from the Committee of the Whole on the state of the Union came up, intimated that, if a motion was made to commit the bills to the Committee of the Whole on the state of the Union, the effect would be to bring up the measures reported from the committee, as the first business in order this morning, and that, in that understanding, the motion was submitted, and then the House adjourned. The Chair, under the circumstances, holds that to be the first business in order.

TELEGRAPH TO THE PACIFIC.

The bill which first came up for consideration was Senate bill (No. 60) to authorize the construction of a subterranean line of telegraph from the Mississippi or Missouri river to the Pacific ocean.

Mr. RICHARDSON. I desire to inquire of the Chair if a demand for the previous question will exhaust itself upon the action of the Committee of the Whole on the state of the Union?

The SPEAKER. The previous question would apply only to the proposition to strike out the enacting clause.

Mr. RICHARDSON. I desire to say in reference to the bill, in order that members of the House may act understandingly upon the subject, that if the report of the committee is rejected, that is, if they refuse to strike out the enacting clause, I shall offer the amendment which I gave notice of yesterday, which was to strike out all except the right of way, two hundred feet wide. I demand the previous question.

The previous question was seconded; and the main question ordered to be now put.

The main question being upon concurring with the Committee of the Whole on the state of the Union in striking out the enacting clause,

Mr. LETCHER said: I call for the yeas and nays upon the question, and hope it will be made a test question.

Mr. JONES, of Tennessee. Will it be in order to have the substitute which the gentleman proposes to offer read, in order that the House may know what they will be called to vote upon, if the report of the committee is disagreed to?

The SPEAKER. It can be done only by unanimous consent.

No objection being made, the substitute was read.

The yeas and nays, demanded by Mr. LETCHER, were not ordered.

Mr. FARLEY. I call for tellers upon the pending question.

Tellers were ordered; and Messrs. CLINGMAN and WHEELER were appointed.

The question was taken; and the tellers reported —ayes forty-six, noes not counted.

So the recommendation of the committee was not agreed to.

Mr. RICHARDSON. I now move the following substitute for the bill, and upon its adoption I call for the previous question:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Hiram O. Alden and James Eddy, their successors, associates, and assigns, are hereby authorized and empowered to construct, at their own expense, a line of telegraph from such point on the Mississippi or Missouri river as they may hereafter select, through the public lands belonging to the United States, over which lands the right of way, two hundred feet in width, for that purpose is hereby granted, to San Francisco, in California, in as direct a line as practicable.

SEC. 2. *And be it further enacted*, That all voluntary or intentional injuries to said line of telegraph, or to any property thereto belonging, shall be deemed, and are hereby declared, to be willful and malicious trespasses, and shall be punished as such; and all laws of the United States now in force in any Territory thereof, or which may hereafter be enacted for the better security and protection of property, and applicable to such offenses, shall be, and they hereby are, extended, for the protection of said line of telegraph, into and over all the territory belonging to, and under the jurisdiction of, the United States, through which the same may be constructed; and all legal process and proceedings, for the detection and punishment of the aforesaid offenses, shall be within the jurisdiction of the courts, and shall be issued and executed by the proper law officers in the *States or* organized Territories.

Mr. JONES, of Tennessee. I have an amendment to suggest, which I hope the gentleman from Illinois will accept as a modification of his substitute. As I understand the terms of the substitute, in the grant of the right of way through the public lands, it creates these men a corporation in perpetuity, without restriction or limitation. I believe that this Government has no such power, and so believing, cannot vote for the gentleman's substitute as it now stands.

Mr. RICHARDSON. Any reasonable proposition which gentlemen may make to perfect the bill will be accepted.

Mr. SEYMOUR. Well, then, if the gentleman will consent to strike out the word "successors," I shall be willing to give his substitute my vote. My impression is, that the word successors, does make these gentlemen a corporation in perpetuity. No power is reserved to Congress to alter or amend the act of incorporation.

Mr. RICHARDSON. I accept the gentleman's amendments; and the word successors is stricken out. I now call for the previous question on the substitute.

Mr. BENTON. The bill seems to be now considered an innocent affair——

The SPEAKER. The Chair will state for the information of the gentleman and the House, that the previous question has been demanded on the substitute.

Mr. BENTON. But the member from Missouri was recognized, and commenced addressing the Chair.

The SPEAKER. The gentleman has misunderstood the Chair. The Chair states that the previous question has been demanded, and that it cuts off all debate.

Mr. BENTON. And covers up what is to be done. [Looking at the members all around the Hall.] Well, Mr. Speaker, I can look as though I were opposed to the bill at any rate. [Great laughter.]

Mr. HAVEN. I ask the gentleman from Illinois to withdraw his call for the previous question until I can move the insertion of one sentence, by way of amendment.

Mr. RICHARDSON. I withdraw the call for the previous question for that purpose provided the gentleman will renew it.

Mr. HAVEN. Very well. I simply desire that the jurisdiction which is conferred over this property to the United States courts, shall be confined to the Territories; that it shall not extend to the States.

Mr. RICHARDSON. In the States the laws of the United States only apply to the public lands within their limits.

Mr. HAVEN. The bill now reads as follows; and I would call the gentleman's attention to it:

"SEC. 2. *And be it further enacted*, That all voluntary or intentional injuries to said line of telegraph, or to any property thereto belonging, shall be deemed, and are hereby declared, to be willful and malicious trespasses, and shall be punished as such," &c.

Now, after the word "belonging," I suggest the words "within the Territories of the United States" be inserted.

Mr. RICHARDSON. I think the bill does now what the gentleman seeks to accomplish. I do not want to extend the United States laws over a State, except so far as the public lands are concerned.

Mr. HAVEN. I have made the suggestion, and think that it is essential to the bill.

Mr. RICHARDSON. I accept the gentleman's amendment as a modification of the substitute.

Mr. HAVEN. And, as I promised, I now call for the previous question.

The call for the previous question received a second; and the main question was ordered to be now put.

The question was taken on the substitute; and it was adopted.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was read a third time.

Mr. RICHARDSON. I call for the previous question on the passage of the bill.

The call for the previous question received a second; and the main question was ordered to be now put.

Mr. BENTON. I demand the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was then taken; and the bill was passed—yeas 110, nays 70; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, Appleton, David J. Bailey, Ball, Banks, Belcher, Bennett, Benson, Bliss, Boyce, Breckinridge, Bristow, Bugg, Campbell, Carpenter, Caruthers, Chandler, Chase, Chrisman, Clingman, Cook, Corwin, Crocker, Cullom, Curtis, Thomas Davis, De Witt, Dick, Dickinson, Disney, Dunbar, Eastman, Edgerton, Thomas D. Eliot, English, Etheridge, Everhart, Farley, Flagler, Franklin, Fuller, Giddings, Goodrich, Goodwin, Greenwood, Grey, Aaron Harlan, Andrew J. Harlan, Haven, Henn, Hiester, Hill, Howe, Hughes, Hunt, Johnson, Roland Jones, Knox, Lindley, McDougall, Mace, Matteson, Maxwell, Mayall, Meacham, Middleswarth, Morgan, Norton, Olds, Mordecai Oliver, Orr, Pennington, Phillips, Pratt, Preston, Pringle, Puryear, Richardson, David Ritchie, Robbins, Rowe, Russell, Sabin, Sapp, Seward, Seymour, Simmons, Skelton, Samuel A. Smith, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Tracy, Upham, Wade, Walley, Warren, Elihu B. Washburne, Israel Washburn, Wells, Tappan Wentworth, Westbrook, Yates, and Zollicoffer—110.

NAYS—Messrs. Ashe, Thomas H. Bayly, Barksdale, Benton, Bridges, Brooks, Caskie, Chastain, Clark, Cobb, Cox, Craige, John G. Davis, Dawson, Drum, Edmundson, Ellison, Fenton, Florence, Gamble, Goode, Hamilton, Sampson W. Harris, Wiley P. Harris, Hastings, Hendricks, Hibbard, Hillyer, Houston, Daniel T. Jones, George W. Jones, J. Glancy Jones, Kerr, Kittredge, Kurtz, Lamb, Lane, Letcher, Lewis, Lindsley, McCulloch, McMullin, McQueen, May, Smith Miller, Millson, Murray, Nichols, Noble, Andrew Oliver, Packer, Bishop Perkins, Phelps, Powell, Ready, Thomas Ritchey, Ruffin, Shannon, Shaw, Shower, Singleton, William R. Smith, Straub, Andrew Stuart, Trout, Vansant, John Wentworth, Wheeler, Witte, and Hendrick B. Wright—70.

So the bill was passed.

Previous to the announcement of the above vote,

Mr. SMITH, of Virginia, said: Mr. Speaker, I was not within the bar when my name was called, but had I been, I should have voted against this bill.

Mr. BOCOCK. I was not within the bar when my name was called. If I had been, like my colleague, I should have voted against the bill, thus uniting the new and old line Democracy. [Laughter.]

Mr. RICHARDSON. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. RICHARDSON. I move to amend the title by striking out the word "subterranean;" so that it will read: "An act authorizing the construction of a telegraph from some point on the Mississippi or Missouri river to the Pacific ocean."

The question was taken; and the amendment was agreed to.

LEGISLATURE OF UTAH.

The SPEAKER. The Committee of the Whole on the state of the Union have reported a joint resolution of the following title, without amendment:

A joint resolution authorizing the Legislative Assembly of Utah to continue their session for a term not exceeding sixty days, instead of forty days, as heretofore provided.

Mr. RICHARDSON. This resolution only puts the Legislature of Utah in the condition of the Legislatures of the other Territories. There can be no objection to it. I call for the previous question.

The call for the previous question received a second; and the main question was ordered to be now put.

The resolution was ordered to be engrossed and read a third time; and being engrossed, it was read a third time, and passed.

FORT SNELLING MILITARY RESERVATION.

The SPEAKER. The question next in order is upon the amendment of the Committee of the Whole on the state of the Union to House bill (No. 688) to amend the act approved 26th August, 1852, entitled "An act to reduce and define the boundaries of the military reserve at St. Peter's river, in the Territory of Minnesota, and for other purposes." The amendment is as follows:

Insert, after the word "circumstances," the words "proof and payment;" so as to make the clause read:

And where any of said lands come within the provisions of the act of May 23, 1844, for the relief of the citizens of towns upon the lands of the United States, under certain circumstances, proof and payment shall also be made within three months after the passage of this act; and in either case, if the entries are not made within that time, the claim shall be forfeited.

The question was taken; and the amendment was agreed to.

Mr. EASTMAN. Mr. Speaker, yesterday I objected to this bill; but since then I have had an opportunity of investigating it, and of conversing with some gentlemen from Minnesota who are better acquainted with the subject than I am; and I am now fully satisfied that it ought to pass. I hope it will pass.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was read a third time, and passed.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which the bill was passed, and that that motion be laid upon the table.

The latter motion was agreed to.

SURVEYOR GENERAL OF UTAH.

The SPEAKER. The Committee of the Whole on the state of the Union have reported back House bill (No. 689) to establish the office of surveyor general of Utah, and to grant land to actual settlers therein, with the recommendation that the enacting clause be stricken out.

Mr. JONES, of Tennessee. I hope the House will non-concur with the Committee of the Whole on the state of the Union, and thus mete out the same justice in regard to the survey of the public lands that we have extended to the other Territories. I call for the previous question.

The question was put on seconding the call for the previous question; and, on a division, there were—ayes 73, noes 42.

Mr. McMULLIN. I demand tellers.

Tellers were ordered; and Messrs. JOHNSON and HIBBARD were appointed.

The question was taken; and the tellers reported—ayes eighty-six; a further count not being demanded.

So the previous question received a second; and the main question was ordered to be now put.

The question then recurred upon concurring with the report of the Committee of the Whole on the state of Union.

Mr. BENSON. Is it in order to move to amend?

The SPEAKER. It is not, the main question having been ordered.

Mr. LETCHER. I demand tellers upon striking out the enacting clause of the bill.

Tellers were ordered; and Messrs. HIBBARD, and WASHBURN of Maine were appointed.

The question was taken; and the tellers, owing to the confusion, were unable to report.

The SPEAKER. The tellers report that they cannot count. [Laughter.]

Mr. LAMB. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. KEITT. I desire to ask the Chair whether the design of this bill is not to put the inhabitants of Utah on the same footing as the inhabitants of the other Territories?

Mr. BERNHISEL. Yes, yes.

Mr. SEWARD. No, sir; it is not.

Mr. PECKHAM. Is it designed to encourage polygamy?

[Cries of "No!" "No!" and "Order!"]

The SPEAKER. The main question has been ordered to be put, and no debate is in order.

Mr. PHILLIPS. Would it be in order for me to make an inquiry of the gentleman who reported this bill, before the vote is taken?

The SPEAKER. It is not in order except by unanimous consent.

Mr. PHILLIPS. I desire to ask the chairman of the committee——

[Cries of "Order!" "Order!"]

The SPEAKER. The Chair stated that it was not in order except by unanimous consent.

Mr. PHILLIPS. I did not hear any objection.

The SPEAKER. Is there objection?

Mr. WHEELER. Yes, sir; I object.

Mr. McMULLIN. Is it in order now to move to lay the bill upon the table?

The SPEAKER. It is in order.

Mr. McMULLIN. Then I submit that motion.

The question was taken on Mr. McMULLIN's motion; and it was disagreed to.

So the House refused to lay the bill upon the table.

The question recurred on concurring in the report of the Committee of the Whole on the state of the Union, to strike out the enacting clause of the bill; and being taken, it was decided in the affirmative—yeas 109, nays 74; as follows:

YEAS—Messrs. Appleton, David J. Bailey, Thomas H. Bayly, Ball, Banks, Barksdale, Belcher, Benson, Bliss, Bocock, Bridges, Bristow, Brooks, Campbell, Carpenter, Caruthers, Chamberlain, Chase, Chastain, Chrisman, Clark, Cobb, Corwin, Crocker, Thomas Davis, D. Witt, Dick, Dickinson, Eddy, Thomas D. Eliot, John M. Elliott, Ellison, Farley, Faulkner, Flagler, Florence, Franklin, Gamble, Giddings, Goode, Goodrich, Goodwin, Aaron Harlan, Sampson W. Harris, Hibbard, Howe, Hughes, J. Glancy Jones, Kerr, Kittredge, Knox, Letcher, Lindley, Lindsley, McCulloch, McMullin, Matteson, May, Mayall, Meacham, Middleswarth, Millson, Morgan, Noble, Norton, Olds, Andrew Oliver, Mordecai Oliver, Orr, Peckham, Pennington, Phelps, Phillips, Powell, Pratt, Pringle, Puryear, Ready, Reese, David Ritchie, Thomas Ritchey, Rowe, Russell, Sabin, Sapp, Seward, Shaw, Shower, Simmons, Skelton, Frederick P. Stanton, Andrew Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Thurston, Tracy, Upham, Wade, Walker, Walley, Warren, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, John Wentworth, Wheeler, Witte, and Yates—109.

NAYS—Messrs. James C. Allen, Willis Allen, Ashe, Bennett, Benton, Boyce, Breckinridge, Bugg, Caskie, Clingman, Cook, Curtis, John G. Davis, Dawson, Disney, Dunbar, Dunham, Eastman, Edgerton, Edmundson, English, Fuller, Green, Greenwood, Grey, Hamilton, Andrew J. Harlan, Wiley P. Harris, Hastings, Haven, Hendricks, Henn, Hiester, Hillyer, Hunt, Ingersoll, Daniel T. Jones, George W. Jones, Roland Jones, Keitt, Kurtz, Lamb, Lane, Lewis, Lilly, Macdonald, McDougall, McQueen, Mace, Maxwell, Smith Miller, Morrison, Murray, Nichols, Packer, Parker, Peck, John Perkins, Preston, Robbins, Ruffin, Seymour, Shannon, Samuel A. Smith, William Smith, William R. Smith, George W. Smyth, Richard H. Stanton, Hestor L. Stevens, Teller, Trout, Wells, Westbrook, and Hendrick B. Wright—74.

So the report of the Committee of the Whole on the state of the Union was concurred in.

Mr. HOUSTON obtained the floor.

Mr. PHELPS. I rise to a privileged question. I move to reconsider the vote which has just now been taken. My object in submitting the motion is for the purpose of having provision made for the survey of the lands in the Territory of Utah. The question which has just been presented to the House was upon striking out the enacting clause of the bill. I know that there are members here who object to some of the provisions of the bill—those provisions for grants of land to actual settlers in the Territory of Utah. I voted in the affirmative for the purpose of moving to reconsider. If the reconsideration should prevail, I desire to have the bill so amended that it will provide for establishing the office of surveyor general and for the prosecution of surveys in the Territory of Utah, without making donations of land, although I am quite willing myself to donate lands there to actual settlers.

Mr. HAMILTON. Will the gentleman allow me a moment?

Mr. PHELPS. I will hear the gentleman.

Mr. HAMILTON. The first, fifth, and sixth sections of the bill I think would be acceptable to the House. The first section provides for the establishment of the surveyor general's office. The fifth and sixth sections provide for the school donations, common to the other Territories of the Union. If these sections only are retained, all the objectionable features of the bill will disappear, and I think that it will then be satisfactory to a majority of the House.

Mr. PHELPS. The gentleman from Maryland has anticipated some of the reasons which I intended to present to the House. We all know very well that the people inhabiting the Territory of Utah are not looked upon with much favor by the people outside of that Territory. Recently, however, the Executive has seen fit to appoint another Governor in place of the Governor who entertains the same religious sentiments as the people of the Territory.

The people of Utah have a right to complain if you do not make provision for the survey of their lands. If you will not give them their land, give them at least the privilege of paying the United States for it, so that each man may know what land he owns, and that they may be able to regulate their rights as to real estate. At present there is no land in the Territory of Utah which can be owned by individuals. The title of all of it is in the Government of the United States. But if you fail now to establish the office of surveyor general, and to provide for the survey of the land, two or three years must elapse before it can be done.

It has been customary, in the establishment of all territorial governments, to provide that a certain quantity of land shall be given to the Territory for school purposes. Formerly you gave but the sixteenth sections, but in the Territories lately organized, beginning with Oregon, you have

made provision by law that the sixteenth and thirty-sixth sections in each township shall be applied for school purposes. Now, I desire to see that grant made to the Territory of Utah.

Mr. BENSON. I wish to ask the gentleman a single question before he takes his seat. I desire to know whether the friends of the bill approve of the course which he now proposes? It was announced yesterday by some gentleman, when this subject was under discussion, that the Delegate from Utah would rather that the whole bill should be lost than that any of its provisions should be stricken out. Now, I would ask the gentleman from Missouri whether the Delegate from Utah has changed his opinion, and is willing to take the bill if amended as he proposes? I am opposed to the bill unless amended by striking out that part which may, in any way, favor that feature of Mormonism, which recognizes polygamy. Will the Delegate favor the bill if so amended?

Mr. PHELPS. I have had no conference with the Delegate from Utah respecting this bill. I act upon it on my own responsibility, and I say now that, if the motion to reconsider shall prevail, and the House will vote down the recommendation of the Committee of the Whole on the state of the Union to strike out the enacting clause, I will, myself, if no other gentleman does it, move to amend the bill in the manner which I have indicated.

Mr. BERNHISEL, (Mr. PHELPS yielding the floor.) I hope that the motion of the gentleman from Missouri will not prevail. I would rather that the whole bill should be lost, than that it should be modified as he proposes. We only ask to be placed upon an equal footing with the other Territories.

Mr. DISNEY, (Mr. PHELPS still yielding the floor.) I desire to say a few words in relation to this matter. I announced to the House yesterday that I had yielded my own purposes out of courtesy to the gentleman from Utah. I have yielded up to this point, but there are public considerations in relation to the pending bill—considerations which have been adverted to by the gentleman from Missouri, and which are paramount to the considerations which influence the Delegate from Utah. The General Government, and the people of this Union, have an interest in extending its land system over the Territory of Utah, as well as over every other Territory of this Union, and however much inclined I may have been, as I have been, to yield subsidiary questions to the wishes and desires of the Delegate from Utah, yet, when great public considerations come up, I am called upon, as I believe, imperatively, as chairman of the committee to which is peculiarly committed the consideration of questions in relation to the public domain of the country, to enforce upon the attention of the House such action as, in my judgment, is proper, in order to promote the general interests of the country.

Gentlemen must understand that the Territory of Utah is not populated by the Mormons only. There are many residents and settlers in that Territory who are not believers in, or followers of, that faith. These people have some rights which should be protected; and all we ask is, that the Government shall extend its land system over the Territory. If the motion submitted by the gentleman from Missouri shall prevail, I shall move to strike out all those sections of the bill relating to donations, and leave it simply a bill to provide for the establishment of the office of surveyor general and correlative matters.

Mr. PHELPS, (resuming.) I have but one word further to say. If my motion shall prevail, and the House shall non-concur in the recommendation of the Committee of the Whole on the state of the Union, I will, if I can obtain the floor, move to strike out the second, third, fourth, seventh, and ninth sections of the bill

Mr. HAVEN. I desire to say a word about this matter. I voted to non-concur in the recommendation of the Committee of the Whole on the state of the Union, with a view of having the bill amended in such a way that the House could express its sentiments upon one or two questions that are either directly or indirectly included in the bill.

I believe, with the gentleman who has charge of the bill in the Committee on Public Lands, [Mr. DISNEY,] that this is a great public question, so far as the lands are concerned. It is a question which concerns the people of the United States as well as the people of the Territory of Utah; and the policy of the Government of the United States ought to be carried out there in regard to the survey and putting in market of these lands, as well as in any other Territory of the United States.

In addition to this, I take it that I am not mistaken when I suppose that this House refused to act on the other features of the bill, because of some of the domestic institutions of the Territory of Utah. The subject of polygamy is, I think, a question which this House might as well meet now as at any other time. I am ready to meet it now; and if the House reconsider and amend this bill, so that these lands can be surveyed, I, if nobody else will do it, propose to meet this question by the introduction of an additional section which will declare that all laws, or that any laws of the Territory of Utah, which in any wise recognize the right of one man to have more than one wife at a time, are disapproved, and null and void. We may as well meet this question early as late. I submit that it is not becoming in the American Congress to be dodging back and forth in this way. I hope, therefore, that the vote will be reconsidered, and that the House will take up the question so as to let us express our opinions upon the subject-matter.

Mr. McMULLIN. I voted, Mr. Speaker, to strike out the enacting clause of this bill——

Mr. HOUSTON, (interrupting.) I rise to a question of order. A few minutes ago, I was recognized, as I understand it, and was proceeding to address the Chair, when the gentleman from Missouri [Mr. PHELPS] took the floor from me by saying that he rose to a privileged question. I supposed then that the matter could be settled, as he stated, without debate; but if this question is to be raised, it will occupy, probably, one or two days. I desire, therefore, permission to bring up the subject of which I gave notice some few days ago.

The SPEAKER. True; the gentleman from Alabama [Mr. HOUSTON] was recognized by the Chair when the gentleman from Missouri rose to a question of privilege——

Mr. RICHARDSON. Mr. Speaker, I rise to a privileged question.

The SPEAKER. The Chair has not concluded its remark. The gentleman from Missouri had a right to submit his proposition to reconsider; and if, after that proposition had been submitted, the gentleman from Alabama had insisted on his right to the floor, it would have been recognized. The gentleman, however, having tacitly waived that right, the Chair cannot now decide that he is entitled to the floor.

Mr. HOUSTON. I surrendered the floor only on the assurance that I should get it again.

Mr. RICHARDSON. I rise to a privileged question. There was referred to the Committee of the Whole on the state of the Union a resolution to pay some secretary somewhere. The committee declined to act upon it. I want to move to reconsider the vote by which the resolution was so referred, and to have that motion entered, so that we can get the resolution back to the House, and have it referred to the Committee on Private Claims.

The SPEAKER. That motion will be entered if the gentleman from Illinois [Mr. RICHARDSON] will signify the resolution he alludes to, and state when the order was made.

Mr. RICHARDSON. It was a Senate bill in reference to the Secretary of Minnesota, and was referred yesterday morning.

The SPEAKER. Then the motion to reconsider will be entered.

Mr. McMULLIN. I voted to strike out the enacting clause of this Utah bill. I voted against the previous question, with a view to afford my colleague [Mr. SMITH] an opportunity to offer some amendments to that bill. It was not my purpose then, nor is it my purpose now, to draw any invidious distinction between Territories belonging to this Union. But, sir, when the citizens of the Territory of Utah have drawn an invidious distinction—a distinction which ought not to be tolerated in any portion of this community, then the people of that Territory must pardon me, through their representative, if I by my vote oppose the principle contained in this bill. If I am not mistaken, sir, the people of the adjacent Territories pay for their lands. I am willing to accord to the citizens of Utah all the credit they are entitled to for their patriotism in going forward to defend the liberties of the country; but I am not willing to assist, by my vote, in setting such an example as would be set by the passage of this bill.

Sir, (in reply to a *sotto voce* remark of Mr. BERNHISEL,) the Delegate from Utah tells me that New Mexico has the law. But, sir, if they have, they have a code of morals there such as is not in force in the Territory of Utah. Now, sir, has it come to this, that the Delegate from Utah is to come upon this floor and tell me that other Territories have the benefit of a law of the character of this bill? Sir, I tell that Delegate, with no unkind feelings towards him, that, whenever the people whom he represents on this floor, shall place themselves on a social equality, by their morals and otherwise, with the other Territories, then, and not till then, shall they have my support and vote.

I have been appealed to by gentlemen from both sides of the House to call the previous question.

[Loud cries of "Oh, no!"]

Mr. McDOUGALL. I do not like to do it. I do not like to gag gentlemen, particularly after I have said a few words myself. But I desire to say this to the friends of the bill: if they wish a reconsideration of the question, and will afford gentlemen an opportunity to submit a proposition for the purpose of directly testing the sense of the House on the question alluded to and brought forward by the gentleman from New York, [Mr. HAVEN,] then, sir, I am willing to go for it. I am willing to meet this question now, or at any other time, and I would prefer to do it now. If gentlemen around me desire to discuss the question, I will yield the floor for that purpose.

Mr. WARREN. I call for the previous question.

Mr. ORR. I move to lay the motion to reconsider on the table.

Mr. SMITH, of Virginia. And on that I call for the yeas and nays, so as to open the question rightly.

The yeas and nays were not ordered.

Mr. HAMILTON. I call for tellers on the motion to lay the motion to reconsider on the table.

Tellers were ordered; and Messrs. DAWSON and TAYLOR were appointed.

The question was taken; and the tellers reported —ayes 70, noes 76.

So the House refused to lay the motion to reconsider on the table.

The previous question was then seconded; and the main question ordered to be now put.

Mr. HAVEN. Will the previous question be exhausted upon the vote of reconsideration?

The SPEAKER. It will be exhausted.

The question was then taken upon reconsidering the vote by which the House agreed to strike out the enacting clause of the bill; and, upon division, there were—ayes eighty-nine, noes not counted.

So the motion was reconsidered.

ENROLLED BILLS SIGNED.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; which thereupon received the signature of the Speaker:

An act for the relief of Thomas Marston Taylor; and

An act to incorporate St Joseph's Male Orphan Asylum in the District of Columbia.

SURVEYOR-GENERAL OF UTAH—AGAIN.

Mr. ORR. I would ask if the previous question has not been exhausted, and if the question does not now recur upon agreeing to the report of the Committee of the Whole on the state of the Union, recommending that the enacting clause of the bill be stricken out?

The SPEAKER. The previous question has been exhausted upon the motion to reconsider.

Mr. PHELPS. I demand the previous question upon agreeing to the recommendation of the committee.

The previous question was seconded; and the main question ordered to be put.

Mr. CHAMBERLAIN demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. DISNEY demanded tellers; which were

ordered; and Messrs. WALKER and CHANDLER were appointed.

The question was taken; and the tellers reported—ayes forty-seven, noes not counted.

So the House refused to agree to the recommendation of the committee to strike out the enacting clause of the bill.

Mr. DISNEY. I move to amend the bill by striking out all after the enacting clause, and inserting the first, fifth, sixth, and eighth sections of the bill.

Mr. LETCHER. Before the motion is put, I desire to amend that part of the bill which the gentleman from Ohio proposes to strike out.

The SPEAKER. The demand for the previous question must be first disposed of before the motion is in order.

Mr. LETCHER. Is it not in order to amend that part of the bill proposed to be stricken out?

The SPEAKER. Such a motion would be in order but for the intervention of the previous question.

Mr. JONES, of Tennessee. If the demand for the previous question is voted down, will the motion then be in order?

The SPEAKER. It will be in order.

The Clerk then read the matter proposed to be inserted by Mr. DISNEY, as follows:

That the President, by and with the advice and consent of the Senate, shall be, and he is hereby, authorized to appoint a surveyor general for Utah, whose annual salary shall be three thousand dollars, and whose power, authority, and duties, shall be the same as those provided by law for the surveyor general of Oregon, prior to the act of July 17, 1854; and he shall locate his office, from time to time, at such places as may be directed by the President of the United States.

SEC. 2. *And be it further enacted*, That when the lands in said Territory shall be surveyed, under the direction of the Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be created out of the same.

SEC. 3. *And be it further enacted*, That when the lands in said Territory shall be surveyed as aforesaid, a quantity of land equal to two townships shall be, and the same is hereby, reserved for the establishment of a university in said Territory, and in the State hereafter to be created out of the same, to be selected under the direction of the Legislature, in legal subdivisions of not less than one half section, and to be disposed of as said Legislature may direct.

SEC. 4. *And be it further enacted*, That full power and authority are hereby given to the Secretary of the Interior to issue all needful rules and regulations for fully carrying into effect the several provisions of this act.

Mr. HAVEN. I ask the gentleman from Ohio to withdraw his demand for the previous question until I can introduce an amendment of the kind I suggested before, covering the other point. I think that will be satisfactory to the House, and I trust, if the request is not complied with, the House will vote down the demand for the previous question.

Mr. DISNEY. In reply to the gentleman from New York, I will only say that I fully appreciate his commendable zeal in desiring to place upon the record his opinion as to Mormonism, but I do not think this the time, nor do I think this the place; and in order to exclude all extraneous matters, I must adhere to my demand for the previous question.

Mr. BRIDGES. I hope, before the question is put, the gentleman from Ohio will change his proposition so far as to exclude one of the sections which he has offered, which appropriates lands for the support of common schools. I think that provison should be excluded.

Mr. DISNEY. I cannot do it.

Mr. KERR. I ask for tellers upon the demand for the previous question.

Tellers were ordered; and Messrs. HIBBARD and WALKER were appointed.

The question was taken; and the tellers reported—ayes ninety, noes not counted.

So the previous question was seconded; and the main question was ordered to be put.

Mr. CHAMBERLAIN. I would inquire whether it is competent, under the rules, for the gentleman from Ohio to accept of an amendment to his amendment?

The SPEAKER. It can be done only by unanimous consent, as the House has ordered the main question.

Mr. JONES, of Tennessee. I move to lay the bill upon the table.

Mr. STUART, of Ohio. I demand the yeas and nays upon that motion.

The yeas and nays were not ordered.

The question was then taken; and the motion was not agreed to.

The question recurring upon the adoption of the amendment proposed by Mr. DISNEY,

Mr. LETCHER demanded the yeas and nays; which were ordered.

The question was then put; and it was decided in the affirmative—yeas 127, nays 52; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, Appleton, Ashe, David J. Bailey, Banks, Barksdale, Barry, Belcher, Bennett, Bliss, Breckinridge, Brooks, Campbell, Carpenter, Caskie, Chastain, Clark, Clingman, Cook, Cullom, Cumming, John G. Davis, Thomas Davis, Disney, Drum, Dunbar, Eastman, Eddy, Edgerton, John M. Elliott, English, Etheridge, Farley, Faulkner, Florence, Fuller, Gamble, Goodwin, Green, Greenwood, Grey, Hamilton, Sampson W. Harris, Wiley P. Harris, Hastings, Hendricks, Henn, Hibbard, Hiester, Hill, Hillyer, Houston, Howe, Hughes, Hunt, Johnson, Daniel T. Jones, J. Glancy Jones, Roland Jones, Keitt, Kidwell, Kittredge, Kurtz, Lamb, Lane, Lewis, Lilly, Lindley, Lindsley, Macdonald, McNair, McQueen, Maxwell, Middleswarth, Smith Miller, Millson, Morrison, Murray, Nichols, Noble, Norton, Olds, Andrew Oliver, Mordecai Oliver, Orr, Packer, Parker, Peck, Phelps, Puryear, Ready, Richardson, Thomas Ritchey, Robbins, Rowe, Russell, Sabin, Seward, Seymour, Shaw, Shower, Simmons, Singleton, Skelton, Samuel A. Smith, William Smith, George W. Smyth, Richard H. Stanton, Hestor L. Stevens, Straub, David Stuart, John J. Taylor, John L. Taylor, Thurston, Trout, Upham, Vansant, Walbridge, Warren, Elihu B. Washburne, Wells, John Wentworth, Westbrook, Hendrick B. Wright, Yates, and Zollicoffer—127.

NAYS—Messrs. Ball, Benson, Bocock, Boyce, Bridges, Bristow, Chamberlain, Chandler, Chase, Chrisman, Cobb, Corwin, Cox, Crocker, Dawson, De Witt, Dick, Dickinson, Edmundson, Thomas D. Eliot, Ellison, Flagler, Franklin, Goode, Aaron Harlan, Andrew J. Harlan, Haven, Ingersoll, George W. Jones, Kerr, Knox, Letcher, McCulloch, McMullin, Matteson, May, Mayall, Meacham, Morgan, Pennington, Bishop Perkins, Powell, Pratt, Preston, Pringle, David Ritchie, Ruffin, Sapp, Shannon, Frederick P. Stanton, Nathaniel G. Taylor, Teller, Tracy, Walker, Walley, Tappan Wentworth, and Wheeler—52.

So the amendment was agreed to.

Mr. GREENWOOD. What is the next question?

The SPEAKER. It is upon ordering the bill, as amended, to be engrossed and read a third time.

Mr. GREENWOOD. So I supposed.

The bill was then ordered to be engrossed and read a third time.

Mr. DISNEY. I move the previous question upon the passage of the bill.

The previous question was seconded; and the main question was ordered to be put.

Mr. SMITH, of Virginia. I call for the yeas and nays upon the passage of the bill, and demand tellers upon the yeas and nays.

Tellers were not ordered; and the yeas and nays were refused.

Mr. McMULLIN. I move to lay the bill upon the table.

[Cries of "Order!" "Order!"]

Mr. McMULLIN. I would inquire of the Chair if the motion to recommit is in order?

The SPEAKER. A motion of that kind would not be in order, the main question having been ordered to be put.

Mr. McMULLIN. Then I call for the yeas and nays upon my motion to lay the bill upon the table.

The yeas and nays were ordered.

The question was then taken on Mr. McMULLIN's motion; and it was decided in the negative—yeas 64, nays 115; as follows:

YEAS—Messrs. Thomas H. Bayly, Ball, Benson, Bocock, Bridges, Bugg, Caskie, Chamberlain, Chandler, Chase, Chrisman, Cobb, Corwin, Crocker, Cullom, Thomas Davis, De Witt, Dick, Dickinson, Edmundson, Thomas D. Eliot, Ellison, Flagler, Franklin, Goode, Goodwin, Aaron Harlan, Haven, George W. Jones, J. Glancy Jones, Kerr, Knox, Letcher, Lewis, Lindley, McCulloch, McMullin, Mace, Matteson, May, Mayall, Meacham, Middleswarth, Millson, Morgan, Morrison, Pennington, Powell, Preston, Puryear, David Ritchie, Ruffin, Sapp, Shannon, William Smith, Frederick P. Stanton, Andrew Stuart, Nathaniel G. Taylor, Tracey, Wade, Walker, Walley, Wheeler, and Yates—64.

NAYS—Messrs. James C. Allen, Willis Allen, Appleton, David J. Bailey, Banks, Barksdale, Barry, Belcher, Benton, Boyce, Bristow, Brooks, Campbell, Carpenter, Caruthers, Chastain, Clark, Clingman, Cook, John G. Davis, Dawson, Disney, Drum, Dunbar, Eastman, Eddy, Edgerton, John M. Elliot, Etheridge, Faulkner, Fenton, Florence, Gamble, Green, Greenwood, Grey, Hamilton, Sampson W. Harris, Wiley P. Harris, Hastings, Hendricks, Henn, Hibbard, Hiester, Hill, Hillyer, Houston, Howe, Hughes, Hunt, Ingersoll, Roland Jones, Keitt, Kidwell, Kittredge, Kurtz, Lamb, Lane, Lilly, Lindsley, Macdonald, McNair, McQueen, Maxwell, Smith Miller, Murray, Nichols, Noble, Norton, Olds, Andrew Oliver, Mordecai Oliver, Orr, Packer, Parker, Peck, John Perkins, Phelps, Phillips, Pratt, Pringle, Ready, Reese, Richardson, Thomas Ritchey, Robbins, Rowe, Russell, Sabin, Seward, Seymour, Shaw, Shower, Simmons, Singleton, Skelton, Samuel A. Smith, George W. Smyth, Richard H. Stanton, Hestor L. Stevens, Straub, John J. Taylor, John L. Taylor, Teller, Thurston, Trout, Vansant, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Westbrook, Hendrick B. Wright, and Zollicoffer—115.

So the House refused to lay the bill upon the table.

The bill was then passed.

Mr. DISNEY. I move to reconsider the vote by which the bill was passed, and that that motion be laid upon the table.

The latter motion was agreed to.

Mr. STANTON, of Kentucky. I move to amend the title by striking out the words "and to grant lands to actual settlers therein."

The question was taken; and the amendment was agreed to.

Mr. LETCHER. I move further to amend the title by adding to it the words "and to donate land for school and university purposes."

Mr. STANTON, of Tennessee. I would suggest to the gentleman, that instead of the word "donate," he use the word "grant."

Mr. LETCHER. I accept the gentleman's modification of my amendment.

The question was taken; and the amendment was agreed to.

The title, as amended, was then agreed to.

MESSAGE FROM THE SENATE.

A message was here received from the Senate, by ASBURY DICKINS, Esq., their Secretary, informing the House that the Senate had passed a resolution and bill of the following titles:

A resolution authorizing the Secretary of War to sell portions of the site of the arsenal at Fayetteville, North Carolina, and to purchase other lands with the proceeds of such sale; and

An act changing the appropriation for the erection of a building in the city of Milwaukie for a custom-house, post office, and the United States court.

In which he was directed to ask the concurrence of the House.

ENROLLED BILL SIGNED.

Mr. DE WITT, from the Committee on Enrolled Bills, reported as correctly enrolled a bill of the following title; which thereupon received the Speaker's signature:

An act making appropriations for the construction of certain military roads in the Territories of Nebraska and Washington.

THE TARIFF.

Mr. APPLETON. Mr. Speaker, some days ago the honorable gentleman from Alabama [Mr. HOUSTON] gave notice that he would move to take up for consideration by the House, at this time, the bill in relation to the tariff. My object in rising is respectfully to appeal to him that, instead of pressing his motion to-day, he postpone it to some future day. And for this reason: There are, in the Committee of the Whole on the state of the Union, two bills, one for the reduction of the tariff to a revenue standard, and the other a substitute for that bill. Both have been matured with great care. The bill laid upon our desks this morning, and which was introduced by the gentleman from Alabama, has not been sufficiently long in the possession of members to enable them to look into it, and carefully and properly compare its provisions with those of the bills to which I have referred. I appeal to the gentleman to postpone the making of his motion to some other day, so that the desired examination and comparison may be had. The course I suggest may possibly lead to a favorable result.

Mr. HOUSTON. In reply to the honorable gentleman from Massachusetts I will say, that, so far as his proposition is concerned, I shall have no objection to a postponement of this question for a reasonable length of time. The vote which I gave notice I would ask the House to give in reference to the bill proposing to reduce the tariff I had hoped would be taken at an earlier period of the day. The present is an unfavorable time for its consideration. All will acknowledge the importance of the question; and it is one, too, which must be adjusted to suit at least a majority of the interests concerned. If there is a prospect of the House coming to such an agreement as to pass a bill which would meet the demands of all sides, without great consumption of time, I should be glad of it.

I will suggest, however, that, if the proposition be now postponed, there is no day before next Wednesday when the bill could come up under favorable circumstances. To-morrow is objection day on the Private Calendar. Gentlemen will desire the suspension of the rules on Monday for the introduction of, and action on, various matters. Tuesday is set apart, by the special order of the House, for the consideration of the Texas debt bill. If I were to attempt to press my motion against the interests which would rise in opposition on either of the days to which I have referred, the question would be taken under very disadvantageous circumstances. I shall not agree, on my own responsibility, to the postponement asked for, because each member is equally interested with myself. I make my motion, and, if a majority be willing to the postponement, I shall propose that the question be set for one o'clock on Wednesday next, at which time we may have a test vote.

[Cries of "Consent!"]

Mr. HAVEN. I should like to inquire of the gentleman from Alabama what motion it is that he proposes to make? He stated to us the other day that he would at this time move to go into the Committee of the Whole on the state of the Union.

Mr. HOUSTON. That is the motion which I now propose to submit. I move, Mr. Speaker, that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, with a view of taking up for consideration what is commonly known as the tariff bill.

Mr. HAVEN. I would inquire, inasmuch as the gentleman's motion indicates the kind of business to be done, whether it demands a majority, or a two-third vote?

Mr. JONES, of Tennessee. Some gentlemen seem to think that the proposition of the gentleman from Alabama has the effect of a special order. Not at all. He moves that the House resolve itself into the Committee of the Whole on the state of the Union, and asks members to make the vote on that motion a test as to whether they intend or not to do anything with the tariff. It requires two thirds to make a special order.

The SPEAKER. The Chair decides that it would be incompetent for the House, except by unanimous consent, to make a special order at this time.

Mr. JONES. The gentleman from Alabama expects that the majority which agrees to his motion to go into the Committee of the Whole on the state of Union, will, when the House gets into committee, take up, consider, and act on this tariff proposition.

Mr. HOUSTON. I explained, the other day, in a few words, what I proposed doing, and what the objects were which I had in view. I am aware that it is not strictly in order to move to go into the Committee of the Whole on the state of the Union for the purpose of taking up a particular bill; but I felt it due to the gentlemen on all sides of the Hall to state the purpose which I desired to accomplish. I ask that the vote on the motion to go into the Committee of the Whole on the state of the Union be a test of the sense of the body on this measure. If the motion be voted down, I shall then propose to go into the Committee of the Whole on the state of the Union for the purpose of taking up some of the appropriation bills.

Mr. HAVEN. I understand, and I presume the House does also, the effect of the vote to be taken. If he will permit me, I will ask the gentleman another question. He has the matter in charge, and I would like to know, to some extent, what it is we shall be called to vote on when we get into committee? Does the gentleman stand by the bill which was reported by the committee, or does he intend, when we get into the Committee of the Whole on the state of the Union, to abandon that, and go for some other measure?

Mr. HOUSTON. I stated to the House yesterday what my purpose was, as far as I can state it; and I now repeat, that I desire that the House will consider the vote upon going into the Committee of the Whole on the state of the Union as a test vote upon the bill to reduce the present tariff.

Mr. HAVEN. And if the House agree to go into committee, does the gentleman propose to press his substitute for the bill originally introduced?

Mr. HOUSTON. Yes, sir.

Mr. HAVEN. Very well. I think we now understand the question.

Mr. HENN. I hope the gentleman from Alabama will withdraw that motion for to-day, and allow us to go on with the business of the morning hour. This is the first opportunity we have had to transact business in the morning hour for some days, and it will be the last opportunity we shall have for some time to come. I hope, therefore, the gentleman will withdraw his motion to go into the Committee of the Whole on the state of the Union. If he does not, I shall be compelled to vote against it; for however anxious I may be to secure the passage of the bill the gentleman now proposes to bring up, I am just now more anxious to proceed with the business of the morning hour.

Many MEMBERS. Do not withdraw the motion.

Mr. HOUSTON. I do not withdraw it.

Mr. DAVIS, of Indiana. I demand the yeas and nays upon the motion.

The yeas and nays were ordered.

Mr. HOUSTON. I wish to state to the House that my motion is now in their hands. I have indicated my preference, a postponement until Wednesday next; but if the House prefer to decide it now, it is in their hands.

[Cries of "Go on!" "Too late to withdraw!"]

Mr. HOUSTON. Have I the right to ask the House to postpone this vote until Wednesday next?

The SPEAKER. The gentleman has the right to withdraw his motion to go into the Committee of the Whole on the state of the Union.

Mr. HOUSTON. Can I accomplish my purpose in no other way?

The SPEAKER. In no other way, except by unanimous consent.

Mr. HAVEN. I am desirous that this vote should be well understood. It would, perhaps, be well for all sides if the gentleman from Alabama would indicate to the House whether he regards this as a test vote, to the extent that, if it fail, he will not call it up again upon another day.

Mr. HENN. I desire to ask the Speaker one question. The gentleman from Alabama speaks of this as a test vote. Now, I desire to know if it can be made binding upon all of us?

Mr. HOUSTON. No, of course not; unless you are disposed to consider it as such.

Mr. JONES, of Tennessee. The gentleman from Alabama cannot, of course, make it a test vote to be binding upon the members of the House; but the friends of the bill can agree that, if the motion is voted down, they will not call it up again, and allow the responsibility of defeating the measure to rest upon its friends who now refuse to vote for it.

Mr. HOUSTON. I desire to say a single word.

[Cries of "Order!" "Order!"]

The SPEAKER. The Chair must remind gentlemen that the motion to go into the Committee of the Whole on the state of the Union is not debatable, and the cries on all sides of "Order," "Order," remind him that he must arrest all further discussion.

Mr. HOUSTON. I regret exceedingly that there is any such feeling upon either side of the House as——

Mr. CAMPBELL. I rise to a question of order. I want to know if this proposition is debatable?

The SPEAKER. It is not.

Mr. HOUSTON. I am not going to debate it.

Mr. CAMPBELL. Then I call for the vote.

Mr. HOUSTON. I was not going to debate my proposition. I merely rose for the purpose of saying that I would now withdraw the motion to go into the Committee of the Whole on the state of the Union, and that I give notice that, on Wednesday next, I will make the motion, and then insist upon a test vote being taken upon this question.

Mr. WHEELER. I object to the withdrawal.

The SPEAKER. The gentleman has the right to withdraw it.

DIPLOMATIC AND CONSULAR SYSTEM.

Mr. COBB. I now demand the regular order of business.

The SPEAKER. The regular order of business is the consideration of the bill to reform the diplomatic and consular system of the United States, upon which the gentleman from Louisiana [Mr. PERKINS] is entitled to the floor.

Mr. HENN. The gentleman from Louisiana, if I mistake not, is entitled to about fifteen minutes before his hour will expire. If he will yield to me for that purpose, I will move the previous question upon the passage of the bill.

BELDEN AND COMPANY.

Mr. HUNT. I think the Chair is mistaken as to the first business in order. There is still a motion to reconsider pending upon the Belden case.

The SPEAKER. When the Chair announced the regular order of business, he had forgotten, for the moment, that a motion to reconsider had been made upon the Belden case. The Chair decides that that motion will take precedence of the consideration of the other bill.

Mr. WHEELER. I demand the previous question upon the motion to reconsider.

NAVY-YARD AT MEMPHIS.

Mr. STANTON, of Tennessee. I ask the unanimous consent of the House to enable me to report a bill, that the order to print may be made, and that the bill may be recommitted to the committee. It is a bill for the reëstablishment of the Memphis navy-yard.

The bill was then introduced, read twice by its title, and recommitted to the select committee upon the Memphis navy-yard.

BELDEN AND COMPANY—AGAIN.

The previous question was seconded; and the main question ordered to be now put, being upon the motion to reconsider the vote by which the House rejected the bill for the relief of Samuel A. Belden & Co.

Mr. SMITH, of Virginia. I suggest that, as the friends of this bill did not expect it would come up for consideration to-day, it be passed over informally.

[Cries of "No!" "No!" and "Object."]

Mr. EDGERTON. I move to lay the motion to reconsider upon the table.

Mr. SMITH. Has not the House already decided that question? I submit that the motion is not in order.

The SPEAKER. The gentleman is correct, in the recollection of the Chair.

Mr. EDGERTON. I made the motion to reconsider originally, and myself moved to lay the motion upon the table. The House refused to lay the motion to reconsider upon the table. I then withdrew the motion to reconsider, and it has since been renewed by another member.

The SPEAKER. Then this is another motion to reconsider, and the motion to lay on the table is in order.

Mr. EDGERTON. Upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 66, nays 85; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, Ashe, Barksdale, Barry, Bocock, Bridges, Brooks, Caskie, Chastain, Cobb, Craige, John G. Davis, Eddy, Edgerton, Ellison, Flagler, Giddings, Hamilton, Sampson W. Harris, Wiley P. Harris, Hastings, Haven, Hendricks, Henn, Hibbard, Hillyer, Houston, Johnson, Daniel T. Jones, George W. Jones, Kidwell, Kittredge, Kurtz, Lamb, Letcher, Lewis, Lilly, Lindsley, Macdonald, McMullin, McQueen, Smith Miller, Millson, Morgan, Murray, Nichols, Mordecai Oliver, Orr, Packer, Bishop Perkins, John Perkins, Phelps, Ready, Ruffin, Seward, Shaw, Singleton, Skelton, Samuel A. Smith, George W. Smyth, Andrew Stuart, John J. Taylor, Tracy, Vansant, and Zollicoffer—66.

NAYS—Messrs. Appleton, David J. Bailey, Thomas H. Bayly, Ball, Banks, Bennett, Benson, Benton, Bugg, Campbell, Carpenter, Chamberlain, Chandler, Chase, Clark, Clingman, Cook, Corwin, Cullom, Curtis, Thomas Davis, Dick, Dunbar, Edmundson, Thomas D. Eliot, Etheridge, Everhart, Farley, Fenton, Florence, Franklin, Goodwin, Grey, Hiester, Hill, Howe, Hughes, Hunt, Keitt, Kerr, Knox, McCulloch, McDougall, McNair, Matteson, Mayall, Meacham, Middleswarth, Noble, Norton, Andrew Oliver, Parker, Peck, Peckham, Pennington, Phillips, Pratt, Preston, Pringle, Puryear, Reese, Robbins, Sabins, Sapp, Simmons, William Smith, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Upham, Walker, Walley, Warren, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Hendrick B. Wright, and Yates—85.

So the motion to reconsider was not laid upon the table.

The question then recurred upon the motion to reconsider.

Mr. CRAIGE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 89, nays 65; as follows:

YEAS—Messrs. Appleton, David J. Bailey, Thomas H. Bayly, Ball, Bennett, Benson, Benton, Bristow, Bugg, Campbell, Carpenter, Caruthers, Chamberlain, Chandler, Chase, Clark, Clingman, Cook, Corwin, Cullom, Thomas Davis, Edmundson, Thomas D. Eliot, Etheridge, Everhart, Farley, Fenton, Florence, Franklin, Giddings, Goodrich, Goodwin, Hiester, Hill, Howe, Hughes, Hunt, Kerr, Knox, McCulloch, McDougall, Matteson, Mayall, Meacham, Middleswarth, Morgan, Noble, Norton, Andrew Oliver, Parker, Peck, Peckham, Pennington, John Perkins, Phillips, Pratt, Preston, Pringle, Puryear, Reese, Richardson, Rowe, Sabin, Sapp, Shannon, Simmons, William Smith, William R. Smith, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Upham, Walbridge, Walker, Walley, Warren, Elihu B. Washburne, Israel Washburn, John Wentworth, Tappan Wentworth, Westbrook, Hendrick B. Wright, and Yates—89.

NAYS—Messrs. James C. Allen, Willis Allen, Barksdale, Barry, Bocock, Bridges, Caskie, Cobb, Craige, Curtis, John G. Davis, Dunham, Eddy, Edgerton, John M. Elliott, Ellison, Fuller, Green, Hamilton, Aaron Harlan, Sampson W. Harris, Wiley P. Harris, Hastings, Haven, Hendricks, Henn, Hibbard, Hillyer, Houston, Johnson, Daniel T. Jones, George W. Jones, Kidwell, Kittredge, Kurtz, Lamb, Lewis, Lilly, Lindsley, McNair, McQueen, Smith Miller, Millson, Morrison, Murray, Nichols, Mordecai Oliver, Orr, Packer, Bishop Perkins, Phelps, Ready, Ruffin, Russell, Seward, Shaw, Singleton, Skelton, George W. Smyth, Andrew Stuart, John J. Taylor, Tracy, Vansant, Witte, and Zollicoffer.—65.

So the vote by which the bill was rejected was reconsidered.

The question recurred upon the passage of the bill.

Mr. HILLYER. I move that the House do now adjourn.

Mr. HUNT. I hope the gentleman will allow the vote to be taken on the passage of the bill. We have tested this matter three or four times.

Mr. JONES, of Tennessee. This bill has been before the House for a long time, and we had much better dispose of it at once.

The SPEAKER. Debate on the motion to adjourn is not in order.

Mr. BAYLY, of Virginia. I ask the gentleman from Georgia to withdraw the motion to adjourn for one moment.

Mr. HILLYER. I withdraw it, sir.

Mr. BAYLY. I ask the unanimous consent of the House to enable me to offer a resolution calling for some papers that the Committee on Foreign Affairs want. There can be no objection to the resolution.

The Clerk read the resolution for information, as follows:

Resolved, That the President of the United States be requested to cause to be communicated to this House, if not incompatible with the public interest, copies of any documents in the Navy Department relating to the case of Walter M. Gibson, which may not have heretofore been communicated.

Mr. ORR. If that resolution can be amended, I have no objection to its introduction.

The SPEAKER. It will be open to amendment if there is no objection to its introduction.

Mr. BAYLY. I have no objection to any amendment.

Mr. KERR. I object to the resolution, until the bill pending before the House is disposed of.

The SPEAKER. The objection comes in time.

Mr. BAYLY. Oh, I hope my friend from North Carolina will withdraw the objection.

Mr. KERR. I would do so with great pleasure to accommodate the gentleman, but I really think we had better dispose of the bill.

Mr. ORR. If the gentleman from Virginia will withdraw his resolution now, I have no doubt that he will obtain permission to offer it to-morrow.

Mr. BAYLY. Very well, sir; I withdraw it.

Mr. HILLYER. I renew the motion to adjourn.

Mr. SEWARD. I demand the yeas and nays upon that motion.

Mr. STANTON, of Tennessee. The object of the gentlemen who favor an adjournment now is, as I understand, to get a vote upon this bill when the House is full. Now, if they will allow the previous question to be called on the bill, I, for one, have no objection to a postponement of the vote.

Mr. HENDRICKS. Before the gentleman demands the previous question, I move to refer the bill to a Committee of the Whole House.

The SPEAKER. That motion cannot be entertained, for there is a motion pending that the House do now adjourn.

Mr. HENDRICKS. I hope that motion will be withdrawn.

Mr. HILLYER. It would be better for the opponents of the bill that the House should adjourn, if we can do so. If my motion is voted down, I will go very cheerfully for the motion of the gentleman from Indiana; but I insist on the motion to adjourn, and ask for the yeas and nays upon it.

The yeas and nays were not ordered.

Mr. HILLYER I withdraw the motion.

Mr. HAMILTON. I move to refer the bill to a Committee of the Whole House.

Mr. ORR. I desire to know whether an amendment was adopted to this bill, striking out that feature of it which provided for payment of the duties on the tobacco, which has been the subject of controversy here?

Mr. HUNT. That amendment was agreed to by the friends of the bill at the time it was proposed, but I do not know whether the House would allow the agreement to stand. At any rate, the question comes very late now, and it is in the shape of argumentation.

Mr. ORR. Well, sir, the bill is debatable, I believe, at this stage.

The SPEAKER. The word "illegal" was inserted by unanimous consent. That is the only change that the bill has undergone.

Mr. HUNT. I have no objection to accept the amendment which the gentleman suggests, if that will satisfy him, and to strike out the word "tobacco." I meet the gentleman fairly. If that was his objection to the bill, it is removed. Strike out the word "tobacco," and leave it "merchandise," as he proposed in the first instance.

Mr. ORR. It would be better to make it read "merchandise, except tobacco." That amendment would exclude tobacco.

Mr. HUNT. Very well; anything that you please which conveys your meaning.

The SPEAKER. Is it the pleasure of the House that the bill be amended as suggested by the gentleman from South Carolina?

Mr. SEWARD. I object.

Mr. HUNT. The tobacco is an inconsiderable item, anyhow.

Mr. ORR. I hope the gentleman from Georgia will withdraw his objection.

Mr. SEWARD. I will withdraw it for the gratification of the gentleman.

No further objection being offered, the amendment suggested by Mr. ORR was made to the bill.

Mr. WASHBURN, of Maine. I demand the previous question.

The previous question received a second; and the main question was ordered to be put.

Mr. CRAIGE. As I desire that there shall be a full House when the vote is taken on this bill, I move that the House do now adjourn.

The question was taken; and, on a division, there were—ayes 81, noes 69.

So the motion was agreed to.

And thereupon, at twenty minutes to four o'clock, p. m., the House adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

THURSDAY, *February* 1, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

PETITIONS, ETC.

The PRESIDENT *pro tempore* presented a letter of the Governor of Pennsylvania, inclosing a resolution of the Legislature of that State, in favor of an expedition to rescue Dr. Kane and the crew of the Advance.

Mr. BRODHEAD said that the Senate had already anticipated the wishes of the Governor and Legislature of Pennsylvania, and carried out their desires.

The letter and resolution were therefore ordered to lie on the table.

Mr. SEWARD presented the memorial of Alfred G. Benson, praying indemnification for losses sustained on account of the non-fulfillment, by the Peruvian Government, of the agreement entered into with the United States, relative to guano on the Lobos Islands; which was referred to the Committee on Claims.

Also, the petition of the Hon. Harvey Baldwin, of Syracuse, New York, in favor of the abolition of slavery, and proposing a plan, which, he says, is consistent alike with the rights of the slaveholder and duty to the slave; which was ordered to lie on the table.

Also, the petition of Edwin B. Marvin and others, praying certain amendments to the bounty land act; which was ordered to lie on the table.

Mr. STUART presented the memorial of Edward Riddle, praying the reimbursement of expenses incurred by him as agent of the American contributors to the Industrial Exhibition in London in the year 1851; which was referred to the Committee on Finance.

Mr. GEYER presented the petition of William M. F. Magraw, contractor for carrying the mail from Independence, Missouri, to Salt Lake City, in the Territory of Utah, praying an increase of compensation in consideration of his losses and expenses in consequence of Indian hostilities along the route; which was referred to the Committee on the Post Office and Post Roads.

Mr. FISH presented the memorial of the heirs of Edward Rogers, praying the reimbursement of money advanced by their ancestor for the public use during the revolutionary war; which was referred to the Committee on Revolutionary Claims.

REPORTS FROM STANDING COMMITTEES.

Mr. SEWARD, from the Committee on Commerce, to whom was referred the bill from the House of Representatives for the relief of Ferdinand Clark, reported it back without amendment.

He also, from the same committee, to whom was referred the petition of Christian F. Funch, and Andrew J. Meineke, praying that a register may be issued for the ship Aina, formerly of Russia, and purchased by them, reported a bill authorizing the issue of a register to the Russian-built ship Aina; which was read, and passed to a second reading.

He also, from the same committee, to whom were referred the petition of John Thomas, the petition of George Gerrish, and others, and the petition of C. L. Ingersoll, and others, boat-builders, of New York, praying the action of Congress to compel the use of Thomas's safety cars on passenger vessels, asked to be discharged from their further consideration, which was agreed to.

He also, from the Committee on the Post Office and Post Roads, to whom was referred a joint resolution for the establishment of an express mail weekly between St. Louis, Missouri, and San Francisco, California, reported it back with sundry amendments.

Mr. ALLEN, from the Committee on Pensions, to whom was recommitted a joint resolution relative to the administration of the pension laws, reported it back with an amendment. He also submitted a report on the subject; which was ordered to be printed.

He also, from the same committee, to whom was recommitted a bill for the relief of Parmelia Slavin, late the wife of John Blue, deceased, reported it back without amendment. He also submitted a report on the bill; which was ordered to be printed.

Mr. DAWSON, from the Committee on the District of Columbia, to whom was referred the bill from the House of Representatives to authorize the extension, construction, and use, of the Metropolitan Railroad Company, into and within the District of Columbia, reported it back without amendment.

He also, from the same committee, to whom was referred the memorial of officers of volunteer companies in the District of Columbia, respecting the erection of an armory in the District of Columbia, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs; which was agreed to.

He also, from the same committee, to whom was referred the memorial of the Metropolitan Mechanics' Institute of Washington city, praying for an act of incorporation, reported a bill "incorporating the Metropolitan Mechanics' Institute for the promotion of manufactures, commerce, and the mechanic arts;" which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a petition of citizens of the District of Columbia, praying Congress to incorporate the Columbia Wood Gas Company, reported a bill to effect that object; which was read and passed to a second reading.

Mr. JONES, of Iowa, from the Committee on Pensions, to whom was referred the bill from the House of Representatives, for the relief of Lot Davis, reported it back without amendment.

Mr. EVANS, from the Committee on Revolutionary Claims, to whom was referred a bill for the relief of the heirs of Colonel William Grayson, reported it back with an amendment. He also submitted a report on the bill; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of the legal representatives of Richard K. Meade deceased, praying to be allowed commutation pay, submitted a report accompanied by a bill for their relief; which was read, and passed to a second reading. The report was ordered to be printed.

Mr. ADAMS, from the Committee on Retrenchment, to whom was referred the petition of William G. Ridgely, chief clerk to the Bureau of Yards and Docks, praying to be allowed arrears of salary, asked to be discharged from its further consideration, and that it be referred to the Committee on Naval Affairs; which was agreed to.

He also, from the same committee, to whom was referred the petition of John Heneage, praying to be allowed extra compensation, reported adversely thereon, and asked to be discharged from its further consideration; which was agreed to.

Mr. WADE, from the Committee on Claims, to whom was referred a bill for the relief of Lieutenant Colonel Edward R. S. Canby, reported it back without amendment. He also submitted a report on the bill; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of H. R. Rooker, for herself and other children of Jabez B. Rooker, praying compensation for the services of her father as clerk to the Commissioner of Public Buildings, submitted a report, accompanied by a bill for the relief of the heirs of Jabez B. Rooker, deceased; which was read, and passed to a second reading. The report was ordered to be printed.

Mr. BRAINERD, from the Committee on Claims, to whom was referred the petition of James S. V. Thompson, praying indemnity for losses sustained by him on a certain lot of flour purchased at a Government sale, and on beef cattle lost on their way for delivery at Bent's Fort, under contract with the Government, submitted a report, accompanied by a bill, for his relief; which was read, and passed to a second reading. The report was ordered to be printed.

He also, from the same committee to whom was referred the petition of Joseph Leranger, for remuneration for property destroyed by the enemy during the war of 1812, submitted a report, accompanied by a bill for his relief; which was read, and passed to a second reading. The report was ordered to be printed.

Mr. SHIELDS, from the select committee on the subject, to whom was referred the petition of Ithiel S. Richardson, upon the subject of an atmospheric telegraph, reported a bill to test the practicability and usefulness of I. S. Richardson's atmospheric telegraph; which was read, and passed to a second reading.

Mr. JOHNSON, from the Committee on Printing, to whom was referred a motion to print the memorial of Aaron Haight Palmer, praying compensation for services in collecting valuable information and statistics in relation to the geography, productive resources, trade, commerce, &c., of the independent Oriental nations, reported in favor of printing the same; which was agreed to.

He, also, from the Committee on Public Lands, to whom was referred a bill for the relief of Thomas T. Russell, of Florida, submitted an adverse report thereon; which was ordered to be printed.

Mr. STUART, from the Committee on Public Lands, to whom were referred sundry petitions of registers of land offices and receivers of public moneys, in various parts of the Union, praying to be allowed the same per centum on the sales of the public lands as was allowed previous to the act of August 4, 1854, asked to be discharged from their further consideration, on the ground that a general law had been passed for their relief. The committee were accordingly discharged.

MRS. ANNA W. ANGUS.

On motion by Mr. JONES, of Iowa, the bill of the House for the relief of Mrs. Anna W. Angus, widow of the late Captain Angus, of the United States Navy, was recommitted to the Committee on Pensions.

GUNNERY PRACTICE.

Mr. MALLORY submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of an appropriation to be expended under the direction of the Secretary of War, by a board of officers, in gunnery practice, and the preparation and use of shot, shell, and other projectiles.

DRY DOCK AT PENSACOLA.

Mr. MALLORY submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be requested to communicate to the Senate, the results of the recent test of the dock, railway, and basin at the Pensacola navy-yard; and also whether the dock, railway, and basin have been accepted by the Government.

JOINT RESOLUTIONS SIGNED.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that the Speaker had signed the following enrolled joint resolutions; which were thereupon signed by the President *pro tempore:*

A joint resolution respecting the Arctic expedition commanded by Passed Assistant Surgeon E. K. Kane; and

A joint resolution relative to the construction of the laws for the allowance of additional compensation to the clerks in the Census Bureau.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that the House had passed the following bills and joint resolutions; which were read twice by their titles, and referred to the Committee on Territories:

A bill for the construction of a military road in Oregon Territory;

A bill authorizing the Secretary of War to purchase a site in Texas, and contract for the erection of arsenals in Texas and New Mexico, and in the Territory of Washington or Oregon;

A bill making an appropriation for completing the public buildings of Oregon and Minnesota Territories;

A bill making appropriations for improving certain military roads in the Territory of Minnesota;

A bill to provide for the erection of public buildings in the Territory of Nebraska;

A bill to provide for the erection of public buildings in the Territory of Kansas;

A bill for the construction of certain military roads in the Territory of Kansas;

A bill making an appropriation for a territorial road in the Territory of Nebraska; and

A joint resolution authorizing the Legislative Assembly of Utah to continue their session for a term not exceeding sixty days, instead of forty days, as heretofore provided.

Also, that the House had passed the bill of the Senate authorizing the construction of a subterranean line of telegraph, from the Mississippi or the Missouri river to the Pacific ocean, with amendments; which were referred to the Committee on Territories.

Also, that it had passed the following bills, which were read twice by their titles, and referred to the Committee on Public Lands:

A bill regulating the location of bounty land warrants in Oregon Territory;

A bill to establish an additional land district in the Territory of Oregon; and

A bill to amend an act approved August 26, 1852, entitled "an act to reduce and define the boundaries of the military reserve at St. Peter's river, in the Territory of Minnesota, and for other purposes."

The message also announced that the House had passed Senate bill making appropriations for the construction of certain roads in the Territories of Nebraska and Washington, without amendment.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. WEBSTER, his secretary, announcing that he had, on January 31st, approved and signed the following bills:

An act for the relief of Frederick Vincent, administrator of James Le Caze, survivor of Le Caze and Mallet; and

An act to authorize the issue of a register to the barque Colonist, by the name of Lily.

CHANGE OF NAME OF VESSELS.

Mr. SEWARD. I am instructed by the Committee on Commerce, to whom was referred the bill from the House of Representatives, "to change the name of the American-built vessels J. H. Holmes and Franklin Pierce," to report it back to the Senate without amendment, and recommend its passage.

Mr. WADE. I ask that that bill may be considered now. I presume there can be no objection to it.

There being no objection, the Senate proceeded, as in Committee of the Whole, to the consideration of the bill.

Mr. CASS. I wish to suggest to the Committee on Commerce, whether it would not be a great deal better to provide a general law on this subject. It seems to me to be more of the administrative duty than anything else; and I would, therefore, suggest the propriety of a general law giving the proper department power to make these changes.

Mr. SEWARD. I will reply to the honorable Senator, that the Committee on Commerce have such a bill, together with a general bill revising the revenue laws, under consideration; but these are special cases requiring immediate action.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

JAMES HODGES GAYLE.

Mr. FOOT. The Committee on Public Lands have, according to order, had under consideration the petition of James Hodges Gayle, of Maryland, and directed me to report a bill for his relief.

The bill was read a first time, and ordered to a second reading.

Mr. FOOT. I ask for the consideration of the bill at this time, and I will state the case. The bill grants three hundred and twenty acres of land to James Hodges Gayle, brother of William Gayle, who served in the war of 1812, and was entitled, by the act of December 10, 1814, to three hundred and twenty acres of land, but died without having received it. Leaving no widow or children, his father inherited the right to that property; but he, however, died without having perfected his claim, and made a will devising it to the petitioner. The committee are unanimous in recommending the passage of the bill.

The bill was read a second time, and considered as in Committee of the Whole. No amendment being proposed, it was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time and passed.

MILWAUKIE CUSTOM-HOUSE.

Mr. DODGE, of Wisconsin. I ask the indulgence of the Senate to take up for consideration at this time, a bill which has been reported from the Committee on Commerce, "changing the appropriation for the erection of a building, in the city of Milwaukie, for a custom-house, post office, and the United States courts." It is a small matter, about which there can be no dispute, and which can lead to no discussion. Its object is to make a small appropriation for the completion of the custom-house at Milwaukie. There is, among the papers, a letter from the Secretary of the Treasury, approving of the measure. I move that the Senate now take it up.

The motion was agreed to, and the bill was read a second time, and considered as in Committee of the Whole. It proposes that, in lieu of the provision in an act approved August 4, 1854, for the erection of the building therein described, in the city of Milwaukie, the Secretary of the Treasury cause to be constructed at that city, for the accommodation of the custom-house, post office, and United States courts, a building of stone or brick, with fire-proof floors, with iron doors, and iron roof and shutters, eighty-five by sixty feet. The cost of the building is to be not more than $88,000, which sum, with an addition of ten per cent for the cost of the superintendence of erection and contingent expenses, the bill proposes to appropriate.

The bill was reported to the Senate without

amendment, ordered to be engrossed for a third reading, read a third time, and passed.

FAYETTEVILLE ARSENAL.

Mr. BADGER. Mr. President, the chairman of the Committee on Military Affairs, reported to the Senate a few days ago, a joint resolution "authorizing the Secretary of War to sell a portion of the site of the arsenal, at Fayetteville, North Carolina, and to purchase other land with the proceeds of said sale." I ask the Senate now to take up and dispose of that joint resolution. I think a half minute's statement will satisfy the Senate that it ought to pass immediately. Its object is to enable the Secretary of War to sell a portion of the site of the arsenal, which is not needed by the Government, and to apply the money to the purchase of a small portion of land adjoining the site of the arsenal, which is highly important for various reasons set forth in the Executive communication, which I submitted with the joint resolution when I introduced it.

Mr. CLAYTON. I hope my friend from North Carolina will not press that matter at this moment.

Mr. BADGER. I certainly shall.

Mr. CLAYTON. I yesterday gave notice to the Senate that I should, to-day, call up the French spoliation bill for action; but I have given way to several gentlemen who have wished to bring forward subjects before the Senate in the same way that my friend from North Carolina desires to press his bill. If I yield to him now, others will be brought forward, and I shall have no opportunity of getting a vote of the Senate upon the measure of great importance to which I have alluded. I hope, therefore, we shall now be permitted to take up and dispose of the French spoliation bill.

Mr. SHIELDS. It will not take a minute to pass the joint resolution of the Senator from North Carolina.

Mr. BADGER's motion was agreed to, and the Senate accordingly proceeded, as in Committee of the Whole, to consider the joint resolution. Its object is fully expressed in its title.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time and passed.

CALIFORNIA LAND DISTRICTS.

Mr. DODGE, of Iowa. I am instructed by the Committee on Public Lands, to whom the subject was referred, to report a bill "to create an additional land district in the State of California." As this district is so much needed there for the convenience of settlers in the northern part of that State, and the bill is a very short one, I ask that it may now be put upon its passage. It will consume no time.

There being no objection, the bill was read twice, and considered by the Senate as in Committee of the Whole. It proposes to form into a new land district, to be called the Humboldt district, so much of the public lands in the State of California as lie within the counties of Humboldt, Trinity, Klamath, and Siskiyou, for the sale of the public lands in that district. The land office is to be established at such place within the district as the President may direct. He is to appoint, by and with the advice and consent of the Senate, a register and receiver for the district, who are to reside at the place where the land office may be located, and to receive the same compensation as other land officers in California. The bill further proposes to authorize the President to cause the lands within this district to be sold, with the exception of those reserved by competent authority for school, military, or other purposes, in the same manner, and on the same terms and conditions, as the other public lands of the United States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

FRENCH SPOLIATION BILL.

Mr. CLAYTON. I now move that the Senate proceed to the consideration of House bill to provide for the ascertainment and satisfaction of the claims of American citizens for spoliations committed by the French prior to the 31st of July, 1801, in pursuance of the notice I gave yesterday.

Mr. HUNTER. I suggest to the Senator from Delaware that, if he will let us go on and finish the Army bill to-day, there will be no objection to his taking that up to-morrow, and if the Army bill is not finished to-day, I shall not be in his way to-morrow. I shall make no proposition then to take it up if he will give us to-day to finish it.

Mr. CLAYTON. I have to say in reply to my friend from Virginia, that I have made the motion in pursuance of a notice I gave yesterday. I hope the French spoliation bill will be taken up to-day and finally disposed of. It has been before Congress for more than fifty years. If it is ever to be acted upon, it should be acted on in time to give the Executive full opportunity to examine it. Now, I say to my friend from Virginia, if he will suffer us to take up the bill, I will pledge myself, so far as I am concerned, to stand by him in the consideration of his Army bill from the time this bill is disposed of until we have fully considered that.

Mr. PETTIT. We do not want to debate the French spoliation bill.

Mr. CLAYTON. I ask for a vote on it.

Mr. BRODHEAD. There is another great measure before the Senate, which should be considered before we take up the bill alluded to by the Senator from Delaware. I hope he will not press it in advance of the bounty land bill. We took a vote the other day as to whether we should proceed with the Army appropriation bill or the bounty land bill; and the Senate, by a majority of one, gave the preference to the Army appropriation bill. Under such circumstances, I object to any business, except the Army appropriation bill, being taken up prior to the bounty land bill. The measure which the Senator from Delaware proposes to call up has already passed the House of Representatives, and we know that it will pass the Senate. The bounty land bill, of which he is also in favor, has not passed the House of Representatives. I think we are prepared to vote on that, and if it were not for the decision of the Senate the other day in favor of proceeding with the Army appropriation bill, I should press it even in opposition to that. We have had it before us for a month, and can soon dispose of it; and I, therefore, object to any other business, unless the Army appropriation bill, having precedence over it.

Mr. WELLER. I do not wish to interfere with any question between the Senator from Delaware and the Senator from Virginia; but to-morrow will be Friday, and I give notice that I shall insist on the enforcement of the rule which requires that private bills shall be considered on that day. There are a large number of private bills which are pending, which should be disposed of at once. Many just claims should be passed upon immediately.

Mr. BROWN called for the yeas and nays on Mr. CLAYTON's motion; and they were ordered.

Mr. MASON. This bill is to provide for private claims, which are alleged to be due from this Government, to a large amount. The bill which it is proposed to supersede is a measure to protect the frontier from Indian depredations. It has been debated, from day to day, for a long time, and it is now proposed, as I understand, to give private claims the preference over it.

Mr. CLAYTON. The Senator says one has been debated from day to day. The other has been debated for fifty years. Which, then, is entitled to the preference?

Mr. BAYARD. I shall vote for the motion to take up the French spoliation bill for this reason: It passed the Senate at an early stage of the last session without opposition or debate, because the subject had been so thoroughly discussed that it was threadbare, as far as argument was concerned. On this account, I presume, the bill can occupy very little time now. The bill which the House have sent to us is the same bill which we passed, with unquestioned improvements in its structure. I cannot conceive that, when gentlemen allowed the bill to pass to the House of Representatives without debate, and the same bill comes back slightly amended, they intend now to treat it as a new measure. As I suppose it can be disposed of without much delay, I shall vote in favor of taking it up.

Mr. RUSK. I am well satisfied that there is a large majority of the Senate in favor of the passage of the bill which the Senator from Delaware proposes to take up; and I have no idea that it is the intention of any of those who oppose it, or who feel themselves compelled to vote against it, to attempt to defeat it by the consumption of time. I shall vote against that bill, as I have done heretofore; but I feel confident that there is a majority of the Senate in its favor, and I shall not attempt to destroy it by consuming the time of the Senate. The action of the Senate upon the bill whenever we come to a vote, will be final, for I apprehend there will be no amendments. I have not had time to read the bill, but I presume the Senate will not adopt any amendments to it.

Then, while this bill is in that condition, there is another measure before us in a very different situation. If a final vote upon the measure to which I now allude settled the question, it would be a different thing, and I should not object to delaying it. But it is difficult to tell when we shall get a vote on the proposition which is pending as an amendment to the Army appropriation bill. We have had that measure discussed for days. How much longer it will be discussed is uncertain. After we settle it here, it has to go to the House of Representatives, to be debated there. Sir, the people upon the frontier, and on the emigrant routes, and the people in the State which I represent, are now suffering for the want of action by Congress for their protection. The measure which is designed to give it to them has yet to go through the ordeal of both Houses of Congress. I therefore can see no necessity for laying it aside, when it is the regular business before the Senate, for the purpose of taking up a bill which nobody apprehends will fail, and a bill the vote on which, I apprehend, will be final.

Mr. WELLER. I am in favor of the bill which the Senator from Delaware now proposes to take up, but I shall be compelled to vote against taking it up at this time. The President of the United States has informed us that there is an immediate, a pressing necessity for the organization of additional troops, in order to quell the disturbances amongst the Indians on our frontier. Now, every one knows that, in whatever form that measure may finally pass, it undoubtedly will require the consumption of a good deal of time before those troops can be organized so as to make them effective. Therefore, I am anxious to have it disposed of in the shortest possible time, in order that these troops may be raised and placed on the frontier as soon as possible, so as to give protection to the emigrants passing over the land route to the Pacific. I shall, for the reason I have thus assigned, be compelled to vote against the motion of the Senator from Delaware.

The question was taken by yeas and nays; and resulted—yeas 26, nays 29, as follows:

YEAS—Messrs. Allen, Badger, Bayard, Bell, Brainerd, Clayton, Dawson, Dixon, Fessenden, Fish, Foot, Geyer, Gillette, Houston, James, Morton, Pearce, Pettit, Pratt, Rockwell, Seward, Shields, Sumner, Thompson of Kentucky, Thomson of New Jersey, and Wade—26.

NAYS—Messrs. Adams, Atchison, Bright, Brodhead, Brown, Butler, Cass, Clay, Dodge of Wisconsin, Dodge of Iowa, Douglas, Evans, Fitzpatrick, Gwin, Hunter, Johnson, Jones of Iowa, Jones of Tennessee, Mallory, Mason, Reid, Rusk, Sebastian Slidell, Stuart, Toucey, Weller, Wells, and Wright—29.

So the motion of Mr. CLAYTON was not agreed to.

ARMY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill of the House of Representatives, making appropriations for the support of the Army for the year ending the 30th of June, 1856. An amendment was offered by Mr. SHIELDS, on behalf of the Committee on Military Affairs, to authorize the President to call for, and accept, the services of four regiments of mounted volunteers, for the purpose of maintaining peace on the Indian frontiers of the United States, chastising Indians who might commit outrages, and protecting the routes of emigration to California and Oregon. Mr. HUNTER, as a substitute for this amendment, submitted a proposition to increase the regular Army by the addition of two regiments of cavalry, and to authorize the President to accept the services of five hundred mounted volunteers as rangers, guides, and scouts. Mr. SHIELDS moved to amend this amendment, so as to provide for an addition to the regular Army of two regiments of cavalry, and two of infantry. The pending question is on this amendment to Mr. HUNTER's substitute for the original amendment.

Mr. SHIELDS. Before the honorable Senator from Michigan, who is entitled to the floor, pro-

ceeds to address the Senate, I wish to remind the body that my amendment contemplates the raising of four regular regiments, and the amendment of the honorable Senator from Virginia contemplates raising a mixed force of two regiments of regulars and five hundred volunteers. I learn that the four regiments of regulars can be raised for nearly the same amount of money that the force proposed by the honorable Senator from Virginia, can be raised for; and, in my opinion, his five hundred volunteers would just be enough to provoke and excite war, but not enough to carry it on.

Mr. MASON. I wish to ask the Senator a question. I want to know whether this volunteer force has not been recommended from the War Department as a force that can be more speedily raised and used than a regular force?

Mr. SHIELDS. The War Department recommended the raising of three thousand volunteers, to operate until four regiments of regulars could be raised; but it seems that the Senate is disposed to abandon the three thousand volunteers and confine itself to raising four regiments; and, if the four regiments be voted, I shall abandon the proposition for raising the three thousand volunteers, because I have learned, in intercourse with the Department, that this is a favorable time for recruiting the regiments, and that we can raise them nearly as rapidly as we can volunteers.

Mr. HUNTER. I think the gentleman is mistaken in supposing that the Department think they can raise them as rapidly as volunteers. I certainly did not so understand them.

Mr. SHIELDS. I did not say "as rapidly;" but I say two regiments of cavalry can be raised, perhaps, nearly as speedily as volunteers.

Mr. HUNTER. My understanding was, that it would take the whole summer to raise regulars, while the volunteers could be in the field in the spring, when they were wanted.

Mr. CASS. Mr. President, I join in the regret which has already been expressed, that this important measure is brought before us in one of the annual appropriation bills. Such a mode of introducing great measures to the notice of the Senate ought not to be tolerated. It breaks down one of the safest barriers we can interpose against hasty and improper legislation. There are many of us, probably all of us, in fact, prepared to vote for the necessary appropriations warranted by law; but who are compelled by this practice, under many circumstances, either to vote against the necessary appropriations to carry on the Government, or to support measures to which we are opposed. Here, sir, is presented to us a most important measure, and one deeply interesting to the American people, about which they have always been jealous—the increase of their Army, adding one third to its force—and we find it, not in its proper place, a bill for that purpose, but in an annual appropriation bill. For myself, under ordinary circumstances, that would be sufficient to induce me to vote against the proposition. I regret that the Senator from Virginia, the chairman of the Committee on Finance, who has contended ably and faithfully against this practice, but recently known in our legislative history, has consented that this interpolation should take place; but as he has done so, I shall make no further opposition, but content myself with this expression of my views.

Sir, I heard, with much pleasure, the avowal made by the Senator from Georgia, [Mr. DAWSON,] and the Senator from Tennessee, [Mr. JONES,] of their position with regard to this demand of the Executive for an increased force. But while I was gratified, I was not surprised; for their course is precisely what any man who knew them would have anticipated—an honorable and patriotic one. They are willing to vote for an increase of force, when necessary, although that increase is demanded by an Administration to which they are politically opposed. I must confess, however, that I cannot speak with the same gratification of the views which those gentlemen presented in relation to their political opponents upon this floor. I do not understand party fealty as they seem to do—a fealty to party that outweighs the fealty to the Constitution. We are divided upon great points of doctrine and policy, which have separated the parties of this country since the organization of the Government; and when these are brought into question, a faithful partisan will come to the rescue. But certainly it is to convert the advantages of party divisions into a great abuse by thus carrying them into every subject involving the interest of the country. I believe I am a pretty good party man, but I will bind myself in no such iron shackles. I choose to examine for myself all the measures of an Administration, be it friend or foe, and to support such as I approve, and no other.

The Senator from Virginia [Mr. HUNTER] well observed, in reference to this point, that, if such is our duty, as contended for, we are merely to register the edicts of the President. He is right; and I subscribe to no such doctrine. It is no part of the doctrine of the Democratic creed, nor did I ever understand it to be a portion of the creed of the Whig party. The Senator from Tennessee, and the Senator from Georgia, do not themselves consider this to be a party measure. That is evident; for if they did, the very act of advocating it would be to abandon their friends and join their opponents. And if it be not a test for them, how can it be for us, unless we are prepared for mere slavish obedience? Here is a serious proposition made by the Administration for the increase of the military force. I am prepared to look at it; and, after looking at it, I shall be prepared to vote all the force which I consider the exigency of the country demands. No more can be justly required of me; and if more is asked, I shall not yield to the demand.

Mr. President, the Senator from Alabama [Mr. FITZPATRICK] renewed the question of the propriety of employing an Indian force to aid our troops. I do not intend to go over that subject again; for I have already discussed it. I have very great respect for that honorable Senator; but let me ask him whether he supposes that, if we embody five hundred Indians as guides and hunters—for to such employments does he wish to confine them—to attend upon the operations of our Army, any human power can keep them from blood? No, sir; you can keep them within no such peaceful limits. It is impossible. They would scent the blood upon the gale, and would redden their hands with it. Restrict them as you may, the proposition is, in effect, and so the result would prove, a proposition to them to fight our battles; and, for myself, I desire no such auxiliaries, nor, as I believe, do the American people. I do not dispute that this has been our practice, and, unfortunately, too often, and the Secretary of War had full justification in the former practice of the Government for the demand he made; but, in my opinion, the practice is a bad one, and the sooner it is abandoned the better. It is opposed to the spirit of the age and to the feelings of the American people, and I think this is a favorable time to terminate it. I do not recollect precisely, but I think that, within many years—twenty years, or perhaps more—such a proposition has not been submitted to the American Congress, nor been stamped by its approbation.

Under any circumstances I do not believe in its necessity. I doubt not that Indians might be found who would be useful as skillful guides and as successful hunters. I have seen and have acted with such. But after all, there is a class of active and enterprising men upon our frontiers, the pioneers of civilization, who are far better fitted than any Indians to accompany our troops as scouts, spies, guides, and hunters. They possess more intelligence than the Indians, they are more subject to control, physically more powerful, and as well acquainted with all the circumstances of prairie and of forest life as any red man who makes his dwelling there. Daniel Boone, and Simon Kenton, and Kit Carson, present in real life the types of this class, and Leather Stocking and his associates, in the romance of Indian story, as depicted by Cooper, are happy illustrations of the intrepid men we need and can find. They are our best pilots amid woods and plains. Their courage is undoubted, and their fidelity unshaken. Wayne, in his successful campaign, employed men of this description, and with the happiest success. I knew some of them personally, and especially Captain Wells, who had been taken prisoner, in early life, in Kentucky, and had escaped from the Indians. He was the very beau ideal of a fearless forest ranger, brave, indefatigable, skillful; in all the knowledge of wood craft he was superior to any one I have ever known, red or white. He performed deeds of desperate daring, entering the villages and lodges of the hostile Indians, seeking for information, and mingling in their councils, but so disguised as to appear the member of a friendly tribe, which, in the pages of romance even, would appear like the wild dreams of the imagination. When Chicago was threatened in 1812, he was sent to conduct the garrison to Fort Wayne. He saw upon his arrival that the Indians were determined upon war, and as the troops marched out of the fort, he blackened his face with a piece of coal—the Indian signal of a desperate situation and a desperate resolution—and met his death after a powerful resistance.

Mr. President, a great deal has been said of the conduct of the Indians towards the United States. I shall not go over that matter, for I do not think it necessary. I agree with the Senator from Tennessee and others who have spoken, that the Indians have committed great cruelties. There is no doubt of the fact. It is marked in characters of blood upon too many pages of our history, as it has been marked by the most terrible devastations on our frontiers. Such scenes can never be described better than they were by Fisher Ames, in the House of Representatives fifty years ago, in a speech on the appropriation for the British treaty, one of the most memorable bursts of eloquence to be found in our congressional history. I am told that it produced the most profound impression upon his auditory, startling them as though they had heard the Indian war-whoop and had seen the midnight conflagration lighting up the hemisphere, and consuming at once the frontier dwellings and the mutilated bodies of the unhappy tenants, men, women, and children. There is no doubt that outrages, which heart can hardly conceive or pen describe, have been many times committed.

I agree with my friend from Iowa, [Mr. DODGE,] in his allusion to these incidents, which have marked the progress of our settlements. He has depicted very truly the condition of the settlers, and he has truly narrated some of the assaults made upon them by the Indians. But, sir, I do not go with him the full length to which he has gone. We all know his warm and impassioned feelings, and his noble heart. He has seen the injuries the Indians have done to the men around him; he has seen the cruelties inflicted on his constituents, and those with whom he has been associated since early life. He has felt them strongly, and described them strongly. But, like other conditions of human life, there are two sides to the picture. The Indians are not always wrong, nor the whites always right.

So far as regards the conduct of the American Government towards this unfortunate race, I think it is historically irreproachable. Look at the conduct of all the European Governments from the moment their people landed on the shores of this continent down to the present day. There is not one of them which, in proper and just care of the Indians, has equalled the American Government. Many years ago I had occasion to examine this subject thoroughly, and the views which I presented to the public through the pages of the North American Review, on that occasion, are in a book before me, but I shall not trouble the Senate with reading them. Let me mention one fundamental difference. The other Governments which have been placed in contact with the Indians, when they wanted their land, took it; they adopted the political ethics of Juvenal—*Hoc volo, sic jubeo, sit pro ratione voluntas.* When they coveted a tract of Indian territory they summoned the Indians and said, "your Great Father over the water wants this," and they took it. Perhaps they might give them some wampum, and a little powder, or other trifling presents, but they gave them nothing as a matter of right, and made no provision for the future. What have we done? We never took a foot of land from them without paying for it, and in some cases we have paid a pretty dear price. We have granted them permanent annuities. We have sent and maintained missionaries, schoolmasters, and teachers of mechanical arts among them. We have placed them upon reservations, and endeavored to induce them to apply themselves to the cultivation of the soil. We have done everything that could be suggested, to rescue them from that impending destruction which seems to await them. I repeat, from the first moment of the intercourse of the Americans with the Indians down to this day, I do not know of a single deed on our part for which our Government can be justly reproached as wanting in good faith. I regret we cannot say as much for the conduct of

individuals. No man in this assembly, no man in the Union, will deny that our citizens have committed grievous injuries upon the Indians, sometimes originating in feelings of retaliation, and sometimes in far less justifiable motives. All this is well known to our country and to the world.

Mr. President, the condition of the Indian tribes is one of the most extraordinary recorded in the whole history of the human race. When the Europeans landed upon this continent they found its occupants divided into small bands, scattered over the country. In summer they were in their villages, near a rich bottom, where the women raised a little corn—very little, indeed—and in the autumn they dispersed to their hunting grounds, where they followed the game during the winter. Such was the round of their lives, broken only by hostile excursions, and by the necessities of defense. They were in a perpetual state of war with each other. It is a mere dream to suppose that there ever was a golden age in the history of the American Indians when they were all at peace, and that this primitive condition was destroyed by the advent of the white man. There was no such happy state of things. There are barbarous practices, laws indeed, in force among the Indians, which necessarily incite them to war and to bloodshed.

There was nothing in the institutions of Greece and Rome better calculated to secure the devotion of the citizens to the expectations and requisitions of their country than is presented to us in the organizations of our primitive people. Periodically, perhaps two or three times a year, the whole tribe assembles at its village to hold the great war dance. Men, women, and children equally attend, and all are equally interested in the exciting ceremonies. A post is erected, around which the assembly convenes, and each Indian, coming forward in turn, strikes it, and recounts his warlike feats. As these are more desperate and successful the plaudits of the auditory are louder and more vehement. The narrative is always rigidly true, for were it not so the speaker would be covered with shame by the contradiction of those to whom the facts must be known. No young man is held in the slightest esteem by man or woman till he has joined a war party and struck an enemy with his tomahawk, for all who are present at a successful feat participate equally in its honor. This exhibition is more powerful than land, or pay, or bounty. It drives the whole male population to make hostile incursions where they can free themselves from the suspicion of cowardice. I have witnessed these ceremonies with profound interest, displaying, as they do, some of the most powerful motives of human action.

Mr. President, as a matter of justice we should survey this subject from the Indian point of view. I do not appear here as the apologist of the Indians, but I appear here as a lover of truth. I find no justification for their conduct; but in their position and in the condition of human nature, I find much excuse for what they have done. In their own language, we have driven them "from the rising to the setting sun." This fair inheritance which we now enjoy was once their own. Our fathers landed on the continent, and swept their fathers before them. They have been driven almost to destruction, and, I fear, they are fated yet to reach it. With all my wishes for their amelioration, both moral and physical, I am among those whose fears predominate over their hopes. We have extinguished their council fires, and plowed up the bones of their ancestors. Once high-spirited and powerful, they are now feeble in heart and numbers, and look to us as the authors of their fall. If, under these circumstances, the stern laws of nature have doomed them to extinction, and if the decree for that purpose has gone forth, let us be no participators by action or omission in the melancholy result.

Now, sir, as a Christian people, what is it our duty to do? It is to aid and instruct them; to chastise them, if we must, but as little as may be, and in all respects to treat them justly, humanely, liberally. We are the judges in our own cause; let us judge in mercy, as we hope to be judged in mercy at that great bar, where the red man and the white man will lose their inequality, and where the distinctions of races will disappear in the great congregation of the living and the dead. Sir, this is our duty—not merely a duty of humanity, but of Christianity and justice. I heard this called yesterday, or the day before, sickly sentimentality. Mr. President, this is no sickly or puling sentimentality. In doing this, we are but obeying the dictates of the Gospel of the Prince of Peace.

I am happy to be able to say that I approve the views of the President of the United States contained in the message transmitted to us the other day, in which he says:

"With an earnest desire to promote the early settlement of the ceded lands, as well as those held in trust, and to be sold for the benefit of the Indians, I shall exercise all the power intrusted to me to maintain strictly and in good faith our treaty obligations."

In doing so, he will be supported by the people of the United States, and by their representatives. I hope he will sustain to the letter the rights secured to the Indians by treaty stipulations. Every question of expediency should yield to our plighted faith. If we desire to change the treaties, let us buy those changes honestly. This is our duty, and I trust it will be performed.

We have been told, sir, by gentlemen on the other side of the Chamber, that there are differences of opinion between the various departments of the Government in relation to this matter. This difference alluded to is not one which is personal, nor one caused by the Departments, but results from injudicious legislation. The difficulty is that you have two independent Departments of the Government operating on the same subject-matter. The Indian office ought never to have been separated from the War Department. I thought so at the time, and every day confirms that opinion. The military are necessarily called into close connection with the Indians, and there should be a close connection between the Indian agents and the military authorities in the same region of country. Both should be made responsible to the same Department of the Government. The result of the present condition of affairs is, that you have two sets of officers, and too often with antagonistic views, reporting to different Departments. These reports, when they come to us, present an apparent want of union. That is the true state of the case. It does not result from the conduct of the Departments here, but from the condition in which you have placed your interests. I will take this opportunity of saying that I think the officer now at the head of the Department of Indian Affairs, is an able, intelligent, and honest man, and I am glad to see such a man in that position, and that he unites to these qualifications that of great firmness, now more indispensable than ever.

I have already stated that there are peculiar characteristics connected with the manners and customs of the Indians which drive them to war almost in spite of themselves. This circumstance of their condition, although no justification, yet, in the eye of liberality and of reason, constitutes a palliation, and ought to teach us a proper degree of forbearance. It has been said here, and very truly, that a system of revenge prevails among the Indians; and it might have been added that they are not alone in that characteristic, for the same system prevailed among the Arabs in the earliest times, and prevails to this day; for they are as unchangeable as the deserts over which they roam. According to the aboriginal customs, if one Indian is killed, it becomes the duty of his surviving relatives to take the life of the murderer, if he belongs to the same tribe; but if he does not belong to that tribe, it is their duty to take the life of the first man of the tribe they meet. Such is the Indian law, and bad enough it is. But, I repeat, it is not confined to them. It is the Arab law; and, strange as it may seem, travelers state that its effect among the Arabs has been to produce a very healthful state of things in the East, compared with what would have been the result without warning to passion. There is no law, no superior authority there. How, then, are you to prevent murders, unless by an institution which puts the power of retaliation into the possession of the injured party? It is lamentable that such a remedy should be required; but, both in Arabia and in our forest, it has, no doubt, prevented many a deed of blood, many an extirpation, indeed, of families and of tribes. I allude to these circumstances to show that, barbarous as such usages are, they are sometimes founded in the laws of necessity, and that their existence is not incompatible with laudable traits of conduct and character.

But, sir, it is not the Indian alone who loves war, nor he alone can justly be accused of seeking it. It is a predisposition which seems to adhere to man in the highest, as in the lowest, state of development. It has been so since the first great event recorded in history, leading to the establishment of separate communities—the going forth of the human family from the plains of Shinar. It has been so since the first battle of which we have any authentic account, was fought—the battle of the four Kings against the five Kings in the vale of Siddim—down to this very moment, when the sun which is now shining upon us is witnessing that mighty contest of nations upon the shores of the Euxine; the booming of whose cannon is traveling around the earth, startling the people of continent and of island by its terrible reverberations.

Barbarous customs have existed everywhere, and no people have the right to claim exemption from the common charge of cruelty, nor to boast of their own superior humanity. Scalps were taken by Scythians, as the old Father of History, Herodotus, tells us, and by the Carthagenians, as we learn from Polybius. They were trophies of victory, like captured standards. Herodotus says that the Scythians drank the blood of the first person they killed; and his description of the operation of scalping is as accurate and graphic as if he had participated in a successful Indian expedition. Every schoolboy has read, and can repeat, the story of Hector and Achilles, and how the Trojan hero was dragged around the city he had so long defended by his barbarous conqueror. I have seen and heard nothing more revolting than this in the whole history of our Indian intercourse.

As to the Greek chieftain, he is surrounded with no prestige in my eyes. I have known a great many Indians, good and bad, but I never knew one who exhibited worse or more diabolical traits of character than this same Mr. Achilles, [laughter,] and yet the charms of Greek poesy have almost ennobled him in the opinion of mankind. But Scripture comes to corroborate Profane History in the record of human cruelties. In the Psalms of David, the Jewish monarch thus recounts the mercies of Jehovah: "When the wicked, even mine enemies and my foes, came upon me to eat up my flesh, they stumbled and fell." It is evident, sir, that the horrible practice of eating prisoners must have prevailed at that day, in portions of the East, probably among the tribes in contact with the Jews, and often at war with them.

Mr. BADGER. David spoke figuratively. Is not that figurative language?

Mr. CASS. I think not. Such language is used by way of illustration, and derives its force from a preëxisting custom—a custom which we know has prevailed in the world.

But, sir, to come to our own day. What have we seen? Man has done nothing in the New World, or in the Old, more shocking than the deeds which took place at the capture of San Sebastian with the British army. As an awful chapter in the history of our race, and to teach us that the Indians do not alone deserve reprobation, I will read a very few lines from Napier, the historian of the campaigns of Wellington: "This storm," he says, "seemed to be the signal of hell for the perpetration of villany which would have shamed the most ferocious barbarians of antiquity."

He then goes on to recount some of the incidents; but they are of such a nature that I do not choose to read them in this assembly. We are told that at this very day the Russians are in the practice of killing their prisoners on the field of battle!

During the reign of the magnificent Louis XIV., the Palatinate, one of the most beautiful regions of Germany, was taken possession of by a French army, and—I quote from history—the country was given up to "fire and sword, everything was consumed, the villages and towns were burned, the peasantry butchered without mercy," and all this in the midst of a terrible winter.

Recollect what was said to be the pass-word at the attack upon New Orleans—Beauty and Booty. Do you think that our Indian vocabulary furnishes words better calculated than those to incite to plunder or destruction, or to something far worse than both? They offer at once a stimulus and a reward for those deeds of horror, for which language furnishes no sufficient terms for reprobation. I have remarked that it was said this was the pass-word. It was so, and with strong

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circumstances of corroboration. But I never could suffer myself to believe that a renowned British officer would stimulate his troops to exertion by such an incentive. I have more than once conversed with General Jackson on the subject. He had doubts, but they resulted from the very enormity of the charge, for he was possessed of circumstances which led him to fear that some such measure was resorted to. If the charge is true, vainly may we seek in Indian warfare for an act of such shocking barbarity.

Mr. President, have we not adopted the principle of revenge in our own code? What else is retaliation in war, by which the innocent man is executed for the guilty one, by which, if the enemy commit deeds of barbarity, and you cannot find the person by whom it is done, you seize and hang the first enemy you fall in with? We have done this. We have assumed this principle, and necessarily, in our own wars. He who was the most inflexible of all men in his principles of justice, General Washington, was compelled to carry into effect this very code. It is well known that he selected Captain Argill, a British prisoner, to suffer in retaliation for the monstrous conduct of some of the British troops towards our countrymen, and he would have executed that unfortunate officer, and with the acquiescence of Congress, had he not been turned from his purpose by higher considerations. The almost frantic mother of the victim, upon whom the lot to suffer had fallen, hastened to France, and gaining access to the Queen, interested her feelings, and persuaded her to solicit the interposition of Louis XVI. with General Washington, to procure the release of the condemned captive. The King did so; and no disposition was felt to refuse the request of a monarch who had come to our aid in the time of our trouble, and the request was granted; but the record remains in proof that we, too, have been actors in cruel deeds, though reluctantly, and regretting while committing them.

It must be remembered, sir, that Indian chiefs have merely a persuasive power, and the tribes are actually ruled by the young men. Those young men, I am sorry to say, too often drive their people to those deeds of blood and revenge, of which we have had cause to complain. I have, however, found, in my own experience, that the Indians are a race of people with whom, if you gain their confidence and treat them kindly, you may well and profitably reason.

The Senator from Iowa yesterday alluded to an incident which puts this in a striking point of view. He alluded to the conduct of the Winnebagoes in 1827. I was at Prairie du Chien at that time. I heard that difficulties were impending. I got into a birch canoe, ascended the Fox river, and descended the Wisconsin, with a view to raise the country, and to put the frontier in a better state of defense, and then to go down to St. Louis, in order to have a communication with the general commanding the troops of that military department, so that assistance might be immediately sent to the exposed districts. A short distance below the portage, on the Wisconsin, I met a boat belonging to the American Fur Company, on board of which were two gentlemen well known to me, as well as to my friend from Iowa, [Mr. JONES,]—Mr. Crooks, a highly honorable citizen, and Mr. Dousman, who, I think, is now living, perhaps at Prairie du Chien, one of the most excellent men I have ever been acquainted with. They gave me the first information of the massacre at Prairie du Chien, to which my friend from Iowa [Mr. DODGE] referred yesterday. They were in some trouble, and yet not so much as one might suppose; for, in fact, it is rare that the Indians attack their traders. They told me, that some distance below, perhaps sixty or eighty miles, the Indians were encamped on the bank of the river, and hat it would not be safe for me to go down. I had, however, undertaken the enterprise, and no personal considerations could induce me to abandon it. When I approached the Indian position, I found them encamped on a high open prairie extending some miles into the country, I ordered my canoe to the shore, landed with my interpreter, and told the voyageurs to put back into the river and await the result. I ascended the high bank, and the first thing which struck me was the flight of the women and children who were hastening from the encampment across the prairie. It was a bad sign; I saw immediately that there was trouble. I walked up to where the chiefs were assembled and began to talk with them. Fortunately, I had a very excellent interpreter. He did not lose one word of what I said, but told it all as I said it. My success was, in some degree, doubtless, owing to that circumstance. When we had talked for some time, the Indians became more familiar. We sat down and smoked the pipe of peace, and discussed the whole matter.

After four or five hours conversation, in which I went over the whole difficulty, and explained the inevitable consequences of a war with the United States, and assured the Winnebagoes that there was every disposition on the part of the Government to do them justice; and that, if they had been injured by individuals on the frontiers, those injuries would be redressed, and the guilty persons punished. After all this, they underwent an evident change in their feelings, and appeared much better satisfied. They knew me, and knew that I could speak authoritatively to them. I perceived the effect of this circumstance during the whole interview. After this conversation, they told me they would not go on with their enterprise. I left them, and continued my journey. While with them, though, they were in a state of high excitement, yet they used no violence towards me, or rather none that I saw. A foolish young man, indeed, presented his gun at me while my back was towards him, perhaps more to show his feelings than to do worse, but the chiefs immediately checked him. I do not believe there was any real danger, for I knew many of them personally, and had treated them kindly, and kindness is never thrown away upon an Indian. By conciliatory conduct they may often be turned from an almost desperate undertaking. And this conviction will induce me to vote for the proposition of my honorable friend from Illinois; which I consider equally wise and humane, to attach to the expedition, or rather to precede the troops by a commission holding offers of peace, and, I might almost say, begging the Indians to turn themselves from war.

Mr. President, after all, the greatest injury we have ever done the Indians, has been in giving them what they call "fire water"—whisky. It makes them incarnate devils; I cannot call them by any other name. It has a most extraordinary operation upon them. I never saw an Indian who was not affected by it in precisely the same manner. Some white men laugh when intoxicated, some cry, some sing, some do one thing, some another; but every Indian goes on in the same way. It seems a national idiosyncracy. The devil in the heart of the drunkard is let loose, and he is ready to do any deed of horror. When they are drunk, they will kill each other; and there would be awful scenes of murder among them if it were not for the fact, that at every such frantic orgie, the first business of the squaws is to remove all the knives and implements of war. The men are impartial in the gratification of their passions. Blood they must have; and if they cannot get the blood of one man, they will have that of another. The son kills the father, and the brother the brother.

The Senate may judge of the effect of this terrible habit, when I relate a fact which came under my own observation. At the treaty of Chicago, perhaps in 1821, there was an elderly Pottawatamie chief who was at the head of his nation, really a respectable man, named Top-ni-bee, high in the confidence of the Indians, and approaching almost his hundredth year, but still in the possession of his mental faculties, and physically well preserved. I was urging upon them not to drink whisky. I told them we might, if we chose, give them whisky and thus get them drunk, and cheat them out of their lands; but that was not what we intended to do. I said we want you to keep sober, and to make the best bargain you can for yourselves, your women, and your children. Top-ni-bee answered me, and he spoke for and before his whole tribe: "We do not care for the land, nor the money, nor the goods; what we want is whisky; give us whisky!"

You may take this as a type of the Indian feeling on that subject. I say, then, that the first duty of every honest commissioner who is sent to the Indians with a view to make any just arrangement with them, is, as the Indians say, to drive the bung into the barrel and not let them have one drop of whisky. If it is brought into their neighborhood, I know no power which can prevent their getting it. The cupidity of one party, and the raving appetite of the other are sure to overcome all intervening obstacles.

Mr. President, in the course of this debate, much speculation has been indulged as to the force of the Indians. My own impression is, that the Indian force has always been overrated. In the two principal battles with the Indians in the northwest—those of St. Clair and of Wayne—one remarkable for its disaster, and the other for its success, we now know that the Indian force was comparatively small. The highest estimate did not bring the Indians against St. Clair to more than one thousand, nor those against General Wayne to more than one thousand five hundred. My own impression is, that they did not equal one half the estimated number in either case. So at Tippecanoe. I had repeated conversations with the Shawnee Prophet, when he had no motive in the world to deceive me. He was there; he had the direction of the battle in fact, though he was playing the sacred part during the progress. He was standing apart, employed in his incantations to call down the favor of the Great Manitou upon his countrymen. My conclusion, based upon information derived from him is, that the same exaggeration has prevailed with respect to that conflict, which has prevailed in so many others.

Now, sir, it is said that there are thirty-five thousand Indian warriors, or more, west of the Mississippi. I confess my incredulity upon this point. I cannot believe there is any such number; but even if there are, that circumstance furnishes no measure for the force it is necessary to employ. It is idle to suppose that one half, or one quarter of them, or one tenth, indeed, can, under any circumstances be brought to operate together. How is that to be done? How are they to be fed? Indian warriors must eat as well as white soldiers. The former have no magazines, no depots; they are timid and cautious with respect to their women and children; these must be secured and provided for, and how is that to be effected? The warriors will not go off, and leave their families to the chances of want, or to the danger of enemies, and wander from their own country. The most powerful motives only will induce them to go any considerable distance under such circumstances. I ask, then, how could an army of Indians be brought together, and kept together, and fed? It cannot be done. With the aid of a civilized ally the effort to assemble them in masses might sometimes be successful. But the day of any efficient alliance between the Christian and the savage to work injury to us has gone by, and forever.

By-the-by, Mr. President, I may remark that I have always had the same difficulty with respect to the strength of ancient armies, swelled, as it often has been by report, to a most prodigious magnitude. According to the early historians, the armed hordes that were led into Greece by Xerxes and Darius were counted by millions, and the obstacles in the way of subsistence and transportation, as necessary to be guarded against then as now, have scarcely been deemed worthy of attention by writers. For aught that appears, the Persian forces moved without difficulty through regions in contact with those where the armies of four great Empires are now encamped, and find themselves in a state of destitution which, even to the far-distant reader, causes profound regret. It is one of the greatest problems of modern science

to feed a numerous army, and especially one which is operating in a remote country. Practically to solve this problem in the early ages presupposes a much higher state of civilization, and much more power of productiveness than we have any reason to believe existed at that period. I think the spirit of exaggeration was as active then as it is now. I have no faith in these loose conjectures, for they are no better, owing their origin, perhaps, to fear, but taken up and repeated by Greek patriotism, which honored its country the more as her victories were more signal. A remark of Dr. Johnson may help us out of our difficulty. To count, said the sturdy moralist, is a modern practice. Formerly they guessed; and when people guess, they always magnify.

Again, sir, the condition of the Indians is not understood in some other respects. They are not desperate men under ordinary circumstances. The point of honor with them is not merely to kill their enemy, but to kill him without loss. A chief who should return after losing many of his warriors, however brave his conduct, would be held in little estimation, and the young men would never volunteer under him again for another expedition. Their habits are opposed to combined operations. They act almost individually. How are they to resist an enemy in large masses? They have no strategetical power; they have no real obedience; they have none of that discipline which teaches every man that every other man is supporting him during the progress of a fight. They go and come as they please. They cannot possibly stand before a strong civilized force. They make a desperate onset, generally in the night, or under other favorable circumstances, as they did upon Harmar and upon St. Clair, and if successful, their revenge is terrible; but if met and repulsed, they are conquered. Their chiefs fight like common warriors; instead of overseeing and directing the operations, just as the chiefs of the Greek and Trojan Indians did upon the banks of the Hellespont, during the ten years that would have been better spent in hunting than in attacking and defending a beleaguered town, if there was such a thing there. What motive was powerful enough to keep the assailants there, and how they were fed, and clothed, and paid, passes the powers of my understanding to comprehend. So I have come to the conclusion not to believe a word of the story. And that conclusion is rather strengthened than diminished by a personal inspection of the country, and by the impossibility of reconciling its features with the operations so magnificently recited by Homer. The Indian mound, as we should call it, is, indeed, in full sight, near the banks of the Dardanelles. It looks just like one of our mounds, and was probably constructed by people about as civilized as our primitive race.

I allude to many of the characteristic Indian traits to show that there is no state of circumstances which can embody a very large Indian force to meet an American force. My opinion is, that five hundred men, well mounted, well armed, well provided, and well led, commanded, for instance, by such a man as my respected and excellent friend from Wisconsin, [Mr. DODGE,] who has spent a life of gallantry and honor on the frontier, would march unscathed from the Mississippi river to the base of the Rocky mountains. The Indians raise almost no agricultural products. They have hardly as much forecast as the animals around them, their co-tenants of the forest, whom God has given them for their support. Experience does not teach them wisdom, nor want to be provident, nor wretchedness to be industrious. In a season of abundance they never provide for a season of scarcity. They will not, or they cannot, work; but they can die; and they often die under circumstances of fortitude rivaling the most renowned stoicism of antiquity. They are frequently driven to eat their seed corn, and the spring finds them without the means of planting even the small patches they have partially redeemed from the forest. In the lakes of the northwest, Providence has provided for them an abundant supply of the most nutritious food in the wild rice; a highly valuable plant, which sows itself and offers its harvest to the Indians. Towards autumn, when the grain is ripe, the squaws penetrate the water where it grows, and bending the heads over their canoes, shake into them a small portion of the grain. All the residue which is not eaten by the birds falls into the water. But the quantity which is thus gathered is very insignificant, and supplies them with food but for a short time. After it is exhausted, they must return to the precarious means thrown in their way. And when these fail, as they do every winter in the northwest, they perish.

Formerly the buffalo inhabited the region as far south and east as the Ohio and the lakes. Charlevoix says they were found in countless numbers in the peninsula of Michigan, about the time he traveled in the country, and they have been seen in the State of Ohio during my day. But they have fled before the white man, till they exist only in the far West, and must, ere long, disappear. They furnish a harvest to the Indian, who follows them, in their annual migrations, from the south to north, and then from the north to the south. And I may be permitted to remark, sir, that these annual migrations of animals from one region to another, impelled by some instinctive motive, are among the most splendid displays of Almighty wisdom, bountiful dispensations of Providence to man. Even the Bosjesman, in southern Africa, subsists upon the migratory locusts, as our western Indians subsist upon the migratory buffalo. And the same great law of movement is impressed upon the fishes, who roam through the trackless ocean, without mark or guide, with unerring sagacity, and follow the same route in their wanderings through all their generations. These immense streams of animal life furnish supplies to meet the wants of man, and their instincts are made to work for his advantage. The spectacle presented upon the plains by the buffalo, in the season of their travels, is too impressive ever to be forgotten by him who has seen it. It is a sight I have enjoyed, though certainly in a far inferior degree to what is sometimes exhibited further west than I have been.

It is obvious, sir, that we always have been, and shall yet be, exposed to the predatory incursions of the Indians, and that our measures should be adopted with a view to the nature of this kind of warfare. But I have no fear of an Indian coalition. There have been two men in Indian history, who, no doubt, foresaw the necessary progress of things, and the extermination of their race at no distant day, unless the encroachment upon their country could be checked. These remarkable men were Pontiac, who lived about a century ago, and Tecumseh, who lived in our own day. Both of them acted upon the same principle. Each sought to associate his race with the power which was able to do it the least injury. Pontiac, with this view, joined the French against the British, and Tecumseh joined the British against the Americans. It was their plan to unite all the Indians into a great Confederacy, and not only to stop, but to roll back the tide of encroachment. But they failed and perished; the one lost his life in some unworthy personal quarrel upon the Illinois river, and the other fell while fighting bravely at the battle of the Thames. They have left none behind them to carry out their scheme, or to emulate their conduct.

I have no doubt, sir, there is just cause of alarm on our distant, exposed frontier. I think the statements before us are conclusive as to that. It is a state of things which has been more or less common to us for many years. The alarm, indeed, is often unfounded, and brought on by the causes stated by the Senator from Tennessee, [Mr. BELL.] It is sometimes difficult to judge what is the proper course to take; for, if the demands for force were always yielded to upon every rumored difficulty, we should require a much larger army than any man has ever seriously proposed. When the danger is ascertained to be real, the practical question is one which deals with the character and amount of the force. In this case, there seems to have been an entire coincidence of opinion between the President, the Secretary of War, and the Committee on Military Affairs, both as to the reality of the danger and the necessity of providing additional troops. I concur in much that has been said upon this subject by the Senator from Virginia, [Mr. HUNTER,] and feel by no means confident but that the force proposed by him is adequate to the emergency. But those upon whom the responsibility falls think otherwise, and I am not disposed to withhold from them the means they demand. If I err, I would prefer to err on the safe side, by giving too much rather than too little, to protect our countrymen from the massacres by the Indians. Those authorities have better means of information, though they have communicated enough to satisfy me that congressional action is indispensable. I have much confidence, also, in the gentleman at the head of the War Department. He carried to its administration eminent qualifications, high honor, great intelligence, the benefits of a military education, and much military experience, acquired in peace and gallantly employed in war. He had been a statesman well known through the Union. He has occupied a seat among us, and I need not say with signal distinction and usefulness. The opinion of such a man ought to have weight, and it has weight with me.

I do not understand that my friend from Texas, [Mr. HOUSTON,] whom I heard with pleasure yesterday, objects to the employment of force. I did not understand him to say there is no danger. I think he looked on the subject practically, and with the conviction that we are always somewhat exposed, and should be prepared for emergencies as they arise. The Senator from Texas has acquired, by a long life of gallantry and usefulness on the frontier, the right to speak almost authoritatively on this subject. My own opinion of his claims to consideration is of little importance to himself or to the Senate, but I can communicate the opinion of one whose words will never be lost upon the American people. During a critical period of our affairs with the Indians west of the Mississippi, General Jackson sought with anxiety some person in whom he had confidence, and whom he believed would conduct a difficult and delicate mission with honor and ability. He fixed upon the Senator from Texas, and he expressed to me the highest regard for him. In much that the Senator has said I agree; but he will excuse me for saying he has taken one extreme view of the subject and the honorable Senator from Iowa the other; the one contending that all the fault is with the Indians, the other, perhaps, that they are not in fault at all.

As to the quality of the force, I cheerfully accede to the proposition of the Senator from Illinois. Having been a volunteer myself, I entertain a high regard for that description of troops. They are brave, zealous, active, capable of great exertion, and admirably qualified for a stirring campaign. But of their habits of obedience, and of their power to bear and forbear, I cannot speak as favorably. I think the composition of the Army better suits it for the work we want now to be met; and I am sure that what is to be done, will be done more economically and more satisfactorily by the Army than by any other species of force. As to the establishment of forts, it is all well enough. But it is a plan of defense, upon an exposed frontier, which I do not rate as highly as others here appear to do. These forts are undoubtedly necessary as places of deposit for materials, and for the encouragement of the inhabitants, as well as for the residence of the officers and soldiers, whence they can march in whatever direction required. But after all, their influence is rather a moral one upon the Indians. Why, sir, it cannot be denied, that individuals, or small parties, may come within sight even of our forts without the least danger, and may pass by them, at a little distance, without observation. They are not going to march up to the pickets for the sake of being shot at, and I do not know what else they should do it for, when they have war in their hearts, and arms in their hands. We want a movable, not a stationary force—one that can follow our modern Scythians with some hope of frightening them at least, if not of overtaking them. We want moving parties, many of them mounted, ranging upon the frontier, and especially upon the great lines of communication. And these the Army, if sufficiently augmented, can supply.

I have great confidence, sir, in the American Army. I do not believe there is a military establishment on the face of the globe the members composing which are more honorable, intelligent, able, and patriotic than those at this moment composing the Army of the United States. For years the officers had no opportunity to acquire that distinction which can alone secure the public applause. A state of peace or inglorious Indian conflicts offered no true theater for gallant deeds. Many has been the time which has witnessed ungenerous imputations against them. It has been so before, sir, and will be so again. After the

revolutionary struggle, I have heard it said that the officers were considered as pillars in war and caterpillars in peace. But in the fullness of time came the harvest of renown, and gloriously was it reaped. Our brilliant operations in Mexico shed equal luster upon those who carried them on, and upon the country for whom they were conducted. The feats there performed are among our treasures of true strength, which are equally useful to the character and power of the Republic. It was a war of emulation, where each sought to take hold of the standard of his country, and to bear it triumphantly into the midst of her enemies. And thus was it borne till it reached the hostile capital, and was planted in its midst.

Many profess to fear that a military force might be dangerous to the liberties of the Republic. I have no such apprehension. It is the last calamity which, in my opinion, we have to fear. I do not believe that any military chieftain will ever enter this Hall, surrounded with soldiers, and drive the Senators out, and then lock the door and put the key in his pocket. I have no belief that any such chieftain will ever enter the other House of Congress, and after calling, as Cromwell did, that mysterious symbol of legislation, whose name is the mace, but whose duties I know not, *a bauble*, take it from its place without regard to its antiquity. No, sir; if that venerable relic is ever thrust aside, it will be done by the peaceable conviction that it is an idle plaything.

I repeat, I have no fear of generals. This country will never be conquered by its own military force till it is fit for nothing else but to be conquered. So long as the American people are qualified for the blessings of liberty, so long they will enjoy them; and I repeat, the very last danger we have to fear, is the danger of our liberties being overwhelmed by an armed force composed of our own countrymen. I have heard it said here, that conquering generals would return at the head of their armies and take possession of this Government. Mr. President, it is well to read history, but we should read history profitably, with an appreciation of the circumstances of the world at the time which that history embraces. You draw false analogies from the condition of Greece and Rome, and other countries, in the early periods of the world, if you suppose everything that occurred there is to occur here. Fundamental changes have taken place. The light of information has spread; the people have a knowledge of their rights and a just estimate of their own power. And we have the diffusion of education and the means of information through the press, which carries knowledge to all parts of the world. And above all, we have the Christian religion to guide us in the path of duty here, and to offer us happiness hereafter. And let me observe, sir, that in looking to the conduct and condition of the Indians, let us recollect that we might feel and act just as they do, if we had not the blessed Gospel of Jesus to enlighten our understanding and to soften our hearts.

I want no unnecessary increase of our military force. Not because I fear it, but because I do not desire to see extended any of the institutions of the country. There is a constant pressure of circumstances to do so, which requires the jealous effort of Congress to counteract—embracing, not the military organization alone, but reaching all the divisions of our power.

It has occurred to me, and I will merely suggest it to my honorable friend, the chairman of the Committee on Military Affairs, that it might be better to provide that the force should be disbanded at the end of five years, unless then renewed by Congress. That has been done before. I think such a provision would render the augmentation more acceptable, and more likely to be authorized by Congress.

I content myself, however, with making the suggestion, without taking the matter out of the hands of the chairman. I shall vote for his proposition for four regiments, whether the period is limited or not.

In conclusion, Mr. President, let me refer to a short extract from the late annual report of the Secretary of the Interior. I must say that I agree with every word I am about to read. It presents the subject in a wise, just, liberal, and Christian point of view. The suggestions are creditable to the head and heart of that able officer:

"Perhaps the only course that can be pursued to reclaim these tribes, and prevent their depredations upon their innocent, and, in many cases, defenseless, victims, is to make liberal appropriations for their colonization and civilization. Colonization was, many years ago, partially tested in California, and the recent trial, it is hoped, will prove successful. There is every reason to believe the plan a good one, if those intrusted with its execution have the proper aptitude and qualifications. Few possess the qualities necessary to the useful discharge of the duties of an Indian agent, and fewer still the properties required to carry out skillfully and successfully such a system. If this last hope fails, their extinction appears to be inevitable. Such should not be the destiny of this unfortunate race, if it can be averted by the power of this Government. Some are impressed with the idea that the only successful way of treating them, and preserving the relations that should exist between them and the Government, is to chastise and punish them whenever they err; but, in my judgment, kind treatment, in most cases, will subserve a far better and more useful purpose, and eventually lead to more desirable results. The whites who mingle with, or live contiguous to them, are not always blameless. Often to their mischievous conduct may be traced the most brutal and distressing depredations of these children of the forest. Kindness has operated wonderfully on some tribes, and why should it not succeed with others? Colonization might be attempted in the Territories of New Mexico, Utah, Oregon, Washington, and the country immediately east of the Rocky mountains. The object should be two-fold, to domesticate and isolate them as much as practicable from the white settlements. The arts of civilized life should be introduced, and, if possible, a settled form of government established among them. To effect this, large appropriations would be requisite; but how could money be expended more charitably or appropriately, than in this great cause of humanity?

It is much better to pay for those objects than to pay for fighting the Indians.

Mr. HOUSTON. I have a word of explanation to say to the distinguished Senator from Michigan. I said I was in favor of raising as many troops as the commissioners, properly selected, might deem necessary for effecting the treaties, and that they should go accompanied with the necessary presents for pacificating the Indians. I suggested from three hundred to five hundred troops as the extreme number.

The question being taken by yeas and nays on Mr. SHIELDS's amendment to Mr. HUNTER's, resulted—yeas 31, nays 20; as follows:

YEAS—Messrs. Allen, Badger, Bell, Benjamin, Brown, Cass, Clay, Clayton, Dawson, Dodge of Wisconsin, Douglas, Fish, Fitzpatrick, Foot, Geyer, James, Jones of Iowa, Jones of Tennessee, Mallory, Mason, Morton, Pearce, Petit, Reid, Shields, Slidell, Thompson of Kentucky, Thomson of New Jersey, Weller, Wells, and Wright—31.

NAYS—Messrs. Adams, Atchison, Brainerd, Bright, Brodhead, Butler, Evans, Fessenden, Gillette, Gwin, Houston, Hunter, Rockwell, Rusk, Sebastian, Seward, Stuart, Sumner, Toucey, and Wade—20.

So it was agreed to.

Mr. GWIN. I intended to make some remarks before the question was taken, to give the reasons why I should vote for the proposition of the Senator from Virginia. I believe it gives as large a force as we can get on this bill. I do not want to have any collision between the two Houses on the amendment, because it is so important that we should raise a force immediately, and make provision upon this bill for raising it. There was another reason why I was in favor of that amendment, and the force raised by it. I am perfectly confident we can have no permanent peace with the Indians on the great route to California without the establishment of military posts; and I intend, so soon as the territorial bills come up, which make provision for military roads in the Territories of the United States, to ask for a large increase upon the appropriation, in order to accomplish this object. I am confident that until we have military roads and military posts, we can have no permanent peace with the Indians, no matter how large a force we may bring into the field. I am confident that if we can get that kind of legislation this session—if we will raise the force provided for by the amendment of the Senator from Virginia, and also get a large appropriation for military roads across the Territories of the United States, and the Executive exercises the power conferred upon that branch of the Government to establish military posts, in a very short time we shall get clear of all difficulties with the Indian tribes. I know that the time has arrived when we must have safe conveyance across the continent to the Pacific, and we can only have it by the military arm of this Government. Instead of raising forces to fight the Indians, I think we had better establish posts throughout the Indian country, to teach them that whenever depredations are committed upon our citizens by them they will be punished. In a very short time, we shall have such settlements near those posts, and at the intermediate points between this and California as to keep the emigrants clear of the depredations heretofore committed.

I am anxious, Mr. President, to put this bill in such a shape that it will meet with the approval of the other House of Congress. The collisions of committees of conference are very apt, sometimes, to destroy the most efficient measures. I do not object to the increase of the military force, but I do not think that, in the form in which the Senate have now agreed to it, it will meet with the approbation of the other House.

Mr. BROWN. It is with extreme diffidence, Mr. President, that I venture to express any opinion in reference to a matter like this. It has already passed under the supervision of gentlemen who are qualified, by education and by practice, to give opinions in reference to it; and it is more for the purpose of expressing my concurrence in the opinions of others, than to express any convictions of my own, that I have taken the floor at this time.

I know, very well, sir, that if we fail to act here, and act efficiently, we assume a very high responsibility. Last year the President, and the Secretary of War, gave us fair warning that the military establishment of the country was too small, too feeble, to protect our frontiers. After a session of nine months, we adjourned without having done anything towards its increase. This year we are told in the official papers from the President, and the head of the War Department, in terms too distinct to be mistaken, that, in consequence of our neglect to follow out their recommendation, valuable lives have been sacrificed upon the frontier, emigrants to California and to the Territories have been murdered in cold blood; our little military force at Fort Laramie was utterly destroyed; other disasters have overtaken us, and our arms have been disgraced and literally rendered contemptible in the eyes of the Indians. I do not pretend that I state the case precisely as it is stated by the Executive; but this is the conclusion which must impress itself upon your minds if you study the documents. Now, sir, we have been asked to do what? Simply to increase the military establishment to the amount proposed by my friend from Illinois, in the amendment which has just been agreed to? No, sir; we have been asked to increase the permanent military establishment of the country; and we have been asked, in addition to that, by the President and the Secretary of War together, to raise three thousand volunteers to meet the present exigencies. The question arises, do we mean to do that? I understand now, sir, that the volunteer proposition has been withdrawn by the Committee on Military Affairs—withdrawn because it seemed to receive no favor at the hands of the Senate.

Mr. JONES, of Tennessee. I desire to correct the Senator. The amendment offered by the Committee on Military Affairs has not been withdrawn, and it cannot be withdrawn except by the action of the committee. We have had no meeting upon it. It is the question which is now pending before the Senate.

Mr. BROWN. Will my friend from Tennessee tell me, then, where the proposition to bring into the service three thousand volunteers is?

Mr. JONES, of Tennessee. I will tell my friend the condition of things just as we stand before the Senate now. The Committee on Military Affairs, through their chairman, reported an amendment to raise three thousand volunteers. The Senator from Virginia offered his amendment in lieu of that amendment. The Senator from Illinois proposed to amend the amendment of the Senator from Virginia. That amendment of the Senator from Illinois has been adopted, and the question before the Senate now is as between the amendment of the Senator from Virginia as amended, and the original proposition of the committee to raise three thousand volunteers.

Mr. BROWN. I do not so understand it.

Mr. JONES, of Tennessee. That is the condition of things.

Mr. BROWN. The printed amendment of the Senator from Virginia, which is now before me, and which has just been amended by the amendment of the Senator from Illinois, is headed: "Amendment proposed by Mr. HUNTER to the bill (H. R. 562) making appropriations for the support of the Army for the year ending 30th June, 1856, by adding the following."

Mr. HUNTER. I understood that the amend-

ment which proposed to raise the volunteers was withdrawn. I originally offered mine as a substitute for that.

The PRESIDENT. The Chair understood the Senator from Illinois to withdraw the second section of the amendment which he offered. Is the Chair corfect it that?

Mr. JONES, of Tennessee. That is all.

The PRESIDENT. The Secretary will read what was withdrawn.

The Secretary read as follows:

SEC. —. *And be it further enacted*, That any number of friendly Indians, not exceeding in all five hundred, who may offer their services as mounted rangers, scouts, guides, and hunters, may be accepted by the President, and shall be organized into companies of not less than eighty men, including such chiefs, sub-chiefs, and officers, as they may select, not to exceed, however, three chiefs or officers to each command; the whole to be under the immediate command of such officer as the President may direct; to serve, as well as the volunteers, for eighteen months after they shall have arrived at the place of rendezvous, unless sooner discharged by the President: *Provided, however*, That in the event the commanding general shall find it necessary or expedient to divide the Indian force herein provided for into companies, or squadrons for detached service, he may place such companies or squadrons under the immediate command of such officers as he may select: *And provided further*, That the said volunteers shall be liable to serve on horse or foot, as the President may direct.

The PRESIDENT. That is the section which was withdrawn, and the residue of the amendment is yet before the Senate.

Mr. RUSK. What has become of the amendment to raise three thousand volunteers? Is that pending before the Senate?

Mr. JONES, of Tennessee. Yes, sir.

Mr. RUSK. Then the Senate has voted out of order. If that is before the Senate, the motion of the Senator from Virginia was an amendment to it.

The PRESIDENT. The Senator from Virginia, as the Chair understood, offered his as a substitute to the amendment of the committee.

Mr. RUSK. That was an amendment to the amendment of the committee, and then here comes in a third amendment, which is certainly out of order.

Mr. SHIELDS. My understanding is this: The committee reported two propositions, one for the appointment of commissioners, the other for raising three thousand volunteers. I withdrew the proposition for the raising of commissioners. The Senator from Virginia then offered his substitute for the three thousand volunteers, and I proposed to amend the substitute. My amendment has been agreed to, and that becomes a substitute for the amendment raising three thousand volunteers.

Mr. HUNTER. That cannot possibly be in order. If the amendment of the committee was pending, mine was an amendment to it in the nature of a substitute, and no further amendment could be offered to it.

The PRESIDENT. The Senator from Illinois stated, if the Chair is correct, that he withdrew, temporarily, his amendment to enable the Senate to act on the amendment of the Senator from Virginia. The amendment that has just been voted upon is the amendment to the amendment offered by the Senator from Virginia.

Mr. BROWN. Then, Mr. President, I am to understand that the amendment to raise three thousand volunteers is to be reintroduced by the chairman of the Committee on Military Affairs.

Mr. SHIELDS. I want to see what action the Senate will take upon these four regiments before I attempt it.

Mr. BROWN. It is not material about these technicalities for the purpose I had in view. I wish, however, to understand them. What I want to do is to follow out, as nearly as I can, the recommendation of the President and the Secretary of War upon this matter. A good deal has been said here about registering the edicts of the President and of the Executive officers. I think, sir, considering how long I have been here, I have given about as many evidences that I am indisposed to register mere edicts as any other Senator. But here is an instance in which we are bound to presume that the Secretary of War understands our relations with the Indian tribes better than we can possibly understand them. Why? Because it is the business of his Department to understand them. He has to post the Army, and so to govern it as that it shall be most efficient in the defense of our frontier.

I think, under such circumstances, that very great deference is due to his views upon this subject. If we fail, in a mere spirit of obstinacy, or from any other cause, to vote the number of men which, we are told by the President and head of the War Department, is necessary to protect our frontier, how shall we answer to the country in case of disaster? When the Indian shall light up his camp fires, draw his scalping-knife and tomahawk, and commence a war of universal murder upon our frontiers; when the wail of women and children shall come up to the Senate, appealing to us, what answer shall we make? That, because we were careful of trusting the Department to which the responsibility properly belongs, we refused to vote the necessary force to defend them. Sir, I shall, by my vote here, take no such responsibility. When the ghosts of murdered women and children stalk into this Chamber, I mean to have it in my power to say:

"Thou canst not say, I did it: never shake
Thy gory locks at me."

If others are willing to take the responsibility of denying the means of defense, then let the blood of our murdered people be upon their skirts. But we are told that if we send a volunteer force, a war will be almost inevitable. Sir, I do not know whether that is true or not. I do not profess to be a military man. I do not know which is the more efficient force. I do not know which could be best controlled in the field; but I do know that the President of the United States informed us, in a message which he sent to us a few days ago, that a volunteer force is the one which he wants. I do know that the Secretary of War has called upon us for three thousand volunteers, and that he has stated to us that it is the only force which can be called into the field in time to meet the approaching emergency. He has told us that these Indians are combining. He has stated the effective Indian force, if my recollection serves me correctly, to be forty thousand men, and that hostilities, in all probability, will commence early in the spring. What are you doing? Are you voting him the force which he says is absolutely necessary for the protection of your frontiers? No, sir; you are withholding that force, and saying to him: "If you send out the volunteers, then we shall inevitably have war." Thus, you are not providing for the emergency which he tells you is at your door.

I have not read the extracts from the message, and other papers bearing upon this point; but I have stated their contents correctly. We are officially notified that the regular Army, though it were entirely full, would not answer the present purpose; whereas, the Secretary of War tells us in his annual communication, it now numbers only about eleven thousand men, including officers and soldiers. If it were entirely full it would only be a little over fourteen thousand, according to his calculation, and about eleven thousand effective force is all that you really have at any time. He tells you in plain and distinct terms that this force is insufficient to protect your eight thousand miles of frontier. The work is more than they can perform; and he asks for a permanent defense of the frontier, a permanent increase in the military force of the country.

He tells you in plain terms, and the President has indorsed that statement—that the volunteer force is absolutely necessary to meet the present emergencies. Now, let me ask the Senate again, if you refuse to vote this force, and if, in the early spring, the Indians shall fall upon your frontier and murder your women and children, pillage your towns, and devastate, and lay waste the whole frontier, how shall you answer to your constituents for the manner in which you refused to carry out the recommendations of the Executive Government, and the following out of which recommendation we are told is absolutely necessary to keep peace there?

Mr. President, I think well of the proposition to send out a commissioner. I think well of it, because it strikes my judgment as being right, and because it is backed by the experience of the mover of the proposition, and the venerable senator from Michigan, whose familiarity with Indian affairs is greater than, I trust in God, mine will ever be. I would send such a commission. I would send with it a sufficient military force to protect it in its negotiations. I would, at the same time, authorize the President of the United States to prepare immediately a military force, or a volunteer force, to meet the emergency if it should arise. I am not, in my conscience, and according to my honest convictions, permitted to receive mere declarations of opinions, coming from Senators here, in opposition to the expressed opinion of the Executive Government, and upon a question of this kind. I am bound to presume that the Secretary of War understands his duties better than any one else can understand them. This I say without any sort of disparagement to the intelligence and military learning of any gentleman here or elsewhere. If it be the business of one man to study one subject; if he lend to it the whole energies of his mind, am I saying too much when I declare that, if I had to follow the lead of any one, I would rather follow the lead of such a man than one of equal intelligence, whose attention is divided among a hundred different subjects?

Considering that the proposition for raising the three thousand volunteers had been withdrawn, I had prepared an amendment, and meant to move it as an addition to that of the Senator from Illinois, which has just been agreed to.

Mr. SHIELDS. I beg leave to state to the honorable Senator that the amendment which I have the honor to offer, is not yet adopted.

Mr. BROWN. It is not adopted; but it has taken the place of the amendment of the Senator from Virginia.

Mr. SHIELDS. The question now, if I understand it, will be upon the amendment of the Senator from Virginia, as amended.

Mr. BROWN. Exactly.

Mr. SHIELDS. When that question is put, and the Senate acts upon it, then can come in the amendment of the Senator.

Mr. BROWN. So I understand it; and understanding that the vote on the adoption of the Senator's amendment must be taken first, I simply give notice that when that is done I shall offer the following:

And be it further enacted, That to meet any sudden emergency growing out of our relations with the Indian tribes, the President is authorized to accept the services of any number, not exceeding three thousand, volunteers, to be organized into companies, squadrons, and battalions, and to serve for a period of eighteen months, unless sooner discharged. The said volunteers to be armed and equipped, and to serve the Government on horse or on foot, as the Secretary of War, with the concurrence of the President, may direct.

And be it further enacted, That the said volunteers shall receive the same pay and emoluments, in all respects, as were paid to the same class of volunteers in the service of the United States in the war with Mexico.

I do not offer it now, but I give notice that, if the amendment offered by the Senator from Illinois, which has already taken the place of the amendment of the Senator from Virginia, be adopted, I will move that as an amendment to it, and shall ask for the yeas and nays on it.

Mr. BADGER. If Congress had paid a reasonable attention to the recommendations of the Executive branch of the Government, we should now have been relieved from the necessity of investigating the question in relation to the employment of volunteers. Sir, in every annual message of Mr. Fillmore while he was President, he urged upon Congress, in the strongest manner, the absolute necessity of adding a small force to the military establishment of the country—two mounted regiments, I think. To these supplications Congress regularly turned a deaf ear. It was supposed that that might possibly be accounted for by the fact that Mr. Fillmore was a Whig President, and the Congress was a Democratic Congress, and that, therefore, recommendations coming from such an Executive source were received not with a desire to comply with them, but with disfavor and disapprobation; but Congress has vindicated itself from any suspicion that it was influenced by that consideration, for it extended to the recommendation of the President of the United States, at the last session, an entire disregard, with an equal impartiality of indifference and unconcern. The consequence of this is, that the Government being without the possession of any regular force to meet the emergencies of the country, is now thrown upon the necessity of asking from Congress, and asking now by a provision in an appropriation bill, for the raising of some military force to enable it to discharge the duties which properly devolve upon the Executive of the country. If it were possible, sir, that we could learn anything by experience, these circumstances ought to teach us a lesson for the future.

But here we are, in this position; and the question is, what is to be done? Sir, I voted for the amendment proposed by my friend from Illinois. I voted for it, because I thought it was right. I do not exactly understand the system of argument by which gentlemen, who have opposed that amendment, have undertaken to defeat us. They have told us, in advance, that the House of Representatives will not agree to it; that it will fail in that House; and that we must, in advance, shape our course so as to meet the supposed, or conjectured, opinions of that House. Now, sir, I do not adopt any such rule to regulate my conduct here. The Senate is an independent and coequal branch of the legislative power, with precisely the same right to propose such amendments, or to pass bills with such a purpose as the other branch of Congress; and, therefore, are we to be entirely turned from the proper course which our own judgment may direct, by telling us that we shall be placed in the unhappy condition of being met by a difference of opinion in the House of Representatives? Well, sir, that is a great calamity; it is a thing to be avoided, if practicable. But I do not think it is to be avoided by a surrender of our own judgment to the supposed opinions of that House. It is time enough for us to consider what course we shall adopt when we find a collision between the two Houses which is to be reconciled by a committee of conference. But to announce, beforehand, that we are trembling in the course we take, for fear we may be met by the disapproval of the other House, is, it seems to me, to communicate to that House, in advance, that it is expected, or that it is wished, that they should not agree with the Senate; that they should refuse what we think it right to propose for the benefit of the country, and to intimate to them that, if they will refuse, the Senate stands ready to yield at once to the superior wisdom which enlightens and directs their course. Sir, I, for one, understand no such system of legislative conduct. I voted for the measure which has been adopted upon my own judgment, enlightened by such information as I have been able to procure from the proper Executive officers of the Government, and from the opinions of gentlemen of large experience and known wisdom, who occupy seats upon this floor.

This amendment proposes to make—what? An addition of four regiments to the military establishment of the United States. What is that military establishment? A military establishment of some eleven thousand troops—to guard what? A frontier of eight thousand miles in extent. To do what besides? To occupy military posts, to which you cannot assign from this force a sergeant's guard. And yet, gentlemen have seemed to suppose that this is a large, immense, and uncalled for addition to be made to the military power of the country. Sir, I do not think so; if the gentlemen at the head of the Executive Government thought that the interests of the country required it, I would be perfectly willing to vote to double the amount of this military force. It is vain to talk of regulating the affairs of such a vast empire as ours with a few hundred or a few thousand men. It is idle to tremble at the notion of any danger to be met with in a country of twenty-five millions of men, from a military force of ten, fifteen, or twenty thousand men. What could they do? If they were to be directed, for one moment, against the supremacy of the civil power of this country, if it were attempted to use them against the liberties and independence of our people, though they were directed by the military genius and unscrupulous ambition of a Napoleon, they would be annihilated in an hour.

But there are other considerations that press upon me. Sir, if we will have a nation embracing half a continent; if we will have internal and external frontiers to defend; if we will stretch from ocean to ocean, and from sea to sea, we must necessarily multiply our military means to meet the emergency which we have thus voluntarily assumed. Therefore, Mr. President, I voted for the four regiments, because I believed it was right to do so. I would have voted for five; I would have voted for six, if they had been asked, because, in my soul, I cannot conceive how, in any point of view, it would be an extravagant addition to the Army, when I consider the necessities of the country, the various points which we have to defend, and the many internal enemies against which we have to be forever on our guard.

But, Mr. President, I differ from my friend from Mississippi, [Mr. BROWN,] in regard to the character of the troops, for reasons that have been assigned here by gentlemen far better acquainted with the subject than I am. I am utterly opposed to calling into service any large body of volunteers. I believe, with the Senators who have spoken against it, that, if the maintenance of peace with the Indians be the object for which you add to your military establishment, that object will be immediately frustrated by calling volunteers into the service. I believe what has been said here by gentlemen of experience, whose words carry weight, that there are no troops better for fighting purposes than volunteers; but of all troops they are the worst, when the object is, by a preventive police, to keep peace upon a disturbed frontier; and though I would yield to the Executive Government of the country every reasonable and prompt compliance—though I would give very great weight to the opinions and judgment of that Government upon questions falling within its direction—I will not surrender the exercise of my own personal judgment, enlightened by such considerations as are able to reach me from wise and experienced sources as to the character of the orce that ought to be provided.

When my friend from Michigan, [Mr. CASS,] the other day, spoke in such decided, yea, and moving terms against the horrors of bringing the Indians into our service, for the purpose either of protection or of carrying on war against the savages who might be opposed to them and to us, my heart responded to every word that he spoke. To do so would be to take a step backwards from the advance we have made. It would be to roll back the whole of our progress. It would be to instruct those people in war, instead of teaching them to live at peace; for if, on any occasion, we solicit them to take up arms for any purpose—to maintain our cause or to oppose our enemies—in what situation shall we stand afterwards when we endeavor to enforce upon them what has been the whole policy of the United States, that they should live at peace among themselves. The whole influence and power of the Government has been directed to induce, or, when necessary, to compel, the Indian tribes to be at peace among themselves. If we employed such a force, in our own way, the argument would be irresistible against all we could say. "If," the savage man might answer, "it is right that we should be embodied to fight your battles, what extremity of folly it is to say that we have not a right to embody ourselves to fight our own battles." And, sir, as I think that would be the most wretched, inhuman, detestable policy which could be adopted, so I think that the employment of a force of volunteers would be unwise and mischievous, unless in a case of emergency, where it was impossible that we could secure the objects of the Government without it. Therefore, sir, I am against the employment of volunteers, and, therefore, I was wholly and entirely against enlisting any Indian allies in this war, if war there must be. But, sir, in regard to the amount and character of the force, I will go as far as any man in this or the other Chamber, to put in possession of the President full and ample power, first, to maintain peace, to secure the emigrant and the traveler from aggression, to prevent a conflict with these unfortunate and misguided Indians; and secondly, if these ends cannot be accomplished, to put down, with a prompt and effectual hand, any hostilities which these people may be incited or disposed to bring against us.

I have another reason which I will mention to my friend from Illinois. The general bill of his which has been reported for the purpose of adding regiments to the Army, it has been said, is to be taken up and passed. Sir, I prefer raising those additional regiments by incorporating into this appropriation bill a provision such as he has offered, and such as the Senate has agreed to; for the bill of my friend, who is at the head of the Committee on Military Affairs, contains many matters besides an addition to the Army; an alteration of the military arrangements of the country, and an alteration of the system heretofore existing with regard to the staff and other corps, in which alterations and arrangements I am not able to agree; to which I am opposed; and, therefore, I shall not be able, in the shape in which it is presented, to give my support to that bill.

For all these reasons, Mr. President, I have voted for the proposition for the four regiments; I shall continue to vote for it, and I shall not trouble myself, in advance, to ascertain whether the House of Representatives, either of their own motion, or invited or induced by what has fallen from Senators here, shall think proper to withhold their concurrence.

Mr. BROWN. By the last vote taken, Mr. President, the Senate struck out the amendment offered by the Senator from Virginia, and substituted in its place the amendment proposed by the Senator from Illinois, so that the pending proposition, as I understand it, is upon the adoption of the amendment—that now being the proposition of my friend from Illinois.

The PRESIDENT. It is on agreeing to the amendment of the Senator from Virginia, as amended by a vote of the Senate.

Mr. BROWN. And that was the proposition presented by the Senator from Illinois. At this stage of the proceeding I understand it is competent for me to offer my amendment, the one of which I gave notice, as an amendment to that proposition.

The PRESIDENT. The first question will be on agreeing to the amendment of the Senator from Virginia, as amended by the Senate.

Mr. BROWN. But before that vote is taken, I can move a further amendment.

Mr. HUNTER. It cannot be amended by striking out any portion of it.

Mr. BROWN. I do not want to strike anything out of it.

Mr. HUNTER. It can be amended by adding to it.

The PRESIDENT. You must first perfect the amendment.

Mr. BROWN. Then it will be competent for me to move an amendment to it by way of addition.

The PRESIDENT. After the vote has been taken on agreeing to it, it will be.

Mr. BROWN. That is what I wanted to know.

The PRESIDENT. The question is on agreeing to the amendment as amended.

The question was taken, and it was agreed to.

Mr. BROWN. Now, I desire to offer my amendment.

Mr. SHIELDS. Will the honorable Senator permit the amendment for the three commissioners to be acted upon first?

Mr. BROWN. It does not make much difference which vote is taken now. I have no objection to that being done.

Mr. SHIELDS. Then, I ask for a vote on the amendment which I have offered in regard to the three commissioners.

Mr. HUNTER. Is that a separate section?

The PRESIDENT. It was the first part of the amendment originally offered by the Senator from Illinois, recommended by the Committee on Military Affairs, but subsequently withdrawn. He now re-offers it.

Mr. BROWN. Will that interfere with the offering of the amendment of which I gave notice?

The PRESIDENT. It will not.

Mr. ATCHISON. I desire to hear the amendment proposed by the Senator from Illinois read.

The PRESIDENT. The Secretary reports that it is not on the table. Some Senator has taken it away.

Mr. BROWN. Then, while the Secretary is looking for it, I will propose my amendment.

Mr. SHIELDS. It is a part of the original amendment.

Mr. ATCHISON. I will waive the reading of the amendment. I think I understand it, and I have no objection to it, provided it is so modified as to confine the appointment of the commissioners so as to take them from the Indian department. The President of the United States can appoint now. He can use any officer in his department, from the Commissioner of Indian Affairs or the Secretary of the Interior, down to the humblest agent of the department. Now it is proposed, if I recollect the amendment rightly, to appoint three commissioners, without confining them to the Indian department, and to pay them at the rate of eight dollars a day, and the mileage of members of Congress. Mr. President, this thing has been tried and failed. The Committee on Indian Affairs, a few years since, came to the conclusion that this power to appoint commissioners was abused—abused under all Administrations.

It furnished jobs to broken down politicians. The Senator from Tennessee [Mr. BELL] will recollect well, that many years ago, a gentleman of the name of Schermerhorn, another of the name of Ellsworth, and another of the name of Stokes, were appointed to make treaties with all the Indian tribes from Florida to the head waters of the Missouri river; and every treaty they made was an utter failure; and I doubt whether the expense which they brought upon the Treasury has ceased yet. Then, sir, that Committee on Indian Affairs introduced a bill. That bill became a law. It is now the law of the land, and confines the President of the United States in his appointments for Indian commissioners to the Indian service, and the Indian department.

There is a propriety in confining it to the Indian department. The Commissioner of Indian Affairs, it is presumed, understands all our relations with all the tribes within the limits of the United States; and the Indian agents acting under the Commissioner of Indian Affairs, it is also presumed, understand our relations with the different Indian tribes, far better than the most talented commissioner could who should be appointed, with no experience in Indian affairs.

Then, Mr. President, if the Senator from Illinois will accept the modification which I suggest, confining the President of the United States, in the appointment of the commissioners, to the Indian department—he may select the Secretary of the Interior, or the Commissioner of Indian Affairs, or any of the superintendents or Indian agents—I will vote for the amendment.

Mr. BADGER. Is there any need of that? Does not the law already authorize the President to do it?

Mr. ATCIHSON. The law already confines the President, in his appointment, to the Indian department.

Mr. BADGER. Then we do not want the modification.

Mr. ATCHISON. Yes, we do, because this provides that the President of the United States may go outside of the department.

Mr. SHIELDS. I will withdraw the amendment.

Mr. ATCHISON. Very well; then I have nothing more to say. [Question.]

The PRESIDENT. There is no amendment now pending before the Senate. The Senator from Illinois has withdrawn the one which he just offered.

Mr. BROWN. Then I propose the following amendment:

And be it further enacted, That to meet any sudden emergency, growing out of our relations with the Indian tribes, the President is authorized to accept the services of any number not exceeding three thousand volunteers, to be organized into companies, squadrons, and battalions, and to serve for a period of eighteen months, unless sooner discharged; the said volunteers to be armed and equipped, and to serve on horse or on foot, as the Secretary of War, with the concurrence of the President, may direct.

And be it further enacted, That the said volunteers shall receive the same pay and emoluments in all respects as were paid to the same class of volunteers in the service of the United States, in the war with Mexico.

I am not going to make a speech, because I know the Senate is tired of that sort of work; but I want to show, before the vote is taken upon the amendment, by reading a very few extracts from the President's message, and the communication of the Secretary of War, how near the amendment approaches to their recommendation. The Secretary of War, in his letter dated January 15, 1855, says:

"Should the proposed increase—[that is the permanent increase]—of the Army be authorized during the present session, it is hoped that the two additional regiments of cavalry may be organized, mounted, and put in position to relieve the volunteers sometime during the summer or fall; and the two regiments of infantry recruited and organized for service in the department of the Pacific, and on our extreme northwestern frontier, where troops are greatly needed."

If I understand, the amendment which we have adopted, on the motion of the Senator from Illinois, meets that portion of the recommendation. It will raise the two regiments of cavalry and two regiments of infantry. So far so good. What are we told further? After being admonished that we have been called upon time and again to provide for this emergency, the Secretary says:

"Had the increase of the Army, which was urged in my report of December, 1853, been, at an early period, authorized, the force at the disposal of the Department would have been sufficient to prevent these combinations, [that is, the combinations among the Indians,] and, in all probability, would have preserved the lives of many valuable citizens from Indian massacre. This measure, however, has not been acted on, and at this advanced period, should the bills now pending in Congress be passed, it will be found too late to organize a regular enlisted force, and place it in position in season to prevent the anticipated attack, or to suppress it until after much mischief shall have been done."

I read that to show to the Senate that the Secretary of War does not look to these two regiments of infantry and two of cavalry to meet the emergency which he has called upon us to provide against, for he tells you in plain language that if you authorize that increase "now," that is, on the 15th of January, 1855, it will be too late to meet the emergency which he anticipates. Then what further does he say? Mark the strong language which he uses:

"*The only course* now left to the Department, in anticipation of the proposed increase, is the employment of a volunteer force to coöperate with such of the regular troops as can be collected for the *present emergency*, and it is accordingly recommended that authority be asked of Congress to call into service three thousand mounted volunteers, to be organized into companies, squadrons, and battalions, and to serve for a period of eighteen months, unless sooner discharged."

The amendment which I propose is to carry out that recommendation; and is in the very words of it, with the single exception that I do not confine it to mounted men, but allow the President and Secretary to call out three thousand volunteers, or so many as may be necessary to meet the emergency, either as mounted men or as foot men. He may call out such portions of them as the emergency may seem to require. What does the President tell us?

"I transmit herewith a letter of the Secretary of War upon the subject of Indian hostilities. The employment of volunteer troops, as suggested by the Secretary, seems to afford the only practicable means of providing for the present emergency."

Now, sir, is the recommendation of the President, and of the Secretary of War, to weigh not a feather upon our judgments in this matter? Are we totally to disregard the advice of those whose business it is to watch narrowly our relations with the Indian tribes, and tell us of approaching emergencies? If we intend to be governed by advice coming from the quarter pointed out by the law to give us advice, then the Senate, I insist upon it, is bound to adopt the amendment which I have proposed, because in no other way can we meet the emergency which has called forth the special message from the Executive, and the recommendation from the War Department. You are told, in plain language, that if you vote two regiments of infantry, and two regiments of cavalry, you will not have provided for the emergency. The only way, says the Secretary, the only way, adds the President, to meet the emergency, is to give us volunteers. As I stated before, I do not want to feel, nor do I want any one to charge upon me, that, by virtue of my having failed to discharge my whole duty, the blood of murdered women and children is on my skirts. The President and the Secretary have told us that this is the only means—mark the language—the only means of providing for the emergency; yet we propose to legislate in total disregard of their recommendations; and Senators rise in their places and tell us they are not bound to register the edicts of the Executive. No, sir; they are not; nor am I. I would scorn to register any man's edicts, whether he were King, Emperor, Potentate, or President. But I stand up here to-day to say that the President of the United States and the Secretary of War must have information on this subject which we cannot have; and I think, with all due deference to the superior judgment and greater cultivation of other gentlemen on this subject, it is rather a flippant way of disposing of so important a recommendation, to say that we will not register the edicts of the Executive. As I remarked before, sir, and if there is anything of which I feel proud as an American Senator, it is that, I have shown, on all proper occasions, that I do not register edicts. I dare to think and act for myself; and if I do so, I shall certainly blame no other Senator for it; but I appeal to them if it is possible they can have the information on this subject which must be in the possession of the President and the Secretary of War—especially in the possession of the Secretary of War, whose sole business, almost, it is, I repeat again, officially to look into our relations with the Indians?

No other war is apprehended. The whole military force is upon the frontier; and doubtless the Secretary keeps a close eye on the proceedings of the Indians, and of all others in that direction; and when he tells us, on his responsibility as Secretary, and when the President of the nation endorses his declaration, that there is imminent danger of outrages upon the frontier, and that the only means of providing against them—yes, sir, the *only* means of providing against them—is the volunteer force, shall we refuse to vote it? Why? Why, sir, upon the hypothesis, upon the bare supposition, that a volunteer force sent there will be more likely to bring on a war than anything which can occur. Sir, adopt the amendment, and the President will not send his volunteer force there to bring on a war; if he does, he will violate the law which will give the volunteer force. The amendment says that, to provide for any sudden emergency which may arise out of our relations with the Indian tribes, the President be authorized to accept the services of the volunteers. I take it for granted, then, that there must be, under the language of that amendment, a pre-existing emergency; hostilities must actually have commenced before he will be authorized to call out the force. He will not be authorized by it to call them out in anticipation of outrages.

But suppose that war shall commence; suppose that the forty thousand Indians west of the Mississippi—and that is the number stated by the Secretary of War to be there—shall, in any considerable numbers, combine to wage war upon our frontier during the long vacation of Congress, which is almost commencing, how is it to be checked by the slow process of recruiting, by the slow process of getting men into your Army for the period of five years? Why, sir, what amount of butchery, what amount of murder, what amount of rapine, may not be committed upon that frontier before you can put a military force there to protect it?

My venerable friend from Michigan [Mr. CASS] says it is utterly impossible to combine thirty thousand warriors; they could not subsist, they would need the means of support. So they would if they were all in one army, but that is not the mode of Indian fighting, if I understand it. They go out in small bands and attack a single settlement, lay it waste, and then retreat. I have no expectation that they are going to meet you in large numbers, in bodies of ten, fifteen, and twenty thousand, if they go to war with you at all; but in little bands, penetrating every point on the frontier.

But, as I remarked, I did not get up to make a speech on the subject, but simply to call attention to the fact that the amendment is as much necessary to carry out the recommendation of the Executive as was the amendment offered by the Senator from Illinois.

Mr. WELLER. I desire to suggest a verbal alteration in the amendment of my friend from Mississippi, which, I think, ought to be made. The amendment reads, "to meet any sudden emergency, growing out of our relations with the Indian tribes, the President is authorized," &c. I suggest to the Senator to add, "should he deem it necessary."

Mr. BROWN. I have no objection to that. I took it for granted that that was understood.

Mr. WELLER. Then I ask for another modification in the portion of the amendment where it reads, "the said volunteers to be armed and equipped to serve on horse or on foot, as the Secretary of War, with the concurrence of the President, may direct." I ask the Senator to strike out "concurrence," and insert "approbation."

Mr. BROWN. I have no objection to that, if so understood it. I did not suppose that he was to give orders on so important a matter as that without the concurrence of the President.

Mr. WELLER. Any one would suppose they were equal by that language.

Mr. BROWN. I have no objection to the modification.

Mr. CLAYTON. I differ with my friend from Mississippi with great regret, and I must say, before I give my vote upon this subject, that I have the highest respect for the distinguished gentleman who occupies the position of Secretary of War. I have reflected upon his recommendations, and I am disposed to comply with them, if I can; but the result of the examination which I have been able to bestow upon it is, that the best

proposition which we can adopt, under the existing circumstances, is the very one which has been proposed by the Senator from Illinois, and agreed to by the Senate.

Mr. President, we have an Army in no degree adapted to the necessities of the public service. We have eleven thousand men in the military service of a Government which has some twenty-five or thirty millions of people, and an extent of territory to be protected equal to that which Rome had in her palmiest days; and now, sir, upon this occasion, and upon every other occasion where Congress has been called upon to add to the military force of the country, it has sought to evade the great duty of increasing this right arm of the national defense under the pretext that the volunteers would serve.

Sir, I undertake to say, that if you adopt the system of volunteers now, you will adopt it in every exigency hereafter, and we never shall increase the Army of the United States to such a force as is suitable to the wants of the people, and adapted to the dignity and character of this Government. When you had some ten millions of people, you had a standing army of six thousand men. You have now from twenty-five to thirty millions of people, and but eleven thousand of an Army scattered over a surface, I had almost said, double that which you had when you had the six thousand.

My honorable friend from Mississippi presses upon us, at this time, the fact that the Secretary of War and the President have admonished us than an emergency has arisen requiring the volunteers. We are told, if I understand the document which has been read by the honorable Senator, that volunteers alone will do for this occasion. Now, sir, if there be any such pressing exigency, as my honorable friend from Mississippi seems to indicate there is, why does not the President or the Secretary of War detail troops from other parts of the United States, and send them upon the frontier to guard the people there? What is the use of the eleven thousand men? If they are apprised of some great outrage about to occur upon our frontiers, of which we know nothing here, it is the duty of the President, as commander-in-chief of the Army of the United States, to send the troops out—the eleven thousand—from any point where they are not wanted, to those posts where they can act with effect in defense of our infant settlements on the frontier.

Mr. PEARCE. I will state to the honorable Senator that the sixth regiment has been diverted from Oregon, which was its destination, for that purpose.

Mr. CLAYTON. Well, sir, if there is a necessity for it; if there is such an exigency as this; if there is such an emergency as we are told exists, why not send troops from every quarter of the United States, and let the whole eleven thousand go there? They are not wanted for any emergency anywhere else.

Mr. RUSK. All have been sent that can be spared, and more cannot be taken, except from places where they are absolutely needed.

Mr. CLAYTON. Well, sir, I cannot well see how it can be possible that troops enough cannot be detailed for that point, under the existing state of things; but if they cannot be, what is to be done? Shall we now, as we always have done heretofore, refuse to increase the Army of the United States, and resort to the system of volunteers again? Shall the day never come when the Congress of the United States will increase the Army to suit the exigencies and the necessity of the country? I say, sir, that I should not have hesitated at all, conscious that there has been a great defect in our legislation, to have voted for a much greater force than is proposed; but if that is all that can be done now, I shall be glad to give my vote in favor of this increase of the Army of the United States.

Mr. President, I think it was well remarked by a gentleman in the course of this debate, that volunteers, although there may be occasions when it is necessary to resort to that species of force, are a dangerous force, judging from all our past experience, when they are employed in a war with the Indians. The same gentleman said, in the course of this discussion, and I think it will be proved now, as it has been heretofore, that, if the volunteers are sent there they will believe they go for a fight, and a fight they will have before they come back. The regular troops of the United States, under the command of wise and experienced officers, men educated to the trade of war, and knowing their duty to keep the peace if it possibly can be kept, will prove a much superior, and cautious, and conservative police, and preserve the peace much better than the volunteers. I do not doubt that there is much desire on some portions of the frontier for a volunteer force. I am well acquainted with the feeling of our country. When danger approaches, it is almost irrepressible. Then, some always look to the end which inevitably attends the breaking out of one of those Indian wars, with their enormous expenditures of money. The Florida war cost some $40,000,000. Let us have another on the frontiers, and there are men now living who would rejoice more to have an opportunity of participating in the plunder that must necessarily come from such a war, than to have a chance to put their hands into the richest mines that California or Australia can produce.

Sir, all that is necessary for the defense of the country I am anxious to do; and I again repeat, in closing, that I shall rejoice if the Senate will now avail itself of the opportunity to increase permanently the Army of the United States.

Mr. RUSK. The recommendation of the President was sufficient for our friends on the other side to disregard the amendment of the Senator from Virginia. He was charged with being unfaithful to the Administration, because he offered an amendment which did not come up to the recommendation for four regiments of regulars. That was then sufficient; but now it seems that it is not sufficient. Here is the recommendation, the urgent recommendation of the Secretary of War, with most substantial reasons for it. He says that the Indians are embodying and threatening the frontier settlements; and he tells you that it is impossible, and every man knows it to be so, to recruit the regular regiments and get them there in time to meet the emergency. It is almost unnecessary to have mentioned this fact. The companies could not be properly filled up until next fall. All this time the people of the frontier will be in danger. We are told that the emergency is pressing—that the danger is to be apprehended in the spring; and the Indians will commit their depredations, because there is no force there to prevent them. There is scarcely a corporal's guard at our military stations, and they cannot be removed to the scene of danger. We are, then, asked for volunteers, because they can be raised immediately, and can be on the ground in the spring. This is the only kind of force that can be used immediately to stop the depredations of the Indians, and to prevent the war. The others cannot be used for six or eight months. These are sufficient reasons for the raising of the volunteers.

Mr. SHIELDS. The honorable Senator from Mississippi is perfectly consistent in the course he pursues, for he voted for the four regiments, and now he is willing to vote for the volunteers in addition; but the course of the Senator from Texas is utterly incomprehensible to me. Yesterday he said that two regiments and five hundred volunteers would be amply sufficient, in his opinion; and he looked upon the proposition for four regiments as an unnecessary expenditure. Now, sir, he seems to have changed his policy, and he insists that even four regiments are not sufficient. Perhaps he can reconcile that; I cannot.

Mr. RUSK. I stated that four regiments would be more than enough next fall, but the emergency is upon us, and we cannot raise and prepare them by the time when they will be needed for this emergency.

Mr. SHIELDS. Could the regiments proposed by the Senator from Virginia be raised any sooner than these four?

Mr. RUSK. If the Senator has read the amendment of the Senator from Virginia, he would have seen that it provides for five hundred rangers.

Mr. SHIELDS. The Executive could raise the four regiments proposed by my amendment as well as the two proposed by the Senator from Virginia. Then the only force that could be raised for the emergency, under the amendment of the Senator from Virginia, would be five hundred volunteers. I was alarmed at that proposition, because, while disposed to risk three thousand, I never would consent to send out five hundred, who would merely create an excitement, and provoke a war, but not be able to fight it out. To send five hundred rangers to guard the frontier, and to meet the emergency, would be a half measure, and a half measure is always worse than no measure.

The call of the Executive, I admit, was for three thousand volunteers, to supply what they termed an immediate emergency, and to take the place of that force which is contemplated to be raised by this bill. At that time, the Executive had no idea that we would append this to an appropriation bill, and get it through immediately, as we contemplate at this time.

There is another consideration. If the Executive appoints, as I trust he will, the right kind of officers, men who are acquainted with the condition of the country at this time, they can raise this force nearly as rapidly as they could raise the volunteers; but, independently of that, I have entered into an investigation with the Secretary of War on the subject, and he can accomplish his object without the volunteers if we give him the four regiments. As was stated by the honorable Senator from Maryland, he has sent the sixth regiment, which was intended for Oregon, to operate immediately in the district of country where the danger is apprehended, and will wait until he can send recruits to Oregon, where he can have them as well prepared as if they were prepared here. It is his intention, if the bill passes, to send recruits there, and let them be formed in that locality.

Again, there are between one thousand and two thousand men in what is called the eastern department of the United States, doing nothing but preserving our fortresses, our ammunition, and our magazines. These he can send off immediately, because he can supply their places with recruits the moment they are enlisted, so that he can make provision, if we give him the addition of four regiments, to be raised instantaneously, or as rapidly as possible, so to regulate the military force of the country as to meet any immediate, pressing emergency. That is his opinion, and in that opinion I heartily coincide; because, under this arrangement, I can see that he can send a thousand men from the eastern department. They are attending to our fortresses, and our magazines, it is true; but there is no danger there, and they can be abandoned, and left to the management of recruits as they are raised.

When the first proposition came forward for three thousand volunteers, does not every Senator bear me witness that there was an indisposition to raise volunteers, and that we had to choose between volunteers or regulars? I was not for volunteers, unless we could get regulars to follow and take their places. As stated by the honorable Senator from California, what they want are military posts more than anything else upon those lines. I have already stated that my opinion is that the Secretary of War, the moment he gets assurance of these four regiments, will so arrange the forces now in the west and in the east as to meet any emergency that may come upon us.

Mr. RUSK. Then he need not call out the three thousand volunteers if he does not find it necessary.

Mr. BROWN. There is no sort of inconsistency between the amendment proposed by myself, and which is now under consideration, and that which has been adopted on the motion of my friend from Illinois. His amendment provides for four regiments as a part of the permanent military establishment of the country. That we have already agreed to. What we ask for now are three thousand volunteers, to be employed, if the emergency shall require it, between now and the period when the four regiments shall be called into service. The three thousand volunteers are not to be any part of the regular Army.

Mr. SHIELDS. Will the honorable Senator permit me to ask him, in all seriousness, if he has the least idea that we can carry through four regiments and three thousand volunteers?

Mr. BROWN. I do not know why we should not. That is what the Government asks for. That is what we are assured is necessary for the defense of the country; and, judging from the experience of the past, I am to conclude that whatever the Government says is necessary for passing events, the Congress will vote. When majorities of the two Houses of Congress have been opposed to the existing Administration, they have not hesitated to vote the supplies necessary for the defense

of the country; and shall I be told that now, with an overwhelming majority in favor of the Administration in both branches of Congress, we shall refuse to vote those supplies? I think my friend from Illinois has not looked into this thing with that astuteness which he usually employs in the investigation of questions.

Every argument, every suggestion, which approaches my mind, tends to the conviction that Congress will, if the Administration stands up and insists that it is right we should do so, vote atl that is asked. Four regiments as a part of the permanent establishment are asked for, and it is eminently proper, in view of the eight thousand miles of exposed frontier. You are told in plain English that your present establishment, even if full, which it is not, would be insufficient for the defense of the frontier; and an additional force is asked. How much? Four regiments. My friend from Illinois proposed the four, and the Senate agreed to it. But, then, in addition to that, you are told that we want volunteers to meet an anticipated immediate emergency. The Government is evidently looking to an outbreak early in the spring. It says it has not a sufficient permanent force, and it cannot avail itself of the proposed increase of four regiments in time to meet the anticipated emergency. The amendment does not require the President to call out three thousand volunteers. It imposes no obligation upon him to do it. It simply authorizes him to do it, if it shall be necessary, and, of course, to disband them as soon as they cease to be useful. What does he ask?

"Should the proposed increase of the Army"—

says the Secretary of War—and, mark you, his communication is indorsed by the President—

"be authorized during the present session, it is hoped that the two additional regiments of cavalry may be organized, mounted, and put in position"—

to do what, sir?

"to relieve the volunteers some time during the summer or fall."

There you are plainly told that the two regiments of cavalry, provided for by the amendment of the Senator from Illinois, are to relieve the volunteers who are to be called out on a sudden emergency. Very properly the Secretary of War has concluded that he cannot avail himself of these regular troops in time to meet the emergency which he anticipates in the spring; and he asks for volunteers to supply the service until he can get the regular force into it. He tells you, in plain English, that as soon as he can organize the regiments, which you are now proposing to raise, he will send them to take the place of the volunteers; and my amendment proposes to authorize him to dismiss those volunteers whenever he chooses to do it. He cannot take them for a longer period than eighteen months; and he may discharge them when he pleases.

Now, sir, if I can get the attention of my friend from Delaware [Mr. CLAYTON] a moment—he, in common with other gentlemen, seems to anticipate that if you send volunteers into the country, you must necessarily have war. I do not anticipate that the volunteers are to be sent there until you do have war. There must be an actual, subsisting state of war, before the emergency arises which authorizes the calling out of the troops; but I repeat—for I take this to be a matter of vast importance to the country, one which the Senate ought well to consider—if the Secretary is right in his anticipation that the Indians are going to commence hostilities very early in the spring, and that the only way of meeting them is to call out volunteers, shall you not put that sort of force at his disposition which he asks for, in order to meet the emergency? My friend from Texas tells you that you cannot organize these regiments until the fall. Suppose war breaks out in the spring—then what? Are the Indians to go unchecked through the whole summer, until you can organize the regular regiments which are to constitute a part of the military establishment of the country? That is what the volunteers are asked for. If no emergency arises, the President will not call them out.

Mr. SHIELDS. I have already said that the Secretary of War stated that he could not organize and discipline the regiments until the fall; but I have also stated the mode by which he could accomplish the object without them, by taking the troops already disciplined for an emergency, and supplying their places with recruits, and disciplining those recruits at the same time. But, Mr. President, I will state to the honorable Senator, does he not know that if we go on debating the proposition, we shall neither get volunteers nor regulars this session?

Mr. BROWN. Very well; if it is the sense of the Senate to take a vote, I have not another word to say. I ask for the yeas and nays upon my amendment without debating it a single inch further.

The yeas and nays were ordered.

Mr. HUNTER. If the rule by which we are to be guided is the Executive recommendation, and the recommendation of the Secretary of War, undoubtedly the Senator from Mississippi is right, because he called for both regulars and volunteers; and I understood the Senator from Illinois, when he introduced his proposition for volunteers, to say, that it was essential, because the regulars could not be raised in time. Surely, that is the purport of the letter of the Secretary of War; and not only that, but I understand the Secretary of War to say that the emergency could not be met now by regulars alone, but that a certain volunteer force was necessary; and it was for that reason that I agreed to incorporate five hundred volunteers in the amendment which I proposed. If it could have been met as well by regulars as by volunteers, I preferred the regular force, and I should not have proposed to raise volunteers; but I distinctly understood that, in order to meet the emergency, in the mean time, there was a necessity for a certain volunteer force. I was willing to give what my amendment proposed. I was not willing to give three thousand volunteers, and shall not vote for them; neither am I willing to vote four regiments of regulars.

Mr. HOUSTON. I had hoped, sir, that I was done with this subject. The honorable Senator from Mississippi [Mr. BROWN] alluded to a remark that escaped from me in the course of the debate about recording the edicts of the Executive here. That remark was drawn from me by one which was made by the honorable chairman of the Committee on Military Affairs. I did remark that we are here for other purposes, and that I should exercise the liberty of judging for myself, and of deliberating upon the best information that was furnished me. It was insisted, that because the increase of the Army was recommended by the Secretary of War, and had been brought forward for three successive sessions and not adopted by Congress, it ought to be agreed to at this time. He alleged, as an arrangement in support of the position of the Secretary of War, that it would have prevented the destruction and massacre of some of our troops. Now, sir, I deny that. If we had all the troops in the United States, the improper conduct of the military would have rendered them obnoxious to the same disaster that befell these others; so that numbers would not have averted that; and no massacre has taken place within that time from any omission to increase the regular or volunteer forces of the country. If aggressions have been committed, they were by the whites. The killing of a cow is not making war. We are are asked, what we are to do? These troops must be there in the event of a war. If there is authority to call out the volunteers, they will be sure to be called out. There must be a display made. When the step is taken, it indicates a disposition of strong military force. Whatever may be the necessity under any other state of facts, it is not very clear in this. Let three commissioners be sent forthwith, with the intelligence preceding them that they are going there for the purpose of an interview to make peace, that they have presents for the Indians, and that they will require them to make certain concessions, such as the surrender of the violators of law and friendly intercourse; and, my word for it, you will need no troops there. The one hundredth part of what it would take to sustain the war, or military display, that is contemplated, will make peace with all the Indians, and give security to our frontiers, whereas the force that is contemplated will only produce a general war.

There has been no disposition on the part of the Indians, until provoked, to commit aggressions on the whites, or to retaliate. All their acts have been acts of retaliation, not aggression, unless you say that killing an animal is a declaration of war, when the chiefs have subsequently come in, and said, "Make peace, and we will surrender the offenders." If commissioners are sent, you will have no war; but if volunteers, or a military force are sent, they must distinguish themselves. A bloodless campaign for Americans on the frontier, and without wreaking vengeance on the Indians, is a thing unheard of. Then, sir, send the commissioners with only the force necessary to protect them, and they will make peace, and it will be kept.

Mr. FITZPATRICK. Under other circumstances I should have no objection to the amendment of the honorable Senator from Mississippi, but should vote, with great pleasure, for it; but I shall do as I stated I would in the remarks which I have had the honor to make on this subject. The amendment providing for four regiments has been adopted by the Senate. As that is probably all we can accomplish, I shall vote against the amendment of the Senator from Mississippi. I desire to secure all we can.

Mr. BROWN. Then I will ask my friend from Alabama a question.

Several SENATORS. "Oh no; let us take a vote!"

Mr. BROWN. No, I will ask the question of my friend from Alabama: Does he mean, by that, to imply that there is a want of patriotism in the other House of Congress, and that, if a thing is necessary for the national defense, it will not be voted?

Mr. FITZPATRICK. By no means. I would not cast such an imputation upon either branch of Congress; but I believe the deliberate judgment of a majority of Congress is not disposed to go further than the four regiments.

The question being taken by yeas and nays on Mr. BROWN's amendment, resulted—ayes 13, noes 35, as follows:

YEAS—Messrs. Atchison, Brodhead, Brown, Dawson, Dodge of Wisconsin, Dodge of Iowa, Geyer, Jones of Iowa, Jones of Tennessee, Mallory, Morton, Rusk, and Weller—13.

NAYS—Messrs. Allen, Badger, Bell, Benjamin, Brainerd, Bright, Butler, Cass, Chase, Clay, Clayton, Evans, Fessenden, Fish, Fitzpatrick, Foot, Gillette, Houston, Hunter, James, Johnson, Mason, Pearce, Petit, Reid, Rockwell, Seward, Shields, Slidell, Stuart, Sumner, Thomson of New Jersey, Toucey, Wade, and Wright—35.

So it was rejected.

Mr. SHIELDS. I offer the following amendment, to carry into effect the provisions, which has been agreed to:

SEC. —. *And be it further enacted*, That, to enable the President of the United States to carry into effect the provisions of so much of this act as relates to the employment of an additional military force, such sum of money as may be necessary, be, and the same hereby is, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. HUNTER. That is an unlimited appropriation. He may spend millions under it; he may pay the troops a hnndred dollars a month each man.

Mr. CLAYTON. I shall be very glad to vote for the necessary appropriation; but I cannot vote for an unlimited amount. There must be some limit.

Mr. SHIELDS. Of course there must be some money appropriated to carry out this enactment. The sum proposed for raising three thousand volunteers was $5,000,000. No such sum will be necessary to carry this out; and, besides, the law determines the amount which is necessary in this case, although I have not had time to calculate it.

Mr. CLAYTON. I trust to the Senator to modify his amendment, so as to say that the appropriation shall not exceed one or two millions. There must be some limit.

Mr. SHIELDS. I will say, "not exceeding $1,000,000." If Senators will agree to this, I will so modify it.

Mr. HUNTER. Does the Senator propose to put four regiments into the field at one million of dollars?

Mr. SHIELDS. For the present year.

Mr. CASS. I should like to hear the amendment read.

The Secretary read as follows:

SEC. — *Be it further enacted*, That, to enable the President of the United States to carry into effect the provision of so much of this act as relates to the employment of an additional military force, such sum of money, not exceeding —— dollars, as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated.

Mr. SHIELDS. I will insert $1,000,000.

Mr. WELLER. I move to fill the blank with $3,000,000.

Mr. PEARCE. The estimate of the Department, which I read the other day, showed that $2,186,000 would be sufficient for the organization and maintenance of this force for one year. If that amount be put in the amendment, it will meet exactly the estimate of the Department.

Mr. HUNTER. I will ask the Senator from Maryland how many men are proposed to be in a regiment under that estimate?

Mr. PEARCE. They were to be in companies of sixty-four. Between seven and eight hundred in a regiment,

The PRESIDENT. Two sums are named with which to fill the blank; the question will first be put on the largest amount, $3,000,000.

On a division, there were—ayes 22, noes 22.

The PRESIDENT. The Chair votes in the negative.

Mr. WELLER. I move to fill the blank by making the sum $2,500,000.

Mr. PEARCE. I move to fill the blank with $2,168,000, which is the estimate of the Department.

Mr. WELLER. That estimate is based upon the assumption that each company will consist of sixty-four men; but that is the minimum. If it is found necessary to make full companies, as a matter of course it will be necessary to spend more money. I take it for granted, however, that the money is not to be expended unless the public service demands it. Therefore, to bring it within limits, I propose to insert $2,500,000.

Mr. WELLER's motion was agreed to; and the amendment as amended was agreed to.

Mr. SHIELDS. I now renew the amendment in regard to the appointment of the three commissioners, and shall not say a word about it. It is as follows:

SEC. —. *And be it further enacted*, That the President is hereby authorized to appoint three suitable persons as commissioners to proceed to the Indian country to enter into negotiations, and to conclude treaties of amity, with such Indian tribes as may be disposed to preserve friendly relations with the United States, and to extend to such tribes the most positive assurances of protection and security, so long as they strictly adhere to their treaty obligations. Such commissioners shall report to the President, and to such military commanders as he shall direct, the names of the several tribes who may thus be entitled to protection and security; and also such tribes as continue refractory, refuse to enter into amicable negotiations, and who persist in maintaining an attitude of hostility to the United States. And said commissioners shall be paid out of any money in the Treasury, not otherwise appropriated, the same per diem allowance and mileage allowed to members of Congress during the time of service of said commission.

Mr. BADGER called for the yeas and nays; and they were ordered.

Mr. ATCHISON. I am willing to vote for that amendment if this proviso be added to it:

Provided, That such commissioners shall be appointed from the Indian department.

Mr. BADGER. That is according to existing laws.

Mr. ATCHISON. Yes, sir.

Mr. WELLER. This proposition, I believe, was passed upon by the Committee on Military Affairs, upon the assumption that the Senate would agree to give the President three thousand volunteers. It was with a great deal of reluctance that the committee finally agreed to give the volunteer force to the President.

Some of us entertained the opinion that it was not the best sort of force to quell the disturbances which have recently arisen upon the frontier; but if we were to give the three thousand volunteers, we insisted upon it that there should be commissioners to go along with them, or in advance of them, in order to satisfy the Indians that our only object was peace; that first we should offer them the olive branch; that that should be tendered through the commissioners, and then, if we could not obtain peace, by quiet means, we would resort to force; so that, as I have said, we originally agreed to the appointment of the commissioners upon the presumption that we were to have the three thousand volunteers, and the Senate having already decided that it will not give the volunteers, I shall certainly vote against the amendment.

Mr. ATCHISON. I withdraw the amendment which I proposed, and I do it for this reason: Under the existing laws the President of the United States now has the right to appoint one or more commissioners from the Indian department for any purpose of negotiation or otherwise, connected with the Indians. If the amendment which I have proposed should be adopted, it will give the Commissioner of Indian Affairs, or Indian agents, the appointment for this duty. As proposed by the Senator from Illinois, it will give the pay of a member of Congress, which is eight dollars a day, and mileage at forty cents a mile, for traveling, perhaps, ten or twenty thousand miles, and there is no telling where their travels would end at that rate. I trust the proposition will be voted down.

Mr. SHIELDS. The honorable Senator from California [Mr. WELLER] has stated correctly the reason for recommending the appointment of three commissioners. It was supposed that it would be necessary to authorize the President to select three men well qualified for this duty; that necessity, however, does not exist now. I presented the amendment, because I felt it to be my duty to do so; but as I find there is objection to it, I ask leave to withdraw it.

The PRESIDENT. The yeas and nays having been ordered on that amendment, it cannot be withdrawn except by the unanimous consent of the Senate.

There being no objection, the amendment was withdrawn.

Mr. SHIELDS. I now propose an amendment, which I feel it to be my duty to propose, as it is recommended by the Department, and the measure has been agreed to by the Committee on Military Affairs. The amendment is, the bill to provide for an increase of the pay of the officers of the Army, and for a retired list. I do not wish to make a speech on the subject. I present the amendment in accordance with what I deem to be my duty, and ask for a vote upon it.

The PRESIDENT. The amendment will be read.

Mr. MASON. The Senator has stated the contents of the amendment; that it is to increase the pay of the officers of the Army, and make provision for a retired list. It is unnecessary to read it, for we all understand it.

The PRESIDENT. The reading of the amendment will be dispensed with, unless some Senator desires it.

Mr. HUNTER. Mr. President, it seems to be the purpose of the chairman of the Committee on Military Affairs, to force upon the Army appropriation bill all the general legislation which his committee proposes. We are not only to organize a force for an Indian war, and provide for the increase of the Army, but we are called upon to place on this bill, all the other measures which he has reported for the general regulation of the Army. Now, sir, I ask, if there is not, in point of propriety, some limit to the license which the Senate have taken to load the general appropriation bills with independent measures? Have we a right to say to the House of Representatives, "you must either adopt our opinions in regard to new matters of legislation, or else lose the appropriation bills?" And will not this habit of legislation end in precisely that result? It does seem to me that the Senator from Illinois has succeeded in putting upon this bill certainly as much as it can carry; and the chances are, that if we go on, and place upon it all the measures which he has reported from the Committee on Military Affairs, in regard to the general organization of the Army, changes in the staff, and a retired list, we shall run the risk of losing the bill, or engaging in a contest with the House, which would not be very profitable.

The PRESIDENT. Does the Senator from Virginia raise the point of order whether this amendment can be received under the rules?

Mr. HUNTER. I cannot raise the point of order, because I understand that the amendment comes from the Committee on Military Affairs.

Mr. SHIELDS. The honorable Senator from Virginia is laboring under one mistake. The amendment which I have now proposed to this bill is not for the general reorganization of the Army. I will state what it is. It will be recollected that, at the last session of Congress, a bill was passed increasing the pay of the rank and file of the Army; but the pay of the officers was left untouched. I think that is not the proper way to act in regard to such a corps—separate one portion from another in the increase of pay. The scale of pay which I now propose has been prepared by the Department.

Mr. HUNTER. I wish to ask the Senator from Illinois whether this provision was not put on the Army appropriation bill at the last session, and did it not keep a committee of conference out for six hours, and were not the Senate finally compelled to abandon the proposition, or else lose the bill?

Mr. SHIELDS. I did not happen to be here at the close of the last session. If I had been here, I should certainly have insisted on increasing the pay of the officers of the Army.

Mr. HUNTER. The Senator from California [Mr. WELLER] was on that committee of conference, and will remember the circumstance.

Mr. SHIELDS. My honorable friend from California acted in my place as chairman of the Committee on Military Affairs at the last session, and no doubt he did all he could to obtain an increase of pay for the officers.

Mr. WELLER. By order of the Committee on Military Affairs, I had this provision inserted in the Army appropriation bill of last session, but the House refused to agree to it. A committee of conference was appointed. I was upon that committee. You, Mr. President, were also upon that committee; and you will remember that, after much struggle and labor, we were compelled to abandon our amendment. The reason urged for the abandonment was, that the House would never agree to it as an amendment to an appropriation bill.

Mr. SHIELDS. I do not wish to waste the time of the Senate; but I will take occasion to say a word or two, in order to call the attention of the Senate to the present state of affairs. Why, sir, a lieutenant in your Army does not receive as much pay as one of the little boys who act as our pages. Seven hundred and seventy-nine dollars a year includes all the pay and allowances of every kind of a lieutenant. We propose to give him $1,000. Is not that little enough for an officer? The messengers of this body get more than that. I have heard honorable Senators say that they cannot live on their present pay, and surely no one can imagine that the pay of our Army officers is sufficient. I have presented a scale presented by the Department, making a very small increase in their pay. I hope the Senate will adopt it. If the House choose to reject it, it will be their act, for which we shall not be responsible.

Mr. CASS. I concur with my honorable friend from Illinois in both the propositions which he has incorporated into this amendment, and I should vote for them as separate measures; but I advise him not to press them on this bill. I am in favor of creating a retired list, and I am for increasing the pay, because I think it is too small; but I fear those propositions will be injured by being attached to this bill. I should cheerfully vote for them on their own merits.

Mr. RUSK. I am in favor of both branches of the amendment as separate measures, standing on their own merits, but I cannot vote for adding them to a general appropriation bill, because I am very sure that the result will be to defeat them, and hazard the bill. The Senator from Illinois has on the table, separate bills to provide for these objects. Why not call up those bills and act on them? Suppose we should add this amendment to the bill, and it should be rejected by the House of Representatives, we shall end just where we begin, and not accomplish the object. I think the better plan would be to pass the separate bills which the Senator has reported.

Mr. WELLER. I desire to ask my honorable friend from Illinois, if he understands that the Committee on Military Affairs instructed him to offer this measure as an amendment to the appropriation bill? The committee agreed to separate bills to accomplish the object.

Mr. SHIELDS. The committee did not instruct me to present the amendment.

Mr. HUNTER. Then I raise the point that it is not in order.

The PRESIDENT. It is clearly out of order, unless it comes from one of the standing committees.

Mr. SHIELDS. It has come from one of the standing committees, though not in this precise form. In my humble opinion the amendment is in order. I find, however, that my friends think it would be injurious to insist upon it; and although I think it is an act of justice to the Army, I shall accept the advice of my friends, and withdraw

the amendment. I shall endeavor to accomplish the object in a separate bill.

Mr. JONES, of Iowa. I offer the following amendment, to come in at the end of the appropriations contained in the bill:

To complete the road from Point Douglas, on the Mississippi river, to the mouth of the St. Louis river of Lake Superior, in Wisconsin, $34,213 50.

To complete the road from Point Douglas to Fort Gauiro, now Fort Ripley, $13,494 09.

To complete the road from Swan river to the Winnebago agency, $2,535 39.

To complete the road from Wabashaw to Mendota, $13,171 76.

The said roads to be completed under the direction of the Secretary of War.

To complete the road from Mendota to the Big Sioux river, $27,475.

I have offered this amendment, Mr. President, by direction of the Committee on Territories. It was also submitted to the Committee on Military Affairs, and approved by them. I hold in my hand the estimates made by the Secretary of War and the Chief of the Engineer Corps, for this purpose. The appropriations are to complete roads which are half finished in the Territory of Minnesota, for which half the necessary appropriation was made at the last session.

Mr. WELLER. I wish to ask the Senator from Iowa whether these appropriations are recommended by the Secretary of War?

Mr. JONES, of Iowa. Yes, sir; I hold his recommendation in my hand.

Mr. WELLER. Is there a recommendation as well as an estimate?

Mr. JONES, of Iowa. Both.

Mr. CASS. Are these roads exclusively within the Territory of Minnesota?

Mr. JONES, of Iowa. Yes, sir; they are military roads, altogether within that Territory.

The amendment was agreed to.

The PRESIDENT. If no further amendment be proposed, the bill will be reported to the Senate.

Mr. HUNTER. When the bill shall be reported to the Senate, and the question taken on concurring in the amendments made as in Committee of the Whole, I wish to have a separate vote taken on some amendments which have been put on by the Committee on Military Affairs. One is, in regard to the superintendent of the arsenal at Rome, New York, by which they propose to give him twenty dollars a month for acting as commissary to himself, because I understand there is nobody there but himself. I wish also to have a separate vote on the amendment which proposes to allow a military commission to sit in California.

Mr. BELL. I wish to ask the honorable Senator from Virginia, whether there is any provision in this bill regulating the description of arms the President is authorized to buy or have manufactured, with the annual appropriation of $200,000 for that purpose?

Mr. HUNTER. There is nothing in this bill regulating it.

Mr. BELL. Ought he not to have authority to purchase the best and most approved description of arms?

Mr. HUNTER. He has that authority now. Such things have been left to his discretion under the existing law.

Mr. CASS. The honorable Senator from Tennessee will recollect that the President has full control to issue, through the proper officer, orders on the subject.

Mr. SHIELDS. My honorable friend from Connecticut [Mr. TOUCEY] was not present the other day when I offered an amendment to change the direction of the appropriation, made at the last session, for the purchase of breech-loading rifles. I understand that the Committee on Military Affairs, at the last session,—I was absent at the time,—recommended that appropriation. The amendment which I proposed was to change it. I wish now to withdraw that amendment, as I do not desire to undo what the committee has done.

The PRESIDENT. The amendment cannot be withdrawn, as it has been already adopted; but when the bill shall be reported to the Senate, the Senator can ask that it be non-concurred in.

Mr. SHIELDS. That will answer my purpose.

Mr. GWIN. An amendment has been adopted giving additional compensation to officers and soldiers who served at Fort Laramie at the close of the Mexican war. I move to amend that amendment by adding to it the following:

And the provisions of the first section of the act approved March 3, 1853, granting additional compensation to the officers, non commissioned officers, and privates of the marine corps, and to the officers and men of the revenue service serving on the Pacific coast, in California and Oregon, during the war with Mexico, be also extended to the officers, non-commissioned officers, musicians, and privates of the regular Army, who served in California and Oregon during the same period; and that the amount which may be found due to them under this act shall be paid out of any money in the Treasury not otherwise appropriated: *Provided*, That where persons entitled under the foregoing provision may have died, such additional compensation shall be paid to their legal representatives.

I ask the attention of the Senate, for a few moments, while I explain the amendment.

The PRESIDENT. Is it recommended by a committee of this body?

Mr. GWIN. It is an amendment to an amendment reported by a committee. The amendment of the committee was to grant increased compensation to one portion of the Army; mine is to grant it to another.

Mr. HUNTER. That came from a committee; this comes from no committee.

Mr. GWIN. It is not necessary that my amendment should come from a committee.

Mr. HUNTER. It is not in order, unless it comes from a committee, or is recommended by the head of a Department.

Mr. GWIN. The amendment which I propose is an amendment to a proposition from the Committee on Military Affairs, to give increased compensation.

Mr. HUNTER. I raise the question of order. Is this amendment in order?

The PRESIDENT. As it is not reported by a committee of the Senate, the Chair thinks it is not in order.

Mr. GWIN. What, sir! Is it not in order to add this amendment to the one which was offered by the Committee on Military Affairs, in relation to the troops at Fort Laramie? Let that amendment be read.

Mr. STUART. There can be no use in taking up time on this question. When that amendment of the Committee on Military Affairs was under consideration it would have been competent for the Senator from California to offer his proposition; but if he presents it now, it is as a distinct amendment, to which the rule applies.

Mr. GWIN. When that amendment of the committee was under consideration, I stated that, at the proper time, I should move this addition to it. I have now presented it. I hope I shall not be ruled out of order. Let the amendment of the committee, which was adopted, be read.

The Secretary read it, as follows:

SEC. 5. *And be it further enacted*, That the provisions of the first section of the act entitled "An act making appropriations for the support of the Army for the year ending the 30th of June, 1851," approved September 28, 1850, granting extra pay to the officers and enlisted men of the Army serving in Oregon and California, be extended to the officers and men composing the garrison of the post of Fort Laramie, on the Oregon route, for the same period of time as was allowed by the sixth section of the act of the 3d of March, 1853, to the officers and men of the companies of the regiment of mounted riflemen that garrisoned Fort Laramie; and that the provisions of the same section of the same act be also extended to the officers and men composing the escort to the Mexican boundary commission, while they were serving as such escort.

Mr. GWIN. That is an amendment granting additional compensation. I have moved to amend it, so as to include others in that increase. That is the simple proposition.

The PRESIDENT. The Chair will submit the question to the Senate whether the amendment be in order or not.

Mr. WELLER. I understand that the proposition of my colleague is simply to extend the provisions of the amendment which has been read to another class of soldiers, who served under the same circumstances in a different place. It seems to me, therefore, that it is in order.

Mr. HUNTER. I think not. It is an amendment which is offered. It matters not whether it be an amendment to an amendment, or an amendment to the bill—it is an amendment, and, to be in order, it must either be reported by a committee, or be recommended by a Department.

Mr. GWIN. I stated at the time when the original amendment was presented, that I should offer this amendment to it at the proper time. I trust the Senate will not rule it out of order.

The PRESIDENT put the question to the Senate, whether the amendment was in order, and it was decided in the negative. So the amendment was not received.

The bill was reported to the Senate as amended.

The PRESIDENT. The question is on concurring in the amendments which have been made by the Senate as in Committee of the Whole.

Mr. HUNTER. Let me suggest that the best course would be to take the sense of the Senate on all the amendments except those which may be reserved at the desire of Senators. I have already designated two on which I desire a separate vote.

The PRESIDENT. Senators will please state what amendments they wish to have excepted.

Mr. GWIN. I wish to except the amendment in regard to the troops at Fort Laramie, which was read a few minutes ago.

Mr. JOHNSON. I desire to have the amendment adopted on the motion of the Senator from Tennessee [Mr. JONES] excepted.

Mr. HUNTER. I have designated two which I desire should be reserved.

Mr. SHIELDS. I wish that the amendment in relation to the appropriation for the purchase of breech-loading rifles may be excepted.

The PRESIDENT. The question now is on concurring in all the amendments except those which have been reserved at the request of the Senators from Virginia, California, and Illinois.

The amendments, with these exceptions, were concurred in.

The PRESIDENT. The question will now be taken on the excepted amendments in their order. The first of them is the following:

SEC. —. *And be it further enacted*, That the board of officers appointed under the sixth section of the act "making appropriations for the support of the Army for the year ending the 30th of June, 1853," approved August 31, 1852, is hereby authorized and directed, in addition to the powers and duties already conferred upon it, to extend its examinations to claims arising from the destruction of property by the troops serving under the command of Lieutenant Colonel John C. Frémont, in California, in the years 1846 and 1847, by his orders, as well as for the destruction of property by the enemy, caused by the occupation of the claimant's premises by the said United States troops. That the said board is empowered to summon and examine witnesses under oath, and take testimony, if necessary, in California and elsewhere. That for the payment of the claims reported favorably upon by the board, in its report to the Secretary of War, dated the 5th of December, 1854, (Executive document 8, Thirty-Third Congress, second session,) including that numbered 197, being the claim of Santiago E. Arguéllo, and amounting to $11,584, and for the compensation of the members of said board for and during their period of service as such, at a rate not exceeding $3,000 per annum each, deducting therefrom their Army pay, the sum of $40,548 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated. And the Secretary of the Treasury is hereby authorized and directed to pay to the treasurer of said board, out of any money in the Treasury not otherwise appropriated, the sum of $10,000 for the contingent expenses of the said board, including therein office rent and clerk hire, stationery, fuel, the payment of witnesses' fees duly summoned by the board, at a rate not exceeding those paid by the United States district court in California, or elsewhere, as the case may be, the traveling expenses of said board, not exceeding sixteen cents per mile to each member, and other incidental expenses.

Mr. HUNTER. I understand that the Department has objected to such employment of military officers. Indeed it seems to me that it would be manifestly much better to employ civilians. I also learn that this board probably require some limitation of their jurisdiction. They confine themselves to ascertaining damages, and there are cases in which damages have been ascertained, and perhaps allowed, in favor of Mexicans, when they were at war with us, before the acquisition of that country. It seems to me, under all the circumstances, that we had better not extend this commission, until some bill is brought forward, with proper guards, designating the class of cases over which they are to have jurisdiction, and what they shall allow and what refuse. At any rate, objection has been raised to employing officers of the Army in this service.

Mr. WELLER. I believe that when this board was originally organized, the Senators from California on this floor protested against the employment of military officers. They preferred the employment of civilians; but it was understood then that the Department of War insisted that it should be a military commission. We acquiesced in that. It is said that the War Department has since changed its opinion—but of that I have no other knowledge than the information which has just been given us by the Senator from Virginia. In regard to the other point, we desire, as a matter of course, that whatever limitation the public interests demand, should be imposed. If

there have been any claims passed on by the board for the destruction of property belonging to the public enemy, I have no knowledge of it. The Committee on Military Affairs have taken the trouble to look over the record kept by the board, and, so far as they have passed upon the claims, the committee think their awards are fully sustained by the testimony.

This amendment proposes to allow the board of commissioners to sit in California for the purpose of taking testimony. I am perfectly satisfied that, if you desire to protect the public Treasury, if you desire to prevent the allowance of fraudulent claims, the only way to do it, is to enable testimony to be taken in the State of California. If I looked only to the amount of money which claimants in my State were to receive from the Treasury, I should be disposed to continue the sessions of the board here, and not allow them to go to California; for I know that, if they do go to that State, they will find respectable witnesses who will prove that fraudulent claims have been presented. If the commissioners are compelled to pass upon those claims on the *ex parte* testimony which has been sent here, in my judgment thousands of dollars will be taken from the public Treasury which do not justly belong to the claimants.

Mr. SHIELDS. I have very little to add to what has been stated by the honorable Senator from California. This commission was appointed by the War Department under a law requiring that officers of the Army should be appointed. They have proceeded with the investigation; they have allowed certain claims, which have been paid; they have disallowed others; and have suspended others for want of testimony. That testimony they cannot obtain in Washington. We wish to give them power to go to California for that purpose. As the Senator from California has stated, the object is to protect the Treasury. There are no men who could now continue the investigation as well as the officers who have begun it. They understand it, for they have been employed upon it for two years. If they are permitted to go to California, they can close the whole matter in a few months.

Mr. WELLER. I only desire to state further, that I do not know of a single one of these claimants who has desired or requested me to use my influence for the purpose of having the commission sent to California. I do not suppose they desire any such thing, but, as the Senator from Illinois has said, it is necessary to protect the public Treasury.

Mr. SHIELDS. As the honorable Senator from California has stated, the provision does not refer to claims of Mexicans, but to claims of our own citizens.

Mr. GWIN. The proposition of the Senator from Virginia would destroy all hope of having these claims closed, because no civil commissioners can be appointed now. At this late period of the session we can do nothing in a separate bill upon the subject, and, therefore, the proposition of the Senator from Virginia would amount to a postponement for more than a year of any further examination of the claims.

I wish the Senate to bear in mind that more than seven years ago the honorable Senator from Michigan, [Mr. CASS,] when he was chairman of the Committee on Military Affairs, reported a bill for the payment of these claims; but there has been such a conflict between the two Houses as to lead to the failure of all such propositions, so that to this day the claims have never been examined in California, which is the proper place for their examination. Aside from that, these commissioners are limited in their powers. They have to report their proceedings to Congress, and not a dollar awarded by them can be paid until we make an appropriation.

The object of this provision is to collect testimony now which will enable the claims to be disposed of at once. We well know that these claims will not die. The Senator from Delaware [Mr. CLAYTON] has been urging us to consider a bill to provide for claims more than fifty years old. We should bear such facts in mind. If these claims be left unsettled, they will not die, nor will they diminish in amount with the lapse of years. The question is, whether we shall settle them now. They have been before Congress for seven years, and are still unsettled. If we send the board to California, I have no doubt the claims will all be disposed of within twelve months.

The amendment was concurred in.

The next amendment, on which a separate vote was asked, was the following:

SEC. —. *And be it further enacted*, That the military storekeeper at Rome arsenal, New York, be allowed, from the 1st day of October, 1842, the same compensation as is authorized by the act of the 23d of August, 1842, to be paid to the store-keepers at the Washington, Pittsburg, and Watervleit arsenals, and that there be paid to military storekeeper J. S. A. Beale, twenty dollars a month for and during the time he has performed the duties of commissary and assistant commissary of subsistence, and quartermaster.

Mr. HUNTER. I understand that this provision puts a comparatively unimportant post on a level with others of great importance; and it proposes to pay a man for acting as commissary to himself, for I believe there is no one else at the place.

Mr. SHIELDS. I really forget the circumstances of the case, but I believe the allowance was recommended by the Department.

Mr. HUNTER. The Senator is mistaken about that, for I received my information from the Department.

Mr. SHIELDS. Then I hope the amendment will be rejected.

The amendment was non-concurred in.

The next amendment, on which a separate vote was asked, was to insert:

SEC. —. *And be it further enacted*, That the appropriation of $90,000 made by the Army appropriation bill of 1854, for the purchase of breech-loading rifles, shall be applied, if the Secretary of War shall deem any application of the same necessary to the service, to the purchase or manufacture of rifles or muskets of the best and most approved quality.

Mr. WELLER. I suppose the chairman of the Committee on Military Affairs will withdraw that amendment, as it was not authorized by the committee, and, therefore, was not properly in order in the first instance. The Senator from Illinois seemed to have misunderstood the committee or the committeee misunderstood him. The committee certainly did not intend to authorize this amendment to be offered.

Mr. SHIELDS. My object was to give the Secretary of War an opportunity to avail himself of the experience which the war in the East is now affording in relation to fire-arms. As the amendment was presented under a misunderstanding, I ask leave to withdraw it.

The PRESIDENT. It is not in the power of the Senator to withdraw it at this stage of the proceedings. The Senate can refuse to concur in it.

Mr. CASS. I am sorry the honorable Senator does not propose to repeal the appropriation referred to in the amendment. We do not want $90,000 worth of rifles. The Secretary of War now has full power to apply any portion of the appropriation for ordnance to the purchase of rifles.

Mr. SHIELDS. I understood the committee were willing to agree to that; but as this appropriation was made at the last session, we felt some difficulty as to the power to repeal it now. The honorable Senator, I think, is right in supposing that it was not necessary in the first place, but it was passed last year, and I have no wish, at this time, so disturb it.

Mr. TOUCEY. The appropriation referred to is one which was passed at the last session by a very large vote of both Houses. I understand that the chairman of the Committee on Military Affairs acquiesces in the rejection of the pending amendment, the object of which is to interfere with that appropriation, it having been presented under a misapprehension. That appropriation was made for the purpose of purchasing promptly the best arm that is now in existence—Sharp's rifle—an arm that will double or treble the efficiency of any corps proper to use it. I understand that military men generally are in favor of action by the Department, for the purpose of adopting that rifle. Sure am I, sir, that if that rifle were adopted by the two regiments of cavalry and the five hundred volunteers, authorized to be raised by the proposition of the Senator from Virginia, [Mr. HUNTER,] they would be a much more efficient force than the four regiments proposed to be raised by the Senator from Illinois, [Mr. SHIELDS.] I hope the amendment now pending will be rejected, as it was presented under a misapprehension.

Mr. CASS. I have gone over this subject so often that I dislike to say anything more upon it. But, sir, let me say to the honorable Senator from Connecticut, that the Secretary of War, now has full authority under the appropriations for the ordnance department to purchase what species of arms he pleases. There is no restriction whatever on his power. When A comes here from one quarter of the Union and presses the adoption of one arm, and B from another quarter presses another one, and C presses something else, these pressures should be resisted. The question is, whether you want these arms. I have repeatedly stated that you have an immense accumulation of arms, such as no other Government on the face of the earth has got; and, from day to day they are ruining in your arsenals. From time to time the Government has a sale of useless arms, and an immense quantity are sold for little or nothing. Perhaps the chairman of the committee can say how many we have sold for a dollar a piece within a short time. So we go on making arms this year, and selling them next year.

There is nothing in the condition of the country requiring that we should have any additional arms at present. A great experiment is going on in Europe which will teach us much in regard to the efficiency of different arms. The arm of to-day may be proved worthless to-morrow. You should not act on the statements of inventors. There never was a man who proposed anything new, from the first invention to the last, who did not believe his to be the best invention in the world, and just as practicable as anything else could be. Those men come here and try to induce us to make such appropriations as these, but, I say again, you had better keep the money in the Treasury, and when it is necessary to increase your stock of arms, do so judiciously. As I have said, on another occasion, there are now in the arsenals of the United States more small arms than Napoleon had when he commenced his great campaign against Moscow.

Mr. TOUCEY. I concur in much that the distinguished Senator from Michigan has given utterance to, but in one thing I do not concur. The arms which are in our arsenals now, are those that are behind the times in which we live. The Government does not keep up with the improvements of the age; and because you have arms that are now nearly worthless, is that a reason why you should not purchase those which are the best arms in existence? I undertake to say, from the information I have from military men, from men acquainted with this arm, that it is the best weapon in existence for mounted men. I think that is the opinion of the Department. It has been before the Department for a period of more than four years, and what I desire is, that there may be a decision upon it one way or the other. I hope the amendment that was proposed by the honorable chairman of the Committee on Military Affairs, which was moved, as I understand, under a misapprehension of the manner in which the original appropriation was introduced into the bill of last year, will be rejected by the Senate.

Mr. MALLORY. Mr. President, when the appropriation of $90,000 was made, during one of the closing nights of the last session, it was the understanding, I think, of those around me, that that sum of money was to be expended for the purchase of Sharp's rifle. I voted for the appropriation at that time with infinite pleasure, because I had, for years, been using that rifle. I am accustomed to it, and I have watched its effects in the hands of those who are the most competent judges in the world—the men who are called upon to use the weapon daily. I have been long satisfied that it at least doubled the efficiency of the soldier, and rendered one man equal to two, with any ordinary weapon. I was also satisfied that many of the arms in our public arsenals were useless. A portion of those arms which were delivered to the State of Florida, and were in the hands of a company under my own direction, proved so. They were not only useless against the enemy, but positively dangerous in the hands of the persons using them.

Sharp's rifle is no longer an experiment. It was used by the late Governor of Oregon, in his journey across the plains, when he had to depend on the rifle not only as a defense against the enemies whom he encountered, but for the daily procurement of food. If I mistake not, he has

made a report upon the subject, but at any rate in conversation with me he has stated that he considered it the most efficient weapon which had ever been devised. It is said that our arsenals are filled with weapons. I have no doubt they are; but some of those weapons, one in particular which I might name, but I do not wish to do so now, would certainly be useless against an enemy, and dangerous to the person using it.

The honorable Senator from Michigan has alluded to the experiment going on in Europe. The experiment has been going on, and is now concluding. The Minié rifle was fully tested at Rouen, and the engineer officers there decided that the Minié rifle, at eight hundred yards, would drive away the gunners from their guns, and that no force could be properly organized hereafter without the Minié rifle. That rifle has undergone the last modification, and is now being used efficiently at Sebastopol; but, as compared with Sharp's rifle, I think any man, accustomed to the rifle and depending upon it for obtaining his food, or for purposes of defense, would certainly prefer our own invention.

Mr. DAWSON. This rifle was never recommended by the War Department, or by the Committee on Military Affairs, until one of the closing nights of the last session. On that occasion, a friend of mine in this body procured a majority of the Committee on Military Affairs to consent that the proposition for the purchase of these rifles should emanate from the committee. My dissent to it was known at the time. The appropriation of $90,000 which was proposed last year, was first intended for the purchase of Sharp's rifle; but a controversy arose in the body, and finally it was put in such a shape as to authorize the adoption of the best rifles. That appropriation has been before the Secretary of War during the year, and I suppose he has instituted experiments, but he has not yet made any decision upon the subject. When the matter came before the Committee on Military Affairs, at the present session, the chairman will recollect that it was the opinion of the committee that that appropriation should be repealed.

In the language of the Senator from Michigan, this is no time to purchase arms. Experiments are now going on which may result in throwing away nearly all the arms we have, and we should wait until something definite upon the subject is agreed upon. Besides, we have no use for these arms. We have now more arms than we can use, and we are going on in our armories, year after year, constructing others. These purchases are for individual benefit. The arms may wear out in a year. I grant that they are fine specimens of mechanical art, which would, perhaps, receive the approval of the Senate, but they are not now needed; they are not necessary for any existing purpose; and the appropriation will inure to the benefit of individuals and not to the general good of the country.

I have been led to say on former occasions, and I repeat now, that if we are to continue to purchase arms in this way, we might as well abolish our armories, close up our factories, and rely entirely upon individual enterprise to furnish arms for the Army. I think it impolitic and unwise to expend public money in this manner, when the expenditure cannot be immediately beneficial. I agree with my friends from Florida and Connecticut that this is a great and useful invention; but I think it is unnecessary for the Government at this time. For this reason, I move, if it be in order, what the committee intended to move, and what I thought the chairman was instructed to move, a repeal of the appropriation made at the last session. That is what I voted for in the committee.

Mr. SHIELDS. The honorable Senator from Georgia, I think, takes a correct view of this matter. I was not here when the appropriation was made at the last session. I know Sharp's rifle, and I consider it the best arm which we now have; but I do not think it is the best arm which we may have in, perhaps, a year from this time; and for that reason I was desirous of leaving the Secretary of War discretion to select the best arm, and to give him full range for that purpose. I found, however, that there was a difficulty in repealing the provision which was made at the last session of Congress. I understand that it was intended, as stated by the honorable Senator from Florida, to apply to Sharp's rifle.

Mr. BRODHEAD. No, sir, it was not so intended.

Mr. SHIELDS. I was not here, and of course do not know the circumstances.

Mr. BRODHEAD. My friend from Connecticut, and other Senators, seem to misapprehend the meaning of the amendment to the Army appropriation bill of the last session. It is true that when that amendment was first offered, it proposed that Sharp's breech-loading rifle should be purchased; but it was so amended as to enable the Secretary of War to purchase the best breech-loading rifle; and that is the shape in which it now stands on the statute-book. I understand that there is a gentleman in Baltimore who has prepared a much better breech-loading rifle than Sharp's. Altogether, it seems to me that the provision made last year was a very harmless one. Although it appropriates $90,000, it leaves the whole matter to the discretion of the Secretary of War, so that if the Baltimore gentleman, to whom I have alluded, has invented a much better breech-loading rifle than Sharp's, the Department can purchase it. Even if it should not be necessary for the public service, I take it for granted the War Department need make no purchase; so that I think we had better leave the appropriation of $90,000 stand as it is.

Mr. HUNTER. I understand that the Secretary of War, under the appropriation of last year, is now trying experiments with four different kinds of breech-loading rifles.

Mr. SHIELDS. I was about to say, when interrupted by the honorable Senator from Pennsylvania, that the Secretary of War, on the faith of the appropriation, has proceeded with experiments to ascertain the best breech-loading rifles, and, therefore, I do not think it wise to disturb the appropriation, although it may not have been prudent in the first instance.

Mr. CASS. I perceive that this bill contains an appropriation of $250,000 for the manufacture of small-arms for this year. The question is, is that enough or not? Do you want to appropriate $90,000 more?

Mr. SHIELDS. The $90,000 are already appropriated.

Mr. CASS. But the money has not been expended, and the appropriation is in our power. If $340,000 be needed for the manufacture of arms, why not say so? If the $250,000 are enough, and you wish $90,000 of it appropriated to a specific purpose, why not say so? The simple question is, whether we shall add $90,000 to the $250,000? I think it is not needed, and I shall vote according to my belief.

Mr. WELLER. My recollection of what occurred in the Committee on Military Affairs does not correspond with the statement made by my friend from Georgia, [Mr. DAWSON.] I understood him to say that he had voted in the Committee on Military Affairs for the repeal of the appropriation which we made at the last session. According to my recollection, there was no such vote given in the committee. I think I was present at the time when this matter was incidentally the subject of conversation. I well remember that the chairman said he was opposed to the appropriation which was made at the last session, and that he intended to have it repealed. That there was any formal vote or agreement of the committee, that he should pursue that course, I certainly do not recollect.

Mr. DAWSON. I gave it as my opinion, that the appropriation should be repealed, and I thought that was the opinion of a majority of the committee, but they did not instruct the chairman to present any amendment of that kind.

Mr. WELLER. I am very sure that, if I had understood such a proposition was formally before them, I should have said something on the subject—at least enough to show that I did not concur with the Senator from Illinois.

Sir, the Senator from Georgia says, this is legislating for particular individuals. How can that be? We made an appropriation of $90,000, at the last session, to enable the Secretary of War to purchase the best breech-loading rifle—not the patent of any particular individual, not Sharp's rifle, but the best breech-loading rifle, leaving the Secretary of War to determine which was the best. That is the whole of it. Well, now, is it expedient to repeal the act of the last session making that appropriation, when the Secretary of War is engaged in the experiments necessasy to determine which is the best breech-loading rifle? That is the question which is presented to us.

The amendment was non-concurred in.

The PRESIDENT. The question will now be on concurring with the following amendment:

SEC. —. *And be it further enacted*, That the annual distribution of arms to the several States, under the act approved April 23, 1808, entitled "An act making provision for arming and equipping the whole body of the militia of the United States," shall be hereafter made according to the number of their Senators and Representatives in Congress respectively; and that arms be distributed to the Territories and the District of Columbia in such quantities and under such regulations as the President, in his discretion, may prescribe.

SEC. —. *And be it further enacted*, That the Governors of the several States and Territories be, and they are hereby, authorized to sell, to the best advantage, the arms heretofore distributed, or which may be hereafter distributed, under the act of April 28, 1808, and invest the funds arising out of such sales in other arms more suitable for the purpose contemplated by said act: *Provided*, That no arms be so purchased or provided except such as may be of the same description and caliber in use in the Army of the United States.

Mr. JOHNSON. I move to amend that amendment by inserting the words "regularly adopted and" before the words "in use in the Army of the United States." The amendment introduced by the Senator from Tennessee, [Mr. JONES,] authorized the Governors to sell the useless portion of the arms which had been given to them by the United States, and to invest the funds arising from that sale in other arms. The Senate, in pursuance of an amendment which I submitted, restricted that provision so as to confine the Governors to the purchase of arms in use in the service of the United States, and of similar caliber and description. My attention has been called to the fact that the amendment, as it stands, does not attain the object which was expected. For this reason, a further modification is necessary by inserting the words "regularly adopted and." If we confine the Governors to the purchase of those arms which are in use in the Army of the United States, it will be no restriction at all, because all kinds are used in the service for purposes of experiment; but when they are restricted to those arms which have been regularly adopted, it is an entirely different matter. I suppose the Senator from Tennessee can have no objection to the amendment which I have suggested.

Mr. JONES, of Tennessee. No, sir; it is exactly what we understood when the proposition was adopted.

The amendment to the amendment was agreed to, and the amendment as amended was concurred in.

The last amendment, which was excepted, was to insert the following additional section:

SEC. —. *And be it further enacted*, That the provisions of the first section of the act entitled "An act making appropriations for the support of the Army, for the year ending the 30th of June, 1851," approved September 28, 1850, granting extra pay to the officers and enlisted men of the Army serving in Oregon and California, be extended to the officers and men composing the garrison of the post of Fort Laramie, on the Oregon route, for the same period of time as was allowed by the sixth section of the act of the 3d of March, 1853, to the officers and men of the companies of the regiment of mounted riflemen that garrisoned Fort Laramie; and that the provisions of the same section of the same act be also extended to the officers and men composing the escort to the Mexican boundary commission, while they were serving as such escort.

Mr. GWIN. I hope the Senate will not agree to this amendment. Sir, it is a melancholy instance of the effect which the presence of officers and other persons interested in legislation here, has upon the action of Congress. The proposition which I presented a short time ago as an amendment to this, has been before the Committee on Military Affairs for more than four years. The first bill which was introduced here to give increased compensation to officers and soldiers, comprised the amendment which I proposed, and which has been ruled out of order because it cannot now get the sanction of the Committee on Military Affairs. The present Secretary of War, when he was a member of this body in 1850, introduced a proposition to give increased compensation to the officers and soldiers who served in California from the Mexican war up to the period of the proposed increase. The measure passed this body by a large majority, went to the House, and they disagreed to it. The result was, that in the committee of conference, as the Secretary of War himself told me, nothing but the risk of losing the Army appropriation bill induced him

to give up what he believed so meritorious a proposition.

Sir, the foundation of the original legislation in regard to increased compensation, was in favor of the very persons who cannot now receive a favorable report from the Committee on Military Affairs. My colleague knows that the officers and soldiers who were in California prior to the 28th of September, 1850, were subjected to much greater expenses than those who served there subsequently, and who have received increased compensation. There was the New York regiment which went to California, and was there before its disbandonment, at the time when the enormous rise in provisions took place. The Mormon battalion, too, were upon their way across the continent. Those who went over with Kearny, and those who went with General Riley, had to incur enormous expenditures, for which they never received any return from the United States in the shape of pay. We have given double compensation to every officer and sailor in the Navy who served on that coast during that period. We have allowed increased compensation to the officers of the Army who served on this side of the Rocky mountains, but now the very officers and men who laid the foundation for this legislation can get no hearing in this body.

Sir, I regret to say that the influences which are brought to bear around the Capitol to bring forth and mature these propositions are such that we cannot get this compensation for much more meritorious claimants. Although I do not object to this amendment in itself, I say that the amendment which I propose is infinitely more deserving. The officers and soldiers, whose pay I propose to increase, deserve more than those named in this amendment.

Mr. SHIELDS. I am glad that the honorable Senator has no objection to this amendment in itself. His only complaint is, that he cannot get provision made for another more meritorious, or equally meritorious class. If I were to act on that principle, I should also vote against the amendment; but I do not allow my action to be controlled by such considerations. The Senator must reflect that but a few minutes ago, I made an effort to get additional pay for all the officers of the Army, but several honorable Senators made such strenuous objections to it, that I withdrew the proposition. It was suggested then that we ought to prepare a separate bill. Surely the honorable Senator should not rise up the next moment and condemn a proposition of the committee for increased pay, because it does not go far enough.

Mr. GWIN. Permit me to ask the honorable Senator why it is that the very amendment which I offered, that has been before the Committee on Military Affairs for four years, cannot get a favorable report from his committee?

Mr. SHIELDS. I could not get any action of the Senate on my proposition to increase the pay of the officers of the Army.

Mr. GWIN. Here is a proposition to increase the pay of some of the officers in this very amendment.

Mr. SHIELDS. When the original proposition was made, no man was more in favor of giving increased compensation to the riflemen at Fort Laramie than the Senator from California.

Mr. GWIN. Certainly.

Mr. SHIELDS. Well, sir, I stated the other day that, at the same fort at the same time, there were other troops; and when the bill was passed, giving additional pay to the rifles, those other troops were not included. The object of this amendment is simply to put them on the same footing with the rifles. If the Senator thinks that unjust, let it go. Does he think so?

Mr. GWIN. I will tell the Senator what I think is very unjust. You have increased the pay of officers who have served on the Pacific coast since the 28th of September, 1850, but those officers receive no additional pay for service before that period, although their expenses were greater.

Mr. SHIELDS. But here I have amendments for increasing the pay of the officers, and I cannot bring them forward, and Senators have told me that they should be presented in a separate bill.

Mr. GWIN. The amendment which I proposed, and which was ruled out of order, was prospective entirely, and not retrospective.

Mr. STUART. I move that the Senate adjourn.

Several SENATORS. Let us get through with the bill.

Mr. STUART. I should be glad to dispose of the bill if possible; but I fear that we have no prospect of doing so.

The motion to adjourn was not agreed to.

The PRESIDENT. The question is on concurring in the amendment which has been read.

Mr. WELLER. The subject of granting extra pay to the officers of the Army who served in California, which has been before the Committee on Military Affairs for the last two sessions of Congress, has been very frequently talked about in that committee, but there never has been any action on the subject. The main difficulty which presented itself was, that the officers serving in Washington and Oregon Territories, and in New Mexico and Utah, and upon other distant posts, had also strong claims upon the consideration of Congress for an increase in their pay. In my judgment, the officers serving at Fort Kearny have just as strong a claim for increased compensation as the officers at Fort Laramie. That was on the direct route to California. Those officers who have been stationed at that post for the last four years, have been compelled to furnish the emigrants, out of their own pockets, money to obtain the necessaries of life. They themselves have been subjected to very great expenses in consequence of the high prices of all the articles of subsistence. But, sir, we have never been able to come to any conclusion, for the reason I have already assigned, that the officers at the different posts to which I have already alluded, seemed to have strong ground for an increase in their compensation. That it is just and equitable that the officers serving in the Army should be placed on an equal footing as those who served in the Navy on the Pacific coast, every one will accede at once to the justice of the demand; but we have been unable to procure it. The amendment for that purpose has now been decided to be out of order, very improperly, in my judgment; for it simply was a proposition to extend to other officers what you propose to give by this amendment to those who served at Fort Laramie.

The amendment was concurred in.

The PRESIDENT. If no further amendments be proposed, the question will be on engrossing the amendments, and ordering the bill to a third reading.

Mr. HOUSTON. On that question I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 32, nays 7; as follows:

YEAS — Messrs. Allen, Bell, Benjamin, Brodhead, Brown, Cass, Clayton, Dawson, Dodge of Wisconsin, Dodge of Iowa, Douglas, Evans, Fitzpatrick, Gwin, Hunter, James, Johnson, Jones of Tennessee, Mallory, Morton, Pearce, Pettit, Reid, Rusk, Sebastian, Shields, Slidell, Stuart, Toucey, Weller, Wells, and Wright—32.

NAYS—Messrs. Brainerd, Chase, Gillette, Houston, Seward, Sumner, and Wade—7.

So the bill was ordered to a third reading. It was then read a third time, and passed; and, on motion by Mr. HUNTER, its title was amended by adding, "and for other purposes."

TELEGRAPH TO CALIFORNIA.

Mr. DODGE, of Iowa. I ask the unanimous consent of the Senate to be allowed to introduce a bill "to provide for telegraphic and express mail communication between the Mississippi river and the Pacific ocean." I only desire to have it referred, and to give notice that I intend to present it as a substitute for the bill to establish a subterranean line of telegraph.

The bill was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

PAPERS WITHDRAWN.

On motion by Mr. RUSK, it was

Ordered, That the papers of the representative of George Mayo be withdrawn from the files of the Senate, and referred to the Committee on the Post Office and Post Roads.

RAILROAD IRON.

Mr. JONES, of Tennessee. I desire to move an adjournment; but before doing so, I wish to make a suggestion to the Senate. It will be remembered, that at an early period of the session, I believe during the first or second week, I introduced a bill granting to railroad companies three years within which to pay the duties on railroad iron. There is no doubt that my modesty will be the death of me. [Laughter.] I have postponed calling up that bill from day to day, and from week to week; but I wish now, most humbly, to ask the Senate to consent on Saturday next, which is a leisure day, to take up that bill and dispose of it.

Mr. BRODHEAD. I am quite willing to meet here on that day and take up the bill; but I do not know that we can dispose of it then.

Mr. JONES, of Tennessee. It is a day on which we are not usually in the habit of working, and I give notice that I shall ask the Senate to sit then for the purpose of considering the bill. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 2, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, their Secretary, informing the House that the Senate had passed a bill of the House of the following title, without amendment:

An act to change the names of the American-built vessels J. H. Holmes and Franklin Pierce.

Also, that the Senate had passed bills of the following titles; in which he was requested to ask the concurrence of the House:

An act for the relief of James Hodges Gale; and

An act to create an additional land district in the State of California.

Also, that the Senate had passed a bill of the House entitled "An act making appropriation for the support of the Army for the year ending 30th June, 1856," with amendments, in which he was directed to ask the concurrence of the House.

Mr. HAVEN. I move that the Army bill be referred to the Committee of Ways and Means, and that the amendments be printed.

The motion was agreed to.

EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a communication from the Secretary of the Navy, transmitting a report from the Fourth Auditor of the Treasury, exhibiting, in a tabular form, the pay and allowances of the several officers of the Navy and of the Marine Corps of the United States for the fiscal year ending 30th June, 1854, prepared in compliance with a resolution of the House of Representatives passed during the first session of the Thirtieth Congress.

On motion by Mr. FLORENCE, the communication was referred to the Committee on Naval Affairs, and ordered to be printed.

INTRODUCTION OF A BILL.

Mr. HENDRICKS obtained the floor.

Mr. PHELPS. I appeal to the gentleman from Indiana to give me an opportunity to ask the unanimous consent of the House to introduce a bill for the purpose of reference only.

Mr. HENDRICKS. I will yield to the gentleman for that purpose.

Mr. JONES, of Tennessee. I hope that all these bills, which are introduced by unanimous consent, will be received with the understanding that no motions to reconsider shall be made hereafter, so as to bring the bills back into the House and pass them.

Mr. PHELPS. No motion will be made by me to reconsider.

Mr. JONES. Well, I want to have that understanding in regard to all the bills.

Mr. PHELPS then, by unanimous consent, and in pursuance of previous notice, introduced a bill to amend an act entitled "An act to extend preëmption rights to certain lands therein mentioned;" which was read a first and second time by its title, and referred to the Committee on Public Lands.

Mr. PHELPS. There is another matter which relates to the disposition of business, which I desire to have regulated. While presiding the other day as chairman of the Committee of the Whole on the state of the Union, considering territorial business, a bill "for the relief of the secretary of the Territory of Minnesota" was called up on the

Calendar on the state of the Union. In my opinion, at that time, it was a private bill, and I so ruled. I ask leave now to have the bill transferred from the Calendar of the Committee of the Whole on the state of the Union to the Calendar of the Whole House, to which it properly belongs.

It was so ordered.

WITHDRAWAL OF PAPERS.

Mr. ENGLISH asked and obtained leave to withdraw from the files of the House the papers in the case of Martin Scott, for the purpose of reference to the proper Department of the Government.

Mr. CORWIN asked and obtained leave to withdraw from the files of the House papers in the case of Mary E. Kennedy, widow of John Kennedy, for the like purpose.

Mr. FLORENCE asked and obtained leave to withdraw from the files of the House the papers in the case of Mrs. Catharine Strubing, for the purpose of reference to the Committee on Private Land Claims.

Also, the papers in the case of Charles F. Sibbald, for use in the Senate.

REMISSION OF DUTIES ON CERTAIN GOODS.

Mr. FENTON. I desire to make a motion in reference to a private bill; and in order that the House may have a proper understanding of the question, I beg to state that, during the last session of Congress, I reported, from the Committee on Commerce, a bill which was referred to a Committee of the Whole House, and placed upon the Private Calendar. It is known as "a bill to remit the duties upon certain goods destroyed by fire in the cities of New York and San Francisco." The gentleman from Virginia [Mr. MILLSON] made a motion to reconsider, which is still pending, and I now move to lay that motion to reconsider on the table. I will state to the House that I make this motion with the full knowledge and concurrence of the gentleman from Virginia.

The SPEAKER. It can only be done by the unanimous consent of the House.

Mr. FENTON. Then I hope the House will give its unanimous consent. It can be disposed of in a moment.

Mr. HAMILTON. There can be no objection to that.

The question was taken; and the motion to lay on the table was agreed to.

Mr. MILLSON. I addressed the Chair before the question was taken.

The SPEAKER. The Chair begs pardon. The Chair was acting on the presumption that the gentleman from New York [Mr. FENTON] had had an understanding with the gentleman from Virginia relative to this bill.

Mr. FENTON. I hope the House will allow the gentleman from Virginia to make an explanation.

The SPEAKER. If explanation or discussion arises, the Chair will decide the whole subject out of order.

Mr. MILLSON. I do not purpose to enter on any discussion. I have no objection to the motion of the gentleman from New York, but I desire to say, on my own account, that I should, as an act of justice to the gentleman from New York, have called up the motion long before, even at the last session of Congress, in order that the bill might be properly put upon the Calendar, but that the gentleman himself desired I should not do so, and I yielded to his request. I have now no objection whatever to the motion.

The SPEAKER. Then the motion to lay the motion to reconsider on the table is carried.

INTRODUCTION OF BILLS.

Mr. ENGLISH, by unanimous consent, introduced a bill, of which previous notice had been given; which was read a first and second time by its title, as follows, and referred to the Committee of Claims:

A bill for the relief of Dr. William F. Sherry.

Mr. JONES, of Louisiana, by unanimous consent, introduced a bill to extend the provisions of the preëmption act of the 4th of September, 1841; which was read a first and second time by its title, and referred to the Committee on Public Lands.

THE MILWAUKIE CUSTOM-HOUSE.

On motion by Mr. FULLER, the Committee on Commerce was discharged from the further consideration of certain papers relative to the Milwaukie custom-house; and the same were referred to the Committee of Ways and Means.

INTRODUCTION OF BILLS.

Mr. HENDRICKS. A few days ago, when the gentleman from New York [Mr. TWEED] left his seat, he asked me to report some bills from the Committee on Invalid Pensions. I forgot to do so the other day. I now ask leave to report those bills, that they may be placed upon the Private Calendar.

There being no objection, the bills were respectively read a first and second time by their titles, as follows; referred to a Committee of the Whole House, and ordered to be printed:

A bill for the relief of Joel Collins;

A bill in favor of William Bullock; and

A bill for the relief of Salvador Acardi.

The following bill was referred to the Committee on Naval Affairs, and ordered to be printed:

A bill in favor of Abner Merrill.

Mr. HENDRICKS (for Mr. TWEED) also presented, from the Committee on Invalid Pensions, adverse reports in the following cases; which reports were ordered to be laid on the table:

The petition of James Harrington; the petition of Thomas Hendrickson; the petition of E. J. Gilbert; the petition of John Henry; the petition of Susan Nippers; the petition of Dr. Richard W. Stockton; the petition of Jane M. Rudolph; the petition of Martha Swain; the petition of James B. Langdale; the petition of Mrs. K. Simmons; the petition of Samuel Wall; and the petition of J. W. Knight, of Pennsylvania.

MILWAUKIE CUSTOM-HOUSE—AGAIN.

Mr. HOUSTON. I rise to a privileged question. On the motion of the gentleman from Maine [Mr. FULLER] this morning, a petition in favor of the change of the building for the custom-house of Milwaukie, was referred to the Committee of Ways and Means. I desire to have that action reconsidered. The Committee of Ways and Means have no jurisdiction over subjects of this sort. This matter was properly before the Committee on Commerce. It is a proposition to effect changes in the building for the custom-house in Milwaukie; and it is just as if it were a proposition to erect a new building. Therefore, the Committee of Ways and Means have no jurisdiction over it. It is the Committee on Commerce which ought to take jurisdiction, and report whether the dimensions and character of the present building are suited to the requirements of the custom-house, and if not, what changes are necessary to be made in order to make it so suited. I therefore move to reconsider the vote by which the Committee on Commerce was discharged from the further consideration of this subject, and it was referred to he Committee of Ways and Means.

Mr. FULLER. One word in reply to the gentleman from Alabama, [Mr. HOUSTON.] It is a question of very considerable doubt, in the mind of the Committee on Commerce, whether, having heretofore reported a bill recommending the erection of a custom-house at Milwaukie, the proposition to effect certain changes in the building does not properly belong to the Committee of Ways and Means. Just as in the case of light-houses which the Committee on Commerce report in favor of erecting at certain points. The ordinary mode, I believe, is for the Committee of Ways and Means to report, in the civil and diplomatic bill, the amount necessary for their construction. And I am quite certain that the practice has been, where there has been a deficiency found in the extent or character of a building, to have that deficiency provided for by the Committee of Ways and Means.

Mr. HOUSTON. The first appropriations made after a law is passed authorizing the erection of a custom-house, light-house, or other public building, are usually made by the Committee of Ways and Means in the appropriation bills. But in this case there is no deficiency; but the proposition is to change the character of the building entirely from the plans and specifications under which the appropriation was made.

The question was then taken upon the motion to reconsider; and it was decided in the affirmative.

The question then recurring upon discharging the Committee on Commerce from the further consideration of the papers, and referring them to the Committee of Ways and Means, it was taken, and decided in the negative.

So the motion was disagreed to.

The SPEAKER. What disposition will now be made of the papers?

Mr. HAVEN. I move to refer them back to the Committee on Commerce.

The motion was agreed to.

REPORTS FROM STANDING COMMITTEES.

Mr. FAULKNER, from the Committee on Military Affairs, reported back Senate bill (No. 141) for the relief of Richard Fitzpatrick, without amendment; which was referred to a Committee of the Whole House, and ordered to be printed.

Mr. F., from the same committee, reported a bill for the relief of Mrs. Isabella Crough, mother of the late Lieutenant Michael P. Doyle of the 15th regiment of the United States infantry; which was read the first and second time by its title, referred to a Committee of the Whole House, and ordered to be printed.

On motion by Mr. FAULKNER, the Committee on Military Affairs was discharged from the further consideration of the petition of Margaret and Elizabeth Clapsaddle, heirs of John J. Hess, praying for eighty dollars and one hundred and sixty acres of land for the services of said Hess in the war of the Revolution;

Also, from the petition of Whitemarsh P. Seabrook and others, members of the company of Edisto militia in the war of 1812;

Also, from the petition of Jacob Rudolph.

Which were severally laid on the table, and ordered to be printed.

Mr. HILLYER, from the Committee on Private Land Claims, reported a bill for the relief of Lewis Benedict; which was read a first and second time by its title, referred to a Committee of the Whole House, and ordered to be printed.

Also, a bill for the relief of the legal representatives of John Erwin, deceased; which was read a first and second time by its title, referred to a Committee of the Whole House, and ordered to be printed.

Also, a bill to confirm the title of Ruhania Whittaker and Rebecca Whittaker, to certain lands in the State of Louisiana; which was read a first and second time by its title, referred to a Committee of the Whole House, and ordered to be printed.

On motion by Mr. HILLYER, the Committee on Private Land Claims was discharged from the further consideration of petitions in the following cases: C. G. Gunter; Edward Giddings; Gaston Turner Raoul, and Nathaniel Ewing, assignee of the interest of H. Richard; which were laid on the table, and ordered to be printed.

Mr. HENN. I demand the regular order of business. I have been trying for half an hour to make a report of a private bill, but have been unable to do so; and I now call for the regular order of business, and will not give way to anybody.

SAMUEL A. BELDEN AND COMPANY.

The SPEAKER. The business first in order is upon the passage of the bill for the relief of Samuel A. Belden & Co.

Mr. LETCHER demanded the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The SPEAKER. The Chair would remark, in reference to the motion made by the gentleman from Maryland [Mr. HAMILTON] yesterday, that it is not in order to refer or commit the bill, it having been engrossed at the time the gentleman submitted his proposition.

The question was then taken; and it was decided in the affirmative—yeas 86, nays 59; as follows:

YEAS—Messrs. Appleton, Thomas H. Bayly, Ball, Bell, Bennett, Benson, Bugg, Campbell, Carpenter, Caruthers, Chandler, Chase, Cook, Corwin, Crocker, Cullom, Thomas Davis, Dick, Dunbar, Eastman, Thomas D. Eliot, Etheridge, Everhart, Farley, Fenton, Franklin, Goodrich, Goodwin, Grey, Andrew J. Harlan, Hiester, Hill, Howe, Hughes, Hunt, Johnson, Kerr, Knox, Kurtz, McDougall, McNair, Matteson, Maxwell, Mayall, Meacham, Middleswarth, Morgan, Noble, Norton, Andrew Oliver, Mordecai Oliver, Parker, Pennington, John Perkins, Pratt, Pringle, Puryear, Reese, Richardson, Thomas Ritchey, Rowe, Sabin, Sage, Sapp, Shannon, Shower, Simmons, William Smith, William R. Smith, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, John L. Taylor, Teller, Thurston, Upham, Walker, Walley, Elihu B. Washburne,

Israel Washburn, Wells, John Wentworth, Westbrook, Hendrick B. Wright, and Yates—86.

NAYS—Messrs. James C. Allen, Willis Allen, David J. Bailey, Barksdale, Bocock, Boyce, Bridges, Caskie, Chastain, Chrisman, Clark, Cobb, Curtis, John G. Davis, Dawson, Eddy, Edgerton, Edmundson, Ellison, Gamble, Goode, Hamilton, Aaron Harlan, Sampson W. Harris, Wiley P. Harris, Haven, Hendricks, Henn, Hillyer, Houston, Daniel T. Jones, George W. Jones, J. Glancy Jones, Kittredge, Lamb, Letcher, Lilly, McQueen, Millson, Morrison, Murray, Nichols, Packer, Phelps, Powell, Ready, Ruffin, Russell, Seward, Shaw, Singleton, Skelton, Samuel A. Smith, George W. Smyth, John J. Taylor, Tracy, Vansant, Daniel B. Wright, and Zollicoffer—59.

So the bill was passed.

Mr. CAMPBELL moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

REPORTS FROM STANDING COMMITTEES.

Mr. BOYCE, from the Committee of Claims, reported back Senate bill (No. 224) for the relief of Isaac Swain, without amendment; which was referred to a Committee of the Whole House, and ordered to be printed.

Mr. GIDDINGS, of Ohio. I am instructed by the Committee of Claims to report a joint resolution for the relief of William Monohan. It provides for the payment of $36 50, which was awarded him about twenty years ago. I ask that the resolution be now put upon its passage.

The resolution was then ordered to a third reading; and was accordingly read the third time, and passed.

Mr. ETHERIDGE. I ask the unanimous consent of the House to submit a resolution, which would have been offered some time ago, but for the reason that the paper has been lost, and has just been found.

Mr. EDGERTON. I call for the regular order of business.

Mr. ETHERIDGE. It is a resolution in reference to Henry Dyer, and I hope the gentleman will not object, as the papers upon which the resolution is founded have been lost for two years.

Mr. EDGERTON. I insist upon the regular order of business.

The SPEAKER. Reports are in order from the Committee on Commerce.

On motion by Mr. HARLAN, of Ohio, it was

Ordered, That the Committee on Commerce be discharged from the further consideration of the petition of John P. Norton, and that the same be laid on the table.

Mr. HENDRICKS, from the Committee on Invalid Pensions, reported a bill for the relief of Charles Conner; which was read a first and second time by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

On motion by Mr. FULLER, it was

Ordered, That the Committee on Commerce be discharged from the further consideration of the petition of Henry Smalley, of Troy, New York; of the petition of Thomas Cardivell; of sundry memorials, asking that aid may be furnished for the rescue of Dr. E. K. Kane; of the memorials of the Board of Trade of Philadelphia in favor of appropriations for a light-house on Cape Race, and the completion of the works of the Delaware river and bay; of the petition of steamboat owners and others, for a modification of the law relative to the clearance of vessels engaged in the coastwise trade; of the memorial of merchants, ship-owners, pilots, &c., of Philadelphia, for a light-house on Tinicum Island; of the petition of William Hooper; of the petition of Miles Castin; and of the petition of citizens of Galveston, Texas, relative to the superintendence of the pier lights in that harbor.

Ordered, That the said petitions and memorials be laid on the table.

Mr. HENN, from the Committee on Public Lands, to whom was referred the petition of Willis Pennefiel, of Indiana, made a report thereon, accompanied by a bill (No. 725) for his relief; which bill was read a first and second time, committed to a Committee of the Whole House, made the order of the day for to-morrow, and the bill and report ordered to be printed.

On motion by Mr. HIESTER, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of the following bill and petitions:

S. 359. An act granting bounty land to Elizabeth Summers, widow of Cornelius Summers, a soldier of the late war with Great Britain.

The petition of Sylvanus L. Henderson; the petition of Eunice Fairbanks, widow of Elisha Howard; the petition of John Barrett; and the petition of citizens of White county, Arkansas, in behalf of Hugh Reed; and that the same be laid on the table.

Mr. HARRIS, of Mississippi, from the Committee on the Post Office and Post Roads, to which was referred the petition of Joseph Kerr, of Iowa, made a report thereon, accompanied by a bill (H. R. 726) for his relief; which bill was read a first and second time, committed to a Committee of the Whole House, made the order of the day for to-morrow, and the bill and report ordered to be printed.

On motion by Mr. STANTON, of Tennessee, it was

Ordered, That the Committee on the Judiciary be discharged from the further consideration of the following joint resolution, resolutions, and petitions; and that the same be laid on the table:

H. R. No. 2. A joint resolution proposing an amendment to the Constitution of the United States in regard to the mode of election of President and Vice President of the United States.

Resolutions of inquiry in regard to the expediency of dividing the State of Iowa into two judicial districts; and in regard to the expediency of dividing Texas into two judicial districts; the petitions of G. B. Lamar, of New York; of Abelard Guthrie; of J. B. Woodfin; of Joseph Mahan, and of Enoch Honeywell; the opinion of the supreme court of Rhode Island in the case of T. W. Dorr; the petitions of citizens of Oswego county, New York, and Fulton county, Illinois, in favor of the arbitration of national difficulties; and the memorial of the Legislature of the State of Wisconsin, relative to the jurisdiction of the United States district court of Wisconsin.

On motion by Mr. EDDY, it was

Ordered, That the Committee on Revolutionary Claims be discharged from the further consideration of the petition of Peter Barnhart, and that the same be referred to the Committee on Revolutionary Pensions.

Mr. EDDY, from the Committee on Revolutionary Claims, to which were referred the petitions of Clement Sewall, and of the heirs of Captain Frederick Schoonmaker, made adverse reports thereon; which were laid on the table, and ordered to be printed.

On motion by Mr. CROCKER, it was

Ordered, That the Committee on Revolutionary Claims be discharged from the further consideration of the petitions of the heirs of William Curry, deceased; of John T. Hargrave, and of the other heirs of Alexander Rose, deceased; and of John W. Welden, administrator of Stephen C. Graham, deceased; and that the same be laid upon the table.

Mr. HILLYER. I move that the House resolve itself into a Committee of the Whole on the Private Calendar.

Mr. ORR. I hope not now. There are other reports to be made, and I trust the gentleman will extend the same courtesy to other members of the House which he has enjoyed himself.

Mr. EDGERTON. I would suggest to the gentleman from Georgia that, this being objection day, we had better receive reports of bills, so that we can act upon them.

Mr. HILLYER. I would inquire of the Chair if the bills now reported will be placed upon the Private Calendar, and be acted upon to-day?

The SPEAKER. They can be acted upon to-day.

Mr. HILLYER. If not printed?

Mr. EDGERTON. They can.

Mr. HILLYER. Then I withdraw my motion.

Mr. CORWIN, from the Committee on Revolutionary Claims, to which was referred the petition of Caroline Fierer, the sole residuary legatee of Charles Fierer, deceased, made a report thereon, accompanied by a bill (No. 727) for his relief; which bill was read a first and second time, committed to a Committee of the Whole House, made the order of the day for to-morrow, and the bill and report ordered to be printed.

Mr. ORR, from the Committee on Indian Affairs, to which was referred the bill of the Senate (No. 461) entitled "An act for the relief of the Office of Indian Affairs," reported the same with an amendment to the title, accompanied by a report, in writing, thereon.

Ordered, That the said bill be committed to the Committee of the Whole House, made the order of the day for to-morrow, and the bill and report be printed.

On motion by Mr. ORR, it was

Ordered, That the Committee on Indian Affairs be discharged from the further consideration of the memorial of the Legislative Assembly of Washington Territory relative to the extension of the Indian titles to land east of the Cascade mountains, and that the same be laid upon the table.

Mr. GREENWOOD, from the Committee on Indian Affairs, reported back, with an amendment, Senate bill (No. 315) for the relief of Israel Johnson; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

On motion by Mr. GREENWOOD, it was

Ordered, That leave be granted for the withdrawal of the petition and papers of Richard Cottril, of Alabama, from the files of the House, and that they be referred to the Committee on Military Affairs.

Mr. MAXWELL, from the Committee on Indian Affairs, reported back Senate bill (No. 437) for the relief of John Shaw; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. ETHERIDGE, from the Committee on Military Affairs, reported a joint resolution that the proper accounting officers of the Treasury pay to Joel Henry Dyer, who was a private in Captain Alexander Baler's company of Tennessee volunteers in the Seminole war, the sum of $820 43, in full satisfaction for the services of said Joel Henry Dyer as judge-advocate in the regiment in said war commanded by Colonel Alexander B. Bradford, less the amount which has been paid said Dyer for his services as a private in said company; which was read a first and second time by its title, referred to a Committee of the Whole House, and ordered to be printed.

Mr. INGERSOLL, from the Committee on Foreign Affairs, reported back Senate bill (No. 430) for the relief of Henry S. Sanford; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. BAYLY, of Virginia. I beg the indulgence of the House to say that the Committee on Foreign Affairs are of opinion it is best to submit no report at this time upon the resolution calling for information in regard to the Ostend conference, which was referred to them, inasmuch as the matters supposed to have been before it are still pending.

On motion by Mr. INGERSOLL, the Committee on Foreign Affairs was discharged from the further consideration of the petition of G. W. Penfield, the owner of the Stanton life-boat and Nautilus life preserver; and it was referred to the Committee on Naval Affairs.

On motion by Mr. ZOLLICOFFER, the Committee on Naval Affairs was discharged from the further consideration of the memorial of James McCormick, assignee of Robert A. Parker; which was laid upon the table.

Mr. BAYLY, of Virginia. To my surprise, Mr. Speaker, my friend from Louisiana, [Mr. PERKINS,] my colleague on the Committee on Foreign Affairs, thinks that I have mistaken the views of that committee on the subject of the Ostend conference. I shall again report on the subject the next time the committee is called.

Mr. SHOWER, from the Committee on Revolutionary Claims, reported adversely on the following petitions; which were laid upon the table:

Petition of Allen Mead, Walter Mear, and Henry Ann Griffen, asking compensation for losses sustained by John Mead during the war of the Revolution; and petition of the heirs of William W. Wilson.

Mr. MIDDLESWARTH, from the Committee on Revolutionary Pensions, reported back Senate bill (No. 392) granting an increase of pension to Mrs. Frances Smith, of South Carolina; which was referred to a Committee of the Whole House, and ordered to be printed.

Mr. WASHBURN, of Maine, from the Committee on Revolutionary Pensions, reported back Senate bill (No. 131) for the relief of the heirs of Judith Worthen, deceased; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. W. also, from the same committee, made adverse reports upon the following petitions; which were laid upon the table:

Petition of Mathew Vandiver, for increase of pension as a revolutionary soldier.

Petition of Aris Ennis, of Newport, Rhode Island, for back pension.

Petition of John C. Finckel, only surviving son of Dr. Philip M. Finckel, assistant surgeon, for compensation for services in the war of the Revolution.

Petition of the heirs of Peter Guise for compensation for revolutionary services.

Mr. ROWE, from the Committee on Revolutionary Pensions, reported adversely on the following petitions; which were laid upon the table:

Petition of the heirs and legal representatives of John Cotton, for five years' full pay for the services of their ancestor.

Petition of Tabitha Lester, for a pension.

Mr. EDMUNDSON, from the Committee on Revolutionary Pensions, reported adversely on the petition of the heirs of Samuel Tibbald, for compensation for revolutionary services; which was laid upon the table.

Mr. HENDRICKS, from the Committee on Invalid Pensions, reported adversely on the following petitions; which were laid upon the table, and the report accompanying the latter one ordered to be printed.

Petition of James Simmons, of Green county, Tennessee, praying to be allowed back pension.

Petition of F. A. Heisely, a soldier of the war of 1812, for pension from 1814 to 1844.

Mr. EDMUNDSON, from the Committee on Expenditures on Public Buildings, reported a bill for the relief of Joseph C. G. Kennedy; which was read a first and second time by its title; referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. HUGHES, from the Committee on Private Land Claims, reported a bill to confirm to certain persons therein named their titles to certain lands in Prairie du Chien, Wisconsin; which was read a first and second time by its title, referred to a Committee of the Whole House, and ordered to be printed.

Mr. EDGERTON. I now move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. SMITH, of Virginia. Are there not some bills upon the Speaker's table that are not disposed of?

The SPEAKER. There are some four or five private bills upon the table.

Mr. JONES, of Tennessee. I object to these bills being put upon their passage without having been referred to standing committees.

The SPEAKER. They are the regular order of business.

Mr. JONES. This is objection day, is it not?

The SPEAKER. It is; but objections only apply in committee, not in the House.

Mr. JONES. I have no objection to these bills being taken up and referred; but I object to their being put upon their passage.

WITHDRAWAL OF PAPERS.

Mr. LANE, of Indiana. I ask the consent of the House to withdraw from the files of the House the petition and papers in the case of Robert Graham, for the purpose of having them presented in the Senate.

Mr. EDGERTON. I would inquire whether there is not a bill pending in the House in relation to this case?

The SPEAKER. The Chair understands that a bill for the relief of Robert Graham is upon the Calendar in Committee of the Whole.

Mr. EDGERTON. I hope, then, that leave will not be granted.

The SPEAKER. They cannot be withdrawn, except by unanimous consent.

Mr. EDGERTON. I object.

Mr. LANE. Is a simple objection sufficient to prevent these papers from being withdrawn?

The SPEAKER. At this stage of the proceedings it is not in order to make the motion, except by unanimous consent; and a simple objection is sufficient to prevent the withdrawal.

Mr. LANE. I think it a rather hard case that the objection of a single member should prevent their being withdrawn.

The SPEAKER. Under the circumstances, it is, nevertheless, sufficient to prevent their being withdrawn.

Mr. EDGERTON. I move that the House resolve itself into a Committee of the Whole House.

Mr. SMITH, of Virginia. I insist upon taking up the bills upon the Speaker's table. The Chair has decided that to be the regular order of business.

The SPEAKER. That is the regular order of business; but it is competent for the gentleman to move to go into a Committee of the Whole House, and that motion will take precedence.

Mr. SMITH. Well, sir, I hope the gentleman will withdraw the motion.

Mr. EDGERTON. I have no objection to these bills being taken up and referred, with the understanding that no motion to reconsider shall be entertained.

Mr. SMITH. There is only a single bill that I am particularly anxious to dispose of.

Mr. HILLYER. Does the gentleman propose to put it upon its passage? If he does, I shall object, and insist upon the motion to go into a Committee of the Whole House. I have no objection to all these bills being taken up and referred.

Mr. SMITH. There is a single bill upon the Speaker's table that I am desirous should be taken up and referred to a Committee of the Whole House, that it may take its place upon the Private Calendar.

Mr. EDGERTON. Does the gentleman propose that the bill shall be placed upon the Private Calendar without having first been referred to a standing committee?

Mr. SMITH. Yes, sir.

Mr. EDGERTON. Then I object, and insist upon my motion to go into a Committee of the Whole House.

Mr. SMITH. Well, sir, if it will remove the gentleman's objection, I will consent to have it referred to a standing committee.

Mr. EDGERTON. With that understanding I have no objection to all the bills being taken up and referred.

REFERENCE OF SENATE BILLS.

There being no objection, the private bills from the Senate, upon the Speaker's table, were severally taken up, read a first and second time by their respective titles, and referred to the appropriate standing committees. The titles are as follows:

A bill for the relief of Ephraim Hunt. Referred to the Committee of Claims.

A bill for the relief of Mary Phelps, widow of the Rev. Chever Phelps, deceased. Referred to the Committee on Public Lands.

A bill for the relief of Jacob Dodson. Referred to the Committee on Military Affairs.

A bill for the relief of James Hodges Gale. Referred to the Committee on Public Lands.

A bill for the relief of Samuel A. Belden & Co.

Mr. EDGERTON. I move that that bill be laid upon the table. We have just passed a bill upon the same subject.

The motion was agreed to.

THE PRIVATE CALENDAR.

The question then recurred upon the motion to go into a Committee of the Whole House, and being taken, the motion was agreed to.

The House accordingly resolved itself into a Committee of the Whole House (Mr. PHELPS in the chair) and proceeded with the consideration of the Private Calendar. This being "objection day," the reading of the Calendar was resumed where it was suspended on the last objection day, and such bills as were objected to were passed over informally.

House bill (No. 528) for the relief of Edmund Berger.

The bill and report were read.

The bill directs the Secretary of the Interior to cause a land warrant for one hundred and sixty acres of land to be issued to Edmund Berger, or his personal representatives, as assignee of Louis Felden, in lieu of one heretofore issued to said Felden on the 12th of October, 1848; and upon satisfactory proof being made to the said Secretary that said Berger is equitably entitled to a land warrant for one hundred and sixty acres, issued to Frederick Watzinger (or Walzinger) as assignee thereof, and that a patent has issued thereon under any false or forged assignment, that the said Secretary of the Interior shall cause another land warrant for the same quantity of land to be issued to Edmund Berger.

Mr. JONES, of Tennessee. I could not understand from that report whether this bill is introduced with the knowledge, and at the request, of the original claimants of these warrants—whether the warrants had ever been in their hands or not.

Mr. SEYMOUR. The warrants were never in the hands of the original patentees, but this bill is introduced by their consent. The warrants never reached the parties at all; they went into the dead letter office in the Post Office Department.

Mr. JONES. Then this bill proposes to transfer the warrants to Berger at the request of the original owners.

Mr. SEYMOUR. It is to give the original parties a legal title to the warrants.

Mr. JONES. I should like to hear the bill read again.

The Clerk again reported the bill.

Mr. EDGERTON. As I understand it, Mr. Berger is the assignee of the parties originally entitled to the warrants. He became assignee previous to the issue of the warrants, and consequently the transaction was illegal. No assignment made by soldiers previous to the issue of the warrants is valid. There is no legal claim whatever.

The CHAIRMAN. Does the gentleman object to the bill?

Mr. EDGERTON. I do.

House bill (No. 537) for the relief of the heirs and legal representatives of Captain Presley Thornton, deceased.

The bill directs the payment to the children of Presley Thornton, late a captain in the Continental line of the army of the United States in the revolutionary war, of five years' full pay, that being the commutation of half pay for life promised by the resolves of Congress to such as should serve to the end of the war, with interest thereon from 29th January, 1836.

The report was read.

Mr. DUNHAM. I object to that bill.

Mr. JAMES C. ALLEN. I hope my friend from Indiana will withdraw that objection.

Mr. JONES, of Tennessee. With the permission of the committee, I will state that I have had occasion to examine different applications for commutation, and I have yet to find the first one in which there is any justice. In all that I have looked into, either the parties had been paid, or were entitled to nothing. I therefore object to the bill.

House bill (No. 541) for the relief of Esther Lovejoy.

The bill directs the Secretary of the Interior to place the name of Esther Lovejoy, widow of Samuel Lovejoy, on the list of revolutionary pensioners, and pay her the sum of eight dollars per month, commencing the first day of January, 1854, and to continue during her natural life.

The report was read.

Mr. JONES, of Tennessee. I do not wish to object to that bill; but I wish to state that, if the claimant had been able to prove that her husband served six months, then, under the law, she would have been entitled to twenty dollars a year. This bill would give her ninety-six dollars a year when she failed to prove that her husband served six months. It appears from the report that his service lacked three days of that time. I am perfectly willing to place her in the position she would have occupied if her husband had served six months. If the bill is made to conform to the general law covering such cases, I have no objection to its passage.

Mr. DUNHAM. I object to that bill. There are a great many cases in which the parties only lacked a few days of the six months' service, and the same rule should be applied to them all.

Mr. WASHBURNE, of Illinois. Is this debate in order?

The CHAIRMAN. No debate is in order.

Mr. WASHBURNE. Then I object to it.

Mr. HENDRICKS. I appeal to my colleague to withdraw his objection. This is certainly a very righteous case. The service lacked only three days of the six months. Those three days prevent the claimant from getting relief at the Pension Office.

Mr. DUNHAM. It makes no difference in the principle whether it lacked three days or thirty. There are a great many such cases.

Mr. BRIDGES. Is this debate in order?

The CHAIRMAN. It is not. The Chair understands that the gentleman from Indiana [Mr. DUNHAM] insists on his objection.

Mr. DUNHAM. I do.

House bill (No. 380) for the relief of Betsy Nash, returned from the Senate with an amendment.

Mr. STUART, of Ohio. I object to that bill.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. SATURDAY, FEBRUARY 3, 1855. NEW SERIES....No. 34

Mr. BENNETT. In reference to that bill for the relief of Betsy Nash, I wish to raise a point of order. The House may recollect that this bill was made a special order for the 12th of January last. Now, the point of order which I raise is, whether, that time having passed, the special order is still in force or not?

The CHAIRMAN. The impression of the Chair is, that the time appropriated by the special order for the discussion of this bill having passed, the bill resumes its place on the Calendar.

Mr. BENNETT. Then I wish to move that this bill be made the special order for to-morrow.

The CHAIRMAN. Objection has been made to the bill, and it must therefore lie over.

Mr. BENNETT. Who objected to it?

Mr. STUART, of Ohio. I did.

Mr. BENNETT. Then I hope the gentleman from Ohio will withdraw his objection.

Mr. STUART. I do so with pleasure; but it is certain to be renewed by some other gentleman.

Mr. McMULLIN. Is the objection withdrawn?

The CHAIRMAN. It is.

Mr. McMULLIN. Then let the report be read.

Mr. WHEELER. I object, if nobody else does.

Mr. STUART. The bill evidently cannot be discussed to-day.

Mr. FAULKNER. I merely rise to ask that the consent of the committee be given to this bill being considered the special order for to-morrow.

Mr. EDGERTON. I object to any special order.

Senate bill (No. 142) for the relief of Don B. Juan Domercq.

The bill directs the Secretary of War to examine and investigate the claim of Don B. Juan Domercq, a Spanish subject, for a quantity of tobacco belonging to him, and taken and used for purposes of defense, by order of Colonel Childs, at the siege of Pueblo, in Mexico, in 1847, and to allow and pay said Domercq for so much of said tobacco, not exceeding in quantity seven hundred and twenty-one bales, and at a price not exceeding twenty-four dollars the bale, as shall be proved to the satisfaction of the Secretary of War to have been destroyed or lost in consequence of its being so taken and used. The Secretary of War is also directed to allow and pay said Domercq damages for the injury done to eight hundred and twenty-three bales of tobacco, returned to him after being used in barricading the streets, &c., of Pueblo, provided the damage shall be proved to the satisfaction of the said Secretary, and that the amount allowed shall not exceed one dollar per bale.

The second section provides that such sum as may be so allowed and paid shall be in full satisfaction of any claim upon the Government of the United States.

The report of the Senate Committee of Claims was read. It states that the claim has been heretofore twice examined by successive committees, and favorable reports made thereon, and, in each instance, the bill reported by the committees has passed the Senate, but has failed to receive any action in the other branch of Congress. The committee refer to the report of the Committee of Claims 28th of January, 1851, and concur therein.

This latter report recounts the following facts on which the claim is founded:

General Worth, commanding the advance of the Army under General Scott, entered Puebla, in Mexico, in May, 1847, and finding a quantity of tobacco stored in that city belonging to the Mexican Government, caused it to be seized and sold for the benefit of the United States. The whole quantity, two thousand and eighty-one bales, was accordingly sold at public auction by Major Allen, of the quartermaster department, to Mr. L. S. Hargous, at ten dollars a bale, amounting to $20,810. Mr. Hargous paid Major Allen $5,500 in cash, and the balance in supplies for the Army, for which Major Allen has duly accounted.

On the sixth of June following, Mr. Hargous sold the two thousand and eighty-one bales of tobacco to Don B. Juan Domercq, the claimant, for twenty dollars a bale, amounting to $41,620. It appears that thirteen hundred and twenty-five bales of this tobacco were, at the times of the sales aforesaid, deposited in the quartel (public barracks) of San José, occupied by the American troops, and the remainder in other places in the city.

It appears, also, that two hundred and nineteen bales of the tobacco deposited in other places than the quartel were, some time in August following, deposited by the claimant in house number six, Second street, of San José, near the quarters of Colonel Childs. The thirteen hundred and twenty-five bales, and the two hundred and nineteen bales, were locked up, and the claimant had the keys.

The claimant alleges—and there is no evidence in the case contradicting his allegation—that the whole quantity of tobacco deposited in each of said places remained there till seized, by order of Colonel Childs, at the time of the siege of Puebla by the guerillas, in September following. At the time of that siege, Colonel Childs, being informed that the tobacco deposited at number six, Second street, San José, was Mexican property, ordered it, as well as that deposited in the quartel, which he supposed to belong to the United States, to be taken and used in constructing parapets on the houses, in barricading the streets, and in fortifying the quartel. Colonel Childs made a statement verifying that of the claimant.

It further appears that soon after the siege, Colonel Childs directed Quartermaster Webster to advertise and sell the tobacco that remained; and five hundred bales were accordingly sold at twenty-two dollars a bale, which were again sold by the purchaser for twenty-four dollars a bale. Colonel Childs being informed by Dr. Schadler and the Spanish vice-consul of Mr. Domercq's claim to the tobacco, e ordered the sale to be stopped, and that all that remained on hand be delivered to the claimant. Under this order, three hundred and twenty-three bales were delivered to the claimant. Soon afterwards, the five hundred bales which had been sold as above stated, were recovered back, and delivered to him—making, in all, eight hundred and twenty-three bales of the one thousand five hundred and forty-four bales originally deposited in the quartel and house number six, and leaving a deficiency of seven hundred and twenty-one bales.

Evidence was taken before the committee to show that, at that time, tobacco was selling in Mexico at from six to seven dollars the arroba, or twenty-five pounds. An arroba being a quarter of a bale, the committee recommend that the amount allowed do not exceed twenty-four dollars per bale.

There being no objection, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

House bill (No. 616) for the relief of Richard Fitzpatrick. [Objected to by Mr. EDGERTON.]

Senate bill (No. 277) for the relief of Theresa Dardeune, widow of Abraham Dardeune, deceased, and their children.

The bill and report were read.

Mr. EDGERTON. I would inquire of the gentlemen who reported this bill, if these applicants have not received, and had refunded to them by the Land Office, the money which they paid for the land?

Mr. WARREN. They have not.

Mr. EDGERTON. Then, I will say, if they will make application to the land office the money will be refunded to them. The General Land Office law requires that the money shall be refunded in such cases by that office.

Mr. WASHBURNE, of Illinois. Will that indemnify them? They want indemnity.

Mr. EDGERTON. Indemnity is what this Congress ought not to grant, and if this bill is to indemnify them I object to it.

The bill, being objected to, was laid over under the rule.

House bill (No. 609) for the relief of Henry H. Marsh.

The bill and report having been read, the bill was laid aside to be reported to the House with a recommendation that it do pass.

Senate bill (No. 244) for the relief of E. J. McLane.

The bill requires the proper accounting officer of the Treasury to pay to E. J. McLane, or his legal representative, the sum of $1,692 45, being compensation for his services and expenses as inspector of the customs in the collection district of Brazos de St. Jago, Texas, while seizing and detaining horses and mules, smuggled into the United States from Mexico, provided he shall produce, before the accounting officers, satisfactory vouchers for the same, or to allow and pay such part as shall be so vouched.

From the report which was read it appears that the petitioner, E. J. McLane, being an officer of the customs duly qualified, to wit: an inspector *pro tem.*, on the 16th of March, 1852, received the following instructions from Robert B. Kingsbury, deputy collector of Brownsville, Texas: "You are hereby commanded to take into custody any animals which you may have good reason to believe have been imported from Mexico, in violation of the revenue laws of the United States. If you should at any time take into possession any animals for an alleged violation of the revenue laws, you will report the fact to me forthwith. You will be careful, before detaining any animals, to be in possession of such evidence as will show good probable cause for such detention and seizure." On the 18th of March, John S. Rhea, the collector at Point Isabel, approved the employment of the petitioner, under the circumstances of the case as stated by Kingsbury.

In pursuance of his employment and instructions, the petitioner engaged assistants, pursued the animals, overtook and seized a part of the same, and made report of his proceedings to the said deputy collector, who, by the papers in the case, compliments the petitioner for his energetic and faithful conduct, and adds that the operations of the petitioner were perceived in the increase of duties on animals.

It also appears that said petitioner was engaged in the office of inspector of customs from the 16th of March to the 3d of June, 1852, and a detailed report of his proceedings shows that he exerted himself to discharge the duties of his office, and the great opposition he encountered from certain citizens of Texas through the State courts.

No objection being made, the bill was laid aside, to be reported to the House with a recommendation that the same do pass.

House bill (No. 618) for the relief of Richard White and Samuel Sherwood. [Objected to by Mr. VANSANT.]

Senate bill (No. 471) for the relief of J. H. F. Thornton, Lawrence Taliaferro, and Hay T. Taliaferro, sureties of D. M. F. Thornton, late a purser in the Navy of the United States.

The bill and report were read *in extenso*.

Mr. JONES, of Tennessee. I object to the principle of releasing sureties. Bonds are thus made void and invalid; and I do not see why, if we do it in one case, we should not do it in all.

Mr. SMITH, of Virginia. What is proposed by the bill has been done repeatedly during the present session.

Mr. BRIDGES. It ought never to be done.

Mr. JONES. I object to the bill.

House bill (No. 619) for the relief of Joseph Ridgway.

The bill and report were read *in extenso*.

Mr. BRIDGES. Understanding this case embraces the principle involved in the bill just objected to, I object to it.

Joint resolution (No. 41) for the relief of John Dugan.

The resolution, which was read, provides that the Secretary of the Interior shall issue to John Dugan, late a private in company C, Mississippi volunteers, in the Mexican war, a bounty land warrant for one hundred and sixty acres of land;

and also that the proper accounting officer of the Treasury Department shall pay to the said John Dugan the arrears of pay and extra pay that would be due to him, as though it had not been marked opposite his name on the rolls of said company, "absent without leave."

By the report, which was read *in extenso*, it appears that the petitioner was a volunteer in the war with Mexico, and served as a private in company C, Mississippi volunteers. He was mustered into service on the 3d of June, 1846, at Vicksburg, Mississippi, for twelve months, and was "*absent without leave*" from the 20th of May following, thus reducing the period of his service about twenty days. It is proved that the memorialist was a good soldier, and acted well in the battles of Monterey and Buena Vista. The memorialist states that he was too unwell to leave Monterey when the regiment was ordered to Brazos Santiago, preparatory to embarking for the United States. Captain Willis says this was probably so; but if it were not so, "his staying at Monterey cannot be regarded as desertion, as the whole regiment was virtually disbanded" the moment General Taylor ordered it home. The memorialist performed his duty well; and his failure to return home with his regiment, in preference to remaining in a hostile country, should not be regarded as at all equivalent to an act of desertion, as his own safety, and not the interests of the Government, was involved by his conduct. His meritorious conduct in battle, and the fact that he did not separate himself from his regiment until it had performed the duties for which it was organized, and had been ordered home, are sufficient to cause the committee to recommend the adoption of a resolution in compliance with the prayer of the petitioner.

The joint resolution was laid aside to be reported to the House, with a recommendation that it do pass.

House bill (No. 620) for the relief of Roswell Minard, the father of Theodore Minard, deceased. [Objected to by Mr. EDGERTON.]

House bill (No. 621) for the relief of the legal representatives of William A. Christian. The bill and report were read. The bill directs the proper accounting officers of the Treasury to allow to purser William A. Christian, in the settlement of his accounts, the sum of $2,643 74, being the amount disallowed him in former settlements of his accounts for payments made to the warrant officers of the United States steamship Princeton.

From the report it appears that the memorialist, on assuming his duties on board the United States steamer Princeton, a regular transfer was to him made, by Purser Upshur, of the accounts of the officers and crew of that vessel. Among these were the accounts of officers having acting appointments, namely: C. C. Bartling, acting sail-maker, William Taylor, acting boatswain, and James H. Conley, acting carpenter, to whom the memorialist continued to pay their salaries, as it had been done by his predecessors, Pursers McBlair and Upshur, on whose books they had previously been borne. The memorialist states that he knew the appointments of these officers had been made with the approbation of the honorable Secretary of the Navy, and no orders had been received from the Navy Department, or from Captain Stockton, for their discharge from the service after the passage of the act of June 17, 1844, they being still continued in the performance of their respective duties.

Under the belief that they were properly in the service, Purser Christian therefore paid them the amount of compensation appertaining to officers of their respective grades.

A proviso in the Navy appropriation act of August 4, 1842, prohibited any increase of the officers of the Navy beyond the number in the respective grades that were in service on the 1st day of January, 1842. As the warrant officers paid by Purser Christian had been employed in violation of this restriction, the Fourth Auditor very properly refused to allow a credit for the items of disbursement covering their pay.

It is believed, from the testimony presented, that Purser Christian made the payments under an honest belief, founded upon reasonable grounds, that he was bound to do so, and that the payments were legal. No other person than the Secretary of the Navy was authorized to determine when the complement of officers in any particular grade was full; and the fact of his authority to Captain Stockton to make these appointments, indicated to all the subordinates of the department that the list of the grade mentioned was not full, and that the appointments were legal. Whatever fault there was in the transaction, was on the part of the acting Secretary of the Navy, who disregarded the existing law.

There being no objection, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

House bill (No. 622) for the relief of Sarah Morriss, only heir of Robert Mitchell, deceased.

The bill was read *in extenso*. It directs the Secretary of the Treasury to pay to Sarah Morriss, wife of Robert Morriss, and only heir of the late Robert Mitchell, who was one of the captors of the Algerine vessels taken by the American squadron under the command of Commodore Decatur, the sum of $123 73.

There being no objection, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

House bill (No. 623) for the relief of William Brown.

The bill was read *in extenso*. It directs the Secretary of the Interior to cause the name of William Brown, of the county of Green, and State of Tennessee, to be placed upon the roll of invalid pensioners of the United States, at the rate of six dollars per month, from the 5th of July, 1854, for and during his life.

There being no objection, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

House bill (No. 624) for the relief of James McIntire.

The bill directs the Secretary of the Interior to place the name of James McIntire, of the county of Franklin, in the State of Virginia, on the roll of invalid pensioners, at the rate of eight dollars per month, commencing on the 13th January, 1854, and to continue during his natural life.

The report having been read, the bill was laid aside to be reported to the House.

House bill (No. 625) for the relief of Solomon La Follett.

The bill provides that the claimant shall receive sixteen dollars per month, instead of eight dollars per month, which he is now receiving as an invalid pensioner, the increase of pension to commence March 31, 1854.

The report having been read, the bill was laid aside to be reported to the House.

House bill (No. 626) for the relief of Elizabeth Foreman.

The bill directs the name of Elizabeth Foreman, of the State of Maryland, to be placed on the roll of pensioners at the rate of four dollars a month, and to continue for ten years from the 3d of August, 1854.

No objection being made, the bill was laid aside to be reported to the House.

House bill (No, 627) for the relief of Thomas C. Ramsey and Ananias O. Richardson.

The bill provides that instead of the pensions now received by Thomas C. Ramsey and Ananias O. Richardson, of the State of Tennessee, they shall each receive sixteen dollars per month, the increase of pension to commence on December 19, 1854.

The report shows that the claimants served gallantly in the Mexican war, and both lost their right arms at the battle of Monterey.

Mr. LETCHER. I move to amend the bill so as to make it embrace James McLaughlan, of the State of Virginia. It is precisely a similar case. He lost his right arm in one of the battles during the war of 1812, under General Harrison. He has been receiving only eight dollars a month. His case has been before the Committee on Invalid Pensions.

Mr. HENDRICKS. I will say to the committee that I have examined the case——

Mr. WITTE. I object to the bill.

House bill (No. 628) to repeal an act entitled "An act for the relief of George M. Bentley, of the State of Indiana," approved August 5, 1854.

Mr. HENDRICKS offered a substitute for the bill, providing that no pension should be paid to the claimant under the act passed last August for his relief, until he should have proved his right to a pension according to the rules of the Pension Office.

The substitute was adopted; and the bill was then laid aside to be reported to the House.

House bill (No. 629) for the further relief of Isaac Allen, of Turner, in the State of Maine.

The bill directs the Secretary of the Interior to cause to be paid to Isaac Allen, of Turner, in the State of Maine, the sum of two dollars per month during his natural life, to commence January 25, 1853; this sum to be in addition to the four dollars per month granted him by the act approved March 3, 1845.

The report, which was read, states that Allen was placed on the pension roll by special act of Congress, approved March 3, 1845, at the rate of four dollars per month, in consideration of disability contracted in the war of 1812, while serving as a private in Captain Herrick's company, Colonel McCobb's regiment. His disability has since increased to three fourths of a total disability. Had Mr. Allen been placed on the pension roll under the general law, his pension would have been increased as soon as he should have produced satisfactory evidence to the Commissioner of Pensions of the increase of his disability; but as he was pensioned by special enactment, the Commissioner did not feel authorized to allow the increase.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

House bill (No. 630) for the relief of Wyatt Griffith, of Washington county, in the State of Tennessee.

The bill directs the Secretary of the Interior to place on the pension roll the name of Wyatt Griffith, of Washington county, in the State of Tennessee, and cause him to be paid eight dollars per month during the term of his natural life, to commence on the 20th of June, 1854.

The report states that Griffith enlisted as a private soldier at Ashe court-house, North Carolina, under Lieutenant Wily Gordon, on the 8th of September, 1814, and served in Captain Brannan's, afterwards Captain Parker's company, Colonel Hamilton's third rifle regiment of North Carolina infantry, during the war with Great Britain. And for this service bounty land warrant, No. 8291, for one hundred and sixty acres was issued to him on the 21st of January, 1817. While marching from North Carolina towards the Canada frontier, about the 1st of December, 1814, from fatigue and exposure he took cold, which settled into rheumatism, and disabled him from service most of the time until his discharge, and which still affects him. The disability consists of a collection and hardening of humors in the right hip joint, which has dislocated the joint, and totally disabled him for life. The evidence, though satisfactory to the committee, would not, under the rules of the Pension Office, entitle Griffith to a pension; and therefore his case appears to be one proper for special legislation.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

Senate bill (No. 192) for the relief of Amos Knapp.

Mr. EDGERTON. I understand that the Committee on Invalid Pensions has reported that bill with a recommendation that it do not pass.

The CHAIRMAN. That is so.

Mr. EDGERTON. And is not that sufficient objection?

The CHAIRMAN. The Chair thinks not.

Mr. HENDRICKS. I would state to the Chair and the committee, that this case has been examined by the Committee on Invalid Pensions. That committee would not recommend its passage, but leave it to the House, to dispose of it as it may think proper.

The bill and report were read.

Mr. CARPENTER. I desire to make an explanation in reference to the bill.

Several MEMBERS. There has been no objection to it.

Mr. LETCHER. Why, I understand that the Committee on Invalid Pensions has objected to it.

The CHAIRMAN. Yes; but the Chair understands that objection must be made here.

Mr. FLORENCE. The chairman of the committee says that it is a mistake in the record.

Mr. LETCHER. Well, I object to it.

Mr. STANTON, of Tennessee. I understand

that objection has been made by the gentleman from Pennsylvania [Mr. BRIDGES] to bill 619, and that he is willing to withdraw his objection.

The CHAIRMAN. The gentleman will suspend till Senate bill, No. 192, is disposed of. Is this bill objected to?

Mr. LETCHER. Yes, sir; I object to it.

Mr. STANTON, of Tennessee. I understand the gentleman who objected to House bill (No. 619) for the relief of Joseph Ridgway, is willing to withdraw his objection.

Mr. BRIDGES. I objected to the bill because I am opposed to the general principle of releasing sureties when they give their bonds. I understand that the bill in this case gives the Secretary of the Treasury the power to compromise the case, because if a suit were pressed with vigor against the sureties, nothing could be obtained. I therefore withdraw my objection.

There being no further objection, the bill was laid aside, to be reported to the House with a recommendation that it do pass.

Mr. WITTE. I withdraw the objection I made to House bill (No. 627,) for the relief of Thomas C. Ramsey and Ananias O. Richardson.

Mr. LETCHER. To avoid all difficulty about it, I withdraw the amendment I offered.

There being no further objection, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

Mr. BAYLY, of Virginia. I rise to ascertain who it was that objected to Senate bill (No. 252) for the relief of the personal representatives of William A. Slacum.

The CHAIRMAN. The Chair will inform the gentleman from Virginia that we have not been considering that case to-day.

Mr. BAYLY. It was objected to on a former day.

The CHAIRMAN. The Chair thinks that it is too late to go back to the business of a former day; and the Chair begs leave to say that it is very desirable the business should be proceeded with and finished in the regular order of the Calendar.

Mr. HENDRICKS. I desire to call the attention of the gentleman from Virginia [Mr. LETCHER] to a case which we have just passed—Senate bill (No. 192) for the relief of Amos Knapp. The committee would not recommend the passage of the bill, for the reason that it was a departure, to some extent, from the principles of the general pension laws.

The CHAIRMAN. Debate is not in order.

Mr. HENDRICKS. I wish merely to explain the matter, as no report accompanies the bill. I will briefly state the facts of the case, so that the House may understand it.

In 1848, Mr. Knapp filed his petition in Congress, asking for a special act to be passed for his relief. The proof was completed, as he and his friends supposed, and there never was any change in the proof in support of his case, except that the member of Congress from his district certified to the credibility of one or two witnesses. The case was the same in 1848 as it was in 1852, when a bill passed the Senate for his relief. It has been the policy, in granting pensions, to give relief from the time the proof was completed in Congress, and I think in this case the change of proof was so slight——

Mr. FAULKNER. I object to debate.

The CHAIRMAN. The next business in order is the consideration of joint resolution (No. 42) for the relief of George W. McCerren.

The resolution and report were read.

The resolution directs the Secretary of War to adjudicate and settle the claim of George W. McCerren, for such bread, beans, and pork, or bacon, in barrels, as were taken out of the possession of McCerren, in 1847, by order of the commanding officer of the United States army in command at Brazos Santiago, and used in the construction of Fort Harney; and provides that the value of said articles or provisions, when ascertained by the Secretary of War, with interest thereon from the date of their seizure, shall be paid to George W. McCerren, out of any moneys in the Treasury not otherwise appropriated.

From the report it appears that, in the early part of 1847, the petitioner was the owner of several hundred barrels of hard bread, a lot of pork in barrels, and a few barrels of beans; that these articles had been previously purchased by the petitioner at a public sale made by the proper officers of the Government, the same being sold as damaged. The petitioner seems to have been engaged in the business of purchasing such provisions as were considered unfit for the use of the army, and transporting the same to New Orleans. It appears that about this time a report reached Brazos Santiago that the Mexicans, in great force, were crossing the Rio Grande at Matamoras, which caused the officer in command at the former place to order the construction of fortifications for the defense of the post. Under this order the provisions above mentioned were used in the construction of Fort Harney, and wholly lost to the memorialist, without any fault of his own.

Mr. ETHERIDGE. The resolution was reported by the Committee on Military Affairs, of which I am member. I move to strike out the words, "with interest thereon from the date of their seizure."

The amendment was agreed to.

The bill was then laid aside to be reported to the House, with a recommendation that it do pass.

Mr. FAULKNER. I was understood, a short time since, as objecting to the claim of Amos Knapp. My objection was to the discussion, and not to the claim.

Mr. HUNT. It has been passed.

The CHAIRMAN. It has been passed, and it is not in order to go back upon the Calendar, except by unanimous consent.

Mr. HUNT. I object.

Mr. FAULKNER. But the Chair misunderstood me in supposing I objected to the claim. I simply objected to the discussion being continued.

The CHAIRMAN. Then the Chair did misunderstand the gentleman; and, if there be no objection, the committee will resume the consideration of the bill for the relief of Amos Knapp, and, if not further objected to, it will be laid aside to be reported to the House.

Mr. HOWE. I object.

House bill (No. 642) for the relief of Medford Caffey, of the State of Tennessee.

The bill directs the Secretary of the Treasury to pay to Medford Caffey, of the State of Tennessee, $106, in full compensation for his horse and equipage, lost in the Seminole campaign in the year 1818.

From the report, which was read, it appears that Medford Caffey was a private in the company of Captain Hugh Kirk, of the first regiment of volunteer mounted gunmen from West Tennessee, in the expedition against the Seminole Indians, in 1818: "that he entered the service on the 31st of January, 1818, with a horse and equipage valued at $106; and that he lost his horse in the service on the 8th of May, 1818, by reason of forced marches and want of forage, not furnished by Government, and not by any neglect on his part." Those facts appear from the official certificate of Captain Kirk, which is certified by R. H. Dyer, colonel commandant of said regiment. They are also verified by the affidavit of Captain Kirk, on file.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

House bill (No. 668) for the relief of Paul S. Ridgway.

The bill requires the Secretary of the Interior to place the name of Paul S. Ridgway upon the pension roll, and cause to be paid to him the sum of eight dollars a month for and during the term of his natural life, commencing June 1, 1854.

From the report, which was read, it appears that Paul S. Ridgway was a volunteer in Captain John Sharp's company of volunteers at the battle of the Thames, in the last war with Great Britain, in which action he received a wound from a musket shot—the ball passing through the leg a short space above the ankle; that Ridgway again entered the service of the United States as a private in Captain Gill's company, Colonel Miller's regiment of infantry, August 16, 1814, and was honorably discharged at Chillicothe, Ohio, in 1815, after peace was established, for which service a warrant for one hundred and sixty acres of bounty land was issued to him; that at one time during this service, when carrying a message across the river Thames on the ice, he broke through, and was wet from head to foot; but that he proceeded and delivered his message, and, in consequence, had one of his feet frozen. At another time, while firing at a target with a six-pounder, in consequence of a premature discharge, the cannon struck him in its recoil, producing a slight rupture. He is now eighty years of age, and the effect of these injuries has totally disabled him. He forbore to ask a pension until the year 1850, when poverty and inability to earn a livelihood compelled him to make application to the Commissioner of Pensions for relief. He was then unable, by reason of the death and removal of his officers and fellow-soldiers, to produce the testimony required in the Pension Office to establish his claim.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

House bill (No. 669) granting a pension to Joseph McCormick.

The bill and report were read.

Mr. HENDRICKS. I do not like to object to that bill, but it is supported by evidence which would not be sufficient to support any case which has passed Congress since I have been a member of the Committee on Invalid Pensions. I object.

Joint resolution (No. 45) for the relief of James Hughes.

The bill authorizes and directs the Secretary of War to adjudicate and settle the claim of James Hughes, of Madison county, Tennessee, for such clothing as was furnished by him to the company of volunteers engaged in the Seminole war, commanded by Captain Alexander D. Bradford, and afterwards by Captain Jesse McMahon, and that the value of said clothing, when ascertained by the Secretary, shall be paid to said Hughes.

From the report, which was read, it appears that about June, 1836, a company of volunteers commanded by Captain Alexander B. Bradford, was raised at Jackson, Tennessee, for the Seminole war; that said company did serve during the period of enlistment in the suppression of Indian hostilities in Florida, and were discharged at the expiration of that period. It appears that after said company was organized, the memorialist, at the request of the officers, furnished clothing for said company, which clothing was worn by those to whom it was furnished while in the service of the Government in the Seminole war. It also appears that the memorialist has not been paid. The above facts are very fully established by the testimony of the officers of said company.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

House bill (No. 682) for the relief of Frederic Griffing. [Objected to by Mr. MACE.]

Senate bill (No. 346) for the relief of the heirs-at-law of William Van Wart, deceased.

The bill, which was read, provides that the Secretary of the Interior be, and he is hereby, directed to pay to the heirs-at-law of William Van Wart, deceased, late a pensioner of the United States, a sum equal to forty dollars per annum, from the 4th of March, 1831, to the date of the death of the deceased.

From the report, which was also read, it appears that William Van Wart, deceased, father of petitioners, enlisted and served during the entire war of the Revolution; that among other important services rendered by him was the giving such information to Paulding, Williams, and Isaac Van Wart, (his brother,) as led to the arrest of Major André by them; that he was, for twelve months, imprisoned in loathsome British prison ships, and upon his release again joined the Army, and at the close of the war was honorably discharged.

In 1834, William Van Wart, deceased, made application to the proper department for a pension, claiming a service sufficient to entitle him to ninety-six dollars per annum. Owing to some deficiency in the proofs presented with the application, the Commissioner of Pensions decided that he was entitled to but thirty dollars per annum, and accordingly placed his name on the pension roll at that rate, to date from the 3d of March, 1831. For some reason, not fully explained, the deceased never received the bounty land, to which he was also entitled.

The prayer of the petitioners, his heirs-at-law, now is, that a special act of Congress may be passed, giving to them the difference between thirty dollars per annum, the amount received by

deceased, and ninety-six dollars per annum, the amount to which they claim he was entitled; also that they may be granted the bounty land to which he was entitled, and for which they allege he applied, but did not receive.

Mr. JONES, of Tennessee. I move to strike from the bill the words "heirs-at-law," and in their place to insert the word "children."

We have never passed a bill giving to heirs-at-law any pension due to revolutionary soldiers. If the pensioner dies leaving arrears of pension due him, none but his children can get it.

The amendment was agreed to.

The bill was then laid aside to be reported to the House, with a recommendation that it do pass.

Mr. MACE. I withdraw my objection to House bill (No. 682) for the relief of Frederic Griffing.

Mr. HOUSTON. I object to going back.

House bill (No. 696) for the benefit of the heirs of Philip R. Rice, deceased.

The bill provides that there be paid to the heirs of Philip R. Rice, deceased, out of any money in the Treasury not otherwise appropriated, the sum of $3,450, in full payment for the loss of a vessel in the service of the United States, during the war of the Revolution.

From the report which was read, it appears that Philip R. Rice, while a resident of King William county, Virginia, in the year 1781, was the owner of a small trading vessel, the cost of which was $2,200; that shortly before Lord Cornwallis took possession of Yorktown, he, with two of his servants, who composed the crew of the vessel, was trading in the York, Potomac, and James rivers, and that while thus engaged, he, together with his two servants and vessel, was pressed into the service of the United States by the press-masters, Robert Radford and Micajah Crews, for the purpose of transporting munitions of war, military and quartermaster's stores, from the town of Cumberland to Taylor's ferry, which duty was performed under the direction of said press-masters, they being with him, and superintending the loading and unloading of the cargo; that he was then directed by them to go to Newcastle, and load with flour from Colonel Simm's mill, and with cannon and shells, and pork, and transport the same to York; that in accordance with their direction, he repaired to Newcastle and loaded, and on his return, before he reached Goodman's Island, he was attacked by the British, who, since he had left Taylor's ferry, had taken possession of Yorktown; that the enemy's force was so well provided with field artillery, that, to effect his own escape, and that of his crew, he was compelled to scuttle the vessel to prevent the cargo from falling into the hands of the enemy, and escape (himself and crew) in a skiff; that the vessel went down shortly after they left her, and was afterwards destroyed by the British, but that they (the British) got no part of the cargo, as he believes.

He further states, that the vessel was worth $2,200; that the vessel, himself and hands, were in the employ of the United States after the impressment, and until she was thus taken by the enemy, from three to four months; that he has never, directly or indirectly, received any compensation whatever for the loss of his vessel, or the services of himself and crew; and that in his old age and decrepitude he appeals to his Government for a remuneration for his loss and his services during the period above stated.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

Senate bill (No. 356) for the relief of George Dennett, of Portsmouth, New Hampshire.

Mr. JONES, of Tennessee. That bill is accompanied by the recommendation of the committee to which it was referred, that it do not pass. I move that it be laid aside to be reported to the House with the recommendation that it do not pass.

The motion was agreed to.

Mr. EDGERTON. I objected to House bill (No. 620) for the relief of Roswell Minard, the father of Theodore Minard, deceased. I have since become satisfied that the bill is right, and I ask leave to withdraw my objection.

Mr. HILLYER. I must insist upon going through with the Calendar first. I will not object to any member withdrawing his objection to any bill when the Calendar has been read through, but until then, I must object to going back.

Senate bill (No. 254) for the relief of Catharine B. Arnold.

The bill directs the Secretary of the Interior to place the name of Catharine Bryant Arnold, widow of the late Major Ripley A. Arnold, upon the list of pensioners, and to pay to her a pension at the rate of one half the pay per month to which her said husband was entitled at the time of his death; said pension to commence on the 6th of September, 1853, and continue during her natural life or widowhood.

From the report it appears that on the breaking out of the Mexican war, the second dragoons, in which Brevet Captain Arnold then held the rank of first lieutenant, was encamped opposite Matamoras, and it formed part of the small force under General Taylor that sustained so nobly the first conflicts on the Rio Grande. On these occasions Captain Arnold was again distinguished, and won the brevet of major, to date from May 9, 1846, for his "gallant and meritorious conduct in the battles of Palo Alto and Resaca de la Palma." He was promoted a Captain in his regiment August 18, 1847, and continued with it till the termination of the war, when he accompanied it to Texas, where he was serving at the time of his death, September 6, 1853. He was killed in an encounter with Assistant Surgeon J. M. Steiner, growing out of an order given by Major Arnold for his arrest. There is no existing law which gives to the widow of an officer or private of the regular Army either pension or half pay, unless the soldier died of wounds received, or disease incurred, in the Mexican or some previous war. The laws respecting naval pensions, however, grant five years' half-pay to the widows of all who die in the service of wounds, injuries, or disease incurred, or casualties happening while in the line of duty. The committee, under recommendation from the Commissioner of Pensions, have reported a bill, placing widows of the Army upon the same footing in this respect, with widows of the Navy.

There being no objection, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

Mr. STANTON, of Tennessee. A few minutes ago, I asked the consent of the committee for the gentleman from Indiana [Mr. HENDRICKS] to withdraw his objection to House bill (No. 682) for the relief of Frederic Griffing. I understand the gentleman from Georgia, [Mr. HILLYER,] who then objected to going back, is now willing to withdraw his objection, and I therefore ask the consent of the committee that the bill may be laid aside to be reported to the House.

There being no objection, the committee again took up the bill for consideration.

The bill provides that the Secretary of the Navy cause to be paid to Frederic Griffing the amount withheld from him of the purchase money for the property at Brooklyn, sold by him to the United States in pursuance of the act of August 3, 1848, entitled "An act making appropriations for the naval service for the year ending June 30, 1849."

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

Mr. HILLYER. I understand that, on last objection day, the gentleman from Virginia [Mr. LETCHER] objected to bill No. 256, for the relief of the West Feliciana Railroad and the Georgia Railroad and Banking Companies, and that he is now willing to withdraw his objection.

Mr. HENDRICKS. I object to going back.

Senate bill (No. 464) for the relief of Israel Ketcham.

The bill and report were read.

Mr. JONES, of Tennessee. This seems to be a very complicated case. If I understand it, the contractors for building this fort have been paid by the Government; and this bill is to pay a subcontractor. I object to it.

Mr. EDGERTON. That is not precisely the condition of the case.

House bill (No. 697) for the relief of the widow of W. Irving, deceased. [Objected to by Mr. LETCHER.]

House bill (No. 700) for the relief of Thomas Morris.

The bill directs the proper accounting officers of the Treasury to pay to the heirs of Thomas Morris, who was a captain in the Georgia line on the Continental establishment in the revolutionary war, and who died in the service of the United States during said war, the full amount of the half-pay of a captain of artillery for seven years: provided said heirs, before the payment thereof, exhibit to the Secretary of the Treasury satisfactory proof that they are the only heirs of the said Thomas Morris.

From the report it appears that the records of the Third Auditor's office, as evidenced by the letter of Peter Hagner, Esq., Auditor thereof, show that Thomas Morris was captain of artillery in the Georgia line, and, from the final settlement certificate issued in his favor, he ceased to be an officer in 1781; but whether he died in service, or resigned, is not learned from anything on file in that office.

The depositions of John Christian and Holder Heragin, whose characters for respectability and truth are sufficiently attested, prove to the satisfaction of the committee that Captain Thomas Morris died of small-pox, in Mathew county, Virginia, in the year 1781, and while in service.

Mr. JONES, of Tennessee. I move to strike out the word "heirs," in the bill, and insert in lieu thereof the word "children."

The amendment was agreed to.

The bill was then laid aside to be reported to the House, with a recommendation that it do pass.

House bill (No. 702) for the relief of William Hagerty.

The bill directs the Secretary of the Treasury to pay to William Hagerty, out of any money in the Treasury not otherwise appropriated, the sum of $964 80, in full payment of his claim for grading the street around the Capitol inclosure.

From the report it appears that this claim is for additional work done on a contract for grading the street around the Capitol inclosure.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

House bill (No. 703) for the relief of Rebecca Winn, widow and executrix of the last will and testament of Timothy Winn, deceased, late a purser in the Navy of the United States.

The bill and report were read.

The bill directs the accounting officers of the Treasury to adjust the accounts of the late Purser Timothy Winn, so as to allow his legal representative the sum of $600 per annum for clerk hire during his service as purser at the Washington navy-yard, deducting therefrom whatever payments on account of clerk hire have already been made either by allowance of the Department or by judgment of the court of this District.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

House bill (No. 240) for the relief Thomas S. J. Johnson, of the Territory of New Mexico.

The bill directs the Secretary of the Treasury to pay to Thomas S. J. Johnson, out of any money in the Treasury not otherwise appropriated, the sum of $4,800, in full compensation for thirty-two wagons, the property of Thomas S. J. Johnson, taken by the officers of the United States Army, and appropriated to necessary public use.

From the report it appears that the petitioner was in August, 1850, the owner of *thirty-two* large road wagons, suitable for carrying heavy burdens. Upon the request of the petitioner, Captain A. W. Reynolds, acting assistant quartermaster of the United States Army at Santa Fé, in New Mexico, permitted him to store said wagons for safe-keeping in the Government corral at that place, which contained sufficient unoccupied room for that purpose. In the month of June following, petitioner applied to the United States wagon master in charge of said corral for his wagons, when he first learned that all of his wagons had, from time to time, been taken by the officers and employees of the quartermaster's department for the necessary use of the United States Army in its operations in that vicinity, and that they were so taken and put in use in the month of September following their storage. Petitioner immediately made a demand of his wagons from Captain Reynolds, the assistant quartermaster, or payment of their value. Captain Reynolds refused to deliver them, on the ground that they were necessary for the service, and could not be dispensed with, and referred petitioner to Captain L. C. Easton, assistant quartermaster. Upon application to him, he refused

to deliver the wagons or to pay for them, and referred the matter to General Jessup, the quartermaster general at Washington, for settlement.

Upon application to General Jessup, he decided it was a matter beyond his control; expressed a favorable opinion of the claim, and referred the case to the honorable C. M. Conrad, then Secretary of War, who gave an order for the return of the wagons to the petitioner. They were not, however, returned, and could not be, for the reason that most of them had been worn out and broken to pieces by severe usage in the service of the United States Army; and such as were fit for use were still in service, and could not be dispensed with without serious detriment to the service.

It appears that said wagons were worth, at the time they were so taken and put into the service of the United States, $150 each.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

Mr. HILLYER. I desire to make an appeal to the committee. It will not be in my power to be present on any subsequent objection day. There is a bill which has been passed by, in which very many of my constituents are deeply interested, and I ask the committee to permit the gentleman who objected to it, to withdraw the objection, in order that the bill may be taken up and reported to the House. It is bill No. 256, for the relief of the West Feliciana Railroad and the Georgia Railroad and Banking Companies.

Mr. JONES, of Tennessee. That bill is upon the twelfth page of the Calendar, and the committee have not been engaged upon that page to-day.

The CHAIRMAN. The Chair thinks the committee cannot go back upon the Calendar.

Mr. HILLYER. But I ask the unanimous consent of the committee, and I wish to remark to the gentleman from Tennessee, that I shall not be here on any other objection day. Many of my constituents are interested in this bill, and I ask the gentleman to withdraw his objection.

Mr. JONES. We cannot go back upon the Calendar, beyond the point at which we commenced this morning, without opening the whole Calendar.

Mr. HUNT. The gentleman says he cannot be here on another objection day, and we all know he has been an indefatigable member. I hope his request will be granted.

Mr. JONES. The bill is objectionable in itself. It is to repeal duties on railroad iron. I must insist on my objection.

House bill (No. 705) for the relief of the assignee of bounty land warrant No. 27849, issued to William Phillips and Sarah Connor.

The bill provides that the time limited by law for the location of bounty land warrant No. 27849, issued to William Phillips and Sarah Connor, for one hundred and sixty acres, under the date of 20th April, 1853, be extended for the term of five years from and after the 26th day of June, 1853, and that the assignee of said warrant be authorized and empowered to locate the same at any time within five years after the 26th of June, 1853.

The report, which was read, shows that bounty land warrant No. 27849, for one hundred and sixty acres, issued to Sarah Connor and Robert Phillips, on the 20th of April, 1853; that the same was issued under the law of June 26, 1848, and that, by the provisions of the act, the time for locating said warrant expired on the 20th of June, in the same year. The warrant is now in the hands of the assignee of the parties, but without authority of law for its location.

Mr. HENN. I would inquire if there is not a general law which covers that case?

Mr. HENDRICKS. I would say to the gentleman that the general law relating to that warrant has expired.

Mr. HENN. Was it not revived at the last session of Congress?

Mr. HENDRICKS There is no law in existence which governs it.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

House bill (No. 706) increasing the pension of Anthony Walton Bayard, of Bellefonte, in the State of Pennsylvania.

The bill provides that the pension now received by Anthony Walton Bayard be increased to twenty dollars per month, and that said pension be paid him from the first of January, 1852, deducting the amount of pension he has already received since that date, and that hereafter the pension shall be twenty dollars per month during his life, instead of eight dollars a month, which he now receives.

The report, which was read, shows that the petitioner was a private in the war of 1812, and served in the wars with the Indians in the northwest, and that he was severely wounded upon three occasions, by which he is wholly disabled, and for which he was placed on the pension roll in 1844, at the rate of eight dollars per month. He is now poor, very helpless, and decrepit. He was a very daring and valuable soldier. At the siege of Fort Harrison the Indians succeeded in setting fire to one of the block-houses, which communicated to the roof of the soldiers' barracks. The commanding officer called for volunteers to go upon the roof, in point-blank shot of the enemy's rifles, and extinguish the fire. The petitioner and another soldier volunteered, and mounted the burning roof. His companion was instantly shot dead, and the petitioner badly wounded. He succeeded in extinguishing the fire. This service was, at the time, regarded by the officers as most hazardous, and of great value to the American forces. The petitioner claims that his disability is total, rendering him dependent; that it results from wounds received whilst rendering most gallant, hazardous, and valuable services; and that, in such a case, a pension of eight dollars per month is not sufficient.

No objection being made, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

Senate bill (No. 447) to increase the pension of Patrick C. Miles.

The bill directs the Secretary of the Interior to increase the pension of Patrick C. Miles to thirteen dollars per month, the amount of his duty pay, the increase to take effect from the 1st day of January, 1844, and to continue during his natural life.

From the report of the committee, which was read, it appears that Patrick C. Miles served in company K, of the first regiment of infantry, in the war with Mexico, and faithfully discharged his duty as a soldier. At the storming of Monterey his conduct was most gallant. In that engagement he was struck by a cannon ball and lost his right leg; and was also struck by a piece of a shell, whereby his right arm is partially but permanently disabled. Because of these injuries he was honorably discharged, and was pensioned at the rate of eight dollars per month, which he now receives.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

House bill (No. 611) for the relief of William G. Preston, late a captain in the war of the United States with Mexico.

The bill provides that $538,05 be paid to William G. Preston, late a captain in the war of the United States against Mexico, to reimburse him for subsisting his command and horses from Ozark to Washington, Hempstead county, State of Arkansas.

From the report it appears that William G. Preston was the captain of the late company H, Arkansas mounted volunteers, in the Mexican war; that he raised said company and enrolled it at Ozark, in Arkansas, and marched it to Washington, in the said State, where it was mustered into the service of the United States. It is proven that the company consisted of seventy-nine men, the subsistence for which, and the forage for the horses, he furnished at his own expense, whilst marching from Ozark to Washington, a distance of one hundred and eighty-five miles.

The memorialist charges for eleven days' subsistence of his men, at forty-five cents each per day, and for ten days' forage of his horses, at twenty cents each per day, making his claim amount, in the aggregate, to $538 05.

The committee think that the charge for the forage of the horses is proper, but that the charge for the subsistence of the men is too high, twenty-five cents per day being, in the opinion of the committee, an ample price for the subsistence of a man.

The CHAIRMAN. The committee have reported the following substitute for the bill:

That the sum of $375 25 be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, and that the same be paid to William G. Preston, late a captain in the war with Mexico, to reimburse him for subsisting his command, and foraging the horses of his company, from Ozark to Washington, in Hempstead county, in the State of Arkansas.

The question was taken; and the amendment was agreed to.

The bill was then laid aside to be reported to the House, with a recommendation that it do pass.

House bill (No. 707) for the relief of George Bush, of Thurston county, Washington Territory.

The bill provides that the claim of George Bush to six hundred and forty acres of land in Thurston county, Washington Territory, in virtue of his early settlement and continued residence and cultivation, as set forth in the memorial passed March 17, 1854, by the Legislative Assembly of Washington Territory, be confirmed—the one half to George Bush and the other half to his wife; and that it shall be the duty of the surveyor general of the Territory of Washington to designate and set apart the quantity of land aforesaid, to embrace the residence and settlement of George Bush, according to the lines of the public surveys, and for the claim hereby confirmed, but not in such a manner as to interfere with any reserve or valid adverse right, if any such exist, to any part of the land claimed; and upon the presentation of a certificate from the surveyor general, designating the land which may be officially set apart under this act, a patent shall issue, if the proceedings are found regular by the Commissioner of the General Land Office.

The report sets forth that, by the act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey and to make donations to settlers of said public lands, it is provided "that there shall be granted to every white settler or occupant of the public lands, American half-breed Indians included, above the age of eighteen years, being a citizen of the United States, or having made a declaration according to law of his intention to become a citizen, or who shall make such declaration on or before the 1st day of December, A. D. 1851, now residing in said Territory, or who shall become a resident thereof on or before the 1st day of December, A. D. 1850, and who shall have resided upon and cultivated the same for four consecutive years, and shall otherwise conform to the provisions of this act, the quantity of one half-section, or three hundred and twenty acres of land, if a single man; and if a married man, or if he shall become married within one year from the first day of December, 1850, the quantity of one section, or six hundred and forty acres of land, one half to himself and one half to his wife, to be held by her in her own right," &c. This provision extends to all lands in Oregon and Washington Territories, except town sites, or lands settled for business, or trade, school lands, or other reservations pointed out by law. That, in the year 1845, George Bush, a free mulatto, with his wife and children, emigrated to, and settled in Thurston county, then in Oregon, but now in, Washington Territory, and settled upon, and laid claim to six hundred and forty acres of land; that he has continuously occupied said section of land and cultivated the same; he has put upon it a valuable farm-house and other improvements, and that he now has the said tract of land, or a large part of it, in a high state of cultivation.

Bush having been excluded from the benefits of the law granting donations of land in said Territories, the Territorial Legislature, on the 27th of February, 1854, adopted a memorial to Congress, asking that his case should be made an exception to the general rule, and that an act be passed giving to Bush and his wife title to the section of land so occupied and cultivated by them.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

House bill (No. 708) for the relief of James P. Roan. This bill provides that James P. Roan, of the State of Florida, be permitted to enter, at any land office in the State of Florida, a full section of land, or less quantity in lieu thereof, by divisional lines, without making payment therefor, provided the same shall be deemed and taken as a full satisfaction of any and all claims of James P. Roan, under an act of Congress entitled "An

act granting donations of land to certain actual settlers in the Territory of Florida," approved May 26, 1824; and provided further, that in his location, he shall in no case select any tract of land containing a less number than one hundred and sixty acres.

From the report it appears that, by an act of the 26th of May, 1824, the Florida commissioners were required to audit claims and the evidence in support of claims to land, made under the act, and founded on "actual habitation and cultivation by men over twenty-one years of age, and heads of families, between the 22d of February, 1819, and June, 1821." The memorialist presents, from the archives of the commissioners, a copy of his original petition for a confirmation of title to his settlement, and the evidence in support of his right, by which it appears that he was, through the time embraced by the act, an actual settler on the Appalachicola river, the head of a family, and over twenty-one years of age. The commissioners seem to have failed to report in his case, because his lands were supposed to be covered by an interference of another claim, and thus he failed to obtain the relief the law designed to extend. Afterwards his land was entered as public land, and he was evicted. The price of the land having passed into the public Treasury, and to the use of the United States, his equity becomes plain—to be reinstated in all the advantages he should have acquired under the act of 1824.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

House bill (No. 709) confirming a land claim to Elijah White, of the Territory of Washington. The bill provides that the claim of Doctor Elijah White to six hundred and forty acres of land on Baker's bay, near Cape Disappointment, formerly in Oregon, now in Washington Territory, under the act of Congress, approved September 27, 1850, creating the office of surveyor general, and making donations in Oregon, shall not suffer any prejudice by reason of his absence from his settlement, as set forth in his petition; but the claim, if in other respects within the provisions of the act of September 27, 1850, shall be confirmed by the surveyor general to Elijah White and his assignees, but not to interfere with any reservation that may be needed by the United States for light-houses or other public uses, nor to the prejudice of any valid adverse right, if such exists.

Mr. GREENWOOD. I would inquire of the gentleman from Ohio, [Mr. NICHOLS,] who reported this bill, why it is he proposes to make this an exception to all similar cases?

Mr. NICHOLS. Dr. White occupied the land, and made his claim for it in the regular form. But before he had completed the requirements of the statute, necessary to entitle him to a patent for the land, he was called by temporary business to California. While there he was notified that the Government required this particular piece of land as an appurtenance to military works they were about erecting. In consequence of this information he neglected to return for such a length of time, that, when he did return, under the decision of the surveyor general, he was debarred from his right to the land under the statute. It has since been ascertained that the land is not needed by the Government, except a very small portion for a light-house. I will state further in reference to the circumstances of the case, if the committee desire further information.

Several MEMBERS. That is satisfactory.

There being no further objection, the bill was laid aside to be reported to the House, with the recommendation that it do pass.

House bill (No. 570) for the relief of John R. Bowes, agent in charge of the property of the United States at Michigan City, in the State of Indiana. The bill and report were read.

The bill directs the proper accounting officers of the Treasury to pay to John R. Bowes, of the State of Indiana, agent in charge of the property of the United States at Michigan City in said State, the sum of $470 33, in payment and in full discharge of all claims of said Bowes against the United States for services as said agent.

The report states that John R. Bowes, as an agent of the Government, was in charge of the public works and property of the United States at Michigan City, in the State of Indiana, from 1st September, 1846, to the 28th March, 1849, and again from the 26th April, 1851, to the 26th September, 1852, at the compensation of ten dollars per month. This account was approved by the chief of the Topographical Bureau, and transmitted to the office of the Third Auditor, for payment out of the appropriation made by the act of August 30, 1852, for repairs and contingencies of harbors and rivers. This account, on being submitted to the Comptroller, and by him to the Secretary of War, was rejected, for the reason that the services were rendered before the passage of the act, and was not properly payable out of that appropriation.

There being no objection, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

Mr. FULLER. I wish to state to the committee that House bill (No. 499) to refund to the officers of the customs and others of the district of Passamaquoddy certain moneys, was objected to on the last objection day by the gentleman from Tennessee, [Mr. READY.] It is simply to allow a small amount of money, which was wrongfully paid into the Treasury, to be refunded to the officers of the customs in the district of Passamaquoddy in the State of Maine. The schooners L'Etang and Josephine, and the bark Phenix were condemned for violation of the revenue laws, and were sold. Under the existing laws the officers of the customs were entitled to a certain proportion of the proceeds of the sales; but, through the error of the clerk of the district court, the money was paid into the Treasury. This is merely to allow this money to be refunded. The gentleman from Tennessee withdraws his objection, and I ask that the bill may be laid aside to be reported to the House.

Mr. LETCHER. How are we to know that the gentleman from Tennessee withdraws his objection? He is not in the House.

Mr. FULLER. He has asked leave to withdraw it two or three times in open House.

Mr. LETCHER. Well, let it go.

There being no objection, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

Mr. JONES, of Tennessee. Since I objected to the bill of the Senate (No. 256) for the relief of the West Feliciana Railroad, and Georgia Railroad and Banking Company, I have read the report in the case, and it appears that these two companies are all that would come within the provisions of such a bill. The bill is to refund to these railroad companies the duties paid by them upon railroad iron imported by them prior to 1843. I am, therefore, willing to withdraw my objection, and allow the bill to be reported.

Mr. HILLYER. If the committee will indulge me for one moment, I will make a statement so plain that no one can object.

[Cries of "No!" "No!" "No objection!"]

Mr. PENNINGTON. I object.

Mr. HILLYER. If the gentleman will allow me to make a single statement, I am sure he will not object.

Mr. PENNINGTON. I object to the consideration of the bill.

Mr. HENDRICKS. House bill (No. 706) increasing the pension of Anthony Walton Bayard, of Bellefonte, in the State of Pennsylvania, was laid aside to be reported to the House. I ask the committee to make a small amendment in it. I move to strike out the word "Walton" where it occurs, and insert simply the initial "W," so that it will read "Anthony W. Bayard," instead of "Anthony Walton Bayard." My reason for wishing the amendment to be made is, that I am not quite certain as to the middle name.

Mr. SEWARD. I object.

The CHAIRMAN. The Chair will state that the bill has been laid aside to be reported to the House, with the recommendation that it do pass, and that, unless the amendment be allowed to be made, the wrong name may be inserted in the bill.

Mr. SEWARD. If that is the state of the case, I will withdraw my objection.

There being no objection, the amendment was received and agreed to.

Mr. LETCHER. I objected to House bill (No. 697) for the relief of the widow of W. Irving, deceased. I believe the principle of the bill is wrong; but the amount of money is too small to permit it to be kept longer on the Calendar, as we would probably have to spend five or six times the amount of the bill. I therefore withdraw my objection to it.

There being no further objection, House bill No. 697 was laid aside to be reported to the House, with a recommendation that it do pass.

Mr. HENN. Since I called the attention of the committee to House bill (No. 705) for the relief of the assignee of bounty land warrant No. 27849, issued to William Phillips and Sarah Connor, I have conferred with the gentleman from Indiana, [Mr. HENDRICKS.] He is now satisfied that the general act covers that case, and I would therefore suggest that the committee report it to the House, with a recommendation that it do not pass.

Mr. HENDRICKS. Let the bill go to the House, and it can be fully examined.

Mr. HENN. It may be overlooked at that time. I may not be here.

No further action was taken upon the bill in question.

Mr. VANSANT. I objected to bill (No. 618) for the relief of Richard White and Samuel Sherwood. I now ask the unanimous consent of the committee to withdraw my objection.

Objected to.

Mr. McMULLIN. I move that the committee do now rise.

Mr. HENDRICKS. I appeal to the gentleman from Virginia [Mr. McMULLIN] to withdraw that motion for a moment.

Mr. McMULLIN. I withdraw it for the purpose of allowing the gentleman from Indiana [Mr. HENDRICKS] to withdraw his objection.

Mr. HENDRICKS. If there be no objection, I withdraw the objection which I made to House bill (No. 669) granting a pension to Joseph McCormick.

There being no objection, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

Mr. McMULLIN. I now renew my motion that the committee rise, and report progress.

Mr. FLORENCE. I hope the gentleman from Virginia will withdraw his motion for a moment longer.

Mr. McMULLIN. No, sir; I will not withdraw it.

Mr. FLORENCE. I only ask to have justice done to me as to others.

The CHAIRMAN. The gentleman from Virginia declines to withdraw his motion.

The question was taken; and the motion was agreed to.

So the committee rose; and Mr. JONES, of Tennessee, having taken the chair as Speaker *pro tempore*, the Chairman of the committee reported that a Committee of the Whole House had had under consideration, according to order, the Private Calendar, and had directed him to report the following bill, with a recommendation that it do not pass:

A bill for the relief of George Dennett, of Portsmouth, New Hampshire.

Also, the following bills, with amendments:

A bill to repeal an act entitled "An act for the relief of George M. Bentley, of the State of Indiana," approved August 5, 1854;

Joint resolution for the relief of George W. McCerren;

An act for the relief of the heirs-at-law of William Van Wart, deceased;

A bill for the relief of William G. Preston, late a captain in the war of the United States with Mexico;

A bill for the relief of the heirs of Thomas Morris, deceased; and

A bill for the relief of James P. Roan.

Also, the following bills without amendments, and with a recommendation that they do pass:

A bill to refund to the officers of the customs and others, of the district of Passamaquoddy, certain moneys;

An act for the relief of Don B. Juan Domercq, a Spanish subject;

A bill for the relief of Henry H. Marsh;

A bill for the relief of E. J. McLane;

A bill for the relief of Joseph Ridgway;

Joint resolution for the relief of John Dugan;

A bill for the relief of the legal representatives of William A. Christian;

A bill for the relief of Sarah Morris, only heir of Robert Mitchell, deceased;

A bill for the relief of William Brown;
A bill for the relief of James McIntire;
A bill for the relief of Solomon La Follett;
A bill for the relief of Elizabeth Foreman;
A bill for the relief of Thomas C. Ramsey and Ananias O. Richardson;
A bill for the further relief of Isaac Allen, of Turner, in the State of Maine;
A bill for the relief of Wyatt Griffith, of Washington county, in the State of Tennessee;
A bill for the relief of Medford Caffey, of the State of Tennessee;
A bill for the relief of Paul S. Ridgway;
A bill granting a pension to Joseph McCormick;
Joint resolution for the relief of James Hughes;
A bill for the relief of Frederick Griffing;
A bill for the benefit of the heirs of Philip R. Rice, deceased;
A bill for the relief of Catharine B. Arnold;
A bill for the relief of the widow of W. Irving, deceased;
A bill for the relief of William Haggerty;
A bill for the relief of Rebecca Winn, widow and executrix of the last will and testament of Timothy Winn, deceased, late a purser in the Navy of the United States;
A bill for the relief of Thomas S. J. Johnson;
A bill for the relief of the assignee of bounty land warrant No. 27849, issued to William Phillips and Sarah Connor;
A bill increasing the pension of Anthony W. Bayard, of Bellefonte, in the State of Pennsylvania;
A bill to increase the pension of Patrick C. Miles;
A bill for the relief of George Bush, of Thurston county, Washington Territory;
A bill confirming a land claim to Elijah White, of the Territory of Washington; and
A bill for the relief of John R. Bowes, agent in charge of the property of the United States at Michigan City, in the State of Indiana.

Mr. LETCHER. I propose to amend House bill (No. 627) for the relief of Thomas C. Ramsey and Ananias O. Richardson, by inserting in the bill the name of James McLaughlin, of Virginia. I do not choose, at this period, to say more than this, that he stands in exactly the same situation as the other two persons named in the bill, having had his right arm shot off by the shoulder; and on that amendment I move the previous question.

Mr. HAVEN. I suppose these bills come up regularly the next private bill day?

The SPEAKER *pro tempore*. These bills are reported, and will, the Chair thinks, go to the Speaker's table.

Mr. HAVEN. And will not to-morrow be devoted to private business?

The SPEAKER *pro tempore*. Yes. The Chair thinks that, to-morrow being private bill day, these bills will be properly in order the first thing in the morning. At least that is the opinion of the present occupant of the chair.

Mr. HAVEN. Then I move that the House do now adjourn.

Mr. HENN. Would it be in order, Mr. Speaker, to ask the previous question on the passage of the bills reported by a Committee of the Whole House?

The SPEAKER *pro tempore*. It would be in order to ask the previous question on all the bills, if there be no objection.

Mr. HENN. Then I make that motion.

Mr. LETCHER. Let me understand. I have offered an amendment, and I am not aware that it was objected to.

The SPEAKER *pro tempore*. There was no objection.

Mr. HAVEN. These bills can be passed to-morrow morning, and I move that the House adjourn.

Mr. FLORENCE. Let us sustain the demand for the previous question first.

Mr. HAVEN. I desire a quorum of the House present when these bills are passed.

Mr. LILLY. I object to the previous question being ordered to-day. There is no quorum here.

Mr. SEWARD. I move that the Committee of the Whole House be discharged from the further consideration of Senate bill (No. 256) for the relief of the West Feliciana railroad and the Georgia railroad and Banking Companies.

Mr. EDGERTON. I object.

The question was then taken on Mr. HAVEN's motion; and it was agreed to.

The House thereupon, at twenty minutes past four o'clock, adjourned till to-morrow at twelve o'clock, m.

IN SENATE.

FRIDAY, *February* 2, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

NOTICE OF A BILL.

Mr. BADGER gave notice of his intention to ask leave to introduce a bill to repeal so much of the thirtieth section of "An act to establish the judicial courts of the United States" as authorizes the taking of depositions without notice.

ORDER OF BUSINESS.

Mr. MALLORY. This being private bill day, I presume that the proceeding to any other business, but by unanimous consent, would be out of order. If I were to ask an hour's time of the Senate to make a personal explanation, I presume it would be granted without hesitation. I have never known such a request denied to a Senator. But I do not, on this occasion, ask anything but an hour's time for a great national matter. The Committee on Naval Affairs have reported a small bill, containing but one provision—a provision in which the committees of both Houses, with the Secretary of the Navy, concur, and it is deemed highly important that it should pass. I do not desire to interfere with the conduct of private business, but as this is a great national matter, I ask unanimous consent for one hour's time in which to dispose of that bill.

Mr. HUNTER. What is it about?

Mr. MALLORY. It is a bill to promote the efficiency of the Navy. It contains but one provision. The report of the committee has been on the table of Senators for several days. I am satisfied it will take but a short time to consider the bill, because a similar provision already, though involving expense, and this involves none, has been passed by the Senate. It has been twice passed by the Senate heretofore.

Mr. HUNTER. What is the nature of the provision?

Mr. MALLORY. I will explain it in a few words, and I am satisfied the Senator from Virginia, the chairman of the Committee on Finance, will be the first to agree with me. The last report from the Senate Committee on Naval Affairs shows that there were forty-two captains waiting orders, upon their salary of $2,500 a year. The proposition is to take all those officers who are inefficient to perform their duty, and let them remain on shore upon the reserved list, on the pay they are now getting, not increasing or decreasing it whatever; and taking the difference between their shore pay and their sea pay, and giving it to men who do the duty. It does not increase the Navy one single man, or its expenses a dollar; and, upon that subject, if the Senate will give me an hour, I will ask that the letter of the Secretary of the Navy to the committee be read. It will not take fifteen minutes.

The PRESIDENT. This day being set apart for the consideration of private bills, it will require unanimous consent to take up that bill. The Chair hears no objection.

Mr. FOOT. I do not rise to object; but I wish to ask, in the first place, a few minutes for the consideration of a private bill, which is merely to correct an error in consequence of a wrong enrollment of the name of an officer in the last war.

The PRESIDENT. Does the Senator from Florida withdraw his motion?

Mr. MALLORY. I appeal to the Senator from Vermont to let us take up the bill to which I allude. It will not take fifteen minutes to dispose of that great national measure.

Mr. FOOT. It will not take more than one minute to dispose of this private bill.

Mr. MALLORY. There are a number of private bills of equal importance, which gentlemen all around me desire to call up. I have several myself, but I waive them for the purpose of having this national measure considered.

Mr. FOOT. I have been waiting a week for an opportunity to call up this bill.

Mr. MALLORY. I withdraw my request for the present.

SUSAN PALMER.

On motion by Mr. FOOT, the Senate, as in Committee of the Whole, proceeded to consider the bill granting bounty land to Susan Palmer.

Its object is to authorize the Secretary of the Interior to issue unto Susan Palmer, widow of Lieutenant Innis B. Palmer, deceased, a land-warrant certificate for one hundred and sixty acres of land, in consideration of his services during the war of 1812, in the same manner as if Palmer's name had been enrolled as a lieutenant, and not as a deputy wagon-master.

Innis B. Palmer entered the military service of the United States at Buffalo, New York, on or about the 1st of September, 1812, as a lieutenant in Colonel Philetus Swift's regiment of New York volunteers, and continued in the service two years six months and twenty days, and died at Rochester, New York, on the 2d day of July, 1844. Subsequent to his death, his widow applied to the proper Department for bounty land, but has never received, nor can she obtain, it, by reason of the fact that her deceased husband's name appears enrolled as a deputy wagon-master, and not as an officer.

A portion of the evidence in the case goes to prove that Palmer was taken prisoner at the capture of Fort Schlosser, and, with others, taken to Quebec, where he was selected, on account of his being an officer, as one of twenty-six hostages, and detained by the enemy until the close of the war; and, on examination of the files in the fifth auditor's office, the register of prisoners of the war of 1812 shows the name of Lieutenent Innis B. Palmer in full, as one of the prisoners at Quebec. The committee, in view of all the points presented in evidence, are clearly of the opinion that the enrollment of Palmer as deputy wagon master, and not as a lieutenant, was erroneous, and subjects his widow to great hardship, inasmuch as she is deprived of the bounty of the Government, to which her husband was of right entitled.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time and passed.

JOSEPH GERARD.

Mr. PETTIT. There is a small bill on the Calendar which is deeply interesting, Mr. President, to two or three of our mutual constituents, the passage of which will take but a moment. It is a House bill, which has been referred to the Senate Committee on Claims, and reported back with a recommendation that it pass. It is a bill for the relief of the heirs of Joseph Gerard.

Mr. BRODHEAD. I have three or four such bills.

Mr. BROWN. I do not object to this application, but if another such one be made, I must object to it, and insist on taking up the Calendar in its regular order.

Mr. PETTIT. Then I object to anything but private bills being taken up.

Mr. BROWN. I do not object to this case, but I shall object to taking up others out of their regular order.

Mr. MALLORY. Allow me to make an appeal to my friend from Indiana. No private bill which we may pass at this stage of the session can possibly be acted on by the House.

Mr. PETTIT. The bill which I propose to take up, is a House bill granting bounty land to the heirs of a messenger of General Washington, under his pledge that such lands should be given for carrying dispatches from Cincinnati to hostile Indians in the northwest. There can be no objection to its passage.

The motion was agreed to; and the Senate proceeded, as in Committee of the Whole, to consider the bill.

Its object is to permit Reese A. P. Gerard, William Gerard, and Rachel Blue, (formerly Rachel Gerard,) the only children and heirs of Joseph Gerard, a messenger of the United States to the Indians, who was killed in 1792, to enter, each one of them severally, or his or their heirs, one section of the public lands, without the payment of any consideration for the three sections, that being in full payment for the patriotic services of Gerard, and in accordance with the spirit of the inducements authorized by President Washington to be held out to such persons as would consent to carry a message from Fort Washington (now

Cincinnati) in 1792, to the hostile Indians of the then Northwest Territory.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

RETIRED LIST FOR THE NAVY.

Mr. MALLORY. I now ask the Senate to take up the bill "to promote the efficiency of the Navy."

There being no objection, the bill was read a second time, and considered as in Committee of the Whole.

By the bill, the President is directed, as soon as practicable after its passage, to cause a board of naval officers to be assembled, to consist of five captains, five commanders, and five lieutenants. This board, under such regulations as the Secretary of the Navy may prescribe, is to make a careful examination into the efficiency of the officers of the grades of captains, commanders, lieutenants, passed midshipmen, and master, and report to the Secretary of the Navy the names and rank of all officers of these grades who, in the judgment of the board, shall be incapable of performing promptly and efficiently all their duty ashore and afloat. No officer upon the board is to examine into, or report upon, the efficiency of officers of a grade above him. All officers who may be found by the board incapable of performing the duties of their respective offices, ranks, or grades, if the finding be approved by the President, are to be placed, in the order of their rank and seniority at the time, upon a list in the navy register, to be entitled "the reserved list;" and they are to receive the leave of absence pay or the furlough pay to which they may be entitled when so placed, and are to be ineligible to further promotion, but subject to the orders of the Navy Department at all times for duty. And vacancies created in the active service list by placing officers on the reserved list are to be filled by regular promotion in the order of rank or seniority. And officers who may be promoted to fill the vacancies created by the reserved list are, while unemployed, to receive only the "leave of absence" "or waiting orders" pay to which they would have been entitled if such promotion had not been made; but when employed at sea, or on other duty, they are to receive, in addition to such "leave of absence" or "waiting orders" pay, the difference between the "waiting orders" or "leave of absence" pay and the "sea, or other duty," pay of the grade to which they may be so promoted. This act is not to be construed to authorize any increase of the aggregate pay of the grades, or of the naval service, as now allowed by law; nor to restrict, apply to, or impair the regular promotion of officers in the service list of the Navy who may be at any time entitled to promotion—consequent upon deaths, dismissals, or resignations—nor in any manner to abridge or impair the right of the Secretary of the Navy to place officers upon furlough.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

REGISTER OF A VESSEL.

Mr. SEWARD. I ask the consent of the Senate to take up now a bill, which has been reported from the Committee on Commerce, "authorizing the issue of a register to the Russian-built ship, the Aina."

The bill was read a second time, and considered as in Committee of the Whole. This vessel was seized and libelled by the United States marshal, and sold to Christian F. Funch and Andrew F. Meineke, of New York, who ask for the issue of a register under the name of St. Andrew.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

OLIVER LEE.

Mr. BRODHEAD. At this late period of the session, it is hardly worth while to pass any contested Senate private bills, but I think it would be better to go on this morning with the House private bills which we have on the Calendar. With this view, I ask the consent of the Senate to take up, out of its order, House bill for the relief of the administrators of Oliver Lee, deceased.

Mr. WELLER. I must object to this course being pursued, and ask for the regular order of business. The bills which have passed the House of Representatives can be taken up and acted upon at any time, but the Senate bills should be sent to the House as soon as practicable for action at this session.

Mr. BRODHEAD. I do not think they can be taken up there, if we send them.

Mr. WELLER. I must insist upon the regular order of business.

The PRESIDENT. It is in order for any Senator to move to take up any private bill out of its order. The Chair, therefore, will put the question on the motion of the Senator from Pennsylvania.

Mr. BRODHEAD. As this is a small bill which has passed the House of Representatives, I hope there will be no objection to its consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

It proposes to direct the Secretary of the Treasury to pay to Charles H. Lee, administrator, and Eliza Lee, administratrix, of the estate of Oliver Lee, late of the city of Buffalo, deceased, the sum of $580 32, being for the amount of a judgment recovered by Oliver Lee against Pierre A. Barker, formerly collector of the port of Buffalo Creek, in the circuit court of the United States for the northern district of New York, in the second circuit, which was docketed on the 30th of August, 1844.

Mr. BAYARD. I should like to hear the basis on which the case stands.

Mr. BRODHEAD. Let the report be read; it explains fully the circumstances.

The report was read, from which it appears that Oliver Lee was the owner of the schooner Savannah. In January, 1838, she was, on suspicion of being employed in aiding the Canadian patriots contrary to law, seized by P. A. Barker, collector of the port of Buffalo, by the direction or advice of General Winfield Scott, who was then in military command on the Niagara frontier. Lee sued the collector before the supreme court of New York. In March, 1839, the United States district attorney for the northern district of New York was directed to defend the suit, by the Secretary of the Treasury, on behalf of the United States. He procured the removal of the cause to the circuit court of the United States, under the act of Congress; a trial was had before the circuit court of the northern district of New York, in June, 1844, the district attorney appearing and defending the suit, and judgment was recovered, amounting, with the costs, to $580 32. The collector acted in good faith, and the committee think the United States are clearly liable; but, as the estate of Mr. Barker is insolvent, it is proposed that the United States shall remunerate Mr. Lee's representatives.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

CONTINUANCE OF HALF-PAY.

Mr. CLAY. I ask the Senate to take up the bill which has been reported from the Committee on Pensions, "to continue half-pay to certain widows and orphans." It is not what may be strictly called a private bill; but yet I believe it would be an economy of time on the part of the Senate, as well as just to the individuals for whom it provides, to take up the bill and consider it now. It will dispense with the consideration of between fifty and one hundred petitions of individuals whose cases will be embraced by the bill.

Mr. JOHNSON. I should be very glad to accede to the suggestion of the Senator from Alabama, but there are a number of private bills, for the consideration of which this day has been set apart, and we should proceed with them. The bill which he proposes to take up, is a matter of general legislation, which unquestionably will give rise to discussion.

The PRESIDENT. If the Senator from Arkansas objects, the bill cannot be taken up, as it is not a private bill.

Mr. JOHNSON. Yes, sir, I object.

ORDER OF BUSINESS.

Mr. FESSENDEN. I ask the Senate now to take up a small pension bill which has passed the House of Representatives, and has been favorably reported on here—House bill 479.

Mr. STUART. I object to anything but the regular order of business on the Calendar, agreeably to the resolution which we have adopted.

The PRESIDENT. It is in the power of a majority of the Senate to take up any private bill they choose. The Chair, therefore, will put the question on the motion of the Senator from Maine.

Mr. STUART. The resolution says that Friday shall be devoted to the consideration of the Private Calendar. I am aware that the Senate may change the regular course by a vote, but I hope they will proceed to the consideration of the Private Calendar in its order. If need be, I shall ask for the yeas and nays on this motion.

The PRESIDENT. It is the duty of the Chair, when a Senator moves to take up a private bill out of its order, to put the question on that motion.

Mr. FESSENDEN. I should not have made my motion if the Senate had not already departed from the regular order of business. The bill which I propose to take up is a small matter which has passed the House of Representatives, and will occupy but a moment.

Mr. JOHNSON. I hope the motion of the Senator from Maine will be agreed to. I do not know what the bill which he proposes to call up is; but I take it for granted, from his statement, that it can be disposed of immediately. But, sir, if we go on now with the regular order of business, we shall find that much discussion will arise upon the first private bills on the Calendar, and thus we shall not get clear of these cases which require no discussion, and which therefore, ought to be first disposed of.

The PRESIDENT. The question is on the motion of the Senator from Maine, to take up House bill for the relief of William Cole.

Mr. STUART. Let me suggest to the Senate another mode of proceeding. Let us go through with the Calendar, and take up and pass such bills as are not objected to.

Mr. JOHNSON and other SENATORS. We have no objection to that.

Mr. STUART. And after we shall have got through with those bills to which there may be no objection, we can come back and go through with the other bills on the Calendar in their regular order.

The PRESIDENT. That has been the practice heretofore, in considering private claims.

Mr. STUART. If the Senator from Maine will withdraw his motion, I think we shall have no difficulty in reaching his bill by the course which I suggest.

Mr. FESSENDEN. I do not wish to interpose, if such is the sentiment of the Senate. I withdraw my motion, to enable that course to be pursued.

The PRESIDENT. As there appears to be no objection, the course suggested by the Senator from Michigan will be pursued. The first business in order is the motion of the Senator from Louisiana, [Mr. BENJAMIN,] to reconsider the vote by which the Senate ordered the bill for the relief of the claimants of the private armed brig General Armstrong to be engrossed for a third reading.

Mr. JOHNSON. I think that will lead to discussion.

The PRESIDENT. Then the bill will be passed over. The next private bill on the Calendar is one for the relief of Benedict J. Heard.

Mr. BAYARD. I shall have to object to that bill, and to give my reasons for opposing it.

The PRESIDENT. The bill will be passed over.

Mr. WELLER. I desire to know what has become of the motion to reconsider the vote on the General Armstrong bill?

The PRESIDENT. It has been passed by, as Senators suggested that they intended to debate it.

Mr. WELLER. When was an order made giving any Senator the right to object to the consideration of a bill?

The PRESIDENT. Only a few moments since.

Mr. WELLER. I studiously avoided incorporating any such provision into the original order which I presented, setting apart Fridays for the consideration of private bills. I was not aware that any vote of the Senate had been taken which, in effect, defeated my object in offering that resolution.

The PRESIDENT. There was no vote taken, but there was a general understanding of the Senate a few moments since.

Mr. WELLER. I must object to any such understanding.

Mr. JOHNSON. I am satisfied that the Sen-

ator from California does not see the effect of the course which we are taking, or he would not object. The plan which we are pursuing has been agreed to on the motion of the Senator from Michigan, to first go through with those cases on the Private Calendar which require no discussion, and to which, consequently, there can be no objection, on account of the consumption of time; and as soon as these bills may be disposed of, which cannot take long, to again go through the Calendar in regular order, and consider those bills which have been objected to.

Mr. WELLER. I have no doubt that it will take all day to pass on these bills to which there is no objection. In drawing the order the other day, I did not design to incorporate the provision of the old rule, which put it in the power of a single Senator to postpone a bill for a whole week, by objecting to its consideration. I think the bills on the Calendar should be taken up in their regular order, and if they lead to discussion, let discussion go on. I have, however, no disposition to stand alone and interpose my single objection to what may be the wishes of the Senate in this particular. I can readily conceive that it will consume the whole day if we take up those bills to which no objection will be made. When a bill is taken up some Senator will call for the reading of the report, and that may consume half an hour; and after it is read, nobody will object to the bill, and it will be passed. In this way the whole day will be consumed in the discussion of the bills which may not be objected to.

The PRESIDENT. The resolution which was adopted during the last month, is in these words:

"*Resolved*, That from and after the 20th instant, Friday of each week, during the present session, shall be devoted to the consideration of the Private Calendar, in preference to any other business."

It is clearly the duty of the Chair to take up private business in the order in which it stands on the Calendar; but it is in the power of the Senate to change that order of business, and proceed with any other private bill. If the Senator from California objects to the course which has been pursued, as a matter of course the Chair will return to the unfinished business of last Friday.

Mr. ATCHISON. I understood that, by the unanimous consent of the Senate, not two minutes since, it was agreed to proceed to the consideration of such private bills on the Calendar as did not involve debate.

The PRESIDENT. The Chair so understood, but the Senator from California objects.

Mr. ATCHISON. It is too late for the Senator to object, after the unanimous consent of the Senate has been given.

Mr. WELLER. I think not. I objected at the earliest moment at which I knew of the movement. I was willing, however, to withdraw my objection, if no other Senator concurred with me; but, as my right to make the objection has been excepted to, I choose to avail myself of it; and if I have a right to object, I do so.

Mr. ATCHISON. I am very sorry then that I interposed; but, as I have done so, I insist now on the decision of the Chair on the point which is raised. The unanimous consent of the Senate was given to the course proposed by the Senator from Michigan, and now it is too late for the Senator from California to make objection to it. The unanimous consent of the Senate has been given, and we have acted upon the order in two cases.

The PRESIDENT. Did the Senator from California assent to it?

Mr. WELLER. I never assented, and did not intend to do so.

The PRESIDENT. I so understood the Senator.

BRIG GENERAL ARMSTRONG.

The Senate proceeded to consider the motion of Mr. BENJAMIN to reconsider the vote by which the bill for the relief of the claimants of the private-armed brig General Armstrong was ordered to be engrossed for a third reading.

Mr. BADGER. I move that it be ordered to lie on the table; perhaps we can get on with business in that way.

Mr. WELLER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 23, nays 25; as follows:

YEAS—Messrs. Adams, Allen, Atchison, Badger, Brainerd, Brodhead, Clay, Dawson, Evans, Fessenden, Fish, Fitzpatrick, Foot, Gillette, Hunter, Johnson, Jones of Tennessee, Pearce, Stuart, Sumner, Thompson of Kentucky, Toucey, and Wade—23.

NAYS—Messrs. Bayard, Bell, Benjamin, Bright, Brown, Cass, Clayton, Dodge of Wisconsin, Dodge of Iowa, Geyer, Gwin, Houston, Jones of Iowa, Mason, Pettit, Pratt, Reid, Rockwell, Rusk, Sebastian, Seward, Slidell, Thompson of New Jersey, Weller, and Wright—25.

Mr. PRATT, when his name was called, said: I am opposed to the bill, but I do not think it right to kill it by indirection; I therefore vote "nay."

The motion to lay on the table was not agreed to.

Mr. BENJAMIN. I voted against laying the bill and the motion for reconsideration upon the table, for the same reason which actuated my friend from Maryland, [Mr. PRATT.] I am entirely opposed to the passage of this bill as it stands. I view its passage with alarm, with sincere and unaffected alarm, as setting a most dangerous precedent in the legislation of the country; and nothing but a sentiment of public duty could have prevailed upon me to make the motion which I have made in bringing this vexed question again to the attention of the Senate. Before, however, making the very few remarks which I design to make—a pure recapitulation of the reasons which actuate me in voting against the bill as it now stands—I desire the Secretary to read it for the information of the Senate. I am satisfied the Senate does not understand the true effect of the bill in the shape in which it has been passed.

The Secretary read it, as follows:

Be it enacted, &c., That the Secretary of State be, and he is hereby, authorized and directed to examine and adjust the claim of Captain Samuel C. Reid, owners, officers, and crew of the private armed brig General Armstrong, belonging to the port of New York, destroyed by a British force in the neutral port of Fayal, in September, 1814; and to settle the same upon principles of justice and equity; and that he be, and is hereby, further authorized and directed to pay the amount which may be found due, to the said Captain Samuel C. Reid, the owners, officers, and crew, or their legally authorized representatives, out of any moneys in the Treasury not otherwise appropriated, which amount shall not exceed $121,600, being the sum demanded by the Government of the United States from the Government of Portugal for the losses and damages sustained by the destruction of the said brig.

Mr. BENJAMIN. Mr. President, if the question were merely the payment of this sum of money to the parties for whose benefit this bill purports to be passed, I should not deem it necessary to say one word upon the subject; but the principle involved in it is, to my mind, so very objectionable, that I cannot refrain from stating, in a few words, my view of that principle.

Now, sir, for the purpose of conceding to the friends of the bill everything which was claimed by them the other day in its discussion, I am willing to take the case in the strongest possible aspect in which it has been put by its friends. I am willing to concede, for the purpose of explaining the views which actuate my mind, in the first place, that the Government of Portugal was undeniably responsible for the total amount claimed by our Government against it for the captain, owners, and crew of the Armstrong. I am willing to concede that the judgment or decree of the French Emperor upon the submission of that question to his arbitration was erroneous. I am willing to concede that there was no shadow of foundation for the judgment which he gave against the claim. I am willing to concede that the claimant did not know, although the proof is to the contrary, that his claim was to be arbitrated. I am willing to concede that he did actually and energetically protest against the submission to arbitration. And yet, sir, in the face of all these concessions, in my view of public law, and of policy, there is not a shadow of a claim for the demand now made against the Government of the United States.

Mr. President, I would that Senators, in thinking of this subject, would divest their minds, for one moment, of that bias which naturally operates upon them in consideration of the gallant services of Captain Reid, and of the crew of the private armed brig General Armstrong, and look at the case without reference at all to its personal merits, purely as a question of principle. So far as my examination has extended, there is not a single case in the history of the Government to give the slightest countenance for such relief as is now asked. It amounts to this, and nothing more: that the Government of the United States, when prosecuting the private claim of a citizen against a foreign Government, is bound, whenever that claim is just, to obtain it at all hazards, is bound to the same extent, and under the same principles as bind the conduct of the attorney towards his client, as it was phrased by the gentleman from Mississippi, [Mr. BROWN,] and that the Government and people of the United States are to pay the amount of the claim, if not prosecuted with due diligence.

If this case were to stop here, I might be satisfied with the mere enunciation of that principle, and call upon Senators, regardless of the personal merits of the claimants, to give a vote upon that proposition. But, Mr. President, this case is not to stop here; it is not to stop here, to the knowledge of us all. To my personal knowledge, cases are now being made up against the Government upon the principle of this bill. To my personal knowledge, individuals who hold claims against the British Government, which have been recently determined adversely to them by the commission held at London under the treaty between Great Britain and this country, are now getting up their cases and presenting them to this Government, asking the payment by the United States of the sums which they previously claimed against Great Britain upon the ground that their cases were not properly presented before the commission which sat in London, that the agent of the United States there neglected their cases, or did not argue them well. This is very much the ground on which the honorable and distinguished Senator from Delaware, [Mr. BAYARD,] the other day, placed his vote, when he declared that he could vote for this bill for the reason that the Secretary of State had refused to forward a written brief submitted by the claimant to be forwarded. That was the only ground which that distinguished Senator could find on which to base his support of this bill. He admitted—what a man of his ability could not fail to admit, what it was impossible for a man of his candor to deny—that the Government of the United States, when acting upon the claim of a private citizen, as made against a foreign country, acts upon its own discretion, and its own sense of what is due to public justice and to the great interests of the country. He admitted that it was a matter of no consequence, as I have said this morning, whether the private claimant was or was not willing to submit his claim to arbitration; that it was not in his power to direct the negotiations pending between the State Department of this country and any foreign country; that the true principle of public law was, that it was a political duty in all Governments to protect the rights of their citizens, whether at home or abroad; but that it was a question of policy as well as of duty; that it was the bounden duty of all Governments to protect, not only a single individual, but the interests of the masses; and that if, in the exercise of a sound, discreet public policy, the duly authorized agents of the Government came to the conclusion that the interests of the masses would be sacrificed by pushing too far the claim of an individual; the Government would be reckless to its trust, would fail in the discharge of a solemn duty, if it plunged the nation into a war to assert the individual claim at the cost of the entire mass of the people. Sir, that principle is undeniable. I read no authorities. I speak of principles so familiar that they recur readily to the minds of all Senators present.

Mr. CLAYTON. Will the honorable Senator permit me to interrupt him for a moment?

Mr. BENJAMIN. Yes, sir.

Mr. CLAYTON. The honorable Senator has not stated (undoubtedly because he misapprehended it) the principle which was assumed on the part of the claimants. It was not assumed on our part that this Government was bound to prosecute the claim, or go to war to enforce the payment of it. Nothing of the kind was said by us. It was not insisted upon or urged at all by us, that this Government was bound in all events to insure a claim that was presented to it, even when it considered it just. But this was the position taken by us, and I ask the honorable Senator to refute it if he can: When the Government undertakes to prosecute a claim for a private individual against a foreign Government, it is at liberty to drop the claim and cease to prosecute it whenever, in its judgment, it is not the policy of the Government to prosecute it; but it has no right, if it insists on prosecuting it, as the Government did in this case, to refer it to arbitration without the consent or knowledge of the claimant. Sir, I say in this

case that the Government was not bound to prosecute the claim. They might have dropped it when they pleased; and the issue was never presented, of war or arbitration. I beg the honorable gentlemen on the other side to remember the principle which is maintained on the part of the claimants, to meet that directly, and we shall attempt to answer them.

Mr. BENJAMIN. If the honorable Senator from Delaware had waited for a moment, I should have reached the very point which he now makes, in the course of a few further sentences. I will, however, state, in reply to the honorable Senator, that the advocates of the passage of this bill do not all assume what to me is the very extraordinary proposition which he has just announced to the Senate. On the contrary, his distinguished colleague [Mr. BAYARD] stated, in express and positive terms to the Senate, during the course of the debate, that, whilst advocating the bill, he deemed it beyond doubt and question that the Government had the entire control over the mode and manner of asserting the claim; that the Government had the right to submit it to arbitration; and that the Government had the right so to submit it against the direct protest of the claimant. I did not suppose that any gentleman of the distinguished reputation as a publicist which is possessed by the honorable Senator from Delaware, who has just spoken, [Mr. CLAYTON,] would controvert that proposition.

Why, Mr. President, the honorable Senator himself has told us, in the debate, that, in his own correspondence with the Government of Portugal, he threatened them with war, if this claim was not paid. The honorable Senator has told us that the public armed vessels of the United States were sent to make a demonstration, by the order of the Executive, against a nation with which we were at peace, in the prosecution of this very claim. At a time when this Government had advanced to that extent in the assertion of the rights of a private citizen against a foreign Government, and when it had but the choice, in its efforts to assert this private claim, between the three alternatives of war, arbitration, or, as he now suggests, the dishonorable abandonment of its pretensions, upon what ground of public law, or upon what principle of policy, does the gentleman contend that the choice was confined to the two alternatives of war or dishonorable abandonment? Take the writings of any publicist that you choose to refer to, and you will find that the submission of a question to arbitration is not only one of the well-asserted, well-defined, distinctly pointed out remedies to which Governments are to have recourse in cases of this kind; but that the united voice of all those authors, who were once very properly characterized as "beneficent spirits, who held up the torch of science to guide a benighted world," is joined in a persuasive appeal to the common sense and common humanity of mankind against the arbitrament of war, and in favor of the arbitrament of umpires. If it be once accorded, as the Senator seems now to contend, that the Government of the United States had the right only to take its choice between war and the abandonment of this claim, I ask him upon what principle this third mode of settling national disputes, laid down in all the authors upon public law, was excluded from the fair discretion of the agents of the Government?

Mr. President, I said before that it was not the simple matter of the amount of this claim, but the establishment of the principle as a precedent to which I objected. I said before that I was not aware, in the history of this country of a single case in which the Government of the United States had paid out of its own Treasury, to a claimant against a foreign Government, the amount of such claim. It has been suggested, sir, that the French spoliation bill is identical in principle with that now before the Senate; but I cannot think gentlemen will so consider it if, for a moment, they revert to the basis upon which that bill is founded. The French spoliation bill is based upon the principle, not that the Government of the United States failed or neglected its duty in the prosecution of the claims, not that the Government of the United States, in its action with foreign Governments, is the lawyer of the client, but upon the ground that the Government of the United States, in view of the interest of the masses of the nation, expropriated the private claims without indemnity. It is on the ground that the claims of the citizens of the United States, after being admitted by a foreign Government, were paid over or given up to that foreign Government without consideration to the private claimants. The principle of that bill is the principle familiar to us all, that if the public interests require that a man's ground, his gun, his horse, or any of his property, should be taken from him for the public service, he himself is not to be injured by the sacrifice of his property, but that he must have an adequate indemnity for the property so taken for the public interest. Upon that ground, and upon that alone, could I ever have voted for the bill. Upon that ground, and that alone, in my opinion, is that bill at all maintainable. But in the case now before the Senate, there was, to be sure, a faint attempt made the other day—I beg the gentleman who made it [Mr. BROWN] to excuse me for speaking of it in these terms; I do it without the slightest disrespect; I merely treat the argument as it presented itself to my mind at the time, as one utterly without foundation, to show that the Government of the United States received a consideration for this submission to arbitration. Now, sir, what was the true state of the case? A large number of claims were presented by this Government against the Government of Portugal. Some the Government of Portugal admitted to be just, after a long negotiation; and others it tenaciously resisted as unfounded against it. A proposition was made by the Government of Portugal to the Government of the United States: "We will pay to you now, after this negotiation, the claims of A, B, C, and D, and you shall give us a receipt in full for them; the claim of E we will not pay; but if you are willing, we will submit that to the arbitration of a friendly Power." The Government of the United States accepted this proposition. I should like to understand by what process of logic the conclusion is deduced that an arrangement of that kind was the abandonment of the Armstrong claim, in order to get the rest of them paid? There is nothing on the face of the treaty that says so; there is nothing in the correspondence that says so. I have been unable, after the most careful consideration of the correspondence, to come to any such conclusion; and I think that the mere putting forward of such a pretext as this—for I can consider it as nothing else—shows the little foundation there is for the claimant to insist on the true merits of his case.

Now, Mr. President, a private claimant who puts his claim in the hands of the Government for assertion against a foreign country, puts it in the hands of an agent, who is as well his own agent as the agent of all the other citizens of the United States. It is perfectly well known, according to all theory of Government, that an individual having a claim against a foreign country is remediless as an individual, and if his appeals to the sense of justice and equity of the foreign nation are not answered; if he cannot procure, by reason and argument, the allowance of the claim he makes, however just and proper that claim may be, he is without remedy as an individual. But still he has this one resource to fall back upon: that his Government is bound, in all cases where a great principle is concerned, to go even to the very verge of war—aye, even to wage hostilities, if it be necessary—in the assertion of his claim; or if, upon a view of the entire policy of the Government, it shall come to the conclusion that it is better for the masses to go to war upon that claim with a view of establishing a precedent than tamely to submit to injustice. But, sir, when that Government undertakes the claim under these circumstances, the whole control and discretion over the claim is of necessity abandoned to the Government. Can it for a moment be supposed; can the gentleman from Delaware, for one instant, intend to argue to the Senate, that in every case in which an individual has a claim against a foreign Government, he has a right to give his individual views to the State Department, and to control its action with the foreign Government in relation to his claim?—because if he has the right to refuse its submission to arbitration, he has the right to refuse that it be tamely and dishonorably dropped. According to the statement of the principle, as enunciated by the Senator from Delaware [Mr. CLAYTON,] the Government of the United States had the right dishonorably to drop this claim; and yet, while asserting in the Government this greater power, he denies to it the lesser one of submitting it to arbitration. A claim is presented by a citizen to the foreign department of the Government, and it is the subject of correspondence. The Government of the United States takes up the case of the claimant as it is put before it by him. It has not heard the other side. Its action upon the case at that moment is one-sided, *ex parte*. This Government strenuously urges the justice of the claim on that of the foreign country. Then comes, on the other side, the answer of the foreign Government, setting up its view of the case, urging its own considerations in defense of its own action, bringing forward its own evidence. Will any man tell me that under such circumstances in the negotiation between two Governments, it is not perfectly competent for the one which first made the claim, to say that upon due consideration it was satisfied it had erred in making it and now abandoned it—abandoned it without dishonor—abandoned it upon the high principles of justice and national faith; and to admit the claim to be unfounded, thus assuming to judge the merits of the claim. The honorable Senator from Delaware seems to concede that power; and yet, as I said before, whilst admitting the power to give it up, either by tame submission rather than go to war, by dropping it as he terms it, or else acquiescing in the justice of the defense made by the foreign nation, he denies the power of the Government, against the will of the claimant, to submit it to the decision of an umpire.

Observe, Mr. President, that the decision in this case of the Government to submit the case to an umpire was not the decision of the Secretary of State, or of the President of the United States alone. The question was submitted to the action of the Senate of the United States. We were called upon, as part of the treaty-making power, to examine this question, and determine whether it was right and proper for this Government to go to war, to give up the claim, or submit it to arbitration. It was by the highest law known to our own land—by the sanction of a treaty, made with a foreign Government, published by the President of the United States after ratification—that the Secretary of State took up this claim and sent it abroad for decision. The decision is against us, and the demand is that we shall pay it. Why, sir, if we agree to this course, there never will be another case arbitrated; certainly no Secretary of State will ever again agree to submit a case to arbitration under circumstances like these, with the knowledge that, of two things, one must happen; that the claimant is either to get his claim by the decision of the arbitrator, or if he fails in that, the Government of the United States is to pay him.

Nor is it enough for the claimant to show that by the correspondence between the two Governments, his own Government urged the justice and equity of the claim, because the Government of the United States, under these circumstances, acts as the agent of the claimant, and if their is a doubt, it is bound to resolve that doubt to his benefit. Therefore it is not only natural and proper, but it is the bounden duty of the agents of the Government in their correspondence with foreign diplomatic agents, to assert the claims of our citizens in the strongest terms, and with the most cogent arguments their ability can suggest. But does that bind the Government of the United States? Does it make this Government unequivocally admit the demand of the claimant even against the foreign Government? Is there anything in the theory of our Government that binds the Congress of the United States, that binds every branch of the Government to the assertions of a diplomatic agent when contesting a disputed claim with a foreign Government? Clearly not.

But, sir, as I said at the outset, I concede to the advocates of this bill all that they claim in point of fact. I concede that the submission to arbitration was against the protest of the party; I concede that the decision was wrong; I concede to the Senator from Delaware [Mr. BAYARD] that it was very wrong in Mr. Webster to refuse to the party the right of sending a brief of his case to the foreign arbitrator; what then? According to the argument of the Senator there is no foundation whatever upon which he can rest his vote, except this refusal. Now that Senator must see very clearly—his powers of analysis and discrimination are too great not to compel him to

perceive—that he is upon one of these two horns of a dilemma. Either Mr. Webster, in the refusal, was right, or wrong. If Mr. Webster was right under the terms of the treaty, and if the Senate and the President of the United States had the right to make that treaty, there is an end of his case. If Mr. Webster was wrong, then he puts the case on the ground, that a mistake of the Secretary of State, in his action upon a private claim, with a foreign Government, binds the United States to the payment of the claim out of its own Treasury.

If the Senate of the United States is prepared to adopt that proposition, let us vote this money at once. If the Senate of the United States is prepared to adopt the principle, that, in all public offices, any mistake of any public agent upon a private interest, binds this Government for the whole amount of the private interest at stake, then let us pass this bill. But, sir, if the proposition itself, upon the simple statement, is too monstrous to be supported by anybody; if the inevitable tendency of a doctrine like this would be to exhaust the public Treasury, and not leave a dollar for any public purpose whatever, let us retrace our steps, and reject this bill as it stands before us.

How stands the bill as it was agreed to? By this bill, if it be passed in its present form, you will not only have asserted the principle, that the claimants in this case are to be paid by the Government of the United States for a claim which it has in good faith prosecuted almost to the verge of war, against a foreign Government; you will not only have asserted the principle that this Government has to pay that claim, notwithstanding its most strenuous efforts made in the best of faith, after a long series of years, almost to the verge of war, for the purpose of collecting it; but you will have actually adopted a bill sanctioning, so far as the sanction of the Senate can be given to it, the payment of $50,000, in addition to the value of the vessel and all its equipments, as damages to the officers and crew. That is for what? Not for any fright, for they fought as gallantly as anybody ever fought on earth; not for the families of the dead, because the descendants of those who died in that desperate conflict are to receive nothing under the bill; but as a testimonial of gratitude for gallantry, if you please. When you have gone thus far, and you have given $42,000 for the value of the vessel and its equipments, and the additional sum of $50,000 as a testimonial to the officers and crew, there is the further sum of $40,000 for the prospective profits of the privateering cruise.

Mr. BADGER. Is that so?

Mr. BENJAMIN. Yes, sir, that is the bill.

Mr. BAYARD. Will the honorable Senator allow me to make a single statement on that point?

Mr. BENJAMIN. Certainly.

Mr. BAYARD. I think the Senator is in error in regard to that matter. The bill contains a limitation that the amount to be paid shall not exceed the sum of $131,600; but it provides that the claim shall be adjusted at the Department "on the principles of equity and justice." Now, if the honorable Senator will take the trouble to inquire at the Departments; if he will take the trouble to read the opinions of the Attorney General, he will find that they always exclude prospective profits under words authorizing a settlement according to the principles of equity and justice. That is a settled rule of action.

Mr. BENJAMIN. Mr. President, I was going on to make the explanation, as I said to the honorable gentleman's colleague just now, if he had given me a moment; I was going to state to the Senate that there was not an express provision in this bill for the payment of this sum. I do not mean to represent the case under an aspect more unfavorable than it really deserves. I will ask the Secretary once more to read the last clause of the bill in relation to the sum to be paid.

The Secretary read the following:

"And that he be, and is hereby, further authorized and directed to pay the amount which may be found due to the said Captain Samuel C. Reid, the owners, officers, and crew, or their legally authorized representatives, out of any moneys in the Treasury not otherwise appropriated; which amount shall not exceed $131,600, being the sum demanded by the Government of the United States from the Government of Portugal, for the losses and damages sustained by the destruction of the said brig."

Mr. BENJAMIN. As I before stated, that amount of $131,600 is made up of the entire value of the vessel and all its equipments as established by the claimants themselves. It is made up of a further sum of $40,000 or $50,000 by way of damages or compensation to the officers and crew, and of an additional sum of $40,000 or $50,000 for prospective profits of the privateering cruise. It is true, the bill does not state that the Secretary of the Treasury is to pay this sum of $131,600; but we all know how such a provision, especially when worded as the bill is worded as amended on the motion of the honorable Senator from California, [Mr. WELLER,] is construed. Senators will perceive that, by the bill as it stands, the Secretary of the Treasury is to settle the claim on principles of justice and equity. Why not stop there? Or if you choose to affix a sum, fix a million, half a million, or one hundred thousand dollars, as you please. But look at the provision once more. The amount is not to exceed $131,600, "being the sum demanded by the Government of the United State from the Government of Portugal, for the losses and damages sustained by the destruction of the said brig." Is not that an indication to the Executive officers of the Government, that, in the opinion of the Senate, there may be justice and equity to the entire amount of the claim? If it be, as the honorable Senator from Delaware says, that it is the invariable practice of the Departments never to allow prospective profits or prospective damages, will that honorable Senator tell me what was the motive of the friends of the claim for putting that amount in the bill? Why was it not confined to $90,000? Observe, upon the face of the bill as it stands, the amount has been calculated from the papers in the case, and those papers specify the details of which that sum is made up, and that the exact amount thus ascertained has been inserted as the extent of the measure of relief.

Here, then, is the declaration by the Senate, sanctioning, so far as its opinion can go, the allowance of these prospective profits, by declaring that the Secretary of the Treasury is authorized to go to the extent of paying them, if, in his opinion, justice and equity shall justify him in so doing. He is not to be guided by the precedents of the Government, nor the opinions of the Attorney General; but the exact sum claimed, as well for the prospective profits of the cruise as for the entire valuation of the property at stake, and for all the damages done to persons, the Secretary of the Treasury is authorized to pay out, with an indication of the judgment of the Senate upon the subject, that it may be just and equitable to pay the whole—not that it may be liberal, may be generous, proper, as a gift or acknowledgment of splendid military or naval services, but that it may be, in our opinion, just and equitable to pay the whole. That is the irresistible inference from the language of the amendment.

Now, Mr. President, I have said five times as much as I intended when I began speaking. I merely wished to state the reasons which induced me to make any active opposition to this bill. I must be permitted to say a few words more, and I shall have done, and leave this subject to the better judgment of the Senate.

Mr. President, appeals have been made to us upon this floor, and, I hesitate not to say it, outside of these walls, based upon the kindest and most generous emotions of the heart, appeals based on those noble and higher feelings which honor a man in all circumstances, and in all the relations of life. They have found an echo upon the floor of the Senate. The honorable Senator from Mississippi has depicted to us in glowing terms, and made a eulogium as beautiful as, I have no doubt, it was merited—of the entire life of the gallant officer who commanded this vessel. He has said to us that he could understand the objections made to this bill, on such technical grounds, if they were opposed in a court of law to the claim of one private individual against another, by a lawyer arguing the defendant's cause; but that he could not understand the assertion of principles like these against a claim such as this when addressed to the liberality of the Senate.

If this claim had been addressed to the liberality or public gratitude of the country, my voice would have remained silent, except to give my vote in affirmance of the claim. If the claim had been addressed to the liberality of Congress, as a testimonial of gratitude to men who had shed splendor upon the public name by that deed, of which no one has a higher estimate than I have, I would cheerfully have voted any sum that any committee of the Senate could have been induced to propose. But, sir, when I see upon the very face of the bill; when I see upon the face of the claim; when I see upon the face of the report of the Committee on Foreign Relations, that this is an appeal, not to the liberality, but to the justice of Congress; when I see, as the papers stand before us, a claim, not for indemnity for injury to the persons of those officers and crew, not a testimonial for their gallantry as displayed in that action, but a demand upon the principles of public law, that the Government should indemnify the claimants, I cannot give it my vote; and I cannot consent, by my silence, to give a tacit acquiescence in its passage.

I say to the friends of the bill, that if they have a majority of the Senate, now that it is full, in favor of the passage of the bill, and they shall pass it again, I shall have at least the satisfaction of feeling that I have done my duty on the subject. If, however the reconsideration of this bill, as asked for, shall be accorded, and the friends of the bill will permit all after the enacting clause to be stricken out, and will agree to appropriate this or any other sum that any committee may think proper or just, as an acknowledgment by Congress of the splendid services of these men, and as a testimonial of the gratitude of the country for their services, I will cheerfully vote with them. I object, not to the amount, but I object to the very erroneous principles upon which the bill is based. I object to those principles because they establish a precedent as dangerous, as I am confident it will prove fatal to the public interests. I have stated before a class of claims that are now being prepared against this Government. They are not the only claims. There are a number of other claimants who will throng these Halls, who will besiege Congress at every session, so soon as it shall be ascertained that the Government of the United States undertakes to pay for the mistake of the agents of the foreign department of its affairs, whenever they shall fail in obtaining justice abroad. Permit me to say that you have it here admitted in the negotiations of that department, that the citizens of this country own millions upon millions of claims against numerous foreign Governments, which have not only been sanctioned by the Executive department, but have received the approval of Congress, and I wish to know upon what principle you will refuse to pay those claims after you have paid this?

Mr. CLAYTON obtained the floor.

Mr. MASON. Will the Senator permit me, by unanimous consent to submit a motion?

Mr. CLAYTON. Certainly.

JAPAN EXPEDITION.

Mr. MASON. A day or two since, at my instance, a message from the President, communicating to the Senate, in compliance with a resolution of the body, the correspondence relative to the naval expedition to Japan, was referred to the Committee on Foreign Relations. It is desirable to have it printed; and I understand, if the order is made to-day, it will be ready on Monday or Tuesday at the furthest. I move that it be printed.

The motion was agreed to.

DEATH OF THE MINISTER FROM GUATEMALA.

Mr. MASON. I avail myself of the occasion, with the permission of the Senate, to say that I have received a note from the legation of Guatemala, addressed to me as chairman of one of the committees of this body—the Committee on Foreign Relations—informing me that Señor Don Felipe Molino, Minister Plenipotentiary of the Republics of Costa Rica, Guatemala, and San Salvador, departed this life on the first day of the present month, and also announcing that his funeral will take place, from his late residence, to-morrow at eleven o'clock. The communication appears to be semi-official; and, as was done on the occasion of the death of the late Minister from Russia, to enable Senators to attend the funeral, as a mark of respect to the memory of the deceased, who is certainly highly entitled to it, but without making it, on the Journal, the basis of the motion, I will move, if the Senate allow me,

that when the Senate adjourn to-day it be to meet on Monday next.

Mr. GWIN. I hope that will not be done. We can attend the funeral and be here also. The Senator from Delaware [Mr. CLAYTON] has given notice that he intends to call up an important bill to-morrow.

The PRESIDING OFFICER, (Mr. STUART in the chair.) The motion can only be received at this time, there being another question before the Senate, by unanimous consent.

Mr. MASON. I hope the Senate will allow me to make the motion, and then dispose of it as they think proper.

Many SENATORS. Certainly.

The PRESIDENT. The motion will be entertained, if there be no objection.

Mr. BROWN called for the yeas and nays on agreeing to the motion; and they were ordered.

Mr. CLAYTON. Though, until this instant, unapprised of the intention of the honorable Senator from Virginia, yet, under the painful circumstances in which this motion is made, I must ask the indulgence of the Senate while I make a few remarks. I was exceedingly anxious, Mr. President, that the Senate should meet to-morrow. I stood pledged to call up the French spoliation bill; and I hoped that every Senator would see the importance of acting upon it speedily. But I cannot refuse to adjourn over so as to enable Senators to show their respect to the memory of the deceased, by attending his funeral. I knew him well. He was the representative of a sister Republic—an American Republic. He was a man, sir, of fine qualities of head and heart. He was eminent and distinguished as a man of learning and ability. We have heretofore set the example of showing this mark of deference and respect to a foreign monarchy. I would show no less deference and respect to an American Republic. The Senate adjourned over on the occasion of the death of the representative from Russia; and I am not able to state any ground upon which I can make a difference in this case; and, therefore, although most anxious to go on with the business of this session, I shall be compelled to vote for the adjournment until Monday, in order that the Senate may show that respect for this individual—that respect for the Republic which he represented—which they formerly exhibited to the Russian Emperor, and the memory of his Minister.

Moreover, I beg leave on this occasion, as it is a suitable one, to advert to another fact. The distinguished gentleman who was at the head of the Fifth Auditor's office of the Treasury Department, one of the ablest and best officers of the Government, is dead. I refer to Stephen Pleasanton. His funeral takes place, as I am advised, at twelve o'clock to-morrow. I am, sir, called upon to attend that funeral by every consideration of respect that I can entertain for a man. He had served this Government to the entire satisfaction of every President under whom he acted, for a period of more than fifty years. He retained the confidence, respect, and regard of all Administrations, under all circumstances. He was a man who distinguished himself by a constant attention to the duties of his office. He never was arraigned for a crime or a fault. In the progress of a long life, while at the head of the bureau over which he presided, he saved more than $200,000, as the official papers will show, to the Treasury of the United States, by returning that amount as unnecessary to be expended beyond the sums appropriated by Congress for light-houses alone.

I do not choose to take up the time of the Senate by going into an extended eulogy of this gentleman; but, sir, I say, I say it with pride, that he was a native and citizen of the State which I, in part, represent here. Born within two miles of her capital, he was one among the many of her children who have assisted in conferring honor upon her name. When I first came to this city to attend the session of the Senate, twenty-six years ago, he was here, high in office, commanding the respect both of the outgoing and the incoming Administrations of the Government. Those who were then contemporary with him in office, so far as I have any knowledge, have all gone; and when I remember how many old friends of that day have left us whose presence then cheered me—when I look around this Chamber, and cannot find upon the floor of the Senate one single individual who served here with me during the first six years that I was a member of this body, I must say that

"I feel like one
Who treads alone,
Some banquet hall deserted;
Whose lights are fled—
Its garlands dead,
And all but HE departed!"

Mr. GWIN. I have as much respect as any Senator for the gentleman whose funeral we have been notified to attend, but, Mr. President, we are sent here to perform certain duties for those whom we represent. We have but a few days left for the legislation of this Congress; and it is well known that if we do not apply ourselves sedulously to the business on our Calendar, it will be impossible for us to do our duty to our constituents. We spent the whole of last Friday, and, from appearances, we shall consume to-day, in debating the privateer General Armstrong bill, to the sacrifice of all other private claims upon our Calendar. To-morrow was set apart by the distinguished Senator from Delaware himself, for another question of the greatest importance, and which ought to be finally decided upon. If we adjourn over to-day, Mr. President, we lose another week for the discussion of the question that ought to be decided to-morrow. I would pay every respect to the representatives of foreign Governments; but I opposed such a motion as this in the case of the Russian Minister, and it was voted down.

Mr. MASON. No, sir.

Mr. GWIN. It was voted down the first time.

Mr. MASON. A resolution was offered, on the occasion of the death of the Minister from Russia, that the Senate should adjourn over from respect to the memory of the deceased, and with a view to attend his funeral. That was withdrawn or voted down; but the Senate, on a bare motion, and without assigning the reasons on the Journal, adjourned over for that purpose.

Mr. GWIN. Well, Mr. President, if we committed one blunder, let us not commit another. We have not the time to adjourn over. It will be wasting the time of the people whom we are sent here to represent. I hope the motion will be voted down.

The question was taken by yeas and nays, and resulted—yeas 32, nays 15; as follows:

YEAS—Messrs. Allen, Atchison, Badger, Bayard, Benjamin, Butler, Chase, Clay, Clayton, Dawson, Dodge of Wisconsin, Douglas, Evans, Foot, Houston, Johnson, Mallory, Mason, Morton, Pearce, Pettit, Pratt, Reid, Sebastian, Seward, Slidell, Stuart, Sumner, Thompson of Kentucky, Toucey, Weller, and Wright—32.

NAYS—Messrs. Adams, Brainerd, Brodhead, Brown, Dodge of Iowa, Fessenden, Fitzpatrick, Gillette, Gwin, James, Jones of Iowa, Jones of Tennessee, Rusk, Thomson of New Jersey, and Wade—15.

So the motion was agreed to.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that they had passed a bill to establish the office of surveyor general of Utah, and to grant land for school and university purposes.

PETITION.

Mr. JONES, of Tennessee, by unanimous consent, presented the petition of Whitemarsh B. Seabrook, Joseph Whaley, and others, praying compensation for military services in South Carolina during the last war with Great Britain; which was referred to the Committee on Military Affairs.

PENSACOLA DOCK.

The PRESIDING OFFICER. The Senator from Delaware [Mr. CLAYTON] is entitled to the floor.

Mr. CLAYTON, (Mr. SEWARD having addressed the Chair.) I yield to the Senator from New York, who desires to speak on the question which is before the Senate.

Mr. MORTON. With the consent of the Senator from New York, I desire to offer a resolution and to ask for its immediate consideration.

The PRESIDING OFFICER. The Senator from Florida asks the unanimous consent of the Senate for the reception and consideration of a resolution. The Chair hears no objection. The resolution will be read.

The Secretary proceeded to read the resolution, which is as follows:

Resolved, That the Secretary of the Navy be requested to furnish the Senate, with the least possible delay, all the correspondence between the Department and the contractors for building the floating balance dock, basin, and railway at the Navy Yard, Pensacola, since the test made in the presence of the commission composed of Captain Josiah Tatnall, United States Navy, Major William H. Chase, United States engineers, S. T. Hartt, naval constructor, and James Herron, civil engineer. Also, all the correspondence between the Department and the commandant of said navy yard respecting a second test of said dock, basin, and railway. Also, all reports made by any commission that may have been appointed to prescribe the manner in which the second test should be made, and the correspondence between the said commission and the contractors, Gilbert, Secor & Co.; and, also, the instructions to the second commission appointed to witness the second test of the said dock, basin, and railway, with the merchant ship Monarch of the Sea; together with all correspondence between the Department and the said commission, and the report of the said commission after the test had been made.

Resolved, That the Secretary of the Navy be requested to furnish the Senate with his reasons for making the second test with a merchant ship instead of a vessel of war, as the contract required; and that he also inform the Senate whether the proposition of testing the dock, basin, and railway with a merchant ship instead of a frigate, came from the Department or the contractors; and whether the contractors were willing that the test should be made with a vessel of war according to the stipulations of the contract.

The reading of the resolution was interrupted by

Mr. GWIN. I object to the consideration of the resolution now. What is the use of reading it?

The PRESIDING OFFICER. The Chair thinks it is too late to object.

Mr. MORTON. I asked unanimous consent to offer it and have it considered.

The PRESIDING OFFICER. The Chair stated distinctly, that the Senator asked the unanimous consent of the Senate to receive the resolution and consider it now; and the Chair heard no objection to it.

Mr. GWIN. Not a member knew what it was; and it is not a proper way to bring a question before us.

The PRESIDING OFFICER. The Senator could have objected to the reception of the resolution, and that would have prevented its being introduced to-day.

Mr. GWIN. If the Senator had notified us what was in the resolution, I should have objected; and I do object to the reading and consideration of it now.

The PRESIDING OFFICER. The Chair decides that it is too late to make the objection.

Mr. GWIN. Then I shall debate the resolution.

Mr. MORTON. Let the Secretary finish the reading of it.

The resolution having been read,

Mr. GWIN. Now, Mr. President, I should like to know what question is before the Senate?

The PRESIDING OFFICER. The question is on agreeing to the resolution.

Mr. GWIN. What was originally proposed by the Senator from Florida? I want to hear that.

The PRESIDING OFFICER. The Senator from Florida, the Chair will state, rose in his place and asked the unanimous consent of the Senate to receive and consider——

Mr. GWIN. No sir; he asked the Senator from New York to give way to him.

The PRESIDING OFFICER. The Senator will permit the Chair to state it. The Senator from Florida asked the unanimous consent of the Senate to receive and consider now a resolution of inquiry. The Chair asked if there was any objection to the proposition, and announced that none was heard.

Mr. GWIN. Who was entitled to the floor? And what was the question before the Senate?

The PRESIDING OFFICER. The Senator from New York had the floor upon the bill which is pending before the Senate.

Mr. GWIN. Is there any right in this body to dispose of the question now before the Senate, unless by a motion or by common consent? The question before us is the reconsideration of a vote taken last week. How can another question be before the Senate at the same time?

The PRESIDING OFFICER. The Chair will state to the honorable Senator that it is in the power of the Senate, by unanimous consent, to receive such a resolution while another question is pending.

Mr. GWIN. Is it in order to move to adjourn?

The PRESIDING OFFICER. It is not in order, because another Senator has the floor.

Mr. GWIN. If the Senator is on the floor, and it is not in order to move to adjourn, I insist upon his proceeding with his speech.

The PRESIDING OFFICER. It is in order always to move to adjourn, if the Senator can get the floor to make the motion.

Mr. GWIN. Well, if the Senator from New York has the floor, I insist that he shall go on with his speech.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

Mr. WELLER. Can that vote be taken if a Senator is on the floor?

Mr. GWIN. If the Senator has not the floor, I insist that the question should be put, on the adjournment.

The PRESIDING OFFICER. The Chair decides that the Senator from New York yielded the floor for the unanimous consent of the Senate on this question, and the question now is on agreeing to the resolution.

Mr. GWIN. That is positive action; and I insist upon it, that the Senate can adjourn.

The PRESIDING OFFICER. Does the Senator move to adjourn?

Mr. GWIN. I do.

The motion was not agreed to.

The resolution was agreed to—ayes twenty-seven, noes not counted.

BRIG GENERAL ARMSTRONG.

The Senate resumed the consideration of the motion to reconsider the vote by which the bill for the relief of the claimants of the private armed brig General Armstrong was ordered to be engrossed for a third reading.

Mr. SEWARD. Mr. President, this case of the owners of the privateer brig General Armstrong, has always seemed to me so clear that I have never felt myself called upon to elaborate an argument in its support, although I have always cheerfully supported it. As the time of the Senate is becoming precious, I do not intend that the very able argument, just addressed to us by the Senator from Louisiana, shall turn me now so far out of the way as to go into a review of all the positions which he has taken; but I barely desire that the question on the reconsideration may not be taken without, in the first place, stating again fairly and distinctly the grounds on which I have always been in favor of this bill.

It seems to me, if I may say it with great deference to that honorable Senator, the mistake in his argument consists in this—that he considers the question from this point of view: Can the United States excuse itself, can it make a defense which will excuse it, from the payment of this claim? I look at it from a different point. I inquire whether there is an obligation upon the justice or the equity of the United States to pay this claim; whether they can, consistently with prudence and justice, and the claims of all other citizens, audit and pay it. Taking a view from this stand point, I find that the claim arose under the law of nations. It was the claim of one of the citizens of the United States against a foreign Power—a claim that, while the vessel was lying in a harbor of a neutral Power, she was attacked by a superior force of gun-boats from a British squadron in a war existing between the United States and Great Britain; and, although she made a gallant resistance, that she was overpowered and lost, and that irreparable damage ensued to her owners and crew. That attack, committed by the British boats, was an act of warfare against the United States; but the Portuguese Government, in whose harbor it occurred, was responsible to the United States, to compensate the parties aggrieved for the injuries they had suffered by the violation of her neutrality. This is an obligation thus established, as I have said, by the law of nations. There is another principle of the law of nations, which comes in here, namely: that the citizens who were aggrieved, and who thus obtained right of redress against the Portuguese Government, have no right or power to seek that redress themselves, but they must seek it through the action of their own Government. The Government of the United States is then under an obligation—it being indeed an obligation falling within that class which are called imperfect obligations in the law of nations, but still it is an obligation on the part of the United States to seek for, and, if possible, to obtain for their citizens that redress from the Portuguese Government to which the citizens became entitled.

Then, this was a claim of individual sufferers here against their own Government, for they can look to no other Power, and that Government can discharge itself in no way from the performance of the duty of obtaining that redress, unless it can show one of two things—either that such claim was not founded in justice and in the law of nations, or else that it could not, in the exercise of common diligence and of common prudence, obtain the redress which the citizens claimed at its hands. The case, then, resolves itself into these two questions: whether the Government of the United States can show that the owners of the privateer had no claim to the redress which they ask; or, secondly, whether it has acted in good faith, and with diligence, and with prudence, and has failed to obtain the remedy.

Now, what is the defense made by the honorable Senator for the Government of the United States? It is not that the claim is not just; that it is not sanctioned by the law of nations. There is no question upon that subject. The Government, from first to last, has admitted it; and it is not only a just claim, but one attended by circumstances of peculiar merit. These losses were incurred in the maintaining of the naval strength and power of the United States in a war with the mistress of the seas. Although it happened forty years ago, it is by all recollected that when we engaged in that war the field where we least expected to conquer a peace, or to achieve a national fame, was the ocean; and it was by the enterprise of our merchants, and by the bravery of our privateers, quite as largely as by the valor and prudence of our naval marine, that we achieved that series of brilliant conquests upon the ocean, which led, more decisively than any battles upon the land, to the establishment of peace, and which gave us a naval reputation that has survived to this day, and I hope will last forever. These losses were incurred in the common defense of the United States. The claim, therefore, is not only just, but it is one which has peculiar merit, and the Government of the United States has admitted it from the time it was first presented until the present.

Then there is but one other answer, as I have said, which the Government can give to it, and that is, that it discharged itself of the obligation under which it lay to prosecute it, by prosecuting it with diligence and prudence, but without success? Has it prosecuted it with diligence? I think not, sir. The parties in this prosecution were the United States, a great Power, and Portugal, a feeble Power. There has been no time in which the United States has not been able, by a declaration of war at least, to have recovered the claim and paid it over to the claimants. The Government of the United States cannot plead inability in its behalf. The only plea of that character which is made is, that Portugal was so feeble that it would have been inconsistent with magnanimity in the United States to have prosecuted it to that extremity. But, sir, the Portuguese Government had a claim against the British Government to indemnify it; and if the United States feared that it would be lacking in magnanimity to prosecute the claim against the Portuguese Government, it had only to require the Portuguese Government to make a requisition upon the British Government, or the Portuguese Government failing, because of its inability, then to make the demand upon the British Government. Instead of this, at the time when it brought the Portuguese Government to a recognition of the other claims which it asserted to be just in behalf of the citizens of the United States, it referred this matter to the arbitrament of the President of the French Republic. I have no doubt that when that was done, it was thought by the Secretary of State, and by the President, and by the Senate, if it was at all understood here, to be a wise and prudent transaction; but it appears that by that reference the claim has been lost; and it appears manifestly also, for our records show it, that it was lost unjustly; that it was decided by the French Government against the claimants and in favor of the Portuguese Government, upon the ground of an error in fact, and not upon the ground of a want of justice, and of sanction by the law of nations. That error of fact occurred through somebody's fault? Whose fault was it? Not the fault of the claimants; because they were not allowed to appear there and present their case. It was the fault, then, of the Government of the United States, who so conducted the negotiation and the arbitration that the facts were not placed before the arbitrator in such a way as fully to discharge the Government from its duty as a prosecutor before the arbitrator.

This is the whole case. Then, inasmuch as this failure has occurred through the fault of the United States, the question arises whether it is not just that the United States shall indemnify its citizens for the losses which they sustained? I submit that it is right that the United States should indemnify them, in the first place, upon the ground of this misconduct; and in the second place, upon the ground that, inasmuch as those citizens could not individually prosecute the Portuguese, or the British, or their own Government, but stand always in an attitude of supplication to their own Government for redress, the Government itself should see that in a case so meritorious, they should not, through any misfortune or accident, lose the redress to which, by the law of nations, they were entitled from somebody, and which they were to procure from the parties owing that redress only through the action of the Government itself.

The honorable Senator from Louisiana admits that there is so much merit in this case, that if it was put upon the ground of justice and liberality, he would cordially support it. He only fears that it may become a precedent.

Mr. BENJAMIN. I beg the Senator's pardon. I said on the ground of gratitude.

Mr. SEWARD. On the ground of gratitude. The same defense which the Senator has made for the Government of the United States against this claim, would have been a good defense for the people of the United States against the claim in favor of General Lafayette, who was allowed the sum of $200,000 for his services in the Revolution. The same defense would be equally good against the allowing of a single one of the thousands or tens of thousands of grants of bounty land, and against the whole pension system of the United States. The dangers which Captain Reid incurred and the losses which he sustained, were incurred in the service and in the defense of our country; and it is always right, if the Government is able, and can do it in justice to other citizens, to acknowledge and to discharge the duty of gratitude which the honorable Senator admits. It will, then, be sufficient for him, in voting for this bill, that he can place it on that ground. The bill will stand, so far as my vote is concerned, upon the grounds which I have stated. It will stand, as a precedent, for just exactly what it is worth, when all the arguments in favor of it shall be considered in viewing it as a precedent. But what is the danger of this precedent? The Senator tells us there will never be another reference to arbitration by the Government of the United States, since it will be settled by this precedent, that the foreign party is to pay the claim if it is awarded against him, and that the Government of the United States is to pay the claim if it is awarded against the party. Sir, it is forty years since this claim arose, and it stands alone. It is forty years since this gallant achievement of the General Armstrong was made, and since this disaster was incurred. In that engagement the General Armstrong lost three men, the British force between two and three hundred. It was a defense of one privateer against the boats of a whole squadron in foreign seas. Whenever such a violation of neutrality shall occur by a foreign Power after this, and, whenever, it shall be resisted with such gallantry as this, then the foundation for such another case will be laid. But does the honorable Senator expect that vessels of the United States lying at anchor in foreign ports are hereafter to be assailed by belligerents? No, sir; that time has gone by. It was only in the weakness of our power, in our infancy as a naval Power; and there is no danger of such an occurrence again; but if it should occur, I shall be glad to believe that there will stand upon the record the precedent that the Government of the United States, appreciating the patriotism and valor of its citizens, and failing to obtain the redress which was due from a foreign Power, has made a liberal acknowledgment to our citizens who thus periled their property and lives in the public defense. But if that state of cir-

cumstances was to occur again, with it must occur the other circumstance, that such a claim being referred to a foreign arbitrator, who neither speaks our language, nor is acquainted with our condition, nor our circumstances, is adjudicated without giving the party for whom the prosecution is conducted, the privilege of a hearing before the tribunal, or of presenting, in any way, the case which he makes up. If all these circumstances shall occur again, I think this precedent will be one of the most valuable in our history. But as it has been long since the foundation of this action was laid, and since the circumstances have entirely passed away, we have no reason to apprehend that this will be extended into a precedent for any future claims of this kind. On the other hand, the precedents which, of all others, I least like to see on our statute-books, are the precedents of refusing a just indemnity to citizens of the United States whose property has been lost, and whose lives have been periled in the defense of the liberties and independence of the country.

Mr. BAYARD. It is with reluctance that I engage again in this debate. It occupied considerable of the time of the Senate last Friday; and, were it not that I differ from some of the positions taken by the honorable Senator from Louisiana in the very able, clear, and logical argument which he has made in the case, as he always does in the discussions of this body, I should not trespass again upon the time of the Senate. But, sir, there are one or two questions which it is necessary to touch upon before taking up the ground on which I suppose the parties are entitled to relief. I shall be as brief as I can.

The first is that the honorable Senator, in the course of his remarks, towards the close, utters what I think is calculated to create an objection to the claim grounded on the form of the bill, which it would have been perfectly competent for him to move to amend, when the bill was before the Senate previous to its third reading. I think, therefore, he might well have waived the objection to the particular language of the bill, unless it is to have the legal effect which he supposes. He called for the reading of the bill in the concluding part of his remarks, and he told us that it would indicate the judgment of the Senate, and that the officers would be influenced and biased by that judgment, to allow the sum of $131,600. It is not, Mr. President, a fair presumption that the accounting officers will disregard the settled construction which is given in the Treasury Department to the words which are contained in the bill, namely, that they shall settle the claim according to principles of equity and justice, from the implication that individual Senators might be of the opinion that the claim ought to be run up to $131,600. It is very clear that the sum of $131,600 is placed as a limitation, and not as a direction. The direction is to require the accounting officers to settle the claim upon principles of equity and justice. Beyond all question, if the honorable Senator will ascertain the practice of the Department—the settled practice—he will find that it has been decided over and over again that they never admit prospective profits in a case like that; so that, it seems to me, there can be no difficulty arising from the language of the bill; though I should have been perfectly willing, when it was before us, to have put it in such a shape as to have excluded all idea of allowing prospective profits, so as not to leave room for a doubt. I should not hesitate myself, under the bill as it stands, nor do I believe the accounting officers would hesitate, in adjusting the account upon principles of equity and justice, not to allow the whole amount of $131,600, if that includes the prospective profit.

Mr. BENJAMIN. I noticed the objectionable feature in the bill, as amended by the Senator from California, when it was under discussion; but I did not offer an amendment, because I had not the remotest idea that the bill would be ordered to a third reading, when it received but twelve votes when it was last before the Senate.

Mr. BAYARD. I did not mean to imply any censure upon the honorable Senator; but I meant to say, that when a bill is open to amendment, and honorable Senators do not choose to move amendments, but suffer the bill to be engrossed and read a third time, unless it is exceedingly objectionable in form, and imperatively requires amendment, I think it is somewhat too late to make that an objection to the bill.

But, sir, the honorable Senator tells us that outside appeals have been made. If that were a reason for the rejection of this bill, I apprehend no bill would pass Congress. It has become the fashion of the day. I admit it is an objectionable one, and I hope it will be remedied by the bill, which has passed the Senate for a court of claims, becoming a law. I desire to see it entirely put an end to; but it forms no argument against this bill, even if such appeals were made. I have, in a variety of cases, had appeals made to me; and my rule is to hear whatever they have to say, but not to give my opinion, but to make it up on the facts and principles of law applicable to those facts which may come before us in the Senate. I am always willing to hear the parties. I have heard in that way certainly a great many appeals which had no effect upon me, for I have endeavored, in reference to cases of this kind, to look to the decisions of my head, and not to suffer my feelings to enter into them, if it could possibly be avoided; and I have done this for the reason that I think the instincts of the heart may be well trusted in our individual affairs, because there self-love and humanity would check any man making a decision improper in regard to his own affairs; but when you act under delegated powers, if you suffer the feelings, as they are called, to enter into the decision, the danger is, that political bias, personal bias, and personal appeals, and a thousand other considerations of that kind, will warp your decision, and the result will be anything but the decision of the judgment—a decision of passion and prejudice. I cannot, therefore, and do not attempt, in any case, to exercise that portion of the power that belongs to me as a representative from the State of Delaware, as a delegated trust on any other ground than the best judgment which I can form—suffering my mind to act in a judicial manner. With this explanation I come to the difference between the honorable Senator from Louisiana and myself.

I have stated in the former debate, Mr. President, that it is nothing uncommon, nay, it is inevitable, for different human minds to arrive at the same conclusion, reasoning by different processes, and superinduced by different lines of argument. I agree, in general, with the remarks of the honorable Senator from Louisiana. He has stated the principles of public law, and the evils which would flow from a counter construction, in general, as I think they ought to be stated, with more clearness than I could do; but I consider this an exceptional case, and the evil which he supposes would result in making a precedent of the case, does not exist in point of fact, and can have no application to future cases.

The honorable Senator, in his remarks, forgot that in the former argument I placed it, in regard to the question of right, on two grounds—the grounds of gross negligence on the part of the United States, which actually prejudiced the claim; and further, supposing the Government to have urged the claim, and to have failed to obtain it, that on the ground of a gratuity, we might perfectly well allow this claim in the same mode as during the war we paid money to other officers, and I instanced the case of officers of the Wasp in capturing the Frolic, although she was recaptured twenty-four hours afterwards by a superior force. I placed the right to sustain the bill upon both grounds; and I may be allowed to remark that on either ground, if just, the bill may be supported.

The bill does not purport, on its face, to review the decision of the Emperor of France. It simply states that it is to pay the claim. The reasons for the payment are not stated on the face of the bill; therefore, whether they are indicated in the report of the committee, or given by one Senator or another, is no reason why I should not support the bill, if I think it ought to be put on either ground. If the bill indicated on its face, and by its language, that it was put solely on one ground, that might be another matter; but it simply provides for the payment of a just claim against a foreign Government, by citizens of the United States out of the Treasury of the United States. Whether it is a gratuity or a right founded upon the negligence of the United States, it is equally sustainable, and there can be no reason for altering the form of the bill, in my judgment, founded upon that. But I come now to the question of right.

The honorable Senator has presented to me, according to his statement, a dilemma, and the second horn of the dilemma is, that I must hold, according to the principles of public law, where there has been a mistake made by the agent of the Government who is charged with the prosecution of a claim, the Government is responsible, or that I cannot vote for this case. Mr. President, I do not think that follows. The honorable Senator is too well skilled in the principles of law not to know the difference between gross mistakes and mistakes. An exception was made in a case which was passed by both Houses of Congress at the last session, arising under the Mexican treaty. Under the Mexican treaty we had before us claims which were presented, based upon the allegation that the commissioners had fraudulently neglected their duties as regarded the claimants, who protested. There the proof did not show any malversation on the part of the commissioners against the claimant; and, therefore, that ground failed; but the committee took the further ground, that if, on the face of the decision of the commissioner, it appeared that he had made a plain mistake in law, we had the right to correct that; and we reported a bill in the case of Jarrero, and it passsed both Houses of Congress.

That is the distinction which was made in that case. I say, here, according to the terms of the treaty as negotiated, there was no exclusion of the right to be heard. It provides that the claims shall be submitted. It provides that each Government shall furnish all the papers in its possession; but it does not exclude the right of the American Government to make a representation or statement of facts before the arbiter. I say that is a right that grows inevitably from the agreement to submit to arbitration, unless it is expressly prohibited by the language of the treaty. In regard to the right of hearing, I differ very essentially from the honorable Senator from Louisiana in the importance attached to it. He puts it on the ground that my exception is simply that the written argument was not offered to the arbitrator. Sir, that is not the ground alone. That is the illustration of the ground; but the ground is that the Secretary of State gave the construction to that treaty, and assigned as a reason for refusing to receive the written argument, that the party had no right to be heard before the Prince President. I took the language of the treaty and looked at it. It contains no inhibition against that. I studied it to see if there was any principle of law which could possibly prohibit the right to be heard, and I could find no such principle, unless it was founded in injustice. I presumed that Mr. Webster, in the hurry of business, had fallen into an error, and I considered that, distinguished as he was, he had made a plain mistake; and, according to the testimony in this case, the result of that mistake has been a loss to the party—that loss arising from that mistake alone, and from nothing else.

Here is the dilemma I put to the honorable Senator: Mr. Webster, on the ground that the treaty did not expressly provide for the hearing, rejected the right of the party to have his case stated, either through our Minister at Paris, or by his own written argument. The case was decided by the arbitration without a hearing. No steps were taken to have a hearing on the part of the claimants before the President of France, or before the individual selected by him to investigate this question. It was decided without a hearing by the umpire, and merely on the previous diplomatic correspondence of the two Governments. Now, sir, I should be unwilling to impute to the Emperor of France, or to the individual selected by him to investigate this question, that, acting under any improper influence, he arrived at a decision so clearly erroneous as he did arrive at in this case. I should be unwilling to impute that; but when I find, on the face of his decision, that the ground of error evidently has been the want of a proper presentation of the case, I have a right to presume that it was a gross neglect on the part of the officer, which prevented the case being fairly presented for the claimant.

Mr. FESSENDEN. Will the Senator allow me to ask him whether he has seen the evidence that was presented to the arbitrator on the part of the Portuguese Government, so that he can clearly assert anything in regard to it?

Mr. BAYARD. I will give the ground of my argument to the honorable Senator, and the Senate

can judge. I do not say that I know it all; I certainly have not seen it; but this case of the General Armstrong, as far as the material facts are connected with the decision of the Prince President, is not a mere matter of testimony given before him as in a court of law. It is a matter of history—undeniable history—and it is on this ground that I mean to show that there must have been some defect in the arrangement of the testimony produced before the Prince President, or in the mode of presenting the argument, or else he could not have arrived at the decision which he gave.

I have stated that, in my judgment, there was a palpable misconstruction of the treaty by Mr. Webster, when he refused to allow the claimants to be heard. The treaty contains no provision prohibiting them from being heard; and I know of no principle of natural justice, of no principle of the law of nations, of no principle of municipal law which would deny the right of hearing where there was an arbitration, and the umpire was to decide as a judge, unless there was an express stipulation that there should be no hearing. Sir, I hold that the only security against improper, arbitrary, or hasty decisions is publicity, and allowing both sides the right of presenting their case. They may not choose to exercise the right; they may submit their case without it; but the right itself is essential, as a great principle of justice, for the proper decision, by any tribunal, on any subject-matter whatever. It is the abandonment of this right in this case, which in my opinion constitutes the gross neglect of our own Secretary of State. I wish to show, in connection with this, that it was the abandonment of that right which produced the decision against the claimant in the case. It is not probable that all the minute details of the transaction would be gone into so fully in the diplomatic correspondence of the two Governments as they would be if the parties had a right to be heard before the umpire when he was to render a judicial decision.

The case of the General Armstrong occurred during the war of 1812. The Government of the United States, as soon as peace was restored, claimed indemnity from Portugal for the consequences arising from the non-protection of this American vessel within her waters, which, as a neutral, she was bound to protect, even by force, if necessary. The Prince President of France, in his decision, admits the principle of law which I stated the other day, on this point. He admits the right to protection, the duty to protect, and the responsibility of the neutral power in case of non-protection. The honorable Senator from Louisiana concedes this. It is an undeniable right, and the weakness of the neutral nation affords her no excuse, and does not release her from her responsibility arising from her national character.

As I have said, the claim was made by the Government of the United States on the Government of Portugal. I am speaking now historically; I cannot go into all the facts of the case, for I have not examined all the documents and testimony laid before the arbitrator. If, however, any honorable Senator will show me that Portugal ever pretended to take the ground in regard to the facts of the case, upon which the decision of Louis Napoleon is based, I shall be almost disposed to give up the claim, so far as concerns the point that a mistake was committed by the Secretary of State in not allowing the parties to be heard. But, sir, is it not a known fact in the history of this transaction, that there was a boat expedition detached from the British squadron to cut out the General Armstrong, and that it failed? The next day they ranged a frigate along side of her when she was still in a neutral port, and she was then abandoned and burnt by her own officers and crew. Are not these facts of history? Has Portugal ever pretended to deny them? Has Great Britain ever pretended to deny that the boat expedition was sent from the squadron for the purpose of cutting out the General Armstrong? What is the frivolous ground on which the decision is made? That the General Armstrong was the aggressor, because there was no evidence before the arbitrator that those boats had any arms on board at the time they approached the Armstrong. They were the boats of an enemy's squadron approaching in hostile array; but because there was no testimony to show that they had any arms on board, though they engaged in conflict, though they were defeated, though history, from that day to this, has shown the fact that this was nothing more nor less than an attempt to cut out an American privateer—the Prince President decides that there was no proof of a hostile intent on the part of the British.

Sir, it seems to me that looking at that decision as it stands, you can, by possibility, draw but one of two inferences from it: either that the decision was corrupt, or that there was not a fair presentation of the facts of the case and the principles on which the claim was founded. If trouble had been taken, the facts in regard to the only point on which the decision is based, it would have been very easy to ascertain the official reports of the commander of that squadron, Commodore Lloyd, to the British Government. An examination of his report of the occurrence can leave no doubt that the boat expedition was intended to cut out the American brig. Did any one ever think, until the decision was made, of any such ground as that upon which it is based? It took every one by surprise. The undeniable facts of history are against it. If the General Armstrong, without cause, commenced the aggression by firing on the British boats in a neutral port, why was no demand ever made by Portugal on the United States for indemnity for this violation of her neutrality? Such a thing was never dreamed of. It was conceded throughout the correspondence that the aggression had been committed in violation of the laws of nations by Great Britain on the American privateer, while lying in the neutral port. The decision is based on the assumption that the aggression commenced on the part of the General Armstrong, and, therefore, that there was no liability resting on Portugal. Look at it:

"Considering that if it be clear that on the night of the 26th of September, some English long boats, commanded by Lieutenant Robert Faussett, of the British Navy, approached the American brig, 'the General Armstrong,' it is not certain that the men who manned the boats aforesaid were provided with arms and ammunition."

This is the ground on which the case was decided; but subsequently, in another part of his decision, he admits the principle of liability for which I have contended. He says:

"Considering, in this state of things, that Captain Reid, not having applied from the beginning for the intervention of the neutral sovereign, and having had recourse to arms in order to repel an unjust aggression of which he pretended to be the object, has thus failed to respect the neutrality of the territory of the foreign sovereign, and released that sovereign of the obligation, in which he was to afford him protection by any other means than that of a pacific intervention."

He did not deny that outside of the act, according to the law of nations, the obligation of protection existed; and he therefore admitted the liability of Portugal, but took the ground that the aggression commenced on the part of Captain Reid, in firing upon those boats which were not known to be armed, and that this destroyed all right of relief. Does any Senator in this body doubt that this is a mere quibble upon the evidence? The truth of history, from 1815 to this day, is against it. Portugal never made any such pretense. If there could have been the least pretense for presuming the existence of such a state of things Portugal would have claimed remuneration from the United States for a violation of her neutrality, instead of claiming it from Great Britain, and Great Britain would at once have asserted the fact, and would have interfered in the affair to the fullest extent, upon the ground that she had a claim on Portugal for the destruction of the men in those boats in consequence of the aggressions of the American privateer General Armstrong. In the face of all these facts, on the frivolous ground that it is not clear that the men in the boats were armed, though two hundred were slaughtered in persisting in the attack on the vessel, the Prince President of France decided against the claim. Surely the facts could not have been brought before him. There was no statement presented to him of the grounds upon which the claim rested under the principles of the law of nations. The argument of the party would have contained that; the representation of the American Minister, if he had been allowed to be heard, would have contained that. I am unwilling to presume that so atrocious a decision would have been made if the great principle of justice had been preserved, of allowing the party to be heard in a case in which his interests alone were concerned.

Further, sir, this case has its peculiarity in the fact that, upon the construction given to the treaty by the Secretary of State, it stands isolated from all others. It was a case in which the right of a single claimant alone was made the subject of arbitration. In no other instance, in our history, has the pretense ever been set up, when the rights of individuals were referred to arbitration by the Government, that the Government would deny not only to them but to itself the right to be heard in support of those claims. There is the injustice. The mismanagement of the case is nothing, but the gross neglect, as I have called it, is founded in the denial of the right to be heard.

There is no parallel between this and the cases with which the honorable Senator from Louisiana endeavored to frighten us, of claims which may be made under the present treaty with Great Britain. There the parties had the right to be heard; there was a commissioner appointed on the part of the United States to take charge of their claims and submit arguments in their support; and there can be no case of gross negligence, even though that officer may have committed errors of judgment in the course of the arguments which he may have advanced. I draw the distinction then.

I admit, as fully as the honorable Senator from Louisiana, that when the nation prosecutes the claim of a private citizen against a foreign Government, it is in her discretion to say whether she will arbitrate it or not. She has it in her discretion to say to what extent she will pursue it. She has a very wide discretion in the management of the claim. But still, if acting in good faith, one of her officers commits a gross mistake in the prosecution of that claim, which releases and destroys the rights of the claimant, I should be willing, in that excepted case, to vote remuneration. As an illustration of this, let me refer to a bill which you passed this morning, and to one which you passed at the first session of the Senate that I was a member of the body. I will state those cases, and then let the honorable Senator distinguish, if he can, between the principle of this claim and those two cases. He did not oppose, this morning, the bill to which I referred. I allude to a case where the collector of the port of Buffalo, in New York, was sued for damages, arising out of a mistaken act on his part, in good faith, in the execution of his duty. The Government of the United States was not legally liable, but being satisfied that he acted in good faith, as he was not able to respond in damages, you passed a bill this morning, paying the amount from the Treasury. Is there anything particular in the duties of a collector which, in such a case as that, would render you liable to the individual when he failed to collect the claim from the collector, any more than you ought to be responsible for the gross mistakes of a Secretary of State? Does your liability extend only to subordinate officers? I admit that it is a matter of discretion; it is not a general rule; each case must be brought before you; and each makes its own precedent, and goes no further.

The other case to which I have alluded is that of Colonel Mitchell. He was an officer of the Army, who gave certain orders which, in my judgment, he had the right to give; but the case was tried in the State of New York, and a verdict was rendered against him. His property was under execution, and an appeal was made to Congress. The Government was not responsible; but believing that he had acted in good faith in giving those orders, even though he was personally liable, Congress passed a bill to indemnify him for the consequences of his act.

Is there any distinction between the cases? In one instance, you have chosen to make yourselves liable for a mistake made in good faith by an officer in your employment, when his specific acts were before you. Why may you not extend the same principle to this case if you think the claimant is justified in coming before you? That is the principle of all these cases. They afford no precedent for others; each stands on its own ground.

The principle I understand to be that, though the Government is not liable for the consequences of those mistakes as a general rule, yet there are individual cases where the rights of a party have been prejudiced by the misapprehension or mistake of an officer of the Government, be he civil or military, be he Secretary of State or collector, where Congress will interpose in its discretion,

and remunerate him for losses which he has sustained. Considering, therefore, that this is an exceptional case, forming no precedent for any other, where the denial of the right to be heard was the violation of a great principle of justice, founded on a palpable mistake in the construction of a treaty, and that the result of this palpable mistake was the loss of the decision of the arbitrator by the claimants, I confess I think I have made out a case which justifies me in voting for this bill, although I admit the other principles which have been stated by the honorable Senator from Louisiana.

Mr. CLAYTON. If the Senate will indulge me in a few remarks, it will not take me many minutes to say what I should have said when I obtained the floor before, for the purpose of replying to the honorable Senator from Louisiana, but yielded it to other gentlemen. The case has been so ably argued that I might rest it without saying a single word more in support of the claim; but as the gentleman from Louisiana addressed part of his argument to m', in reply to principles which I have assumed, and endeavored to maintain in the course of the discussion, I must be pardoned now for making, very briefly, some rejoinder to what he said in relation to those principles.

I undertook to state it as a principle—independent of the ground which my colleague [Mr. BAYARD] has so ably sustained—that when a private claimant laid his claim in the hands of the State Department of this Government for prosecution, it was competent for that Department either to prosecute the claim or not, as it should seem fit; but that, having undertaken to prosecute the claim, then if it took a step so important, so vital to the interests of the claimant, as an arbitration, it was bound to obtain his consent to that step, which is altogether out of the usual course, or at its pleasure to drop the claim, and abandon it altogether. No such alternative as that which honorable gentlemen have presented here ever occurred in this case. There never was any such alternative offered as war or arbitration, or war or payment of the claim. The honorable gentleman has been misled by what has been said by others in the course of the discussion, when he assumes that war was threatened by the Government for the non-payment of this claim. This is not so, sir. The whole extent of what he calls a threat was this: The Government of Portugal was officially informed that unless this and other claims were settled, which they had neglected for thirty years, the whole matter would be referred to Congress to decide what course to adopt, and that the Executive would submit to their decision. That is the whole of this alleged or pretended threat of war.

Mr. BENJAMIN. Will the honorable Senator permit me to ask him if I misunderstood him the other day in the statement that American armed ships appeared in the Tagus to back the negotiations, and that our Minister at Lisbon demanded his passports?

Mr. CLAYTON. No, sir. The gentleman refers to another matter. Some time before this, one of the American ships entered the harbor of Lisbon. She entered there, not to make threats, and she made none. She entered there for the purpose of bringing away the Minister, who had exhausted all the argument in the cause, the Government of Portugal still having persevered in refusing to pay any of the claims. What was the character of the claims? The honorable gentleman feels as strong a love for his country as I do. He remembers, undoubtedly, as well as I do, the course which Portugal adopted towards this country during the last war with Great Britain. He, and every other Senator here, never can forget the conduct of Portugal when the Constitution frigate, having captured the Cyane and the Levant, in fair battle, carried the Levant under the guns of the batteries at Porta Praya, and when three British ships appeared off the harbor, of superior force to the Constitution, for the purpose of cutting her out with her prize, the officers of Portugal, instead of aiding and attempting to protect her, fired upon her as she left the harbor. That was the manner in which Portugal showed her neutrality during the whole war. A greater outrage could hardly be perpetrated by one nation on another. Then comes this case, and others, one of which permit me to state. A New England captain, and owner, too, of a ship, entered the harbor of Lisbon, with several boxes of specie in the hold of his vessel. They took the specie from the vessel, carried it away, and appropriated it to the purposes of the Government, and refused, for the space of thirty years, to pay one dollar back to the man, until, broken down by his misfortunes, he sunk into the grave, leaving only his widow to complain. They never intended to pay. Their own judicial tribunals, in that case, decided against them; they decided that the Government of Portugal was bound to pay for the specie taken from the hold of that vessel, and yet they would not pay one dollar. There were other cases not less aggravating. Under these circumstances, the Government was bound either to abandon the pretension that it supported the claims and the rights of its own citizens, or to do something to vindicate the honor of the Government, as well as to prosecute the claims. The national vessel to which I have alluded went into the harbor of Lisbon, but no threat was made; war was never threatened.

I now come back to the argument of the honorable Senator from Louisiana, to which I was replying. He assumes, that at the moment when this claim was referred to arbitration, without the knowledge or consent of the claimant, as it unquestionably was, the position of the Government was such that it was either compelled to arbitrate the claim, or be dishonored by dropping it—dishonored, he says, because it had made a threat of war. Sir, there was no such threat of war. The Government could not have been dishonored by dropping it at that moment any more than it would have been dishonored by dropping it at any previous period. The Government, if it chose, need not have abandoned it; it was not necessary to abandon it. It might have said, "under existing circumstances, we cease to prosecute the claim until a more convenient season; we do not choose to go on with this matter now, it can rest as it has rested for twenty or thirty years." But, the alternative of war or arbitration never was presented, so that that portion of the honorable gentleman's argument, which was presented in the strongest view, lacks a foundation upon which to rest. There was no threat of war.

Now, Mr. President, all that I undertake to say in regard to it is, that the Government should not have referred such a claim as this to arbitration without the knowledge or consent of the claimant; and that it could have dropped it, and never was compelled to go to war about it. But, sir, what did it do? It referred it; and the honorable gentleman maintains that, after referring it, it went on, and entered into a treaty with the Portuguese Minister, by the very terms of which this Government was not allowed to send forward an argument or statement in behalf of the claimants to vindicate their claim. Take that which the gentleman presented as his own argument. Is that so? Is it true that this Government made a treaty which prevented the citizen from presenting his case to the arbitrator? Assume the premises of the gentleman, and the whole superstructure that he raised upon them falls to the ground at once. You make a treaty referring a case without the knowledge or consent of the claimant, and in your treaty you bind yourself that he shall not defend his claim before the arbitrator! Are you not answerable under such a state of facts? If not, under what possible state of circumstances could you be answerable?

Mr. President, my honorable friend from Louisiana commenced his argument by saying that this was an alarming precedent; that there was something unexampled in it. I beg leave to say in the kindest and most courteous language to my friend, that I humbly conceive the course which he chose to adopt in this case was somewhat unprecedented. When the yeas and nays were called, and the bill was about to be carried, the honorable Senator voted in favor of the claim, and avowed that he did so in order that he might have an opportunity to offer some amendments. We have waited from that day until now for those amendments, and what are they? The honorable Senator does not propose amendments, but proposes to destroy the bill utterly. He goes against the whole principle on which the bill is founded. He denies that there is any justice in it. He says that the maintenance of such a precedent as this will ruin the Treasury. I submit to him that if this thing be done in such a case as the present, it may be done in any other case.

Mr. BENJAMIN. I have no intention of replying; and, therefore, I wish to say a word now, in order that my position may be understood.

Mr. CLAYTON. I yield for explanation.

Mr. BENJAMIN. I have had no opportunity of offering an amendment to the bill; but I stated, in the course of my remarks to the Senate, that if the bill could be so changed as, by striking out all after the enacting clause, to substitute, as an amendment, the paying of a sum of money to these officers—the sum stated in the bill, if its friends thought they could carry that amendment—as a testimonial of public gratitude, and an acknowledgment of the public services rendered by Captain Reid, his officers and crew, I would vote for it. I said that I considered the bill, in its present shape, as committing us to a precedent which I considered dangerous. The amendment to which I have alluded, I shall offer myself, or I shall leave the friends of the bill to frame it, if the reconsideration is allowed.

Mr. CLAYTON. The honorable gentleman is willing to vote for something as an acknowledgment to Captain Reid and his officers, of the glorious action in which they were engaged. Now, sir, what is the bill on the table? In effect and substance it amounts to the same thing. Call it what you please, it is intended to be a testimonial of the nation's gratitude, an acknowledgment of the services, the brilliant deeds of those patriotic and daring sailors.

Sir, I know that these men are not all to whom this Government is bound to look when acting upon this matter. Sailors in future wars will regard the precedent established, and the course of action of their Government in relation to this privateer, with anxious attention. They will see, if the bill passes, that this Government is determined to maintain their rights in neutral ports; that if, by means of an error, those rights have been sacrificed, the Government will make the acknowledgment of the error and pay them. I hold that it is a great principle which is involved in this bill, so far as relates to our naval marine. No case more brilliant than this can ever offer again. Aye, sir, I say now, as I have said before, that I do not think this will be exactly a precedent for anything else, for I do not believe there will ever occur again an instance equal to this, exhibiting the courage, patriotism, and perseverance of American sailors under the most desperate circumstances. Surrounded by a British squadron containing thousands of troops, transports, one or more line-of-battle ships, frigates, sloops-of-war, closing up the harbor, most men, seeing the force about to be opposed to them was overwhelming, would have abandoned the flag and gone ashore; but what did they? Sir, with a perfect knowledge that the odds against them were as twenty to one, they resolved to stand by the flag while they had life. The British attacked them between ten and twelve o'clock at night in boats, and as they advanced they were hailed. They advanced to the attack. The President of France has decided that those in the boats were the persons upon whom the aggression was made. Why, sir, on your table, among the evidences, is a letter of the Governor of Fayal, in which he writes to the British Admiral, remonstrating against the intention which he had avowed that day before the battle, to attack this privateer, and cut her out. Yet, in the face of the Admiral's own reply, in the face of the testimony of the Governor of Fayal, you have the decision of this Prince President, that our privateer fired upon her boats, and not her boats fired upon the privateer.

There is another thing to which, it seems to me, gentlemen have not attended. They certainly have not read the evidence. Among the testimony presented, if testimony was presented at all, to the Prince President, was the evidence of every sailor and officer on board the Armstrong, that those boats, as they advanced, after they were hailed, fired on the privateer first. The Prince President not only ignored all that evidence, but he has decided that all our officers and men were perjured. Nothing short of that could have maintained such a decision as he made in this case, that we fired upon them first. Now, can any human being believe that a small privateer, with only ninety-three men, would have fired on, and invited an attack from, the boats of so many ships and soldiers as there were in that British fleet?

Mr. President, there are many points which I

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should be glad to comment upon, if time would allow; but I know that I have trespassed too much on the patience of the Senate in regard to this claim, and I will now leave it to their decision.

Mr. BADGER. Mr. President, I do not intend to enter into any discussion on the subject of this claim. I wish merely to say that I concur entirely in what was so well said this morning by my friend from Louisiana. Having said that, I wish also to add a remark which, I think, is due to the occasion; that I think my friend from Delaware, in the manner in which he has spoken of the President of France, has not maintained that high courtesy which usually marks his course. The chief of the then Government of France was not an intruder into this business. He was asked to act the part of umpire and decide this question. He decided it. He had no interest in it. He may have erred, as any other man might; but I do not think it is exactly fair for us to use terms in respect to him which imply that he is either stupid or corrupt. I fear that, if we should ever again have occasion to call for the umpirage of a question between us and another Power, such remarks having been made here might have some influence in preventing any representative of a foreign Government from consenting to act on such an occasion.

But, Mr. President, what I principally rose for was to say, that the Senate is now thin, the hour is late, and that, I think, we had better adjourn. I submit that motion.

The motion was agreed to; and the Senate adjourned to Monday.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 3, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

The SPEAKER laid before the House a communication from the Secretary of the Interior, transmitting reports from the Commissioner of Indian Affairs and the General Land Office, in answer to the resolution of the House of Representatives of the 19th ultimo, requiring him to inform the House what steps had been taken to carry out the stipulations of the treaty with the Delaware Indians, made in 1854, as far as relates to the land ceded in trust to the United States, and the unlawful occupation of a portion of that cession, or the cession of any other Indians; and also requiring him to communicate what information he may have in regard to alleged trespasses upon the same, and whether any officers of the civil, military, and Indian service have been engaged in speculating in Indian lands, &c.; which, on motion by Mr. FAULKNER, was laid on the table, and ordered to be printed.

ENROLLED BILL SIGNED.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled the act to change the names of the American-built vessels J. H. Holmes and Franklin Pierce; and it received the signature of the Speaker.

INTRODUCTION OF A RESOLUTION.

Mr. FAULKNER. I ask the unanimous consent of the House to permit me to offer a resolution calling upon the War Department for some papers throwing light upon an engagement which took place on the 19th of August, 1854, with the Sioux Indians.

The resolution was read, as follows:

Resolved, That the Secretary of War be requested to communicate to this House all the dispatches and all the information received by him and on file in his office, relating to the engagement which took place near Fort Laramie, on the 19th of August, 1854, between a detachment of the United States troops and the Sioux Indians.

The question was taken; and the resolution was agreed to.

INTRODUCTION OF A BILL.

Mr. FULLER, by the unanimous consent of the House, introduced a bill "authorizing the construction of a marine hospital at Chelsea, Massachusetts;" which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

CONSIDERATION OF PRIVATE BILLS.

Mr. EDGERTON. I call for the regular order of business.

Mr. UPHAM. Will the gentleman from Ohio allow me to make a motion, which will occupy but a moment? I am directed by the select committee of the House on the Smithsonian Institution, to ask authority from the House to employ a clerk.

Mr. EDGERTON. I insist upon the regular order of business.

Mr. UPHAM. Do I understand that the member from Ohio still insists upon the regular order?

The SPEAKER. The member from Ohio [Mr. EDGERTON] and the member from Tennessee [Mr. JONES] both insist upon the regular order.

Mr. UPHAM. The business of the select committee requires a clerk to be appointed forthwith. We need him but for a short period.

The SPEAKER. Does the gentleman from Ohio withdraw his objection to the motion of the gentleman from Massachusetts?

Mr. EDGERTON. I do not.

The SPEAKER. The business first in order is the consideration of private bills reported by a Committee of the Whole House yesterday evening.

The following Senate bills were reported, without amendment:

An act for the relief of E. J. McLane;

An act for the relief of Catharine B. Arnold; and

An act to increase the pension of Patrick C. Miles.

The bills were then severally ordered to be read a third time; and having been read, they were subsequently passed.

The following House bills and resolutions, reported from the Committee of the Whole on the state of the Union, without amendment, yesterday, were next taken up, and severally ordered to be engrossed and read a third time; and having been engrossed, were read a third time, and passed:

A bill for the relief of Henry H. Marsh;

A bill for the relief of Joseph Ridgway;

A joint resolution for the relief of John Dugan;

A bill for the relief of the legal representatives of William A. Christian;

A bill for the relief of Sarah Morris, only heir of Robert Mitchell, deceased;

A bill for the relief of William Brown;

A bill for the relief of James McIntire;

A bill for the relief of Solomon La Follett;

A bill for the relief of Elizabeth Foreman;

A bill for the further relief of Isaac Allen, of Turner, in the State of Maine;

A bill for the relief of Wyatt Griffith, of Washington county, in the State of Tennessee;

A bill for the relief of Medford Caffey, of the State of Tennessee;

A bill for the relief of Paul S. Ridgway;

A joint resolution for the relief of James Hughes;

A bill granting a pension to Joseph McCormick;

A bill for the benefit of the heirs of Philip R. Rice, deceased;

A bill for the relief of the widow of W. Irving, deceased;

A bill for the relief of William Haggerty;

A bill for the relief of Rebecca Winn, widow and executrix of the last will and testament of Timothy Winn, deceased, late a purser in the Navy of the United States;

A bill for the relief of Thomas S. J. Johnson;

A bill increasing the pension of Anthony W. Bayard, of Bellefonte, in the State of Pennsylvania;

A bill for the relief of George Bush, of Thurston county, Washington Territory;

A bill for the relief of James P. Roan; and

A bill confirming a land claim to Elijah White, of the Territory of Washington.

House bill No. 682, reported yesterday from a Committee of the Whole House without amendment, for the relief of Frederick Griffing, was next taken up.

Mr. STANTON, of Tennessee. The bill provides for the payment, to Frederick Griffing, of a certain amount of purchase money due him from the Government, but, by an error, the words, "out of the Treasury" were omitted from the bill. I move that those words be inserted in the third line.

The amendment was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was subsequently read a third time, and passed.

Mr. HENN. House bill (No. 705) for the relief of the assignee of bounty land warrant, No. 27849, issued to William Phillips and Sarah Connor, was reported yesterday from a Committee of the Whole House, with a recommendation that it do pass.

The object of that bill is provided for by general law, and it is unnecessary to encumber the statute-book with it. It ought not to pass.

Mr. HENDRICKS. I am satisfied that such is the case, and I am willing that the bill be laid upon the table. I make that motion.

The question was put; and the motion was agreed to.

House bill (No. 570) for the relief of John R. Bowes, agent in charge of the property of the United States at Michigan City, in the State of Indiana, was next reported to the House.

Mr. HAVEN. This bill, which was reported yesterday from a Committee of the Whole House, is a bill to provide for the payment of a small claim of $800 to an agent having charge of some public property in Indiana. It should pass of course.

There is a claim of $452 32, which the proper Department declares to be due to a man by the name of Isaac S. Smith, of Buffalo, for like services there. The Committee of Ways and Means are in favor of it, and I wish to put the two claims together, and pass them both at once.

I offer the following as an amendment:

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Isaac S. Smith $452 32, in full of his account for care of public property in the city of Buffalo up to the 30th of April, 1853, under the direction of the Topographical Bureau.

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was subsequently read a third time, and passed.

Mr. HAVEN. I move to amend the title by adding the words "and Isaac S. Smith, of the city of Buffalo."

The amendment was agreed to.

The SPEAKER. The bill of the House (No. 627) for the relief of Thomas C. Ramsey and Anaias O. Richardson, was reported from a Committee of the Whole House, without amendment; but upon being reported, an amendment was offered by the gentleman from Virginia, [Mr. LETCHER,] and adopted. The Clerk will report the amendment.

The amendment was to insert in the fourth line, after the word "Tennessee" the words "and James McLaughlin," so as to include him within the provisions of the bill.

The amendment was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was subsequently read a third time, and passed.

Mr. LETCHER. I move to amend the title of the bill, by inserting, after the others, the name of James McLaughlin.

Mr. ROWE. I object.

Mr. LETCHER. The gentleman had better state his reasons for his objection.

Mr. ROWE. The gentleman calls for the reasons of my objection. Well, in the first place, I think that the bill is an improper one. In the next

place, I think that the gentleman has squeezed his amendment in without the knowledge of the House. Yesterday I objected to his amendment. I supposed, of course, that my objection was entered; but it seems that it does not appear upon the Journal.

The SPEAKER. The amendment was made in the House, and was regularly in order.

Mr. JONES, of Tennessee. The gentleman from New York says that the bill is an improper one. I will state, in a few words, its original provision. It is for an increase of pension allowed, under the laws of the country, to Thomas C. Ramsey and Ananias O. Richardson, from eight to sixteen dollars the month, each of them having lost a right arm at the battle of Monterey. These two men live in the State of Tennessee, but are not constituents of mine. The Legislature of that State unanimously petitioned Congress to grant this increase of pension. When the Tennessee and the Mississippi regiments were making a charge upon the fort at Monterey, the first ball which struck the American troops took off the right arms of Ramsey and Richardson, and the left leg of another member of their company, who now lives in my county. The same ball which deprived these men of their right arms and another of his left leg, killed four other members of the company. The mishap was witnessed by my friend, the Delegate from Kansas, [Mr. WHITFIELD.]

Mr. ROWE. This amendment was not before the committee yesterday. It strikes me as improper, because its subject-matter has not been sufficiently explained to the House.

In answer to the gentleman from Tennessee, I will inquire of him whether James McLaughlin, who is now introduced by the gentleman from Virginia, [Mr. LETCHER,] was one of the persons of whom he speaks?

Mr. JONES. I understood the gentleman from Virginia to have stated yesterday, in explanation of his amendment, that Mr. McLaughlin lost his right arm in some battle of the war 1812.

Mr. LETCHER. Yes, sir, and while he was under the command of General Harrison. The facts have been fully set before the House.

Mr. ROWE. I have seen no statement of the facts. The House do not know the facts.

The SPEAKER. Discussion is taking a wide range on the motion for amendment of the title of the bill.

The gentleman from New York, as the Chair understands, raises the question of order that the Journal has not been properly made up; that the amendment is improperly before the House, he having objected to it at a time when amendments were not in order.

Mr. JONES, of Tennessee. When the chairman of the Committee of the Whole House made his report, yesterday, I was temporarily occupying the chair. The gentleman from Virginia [Mr. LETCHER] moved to amend House bill (No. 627) for the relief of Thomas C. Ramsey and Ananias O. Richardson, by inserting the name of James McLaughlin, of Virginia. The Chair stated that, if there was no objection, the amendment would be entertained.

Mr. ROWE. I made objection at that time.

Mr. JONES. If the gentleman did, the Chair did not hear it. I believe that the gentleman did object in committee.

Mr. ROWE. And I objected to the amendment in the House, after the chairman made his report from a Committee of the Whole House.

Mr. LETCHER. There was no objection heard by any man in the House. I appeal to members to say whether there was.

The SPEAKER. The Chair desired an explanation only for the satisfaction of gentlemen. If the amendment was made in the House, as the Chair understands it was, it was in order, and there could be no question of order upon it. The only question now is upon the amendment to the title of the bill, the bill having passed.

Mr. ROWE. Could not objection be made when the amendment was proposed here?

The SPEAKER. If the bill was up for consideration in the House, the amendment was in order.

Mr. ROWE. I then made objection.

The SPEAKER. The amendment was most certainly in order this morning, when the bill was up.

Mr. HAVEN. I call for the previous question on the amendment to the title.

Mr. JONES. As I was in the chair when the Chairman of a Committee of the Whole House made his report, I hope I may be permitted to say that I did not understand a gentleman could object to an amendment being proposed; he might object to the consideration of the bill.

The call for the previous question received a second, and the main question was ordered to be now put.

The amendment to the title was agreed to; and he title, as amended, was adopted.

The SPEAKER. The question is now upon the following amendment of a Committee of the Whole House to Senate bill (No. 142) for the relief of Don Juan B. Domercq:

Add at the end of the bill the words:

Which shall be in full satisfaction for any claim upon the Government of the United States.

The amendment was agreed to.

The bill was ordered to be read a third time; and being read a third time, it was passed.

The SPEAKER. The Committee of the Whole House have reported a substitute for House bill (No. 628) to repeal an act entitled "An act for the relief of George M. Bentley, of the State of Indiana," approved August 5, 1854, in these words:

"That no payment shall be made to George M. Bentley after the 4th of March, 1855, under an act entitled 'an act for the relief of George M. Bentley, of the State of Indiana," approved August 5, 1814, until the claim and a right to a pension of the said Bentley shall have been presented to the Commissioner of Pensions, approved and allowed under the rules and regulations governing the examination and allowance of invalid pension claims for disabilities contracted in the Mexican war."

The substitute was adopted.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was read a third time, and passed.

On motion by Mr. HENDRICKS, the title was amended by striking out the word "repeal," and inserting in its stead the word "amend;" so that it would read, an act to amend an act entitled "An act for the relief of George M. Bentley, of the State of Indiana," approved August 5, 1854.

Senate joint resolution (No. 42) for the relief of George W. McCerren, reported from a Committee of the Whole House, with an amendment to strike out the words "with interest thereon from the date of their seizure," came up next in order.

The amendment was agreed to.

The resolution, as amended, was then ordered to a third reading; and was accordingly read a third time, and passed.

Senate bill (No. 346) for the relief of the heirs-at-law of William Van Wart, deceased, reported from a Committee of the Whole House, with an amendment to strike out the words "heirs-at-law," and insert "children," came up next for consideration.

The amendment was agreed to.

The bill, as amended, was then ordered to a third reading; and was accordingly read a third time, and passed.

House bill (No. 700) for the relief of the heirs of Thomas Morris, reported from a Committee of the Whole House, with an amendment to strike out, in the fourth line, the word "heirs," and insert in lieu thereof the word "children," came up next in order.

The amendment was agreed to.

Mr. MILLER, of Indiana. I move to further amend, by inserting, after the word "children," the words "and grandchildren."

The amendment was agreed to.

Mr. MILLER. I move still further to amend, by striking out, in the twelfth line, the word "heirs," and inserting in lieu thereof the words "children and grandchildren."

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, was accordingly read a third time and passed.

Mr. MILLER. I move to amend the title so as to make it conform to the bill, by striking out the word "heirs" and inserting in lieu thereof the words "children and grandchildren," so that the title would read:

"A bill for the relief of the children and grandchildren of Thomas Morris."

The amendment was agreed to; and the title, as amended, agreed to.

House bill (No. 611) for the relief of William G. Preston, late a captain in the war of the United States with Mexico.

The Committee of the Whole House reported the following substitute for the bill:

That the sum of $375 25 be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, and that the same be paid to William G. Preston, late a captain in the war with Mexico, to reimburse him for subsisting his command, and foraging the horses of his company, from Ozark to Washington, in Hempstead county, in the State of Arkansas.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, was accordingly read a third time, and passed.

The title of the bill was then made to conform to the amendment.

House bill (No. 708) for the relief of James P. Roan, reported from a Committee of the Whole House, with an amendment to strike out the word "relation" and insert the word "location," came up next in order.

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, was accordingly read a third time, and passed.

Senate bill (No. 356) for the relief of George Dennett, of Portsmouth, New Hampshire, reported from a Committee of the Whole House, with a recommendation that it do not pass, came up next in order.

Mr. EDGERTON. I move that the bill be laid upon the table.

The motion was agreed to.

Mr. HILLYER. I ask the unanimous consent of the House, that the Committee of the Whole House may be discharged from the further consideration of Senate bill (No. 256) for the relief of the West Feliciana Railroad and the Georgia Railroad and Banking Company. All objection to this bill, so far as I know, in Committee of the Whole House has been withdrawn.

[Cries of "Read the bill."]

The bill was read *in extenso*. It directs the Secretary of the Treasury to refund to the West Feliciana Railroad Company, the amount paid by them on judgments obtained against said company by suits instituted on duty bonds given by said company for the importation of certain bars of railroad iron imported at New Orleans, in July, 1836; and at New York in the same month of the same year.

The second section makes a similar provision in reference to the Georgia Railroad and Banking Company.

The report was also read, from which it appears that, under the provisions of the act of Congress of 1832, many companies were invited by Congress to enter upon the construction of railroads in all parts of the United States, as said act authorized the Secretary of the Treasury to return the duties upon all rails when duly certified that they had been laid down *for use*. Among other companies, under this act of 1832, were the West Feliciana and Georgia Railroad and Banking Companies, who embarked upon the construction of their roads. In the progress of their undertaking the money market was greatly embarrassed, still these companies struggled on with their roads.

In 1843, Congress enacted a law directing that, after a certain day in that year, all rails imported should pay duties, if not laid down before a definite day therein mentioned. This enactment, however, did not and could not equitably apply to companies that had commenced their roads under and upon the faith of the provisions of the act of 1832, promising a return of duties when the rails should be laid down. And what proves this clearly to be the case is the fact that, on the very day that the act of 1843 was to go into operation, the two Houses of Congress passed an act giving a year within which the parties might certify that the rails were laid down.

Mr. JONES, of Pennsylvania. Does the motion of the gentleman from Georgia require unanimous consent?

The SPEAKER. It does.

Mr. JONES. Then I object.

Mr. REESE. I hope the gentleman from Pennsylvania will withdraw his objection to this bill.

Mr. HILLYER. I ask the gentleman from Pennsylvania, and the House, to indulge me in a brief explanation.

The SPEAKER. If not objected to, the gentleman can make a statement.

Mr. JONES, of Pennsylvania. I will say to the gentleman from Georgia, [Mr. REESE,] that I would withdraw the objection with much pleasure, but I feel bound to object, for the reason that I am opposed to all class legislation. A general law would be much less objectionable to me than such a measure as this. Another reason is, that I cannot now, and never could, see the propriety of making a distinction in favor of railroad iron, against all other iron or other articles. I cannot, therefore, withdraw my objection.

The SPEAKER. If not objected to, the gentleman from Georgia will now be allowed to make a statement to the House.

No objection was made.

Mr. HILLYER. My statement will be very brief, and I can speak from my own knowledge of the history of this transaction, so far as it relates to the Georgia Railroad and Banking Company. In 1832 the Congress of the United States passed an act authorizing that the duties on railroad iron should be remitted, upon its being made to appear at the Treasury that the railroad iron thus imported had been actually laid down for use. That act continued in force for eleven years, and during its operation, the West Feliciana Railroad, and the Georgia Railroad Company were organized and went into operation. I do not know anything about the history of the West Feliciana Railroad; but I know that the Georgia Railroad and Banking Company was composed of the most substantial capitalists in our State. The capital of the company, amounting to about four millions of dollars, was actually paid in, in cash. And, with the funds and resources of the company this iron was purchased in the foreign market, imported, and laid down as fast as the company could do it. But after having bought the iron under the act of 1832, and with the clear right under that act to have the duty remitted upon laying down the iron, and before they had been able to complete the road, which is nearly one hundred and ninety miles in length, the limitation prescribed by an act of 1843, within which iron imported under the act of 1832 should be laid down, expired; so that they were not entitled to have the duty refunded to them, because they were not able to lay down the iron by the time prescribed by the act of 1843, although they had ordered it, and it was being shipped to this country, and was actually laid down for use very soon after its reception. Every railroad company in the United States, so far as I have been able to learn, similarly situated, has already been relieved; and, in the case of one railroad company in Pennsylvania, the duty was remitted in favor of the securities of the company on the very day that the limitation in the act of 1843 took effect. Every other company that I have heard of has been relieved. These two companies have applied for relief again and again, during the last ten years, and six times a bill in favor of the Georgia Railroad and Banking Company has passed the Senate *unanimously*. It has, several times, passed this House, but owing to the accidents incident to legislation, it has never been got through both Houses of the same Congress. It is, at present, buried in the Committee of the Whole House, and is, therefore, likely to be again lost. I do hope, therefore, that the gentleman from Pennsylvania will withdraw his objection, and I will immediately call the previous question, so that the bill may be passed at once without obstructing the business of the House.

Mr. JONES, of Pennsylvania. I desire to say that the gentleman from Georgia is entirely mistaken when he supposes that my course upon this subject is influenced by local interests, or by local feelings. Sir, if I were called upon to-day to record my vote upon a proposition to exempt a railroad company in Pennsylvania from the payment of duty upon railroad iron, I would vote against it emphatically.

There is another statement which the gentleman has made, in which I wish to correct him. He seemed to throw out the idea that the objectors to these bills, for the remission of the duty on railroad iron, are protectionists. Sir, a greater mistake never was conceived of. The very gentlemen who were in power at the time that the act of 1832 was passed were protectionists, and that was the party that exempted railroad iron from duty. I am no protectionist. I am for equality of taxation. If a general law is proposed putting everything subject to taxation for revenue upon the same footing of equality, I shall not object to it. I am in favor of a revenue standard. I do not want more revenue produced than is absolutely necessary for an economical administration of the Government. I object to this bill, not upon the principle of protection, but because I think that railroad iron should be placed upon the same footing with all other subjects of taxation.

I am not familiar with the facts of this particular case, but even if it be true, as the gentleman states, that bills have been passed by Congress for the relief of companies similarly situated, then I can only say to my friend from Georgia, that two wrongs will never make a right. If one such bill had got through by class legislation, I know my friend from Georgia never would appeal to me in a similar case for my vote, if the first, in my judgment, was wrong.

Mr. HILLYER. I hope the gentleman will now withdraw his amendment.

Mr. EDGERTON. I understand that the gentleman from Pennsylvania declines to withdraw his objection.

Mr. JONES, of Tennessee. I hope the gentleman from Pennsylvania will allow me to make a brief explanation.

Mr. JONES, of Pennsylvania. I have no objection to that.

Mr. EDGERTON. Nothing is to be gained by it if the gentleman insists on his objection. I therefore move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. HOUSTON. Will it be in order, Mr. Speaker, to move that the House do now resolve itself into the Committee of the Whole on the state of the Union? If so, I make that motion.

Mr. REESE. I hope the House will first dispose of this question.

The SPEAKER. The motion first in order, is that submitted by the gentleman from Ohio, [Mr. EDGERTON,] to go into a Committee of the Whole House on the Private Calendar.

Mr. JONES, of Tennessee, (to Mr. EDGERTON.) The gentleman from Pennsylvania [Mr. JONES] has withdrawn his objection to the bill, to allow me to make an explanation.

The SPEAKER. Explanation can only be made by unanimous consent.

Mr. WHEELER. Then I object.

Mr. HOUSTON. I ask that the question be put to the House.

Mr. HAVEN. I wish the House to accord me one moment to make an appeal.

Mr. WHEELER. I object; and insist on the regular order of business.

Mr. HAVEN. I want to state to the gentleman from Ohio, [Mr. EDGERTON,] and to the House, that the subject which I desire to bring before the House, relates to the Private Calendar, and is, therefore, legitimate in this place.

Mr. EDGERTON. I understand that very well; but the bill cannot be taken from a Committee of the Whole House on the Private Calendar, as the gentleman from Pennsylvania [Mr. JONES] insists on his objection; therefore nothing can be gained by continuing this discussion.

Mr. JONES, of Tennessee. He has withdrawn it for the purpose of explanation.

Mr. HAVEN. I appeal to the House to give me a moment's hearing.

Mr. LILLY. I object to anything further with regard to this bill.

Mr. HAVEN. It is not with reference to that bill that I desire the courtesy of the House. The gentleman from Ohio, [Mr. EDGERTON,] and the gentleman from New Jersey, [Mr. LILLY,] are both unadvised of what I desire to ask of the House; but it is not, as they seem to think, in reference to the railroad iron bill. That matter is now out of the way; and if the House will permit me, I will swing into order. All I ask is to be heard one moment.

[Cries of "Yes!" "Yes!"]

Mr. HAVEN. I would like to have the House take up a private bill for the benefit of a woman, who is now staying in this city. I do not ask it to pass the bill, but simply to pass upon it, so as to let her either stay or go. I allude to Senate bill No. 285, reported from the Committee on Military Affairs, which is an act for the relief of the heirs of Brigadier General R. F. Mason. It being a private bill, if the House would now take it up, or dispose of it one way or other, it would be, in my opinion, engaged in a good work.

The SPEAKER. Does the gentleman from Ohio, and the House, agree to the proposition of the gentleman from New York, [Mr. HAVEN?]

Mr. COBB. I have a measure here which I desire to report, in which over a thousand widows are deeply interested. [Laughter.]

Mr. EDGERTON. I insist on my motion to go into a Committee of the Whole House on the Private Calendar, and on that motion I ask the yeas and nays.

Mr. WENTWORTH, of Illinois. So that the House may understand on what it is about to vote, I ask the Speaker what the first bill on the Calendar is?

[Cries of "Order!" "Order!"]

Mr. EDGERTON. I object to the gentleman from Illinois asking any such question.

The yeas and nays were ordered.

Mr. STRAUB. I ask if it is not in order to inquire what the first bill on the Private Calendar is?

Mr. EDGERTON. It is not in order. I object to it.

The SPEAKER. Objection being made, the inquiry is not in order. But every gentleman can understand the matter as well as the Chair can.

The question was taken; and it was decided in the affirmative—yeas 85, nays 77; as follows:

YEAS—Messrs. Abercrombie, James C. Allen, Willis Allen, Ball, Belcher, Bliss, Boyce, Breckinridge, Bridges, Bristow, Brooks, Caskie, Chamberlain, Clark, Cobb, Corwin, Cox, Crocker, John G. Davis, Thomas Davis, Disney, Dunbar, Eddy, Edgerton, Edmundson, Ellison, Everhart, Flagler, Florence, Fuller, Grey, Aaron Harlan, Haven, Hendricks, Henn, Hiester, Hill, Howe, Johnson, Roland Jones, Kittredge, Lamb, Lane, Lilly, Lindsley, Mace, May, Meacham, Middleswarth, Morrison, Murray, Nichols, Mordecai Oliver, Peckham, Powell, Pratt, Preston, Ready, David Ritchie, Thomas Ritchey, Robbins, Russell, Seward, Seymour, Simmons, Singleton, William Smith, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Andrew Stuart, David Stuart, John J. Taylor, Teller, Thurston, Trout, Upham, Walsh, Wells, Tappan Wentworth, Westbrook, Witte, Hendrick B. Wright, Yates, and Zollicoffer—85.

NAYS—Messrs. Appleton, Ashe, Barksdale, Barry, Bennet, Benson, Bocock, Bugg, Campbell, Carpenter, Chandler, Chase, Chastain, Chrisman, Clingman, Cook, Cullom, Dawson, Eastman, Edmands, Thomas D. Eliot, John M. Elliott, Etheridge, Farley, Faulkner, Franklin, Gamble, Goodwin, Greenwood, Andrew J. Harlan, Hastings, Hibbard, Hillyer, Houston, Hunt, Daniel T. Jones, George W. Jones, J. Glancy Jones, Keitt, Knox, Kurtz, Letcher, McDougall, Matteson, Mayall, Morgan, Noble, Norton, Olds, Andrew Oliver, Parker, Peck, Pennington, John Perkins, Phelps, Phillips, Pringle, Puryear, Reese, Rowe, Ruffin, Sabin, Sage, Sapp, Shaw, Skelton, Samuel A. Smith, George W. Smyth, Straub, John L. Taylor, Nathaniel G. Taylor, Vansant, Wade, Walley, Elihu B. Washburne, Israel Washburn, and John Wentworth—77.

So the House resolved itself into a Committee, of the Whole House on the Private Calendar, (Mr. GREENWOOD in the chair.)

INTRODUCTION OF A BILL.

Previously to the Chairman taking his seat,

Mr. CASKIE said: I desire to ask the unanimous consent of the House to report a bill from the Committee on the Judiciary, in order that it may take its place on the Private Calendar. I should have reported it yesterday, but I did not happen to have the papers with me.

There being no objection, the following bill was read a first and second time by its title, referred to a Committee of the Whole House, and ordered to be printed:

Bill for the relief of the legal representatives of Joseph Nourse, deceased.

PRIVATE CALENDAR.

The CHAIRMAN. The first bill on the Calendar is a bill for the relief of Samuel Colt.

Mr. FLORENCE. It is known that the committee yesterday commenced at the middle of the Calendar; and as it is probable, indeed, that we will not get up the consideration of private bills on another objection day during the remainder of this session, I would suggest to the committee that we begin at the top of the Calendar and go through it, passing those bills to which no objection will be made. That course will relieve the committee much, very much, indeed, and will enable us to do

justice to claimants who are waiting here, asking relief from the Government.

Mr. JONES, of Tennessee. The committee has no right to do that. Only the House can make such an order. Besides, every bill on the Calendar has been heretofore called on objection days, and has been objected to.

Mr. FLORENCE. I would state to the gentleman from Tennessee, that there is a bill on the Calendar to which, as I understand, no objection has been made. I allude to the bill for the relief of Mr. Myerle.

The CHAIRMAN. The Chair will state that there are some twenty bills upon the Calendar which were not passed upon yesterday.

Mr. SMITH, of Virginia. I suppose that the next calling of the Calendar should be commenced at the beginning, and I insist upon that course being pursued now.

Mr. FLORENCE. On last private objection day——

Mr. EDGERTON, (interrupting.) I rise to a question of order. The gentleman from Pennsylvania [Mr. FLORENCE] is not discussing any point regularly before the committee. I call for the regular order of business.

Mr. FLORENCE. I am merely making a personal explanation, a privilege which seems to be conceded generally to every member on this floor.

The CHAIRMAN. The Chair will proceed to have taken up the first bill on the Calendar.

Mr. FLORENCE. I was about to state that, on the last objection day, I was absent from the House by indisposition——

[Cries of "Order!" "Order!"]

Mr. FLORENCE. May I not have an opportunity to make a personal explanation?

[Cries of "Certainly." "Go on;" and "Order!" "Order!"]

The CHAIRMAN. Objection being made, the gentleman from Pennsylvania cannot be allowed to proceed.

Mr. FLORENCE. Is it possible that objection has been made by any gentleman on this floor to my making a personal explanation?

The CHAIRMAN. Objection has been made.

Mr. FLORENCE. By whom?

Mr. WHEELER and Mr. WALSH, (rising in their seats.) I object.

Mr. FLORENCE. I think that the gentleman from New York owes it to me to withdraw his objection.

Mr. WHEELER. I withdraw it.

Mr. FLORENCE. I desire merely to explain.

[Cries of "Order!" "Order!"]

The CHAIRMAN. Objections are made all around to the gentleman's proceeding; and the gentleman must take his seat.

Mr. WALSH. The Chair has informed the gentleman when he was called to order, that he must take his seat; and it is only an aggravation for him to remain standing. [Laughter.]

Mr. FLORENCE. I understood the gentleman from New York [Mr. WHEELER] to withdraw his objection, and I supposed that I was in order.

The CHAIRMAN. But objections have been made by other gentleman.

The business first in order is the consideration of House bill (No. 59) for the relief of Samuel Colt.

The bill was then read through by the Clerk.

Mr. PECK. Is it in order to move to lay this bill aside informally?

The CHAIRMAN. The gentleman has a right to make that motion.

Mr. PECK. I then make that motion.

Mr. PRATT. I wish that the House would indulge me a few moments in explanation of this bill.

The CHAIRMAN. Is it the pleasure of the House that the gentleman from Connecticut should be heard?

[Cries of "Agreed!" "Agreed!" from all parts of the House.]

Mr. PRATT. This matter seems to have been made one of very great importance—so much so, as to have occasioned the appointment of a select committee, which has been acting, or attempting to act, more or less, during the last and present sessions of Congress.

Mr. HIBBARD. I rise to a question of order. A motion has been made by the gentleman from New York to lay aside this bill informally.

Mr. WHEELER. The gentleman from Connecticut has had the unanimous consent of the House to proceed with his remarks.

Mr. HIBBARD. My point of order relates to the question of priority of business.

Mr. PRATT. I am entitled to the floor, and I have a right to call the gentleman from New Hampshire to order. [Laughter.] I do not desire to embarrass the proceedings of the committee——

The CHAIRMAN. The Chair desires to say, in reply to the gentleman from New Hampshire, who has raised a question of order, that he understood the gentleman from Connecticut [Mr. PRATT] was occupying the floor by unanimous consent.

Mr. HIBBARD. I wish to ascertain how this is. I understand that, according to the rules of the House, a question relating to the priority of business is not debatable. I have a right to raise a question of order.

Mr. JONES, of Tennessee. The rules to which the gentleman from New Hampshire refers relates to the Committee of the Whole on the state of the Union, and does not affect proceedings in a Committee of the Whole House.

The CHAIRMAN. The Chair will again state that the gentleman from Connecticut [Mr. PRATT] is occupying the floor by unanimous consent.

Mr. PRATT. I understand that I have the unanimous consent of the House to make a few remarks in relation to this case. I will be very brief.

I have no desire, Mr. Chairman, to embarrass the proceedings of this body, either in the House or in committee. I have occupied the time of this House but seldom during the last or present session of Congress. But this is a matter in which I have a personal interest, [laughter,] because the reputation of a personal friend of mine is at stake; that is all the interest I have in this matter; that, to me, is enough. For what does Colonel Colt apply? For an extension of his patent for making fire-arms. He comes before this body, as any American citizen has a right to do, asking for what he believes to be right and just. Colonel Colt has been charged indirectly, if not directly, with doing what is not becoming an honorable man. I take occasion, in my place here, to deny that he has himself, either directly or indirectly, done anything which would be unbecoming the character of any gentleman upon this floor, or any gentleman in this country. He has been charged with using improper outside means and influences to accomplish his object; he has been charged with attempting to bribe members upon this floor.

Before proceeding further, I should like to have the gentleman rise in his place, if there is such a one here, who has been bribed, [great laughter,] or upon whom bribery has been attempted, by money or anything else. I say, with all respect to the committee, and to the individuals composing it, that I look upon this whole movement as reflecting upon the character of this House. I do not know an individual upon this floor who could be bribed. If there is such a one, I am sorry for it, and sorry for the district he represents. Mr. Colt was desirous of procuring the extension of his patent—a fact that every gentleman upon this floor knows. His attorney, Mr. Dickerson, who had charge of the matter, may have acted unwisely. He, doubtless, pursued such a course as he deemed advisable, with a view to accomplish the desired object; such a course as those interested in similar projects have felt themselves bound to take, in order to success. [Laughter.] I have but a slight acquaintaace with Mr. Dickerson, but from what I know of him, I believe him to be a high-minded gentleman. I cannot believe he would be guilty of anything dishonorable. I am satisfied he has conducted this matter fairly.

A partial report was made the other day by the committee appointed to investigate the matters connected with this and other cases. In that report, Mr. Chase, who occupies a seat on this floor as reporter, was referred to, and I beg leave to read some of his testimony before the committee. Here is a portion of it:

"Mr. W. B. Chase, being duly sworn, testifies as follows:

"*Question by Mr. Eliot.*—Have you been engaged as agent or attorney, or otherwise, to aid the passage of Colonel Colt's application before Congress for an extension of his patent?

"*Answer.*—Early in the session Colonel Clemens reminded me of the intimacy that had existed between Colonel Colt and myself, and asked me if I would assist him (Clemens) in furthering Colonel Colt's interests. I replied, I would do so cheerfully.

"*Question by Mr. Eliot.*—Whether or not were you retained for that purpose; and if so, will you please state the service which you were to render, and the compensation paid or to be paid, and whether or not that compensation was absolute or contingent?

"*Answer.*—I was not retained. The kind of service was not designated. No rate of compensation was named. No allusion was made to compensation at all.

Now, Mr. Chairman, that the House may know how liable a committee is to be deceived by testimony presented to it, and how the House itself may be deceived by such testimony. I take occasion to state that Colonel Colt was in this city a fortnight since, on business not at all connected with his patent extension. In speaking of Mr. Chase, he declared to me that he did not know him; had never seen him that he was aware of; and could not point him out if he was mixed up with half a dozen persons. I understand from Colonel Clemens, that Mr. Chase was entirely mistaken and incorrect in his statement, so far as he is concerned; that he never made any such remark as Mr. Chase attributes to him.

I only instance this to show how very liable committees are to be deceived by testimony brought before them. My main object is to defend Mr. Colt's reputation, which, to him, is dearer than money, or any advantage which this Congress could confer upon him He has been traveling in Europe, and is there treated with marked attention, as he deserves to be, wherever he may happen to go. I know him well, and I know him to be a high-minded, honorable man, above suspicion, and one of the very last men in this world who would do a mean act.

If those who have been inclined to aid Colonel Colt in procuring an extension of his patent have pursued a course which some gentlemen on this floor think ought not to have been pursued, why blame Colonel Colt? He has no hand in it in any way whatever.

All that Colonel Colt desires is a fair expression of opinion on the part of Congress. If a majority of the members of this body are in favor of extending his patent, of course he would like to have it done; but if a majority are opposed to it, so be it, only let him know it. Mr. Colt does not desire to have this thing hanging along, and remain unsettled. He wants it decided one way or the other; and it does seem to me that there can be no valid reason why a vote should not be taken, and a decision made.

If I understood the gentleman from Virginia, [Mr. LETCHER,] with whom I had some conversation upon this subject a few days since, he exonerated Mr. Colt from having done anything himself dishonorable. He has nothing to complain of against him as an individual, in connection with this matter. I wish the gentleman from Virginia was in his seat. I understood him to say he had no objection to having that committee discharged, so far as Colonel Colt's patent is concerned.

I do not desire to occupy the time of the committee any further than is necessary, and as I remarked before, my chief object was to exonerate Colonel Colt from anything unbecoming a high-minded and honorable man, and having done so, I ask the committee to vote upon the question, and thus settle it.

The CHAIRMAN. The question is upon the motion of the gentleman from New York, [Mr. ROWE,] to pass over this bill informally, for the present.

Mr. CLINGMAN. I do not see the gentleman from Virginia [Mr. LETCHER] in his seat, but he told me, a week ago, that he wanted to say something upon this subject, and I do not know——

Mr. CAMPBELL, (interrupting.) I rise for the purpose of saying that, in my judgment, we might as well decide this case.

The CHAIRMAN. The Chair would remark that discussion is not in order.

Mr. CAMPBELL. I beg pardon of the Chair, but I believe discussion of the question is in order.

The CHAIRMAN. It is merely a question as to whether the bill shall be passed by.

Mr. CAMPBELL. And it is upon that question that I am speaking.

The CHAIRMAN. The Chair holds it is not debatable at all. The gentleman from Connecticut [Mr. PRATT] occupied the floor by unanimous consent.

Mr. WALSH. And I object to any one following his example.

Mr. CAMPBELL. I think it is in order to make a remark upon it.

Mr. JONES, of Tennessee. I do not think that this can be regarded as a question of priority of business; and consequently, it does not come under that rule which requires such questions to be decided without debate. This is a motion to lay aside the bill. Now, what is the order of the House, by the 29th and 30th rules? They provide that Friday and Saturday, in every week shall be set apart for the consideration of private bills and private business, in preference to any other, unless otherwise determined by a majority of the House; and that on the first and fourth Friday of each month, the Calendar of private bills shall be called over; and the bills to the passage of which no objection shall then be made, shall be first considered and disposed of.

You take up that Calendar, and what authority has this committee to pass over the bill which they find first upon the Calendar? Rule 135, which authorizes the committee to pass over bills, applies, in express terms, to the Committee of the Whole on the state of the Union, and not to a Committee of the Whole House. The question of priority of business arises, when one member can say that a certain measure has precedence, and another says something else has precedence, and in such cases the House must decide the question which has the priority, and that without debate.

Mr. ORR. If this bill is postponed, it will only give way to something else, and my opinion is, we may as well proceed with this.

The CHAIRMAN. The Chair will remark to the gentlemen from Ohio and Tennessee, that whether he is right or not, the committee have heretofore entertained this motion, and acted on a principle different from that stated. The Chair entertains the motion now.

Mr. PRATT. I ask unanimous consent of the committee that the gentleman from North Carolina [Mr. CLINGMAN] be allowed to make a statement in reference to the gentleman from Virginia, [Mr. LETCHER.]

The CHAIRMAN. Discussion is out of order. The question is upon the motion of the gentleman from New York, to informally pass by this first bill upon the Calendar.

Mr. CAMPBELL. I move to amend the motion of the gentleman from New York so that it will be to lay the bill aside to be reported to the House, with a recommendation that it do pass.

The CHAIRMAN. The Chair is of the opinion that the gentleman's amendment of the motion of the gentleman from New York is not in order.

Mr. ROBBINS. Certainly not, sir; for it counteracts the effect of the motion.

The CHAIRMAN. It brings the committee to a vote directly upon the bill.

Mr. HIBBARD. I ask for the reading of the 113th and 134th rules.

The Clerk read the rules, as follows:

"113. All questions relating to the priority of business to be acted on, shall be decided without debate."

"134. The rules of proceedings in the House shall be observed in a Committee of the Whole House, so far as they may be applicable, except the rule limiting the times of speaking; but no member shall speak twice to any question, until every member chosing to speak, shall have spoken."

The CHAIRMAN. The Chair will remark to the gentleman from New Hampshire, that whether his decision is right or wrong, it has been acted on heretofore.

Mr. EDGERTON. There can be no question of priority in this case. There is no conflict between this and any other bill upon the Calendar; and according to the 135th rule, must be first considered; as between this and any other bill upon the Calendar there can be no question.

Mr. WALSH. I object to discussion. The Chair has decided debate to be out of order. I have objected, and I call upon the Chair to enforce his decision.

Mr. CAMPBELL. The Chair insists on his decision, and I therefore respectfully take an appeal from it.

The CHAIRMAN. The gentleman from New York [Mr. PECK] moved that the first bill upon the Calendar be laid aside informally. The Chair entertained the motion.

Mr. EDGERTON. I would state that a motion to lay a bill informally aside, is not a regular motion

The CHAIRMAN. It has been entertained heretofore.

Mr. EDGERTON. Rule 135th requires that bills shall be considered in the order in which they are placed on the Calendar.

The CHAIRMAN. Debate is out of order. Appeal has been taken from the decision of the Chair. The Chair will state the grounds of the appeal. The gentleman from New York moved that the bill be laid aside informally. The motion having been entertained heretofore, the Chair has entertained it in this instance. From the decision of the Chair the gentleman from Ohio takes an appeal. The question now is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. CHAMBERLAIN. I am of the impression that the Chair is somewhat in error. I understand the gentleman from Ohio to move to amend the motion of the gentleman from New York.

The CHAIRMAN. That is not the proposition before us. The Chair decided it out of order.

Mr. CAMPBELL. I take an appeal from the decision of the Chair that the question is not debatable.

Mr. STANTON, of Kentucky. I desire to know, Mr. Chairman, on what question it is we are to vote. I understand that the gentleman from Ohio proposes to debate the motion to lay the bill aside informally. The Chair decides it is not in order to do so.

The CHAIRMAN. The Chair does not understand that to be the question pending.

Mr. EDGERTON. As I understand, the effect of this vote will be to test the sense of the committee on the bill. I believe that it is so designed.

The CHAIRMAN. The Chair is not advised whether the vote will, or not, be a test vote. The question is, whether the decision of the Chair shall stand as the judgment of the committee?

Mr. STANTON, of Kentucky. I demand tellers.

Tellers were ordered; and Messrs. BLISS and WHEELER were appointed.

Mr. MEACHAM. I move that the committee do now rise.

Mr. ROBBINS. The committee are dividing, and I would inquire whether the gentleman's motion is in order.

The CHAIRMAN. The motion is in order.

Mr. McMULLIN. Is it in order to move a postponement of the consideration of the bill to a day certain?

The CHAIRMAN. It is not in order.

The question was taken on Mr. MEACHAM's motion, and the committee refused to rise; there being, on a division, ayes fifty-three; noes not counted.

The question was then taken; and the decision of the Chair was sustained; the tellers having reported—ayes 78, noes 53.

The question then recurred upon Mr. PECK's motion to pass by the bill informally.

Mr. EDGERTON. Upon that motion I demand tellers.

Mr. LETCHER. Is this matter open to debate?

The CHAIRMAN. It is not, except by unanimous consent.

Mr. LETCHER. Well, sir, I desired to make an explanation, and I ask the unanimous consent of the committee to make it.

The CHAIRMAN. It is not in order, and can only be done by unanimous consent.

Tellers were ordered; and Messrs. NOBLE and EDMUNDSON appointed.

The question was taken; and the tellers reported—ayes twenty-nine, a further count not being demanded.

So the motion was not agreed to, and the bill accordingly came before the committee for consideration.

Mr. CAMPBELL. I shall not occupy more than five minutes of the committee's time, although I am entitled to an hour. I think this proposition to renew Colt's patent, has been long enough before us to enable members to make up their minds, and to justify the House in making some final disposition of the case now.

A great deal has been said and published in regard to it, calculated to bring a general odium upon members of this House, without fixing the resposibility in any particular quarter.

We had a committee of investigation upon a very vague charge of corruption and bribery appointed last session, and continued until the present time. They have made a partial report only. Mr. Chairman, I think some final and decisive report on this subject, affecting the integrity of members of this body, ought to have been made before this time. I have seen nothing that tends to fix corruption upon any person, in reference to this matter. From all I can learn of the results of the examination of this charge of corruption, it has "mizzled down" to some silly story about *gloves!* Perhaps there is some testimony going to prove that some one has presented a Colt pistol to some member of this House.

Now, sir, I am not prepared to believe, not even to suspect, that there is any member of this body, so base, so lost to the high duty he owes his country and his constituents, as to permit his vote to be influenced in such a way.

Sir, I have never seen this Colonel Colt, and never expect to see him. I do not know who are his agents, and do not care. I have never eaten their dinners or suppers, or drank their wines, and never expect to do so. Yet I am in favor of this bill—not that I have a personal interest in its passage, as the gentleman from Connecticut [Mr. PRATT] indicated that he had—I am in favor of the bill, because I believe its passage to be for the best interests of the country.

In the first place, I do not believe that there exists a necessity for making many guns, or in multiplying the weapons of death. I am very willing that the monopoly of making his weapons for individual use, should be given to Colonel Colt, so long as we secure the right to the Government of using his invention for national defense. I have one of Colt's pistols in my possession. I own it, and would take no sum of money for it. It was not presented by him, or any of his agents, but presented to me in 1843, in the city of New Orleans, by a very dear friend, now deceased, under peculiar circumstances. I prize it very much, on that account. It is a very good instrument. It answers my purpose very well. When at home, I sometimes amuse myself with it in the evening in shooting rats. [Laughter.] I find it true, and have no fear that it will burst, and "knock its owner over." I have never yet found occasion, and I pray I never may have any, to use it for any more serious purpose than killing rats! I hope I may never be called on to use it against the life of my fellow-man, under any circumstances.

Sir, so long as the right to manufacture this instrument is in the hands of the inventor, who has his reputation involved in it, you may expect to have a safe and reliable instrument; but, if it is to be extended to every person over the country, you will very soon have a flood of cast-iron pistols—a counterfeit article, which will explode in the hands of the owner, and the invention of Colt's genius, will become worthless and unreliable. For these reasons, without going into the details of the case—for I see the time to which I voluntarily limited myself in these remarks, is up—I believe it to be the true policy of this Government to extend to Colonel Colt the right which he asks, to manufacture his pistols. Besides, Mr. Chairman, it is well known, that this is now recognized as the most efficient arm of defense now known in the history of inventions, not only in this, but in other countries.

I rose, Mr. Chairman, not to consume time, but simply to give, as I have done, briefly, the reasons why I expect to vote for this bill, and to say to the committee that I believe it to be due to the other interests that are clogged up by this measure, that we should get it out of the way. If the committee of investigation can pursue its inquiries, so as to fix palpably and clearly, upon any member of this House, a charge of having been influenced in his vote by any corrupt means, I shall go as far as the farthest, to make such a mark upon that individual, as will enable the country to point him out, and to wipe from the innocent the shade of suspicion which vague charges produce. I am unwilling that these loose, idle, and irresponsible charges, calculated to bring odium upon this House generally, should remain open for so long a time. The delay unjustly brings congressional integrity, in general, into disrepute.

Mr. LETCHER. Mr. Chairman, I regret very

much that I was called out of the House at the time the gentleman from Connecticut [Mr. PRATT] made his remarks in regard to this matter. While I have no idea that the gentlemen would intentionally misrepresent me or my position in anything, I am yet very certain that, under some strange misapprehension, he has misrepresented my position in regard to the pending bill. Now, sir, I have never said, either here or elsewhere, that Colonel Colt had acted properly in this matter from the time the investigation was commenced.

Several MEMBERS. Improperly, you mean to say.

Mr. LETCHER. No, sir; that he had acted *properly*. That is what I say; because it is a notorious fact that, at the time he appeared before the committee to testify, under the order of the Speaker, he came there drunk.

Several MEMBERS. Who?

Mr. LETCHER. Colonel Colt. He came there drunk. At the very time that he was summoned to appear before the committee and testify, his mind was obfuscated, [laughter;] and if gentlemen will take the trouble to examine his testimony in regard to that matter, they will see that Colonel Colt seemed to have no definite idea, either of his agents, or of the course of his agents, or of the sums of money paid to his agents, or distributed by his agents and sub-agents for the prosecution of this application.

Mr. CHAMBERLAIN. I would inquire of the gentleman from Virginia, whether this accusation which he makes against Colonel Colt, constitutes part of the report of the investigating committee?

Mr. LETCHER. No, sir; it would be a right hard matter to daguerreotype a drunken man in a report to be presented to this House; and it occurs to me, that it is a little strange that it did not strike the gentleman from Indiana in that light before he put the question. [A laugh.] Now, if you will read his testimony, you will find the fact to be as I have stated it, that he seems to have no definite knowledge of anything connected with this matter from its inception and introduction before this House up to the moment his testimony was given. Gentlemen who have read the testimony, will concur with me in that opinion.

Now, sir, what is the testimony in regard to this matter from his chief agent—the man who is acknowledged to be his agent, who is invested with full authority to act for him, to hire subagents, and to take such necessary steps as *he* may deem material for the promotion and successful prosecution of his application now pending before Congress? That man is Mr. Dickerson. Well, when Mr. Dickerson was inquired of to know what sum of money he had employed to get the claim through Congress, how that sum of money had been used, and to whom it had been devoted, he declined to answer, upon the ground that it was an improper inquiry, and that we had no right to call upon him for explanation about his private and professional business.

The gentleman from Ohio [Mr. CAMPBELL] says that the committee, in his view, ought long since to have made a *final* and definite report in regard to this claim. Now, let me ask the gentleman to look at the facts, and say who is to blame for not having had a final and definite report. The committee, at the close of the last session, reported everything that had been done at that time. They came here at the opening of this session, and had their committee revived. The first witness summoned to appear before that committee was one of Mr. Colt's agents, who had himself solemnly so sworn before the committee.

Several MEMBERS. Name him.

Mr. LETCHER. Well, sir, it was Mr. Chase. What was his course? He declined to appear before the committee at all. The facts in regard to that matter have been presented by the committee to the House, together with the return of the sergeant-at-arms, and they show that the committee have done all in their power to bring him before them, and make him testify. I have tried for two weeks past to call that matter up, and to get action on the part of the House, but I have uniformly, and on every occasion, been ruled out to make way for other business. Now, what more could the committee do? Have we not done everything that men could be expected to do? We have reported at the earliest moment. We have brought the facts here, and impressed on the House, as far as we could do it, the necessity of giving us the means of ascertaining the position of these various agents, the consideration that they were to receive, and various objects, which they were intended to accomplish. When these means were employed, what else, I ask again, could the committee do in regard to it? Was there anything else? Was there anything left undone by that committee that ought to be the subject of complaint on the part of this House, or on the part of any member of this House?

But the gentleman from Ohio says, that in this state of facts he feels it to be his duty to vote for the extension of this patent; that it is an excellent arm, that it is valuable for the purposes for which it is designed, and that, in order to keep it such as it now is, he shall vote for the extension of the patent, for fear others may practise a fraud upon the public by making inferior arms. That seems to be the whole amount of the gentleman's argument. Now, sir, the House will recollect that where an individual applies to the Patent Office for an extension of his patent, he is required to disclose the amount of the profits which he has made from that patent.

Mr. HENN, (interrupting.) Will the gentleman from Virginia allow me to ask him a question?

Mr. LETCHER. Certainly.

Mr. HENN. I did not understand the gentleman distinctly upon that point, and I would like to know, as I presume others would also, whether Mr. Chase swore before the committee that he was an agent for Colt?

Mr. LETCHER. Yes, sir; he said that he was employed by Colonel Clemens to aid Mr. Colt's application, and that he expected to be paid for so doing.

Mr. HENN. I wish to ask the gentleman whether he swore to that fact since he has occupied a seat upon this floor as a reporter?

Mr. LETCHER. We had better take one thing at a time. We shall come to all that in good season. Here is Mr. Chase's evidence:

"Early in the session Colonel Clemens reminded me of the intimacy that had existed between Colonel Colt and myself, and asked me if I would assist him (Clemens) in furthering Colonel Colt's interests. I replied that I would do so most cheerfully."

That is Mr. Chase's evidence, which will be found on the eighty-first page of the report. Mr. RUFFIN then propounded to him this question:

"Do you expect to receive a compensation of any kind, either directly or indirectly, for your services in behalf of Colt's patent extension?"

"*Answer.* I do."

"*Question.* Is that compensation to be certain or contingent?"

"*Answer.* I should expect it to be certain."

"*Question.* Has a reporter's desk been assigned you in the House of Representatives?"

"*Answer.* It has, sir."

Mr. LETCHER. Now, all these facts were reported here more than two weeks ago. They were brought to the attention of the House. The testimony of this witness was read.

Mr. PECKHAM. A single question which I desire to have answered by the gentleman from Virginia. Is there any question propounded to that witness, in reference to Colt's patent, remaining unanswered? Or was the question put to him, and which he refused to answer, in reference to something else entirely?

Mr. LETCHER. Well, sir, we expected to interrogate him not only about that matter, but about various other matters.

Mr. PECKHAM. That does not precisely answer my question.

Mr. LETCHER. We should have interrogated him about it further, to know the conditions on which he was employed, and the compensation which he was to receive.

Mr. PECKHAM. Did he decline to answer any question touching this matter of Colt's?

Mr. LETCHER. Certainly, he never told us anything in reference to what he was to get for these services, or how he was employed.

Mr. PECKHAM. Did he decline to answer that question with reference to this case?

Mr. LETCHER. If the gentleman will indulge me a moment, perhaps it is better that Chase's whole testimony be read.

[Cries of "Oh! no! no!"]

Mr. LETCHER. Well, here is one question propounded to him in respect to George Steers, of New York, which he refused to answer. He refused to answer as to this, because he said he did not positively know, and his object was to make further investigation. He said he could answer positively in a few days.

A MEMBER. That has nothing to do with Colt's patent.

Mr. LETCHER. I will read another extract or two from his testimony:

"*Question.* To what members of Congress did you address your communication, referred to by you? State the substance of that communication, and the time at which it was sent.

"*Answer.* I retained no list of gentlemen to whom I addressed my communication, &c.

"*Question.* When you were spoken to by Colonel Clemens, and requested to aid in procuring the favorable action of Congress on the Colt patent extension, did you expect to receive a compensation?

"*Answer.* I did not.

"*Question.* Do you expect to receive compensation of any sort, directly or indirectly, for services in this patent extension?

"*Answer.* I do."

Mr. PECKHAM. That is not refusing to answer, as I understand.

Mr. LETCHER. No, sir; but it is answering both ways.

Mr. PECKHAM. That is another matter; my point was this: was any question put to him unanswered, in respect to Colt's patent?

Mr. LETCHER. I do not know that I can refer to any particular instance of the kind. It was so, however, in reference to other points.

Mr. PECKHAM. I believe there was a suspended investigation. Did that suspended investigation relate solely to this or to a foreign matter?

Mr. LETCHER. Not to this matter solely. It referred to this and the Minnesota railroad bill, and other matters.

Mr. PECKHAM. I speak of it merely in reference to the questions put to the witness. Am I right in respect to that?

Mr. LETCHER. Certainly, sir; so far as I recollect.

Here is a question which is general, and the House will see how far he answered in reference to this question:

"*Question.* Do you know, or have you reason to believe, that any improper or unlawful means were used by any person to affect the vote or action of any member of the present Congress, in aid of, or in opposition to any bill now pending, or which has been pending before Congress at the present session?"

Mr. LETCHER. Now, mark his answer to that! "I do not know; yet, I have reason to believe that in a few days I can"——

Mr. PECKHAM. That is a general question, covering all matters.

Mr. LANE, of Indiana. I understood the honorable gentleman from Connecticut [Mr. PRATT] to state that Colonel Colt informed him that he was a perfect stranger to General Chase, and that he could not recognize him if he should meet him. As I understand from the testimony, General Chase speaks of his intimacy with Colonel Colt.

Mr. PRATT. I did so state.

Mr. LANE. The gentleman from Connecticut states that Colonel Colt told him that he could not recognize General Chase if he met him, and if I understand the testimony of General Chase, he speaks of his intimacy with Colonel Colt.

Mr. LETCHER. I will again read it to the gentleman.

Mr. RICHARDSON. Will the gentleman from Indiana [Mr. LANE] tell us when General Chase got his commission as general? [Laughter.]

Mr. LANE. I know General Chase; but I am not prepared to answer the question of the gentleman from Illinois, [Mr. RICHARDSON.]

Mr. LETCHER. I should like to have to attend to only one gentleman at a time, so that I may be able to keep the run of these interruptions. [Laughter.]

Mr. JONES, of Tennessee. There is a gentleman, I believe, in this city by the name of Chase, who was once a militia general in Tennessee. He is a clever, gentlemanly man. He is more recently from Charleston, South Carolina, and now lives on Capitol hill here. I desire to say that he is not the General Chase alluded to in this debate.

Mr. LANE. I speak of Mr. Chase, the reporter.

Mr. TRACY. Will the gentleman from Virginia inform us what Colonel Clemens testified to as to the employment of agents or attorneys?

Mr. LETCHER. In a moment. Now, Mr. Chairman, let me get back to the point from which

I was diverted. Here is a man [Mr. Chase] who solemnly swears that he was on intimate terms with Colonel Colt, and that it was in consequence of those intimate relations that he agreed to appear as agent for Colonel Colt, and to assist him in the prosecution of this matter before Congress. That is the ground, now, on which this thing rests. When this committee was revived at the present session of Congress, we summoned this very man; he refused to appear before the committee and give testimony. In that state of the case, the committee has asked the House to decide this matter and pass judgment upon it. And now we hear that Colonel Colt does not know this man, [Chase,] notwithstanding the allegations which he has made under the solemn circumstances attending his testimony before the committee.

Now, Mr. Chairman, one of the gentlemen to my right [Mr. TRACY] has called upon me to state what Colonel Clemens had said in regard to the employment of agents. I will read that part of his testimony:

"*Question.* How many agents or attorneys are there in the employment of Colonel Colt, in connection with his bill now before Congress?

"*Answer.* I do not know. I have employed none. I spoke to two gentlemen who, I thought, could assist him; but we came to no terms, and made no definite arrangement."

Now, sir, take the declaration made by Chase himself, and is not this statement directly in support of it? Colonel Clemens did not mention whom he had spoken to, whether Chase or some other individual; but Chase himself has said, what Colonel Clemens stated, that no definite arrangement was made in regard to the amount of compensation. Chase has said afterwards, however, that he does expect to get compensation; and that he does expect to get certain, not contingent, compensation. How was it with Mr. Dickerson? Here is a part of the testimony of Mr. Dickerson, (who is the *recognized agent* of Colonel Colt,) that is worthy of the consideration of this House:

"What amount of the funds of Colonel Colt has been in your hands, or under your control, or subject to your draft or order, since the first day of December last, to the best of your recollection?

"*Answer.* I have no idea how much of Colonel Colt's funds have been in my hands in that period. I pay all his private disbursements in the city of New York. I have unlimited control over whatever funds he has for all the purposes connected with all his legal affairs, and for the payment of all his personal debts, contracts, and obligations of any sort in the city of New York, which, at times, are complicated and large; by which I mean to say, that whatever sums of money for these purposes I draw or send for are always paid me.

"*Question by Chairman.* Has the fund referred to been as much as $100,000; if not, how much less?

"*Answer.* No, sir; the whole amount would not exceed, I think, $15,000."

Here is another portion of his testimony, that shows some of the means that were resorted to for the purpose of helping this matter along:

"You have stated that, in a conversation which you had in New York with H. H. Day, he said he would communicate with some of his friends, and ascertain what they would take not to attack Colonel Colt and yourself, and that he named some of his friends alluded to; you will state the names of the persons mentioned by him?

"*Answer.* A person named McCrae was one, and one other whose name sounded something like Shackford. Mr. Day also mentioned the name of Mr. George W. Jones as a very formidable man in the House of Representatives. McCrae is said to be one of the assistant editors of the Union. I will do Mr. McCrae the justice to say that he has told me this week that he had declined to help Mr. Day in this matter.

"*Question by Chairman.* In the conversation with Day, detailed in a previous answer, you state that you said to him that you would be willing to pay him something to cease his abuse of Colt and yourself. Was any sum named by you on that occasion; and if so, what?

"*Answer.* No, sir; I did not state what sum I would have paid. He undertook to find out how much his friends would take not to abuse us. I am credibly informed that he made a similar application to Mr. E. K. Collins in relation to the ocean steam contracts."

These facts show something of the arrangements that were made. Here is Mr. Dickerson avowing that he has unlimited control over the funds of Colonel Colt, and that whenever he draws a draft upon him it is honored, and that he has the right to apply the proceeds of that draft to anything he pleases, according to his ideas of what would best secure the successful prosecution of Mr. Colt's measures. Here is testimony which shows that Colonel Colt gives to this man the control of an indefinite amount of funds for the accomplishment of any and every purpose that he may choose to undertake in this connection. When we interrogate men in regard to the use of that money, how much of it had been applied to procure the extension of the patent, and how much of it had been applied otherwise, we are met with the declaration that it was a private matter, that we had no right to inquire into it, and that we had no right to examine into a private engagement with Mr. Colt, notwithstanding the fact that Mr. Dickerson made this application, and was employed as an active agent in the prosecution of it before Congress, while Colt himself, was absent from the country.

Take in this connection the testimony of Horace H. Day, one of the very parties referred to upon the occasion, when the agreement was proposed to which I have already referred. Mr. Day states that he (Dickerson) was to contribute money for the purpose of stopping the mouths of various men who were opposed to this scheme—letter-writers for various newspapers! Is there nothing in all this worthy of the serious consideration of this House, when acting upon a bill like this? It does seem to me, if there ever has been a case calculated to arrest the attention of this body, and to induce them to pause and deliberate before they undertake to pass a bill of this kind, it is this case of Samuel Colt, as shown by the facts which are deposed by the witnesses before this committee. How many members of this body have looked into the report made by the committee, and into the evidence there contained, preparatory to taking action upon this bill? How many of them have ascertained what was the conduct of this agent, Dickerson, and to what extent improper means were used for the purpose of securing the success of this measure before the House? That testimony ought surely to be looked into before they undertake to pass judgment on this application. It ought to be considered, and carefully considered, before we undertake to renew a patent which gives an immense yearly profit to the patentee. What is that man worth now? Can any body here tell? Has he ever complied with that provision of the patent law that requires a person making an application for a renewal of the patent to show the amount of profits realized from it? Does he not shrink from an investigation before the Commissioner of Patents? Is he to come before this body and secure the passage of this bill without exhibiting a statement of his profits?

In this state of the case Colonel Colt comes to this House without making an exhibit, and asks us to grant him an extension of his patent for the further period of seven years, and that, too, when his patent does not expire until February, 1857. The patent has yet upwards of two years to run. What his profits have been up to this time I do not know. What his profits will be for two years to come, nobody can tell; and yet, in the absence of all this important information, the House is required to give him the extension of his patent for seven years more.

Mr. SMITH, of Virginia. Has not Mr. Colt a very large establishment in England?

Mr. LETCHER. Well, I do not know any thing more about it than what I have ascertained from the papers before the House. I understand from his petition that he has an armory establishment in London, and that it is, perhaps, a very extensive one—whether so extensive as the one in this country I do not know; but certainly sufficiently extensive to be capable of supplying, to a very great extent, the increased demand of the British Government for this kind of arm.

Mr. SMITH, of Virginia. And without any patent right?

Mr. LETCHER. I understand it is so.

Mr. SMITH. Then I would ask the gentleman, if we extend this patent will we not protect him here while there is competition in England?

Mr. LETCHER. That is the conclusion inevitably. The majority report sets out these facts, and the House can examine them for themselves.

I now desire to invite the attention of the committee to some of the testimony of Colonel Colt himself, given before this committee.

The first question propounded to him was:

"Will you state what means have been used, and what agents and attorneys employed by you in prosecuting your application now pending for a renewal of your patent."

Instead of answering that question, he presented to us a general statement, a written statement, prepared outside, by Dickerson, and brought with him before the committee. This is it:

"The application for the extension of my patent was made by Mr. Dickerson, who is my confidential counsel, at a time when I was in Europe. I directed the application to be made, and authorized Mr. Dickerson to take such steps as were proper in prosecuting it. I was in Europe from the time the application was made until about two months since, when I returned. Since my return I have been constantly engaged at Hartford, and have never been in Washington, nor held any communication with any members of Congress, until I was summoned here by telegraph on Friday last. All the knowledge which I have on the subject of this application is what I have derived from Mr. Dickerson. I do not know, and have not heard, that any unlawful or improper influences have been brought to bear upon members of Congress to induce them to vote in favor of my extension. I have always supposed, and do now suppose, that the case itself possessed sufficient merits to commend it to the favorable consideration of Congress; and I have relied upon those merits and the justice of my claim for success. If any unlawful means have been resorted to by any person in favor of this bill, it has been done without my knowledge, consent, or approval, and I should condemn it as readily as any other person. I desire, for my own sake, that a full examination should be made of all persons for whose acts I am in any way responsible; and if any evil practices have been resorted to, I have no desire to screen the offending parties. But I do not believe that any such practices have been used by those who have acted under my authority."

Now, let us come to where the examination begins, and I think this House will be thoroughly and entirely convinced that the witness is entitled to graduating orders from any "*Know-Nothing*" order upon the face of God's earth:

"The witness stated further, verbally: 'I know Mr. Dickerson as my only agent. Sub-agencies I know nothing of, except of their existence, as I came home two months ago from Europe.'

"*Question by Mr Eliot.* Please say by whom the statement just submitted by you was prepared and written, and whether it has or not been read or submitted to any person, and to whom, for examination?

"*Answer.* It was written, under my direction, as the substance of all I could say to inform this committee of all on this business, by Mr. Dickerson. I do not know that it has been submitted to any other person since it was written."

Now, how did Mr. Dickerson know what the committee would inquire into, that he and Colonel Colt could write out a statement which would answer their inquiries? The testimony proceeds:

"*Question by Mr. Eliot.* Will you state whether you were present when the paper was first drawn?

"*Answer.* I was, and dictated it.

"*Question by Mr. Eliot.* Will you state whether it is in your power to make a more definite reply to the first question?

"*Answer.* I have no knowledge except through Mr. Dickerson, who has authority to employ the best rational means to secure the object I seek.

"*Question by Mr. Eliot.* Can you state how much money has been expended on account of your application by Mr. Dickerson, for which you were charged?

"*Answer.* No, I cannot,

"*Question by Mr Eliot.* Has any account been rendered to you of moneys paid by Mr. Dickerson?

"*Answer.* Not since this application to Congress was made for the extension of my patent.

"*Question by Mr. Eliot.* Is there any limit, and, if so, what is it, to the right which Mr. Dickerson has, under his engagement with you, to expend money in such ways as shall appear to him proper?

"*Answer.* If there was an engagement, it would signify a limit. He, as a gentleman, makes the limit; and I, as another, meet it to the extent of my ability. I have never doubted his integrity as a professional man.

"*Question by Mr. Eliot.* Please state in what way Mr. Dickerson has reimbursed himself for moneys expended by him?

"*Answer.* I do not know.

"*Question.* Has he at any time, in reference to this application, drawn upon you directly for funds, and to what amount?

"*Answer.* Not that I know of. He is in the habit of employing my funds for the legal and professional parts of my business to the moderate extent intrusted to him. Unqualifiedly, so far as I know, he never has drawn my money upon the privilege given above for illegal or corrupt purposes. He may have drawn upon me for his reasonable expenses in Washington. It might have been a thousand dollars; it might have been more, it might have been less. It was probably more; for I presume he will send in bills for his expenses here, and the expenses of those he employed to fairly represent the case.

"*Question by Mr. Eliot.* Will you state to what extent your money has been intrusted to him?

"*Answer.* To the extent that one honorable gentleman can trust another gentleman of honor. I have every confidence in him. I have all the confidence in him that I have in myself."

Mr. PRATT. Will the gentleman allow me to ask him a question?

Mr. LETCHER. Certainly; I yield for that purpose.

Mr. PRATT. I would inquire of the gentleman from Virginia, whether he places any confidence whatever in that testimony, if Colonel Colt was in the situation he represents him to have been in before the committee?

Mr. LETCHER. Then he ought not to have come there in that situation, if no confidence is to be reposed in him.

Mr. PRATT. But the gentleman does not answer my question. I ask him, if Colonel Colt was in the condition he describes before that committee, whether he places any confidence in that testimony?

Mr. LETCHER. Well, I will answer the gentleman frankly. I have no confidence in his statements, because I believe it is utterly impossible that any man, who has himself amassed a million of dollars, would be very likely to give unlimited discretion to another to draw his funds, and apply them to such purposes and objects as he chose. It is impossible that any man would thus surrender the control of his own means.

Now, sir, Mr. Colt has a book-keeper, by the name of Joslyn. Here is his testimony:

"*Question by Mr. Thurston.* Are you Colonel Colt's book-keeper; if so, how long have you been in Colonel Colt's employ as his book-keeper?

"*Answer.* I am. I have been employed in that capacity nearly five years.

"*Question by Mr. Thurston.* Have you a separate account open in your books to which may be chargeable the expenses incurred in procuring the extension of Colt's patent of 1836; if so, what amount has been charged, and through whose agency?

"*Answer.* I have no such account.

"*Question by Mr. Wheeler.* What amount of money, if any, has Mr. Dickerson drawn from Colonel Colt for the purpose of securing the extension of his patent?

"*Answer.* I do not know that he has drawn any for such purpose. There is a balance against him of more than $9,000 and less than $10,000. The whole of the debit side of his account is $15,000; the credit side between $5,000 and $6,000."

Now, sir, that is a significant fact. Here is a book-keeper, charged with keeping the books of the establishment, and with the entry of the items on both sides of the account, and that book-keeper, according to his own testimony, keeps the items which make up one side of the account only, so far as Mr. Dickerson's account is concerned.

Again:

"*Question by Mr. Eliot.* Can you not tell the character of any *one*, or its amount?

"*Answer.* I cannot.

"*Question by Mr. Eliot.* When, as nearly as you recollect, did you last see the account; have you now sole charge of the books?

"*Answer.* I see all the accounts at the end of each month, when trial balances are made. I don't keep the books at present with my own hand, having had a young man to do that work for the last two or three weeks. His name is Smith; he lives in Hartford. I don't know his given name. He is only there on trial. I retain the entire control of the books, and no entry is made without my sanction. I examine every entry every day, and know it is correct."

Now, if all this were a fair business transaction, if these funds were placed in the hands of Mr. Dickerson for legitimate purposes alone, why is it that even the book-keeper of this concern of Mr. Colt is not allowed to see the items of expenditure which make up the account between Colonel Colt and his agent, Dickerson? Why is it that, upon one side of the account, Mr. Dickerson is charged with advances to the amount of $15,000, and upon the other side not one solitary item of credit is specified of any sort or description whatsoever? I ask the committee to look at the question, and see whether they can reconcile it with the principles of a fair and legitimate business transaction, where the parties themselves are doing nothing which they are unwilling shall see the light?

Mr. WALSH. Will the gentleman give way until I can make a brief statement in reference to a matter of my own State?

Mr. LETCHER. Certainly, sir.

Mr. WALSH. During the last election in New York, Mr. Chairman, there were three candidates run for Governor, and three for Lieutenant Governor. I see two of them now present. The one who run on the rum ticket for Lieutenant Governor is inside of the bar of the House; while the one who run on the Know-Nothing ticket, is seated, with becoming modesty, in the gallery. I ask that Brigadier-General Gustavus Adolphus Scroggs be allowed to take a seat within the bar, alongside his opponent. [Great laughter.]

[A pause ensued.]

Mr. LETCHER. Is it respectful that I should wait until the committee bring the gentleman referred to inside the bar. [Laughter.]

[Cries of "There is no objection to bringing him in," &c.]

The CHAIRMAN. The House is now in committee, and has no power to extend invitations.

Mr. LETCHER. When interrupted, I was at the point of these entries, which, according to the testimony of Mr. Colt's treasurer, ought to have been in these books, and the extraordinary character of the testimony which leave these entries blank, except as to the fixed sum of five or six thousand dollars.

I believe, Mr. Chairman, that I have said pretty nearly all that I intended to say, except to call attention to the point which was suggested by my colleague a while ago, in regard to the London establishment for the manufacture of Colt's pistols. It will be found upon the second page of the report which accompanies this bill, presented on the 23d of December, 1853, that this language is used in regard to that establishment:

"In order to protect himself from the destructive effects which would follow the introduction of these spurious arms into use in England, where he has no patent, and in Europe generally, Mr. Colt has established an armory in London, to which he has carried American machinery, and which is operated entirely by American mechanics, and where he is now engaged in the attempt to demonstrate the superiority of his arms over all imperfect imitations of them in the hope that the European consumers of them will discourage the manufacture of any except such as are perfect."

Then the fact is, as my colleague suggested, that this armory has been established in London, and is carried on without the benefit of a patent.

Mr. STANTON, of Kentucky. With the gentleman's permission, I will make a single remark here, as to why Colonel Colt has not procured a patent in England. The English Government, as well as the other Governments upon the continent of Europe, require all arms manufactured in their dominions to be inspected by officers of the Government. They are then stamped, and before they are stamped they cannot be sold.

Mr. LETCHER. The point is just exactly this: If Colonel Colt can get along without a patent in London, why cannot he get along without a patent here?

Mr. STANTON. The same law as the one I have referred to has never been enacted by the American Congress.

Mr. LETCHER. The gentleman will explain what that law is.

Mr. STANTON. Government inspectors are not allowed to stamp an imperfect arm.

Mr. LETCHER. Suppose they do require arms to be inspected. Is there an armory in the United States which does not require the inspection of all arms manufactured in it? So I do not see that there is anything in that point. The question is exactly this: If Cononel Colt can get along in London, and put up a costly and extensive establishment, without the benefit of a patent, why cannot he get along in the United States, where he has had the benefit of a patent, and where that patent has two years to run?

Mr. DAVIS, of Indiana. It is apparent that we cannot get through this case to-day, and, understanding that it comes up again next Friday, I move, with the permission of the gentleman from Virginia, that the committee do now rise.

[Cries of "Agreed!" and "Go on?"]

Mr. LETCHER. I do not yield for the motion. I prefer to finish what I have to say to-day. I have been interrupted a great deal, Mr. Chairman, and I am speaking without notes, so that I have been compelled to make a speech more than usually disconnected. I hope that I shall be allowed to conclude what I have to say without further interruption.

There is one point in this matter to which I desire to call attention. It goes to show the enormous profits which have been made out of this invention within the last few years. The committee will see in the commencement of this report—

"That Samuel Colt made his invention before the year 1832, but from the great difficulties which he experienced in reducing it to successful practice, and from his poverty, he was unable to procure a patent until 1836; that he, in the same year, assigned his patent to the "Patent Arms Manufacturing Company," a corporation in New Jersey, of which he became the manager; that Mr. Colt devoted five years, after the date of his patent, to the object of establishing his repeating arms, but that the company and he both failed—losing about $200,000, and many years of time and labor."

Here we see that this privilege was disposed of to this manufacturing company. After five years of experiment, that company, according to the statement of this report, sunk $200,000. Mr. Colt then became the purchaser of his right, which, as I understand, had, up to that time, belonged to this manufacturing company, by arrangement between them. He commences to manufacture on his own account. He was then poor; without means. He had nothing but his exertions and his friends to rely on for help. I ask the gentleman from Connecticut to state what Colonel Colt's property in Hartford is now worth, and how long he has been amassing that property by this invention?

Mr. PRATT. In reply to the gentleman from Virginia, I will state that I have no definite knowledge as to Colonel Colt's pecuniary circumstances. I am advised, however, by those who would be apt to know as much about his wealth as anybody except himself—gentleman upon whose statements I can rely with confidence—that his means are not sufficient to complete the work he has already commenced. I refer to the building of an armory.

Mr. LETCHER. I have heard estimates in reference to this matter. Colonel Colt had a very extensive establishment for the manufacture of these arms in Hartford, Connecticut; but that, within the last two years, he has commenced the enlargement of his works upon a more costly and magnificent scale. But, sir, if I am correctly informed, his establishment in Hartford, including the machinery, stock, and all the appurtenances, is worth not less than $750,000. Now, I appeal to my friend from Connecticut, to say, if his establishment, including machinery, and everything employed in his business in Hartford, is not worth that amount?

Mr. PRATT. Does the gentleman desire to say whether Colonel Colt's property in Hartford is, or is not, worth $750,000?

Mr. LETCHER. Yes, sir, including his machinery, stock, and everything required to carry on the business.

Mr. PRATT. I am unable to reply in direct terms. I desire, however, to state to the committee, that until recently Colonel Colt has never owned a manufactory, or rather a building, in which to carry on his business; until within a short period he has hired a building. The machinery was his own, but that it, together with everything connected with the prosecution of his business, could properly be estimated at $750,000, or anything like the amount, I do not believe.

Mr. LETCHER. Well, what is it worth?

Mr. PRATT. Why, to be frank with the gentleman, I cannot say how much it is worth. I have no definite knowledge upon the subject.

Mr. LETCHER. Well, it is perfectly certain that he is not a "Poor Richard" by any manner of means. That he is pretty well provided for in this world's goods is very evident. As one evidence of the success which has attended him, I call the attention of the committee to the fact that he has realized all he is worth within the ten or twelve years past. It is clear that ten or twelve years ago, when he was in New Jersey, he was worth nothing, according to his own statement.

Now, sir, I want to call the attention of the committee to one other fact. In the report which our committee has presented to the House, it is stated that Mr. Chase refused to appear on the requisition of the Speaker of the House, and testify before our committee. It is impossible for the committee to proceed with their investigations without the action of the House in regard to the matter. If they had furnished us with the means of compelling the attendance of witnesses, and when they are before us, of requiring them to answer, we should have reported in full before this time.

But, sir, we have not been content with a single case. Since making our report, we have tried another witness, and he too has declined to respond to the summons to appear before the committee.

All these facts we have presented to the House. We have presented the evidence we have taken, and have, in everything, discharged our obligations in connection with the duties of that committee as fully as it was possible for us to discharge them.

Now, sir, it is for the House to determine whether the investigation shall go on. But if it is not to go on, and this committee are prepared to act upon the case in the absence of the evidence which the agent of the person most interested in the matter has refused to furnish—I say, if the committee is prepared to act upon the case under these circumstances, we might as well dispense with investigating committees in future, and such committees had as well not be organized.

Sir, is not this most remarkable legislation.

under the existing state of facts? Here is his own agent refusing to testify in relation to the matter in relation to which Colonel Colt is asking the House to legislate, and yet, in this state of facts, while acting in defiance of the authority of the House, this committee propose to act upon and to pass his bill. Sir, I repeat that, if this is to be the course of the committee, we might as well abandon the idea of having investigating committees in future, and our committee might as well be disbanded at once. Is it not a mere mockery to undertake to prosecute investigations under such circumstances?

Mr. EDGERTON obtained the floor.

Mr. PRATT. Will the gentleman allow me a moment for explanation?

Mr. EDGERTON. I prefer to go on with what I have to say without interruption.

Mr. PRATT. It appears that a question of veracity has been raised between the gentleman from Virginia [Mr. LETCHER] and myself. I desire to explain in relation to it. I will be very brief.

Mr. LETCHER. If it is a question of veracity of course I yield.

Mr. PRATT. Mr. Chairman, the gentleman from Virginia was not in his seat when I made the remarks which preceded his. I desire to state that I certainly did not desire to misrepresent the gentleman, nor to state anything not strictly in accordance with the facts as they occurred.

Mr. LETCHER. I hope the gentleman does not understand me as charging him with stating anything that was not true?

Mr. PRATT. Not at all; but, sir, I wish to state that, some few days since, I came into the Hall ten or fifteen minutes before twelve o'clock, when I found the gentlemen from Virginia, [Mr. LETCHER and Mr. BAYLY,] and another gentleman, with whom I am not acquainted, though I have seen him frequently in the city, standing near the seat of the gentleman from Virginia. They were talking about this matter of Colonel Colt. I did not mingle in the conversation, but after they separated, I took occasion to say to Mr. LETCHER, that I should be glad to have the House act upon the question; that it had remained an open question quite long enough; that Colonel Colt had nothing to do with Mr. Chase, &c. I then understood Mr. LETCHER distinctly to state, that so far as Colonel Colt himself was personally concerned, he had discovered nothing discreditable to him, and that he had no objection to having the committee discharged from the further consideration of the subject, and was entirely willing that the House should vote upon the bill. If my ears served me correctly, he did so state. I told him I was very desirous the matter should be disposed of in some way, and expressed my confidence that neither Colonel Colt nor his attorney had employed any improper means to procure the passage of the bill in question. I then understood him to say that he had no objection to the House acting upon the question at once—none whatever. I think I quote his remarks with great accuracy, because they were impressed upon my memory strongly, from the fact that I was pleased to find him so decidedly disposed.

Mr. LETCHER. Well, sir, I have no objection, and have not had. If the House choose to pass the bill under the state of circumstances that now exist, let them pass it.

Mr. PRATT. I certainly understood the gentleman to say what I have stated. I had no desire to misrepresent him. But, from what he said, I did not expect any objection from him to-day to the bill. I do not desire that any question shall be sprung suddenly upon the House; but, sir, this case has been before us for a long time, and every gentleman, I imagine, is as well prepared to act upon it now as he will be at any future time. I have certainly made use of no improper means to procure the passage of this bill. I have endeavored to conduct the matter fairly and honorably.

The gentleman from Virginia alludes to Mr. Dickerson as having had an indefinite amount of funds from Colonel Colt. Sir, Mr. Dickerson is the attorney of Colonel Colt, to defend his patent.

Mr. EDGERTON. I did not yield the floor for a speech.

Mr. PRATT. I am only making an explanation. Mr. Dickerson is Colonel Colt's agent, and he has funds in his hands to pay his expenses. There is no doubt about that. I do not see, therefore, that the testimony of the book-keeper goes to show that Colonel Colt has used any money himself, or has authorized his attorney to use any money improperly. I cannot see it.

And now a word in relation to Mr. Chase. I stated, when I was on the floor before, that Colonel Colt did not know Mr. Chase. He does not know him. He told me that he should not know Mr. Chase were he to meet him on the avenue—that he was not aware he had ever been introduced to him, and that he had nothing to do with him, either directly or indirectly.

One word further. I beg the House to pardon me, but I must say, and I say in all sincerity, that I think the gentleman from Virginia [Mr. LETCHER] has done an act that is not strictly in keeping with the character of a gentleman. He rises in his place, and calls a man a drunkard, and says that a man came before the committee drunk, who came here from a sick bed. Why, sir, Colonel Colt had not, I am sure, drank a drop for two or three months. His friends were fearful that every day would be his last. He told me, in my room, that he feared he never should live to get out of the city. That is known to have been the condition of Colonel Colt, and I am sorry that the gentleman from Virginia should have said what he did say. It is what I would not say of any man who had any character as a citizen. I claim that Colonel Colt is entitled to the character of a gentleman. He is so considered wherever he is known, in this country or abroad. I was surprised at the remarks of the gentleman—utterly surprised.

Mr. LETCHER took the floor.

Mr. EDGERTON. I cannot yield the floor any longer.

[Loud and general cries of "Oh, yes!" and "Hear LETCHER."]

Mr. EDGERTON. Well, I will yield to the gentleman from Virginia.

Mr. LETCHER. I shall, of course, not make any personal retort upon the member from Connecticut. The disparity between our ages would not admit it, even were I so inclined.

Mr. PRATT. I ask no forbearance on the score of age, either here or elsewhere.

[Loud cries of "Order!" "Order!"]

Mr. LETCHER. The member says that Colonel Colt was not drunk when he appeared before the committee. I appeal to my colleagues on the committee to rise in their places and state to the House whether he was so or not. I hope they will do it.

Mr. EDDY. I am a member of the committee, and was present when Colonel Colt was examined, and I say in my place here that I regarded Colonel Colt as intoxicated. It was talked about, and I do not know that any other member of the committee came to a different conclusion, or expressed a different opinion as to Colonel Colt's condition on that occasion.

Mr. RUFFIN. As a member of the committee, and one who was present at the time, I indorse fully what the gentleman from Indiana has just said.

Mr. ZOLLICOFFER rose.

Mr. EDGERTON claimed the floor.

Mr. LETCHER. Oh, let the gentleman from Tennessee make his statement, so that we may see who is right and who is wrong.

Mr. EDGERTON. Very well, sir.

Mr. ZOLLICOFFER. I feel it my duty, being called upon in this way, to state to the House the impression upon my mind in reference to this matter. While I believed that Colonel Colt was somewhat intoxicated, I was also impressed with the belief that he was a gentleman, and that he was in the hands of men who *might* be sharpers, and might ruin him. Certainly, the impression made upon my mind was, that he was somewhat intoxicated at the time he came before the committee. I felt that he was a confiding and honest man, and was in danger of suffering from over-confidence in those he trusted as friends.

Mr. WHEELER took the floor.

Mr. EDGERTON. Go on; let us hear it all.

Mr. WHEELER. Being a member of that special committee, I will say, that Colonel Colt was summoned to appear in the morning, but other witnesses were before the committee, and his examination was consequently deferred. At his express request, I believe—if I am wrong the chairman of the committee will correct me—the committee reassembled after the adjournment of the House, and after dinner-hour, and, gentleman as I consider Colonel Colt to be, I must say that he appeared somewhat excited.

Mr. ELIOT, of Massachusetts. I do not know that I should have felt called upon to say anything at this time, after the responses which have been made to the call of the chairman of the committee, if it had not been, as the record will show that the examination of Colonel Colt was, in the main, conducted by myself.

Now, Mr. Chairman, I feel bound to say what I am about to say here, and yet I cannot fully corroborate the statement of the gentleman from Virginia. I would not have examined a man who was drunk. I should be extremely loth to examine a man whom I believed to be, in the technical sense, intoxicated, and yet it cannot be denied that the witness who was then before the committee, was not in a full and proper state of mind. [Much laughter.]

Mr. Chairman, it is right that I should say this much, that after the examination of that man had been completed, I felt constrained to believe that he was a man of honor. He said nothing to shake my confidence in his integrity. I believed him to be in unfortunate hands, and that he might well say, "Save me from my friends." It was in the afternoon that the examination was conducted. I have said all that I can say on one side or the other.

Mr. THURSTON. Mr. Chairman, I was present at the examination of Colonel Colt. It was after dinner. He seemed to be somewhat excited, but whether it was from disease or from liquor I do not know. [Laughter.]

Mr. LETCHER. A single word more, and I have done. I should not have made any reference to Colonel Colt's condition, but for the remarks which I understood had been made, during my absence from the Hall, by the member from Connecticut.

Mr. EDGERTON. We want no excuses on that subject.

Mr. LETCHER. I am not going to make any personal remarks in regard to the member from Connecticut at all.

Mr. EDGERTON. Well, go on.

Mr. LETCHER. All that I mean to say is, that, but for his remarks this morning, I should not have referred to Colonel Colt's condition when before the committee. His appearance on that occasion was the subject of conversation between the member from Tennessee, [Mr. ZOLLICOFFER,] the member from North Carolina, [Mr. RUFFIN,] and perhaps other members of the committee, and myself, both at that time and afterwards.

Mr. EDGERTON. I did not intend, Mr. Chairman, in speaking on this bill, to make any reference whatever to the action of this committee of investigation. It was an inquisitorial tribunal, holding its meetings in secret, seeking to stab in the dark the character of honorable members of this House, when no man dare stand forth and proclaim himself the accuser of any one; and I regret exceedingly that the chairman, and other gentlemen composing that committee, when they enjoined secrecy on their witnesses and on themselves, should have seen fit here to violate what I think to be the propriety of the occasion, and make any reference to the personal appearance or conduct of any person who was called before them. Whether or not Colonel Colt was drunk, in the language of the honorable chairman, is not a material question in this issue. If he was so drunk as to be unfit to testify, the committee disgraced itself, in the eyes of all honorable men, by taking his testimony; and if he were so sober as to understand fully the nature and importance of his testimony, which must have been the case, or it would not have been taken and published, then the honorable chairman will hardly be justified in making any allusion to Colonel Colt's condition. To read from a man's testimony, taken before a secret committee, to sustain or strengthen an argument, and in the same breath to charge that the witness was drunk when it was taken, and so drunk as to justify an attempt to publicly disgrace him, is a mode of argument in direct conflict with my ideas of a proper course, and indicates that the gentleman must be a little charged with personal hostility.

I doubt not, Mr. Chairman, that many members of that committee have themselves sometimes

been a little confused. [Laughter.] Many gentlemen have been so, particularly after dinner, whom the honorable chairman of that committee would hardly have the courage to say were drunk, or so drunk as to justify a public allusion to them. But no member of the committee has ventured to say that the conduct of Colonel Colt, before that committee, was not that of a gentleman of honor and integrity. They all say it. They do not seek to impeach him, for the truth of his statements they do not question. If he were drunk enough to justify a public allusion to his situation, he was too drunk to testify. Sir, the character of that committee, has been brought before the House. I was opposed to its organization. I look upon all such committees, unless distinct charges from some responsible source are made, as inexpedient, improper, and decidedly useless; and I believe the investigation made by that committee, will prove nothing; and that when the constitutional axe, on the 4th of March next, shall cut the cord which suspends that committee and us all here, its reports, like the reports of previous committees of investigation, will drop into the sea of forgetfulness, never to be fished up, except by some party connected with it, to show his children with what patriotism, integrity, and industry he had served his country in secretly trying his fellow members for bribery and corruption, and how he failed in convicting them. At all events, it will have no effect upon the country, and no effect upon the House. Besides all that, I look upon it that it was not Colonel Colt, it was not Mr. Chase, it was not any of these outside gentlemen that was on trial before that committee; it was the members of this House of Representatives, honorable gentlemen, representing honorable constituencies; on trial for bribery and corruption, and at the instigation of men who dare not name a member that was suspected. A secret committee was appointed, to sit in secret session, to determine whether or not members of the House of Representatives had disgraced their position on this floor, and the chairman says he could not get testimony. Whoever expected he would; no man has ever dreamed the committee would prove anything. Every member of this House felt in his own bosom that the rumors (they never obtained the dignity of charges) were ridiculously absurd. And, sir, I say that no member of this House, and, as yet, no gentleman outside of the House, has had the courage to name any member of the House whom he suspected. Who, then, is upon trial, sir? Who has been tried? I ask now, is there any member of this House that dare stand up and say that he suspects a single member of this House? If so, let him name him; let him make a specific charge, that this farce may be turned to a reality. Then, sir, what is the effect of the action of this committee? It is precisely nothing. Created by a great flourish of trumpets, it has ended like their sound —to be remembered only for the noise they made. Its report will sink into forgetfulness, where the reports of all such committees have ever gone.

But the gentleman from Virginia says that the committee could not procure the attendance of certain witnesses upon the investigation, and that witnesses who did attend refused to answer their questions. That is all right. I am surprised that witnesses attended at all. It is not in the power of this House to compel the attendance of witnesses before any such committee. It is not a judicial tribunal. In certain cases Congress may declare what shall constitute a crime, and fix the punishment, and here its power ends. The fact must be determined by another tribunal, and before that tribunal witnesses may, in pursuance of law, be summoned and compelled to attend, or punished for non-attendance; but this House cannot fine or imprison a witness who refuses to obey its subpoena, for it has no judicial power. It may expel, but it cannot punish a member, much less a man who is not a member. No man can be fined and imprisoned except in pursuance of law; and there is no law, neither can Congress make a law, to compel witnesses to appear before a secret tribunal. There can be no inquisitions here.

The chairman of the committee, however, states that the gentleman who refused to answer generally, answered every question touching the investigation as to Colt's patent. And the chairman stated further, in his usual emphatic language, that means had been resorted to to get this bill through the House. Now, what means were resorted to? What did the gentleman mean when he made this general charge? Does he mean that any member of this House has been influenced by bribery and corruption? Has he proved that? Has not the whole action of the committee on the subject been notoriously a failure? It has not compromised for an instant a single member of the House, nor has it effected his character in any respect. And, sir, more than that. I will say to this committee that its opinion and its report cannot, will not, affect the character of this House, or of a single individual member, and the whole country knows it.

But, sir, I did not intend, as I said before, to discuss the action of this committee of investigation. The charge of corruption originated here in the city of Washington, in a contemptible newspaper article published in the Evening Star. It was copied into other papers and became a general newspaper rumor, and to my surprise was taken up by members of Congress. That was the origin, and what surprised me most was, that members of Congress could be influenced by these general charges against themselves, and yet, when asking for a committee of investigation, not have the courage to say whom they intended to reach or whom they suspected. If I suspected any honorable member of this House of conduct so base, I would rise in my place and say that I suspected him; but I would not make a general charge against the innocent and the guilty. If I did not know who the guilty was, I should say at once that I believed all to be innocent.

But, Mr. Chairman, my object is simply to state some facts connected with this patent of Colonel Colt. The report of the committee, the conduct of Colonel Colt there, the character of Mr. Chase, and all these general extraneous circumstances, have nothing to do with the question. Is Colonel Colt entitled to an extension of his patent? is the question. Now, sir, for a few facts. In 1831, Colonel Colt invented a repeating fire-arm, but it was then an imperfect article, and did not satisfy himself. He did not procure a patent, for the reason that he could not bring it to that state of perfection to enable him to do so, until 1834. Immediately after the patent was procured, Colonel Colt and numerous friends whom he had induced to venture their money in his experiment, were incorporated by the New Jersey Legislature, into "The Patent Arms Manufacturing Company." The stock was $300,000, $230,000 of which was paid in. Mr. Colt was the manager of the company, and commenced the manufacture of these arms. But so difficult was it to invent and construct the machinery necessary to manufacture the article perfectly, that after six years of trial, the whole concern proved a failure, and a total loss of all invested, and six years of time, was the consequence. The company was bankrupt, Mr. Colt himself was bankrupt, and the patent was considered to be not worth a farthing. There was no competition, no piracy, no infringement upon it then.

Well, sir, in 1843, Mr. Colt obtained a renewal of the patent, and after it was renewed, so valueless was it considered, that it was sold under a decree of the court of chancery, Colonel Colt becoming the purchaser for a mere trifle. In 1848, he commenced the manufacture of arms, to a limited extent, for the Government. But so difficult was it for him to obtain money, previously to that time, that it was not until after the renewal of the patent, that he began to manufacture arms, with any prospect of success.

The evidence presented in the case shows that all the property which Mr. Colt is worth now, is between $300,000 and $400,000; and that is invested in machinery for the manufacture of these arms. It consists of machinery of a peculiar construction, entirely valueless for other purposes; and when the gentleman from Virginia asks the question whether or not this machinery in its present condition is worth $750,000, the committee should ask the still further question, whether it is worth anything for any other purpose than that for which it was designed, and whether or not, if this patent be not extended, and protection be not afforded him against injury by innovation, this machinery will be worth anything, or sell for one fifth the amount at which it is now estimated.

Mr. CLINGMAN. Will the gentleman from Ohio allow me a single question?

Mr. EDGERTON. Certainly.

Mr. CLINGMAN. It is this: it was stated at the last session of Congress, by gentlemen who were friends of the bill, that Colonel Colt's establishment at London cost him $250,000, and that at Hartford $450,000, making in all $700,000 expended in this way. Now, I ask, if Colonel Colt, having establishments and machinery upon which he has expended this large sum of money, will not in 1857, two years hence, be ahead of everybody else, and make the large profit in this country he is now understood to be doing in England, without a monopoly to protect it.

Mr. EDGERTON. I will answer the question by making a general remark relative to the amount of money which a man may be worth, or what he may have made. Men engaged for the time in successful business, are always reputed as worth much more than they are in reality. If a man does not want money he is always rich, if in reality he is poor; but let a rich man want money, and he never has the reputation of being worth half as much as he really is. It is said, that Colonel Colt's manufactory is worth three or four hundred thousand dollars. It may be possible; but nobody knows the extent of his liabilities. Persons generally do not connect a man's liabilities with the amount of property which he may have on hand. Very frequently a man may have in his possession millions worth of property, as the public suppose, but, when you come to compare his obligations with the supposed amount of property in hand, he may be worth nothing at all.

Mr. CLINGMAN. At the last session of Congress, the very objections which are now urged, were presented by gentlemen who participated in the debate, and it was stated at that time, that, Colonel Colt had realized more than a million of dollars from his patent.

Mr. EDGERTON. I have not the remotest idea that Colonel Colt is worth any such sum of money. On the contrary, I do not believe that after he pays his liabilities he would be worth one quarter of that amount. I do not place any confidence in any supposed estimates of his wealth.

Mr. BARKSDALE, (interrupting.) It is very evident that this bill cannot be disposed of to-day. I would therefore suggest to the gentleman from Ohio, [Mr. EDGERTON,] that he give way for a motion that the commtitee rise, and he will then have the floor to finish his remarks, when the committee shall resume the consideration of this bill.

Mr. EDGERTON. I prefer finishing what I have to say this evening.

[Cries of "Go on," "Go on."]

I would say that the greatest danger Colonel Colt has to fear, is from imitations of his pistols; and in order to prevent these, it is absolutely necessary that they should be manufactured by the very best possible machinery. He is perfecting his machinery every day, and his pistol is getting better and better as he perfects his machinery. To enable him to do this, he has necessarily to expend a vast amount of money, and his whole receipts are appropriated to the perfection of his machinery.

I will state a further fact, that the pefecting of his machinery has had the tendency, even without competition from other sources by an inferior article, to reduce the price of his pistols from forty-five dollars in 1838, down to sixteen dollars, the present price. I understand the object of the patent law to be this: that a man of genius, who devotes his time and talents to invent a useful article, of public necessity and value, shall be compensated in some proportion to the public benefit resulting from the invention. That should be the rule. If the public is benefitted by Colonel Colt's patent, why should he not be rewarded in a proportionate extent? What has been the public benefit resulting from the invention of this fire-arm?

I wish to refer to various reports made by committees of this House, and various letters from officers of the Army, going to show what an immense amount of life and money has been saved by this invention of Colonel Colt.

The Texas Senators and Representatives in Congress, writing to the President of the United States, say:

"We do not doubt but that five thousand mounted men, armed with two of these pistols and a rifle, would do more than twenty thousand, armed in the ordinary way; thereby saving to the Government hundreds of thousands of dollars annually, and affording protection as well to the frontiers

against Indians, as to small parties passing through the Indian country."

The Committee on Military Affairs in Congress made a report, a part of which I will read, bearing upon this question relative to the benefit resulting to the Government from the use of this fire-arm:

"The positive evidence which has been submitted to the committee, is of a character which needs no recommendation. It is only necessary to say, that Major General Taylor, General Twiggs, Major General John A. Quitman, Brigadier General Shields, Brigadier General Pierce, Colonel Crogan, Inspector General Colonel Harney, Colonel Jefferson Davis, Major McCulloch, Captain Samuel H. Walker, Captain B. S. Roberts, Lieutenant B. F. McDonald, G. W. Kendall, Colonel W. T. Haskell, Colonel W. H. Russell, Major J. P. Gaines, Doctor C. B. Zabiskie, and J. L. Freaner, all now, or recently, in active service in the Mexican war, have expressed themselves, in decided terms, in favor of these arms; and that the array of facts furnished by some of these officers, cannot fail to enforge the opinions which they have expressed upon this subject. Under all these circumstances, your committee agree in opinion with the officers above named, when they state, that one hundred cavalry, armed with the repeating pistol, would be at least as efficient as three hundred armed in the ordinary way. They believe, moreover, that economy, as well as the efficiency which would be given to our force, particularly for all the service that may be expected from our Army for years to come, render it advisable that all the mounted men belonging to the military establishment, be supplied with these pistols, and that a sufficient number of them be kept on hand to meet any unexpected emergency."

It is entirely unnecessary for me to refer to the numerous reports that have been made, to show the value of this fire-arm. There are gentlemen in this House who use this pistol, and who have been placed in positions where they could fully test its efficacy. The honorable gentleman from Oregon [Mr. LANE] if he were asked the question, would say, I have no doubt, that it was the most perfect arm that was ever manufactured.

Mr LANE, of Oregon. I feel called upon to state what I know about the value of this fire-arm. I regard Colonel Colt's six-shooter as the most formidable fire-arm that can be placed in the hands of men engaged in close quarters, and if war is justifiable at all, it is right and proper to place in the hands of men engaged in service an efficient weapon. To give an illustration of the efficacy of this fire-arm, allow me to relate a single incident that occurred in the war with Mexico. Upon one occasion, General Scott directed me, with a mounted command, to seek Padra Jarouta, who was an outlaw and a robber, and to bring him to battle, and show him no quarter, he being at the head of a formidable banditti, or band of land pirates, who attacked his countrymen, as well as his country's enemies, and showed no quarters to Americans who fell in his hands. We did seek him, and after many nights' march, succeeded in pouncing upon him at Sequaltipan, and although he had a force superior to our own, between daylight and sunrise, armed with Colt's revolver and the saber, in less than one hour carried three strong quarters, occupied by the enemy's troops, and came very near carrying out the order to show no quarters, for, with the exception of fifty persons taken contrary to that order, and made prisoners, they all fell under those six-shooters. And I will say that I regarded the order, under the circumstances, right, and will also say, in justice to that great commander, that I regard him as one of the ablest men who ever commanded an army.

It is the greatest arm of service ever placed in the hands of man, and it should be kept as perfect as possible.

This weapon inspires troops with confidence and courage, and strikes terror into the ranks of the opposing forces. I have witnessed the efficiency of this arm in many battles previous to that above referred to.

Mr. EDGERTON, (resuming.) My object was to show that the profit of the inventor should be in some proportion to the benefit of the same to the public; and I make these references and refer to these reports, and call upon the gentleman from Oregon to show that the arm had been of immense service to the Government of the United States, and had saved hundreds of thousands of dollars.

Now, what has been the reward of Colonel Colt?

Mr. KEITT. Will the gentleman give way to a motion that the committee rise?

Mr. EDGERTON. If it be the wish of the committee that I should do so, I will yield.

[Cries of "Yes!" "Yes!"]

Mr. KEITT. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker *pro tempore* [Mr. JONES, of Tennessee] taking the chair, the Chairman of the committee reported that a Committee of the Whole House had had the Private Calendar under consideration, and particularly House bill No 59, and had come to no conclusion thereon.

Then, on motion by Mr. ROWE, at three o'clock and forty-five minutes, the House adjourned until Monday, at twelve o'clock, m.

IN SENATE.

MONDAY, *February 5*, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of Friday was read and approved.

ENROLLED BILLS SIGNED.

The PRESIDENT *pro tempore* signed the following enrolled bills:

A bill for the relief of Thomas Marston Taylor;

A bill to incorporate the St. Joseph's Male Orphan Asylum in the District of Columbia; and

A bill making appropriations for the construction of certain military roads in the Territories of Nebraska and Washington.

SLAVERY IN THE TERRITORIES.

Mr. STUART. I present resolutions of instruction from the Legislature of the State of Michigan. I ask that they may be read.

The Secretary read the resolutions.

Joint resolution respecting slavery in the Territories of the United States.

Whereas, slavery is regarded by the people of this State as a great moral, social, and political evil, at war with the principles of the Declaration of Independence and the great object contemplated by our forefathers in establishing the Constitution of the United States, an impediment to the prosperity of our common country, and an element of domestic weakness and discord: and whereas, the people of Michigan owe it to the early and prudent exercise of the power of Congress over the Territories of the United States, in applying the anti-slavery restriction contained in the ordinance of 1787, that she is not now a slaveholding State: and whereas, the people have heretofore, through their Legislature, repeatedly and earnestly remonstrated against the further extension of slavery in the national Territories: and whereas, our present Senators and two of our Representatives in Congress, did, at the session thereof now last past, vote for the repeal of the Missouri compromise, so called, and for the passage of an act organizing the Territories of Kansas and Nebraska, thereby permitting slavery to be introduced into a region equal in extent to the thirteen original States, from which territory, by the solemn legislative compact of 1820, it was forever excluded: and whereas, such repeal has been effected without petition, without discussion by the people, and in defiance of the well known wishes and opinions of a large majority of the people of this State and of the United States: and whereas, the violation, by Congress, of the compact of 1820, has released the people of this State from all obligation to respect congressional compromises for the extension or perpetuation of slavery: Therefore—

Resolved by the Senate and House of Representatives of the State of Michigan, That we hold the said repeal, and the permission granted by said territorial act to introduce slavery into said Territories, to be a violation of a mutual covenant between the free States and the slaveholding States of the Union, justified by no necessity, present or prospective, injurious to the rights of the former, tending to interrupt the internal harmony of the country, and to frustrate the well known purpose of the framers of the Constitution, who, by gradual legislation, designed, ultimately, to put an end to slavery.

Resolved, That we are opposed to the further extension of slavery, or the recognition or permission thereof in any territory now owned, or which may hereafter be acquired by the United States.

Resolved, That we hold it to be within the constitutional power of Congress to abolish slavery and the slave trade in all the Territories of the United States, including the District of Columbia; and that it is their duty, in view of the great and permanent interests of the nation, to pass laws for its immediate suppression and extinction in all such Territories and in said District.

Resolved, That our Senators in Congress be, and they are hereby, instructed, and our Representatives requested, to vote for, and to use their best exertions to procure, the passage of an act of Congress that shall prohibit the introduction or existence of slavery in any of the Territories of the United States, and especially in Kansas and Nebraska, and to introduce without delay a bill for this latter purpose.

Resolved, That the act of Congress of 1850, known as the fugitive slave law, was, in the opinion of the people of this State, an unnecessary measure; that it contains provisions of doubtful constitutionality; that the mode of proceeding under it is harsh, unjust, and repugnant to the moral sense of the people of the free States, cruel and despotic towards the person claimed as a fugitive; and that we are in favor of its immediate repeal: Therefore—

Resolved, That our Senators in Congress be, and they are hereby, instructed, and our Representatives requested, to use their best exertions to procure the immediate repeal of the act of 1850, known as the fugitive slave law.

Resolved That the Governor be requested to forward copies of the foregoing preamble and resolutions to our Senators and Representatives in Congress.

Mr. CASS. Mr. President, it is now some years since the Legislature of Michigan instructed the delegation of that State in Congress to vote for the measure historically known as the Wilmot proviso—the interdiction of slavery in the Territories of the United States. I took the earliest opportunity in my power, in some remarks I made here in connection with the general subject of congressional jurisdiction over those political communities, to announce the course I intended to pursue. As my convictions of constitutional duty prohibited me from obeying the instructions, I avowed the determination to resign my seat in this body whenever I should be called upon, by its proceedings, to take my part in the decision of the question. While professing my adherence to the general doctrine, I said:

"I am a believer in the right of instruction, when fairly exercised, and under proper circumstances. There are limitations upon this exercise, but I need not seek to ascertain their extent nor application, for they do not concern my present position. I acknowledge the obligation of the instructions I have received," &c.

Any further action, however, on my part became unnecessary by the repeal of the resolutions; a measure which was adopted with much unanimity by the Legislature, and approved by a vast majority of the people of the State. And thus has the subject rested undisturbed till within a few days; the delegation of Michigan in Congress having been left to follow the dictates of their conscience and judgment in relation to this whole matter. Quite recently, however, a change has taken place. The Democratic party in the State has lost its ascendency, and a new party, with different views, and, I may add, in many respects discordant ones, having obtained possession of the legislative power, the resolutions which have just been read are the result of its action, and call upon me, as well as upon the other members of the delegation, to vote for depriving American citizens in the Territories of the power to regulate one of the most important of their domestic concerns, that of the relation between master and servant, and for the repeal of the existing fugitive slave act, passed to give effect to a solemn guarantee of the Constitution. As I peremptorily decline to do either, and intend to retain my place, it is necessary, in my own vindication before the people of the State, whom I desire respectfully to address from the seat which I here occupy by their favor and kindness, that I should now do what I was not required to do on the former occasion, to "ascertain the limitations" upon the rights of instruction; or, to speak, perhaps, with more precision, "the extent" of the duty of obedience, so far as concerns my present position.

And I have to say, sir, that the circumstances in which the power to pass these resolutions originated, constitute one of the very cases which occurred to me at the time those words of caution were spoken, as restricting the obedience of the representative. The practical question, briefly stated, is this: Has a political party wherever it accedes to power, by whatever combinations, the right to pass resolutions which its opponents, in legislative trusts, are bound to obey, or if prevented from obeying by their conscience and consistency, to resign their positions? The consequences of such a rule of action are too obvious to need detailed examination, and too serious to be incurred without pressing necessity. Into this body it would introduce changes radically affecting its organization, and incompatible with the objects of its institution, as the representative branch of the sovereignty of the States. It would lose every characteristic of permanence, its members going out year by year, as political fluctuations might transfer power from one party to another. For, at all times, would it be easy to select questions for this process of removal, which no honest man of an opposite party could support. Some of these are constitutional, and others scarcely inferior to them in importance, involving points of policy, forming the very landmarks of the debatable ground, where our struggles have always, heretofore, taken place. That this power would be used, abused, indeed, for this purpose, no man will deny. The excitement of the past warn us as to what the future would bring with it. And that the disadvantage would be the share of the Democracy is certain, for it is well understood that, in the creed of our opponents, instructions carry with them neither the duty to obey, nor the obligation to resign. The two Whig

Senators, who have occupied seats in this body, from Michigan, one of them my immediate predecessor and the other my colleague during a portion of my first term of service, honorable and distinguished citizens, both disavowed the obligation of instructions, and both refused, at least in one instance, to obey the expressed will of the Legislature conveyed to them by its resolutions. And I believe their views were in conformity with the opinions of their party in the State.

I am not called upon to discuss the general doctrine. All I seek is to explain why I acknowledged the obligations of the former instructions, and deny those of the present. And when I deny the power of the existing majority of the Legislature of Michigan, composed, as it is, of political opponents, whose efficient bond of union is antagonism to the Democracy, to instruct me out of office, I feel that my object is accomplished. I presume there was not a member of the General Assembly, whose will is embodied in that document, who did not know that no human consideration would induce me to support the measures which find such favor in their eyes. So far as respects myself, it was the vacation of the office that was hoped for.

Mr. President, strange doctrines are abroad, and strange organizations are employed to promulgate and enforce them. Our political history contains no such chapter in the progress of our country as that which is now opening. The grave questions of constitutionality and policy, which have been so long the battle-cry of parties, are contemptuously rejected, and intolerance, religious and political, finds zealous, and, it may be, they will prove successful, advocates in this middle of the nineteenth century, boasting, with much self-complacency, of its intelligence, and in this free country, founded upon immigration, and grown prosperous and powerful by toleration. It is a system of proscription which would exclude the first general who fell at the head of an organized American army—and nobly and gallantly did he fall while fighting for our infant liberties, under the walls of Quebec—from all political confidence, because he happened to be born on the wrong side of the Atlantic, and would exclude, also, the last surviving signer of the Declaration of Independence from any similar token of regard, because he was a Catholic, were these eminent leaders in our revolutionary cause now living to witness this appeal to local and sectarian prejudices. But Montgomery and Carroll went to their graves with the weight of no such ingratitude upon their hearts.

The great parties equally attached to the principles of our Government, but differing upon many questions of administration, and alternately borne to power and driven from it, and whether in place or out of it, watching each other with jealous scrutiny, present a wise and fortunate arrangement for the preservation of freedom, and for guarding against the abuse of authority. Such has been our condition, and well and wisely has its work been done. What new experiment is needed? What more does this lately awakened zeal propose? As a country, we are in possession of everything the heart of man can desire; power, intelligence, prosperity, happiness, abundance, freedom, equality, the religion of God, and the respect of man; all the elements, indeed, which give value to social life or security for the duration of political blessings. We want no new parties, no new platforms, no new organizations, and the sooner these dangerous efforts are abandoned, the better will it be for us, and those who are to follow us in this heritage of freedom. During the process of constructing a party upon this narrow basis of exclusion, humbly affecting to know nothing, while resolutely determined to direct everything, and especially of constructing one with principles of organization, not only secret in their operation, but seeking unity of action; not in individual conviction and responsibility, but in the surrender of the will of each to the demands of those who gain the direction of the associations—during this process, the public mind must be in a state of feverish excitement, unfriendly to calm deliberation; and majorities acquired by combinations arising out of this state of things, do not act under the "fair and proper circumstances," which I declared, in 1850, to be indispensable to the obligatory force of legislative instructions.

I am firmly persuaded that the adoption of either of the measures—much more of both—demanded by the Legislature of Michigan, would be the signal for the breaking up of this Government, and the dissolution of this Confederacy. I know there are many honest men who scout at every idea of danger; and many others who, while admitting it, are yet prepared to meet it, let it bring what disaster it may; prepared to sacrifice this magnificent structure of freedom to one overpowering impulse, which leads captive alike the heart and the understanding. This is no time to surrender the outworks of the citadel, to abandon the securities which wisdom and patriotism have provided, and to throw away all the checks we possess against rash and dangerous innovations. For myself, sir, if Providence permits, I shall remain in the position I occupy during the residue of my term of service, unless, indeed, the Democracy of Michigan should require me to do what my convictions of duty would prohibit me from doing; in which event I should retire, without hesitation, to private life; where, indeed, I am sufficiently warned by the years that have passed over me, I must soon retire, come what may. But as my life draws towards its close, age, as it advances, instead of enfeebling, adds strength to my love of country, and continues to console me with bright hopes of her future power and stability.

What I fear above all is, that, in the providence of God, we may be struck with that judicial blindness with which nations are punished for national offenses; and thus add another to the melancholy list of people who had not wisdom enough to appreciate the value of free institutions, nor virtue and firmness enough to maintain them.

Mr. STUART. Mr. President, in presenting the resolutions of instruction forwarded to me by the Governor of the State of Michigan, I performed only an ordinary act of duty, and I do not propose to add to that, at this time, further than seems indispensable, that I may not appear to treat the opinions of the Legislature of that State even with silent indifference. All that has been said, sir, by my honored and distinguished colleague in respect to gratitude due the people of that State, may be said by me with much greater propriety.

There are some things contained in the preamble of those resolutions, which, in my judgment, are neither historically nor logically true. Whenever the occasion shall arise in the course of legislation, making it necessary for me to act, and to vote upon any of the subjects alluded to in those resolutions, I shall endeavor to regulate my conduct and action by my sense of duty to the State, and duty to the Constitution of the United States, which, upon taking my seat here, I swore to support. If unfortunately, upon any of those occasions, I shall differ from the views expressed in those resolutions, I will endeavor that that difference shall be in a becoming manner, personally, and with that firmness of purpose which, I think, should actuate every member of this body. What that action shall be, sir, circumstances may go very far to regulate. "Sufficient unto the day is the evil thereof."

Thus much, sir, I have deemed it necessary to say, and thus much only, I repeat, that I might not seem to treat the resolutions of that honorable body otherwise than with proper respect.

The resolutions were ordered to lie on the table, and be printed.

PETITIONS, ETC.

Mr. SUMNER presented the memorial of the Indiana yearly meeting of anti slavery Friends, praying a repeal of the fugitive slave law, and a modification of the Kansas and Nebraska act; which was ordered to lie on the table.

Also, two petitions of citizens of Stockbridge, Massachusetts, praying the reference to an umpire of all international controversies that cannot be satisfactorily adjusted oy amicable negotiation; which were referred to the Committee on Foreign Relations.

Mr. CHASE presented the petition of Boyd Reilly, praying a renewal of his patent for a portable apparatus for the convenient and safe application of gaseous and other vapors; which was referred to the Committee on Patents and the Patent Office.

Also, the memorial of Boyd Reilly, praying further compensation for the use by the United States of his portable apparatus for vapor baths; which was referred to the Committee on Patents and the Patent Office.

Mr. FOOT presented a petition of citizens of Burlington, Vermont, praying the erection of a marine hospital at that place; which was referred to the Committee on Commerce.

Mr. EVANS presented the petition of B. F. Sloan, administrator of F. Burt, deceased, late Governor of Nebraska, praying the reimbursement of the traveling expenses incurred by the deceased in proceeding to Nebraska, to enter upon the duties of his office; which was referred to the Committee on Territories.

Mr. SEWARD presented the petition of Anson Stuart and others, of Gowanda, New York, praying a modification of the act granting bounty land to those who served in the war of 1812; which was ordered to lie on the table.

Also, the memorial of Starr G. Spalding, late a paymaster's clerk in the Mexican war, praying to be allowed extra pay and bounty land, and his traveling expenses while on duty; which was referred to the Committee on Military Affairs.

Mr. WADE presented additional documents in relation to the memorial of Thomas W. Powell and Emery Moore, cognizors of Otho Hinton; which were referred to the Committee on the Judiciary.

Also, the petition of John Brown, praying an increase of pension; which was referred to the Committee on Pensions.

Mr. PEARCE presented the petition of William Jones, for himself and others, of Barney's flotilla, in the war of 1812, praying to be included in the benefits of the bounty land bill now pending in the Senate; which was ordered to lie on the table.

Mr. HUNTER presented the memorial of Louisa W. Gutwiler, praying the renewal of certain lost certificates of forfeited land scrip, issued in the name of her father, John K. Lyle, deceased; which was referred to the Committee on Public Lands.

Mr. BENJAMIN presented the petition of Joseph Wandestrand, praying the confirmation of his title to a certain tract of land in Louisiana; which was referred to the Committee on Private Land Claims.

Mr. SEBASTIAN presented a memorial of the General Assembly of Arkansas, praying a grant of land for the construction of a railroad along the western borders of that State to the State of Texas; which was referred to the Committee on Public Lands.

Also, a resolution of the Legislature of Arkansas, in favor of a grant of land to that State for the construction of a railroad from the Missouri line to Helena, on the Mississippi river; which was referred to the Committee on Public Lands.

Also, resolutions of the General Assembly of the State of Arkansas, in favor of the continuance of the navy-yard at Memphis; which was referred to the Committee on Naval Affairs.

Mr. FITZPATRICK presented the petition of E. W. Martin, register of the land office at Elba, Alabama, and James Larkins, receiver of public moneys at the same place, praying to be allowed the same per centum on the sales of the public lands as was allowed them previous to the act of August 4, 1854; which was ordered to lie on the table.

Mr. SHIELDS presented the memorial of John Devlin, a citizen of the city of Washington, asking Congress for an appropriation to enable him to give to the world a new system of astronomy, that will attract its attention, benefit mankind, and reflect honor on the place of its origin, the United States of North America; which was referred to the Committee on the Library.

Also, the petition of Daniel Doland, a private in Captain Steele's company of New York volunteers in the Mexican war, praying a pension for injuries received in the line of his duty; which was referred to the Committee on Pensions.

Also, a petition of one hundred and twenty farmers of Tazewell county, Illinois, remonstrating against the extension of the patents granted to Cyrus H. McCormick, Obed Hussey, and Moore & Hascall, for improvements in reaping machines; which was ordered to lie on the table.

Mr. WELLER presented the memorial of Theodore Adams, praying indemnity for losses sustained in consequence of the annulment of a contract made with him by the Secretary of the Treasury, for erecting an appraiser's store and warehouse at San Francisco; which was referred to the Committee on Claims.

Mr. SLIDELL presented the petition of A. Livingston and others, of the parish of Morehouse, Louisiana, praying to be allowed a preemption right to lands settled and cultivated by them within the limits of the Bastrop grant; which was referred to the Committee on Private Land Claims:

Also, the petition of the register of the public land office and the receiver of the public moneys at Monroe, Louisiana, praying to be allowed the same per centum on the sales of the public lands as was allowed them previous to the act of August 4, 1854; which was ordered to be laid on the table.

Mr. GWIN presented the memorial of Mariano G. Vallejo, asking payment for rent of quarters used and occupied by the United States forces at Sonora, California, the premises so occupied being his private property; which was referred to the Committee on Military Affairs.

Mr. BRAINERD presented a petition of legal voters of Montpelier, Vermont, praying an insertion in all treaties of a clause referring to an umpire all international disputes which cannot be otherwise satisfactorily and amicably adjusted; which was referred to the Committee on Foreign Relations.

Mr. JOHNSON presented resolutions of the General Assembly of the State of Arkansas, instructing their Representatives in Congress to obtain laws for the creation of mail routes from and to the following places; which were referred to the Committee on the Post Office and Post Roads:

Huntsville, Arkansas, to Washburn Prairie, in Missouri;

Rockport to Montroy, in Arkansas;

Napoleon to Florence, in Desha county, Arkansas;

Osceola, Mississippi county, to Jacksonport, Jackson county, Arkansas;

Fort Smith, Arkansas, to Washita, in the Choctaw nation.

REGULATION OF SEAMEN.

Mr. TOUCEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of repealing the act passed June 22, 1848, entitled "An act to amend the act entitled an act for the regulation of seamen on board the public and private vessels of the United States, passed the 3d of March, 1813."

BILL INTRODUCED.

Mr. PEARCE, in pursuance of previous notice, asked and obtained leave to introduce a bill to provide for the accommodation of the courts of the United States for the district of Maryland, and for a post office at Baltimore city, Maryland; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

NOTICE OF A BILL.

Mr. SEBASTIAN gave notice of his intention to ask leave to introduce a bill to provide for the building of a jail at the town of Van Buren, in the State of Arkansas.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that the House had passed the following bills of the Senate, with an amendment:

A bill for the relief of the heirs-at-law of William Van Wart, deceased; and

A bill for the relief of Don B. Juan Domercq, a Spanish subject.

Also, the following bills of the Senate, without amendment:

A bill for the relief of E. J. McLane;

A bill for the relief of Catharine B. Arnold;

A bill to increase the pension of Patrick C. Miles; and

A bill for the relief of the West Feliciana Railroad and the Georgia Railroad and Banking Companies.

Also, that the House had passed the following bills and joint resolutions:

A bill to repeal an act entitled "An act for the relief of George M. Bentley, of the State of Indiana," approved August 5, 1854;

Joint resolution for the relief of George W. McCerren;

A bill for the relief of William G. Preston;

A bill for the relief of the heirs of Thomas Morris, deceased;

A bill for the relief of James P. Roan;

A bill to refund to the officers of the customs and others, of the district of Passamaquoddy, certain moneys;

A bill for the relief of Henry H. Marsh;

A bill for the relief of Joseph Ridgway;

Joint resolution for the relief of John Dugan;

A bill for the relief of the legal representatives of William A. Christian;

A bill for the relief of Sarah Morriss, only heir of Robert Mitchell, deceased;

A bill for the relief of William Brown;

A bill for the relief of James McIntire;

A bill for the relief of Solomon Lafollet;

A bill for the relief of Elizabeth Foreman;

A bill for the relief of Thomas C. Ramsey and Ananias O. Richardson, and James McLaughlin;

A bill for the further relief of Isaac Allen, of Turner, in the State of Maine;

A bill for the relief of Wyatt Griffith, of Washington county, in the State of Tennessee;

A bill for the relief of Medford Caffey, of the State of Tennessee;

A bill for the relief of Paul S. Ridgway, of Ohio;

A bill granting a pension to Joseph McCormick;

Joint resolution for the relief of James Hughes;

A bill for the relief of Frederick Griffing;

A bill for the benefit of the heirs of Philip R. Rice, deceased;

A bill for the relief of the widow of W. Irving, deceased;

A bill for the relief of William Hagerty;

A bill for the relief of Rebecca Winn, widow and executrix of the last will and testament of Timothy Winn, deceased, late a purser in the Navy of the United States;

A bill for the relief of Thomas S. J. Johnson, of the Territory of New Mexico;

A bill increasing the pension of Anthony Walter Bayard, of Bellefont, in the State of Pennsylvania;

A bill for the relief of George Bush, of Thruston county, Washington Territory;

A bill confirming a land claim to Elijah White, of the Territory of Washington; and

A bill for the relief of John R. Bowes, agent in charge of the property of the United States at Michigan City, in the State of Indiana.

CHAMPAGNOLE LAND DISTRICT.

Mr. SEBASTIAN, by unanimous consent, asked and obtained leave to introduce a bill to change the boundary of the Champagnole land district, in the State of Arkansas; which was read a first time, and ordered to a second reading.

Mr. SEBASTIAN. This bill merely proposes a slight alteration in the boundaries of two land districts in the State of Arkansas, and is in conformity with the expressed wish of the Legislature of the State. I hope, therefore, that without reference, it will now be considered. I ask the unanimous consent of the Senate for that purpose.

Mr. STUART. I have no objection to the bill if the Senator can state that it is agreeable to the wishes of the Commissioner of the General Land Office. It is customary to send these bills to the Commissioner.

Mr. SEBASTIAN. I thought that unnecessary, as the bill proposes merely a slight alteration for convenience.

Mr. STUART. I have no objection.

By unanimous consent the bill was read a second time, and considered as in Committee of the Whole. It proposes to detach a small portion of country from the Little Rock district, and attach it to the Champagnole district.

Mr. BENJAMIN. I do not wish at all to interfere with the bill of the Senator from Arkansas, but I should like to be informed by him if it has been submitted to the Commissioner of the General Land Office, or if that officer is aware of the proposed change?

Mr. SEBASTIAN. I said before, but probably the Senator from Louisiana did not hear me, that I had not submitted it to the Commissioner, because I thought that unnecessary, as the bill only makes a very slight alteration in the boundaries of two land districts. Its only effect is to take a small tract of country, four townships in length, by two in breadth, from the Little Rock district, and attach it to the district of lands subject to sale at Champagnole. It is in conformity with the expressed wish of the Legislature of the State.

Mr. JOHNSON. It is merely to save the people of that section of the State from some unnecessary travel.

Mr. BENJAMIN. I have no objection to the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

LAND OFFICERS AT VINCENNES.

Mr. PETTIT, by unanimous consent, asked and obtained leave to introduce a bill to continue temporarily the offices of register and receiver at Vincennes, Indiana; which was read a first time, and ordered to a second reading.

Mr. PETTIT. I beg the indulgence of the Senate for a moment, while I state the reasons for this bill, and ask for its immediate consideration and passage. An act of Congress, passed in 1849, provides that when the lands in any district shall be reduced below one hundred thousand acres, the land district shall be suspended, and the books and archives, and all the papers of the land office removed to the seat of government of the State. The quantity of lands in the Vincennes land district has been reduced below that amount, and an order has been issued for the removal of the books and papers of the office to Indianapolis in our State. Last year we passed a law, which was approved on the 27th of July, providing for the investigation and confirmation of certain private land claims under grants of the Government as far back as 1792, and created the register and receiver of that land office commissioners for the hearing of those claims, and allowed until the first of June, I believe, for making and filing the claims, and after that they are to be adjudicated by these two officers, having all the records, this being, as you know, sir, the oldest land office in our State, where there were French claims and French disputations. It now becomes absolutely necessary, in order to carry out that law, that these officers should remain there for a short length of time. This bill has been prepared by the Commissioner of the General Land Office, and I have a letter from him recommending its passage, but I presume it is not necessary to read it. Under the circumstances which I have stated, I ask that the bill may now be considered.

There being no objection, the bill was read a second time and considered as in Committee of the Whole. It proposes to continue the offices of register and receiver at Vincennes, until after a final report shall have been made by the commissioners, pursuant to the act of Congress of July 27, 1854; and that the act of June 12, 1840, for the discontinuance of land offices under certain circumstances, shall not apply to the office at Vincennes until the services required by the act of July 27, 1854, shall have been performed.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

SWAMP AND OVERFLOWED LANDS.

Mr. STUART. I have a report to make from the Committee on Public Lands on a subject which I think should receive the immediate action of the Senate. That committee have instructed me to report back the House bill for the relief of purchasers and locators of swamp and overflowed lands, with an amendment. Two bills of this character have already passed the Senate during the present Congress, and gone to the House of Representatives; but the House have passed another bill of their own and sent it here. In order to secure action upon the subject, which is one of very great importance to individuals as well as to the States, I hope the Senate will indulge me by agreeing to the request, which the Committee desired me to make, for present action on the subject.

Mr. GWIN. It can come up in the morning hour to-morrow or next day. I must object to its consideration now, because I wish to make a motion of importance in regard to the Pacific railroad bill. I hope the Senator will allow the bill which has been reported to lie over until to-morrow morning, by which time it can be printed.

Mr. STUART. Of course the bill must go over if objection be made.

ORDER OF BUSINESS.

Mr. GWIN. I now move that the Senate proceed to the consideration of the Pacific railroad bill, which was reported at the last session, and

which has been the special order for ten months without being considered.

Mr. SLIDELL. I desire to make an inquiry as to the order of business of the Senate. At an early period in the present session the bill for the removal of obstructions at the mouth of the Mississippi river was, on my motion, made the special order of the day for the 9th of January. I wish now to inquire of the Chair whether a special order of the last session is still in force and takes precedence of a special order of this session?

The PRESIDENT. A special order which was made at the last session, as a matter of course, expired with the session.

Mr. GWIN. The bill to which I refer has been, from the beginning of this session, on the Calendar as the first special order. All the business of the last session, whether on the special or general orders, was continued.

The PRESIDENT. Any resolution at this session making it the special order, as a matter of course, stands.

Mr. GWIN. The bill to which I refer has been the first special order on our Calendar for the whole of the present session.

Mr. BRODHEAD. I desire to inquire of the Chair whether a special order of the last session can take precedence of the unfinished business of this session? I think I can make a statement to the honorable Senator from California, and to the Senate, which will relieve us from all embarrassment at this time. I believe I may say with confidence that we are now prepared to take the vote on the bounty land bill. It has been fully discussed. The substitute which I had the honor to offer has been adopted. I have consulted with the opponents, as well as the friends of the bill, and I think we are now prepared to vote upon the motion which has been made to reconsider one of the amendments which has been added to the bill. I believe that not more than fifteen, perhaps not ten, minutes will elapse before we can take a vote upon the bill to which I refer.

Mr. GWIN. My motion is to suspend all prior orders that the Senate may take up the Pacific railroad bill. I desire to put everything out of the way of the consideration of that bill, and I will state my reasons for insisting on this motion. It is now more than ten months since that bill was reported to the Senate by a select committee of this body, composed of nine members. It is certainly the most important measure that ever has been brought before the Senate of the United States. From the moment it was first reported, during the whole of this Congress, there has not been more than one hour's consideration of it. We are now in the last month of this session, the last session of the present Congress, and it is utterly impossible for us to expect anything like a favorable consideration of the bill if we do not bring it up now.

As to the bill which the Senator from Pennsylvania wishes to call up, let me say to him that, during a day or two after this shall have been under consideration, I will certainly give him an opportunity for the final disposition of his bill, if, as he says, it will only take a short time. We have, however, no evidence of the fact that it will take but a short time. When that bill shall be taken up, the first thing to be done will be to vote on a motion to reconsider an amendment which a majority of the Senate has already adopted. Certainly the Senator from North Carolina, [Mr. BADGER,] who moved that amendment, will not consent that a vote shall be taken on his proposition without a contest.

All that I ask is, that the Senate of the United States shall take up the Pacific railroad bill, which was reported from the select committee more than ten months ago, and indicate whether it is to have a final disposition or not. Although it has been pending for such a long time, it has not been before the Senate more than a single hour for consideration, and then it was taken up merely as an act of courtesy, during the pendency of the late Mexican treaty, in order that the chairman of the select committee might deliver his views upon the subject. Now, I appeal to the Senate to give this question consideration. As chairman of the committee I feel it to be my duty, from this time forward, to press the bill, and I hope every friend of the measure will stand by me on this occasion.

The PRESIDENT. There are eleven special orders on the Calendar, and the day for the consideration of every one of them has expired. It is clearly in the power of the Senate to indicate a preference for any one of them.

Mr. GWIN. That is what I ask.

Mr. CHASE. Which is the first bill on the Calendar?

The PRESIDENT. A bill for the relief of the claimants of the private armed brig General Armstrong, which is the unfinished business of last Friday. The pending question on that bill is a motion to reconsider.

Mr. BRODHEAD. That is a private bill, and goes over until next Friday.

The PRESIDENT. The next special order is the Pacific railroad bill, which has been alluded to by the Senator from California.

Mr. BRODHEAD. I move to postpone the prior orders of business, for the purpose of taking up the bill which I indicated.

The PRESIDENT. The motion of the Senator from California is pending.

Mr. GWIN. My motion is to take up the Pacific railroad bill.

Mr. BRODHEAD. I understood the Chair to say that that bill was before the Senate.

Several SENATORS. No, no.

Mr. BRODHEAD. I move to postpone the Pacific railroad bill, if that be the first business in order.

The PRESIDENT. The question pending is on the motion of the Senator from California, to suspend the prior order of business, for the purpose of taking up the Pacific railroad bill. The prior order of business is reports and resolutions, as the morning hour has not expired.

Mr. BRODHEAD. I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. SLIDELL. I wish simply to state, that I must not be considered as opposed to the consideration and passage of the bill which the Senator from California proposes to take up; but I feel myself bound to urge the prior consideration of the bill to which I have already called the attention of the Senate, and for that reason I shall vote against taking up the bill of the Senator from California at this time.

Mr. GWIN. The Senator must know that, if my motion be voted down, the next proposition will be the motion of the Senator from Pennsylvania, which will also throw over the bill of the Senator from Louisiana. I hope the consideration to which he has alluded will not prevent him, favorable as he intimates he is to the Pacific railroad bill, from allowing us to consider it. I shall probably sustain his bill; at any rate, I shall do everything I can to aid him in getting it up at the proper time.

Mr. HAMLIN. The Senator from Delaware, [Mr. CLAYTON,] in my absence, on one day last week—I think the last day of our session—gave notice that he should, this morning, move to take up the bill known as the French spoliation bill. On a conference with the Senator from Pennsylvania, who assured me that a bill, in which he felt deep interest—the one to which he has invited the attention of the Senate—would consume but very little time, and that a vote would be taken very soon upon it, I said to that Senator, I should not urge this morning the motion which was indicated by the Senator from Delaware until he should have first submitted the motion to take up the bounty land bill. The Senator from California, however, has now submitted a motion to take up a bill relating to the construction of the Pacific railroad. I have, on various occasions, indicated my opinion as in favor of voting proper and efficient means for the early construction of such a road, though I do not know that I am in favor of this specific bill. But occupying the position which I do, having reported, at the last session, a bill in favor of the French spoliation claimants, my vote on the motion of the Senator from California must not be regarded as indicative of my own opinion on that question. I feel myself compelled to give such a vote, as will insure the earliest consideration by the Senate of the bill to which I have alluded.

Mr. CLAYTON. In the absence of the chairman of the committee which reported the bill relative to French spoliations, I did give notice that I should call it up this morning. As the chairman of the committee is now in his seat, I have thought it proper to defer to his judgment in relation to this matter, and to leave in his hands the bill which he originally introduced, and which passed through this body; for the bill which the House have sent us is substantially the same as the one which was passed here. I defer to his determination in regard to the matter, and leave it in his hands to conduct the bill as to him shall seem best.

Mr. GWIN. I wish to say a word in regard to the French spoliation bill. It is well known to the Senate, and to those members who have charge of that bill, that I shall not throw improper obstacles in the way of its consideration; but it is also known that a portion, at least, of those who are opposed to its passage, had agreed that if it was not brought up so as to interpose difficulties in the way of the passage of the Army bill, we should appropriate last Saturday for its consideration. I was prepared to sit it out on that occasion. The Senator from Texas [Mr. RUSK] and myself, both consulted with the Senator from Delaware, who had charge of it, and told him that we were willing to meet on that day and sit it out. Unfortunately, however, there was an adjournment over. Now, when the Senator from Maine, who has charge of that bill, gives way to the Senator from Pennsylvania, in favor of his bill, I should like to know why he cannot agree to give the precedence to that bill which is the first on our Calendar. It has been the special order for ten months, and I hope it will now be considered. I am sure that those who are in favor of the French spoliation bill will not accelerate it by voting down the motion which I have made.

Mr. CASS. I rise merely to repeat what I have said often before, that there are a number of Senators who feel a deep interest in some measures which are pending in respect to internal improvements, and who have been urging the Senate, for almost two months past, to act on the bills which have been alluded to by the Senator from Louisiana. They have been twice made the special order of the day—once, in the commencement of January; and next, at a subsequent period. Owing to circumstances, they were laid aside on both occasions. These bills are matters of great importance to many, perhaps to all sections of the Union. So far as respects myself, I am determined, in any vote which I may give, not to agree to take up any measures, unless such as are indispensable, until those bills shall be disposed of. I trust that those who view the subject as I do, will act with me on that point. If these bills be put off from day to day, there is an end to all hope of getting them through both Houses at the present session. There is no more important question before Congress than is involved in those bills.

Mr. PRATT. I wish to ask the honorable Senator from California whether he thinks there is the slightest chance of the bill which he proposes to take up, being passed through this and the other branch of the National Legislature at the present session of Congress.

Mr. GWIN. I do. I have not a doubt about it, if we get up the bill to-day.

Mr. PRATT. Then the honorable Senator is perfectly right in advocating the proposition he has made to take up that measure; but convinced, as I am, that, at this late period of the session, it would occupy our time uselessly—because I believe it cannot pass both branches of the National Legislature—I shall be opposed to taking it up now. I am in favor of taking up other practical measures which may, according to my judgment, meet the sanction of both branches of the Legislature. I do not believe—I am sure there is a majority of the Senate who do not believe—it possible that the bill indicated by the honorable Senator from California can be passed at the present session. We have but a few weeks of the session remaining. I am sure that bill would occupy the whole time of the Senate in its discussion, and at last would result in no practical good. I shall, therefore, reluctantly vote against the motion of the honorable Senator from California.

Mr. WELLER. I hope we may be enabled to obtain a vote on this question, without the consumption of an hour or two, as is generally the case in determining the order of business. I will say to the Senator from Maryland, that, in my judgment, the bill which has been reported by my colleague, will not only pass through this branch, but the other branch of Congress. That Senator

will remember very well that the bill which was defeated in the House of Representatives was defeated by only one vote. Now, I have every assurance that, if a bill can pass this body at an early day, it will receive the favorable consideration of the House of Representatives. All that we desire is, that it shall be taken up, and if it cannot command a majority of this body, let it be defeated. If they are not satisfied that this is a great national work, which ought to enlist the sympathies and votes of every portion of the Union, let it be defeated. At all events, let us now have a vote upon the question of taking it up.

The question being taken by yeas and nays; resulted—yeas 17, nays 30; as follows:

YEAS—Messrs. Adams, Bell, Brainerd, Dodge of Wisconsin, Douglas, Foot, Geyer, Gwin, Houston, Johnson, Jones of Iowa, Rusk, Seward, Thomson of New Jersey, Toucey, Wade and Weller.—17.

NAYS—Messrs. Allen, Badger, Bayard, Benjamin, Brodhead, Brown, Cass, Chase, Clay, Clayton, Dawson, Dodge of Iowa, Evans, Fessenden, Fitzpatrick, Gillette, Hamlin, Hunter, Jones of Tennessee, Mallory, Morton, Pearce, Pratt, Reid, Shields, Slidell, Stuart, Sumner, Wells and Wright.—30

So the Senate refused to proceed to the consideration of the Pacific railroad bill.

EXTENSION OF BOUNTY LAND LAWS.

Mr. BRODHEAD. I move that the Senate now proceed to the consideration of the bill "in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States."

I need not repeat that I think we are prepared to vote upon it. It has been a long time before the Senate, and I think it can be disposed of in fifteen minutes.

Mr. BENJAMIN. This is about the fifth time that this bill has been in a condition to be disposed of in fifteen minutes, and on every such occasion it has taken the entire day. I trust that those gentlemen whose sections of the country are interested in the internal improvement bills, will give us a chance to vote on them. Most of those bills are comprised in three lines. They relate to measures which received the action of both branches of Congress at the last session. I trust we shall now be permitted to take them up and pass them.

Mr. EVANS. While other gentlemen are putting in their claims for the consideration of measures in which they feel an interest, as the Pacific railroad bill has been laid aside, at least for to-day, I wish to call attention to the fact that the next bill on the special orders is a bill for the final settlement of the claims of the soldiers of the revolutionary army. I hope we shall take up the bills in the order in which they stand. The one to which I have alluded is next in order, and I ask that it may be taken up.

The PRESIDENT. The first question is on the motion of the Senator from Pennsylvania.

Mr. SLIDELL. Does it not require the passing over of the regular order of business to reach the bill to which the Senator from Pennsylvania now calls the attention of the Senate?

Mr. BRODHEAD. No, sir.

Mr. EVANS. I think it does.

Mr. CASS. Let me suggest to the Senator from Louisiana that, if there be a prospect of taking the vote on the bill of the Senator from Pennsylvania without further discussion, he might as well give way.

Mr. SLIDELL. If there is to be no discussion on that bill, I am willing to yield.

Mr. CASS. The honorable Senator from Pennsylvania thinks there will be no discussion.

Mr. DODGE, of Iowa. I hope we shall not proceed to the consideration of the bounty land bill. I think it has had quite its fair proportion of the time of the Senate, and a good deal more. I trust the Senate will vote down the proposition of the Senator from Pennsylvania, and then accede to the suggestion of the Senator from Louisiana, and proceed to the consideration of the bills to which he has referred. I ask for the yeas and nays on the motion of the Senator from Pennsylvania.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 15; as follows:

YEAS—Messrs. Allen, Bell, Brainerd, Brodhead, Brown, Chase, Clayton, Dawson, Dodge of Wisconsin, Douglas, Foot, Geyer, Gillette, Gwin, Hunter, James, Jones of Tennessee, Mason, Morton, Pettit, Pratt, Reid, Rusk, Seward, Stuart, Thompson of Kentucky, Toucey, Weller, and Wells—29.

NAYS—Messrs. Adams, Badger, Benjamin, Clay, Dodge of Iowa, Evans, Fitzpatrick, Jones of Iowa, Pearce, Sebastian, Slidell, Sumner, Thomson of New Jersey, Wade, and Wright—15.

So the motion was agreed to, and the Senate accordingly resumed the consideration of the bill.

The PRESIDENT. The question is on the amendment offered by the Senator from Illinois, [Mr. SHIELDS.]

Mr. BADGER. I think the first question is upon a motion to reconsider an amendment which I offered, and which the Senate placed in the bill.

The PRESIDENT. The Secretary reports another amendment to be pending.

Mr. WELLER. The first question, I suppose, is on the motion made by myself to reconsider the amendment of the Senator from North Carolina.

The PRESIDENT. The Secretary reports that the amendment pending, when the bill was last under consideration, is one offered by the Senator from Illinois, [Mr. SHIELDS,] to and the following:

And be it further enacted, That the provisions of this act shall apply to the rangers who served on the frontiers against the Indians.

Mr. BRODHEAD. I hope it will be voted down.

The amendment was rejected.

Mr. BELL. I now desire to renew the amendment which I offered to the original bill.

Mr. WELLER. The motion to reconsider now takes precedence of any other amendment.

Mr. BELL. Very well. I have no objection to considering it now.

Mr. WELLER. It takes precedence of any other motion. I ask the Secretary to read the amendment which I moved to reconsider.

Mr. BADGER. In taking down the memorandum of what was done, the motion of the Senator from California may have escaped the notice of the Secretary. I know that the Senator moved to reconsider the vote by which an amendment offered by myself had been made to the bill. I moved an amendment to strike out of the first section the words "and whose services have been paid by the United States," which amendment was agreed to upon the call of the yeas and nays. The honorable Senator having voted with the "yeas" in favor of the amendment——

The PRESIDENT. Now moves to reconsider that vote.

Mr. BADGER. He, subsequently to the vote, moved to reconsider it.

Mr. BRODHEAD. I do not understand that the amendment mentioned by the Senator from North Carolina was the one which was moved to be reconsidered.

Mr. WELLER. The amendment was different from that. It was reduced to writing afterwards by the Senator from Louisiana.

Mr. BADGER. The Senator is right.

Mr. WELLER. Let the Secretary read it.

The amendment was to add, at the end of the first section, the following:

And provided also, That where any such officers, soldiers, or volunteers, may have been called out and embodied by authority of any State, to resist a public enemy, they shall be entitled to the benefits of this section, although they may not have been paid by the United States.

Mr. BADGER. I do not mean to discuss the question; but before voting upon the motion to reconsider, it is due to myself to say that, when the amendment was under discussion in the Senate, I mentioned a case as having occurred in my State in which troops were called out and paid by the State. It has been suggested to me by a friend that the money so paid was afterwards refunded by the United States. It may be so. I have no knowledge or recollection of it. I had supposed it had not been paid, because the State which I have the honor in part to represent, is ever negligent in making claims against the General Government. I merely make that statement in justice to myself. I shall vote against the reconsideration, because I think the amendment right.

Mr. WELLER. I regard this as decisive of the fate of the bill; and, therefore, ask for the yeas and nays upon it.

The yeas and nays were ordered, and being taken, were—yeas 29, nays 18; as follows:

YEAS—Messrs. Adams, Allen, Bell, Bright, Brodhead, Brown, Cass, Dawson, Dodge of Wisconsin, Dodge of Iowa, Geyer, Gwin, Hunter, James, Johnson, Jones of Iowa, Jones of Tennessee, Mallory, Mason, Pettit, Reid, Sebastian, Slidell, Stuart, Thompson of New Jersey, Toucey, Weller, Wells, and Wright—29.

NAYS—Messrs. Badger, Benjamin, Brainerd, Clay, Clayton, Evans, Fessenden, Fitzpatrick, Foot, Gillette, Hamlin, Morton, Pearce, Pratt, Rusk, Seward, Sumner, and Wade—18.

So the motion to reconsider was agreed to; and the question recurred upon the amendment.

Mr. BADGER. There seems to be a very remarkable change in the opinion of the Senate, in regard to the value and excellence of that amendment, in the course of a few days. The motion to reconsider is agreed to, on the yeas and nays, by a considerable majority, while the amendment itself was agreed to by a very large majority. I should be glad if the Senate would indulge me with the yeas and nays upon the adoption of the amendment, so that the various changes in opinion may appear on the record.

The yeas and nays were ordered; and being taken, were—yeas 23, nays 26; as follows:

YEAS—Messrs. Badger, Benjamin, Brainerd, Clay, Clayton, Dixon, Douglas, Evans, Fessenden, Fitzpatrick, Foot, Gillette, Hamlin, Morton, Pearce, Pettit, Pratt, Rusk, Seward, Slidell, Sumner, Thompson of Kentucky, and Wade—23.

NAYS—Messrs. Allen, Bell, Bright, Brodhead, Brown, Cass, Dawson, Dodge of Wisconsin, Dodge of Iowa, Geyer, Gwin, Houston, Hunter, Johnson, Jones of Iowa, Jones of Tennessee, Mason, Reid, Sebastian, Shields, Stuart, Thompson of New Jersey, Toucey, Weller, Wells, and Wright—26.

So the amendment was rejected.

Mr. DODGE. I offer the following amendment:

And be it further enacted, That no lands entered and paid for by warrants issued under the provisions of this act, in the name of any assignee or assignees of such warrants, shall be sold in a quantity exceeding three hundred and twenty acres in a contiguous tract; nor shall any one person entering and paying for lands with such assigned warrants be entitled to thus enter and pay for more than six hundred and forty acres of land within any one township.

I will state, for the information of the Senate, that the amendment is the one which was offered by the Senator from Delaware [Mr. CLAYTON] to the original bill, and which was agreed to by the Senate, with an amendment proposed by myself, reducing the number of acres as they stand in the amendment as I have now offered it. It received the vote of a large majority of the Senate on a call of the yeas and nays. I hope there will be no objection to it now. It has been left out of the substitute by the Senator from Pennsylvania.

Mr. BRODHEAD. It is not necessary.

Mr. CLAYTON. I shall move to amend the amendment by doubling the number of acres in each case. That will make it stand as I originally proposed it; and I do not think that is too large for a farm in the West. If the restriction is made so narrow as my friend from Iowa proposes, it will have the effect of greatly depreciating the value of the warrants in the market.

Mr. DOUGLAS. If the object is to prevent a whole section of country of good lands being taken up on the location of these warrants, the amendment of the Senator from Iowa will not accomplish that object, nor will that proposed by the Senator from Delaware. The provision is, that not more than three hundred and twenty acres shall be located together by any one person, and not more than six hundred and twenty acres in the same township. Well, sir, you may take a man who has warrants for one hundred thousand acres. He will allow one man to make a location, and another, another, and thus take a whole township under that very amendment, and be the owner of it. You must make the provision that there shall not be, under this bill, more than three hundred and twenty acres located together, and, under this bill, there shall not be more than six hundred and forty acres located in the same township, whether it be in the name of one person or a thousand persons. Then you will accomplish your object. But if you make it that they shall not be located by any one person, a man will make his first location, and have his agents for others, and you make no limitation at all. I would suggest, therefore, to my friend from Iowa to modify his amendment, so as to say that, under the provisions of this bill, there shall not be located more than three hundred and twenty acres in a body, nor more than six hundred and forty acres in any one township, whether it be by one or more persons.

Mr. DODGE, of Iowa. I accept that modification.

Mr. CLAYTON. Such a provision as that would render the warrants almost worthless. I

withdraw my amendment; and ask for the yeas and nays on the amendment of the Senator from Iowa, as modified.

The yeas and nays were ordered.

The PRESIDENT. The amendment of the Senator from Delaware is withdrawn; and the question is on the amendment of the Senator from Iowa, which has been modified to read as follows:

And be it further enacted, That no lands entered and paid for by warrants issued under the provisions of this act, in the name of any assignee, or assignees, of such warrants, shall be sold in a quantity exceeding three hundred and twenty acres in a contiguous tract, nor shall any person, or persons, entering and paying for lands with such assigned warrants, be entitled to thus enter and pay for more than six hundred and forty acres of land within any one township under the provisions of this act which, in the aggregate, shall exceed the amount above stated.

Mr. HAMLIN. I should like to have the Senator from Iowa, or the Senator from Illinois, state how many acres this bill will require. I think, if you permit only six hundred and forty acres to be located in any one township, you will hardly find enough townships in which to locate the warrants.

Mr. DOUGLAS. I will leave my friend from Iowa, and my friend from Delaware, to answer that objection. I have not offered such a proposition as this, nor am I prepared to show that all the lands provided for in the bill ever could be entered under such an amendment; but I do say, that the provision that they were proposing—that it should not be done by any one person—seemed to put a limitation in the bill when it was really no limitation; and would encourage men to do indirectly what they were forbidden to do directly. It was calculated to mislead, without accomplishing the objects professed to be had in view. I am not prepared to say that, under the amendment, there would be townships enough having public lands in them to exhaust all the lands provided for in the bill, and hence should not have offered the amendment myself, as an original amendment.

The question was taken by yeas and nays; and resulted—yeas 23, nays 30; as follows:

YEAS—Messrs. Adams, Allen, Benjamin, Cass, Chase, Clay, Dodge of Wisconsin, Dodge of Iowa, Fitzpatrick, Gillette, Gwin, Houston, Johnson, Jones of Iowa, Mallory, Sebastian, Shields, Slidell, Stuart, Sumner, Thomson of New Jersey, Wade, and Weller—23.

NAYS—Messrs. Badger, Bell, Brainerd, Brodhead, Brown, Butler, Clayton, Dawson, Dixon, Douglas, Evans, Fessenden, Foot, Geyer, Hamlin, Hunter, James, Jones of Tennessee, Mason, Morton, Pearce, Pettit, Pratt, Reid, Rusk, Seward, Thompson of Kentucky, Toucey, Wells, and Wright—30.

So the amendment was rejected.

Mr. BELL. I now offer the amendment which I offered to the original bill—to insert in the first section, after the words "service of the United States," and again after "therein," among the list of those to be entitled to the benefits of the bill, the following:

And each of the surviving officers and privates who, in any of the wars in which this country has been engaged, performed military service against the public enemy, though not called and regularly mustered into the service of the United States.

Mr. BRODHEAD. I rise to a question of order. The honorable Senator from Tennessee moves to amend the substitute which has been adopted. I do not understand that that is in order. All the other amendments have been separate and independent sections. They were offered to amend my substitute, which has been adopted, by adding to it; but I take it, that the phraseology of the substitute cannot be varied.

Mr. BELL. I can get over that by adding it as an additional section.

The PRESIDENT. The amendment is in order. The question is on agreeing to it.

Mr. BELL. I will merely remark that it is intended to cover a class of cases where the most efficient and brilliant service was performed against the public enemy; and yet the volunteer riflemen of the mountain, who performed it, were never called nor mustered into the service of the United States. They performed the service, of which I speak, within a period, I believe, of thirty days. They left their homes, captured Ferguson, and slew, or made prisoners, one thousand one hundred and fifty of the public enemies, and returned, all within thirty days; yet they never got a pension, because their service was too short. They never had bounty land given them, for the same reason I suppose. I merely avail myself of the opportunity presented by this bill, to see if they can be recognized, when the bill, upon its face, provides bounty lands for all who were called into the service in the late war with Great Britain, and I think the Indian wars from 1790, whether they performed any service or not against the public enemy—whether they ever heard a hostile gun fired or not; and thousands of them never did. I will say no more.

Mr. BRODHEAD. I will not debate the amendment. I merely rise to ask whether this is not the same in substance, although not going quite as far as the amendment offered by yourself, (Mr. BADGER in the chair,) and voted down.

The PRESIDING OFFICER. It is not the same amendment. Does the Senator raise a point of order?

Mr. BRODHEAD. No, sir.

Mr. MALLORY. I am very glad that the Senator from Tennessee has offered the amendment. It embraces a class of cases which have arisen in my own State, where two companies were organized immediately upon the outbreak of the Indians in 1849. They were not mustered into service, but they did good service to the State, and, of course, to the United States. They cannot receive bounty land under the present organization, but this amendment will give it to them. The State itself assumed to pay those men, and issued scrip accordingly.

Mr. CASS. There is no Senator who is disposed to go further than I am; but as surely as you adopt such a provision as that, without any check upon it, so surely will it be most extravagant. Allow me to mention a little incident that occurred in my presence the other day. When the officers and soldiers of the war of 1812 were assembled in convention in the church in this city, one of them came, took me by the hand, and said: "I am very glad to see you." After some conversation, I asked him why he had seen me? He said: "I saw you at the battle of Tippecanoe. I recollect you as well as any event that has happened in my life." He spoke honestly; thought he had seen me somewhere, beyond a doubt; but, of course, he did not see me there, for I was not there. Now, Mr. President, if you go back, in this way, beyond the war of 1812—if you go back to 1775, and onwards, it will be the loosest arrangement the Government ever made.

Let me tell you another fact which I learned from the Commissioner of Pensions, to show how loosely these things are done. He told me he had in his office certificates from a justice of the peace that the person who took the deposition preceding it was a man so and so. It was all right, under the seal of the court, and the seal of a great State annexed that that man was a justice of the peace, and full credit was due to him; and yet there was no justice of the peace, no certificate in it at all. It was not anything. It was all forged. In fact it was all given in blank to be filled up. The Commissioner told me the fact that one of those certificates, under the executive seal of the State, was dated after the expiration of the term of office of the Governor himself. All this calls upon us for very great caution.

Mr. BELL. Now, Mr. President, we have precisely a specimen of the reasoning, and mode of opposition, which has always defeated any recognition of the claim to the notice of the Government of those gallant riflemen of the mountains who performed those achievements which Jefferson pronounced were the turning point of the Revolution. The term of service was too short, is one objection. That has been the objection for twenty-odd years, to my knowledge, since I have been a member of Congress. You cannot get a pension for them because the term was too short. They were only out some twenty or thirty days. Now, again, there is no muster-roll, and we shall be liable to an indefinite number of frauds under it. Will the honorable Senator tell me if he does not know that thousands of frauds have already been committed under your pension laws, and that there will be frauds again, and that it is one of the abuses incident to this enormous system of pensioning which we have got into? I heard the objection thrown out the other day: Why, there is no muster-roll, and it will give rise to a great many frauds! What is the act of 1832? Is there any muster roll in any of the States which authorized State troops, except one which I remember, or, perhaps, two—Virginia and New Hampshire? The Department had to provide regulations in the best manner they could, the wisest manner their judgment indicated, to prevent frauds. Yet, sir, numerous frauds have been committed under the act of 1832, which provided for all who had served in the Revolution, whether mustered into the service of the United States, or regarded as Continental troops, or State troops, and without regard to the muster-roll. We know, in fact, that there were no muster-rolls except in two States.

Mr. CASS intimated his dissent.

Mr. BELL. I beg the honorable Senator to show it. I appeal to honorable Senators who are acquainted with the subject to say whether every thing has not rested upon parol, the recollection of witnesses. The rules and regulations adopted by the Department, in order to prevent fraud, upon reputation and recollection, are very uncertain after a great lapse of time; yet, sir, thousands have received pensions upon testimony with no greater certainty or validity than that.

Here, then, is the renewal of the objection. It is not that the term of service was too short; but it is too uncertain, and indefinite, and will lead to a great many frauds. There were not a great many engaged in that battle. There were hardly enough of them to guard the prisoners that they captured when the battle was over—one of the most brilliant exploits of the Revolution. What has occurred under your system of 1832? Why, sir, ask your Commissioner of Pensions, and the various committees of pensions who have served in the House or Senate, from time to time, since 1832, and they will tell you it is their candid belief that not only every man who performed military service in the United States against the public enemy has come in under it, but in hundreds of instances, every tory who lived to a great age, and acquired a character among his neighbors, when it came to be getting indefinite and uncertain tradition in regard to them, and when they had connected themselves extensively and respectably and become valuable citizens of the neighborhood. And yet, because the term of service of the gallant heroes of King's Mountain was too short, and frauds may be committed, we will not give a pension or a recognition by an award of bounty land. As I said the other day, there are but few of that gallant body of men, if there be any, now living. Some of them have left children, and if they get no bounty land, it would be something to them if some recognition were to be found upon the public records that their ancestors were engaged in that brilliant affair. Give them a brass medal, or a copper medal, if you please. But, now, as I stated upon a former occasion, from the fact of the battle of King's Mountain never having been noticed in any public act of Congress recognizing the claims of revolutionary officers and soldiers, no pensions having been awarded to them, and the five thousand agents collecting testimony, historical and traditionary, in regard to every other battle in the thirteen colonies, not naming the battle of King's Mountain, it has almost gone out of recollection. Tradition has almost failed, in every section but one, to carry down to posterity the memory of that battle. I stated on a former occasion that I saw, even in so respectable a paper as the Intelligencer, and copied into every leading journal I believe—all that I saw—in the United States, a statement of the most brilliant affairs during the Revolution, in which the battle of King's Mountain was omitted.

There were gallant South Carolinians, too, in that battle. The gallant and noble Williams fell there. They joined the mountain men from east Tennessee and western Virginia. A portion of North Carolina gallantly came to their aid. They all concentrated within a few days and assisted in that brilliant affair.

Now, sir, for some cause or other, for some reason or other—their term of service too short, danger of frauds, its uncertainty, want of muster-rolls, they have been excluded from pensions; and now, when we are about to give bounty land to every man who was mustered into the service during the war of 1812—though they never saw a public enemy; tens of thousands were called out on the sea-board, fearing an attack which never did take place, and though they never marched a foot, or, at least, if they were only fourteen days in service—it will not do to go any further and overburden the bill. You will kill it to a certainty, we are told, if we connect with it a small class that has never been included in any of the benefi-

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cent general acts of the Government. Sir, I am no great advocate for this pension system, except invalid pensions, and there I would give liberally, and to those extremely meritorious cases. But I have gone along with the tide. You commenced in 1818, in giving it to the destitute officers and soldiers of the Revolution. So it stood until 1832, when you threw open the bounty to all, whether destitute or not, whether they belonged to the Continental service or the State service, whether there was a muster-roll or not. In the act of 1818, there was a limit that there must have been nine months' service; in 1832 it was brought down to six months; but the King's Mountain boys always did their business too promptly, and were never worthy to be noticed, either in the act of 1832, or subsequent acts. I speak what I know, because I think I made two or three attempts myself, as a member of the House of Representatives, to have some notice taken of these patriotic volunteers of the mountains.

Mr. BUTLER. I am indebted to my friend from Tennessee for bringing this subject to the consideration of the Senate. I have heard with astonishment the statement made by him that the soldiers who were engaged in the battle of King's Mountain, and their widows, by the process of legislation, which has been observed in reference to others, have been excluded from the bounty of this Government. The honorable Senator from Michigan [Mr. CASS] says that the history of that transaction is so uncertain that many might be permitted to claim the bounty of the Government who are not really entitled to it. Allow me to tell that Senator, that if he will go up into King's Mountain, he will find the certainties of history written, and the names of those who fell in that battle will be found in the epitaphs written, modestly written, upon the tombstones erected to the memory of the officers and soldiers. Sir, I have no doubt but that you could find now the memorials of Williams, and Hamright, and Captain Chronicle, and others with whom I am familiar; and I venture to say, if you will go to Colonel Williams's family, there is not a name of the men who served under him which cannot be identified. I will venture to say that you can go to the family of Colonel Campbell—yes, I believe Col. William C. Preston could give the name of very nearly every man who served under that gallant Colonel; and you may go to the Shelby family, and find in the households of those persons, their history treasured up as the proudest history of the house. There were three brothers in that family; one of them was killed, and his name is on the battle field; and do you tell me, that you cannot get tolerably—I do not say entirely—satisfactory information, as regards those persons? In passing my eye, the other day, over Wheeler's Annals of North Carolina, I found many of the names there recorded; and while speaking of those whose names are identified with that glorious achievement, I ought not to leave out, sir, your own countryman, McDowell, [Mr. BADGER in the chair.] Sir, I believe you can find in the contemporary annals nearly all the evidence which is necessary, and better than the evidence which has heretofore been resorted to. I am reminded by a friend that another name has not been mentioned; and whether it belongs to North Carolina or South Carolina, it is dear to both, and a name illustrative of private worth and patriotic heroism—it is the name of Cleveland.

Mr. BELL. Wilson was also one of them.

Mr. BUTLER. Yes sir, and Wilson. Sir, I will say of this amendment that it is the more acceptable one to me than any provision which is in the bill, except the one which I proposed in regard to the officers and soldiers who served in the Revolution. Will you say that those who served at King's Mountain, their descendants, or their widows, shall be excluded, when sir, you are going to bestow the bounty of the Government upon men who never drew a sword, and that upon the ground that you cannot obtain a tolerable certainty in relation to this matter? I will venture to say, that if we include this class of persons, you can have all the evidence reduced to as much certainty as human cases generally are governed by. I shall, therefore, very cheerfully vote for the amendment offered by the Senator from Tennessee.

Mr. BRODHEAD. I shall not make a speech upon the amendment. I only rise for the purpose of saying that this is a similar amendment to the one which was offered by yourself, [Mr. BADGER in the chair,] although it is sought to give it a particular application to King's Mountain. We have decided not to go back to the Revolution. We have decided against your amendment which proposed to give the bounty to the State troops who were not mustered into the service of, and paid by, the United States. I therefore only ask for the yeas and nays upon the amendment.

Mr. CLAY. I concur entirely in what has been said by my friends from Tennessee and South Carolina; and I wish to state to the Senate, as an additional reason, why I shall support most cordially, and vote for the amendment, that I hold in my hand the petition of the daughter, the sole representative of James Williams, who fell at the battle of King's Mountain, praying from Congress a pension for the services rendered by her father. It is stated in that petition, that all the male members of her father's house, or nearly all of them, fell either by the hands of the British or the Tories; and that she alone, at the age of seventy years, is the survivor of the entire number of children. Now, sir, she is excluded from the pension roll, because her father was not in the Continental line. If he had been in the Continental line, though he had never fought a battle, though he had really rendered no service to the country, she would have been entitled to the bounty of the Government; and yet, inasmuch as he was not in the Continental line, she is excluded.

The committee, it is true, have instructed me to report against her petition, because it is without precedent in the history of the Government; and, while I am constrained to concur in the recommendation of the committee, and am not willing to extend the class of pensioners in that way, because I am really opposed to the whole pension system, yet I shall cheerfully vote for the amendment to give her the poor pittance of one hundred and sixty acres of land in consideration of the services rendered by her father. In respect to the difficulty suggested by the Senator from Michigan, of proving the services of these persons, I will state, what I believe has not been mentioned to the Senate, that it is not now required, at the Pension Office, that there shall be any record proof of the service. It has been customary, under all these laws, to ask only for oral testimony.

Mr. DIXON. I think my friend from Tennessee might very much improve his amendment by embracing the widows and heirs of the soldiers. I think the amendment does not embrace them.

Mr. BELL. It embraces the widows and children.

Mr. BENJAMIN. I should like to have the amendment read as modified.

It was read, as follows:

And be it further enacted, That each of the surviving officers and privates who, in any of the wars in which this country has been engaged, performed military services against the public enemy, though not regularly mustered into the service of the United States, and the widows and children of such officers and privates shall be entitled to all the benefits of the first section of this act.

Mr. DIXON. I have risen, Mr. President, to make but a few remarks upon the amendment offered by my honorable friend from Tennessee, [Mr. BELL;] for I cannot suffer the vote to be taken without expressing my concurrence, fully, in the views which have been so ably advanced by him. I am aware that, under the laws passed in relation to pensions, all those who served in the revolutionary war, but who were not engaged in the regular service, have been excluded from all the provisions which were intended to benefit those who were. I have always believed that there was nothing more unjust than such a partial discrimination. If there were any portion of the citizens of the United States who were entitled to the gratitude of their country, surely they were those who fought the battle of King's Mountain. It was a battle that covered this country, then in its infancy, and struggling for freedom, with a halo of glory that will encircle its brows until true valor shall cease to be appreciated, and patriotism be no longer considered a virtue. It was upon that memorable occasion that the best blood of our country was spilt in defense of the great principles of the Revolution. It was upon that memorable occasion that that triumph was achieved over the enemies of our country that inspired confidence in our cause, which imparted courage to our soldiers, gave victory to our armies, and independence to our country.

Mr. President, I was charged with a memorial of the heirs of the late Governor Shelby, of Kentucky, praying for compensation for the services rendered by their illustrious ancestor in that celebrated battle, and also in many other hard fought battles in defense of the liberties of the country. That memorial was presented to the Senate, and referred to the Committee on Revolutionary Claims; that committee refused to report in favor of the prayer of the memorialists, upon the ground that it would open a door for too much expenditure of the public money, or waste of the public domain; or, in other words, that it would cost the Government too much to pay them. I do not nor can I concur with the committee. I know that my honorable friends who are associated with me on that committee, acted from a high sense of public duty; but it is a policy I never can approve. It strikes from the Temple of Justice the very pillars on which it rests, and burns into the brow of the country, in ever-living and ever legible characters, the damning record of the country's ingratitude.

I know, sir, it has been said, and I fear with too much truth, that all Republics are ungrateful. Camillus, the conqueror of Veia, and his country's deliverer, was banished from Rome because he had his carriage drawn by white horses. Manlius was condemned to be thrown from the Torpein rock, from which he had hurled the enemies of his country, upon the mere suspicion that he aspired to royalty. Our Government has not banished its old soldiers of the Revolution, nor yet of the war of 1812, from their country, but it has left them and their children, many of them, if not to starve, without the means of a comfortable subsistence. The war of the Revolution was one of the most important eras in the history of the world. It overturned the principles of long-established dynasties, unsettled the foundations on which despotism had for ages built up and cemented its power, and spread over the world, as by the electric flash of the sun, the great and important truths, that the people are capable of governing themselves, and that kings and thrones, and all the pomp and paraphernalia of regal splendor and absolute power were unnecessary to the happiness of the masses; to the diffusion of knowledge; to the advancement of the arts; to the upholding the principles and truths of our holy religion; or to the strength and power of a nation; or to its respectability even among the Powers of the earth to whose political institutions its own may stand opposed. The officers and soldiers of the Revolution are entitled to the gratitude of the people of every civilized nation on the face of the earth, for the noble sacrifices made by them, both in money and in blood, to establish these great and important principles. And yet we behold them, or their descendants, almost in the garb of beggars—hanging around the Capitol of this great nation, and, from year to year, imploring the Government to pay to them, from an overflowing Treasury, a pittance of the amount which is justly due them, and which is necessary to save them from the disgrace of begging their daily bread. For my own part, whatever may be the cold and selfish policy that may influence the votes of others, either on a proposition to do justice to the officers and soldiers of the Revolution, or their children, or to the officers and soldiers of the war of 1812, who achieved, on many a bloody field,

our second independence, I have no heart to refuse them, when they shall ask it, in the form of pensions, or a little home in the wilderness, from the millions of acres of the public lands, which the Government does not require, and is unable to sell.

But, Mr. President, according to the views presented by the Senator from Michigan, [Mr. CASS,] the amendment of the Senator from Tennessee ought not to be agreed to, because others may come in and obtain that to which they are not justly entitled. Is it not a strange argument; is it not a most extraordinary one, that, because some may take advantage of the law, and avail themselves of those benefits to which they are not entitled, therefore those who are really entitled are to be excluded from all its beneficent provisions? You are to cut off those who are meritorious for fear that those who are not should be benefited! It is an argument that may be addressed to the head, but it can find no place in the heart. For one, I repudiate it, and will leave the Government to take care of its interests. I will do justice, whatever may be the consequence. It is to the citizen that the Government owes its existence; and the Government that is false and unjust to its citizens is unjust to itself. Yes, sir, it is unjust to itself, because it sets an example which, of all examples, is best calculated to alienate the affections of the people from the Government. For, it is only upon the affection of the citizen that a Government like ours can be sustained. We love the Government. It is because we love it that we will fight for it, and shed our blood and sacrifice our lives to sustain it. But when the Government becomes our oppressor; when it ceases to do justice; when it wars upon our interests; when it refuses to extend to us its protection, or withholds from us that to which we are justly entitled, it is then that we cease to look to it with an eye of affection, but turn our faces from it, and look out for some change that will best secure to us the rights which it was our object to have protected in its establishment.

We have, sir, an overflowing Treasury. It is a question as to what we are to do with our surplus revenue. We have too much money. Some are in favor of reducing the tariff, with a view to get clear of it; some for a distribution of it among the several States; some for one proposition and some for another; but all concur in the fact that we have more money than we have any use for. Yet we cannot do justice to the citizens for fear that it may cost too much! It is a cold-hearted policy, and should find a home nowhere but in the bosom of the miser.

Then, sir, we have millions of acres of the public lands which we have no manner of use for; and it is proposed to give it—even to those who come from abroad, and who have no claim whatever upon the Government—to the foreigner, to the pauper, to the renegade from justice, to the man who has been turned out of the jails, and the dungeons of Europe, and sent over to our country to prey upon us and eat up our substance. We are to give it to all of those miserable wretches, the descendents of the worst enemies of our country, whilst our own soldiers, and their descendants, are to be turned away, with a cold and chilling denial, on the suspicion that somebody may creep in under the wing of the law, and, through fraud, misrepresentation, or falsehood, obtain the benefit of its provisions. It matters not how much land is squandered upon the vagabond population who are pouring in upon us like the Goths and Vandals upon the Roman Empire in her last days, and it may be to curse us as they did her. It matters not how many of the inmates of the dungeons and pest-houses of Europe are pouring in upon us, we extend to them a warm and cordial welcome, and give them a bounty in lands for coming, while the old soldier, who tells you of many a hard fought battle in defense of his country, and strips up his sleeves, and shows his scars, and says: I was with Washington at Trenton; I received these wounds in fighting side by side with the immortal Greene; I was cut down at Eutaw; I survived; I lost all but my honor; I trusted to my country; I expected she would stand by and sustain me; but she casts a cold and chilling look of suspicion upon my petition for compensation for all my sacrifices, and says to me, there may be fraud practiced by others if I do justice to you—I cannot, Mr. President, subscribe to injustice like this. It is at war with every generous impulse of my heart. As an American citizen, I love my country; as an American citizen, I am grateful to those who achieved her independence; and, as a man, and in private, I would not do wrong to others, so in my public character, I will do justice to those who come before us and ask compensation for noble services performed in the achievement of our independence.

But, Mr. President, why should you not give the benefits of this act to the heroes of King's Mountain? Does any man pretend to say that Shelby did not most bravely serve his country in that bloody conflict? Does any man say that McDowell and Campbell, or that any of those who shed such luster upon their country on that memorable occasion, are not entitled to the gratitude of the country? Why do you say they shall receive no compensation? Because some others, who are not entitled, may receive it! I know the Senator from Michigan—I know his heart is right, but, in this, surely, he must be mistaken. Although I have the greatest confidence in his judgment, I must say that I think, in this particular, he has gone too far in the exercise of what he may consider a sound discretion. There is no law that you can make that somebody may not take advantage of and practice fraud under it upon you; but will you tell me that because some men may avail themselves of some nice technicality, or some want of honesty in themselves, and thereby avail themselves of the provisions of the law when they are not entitled to them, therefore it is wrong to pass it?

I shall vote with the greatest pleasure for the amendment offered by the Senator from Tennessee. It is right in itself; and it reflects honor upon his head, as it does upon his heart.

Mr. BRODHEAD called for the yeas and nays, and they were ordered.

Mr. WELLER. This amendment, I believe, is substantially the same as the one offered by the Senator from North Carolina, upon which the Senate has already voted. If it simply proposed to include that class of soldiers alluded to by the Senator from Tennessee, I might be disposed to vote for it; but it allows bounty land to all persons who performed any military service, no matter how little or how trifling in its character, from the beginning of the Revolution down to the present day. Now, it is well known that in all the States lying along the sea coast, troops were very frequently called out during the war of 1812, in anticipation of attacks on different points. They marched from the interior to the sea-board. They performed military service to that extent. Under the operation of this amendment, every one of them would be entitled to a share of bounty land. I think there is no sort of justice in that. While I am as willing as any Senator to reward the soldier who has really performed service to the country, I am unwilling to take in all proposed by the amendment of the Senator from Tennessee; and how many it will embrace no man can tell. That Senator cannot tell me how many were called out in the State of New York during the war of 1812, who marched, perhaps, to the sea-board in anticipation of an attack. If the enemy had been there, I doubt not they would have fought most gallantly; but there was nobody there to fight; it was a false alarm; and now they will come in, and under the denomination of "old soldiers," get one hundred and sixty acres of land.

Mr. BELL. Will the honorable Senator tell me how many in the State of New York and Virginia were called into the service for the purpose of defending the sea-board, and, because their names were upon a roll, and they were received into the service, will be entitled, under the bill as it stands, to this bounty; but those who, at a former period, performed the most distinguished services, but did not wait to have a roll made out, and to be received into the service, cannot receive the bounty? Now, I do not know there were any in New York who were not regularly mustered into the service; for, generally, I think, there, and in other places, they are pretty careful, when they move to the frontier to perform military service, to do it under such circumstances that they can show a muster-roll, and prove that they were received into the service. That was the case in Vermont; it was the case, I imagine, in Massachusetts, in Virginia, and elsewhere. Tens of thousands may get the benefit of this bill as it now stands, for merely having their names on a muster-roll; but it is a very dangerous thing, it is said, to admit those who performed even the most eminent and distinguished services, if they had not the honor to have their names on a muster-roll. How does the honorable Senator from California account for this distinction which he is ready to make?

Why, sir, under the act of 1832, State troops, though there was no muster-roll left on the records of the State or General Government, were admitted to the benefits of the pension system which was enacted in that year. The honorable Senator from Michigan thought I was mistaken when I said that, according to my information, there was no muster-roll of any of the States to be found except Virginia and New Hampshire. I do not think I was mistaken in that; but, at any rate, you will find regulations of the Department dispensing with the muster-rolls in all other cases, and allowing parol proof—tradition, reputation, and statements of respectable persons—to be received.

Mr. BRODHEAD. Not under this bill.

Mr. BELL. What is the difference between that bill and this in this respect? Is the honorable Senator ready now to vote for a bill granting pensions to the descendants of those heroes to whom I have alluded? I imagine, from what I have heard on this floor, that he and others would not consent to that. He considers the service too short to justify him in that. In 1818 and 1832 it was objected that they had not served long enough. In 1855 it is too late, we are told, and too many frauds may be perpetrated. That is the ground of opposition to this amendment.

If this amendment be identical with that offered by the Senator from North Carolina, it can be easily varied; but I do not think it is identical with it. This provision applies to soldiers "in any of the wars in which this country has been engaged." The object of that is, to take it beyond the period of 1790. The amendment offered by the honorable Senator from North Carolina applied only to such as were called out and embodied by the States subsequent to 1790. There is a substantial difference between the two in that respect, and it is a sufficient difference, I take it, to authorize the Chair to decide that the two are not alike. Then again: if it is thought to be important, though I do not think it is, to restrict it so as to provide only for those who performed military service by coming in contact with a public enemy, embodied in hostile array, that can be easily inserted.

Mr. SHIELDS. Does the honorable Senator propose that restriction?

Mr. BELL. Others object to it; and therefore I will allow the amendment to remain as it is.

Mr. WELLER. It will be noticed that it is not necessary, under this amendment, that those for whom it provides should have been even called out by the State authorities. Any military officer apprehending that the enemy were about to land at a certain point, could call out five hundred men and march them down to that place, and all of them, under the provisions of the amendment, will be entitled to bounty land. Is there any justice in that? The speech of the honorable Senator is one thing, and his amendment is another. He speaks of King's Mountain and the gallant men of the Revolution; but the amendment proposes to give bounty land to an entirely different class. While rewarding the old soldier, who really performed service, you are giving this bounty to men who were called out by no State authority, who marched down to a point where the enemy were anticipated, but not finding them there, put their hands into their pockets and went home.

Mr. BELL. I, of course, did not intend to include any such.

Mr. WELLER. The amendment includes the whole of them.

Mr. SHIELDS. I desire to vote for the honorable Senator's amendment, but if I understand its import, the objection of the honorable Senator from California is well taken. It will include all men called out, who marched and carried a musket on their shoulders, whether they performed any real service or not. If the honorable Senator will restrict it to those who were engaged in battle, or who met the enemy, I will support it.

Mr. BELL. I stated already I had no objection to doing so, but other Senators advised me

not to agree to it. I put in the words "performed military service" to distinguish all who come in under this amendment from that numerous class who never did perform military service, but who are provided for in this bill. I consider that performing military service is not merely being enrolled.

Mr. SHIELDS. I care nothing for the enrollment; I think the honorable Senator from Tennessee is correct in what he says on that subject. It does not matter whether a man was enrolled or not, if he has performed military service; but I think the honorable Senator is mistaken in supposing that there is any restriction in his amendment as it stands. It will include every man who put a musket on his shoulder, and who marched a day's march, whether he performed any real service or not. Let me ask the honorable Senator whether it would not include those men who, on the Canadian frontier, stood on one side and saw a battle in progress on the other, and refused to fight. I object to it on that account. I want to make a distinction in favor of the men who performed real, actual service, whether they were enrolled or not. They ought to be paid; they ought to have compensation. The enrollment is nothing. As I understand this amendment, it goes much further than the honorable Senator first intended it should go. I desire that it should cover those whom he is anxious to reward, because I think they are entitled to it. Now, I propose that he restrict the amendment, not to such men as performed military service—for military service is anything and everything almost—but to those who met the enemy.

Mr. BRODHEAD. Those who were engaged in battle, though not paid, are already included in the bill.

Mr. SHIELDS. If the honorable Senator will say "performed military service by engagement with the enemy," he will accomplish the object.

Mr. BELL. I will state the objection to that. Some of those poor fellows who were not able to get horses, descended from the mountains on foot. When they found that Ferguson was likely to escape, though they spent one night in selecting the best horsemen, and though some of them had crippled horses, and there were but nine hundred men, they determined to attack Ferguson the next day. They did so, and they captured him. Now would you exclude those gallant fellows who could not get up in consequence of their not having horses? I know the honorable Senator from Illinois is too gallant and too chivalrous to exclude several hundred of the men commanded by McDowell, Cleveland, Chronicle, Hambridge, Williams, Preston, Shelby, and old Sevier. Sir, a number of these names are illustrious in the traditions of that portion of the country. The great difficulty on that occasion was to find horses, and some of them went on foot. They were not able to get up the mountain. Ferguson was understood to be posted in an almost impregnable position; yet they determined that he should not escape. They knew he had sent a dispatch to Lord Cornwallis, advising him that it was necessary to reinforce him; but he felt himself so strong that all the legions of another place that I will not mention, could not drive him from his position until he got assistance. But, sir, our gallant men held a consultation the night before, and the result was the sending of nine hundred of the most expert riflemen. It rained on the preceding part of the day; and they had to take their coats off and wrap them about their firelocks to prevent a failure. The gallant fellows in the rear did not get up to the battle in time. They ought not to be excluded, for their hearts were there. I think that honorable Senators on the other side exaggerate the effects of this provision.

Mr. SHIELDS. Let me suggest to the honorable Senator to confine his amendment to those who fought at King's Mountain. I should vote for that with great pleasure; but I see that it is about to include almost numberless men whom the honorable Senator does not intend to provide for.

Mr. BELL. I would not exclude those who were prevented by circumstances from taking part in the battle. The restriction suggested by the honorable Senator would exclude those who fought at Cowpens. The Whigs of that neighborhood and of the South, generally everywhere, were always ready to go out without the aid of the regular army, and to march with their firelocks on their shoulders to meet the enemy. I should be very glad to avoid this objection; for I do not wish to include a too numerous class. If there is any term by which you can express it that those shall be excluded who were not called out with any view to meet an attack of the enemy, or make one on him, I should agree to it.

The question being taken by yeas and nays, resulted—yeas 26, nays 18; as follows:

YEAS—Messrs. Adams, Badger, Bell, Benjamin, Brainerd, Brown, Butler, Clay, Clayton, Dawson, Dixon, Dodge of Wisconsin, Evans, Fessenden, Fitzpatrick, Foot, Geyer, Gillette, Jones of Tennesse, Morton, Pearce, Rusk, Seward, Slidell, Thompson of Kentucky, and Wade—26.

NAYS—Messrs. Allen, Bright, Brodhead, Cass, Dodge of Iowa, Gwin, Hamlin, Houston, Hunter, Jones of Iowa, Mason, Pratt, Shields, Stuart, Thomson of New Jersey, Weller, Wells, and Wright—18.

So the amendment was agreed to.

Mr. GEYER. I have an amendment which I wish to offer, as an additional section:

And be it further enacted, That the quantity of land which may be entered and paid for by warrants issued by virtue of this act, shall in no case exceed one hundred and sixty acres in any one section.

Mr. President, the object of this amendment is to attain an end proposed by the Senator from Iowa this morning; that is, to prevent the location of these warrants so as to occupy large districts of country which will be in the hands of speculators. I should prefer to confine the restriction to assignees; but I see very readily that, if the term "assignee" were introduced, the location would be made in the name of the original warrantee as he is called in the bill, and the consequence would be that large tracts might be held by persons who did not purchase them for the purpose of occupation, but merely for the purpose of speculation. Besides, sir, as the bill stands, when these warrants are issued you will have in the neighborhood of every land office a competitor in the market for the sale of land; and the warrants, being a paper circulation redeemable in land, will prevent the receipt into the Treasury of money from the sale of land. The object I have in view is, to allow one fourth of the land in each section to be located under a warrant, and reserve the remaining three fourths for sale to other purchasers who may be ready to pay the money into the Treasury. The chief object is to avoid the purchase of a large number of warrants by a few individuals who will keep all the valuable land as assignees, holding them up for the purpose of speculation and not for occupation.

The amendment was not agreed to—ayes eleven, noes not counted.

Mr. DODGE, of Iowa. I offer the following amendment:

Provided, That no warrant shall be issued to any officer, non commissioned officer, or private, whether volunteer or militia-man, who refused, upon the call of the President of the United States, to do service without the limits of the State or Territory whence such militia-man or volunteer was called.

This amendment is so eminently proper that, I presume, there will be no sort of opposition to it. If so, I shall call for the yeas and nays on it, that it may be known who are in favor of rewarding the men who refused to take the part of their country in a trying time.

Mr. CASS. I suppose the amendment refers to the militia or volunteers in the service of the United States. Then, of course, there could be no refusal to serve out of their own State, and I do not know of any instance of the refusal of the drafted militia to go out of the United States. I suppose myself there is a constitutional objection, if they were disposed to adhere to it; but every one in the service of the United States was compelled to go anywhere within the United States when ordered by the Executive.

Mr. BADGER. Nobody ever denied that.

Mr. CASS. I think not.

Mr. DODGE, of Iowa. The amendment which I have offered is intended to apply to those men from Massachusetts, and other States, who refused, upon the call of the President, to cross the boundary line of that State. I wish to exclude all of that class. I have those from Massachusetts more particularly in my eye.

Mr. CASS. The Senate are well aware that I fully agree with the honorable Senator from Iowa in his view; but the difficulty that occurs is, that those persons were not in the service of the United States. The Governors of Massachusetts and other New England States refused to put them there. If they had once been placed there, they would have been subject to the rules and articles of war, and would have been compelled to go anywhere where they might be ordered by the United States. I agree fully in the object of the Senator from Iowa.

Mr. BADGER. This amendment does not reach that object.

Mr. CASS. No, sir; the amendment does not touch that case.

Mr. DODGE, of Iowa. I call for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HAMLIN. I shall vote against the amendment, and I desire to state, in one word, my reason for that vote. It proposes to deny bounty land to those soldiers who did not go out of the State, when the Executive of their State was called upon by the General Government to furnish troops to the United States. I have no justification to offer for the Executives of the different States who refused to comply with the demands of the General Government; but I would not hold the soldiers responsible for the acts of the Executive; and if we are to contribute to the soldiers who served, I can draw no distinction.

Mr. CASS. Allow me to say to the honorable Senator that this does not touch that case at all.

Mr. HAMLIN. I so understand it.

Mr. CASS. It prohibits the issuing of land warrants to the soldiers in the service of the United States who did not go out of their State. The case to which the Senator from Maine refers, and which I wish to exclude, is that of militia who were not in the service of the United States; whether by their own fault, or by the fault of the Executive, makes no difference; but if I understand this amendment, it would not attain the object which I desire to attain. If it would, I should vote for it.

Mr. DODGE, of Iowa. I hope the Senator from Michigan will suggest such an amendment as will meet the exact case. I wish to meet that case on the record. I wish to record my condemnation of this act in men, officers, and all, because the Governor was but the representative of the feeling of the people of that section of the Union; and it is idle to disguise the truth of history. I wish to vindicate it, so far as I am concerned, by my vote, and to brand my condemnation of their act.

Mr. FESSENDEN. I wish to suggest to the honorable Senator from Iowa, that as his amendment now stands, it is simply unmeaning; that is to say, it does not apply to any person who was called out during the last war. There were none of those officers and soldiers who personally refused to do duty. The refusal was on the part of the Executive of their State. If he wishes to meet that case, if his proposition goes so far as to say that all officers and soldiers who were called out, and who were passive in relation to that matter, (who could not go except under orders, and were in no manner responsible for the action of the Executive,) shall be deprived of their bounty land on account of the action of the Executive, he should so word it. As it stands now, it applies to nobody. There was neither a soldier or officer in the service, or called out as a militia man, to whom it will apply.

Mr. CASS. I will suggest to the honorable Senator from Iowa a change of phraseology to which I will agree: that the bill shall not extend to any troops called out by State authority, and refused by that authority to be placed at the disposal of the United States. That will meet what he wants.

Mr. DODGE, of Iowa. I will modify my amendment, at the suggestion of the honorable Senator, so as to read:

Provided, That no militia or volunteers called out for the service of any State, and refused by the authorities of such State to be placed in the service of the United States, shall be entitled to the benefits of this act.

The PRESIDING OFFICER, (Mr. WELLER in the chair.) The yeas and nays having been ordered on the original amendment, the modification cannot be made except by unanimous consent. The Chair hears no objection. The question is on the amendment as modified.

Mr. FESSENDEN. I cannot vote for the amendment as it stands, and, if it be agreed to, I cannot vote for the bill, because it will do great injustice to a considerable number of men in my

own State. At that time, Maine was a part of Massachusetts. Maine was then, and for a long time continued to be, and may now be considered, eminently a Democratic State. It was not then a State, but a district of Massachusetts—Democratic in itself, supporting the war, and opposed to the action of the Executive of Massachusetts at that time. The militia, almost to a man, in the then district of Maine, as I understand the state of things, at that time were opposed to the action of the Executive of Massachusetts, with reference to this very point. They were anxious to go wherever it was necessary to send them. They were under the orders of their superior officers, and they could not control their own action. It is very severe, indeed, in reference to them in particular, (and I presume the same was the case to a considerable degree in Massachusetts,) to impose on them this restriction, and say they shall not receive their bounty land in connection with others who rendered similar service, for the simple reason that they were subject to the action of an Executive which they did not uphold or approve. Why punish them for the action of a single man, or a single set of men, which they could in no way resist, but which they were bound to obey? Why, sir, the effect of this amendment, if adopted by the Senate, would be to punish as patriotic a set of men as existed anywhere.

Sir, I do not mean to go over the argument which was advanced to the Senate the other day, when this matter was up before, by the Senator from Massachusetts, [Mr. ROCKWELL,] and others. I content myself with the remark, that the effect of this amendment would be most unjust upon a set of men who were as anxious to go wherever the necessities of the country required, as any men who were in service.

Mr. TOUCEY. I shall vote against this amendment, because I deem it entirely unjust to punish the rank and file for obeying their lawful commanders. They were not responsible for the orders issued by the Executive. If they were responsible, they redeemed that responsibility when they afterwards came to the poll. Why, sir, the most of these men were the very men who stood by the Administration during the war of 1812—men who stood up in defense of the country, and were not connected with the movements which were adverse to the general interests of the country.

Besides all that, even those who are now complained of—the Executives of the States—pushed the doctrine of State-rights a little further than they ought to have done; and as to these contested points, there is no longer any controversy in regard to them. The whole country has become convinced that the claims which were then set up were not well founded. Under this state of things, I ask why, in reason and justice, the consequences should be visited upon the brave men who were ready to stand by the country, and were only guilty of obeying those who were appointed to command them?

Mr. BADGER. Mr. President, the honorable Senator from Michigan has said that he goes for excluding these persons from the benefits of this bill, whether their not being mustered into the service of the United States was their own act or the act of the executive authority of their State. Now, I cannot understand the justice or the propriety of such a union of the governor and the governed. The fault—if it was a fault—was not the fault of the men. The fault—if it was a fault—was the fault of the Governor. The Governor will get nothing under this bill. He claims nothing under it. But, by way of *brutum fulmen* against him, to visit a sort of sentence of condemnation upon what he decided, now, when he is in his grave, you say, not that his representatives shall have nothing, for they claim nothing, and can get nothing, but that the men, who had no influence or control over the decision, and who simply discharged the duty which they owed to their immediate superior, shall be excluded from the benefits of your provision. If the object is not to do justice, I admit it makes no difference why they did not discharge their duty to the United States. But if the object is to do justice to all fairly, it is all-important to determine whether it was their fault or the fault of another. I agree with what the Senator from Connecticut [Mr. TOUCEY] has said on that point. Upon another point I do not agree with him: but on that I agree with what was said here by the honorable Senator from Georgia [Mr. TOOMBS] the other day. I have never been able to see yet why the question whether the case existed in which the Executive of the United States was entitled to call for the militia, was not a proper question to be determined by the Executive authority of the State upon whom the call was made, and if so, there might have been an error of judgment; if you please, there might have been a viciousness of opinion; but it was in the decision of a question, the decision of which properly belongs to him. Besides, sir, as well as I recollect the history of that time, for I have not looked at it for many years, and have only a general recollection of the particulars, the real question then was this: The Governor of Massachusetts said he was not aware of any invasion, but if the President of the United States would say there was an invasion, he would put the troops under his control. The President called for the troops, but declined to make that decision of fact, and the Governor of Massachusetts, after consulting the justices of the supreme judicial court as to the interpretation to be put upon his constitutional power, holding that he had the right to decide, willing to abide by the decision of the President, as having better opportunities of knowledge, if he would say there was an invasion. Such a decision not being given, he refused to put the troops under the control of the General Government.

But, as I have said, all that is a matter of no importance, as I think, to the poor fellows who are interested in the passage of this bill. Be it that it was all wrong; be it that it was an assumption of authority; be it that it was a case of contumacy on the part of the Executive of one of the States, in refusing just submission to the authority of the Union, the troops were not responsible for it, and, therefore, ought not to be punished for it. The day, I trust, has passed away when the "father shall eat sour grapes, and the teeth of the children be set on edge."

Mr. BROWN. The Senators from North Carolina and Connecticut assume, in this case, that the men were anxious to march if their officers had allowed them to do so. I say this is assumption, because we have heard no evidence to sustain it. It may be so, or it may not be.

Mr. BADGER. The Senator mistakes me. I did not say so.

Mr. BROWN. The Senator from North Carolina, as I understood him, took the ground that the men were not to be punished for the act of the Governor.

Mr. BADGER. Certainly.

Mr. BROWN. If that is not assuming that the men would have marched if the Governor had ordered them to do so, or if he had allowed them to do it, I have made a false deduction from the premises.

Mr. BADGER. My friend will observe that this bill does not provide for anybody except those who did march, and those who did serve, and those who did render military service. The bill provides for nobody else; and the effect of this amendment is, that, although they shall, in all these respects, come within the previous provisions of the bill, yet, if these men in service, having marched, and having rendered, military service, were not put under the control of the President of the United States, in consequence of the refusal of the Governor, they shall be entitled to no benefits. The bill does not provide for any class of men who did not march and did not serve; and this amendment is to take out of the benefits of the bill men, if there are any—I do not know whether there are or not—who actually did march and render military service, and who, upon the demand of the President of the United States upon the Governor of the State to put them under the control of the United States, were withheld by the Governor from that control. That is what I understand to be the effect of the amendment.

Mr. BROWN. I was about to remark that no evidence was given to the world at the time, while they were in service, that those soldiers desired to march; and if any has been given to the world since, it has escaped my observation. That they obeyed, and obeyed willingly, seems to me to have been well established by the history of the times in which they lived. It is a fair deduction; therefore, I think that they concurred in sentiment with the Governor and the officers over them. That being true, I think it proper to exclude them from the provisions of this bill. But, sir, even if it were otherwise, I should be exceedingly reluctant to vote for a proposition which did not show upon its face that, in voting to pay soldiers who did not march at the call of their country, we intended to draw a distinction between them and the officers who refused to allow them to march. There is a marked and distinct propriety in this Congress, setting its reprobation upon conduct like this. I dare say there is not a member of this body who does not feel that, when the country is involved in war, it is as much the duty of Massachusetts to defend Mississippi, as it is the business of Mississippi or North Carolina to defend Maine or Massachusetts. The officer or soldier who refuses to march beyond the limits of his State, because his particular State is not menaced or invaded, falls short of the performance of his whole duty.

Mr. BADGER. My friend will allow me to say that is not the amendment before the Senate.

Mr. BROWN. I understand that is what the amendment suggested by the Senator from Michigan, to my friend from Iowa is intended to effect, that soldiers who did not march shall not be admitted to the benefits of this bill. That I understand to be the proposition.

Mr. BADGER. I no not understand it so.

Mr. CASS. The provision, as it is in the amendment, is simply this: that no troops called out by State authority, and refused by such authority to be placed in the service of the United States, shall be entitled to the benefits of the bill.

Mr. BROWN. If they were in the service of the United States, then, as a matter of course, they would march wherever the United States ordered them to go. What was meant by refusing to put them in the service of the United States, except to confine them within the State by which they were called out, and not allow them to go beyond the limits of that State? I did not state the proposition in the very words in which it is presented by the amendment, but the idea is the same. As I said before, I think Congress ought to mark its reprobation of conduct like this. If there were any way of drawing a distinction between the officers and soldiers, and showing upon the face of the law that, while we pay these men, we do it because they would have marched if they had had power to do so, without indorsing or seeming to indorse the conduct of their officers, I should be willing to go that far. But I am unwilling to give a vote here which shall show that Congress, in any remote or possible degree, approves such conduct in officers or men. Fearing that, if we vote bounties to those men who were restrained, if you please to put it on that ground, though they never gave us notice of the restraint during their service or afterwards, our action here may be construed into a sort of forgiveness of that conduct when we put them on the same footing with others who did serve their country in the States where they were called out, and in other States, I shall vote in favor of this amendment. If there was, I repeat again, any way of drawing a distinction in favor of those who would have served, if they had been allowed to do so, I should be willing to go for them, but I am unwilling, as I said before, to sanction such conduct.

Mr. TOUCEY. Let me say to the honorable Senator from Mississippi that there is not to my knowledge an instance where a soldier, or a subordinate officer, refused to march beyond the limits of his State. On the contrary, I undertake to say that the people were willing to march anywhere; and I will state further, that, immediately afterwards, both in Massachusetts and in other New England States, the State administrations which had pursued that course, when the people came to act upon the subject, were overthrown, and the friends of the war, and the friends of the National Administration brought into power.

Mr. BROWN. I wish to ask my friend from Connecticut, did those men who did not march ever manifest their disapprobation of the orders of their superiors during the service, or afterwards?

Mr. TOUCEY. I will answer that they were never called upon to march. I know not how it is elsewhere, but in the section of country to which I belong, it is deemed the duty of the soldier to obey his superior officer, and the command that is issued to him, if it is competent to issue such a command, is implicitly obeyed.

Mr. SUMNER. Long years have passed since the controversy occurred which has been revived in this debate. Meanwhile all the actors in it are dead; and even the political heats which it provoked, and which seemed less mortal than the actors, are dead too. I would not undertake to disparage the constitutional question involved; nor do I care to express any opinion upon it. If the Commonwealth of Massachusetts at one time denied the power of the President over her militia, she at another time admitted it. In the vicissitudes of public sentiment, her authority is on both sides. But whatever may be the difficulties of the question, or its magnitude—even if it be as important as is imagined by the distinguished Senator from Michigan, [Mr. CASS]—still, on the present occasion, I cannot regard it as of a practical character. It does not properly belong to the discussion of this bounty bill. It is a mere abstraction. It is a ghost which has no place here.

It is true that the Governor of Massachusetts, at an early date after the declaration of war with Great Britain, in 1812, refused to place the militia of the State under the command of an officer of the United States; but it is none the less true that, in the course of the war, faithful and efficient services were rendered by this militia in the protection of the State, when threatened along its whole coast, from Nantucket to Eastport. These services have been already recognized, and, to a large extent, paid by this Government. They have been the subject of ample discussion in both Houses of Congress, of numerous reports from committees, and of messages from the President. After all, then, it is too late to attempt to unsettle them.

As the Senator from Michigan, on a former occasion, referred to documents in order to exhibit the controversy between Massachusetts and the General Government, I hope to be pardoned if I, for a moment, refer to documents which show how the controversy has been settled.

As early as 1817—shortly after the close of the war—a claim was made on the General Government by Massachusetts, on account of the services of her militia. This was pressed by her united delegation in Congress in 1822. At last, in 1824 its payment was recommended in a special message by President Monroe, from which I read the concluding paragraph:

"I have been led to conclude, on great consideration, that the principles of justice, as well as a due regard for the great interests of our Union, require that this claim, in the extent proposed, should be acceded to. Essential service was rendered, in the late war, by the militia of Massachusetts, and with the most patriotic motives. It seems just, therefore, that they should be compensated for such services, in like manner with the militia of the other States. The constitutional difficulty did not originate with them, and has now been removed. It comports with our system to look to the service rendered, and to the intention with which it was rendered, and to award the compensation accordingly, especially as it may now be done without the sacrifice of principle. The motive, in this instance, is the stronger, because well satisfied I am, that, by so doing, we shall give the most effectual support to our republican institutions. No latent cause of discontent will be left behind. The great body of the people will be gratified; and even those who now survive, who were then in error, cannot fail to see, with interest and satisfaction, this distressing occurrence thus happily terminated. I therefore consider it my duty to recommend it to Congress to make provision for the settlement of the claim of Massachusetts, for services rendered in the late war by the militia of the State, in conformity with the rules which have governed in the settlement of the claims for services rendered by the militia of the other States."

Mr. Monroe was the most prominent member of the Cabinet during the war, filling, part of the time the office of Secretary of State, and part of the time that of Secretary of War. He was familiar with this controversy, and, by his official and party relations, inclined to view the course of Massachusetts with sternness. And yet we have his formal recommendation of these claims.

In conformity with the message of President Monroe, was a report from the Committee on Military Affairs in the House of Representatives, which was made by Mr. Hamilton, of South Carolina, and sustained by him in debate in 1826. The discussion ended in the adoption of a resolution referring the claim to the Secretary of War, by whom it was committed, for examination, to the Third Auditor. At this time, according to the strict rules of evidence applied to the different items, the sum of $430,748 26 was found to be due to Massachusetts; but nothing was done at this time towards it payment.

In 1830 a bill to authorize the payment of the claim of the State of Massachusetts for militia services during the late war, was introduced into the Senate by Mr. Silsbee, at the time a respected Senator from my State, and was finally reported from the Military Committee by Mr. BENTON, who urged its passage in a speech, from which I quote the concluding words:

"References to the opinions of a committee may not be strictly regular; but in this case it may be allowable, and I can say that our opinion was unanimous in reporting this bill. Prejudices have prevailed against these claims. I have felt these prejudices. I have seen the time when I never expected to vote for their payment. These prejudices continued until it became my duty to examine them; and that examination has resulted with me, as with all others who made it, in the conviction that a large part of them ought to be paid."—*Cong. Debates*, 1830, *Vol.* 6, *part I.*, *p.* 358.

The bill passed the Senate without a division; and passed the House of Representatives, on the last night of the session, by a vote of 83 to 21, on the yeas and nays.

But a considerable sum still remained outstanding, so that the subject was not banished from Congress. By a resolution of the House of Representatives, adopted 24th February, 1832, the Secretary of War was again instructed to examine the claim; and, by a joint resolution of both Houses of Congress, approved 14th May, 1836, the Secretary of War was authorized "to receive additional evidence in support of the claims of Massachusetts, and other States of the United States, for disbursements, services, &c., during the late war."

Thus for a long series of years, these services have been solemnly recognized by the Government in all its departments; in messages from the President, reports of committees, debates of Congress, and in money actually paid for them at the Treasury of the United States. Surely I am right when I say that it is now too late to draw them in question.

To Senators who object to them on the ground assumed by the Senator from Michigan, [Mr. CASS,] I would say—without dwelling on the hardship of holding soldiers responsible, as is now proposed, for the constitutional opinions of their superior officers—that the opinions which he so earnestly condemns were, at a subsequent day, formally abandoned by the government of Massachusetts. It is to this circumstance that President Monroe refers in his message, when he says:

"All that can be claimed by our fellow-citizens of Massachusetts is, that the constitutional objection be waived, and that they be placed on the same footing with their brethren in the other States." * * * "The constitutional difficulty did not originate with them, *and has now been removed.*"

How it was removed appears from a letter of William Eustis, once a member of the Cabinet of Mr. Madison, and, at the time he wrote the document to which I ask your attention, Governor of Massachusetts. Here is the document, which was addressed to the agents of Massachusetts here in Washington, engaged in the prosecution of her claim upon the General Government for these services:

BOSTON, *December* 19, 1823.

GENTLEMEN: Should objections on the part of the Federal Government to a part of the claim be urged on account of the refusal of a former Governor to order out the militia on the requisition of the President, in addition to the representations you were instructed to make, and to the necessary inferences flowing from the facts and circumstances therein stated, you may, with great truth and justice, add the most positive assurance that the people of this State have, by their suffrages, (the infallible test of public sentiment,) and by the public declaration of their immediate representatives, as will appear by reference to the authenticated copies of their proceedings in all branches of the Legislature, positively and specifically disavowed and disapproved the conduct of the former Governor on this occasion, as well as the opinion delivered by the judges of the supreme court, to the Governor and all others, who advised to the course which was pursued. Respectfully,

W. EUSTIS.

GEORGE SULLIVAN, Esq.,
JOSEPH PEIRCE, Esq.

It is confidently believed that, if it were practicable to take the opinion of the people, in their primary assemblies, at this moment, nineteen twentieths of them, at least, would confirm the statement herein given.

Now, sir, I allude to these things simply by way of explanation, and to remove the objection which has been raised in this debate. For myself I entertain no feelings on the question, and ask nothing but justice, according to well-established principles.

The bill on your table proposes a largess of lands, under the name of bounty, to soldiers who served in the war of 1812. I ask that you shall not make an odious discrimination, which shall exclude the patriotic services of the soldiers of Massachusetts in that war. The services have been already recognized, and, in large measure, paid. The bounty should naturally follow as the incident to this recognition and payment.

Mr. DODGE, of Iowa. I wish to inquire of the Senator from Massachusetts if the Legislature of that State did not resolve in those times that it was unbecoming a moral and religious people, such as they were, to sustain the Goverment of the United States in the war which it was then waging?

Mr. SUMNER. The Senator from Iowa refers to a resolution which passed one body of the Legislature of Massachusetts, but did not pass the other. I believe, however, he has not stated its terms precisely.

Mr. DODGE, of Iowa. Then will the Senator please state it?

Mr. SUMNER. I cannot. I am not fresh upon the subject. It was certainly before my day. I will say to the Senator, however, that whatever may have been the character of that resolution, it does not seem to have anything to do with the present question. If objectionable to the extent imagined by the Senator, it was certainly liquidated at a subsequent day, by the resolutions passed by the Legislature, to which Governor Eustis refers in the letter which I have read.

Mr. DODGE, of Iowa. Then the Senator's idea is, that the whole of the sins of the Federalists of that day, were wiped out by a political revolution, by the Democrats coming into power, and rescinding certain resolutions which had been put upon the record. But, sir, the point which I make is this: I hold that a public state of things existed there of which the country had cognizance, and of which posterity should now have cognizance, akin to that feeling which denied to the son of Lincoln, who fell under the stripes of his country in a more recent war, the rites of sepulture, when brought back to Massachusetts; the feeling which caused the burning of blue lights along that entire coast during the last war with Great Britain.

If the provision can be restricted so as to give bounty to the men who fought, or were willing to fight in the war; if you can marshal off the heirs of the Democrats and the Federalists, and give it to those, those who succeeded in effecting the political revolution to which the Senator refers, and were willing to march at the call of their country, and do battle in any portion of it; then I shall gladly go for such an amendment.

The Senator has referred to the money claim of Massachusetts as a precedent for this. I can readily conceive why high considerations of State policy should dictate, on the part of President Monroe, a recognition and payment of that claim; but we are not now paying any claim; we are now passing a bounty land bill, by which land scrip is to be issued to an indefinite amount, to cover up and absorb the public lands for the next fifty or sixty years. The only argument on which it is based is, that you are to so treat your soldiers and volunteers in the difficulties in which they acted a glorious part, as in the future to encourage them, when the country is menaced with danger, to rally to its standard. That is the only principle which lies at the bottom of this bill, and which I am sure causes men to support it. Now, it is just as broken down as was brevet rank in the war with Mexico; you have carried it to such an extent that it is not even honorable or respectable; you give it as well to those who acted the part of traitors, as to those who acted the part of patriots.

Mr. CASS. I did not intend to say a word more on this subject, nor should I do so if I had not been especially appealed to, as I think, by the Senator from North Carolina. I had once a great deal of feeling on this subject. I have none now. It is gone by. I am willing to look at it as a historical matter, in the process of legislation; and it ought to be so looked at, with a view to see its effects for the future. What were the facts?

The war was declared in June, 1812. For two or three years previous, and especially for some months before, our coasts had been ranged from one extent to the other by British cruisers. They came into the Chesapeake; they came everywhere, marauding, attacking the frigate Chesapeake, impressing men out of her, committing acts which, under any other circumstances, would have driven

any other country to war, and did finally drive this country to war; but there was great forbearance exercised by the statesmen of that period; perhaps wisely, and certainly very patiently. Eastport, in the present State of Maine, was taken immediately after the declaration of war, and before the Governor of Massachusetts undertook to refuse the militia. Mackinaw was taken before the same occurrence, though I do not know that he knew it at the time. He did know, however, that part of Massachusetts, his own State, was in the possession of the enemy. What did he do? He said: "I have a right to determine whether or not there is an invasion, and I think there is no invasion, and I will not call out the militia." Why, sir, it is marvelous that any man could, under those circumstances, come to such a decision. It never would have been done, but for the high and excited state of feeling which prevailed throughout the United States on that question.

My honorable friend from Iowa has alluded to the action of the Legislature of Massachusetts. It is historical. The Legislature of Massachusetts said in substance—I think I may appeal to my honorable friend from New Hampshire, [Mr. WELLS,] who, I have no doubt, recollects it—that it did not become a moral and religious people to rejoice at victories gained in such an unholy war. That was substantially the declaration; and I recollect that a sermon was preached at the meeting of the Legislature, in which this expression was used by the clergyman—I forget his name, but I think it was Osborne—"cursed be he that puts on his arms."

That feeling prevailed, and led to these strange events. The honorable Senator from Massachusetts is perfectly right in saying that it was not a feeling in which the people of Massachusetts participated. He is perfectly right in saying that a subsequent Legislature of Massachusetts did wipe out this stain on their character. The old patriotism of the State recovered its ascendency, which it had lost, not by the action of the people, but by the action of the men who were, unfortunately, in power at the time.

Mr. President, in what position do we stand on this question? Gentlemen say you should not punish these men. Why, sir, it is not a question of punishment; it is not even a question of pay; but it is a question of gift. These men were paid by the State of Massachusetts for their services. The United States refunded to that State all that she had paid them. Now, the question is, whether we shall give a bounty to men, who did what? Served the United States. We have no other motive to give a bounty; and if they were not in our service, and did us no good, what moral right have we to give away the public property to them? They did not render service to the United States. Honorable gentlemen say this was not their fault. That is not the question. It was not the fault of thousands in Massachusetts, and elsewhere, that they did not come into service. No doubt they would have come willingly, if they had been called for.

Mr. SUMNER. Allow me to interrupt my honorable friend, to read to him what Mr. Monroe said in his message:

"Essential service was rendered in the late war by the militia of Massachusetts, and with the most patriotic motives."

Mr. CASS. I do not dispute the motive. Everybody knows, especially the old Democrats, that the administration of Mr. Monroe was what was called in those days "the era of good feeling." Mr. Monroe was himself one of the kindest men in the world, and some two or three years after his Administration commenced, there began to prevail the era of good feeling, which broke down all barriers between the two old parties, as I believe, to the injury of the country. Mr. Monroe kindly recommended this claim of Massachusetts. He said her militia had rendered service, but he did not say that they had rendered service to the United States.

Why, Mr. President, the facts are these: General Dearborn, commanding that military department of the country, made his call on Governor Strong, of Massachusetts, saying, "I am directed by the President to call for militia to defend the United States, who are now invaded." Governor Strong called upon the judges of the supreme court of Massachusetts, who, by a peculiarity in that constitution, are obliged to give their opinion to him, to advise him on the two points which I stated the other day; first, whether the Executives of the States had the right, under the Constitution, to determine when the emergency occurred; and, second, if they had, was any officer of the United States, excepting the President, as constitutional commander-in-chief, authorized to assume command over the militia so called out. The Massachusetts supreme court decided both questions agreeably to the opinion of Governor Strong. They decided that the power of judging was in the Governors of the States, and that there was no power in the United States to govern the militia when called into service, unless the President himself was actually, personally, on the field. Any man will see at once the consequence. We have thirty-one States. Under this doctrine, we should have thirty-one armies; and who is to command them?

I repeat, it was a perfect marvel then, and is to this day, how any Legislature or any Governor could take such ground, which would absolutely neutralize and destroy the effect of the Constitution. You know, sir, perfectly well, that, between the States of the old Confederacy, when the general power was weak, there was a race as to who should succeed best in defending their own States. It was one of the greatest difficulties with which General Washington had to contend, from the battle of Bunker Hill downward, that there was a predisposition on the part of every State to defend its own borders and not look to the defense of the whole. I have no doubt that this protracted the war. Certainly, one of the first things under the new Constitution, was to create a force independent of the States.

Who should judge of an exigency like that? The Governor of the State? He did not know the condition of the country; he did not know what force was coming from Europe. As I said, on a former occasion, no man will contend that, before you can repel an invasion the enemy must actually land on your coast. Nobody will pretend that you must make no provision for an army or militia until the enemy shall have landed on your shores, and committed aggressions, such as were then committed by the British. You have the power to judge of the preparation necessary, and, if that preparation is to be judged of by thirty-one independent sovereignties, instead of being able to prevent invasions you would not be equal to the Achæan league; you would not be equal to Switzerland; you would not be any real Confederacy at all.

Now, the simple question is, under these circumstances, whether it is best for the American Congress, with a view to the future, looking to the past without passion, to give to those troops an actual bounty from the public Treasury, to which they have no claim under any circumstances.

Mr. BADGER. Mr. President, the honorable Senator from Michigan would have made a clear case in favor of this amendment, if the bill, as it now stands, were confined to giving bounties to the officers and soldiers who were mustered into the service of the United States; that is, he would have made a clear case in favor of the propriety of the provision, but it would also be clear that the amendment ought not to be adopted, because it would be idle to provide that those soldiers should not be entitled to the benefits of the bill who were not mustered into the service of the United States, if, by the frame of the bill as it stood, no soldiers were entitled to the benefits of it but those who were mustered into the service of the United States. But, as the bill stands, those are entitled to the benefit of it who were not mustered into the service of the United States.

The honorable Senator says this amendment does not propose to inflict punishment. I admit it; but it proposes to make a discrimination—an unfavorable discrimination—a discrimination intended to express disfavor and disapprobation—a discrimination intended to oppose something like ignominy upon the parties to whom it applies. The whole bill is an affair of mere bounty. By the proposed amendment the bill is made to say this: Certain officers and soldiers rendered service, though not under the command of the President of the United States; they shall receive the bounty of the bill. Certain other officers and soldiers rendered service, though not under the command of the President of the United States; they shall receive no bounty. Then the question arises, why are they to be excluded? It is not pretended that there was any personal delinquency in them; that they were guilty of any act or purpose either against the interests of the country, or against the supreme authority of the chief Executive of the country; but the simple ground is, that these men, called out and rendering service—and important service, in a military point of view—were called for by the President of the United States, and refused to be put under his command by the Governor of the State. Therefore, although it does not propose punishment in the common sense of the term, it proposes what is punishment to every generous and feeling mind. It is to put a stigma on these men, to make a discrimination to their disadvantage, to affirm that their course does not stand before us as the course of others who rendered service. I cannot consent, for one, to vote for that, when the ground of it is, not anything that they have done, or anything they have omitted to do, but that the Governor of the State, who had control over them, without whom they could not have been turned over to the authority of the United States, thought proper to refuse to put them under the command of the President.

Now, sir, as I have said already, I have no doubt of the jurisdiction of the Governor to pass upon that question, whether the contingency existed in which the call could be rightfully made. Although I think, under the Constitution and laws as they then stood, he had the power, I am also very clear that he decided the question most erroneously. I agree with the honorable Senator from Michigan, that when we speak of calling out a force to repel an invasion, we do not mean to drive out an enemy who has already gotten within our borders; but we mean to prevent invasion, as well as to expel invaders. We mean to repel it by being on the borders to prevent the enemy from making it; and if he is successful in making it, then by expelling him. But, sir, if in this case the decision was erroneous, the responsibility is in no way attributable to the officers and men; and therefore I agree with my friend from Connecticut, that we are making a discrimination unjust to them, as the party supposed to have offended in this case will claim no benefit under the bill, and therefore will receive no punishment from the provision proposed to be incorporated into it.

Mr. CASS. The honorable Senator from North Carolina says he does not wish to cast any stigma on these men. Nor do I; but I wish to cast a stigma on the act. There was a very strange state of things. The authority of the United States, under the Constitution, was denied, and I wish to put my mark upon it.

The question being taken by yeas and nays upon the amendment of Mr. DODGE, of Iowa, resulted—yeas 29, nays 15; as follows:

YEAS—Messrs. Benjamin, Bright, Brodhead, Brown, Butler, Cass, Clay, Dixon, Dodge of Wisconsin, Dodge of Iowa, Douglas, Evans, Fitzpatrick, Gwin, Houston, Hunter, Jones of Iowa, Jones of Tennessee, Mallory, Mason, Pratt, Reid, Rusk, Slidell, Stuart, Thompson of Kentucky, Thomson of New Jersey, Weller, and Wright—29.

NAYS—Messrs. Allen, Badger, Brainerd, Chase, Dawson, Fessenden, Foot, Gillette, Hamlin, James, Merton, Seward, Sumner, Toucey, and Wade—15.

So the amendment was adopted.

The bill as amended was ordered to be engrossed for a third reading, and was read a third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. CLAY. On that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. MASON. Before the vote is taken, I wish to say a word, that it may go on record. Whatever my judgment might have been on the propriety or expediency of giving bounty lands to the soldiers of the last war with Great Britain, I am precluded, by express instructions from the Legislature of Virginia; but this bill, which proposes to give that bounty, proposes also to ingraft upon it a pension system, and to admit an indiscriminate class of volunteers; I am not, therefore, at liberty to vote for it.

Mr. DOUGLAS. I had intended to make a speech in favor of this great measure of justice to the patriots who defended their country; but as I

know the Senate is anxious to vote, I will let my vote stand for my speech.

The question being taken by yeas and nays, resulted—yeas 30, nays 15; as follows:

YEAS—Messrs. Allen, Badger, Bell, Brainerd, Brodhead, Brown, Butler, Cass, Clayton, Dawson, Dixon, Dodge of Wisconsin, Douglas, Evans, Foot, Houston, James, Jones of Tennessee, Mallory, Morton, Pratt, Reid, Rusk, Seward, Shields, Thompson of Kentucky, Thomson of New Jersey, Wade, Wells, and Wright—30.

NAYS—Messrs. Benjamin, Bright, Clay, Dodge of Iowa, Fessenden, Fitzpatrick, Hamlin, Hunter, Jones of Iowa, Mason, Slidell, Stuart, Sumner, Toucey, and Weller—15.

So the bill was passed.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. FORNEY, their Clerk, announced that the Speaker had signed an enrolled bill to change the names of the American-built vessels J. H. Holmes and Franklin Pierce; which was thereupon signed by the President *pro tempore*.

JUDICIAL SYSTEM.

Mr. TOUCEY. The Committee on the Judiciary have instructed me to report a bill establishing a circuit court of the United States in and for the State of California.

The bill was read the first time, and ordered to a second reading.

JAPAN EXPEDITION.

Mr. MASON. On Friday last, on my motion, the usual number of the correspondence and documents relating to the Japan expedition, was ordered to be printed. It has been strongly impressed on me since, that we should print an additional number. I ask, in order that it may not be referred to the Committee on Printing, the unanimous consent of the Senate to move that five thousand additional copies be printed. I have consulted two members of the Committee on Printing, and they assent to it.

There being no objection, the motion was agreed to.

SENATE BILLS BECOME LAWS.

A message was received from the President of the United States, by Mr. WEBSTER, his Secretary, announcing that he had approved and signed the following joint resolutions:

Joint resolution relative to the construction of laws for the allowance of additional compensation to the clerks in the Census Bureau;

Joint resolution respecting the Arctic expedition commanded by passed assistant surgeon E. K. Kane.

HOUSE BILLS REFERRED.

During the pendency of the French spoliation bill, at the suggestion of Mr. RUSK, by unanimous consent, the Senate proceeded to consider, for the purpose of reference, the bills which had been received this morning from the House of Representatives.

The following bills were read twice by their titles, and referred to the Committee on Pensions:

A bill to amend an act entitled "An act for the relief of George M. Bentley, of the State of Indiana," approved August 5, 1854;

A bill for the relief of Thomas C. Ramsey, Ananias O. Richardson, and James McLaughlin;

A bill for the relief of William Brown;

A bill for the relief of James McIntire;

A bill for the relief of Solomon La Follett;

A bill for the relief of Elizabeth Foreman;

A bill for the further relief of Isaac Allen, of Turner, in the State of Maine;

A bill for the relief of Wyatt Griffith, of Washington county, in the State of Tennessee;

A bill for the relief of Paul S. Ridgway, of Ohio; and

A bill increasing the pension of Anthony W. Bayard, of Bellefonte, in the State of Pennsylvania.

The following bills and resolutions were read twice by their titles, and referred to the Committee on Military Affairs:

A joint resolution for the relief of George W. McCerren;

A joint resolution for the relief of John Dugan;

A bill for the relief of William G. Preston;

A joint resolution for the relief of James Hughes; and

A bill granting a pension to James McCormick.

The following bills were severally read twice by their titles, and referred to the Committee on Commerce:

A bill for the relief of John R. Bowes, agent in charge of the property of the United States at Michigan City, in the State of Indiana; and of Isaac F. Smith, of the city of Buffalo, New York; and

A bill to refund to the officers of the customs, and others, of the district of Passamaquoddy, certain moneys.

The following bills and joint resolution were severally read twice by their titles, and referred to the Committee on Claims:

A joint resolution in favor of William Monahan;

A bill for the relief of the children and grandchildren of Thomas Morris;

A bill for the relief of Medford Caffey, of the State of Tennessee;

A bill for the relief of the widow of W. Irving, deceased;

A bill for the relief of William Haggerty; and

A bill for the relief of Thomas S. J. Johnson, of the Territory of New Mexico.

The following bills were read twice by their titles, and referred to the Committee on Private Land Claims:

A bill for the relief of George Bush, of Thurston county, Washington Territory;

A bill for the relief of James P. Roan; and

A bill confirming a land claim to Elijah White, of the Territory of Washington.

The following bills were read twice, and referred to the Committee on the Judiciary:

A bill for the relief of Frederick Griffing; and

A bill for the relief of Joseph Ridgway.

The following bills were read twice by their titles, and referred to the Committee on Naval Affairs:

A bill for the relief of the legal representatives of William A. Christian;

A bill for the relief of Sarah Morris, only heir of Robert Mitchell, deceased; and

A bill for the relief of Rebecca Winn, widow and executrix of the last will and testament of Timothy Winn, deceased, late a purser in the Navy of the United States.

The following bills were read twice by their titles, and referred to the Committee on Public Lands:

A bill for the relief of Henry H. Marsh; and

A bill to establish the office of surveyor general of Utah, and to grant land for school and university purposes.

The bill for the relief of Samuel A. Belden & Co. was read twice by its title, and referred to the Committee on Foreign Relations.

The bill for the benefit of the heirs of Philip R. Rice, deceased, was read twice by its title, and referred to the Committee on Revolutionary Claims.

DON B. JUAN DOMERCQ.

Senate bill for the relief of Don B. Juan Domercq, a Spanish subject, was returned from the House of Representatives with an amendment, to add at the end of the bill, "in full satisfaction of any claim upon the Government of the United States."

The amendment was concurred in.

WILLIAM VAN WART.

The bill of the Senate for the relief of the heirs-at-law of William Van Wart, deceased, was returned from the House with an amendment, striking out the words "heirs-at-law," and inserting "children."

The amendment was concurred in.

FRENCH SPOLIATION BILL.

Mr. HAMLIN. I move to postpone the prior orders, for the purpose of taking up the bill from the House of Representatives, to provide for the ascertainment and satisfaction of claims of American citizens, for spoliations committed by the French prior to the 31st of July, 1801.

Mr. STUART. I fear we cannot dispose of that bill to-day; and I hope the Senator will not insist upon the motion, but will allow us to take up the bill which I reported this morning from the Committee on Public Lands.

Mr. HAMLIN's motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. HAMLIN. I move to postpone the further consideration of the bill until half-past twelve to-morrow, and make it the special order for that hour.

Mr. STUART. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. HAMLIN. I desire to say that I have made this motion, because the Senator from New Hampshire [Mr. WELLS] intimated to me that he desired to address the Senate on this bill; and at this late hour I do not suppose, either that he would desire to address the Senate, or that the Senate would wish to hear him. I confess that I would gladly sit here until the rising of the sun to-morrow morning to close up this question; but I have made the motion only because I knew the Senator from New Hampshire desires to address the Senate.

Mr. SEWARD. He is a new member.

Mr. MASON. I move that the Senate adjourn.

Mr. BRODHEAD. I hope not. I trust we shall have an Executive session.

The motion was not agreed to; there being, on a division—ayes 17, noes 24.

The PRESIDING OFFICER. The question is on the motion of the Senator from Maine, to postpone the further consideration of this bill until half past twelve o'clock to-morrow, and make it the special order for that hour.

Mr. CASS. I hope that every Senator who feels as I do in respect to the great objects of internal improvement, provided for in bills before the Senate, will vote against assigning this bill as the order of the day for to-morrow. I shall vote against the bill, although I am not going to throw any difficulty in its way; but I do consider the other bills to which I have alluded, as vastly more important to the people of the United States.

Mr. PRATT. I am as decidedly in favor of the bills of internal improvement, to which the Senator from Michigan has referred, as he can be; but, as I shall vote in opposition to him on this question, I desire to say that I consider that the true friends of internal improvement, those who desire to bring up the bills on this subject, will vote with me to have this question disposed of. It has sufficient friends here, and sufficient friends outside the Hall to press it upon our consideration, and to induce Senators to vote to have it up every day until disposed of. The honorable Senator from Michigan is opposed to the bill. I am in favor of it; and I am equally in favor of the bills of internal improvements which he has indicated. I think the true object of those who want practical legislation at the present session is, to have a vote upon this subject, and have it disposed of one way or the other.

Mr. CASS. I cannot conceive of any possible ground why this measure should have the precedence over the bills to which I have alluded.

Mr. STUART. I shall not detain you at this time. I asked for the yeas and nays on this motion, without any knowledge of the fact that the Senator from New Hampshire desired to speak on the question. If the Senator from Maine had made that suggestion when he made his motion, I should have consented to it, because I would not insist that any Senator should speak to-night upon this bill, and especially an honorable Senator situated as that one is. But, sir, I made the objection because I saw, or thought I saw, that there was a disposition to prevent anything being done, except what certain Senators wanted to do. I saw no difficulty whatever, if certain Senators wished to do a thing, in doing it, and the Senator from Maine would yield; but when I asked to have a bill taken up of very great importance, as I thought, he would not yield to me at all. This bill, therefore, would simply be kept in the way, and the power of the Senate was about to be applied to keep it in the way; that is to say, they would not allow fifteen minutes to consider a bill which could be considered and passed, but they would take up this and adjourn upon it. Now, for the purpose of allowing the Senator from New Hampshire to speak on this question in the morning, I shall vote for the motion to postpone, although I think the hour assigned for that Senator a very improper one. I think it would have been much better to say one o'clock, and give us the morning hour for other business.

The PRESIDING OFFICER. The call for the yeas and nays can be withdrawn by the unanimous consent of the Senate, but not otherwise.

There being no objection, the call was withdrawn.

Mr. HAMLIN. I modify my motion, so as

to make the bill the special order for one o'clock to-morrow.

The motion was agreed to.

MAIL STEAMERS ON THE PACIFIC.

Mr. GWIN. I ask the unanimous consent of the Senate to introduce a bill, of which previous notice has not been given, "to establish a semi-monthly line of steamships from San Francisco, in the State of California, to Puget's Sound in the Territory of Oregon," with a view to its reference.

Leave was granted, and the bill was read a first and second time by its title.

Mr. GWIN. I move to refer the bill to the Committee on the Post Office and Post Roads. And, sir, to show the committee the great importance of the bill to the Pacific coast, I will read to the Senate two communications from the members of the two Houses from that section of the Union, and call the special attention of the committee to the subject:

HOUSE OF REPRESENTATIVES, *February* 3, 1855.

SIR: The mail service between San Francisco and the head of Puget's Sound, including some dozen or more points, of more or less importance on the Sound, and on the coasts of Washington, Oregon, and California, is, as you are well aware, entirely inadequate.

The service of the Pacific Mail Steamship Company, which, from various causes, is very irregular between San Francisco and Astoria, embraces but one point between those places, Port Oxford. And by the contracts of that company, but one *other* intermediate point can be included in their service. Humbolt Bay, Trinidad, and Crescent city, in California, and Umpqua, in Oregon, are consequently dependent on occasional steamers, or sailing vessels, as opportunity offers, for mails to and from San Francisco and the Atlantic States. These are the trading posts of a rich and extensive mining region in California and Oregon, and Humbolt Bay maintains a large and profitable trade in lumber and heavy timber. To deprive the people in that section of mail facilities, or to extend to them, as is now done, an irregular, inefficient service, is a very great hardship.

The citizens of Washington Territory have also strong reason to complain of the neglect of the Government with respect to mail facilities, The bulk of population in that Territory is, and will likely continue on and in the vicinity of Puget's Sound.

The mails for Olympia—the head of the Sound—from California and the Atlantic States, are taken to Astoria by the steamers of the Pacific Mail Steamship Company. Thence they are conveyed by steamboat to Ranier, a distance of fifty (50) miles; thence across the Columbia, and up the Cowlitz river, some thirty-five (35) miles, to Cowlitz landing; and thence to Olympia, a distance of fifty-seven (57) miles.

The Cowlitz river is not navigable, and is a rapid stream, subject, at certain seasons, to heavy freshets. The mails are carried up this river in an Indian canoe, and from the Landing to Olympia, and thence to Steilacoom, and other points lower down the Sound on horseback. The country between these several points is without roads, or bridges over the sloughs and streams, and difficult to travel.

The usual time for the mails between Astoria and Olympia is four days, even when there is a regular connection with the San Francisco steamer at Astoria, and regular connection, also, at Ranier. The time is often longer, especially when the Columbia river is frozen above Astoria in winter, and the Cowlitz swollen by floods.

Governor Stevens, in his first message to the Legislative Assembly of Washington, states the fact, that "for *six weeks* during the last winter," owing to these defective mail facilities, the "Territory was without communication with the Atlantic States," and that, in the interval, sailing vessels brought information from San Francisco. That was an extraordinary case of mail failure, it is true; yet it forcibly exhibits the total inefficiency of the present mail service via the Columbia and the Cowlitz, and overland to the Sound. Besides these objections to the present service, there is the further objection, that it leaves all the points on the coast of Washington, and on the Sound, from Cape Flattery to its head, almost, if not entirely, destitute of mails.

Puget's sound and its vicinity not only afford an extensive and fertile agricultural region, but are rich in timber and coal-fields. Population is on the increase, and the lumber and coal trade with San Francisco is daily growing in importance. The settlement of the Territory would be greatly facilitated, and its trade rapidly increased, if the means of reaching the country were provided by the extension of the mail service between Panama and Astoria to Olympia. Such an extension of that service Congress directed by the post-route act, at the second session of the Thirty-Second Congress. The words of the act are: "The mail route from Panama to Astoria is hereby extended to Fort Steilacoom and Olympia, on Puget's Sound;" thus looking to the mail service by sea in steamers.

In conformity with the laws of Congress, the Postmaster General, by advertisement, under date of October 13, 1853, invited proposals for carrying the mails on the following route, embracing the service in which California, Oregon, and Washington are equally interested:

"12502. From San Francisco, by Gray's Harbor, in Oregon, and Olympia, to Steilacoom, nine hundred and fifty miles and back, once a month.

"Leave San Francisco on the 20th of each month;

"Arrive at Steilacoom by the 29th;

"Leave Steilacoom on the 4th of each month;

"Arrive at San Francisco by the 13th;

"Proposals, including the supply of Trinidad, California, Umpqua City, Oregon, or Astoria, Oregon, or all of them, will be considered; also, proposals to run only as far as Gray's Harbor."

Proposals were received from responsible parties, at a fair rate for such an extended service. The Postmaster General, however, declined to make a contract, on the ground that the expenses of the Post Office Department for mail service must be reduced within the lowest practicable sum; and further, that *this* service was not indispensable.

The motives which influenced the decision of the Department were undoubtedly correct, but based on erroneous opinions, and a mistaken public policy. Governor Stevens, of Washington; Governor Davis, of Oregon; the Senators and Representatives of California, and the Delegates from Oregon, and Washington, urged the importance and necessity of the service. The Legislature of California, and the Legislative Assembly of each of the Territories, have earnestly memorialized Congress in its favor, and the people and press of the Pacific are clamorous for its establishment.

All these influences having failed with the Post Office Department, justice to the Pacific coast, to Washington and Oregon Territories, and to California, suggests and requires an appeal to Congress. This appeal, unless it be intended to deny to us mail facilities extended to every other section, will not, we are confident, be in vain.

We have, therefore, to request you to procure the enclosed amendment to be made to the Post Office appropriation bill now before the Senate. It merely provides that the mail service established by Congress to meet the wants of the Pacific coast, or so much of it as may be necessary, shall be put in immediate operation.

The cost of the service semi-monthly, even *if the whole service advertised by the Department* be contracted for, will not exceed a fair standard of economy. It will cost less, indeed, than any similar service of the same extent, and supersede the necessity almost of any further mail service for Washington Territory. And the service is as important to the Government as to the people of the Pacific coast. Our Indian relations, military establishments, land offices, and custom houses in Oregon and Washington cannot be efficiently managed unless there be reliable and regular mail communication between the Executive Departments and those distant Territories. Such facilities do not now exist, and cannot be otherwise provided than in the manner we propose. And independently of these considerations we deem it to be the duty of the Government to contribute at least so far towards their settlement.

It is unnecessary to say more to you with reference to this measure of necessity to our Pacific section. Nor do you, or your respected colleague in the Senate, require any prompting in its behalf, especially as it will confer the same benefits on California as on those we represent. You are, however, a member of the Committee on Finance in the Senate, to which the bill, it is desirable to amend as we suggest, has been referred. Our only object, therefore, in addressing you this communication, is to show the Senate's committee, and the Senate itself, that we have a valid claim to the favorable intervention of Congress; that we make no ill-tempered or discourteous protest against the action of the Postmaster General; and that all the representatives of the Pacific coast unite in asking Congress to do justice to their people.

We would further remark, that while authority to establish the service advertised by the Postmaster General had been twice conferred by Congress at the last session, another route was authorized, "From San Francisco via Trinidad and Crescent city (by sea) to Humbolt Bay." The amendment we furnished you for the post office appropriation bill, should it become a law, will provide this service, and do away with the necessity for the separate route above mentioned.

Our effort would have been made to amend the bill as we propose in the House of Representatives, but for other engagements of the Delegate from Washington, who had it more especially in charge.

We enclose you the copy of a letter on this subject, which was addressed to the Postmaster General during the last session of Congress by the Senators and Representatives of California, the Delegates from Oregon and Washington, and Governor Stevens.

We have the honor to be, very respectfully,

COLUMBIA LANCASTER,
JOSEPH LANE.

HON. WILLIAM M. GWIN, *United States Senate.*

WASHINGTON, *July* 15, 1854.

SIR: The undersigned would respectfully but earnestly urge upon the Post Office Department, the necessity of providing an efficient mail service between San Francisco and Olympia, in the Territory of Washington, including all accessible points intermediate on the coast of California and Oregon.

There is no mode of supplying the people of Washington Territory, and of the northern coast of California and lower Oregon with the mails except by ocean steamers. This entire country, especially Washington Territory, is now without proper mail facilities. Between San Francisco and Olympia there is no direct communication except by sailing vessels.

There is, we believe, no want of power in the Postmaster General to interfere with the establishment of such a mail service—the authority having been conferred by Congress some two years ago, and proposals received therefor by the Department at the last letting of mail contracts.

The necessity for the service is clear, and it can only be made efficient by the employment of a steamship of great strength and speed, with a light draught of water.

We have the honor to be, very respectfully, your obedient servants,

COLUMBIA LANCASTER,
JOSEPH LANE,
J. A. McDOUGALL,
JOHN B. WELLER,
WM. M. GWIN.

HON. JAMES CAMPBELL, *Postmaster General.*

I concur fully with the views set forth in the preceding memorial.

As regards Washington Territory, I can speak from intimate personal and official experience. And I am, moreover, satisfied that before a mail service by steamers, even with promptitude, can be put in operation, the business of Washington Territory will fully authorize the extension of the mail facilities asked.

ISAAC J. STEVENS,
Governor Territory Washington.

The bill was referred to the Committee on the Post Office and Post Roads.

INDIAN AFFAIRS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, in reference to the execution of the act of July 31, 1854, in relation to the removal of the California Indians, which was referred to the Committee on Indian Affairs, and ordered to be printed.

Also, a message from the President of the United States, communicating a recommendation from the Secretary of the Interior for certain appropriations for the Indian department; which was referred to the Committee on Indian Affairs, and ordered to be printed.

PURCHASERS OF SWAMP LANDS.

Mr. STUART. I ask the Senate now to take up the bill which I reported this morning, for the relief of purchasers and locators of swamp and overflowed lands. It is a House bill, which has been reported with an amendment of but five or six lines, and it is very important that it should be sent to the other House immediately, if it is to be acted on during the present session.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Its object is to direct the President of the United States to cause patents to be issued, as soon as practicable, to the purchaser or purchasers, locator or locators, who have made entries of the public lands claimed as swamp lands, either with cash, or with land warrants, or with scrip, prior to the issue of patents to the State or States, as provided for by the second section of the act approved September 28, 1850, entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits." Upon due proof by the authorized agent of any State, before the Commissioner of the General Land Office, that any of the lands purchased or located were swamp lands, within the true intent and meaning of the act of 1850, the purchase money is to be paid over to the State; and where the lands have been located by warrant or scrip, the State is to locate a quantity of like amount upon any of the publi lands subject to entry at $1 25 per acre, or less.

The Committee on Public Lands reported it with an amendment to add at the end of the first section, the following:

Provided, That the proper authorities of the State in which any such lands are situated, shall first release and surrender, in such form as the Secretary of the Interior shall prescribe, all claims to the lands so purchased or located; and no patent shall be issued to any such purchaser or locator until the required surrender shall have been made.

The amendment was agreed to, the bill was reported to the Senate, the amendment was concurred in and ordered to be engrossed, and the bill to be read a third time. The bill, as amended, was read a third time, and passed.

On motion the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *February* 5, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of Saturday was read and approved.

NEW ORLEANS CUSTOM HOUSE.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting a tabular statement of the subsidence of the walls of the New Orleans custom-house, and the report of the superintendent upon the subject. Also, a communication from the Treasury Department, in reference to the profits of coinage at the Mint during the year 1854; which communication and report were laid on the table, and ordered to be printed.

Mr. CLINGMAN. I call for the regular order of business.

SPECIAL ORDERS.

The SPEAKER. The regular order of business is the consideration of the following resolution:

Resolved, That the 7th day of February next be set apart for the consideration of business of a public character, reported, or to be reported, by the Committee on the Judiciary.

Mr. STANTON, of Tennessee. I understand that the chairman of the Committee of Ways and Means [Mr. HOUSTON] desires the 7th day of this month to make a trial in reference to the tariff bill; and, if it be acceptable to the House, I will amend the resolution by inserting the 8th day, instead of the 7th.

The SPEAKER. If there be no objection the alteration will be made, and if objected to the resolution will be open to amendment by the House.

There being no objection the alteration was made.

WEST FELICIANA RAILROAD COMPANY, ETC.

Mr. HILLYER. I rise to ask the unanimous consent of the House to discharge the Committee of the Whole House from the further consideration of the bill of the Senate (No. 256) for the relief of the West Feliciana Railroad and Georgia Railroad and Banking Companies.

My colleague [Mr. REESE] desires the House to indulge him in making an explanation, and I yield the floor to him for that purpose.

The SPEAKER. That can only be done by unanimous consent.

No objection being made,

Mr. REESE said: My colleague [Mr. HILLYER] has made several efforts to get this bill before the House for the purpose of disposing of it. The report of the committee, which reported this bill, sets forth very fully all the material points in the case, and it seems to me that my colleague has so frequently referred to all the important points in it, in the short addresses he has heretofore made to the House, that the whole matter must be understood by it.

It is a bill for the relief of two companies, by reimbursing them certain duties paid on railroad iron. Under the law of 1832, iron imported for the purposes of railroads, should come in duty free. Under the operation of that law the Georgia Railroad Company, and various other companies in Georgia, commenced their railroads. They commenced in 1835, as did also companies in Louisiana, among others the West Feliciana Railroad Company. But the financial embarrassment of the country during 1837 and 1838, and even up to 1840, prevented them from completing their roads as early as they had a right to expect. The roads were commenced under full belief that they (the companies) would have no duty to pay upon the iron used. They were, however, unable to get the iron in under the operation of that law, [1832,] and in 1843 Congress passed a law extending the law of 1832 to 1844, during which time, and during the year 1843 and the first part of the year 1844, the iron was imported and laid down upon the road. This will be made satisfactorily to appear to the Secretary of the Treasury, before he will be under any obligation, by the bill, to make any repayment of duties.

As an evidence that the road was finished in 1844—the law was to expire in March, 1842—during the session of Congress in 1844, this railroad company applied to Congress to have the duties which they had paid remitted to them, showing that the road was completed, and that the iron was laid down within a very short period after the expiration of the law of 1843.

The same privileges have been extended to other roads similarly situated—to the Central Railroad of Georgia, to the Monroe Railroad Company, and to a railroad company in Pennsylvania.

Some gentleman stated the other day, that he was opposed to class legislation. I can assure the House that there are no other roads that can come in and ask the benefit of the provisions of this bill. There are no other railroads which commenced their operations during the existence of the law of 1832 which have not been released, and consequently there is no danger that the House, or the country, will be troubled by applications from other companies for relief of this kind.

I hope, therefore, the House will take up this bill, and particularly on account of my colleague, [Mr. HILLYER,] whose constituents are directly interested in this bill, and who is about to leave the city in a few days, and will not be able to be here when the bill will come up, if it retains its regular place upon the Calender.

I will say further that this is a peculiarly hard case. This bill has been pending for the last eleven or twelve years, and has passed the Senate again and again. At the last session of Congress, after a thorough investigation, it passed the Senate without a dissenting voice. I hope the House will now pass it.

Mr. HILLYER. I now ask the unanimous consent of the House to discharge the Committee of the Whole House from the further consideration of the bill.

Mr. LILLY. I object.

Mr. HILLYER. I move that the rules be suspended, to enable me to introduce a motion to that effect.

The SPEAKER. There is already a proposition to suspend the rules pending, and until that is disposed of, another similar motion is not strictly in order. The rules were suspended last Monday for the purpose of introducing this proposition.

Mr. STANTON, of Tennessee. It is necessary to alter the resolution so as that it will read, February instant.

The correction was so ordered.

The question was put on the resolution; and upon a division of the House, there were—ayes eighty-nine, noes not counted.

Mr. OLDS. I demand the yeas and nays on the passage of the resolution.

Mr. SKELTON. Is it in order to amend the resolution at this stage of the proceedings?

The SPEAKER. It is in order.

Mr. SKELTON. Then I shall make one. I move to amend the resolution so that it will read: That each of the standing committees of this House, in the order in which they stand, shall have one day set apart for the consideration of the business which may be reported from it.

Mr. JONES, of Tennessee. How many standing committees are there?

The SPEAKER. There are thirty-nine standing committees.

Mr. JONES. And there are, including to-day, twenty-four days still remaining of this session. [Laughter.]

Mr. DAVIS, of Indiana. We can have an extra session under the resolution. [Renewed laughter.]

The question was taken; and the amendment was rejected.

Mr. BOCOCK. I move to add to the resolution these words:

And that Tuesday next, the 13th of February, be set apart for the consideration of all bills of a public character from the Committee on Naval Affairs.

Mr. STANTON. Mr. Speaker, I rise to a question of order.

The SPEAKER. The Chair thinks that the resolution is amendable.

Mr. STANTON. I called for the previous question on the resolution a few moments ago, and while that call is pending, the resolution is not amendable.

The SPEAKER. The Chair did not hear, nor entertain the call for the previous question, or amendments would be ruled out of order.

Mr. STANTON. I call for the previous question now.

The call for the previous question received a second, and the main question was ordered to be now put.

Mr. JONES, of Tennessee. Let us have the yeas and nays on the question.

The yeas and nays were ordered.

Mr. JONES, of Tennessee. Have the yeas and nays been ordered on the resolution, or on the resolution and amendment?

The SPEAKER. They have been ordered on the resolution and amendment.

Mr. JONES. It takes two thirds to adopt the amendment.

The SPEAKER. It will take two thirds to adopt the resolution after it is amended.

Mr. JONES. The rules were suspended for the introduction of the resolution, but not for the introduction of amendments relating to other business.

The SPEAKER. If the question had been raised the Chair might have ruled the amendment out of order, relating, as it does, to the business of a committee distinct from that of the original resolution.

Mr. JONES. The gentleman from Ohio, I think, only called for the yeas and nays on the adoption of the resolution.

Mr. OLDS. I only want the yeas and nays on the adoption of the resolution.

The SPEAKER. Then, if the yeas and nays are not desired on the amendment, the question will be now taken on it, without them.

The question was taken, and the amendment submitted by Mr. BOCOCK was adopted.

The question was taken on the resolution as amended; and it was agreed to—yeas 126, nays 43; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, Appleton, Ashe, Thomas H. Bayly, Barksdale, Belcher, Benson, Bliss, Bocock, Breckinridge, Bristow, Campbell, Caruthers, Caskie, Chamberlain, Chandler, Chastain, Chrisman, Clark, Clingman, Cox, Cullom, Curtis, Cutting, John G. Davis, Thomas Davis, Dawson, Disney, Dunbar, Eastman, Eddy, Edgerton, Thomas D. Eliot, John M. Elliott, Ellison, Everhart, Farley, Fenton, Flagler, Franklin, Fuller, Giddings, Green, Greenwood, Grey, Hastings, Haven, Hibbard, Hiester, Hillyer, Howe, Hunt, Ingersoll, Johnson, Roland Jones, Keitt, Kerr, Lamb, Lane, Letcher, Lindley, Lyon, McCulloch, Macdonald, McDougall, McNair, Mace, Maxwell, Mayall, Smith Miller, Morrison, Nichols, Noble, Mordecai Oliver, Parker, Peck, Peckham, John Perkins, Powell, Pratt, Pringle, Puryear, Ready, Reese, Richardson, Riddle, David Ritchie, Thomas Richey, Robbins, Rogers, Ruffin, Russell, Seward, Seymour, Shannon, Shaw, Shower, Simmons, Skelton, Samuel A. Smith, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Andrew Stuart, John J. Taylor, Teller, Thurston, Tracy, Trout, Tweed, Upham, Vansant, Wade, Walker, Walley, Warren, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Westbrook, Wheeler, Hendrick B. Wright, and Yates—126.

NAYS—Messrs. Ball, Banks, Bennett, Bridges, Carpenter, Cobb, Cook, Corwin, Craige, Etheridge, Gamble, Grow, Hamilton, Aaron Harlan, Andrew J. Harlan, Wiley P. Harris, Henn, Hill, Houston, Hughes, Daniel T. Jones, George W. Jones, J. Glancy Jones, Kittredge, Knox, Kurtz, Lilly, Lindsley, McQueen, Matteson, Morgan, Norton, Olds, Andrew Oliver, Pennington, Phelps, Rowe, Sabin, Sage, Sapp, John L. Taylor, Walsh, and Zollicoffer—43.

So (two thirds voting in the affirmative) the resolution, as amended, was adopted.

Mr. STANTON, of Tennessee. I move to reconsider the vote by which the resolution was adopted, and to lay that motion upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

Here a message was received from the Senate, by the hand of ASBURY DICKINS, Esq., their Secretary, notifying the House, that that body had passed a bill to promote the efficiency of the Navy, and sundry private bills, in which it asked the concurrence of the House.

WEST FELICIANA AND GEORGIA RAILROAD AND BANKING COMPANIES—AGAIN.

Mr. HILLYER. Mr. Speaker, I now renew my motion to suspend the rules, for the purpose of discharging the Committee of the Whole House from the further consideration of Senate bill (No. 256) for the relief of the West Feliciana Railroad and the Georgia Railroad and Banking Companies.

Mr. ETHERIDGE. I move an amendment, which I hope may be accepted by the gentleman from Georgia. In addition to his motion, I ask that the Committee of the Whole House on the Private Calendar be discharged from the further consideration of the joint resolution for the relief of Joel Henry Dyer. The amendment will give his motion a great deal of strength on this side of the House. [Laughter.] The joint resolution to which I refer, I can say to the House, is all right.

Mr. HILLYER. I do not want to embarrass my motion, and therefore decline accepting the gentleman's amendment.

The question was taken on the suspension of the rules, for the purpose of discharging the Committee of the Whole House; and two thirds voting in the affirmative, they were suspended.

The question was taken on discharging the Committee of the Whole House from the further consideration of the bill; and it was agreed to.

Mr. ETHERIDGE. I would ask the Chair whether my amendment is now in order?

The SPEAKER. It is not in order. Besides, the gentleman from Georgia declines to accept it.

Mr. HILLYER. I call for the previous question on the third reading of the bill.

The call for the previous question received a second, and the main question was ordered to be now put.

The bill was read *in extenso*. It directs the Secretary of the Treasury to refund to the West

Feliciana Railroad Company the amount paid by them on judgments obtained against said company by suits instituted on duty bonds given by said company for the importation of certain bars of railroad iron imported at New Orleans in July, 1836, and at New York, in the same month of the same year.

The second section makes a similar provision in reference to the Georgia Railroad and Banking Company.

The bill was ordered to be read a third time, and it was read a third time.

Mr. HILLYER. I call for the previous question on the passage of the bill.

Mr. LAMB. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The call for the previous question received a second, and the main question was ordered to be now put.

Mr. JONES, of Tennessee. Is the motion to go into the Committee of the Whole on the state of the Union not in order?

The SPEAKER. It would not be in order, for the reason that the main question has been ordered upon the passage of the bill called up by the gentleman from Georgia.

The question was taken upon the passage of the bill; and decided in the affirmative—yeas 109, nays 55; as follows:

YEAS—Messrs. Aiken, Appleton, Ashe, Thomas H. Bayly, Barksdale, Barry, Benton, Bocock, Boyce, Bridges, Bristow, Bugg, Campbell, Carruthers, Caskie, Chastain, Clingman, Cook, Corwin, Craige, Cullom, John G. Davis, Thomas Davis, Dunbar, Eastman, Edgerton, Edmunds, Thomas D. Eliot, John M. Eliott, Etheridge, Everhart, Farley, Franklin, Green, Greenwood, Grey, Andrew J. Harlan, Wiley P. Harris, Haven, Hiester, Hillyer, Howe, Hunt, Ingersoll, George W. Jones, Keitt, Kerr, Kidwell, Knox, Latham, Letcher, Lindley, McDougall, McMullin, McQueen, Matteson, Mayall, Noble, Mordecai Oliver, Orr, Parker, Peckham, Pennington, John Perkins, Phelps, Pringle, Puryear, Ready, Reese, David Ritchie, Thomas Ritchey, Robbins, Rogers, Rowe, Ruffin, Russell, Sabin, Sage, Seward, Seymour, Shannon, Shaw, Shower, Simmons, Singleton, Samuel A. Smith, George W. Smyth, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Andrew Stuart, John L. Taylor, Teller, Thurston, Tracy, Tweed, Upham, Vansant, Wade, Walley, Warren, Elihu B. Washburne, Wells, John Wentworth, Westbrook, Daniel B. Wright, and Yates—109.

NAYS—Messrs. Willis Allen, Banks, Belcher, Bennett, Benson, Carpenter, Chase, Clark, Cobb, Cox, Curtis, Dawson, Disney, Ellison, Fenton, Flagler, Fuller, Gamble, Goodwin, Grow, Hamilton, Aaron Harlan, Hastings, Hendricks, Henn, Hibbard, Houston, Daniel T. Jones, J. Glancy Jones, Kurtz, Lamb, Lane, Lilly, Lindsley, Lyon, McCulloch, Macdonald, McNair, Middleswarth, Millson, Morgan, Morrison, Murray, Norton, Andrew Oliver, Sapp, Skelton, Straub, John J. Taylor, Trout, Walker, Walsh, Wheeler, Witte, and Hendrick B. Wright—55.

So the bill was passed.

Mr. HILLYER moved that the vote by which the bill was passed be reconsidered, and that the motion to reconsider be laid upon the table; which latter motion was agreed to.

RESOLUTIONS OF ARKANSAS.

Mr. WARREN. I have received five resolutions from the Legislature of Arkansas, for the establishment of various mail routes, and in regard to the mail service in that State, which I move be referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

The question was taken, and the motion was agreed to.

Mr. WARREN. I have received another resolution of the Legislature of Arkansas, to secure the continuance of the navy-yard at Memphis, which I ask may be read, referred to the Committee on Naval Affairs, and ordered to be printed.

The resolution states that, whereas Congress, at its last session, donated to the city of Memphis the navy-yard which had been built up and established there at a cost to the Government of $1,000,000; and the city had resolved to reconvey the same to the United States, conditioned that it should be made a naval depot for the construction and repair of vessels of war: and whereas, the Secretary of the Navy had postponed the sale of the equipments and movable property at the yard, it was resolved by the General Assembly of Arkansas that they commend the patriotism and liberality of the citizens of Memphis in thus divesting themselves of such a munificent gift; that the establishment of a naval depot on the Mississippi river, for the construction and repair of vessels of war is, as has been shown by Lieutenant Maury, and other distinguished officers of the Navy, of vast importance to our national defense; and that each of their Senators be instructed, and each of their Representatives requested, to use all proper exertions to procure the acceptance of the yard by the Government.

The question was taken; and the resolution was referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. WARREN. I have also received two resolutions from the same Legislature in regard to grants of the public land for railroad purposes, which I ask may be referred to the Committee on Public Lands, and ordered to be printed.

The resolutions commend the policy of granting lands for railroad purposes as a wise one, and instruct the Senators, and request the Representatives in Congress, to ask for a donation of the public lands, to aid in the construction of railroads from the southwestern part of Missouri, through the counties of Benton, Washington, and Crawford, in Arkansas; thence along the western border of said State, to the Texas boundary; and from the Missouri line, through the counties of Green, Poinsett, Saint Francis, and Phillips, to Helena, on the Mississippi river.

The question was taken; and the resolutions were referred to the Committee on Public Lands, and ordered to be printed.

Mr. GREENWOOD. Mr. Speaker, the presentation and reference of the above resolutions from the Legislature of Arkansas by my colleague, renders it unnecessary for me to present and have referred the copies which I have received.

LIMIT OF DEBATE.

Mr. HOUSTON. I ask the unanimous consent of the House to introduce a resolution.

Mr. WHEELER. I call for the regular order of business, whatever it is, and object to everything out of order.

Mr. FLORENCE. Why, this kind of business is the regular order, is it not?

The SPEAKER. It is.

Mr. HOUSTON. I desire to offer the following resolution:

Resolved, That during the remainder of the present session all debate in the Committee of the Whole on the state of the Union shall be confined strictly to the discussion of the proposition under consideration, unless during such evening sessions as a majority of said committee order for the purpose of general debate.

Messrs. WHEELER, PRINGLE, WASHBURN, of Maine, and others, objected.

Mr. HOUSTON. I move to suspend the rules to enable me to submit the resolution.

Mr. JONES, of Tennessee. I demand tellers upon the motion.

Tellers were ordered; and Messrs. CLINGMAN, and SMITH, of Tennessee, were appointed.

Mr. CLINGMAN. This is a resolution to change the rules of the House. Is not one day's notice necessary?

The SPEAKER. The motion is to suspend the rules, which it is competent for the House to do.

The question was put; and the tellers reported—sixty-nine in the affirmative.

Mr. HOUSTON. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. McMULLIN. Is the proposition debatable?

The SPEAKER. It is a motion to suspend the rules, which is not a debatable motion.

The question was taken; and decided in the negative—yeas 103, nays 70; as follows:

YEAS—Messrs. Aiken, James C. Allen, Willis Allen, Appleton, Thomas H. Bayly, Barry, Belcher, Bennett, Benton, Boyce, Breckinridge, Bridges, Bristow, Chrisman, Clark, Cobb, Corwin, Cox, Craige, John G. Davis, Dawson, Disney, Dunbar, Dunham, Eastman, Eddy, Edgerton, Edmunds, Thos. D. Eliot, John M. Elliott, English, Faulkner, Florence, Franklin, Fuller, Gamble, Green, Greenwood, Grey, Hamilton, Andrew J. Harlan, Hastings, Haven, Hendricks, Henn, Hibbard, Houston, Ingersoll, Johnson, George W. Jones, J. Glancy Jones, Roland Jones, Kerr, Knox, Kurtz, Lamb, Lane, Latham, Letcher, Lindsley, Macdonald, McDougall, McQueen, Matteson, Maxwell, Smith Miller, Millson, Morrison, Noble, Norton, Olds, Andrew Oliver, Mordecai Oliver, Orr, Peck, John Perkins, Phelps, Ready, Richardson, Riddle, Thomas Ritchey, Rowe, Seymour, Shannon, Shaw, Shower, Skelton, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Straub, David Stuart, John J. Taylor, Thurston, Trout, Vansant, Walker, Walley, Walsh, Warren, Elihu B. Washburne, Wells, and John Wentworth—103.

NAYS—Messrs. David J. Bailey, Ball, Barksdale, Benson, Campbell, Carpenter, Caskie, Chastain, Clingman, Cullom, Thomas Davis, Ellison, Etheridge, Farley, Fenton, Flagler, Giddings, Goodwin, Grow, Aaron Harlan, Wiley P. Harris, Hiester, Hill, Howe, Hunt, Daniel T. Jones, Keitt, Kittredge, Lilly, Lindley, Lyon, McCulloch, McMullin, May, Mayall, Middleswarth, Morgan, Murray, Parker, Peckham, Pennington, Pringle, Puryear, David Ritchie, Rogers, Ruffin, Russell, Sabin, Sage, Sapp, Seward, Simmons, Singleton, Samuel A. Smith, William R. Smith, Sollers, Hestor L. Stevens, Andrew Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Tracy, Tweed, Upham, Wade, Israel Washburn, Tappan Wentworth, Wheeler, Witte, Daniel B. Wright, Hendrick B. Wright, Yates, and Zollicoffer—70.

So, two thirds not having voted in the affirmative, the rules were not suspended.

JOEL HENRY DYER.

Mr. ETHERIDGE. The House knows that I never consume their time. Now, sir, I propose that if they will allow me twenty minutes, I will not, if possible, ask for any more time until the end of the session.

[Cries of "Go on!" "Go on!" "No objection!"]

Mr. ETHERIDGE. I will be brief. In the first place, I will state, for the benefit of my Democratic friends, that I have in my hand a manuscript letter from General Jackson, which shows his appreciation of the services of the father of the memorialist, and his estimate of the character of the family. I ask the House to take up——

[Cries of "Read it!"]

Mr. ETHERIDGE. No, sir, I will not read it, unless the House desire specially to hear it. Early in the last session of Congress, I presented the memorial of Joel Henry Dyer, asking compensation for his services in the Seminole war. The papers were lost, and were never found until within the last week. The Committee on Military Affairs have unanimously reported a resolution to pay him what is due him. The bill has been referred to a Committee of the Whole House, but is so far down upon the Calendar that it will be impossible to reach it during the present session, in the regular order of business. I therefore propose to ask the House to discharge the committee from its further consideration.

In the year 1836 a brigade of volunteers was raised in the State of Tennessee, under General Armstrong, for the prosecution of the Seminole war. Alexander B. Bradford was elected colonel of a regiment of the brigade, and Joel Henry Dyer appointed by him judge-advocate of the regiment. After the campaign was over, the regiment was mustered out of service at New Orleans, and the paymaster-general refused to pay him one dollar, except what was due him as a *private*, owing to the fact that the office of judge-advocate was not recognized in the regular Army, although it was a part of the military system of Tennessee, and established by positive law. By the laws under which he was appointed, he expected to receive the pay of a captain of dragoons. The Committee on Military Affairs, however, only propose to allow him the pay of a lieutenant. The Treasury Department report that they are unable to fix the grade of judge-advocate. He has rendered eminent services to the country, and I hope the House will allow him to be paid what is due him.

I ask the unanimous consent of the House that the Committee of the Whole House may be discharged from the further consideration of the joint resolution.

There being no objection, the joint resolution was reported to the House and read *in extenso*.

It directs the payment to Joel Henry Dyer the sum of $820 43, in full satisfaction for his services, deducting the amount which said Dyer received as a private, while in the service of the United States.

Mr. WALSH. I object to the Committee of the Whole House being discharged.

Mr. ETHERIDGE. I move that the rules be suspended.

The question was put; and two thirds having voted in the affirmative, the rules were suspended, and the Committee of the Whole House discharged from the further consideration of the joint resolution.

Mr. ETHERIDGE. I move the previous question upon the engrossment of the resolution.

The previous question was seconded, and the main question ordered to be put.

The resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read a third time, and passed.

Mr. ETHERIDGE moved that the vote by which the resolution was passed be reconsidered, and that the motion to reconsider be laid upon the table; which latter motion was agreed to.

COMMUNICATION BETWEEN ALBEMARLE SOUND AND THE ATLANTIC OCEAN.

Mr. SHAW. I am willing to make a still more favorable compromise with the House than the gentleman from Tennessee [Mr. ETHERIDGE] proposed. He asked for twenty minutes time. I will be satisfied if the House will give me ten.

[Cries of "Agreed!" "Agreed!" "Go on!"]

Mr. SHAW. I desire the unanimous consent of the House, to enable me to make a motion to discharge the Committee of the Whole on the state of the Union from the further consideration of Senate bill No. 67. Before submitting that motion, however, I will, if the House will indulge me, make a very brief explanation.

Early in the last session, this bill came to this House from the Senate. The object of the bill is simply to amend the provisions of an act which passed Congress some two years ago. It makes no new appropriation. Not a single dollar is involved. It simply proposes a modification or change in the phraseology of an act which was passed two years ago. The bill came from the Senate, where it was passed without any opposition whatever. It was referred in this House to the Committee on Commerce, over which my friend from Maine [Mr. FULLER] presides with so much ability. After a thorough investigation upon the part of that committee, it was reported back to the House without amendment, and with a recommendation that it do pass. It was referred by the House to the Committee of the Whole on the state of the Union, but took a place so low down on the Calendar, that it will be impossible to reach it in the regular order of business. I ask the House to permit me to call the bill up, and put it upon its passage.

The SPEAKER. Is the proposition agreed to?

Mr. MILLSON. I object.

Mr. SHAW. Then I move to suspend the rules.

The question was taken; and (two thirds voting in favor thereof) the rules were suspended.

Mr. SHAW. I now move that the Committee of the Whole on the state of the Union be discharged from the further consideration of Senate bill No. 67, being an act to amend "An act making appropriations for the improvement of certain harbors and rivers," approved August 30, 1852.

The bill was read. It provides that the section of the act referred to in the above title, which reads, "For the reopening of a communication between Albemarle sound, North Carolina, and the Atlantic ocean, by the construction of a breakwater across Croatan sound, $50,000," be amended by striking out the words "by the construction of a breakwater across Croatan sound."

The question was then taken on Mr. SHAW's motion; and it was agreed to.

Mr. SHAW. I now ask that the bill may be put upon its passage, and I demand the previous question.

The SPEAKER. There is an amendment pending to the bill.

Mr. SHAW. Before I demand the previous question, I desire to move to strike out the amendment inserted by the Committee on Commerce, and I take occasion to say that I do it with the full knowledge and consent of the gentleman from Louisiana, [Mr. JONES,] at whose instance it was attached to the bill.

Mr. JONES, of Louisiana. I have no objection to the striking out of the amendment.

The SPEAKER. A vote will have to be taken on the amendment.

The previous question was then seconded; and the main question was ordered to be put.

The amendment, reported from the Committee on Commerce, was then read, as follows:

SEC. 2. *And be it further enacted*, That the act approved August 30, 1852, entitled "An act making appropriations for the improvement of certain harbors and rivers," and a joint resolution approved January 7, 1853, entitled "A resolution explanatory of the act appropriating money for the removal of the raft in Red river," be, and the same are hereby, so amended and modified as to authorize the Secretary of War to expend the $100,000 appropriated in the acts above referred to, either by contracts or otherwise, in such manner as he may deem best calculated to improve the navigation of Red river in the region of said raft: *Provided*, That nothing herein contained shall be construed to authorize any cut-off or diversion of the channel of the river, without the consent of the adjoining proprietor or proprietors.

Mr. JONES, of Louisiana. A provision similar to that amendment was passed at the last session of Congress; and I would, therefore, ask the unanimous consent of the House to withdraw it.

The SPEAKER. The House can vote down the amendment.

The question was then taken; and the amendment was disagreed to.

The bill was ordered to be read a third time; and it was accordingly read a third time.

Mr. SHAW. I demand the previous question on the passage of the bill.

The previous question received a second, and the main question was ordered to be put.

The bill was then passed.

Mr. SHAW moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

PUBLIC BUILDINGS AT MILWAUKIE.

Mr. WELLS. Mr. Speaker, I will not detain the House more than five minutes. I wish to ask the House to discharge the Committee of the Whole on the state of the Union from the further consideration of Senate bill No. 550, and I ask the unanimous consent of the House to make an explanation in regard to it.

Several MEMBERS. What bill is it?

Mr. WELLS. It is an act changing the appropriation for the erection of a building in the city of Milwaukie for custom-house, post office, and United States courts.

The SPEAKER. Perhaps it would be well to have the bill read for information.

Mr. WELLS. Before it is read, I should like to make some explanation, and to have a letter read from the Secretary of the Treasury.

Several MEMBERS. Let the bill be read.

The Clerk read the bill, which provides for a change in the plan for a public building in Milwaukie, so as to make it larger than that heretofore proposed, and also to increase the appropriation for the purpose to $88,000.

Mr. WELLS. I will state in explanation of the bill which has just been read, that there was appropriated at the last session of Congress $50,000, for the erection of a building in the city of Milwaukie, for post office, custom-house, and the United States courts. An officer has been sent on to purchase the ground and locate the building, and to investigate all matters connected with it. The building specified in the act of last session was only sixty feet in length, forty-five in width, and forty-eight in height, which is not as large as the building now used as a post office, and if the house is built of that size, it will not answer the purposes for which it was intended. Without detaining the House further, I ask for the reading of an extract of a letter to the Secretary of the Treasury on this subject.

The Clerk read as follows:

"I respectfully recommend that the offer of George D. Dousman for his lot at the corner of Milwaukie and Wisconsin streets, measuring one hundred and twenty by one hundred feet, for the sum of $12,200, be accepted. This lot is central and elevated, and the price is so low that it would command the sum asked at any moment. The commissioners fully concur in this selection.

"I beg leave to add that, in my opinion, the building authorized to be constructed in this city for custom-house and other purposes, would be inadequate for the present business of the different departments; the building at present occupied for the post office, is eighty-two by thirty-two feet; it does not afford sufficient accommodations for the business of the office."

Mr. WELLS. I now ask that the letter of the Secretary of the Treasury be read.

The letter was read, as follows:

TREASURY DEPARTMENT, *December* 21, 1854.

SIR: In compliance with the resolution of the House of Representatives of December 18, "requesting the Secretary of the Treasury to inform the House whether, in his opinion, the building authorized, by act of last session, to be erected at Milwaukie for a custom house, post office, and court room, is sufficiently large to accommodate properly those purposes," I have the honor to state that, in the opinion of this Department, the building so authorized is insufficient for the prospective business of the city of Milwaukie, and that it is barely sufficient for the present business of the post office, the main object to be accommodated in its erection.

I have, therefore, the honor to recommend that, instead of the brick building authorized at the last session, at an expense of $50,000, authority be given for the erection of a stone building, eighty-five by sixty feet, and sixty feet high from the foundation, thoroughly fire-proof, with floors constructed of iron beams and brick-work, iron roof, shutters, sills, &c., which, it is estimated, will cost $88,000; and that, in addition to that amount, ten per centum thereon be appropriated to cover the compensation of architects and superintendents, and for drawing plans, lithographing the same, and other contingent expenses.

I have the honor to be, very respectfully,

JAMES GUTHRIE,
Secretary of the Treasury.

Hon. LINN BOYD, *Speaker House of Representatives.*

Mr. WELLS. I ask that the bill in question be taken from the Committee of the Whole on the state of the Union and put upon its passage.

There being no objection, the bill was taken up and ordered to be read a third time; and being read a third time, was passed.

Mr. WELLS moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

SECRET POLITICAL ASSOCIATION.

Mr. WITTE. Mr. Speaker, I ask the unanimous consent of the House to enable me to introduce a preamble, and three short resolutions.

[Cries of "Read them!"]

The preamble and resolutions were reported, as follows:

Whereas, discussions have been indulged in this House in Committee of the Whole which, with other circumstances, lead to the conviction that there exists in this country an extensive secret oath-bound political association, which seems intended to interfere with the purity of election, and the legislation of the country, such an association has excited the fears, and induced the solemn warning of Washington in his Farewell Address: Therefore—

Resolved, That, in the opinion of this House, the existence of secret oath-bound political associations, having in view an interference with the sanctity of the ballot box and the direction of the course of national or municipal legislation, is inconsistent with, and dangerous to, the institutions of republicanism and directly hostile to the genius of this Government.

Resolved, That every attempt to proscribe any class of citizens on account of their religious opinions, or to favor or injure any religious denomination by national legislation, is in direct violation of the spirit of the Constitution of the United States.

Resolved, That while a careful and strict administration of the naturalization laws is a solemn duty, yet every interference with the guarantied rights of naturalized citizens, is inconsistent with the plighted faith of the nation, and must diminish its growth and prosperity.

Mr. MACE. I object.

Mr. WITTE. I move a suspension of the rules, for the purpose of enabling me to introduce these resolutions, and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. WITTE. I wish that the vote by which the motion to suspend the rules may be adopted or rejected, may be regarded as a test vote on the resolution.

Mr. FLORENCE and other MEMBERS. Oh! every one understands that.

Mr. WENTWORTH, of Illinois. I wish to ask a question of the Chair. Will it now be in order to have a call of the House? I think all the members ought to be present when this vote is taken. I therefore move that there be a call of the House.

[Cries "Oh! no." "We are all here."]

Mr. WENTWORTH. I ask for the yeas and nays on my motion for a call of the House. That will show the opinions of members on the matter.

Mr. BAYLY, of Virginia. Nobody can make tests for the members of the House. This is no proper matter of legislation, and I shall vote against the suspension of the rules.

The yeas and nays were not ordered.

Mr. WENTWORTH demanded tellers on the call for the yeas and nays, but subsequently withdrew the demand.

Mr. SMITH, of Tennessee. I wish to ask if it is in order now to move to suspend the rules for the purpose of going into the Committee of the Whole on the state of the Union?

The SPEAKER. Not while the motion of the gentleman from Pennsylvania [Mr. WITTE] is pending.

Mr. JONES, of Tennessee. I am satisfied that there will be no good, but some harm done here to-day; and I therefore move that this House do now adjourn.

The question was taken; and the motion was not agreed to.

The question on the motion of Mr. WITTE was then taken; and it was decided in the negative—yeas 103, nays 78; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, Appleton, Ashe, David J. Bailey, Barksdale, Barry, Belcher, Benton, Bliss, Bocock, Boyce, Breckinridge, Bridges, Caskie, Chandler, Chastain, Chrisman, Clark, Craige,

Curtis, John G. Davis, Thomas Davis, Dawson, Edmands, Edmundson, Thomas D. Eliot, John M. Elliott, Ellison, English, Farley, Florence, Fuller, Giddings, Green, Greenwood, Hamilton, Hastings, Hendricks, Henn, Hibbard, Hiester, Hill, Hillyer, Ingersoll, Johnson, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kidwell, Kurtz, Lamb, Letcher, Lilly, Lindsley, Macdonald, McDougall, McMullin, McNair, McQueen, Maxwell, May, Smith Miller, Morrison, Nichols, Noble, Olds, Orr, John Perkins, Phelps, Richardson, Riddle, Robbins, Rowe, Ruffin, Russell, Seymour, Shaw, Shower, Simmons, Singleton, Samuel A. Smith, George W. Smyth, Richard H. Stanton, Straub, Andrew Stuart, David Stuart, John J. Taylor, Trout, Tweed, Upham, Vansant, Walbridge, Walker, Walley, Walsh, Warren, Elihu B. Washburne, Wells, John Wentworth, Witte, Daniel B. Wright, and Hendrick B. Wright—103.

NAYS—Messrs. Aiken, Thomas H. Bayly, Ball, Banks, Bennett, Benson, Bugg, Carpenter, Caruthers, Chase, Clingman, Cobb, Cook, Corwin, Disney, Dunham, Eastman, Edgerton, Etheridge, Everhart, Faulkner, Fenton, Flagler, Franklin, Goodwin, Grey, Grow, Aaron Harlan, Andrew J. Harlan, Haven, Houston, Howe, Hunt, Daniel T. Jones, Kerr, Knox, Latham, Lindley, Lyon, McCulloch, Mace, Matteson, Mayall, Middleswarth, Millson, Morgan, Murray, Andrew Oliver, Mordecai Oliver, Parker, Peckham, Pennington, Phillips, Pratt, Pringle, Puryear, Ready, Reese, David Ritchie, Thomas Ritchey, Rogers, Sabin, Sage, Sapp, Seward, Shannon, Skelton, Sollers, Frederick P. Stanton, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Tracy, Wade, Wheeler, Yates, and Zollicoffer—78.

So (two thirds not voting in favor thereof) the rules of the House were not suspended.

Pending the announcement of the vote,

Mr. SOLLERS asked to have the resolutions again read.

[Cries of "Object!"]

The SPEAKER. It is not strictly in order while the vote is being taken, objection being made.

Mr. CORWIN. Is it proposed to make this a test vote on the resolutions?

The SPEAKER. The Chair knows nothing about that.

Mr. CORWIN. Do my brethren around here suppose this to be a test vote?

Several MEMBERS. Oh no.

Mr. CORWIN. If so, I vote no.

Mr. CAMPBELL. I was called out of my seat on business, and was not within the bar when my name was called. I ask the unanimous consent of the House to my voting.

Several MEMBERS. I object.

Mr. LANCASTER. I would inquire from the Chair whether Delegates can be permitted to vote on resolutions of this character?

The SPEAKER. Delegates are not entitled to vote.

Mr. LEWIS. I was not within the bar when my name was called, but I suppose that it is competent for me to ask the unanimous consent of the House to record my vote.

Mr. KEITT. Unless the gentleman from Ohio be allowed to vote I will object.

Mr. LEWIS. Then, I will say that if I were permitted to give my vote, I should have voted in the negative.

Mr. CULLOM. If I had been within the bar when my name was called, I should have voted in the negative.

THE COLT INVESTIGATION.

Mr. LETCHER. I rise to a question of privilege. My question of privilege is, to call up the report of the special committee on the Colt patent investigation, which was presented to the House some time ago.

Several MEMBERS addressed the Chair.

The SPEAKER. The gentleman from Virginia [Mr. LETCHER] insists on his question of privilege before the House, which takes precedence of all other subjects.

Mr. LETCHER. As the organ of the committee, charged with the investigation of certain alleged abuses, I have endeavored for some time past to obtain the floor, for the purpose of calling attention to the report which I had the honor to present to the House, and of requesting immediate action on the points therein referred to. The questions raised by this report for the consideration of the members, are questions of the utmost importance, and upon their proper decision depends the efficiency and usefulness of committees of investigation. If the House has not the power to compel the attendance of witnesses before committees, organized and authorized by its own action, or if witnesses, when before the committees, have the right to answer, or refuse to answer, only as whim or caprice shall dictate, the fact should be known to the country, and the sooner it is known the better. Unless the House possess the power, it is useless to raise committees, and invest them with authority to send for persons and papers, and to examine witnesses on oath. It is a waste of time, and imposes an expense that cannot be met by any corresponding advantage, either to the House, or to the country.

The first resolution I present for the action of the House is in these words:

Resolved, That the Speaker be directed to revoke the privilege under which W. B. Chase occupies a reporter's desk on the floor, and that the said Chase be expelled from the Hall.

I apprehend there will be no difference of opinion in regard to the propriety of the adoption of this resolution. This individual, occupying as he does a reporter's desk upon the floor, by permission of the Speaker, under a rule of this House, is so far under the action of this body, that his conduct, both official and personal, is entitled to its notice. If his conduct, either from a refusal to appear before a committee, and to testify, or from any other cause, has been such as to excite the distrust or dissatisfaction of this House, he is liable to be deprived of any of the privileges which may have been extended to him under its rules. They have the undoubted right to expel him from the desk which he has occupied, either for a limited time, or for the residue of this Congress, as to them shall seem best.

During the last session this witness appeared, in obedience to the summons of the Speaker, and when under examination he made the following statement, to which I invite the attention of the members of this House:

"I have reason to believe, and in a few days shall possibly know positively, that votes were made for the *Nebraska bill* in consequence of a contract to build one of the six steam frigates being given to George Steers, of New York. That is all I can say at present. I cannot give the names yet without occasioning trouble to parties who are not interested. The person from whom I got my information is not here. I do not know positively where he is."

This statement contains a serious imputation upon members of this House who voted for the Nebraska bill. It charges, in distinct and explicit terms, that the patronage growing out of the bill which authorized the construction of the six steamers was so used as to influence, if not control, the votes of members of the House of Representatives. The witness at that time declined to furnish the facts upon which his opinion rested, and assigned as his reason for withholding those facts, that he wished "*to further the investigation*," rather "*than to retard it.*" There the matter rested until the present session; and, although he had stated under oath that he desired but "*a few days*" to ascertain "*positively*" whether those facts were well founded, yet, after an interval of five months, he declines to appear before the committee, and to lay before them those evidences that had so far satisfied his mind as to justify him in casting these imputations upon members of this body.

When this witness was summoned at the last session to appear before the committee, he made no objection. So far from it, he appeared in obedience to the summons, responded to numerous questions, and expressed a willingness to further the investigation with which the committee had been charged by the House. At this session, a new light seems to have broken in upon his mind, and now, for the first time, he questions the right of the House to compel his attendance before the committee, and to require him to disclose facts within his own knowledge, affecting the conduct of members in connection with bills that now are, and have been, pending before Congress. Why is this? What excuse or apology does he offer for it? Why did he not take this stand in the first instance? Why recognize the authority then and repudiate it now? If he has ascertained that imputations then cast by him upon members of the House were unfounded, ought he not to have been prompt to avail himself of the first opportunity that presented itself to retract them? If, on the other hand, he has satisfied himself that they were well founded, was he not bound by every consideration of personal honor and every obligation of duty, to come before us, and present all the facts, within his knowledge, that were likely "*to further the investigation?*" He had solemnly assured us that this was his object, and if that assurance was sincerely given, how can his subsequent extraordinary conduct be accounted for? These are pertinent inquiries, and they are entitled to the calm and serious consideration of the members, called upon, as they now are, to pass upon his conduct.

But, sir, look for a moment to the position he occupies towards this body. At this moment he is in the daily enjoyment of a seat at a reporter's desk, under one of the rules of the House, and is thus furnished with the opportunity of mixing with the members upon the floor while the body is employed in the transaction of its daily business. He does not hesitate to improve this opportunity. I have seen him, and doubtless others have seen him, passing back and forth through the Hall, and occasionally occupying a chair, and all this, too, when the records of the House are stamped with his admission, made under oath, that he is an agent, regularly employed, to aid in securing the passage of bills now upon the Calendar and awaiting the action of the people's Representatives.

During his examination at the last session, the following questions were propounded to him, and the following answers given by him, as then recorded:

"*Question.* Do you expect to receive a compensation of any kind, either directly or indirectly, for your services in behalf of Colt's patent extension?

"*Answer.* I do.

"*Question.* Is that compensation to be certain or contingent?

"*Answer.* I should expect it to be certain."

The bill for the extension of Colt's patent now stands at the head of the Calendar, and yet remains to be acted upon by the House.

While this individual is in the enjoyment of this privilege—while he is furnished with a seat upon the floor—he undertakes to obstruct the action of one of the committees of this House, and to defeat the object the House had in view in organizing the committee. What is that object? Nothing more nor less than to ascertain what means are used to influence legislation, and how it is that he and other lobby agents, who are retained and paid, secure the success of measures, in which their employers are so deeply interested. The fact that men are employed to aid the passage, or defeat of bills, is of itself calculated to excite suspicion—to attract public attention—and to affect, more or less injuriously, the character and standing of Congress. We know that the lobby musters strong, and that they live by means of fees, paid, or secured to be paid, for present or prospective services. From the number around the Halls of Congress, the business, doubtless, pays well, for they all (so far as I know them) look like they fared sumptuously every day, and were enjoying a high degree of prosperity.

This class of men, either have considerable influence with the House, or they make such representations as to induce claimants to believe that they can serve them advantageously. The people ought to be in possession of the means they employ, so that those who contribute the money to foot the bills that annually pass Congress, may judge of the fairness of those means, and the propriety of their use. Persons occupying the position of Mr. Chase can furnish this information, if they choose to do so; and I think it is the duty of the House to require them to make the disclosure.

How do these persons secure seats at the reporters' desks, upon this floor? The 19th rule of the House prescribes the terms under which this privilege is granted. That rule is in these words:

"No person shall be allowed the privilege of the Hall under the character of stenographer, without a written permission from the Speaker, specifying the part of the Hall assigned to him; and no reporter or stenographer shall be admitted, under the rules of the House, unless such reporter or stenographer shall state, in writing, for what paper or papers he is employed to report.—*March* 1, 1838. And no person shall be admitted, under the rules of the House, as a reporter or stenographer for any paper or papers, *who shall be employed as an agent to prosecute any claim pending before Congress;* and the Speaker shall give his written permission with this condition, and not more than one reporter or stenographer shall be assigned the same seat.—*December* 13, 1852."

Such are the terms of the rule under which this individual has obtained the privilege he now enjoys. No claim agent is entitled to this privilege. On the contrary, they are expressly excluded, under the latter clause of the rule which was adopted in 1852. In the administration of the rule, the Speaker has required of those who are applicants for these privileged seats, that they should state for what papers they report, and that

they were not agents for the prosecution of claims pending before Congress. This was the Speaker's duty, and it has been faithfully discharged.

When Chase applied, what assurance did he give the Speaker? After stating that he was the "correspondent for the Georgia Telegraph, and Louisville Democrat, and Vicksburg Sentinel," he says, "*I am not interested in any claims before Congress or the Departments.*" Was this statement true? Had he not solemnly sworn before the committee; and is it not now a matter of record that he was interested in the success of Colt's claim for an extension of his patent? Is not the inference perfectly legitimate from his refusal to appear at this session, that he is still interested in that bill? I confess, I do not see how the conclusion is to be avoided.

Some of these agents, I understand, seek to escape from the dilemma in which they are involved, by the miserable subterfuge that the rule of the House relates only to claims which require direct appropriations of *money* from the Treasury! It is sufficient to say, in reply to this view of the case, that if Congress had so designed, they doubtless would have expressed it in terms. It would not have been left to inference. When that rule was adopted, it was well understood that the claims pending, as well as those that would be before Congress, were of various kinds. We had pecuniary claims, patent claims, last, but by no means least in importance, claims for lands for railroad, canal, and other objects, and, so far as we have information, the last named class of cases pay much better, than either of the others. The lands are looked to as the best sources of speculation and profit; and hence it is that we find such a number of these applications for railroads. Can it be supposed that the rule which I have quoted, was not intended to embrace those who were employed as agents to advance such important measures—measures that secure princely fortunes to the corporators named in the charters? It cannot be. The rule must have been intended to embrace all cases where the money, the lands, or the property of the Federal Government, or the interests of the people, were involved. The rule was intended to apply to all cases and applications before Congress where the private interests of individuals were brought into conflict with the public interest. The object was to secure free and unbiased legislation on the part of the people's Representatives, and to remove all influence which might be employed for the advancement of private interests at the expense of the more important interests of the great body of the people. Such is my own view of the rule, and the reason and necessity for it.

I now leave this branch of the subject, and proceed to another of not less importance. The resolution I am about to read proposes my remedy for the refusal on the part of this witness to appear before the committee and testify. That resolution is in these words:

Resolved, That Mr. Speaker do issue his warrant directed to the Sergeant-at-Arms attending this House, commanding him to take into custody, wherever to be found, the body of W. B. Chase, and the same in his custody to keep, subject to the further order and direction of this House.

For the purpose of sustaining the second position I take, and showing that this resolution should be adopted, I shall, Mr. Speaker, do little more than rely upon precedents which I have searched for and found in the past action of this body, and then, in enforcement of my views, quote the decision of the Supreme Court of the United States, and the opinions of some of the finest legal minds ever known in this country.

I find, sir, as far back as 1795, that the question in regard to the powers of the House to protect itself from attempts to influence its legislation, was the subject of consideration and discussion. That was a case of this kind: Information was given by Messrs. Smith, of South Carolina, Maurey, of Maryland, and Giles, of Virginia, that a person by the name of Robert Randall, had made or communicated to them, respectively, certain overtures to obtain their several support in this House to a memorial to be presented by the said Robert Randall, on behalf of himself and others, for the grant of a tract of land, containing eighteen or twenty millions of acres, bordering on Lakes Erie, Michigan, and Huron, and lying within the limits of the United States, for which support the said members, respectively, were promised to receive of the said Robert Randall, and his associates, a consideration or emolument of lands or money; and this House regarding the said information as a sufficient evidence of a contempt to, and a breach of, the privileges of this House, in an unwarrantable attempt to corrupt the integrity of its members:

"*Resolved*, That, Mr. Speaker do issue his warrant directed to the Sergeant-at-Arms attending this House, commanding him to take into custody, wherever to be found, the body of the said Robert Randall, and the same in his custody to keep, subject to the order and direction of the House."

I beg leave to call the attention of the House to some of the names of those who figured in Congress at that time, men, I imagine, who understood the rights of this House, and the powers of this House, as well, perhaps, as any who have succeeded them. I find, sir, there were Messrs. Smith, of South Carolina, Findley, of Pennsylvania, Albert Gallatin, Giles, of Virginia, Robert Goodloe Harper, of Maryland, Andrew Moore, who then represented my own district, a gentleman of talent, character, and experience, Francis Preston, of Virginia, Samuel Smith, of Maryland, and various other gentlemen of equal distinction and character, experience and influence then in Congress. This action was taken by them, and it was decided that Robert Randall had been guilty of the contempt charged by a vote of seventy-eight to seventeen, and all whose names I have enumerated, voted in the affirmative.

The second precedent is the case of John Anderson, who had made a proposition to honorable Lewis Williams, of North Carolina, for the purpose of procuring his aid and services in the passage of certain claims in which Anderson was interested, and which were before the Committee of Claims, of which Mr. Williams was the chairman. He proposed to pay Williams $500 for his services. Williams reported the facts to the House, and upon those facts being reported, a resolution, which I have taken as a model for the one which I have presented to the House, was adopted. It was this:

"*Resolved, unanimously*, That Mr. Speaker do issue his warrant, directed to the Sergeant-at Arms attending this House, commanding him to take into custody, wherever to be found, the body of John Anderson, and the same in his custody to keep, subject to the further order and direction of this House."

The House will see, that excepting the name, the resolution and the one I now present are identical.

Now, sir, I imagine if, in 1795, and up to 1816, those who figured here as members of this body—many of them the most distinguished lights of the land, remarkable alike for their talents, character, and sound principles—came to the conclusion that the House had the power and the right to protect itself against all attempts to influence its legislation, there can be no great difficulty in the present House coming to the same wise conclusion.

After John Anderson was arrested and brought into the House, detained in custody until the close of the session of Congress, and then discharged, he brought a suit against the Sergeant-at-Arms, Mr. Dunn, who had arrested him in the city of Washington, by virtue of the Speaker's warrant. That suit was subsequently prosecuted to judgment, and decided in favor of Mr. Dunn. It afterwards was carried, by appeal, to the Supreme Court of the United States; and a final decision rendered, affirming the judgment of the court below.

The case is reported in the Condensed Reports of the Supreme Court of the United States, vol. v., p. 66. I read the note of the case, and ask for it the attention of the House:

"To an action of trespass against the Sergeant-at-Arms of the House of Representatives of the United States, for an assault and battery and false imprisonment, it is a legal justification and bar to plead that Congress was held and sitting during the period of the trespasses complained of, and that the House of Representatives had resolved that the plaintiff had been guilty of a breach of the privileges of the House, and of a high contempt of the dignity and authority of the same; and had ordered that the Speaker should issue his warrant to the Sergeant-at-Arms commanding him to take the plaintiff into custody, wherever to be found, and to have him before the said House, to answer to the said charge; and that the Speaker did accordingly issue such a warrant, reciting the said resolution and order, and commanding the Sergeant-at-Arms to take the plaintiff into custody, &c., and delivered the said warrant to the defendant; by virtue of which warrant the defendant arrested the plaintiff, and conveyed him to the bar of the House, where he was heard in his defense touching the matter of the said charge; and the examination being adjourned from day to day, and the House having ordered the plaintiff to be detained in custody, he was accordingly detained by the defendant, until he was finally adjudged to be guilty, and convicted of the charge aforesaid, and ordered to be forthwith brought to the bar and reprimanded by the Speaker, and then discharged from custody; and after being thus reprimanded, was actually discharged from the arrest and custody aforesaid."

That is the statement, the note of the case. Let me now read one or two passages from the decision of the Supreme Court, which seems to have been unanimous. The opinion was delivered by Judge Johnson:

"That the safety of the people is a supreme law, &c.; not only comports with, but is indispensable to, the exercise of those powers in the public functionaries without which that safety cannot be guarded. On this principle it is that courts of justice are universally acknowledged to be vested, by their very creation, with power to impose silence, respect, and decorum in their presence, and submission to their lawful mandates, and as a corollary to this proposition, to preserve themselves and their officers from the approach and insults of pollution.

"It is true that the courts of justice of the United States are vested, by express statute provision, with power to fine and imprison for contempts; but it does not follow, from this circumstance, that they would not have exercised that power without the aid of the statute, or not, in cases, if such should occur, to which such statute provision may not extend; on the contrary, it is a legislative assertion of this right, as incidental to a grant of judicial power, and can only be considered either as an instance of abundant caution, or a legislative declaration, that the power of punishing for contempt shall not extend beyond its known and acknowledged limits of fine and imprisonment."

From the same decision I present another quotation bearing upon the issue directly:

"But what is the alternative? The argument obviously leads to the total annihilation of the power of the House of Representa ves to guard itself from contempts, and leaves it exposed to every indignity and interruption that rudeness, caprice, or even conspiracy, may meditate against it. This result is fraught with too much absurdity not to bring into doubt the soundness of any argument from which it is derived. That a deliberative assembly, clothed with the majesty of the people, and charged with the care of all that is dear to them; composed of the most distinguished citizens, selected and drawn together from every quarter of a great Nation; whose deliberations are required by public opinion to be conducted under the eye of the public, and whose decisions must be clothed with all that sanctity which unlimited confidence in their wisdom and purity can inspire; that such an assembly should not possess the power to suppress rudeness, or repel insult, is a supposition too wild to be suggested."

These views, thus forcibly and handsomely expressed, are entitled to consideration, and ought to make an impression upon the minds of the members of this body.

One other quotation from this lucid and well reasoned decision of the highest judicial tribunal in our own country, as to the extent of the punishing power:

"The present question is, what is the extent of the punishing power, which the deliberative assemblies of the Union may assume and exercise on the principle of self-preservation? Analogy and the nature of the case furnish the answer—the least possible power adequate to the end proposed; which is the power of imprisonment. It may, at first view, and from the history of the practice of our legislative bodies, be thought to extend to other inflictions. But every other will be found to be mere commutation for confinement; since commitment alone is the alternative where the individual proves contumacious. And even to the duration of imprisonment a period is imposed by the nature of things, since the existence of the power that imprisons is indispensable to its continuance; and although the legislative power continues perpetual, the legislative body ceases to exist on the moment of its adjournment or periodical dissolution. It follows that imprisonment must terminate with that adjournment."

This decision harmonizes with my own views, and I maintain that it is sound law, and entitled to the highest respect.

But, sir, it seems to me that it does not exactly harmonize with the opinions which my colleague [Mr. BAYLY] announced here the last time this question was before the House. If I understood him correctly, he then insisted that no decision could be produced where it could be shown that any one, not *a member of this House*, had ever been made the subject of such action on the part of this body as I had proposed.

But there are other cases beside the two to which I have referred. I will refer to one of them now, showing that, even in latter times, this House undertook to arrest a party for an assault upon one of its own members. The assault was made on Pennsylvania avenue. The party was brought here, tried, and reprimanded by the Speaker of the House. Here, then, are three cases, in all of which the power was claimed and exercised. All these cases go to show that the House has the power, and it has, on various occasions, exercised that power. It has arrested individuals by its

officers, has kept them in confinement, brought them here, and, after final trial, has pronounced judgment on them, and executed that judgment.

If the House do not act on the matter it cannot be said hereafter that the committee have been negligent and derelict in its duty, as was said by the gentleman from Ohio [Mr. EDGERTON] on Saturday.

Mr. DUNHAM. With the gentleman's permission I will put a single inquiry to him.

Mr. LETCHER. Go on.

Mr. DUNHAM. While we may have no doubt as to the right of the House to bring a witness to the bar of the House for examination in a case, does the gentleman hold that that power can be delegated outside of the House?

Mr. LETCHER. There was a committee raised in this case just as the present committee was raised. It was an attempt to corrupt members; a private transaction between members and this individual at the members' rooms.

Mr. DUNHAM. The gentleman does not apprehend my question. It is this: Does the gentleman find any authority by which the House have ever punished for contempt in disobedience of an order to appear, not before the House itself, but before one of its committees? I apprehend the gentleman will find no such case.

Mr. LETCHER. The gentleman does not seem to understand the matter. How came this committee to be organized? Was it not by the order of the House? and was not that committee clothed with these powers by that order in express words? It is matter of record; and when this witness was summoned to appear it was not by order of the committee, but by *you*, Mr. Speaker, as the representative of this House. You issued the mandate to the Sergeant-at-Arms which was served by that officer of the House. So far as we (the committee) were concerned, we did not undertake to bring anybody before us. We reported the names to the Speaker, who had the power to issue the summons, and, through the Sergeant-at-Arms, the parties were notified to appear. The committee had no power to issue a summons, nor had they an officer to execute it. The summons could only be issued by the Speaker, directed by him to the Sergeant-at-Arms, and by the latter executed upon the person whom the committee desired to examine. At the last session, all the witnesses summoned appeared, and never, until this session, was there a refusal on the part of any witness summoned to appear before us.

But I now proceed to cite other authorities in support of my position. Chancellor Kent, one of the most brilliant and distinguished of the men who have illustrated the annals of American jurisprudence, remarkable alike for the clearness and strength of his intellect, his varied and extensive legal learning, and his sound practical judgment, thus expresses his views upon the question, in the first volume of his Commentaries, page 235:

"There is no power expressly given to either House of Congress to punish for contempts, except when committed by their own members: but, in the case of *Anderson*, who was committed by order of the House of Representatives for a contempt of the House, and taken into custody by the Sergeant-at-Arms, an action of trespass was brought against the officer, and the question of the power of the House to commit for a contempt, was carried by writ of error to the Supreme Court of the United States. The Court decided that the House had that power, and that it was an implied power, and of vital importance to the safety, character, and dignity of the House. The necessity of its existence and exercise was founded on the principle of self-preservation; and the power to punish extends no further than imprisonment, and that will continue no longer than the duration of the power that imprisons. The imprisonment will terminate with the adjournment or dissolution of Congress."

Chancellor Kent makes the following note, referring to the commentaries of the learned Judge Story:

"The decision of the Supreme Court, in the case of *Anderson*, is accompanied with a course of reasoning which would seem to be sufficient to place the authority of either House of Congress to punish contempts and breaches of privileges on the most solid foundation, independent of the absolute authority of the decision. The constitutional exercise of the same power by each House of Parliament, has been repeatedly vindicated in Westminster Hall in the most masterly manner. (Lord Chancellor J. De Grey, in *Rex vs.* Crosby, 3 Wills's Reports, 188; Lord Ellenborough, in Burdett *vs.* Abbott, 14 East's Reports.) It is a power inherent in all legislative assemblies, and is essential to enable them to execute their great trusts with freedom and safety; and it has been frequently exercised, not only in Congress, but by the respective branches of the State Legislatures, and may be considered as indisputably acknowledged and settled."

Such are the opinions of these distinguished jurists upon this important question, and they concur fully in the opinion of the Supreme Court. Now, it does seem to me that if precedent and authority can settle anything, the cases which I have cited establish the fact that this House has the *power* to protect itself; and the *practice* of the House, it seems to me, (if there were nothing else,) would make that conclusion irresistible. How long has it been since this House has commenced raising committees of investigation? Have they not been in the uniform habit of organizing them from the very foundation of the Government to the present day? and have they not always been invested with the power to send for persons and papers, and to examine witnesses under oath? Session after session this has been done. Yet, according to my colleague, [Mr. BAYLY,] committees organized by this House to take testimony cannot have the power—because the House itself has not the power—to compel the attendance of witnesses and require them to testify!

Well, now, sir, can this be so? Here is the uniform practice of the Government for more than half a century, and during all that time the power to raise such committees has been claimed, and exercised by all political parties. I have cited the only case which has gone before the courts for judicial decision, and that case goes directly to establish the position I maintain. In support of this decision I produce the opinions of Chancellor Kent and Justice Story, all going to establish the doctrine for which I contend. And in addition to these, I bring forward the practice of the House, as shown in the cases of Randall, and Whitney, and Anderson. I am at a loss to know how a case could be more strongly sustained, both by practice and authority.

Mr. Speaker, I have now brought this matter to the attention of the House. I have presented two propositions here for the consideration of the members of this body. Whatever action the House may see fit to take in reference to them, will give me no dissatisfaction, *even* if that action shall be in opposition to the views which I have expressed. But, sir, I desire, and the committee desire, that some action shall be taken. I desire that it may be settled—that the country may know whether it is worth while, in future, to organize committees of investigation—to authorize them to send for persons and papers—and to examine witnesses upon oath. I desire to ascertain whether this House has the right to compel the attendance of witnesses, and require them to testify. If it has not, then we may as well dismiss this matter at once, and we may as well give up all attempts to make investigations in future of any matter in which the House may be interested. So far as we are concerned, we cannot move one inch until this matter is disposed of by the House, and whether we can progress with the investigation then, depends upon the decision that shall now be made.

And, sir, this is not the only case which has occurred. We have summoned others, and one other, at least, has refused to appear before our committee since this report was made, and others who have answered a portion of the questions propounded to them, have refused to answer others. We cannot get along in this way, and I ask, most respectfully, that the House will decide the question one way or the other. We ask that we may either be discharged from the further consideration of the matter, or that the House will take such action as will enable us to proceed with the investigation.

Mr. BAYLY. As my colleague has taken especial pains to refer to the few remarks that I made upon this subject when it was before the House the other day, I desire to reply to him; but, as there is another matter in which I take a much deeper interest just now, I desire to ascertain from the Speaker whether I can get at the joint resolution in reference to General Scott. If I can, I shall move to suspend the rules for that purpose, still retaining the floor upon this question when it shall again come up.

Mr. CLINGMAN. I hope there will be no objection to the vote being now taken upon the matter pending. It can be disposed of in a few minutes.

Mr. LETCHER. I hope the House will dispose of it in one way or the other.

The SPEAKER. The Chair decides that the motion the gentleman from Virginia proposes to submit, cannot supersede the question now pending, which is a question of privilege. And the Chair will further state that, if it were in order to move to suspend the rules, the gentleman from South Carolina would be entitled to the floor. It was awarded to him, and taken from him by the gentleman from Virginia to bring up his question of privilege.

Mr. McDOUGALL. I move that the special committee which has had this matter in charge be discharged from its further consideration.

The SPEAKER. The gentleman from California has not the floor to submit that motion.

Mr. BAYLY. I hope my friend from California, and the committee, will allow me to make a few brief remarks. I will not detain them long. Mr. Speaker, I had no purpose of having anything to do with the discussion of this matter whatever. I thought the other day that my colleague propounded some propositions to the House that would not bear scrutiny and I therefore, made some reply to them. I should not now recur to the subject, but for the frequent allusions my colleague has made to me.

I shall not attempt to review the authorities quoted by my colleague, because it would be unfair to turn his own authorities upon him; and yet it is most clear that they are against him. Now, then, let us look at the matter briefly, because I am not going elaborately into the matter. What does my colleague, as a States-right man and a strict constructionist, say to this proposition: That the Congress of the United States, and still less, if possible, the House alone, has no authority which is not delegated, or which is not necessary and proper to carry into effect the powers which are delegated to it? He will hardly dispute that proposition. I think he will hardly dissent from it.

Now, sir, where has this House any criminal jurisdiction? Where do you find that in the Constitution of the United States, except in the case of the impeachment of public officers? And then they have not the power to try; to speak technically, they can only find an indictment. The Senate tries. Suppose you undertake to try and convict, what is your authority to punish? Where is your jail to put the man in? What are you to do with him, and where is your authority to inflict a fine? Yet fine and imprisonment is, in this country, the universal penalty for contempt. That is a practical test. Why, sir, the thing evaporates in mist the moment you come to put the matter to a practical test. This is what the House has a right to do, and it is all that the decision which my colleague has read establishes—you have a right to preserve order, you have a right to an uninterrupted deliberation with respect to public questions. The decisions which my colleague has read establish nothing more. The whole thing resolves itself into a right to keep order.

Mr. LETCHER. Will my colleague allow me to put a question to him just at this point?

Mr. BAYLY. Certainly.

Mr. LETCHER. He says that the House has power to preserve order, and that it can arrest a man for not keeping order. Let me ask my colleague what they would do with such a man, when they did arrest him? [A laugh.]

Mr. BAYLY. Well, I will tell you what they would do with him. They would not send him to jail. They would send him out of the Hall. The Sergeant-at-Arms would carry him away. That is what they would do, and that is all they could do. Suppose a man came into this Hall and struck my colleague on the head, we would first have him taken out for a breach of order, and then he would be taken before the civil tribunals for assault and battery. That is what I hold to be the law upon the subject. We have a right to preserve order. By the Constitution, each House has a right to prescribe its own rules of order. We have a right to have a man removed from this Hall for a breach of order; and if, in his disturbance of order, he has committed a criminal offense, he must be tried before a civil tribunal, like any other person committing an offense elsewhere.

I repeat that this House has no criminal jurisdiction, and if it has, I want to see how you will carry it out. Suppose a malignant man should come in here, and shoot down a member, could you try him? You would have him removed as a disorderly person, and then carried before a justice of the peace, and then before a grand jury,

and tried, at last, by a jury of his peers. That this House has no criminal jurisdiction, has no right to punish, has no right to do anything but to preserve order, so that its deliberations shall not be interrupted, is to me as clear a principle of civil liberty as any that ever occurred to my mind. If we can try and punish for crime, where is the right of trial by jury? In his clear and lucid judgment, Judge Johnson—who I undertake to say here was one of the most clear-headed jurists that ever sat upon the bench of the Supreme Court of the United States—in that very decision, puts it, in substance, upon the ground of the right of the House to act without interruption of its deliberations, to have order preserved, and that is all there is in the case.

Now, as to this gentleman, Mr. Chase, I have nothing to do with him. I do not care what the House may do to him, so far as he is individually concerned. But I do not wish to see this House undertake anything that they cannot carry through. I am told that he is a reporter here. I do not know whether that is so or not. I do not know anything about it. If he be a reporter and has come into this Hall and bothered members by corrupt propositions, or by unnecessary and harassing importunities, without any corrupt propositions, I think that it would be a very proper thing to revoke the privilege which the Speaker has granted him. I think, however, it would be much better that, if the Speaker thinks the occasion calls for it, he should do it, than that we should dignify the transaction by passing a solemn resolution in regard to it.

Mr. Speaker, I have not *sought* an opportunity to speak upon this occasion, but I do it with pride, for I believe that I am the only member of this House who is at present under an accusation that affects his personal honor. Yet I do not shrink from the duty I feel it to speak upon this occasion. Nor am I deterred because many persons might have supposed that, for that very reason, I ought to be silent. But I am not afraid to speak on it in the presence of the Representatives of the American people. If there is any accusation against any individual member, if any specific charge is brought against any individual member, if, for instance, anybody comes here and says that the gentleman from North Carolina [Mr. KERR, who was sitting near Mr. B.] has been tampered with, then the House has a right, for the protection of its own dignity, and its own character, to investigate his conduct, and expel, and disgrace him if the charge is well founded. A specific charge need not first be made, but some individual must be designated as suspected, and then an investigation is proper. But, sir, I loathe, I contemn, I detest this sort of fishing investigation, when nothing is alleged against any member of this House, but a general accusation is made, and a committee raised to see if something cannot be found out prejudicial to the reputation of some member of the body to which we all ought to be proud to belong. But God knows I would not remain in it a day if I believed one half of what my colleague suspects.

The idea of the law is this—and without having recently read any of these cases, I can state it, I think, with absolute confidence—we have a right to keep order, we have a right to take disorderly persons out of this House; but if they, in their disorder, commit a criminal offense, they ought to be tried before a civil magistrate.

Whenever there is a proceeding taken against any individual member of the House, the whole of your authority is exhausted when you purge the body of the member who is a disgrace to it. Every legislative body has a right to preserve its purity; and if it finds in the flock a black sheep, it has a right to drive it out of the flock. But as to the infliction of any punishment—as to any right other than that belonging to every legislative assembly to protect itself from pollution, that I deny. You have no criminal jurisdiction except in the case I have referred to. And it is a strange thing that gentlemen who hold to a strict construction of the Constitution should come before this body and maintain that we possess any authority in this respect, other than that to keep order. I revert to what I have said to my colleague, [Mr. LETCHER.] Where is your mode of punishment? Where is your jail? Where is your power to find an offender? What are you to do with him? How are you to work it out?

Mr. MILLSON. I desire to answer the inquiries of my colleague, if he will permit me.

Mr. BAYLY. With great pleasure.

Mr. MILLSON. As this case involves a question as to the extent of the power of the House, and may hereafter be drawn into precedent, I desire to address an inquiry to my colleague, which I would like him to answer. Let me take the case to which he has just referred—his own case. Now, to be sure, my colleague has not, and need not have, any more apprehension than I myself feel, that there will be anything resulting from the investigation now carried on before that select committee which can, in the slightest degree, implicate his character, or affect his standing before this body and the country. I am sure he is, and has just reason to be, perfectly at ease upon the subject. But suppose a malignant witness should appear before that committee, and endeavor to impeach his character, and that it was in the power of my colleague to prove by many other witnesses that this accusation was utterly untrue, I ask my colleague if he does not think it is his right, and the right of the House of which he is a member, to compel the attendance before the committee of those witnesses who might exculpate him from the charge? My colleague has alluded to the power given by the Constitution to the Senate, to try an impeachment; and, I presume, he will not deny that the Senate may compel the attendance of witnesses before it, from any part of the country, for the purpose of testifying upon the charges. Well, the House of Representatives has, by the Constitution, the right to expel members; and, in determining whether a member shall be expelled, it is a judicial tribunal, exactly as the Senate is in trying an impeachment. Now, sir, when, as in the present case, an investigation is ordered by the House into the conduct of its members, and when it is in the power of the House, acting upon the report of the committee by a vote of two thirds, to expel a member, may not that committee compel the attendance of witnesses? And if a witness fail to attend, in obedience to its summons, is he not guilty of a contempt, not of a crime—for contempt is not a crime—is he not, I say, guilty of a contempt for which he may be punished by the House? I address these inquiries to my colleague, from a sincere desire that he may comment upon them, for I confess I doubt the correctness of the views taken by him, believing that he has narrowed too much the prerogatives of the House.

Mr. CHANDLER. I wish my friend from Virginia [Mr. BAYLY] to allow me to ask a question. I have been listening with great attention to what the gentleman has said, and I always hear him with instruction. He speaks of a criminal jurisdiction not being vested in the House. Now, there is not a criminal jurisdiction vested in the Chancellor's court, yet that court can punish a witness for non-attendance, and can commit members of the bar to prison for a contempt, as they call it. Now, I am no lawyer, as are these gentlemen who have carried on this debate. I am nothing but an honest man. [Laughter.] I am only showing that this power has been exercised by the Legislature of Pennsylvania. In 1835, I think it was, the Legislature of the State of Pennsylvania sent down to Philadelphia and throughout the State, and brought before them certain gentlemen connected with a secret, and, as they said, an oath-bound society, and they asked them, myself at the head of them, certain questions. We declined respectfully to answer. They desired to order us to prison, and it was no fault of theirs that we did not go. But we were shut up in custody, though not in prison. Here was the exercise of power on the part of a legislative body. They placed us in durance, "in durance vile!" I, therefore, ask the gentleman whether a like power does not repose in this body?

Mr. BAYLY. My friend from Pennsylvania [Mr. CHANDLER] has made two declarations which it was entirely unnecessary for him to make on this floor: first, that he was an honest man—his whole life has proved that; second, that he was no lawyer—and his remarks to-day have established that, also. [General laughter.]

I will reply, briefly, to my friend from Pennsylvania, [Mr. CHANDLER,] as it will not require so serious a reply as that of my colleague. The gentleman asks me by what right it is that the courts commit a witness for contempt. I answer that it is by positive law. There is no inherent power in the court to do any such thing, but it is because positive law authorizes it. I do not mean in all cases a statute law; but the common law. But, as I understand it, even under that law a court cannot punish any other contempts than those committed in its presence, or where it will interrupt its deliberations.

The gentleman alludes to a circumstance that took place in the Legislature of his own State, where himself and others, being members of a *secret order*, were sent to jail for refusing to testify. He says the jailor refused to receive them. That was a sensible jailor; and I have no doubt he had a sound legal adviser. The gentleman was then confined somewhere else; yet suffered, I presume, no inconvenience in consequence. All I have to say, in respect to that case, is, that those things were done, I believe, in the Buck-shot war, which are not regarded as authority anywhere.

I will now come to the point made by the gentleman from Virginia, and I ask him—strict constructionist as he is, if anything a more impracticable one than I am—where he finds authority in the Constitution of the United States by which he can bring this witness before the bar of the House? He has been guilty of contempt in not coming before the committee, by order of the Speaker, to testify. What will you do with him, and where is the law found which will authorize you to do anything with him? How are you to get along with the case? That there is no wrong without a remedy is a leading maxim of the law. If there has been a wrong here, I want to know where the remedy is to be found? I want to know what can be done; and I do not want the House of Representatives to make a fool of itself. Suppose that you had, at this moment, this man before the bar of the House, what are you going to do?

Mr. LETCHER, (interrupting.) Will the gentleman allow me to interrupt him a moment? According to the best of my recollection, my colleague voted for the organization of this committee.

Mr. BAYLY. I believe I did not vote for it; but I am not certain. I never believed anything was to come of it; I felt, therefore, no interest in the matter; it made no impress upon my mind; and I do not recollect how I voted, nor do I care, as far as this debate is concerned. For suppose I did vote for the raising of the committee, does it follow that I should support proceedings recommended by them wholly unauthorized?

Mr. LETCHER. Certainly my colleague voted for an organization of another committee of the same sort. I want to know why my colleague did not make his objection at the time the committee was organized, and thus prevent it from being organized? Why does he wait until the committee meets, until they act, and until they present a report to this House, before he undertakes to say that the House has no power to proceed in this matter? If they had come to that conclusion at first there would have been no trouble about this matter, and there would have been no committee organized. Let me give my colleague an instance in point that occurred in the Senate. He will recollect that the treaty with Mexico, which was under consideration in secret session in that body, by some means found its way into the columns of the New York Herald, and that the Senate, for the purpose of protecting itself, undertook to institute an investigation, and send for persons and papers, and among other parties who were placed in the hands of the Sergeat-at-Arms of the Senate was, if my recollection serves me right, Mr. Nugent, reporter for the Herald, who was confined for several weeks until he was discharged by the order of the Senate itself. Let me put a question to my colleague: If the Senate had no authority to do this thing how come it to be done?

Mr. BAYLY. I will answer my colleague. After the Senate placed this man in the custody of the Sergeant-at-Arms, they found, as I suppose—for that is the only logical reason for their conduct—that they had no authority for it, and they ordered him to be discharged. Now, my colleague, with that precedent staring him in the face, wants this House to do the very same thing in which the Senate were obliged to retrace their steps.

Mr. LETCHER. The Senate discharged him because they could not fix his guilt.

Mr. BAYLY. Suppose that they had fixed his guilt. What could they have done with him? All they could have done would have been to send him before a magistrate, if he had committed a criminal offense defined by law; but the Senate discharged him because they thought they had taken an unadvised step. But my recollection is—I am not certain—that Nugent's case was like this. He was confined for contempt in refusing to testify.

Mr. LETCHER. My colleague says all they could do was to send him before a magistrate; but, in reply to a point I made, he says that there is no constitutional power on the part of either House to punish for contempt. Now, where is the constitutional authority to invest the Senate or the House of Representatives with au horiity to institute a prosecution for contempt by sending the party before a magistrate?

Mr. BAYLY. My colleague must excuse me. He is talking about sending a man before a magistrate for contempt. I have not pretended to say that either body could do any such thing. I hope I have clearer conceptions of law than to propound any such absudity. Contempt to the Senate or to the House is not defined by any law. They have a right to preserve order, and to prescribe their own rules of order in their respective Chambers; and if, in the breach of order, there is an offense committed, we restore order first, and punish the offense, if one punishable by law be committed, afterwards, through the instrumentality of the tribunals established by law for the trial of offenses. That is the way I understand the law to be.

But my colleague from the Norfolk district [Mr. MILLSON] propounded a question, of much more importance to me, and probably my colleague from the Augusta district [Mr. LETCHER] alluded to the same thing in his last interruption. He referred to the fact that I came into the House and asked an investigation of the charges which had been made against me in reference to the discharge of my official duties. Why did I do it? It was upon the ground that the House had the right to purge itself from lepers, if they were here, and, in my case, I was charged by name. That is the reason why I did it. The House had jurisdiction in such matters. It had a right to protect itself. Here was a specific charge against a man whose honor, through life, had been unsullied. I had the right to ask it.

Then my colleague says, suppose the witness would not appear, what authority has the House to compel his attendance? None, I answer; none whatever. That is the very point we are discussing. If the accuser would not appear, there would be an end of the accusation. But suppose he did; and suppose, on the other hand, I should summon a witness in my defense, and he should not appear, where would be the authority of the House to make him appear? None, none. What would be my remedy in the first case? If I were libeled, I could go to the grand jury of the District of Columbia, and make presentment for libel as being a civil action; and then both parties, on the trial, would have the right to force the appearance of their witnesses. The first case is the one only likely to occur; but if the last should, and injury ensue, I think a remedy could be found. I would never ask this House to compel an attendance. It has no such authority; for there is no law to authorize it.

I conclude exactly where I began, by saying, that the whole authority of this House is to preserve order; and the moment it advances one inch beyond that, the parties have a right to go before the legal tribunals of the country. This House has not, under any law I am aware of, any jurisdiction whatever in case of contempt, except so far as may be necessary to preserve order in this body.

I am aware of the cases to which my friend from Virginia refers. I have not read them for many years, but I recollect very distinctly what they are; but I never believed, great as were the men who served in Congress in those days, that they had authority to do what they did do. The gentleman from Virginia cites a case where a man sued the Sergeant-at-Arms for false imprisonment, and after it was decided in the circuit court, it went up to the Supreme Court of the United States, and there it was decided; but what was the ground upon which it was decided? It was decided upon the ground that, as he acted as a ministerial officer, under an authority, he was bound to obey, he was not individually responsible as long as he did not go beyond the bounds of it.

I did not design, Mr. Speaker, to have gone into this discussion at all. It is a matter in which, either as a member of this House, or in any other respect, I feel not the slightest interest, and when I came over into this part of the Hall, it was for the purpose of trying to get before the House a bill in which I feel a great deal of interest, (General Scott's bill,) but in the course of my colleague's elaborate speech, he referred so frequently to me, that it became due to myself that I should sustain the position I took the other day. It was in that manner that I was drawn into this discussion. I have not given the subject to-day more than five minutes thought before I took the floor; nor was it necessary I should, for the points in the case are so clear that I am sure the House will not doubt about them.

Mr. ZOLLICOFFER. Mr. Speaker, I desire to occupy the time of the House but for a few moments. As a member of this investigating commitee, I feel it my duty to advert briefly to the remarks which fell from the gentleman from Ohio [Mr. EDGERTON] on Saturday, and which I see reported in the Globe of this morning.

The member from Ohio [Mr. EDGERTON] remarked that this investigating committee was "an inquisitorial tribunal, holding its meetings in secret, seeking to stab in the dark the character of honorable members of this House, when no man dare stand forth and proclaim himself the accuser of any one;" that it "enjoined secrecy on its witnesses and its members," and in the conclusion of his remarks, he seemed to me to have been very unduly excited in his prepossessions against this committee, saying:

"Has not the whole action of the committee on the subject been notoriously a failure? It has not compromised for an instant a single member of the House, nor has it affected his character in any respect. And, sir, more than that. I will say to this committee that its opinion and its report cannot, will not, affect the character of this House, or of a single individual member, and the whole country knows it."

Mr. Speaker, I regard the spirit of these remarks as unjust and improper; and here, in the first place, allow me briefly to state how it was that I became connected with the committee. In July last, when Colt's bill was under discussion, sitting in my seat here, I heard with surprise and regret, imputations affecting the reputation of members of this body, both from a gentleman in favor of, and a gentleman opposed to, the Colt bill It was the first session in which I had had the honor of a place in the National Legislature; and I felt uncertain—I could not tell definitely—what these imputations meant; not even knowing but that I might suffer in my own reputation from sitting in a House charged, in effect, by its own members, with being basely influenced by corruption in the passage or defeat of bills. Without much thought, and acting instinctively under the impulses of my nature, I rose at once, and demanded that these imputations be verified or disproved by investigation. I stated that I had seen newspaper paragraphs to the same effect, which I regarded as not worth serious attention; but that when members on the floor threw out such imputations, it was due to the American Congress that investigation should be made into their truth. I knew nothing of the foundation for such imputations. I trusted that they might prove untrue. I had no reason to believe they were true. And, so far as I am concerned, as a member of this committee, I have had no disposition to "stab in the dark the character of honorable members," no wish to prove guilt upon members under such imputations; but I did wish an investigation made, that members, honorable and innocent as I took them to be, might be exonerated from the uncertain stigma of rumors so highly prejudical. And, sir, I could not divest myself of the persuasion that the National Legislature of so great and glorious a Republic as this, owed it to *itself* and to the *people of the Union*, promptly and jealously to protect its reputation from suspicion of such demoralization, and at once to give proper attention to insinuations of the sort indicated, when coming from members of this body. The remarks made at that time, under such impulse of the moment, I presume led to my selection as a member of the committee. In view of their tenor, and of my position and feelings in this matter, I deem it unnecessary to do more in connection with the remarks of the member from Ohio, than to state that, I regard him as having fallen into serious misapprehensions, which tend to produce an erroneous and unjust impression upon the public mind with reference to this committee; and through which impression I, as an individual member of it, feel myself affected. I have deemed it my duty to say thus much, by way of protecting the committee against unguarded accusations.

The gentleman from Ohio stated, and I presume the impression was upon his mind, that "the committee enjoined secrecy upon their witnesses, and upon themselves." I do not understand that to be true; but rather a misapprehension doing injustice to the committee. This committee is one of peculiar character or organization, having peculiar duties to discharge. When witnesses were summoned before it, and they made vague imputations or statements, opening up questions, supposed to affect the reputation of members of Congress, I would ask whether it would be thought proper to permit such vague imputations or questionable statements to go into the newspapers, and be bruited before the public, before the members had any opportunity to rebut or disprove them, or the committee any time to investigate their truth? The committee *did* determine that it was improper to let the testimony, given from day to day, go into the newspapers before investigation had been fully pursued. Many of the imputations turned out to be groundless. Had they been made public at the time they were first made, they would have affected the reputation of honorable men very unjustly. The committee, I think, correctly determined it was improper that testimony in this unfinished condition, should go into the newspapers. No further than this, was it ever intended that the proceedings of the committee should be secret. Everything the committee has done, has been published. Every word of testimony taken before it has been laid before the public, and the gentleman's remark, that this is a "secret" tribunal, imposing "secrecy on its witnesses and its members" is certainly unjust and incorrect.

He taunts the committee with the expression, that they have accomplished nothing; that nothing which they think or do can affect the reputation of members of Congress; and he would seem to assume that it is the purpose of the committee to stigmatize the reputation of members of this House. I have not so understood it. I think that the gentleman was a little over-heated. He is the advocate of the passage of Colt's bill, and I suppose was somewhat unguarded in his zeal and expressions. Such expressions are calculated to do the committee much injustice—they are incorrect, and I have felt it my duty to say this much by way of reply to them.

If the committee have accomplished little, it is not because they have not labored indefatigably. They have labored, not to convict members, or to exculpate them, but to eviscerate truth. If they have accomplished little, it is so much to the credit of the character of the House, for which I am gratified, or because, as the gentleman says, "it is not in the power of this House to compel the attendance of witnesses before the committee," which, if true, I think a great defect in its organization. That is the question now pending before the House; and it is rather remarkable that the House has appointed such a committee, and after months of labor should discover that the committee has no power to do what it had authorized and instructed it to do. I am rejoiced to believe that no testimony before the committee justifies the belief that any member of the House has acted corruptly. Were I not a member, as an American citizen I should feel proud of this. But the testimony discloses that there are unprincipled men prowling around the Capitol, trying to secure the passage or defeat of bills; some of whom, at least, manifestly believe that money and improper appliances are necessary to secure success. This is a wretched state of things, and it must be granted that the committee have done *some* good in bringing to light, and exposing to the public gaze, these miserable men. Look at the testimony of Day and Dickerson—one for, and one against the bill. There is something in that testimony perfectly shocking. The whole testimony before the committee ought to be printed, and sent broadcast into every congressional district of the Union. Such pests as hang about the Capitol, with the belief that members may be reached, directly or

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indirectly, by improper appliances, should be mercilessly and thoroughly exposed. If the committees have not the power, a bill ought to be passed at once giving them the power to compel witnesses to appear and testify to the truth upon charges or imputations, such as have been made, affecting the reputation of members of Congress, and involving the purity of legislation. This is a question in which the people of the United States are deeply interested, and they should demand of their representatives no dodging upon such a question.

Mr. EDGERTON. I will say to the House that in the remarks which I made to the House on Saturday, I had no intention in any way to cast any reflection upon any member of that committee, or upon the integrity of the committee itself. I did denominate it as an inquisitorial committee, and I must now say, with all due respect to the gentlemen who are upon it, that I do think that all committees of this character are inquisitorial. I am opposed to their organization. I think they are improper, except in cases like that which the gentleman from Virginia [Mr. BAYLY] proposes to raise, where a specific and distinct charge was made against him. It was right that he should call for an investigation—right and proper. But I think it is wrong—I think the practice is founded in error—it is doing injustice to members of the House, and to their constituencies, when they get up committees of investigation simply upon rumors, and not upon specific charges.

Mr. ZOLLICOFFER, (interrupting.) I did not yield to the gentleman from Ohio for the purpose of making an argument before the House. I have but a word more to say, and then I will yield the floor altogether. Now, sir, in reference to the question of raising committees of investigation, I do think that when a member of the House rises in his place and makes an imputation which is calculated to lead to the conclusion that members of the House are corrupt, are approachable in reference to their action upon bills before this body, a member who is sensitive as to his character and the character of the National Legislature, ought not to wait for a specific charge to be made against a particular individual. I think that when a member rises in his place and makes such an imputation, it is proper for the House to make an investigation as to its foundation.

But the gentleman from Ohio stated on Saturday that he was opposed to the organization of this committee. Sir, I do not remember how that fact was, but I have endeavored to examine and to see what his record was, and I have not been able to ascertain that the gentleman even voted against the raising of the committee, or that he said one word that would indicate his opposition. I inquire of him whether such was the fact?

Mr. EDGERTON. It is not necessary that a member should get up here and make a speech upon every subject that is presented, to show that he is opposed to it. It is not necessary even that he should vote upon the question, in order to ascertain his precise position in reference to it, or his bearing towards it. I said I was opposed to the organization of that committee, and so I was, although I did not make a speech against it. I do not know even that I voted against it. I am not sure that I was present when the gentleman from Virginia offered the resolution for the raising the committee. But, sir, I was opposed, and am opposed, on an occasion of this character, to raising committees of investigation.

Mr. ZOLLICOFFER. Having now stated what I deemed to be erroneous in the remarks of the gentleman from Ohio, on Saturday, and that gentleman having disclaimed all intention to make any reflection upon the members of the committee of which I am a member, I have no further remarks to make upon the subject.

Mr. OLDS obtained the floor.

Mr. EDGERTON. I ask my colleague to allow me to say one word further in relation to the charge against the character of this committee. I had supposed this was a secret committee. I had supposed so from its very nature, and I had heard from persons outside, who had been before it, that such was its character. I made the charge, therefore, from a general belief of the fact, and from the assertions of persons who had been before it during some of its sessions.

Mr. LETCHER. As to the secret character of our committee, it was secret, as has been stated, to just this extent. We did not allow any witness, called before us to testify, to take out a copy of his evidence for publication; because we thought that, by publishing one-sided statements, without showing the connection in which they were made, injurious impressions might be created. But, sir, we have reported to the House all the testimony that has been taken before us, and it has all been published, and any person can find exactly what took place before us by reading the report.

Mr. EDGERTON. I will simply say that I do not desire to take up the time of the House now. I have the floor upon this Colt case, when we go into Committee of the Whole on the Private Calendar, and, should I have anything further to say, I will say it then.

Mr. OLDS. I do not wish to consume more of the time of the House upon this subject, and I will not detain them five minutes with what I have to say. I think we have given to this matter already more importance than it deserves. So far as I know the effect of these resolutions, should we adopt them, I think the game is not worth the ammunition we have expended upon it. I would not deign to dignify this man with an arrest by the Sergeant-at-Arms. I would give him his walking papers, and let him go without taking any further notice of him; for, whatever further action we take in reference to the case will be giving importance to an individual unworthy the notice of the House.

I certainly am not disposed to cast any reflection upon a single member of the committee. So far as I know, they have followed faithfully in the path of their duty. But while it cannot be denied, but that the committee is inquisitorial in its character, you cannot make it anything more, nor anything less. It has not had referred to it any single charge against a member of this House, but is commissioned to inquire, generally, as to bribery and corruption. When the Colt case was under consideration, the member from North Carolina, [Mr. CLINGMAN,] made the general charge, that he had understood outside influences had been brought to bear upon members of the House in reference to that case.

Mr. CLINGMAN. I ask the gentleman to allow me a single word. If any member will read the report of this committee, I think he will agree with me that the proof is abundant that these outside influences had been brought to bear upon members of the House. I did not say that they had been successfully brought to bear upon any member, but I think they have been brought to bear upon members; and my estimate of the value of the labors of that committee is very different from that of the gentleman from Ohio, [Mr. EDGERTON.] I think that when it is made in full, extra copies should be printed; and, in my opinion, they will be found much more serviceable to the country, than the copies of the Patent Office Report which we distribute.

Mr. OLDS. The gentleman has stated precisely what I was on the point of stating when he interrupted me. It is true that the gentleman from North Carolina did not make any specific charge against any member. The committee had no specific charges to investigate; no member was suspected in particular, and the committee, as a matter of course, was not organized for any specific purpose. It had no member upon trial, for no member was suspected. For what purpose then was the committee organized? Was it for the trial of American citizens outside of Congress? Why, I do not even know that any definite charge had been made against any gentleman outside of the House. The whole transaction was founded upon rumor; the committee was constituted upon rumor, and had nothing to investigate but rumor.

Mr. BAYLY, of Virginia. If the gentleman will allow me, I will say one word more. In the remarks I made a few moments ago, in reply to the gentleman from Pennsylvania, [Mr. CHANDLER,] I forgot to refer, as I had intended, to a most flagrant precedent in respect to this very question. It will be recollected that there was a man, whom we have all seen about here, taken up by the Senate some years ago, upon a charge of an attempt to assassinate Mr. Clay in the face of the Senate. They imprisoned him—put him in jail. But afterwards he was discharged, and the Senate itself, seeing its error, passed a resolution giving him damages for false imprisonment.

A MEMBER. They gave him $100 to get rid of his importunities.

Mr. OLDS. What I wish to say is this, that I do not think the House itself understood, when it raised this committee, that the committee was to have power to send for persons and papers for the purpose of procuring evidence to impeach any of the gentlemen composing the House of Representatives. I do not suppose that they entertained a thought of that kind. I do not suppose that the honorable member from North Carolina, [Mr. CLINGMAN,] when he made the charge which he did, in the general terms in which he made it, supposed that any of the gentlemen composing the House of Representatives would be implicated by any testimony which could be brought before the committee.

The honorable member was an opponent of the extension of the Colt patent, and, perhaps, he thought that if he could raise a hue and cry against Mr. Colt, and charge that he had employed agents to prosecute his claim before the American Congress, he might prejudice the Colt case. Perhaps, some floating idea of that kind may have been passing through his imagination. But, however that may be, certain it is that the gentleman's movement had precisely such an effect. But for that the case might have been disposed of in a single day. But in consequence of the raising of this committee of investigation, it has been hanging over the American Congress month after month.

Well, Mr. Speaker, what has been the consequence of instituting a committee with power to send for persons and papers? Have they brought before them such testimony as any honorable member would wish to have brought against him if an act of impeachment was instituted against him? I would ask you, sir; I would ask every Representative within the sound of my voice, if he would believe this witness, Chase, on oath, if he were testifying against the character of any one of the gentlemen composing the American House of Representatives? Is *that* the class of witnesses that ought to be brought before a committee for the purpose of sustaining charges against honorable members of this body?

Again, sir, suppose you pass this resolution, what kind of punishment do you inflict upon this individual? What would he desire more than the notoriety he would obtain by being placed in custody at the mandate of the Speaker of this House, and in charge of the Sergeant-at-arms, where, sir, he would, perhaps, be able to run up a better bill of fare than he could at a hotel? No, sir, if you want to punish this individual, judging from his appearance, keep from him champagne and brandy, and my word for it, you will bring him to terms, and there will be no more contempt before this or any committee of this House. God never made an illegible mark upon the countenance of any man. To look at that man is sufficient; and I say again that the game is not worth the ammunition: consuming the time of the House.

Now, if the gentleman from Virginia will so amend his resolution as to require William B. Chase to be expelled from the reporters' seats, or to cause the Sergeant-at-arms to lead him out of the Hall of the House of Representatives, I shall be prepared to vote for his resolution.

Mr. LETCHER. If the gentleman will look at the first resolution, he will find that it is precisely that.

Mr. OLDS. No, sir, it goes beyond that.

Mr. LETCHER. That is the second resolution.

Mr. OLDS. Then, I hope the gentleman will withdraw the second resolution.

Mr. HOUSTON. Let the resolutions be again read.

The Clerk reported the resolutions.

Mr. OLDS. The first resolution, it appears to me, accomplishes all that this House has power to do, or that this House ought to do. It provides that this individual shall be expelled from the reporters' desks. No gentleman can entertain a doubt as to the propriety of such expulsion. But if we should place him under arrest by the Sergeant-at-Arms for refusing to give testimony before the committee, we might involve ourselves in difficulty, and give far more importance and notoriety to Mr. Chase than he merits.

Mr. TAYLOR, of Ohio, (interrupting.) I desire to make a single suggestion. I think we have wasted time enough upon this subject. I do not believe there is a member of the House who is not prepared to vote for the first resolution, and if my colleague will allow me, I will call the previous question.

Mr. OLDS. I wish to say that we have lost this whole day about this matter. There are only four weeks for legislation now before us. There are hundreds of bills on the table and on the Calendar, undisposed of, and while the country is suffering for want of wholesome legislation on those measures, we are discussing questions of privilege and contempt about an individual whom you would not believe, even if you had his testimony.

In order, therefore, that we may get this question out of the way, that the committee of investigation may go on and make a report, if they want to do so, and that we may dispose of the Colt case and other measures of wholesome legislation, I now move the previous question.

[Cries of "That's right!" and "Hold on to it!"]

Mr. OLDS. Before demanding the previous question, however, I desire to call for a division of the question, so that we may have a separate vote on the resolutions.

Mr. HOUSTON. Can that be done?

The SPEAKER. The resolutions are clearly distinct.

Mr. HOUSTON. It is the report of a committee, and can the question be taken upon it otherwise than as a whole?

The SPEAKER. The committee report two distinct resolutions.

Mr. LETCHER. It is not the report of the committee at all. The committee made their report in writing, and this is the result of my action as the organ of that committee. It is not the act of the committee in its capacity as a committee.

The SPEAKER. There can be no doubt about the resolutions being distinct in their character, and that a separate vote may be had upon each of them.

Mr. OLDS. Then I demand the previous question.

Mr. PRESTON. I ask the gentleman from Ohio to withdraw the demand for the previous question for five minutes. I pledge myself to renew it.

Mr. OLDS. I withdraw it, if the gentleman will renew it.

Mr. PRESTON. I shall renew it. As I understand, Mr. Speaker, there are two resolutions before the House. Now, sir, if any reporter, who enjoys the privilege of coming upon the floor of this House, refuses to testify before any of its committees, I am in favor of excluding him from his seat; for I hold that we may most properly revoke any privilege accorded to him by our rules, if he shall refuse to comply with customs which have usually prevailed in such cases. That far I am prepared to go; and as it seems that Mr. Chase has fallen within this rule, I am ready to give an affirmative vote upon the first resolution submitted by the gentleman from Virginia.

But I would respectfully submit to my friend from Virginia, [Mr. LETCHER,] who is a lawyer, if the second resolution were adopted, whether it might not be invalid, and if the warrant of the Speaker were issued upon it, if it might not subject the action of the House to derision? Is it not framed in such general terms that it would not be apparent upon the face of our proceedings for what cause Chase was committed to the custody of the Sergeant-at-Arms, and would it be able to resist, for a moment, the test of a writ of habeas corpus, if the prisoner should demand its protection? If the warrant were issued in pursuance to the resolution, it would direct, in general terms, the Sergeant-at-Arms to hold Chase in custody until the further order of the House, without containing any specification of his offense, so as to enable a judge receiving the warrant upon a writ of habeas corpus to form an opinion whether the warrant was authorized by, or transcended the powers of, the House. It would not appear to him whether Chase was deprived of his liberty for a contempt committed in the face of this body, or for a libel published beyond its jurisdiction. The warrant, if issued at all, should be issued in conformity with the resolution, and should set forth clearly and distinctly the character of the offense, and the cause of the commitment, so that any judge, upon a writ of habeas corpus, might decide upon the legality or the illegality of the commitment. This practice of general warrants committing a citizen without specifying the offense, is an invasion of liberty, and belongs to the period of the English revolution against Charles the First, and not to our own times. The important questions connected with this topic were among the principal causes which brought that monarch to the block, and led to the establishment of English liberty upon its present foundation.

Mr. LETCHER. Will the gentleman from Kentucky permit me to correct an error?

Mr. PRESTON. I have only a moment myself; my time was limited to five minutes; if it were more extended I would give the floor to the gentleman. I say this, Mr. Speaker, that as far as the second resolution goes, it would, in all probability, be deemed worthless in a court of justice. The Speaker has no right to issue such a general warrant as the resolution requires, and the Sergeant-at-Arms, in response to a writ of habeas corpus, could not, under it, show a legal justification for holding his prisoner, if the warrant were subjected to the acute criticism of counsel in a trial at law. It is exactly analogous to the question in relation to general warrants, which was much discussed in England at the time of its first revolution, in the conflict which took place as to the extent of the prerogative of the Crown, and the right of the privy council to imprison without assigning the cause of the commitment upon the face of the warrant. There was a contest in New York in relation to a subject of this kind, not many years since, and I conceive that it is just and right that no warrant can issue to deprive a citizen of his liberty, which does not clearly set forth, and distinctly specify, the causes for which he is held in custody, so that the legality or illegality of the commitment may be fully examined and reviewed, as well as the rightful duration of the imprisonment, by any judge who may hear the matter upon a writ of habeas corpus. The proceedings in this case, the adoption of this resolution, and a warrant issued upon it, would furnish no such information to the tribunals of the country, if it were brought before them by Mr. Chase, on a writ of habeas corpus.

Under these circumstances, I think the proper course for the House to pursue is, to adopt the first resolution asked for, and refuse the second; which ought, at least, to be referred to the Committee on the Judiciary, for their opinion and report before it is adopted by this body. I do not see the necessity of issuing the warrant for reasons that I need not now allude to; but if it should be the pleasure of the House to pursue a contrary course, the warrant should set forth the contempt of which Chase has been guilty, and the grounds for his being committed to the executive officer of our body.

There is, Mr. Speaker, a power higher in such cases than the orders of this House of Congress —the power of the courts of the land to protect the rights and liberties of the citizen; and it is eminently necessary in any action we may take, that we shall be careful not to violate in the slightest any privilege of any person, however humble or reprehensible.

Mr. DUNHAM. I desire to make a single remark, and hope the gentleman from Kentucky [Mr. PRESTON] will withhold his call for the previous question.

Mr. PRESTON. I promised to call for the previous question, and that promise I wish to fulfill.

Mr. DUNHAM. I should like to make a single inquiry before the gentleman moves the previous question.

Mr. PRESTON. I feel constrained by my promise to move the previous question.

The previous question was seconded; and the main question was ordered to be now put.

Mr. PRESTON. Can I call for a division of the question?

The SPEAKER. Certainly; the gentleman has a right to have the vote separated on the two resolutions.

Mr. PRESTON. Then I call for a division of the question.

The SPEAKER. Then the question is first on the following resolution:

Resolved, That the Speaker of this House be directed to revoke the privilege under which W. B. Chase holds a reporter's desk on the floor, and that said W. B. Chase be excluded from the Hall.

Mr. STEVENS, of Michigan. I call for the yeas and nays. Let us know who votes against it.

The yeas and nays were not ordered.

The question was taken; and the resolution was adopted.

The question recurred on the following resolution:

Resolved, That the Speaker do issue a warrant directed to the Sergeant-at-Arms attending this House, commanding him to take into custody, wherever he is to be found, the body of W. B. Chase, and the same in his custody to keep subject to the further order and directions of this House.

Mr. JONES, of Tennessee. I move to lay that resolution on the table, and I ask the previous question.

Mr. CLINGMAN. I take it that the resolution cannot be thus divided.

The SPEAKER. The first resolution is adopted, and its adoption separates it from the remaining resolution.

Mr. EDGERTON. Do I understand the motion of the gentleman from Tennessee [Mr. JONES] to be to lay the resolution on the table?

The SPEAKER. That is the motion.

Mr. EDGERTON. I would suggest that the motion should be to refer it to the Committee on the Judiciary.

Mr. JONES. No, sir. I insist upon my motion, because it will put an end to this thing here.

Mr. CAMPBELL. I should suppose there would be no objection to its being referred. I make that motion.

The SPEAKER. The gentleman from Ohio proposes to refer the resolution to the Committee on the Judiciary. Is objection made?

Several MEMBERS objected.

Mr. JONES, of Tennessee. I move to suspend the rules for that purpose.

Mr. MILLSON. I beg leave to say, if the resolution should be adopted, would not the party be entitled to be heard by counsel, and would not that take up too much time of the House.

Mr. PECKHAM. Has a motion been made to reconsider the vote by which the first resolution was adopted?

The SPEAKER. No such motion has been made.

Mr. PECKHAM. I then make that motion.

Mr. JONES, of Louisiana. I have been asked by several gentlemen to withdraw the motion I made to lay the second resolution on the table. I decline to accede to the request, because I believe this House has no power over the subject-matter of the second resolution.

The SPEAKER. The propositions of the gentleman from New York, [Mr. PECKHAM,] and the gentleman from Louisiana, [Mr. JONES,] are both privileged questions. The question will be taken first, on laying the second resolution upon the table, and then will come up the question of reconsidering the vote by which the first resolution was passed.

Mr. CLINGMAN. I demand the yeas and nays upon the motion of the gentleman from Louisiana, [Mr. JONES.]

The yeas and nays were not ordered.

Mr. LETCHER. If the House will allow me, I desire to make a suggestion, and it is this: Some gentlemen here think it requires a law to be passed by Congress before it can proceed in investigations of this character. Others think with me, that the House has the power now. I propose, then, that by general consent, it be agreed that this resolution go to the Committee on the Judi-

ciary, so that they may consider the question whether we have the power or not.

Mr. ABERCROMBIE. I would ask the Chair whether this debate is in order?

The SPEAKER. All debate is out of order, except by the unanimous consent of the House.

Mr. PRESTON. I hope that the proposition of the gentleman from Virginia [Mr. LETCHER] will be accepted.

The SPEAKER. Is the proposition of the gentleman from Virginia agreed to?

Several MEMBERS objected.

The question was then taken on Mr. JONES's motion; and, a division being had, there were—ayes 68, noes 50.

So the House agreed to lay the second resolution upon the table.

The SPEAKER. The question now recurs upon the motion made by the gentleman from New York [Mr. PECKHAM] to reconsider the vote by which the first resolution was adopted.

Mr. JONES, of Tennessee. I submit the question, whether the gentleman who makes that motion voted with the majority?

The SPEAKER. There was no division, and there is no record of the vote.

Mr. PECK. I move to lay the motion to reconsider upon the table.

Mr. PECKHAM. I made the motion to reconsider simply upon the ground that I thought the House were acting rather too hastily upon a matter of this character. I have not the least objection to having the privileges of a reporter withdrawn from Mr. Chase, because he has violated the rule under which he was admitted to a seat upon this floor, but for one, I shall not contribute, in any manner or degree, to cast reflection or opprobium upon him without giving him an opportunity of being heard in his defense, of giving him what should be denied to no man, a trial, before conviction and punishment. So far as I am concerned, I will not consent that this House, acting as a judicial body, shall pass sentence of condemnation upon any citizen without a trial. It is for that reason I made the motion to reconsider, that the latter part of the resolution, which affirmatively condemns and excludes, might be rescinded, and that the first part, which withdraws the privilege which the Speaker has accorded him, might be adopted. I scarcely know the individual here condemned, at least, I know him very slightly, but I desire that the House should not itself do wrong in its eagerness to punish him. I hope the House will reconsider the resolution for the purpose indicated, and direct simply that the privilege be withdrawn from Mr. Chase of occupying a seat in this Hall, but that no general judgment of condemnation shall be rendered.

Mr. DUNHAM. If the House pass this resolution without hearing anything further, it places itself in this category: The testimony upon which you act, and which is reported by the honorable gentleman from Virginia, [Mr. LETCHER,] was taken during the last session of Congress. The appointment under which Mr. Chase is acting was made at the commencement of this session, and upon that point he has made no response, either to that committee, or this House. The House therefore withdraw from him a privilege which was awarded him at the commencement of the present session, upon an answer which was made during the last session, and before the appointment was made, and without any information whether he holds the same at this time or not.

Mr. PECKHAM. I do not agree to the position of the learned gentleman. The matter in regard to which he has been acting as a claim agent, is still pending before this body, and there is no evidence whatever—in fact, there is no pretense that his relations have been changed.

Mr. BARRY. I understand, in the course of conversation with others, though I have not examined the report of the committee particularly with reference to this subject, that there are a number of individuals who enjoy the privileges of this Hall as reporters, on condition of not being claim agents, that are as guilty and as liable to be expelled as Mr. Chase. If this be true, it is but right that the same measure of justice should be meted out to all. If you expel this individual upon the grounds alleged, and there be other men upon this floor, standing in the same position, it is unjust to the House and the person assailed, that he should be made the scape-goat for all the rest, although the punishment may be well deserved in his own case.

Mr. PENNINGTON. With the permission of my honorable friend from New York, [Mr. PECKHAM,] who is entitled to the floor, I desire to say a few words in support of his motion to reconsider before he demands the previous question.

I hope the motion will prevail. The resolution which it is proposed to reconsider does not, upon the face of it, specify the ground on which Mr. Chase is to be expelled from his privileged seat as a reporter. Nor does the ground of this punitive action on the part of the House appear, with any certainty, by the proceedings of the body. It seems to me to be due, not less to the dignity of the body itself, than to the character of the individual affected by the resolution, that it should specify distinctly the reason for this marked evidence of the displeasure of the House. It is quite as important with reference to the precedent which it will establish.

Now, sir, with a view to such a specification, let me ask the House what is the ground of that proceeding? Let us see what are the grounds which may be found upon the face of our proceedings, and urged in support of the measure proposed, and how far they, or any of them, will justify it. Is it that Mr. Chase has been guilty of a contempt of the lawful authority of the House in refusing, as a witness, to answer questions propounded to him by one of its committees, authorized to send for persons and papers, or in subsequently refusing to appear before the committee as a witness, in obedience to the summons of the Speaker, or is it that he is a claim agent, under a proper construction of the rule of the House, which excludes such from privileged seats as reporters? Is it upon one, or more, or all of these grounds? Or is it because he is a *sensual looking beast*, as was said by the member from New York [Mr. WALSH] a few days since; or because, as is said, he criticised the grammar of some gentleman on this floor; or because he has maltreated his family, as is alleged by some; or because he is, in fact, not a reporter, and has procured his seat by fraud upon the Speaker in untruly representing himself to be such, as has been alleged by others? Whatever may be the reason, let it be disclosed upon the face of the resolution, not only that the House may appear to do it in support of, and with proper regard to, its own dignity, and that it may stand upon that reason as a precedent for the future, but that no unjust or injurious inferences may be drawn from it against the character of Mr. Chase other than such as are intended by the House, and justified by the circumstances of the case. Let us strike no blow in the dark, nor without such evidence as shall appear to demand it.

The only grounds of which there is a shadow of proof or publicity upon the records of our proceedings, and the only ones to which I shall further refer, are those which relate to his conduct as a witness, and that which relates to the fact of his agency for Colt in his application for the extension of his patent. Now, sir, it is by no means clear to me that, in any of these respects, he is guilty of a contempt of the lawful authority of the House, or obnoxious to the charge of being a claim agent, in the technical or any proper sense of that term, under the rule of the body. I am not satisfied that this House has, inherent in it and without legislative enactment by Congress, (in which both Houses must, of course, concur,) the power to compel the attendance of witnesses either before itself or before its committees. It is only by positive law that courts of record have that power, and, if I recollect rightly, the very question now presented, as to the inherent power of a single branch of the Legislature to compel the attendance of witnesses, has been fully considered, and the power denied by high authority in the State of New York, even in the case of the Senate of that State sitting as a court of impeachment, and, in consequence of such denial, legislative action was had to vest the necessary power in the Senate as well as the power to punish for contempt.

If this view of the question is right, Mr. Chase is not guilty of a contempt of the lawful authority of this House, either in refusing to appear or to answer. At all events, it may well be doubted whether his refusal to answer in the particular matter propounded to him by the committee is in any degree reprehensible. It was wholly a matter of hearsay, which is held to be utterly incompetent. He expressly declared, on oath, that he had no knowledge of any corrupt practice in regard to the extension of the Colt patent, or any other matter before Congress, and that he had no reason to believe that there had been any such corrupt practice, except from hearsay. He stated what he had heard, and only refused to give the name of the person from whom he had heard it, and this he may have done, under the circumstances, rightfully and properly, from a sense of delicacy. At all events, it seems to me that this branch of the case presents questions worthy of grave and deliberate consideration, and that it ought to go to the Committee on the Judiciary for that purpose. If they shall report that the House has no power in the premises, inherent in it without further legislation, and that the action of the committee and of the Speaker was not duly authorized, the House will be better informed, and may more safely act than it now can; and if the committee shall think otherwise, the House may be happily restrained from sanctioning an erroneous principle and setting a bad precedent, and such further legislation as may be needed may be matured and recommended by the committee.

It is obvious, from the action of the House in laying upon the table the resolution accompanying that now under consideration, that the House is not now prepared to affirm its authority to compel the attendance of witnesses, or to punish Mr. Chase as for a contempt of that authority, in the mode usual and suitable in cases of contempt. If, then, it is an open question whether Mr. Chase is guilty of contempt, and the House is not prepared to declare him to be so guilty, it can scarcely be said that the House, in the vote just taken upon the passage of this resolution, has expelled Mr. Chase upon this ground.

It only remains to inquire whether he is a claim agent in the sense of the rule to which I have referred. Let it be remembered by the House that the action against Mr. Chase now under consideration, is of a penal, or, at least, a punitive character, and that the rule should be construed strictly in his favor, and not made to extend beyond its technical interpretation. This is the rule of law in such cases, and a proper one I ask the attention of the committee to the reading of so much of the 19th rule as is pertinent to the question now before us. It declares that "no person shall be admitted under the rules of the House as a reporter or stenographer for any paper or papers who shall be employed as an agent to prosecute any *claim* pending before Congress; and the Speaker shall give his written permission with his condition."

Now, is Mr. Chase guilty of a violation of this rule? Is he an agent for the prosecution of any *claim* pending before Congress? If so, I ask, *what* claim is it? Is it any *claim* which has been referred to the Committee on Claims? or which, under the rules of the House, should be referred to that committee? This will not be asserted. He is nothing more or other than an agent to further the application of Colt for the extension of his patent. This, it seems to me, is not a claim, nor of the nature of a claim, in the technical or any other proper sense of that term. There is nothing of a *claim* about it. He *solicits* a favor by private legislation in his behalf. He throws himself upon the bounty, the liberality of Congress. A claim is defined to be *a demand of right, a title, an authoritative requirement.* Of any of these there is nothing in the case before us. The case of this application presents a question of public policy, not less than one of private advantage. If it be said that the case is within the *spirit* of the rule, I may well concede it, without admitting the propriety of punishing an individual who has not found it, and cannot find it in the *letter;* and I feel quite confident that but few members of this House could be found to dismiss Mr. Chase solely upon this ground. The most that should be done in such a case would be to amend the rule, and leave nothing to construction or in doubt hereafter.

I submit to the House, therefore, that it will be wise to retrace our steps, and commit the whole subject to the Committee on the Judiciary; and for this purpose to reconsider the resolution as proposed by my friend from New York, [Mr. PECKHAM.]

One word more, and I am done. I have no

knowledge of the character of Mr. Chase; I have no personal acquaintance with him; and have never, to my knowledge, passed a word with him in my life. I am not his apologist, nor his champion. For aught I know he may be a very unfit person to enjoy the privilege accorded to him by the Speaker. Certain it is, however, that the Speaker could have known no good reason for refusing him a reporter's desk as late as at the opening of the present session; and it is worthy of remark, too, that the facts disclosed by the committee were laid before the House at the last session; and that the fact of his being a claim agent, if such he is, was fully admitted by himself in his examination before the committee, then printed as a public document of this House. I only desire that the House shall do that which will best consist with its own dignity, and the justice it owes to the citizen.

Mr. WALSH. I rise to a question of order. It is, that when a person gives way to another, it can only be for the purpose of personal explanation, and the person to whom he yields has no right to make a speech.

The SPEAKER. The Chair holds the question of order to be well taken, and will endeavor to enforce the rule.

Mr. PECKHAM. I have but a word or two more to say.

Mr. McDOUGALL. I ask the gentleman from New York to allow me to say one word. I shall support the gentleman's motion for the purpose of enabling me to introduce the following substitute:

Resolved, That the privilege extended to newspaper reporters to occupy a place within the Hall of this House, be withdrawn, except as to the regularly employed reporters of the daily newspaper press of the city of Washington, and not more than one of such reporters shall be allowed to each of said papers, except the Congressional Globe.

[Many VOICES. "Oh No!" "No!"]

Mr. PECKHAM. One moment more, for explanation, and I will call the previous question. I do not agree to the construction which my friend from New Jersey has placed upon the rule. It seems to me to be altogether too narrow an interpretation. The application in behalf of Mr. Colt, for the extension of his patent, which is now pending before this body, seems to me to come fully and entirely up to the substance and spirit of that rule; and Mr. Chase has, under oath, admitted himself to be an agent in behalf of that application. It is an important claim, in the enlarged and liberal sense of that word. He has admitted himself to be an agent in behalf of that which I call a claim, in the true understanding and meaning of the term. He comes, then, within the rule, and therefore could not be allowed the privileges which that rule has heretofore extended to him. Under such a state of facts he would not be admitted, if he made application to the Speaker for that purpose, and disclosed the whole case. He should, therefore, not have the privilege. Not desiring to make a speech upon the subject, if it be in order, Mr. Speaker, I move the previous question upon the motion to reconsider.

Mr. CLINGMAN. I move to lay the motion to reconsider upon the table.

Mr. FULLER. I rise to a privileged question. I move that when this House adjourns it adjourn to meet at eleven o'clock to-morrow.

The SPEAKER. That would be changing the regular hour of meeting under the rules of the House.

Mr. FULLER. Then I move to suspend the rules to enable me to submit the motion.

The SPEAKER. But the previous question has been ordered upon another matter, and, until that is disposed of, the motion to suspend the rules cannot be entertained.

Mr. EDMUNDSON. On the motion to reconsider I demand tellers.

Tellers were ordered; and Messrs. EDMUNDSON and FULLER were appointed.

The House was then divided; and the tellers reported—ayes 71, noes 35; no quorum voting.

Mr. SAPP. I move that the House do now adjourn.

The question was taken; and the motion was agreed to.

While the resolutions relating to Mr. Chase were under consideration—

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, here reported as correctly enrolled, bills of the following titles, which thereupon received the signature of the Speaker:

An act for the relief of the heirs of Joseph Gerard;

An act for the relief of Catharine B. Arnold;

An act to increase the pension of Patrick C. Amos;

An act for the relief of E. J. McLane;

An act for the relief of the administrators of Oliver Lee; and

An act for the relief of the West Feliciana Railroad, and the Georgia Railroad and Banking Company.

The House, at half-past four o'clock, adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

TUESDAY, *February* 6, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

PETITIONS, ETC.

Mr. PETTIT presented documents in support of the claim of Martha Scott, widow of a revolutionary soldier, to a pension; which was referred to the Committee on Pensions.

Mr. HUNTER presented the memorial of William H. French, praying that a pension may be granted to Mrs. A. D. Reeves, widow of Captain J. S. K. Reeves; which was referred to the Committee on Pensions.

Mr. HAMLIN presented an additional document in the case of G. R. Drake; which was referred to the Committee on Patents and the Patent Office.

Also, the memorial of Robert Graham, praying a confirmation of his title to certain land, and compensation for such other land as belonged to him, but was sold by the United States; which was referred to the Committee on Private Land Claims.

Mr. JONES, of Iowa, presented a resolution of the General Assembly of the State of Iowa, in favor of the adoption of measures for the protection of emigrants, and the establishment of telegraphic and mail communications between the Mississippi river and the Pacific ocean; which was referred to the Committee on Territories.

Mr. FESSENDEN presented the memorial of George F. Ryder, praying remuneration for losses sustained by the falling of the iron bridge at the Little Falls of the Potomac, for the building of which he had contracted with the Government; which was referred to the Committee on the District of Columbia.

Also, a petition of citizens of Portland, Maine, praying the establishment of a collection district at Island Pond, Vermont; which was referred to the Committee on Commerce.

Also, a petition of citizens of Portland, Maine, praying an extension of the principles of reciprocal trade between the United States and Canada; which was referred to the Committee on Finance.

Also, two petitions of Sarah Larrabee, and others, widows of soldiers of the war of 1812, praying that in cases of second widowhood, where both husbands served in that war, a pension may be allowed for each; which was referred to the Committee on Pensions.

Mr. MORTON presented the petition of the administrator of Calvin Read, praying payment for timber sold to the United States by the deceased, and used in the erection of a fort at Maudarin, Florida; which was referred to the Committee on Claims.

Mr. SLIDELL presented a petition of S. S. Heard, and others, citizens of the parish of Morehouse, Louisiana, residing within the limits of the Bastrop grant, praying an extension of time for perfecting their titles to the lands claimed by them; which was referred to the Committee on Public Lands.

Mr. DODGE, of Iowa, presented the petition of George H. Gordon, an Army officer, who was wounded in the late war with Mexico, praying an increase of pension; which was referred to the Committee on Pensions.

Mr. MASON presented the memorial of Horatio J. Perry, praying compensation for services rendered, and reimbursement of expenses incurred, as chargé d'affaires of the United States to Spain; which was referred to the Committee on Foreign Relations.

Also, a petition of R. S. Patterson and others, citizens of Washington, praying an appropriation for improving East Capitol street in said city; which was referred to the Committee on the District of Columbia.

Mr. SEWARD presented additional documents in relation to the petition of the heirs of Edward Rogers; which were referred to the Committee on Revolutionary Claims.

PAPERS WITHDRAWN.

On motion by Mr. ADAMS, it was

Ordered, That John Crawford have leave to withdraw his petition and papers.

REPORTS OF COMMITTEES.

Mr. JONES, of Iowa, from the Committee on Pensions, to whom was referred the petition of the heirs of Simon Smith, praying to be allowed the arrears of pension which they allege to have been due him, submitted a report, accompanied by a bill directing the payment of arrears of pension due Simon Smith, deceased, late a pensioner of the United States, to his heirs-at-law; which was read, and passed to a second reading. The report was ordered to be printed.

He also, from the same committee, to whom were referred the petition of Sarah Griffin, praying compensation for the services of her father, Colonel James Wilson, in the revolutionary war, and the petition of Daniel Littlefield, heir-at-law of Daniel Littlefield, an officer of the Revolution, praying to be allowed the seven years' half pay due his father, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill of the House for the relief of Anna W. Angus, widow of the late Captain Angus, United States Navy, asked to be discharged from its further consideration; which was ageed to.

Mr. RUSK, from the Committee on the Post Office and Post Roads, to whom was referred a bill to provide for the accommodation of the courts of the United States for the district of Maryland, and for a post office at Baltimore city, Maryland, reported it back with an amendment.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the memorial of R. Piemont and others, praying for compensation for saving the United States ships Raritan and Vandalia from destruction by fire on the 11th of October, 1847, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of William B. Scott, late Navy agent at Washington, District of Columbia, praying the settlement of his accounts on the principles of equity and justice, submitted an adverse report thereon; which was ordered to be printed.

Mr. PEARCE, from the Committee on Finance, to whom was referred the petition of Edward Riddle, reported a bill to remit or refund duties upon goods, wares, and merchandise destroyed by fire; which was read, and passed to a second reading.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill from the House of Representatives making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1856, reported it back without amendment.

He also, from the same committee, to whom was referred the petition of Samuel P. Todd, purser in the United States Navy, praying to be allowed for losses sustained by discount on Treasury notes, reported a bill for his relief; which was read, and passed to a second reading.

Mr. GEYER, from the Committee on the Judiciary, to whom was referred the petition of Hall Neilson, praying remission of interest on notes given the United States in payment for land, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. BROWN, from the Committee on Indian Affairs, to whom was referred the petition of William Walker, for himself and the heirs of Henry C. Walker, praying that they may be authorized to locate lands under a treaty with the Wyandot Indians, or be allowed a commutation in money for said lands, asked to be discharged from its further consideration; which was agreed to.

Mr. PETTIT, from the Committee on Private Land Claims, to whom was referred the petition of Richard Albritton, praying to be allowed to enter, in his own name, a section of land in lieu of land taken from him by the United States, and that he may be indemnified for the loss of his improvements, &c., submitted a report, accompanied by a bill for his relief; which was read, and passed to a second reading. The report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of David Kerr, praying compensation for certain land warrants placed in the hands of a United States agent, which he returned in his own name, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. WADE, from the Committee on Claims, to whom was referred House bill for the relief of Gilbert C. Russell, reported it back without amendment.

He also, from the same committee, to whom was referred House bill for the relief of the widow of W. Irving, deceased, reported it back without amendment.

Mr. JONES, of Tennessee, from the Committee on Military Affairs, to whom was referred the memorial of Jean Baptiste Faribault and Pelagie Faribault, praying to be allowed the amount agreed upon by contract with the Secretary of War, to be paid them for the island at the confluence of the rivers Mississippi and St. Pierre, on which Fort Snelling now stands, submitted a report, together with a bill for the relief of J. B. and P. Faribault, of Minnesota Territory; which was read, and passed to a second reading. The report was ordered to be printed.

Mr. SHIELDS, from the Committee on Military Affairs, to whom was referred the bill from the House of Representatives granting a pension to Joseph McCormick, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

He also, from the same committee, to whom was referred the bill of the House of Representatives, authorizing the Secretary of War to purchase a site in Texas, and contract for the erection of arsenals in Texas and New Mexico, and in the Territories of Washington and Oregon, reported it back without amendment, and asked that it be laid on the table for the present, on the ground that the same object had been provided for in the military appropriation bill. The motion was agreed to.

He also, from the same committee, to whom was referred the joint resolution of the House for the relief of James Hughes, reported it back without amendment.

He also, from the same committee, to whom was referred the petition of William Read, praying to be allowed compensation for losses sustained by him in the performance of difficult services, when the early settlers of Tennessee were about being overrun by hostile Indians, submitted an adverse report thereon; which was ordered to be printed.

Mr. DAWSON, from the Committee on Military Affairs, to whom was referred the joint resolution from the House of Representatives for the relief of John Dugan, reported it back without amendment.

He also, from the same committee, to whom was referred a memorial of officers of volunteer companies in the District of Columbia, praying the construction of an armory therein, submitted a report, accompanied by a bill to provide for the erection of a suitable building for the care and preservation of the ordnance, arms, and accouterments of the volunteers and militia of the District of Columbia, and for other purposes; which was read, and passed to a second reading. The report was ordered to a second reading.

Mr. BRODHEAD, from the Committee on Claims, to whom was referred House bill for the relief of Thomas S. J. Johnson, of the Territory of New Mexico, reported it back without amendment.

Mr. CLAY, from the Committee on Pensions, to whom was referred the petition of Joshua Mercer, praying to be allowed a pension, to commence from the time the pension he formerly received was discontinued, submitted a report, accompanied by a bill restoring Joshua Mercer to the roll of invalid pensioners; which was read, and passed to a second reading. The report was ordered to be printed.

Mr. BUTLER, from the Committee on the Judiciary, to whom was referred a resolution of the Senate directing the Committee on the Judiciary to inquire whether any and, if any, what, action of the Senate is necessary and proper in regard to the Smithsonian Institution, submitted a report on the subject; which was ordered to be printed.

Mr. DOUGLAS, from the Committee on Territories, to whom was referred the memorial of B. F. Sloan, administrator of F. Burt, praying the reimbursement of the traveling expenses, physician's bills, &c., of the said F. Burt, in going to and at Nebraska, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

LARKIN SMITH.

Mr. HUNTER. I ask the unanimous consent of the Senate to consider the bill for the relief of the heirs of Larkin Smith. It is a little pension bill from the House, to which the Senate Committee on Revolutionary Claims have reported an amendment.

The Senate, as in Committee of the Whole, proceeded to consider the bill. It requires the Secretary of the Treasury to pay the legal representatives of Larkin Smith five years' full pay of a captain of cavalry, with interest thereon, from the 21st of February, 1850; that sum being due for services as a captain of cavalry in the Army of the United States in the war of the Revolution.

Mr. HUNTER. The amendment of the committee is to strike out the provision in regard to interest, which the House allowed. I move that the Senate concur in it.

The amendment was agreed to, and the bill was reported to the Senate as amended. The amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

SAMUEL A. BELDEN AND COMPANY.

Mr. MASON. The Committee on Foreign Relations, to whom was referred the bill from the House for the relief of Samuel A. Belden & Co., have directed me to report it back and recommend its passage. I will say to the Senate that a similar bill was passed here some days ago; but this is more restricted than that; and I therefore ask that it may be put upon its passage.

The Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to direct the Secretary of the Treasury to audit, settle, and pay the account of the duties paid by the company to the officers of the United States charged with their collection in Matamoras, Mexico, while the city was in the military possession of the United States, upon the merchandise, except tobacco, imported by them into Matamoras during that period, which, after the restoration of peace between the two countries, they were deprived of, either in the form in which they were imported or in the proceeds of sales, by the illegal seizure, confiscation, sequestration, or their forced abandonment, by the judicial authorities of the Mexican Government. The payment is to be made upon the execution by the company of a proper and legal assignment to the United States of all their right to the amount so refunded, when recovered from the Mexican Government.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

JOHN STEEN.

Mr. BRODHEAD. I expect to be absent a day or two very shortly; and there is a little pension bill from the House for the relief of John Steene, which has been reported from the committee here, and which I should like to have passed this morning. I move that the Senate proceed to its consideration.

The motion was agreed to; and the Senate proceeded to consider the bill.

It will direct his name to be placed on the roll of invalid pensioners, at the rate of eight dollars per month from January 1, 1853, during life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FRANKLIN CHASE.

Mr. CHASE. I am instructed by the Committee on Claims, to whom was referred the former report made in the case of Franklin Chase, collector at Tampico during the war with Mexico, to report a bill for the relief of Franklin Chase, and ask for its immediate consideration.

The bill was read twice by unanimous consent, and considered as in Committee of the Whole.

Under it the Secretary of the Treasury will adjust and settle the claim of Franklin Chase for a share of the proceeds of the sale of the schooner Oregon and cargo, seized and confiscated in April 1848, under the President's regulations of March 1, 1847, at the port of Tampico during the war with Mexico; and pay the amount, not exceeding the collector's share, out of any money in the Treasury received from military contributions collected in Mexico in pursuance of those regulations; but before any money is paid, any claim by the owners of the vessel for a remission of the penalty and payment of the proceeds under the confiscation, will first be examined and decided by the Secretary, under the direction of the President.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

CIRCUIT COURT IN CALIFORNIA.

Mr. TOUCEY. I ask the unanimous consent of the Senate to take up and consider the bill, reported from the Committee on the Judiciary, to establish a circuit court of the United States in and for the State of California. I think it wil give rise to no debate. The House of Representatives have assigned Thursday of this week for the consideration of judicial business—business coming from the Committee on the Judiciary. If this bill can be acted upon this morning, it can be ready for consideration there on Thursday. It is one of very great importance to California. The case of California is peculiar. It is indispensably necessary that there shall be a greater judicial force on the Pacific coast. The bill provides for it, I think, in an unexceptionable manner.

The Senate, as in Committee of the Whole, proceeded to consider the bill. It will constitute a judicial circuit for the State of California, to be known as the circuit court of the United States for the districts of California, a term of which shall be held annually, in the city of San Francisco; and for this purpose a judge is to be appointed, and the court to be organized is, in all things, to exercise the same original jurisdiction as is vested in the several circuit courts of the United States, as organized under existing laws, and also the same appellate jurisdiction over the district courts of the United States for the northern and southern districts of California as, by existing laws, is vested in the several circuit courts of the United States over the district courts of the United States in their respective circuits. The judge may appoint a clerk, who shall have the power to appoint a deputy. The clerk is to reside at, and keep the records of the court in, the city of San Francisco, and receive for the services he may perform double the fees allowed to the clerk of the southern district of New York.

The judge will have power to order and hold such special or extra terms of the court as he may deem expedient, and at such time as he shall, by his order, under his hand and seal, direct, addressed to the marshal and clerk, at least thirty days previous to its commencement, which order is to be published intermediately in two or more of the gazettes of California; and at any or all of such special terms the business of the court shall have reference to the immediately preceding regular or special term, and be proceeded with in the same manner; all which terms are to be held at such place, in San Francisco, as the marshal of the United States for the northern district of California, whose duty it is to be to act as the marshal of the court, shall procure for the purpose, under the directions of the judge. Appeals from the proceedings of the court are to be taken to the Supreme Court of the United States, in the same manner, and on the same conditions, as appeals are taken under existing laws from the other circuit courts of the United States.

The judge is to have the same power to issue writs of habeas corpus and other writs as is vested by law in the other judges of the United States.

In case he shall fail to attend at the time and place of holding any regular or special term before the close of the fourth day after the commencement of the term, the business pending is to stand adjourned until the next regular term, or until the next special term, should one be ordered, previous to such regular term.

The district courts of the United States for the northern and southern districts of California will hereafter exercise only the ordinary duties and powers of the district courts of the United States, except the special jurisdiction vested in them over the decisions of the board of commissioners for the settlement of private land claims in California under existing laws; and appeals from the judgments, orders, and decrees of either of those district courts, in the exercise of its ordinary jurisdiction, are to be taken to the circuit court in the same manner and upon the same conditions as appeals may be taken from the judgments, orders, or decrees of the district courts to the circuit courts of the United States.

The judge appointed under the bill is, at any time when in his opinion the business of his own court will permit, and that of the courts of the northern and southern districts of California shall require, to form part of, and preside over, the district courts when either of them is engaged in the discharge of the appellate jurisdiction vested in it over the decisions of the board of commissioners for the settlement of private land claims, under the act to ascertain and settle the private land claims in the State of California, passed March 3, 1851, and by the act making appropriations for the civil and diplomatic expenses of the Government for the year ending 30th June, 1853, and for other purposes, passed 31st of August, 1852; and it is to be the duty of the clerks of the respective district courts of California to give thirty days' written notice to the judge of the circuit court of the time and place of the sitting of such district court for the discharge of such appellate jurisdiction; and in case the judge of the district court shall fail, from sickness or other casualty, to attend at such time and place, the circuit judge is to be authorized to hold the court and proceed with the business; and all appeals to the Supreme Court of the United States from the decisions of the district court, whether held by the circuit judge, or by him in conjunction with the district judge, or by the district judge alone, are to be taken in the manner prescribed by the act of Congress passed on the 3d day of March, 1851, to ascertain and settle the private land claims in the State of California.

Mr. TOUCEY. I move to fill the blank in the first section, as to the time of holding the court, with "July."

The amendment was agreed to.

Mr. WELLER. I move to fill the blank as to the salary of the judge, with "$6,000."

Mr. STUART. I should like to inquire of the Senator from California what are the salaries of the district judges of that State? If I recollect aright the Senate, at this session, passed a bill increasing their salaries.

Mr. WELLER. They are $3,500. The Senator from Georgia [Mr. TOOMBS] reported a bill increasing the compensation of all the judges through the United States. That was to make the compensation of the judge of the northern district of California $8,000, and of the southern district $6,000. The avowed ground upon which the committee acted was, to make the salary of the judge of the district court equal to that of the highest State tribunal. I believe, however, in point of fact, the salary of the judge of the highest court in California is $10,000 a year. My proposition is to make this $6,000; and I gave notice to the committee when that bill was reported, that I should move to substitute $6,000 for $8,000. I am no more disposed to vote for extravagant salaries in California than elsewhere. I think $6,000 is a proper salary. It is certainly not too much.

Mr. STUART. I do not propose to discuss this question, nor to interpose any particular objection to the amendment; I desire, however, to state to the Senate some information which has come to my knowledge in the investigation of another matter, and then leave it to the Senate to say what they will do with this proposition. An investigation has been instituted by the Treasury Department respecting the salaries of officers connected with that Department. It became my duty as a member of the Committee on Commerce, to be one of a conference at which an agent was present; and at that meeting he stated that he had been in California for some time, and had been paying his expenses; he stated his bills at various points, San Francisco and others; and he asserted that the expenses of living, at this time, in California are not greater than they are in the Atlantic States; and that an individual could live as cheaply in any part of California as he could in any such settlement in any of those States. If, under these circumstances, it is best to give a judge in California, who is not to participate in the business of the Supreme Court, $6,000 a year, while the judges here, performing duties as Judges of the Supreme Court, receive but $4,500, I shall not oppose it. It would seem to me, however, that, if these facts be true, it would be a disparity between the salaries of these officers which ought not to exist.

Mr. TOUCEY. I am satisfied, from the information which I have in regard to the subject, that, having reference to the expenses of living, the amount of business to be transacted, and the importance of having a man of ability and learning equal to the station, the salary proposed is a very moderate one.

Mr. JOHNSON. I will ask the Senator, if the steps that were taken, or proposed to be taken, by the bill reported by the Senator from Georgia, in regard to the salaries of the district judges, were not defeated? It is a bill that is now pending, and it is believed, I find upon the number of cases that came up the other day on the debate in regard to the reorganization of the judiciary, that those judges, in every direction, are receiving too little. But I, for one, certainly am not disposed to make an exception, and put some of them beyond the necessity of relief, while the rest shall all be left to suffer. I do not think it right. The prices of things have very materially changed in California as well as elsewhere. Six thousand dollars is a tolerably large salary. I am very willing to vote enough; but while I am voting it, I do not like to see the interest of the whole judiciary neglected and disregarded, or, from any cause, thrown aside, and we attend to separate cases which are brought up, simply because they are upon the other side of the continent. I do not desire these exceptions to be made in paying such extraordinary salaries. I have been voting for them nearly all; but I confess I am not disposed to do it much longer.

Mr. PETTIT. With reference to the remarks of the Senator from Arkansas, [Mr. JOHNSON,] I will say that I most fully sympathize with him in the belief that inadequate salaries are paid generally to our judges, that gross inequality exists, and that gross injustice is done to some, while others may be reasonably paid. The Senator from Georgia, [Mr. TOOMBS,] who was called home, but only temporarily I trust, on account of sickness, is expected back in a few days. He reported a bill from the Committee on the Judiciary, increasing generally the salaries of the judges, from the Supreme Court down, doing, however, injustice to some, as I think, certainly in my own State, in not increasing the salary to what I think it ought to be. I have been waiting for some days for the return of that Senator, in order to have a consultation with him, and get his approbation to take up his bill, for which I have prepared a substitute, which I hope will meet with the entire approbation of the Senate, and the House, and the country. I propose to offer to that bill, when it shall be taken up, a House bill of the last session, fixing the salaries of the district judges, and adding to it for the increased compensation of the Supreme Judges that portion of the bill introduced by the honorable Senator from North Carolina, [Mr. BADGER,] which provides for the increase of the salary of the Supreme Judges, striking out that portion which provides for our own compensation; for, however well-deserving we may be, and however much need there may be for raising the compensation of members of Congress, I am certain that delicacy will forbid any such thing. I, for one, might be prepared to give such a vote, as I expect to occupy this place but a short time; and I do say most solemnly, and say it for the country, that, if I do not come back here, I desire that my successor may be better paid than I have been. He will need it, I know. But I had proposed to strike that out.

I have made these remarks for the satisfaction of the Senator from Arkansas, showing him that the district judges have not been unthought of by the Committee on the Judiciary. As regards the proposed salary in this case, Mr. President, allow me to say that a less sum was talked of in the committee, to which I did not agree. I am fully satisfied that no man who is competent to discharge the high duties which would devolve upon him as circuit judge in California can be, or ought to be, employed who will take a less salary. I am for the amount proposed.

Mr. WELLER. I ought not, perhaps, to suffer the statement of the Senator from Michigan to pass without notice, especially as it is so much at variance with the truth. I understood the Senator from Michigan to say that an agent of the Treasury Department has represented that living is now as cheap in California as in any of the Atlantic cities. I undertake to say there is not one syllable of truth in that declaration. I undertake to say, from my own individual observation, from my own personal knowledge, that the expense of living now in California is very much greater than in any of the Atlantic cities with which I am familiar. I undertake to say that, in the best hotel in the city of Washington, I can obtain for forty dollars a week accommodations precisely similar to those which I occupied in the city of San Francisco during the last fall, and for which I paid there sixty dollars per week. I do not intend that statement shall be denied, because I am speaking from my own personal knoweldge, and every one knows I would not give, in the city of San Francisco, a higher price for my boarding than was paid by other persons. Understand me then to say that the same accommodation for which I paid sixty dollars a week, in the city of San Francisco, I can obtain at the best hotel in this city for forty dollars a week. I only state that as an illustration.

If the agent referred to, who was sent to California, went into the fourth story of a brick hotel and obtained a room eight feet by ten, he might have procured boarding for ten dollars a week, and I believe that was the character of the boarding he enjoyed while he was in the city of San Francisco. Now, sir, do you undertake to tell me that an agent sent out from here with a roving commission from the Treasury Department, with authority to look after, and inquire into the prices of pork and provisions, is a better judge of what it costs to live in the city of San Francisco than my colleague and myself? I stake my statement against the statement of your special commissioner from the Treasury.

Mr. STUART. I had no idea of stirring up the ire of the Senator from California in what I said.

Mr. WELLER. I do not think the honorable gentleman succeeded.

Mr. STUART. If the Senator is entirely satisfied with the manner in which he presented the question, I am.

Mr. WELLER. I am, to be sure.

Mr. STUART. I do not stand here to bandy words, or to imitate style with any Senator. I simply stated a fact; I stated it as it came to me, and did so in a very plain, and, as I thought, a very respectful manner, leaving it, as I said, to the Senate to decide what they would do.

Now, sir, there are some facts which we know. We know that, within the last few months, flour has been reshipped from San Francisco to New York, because New York was the better market. How far other things may be effected in the same way, I do not know. Nor shall I, for one moment, undertake to set up my individual opinions and knowledge against that of either of the Senators from California.

Mr. WELLER. If the Senator will allow me, I will state another fact, which I do state on my own personal knowledge: that there is not in the city of San Francisco a house in which any gentleman would live with a family of even three persons, that can be rented, in a respectable part of the city, for less than $150 per month, and rent paid in advance at that. My colleague pays $200, and he has not a large house by any means.

Mr. STUART. I am not going to detain the Senate upon this question, nor will I seek to sustain at all, the statements made by the agent to whom I have referred. I have in my hand a letter of the Secretary of the Treasury, which was sent

to the Committee on Commerce of the Senate, respecting the fees that ought to be paid to the officers collecting the revenue in California, and it corroborates entirely what I have said. That officer, in charge of the affairs of the revenue of this Government, has come to the conclusion that the salaries paid there are altogether too high. He states it, from information which he has sought for this very purpose.

Now, sir, all I ask, and all I have sought to ask, is this: we are about to establish the salary of an officer, which, under the Constitution of the United States, cannot be reduced during his term of office. He holds that office during good behavior, and his salary is to remain undiminished during his term. It is only a question for the Senate whether they will fix the salary of this individual at $6,000, performing, as the bill provides, no duty as a Judge of the Supreme Court *in banc*, when we have two district judges in the State of California, who up to this time, so far as our information goes, have discharged the duties of their offices satisfactorily.

Mr. WELLER. Will the Senator allow me to make a statement in regard to that?

Mr. STUART. Certainly.

Mr. WELLER. The judge of the northern district of California left his post in August last. I am very sorry to learn this morning, by a letter which has been shown me, that he is still detained in the city of New York by very serious indisposition, and that it is very doubtful whether he will be able to return for many months to come. He is the judge of the northern district which includes San Francisco. That Senator knows very well that it is indespensable to have a judge there nearly all the time. The judge has been absent for the last five months, and I am afraid he will be absent for many months to come.

Mr. STUART. There is no doubt the Senator from California is correct in what he has just said. Any gentleman must know there is importance in having a United States district court at San Francisco. I was only speaking of the general condition of things; here is an exception. I say there are two district courts in that State, and usually the duties of those courts have been performed. Here is a proposition, I was about to say—and that is all I intended to say—to create a circuit court, to appoint a judge whose duties are those of a circuit judge—that is to say, merely the same duties that are performed by the Judges of the Supreme Court as circuit judges. They sit with the district judges as a court of appeal; it is part of their duty now; and that judge's salary is fixed at $6,000 a year for life; while a Judge of the Supreme Court here, residing in our Atlantic cities, is receiving but $4,500. It may be right; I have not said to the Senate, and I do not intend to say now, that it is wrong. I simply presented the subject to the consideration of the Senate, and I should be very glad, as one who is to vote on this question, to ascertain from the Committee on the Judiciary what information they have on this subject, from the Senators from California, or from any gentleman who is in possession of such information. That is all I have sought to obtain.

Mr. HAMLIN. This subject seems to have led to discussion, and I do not see any prospect of its immediate termination. I understand there are other Senators who desire to speak on the matter. If the Senate are prepared to vote on it at this time, I have no disposition to interpose; but if there is to be further discussion, I must insist on taking up the French spoliation bill, as the hour has arrived designated by the Senate last evening for its consideration.

Mr. CHASE. I trust this matter will be postponed. As I understand it, the bill provides for the creation of a new circuit judge.

Mr. TOUCEY. Will the Senator allow me to say a few words?

Mr. CHASE. Certainly.

Mr. TOUCEY. I hope this bill will not be further debated. If it should be debated, and go over, the bill will probably be defeated. It is a matter of immense importance. The people of the Pacific coast have no participation in the Supreme Court; they have no circuit judge; they have nothing there but two district judges, one of whom is sick in New York. The Supreme Court have more business from those courts than from any other circuit in this country. Now, what do we propose? We do not propose to appoint a Judge of the Supreme Court; we merely propose to appoint a judge of the circuit court, to perform duties that would be performed there by a Judge of the Supreme Court, and, also, certain other duties, namely: in cases of appeal from the commission sitting there to decide land titles, to sit with the district judge upon those appeals, where it is practicable.

This is a beneficent measure; it is one that is demanded of this Government. You give to those commissioners of land titles $8,000 a year, and we have cut down the salary here to $6,000. This is a little pittance comparatively. We are debating about a thousand dollars in a great measure, involving the interests of that part of the continent. I hope, sir, that the question will be taken, and the bill defeated or passed.

The PRESIDENT. The question is on filling the blank in the seventh section with the words "six thousand."

Mr. BENJAMIN. I do not rise to speak in relation to the compensation fixed by this bill; it is a matter of no consideration with me; but I am not prepared to vote on this proposition, which introduces an entirely new feature into the judiciary system of the United States, upon which none of us, at least none outside the Judiciary Committee, have yet reflected. It is a proposition to create a new judge, at present not known to our system at all; to create an intermediate court with a distinct judge, between the district and supreme courts. I think that a proposition of this kind requires some reflection; and although willing, in nine cases out of ten, to defer to the judgment of the gentleman from Connecticut, who has just addressed the Senate, yet on this subject of establishing a judicial system, I think some little reflection ought to be accorded to the other members of the Senate. I must object to the bill being passed now without our having an opportunity to examine it.

Mr. CLAYTON. I move to postpone the further consideration of the bill until to-morrow, so that we may proceed to the special order.

Mr. GWIN. I hope we shall take the vote at once on the bill. To throw the bill over, is to defeat it; for the day after to-morrow is the only day when it can be considered in the House.

Mr. CLAYTON. I wish time to look into it. To-morrow we shall be able to decide it.

The motion to postpone was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. FORNEY, their Clerk, announced that they had passed a joint resolution for the relief of Henry Joel Dyer;

Also, that they had passed the following Senate bills without amendment:

A bill to change the appropriation for the erection of a building in the city of Milwaukie for a custom-house, post office, and the United States courts; and

A bill to amend "An act making appropriations for the improvement of certain harbors and rivers," approved August 30, 1852.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore:*

A bill for the relief of the administrators of Oliver Lee, deceased;

A bill to increase the pension of Patrick C. Miles;

A bill for the relief of E. J. McLane;

A bill for the relief of the West Feliciana Railroad Company and the Georgia Railroad and Banking Companies;

A bill for the relief of the heirs of Joseph Gerard; and

A bill for the relief of Catharine B. Arnold.

SENATE BILLS BECOME LAWS.

A message from the President of the United States, by Mr. SIDNEY WEBSTER, his Secretary, announced that he had approved and signed

A bill for the relief of Thomas Marston Taylor;

A bill to incorporate the St. Joseph's Male Orphan Asylum in the District of Columbia; and

A bill making appropriations for the construction of certain military roads in the Territories of Nebraska and Washington.

FRENCH SPOLIATION BILL.

On motion by Mr. CLAYTON, the Senate, as in Committee of the Whole, proceeded to consider House bill to provide for the ascertainment and satisfaction of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801.

Mr. WELLS. Mr. President, this bill is of immense importance to individuals and to the whole country. It involves, not only large pecuniary interests, but integrity and *political* consistency; for if this sum of money is due it has been *wrongfully withheld* for fifty years, as gentlemen have said in my hearing. If so, it brands with political inconsistency those men who have so long and successfully resisted its adoption.

The origin of this matter, sir, is of ancient date. It presents before us our earliest political party controversies; it brings up the unlike bloody scenes of Marengo and Domingo, and requires us to go back to those sad days of France, when religion was subjected to the control of the infidel; when the *hopes* of a resurrection were buried beneath the weight of *eternal* sleep; where a guillotine became the only altar; where good men only were hurried away to the spirit-land; and when the temple of liberty was visited but by an afflicted few, who implored the restoration of private and public rights.

Mr. President, but for the sad and fatal action of disease, others would now be here to speak and act for my native State. But that Providence, sir, which alike compels a nation to mourn, and private families to weep the bitter tears of sorrow, has removed from this Chamber men of tried political fidelity, of learning, and of mental strength, and placed me here—an inexperienced man—alone to represent that people whose fidelity to the Constitution, to sound political principle, and fearless political action, is not surpassed by those of any State in the American Union. Thus called, I have given to this great subject such consideration as my time and opportunities have permitted; and the result of that examination is a conviction that this measure should not pass.

The bill proposes to appropriate $5,000,000 for the payment and adjustment of these claims. It provides for the appointment of an attorney to resist on the part of the Government unjust claims. If they in the aggregate exceed the amount appropriated, it divides the money *pro rata* among the claimants. Here are two things which struck me as extraordinary in the outset. All agree, so far as I have been able to form any judgment in relation to the subject, that these claims exceed five millions of dollars; some say thirty or forty millions. They are asserted as a right, a debt against the Government, and not as a favor. If they are just, why shrink from full payment? Suppose I owe a man five thousand dollars, and am able to meet him, why attempt to compound with him for one thousand dollars? If I do it, will he be satisfied? Shall I be satisfied in retaining from him his fair balance? I think not. He will ever claim it.

Suppose I meet, on my return home, a claimant who holds to me language like this: "I am one of the claimants under the law you have passed, making provision for French spoliations; I have the evidence to sustain my claim, and, as you have constituted a tribunal to examine and determine the amount, I shall present mine, but not to avail myself of your proposition. You have admitted the justice of my claim. I intend, before your tribunal, to prove its amount, and I will then wait until the Government is compelled, by shame, if nothing else, to pay it. If I have a just claim against the Government, the amount of which is ascertained, it ought to be ready and willing to pay it. If no such debt is due to me, the Government is disgraced by proposing to compound with me, and I should feel myself disgraced in entertaining such a proposition." What answer, I ask in all candor, can I make him? I only say here in my place that I intend, by my vote, to put myself in such a position as to say to him, I have not produced this result. While considering this idea, Mr. President, allow me to ask why the section appointing an attorney has been inserted? If the claims exceed $5,000,000, such an officer is of no consequence to the Government. That is clear; because the money will be absorbed, and it is simply and solely a question for the parties to whom the fund is to go. They would stand there

vigilantly guarding their rights as suitors in courts guard their rights, each for himself. If the sum exceeds $5,000,000, then, I say, interest would compel these guards to stand around the fund, and not resort to the Government here to have an attorney acting on the part of the United States, to protect the interests of the Government. Allow me to read that portion of the section:

"An attorney to the said board shall be appointed by the President, by and with the advice and consent of the Senate, whose duty it shall be to resist all unjust claims, and to protect the interest of the United States, and of the fund that may be appropriated to carry this act into execution; and, to this end, he shall have power to examine witnesses and to cause testimony to be taken, and have access to all testimony before the commission, for the purpose of examining it, and a right to be heard in all cases. He shall be sworn to the faithful performance of his duty as attorney, and shall be entitled to the same compensation as one of the commissioners."

That is, $3,000 a year. Now, the idea which I wish to suggest is, that whatever sum shall be fixed upon by the commission is ultimately to be paid by this Government. No man, in my judgment, can doubt it. Limit it as you may, limit it as you do by the bill upon the table, still, if, as has been said, these claimants have not been quiet for fifty years past, will they be quiet for fifty years to come, unless you cancel and pay the entire amount? With what greater propriety can they not come before Congress hereafter? Suppose the case of the child of a man who has received a portion of his debt, and he says: "My father had an honest and just claim against your Government; you appointed a commission; you were not insolvent, because your Treasury was overflowing; before that commission you had an attorney, sworn to act on the part of the Government, and having full power and control of the long and strong arm of the Government to bring witnesses, to resist all unjust claims. My debt, then, is sacredly honest and due to me." When such a man comes here before a committee at a future day, I ask any gentleman, if he were a member of the committee, would he not put his hand on his mouth, and his mouth to the dust, and say, "Shame to my country, if it resisted the payment of such a claim?"

Then, I say, it is the purpose and design to take from the Treasury of the Government the whole of the utmost extent of these claims, whatever they may be as established before the commission, and ranging from five to forty millions of dollars. I say, sir, for one, let the question be met fairly, let it be met directly, and let us agree to pay whatever shall be found due, if we are to pay anything. If it is honest, pay the whole; if it is not honest, resist the whole.

In this inquiry arises the question, under what circumstances were these spoliations committed? If, at the time, war in fact did exist between France and the United States, all agree that there can be no claim on the United States, because they were not provided for in the treaty. How stand the facts on that subject? On the 28th of May, 1798, Congress authorized the capture of all armed vessels of France which had committed depredations upon our commerce, or which should be found hovering upon our coast for the purpose of committing such depredations. On the 13th of June, 1798, Congress prohibited the vessels of the United States from visiting any port of France or her dependencies, and prohibited any French vessels, armed or unarmed, from entering or remaining in any port of the United States, unless by special permission of the President.

On the 25th of June, 1798, Congress authorized the merchant vessels of the United States to arm and defend themselves against search, restraint, or seizure by vessels under French colors, and to capture any French vessel attempting such search, restraint, or seizure; and to recapture any American merchant vessel which had been captured by the French. On the 28th of January, 1798, Congress authorized the forfeiture and condemnation of all French vessels captured in pursuance of the acts before mentioned, and for the distribution of prize money, and for the confinement of the prisoners taken in captured vessels. On the 7th of July, 1798, Congress declared—

"That the United States are of right freed and exonerated from the stipulations of the treaties, and of the consular convention heretofore concluded between the United States and France, and that the same shall not henceforth be regarded as legally obligatory on the Government or citizens of the United States."

On the 9th of July, 1798, Congress authorized the President to grant commissions to private armed vessels to make captures the same as public armed vessels, and to provide for the safe keeping of the prisoners.

By the act of February 9, 1799, the non-intercourse was continued for one year from the succeeding 3d of March. By an act passed on the 28th of February, 1799, Congress provided for an exchange of prisoners. On the 31 of March, 1799, by an act of that date, the President was directed to retaliate promptly and fully upon prisoners in the power of the United States for the death or corporal punishment of American citizens taken on board of vessels of any Powers at war with France. On the 27th of February, 1800, Congress again continued the non-intercourse for one year from March 3, 1800.

Such was the legislation, and every gentleman upon this floor is aware of the scenes which followed it. The withdrawal of the French Minister, the refusal to receive the American Commissioners, controversies, bloodshed, all the attendant horrors of a marine war, followed these acts of legislation; and yet, it is said there was no war! I contend that it was a war, resulting from the acts of the Government. I do not stop here, sir, for it has been judicially settled by the Supreme Court of the United States, that it was a war in fact. I have before me a decision reported in fourth Dallas, page thirty-seven, in the case of Bas, plaintiff in error, *vs.* Tingy, defendant in error, in which it was judicially decided that the Governments were then at war. The case itself is thus stated:

"In error from the circuit court for the district of Pennsylvania. On the return of the record it appeared, by a case stated, that the defendant in error had filed a libel in the district court, as commander of the public armed ship the Ganges, for himself and others, against the ship Eliza, John Bas, master, her cargo, &c., in which he set forth that the said ship and cargo belonged to citizens of the United States; that they were taken on the high seas by a French privateer, on the 31st of March, 1799; and that they were retaken by the libelant, on the 21st of April following, after having been above ninety-six hours in possession of the captors. The libel prayed for salvage conformably to the acts of Congress; and the facts being admitted by the answer of the respondents, the district court decreed to the libelants one half of the whole value of ship and cargo. This decree was affirmed in the circuit court without argument, and by consent of the parties, in order to expedite a final decision on the present writ of error." * * *

"By an act of the 2d of March, 1799, (vol. 4, p. 472,) it is declared 'that for the ships or goods belonging to the citizens of the United States, or to the citizens or subjects of any nation in amity with the United States, if retaken from the enemy within twenty-four hours, the owners are to allow one eighth part of the whole value for salvage, &c., and if above ninety-six hours, one half, all of which is to be paid without any deduction whatsoever,'" &c.

The case was argued by Lewis and E. Tilghman for the plaintiff in error, and by Rawle and W. Tilghman for the defendant; and the argument turned, principally, upon two inquiries: 1. Whether the act of March, 1799, applied only to the event of a future general war? 2. Whether France was an enemy of the United States, within the meaning of the law?

The opinions of the several judges are given in the book. Judge Moore, in pronouncing the opinion, said:

"A number of books have been cited to furnish a glossary on the word *enemy;* yet, our situation is so extraordinary, that I doubt whether a parallel case can be traced in the history of nations. But if words are the representatives of ideas, let me ask, by what other word the idea of the relative situation of America and France could be communicated, than by that of *hostility* or *war*? And how can the characters of the parties engaged in hostility or war, be otherwise described than by the denomination of *enemies*? It is for the honor and dignity of both nations, therefore, that they should be called *enemies;* for it is by that description alone, that either could justify or excuse the scene of bloodshed, depredation, and confiscation, which has unhappily occurred; and, surely Congress could only employ the language of the act of June 13, 1798, towards a nation whom she considered as an enemy."

Judge Washington, in his opinion, said:

"The decision of this question must depend upon another; which is, whether at the time of passing the act of Congress of the 2d of March, 1799, there subsisted a state of war between the two nations? It may, I believe, be safely laid down, that every contention, by force, between two nations, in external matters, under the authority of their respective Governments, is not only war, but public war. If it be declared in form, it is called *solemn*, and is of the perfect kind; because one whole nation is at war with another whole nation; and *all* the members of the nation declaring war, are authorized to commit hostilities against all the members of the other, in every place, and under every circumstance. In such a war all the members act under a general authority, and all the rights and consequences of war attach to their condition.

"But hostilities may subsist between two nations more confined in its nature and extent; being limited as to places, persons, and things; and this is more properly termed *imperfect war;* because not solemn, and because those who are authorized to commit hostilities act under special authority, and can go no further than to the extent of their commission. Still, however, it is *public war*, because it is an external contention by force, between some of the members of the two nations, authorized by the legitimate powers. It is a war between the two nations, though all the members are not authorized to commit hostilities such as in a solemn war, where the Government restrain the general power."

He goes on at length to lay down the same doctrine. And Judge Chase sustained the same view, for he said:

"What, then, is the nature of the contest subsisting between America and France? In my judgment it is a limited, partial war. Congress had not declared war in general terms; but Congress has authorized hostilities on the high seas by certain persons, in certain cases. There is no authority given to commit hostilities on land; to capture unarmed French vessels, nor even to capture French armed vessels lying in a French port; and the authority is not given, indiscriminately, to every citizen of America, against every citizen of France; but only to citizens appointed by commissioners, or exposed to immediate outrage and violence. So far it is, unquestionably, a partial war; but, nevertheless, it is a public war, on account of the public authority from which it emanates."

Judge Paterson in his opinion said:

"As the case appears on the record, and has been accurately stated by the counsel and by the judges, who have delivered their opinions, it is not necessary to recapitulate the facts. My opinion shall be expressed in a few words. The United States and the French Republic are in a qualified state of hostility. An imperfect war, or a war as to certain objects, and to a certain extent, exists between the two nations; and this modified warfare is authorized by the constitutional authority of our country. It is a war *quoad hoc*. As far as Congress tolerated and authorized the war on our part, so far may we proceed in hostile operations. It is a maritime war; a war at sea, as to certain purposes. The national armed vessels of France attack and capture the national armed vessels of the United States, and the national armed vessels of the United States are expressly authorized and directed to attack, subdue, and take the national armed vessels of France, and also to recapture American vessels. It is, therefore, a public war between the two nations, qualified on our part, in the manner prescribed by the constitutional organ of our country."

It has sometimes been contended that the Government should pay these claims, because it made them a set-off against its liability to the French Government. I have before me the second article of the treaty of September 30, 1800; and what does it provide?

"The Ministers Plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of the 6th of February, 1778; the treaty of amity and commerce of same date; and the convention of the 14th of November, 1788; nor upon the indemnities mutually due or claimed; the parties will negotiate further on these subjects at a convenient time; and until they may have agreed upon these points, the said treaties and convention will have no operation."

This article was expunged by the Senate, and the remainder of the treaty ratified. The First Consul, Bonaparte, ratified the convention as amended with a proviso, "that the States renounce their respective pretensions which are the object of said article," and this modification was afterwards assented to by the American Senate. Then the idea of a set-off as an assumption of payment, from these proceedings, is, in my judgment, without foundation. But it is said that the United States assumed the payment of these claims as a consideration of being released from the obligation of a guarantee to France. Mr. Adams expressly contends that no such guarantee was claimed by France. This is his language:

"The *right* of the Executive to issue any proclamation of neutrality was fiercely and pertinaciously denied, as a usurpation of legislative authority; and in that particular case it was charged with forestalling and prematurely deciding the question whether the United States were bound, by the guarantee to France of her West India possessions in the treaty of alliance, to take side in the war with her against Great Britian, and with deciding it against France. Mr. Jefferson had advised the proclamation, but he had not considered it as deciding the question of the guarantee. The Government of the French Republic had not claimed, and never did claim, the performance of the guarantee."

In looking into this subject, I find that when the claim was made by our commissioners upon France for remuneration for the spoliations, the French answered, that if they indemnified the Americans, the United States should restore to them their rights under the ancient treaties. This was the extent, so far as I have been able to discover, of the considerations upon which the claimants insist they should recover. The nations finally treated without exacting indemnities on either side.

In truth, as a fair deduction from history, it seems to me that the spoliations occurred, in point of fact, in time of war, and that in the main, instead

of our people suffering to any great extent, we made as many prizes as the French. I know of a case in New England where a single individual made his immense wealth out of the seizure of French vessels, and he is one of the largest claimants, with the exception of the insurance companies, who come in under this bill. Those insurance companies made themselves rich by the immense premiums which they received from the ship-owners who went on these hazardous voyages, knowing and expecting hazard, and being insured against it. Now they come here and ask to be paid by the Government of the United States the money which they paid out, after making themselves princely rich by the premiums which they received for their insurances. Surely, this cannot be just.

Mr. President, one question which has pressed itself upon my mind in examining this subject, is, if these claims are just against the Government, why have they never been paid? It is now more than fifty years since they occurred. For thirty years neither House of Congress sanctioned them, nor did a President ever recommend them to the favorable action of Congress. The French revolution began in 1789, became a general war in 1793, and continued until 1798, and the treaty was made with this country on the 30th of September, 1800. Why was the matter allowed to sleep for such a length of time? I have looked into the reports on the subject; I know some were made before 1827, but I believe the first elaborate favorable report on these claims was made by Mr. John Holmes, of Maine, on the 8th of February, 1827—twenty-nine years after the close of the war, after the quieting statute of limitation had five times run, and when estates would be lost to the claimants upon the legal presumption that a conveyance had been made to the possessor, but that he had lost the evidence of that conveyance. I ask, again, why was there no man in the country just enough to come forward and urge the matter before Congress, and induce them to pay the claims? If they were honest and fair claims, why was not some effort made towards their payment before that late day?

Mr. CLAYTON. Will the honorable Senator give way a moment to allow me to say a word in answer to his question?

Mr. WELLS. Certainly.

Mr. CLAYTON. The honorable Senator asks why, for a period of twenty-seven years, was no report made in favor of these claims, fully and elaborately considering them? I answer briefly, desiring not to take up the time of the honorable gentleman, that until the year 1827 this Government kept the whole evidence upon which the claims rested in the old barrels and boxes in the garrets of the State Department. The Government concealed the evidence against itself; and never until an answer was made by the State Department to a resolution passed by the Senate in 1826, was the evidence contained in the volume in my hands, which I say is irresistible to sustain the claims, produced and laid before the country. Then in the succeeding year, Mr. Holmes, with the benefit of the knowledge contained in the volume, made his triumphant report.

Mr. WELLS. There were at that day men of intellectual strength, who had power to investigate, and describe their friends' and their own wrongs; and they were not in a garret, or in a barrel during that time. They were in the country, and why did they not come before Congress, and before the committees of Congress, and show that these claimants were entitled to this money? Why did they not ask that the question should be examined, and that these records should be brought out before 1827? No, sir, there were then men at the head of the Government who fully understood the question. It would be folly to ask a man who knew that the claims had no legitimate foundation, to give them his sanction and approval. The inquiry weighs upon me, why this delay, for I do not think the suggestion of the honorable Senator meets the point, because the men of that day would have caused an investigation if they had really and sincerely believed that the claims were just, and that the Government should pay them.

The first elaborate and favorable report on this subject, as I have said, was made on the 8th of February, 1827, not twenty-seven years, as the honorable Senator says, but twenty-nine years after the close of the war. Is not the contemporaneous action of the Government a strong, may I not ask, is it not a conclusive argument against these claims? Jefferson and Madison were here then. They well understood the rights of the citizens, and the obligations of the Government. They had the means to pay, for in 1807 Mr. Jefferson reported a surplus in the Treasury of eight and a half millions of dollars, and in 1808 a balance of about fourteen millions, of which only about five millions were required to meet the public engagements. Surely no man will stand here to impugn their integrity. Why, then, I ask, was it that those men, who were familiar with this whole matter, did not recommend this payment? Above all, why did he who came into political power upon the topics in which these claims had their origin turn his back upon the suffering people, if their claims were honest and true? Again, I repeat, the contemporaneous action of the Government is not only strong, but, to my judgment, it is conclusive evidence in relation to this subject.

Sir, much has been said in relation to favorable reports of committees on these claims; and persons in interest have taken the trouble to send to different members of Congress the evidence, as they say, in relation to this matter. They state the number of reports that have been made, and that they were always favorable; and then they turn round and say "it is a shameful thing that this Government has stood out so long against these claims." I have before me a list of these reports. I suppose it to be here, as in other places, that when a proposition is preferred and submitted to a select committee, parliamentary usage requires that that committee should be constituted of the friends of the proposition, because, in the terse language sometimes used, we do not put a child to a nurse who would strangle it. Now, let us look to the record and see how stand these reports, for this matter is not to terminate here with the votes of Congress; it is to be reviewed by the people of this country, by the tax-paying people of this country, and they are to say, after all, whether these things are right.

The first report upon this subject was made by Mr. Giles. In the book which I have seen, styled "Brief Reasons," it was stated that this was a favorable report; but I have a copy of his report before me. Mr. Giles states the facts historically, as an auditor in a court would state them, or as a judge, in delivering an opinion, would sum up the facts in the case. He has stated the facts clearly and distinctly, without giving his judgment in relation to the matter, or the judgment of the committee, and then, in the conclusion of his report, he says:

"Upon the whole view of the case, the committee submit to the House to determine whether the Government of the United States be, in any respect, bound to indemnify the memorialists, and whether there be any ground for discrimination between the cases of losses sustained before the acts of May 28, 1798, and the 9th of July, 1798, and cases of losses sustained after those periods."

Instead of this being a favorable report, I think it is what the lawyers call a *prima facie* adverse report; yet in the "Brief Reasons" submitted to gentlemen in favor of this bill, it is stated that he made a favorable report. Reports upon this subject have been made from select committees by Mr. Marion, Mr. Holmes, Mr. Chambers, Mr. Livingston, Mr. Wilkins, and Mr. Webster. All those that I have named were reports from select committees; and in every instance the report was favorable to the claims; going to sustain the assertion which I have made, and which I presume will not be controverted, that the universal practice of parliamentary politeness and civility is, when a measure is submitted to a special committee, to compose that committee of the friends of the measure. I have also a list of adverse reports made by other men, and some reports made by standing committees favorable to the measure. I suppose it was done here as it has been done at other times, and at other places; when a gentleman had a measure which he desired to get through, and he knew a standing committee were that class of men who stood out against the project, he would move its reference to a select committee, but if the standing committee was of the contrary opinion he would waive the select committee, and have the subject referred to the standing committee; so that I say the result of these committees is of no authority or influence whatever, in my judgment, on this question.

There is another circumstance to which I wish to advert. In looking over the names of those gentlemen who have made favorable reports, I find that they came from the large cities, or were connected with the commercial interests of the country. I do not mention this with the design of imputing to those gentlemen any improper intentions; but we all know the powerful influence of association and place. I do not say that this would influence their minds improperly, but it tends, as we all know, experimentally, to induce men to take, at least, favorable views of the subject. I say that those who made favorable reports were from large cities, or represented the commercial interests of the country. Would that influence them? for it is a question of influence—it is a question of authority simply.

When men come before you, Mr. President, and ask you to decide questions of law as a judge, and ask you to examine and read the opinions of others, it is a question of opinion and you can hear the opinions of other men, as is every day's experience with us; but surely you would not take the opinion of a lawyer at the bar as superior law to the reported decision of a judge upon the same topic. This, then, is simply a question of authority; but when you go from these men, and examine this country through, you see standing all over this land, like sentinels around an encampment, men of eminence, respectability, and standing, holding up their hands, and exclaiming aloud, and with thunder tones, against the adoption of a measure like this. I have the names of some of those men. I have the yeas and nays taken in the Senate on this question.

There is, Mr. President, and I trust there ever will be, a body of men in this country who hold to a strict construction of the Constitution—who hold to great principles, such as we say ought to govern the political action of this country; and when these men, standing in the interior, and in different portions of the Union, have been called upon to examine this question without reference to commercial interests or commercial influences, they have, as one man, declared their opposition to this measure.

On the 3d of February, 1835, the yeas and nays were recorded in this Chamber upon this subject, and I find in the affirmative the names of only three gentlemen who acted in opposition politically to the great mass of the affirmative vote; and I find in the negative, on that vote, men well known to the country, and well known to every gentleman on this floor. There are Benton, of Missouri, and Bibb, of Kentucky, and Brown, of North Carolina, and John C. Calhoun. Was he a man of intellectual power? Was he capable of judging in relation to these great matters? Was he familiar with the history of the country and with its obligations? Had he the heart to respond to the honest call of an honest claim? If I have read his character aright—and, sir, his character is well understood where I live—John C. Calhoun would never have recorded his name against this measure if it was of the character which is claimed for it at this day. Cuthbert, of Georgia, was with him on that occasion. Grundy, of Tennessee, stood by his side. Hill, of New Hampshire, was with him, and so was Kane, of Illinois. There, too, was King, of Alabama, who has gone down to the grave lamented by our whole nation, beloved by all for his pure life. Did he stand here with this phalanx of men, resisting an honest claim of an honest creditor of his country? I do not believe it, and I will never record my vote to condemn him. There were with them Leigh, of Virginia, Linn, of Missouri, Morris, of Ohio, Robinson, of Illinois, Tallmadge, of New York, who then stood with these men, Tyler, of Virginia, White, of Tennessee, and the man whom New York will love until she shall cease to exist, Silas Wright.

Sir, I ask the consideration of gentlemen on this floor to these names, as a matter of authority, and I ask whose authority shall govern me—the authority of those committee men who were known to be friends of the measure, or the action of these men, without interest, standing before their country upon their responsibility as men and as Senators, resisting, by their votes, the adoption of this bill. Sir, the authority is with the objectors to this measure.

Again, on the 10th of February, 1845, the question came before the Senate, and then I see, by

running my eye over the list, that there were found four members of the Senate who would go with the great mass of the gentlemen against whom they acted on all, or nearly all, other questions; and those men came from the commercial portions of the country. Who stood opposed to it? With the exception of Mr. Mangum, who uniformly voted against these claims, those who voted against the bill then were the men who stood by Jefferson and his principles, and who loved, and admired, and sustained Andrew Jackson and his principles. They stood in a solid phalanx and declared upon the record that these claims ought not to be paid by this Government. Is not this authority? Allow me to read their names. They were Allen, Atchison, Benton, Breese, Colquitt, Dickinson, Dix, Hannegan, Huger, Lewis, McDuffie, Tappan, and Walker.

I do not ask Senators on this floor, but I ask my constituents, to look at these names. When names are presented to me as authority, I go to these men as proper lights to guide me in the way of my official duty, if I seek to be guided by anybody.

Again, on the 23d of January, 1851, there was another vote in the Senate upon this question, and at that time, one more Senator from the Democratic ranks was found favorable to the passage of this bill, and only one more; for then they had five. I believe there were two of the opposition, one of whom [Mr. BELL] is, I believe, still a member of this body, who voted against the measure then. The nays were: Messrs. Atchison, Benton, Borland, Butler, Cass, Chase, Clemens, Davis of Mississippi, Dickinson, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Foote, Hunter, Jones, King, Norris, Rhett, Rusk, Turney, Walker, Whitcomb, and Yulee.

What have these men been doing—guarding the Treasury or robbing the poor? That is the question. I say, sir, from my reading of history, a settled point with the Democratic party is to resist these and kindred claims, and to protect the Treasury of the nation. If this bill be adopted where will it end? Are there no other persons on whom spoliations have been committed? I believe that never, from 1794 down, have our people received a dollar for spoliations committed by Great Britain. How many men wronged by her even before the Revolution, who never received a copper? How many before the war of 1812? It is said you can compensate a man for his property; but I ask you to compensate a man who was taken out of one of his own ships, from beneath his own flag, compelled to load guns upon a foreign vessel to be used against his own countrymen and fellow-citizens. Take that class of men who, before the war, were impressed into the British service. Was not that a spoliation that ought to be corrected if you are going to pay insurance companies, those who have made themselves rich by their premiums? Why not go up and take in all these? You must do it. If you propose to consult your generosity and sympathies upon a claim like this, of doubtful character at best, I ask you where will you stop? You cannot stop, and you ought not to stop, until you make full and ample reparation for every sufferer in the land.

Sir, the passage of this bill will establish a principle for claims which $100,000,000 will not, in my judgment, liquidate. It will take from the Treasury that which should be applied to the national defenses, and the discharge of legitimate demands upon the Government. It will open the old claim for a high protective tariff, and wrest from the Democratic party one of their effective old battle-cries, "protect the masses from high taxation, and guard, with honesty and vigilance, the public Treasury."

It goes further. It casts odium on a long line of true and faithful Democrats, and crowns, at last, with the chaplet of victory, that party which denounced Jefferson as a French Jacobin, and a foe to American commerce. And, sir, if it goes forth to the country that this great anti Democratic measure has been carried by the aid of Democratic votes in the Senate, we shall hear repeated the sad interrogatory which Cæsar uttered when he saw a dagger in the hand of him whom he considered to be his friend.

There is another view of this matter, Mr. President. France justified the spoliations on the ground that our Government had, in fact, joined the alliance against it, and connived at the designs which the allies had to starve the French people, the disturbances and convulsions of the country having broken up her agriculture, and rendered France and her islands dependent on foreign nations for provisions. By the terms of the Jay treaty British cruisers were permitted to seize American ships freighted with supplies for French ports, and carry them into English ports to try the question before British tribunals, whether provisions were contraband of war. As provisions were not contraband of war except to besieged ports, that clause of the treaty was regarded by France and others as a hostile act against that country and treated as such. These spoliations then grew out of the Jay treaty in this view, for though France repudiated all the claims for spoliations after that treaty was made, she recognized and paid these prior to that date, and that sum was paid to the Government as part of the consideration in the purchase of Louisiana.

The general Democratic sentiment in the country, at that day, was against the Jay treaty. Its ratification was advised in the House by a vote 51 to 48, and I think on two or three occasions it required the casting vote of the Presiding Officer to decide the question. Though we, as a nation, were in the wrong, we nevertheless indemnified ourselves by retaliation under letters of marque and reprisal, and, it was believed, captured more prizes than the French took from us. The views of Mr. Jefferson and his friends in regard to that treaty and the spoliations were well understood by the country, and in the treaty of September, 1800, for good and sufficient reasons, as he believed, he abandoned the controverted claims, and that is the extent of the set-off on which they base all these declarations.

Mr. President, the arguments to pay these claimants goes to the extent of the absolute condemnation of the administration of Jefferson, and of the Democratic party which sustained him. Is it not so? We may as well speak plainly about these matters. Everybody understands them, and they are to be reviewed, and examined, and understood by the country, because by and by, when the Treasury is exhausted, as it will be, when we are called upon to fortify the coast from Maine to Texas, and the English steamers have burnt some of your cities, and they are clamorous to be protected, where will you look for the means, if you go on as this bill proposes? You must resort to high tariffs; you must wring from the hard earnings of the country enough to support your Government, or you must resort to direct taxation.

Let this great matter be considered in its true light, and, in my judgment, instead of condemning the administration of Jefferson for resisting—as, substantially, he did, for he never approved these claims—the country will say that he, and this long line of men who have stood together in opposition to them from that day to this, have been right in their objections. Then I say—I say it, perhaps, not so much to gentlemen here as to others who will examine this question outside—do not attempt to dim the splendor which surrounds the name and memory and administration of Jefferson. In my judgment, sir, the attempt cannot be successful. Localities may shade his glory; but, with the American Democracy, his fame will live untarnished and unshaken until the political rights of man shall be forever crushed, and the last worshipper of freedom shall perish.

Mr. HUNTER. It is not my purpose to debate this bill; but it seems to me that there is one particular in which it requires amendment, and I am disposed to try the sense of the Senate in regard to that. If it be voted down, I shall conclude that it is the purpose of the majority to adopt no amendment, and I shall not trouble them with any other proposition. It seems to me that some provision ought to be introduced to require publicity in the proceedings of this board of commissioners. I think we had some lessons on this subject in the last Administration, which should admonish us that it is important, not only to the public interests, but just, perhaps, to the Administration, which has to appoint these commissioners, that they should be required to conduct their proceedings openly and in public. It seems to me, sir, that the greatest security which we can offer against frauds and improper proceedings on the part of such boards, is to require this publicity. It is this which, in my opinion, does more than anything else to preserve the purity of courts, and I think it would do more than any other provision which we could introduce to secure the proper conduct of those commissioners. I think, too, that it is especially important, in regard to claims so old as these, that we should have some such provision, because it is manifest that there is more room for frauds in claims now—more than fifty years old—than there is in fresh ones. It was difficult, as we were told by Mr. Livingston, to collect evidence even at the date of the treaty of 1803-'4, in regard to claims then provided for. Then I say it is more important, in reference to claims of this character, that we should have some such provisions, than in relation to any other commission which has ever been established within my knowledge. I believe, sir—I quote from memory—that Mr. Livingston, in as many as two letters, said that the list of claims which had been sent by Mr. Skipwith, the consular agent, could not be trusted. Some of them, he said, had been paid; many of them were false, and were stated upon imperfect evidence. If it was difficult at that day to ascertain the facts in relation to them, how much more difficult must it be now!

For this reason it seems to me that we ought to require, not only that their proceedings should be made public, but that they should be of record; and that we ought, also, to require that the evidence upon which their decisions are given shall be recorded, so that we may subject the action of the board to the ordeal of public opinion. I hope, sir, that it will be the pleasure of the Senate to amend the bill in that regard, so as to require this publicity. For that reason I move, in the second section, to insert, between the words "and" and "file," the words, "and these, together with the evidence in the case, shall be;" so that it will read, "their decisions shall be in writing, and these, together with the evidence in the case, shall be filed with their secretary;" and I propose also to add, after the word "thereof," the words, "their proceedings;" so that it will read, "their proceedings, and the promulgation of the decisions of said commissioners, shall be in public."

My object is to require publicity. If, however, the Senate should think that no amendment is to be made to the bill, and should vote this amendment down, as I said before, I shall not propose others, although it seems to me other amendments would be proper, because I should take it to be the sense of the majority that they mean to pass the bill as it is. I trust, however, that the amendment which I have offered will be adopted.

Mr. HAMLIN. Mr. President, the bill now before the Senate is very nearly a transcript of a bill which passed the Senate during the last Congress. It is the same bill which passed this body two years ago, and which passed it during the present Congress, at the last session, and was sent to the House and has been returned to us with very slight and immaterial amendments. The question before the Senate is on concurring in the bill of the House. The immediate question is now on adopting the amendment of the Senator from Virginia to the bill as it has been sent to us from the House.

To the amendment of the Senator from Virginia I have, as such, no objection in the world; and if that provision were in the bill, I should vote for it cheerfully. More, if it be desirable, or if there be any substantial reason for such a provision as he has suggested in his amendment, I, as one Senator, am willing to vote for that provision in a supplemental bill; but, as a friend to the bill, I am unwilling to sanction any amendment. I have no desire to take up the time of the Senate except to express the hope that those who are the sincere friends of the bill will pass it, or see it defeated as it came from the House.

I have examined all the bills which have passed Congress for the creation of boards to settle claims, and I find that there has never been a provision inserted similar to the one which is now proposed by the Senator from Virginia. Still, if it were desirable, if there were any substantial reason for such a proposition, in a supplemental bill, I would give it a cheerful support; but I would not hazard the fate of this bill by returning it again to the House for discussion at this late period of the session. I think Senators who are friendly to the bill may, with propriety, join with me in rejecting all amendments, when it is considered that this bill has substantially twice passed

the Senate within the last three years, after having received the careful consideration of the committees who reported it, and the investigation of this body, and the approval and investigation of the House of Representatives.

Sir, we all know the position which my friend from Virginia occupies in relation to this measure. From convictions of duty, and from the examination which he has made, he has come to the conclusion that he should withhold from it his vote and his approval. This is an amendment which comes from an opponent of the bi l, and I think we may with propriety regard it as the Trojans of old did the gifts that were brought to them by the Greeks—"*Timeo Danaos et dona ferentes.*"

Mr. CLAYTON. Mr. President, the amendment of the honorable Senator from Virginia is, that the proceedings of the board of commissioners shall be public. I see no sort of necessity for such an amendment. I apprehend that, under the bill as it stands, it is the duty of the commissioners to act as courts act under the same circumstances when they are about to decide claims. All the evidence is offered in public, and there is no necessity whatever, in the case of a court or in the case of these commissioners, for deliberating in public. No man will agree with me more readily than the honorable Senator from Virginia, that a court should not deliberate in public, but should hear and decide everything in public. That court or those commissioners who should attempt to deliberate in public would be turned into a debating instead of a deliberative body. I wish the commissioners to act precisely as judges do, sitting in our courts of justice; and under the operation of the bill as it now stands, without any amendment, the commissioners will undoubtedly be bound to act in that manner. There is nothing in the case requiring extraordinary legislation or different legislation from that which has existed heretofore, when Congress has passed bills for the establishment of other boards of commissioners.

The honorable Senator from Virginia has referred to a letter of Mr. Livingston to Mr. Skipwith, in which it is stated that there is difficulty in ascertaining what the claims before the board of commissioners, established by the treaty of 1800, were. But I submit to the honorable gentleman from Virginia that the claims referred to by Mr. Livingston were not these claims. They were not claims for spoliations committed on the commerce of this country prior to 1800. They were claims settled, fixed, adjusted by the treaty of 1800—the claims of creditors of France, which, by that treaty, were bound to be paid, amounting to between four and five millions of dollars. Those were the claims to which Mr. Livingston referred, and not these claims which, instead of being provided for, were bartered away for the old French treaties of 1778.

Mr. President, I do not intend, the friends of the bill do not intend, to debate it. It has been discussed again and again and again in the hearing of nearly all the gentlemen in this body. I have heard it debated twenty times. I am, as one of the friends of the bill, perfectly satisfied that the judgment which the country will make up in regard to the vote of this day, shall be adopted upon a view of the evidence and the arguments that have been submitted, without laying any more before the country. I see no necessity for saying anything now. If time were allowed me, and if I felt it to be my duty on this occasion to delay the passage of the bill by entering into any discussion, I could meet the arguments of the honorable Senator from New Hampshire, each and every one of them. That honorable Senator has made no new points. The questions which he has discussed, have all been fully discussed before. Every objection that he has made to the passage of the bill, has been answered again and again and again. I shall not now renew the answers that have been made. All I mean to say is, that I shall, upon the arguments which have been submitted, rest my vote for the present, and if after the passage of this bill any gentleman on this floor feels desirous to break a lance on this question, I shall be very happy to meet him.

Mr. HUNTER. Mr. President, it is not my purpose to debate this bill; but, upon this point of publicity in regard to the proceedings of the board of claims, I think we had a debate on the bill establishing a court of claims, when nearly every member of this body who spoke on the question expressed his sense of the great importance of providing that their proceedings should be public and of record. The same reason which existed in regard to that seems to me to exist in regard to this. If the difficulty to which I have alluded existed in reference to ascertaining claims which were due even under the treaty of 1800, at that early day, which was nearly contemporaneous with the claims themselves, how much greater must be the difficulty of ascertaining claims which were more difficult to prove than those. It is to be remembered that those claims consisted of debts due by the French Government to individuals, of claims against them, of cases in which there had been decisions before the prize courts, and where there had been no condemnation. What does Mr. Livingston say? He says, in a letter to Mr. Madison, in January, 1804:

"I have been anxious to afford you a just view of the probable amount of the demand. In this I had hoped to have been aided by Mr. Skipwith, whose duty it certainly was to give me the most accurate information he could collect. I have received from him a list of claims, and I had hoped, as he gave me reason to believe, that he would annex such observations to it as would have served to direct my judgment; this, however, he has since declined, and he tells me that he has transmitted this list to you." * * * * * * * * "This list contains a number of claims, for which there is no foundation; a number that are paid, as Mr. Skipwith himself knows; a number for which no vouchers can be produced; a number that do not come under the treaty."

Mr. CLAYTON. Will the honorable Senator allow me to say that the claims provided for by the treaty of 1800, are not these claims.

Mr. HUNTER. I have already said so; but I say if it were so difficult to ascertain those claims, it must be much more difficult to ascertain these other claims arising out of alleged spoliations at a prior date. When it was so difficult to ascertain those claims when they had the assistance of the French Government, it must be quite as difficult to ascertain the others. Now, when fifty years have elapsed, how much have those difficulties increased? Again, in reference to these very matters, in a letter in February, 1804, speaking of the list referred to in the other letter, Mr. Livingston says:

"It now appears that what was suspected is true: that many of the debts on the list have been paid, that others are not due, many greatly overcharged, and many charged twice under different heads, so that, upon a fair statement, there is the highest reason to believe that the whole of that note, including the embargo, together with the interest on the debt, will not exceed twelve millions of francs."

I have referred to these statements in order to show the extreme difficulty to which this commission will be exposed in ascertaining facts in regard to these claims. The provision which I have proposed to insert is as much due to the claimants themselves as to the Government, because it is to be remembered that a sum certain is to be appropriated, and if the commissioners find a larger amount of demands than are here appropriated for, they have to be scaled and paid *pro rata*. Those, therefore, who have good claims have an interest in providing a tribunal which shall be surrounded by such checks and safeguards as to insure a proper examination of the claims.

Nor is it to be said, in reply to this argument, that the bills which were formerly passed contained no such provision. Mr. President, we have had some recent experience on the subject of commissioners. We had some experience in regard to the board of commissioners under the Mexican treaty, which should admonish us to be more careful; and I think it is but just to the public, but just to the Administration, which will have to appoint these commissioners, to provide effectual measures, so as to subject the action of the board to the ordeal of public opinion.

Mr. BAYARD. Mr. President, I do not rise for the purpose of discussing this bill. It has been too often discussed, and the judgment of Senators must be too deliberately made up to require any further discussion of its principles. But as regards the objection made by the Senator from Virginia, it seems to me that the only effect of the amendment which he has offered would be to send the bill back to the House, with the probability, at this period of the session, that it would be lost. With this prospect before me, I can vote for no such proposition.

The honorable Senator from Virginia was fully answered by the honorable Senator from Maine when he told him, what, I presume, all the friends of the bill will willingly agree to, that we are ready to vote for a supplementary bill for the purpose of introducing this provision if it be deemed important; but, in my own judgment, the amendment is not requisite, because I think the bill, in its present form, of necessity requires that the sittings of the commissioners should be in public. The great guard which you have in the bill is, that it provides for the appointment of an officer, as the attorney of the United States, to resist u just claims. He has a right of hearing, as well as to examine testimony; and it would be impossible for the commissioners to take any step whatever in the adjudication and hearing of the cases, without notice to him of their actions. Of course, if you had a proper officer appointed by the President, there could be no question but that the hearing must necessarily be public in its character, without any express provision for the purpose.

I think, therefore, that the whole object which the honorable Senator from Virginia desires to attain will necessarily flow from the bill in its present structure. It provides for an attorney on the part of the United States, with the right of hearing, and the right of offering, testimony on their behalf in resisting the claims; and this, of necessity, requires publicity in the investigation. There is an express provision that there shall be publicity in the decisions. You would not, of course, have publicity in the deliberations of the commissioners any more than in the deliberations of the Judges of the Supreme Court. For this reason, I think the whole object of the Senator from Virginia is answered without the amendment; but if he desires it, in a supplemental bill I shall be willing to vote for any provision of the kind.

Mr. SEWARD. Mr. President, some four years ago I had occasion to examine this subject, and submit to the Senate the views which it seemed to me to present, and I have, therefore, not the least idea, on this occasion, or on any future one, of examining the merits of this question. Other Senators have done, or will do, the same for themselves. I rise simply to speak on the question of its immediate passage. The Senator from Virginia has introduced an amendment, and to his speech on that subject I propose to reply. My reply will be very brief.

This bill came from the House of Representatives, and from the hands, in that House, of the Committee on Foreign Affairs, the chairman of which committee [Mr. T. H. BAYLY] is from the State of Virginia. When the bill came into the Senate, he called upon me, as one of the friends of the bill, to say that any amendment whatever put upon it in the Senate would render it practically impossible that it could pass the House of Representatives during the session. We must, therefore, take the bill in this shape or not take it at all. Those who are in favor of the bill will take it as it is; and those who are against it will, of course, go for making it a great deal better, and therefore defeating it altogether.

Mr. REID called for the yeas and nays, and they were ordered.

Mr. DOUGLAS. I have paired off on this question with the Senator from Maine, [Mr. FESSENDEN.] If I were at liberty to vote, I should vote in favor of the amendment.

The question being taken by yeas and nays, resulted—yeas 22, nays 24; as follows:

YEAS—Messrs. Bright, Brodhead, Brown, Butler, Cass, Chase, Clay, Dodge of Wisconsin, Dodge of Iowa, Evans, Fitzpatrick, Houston, Hunter, Jones of Iowa, Mason, Reid, Sebastian, Slidell, Stuart, Toucey, Weller, and Wells—22.

NAYS—Messrs. Allen, Badger, Bayard, Bell, Benjamin, Brainerd, Clayton, Dawson, Foot, Geyer, Gillette, Hamlin, James, Jones of Tennessee, Morton, Pearce, Pettit, Pratt, Seward, Sumner, Thompson of Kentucky, Thomson of New Jersey, Wade, and Wright—24.

So the amendment was not agreed to.

Mr. MASON. Mr. President, notwithstanding what has been said, that amendments offered to this bill may be considered, by some gentlemen who are the friends of the bill, as offered with a design to defeat it, a design which I disclaim; yet if amendments are not to be offered to sections of the bill, which may be deemed by its opponents inequitable and not right, we must be restrained from offering such amendments lest we come under such censure.

Now, sir, there has been introduced into this bill by the House of Representatives a provision which, so far as I understand it, I deem highly inequitable and unfair. I admit it was not so

designed, but such will be its operation. I refer to that provision which proposes to give to the transferees or assignees of these claims interest upon the amount of the consideration paid. I propose to strike out from the bill that portion of it which allows such interest. My amendment is, in the first section, to strike out the words "and interest thereon, provided the same do not exceed the amount to which he would be entitled, if such assignee were the original holder."

Mr. President, the effect of that provision, as it stands, will be two-fold. In the first place, it recognizes not only the validity, but the propriety of this kind of transfer; and it proposes to pay to the transferees interest upon the amount of the consideration which they paid for the transfer. A transfer of what? A transfer of a claim upon the French Government, now said to be a claim upon this Government. What is the claim? An unsettled demand that may or may not be found to exist when it comes into a course of adjudication.

Sir, the stern morals of the common law repudiated all such transfers. A claim of this sort, called a *chose* in action, was not legitimately the subject of a transfer at all; and if it was transferred, the act was punished as a misdemeanor as against the morals of the law, and yet this bill not only recognizes the validity of such transfers, but proposes to pay interest to that class of claimants, in preference to any other class, or rather pays it to no other class of claimants.

Now, take the case of insurers, who I presume will be found to be the most meritorious class of transferees. Take the case of the insurer who has received an abandonment and assignment of the claim, and has paid it. What has he paid? He has paid the full amount of the loss, and yet he is to receive no interest upon what he has paid. The underwriter gets no interest, because he has paid the full amount of the loss. Then comes the original holder. He alleges that he has sustained a loss, measured in money, of certain property, and he is to be reimbursed the amount of his loss without interest. But the speculator is singled out by this provision as the only meritorious subject to receive interest upon what he may have advanced.

Such are the provisions of the bill, as I construe them. I do not know who these speculators are; I never heard the name of one of them; but I have seen in the papers, and we know very well that such a character generally attends this class of assignments, that as the claims grew older and older, and were supposed to be weaker and weaker, they were purchased almost for a nominal consideration—purchased by capitalists or by adventurers—men who could take the chances of ultimate payment, and run the risk of not getting it. You are to pay that class of men, (a class who, as I have said, were repudiated by the sterner morals of the common law,) as the preferred class of creditors, who are to receive interest upon their advances, to the exclusion of all others. I think, then, that this provision of the bill, though certainly not so designed, is in this respect inequitable, and ought to be stricken out.

Mr. BAYARD. I think the honorable Senator from Virginia misconstrues the provisions of the bill. The provision to which he alludes, being an amendment of the House, may very well be objected to here by any honorable Senator, without subjecting him to the imputation of a mere desire to defeat the bill, though that could hardly obtain in reference to any original proposition incorporated in the measure when the bill was before the Senate two sessions ago, and the last session, without any attempt being made to amend its structure. I think, however, the honorable Senator from Virginia misconstrues the effect of this provision of the House bill.

The whole difficulty has arisen from the very improper provision, in my judgment, in the proviso which was acceded to by the friends of the bill, from a notion which is by far too prevalent here, that the assignor of a *chose* in action should not have liberty to take the whole value of his claim, but should only take the sum he has paid. This is an interference in the private transactions of men which I do not like to sanction. In my own belief, the proviso ought never to have been put there at all; because we have nothing to do with the relations of individuals, as to how they acquire a claim. It ought to be sufficient for us that there is a claim upon the Government, and we should pay it, without reference to the holder, without reference to the consideration that has passed between him and the assignor; and we should pay it, knowing that if there has been any fraud or impropriety in the assignment, or in the mode of obtaining the claim, a court of equity can always redress the assignor as to that, without Congress interfering in the matter.

A proviso was inserted by the Senate in the bill which we passed last year, as a limitation, that the purchaser of a claim, not one receiving it by donation, should not be entitled to more than the amount of his purchase money, though the value of the claim might be, as to the original holder, ten times the amount. The House thought, as to that class, that, though it was right to limit the purchaser to the amount of money he had actually paid for a transferred claim in such a case, at least he ought to be entitled to interest on the money he had actually paid, provided it did not exceed the amount of the original claim. That is all. It puts the purchaser in no better situation, nor even in as good a situation as the original holder. Suppose he purchased for one tenth the nominal value, a sum which, under the circumstances, would perhaps be the average amount paid; that sum, with interest added, would not amount to anything like what the original holder himself would have been entitled to receive if he had retained his claim. I look upon this, therefore, as nothing more than an enlargement of a limitation which originally ought not to have existed in the bill; but being there, by the judgment of the Senate, I think the enlargement of the limitation upon the purchaser, is proper in itself.

As to the doctrine of the common law, no one doubts that a *chose* in action was not assignable; but centuries ago, the principle of the common law, in that respect, which was purely technical, was abandoned by courts of equity. An assignee of a *chose* in action always had the right to enforce in equity what he might not have the right to sue for at law; and ultimately, the courts of common law, seeing the absurdity of carrying the provision too far, though, for the sake of uniformity, they still retained the principle that the assignee could not sue in his own name, permitted him to sue in the name of the assignor as his *cestui que use*.

Mr. BUTLER. I have no idea of entering into this debate further than to make a remark on this specific amendment. If the principle of the common law referred to by my friend from Virginia was wise at any time, I do not know upon what occasion, or at what time, that principle might be observed with greater wisdom than at this. Sir, it is because I believe speculators, and a combination of speculators, are now exerting an influence upon the administration of this Government entirely inconsistent with its original objects—such an influence as could not be exerted in any other way than by a combination of speculators—that I shall vote for this amendment with a view to rebuke, as far as I can by my vote, and to repudiate the influence to which I have adverted.

I have many constituents who are the original holders of some of these claims. I know some venerable ladies, living in Charleston, who have such claims, who have written to me on the subject. I know their claims are urged with honesty and earnestness. As far as they, and such as they could be satisfied, I should be reconciled to the passage of the bill. But, sir, this bill has been brought into the Senate, and urged by an influence which I am not willing to recognize, or to subscribe to.

Mr. STUART. I wish to call the attention of the Senator from Maine to this proviso upon another point. As I understand, it was not in the original bill which passed the Senate sometime ago. The proviso reads thus:

"*And provided also*, That in all cases of transfer or assignment, except gifts or donations, no assignee shall be entitled to receive an amount beyond the consideration paid, and interest thereon, provided the same do not exceed the amount to which he would be entitled if such assignee were the original holder."

If it does not exceed that amount this proviso does not apply to it.

Mr. HAMLIN. That is the amount to which he is limited.

Mr. STUART. That is the very point to which I ask the attention of the Senator, and I think he will see, by an inspection of the proviso, that it does not reach the object which its framers intended; but it simply cuts out such individuals whose claims, with interest, do not exceed the amount to which their *pro rata* dividends would reach. If the claim does exceed that amount the proviso does not touch it at all. If this be so, then here is the condition of things: There will be one set of assignees who will receive the amount which they paid and interest, and no more; but there will be another set of assignees who will receive as original holders, without reference to it. If this be the case, there is a distinction between the assignees; and there is a very great propriety, in addition to what has been said by the honorable Senator from Virginia, in striking out the portion of the proviso to which he has alluded.

Mr. MASON called for the yeas and nays on his amendment, and they were ordered; and being taken, resulted—yeas 21, nays 26; as follows:

YEAS—Messrs. Adams, Bright, Brodhead, Brown, Butler, Cass, Chase, Clay, Dodge of Wisconsin, Dodge of Iowa, Evans, Fitzpatrick, Hunter, Jones of Iowa, Mason, Reid, Sebastian, Slidell, Stuart, Toucey, and Wells—21.

NAYS—Messrs. Allen, Badger, Bayard, Bell, Benjamin, Brainerd, Clayton, Dawson, Foot, Geyer, Gillette, Hamlin, Houston, James, Jones of Tennessee, Morton, Pearce, Pettit, Pratt, Seward, Shields, Sumner, Thompson of Kentucky, Thomson of New Jersey, Wade, and Wright—26.

So the amendment was rejected.

Mr. ADAMS. I have an amendment, to come in at the end of the first section of the bill:

And provided further, That claimants under the provisions of this act, arising under insurance, shall be required to remit and deduct from such claim the amount received from the assured.

The amendment was rejected.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

The PRESIDENT. The question is, "Shall the bill pass?"

Mr. HUNTER. On that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. RUSK. The honorable Senator from New York, [Mr. FISH,] not now in his seat, who was quite unwell the other day, asked me, as a matter of favor to him, to pair off with him on this question. I acceded to this readily, as he had accommodated me in the same way. I should vote against the bill, but having paired off with the Senator from New York, I shall not vote upon it.

The yeas and nays being taken, resulted—yeas 28, nays 17; as follows:

YEAS—Messrs. Allen, Badger, Bayard, Bell, Benjamin, Clayton, Dawson, Evans, Foot, Geyer, Gillette, Hamlin, Houston, James, Jones of Tennessee, Mallory, Morton, Pearce, Pettit, Pratt, Seward, Shields, Sumner, Thompson of Kentucky, Thomson of New Jersey, Wade, Weller, and Wright—28.

NAYS—Messrs. Adams, Bright, Brodhead, Brown, Butler, Cass, Chase, Clay, Dodge of Wisconsin, Dodge of Iowa, Fitzpatrick, Hunter, Jones of Iowa, Mason, Reid, Slidell, and Wells—17.

So the bill was passed.

ORDER OF BUSINESS.

Mr. GWIN. Mr. President, I ask the Senate now to proceed to the consideration of the bill reported at the last session by the select committee, to provide for the construction of a railroad from the valley of the Mississippi to the Pacific ocean. If the Senate will take up this bill, I shall be willing to accommodate gentlemen who have other bills which they wish to bring forward. All that I ask at present is, that the Senate shall proceed to the consideration of the bill.

Mr. SLIDELL. For the reasons which I stated yesterday, I shall be obliged to vote against taking up this bill. I know it will lead to interminable discussion; but I am sure that there will be no argument on the part of the friends of the bill which I had intended to move to take up if I could have obtained the floor when it was awarded to the Senator from California, and I presume there will be no discussion on the bill to which I allude. I do not think it will occupy half an hour. After that bill, and others of a similar character, shall be disposed of, I shall vote with great cheerfulness for the consideration of the bill of the Senator from California.

Mr. GWIN. As far as I am concerned, I do not intend to occupy five minutes of the time of the Senate on the bill which I have moved to take up. I wish to have it considered. When that is done, I shall have discharged my duty.

Mr. BENJAMIN. I hope the Senate will take

up the internal improvement bills, for which we have been waiting now for three months.

Mr. CHASE. I hope the honorable Senator from Louisiana [Mr. SLIDELL] does not propose to consider the bill which he has introduced, alone, without considering those of the same general character, which have also been made special orders.

Mr. SLIDELL. In reply to the Senator from Ohio, I will state that I propose to take them up in their order.

Mr. CHASE. I hope, then, that we shall proceed to consider those local internal improvement bills which have been for some time the special order, and which, I am sure, can be passed without any discussion, or at least after a very brief discussion. All of them are commended by their intrinsic merits, to the consideration of the Senate. When we shall have disposed of those bills the way will be clear for the Senator from California.

Mr. GWIN. As I stated before, I shall probably vote for every one of those bills which have been referred to, but I fear that whenever they come up they will be loaded down with amendments, as was the river and harbor bill of last session. I do not object to the consideration of those bills, but I consider it to be my duty to urge first, that we shall consider the measure which I have indicated. It is the first bill on the Calendar of special order, and I hope the Senate will proceed with it.

Mr. DODGE, of Iowa. It is with great regret that I oppose any motion of my friend from California. The Senate will bear witness to the fidelity with which he has always enforced the great measure which he now proposes to take up, which is so important to him, to the Pacific coast, and to the valley of the Mississippi; but I think, for the reasons stated by the Senators from Louisiana and Ohio, that the business of the Senate will be greatly accelerated by our proceeding to the consideration of the internal improvement bills which are to be passed, I hope, or rejected, upon their individual merits, and separately, so that the President may approve or veto just such as, in his judgment, he should approve or veto. I think my friend from California will forward his bill by agreeing to this course. I am sure that I shall myself be inclined to go for its consideration as soon as the internal improvement bills shall be disposed of.

Mr. CLAYTON. I intend to vote in favor of the motion to take up the Pacific railroad bill, because I think that, whatever may be the final decision upon it, it is entitled to a hearing. The honorable Senators from California have constantly pressed it upon our attention, and if it fails it will not be their fault; but I am not willing to give it the go-by. There is no measure of more importance, and I trust it may be now considered. I am willing to hear all that may be said upon it.

Mr. STUART. I beg to suggest to the friends of these respective measures, (and for myself, I confess I favor both,) whether we cannot make an arrangement. If the Senator from California, who makes this motion, will agree to confine the consideration of his bill to to-day, and will consent that if it be not disposed of to-day, it shall not be in the way of the other bills, I think we can proceed with it.

Mr. GWIN. I am willing that those in favor of the internal improvement bills shall have one hour each day for their consideration until they are disposed of. They say that they can pass them in half an hour, but I am willing to give them an hour each day. All I wish is to give the bill which I have moved to take up its fair position to which it is entitled on the Calendar. As I have already said, I am not disposed to press it to the interference of other measures.

Mr. DOUGLAS. Let us take up the Pacific railroad bill at two o'clock each day, and give the other bills the hour preceding that.

Mr. GWIN. That will be satisfactory. I shall not interpose any objection to that arrangement.

Mr. HUNTER. I feel it to be my duty to press the consideration of the Indian appropriation bill, which was reported sometime ago. I cannot agree to making special orders which shall shut out the appropriation bills at this late period of the session. I gave way yesterday and to-day, but to-morrow I must begin to press the consideration by the Senate of the bill to which I have alluded.

Mr. GWIN. We all know that the appropriation bills are certain to pass; but the other measures which have been alluded to must be discussed and considered by the Senate; and I hope they will be taken up now. I am willing to sit here until six o'clock every day until the appropriation bills, and all the other necessary measures, shall be disposed of. I wish, however, to take up and proceed with the Pacific railroad bill. It is due to it that it should be now taken up. I am willing that it shall not interfere with other measures.

Mr. CLAY called for the yeas and nays; and they were ordered.

Mr. CASS. Before I vote on this question, I wish to ascertain what the understanding of the honorable Senator from California is.

Mr. RUSK. He proposes to make his bill the special order for two o'clock to-morrow.

Mr. GWIN. And to allow one hour before that to dispose of the other bills.

Mr. CASS. Does the Senator from Louisiana accede to that proposition?

Mr. SLIDELL. I am unwilling to take that responsibility without consultation with the friends of the various bills of internal improvement. If they think they can pass them in an hour, I have no objection to agreeing to this suggestion. My own impression is, that we can do so; but I am unwilling to take the responsibility of acceding to this motion.

Mr. CHASE. It is very obvious that if we can pass all those bills within the hour, of course the object of the Senator from California will be accomplished; but if we cannot, the first bill on the Calendar takes the preference, and all the other bills are postponed indefinitely. I fear no such arrangement can be made without jeoparding every bill except that which chances to be first taken up.

Mr. STUART. I suppose the Senator from California will concede that if the Pacific railroad bill is to be debated at length, it cannot be passed at this session. Everybody will admit that. I suggest, therefore, that we should take up the bill, and see if we can obtain a vote upon it, without speeches.

Mr. GWIN. I am willing to agree to that.

Mr. STUART. But if we find that it leads to a lengthy debate, then let the Senator not press it hereafter, to the prejudice of other bills. If he will agreed to that suggestion, I shall vote to take up the bill.

The question being taken by yeas and nays upon the motion to proceed to the consideration of the Pacific railroad bill, resulted—yeas 17, nays 28; as follows:

YEAS—Messrs. Bell, Brainerd, Clayton, Dodge of Wisconsin, Douglas, Foot, Geyer, Gwin, Hamlin, Houston, Jones of Tennessee, Rusk, Seward, Shields, Stuart, Thompson of Kentucky, and Weller—17.

NAYS—Messrs. Allen, Badger, Bayard, Benjamin, Brown, Butler, Cass, Chase, Clay, Dawson, Dodge of Iowa, Evans, Fessenden, Fitzpatrick, Gillette, Hunter, Jones of Iowa, Mallory, Mason, Pearce, Pettit, Pratt, Reid, Slidell, Sumner, Thomson of New Jersey, Wade, and Wright—28.

So the motion was not agreed to.

INTERNAL IMPROVEMENT BILLS.

Mr. SLIDELL. I now move that the Senate proceed to the consideration of the bill to remove obstructions to the navigation of the mouths of the Mississippi, at the Southwest Pass, and the Pass à l'Outre.

Mr. SHIELDS. I wish to appeal to the Senator from Louisiana to permit me to call up a bill for the relief of Brigadier General Walbach, of the United States Army.

Mr. SLIDELL. Will it lead to discussion?

Mr. SHIELDS. None. General Walbach is the oldest officer in the Army. He is now ninety years of age, and, unless we pass the bill this session, I fear it can do him no good.

Mr. SLIDELL. I will accommodate the Senator from Illinois. If my bill be taken up I shall have no objection to laying it aside for a moment, in order to consider the bill to which he alludes.

Mr. SHIELDS. If the bill, to which I have referred, leads to any debate, I shall agree to pass it over. The old gentleman was here yesterday, from Baltimore, and I promised him to make an effort to take up the bill to-day.

The PRESIDENT. Does the Senator from Louisiana yield to the motion of the Senator from Illinois?

Mr. SLIDELL. Not until the bill, which I have moved to take up, be considered. When it is taken up, I shall agree with great cheerfulness to lay it aside temporarily to consider the bill of the Senator from Illinois.

Mr. SHIELDS. Very well.

The PRESIDENT. The question is on the motion of the Senator from Louisiana to take up the bill to remove obstructions to the navigation of the mouths of the Mississippi at the Southwest Pass, and the Pass à l'Outre.

Mr. CLAYTON. The question is, whether we shall take up one of these internal improvement bills by itself. I perceive that there are a number of bills of that description on the Calendar providing for improvements in particular parts of the country; but I see no effort at all to embrace other parts of the country where those improvements are equally desirable, and demanded by the public interests. Now, I am quite willing, I am anxious, to remove the obstructions at the mouths of the Mississippi; but there are other improvements of equal importance. How is this matter to be managed? Are these bills, which are now on the table, to go through both branches of Congress, and leave all the other works neglected? I am not satisfied with this. I do not know any more important appropriation, for instance, than one about which, I suppose, there is not a difference of opinion in Congress—an appropriation to make repairs upon the Delaware breakwater—a matter of national and universal interest. I do not wish to enter into a scramble on an occasion of this sort, in favor of the particular section of country to which I belong; but I am not willing to stand by and see her overslaughed. I am not willing to take up one bill until we come to some understanding in relation to the general subject of internal improvements.

The PRESIDENT. The Chair will remark, that all the bills on the Calendar relating to internal improvements were made the special order of the day for the 24th of January last, as well the bill the Senator from Louisiana now proposes to take up, as all the others.

Mr. SLIDELL. I will say to the Senator from Delaware that if he has at heart the object which he professes, he should pursue the course of those who have introduced special bills and had them made the special order for a particular day. He has had ample time to follow the example of those who have done this. I do not say that he should follow the example of anybody; but if he had been anxious for the passage of an appropriation for the improvement to which he refers, he would now have it in a situation in which the other improvement bills are placed on the Calendar of the Senate. I must confess that I think he might have been more diligent in bringing the matter to the attention of the Senate, and getting his bill placed on the Calendar. It is not too late for him to do so now.

Mr. CLAYTON. The honorable Senator thinks I might have brought forward a bill for an appropriation, such as I expressed as desirable for the Delaware breakwater. If I had done that, and called up that bill, what would have been said by gentlemen in other sections of the country? What would have been said by the honorable Senator from Louisiana himself? Why, sir, I could not have denied the absolute necessity of improvements such as the one he has pointed out, and others. I could not, with any face, have stood up and said there should be an appropriation passed for my section of the country and not for others.

Sir, there should be some understanding on this subject. There are appropriations about which gentlemen here do not differ. Why could not those be put together in one bill? I do not choose to place myself in a situation where I could be objected by the honorable Senator from Louisiana and others, and it could be said with propriety against me: "Sir, you endeavored to provide for your own section without reference to others." But, as the gentleman thinks I ought to have brought that forward as a separate bill, I give notice that when his proposition comes up I shall move to amend it by inserting an appropriation for the Delaware breakwater, and then I shall be in time for him.

Mr. PRATT. Mr. President, all the bills upon the subject of internal improvement which have been heretofore introduced by individual Senators having connection with the States which they represent here, were made, together with the bill introduced by the Senator from Louisiana, the

special order for a particular day; and it is now proposed that not only his bill, but all the bills connected with that subject, shall be taken up for consideration. The bill of the Senator from Louisiana happens to be the first of them upon the Calendar. The others will be considered after that shall be considered and passed.

Now, the Senator from Delaware says he intends to propose an appropriation for the Delaware breakwater, which he desires to advocate as an amendment to one of these bills. If I understand correctly the veto message of the President of the United States, he will veto any bill which contains an appropriation that relates to more than any one object, although all the objects contained in the bill might, of themselves, if they stood individually, in his judgment, be right. At any rate, whether that be the true construction or not to be placed upon the veto message, the object of the friends of internal improvement should be to give to the President of the United States the opportunity of acting upon each bill separately, so that, if the majority of Congress shall be in favor of this, that, or the other measure, it may pass and become the law of the land, provided the President of the United States shall believe it to be constitutional; and not, by placing bills together, give him an opportunity of vetoing all, because there may be, in his judgment, a constitutional objection to some of them. I am satisfied, therefore, permit me to say to the Senator from Delaware, that a large majority of this body have come to the determination to put upon those bills no amendment, but to vote upon each on its own merits, and let it go to the Executive upon its individual merits; so that all shall stand or fall here or there as they may deserve to stand or fall.

One of the bills which was included in the special order that was made, is one which, in conjunction with the honorable Senator from Delaware, I reported during the last session of Congress from a special committee, making an appropriation for the improvement of the harbor at Baltimore. That is a measure which entirely meets the approbation of that Senator. Now, let him introduce a bill making an appropriation for the Delaware breakwater, and I am sure there would be no objection to it. There can be no constitutional objection on the part of the President, and it will pass as a separate bill. That bill can be introduced before these are disposed of, and it can pass, provided it meets the approbation of a majority of this body; and I am sure that, separately and by itself, it would not be vetoed by the President of the United States; but he has no assurance that if it be placed on any other bill it may not be vetoed.

Mr. CASS. The honorable Senator from Delaware asks, apparently, emphatically, what we should say if he had introduced a bill for the Delaware breakwater. I say exactly what I say about others: vote upon it, and vote for it, if proper; and I have no doubt it is proper.

Mr. CLAYTON. With that understanding, I shall agree to this motion.

Mr. CASS. That is the principal reason I have for rising now. I accord with every word the honorable Senator from Maryland has said. It is very obvious with respect to every President who has acted on this subject, that there are limits beyond which he will not go. There are constitutional and unconstitutional improvements in his opinion. Now, if we make a hotch-potch of them, and jumble them altogether, it is very certain that we bring together measures which, in his opinion, are constitutional and unconstitutional, and he cannot act fairly upon them. I have no authority to speak for the President. I do not know his sentiments on this subject except from his message; but there is no question at all that, in the river and harbor bill of the last session, there were many improvements which the President would not have vetoed if they stood by themselves, and which, obviously, did not come within the limitations which he has laid down in his message. I think the way to meet that is to do precisely what we are trying to do—bring up each on its own merits. I do entreat Senators now to permit no improvements to be added to any bill whatever. As I said to the Senator from Delaware, let us take them all up, deal fairly with them all, and do not incumber one with the weight of another.

Mr. CLAYTON. With that understanding, I have no objection.

Mr. BELL. There has been some preliminary discussion on this point, which I do not think applicable to the question immediately before the Senate. The honorable Senator from Michigan, I believe, intimated some knowledge of what the President would do on this subject. Now, I should like to interrogate that Senator, if he will allow me, as to whether he is aware that the President would or would not veto an appropriation for the clearing out of obstructions in the navigation of the Ohio, or the Mississippi, or the Missouri river?

Mr. CASS. Most assuredly not. I distinctly said that I did not know the President's opinion on the subject, except as they were developed in his message. Every man can judge on that subject.

Mr. BELL. It is now proposed to take up a number of bills on this general subject, and I presume the bill for the improvements to which I have referred, will be taken up in its regular order.

Mr. PRATT. A bill for that purpose has been reported.

Mr. ADAMS. In order that we may have a fair start on this subject, I move that the Senate adjourn.

The motion was not agreed to:

The motion of Mr. SLIDELL was agreed to; and the Senate accordingly, as in Committee of the Whole, proceeded to the consideration of the bill to remove obstructions to navigation in the mouths of the Mississippi river, at the Southwest Pass, and the Pass à l'Outre.

GENERAL WALBACH.

Mr. SHIELDS. I now ask the unanimous consent of the Senate, to take up the bill for the relief of Brevet Brigadier General John B. Walbach, of the United States Army.

Mr. SLIDELL. With the understanding that there is to be no debate upon it, I have no objection.

Unanimous consent was given, and the Senate, as in Committee of the Whole, proceeded to consider the bill. It is to direct the Secretary of War to pay to Brigadier General Walbach, such extra compensation as he may consider just and reasonable for the extra services performed by him as aid-de-camp to General Wilkinson, commissioner of the United States to treat with western Indians in the years 1801 and 1802; but the per diem allowance is not to exceed that paid to General Wilkinson, nor be less than that of the secretary to the commission for their extra services while they were engaged in the same service.

In 1801 Brigadier General Wilkinson was appointed a joint commissioner on behalf of the United States, to treat with the several tribes of Indians east of the Mississippi river, and General Walbach accompanied General Wilkinson as his sole aid-de-camp, and attended him on the commission, a service extraneous to his duty as a military officer. During this service General Walbach was necessarily exposed to all the inclemencies of the winter, and the parching heats of summer, traveling over four thousand miles on horseback. His horse died of excessive fatigue, and he being, by the nature of his service, separated from the commission, he was obliged to procure subsistence at his own expense. These facts are fully supported by a letter from Major General Macomb, who states, in addition, that General Wilkinson was paid for these extra services a per diem of eight dollars per day, and Macomb himself, who was secretary to the commission, received an extra allowance of four dollars per day.

This claim was presented to Congress in 1804, when no final action was had upon it, and General Walbach, supposing it to be continuously before Congress, did not call attention to it.

Mr. CASS. I hope the bill will pass without a single objection. I have known General Walbach for more than fifty years, and a more honorable and gallant man I never saw. He came, I think, from a disbanded British regiment in the West Indies, and entered the army during General Washington's Administration, or if not, very soon afterwards, and from that day to this he has remained without one stain upon his honor. He needs everything that he can get; for he is poor. I saw General Wilkinson, when going down the Ohio upon that very expedition.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time and passed.

IMPROVEMENT OF THE MOUTH OF THE MISSISSIPPI.

The PRESIDENT. The bill to remove obstructions to navigation in the mouth of the Mississippi river, at the Southwest Pass and Pass à l'Outre, is before the Senate as in Committee of the Whole.

The bill, as originally introduced, proposed to direct that, for the opening, and keeping open, ship channels of sufficient capacity to accommodate the wants of commerce through the Southwest Pass and Pass à l'Outre, leading from the Mississippi river into the Gulf of Mexico, $300,000 be appropriated, to be expended under the superintendence of the Secretary of War; and further, to make it the duty of the Secretary of War to apply the appropriation to the opening, and keeping open, of the ship-channel by contract, and at an early day, in the next session of Congress, to report the progress of the work, the amount necessary to complete it, and an estimate of the annual cost of keeping the channels open, and to limit any contract made to the amount appropriated.

The Committee on Commerce propose an amendment to strike out all after the enacting clause, and insert:

"That, for the opening, and keeping open, of ship channels, of sufficient depth and capacity to accommodate the wants of commerce, through the Southwest Pass and Pass à l'Outre, leading from the Mississippi river into the Gulf of Mexico, the sum of $220,000 be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, and to be expended under the superintendence of the Secretary of War, by contract or otherwise, in his discretion."

Mr. SLIDELL moved to amend the amendment of the committee by striking out all after "that," and inserting:

"For continuing the improvement of the channels at the mouths of the Mississippi river, the sum of $300,000 be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated; and it shall be the duty of the Secretary of War to apply said sum to the opening, and keeping open of said channels, by contract or otherwise."

Mr. SLIDELL. I will state, for the information of the Senate, that the amendment which I have offered is identical, in substance, with the clause in the river and harbor bill of last year, and which, even in that form, commanded a very large majority in its favor. I will further state, that there was scarcely a gentleman who opposed the general river and harbor bill, who did not expressly declare that if the appropriation for the mouths of the Mississippi was made distinctly, they should not oppose it. Under these circumstances, I believe, the friends of the bill are not disposed to enter into any discussion of its principle. They are willing to submit it to the Senate without discussion. I presume there will be no difficulty about it.

Mr. BENJAMIN. The report of the Committee on Commerce was made last year, long before the engineer's final report was made, and the amendment of my colleague is in accordance with the bill finally passed last year. Consequently, that is the proper amendment to agree to.

Mr. SLIDELL's amendment to the amendment was agreed to; and the amendment, as amended, was agreed to.

The bill was reported to the Senate as amended, the amendment was concurred in, and the bill was ordered to be engrossed for a third reading. It was read a third time; and the question was, "Shall the bill pass?"

Mr. MASON. I understand that it is the idea of the friends of a general system of internal improvements, that the various systems which were incorporated in one bill last year, shall be passed *seriatim* at this session, and that this is the pioneer. In order to exhibit to the country who are in favor of the policy, I ask for the yeas and nays on the question.

Mr. CLAYTON. And consider it a test question.

The yeas and nays were ordered.

Mr. WELLER. I do not wish this to be considered as a test vote by any means. I shall vote for the bill, because it is right in itself. Whether I will vote for other bills or not, I shall determine when they come up.

Mr. DOUGLAS. I regard it as very clearly a

test question, whether this bill ought to pass or not, and not a test of anything else.

Mr. HAMLIN. I shall vote for the bill with great cheerfulness, and by so doing, I do not mean to pledge myself for any other.

Mr. ADAMS. I shall vote for this bill, knowing as I do that it is necessary in order to enable the Government to collect the revenues at New Orleans, and perhaps it is the only bill of the kind that I shall vote for.

The question was taken by yeas and nays, and resulted—yeas 39, nays 5; as follows:

YEAS—Messrs. Adams, Allen, Badger, Bayard, Bell, Benjamin, Bright, Brodhead, Brown, Cass, Chase, Clayton, Dawson, Dodge of Wisconsin, Dodge of Iowa, Douglas, Fessenden, Foot, Geyer, Gillette, Gwin, Hamlin, Houston, Jones of Iowa, Jones of Tennessee, Mallory, Morton, Pettit, Pratt, Reid, Seward, Shields, Slidell, Stuart, Sumner, Thompson of Kentucky, Wade, Weller, and Wright—39.

NAYS—Messrs. Clay, Evans, Fitzpatrick, Hunter, and Mason—5.

So the bill was passed.

INTERNAL IMPROVEMENT BILLS INTRODUCED.

Mr. BELL. I move that the Senate now take up the bill making appropriations for the improvement of the Mississippi and Ohio.

Mr. CASS. The bills stand consecutively on the Calendar. The second one immediately following the bill which we have just passed has been before the Senate for two months, and has been made the special order twice. Do not let us disturb the order. If we do, it will lead to an endless confusion. It has been understood from the beginning that the bill of the Senator from Louisiana should come first, and the one for the improvement of the St. Clair flats second, and so on until we get through.

Several SENATORS. Take them in order.

Mr. BELL. I want some bill that will bring up a different test. That is connected with the northern border.

Mr. CASS. "Sufficient unto the day is the evil thereof." We are prepared to meet that in due time. Let us follow the order of business.

Mr. MASON. As it is four o'clock, I move that the Senate adjourn.

Mr. CHASE called for the yeas and nays; and they were ordered and taken—yeas 23, nays 25; as follows:

YEAS—Messrs. Adams, Badger, Bayard, Bright, Brown, Clay, Clayton, Dawson, Evans, Fitzpatrick, Foot, Geyer, Hamlin, Hunter, Mallory, Mason, Morton, Pettit, Reid, Seward, Thompson of Kentucky, Thomson of New Jersey, and Wells—23.

NAYS—Messrs. Allen, Bell, Benjamin, Brainerd, Brodhead, Cass, Chase, Dodge of Wisconsin, Dodge of Iowa, Douglas, Fessenden, Gillette, Gwin, Houston, James, Jones of Iowa, Jones of Tennessee, Pratt, Shields, Slidell, Stuart, Sumner, Wade, Weller, and Wright—25.

So the Senate refused to adjourn.

Mr. GEYER. I ask the unanimous consent to introduce two bills. My desire is to accommodate myself to the wishes of gentlemen. I wish to introduce these bills, and have them made the special orders with the other bills.

Unanimous consent was given; and the following bills were introduced, read, and ordered to a second reading:

A bill to provide for continuing the improvement of the Mississippi river; and

A bill to provide for continuing the improvement of the Missouri river.

Mr. GWIN asked, and by unanimous consent obtained, leave to introduce a bill to complete the work at the mouth of the river San Diego, in the State of California; which was read, passed to a second reading, and ordered to be printed.

Mr. BAYARD asked, and by unanimous consent obtained, leave to introduce a bill making appropriation for the improvement of the Delaware breakwater; which was read, and ordered to a second reading.

NOTICES OF BILLS.

Mr. BELL. I give notice that I shall to-morrow morning ask leave to introduce a bill to continue the improvement of the navigation of the Tennessee river.

Mr. SEWARD. I give notice that I shall to-morrow morning ask leave to introduce a bill to continue the improvements upon the Hudson river.

IMPROVEMENT OF THE PATAPSCO.

Mr. PRATT. I hope that the next bill will now be taken up.

The PRESIDENT. The next is the bill for the improvement of the navigation of the Patapsco river, and to render the port of Baltimore accessible to the war steamers of the United States.

Mr. PRATT. I move that the Senate proceed to its consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. ADAMS. In order that the various Senators may have an opportunity of preparing their bills, I move that the Senate adjourn.

The motion was not agreed to.

The bill was reported from a select committee, and proposes to appropriate $300,000, to be expended under the direction of the Secretary of War, in deepening the channel of the Patapsco river, for the purposes specified.

The committee, among other things, state in their report that the port of Baltimore is now (by reason of the obstructions proposed to be removed) inaccessible to the largest class of vessels engaged in commerce, and wholly inaccessible to the war steamers of the United States. The Federal Government is now deriving from commerce an annual revenue of about sixty millions of dollars, and, in the judgment of the committee, the express power *to regulate* necessarily implies not only the power but the obligation to remove such obstructions to *commerce* as exist in the present case. It would be a singular anomaly to assume that a Government possessing the power to regulate commerce, and in fact regulating it in such manner as to derive from it almost its entire revenue, should be deprived of the power of appropriating a part of that revenue to the removal of such natural or artificial obstructions as might destroy or impair it. The State of Maryland was the pioneer in the effort to connect by railroad the great west with the Atlantic sea-board; and the city of Baltimore, by her railroad, now completed to the Ohio river, will, in a few months, have a continuous railroad connection with Cincinnati and St. Louis, whilst she will have by the Baltimore and Susquehanna railroad a direct and continuous railroad connection with Pittsburg. These improvements, when considered in connection with the geographical position of Baltimore, would indicate that city as a natural market for the produce of the sections of country above referred to; and the fact that Baltimore is much nearer those points than any other sea-port, would clearly indicate that city as a proper point for the distribution of the foreign mails, and consequently as a port from which a line of mail steamers should be established to Europe and South America. Vessels of the largest class can be navigated with proportionately less expense, and can consequently carry cargoes upon lower terms than vessels of the smaller size, which merchants are now compelled to employ in the commerce of this port; and it follows that the products of those sections of the Union, having Baltimore as their market, would be benefited by the contemplated improvement to the extent of the difference of freights in vessels of the largest and those of smaller tonnage. Without the improvement designed to be effected by the bill, the Government cannot use the port of Baltimore for the mail facilities which the central position and railroad connections of Baltimore with the great points of commerce, would make economical and convenient.

The foreign commerce of the United States, which now exceeds that of any other nation except Great Britain, will force the Government to continue the policy of increasing the steam marine to an extent adequate, in some degree, to its protection. The superiority of war vessels propelled by steam, for such purposes, is admitted by all; but the Government has been deterred from the general use of this means of national defense by the difficulty of obtaining a constant and economical supply of fuel adapted to the generation of steam—a difficulty which will be entirely surmounted by making the port of Baltimore accessible to those steamers. The Federal Executive appreciating the necessity of increasing this arm of the service, and the consequent necessity of obtaining a supply of fuel best adapted for its use, at an earlier day caused to be made a scientific examination of the many varieties of coal which could be supplied in this country, with the view to decide which could be most advantageously used to generate steam. This experiment resulted in a report giving an analysis of many varieties of coal, and the relative capacity of each, placing the bituminous coal of Maryland above all others for its capacity to generate steam. It is estimated that about one million of tons of this coal will be carried by the Baltimore and Ohio railroad, in the present year, to the city of Baltimore.

The bituminous coal-field of Maryland will furnish for centuries an abundant supply. The area of this coal-field is not less than five hundred and fifty square miles; and one square mile is estimated to contain nine millions of tons, which would supply five hundred tons per day for about fifty years.

The great desideratum—an abundant supply of the coal ascertained to be best adapted to the use of our steam marine—has been attained; and it only remains for the Government to consider how this supply can be most economically obtained. It is believed that the practice of the Government heretofore has been to buy this coal at Baltimore, and then to ship it, at great cost, in small vessels, to their different naval depots, for the use of such of the national vessels as may start from them; whilst for the supply of the steamers upon foreign stations, the practice has been to load vessels of the largest class, as small vessels could not carry so bulky an article, except at greatly increased rates.

Such ships cannot now load at the port of Baltimore because of the obstructions proposed to be removed by the appropriation. During the last summer several large ships loaded at this port with coal for the East India squadron. These ships took in about half of their cargoes at the coal wharf, and afterwards went fifteen miles down the river, where the other half was taken in lighters, at great expense to the Government, which must continue to be the case with all fuel carried to our distant squadrons.

From the Chesapeake bay to Pensacola there is not a single harbor where the large class steam frigates can enter, with the exception of Key West, and to that as well as to all other ports the fuel must go from Baltimore, at a great expense of freightage and loss by deterioration.

Sincerely hoping as they do that our country may enjoy the blessings of continued peace, the committee cannot but see in the actual existence of the war in Europe, and the necessary complication of our commercial relations with the belligerent Powers, as also in our existing relations with Spain, reasonable grounds to apprehend the possibility of our country's being involved in the calamities of war with some one of the nations of Europe. Any war in which our country can engage must be chiefly conducted by vessels propelled by steam; and if there is no port south of the capes of the Chesapeake until Pensacola be reached, where the largest class of men-of-war can enter for shelter, repairs, or supplies, whether of men, provisions, or coal, and that an adequate supply of the coal best suited to generate steam can only be procured at Baltimore, it would necessarily follow that the Government is imperatively called on, by every consideration of public policy, to make the port of Baltimore not only accessible to our steam marine, but to render it impervious to the attack of any maritime Power. The safety of the port from any naval force which could be brought against it, the committee think, will be fully secured by the completion of Fort Carrol, now being erected upon Sollers's flats.

Mr. MASON. I should like to know from the Senator from Maryland whether the sum of $300,000 has been estimated as the probable cost of the work, by any Department of the Government; and if it has been estimated by any Department, under what authority it was made?

Mr. PRATT. The Congress of the United States have been appropriating, year after year, when any appropriations have been made to similar works, small sums to effect the object proposed to be accomplished by this bill. The result has been that, under the direction of the War Department, surveys and estimates of the cost have been made; and $300,000 will be adequate, I understand, to complete the improvement. It stands identically on a footing with the bill which the Senate has just almost unanimously passed, with this exception—that in regard to the Patapsco river, the obstructions which now exist, were occasioned in some degree by the action of the Federal Government itself; for it is a part of the history of the country that, in the war of 1812, to prevent the enemy getting to the city of Baltimore,

vessels were sunk by the Federal authorities there, which commenced the obstruction. The commerce of Baltimore yields, I believe, to the Federal Government a revenue of upwards of a million of dollars annually; and that commerce has been greatly incommoded by means of the action of the Federal Government. I do not mean to make a speech; but besides these, there are many other reasons why the bill should pass.

Mr. MASON. I asked the honorable Senator whether any estimate had been made of the probable cost of the work, and by what authority that estimate had been made. I am answered by his informing me that small sums of money have been appropriated from time to time for a work of this description, and that he understands that $300,000 will complete it. Now, sir, upon the face of the bill, one object is to enable ships of war to reach Baltimore. I have not been informed that the Executive Department of the Government has ever advised Congress that it was desirable that the ships of war should go to the port of Baltimore. I have never had that information. I am not aware that it considers it desirable that it should have a place at the navy-yard for the repair or building of ships of war of the size that cannot now get there; and I am left to presume, therefore, that the Senator who so ably and well represents the State of Maryland thinks it will be important to have that much money appropriated for the benefit of the city of Baltimore.

Mr. PRATT. The Senator says he is not aware of any necessity for a ship of war getting to the port of Baltimore.

Mr. MASON. That we have never been advised by the Executive Government that there was any such necessity.

Mr. PRATT. I suppose the Senator knows it without being told so by the Executive. There is no southern port into which a ship of war of the largest size can now get at all. No war steamer can get into a southern port of this Union, except——

A SENATOR. Norfolk.

Mr. PRATT. I mean after you pass the capes there is no southern port into which a ship of the largest size can get. It is important in the case of our vessels——

Mr. MALLORY. Will my honorable friend from Maryland except Pensacola, in Florida?

Mr. PRATT. I will except them all, [laughter;] but I only mean to say that the necessity for having the port of Baltimore accessible to vessels of war must be apparent to every Senator who will look at the question. If the Chesapeake swarmed with the fleet of an enemy, would it not be important that our largest vessels of war should be able to get behind the fort for the purpose of protection? Is it not important, too, that the third port in the Union should be protected by vessels of the larger size?

I do not mean to be drawn into a discussion of the question. I hope the vote will be taken upon it. If the honorable Senator is opposed to it, let him vote against it. I am sure he is as fully aware as I could make him, or the Executive could make him, of the necessity of making the port of Baltimore accessible to the national vessels. The estimate has been made by the War Department. I so said. Appropriations have been made from time to time. The officers, under the order of the Federal Executive, have been employed in making surveys of the cost of making the improvement, and it has resulted, as I learn, in the estimate which is in the bill.

Mr. DOUGLAS. I desire to know from the Senator from Maryland whether this is the sum which was contained, for this work, in the river and harbor bill of last year, that was vetoed?

Mr. PRATT. It is not.

Mr. DOUGLAS. What was the amount in that bill?

Mr. PRATT. Fifty thousand dollars.

Mr. DOUGLAS. Then it is proposed to raise the estimate of last year from $50,000 to $300,000.

Mr. PRATT. It is not proposed to raise the estimate. It is proposed at once, by an appropriation of a sufficient amount, to complete the improvement. Fifty thousand dollars was not believed to be adequate, or reported to be adequate; but it was merely an annual appropriation for the purpose of completing it at the end of some four or five years, requiring as many consecutive annual appropriations. We have adopted, by this plan, the appropriation *in solido* for the completion of the whole work.

Mr. DOUGLAS. The same ratio would require us to place the appropriation which was proposed for Chicago of $12,000, at $500,000, and so on, with other items. If you carry out the bill of last year in this way, putting in the total cost instead of making the appropriations gradually, you will have your bills amounting to $100,000,000 instead of $2,500 000. That will be the inevitable result if this system is to go on; and if you give the total in one instance, why not in all?

Mr. PEARCE. I desire to say to the Senate that, in regard to the improvement of the Patapsco, I recollect seeing, in the documents accompanying the President's message at the last session of Congress, a report made by Captain Brereton upon the subject, and which throws much light upon it. I think it would be well for the Senate to adjourn now, and in the morning they can be furnished with that information. I therefore move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 6, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; which received the Speaker's signature:

An act to change the names of the American-built vessels J. H. Holmes and Franklin Pierce;

An act to incorporate St. Joseph's Male Orphan Asylum in the District of Columbia;

An act making appropriations for the construction of certain military roads in the Territories of Nebraska and Washington; and

An act for the relief of Thomas Marston Taylor.

COMMUNICATIONS FROM DEPARTMENTS.

The SPEAKER laid before the House a message from the President of the United States, transmitting and recommending supplemental estimates from the Department of the Interior, of expenses necessary to be incurred in carrying out the plan of colonizing the Texas Indians upon the reservations selected for them, and opening communication with the Texas, Camanche, and Apache Indian tribes; which was referred to the Committee of Ways and Means, and ordered to be printed.

Also, a communication from the Treasury Department, relative to the increase of estimates for purchasing oil for the light-house establishment; which was referred to the Committee of Ways and Means, and ordered to be printed.

Also, a communication from the Treasury Department, transmitting the results of experiments made to test the strength of wrought-iron beams and girders, with sketches of the various kinds used, and recommending an appropriation of $3,500 to meet the expenses of a complete series of experiments.

Mr. CLINGMAN. I move that the communication be referred to the Committee of Ways and Means, and ordered to be printed.

The question was taken; and the motion was agreed to.

The SPEAKER also laid before the House a communication from the Treasury Department, transmitting lists of the clerks and other persons employed in that Department during the past year; which was laid upon the table, and ordered to be printed.

UNFINISHED BUSINESS.

The SPEAKER. The first question in order is the unfinished business of yesterday.

Mr. OLIVER, of Missouri. If gentlemen will hear me, I desire to make a request of the House.

Mr. CLINGMAN. I do not know what my friend is going to ask the House to do. I call for the regular order of business, and if what he intends to ask for is outside of it, I object to it.

Mr. OLIVER. Let the gentleman first hear my proposition before he objects.

Mr. CLINGMAN. Let the gentleman state his proposition; but I desire the Chair to note me as objecting to all business other than that in order.

Mr. OLIVER. I ask the unanimous consent of the House to take up for consideration a bill to amend "An act to provide for the payment of horses and other property lost or destroyed in the military service of the United States."

Mr. JONES, of Tennessee. I call on the Chair to announce the business first in order during the morning hour, so that the morning hour may be going on.

Mr. CLINGMAN. I object to the proposition of the gentleman from Missouri, and to all propositions out of order.

W. B. CHASE.

The SPEAKER. The question first in order is to lay upon the table the motion to reconsider the vote by which the following resolution was adopted yesterday:

Resolved, That the Speaker of this House be directed to revoke the privilege under which W. B. Chase holds a reporter's desk on this floor, and that said W. B. Chase be excluded from the Hall.

Mr. PECKHAM. I ask consent of the House to make one suggestion in reference to this matter.

Mr. CLINGMAN. I object to debate on either side.

Mr. PECKHAM. I do not desire to debate the resolution, but to make a suggestion.

Mr. CLINGMAN. I object, unless opportunity be also given for reply. I was cut off from explanation yesterday by the previous question, and I now insist upon the enforcement of the rules.

The SPEAKER. Objection being made, the Chair must enforce the rules.

Mr. HENDRICKS. May be the gentleman desires to address himself to a personal matter.

Mr. CLINGMAN. If the gentleman desires to make a personal explanation, I withdraw my objection.

Mr. PECKHAM. I do not desire to make any personal explanation. I was going to make a suggestion, so that this whole matter might be put into the hands of the Speaker. We have spent time enough on it.

Mr. CLINGMAN. The vote which we are to take will dispose of the matter. I insist on the regular order of business.

The SPEAKER. On the motion that the motion to reconsider be laid upon the table tellers were ordered.

Messrs. CLINGMAN and PECKHAM were appointed.

The question was taken; and the motion to reconsider was laid upon the table, the tellers having reported—ayes 80, noes 42.

So the motion to reconsider the vote by which the resolution was passed was laid on the table.

DIPLOMATIC AND CONSULAR SYSTEMS.

The SPEAKER. The next question in order is upon the bill to remodel the diplomatic and consular systems of the United States, reported from the Committee on Foreign Affairs by the gentleman from Louisiana, [Mr. PERKINS,] and upon which he is entitled to the floor.

Mr. PERKINS, of Louisiana, resumed his remarks in explanation of the bill, and, having heretofore stated the changes it proposed to make in the diplomatic system, proceeded to recapitulate the reforms it would effect, if it should become a law, in the consular system. It simply proposes (he stated) to make plain and distinct what has heretofore been complex and intricate. It provides, first, that no one shall receive an appointment as consul who is not a citizen of the United States; second, that a consul shall not receive remuneration for his services until he arrives at his post, his compensation to cease when he leaves it; third, it provides for a simplification of the grades of consular rank. We had now consuls general, consuls, vice consuls, and commercial agents. We adopted our system from that of the English, and it does not conform to our wants or to our institutions. The bill simply proposes that we shall have consuls, and commercial agents. In the fourth place, the bill prohibits any consul from engaging in trade, and thus using the facilities conferred upon him by Government to his own advantage and to the detriment of other American citizens residing at the port to which he is sent, and, fifthly, it provides that consuls shall

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receive salaries, rather than be dependant upon the fluctuating fees of their office.

[This speech will be found in the Appendix.]

Mr. CHANDLER. After the able remarks from the honorable gentleman, who has, at different times, presented this bill to the House, it is, perhaps, unnecessary for me to trespass on their time by attempting to enforce upon members further arguments.

When I entered Congress, this was one of the duties that I prescribed to myself, to correct, not the diplomatic, but the consular laws of the country; to devise some ways and means by which the evils that surrounded these offices should be lessened, and the injustice that was flowing from them should be corrected.

It is most true, Mr. Speaker, that it is desirable that every consul of the United States should be, as far as possible, entirely removed from all direct intercourse with commerce. His position brings him in continued intercourse with gentlemen in the pursuits of mercantile business, and they have, of necessity, to make known to him the results of their plans, by which he is so informed of all proceedings at his own port that he may take advantage of it for his own benefit. Such has been the prevalence of this custom, sir, that at many of the ports of Europe—some of them, certainly—merchants have been compelled to send their merchandise round from one port to another, in order that their manifestoes may be seen and certified by consuls unconnected with trade. My knowledge does not extend to the minutiæ of mercantile business, but I understand, for example, that some merchants in Ireland send their goods round to Liverpool for shipment rather than present their manifestoes to a brother merchant engaged in the same business, who might take advantage of their purchases or of their neglect, and knowing what they were going to send, might inform the market at home to his own advantage, so that his knowledge of their proceedings would work to the injury of the other merchants.

It is also true that the fact that our consuls live on the fees of their offices, has induced some of them to enlarge those fees by means not creditable to them, and mortifying to Americans, that they may live the better. Those who have traveled in Europe of late have had cause to mourn this state of things, and those who have seen consuls in large ports at a distance from the political capital of the country, undergoing the odium brought upon them by a different class of consuls, have been compelled, not only to be mortified for those erring consuls, but to feel a deep sympathy for those who are willing to sustain, with their own honor, the honor and credit of their country.

There is a class of men who seek these appointments, not only for the direct fees of the offices, and that they may levy small taxes upon their countrymen abroad, but that they may take charge of some three or four hundred sailors a year, make bills against them, and transfer them to the State Department for payment, with all the advantage of the drafts, and of the percentage on those drafts, and with all the advantage of enlarging their own charges by certifying to their own bills, and drawing upon their own credit.

Mr. BRECKINRIDGE, (interrupting.) If the gentleman will allow me now to move that the House resolve itself into the Committee of the Whole on the state of the Union on the special order, he will retain the floor, and will be able to conclude his remarks some other time. If he will give way, I will submit that motion.

Mr. CHANDLER. I do so cheerfully, if it will promote the progress of business.

The question was taken on Mr. BRECKINRIDGE's motion; and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HENDRICKS in the chair.)

TEXAS DEBT BILL.

The CHAIRMAN. The business before the committee is the special order, being Senate bill (No. 96) to provide for the payment of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9, 1850. Unless, by unanimous consent, the first reading of the bill be dispensed with, the Clerk will proceed to read the bill throughout.

Mr. KERR. I hope the reading will be dispensed with by unanimous consent.

Mr. HOWE. I object.

The Clerk then read the bill *in extenso*, and proceeded to read by sections, with the view to amendment.

Mr. BRECKINRIDGE took the floor.

Mr. SMYTH, of Texas. Is it now in order, Mr. Chairman, to have read my substitute for this bill? If it be in order, I desire to move to strike out all after the enacting clause of the bill, and insert a substitute.

The CHAIRMAN. The Chair would say to the gentleman from Texas that he is informed by the Clerk that it is understood the amendment proposed by the gentleman was offered in the House, and is now attached to the bill.

Mr. SMITH, of Tennessee, (the gentleman from Kentucky, [Mr. BRECKINRIDGE,] having yielded the floor for the purpose,) delivered a speech on the subject of the naturalization laws, which will be found in the Appendix.

Mr. BRECKINRIDGE then took the floor, and addressed the committee in explanation of the provisions of the bill, and in advocacy of its passage, showing, by facts and arguments, that the United States would have ultimately to pay not only the principal involved, but also a great accumulation of interest, unless this bill were now passed for a final settlement. Mr. B's. remarks are withheld for revision, and will be found in the Appendix.

Mr. SMYTH, of Texas, made a speech of an hour's length in support of the substitute heretofore offered by him for the bill. He explained that this substitute required the Secretary of the Treasury, at any time after the first day of February next, to issue to the State of Texas such portion of the stock mentioned in the proviso to the fifth article of the first section of the act proposing to the State of Texas the establishment of her northern and western boundaries, the relinquishment by the State of all territory claimed by her exterior to said boundaries, and of all her claims upon the United States, and the establishment of a territorial government for New Mexico, approved September 9, 1850, as shall be equivalent in amount to the releases of the claims against the United States, which shall be then filed at the Treasury, as in said article provided; and in like manner, from month to month, to issue said stock equivalent to such like releases as may be thereafter filed, until the whole of the stock reserved by said article shall be exhausted; the sums of said stock issued to the State of Texas under the provisions of this section in all cases to be equivalent in amount to the sums paid by the State in stock or money in the discharge of the debts or liabilities for which releases are filed.

[This speech will be found in the Appendix.]

Mr. JONES, of Tennessee. The first section of the bill, I believe, is now open for amendment.

The CHAIRMAN. It is.

Mr. JONES. I move to amend that section by striking out the words "eight millions five hundred," and inserting the words "six millions five hundred and fifty."

Mr. BELL. I ask the gentleman from Tennessee to give way for a short time. I am desirous of saying something upon the bill; and as the debate closes at three o'clock, this is the only opportunity I shall have.

Mr. JONES. I should be very happy to accommodate the gentleman, but I wish to say something myself.

Mr. BELL. I have not troubled the House before upon any occasion.

Mr. JONES. I should be willing to accommodate the gentleman, but, as the debate closes in half an hour, I cannot.

Mr. BELL. I appeal to the gentleman. I have not occupied half an hour of the time of the House since I have been a member of it.

Mr. JONES. I will give the gentleman a part of my time, but I prefer to go on with what I have to say now.

Mr. Chairman, the amendment which I propose will, if adopted, appropriate the amount of the $5,000,000 of bonds now in the Treasury, up to the 1st of January next, with six per cent. premium—that being the amount of premium now being paid by the Government for stock of this character which is being presented for payment.

The bill provides that $8,500,000 shall be appropriated and distributed among the creditors of Texas, provided that they shall, in consideration of such payment, release the Government of the United States from the entire debt which they now claim the Government is liable for. Now, sir, if I could believe that this Government, by their action with regard to Texas, had assumed these debts, or made themselves liable for the payment, I would vote most cheerfully to pay an amount out of the United States Treasury sufficient to pay the liabilities; for, sir, I wish that the Government shall deal justly, fairly, honorably, and honestly, with all persons, and that they shall discharge, to the last dollar, all the liabilities for which they are legally bound.

The ground upon which this appropriation is based, is the assumption that, by the annexation of Texas, and by her incorporation into the Union, and by the act of 1850, proposing to settle the boundaries between her and the Territories of the United States; by those various acts, we have virtually and legally assumed upon ourselves the liabilities of Texas, and particularly, say gentlemen, that portion of it for which the customs revenue of Texas was pledged.

Mr. Chairman, I cannot perceive, I have been unable to see, how the debt of Texas, for which her customs revenue was pledged, is of any higher grade or of any more binding force upon Texas or upon this Government, than the debt for which she had pledged her faith. When this or any other Government, in my opinion, pledges its faith for the payment of a debt, the amount of money included within that pledge is all of its resources, whether derived from customs, direct taxes, or property. Then, sir, if I am right in that, we are no more bound to that portion of the debt for which the custom-house receipts were pledged than for all the balance of it.

But it is argued that Texas, under the annexation resolution, having transferred her custom-houses and custom dues to this Government, after having previously pledged them to the payment of certain debts and liabilities which she had created, those debts and liabilities follow the transfers into the hands of the Government of the United States. Sir, I understand it to be one of the clearest principles of law, that when an individual being in debt sells his property to a third party, if it is a *bona fide* transaction, in which the purchaser pays a sound price, then there is no liability or responsibility upon the purchaser for the debts of the person from whom he purchased the property unless—suggests my friend from South Carolina [Mr. BOYCE]—it be mortgaged. Sir, I ask if this Government can mortgage a thing that is not in existence? Could Texas mortgage a thing that was not in existence? Can an individual mortgage a thing which is not in existence? Now, were the custom-house dues of Texas in existence, could she sell the duties of the next year? Why, sir, she was engaged in a struggle with the country from which she had separated herself for her very existence. Suppose that that Government had made a conquest of Texas, where would have been her sovereignty? Where would have been her faith? Where would have been her custom-houses? Where would have been her power to levy duties? Would not all the resources of that Republic have passed into the hands of Mexico?

Then, sir, again, suppose that Texas had remained independent, and had repealed her custom-house laws, and had resorted to direct taxation, or the disposal and sale of the public lands

to support her government, where would have been the mortgage? Where would have been the power to have enforced it? But, sir, I hold that this Government, by annexing Texas and incorporating her into this Union, gave to Texas and gave to the creditors of Texas, a sound and valuable consideration for the transfer of her custom-houses and customs revenue, in the guarantee of her permanent existence and independence. In placing her upon that permanent basis which this Government itself enjoys, we guarantied to her her existence and her independence, and we have maintained it so far. Now, sir, I appeal to you and to this committee, to say whether that was not a fair and *bona fide* equivalent for the custom-house duties received by this Government? Suppose that, instead of annexation and incorporation into this Government, Texas had transferred to the United States her custom-houses, and her revenues from that source, upon condition that the United States would guaranty her independent and separate existence against Mexico and all the world, would that not have been a fair equivalent for the custom-houses? Would it not have been better for the creditors than to have left them with Texas? Would any person have said that under such a compact as that, this Government would have been bound for the debt of Texas?

But, Mr. Chairman, admitting, for a moment, that we were bound; and if that be conceded, I think that it must then follow that we took those revenues of Texas derived from her customs, with all the incumbrances, and all the liabilities to which they were subject. Now, in the first place, Texas relied mainly upon her customs revenues for means to defray the current expenses of her Government in an independent position. Then, sir, if we took her with these incumbrances on her, by all fair and legitimate rules we should go into an account and see what it has cost us to defray the expenses incident to Texas since she has been annexed, and then strike the balance. It appears to me, that even upon the assumed ground that these custom-house resources were mortgaged by the State of Texas, that course would be the correct one to pursue. I have not looked into the facts as to the amount received from custom dues through the custom-houses of Texas since she has been annexed to this Government, but I suppose that it will not be contended that the revenue from that source has been equal to or beyond the proportionate and legitimate expenses which we have incurred in consequence of the annexation of Texas.

Again, sir, by the annexation resolution it was provided that Texas should retain all of her public lands and other property to pay her debts. Now, sir, by the boundary act of 1850 we proposed to Texas that if she would relinquish her claim to certain territory which she claimed, this Government, in consideration of that relinquishment, would pay to her the sum of $10,000,000, in a stock running fourteen years and bearing interest at five per centum per annum. Texas having given her assent, $5,000,000 of these bonds were issued, under the law dated January 1, 1851, and due on 1st January, 1865. This last $5,000,000 is deposited and retained in the Treasury of the United States, because certain stipulations of the act of 1850 have not been complied with by the creditors of Texas. This Government, through various acts of legislation, purchased property from Texas, and we have never touched one foot, I may say, of her invaluable soil was conveyed in that purchase. We have left her a territory sufficient to constitute five States at least, without even touching her claims within her present limits. We agreed to pay her $10,000,000, which, if appropriated and applied to her debts, would enable her, without, perhaps, any onerous taxation upon her people, to have paid every dollar of her revolutionary debt—every dollar that she owed at the time of her annexation.

Then, sir, if there were some plausibility in the argument that we incurred these responsibilities, yet, having purchased her property at a price which was, perhaps, beyond its value, in a *bona fide* transaction—at a price which would have liquidated that debt—I think that we are released from all responsibility, and even from all stigma which might attach to their non-payment. And it is upon these grounds, and for these reasons, that I cannot give my support to the bill as it is now before the committee. The amount of $8,550,000 in the bill passed by the Senate, is made up of the $6,550,000 of bonds, and the interest at five per cent. per annum on that $5,000,000 for the fourteen years the bonds have to run, $3,500,000. The amount which I propose to insert in the bill ($6,550,000) is made up of the Texas indemnity bonds issued under the act of September 7, 1850, dated January 1, 1851, and due in fourteen years after date—January 1, 1865—bearing interest at the rate of five per cent. per annum, now deposited in the Treasury of the United States, and worth in the market six per cent. premium. This six per cent. premium on $5,000,000 makes $300,000. The reason why I assume the rate of premium at six per cent. is, because, by an advertisement now in the papers of this city, the Secretary of the Treasury gives notice to all holders of any part of the $5,000,000 of bonds which were delivered to Texas, of the same character and description as these, that he will pay them the face or par value of the bonds which they may present, with all interest, accrued at the time of presentation, and six per cent. premium on the face value of these bonds.

This rate of premium on the $5,000,000 is $300,000. This bill proposes that it shall not be executed until Texas, by an act of her Legislature, shall give her assent to its provision; and I assume that it will take the greater part, if not the whole, of the present year before the assent of Texas will be obtained, and that the Treasury will not be able to pay out the money—if appropriated—before the 1st of January next, which will be five years from the date of the bonds. Consequently there will be five years' interest due at that time, at five per cent. per annum, which makes $1,250,000. This, when added to the $5,000,000 of bonds and the $300,000 of premium, makes the whole amount $6,550,000, which sum I have moved to insert in lieu of the amount now in the bill. This amendment will be, I hope, sustained by the committee and by the House, and will become the law, so as that this Government will have paid over its indebtedness to Texas, and will have got rid of the matter.

I was here, Mr. Chairman, when Texas was annexed. I supported that proposition. I was here when she was admitted into this Confederacy, and voted for that, too. I was here when the war was declared to support her independence, and to give her that protection which we have pledged ourselves she should receive at our hands. I sustained all the propositions which passed the Congress of the United States to prosecute, vigorously and efficiently, that war. I was here, and voted for the boundary bill. And, sir, when I look back I cannot bring my mind to the conclusion that in any one act I have performed in all these various cases, I assumed the debt of Texas, or pledged these United States to pay that debt. We do, however, owe the $5,000,000, with the accrued interest thereon; and I am willing to pay a fair premium for this stock.

Mr. BELL. Mr. Chairman, a sense of duty alone induces me to ask the attention of the committee while I attempt, briefly and imperfectly, to express some of the views I entertain in reference to the measure now under consideration. I heartily wish, sir, that this weighty and highly important measure, on which I am now called to speak, had been committed, so far as I am concerned, to the direction of some one more capable of presenting it in its just light and upon its true merits, than myself. It is important as a national matter, as it involves a large expenditure of the public means; and it embraces, likewise, a principle which it may be well to understand and define in this age of passion and progress, to wit: How far is it just, expedient, or proper, for the Federal Government to intervene between a sovereign State and a party with whom it may have mutual, legitimate, and recognized intercourse and relations, in the adjustment of her social, political, or pecuniary transactions?

These are grave points, which I do not now propose to consider; but will leave them to the superior sagacity of others; to those possessing ampler knowledge of the theory and operations of Government. The bill under consideration provides that "in lieu of the sum of $5,000,000, payable to the State of Texas in five per cent. stock of the United States, by the act of September 9, 1850;" that the Secretary of the Treasury be directed to pay to the creditors of the late Republic of Texas, who hold bonds, or other evidences of debt, for which the revenues of that Republic were pledged, the sum of $8,500,000, to be appropriated among the holders thereof *pro rata*.

It also provides, that where the State of Texas shall have paid any part of the debt described in this act, the Secretary of the Treasury of the United States shall refund the amount so paid by the State, upon presentation at the Treasury Department of the evidences of debt on which the said State may have made such payment.

It further provides, that no payment is to be made to any holder of such evidences of debt or securities, unless the said holder thereof shall first execute a receipt to the United States for the said payment, in which all claim shall be released against the United States for said securities or evidences of debt, in such form as the Secretary of the Treasury may prescribe. The securities, or evidences of debt, to be deposited with the Treasury Department until otherwise directed by law. Also, that ninety days' notice shall be given by public advertisement, (before payment of the aforesaid moneys,) by the Secretary of the Treasury, of the time at which said payment will be made. And that no payment shall be made on any evidence of debt, &c., which shall not be presented thirty days before the time limited by said act.

The assent of the Legislature of the State of Texas is first to be had by the passage of a law to that effect, a copy of which, duly authenticated, is to be deposited in the Treasury of the United States.

I desire to make no opposition to the bill under consideration. I am content that it shall pass Congress, and be submitted to Texas for her consideration and deliberate adoption or rejection. But as the course of Texas in reference to this subject has been greatly misunderstood, and her conduct censured, it is, I conceive, due to myself, from my past and present relations to that State, briefly to present some of the considerations which, if properly understood, vindicate her conduct in relation to her revolutionary debt.

At this late period of the session it will not be agreeable to members, nor can it be expected, that I will enter fully into this subject, with the arguments and details belonging to it. I will not, therefore, trespass on the time of the House, but limiting myself to a few of the most important considerations connected with it, confide it to the justice and wisdom of Congress.

Texas commenced her struggle for liberty and independence with a population numbering about twenty thousand, sparsely scattered over a large extent of country, and with an area to subdue, quite as extensive as that of Virginia, North and South Carolina. This population, under the oppressive Government of Mexico, was without commerce, without means, without a currency of her own, and without any standard of pecuniary value settled by her laws. In the midst of her arduous, protracted, and unequal struggle, surrounded, as she was, by the most discouraging circumstances, it became necessary to issue her bonds and notes as the only currency or circulating medium she could create to supply her Government, or answer the ordinary business transactions of her people. This was a necessity from which there was no appeal.

It is obvious that such a currency thus created, would, in its actual market value, vary widely from a specie circulation, and so far as it entered into the business transactions of life, would rate far below the value of the paper currency of a well settled commercial Commonwealth.

All persons having transactions in such a currency, would give or receive it at a value below the standard of specie or sound paper currency. What the actual standard of the value of such a currency would be might depend on circumstances, and may be difficult in some cases to ascertain, but whatever that standard *was*, honesty and fair dealing required that contracts made in reference to it should be complied with. This may be illustrated by referring to the old currency of the revolutionary war. It is said, and, I believe, truly, that this currency was, in some instances, depreciated as low as one thousand dollars for one, and that five hundred dollars was often the price of a dinner worth, in specie, fifty cents. Could then the publican who charged five hundred dollars for a meal in this currency, when it was withdrawn

from circulation, and a specie currency substituted for it, exact his charge of five hundred dollars with interest thereon, for the meal so furnished and charged? No court on earth would have enforced the charge for this amount. It would have ascertained the standard at which this currency was valued in the transaction, and give that value in the new and improved currency.

Again, if the Government issued that currency at a standard of value greatly below the specie standard, it would justly and fairly comply with its contract by ascertaining the true standard of value at which its currency was issued, and comply with the contract in accordance with that standard. The idea that the Government should abandon the real value at which its securities were issued, and adopt the nominal rate, was altogether Utopian. If the Government of the United States had done this, the immense weight of its debts would have paralyzed, if it had not crushed, the Republic in its infancy. With a currency depreciated at the rate of one thousand dollars to one dollar, a bushel of corn would have cost five hundred dollars, and all other supplies have rated in that proportion. A nominal debt so vast, if converted into a real one, never would have been discharged. The fathers of the Republic did not attempt it; but with thorough honesty and perfect fairness, they went to work to ascertain, on equitable principles, the real standard of value at which their obligations were contracted, and, in good faith, redeem them at that standard.

This is precisely what Texas has attempted to do, and these the principles she has sought to adopt in the adjudication and payment of her public debt. By an act of her Legislature, passed the 20th of March, 1848, the auditorial board was directed to cause six months' notice, by publication in the principal newspapers of the State, and several of extensive circulation in other States of the Union, requiring all persons having claims or demands against the late Republic of Texas, to present them for adjudication, and jointly to receipt, under their seals of office, for claims so presented, setting forth the par value thereof at the time the same accrued, or were issued. The board was further instructed to report such classification of the different liabilities, as they might deem best calculated to preserve the rights of the State and do equity to the holders of the claims—and this action of the board to be reported to the people's representatives, for their approval, modification, or change, as the case might be. The officers to whom was intrusted the execution of the responsible and laborious duties prescribed under this law, were chosen with reference to their capability, integrity, and thorough acquaintance with the history, character, and condition of the public debt. The duty was performed by them with fidelity and zeal, and with decided ability; but from the complicated character of the debt, and the circumstances under which the securities sometimes issued, it was found impossible to prevent some individual cases of great hardship, and injustice in the rate of scale adopted. But it is conceived that the mode and manner of redress guarantied in the law to these individual cases of hardship, were ample for the purposes of justice, and it was expected and required by the people of Texas, that their representatives should scrupulously guard the State against the imputation of wrong or injustice, by respecting the suggestions of the auditorial board bearing upon these cases, made from time to time, and by supervising its acts with a view of rendering justice where it had been unavoidably withheld.

On this subject I cannot more clearly or satisfactorily define, before this body, the position of the State which I have the honor in part to represent, and my own, than by employing language used by me on a prior occasion before the Legislature in reference to it:

"Although we may not hope to meet with an entire unanimity of sentiment, as to the mode which should be adopted, still, it is believed, that one can be agreed upon which will commend itself by its equity and liberal spirit, not only to our citizens, but to the world at large. The plan prescribed by the act of March 20, 1848, for the ascertainment of the amount and the classification of our liabilities, is probably the best that could have been devised, and the mode of scaling those liabilities to their actual value at the periods at which they were incurred, cannot, in my judgment, be obnoxious to the slightest imputation of unfairness or injustice. For a State just emerging from the varied troubles and difficulties of a protracted revolutionary struggle, and involved in an immense amount of pecuniary obligations, to assume, in good faith, the payment of every dollar, the value of which she received, or was expended for her benefit, is placing herself in a moral attitude upon which her citizens may look with pride and pleasure.

"The idea which seems to be entertained by some, and those, too, of enlarged minds and large experience in matters of political economy, that our debt should be paid according to the figures presented on its face, without any regard to the value of those figures at the time it was created, has its origin, I humbly conceive, if not in individual gain, at least in a desire for moral fame, which leaps over the boundaries prescribed by the ethics of this utilitarian age. I have said on another occasion, that the State is bound to pay every "dollar which she justly owes, but neither good faith nor the most fastidious conception of morality requires her to do more." With this declaration of my opinion of the subject before them, the people of Texas have honored me with their confidence, by placing me in the position I now occupy; and I regard it as a concurrence on their part in that opinion. The only question then is, as to the ascertainment of the amount which the State does *justly* owe, and this, I presume, will be satisfactorily arrived at by the mode which has been pursued. In carrying it into practical operation, however, I would earnestly recommend that the most liberal principles be invoked, so that there shall be no pretext for charging that the State has not done full justice to her creditors, as far as her means would permit."

When Texas entered this Union, she entered it a sovereign State, equal in political rights, and in honor, to any other State in the Union. To have entered on any other terms, would have been a violation of the fundamental principles of the Government, insulting to Texas, and discreditable to the other States; for to have received, as an equal, one inferior in rights and honor, would reflect discredit upon all. Texas, by becoming a member of the Union, surrendered no right, and never sought to absolve herself from any obligation which rested on her as a State. She has at no period of her history, encouraged the idea of repudiating her just debt. But she has always retained the right to judge whether or not a claim preferred against her was a just one, in whole or in part. Having been tutored, in her early days of trial, to walk alone, or, if fallen in the dust, to rise again without any kind or motherly assistance—having learned to brave, single-handed, "the battle and the breeze;" to go forth like the messenger-bird amidst the sunshine and the storm, without a friendly perch, and with no companion but that beautiful song-bird of the heart, "Hope"—she has at no subsequent period been reluctant to assume the custody of her own sovereignty and honor. She was fully contented to judge of her own obligations, and no power on earth save her own has the right to review or reverse her judgment. Standing here as one of her representatives, however inferior I may be to many gentlemen on this floor, in experience, and talents, I yet claim a proud equality of representative right with the best and wisest of them. And I shall always deny, as I have heretofore denied, the right of this Government to interfere in the debts or domestic affairs of Texas, as fully as I would deny her right to interfere with the debts and domestic concerns of any other member of the Union.

But while I deny this right on the part of the Federal Government to interfere with the affairs of Texas, yet as the legislation of Congress and Texas in relation to her debt has assumed—with the consent of the latter—somewhat the form of a convenient bargain, and further legislation become necessary, I will advert briefly to the debt and the effect of legislation on her creditors.

When Texas passed the act of 1848, she had passed through her revolutionary struggle, and justice to her creditors required her to make an arrangement for the ascertainment and discharge of her obligations. But she was well aware that a new state of commerce and of currency had commenced within her borders. The old depreciated currency and the securities of her revolution were about to give place to a currency raised to the specie standard. Her obligations, contracted in a currency far below the specie standard, were to be adjusted at specie rates. She was then at the first step to a fair and honorable adjustment, to ascertain the standard value at which her obligations were incurred. It was obvious that a dollar in Texas treasury notes was a far different thing from a dollar in specie. Both are called dollars, but their standards of value are entirely different. This may be illustrated by a reference to the currency of Russia. Russia has her silver ruble, and her paper ruble. Both are rubles, but the standards are different. The silver ruble is worth three shillings and two pence sterling. The paper ruble is worth less than a shilling sterling. The creditor who made a contract in rubles at the value of the paper ruble, and then claims that he should be paid in the value of the silver ruble, would expose himself to the imputation of injustice, and the debtor insisting he should be paid at the value of the paper ruble, would only insist on a fair and just payment. So in the case of Texas—her securities were received and paid at a standard of value below the specie dollar. To insist that the payment should be made at the standard of value at which the securities issued, is only insisting on that which is sanctioned by justice and fairness. To insist that the standard value should be the specie standard, was to place the contract on a basis entirely different from that on which it was formed, and one which would be onerous and oppressive.

The propriety of permitting this was for the judgment of Texas as a sovereign State. She alone had the right to determine whether she would hold her creditors to the fair and just standard of the value of the currency in which her debts were contracted, or permit them to be settled at a nominal rate, onerous and oppressive to her. The authorities of Texas, fully sustained by the people, adopted the first alternative; and, by so doing, will, it is hoped, ultimately attain every end of justice and liberality. Appeals have already been made, in some cases, to her Legislature, and provision made to relieve them from the injustice which had temporarily been done in some of these special cases.

When Texas passed the act above referred to, the only means to discharge this debt was her unappropriated public domain. These constituted an ample future fund, but one which was not at that time available.

The Congress of the United States, deeming it important to procure from Texas the cession of her territory now within the limits of New Mexico, passed an act by which she offered to Texas, in consideration of such cession, $10,000,000, payable in a stock bearing interest at five per centum, and redeemable in fourteen years. This offer was not sought by Texas, but was voluntarily made by the United States. It was accompanied by a proviso, that not more than $5,000,000 should be issued until the creditors of Texas, holding bonds, or certificates of stock, for which duties on imports were specially pledged, should first file, at the Treasury of the United States, releases of all claims against the United States.

The consideration of this payment was the agreement, on the part of Texas, to transfer a portion of her northwestern territory to the United States. However much some persons may have been disposed to question this right, the act itself puts the subject at rest. The voluntary and unsolicited offer of the Government to pay $10,000,000 to procure the release of Texas, is full evidence that valuable consideration for this act passed from her. But it passed, coupled with the unfortunate proviso, that $5,000,000 of this stock should not be issued until the claims of all the creditors of Texas should first be released.

Texas, for the purpose of procuring the means to do justice to all her creditors, and put an end to controversies which existed with some of them, gave her assent to this act. But the unfortunate proviso above alluded to has, so far, defeated this object. I had the honor to be intrusted, at this time, with the chief executive magistracy of Texas. To enable me, in the discharge of my duty, to lay the entire subject before the Legislature, I dispatched the intelligent and able gentleman who held the office of comptroller to Washington, to ascertain the views of the Government on several questions arising from this act. The comptroller of Texas addressed a letter to the Secretary of the Treasury, asking his views on this question, which letter, with the reply of the Secretary, I ask may be read.

From the reply of the Secretary to the first three questions, that to ascertain the character and amount of the debt, the Department demanded copies of all the laws, and fac similes of the stock issued, and all facts connected with the creation of the present debt; and from these and other sources the amount and character of the debt was to be ascertained.

It is obvious that the Secretary, by this course, intended to assume the power to reëxamine and review the audit made by Texas of her own debt. No such power was conferred by the act of Congress, and such a power could not be exercised

unless Texas submitted to the most humiliating violation of her rights as a sovereign State. And if she had so submitted, it would have established a precedent fraught with danger to the rights of every State in the Union.

To the fourth question the Secretary replies, that, although the amount for which the revenues are pledged be less than $5,000,000, yet until *all* such claims are surrendered, *no portion* of the $5,000,000 can be given up.

To the fifth question he replies: If Texas saw proper to pay any portion of the debt for which the Government import duties were pledged out of the money in her possession, no portion of the stock retained could be issued to her, unless releases of *all* her creditors were filed.

When these inquiries were proposed to the Secretary of the Treasury, it was my desire to recommend to the Legislature of Texas to take prompt measures for the ascertainment of all her liabilities; paying at the scaled rates all those who should justly be paid at those rates, and affording proper *relief, by legislative action, to those who were equitably entitled to a higher rate* of payment. The construction given, however, by the Secretary to this law rendered this impossible. The stocks of the Treasury of the United States were due to Texas for the relinquishment of her claim, and were, therefore, the property of Texas.

In order to procure her own funds, it was not to be expected that the State would consent that the Secretary of the Treasury and his clerks should become a court of appeals to revise or to review the settlement which Texas chose to make with her creditors; and even if she submitted to this humiliation, it would only have proved a snare, by which the creditors having the least meritorious claims would enforce the highest payment; because every debt paid by Texas would diminish the amount due, and increase the proportion of the fund for the unpaid claims, for which stock would be delivered to Texas until every creditor had released. Those whose claims were least meritorious, by refusing to file releases, were assuming to themselves a larger fund and a higher rate of payment, which would exceed those who were willing to settle on just and equitable terms. Texas has, therefore, refused to assent to the construction of the act as given by the Secretary of the Treasury, and to enter into any general payment of this class of her creditors. She has, out of the $5,000,000 already received, provided for the payment of all of that portion of her foreign and domestic debt which was not secured by the revenue pledge, in the settlement of which the same rule of adjustment was observed as has been in relation to the debt which the bill now under consideration proposes to meet; and I can say, from personal knowledge, that the adjustment so made was satisfactory to all of this class of claimants. This should be regarded as the best commentary on the justness of the action of the State. If the soldier who periled his all is satisfied with the award thus made, surely those who were not participants in the struggle, but simply holders of her liabilities as a matter of traffic and speculation, should not complain on receiving, by the action of the State, an unusually large dividend on their investments.

As an evidence that Texas is disposed to act in good faith in the settlement of her debt, she has appropriated the five millions already received from the United States, under the boundary act of September 9, 1850, to the payment of that portion of her liabilities, which that act did not, by its provisions, seem to take the guardianship and control of; and she is still, and always has been, willing to use the remaining five millions now in the Treasury to the payment of the debt which this bill contemplates providing for; but she has been unable to control and direct its use, thus showing no disposition, either in the past or at present, to avoid a strict fulfillment of what she conceives to be her just and legal obligations as regards the discharge of her entire revolutionary debt.

I have deemed it to be my duty to make these explanations of the course pursued by the State. They are fully sustained by the laws she has passed relative to her debt, and by the public records of the country. I come now to a material point in the history of the public debt of Texas, in relation to which there has not only existed essential error, but gross misrepresentation. It has been sought in certain quarters to fix upon her the charge of repudiation. If Texas was, indeed, vulnerable, or at all sensitive on this point, I might well seek shelter for her under the examples of the history of other nations, however instructive and apposite they may be. I know of no instance on record of a nation paying its revolutionary debt at par. In illustration of this fact, the case of our own country already referred to—of France, England, Spain, Portugal, and even debt-paying Germany, may justly be cited. Even with the greatest civilized Powers in Europe, a *quasi* repudiation of a war debt has very frequently occurred by issuing a deferred stock, greatly and essentially reducing the interest, and in the same ratio diminishing the market value of the principal—borne on the face of the scrip. But in no proper sense of the term has Texas repudiated her public debt. It can be shown that, except in cases of unavoidable accident or mistake, she has sought honestly to pay to each creditor the amount he advanced or paid for her in the cause of her revolution, when struggling against the greatly superior power of Mexico.

It may be proper here to give a brief analysis of her debt, which the bill before the House proposes to meet. It can be succinctly stated as being comprehended in four classes:

First. Those who hold the promissory notes of the late Republic.

Second. Those who hold funded debt bonds, bearing an interest of eight or ten per cent.

Third. Eight per cent. bonds, originally issued as a currency, and thrown on the market for whatever they would bring, or disbursed from the treasury at their market value.

Fourth. Bonds on which the Republic of Texas procured materials of war, and obtained money.

I will here introduce a statement, showing the public debt of the late Republic of Texas:

First. The debt not secured by a pledge of import duties:

Amount in the State treasury on the 31st October, 1853		$3,965,301 94
Amount of interest due on the United States bonds in the treasury, from 1st of January to 31st October, 1853		148,958 33
		$4,114,260 27
From which deduct amount of public debt unpaid for which unconditional appropriations have been made	$348,685 08	
Balance due on appropriations for the support of the State, yet to be drawn	97,623 27	
		$447,308 35
Leaving in the treasury, October 31, 1853, after payment of the amounts appropriated, a balance of		$3,666,951 92

Secondly. The revenue, or preferred debt:

United States 5 per cent. bonds due the State by the Federal Government		$5,000,000 00
From which deduct amount of first class revenue claims, with interest on same, and on revenue debt, and conditionally provided for by the act of the Legislature of Texas, amounting in the aggregate to		3,242,120 96
Leaving due the State from that source, after paying the debt and interest thereon		1,757,879 04
The balance in the treasury on the 31st October, 1853, under first head		$3,666,951 92
Balance remaining in the United States Treasury, after paying the revenue debt, recognized and conditionally appropriated for, under second head		1,757,879 04
Leaving due the State, after paying the debt audited and recognized, a balance of		$5,424,830 96

I shall give my individual support to this bill. As a Representative of Texas, I cannot pledge her to any course of action.

The bill is respectful in its language and character. It proposes a settlement different in many respects from the one proposed by Texas, yet I am willing to submit the question for her reconsideration. Do not suppose that this young sister in your Confederacy can rest content under the charge of repudiators. They are your people—sprang from your loins—emulate your reputation, and have added to the renown of the American arms, by a revolution glorious in its history—signalized by victories of surpassing splendor, and by sufferings and sacrifices of unexampled intensity, and they have added to this Union a realm of incalculable extent and value—a population valiant and invincible, enterprising and industrious, defending a country and tilling a soil quickened into an exhaustless fertility, which will add countless millions for countless ages to come, to the wealth, strength, glory, and renown of our common country.

During the delivery of Mr. BELL's speech, the following interruption occurred:

The CHAIRMAN. Under the order of the House, general debate must cease, it being now three o'clock.

Mr. BRECKINRIDGE. I do not propose to avail myself of the privilege to which I am entitled of occupying an hour in closing the debate. I have already occupied as much time as I ought to do, and, if it be the sense of the House, I would be glad to allow gentlemen, both the friends and the opponents of the measure, to consume my time in the expression of their opinions. If the committee will allow me, I should be perfectly willing to allow the gentleman from Texas to proceed with his remarks for fifteen minutes, and then allow any gentleman opposed to the bill an equal portion of time——

The CHAIRMAN. Does the Chair understand the gentleman from Kentucky as yielding the floor to the gentleman from Texas, [Mr. BELL?]

Mr. BRECKINRIDGE. If the committee consent, I am willing that the gentleman from Texas should be allowed fifteen minutes of my time.

Mr. GIDDINGS, of Ohio. I should like to understand this arrangement. I object to any other gentleman but the gentleman from Kentucky occupying the floor unless this side of the House can have one half of the time.

The CHAIRMAN. Does the gentleman from Kentucky claim the floor.

Mr. BRECKINRIDGE. I do claim the floor; and I assure the gentleman from Ohio, and other gentlemen, that I desire to act with perfect fairness in this matter. The gentleman from Texas [Mr. BELL] has peculiar personal relations to this subject; and I was willing, if the committee were so disposed, to give him a part of my time. I would be perfectly willing, also, to yield the floor to any opponent of the bill.

Mr. GIDDINGS. The gentleman from Kentucky must know that he cannot himself yield the floor in this way; but if the committee, by a vote, agree to the proposition of the gentleman, then I am perfectly satisfied.

Mr. CLINGMAN. I am willing that the whole time should be divided in ten or fifteen minutes; but I am not willing that two gentlemen should take up all the time.

The CHAIRMAN. Does the gentleman from North Carolina object to the proposition of the gentleman from Kentucky?

Mr. CLINGMAN. I do not object to it; but I do object to two gentlemen taking up the time, to the exclusion of myself and others. I am willing, if the gentleman will confine the time allowed to gentlemen to ten or fifteen minutes each; and if the floor is awarded to the gentleman who may first catch the eye of the Chairman, then I am willing to consent to the proposition of the gentleman from Kentucky.

The CHAIRMAN. As no further objection is made, the gentleman from Texas [Mr. BELL] will proceed with his remarks.

Mr. BELL then concluded his remarks.

Mr. BRECKINRIDGE. I now yield to the gentleman from Ohio, [Mr. GIDDINGS.]

The CHAIRMAN. For how long?

Mr. BRECKINRIDGE. For ten or fifteen minutes.

Mr. STUART, of Michigan. I rise to a question of order. Does the Chair hold that it is competent for the gentleman from Kentucky to yield to others for debate any portion of his time?

The CHAIRMAN. The committee unanimously agreed that the gentleman from Kentucky should thus yield his time.

Mr. STUART. I do not think the agreement was unanimous. I objected to the arrangement.

Mr. GIDDINGS, of Ohio. Mr. Chairman, I have long held an official relation to the subject before us. Twelve years since, I was one of twenty-two members who, from this Hall, issued an address to the people of the free States, assuring them that designing politicians, those who advocated the eternization of slavery, were plotting, quietly plotting, the annexation of Texas. We foretold the war, the conquest, the devastation, the corrupting influence, the strifes, which that policy introduced, and with which it has been followed. The address was first signed by John

Quincy Adams, whose voice is yet sounding in the ears of the people of this nation.

My object, on the present occasion, is to call up some historical reminiscences connected with this matter: to bring the past and present before us in as few words as I shall be able to express my thoughts.

Sir, eighteen years since Texas found herself engaged in war, her resources exhausted by her revolution, and the expense of blood and treasure which she had expended in her efforts to become independent. She then applied to this Government for annexation to the United States. Mr. Van Buren, then President, with a Cabinet entirely composed of Democrats, rejected the proposition, refusing to submit it to the Senate, declaring the President could not entertain it for the very obvious reason that our Constitution had made no provision for such a transaction. All remember the able letter of Mr. Forsyth, a southern man, at that time Secretary of State.

It was one of those acts of Mr. Van Buren and his Cabinet, which will live in history. His entire party, and, indeed, the entire nation appeared to be satisfied with it. But the slave interest, ever watchful, ever aggressive, began to look upon annexation as desirable, in order to perpetuate slavery. Mr. Van Buren was defeated in the attempt of his friends to reëlect him, and those most deeply involved in the interests of slavery began silently to concoct means for annexation. Then while these efforts were unknown to the public, the address to which I allude was put forth.

The Democratic party were soon drilled into the policy of annexation. They saw it was to have a bearing on the next presidential election, and the annexation of Texas was made a *party* measure. The Democrats who had lauded Mr. Van Buren for his rejection of their proposition to annex Texas, now became the warmest advocates of that measure.

Members of this body who refused to violate their own judgments, were denounced before the country, and the party in our free States, at the behest of the slave power, struck down some of the ablest and most devoted members of this House. I well recollect a colleague (Hon. Jacob Brinkerhoff) who dared here to express his honest convictions on this subject. The slave power denounced him, and the party have to this day repudiated him in consequence of his daring to think and act for himself.

I need not repeat here, sir, that under a Whig Administration—perhaps I do injustice, and I will say an Administration elected by Whig votes—the negotiation for annexing Texas was entered upon and pressed to a termination for the reason, as was said, it would *extend* slavery, and perpetuate it in our own States. The same reasons were urged here and to our Ministers resident at foreign Courts. A treaty was eventually formed, by which Texas was to become a part of this Confederacy. This, sir, was the only mode by which this Government could constitutionally bind our people to pay any portion of the debt of Texas. Gentlemen speak of our *contract* to pay this debt. Where is that contract to be found? Not in the treaty, by which alone we could contract. The treaty was rejected. The constitutional majority could not be obtained in the Senate to ratify it.

Up to the time of rejecting that treaty, no statesman ever dreamed that Texas could be constitutionally annexed by joint resolution, or that we could *contract* with another Government by joint resolution. The advocates of that measure were then distinctly informed that joint resolutions could, at any future day, be repealed. That no future Congress would be under any obligation to continue them in force. On more than one occasion, I, myself, proclaimed this doctrine. So true was it, that, at our last session, the Missouri prohibition of slavery in Kansas and Nebraska, after being approved and venerated by the nation for thirty-four years, was repealed. I then said, as I did in 1846, that any act or joint resolution of Congress must ever be constitutionally subject to repeal. I say so now. The joint resolutions annexing Texas, the law of 1850, defining her boundaries and granting to that State $10,000,000, are all repealable; or they may be modified whenever Congress shall see fit to do so. So far from regarding those resolutions as a compact binding upon us, I deny the doctrine. I meet it *in limine*. Neither the Congress of 1846 nor that of 1850 could place any obligation upon my conscience, or impose upon me any such duty as taking the money of our people of Ohio to pay the debt of Texas.

But to return to the history of the presidential campaign of 1844. Mr. Van Buren was rejected in consequence of his adhering to the doctrine that the annexation of Texas was unauthorized by the Constitution. His party were apparently drilled into that measure; and, as the contest grew warm, Mr. Clay, the Whig candidate, seeing the slave power rallying so generally on that issue, began to falter, spoke of annexation as likely to take place, and declared that he "had no *personal* objection to it." He stood as the leader of that party. His influence was great, and when he quailed before the power of oppression, his example became fatal to himself and party. He was defeated. The power that produced his defeat had changed the position of the entire Democratic party. They became the supporters of annexation. Whigs, following the example of Mr. Clay, believed their party incapable of resisting the encroachments of the slave power, and a sufficient number of Whigs, both of the Senate and House, changed their position, and voted with the Democrats to carry the joint resolutions of annexation.

I point Whigs, or those who have heretofore been denominated Whigs, to this event as the commencement of the downfall of that party. I refer to these historical matters, however, to show the perfect absence of all equity, and of all moral obligation to support the bill before us. While the resolutions of annexation were pending, these creditors made no objection. During the whole discussion of that measure, the creditors of Texas did not pretend that annexation would diminish the value of their claims. On the contrary, with one unanimous voice, so far as my knowledge extended, they said that annexation would *increase* the value of Texas bonds. I *know* that was said by some of her principal creditors, and I heard of no one who thought or spoke otherwise.

The gentleman from Kentucky [Mr. BRECKINRIDGE] says we absorbed her revenue arising from importations, thereby diminishing the means which Texas would have possessed had she remained independent, while that revenue was expressly pledged to pay a portion of these debts. Sir, suppose this were to every extent correct, did these creditors object? Not at all. Most of them urged annexation, and the absorption of her revenues, and others opposed annexation from political motives, saying that their interest would be increased by it. Now, sir, if these revenues were, in fact, pledged, and those to whom the pledge had been given, stood by and encouraged the annexation, or were even silent, could they by such fraud render the people of Ohio morally holden for their debts? I deny such logic.

But what are the facts? Why, sir, Texas was harassed by her war, borne down by its expense, absolutely incapable of sustaining a navy or army, or of paying any portion of her debts. Her bonds were regarded in the market as absolutely worthless. So far as human foresight could extend, her war was to be perpetual; and while it continued, not one dollar of her debt could be paid. Her population could increase but slowly, and her ability to meet her engagements was constantly diminishing. Under these circumstances, known to every reader of her history, her creditors well knew that annexation would give her protection, by *our* armies, and thereby leave her to improve her condition and ability to pay her debts; and their desire for annexation was founded on that hope. I refer to these facts, written upon every page of her contemporaneous history, in reply to the intimation that the people of the United States have received benefit by her revenues. Why, Mr. Chairman, for every dollar of revenue collected in Texas, we have paid at least one dollar and fifty cents for the expense of collecting it. Yet gentlemen stand up here and speak of *our* benefits arising from the annexation. Why, what were those benefits? We expended $200,000,000 in defending Texas; we sacrificed thirty thousand lives of our own citizens and murdered fifty thousand Mexicans; we devastated Mexico, corrupted the morals of both nations, and introduced to this Hall vices and crimes before unknown to our people; and yet gentlemen speak of the benefits which *we* have received by annexation.

When the resolutions of annexation were under discussion, I referred to this subject, and inquired of the chairman of the Committee on Foreign Affairs, what he intended doing with the debt of Texas? He replied, "*We intend having nothing to do with it.*" He was an honest man, from South Carolina, and meant what he said; and were he here to-day, I am satisfied he would not consent to sit here legislating to pay the debt of Texas, while his party, from the earliest period, has cried out with such holy horror against assuming the debts of any State. He had too much respect for consistency to change so often.

Why, sir, so careful were the Committee on Foreign Affairs, over which the gentleman to whom I allude [Mr. Rhett] presided, that they inserted a clause in the resolutions of annexation, declaring that, "*in no event were said debts and liabilities to become a charge upon the Government of the United States.*" This was expressed in the very resolutions which annexed Texas. Her creditors heard it. They knew if it were annexed they must depend on Texas—not on Ohio, or any other State, for their pay. Thus was the faith of Congress pledged by the whole Democratic party to the people of the free States that in *no event* should said debt become a charge upon the laboring freemen of the North. And, sir, if we now repeal this clause in favor of exempting the people of the old States from the charge of this debt, I say *repeal* the whole of the resolutions, and let Texas go back to her independence, and pay her own debt. The bill of 1850, *this* bill, and every attempt to involve my constituents in the payment of this debt, is a violation of plighted faith. I meet those attempts now as I did in 1850; I denounce them; I repudiate them now, and ever shall, while reason, and judgment, and conscience, perform their functions.

Why, sir, Texas was admitted not merely with the rights which the other States possessed, but with the additional advantage of holding all the vast territory within her State; while the other States have surrendered their public lands to the Federal Government. This was done in order to enable her to pay her own debt; and if she were a free State her lands would be worth more than $100,000,000, besides paying her whole debt, which she now asks the laboring freemen of the North to pay for her.

But, sir, the gentleman from Kentucky [Mr. BRECKINRIDGE] frankly admits that the pledge of her revenues does not constitute a very clear cause, under the circumstances, for making the old States pay this debt; and he therefore places his principal stress upon the compromise act of 1850, and says that the surrender of some fifty millions acres of land to New Mexico, constituted a good consideration for the $10,000,000 provided for in that act. This I deny altogether, and will soon express my reasons for such denial. But suppose it was so; suppose that bill was carried through this body and the Senate without fraud or bribery; suppose Texas really relinquished to New Mexico all the lands stated by the gentleman, and that it constituted a good consideration for the $10,000,000 provided for in that bill, I ask him, or any other advocate of this measure, to point me to the consideration on which this additional $3,500,000 contemplated in this bill is based? For what is that to be given? If the compromise was just, why not let it stand? Why interfere with it?

But I would that the record of those compromise acts of 1850, with the corrupt appliances which produced their passage, could be erased from the record of the past. I need not remind gentlemen that the popular mind of the free States has branded those compromises as *infamous*. This act defining the boundaries of Texas, and giving her $10,000,000 was the first in the series of measures, known as the "compromise acts" of that year; now held in almost universal detestation. Texas had by resolution, as early as 1832, declared her territory to be bounded by the Rio Grande from its mouth to its source, including that part of New Mexico with Santa Fé its capitol, which lies this side of that river. A Mexican custom-house lying thirty miles this side of Santa Fé, at which our own citizens constantly paid duties on goods taken to that city, and including, also, the custom-house at Point Isabel some miles east of the mouth of the Rio Grande, where our citizens, and those of other nations, continued to pay duties to the Mexican Government, until

it was taken possession of by General Taylor's Army after the passage of the resolutions of annexation. The territory of Texas had been definitely established by General Almonte, a commissioner appointed by Mexico for that purpose, long before the revolution broke out.

The line separating that State from Tamaulipas, Coahuila, and Chihuahua commenced in the sea one league from the coast, opposite the mouth of the Aransas, and, following up that stream to the confluence of the San Antonio, thence up the latter stream to its source; thence westerly, to the line of New Mexico. If she held any more territory, it was by conquest. Between Texas, as thus bounded, and the Rio Grande, were some two thousand square miles of territory, inhabited by some thirty thousand people, not one of whom ever acknowledged allegiance to Texas or her laws.

It is true that Texas sent an army to Santa Fé for the purpose of conquering it; but it is also true that every man was killed or taken prisoner. She also sent an army to Mier, who were mostly disposed of in the same way; at least, all who had the courage to fight, and the others escaped by flight. This, then, was the only jurisdiction which she ever exercised over this vast territory, which the gentleman from Kentucky, and the Congress of 1850, admitted was the property of Texas.

Why, sir, at the next session of Congress after the annexation, Mr. Polk, our President, congratulated Congress and the country on the extraordinary gallantry of Colonel Donophan's army, which had marched through the wilderness of Santa Fé; and he declared that the "whole of New Mexico, including Santa Fé, its capitol, had been conquered by the gallantry of our countrymen." Why, sir, if the Texan claim were just, he should have complimented the Army on conquering that part of *Texas*.

This very question, relating to the absurd pretensions of Texas, defeated the treaty. The venerable member from Missouri, [Mr. BENTON,] then in the Senate, placed this subject in such obvious light before that body that they rejected the treaty; and when the joint resolutions of annexation came up in this body, no one dared to make an assertion that Texas owned one foot of the vast region subsequently claimed by her. And the language of the resolutions on this point was, "that Congress doth consent that the territory *properly included within* and *rightfully* belonging to the Republic of Texas may be erected into a State," &c. Here, sir, in this Hall, the friends of annexation declared they would not recognize the ridiculous pretensions of Texas to this territory, but that Congress would retain the power to determine the boundaries of Texas, according to truth and justice. Well, sir, this two thousand square miles of territory, with its cities, villages, plantations, and custom-houses, was conquered by our Army after the annexation, and all that part of Tamaulipas, Coahuila, and Chihuahua lying this side of the Rio Grande, being a territory larger than four such States as New York, was given to Texas, while that State withdrew her pretensions to what is now called New Mexico, or rather to that part of it lying east of the Rio Grande.

This withdrawal of the pretensions of Texas is said to have constituted the consideration for which we stipulated, in the act of 1850, to pay her $10,000,000. Such was not the case. But by promising to pay that $10,000,000 we repudiated the pledge of 1846, by which it was stipulated that "in no event should the liabilities and debts of Texas become a charge upon this Government." Sir, it was not generally pretended that we received this territory as such consideration. Such intimation may have been advanced, but I have no recollection of such a hint. What, then, were the reasons for assuming the payment of this sum of $10,000,000? I would state the facts, but history has already proclaimed them.

Sir, a presidential election was to take place in 1852. Mr. Webster and Mr. Clay were competitors for nomination by the Whig party. They had seen Mr. Van Buren rejected for his independence, and Mr. Polk elected for his servility to the slave power. The North had remained quiet and unmoved under that state of facts. Not more than two or three members of this body had denounced this treason to northern rights. These aspirants saw the candidates of the Democratic party yield implicitly to southern dictation. Mr. Clay was a slaveholder, and had been defeated in 1844, as he thought, for exhibiting too much independence. He, therefore, now went for all the compromise measures. This placed Mr. Webster somewhat in the back ground; but in his 7th of March speech he made a higher bid for the nomination than his rival, declaring that he not only approved all these compromise measures, but was willing to go in favor of paying Virginia an indefinite amount for the surrender of her northwestern territory to freedom sixty-three years previously.

With these bids before them, the slave power would have been very likely to accept one had not the Democrats come promptly up to the line of servility on which their Whig rivals stood. But the parties were nearly equally divided, and individuals of each party refused to be sold and transferred to the perpetration of the outrage of passing this bill; and at this point a corrupt intrigue began gradually to unfold itself. Texas bonds had become worth, I think, about seventeen dollars on the hundred, by annexation. The prospect of passing the ten million or compromise bill, increased their value gradually up to about twenty-seven dollars on the hundred, and if the bill passed, the holders expected them to become worth about seventy dollars on the hundred. There were, perhaps, $12,000,000 of outstanding bonds. These bonds were offered in this Hall, *to members*, at twenty-three dollars on the hundred; and here gentlemen may understand "I speak *that which I know*." This proposal was made with the assurance that a note would be received for the payment, to be made *after the passage of the bill*, and that the holders would then receive the stock back at *seventy dollars* on the hundred, giving some $47,000 to the member, for I presume no member was offered less than $100,000 of bonds. I think I am precisely correct as to the prices of stock. I know I am substantially so.

Here, sir, in this Hall, before we were called to order in the morning, gentlemen of professed honor and respectable standing, held forth their hands grasping Texan bonds, saying to us, "Gentlemen, we would not bribe any one, but we want to employ agents to carry this bill through the House." Corruption stalked here unrebuked, and rumor was more false than usual, if men of higher official dignity than ourselves were *disinterested* spectators of what was going on. To aid this policy, Texas assumed the braggart, threatened to march an army to New Mexico and drive out the United States troops holding possession of that Territory. This was sufficient; the cry that the "Union was in danger, was at once raised." Letters were written and sent North, saying that "the Union was in danger;" that Texas was about to make war on the United States; that the Union would be split into oven wood.

I have no language to express my contempt of that most potent, knock-down argument by which the South have so long made northern dough-faces tremble and turn pale. Thank God, I think that argument has become exhausted. I trust the late demonstrations at the North will soon extinguish the whole race of dough-faces. Let them disappear from the earth; they are, at best, an unvirile class of beings, incapable of perpetuating their race. Why, sir, at that very moment Texas was calling on our Government to protect them from the miserable savages hanging upon her frontier. Yet members in this Hall rolled up the whites of their eyes in holy horror at the terrible thought that Texas would dissolve the Union before she had fairly got into it. Thus the poltroonery of the North was appealed to in order to carry that bill, which, in my opinion, was attended with more corruption than any other that ever passed this body. I have no time to tell of the failure of the bill, the rallying of its friends, the reconsideration, the votes of northern members on all collateral questions, the second failure, the motion to reconsider the vote rejecting the bill a second time, the overruling of that motion by the Speaker, according to parliamentary law, the second rally of the *stock-jobbers*, the overruling the Speaker's decision on an appeal, the higher bids for votes, and the final passage of the bill, not merely in disregard of the Constitution, in contempt of justice and the rights of the free States, but by trampling down all parliamentary laws and rules of this body.

Then, sir, there was rejoicing in the bar-rooms and grog-shops of the city. Stock-jobbers were liberal with their wine; bonfires blazed, and the song, the shout, and sound of drunken revelry echoed through the city. In the midst of their excitement, a party of those more interested called at the door of a high dignitary of Government, and demanded a speech from its occupant. Obedient to the call, he came forth reeling under the fumes of wine, and commenced his address by saying, "Now is the winter of our discontent made glorious summer," &c. These are all matters of history; they should not be forgotten. While we are called on here to carry out, approve, or in any manner uphold this ten million bill, by which the people of the free States have been swindled out of that amount; and if the bill before us passes, the amount will be swelled to $13,500,000. Of that sum the people of Ohio will pay at least $1,300,000, for we pay at least one tenth part of all our revenues. This addition to the debt of our own State, will render our burdens uncomfortable. Our people will pay this $1,300,000 as really as if it were collected by direct taxation. Every man who buys a pound of sugar, or a yard of cloth, pays a portion of this debt of Texas. This burden must rest on our laboring men; those who toil, who gather from the earth their living and wealth. In their name, and on their behalf, I protest against this wrong; I denounce it. I would not for one moment lend effect or support to one of those compromise laws of 1850. They are all of them infamous, corrupt, and unconstitutional; but this ten million bill was the worst of all.

Sir, by what constitutional authority are the people of Ohio made to pay the revolutionary debt of Texas? Can any man point to such authority in the Constitution? Can any angel from Heaven point us to it? No, sir; it does not exist. Why, then, are we involved in this debt of Texas? Why made to pay the debt of these foreigners, and permit our own to remain unpaid? By what rightful power is this $1,350,000 taken from our pockets, and handed over to the jobbers in Texas stocks? Why, sir, it was done to aid Mr. Clay and Mr. Webster in obtaining the presidency; to obtain the favor of the slave power in order to get the nomination for that office.

Now, sir, I would repeal this law of 1850 at once, as we repealed the Missouri prohibition last year. I would lend that law no respect whatever. The time, I trust, is near at hand when all those compromise acts will be repudiated by Congress, and blotted from our statute-books.

The gentleman from Kentucky [Mr. BRECKINRIDGE] thinks Texas will not accept the bill, if amended as proposed by the gentleman from Tennessee, [Mr. JONES.] I understand that amendment to be merely giving the creditors the amount provided in the law of 1850, and interest thereon. As already observed, I would do nothing to sanction the law of 1850; but, in order to make the bill as unobjectionable as we can, I shall vote for that amendment, and I shall then vote against the bill. I have no fears that Texas will refuse it. I wish she would. A reform Congress will meet here in December next, and if Texas refuses this provision, I trust Congress will then possess the manhood to repeal the compromise act of 1850, and leave Texas to pay her own debt, and relieve Ohio from the payment of the $850,000.

The gentleman from Kentucky [Mr. BRECKINRIDGE] asked the gentleman from Texas [Mr. SMYTH] if he thought his State would accept this sum of $6,000,000, instead of $8,000,000; and the gentleman from Texas said he did not think she would. Now, I differ from him on that point, and call the country to witness what I say. *Texas will accept it*, if cut down to $6,000,000, or to $5,000,000, or $1,000,000. She will take, most gladly take, just what we please to give her. Gentlemen need feel no uneasiness about the Union. I will enter into bonds, and give good security, to keep the Union together for fifty dollars per year, even if we let Texas pay her own debt.

Sir, we refuse to pay the holders of our Continental money. Those who furnished our troops with provisions, who served in our armies during that memorable struggle to obtain our own independence, were paid in our promises, which, for

seventy years, have been worthless. The holders have, many of them, died in poverty. Their children, and their grandchildren, yet hold our obligations, and many are in want of the money to support themselves. But we refuse to pay them; we repudiate the debts due our own people for services in our Revolution, and then tax the children of those whom we have thus defrauded to pay the revolutionary debt of Texas. Sir, this is called American statesmanship. I protest against this injustice—this dishonorable injustice to our own citizens, while we take their money to pay the debt of a foreign State. This whole subject of annexation, and the management by which we have involved our people in the debt of Texas, constitutes a page in the history of our legislation from which I turn with feelings bordering upon indignation and disgust.

Mr. CLINGMAN. I desire to submit some remarks upon the subject of this bill.

Mr. BRECKINRIDGE. The gentleman from North Carolina, I believe, is in favor of the bill.

Mr. CLINGMAN. There have been two or three speeches made against it.

Mr. BRECKINRIDGE. Oh, I will give the gentleman the floor. But I desire first to say, that I hope the committee will recollect that this is the only day set apart for the consideration of this bill as a special order. I am, therefore, extremely desirous that the committee should dispose of it in some way or other. I will, therefore, yield to the gentleman from North Carolina for ten minutes, and then close the debate without yielding further.

Mr. CLINGMAN. I will not occupy the attention of the committee more than five or six minutes. The gentleman over the way from Kentucky [Mr. BRECKINRIDGE] stated that he was not here when the act of 1850 was passed, and was not responsible for that act. I unfortunately occupied a position like that of the gentleman from Ohio, [Mr. GIDDINGS.] We were among those who were run over by the majority of the House. [Laughter.] But, sir, although I opposed the bill, and voted against it, I still hold myself responsible to carry out its provisions. I call the attention of the gentleman to one fact, which I think has an important bearing upon the question. I admit that I was strongly prejudiced against this claim. It was only carried through the House after a struggle of five or six months. I was the only southern Whig who voted against the bill, although I had twenty-nine southern Democrats to stand with me. But, nevertheless, I have examined the claim now presented, and I have come to the conclusion that we are legally liable for it. I believe there is not a court of justice in the country that would not decide, in a similar case between individuals, that there was liability. By the terms of the annexation of Texas to the United States, it was agreed that she should retain her public lands to pay her debt. We were a party to that agreement. In 1850, our Government bought a large amount of that land. We not only took the Santa Fé country—and, by the by, I, in common with all the members from the South, voted that Texas had a good title to that—but we purchased all that country which lies at the head waters of the Canadian and other tributaries of the Arkansas, to which the title of Texas was undoubted, and which, according to the statements of explorers, is one of the finest countries in the world. That tract of country contains forty or fifty thousand square miles, as near as I can judge from the map, or between twenty-five and thirty millions of acres, and would bring a large sum into the Treasury if sold.

Now, gentlemen may tell me that we shall waste that land—either give it away to pensioners as bounty, or dispose of it under the homestead measure. That does not affect the question at all. This Government has obtained from Texas a very large body of land—land which we had agreed she should retain to pay this debt. Well, where was our error? Gentlemen tell me that we paid $10,000,000 for the land—a very liberal sum—and so we did. The error was in not appropriating the $10,000,000 in the first place to pay the debt. If our Government had provided for a joint commission between the United States and Texas to ascertain these debts and pay them, and had then handed over the balance to Texas, it would have been right. But, for example, suppose I buy land mortgaged to somebody else, that I give $1,000 for the land, understanding that the debt is only $500, and undertaking to pay the debt and relieve the land, and that I afterwards find out that the debt amounts to $800, am I not bound to pay it? The error was, that, without providing for the payment of the debts, we came in ourselves and diminished the ability of Texas to pay them.

Now, I admit, Mr. Chairman, that we are not liable in the first instance. I believe the rule of law is this: If, for example, there were five tracts of land mortgaged to pay a particular debt, and I purchased one of them, I would not be liable to pay the debt until the balance of the land had been exhausted. A court of equity would exempt my tract until the other land was disposed of, but I should have an ultimate liability. Well, if this were a contest between individuals, the courts would hold that, if the creditors could not get the money out of Texas, they might come on us, and that presents a proper case for a compromise. I cannot discharge a debt that is due by paying a less sum than I owe; but if I am liable for a debt in the future, or, in a certain contingency, I may pay less than the whole amount to get clear of it; and I think that, in this case, we may very well say to the creditors of Texas, we will pay you seventy cents in the dollar—about two millions more than we agreed to pay—to get clear of the claim for the balance of the eleven millions. I have no doubt that the principle is right; that, having incorporated Texas into the Union, and having taken her revenue, we are pledged for her debt so far as that revenue was pledged.

But I understood the gentleman from Tennessee [Mr. JONES] to say that we put Texas in a better position, because we now defend her. That is true; but then there were two sides to the bargain. Texas, in consequence of this annexation, is now bound to defend the State of Maine, if that State is attacked, or the Territory of Oregon, or Washington, on Puget's sound—bound, in short, to protect every one of the other thirty States; so that, in point of fact, there is a reciprocity. We have no right to say to the creditors of Texas that Texas gained more in strength than she lost. She is liable to defend us, and we are liable to defend her.

These creditors had a valid claim for all her property, in fact, and, by the terms of the annexation, we showed that we were apprehensive about that matter, for we set apart and reserved a particular fund to pay the debt; but we have since come in and taken a part of that fund, and in that situation of affairs the courts would say that we were liable.

Well, gentlemen may tell me that Texas will apply the lands which remain in her possession to pay the debt; but *will* she pay it? That is the question. I do not mean to say anything against the State of Texas, but, as a matter of fact, will Texas pay the debt? If she does not, the ultimate liability will be upon us. The debt is a very heavy one, and if Texas does not pay it, it will devolve upon the United States, and ultimately we may have to pay a much larger sum.

Mr. Chairman, I have not occupied more than five or six minutes. I intended to be as brief as I could. I wanted to show the grounds upon which I place my votes. I have no question at all about the $6,500,000, because the $5,000,000 of bonds were to bear five per cent. interest from that date, and the holders are entitled to have the bonds, or a premium in lieu of them. These very bonds have sold since that time as high as thirteen per cent. premium. I am told that the Secretary of the Treasury has paid thirteen per cent. premium on them. Well, if the times get a little easier—and they will soon become so in the northern cities—the bonds will probably go up to thirteen per cent. premium again.

There is no doubt, then, that the creditors are entitled to the $6,700,000. The only question is, as to the balance. Well, there is a debt of $11,000,000 or $12,000,000, for which I think we are equitably responsible. I do not hold myself personally responsible for it, because I voted against the annexation resolution, and against the boundary bill of 1850, and helped to fight it for six or eight months. But I think that we have placed ourselves in such a position, by our legislation here, that we shall ultimately be compelled to pay the debt; and I would rather pay seventy cents on the dollar now, and get rid of the whole matter. I will not further occupy the attention of the committee.

Mr. WASHBURN, of Maine. As the gentleman from North Carolina has not occupied all the time allotted to him by the courtesy of the gentleman from Kentucky, [Mr. BRECKINRIDGE,] I ask the gentleman from Kentucky to yield me the floor for a few minutes.

Mr. BRECKENRIDGE. How much time does the gentleman want?

Mr. WASHBURN. Five minutes, if the gentleman pleases.

Mr. BRECKINRIDGE. It is very hard to refuse the gentleman, but I give notice now that I will not yield any further. I am willing that the gentleman from Maine shall take five minutes, and then I will take less than five minutes and close the debate.

[Cries of "Agreed!" "Agreed!"]

Mr. WASHBURN. With every desire to support this bill if I could find it consistent with my duty to do so, I shall be obliged to record my vote against it; and I desire to state, in a very few words, the reasons which will constrain me so to do.

I see very clearly that we are destined to have at least four acts in this Texas debt drama. In the first place, Texas was annexed by a joint resolution, and it was stipulated expressly that she should retain her public lands, and pay, all and singular, her debts. She was bound by that obligation. It cannot be denied that it was an obligation binding and operative upon her.

The consequence of that annexation in the way in which it was accomplished was, if I am not mistaken, to increase very largely, and immediately, the value of the debt in the hands of the creditors. The creditors, then, were not injured, but were benefited in consequence of the annexation. I have never heard that they objected to the annexation, or its terms.

Well, sir, things went on until 1850, and there was a dispute between Texas and this Government in reference to the boundary between that State and the United States. It was believed by a great many people, perhaps by a majority of the people of the United States, that Texas had no just, legal claim to a single acre in dispute. However that may have been, it was finally stipulated between the United States and Texas that she should receive $10,000,000 for her claim, whatever it may have been, to the disputed territory, that she should pay all her debts, and that this Government should be forever discharged from the same. Five millions of dollars were paid direct to Texas, out of which she should have paid a portion of her debts, if she knew, as she now alleges, that they amounted, in the aggregate, to more than the reserved $5,000,000. And we stipulated—and I believe, for I have been so informed by those who ought to know, at the instance and suggestion of the creditors of Texas; and, if so, they are the last persons that should now take exception to it—that the other $5,000,000 should be retained for their advantage and protection. So it was, sir; and we were, by the terms of this act, to be fully and forever discharged. That was the second act. Now we have the third; and we are told all round that that this is to be a final settlement and adjustment of all matters and subjects in dispute between Texas and her creditors and the United States. There is an opinion prevailing very generally, I believe, in this House, that such will be the effect if this bill passes. I think that opinion is not well founded. The bill does not, on the face of it, purport to be anything like a release by all the creditors of Texas of the United States, or to provide for the execution of releases from all. There is a certain class of claims for which, it is said, the revenues of Texas were pledged, from which, in the passage of this bill, we are to be discharged by the creditors.

But who are these creditors? There is a dispute in regard to them. Mr. Corwin, the late Secretary of the Treasury, and Mr. Cushing, the present Attorney General, have not agreed entirely as to the debts which are embraced in this bill. They disagree in their opinion as to who are the legal revenue creditors of Texas, and each of them have rejected some of the claims which, it is insisted, come within the class of claims intended to be provided for. And those creditors who are excluded by the reports of the Secretary of the Treasury and by the Attorney General, will certainly come here after this, and claim that they were secured by the revenues of Texas, and that

they are entitled to be paid by the Government of the United States. But there is another class of creditors who may come to Congress hereafter and ask to be paid—those whose debts were not in terms secured by a pledge of the revenues. But their debts were against Texas, and against the good faith of Texas; and all her property, means, and resources, all her revenues, were really and truly justly pledged and liable to the payment of these debts, subject, it may be, to the prior lien of the pledge holding creditors. Sir, if we acknowledge our liability to pay the present claimants this amount, the other creditors will hereafter come in and demand payment of their debts, for they are not held by the terms of this law to execute any release, or give up any claims which they may have against Texas or the United States. And that will be the fourth act.

Now, are we bound in equity and good faith to the creditors of Texas, or to Texas herself, to pay more than we agreed to pay in 1850? I do not think we are. That amount, including interest and the premium on the bonds, in all about six and a half millions, I am prepared to vote for; and could I see any good reason for it, I would gladly vote for the sum provided in the bill, for I am exceedingly anxious to have this vexed and troublesome question removed from these Halls; and I shall be glad to aid the creditors of Texas in obtaining what is partly due to them. But such reason, though I have sought for it diligently, I have been unable to find. If Texas had, by the action of the United States, been deprived of her means and resources, so that she could not pay her debts; or if her ability to pay had been materially and injuriously affected, her creditors might demand, with much plausibility, payment of the United States.

These creditors assert that the custom revenues of Texas have been destroyed by the annexation; but they do not show that the substantial ability of Texas to pay has not been unmeasurably increased by that act. We all know that it has been, and that these claims appreciated in value at once and largely.

By the transaction of 1850 the ability of Texas to pay her creditors was not diminished, but greatly increased. We took from her nothing of present value to her, nothing which could have been made available for her creditors, and paid $10,000,000. Which was best for Texas and her creditors, the disputed lands and the revenues which she would have collected if she had remained an independent State, deducting such portion of them as would have been required for her annual expenses, or this commutation, as I may term it, by which $10,000,000 was placed in her hands, and which she was bound to use in the same way and for the same purposes that she would use the lands and revenues? Clearly the $10,000,000 was better for the creditors than these far away lands and fugitive customs. The United States, then, has done nothing, at any time, in any way, which has, or could, by the remotest possibility, impair the credit or ability of Texas, or prejudice the condition of her creditors. On the other hand, she has directly and largely improved their chances and condition; and because she has done so, is not, in my poor judgment, thereby and therefore bound to make to them a gratuity of $2,000,000.

Show me that this Government has interfered to the disadvantage of these creditors, and I will acknowledge its obligation to make them whole. Convince me that Texas is not bound to pay these debts by reason of anything this Government has done, and that she is not as able to pay them as she would have been but for us, and I will admit our liability. But if she is liable and able, and the more able on account of the moneys we have paid her, it is difficult to perceive what claim there is, in equity and justice, upon this Government, for more than we have already agreed to pay.

The creditors look to Texas; their claim is against her, and not the United States. This Government is not bound for the manner in which Texas appropriates the moneys paid her. As she could have misappropriated the lands and revenues, so she may the $5,000,000 she has already received. It is enough for this Government that it has not, on the whole, impaired the condition of Texas as a debtor, or rendered less valuable and available the claims of her creditors. For the neglects and bad faith—if such there have been—of Texas, she, and not the United States, is responsible. This bill assumes the contrary, and makes provision for the payment—properly donation—of $2,000,000, because Texas has not done what she ought to have done. The creditors of Texas relied upon her good faith, not upon ours, and her failure cannot be at our charge. That good faith we never guarantied, expressly or by implication. The creditors relied upon Texas for good faith in the use of her means, and upon the United States not to embarrass or diminish them to their disadvantage. Texas may have forgotten or denied her obligation, but the United States has not failed to observe and keep that which she assumed.

Mr. BRECKINRIDGE. I have listened with great respect to the observations which have fallen from the gentleman from Ohio, [Mr. GIDDINGS,] and the gentleman from Maine, [Mr. WASHBURN.] Some of these observations appear to me to be pertinent to the matter. As to others, to which the gentleman from Ohio called attention, I have answered them in the general remarks which I have made, and cannot, at this late hour, undertake to recapitulate my argument.

I desire now to make a very brief reply to the remarks which fell from the gentleman from Tennessee, [Mr. JONES,] and which appeared to me to have had some impression on the committee, in reference to striking out the sum of $8,500,000, and inserting, in lieu thereof, the sum of $6,550,000, being the amount in the Treasury, with the interest and the premium, to be distributed *pro rata* among the creditors, with the assent of Texas. And I desire to demonstrate, by a single statement, in which I will have to repeat some things which I have said this morning—that the proposition of the gentleman from Tennessee, if agreed to, would be exactly equivalent to doing nothing at all, and that, as heretofore, we will be liable for this stock, and the interest which will have accumulated upon it, because the distribution of this $6,550,000 *pro rata* among the revenue creditors, would produce exactly only fifty-five cents to the dollar. That Texas will not accept. Why will she not accept? Because, in the scale she has made of her debts, she has solemnly recognized that she owes a portion of those revenue creditors eighty-seven and a half cents in the dollar, others seventy-seven, others sixty-seven, and down to twenty-seven. Therefore, when you ask her to consent that you will pay with fifty-five cents in the dollar debts which she has solemnly recognized as being worth seventy-seven and eighty-seven cents in the dollar, you ask her to do what she cannot, without a violation of her pledge solemnly placed on record. And I appeal to the gentlemen from Texas, both of them, to say to the committee, in view of the proposition, whether it is not perfectly certain that Texas will not accept or assent to it?

Mr. SMYTH, of Texas. I can assure the committee that if the amendment of the gentleman from Tennessee [Mr. JONES] be adopted, Texas will reject the bill, and I will vote against it here.

Several MEMBERS. Well, let her do so.

Mr. HOUSTON. I should like to ask a single question of the gentleman from Texas, if the gentleman from Kentucky will permit me.

Mr. BRECKINRIDGE. Certainly.

Mr. HOUSTON. It is this: whether this bill, as it stands, does not conflict as much with the scaling of the Texas debt by the Legislature of that State as does the amendment offered by the gentleman from Tennessee?

Mr. BRECKINRIDGE. I can answer that—no.

Mr. HOUSTON. Let the gentleman from Texas answer.

Mr. SMYTH. It would conflict with that scaling, but not to the same extent as would the amendment of the gentleman from Tennessee. Some of the debt has been recognized as worth one hundred cents on the dollar.

Mr. HOUSTON. I understand that. But, though Texas proposes to pay some of the claims at the rate of dollar for dollar, does she not also propose to pay some at much less than this *pro rata* would be?

Mr. SMYTH. Certainly.

Mr. HOUSTON. Surely, then, there is a conflict between this bill, as it stands, and the Legislature of the State of Texas; and the amendment of the gentleman from Tennessee will not alter that state of things.

Mr. BRECKINRIDGE. Admittedly, the conflict would exist, but not, by any means, to the same extent. Texas recognizes one hundred cents in the dollar for a small portion of the debt, and recognizes eighty-seven cents in the dollar for another portion. The $8,500,000 distributed *pro rata*, would produce about seventy-five cents in the dollar. Therefore, there would be a small conflict, but we are assured that the State of Texas is willing to accept the $8,500,000. Their Representatives tell us so. But if we adopt the amendment of the gentleman from Tennessee, and make the amount $6,550,000, which would leave but fifty-five cents in the dollar, of course she will not accept it.

Mr. HOUSTON. I understand that the gentleman from Tennessee——

Mr. BRECKINRIDGE, (interrupting.) I will go on and finish what I was going to say. I had only undertaken to show that the proposition of the gentleman from Tennessee, if adopted, would result in no practical legislation, and would amount to nothing. I am opposed to it, therefore, as I am desirous of disposing of the subject, and as we are assured that Texas would not assent to this proposition, and by the bill we are obliged to have her assent. What follows? Why, this stock matures. At its maturity the whole question is still unsettled; but even suppose it to be settled; then you have still to pay the precise amount provided for in this bill. And remember, sir, that by that time these revenue debts will have accumulated by interest to some $14,000,000, and as the stock also bears interest, the interest will run on both of them.

In view of these facts, and in view of the certainty that the State of Texas will withhold its assent to the proposition of the gentleman from Tennessee, this bill appears to me to be a fair financial arrangement for the Congress of the United States to make, having reference alone to our own Treasury, without regard to Texas, and without regard to the interest of the creditors. As the bill stands now, without the amendment proposed by the gentleman from Tennessee, I consider that its passage would be a good financial measure, proper for the United States to take.

[Here the hammer fell.]

The CHAIRMAN. General debate having closed upon the bill, the question is on the amendment proposed by the gentleman from Tennessee [Mr. JONES] to strike out $8,500,000, and insert $6,550,000.

Mr. BRECKINRIDGE. I ask my friend from Tennessee to withdraw that amendment for the present, till I offer the amendment reported by the Committee of Ways and Means.

Mr. JONES. The Committee of Ways and Means has proposed no amendment to this first section, and the committee has a right to pass upon my amendment first. I have no objection to accede to the request of the gentleman; but, with the permission of the committee, I had rather pass it over until we vote upon the other amendment.

The CHAIRMAN. The Chair understands, then, that the amendment is not withdrawn.

Mr. DISNEY obtained the floor.

Mr. TAYLOR, of Ohio. If my colleague does not wish to offer an amendment in opposition to that of the gentleman from Tennessee, I do.

Mr. DISNEY. I prefer to make my remarks now.

The CHAIRMAN. Does the gentleman from Ohio propose to amend the amendment of the gentleman from Tennessee?

Mr. DISNEY. I desire to speak in opposition to that amendment.

The CHAIRMAN. It is not in order, as a speech has already been made in opposition.

Mr. DISNEY. I move, then, to amend so as to reduce the sum to $5,000,000. Under the five minutes' rule, I cannot say all that I would like to say in regard to this subject. The gentleman from Kentucky has certainly made the best presentation of the wrong side of the case that I have yet heard. I have not the time to make general comments upon this bill. It is a bill which is founded generally upon the principle, that the Government of the United States is liable for the payment of these claims of the creditors of Texas; first, upon the pledge made by the State of Texas, that the revenue resulting from duties upon imports was not set aside by the terms of annexation; and, secondly, that by the terms of the act of 1850, Congress admitted the liability of the United States to pay them.

Now, in my judgment, both of these points are

entirely and utterly untenable. I have not time to discuss them both, and, therefore, I proceed to consider the latter, because, it seems to be the most strongly relied on. It is true, that by the act of 1850 provision is made, that the five millions stock directed to be applied by that act shall be retained until the creditors of the State of Texas shall release all claims against the United States. My friend from Kentucky says that this provision in the act of 1850 is an actual and absolute admission that these parties held claims against the Government of the United States, and, that therefore, these revenue creditors, as he terms them, have an acknowledged claim against the Government of the United States. But what was the transaction in relation to which the act of 1850 was passed? It was for the purchase of a portion of the public lands of the State of Texas.

By the terms of the joint resolution annexing Texas to this Union, it was specifically provided that the public lands of the State of Texas, should constitute a fund to pay the debts, liabilities, and obligations of that State. The Federal Government knew, when they purchased this portion of the public domain of the State of Texas, that they took it subject to this lien, outstanding as it was. It was perfectly competent for the Government of the United States, in purchasing a portion of these public lands, to stipulate in the terms of the agreement, that the purchase money, or a part of it, should be applied to the discharge of these outstanding obligations, upon the land she acquired from that State. She may have gone further than her legal rights warranted, but it was entirely competent for the United States to ask Texas, as a part of the terms of the agreement, that she should apply these funds generally to the discharge of these debts, or to the discharge of a particular portion of the debts, or of any particular class of creditors that Congress might choose to designate. This Congress did do, and it is all that Congress did. Out of abundant caution, Congress chose to recognize a liability so far as the land purchased was concerned, but no further; and it stipulated for the application of a reasonable portion of the purchase money to the discharge of the admitted lien upon the purchased land.

Mr. STANTON, of Tennessee. The gentleman from Ohio [Mr. DISNEY] argues that when the Government of the United States purchased that portion of the public lands of the State of Texas, in 1850, which had been pledged for the payment of the debt due by that State to the citizens of the United States, she became liable, legally and morally, to pay them, or, as he chose to qualify it, she chose voluntarily to appropriate a portion of the purchase money to the payment of a portion of that debt.

Mr. DISNEY here made a remark, which was inaudible to the reporter.

Mr. STANTON, (resuming.) If there was any obligation upon the Government of the United States, when purchasing the lands of Texas, to make a stipulation of that kind for the benefit of the creditors of Texas, when she absorbed the whole revenue power of that State, was there not a similar obligation upon the part of the United States to provide for that portion of the debt for which the revenues of Texas were pledged? It seems to me, that if the position of the gentleman is correct in one case it ought to apply in the other. I have never taken any part in support of this bill, nor have I ever examined it until the present time. I listened with great interest to the very lucid exposition of the gentleman from Texas, [Mr. SMYTH,] and, I must confess, I am thoroughly convinced that these claims of the Texas creditors afford a perfectly fair case for such a compromise as is proposed by this bill. It may be doubtful whether the Government of the United States is not responsible, to some extent, for the whole $12,000,000. She is certainly responsible for the $6,500,000. I think it is a fair compromise to pay the amount proposed to be paid in this bill; and, upon that view of the case, I feel myself obliged to vote for it.

The question being upon the amendment,

Mr. DISNEY withdrew it by unanimous consent.

Mr. TAYLOR. I propose to amend the amendment of the gentleman from Tennessee, [Mr. JONES,] by increasing the amount to $8,400,000. I move this amendment, to say a very few words upon the bill. I shall vote for the bill; and from the examination which I have made upon this subject, at the last session of Congress and the present, aided by the exposition of the distinguished gentleman from Kentucky [Mr. BRECKINRIDGE] this morning, I am confirmed in the opinion that I am right in supposing that the best thing the Congress of the United States can do, is to pay this debt as proposed in the bill now before the committee.

Mr. Chairman, I voted, in 1850, to pay Texas the $10,000,000 alluded to in this bill, and in various reports from the Departments upon the subject. I voted then, by way of compromise of great national questions, for that payment as one of a series of measures, and, sir, a series of measures which brought about a compromise highly valuable to the country, and which produced peace, good feeling, and harmony to the United States. I do not regret voting for that compromise; and while my colleague upon the right [Mr. GIDDINGS] thinks we never should make a compromise, I entertain a very different opinion, and say I believe the National Legislature never could do anything with any great national question of public policy unless individuals should occasionally compromise, in some degree, their own opinions. How could we enact a tariff to regulate the duties upon imports, if some gentlemen did not sacrifice something of their private opinion? or how could the two hundred and thirty-four members of this House ever agree on any great subject, unless by compromises?

Now, sir, I look upon the proposition to pay $8,500,000 to Texas, as proposed in this bill, as the compromise of a debt which we are bound to pay by every sanction of honor and national legislation. It is a mere question of time. The creditors claim $11,000,000 or $12,000,000, but the United States appropriated $9,000,000 on the 9th February, 1850, which, with the interest which has accumulated, now amounts to $6,500,000, and in 1864 amounts to $8,500,000. At the end of fourteen years we shall be constrained to pay the $5,000,000 with interest, which will amount to $8,500,000. But if we pay it now, we require a release to be filed in the Treasury Department, from *all the creditors of Texas, before a cent is paid.* And what is the difference to the United States, whether we pay it now or at the end of fourteen years? It is a mere compromise, and eminently favorable, because we now have the money; while at the end of fourteen years we may not have it in the Treasury.

Mr. WASHBURN, of Maine. Will the gentleman allow me a word?

Mr. TAYLOR. I cannot, as I have only five minutes. If the gentleman from Maine will look to the third section of the bill he will find these words:

"That no payment shall be made under this act to any holder of said securities, or evidences of debt, unless the said holder shall first execute to the United States a receipt for the said payment, *in which said holder shall forever release all claim against the United States and the State of Texas* for or on account of the said securities, or evidences of debt; and the said certificates, or other evidences of debt, shall then be deposited with the Treasury Department."

Is not that a release? Is not that a final release of the creditors? And is it not provided, in a subsequent part of the bill, that Texas shall also release all her claims against the United States? And if the creditors release, and Texas release, and we pay the debt now, which we are bound to pay in 1864, where is the difficulty? We have here a favorable compromise, one which commends itself eminently to the good sense and judgment of the Congress of the United States.

Having examined this subject carefully; having looked at it with the belief that the people of the United States are disposed to do justice to the creditors of Texas, as well as to themselves, by doing what they solemnly bound themselves to do in 1850, I am disposed to vote for the bill.

[Here the hammer fell.]

Mr. FULLER. Mr. Chairman, I am one of the remaining few now on this floor, who voted for the bill giving the $10,000,000 to Texas, in the Thirty-First Congress. I know it was the impression at that time, among those who voted for the bill, that we gave Texas much more than the land she ceded to us was worth. But it was paid to settle and adjust a dangerous controversy.

I am not now disposed to review that settlement and readjust it, whether we voted too much or too little. It was satisfactory to all parties at the time. I mention this consideration in reply to the remarks which fell from the gentleman from North Carolina, [Mr. CLINGMAN,] who thinks we did not pay enough for the land which Texas gave up in adjusting her boundary.

The point I make is, that Texas, by the act of annexation, gave up nothing; that her creditors lost nothing; that the prospects and condition of her creditors is better now than before annexation to the United States.

I make this point in answer to the position, taken by the friends of this bill, that Texas had *pledged* especially her revenues arising from customs to the payment of the claims of her creditors, and that the United States, by assenting to this annexation, took Texas *cum onere*, and is bound to perform her obligations.

In the first place, there can be no pledge of a thing not *in esse*. The pledge of Texas of her accruing revenue was but a promise to pay the debt in another form. It amounted to no more than that. In this respect the pledge of the revenue was quite different from a pledge of her *domain*. To these the pledge might well enough attach, because it was something in existence, something tangible. Texas is to-day an independent, sovereign State, with the full right of taxation. It is true, by the act of annexation, she gave up the right to levy duties on imports. This, at most, is only depriving herself of one mode of taxation. She has the power to impose upon her citizens taxation to discharge her legal dues, which any other independent Government has, excepting this one mode.

So the United States cannot raise revenue by levying duties on *exports*. But the United States Government can resort to any other legitimate mode of raising revenue. Texas in no way diminishes her capacity to raise revenue by any other legitimate mode she may deem proper, provided she has the disposition. The rights of the creditors are as ample, and the obligations of Texas as strong to her creditors to-day as they were before the act of annexation.

Neither can it be said that Texas has rendered herself less able to discharge her public dues by the act of annexation. She was relieved by that act from the expense of supporting an army or navy to maintain her national existence. Her resources were increased, and her expenses diminished by the act of annexation.

The CHAIRMAN. Debate has been exhausted on the amendment of the gentleman from Ohio, [Mr. TAYLOR.]

Mr. GOODE. I move that the committee do now rise.

Mr. STANTON, of Kentucky. Do not let us rise now. We had better take a recess.

Mr. GOODE. No. Let the committee rise.

Mr. DAVIS, of Indiana. I demand tellers on the motion.

Tellers were ordered; and Messrs. DAVIS, of Indiana, and BENSON, were appointed.

The question was taken; and the motion was agreed to, the tellers having reported—ayes 76, noes 70.

So the committee rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the special order, being Senate bill (No. 96) to provide for the payment of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9, 1850, and had come to no resolution thereon.

REPORTS FROM THE COMMITTEE ON THE JUDICIARY.

Mr. MAY. Mr. Speaker, day after to-morrow has been set apart, by a special order of the House, for the consideration of business from the Committee on the Judiciary; and I would now ask the unanimous consent for leave to members of that committee to report the bills which they have prepared, so that they may be printed and laid before members when they come up for consideration.

The SPEAKER, (Mr. JONES, of Tennessee, in the chair.) Is it the unanimous consent of the House that the gentleman have leave to report certain bills from the Committee on the Judiciary, so that they may be printed, and laid upon

members' desks when they come up for consideration?

There was no objection.

The SPEAKER *pro tempore*. The gentleman from Maryland, under the unanimous consent of the House, will now submit his reports from the Judiciary Committee.

The following bills were then reported, severally read a first and second time by their titles, referred to the Committee of the Whole on the state of the Union, and ordered to be printed:

An act to amend an act entitled "An act further to provide for the collection of duties on imports," approved March 3, 1853.

An act to amend an act entitled "An act to provide for the punishment of certain crimes against the United States;" approved April 30, 1790.

An act to provide for the accommodation of the courts of the United States in the district of Maryland, and for a post office in Baltimore city, Maryland.

Joint resolution for the purchase of one hundred and eighty copies of Alden's Index to the Decisions of the Supreme Court of the United States.

Mr. SEYMOUR. I have also several reports which I desire to make from the Committee on the Judiciary. They are bills which I wish to have referred to the Committee of the Whole on the state of the Union and printed, that they may be ready to be taken up and disposed of when the business of that committee comes up as a special order.

The SPEAKER *pro tempore*. They will be received if there be no objection.

Mr. KNOX. I object.

Mr. MAY. I distinctly asked leave for all the members of the Committee on the Judiciary to report.

The SPEAKER *pro tempore*. The Chair did not so understand the gentleman, and only put the question to the House for leave for the gentleman from Maryland himself to report. The Chair hopes, however, that no objection will be made to the other members of the Judiciary Committee making their report.

Mr. KNOX. I object.

THE ARMY BILL.

Mr. BENTON. I have an amendment which I intend to move to the Army bill. With the consent of the House, I send it to the Clerk that it may be printed for members.

There was no objection; and the amendment was ordered to be printed.

Mr. PHELPS. I ask the unanimous consent of the House to report, from the Committee of Ways and Means, its action on the amendments of the Senate to the Army bill.

[Cries of "Object!"]

Mr. PHELPS. I ask the unanimous consent of the House to report the Army appropriation bill from the Committee of Ways and Means, in order that it may be referred to the Committee of the Whole on the state of the Union, and, with the report, ordered to be printed.

Mr. HOWE. I would suggest to the gentleman from Missouri, and to the House, that the bill he desires to report ought to be referred to the Committee on Military Affairs. I understand that it provides for largely increasing the Army, and certainly ought to go before that committee for consideration. I ask that the gentleman from Missouri will so amend his motion.

Mr. PHELPS. I cannot.

Mr. KNOX. Then I object to its being reported.

TEXAS DEBT BILL—AGAIN.

Mr. BRECKINRIDGE. I suppose the House is aware of the fact that the measure we have had under consideration in the Committee of the Whole on the state of the Union to-day, according to many parliamentarians in the House, of which I do not profess to be one, will not come up to-morrow if it is not disposed of to-day.

Mr. KNOX. I rise to a question of order. I desire to know if this discussion is in order What is the question before the House?

Mr. BRECKINRIDGE. I am going to make a motion. I will make it. I am upon my legs for that purpose. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. And I take occasion to say, that, if the motion is agreed to, I propose to take such measures as to get the Texas bill out of the committee, and to put it in such a condition that the House can reach it, and then let the House adjourn.

Mr. HAMILTON. I move that the House do now adjourn.

The SPEAKER *pro tempore*. The gentleman will have to wait until he can get the floor for that purpose. [Laughter.]

Mr. HAMILTON. Have I the floor now?

The SPEAKER *pro tempore*. The gentleman from Wisconsin [Mr. EASTMAN] is entitled to the floor.

Mr. EASTMAN. Well, sir, I move that the House do now adjourn.

Mr. RICHARDSON. I demand the yeas and nays upon the motion.

The yeas and nays were ordered.

The question was then taken upon Mr. EASTMAN's motion; and decided in the negative—yeas 62, nays 78; as follows:

YEAS—Messrs. Abercrombie, Aiken, James C. Allen, Willis Allen, David J. Bailey, Belcher, Bennett, Benson, Benton, Boyce, Carpenter, Chase, Chrisman, J. G. Davis, Thomas Davis, Disney, Eastman, Eddy, Edgerton, Everhart, Flagler, Fuller, Giddings, Goode, Goodwin, Hamilton, Aaron Harlan, Haven, Henn, Hiester, Howe, Daniel T. Jones, J. Glancey Jones, Kidwell, Knox, Letcher, Lilly, McCulloch, McMullin, McQueen, Mayall, Middleswarth, Millson, Morgan, Murray, Norton, Pennington, Pringle, David Ritchie, Ruffin, Sabin, Sage, Shaw, Simmons, Skelton, Andrew Stuart, Tracy, Tweed, Wade, Elihu B. Washburne, Israel Washburn, and Wheeler—62.

NAYS—Messrs. Appleton, Thomas H. Bayly, Banks, Bell, Bliss, Bocock, Breckinridge, Bristow, Campbell, Caskie, Chandler, Clark, Clingman, Cobb, Cox, Cumming, Cutting, Dawson, Edmands, Thomas D. Eliot, John M. Elliott, Ellison, English, Farley, Faulkner, Florence, Franklin, Green, Greenwood, Grey, Andrew J. Harlan, Hendricks, Houston, Hunt, Johnson, George W. Jones, Roland Jones, Keitt, Kerr, Kurtz, Lewis, Lindsley, Macdonald, McDougall, May, Smith Miller, Nichols, Olds, Orr, Peckham, John Perkins, Phelps, Preston, Richardson, Robbins, Rowe, Sapp, Seymour, Shower, Samuel A. Smith, George W. Smyth, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, David Stuart, John J. Taylor, John L. Taylor, Teller, Upham, Walker, Walley, Wells, John Wentworth, Tappan Wentworth, and Westbrook—78

So the House refused to adjourn.

The question then recurred upon the motion to go into the Committee of the Whole on the state of the Union.

Mr. BRECKINRIDGE. I desire to say that I do not propose to take the final vote upon the bill to-day in the House. I desire that the bill shall be put in such a shape that the House can have an opportunity to vote upon the amendment offered by the gentleman from Tennessee, [Mr. JONES.] My only purpose is to get the bill in the House, where it will come up to-morrow.

[Cries of "Order!" "Order!"]

Mr. WHEELER. I demand the yeas and nays upon going into the Committee of the Whole on the state of the Union.

The SPEAKER *pro tempore* divided the House, and announced that the yeas and nays were not ordered.

Messrs. WHEELER, GOODE, EASTMAN, and others, amid much confusion, demanded tellers—some upon the yeas and nays, and others upon the motion to go into the Committee of the Whole on the state of the Union.

Tellers were ordered; and Messrs. STUART, of Michigan, and CLINGMAN were appointed.

The SPEAKER *pro tempore* then put the question upon the motion to go into the Committee of the Whole on the state of the Union.

Mr. WHEELER. I demand tellers upon the yeas and nays.

The SPEAKER *pro tempore*. The House is now dividing, and it is too late to raise a question of order.

Mr. GOODE. I demanded tellers distinctly upon the yeas and nays.

The SPEAKER *pro tempore*. The Chair did not so understand it.

Mr. GOODE. It is not too late for the Chair to correct his own mistake.

The SPEAKER *pro tempore*. The gentleman from Virginia is not in order in addressing the Chair while the House is dividing.

Mr. GOODE. Does the Chair decide that it is too late to correct his own mistake?

The SPEAKER *pro tempore*. The Chair decides that the House is dividing, and that it is not in order to address the Chair.

Mr. GOODE. Well, sir, I insist that the tellers were called upon the yeas and nays, and that the House are dividing upon ordering the yeas and nays.

The SPEAKER *pro tempore*. The gentleman from Virginia is not in order.

Mr. EASTMAN. I demand tellers upon the yeas and nays.

[Cries of "Order!" and "Too late!"]

The tellers then reported—ayes 74, noes 16; no quorum voting.

Mr. OLDS. I demand the yeas and nays.

Mr. EASTMAN. Oh, it is too late now; the yeas and nays have been refused.

The SPEAKER *pro tempore*. The Chair will state that, when a call was made for the yeas and nays, he requested those in favor of ordering them to rise. They did so, and the Chair reported twenty-three—not a sufficient number. The Chair then heard various voices demanding tellers, but he certainly did not hear any one demand tellers upon the yeas and nays. The question was then upon going into the Committee of the Whole on the state of the Union, and the Chair therefore put the question upon that motion. The Chair, however, hopes there will be no objection to allowing those who want tellers upon the yeas and nays to have them.

Tellers upon the yeas and nays were ordered; and Messrs. DUNBAR and CAMPBELL appointed.

The House was divided; and the tellers reported thirty-four in the affirmative—a sufficient number.

So the yeas and nays were ordered.

Mr. TWEED. I move that the House do now adjourn.

Mr. WHEELER. Upon that motion I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. WHEELER. I call for tellers.

Tellers were ordered; and Messrs. BRECKINRIDGE and CAMPBELL were appointed.

The question was taken; and the tellers reported—ayes 26, noes 75.

So the House refused to adjourn.

Mr. EASTMAN. No quorum voted.

The SPEAKER *pro tempore*. The Chair will count and ascertain whether there be a quorum present.

Mr. FLORENCE. Several gentlemen are hurrying out of the Hall. [Laughter.]

The SPEAKER *pro tempore*. Well, gentlemen have a right to go out when they please.

Mr. ORR. There seems to be a disposition manifested to postpone this matter unnecessarily, and with a view of letting gentlemen have an opportunity of showing their hands, I move that there be a call of the House. Perhaps that will bring back some of those gentlemen who are now leaving the Hall.

Mr. MORGAN. I demand the yeas and nays on that motion.

The SPEAKER *pro tempore* put the question, and declared that Mr. ORR's motion was agreed to.

Mr. MORGAN. I rise to a question of privilege. I ask the Chair if I was not recognized, and did not demand the yeas and nays before he announced the result of the vote.

The SPEAKER *pro tempore*. The gentleman was not recognized until after the Chair had announced that the ayes had it, and that a call of the House was ordered. The gentleman said that he rose to a question of privilege, and the Chair recognized him.

Mr. MORGAN. Well, if the Chair says so, I have nothing further to say upon the subject.

The SPEAKER *pro tempore*. The gentleman may have demanded the yeas and nays, but certainly he was not recognized by the Chair.

The roll was then called, and the following named gentlemen were found to be absent:

Messrs. Abercrombie, Ashe, David J. Bailey, Ball, Barksdale, Barry, Benton, Bissell, Boyce, Bridges, Carruthers, Chamberlain, Chase, Chastain, Churchwell, Colquitt, Cook, Corwin, Craige, Cullom, Curtis, Dent, De Witt, Dick, Dickinson, Dowdell, Drum, Edmundson, Etheridge, Gamble, Goodrich, Goodwin, Grow, Sampson W. Harris, Wiley P. Harris, Harrison, Hibbard, Hill, Hillyer, Hughes, Ingersoll, Knox, Lamb, Lane, Latham, Lindley, Lyon, McNair, Mace, Macy, Maurice, Maxwell, Meacham, John G. Miller, Andrew Oliver, Mordecai Oliver, Parker, Peck, Phillips, Powell, Pratt, Puryear, Ready, Reese, Riddle, Thomas Ritchey, Rogers, Russell, Seward, Shannon, Singleton, Skelton, William Smith, William R. Smith, Alexander H. Stephens, Stratton, Straub, Nathaniel G. Taylor, Trout, Vail, Vansant, Walbridge, Warren, Witte, Daniel B. Wright, Hendrick B. Wright, Yates, and Zollicoffer.

Mr. ORR. How many gentlemen have answered to their names?

The SPEAKER *pro tempore*. One hundred and fifty-three.

Mr. ORR. Then I move that all further proceedings in the call be dispensed with.

The motion was agreed to.

Mr. SAGE. I move that the House do now adjourn.

Mr. BRECKINRIDGE. I believe that it is the wish of several gentlemen who desire some disposition to be made of this measure, that we should not adjourn.

Mr. WALSH. I call the gentleman to order. The question of adjournment is not a debatable one.

The question was then taken on Mr. SAGE's motion; and it was agreed to.

And thereupon, at a quarter past five o'clock, the House adjourned until to-morrow, at twelve o'clock, m.

IN SENATE.

WEDNESDAY, *February* 7, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

PATENT OFFICE REPORT.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Commissioner of Patents, transmitting the first part of his annual report relating to arts and manufactures, and also the second part of the same, relating to agriculture, together with illustrations to accompany the same; which was referred to the Committee on Patents and the Patent Office.

PETITIONS, ETC.

Mr. CHASE. I present two petitions of citizens of Ohio, praying that slavery or involuntary servitude, except as a punishment for crime, may be prohibited, by law, in the Territories of the United States. I had the honor, at the last session, to introduce a bill to effect this object. I ask now only, that these petitions may lie on the table, as I intend to call up the bill whenever an opportunity shall occur.

The motion was agreed to.

Mr. SUMNER presented a petition of citizens of Massachusetts, praying the repeal of the fugitive slave law, the prohibition of slavery in the national Territories, and the abolition of slavery in the District of Columbia; which was ordered to lie on the table.

Mr. BRODHEAD presented the petition of William W. Martin, praying permission to change the name of the steamboat Fanny Fern, which was wrecked and rebuilt, to that of the Thomas H. Stewart; which was referred to the Committee on Claims.

Also, the petition of Isabella Duffy, widow of Charles Duffy, who was killed while employed at the navy-yard at Philadelphia, praying the aid of Government for her support; which was referred to the Committee on Naval Affairs.

Also, the petition of Thomas Cahill, praying remuneration for expenses incurred by him in consequence of the death of his brother, Patrick Cahill, caused by injuries received while at work in the navy-yard at Philadelphia; which was referred to the Committee on Naval Affairs.

Also, the petition of Mary Portman, widow of Henry Portman, who was killed while at work in the navy-yard at Philadelphia, praying relief; which was referred to the Committee on Naval Affairs.

Mr. JONES, of Iowa, presented a petition of citizens of Iowa, praying the establishment of a mail route from Elkader to Independence, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. DODGE, of Wisconsin, presented a petition of citizens of Wisconsin, praying that the lands reserved by the United States in the act of 1846, granting land for improving the Fox and Wisconsin rivers, may be exposed to sale; which was referred to the Committee on Public Lands.

Also, a resolution of the Legislature of Wisconsin, instructing the Senators, and requesting the Representatives of that State in Congress, to use their exertions to prevent the renewal of the patents granted to Cyrus H. McCormick, Obed Hussey, and Moore & Hascall, for improvements in reaping machines; which was referred to the Committee on Patents and the Patent Office.

Also, a memorial of the Legislature of Wisconsin, praying the establishment of a tri-weekly mail from Fox Lake to Montello, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. BROWN presented the following memorials of the Legislative Assembly of the Territory of New Mexico:

A memorial praying an appropriation for paying the militia of that Territory, called into service by the acting Governor thereof, for the suppression of Indian hostilities;

A memorial praying an appropriation for the support of public schools in that Territory, in lieu of the land granted for that purpose;

A memorial praying that the citizens of that Territory may be indemnified for property carried off by the Indians;

A memorial asking a loan of arms and ammunition to the citizens of that Territory for their defense against Indian incursions; and

A memorial praying the adoption of measures for the protection of the people of that Territory against Indian depredations.

The above memorials were referred to the Committee on Territories.

Mr. DODGE, of Iowa, presented resolutions of the General Assembly of Iowa, in favor of the construction of bridges and dams across Cedar and Wabsipinicon rivers, and bridges across the Iowa river; which were referred to the Committee on the Judiciary.

Also, an additional document in relation to the petition of William Rees; which was referred to the Committee on Public Lands.

REPORTS FROM STANDING COMMITTEES.

Mr. SEWARD, from the Committee on Pensions, to whom was referred the memorial of William B. Wood, praying that a pension may be allowed the widow of George W. F. Wood, an officer of the Army, who died of yellow fever while in the discharge of his duty, asked to be discharged from its further consideration, on the ground that the committee had reported a general bill providing for applicants of this class, and placing widows of the Army on the same footing as those of the Navy.

The motion was agreed to.

He also, from the same committee, to whom was referred the petition of Margaret Williams and Maria Wendell, only children of Jacob H. Wendell, for the half-pay due their father, a revolutionary officer, under the resolution of Congress of October 21, 1780, asked to be discharged from its further consideration, and that it be referred to the Committee on Revolutionary Claims; which was agreed to.

He also, from the Committee on Commerce, to whom was referred the petition of Isaac S. Smith, praying remuneration for loss sustained in consequence of the annullment of his contract for the construction of a light-house on Horse-Shoe reef, in the Niagara, asked to be discharged from its further consideration; which was agreed to.

Mr. ALLEN, from the Committee on Pensions, to whom was referred the petition of John G. Watmough, an officer in the war of 1812, praying arrears and increase of pension, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Eliza Gibbons, mother of Thomas C. Gibbons, who died in the Navy of the United States, for a pension or other compensation, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of George Middleton, praying compensation for services in the war of 1812, submitted an adverse report thereon; which was ordered to be printed.

Mr. CLAY, from the Committee on Pensions, to whom was referred the petition of N. Westcott and others, praying that a pension may be granted to Gabriel Denton, an officer in the war of 1812, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of John Thompson, praying compensation for his services as a seaman in the late war with Great Britain, submitted an adverse report thereon; which was ordered to be printed.

Mr. GWIN, from the Committee on Naval Affairs, to whom were referred the following bills from the House of Representatives, reported them back without amendment:

A bill for the relief of the legal representatives of William A. Christian;

A bill for the relief of Sarah Morriss, only heir of Robert Mitchell, deceased; and

A bill for the relief of Rebecca Winn, widow and executrix of the last will and testament of Timothy Winn, deceased, late a purser in the Navy of the United States.

He also, from the Committee on Retrenchment, to whom was referred the petition of William G. Ridgely, chief clerk in the Bureau of Yards and Docks, praying to be allowed arrears of salary, asked to be discharged from its further consideration, and that it be referred to the Committee on Naval Affairs; which was agreed to.

Mr. JONES, of Iowa, from the Committee on Pensions, to whom was referred the petition of Michael Hennessey, praying a pension on account of disease contracted while in the military service, submitted a report, accompanied by a bill for his relief; which was read, and passed to a second reading. The report was ordered to be printed.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the petition of Lorin Blodget, praying an equitable hearing and adjustment of his claims against the Smithsonian Institution for services rendered and expenses incurred, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. BELL, from the Committee on Naval Affairs, to whom was referred the petition of the surviving officers of the United States frigate Constitution, praying remuneration for their good conduct and gallantry in the capture of the Cyane and Levant, and for the recapture of the Levant by the British in a neutral port, asked to be discharged from its further consideration; which was agreed to.

JOINT RESOLUTION REFERRED.

The joint resolution from the House of Representatives for the relief of Joel Henry Dyer, was read a first and second time by its title, and referred to the Committee on Military Affairs.

BILLS INTRODUCED.

Mr. SEBASTIAN, in pursuance of previous notice, asked and obtained leave to introduce a bill to provide for the building of a jail at the town of Van Buren, in the State of Arkansas; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked and obtained the unanimous consent of the Senate to introduce a bill for the improvement of the Arkansas river; which was read twice by its title, and referred to the Committee on Commerce.

Mr. MALLORY asked and obtained the unanimous consent of the Senate, to introduce a bill to improve the bar of the Appalachicola river; which was read twice by its title, and referred to the Committee on Commerce.

Mr. SEWARD asked and obtained the unanimous consent of the Senate to introduce a bill to continue the removal of the rocks at Hell Gate, and Diamond reef, New York harbor; and a bill for the repair and improvement of the piers at the mouth of the Genesee river, New York; which were read twice by their titles, and on the motion of Mr. SEWARD, were placed on the Calendar, in connection with the other bills on the same general subject.

Mr. BELL asked and obtained the unanimous consent of the Senate to introduce a bill making an appropriation to continue the improvement of the navigation of the Tennessee river; which was read twice by its title. He gave notice that he should ask for its consideration when the other improvement bills should be taken up.

Mr. SUMNER asked and obtained the unanimous consent of the Senate to introduce a bill for continuing certain public works in the State of Massachusetts; which was read twice and placed on the Calendar, in connection with the other internal improvement bills.

JOHN G. LAUB.

Mr. WADE. The Committee on Claims, to whom was referred the joint resolution for the relief of John G. Laub, a clerk in the office of the First Comptroller of the Treasury, have directed

me to report it back without amendment, and recommend its passage. In consequence of a clerical error, his salary does not reach back to the time when his services commenced. So we are informed by the First Comptroller. I ask for the present consideration of the bill, as it is a small matter to which there can be no objection.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It proposes that the increase in the salary of John G. Laub, authorized by the act of September 30, 1850, shall commence on the first of July, 1849, the date of the commencement of his additional services; but he is not to be paid an amount exceeding $333 33.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

CATHERINE DICKERSON.

Mr. JONES, of Iowa. I ask the Senate to take up the bill reported by the Committee on Pensions, for the relief of Mrs. Catherine Dickerson. She is an old lady of ninety years of age. The bill has been on the table for nearly a year, and I believe it is one to which there can be no objection.

It proposes to direct the Secretary of the Interior to place the name of Catherine Dickerson, widow of John Dickerson, late a pensioner of the United States, on the pension roll, under the provisions of the act of July 7, 1838, and to pay to her the amount to which she would have been entitled under that act, from the 4th of March, 1836, to the commencement of the pension she now receives.

John Dickerson was a soldier in our revolutionary struggle, and was honorably discharged. He served four years from 1775, and was engaged in the battles of Brandywine, Germantown, Monmouth, and Stony Point. He was pensioned in 1829, at ninety-six dollars per annum, and received the pension to the date of his death, in 1833. The act of June 7, 1832, provides that each of the surviving soldiers of the war of the Revolution, who served a term of two years or more, be authorized to receive the amount of his full pay during life. The act of July 7, 1836, provides that "if any person who served in the revolutionary war in the manner specified in the act of June 7, 1832, have died, leaving a widow whose marriage took place after the expiration of his service, and before 1794, such widow shall be entitled to receive, for the term of five years, the pension to which her husband would have been entitled in virtue of said act," to commence on the 4th March, 1836. Mrs. Dickerson was married prior to 1794, and therefore entitled to the benefit of the act of 1836.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

PASSAMAQUODDY CUSTOM OFFICERS.

Mr. HAMLIN. The Committee on Commerce, to whom was referred the bill from the House of Representatives "to refund to the officers of the customs, and others of the district of Passamaquoddy, certain moneys," have directed me to report it back without amendment. I am also authorized by the committee, to ask for the immediate passage of the bill. I assure the Senate it will consume no time, and there can be no two opinions about its provisions.

There being no objection, the Senate proceeded, as in Committee of the Whole, to consider the bill. It proposes to direct the Secretary of the Treasury to allow to the late officers of the customs of Passamaquoddy, and the informers in the case, their proportion of the net proceeds of the sale arising from the condemnation of the schooners L'Etang and Josephine, and the bark Phœnix, for a violation of the revenue laws.

Mr. HAMLIN. I can state to the Senate in a very few words what are the facts of this case. Certain vessels were seized for a violation of the revenue laws, were libelled and sold, and the clerk of the district court, by mistake, paid all the money into the Treasury of the United States. By existing laws a certain portion was due to the informers, and this bill is to pay them what the clerk of the court ought to have paid to them, and not to the Treasury.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

ELIJAH WHITE.

Mr. PETTIT. The Committee on Private Land Claims, to whom was referred House bill confirming a land claim to Elijah White, of the Territory of Washington, have had the same under consideration, and direct me to report it back with a recommendation that it pass. I have two bills of the same character for the benefit of individuals in that Territory. As it has no immediate representative in this body, I shall ask the Senate to consider the bills now. I take it there can be no objection to them.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill. Its object is to provide that the claim of Dr. Elijah White to six hundred and forty acres of land on Baker's bay, near Cape Disappointment, shall not suffer prejudice by reason of his absence from his settlement, as set forth in his petition; and if the claim be in other respects within the provisions of the act of September 27, 1850, it is to be confirmed to him by the surveyor general; but the bill is not to interfere with any reservation that may be needed by the United States for a light-house, or any public uses, nor to the prejudice of any adverse right, if such exist.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

GEORGE BUSH.

Mr. PETTIT. The same committee, to whom was referred House bill for the relief of George Bush, of Thurston county, Washington Territory, have directed me to report it back without amendment. This bill is of the same character as the other, and I ask that it may now be put on its passage. It is a very meritorious case.

By unanimous consent the bill was considered as in Committee of the Whole. It proposes to confirm the claim of George Bush, to six hundred and forty acres of land, in virtue of his early settlement, and continued residence and cultivation.

An act passed September 27, 1850, provided for a grant of three hundred and twenty acres to every American citizen on condition of occupying it for four years, and the same amount to his wife. In 1845, George Bush, a free mulatto, with his wife and children, emigrated to, and settled, in Thurston county, then in Oregon, but now in Washington Territory, and settled upon, and laid claim to six hundred and forty acres of land. He has continuously occupied the land and cultivated it. He has put upon it a valuable farm-house and other improvements, and he now has the tract in a high state of cultivation. Bush having been excluded from the benefits of the law granting donations of land in the Territories, the Territorial Legislature, on the 27th of February, 1854, adopted a memorial to Congress, asking that his case should be made an exception to the general rule, and that an act be passed giving to Bush and his wife title to the section of land so occupied and cultivated by them.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

NANCY WEATHERFORD.

Mr. JONES, of Iowa. The Committee on Pensions, to whom was referred the petition of Mrs. Nancy Weatherford, have instructed me to report a bill "for the relief of Mrs. Nancy Weatherford, widow of Colonel William Weatherford, of the first regiment of Illinois volunteers in the Mexican war."

The bill was read a first time, and ordered to a second reading.

Mr. DOUGLAS. I ask the consent of the Senate to take up that bill now. The facts of the case are familiar to me. I know of no man for whose memory I have a more sacred regard and affection than for that of Colonel Weatherford, who died in consequence of his services for the country. I hope there will be no objection to considering the bill now.

By unanimous consent the bill was read a second time and considered, as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place the name of Catharine Weatherford upon the pension roll, and to pay her thirty dollars per month from the 1st of January, 1855, so long as she shall remain a widow.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

NAME OF A SCHOONER.

Mr. BENJAMIN. The Committee on Commerce have had under consideration the petition of Ebenezer Clark, of Jackson county, Mississippi, praying that his schooner may have her name changed from the unfortunate name of Henry Plantagenet to the more fortunate one of A. G. Brown. [Laughter.] The committee have directed me to report a bill in accordance with the request of the petitioner.

The bill was read a first time, and ordered to a second reading.

Mr. BADGER. I hope the bill will be put on its passage. ["No objection."]

The bill was read a second time, and considered as in Committee of the Whole. No amendment being proposed, it was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

CIRCUIT COURT IN CALIFORNIA.

Mr. TOUCEY. I move that the Senate proceed to the consideration of the bill to establish a circuit court of the United States in and for the State of California. I hope it will be taken up and passed without debate.

Mr. PRATT. The hour for taking up the unfinished business of yesterday is about to arrive. I have no objection to take up this bill with the understanding that if it shall lead to debate it will be laid aside at one o'clock.

Mr. TOUCEY. I presume it will be passed before that time.

Mr. PRATT. But if it be otherwise, I must ask the Senate to take up the unfinished business.

The PRESIDENT. The motion of the Senator from Connecticut is first in order.

Mr. PRATT. If that is to be pressed without any understanding on the point to which I have referred, I shall ask for the yeas and nays.

Mr. DODGE, of Iowa. I understand that that bill will take but a moment or two.

Mr. PRATT. I have proposed to the honorable Senator to consent to take up the bill if it leads to no debate; but I ask him, if debate ensues upon it, to consent to lay it aside when the hour arrives for the consideration of the unfinished business of yesterday.

Mr. CHASE. It can be postponed by a motion.

Mr. PRATT. Very well; I have no objection.

The motion of Mr. TOUCEY was agreed to, and the Senate resumed, as in Committee of the Whole, the consideration of the bill, the question pending being on the motion of Mr. WELLER to fill the blank in the seventh section, in relation to the salary of the proposed circuit court judge, by inserting $6,000.

Mr. BENJAMIN. Mr. President, this bill was laid over yesterday in consequence of some suggestions from myself. I have since examined it, and I cannot consent to give it my vote, and I think the majority of the Senate will be indisposed so to do. I am perfectly willing that any provision be made for the necessities of California which does not comprehend an innovation upon the present judicial system of the United States; but, sir, the proposition in this bill is to create a special circuit court for California; or, in other words, to adopt piecemeal that principle which was the subject of such long and animated discussion in the Senate when the general judiciary bill, reported from the Committee on the Judiciary, was recently before us.

It is known that a large number of Senators on this floor are entirely opposed to the introduction of any system by which circuit courts shall be established to perform circuit duties, and to entertain circuit court jurisdiction, to the relief of the Judges of the Supreme Court of the United States, so as eventually to constitute the Supreme Court a local court, isolated in Washington, and kept separate from circuit duties. There is that objection to this bill; and I cannot but consider it as an attempt gradually to introduce a system, and indirectly to accomplish an object, which the members of the Judiciary Committee who reported the bill, have been unable to carry through by direct legislation.

It is perfectly obvious, Mr. President, I think if any Senator will reflect on the subject, that if this bill be passed, one of two consequences must follow. We shall either have to extend these circuit courts, established according to the principle upon which this bill is framed, to other and

remote sections of the Confederacy, because they will claim the same rights that California now claims, and thus by degrees establish a system of circuit courts exonerating the Judges of the Supreme Court from that duty, or we shall be called upon to put the judges of these circuit courts upon the Supreme bench, and thus augment the number of Judges of the Supreme Court.

There is another consideration, sir. The question of judicial salaries is one which has engaged the attention of all of us. I am not willing to put in this bill an inadequate salary, nor am I willing o put in it a salary which will place the judge of the circuit court in California upon a higher footing than that occupied, as regards compensation, by the Judges of the Supreme Court of the United States. I think, sir, that if any change is about to be made in the salaries of our judges, the change ought to be made by a general bill, similar to that already reported by the committee, and that we ought to refrain from acting in this piecemeal way upon the compensation of the judges in the different parts of the Confederacy.

Now, sir, if California is in need, at present, of additional facilities for the dispensation of public justice, I am perfectly willing to vote for any bill which shall not introduce features encroaching upon the general system of the judiciary of the United States as now established. I am willing, if the district judges are not sufficient to carry on the business, to vote for an additional district judge with circuit court powers. I am willing, if a circuit is required at the present time, to vote for an additional judge of the Supreme Court of the United States, who shall exercise circuit court powers, and hold the circuit courts on the Pacific coast. But I am not willing, in this manner, to intrench upon those principles on which the whole judicial system is now based.

There are many of us who have very strong objections—objections that cannot be overcome—to have the Supreme Court established in Washington as a Federal Court, kept apart from all connection with the people, and discharged from the duty of holding the circuit courts. I, for one, can never consent to that. I believe that if this bill be passed, it will be the entering wedge of that system, and I, therefore, must call the attention of the Senate to it.

Mr. GWIN. Mr. President, this bill is no favorite of mine. If I had the power, I would pass through this body an entirely different measure, one to give us a circuit on the Pacific coast, and have appointed to preside over its courts, an associate justice of the Supreme Court of the United States. I urged this measure upon the Judiciary Committee of the Senate two years ago in vain. I brought it before the Senate at the last session and offered it as an amendment to the civil and diplomatic appropriation bill, and it was voted down. I referred it to the Judiciary Committee some weeks ago, when it was set aside for the bill now under consideration. This is a dernier resort for my colleague and myself. We have to take this or nothing, and, with the knowledge we possess of the state of affairs in California, we must take it, insufficient as we know it to be to meet the wants of our constituents. Our land claims must be finally settled through the United States judicial tribunals, and if this bill does not pass this session, we have no hope. Its failure will be viewed by our people as a denial of justice of the most flagrant character. Far better would it have been if the Congress which purchased California had confiscated all land claims in that territory, or indiscriminately confirmed the valid and fraudulent, rather than inflict upon land claimants and settlers, the ruin that impends over them from the delays that your policy has subjected us to.

Seven years ago California was purchased from Mexico, yet we have not had a single case decided in the Supreme Court which would indicate what land claims would likely be confirmed or rejected. From this cause conflicts, bloody conflicts, have again and again taken place between land claimants and settlers; nor can we hope, for another year, of obtaining a decision of that tribunal that will satisfactorily settle any principle of law involved in these contests. We have two district judges to try all of these claims, for every one will be appealed to the district courts from the decision of the board of land commissioners. These judges have now pending in each of these courts, or soon will have, more land cases than compose all the cases of every description on appeal to the Supreme Court of the United States from all the States of the Union. The number of cases on the docket of the Supreme Court amount to one hundred and seventy-seven; while there was filed in the southern district of California at the *first term* when that court was organized, more than one hundred and eighty land cases, appealed from the board of land commissioners. And the amount of property involved in these cases on the docket of each of our United States courts, is more than the whole amount now in controversy in the Supreme Court of the United States. Yet one of these judges receives a compensation of $3,500, and the other $2,800 per annum; and Congres has steadily refused to give them any increase of salary. While each judge has as many cases on his docket as the Supreme Court, and equally as intricate as the questions to be decided by that tribunal, and involving as large an amount of property, each is expected to perform the duties of the nine Supreme Judges, who, in the aggregate, receive upwards of $40,000. We wish to give these judges assistance, and hence we advocate this bill. One of these judges has been, for months, absent from the State, prostrated by disease, and cannot, possibly for months to come, resume his duties on the bench; yet his court is crowded with business; and in the most vigorous health it would take him a year, sitting six days in the week, to dispose of the cases now on his docket; and within a year, as many new cases will be brought into his court as are now pending there. We wish to aid him and his associate in the southern district by creating a circuit, and appoint a judge to relieve them from some portion of their present arduous duties. As an evidence of the present condition of California in the litigation of land claims, I will state, that eight hundred and thirteen land claims have been filed before the board of land commissioners, every one of which will be appealed to the district courts.

Can any member of this body, after a statement of this fact, refuse us the judge we ask for in this bill? Can any man say a failure to pass it would not be a denial of justice? Every claim is appealed from the decision of the board of commissioners, and every one hereafter decided will be appealed, until the Supreme Court decides some of the most important, and settles the principles that will govern that tribunal in these cases. Eight hundred and thirteen, as I have before stated, have been filed before the board of commissioners, and all will be adjudicated by that board in a year, and appealed to the district courts. These claims cover property worth millions and tens of millions of dollars, in fact the most valuable portion of our agricultural districts, and a large portion of our mineral lands.

Sir, we must settle these claims, and speedily, or serious questions will arise between the State and Federal authorities. Already our supreme court has decided that the gold in the mines belongs to the State, and that appeals shall not be taken from the State courts to the courts of the United States. The Governor in his message, just received, calls the attention of the Legislature to the question whether the public domain claimed by the United States does not belong to the State by virtue of its sovereignty. To avoid a controversy on the subject, he advocates a cession to the State of all claims on the part of the United States to the public lands within her borders.

Longer delay in adjusting our land claims in the United States courts will cause them to be brought before our State courts, and the State will assume the ownership of the public domain within her borders, and make the decisions of our own tribunals final, as between individual claimants and the State. The property of the State is blighted by these unsettled land claims. No man will venture to make permanent improvements on land that may be taken from them by an adverse title, and thousands are thus driven from the State to purchase homes, where they will be subject to no such uncertainty of title.

The policy of this Government, from the purchase of Louisiana to our last acquisition, has been radically wrong, so far as regards unsettled land claims. Large sections of country in the Louisiana purchase have been in a great degree depopulated for half a century, for the want of a prompt settlement of the title to the lands within those sections. The evils of that system are now being visited upon California, by the delays in our judicial tribunals. I hope this cause of complaint will be in part removed by the passage of this bill, and the early decision of the cases on appeal to the Supreme Court of the United States.

Mr. CHASE. When the bill was introduced, I supposed that it proposed the creation of a new Supreme Court Judge. That, however, is not the fact. It proposes simply to create a circuit court in California, with certain appellate powers from the district courts, for the purpose of discharging the immense amount of business which has accumulated in those districts. It also authorizes the circuit judge to sit with the district judge, upon the land cases. It is to me apparent, from the statement made by the Senators from California, that some relief to those two courts is indispensable, and I do not see any method by which it can be effected more satisfactorily than by the mode pointed out by the Committee on the Judiciary. It is true that it is an innovation, to a certain extent, upon the established judicial organization of the United States. But, sir, it is not to be permanent. This circuit court can be abolished precisely as the circuit courts of 1801 were abolished in 1802. The judge can be made a judge of a new court, or he can be deprived of his office altogether by abolishing the court of which he is judge; so that there is no permanent difficulty. It meets the temporary and pressing exigency, and I for one, although I had some objection at first, shall give my vote for it.

Mr. BADGER. I agree substantially in what has been said on this subject by the Senator from Ohio. I should be very sorry to see a permanent anomaly introduced into the judicial system of the United States; but, as practical men, we are obliged to deal with the existing interests of the country. Now, like my friend from Louisiana, I would much prefer a bill that would add an additional Judge to the Supreme Court of the United States; but to that it has been found that there are insuperable objections. The condition of things in California is such that some immediate measure is due the people of that State. It is due to the people of the United States, because the United States must have a common interest in what concerns the welfare of every part of the Union. Now, I do not see that we can do anything better than what is proposed by the bill; because the only other measure which is better, we find it impracticable to accomplish.

What, then, is the state of the case. We shall have on the Pacific a circuit court, with a judge appointed as the judge of that court, who is not a member of the Supreme Court bench. That is the whole of it. It does not strike me as involving any serious difficulty, or, in fact, any serious departure from principle. We maintain our system where it is practicable, and we relax it in a particular case, in consequence of those demands of necessity which all general outlines of a system must necessarily give way to, in order to accomplish the object of the whole system, and promote the intelligent administration of justice.

My honorable friend from Louisiana has suggested that this may be the commencement of a circuit court system, or rather may lead to the adoption of a system, in virtue of which the Judges of the Supreme Court may be discharged from all connection with the circuits. I fear, sir, that there is no such good result to be hoped for from this particular special and local measure; but if such a result should follow, so far from alarming me, as I desire to see that produced, and would vote cheerfully for it, it is rather a recommendation than an objection. My opinion is, it will have no such tendency. It will hold out, in fact, an immediate and pressing relief, demanded by considerations of justice and propriety, at the sacrifice of no principle, that I can see, but merely an innovation, in a distant part of the Union, upon a system which we cannot, under existing circumstances, extend to that portion of the Union. I shall, therefore, vote for it.

Mr. BUTLER. It may be expected, from my relation to this bill, that I should say something upon it. We have been very much pressed by the Senator from California, and by all persons who are acquainted with the state of things in California, to supply them with another judge of some grade, to decide the immense cases of litigation which are now existing and increasing. The proposition was to have a Supreme Court Judge to perform circuit duties there. The result of my

inquiry upon that subject, Mr. President, is this: that if we were now to provide for another Supreme Court Judge to perform circuit duty in California, it would be nothing more nor less than to make a Supreme Court Judge to reside in Washington, and who could not go to California. I am informed so by the Judges themselves. The fact is, that the Supreme Court is becoming gradually an appellate tribunal exclusively, and if you were to make another Supreme Court Judge for California, the amount of it would be that he would either have to stay there to do circuit duty, if he would perform the duties which the litigation of the country demands, or he would have to reside at Washington and be a Supreme Court Judge alone, and not go to California at all, or he would be traveling all the year, doing duty at neither. That is about the proposition.

I have no doubt of the competency of Congress to establish such inferior courts, in contradistinction to the Supreme Court, as Congress thinks proper. I do not think this is so anomalous. I think this will be a circuit judge for California, with a jurisdiction to be sure, marked out by the bill, but for the performance of duties which the local and peculiar situation of that portion of the country imperatively demands. You cannot, without a denial of justice, it seems to me, refuse to give it some judge, who will undertake to cleanse out the Augean stable of litigation there.

Mr. BADGER. That is complimentary to California. [Laughter.]

Mr. BUTLER. I did not know that my friends were so critical. I only used the term to illustrate the great amount of labor which must be performed. I qualify it in that way.

As regards the salary, the bill came from the committee originally with the amount of $4,500, and that was decidedly the amount which I preferred. It is my opinion still, that that is sufficient; not but that I think the California judge might require more than other judges, but my objection to it was, that it was a gradation of the judiciary in favor of the circuit judge, and an invidious discrimination against the Supreme Judges, who receive only $4,500. I should prefer that amount for the present, with the belief that all the salaries will be raised hereafter, and that this may be raised with the rest. We must give a judge to California. We cannot give a Supreme Court Judge; because if you make a Supreme Court Judge, you will deny him the very jurisdiction which he ought to fulfill in the dispatch of litigation.

Mr. BENJAMIN. May I ask the Senator a question before he takes his seat?

Mr. BUTLER. Certainly.

Mr. BENJAMIN. What is the objection to having an additional district court clothed with circuit court jurisdiction, just in the same manner as district courts have already been organized in other places? What is the objection to that? for neither of the gentlemen who have spoken have suggested it.

Mr. BUTLER. I suppose the only objection would be, that there is a mode of getting cases up to the supreme court, requiring the intervention of the circuit court jurisdiction.

Mr. BENJAMIN. So far as the experience of the other frontier States is concerned, there never has been the slightest difficulty in the administration of public justice by giving to the district courts circuit court jurisdiction. That was the case in Texas, Louisiana, and in all the western States, and I can see no reason whatever for making a change in California.

Mr. BUTLER. I will answer the Senator from Louisiana, who has looked at this subject very particularly. I have no doubt that you may invest this judge with district duties in addition to the circuit duties contained in this bill. If you adopt such a provision as that, I will accept it.

Mr. GWIN. The reason why we cannot have another district court, I will say to the Senator from Louisiana, is, that our business all concentrates in San Francisco, and unless you were to divide that city we could not have the additional court, and the additional judge would have no business at all.

Mr. BENJAMIN. We can add another district judge to that court, and allow either judge to hold the court.

Mr. GWIN. We have never had two district judges on one district court bench.

Mr. WELLER. My friend from Louisiana will discover that a great many cases which might otherwise be taken, by appeal, to the Supreme Court, would be arrested by not having a circuit court.

Mr. BENJAMIN. It never was so in Texas, in Louisiana, in Wisconsin, or in Iowa. There was never any trouble in appealing to the Supreme Court of the United States in those States. We had, for a long series of years, no circuit court in Louisiana, but Congress invested our district court with circuit court powers; and in all the cases of appeal that came before it, an appeal was allowed directly to the Supreme Court of the United States. Once or twice, perhaps, in a long series of years, we had a Supreme Court Judge to hold a circuit court for a very few appellate cases—very few indeed.

Mr. WELLER. Does not the Senator discover that even in criminal cases no writ of error can be taken from a district court to the Supreme Court of the United States? If we have no circuit court, the decision of the district judges in those cases is final.

Mr. DOUGLAS. I regret that the Committee on the Judiciary have put this bill in a shape that I cannot vote for it, for I recognize and acknowledge the necessity of doing something to relieve the judicial docket in California. If they had made any addition to the bench either of the supreme court or of the inferior courts, consistent with the existing system, I should have taken great pleasure in voting for it; but they have adopted an anomalous system, one which is not in harmony with the existing system in the United States. If they had chosen to add an additional judge to the Supreme Court bench of the United States, with circuit court jurisdiction, I would have voted for that; if they had proposed to create an additional district in California, with district court jurisdiction, and also circuit court jurisdiction, I would have voted for that, for that would have been in harmony with the present system. The immediate jurisdiction of your judge would be precisely the same if you appoint him as a district judge of the United States, as it is in Texas, Iowa, Wisconsin, and as in early times it was in Kentucky, and other States. If, in addition to his district jurisdiction, he was to exercise the duties of a circuit judge, then the jurisdiction would be precisely the same as it now is proposed to be, and it would have been in harmony with the existing system.

But, sir, the objection to the present proposition is this: It is creating a circuit judge in California, which is different from any other State in the Union. We all know that the moment this is passed a similar bill will be asked for Texas, which is left, also, with an enormous amount of business, and with the district judge, having circuit, as well as district, court jurisdiction; and yet without any circuit court. The same would be asked for the States of Iowa and Wisconsin; and with Arkansas, although, by law, I believe, in the latter State a Supreme Court judge is authorized to go there. What would be the consequence? You would have the judicial system in one portion of the Union different from that in another portion. The grade of the officer would be different, and you would have an incongruous, irreconcilable system, operating differently in different parts of the Union. We know what it will lead to. If you put one circuit judge upon the bench in California, and another in Texas, and another in Arkansas, and another in the Northwest, for Iowa and Wisconsin, then the next proposition would be to release the other Supreme Court judges from the performance of circuit court duties, and to supply circuit judges to perform those duties. If that is the right plan to adopt, why not march up and do that directly which is attempted to be done indirectly? I understand it to be an attempt to do indirectly what the Senate has resolved they would not do directly. I like that direct mode of business which, if it changes the whole judicial system of the United States, shall avow the object; and the bill shall purport on its face to accomplish that which will be its effect in a certain time through a circuitous and indirect course. That is my objection to the bill. It will accomplish that object by indirection which we have refused to do directly. I know that the Committee on the Judiciary may not have so intended; but still we cannot close our eyes to the fact that it is an anomalous system; that it is an unequal system; that it is an incongruous system, making one section different from another. It cannot be permanent, but must lead to a radical change.

Let us, then, meet the difficulty boldly, and plainly, and decide whether we are prepared, first, to release the Judges of the Supreme Court from the performance of duties on the circuit. If we are, then we should require ten or eleven new circuit judges at once, as was proposed by the Judiciary Committee.

If we are not prepared to release them from circuit duty, it is a conclusive reason why we should not put circuit court judges in one part of the Union, when we do not intend to put them in another. Before we proceed to the adoption of this anomalous system, we must decide what is to be the general plan. If the Judiciary Committee will modify their bill, so as to create an additional district judge, with district and circuit court jurisdiction, it will be in harmony with the present system, and accomplish all the objects which the present bill will accomplish. If it is not intended to be the entering wedge to a change in the whole judicial system of the country, there can be no objection to changing this from a circuit judge to a district judge. If it is to be the entering wedge, to be followed by a gradual undermining of the system which has existed for fifty years, and which cannot be overthrown by direct means, I am utterly opposed to it. Presuming that it only means what the bill purports, simply to release the courts in California from the immense business which is thrown upon them, I propose to strike out the word "circuit," and insert the word "district," so as to make an additional district court, with circuit court jurisdiction.

Mr. PRATT. Mr. President, it is apparent that this bill will be further discussed, and I think it is also apparent that it may be properly and beneficially amended. I can see no reason at present why my honorable friends from California should not be satisfied with the proposition to change the bill so as to have the two district judges performing circuit court duties in California. I hope the subject will now be postponed until to-morrow, to enable the Senator from Illinois, or the Senator from Louisiana to prepare a suitable bill to carry out their views. I move, therefore, that its further consideration be postponed until to-morrow, in order that we may take up the unfinished business of yesterday.

Mr. BUTLER. I will say to the Senator from Illinois that this bill did not originate with me. I may regard myself as in some measure the author of the general system of separating the judges of the Supreme bench from circuit duties, and providing, as I did, in the general bill, for circuit judges; but I am not the father of this bill.

Mr. TOUCEY. If the proposition to postpone prevails it will be the defeat of the measure, because it cannot go before the House so as to be acted upon on the day assigned for the disposition of judicial business.

Mr. CASS. They can take it up at any time, if it is necessary.

Mr. TOUCEY. I speak of the effect of it practically. The bill must inevitably be defeated unless it is passed here to-day. Now, sir, this is only a temporary measure. It is at all times under the control of Congress. Whenever Congress shall act upon a bill, reorganizing the judiciary of the United States, they can repeal this law. It is a law of necessity—to make provision for the wants of California at this time; and it does not interfere with the general system that now exists in the country. It does not make the system anomalous. The system is now irregular and anomalous. There are large portions of the country where now the system of circuit courts is not extended, so that those portions of the Union have not the benefit of the labors of a Judge of the Supreme Court. Now, as to the appointment——

Mr. PRATT. If the honorable Senator will permit me, I understood that if this bill was not finished at one o'clock, the unfinished business of yesterday would come up, and this bill be postponed, in order to enable us to proceed to its consideration. That was my understanding, perhaps erroneously.

Mr. TOUCEY. If the Senate is ready to vote I will give way, or give way to other business.

Mr. WELLER. Let us vote.

The PRESIDENT. Does the Senator from Maryland withdraw his motion to postpone?

Mr. PRATT. I do, if we can have a vote upon the bill.

The PRESIDENT. The question is on filling the blank in the seventh section, as to the salary of the judge, with $6,000.

Mr. BENJAMIN called for the yeas and nays; but they were not ordered.

The amendment was rejected.

Mr. WELLER. I now move to make it $5,000.

The amendment was rejected.

Mr. PRATT. I move to fill it with $4,500.

Mr. GWIN. I move to strike out that section entirely, and let the salary be fixed in a general appropriation bill. We cannot get a man who is fit for the post without giving an adequate salary.

The PRESIDENT. The Senator moves to strike out the entire section. That motion takes precedence.

The motion was not agreed to.

Mr. BRODHEAD. I think we can agree upon $5,000.

The PRESIDENT. That has been voted down. The question is now on filling it with $4,500.

The amendment was agreed to.

The PRESIDENT. If there be no further proposition to amend, the bill will be reported to the Senate.

Mr. PRATT. I suppose the question now is on striking out "circuit," and inserting "district."

The PRESIDENT. Does the Senator make that motion?

Mr. BENJAMIN. That motion was made by the Senator from Illinois; but it is evident that if agreed to, the bill would require some further preparation. I am perfectly willing to let the bill pass now, if the majority of the Senate are in favor of it. I will, therefore, move to strike out some word in one section of the bill to test that question, and if it is the intention of the Senate to create only a district judge with circuit court powers, then the bill can be modified.

Mr. WELLER. Very well; let us vote on that.

Mr. BENJAMIN. I then move, in the first section of the bill where it provides that this court shall be known as a circuit court of the United States for the district of California, to strike out the word "circuit," and make that a test vote.

Mr. BAYARD. I do not mean to continue this debate; but as a member of the Committee on the Judiciary, I may say that this bill was reported in opposition to my opinions. I have not desired to effect by indirection what could not be effected directly; but the argument which I have heard here has shaken those opinions, and must lead me to believe that there is a necessity for this, although I am opposed to patching up the judicial system. The Senator from Illinois stated that the effect of the bill is to introduce a system not in harmony with the existing system—an incongruous system. Sir, there is no harmony in the existing system. There is no congruity in it. It is incongruous, because a district court in one quarter of the United States is clothed with circuit powers, without an appeal to a circuit court; and as this is only to establish a circuit court judge in one quarter of the Union, and not in the other, one is no more incongruous than the other; and I cannot see any possible benefit growing out of altering the title of the court from the circuit to the district court, if you confer substantially the same power on the district court. In either case you dispense with the attendance of the Supreme Court judge in that circuit; and whether you are to give the entire power of the circuit court, as well as the district court, to the district judge, or whether you are to have a district judge with separate circuit duty, I think is very immaterial so far as any congruity is concerned.

Mr. GWIN asked for the yeas and nays on Mr. BENJAMIN's amendment; and they were ordered.

Mr. ADAMS. Before voting, I wish to state that I understand they have two district judges in California. One of the great necessities which exists for this legislation arises from the fact that one of the judges has visited New York, in place of attending to his business at home. He was taken sick, and has been in New York for a considerable length of time; and now Congress is called upon to pass a law to supply the deficiency caused by the failure of the judge to attend to his duty. I cannot vote for it. Let him resign, if he cannot go back and attend to his business.

Mr. WELLER. I ought to say, in justice to the district judge of the northern district of California, that he came to New York some four months ago, and since that has been in the hands of a physician constantly. He is very anxious to return to California, I have no doubt. He is prevented from going there by sickness, and I saw yesterday letters stating that, if he did go, it would be at great risk. Now, Mr. President, there are three hundred appeals from the land commissioners in the northern district of California. It would take a single judge two years to dispose of those appeal cases. I regard the proposition to strike out "circuits" and insert "districts" as the defeat of the bill. I do not know whether it is so intended or not. Very probably the Senator from Illinois desires to defeat it, as he has intimated that we are endeavoring to do, by indirection, what we have not courage to do directly. I can assure the Senator that I never do anything indirectly—I never seek to get any system of legislation incorporated in the statute-book that I am ashamed to avow directly. All that we want is a court there. We want such a court as will enable us to dispose of these land cases. I undertake to tell that Senator that I can select a single case, on appeal from the board of land commissioners, in the district court, which involves a far larger amount of money than is involved in all the cases now pending in the Supreme Court of the United States.

Mr. DOUGLAS. The Senator from California seems to think that my object is to defeat the bill. I avowed distinctly that my object was to defeat the establishment of a circuit court, in order to establish, in lieu of it, a district court with circuit court jurisdiction as well as district court jurisdiction; and that will accomplish all the objects of the bill. If he has no other object than the transaction of the business in California, he can give no earthly reason for objecting to the amendment, for it proposes to give this new judge the same jurisdiction that the bill does as it stands.

Mr. WELLER. If he prefers calling him the district judge, to the circuit judge, I have no objection.

Mr. DOUGLAS. That is precisely the proposition.

Mr. WELLER I ask the Senator whether his intention is to let him perform the duties which are enjoined under that bill?

Mr. DOUGLAS. We propose to allow him to perform those duties; hence we want to know why the necessity for giving the name of a circuit judge, when it is an anomaly in our system, unless it is to create a precedent to accomplish another object hereafter which the Senate are not willing now to vote for. If they will change the name, then they will divest the bill of the just suspicion that it means more than appears upon its face. I intend to say simply that, if the object is to give the jurisdiction, it is done under the amendment as well as under the bill. Why, then, charge that I wish to defeat the bill? I wish to give the Senators as many judges as they ask. I wish to give them the same jurisdiction that they ask for; I wish to give them all the facilities in the performance of the business that they ask. We differ only as to the title, and this title becomes important; for if you begin with the title of circuit judge in California, my friend from Arkansas will want the same grade in Arkansas; and so it will be wanted in the other States.

Mr. WELLER. Let me ask the Senator whether it would not be an anomaly in our system to invest a district judge with the right to decide cases on appeal? There would be an anomaly, as the Senator is talking about anomalies.

Mr. DOUGLAS. You have given circuit court jurisdiction, as well as district court jurisdiction, in the State of Texas to the district judge. It is not necessary on appeal; you allow him to decide the same cases.

Mr. WELLER. An appeal from himself?

Mr. TOUCEY. I desire to correct a misapprehension. The bill does not give to the circuit judge any district powers whatever. It confers upon the judge only the powers of the circuit court, with one exception, and that is with regard to land appeals. It allows the circuit judge to sit with the district judge in the disposition of those appeals. If the motion of the Senator from Louisiana prevails here, it will be nothing but a misnomer; it will not be a district court like any other district court, but entirely different from it; and, on the other hand, exactly like a circuit court. If it were as he supposes, it would be to have two district courts within the same jurisdiction.

Mr. DOUGLAS. Then, according to the explanation of the Senator from Connecticut, this gives no relief as to the amount of original business arising in California. It only gives the relief as to the appeals. They wish to have appeals now made from the district judge to the circuit judge before the case comes to the Supreme Court. Why insist on that in California any more than in Wisconsin, or in Iowa, or in Arkansas, or in Texas, where it heretofore has been, and is now, the practice to allow appeals from a district judge holding the circuit court directly to the Supreme Court without any separate circuit judge? That is the case in four States of this Union now. Why is it any more a hardship to allow it to be so in California than in those States? Why does California wish to be excepted from the rule of justice which all admit is just and satisfactory in the other States? This thing of giving the district judge circuit court jurisdiction is not new. It originated as long ago as the last century, in Kentucky, in Louisiana, in Arkansas; and, in most of the new States, it has been the case from the beginning of the Government to this time. What, then, can be the objection to putting California, in regard to appeals, on an equality with what has been the uniform rule in nearly every new State of this Union? I supposed the objection was not because she required a superior order of court, but she required a court that could perform her business.

By providing an additional district judge, with circuit jurisdiction as well as district jurisdiction, we shall relieve her to a greater extent than the bill now does, because do you not see that then the appeal may be taken directly from the district court, or the circuit court, as the case may be, to the Supreme Court of the United States? There is no difficulty, then, if you would apply that rule in California which exists in Texas. The amendment of the Senator from Louisiana is an additional relief. Then what is the argument in favor of calling in a circuit judge? It is to lay the foundation of another system of circuit judges in the northwest and in the southwest, and then to relieve the Supreme Court Judges from circuit duties. This is to be the entering wedge to the overthrow of the entire system. I do not charge any such design, but every man sees that it is the inevitable effect of the proposed legislation. When, then, all the objects of the bill will be accomplished by the amendment which is prepared by the Senator from Louisiana, I cannot see why there should be this pertinacity in adhering to the name of circuit judge, instead of district judge.

Mr. PEARCE. The Senate does not seem likely to take a vote upon this bill now. I therefore move to postpone its further consideration until to-morrow.

Mr. ADAMS. In order to have a test vote whether we shall legislate further on this subject, I move that the bill lie upon the table; and upon that motion I ask for the yeas and nays.

Mr. PRATT. I suppose the motion of my colleague has precedence.

The PRESIDENT. The motion to lay upon the table has precedence.

The yeas and nays were ordered.

Mr. RUSK. If the Senator will withdraw his motion, I want to make a statement.

Mr. ADAMS. I withdraw it.

Mr. RUSK. The State which I in part represent has been referred to once or twice, and, as we are destitute of the necessary legislation upon the subject of the judicial authority of the United States, I feel it incumbent upon me to say a few words.

We are badly off, to be sure, but not half as badly off as California. The jurisdiction which the United States court exercises in California is, from all I have learned, really an oppression upon its citizens.

Mr. PEARCE. I do not wish to interfere with

the honorable Senator; but I have made a motion that this matter be postponed until to-morrow, and I want him to confine himself to the question of postponement. I suppose it is not in order to debate the bill on that question.

Mr. RUSK. Then I will keep in order and say that this bill is of more importance than the bills which the honorable Senator seeks to get at by his motion. Those bills are mere legislation for the fun of the thing, and it will so turn out. It is for the amusement of the thing that that legislation takes place. I will show how it will be so. There are a dozen separate bills; there will be forty of them before we get through. Every morning a half dozen of them are introduced, all asking appropriations for internal improvement in separate bills. We are within three weeks of the adjournment of Congress. As I understand the rules of the House, when the bills go there, they will have to be referred to the Committee of the Whole on the state of the Union, because they make appropriations. Well, sir, that committee has before it, if I have been correctly informed, a hundred times more business than it can get through with during the session.

A SENATOR. Prior bills can be laid aside.

Mr. RUSK. The honorable Senator suggests that they can lay aside the prior business and take up these bills. I know a great many bills which have passed here with a view of having them reached in that way; but, sir, there are a great many bitter opponents of this system of internal improvements, either by the single dash or by the whole. I have been informed, and I have seen its practical operation, that the rules of the House can be so used by a minority as to defeat any action for a long time.

Then, sir, I regard this legislation as useless. I am not whipping the devil round the stump. I have voted for these internal improvement bills, and shall do so again; but I will not sanction this method of having a thousand bills. You will have to have that many if you carry out this plan, because there are that many objects of internal improvements. I will not sanction such child's play business. I shall vote against it. I have introduced no bill on the subject, though there are some objects of internal improvement in the State of Texas just as deserving, and just as national, as there are in any State in the Union; but I do not intend to introduce bills to go through this farce in reference to them. I know a great many things are said about log-rolling in a general bill. It is just the same thing when they are taken separately. There is just the same liability to log-rolling in the one case as in the other. All these improper influences will be brought to bear as long as human nature is the same; and they will be used just as efficiently in the one case as in the other.

Then, I regard the bills, which the honorable Senator from Maryland desires to get at, as not likely to accomplish anything at all, unless to get bills passed here, so as to have it said of some members, as I heard it said on the floor yesterday, "that gentleman has been very industrious, he has introduced a bill, and got it passed as a separate measure." So far as I am concerned, I care nothing about such a reputation. I have no object in getting a bill passed in the Senate, unless I can get it through the House of Representatives. But I do not desire here to have displaced what I regard as a matter of vast importance to the people of California. I said before, from all that I can learn, the present judicial system is oppressive to California, and you ought to do one of two things—either extend the full benefit of the judicial system to California, or repeal the district courts and allow the State to settle her own controversies. What is the necessity of annoying the State by partial jurisdiction which puts the citizens into the courts and keeps them there, God only knows how long? It has been said that the district court can do circuit court duties. I regard it as very different. The circuit court has the right to hear cases upon appeal; the district court has not. As to the amendment, it will make perfect nonsense of the bill. Whoever heard of two district judges in one district?

Mr. BENJAMIN. If the Senator had listened he would have discovered that I merely proposed to strike out the word "circuit" and insert "district" as a test vote. If it should be carried, of course, the bill will have to be remodeled.

Mr. RUSK. Then it is tantamount to a rejection of the present bill. I think, sir, it will be an advantage and benefit to California to have this circuit jurisdiction in order to have appeals taken to the circuit court there. It is very expensive to bring appeals all the way from California to the Supreme Court of the United States to be decided. There are questions growing up in California involving millions of property. They are questions arising under a totally different system of law from the common law. They arise under the civil law, not the common law. Most lawyers, who investigate the circumstances, know that; and most of the judges who are sent there as district judges are common law lawyers, and are not familiar with the principles of the civil law as they should be to determine such vast interests as are subjected to their charge. Well, sir, when there are questions involving such immense amounts of money, every door should be left open for a fair investigation, and a final determination upon them; and if you pass this bill you will have an investigation before the district court, which will give both parties an opportunity to investigate the principles on which the case is to be determined. Then there will be the right to appeal to the circuit court. The district courts are now overloaded with the subjects of their jurisdiction, so that it is utterly impossible for them to give that attention to the questions involved which should be given; but if such a bill as this is passed, there will be a better opportunity of investigating the questions. You will have an additional guarantee of an investigation by a court, which, from the nature of its institution, must be better prepared to deliberate on the subject than the district court can be; and then there will also be the right to come to the Supreme Court of the United States.

Mr. PEARCE. Mr. President, I believe that there are few members of this body who trouble the Senate less frequently than I do, and I know that there is no Senator who more constantly and carefully refrains from what is called "speaking to Buncombe" than myself; and not one who abstains more than I do from the introduction of bills which can be supposed to be intended merely to gain a little local popularity. I disdain all such artifices. But it seems to be intimated by the Senator from Texas that there is some such motive in this case. If he thinks so he is probably alone in the enjoyment of that opinion, for I venture to say that no other member of the Senate thinks so. Nor am I in the habit of pressing business against the evident sense of the Senate. I regulate my conduct here differently. I do not inquire, when a measure is before the Senate, what may be thought of it in the House of Representatives. It is nothing to me, and should, I think, be nothing to any Senator, what views may be held in the other branch of Congress upon questions here which demand our separate investigation and independent judgment. We are a distinct body—equal to, and independent of, the House, and owing a separate duty to the country, and to our own characters and reputations.

Though I hold the House of Representatives in the highest respect, I acknowledge no obedience to its will, and I will not consent to be governed in my course here by the consideration of what they may or may not be likely to do. I think we are too often approached with language of that sort. This body will come, after a time, to be a mere appendage of the other, if we do not act upon our sense of what is fit and proper, without regard to what may be the action of the other legislative branch.

In regard to the bill which I wish to take up, allow me to say, that, although I did not introduce it, I most heartily approve it; and as to the advocacy of it as a separate measure, we are only conforming to the declared will of the Senate. Yesterday the Senator from Louisiana [Mr. SLIDELL] moved to take up a separate bill for the improvement of the navigation of the Mississippi, at its mouth, and it seemed to me that the general sense of the Senate was that such was the proper course, since the Executive veto of the general river and harbor bill. That seemed to be the opinion of the Senate, because, notwithstanding some objections, they passed that measure separately, as the first of a series of bills of like character. The bill to which I desire to speak to-day was the next in order. When it was taken up yesterday and discussed for a time, a question was asked to which an answer was necessary, and that answer I wish to give now. When the motion was made, this morning, to take up the bill now under consideration, my colleague asked whether, if debate upon it should be prolonged beyond one o'clock, the Senator from Connecticut would consent to its postponement. I supposed that such was the understanding; and when the hour of one had been some time past, I asked to have the bill postponed till to-morrow, in order that the unfinished business of yesterday might be disposed of, expecting, of course, that the understanding of my colleague and the Senator from Connecticut, would be carried out. And now we are told that the bill for improving the Patapsco river is a mere flourish; that it is unnecessary legislation, and will never get through the other House. I do not think so; but however that may be, I wish to discharge my duty in this respect, and leave consequences to those who may control them.

Mr. SEWARD. I hope this bill will not be postponed. There will probably be no better time than this to dispose of it, and we ought to dispose of it now, if it is of sufficient importance to engage the attention of the Senate at all. It strikes me that it is a bill of exceeding importance.

The State of California is in a very peculiar situation, so remote from intercourse with the rest of the Union that she cannot avail herself of the benefits of the visits of the Judges of the Supreme Court. She cannot have a circuit court adequate for the performance of the duties of judicial officers devolving upon the tribunals there. Even if the present judge of the northern district should recover his health, and be able to return to that State, still there is need, as we hear, of an additional tribunal. I know of no interest that is so important to society, as the interest of the administration of justice. Material improvements can wait, but the administration of justice must be carried on. It must be carried on promptly, vigorously, effectively. It must be carried on with punctuality; and I know of no imprudence that a central power like this can commit, equal to that of leaving remote regions to the indulgence of complaints of a want of diligence and promptness in the administration of justice. It is in such complaints that revolutions have their beginning. I, therefore, see no case more urgent than this of providing for the administration of justice in California.

In regard to the bill itself, it seems to me that we do not differ as to the necessity of the measure, but the only question is as to the name of the judge who shall hold the court. I am, in principle, opposed to releasing the Supreme Court Judges from circuit duties. I should not, therefore, favor a form of this bill which would lead to that result. But I think the Senator from Illinois, [Mr. DOUGLAS,] in his zeal to preserve the present system, exaggerates the danger of this precedent. I see nothing that is dangerous in it. It is true that there will be a circuit judge in California, and a circuit judge nowhere else. I have seen the same thing occur in New York without any prejudice. We had the judicial system for the State, and judges for the State, but it was found inadequate to the city of New York; and we therefore established, a long time ago, a superior court, a different and distinct tribunal, not distinctly recognized by the Constitution, but ingrafted on the system. It has worked well. I have seen the same difficulty occur in the western portion of the State—in Buffalo, where many large commercial cases arise. There we had to add, heretofore, an equity judge, giving to that district two equity judges, while other districts had but one. No inconvenience has arisen from that. Those courts existed there when we came to revise the judicial system of the State, and no difficulty arose from those anomalies, in making such a system for the whole State as was decided upon by the convention.

The force of this precedent, it seems to me, will be very slight, in the readjustment of the courts hereafter, and I am, therefore, content to take the bill in either shape. If the honorable Senators from California think it is material that the bill shall retain the circuit court, I shall vote with them with great pleasure. If they can be satisfied that the change which the Senator from Illinois proposes will answer equally as well, and will consent to the amendment, I will then go with the Senator from Illinois.

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Mr. TOUCEY. I hope there will be no more debate in regard to the bill. I had supposed it was understood that the question was to be taken. If there is to be debate I certainly shall be bound to give way to the unfinished business of yesterday.

The PRESIDENT. The question is on the motion of the Senator from Maryland, to postpone the further consideration of the bill until to-morrow.

Mr. GWIN. I hope the Senator will withdraw that, and let us have a vote at once on the amendment by yeas and nays.

Mr. PEARCE. If the vote can be taken, I am willing to withdraw the motion.

The PRESIDENT. The question, then, is on the motion of the Senator from Louisiana, to strike out "circuit."

Mr. BENJAMIN. I am bound to say a few words on the question, after the discussion which has taken place on the other side.

Mr. PRATT. I understand now, that inasmuch as the Senator is disposed to debate the question further, the Senator from California will consent to let the bill go over until to-morrow.

Mr. WELLER. That was my agreement; I abide by it.

Mr. PRATT. I make the motion that it be postponed until to-morrow.

The motion was agreed to.

IMPROVEMENT OF THE PATAPSCO RIVER.

The Senate, as in Committee of the Whole, resumed the consideration of the bill for the improvement of the navigation of the Patapsco river, and to render the port of Baltimore accessible to the war steamers of the United States.

Mr. PEARCE. When the Senate adjourned yesterday, I had taken the floor to reply to a question put by the Senator from Virginia, [Mr. MASON.] He asked whether there had been a report and estimate upon this subject. I replied that there had been a report made by an officer of the engineer corps, and a detailed estimate sent into us with the documents accompanying the President's message at the beginning of the last session. I do not propose to read the report of Captain Brewerton, but to state very briefly its contents.

The city of Baltimore is situated about fifteen miles from the mouth of the Patapsco river; Fort Carroll is nearly half way between the city and the mouth of the river. Between the mouth of the river and Fort Carroll there are places where there is only from sixteen to eighteen feet of water at mean low tide, though the general depth of the water is greater. Above that, the shoals of the river, at ordinary mean low tide, are about eighteen feet, and between those shoals the water is of considerable depth. These obstructions prevent the access of vessels of large draught, such as are now preferred in the commercial marine of the country, as my colleague showed to the Senate in his report. The officer of engineers in charge of this subject has reported that these obstructions may be cut down to a sufficient depth, and that a continuous channel may be made adequate to the floating of vessels of a large draught of water—even of the largest steam-frigates; and that there will be no necessity for a renewal of the appropriation when once the improvement has been effected.

In order to ascertain whether the bed of the river was liable to changes from shifting sands, or accumulating bars, a comparison was made between the survey of Brantz, and map of Lucas, made in 1819, and the chart recently published by the Coast Survey, from which it appeared that little or no change in the river bottom had occurred in more than a quarter of a century, which pretty clearly indicates that there are no disturbing causes to modify materially the depth of the Patapsco waters in a considerable series of years.

This is inferred with more certainty from the topography of the neighboring lands, and the observations of the coast survey, showing a very little tidal variation—only about one foot between mean low and mean high water.

There is, indeed, some wash from the streets of the city, and some deposit from Jones's falls, a small stream flowing into the inner harbor. But then this deposit and wash find their place, in that harbor, and from it they are annually removed by the dredging machines belonging to the corporation of the city, and worked at its expense. The city of Baltimore and the State of Maryland have exerted themselves to clear the inner harbor, and to deepen the channel of the river.

The city council in the year 1852, I think, granted $50,000 to be raised for this purpose by taxation in three years; and the State grants the auction duties for the same purpose. These amounted last year to about $18,600, so that the city and State appropriations will be over $100,000 in three years. Already we have two steam dredges, a steam tug, and the necessary discharging scows thus employed, without the aid of this Government, to say nothing of the tonnage duties laid by consent of Congress for the improvement of the harbor. Captain Brewerton estimates the whole cost of effecting his plan for deepening the channel of the river at $390,000. My colleague's bill contains an appropriation of $300,000. I have two papers here, one a letter from the Secretary of War, addressed on April 6, 1854, to the chairman of the House Committee on Commerce, and the other a letter to the Secretary from General Totten, the chief of the Engineer Corps, in which the amount that can be usefully applied to this improvement during the year is set forth. Here is the Secretary's letter:

WAR DEPARTMENT,
WASHINGTON, *April 4*, 1854.

SIR: I have the honor to transmit herewith a report of the Colonel of Engineers in reply to the inquiry in your letter of yesterday, whether the estimates for improving the approaches to the harbor of Baltimore may be increased profitably for the general interests of commerce.

By the report and enclosed statement, it appears that a larger sum than was estimated for could be expended beneficially to the improvement in question.

Very respectfully, your obedient servant,
JEFF. DAVIS, *Secretary of War.*

Hon. T. J. D. FULLER, *Chairman Committee on Commerce, House of Representatives.*

The letter of General Totten is as follows:

ENGINEER DEPARTMENT,
WASHINGTON, *April* 4, 1854.

SIR: In reference to the inquiry of the chairman of the Committee on Commerce, under date of the 3d instant, whether the estimates for improving the approaches to the harbor of Baltimore may be increased profitably for the general interests of commerce, which was received at this office yesterday at two p. m., I have the honor to state, that the total expense of the contemplated improvements is estimated at about $400,000, supposing the work to be executed by contract. If the dredging be done by hired labor, and in the use of dredges built by the Government, the expense, it is thought, will be materially lessened.

On this point, I beg to refer to the copy herewith, of a statement made by the engineer officer in charge, Captain Brewerton.

The same officer considers that for the operations next year, there should be provided, in addition to means on hand, two steam dredges, one steam tug, and ten scows, estimated to cost.....$50,000

Amount required to work the three steam dredges, and one steam tug, for the fiscal year ending June 30, 1855, in addition to the balance that may be assumed to be on hand of present appropriation.. 10,000

Total,..... $60,000

This estimate assumes a rate of progress more rapid than that indicated by the appropriation already made, and by the annual estimate of the office similarly restricted; but not as rapid, in my opinion, as the great importance of the improvement would justify. At the rate proposed by Captain Brewerton, as above, some six years will be needed to complete the work, supposing no serious accidents, nor unforeseen obstructions. The same improvement we might reasonably expect to accomplish, without very great efforts in the execution, in half the time, under suitable encouragement by Congress.

An appropriation of $120,000, for the next fiscal year, would be a proper beginning of such an undertaking.

I have the honor to be, with great respect, your obedient servant,
J. G. TOTTEN,
Brevet Brigadier General and Colonel Engineer.

Hon. JEFF. DAVIS, *Secretary of War, Washington.*

I shall propose, before I conclude, with the consent of my colleague, to reduce the sum contained in his bill, from $300,000 to $120,000.

I have thus shown that there has been a report and estimate from the proper authority; and I now ask the Senate to indulge me while I state a few considerations, which, in my judgment, render it manifestly proper that the encouragement of Congress should be given to this work.

The city of Baltimore, sir, is no inconsiderable town. It is a city of two hundred thousand inhabitants, standing at the head of one of the finest estuaries in the world. It is well known for its vigorous and enterprising commerce, and for an active and varied industry. Its artisans and mechanics yield in skill and energy to none, whether their employment be in those handicrafts where the workman pursues his business solitary and in silence, or in great manufactories, amidst the busy din of a hundred workmen, whose stalwart arms are in operation at the same moment, and constantly. The most important, and all the necessary, mechanical pursuits are skillfully and vigorously followed, and whether in the building of ships and steam engines, the fabrication of the minor domestic utensils, or anything that requires labor for its construction, the art and industry of Baltimore stand high in the estimation of the purchaser. The neighboring country possesses great advantages in water power, and this has been largely and actively availed of, so that the city is the depot of many manufactured products.

Besides, Baltimore is a great commercial capital. It commands almost exclusively the trade of quite an extensive and fertile region. It receives large supplies from more distant parts of the Union, through great natural channels, and over magnificent artificial communications, which the State of Maryland has built with her own resources, and by her own energy, unaided by grants of land from the Federal Government, or any other favors. Of the tributaries of the Chesapeake, which are very numerous, three, at least, are among the greatest rivers on the Atlantic section of our Union. One of them, the Susquehanna, before it enters the borders of Maryland, pierces the center of two of the greatest States in the Union. Then, sir, we have the Tide-Water canal, which is intended to remedy the imperfect navigation of the Susquehanna. Then we have the Susquehanna railroad, stretching into the fertile south-eastern counties of Pennsylvania, which has recently been united with other improvements in that State, and merged in what I believe is called the Northern Central railroad. By means of this communication, we have a connection with the entire railroad system of New York and Pennsylvania, and the city of Buffalo, is placed within a shorter distance of Baltimore than with New York herself. Besides, we have the Baltimore and Ohio railroad, made by our State, at an expense of over $26,000,000, which spans the Blue Ridge and the Alleghany mountains, and reaching to the waters of the Ohio, binds us to the great valley of the Mississippi with bands of iron. This now affords the nearest communication between the Ohio and any city on the Atlantic sea-board.

All these channels, and others, sir, supply the materials for the commerce of Baltimore. That commerce is by no means as small as some gentlemen perhaps imagine; certainly not as small as they might suppose, judging from the amount of revenue received from the customs at that port. Our foreign commerce is not in proportion to the entire business of the city, partly because of those obstructions in our river, which prevent the approach of vessels of the largest class, and partly because of the commercial supremacy of New York, which has absorbed, to a very great extent, the foreign trade of other cities also. But even our foreign commerce (although our direct trade beyond seas has diminished within the last thirty or forty years) is still quite considerable, and is now increasing again.

Hunt's Merchants' Magazine for February, of the present year, reports the exports of Baltimore, to foreign countries, at $11,306,010, and the foreign imports at $7,750,387; in all a commerce of $19,056,397. This is but a small portion of the

entire trade of the city, for coastwise, and by internal channels, our business is of vastly greater amount.

I propose to state, very briefly, some items of this trade.

The coal trade of Baltimore is yet in its infancy. But in the year 1853, the receipts of Cumberland coal alone were four hundred and six thousand tons. It was quadrupled in the four years following 1849. Last year (notwithstanding a strike among the Alleghany miners for some months, which reduced the business during that period to a mere fraction of what it would have been) the quantity amounted, I think, to more than five hundred thousand tons. This business is now rapidly increasing, and must continue to increase. The Cumberland coal region is destined to prove one of the most productive in the world. It abounds with the finest coal, admirably adapted to domestic uses, to the purposes of the smithery, and to the generation of steam, and it is remarkably accessible, and easy to be mined. It can scarcely be doubted that, in a few years, it will rival the great coal region of Pennsylvania.

Besides this great source of business, the Tide-Water canal and our new railroad connections are opening to us the great anthracite deposits of Pennsylvania. In 1853, one hundred and eighty-three thousand tons of this variety of coal were received at Baltimore; and the present increased facilities must give greatly increased impetus to that business. The trade in both kinds of coal must have amounted, during the past year, to $4,000,000.

In raw cotton we have a more considerable trade than I was myself aware of until very recently. Our imports in 1853 were thirty-five thousand bales The greater portion of this, to be sure, was consumed by our manufacturers in Baltimore and its immediate neighborhood; but, then, a portion of it was exported directly; and since the opening of the Baltimore and Ohio railroad to the western waters, we have formed a connection as far west as Tennessee, and are now receiving quite freely, by the Ohio river and our road, supplies of Tennessee cotton. This, too, gives fair promise of liberal increase, and will prove mutually beneficial to Maryland and the State of my honorable friend, [Mr. BELL.]

Baltimore is a great market for breadstuffs. In 1853, notwithstanding the short crops in Virginia, from which, as well as from North Carolina, Pennsylvania, and Ohio, we receive breadstuffs—and the unusually low stage of water which prevailed, the receipts of breadstuffs at Baltimore were $8,275,459, as estimated in the Baltimore Price Current. It must be remembered, too, that the causes I have just mentioned were supposed to have diminished the receipts of flour by three hundred thousand barrels.

It is a great mart for iron. So it is in regard to lumber. I find that in the year 1853 nearly one hundred million feet of lumber were received, principally from the Susquehanna, and from our own eastern shore. The value of this, I presume, is at least $1,500,000. Tobacco is one of our principal staples. In the year 1853 we received, at Baltimore, sixty-one thousand two hundred and twenty-seven hogsheads; and in some years the quantity has gone considerably beyond this. Of these sixty-one thousand two hundred and twenty-seven hogsheads, we exported to foreign countries about fifty thousand. If the whole quantity be estimated at six dollars to six dollars and twenty-five cents per hundred, which is said to have been the average price in October, 1853, the value of this trade would be near $4,000,000. It is also a great coffee market; and there is no city in the Union, except New Orleans, that imports so much of this article. The importations of coffee in 1851 were over three hundred thousand bags, chiefly from Rio de Janeiro and Laguayra. It also has a large trade in molasses and sugar. It received in 1853, from New Orleans and the West Indies, nearly twenty-six thousand hogsheads of sugar. In guano the trade is larger than that of any other city in the Union, and about half of the whole United States. In the year 1853, one hundred and seven vessels from the Chincha Islands came into the United States; and of those fifty went directly to Baltimore, and the amount of guano thus brought to Maryland was thirty-two thousand one hundred and fifty-two tons, besides the importations, of Patagonian and Mexican guano.

These items, sir, indicates the character of our trade. There are other materials of commerce of minor importance, but which, taken together, make an aggregate of great amount, which I have not thought it necessary to state; but I must have shown the Senate enough to satisfy them that our whole trade is worth at least double or treble our direct foreign commerce, and reaches an amount which would justify, if anything can justify, a demand on the national Government for such facilities for navigation and commerce, as are necessary to protect and improve that trade.

But I think we deserve it for other reasons. I think we are entitled to it from the fact that we have not been the spoiled pet of Government, and have not been constantly calling for appropriations; but we have put our own shoulders to the wheel without calling in the aid of Hercules. We have expended our own money, and we expect to continue to advance money for the improvement of our harbor whenever it may be necessary. My colleague has mentioned the fact that our vessels of war and large coal transports can be coaled with more advantage at Baltimore than anywhere else. Now they must lie at the mouth of the river, and have the coal brought down to them in lighters. I will add, on the testimony of an intelligent ship-master and merchant at Baltimore, that the expense of the Government, in that particular alone, will in a very few, probably in two or three years, pay the whole amount which is necessary to make this improvement. We are now increasing our naval steam marine, and the great expense of fuel for the use of such ships will suggest the wisdom and economy of an improvement so obviously important in this view.

Besides, sir, in the event of a war, every one knows that the Chesapeake bay is not and cannot be defended by fortresses, so as to exclude hostile fleets from its limits. They will find shelter in the bay and harrass the whole country or its shores, and perhaps invade again the capital of the Union, as they did in the war of 1812, unless we have a naval steam force competent to its defense. That naval force can find no secure refuge in that part of the bay which lies to the right of the Capes, nor the means of renewing its supply of coal, except in the harbor of Baltimore, the approaches to which must be improved for its benefit as well as the general advantage of commerce.

There is another reason for it. I desire to give a statement, exhibiting the amount of revenue received at the port of Baltimore, and the amount expended for the benefit of the commerce of that city since the organization of the Government. because it shows how much the Government has received from this source, and how little it has expended at Baltimore in return. I find the amount of revenue from customs at Baltimore from 1789 to 1853, inclusive, was no less than $87,204,983, and the amount of expenditures for collection, $3,490,215, so that Baltimore has contributed to the Treasury of the United States the nett sum of $83,714,168. I know of no appropriations which have been expended, unless for the purchase of the custom-house, which is far inferior in cost to that of some third rate city, for the erection of a public store, and about $65,000 for the improvement of our river. In a long series of fifty-six years, this is all that has been appropriated in the way of improving our navigation and furnishing facilities to a commerce which has yielded so much to Government and asked so little from it.

Now, sir, I submit that, if there be such a thing as an object of national importance, in reference not only to the commerce of the place, but also to the commerce of the whole country, this is one; for Baltimore is connected with Charleston, Mobile, New Orleans, and Savannah, as well as all the principal cities of the North, by lines of steam-packets and sailing vessels constantly traversing the ocean in regular trade between our city and these points; and therefore any facilities which are afforded to the commerce of Baltimore enure to the advantage of the whole country. I trust, therefore, there will be no objection to making the appropriation, and especially no constitutional difficulty in the way of its approval.

I now move to reduce the sum in the bill from $300,000 to $120,000, the amount which General Totten says can be judiciously used in one year.

The amendment was agreed to.

The bill was reported to the Senate, as amended; and the amendment was concurred in.

The PRESIDENT. The question is on ordering the bill to be engrossed for a third reading.

Mr. HUNTER. I suppose this bill involves the principle of the bill which was vetoed. It involves the question whether we shall appropriate for harbor purposes. It seems to me we may as well make a test here as anywhere, and I ask for the yeas and nays on it.

The yeas and nays were ordered.

Mr. PEARCE. I will state, in a word, that it does not involve an appropriation for the harbor. As I stated, the harbor is cleared out by the city authorities themselves. The object of this appropriation is to deepen the approaches to the harbor, and improve the channel of the river. The harbor we expect to keep open always by our own means.

Mr. BUTLER. I should like to know how many bills of this kind are coming in. It is understood they cannot be tied together; but if one after another comes in, what limit will there be? What assurance have we that the other bills, taking refuge in the authority of this, will not be brought in upon the same reasoning as that of my friend from Maryland?

Mr. PRATT. Nobody can tell how many more will be introduced. We know now of no others except those on the Calendar.

Mr. BADGER. That is a matter which must be decided by the Senate.

The question, being taken by yeas and nays, resulted—yeas 29, nays 7; as follows:

YEAS—Messrs. Allen, Badger, Bell, Benjamin, Brodhead, Cass, Chase, Dawson, Dodge of Wisconsin, Dodge of Iowa, Fessenden, Foot, Geyer, Gillette, Houston, James, Jones of Tennessee, Morton, Pearce, Pettit, Pratt, Sebastian, Seward, Slidell, Stuart, Thompson of Kentucky, Wade, Weller, and Wright—29.

NAYS—Messrs. Brainerd, Brown, Butler, Clay, Evans, Fitzpatrick, and Hunter—7.

So the bill was ordered to be engrossed for a third reading. It was then read a third time, and passed.

ST. CLAIR FLATS AND ST. MARY'S RIVER.

On motion by Mr. CASS, the Senate, as in Committee of the Whole, proceeded to consider the bill making appropriations for deepening the channel over the St. Clair flats, and for deepening the channel over the flats of the St. Mary's river, in the State of Michigan.

The bill, as originally introduced, appropriated no specific sum for these improvements, leaving the amount blank; but the Committee on Commerce reported it, with amendments, to insert $45,000 as the appropriation for deepening the channel over the St. Clair flats, and $5,900 for the St. Mary's river, and to provide for expending the latter sum in deepening the ship channel on East Neebish rapids of the St. Mary's.

Mr. CASS. I wish to make a very few remarks to the Senate on this subject. If there are any improvements which come within the principles of the Constitution, these are of that class. These improvements are necessary, both for purposes of peace and war, the accommodation of the public marine, and of private vessels. They are on the great line of our northwestern frontier, and form the communication between the lakes. The communication between Lake Huron and Lake Erie is interrupted by flats in the river St. Clair. The communication between Lake Huron and Lake Superior is interrupted by rapids in the river St. Mary's. For the improvement of the flats of the St. Clair river an appropriation has already been made by Congress of $20,000, and the Department has, this year, estimated $45,000 for that object. The importance of this improvement cannot be over-estimated.

I hold in my hand a few statistical facts on this subject, which will almost amaze honorable Senators. There are very few Senators who do not live on those lakes, and not many who do live there, who are aware of the immense importance of the commerce over these lakes, the passage of which is delayed by these difficulties every year.

It is computed that the value of the whole amount of property passing those flats in a year is nearly fifty millions of dollars. Surely this vast amount of commerce has some claims on our consideration. The present depth of water on these flats is nine and a half feet. The Senate well know that there is a rising and falling of the lakes; but this is not periodical, as has been supposed by some. The lakes are now falling, and the

depth of water on these flats has been as low as eight feet; and it is liable to fall to that depth. Of course the vessels doing business on the upper lakes could not pass through at all in that stage of water. Now, the way they do pass is this: the larger vessels are unloaded, and there are a great many tow-boats employed; I think my memoranda state that there are eight tow-boats continually employed in towing them through. The difficulty in respect to the passage is, that it is so narrow that one vessel which gets stuck there embarrasses and stops all the rest until it is removed; two cannot pass at the same time.

I hold in my hand a statement from one of the principal vessel owners upon the lakes, a man of intelligence and probity, from which it appears that the average daily detention of vessels in the month of November last, on these flats, was seventy-five, taking one day with another. At one time, during that period, there were as many as one hundred and twenty-seven delayed. Vessels have been known to be kept there four months.

The annual number of passages over the flats, by sailing vessels, is twelve thousand six hundred. The number of passages by steam vessels is one thousand six hundred and eighty. The average detention of thirty sailing vessels a day for two hundred and ten days, at $40 a day, amounts to $252,000. The average detention of six steamers for one hundred days, at $250 per day, amounts to $150,000. The expense of eight tugs for two hundred and ten days, at $75 per day, is $126,000. Interest on thirty-six cargoes, two hundred and ten days each, valued at $9,000 apiece, amounts to $13,047. Here is a total loss of over $550,000 in consequence of these obstructions. But this is not the only loss. The delay which is occasioned is very injurious to the country. Vessels leave Milwaukie and Chicago, and other places on the upper lake, with cargoes of grain. The amount of these cargoes is drawn for on New York, and if any accident delays the arrival of those cargoes for any long period of time, it is a very serious injury to the seller and bill-holder. It is not only the actual detention which happens to the vessels, but the great inconvenience which is occasioned to the commerce of the country that is to be remedied.

I do not know that I need say anything more in relation to the appropriation for the St. Clair flats. The statistical facts which I have presented show its vast importance, and an injury to the commerce of this country every year more than ten times as large as the appropriation now required to complete the work. With respect to that portion of the bill which provides for deepening the channel of the St. Mary's river, I shall offer an amendment which is rendered necessary by a circumstance which I shall mention. When this bill was introduced, there was but a very imperfect estimate for that work. The principal portion of the difficulties over the St. Mary's river is at the Neebish rapids, as they are called; and since the bill was presented, we have received from the War Department a report required by an act of Congress passed two years ago, directing the Secretary of War to make a survey of the St. Mary's river with a view to its improvement. In the report which has been received from the War Department, the engineer goes on with a detailed statement of the improvement, which it is not necessary to read. He finally puts down as the total sum necessary for improving the St. Mary's river, by the west channel through Lake George, at $160,772.

Every gentleman is aware of the fact that immense quantities of copper and iron are continually coming down from the upper country, by way of Lake Superior, and the other articles of commerce of that region are important, though, of course, not as great as the commerce over the St. Clair flats. Some two and a half years ago an act of Congress was passed granting seven hundred and fifty thousand acres of land for the construction of a canal around the falls of the St. Mary's river. I am happy to say to the Senate that the quantity of land thus appropriated has been well and wisely applied, and I may say that the canal is completed; for, although the boats have not got through, and the contractors have until the 1st of May to complete the work, it is effectually and substantially completed; and I am told by the chief engineer of the State of New York, a man who understands his business well, that it is the most magnificent structure of the kind in the United States. And it affords me pleasure to bear testimony to the ability, energy, and fidelity of the superintendent, Mr. Brooks, to whom the successful result is much owing; and he was well supported by the directors of the company.

That canal is nearly a mile in length; its width is one hundred feet; the depth of water twelve feet. The two locks are three hundred and fifty feet long each. The height of the lock-walls is twenty-five feet. The width of the locks is sixty-two and one half feet at the bottom, and seventy feet at the top. I repeat, the work has been eminently well done, and, in my opinion, at a great loss to the contractors. All of us familiar with the northwest know that the work could not have cost less than a million of dollars. In my opinion, it cost more. The contractors are to receive seven hundred and fifty thousand acres of land, and that land, of course, they cannot touch, as it has been withheld from them for two and a half years. If they had gone into market with their million of dollars and bought up land warrants, they would have made a much better bargain; but luckily for the completion of the work, it fell into the hands of four or five men, each of whom was abundantly able to make the canal. It is completed, and well completed. I do not know that I need say more on this subject. The amendment which I indicated my wish to offer, is to strike out all of the bill except that portion providing for the improvement of the St. Clair flats, and to insert in lieu of the portion stricken out:

"And that the sum of $40,000 be, and the same is hereby, appropriated towards deepening the channel of the St. Mary's river, by the west channel, through Lake George, according to the estimate of Captain Macomb, of the Topographical Corps, communicated to the Senate in the report of the Secretary of War, dated January 18, 1855: *Provided*, that the dredging machine purchased for the improvement of the St. Clair flats may be employed while not required therefor, at the discretion of the Secretary of War, in the improvement of the St. Mary's river."

Mr. BELL. I wish to suggest whether this bill does not combine together two distinct objects, and whether that is not contrary to the policy which has been indicated.

Mr. CASS. They are, substantially, parts of the same line of communication.

Mr. BELL. But they are two distinct works.

Mr. CASS. They are not in the same place. That is all that can be said. They are on the same line of communication.

Mr. BELL. I understand the deepening of the channel of the St. Mary's river is a different matter from deepening the channel over the St. Clair flats.

Mr. CASS. They are separated by Lake Huron; but they are on the same line of communication between the upper and lower lakes.

Mr. BELL. I leave it to the honorable Senator to determine whether it be expedient to connect the two measures together; I do not object to it. Did I understand him to say that the water over the St. Clair flats is never less than nine and a half feet in depth?

Mr. CASS. I have said that it is sometimes as low as eight feet.

Mr. BELL. Never lower than eight?

Mr. CASS. No, sir. It is about nine and a half feet now. With respect to the other question of the honorable Senator from Tennessee, I will say, that the Senator from Texas, in the remarks he made a few minutes since, did not seem to comprehend the reason why it should be proposed to make these separate appropriations. I agree there is nothing in principle requiring this; but in practice it has been found that when you connect these appropriations together, you include those about which the Executive may have doubts; and if the Executive, who is, by the Constitution, to approve or reject your bill, finds in the same bill some appropriations which he cannot approve, and some which he can approve, he rejects the whole. These separate bills have been introduced in accordance with the suggestion made in the President's message, that these measures should go to him as much disembarrassed as possible from the effect of each other. These two works are on the same line of communication, and stand on exactly the same principle, and of course, if there be any constitutional objection to the one, there would be to the other.

Mr. BELL. I do not object to the bill.

Mr. SEWARD. I think it proper to state, in regard to this, what may, perhaps, be useful in another stage of the debate on these bills generally. This is part of one continuous natural navigation from Buffalo, or from the mouth of the Niagara river, to Chicago and to Lake Superior. Vessels proceeding from Buffalo to Lake Superior, go over the St. Clair flats, and through the St. Mary's canal. It seems, therefore, that it is properly one continuous navigation.

I am instructed by the Legislature of New York to support both these measures, and I have a word, therefore, to say in relation to the bill. It assumes new importance from the circumstance that we have now obtained a treaty with Great Britain for the free navigation of the St. Lawrence. This is one of the steps necessary to complete the inland navigation from the head of the lakes to the Atlantic ocean.

The PRESIDENT. There are a number of amendments reported by the committee, the first of which is to insert $45,000 as the appropriation for the St. Clair flats.

Mr. HUNTER. I would ask the Senator from Michigan if there has not been an estimate by which it was computed that $32,000 would suffice to complete the work?

Mr. CASS. No, sir. There are two estimates submitted by the engineer; one of $99,000, and the other of $160,000; but, for the reason which he gives, he recommends the plan requiring $160,000, by continuing the work on the west side through Lake George.

Mr. HUNTER. I thought there had been a proposition from two towns, Buffalo and Chicago, I believe, to have the work done for the amount which I stated.

Mr. CASS. That would be a temporary arrangement for the present. It might be that for that sum they could scoop out a channel which would last for some time; but we ought to have the work done permanently. The engineer, in his report, says:

"The channel now frequented on the eastern side of Lake George is more direct, having a length of but two miles through the shoal ground of the lake, (half the length of the west channel;) it is, however, very narrow, and requires dredging at several points."

He then goes on to give the items of the improvements on this plan, the cost of which would be $99,000. He recommends, however, the improvement by the west channel through Lake George, and over the East Neebish rapids, the cost of which work will be $160,000. That report comes to us with the sanction of the War Department, recommending this as the preferable route. I repeat, this survey was made in conformity with an express act of Congress directing it.

Mr. BUTLER. Before I vote on this bill, or any other similar one—because I do not intend to remain in the Senate making objections—I wish distinctly to understand on what ground the honorable Senator from Michigan, and those who advocate this system, put this bill. Is it on the power to regulate commerce, or on the war power? I recollect that when the Senator from Michigan, a few years ago, procured a grant of land for cutting a ditch or a canal around the falls of St. Mary's river, it was said to be a war measure, though I do not presume there was any intimation in any one of the petitions ever brought here on the subject that there was a necessity for it as a war measure. Now, I suppose, this appropriation is for commercial purposes, and by the time you change it again, I should like to know upon what ground you will put it then?

Mr. BROWN. The Post Office power. [Laughter.]

Mr. BUTLER. Of course the post office power will be used when that is thought convenient. If this system is to go on, the Federal Government will be nothing but the agency to appropriate money partially to regulate commerce and prepare for war, and the matter is reduced to mere legislative discretion. I think this project is as good as any other of the same sort which is before us; but when you cut this channel over these flats for vessels ten feet deep, if ships of a larger size should be made, you ought, on the same principle, to cut it twenty feet deep; and as long as you appropriate money for such purposes, there is no limit.

I say, sir, that I would not object to the mere appropriation of the money for this or for any

other like purpose, but the moment Congress assumes jurisdiction over this subject, it is a jurisdiction which cannot be regulated with justice, and which ought not to be allowed to this Government. God can govern the universe and regulate the clouds in the heavens; but, as I have said on a former occasion, suppose the power were given to this Government to regulate the clouds, and Congress were to decide when and where it should rain: they could not do it. It would be a discretion which they could not properly exercise. While this may seem to some to be a fair measure, let me tell gentlemen that by voting for it they are committing Congress to the power of diverting commerce from the weaker sections, and the natural sections of the Union, and turning it through the lakes at one time, down the Mississippi at another, to the Gulf at another, and saying, in the face of this Confederacy, that Virginia, South Carolina, North Carolina, Georgia, and Alabama, shall never have one dollar of money for the improvement of their rivers.

Mr. CASS. I do not say so.

Mr. BUTLER. Why, the ground that is taken is, that a river to receive an appropriation must run through three States.

Mr. CASS. I never took such a ground, but the gentleman's late colleague [Mr. CALHOUN] did.

Mr. BUTLER. The Senator knows that I differed from my colleague on that question.

Mr. CASS. So did I.

Mr. BUTLER. I do not think the Senator did, for I believe he voted with him.

Mr. CASS. The Senator does not recollect the speeches which I made here on that question; but I do not blame him for that.

Mr. BUTLER. I remember the Senator's votes better than his speeches. I know how he is going to vote.

Mr. CASS. I have had my full share in the discussion of this subject, and I have made speeches enough, and given votes enough to show my position upon it. I will tell the honorable Senator, however, that his deceased colleague, whose loss to the councils of the country nobody regrets more than I do, took the ground which he states; but when he did so, here before his face, I entered into what I considered a full argument of the question in opposition to his views. I shall not repeat what I said. I have already so often expressed my views on the constitutional point that I do not now think it proper to repeat them. The President in his message evidently contemplates improvements in certain commercial situations; he does not specify what improvements for purposes of peace and war. The Senator from Ohio, [Mr. WADE,] a few years since, reminded me that upon a certain occasion, at Cleveland, there was a good deal of noise and confusion, (laughter:) but there is none here now, and I think that we can get along very well.

The PRESIDENT put the question on the first amendment of the committee, to insert $45,000 as the appropriation for the improvement of the St. Clair Flats, and announced that it was rejected.

The PRESIDENT. The next amendment of the committee is to insert $5,900 as the appropriation for deepening the channel of the St. Mary's river.

Mr. CASS. I move, as a substitute for that amendment, the one which I have already presented. I do so for the reason which I before stated. When the bill was reported by the committee, the full estimates of the Department had not been sent in. I have now produced them, as they have since been sent to us by the Secretary of War, and I therefore ask that my amendment be adopted.

The amendment of Mr. CASS, as a substitute for the amendment of the committee, was agreed to; and that amendment, as thus amended, was adopted.

Mr. STUART. The first amendment which was proposed to the Senate was one filling a blank with $45,000. When the bill was referred to the committee it was left in blank as to the sum. The sum of $45,000 was proposed by the Committee on Commerce to fill the blank, so far as relates to the improvement of the St. Clair Flats. That amendment was rejected, owing to a misunderstanding of the question. I move to reconsider the vote by which it was rejected.

Mr. ADAMS. I would inquire whether the Senator voted in the affirmative or negative on that question?

Mr. STUART. There was no division.

The motion to reconsider was agreed to; and the question recurring upon the amendment to fill the blank with $45,000, it was agreed to.

The bill was reported to the Senate as amended, the amendments were concurred in, and the bill was ordered to be engrossed for a third reading, and was read a third time.

The PRESIDENT. The question is, "Shall the bill pass?"

Mr. BUTLER. I ask for the yeas and nays on that; I wish to see how gentlemen intend to discriminate.

The yeas and nays were ordered.

Mr. ADAMS. If I recollect correctly, a few years since, we appropriated seven hundred and fifty thousand acres of land for the improvement of the St. Mary's river for war purposes. The Senator from South Carolina propounded a question to the distinguished Senator from Michigan, whether this appropriation was intended to aid in the improvement of the river for war purposes, or for commercial purposes? I did not understand the Senator from Michigan as answering that question. There is such doubt and uncertainty as to whether this is intended for war or commercial purposes, that I am not reconciled to vote for the bill, and under these circumstances I shall vote against it.

The question being taken by yeas and nays upon the passage of the bill, resulted—yeas 27, nays 9; as follows:

YEAS—Messrs. Badger, Bell, Brainerd, Cass, Chase, Dawson, Dodge of Wisconsin, Dodge of Iowa, Douglas, Fessenden, Foot, Geyer, Gillette, Jones of Iowa, Jones of Tennessee, Pettit, Pratt, Sebastian, Seward, Slidell, Stuart, Sumner, Thomson of New Jersey, Wade, Weller, Wells, and Wright—27.

NAYS—Messrs. Adams, Brown, Butler, Clay, Evans, Fitzpatrick, Houston, Hunter, and Reid—9.

So the bill was passed.

DES MOINES AND ROCK RIVER RAPIDS.

The PRESIDENT. The next bill on the Calendar is the bill to continue the improvement of the Des Moines and Rock river rapids, in the upper Mississippi.

The Senate proceeded to consider the bill as in Committee of the Whole. It proposes to appropriate $200,000 for the objects specified in the title.

Mr. DODGE, of Iowa. I will state that the sum which the bill proposes to appropriate is precisely the amount estimated for by Colonel Johnson, the officer in charge of western river improvements, and by Major Floyd, who is immediately in charge of this work. This is certainly a work of national importance. One hundred thousand dollars were appropriated for the object two years ago. At the last session of Congress, the Senate several times, by yeas and nays, sustained a proposition to make this amount of appropriation, although it was offered as an amendment to the river and harbor bill of the House.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read a third time. The question was stated to be, "Shall the bill pass?"

Mr. BROWN. This, I think, is about the last of these bills that introduces anything like a new principle; and, while I shall not call for the yeas and nays, I simply indicate that I am to be considered as voting against the proposition.

Mr. BELL. Let us have the yeas and nays.

Mr. BROWN. I do not call for them unless others wish them to be taken.

Mr. CLAY. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 8; as follows:

YEAS—Messrs. Badger, Bell, Benjamin, Brainerd, Cass, Chase, Dawson, Dodge of Wisconsin, Dodge of Iowa, Douglas, Fessenden, Foot, Geyer, Gillette, Jones of Iowa, Jones of Tennessee, Pearce, Pettit, Pratt, Sebastian, Seward, Stuart, Sumner, Thomson of New Jersey, Wade, Weller, and Wright—27.

NAYS—Messrs. Adams, Brown, Butler, Clay, Evans, Fitzpatrick, Mason, and Reid—8.

So the bill was passed.

NEWARK HARBOR, NEW JERSEY.

The Senate next proceeded, as in Committee of the Whole, to consider the bill to continue the improvement in the harbor of Newark, New Jersey, which proposes to appropriate $25,000 for that purpose.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read a third time.

Mr. BUTLER. I ask for the yeas and nays on the passage of this bill. I wish to see how far gentlemen can discriminate.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 10; as follows:

YEAS—Messrs. Badger, Bell, Benjamin, Brainerd, Brodhead, Cass, Chase, Dodge of Wisconsin, Dodge of Iowa, Fessenden, Foot, Geyer, Gillette, Houston, Jones of Iowa, Jones of Tennessee, Morton, Pearce, Pettit, Pratt, Sebastian, Seward, Stuart, Sumner, Thomson of New Jersey, Wade, and Wright—27.

NAYS—Messrs. Adams, Brown, Butler, Clay, Dawson, Fitzpatrick, Hunter, Mason, Thompson of Kentucky, and Toucey—10.

So the bill was passed.

HARBOR IMPROVEMENTS IN MAINE.

The Senate next proceeded, as in Committee of the Whole, to consider the bill making appropriations for the continuation and repair of certain public works in the State of Maine, heretofore commenced under the authority of law. It proposes to appropriate $8,000 for continuing the repairs of the breakwater in Portland harbor; $50,000 for the breakwater at Richmond Island harbor; and $15,000 for the breakwater at Rockland harbor.

Mr. FESSENDEN. These appropriations are taken from the estimates and the bill reported by the Committee on Commerce last year. There is no variance whatever between them.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and read a third time.

The PRESIDENT. Shall the bill pass?

Mr. MASON. I ask for the yeas and nays on the passage of this bill.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 10; as follows:

YEAS—Messrs. Badger, Bayard, Bell, Benjamin, Brainerd, Chase, Dawson, Dodge of Wisconsin, Dodge of Iowa, Fessenden, Foot, Geyer, Gillette, Houston, Jones of Iowa, Jones of Tennessee, Pearce, Pettit, Sebastian, Seward, Stuart, Sumner, Thompson of Kentucky, Thomson of New Jersey, Wade, and Wright—26.

NAYS—Messrs. Adams, Butler, Clay, Douglas, Fitzpatrick, Hunter, Mason, Reid, Toucey, and Weller—10.

So the bill was passed.

HARBOR OF CHARLESTON.

Mr. BUTLER. I do not know exactly how these bills have come into the Senate. Have they been introduced by individual members, or been reported by the proper committee?

Mr. STUART. Some of them have been brought before the Senate after having been referred to the Committee on Commerce. Others have been introduced by individual Senators without reference.

Mr. BUTLER. I wish to ask why the harbor of Charleston has not been provided for? I perceive it is left out.

Mr. BADGER, and others. You can bring in a separate bill for that.

Mr. BUTLER. Very well; I give notice that I shall hereafter ask leave to introduce a bill for the improvement of the harbor of Charleston, South Carolina.

SAVANNAH RIVER.

The Senate, as in Committee of the Whole, proceeded to consider the bill to appropriate money to remove the obstructions in the Savannah river below the city of Savannah, in the State of Georgia. It contains a preamble reciting that the river Savannah was obstructed in its navigation below the city of Savannah during the revolutionary war, and that Congress has made partial appropriations for the removal of these obstructions, and that the engineer superintending the work reports a deficiency of means to complete it. For these reasons it proposes to appropriate $161,000 to remove the obstructions.

Mr. PETTIT. I wish to say to the Senator who claims the paternity of this bill, that if he will strike out from the whereases that portion which undertakes to make it constitutional by the fact of the impediments having been placed there by the General Government before or after the Revolution, I will vote for his bill; but I will not vote for it unless that clause be stricken out. No man can make an argument to me that an appropriation of this sort can be constitutional because this Government threw an obstruction in a river. If it is within the power of the Government to improve the navigation of a river after having put

such obstructions there, it is certainly in its power to make the improvement without having done so. I will not vote for a bill which has any such pretext on its face.

Mr. BADGER. Permit me to suggest to the Senator that it is not a pretense. It is the truth. Has he any objection to stating the truth?

Mr. PETTIT. I say it makes no difference as to our power. I move to strike out that portion of the preamble which recites that the Government placed the obstructions in the river.

Mr. DAWSON. The bill is strictly in conformity to the requisition of one of the Departments, and the gentleman ought not to be dissatisfied with the drawer of a bill when he tries to accommodate the various Departments. I thought it best to put on the face of the bill the fact which is well known, that these obstructions were placed in the river by the General Government, during the revolutionary war, for the common defense. I drew the bill in accordance with the wishes of the authorities of the city of Savannah, and to conform to the Constitution, as some construe it. I hope there will be no objection to the bill.

Mr. GWIN. I will ask the Senator from Georgia whether he did not get some ideas from the message which the President sent us in relation to the Cape Fear river improvements.

Mr. DAWSON. Oh, yes; I had several suggestions. [Laughter.]

The PRESIDENT. The question is on the amendment of the Senator from Indiana.

Mr. DAWSON. I have no objection myself to striking out the provision, but I do not see why it is necessary to strike it out.

Mr. PETTIT. I wish to strike out that part which recites that the obstruction was the act of the General Government, and which, thereby, intimates that for that reason it is in the power of the Government.

Mr. DAWSON. To gratify my friend from Indiana, I move to strike out the whole of the preamble of the bill.

The amendment was agreed to; and the bill was reported to the Senate as amended, and the amendment was concurred in. The bill, as amended, was ordered to be engrossed for a third reading, was read a third time, and passed.

NAVIGATION OF THE OHIO.

The Senate next proceeded, as in Committee of the Whole, to consider the bill to provide for the improvement of the navigation of the Ohio river. It proposes to appropriate $200,000 for the improvement of the navigation of the Ohio, including the repair or removal of the dam at Cumberland Island; $100,000 of which sum is to be expended in the improvement of the navigation of the river above the falls. It also contains a provision that so soon as the stock in the Louisville and Portland canal, other than the stock of the United States, shall have been paid to the subscribers out of the tolls of the canal, or forthwith, in case the stock shall have been already so paid, the President of the United States shall appoint the proper officers to take possession of the canal, on the part of the United States, so that it may not fall into decay, or obstruct navigation; and the expense of the custody and management of the canal and canal property, is to be paid out of the Treasury, not exceeding $25,000 per annum. After coming into possession of the United States, the canal is to be free of tolls and charges.

Mr. BELL. I move to strike out the words "or removal" from that provision which appropriates a portion of this sum for the repair or removal of the dam at the head of Cumberland Island, in the Ohio river.

Mr. CHASE. There is no objection to that amendment, if it is desired by the Senator from Tennessee.

The amendment was agreed to, the bill was reported to the Senate as amended, and the amendment was concurred in. The bill, as amended, was ordered to be engrossed for a third reading, was read a third time, and passed.

IMPROVEMENT OF THE MISSISSIPPI.

Mr. STUART. If we have disposed of the several special orders on this subject, I now ask the Senate to take up the bill reported from the Committee on Commerce, for the improvement of the harbors on the Northern Lakes.

The PRESIDENT. There is another bill which has been made the special order; it is a bill to provide for continuing the improvement of the Mississippi river.

Mr. STUART I yield to that.

The bill to provide for continuing the improvement of the Mississippi river was considered as in Committee of the Whole. Its purpose is to appropriate $90,000 for this object.

Mr. BELL. This is a very inadequate appropriation for the object.

Mr. GWIN. It is the same as was in the river and harbor bill of last year.

Mr. DOUGLAS. It is not enough to be of any service.

Mr. BELL. It is not sufficient to be of any consequence. I submit this view to the honorable Senator from Missouri, [Mr. GEYER,] who introduced the bill. I understand that it will require half this sum, at least, if not more, to build snag-boats for the purpose of clearing out the snags. I move to strike out "$90,000," and insert "$200,000."

Mr. DOUGLAS. Two hundred and forty thousand dollars has been the usual sum.

Mr. BELL. It is suggested that the sum of $240,000 is usual, but certainly the appropriation ought to be at least $200,000, because it is necessary to construct boats in order to make the appropriation effective; and if only $90,000 be appropriated, no residuum will be left. I submit to the consideration of the Senate, that if we make any appropriation at all, a larger sum than that made by the bill ought to be voted. This sum is to be expended on the whole river, from the Des Moines rapids to the mouth of the Mississippi. Why, sir, we have just agreed to an appropriation of $200,000 for the continuation of the improvements at the Des Moines and Rock river rapids; and now for the entire length of the river, from those rapids to the mouth of the Mississippi, it is only proposed to appropriate $90,000.

Mr. GEYER. I agree with the honorable Senator from Tennessee, that the sum is inadequate; but I inserted it because it was the sum which was inserted in the bill of last session. The sum of $240,000 referred to by the Senator from Illinois is an aggregate of the appropriations proposed in the bill of 1852, but it was divided on that occasion—$90,000 for the river below the rapids, $40,000 for the Missouri river, $40,000 for the Arkansas river, and the balance, I believe, for the Ohio.

Mr. BELL. But was there not in that bill an appropriation in addition to those, for building snag-boats?

Mr. DOUGLAS. There was.

Mr. BELL. The sum appropriated by this bill will be of no use whatever. Two hundred thousand dollars is the least sum that should be appropriated.

Mr. BUTLER. Why not say $500,000 at once?

Mr. BELL. I do not think $500,000 could be expended properly and advantageously in one year.

Mr. GEYER. I understand now that the snag-boats, and the improved machinery which were purchased or built before, have been sold. If so, it will require an additional sum.

Mr. DOUGLAS. I understand that the snag-boats and implements have been sold at public auction, and the money gone into the Treasury. The bill of last year, in addition to the appropriation of $90,000, referred to by the Senator from Missouri, contained appropriations for an increased number of boats. If we pass this bill now, and begin the work, we shall have to get new implements and boats, and certainly nothing less than the sum indicated by the Senator from Tennessee will be adequate.

Mr. BELL. I hope my amendment will be agreed to.

The amendment was adopted.

The bill was reported to the Senate as amended; and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and was read a third time, and passed.

PRINTING OF DOCUMENTS.

Mr. MASON. I ask permission of the Senate, by unanimous consent, to submit the document which I hold in my hand, and to ask for its printing. There is a proposition before the Committee on Foreign Relations, respecting the purchase of certain interests of the Hudson's Bay Company, and the Puget's Sound Agricultural Company. The correspondence which I hold in my hand was sent to the committee by the Secretary of State, giving full information in relation to these interests. The committee have instructed me to ask that it be printed.

Mr. BADGER. I will not interpose any objection if my friend from Virginia will not, as soon as he gets that motion through, move an adjournment.

Mr. MASON. I can make no conditions.

The motion to print was agreed to.

Mr. MASON. I now move that the Senate adjourn.

The motion was not agreed to.

IMPROVEMENT OF THE MISSOURI RIVER.

The bill to provide for continuing the improvement of the Missouri river was considered as in Committee of the Whole. It appropriates $40,000 for this object.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

SAN DIEGO RIVER.

The Senate, as in Committee of the Whole, next proceeded to consider the bill to complete the work at the mouth of the river San Diego, in the State of California. Its object is to appropriate $30,000 for this purpose.

Mr. GWIN. When I introduced the bill, I thought $30,000 was the amount of the estimate, but I find that it was $20,000. I move, therefore, to strike out $30,000 and insert $20,000.

The amendment was agreed to; the bill was reported to the Senate as amended, ordered to be engrossed for a third reading, read a third time, and passed.

DELAWARE BREAKWATER.

The bill making an appropriation for the improvement of the Delaware breakwater, (which appropriates $100,000 for this purpose,) was considered as in Committee of the Whole, reported to the Senate, ordered to be engrossed for a third reading, read a third time, and passed.

RAILROAD IRON DUTIES.

Mr. JONES, of Tennessee. I think we have passed about as many of these bills as we should in one day.

The PRESIDENT. The special orders are exhausted.

Mr. JONES, of Tennessee. I move that the bill granting to railroad companies three years in which to pay the duties on iron imported for railroad purposes be made the special order for to-morrow at one o'clock.

The motion was agreed to.

OTHER INTERNAL IMPROVEMENT BILLS.

Mr. SEWARD, by unanimous consent, asked and obtained leave to introduce a bill to continue the improvement of the Hudson river, in the State of New York; which was read twice by its title, and placed on the Calendar.

Mr. BADGER. I also ask unanimous consent to be permitted to introduce a bill making an appropriation for refunding to the citizens of Wilmington certain moneys advanced by them, and expended by the agent of the United States in the improvement of Cape Fear river, North Carolina. It is a bill which is offered with the concurrence of my colleague, [Mr. REID,] and with his entire approbation.

The bill was read twice by its title, and placed on the Calendar.

Mr. BAYARD asked, and by unanimous consent obtained, leave to introduce a bill for continuing the improvement of the harbor of New Castle, and a bill for the construction of a harbor on the east side of Reedy Island; which were read twice by their respective titles, and placed on the Calendar.

Mr. PETTIT asked, and by unanimous consent obtained, leave to introduce a bill for continuing the improvement of the harbor of Michigan City, Indiana; which was read a first and second time by its title, and placed on the Calendar.

Mr. CLAY asked and obtained unanimous consent to introduce a bill to continue the improvement of Mobile harbor; which was read twice by its title, and placed on the Calendar.

Mr. BUTLER asked and obtained unanimous consent to introduce a bill to continue the improve-

ment of the harbor of Charleston, South Carolina; which was read twice by its title, and placed on the Calendar.

Mr. SEBASTIAN. I introduced this morning a bill to provide for the improvement of the Arkansas river, and it was referred to the Committee on Commerce, as I supposed that was the proper course. As, however, other Senators pursue a different course, I move that the vote be reconsidered, and that that bill be placed on the Calendar.

The motion was agreed to.

Mr. BADGER. I now desire to submit a motion that the various improvement bills which have been laid on the table, and have not yet been disposed of, be made the special order for to-morrow. I hope there will be no objection to this.

Mr. HUNTER. I hope that motion will not be agreed to. I trust we shall be able to get up a general appropriation bill to-morrow.

Mr. BADGER. This does not interfere with my friend's appropriation bill. I wish these bills to be made special orders, so that we may, if we choose, take them up at special-order time.

Mr. HUNTER. The Senator asks to-morrow for these bills.

Mr. BADGER. That does not change the effect of the order.

Mr. STUART. A majority can take up any bill.

Mr. HUNTER. What is the object of making these bills the special order for to-morrow, unless to pledge the Senate to take them up then?

Mr. BADGER. What harm will it do?

Mr. HUNTER. What good will it do? What is the object, unless to give these bills precedence?

Mr. BADGER. We want to give them precedence over those bills over which they ought to have precedence—not over the appropriation bills.

The motion was agreed to.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a report from the Secretary of the Interior on the subject of the colonization of the Indians in the State of California; which was referred to the Committee on Indian Affairs.

Also, a message from the President of the United States, communicating a letter from the Secretary of the Interior in regard to a treaty between the United States and the Chippewa Indians of Lake Superior; which was referred to the Committee on Indian Affairs.

Also, a message from the President of the United States in reference to the imprisonment of Francis W. Rice, late consul at Acapulco; which was ordered to lie on the table and be printed.

Also, a communication from the Secretary of the Navy, in answer to a resolution of the Senate, in reference to the dry-dock, basin, and railway at Pensacola; which was referred to the Committee on Naval Affairs, and ordered to be printed.

PAPERS REFERRED.

On motion by Mr. GWIN, it was

Ordered, That the papers of Captain C. Walters be referred to the Committee on Military Affairs.

JEREMIAH MOORS.

On motion by Mr. STUART, the bill reported from the Committee on Commerce, for the relief of Jeremiah Moors, was read a second time, and considered as in Committee of the Whole.

It is to require the Secretary of the Treasury to pay to Jeremiah Moors a just compensation for labor bestowed, and for mortar and other materials used, (except the rough stone for the tower,) in building a light-house, in the year 1831, on the Outer Thunder Bay island of Lake Huron, which was built under a contract made between Adam D. Steuart, the agent of the United States, and Henry T. Blake, dated August 30, 1831, and assigned by Blake, with the consent of Mr. Steuart, to Mr. Moors, by whom it was built. August 30, 1831, Henry T. Blake contracted with Adam D. Steuart, an agent of the United States, to build a light-house on the outer Thunder Bay island, in Lake Huron; on the same day that this contract bears date, Mr. Blake assigned it to Moors, constituting him his agent to perform the contract, and to receive the pay of the Government therefor, and he was accepted by the Government agent to do the work, as the substitute of Mr. Blake, the original contractor. He proceeded with the Government agent to the place of location, and commenced the work, upon the site selected, prosecuted it with skill and energy, in strict conformity to the contract, and to the entire satisfaction of the superintendent, until it was nearly completed—only a small amount of labor to be performed upon the lantern—when a gale of unusual violence arose, and a tremendous sea swept over several acres of that part of the island on which the light-house was located, beating against it with great force, and, after withstanding the gale for some time, it gave way, and fell into the lake, leaving about twenty feet on the land side standing, a perfectly sound wall.

From all the evidence presented to the committee, they are of opinion that the destruction of the tower was wholly attributable to the injudicious and exposed location of the building, and to the severity of the storms, (for which the memorialist was not responsible,) and not to any defect in the materials or workmanship of the building; and it was no fault of the contractor that it was not entirely finished, for he was directed to place it where it could not stand, and where he was not able to finish the lantern before the tower fell.

It is evident that the site was selected in good faith by the Government agent, he being entirely ignorant of the great rise of water during the furious storms that beat upon it. It is evident that the site was an unwise and injudicious one, from the fact that the Government selected a site for the new light-house further from the water, and upon higher ground. The second light-house was built by Moors, and out of the same materials, and stands firm to the present time. He did not undertake to guaranty the suitableness of the site, but to furnish the labor and materials for the structure, and for its failure the Government is alone responsible, and the committee know of no rule of law or justice which would allow the Government to shelter itself from the payment of a just compensation for the labor performed because its agent selected an unsuitable site for the building.

Mr. STUART. I have learnt, since I reported this bill, that the man who performed the labor is dead; I propose, therefore, to amend it by inserting before his name, the words "the legal representatives of."

The amendment was agreed to, the bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read a third time, and passed; and its title was amended so as to read "A bill for the relief of the legal representatives of Jeremiah Moors."

DISTRICT ATTORNEY IN CALIFORNIA.

Mr. WELLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Finance be instructed to inquire into the expediency of making compensation to the district attorney of the northern district of California, for services rendered in the district court on appeals from the board of land commissioners, organized in 1851.

DANIEL MORSE.

On motion by Mr. FOOT, the Senate, as in Committee of the Whole, proceeded to consider House bill for the relief of Daniel Morse, of Essex, county of Chittenden, in the State of Vermont.

It proposes to direct the Secretary of the Interior to place the name of Daniel Morse on the list of invalid pensioners, at the rate of eight dollars per month, from the 1st of March, 1854.

Morse was enlisted as a soldier in the second company of thirtieth regiment of United States infantry, commanded by Solomon Clark, on April 25, 1813. He marched to Bennington about the 1st of July, was transferred to first company, Captain Simeon Wright; in September crossed Lake Champlain, where he was transferred to Captain D. Azro A. Buck's company as light corps rangers, and continued till they went into winter quarters at Plattsburg, in November. While in this company, he went to Odletown, then to Chatague, then to Henchenbrook, in Canada, and during the time forded the river Chatague five times in eight days; suffered extremely for want of food, having only two days' rations for eight days. Morse says it rained and snowed all the way; he lay in the woods the first night, without shelter, and the second night in the snow nearly a foot deep. Eight or ten of the men froze to death that night, and they lay on the cold ground at Plattsburg till the barracks were erected. The first night, while there, the rheumatism attacked Morse, and he was helpless for three weeks. He has not been, since then, twenty-four hours free from pain; he cannot labor, and has no means of support.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

GEORGE W. TORRENCE.

On motion by Mr. WELLER, the bill reported by the Committee on Military Affairs, for the relief of George W. Torrence, was read a second time, and considered as in Committee of the Whole.

Its object is to direct the Secretary of War to pay to George W. Torrence $1,574, in full compensation for his gallant military services at the National Bridge, Mexico, on the 9th of September, 1847, and for extraordinary expenses incurred by him in consequence of wounds received by him in the United States service

Torrence was orderly sergeant in Captain H. Fairchild's company, of Louisiana mounted volunteers, in the late war with Mexico. On the 8th of September, 1847, by order of Major Lally, he commanded an expedition against a body of the enemy near the city of Jalapa, which he put to flight. In returning to the city, he found himself intercepted by a large body of the enemy, and he was compelled to take the Vera Cruz road. In crossing the National Bridge he was attacked by the enemy in large force from different directions. In this crisis he gallantly charged them, and cut his way through with a small loss. This occurred on the 9th of September, 1847.

Colonel Hughes, in his official report, says the conduct of Sergeant Torrence was equal in gallantry to anything that came under his observation during the war, and recommends him to the favorable consideration of the Government. Captain Fairchild and Surgeon Bryarly testify that Torrence was wounded in the engagement on the 9th of September, 1847, and Dr. Bryarly further states that he was afterwards under his medical treatment, and at great expense in California, for the wound he then received, and that his present disability proceeds from the injury.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

Several Senators rose for the purpose of moving to take up private bills.

Mr. CHASE. I have a private bill which I should like to urge on the Senate; but I think that when the body is so thin as at present, it would not be well to do so. I therefore move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 7, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

REMOVAL OF CALIFORNIA INDIANS.

The SPEAKER laid before the House the following message from the President of the United States:

To the Senate and
House of Representatives of the United States:

I communicate to Congress herewith, for its consideration, the accompanying papers from the Secretary of the Interior on the subject of the proviso of the act of July 31, 1854, in relation to the removal of the California Indians.

FRANKLIN PIERCE.

On motion by Mr. HAVEN, the message and accompanying papers were referred to the Committee on Indian Affairs, and ordered to be printed.

TERRITORIAL MEMORIALS.

The SPEAKER. The Chair has received several memorials from the Legislature of New Mexico, all of which refer to Indian affairs, except one, which relates to schools. If not objected to, the memorials will be referred to the Committee on Indian Affairs, except the one in relation to schools, which will be sent to the Committee on the Territories.

It was so ordered.

ARMY REGISTER.

The SPEAKER then laid before the House a communication from the War Department, transmitting, in compliance with a resolution of the House of Representatives of June 14, 1848, a transcript of the official Army Register for the year ending 30th June, 1854, showing the annual pay of each officer of the Army, the amount paid him for rations, servants, forage, and horses, and the amount paid and allowed him in all respects for and during the preceding fiscal year.

On motion by Mr. FAULKNER, the communication was laid on the table, and ordered to be printed.

PATENT OFFICE REPORTS.

The SPEAKER laid before the House a communication from the Commissioner of Patents, transmitting the agricultural portion of his annual report, together with illustrations to accompany the same.

Also, a communication from the said Commissioner, transmitting his annual report in relation to the arts and manufactures.

Mr. HAVEN. Those reports should both go to the Committee on Printing. I move that they be so referred, and that ten thousand extra copies thereof be printed.

Mr. FLORENCE. Ten thousand! Make it one hundred thousand.

Mr. JONES, of Tennessee. The Committee on Printing will decide how many extra copies shall be printed.

The SPEAKER. The motion of the gentleman from New York, [Mr. HAVEN,] to print extra copies, goes, under the rule, to the Committee on Printing, as a matter of course. If not objected to, the reports will be referred to the committee.

It was so ordered.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled the following bills; which thereupon received the signature of the Speaker:

An act for the relief the heirs-at-law of William Van Wart, deceased.

An act for the relief of Don B. Juan Domercq, a Spanish subject.

An act to amend "An act making appropriations for the improvement of certain harbors and rivers;" approved August 30, 1852; and

An act changing the appropriation for the erection of a building in the city of Milwaukie for a custom-house, post office, and United States courts.

Mr. McDOUGALL. I simply ask leave to report a bill from the Committee on the Post Office and Post Roads, for the purpose of having it printed and recommitted.

There being no objection, a bill providing for an express mail overland from St. Louis to San Francisco was reported back with a substitute, and ordered to be printed.

Mr. HENN. I call for the regular order of business, and I object to any proceedings out of order.

Mr. JONES, of Tennessee. I consider the regular order of business to be the consideration of the diplomatic and consular bill, and on that the gentleman from Pennsylvania [Mr. CHANDLER] is entitled to the floor. But, as it is very certain we cannot get through with it before the expiration of the morning hour, if the gentleman will yield the floor, I will move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, with a view to dispose of the Texas bill before one o'clock.

Mr. HENN. I object to any such proceeding out of the regular order of business.

Mr. FENTON. I appeal to the gentleman from Iowa to withdraw his objection for a moment.

Mr. CLINGMAN. If the gentleman from Iowa withdraws his objection, I shall renew it, and insist on the regular order of business.

The SPEAKER. The regular order of business is the consideration of the consular bill, and on that the gentleman from Pennsylvania [Mr. CHANDLER] is entitled to the floor.

Mr. CRAIGE. I hope my colleague [Mr. CLINGMAN] will withdraw his objection for a moment; I wish to ask the unanimous consent of the House to take up from the Speaker's table Senate bill No. 535, to enlarge the Post Office building. I merely desire to have it referred to a committee.

Mr. HENN. I would say to the gentleman from North Carolina, [Mr. CRAIGE,] that, if objection is withdrawn for the purpose of allowing one bill to come in, a dozen may come in, and thus the whole of the morning hour will be taken up. However, I will withdraw my objection for the purpose indicated by the gentleman from North Carolina.

There being no objection, Senate bill (No. 535) "to authorize the enlargement of the General Post Office building," was read a first and second time by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. WASHBURNE, of Illinois. I ask the unanimous consent of the House to have taken from the Speaker's table House bill No. 39—the swamp land act—so that the House may nonconcur in the amendment of the Senate.

Mr. HAMILTON. I object, and call for the regular order of business.

DIPLOMATIC AND CONSULAR BILL.

The SPEAKER. The regular order of business is the consideration of House bill (No. 353) "to remodel the diplomatic and consular system of the United States;" and on that the gentleman from Pennsylvania [Mr. CHANDLER] has the floor.

Mr. JONES, of Tennessee. Will the gentleman from Pennsylvania yield, that I may make a motion to go into the Committee of the Whole on the state of the Union for the purpose of disposing of the Texas bill.

Mr. COBB. Oh, no; I insist upon the regular order of business.

Mr. FARLEY. I ask the gentleman from Pennsylvania to allow me to introduce a bill for the purpose of reference only.

Mr. CLINGMAN. I object.

Mr. CHANDLER then rose, and progressed in his argument in favor of the bill for a few minutes, but was interrupted by the gentleman from Kentucky——

Mr. BRECKINRIDGE. With the consent of the gentleman from Pennsylvania, [Mr. CHANDLER,] I desire to make a motion, if he will allow me to do so, and take the sense of the House in regard to going into the Committee of the Whole on the state of the Union, with a view of disposing of the Texas creditors' bill, which is the unfinished business of yesterday, before the expiration of the morning hour.

Mr. CHANDLER. I yield the floor to the gentleman from Kentucky, for the purpose indicated by him.

Mr. BRECKINRIDGE. I now make the motion that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HOUSTON. I would ask the gentleman from Kentucky whether he will be able to get through with this bill before the expiration of the morning hour?

Mr. BRECKINRIDGE. I hope to be able to dispose of it by the time the gentleman from Alabama desires to take up the bill relating to the tariff, of which he gave notice a few days since.

Mr. HAMILTON. Believing that this bill cannot be disposed of before the hour designated by the chairman of the Committee of Ways and Means, (one o'clock,) I call for the yeas and nays.

The yeas and nays were not ordered.

The question was then taken upon Mr. BRECKINRIDGE's motion; and it was decided in the affirmative.

TEXAS CREDITORS.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union (Mr. HENDRICKS in the chair) upon the special order, Senate bill No. 96, being "An act to provide for the payment of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9, 1850."

Mr. JAMES C. ALLEN. I call for the reading of the resolution under which this bill was taken up in the Committee of the Whole on yesterday.

The CHAIRMAN. Is there any objection to the reading of the resolution?

Mr. CLINGMAN. I object; and I think this bill comes up as unfinished business.

Mr. HOUSTON. I shall vote against the bill in its present shape; but I am willing, so far as I am concerned, for the remainder of the morning hour to be occupied with the consideration of this bill; but if gentlemen put it upon the ground that it comes up as unfinished business, I shall feel bound to resist it.

Mr. CHAIRMAN. The question now pending before the committee, is the amendment proposed by the gentleman from Tennessee [Mr. JONES] to the original bill, which is to strike out, in the twenty-sixth line of the first section, "$8,500,000," and insert in lieu thereof, "$6,550,000."

Mr. BRECKINRIDGE obtained the floor.

Mr. McMULLIN. I desire to know if the gentleman from Kentucky has a right to speak more than twice upon the same question?

Mr. HAMILTON. I rise to a question of order—that the bill which we had under consideration yesterday is not the bill in order this morning, being made a special order for one day only. I make the point of order that it reverts to its original place upon the Calendar.

The CHAIRMAN. The Chair overrules the point of order, and decides that the Texas creditors bill is now properly before the committee for consideration.

Mr. HENN. I would ask the Chair whether we have not the right to have the resolution under which this bill was made the special order read by a vote of the committee?

The CHAIRMAN. The gentleman from Illinois [Mr. ALLEN] and the gentleman from Iowa [Mr. HENN] both ask that the resolution making this bill a special order be read.

There being no objection, the resolution was read by the Clerk, as follows:

"*Resolved*, That Senate bill No. 96 be made the special order for the 6th day of February, and that all debate in Committee of the Whole House on said bill shall cease at three o'clock, p. m., upon that day, if the committee shall not sooner come to a conclusion upon the same, and the committee shall then proceed to vote upon such amendments as may be pending or offered to the same, who shall then report it to the House with such amendments as may have been agreed to by the committee."

Mr. BRECKINRIDGE. I desire to say a few words simply in the nature of a personal explanation. It will be remembered by the committee that I rose some time ago and asked for one day to be set apart for the consideration of this measure, and that I stated, in view of the great pressure of public business, that I would ask but for one day. I recollect having used that language, and I supposed it was the special order for one day, and for one day only. I was desirous, therefore, yesterday, that some disposition should be made of this matter, and I thought that the consideration of the bill terminated with that day. The resolution which has just been read was not drawn by me—as I am not expert in these matters, and profess to be no parliamentarian. I thought, under that resolution, that the bill was made the special order for one day, and hence my anxiety to dispose of it. The Chair decides that it comes up as unfinished business; and I make this explanation in order to relieve myself from the charge of having asked but for one day only.

Mr. GIDDINGS, of Ohio. I appeal from the decision of the Chair.

The CHAIRMAN. The Chair decides that, under the resolution making Senate bill No. 96 the special order for yesterday, that bill is now the business before the committee, not merely as unfinished business, but continuing as the special order under this resolution. The Chair asks the indulgence of the committee to be allowed to read the latter part of the resolution, upon which the Chair bases its decision. It says "that the committee shall then"—after the debate is closed—"proceed to vote upon such amendments as may be pending or offered to the same, and shall then report it to the House with such amendments as may have been agreed to by the committee." Under this resolution the Chair thinks this bill is the business in order before the committee, until it be disposed of and reported to the House. The gentleman from Ohio appeals from that decision.

Mr. STANTON, of Kentucky. I think the appeal comes too late, as the decision from which the appeal is taken was made some time since.

The CHAIRMAN. The Chair thinks not, as the gentleman from Kentucky [Mr. BRECKINRIDGE] was addressing the committee upon this very question of order of business.

The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. CHANDLER. May I be allowed one word before the question is taken?

[Cries of "Yes!" "Yes!" and "No!"]

The CHAIRMAN. The question is not debatable.

Mr. CHANDLER. Merely one word.

[Cries of "Order!"]

Mr. CHANDLER. I would say it is not in order for a member, except rising in his place, to call a gentleman to order.

[Cries of "Order!" "Order!"]

Mr. JONES, of New York. I rise to a question of order. I ask that the second rule of the House, with the note appended thereto, may be read, to show that this question of order is a debatable question.

Mr. CLINGMAN. I object to any reading of rules, and to all debate. I hope we shall have an immediate decision of the question.

The CHAIRMAN. The Chair thinks if objected to, the rule cannot be read. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was taken; and the decision of the Chair was sustained.

The CHAIRMAN. The question before the committee is the amendment proposed by the gentleman from Tennessee, [Mr. JONES.]

Mr. McMULLIN. I propose to amend that amendment by striking out $50,000.

I desire to be informed whether I am limited in debate to five minutes or not?

The CHAIRMAN. The five-minute rule is in force now, and the gentleman will be confined to that time.

Mr. McMULLIN. Then, sir, I shall be obliged very much to condense the remarks I desired to make.

I have, after a great length of time, and great exertion, succeeded in obtaining the floor. It is not my purpose to cast any reflection upon the present occupant of the chair, but really, I did feel mortified when the Chair gave the floor to gentlemen upon both sides of me.

I desire, very briefly, to notice the remarks of gentlemen who have advocated this bill. Allow me to notice the remarks of the honorable gentleman from Texas, [Mr. SMYTH,] who first addressed the committee yesterday. He did full and ample justice to the case, and even more than justice, as I understood him. But he wound up his speech by informing the committee that he could not vote for the amendment of the gentleman from Tennessee, [Mr. JONES,] and giving his opinion that his State would reject that proposition, if passed by Congress.

Sir, I was forcibly reminded, by that portion of the gentleman's argument, of a certain lady upon a certain occasion, when she went to the house of a man seeking favors, in the form of alms, from him. The gentleman, in the kindness and goodness of his heart, opened his iron chest, full of gold. The lady began to take up as much as she wanted, and continued to take, until she got so much that she could not carry the load. The gentleman, very properly, then told her she could not have any, unless satisfied with an amount which was reasonable, and just, and right. So it seems to me my friend from Texas is not willing that his State should receive only that which is reasonable, just, and right, and says she will take nothing, unless she can get all she asks.

But another gentleman from Texas, [Mr. BELL,] unlike his colleague to whom I have just alluded, came forward, and his speech reminded me of a modest, timid young lady, when the *question* was first propounded to her. Her answer was, "Well, I don't know—I can't decide it—I cannot commit myself." So this gentleman would not commit his State against the bill—against the just and reasonable proposition of the gentleman from Tennessee, [Mr. JONES.] He was prudent in doing so, for I undertake to say that if you adopt the proposition of the gentleman from Tennessee, Texas will gladly embrace it.

Mr. BELL, (interrupting.) I explained fully to the committee the reasons why I was unwilling to commit the people of my State to any particular course of action upon this bill.

Not desiring to interrupt the gentleman, I return him my sincere thanks for the highest compliment I shall ever receive, that is, for having assimilated me to a modest, beautiful, young lady; and being a bachelor, I should be much obliged to him if he will carry out the matter, and lend me his aid in connecting me with one. [Great laughter.]

Mr. McMULLIN. Although I did not agree with the gentleman's speech, I award him great credit and shrewdness for the manner in which he has appropriated the compliment. But, Mr. Chairman, I was not a little amused by the ingenuity of the learned gentleman from Kentucky, and if I had a case in court, and desired counsel, I know of no one I would prefer to that gentleman, especially if he had such a witness as the gentleman from Ohio. I don't mean the gentleman who bellowed so yesterday, [pointing to Mr. GIDDINGS,] but the gentleman from Ohio, Mr.——I believe it is not permitted to call names here—I mean the gentleman from Ohio with the sleek head, [pointing to Mr. TAYLOR.]

[Here the hammer fell.]

Mr. TAYLOR, of Ohio. I would rather have a sleek head than a block-head upon my shoulders. [Great laughter.]

Mr. BRECKINRIDGE. Mr. Chairman, I am sorry that the pleasant little passage between my friends from Virginia and Ohio should have consumed so much of our precious time. I do not propose to answer my friend from Virginia. Our time is short. I am opposed to his amendment, and ask a vote on it. Before I take my seat, I would ask the Chairman whether it is in order for me now to make a motion?

The CHAIRMAN. It is not in order to move any additional amendment.

Mr. PECKHAM. It is in order to move to strike out the enacting clause.

Mr. BRECKINRIDGE. My impression was that it would not be in order to make that motion until the question had been taken on the amendment of the gentleman from Virginia. I desire to state, with the indulgence of the committee, that I am now about to make a motion which I do not propose shall have the effect of smothering the sense of members upon any of the aspects of this question. I propose to move to strike out the enacting clause of the bill. If the motion be agreed to, I intend to offer in the House the bill which I hold in my hand, as a substitute, to allow my friend from Tennessee [Mr. JONES] to submit his amendment, and the gentleman from Texas [Mr. SMYTH] his substitute, and then to call for the previous question, in order that the sense of the House may be taken on the different propositions.

[Cries of "That is right!"]

Mr. BRECKINRIDGE. I move to strike out the enacting clause of the bill.

Mr. PRINGLE. Will the gentleman from Kentucky afford me opportunity for the presentation of the substitute for the bill which I have, when we get into the House?

Mr. BRECKINRIDGE. I will.

Mr. MILLSON. I suppose that the motion to strike out the enacting clause of the bill is debatable?

The CHAIRMAN. It is not.

Mr. MILLSON. Is debate in order upon my colleague's [Mr. McMULLIN's] amendment?

The CHAIRMAN. Debate has been exhausted on the amendment.

Mr. MILLSON. Mr. Chairman, I think it has been held, on former occasions, that the motion to strike out the enacting clause of a bill is debatable.

The CHAIRMAN. The recollection of the Chair is, that on some occasions during this session of Congress it has been held that the motion to strike out the enacting clause of a bill is debatable, but that the last decision was, the motion was not debatable. The Chair now decides that the motion is not debatable.

Mr. MILLSON. Is the motion not debatable to the extent of five minutes?

The CHAIRMAN. It is not debatable to any extent.

Mr. MILLSON. Then I appeal to the gentleman from Kentucky to withdraw his motion to strike out the enacting clause of the bill.

[Cries of "No!" "Hold on to it!" "Withdraw the motion!"]

Mr. BRECKINRIDGE. Personally I would be very happy to do it, but I think that it is the sense of the committee it should not be done.

Mr. MILLSON. I hope the gentleman will first hear my reasons for the request which I have made.

The CHAIRMAN. Debate is not in order. It is objected to, and, being objected to, the Chair must enforce the rules.

Mr. MILLSON. I am just informed, the last decision was, that the motion to strike out the enacting clause of a bill was debatable.

The CHAIRMAN. The Chair thinks that the gentleman is mistaken. Be that as it may, the Chair now decides that the motion is not debatable.

Mr. MILLSON. I ask the gentleman from Kentucky to withdraw his motion, for the reason that I believe, up to this time, not one single speech, at least not one that I have heard, has been made against this bill.

Mr. CLINGMAN. I am sorry to have to call the gentleman to order, but I do insist that the present proceeding is out of order.

The CHAIRMAN. Does the gentleman from Kentucky withdraw his motion to strike out the enacting clause of the bill?

Mr. BRECKINRIDGE. I cannot withdraw it. If I withdraw it for the gentleman from Virginia, other gentlemen would make a similar request.

Mr. MILLSON. There has been no speech made against the bill.

Mr. BRECKINRIDGE. I have heard two or three.

Mr. MILLSON. They were made only against amendments.

Mr. McMULLIN. I have never in my life, Mr. Chairman——

The CHAIRMAN. The proposition is not debatable. The gentleman from North Carolina objects to debate.

Mr. McMULLIN. I hope the committee will extend its courtesy to me for a personal explanation.

[Cries of "Hear him!"]

The CHAIRMAN. The gentleman will proceed.

Mr. McMULLIN. Mr. Chairman, let me assure you, and the gentleman from Ohio, [Mr. TAYLOR,] that, in what I said a few minutes ago, I meant nothing personally offensive to anybody. My remarks, perhaps, were tinged with levity, but the gentleman retorted with some show of excitement. Now, let me say, in all candor, that I do not think either can complain of the other; for both of our heads united would not make more than one clever man ought to have. [Great laughter.]

Mr. TAYLOR, of Ohio. Let me say a word.

[Cries of "Hear him!"]

Mr. TAYLOR. Mr. Chairman, I will say to my friend from Virginia, with whom I have had friendly relations during the whole of my service in Congress, that I am the last man in the world to make any improper allusion, and probably as prompt as anybody to respond to them when directed to me. Such, I supposed, was his allusion; but I take back all I said with great pleasure since the gentleman says he meant nothing personally offensive. I do think, however, that neither he, nor myself, nor, indeed, all of the members put together have more sense than the country demands at our hands, in the discharge of our duties here. [Renewed laughter.]

Mr. PRINGLE. I demand tellers on the motion to strike out the enacting clause of the bill.

Tellers were ordered; and Messrs. TWEED and BOYCE were appointed.

The question was taken; and the tellers reported—ayes ninety-one, a further count not being demanded.

So the committee agreed to strike out the enacting clause.

Mr. JONES, of Tennessee. I move that the committee do now rise.

The question was put; and the motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, the Chairman [Mr. HENDRICKS] reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly Senate bill No. 96, it being the Texas creditors bill, and had instructed him to report the same to the House, with a recommendation that the enacting clause be stricken out.

MESSAGE FROM THE SENATE.

A message was here received from the Senate, by ASBURY DICKINS, their Secretary, informing

the House that the Senate had passed bills of the following titles:

An act to remove obstructions to navigation in the mouth of the Mississippi river at the South-west Pass and Pass à l'Outre;

An act for the relief of Brevet Brigadier General John B. Walbach, of the United States Army;

An act, in addition to certain acts, granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States; and

An act for the relief of Franklin Chase.

Also, that the Senate had passed, with an amendment, the bill of the House for the relief of the heirs of Larkin Smith.

Also, that the Senate had passed, without amendment, bills of the House of the following titles:

An act for the relief of John Steene; and

An act for the relief of Samuel A. Belden & Co.

THE TEXAS BILL—AGAIN.

Mr. BRECKINRIDGE. I demand the previous question upon striking out the enacting clause of the bill just reported from the Committee of the Whole.

Mr. CAMPBELL. Will the previous question cut off amendments from being offered?

The SPEAKER. It will not.

The previous question was seconded, and the main question ordered to be put.

Mr. PHELPS. I desire to know whether the amendment offered by the gentleman from Texas, [Mr. SMYTH,] as a substitute for the bill, was offered in the House before the bill went to the Committee of the Whole on the state of the Union?

The SPEAKER. The Chair will inform the gentleman from Missouri, that the question is now upon striking out the enacting clause of the bill. If that motion be disagreed to it will then be in order to amend the bill.

Mr. PHELPS. I am aware of that, but I desire to know whether this amendment was not offered before the bill went to the committee?

The SPEAKER. It was.

Mr. BRECKINRIDGE. If the Chair will allow me, I will say to the gentleman from Missouri that, whether the amendment of the gentleman from Texas was offered in the House or not, if the enacting clause of the bill be not stricken out, I propose, if I can get the floor, to offer the amendment reported by the Committee of Ways and Means as a substitute for the Senate bill.

Mr. PHELPS. And then to allow other amendments in?

Mr. BRECKINRIDGE. Certainly.

The question was then taken upon striking out the enacting clause; and the motion was not agreed to.

Mr. BRECKINRIDGE. I now offer the substitute reported by the Committee of Ways and Means for the Senate bill.

Mr. JONES, of Tennessee. Before this substitute of the gentleman is read, I ask the gentleman from Kentucky to yield me the floor, to allow me to move to strike out, in the second line, "$8,500,000," and to insert in lieu thereof "$6,550,000."

The SPEAKER. Does the gentleman from Kentucky accept the amendment of the gentleman from Tennessee?

Mr. BRECKINRIDGE. No, sir, I will not accept the amendment, but I will permit the gentleman from Tennessee to make that motion, so that the House may vote upon it.

The SPEAKER. The Chair will receive the amendment, when he has inquired into and determined certain other questions as to the position of other amendments, which were received by the House, and referred with the bill to the Committee of the Whole on the state of the Union.

Mr. JONES. Those amendments did not come back from the committee. The recommendation to strike out the enacting clause only brought back the original bill to the House.

Mr. RICHARDSON. Certainly the bill comes back from the committee just as it went there.

The SPEAKER. But the question arises, whether the amendments which were referred with the bill did not also come back with it.

Mr. RICHARDSON. The only action the committee had was upon the bill itself. It did not act upon the amendments, and they were therefore lost.

The SPEAKER. The Chair thinks the gentleman is correct in his statement.

Mr. PHELPS. I now desire to know whether the bill offered the other day by the gentleman from Texas, was not offered in the House before the bill was referred to the Committee of the Whole on the state of the Union?

The SPEAKER. It was, and was referred there with the original bill, but the committee did not pass upon that amendment. It was not adopted by the committee, and, therefore, was left behind in committee.

Mr. PHELPS. Then that amendment is not now pending.

The SPEAKER. It is not. It does not attach to the bill at all.

Mr. JONES, of Tennessee. With the permission of the gentleman from Kentucky, I will make a single remark. This bill came from the Senate, and was referred to the Committee of Ways and Means. The committee reported it back, recommending certain amendments. The gentleman from Texas then offered his substitute, which was received, if my recollection serves me right. The bill, as reported from the Committee of Ways and Means, with the proposed amendments and the substitute of the gentleman from Texas, were then referred to the Committee of the Whole on the state of the Union. The Committee of the Whole on the state of the Union reported the original Senate bill back, with a recommendation that the enacting clause be stricken out, leaving the amendments behind.

The SPEAKER. The Chair so decides, and unless an appeal is taken from his decision, the question is not debatable.

Mr. JONES. The substitute of the gentleman from Kentucky, as now offered, is the Senate bill with the amendments of the Committee of Ways and Means, with one or two slight modifications, I believe.

Mr. BRECKINRIDGE. As I understand the present posture of this matter, the substitute which I offer is now before the House, together with the amendment of the gentleman from Tennessee, [Mr. JONES,] in relation to the amount. The gentleman from Texas [Mr. SMYTH] desires to offer his substitute, in order that it may be voted on, and that he may take the sense of the House upon it. I am entirely willing that it shall come in, and will now yield the floor to him.

Mr. MILLSON. I rise to a question of order. The gentleman from Kentucky offers an amendment to the bill. The gentleman from Tennessee offers an amendment to that amendment. Can there be any further amendment offered by the gentleman from Texas, or by any other gentleman?

The SPEAKER. The Chair thinks that if the gentleman from Kentucky has offered an amendment in the nature of a substitute, the original bill may be perfected before the vote is taken upon that substitute. That has been the practice here, although the rule is not very specific in regard to it.

Mr. MILLSON. But can there be more than two amendments pending at one time in the House?

The SPEAKER. Not except in that form.

Mr. MILLSON. If not, I object to any further amendment.

The SPEAKER. The Chair understands, however, that the gentleman from Texas proposes an amendment in the nature of a substitute, which is not in order.

Mr. DISNEY. As I understand the state of facts now before the House, it is simply this: A bill from the Senate is pending, to which the gentleman from Kentucky [Mr. BRECKINRIDGE] offers an amendment. Pending that question, the gentleman from Tennessee [Mr. JONES] proposes to amend that proposed amendment. Pending both those motions, the gentleman from Texas [Mr. SMYTH] proposes another amendment—not an amendment to the amendment offered by the gentleman from Tennessee, because that would be out of order—being an amendment in the third degree.

The SPEAKER. The Chair so decides.

Mr. DISNEY. But the amendment offered by the gentleman from Texas is to the amendment of the gentleman from Kentucky, to strike out all of his amendment, reserving only some certain words. Now, it will be remembered that the parliamentary law is, that, pending a motion to strike out any particular portion of the bill or subject-matter, it is in order first to amend the matter proposed to be stricken out. It will be observed that the motion of the gentleman from Tennessee is an amendment, in the second degree, to the amendment offered by the gentleman from Kentucky, to wit: proposing to strike out a portion of his amendment, and it is in order to amend the part of that amendment proposed to be stricken out. Hence all the motions are in order.

The SPEAKER. The Chair overrules the question of order presented by the gentleman from Ohio, and argues very differently in regard to it. The gentleman from Kentucky proposes to amend the bill; the gentleman from Tennessee offers an amendment to that amendment, and there is an end of that under the express rule of the House.

The Chair will state, however, that the motion of the gentleman from Kentucky being to strike out all after the enacting clause of the original bill, or to strike out matter of any kind in the original bill, and insert in lieu thereof, it would be in order under our rules to perfect the original bill before the substitute is voted upon. But in no other form can an amendment, in a degree beyond that offered by the gentleman from Tennessee, be admissible under our rules.

Mr. DISNEY. Will the Chair allow me one word?

The SPEAKER. The Chair will be very happy to hear the gentleman, if it is the will of he House.

Mr. DISNEY. Suppose that, pending the amendment of the gentleman from Kentucky, the gentleman from Texas had, next in order, proposed to amend that amendment by striking out all but certain reserved words, and pending that motion, third in order, the gentleman from Tennessee had made his motion now pending, would it not have been in order?

The SPEAKER. Then the gentleman from Ohio contemplates two, three, and he may run it up to twenty substitutes, instead of one, and the Chair stops at one. That is all.

Mr. JONES, of Tennessee. With the permission of the gentleman from Kentucky, who has the floor, I will suggest a course which, I think, will satisfy those who desire that there shall be a vote on all the amendments.

Mr. BRECKINRIDGE. I yield to the gentleman for that purpose.

Mr. JONES. The gentleman from Kentucky moves to strike out all of the original bill after the enacting clause, and to substitute other matter for it. My amendment is offered to his substitute. No further amendment, as I think with the Chair, can be offered to it whilst mine is pending.

The SPEAKER. No further amendment, the Chair decides, can be offered to the substitute of the gentleman from Kentucky. But it would be in order to perfect the original bill which the gentleman from Kentucky proposes to strike out.

Mr. JONES. Then I would suggest to the gentleman from Texas that, in order to make his substitute in order, he should move to insert it in lieu of all of the Senate bill except the last section, which is as follows:

And be it further enacted, That this act shall not take effect until it shall be assented to by an act of the Legislature of the State of Texas, and a copy of the act of said State, duly authenticated, deposited in the Treasury Department at Washington.

That section does not conflict at all with his amendment, and then we shall be able to have a vote upon his substitute, a vote upon my amendment, and a vote upon the substitute of the gentleman from Kentucky. Let the gentleman offer his amendment in lieu of the first five sections of the original bill.

Mr. HENN. I ask if this debate is in order?

The SPEAKER. The debate is not strictly in order.

Mr. HENN. Then I call the gentleman to order.

Mr. SMYTH. I offer my amendment in the shape suggested by the gentleman from Tennessee.

Mr. SEYMOUR. I would suggest that unanimous consent be given for the reception of the amendment of the gentleman from Texas, and thereby make it in order. It was certainly the understanding of the Committee of the Whole that the gentleman from Texas should have an opportunity of offering the amendment.

The SPEAKER. In addition to that suggestion, the Chair doubts, upon reflection, whether

his decision, made some time since, was a correct one. The amendment having been offered in the House by the gentleman from Texas, and accompanying the bill, as it did, to the Committee of the Whole on the state of the Union, and the committee having reported, not upon that amendment or upon any other, but in favor of striking out the enacting clause of the bill, the Chair doubts whether the bill was not reported back to the House necessarily with the amendments pending while it was in the House.

Mr. ORR. In my opinion, Mr. Speaker, the amendment comes back. The committee did nothing to destroy the amendment which was sent to it by the House.

The SPEAKER. It was made, by order of the House, the duty of the committee to report on the amendment as well as on the bill, it so strikes the Chair on reflection, and therefore the amendments offered in the House, and referred to the committee by the House, come back with the bill to the House. The Chair, after reviewing his former decision on the subject, must so decide. Then the Chair understands the amendment of the gentleman from Texas [Mr. SMYTH] as pending to the original bill in the nature of a substitute.

Mr. SMYTH. I have desired to make a change in that amendment, with respect to a date.

The amendment was reported, as follows:

That the Secretary of the Treasury be, and he is hereby, authorized and required, at any time after the 1st day of February next, to issue to the State of Texas such portion of the stock mentioned in the proviso to the fifth article of the first section of the act entitled "An act proposing to the State of Texas the establishment of her northern and western boundaries, the relinquishment by the State of all territory claimed by her exterior to said boundaries, and of all her claims upon the United States, and the establishment of a territorial government for New Mexico," approved September 9, 1850, as shall be equivalent in amount to the releases of the claims against the United States, which shall be then filed at the Treasury, as in said article is provided; and in like manner, from month to month, to issue said stock equivalent to such like releases as may be thereafter filed, until the whole of the stock reserved by said article shall be exhausted. The sums of said stock issued to the State of Texas under the provisions of this section in all cases to be equivalent in amount to the sums paid by the State in stock or money in the discharge of the debts or liabilities for which releases are filed.

SEC. 2. *And be it further enacted*, That the President of the United States, through the Secretary of the Treasury, notify the Governor of the State of Texas of the passage of this act.

Mr. SMYTH. I propose, in the third line of the amendment, to strike out the word "February," and insert the word "May," so as to make it read, "that the Secretary of the Treasury is required, at any time after the first day of May next," &c.

The alteration was made.

The SPEAKER. There are also amendments proposed by the Committee of Ways and Means, which were offered in the House, and referred to the committee.

Mr. BRECKINRIDGE. I understand the scope of the decision made by the Chair as being to cut out the bill which I have just sent up as a substitute for the Senate bill; but, I apprehend, it would be in order for me now to move it as a substitute for the bill sent up by the gentleman from Texas.

The SPEAKER. How much of the original bill is stricken out? Is it in the nature of a substitute?

Mr. BRECKINRIDGE. The whole of it is stricken out. It is in the nature of a substitute.

The SPEAKER. The original bill may be perfected by amendments. The substitute proposed by the gentleman from Texas may be amended and perfected before a vote is had on substituting one for the other.

Mr. BRECKINRIDGE. But may I not offer mine as a substitute for that of the gentleman from Texas?

The SPEAKER. Certainly.

Mr. BRECKINRIDGE. I must do that for the purpose of saving the proposition.

Mr. JONES, of Tennessee. If the gentleman will hear me now, I think we can get at all these questions. I move to amend the original Senate bill by striking out of the twenty-sixth line "$8.500.000," and inserting in lieu thereof "$6,550.000."

The SPEAKER. That is in order.

Mr. JONES. And then the gentleman from Kentucky [Mr. BRECKINRIDGE] can call the previous question; and, as I understand the question now, if the previous question be sustained, the vote will be first on my amendments, being first on the bill, then on the amendments proposed by the Committee of Ways and Means to the original bill; and if they shall be concurred in—or whether or not—the vote will next come on the substitute of the gentleman from Kentucky, in lieu of that of the gentleman from Texas.

The SPEAKER. Yes; that will be the course of the proceedings.

Mr. BRECKINRIDGE. Before I move the previous question I want to remind the House of what I stated in committee, that I wish to give my friend from New York [Mr. PRINGLE] an opportunity to offer an amendment. I hope he will be allowed to do so by the unanimous consent of the House.

Mr. PRINGLE. I wish to offer an amendment as a substitute for the bill.

The SPEAKER. It can only be done by unanimous consent.

The amendment was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, immediately after the 1st day of July next, the Secretary of the Treasury be, and he is hereby, authorized to pay to the creditors of the State of Texas, holding bonds or other certificates of stocks of said State, for which duties on imports were specially pledged, out of any money in the Treasury not otherwise appropriated, a sum not exceeding $5,000,000, and the interest thereon, at the rate of five per centum per annum, from the 25th day of November, 1850, to the 1st day of July next, in ratable proportion upon each and every of said bonds and certificates of Texas stock, which shall, on or before the 1st day of July next, be by the said creditors deposited with the Secretary of the Treasury, together with an assignment to the United States of so much or such portion of each of said bonds and certificates as shall be so paid thereon by the Secretary of the Treasury, and likewise a release of the United States from all claim for or on account of each bond and certificate. And it is hereby declared, that all payments made under the provisions of this act shall be deemed and taken as so much paid on account of the $5,000,000 of stocks provided for by the said act of Congress, which has not yet been issued, and in case the whole amount of $5,000,000 and interest, as above provided, shall be paid to the creditors of Texas under the provisions of this act, then the United States shall be free from any liability to the State of Texas, by reason of any obligation imposed upon the United States by the act of Congress aforesaid.

The SPEAKER. The amendment just read will be received if no objection be made.

Mr. WARREN. I object.

Mr. HOUSTON took the floor.

Mr. BRECKINRIDGE. For the purpose of meeting the wishes of my friend from Alabama, [Mr. HOUSTON,] I move the previous question.

Mr. HOUSTON. I wish to remind the gentleman from Kentucky——

[Loud cries of "Order!" "Order!"]

Mr. HOUSTON. I hope the gentleman will withdraw his call for the previous question for one moment.

Mr. BRECKINRIDGE declined doing so.

Mr. CAMPBELL. I desire to make an inquiry of the gentleman from Kentucky—whether he has modified his amendment at the close of the sixth section of the bill, so as to provide that Texas shall abandon all the claims upon the United States growing out of Indian depredations or otherwise?

Mr. BRECKINRIDGE. I have modified that section in the bill. It originally read as follows:

"Nor until the Legislature of the State of Texas shall pass an act withdrawing and abandoning all claims and demands against the United States, growing out of Indian depredations prior to the admission of said State into the Union."

I have modified it so as to read——

Mr. HOUSTON, (interrupting) I call the gentleman from Kentucky to order. The previous question has been demanded, and he is not in order. I was not allowed to say a word a moment ago.

[Loud cries of "Order!" "Order!"]

The demand for the previous question was seconded; and the main question ordered to be put.

The SPEAKER. The business first in order is the adoption of the amendment proposed by the gentleman from Tennessee, [Mr. JONES,] to strike out, in the twenty-sixth line, "$8,500,000," and insert in lieu thereof "$6,550,000."

Mr. JONES, of Tennessee, demanded the yeas and nays; which were ordered.

Mr. JAMES C. ALLEN. Before the vote is taken I desire to have the first clause of the 40th rule read, in relation to members voting upon a question in which they have a direct interest.

Mr. WARREN. I object.

Mr. JAMES C. ALLEN. I have a right to have that rule read.

Mr. FLORENCE. Every gentleman can read it by opening his drawer.

Mr. WARREN. I urge the objection to the reading of the rule, for the reason that I——

[Cries of "Order!" "Order!" "Order!"]

The SPEAKER. We have a rule of the House which requires that, when objections are made to the reading of any paper desired by a member, the question shall be determined by a vote of the House. The question then is, "Shall the rule to which the gentleman from Illinois refers, be read by the Clerk?"

Mr. WARREN. I ask for the yeas and nays upon that question.

The yeas and nays were not ordered.

The question was then taken; and it was decided in the affirmative.

The rule was then read by the Clerk, as follows:

"No member shall vote on any question in the event of which he is immediately and particularly interested, or in any case where he was not within the bar of the House when the question was put."

Mr. WARREN. I desire to ask simply a question—whether, by the reading of that rule, there is an intimation as to any interest had in this bill by any gentleman upon this floor?

The SPEAKER. The gentleman can only ask the question by the unanimous consent of the House.

Mr. HOUSTON. I object.

The question was then taken upon Mr. JONES's amendment; and there were—yeas 120, nays 82; as follows:

YEAS—Messrs. Abercrombie, Aiken, James C. Allen, Willis Allen, Ball, Banks, Barksdale, Barry, Belcher, Bennett, Benson, Benton, Bocock, Boyce, Brooks, Carpenter, Caruthers, Caskie, Chamberlain, Chastain, Chrisman, Cobb, Craige, Cullom, John G. Davis, Thomas Davis, Disney, Eastman, Edgerton, Edmundson, Ellison, Farley, Faulkner, Flagler, Fuller, Giddings, Goode, Grow, Hamilton, Aaron Harlan, Wiley P. Harris, Hastings, Haven, Henn, Hibbard, Hiester, Hillyer, Houston, Howe, Hughes, Ingersoll, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kittredge, Knox, Lane, Letcher, Lewis, Lilly, McCulloch, Macdonald, McMullin, McQueen, Maurice, May, Meacham, Middleswarth, Millson, Morgan, Morrison, Murray, Nichols, Norton, Andrew Oliver, Mordecai Oliver, Packer, Parker, Peck, Pennington, Bishop Perkins, John Perkins, Phelps, Phillips, Powell, Pratt, Pringle, Puryear, David Ritchie, Thomas Ritchey, Ruffin, Russell, Sabin, Sage, Seymour, Shaw, Shower, Simmons, Singleton, Skelton, Stratton, Straub, Andrew Stuart, Nathaniel G. Taylor, Teller, Tracy, Tweed, Vansant, Wade, Walsh, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, Wheeler, Daniel B. Wright, Yates, and Zollicoffer—120.

NAYS—Messrs. Appleton, Bell, Bliss, Breckinridge, Bridges, Bristow, Bugg, Campbell, Chandler, Chase, Clark, Clingman, Cook, Corwin, Cox, Crocker, Cumming, Dawson, Dick, Dunbar, Dunham, Edmands, Thomas D. Eliot, English, Etheridge, Everhart, Fenton, Florence, Franklin, Gamble, Goodrich, Green, Greenwood, Grey, Andrew J. Harlan, Hendricks, Hill, Hunt, Johnson, Kurtz, Lamb, Latham, Lindsley, McDougall, McNair, Mace, Matteson, Maxwell, Mayall, Smith Miller, Olds, Orr, Peckham, Preston, Ready, Reese, Riddle, Robbins, Rowe, Sapp, Seward, Shannon, Samuel A. Smith, William Smith, William R. Smith, George W. Smyth, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, David Stuart, John J. Taylor, John L. Taylor, Thurston, Upham, Walker, Walley, Warren, John Wentworth, Westbrook, Witte, and Hendrick B. Wright—82.

So the amendment was agreed to.

Pending the call of the yeas and nays,

Mr. MILLSON said: I protest against bringing the creditors of Texas, for the first time, into direct communication with this Government; but, as a choice of evils, preferring the amendment to the original bill, I vote aye.

Mr. NOBLE. I have paired off with Mr. HARRISON, of Ohio, who, if he had been here, would have voted for the bill, while I would have voted against it.

Mr. WALBRIDGE stated that he had paired off with Mr. VAIL, of New Jersey.

The first amendment, reported by the Committee of Ways and Means, to the bill was in the second section, tenth line, after the word "Texas," to insert the following:

And where the said sum that may be refunded to the State of Texas by the provisions of this section is less than the proportion which would have been allowed under this act to the holders of such evidences of debt, had such payment not been made them, such holders shall be entitled to receive the difference between said sum and the proportion they would have received under this act if no payment had been made them.

The question was taken; and the amendment was agreed to.

The second amendment was to insert in line nineteen, after the word "Texas," the words:

—"and new certificates issued therefor by said State of Texas"—

so that the clause would read as follows:

And where any original certificates, or other evidences of debt, have been surrendered to the authority of the State of Texas, and new certificates issued therefor by said State of Texas, such new certificates shall be received as evidences of the original amount of the claim.

The question was taken; and the amendment was agreed to.

The third, fourth, and fifth amendments were to insert in section third, line six, after the words "United States," the words "and the State of Texas;" and in the seventh line, after the word "debt," to strike out the words "and shall also indorse upon the said security, or evidence of debt, a credit for the amount so received by said holder, in such form as the Secretary of the Treasury may prescribe;" and at the end of the section to strike out the words "for the benefit of those whom it may concern, until otherwise directed by law;" so that the section would read:

SEC. 3. *And be it further enacted*, That no payment shall be made under this act to any holder of said securities, or evidences of debt, unless the said holder shall first execute to the United States a receipt for the said payment, in which said holder shall forever release all claim against the United States *and the State of Texas* for or on account of the said securities, or evidences of debt, and the said certificates, or other evidences of debt, shall then be deposited with the Treasury Department.

The question was then taken; and the amendments were severally concurred in.

Mr. BRECKINRIDGE. It is necessary that an amendment should be made to the fifth section, in order that it may correspond with the amendment offered by the gentleman from Tennessee, [Mr. JONES,] and which has been adopted by the House. I move, therefore, to strike out "$8,500,000," and to insert in lieu thereof "$6,550,000."

The question was taken; and the amendment was agreed to.

The sixth amendment of the Committee of Way and Means was to add, in the sixth section, after the words "at Washington," the following:

Nor until the Legislature of the State of Texas shall pass an act withdrawing and abandoning all claims and demands against the United States, growing out of Indian depredations prior to the admission of said State into the Union.

Mr. BRECKINRIDGE. I move to amend the amendment by inserting, after the word "depredations," the words "or otherwise."

The question was then taken; and the amendment was agreed to.

The question then recurring on the amendment of the committee, as amended, it was taken; and decided in the affirmative.

Mr. BRECKINRIDGE. The amendment offered by the Committee of Ways and Means having been disposed of, I now withdraw the amendment I offered to the bill.

The CHAIRMAN. The question now recurs upon the amendment proposed by the gentleman from Texas, [Mr. SMYTH,] by way of a substitute for the bill.

Mr. PERKINS, of New York. I call for the yeas and nays upon that amendment.

Mr. FLORENCE. I demand tellers upon the yeas and nays.

Tellers were ordered; and Messrs. FLORENCE, and DAVIS of Indiana, were appointed.

The House was then divided; and the tellers reported—thirty-seven in the affirmative—a sufficient number.

The question was then taken by yeas and nays; and resulted—yeas 29, nays 161; as follows:

YEAS—Messrs. Ashe, Bell, Bugg, Craige, Disney, Dunham, Goode, Greenword, Hamilton, Haven, Houston, Roland Jones, Knox, Letcher, McCulloch, McDougall, Millson, Bishop Perkins, Phelps, Richardson, Sage, William Smith, George W. Smyth, Sollers, Hestor L. Stevens, Teller, Walsh, Wheeler, and Daniel B. Wright—29.

NAYS—Messrs. Aiken, James C. Allen, Willis Allen, Appleton, Thomas H. Bayly, Banks, Barksdale, Barry, Belcher, Bennett, Benson, Benton, Bliss, Bocock, Boyce, Breckinridge, Bridges, Bristow, Campbell, Carpenter, Caruthers, Caskie, Chamberlain, Chandler, Chase, Chastain, Chrisman, Clark, Clingman, Cobb, Cook, Corwin, Cox, Crocker, Cullom, Cumming, John G. Davis, Thomas Davis, Dawson, Dick, Dunbar, Eastman, Edgerton, Edmands, Edmundson, Thomas D. Eliot, John M. Elliott, Ellison, English, Etheridge, Everhart, Farley, Faulkner, Fenton, Florence, Franklin, Gamble, Giddings, Goodrich, Goodwin, Grow, Aaron Harlan, Andrew J. Harlan, Wiley P. Harris, Hastings, Hendricks, Henn, Hibbard, Hiester, Hill, Howe, Hughes, Hunt, Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Keitt, Kittredge, Kurtz, Lamb, Lane, Latham, Lewis, Lilly, Lindsley, Macdonald, McMullin, McNair, McQueen, Mace, Matteson, Maurice, May, Mayall, Meacham, Middleswarth, Smith Miller, Morgan, Morrison, Murray, Nichols, Norton, Andrew Oliver, Mordecai Oliver, Orr, Packer, Parker, Peck, Peckham, Pennington, Phillips, Pratt, Preston, Pringle, Puryear, Ready, Reese, Thomas Ritchey, Robbins, Rowe, Ruffin, Russell, Sabin, Sapp, Seward, Shannon, Shaw, Shower, Simmons, Singleton, Skelton, William R. Smith, Frederick P. Stanton, Stratton, Straub, Andrew Stuart, David Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Thurston, Tracy, Trout, Tweed, Upham, Vansant, Wade, Walker, Walley, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Witte, Hendrick B. Wright, Yates, and Zollicoffer—161.

So the amendment was not agreed to.

Mr. PRINGLE. I move to reconsider the vote by which, in the sixth line of the third section, was inserted the words "and State of Texas." I think the amendment was adopted inconsiderately. I do not suppose that we wish Congress to assist Texas to deprive her creditors of any part of their just debts.

Mr. CAMPBELL. I inquire whether the words cannot be stricken out by unanimous consent?

The SPEAKER. They can.

Mr. SMYTH, of Texas. I object.

Mr. JONES, of Tennessee. Then the question will be upon the motion to reconsider.

The question was put; and the motion to reconsider was agreed to.

Mr. CAMPBELL. Will it now be in order to move to strike out those words? They were evidently inserted by the committee by mistake.

Mr. JONES, of Tennessee. The motion to reconsider having been carried, the question recurs upon adopting those words as an amendment. If the House refuses to do so, then they are disposed of.

The question was taken upon the amendment; and it was not agreed to.

The question then being, "Shall the bill be read a third time?" it was put, and agreed to.

The bill was accordingly read a third time.

Mr. JONES, of Tennessee. I move the previous question upon the passage of the bill.

The previous question was seconded; and the main question was ordered to be put.

Mr. SAGE. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was then taken; and resulted—yeas 153, nays 43; as follows:

YEAS—Messrs. Abercrombie, Aiken, James C. Allen, Willis Allen, Appleton, Thomas H. Bayly, Banks, Barksdale, Barry, Benson, Benton, Bliss, Bocock, Boyce, Breckinridge, Bridges, Bristow, Brooks, Bugg, Campbell, Carpenter, Caruthers, Chandler, Chase, Chastain, Chrisman, Clark, Clingman, Cobb, Corwin, Cox, Crocker, Cullom, Cumming, Curtis, John G. Davis, Thomas Davis, Dawson, Dick, Dunbar, Dunham, Eastman, Eddy, Edmands, Edmundson, Thomas D. Eliot, Ellison, Etheridge, Everhart, Farley, Faulkner, Fenton, Flagler, Franklin, Fuller, Gamble, Goode, Goodrich, Green, Greenwood, Grey, Grow, Aaron Harlan, Andrew J. Harlan, Wiley P. Harris, Hastings, Hibbard, Hiester, Hill, Hillyer, Howe, Hughes, Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kurtz, Kittredge, Latham, McCulloch, Macdonald, McDougall, McMullin, McNair, Maxwell, May, Mayall, Meacham, Middleswarth, Smith Miller, Murray, Nichols, Norton, Olds, Mordecai Oliver, Orr, Packer, Parker, John Perkins, Phillips, Pratt, Preston, Pringle, Puryear, Ready, Reese, Richardson, Riddle, David Ritchie, Thomas Ritchey, Robbins, Rowe, Russell, Sabin, Sage, Seward, Seymour, Shannon, Shaw, Simmons, Singleton, Skelton, William Smith, William R. Smith, Richard H. Stanton, Stratton, Straub, David Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Trout, Tweed, Upham, Vansant, Walker, Walley, Warren, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Wheeler, Witte, Daniel B. Wright, Hendrick B. Wright, and Zollicoffer—153.

NAYS—Messrs. Ashe, Belcher, Bell, Bennett, Chamberlain, Craige, Disney, Edgerton, English, Florence, Giddings, Goodwin, Hamilton, Haven, Hendricks, Henn, Hunt, Knox, Lamb, Letcher, Lewis, Lindsley, McQueen, Mace, Matteson, Maurice, Millson, Morgan, Morrison, Andrew Oliver, Peck, Peckham, Pennington, Bishop Perkins, Phelps, Powell, Ruffin, Sapp, Shower, George W. Smyth, Hestor L. Stevens, Elihu B. Washburne, and Yates—43.

So the bill was passed.

Pending the call of the yeas and nays,

Mr. NOBLE said: Mr. HARRISON, of Ohio, is absent on account of sickness in his family. I have paired off with him. I should otherwise have voted against the bill, and he would have voted in favor of it.

Mr. ELLIOTT, of Kentucky, also stated that he was without the bar of the House when his name was called, and had he been in his seat he should have voted in the affirmative.

Mr. BRECKINRIDGE moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

QUESTION OF ORDER.

Mr. HENN. A few days ago we passed a resolution making the Texas bill the special order for yesterday only. When, however, we came to act under the resolution we found that it was not drawn up according to the understanding of the House. On Monday last we passed two other resolutions of a similar character, one making business of a general nature reported from the Committee on the Judiciary, the special order for to-morrow; and the other making business of a general character reported from the Committee on Naval Affairs, the special order for Tuesday next. I wish to say to the House that it was the understanding of the House, at the time those resolutions were passed, that they related to general business only, and yet, a day or two since, reports were made from those committees of matters of a private character, for the purpose of having them acted on, on the days specified.

It was also understood that the special orders were made for one day only, for the business from each committee, yet I understand that the resolutions are so worded as to make those matters special orders until disposed of. I propose, therefore, to settle the matter now, before we come to act under the resolutions, by adopting a resolution which I send to the Clerk's desk.

The resolution was read for information, as follows:

Resolved, That the resolution adopted by the House on the 5th instant be, and the same hereby is, so construed as to allow one day only for the consideration of business of a general character reported by the Committee on the Judiciary, and one day only for the consideration of business of a general character reported by the Committee on Naval Affairs, anything contained in said resolutions to the contrary notwithstanding.

Mr. RITCHIE, of Pennsylvania. I object to the introduction of the resolution.

The SPEAKER. Objection being made, the resolution is not in order.

THE TARIFF BILL.

Mr. HOUSTON. I now move to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union. I will say to the House that, if the rules are suspended, and we go into committee, my purpose is to move to take up the bill reducing the duties upon imports, and for other purposes.

Mr. HIESTER. I demand the yeas and nays upon the motion.

The yeas and nays were ordered.

Mr. BOYCE. I would ask the gentleman from Alabama if he does not consider this a test vote in reference to taking up the tariff bill?

Mr. HOUSTON. I should like to have it considered a test vote.

The question was then taken; and resulted—yeas 104, nays 97; as follows:

YEAS—Messrs. Abercrombie, Aiken, James C. Allen, Willis Allen, Appleton, Ashe, Thomas H. Bayly, Banks, Barksdale, Barry, Belcher, Benton, Bliss, Boyce, Breckinridge, Brooks, Caskie, Chamberlain, Chastain, Clark, Clingman, Cobb, Craige, Cumming, Cutting, John G. Davis, Disney, Dunham, Eddy, Edgerton, Edmands, Edmundson, Thomas D. Eliot, John M. Elliott, Ellison, Faulkner, Fuller, Goode, Goodrich, Green, Greenwood, Grey, Grow, Hamilton, Andrew J. Harlan, Wiley P. Harris, Hastings, Hendricks, Henn, Hibbard, Houston, Johnson, Daniel T. Jones, George W. Jones, Roland Jones, Kiett, Kerr, Kittredge, Lamb, Latham, Letcher, Lewis, McMullin, McQueen, Maurice, Maxwell, May, Millson, Morrison, Murray, Nichols, Noble, Olds, Andrew Oliver, Orr, Peck, Peckham, Bishop Perkins, John Perkins, Phelps, Phillips, Pratt, Richardson, Thomas Ritchey, Ruffin, Shannon, Shaw, Shower, Singleton, William Smith, William R. Smith, George W. Smyth, Richard H. Stanton, Hestor L. Stevens, Andrew Stuart, Upham, Walbridge, Walley, Walsh, Warren, Wells, John Wentworth, Wheeler, and Daniel B. Wright—104.

NAYS—Messrs. Ball, Bell, Bennett, Benson, Bridges, Bristow, Bugg, Campbell, Carpenter, Caruthers, Chandler, Chase, Cook, Corwin, Cox, Crocker, Cullom, Curtis, Thomas Davis, Dawson, Dick, Dunbar, Eastman, Etheridge, Everhart, Farley, Fenton, Flagler, Florence, Franklin, Gamble, Goodwin, Aaron Harlan, Haven, Hiester, Hill, Howe, Hughes, Hunt, Ingersoll, J. Glancy Jones, Knox, Kurtz, Lilly, Lindsley, McCulloch, Macdonald, McDougall, McNair, Mace, Matteson, Mayall, Meacham, Middleswarth, Smith Miller, Morgan, Norton, Mordecai Oliver, Packer, Parker, Pennington, Preston, Pringle, Puryear, Reese, David Ritchie, Robbins, Rowe, Russell, Sabin, Sage, Sapp, Seward, Seymour, Simmons, Skelton, Stratton, Straub, John J. Taylor, John L. Taylor, Nathaniel G.

Taylor, Teller, Thurston, Tracy, Trout, Tweed, Vail, Vansant, Wade, Walker, Elihu B. Washburne, Israel Washburn, Westbrook, Witte, Hendrick B. Wright, Yates, and Zollicoffer—97.

So the motion to go into committee was agreed to.

Previous to the announcement of the above vote,

Mr. STANTON, of Tennessee, said: Mr. Speaker, I was not within the bar when my name was called. If I had been, I would have voted in the affirmative. With the unanimous consent of House, I will now record my vote.

[Cries of "Object!"]

Mr. BOCOCK. I was not within the bar when my name was called. Had I been present, I should have voted on this question in the affirmative.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. EDGERTON in the chair.)

Mr. HOUSTON. Mr. Chairman, I move that the committee do now proceed to the consideration of House bill (No. 403) reducing the duties on imports, and for other purposes.

CIVIL AND DIPLOMATIC BILL.

Mr. ROBBINS. I move that the committee do now proceed to the consideration of House bill (No. 569) making appropriations for the civil and diplomatic expenses of the Government for the year ending 30th June, 1856. I hold that my motion, having reference to one of the general appropriation bills, takes precedence of that submitted by the gentleman from Alabama.

The CHAIRMAN. The Chair decides, for the reason stated by the gentleman from Pennsylvania, that his motion has precedence of that made by the gentleman from Alabama.

[Cries of "Read the bill!"]

Mr. HOUSTON. I had hoped that gentlemen would have let us come up to the question, and vote directly on it merits.

Mr. WARREN. I object to the motion of the gentleman from Pennsylvania.

The CHAIRMAN. The gentleman from Pennsylvania has a right to submit it for the vote of the committee. The Chair would suggest to the gentleman from Alabama, that the only way in which he can accomplish the object he has in view—to get up the bill in regard to the tariff—is to move to lay aside, one after the other, the bills which precede that one upon the Calendar.

Mr. HOUSTON. I submit that motion.

Mr. TWEED. Let the Chair state the question.

The CHAIRMAN. The gentleman from Alabama moves to take up for consideration the bill of the House reducing the duties on imports, and for other purposes. The gentleman from Pennsylvania moves to proceed to the consideration of the civil and diplomatic bill. The latter motion, the Chair decides, takes precedence. The gentleman from Alabama then moves that the first bill upon the Calendar be laid aside, or informally passed over.

Mr. HENDRICKS. Which is the first bill upon the Calendar?

The CHAIRMAN. The civil and diplomatic appropriation bill.

Mr. WASHBURN, of Maine. I demand tellers on the motion of the gentleman from Pennsylvania, [Mr. ROBBINS.]

Tellers were ordered; and Messrs. NOBLE and HIBBARD were appointed.

The question was taken; and the motion was agreed to; the tellers having reported—ayes 95, noes 89.

So the committee agreed to proceed to the consideration of the civil and diplomatic appropriation bill.

The CHAIRMAN. The Clerk will read the bill.

Mr. HOUSTON. I move to dispense with the first reading of the bill, and that it be read by paragraphs for amendment.

[Loud cries of "No!" "No!" and "Object!"]

The CHAIRMAN. Then the Clerk will read the bill.

Mr. FARLEY. I move that the committee do now rise.

Mr. WHEELER. Upon that motion I demand tellers.

Tellers were ordered; and Messrs. WHEELER and HAMILTON were appointed.

The question was then taken; and the tellers reported—ayes 99, noes 31.

So the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, the Chairman [Mr. EDGERTON] reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House (No. 569) making appropriations for the civil and diplomatic service of the Government for the year ending June 30, 1856, and had come to no resolution thereon.

Mr. PECKHAM. I think we have done about enough for one day. I move that the House do now adjourn.

The question was put; and the motion was agreed to; and

Thereupon (at five minutes past three o'clock) the House adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

THURSDAY, *February* 8, 1855.

Prayer by Rev. HENRY SLICER.

The Secretary proceeded to read the Journal, but after some time——

Mr. BADGER. I hope there will be no objection to dispensing with the reading of the residue of that Journal. Nobody attends to it. It is very long, and contains an immense multiplicity of details. I hope the reading will be dispensed with.

The PRESIDENT. It requires unanimous consent.

Mr. MASON. If I recollect aright, when a similar proposition was made here four or five years ago, it was said that, though considered by some a matter of form, it was really a matter of substance.

Mr. BADGER. As objection is made, I withdraw the suggestion; but no human being was listening to the reading of the Journal. I hope the Senator from Virginia, himself, will listen to it.

The Secretary resumed, and concluded the reading of the Journal.

TEXAS DEBT BILL.

A message was received from the House of Representatives, by Mr. MCKEAN, Chief Clerk, announcing that they had passed the Senate bill, to provide for the payment of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9, 1850, with amendments, in which they asked the concurrence of the Senate.

TAKING OF DEPOSITIONS.

Mr. BADGER. I hope my friend from Virginia, who would not allow the reading of the Journal to be dispensed with, will make no objection to my asking permission of the Senate now to introduce a bill of which I gave notice a week ago, but, as yet, I have had no opportunity of introducing.

The PRESIDENT. It requires unanimous consent to introduce the bill at this time.

Leave was granted, and the bill "to repeal so much of the thirtieth section of the 'act to establish the judicial courts of the United States' as authorizes the taking of depositions without notice;" was read the first time, and ordered to a second reading.

Mr. BADGER. I desire to make a very brief statement about this bill, and then, if no gentleman desires that it be referred, I shall ask that it be put upon its passage. By the thirtieth section of the judiciary act, in all cases where the adverse party is distant more than one hundred miles from the place of taking a deposition, it can be taken without any notice to him, or to his attorney. This is a total violation of all the principles of evidence, and has been recently the subject of very strong animadversion in an opinion delivered by the Supreme Court on the stereotyped depositions that are produced, mere *ex parte* affidavits. This bill proposes to repeal that provision, and fixes the rate of notice to be given beyond one hundred miles. I have shown it to the members of the Committee on the Judiciary, and I believe everybody agrees that it is a very proper and necessary measure.

The bill was read a second time, and considered as in Committee of the Whole. It proposes to repeal so much of the thirtieth section of the act of September 24, 1789, as authorizes depositions to be taken *de bene esse* without notice to the adverse party or his attorney when neither is within one hundred miles of the place of caption. When neither the adverse party nor his attorney is within one hundred miles of the place of caption, notice is to be hereafter given at the rate of not less than one day, Sundays excepted, for each forty miles of the additional distance.

Mr. CHASE. I have no objection to the consideration of the bill, nor to the bill itself. I think it is a beneficial improvement; but I wish to suggest to the honorable Senator from North Carolina the expediency of a proviso limiting the effect of the bill to depositions which may be taken, say within three months from the date of its passage. As it now stands, it might affect depositions which have already been taken, or may be in process of being taken. I think I have heard of one such case. I believe it would be better to fix such a limitation.

Mr. MASON. It should be six months at least.

Mr. CHASE. The Senator from Virginia suggests six months.

Mr. PETTIT. The bill has no retrospective operation.

Mr. CHASE. But difficulties might arise. It might lead to question.

Mr. BADGER. I must confess that, for one, I am not for continuing for six months the right of a man to take *ex parte* affidavits, and to read them against his adversary. Every one ought to have the opportunity of cross-examining a witness whose testimony is to be used against him.

Mr. CHASE. The practice which it is now sought to correct has been in force ever since the judicial organization of the courts of the United States—ever since 1789. Certainly a practice so old as that ought not to be interrupted at once, without some provision excepting from the operation of the bill those depositions which may be taken before any notice of the act reaches the parties. I move to amend the bill by adding this proviso:

Provided, That nothing in this act contained shall affect depositions taken under existing provisions of law, until after three months from the date of its passage.

Mr. BRODHEAD. Let it read that "this act shall not take effect until three months from its passage."

Mr. BADGER. Mr. President, I have no objection that there shall be a clause appended to this bill declaring that it shall not take effect until the 4th of March, 1855; but beyond that I should not be willing to go. So far as I am concerned, if we had the power to do so, I would be willing to declare that no deposition which has already been taken without notice should be read in court, because it is the grossest violation of all the principles of justice, unknown anywhere in the world, I believe, except in the courts of the United States. Recently the Supreme Court, in delivering an opinion, had occasion to remark upon the testimony of about twenty witnesses taken in a collision cause. The judge states that of these witnesses, so many were on deck in a situation where they could not see; so many on deck in a situation where they could see; and so many in their beds and asleep; and yet every man gave a clear, distinct, and unequivocal statement to the same manner of the collision taking place. It drew attention to the fact——

Mr. WELLER. I desire to ask my friend from North Carolina what will be the effect of this provision upon depositions which are now being taken, for instance in the State of California? This bill, if it become a law, will be enforced fully one month before any knowledge of it can reach that State; and during that month what would be its effect upon testimony there taken? Now, is it not better that this law shall take effect from the first Monday of May, if you choose to select that day? That would give ample time.

Mr. BADGER. I would suggest to the Senator from California, that depositions taken without notice ought to be taken over again.

Mr. WELLER. If a party takes a deposition according to the law as it now stands, it would be very hard to subject him to the additional expense of taking that testimony over again. Taking testimony in California is a very expensive business.

Mr. BADGER. The case put by the Senator

from California, is not the case of a deposition taken according to law; for, if taken according to law, it could be read. But it is the case of the taking of a deposition according to a law which has been repealed, and the party does not know that it has been repealed.

Mr. WELLER. You give him no time to know of the repeal of the law.

Mr. BADGER. I am willing to put in an exception so far as California is concerned.

Mr. WELLER. I do not ask for a special provision in favor of California.

Mr. BAYARD. I would suggest a proviso that the bill should take effect from and after the first Monday of April.

Mr. BADGER. I move the reference of the bill to the Committee on the Judiciary. I suppose there will be a general acquiescence in that.

Mr. MASON. Before that question is taken I have a word to say. I did not suppose that the honorable Senator from North Carolina, who is certainly among the best, if not the oldest lawyer in the Senate, should be an advocate for so violent an innovation upon the existing law—a law that has been upon the statute-book now *ab urbe condita* almost, and not complained of that I know of anywhere—[Mr. BADGER: Complained of everywhere]—but which he proposes to amend in this summary manner, conceiving it a case requiring immediate interference, although it has existed for seventy or eighty years, with the knowledge, and, as I understand, with the admission, that it will work harshly and injuriously, without any reason for it, upon pending litigation. I did not expect that from one who has shown himself, in every instance on this floor, an advocate for the stability of our institutions and our laws.

Sir, I agree with the honorable Senator that the proposed amendment will be a judicious, a wise and a highly expedient one; but that he should, in order to attain it immediately, put suitors to the extraordinary expense to which many of them will be put, if depositions taken without knowledge of the law shall be found to be illegal, is a matter which I confess somewhat surprises me. We have been told by the honorable Senator from California, that to take a deposition in California is no light matter. It is an expensive process. It costs a good deal of money. I dare say that, to send from the State of the honorable Senator from North Carolina, or my State, to take a deposition in California, in a litigation pending in either State, would amount to very nearly one hundred dollars. In order that this evil, which has been, so far as I am informed, uncomplained of for seventy years, may be remedied immediately, he will inflict all this injustice on suitors who have litigation pending. I submit to him, with all respect, that to make the bill have effect from the first of June next, as I understand is proposed by the Senator from Ohio, would answer every end and avoid this injustice.

Mr. BADGER. Mr. President, I am not at all surprised that the Senator from Virginia is surprised at the notions which I entertain on this subject, because it has been my lot often to differ from that gentleman, and very frequently upon subjects which concerned what I believed the best interests of this country, and the most important matters connected with the just and proper administration of this Government; but I did expect that the honorable Senator would agree with himself through one speech. He objects, in the first place, to my proposition, because it is to interfere with a time-honored system, a provision that has existed *ab urbe condita*, and which has never been complained of, as he says; and then before the Senator takes his seat, he admits that the alteration which I proposed to make in this time-honored system, existing *ab urbe condita*, and never complained of, is a very wise and judicious one. Now, sir, if we are to pay any of the respect of which the Senator speaks, to the time during which this provision has existed, why interfere with it at all? If the period of time from 1789 down to the present day is a period during which this system has existed, of taking depositions against adversaries without notice to them, of reading *ex parte* affidavits, thus breaking down the fundamental principle, not only of the common law, but of all law, that a man has a right to cross-examine a witness, and to be present when he gives his testimony, and generally to have him face to face in the court where his evidence is to operate. If, I say, this long continued practice, this commencement and prosecution of that system to the present day, is to have the effect of giving to it the confidence and veneration due to age and long experience, why is the Senator willing to interfere with it at all? He has no hesitation in saying that it ought to be interfered with. Then what becomes of all his respect for antiquity, and his regard for long-continued usage? Why, sir, it is all gone.

Well, then, what is the Senator's objection to this bill? It is that a man who has taken a deposition may be put to an expense of $100 in taking it over again. Now, what is the inconvenience on the other side? That deposition, a mere *ex parte* affidavit, and a stereotyped deposition, as the Supreme Court, in the case to which I referred, characterized those depositions about the collision, may be used to deprive a fellow-citizen of property to the amount of $100,000. In order to prevent the inconvenience of a man paying $100 for taking a deposition over again, you are to have an *ex parte* affidavit read in court, against all the provisions of justice, under this exceptional provision in statute, which has been constantly complained of, and which has induced the Judges of the Supreme Court to exercise a scrutiny of the most strict and technical kind over all the forms, however minute, with regard to these depositions, feeling the impropriety of allowing them to be read without notice to the party, and induced them to set them aside whenever there is the smallest deviation from the prescribed forms and requisites of the statute. Sir, it seems to me that the two evils are not to compare with each other. The evil that a man may possibly spend $100 in taking a deposition over again; and the other evil that an *ex parte* affidavit may be read to deprive the opposite party of property to an indefinite amount—$100,000 or more.

Mr. BRODHEAD. I rise to a question of order. Is this the proper mode of consuming the morning hour?

Mr. BADGER. I admit it is not.

The PRESIDENT. The Senator from North Carolina asked unanimous consent to introduce his bill; the Chair stated the question and nobody objected; the bill is, therefore, before the Senate, and the pending question is on the motion of the Senator from North Carolina to refer it to the Committee on the Judiciary.

Mr. MASON. Mr. President, the honorable Senator from North Carolina has shown himself a very sharp logician; but in the earnestness which belongs to logicians of that class, I think he has been disposed to attain a victory at the expense of candor and frankness. He says it is remarkable that, in a very short speech, I was unable to avoid contradicting myself. The case which he puts is, that, when I stated this law to have been upon the statute-book for some seventy or eighty years uncomplained of, I, at the same time, admitted that it would be wise and expedient to modify it; and thence the Senator would draw the conclusion that, although it may be wise and expedient to remove an evil to which we have been subjected for seventy or eighty years, it is a contradiction to suppose that that should not be done at the expense of gross injustice to those who have suits pending in the courts. That is the contradiction to which his logic has brought him.

Now, sir, I say again, this law has been long on the statute-book, so far as I am aware, uncomplained of. I am not aware that any petition or memorial of any kind whatever has ever come from the people or the bar asking that it should be remedied. I should infer, therefore, that the grievance, if it be one, is comparatively slight. I admit that it ought to be remedied; but I submit to that honorable Senator, when the sober second thought comes to him of doing justice to all upon whom this bill may operate, whether it would not be harsh, without a call, to put them to the unnecessary expense of taking expensive depositions a second time, that he might be indulged in having the law immediately repealed. That would be the consequence.

Mr. BADGER. The honorable Senator from Virginia has not avoided the difficulty into which he says my logic placed him. It may have been wanting in candor, but, if so, it is not my fault. I did not make his argument.

Mr. MASON. You misstated it.

Mr. BADGER. I did nothing in the world but draw a conclusion from it which the Senator himself ought to have drawn. The Senator spoke of the length of time that this law had stood, and, therefore, he was against making the immediate change. Well, sir, if the law had stood but ten years, but five years, but three years, but one year, his argument would be equally clear against the immediate change; because he would have had just as much right to say, upon the law which had stood three years, that it was wrong to put a party to the inconvenience and expense of taking a deposition over again, as if the law had stood for seventy years; for the inconvenience of the party is obliging him to go to expense in order to conform to a newly passed law. When, therefore, the Senator invoked the antiquity of the law, the long time in which it commanded the public support and approbation, it must have been for the purpose, as I supposed, of giving some degree of strength, and value, and respect to the provision of law which it is proposed to repeal. But, however, the Senator says I was mistaken about that, and, therefore, I willingly withdraw it.

Mr. ADAMS. I respectfully submit to my friend from North Carolina the propriety of a compromise in this case. There seems to be no difference of opinion as to the propriety of the passage of the bill; but there does seem to be a conflict of views as to the time at which it shall take effect. I wish to suggest to my friend from North Carolina to accept a proviso to make it take effect from the first day of May next. I think no inconvenience can result from that; and then let us pass the bill, and not be troubled with it any more.

Mr. BADGER. I assure my friend from Mississippi that I am always ready for a compromise; and I believe I was more strongly in favor of compromises some years ago than he was; but I will not be (as I thought the Senator from Virginia was, though I find I was mistaken) inconsistent. I will, therefore, agree to the amendment suggested by the Senator from Mississippi, and withdraw the motion to refer.

The PRESIDENT. The Senator from Ohio [Mr. CHASE] has sent to the Chair this amendment:

Provided, That this act shall not take effect before the first of June next.

Mr. BADGER. Say May.

Mr. CHASE. I prefer this form:

Provided, That nothing in this act shall affect any deposition already taken, or which may be taken under existing provisions of law before the first day of May next.

The amendment was agreed to, the bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read a third time, and passed.

ENROLLED BILLS SIGNED.

The PRESIDENT *pro tempore* signed the following enrolled bills:

A bill for the relief of the heirs-at-law of William Van Wart, deceased;

A bill for the relief of Don B. Juan Domercq, a Spanish subject;

A bill to amend the act making appropriations for the improvement of certain harbors and rivers, approved August 30, 1852; and

A bill to change the appropriation for the erection of a building in the city of Milwaukie, for a custom-house, post office, and United States court.

PETITIONS.

Mr. MALLORY presented the memorial of W. C. Dennis, engaged in the manufacture of salt, praying the imposition of a specific duty on foreign salt; which was referred to the Committee on Commerce.

Mr. SEWARD presented the petition of Rebecca Halsey, widow of a revolutionary officer, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. DOUGLAS. I am requested to present the petition of the Board of Trade of the city of Chicago, praying for the passage of a law to authorize the Secretary of the Treasury to dispose of the site selected for a post office and custom-house, and other buildings in Chicago, which was secured under a late act of Congress for that purpose, and to select a new site, in a more central part of the city. I ask its reference to the Committee on Commerce; and I may be permitted to remark that I am under the impression that the site selected is not convenient and central for the trade

and business of the city, and that I hope we shall have a favorable report on the petition.

It was referred to the Committee on Commerce.

PETITION WITHDRAWN AND REFERRED.

On motion by Mr. SHIELDS, it was

Ordered, That the petition of Sylvester Churchill, on the files of the Senate, be referred to the Committee on Military Affairs.

REPORTS FROM STANDING COMMITTEES.

Mr. DAWSON, from the Committee on the District of Columbia, to whom was referred a memorial of the Board of Managers of the Washington National Monument Society, praying the aid of Government in the completion of the monument now being erected in the city of Washington, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of John Foy, praying to be reimbursed for damages done to his house, in Washington city, by reason of the construction of certain works by the Government, submitted an adverse report thereon.

He also, from the same committee to whom was referred the memorial of B. F. Watson, asking compensation for removing earth and leveling the same from Maryland avenue to Virginia avenue, in the city of Washington, reported adversely thereon, and asked to be discharged from its further consideration; which was agreed to.

Mr. TOUCEY, from the Committee on the Judiciary, to whom was referred the memorial of citizens of Massachusetts, praying the imposition of a head tax on all foreign immigrants, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a memorial of citizens of Massachusetts, praying the passage of a law prohibiting the employment of officers of the Army in civil occupations, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs; which was agreed to.

Mr. JONES, of Iowa, from the Committee on Pensions, to whom was referred the petition of William S. Oliver, praying a pension, submitted a report, accompanied by a bill for his relief; which was read and passed to a second reading. The report was ordered to be printed.

JOINT RESOLUTION INTRODUCED.

Mr. SLIDELL asked and obtained the unanimous consent of the Senate to introduce a joint resolution in relation to the New Orleans custom-house; which was read twice by its title, and referred to the Committee on Commerce.

ARMY MEDICAL STAFF.

Mr. SLIDELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of establishing, by law, such regulations for the examination of applicants for admission to the medical staff of the Army, as may, without injury to the public service, secure, as nearly as possible, equal facilities to members of the medical profession residing in other parts of the Union with those that are now enjoyed by residents of the Atlantic States.

NAVY MEDICAL APPOINTMENTS.

Mr. SLIDELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of establishing, by law, such regulations for the examination of applicants for admission to medical appointments in the Navy, as may without injury to the public service, secure, as nearly as possible, equal facilities to members of the medical profession residing in other parts of the Union, with those that are now enjoyed by residents of the Atlantic States.

REBECCA HINTON.

Mr. TOUCEY. I am instructed by the Committee on the Judiciary, to whom was referred the petition of Thomas W. Powell and Emory Moore, praying relief against a bail bond, to report a joint resolution for the relief of Rebecca Hinton. There can be no opposition to it, and I ask for its immediate consideration.

The joint resolution was read twice by unanimous consent, and considered as in Committee of the Whole. It will authorize the United States district attorney for the District of Ohio, to settle a suit pending in the circuit court against the bail of Otho Hinton, and to discharge the bail bond upon the payment of $1,000, and the taxable costs of the suit.

A SENATOR. What are the facts?

Mr. TOUCEY. The report of the Committee is very short. Let it be read.

The report was read, from which it appears that at the term of the circuit court of the United States in Ohio, in July, 1850, Otho Hinton was indicted for purloining a letter with a small draft, from the mail; but in 1851, the petitioners gave bail for his appearance in $10,000. Rebecca, his wife, having a separate estate of $9,000 in the hands of a trustee for her use for life, remainder to her two daughters, was induced to join with the daughters and the trustee in conveying it to the bail for their security, in order to relieve her husband from imprisonment. Her husband fled beyond the jurisdiction of the United States, forfeited the bail bond, and subjected his wife and daughters to the loss of an estate, which was not derived from him, but was a provision made by the friends of the wife. Their only object was to enable him to prepare for his defense.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed. The report was ordered to be printed.

RECIPROCITY TREATY.

Mr. SEWARD. I move that the Senate take up for consideration the bill to amend "an act to carry into effect a treaty between the United States and Great Britain," signed on the 5th June, 1854, and approved August 5, 1854. It is necessary to carry out the recommendations of the President's message, and will justify and sanction what has already been done by the Treasury Department.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

From and after the date when the reciprocity treaty of the 5th June, 1854, shall go into effect, the Secretary of the Treasury will be required to refund to the several persons entitled thereto, such sums of money as shall have been collected as duties on "fish of all kinds, the products of fish, and of all other creatures living in the water," imported into the United States from and after the 11th of September, 1854, the date of the promulgation by the President of the United States of the treaty, on proof, satisfactory to the Secretary, that the articles were the products of some one of the British provinces of New Brunswick, Canada, Nova Scotia, Newfoundland, or Prince Edward's Island, and imported therefrom into the United States and duties duly paid thereon, which have not been refunded on export; and to cancel, on like satisfactory proof, any warehouse bonds to secure the duties that may have been given for any of the articles imported; to refund to the persons entitled thereto, such sums of money as shall have been collected as duties on any of the articles enumerated in the schedule annexed to the third article of the treaty imported into the United States from the British provinces of Canada, New Brunswick, and Nova Scotia, respectively, since the date of the acts of their respective Governments admitting like articles into the provinces from the United States free of duty, on satisfactory proof that the articles were the products of Canada, New Brunswick, or Nova Scotia, as the case may be, and imported therefrom into the United States, and that the duties were duly paid thereon; and to cancel from and after the date the treaty shall go into effect, like satisfactory proof, any warehouse bonds to on secure duties which may have been given for any of the articles imported. He will be invested with the same power to refund the duties or cancel the warehouse bonds on any of the articles enumerated in the treaty; the produce of Prince Edward's Island or Newfoundland, on the treaty going into operation, should it be proved to his satisfaction that they have admitted all of the articles enumerated in the treaty from the United States free of duty, prior to the treaty going into operation.

Mr. SEWARD. I send to the Chair the correspondence with the Department on this subject. I shall not call for its reading unless some Senator requires it. I will barely state that it is a measure which is recommended by the President. When the duties have been remitted by the provinces on their side, the bill will authorize them to be remitted on our side.

Mr. HUNTER. Have all the provinces acceded to the treaty?

Mr. SEWARD. No sir; two of them have not yet done so; but the bill provides that there shall be a remission on our side, exactly equal to that on the other side.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PATENT OFFICE REPORT.

Mr. JAMES. I am authorized by the Committee on Patents and the Patent Office, to report back to the Senate the report of the Commissioner of Patents on arts and manufactures, and recommend the printing of twenty-five thousand copies for the use of the Senate, and two thousand for the Patent Office.

The report of the committee was concurred in.

Mr. JAMES. I am also directed to recommend the printing of fifty thousand copies of the Agricultural part of the report, for the use of the Senate, and five thousand for the Patent Office.

Mr. JOHNSON. These recommendations come from the Committee on Patents and the Patent Office. These subjects are usually referred to the Committee on Printing. I stated once before that I would not consent to the passage of anything of this kind without calling for its reference to that committee. In this instance the matter has been informally submitted to it; and that is the reason why I do not call for its reference. The majority of the committee are in favor of adopting the order which the Committee on Patents and the Patent Office call for.

Mr. JAMES. It is for the very reason stated by the Senator, that the Committee on Patents and the Patent Office have made the report as they have done.

The report was concurred in.

AMBROSE RIOPEL.

Mr. PETTIT. The Committee on Private Land Claims, to whom was referred the petition of Hyacinth Riopel, guardian, &c., have instructed me to report a bill for the relief of Hyacinth Riopel and others, heirs and assignees of Ambrose Riopel deceased. A bill for the same purpose has passed both Houses heretofore, at different times, and been reported upon both by the Committee on Private Land Claims and the Committee on the Judiciary. It is a bill in which my friend, the senior Senator from Michigan [Mr. CASS] feels some solicitude. I hope it will be put upon its passage.

The bill was read twice by unanimous consent, and considered as in Committee of the Whole. It will confirm to the heirs and assigns a claim of the deceased to two hundred and twenty acres and seventy perches, or thereabouts, of land in Michigan.

No amendment being proposed, the bill was reported to the Senate, and ordered to be engrossed for a third reading. It was read the third time, and passed.

ALABAMA ACCOUNTS.

Mr. JOHNSON. The Committee on Public Lands, to whom was referred the bill to settle certain accounts between the United States and the State of Alabama, have directed me to report it back and recommend its passage. It is in accordance with the opinion of the Commissioner of Public Lands.

Mr. CLAY. I ask the indulgence of the Senate to consider that bill now. I am sure I have consumed as little of the public time as any other Senator, and I hope the Senate will indulge me in this matter.

The Senate, as in Committee of the Whole, proceeded to consider the bill; by which the Commissioner of the General Land Office will be required to state an account between the United States and the State of Alabama, for the purpose of ascertaining what sum or sums of money are due to the said State, heretofore unsettled, under the sixth section of the act of March 2, 1819, for the admission of Alabama into the Union; and to include in the account the several reservations under the various treaties with the Chickasaw, Choctaw, and Creek Indians, within the limits of Alabama, and allow and pay to the State five per cent. thereon, as in case of other sales.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time, and passed.

THE MILITARY ESTABLISHMENT.

Mr. SHIELDS. The Committee on Military Affairs have instructed me to offer an amendment to the bill to increase the present military establishment of the United States, and for other purposes, in order to have it printed.

The PRESIDENT. The amendment will be received, and ordered to be printed, if there be no objection.

There was no objection.

LIEUTENANT J. C. CARTER.

Mr. GWIN. The Committee on Naval Affairs to whom was referred House joint resolution for the relief of Lieutenant J. C. Carter, have instructed me to report it back with an amendment, limiting the amount to be paid. I hope it will be acted upon now.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It proposes to direct that in the settlement of his accounts, Lieutenant Carter shall be allowed such expenses as were incurred by him, while acting as purser on board the ship Massachusetts, undergoing repairs at San Francisco.

The amendment of the committee was to add:

Provided, The amount shall not exceed the sum of $1,869 05.

The amendment was agreed to, and the joint resolution was reported to the Senate as amended. The amendment was concurred in, and ordered to be engrossed, and the bill to a third reading. It was read the third time, and passed.

IOWA LAND DISTRICTS.

Mr. DODGE, of Iowa. I am instructed by the Committee on Public Lands, to report a bill to change the boundaries of the land districts in the State of Iowa, and for other purposes. I ask the indulgence of the Senate to consider it now. I will state that if it is passed, it will establish three additional land offices in the State of Iowa, making one less than they have in our neighboring State of Illinois, there being ten in Illinois, and six now in Iowa. The bill will give us nine. There are two land offices, however, of these now established which, under the provision for the closing of these offices, will be closed during the present year. That will leave us but seven. These land offices are much needed in that section of the country, and I hope the bill will be passed.

The bill was read twice.

Mr. JONES, of Iowa. I should be very glad if this bill would be permitted to go over until to-morrow. I should like to examine the section which relates to the new districts.

The PRESIDENT. If the Senator objects, the bill will go over.

The bill was accordingly postponed until to-morrow.

INDIAN APPROPRIATION BILL.

Mr. HUNTER. I ask the unanimous consent of the Senate to be allowed to call up the Indian appropriation bill, so as to make it the special order for Saturday next. I hope there will be no objection to that. I move that the bill be taken up for that purpose.

The motion was agreed to; and then, on motion by Mr. HUNTER, it was postponed to, and made the special order for, one o'clock on Saturday next.

DUTIES ON RAILROAD IRON.

On motion by Mr. JONES, of Tennessee, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill granting to railroad companies three years in which to pay the duties on iron imported for railroad purposes. It will direct the Secretary of the Treasury to extend the time of payment of all duties (except only the amount due in fees to custom-house officers) on all iron rails, spikes, bolts, fastenings, or other iron necessary for the construction of railroads, for the term of three years from the time that such iron may be received from the custom-house; but before the delivery of the iron, the payment of the duties thus suspended is to be secured by the bonds of the company applying for it; and in the event the commissioner of customs where the iron may be shall not be satisfied of the entire solvency of the company applying for the extension, he may require such security, personal or otherwise, as in his judgment will indemnify the United States against loss.

The benefits of the bill will extend to all railroad iron received and in bond on which the duties have not been paid, as well as such as may hereafter be received; but its provisions are to continue for two years, and no longer, unless otherwise provided for by law.

The PRESIDING OFFICER, (Mr. STUART in the chair.) The Committee on Finance have reported adversely upon the bill. The question is on concurring in the report of the committee.

Mr. JONES, of Tennessee. It will be remembered that I had the honor to introduce this bill into the Senate. In doing so, I was actuated by a conviction, not only of its importance to the railroad interests of the country, but to that of almost every other interest. I can scarcely conceive of any interest that will be injuriously affected by its passage, and many of the most important interests of the country will be promoted by it.

The bill proposes simply to extend to railroad companies a credit of three years for the collection of the duties imposed upon railroad iron. I am very well aware, Mr. President, that there are those in the Senate, and out of it, who look with some distrust upon this proposition, because they apprehend that it is in antagonism to the protective policy. I beg leave, sir, to disabuse the minds of Senators on that subject. I am free to declare that I am, as I have ever been, and as I expect to remain, the friend of the protective policy. I shall not enter into an argument upon that subject, because it is not involved in the bill under consideration. I am in favor of protection when it may properly be applied, but I am not in favor of that species of protection which seeks to impose burdens upon the millions for the benefit of the few. In other words, I am for a judicious protection, a protection modified by reason, common sense, and patriotism.

I regret exceedingly, Mr. President, that this proposition comes here laboring under the embarrassment of an adverse report from the able Committee on Finance; but, embarrassing as this circumstance may be, and unequal as the contest is thereby rendered, I do not despair of satisfying even that committee and the Senate of the justice and wisdom and propriety of this measure.

The bill does not propose a repeal of the duty upon railroad iron. It does not propose a refunding of the duties already paid. It proposes simply an extension of credit to railroad companies upon the duties on railroad iron. I am willing to concede, and think I should be able to demonstrate, the wisdom and propriety of a repeal of the duties, and the refunding of those which have been paid upon railroad iron; but I have not asked for it, not because I do not believe it to be just and proper; but I have contented myself with asking for that which, I suppose, every Senator ought to be prepared to grant, and which will save the railroad interests of the country from ruin and destruction. I have not asked for it, because, in asking it, I feared I might lose that which was essential to the very existence of this interest.

You will remember, Mr. President, the Senate will remember, that at one time there was a large party in this country that not only advocated, but approved and vindicated the policy of internal improvements by the General Government; and I may be permitted to say, that in that party were some of the brightest intellects of the age. At that time also, it was the popular sentiment of the country, and I believe it so remained until General Jackson's celebrated veto message on the Maysville road. After that, this popular sentiment was arrested; the tide was thrown back, and the country settled down and acquiesced in the policy of leaving these great works to the enterprise of States and individuals. Many denied the existence of the power on the part of the Federal Government to make such works; others, who acquiesced in the existence of the power, denied its expediency, and the country has acquiesced in that decision; and under that national adjudication of the question, States and individuals have come up to the work of making these internal improvements for themselves.

I need not, Mr. President, and shall not, undertake to enlighten the Senate upon the great benefits which are conferred upon the country by the construction of these works. It is a fruitful theme, but it is one with which every Senator is doubtless familiar. I might enlarge, if time permitted, and if it were necessary, upon its advantages to the country, to its agriculture, its commerce, its social relations, its political relations, and its national relations; and in this I might find abundant argument to satisfy the Senate and the country that there is an absolute, indispensable obligation on the part of the Government, if not to extend its aid, at least to withhold any burden or impositions from it. I submit to you and to the Senate that it is a question of justice upon the part of this Government. Under this national adjudication of the question, this settlement of the question, leaving the works of internal improvements to States and individuals, I submit to the justice of the Senate this question—whether, after the States and individuals have accepted of the adjudication, it is just, or equal, or wise, or beneficent, upon the part of this Government to impose weights and burdens upon them?

The Government, by its action, has said to States and individuals, you embark in these works of internal improvements, we can take no part or lot in their execution, but we will throw no obstacles in the way; and before I have done, I shall show that that was the implied understanding between the Government and the States, and individuals; that, for a series of eleven years, they maintained, in good faith, that implied obligation, and that, up to 1843, that good faith was never violated. I desire to say one word particularly to my friend from Pennsylvania, for whom I have great respect. He is here the peculiar representative of the iron interest; or, in other words, he is the representative of the largest iron interest in the United States, and will watch, with infinite care and vigilance, everything which is calculated, in the most remote degree, to affect that interest. If he has any apprehension that this is to militate against the iron interest of this country, I think he is mistaken, as I shall be able to show. On the contrary, far from its militating against the aggregate iron interest of the country, I think it will be shown that it is, in fact, an absolute protection to it. How shall I demonstrate that? I think I can demonstrate it from facts and figures. There are now, according to the best estimates that we have, and which I can obtain from various sources—and I have first examined Andrews's report, which was made under the direction of the Government of the United States—there are, at this time, nineteen thousand miles of railroad already constructed. It must be remembered that these miles of railroad have cost the States an aggregate sum of $600,000,000. They have, from their own resources, contributed $600,000,000 to open up the avenues of trade and the commerce of the country, to develop its resources, to strengthen the ties that bind us together by social and commercial relationship, giving us all the advantages that grow out of national defenses connected with these works.

This consideration should entitle them, at least, to some respect and forbearance on the part of the Government; but, in addition to nearly twenty thousand miles which are in operation, it appears, from the same report, that, in 1852, there were twelve thousand miles then under construction. I apprehend there is a much larger number of miles under construction now than then, but, assuming there are twelve thousand miles under construction now, we are to consider what effect the duties imposed upon them have upon the prosecution of these twelve thousand miles.

According to the opinion of some of the most enlightened engineers of the country, if the duty remains as it now stands, and no measure of relief is afforded to the companies, at least one third of that proportion of twelve thousand miles must be suspended, perhaps indefinitely. Then you have three thousand miles to be completed annually; and, if you take one third of these three thousand which are to be suspended annually by the imposition of the duty, and the withholding of relief, then you suspend one thousand miles annually.

Now—and I ask the attention of my friend from Pennsylvania—how much iron is required to construct a railroad? The character of the iron rails which are now employed varies from fifty-six to sixty-four pounds per yard. Take, then, sixty pounds per yard as the average, and you find that it will take one hundred tons per mile. You have one hundred tons, then, for every mile; you suspend one thousand miles per annum, and you have that proportion of tons of iron suspended per annum. What is that iron worth? Its aggregate value, for a series of years, is found to be about

fifty dollars per ton. Then you suspend, every year, $5 000,000 in iron rails for the construction of railroads. How does that operate upon the iron interest, not only of this country, but of Europe? It operates prejudicially upon the interests of this country by withdrawing $5,000,000 worth of rails; but that is an incidental question to the iron interests of this country, because there is a very small proportion of our capital invested in the construction of rails. There are a few mills in Pennsylvania, one in New Jersey, and some two or three others. I believe there are now not more than six or eight mills in the whole United States engaged in the manufacture of rails. How much iron is required for the construction of railroads per mile in other varieties of iron? It takes one hundred tons per mile for the construction of a road; and it requires fifty tons of other varieties to be found in your locomotives, your cars, your turnouts, and all the uses to which those varieties of iron can be applied. The aggregate cost of that thousand miles of iron rails amounts to $5,000,000 per annum; and the cost of the other varieties of iron amounts to $5,300 a mile, making, at the end of the year, a loss to the iron interest of $5,300,000.

I provide in the bill that the credit shall be extended to railroad companies for all iron imported for railroad purposes, including spikes, and rails, and chairs. As to the spikes and chairs, there is a very small portion of them imported; it is scarcely worth mentioning at all. We can manufacture them here better and for less money than we can import them for, and it will be found, on investigation, that nearly all the spikes and every other variety of iron used for railroad purposes are manufactured and purchased in this country, and not imported from abroad.

But, Mr. President, this is the point. You suspend, by adhering to the policy of requiring these duties to be paid down promptly, a thousand miles of railroad annually. You thereby lose to the iron manufacturers $5,000,000 worth of rails, and a demand for $5,300,000 of other varieties of iron. I submit to you, and to the Senate, whether the aggregate iron interests of the country would not be promoted by passing such acts of relief as will enable these companies to go on building their roads, and thereby give to the aggregate iron interest this demand for the $5,300,000, which they must inevitably lose under the present system?

But, Mr. President, there is another point. The number of hands employed in the construction of railroads in this country, in all the various branches and departments connected with them—in the construction of the road itself, the construction of the locomotives, cars, engines, and all the various departments of labor connected with it—is very great. I do not hold that it is the duty of this Government—I have never maintained that it is the duty of this Government—to furnish labor to anybody. But I do maintain that it is the duty of the Government not to throw obstacles in the way of labor, but by all fair and legitimate means it is the duty of a wise and beneficent Government to offer facilities for the laboring and working men of the country. You can do that by extending a credit to railroad companies, on the duties on iron imported, and enable them to go on with their work, thereby giving labor to thousands and tens of thousands who would be thrown out of employment if the works were suspended.

Mr. President, these general questions seem to me to commend the bill to the favorable consideration of the Senate; but, leaving out of view the wisdom of the policy, I am willing to risk it upon the naked, abstract, isolated issue of honesty and justice. I am willing to leave it to the justice, and the fairness, and to the integrity of every Senator here, when I have submitted the facts connected with the legislation and history of the subject.

What is the history of the duty upon railroad iron? In 1830 an act was passed by the Congress of the United States, granting to railroad companies a drawback upon all duties that had been paid on railroad iron up to that time. Under that act a large amount of money was reimbursed from the Treasury to the various railroad companies in the United States. In 1832 a similar act was passed, extending the provision of the act of 1830. The act of 1832 remained in full force up to the year 1841. Then, Mr. President, up to the year 1841, not a single dollar of duty was ever paid upon railroad iron which was not refunded by the Government. From the very beginning of the enterprise, from the starting of the first railroad in the United States up to the year 1841, I repeat, no duty was ever paid upon railroad iron that was not refunded by the Government. Why was it ever refunded by the Government? The act of 1832 provided that no duties should be levied upon railroad iron where the iron was laid in three years; and when duties were levied and collected it was in those cases where the law of 1832 had not been complied with, which required them to lay the iron down in three years. In every case where the duties were thus paid, it was caused by an omission on the part of the companies to lay down the iron within three years; and they came to the Congress of the United States and asked it to refund the duties which they had paid; and in every instance they were refunded to the amount of upwards of $7,000,000.

In 1841, that ever-to-be-remembered, and, so far as I am concerned, a much to be regretted session of Congress, the extra session of 1841, they found, as you well remember, the Treasury depleted. It was said to be empty, and means were resorted to to replenish it. In 1841 a duty of twenty per cent. was levied on railroad iron, and that was the beginning of the system of levying duties on the labor and industry of the country, in the great enterprise which is assigned to the State and to individuals by the action of the Federal Government. But, sir, in the act of 1841, while they provided a duty of twenty per cent. should be paid upon railroad iron, they also provided that it should not take effect until the 3d of March, 1843. Then, in 1842, at the regular session of Congress, when they came to revise the tariff, they changed the act of 1841, so as to make a specific instead of an *ad valorem* duty. The act of 1841 levied an *ad valorem* duty of twenty per cent.; the act of 1842 levied a specific duty of twenty-five dollars per ton—more than the iron cost, more than it was worth in the market, a hundred per cent. upon the cost of the iron. It was an absolute prohibition to the construction of railroads; but in that same bloody act of 1842, so far as that particular measure was concerned, they provided that it should not take effect until the 3d of March, 1843. Then, Mr. President, on the 3d of March, 1843, Congress began to legislate upon railroad iron. Up to that time not a single dollar had ever been levied upon it that was not reimbursed to the parties themselves.

What has been the history since? In 1842 the duty of twenty-five dollars a ton commenced. That continued up to 1846, when the revision of the tariff occurred, and specific duties were abolished, and the *ad valorem* system was reënacted. Then they levied a duty of thirty per cent. upon railroad iron, and that duty has remained from 1846 down to the present time. What is the effect of that? The amount of iron imported into the United States from abroad I need not allude to; but just at this point allow me to make one suggestion for the consideration of the Senate.

The question I submit is this: seeing that we cannot, and do not, make as much iron in the United States as we consume, by upwards of $20,000,000 per annum—for the records will show that we imported last year $20,000,000 worth of iron more than we manufactured in the United States—is it not better for the iron interest of the country, is it not better for every interest in the country, that we should leave this large amount of $20,000,000 of iron that we are consuming annually, which we do not make, and which we cannot make, because we want the capital and facilities of intercourse, to be manufactured by England and other foreign countries? We all know very well that railroad iron is an inferior character of iron, and is less profitable to the manufacturer; and the question is, would it not be better to leave that to them, and permit the iron interest in this country to go forward and manufacture a more profitable iron to supply the deficit which is constantly making, and the consumption of which we have no means of supplying?

But, sir, I desire to show the injustice of this legislation. In the last few years the railroad companies of the United States have paid alone in the item of duties, upwards of $10,000,000. In the last four years we have paid just $10,750,997 60. That is the exact amount which has been paid according to the books.

Now, Mr. President, you have levied a tax in four years upon that character of labor and industry, which, I maintain, is more beneficial to the country than any other character of labor and enterprise in it. You have imposed a tax of ten millions upon that labor alone. Is that just, is it fair, is it equal? I submit it to the integrity and fairness of every Senator here. By your system of legislation, you have denied that the Federal Government has the power, or if it has the power, that it would be inexpedient to exercise it in making these improvements; you have said to the States and individuals, go forward and make them, and when they have embarked in them under the system which you have indorsed yourselves for eleven or twelve years, by withholding the imposition of any burden upon them, is it fair and just now to impose a tax of $10,000,000, in four years, upon that labor? If it is just, I am not able to see it.

But another gross injustice is connected with it. These railroad improvements are calculated to develop the resources of the country, and are more efficient, and are accomplishing more, in their development than any other means; and they are alone calculated to develop those resources of the country which will enable us to supply the great deficit between the demand and the consumption which we now labor under. If you permit the railroad enterprise to go on and penetrate your region of country which now possesses, unquestionably, mines of iron, and let those roads open up the avenues of trade and commerce, in the next ten years, instead of $20,000,000 worth of iron per year coming from abroad, you will have that iron manufactured at home, and save all the necessity for this foreign importation.

Now, Mr. President, I desire to submit the case, especially to the Senators from the old States. I believe the first railroad that was built in the United States went into operation about the year 1824. Then, from 1824 up to 1843, a large proportion of all the roads in the old States were made. Take the New England States, take New York, take Pennsylvania, take South Carolina, and take Georgia, and you will find that most of the roads were made between 1824 and 1843. Now, gentlemen, you were permitted to make these internal improvements without the imposition of any tax; you have enjoyed the benefits of the protection of this wise Government of ours; you have gone forward and consummated those great works of improvement, which entitle you to the gratitude of the country. But, sirs, you were not subjected to the imposition of the duties, the taxes, which are now imposed upon the younger States; and I again submit the question to your fairness and justice: Will you impose the tax upon the State of Tennessee, or Kentucky, or Mississippi, or Arkansas, or Missouri, or any of the younger States of this Union, which could not embark in these works of internal improvement when you did, because there was no necessity for them, no demand for them, no such commerce as required it; and, in addition to that, no such means as would have enabled them to do it? When we now have the means to commence them, can you reconcile it to your sense of justice to impose this burden and tax upon us which was not imposed upon you? You have made your improvements without being subjected to these taxes, and now will you put a tax of $10,000,000 upon the younger States in the making of their works of improvement which will benefit the Union?

I have said that $7,000,000 in the way of duties have been refunded to the various railroad companies in the United States. To whom were those duties refunded? I have the list of many of them here. They were refunded to the New England States chiefly, to Pennsylvania and to New York. In Pennsylvania alone in the way of refunded duties, they have received upwards of $1,000,000, to say nothing about the vast amount of iron on the roads which have been constructed, upon which no duty was ever paid. Then Pennsylvania, New York, and New England have paid but a very small amount at any period of time for the construction of their roads. I have the special acts here showing the roads that received the benefit of this drawback upon the iron which was not laid down, according to the act of 1832, in three years. Then, when you have enjoyed all these benefits, I ask you, in the name of justice, I ask you in the name of fairness; I ask you in the name of that fraternal relationship that ought to exist between the members of the same family,

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the members of this great Confederacy, if you will continue to inflict upon us the burdens which you escaped.

But we are not asking you to remit the duties. We do not ask it—not because we do not believe it would be right to do so, but we only ask what is absolutely essential to the existence of the railroad interest. If you maintain this system, according to all the testimony we have, it is obvious that many of these works of internal improvement must be suspended. Let me give you a case in point that falls under my personal knowledge. A road is under construction now which is to connect the southern and Atlantic seaboard with the Mississippi. It is the first road that is likely to be constructed there. I refer to the road from Memphis to Charleston, to connect with Richmond, and on to Philadelphia and New York. That road has been under construction for five years, but the resources of its individual subscribers, and the energies of the company have been exhausted. The States have come to the rescue, and my own State has contributed largely for the accomplishment of the work. Yet, sir, struggling under the price of iron, paying $60 or $70 a ton, we are called upon in the next sixty days to raise the amount of $127,000 of taxes to be paid on the iron. Yes, sir, in the next sixty days they are compelled, at the sacrifice of their means, or at the sacrifice of their credit, to pay to the Treasury of the United States $127,000, by way of duty, imposed by a wise and beneficent Government upon the labor, the toil, and industry of the people. If they can get a credit for two or three years upon that $127,000, they can go forward to the completion of their road, and at its completion they will be in a condition to pay $200,000 with greater facility and with more ease than they now can pay $127,000. They ask the Senate to give them a credit for three years, that they may go on and construct their road; and when it is constructed I say they will be able and willing to pay it. That is but a specimen of many other roads which I might mention, but I allude to this because I have a personal knowledge of the fact, which was communicated to me by the president of the road.

Now, Mr. President, I submit to you, under all the circumstances that surround us, struggling as we are, in every portion of the country, laboring in all the newer States to build up a fortune, and to strengthen the ties that bind us together, and to develop the resources of the country by adding to its wealth, to its prosperity, to its greatness and glory, when I come forward and submit to you a proposition to give a credit for three years on the duties, in order that the companies may rid themselves of embarrassment, do you deny it? Can you find it in your heart, or in your consciences, to deny them the poor pittance which they ask—a simple credit, and that upon the obligation that they shall give a bond for paying the money? Can you refuse it, when your Treasury is overflowing, and you are buying up your securities to-day at an advance of twenty per cent., when they are not due for years to come? While you are doing that, you are levying a tax of thirty per cent. on the labor and toil, and industry of the people. That may be wisdom, but I confess I do not think it is. It may be a wise and judicious policy for an intelligent Government which seeks to develop its resources in all its departments—which seeks to give character and dignity to it—which seeks to advance its fortunes in every sense, physical, moral, and political; but I confess I am not able to see it. With this simple statement of the facts, I submit the question to the Senate, and shall abide the decision.

Mr. BRODHEAD. Although, not very well prepared, I feel it to be my duty to submit a few remarks on the subject now under consideration. Notwithstanding the able and ingenious argument which the honorable Senator from Tennessee has presented, I cannot yield my assent to the measure. I think it is violative of principle, and of the settled revenue policy of the Government. It is unjust and ungenerous—though not so intended by the Senator, and ultimately it will be injurious to the consumers of railroad iron, themselves.

Before proceeding, Mr. President, to sustain these propositions, I have a few preliminary remarks to make in reply to some points made by my friend from Tennessee. For several years past it has been evident that the railroad interest is one of the most powerful combinations of capital and energy in this country. I find that in New York there have been meetings of railroad gentlemen who propose to send committees here, and one of their committees has issued a circular in which they call upon the different railroad companies to furnish them with a contribution of $100 each; and to give them five per cent on the amount of the duties which may be remitted.

At a meeting held in Richmond on the 5th and 6th December, of all the State proxies, presidents, directors, chief engineers, and superintendents in the State, the following resolution, offered by a Mr. Garnett, was passed:

"*Resolved*, That we do urge on our Senators and Representatives in Congress, the propriety of taking prompt measures to secure the passage of an act to refund to railroad companies all duties paid by them on railroad iron since March 4, 1851, and to reduce the duty on railroad iron hereafter imported."

Such, Mr. President, is the powerful interest which is formed throughout the country to put down one great branch of American industry, for the benefit of railroad corporations and railroad companies; and these gentlemen, according to the New York circular, are to have five per cent. upon all the duties they may succeed in causing to be remitted.

Mr. HUNTER. Does the Senator mean to say that the gentlemen who signed that memorial are to have five per cent?

Mr. BRODHEAD. By no means. I allude to the circular which is signed by five gentlemen in New York. I have it here.

Mr. SEWARD. Read it.

Mr. BRODHEAD. The circular is dated New York, March 21, 1854; and among other things, it says:

"To make provisions for the expenses unavoidably incident to the prosecution of the measure, it was agreed at the meeting, that each company coming into the arrangement should advance for this purpose the sum of $100; and that, in case of success, there should be paid by each company to the committee, for the further expenses that may be incurred, and as a compensation for their time and services, (in addition to the above advance,) five per cent. on the amount of duty remitted, or which may be saved to such company, on railroad iron heretofore imported by it, or which it may import or contract for prior to July 1, 1855, by the passage of the law or laws repealing, remitting, or suspending for a limited time, the duty on such iron."

The circular is signed: S. F. Vinton, Noah S. Wilson, John Stryker, Geo. Ashmun, H. V. Poor, committee.

It will be seen that I was correct in saying that they are to have an allowance of five per centum on the amount that may be remitted. The duty paid on railroad iron per annum amounts to between $3,000,000 and $4,000,000; hence these gentlemen will receive, if they succeed, about $200,000. In alluding to this, I do not intend to intimate that any Senator, or member of the House of Representatives, would be improperly influenced. I use it for the purpose of showing that there is a combination of capital and energy for the purpose of obtaining a suspension or the entire repeal of the duties on railroad iron; and, Mr. President, say what you please about the measure now under consideration, which proposes to give a credit of three years upon the duties on railroad iron, it is a proposition to take off the duty. The duties on railroad iron for the last three years have been, and for the next three years will be, about $12,000,000; and that amount will be remitted under this bill, for, though bonds may be given, the amount will never be collected. We all know that. It is, therefore, a proposition to give a bonus of $12,000,000 to those who are now engaged in constructing railroads. If that is proper, why not return the $12,000,000 to those who have constructed railroads within the last three years? Surely, sir, if those who are now about to construct railroads, when the price of railroad iron is from fifteen to twenty dollars less per ton than it was last year, are to be relieved to the amount of $12,000,000, those who have paid the duty when the price was high, have an equal or a superior claim upon your justice to the amount which they have paid; and those who have laid their roads with American rails will also have an equitable right to ask for the amount per mile of duties on foreign iron which will be given to other companies if this bill should pass.

The honorable Senator from Tennessee alleges that, if the railroad companies are not relieved, the great railroad interests will be seriously affected. Now, sir, who are entitled to the most consideration at the hands of Congress—those who are engaged in a great branch of American industry, or those who brought the present crisis upon us? Those who are engaged in the railroad interests of the country are not entitled to especial and particular favor at the hands of Congress, for they have brought this crisis upon us. They have given their bonds in Europe for railroad iron, running up, to a fearful amount, the foreign indebtedness against us. Thus, they have withdrawn our specie from other legitimate branches of commerce; and now they propose to issue other bonds, that they may pass their iron through the custom-house without the payment of the duties.

How is it with those who are engaged in the manufacture of iron, and especially of railroad iron? This is the second proposition of this kind which has been made. In 1844, it was made by a then Senator from Maine; and why? Because there were no persons engaged in the manufacture of railroad iron in this country? That was the great argument then used; but, sir, in 1845 that great enterprise was commenced here. It required skill, it required labor, it required great energy, it required a large amount of capital, and $10,000 ,000 have been invested in it.

The Senator from Tennessee says that unless this relief be granted, the great railroad enterprise will have to stop. I tell him, sir, that the great enterprise which has been engaged in this country in making railroad iron will have to stop if he succeeds. What will be the effect? He informed the Senate that, from 1824 to 1844, almost all the railroads in the older States were constructed. That is true, but they paid much higher for their iron when there was no duty on it than the honorable Senator can purchase it for now. They were pioneers in this great enterprise; those who are now engaged in it are mere imitators. Those who engaged in it in my own State, at an early day, paid down their money and their capital; they risked it all; but how is it now with those who are engaged in making railroads? Why, sir, they attempt to do it by "kiting" on bonds given for their railroad iron, on bonds given at the custom-house, and on bonds given to contractors. That is what has produced this state of affairs in the country.

In the spring of 1853, I undertook, in a few remarks which I then submitted to the Senate, to foretell the present state of things. I submitted a resolution calling upon the Secretary of the Treasury to furnish the Senate, at its meeting in December 1853, with the amount of our foreign indebtedness. He did so, and look at the fearful result which has been run up against us by these railroad companies, draining from us our gold and silver.

The total amount of railroad stocks was $309,893,967; the total amount of railroad bonds was $170,111,552. The total amount of stocks and bonds was $480,005,519. Railroad stocks held by foreigners amounted to $8,244,000; and railroad bonds held by foreigners amounted to $43,888,752; making stocks and bonds held by foreigners $52,132,752; and that is a mere approximation. This is the amount of foreign indebtedness upon railroad account alone. The whole amount of foreign indebtedness is over $225,000,000, according to the documents to which I have before referred. Yea, sir, the amount of indebtedness on railroad account is much larger than I have stated,

because many of the city and corporation bonds which were held abroad were issued on the railroad account for the purpose of constructing railroads. These railroad corporations, therefore, have deranged the currency.

The Senator from Tennessee says, if you pass this bill, a thousand miles and more of railroads will be constructed than otherwise would be. Sir, we have been constructing our roads too fast; it has withdrawn capital from other enterprises. We ought not to construct in this country—the legitimate wants of the country do not require—more than twenty-five hundred miles per annum. Mr. President, the bill does not propose that the credit shall be given on the railroad iron imported for first tracks only. It goes the whole figure, and extends to railroad iron, imported for second tracks, for repairs, and spikes, and chairs connected with them. If it was confined to first tracks, it would not be so objectionable.

The iron interests of this country have now as hard times as those who are engaged in constructing railroads. Will you interfere? If you do, I claim special legislation for the great iron interest, as well as for the great railroad interest. A nation is great, prosperous, and progressive, in proportion to the iron which is manufactured and consumed. But the honorable Senator from Tennessee informs us that this bill will not injure the iron interest generally, because the manufacturers of iron will turn their attention to making other articles, and will not engage in making railroad iron. How is that?

In the year 1854, about one hundred and sixty thousand tons of railroad iron were manufactured in this country. In that business there was a capital invested of $10,000,000. They consumed over two hundred thousand tons of pig iron, eight hundred thousand tons of coal, and over two hundred thousand tons of limestone; so that there is a large amount of iron used in the manufacture of the rails. The iron business of this country will have a hard time of it for years to come. I doubt whether it will ever be a money-making business. Railroad companies make much more money, as I can show by statistics which I have on my table, than those who are engaged in the manufacture of iron, and it will continue to be so; because, in 1852, it was supposed that all the available spots for making iron in Great Britain had been occupied. Here is an important fact to which I wish to call the attention of the Senate: In 1852, it was supposed that all the available spots for making iron in Great Britain had been occupied, but in that year a new discovery of ore was made on the east coast of England, where heretofore no iron industry had existed. In the oolitic formation of the Cleveland Hills, an immense deposit of iron stone was found. A minute description of these and other recently discovered deposits in England can be found in Mr. Blackwell's lecture on the iron making resources of the United Kingdom. The lecture was delivered in 1853. With what extraordinary energy these resources have been turned to account, the following extract of a letter written to a friend of mine, by Professor Wilson, who was in this country in 1853, and who has recently been appointed Professor of Agriculture in the University of Edinburgh, will show. His letter bears date the 5th of September, 1854:

"In the iron manufacture here, all is thriving and increasing enormously in production. The oolite beds have proved most valuable. Indeed, already in the Cleveland district there are about seventy to eighty large furnaces already either in work or in progress, equal to a make of something like five hundred thousand tons per annum. In Staffordshire, too, where both ores and fuel were getting scanty, large deposits of both have recently been hit upon in Cannock Chase. These have quite revived the midland iron masters."

The annual production in Great Britain is about two million seven hundred thousand tons. During the last year more than seventy new furnaces have been put up there, which will afford an addition of over five hundred thousand tons. So that the product in England is almost equal to the entire demand of the whole world. When that market is pressed upon, the price of iron becomes high, and when that market is abstained from, it becomes cheap; so that whenever we cease to manufacture iron in this country under a proper competition tariff, we have to pay more for it in England. Since 1845, millions of dollars have been invested by our own citizens in the enterprise of getting skilled labor, and carrying on the business of making railroad iron, and they now produce one hundred and sixty thousand tons of a first rate article, which comes in competition with the English article. If this competition be broken down by such a measure as this, the effect can easily be seen.

Mr. President, I stated in the commencement of my remarks that this measure was contrary to principle and the settled revenue policy of the country. It is a well-known fact that most of our revenue is derived from the duties imposed on iron, broad cloths, woolen goods, silks, and sugar. Will any gentleman tell me why the duty should be taken off railroad iron, and not off woolen goods or sugar? You receive about the same amount of revenue from sugar duties that you do from railroad iron duties. Can any one give a reason why the duty should be taken off railroad iron, and retained on sugar, which is an article of general consumption? Why not extend the same privilege to the consumers of woolen goods? Why do not those who use sugar and woolen goods ask this favor at our hands? It is because capital is not combined for the purpose. There are no large corporations, such as these railroad companies, to press such a measure with the influence of capital. When you get the duties taken off these articles, how are you to get your revenue?

I know, sir, there are many gentlemen who are for absolute free trade, or for the lowest duties; but they are the men who always vote the largest appropriations; and that is a very good way to get popular. During the war of 1812 there was a member of Congress who voted for the war, who voted for the largest supplies, the largest number of men, and the highest pay; but who would never vote for a dollar of taxation. "Liberal appropriation and no taxation" was his motto. It is very easy to become popular by proposing not to tax the people at all; and give them all the money they ask.

Sir, this is a proposition for class legislation, to build up the railroad interest at the expense of one of the great manufacturing interests of this country, which, it seems to me, is not sustainable on any ground of justice or policy. It is violative of one great principle of taxation—to impose the burdens of the Government on all alike. Why should you make the poor man who wears broadcloth or woolen goods pay duty on those articles, and not tax the gentleman who rides on railroads? This proposition is unjust to those who have heretofore constructed railroads; because it will enable those who construct them now to derive advantages which have not been extended to others. Iron can now be obtained for a less price than formerly. The duty has nothing to do with the price. From 1832 to 1842, when there was no duty, the iron was higher than it is now, with a duty of thirty per centum. Railroad iron was never so cheap as under the thirty per centum act of 1846, and never so high as when it came in free of duty.

Mr. WELLER. I wish to ask my friend from Pennsylvania a question. He seems to have devoted a good deal of time to the examination of this subject, and he has no doubt acquired all the information that is necessary to put the Senate in possession of the facts. Now, I desire to know from him how many manufacturers there are in the United States of railroad iron, and how many persons are employed in its manufacture? My object is to get at the number of persons interested in keeping up the present high duty upon railroad iron.

Mr. BRODHEAD. I will endeavor to accommodate my friend from California. In 1854 there were sixteen rail-making manufactories, and they made that year about one hundred and sixty thousand tons, according to the best information I have obtained from those engaged in that trade.

Mr. CLAY. I wish to ask the Senator whence he derives the information which he has just stated to the Senate?

Mr. BRODHEAD. I obtained it from a newspaper publication, which has never been contradicted, so far as I know.

Mr. CLAY. It is an anonymous one. I have seen it myself.

Mr. BRODHEAD. I could read over the names of the mills which it states, and show, if it were necessary, that they are in blast, that they were built for the purpose, that they are struggling along, and that when you strike down these establishments you have to depend entirely on the English market, which, when pressed upon, becomes very high. It appears, from official tables, as I shall presently show, that we paid more for railroad iron when it was admitted duty free than we do now. This is the effect of depending on England for our supply. In 1845 the manufacture of railroad iron was commenced in this country. It is a new branch of industry in the United States, requiring great capital, much skilled labor, and great energy. Why should it be stricken down by railroad jobbers? I say this is pressed by railroad jobbers; they are the leaders in the movement. However much railroads may be desired by honest people, they are frequently pushed forward by jobbers. You cannot properly construct more than two thousand five hundred miles a year. When you go beyond that, you press upon the English market, and of course the price of iron becomes high.

Mr. WELLER. I asked what was the number of persons employed in this country in the manufacture of railroad iron?

Mr. BRODHEAD. I do not know how many persons the mills employ; but the number must be very large; and, besides the number of those directly employed, you should take into consideration the persons who raise breadstuffs for them, and those who produce the coal, iron ore, lime stone, and pig-iron necessarily consumed in the production of iron for rails. I have before remarked that the price of railroad iron has been highest when it has come in duty free. Here is an official table showing the price of railway iron from 1832 to 1840 when no duty was imposed on it:

1832	£6 17s. 6d.	$34 73
1833	7 0 0	35 00
1834	8 5 0	41 25
1835	11 0 0	55 00
1836	12 10 0	62 50
1837	10 7 0	51 75
1838	11 2 0	55 50
1839	11 2 0	55 50
1840	11 17 0	59 37

At the present time the best rails can be bought for fifteen or twenty dollars per ton less than at this time last year. Is not this a large decline in one year? Does not this reduction weigh heavily upon our manufacturers, without adopting a measure like this the effect of which will be ruinous to them?

This bill, in my judgment, is violative of the plighted faith of the Government. By the pledges given when the tariff act of 1846 was adopted, the manufacturers of railroad iron were encouraged to go into the business; they are now engaged in it after the expenditure of a very large sum of money; and this bill will be destructive to them. I have some evidence as to the principle on which the act of 1846 was founded. Mr. Robert J. Walker, in his annual report as Secretary of the Treasury, in December, 1845, said:

"Whilst a due regard to the just and equal rights of all classes forbids a discrimination in favor of the manufacturer, by duties above the lowest revenue limit, *no disposition is felt to discriminate against them*, by reducing such duties as operate in their favor below that standard."

Is not this a proposition to discriminate against the manufacturer in favor of the consumer? Is it not, therefore, a violation of the principle on which the act of 1846 was based? Again, when the bill of 1846 was presented to the country as a revenue measure, Secretary Walker, in his report, held the following language:

"Stability in the tariff and currency is what the manufacturer should most desire. Let the tariff be permanently adjusted by a return to reasonable and moderate revenue duties, which, when imposed truly and in good faith for that purpose, will yield sufficient advantage to afford reasonable profits; and let this *permanent* system (and none other can be permanent) be established, and the manufacturer, in a series of years, will derive the greatest benefits from the system. The tariff has been changed and modified thirty times since the first bill, being more than once on an average for every Congress since the Government was founded; and it is vain to expect permanency from anything but a *revenue* tariff. Stability is what the manufacturer should desire, and especially that the question should be taken out of the arena of politics by a just and permanent settlement."

Thus, it appears that, in 1846, we were promised by the Secretary of the Treasury, who had a large share in the preparation of the tariff act of that year, that it was to be a permanent measure. The same promise was made in the House of Representatives, by the gentleman who reported that bill, [Mr. McKay.] It was supposed that a permanent system would suit the manufacturers

better than the fluctuating policy which had before prevailed. The same idea is to be found in the reports of Mr. Guthrie, the present Secretary of the Treasury. In his circular issued nearly a year ago, with a view to obtain information which would enable him to recommend a revision of the act of 1846, he held this language:

"The existing tariff having been designed, generally and substantially, for revenue, and for a fair and equal operation, both as between the various sections of the country and the various branches of industry, the same objects should undoubtedly be kept in view, and the reductions, if any shall be made, *should be so arranged as to afford an equal participation in the benefit to every interest and to every section.*"

And upon the information thus obtained, in his annual report he makes the following wise suggestion, upon which I hope we shall be able to come to some compromise between the producer and consumer:

"It is not proposed to change the principle of ad valorem duties, but it is for the consideration of Congress, whether a specific duty on iron, made from the average of the last three or four years' ad valorem duties, might not give greater stability to the iron business, and more satisfaction to consumers, and, at the same time, prove equally beneficial to the revenue."

I consider it unnecessary to adduce further evidence to show that this bill is a violation of the settled revenue policy of the country as adopted in the act of 1846. The evidence which I have already presented is, in my opinion, conclusive on that point.

The honorable Senator from Tennessee, as a reason for the passage of the bill, said, that we have now a redundant Treasury. I admit we have a full Treasury; but we shall not long remain in that condition. I think the probability is, that much of it will be got rid of by legislation; and besides, there is a great falling off in the revenue. I have tables from the Treasury Department, showing a very large decrease of revenue within the last few months. It is not wonderful that it should be so. The railroad corporations have brought a crisis on the country. They have run up a fearful amount of foreign indebtedness against us. Our gold and silver are sent abroad to pay the interest on this indebtedness. This withdraws from the country part of the capital necessary for its business, and acts injuriously on all branches of industry.

I do not intend, as I have already suggested, to go into a discussion of the tariff policy of the country; but I will make this general remark: I reject alike the free trade and the protective theory. Neither can be carried into successful effect. I do not believe, sir, that human wisdom can make a tariff law which will stand against the designs of Providence, and overrule the natural laws of trade and commerce. When the act of 1846 was adopted, it was supposed to be a rash measure; but that act was aided in a manner which was not expected by those who designed it. In 1847 there was a famine in Europe, and we received $20,000,000 from abroad for our breadstuffs. In 1849, gold was discovered in California. Both these circumstances operated in favor of the act of 1846, and contributed to swell the revenue under it. The great reason urged now for a reduction of the tariff is, that we receive too much revenue. I think that in a year or eighteen months from this time, we shall not complain of a redundant Treasury. But admit the force of this argument; admit that it is proper to reduce the duties for the purpose of lessening the revenue; I say it should be done generally and impartially. You ought not to take off the duty on railroad iron, and retain it on sugar and woolen goods. You ought not to sustain the railroad-making interest at the expense of another great branch of American industry.

Mr. President, I do not fear the passage of this bill, but I do fear the result of an effort which I expect will be made to amend the civil and diplomatic, or some other appropriation bill, by inserting a proposition to take off the duty on railroad iron, or refund $10,000,000 or $12,000,000, paid heretofore by railroad companies. I am aware of the fact that gentlemen plead instructions to justify themselves in voting for such a proposition. The honorable Senator from Virginia, [Mr. HUNTER,] when it was offered two years ago, as an amendment to the civil and diplomatic appropriation bill, alleged that he was instructed by his Legislature to support it. My friends from Alabama tell me that they are instructed to vote to take off the duty which is now imposed on railroad iron. Well, sir, suppose the Senators from Michigan, and from Pennsylvania, had yielded to such instructions in regard to the Wilmot proviso, and the Missouri compromise, where would have been the adjustment measures of 1850, and the Kansas-Nebraska act of last year? I resisted the Wilmot proviso, notwithstanding the instructions of the Legislature of my State. I do not think gentlemen here should now yield to instructions for a measure like this, which are got up by the agency of those who have a deep interest in the question. For my own part, I recognize instructions coming from my own party—not always those from the opposition.

I hope, sir, this measure will not be pressed upon us. Its friends have no assurance that, even if it be successful here, it will be taken up in the House of Representatives. They have declined to consider a bill proposing a general revision of the tariff policy of the country; and surely such a measure as this should be considered only as part of a general proposition to reduce duties. This is partial, class legislation, for the benefit of a particular set of individuals. In this respect, it comes before us in a most objectionable form. If this bill be passed, it should be accompanied by a proposition to refund these duties to those companies who have heretofore paid them, and to give to those who have used American iron a sum equal to that which they would have paid as duties, if they had used the foreign article. In every point of view in which I look at this bill, it strikes me as exceptionable. I trust it will not receive the sanction of the Senate.

Mr. JONES, of Tennessee. Mr. President, I am not at all surprised that the Senator from Pennsylvania should attack this proposition, for we all know the nerve which he exhibits on every occasion, and the vigilance with which he watches all the peculiar and local interests of Pennsylvania; but I am surprised, in fact, I confess myself profoundly astonished, at the means which he has employed to defeat the bill. I am amazed at the arguments which he has used. I grant that, if you will permit him to assume his positions, he may maintain them; but I utterly deny to him the right to assume that which is not to be seen in the bill, but which is a simple deduction of his own fruitful imagination. Where does the Senator find in the bill that it is a proposition to repeal or to refund duties upon railroad iron? There is no such measure before the Senate. Nothing like that is contemplated by the bill. It is merely a suggestion of his fancy. To sustain that assumption, he read a resolution adopted by a committee of a railroad convention held in Richmond, Virginia, in which the opinion was expressed that it was proper and right to refund the duties. He cannot find in this bill any such proposal. This is simply to allow a credit of three years for the duties.

Mr. President, is it not strange, passing strange, that the Senator should attempt to throw prejudice on this bill by referring to the doctrine of instruction? What possible connection has the doctrine of instruction with the question before us? Why should he lug into this debate the Wilmot proviso? Does he wish to arouse the prejudice of Senators upon that question? Why did he appeal to the Senators from Virginia and Alabama to know whether or not they would obey the instructions of their Legislatures on this question? Why did he go out of his way to read a lecture to them on the doctrine of instruction? I have not learned that those Senators are not fully competent to determine for themselves how far they are bound by the instructions of their States. I presume they are abundantly adequate to the task, and when the time comes they will not only have the capacity, but they will have the nerve to stand up and obey, or disobey, their instructions according to their own consciences and their obligations to the Constitution and to the country. I think it was gratuitous on the part of the Senator to go out of his way to attempt to throw prejudices on this bill by endeavoring to mix it up with other questions. If I were disposed to debate the doctrine of instruction with him, I think I could show that it would be difficult for him to find anything in the Constitution authorizing him to obey the instructions of his own party alone, if he chose, or not, as he pleased. If that be the doctrine of instruction, I am against it. I hold that if the right exists anywhere, it must exist in the Legislatures of the States.

The Senator from Pennsylvania, by way of throwing odium upon this measure, coupled another with it. He told us that a committee assembled in the city of New York and passed a resolution that each railroad company in the United States should pay them $100 to go to the city of Washington, and endeavor to secure the repeal of the duty on railroad iron, and that for this service, in the event that they were successful, they were to receive five per cent. of the amount refunded or repealed. Will that Senator pretend to say that there is a single railroad company in the United States which indorsed that proposition? I put the question to him, and pause for a reply.

Mr. BRODHEAD. I know this much: that the five gentlemen whose names I read to the Senate, stated that they acted in pursuance of instructions from a meeting of those engaged in the construction of railroads. They said that there was a meeting of railroad gentlemen in the city of New York, and that that meeting appointed them a committee. I take it for granted they told the truth.

Mr. JONES, of Tennessee. It is just as I supposed; the Senator takes for granted things which are not to be found in existence. I have before me a paper from a reliable authority on that subject, and I can enlighten the Senator as to it. The celebrated meeting to which he refers, was composed of six or seven gentlemen who thought, I suppose, that there was a good opportunity to make a handsome speculation. They got together in the Astor House in the city of New York, organized themselves into a railroad meeting, formed a committee, and passed a resolution, making themselves a committee; but not a railroad company in the United States, as I understand, ever assented to the proposition on which the Senator commented. But suppose the companies had assented to it, is it to be used here as an argument to prejudice a proposition for the benefit of other roads who did not take a part in any such proceedings? Surely it seems to me to be a strange and unfair mode of treating a subject like this.

A most extraordinary remark, made by the honorable Senator in the opening of his speech was, that this proposition was unjust and ungenerous. Unjust to whom? Unjust to a single human being? Ungenerous in what? Ungenerous in simply giving to the railroad companies of the United States three years in which to pay the duties levied by the Government on railroad iron? There is the injustice; there is the ungenerousness of the proposition which the Senator assails! He assumes that the bonds, which this bill requires of the companies, will never be paid. Is there anything in the bill which says that they shall not be paid? On the contrary, the bill provides expressly that they shall be paid; and not only that, but the collector of the customs of the port where the iron may be delivered, is required to take such satisfactory security as will indemnify the Government and insure the payment of the bonds.

Mr. BRODHEAD. Will my friend allow me to make a remark here?

Mr. JONES, of Tennessee. Certainly.

Mr. BRODHEAD. I have stated that these bonds will never be paid, and I believe it to be so. In the first place, the railroad companies themselves will be unable to pay them. Most of their roads are already mortgaged for as much as they can pay. Again, we have a precedent on this subject: bonds given for similar duties have been remitted; and I believe, if this bill passes, and bonds be taken under it, they will also be remitted.

Mr. JONES, of Tennessee. I am always willing to yield the floor, with great pleasure, to the honorable Senator for explanation, but not for an argument. He assumes that the bonds will not be paid. This is an assumption without any evidence to sustain it. There is nothing in the bill which warrants any such assumption. The Senator is equally unfortunate in saying that bonds issued for the same purpose have been remitted. He is greatly mistaken in that. To my knowledge no such bonds ever were remitted. I have examined the legislation of Congress, from beginning to end, without finding authority for any such assertion. The duties which were refunded were those which were paid upon the failure of the companies to lay down the iron within three years, as

provided for in the act of 1832. No bonds were taken from them, but they were required to pay the duty because they had not complied with the law; and the acts passed subsequently simply refunded to them the duties thus paid. There were no bonds taken at all.

The Senator says railroads are not entitled to this consideration. I do not ask it alone for railroads, as one class of industry; but I place the bill upon great principles of justice. The Senator says it is unjust and ungenerous. He will find, by reference to the reports of the Treasury Department, that over $4,000,000 of duties on railroad iron have been refunded, of which over $1,000,000 were refunded to the State of Pennsylvania alone. Is this the injustice of which the Senator complains? It was no injustice when Pennsylvania was taking out of the Treasury money which had been paid for railroad iron. But when Tennessee and the younger States come here and ask simply for a credit, the Senator lifts up his hands in holy horror, and says, what wonderful injustice is this! Will the Senator apply that argument to his own constituents, and say it was unjust and ungenerous for the Government to refund to them more than $1,000,000 of duties which they had paid?

He says the present measure will operate prejudicially upon the iron interest, and he appeals to us to know if we are going to stand up to sustain a great monopoly, the railroad interest of the country, and thereby crush the prospects of the manufacturers of iron? No, sir; I will not occupy such a position. I have always been in favor of sustaining the iron interest, and in my first remarks on this subject, I endeavored to prove that the effect of this measure would ultimately be to benefit that interest. The Senator did not attempt to answer that argument. I showed by figures, that, by the system of imposing heavy duties, and requiring immediate payment, you prevent the construction of a thousand miles of railroad per annum, and that thereby the iron manufacturers lose customers to the amount of more than $10,000,000 a year. The Senator could not answer the argument; but he told us that $10,000,000 are invested in rolling mills for the manufacture of rails. Granted. Then, according to his position, for the purpose of sustaining the capital of $10,000,000, you are imposing a tax of millions every year upon more than $800,000,000 of capital. That is protection with a vengeance! It is protecting $10,000,000 of capital by imposing a tax on eight hundred millions of labor, and that, too, in the ratio of $3,000,000 per annum! In four years, under the present system, you levy upon the working classes of this country, in the shape of duties for railroad iron, more than the whole amount of capital invested in rolling mills in the United States for the construction of railroad iron. In other words, we now tax twenty-five millions of people to support a few hundred or a few thousand. That is the species of protection against which I am warring, and which I think is contrary to the genius and spirit of an intelligent country like this.

The honorable Senator says he does not come here now to ask any assistance from us for this interest in his State, because Pennsylvania paid the money to build her roads, whereas our roads are being constructed by the process of "kiting." This is a new word; I do not exactly know what it means; but I presume the honorable Senator intended to say that we are building our roads by the use of our credit, by selling the bonds of the companies and of States issued to aid them. Now let me inform him, that, with the exception of New York, his own State, Pennsylvania, has done more kiting than all the States in the American Union put together. She has more kites flying now, in the shape of bonds and securities, than any State in the Union, except New York, and much more than all the southern States put together. He ought to be the advocate of kiting; for he is the representative of the very prince of kiters, and of the whole kiting family. [Laughter.] What is the result of the Senator's kiting proposition? Simply this: That the citizens of Pennsylvania, one of the old States, one of the wealthy States, which has received the benefits of the commerce of the West; in which has been centered for years past upwards of millions of dollars worth of property sent there from my section of the country—having grown rich out of the toil of the people of my section, are wealthy enough to build their own roads; but we are so poor as to be compelled to resort to credit. The Senator, with the magnanimity pertaining to his character, says: "Because you are poor, and cannot pay down the money, you shall not have any of the benefits which have been accorded to the older States of the Union." God save me from such justice as that. If that be one of the effects of kiting, I pray that this country may be saved from all such kiting hereafter.

The Senator went on to read a lecture on political economy by way of charging on the country great folly and indiscretion in constructing too many railroads. I have the highest respect for the intelligence of that Senator, and much regard for his goodness of heart, but I think my constituency are as competent to decide for themselves whether their interest will be promoted by extending their credit in the opening of the highways of trade, and travel, and intercommunication, as that honorable Senator is. And while they cherish for him great admiration, I hardly think they will call a meeting of their Legislature and reverse that action in view of the suggestions which he has made. They may do so; but I do not apprehend they will.

The Senator presented what was, to my mind, another remarkable proposition. He says that, enormous as this measure is, it would be rid of much of its enormity if it were confined to new tracks. There is a distinction without a difference, I think. If I were here to legislate for my constituency alone without reference to that equality which ought to exist in the legislation of the country; if I were looking simply to the interests of the people of Tennessee, without reference to those of Pennsylvania and the older States, I should be content to confine this measure to new tracks, because, in my State, we have no old tracks to relay. In Pennsylvania, and New York, and New England, they may have old tracks to relay. It would be unjust to pass an act discriminating between the iron to be laid down on a new track, and that necessary to be laid down on an old track. The Baltimore and Ohio Railroad Company, through Maryland and Virginia, is increasing the tracks of its road. Would it be justice to that company to say: "We will give you credit for the rails which you wish to lay down on your new track, but we will not give you credit on the rails which you may lay down on your old track?"

The Senator says this is an antagonism to protection. Now, I think that the protection at present accorded to the railroad interest, independent of the existing duty of thirty per cent., is sufficient. The protection which results from freights and exchange alone amounts to between three and five dollars per ton. Under all the circumstances of the case, I believe that is protection enough; but I do not raise that question; I waive it—I do not ask in this bill for a remission of a single cent of duties, but for a credit. We are told that this is contrary to principle. What principle? Was it contrary to principle when it applied to Pennsylvania? No, sir. Was it contrary to principle when it applied to Maryland, New York, Georgia, South Carolina, and the New England States? There was no complaint then; but now it is said to be contrary to principle. Why? Because it is contended the tariff of 1846 is a permanent thing. Really, sir, that idea is something new under the sun. Whence does the Senator derive information to that effect? He read from the report of Mr. Walker, then Secretary of the Treasury; but he never advanced any such idea. Mr. Walker simply said it was the interest of the manufacturer that there should be permanence in the tariff. Now, the Senator tells us that the tariff of 1846 is a permanent thing, and that it is a violation of principle to touch it. The same argument applies to every tariff that ever did exist, or that ever can exist. Will the Senator pretend to say that it was a violation of principle to repeal the tariff of 1828—the "bloody tariff"—upon which the Democratic party came into power, and by means of which they have materially maintained that power? No, sir. If it be a violation of principle now to interfere with the tariff of 1846, how stands the case with the honorable gentleman himself? On the same principle, Congress ought never to have interfered with the tariff of 1842, and thereby we stand charged before the country with a violation of principle. The tariff of 1842 imposed a specific duty of twenty-five dollars per ton on railroad iron. Congress repealed that enormous duty by the act of 1846, bringing it down to thirty per cent. *ad valorem*. Now, the Senator tells us that it is a violation of good faith between the Government and the manufacturers of railroad iron to reduce, or remit, or give a credit for that duty. If that hypothesis be assumed and recognized by the Senate and Congress of the United States, all future legislation on the subject of tariffs will be in violation of principle and of good faith.

I apprehend that, when the proper time comes, that honorable Senator himself will be for revising the tariff. We know that he will be for revising it in some parts. I apprehend that then he will not be found standing up here to maintain the inviolability of the tariff of 1846. That, like every other tariff, is subject to alteration or amendment according to the wisdom of Congress, dependent on the exigencies of the country. But, sir, I wish to read a few names for the especial benefit of the Senator from Pennsylvania, and to commend them to his particular attention on this occasion. In 1832, a bill was passed for the exemption of railroad iron from duty. It was passed during the Administration of General Jackson, who, I believe, stands at the head and front of the Democratic party. Will that Senator pretend to say, that an act which received the sanction and approval of the leader of his party, Andrew Jackson, is a violation of principle? Did that distinguished man violate any great Democratic principle when he assented to the act of 1832, allowing railroad iron to come in free of duty, and refunding those duties which had been heretofore paid on it? If you will examine the records, you will find that some of the most distinguished men in the Congress of the United States approved that policy. Let me give a few names for the especial benefit of the Senator from Pennsylvania. I find the names of Calhoun, Clay, Woodbury, Webster, Buchanan, Robert J. Walker, Marcy, Clayton, Bell, of Tennessee, Boyd, McDuffie, Polk, Livingston, Wright, Tazewell, William R. King, Abbott Lawrence, John M. Berrien, Crittenden, Whittlesey, Johnson, Troup, Dickerson, of New Jersey, Sevier, Hugh L. White, Caleb Cushing, General Hayne, John Quincy Adams, P. B. Barbour, and a host of others. Will any man pretend to say that these gentlemen violated any great principle when they recognized the wisdom, the policy, and the justice of allowing railroad iron to be imported free of duty, after the great national adjudication of the question of internal improvements, which denied to the Federal Government the power to make such roads, and assigned the exercise of the power to the States, and to individuals. These distinguished men, to whom I have alluded, are found on the record as having given their assent to such a policy; but now, we are told, that it is a violation of principle.

The honorable Senator says there are now in operation in the United States sixteen mills engaged in the construction of railroad iron. I have the same paper from which, I presume, he derived that statement. I have searched the census returns diligently from beginning to end; but I can find there no information whatever on that subject. The only datum I find is a vagrant newspaper publication which I have seen, estimating the number of mills at sixteen, and the aggregate amount of production at one hundred and sixty thousand tons. Now, I undertake to say that out of these sixteen mills, fully one half have suspended, because of a want of ability to go on. It requires a larger amount of capital to be invested in the construction of railroad iron, than in any other description of iron. It is much larger, much heavier, and much more costly. Hence, these mills have not been able to continue the manufacture of railroad iron even at the enormous price at which it has been sold. According to the theory of the Senator, if we are to sustain these sixteen mills at the expense of twenty-five millions of people interested in railroads, let me tell him the duty of thirty per cent. is not enough, and he will have to invade that great inviolable tariff of 1846, and put the duty at fifty or sixty per cent. They cannot compete with foreign manufactures in rails, for the simple reason that they have not got the capital. I might illustrate this very fully if I had time, or if it were necessary, but I hope it is not necessary.

Mr. President, I do not feel that it is proper for

me to detain the Senate longer on this subject. I submit the bill to the Senate upon its merits, and I beg gentlemen to discard from their minds all the conjectures and interpolations of the Senator from Pennsylvania. He speaks of the bill as if it were a provision for repealing the duty on railroad iron; but it is no such thing. He assumes, at any rate, that if we give the credit proposed by this bill now, we shall hereafter remit the duty altogether. I see no ground for such an apprehension; but suppose Congress should hereafter do so, what then? Is the Senator unwilling to place the younger States of the Union upon an equal footing with their older sisters? Can he reconcile it to his convictions of justice to deny to us the benefits which his constituency have enjoyed—to refuse to the younger States those advantages which have been granted to the old States. I am content to leave the question with the Senate, upon considerations of justice, equity, liberality, and generosity. I shall abide by their decision.

The PRESIDING OFFICER, (Mr. STUART.) The question is on concurring in the adverse report made by the Committee on Finance.

Mr. BADGER. I suppose the question is on the bill.

Mr. WELLER. The committee report the bill with a recommendation that it be rejected; but the question is on the bill.

The PRESIDING OFFICER. The Chair will adopt the suggestion of Senators. The bill then is before the Senate, as in Committee of the Whole, and subject to amendment.

Mr. PEARCE. I should like to have an opportunity of looking a little further into this matter. This discussion is entirely new to me. Both the gentlemen who have participated in it, have stated facts which I have not before heard, and which I should like to have an opportunity of examining. I move, therefore, to postpone the further consideration of the subject until to-morrow.

Mr. JONES, of Tennessee. I have no objection.

Mr. BRODHEAD. To-morrow will be private bill day.

Mr. PEARCE. Then I will say Monday. I move to postpone the further consideration of the subject until Monday.

The motion was agreed to.

OHIO JUDICIAL DISTRICTS.

A message from the House of Representatives, by Mr. McKEAN, Chief Clerk, announced that they had passed, without amendment, the bill of the Senate to divide the State of Ohio into two judicial districts, and to provide for holding the circuit and district courts of the United States therein.

MAIL TO CALIFORNIA.

Mr. WELLER asked, and by unanimous consent obtained, leave to introduce a bill providing for an express mail overland from St. Louis, Missouri, to San Francisco, California; which was read the first time, and ordered to a second reading.

PUBLIC BUILDINGS AT BANGOR.

Mr. HAMLIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the necessity of making an appropriation for furnishing the building erected for a custom-house, court-room, and post office, at Bangor, Maine.

JAPAN EXPEDITION.

Mr. BENJAMIN. We have on our tables a report from the Secretary of State, communicating the correspondence in relation to the Japan expedition. The document amounts to nearly two hundred pages. Under a standing rule of the Senate, our documents are not bound unless they reach two hundred and fifty pages. As this is of some value, and one which all Senators would desire to keep, I ask the unanimous consent of the Senate to submit a motion that those copies, which have been ordered for the use of the Senate, be bound.

Mr. JOHNSON. That proposition ought properly to be referred to the Committee on Printing. I must be compelled to ask that all such questions be referred to the proper committee.

Mr. BENJAMIN. I simply make the motion. I am content to allow it to be referred.

The PRESIDING OFFICER. The motion will be referred to the Committee on Printing.

EXECUTIVE SESSION.

On motion by Mr. MASON, the Senate proceeded to the consideration of Executive business, and, after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 8, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER *pro tempore* (Mr. JONES, of Tennessee, in the chair) laid before the House a communication from the President of the United States, transmitting a letter from the Secretary of the Interior, with accompanying papers, in reference to the treaty between the United States and the Chippewa Indians, and recommending certain appropriations to be made; which was laid upon the table, and ordered to be printed.

Also, another communication from the President, transmitting a letter from the Secretary of the Interior, with accompanying papers, in reference to the colonization of Indians in California, and recommending certain appropriations to be made for that purpose; which was laid upon the table, and ordered to be printed.

Mr. WASHBURNE, of Illinois. I ask the consent of the House to take up, from the Speaker's table, a Senate bill, commonly known as the swamp land bill.

Mr. HENDRICKS. I demand the regular order of business.

JUDICIARY BUSINESS.

The SPEAKER *pro tempore*. Then the motion of the gentleman from Illinois is not in order. This day has been assigned by the House for the consideration of business reported by the Committee on the Judiciary. The regular order of business is, therefore, the reception of reports from that committee.

Mr. STANTON, of Tennessee. I have several reports which I desire to make from the Committee on the Judiciary.

Mr. CHANDLER. I would ask the gentlemen upon the other side of the House to allow the bill which has been pending before the House for several days in the morning hour, to be disposed of. It will require but a few minutes.

Mr. HENDRICKS. Is not the regular order of business during the morning hour the consideration of the diplomatic and consular bill?

The SPEAKER *pro tempore*. This entire day was set apart, by a two-third vote of the House, for the consideration of business reported by the Committee on the Judiciary.

Mr. HENDRICKS. I was anxious to get at this business as soon as possible, but I will withdraw my objection to the consideration of the diplomatic and consular bill.

Mr. STANTON, of Tennessee. If the gentleman from Pennsylvania will call the previous question upon his bill, and print his remarks, I will yield the floor for that purpose, with the understanding that the vote is not to be taken to-day.

Mr WENTWORTH, of Illinois. I object to any bargains being made.

Mr. STANTON. I desire to know whether, if the main question be ordered upon the diplomatic and consular bill, it will be competent for me to call for the special order, and allow the final vote upon that bill to go over for another day?

The SPEAKER *pro tempore*. The Chair thinks that if the House were to progress so far as to order the main question to be now put, there would be some doubt whether the bill could then be passed over without unanimous consent.

BILLS REPORTED.

Mr. STANTON, of Tennessee, from the Committee on the Judiciary, reported a bill to prevent malicious trespasses upon property within the District of Columbia; which was read a first and second time by its title, referred to the Committee of the Whole on the State of the Union, and ordered to be printed.

Also, a bill providing compensation to the owners of property in the City of Washington injured by alteration of streets by authority of the United States; which was likewise read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

UNITED STATES COURTS IN TENNESSEE.

Mr. STANTON, from the same committee, reported a bill changing the times of holding the United States courts in Tennessee; which was read a first and second time by its title.

Mr. STANTON. This is a change which has been requested by the district and circuit judges. The bill simply changes the time for holding the courts, and as there can be no objection to it, I ask that it may be put upon its passage.

The bill was read *in extenso*.

Mr. ETHERIDGE. I would ask the chairman of the Committee on the Judiciary whether he has received any communication from the lawyers of the western part of the State, remonstrating against the times of holding the courts in west Tennessee?

Mr. STANTON. No, sir; I have not.

Mr. ETHERIDGE. Has no objection been made to the change proposed by this bill?

Mr. STANTON. I think not. The judges request it.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read a third time, and passed.

UNITED STATES COURTS IN FLORIDA.

Mr. STANTON. I am instructed by the Committee on the Judiciary to report a bill to provide for holding the United States courts in the northern and southern districts of Florida, in case of the sickness or disability of either of the judges of those districts.

The bill was read a first and second time by its title.

Mr. STANTON. This bill is only to provide for a *casus omissus* in the existing law. There is, at present, no provision by which either of the judges in the two districts of Florida, in case of the sickness of either of those judges, can hold the courts for the other. The bill is simply to provide for that case. I ask that it be put upon its passage.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read a third time, and passed.

OPINIONS OF THE ATTORNEYS GENERAL.

Mr. STANTON. I am instructed by the Committee on the Judiciary to report a bill to authorize the printing of the opinions of the Attorneys General.

The bill was read a first and second time by its title.

Mr. STANTON. This is a bill which, I apprehend, will be unanimously concurred in; and I therefore request that it may be put upon its passage.

The bill was read. It provides that, from time to time, whenever the opinions of the Attorney General shall have accumulated in sufficient numbers, the President shall cause the same to be indexed, and printed by the public printer, and bound in volumes of convenient size, and in numbers sufficient for distribution, as heretofore authorized by law.

Mr. STANTON. The Attorney General informs me that there is a very considerable accumulation of opinions now ready to be printed. The Committee on the Judiciary have thought it better to provide by a general law for the printing of these opinions by the public printer whenever the President thinks proper. I presume there can be no objection to the bill, and I hope it will be passed.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read a third time, and passed.

Mr. STANTON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

LAWS OF THE UNITED STATES.

Mr. STANTON. I am also instructed by the Committee on the Judiciary to report a bill providing for a revision of the laws of the United States.

The bill was read a first and second time by its title.

Mr. STANTON. The Committee on the Ju-

diciary were instructed, by a resolution of the House, to inquire into the expediency of providing by law for the revision of the laws of the United States. I do not intend to enter into any debate upon the subject; and if it gives rise to any debate, I shall move that the bill be referred to the Committee of the Whole on the state of the Union. But I think that the bill ought to pass without any difficulty, and without much debate. I believe it is a fact, that every State in the Union has revised its laws, except, perhaps, those that have been admitted within a few years past—some of them once; more of them oftener. The laws of the United States are of a very complex and complicated character. I have conversed on this subject with the Attorney General and the Chief Justice of the Supreme Court, and both those gentlemen have informed me that the passage of this act is very desirable. It provides for two commissioners, with a salary of $3,000 each, to revise and arrange the laws of the United States in a convenient form, to be printed and submitted to Congress. You know, Mr. Speaker, that many of the most important provisions of public laws are found scattered through various bills, and that the indexes necessarily give no sort of information as to the items contained in these bills. The Chief Justice of the United States informs me that sometimes he has to hunt for public laws among private acts; and every gentleman in this House knows that this is the case. Every gentleman knows that many important laws have been modified and altered in this way; so that it becomes a matter of difficulty, and one which occupies a considerable amount of time, to trace out new enactments, by which alterations in the character of a law have been, from time to time, made.

Now, the whole expense of this commission would be only about $18,000, a very small matter compared with the great importance of the object to be attained. I think the bill ought to be passed without giving rise to any opposition.

Mr. HAVEN. I think, Mr. Speaker, that it is better to have this bill referred to the Committee of the Whole on the state of the Union, and printed. I therefore make the motion that it be so referred.

The question was taken; and the motion was agreed to.

CIRCUIT COURT IN CALIFORNIA.

Mr. STANTON, from the same committee, also reported a bill to establish a circuit court of the United States in and for the State of California; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

SALARIES OF DISTRICT JUDGES.

Mr. PARKER. I am instructed by the Committee on the Judiciary to report back, without amendment, House bill (No. 337) to regulate the salaries of the district judges of the United States, and to ask that the bill be put upon its passage.

The bill, which was read, enacts that the district judges of the United States shall receive, as compensation for their services, the following yearly salaries, to be paid quarterly out of the Treasury, to wit:

The judges of the districts of the States of Maine, New Hampshire, Vermont, Rhode Island, Connecticut, Delaware, New Jersey, Iowa, and Wisconsin, $2,000.

The judge of the northern district of Florida, $2.250.

The judges of the western district of Virginia, North Carolina, eastern, western, and middle districts of Tennessee, northern and southern districts of Mississippi, western district of Pennsylvania, western district of Louisiana, Texas, Kentucky, Ohio, Indiana, Missouri, eastern and western districts of Arkansas, Illinois, and Michigan, $2,500.

The judges of the districts of Georgia, South Carolina, eastern district of Virginia, northern district of New York, northern and southern districts of Alabama, $2,750,

The judges of the districts of Maryland, Massachusetts, eastern district of Pennsylvania, southern district of Florida, and southern district of California, $3,000.

The judge of the southern district of Louisiana, $3,500.

The judge of the southern district of New York, $3,750.

The judge of the northern district of California, $5,000.

Mr. PARKER. I move the previous question on the engrossment of the bill.

Mr. PHELPS. I hope the bill will be referred to the Committee of the Whole on the state of the Union. I do not, from the mere reading at the Clerk's desk, understand the proposed rates of salaries, and I therefore desire to see the bill printed.

Mr. WASHBURNE, of Illinois. Why, the bill has been printed for a whole year.

Mr. PHELPS. Was the bill printed last session?

Mr. PARKER. Yes, sir.

Mr. WALLEY. I hope the gentleman from Indiana [Mr. PARKER] will withdraw his call for the previous question, as I desire to propose an amendment increasing the proposed salary of the district judge of Massachusetts.

Mr. PARKER. The gentleman from Massachusetts [Mr. WALLEY] will recollect that he proposed this matter to me at the last session of Congress. There are several other cases of a similar character, where members think that the salaries of their district judges ought to be increased beyond the rate proposed in the bill, and if——

The SPEAKER *pro tempore*, (interrupting.) The Chair must remind gentlemen that debate is out of order.

The question being on seconding the demand for the previous question,

Mr. WASHBURNE, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. DUNHAM and PRINGLE were appointed.

The question was taken; and the tellers reported—ayes eighty-one, noes not counted.

After the tellers had resumed their seats,

Mr. SKELTON demanded a count of the other side.

The SPEAKER *pro tempore*. It is too late; the question has been decided.

So the previous question was seconded; and the main question was ordered to be put.

The bill was then ordered to be engrossed and read a third time; and having been engrossed and read a third time,

Mr. PARKER demanded the previous question upon the passage of the bill, which was seconded, and the main question ordered to be put.

The question being "Shall the bill pass?"

Mr. OLDS demanded the yeas and nays, which were ordered.

The question was taken; and there were—yeas 108, nays 44; as follows:

YEAS—Messrs. Abercrombie, Aiken, James C. Allen, Willis Allen, Appleton, Thomas H. Bayly, Benson, Bliss, Bocock, Bridges, Bristow, Bugg, Caruthers, Caskie, Chamberlain, Chandler, Chastain, Chrisman, Clark, Corwin, Crocker, Cullom, Cumming, Thomas Davis, Disney, Dunbar, Eastman, Edgerton, Edmunds, Thomas D. Eliot, Etheridge, Farley, Faulkner, Florence, Franklin, Fuller, Goode, Green, Greenwood, Grey, Andrew J. Harlan, Haven, Hendricks, Hibbard, Howe, Hughes, Hunt, Ingersoll, Johnson, Kerr, Lane, Latham, Letcher, Lewis, Lindsley, Macdonald, Mace, Matteson, Maurice, Maxwell, May, Middleswarth, Noble, Norton, Mordecai Oliver, Parker, Peckham, John Perkins, Phelps, Phillips, Pratt, Reese, Riddle, David Ritchie, Thomas Ritchey, Robbins, Rogers, Russell, Sabin, Seward, Seymour, Shannon, Shower, William Smith, William R. Smith, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Stratton, Straub, Andrew Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Upham, Vansant, Wade, Walbridge, Walley, Warren, Elihu Washburne, John Wentworth, Tappan Wentworth, Hendrick B. Wright, and Zollicoffer—108.

NAYS—Messrs. Ball, Bennett, Carpenter, Clingman, Cobb, Cox, John G. Davis, Dawson, Dunham, Flagler, Gamble, Giddings, Grow, Hamilton, Aaron Harlan, Wiley P. Harris, Henn, Houston, Daniel T. Jones, George W. Jones, Roland Jones, Kittredge, Knox, Kurtz, Lamb, Lilly, McCulloch, McQueen, Mavall, Smith Miller, Morgan, Morrison, Murray, Nichols, Olds, Orr, Packer, Bishop Perkins, Pringle, Ruffin, Sapp, Shaw, Simmons, Skelton, John J. Taylor, Tracy, Trout, Israel Washburn, and Wells—44.

After the call of the roll was completed,

Mr. PURYEAR stated that if he had been present, he should have voted in the affirmative.

Mr. BANKS also stated that he would have voted in the affirmative, if he had been present.

Mr. PARKER moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

JUDGES WOODBRIDGE AND CHIPMAN.

Mr. PARKER. I am instructed by the Committee on the Judiciary to report back a joint resolution explanatory of the act giving compensation to Judges Woodbridge and Chipman.

I will explain to the House, in a moment, the object of this joint resolution. It is intended merely to correct a mistake made at the last session of Congress. There was a bill, which came to this House from the Senate, providing for the compensation of Judge Morell, for services rendered in the Territory of Michigan, which was amended in this House by inserting the names of Judges Woodbridge and Chipman. That bill provided for the payment of some four thousand dollars more than Congress intended they should receive, and the object of this joint resolution is to explain the mistake, and save that amount to the Treasury.

Mr. RITCHIE, of Pennsylvania. I move to amend the bill by inserting the name of Judge Ross Wilkins, of Michigan. He should be included in the act also, and be put upon the same footing with these other judges, as he performed services of the same character.

Mr. JONES, of Louisiana. I would ask the Chair if the resolution which passed the other day, setting aside this day for the consideration of business reported by the Judiciary Committee, contemplated the consideration of private business also?

The SPEAKER *pro tempore*. The resolution, as the Chair understood it, was to consider business of a public character only.

Mr. JONES. I move, then, that this matter be referred to the Committee of the Whole House.

Mr. PARKER. The bill is of a public character, as it has for its object the saving of $4,000 to the Treasury.

Mr. EDGERTON. I have an amendment to offer to the bill, and I move to insert the names of Judges Ross Wilkins and James Witherell, so that the bill may provide for the same payment to these gentlemen, as to Judges Woodbridge and Chipman.

Mr. RITCHIE. The amendment which the gentleman from Ohio indicates, covers the case for which I desired to make provision. It is precisely of the same character as the bill, and relates to the same kind of compensation.

The SPEAKER *pro tempore*. The Chair understands the resolution reported by the gentleman from Indiana to be a limitation upon the compensation of the judges named therein, while the amendment of the gentleman from Ohio is to increase the compensation.

Mr. RITCHIE. The amendment simply makes provision for two gentlemen who rendered services of the same character as the gentlemen named in the bill.

The SPEAKER *pro tempore*. The Chair decides that the amendment is not in order as an amendment to the joint resolution.

Mr. PARKER. I call for the previous question upon the passage of the resolution.

The previous question was seconded, and the main question ordered.

The resolution was then ordered to be engrossed and read a third time; and having been engrossed and read a third time, was passed.

THOMAS WOODWARD.

On motion by Mr. PARKER, it was

Ordered, That the Committee on the Judiciary be discharged from the further consideration of the memorial of Thomas Woodward, and that it be laid upon the table.

OFFENCES AGAINST THE UNITED STATES.

Mr. SEYMOUR. I am instructed by the Committee on the Judiciary to ask that the Committee of the Whole House be discharged from the further consideration of House bill No. 710, and that it be put upon its passage. The bill will give rise to no debate.

The bill was reported, as follows:

A bill more effectually to provide for the punishment of certain crimes against the United States.

The bill was then read *in extenso*.

The SPEAKER. The gentleman from Connecticut, [Mr. SEYMOUR,] under the instructions of the Judiciary Committee, moves that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill which has just been read, that it be brought into the House and put upon its passage.

Mr. MILLSON. I think that the bill contains provisions which ought to be carefully examined.

The SPEAKER. The question is not debatable. Does the gentleman object?

Mr. MILLSON. I have not read the bill. My attention was attracted to its provisions while it was being read at the Clerk's desk. I want to know whether the operation of the bill is confined to the District of Columbia, and other places exclusively under the jurisdiction of the United States?

Mr. SEYMOUR. It is not. It provides for any offenses committed in any of the States against the United States.

Mr. MILLSON. We have no right to take jurisdiction over forgeries committed within the limits of the States, except in the cases expressly mentioned in the Constitution, which authorizes Congress only to make laws for punishing the counterfeiting the securities and current coin of the United States.

The SPEAKER. The gentleman objecting, the Committee of the Whole on the state of the Union cannot be discharged from the further consideration of the bill.

JUDICIAL DISTRICTS OF ILLINOIS.

Mr. SEYMOUR, from the Committee on the Judiciary, reported back House bill (No. 285) to divide the State of Illinois into two judicial districts, with a substitute.

The SPEAKER. The Clerk will read the bill.

Mr. SEYMOUR. By unanimous consent, I hope the reading of the bill will be dispensed with, and that the Clerk will proceed to read the substitute.

There was no objection, and the Clerk read the substitute, as follows:

That the State of Illinois be, and the same is hereby, divided into two judicial districts, in the manner following, to wit: The counties of Hancock, McDonough, Peoria, Woodford, Livingston, and Iroquois, and all the counties in the said State north of them, shall compose one district, to be called the northern district of Illinois, and courts shall be held for the said district at the city of Chicago; and the residue of the counties of the said State shall compose another district to be called the southern district of Illinois, and courts shall be held for the same at the city of Springfield.

SEC. 2. *And be it further enacted*, That there shall be two terms of the circuit and district courts begun and held in each of said districts, to wit: at the city of Chicago for the northern district, on the first Monday in July and third Monday in December; and at the city of Springfield for the southern district, on the first Monday in March and the first Monday in October in each year; and the said courts are hereby authorized to hold adjourned terms when the business shall, in the opinion of the courts, require it.

SEC. 3. *And be it further enacted*, That all suits and other proceedings, of whatsoever name or nature, now pending in the circuit or district courts of the United States for the district of Illinois, shall be tried and disposed of in the circuit and district courts, respectively, for the northern district of Illinois, in the same manner as the same would have been in case said State had not been divided into two districts; and for that purpose the jurisdiction is reserved to the said courts in the northern district, and the clerk of the circuit and district courts for the present district of Illinois shall remove the records and files of the said circuit and district courts to the city of Chicago; and do and perform all duties appertaining to his office within the northern district, and all process or other proceedings taken, or issued, or made returnable to the circuit or district courts of the present district of Illinois, shall be returnable at the next term of the said courts respectively, in the northern district of Illinois.

SEC. 4. *And be it further enacted*, That upon application of any party to any suit now pending, which would have been commenced in the southern district if this act had been in force before the commencement of the said suit, the proper court may, and, if all parties consent, shall, order that the same be removed for further proceedings to the proper court for the southern district; and thereupon the clerk shall transmit all the papers in the cause, with a transcript of all orders taken therein, to the clerk of the court to which the suit shall be removed, and all further proceedings shall be had in said court as if the said suit had been originally commenced therein.

SEC. 5. *And be it further enacted*, That the present judge of the district of Illinois be, and is hereby, assigned to the northern district of Illinois.

SEC. 6. *And be it further enacted*, That final process on any judgment or decree entered in the circuit or district courts of the United States for the district of Illinois, and all other process for the enforcement of any order of said courts, respectively, in any cause now pending therein, except causes removed as hereinafter provided, shall be issued from and made returnable to the proper court for the northern district of Illinois, and may be directed to and executed by the marshal of the said northern district in any part of the said State.

SEC. 7. *And be it further enacted*, That there be appointed a district judge for the said northern district of Illinois, and the district judge of each of the said districts shall be entitled to an annual salary of $2,500.

SEC. 8. *And be it further enacted*, That the present district attorney for the district of Illinois shall be the district attorney for the northern district; the present marshal of the district of Illinois shall be the marshal for the northern district, and the present clerk of the courts for the district of Illinois shall be the clerk of the courts for the northern district during their respective official terms.

SEC. 9. *And be it further enacted*, That there be appointed a district attorney, a marshal, and a clerk of the court for the southern district.

The SPEAKER. The question is now on the adoption of the amendment as a substitute for the original bill.

Mr. KNOX. Is an amendment in order to the substitute?

The SPEAKER. It is.

Mr. KNOX. Mr. Speaker, the substitute has not been printed, and I shall not be able, from its bare reading at the Clerk's desk, to precisely indicate the amendments which I regard as necessary to the bill, and proper for the northern part of the State of Illinois. At some point, however, I desire to amend the substitute, so that it will provide that the courts of the northern district of Illinois shall be held alternately at the cities of Chicago and Peoria.

Mr. SEYMOUR. Will the gentleman allow me to suggest to him, that unless the members from that judicial district are unanimous in desiring the proposed amendment we had better pass this substitute as it is, and provide for what is contained in the amendment by a separate bill. It seems to me that we ought to refrain from incumbering this bill with any question upon which members of that judicial district are divided.

Mr. KNOX. In reply to the gentleman, I will say that I do not desire to embarrass the bill. I do wish, however, to make a simple statement in favor of the amendment which I propose. When it is understood, I am sure that it will meet with the approbation of the House, and also, I trust, with the approbation of my colleagues.

Mr. SEYMOUR. I appeal to the gentleman from Illinois to withdraw his amendment and embody it in a separate bill. It is important that this bill should pass now, and if the gentleman insists upon his amendment, it is likely the bill will have to be referred to the Committee of the Whole on the state of the Union. If the gentleman from Illinois had come before the Committee on the Judiciary with his amendment, the committee would have been prepared for it. As it is, we are not prepared for it, and I hope the gentleman will withdraw his amendment.

Mr. KNOX. I shall be compelled to insist upon the amendment, because I believe it to be a matter of justice to that portion of the State of Illinois which I represent.

Mr. WASHBURNE, of Illinois. I ask my colleague if he has drawn up his amendment in full? It will require a long section to provide for the regular processes.

Mr. KNOX. I have not, and I apprehend it will not be necessary. I think the change of two or three words will be all that is necessary.

The amendment having been committed to writing, was read, as follows:

After the word "districts" in the first section, insert the word "alternately;" for the word "city" insert the word "cities;" and after the word "Chicago" insert the words "and Peoria," so that it will read:

For said districts alternately at the cities of Chicago and Peoria."

Mr. KNOX. Is it in order for me to make a few remarks in explanation of the amendment?

The SPEAKER *pro tempore*. The amendment is open for discussion.

Mr. KNOX. The object of that bill is to divide the State of Illinois into two judicial districts. At present the courts are held alternately, I think, at the city of Chicago, which is at the northern extremity of the State, and at the city of Springfield. It is proposed by this bill so to divide the State as to place about one half of the State in the northern district. I propose so to amend it as to provide for holding the courts alternately at Chicago and Peoria.

It is probably known to most of the members of this House that Peoria is one of the largest cities in the State of Illinois. It is situated about centrally east and west. I understand that a large portion of the business that will come before this court will originate in the southern portion of the district. I have recently been informed that there are now upon the docket of that court one hundred and thirty cases originating in Peoria alone, growing out of French claims. I will also state that the southern portion of the district takes in several counties which comprise more than half of the military tract, in which cases of very deep interest, involving titles to land, have arisen, and which will come before that court. I would suggest, therefore, to my colleagues from Illinois, and to the House, that it is but an act of justice to that portion of the district which originates the largest portion of the business of this court, that it should be held a portion of the time at the city of Peoria.

Mr. RICHARDSON. If there is any reason why the sessions of the court should be held at Peoria, there is quite as good reason why they should be held at half a dozen different places in the gentleman's and in my district.

Mr. WENTWORTH. Move the previous question.

Mr. RICHARDSON. I will in a minute. The persons in the city of Peoria who have business before this court, can reach Chicago in three or four hours any time. There is a railroad between the two cities, and Peoria is more conveniently situated, in reference to the location of a court at Chicago, than almost any other point interested. I should have no objection to the court being held at that place. I myself represented that county for a long time upon this floor. But as I believe this amendment would endanger the passage of the bill, I shall be compelled to vote against it. I move the previous question.

The previous question was seconded, and the main question ordered to be put.

The question was then taken upon Mr. KNOX's amendment; and it was not agreed to.

The question then recurred upon the amendment proposed by the Committee on the Judiciary as a substitute for the original bill; and being taken, the amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, was read a third time.

Mr. SEYMOUR. I move the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be put; and, under the operation thereof, the bill was passed.

Mr. SEYMOUR moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

JUDICIAL DISTRICTS IN OHIO.

Mr. STANTON, of Tennessee. I am instructed by the Committee on the Judiciary to report back, without amendment, Senate bill (No. 47) to divide the State of Ohio into two judicial districts, and to provide for holding the district and circuit courts of the United States therein, and to ask that it may be put upon its passage.

The bill was read.

Mr. STANTON. If there is no amendment proposed to this bill, I move the previous question.

Mr. OLDS. I ask the gentleman from Tennessee to withdraw the demand for the previous question, that I may be heard upon this measure. It is one of vital importance to the constituency which I represent.

Mr. STANTON. I cannot withdraw it.

Mr. OLDS. Then will the gentleman allow me to move that the bill be referred to the Committee of the Whole on the state of the Union?

Mr. STANTON. I am willing that the House shall vote upon a proposition to refer the bill to the Committee of the Whole on the state of the Union, and will withdraw the call for the previous question, move that the bill be so referred, and then renew the demand for the previous question.

Mr. EDGERTON. I hope the gentleman will not do that. This is just what the State of Ohio wants, and other States too.

Mr. OLDS. It is just what Ohio does not want.

The SPEAKER *pro tempore*. Does the gentleman from Tennessee withdraw the demand for the previous question?

Mr. STANTON. No, sir; on reflection I will not withdraw it.

The previous question was seconded, and the main question was ordered to be put.

The bill was then ordered to a third reading, and was read a third time.

Mr. STANTON. I demand the previous question on the passage of the bill.

The previous question was seconded, and the

main question was ordered to be put, being, "Shall the bill pass?"

Mr. OLDS. I demand the yeas and nays upon that question.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 117, nays 38; as follows:

YEAS—Messrs. Abercrombie, Aiken, James C. Allen, Willis Allen, Appleton, Ashe, Banks, Barksdale, Barry, Bennett, Benson, Bliss, Breckinridge, Bridges, Bristow, Carpenter, Caruthers, Chamberlain, Chandler, Chase, Chastain, Chrisman, Clark, Cobb, Crocker, Cutting, Thomas Davis, Dawson, Disney, Dunbar, Dunham, Eastman, Edgerton, Edmands, Thomas D. Eliot, Ellison, Etheridge, Everhart, Farley, Faulkner, Flagler, Florence, Franklin, Gamble, Giddings, Goodrich, Green, Greenwood, Hastings, Haven, Henn, Hiester, Howe, Johnson, J. Glancy Jones, Kittredge, Kurtz, Lamb, Lilly, McCulloch, Macdonald, McQueen, Mace, Matteson, Maurice, Maxwell, May, Mayall, Middleswarth, Morgan, Nichols, Noble, Mordecai Oliver, Orr, Parker, Phelps, Pratt, Preston, Pringle, Ready, Reese, Riddle, David Ritchie, Thomas Ritchey, Robbins, Ruffin, Russell, Sabin, Seward, Seymour, Shaw, Shower, Simmons, William Smith, William R. Smith, George W. Smyth, Frederick P. Stanton, Hestor L. Stevens, Andrew Stuart, David Stuart, Nathaniel G. Taylor, Teller, Thurston, Tracy, Tweed, Upham, Vansant, Wade, Walbridge, Walley, Elihu B. Washburn, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, and Witte—117.

NAYS—Messrs. Ball, Boyce, Bugg, Corwin, John G. Davis, John M. Elliott, English, Goode, Grey, Grow, Hamilton, Aaron Harlan, Andrew J. Harlan, Hendricks, Daniel T. Jones, George W. Jones, Keitt, Kerr, Knox, Letcher, Lindsley, McMullin, Smith Miller, Millson, Morrison, Murray, Norton, Olds, Andrew Oliver, Packer, Puryear, Rogers, Sapp, Shannon, Skelton, John L. Taylor, Trout, and Hendrick B. Wright—38.

So the bill was passed.

Mr. STANTON. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

RIGHTS OF CITIZENSHIP.

Mr. STANTON, of Tennessee. There is upon the Speaker's table a House bill which has been returned from the Senate with a small amendment. It is a bill (No. 133) to secure the rights of citizenship to children of citizens of the United States born out of the limits thereof. I ask that the bill may be taken up and the amendment concurred in.

There being no objection, the bill was taken up, and the amendment of the Senate was concurred in, as follows:

SEC. 2. After the word "woman," insert "who might lawfully be naturalized under existing laws."

PRIVATE BILL.

Mr. KERR, from the Committee on the Judiciary, reported a bill for the relief of the assignees of Anthony de St. Maxent; which was read a first and second time by its title, referred to a Committee of the Whole House, and ordered to be printed.

WASHINGTON MONUMENT.

Mr. MAY. I desire to ask the House to continue a select committee that was appointed near the close of the last session, to investigate the condition of the monument being erected in this city to the memory of Washington. That committee, after great pains in investigating the subject, wish to make a report, but find that they cannot do so under the parliamentary laws, unless the committee is continued by the order of the House. It is very important, for the success of that patriotic enterprise, that it should be done. I hope the House will continue the committee.

Mr. McMULLIN. I feel constrained to object. As a member of that special committee, I feel bound to do it.

DISTRIBUTION OF THE STATUTES AT LARGE.

Mr. MAY, from the Committee on the Judiciary, reported a joint resolution to carry out the provisions of the resolution concerning the distribution of the Statutes at Large, and for other purposes; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

THOMAS PLUMSILL.

Mr. MAY, from the same committee, reported a bill for the relief of Thomas Plumsill; which was read a first and second time by its title, referred to a Committee of the Whole House, and ordered to be printed.

OFFENCES AGAINST THE UNITED STATES.

Mr. MAY. I have been instructed, by the Committee on the Judiciary, to move to discharge the Committee of the Whole on the state of the Union from House bill (No. 534) concerning the apprehension and delivery of deserters from foreign vessels in the ports of the United States, in order to have that bill now put upon its passage. It is to supply an omission in an act of Congress, and its object will be understood on the reading of the bill.

The bill was read by the Clerk; and there being no objection, the Committee of the Whole on the state of the Union was discharged from the further consideration thereof.

Mr. MAY. I now move that the bill be put upon its passage.

The bill was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read a third time, and passed.

COURT HOUSE, ETC., BALTIMORE.

On motion by Mr. MAY, it was

Ordered, That the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill (No. 588) to provide for the accommodation of the courts of the United States for the district of Maryland, and for a post office at Baltimore city, Maryland.

Mr. MAY. I now move that the bill be put upon its passage.

The bill was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read a third time, and passed.

Mr. MAY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

DESERTERS FROM FOREIGN VESSELS.

Mr. MAY. The Committee on the Judiciary has instructed me to ask the unanimous consent of the House to permit me to move that the Committee of the Whole on the state of the Union be discharged from the further consideration of a bill to amend an act entitled "An act for the punishment of certain crimes against the United States," approved April 30, 1790.

The bill was read by the Clerk.

The SPEAKER *pro tempore*. Is there objection to the motion to discharge the Committee of the Whole on the state of the Union from the further consideration of this bill?

Mr. MILLSON. Yes, sir; I object.

Mr. MAY. I hope the gentleman from Virginia will withdraw his objection. That bill has the unanimous approbation of the Committee on the Judiciary. That committee conceives that at this time there is no legislation more important to the interests of the Government of the United States than as to this subject. Strange to say, there is no law providing punishment for those who kill the officers of the United States in executing processes, except the act of 1790, merely authorizing an indictment for misdemeanor. The bill is to supply that want or omission, and the Committee on the Judiciary, having carefully considered its provisions, have authorized me to say that all of them, from all parts of the country, cordially recommend its passage.

Mr. MILLSON. I understand the object of this bill is to authorize the United States, under congressional law, to punish a murder committed within the States, where that murder may be committed upon the person of a man holding office under the United States. Is that so?

Mr. MAY. Yes, to punish the murder of persons engaged in executing the process of the United States.

Mr. MILLSON. No matter how?

Mr. MAY. That is so.

Mr. MILLSON. Then, sir, I must object most decidedly.

Mr. MAY. I understand the principle on which the gentleman from Virginia objects.

PRISON SITE IN NEW YORK.

Mr. MAY. I now ask that the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill (No. 444) authorizing the President to purchase a site for a prison, and to provide an estimate for the cost of building the same in the city of New York. There is a report which accompanies the bill, that will fully explain it. I do hope that the Committee of the Whole on the state of the Union may be discharged from the further consideration of the bill, and that it may be put upon its passage.

Mr. BAYLY, of Virginia. I object.

Mr. CUTTING. If any gentleman, after having examined and reflected upon this bill providing for this jail in the city of New York, objects to it, why, of course, we have no right to ask him to withdraw his objection. I will state to the gentleman from Virginia, that there is, at this time and moment, no place in the city of New York in which a prisoner can be confined, and no place in which a witness can be detained. In numerous vessels coming into the port of New York, there are occurring cases of assault and battery, and other slight criminal offenses, where sailors and other persons, who have nothing to do with the controversy, are bound over as witnesses, and held to bail, but being unable to give it, are ordered to be sent to jail; and for that purpose I have known them to be sent four or five miles off. Upon one occasion it was my duty, as counsel, to go to the jail of a neighboring county, for the purpose of examining a witness—a female, seventeen or eighteen years of age—in reference to the facts of an alleged murder or homicide on board ship. I found her immured in a cell with old hardened sinners who had remained there for weeks, simply because the Government, after having ordered these unfortunate witnesses to be thrown into cells, had no proper dungeon in which to put them. All that I ask is, that the Government should at least provide a competent jail; and I am sure that no gentleman who understands the facts will object to this bill. Humanity pleads for it, and ordinary justice demands it. It is a reproach upon the country that we have no proper jail for the detention of witnesses. We have witness after witness, innocent and unfortunate persons, who are obliged to share the fate of criminals, and in their name, and in behalf of humanity, I call upon the Government to give us the means for putting up a competent jail. I hope that the objection will be withdrawn.

Mr. BAYLY. I hope that I may be indulged for a moment.

The SPEAKER *pro tempore*. Does the gentleman from Virginia object.

Mr. BAYLY. I do object most emphatically, and I want to give my reasons for it.

Mr. CUTTING. If there is objection, that is enough.

Mr. BAYLY. It is not enough. The gentleman from New York has spoken so eloquently and feelingly upon the subject, that I think it is but fair for me to have an opportunity of giving my reasons for the objection I make.

The SPEAKER *pro tempore*. Is objection made to the gentleman from Virginia proceeding?

Mr. McNAIR. I object.

Mr. MAY. There is a report accompanying the bill from the Judiciary Committee which explains the matter fully.

The SPEAKER *pro tempore*. The bill is not before the House, and the report cannot be read.

Mr. BAYLY. Do I understand that any objection is made to my making a few remarks?

Mr. McNAIR. I withdraw my objection, in order to give the gentleman from Virginia an opportunity of answering the gentleman from New York.

The SPEAKER. Is there any objection to the gentleman from Virginia proceeding with his remarks?

Mr. CUTTING. There are a great many bills which the Committee on the Judiciary desire should be acted upon by the House. If objection is made to the consideration of this bill, why all discussion upon it would be useless, and consequently I think that it ought to go now to the Committee of the Whole on the state of the Union.

The SPEAKER. Does the gentleman from New York object to any remarks from the gentleman from Virginia.

Mr. CUTTING. I do object; and I move to refer the bill to the Committee of the Whole on the state of the Union. I pledge my friend that he will have opportunity to discuss it there.

The SPEAKER *pro tempore*. The bill is already there.

VIRGINIA LAND WARRANTS.

Mr. CASKIE. I am instructed by the Committee on the Judiciary to report a bill to amend an act approved August 31, 1852, entitled "An act making further provision for the satisfaction of Virginia land warrants."

Mr. COBB. I rise to a question of order. I

wish to know whether this is private or public business.

The SPEAKER *pro tempore*. As it comes under the head of bounty land bills, in the opinion of the Chair it would be a public bill.

Mr. CASKIE. I ask that the bill be put upon its passage, and I will make a very brief explanation of its provisions. In our present circumstances, I feel bound to confine myself rigidly to what is absolutely necessary to its comprehension by the House. It is well known that, during the revolutionary war, Virginia promised large land bounties to such of her citizens as should serve either in her State or the Continental line, and dedicated certain districts of her territory to the satisfaction of these engagements. At its close she surrendered her whole magnificent public domain to the Union, charged only with the redemption of her patriotic promises. Owing to circumstances, which I shall not stop to detail—in part, however, from the actions of this Government itself—the reservations made by Virginia proved insufficient to satisfy the obligations she had contracted to her officers and soldiers. She then applied to Congress to make provision for her outstanding revolutionary warrants, and the last act of Federal legislation on the subject is the act which was approved the 31st of August, 1852, and to which the bill I have introduced is amendatory. That act provides that

"All unsatisfied outstanding military land warrants issued and allowed prior to the 1st of March, 1852, by the proper authorities of the Commonwealth of Virginia, for military services performed by the officers and soldiers, seamen and marines, of the Virginia State and Continental lines of the Army and Navy of the Revolution, may be surrendered to the Secretary of the Interior, who, upon being satisfied by a revision of the proof, or by additional evidence, that any warrant thus surrendered was fairly and justly issued, in pursuance of the laws of the said Commonwealth, for military services so issued, shall issue land scrip in favor of such proprietors for any warrant thus surrendered."

I do not intend to discuss the merits of the act of 1852, from which I have quoted. I hold myself ready, however, to meet any assault which may be made upon it. Its defense is easy, for its justice is obvious. It stands a law, unrepealed and binding, upon your statute-book. The whole question is as to its fair, just, and legitimate interpretation. The Department of the Interior, as we understand, esteems itself authorized to take up the allowances of Virginia *de novo*, to consider them as original cases, to open questions both of law and fact, which have been adjudicated by the duly authorized tribunal of the State, and to reverse their decisions where it differs from them in opinion. Now, Mr. Speaker, we contend that, in so doing, the Department has departed from the true intention and meaning of the law, and adopted a construction against which we indignantly protest, and which should never be tolerated by Congress. No such thing was designed by those who passed the law.

I have in my hand a letter dated August 27, 1853, from Judge Underwood, who, I think, reported the bill of 1852 in the Senate. He says:

"I expected that confidence would be reposed in the integrity and ability of the Governor and Councils of Virginia, and that scrip *would only be withheld in cases of manifest error or palpable fraud*.

"I consider it the duty of the Department of the Interior, in executing the act of 31st August, 1852, to construe the laws of the Commonwealth of Virginia, under which warrants were issued to her officers and soldiers of the Revolution, just as they were understood and construed by the authorities of Virginia in their original execution."

Mr. Speaker, I was here when the act of 1852 was passed, as were most of my colleagues. I say with all confidence, for them as for myself, that, when we advocated and urged its passage by this House, we never dreamed that a Department in Washington would undertake, in the execution of a law like that, to overrule and reverse solemn decisions of our own tribunals on questions arising under our own laws, merely because it might happen to dissent from their opinions. Never, never, sir, would we have sanctioned such a doctrine.

I undertake to make the same declaration as to the Legislature of my State, whose acceptance of the act of 1852 was required and given.

The bill which I have reported has received from the Committee on the Judiciary a full, thorough, and searching examination, and has met their unanimous approval. I may also remark, that it is the same with a bill which has been reported to the Senate by the Committee on Revolutionary Claims, save only that we increase the number of their excepted cases, and thus insert a safeguard against error or wrong, in addition to those esteemed necessary by that committee.

If the House will look to the provisions of our bill, they will see that we propose to permit the Department here to reject the State allowances in every case in which, it seems to me, any gentleman who has investigated the subject can, for a moment, suppose it right to grant such permission. Observe, if there has been any fraud anywhere, the claim is not to be allowed. Again: if the Department has any evidence which was not before the authorities of Virginia, they may weigh that evidence, and if it proves an allowance erroneous, they may reject it. If there be error or mistake on the part of the Register of the Land Office—and a few such instances have occurred—it will be thrown out. In all such cases, under the amendatory act now before the House, the Department will have proper and ample authority to refuse the issue of scrip. All we ask—and on that we insist—is, that the decisions of the tribunals of the State of Virginia, upon legal questions arising under her bounty land laws, shall be binding on the Department of the Interior, and that their decisions on questions of fact shall also be binding whenever the evidence in the case has been fully and fairly before them. In a word, we would give the Department ample discretion, where the case before it is different from that decided in Virginia, but where it is the same, the Virginia judgment must stand.

This simple proposition, on which we stand, appears to me so clearly correct that, as the time of the House is particularly precious just now, I shall leave it where it is, and give way to the gentleman from Alabama.

Mr. SKELTON here made an inquiry, inaudable to the reporter.

Mr. CASKIE. I respond with pleasure to the inquiry of the gentleman from New Jersey. Virginia promised these land bounties during the revolutionary war, and when she owned the whole northwestern territory. When the war closed she proceeded to redeem her promises by issuing her military land warrants. In her deed of cession to the United States she made an express condition:

"That in case the quantity of good lands on the southeast side of the Ohio, upon the waters of the Cumberland river, and between the Green river and Tennessee river, which have been reserved by law for the Virginia troops on Continental establishment, should, from the North Carolina line, falling further in upon the Cumberland lands than was expected, prove insufficient for their legal bounties, the deficiency should be made up to the said troops in good lands, to be laid off between the rivers Scioto and Little Miami, on the northwest side of the river Ohio, in such proportions as have been engaged to them by the laws of Virginia."

Now, as to the country on the southeast side of the Ohio below the Tennessee, it was "allotted by the treaty of Hopewell of January 1786 to the Chickasaws and Cherokees to live and hunt in, and the possession of it guarantied to them by a provision that if any of our citizens should encroach upon it, they should forfeit the protection of the United States, and the Indians might punish them or not as they pleased. Nor was the Indian title ever extinguished until the year 1818." A portion of the Virginia warrants were located on each tract, that on the southeast and that on the northwest side of the Ohio river. But there was a deficiency in the first reservation, and the "good lands" between the Sciota and Little Miami rivers were also exhausted, leaving a large number of warrants outstanding and unsatisfied. It was in this state of things that application was made to Congress. The law of 1852 was passed, and while I cheerfully give these explanations, they are perhaps hardly relevant to the question before the House. The law of 1852—its justice and propriety is "*res adjudicata*." It is the construction put upon it by the Department of the Interior against which we protest, and the bill we introduce is to declare what we believe to be its true purpose and meaning. Are we right or wrong? That is the question. I hope I have been clear, although very brief, for I am anxious that the opponents of the bill should be heard, and that we should come to a vote.

Mr. SMITH, of Virginia. I ask the gentleman from Alabama to yield to me for a few moments to make a statement.

Mr. COBB. Certainly, sir. All I want is fair play.

Mr. SMITH. I desire the attention of the House for a few moments.

Mr. COBB. I cannot let the gentleman occupy more than five minutes.

Mr. SMITH. Very well. The gentleman from Alabama will have ample opportunity for reply.

Mr. Speaker, of course I shall be brief, but I desire the attention of the House to what I have to say. As my colleague has well said, Virginia, during the revolutionary war, passed various resolutions for the purpose not only of encouraging enlistments, but to continue men in service. By these resolutions she pledged herself to pay those who were embraced by their provisions in public lands at some future day. Thus she came under obligations to fifteen thousand of her people. I say fifteen thousand, because such is the certificate of Judge Marshall and General Porterfield; and I wish the House to distinctly understand that the late Judge Marshall and General Porterfield, who took this subject into consideration, were intimately acquainted with the military history of Virginia during the war of the Revolution. They gave a certificate, which was used years ago in this Hall, that Virginia had fifteen thousand men who were entitled to a bounty under the resolution which she had passed during the stormy period of our struggle for independence. It also appears from the documents—and I particularly desire members to bear that in mind—that of these fifteen thousand men, but six thousand seven hundred and odd have have had the benefit of these resolutions, eight or nine thousand having been swept from the face of the earth in the progress of time, and having never preferred their claims. Of course the evidence in reference to these claims has been forever lost. So much, then, for that. It repels an idea extensively circulated through the country, that Virginia has allowed more land to her soldiers than she could, under any possible circumstances, be entitled to. I make this statement with the more earnestness to gentlemen of the House, because I at one time had a jurisdiction over this subject. As the Executive of Virginia, I had occasion to make some allowances in reference to these claims.

Mr. COBB. I have no doubt the gentleman was deeply interested in the just allowance of these claims; but I must now proceed with my own remarks.

Mr. SMITH. Very well. I will hear the gentleman. I was trying to satisfy him.

Mr. COBB. If the gentleman's object was to satisfy me, he would have certainly failed; for I can tell him that I am better posted on the subject than he is; and if I were disposed to consume the time of the House, I would question the statement he has made in reference to the number of individuals entitled to land who have not obtained it. I would meet, that as it has been met in this House on former occasions, and by argument and facts, which, though the attempt has been made, have never been successfully controverted.

I am desirous to have some compromise in relation to this matter. The Committee on Public Lands have had this subject before them. That, let me say, was the legitimate and proper committee for the investigation of the question, and it ought to have been referred to it. We have been endeavoring to secure all the information attainable in the case, that we might be able to make report on it.

The Commissioner of the General Land Office, learning that this question would come up to-day for consideration, made an earnest request of the chairman of the Committee on Public Lands to have it referred to that committee if possible. If that were done, he said further, that he would make an *exposé* which would, in all probability, satisfy the House in regard to the subject.

Mr. CASKIE. I ask the gentleman to yield to me for a moment.

Mr. COBB. I will ask the gentleman a question. If he has the information for which I ask, upon it I am willing to rest this case. Has the gentleman received a communication on this identical matter from the Commissioner of the General Land Office?

Mr. CASKIE. I will answer the gentleman with pleasure. Certainly not. I will, however, tell the gentleman of a letter which, if he was as

familiar with the affairs of his own committee as, from the tone in which he commenced his remarks, I should have imagined him to be, he would probably have been aware of, and which is the only letter I know of from the Commissioner of the General Land Office on this subject. There is a *copy* of a letter obtained, and by me laid before the Judiciary Committee, and filed among the papers in this very case, which, under date of 2d June, 1854, acknowledges the receipt of a letter from Hon. E. A. Warren, a member of the gentleman's committee, of the 3d May, and, in response thereto, gives certain views of the Commissioner on the subject now before the House.

Mr. COBB. Let us have that letter read.

Mr. CASKIE. The gentleman may have it read, and welcome, if he desire it. I wish to make a statement first, however.

Mr. COBB. Let the letter be read; it will explain itself.

Mr. CASKIE. No communication came to the Judiciary Committee from the Land Office on this subject. I wish the House, however, to understand that the Commissioner of the General Land Office was asked to give us his views. He was asked by myself. The clerk of the Judiciary Committee afterwards went to him on the subject, and he promised that we should receive a communication from him by two o'clock of last Tuesday fortnight. We have not yet heard from him. We know that we differ from the Commissioner of the General Land Office in reference to the proper construction of this law. We appeal from him to Congress, and we ask gentlemen to meet the issue we make as to the justice and propriety of our bill.

Mr. COBB. I now ask for the reading of the communication.

The Clerk then proceeded to read the communication, as follows:

GENERAL LAND OFFICE, *June* 2, 1854.

SIR: I have the honor to acknowledge the receipt of the letter of Hon. E. A. Warren, of the 3d ultimo, referred by you for a report of my views as to the propriety and necessity of the legislation the eon proposed, and, in answer, beg leave to state: That by a resolution of the General Assembly of Virginia, of 23d January, 1854, inclosed in Mr. Warren's letter, it is proposed so to amend the "act of 31st August, 1852," as to authorize the issue of scrip on all warrants which have been allowed by the authorities of Virginia, "excepting only such as shall appear to have been fraudulently obtained."

If legislation is had on this subject, it must, of course, be intended to embrace cases refused or rejected by this Office.

To a correct understanding, then, of the operation of any such law, I will give a brief synopsis of the general features of the cases disallowed by this Office:

1. All those where the parties were cashiered, or superseded, or where they resigned prior to the completion of three years' service—evidence of these facts being found chiefly among the "Washington papers," on file in the State Department.

2. Militia cases. These are frequently proved up perfectly by parol testimony alone; but in examining the continental rolls of the regiments or companies in which the alleged service was rendered, and for the period during which it was rendered, the names of such officers cannot be found, and consequently the parol testimony is wholly erroneous, or must relate to militia or volunteer service

3. Virginia State line and Navy cases, in which the testimony is exclusively of a parol character; and where the witnesses, from their sex or pursuits, could not have been personally cognizant either of the rank or service; or where they were of such an unmature age at the time of the service that they could not have come to any certain conclusion on either point. In this class may also be included cases where the alleged service was rendered in vessels which had been employed in the commercial marine before the alleged service was rendered, and where it is alleged the same vessels were subsequently employed in the war service, though there is no record evidence of that fact, nor are those vessels mentioned in the act of the Virginia Legislature of 1779, reducing the navy, or that of 1780, refitting it. The State navy was disbanded, it will be remembered, about 1781.

4. Where warrants have issued for both staff and lineal rank. The staff rank has been considered by this Office as a promotion, where it entitled the officer to a higher rank than his lineal appointment, and consequently the allowance for this higher grade has been made, but not for both.

5. Allowances to staff officers, continental, not occupying a lineal rank, except in cases where, by order of Congress, such positions are set forth as assimilating in rank with line officers. These have been rejected, as also the cases of brigade quartermasters, where the evidence presented shows that they were merely regimental quartermasters.

6. Officers not proved to be citizens of Virginia, who did not serve in her own Continental or State establishment, as in the case of John Paul Jones. These classes include all the cases, it is believed, that have been acted on unfavorably by this Office, though there may be others, where, from gross discrepancies in the testimony of a witness, or of each of the witnesses, the testimony is ruled out as unworthy of credit, and the claim consequently fails.

The principles established by the opinions of the Attorney General of the 7th and 9th of January last, and decided in your letter of the 13th of the same month, extended the most liberal construction to the laws of Virginia, as expounded by the judicial tribunals of the State, and relieved most, if not all, the difficulties which induced the recommendations in my annual reports of 1852 and 1853, of a modification of the act of Congress of 31st August, 1852, on this subject. The allowance of either of the classes of cases mentioned in this report, would be, to that extent, an extension and modification of the laws of Virginia on the subject.

In guarantying the satisfaction of claims made according to the laws of Virginia, Congress, it is presumed, did not intend to indorse the errors, omissions, or oversights, of her State officers. From examinations already made, it appears that claims amounting to many thousands of acres have heretofore been satisfied under former laws, that should never have been allowed. These examinations were not made to seek for errors, but to determine the character of claims presented under the act of 1852, nine tenths of which were satisfied with scrip under the act of March 3, 1835, and for the residue of which scrip is not claimed. If it be the pleasure of Congress, however, to satisfy the whole of the claims thus disallowed, or any class or classes of them, or an intimation to that effect, a bill will be prepared for the purpose.

All of which is most respectfully submitted.

I am, very respectfully, your obedient servant,

JOHN WILSON, *Commissioner.*

Hon. R. MCCLELLAND, *Secretary of the Interior.*

Mr. COBB. Now read the report of the Committee on the Judiciary, and let us have both sides of the question.

The Clerk proceeded to read the report, as follows:

The Committee on the Judiciary, to whom was referred the memorial of James Cornich and wife, heirs-at-law of Robert Boush, deceased, submit the following report:

That the said Boush served in the Virginia line in the war of the Revolution in the double capacity of ensign and paymaster; that a military land bounty warrant for two thousand six hundred and sixty six and two thirds acres was allowed him by the Governor and Council of Virginia for his services as ensign, and subsequently another warrant for four thousand acres for his services as paymaster; that the latter warrant was surrendered at the General Land Office to be commuted for scrip under the act of 31st August, 1852, but that the Commissioner of the General Land Office, under his construction of said act, reduced the allowance for the said Boush's services as paymaster from four thousand to one thousand three hundred and thirty-three and one third acres, and issued scrip to the memorialist for only one third of the allowance made by the authorities of Virginia.

The memorialists now ask that they may have scrip for the whole amount allowed them by Virginia, and that the Commissioner of the General Land Office may be required to issue it accordingly.

The committee are of the opinion that the prayer of the petitioners ought to be granted. The Governor and Council of Virginia, who made the allowance of land bounty to the memorialists, were the only tribunal, and the tribunal of last resort, constituted by the laws of that State for the adjudication of claims to military bounties arising under her laws, and the construction of those laws by that tribunal, the committee think, ought to be adopted by the Government of the United States, in executing the act of August 31, 1852. The principle being well settled that the construction of local laws by the local tribunals of a State, of last resort, is the law itself, and obligatory on the United States.

The committee accordingly, to meet the case of the memorialists, and other cases arising under the act of August 31, 1852, report a general bill declaratory of the said act, and recommend its passage.

Mr. COBB. Mr. Chairman, a sense of duty to what I believe to be a public right has brought me upon the floor, for the purpose of endeavoring to prevent, if I can, the passage of this bill, at least until we can have an opportunity of fairly considering it. And another sense of duty, perhaps equally as high and important, impels me, in consideration of the amount of the business of the country which is pressing upon us for action, not to take up the time of the House unnecessarily. I shall, therefore, in about two minutes, present some suggestions in relation to this matter without going generally into the merits of the case.

Sir, this is a question which has been before the Committee on Public Lands ever since I have had the honor of a seat upon this floor—now something like eight years. It is a question connected with military bounty land warrants, and especially comes within the provisions of the Virginia military bounty land act of 1852. The lands in Ohio had been culled out until the warrants to locate lands there had ceased to be of any considerable value, and hence the application for permission to locate, by said act, these land warrants upon any of the unappropriated public lands belonging to the United States.

The bounty land act of 1852 I believe to be wrong. I voted against it in my committee, and I voted against it in the House. But it is the law of the land, and of course I shall not criticise it at this time. It is sufficient for me to state that it was, as I have always considered it, a charity upon the part of the General Government towards the holders of the Virginia military bounty land warrants. When that act was passed there were several hundred thousand acres of land reserved for the purpose of satisfying these bounty land warrants, and probably enough to satisfy them all, but they have been culled out until the locations have ceased to become very valuable.

But, sir, I suspect that very few of these warrants now remain in the hands of the original holders. I rather suspect that if the matter were strictly scrutinized—without meaning any disrespect to the constituents of the gentleman from Virginia—that most of these land warrants will be found in the hands of other persons than those who were the original holders.

Mr. BAYLY, of Virginia. The gentleman from Alabama does not know what he is talking about.

Mr. COBB. Very well; I suspect that I understand this matter quite as well as the gentleman from Virginia, and decidedly too well to warrant him in making the remark which he did just now. Mark that! Stick a peg down there. But, sir, I do not intend to allow myself to be drawn away from the point I desire to make, for I intend to make a proposition to the House in reference to this bill before I take my seat. The Committee on Public Lands now have this question before them. We are desirous of considering it fairly. We wish to investigate thoroughly its merits, and to report upon it. But, sir, we are waiting for the answer from the Commissioner of Public Lands. He has informed us this morning that he will make a report, and we shall be ready to act upon it as soon as we receive that report.

Now, all I ask is, that this matter shall be referred to the Committee of the Whole on the state of the Union, and when it comes up, after the subject has been fully investigated by the House, I shall be prepared to state the reasons, which are satisfactory to me, and which might be satisfactory to others, why I think this bill ought not to pass. I do not choose, however, to delay the business of the House by speaking at length now, however much I might desire to sustain my knowledge upon this subject, which the gentleman from Virginia [Mr. BAYLY] calls in question. I therefore move that the bill be referred to the Committee of the Whole on the state of the Union, and that it be printed, and when it comes up in the committee, I shall, if I can obtain the floor, give my views at length upon the subject.

Mr. KERR obtained the floor.

Mr. BAYLY, of Virginia. Will my friend from North Carolina allow me five minutes of his time?

Mr. KERR. I will yield to the gentleman for that time.

Mr. BAYLY. I confess to this House that I did speak with some little irritation when the gentleman from Alabama undertook to say that the act to which he referred was a matter of charity to Virginia.

Mr. COBB. Can the gentleman controvert it?

Mr. BAYLY. I have but five minutes, and cannot yield any of my time. I then said to the gentleman from Alabama, somewhat in a spirit of irritation, but certainly not in ignorance, that he did not know what he was talking about; and now I am going to show it for his gratification. [Laughter.] The whole of this case is a matter of construction.

Mr. COBB. I was speaking of the act of 1852.

Mr. BAYLY. The gentleman has shown too much feeling for me to allow him to interrupt me. I will let him know that. When I am treated with courtesy, this House knows that it is more than returned. When I am not, I stand where I am.

Mr. COBB. And so do I.

Mr. BAYLY. The gentleman has not come to the question at all. I repeat, without meaning any disrespect to him, that he does not understand the question before the House. The principle involved in this case is one which, I undertake to say, has never been questioned in the Supreme Court of the United States. On the contrary, it has been universally affirmed, and that is, that in the construction of the laws of a State, the Supreme Court will defer to the decisions of the tribunal of last resort in that State. That has been the decision of the Supreme Court universally, and I have known cases in which the judges have told me that they thought the decision of the courts of last resort in the States were wrong, but

because they were the decisions of the courts of last resort, they were the law of those States.

Well, now, how is it in regard to this matter? By a law made by Virginia before the cession of her territory, the Executive and Council of Virginia were made the tribunal of last resort, to decide who was entitled to these land warrants.

By the law of 1850 we provided for a review of the decisions of that tribunal; but for what reason? The construction given to the law by Judge Underwood, of Kentucky, in the letter which has been read by my colleague from the Richmond district, [Mr. CASKIE,] is precisely the understanding that I had at the time that law was passed, or I never could have voted for it. It was never intended to authorize the Commissioner of the Land Office to go behind the decisions of the tribunal of last resort in Virginia to reverse the principle upon which those decisions were made, but only in case of manifest error or fraud on the part of individual claimants. We never contemplated that he was to go behind the decisions of the tribunals of last resort in Virginia, and to undertake to say that that tribunal had decided wrong on the principle. But if the individual entitled to the benefit on that principle, through fraud, or misrepresentation, or anything else, was not the individual who was likely to reap its advantages, we were not only willing, but anxious, that, to that extent, there should be such a review. But, in this instance, the Commissioner of the Land Office undertakes to say that such men as Giles, and Tazewell, and McDowell, did not understand the laws of their own State, and that the principle which they settled was incorrect. That was not the meaning of the law. Nobody can controvert that.

Mr. KERR. Mr. Speaker, I have not risen with any view of detaining the House for any length of time. On the contrary, I am particularly anxious that this bill shall be disposed of promptly, as we have other measures of very great importance that we are anxious to bring before the House before the day closes.

But I desire to remark that the Judiciary Committee took very great care to ascertain what were the views of the Commissioner of the Land Office in regard to this measure. The honorable member from Indiana, [Mr. PARKER,] a member of that committee, framed some interrogatories, and by an order of the committee they were transmitted to that officer. He was respectfully requested to furnish the committee with his views. We could get no information from him. He was respectfully called upon to answer the interrogatories, and he has never done it. And now, when the bill is before the House, a gentleman rises in his place and asks that the House will defer action until a subordinate officer in one of the Departments here shall have time to lay *his views* before the House! Sir, what right has such an officer to ask any such privilege? What right has he to come here and interfere with the regular proceedings of the House of Representatives? The Commissioner of the Land Office has no right to be heard here except when he is called upon especially for his views, and as he refused to answer the interrogatories of the Committee on the Judiciary, he ought not now to expect that any further attention will be paid to his wishes.

Mr. COBB. I would inquire of the gentleman, whether the Commissioner of the Land Office *has* refused to answer those interrogatories? He told me this morning that he was anxious to do so.

Mr. KERR. I state again that the Committee on the Judiciary framed certain interrogatories, which were sent to him, with a request that he would answer them. I state the additional fact, that he has not answered them.

Mr. COBB. Ah! that is a very different thing.

Mr. KERR. He promised to do it, and even designated the time when he would do it, but he let that time pass by without doing it.

Mr. EASTMAN. Has he done it since?

Mr. KERR. He has not done it yet, although more than two weeks have elapsed.

Mr. Speaker, this is the plainest case that I have ever had to consider. Everybody who had any connection with the framing or passage of this bill originally, entertains the opinion that the construction placed upon it by the Commissioner of the Land Office is erroneous. Sir, the construction contended for by the Commissioner is absurd upon the face of it. It never could have been in the contemplation of the American Congress to give to a subordinate officer in a Department here, the high privilege of reviewing and reversing the decisions of the executive and judiciary departments of the State of Virginia.

Mr. MILLSON. Will the gentleman from North Carolina yield me the floor for a few moments?

Mr. KERR. Certainly, sir.

Mr. MILLSON. In confirmation of what my friend from North Carolina [Mr. KERR] has just said, I say—and from my connection with the act, of which the present bill is designed to be a legislative exposition, it may be incumbent on me to say—that it was I who, early in the last Congress, introduced the bill providing for the satisfaction of outstanding Virginia land warrants. I called up the bill towards the close of the first session of that Congress. In the mean time I was informed that a bill would be introduced into the Senate by Judge Underwood, for the same object, but differing, in some respects, from the bill which I had introduced. His bill, as I was told, proposed to allow the Department of the Interior to revise the warrants to the extent of suppressing those, and those only, which could be ascertained to have been issued through the fraud of the claimant, or which, by new evidence, might be discovered to be palpably unjust. Well, sir, regarding even that modification of my bill as, to some extent, an implied reflection upon the executive authorities of my State, and being unwilling to subject their decisions, which, at the time of the cession of the land by Virginia to the United States, it was agreed should be final and conclusive to the revision of any Department at Washington, I declined to accede to it. Many of my colleagues were willing to do so; and I was, myself, finally persuaded to acquiesce; but I was, I believe, the very last among them who consented to agree to the bill in the modified form in which it passed the Senate; and that was, as we all understand it, to allow the Secretary of the Interior to withhold warrants only in those cases where it was known that they were obtained through the fraud of the claimant, or where, by the production of subsequent testimony, there was manifest error in their issue.

But I say for myself—and I speak the sentiments of all my colleagues—that I never would have consented to a measure implying such an insult to the authorities of my native State, as that of allowing their decisions upon subjects as to which they were constituted the supreme judicial tribunal, to be revised by any one of the Departments at Washington, and of allowing these cases to be presented *de novo*, as original demands, to be adjudged here upon the production of evidence before the Department of the Interior. And when I was informed that that construction was put upon the law by the Department I inquired at once, "If that be so, why did not the Commissioner enter, also, into the investigation of those claims which had been rejected by the authorities of Virginia?" For, if the Department treat these applications as original demands, then it may be that the Commissioner of the Land Office here may differ as much from the authorities of Virginia in allowing a claim which they rejected, as in rejecting a claim which they allowed.

But, sir, the Department does not go to that extent. The cases rejected by Virginia are considered as conclusively settled against the claimants. There is no revision of the decisions of Virginia as to these. The Commissioner, or Secretary, takes the cases allowed by the tribunals of Virginia, and excluding all those disallowed, treats those allowed cases as cases of original application. I do not complain that he does not receive the applications of those whose cases have been rejected by Virginia. Of course no such applications have been made to him, and the act of Congress does not provide for any such cases. But the very fact that the act does not allow a revision of the cases rejected by Virginia, ought to have shown him that it never was the intention of the law to have these cases examined *de novo* as original applications. All he has to do is to see that the warrants were fairly and justly issued, according to the laws of Virginia, and it is not for him to dispute the correctness of any conclusion, either as to law or fact, if the decision was fairly and justly made.

Mr. KERR. One word more, sir. I feel reluctant to protract the debate, for I see signs of great impatience manifested around me; but really, sir, I cannot help feeling a little sensitive at the remarks of the honorable gentleman from Alabama [Mr. COBB] just now made.

Mr. COBB. I said nothing offensive, sir.

Mr. KERR. Nothing *personally* offensive to me *particularly*, more than to anybody else who honors old Virginia. I am not now a citizen of Virginia, but I am a native of that State. The idea of a gentleman on this floor talking about Virginia accepting a *charity* at the hands of this General Government, when she merely asked that the Government should pay the soldiers who fought the battles of the revolutionary war—and pay them, too, out of a fund which she gave the Government—why, sir, this is simply *preposterous*.

Mr. COBB. Let me ask the gentleman from North Carolina one question. I want to satisfy him.

Mr. KERR. Not just now. Sir, Virginia gave to the United States the fairest domain that was ever given by one Government to another; and whatever of charity has been done in the case, was done by Virginia to this Government, and not by the Government to Virginia. How would this Government ever have met its obligations; how could it ever have adjusted the debts which it owed at the close of the revolutionary war, if Virginia had not set the magnanimous example of giving to this Government her immense domain in order to enable it to do so?

Mr. COBB. Will the gentleman from North Carolina allow me to explain a word which I used?

Mr. KERR. Certainly.

Mr. COBB. I stated that the act of 1852 was, I considered, a charity to the State of Virginia, so far as its provisions applied. I feel as much interest in Virginia as any man. My father was a Virginian, and, though my mother was not, I am, therefore, of Virginia stock. [Laughter.] I say now, and I repeat, that the act of 1852—I am not going beyond that—was an act of charity. Now, why? The object which I had in view——

Mr. KERR, (interrupting.) I did not yield the floor to the gentleman from Alabama for the purpose of allowing him to make another argument.

Mr. COBB. I do not want to make another argument. I wish merely to explain the word "charity."

Mr. KERR. Oh, well; we do not want that explained; for I suppose everybody here knows what it means.

I suppose, sir, the fact is well known to every gentleman in this House, who is informed on the subject, that the Government of the United States has already received into its Treasury some $100,000,000 as the proceeds of the sales of the lands which Virginia gave to the Government. Then, sir, there is no earthly foundation for the remark that Virginia has received this bill as a charity; and, therefore, the remark is an unjust reflection which every native son of Virginia, who is true to the land of his birth, and is actuated by the true spirit of her sons, will repel here or elsewhere. In conclusion, sir, I demand the previous question.

Mr. MAY. Will the gentleman withdraw his call for the previous question?

Mr. KERR. Yes; if you will renew it.

Mr. MAY. I will do that.

Mr. TAYLOR, of Ohio. I ask the gentleman from North Carolina if he will withdraw his call for the previous question, and yield me the floor for a moment?

Mr. KERR. I have already withdrawn the demand for the previous question in favor of my friend from Maryland, [Mr. MAY,] who is to renew it.

Mr. TAYLOR. I wish to make an inquiry of the gentleman from North Carolina.

Mr. MAY. That gentleman has withdrawn the previous question, and yielded the floor to me for a moment.

The SPEAKER *pro tempore*. The gentleman from North Carolina withdrew the call for the previous question, but he has no right to yield the floor.

Mr KERR. No. I did not withdraw the call for the previous question.

The SPEAKER *pro tempore*. The Chair understood that the gentleman did withdraw the call for the previous question.

Mr. KERR. No, sir; I said that I would

withdraw it if the gentleman from Maryland [Mr. MAY] obtained the floor, and would renew the call.

Mr. TAYLOR, of Ohio. I shall detain the House but a very few minutes with the remarks I desire to make, and I will then call the previous question, if the gentleman from North Carolina [Mr. KERR] desires it. This bill is one of very great interest to my constituents, as well as to the constituents of the gentleman from Virginia, as my district comprises a portion of the Virginia military land district in Ohio. The bill now under consideration is one which, in my opinion, ought to pass this House without any delay. I was a member of Congress in 1852, when the bill passed making further provision for the satisfaction of Virginia land warrants. It was stated, in favor of the bill authorizing the issuing of land scrip, that four million acres of land were reserved by Virginia when she ceded the Northwestern Territory, and that sixty thousand acres of very poor land remained, which is the only land in the State of Ohio that is not yet surveyed; and that was not of sufficient value to be taken up by any individual. I say this much for the benefit of my friend from Alabama, [Mr. COBB,] because that land still remains unsurveyed and unappropriated, and is not of sufficient value to justify the location of any warrants upon it.

The object of this bill is, as I understand, to enable the Secretary of the Interior to carry into effect the intention of Congress in passing the bill of 1852. By this act, it seems to me, the Secretary of the Interior was required, where the warrants were issued by the authority of the Governor and Executive Council of Virginia, before he issued the warrants, to ascertain, by a revision of the proofs, and by additional testimony, whether the warrants were properly issued—were fraudulent or not. Why, there is no Secretary of the Interior, or public man at the seat of Government, whose time would permit him to make such an investigation; nor would it be safe to confide it to any one individual connected with that Department. Congress, deeming it better in this matter, to rely upon the intelligent gentlemen who might fill the Executive chair of Virginia and the Executive Council of the State, who had examined the applications for these warrants, and issued them to such of her citizens as were deemed justly entitled to them, did not contemplate, I am sure, when they passed the act of 1852, that the Secretary of the Interior should go behind that proof to satisfy himself whether the parties receiving warrants were properly entitled to them or not. That law is found to operate very hard upon many honest holders of these warrants, who purchased them in good faith from the original holders. Let me state a case: The original holder of one of these warrants, for a thousand acres, given for services in the war of the Revolution, may have parted with it, and the party now holding it may have located it partially, from time to time, and may have exhausted seven hundred and fifty acres of it, if you please, but is unwilling to locate the remainder of it upon the refuse lands now left in the district. There are many such cases.

The purchaser has sent his certificates of location of his warrant to the Land Office, and has received from the United States patents for seven hundred and fifty acres of land; but he is now required to go behind the original warrant and make proof for the balance of two hundred and fifty acres. It is an absurd conclusion to draw, that the Congress of the United States, when they passed the act of August 31, 1852, intended that the Secretary of the Interior should go behind the examination required to be made by the Governor and Executive Council of Virginia, and the proof necessary to be adduced before them, as to the identity of the parties and the honesty of the claims, prior to the issue of the warrants. The bill now introduced is intended as declaratory of the intention of Congress, and to do an act of great justice to the holders of these warrants. It applies only to those warrants issued prior to the 1st of March, 1852. The holders of these warrants, whether they be original holders or *bona fide* holders by purchase, will have a right, under the bill before us, to surrender them, and the Secretary of the Interior may issue scrip for them by the provisions of this act, without being required to go into an examination of the original proofs upon which the warrant issued. There is very little land in the Virginia military land district to be located by the holders of these warrants, and I beg the House to understand that they have not now the right even to locate warrants upon these lands. They are deprived of them for want of additional legislation, and cannot get scrip by the decision of the Secretary of the Interior; and the object of this bill is simply to give the construction to the act of 1852 that Congress intended it should have. I earnestly trust, therefore, that the House will no longer delay the passage of so just an act. In accordance with my promise, I renew the demand for the previous question.

The previous question was seconded, and the main question ordered to be put.

The question being first upon committing the bill to the Committee of the Whole on the state of the Union, it was taken; and, upon division, there were—ayes forty-three; noes not counted.

Mr. HAMILTON demanded tellers; which were ordered; and Messrs. CLINGMAN and REESE were appointed.

The question was then taken; and the tellers reported—ayes 57, noes 68; whereupon

Mr. DAVIS, of Indiana, demanded the yeas and nays.

The yeas and nays were ordered.

Mr. FLAGLER. I move that the House do now adjourn.

The question was taken; and the motion was not agreed to.

The question was then taken on the motion to refer the bill to the Committee of the Whole on the state of the Union, and resulted—yeas 50, nays 98; as follows:

YEAS—Messrs. James C. Allen, Belcher, Bennett, Benson, Campbell, Carpenter, Chase, Clark, Cobb, John G. Davis, Thomas Davis, Dunham, Eastman, Edgerton, Thomas D. Eliot, Flagler, Giddings, Goodrich, Goodwin, Grow, Hamilton, Hastings, Haven, Hendricks, Henn. Hiester, Johnson, Daniel T. Jones, Knox, Lilly, McCulloch, Middleswarth, Morgan, Murray, Noble, Norton, Packer, Pennington, Pringle, Reese, Russell, Sage, Sapp, Skelton, Stratton, Andrew Stuart, Tracy, Trout, Wade, and Tappan Wentworth—50.

NAYS—Messrs. Abercrombie, Aiken, Appleton, Ashe, Thomas H. Bayly, Ball, Barksdale, Barry, Benton, Bocock, Boyce, Bridges, Bristow, Bugg, Caskie, Chandler, Chrisman, Clingman, Cook, Corwin, Cullom, Cutting, Dawson, Ellison, Farley, Faulkner, Florence, Franklin, Goode, Greenwood, Grey, Aaron Harlan, Andrew J. Harlan, Hughes, Hunt, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kittredge, Lamb, Latham, Letcher, Lewis, Lindsley, McDougall, McMullin, McNair, Maurice, Maxwell, May, Millson, Morrison, Olds, Orr, Parker, John Perkins, Phillips, Pratt, Ready, Richardson, David Ritchie, Robbins, Rogers, Ruffin, Sabin, Seward, Seymour, Shannon, Shaw, Shower, William Smith, William R. Smith, George W. Smyth, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Upham, Walbridge, Witte, Daniel B. Wright, Hendrick B. Wright, Yates, and Zollicoffer—98.

So the motion to refer was not agreed to.

The question then recurring upon ordering the bill to be engrossed, and read a third time, it was put, and decided in the affirmative; and the bill being engrossed, it was subsequently read a third time.

Mr. STANTON, of Tennessee. I demand the previous question.

The previous question was seconded, and the main question was then ordered to be now put.

The main question being "Shall the bill pass?" it was put; and decided in the affirmative.

Mr. STANTON, of Tennessee, moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. LAMB. I move the House do now adjourn.

Mr. STANTON. I call for tellers.

Tellers were ordered; and Messrs. KERR and MCDOUGALL were appointed.

The question was taken; and the tellers reported—ayes 43, noes 67—no quorum voting.

Mr. KEITT. It is now necessary, I believe, that a quorum should vote, as it is a motion to adjourn.

The SPEAKER. Less than a quorum can adjourn, but in this case the majority voted the other way, that is, against an adjournment.

Mr. KEITT. I would inquire whether that fact interferes with the business of the House? because there may be a quorum here, though they have not voted.

Mr. STRAUB. I move there be a call of the House.

Mr. HUNT. I ask that there be a new count. There is a quorum here.

Mr. MAY. Mr. Speaker, I wish to say to the House that the Judiciary Committee have, from the commencement of this session, been engaged unceasingly in preparing measures of public importance, and but this single day has been assigned to the consideration of them. There are some of them in the Committee of the Whole on the state of the Union. Motions have been made to discharge that committee from the further consideration of such of them as are of most vital importance to the execution of the laws, and the supporting of the authority of the General Government. We have been prevented from discharging the committee by a single objection. The desire of the Judiciary Committee is, that the House resolve itself into the Committee of the Whole on the state of the Union, pass the bills to which I have referred, report them back to the House, and then put them on their final passage. Unless we do this I fear that the administration of the laws will fail; and that is the opinion of the committee.

Mr. MCDOUGALL. I move that there be a call of the House.

Mr. SEYMOUR. I ask that there be a recount.

Mr. MAXWELL. I would inquire whether, to save time, the House will not give its unanimous consent that the Speaker, by counting the members present, shall ascertain whether there is a quorum in the Hall?

The SPEAKER *pro tempore*. The Chair is satisfied that there is a quorum present.

Mr. MCDOUGALL. Then I withdraw my motion that there be a call of the House.

Mr. SOLLERS. Is a motion to adjourn in order?

The SPEAKER. No business having been transacted since the question was taken on the motion to adjourn, that motion is not now in order.

Mr. STRAUB. Mr. Speaker, I rise to ask the unanimous consent of the House for leave to have printed some remarks which I have written out. They are upon a bill which has been before the House and indirectly disposed of. Action, at this late stage of the session, is demanded more than words, and it is for this reason that, instead of consuming time in their delivery, I ask that my remarks may be printed.

[Cries of "Consent!"]

Mr. FLORENCE. On what subject are they?

Mr. STRAUB. They are on the subject of the tariff.

The SPEAKER. Is leave granted to the gentleman from Pennsylvania to print his remarks?

There was no objection, and it was accordingly so ordered.

Mr. TAYLOR, of Ohio. I would inquire of the Chair whether, if the House do now adjourn, the business of the Judiciary Committee does not come up in the morning as the unfinished business?

The SPEAKER *pro tempore*. The Chair thinks that it does not.

Mr. TAYLOR. In my opinion, then, the House ought not to adjourn at this time.

Mr. PRINGLE. Suppose we, by unanimous consent, agree to take up, to-morrow, the business of the Committee on the Judiciary that is still unacted on.

The SPEAKER. That can only be done by unanimous consent.

Mr. PRINGLE. I do not think there will be objection. Let us do it.

Mr. DAVIS, of Rhode Island. I object.

Mr. STANTON, of Tennessee. Perhaps the House will consent to set apart Saturday next for the consideration of the business of the Judiciary Committee.

[Cries of "Consent!" "No!" "Adjourn!"]

BOARD OF CLAIMS.

Mr. JONES, of Pennsylvania. Mr. Speaker, I hold in my hand the bill from the Senate, commonly called the bill for the establishment of a board of claims, which I am directed by the Committee of Claims to report back to the House with some amendments. The committee recommend its passage. What I now want is, inasmuch as it is a very important measure, that a day may be set apart for its consideration, some day on the Private Calendar. In the mean time, with unanimous consent, I will report it, and ask that, with

the amendments of the committee, it be ordered to be printed for the information of members. I would suggest that next Saturday a week be fixed as the day on which it shall come up for consideration and action.

Mr. CRAIGE. I have no objection to the bill being ordered to be printed, but I do object to it being made a special order.

The SPEAKER. Is there objection to the gentleman reporting it for reference and having it printed?

Mr. McQUEEN. Mr. Speaker, I object to making this bill a special order. We have made too many special orders already, for private claims and spoliations. With a majority of nearly seventy Democrats in this House, we have consumed the time of the session in voting claims and spoliations for millions and millions of dollars. We have time enough to vote five millions and six millions, and any number of thousands of dollars for individuals or classes; but, with a surplus of some twenty-four millions of dollars in the Treasury, unjustly wrung from the pockets of the people—a fact without a parallel in this or any other country—when the subject of reducing the tariff is proposed we have no Democratic majority sufficient to take it up, or time to devote one day to the consideration of this most important subject to the people who, in fact, support this Government. We are too busily engaged in pouring out of the Treasury, to pause a moment to take off unjust taxes from the people whom we represent; we have no Democratic party to do it. The people get on paper Democratic platforms and promises, but no action by this body to relieve them from an unjust and unnecessary tariff, the single plank left of the old Democratic platform, even for a profession of sincerity by the party.

I therefore not only object to making this bill a special order, but will object to every other proposition of the kind during the remainder of this session, unless the tariff be reduced. The people are unjustly taxed, and the first duty of this body should be to relieve them.

I have no objection that the honorable gentleman report his bill.

The SPEAKER. Does the gentleman object to the reporting and ordering the bill and amendments to be printed?

Mr. McQUEEN. I only object to the bill being made a special order.

Mr. JONES. I will say to the gentleman, that one of the main objects of the bill which I wish to bring to the attention of this body is, to save the time now consumed in private business for the consideration of that of public importance. There is one fact I will mention——

Mr. SEWARD. I move that the House do now adjourn.

The SPEAKER. Is there objection to the reporting, reference, and printing of the bill and amendments?

Mr. SEWARD. Is my motion to adjourn in order?

The SPEAKER. The gentleman is not entitled to the floor. The gentleman from Pennsylvania is upon it, and making a proposition to the House.

Mr. JONES. I do not wish to report the bill, since the House refused to fix a day for its consideration.

Mr. SEWARD. I object to the gentleman's proposition.

Mr. JONES. I have the floor, and ask the attention of the House to what I propose.

The SPEAKER. Objection being made, the gentleman's proposition cannot be received.

Mr. SEWARD. To accommodate gentlemen around me, I withdraw both my objection and my motion to adjourn.

Mr. SOLLERS. I renew the motion to adjourn.

Mr. MAY. If it be the pleasure of the House to give the Judiciary Committee one other day, say Saturday next, for the purpose of disposing of the business which it has reported——

[Cries of "Object!" "Order!"]

The SPEAKER. The gentleman from Maryland is not in order. The Chair will again ask whether there is objection to the gentleman from Pennsylvania reporting the bill which he has indicated?

Mr. JONES. Let me state my proposition. I am not understood as to the request which I make. My first proposition was that the House would fix a day for the special consideration of the bill. That was objected to. As a friend of the bill, I cannot consistently agree to its going out of my hands; and all I now ask is that it may be ordered to be printed, so as to show the amendments of the Committee of Claims, and laid upon the desks of members. This can be done without delay or injury to anybody.

[Cries of "Agreed!" "Agreed!"]

Mr. ORR. The proper motion, I suppose, would be that the bill and amendments be ordered to be printed, and then recommitted to the Committee of Claims.

Mr. JONES. I thought I had made myself understood. What I asked was, that the bill might be reported, printed, and re referred to the Committee of Claims.

The SPEAKER *pro tempore*. Then, if there be no objection, the bill will be so disposed of, with the understanding, as the Chair supposes, that no motion to reconsider shall be made.

Mr. JONES. Certainly.

There being no objection, it was so ordered.

Mr. STANTON, of Tennessee. I desire to call the attention of the House to the fact that there are several bills upon the Calendar in Committee of the Whole on the state of the Union, reported from our committee, which it is important should be passed. But as the House seems indisposed to remain here longer now, I ask their consent that we take a recess and meet again at some hour this evening.

[Cries of "No!" "No!" and "Object!"]

Mr. STANTON. Then I move that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. CRAIGE. I move that the House do now adjourn.

Mr. STANTON. I demand tellers upon the motion.

Tellers were ordered; and Messrs. STANTON, of Tennessee, and PRINGLE, were appointed.

The question was taken; and the tellers reported—ayes 59, noes 58.

So the motion was agreed to.

And thereupon, at four o'clock, p. m., the House adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

FRIDAY, *February* 9, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

ABIGAIL STAFFORD.

Mr. BROWN. Mr. President, during the last session of Congress, a joint resolution explanatory of an act entitled "An act for the relief of Abigail Stafford," was considered by the Senate, and rejected. I submitted a motion for the reconsideration of that vote, and that motion has been lying on the table ever since. I ask the unanimous consent of the Senate to allow it to be taken up this morning.

The PRESIDENT. To-day having been set apart for the consideration of private business only, and that motion not being the first business in order, it requires unanimous consent to consider it now.

Mr. BROWN. I simply wish to have the motion acted on, so that the bill may take its place on the Calendar, and be disposed of in its order.

Mr. WADE. I endeavored to obtain the floor for the purpose of moving that we proceed to-day to the consideration of such bills as are not objected to.

The PRESIDENT. Does the Senator from Ohio object to the motion of the Senator from Mississippi?

Mr. BROWN. I wish to have the motion to reconsider agreed to, and then let the joint resolution take its place on the Calendar. We shall never get to it unless we agree to that course.

Mr. WADE. I do not object to the Senator's motion.

The PRESIDENT. The Chair hears no objection to entertaining the motion of the Senator from Mississippi. The question, then, will be on reconsidering the vote by which the Senate rejected the joint resolution explanatory of an act entitled "An act for the relief of Abigail Stafford."

Mr. BROWN. In the present state of the business of the Senate, if they will reconsider the joint resolution, I shall consent to let it go on the Calendar and take its place there.

The motion to reconsider was agreed to; and the bill was placed on the Calendar.

ORDER OF PROCEEDING.

Mr. WADE. I now move that to-day be devoted to the consideration of such private bills as are not objected to.

The PRESIDENT. It requires unanimous consent to agree to that motion.

Mr. WELLER. The first business in order this morning properly, is the motion to reconsider the vote on the bill for the relief of the claimants of the private armed brig General Armstrong. I believe the Senate are ready to dispose of that case finally this morning. I have no objection to the motion of the Senator from Ohio, if the Senate will proceed at once to dispose of the bill to which I have referred.

The PRESIDENT. That is the first business in order.

Mr. GWIN. I hope my colleague will allow that bill to go over for an hour or two in order to give us an opportunity of getting rid of bills to which there is no objection. Some of them have been on the Calendar for a very long time and ought to be disposed of.

Mr. BAYARD. I think there will be no further debate on the motion to reconsider.

Mr. GWIN. We cannot stop the debate, but we can probably get through with those bills to which there is no objection.

Mr. BAYARD. If the bill which is first in order leads to any debate, it can go over; but I think the Senate is ready to vote on the reconsideration of it.

Mr. SLIDELL. I will say to the Senator from California [Mr. GWIN] that I do not think there is a disposition on the part of the friends of the bill for the relief of the claimants of the brig General Armstrong, to debate it further.

Mr. TOUCEY. I would suggest to the Senator from Ohio to limit his motion to two o'clock, and then allow the Armstrong case to come up at that hour. I think we can agree to devote from this time until two o'clock for the consideration of private bills, which will give rise to no debate, and to which there is no objection.

Mr. WADE. As a member of the Committee on Claims, it is within my knowledge that a great many private bills have been reported, to which there is no objection, and the justice of which is apparent to everybody. Justice has been withheld from the parties for whose benefit those bills are intended, and they have been compelled to await the decision of controverted claims, the propriety of which the Senate have not been able to decide. This seems to me to be wrong. It will answer my purpose to have an order made that these claims be disposed of, to which there is no objection, and then I am ready to take up any other case.

Mr. SLIDELL. As I had the honor of reporting, from the Committee on Foreign Relations, the bill for the relief of the claimants of the brig General Armstrong, I feel that I am authorized to make a pledge to the Senate, that those who are friendly to the passage of that bill will not occupy any time in the discussion.

Mr. CLAY. I trust the motion of the honorable Senator from Ohio will prevail; and I hope that, in order to secure unanimity in the support of that proposition, he will accede to the compromise suggested on this side of the Chamber, and limit his motion until two o'clock. I voted against the bill which the Senator from Louisiana wishes to take up, and I shall vote against it again; but I do think it has had its full share of the time of the Senate. During the last session it was rejected after a long debate. It has been reconsidered, and during the present session, day after day has been devoted to it, to the exclusion of other business; although, it is certainly known to the friends of that bill that, even its passage here will avail nothing, as it cannot be reached in the House of Representatives during the present session.

Mr. WADE. I will modify my motion in conformity with the suggestion of the Senator from Connecticut, in order that we may proceed to business.

The PRESIDENT. It requires unanimous consent to introduce the motion made by the Senator from Ohio. Is there objection?

Mr. WELLER. I can only consent to it upon condition that, at two o'clock the Senate will come back to the regular order of business.

Mr. CLAY, and others. That is the understanding.

Mr. WELLER. If that be the distinct understanding, of course I have no objection.

The PRESIDENT. Will the Senator from Ohio please state his motion again, so that there may be no misunderstanding.

Mr. WADE. My motion, as modified on the suggestion of the Senator from Connecticut, is, that we proceed, until two o'clock, to the consideration of such bills as are not objected to.

Mr. BAYARD. I suggest that that motion be confined to House bills. ["No!" "No!"] It really would be very useless, I think, for us to pass what are considered unopposed bills here now, and send them to the House.

The PRESIDENT. Does the Senator object to that motion?

Mr. BAYARD. I will not object to it, if the Senate desires it.

The PRESIDENT. Then the Chair understands the Senate as unanimously consenting to the motion of the Senator from Ohio.

HOUR OF MEETING.

Mr. WELLER submitted the following resolution for consideration:

Ordered, That on and after Monday next, the daily hour of meeting of the Senate shall be eleven o'clock, a. m.

TAMPICO VOLUNTEERS.

The Senate, as in Committee of the Whole, proceeded to consider the bill for the relief of the Tampico volunteers.

It proposes to recognize the companies of volunteers called into service by Colonel William Gates, by his order, dated Tampico, February 25, 1847, and known as Tampico volunteers, as having been in the military service of the United States, in the years 1847 and 1848, and to direct the proper accounting officers of the Treasury to audit and pay the accounts of the officers and men constituting the companies, in accordance with the established regulations of the Department.

During the Mexican war, on the 29th February, 1847, Colonel Gates, by special order No. 7, directed Major Morris to enroll and organize all the citizens of Tampico, Mexico, into companies of fifty men each, selecting the officers, to be approved of by the commanding officer. In obedience to this order, Major Morris organized four companies, called the Tampico volunteers, who served as such about twelve months, for which service they have never been paid. In the similar cases of the Louisiana troops called out by General Gaines, and of the Texas mounted men called out by Colonel Curtiss, at Camargo, Congress made special appropriations for their payment. The committee consider the Tampico volunteers equally entitled to compensation for their services.

The bill was objected to, and was passed over.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CONTINUANCE OF HALF-PAY.

The PRESIDENT. The Chair finds on the Private Calendar a bill "in addition to an act entitled 'An act to continue half-pay to certain widows and orphans.'" In the opinion of the Chair, however, it is not a private bill.

Mr. STUART, and others. It is a private bill.

The PRESIDENT. If the Senate consider it a private bill, it will be acted on.

It proposes to enact that, if any commissioned, non-commissioned officer, musician, or private in the Army of the United States, has died since the war of 1812, or shall hereafter die in the service of the United States, by reason of a wound received, or a disease contracted in the service, in the line of duty, and shall have left, or shall hereafter leave, a widow, or, if no widow, a child or children under sixteen years of age, such widow, or, if no widow, such child or children shall be entitled to receive half the monthly pay to which persons of the same grade of the deceased officer or soldier belonging to the infantry of the Army are entitled to receive, for the term of five years, to commence, in each case, on the day when the evidence therein is completed. In case of the death or marriage of the widow, before the expiration of five years, the half-pay for the remainder of the term is to be paid to the child or children of the deceased officer or soldier, under the age of sixteen years; but, in all cases it is to cease when the child or children shall arrive at the age of sixteen years, or shall become extinct.

Mr. BAYARD. It seems to me that this is not a private bill, but it is a bill making a general provision. It does not relate to a single individual.

The PRESIDENT. Clearly not, and so the Chair decided; but, as the Senate seemed to think otherwise, he laid the bill before them.

Mr. CLAY. I would suggest to the Senator from Delaware, that it will dispense with any action on fifty or one hundred cases presented to the Senate.

Mr. SHIELDS. The Senator from Alabama is correct in that. A number of cases, perhaps eight or nine, have been referred to the Committee on Pensions, and they have classified them together, and put them into this bill. After all, it amounts to the same thing as passing separate bills for those entitled to the benefits of this bill.

The PRESIDENT. Does the Senator from Delaware object to the consideration of the bill?

Mr. BAYARD. I do not object to its consideration if the Senate decide that it is a private bill; but I wish the decision of that question. I say this is a bill altering the general provisions of a law. This is private bill day, and I think we ought to adhere to our own rules. I raise the question of order.

The PRESIDENT. I have decided that, in my opinion, it is not a private bill.

Mr. JONES, of Iowa. I ask the unanimous consent of the Senate to consider the bill at this time. It embraces nothing but private cases.

Mr. FESSENDEN. It may as well go over. I object to it, as it seems likely to lead to debate.

The PRESIDENT. Objection being made, the bill must go over.

Mr. JONES, of Iowa. The Senator from Maine withdraws his objection.

The PRESIDENT. Then some Senator must appeal from the decision of the Chair, as the Chair decides that it is not a private bill.

Mr. JONES, of Iowa. I ask unanimous consent to consider it.

Mr. JOHNSON. I must object. Let us proceed in the order which has been designated.

PINE GROVE ACADEMY.

The next bill was one for the relief of the Pine Grove Academy, in Louisiana; which the Senate proceeded to consider, as in Committee of the Whole.

It proposes to confirm the president, directors, and trustees of the Pine Grove Academy, in the parish of Caldwell, Louisiana, in their title to the lot of forty acres of land on which the academy is situated, near Columbia, donated to them by Hyams, Chew, and McCoy, claiming under the Maison Rouge grant, in 1839; and also, in their title to a tract of land in the same parish of Caldwell, with about one mile front on the west bank of the Ouachita river, and running west between five and six miles, and known as lot No. 23, in the flat No. 1, of the Maison Rouge grant, surveyed by John Dinsmore, a deputy surveyor of the United States, containing about four thousand acres, donated to them by Daniel W. Coxe, one of the claimants of the grant, in 1839; but this is to amount only to a relinquishment of title on the part of the United States.

In 1839, when the title to the Maison Rouge grant, in Louisiana, was in dispute between the Government and claimants, though the general opinion was that their title was good, and it had been so decided by some of the State courts and the circuit court of the United States, Messrs. Haymes, Chew, and McCoy, claiming under the grant, made a donation of forty acres of the land in their grant to the trustees of the Pine Grove Academy, in the parish of Caldwell, for a seminary of learning. On this lot of land a large brick house and other buildings were erected, and the academy organized, and has now been in successful operation for several years, and still is so. About the same time, D. W. Coxe, one of the largest claimants of the grant, made a donation of another lot of land near the academy, containing about four thousand acres. This land is what is called Pine Hills; poor, and so broken by high hills as to be of little value; but it is in a healthy situation, and one convenient for an academy. In 1851, the Supreme Court decided that the Maison Rouge grant was invalid, and that the land belonged to the United States. The Legislature of Louisiana requests that the academy may be confirmed in their title to these lands, as donated to them by the claimants under the grant. As the land is of little value, but important to the cause of education, in support of which the State has expended, and is still expending, large sums of money, especially as it has been long in the possession and use of the academy, which would be severely injured, or perhaps broken up, by being deprived of it at this time, the committee are of opinion that the grant ought to be made.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time, and passed.

GEORGE M. FARNUM.

The bill for the relief of George M. Farnum, commercial agent at Port Louis, was read the second time, and considered as in Committee of the Whole.

The bill proposes to appropriate $7,854 50, to enable the Secretary of State to pay to Blythe & Co., of Port Louis, in the Island of Mauritius, the amount of two bills of exchange drawn upon the Department of State by George M. Farnum, commercial agent, in payment of the expenses incurred in relieving destitute American citizens, which drafts were cashed by Blythe & Co.

The United States bark Peytona, Oliver Nye Jenkins, master, sailed from New York on the 9th of February, 1853, for Melbourne, in Australia, having on board one hundred and thirty-five passengers. After a series of disasters, and having put into Bahia and the Cape of Good Hope for supplies, the Peytona arrived at Port Louis, in the Mauritius, in the months of July and August, in distress. A course of vexatious legal proceedings were here instituted against Captain Jenkins and his vessel by some of the passengers and the crew, which ended in the abandonment and sale of the Peytona. The crew, and such of the passengers as were destitute of resources, were thus thrown upon the hands of Mr. Farnum, the commercial agent of the United States at Port Louis. The seamen were relieved by him, and sent from the island as opportunities presented themselves; and the destitute passengers, being American citizens, to the number of sixty-four, were placed on board the British bark Harpooner, bound to Port Philip, in Australia.

To defray the expenses thus incurred, Mr. Farnum drew two bills on the Department of State, bearing date December 24, 1853, amounting together to $7,854 50, which were cashed by Messrs. Blythe & Co., English merchants at Port Louis. These bills could not be paid at the Department, the expenditure not having been made for destitute seamen, for whom alone the law provides. But, as the case appears to have been one of extreme hardship and undoubted distress, the committee are unanimously of opinion that Mr. Farnum was justified in assuming the responsibility of relieving them.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time, and passed.

MICHAEL HANSON.

The Senate, as in Committee of the Whole, proceeded to consider the bill for the relief of Michael Hanson.

It proposes to direct the Secretary of the Interior to place the name of Michael Hanson upon the roll of invalid naval pensioners, at the rate of six dollars per month, commencing January 1, 1846.

Hanson has been in the naval service of the United States twenty-one years; and has, during that period, sustained a good reputation for correct habits and for efficiency and fidelity as a seaman. He is now old and poor, and suffering under injuries received while on board the frigate United States, under the command of Commander Williamson, in 1837. The injury was a rupture of the groin, and is fully established by proof derived from the surgeon and other officers of the ship. The extent of his present disability is shown to be one half. A bill for his relief first passed the Senate in 1846, and in view of the long delay, the

committee recommend the pension to commence on the 1st of January of that year.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time and passed.

PETER AMEY.

The bill for the relief of Peter Amey (colored man) was read a second time, and considered as in Committee of the Whole.

It proposes to direct the Secretary of the Interior to place the name of Peter Amey upon the list of invalid pensioners of the Navy, at the rate of ninety-six dollars per annum, from January 1, 1850, to continue during his natural life.

The petitioner, who is a colored man, and now about seventy years of age, represents that he was a seamen on board the whaleship Barclay, which was captured in March, 1813, by the Spanish privateer Catella, off Coquimbo; that he remained on board the Catella about ten days, when she was captured by the United States frigate Essex, Captain David Porter. He was then, among the other American prisoners recaptured from the Catella, transferred by Captain Porter to the Essex, and regularly entered as a seaman on board the frigate, and continued to serve as such until she was captured by the British vessels of war Phœbe and Cherub, in the harbor of Valparaiso, in the spring of the year 1814. He escaped injury until near the close of the engagement, when he was wounded in the side to the depth of about two inches, by splinters, which were drawn from his side by his messmates. He reported himself to the surgeon, but found that officer and his aids engaged in attending so many, more severely wounded, that he withdrew himself from notice. After the engagement he returned to the United States, together with about two hundred of the crew and several of the officers of the frigate Essex, in the Essex Junior, Lieutenant Downs commanding. He states that he has, from the date of his wounds to the present time, suffered much pain and inconvenience from them, and has been altogether disabled from hard labor. He has never received anything from the Government in the nature of a pension, and though once entitled to a pension by general statute, he is now debarred, through his own neglect, by a mere lapse of time. He is now aged and needy, and can ill afford to yield anything to which he is equitably entitled.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time, and passed.

FRIENDLY CREEKS.

The PRESIDENT. The next bill on the Calendar is a bill for the relief of the chiefs, headmen, and warriors of the friendly Creek Indians, engaged in the war of 1814.

Mr. CLAY. I make the point of order that that is not a private bill.

The PRESIDENT. It is a bill for the relief of private individuals.

Mr. CLAY. So was the one which was objected to by the Senator from Delaware, [Mr. BAYARD,] and passed over.

The PRESIDENT. Does the Senator object?

Mr. CLAY. Yes, sir.

The PRESIDENT. It will be passed over.

ABRAHAM CUTTER.

The bill for the relief of Abraham Cutter was read the second time, and considered as in Committee of the Whole.

It proposes to direct the Secretary of the Interior to place the name of Cutter, a second lieutenant in a company of Canadian volunteers, serving with the Army of the United States in the late war with Great Britain, upon the roll of invalid pensioners, and pay to him, during the continuance of his disability, fifteen dollars per month, to commence on the first of June, 1854.

The petitioner was second lieutenant in a company of Canadian volunteers, serving in the United States Army in the war of 1812-'15, and served a greater portion of the war, incurring heavy pecuniary losses in consequence of his abandonment of property in Canada. In consequence of illness, induced by exposure and hardship in the service, his constitution became so shattered and his general health so poor that he was compelled to retire from the service in January, 1815. Since that time he has been disabled from obtaining a livelihood in consequence of the diseases contracted in the service. He therefore prays to be allowed a pension.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time, and passed.

COMMODORE PARKER.

The Senate, as in Committee of the Whole, proceeded to the consideration of the bill for the relief of Commodore Foxhall A. Parker, of the United States Navy.

It proposes to direct the proper accounting officers of the Treasury Department to settle, upon the principles of equity, the accounts of Commodore Parker, for expenses necessarily incurred by him in the execution of orders from the Secretary of the Navy, to receive on board of the United States ship Brandywine, then under his command, the commissioner and other persons belonging to the American mission to the Emperor of China, and to give them a passage to that country; and also for expenses incurred during their residence on board of the ship after her arrival there; but no allowance is to be made to him, except such as may be considered reasonable and just by the Secretary of the Navy; and in no event is the entire amount of allowances to exceed $8,000.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time, and passed.

GEORGE W. HARRIS.

The bill for the relief of George W. Harris was read the second time, and considered as in Committee of the Whole.

It will secure the copy-right to the thirteenth, fourteenth, and fifteenth volumes of the Pennsylvania State Reports, to George W. Harris, the author thereof, as fully as if the acts of Congress having relation thereto had been strictly complied with, in the manner and at the times provided for in the acts.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time, and passed.

WILLIAM TURVIN.

The bill for the relief of the heirs of William Turvin, deceased, was read the second time, and considered as in Committee of the Whole.

By the bill the heirs of William Turvin will be authorized to locate, free of cost, nine hundred and sixty arpens of land, or as near thereto as can be done, not exceeding that quantity, (according to the legal subdivisions, on any of the public lands of the United States subject to entry at private sale,) in full for the claim of their father, to a tract of land lying on the east side of the Mobile river, and west of the Bayou Pascual, under a grant from the Spanish Government, and which was recommended for confirmation in the report of the register and receiver of the land office for the district of St. Stephens.

Mr. WALKER. I ask if this case has ever been before the Committee on Public Lands?

Mr. PETTIT. There is a report from the Committee on Private Land Claims accompanying the bill.

Mr. WALKER. Let it be read.

The report was read, and it appeared that James Conway, executor of William Turvin, on the 19th June, 1813, filed before the commissioner of land claims, east of Pearl river, a claim in favor of Turvin for nine hundred and sixty arpens of land, and, after proving title from the Spanish Government, he failed to prove inhabitation and cultivation, and the commissioner, therefore, refused to confirm the claim. The heirs of Turvin renewed their claim under the act of Congress, approved March 2, 1829, before the register and receiver of the land office of the district of St. Stephens, and in addition to a regular title from the Spanish Government, they also proved inhabitation and cultivation, and they recommended the same for confirmation. The land was disposed of by the Government of the United States, and is now in possession of third parties. The committee are of opinion that the heirs of Turvin were justly entitled to the lands so recommended for confirmation, but in consideration that they have been disposed of, they report the bill authorizing the heirs or legal representatives to locate an equal quantity of land on any of the public lands of the United States, subject to entry at private sale.

Mr. WALKER. Is the privilege of location confined to any particular State? It does not appear from the bill.

Mr. STUART. It is not limited.

The PRESIDENT. The bill gives the right to enter on "any public lands of the United States subject to entry at private sale."

Mr. WALKER. That is rather extensive.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time, and passed.

LIEUTENANT W. D. PORTER.

The bill for the relief of Lieutenant W. D. Porter was read a second time, and considered as in Committee of the Whole.

It proposes to direct the Secretary of the Treasury to pay to Lieutenant Porter $1,848 61, being for so much money expended by him for expenses incurred in bringing Amin Bey, of the Turkish navy, and his attendants, to the United States, in 1850, at the request of the minister resident of the United States at Constantinople.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time, and passed.

JACQUES MOULON.

The bill for the relief of the assignees or legal representatives of Jacques Moulon, was read a second time, and considered as in Committee of the Whole.

It authorizes the assignees or legal representatives of Jacques Moulon to enter, at the minimum price, the land embraced in fractional sections one and two, township fifteen south, and range ten east, southwest district of Louisiana, without prejudice to any valid existing right in others.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time and passed.

NANCY D. HOLKER.

The bill for the relief of Nancy D. Holker, widow and administratrix of John Holker, deceased, was read a second time, and considered as in Committee of the Whole.

It proposes to require the Secretary of the Treasury to pay her $11,076 18, the amount due her late husband, as appears by the books in the Treasury Department.

The Hon. John Holker, the husband of the memorialist, had been engaged during the early part of the revolutionary war in furnishing Congress with flour and other provisions necessary for the support of the Army. The accounts between him and the Government having been adjusted, there was either due to him for provisions furnished, or were in his hands on the 15th day of April, 1780, in the currency of Congress of its "old emissions," the sum of $443,047, and on the same day this sum was entered to his credit on the books of the Treasury, by Michael Hillegas, Treasurer of the United States, to await, as stated in the entry, "the determination of the propriety of this credit in Continental currency, and at what rate of exchange."

At a later period, Congress having fixed the rate of exchange between Continental currency of various issues, and gold and silver, the propriety of the credit was determined by the Treasurer, and from the books of the Treasury it appears that the amount due to Holker on the 15th of April, 1780, was $443,047, and that on the 25th of August, 1787, his account was transferred to the ledger, and that sum placed finally to his credit; and the register of the Treasury certifies that that sum having been entered to the credit of Holker, remains to his credit, there being no amount entered to his debit.

The claimant, in her memorial, speaks of the amount due to her husband as a loan; but the committee see nothing to induce them to believe that the money was received by Congress either as a loan or on any specific contract which would entitle her to receive more than the current worth of Continental money at the time it was received at the Treasury, and placed to her husband's credit.

By reference to the journals of the old Congress, it appears that in 1780, at the time the sum was credited to Holker on the books of the Treasury, Continental money was worth, in gold or silver, but two and a half per cent., or twenty-five dollars per thousand. At this rate, Congress was indebted to Mr. Holker on the 15th of April, 1780, according to the certificate of the register of the Treasury, based on the resolution of Congress, in the sum of $11,076 18, for the payment of which the committee herewith report the bill.

The bill was reported to Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time, and passed.

SAMUEL M'KNIGHT.

The Senate, as in Committee of the Whole, proceeded to consider House bill for the relief of Samuel McKnight, of the State of Kentucky.

It directs the Secretary of the Interior to place the name of Samuel McKnight, of the State of Kentucky, on the list of invalid pensioners of the United States, at the rate of eight dollars per month, to commence on the 1st of January, 1853, and to continue during his natural life.

On the 24th of April, 1847, the petitioner enlisted in company B, of the sixteenth regiment of infantry, in the Army of the United States, to serve during the war with Mexico, and was honorably discharged at the close of the war. Whilst he was in the service in the line of his duty, near Monterey, in Mexico, his eyes became diseased; this disease was caused by the climate and the hardships of service, and not by any fault on his part. The disease has constantly been growing worse, and he is now almost blind. The committee are well satisfied that his eyes cannot be cured, but that in a short time he will be entirely blind. These facts are established by the testimony of two surgeons of the State of Kentucky, and by the testimony of the captain and lieutenant of the company in which he served. He is a stone-mason, but has not been able to labor at his business since his return from Mexico. His money has been expended in securing surgical treatment for his eyes. He is now wholly disabled, and destitute.

The bill was reported to the Senate without amendment, and ordered to a third reading. It was read the third time, and passed.

WILLIAM WALLACE.

The Senate next considered, as in Committee of the Whole, House bill for the relief of William Wallace, of Illinois.

It proposes to direct the Secretary of the Interior to place the name of William Wallace on the list of invalid pensioners, at the rate of six dollars per month, from March 4, 1854, and to continue during his natural life.

Wallace served as a corporal in Captain Whiting's company, of the twenty-third regiment of infantry, from the 26th of February, 1813, during the war of 1812; on the 25th of July, 1814, at the battle of Bridgewater, he was wounded in his left thigh, by a musket shot; he was carried from the field and remained in the hospital for several months; the ball was not taken from the wound, but remains in the limb at this time, and the injury has within a few years so increased, as three fourths to disable him from obtaining his subsistence by manual labor.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM RICH.

The bill for the relief of William Rich, was read a second time, and considered as in Committee of the Whole.

Its object is to direct the Secretary of the Treasury to pay to William Rich, late United States secretary of legation in Mexico, $830, the difference between the compensation allowed to a secretary of legation and that to a chargé d'affaires, for the period during which he acted in the latter capacity.

Mr. Rich was appointed secretary of legation under the Hon. Robert P. Letcher, United States Minister to Mexico. From the departure of Mr. Letcher, on the 2d August, 1852, to the presentation of his credentials by Mr. Conkling, on the 30th November ensuing, he acted as chargé d'affaires of the United States; for that period—three months and thirty days—he only received the compensation of a secretary of legation, and now asks that he may be allowed the difference between the compensation of a secretary of legation and that of a chargé d'affaires. It has been usual to make such allowances in similar cases.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN P. BROWN.

The bill for the relief of John P. Brown was read a second time, and considered as in Committee of the Whole.

It proposes to direct the payment to Mr. Brown of $2,116 12, the difference between the compensation received by him as principal interpreter of the Turkish language to the United States legation at Constantinople, and the usual allowance to a chargé d'affaires, for the time he acted in the latter capacity.

Mr. Brown, while acting as principal interpreter of the Turkish language to the legation of the United States at Constantinople, was, on the 30th July, 1852, accredited, by an order of the President of the United States, chargé d'affaires *ad interim* to the Ottoman Government, by Mr. Marsh, United States Minister resident in Turkey. He filled that office in the absence of any other diplomatic agent of the United States at Constantinople until the return of Mr. Marsh from Greece, on the 5th July, 1853. On the 13th December, 1853, he was again accredited, by order of the President of the United States, as chargé d'affaires *ad interim* to the Ottoman Government by Mr. Marsh on his return to the United States, and continued to act as such until the arrival of Mr. Spence, on the 31st January, 1854. During these two periods, amounting to twelve months and nineteen days, he performed all the duties and incurred all the expenses incumbent on the representative of the United States; and having received only the compensation of principal interpreter of the Turkish language during that time, he prays that he may be allowed the difference between that compensation and the usual allowance of salary to a chargé d'affaires.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time, and passed.

WILLIAM CLARK.

The bill for the relief of William Clark, reported by the Committee on Naval Affairs, was read a second time, and considered as in Committee of the Whole.

It is to authorize the proper accounting officers to adjust, settle, and pay the account of William Clark, late contractor for making an embankment at the navy-yard at Memphis, and to allow him the contract price of eighteen cents per cubic yard for all the materials delivered by him of suitable quality.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LOSSES OF ARMY OFFICERS.

The bill for the relief of the officers and soldiers of the Army of the United States who sustained loss by the disasters to the steamships Winfield Scott and San Francisco, was read the second time, and considered as in Committee of the Whole.

It proposes to require the Secretary of War to ascertain the value of the property lost by each officer, non-commissioned officer, and private of the United States Army, who was on board the steamship Winfield Scott, on the 2d of December, 1853, when she was wrecked between San Francisco and New York; and on board the steamship San Francisco, on the 5th of January, 1854, when she was wrecked between New York and San Francisco; and to pay the amounts so ascertained; but no allowance is to be made for any property except such as was useful, necessary, and proper for such officers and soldiers while on the voyage and engaged in public service.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PUIG, MIR AND COMPANY.

The bill reported by the Committee on Foreign Relations for the relief of Puig, Mir & Co., of New Orleans, was read the second time, and considered as in Committee of the Whole.

It proposes to require the Secretary of the Treasury to release a judgment rendered in the circuit court of the United States in the eastern district of Louisiana, on the 13th of February, 1854, in the case of the United States *vs.* Puig, Mir & Co., of New Orleans, for $1,310 54, and interest thereon, being the amount of duties claimed to be due and payable to the United States on coffee imported into the port of New Orleans from Cuba, in the Spanish brig Pepita; and to release a judgment rendered in that court at the same date, in the case of the United States *vs.* P. Puig, and Puig, Mir & Co., of New Orleans, for $3,761 12, and interest thereon, being the amount of import duties claimed to be due and payable to the United States on coffee imported into the said port of New Orleans from Cuba, in the Spanish brig Atalayada; but if the judgments, or any part thereof, have been paid by the defendants, the Secretary of the Treasury is to refund them.

The brig Pepita, a Spanish vessel, arrived at New Orleans on the 16th of January, 1853, from Havana, Cuba, having on board four hundred bags of coffee, consigned to Messrs. Puig, Mir & Co., merchants of that city. This was the first Spanish vessel which had come consigned to that house with coffee direct from the island of Cuba. They had read in the New York price current of Saturday, the 8th January, 1853, a statement that coffee was admitted duty free, when imported from place of growth, in all vessels except those of the Netherlands, Spain, and Portugal, in which case it was twenty per centum *ad valorem;* and also free when imported in vessels of those nations from their own Colonies. They had determined, in case the coffee should be liable to duty, to ship it elsewhere, being satisfied that in such a case it could not be sold there, except at a heavy sacrifice. That there might, therefore, be no doubt upon the subject, they applied for information to the naval officer, and to the collector of customs, and were told by them that the vessel was subject to the payment of foreign duty only, and that there was no duty on the coffee; and they accordingly granted a free permit for its delivery. The coffee was landed, and sold at its then market value, but at a loss on the invoice cost of $207 13. The account of sales was made out and forwarded to the shippers, the proceeds of the coffee invested in flour, and with this for cargo the Pepita had been cleared for Pernambuco, when, for the first time, the officers of the customs discovered their error, and applied to Messrs. Puig, Mir & Co. for the payment of duties which, under the circumstances, they refused to pay; and this suit was instituted against them, and a verdict and judgment was rendered in favor of the United States on the 13th February, 1854, for $1,310 54, with legal interest. The same state of facts exists in regard to the coffee imported in the Atalayada.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LEWIS WARRINGTON, JR.

The bill for the relief of Lewis Warrington, jr., received its second reading, and was considered as in Committee of the Whole.

It is intended to authorize the proper accounting officers of the Treasury to allow Purser Lewis Warrington, jr., the pay that a purser receives for doing duty on board a frigate, whilst he was attached, in that capacity, to the United States steam frigate Mississippi.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HORATIO J. PERRY.

The next bill on the Calendar was one reported by the Committee on Foreign Relations, for the relief of Horatio J. Perry; which was read a second time, and considered as in Committee of the Whole.

It is intended to direct the Secretary of the Treasury to pay to H. J. Perry, Secretary of the United States legation at Madrid, $1,402 78, for his services as acting chargé d'affaires of the United States, at Madrid, for three several periods during the years 1852 and 1853, amounting in the aggregate to six months and twenty-two days; it being the difference between the compensation of a chargé d'affaires and that received by him as secretary of legation during that period.

The bill was reported to the Senate without

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amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ROBERT M. WALSH.

The bill reported by the Committee on Foreign Relations for the relief of Robert M. Walsh, was read the second time, and considered as in Committee of the Whole.

Its object is to direct the payment to Robert M. Walsh, late secretary of legation of the United States in Mexico, of $833,33, the balance due him for compensation as chargé d'affaires *ad interim* in Mexico, in the years 1848 and 1849, during the absence of the minister.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

GEORGE W. LIPPITT.

The bill reported by the Committee on Foreign Relations for the relief of George W. Lippitt, received its second reading, and was considered by the Senate as in Committee of the Whole.

It proposes to direct the Secretary of the Treasury to pay to G. W. Lippitt, United States consul at Vienna, $1,075,10, for compensation for taking charge of the archives of the United States legation at Vienna, and performing diplomatic services from the 13th of October to the 10th of December, 1852, and from the 21st of May to the 13th of September, 1853, embracing in the aggregate a period of five months and twenty-one days, this sum being one half of the salary of a chargé d'affaires for that period.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HENRY SAVAGE.

The next bill on the Calendar was one reported by the Committee on Foreign Relations for the relief of Henry Savage, which received its second reading, and was considered as in Committee of the Whole.

Its object is to direct the Secretary of the Treasury to pay to Henry Savage, United States consul at Guatemala, $14,000 for his services in taking charge of and preserving the archives of the former United States legation at that place, and communicating to his Government at home, regularly, useful and highly important information during the several intervals from February, 1830, to November, 1833, from May, 1842, to November 1848, and from May, 1850, to February, 1854, making an aggregate of fourteen years, during which the United States had no other diplomatic or consular agent at Guatemala.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

J. B. HOLMAN.

The bill reported by the Committee on Foreign Relations for the relief of J. B. Holman, was read the second time, and considered as in Committee of the Whole.

Its object is to direct the Secretary of the Treasury to pay to J. B. Holman, late United States secretary of legation in Chili, $716 67, as compensation for extra clerical duties performed by him in bringing up the records of the legation, from the 16th of February to the 24th of June, 1850, during which period there was no secretary to the legation.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PETER PARKER.

The bill reported by the Committee on Foreign Relations for the relief of Peter Parker, received its second reading, and was considered as in Committee of the Whole.

It proposes to authorize the payment to Peter Parker, secretary of legation and Chinese interpreter to the United States legation at Canton, for his services as chargé d'affaires *ad interim* at that place, from the 24th of May, 1852, to the 31st of January, 1853, the difference between the compensation of a chargé d'affaires and that received by him as secretary and interpreter to the legation for that period, $1,372 21.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOSEPH GRAHAM.

The bill reported by the same committee for the relief of Joseph Graham, was read the second time, and considered as in Committee of the Whole.

It proposes to direct the Secretary of the Treasury to pay to Joseph Graham, United States consul at Buenos Ayres, $999 50, as compensation for his services as chargé d'affaires *ad interim* at that place from the 3d of August to the 11th of September, 1852, and from the 25th of November, 1852, to the 26th of March, 1853, embracing in the aggregate a period of five months and ten days, the amount being one half of the compensation of a chargé d'affaires for that period.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FERDINAND COXE.

The bill reported by the same committee for the relief of Ferdinand Coxe, was read the second time, and considered as in Committee of the Whole.

It proposes to direct the Secretary of the Treasury to pay to Ferdinand Coxe, late secretary of the United States legation to Chili, $729 17, the difference between the compensation of a secretary of legation and that of a chargé d'affaires, from the 12th of May to the 16th of August, 1853, during which period he acted in the latter capacity.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

GEORGE H. PAIGE.

The Senate, as in Committee of the Whole, proceeded to consider House bill for the relief of Lieutenant George H. Paige, of the United States Army. Its purpose is to direct the proper accounting officer of the Treasury to allow and credit to Lieutenant George H. Paige, the sum of $62 23, the amount paid by him to one Phillips, a private in the United States Army, for services as an auctioneer, in June, 1849.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM B. KIBBEY.

The bill reported by the Committee on the District of Columbia for the relief of William B. Kibbey, was read the second time, and considered as in Committee of the Whole.

Its object is to appropriate $7,211 47 to William B. Kibbey, for leather furnished for the use of the penitentiary in the District of Columbia.

By the sixth section of the act of Congress, approved March 3, 1829, the warden of the penitentiary is authorized to purchase materials for the labor of the convicts, and make all needful contracts for supplies necessary for the penitentiary; and, under this authority, the warden, in the years 1852-'53-'54, purchased of William B. Kibbey, of Washington city, for the use of the penitentiary, leather amounting to $7,211 47, which amount is reported to be due in the annual report of the warden, made to the President, dated January 16, 1854.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

OLIVER BROWN.

The Senate, as in Committee of the Whole, considered House bill to provide a pension for Oliver Brown, of Chemung county, New York, which proposes to allow him a pension of four dollars a month from March 1, 1854.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EDMUND MITCHELL.

The bill from the House of Representatives to provide a pension for Edmund Mitchell, of Carroll county, in the State of Kentucky, was considered as in Committee of the Whole. It proposes to place his name upon the pension roll, at the rate of eight dollars per month, from the 1st of March, 1854.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN BROWN.

House bill for the relief of John Brown, second, of New Hampshire, was considered as in Committee of the Whole.

It proposes to require the Secretary of the Interior to place his name on the roll of invalid pensioners, at the rate of eight dollars per month, from the 9th of February, 1852, to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN H. HICKS.

House bill for the relief of John H. Hicks, of Indiana, was considered as in Committee of the Whole.

Its design is to instruct the Secretary of the Interior to place the name of John H. Hicks, of Indiana, upon the list of invalid pensioners, at the rate of eight dollars per month, from the 1st of January, 1853, to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ABRAHAM AUSMAN.

House bill for the relief of Abraham Ausman, which proposes to increase his present pension from six to eight dollars a month, was considered as in Committee of the Whole, reported without amendment, ordered to a third reading, read the third time, and passed.

LIEUTENANT FRANCIS WARE.

The bill from the House of Representatives for the relief of the legal representatives of Lieutenant Francis Ware, was considered as in Committee of the Whole.

As it appears from the books in the Register's office of the Treasury Department, that there is now outstanding and unpaid in favor of Lieutenant Francis Ware, deceased, a final settlement certificate for commutation pay for $251 10, (No. 92,816,) the bill proposes to direct the Secretary of the Treasury to cause to be published, for the space of two weeks, in two weekly papers of Washington, a notice that he has been directed to pay it, and calling upon any persons who may own it to produce it to him for payment; and if, at the expiration of three months from the date of the notice, no person shall present it for payment, it is to be the duty of the Secretary of the Treasury to pay the amount, with interest, at the rate of three per cent., from January 1, 1791, to January 1, 1852, to the heir or heirs-at-law of Lieutenant Ware; but it is provided, that before such payment shall be made, the heir or heirs shall execute a bond, payable to the United States, in double the amount to be paid, with two good and sufficient securities, conditioned to indemnify the Government of the United States against the legal claim of any person for the payment of the certificate alleged to be lost or destroyed.

The PRESIDING OFFICER, (Mr. FOOT in the chair.) The Chair will call the attention of the Senate to a verbal amendment which this bill seems to require. It speaks of the "ratification of this act." The word "ratification" should be "approval." If there be no objection the amendment will be made.

The amendment was agreed to; the bill was reported to the Senate as amended, and the amendment was concurred in, the bill was ordered to a third reading, was read the third time, and passed.

JOHN COLE.

The Senate, as in Committee of the Whole, proceeded to consider House bill for the relief of John Cole, the object of which is to direct the Secretary of the Interior to pay to John Cole, of Lake county, Ohio, now a pensioner of the United States, ninety-six dollars per annum, in lieu of any pension heretofore allowed to him, to be continued during his natural life.

Cole is ninety-three years of age, and unable to work on account of extreme age and a rupture, caused by lifting and carrying grape-shot while in the service of the Government. He has no other means of support than his pension of five dollars per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GEORGE LYNCH.

The bill of the House of Representatives for the relief of George Lynch, was next considered as in Committee of the Whole.

It is intended to allow George Lynch, of St. Charles county, Missouri, a full pension of eight dollars per month, instead of six dollars per month, the amount which he is now receiving under a special act of Congress heretofore passed for his benefit, the increase to commence on the 6th of June, 1852, the time at which his proof of total disability was perfected.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GEORGE ELLIOT.

The Senate as in Committee of the Whole, proceeded to consider House bill for the relief of George Elliott.

It is intended to allow George Elliott, of Franklin county, Missouri, a pension of eight dollars a month, instead of the pension of six dollars per month, which he is now receiving, under a special act of Congress, the increase to commence from the 1st of January, 1852, when his proof of total disability was perfected.

No amendments being proposed, the bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

GEORGE J. RALLSTON.

The bill of the House for the relief of George J. Rallston was considered as in Committee of the Whole.

It is to instruct the Secretary of the Interior to place the name of George J. Rallston upon the pension roll, at the rate of eight dollars per month, from the 1st of January, 1854, to continue during his life.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

WILLIAM GOVE.

House bill for the relief of William Gove was considered as in Committee of the Whole.

Its object is to direct the Secretary of the Interior to place the name of William Gove, of the State of Maine, upon the pension rolls, at the rate of eight dollars per month, so long as he shall live, commencing January 1, 1854.

The bill was reported without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM PARKER.

The House bill for the relief of William Parker was considered as in Committee of the Whole.

It proposes to direct the Secretary of the Interior to pay to William Parker, of New York, four dollars per month, so long as he shall live, commencing January 1, 1853—that sum to be in addition to the pension of four dollars per month granted him by act of May 19, 1824.

The bill was reported without amendment, ordered to a third reading, read the third time, and passed.

BETSEY W. EVE.

The bill reported by the Committee on Foreign Relations for the relief of Betsey W. Eve, was read the second time, and considered as in Committee of the Whole.

It is to direct the Secretary of State to cause the accounts of Joseph Eve, deceased, late chargé d'affaires of the United States to the late republic of Texas, to be audited and adjusted by the proper accounting officers, and to pay the amount found due to Betsey W. Eve, his widow.

Owing to some error in the adjustment of his salary account, Mr. Eve was entitled to compensation for seven days not embraced therein; dying three days after presenting his letter of recall, his estate should have been allowed his funeral expenses; and, if his wife or any member of his family had been with him at the time of his death, he would have been entitled to one quarter salary for return. Upon the adjustment of his accounts at the Fifth Auditor's office, there was a balance reported due from him of $531 99 on his account for salary, and there was an additional item of $206 50, which had been suspended in adjusting his contingent account for want of vouchers, which Mr. Eve promised to obtain and forward, but died before he was enabled to do so. Mrs. Eve, having sought relief from Congress, cannot now, it is believed, obtain an adjustment of her accounts unless Congress authorizes it. Mrs. Eve was with her husband at the time of his death, and, therefore, according to usage in such cases, his estate is entitled to one quarter return salary. The committee are of opinion that any just claim which the petitioner may have against the United States should not be prejudiced by the fact of her applying to Congress; and believe that upon the proper adjustment of the accounts of her late husband, the claim will be found to be just.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SMITH AND STEVENS.

The bill of the Committee on Commerce for the relief of James H. Smith and Charles Stevens was read a second time, and considered as in Committee of the Whole.

Its object is to instruct the district attorney of the United States for the district of Maryland to investigate the claim of James H. Smith and Charles Stevens, for damages resulting from the wreck of the schooner Drumscale and cargo, alleged to have been caused by hidden obstructions placed in the Patapsco river, under the authority of the Government of the United States, and to report to the Secretary of the Treasury the result of his investigation, and his opinion whether or not the United States are legally responsible to pay any and what amount to them. If the district attorney shall report, that in his opinion the United States are legally responsible for the payment of any sum of money to Smith and Stevens, the Secretary of the Treasury, if he shall approve the report and opinion, is to pay to them such amount, not exceeding three thousand dollars, as in his judgment they may be justly and legally entitled to demand for the loss and damage.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CHARLES W. CARROLL.

The bill for the relief of Charles W. Carroll was considered as in Committee of the Whole.

Its object is to appropriate $5,000 to Charles W. Carroll, as compensation and damages for injuries sustained by him by reason of his wrongful arrest and imprisonment as a deserter from the Army of the United States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CORNELIUS COFFEY.

House bill granting bounty land to Cornelius Coffey was considered as in Committee of the Whole.

It proposes to direct the Secretary of the Interior to issue to Cornelius Coffey, late a private in company G, Eighth Infantry, United States Army, a land warrant for one hundred and sixty acres of land.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELEANOR HOOPLE.

The Senate, as in Committee of the Whole, proceeded to consider the bill of the House of Representatives for the relief of Eleanor Hoople, of the Province of Canada.

It proposes to direct the payment of $300 to her for care, service, and attention to Daniel Holden, an American soldier in 1814.

Mrs. Hoople is a widow woman, residing on the Canada shore of the St. Lawrence, at a point where a creek called Hoople's creek has its confluence with that river, eleven miles below Chrysler's Farm. The day before the battle of Chrysler's Farm, the advance of the American Army halted in front of the house of her husband. The Canada militia had just completed the demolition of the bridge across the creek, and had taken shelter in an oak shrubbery a little north of the road, and within musket range of the elevation upon which the house of her husband stood. They fired upon the Americans, which caused a skirmish to ensue, in which an American soldier of Forsyth's rifles, named Daniel Holden, was wounded in the knee by a musket shot, and was brought into the petitioner's house; two surgeons belonging to the American Army came in shortly afterwards, and, after making an unsuccessful attempt to extract the ball, left him, saying "the wagons would take him up;" but no wagons came by the house. The bridge being demolished, the American Army diverged from the highway some distance above the house, and crossed the creek at a fording-place a considerable distance in the rear. The British army passed down shortly after, from which a surgeon came to see the wounded man, who said that it would be impossible to remove him. From that day to the period of his death, which was on Easter Sunday following, he was kindly taken care of by the family of the petitioner, and his remains were decently interred by her husband in the Episcopal burial ground, in the vicinity, at his own expense. Mrs. Hoople is now eighty-four years of age, very poor, and almost blind.

The bill was reported without amendment, ordered to a third reading, read the third time, and passed.

SIMEON STEDMAN.

The bill reported by the Committee on Military Affairs for the benefit of Simeon Stedman, was read the second time, and considered as in Committee of the Whole.

Its object is to direct the proper accounting officers to pay to Simeon Stedman, for his services as a private in Captain Ripley's company, Thirty-Seventh Infantry, in the war of 1812, from the 1st June, 1814, to the 7th April, 1815, in the same manner as if he had been honorably discharged from the service of the United States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN PUTNAM.

The bill from the House of Representatives for the relief of the legal representatives of John Putnam, was considered as in Committee of the Whole. It proposes to allow them $795 78 for his services and money paid by him for the United States, at the port of Genesee, New York.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SIDNEY P. POOL.

The bill of the House for the relief of Sidney P. Pool, of the State of Maine, which proposes to place him on the invalid pension roll at six dollars a month, from January 1st, 1854, was considered as in Committee of the Whole, reported without amendment, ordered to a third reading, read the third time, and passed.

LINCOLN BATES.

House bill for the relief of Lincoln Bates, was considered as in Committee of the Whole.

Its object is to allow him fifty-five dollars, in full of the damages sustained by him as a night watchman in the public stores at New York in July, 1849, in suppressing a fire therein, being the amount of his account as now on file in the Treasury Department.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

POLLY CARVER.

The bill from the House for the relief of Polly Carver, widow and executrix of Nathan Carver, deceased, which proposes to allow her $334 79, was considered as in Committee of the Whole, reported without amendment, ordered to a third reading, read the third time, and passed.

PARMELIA SLAVIN.

The Senate, as in Committee of the Whole,

proceeded to consider the bill for the relief of Parmelia Slavin, late the wife of John Blue, deceased.

Its object is to place the name of Parmelia Slavin, the widow of William Slavin, deceased, and lately the widow of John Blue, deceased, upon the roll of pensioners of the United States, at the rate of four dollars per month, for five years from the 1st of January, 1848, in full satisfaction of her claim to pension as widow of John Blue.

The bill was reported to the Senate without amendment, ordered to be engrossed, read the third time, and passed.

WILLIAM P. YOUNG.

The bill reported by the Committee on Claims, for the relief of William P. Young, was read the second time, and considered as in Committee of the Whole.

Its object is to direct the proper accounting officers of the Treasury to settle and adjust, and pay the claim of William P. Young for compensation as an inspector of customs at Portsmouth, Virginia, from the 2d of April, 1834, to the 31st of October, 1838, at the rate of three dollars per day; but the amount that has been heretofore paid him on account of the service is first to be deducted.

Mr. Young was duly appointed inspector of customs in the district of Norfolk and Portsmouth, Virginia, and performed the duties of the office in an efficient and satisfactory manner from the 2d of April, 1834, to the 31st of October, 1838. In his letter to the collector, dated the 9th March, 1834, approving and sanctioning the appointment of Mr. Young as an inspector, the Secretary of the Treasury said he would be allowed a per diem rate of compensation not to exceed $500 a year. He was accordingly paid at that rate. The claim is for the difference between the amount received and the rate of three dollars per day—the rate fixed by law as the compensation of inspectors of the customs. An application was made to the Department, in 1838, for this balance, and a report on the case favorable to the claimant was made to the Secretary by the First Comptroller. The Secretary, however, declined to make the allowance.

In 1853, the matter was again brought to the attention of the Treasury Department, and the Commissioner of Customs, in his official report upon the case to the Secretary, reported in his favor. But the Secretary, as it appears, did not concur in it. The act of 1799 provides, that to each inspector there shall be allowed, for every day he shall be actually employed in aid of the customs, a sum not exceeding two dollars. The act of 1816 provides, that an addition of fifty per cent. upon the sums allowed as compensation to inspectors should be allowed. It is argued, on the part of the claimant, that Congress decided, by the act of 1816, increasing the compensation of inspectors fifty per cent., that the previous allowance of two dollars per day was insufficient, and that under that law they are entitled to receive three dollars per day.

Two precedents are referred to as sanctioning this construction of the law: The case of Mr. Morton, inspector at Georgetown, District of Columbia, as ordered by the Comptroller, after a lapse of twenty-nine years. In that case the allowance to the inspector was adjusted at two dollars per day, because the service was performed prior to the act of 1816; and the case of Mr. Gayle, inspector at Norfolk and Portsmouth—a case directly in point. Eight years after his employment, in precisely the same situation of Mr. Young, the Secretary of the Treasury ordered that his pay should be fixed at three dollars per day from the time he was qualified.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

J. C. M'FERRAN AND S. D. STURGIS.

The bill for the relief of John C. McFerran and Samuel D. Sturgis, of the United States Army, was read a second time, and considered as in Committee of the Whole.

Its object is to cause the Secretary of War to pay to Lieutenant John C. McFerran, of the United States Army, the difference between his pay as first lieutenant of infantry and that of assistant adjutant general, from the month of October, 1851, to the 16th of July, 1852; and to Lieutenant Samuel D. Sturgis, the difference between his pay as first lieutenant of dragoons and that of assistant adjutant general, from the 1st of November, 1852, to the 12th of August, 1853; they having served as assistant adjutants general under command of Colonel E. V. Sumner, of the ninth military department of the United States Army, during the periods respectively named above.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DANIEL BEDINGER'S HEIRS.

The bill of the House for the relief of Daniel Bedinger's heirs, was considered as in Committee of the Whole.

The bill, as it passed the House, proposed to direct the proper accounting officer of the Treasury to pay the full amount of five years' commutation pay as lieutenant of infantry in the Army of the Revolution, with interest from the 4th February, 1852, to the children of Daniel Bedinger; and in case of the death of any of the children, leaving a child or children now living, then to such surviving child or children, in the same proportion that their deceased parent would have taken if living.

The Committee on Revolutionary Claims reported it, with an amendment to strike out the provision allowing interest.

The amendment was agreed to; the bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

CHARLES M'CORMICK.

The bill for the relief of Charles McCormick, assistant surgeon in the United States Army, was read a second time, and considered as in Committee of the Whole.

It proposes to direct the Secretary of War to allow and pay to Charles McCormick, assistant surgeon in the United States Army, a commission of a half of one per cent. upon the moneys disbursed by him at New Orleans, Louisiana, under the first section of the act of Congress, approved March 2, 1847; but the commission is not to exceed $1,000 in any one year of the time during which he was engaged in making the disbursements.

Doctor McCormick was, in 1846, stationed at New Orleans as medical purveyor. In addition to his duties as such, he was required to give his professional services to the officers and soldiers—stationary and transient—at New Orleans, which gave him as full employment as could be fairly required from one individual. While thus fully occupied, he was called upon by General Brooke to attend also to the numerous invalid soldiers and other discharged men constantly arriving in New Orleans, from Mexico and other places, and to disburse the money appropriated for their benefit, under the act approved March 2, 1847. The business of collecting together and providing for the discharged soldiers, teamsters, and others arriving from various divisions of the Army, was altogether extraneous to his legitimate duties, involved great responsibility, and was attended with actual loss in the disbursement of money entrusted to his care and management. By an extraordinary effort, Doctor McCormick discharged these duties to the satisfaction of all concerned. Paymasters in the Army were allowed by law a percentage of half of one per cent. upon payments made to volunteers in the Mexican war. Doctor McCormick not only discharged his arduous and responsible duties as surgeon, but also disbursed, as acting paymaster, the sum appropriated by Congress "for providing for the comfort of discharged soldiers," &c. And the committee are of the opinion that he ought to be allowed the same commission for his disbursements, under the act of March 2, 1847, as was paid to paymasters in the Army, under the act of August 12, 1848.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM P. BUEL.

The bill for the relief of William P. Buel was read a second time, and considered as in Committee of the Whole.

Its object is to direct the Secretary of War to pay to Doctor Buel, $500, in full compensation for his services rendered to the United States troops and their families, who were on board the steamer San Francisco and the ship Three Bells, after the disaster to that steamer, from December 29, 1853, to January 15, 1854.

He was the medical officer of the steamer San Francisco at the time of her wreck on the 24th of December, 1853, when the third regiment of United States artillery, *en route* from New York to San Francisco, were passengers on that steamer. On the 29th of December, 1853, the two regimental surgeons left the wreck with a small portion of the command in the bark Kilby, leaving behind about four hundred soldiers, with a large number of women and children—their wives and families. On the following day a malignant disease resembling Asiatic cholera broke out among the troops and their families, and Doctor Buel being the only medical man on board, was requested by Major Wyse, then in command, to attend upon the sick; which he did for seventeen days—nine days on the wreck, and eight days on board the Three Bells. During these seventeen days there were fifty to a hundred always on the sick list, and Doctor Buel states that his attendance upon them was at the imminent danger of his own life. He has never received a cent of compensation.

The bill was reported to the Senate, ordered to be engrossed, read the third time, and passed.

WILLIAM CASE.

House bill for the relief of William Case, was considered as in Committee of the Whole.

It proposes to release him and his surety, Harrison Gould, from a judgment for $320, rendered against them in favor of the United States at the March term of the United States circuit court, at Clarksburg, Virginia, in 1853.

The bill was reported to the Senate without amendment, ordered to the third reading, read the third time, and passed.

AMOS B. EATON.

The bill for the relief of Amos B. Eaton, a commissary of subsistence in the United States Army, was read the second time, and considered as in Committee of the Whole.

It is intended to direct the proper accounting officers of the Treasury to allow and credit to Amos B. Eaton, $1,137 79, the amount paid by him to William Sibley, William H. Spencer, and A. Herbert, who were clerks in the United States commissary department, for services rendered by them as auctioneers in the sales of certain damaged and surplus subsistence stores at Brazos Island, Texas, and at Monterey, Mexico, in the years 1847 and 1848.

The bill was reported to the Senate without amendment, ordered to be engrossed, read the third time, and passed.

BILLS OBJECTED TO.

The following bills as they were announced in their order, were objected to by the Senators whose names are annexed:

The bill for the relief of Benedict J. Heard—By Mr. BAYARD.

The bill for the relief of Captain Philip F. Voorhies, United States Navy—By Mr. SLIDELL.

The bill for settling the claim of the legal representatives of Richard W. Meade, deceased—By Mr. BENJAMIN.

The bill for the relief of Francisco Lope Urriza—By Mr. BENJAMIN.

The bill for the relief of Amos Kendall and John E. Kendall—By Mr. EVANS.

The bill for the relief of Sophia Kirby—By Mr. BENJAMIN.

The bill for the relief of Joseph Nock—By Mr. BENJAMIN.

The bill to extend a patent heretofore granted to John Shly, of the State of Georgia—By Mr. BENJAMIN.

The bill to confirm the claim of John Erwin to a certain tract of land in the Bastrop grant—By Mr. BAYARD.

The bill for the relief of Margaret A. Copley, of the State of Louisiana—By Mr. BAYARD.

The bill authorizing the Commissioner of Patents to grant an extension of a patent to Samuel Colt, a citizen of the United States, for an improvement in fire-arms—By Mr. BENJAMIN.

The bill for the relief of L. E. L. A. Lawson, sole surviving heiress of General Eleazur W. Ripley, deceased—By Mr. CLAY.

The bill for the relief of Overton Love and John Guest, of the Chickasaw nation—By Mr. CHASE.

The bill for the relief of the legal representatives of James Bell, deceased—By Mr. STUART.

The bill for the relief of Cyrus H. McCormick—By Mr. BENJAMIN.

The bill for the relief of the chiefs, headmen, and warriors of the friendly Creek Indians engaged in the war of 1814—By Mr. CLAY.

The bill for the relief of Charles Stearns—By Mr. BAYARD.

The bill to authorize T. H. McManus to enter, by preëmption, certain lands in the Greensburg land district—The report was adverse.

The bill for the relief of John Boyd—By Mr. WELLER.

The bill for the relief of William K. Jennings, and others—By Mr. SUMNER.

The bill for the relief of the widow of James C. Batchelder, who was killed while assisting the United States marshal for the district of Massachusetts in the execution of a law of Congress—By Mr. SUMNER.

The bill for the relief of Robert C. Schenck and John S. Pendleton—By Mr. WALKER.

The joint resolution for the relief John Donnell & Sons—By Mr. BENJAMIN.

House bill for the relief of Adolphus Mier and company, of St. Louis—By Mr. BENJAMIN.

House bill for the relief of Charles H. Wilgus—By Mr. WELLER.

House bill for the relief of S. R. Lyon, and Dean S. Howard, of the State of New York—By Mr. STUART.

House bill for the relief of John H. King—By Mr. CLAY.

House bill for the relief Anna E. Cook—By Mr. CLAY.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had agreed to the amendments of the Senate to the following bills of the House:

A bill to secure the rights of citizenship to children of citizens of the United States born out of the limits thereof;

A bill for the relief of the heirs of Larkin Smith; and

A bill for the relief of Lieutenant J. C. Cartter.

Also; that they had passed bills of the following titles, in which they requested the concurrence of the Senate:

A bill changing the times of holding the United States courts in Tennessee;

A bill to provide for holding the United States courts in the northern and southern districts of Florida, in case of the sickness or disability of either of the judges of those districts;

A bill to regulate the salaries of the district judges of the United States;

A joint resolution explanatory of the act giving compensation to Judges Woodbridge and Chipman;

A bill to divide the State of Illinois into two judicial districts;

A bill concerning the apprehension and delivery of deserters from foreign vessels in the ports of the United States;

A bill to provide for the accommodation of the courts of the United States for the district of Maryland, and for a post office at Baltimore city, Maryland;

A bill to amend the act, approved August 31, 1852, making further provision for the satisfaction of Virginia land warrants; and

A bill to authorize the printing of the opinions of the Attorney General.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker had signed the following enrolled bills, which were thereupon signed by the President *pro tempore:*

A bill for the relief of Samuel A. Belden & Co.;

A bill to provide for the ascertainment and satisfaction of claims of American citizens for spoliation committed by the French prior to the 31st day of July, 1801;

A bill to refund to the officers of the customs and others, of the district of Passamaquoddy, certain moneys;

A bill confirming a land claim to Elijah White, of the Territory of Washington;

A bill for the relief of George Bush, of Thurston county, Washington Territory;

A bill for the relief of Daniel Morse, of Essex, county of Chittenden, in the State of Vermont;

A bill to divide the State of Ohio into two judicial districts, and to provide for holding the district courts of the United States therein;

A bill to secure the rights of citizenship to the children of citizens of the United States born out of the limits thereof; and

A bill for the relief of John Steene.

ADDITIONAL DOCUMENTS.

Mr. ADAMS presented additional documents in the case of D. M. Wilson & Co.; which were referred to the Committee on Claims.

BRIG GENERAL ARMSTRONG.

Mr. STUART. The time which was fixed in the order made this morning as the limit for the consideration of those bills which were not objected to, has now arrived. I am very anxious to have the Armstrong case disposed of.

Several SENATORS. We had better go through with the private bills that are not objected to.

The PRESIDING OFFICER, (Mr. FOOT in the chair.) The Chair understood from the President of the Senate that, at the time of meeting this morning, the Senate, by general understanding, determined to proceed to the consideration of such cases on the Private Calendar as would not lead to debate, until two o'clock. At that time they were to proceed to the consideration of what is called the Armstrong case. The subject, however, is under the control of the Senate.

Mr. BAYARD. I think we had better go on with bills that are not objected to.

Mr. JONES, of Iowa. I hope we shall take up the Armstrong case.

The PRESIDING OFFICER. The Chair will put the question. It is moved that the Senate proceed to the consideration of the Armstrong case.

Mr. WELLER. Allow me to say that this morning, when a single objection would have prevented the course which we have pursued, I abstained from interposing that objection with the understanding that, at two o'clock, the Senate would go back and resume the consideration of the regular Calendar. Now, it seems that it is under the control of the majority.

Mr. STUART. Not at all.

The PRESIDENT. The order of the Senate was that, at two o'clock, they would proceed to the consideration of the unfinished business of last Friday. The question, therefore, is on reconsidering the vote by which the bill for the relief of the claimants of the private armed brig General Armstrong was ordered to be engrossed for a third reading.

Mr. CASS. I shall not detain the Senate five minutes, but since the Senate met I have laid my hand upon an English paper, which exhibits such a real curiosity, connected with this subject of privateering, that I must read an extract to the Senate. I will remark, Mr. President, that one motive which I have in voting for this proposition is, that I consider it will be very encouraging to our citizens in time of war. In the present state of the world, if we are driven to war, we must depend very much for maritime warfare on privateers. We cannot cope with the great naval powers of the world without resorting in that way to our citizens. Upon that subject some very just, proper, and judicious remarks were made by the President at the commencement of the session, which I will read. It seems that so far as respects the doctrine that "free ships make free goods," the President has assented to it, and he has been met on that proposition by Russia alone. He proposed it to the two other belligerents in the present war, but they have not acceded to it. They have held it in abeyance; I do not know why. He then goes on to remark:

"The King of Prussia entirely approves of the project of a treaty to the same effect, submitted to him, but proposes an additional article, providing for the renunciation of privateering. Such an article, for most obvious reasons, is much desired by nations having naval establishments, larger in proportion to their foreign commerce. If it were adopted as an international rule, the commerce of a nation having comparatively a small naval force would be very much at the mercy of its enemy in case of war with a Power of decided naval superiority. The bare statement of the condition in which the United States would be placed, after having surrendered the right to resort to privateers, in the event of war with a belligerent of naval supremacy, will show that this Government could never listen to such a proposition. The navy of the first maritime Power in Europe is at least ten times as large as that of the United States. The foreign commerce of the two countries is nearly equal, and about equally exposed to hostile depredations. In war between that Power and the United States, without resort on our part to our mercantile marine, the means of our enemy to inflict injury upon our commerce, would be tenfold greater than ours to retaliate. We could not extricate our country from this unequal condition, with such an enemy, unless we at once departed from our present peaceful policy, and become a great naval Power. Nor would this country be better situated in war with one of the secondary naval Powers. Though the naval disparity would be less, the greater extent and more exposed condition of our wide-spread commerce would give any of them a like advantage over us.

"The proposition to enter into engagements to forego a resort to privateers, in case this country should be forced into war with a great naval Power, is not entitled to more favorable consideration than would be a proposition to agree not to accept the services of volunteers for operations on land. When the honor or the rights of our country require it to assume a hostile attitude, it confidently relies upon the patriotism of its citizens, not ordinarily devoted to the military profession, to augment the Army and the Navy, so as to make them fully adequate to the emergency which calls them into action. The proposal to surrender the right to employ privateers is professedly founded upon the principle that private property of unoffending non-combatants, though enemies, should be exempt from the ravages of war; but the proposed surrender goes but a little way in carrying out that principle, which equally requires that such private property should not be seized or molested by national ships of war. Should the leading Powers of Europe concur in proposing, as a rule of international law, to exempt private property, upon the ocean, from seizure by public-armed cruisers, as well as by privateers, the United States will readily meet them upon that broad ground."

I will now call the attention of the Senate to some remarks made upon this proposition in the peculiar, characteristic style of Englishmen, in a London liberal paper, "The Examiner." It takes some very curious views on the subject:

"The rights of neutrals form, of course, a large and important portion of the American message. The acceptance by England and France of the principle, even for the time, that free ships make free goods, is hailed as an advance. But surely such a waiving of belligerent rights by the two great maritime nations ought to have suggested an example to the United States. It would seem that their right of granting letters of marque to cruisers, in case their country should be at war, is still to be maintained. On this point, President Pierce puts forth arguments singularly at variance with, or rather singularly behind, those which prevail in Europe. In the Old World greater and greater reluctance is shown to the use of mercenary troops. We prefer making war with our own men and our own resources, or with those of our frank and avowed allies. To purloin or purchase fighting men from timid neutrals is very generally disliked. The American President nevertheless argues, that merely because America is weak in ships of war, it must retain the right of chartering privateers among those of any or of all countries anxious to practise the profession of sea-robbers. And on no account is America to desist from this practice, until the broad principle is established of respecting private property whether on shipboard or on land.

"This may appear to have in view a very specious and philanthropic object, but it would be found, we suspect, hugely difficult of application. For example, were such a principle established, a country like the United States might be guilty of the most wanton aggression, yet by presenting no ships of war at sea, and no fortresses or objects of national property near the coast, it might prevent the fleets of the injured Power from exercising reprisals, or taking vengeance of any kind. The smallest island Power might with impunity provoke the strongest, the existence of fleets themselves would ultimately become idle, and what are called maritime Powers might be swept from the map of the world. That the United States contemplate establishing a principle from which such results may flow, we can hardly believe. We prefer to assume that, when they please to make such demands, it is merely a mode of refusing or evading counter demands more reasonable."

This article, from which I have read an extract takes the ground that England never subsidizes, and never engages in a mercenary war. Now, Mr. President, as to granting letters of marque and reprisal, we have never sold them to foreigners; we never sell them as they do in Europe. There is nothing mercenary about our mode of procedure, unless it is mercenary to employ our own citizens to fight our own battles. I do not know of an instance in the history of our Government in which we have employed foreign privateers. We have discountenanced it from the commencement; and now let me say, that the principle for which the President contends is a great principle of the law of nations, which has been acted on for centuries. When the millenium arrives, when there is no war to do harm, it will be very well to abandon everything; but until then we must hold to our rights, when those rights are essentially necessary to our self-preservation. England, says this modest writer, subsidizes nobody; makes no mercenary warfare. She subsidizes the whole face of creation. She subsidized Europe for twenty years against Napoleon. She subsidized the Hessians to come to this country. She subsidized the Indians; and at this very moment she is subsidizing the Sardinian Government to raise fifteen thousand men, and has passed a new law subsidizing an immense number of troops on the continent; and yet, with

all these facts before him, this English writer puts forth to England and to the world, the belief that the United States alone, in refusing to surrender everything, are guided by mercenary motives. John Bull has a notorious power of deglutition; we all know that; but I say, if he can swallow this, his capacity exceeds that of any anaconda which can be found in the vast regions that he has gained by subsidizing one portion of the people against another. There is an English idiosyncracy on this subject. Sometimes I am almost ready to believe that they are serious; but I cannot, at others, come to that conclusion. They are always talking about forbearance and moderation, and about the cupidity and capacity for acquisition of Brother Jonathan! A State, lying off the west coast of Europe, she commands half the world, and has given rise to that most magnificent metaphor of Mr. Webster, in which he says that the sound of her drum follows the sun over the world. How did she get it all? Sir, she never got a foot of it except by war, by bloodshed; and, sir, we have not obtained a foot by such means. I have merely brought this to the attention of the Senate as about the strangest inconsistency that can be found; and I have no doubt whatever, that from John O'Groat's house to the Land's end, every word of that will be read, believed, and swallowed.

Mr. BAYARD called for the yeas and nays on the motion to reconsider; and they were ordered.

Mr. PEARCE addressed the Senate. His remarks will be published in the Appendix.

Mr. BENJAMIN. I will state that I examined the subject. A bill was introduced by Mr. Webster on the last evening but one of the session, in 1834. It passed the Senate immediately, and was sent to the other House, and concurred in immediately; and, as I understand from the report in the Globe, it was a gratuity by the Government, for the gallantry shown on that occasion, of a sum of money to be distributed *pro rata*, as if it were prize money, among the captain and crew.

Mr. BELL. That is a material consideration with me. I have voted for this bill heretofore; but I had understood that that was given in consideration of that amount, at least, which was due to the brig General Armstrong for the captures of British vessels prior to her destruction.

Mr. FESSENDEN. There was no occasion for a law authorizing the distribution of prize money to the parties. The act is entitled "An act to distribute a sum of money among the officers and crew of the General Armstrong." It is to be distributed as prize money; but that, as suggested by the Senator from Maryland, is merely showing the mode of distribution. It was not prize money that they were entitled to. If there was so much money due them for prize money, there was no need of a law to authorize its distribution.

Mr. BELL. I have voted for this bill steadily heretofore; but one of the grounds upon which I have given my vote was, that I thought it was a proper case for such a gratuity. I should have supposed that it ought to have been a larger amount than $10,000, if that is what the appropriation was made for.

The honorable Senator from Maryland says that the intimation of the Senator from Michigan was rather extravagant; that we ought, as a gratuity for the gallantry of the officers and crew of the brig General Armstrong, to make this appropriation of money; but, sir, I think that the Senator, by a little inquiry, will find that it has been the habit of this Government to make gratuities of that kind, in consideration of the extraordinary gallantry and achievements of our naval force, and also of privateers. Why, sir, the Guerriere was destroyed by the Constitution. The officers and crew of the Constitution had no right to prize money for that gallant achievement in virtue of having captured the Guerriere; but Congress, I believe, granted them one half of the supposed value, at least, of what was lost—$100,000; and I think that, during the war, it was a common occurrence for the Congress of the United States to vote large gratuities for extraordinary gallantry and achievements in the Navy.

I confess that in this I have been influenced somewhat by that idea of a sound public policy upon which a gratuity voted by Congress may be placed, looking upon this as a highly proper case for the Congress of the United States, when they have the ability, when they have ample means, to vote such a gratuity. If there were no other considerations, why should we not, on that of the uncommon gallantry of the officers and crew of the General Armstrong alone, do to them as we did to others? But, if the $10,000 was supposed to be a sufficient gratuity, and that was the ground upon which the appropriation was made, the question would arise, very properly, whether it would be right to go into the subject again, and enlarge the gratuity.

I confess, however, that I had strongly in my mind, other feelings, outside of the legal questions—the questions of public law which have been presented, and so ably and ingeniously argued by Senators on both sides. I think I stated at the last session of Congress, that there is no question upon the subject of public law applicable to this case. I think I was pretty clear that it is not a claim upon this Government *stricti juris*. It cannot be made out. The Government is not obliged to go to war to exact it from Portugal. I admit that; and perhaps there may be considerations connected with it which exonerate Portugal from any liability to this Government. If a Government, claiming to be a free and independent State, and one of the family of nations, neglects to do all in her power to prevent such an aggression upon her rights in her borders, and the vessel of a nation with whom she is in amity is pursued, captured, and destroyed, under circumstances that show any connivance, or any withholding of the power, that is a case in which the injured Government might make a *casus belli*. One question might arise here, whether, in fact, the Government of Portugal did do all in its power? This brig was brought after the first fire, and when the boats of the enemy approached, under the very guns of the fort, but not a gun was fired from the fort in her protection. All that we see in the papers is the remonstrance of the Governor to the British commander-in-chief, after the second attack, or before the second or third attack, at four o'clock in the morning. Here were the means in the power of the Governor of Fayal to prevent the armament that was brought to bear upon the brig General Armstrong from destroying her. In the British fleet there was one large class frigate, and one or two sloops-of-war; in fact it was a squadron that was fitted out for the purpose of strengthening the British armament, which had already been sent for the purpose of capturing New Orleans. The vessels were too large to get into the harbor, with the exception of one small brig. This brig, under the very guns of the fort, was permitted to bring herself alongside the brig General Armstrong, to wage battle against her, after the gun-boats had attacked her. As the Governor of Fayal states, in his remonstrance, he counted twelve boats fully armed, with their full complement of men. At the second attack they were defeated. Between three and four hundred men were killed, and several boats were sunk. In three of them, he states, he could not see a man, and he saw the whole transaction; but after that they sent an armed brig or sloop-of-war from the British squadron, which went alongside of the brig General Armstrong right under the fort, and not a gun was fired from the fort in protection of the General Armstrong. But the commander-in-chief of the British force intimated and said that, if a gun was fired from the fort, or any step was taken to protect the General Armstrong, he would consider it a hostile act towards Great Britain, and treat the Government of Portugal accordingly. Under this threat, sir, it was that no opposition was made by the Portuguese Governor to prevent the capture or the destruction of the General Armstrong, which was lying right under the guns of the fort, where the larger vessels of the British squadron could not approach, and could be of no use against her. He had it in his power, but for this threat of ultimate vengeance, to prevent the capture, and that prevented him.

But, Mr. President, I will throw that out of view in stating the grounds on which I have been influenced to support this bill. I have no peculiar friendship, or anything else for any of the claimants. I have no particular interest in the bill at all, except such as I can derive from public considerations, and public policy, and public justice. I shall not occupy the time of the Senate in reading all the papers connected with this case; but the idea of the American brig commencing the aggression is indignantly spurned in the communication of the Governor of Fayal; and not only in the communication which he sends to his own Government, but wherever else he has spoken of it he characterizes it indignantly as an atrocious outrage on the part of the British. He speaks of it so to his own Government. This is admitted by the honorable Senators who oppose the bill; and, Mr. President, I think it is right to refer to one sentiment which is contained in the communication of the Governor of this Island to his own Government upon this subject. It is as follows:

"His Excellency will likewise observe the base attempt of the British commandor at the time he commenced the unprovoked attack on the American privateer, to attribute those violent measures to the breaking of the neutrality on the part of the Americans in the first instance, by repelling the British armed barges that were sent for the purpose of reconnoitering that vessel, advocating, with the most manifest duplicity, that they were consequently the aggressors."

That was the language of the Portuguese Governor. It was the language which was addressed to his own Prince Regent. It was the language which was addressed to the British minister, Lord Strangford, and authorized to be communicated to the British Government at home. He characterizes it as a "base attempt," "duplicity," a pretext to shelter themselves against the charge of a violation of public law upon that occasion, by attributing to the American brig the first aggression. Sir, the Governor, in his communication, states that he saw the whole "tragedy," as he calls it, from beginning to end, until the last attack of the boats at four o'clock in the morning. After one or two abortive attempts they brought the brig to bear upon the General Armstrong right under the fort. That was in daylight, after the tragedy, as he designates it, and the outrage of the preceding night. He saw it. He states the number of boats; there were three or four out of the twelve boats in which, after the second attack, he could not see one man left. They were destroyed by the gallantry of these one hundred Americans against five hundred of the enemy, at least. Sir, there is scarcely a transaction in American annals which displays such courage as was manifested by the officers and crew of the brig General Armstrong, on that occasion.

Here is this fact: we prosecuted this claim urgently for forty years against Portugal. Was there ever an American Minister or a Portuguese Minister who did not understand that this was a claim in fact, and indirectly prosecuted, against the British Government? Why, sir, how was the Portuguese Government then or now situated? I have not recently read much in the history of the diplomatic connection between the Government of Great Britain and Portugal; but it is little different from the protectorate which Great Britain sets up over other Governments. The Government of Portugal has existed for a quarter or half a century, under the protection of Great Britain. Her treaties are all formed in conformity with British commercial policy. There has been a greater degree of dependence on Great Britain on the part of Portugal, than of any Power in the family of nations. We knew that. We have prosecuted this claim, then, sedulously and earnestly, as the honorable Senator from Delaware has said; we even went so far as to threaten war, or rather the Executive stated that he should feel it to be his duty to make a communication to Congress; and thus we had almost, in prosecuting the claim, gone to the verge of a declaration of war against the Government of Portugal. We had claimed this amount for forty years. We had claimed the indemnity for forty years. It was against British diplomacy; it was against British interest and British feeling; it was in opposition to those feelings, that this claim was prosecuted by the Government of the United States. We knew it; our Government knew it; because all the time such a relation existed between Portugal and Great Britain, that the moment Portugal conceded the indemnity claimed by the United States, the British Government would have indemnified her, and the British Government did pay the damages to private property which were caused by the attack on the brig General Armstrong. They injured private property—some buildings and other property, I forget of what particular kind—and in addition to that, a woman, having five children, was struck and killed by a ball from the brig that went in alongside the General Armstrong.

But, sir, upon the remonstrance of the Portu-

guese Government, the Government of Great Britain, after a time, did make indemnity for the damages done to the Portugese Government in the private property which was destroyed by that attack on the General Armstrong. Our Government prosecuted this claim for forty years, feeling and knowing all the time that we had to encounter all the weight of British diplomacy and British interest, and British character, if you please, to some extent. It was a point of honor with Great Britain to defeat it. If Portugal had thought proper at any time, to pay the claim to us, such were the relations existing between the two countries that Great Britain would have indemnified her.

Now, sir, the question has been so managed that at the end of forty years we referred the subject to the President of the French Republic. He made a decision which I must say, under the circumstances, is a most preposterous one. He did not assume that the Government of Portugal was not responsible to this Government, according to the public law which has been read by the honorable Senator from Maryland, from Wheaton; but he takes the preposterous position that the American brig was the aggressor upon the British boats that entered the harbor. He made this decision in the face of the declaration of the Governor of Fayal himself that the whole conduct of the British was outrageous, and it was a base act of duplicity on the part of the commander of the British squadron to set up any such pretext. In defiance of this authority, the referee takes the position that the American brig was the aggressor.

Now, sir, ought we not in vindication of our own candor, and honor, and common sense, to pay this claim? We pressed it almost to the point of war against Portugal, and at last it was decided decided against the United States upon a false issue; on the ground that, in fact, the American brig was the first aggressor, although there was never before any pretense of that sort. We have the declaration of the Portuguese Governor of the Azores, who witnessed the whole transaction, that this was a mere pretense, an indecent pretext set up by the British commander to shelter himself from the responsibility of making an attack under such circumstances. Ought we now to allow it to be considered as settled on such a preposterous ground as that upon which it was decided in deference to British interest, and British feeling, and British character? Does it not become the American Government to vindicate its honor and sincerity by the passage of this bill? I think it comes down to a *question* of common sense. Surely this Government deceived the parties when it prosecuted their claim, if, according to the decision of the President of the French Republic, the evidence is patent that the Americans were the aggressors in the contest. Should we let it drop and not pay one cent under such circumstances? That, perhaps, is not a feeling upon which, alone, it would be sufficient to stand in regard to the question, whether this bill ought to pass or not; but it has entered into my consideration.

Mr. FESSENDEN. I have a few words to say in consequence of what has fallen from the honorable Senator from Tennessee. He bases his proposed action on this bill on the idea that we ought to make compensation for the gallant services of these parties. Well, sir, in the first place, we have made compensation. If it be not so much as we ought to make, yet it is partial compensation. In the next place, this bill is not intended solely to compensate them for those gallant actions which have been so often alluded to. It is a bill to pay the value of the vessel and outfit, for which I hold the owners have no claim whatever; and besides that, it is a bill to pay for the anticipated profits of the voyage.

Mr. BELL. Does that appear on the face of the bill?

Mr. FESSENDEN. It appears on the face of the bill that it is limited to $131,600, and, as the honorable Senator from Louisiana [Mr. BENJAMIN] showed the other day, it is a clear intimation on the face of the bill that we are willing to pay not only for the gallant services of the officers and crew, but also for the value of the vessel and her outfit, and for the loss of the anticipated profits of the voyage. The amount can be reached in no other way. It is $40,000 for the vessel and outfit, and $50,000, as the honorable Senator from Louisiana stated, for the anticipated profits. Now, if this bill can be so changed as to allow a reasonable sum of money as compensation to the officers and crew for their gallantry on that occasion, I shall be as ready to vote for it, if the sum comes within my view of what is right, as anybody; but I am not willing, on the case here made up, to pay the officers and crew, to pay for the vessel and outfit, and also to pay $50,000 for the anticipated profits of the expedition.

I have a word or two to say as to the question of law in this case. It is stated in a communication made by Mr. Kavanaugh to the Portuguese Minister for Foreign Affairs, that the Governor of the port of Fayal did not conceive himself able to resist the force that might be brought to bear upon him if he interfered. The British commander had signified his intention to destroy that vessel at all events. The Governor remonstrated over and over again; but he could not prevent the attack. There was a large British fleet lying at anchor, and that fleet could have been brought so as to have its guns bear on the town. In order to save the property and the lives of the subjects of Portugal, the Governor concluded he would offer no resistance. That is a sufficient justification for Portugal at any rate; but I go further, and say that in no book on public law anywhere, by any author, according to my belief—and I have examined several—can you find an intimation that it is the duty of one neutral Power, under such circumstances, to resist by force. The only thing you can find in the books on the subject, is, that the neutral Power under such circumstances, has a *right* to fire upon the force, whatever it is, that violates its neutrality; but nowhere is the proposition advanced that it is the *duty* of the neutral, under the law of nations, to do so. This is for the plain reason that they are not obliged to enter into the fight unless they choose to do so.

Sir, let me illustrate this idea by a supposition. Suppose the case of a squadron lying in a neutral port about to make an attack upon a belligerent vessel in that port. Her commander says to the governor of the port, or commander of the fortress or town, or whatever it is, "If you resist, I will burn your town and slaughter your people; but if you keep still, you shall not be harmed." Will anybody pretend that the neutral Power is bound, under such circumstances, to expose the property and lives of its citizens or subjects to an attack, and to all the consequences which might follow it? Sir, there is no such doctrine.

The idea in the law of nations of the inviolability of neutral territory is founded solely on the rights of the neutral, and not on the rights of the belligerents. The belligerents have no right, unless to insist that the neutral Power does not interfere in favor of either party. To be sure, if this is carried to a point of subserviency, there may be ground to consider it a *casus belli;* but if the neutral acts in good faith, simply withholding any armed resistance is not a ground of complaint. I say then there was no ground whatever for the claim made upon Portugal of pecuniary responsibility; and I think, if Senators will look at the question, they will find that it has been decided by the highest authority, that a belligerent whose property has been taken in neutral territory, has no claim, except upon the neutral, when the property gets into the hands and power of the neutral, to have it restored. The neutral has a right to interfere, and demand that it be given up; but the belligerent has no such right, for, within the law of nations, belligerents may fight wherever they meet, and if they fight on neutral territory, it is an outrage on the neutral Power, but not on each other.

In my judgment, therefore, the question stands in this light: It is no matter whether the Prince President of France decided the case wrongfully on the ground which he assumed. If he decided it erroneously on the point stated, and the decision was right on any ground, the honorable Senator from Delaware [Mr. CLAYTON] knows well—nobody knows better—that it stands. Where a proper judgment is rendered, although it may be on a wrong point, the appellate court does not reverse the decision, if it be manifest, from the whole record, that the decision was right. At any rate, such is the law in my section of the country. Hence, if the Prince President had simply said, as he might have said, there was no ground in the beginning for this claim on Portugal, he would have taken a position sustainable by every principle of public law. I am not of opinion, upon my examination of the matter, that his decision was wrong, even on the facts. At any rate, he had the whole subject before him, which we never have had. We have had only one side before us.

Mr. BAYARD. I shall not detain the Senate by an argument on the question which has just been renewed by the honorable Senator from Maryland, and the honorable Senator from Maine, as to what are the obligations of a neutral Power to either of the belligerents at war. Those honorable gentlemen appear to have consulted the writers on the laws of nations on that point. I have not read those authorities for many years; I have never read them in reference to this case. I feel no doubt, however, that if I had time for the investigation, though I might not find the principle which I stated asserted in direct terms, I could find such principles stated as would lead to the inevitable corollary that protection was due. Indeed, I think that, from the quotation made by the Senator from Michigan, [Mr. CASS,] that inference must necessarily be drawn; and in the very nature of things, it must be so. I will point out the delusion of the argument, as it seems to me, of the Senators from Maine and Maryland.

I admit as fully as they do that, as between belligerents, there is no right to claim indemnity for losses, although the laws of war may be violated by the attack of one belligerent on another in a neutral port. I admit that, because the law of war as between belligerents is the law of force, and no right can accrue during war in favor of one of them against the other. But that the attack of one belligerent upon another within neutral territory, is a violation of the laws of nations, nobody can deny. It is a violation of the right which, under the law of nation, the other belligerent has to be exempt from warfare within neutral territory. I admit, unhesitatingly, that it is a right which adheres to the neutral nation, and can only be asserted as against the belligerent power who commits the wrong, through the neutral nation.

But I say, sir, this further doctrine is the inevitable corollary from it: that if a nation assumes the character of a nation, and the rights and exemptions of a neutral under the laws of nations, she is bound to perform the duties of a neutral, and one of those duties is the protection against wrong of other nations within her territorial jurisdiction. If she fails, even from weakness, to redress those wrongs, she can at least compensate them by paying damages for the individual injury.

Now, take the remark which was read on a former occasion by the honorable Senator from Michigan, from Wildman's International Law. I will not detain the Senate further than to read it, and state the inference which I draw from it:

"The capture of ships within the territory of a neutral State, or within three miles of the coast, or the capture of ships beyond the territory by boats within the territory is illegal, with respect to the neutral sovereign, but not with respect to the enemy. The privilege of territory will not of itself inure to the protection of property; unless the State from which that protection is due, steps forward to assert the right, it is not competent to the party to whom the property belongs to avail himself of that plea."

I admit no claim could be made in this case by the injured American citizens on the British Government for the belligerent act, though that belligerent act might be a violation of all the usages of war, and of the laws of nations. But, sir, if protection is due from the neutral to the other belligerent, and the nation is too weak to afford the protection, is it not a necessary corollary that she is to compensate for the loss? We look for our redress to the nation that outrages our rights. It seems to me that the laws of nations must be treated as mere laws of force, if that is not the true doctrine. It is a necessary result, the moment you admit that protection is due from the neutral nation to a belligerent attacked in its ports, if the nation is too weak to give the protection, she is not too weak to compensate for the loss.

Mr. STUART. I should like very much to reply to some arguments which have been made in favor of this bill; but, sir, the honorable Senator from Louisiana [Mr. SLIDELL] assured us this morning that the friends of the bill were not to discuss it, and I dislike to extend his responsibility any further. He has suffered a great deal already, and if he is to furnish the remedy, he has made himself responsible for very large damages. I hope we shall be permitted to vote on this question now.

Mr. TOUCEY. I do not rise for the purpose

of entering into any discussion in regard to this bill. I have listened very attentively to the arguments that have been presented in its favor, and I will only say that I have not been able to discover any ground of public law applicable to the facts of this case, upon which the Government can be held liable. I say this merely for the purpose of stating generally the principle on which my vote is based.

The question being taken by yeas and nays on the motion to reconsider, resulted—yeas 24, nays 17; as follows:

YEAS—Messrs. Adams, Allen, Benjamin, Brainerd, Butler, Chase, Clay, Dawson, Evans, Fessenden, Fitzpatrick, Gillette, Hamlin, Hunter, Jones of Tennessee, Pearce, Pratt, Stuart, Sumner, Thompson of Kentucky, Toucey, Wade, Walker, and Wells—24.

NAYS—Messrs. Bayard, Bell, Brown, Clayton, Dodge of Wisconsin, Dodge of Iowa, Douglas, Geyer, James, Jones of Iowa, Morton, Pettit, Rusk, Seward, Slidell, Weller, and Wright—17.

So the motion to reconsider was agreed to; and the question recurred on ordering the bill to be engrossed for a third reading.

Mr. CLAY. As a test question, I move that the bill lie on the table.

Mr. SLIDELL. Will my friend from Alabama withdraw that motion to allow me to make a remark?

Mr. CLAY. Yes, sir.

Mr. SLIDELL. My colleague stated that he was in favor of granting some compensation to the claimants under this bill, and he signified his intention, if the bill should be reconsidered, of presenting an amendment to that effect. I think an opportunity should be afforded for the presentation of that amendment, and that it may be acted on without discussion.

Mr. BENJAMIN. I stated that I was willing to vote for a substitute for the bill, by way of amendment, which should give a reasonable sum of money to the captain, officers, and crew, (nothing to the owners,) as a testimonial by Congress for their services. I am willing to vote for such an amendment now. I understood the friends of the bill had in their possession an amendment drawn up for that purpose.

Mr. CLAY. If no amendment of that kind be offered, or if no gentleman alleges that he has such an amendment, I will renew the motion. I move that the bill lie on the table; and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. SLIDELL. Before the question is taken, I will state that the Senator from Virginia, whom I do not now see in his seat, [Mr. MASON,] has prepared an amendment to that effect. I presume he can be sent for to his committee room, where he probably is at present.

Mr. BAYARD. I have the amendment which is referred to, and I will now offer it if it be in order.

The PRESIDENT. It cannot be received, as the pending question is a motion to lay on the table, on which the yeas and nays have been ordered.

The yeas and nays were taken; and resulted—yeas 22, nays 19; as follows:

YEAS—Messrs. Adams, Allen, Brainerd, Butler, Chase, Clay, Dawson, Evans, Fessenden, Fitzpatrick, Gillette, Hamlin, Hunter, Jones of Iowa, Jones of Tennessee, Pearce, Pratt, Stuart, Sumner, Toucey, Wade, and Walker—23.

NAYS—Messrs. Bayard, Bell, Benjamin, Brown, Clayton, Dodge of Wisconsin, Dodge of Iowa, Douglas, Geyer, James, Mason, Morton, Pettit, Rusk, Seward, Slidell, Thompson of Kentucky, Weller, and Wright—19.

So the bill was ordered to lie on the table.

Mr. JONES, of Iowa. I voted with the majority on this motion for the purpose of moving a reconsideration. I now move to reconsider the vote, as I understand the Senator from Virginia has a proposition to submit as a compromise, which, I believe, will be agreed to by the gentlemen on both sides.

Mr. WELLER. Let the notice for reconsideration be entered.

Mr. JONES, of Iowa. There are several friends of the bill absent, and a test vote now would not be just to them.

Mr. CLAYTON. There are several friends of the bill out of their places to-day. It is believed by its friends that there is a decided majority of the Senate in its favor. I trust my friend from Iowa will have no objection to allowing his motion to lay over until to-morrow.

Mr. JONES, of Iowa. Certainly not. I make the motion to reconsider, and now I move that the further consideration of the subject be postponed until to-morrow.

The motion was agreed to.

MOORE AND HASCALL.

Mr. STUART. I wish to ask the attention of the Senate, for a few minutes, to a matter which, I think, can be disposed of readily. It will be recollected that, at the last session, I made a motion to reconsider the vote on the bill for the relief of Hiram Moore and John Hascall. Much discussion originated at that time between the honorable Senator from Wisconsin [Mr. WALKER] and myself, on the character of that bill. I propose now, if the Senate will reconsider the vote, to adopt the suggestion then made by that Senator, and offer a substitute, which simply applies to the original patent, to the extension of which, I understand, there is no objection. I move to take up the bill for the purpose of submitting that amendment.

The motion was agreed to; and the Senate proceeded to consider the bill.

The PRESIDENT. The question is on the motion made at the last session, by the Senator from Michigan, to reconsider the vote by which the Senate refused to order the bill to be engrossed for a third reading.

The motion to reconsider was agreed to.

Mr. STUART. I now move to strike out all after the enacting clause of the bill, and insert the following, as a substitute:

That the Commissioner of Patents be, and he is hereby, authorized and required to hear and consider the application of Hiram Moore, for the renewal and extension of the letters patent granted to the said Hiram Moore and John Hascall for improvements in harvesting grain, dated June 28, 1836, in the same manner and upon the same principles as if he was applying under existing laws for the extension of an unexpired patent, and to refuse a renewal of said patent, or to revive and extend the same for the term of seven years from and after the passage of this bill, or to the 28th of June, 1864, as in this respect he shall think just and proper: *Provided*, The said Hiram Moore shall first, and within six months, pay into the Treasury to the credit of the patent fund the fees required by law for the extension of patents: *Provided, also*, That no person shall be held under this act in any way accountable for the use or sale of any machine now made or which may within six months from the passage of this act be made or sold for use. And all rights and interests in said patent heretofore granted or assigned by said patentees, shall inure to and be enjoyed by said assignees respectively during the renewed term of said patent, upon the same conditions and to the same extent as during the term that did exist when such sale or assignment was made.

Mr. DAWSON. I ask that this bill may be postponed until I can look into the question, and see its bearing. It is known that there is a conflict between these gentlemen and others claiming a renewal of patents for similar machines. The amendment has just been presented, and I really cannot fully comprehend its provisions. I ask that the amendment be printed, and that the subject be postponed. I am willing to agree to take it up to-morrow if the Senator desires that.

Mr. STUART. I have no objection to the bill being laid over for the purpose of allowing Senators to ascertain what are its contents. I had supposed, however, that the nature of my substitute was generally understood—that it was simply to authorize the Commissioner of Patents to take into consideration the propriety of renewing the original patent without any improvements at all; but if the Senator desires that it shall lie over I have no objection.

Mr. DAWSON. The patent of McCormick relates to the same matter, and ought to be placed on the same footing.

Mr. STUART. I hope this bill will be postponed to some time when we can reach it. I suggest, if it will suit the pleasure of the Senator, that it be postponed until Monday.

Mr. DAWSON. Very well.

The motion was agreed to.

CYRUS H. M'CORMICK.

Mr. FESSENDEN. I move that the bill to extend the patent of Cyrus H. McCormick be made the special order for the same time.

The PRESIDENT. The bill which has just been disposed of was not made the special order; it was simply postponed till Monday.

Mr. FESSENDEN. I wish the other to be postponed until the same time. I suppose, by being postponed, it becomes a special order.

The PRESIDENT. Not unless by a vote of the Senate.

Mr. FESSENDEN. I move to take it up at any rate, in order that it may be postponed till the same time. It is proper that both bills should go together. It is now exactly in the same condition that it would be if postponed.

Mr. STUART. We can take it up just as well.

Mr. BENJAMIN. I hope the Senate will not make any order in favor of private business until next Friday.

The motion to take up the bill was agreed to; and it was postponed until Monday.

GILBERT C. RUSSELL.

Mr. CLAY. I ask the Senate now to take up House bill for the relief of Gilbert C. Russell, which has been reported on favorably by the Committee on Claims. It has been the subject of investigation by the First Comptroller of the Treasury, Mr. Whittlesey, and by the Fifth Auditor; and has been approved by them. I do not suppose there will be any opposition to it.

The motion was agreed to, and the bill was considered as in Committee of the Whole. Its object is to direct the Secretary of the Treasury to cause to be paid to Gilbert C. Russell, of Alabama, $20,000, in full satisfaction for all claims and demands, of every description, in his favor, against the Government, growing out of, or in any manner connected with, the construction of the fort at Mobile Point, Alabama.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

RICHARD ALBRITTON.

Mr. SLIDELL. I ask the indulgence of the Senate to take up a bill which has been reported from the Committee on Private Land Claims for the relief of Richard Albritton. It will certainly lead to no discussion. It is the first occasion, at this session, on which I have asked the Senate to deviate from the regular order of business. I will state, that the honorable chairman of the Committee on Private Land Claims [Mr. PETTIT] is perfectly stringent in his examinations, and everything which he approves of the Senate may adopt without any hesitation.

The motion was agreed to, and the bill was read a second time, and considered as in Committee of the Whole.

It will authorize Richard Albritton to locate, free of cost, six hundred and forty acres of land upon any of the public lands belonging to the United States, subject to private entry, at the minimum price, in full compensation for a private land claim for six hundred and forty acres, reported for confirmation by James O. Crosby, commissioner, under date of June 7, 1813, and confirmed by the act of Congress approved March 3, 1819.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JABEZ B. ROOKER.

Mr. WADE. I move to take up the bill for the relief of the heirs of Jabez B. Rooker, deceased. It is a very meritorious case, and the bill had the unanimous consent of the Committee on Claims.

The motion was agreed to, and the bill was read a second time, and considered as in Committee of the Whole.

Its object is to direct the proper accounting officers of the Treasury to settle and adjust the accounts of Jabez B. Rooker, deceased, late clerk to the Commissioner of Public Buildings, and to allow him at the rate of $900 per annum for the time he was actually employed subsequent to March 3, 1843. The amount so found due, after deducting all sums paid to him for his services during that period, is to be paid to his surviving children.

No amendment being proposed, the bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

E. R. S. CANBY.

Mr. PETTIT. I move to take up Senate bill for the relief of Lieutenant Colonel Edward R. S. Canby. It is a small matter, and I suppose there will be no objection to the bill.

Mr. MASON. I have endeavored for some time to get the floor, but have yielded it to other gentlemen until so much time has elapsed that I

fear we cannot effect the object which I wish to accomplish by going into Executive session. I trust the Senate will now go into Executive session, and I must, therefore, ask that the bill be not taken up.

Mr. PETTIT. I will most cheerfully sit until after the Executive session shall be over, but I hope the Senator will allow me to get this bill passed.

Mr. MASON. I am satisfied of that, but other Senators, whose affairs are pressing, are leaving the Chamber.

Mr. PETTIT. We shall not need a quorum for the Executive business.

The motion to take up the bill was agreed to; and it was considered as in Committee of the Whole.

It provides for the payment to E. R. S. Canby of $2,000, in full compensation for his services as custodian and translator of the public archives of California, and for arranging, and, in part, indexing them.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EZRA CHAPMAN.

On motion by Mr. EVANS, the Senate, as in Committee of the Whole, proceeded to consider House bill for the relief of the widow and children of Ezra Chapman, deceased.

It is to authorize the proper accounting officers to pay to the lawful administrators of Ezra Chapman, late of Tolland, Connecticut, deceased, for the benefit of his widow and children, $840 being the aggregate amount of seven years' half-pay of Ezra Chapman, who was an ensign in the Army of the Revolution, and died in the service of the United States, September 1, 1778.

Ezra Chapman, sen., on the 6th day of August, 1777, entered into the service of the Army of the Revolution as an ensign, commissioned by Congress, in Captain Horton's company, Colonel Baldwin's regiment of artificers, and continued in the office of ensign until the 1st day of September, 1778, when he died. He left a widow and one son, the memorialist, then about five years of age; the widow soon after his decease, married Elihu Marvin, and died in the year 1788, without leaving any other child; and neither she, Marvin, nor the memorialist, nor any other person for them, or either of them, has ever received the seven years' half-pay, to which the widow, or, in case of her marriage, the orphan child, became entitled by virtue of the resolution of Congress, passed the 24th day of August, 1780.

No amendment being proposed, the bill was reported to the Senate, and ordered to a third reading. It was read the third time, and passed.

FERDINAND CLARK.

Mr. HAMLIN. I move to take up House bill for the relief of Ferdinand Clark. It is a private bill which interests the constituents of my friend from South Carolina; but as it was reported from the Committee on Commerce, the parties have applied to me, as a member of that committee, to look after it. As I may not be here another day when private bills are considered, I hope the Senator from Virginia will not object, and that the Senate will indulge me in taking up the bill.

Mr. MASON. I yield to the Senator from Maine. I am aware of the circumstances which may compel him to leave the city. I hope his motion will be agreed to. But I trust that I may not be asked hereafter to forego my motion.

The motion was agreed to, and the bill was considered as in Committee of the Whole.

It proposes to refund the duties imposed by the act of June 30, 1834, entitled "An act concerning tonnage upon Spanish vessels," on the Spanish brig Conde de Villenueva, Captain Carlos de Agao, and paid to the collector of the port of Charleston, in South Carolina, previous to the clearance of the vessel from that port for Cuba, on the 11th of September, 1835, with a cargo of rice and lard, as the brig was wrecked on the coast of Florida, on the 17th of the same month, and lost, with the greater portion of her cargo.

Mr. STUART. If that is the bill I think it is—one that came from the Committee on Commerce—it is one which ought to receive the careful attention and vote of the Senate, because it involves a very important question.

Mr. HAMLIN. I supposed the Committee were unanimous in the report. I do not ask for any hasty decision of it. Let it be passed over.

Mr. MASON. I move that the further consideration of the bill be postponed until to-morrow, with the view of going into Executive session.

The motion was agreed to.

EXECUTIVE SESSION.

On motion by Mr. MASON, the Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened,

And the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 9, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a communication from the President of the United States, transmitting a report of the Director of the United States Mint, showing the operations of the Mint and its branches during the past year.

Mr. CHANDLER. In reference to that communication, I offer the following resolution:

Resolved, That in addition to the usual number of the message of the President of the United States, communicating the annual report of the Director of the Mint, in connection with the letter of the Secretary, communicating a report upon the fineness of foreign gold and silver coins, there be printed five hundred copies for the use of the Director of the Mint.

I suppose the bill will go to the Committee on Printing.

The SPEAKER. The communication will be laid upon the table, and the usual number printed. The resolution for extra copies will go to the Committee on Printing.

The SPEAKER also laid before the House a communication from the War Department, transmitting, in compliance with a resolution of the House of Representatives of the 3d instant, copies of dispatches and other information received by that Department, and on file in that Office, relating to the engagement which took place near Fort Laramie between a detachment of the United States troops and the Sioux Indians; which was laid upon the table, and ordered to be printed.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; which were thereupon signed by the Speaker:

An act to divide the State of Ohio into two judicial districts, and to provide for holding the district and circuit courts of the United States therein;

An act for the relief of John Steene;

An act for the relief of Samuel A. Belden & Co.; and

An act to provide for the ascertainment and satisfaction of claims of American citizens for spoliations committed by the French Government prior to the 21st of July, 1801.

DIPLOMATIC AND CONSULAR SYSTEM.

Mr. CHANDLER. I desire to inquire of the Speaker whether the bill to reform the diplomatic and consular system is the business regularly in order this morning?

The SPEAKER. The first business regularly in order is the disposition of private bills upon the Speaker's table. After they shall have been disposed of, it will then be in order to call the standing committees for reports of a private character.

Mr. COBB. I call for the regular order of business. It will not take more than five minutes to dispose of the bills upon the Speaker's table.

Mr. CHANDLER. I wish to know whether I have not the floor to proceed with my remarks upon the diplomatic and consular bill?

The SPEAKER. The gentleman has the floor upon that bill when it comes up; but this being private bill day, it is not the business regularly in order.

Mr. CHANDLER. I hope, then, I shall have the unanimous consent of the House to dispose of this bill. I will waive what remarks I had intended to make, and will call the previous question at once.

Mr. COBB. Let these bills be referred first. It will not take five minutes.

Mr. LILLY. I object to the proposition of the gentleman from Pennsylvania, for the reason that he proposes to call the previous question. My colleague [Mr SKELTON] desires to submit some remarks upon the subject of that bill.

Mr. CHANDLER. I understand he does not.

Mr. LILLY. He has told me over and over again, that he desires to do so. He is absent necessarily this morning, and I must object to action being taken on the bill in his absence.

Mr. PERKINS, of Louisiana. I will state to the gentleman, that Mr. SKELTON told me yesterday that he had given up his intention of speaking on this bill, and had no objection to its being taken up in his absence.

Mr. LILLY. Then, of course, with that understanding, I have no objection.

Mr. COBB. I think it would be better to refer those private bills on the Speaker's table first.

The SPEAKER. After that the call of committees for reports of a private character will be in order.

PERSONAL EXPLANATION.

Mr. FAULKNER. I cast a vote on Monday last which has been the subject of extensive misrepresentation throughout the district which I have the honor to represent on this floor, and as I was precluded by the previous question from making, at the time, any remarks explanatory of my vote, I ask the indulgence of the House, now, to make a very brief personal explanation.

I allude, sir, to the vote which I gave in opposition to the motion of the gentleman from Pennsylvania, [Mr. WITTE,] asking a suspension of the rules, to enable him to submit some resolutions condemnatory of religious intolerance and of secret political associations. My vote refusing to suspend the rules for the purpose indicated, has been most strangely misconceived and misrepresented, as evidencing on my part, either membership of, or sympathy for, the associations sought to be assailed by those resolutions. I repudiate all such inferences from my vote as false, illogical, and destitute of the slightest foundation in truth.

I cast that vote in view of the condition of the business of this body, and in view of my responsibility to the country, as chairman of one of the committees charged with the business of this House. It is well known, sir, that I have had in my possession, for weeks, bills relating to the increase and reorganization of the Army, and to the military defenses of the country, of the highest and most urgent importance. It is equally well known that I have been, for weeks, struggling for a favorable opportunity of pressing these essential measures of national defense upon the consideration of Congress. But so far I have struggled in vain. I may further add, that I have been seeking an opportunity to report from that committee a bill for the relief of the officers and soldiers in the war of 1812, and other measures of legislation of interest to the country; but I have been frustrated in my efforts by the inexorable rules of the House, and by business which had acquired a precedence. I ask, sir, then, with what propriety could I have aided, by my vote, the introduction before this House, of resolutions such as those submitted by the gentleman from Pennsylvania, which, however sound they may be in their political teachings, propose no legislation whatever, by Congress; are merely declaratory of individual opinion, and would only lead to debate and a useless consumption of time that should be devoted to the urgent wants of the country? I ask, more especially, with what propriety could I record my assent to this waste of time, when that branch of the public service which has, in some measure, been specially confided to my care, was then, and is, at this moment, most greviously suffering for want of the legislation of this House? Sir, I thought it better to submit to a temporary misconstruction of my motives, than to exhibit such infidelity to the trust reposed in me.

The views which influenced my vote were, I believe, participated in by nearly every chairman of an important committee in this House, who manifested, by their course, the same repugnance that I did, to see the time of this body consumed in action upon mere abstract resolutions, when the necessities of the country so loudly called for practical measures of legislation. I may here refer

to the chairman of the Committee of Ways and Means, [Mr. HOUSTON,] to the chairman of the Committee on Foreign Relations, [Mr. BAYLY,] to the chairman of the Judiciary Committee, [Mr. STANTON,] to the chairman of the Committee on Public Lands, [Mr. DISNEY,] to the chairman of the Committee of Claims, [Mr. EDGERTON,] to the chairman of the Committee on Revolutionary Claims, [Mr. PECKHAM,] to the chairman of the Committee on Roads and Canals, [Mr. DUNHAM,] to the chairman of the Committee on Printing, [Mr. MURRAY,] and perhaps others who concurred in their vote with me; but of those gentlemen named, I can speak with confidence, as they all have seats near to me, and my opposition to the suspension of the rules was the result of a consultation between three of the gentlemen named and myself, founded upon the pressing condition of the business of the House.

Mr. Speaker, I will not abuse the courtesy which has been so kindly extended to me by the House, by indulging in any general remarks on the merits of the resolutions which were sought to be introduced by the gentleman from Pennsylvania. But I trust I may be allowed, in conclusion, to say that, although I did not, and will not, hereafter, under similar circumstances, vote for the suspension of the rules, yet, that I do not yield to that gentleman or to any other member of this body in my firm determination to maintain the rights of conscience, and the inviolability of the great principles of religious freedom. I am not, never have been, and never expect to be, a member of any oath-bound secret political association. I claim communion with but one political organization—and that is the great national Democratic party of this country—a party that has shown itself, after the most ample experience, broad enough to embrace all the vast interests of liberty and humanity, and strong enough to uphold by its firm and conservative grasp, the CONSTITUTION of my country and the UNION of these States.

The SPEAKER. The business first in order is the consideration of private bills upon the Speaker's table.

Mr. COBB. I am advised by many gentlemen around me that the withdrawal of my objection to the consideration of the diplomatic and consular bill will further the business of the House, by enabling us to dispose of a measure which has been hanging here for many days, and, as I understand that the gentleman from Pennsylvania intends to call the previous question, and get a vote upon the bill in a very few minutes, I will withdraw my objection.

DIPLOMATIC AND CONSULAR SYSTEMS.

No further objection being made, the House resumed the consideration of the bill to remodel the diplomatic and consular systems of the United States.

Mr. CHANDLER. Mr. Speaker, I have already indulged in some remarks upon this bill, and had prepared myself for others, but the whole subject has been so lucidly developed by the gentleman who presented the bill, and the impatience of the House is clearly such, to proceed to other parts of our legislation, that I am admonished by the feeling manifested here, that it is my duty to withdraw myself from the position of a speaker, and to call for the previous question on the bill before the House.

The previous question was seconded, and the main question was ordered to be put.

Mr. PERKINS, of Louisiana. The courtesy of the House has been such in this case that I feel it due, in behalf of the Committee on Foreign Affairs, to express its gratification at the position in which the bill is placed. It is proper that I should also state that the distinguished gentleman from Missouri, [Mr. BENTON,] who had it in view to give his experience of the foreign affairs of this Government in connection with this bill, has declined, out of regard for the time of the House, and in a conviction of the passage of the bill, as my colleague on the Committee on Foreign Affairs, the gentleman from Pennsylvania, [Mr. CHANDLER,] has done, to make any remarks. It is therefore no sacrifice on my part to forego the right which I have, under the rule, to close the debate. I would simply ask the attention of members to a few verbal corrections which I am instructed by the committee to present, and which do not, I will say, alter, in any respect, the principles of the bill; but are in the nature of additional guards, and purely verbal, excepting one, which is to insert Pictou as an additional consulate—a modification made necessary by the legislation of this House since the bill was originally introduced. The copy of the bill which I hold in my hand is corrected, as is also that upon the Clerk's table; and to the reading of these corrections I ask the attention of the House.

Mr. McMULLIN. I desire to ask the gentleman from Louisiana a question for my information, the answer to which shall have something to do in governing my vote. Will he permit me to do so?

Mr. PERKINS. Certainly.

Mr. McMULLIN. I desire to know from the gentleman from Louisiana, whether this bill will increase the expenditure in the aggregate on account of our foreign diplomatic representatives?

Mr. PERKINS. I have no right to make any extended remarks after having made the statement which I have just made to the House, and I shall, therefore, simply repeat what I have heretofore said, namely, that by the diplomatic portion of the bill the expenses of that branch will be considerably diminished, by the correction of existing abuses; and by the consular portion, the best calculation that I have been able to make, with the aid of those who have had experience in the consular service, is, that the actual expenses to the Treasury will be also reduced several thousands of dollars.

The alterations which I desire to have made in the bill are—first, fill up the blanks in the first page with the words "30th June next;" and second, strike out the words "reside in" at the close of the first page, so as to make the sentence read:

That from and after the 30th of June next, the President of the United States shall, by and with the advice and consent of the Senate, appoint representatives of the grade of envoys extraordinary and ministers plenipotentiary to the following countries, &c.

Strike out, in like manner, the same words—"reside in"—in the fourth line of the second section, and insert the like words—"30th June next"—in the blanks, so as to make the sentence read:

That from and after the 30th of June next, the President of the United States shall, by and with the advice and consent of the Senate, appoint secretaries of legation to the following countries, &c.

On the 3d page, after the word "Prussia," strike out "$1,500" and insert in lieu thereof "$2,000."

On the 4th page, twenty-third and twenty-fourth lines, strike out the words "Turkey, $1,500," "China, $3,000."

On the 6th page "Nassau" is left as one of those consulates where consuls are without power to trade.

On the 8th page, after the words "Turkish dominions," insert the words "Constantinople, $2,500."

On the 11th page, under the heading "Great Britain," strike out, in the fifteenth line, the words "Nassau, $1,000," (transferred to page C, as one of those consulates not allowed to trade.)

In twenty-third line, after the words "St. John's, New Brunswick," strike out "$750," and insert "$1,000."

On page 13, after the word "Zanzibar," strike out "$500," and insert in lieu thereof "$1,000."

On page 17, section 9, after the word "employed," insert the words "either as vice consuls, or consular agents, or"—

The section, as amended, reads:

And be it further enacted, That the President shall appoint no other than citizens of the United States, who are residents thereof, or who shall be abroad in the employment of the Government at the time of their appointment, as envoys extraordinary and ministers plenipotentiary, commissioners, secretaries of legation, dragomans, interpreters, consuls, or commercial agents; nor shall other than citizens of the United States be employed either as vice consuls or consular agents, or as clerks in the offices of either, or have access to the archives therein deposited.

On the 24th page, after the word "fees," in the twenty-fifth line, strike out the words "with the commissions," and insert in lieu thereof the words "for consular service, including all charges for extension of protest."

The section, as amended, reads:

SEC. 21. *And be it further enacted*, That the act of April 14, 1792, concerning consuls, &c., is hereby so amended that, if any American citizen dying abroad shall, by will or any other writing, leave special directions for the management and settlement by the consul of the personal or other property which he may die possessed of in the country where he may die, it shall be the duty of the consul, where the laws of the country permit, strictly to observe the directions so given by the deceased. Or, if such citizen so dying shall, by will or any other writing, have appointed any other person than the consul to take charge of and settle his affairs, in that case it shall be the duty of the consul, when and so often as required by the so-appointed agent or trustee of the deceased, to give his official aid, in whatever way may be necessary, to facilitate the operations of such trustee or agent, and, where the laws of the country permit, to protect the property of the deceased from any interference of the local authorities of the country in which he may have died; and to this end it shall also be the duty of the consul to place his official seal on all or any portions of the property of the deceased as may be required by the said agent or trustee, and to break and remove the same seal when required by the agent or trustee, and not otherwise; he, the said consul or commercial agent, receiving therefor two dollars for each seal, which, like all other fees for consular service, including all charges for extension of protest, as also such commissions as are allowed by existing laws on settlement of estates of American citizens by consuls and commercial agents, shall be reported to the Treasury Department, and held subject to its order.

After the twenty-fifth section insert a twenty-sixth section, as follows:

SEC. 26. *And be it further enacted*, That all acts and parts of acts authorizing *attachés* to any of our legations, the payment to ministers and consuls of the United States for outfits or infits, clerk hire, and office rent, be, and the same are hereby, repealed.

Make the following section twenty-seven instead of twenty-six.

Mr. PERKINS. These corrections being all made, I call for the previous question on the passage of the bill.

The SPEAKER. The Chair would call the attention of the gentleman from Louisiana to the fact that there are some more blanks for dates in the bill. How are they to be filled up?

Mr. PERKINS. These blanks are all to be filled up as those in the first section were, by inserting the words "30th June next," so as to make the act take effect from that date.

The SPEAKER. Is it the pleasure of the House that the alterations indicated by the gentleman from Louisiana be inserted in the bill?

[Cries of "Yes!" "Agreed!"]

The SPEAKER. The Clerk will proceed to read the amendments in the order in which they appear in the bill.

Mr. PERKINS. These are not amendments, Mr. Speaker; they are merely modifications or alterations. The question will be upon concurring in these modifications as reported by the committee.

The SPEAKER. A committee, however, can only report changes to a bill, or a substitute to a bill, in the shape of amendments, and the House must act upon them as on amendments.

Mr. PERKINS. I move that the bill be concurred in as a whole instead of in detail.

The question was taken on Mr. PERKINS's motion; and the report of the Committee was concurred in.

Mr. PERKINS. I now ask the previous question on the passage of the bill.

The previous question was seconded, and the main question was ordered to be put.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read a third time.

The question being on the passage of the bill,

Mr. JONES, of Tennessee. I call for the yeas and nays on that question.

The yeas and nays were ordered.

Mr. HENN. Before the question be put, I wish to ask the gentleman from Louisiana whether there is not a blank in the fourth section of the bill?

Mr. PERKINS. These blanks are all filled.

The question was taken; and it was decided in the affirmative—yeas 143, nays 33; as follows:

YEAS—Messrs. Abercrombie, Aiken, James C. Allen, Willis Allen, Appleton, Thomas H. Bayly, Banks, Barksdale, Barry, Bell, Bennett, Benson, Bliss, Bocock, Breckinridge, Bridges, Bristow, Bugg, Carpenter, Caruthers, Caskie, Chamberlain, Chandler, Chase, Chastain, Clark, Clingman, Cook, Corwin, Cox, Crocker, Cullom, Curtis, Cutting, John G. Davis, Thomas Davis, Dawson, Dowdell, Dunbar, Dunham, Eastman, Eddy, Edgerton, Edmands, Thomas D. Eliot, John M. Elliott, Ellison, Everhart, Farley, Faulkner, Fenton, Flagler, Gamble, Goode, Green, Greenwood, Grey, Grow, Andrew J. Harlan, Wiley P Harris, Hastings, Haven, Hendricks, Henn, Hibbard, Hill, Howe, Hughes, Hunt, Ingersoll, Johnson, J. Glancy Jones, Roland Jones, Kerr, Kittredge, Knox, Kurtz, Lamb, Lane, Letcher, Lilly, Macdonald, McQueen, Mace, Maxwell, May, Meacham, Middleswarth, Smith Miller, Millson, Morgan, Morrison, Murray, Nichols, Noble, Olds, Orr, Packer, Parker, Peck, John Perkins, Preston, Pringle, Puryear, Ready, Reese, Richardson, Riddle, David Ritchie,

Thomas Ritchey, Robbins, Rogers, Rowe, Russell, Sabin, Sage, Seward, Seymour, Shannon, Shower, William Smith, William R. Smith, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, David Stuart, John J. Taylor, John L. Taylor, Teller, Thurston, Tracey, Trout, Upham, Vail, Vansant, Walker, Walley, Warren, Elihu B. Washburne, Tappan Wentworth, Westbrook, Hendrick B. Wright, Yates, and Zollicoffer—143.

NAYS—Messrs. Ashe, Ball, Belcher, Chrisman, Cobb, English, Florence, Franklin, Fuller, Giddings, Aaron Harlan, Hiester, Houston, Daniel T. Jones, George W. Jones, Lewis, Lindsley, Matteson, Maurice, Mayall, Norton, Pennington, Ruffin, Sapp, Shaw, Simmons, Sollers, Stratton, Andrew Stuart, Tweed, Wade, Israel Washburn, and Wells—33.

So the bill was passed.

Pending the announcement of the vote—

Mr. BOYCE. I was accidentally called out of the Hall while the vote was being taken. If I had been here when my name was called, I should have voted in favor of the bill.

Mr. BROOKS. I was for a moment absent when the vote was being taken; but I desire to say that, if I had been here, I would have voted for the bill.

Mr. EDMANDS. I was accidentally out, too. I ask to have my vote recorded in favor of the bill, inasmuch as it will not change the result.

Objection was made.

PERSONAL EXPLANATION.

Mr. BRECKINRIDGE. Mr. Speaker——

The SPEAKER. Was the gentleman from Kentucky within the bar when his name was called?

Mr. BRECKINRIDGE. I believe I was within the bar; but before I vote upon this bill, I desire to make a brief statement to the House.

The SPEAKER. Is it the pleasure of the House to hear the gentleman from Kentucky?

[General cries of "Yes!" "Yes!"]

Mr. BRECKINRIDGE. It will be recollected by the House that, some weeks ago, I was nominated and confirmed as Minister of the United States to Spain. It has also been observed that, since that period, I have been attending to my ordinary duties in the House. To explain that, I would remark, that this nomination and confirmation were without my application, neither having been sought nor expected by me. I had not heard of the resignation of Mr. Soulé until I was informed that my name was just going to the Senate for the appointment. Under these circumstances, the President of the United States very properly gave me a short indulgence, with the view of enabling me to consider the matter, and to confer with my friends at a distance from the Capitol. I deemed it proper, in the time, to go on and discharge my ordinary duties in the House of Representatives, otherwise an Executive appointment might disfranchise any Representative of the people.

After conferring with my friends, and after reflection on the whole subject, while very deeply appreciating this mark of Executive confidence, and the manner in which it was confirmed by the Senate, I have felt it to be my duty to decline the appointment, and have so apprised the President. I am, therefore, relieved from the feeling of delicacy which restrained me from taking part in the legislation on this bill, and believing it to be right, I now vote in the affirmative.

Mr. PERKINS moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

INTRODUCTION OF BILLS.

Mr. BOCOCK. I ask the unanimous consent of the House to report a bill from the Committee on Naval Affairs, for the purpose of having it printed by next Tuesday, which is set apart for the consideration of naval business. It is a bill to authorize the construction of seven steam sloops-of-war.

There being no objection, the bill was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. PHELPS. I desire to report, from the Committee of Ways and Means, a bill for the purpose of having it referred and ordered to be printed. It is the Army appropriation bill.

Mr. TWEED. I object.

Mr. PHELPS. Who objects?

Mr. TWEED, (rising in his seat.) I do.

Mr. COBB. I insist upon the regular order of business. Let these bills be disposed of. It will take but two or three minutes.

THE OSTEND CONFERENCE.

Mr. PERKINS, of Louisiana. It was my desire and intention to have accompanied the passage of the diplomatic and onsular bill with a resolution which the committee have instructed me to report back. I desire to make a personal explanation in connection with it, and if the House will bear with me for a moment I will read the resolution. It is with reference to the Ostend affair.

Objection was made.

LARKIN SMITH.

The SPEAKER. The business first in order is the consideration of Senate bill for the relief of the heirs of Larkin Smith, reported with the following amendment:

In line nine, after the word cavalry, to strike out the words "with interest thereon from the 21st day of February, 1850," so that it would read:

"That the Secretary of the Treasury be, and he is hereby, authorized and required, out of any money in the Treasury not otherwise appropriated, to pay to the legal representatives of Larkin Smith, four years full pay of a captain of the cavalry."

Mr. JONES, of Tennessee. If it is a commutation bill, it should be referred. I make the motion that it be referred to the Committee on Revolutionary Claims.

The SPEAKER. The bill passed this body, and has been returned from the Senate with an amendment striking out the interest.

The question was then taken; and the amendment of the Senate was concurred in.

LIEUTENANT J. C. CARTTER.

The SPEAKER. The business next in order is the consideration of the joint resolution for the relief of Lieutenant J. C. Cartter, returned from the Senate with an amendment, adding, at the end thereof, the words, "provided the amount shall not exceed the sum of $1,869 05;" so that it would read:

That, in the settlement of his accounts, Lieutenant J. C. Cartter shall be allowed such expenses as were incurred by him whilst acting as purser on board ship Massachusetts, undergoing repairs at San Francisco, provided the amount shall not exceed the sum of $1,869 05.

The question was taken; and the amendment of the Senate was concurred in.

REFERENCE OF SENATE BILLS.

The following Senate bills were taken from the Speaker's table, read a first and second time by their titles, and referred to committees as indicated below:

An act granting bounty land to Susan Palmer. Referred to the Committee on Public Lands.

An act for the relief of Brevet Brigadier General John B. Walbach, of the United States Army. Referred to the Committee on Military Affairs.

An act for the relief of Franklin Chase. Referred to the Committee of Claims.

Joint resolution for the relief of John Y. Lamb, a clerk in the office of the First Comptroller of the Treasury. Referred to the Committee of Claims.

A bill for the relief of Mrs. Nancy Weatherford, widow of Colonel William Weatherford, of the first regiment of Illinois volunteers in the Mexican war. Referred to the Committee on Invalid Pensions.

A bill for the relief of George W. Torrence. Referred to the Committee on Military Affairs.

A bill for the relief of Jeremiah Moors. Referred to the Committee on Commerce.

A bill for the relief of Catharine Dickerson. Referred to the Committee on Invalid Pensions.

SAMUEL COLT.

Mr. EDGERTON. I offer the following resolution, to close debate upon House bill No. 59, for the relief of Samuel Colt:

Resolved, That all debate upon House bill No. 59 shall cease in one hour after the committee shall resume the consideration thereof, and the committee shall then proceed to vote upon such amendments as may be offered, and shall then report it to the House, with such amendments as may have been agreed to.

Mr. HOUSTON. I move that the rules of the House be suspended for the purpose of going into the Committee of the Whole on the state of the Union, and taking up the civil and diplomatic bill.

The SPEAKER. The resolution offered by the gentleman from Ohio has precedence, and must be voted upon first.

Mr. CLINGMAN. I move to amend by making the time for closing the debate three hours, instead of one.

Mr. WASHBURNE, of Illinois. It is too late.

The SPEAKER. The resolution is amendable.

Mr. EDGERTON. I am satisfied that every member in the House has made up his mind how he would vote upon this question. One hour is as good as forty.

The question was taken on Mr. CLINGMAN's amendment; and it was not agreed to.

The question was then taken upon the resolution; and it was agreed to.

RESOLUTIONS OF ARKANSAS LEGISLATURE.

Mr. GREENWOOD asked and obtained leave to introduce joint resolutions of the Legislature of the State of Arkansas, approving of the principles of the Kansas and Nebraska act, the repeal of the Missouri compromise, and condemning fanaticism in every form; which were laid on the table, and ordered to be printed.

Mr. EDGERTON. I move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. HOUSTON. I desire to say, if the House vote down that motion, that I will move that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of taking up the civil and diplomatic bill.

REPORTS FROM COMMITTEES.

Mr. ZOLLICOFFER, from the Committee on Naval Affairs, reported back a bill for the relief of Commander J. G. Pendergrast; which was read a first and second time by its title, and referred to a Committee of the Whole House.

Mr. WALLEY, by unanimous consent, from the Committee of Claims, to whom was referred the petition of the executor of Henry M. Shreve, deceased, made a report thereon, accompanied by a bill for the relief of the widow and children of Henry M. Shreve, deceased; which was read a first and second time by its title, committed to a Committee of the Whole House, made the order of the day for to-morrow, and the bill and report were ordered to be printed.

Mr. W. also, from the same committee, to whom was referred a joint resolution of the House (No. 37) for the relief of John L. Smith and James McGaw, made an adverse report thereon; which was laid on the table, and ordered to be printed.

Mr. DUNBAR. I ask the unanimous consent of the House to take from the Speaker's table Senate bill No. 68, entitled "An act to remove obstructions to navigation in the mouth of the Mississippi river, at the Southwest Pass and Pass à l'Outre."

Mr. FULLER. I object to the reference of a bill providing for internal improvements to the Committee of the Whole on the state of the Union. It should properly be referred to the Committee on Commerce.

Mr. DUNBAR. I hope the gentleman's motion will not be agreed to. It makes an appropriation such as was voted for by the Committee on Commerce at the last session of Congress.

Mr. EDGERTON. I rise to a question of order. I wish to know whether this business is properly before the House?

The SPEAKER. It is properly before the House, by the unanimous consent of the House.

Mr. HUNT. I ask if the appropriation for the improvement of the mouths of the Mississippi river was not, with other matters, referred to that committee at the last session, and reported upon favorably by them? Why should it be referred to them again?

Mr. DUNBAR. I hope the gentleman from Maine will not insist upon his motion to refer to the Committee on Commerce.

Mr. FULLER. The Committee on Commerce has already before it more than fifty cases in reference to river and harbor improvements, which have been referred to it by this House; and such being the case, these Senate bills should properly be referred to the same committee. I understand that the Senate has already passed a large number of river and harbor bills. In fact these bills are the same as the bill of last session, taken apart, and the several appropriations therein contained passed separately. I hope they will all be referred to the Committee on Commerce.

Mr. DUNBAR. It is unnecessary to make that reference, as these matters have already been

before that committee, and that committee reported favorably upon them last session.

Mr. HENN. Will the gentleman from Illinois yield me the floor a moment, to enable me to put a question to the gentleman from Maine?

Mr. DUNBAR. I will.

Mr. HENN. I would ask the gentleman from Maine, if these bills are referred to the Committee on Commerce, whether they will be reported back again?

Mr. FULLER. I have no doubt that committee will discharge its duty.

Mr. HUNT. But has not the committee already determined not to report any bills of that kind this session?

Mr. FULLER. Numerous bills for river and harbor improvement have been referred to that committee, and they have determined to report upon none of them until after the Senate bills have been referred to them—taking it for granted that they would be so reported.

Mr. DUNBAR. I hope the motion of the gentleman from Maine will not prevail, and upon it I move the previous question.

Mr. EDGERTON. I rise to a question of order. I wish to know whether the motion that the House resolve itself into a Committee of the Whole House on the Private Calendar does not take precedence of this business? I have not withdrawn my motion.

Mr. DUNBAR. I had the unanimous consent of the House for the motion I made.

Mr. EDGERTON. I have not withdrawn my motion.

The SPEAKER. The bills are here by unanimous consent, which sets aside all questions of order, and very frequently a good deal more. [Laughter.]

Mr. McMULLIN. Has it not been customary to refer all such bills to the Committee on Commerce?

Mr. HUNT. That is an argument for opposition, for the gentleman knows well what he asks for.

Mr. McMULLIN. And the gentleman desires to make a disposition of these bills different from that which has been heretofore made of similar bills.

The previous question was seconded, and the main question was then ordered to be now put, viz: "Shall the bill be committed to the Committee of the Whole on the state of the Union."

The question was put; and on a division the Speaker announced fifty-six in the affirmative.

The SPEAKER. It is not a majority of a quorum.

Mr. DUNBAR. I call for tellers.

Tellers were not ordered.

So the House refused to refer the bill to the Committee of the Whole on the state of the Union.

The question recurring on the motion to refer it to the Committee on Commerce, it was put, and the bill was so referred.

COMMITTEE ON THE PRIVATE CALENDAR.

Mr. EDGERTON. I now insist upon my motion to go into a Committee of the Whole House on the Private Calendar.

The question being put, the Speaker announced that it was carried; whereupon

Mr. JONES, of Tennessee, said: I ask for the yeas and nays upon it. I want to see who those are who want to defeat the regular appropriation bills.

Mr. RUFFIN. I call for tellers upon the yeas and nays.

Tellers were ordered; and Messrs. CASKIE and GREY were appointed.

The House was then divided; and the tellers reported—ayes 29, noes 98.

So the yeas and nays were ordered.

The question was then taken; and resulted—yeas 136, nays 50; as follows:

YEAS—Messrs. Abercrombie, Ball, Banks, Barry, Belcher, Bell, Bennett, Benson, Bliss, Breckinridge, Bridges, Bristow, Bugg, Carpenter, Caruthers, Caskie, Chamberlain, Chandler, Chase, Clark, Cobb, Cook, Corwin, Cox, Crocker, Cullom, Curtis, John G. Davis, Thomas Davis, De Witt, Disney, Dunbar, Dunham, Eastman, Eddy, Edgerton, Edmands, Edmundson, John M. Elliott, English, Etheridge, Everhart, Farley, Fenton, Florence, Franklin, Gamble, Giddings, Goodrich, Goodwin, Green, Greenwood, Grey, Grow, Aaron Harlan, Andrew J. Harlan, Wiley P. Harris, Hastings, Henn, Hiester, Hill, Howe, Hughes, Johnson, J. Glancy Jones, Kerr, Knox, Kurtz, Lamb, Lane, Lilly, Lindley, McCulloch, McMullin, Mace, Matteson, Maurice, Maxwell, May, Mayall, Meacham, Middleswarth, Smith Miller, Morgan, Nichols, Norton, Olds, Mordecai Oliver, Parker, Pennington, Bishop Perkins, Pratt, Preston, Puryear, Ready, Riddle, David Ritchie, Thomas Ritchey, Rogers, Rowe, Russell, Sabin, Sapp, Seward, Seymour, Shannon, Simmons, William Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Stratton, Andrew Stuart, John L. Taylor, Nathaniel G. Taylor, Thurston, Tracy, Tweed, Upham, Vail, Walley, Warren, Elihu B. Washburne, Tappan Wentworth, Westbrook, and Hendrick B. Wright—136.

NAYS—Messrs. Aiken, Appleton, Ashe, Barksdale, Bocock, Boyce, Brooks, Chastain, Chrisman, Clingman, Cutting, Dowdell, Ellison, Faulkner, Fuller, Goode, Haven, Hendricks, Hibbard, Houston, Ingersoll, Daniel T. Jones, George W. Jones, Kidwell, Letcher, Lewis, McNair, McQueen, Millson, Morrison, Murray, Orr, Peck, Phelps, Phillips, Powell, Pringle, Robbins, Ruffin, Sage, Shaw, Samuel A. Smith, George W. Smyth, John J. Taylor, Vansant, Wade, Witte, Daniel B. Wright, Yates, and Zollicoffer—50.

So the motion to go into a Committee of the Whole House on the Private Calendar was agreed to.

MESSAGE FROM THE SENATE.

A message was here received from the Senate by ASBURY DICKINS, Esq., their Secretary, informing the House that the Senate had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act for the improvement of the navigation of the Patapsco river, and to render the port of Baltimore accessible to war steamers of the United States;

An act making an appropriation for the improvement of the Delaware breakwater;

An act making appropriations for deepening the channel over the St. Clair flats, and for deepening the channel over the flats of the St. Mary's river, in the State of Michigan;

An act to continue the improvement of the Des Moines and the Rock river rapids, in the upper Mississippi;

An act to continue the improvement in the harbor of Newark, New Jersey;

An act making an appropriation for continuing the repair of certain public works in the State of Maine, heretofore commenced under the authority of law;

An act to appropriate money to remove the obstructions in the Savannah river below the city of Savannah, in the State of Georgia;

An act to provide for the improvement of the navigation of the Ohio river;

An act to provide for the continuing of the improvements of the Mississippi river;

An act to provide for the continuing of the improvements of the Missouri river; and

An act to complete the work at the mouth of the river San Diego, in the State of California.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; which thereupon received the signature of the Speaker:

An act for the relief of Daniel Morse, of Essex, county of Chittenden, in the State of Vermont;

An act to secure the right of citizenship to children of citizens of the United States, born out of the limits thereof;

An act for the relief of George Bush, of Thurston county, Washington Territory;

An act confirming a land claim to Elijah White, of the Territory of Washington; and

An act to refund to the officers of the customs, and others of the district of Passamaquoddy, certain moneys.

COLT'S PATENT.

The House resolved itself into a Committee of the Whole House on the Private Calendar, (Mr. GREENWOOD in the chair.)

The CHAIRMAN. The question before the committee is House bill (No. 59) for the relief of Samuel Colt, upon which the gentleman from Ohio is entitled to the floor.

Mr. EDGERTON. How much time have I left?

The CHAIRMAN. Thirty minutes.

Mr. EDGERTON. Mr. Chairman, I think that I shall find it necessary, in the continuation of my remarks, to make some further allusion to the creation of the committee of investigation in this case. To bring the matter properly before the body, I would like to go to its foundation, to the first charge that was made involving the character and integrity of this House of Representatives, that we may know from whom, or from whence it proceeded, and how it accumulated by being rolled over and over, and obtained the importance which it has in this Hall. The first insinuation known to me, affecting the integrity of this body and its character, was contained in an article published in a newspaper of this city—the Daily Evening Star. The article is brief, and I will now call the attention of members to it; and I do so because the writer of the article, as I suppose, is a reporter upon this floor, and entitled to all the privileges of that position. This is the article:

"A GRAND OPERATION OF CONGRESS.—We learn that the assignees of three patent rights, which, together, yield perhaps a million per annum in tariffs, have combined to induce Congress to extend them this winter, for seven years longer. They are said to have raised a fund of $100,000 to be distributed at this point to carry through their object. We have seen signs satisfying us of the truth of this story. Their champagne is already flowing in Washington like water, and their canvas backs are also 'a roasting' right merrily. *Do any members want a few cold hundreds, or, it may be, thousands,* to bet at faro? We shall shortly give all particulars of this scheme, if we can obtain them."

Here, then, is the commencement of the gross and infamous slander of an American Congress; and this was perpetrated by a man who is permitted to occupy a seat upon this floor as a reporter.

Mr. CLINGMAN. As a matter of courtesy, I should like to know who was the author of that article.

Mr. EDGERTON. So should I. I do not know who the reporter of the Star is; I take it that he is one of the editors. [Laughter.]

Mr. GIDDINGS. Is he a supporter of the Administration?

Mr. EDGERTON. Yes, sir; indifferently so; Here, I say, is the commencement of this gross slander against the integrity of the American Congress. Another paper—the Scientific American—takes it up, and republishes it with the following remarks:

"Money, champagne, and gluttony are, it seems, the weapons to be employed to *buy up votes* to carry through schemes whose annual tariffs yield a million of dollars.

"Traitors to the honor of the American name; you would 'steal the Apostolic keys of Heaven, and appropriate them as tools for crafty knaves to shut out virtue, and unfold the gates which Heaven itself has barred against the lust and avarice of sordid ambition.' The comedy of Esau is again to be enacted, the national birthright is bargaining away for a mess of pottage; who is the bidder? must be sold—this is the last call—going, going, going to cormorants who feed upon the honor and integrity of American freedom."

The Daily Evening Post, of Philadelphia, reiterates the general charge, basing its remarks on the article which I have read from the Evening Star of this city, and says:

"If the above is true, the Washington Star and the Scientific American are entitled to the thanks of the American public for sounding the alarm. But we want the names of these conspirators against the integrity of Congress and the rights of their fellow-citizens. Let them be held up to the public gaze.

"If rumor on this subject is true, the three most profitable patents in the country are referred to; patents that have already been extended to twenty-one years, and have yielded to the applicants already more than a million of dollars each. And other patents have been granted for improvements in these same branches of business that will be crushed and rendered valueless by the proposed extensions. It will be taking property from the hands of those who now hold it under the present patent laws, and transferring it to those millionaires. Well can they afford to gorge members of Congress with champagne suppers and presents, to spend hundreds of thousands of dollars to carry their points.

"But we trust Congress will pause to consider what a revolution in patent rights is proposed to be made by these speculators, and where such legislation will lead to."

And I have also seen the same article copied in newspapers generally throughout the country, so that the charge has obtained a supposed truthfulness, which has impressed upon the minds of the people of the country the idea that the American Congress is a corrupt body; that it may be bought and sold, as wares in market.

Here was the first charge. The next was the reiteration, in this Hall, by an honorable member of Congress. He refers to this rumor, and stands up here and reiterates, by insinuation, that members of Congress are open to bribery and corruption. Yet it is but an insinuation; it is but an intimation. There is not courage to make the assertion.

Mr. CLINGMAN. Who does the gentleman refer to as not having courage to make an assertion?

Mr. EDGERTON. I allude to any gentleman

who has made a general charge without any specification.

Mr. CLINGMAN. I only meant to say that, if any such remark as that were applied to me, it was a falsehood. I do not know whether it was or not.

Mr. EDGERTON. The gentleman from North Carolina cannot possibly get me into any personal controversy.

Mr. CLINGMAN. I would not have said what I have if the gentleman had not iterated and reiterated the other day what he has repeated again to-day. I felt it due the gentleman should make a disclaimer.

Mr. EDGERTON. I have only to do with facts; and the fact I stated was, that a member of Congress stood here, upon this floor, and repeated these rumors to which I have referred.

Mr. CLINGMAN. When the gentleman says that the member has not courage enough to make a statement, or, in other words, charges a member with cowardice, I take it he violates the rule of order. As he was not called to order the other day, nor to-day, I felt it to be my duty to repel the charge in the way in which I have.

Mr. EDGERTON. I doubt not that every member of Congress has courage to state what he believes to be true. If he has truth to state, I have no doubt but he will state it. It is because he has not a specific charge against any one individual that a member declines to make it, and confines himself to the general rumor. It is no evidence of cowardice because a member does not make a specific charge, when he has none to make. It evidences his regard for truth. That is it; and that is what I meant to intimate that the gentleman did. Not being able to fix this general rumor upon any one person, he makes the general charge. He cannot fix it upon any one person, because there is no one suspected.

Well, sir, this committee of investigation was created. Its duties have been laborious. Witnesses have been called before it—among others members of Congress—for the purpose of ascertaining whether or not some charge could not possibly be made against some member of Congress; not whether any really existed, but whether some could not be made. All the questions put by the committee have been to obtain information, and without the basis of any specific charge. It was because such was the character of the committee, and such the investigation, that I said it was inquisitorial. My statement, I think, is carried out by the facts in the case. The power of these committees to call witnesses for these purposes, and to require them to answer, has been denied by the House by its vote on Saturday last.

And there is another fact connected with this committee. It has already cost the Government something like $1,600; and for what purpose? The American Congress has been charged with an expense of $1,600 for this trial, and no one has even been charged with an offense. The committee has employed a clerk since the commencement of the session at a compensation of four dollars per day, and that clerk has done nothing. No witnesses have been called before it, no evidence has been collected, and all this expense has been incurred because a rumor had been started that members of Congress were corruptible. Now, sir, we expelled a reporter from this House, the other day, because he refused to testify before this committee. The House denied the power of the committee to compel him to testify, and yet it expelled him from the Hall, while another person who has slandered, who has libeled the American Congress, is considered a proper person to retain the seat of a reporter, without any attempt to expel him.

The honorable chairman of this committee [Mr. LETCHER] has stated that one reason why this bill should not pass was, that the committee was unable to procure the attendance of witnesses, or their testimony when present. He makes the charge that Mr. Dickerson, Mr. Colt, Mr. Joslin, and others, although giving the information that $15,000 was charged to Mr. Dickerson for the purpose of procuring the passage of this bill through Congress, they had declined to testify in relation to the expenditure of that sum. Was not that the gentleman's statement?

Mr. LETCHER. If the gentleman will take the trouble to look at the report, he can answer the question for himself. Mr. Dickerson expressly refused to testify in relation to the expenditure of $15,000.

Mr. EDGERTON. Can the gentleman refer me to the portion of the report where he refuses to testify upon this point, or where the question was asked him?

Mr. LETCHER. Yes, sir; I think I can.

Mr. EDGERTON. The gentleman the other day, in his remarks made this declaration:

"Now, if all this were a fair business transaction; if these funds were placed in the hands of Mr. Dickerson for legitimate purposes alone, why is it that even the book-keeper of this concern of Mr. Colt is not allowed to see the items of expenditure which make up the account between Colonel Colt and his agent, Dickerson? Why is it that, upon one side of the account, Mr. Dickerson is charged with advances to the amount of $15,000, and upon the other side, not one solitary item of credit is specified of any sort or description whatsoever? I ask the committee to look at the question, and see whether they can reconcile it with the principles of a fair and legitimate business transaction, where the parties themselves are doing nothing which they are unwilling shall see the light?"

Now, sir, I read from his report as chairman of the committee of investigation:

"The testimony of Joslin shows conclusively, in the judgment of the undersigned, that Dickerson has received, since last fall, the sum of $15,000 of Colt's money. For what purpose was it received, and how has it been expended? Joslin, the book-keeper of Colt for five years past, states most distinctly, that he does not know for what purpose the money was received by Dickerson; that the books do not show the items which make up the said sum of $15,000; and that he has no knowledge, either from information or otherwise, on that subject. If the transactions between these parties were fair, why this concealment? *Why do Dickerson, Colt, and Joslin, all of whom, or, at least, two of whom, know the facts, carefully and studiously withhold them from this committee and from the country? If all were fair and above-board, if money had only been used properly and for legitimate purposes, can it be supposed, for an instant, that Mr. Dickerson, who has been the active agent of Colt, and who knows how every dollar has been applied,* WOULD HAVE DECLINED, AS HE HAS DONE, *to give the committee full and satisfactory information on a point of so much consequence and importance to his principal?* Can it be supposed that Colt himself has received no information from Dickerson as to the manner in which the money has been used, or the objects to which it has been applied? According to the testimony of Joslin, Mr. Colt manages his business most carefully, so carefully and closely as to deny all discretion even to his confidential book keeper, except in very small and unimportant matters, and under the most inexorable necessity. This is clear from the testimony of Joslin himself, who states that his power and authority were so limited and restricted, that he could only purchase an occasional cart-load of coal, or do some other act of no greater importance. When Mr. Colt is thus particular in the management of his business, when he strips his agents of discretion to so great an extent, *the inference that he knows nothing of the moneyed transactions between himself and Dickerson is not warranted by the facts, as shown by himself and his most deeply intere ted attorneys.*

"If this sum of $15,000 had been drawn from Colt for the legitimate purpose of paying for professional services, that fact would have been shown by the items which make up Mr. Dickerson's credits, and those items would have been clearly and distinctly set forth upon the books. If the money had been applied only to legitimate and fair purposes, we should have had a full and satisfactory account presented to the committee, which would have shown every dollar that was received, and to whom every dollar had been paid. *But as it is, we have a positive refusal to answer on this point; and, although he is seeking legislation, a studious, and so far a successful, effort has been made to withhold all information where it should be his pleasure, as it is his duty, to make a full exposure of all the facts of the case, that the people and their repre entatives may know whether money has been used corruptly or improperly with a view to influence and control legislation.* This was one of the purposes for which this committee was organized, and that purpose has been thwarted, so far as was possible, by positive refusals, on the most trifling pretexts, to respond to the plainest questions by those who knew the facts, and have shown by their conduct that it was their interest to conceal them."

Now, sir, in order to show how unjust this charge of "*positive refusal to answer on this point*" is, I read from the testimony of Mr. D. the only questions and answers which were ever addressed to him, or answered by him on the subject of $15,000, or any other money. The first question is by Mr. EDDY, on page 30:

"*Question by Mr. Eddy.* Will you state, as far as your recollection will permit, the amount expended by you as the counsel of Colonel Colt, in the employment of attorneys or agents, or in the other means used, to obtain an extension of Colonel Colt's patent? State first as to your knowledge, and secondly from information derived through other persons.

"*Answer.* The amount I cannot state without recourse to books, which I have not here. I should think the amount inquired of was not less than $2,000 nor more than $6,000; but I consider this a private matter entirely, which, in my judgment, I ought not, as counsel for Mr. Colt, to disclose."

Mr. Joslin states that $15,000 stand charged to Dickerson, and that he has accounted for but five or six thousand, but I cannot find that any other question was put to him as to how he paid out the balance, which was not answered.

Mr. LETCHER. If the gentleman will look at the 46th page of the report he will find Mr. Joslin states that Mr. Dickerson is charged with $15,000, of which he has accounted for only some $5,000 or $6,000.

Mr. EDGERTON. That is precisely what I had just remarked. He makes this statement, but I cannot find, from the testimony, that any question was asked as to how the remainder was disposed of, to which an answer is declined.

Mr. LETCHER. It was stated distinctly that he got $15,000 for the purpose of prosecuting this claim before Congress. Mr. Joslin makes this statement explicitly; but when the question was put to Mr. Dickerson as to how he had disposed of the $9,000 or $10,000 he declined to answer, upon the ground that it was his own private matter.

Mr. EDGERTON. I ask the gentleman to show me that question. That is what the gentleman said the other day, that Mr. Dickerson was charged with $15,000 advances, and that he had refused to specify a single item of his expenditure. Now, sir, I should like to see where he has made such a refusal.

Mr. LETCHER. If the gentleman will take the trouble to look at Mr. Joslin's evidence before the committee, he will see that he states distinctly that there is no item specified at all—that Mr. Dickerson is charged with $15,000, and credited with $5,000 or $6,000, but that no item is specified even in reference to the $5,000 or $6,000.

Mr. EDGERTON. Will the gentleman show me the question put by him in reference to this matter, which he declined to answer?

Mr. LETCHER. Yes, sir; if the gentleman will give me time to find it.

Mr. EDGERTON. Well, sir, let us follow this testimony further, and see how beautifully the elements of a true story, when even accidentally brought together, must agree. Mr. Dickerson tells the committee that he had had about $15,000 since the fall of 1853, and that he had spent less than $6,000 of it in this extension. (This testimony was given in July.) About the exact amount he could not tell, as he had not the books here. Mr. Joslin, the book-keeper, was afterwards called, and he tells us that the books show this statement of Mr. Dickerson to be exactly correct, even to amounts. I read from pages 46 and 47:

"*Question by Mr. Wheeler.* What amount of money, if any, has Mr. Dickerson drawn from Colonel Colt, for the purpose of securing the extension of his patent?

"*Answer.* I don't know that he has drawn any for such purpose. There is a balance against him of more than $9,000, and less than $10,000. The whole of the debit side of his account is $15,000; the credit side between $5,000 and $6,000.

Now, sir, the gentleman states that Mr. Dickerson is charged with $15,000, and that no item of credit is specified, of any kind whatever, while Mr. Joslin himself swears that $5,000 or $6,000 are credited, leaving a balance unaccounted for of only $9,000 or $10,000.

Mr. LETCHER. I am sure the gentleman does not intend to misrepresent the facts, but he does not state them correctly. I stated expressly that there was this charge of $15,000, and that there were credits of $5,000 or $6,000; but if the gentleman will take the trouble to look at the testimony, he will find that Mr. Joslin could not specify any particular item of credit. Here is what he says:

"*Question by Mr. Eliot.* What is the character of the credit items?

"*Answer.* I don't know what the credit items are. I think the entries were made by direction of Mr. Sargent, who attended to the correspondence.

"*Question by Mr. Eliot.* Can you not tell the character of any one, or its amount?

"*Answer.* I cannot."

Mr. EDGERTON. I now desire to call the attention of the House to the speech of the gentleman from Virginia again. He says:

"Why is it that, upon one side of the account, Mr. Dickerson is charged with $15,000, and upon the other side, not one solitary item of credit is specified, of any sort or description whatsoever?"

Mr. LETCHER. What is that?

Mr. EDGERTON. That is from the gentleman's speech.

Mr. LETCHER. Oh! Exactly.

Mr. EDGERTON. But Mr. Joslin swears that there is $5,000 or $6,000 credited.

Mr. LETCHER. That is true, but there is not one item given.

Mr. EDGERTON. Mr. Joslin, in answer to the question: "What amount of money, if any, has Mr. Dickerson drawn from Colonel Colt for the purpose of securing the extension of his patent?" replies:

"I do not know that he has drawn any for such purpose. There is a balance against him of more than $9,000, and less than $10,000. The whole of the debit side of his account is $15,000; the credit side between $5,000 and $6,000."

Mr. LETCHER. Now read the very next question and answer.

Mr. EDGERTON. I will.

"*Question by Mr. Eliot.* What is the character of the credit items?

"*Answer.* I do not know what the credit items are. I think the entries were made by direction of Mr. Sargent, who attended to the correspondence.

"*Question by Mr Eliot.* Can you not tell the character of any one, or its amount?

"*Answer.* I cannot.

"*Question by chairman.* When did the accounts on the books against Mr. Dickerson commence, *and how much has he drawn since 1st December last, according to the books?*

"*Answer.* The account with Mr. Dickerson was opened last fall. There has been no money, not a dollar, charged to him since the 1st of December last, I am confident."

But, sir, what I called upon the gentleman from Virginia to show was, that Mr. Dickerson was called upon to show how he had disposed of this $5,000 or $6,000, and refused to answer. The gentleman has produced no such evidence, and I will not prosecute this branch of inquiry further. I stated, in my former remarks, that I understood the object of our patent laws to be to benefit the public, by encouraging men of genius to exercise their time, talents, and energies, and that the profits of an inventor should be proportionate to the public benefit.

I read from various reports, showing the immense value to the country of this invention of Colonel Colt's. I showed clearly that it had saved thousands and hundreds of thousands of dollars. About that there can be no doubt. It is admitted to be one of the most perfect weapons for military purposes ever invented; and just in proportion as you perfect the weapon you decrease the expense of the *personnel* of the army, and consequently of the war. That is a proposition to which every one will accede.

Well, now, sir, having established the proposition, as I believe, that there should be a reward to the inventor proportionate to the benefit conferred on the public, I now come to the other question: What has been Colonel Colt's reward? That is the question. I will state first, that Colonel Colt labored from 1831 to 1849, without any reward whatsoever; that he devoted his time, his energies, his own money, and the money of his friends, to the accomplishment of the great object of his heart, the perfection of his arm, without a solitary dollar of profit, during a period of seventeen years. There was no interference with him then; no one attempted to infringe upon his patent, because it was considered entirely valueless. But after he had perfected his weapon by means of very expensive machinery, in which he had invested every dollar of his capital, then parties came forward, who had money to carry on such enterprise, and attempted to infringe upon his patent, to force on the public an inferior article made of cast iron, and drive him from the market. Colonel Colt never feared competition from men who make as good a pistol as his. He has nothing to fear from them. It is because imitations of his patent are made of cast iron that he demands of Congress the right to use his machinery, to perfect his weapon, and to supply the Army and the public with a weapon as perfect as it can possibly be made.

But, sir, as to this allegation that Colonel Colt has made an immense fortune by the sale of his pistols, I have a variety of facts here which I can bring to the attention of the committee, going to show very clearly that Colonel Colt's profits—this fortune that he has made, and these millions of dollars that he is yet to make—are all imaginary. Let any intelligent gentleman, any business man, make a statement of the account with Colonel Colt, as a business man would make it, and then strike the balance, and see where the profit is. Now, what are the facts? He labored for a period of twenty-two years, and during that time he received nothing. Charge the account with a fair compensation for the amount of his labor. Charge the account also with $230,000, invested in the New Jersey Manufacturing Company, and lost. Charge such a per cent. interest upon that as would have been realized from any prudent investment, and you will have a debit to the account of between six and seven hundred thousand dollars. If his labor had been devoted to any other purpose, with the same energy and perseverance that he devoted to the accomplishment of this object; if the money had been invested in any other species of manufacturing, or even placed at a limited amount of interest, the aggregate of the debit in this adventure would at this time have been between six and seven hundred thousand dollars.

Well, here is a debit of between six and seven hundred thousand dollars. Now, then, for the credit. Compare that amount with the value of his property now in hand, and what is it? It has been asserted here, in this House, that the value of his property in Hartford is between six and seven hundred thousand dollars. The sworn value of that property, according to the testimony of experienced persons, who know what it is, and for what purposes it can be used, is only $350,000. Now, what is the peculiar character of the property? Every man knows that, upon the expiration of the present patent, so as to permit an inferior article to compete with Colt's pistol, the value of the property invested in the manufacture will depreciate twenty-five, thirty, or fifty per centum, and perhaps more. It is entirely valueless for any other purpose except the manufacture of this arm; and if he is deprived of his patent, the very machinery which some gentlemen here say is worth $750,000 will not sell for one tenth of the amount.

Mr. SMITH, of Virginia. Do I understand the gentleman's argument to be, that if Colonel Colt is not protected, some man will instantly put up an establishment, and run him out of the market?

Mr. EDGERTON. I say this: that Colonel Colt has nothing to fear from the manufacture of an arm equal to his. It is because an arm resembling it, made of cast iron, not efficacious, but absolutely dangerous, will be manufactured and forced on the market at an infinitely less price than his, that he requires a renewal of his patent to protect the public from the inferior article.

Mr. SMITH. Then the gentleman supposes that the public have not intelligence enough to discriminate between a good arm and a bad one.

Mr. EDGERTON. The public have intelligence enough to discriminate when once or twice they have paid dearly for their experience in a matter.

But it is also charged that Colonel Colt has made a large amount of money by his contracts with the Government. Well, let us look at that matter for a moment. In 1846 he made his first contract with the Government for a thousand pistols, for which he was to receive the sum of $28,150. That was the first contract that he made with the Government. He swears—and even this committee of investigation say that he is a man of honor and integrity, and that they never questioned his veracity—he swears that those pistols, manufactured under his personal superintendence, and made as cheaply as they could be made, cost to him $27,063 81, showing a profit of only $986 19. This, too, without making any charge for his time, trouble, or traveling expenses—the profit, therefore, not paying his board bills.

Since 1846 the Government has received four thousand. The three thousand furnished before the last thousand at an actual loss of more than $2,000. He continued the supply even under this loss, in order to bring his arm to the test of actual service; and the proofs show that the profit on the last thousand was not equal to the loss on the first three thousand. To sum up briefly, therefore, he has lost the twenty-two years' time, and the money first invested, at least $600,000, and he has gained the value of his machinery, of no value, comparatively, for any other purpose but for this, estimated at $350,000 to $400,000.

[Here the hammer fell.]

Mr. EDGERTON. Is my time out?

The CHAIRMAN. It is.

Mr. EDGERTON. Why, I had only just begun.

Mr. EDDY obtained the floor.

Mr. CLINGMAN. Will the gentleman allow me five or six minutes of his time?

Mr. EDDY. I will yield to the gentleman for that time.

Mr. CLINGMAN. I am much obliged to the gentleman from Indiana. I merely want to make a short statement, which will occupy but few minutes, as I do not desire to intrude on the committee, having already spoken once or twice in connection with this subject.

This bill is a very singular case, Mr. Chairman. It is the only bill which I have known involving such a large amount of interest that was not supported on some plausible pretext. It is the only bill that I have known which is not only not supported by any principle of legislation on the subject to which it relates, but which violates every single sound principle that is known in connection with the question; and every fact stated in the course of debate, upon either side, is directly in the teeth of the application.

Now, sir, I will make this good in the three or four minutes during which I expect to occupy the attention of the committee; and then I want to notice, briefly, a few of the remarks of the gentleman over the way, [Mr. EDGERTON.]

By the general patent law of the United States, an inventor is allowed fourteen years for his patent to continue in force. Well, Mr. Colt has had the benefit of it for twenty-one years; and now he wants to have another term of it, after the present patent expires, although he has had one extension already. The law provides that if, at the end of the fourteen years for which the patent is originally granted, the inventor is not sufficiently remunerated, and if the invention is a meritorious one, then the Commissioner may extend it. Well, under this law Mr. Colt went before the Commissioner of Patents; and it was there shown, on evidence taken before the Commissioner, after due notice to Mr. Colt, and in presence of his attorney, that he had made out of his patent over $1,000,000, besides what he may gain before its expiration.

Mr. CHAMBERLAIN. I wish to propose one question to the gentleman from North Carolina.

Mr. CLINGMAN. The gentleman will excuse me. I cannot yield the floor just now.

Mr. CHAMBERLAIN. I merely want to inquire——

[Cries of "Order!" "Order!"]

Mr. CLINGMAN, (interrupting.) I hope the Chair will see that order is preserved. I am only occupying the floor myself by the permission of my friend from Indiana, [Mr. EDDY.]

Mr. DUNHAM. I rise to a question of order. My point of order is this: that the gentleman from Indiana—my colleague, [Mr. EDDY,]—has no right to yield the floor to the gentleman from North Carolina for the purpose of allowing him to make a speech.

Mr. CLINGMAN. By the general consent of the committee the gentleman from Indiana yielded me the floor, on the understanding that I would retain it for only six minutes.

The CHAIRMAN. The gentleman from Indiana yielded the floor for the purpose of allowing the gentleman from North Carolina to make an explanation with regard to this question.

Mr. DUNHAM. Yes; but I remark that the gentleman from North Carolina should, therefore, confine himself to the mere explanation.

Mr. CLINGMAN. I do not wonder, Mr. Chairman, at the tenderness exhibited on this question, for I say boldly that nobody can examine it without coming to the conclusion that it is supported on some grounds or other not advanced in this House.

I was showing, sir, when interrupted, that there is not a single pretext of justice on which this bill can be passed——

Mr. DUNHAM. I again rise to a point of order.

Mr. CLINGMAN. I do not mean any offense to the gentleman from Indiana, [Mr. DUNHAM.]

Mr. DUNHAM. Nor do I so understand it; but I know that it has been the practice of the committee and of the House to confine gentlemen to the explanation for which they may have got the floor, and according to that practice the gentleman from North Carolina is clearly out of order.

The CHAIRMAN. The Chair would state to the gentlemen from Indiana and from North Carolina, [Messrs. DUNHAM and CLINGMAN,] that the Chair understood the gentleman from North Carolina desired the floor for the purpose of making an explanation, and that the gentleman from Indiana yielded to him for that purpose. This he was entitled to do. Any member may yield the

floor to another for explanation, but not for the purpose of debate, unless by unanimous consent,

Mr. DUNHAM. I want to say to the gentleman from North Carolina that I do not think that remarks such as those he has just made are strictly in order.

Mr. CLINGMAN. I was only alluding to the attempts that have been made to-day to stop debate on this question, and to the anxiety now shown to prevent me from saying a few words in that connection.

I was about to say, Mr. Chairman, that for the last three years Mr. Colt has been called upon to make a showing of the profits he has derived from this patent. At last session, the gentleman from Michigan [Mr. STEVENS] read some affidavits to show that he possessed property in Hartford to the amount of $450,000, and in London to the amount of $250,000, making in all some $700,000; and how much he was worth beyond that he did not say. My object is to show the committee and the House that the whole foundation on which an application for extension of a patent, under the general principles of our law, is made, is in this case wanting altogether. Mr. Colt has been, and is, reaping very large profits from the manufacture of these patent arms; the whole cost of manufacturing those pistols, which are now selling at from sixteen to thirty dollars, does not exceed eight dollars. Mr. Colt has been making these large profits, and when he was called on to make a showing of them before the Commissioner of Patents, he did not comply with the requisition. Therefore I say that the foundations on which applications of this kind usually rest, are in this case altogether wanting. Besides this, there is still some two or three years for the patent to run before its term expires. Remember, too, that Mr. Colt owns two large establishments for the manufacture of these arms, and that there is no danger of anybody else putting up an establishment of the sort before then, because he does not know but that the patent may be extended. The consequence will be, that Mr. Colt will still have virtually seven years longer of monopoly.

Then, sir, upon the general principles of the patent law, which allows patents to be granted for fourteen years, and to be extended for seven years longer, Mr. Colt, having already enjoyed the benefits of this patent for twenty-one years, is not entitled to a further extension of it. The argument has been made that this invention is of great benefit to the country; but there are other inventions, great and useful ones to the country, and to the world—such as the steam engine, and the reaping machine, and many of the patent plows—which are not protected by the patent laws for longer than fourteen years.

But, Mr. Chairman, I promised to be brief on this question. I cannot delay to argue it, because really there is nothing in the arguments in support of it. Now, why is it that gentlemen are asking you, in the teeth of all the principles which govern our patent laws, to extend this patent to Mr. Colt? Why, the gentleman over the way [Mr. EDGERTON] tells us—as the report does—that, if Mr. Colt is not thus protected, somebody else may make cast-iron pistols, which will not be worth anything, and that thus the public will be the sufferers. Why do not gentlemen enlarge on that principle? We do not give monopolies to those who manufacture steel axes, or pen-knives, or razors, because others might bring into market axes, and pen-knives, and razors, of cast-iron. Why do not gentlemen bring in a bill to prevent any person opening a hotel in Washington, lest by permitting more than one to be open people may be imposed upon? What more preposterous idea than that could be conceived? There is not one member, I am convinced, on this floor who would act upon such an idea. There is not a school-boy that would ever entertain, for a moment, such a preposterous idea.

Mr. EDDY took the floor.

Mr. CLINGMAN. I have only occupied four minutes of the time which the gentleman conceded to me; and he will please allow me to go on for a moment or two longer. I only want to show on what shallow pretext this matter rests.

Now, the gentleman from Ohio [Mr. EDGERTON] said here the other day, again and again, that no member on this floor had the courage to make this charge directly. Well, you and I know, Mr. Chairman, that charging members of this House with want of courage, is a violation of the rules of order. But I deliberately repel the charge, and I say, on behalf of the House, and on behalf of every man in it, that I do not believe there is a member here who has not courage enough to make any statement which he thinks to be true, and I therefore pronounce this allegation to be an egregious falsehood.

So much for that! And I say further, in connection with this report of the investigating committee, that the report not only sustains everything that has been stated in respect to the means used to pass this bill, but it goes even further. The gentleman from Ohio knows what I said the other day on this head. I said that efforts had been made to influence members in the manner alluded to; and the committee thinks so too. The report shows the large number of agents that are employed to lobby through this bill. There is one principal agent who employed—it is shown—six others; but there are, at least, some ten or twenty employed for this purpose. If I wanted to go into the merits of this report—but I do not, as time will not permit me—I think I could show that it is a useful document. In conclusion, I would say that I did not mean to intimate that the gentleman from Ohio—who is very clear-headed—and the other gentlemen in this House who ask us to pass this bill, were actuated by any improper motives; but I think that that gentleman labors under some delusion in this matter when he asks us to pass a bill of this kind. I will no longer occupy the time of the committee.

Mr. EDDY took the floor.

Mr. McMULLIN. Will the gentleman from Indiana yield me the floor for a moment?

[Cries of "No, no; let him go on."]

Mr. EDDY. What time have I got left, Mr. Chairman?

The CHAIRMAN. Twenty minutes.

Mr. EDDY. The time to which I am limited is so short that I cannot give way further to the gentleman. I would not have troubled the committee at this time but for the speech of the gentleman from Ohio, [Mr. EDGERTON,] somewhat remarkable in its character, and certainly pungent enough in its language; and, as I think, calculated to mislead this House and the country, in relation to the course of the committee of investigation, and of which I am a member. I may unaffectedly say, that I feel compelled by an imperative sense of public duty to answer it, so far as the short time remaining will permit me to do.

With the constitution of that committee I had nothing to do. My own impression is, that I voted against the resolution of the gentleman from Virginia [Mr. LETCHER] when it was introduced; but when placed upon the committee appointed under that resolution, I endeavored to do what every member of the House should do, discharge my duty faithfully and conscientiously, and with a strict regard to the best interests of the country.

The gentleman from Ohio tells us that this committee was an inquisitorial tribunal—secret in its character—and seeking, as I understood him, to stab reputation in the dark. I know the gentleman said that he meant no imputation upon the several members of the committee; but if it were a secret body, and if its object was to assassinate character in this Hall, or out of it, it is a charge which should be met and repelled; and certainly it becomes the duty of this committee to repel it. It is sufficient, however, for that purpose to present the facts in the case. Even the gentleman himself has given a statement of these facts, that, to some extent, disproves his own assertions. He has read an article from a paper published in this city, charging the House with favoring combinations, which would take millions from the pockets of the people by means that were corrupt and disgraceful. He tells us how that this article was published in the Scientific American. Well, sir, that journal is one of the ablest, and, for the kind, the most important of any circulated in this country; that it was again published in a family paper of Philadelphia, called the Saturday Evening Post—a weekly which reaches the hearth-stones of more firesides than any paper of that great city. Several other papers of general circulation, with long subscription lists, and having readers in every part of the country, copied, amplified, and, in some instances, indorsed these reports, and by this means extensive currency was given to charges deeply affecting the dignity and usefulness of the House, and the character of the representatives of the people composing it. Those rumors, as the gentleman terms them, had been carried, too, over the electric wire to the home of every member of this House. What were the committee to do? I will tell you: They were to examine these charges, and ascertain whether they had any just foundation.

Let me call the attention of the commitee for a moment to the resolution under which this committee of investigation was appointed:

"*Resolved*, That a committee of seven members be appointed to inquire whether money has been offered to members, or other illegal or improper means used, to induce members to aid in securing the passage or defeat of a bill to extend Colt's patent for seven years; and also whether money has been offered to members, or other illegal or improper means used, either directly or indirectly, to secure the passage or defeat of any bill before Congress; and that the said committee shall have power to send for persons and papers, with authority to examine witnesses on oath."

That was the resolution by virtue of which the Committee were to call witnesses before them, claiming to have a knowledge of these facts, and examine them upon their oaths; and witnesses were examined. Nothing was proved to compromise the character of any member upon this floor, and I am glad of the opportunity to say it here. But there was sufficient to show a most unfortunate, if not disgraceful state of things around this Capitol. It was proved that combinations of interests were attempted to be formed, and that letter-writers were employed for the purpose, not merely of securing an extension of patent rights, but to defeat them where defeat best carried out their policy or malevolence, and, if need be, they were to libel any one who might stand in the way of the object they had in view. If gentlemen of the committee will read the deposition of Horace H. Day they will find a verification of the truth of every word I have uttered; or if gentlemen still doubt, then read that of Dickerson, and they will find that he entertained proposals from this same Day to pay him a large sum of money for purposes connected with legislation before this House. Is not that a state of things deserving the serious consideration of Congress, and the country; and were the committee to be silent with such a revelation before them?

The gentleman from Ohio objects to the action of the committee upon another ground, that it was a secret committee. I do not know that it differed in this respect from other committees having charge of important public business. I do not remember that that committee at any time closed its doors. They may have done so with the view of keeping out those not necessarily connected with the investigation, and my impression is, that other committees of the House have done, and daily do, the same thing. I remember that I had occasion, a few days since, to call at the room of the committee of which the honorable gentleman from Ohio [Mr. EDGERTON] is chairman, on business of one of my constituents, and I found that the doors were closed. I supposed then, and I suppose now, that that committee transacted business in the privacy of its own committee room, for their own security and protection, and for the public good.

Mr. EDGERTON (interrupting) here made an inquiry, which was quite inaudible at the reporters' desk.

Mr. EDDY. I will answer the gentleman. He has charged this committee with sitting in secret for the purpose of trying members for corruption and bribery; but I say to him that, whenever there was anything that occurred in the sessions of the committee reflecting upon any member, direct or by implication, which might require his notice, then each and every such member was promptly notified of it, so that he might come forward and clear himself from any suspicion which might have been engendered; and I am happy to say here, that in every case it was most effectually done. In every other respect I suppose that the committee observed the same secrecy as the committee of which the honorable gentleman from Ohio is chairman, and other committees of the House.

Mr. EDGERTON, (interrupting.) The gentleman should observe the distinction that the committee of which I am chairman has a specific matter referred to it by the rules.

Mr. EDDY. I did not interrupt the gentleman during the time he occupied the floor, and he had his full hour, while I have only a few moments,

and I trust the gentleman will not interrupt me. I did not draw distinctions for him, and the gentleman from Ohio shall not draw them for me.

I was speaking of the fact that, whenever anything occurred in that committee deserving the attention of any member of this House, having connection with the discharge of his legislative duties, he was at once notified of that fact. But the gentleman from Ohio tells us that the report of this committee, like other reports, will, after the 4th of March next, sink into a sea of forgetfulness. Well, sir, let it sink. I have no objection. I only ask that it shall have done its duty here. It was for that purpose only that the report was made. But I think the gentleman from Ohio should be the last one to complain of its sinking into insignificance. If it does sink into that sea, the same line which brings up the report from its deep bottom will bring to the surface the gentleman's speech with it; and if the report is valuable to the children of that committee, and to them only, as he alleges, his speech, possibly, may be regarded of like value to his own children. His name and fame will be rescued from the oblivion which the pall of time throws over all. I do not know whether they will look upon the inheritance as worth possessing. That is not for me to decide. Administrators may not deem it as proper assets; but they can file it with the inventory of effects. I mean nothing offensive; but when gentlemen make allusions of this character, and attempt to strike down members of that committee by ridicule and sarcastic reflections, I only wish to remind them that comparisons may be instituted as significant as their own.

Mr. Chairman, I desire now to call the attention of the committee for the few moments left me, to the character of the application now before us.

I shall allude in the first place, to the facts which this report discloses, and, in reply to the gentleman from Ohio, show that the expenses of prosecuting this application, have been largely over-estimated.

Now, sir, one word as to the testimony of Mr. Dickerson. He says:

"*Question by Mr. Ruffin.* Name the agents or attorneys of Colonel Colt, now in his employ, to aid the passage of his patent extension bill; and state, also, what compensation has been paid or promised to each, and whether such compensation is contingent or absolute?

"*Answer.* Besides myself, Colonel Clemens, and Mr. E. H. Thompson, (who, I believe, has a seat on the floor of the House,) Mr. George Ashmun, of Massachusetts, was employed as counsel early in the session, but that employment, I believe, is at an end. Besides these, I know of no other being so employed. A compensation has been paid them, but its amount and character relate to Colonel Colt's private affairs, and I, as his counsel, cannot with propriety disclose it.

"*Question by Mr. Zollicoffer.* Do you anticipate that the expenses of your entertainments at the National Hotel, while acting as Colonel Colt's counselor, will be refunded by him; or do you defray such expenses, or any part of them, out of funds of Colonel Colt in your hands, or subject to your draft?

"*Answer.* I pay my expenses by check on my own bank account. When I make up my account against my client, I consider all my outlays in that behalf as an element to be considered. I do not charge them as an item, but they affect my bills against my client, of course."

The report further shows, that not only Dickerson, but other witnesses, when asked to tell what amount had been expended in behalf of this application, their reply was that it was a private matter, and did not concern us. I might, sir, give extract after extract of the same character, from this report. I have no doubt that the amount stated by my friend from Virginia [Mr. LETCHER] was correct, when he said that not less than $15,000 had been expended to control legislation in this matter. But suppose it should not be more than $9,000. We, sir, out in the West, regard $9,000 as no inconsiderable fortune. That sum expended for the purpose of procuring legislation would be astounding intelligence to them. But the presumption from the evidence is, that $9,000 is only a small item of the whole expense. Why, this same witness, Dickerson, if I remember right, who gave entertainments at the National Hotel, says that an equitable portion of the expenses thus incurred were to be paid by the petitioner; and the petitioner himself, in his testimony, tells you that Dickerson had unlimited power to draw upon him for any amount of money he pleased, to pay for his professional services, and the nature and value of those services can be easily understood and estimated.

Now, sir, I will say a few words upon the general question. The report of the committee, I believe, proposes an extension of this patent to the term of seven years. In 1857 Colt will have already enjoyed a patent for his fire-arm for twenty-one years. It is in proof, so far as any such fact can be proved, and looking to the lowest estimates that I have heard from any one, that he is now worth $300,000. It is enough to satisfy us, Mr. Chairman, that he has erected a large manufacturing establishment at Hartford, in the State of Connecticut, and that the property has been estimated at $700,000. The gentleman from Ohio thinks it is not worth more than half of that. Well, call it worth $350,000, and who even here does not regard that as an ample fortune—one which ought to last any one a life-time, making comfortable the possessor of it, and a sufficient provision to those who follow him?

But that is not all. Mr. Colt goes to London and establishes another manufactory there, worth $250,000, and so perfect in its machinery as to attract the attention of even that great metropolis.

Now, look at this in another view. At home Mr. Colt asks for an extension of his patent for a term of seven years. Abroad he invests capital to the amount of $250,000, without protection of any kind, and in competition, too, with the pauper labor of England, (as it is sometimes called,) and with the best mechanics, and the most finished machinery upon the face of the earth, and he succeeds and makes money under those circumstances in the heart of that opulent kingdom. The Government of Great Britain is itself his best customer, and to-day he has large orders to supply her armies with his revolvers. Rumor, too, if I may be allowed to allude to it, says he is going to Russia, and is about to establish another manufactory there. Without protection, then, and with competition in Europe, he stands to-day the monopolist of the whole civilized world of the manufacture of that arm.

But we are told that there is another reason why this patent should be extended, and that is, the manufacture should not be thrown open to competition, as an inferior article would be produced—cast iron pistols, for instance, would be made and sold—and that therefore protection is necessary in order to secure an efficient fire-arm. I was astonished that such an argument should be made. There is no article of manufacture to which the same objection could not be applied. Everything that is manufactured can be so imitated as to cheat the most practiced eye; but is that any reason why you should give a man a monopoly of manufacture for a number of years? Why, sir, I believe that the State which is now so faithfully represented, in part, by the gentleman from Connecticut, [Mr. PRATT,] is somewhat famous for its manufactures. I remember once to have heard that Connecticut made wooden hams and nutmegs, and yet I have never heard that a man who sold nutmegs required protection by the intervention of Congress. Nor have I ever heard that Ohio required protection, in consequence of either cast iron or wood imitations, to her pork trade.

Should this patent be extended, and enjoyed for seven years in addition to the twenty-one, Colt would amass a fortune, that would make him a Girard or an Astor. Already has he accumulated not less than half a million of dollars, as we have every reason to believe, and that within the last six years, as is shown by the report of the Commissioner of Patents. I have not time to read it. When before, I ask, has such a privilege been extended to any patentee under similar circumstances? You remember the case of Whitney, who, perhaps, gave, by his invention, greater benefit to American interests than any other mechanic that ever lived within the borders of this Republic. He revolutionized the productions of almost one half the Union, and gave a value to that which was then almost valueless, but now controls the trade of the world, and, more than anything else, is its bond of peace. Yet, sir, when he asked for an extension of his patent Congress refused it, and, among others, upon the ground that he had enjoyed the monopoly for a sufficiently long period of time to amply repay him for his invention. I do not recollect exactly, but my impression is, that the case of Oliver Evans was another in point. At all events, no renewal of patent was granted. He did not have the advantage of his patent for more than twenty-one years, and yet his invention was of ten-fold more importance to the producing interests of the country than the one now under consideration, a repeating fire-arm. As important as that arm is acknowledged to be——

[Here the hammer fell.]

The CHAIRMAN. General debate, under the order of the House, is now closed. The gentleman from Rhode Island, [Mr. THURSTON,] who reported the bill, is entitled to an hour to close the debate.

Mr. THURSTON. Mr. Chairman, I am aware that, under the rules of the House, I am entitled to an hour for the purpose of closing the debate on this bill for the relief of Samuel Colt, but I do not purpose to avail myself of that privilege. The facts in the case have been laid before members, investigated, and thoroughly discussed; and conceiving that we are prepared to vote, I yield my right to occupy the floor for debate, and ask that it may now be decided whether or not Colt's patent is to be extended.

Mr. ETHERIDGE. I would ask the gentleman from Rhode Island to yield to me, so that I may submit a motion for the purpose of effecting the object he has in view.

Mr. THURSTON. I give way to the gentleman.

Mr. ETHERIDGE. Then I move that the enacting clause be stricken from the bill.

Mr. LANE, of Indiana. I hope that I may be first allowed to make an amendment to the bill.

Mr. ETHERIDGE. With the permission of the committee, I will state, by way of apology for my motion to strike out the enacting clause of the bill, that I have not participated in the debate, nor in the feeling which has characterized it. I do not know that I am for or against the proposition. I make the motion simply for the purpose of bringing the committee to a vote.

Mr. INGERSOLL. I rise to a question of order. The motion to strike out the enacting clause is not debatable.

The CHAIRMAN. So the Chair decides, and sustains the point of order.

Mr. ETHERIDGE. Then let the vote be taken.

Mr. INGERSOLL. Mr. Chairman, coming, as I do, from the State of Connecticut, I feel——

[Cries of "Order!" from all parts of the Hall.]

Mr. LANE, of Indiana. Is it in order to perfect the bill before the question is taken on the motion to strike out the enacting clause?

The CHAIRMAN. The Chair decides that the motion of the gentleman from Tennessee takes precedence.

Mr. INGERSOLL. I appeal to the gentleman from Tennessee to withdraw his motion for a few moments.

Mr. ETHERIDGE. I cannot withdraw it.

Mr. WARREN. I demand tellers on the motion to strike out the enacting clause.

Tellers were ordered; and Messrs. ETHERIDGE and PARKER were appointed.

The question was taken; and the motion was agreed to; the tellers having reported—ayes 99, noes 23.

So the committee agreed to strike out the enacting clause of the bill.

Mr. WARREN. I move that the committee do now rise, and report the bill to the House.

The question was put; and the motion agreed to.

The committee rose; and the Speaker *pro tempore* (Mr. JONES, of Tennessee) having resumed the chair, the Chairman (Mr. GREENWOOD) reported that a Committee of the Whole House had, according to order, had the Private Calendar generally under consideration, and particularly the bill of the House (No. 59) known as the Colt patent case, and had instructed him to report the same to the House with a recommendation that the enacting clause be stricken out.

Mr. EDGERTON. I demand the previous question upon the motion to strike out the enacting clause.

The previous question was seconded, and the main question ordered to be put.

Mr. ORR. I want the yeas and nays on that question.

The yeas and nays were ordered.

The question was taken; and decided in the affirmative—yeas 111, nays 68; as follows:

YEAS—Messrs. Aiken, James C. Allen, Appleton, Ashe, Barksdale, Barry, Benson, Benton, Bocock, Boyce, Breck-

nridge, Carpenter, Caruthers, Caskie, Chastain, Chrisman, Clark, Clingman, Corwin, Cox, Cutting, John G. Davis, De Witt, Dowdell, Dunbar, Eddy, Edmands, Thomas D. Eliot, John M. Elliott, Ellison, Etheridge, Everhart, Faulkner, Flagler, Franklin, Fuller, Giddings, Goode, Goodrich, Greenwood, Grey, Grow, Aaron Harlan, Wiley P. Harris, Hastings, Haven, Hendricks, Hibbard, Houston, Howe, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Kerr, Kidwell, Kittredge, Knox, Lane, Letcher, Lewis, Lilly, Lyon, McQueen, May, Middleswarth, Smith Miller, Millson, Morgan, Morrison, Murray, Noble, Mordecai Oliver, Orr, Packer, Parker, Peck, Bishop Perkins, John Perkins, Phelps, Phillips, Powell, Preston, Pringle, Puryear, Ready, Reese, David Ritchie, Robbins, Ruffin, Sabin, Sage, Shaw, Simmons, William Smith, George W. Smyth, Hestor L. Stevens, Stratton, John J. Taylor, Upham, Vail, Vansant, Wade, Walker, Walley, Israel Washburn, John Wentworth, Tappan Wentworth, Witte, Daniel B. Wright, and Zollicoffer—111.

NAYS—Messrs. Abercrombie, Willis Allen, Banks, Belcher, Bell, Bennett, Bliss, Bridges, Bristow, Bugg, Campbell, Chamberlain, Chase, Cobb, Cook, Cullom, Thomas Davis, Disney, Dunham, Eastman, Edgerton, English, Gamble, Goodwin, Green, Andrew J. Harlan, Hill, Hughes, Hunt, Ingersoll, Johnson, Kurtz, Lamb, Lindsley, McCulloch, Macdonald, McDougall, McMullin, Mace, Maurice, Meacham, Nichols, Norton, Olds, Pratt, Thomas Ritchey, Rowe, Russell, Sapp, Seward, Seymour, Shannon, Shower, William R. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Andrew Stuart, David Stuart, Nathaniel G. Taylor, Thurston, Tracy, Trout, Tweed, Warren, Wells, Westbrook, and Yates—68.

So the enacting clause was stricken out, and the bill rejected.

Pending the call of the roll,

Mr. FARLEY stated that he had paired off with Mr. FLORENCE.

Mr. MATTESON also stated that he had paired off with Mr. WHEELER; that he was opposed to the bill, and should otherwise have voted to strike out the enacting clause.

Mr. CLINGMAN moved that the vote by which the enacting clause was stricken out be reconsidered, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

ANTONY KILGORE.

Mr. STANTON, of Kentucky. I have a bill in which several farmers in the neighborhood in which I reside are interested. I ask the unanimous consent of the House to introduce the bill; and if there be no objection, I will ask the House to put it upon its passage.

The bill was read by its title, as follows:

A bill to remit the duties upon a lot of hempseed imported into the United States by Antony Kilgore and other farmers of the State of Kentucky, for agricultural purposes.

The bill was then read *in extenso*.

Mr. PRINGLE. I object.

Mr. STANTON. If the House will allow me to make a very brief explanation, I think I can satisfy every gentleman of the propriety of passing the bill.

Mr. CAMPBELL. If the House will allow me, I will state that there are several farmers in my district who have imported cattle largely within the last year. I would suggest to the gentleman from Kentucky that he amend his bill so as to include them.

Mr. STANTON. I trust that the House will allow me to make a short statement. Last year the crop of hemp-seed failed in Kentucky. Not enough could be saved for planting the present year. These persons were, in consequence, compelled to send to Europe to obtain a sufficient quantity to plant. They imported some four thousand three hundred bushels, but even with that they had not enough to plant more than half a crop. This bill proposes, merely, that they be allowed to receive the seed free of duty. It seems to me there should be no objection to the bill.

Mr. PRINGLE. I object.

EFFICIENCY OF THE NAVY.

Mr. BOCOCK. There is a Senate bill upon the Speaker's table, entitled "A bill to promote the efficiency of the Navy." I desire the consent of the House to have it taken up, referred to the Committee on Naval Affairs, and printed.

There being no objection, the bill was taken up, read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

MOUTHS OF THE MISSISSIPPI.

Mr. DUNBAR. I rise to a privileged question. I move to reconsider the vote by which the bill of the Senate (No. 68) to remove obstructions to navigation in the mouths of the Mississippi river at the Southwest Pass and Pass à l'Outre was referred to the Committee on Commerce.

Mr. WENTWORTH, of Illinois. Does the gentleman propose to put the bill upon its passage?

Mr. DUNBAR. No, sir. I only wish to have the motion entered, and I will call it up some other day.

Mr. WENTWORTH. I have no objection to that.

The SPEAKER *pro tempore*. The motion will be entered.

INVALID PENSION BILL.

Mr. HOUSTON. If gentlemen are not disposed to go on with private business, as they do not seem to be, I will ask their consent to allow me to report back the bill making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1856, which has been returned from the Senate with amendments. There are only two amendments to the bill. It will not take five minutes to dispose of them, and I hope there will be no objection.

There being no objection, the bill was reported to the House.

The amendment of the Senate was then reported, as follows:

Add as an additional section:

SEC. 3. *And be it further enacted*, That the widows of the officers, non-commissioned officers, marines, or mariners, who served in the Navy of the United States during the revolutionary war, and who were married since the first day of January, 1800, shall be entitled to pensions in the same manner and to the same extent as the widows of the officers and soldiers of the army of the Revolution, under the second section of the act of February 3, 1853; and the pensions granted by this act, and those under said second section of the act of February 3, 1853, shall commence on the first day of March, 1848.

Mr. HOUSTON. That is the amendment of the Senate to which I called the attention of the House some days ago. It proposes to accomplish two objects. The first is to put the widows of officers of the Navy, and of sailors and marines, upon an equality with the widows of officers and soldiers of the Army. It also proposes to extend back the law of 1853, so as to make the pensions commence in 1848. It is right, in the estimation of the Committee of Ways and Means, to adopt the first branch of that amendment. But if the latter part of it be agreed to, it will, according to the letter of the Commissioner of Pensions, require $1,000,000 to commence the extension. The committee, therefore, recommend that the amendment of the Senate be amended by striking out the words "and the pensions granted by this act, and those under said second section of the act of February 3, 1853, shall commence on the 1st day of March, 1848." I now move the previous question.

The previous question was seconded, and the main question was ordered to be put, being first upon the amendment proposed by the Committee of Ways and Means to the amendment of the Senate.

Mr. WASHBURN, of Maine. I call for tellers on that amendment. It ought not to be adopted.

Tellers were ordered; and Messrs. BOYCE and MIDDLESWARTH were appointed.

The question was taken; and the tellers reported—ayes 76, noes 56.

Mr. BENNETT called for the yeas and nays.

The yeas and nays were not ordered.

So the amendment was agreed to.

The question recurred on agreeing to the amendment of the Senate, as amended; and it was agreed to.

While the question was being taken,

Mr. FENTON addressed the Chair.

The SPEAKER *pro tempore*. There is another amendment to this bill not yet disposed of.

Mr. FENTON. I wish to inquire of the Chair in what state the bill is now in reference to the amendment which I had the honor of offering?

The SPEAKER *pro tempore*. The amendment offered in the House, by the gentleman from New York, is now before the House, and will be reported by the Clerk.

The amendment was read, as follows:

And be it further enacted, That any woman who was the wife or widow of an officer, non-commissioned officer, musician, private, seaman, or marine, who served in the Army or Navy of the United States in the revolutionary war, or in any subsequent war, and has since died in the land or naval service of the United States, shall also be entitled to the benefits of the pension laws, or of this act; but no woman shall receive a pension for any time during which her husband received one.

The SPEAKER *pro tempore*. The Committee of Ways and Means recommend non-concurrence in the amendment.

Mr. FENTON spoke in support of his amendment. His remarks will be published in the Appendix.

The question being on the adoption of the amendment,

Mr. FENTON called for the yeas and nays.

The yeas and nays were not ordered.

The question was then taken; and the amendment was rejected.

Mr. HOUSTON moved to reconsider the vote by which the Senate amendment had been concurred in, and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

The title of the bill was then amended by adding to the end thereof "and for other purposes."

ARMY APPROPRIATON BILL.

Mr. PHELPS, by unanimous consent, reported back, from the Committee of Ways and Means, a bill making appropriations for the support of the Army for the fiscal year ending 30th June, 1856; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. ELLISON also, by unanimous consent, introduced a bill for the relief of Catharine M. Hamer, widow of the late General Thomas L. Hamer; which was read a first and second time by its title, and referred to the Committee on Military Affairs.

HORSES AND OTHER LOST PROPERTY.

Mr. ETHERIDGE. The House will recollect that a few mornings ago I stated that if the House would give me twenty minutes' time to explain the bill that I then introduced, that I would ask for no further indulgence this session. The House will recollect that I occupied but five minutes of their time, and I propose now to consume the remaining fifteen minutes, in order to take up a bill which I am sure every gentleman in this House will support if I can but obtain unanimous consent to take it up. It is a bill to change the mode of proof in relation to the payment for property lost or destroyed in the military service of the United States. I have no doubt that every gentleman in the House is familiar with the provisions of the bill. Resolutions have come up here from the Legislatures of several States instructing their Representatives to vote for it.

I ask, then, that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill to amend an act entitled "An act to provide for the payment of horses and other property lost or destroyed in the military service of the United States," approved March 3, 1849.

The bill was then read through by the Clerk.

Mr. GIDDINGS, of Ohio. I wish to remark that this bill changes the whole features of legislation for forty years. We are about to rush through a bill which metes out a measure of justice to those who may hereafter come before this body entirely differing from that which has been meted out to those who have gone before, and I therefore object.

BOUNTY LANDS.

Mr. MIDDLESWARTH. I ask the unanimous consent of the House to take from the Speaker's table Senate bill (No. 511) entitled "An act granting bounty lands to certain officers and soldiers," for the purpose of referring it to the Committee on Military Affairs. I hope that there will be no objection to it, as I presume every gentleman is familiar with the provisions of the bill.

Mr. COBB. The Committee on Military Affairs is not the proper committee to whom this subject should be referred, and I object.

REGISTER AND RECEIVER AT VINCENNES.

Mr. MILLER, of Indiana. I ask the unanimous consent of the House to take from the Speaker's table Senate bill (No. 587) to continue temporarily the offices of register and receiver at Vincennes.

The bill provides that the register and receiver shall be continued temporarily in their offices at Vincennes until the final report shall be made by the commissioners pursuant to the act of Congress of July, 1854, to adjust titles to certain lands

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

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in the State of Indiana, and until the services required of said commissioners shall have been fully performed. The Secretary of the Interior and the Commissioner of the General Land Office have both been consulted upon the subject, and they recommend the passage of the bill. I hope that I may have the unanimous consent of the House to take the bill from the table, with a view to its passage.

Mr. WALSH. Does the gentleman make the motion for the purpose of referring merely, or does he intend to put it upon its passage?

The SPEAKER. The gentleman desires to put it upon its passage.

Mr. WALSH. I object.

Mr. MILLER. I hope the objection will be withdrawn. It is very important that this bill should be passed now. The offices for adjusting land titles will be kept open only for a short time in Vincennes, and just as soon as the commission shall expire, the papers and records will be returned to Indianapolis, the proper place.

Mr. WALSH. Well, by the general kindness of my disposition I am induced to withdraw my objection.

The bill was then ordered to be read a third time; and having been read a third time, it was passed.

BOOKS, ETC., OF MEMBERS.

Mr. STANTON, of Kentucky. I am instructed by the Committee on Printing to submit the resolution which I send to the Chair.

The resolution was read, as follows:

Resolved, That the Superintendent of Public Printing be directed to send to the members of the present House of Representatives, at their homes, such of the books and documents ordered by the present Congress as they are respectively entitled to, and which they may not receive before the adjournment, unless otherwise ordered by individual members.

Mr. HAVEN. I have no objection in the world to the House passing that resolution, but it seems to me it is cutting rather short at both ends; for this House, within thirty days after its meeting, confiscated the documents belonging to the last House, and now they are going to hold on to their own. [Laughter.] Still, I do not object to its being passed.

The resolution was then adopted.

Mr. STANTON, of Kentucky, moved to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider on the table; which latter motion was agreed to.

BILL REPORTED.

Mr. READY, from the Committee of Claims, by unanimous consent, reported the following bill; which was read a first and second time by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed:

A bill for the relief of the heirs of Dr. Absalom Baird, late a surgeon in the army of the Revolution.

On motion by Mr. MACDONALD, the House then, at three o'clock and forty-five minutes, adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

SATURDAY, *February* 10, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

CREDENTIALS.

Mr. SUMNER presented the credentials of Hon. HENRY WILSON, chosen by the Legislature of Massachusetts, a Senator from that State for the unexpired term of Hon. EDWARD EVERETT, resigned.

The credentials were read, and the oath prescribed by law having been administered to Mr. WILSON, he took his seat in the Senate.

BOUNTY LAND FOR INDIANS.

Mr. BROWN. I ask the unanimous consent of the Senate to take up, at this time, a joint resolution from the House of Representatives which was referred to the Committee on Indian Affairs, and favorably reported on some time ago. The committee reported a substitute for it which ought to be passed now, or I fear it will inevitably be lost. It is a proposition to which the Senate has two or three times agreed, and it cannot take up much time.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution of the House of Representatives, "declaring the Seneca Indians entitled to pension and bounty lands in certain cases." As it was passed by the House, it proposed that the pension and bounty lands laws should not be so construed as to exclude from their benefits Seneca Indians who served in the war of 1812, when, by the terms of the laws, Indians were not exceptad or excluded.

The Committee on Indian Affairs reported it with an amendment to strike out all after the enacting clause, and insert the following as a substitute:

That the acts heretofore passed by Congress, granting bounties in lands to persons engaged in the military service of the United States in time of war, be so construed as to include Choctaw and other Indians, in the same manner, and to the same extent, as if the said Indians had been white men.

Mr. BROWN. I do not wish to debate this question; but I desire to call the attention of the Senate to the fact that the Committee on Indian Affairs propose to strike out all of the joint resolution which relates to pensions, and to confine it simply to bounty lands in the same manner as was provided by the general bill which we have passed during the present session. As there is no probability of that general bill being passed by the House during this session, we propose to amend this joint resolution, and to send it to the House for their action.

The amendment was agreed to, and the joint resolution was reported to the Senate as amended.

The amendment was concurred in and ordered to be engrossed, and the joint resolution to be read a third time. The joint resolution, as amended, was read the third time and passed, and its title was amended so as to read: "A joint resolution to extend the benefits of the bounty land laws of the United States to Choctaw and other Indians who have served in the Army of the United States in time of war."

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, made in obedience to law, accompanied by lists of the clerks and other persons employed in that Department other than officers of the Army, during the year 1854; which was ordered to lie on the table, and be printed.

Also, a report of the Secretary of War, communicating, in obedience to law, a statement of expenditures for contingencies of the War Department, its offices, and bureaus, during the fiscal year ending the 30th of June, 1854; which was ordered to lie on the table, and be printed.

Also, a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate, copies of the report and map of A. B. Gray, late United States surveyor of the Mexican Boundary Commission, explanatory of his action whilst a member of that commisson.

A motion by Mr. WELLER to print the report was referred to the Committee on Printing.

Also, a report of the Secretary of War, communicating, in obedience to law, statements showing the contracts made by that Department during the year 1854; which was ordered to lie on the table, and be printed.

Also, a report of the Secretary of the Interior, communicating a report of the Commissioner of Indian Affairs, on the claim of the Brotherton tribe of Indians against the United States; which was ordered to lie on the table, and be printed.

Also, a report of the Secretary of the Treasury, communicating a report of the Director of the United States Mint on the fineness and value of certain foreign gold and silver coins, as required by the acts of January 25, 1834, and March 3, 1843; which was read, and ordered to be printed.

Mr. HUNTER. I move that there be printed of this report the same number of extra copies as was printed last year for the use of the Mint. It is usual to print a number for the use of the Mint, for the purpose of exchanging with other Mints all over the world. I make the motion to print the usual number for that purpose.

The motion was agreed to; and it was accordingly ordered that one thousand additional copies of the report be printed, five hundred of which shall be for the use of the Director of the Mint.

PETITIONS, ETC.

Mr. RUSK presented additional documents in relation to the memorial of William Arc her; which were referred to the select committee on the Pacific railroad.

Also, additional documents in relation to the claim of C. J. Cook and A. A. Lockwood; which, with their petition on file, were referred to the Committee on Claims.

Also, the memorial of George H. Giddings, praying additional compensation for carrying the mail from San Antonio, Texas, to Santa Fé, in New Mexico; which was referred to the Committee on the Post Office and Post Roads.

Also, a petition of citizens of Texas, praying the establishment of a mail route from Bastrop to Gonzales, in that State; which was referred to the Committee on the Post Office and Post Roads.

Also, a memorial of the executor of Joseph H. McFadin, praying compensation for services in carrying the mail; which was referred to the Committee on the Post Office and Post Roads.

Also, additional documents in relation to the claim of John C. Morris, and Eliza McKee; which, with their memorial on file, were referred to the Committee on Indian Affairs.

Mr. WADE presented a petition of legal voters of Ruggles, Ohio, praying a repeal of the fugitive slave law; which was ordered to lie on the table.

Mr. GWIN presented the memorial of B. F. Marshall, praying compensation for beef and other provisions furnished for the use of Indians in California; which was referred to the Committee on Indian Affairs.

Mr. SEWARD presented the petition of Martha Haff, widow of a soldier of the war of 1812, and of Erastus Corning, Tennis Van Vechten, John L. Schoolcraft, and fifteen others, all citizens of Albany, praying a removal of the unjust discrimination made by an act of Congress of 1853, in granting ten years half-pay to widows of certain soldiers of the war with Mexico, and but five years half-pay to the widows of the same class of officers and soldiers of the war of 1812; which was referred to the Committee on Pensions.

Mr. SHIELDS presented documents in support of the claim of Lucretia V. Gardner to a pension; which were referred to the Committee on Pensions.

Mr. PRATT. I present a memorial of the Board of Trade of the city of Baltimore, asking for an appropriation by the Federal Government for the improvement of the Ohio river. I have great pleasure in presenting this memorial, as indicative of the strong ties of interest which are now connecting the different sections of the country together. As a bill for the purpose has passed the Senate, I move that the memorial lie on the table.

The motion was agreed to.

Mr. DODGE, of Wisconsin. I present joint resolutions of the Legislature of Wisconsin, expressive of opposition to any extension of the time now required by the naturalization laws to enable a person from abroad to become a citizen of the United States. I ask for the printing of five hundred copies of these joint resolutions. As the subject of our naturalization laws is one which is attracting great attention at this time, I think there can be no reasonable objection to printing that number of copies of these joint resolutions. I make that motion.

The PRESIDENT. The order to print the usual number will be considered as agreed to, and the motion to print extra copies will go to the Committee on Printing.

REPORTS FROM STANDING COMMITTEES.

Mr. SHIELDS, from the Committee on Military Affairs, to whom was referred the petition of Simeon Knight, a paymaster in the Army of the United States, for a settlement of his accounts for extra services rendered by him, submitted a report, accompanied by a bill for the relief of the heirs of Colonel Simeon Knight, late of the United States Army; which was read and passed to a second reading. The report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of A. S. Robinson, cashier of the bank of the State of Missouri, for repayment of moneys advanced in 1846, for subsistence, &c., of certain volunteers for the war with Mexico, previous to their being mustered into the service of the United States, submitted a report, accompanied by a bill for the relief of A. S. Robinson, cashier of the bank of the State of Missouri, at St. Louis; which was read and passed to a second reading. The report was ordered to be printed.

Mr. TOUCEY, from the Committee on the Judiciary, to whom was referred a resolution of the Senate relative to seamen on board of public and private vessels, reported a bill to repeal the act therein mentioned relating to naturalization, passed June 22, 1848; which was read and passed to a second reading.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the memorial of Frederick Chatard, a lieutenant in the United States Navy, praying certain allowances in the settlement of his accounts as acting purser, submitted a report, accompanied by a bill for his relief; which was read and passed to a second reading. The report was ordered to be printed.

Mr. GEYER, from the Committee on the Judiciary, to whom was referred a joint resolution authorizing the Secretary of the Interior to approve the accounts of the marshal of the District of Missouri for furniture provided for the use of the circuit court of the United States for said district at the April term of said court, held at St. Louis, in the year 1854, reported it back without amendment.

Mr. BRAINERD, from the Committee on Claims, to whom was referred the House bill for the relief of Andrew H. Patterson, reported it back without amendment.

Mr. JONES, of Tennessee, from the Committee on Military Affairs, to whom was referred the petition of Whitemarsh B. Seabrook, Joseph Whaley, and others, praying payment for military services during the last war with Great Britain, submitted a report, accompanied by a bill for the relief of Whitemarsh B. Seabrook, Joseph Whaley, and others, officers and members of the Edisto Island Company, of the State of South Carolina; which was read and passed to a second reading. The report was ordered to be printed.

MILITARY RESERVATIONS.

Mr. MALLORY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate copies of the correspondence between the Secretaries of War and the Interior Departments, respecting a claim advanced by the Commissioner of Indian Affairs to the military reservation at Fort Leavenworth; together with the result of his investigation of the alleged interference of certain Army officers, named in a recent report of the Commissioner of Indian Affairs, with the rights of the Delaware Indians.

PHILADELPHIA AND NEW ORLEANS MINTS.

Mr. BENJAMIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be requested to communicate to the Senate a statement showing: 1. The amount of silver purchased by the Department for recoinage at the United States Mint at Philadelphia, during the year 1854, and the price paid therefor, and a similar statement in regard to the branch Mint at New Orleans. 2. The reasons for any difference of price which may have been paid for silver recoined at said Mint at Philadelphia and branch Mint at New Orleans.

BALANCE DOCK AT PENSACOLA.

Mr. MORTON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be requested to furnish the Senate with copies of the agreement between Everett & Brown, and Gilbert & Secor, contractors, with all letters on file in his Department in reference to the charter of the ship Monarch of the Sea, for testing the balance dock, basin, and railway at the Pensacola navy-yard. Also, copies of all letters of the said Everett & Brown, and Mr. Joyce, the builder of the said ship, to the Department; and copies of the correspondence between the Department and B. F. Delano, naval constructor, and B. F. Chandler, civil engineer, (members of the late commission,) since the test of the said dock, basin, and railway, with the ship Monarch of the Sea, at the Pensacola navy-yard.

BILLS INTRODUCED.

Mr. GEYER asked and received the unanimous consent of the Senate to introduce a bill to amend an act entitled "An act to provide for the payment for horses and other property lost or destroyed in the military service of the United States," approved March 3, 1849; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. SUMNER asked and obtained the unanimous consent of the Senate to introduce a bill for the relief of Enoch Baldwin and others; which was read twice by its title, and, together with documents on the files of the Senate, referred to the Committee on Commerce.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had passed Senate bill for continuing temporarily the offices of register and receiver at Vincennes, Indiana.

Also, that they had passed a bill to remodel the diplomatic and consular system of the United States.

Also, that they had concurred in the first and third amendments of the Senate to the bill of the House making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1856, and that they concurred in the second amendment of the Senate to that bill with an amendment, in which the concurrence of the Senate was requested.

REDUCTION OF POSTAGE.

On motion by Mr. RUSK, the bill "further to amend the act entitled 'An act to reduce and modify the rates of postage in the United States, and for other purposes,'" passed March 3, 1851, together with the amendments reported from the Committee on the Post Office and Post Roads, was ordered to be printed.

PAPERS WITHDRAWN.

On motion by Mr. MALLORY, it was

Ordered, That E. A. Williams have leave to withdraw his petition and papers.

JOHN P. BROWN.

Mr. MASON. I ask the unanimous consent of the Senate to make a correction in a bill which was passed yesterday. It is a bill for the relief of John P. Brown. It appears in the manuscript, and also in the printed copy, that the name of the party proposed to be relieved was omitted. I have examined the papers, and the bill will be of no value unless the name of the party is inserted. I ask unanimous consent that it may be inserted.

By unanimous consent the correction was ordered to be made.

LIEUTENANT W. D. PORTER.

Mr. MASON. At the same time, I wish to state to the Senate that on the 4th of August, 1854, a bill which passed both Houses of Congress for the relief of Lieutenant William D. Porter, of the United States Navy—which had been reported from the Committee on Foreign Relations here—was approved by the President and became a law. But it seems, at the same time, that a bill reported from the same committee for his relief was allowed to remain upon the Calendar; and yesterday, in the great dispatch of business, it passed the Senate also; so that, if that is allowed to stand, there will be double legislation. I move, therefore, to get rid of it, to reconsider the vote of yesterday on the passage of that bill, with the view then of moving its indefinite postponement.

The motion was agreed to; and the bill was indefinitely postponed.

PINE GROVE ACADEMY.

Mr. STUART. I have in my hands another bill standing in a similar position—the bill for the relief of Pine Grove Academy, in Louisiana, which was passed yesterday. A bill for the same purpose passed both Houses of Congress at the last session and became a law. I wish to say, in connection with this, that there must be some fault connected with this business somewhere. I had occasion to look at the laws of 1852, I think, in which I found that, on different pages within four leaves of each other, the same identical law was printed. I think it was in 1852. It was an act to repeal the proviso of the bounty land laws. It was passed by Congress twice, approved twice, and so stands in the book. I do not, of course, impute any negligence to anybody; but there is something wrong, if our Calendar is not corrected from time to time, when we pass a bill and it becomes a law. I move, therefore, in this case, a reconsideration of the vote by which the bill for the relief of Pine Grove Academy, in Louisiana, was passed yesterday, with a view to its indefinite postponement.

The motion was agreed to; and the bill was indefinitely postponed.

SYLVESTER CHURCHILL.

Mr. SHIELDS. The Committee on Military Affairs have instructed me to report a bill for the relief of Sylvester Churchill. At the suggestion of a friend, I ask for its immediate consideration. It has, by some oversight, been neglected for some time.

The bill was read twice, by unanimous consent, and considered as in Committee of the Whole. The Secretary of the Treasury will be required by it to pay to Sylvester Churchill, Inspector General of the United States Army, $1,020 14, that being the pay and emoluments of his office from July 8, 1845, to January 21, 1846, to which he is justly entitled, but which he cannot obtain as the law now stands.

No amendment being proposed, the bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

ORDER OF BUSINESS.

Mr. STUART obtained the floor.

Mr. WELLER. I hope the Senate will now consider the resolution which I submitted yesterday, to fix the hour of meeting at eleven o'clock from and after Monday.

Mr. STUART. I suppose that cannot be done at my expense.

The PRESIDENT. The Senator from Michigan is entitled to the floor.

Mr. STUART. I move that the Senate set aside the prior orders and proceed to the consideration of the special orders for the improvement of harbors. There are several of those bills which can be disposed of in half an hour. The first is one for the improvement of the harbors on the lakes.

Mr. HUNTER. Mr. President, we fixed the hour of one o'clock to take up the Indian appropriation bill. It wants but ten minutes of that time, and I propose to the Senator from Michigan to allow us to go on with that bill. We cannot dispose of the internal improvement bills in ten minutes, and the effect of taking them up now will be to displace the Indian appropriation bill from the position given it by the Senate. I think this will be a useless consumption of time.

Mr. STUART. There can be no displacement of the bill which the Senator urges. That bill is the special order for one o'clock, and will remain so. If the Senate are engaged in other business at one o'clock, that will not displace the special order. There are only two or three of these internal improvement bills, and I think they can be passed in less time than we are consuming in talking about them.

Mr. HUNTER. The motion of the Senator, I think, is to postpone all prior orders—that making the Indian appropriation bill the special order for one o'clock, as well as the others.

Mr. STUART. The special order is for one o'clock. That time we have not reached, and therefore this motion does not displace it

Mr. WELLER. If I could get my friend from Michigan to vote for the resolution which I offered yesterday, we should be able to dispose of all those bills.

Mr. STUART. I will vote for it when it comes up.

Mr. WELLER. We can pass all those bills between eleven and twelve o'clock on Monday.

Mr. HUNTER. If the Senator from Michigan will lay aside his bills at one o'clock, I will mak no objection to his motion.

Mr. PETTIT. It seems to me there is business on the President's table which ought to be disposed of in the first instance. The bills from the House ought to be taken up and referred. I hope the Senator from Michigan will give way that this may be done.

Mr. STUART. We can take them up at any time during the day before we adjourn as well as now.

The PRESIDENT. The question is on the motion of the Senator from Michigan.

The motion was agreed to.

LAKE IMPROVEMENTS.

The Senate accordingly proceeded to consider, as in Committee of the Whole, the bill making appropriations for the improvement of the harbors on Lakes Ontario, Erie, Huron, St. Clair, Superior, and Michigan. As originally introduced, it proposed to appropriate $500,000 for the improvement of the harbors on Lakes Ontario, Erie, Superior, St. Clair, Huron, and Michigan, in the following proportions: $100,000 for Ontario, $100,000 for Erie, $100,000 for St. Clair, and Huron combined, $100,000 for Superior, and $100,000 for Michigan. It provided that this sum should be expended under the direction of the War Department, at such places, on each of the lakes, as most required it. It also proposed to allow the Secretary of War, in his discretion, to let contracts for the construction of any of the works for which it provided, on such terms as he should think proper, taking security in all cases for the faithful performance of the contracts.

The Committee on Commerce reported the bill with an amendment to increase the appropriation from $500,000 to $525,000, and to appropriate the additional $25,000 for the improvement of harbors on Lake Champlain.

The PRESIDENT. The question is on agreeing to the amendments reported by the Committee on Commerce.

Mr. HUNTER. I wish to ask the Senator from Michigan, who has charge of this bill, whether it is proposed to leave it to the discretion of the Secretary of War to select the harbors on which to make this expenditure?

Mr. STUART. No, sir; it is not. The bill provides that the money shall be expended at the points most requiring expenditure. They are, of course, the works already in progress. Under this provision, the Secretary will necessarily make an indication in the first instance, but it does not leave it to his discretion, nor is it so meant. It simply means to reserve the whole question to the control of Congress, and it does so.

Mr. HUNTER. Let the bill be read again.

The Secretary accordingly read it.

Mr. HUNTER. It seems to me that this leaves it discretionary with the Secretary of War to expend the money on such works as he may select. You leave it to him not only to say which are constitutional objects of expenditure, if he should think any of them to be of that character, but also leave it to him to determine those which it is most expedient to improve. I have never known so large a discretion invested in any one. It seems to me that this is a matter which Congress ought to decide for itself. I shall have to call for the yeas and nays on the bill.

Mr. WADE. Mr. President, I am opposed to the broad discretion which I believe is conferred on the Executive by the bill as it has been reported by the committee. It seems to me that we might as well surrender all power which we have into the hands of the Executive, and barely pass an act appropriating a certain sum to be expended wherever he pleases. That, it seems to me, is about the amount of this bill. Now, I think we ought to take the responsibility of judging as to the constitutionality of these appropriations. With this view I move to strike out all that portion of the bill which relates to Lake Erie—for that is the portion in which I am more interested than any other—and to insert in lieu of it the following:

For continuing the improvement of the harbor of Buffalo, New York, on Lake Erie, $33,000.

For continuing the improvement of the harbor of Dunkirk, New York, on Lake Erie, $30,000.

For continuing the improvement of the harbor of Erie, Pennsylvania, on Lake Erie, $25,500.

For continuing the improvement of the harbor of Conneaut, Ohio, on Lake Erie, $11,500.

For continuing the improvement of the harbor of Ashtabula, Ohio, on Lake Erie, $13,500.

For continuing the improvement of the harbor of Fairport, Grand river, Ohio, on Lake Erie, $13,600.

For continuing the improvement of the harbor of Cleveland, Ohio, on Lake Erie, $30,000.

For continuing the improvement of the harbor at the mouth of Black river, Ohio, on Lake Erie, $13,500.

For continuing the improvement of the harbor of Sandusky City, Ohio, on Lake Erie, $28,500.

For continuing the improvement of the harbor of Monroe, at the mouth of the river Raisin, Michigan, on Lake Erie, $10,000.

For current expenses of the steam dredge on Lake Erie, $7,500.

This amendment, Mr. President, is precisely in the same words with that portion of the river and harbor bill of last year which provided for Lake Erie. It is made up, I believe, in accordance with the recommendation of the Department, in each case. It proposes the construction of no new work, but simply conforms to what has already been recommended by the War Department for these very harbors. I do not know that the President had any constitutional objections to this portion of the bill of the last session. I read very carefully the veto message which he sent to us, objecting to that bill as a whole, but I was unable to discover any objection to the improvements of the harbors on the lakes. I think, therefore, that if the committee have endeavored to conform to what they supposed to be the President's ideas of constitutionality, they have gone further than he would go, for I do not suppose the President would ask us to refrain entirely from passing judgment ourselves upon the constitutionality of an appropriation. Because he has disagreed with us as to the constitutionality of some portions of the appropriations proposed by the bill of last year, the committee have provided for withdrawing all judgment on our part, and conferring it on the Executive! I cannot agree to that.

I do not wish to make any remarks as to the importance of constructing the works provided for in my amendment. The necessity of them has been ably set forth on other occasions, and by other Senators. There have been immense losses of life and property upon Lake Erie within the last year, and greatly in consequence of the bad condition of these harbors of refuge along that lake. It is not necessary now to set forth the importance of these harbors. It would consume time unnecessarily for me to enter into that point. Every one who has examined the subject must be aware of their great importance. I hope, sir, that the amendment which I have offered will be agreed to, and that other Senators interested in the other lakes will offer amendments similar to mine. I have great objection to the broad generality of the bill.

Mr. HUNTER. It is now one o'clock, and I call for the special order of the day.

Mr. STUART. I wish to submit a few remarks to the Senate on the question before us, at the same time premising that the discussion of any one of these measures, as a matter of course, destroys it. A general discussion of river and harbor improvements is destructive to all these measures. There is no doubt about that; but I wish to correct a misapprehension. It seems to be supposed by the Senator from Virginia, and by the Senator from Ohio, that the provision to which they have referred is the result of an amendment made by the Committee on Commerce. Such is not the fact. This bill was introduced by me at the commencement of the session in precisely the same form in which it now is, except the amendment which includes Lake Champlain. The bill was referred to the Committee on Commerce, and that committee instructed me to report it back with an amendment embracing Lake Champlain, that being, in their opinion, one of the great chain of northern lakes.

Sir, there is another misapprehension which exists on the part of the Senator from Virginia. Evidently he supposes that this bill confers discretion on the War Department in two particulars.

Mr. HUNTER. Will the Senator allow me to ask him whether it would not be as well to allow this bill to go over until Monday, and let us take up the special order?

Mr. STUART. I think we had better pass this bill to-day.

Mr. HUNTER. I thought the understanding was that it should be laid aside at one o'clock. But for that I should have pressed my motion to take up the Indian appropriation bill.

Mr. STUART. I did not make any such agreement.

The PRESIDENT. The Chair understands the Senator from Virginia as moving to postpone the further consideration of this subject until Monday, for the purpose of proceeding to the consideration of the Indian appropriation bill—the special order.

Mr. STUART. I suppose the Senator can make that motion when he gets the floor. I am now entitled to the floor.

Mr. HUNTER. That was my motion, but, of course, the Senator has the floor, and can go on if he chooses.

Mr. BELL. I wish to submit to the Senator from Michigan whether, as the bill under consideration is also a special order, it does not regularly, by the parliamentary rule of proceeding, postpone all other special orders which cannot be executed until this is disposed of? For myself, I do not perceive the great urgency which the honorable Senator from Virginia seems to manifest for the passage of the Indian appropriation bill. If we allow the appropriation bills to occupy a large portion of the time of the Senate, we shall not get up these other bills at all; and we might as well have passed no internal improvement bills, unless we go on and pass some more, in order to equalize the appropriations, as far as possible, among the different sections of the Union. It is not to be presumed that a partial batch of such bills will be taken up in the House. I do not like to refer to what the House may or may not do; but every Senator who is in favor of internal improvements must perceive that all that we have hitherto done on the subject will be abortive, unless we very speedily act on the other internal improvement bills which the Senate think proper to pass. It seems to me that the honorable Senator from Virginia has no right to urge that his special order, the Indian appropriation bill, shall be executed, at all events, before other special orders, and particularly the one now under consideration. If I supposed the public interest demanded that that bill should be passed to-day, I would waive any objection on the score of order, and would agree to take it up. I do not, however, understand that to be the case. That bill has passed the House, and can be taken up at any time between this and the close of the session, and the public interest will be fully subserved by doing so. There is no immediate demand for the moneys appropriated by the Indian appropriation bill, and, therefore, I do not think it proper to postpone this measure for its consideration. I appeal to the Chair to say whether it is not the rule that one special order, which is under consideration, of an anterior date, cannot be thrust aside by another special order, the hour for which arrives before the one under consideration is disposed of?

The PRESIDENT. It can only be done by a vote of the Senate.

Mr. BELL. Well, sir, I trust honorable Senators who are in favor of ascertaining whether or not we are to get any appropriations for great and important and necessary works of internal improvement, and who are in favor of placing those measures before the Executive in such a manner as to allow him to approve those which he thinks proper and constitutional, and reject those which he considers improper and unconstitutional, will now insist on considering these bills. Unless we proceed to pass such bills on the subject as have heretofore been considered constitutional and expedient, we have no prospect of getting any at this session. I submit, then, that it is no rule of order which thrusts this bill aside. It can only be thrust aside upon the exigency of the case—the public service demanding that the Indian appropriation bill should be passed immediately. I do not understand that any such statement is made by the honorable Senator from Virginia, and, therefore, it stands upon no better claim of precedence or priority of business than the bill now before the Senate.

Mr. HUNTER. I wish to ask who is entitled to the floor?

Mr. STUART. I suppose I am.

The PRESIDENT. The Senator from Michigan is entitled to the floor.

Mr. HUNTER. Then I cannot reply to the Senator from Tennessee.

Mr. BELL. I was afraid the Senator from Michigan might give way, but I suppose my fears were unfounded.

Mr. STUART. I am very glad to perceive the zeal of my friend from Tennessee, although I had no idea of waiving my position, which is simply this: that these bills, as also the Indian appropriation bill, are special orders; the Senate proceeded to the consideration of these special orders, and, therefore, the call made by the Senator from Virginia, just before I rose, was not in order. He might have submitted a motion to the Senate to dispose of the present bill, and then a motion to take that up.

Mr. HUNTER. I understood the Senator that this bill should not interfere, at one o'clock, with the Indian appropriation bill.

Mr. STUART. The Senator doubtless misapprehended me in supposing that I acquiesced in the suggestion which he made, which I did not wish to be understood as doing. Now, I feel myself in a very delicate condition. As a member of the Committee on Finance, of which the honorable Senator from Virginia is chairman, I consider it to be a duty, as well as a pleasure, to sustain him in pushing forward the appropriation bills; but such are my convictions with respect to the importance of those bills, and especially inasmuch as we have passed others of a corresponding character, that I think we may with propriety consume a short time of the Senate in disposing of them. Thus much I have thought it necessary to say, in order to make my own position clear.

I was about saying, when interrupted, that the other misapprehension of the Senator from Virginia seems to be that the bill proposes to place an unlimited discretion in the Secretary of War, as to where this money shall be appropriated. I carefully avoided this and the other misapprehension to which I have referred, in framing the bill; and, but for the discussion which grew up at the last session of Congress, I presume it would not have suggested itself to the Senator from Virginia. If this bill shall be passed in the shape in which the Committee on Commerce have reported it, Congress will appropriate $525,000 to be expended upon these lakes in a specified manner, dividing it between the lakes, and then declaring that it shall be appropriated at the places most requiring it. That surely leaves no discretion in the Secretary of War or the President as to the constitutionality of the appropriations. Congress decides that it is constitutional, necessary, and proper, to appropriate $525,000 upon those lakes, in the improvement of the harbors on the lakes, and in the improvement of those harbors which most require improvement.

It is said this is an unlimited discretion. It seems to me not. I could instance more cases than could be read here in three days, where the discretion is much more extended than is given here. In fact, you cannot pass a law to carry out any appropriation in detail that does not confer discretion. The object, therefore, was not, as seems to have been supposed by the honorable Senator from Ohio, to escape a veto of the President. I understand the President's veto message, as that Senator does, that it does not touch the harbors upon the lakes. The Senate is as well aware as I am that the difficulty is in Congress. The moment you commence with your specifications of particular harbors, those which are the least necessary are generally the best attended to. Here is a man representing a district, and there is a harbor in it, or he wants one. He insists on its being dug out at some rate or other, and he will vote for no bill, nor will he permit any bill to be passed, which does not provide for it. The object of this provision, therefore, is to escape the improprieties of Congress itself.

Does any man suppose that the harbors named in the amendment of the honorable Senator from Ohio will not be improved under this bill? Will any one say that Buffalo and Cleveland will be overlooked? By no means. The Secretary is authoritatively directed by the bill to spend the money in improving the harbors upon those lakes. That is one question settled, about which he has no discretion. Then, he is to expend it at the points most requiring it. Now, look at the bill. It appropriates $100,000 for each of the great lakes. That will not build all the harbors, nor half of them. The Senator's amendment covers a great deal more than $100,000 on Lake Erie; but, in my judgment, $100,000 is as much as can be properly expended on Lake Erie in one year. I do not mean this to be a bill to last for all time, but I expect Congress to make annual appropriations to complete these works.

I wish to state another fact of which that honorable Senator is as well acquainted as I am; but, perhaps, some others may not be aware of it: When Congress makes an appropriation, it is divided, and instead of completing a harbor, you commence and expend $20,000 or $30,000 upon it, and leave it. What is the consequence? Before the next year comes round, the whole structure is destroyed. That I desire to avoid by this bill. I desire that the Secretary of War shall take up a work, and, if there be money appropriated for that, complete it, and then take up another, and complete it. Only this very morning I read an article in a paper from my State, showing that a harbor which was commenced on Lake Michigan, with a pier run out two hundred feet, by an appropriation made by the last Congress, has been entirely swept away by the recent storm, and every dollar of expenditure is lost. If we had gone on at the last session of Congress, and made our appropriations, as I strove in that bill to have them made, that work would have been saved to us. But, by differences of opinion among the friends of these appropriations, which do not involve differences of principle, we defeat, year after year, in one mode or another, appropriations for these works, and so annually we sink enormous sums of money. At one time we get into a bill so many objectionable features that the President vetoes it. At one time we cannot agree among ourselves as to the form of the bill.

Now, I sought in framing this bill—and it is all that I sought—in the best spirit and in the best of faith, so to shape the appropriations for harbors upon the lakes, that they could not be objected to. I was unwilling to appropriate $500,000 for the lakes merely, and let it stand there. I divided it in proper proportions between the lakes. I was unwilling to stop there, but I went on and proposed to direct the Secretary, so as to leave him no room to say whether, in his opinion, an appropriation was constitutional or not, but directed him to expend the money at the points most requiring improvement. How is that to be determined? The condition of the works, the commerce of the place, and its necessities as a harbor of refuge, are the questions which enter into and go to decide the propriety of a construction of this character.

I certainly think the bill is not open to the objections which have been suggested, and I believe I could show very conclusively, if I were willing to consume the time of the Senate by doing so, that there is not a single objection taken to it which is well founded. But I suggest again to all my friends, in the very best of motives, that if we are to discuss this subject and seek to have every gentleman's views carried out, we might just as well abandon the measure first as last, for it cannot be carried out. If the Senator from Ohio shall succeed in his amendment, the appropriations made by which are, I think, proper, another Senator will rise and make specifications for which I cannot vote. I know they have been in bills before, and if they are brought up as distinct propositions, they cannot secure my vote; and what is true of me, is doubtless true of others. If this bill shall become a law, one hundred thousand dollars will be appropriated for harbors on Lake Erie. The most prominent points on the lake, those most requiring improvement, are, one in New York, and the remainder in the State of the Senator from Ohio. There is no doubt about it. His State will receive more money under this appropriation than any other State on the lakes. It will be necessary. Nobody can look at the lakes and say it is not necessary. Such is the commerce of Lake Erie, such is the condition of the improvements there now, and such the necessity of harbors for refuge, that the Ohio shore of the lake must, necessarily, absorb most of the money appropriated. Buffalo comes in with it for a full share, and that is about all. I think then, upon reflection, the Senator will come to the conclusion which actuated me in introducing the bill to the Senate; but if not, I only desire to say that if I cannot agree in detail with all my friends who are in favor of these great measures, I must submit to delay until we can agree. I certainly cannot consent to consume the time of the Senate unnecessarily.

Mr. HUNTER. I move to postpone the prior orders for the purpose of taking up the Indian appropriation bill, which was made the special order for to-day.

Mr. STUART. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BAYARD. I should like to know the exigency which requires us to take up the Indian appropriation bill, because that will govern my vote. This bill is now before the Senate. It has been half discussed, and it may be that its discussion is almost closed. If we postpone it now, we shall reopen the discussion when it is brought up again precisely as if nothing had been said. It seems to me, therefore, that, unless there is some pressing necessity for taking up the Indian appropriation bill at once, it would be better to dispose of the bill now before the Senate, and then take up the Indian appropriation bill, suffering the other improvement bills to pass over until Monday. I believe that would be the course most conducive to the rapid determination of business. Unless there is some particular exigency, of which I am not yet cognizant, I cannot vote to take up the Indian appropriation bill.

Mr. HUNTER. I have not pressed an appropriation bill this week; I gave way to the other business of the Senate; but I think the most economical distribution of time would be to devote this, the last day of the week, to the Indian appropriation bill. I believe that if we had been allowed to take it up at one o'clock, we could probably dispose of it to-day, and thus have it out of the way on Monday, when this and other matters could be taken up. I know that if it is not taken up to-day we shall have the same contest on Monday, and the appropriation bills will thus be thrown over to the last of the session, as has been so often done heretofore. Surely I need say nothing as to the expediency of taking time, full time, to deliberate and consider upon the appropriation bills. I believe it would be an economy of time, and that gentlemen would have more opportunity for the general legislation of the country, if they would give those bills that precedence to which they are entitled, and dispose of them as they come up, and then there could be an interval to take up measures of general legislation. As it is, if the Indian appropriation bill be postponed now, I foresee that all these other matters will occupy us during the next week, and we shall have to legislate, as we have heretofore done upon the general appropriation bills, in great haste, with great confusion, and under great difficulty.

Mr. RUSK. There are one or two other reasons why the Indian appropriation bill should be taken up and disposed of as early as possible. There are many amendments to be proposed to it by the committees of the Senate, which will probably be the subject of discussion between the two Houses, and which greatly affect our Indian policy. There are many provisions in it that have reference to the frontier, which is in a disturbed state at this time. The extension of settlements on the frontier has made the Indian business of the country much more complicated. In my judgment, we should pass the Indian appropriation bill at the earliest moment possible. It is necessary for the interests of the frontier; because it contains many appropriations which are indispensable in order to quiet the Indians on the frontier, and by passing the bill early we shall perhaps prevent a much larger expenditure. For that reason I hope it will be taken up and considered now.

Mr. SEWARD. It is very certain, Mr. President, that the Indian appropriation bill will pass somehow and in some shape before Congress adjourns. There is no doubt at all about that; and I think the difference of one day, or two days, or five days, or ten days in its passage, is of very little consequence. On the other hand, the bill which we have now under consideration is one that comes before the Senate under extraordinary circumstances. The last Congress revived, renewed, and reinstituted the system of the improvement of lakes, rivers, and harbors. They provided for a very large outlay of expense for such works. The works were commenced; and they ought to have been continued as a mere matter of economy to the Government; but, owing to a disagreement between the President and the present Congress at the last session, no appropriations were made, and the works are consequently

becoming dilapidated and falling into ruin. We have now reached that state of affairs in Congress in which it is ascertained that the disagreement between the President and Congress is irreconcilable; and we have, in order to continue these works, to adopt a new system, an untried system, and that system has to be not only adopted by the Senate, but concurred in by the House of Representatives also. I submit to honorable Senators who are interested in the prosecution of these works, that if we should succeed in passing a bill to-day, or several bills to-day, necessary to carry out the views of the Senate on that subject, there will still probably be left a sufficiency of time to secure the concurrence of the House of Representatives if we send the bills there as speedily as possible. Under these circumstances, while I am desirous to concur with the Committee on Finance in expediting the appropriation bill which they have now brought to our attention, I must insist that duty to the country requires that we should dispose of the present business before taking it up.

The question being taken by yeas and nays on Mr. HUNTER's motion, resulted—yeas 18, nays 26; as follows:

YEAS—Messrs. Adams, Allen, Bayard, Clay, Dawson, Evans, Fitzpatrick, Gwin, Hunter, Mallory, Mason, Morton, Pettit, Rusk, Sebastian, Toucey, Weller, and Wells—18.

NAYS—Messrs. Bell, Benjamin, Brainerd, Cass, Chase, Clayton, Dodge of Wisconsin, Douglas, Fessenden, Foot, Geyer, Gillette, James, Johnson, Jones of Iowa, Jones of Tennessee, Pearce, Pratt, Seward, Shields, Slidell, Stuart, Sumner, Thompson of Kentucky, Wade, Wilson, and Wright—27.

So the motion was not agreed to.

The PRESIDENT. The question is on the amendment of the Senator from Ohio, [Mr. WADE.]

Mr. CLAYTON. I merely wish to say, in reference to this bill, that that part of the first section which gives to the Secretary of War, or any Secretary, such a power as to determine the places where the appropriations shall be expended, is, in my judgment, wrong, and inconsistent with the Constitution. Congress has power to appropriate the public money. No power can be delegated by Congress to a Secretary, or anybody else, to appropriate money. According to all the understanding I have ever had upon that subject, and according to the understanding of those with whom I have heretofore associated in this body, an appropriation means a specific designation, *ex vi termini*. It implies, necessarily, a specific designation of the object and purpose for which the money shall he expended. Sir, in my judgment, the objection was well taken by the Senator from Virginia to that part of this bill, and I hope we shall set no such example. I admit that convenience might, in some cases, be consulted by delegating the powers of Congress to others. But the only safe rule for us to adhere to is to stand by the Constitution as it is. If money is to be expended on the lakes, let us say where. Quite enough of discretion will be given to the Secretary, in any event. If no Senator will move it, I move to strike out the last line of the first section.

Mr. BELL. There is an amendment pending.

Mr. CLAYTON. If there is an amendment pending for the same purpose, I will withdraw mine. I only rose for the purpose of stating my opinion of the provision. I think we ought to adhere, in every case, to the principle that Congress alone shall appropriate the public money.

Mr. WADE. Mr. President, I do not rise to debate this subject; for to debate it would probably be to defeat the bill. I have, however, the strongest objections to the proposition presented by the committee, for the reason that it withdraws from this body a power which properly belongs to us, and confers upon the Executive branch of the Government, what, in my opinion, would be a very ridiculous power for it to exercise, and which would render these appropriations of no avail. An appropriation of $100,000 for all the harbors on the south shore of Lake Erie would be, probably, too small an amount to be used to any advantage. Nearly all that sum would be required to be expended in preparing to do the work, and then there would be very little, if anything, left to proceed with. The Senator from Michigan may think that he can judge of the amount of appropriation better than the engineers who were sent to these places for the purpose of making estimates. My amendment is founded upon a recommendation of the Department on actual survey of each of the harbors for which it provides. The work is becoming dilapidated, and no doubt it would be well to appropriate now, more money than was recommended when those estimates were made; but, nevertheless, I am willing to take what the proper officers have said is right. It seems to me that we defer sufficiently to the Executive branch of the Government when we found our legislation upon the estimates and recommendations which the proper officers of that branch specifically make to each House.

But, aside from that, here are a great number of harbors on the south shore of Lake Erie, all of which have been adjudged to be of great importance to the commerce of that lake. Some of them are of greater, and some of them of lesser, importance, to be sure; but all of them are necessary, and even more harbors, if they could be advantageously constructed there, would be necessary as harbors of refuge, for the safety of the navigation of the lake. It is of the first importance that we should appropriate something to keep up those harbors which are now fast going to dilapidation and decay. Suppose, however, you should give $100,000 to be scrambled or raffled for, for the improvement of the harbors along that lake, there would be applications to the Executive to make an appropriation here, and there, and everywhere. That is too contentious a mode. It will lead to a universal scramble for Executive favor. There is no necessity for it, because the proper officers of the Executive Department themselves have specified where, in their judgment, the money should be appropriated, and at what particular places. Why should we disregard what they have said, appropriate a less sum, and then leave them a broad discretion to expend it wherever they please? That is what these bills amount to. The Senator from Michigan says it is a specific appropriation which leaves nothing to the discretion of the Executive Department, because it provides that the money shall be expended where it is most needed. Well, who is to judge of the necessity? The War Department, of course. I have not, however, so much objection to that as I have to the contentious nature of the appropriation, for I know what will succeed it. The very moment you pass such a bill, agents will be sent here from every one of those harbors besieging the Executive to expend portions of this money on their harbors. It will be a very invidious duty, and not at all a desirable task for the Executive to determine between them. I think that to confer such power on the Executive would be giving him a discretion from which he would willingly be relieved. I hope the Senate will adopt the amendment which I have submitted; but, as I said before, I do not wish to argue it. I only ask that the vote shall be taken.

Mr. BAYARD. I confess, Mr. President, that I am unable to agree with the honorable Senator from Michigan in the construction which he places on the bill, as reported by the Committee on Commerce. It is true, sir, it does not give an unlimited discretion to the Secretary of War, but it gives a wide and very indefinite discretion. The bill makes an appropriation for the harbors on the lakes. That we can understand as specific to that extent; but the particular places where the money is to be expended are those places where it is most required. Now, who is to determine the places at which it is most requisite that expenditure should be made? Is not that to be a discretionary exercise of judgment on the part of the Secretary of War?

The honorable Senator from Michigan may entertain his views, that the necessary result will be that particular harbors will receive the benefit of this appropriation; but it might happen that the officers who control that Department will arrive at different conclusions. I admit that the Senator has started the elements which probably would enter into the judgment of the Secretary of War; but we must remember that there is another influence—the weight of local applications. The Secretary of War will have the people of different parts of the lakes pressing on him, or representing their own claims as being those places at which improvement is most requisite. There are a great many minute facts which would have to enter into the exercise of this discretion. Clearly, according to the Senator's own suggestion at the close of his remarks, the object of this mode of appropriation is to substitute the discretion of the Secretary of War in lieu of the discretion of Congress in the selection of the particular works for which the appropriation is to be made. The honorable Senator seemed to me to admit that this form was adopted with a view to get rid of the difficulties arising from differences of opinion among members of Congress as to what points on the lakes these appropriations should be applied to. In order to get rid of the difficulties resulting from these differences of opinion, he proposes to refer the selection of the points to the discretion of the Secretary of War. Sir, I incline against allowing any such discretion as that. Congress has no right to delegate its duties to the Executive.

At some future day, when the Senate is less pressed with business I may, perhaps, take occasion to define what I consider the constitutional limit to the power of internal improvement, but I shall not trouble the Senate with any remarks upon that question at this time. I can foresee that a bill like this would open the door to an extent of Executive influence, which might or might not be very improperly exercised. At all events it would be throwing away, on our part, a power which, I think, properly belongs to us. The particular work for which an appropriation is asked ought to be before Congress, ought to be approved by the legislative will, and ought to be a work which is within the terms of the constitution according to the legislative will, and which is requisite for the general interests of the country. Under these circumstances I shall vote for the amendment of the Senator from Ohio, if it be what I suppose it to be.

Mr. SEWARD. I desire to say but one word of explanation in regard to this question. At the last session of Congress, I was one of the Committee on Commerce; and we reported the House bill containing a general schedule of appropriations for the specific objects of internal improvement. I stood by that bill. My colleauge on the committee, the honorable Senator from Michigan, [Mr. STUART,] moved as an amendment to it a provision similar to that which constitutes the whole of the present amendment of the committee. I opposed his amendment at that time upon grounds which I then succinctly stated, and which have been presented here by the honorable Senator from Maryland. I was among those whose votes defeated that amendment. The two Houses passed the bill and sent it to the President of the United States, who in his wisdom saw fit to interpose his veto. Under the circumstances my colleagues on the committee have submitted this bill; and I have agreed to submit it, because I prefer internal improvements somehow, to internal improvements nohow; I prefer internal improvements any way to a defeat, and subversion of the system. At the same time I must say that my convictions are that the plan which has been vetoed, is the right way, and when that is proposed here by others, I think it my duty to support it. If they shall fail, I shall then support the proposition of my colleague on the Committee on Commerce, in the hope that we may obtain something, though it may be but a partial carrying out of the system.

Mr. RUSK. I have been favorable, sir, to the system of internal improvements by the General Government. I believe Congress, under the Constitution, has the power to make appropriations for improvements of a national character. I know that it is very difficult to adopt any system for carrying out such a power. It is a dangerous one, and is likely to be exercised not for the object proposed by the improvements, but for squandering the public money in particular localities. So far as the appropriation of money goes for improvements of a national character, I shall sustain the measure whenever a proper occasion presents itself and a judicious measure is brought forward. So far as a scramble for money out of the public Treasury, and its expenditure in particular localities go, I shall not support it. I regard this bill as stamping, to some extent, that character upon these improvements. It reads "that there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $525,000 for the improvement of the harbors of lakes Champlain, Ontario, Erie, St. Clair, Huron, Superior, and Michigan, in the following proportions, to wit," dividing it among them.

Now, sir, what difference would there be be-

tween passing a bill with an appropriation of several million dollars in it, dividing them among the several States in the same way, and this? The matter is referred to the discretion of the Secretary of War. I have as much confidence in the present Secretary as most men; but at the same time I am not willing to adopt the principle of the bill, by which I surrender, on a great constitutional question, my judgment, and let it be exercised and executed by him. My authority to make appropriations out of the public Treasury depends upon the character of the work, in my judgment, on which it is to be expended; and as far as my vote goes, if I appropriate the money in the way this bill proposes, I surrender that most important exercise of my judgment—I think it is most important, for that is the ground on which it is authorized by the Constitution—and besides, subject him to the very annoyances which have been pointed out by the Senator from Ohio; and, also, subject the appropriation placed in his hands to a scramble of the different parts of the country, in order to see which particular locality, which harbor on these particular lakes, shall receive the most; and thus the whole thing will be thrown into confusion.

I should be opposed to it on this ground. But I am also opposed to it on another. We have a great amount of money in the Treasury now; and there is every probability that that surplus will be accumulated from year to year. There are certain great works which are national in their character, and important to the commerce of the country—which have a great tendency to cement the bonds of union between the different sections of the country; and, at the same time, are important as works of defense in case of invasion by any foreign enemy. If we go to appropriating the money in the way this bill does, it will break down the whole system, and it ought to break down. If that is the mode in which the power vested in Congress by the Constitution is to be exercised, and it is to be a mere scramble for money, the sooner it is broken down the better—for the little good that will be done, will not, by any means, come up to the vast evil and great corruption which will result from it. At an early period, the great men of the country agreed upon the power of Congress to make improvements of a national character; but, in a very early stage of the matter, it was connected with another system—called the American system of protection—and that broke it down. For years it was broke down. The expenditures were made then, not in reference to the objects to be improved, not in reference to their connection with the national interests of the country, or with the national defense; but they were made with the view of emptying the Treasury and furnishing an excuse for laying a high tariff, for encouraging certain branches of industry in particular sections of the country. Then the system broke down. Now, sir, I can view this bill in no other light than as just taking so much money out of the public Treasury, and giving it to the particular localities. Indeed, the honorable Senator from Michigan, in attempting to induce the Senator from Ohio to withdraw his amendment, because it would embarrass the bill, stated to him the overpowering argument that his State received more than any other State embraced in the bill. I would not vote for any such bill because my State received the most or the least; but when I vote for this system, I do it because the expenditure is for some object which is national in its character, and which will promote the prosperity of the country, and serve as a means of its defense.

Mr. TOUCEY. I think the bill, in the form in which it has been presented, is liable to three great objections. In the first place, it transfers the scramble for public money from the Halls of Congress to the Executive Department. Here the scramble is open, public, in the view of the whole country; there it would be secret, out of sight, and without that responsibility which publicity gives to the acts of Congress.

My next objection is, that it transfers what, from the commencement of the Government, or rather of the system, has been the exercise of legislative power—from Congress to the War Department. It attempts to make the exercise of a power which has, I believe, been uniformly a legislative power, the subject of Executive discretion. For one, I am not willing to give up that power; I am not willing to give up any part of that power which can properly and rightfully be exercised by Congress.

My third objection to the bill, in the form in which it is presented, is, that it transfers to the Executive the decision whether a given appropriation is constitutional or unconstitutional. We all know that there are various objections on that subject, and Congress makes an appropriation to a particular object only when a majority in each branch deems it to be constitutional. The members of both bodies, acting under the obligation imposed upon them officially to support the Constitution, make an appropriation and express their opinion, and when their opinion is presented to the President, he exercises the power which the Constitution has very wisely vested in him.

Now, what do you propose to do? You propose to make a sweeping appropriation, which may be expended in two or three different States, and to leave it to the Secretary of War to say whether any particular application of that money to what has heretofore been regarded as a public work is authorized by the Constitution. Such legislation as that I think is vitally objectionable. I think we desert the duty which is imposed on us when we undertake in that way to evade the questions, under the Constitution, which come up properly before us in the exercise of legislative power. I am, therefore, in every way opposed to the mode of appropriation contained in this bill.

Mr. BENJAMIN. I have but a very few words to say. As a member of the Committee on Commerce I joined in reporting this bill; and I really think Senators vastly exaggerate the objections which they are making, and the force of the principles which they invoke. This bill does not, in my estimation, yield up any of the legislative powers of Congress; neither does it grant any extraordinary or unprecedented discretion to the Executive Department. It, in the first place, exercises the legislative power of Congress in asserting the principle that these appropriations are constitutional, and in asserting that the appropriation is necessary for the improvements contemplated by the bill. It says nothing but this: that, in the opinion of Congress, improvements are required, for instance, on the harbors of Lake Erie; that it is constitutional to appropriate $100,000 to the improvement of those harbors. The bill orders that money to be appropriated. It orders the Secretary of War to expend the sum on those harbors in Lake Erie. To what does his discretion extend? To nothing more than to the same objects upon which the Executive discretion has been exercised since the foundation of the Government, in fact, in practice. I do not speak of forms—I speak of practice.

Now, last year when we reported the river and harbor bill, we put into it the appropriations for different points on the lakes. How did we get, from what source did we acquire, the information upon which we based the details of the bill? Merely from copies of the reports of the War Department. You know, Mr. President, and every member of the Senate knows, perfectly well, that it is an absolute, practical impossibility for any member of the Senate to exercise his individual judgment and discretion in relation to the necessity, and the amount of appropriations for the different sections of the Confederacy. No man can know, no human knowledge extends sufficiently far to enable any man at any time to vote upon every proposition of this kind with a direct personal knowledge. We are all obliged to take the information at second hand, and where do we go for it at second hand? We go to the bureaus of the War Department; we go to the reports of the surveyors of the Topographical Corps. They state that at some points a certain improvement is requisite; they state the nature of the improvement, and the quantity of money required to carry it through. We have those reports. We have them showing that it will require more than $100,000 to do what we have already declared by the bill of last session we are willing to do, what the Secretary of War says it is necessary to do, and for which he has furnished his reports and estimates. We say that we will not furnish the money now for the whole, because it would require a great deal more than $100,000; but we say we appropriate $100,000 towards the work to be done upon the lake, and tell him to send his engineers there and see which are the points that immediately require the application of this sum. We could appropriate a great deal more. A great deal more is necessary; but we do not expect the whole of these works to be made in a single session, and in appropriating only a portion of the money required for the works admitted to be necessary, we look to the only source of information to which Senators can look with any degree of safety, for the purpose of ascertaining whether the appropriation should be made at all.

We limit the amount to less than the sum required for the whole, and direct the Secretary of War, through his engineers, to appropriate that amount; not, at his discretion, anywhere, but, taking Lake Erie for an example, to the harbors upon Lake Erie; and then we limit his discretion by telling him to appropriate the money at those points that need it most now. Why do we do that? Because, from the nature of the work, it may so happen that the very report which we have before us, upon which we might give our vote, might be calculated to mislead us. The situation of the harbors is constantly changing; they change as the winds blow and the waves fluctuate upon their shores. The consequence is, that there is a constant necessity for some change in the disposition of the public money, although the object for which the money is to be appropriated may be agreed to by all.

At the very last session of Congress, something of this kind occurred, which I will mention to the Senate as an exemplification, in my estimation, of the fact that there ought to be some provision of this kind. We passed a bill for the improvement of an inlet upon the coast of North Carolina. Under the reports of the officers of the War Department, the sum of money, ($100,000,) was appropriated for cleaning out the entrance. The Secretary of War sent his officers there to do the work according to the reports which were laid before us, with the view of appropriating the money to the precise object and in the precise way in which the legislation of Congress fixed it. What was the result? The officers, upon arriving there, found that there was such a change in the locality that the improvement desired could be accomplished at a much cheaper rate by doing an entirely different work—by cutting a small canal across a neck of land, instead of attempting to deepen a pass from the ocean into the harbor. Had we made the appropriation of $100,000, to be spent under the discretion of the Secretary of War, and according to the best information of the engineers upon the subject, the work would have been long ago done. As it is, it is still undone. The money could not be expended because Congress assumed to be engineers.

To a certain extent the appropriation of public money, in all cases, must depend upon Executive discretion. You have passed a bill for the improvement of the mouths of the Mississippi river at the Southwest Pass and the Pass à l'Outre. Now take these two passes together, and they extend, probably, one hundred miles. You do not tell the Secretary of War at what point in the passes he is to spend the money; but you tell him he is to send the officers there and expend the money in improving the navigation of these outlets. In the present case, when you have before you the reports of the subordinate officers of the Department, establishing the fact that improvements are necessary, and that a certain sum of money is required as an appropriation to carry out the improvements, you exercise your legislative discretion in directing the improvements to be made; you exercise your legislative discretion in selecting the places where they are to be made, that is, in the harbors on the southern shore of Lake Erie. You say to the Secretary of War, "You shall spend $100,000 upon those harbors; but we will not undertake now in advance to say whether, when you send your officers there, as soon as the season for work commences, it may be more necessary to spend that sum at one harbor than another, at one place than another. You shall, however, confine your discretion to the expenditure of that sum, and to its expenditure at those places where you shall find it most needed when you send your officers there." There is a discretion. I should like, if it was possible from the nature of the subject, to limit it somewhat; but I cannot see how we can limit it, and efficiently, at the same time, carry out the system.

Mr. HUNTER. It seems to me that this bill submits it to the discretion of the Secretary of War to determine not only what harbors are constitutional objects of appropriation, but upon what harbors it would be most expedient to expend the money. We know that there is a difference of opinion in regard to the power on this subject. Some gentlemen say that the object must be national, it must be a harbor in which more than one State is interested. There is a distinction between such harbors, and those in which only one State is interested. Some draw a distinction between harbors of refuge, and what are called harbors of commerce. By putting the bill in this shape we leave it to the discretion of the head of the Department to say on what harbors the money shall be expended; because, if we leave it to his discretion, he, of course, will presume that Congress did not intend to appropriate the money to unconstitutional objects, and, in selecting, he will discriminate between the harbors, and take those which he believes to be constitutional.

Again, you leave it to him to determine as to which harbors are the most expedient to be improved; and thus he may divide the money among the different States or among the different harbors, as he chooses. Thus you give to him an almost unlimited discretion in regard to the matter. The Senator from Louisiana attempts to defend it by saying that Congress cannot determine it; that we cannot be engineers; that we cannot exercise our discretion; in other words, that it is a system which cannot be executed without submitting it to the unlimited discretion of the Executive to say not only what are constitutional objects of internal improvements, but also what are the expedient objects upon which the money shall be expended. It shows the natural progression of power under our system, when we once depart from sound and safe rules of construction. It shows that inevitably all must be merged in the hands of the Executive. To avoid the difficulty, because there is a difference of opinion among the members of Congress themselves as to what are the constitutional objects for such appropriations, and what are the objects upon which it would be expedient to expend such money, you propose to place this unlimited power in the hands of the Secretary of War or the Executive of the United States.

Mr. President, where is this to end, except in investing the powers of this Confederacy, one by one, in the hands of the Executive, until he comes to exercise all power, and we shall be a body with no other functions, and no other powers, than to register his decrees? The Senator from Louisiana says, it was the same thing, formerly, in a different shape, when we required the Secretary to send an estimate, and after all took his opinion. Mr. President, we did at least exercise the veto power over that opinion. If we did not like his estimate, either as to the amount or the object, we could refuse to appropriate the money; but here we leave to ourselves no such discretion, no such power, no such control. We make a sweeping appropriation of a round sum for him to expend at his discretion. Thus, sir, we submit the whole system to the Executive discretion, and place in his hands the tremendous power of saying how, and upon what objects, the money shall be expended.

Mr. STUART. I must confess, Mr. President, some surprise at the views which have been taken upon the language contained in this bill, and especially that it should be insisted upon by any honorable Senator, that the question of the constitutionality of the expenditure is, under it, thrown upon the Secretary of War. The very language of the bill, as I stated before, says that money shall be expended on that lake. There is no question of constitutional power about it left to the Secretary. We tell him, you shall expend $100,000 on Lake Erie. That settles that it is constitutional to improve the harbors on Lake Erie. You shall do it. On what harbors?

Mr. HUNTER. Is there no difference in the character of harbors? Are there not some in which more than one State is interested? Are not some called national and some local? Are there not some harbors of refuge and some harbors of commerce?

Mr. STUART. That difficulty only exists in the minds of a very few gentlemen. If the honorable Senator desires me to answer him, I will say that, within the scope of this bill, there is not that difference. I say there is not a place on the whole chain of the northwestern lakes, that any man out of a mad-house would seek to improve, which can possibly be distinguished from any other on the question of constitutional power. But I want to ask a question, to go on with my remarks. We say to the Secretary, you shall expend $100,000 on Lake Erie. Where? Why, where it is most needed. Who knows most about that—Congress, or an officer who is upon the ground? Will the honorable Senator from Virginia, or the honorable Senator from Connecticut, in the exercise of their power as Senators, say here to-day that they know better now what harbors ought to be improved first on those lakes than the Secretary of War will after his officers have examined them? If they can answer that in the affirmative, their arguments are sound; but if they cannot, then we leave the discretion precisely where it ought to be left, and where it must be left.

Mr. TOUCEY. I will answer, for myself, that if the facts are presented to me by competent officers of the Government, in whom I have confidence, I can form my opinions upon those facts. I am not guided by the opinions of others exclusively, though I would pay all proper respect to them; and when I have the power to form an opinion, and it is my duty to do it, I am not willing to commit exclusively to others to say what that opinion shall be.

Mr. STUART. Why, Mr. President, no honorable Senator knows better than the Senator from Connecticut, that these circumstances are constantly changing. Take the fact that I stated this morning; there are two hundred feet of the pier built at the harbor of Black river, on Lake Michigan, which the last storm has swept away. Therefore, sir, what was necessary four weeks ago at that harbor, and what is necessary now, are two very different things. Before this winter has expired, you may find it indispensable to expend $10,000 at Buffalo in order to save the entire work. You may find the same thing at Cleveland, and at other points.

The honorable Senator states an impossibility. He will see, therefore, when we are appropriating money to be expended at the points most requiring it, the facts are not in the possession of the War Department. They cannot be communicated to us. But I say again, sir, that the very nature of the case shows you that the first of April may develope to you a necessity that did not exist when they communicated their last report to Congress.

Therefore, I repeat, sir, that it is a discretion that must be confided to the Executive, if you are going to prevent what the honorable Senator from Texas, and the honorable Senator from Connecticut, as also the honorable Senator from Ohio, designate as a scrambling for the public money. Why, sir, what do the reports made under the direction of the Topographical Bureau show us? They show us that if you make a harbor at a certain point, this is the plan by which it should be made, and there is the amount that it will cost to make it; and that is all they show us. Sir, it is all that ever has been shown to Congress; and I submit that the most industrious member of Congress, living out of the State, never did yet ascertain anything beyond that. He can ascertain that if Congress make an appropriation for a harbor, this is the proper plan, and that is the amount of money which is necessary, and that is all he can know about it, unless he lives in the State, or has been on the ground and made a personal inspection. Yet, sir, we talk here about being in possession of all the facts necessary to decide where $500,000 shall be expended! Take the duties that devolve upon Senators and members of the other House, and I will venture to say that not one tenth of them find time to read these reports. Both the honorable Senators from Virginia and Connecticut will find that their duties upon the Committee on Finance are such as to exhaust their entire time. Can they take up the reports that come from the Topographical Bureau, covering all the lakes, the Atlantic coast, the Pacific, and the rivers, and go through and digest them so that they can say that they are in possession of the facts, and vote accordingly? The thing is impossible in itself. Neither the human mind nor the human frame is capable of carrying out any such investigation.

But, Mr. President, I rose more especially—I stated, in the first place, that I did not mean to discuss this thing again—to read a section in an act passed last year, which goes as much beyond anything contained in this bill as human language can go. The act contains half a dozen sections appropriating half a million of dollars or more for light-houses, and at the close, conferring the discretion on the Secretary of War, is this section:

"SEC. 7. *And be it further enacted*, That if preliminary surveys are required to ascertain the necessity for any light-house or other aid provided for in this bill, or to determine the proper site for the same, or to ascertain more fully what the public exigency requires, the Secretary of the Treasury shall cause the necessary examinations and surveys on the sea-board to be made under the direction of the Superintendent of the Coast Survey, and those on the northwestern lakes to be made under the direction of the Bureau of Topographical Engineers, and in all cases in which adverse reports are made, they shall be submitted to Congress at its next session; and in all cases in which the objects authorized are favorably reported upon, the works shall be commenced immediately after valid titles and State jurisdiction shall have been obtained to the sites."

There you put that provision in that bill, and passed it—and it is only such as you have passed always in your light-house bills—leaving to the Treasury Department to say whether they will expend a dollar. We there give the discretion to the Secretary upon every particular, even a public exigency. There is not a dollar of it appropriated absolutely by that bill; and yet, sir, the same Congress that was frightened so sadly by the amendment which I reported from the Committee on Commerce, last year, to the river and harbor bills adopted that; and, I say, it does not stand as an isolated case; but almost every light-house bill confers upon the head of the Department just that amount of discretion, and he cannot expend a dollar unless, after an examination, in his opinion, it ought to be made.

Mr. President, I certainly do desire, if possible, to agree with those gentlemen who think with me, that these improvements ought to be made. I expect opposition from all honorable Senators who differ from us, and who think that none ought to be made; but I do think it is desirable, if possible, to agree among ourselves; and if the experience of Congress in this country has demonstrated anything, it is this: that the moment you go to specify what appropriations shall be made in a bill for harbors, you cannot pass it through Congress without some specifications being made that are clearly unconstitutional. It cannot be done. Every Senator, every member of Congress has felt it. We know that at present, at any rate, if you embrace in a bill one hundred items, ninety of which are sound and proper, and ten of which are not, you lose the whole bill.

Mr. HUNTER. Mr. President, the Senator's argument in relation to this bill, it seems to me, cuts up the whole practice of such appropriations entirely. If, because the Executive is better acquainted with the details of the appropriation, and the particular manner in which they should be expended, therefore, it ought to be left to his discretion to say how and on what objects it should be expended in one thing, the same rule ought to apply in others, and we ought to vote a round sum to the Navy Department to be expended for the Navy as the Secretary of the Navy chooses; and so much to the War Department to be expended under the discretion of the Secretary of War. If the argument is good for one it is good for the other. Nor, can the Senator escape from the fact that there are differences of opinion in regard to the constitutional objects of improvement even on Lake Erie. Will he undertake to tell me that the discrimination which has been drawn by such men as Calhoun, between harbors of refuge and harbors of commerce, is such a discrimination as none but madmen would draw? Will he undertake to tell me that according to the opinion of some gentlemen, there is not a difference between national objects, those in which many States are concerned, like the improvement which the senior Senator from Michigan [Mr. CASS] had a bill passed through Congress for, I mean the Sault St. Marie—and a local object in some little bay in which not even a State is interested, but only a county? Is it not manifest that such a difference might exist in relation to the harbors inside of any one of the lakes?

Mr. STUART. I only wish, as the Senator is using the term "madman," to correct him. I said that there was no place on the northern lakes

in which the distinction that the Senator spoke of could be put into practical operation, that would be selected by any man out of a mad-house.

Mr. HUNTER. That would be selected by any man out of a mad-house! He acknowledges that, under the discretion, unless the man be a wise man, he may, if you give him the power, select objects not constitutional in the view of some gentlemen. It would be found, and has been found, if he will look to the veto messages, that there has been a difference of opinion among the friends of the measure even in relation to the objects included in any one bill, in regard to the constitutional power of Congress to appropriate. I acknowledge that, in some of those distinctions, I do not see reason or consistency; but I spoke in reference to the opinions of others, not mine. I spoke in reference to the opinion that may be entertained by those who will have to exercise the very discretion which it is proposed to leave to them; and I say it is a discretion that would be unwise and unsafe in us to repose in anybody; and after proceeding upon the supposition that we are unfit, and unable, and incapable of passing upon the expediency of particular appropriations, that would amount to stultifying the two Houses of Congress. It would amount to this, that we ought to abdicate and renounce our duties, and retire at once. For what were we sent here, except to scrutinize matters of legislation; yes, sir, and appropriations, and to determine, in the name of the people, whether they were such as we thought they ought to give their sanction to; and if we are unfit to do that, we are unfit for our places, and ought to go home, and be replaced by those who are fit; for, undoubtedly, there are men in the country who are fit to exercise such discretion.

Sir, I regard this as a practical admission that the system cannot be carried out by the aid of Congress, that the only mode in which it can be carried out is to submit it to the Executive discretion and control. Looking at it in that point of view, I must believe that it is the most dangerous system which has ever erected its head in our midst; and if it is to be carried on, and prosecuted in this way, it will lead to evils and dangers which no man can now foresee.

Mr. SEWARD said: I quite concur with the honorable Senator from Virginia; and I cannot refrain from saying that I think the crisis is an imminent one, when we are required either to surrender the whole policy of internal improvements, or else to surrender our own legislative power to the President of the United States. Sir, I am not convinced, by any means, of the truth or justice of any of the positions assumed by the honorable Senator from Michigan, [Mr. STUART]. I am not satisfied that the President of the United States, or the Secretary of War, can exercise the required discretion more wisely than we can ours. The difficulty is said to be, that we cannot have all the information for ourselves, collate it and compare it and weigh it for ourselves; but sir, we are sixty-two men, and if sixty-two men cannot, by a subdivision of labor, perform this necessary investigation, how can it be, that one man can perform the same labor, and not only that, but perform all the Executive duties which devolve upon his department? Sir, I am not satisfied that the President or the Secretary of War will exercise this power with a closer and stricter regard to the constitutionality of the measures which are involved. On the contrary, the tendency of Executive power always is to pervert the mind of him who exercises it; and to substitute a new and different constitution for the written one under which he acts; and if constitutions are ever to be preserved, they are to be preserved by the debates and discussions of legislative representatives of the people.

Again, sir, I am not satisfied that this power will be exercised with more careful economy, and with greater purity of motive and of purpose, by the Executive than by Congress. If we, sixty-two men, are liable to be misled by sectional, or local, or individual interests, how shall we say that one man, whom nobody watches, who has no reporters of his secret thoughts, and of the accesses to the legislative hall which he inhabits, shall be more honest, more just, more pure than we are? Sir, if corruption should come to haunt this Hall, it will be a sad thing for the Republic; but that day will happen long after the Executive Department of this Government shall have been corrupted.

The argument of the honorable Senator seems to me to prove too much. If in every case where we find difficulty in the exercise of our responsibility, we devolve it upon the Executive, where shall we stop? We find the same difficulty in making the Pacific railroad. Shall we authorize the President of the United States to determine the question, in his discretion, whether to make one, two, or three roads from here to the Pacific? We have the same difficulty about the Post Office Department. The mail of the United States is not carried one mile by land or sea except under the express direction of the Congress of the United States; but we find great conflicts among the claimants for the advantages and benefits of the postal system. Shall we, therefore, submit the matter to the Postmaster General, and vote him a sum of money which he shall expend for carrying the mail where he pleases, and as he pleases, and bestow contracts upon whom he pleases? It is the same thing with the Army and Navy, and we may as well at once, when we begin, surrender up the whole of our discretion to the Executive Department. Sir, the honorable Senator's argument is a capital argument, a splendid argument, a forcible argument, a powerful argument in favor of the British constitution instead of our own. It would give to the Executive, to the Ministry, a large discretion in regard to the exercise of legislative powers while it would save to the Legislature only the power of withholding appropriations when it chose to find fault with the Ministry, and desire a change; but even that change we cannot have here. We cannot change the Ministry as they can in England; and when we surrender, we surrender the whole of our power.

I quite concur with the honorable Senator from Virginia. I would rather, I was going to say, have no appropriations for these works at all, than have them at the cost of the independence of the Congress of the United States. I hope we shall not agree to enter upon this new and untried way.

Mr. CLAYTON. I think we have been overlooking the fact that this identical question was decided by a very large majority at the last session. The Committee on Commerce then reported an amendment to the river and harbor bill, and the same question then arose, and was then decided. I remember very well, sir, that upon that occasion, I distinctly announced to the Senate that I was, and always had been, a decided friend of internal improvements; and was anxious to vote for the bill; but yet, if there was in it a delegation of legislative power to the Executive department to enable that department to legislate substantially for the Government, I could not, and would not, vote for the bill. I would rather the whole system of internal improvements were prostrate than see the independence of Congress trampled under foot in this manner? I do not propose to go over the arguments again which were then presented, for the subject has been exhausted.

But, as the honorable Senator from Virginia has said—and he has not been answered on that point—if such a proposition as this is constitutional, then you might as well appropriate all the money for the Navy, to be expended by the Secretary of the Navy as he thinks proper; and all the money for the Army to be expended under the discretion of the Secretary of War, and so with the other Departments. Can any man point out the distinction, in principle, between this case and a general act of Congress appropriating fifty or one hundred millions of dollars at the commencement of the session, to be expended by the President of the United States as to him shall seem proper. If one of the Secretaries can have such a power as this delegated to him, it follows irresistibly that the whole legislative power of Congress can be delegated to the President; and we should have nothing to do but to meet here every session and say it is more convenient for the President to exercise this power than for us; the money will be more economically expended by him; he is wiser than the whole of us put together; it will be much more convenient for him, during the long vacation, to decide the manner in which the money shall be expended; and so we might pass, in three lines, a sweeping appropriation of fifty or one hundred millions to be expended by the President.

I hope my friends on the Committee on Commerce will abandon the design. They reported a proposition of the same kind at the last session. One gentleman shakes his head; but the records of the Senate show that just such a proposition, in substance, was voted down by a large majority of the Senate, and I hope it will be voted down again, and never renewed.

Mr. SEWARD. I desire to move an amendment to the amendment of the Senator from Ohio.

The PRESIDING OFFICER, (Mr. FOOT.) The Chair will state to the Senator that the first question in order is on the amendment reported by the Committee on Commerce. That being an amendment proposed by the Committee it takes precedence of the amendment offered by the Senator from Ohio.

Mr. SEWARD. Is not the amendment amendable?

The PRESIDING OFFICER. Either amendment is amendable. But the question is not now on the amendment offered by the Senator from Ohio. The amendment reported by the Committee on Commerce takes precedence of it.

Mr. BAYARD. If it is in order I should like to move to recommit the bill to the Committee on Commerce, with instructions to report specific appropriations for the different objects?

The PRESIDING OFFICER. That proposition is in order.

Mr. ADAMS. I hope that the motion will not prevail. The distinguished Senator from Louisiana has stated to the Senate that, from all the information which the committee could obtain, they could only arrive at the conclusion that $525,000 ought to be expended on these lakes; but where, nobody could tell; and to call upon them to make a report of that kind when they advise the Senate that, having examined all the reports, they could not obtain the necessary information upon that point, would impose upon them a task with which they might feel themselves unable to comply.

Mr. BELL. I do not understand that there is a proposition from the committee to amend the bill.

The PRESIDING OFFICER. The proposition of the committee is an amendment. The committee reported an amendment, the substance of which is, that an appropriation of $525,000 shall be made for improving the harbors on the lakes, $25,000 of which are for Lake Champlain. That is the proposition of the Committee on Commerce.

Mr. BELL. That is the only amendment of the committee.

The PRESIDING OFFICER. Yes, sir.

Mr. BELL. Then all this debate has been out of order.

The PRESIDING OFFICER. That is the first question in order before the Senate.

Mr. BELL. I hope we shall proceed to vote. I understand the object of the argument of the Senator from Virginia against the appropriation in the bill. I see his anxiety to get up a general discussion upon the expediency and constitutionality of this measure. I hope that our friends will not take the bait, although a number of gentlemen think it is important to answer these arguments, which are at least twenty years old, all of them. I have not heard any new one to-day.

Mr. BAYARD. If my motion is in order, I make it; it is to recommit the bill to the Committee on Commerce with instructions to report specific appropriations.

The PRESIDING OFFICER. That motion is in order; but the Chair will suggest to the Senator from Delaware, that the instructions should be in writing.

Mr. PRATT. I should like to have the attention of the Senator from Delaware for a moment before he submits that motion. I have prepared an amendment, which I think will meet the constitutional objection of the Senator from Virginia. It is to strike out the words "at such places on each of said lakes," and insert "on such harbors in either of the said lakes, for the improvement of which appropriations have heretofore been made by Congress." The Senator will perceive that, by the adoption of this amendment, the discretion of the Secretary of War will be limited to the expenditure of this money upon such harbors as Congress has heretofore determined ought to be improved, which it was constitutional to improve, and to which they have heretofore made appropriations for the purpose of making the improve-

ments It will appropriate them in cases where the works have already been commenced by and under a law of Congress, making appropriations for the improvement of the particular works. This amendment, I think, will meet the constitutional objection. I agree with the Senator from Tennessee that it is not the province of the friends of this measure to discuss it; but if the Senator will permit me to offer this amendment, I think it will meet the difficulty, and we can vote upon it.

Mr. BAYARD. I admit that the amendment of the honorable Senator from Maryland narrows but does not remove the discretion of the Secretary of War. As it stands now, the discretion is very wide and indefinite. It would still be indefinite, even with the amendment of the honorable Senator from Maryland, because it appropriates a large sum of money to each lake. The honorable Senator proposes to specify that the money which is appropriated shall be used on works for which appropriations have been heretofore made by Congress; but the appropriation which is to be made to each particular work will still be left open to his discretion, and as between these works he may select one and appropriate to it the entire amount, and abandon the others altogether. It is still, therefore, an abandonment of the discretion, on the part of Congress, and does not come up to the principle which I think is requisite, that the particular work, and the amount to be appropriated to the work, ought always to be indicated in the bill.

The PRESIDING OFFICER. The question is on the amendment proposed by the Committee on Commerce.

Mr. SEWARD. I beg leave to submit an amendment as a substitute for the amendment, or as an addition to it, with the consent of the honorable Senator from Ohio, who, I think, will withdraw his. It is to add to the amendment, proposed by the committee, what I send to the Chair. It includes the harbors in Ohio in the same manner as the amendment of the Senator from Ohio, but it also includes other harbors upon all the lakes, according to the bill of last session.

Mr. WADE. I am willing to accept that amendment.

Mr. SEWARD's amendment was read, as follows:

For continuing the improvement of the harbor at Oswego, New York, on Lake Ontario, $21,000.

For continuing the improvement of the harbor at Sodus bay, Cayuga county, New York, on Lake Ontario, $14,500.

For continuing the improvement on the harbor of Sodus bay, Wayne county, New York, on Lake Ontario, $10,000.

For continuing the improvement of the harbor of Charlotte, at the mouth of the Genesee river, New York, on Lake Ontario, $24,000.

For continuing the improvement of the harbor at the mouth of Oak Orchard lake, New York, on Lake Ontario, $14,500.

For current expenses of the steam dredge on Lake Ontario, $7,500.

For continuing the improvement of the harbor of Buffalo, New York, Lake Erie, $33,000.

For continuing the improvement of the harbor of Dunkirk, New York, Lake Erie, $30,000.

For continuing the improvement of the harbor of Erie, Pennsylvania, on Lake Erie, $25,500.

For continuing the improvement of the harbor of Conneaut, Ohio, on Lake E ie, $11,500.

For continuing the improvement of the harbor at Ashtabula, Ohio, on Lake Erie, $13,500.

For continuing the improvement of the harbor of Fairport, Grand river, Ohio, on Lake Erie, $13,000.

For continuing the improvement of the harbor of Cleveland, Ohio, on Lake Erie, $10,000.

For continuing the improvement of the harbor at the mouth of Black river, Ohio, on Lake Erie, $10,000.

For continuing the improvement of the harbor of Huron, Ohio, on Lake Erie, $13,500.

For continuing the improvement of the harbor of Sandusky City, Ohio, on Lake Erie, $28,500.

For continuing the improvement of the harbor (Monroe) at the mouth of the river Raisin, Michigan, on Lake Erie, $10,000.

For current expenses of the steam dredge on Lake Erie, $7,500.

For continuing the improvement of the harbor at the mouth of the Clinton river, Michigan, on Lake St. Clair, $5,000.

For continuing the improvement of the harbor (Grand Haven) at the mouth of Grand river, Michigan, on Lake Michigan, $20,000.

For continuing the improvement of the harbor of Black Rock, Michigan, on Lake Michigan, $2,500.

For continuing the improvement of the harbor of Saint Joseph, Michigan, on Lake Michigan, $18,000.

For continuing the improvement of the harbor of New Buffalo, Michigan, on Lake Michigan, $16,000.

For continuing the improvement of the harbor of Michigan City, Indiana, on Lake Michigan, $19,000.

For continuing the improvement of the harbor of Chicago, Illinois, on Lake Michigan, $24,000.

For continuing the improvement of the harbor of Waukegan, Illinois, on Lake Michigan, $16,000.

For continuing the improvement of the harbor of Kenosha, (formerly Southport,) Wisconsin, on Lake Michigan, $15,500.

For continuing the improvement of the harbor of Racine, Wisconsin, on Lake Michigan, $11,000.

For continuing the improvement of the harbor of Milwaukie, at the north cut, Wisconsin, on Lake Michigan, $17,500.

For continuing the improvement of the harbor of Sheboygan, Wisconsin, on Lake Michigan, $11,000.

For continuing the improvement of the harbor of Manitowoc, Wisconsin, on Lake Michigan, $12,500.

For current expenses of steam dredge on Lake Michigan, $7,500.

For the repair and preservation of public property, and contingencies of lake harbors, and for the commutation and transportation of baggage, and the quarters and fuel of officers in cases no longer provided for by the quartermaster's department, and for allowances to meet extraordinary expenses, under the special direction of the Secretary of War, $20,000.

Mr. BELL. I suggest that that amendment will be inconsistent with the provision of the bill reported by the Committee on Commerce. That proposes to distribute $500,000 among the lakes and $25,000 to Lake Champlain, which is only an addition. I therefore suggest to the Senator from New York, that he modify his amendment to strike out all after the enacting clause, and insert his amendment including the $25,000 for Lake Champlain.

Mr. SEWARD. I accept the suggestion of the honorable Senator from Tennessee; and will modify my amendment by moving to strike out all of the original bill after the word "appropriated," and insert the provision which I have made, including Lake Champlain.

The PRESIDING OFFICER. Then the question is upon the amendment offered by the Senator from New York, as modified, striking out all after the word "appropriated," and inserting what has been read, including the appropriation for Lake Champlain.

Mr. STUART called for the yeas and nays; and they were ordered.

Mr. CHASE. I understand that the amendment, as now proposed, is to include in one appropriation all the harbors of all the lakes which were contained in the river and harbor bill of last year. I shall be obliged, Mr. President, to vote against the amendment. I desire to improve the harbors of those lakes, I suppose, as much as any member of this body. I am extremely anxious to have some practicable mode of effecting that object; and I am quite satisfied that, if this mode be adopted, we shall obtain nothing whatever. It is well known that there are one or two of those harbors against which the most serious objections have been made in debates hitherto; and I am strongly inclined to believe that they fall within that line of duty which the President has prescribed to himself with regard to this class of improvements.

I wish a bill which will steer clear of those objections, for I want the improvements. I desire nothing but the improvements; and I do not wish to enter into any vain contest here for the sake of securing a measure, when that measure is sure to encounter the Executive disapprobation. There is no utility in it. We may obtain a vote of the Senate, we may obtain a vote of the other House, to carry a series of improvements in one bill, and the practical result may be that it will encounter a veto, and we shall gain nothing. It does not seem to me that that is the part of wise legislation. I prefer, with all the objections—some of which I think are justly urged—the bill which has come from the Committee on Commerce. I should still prefer, if it be practicable, to obtain something like the amendment which was offered by my colleague, to adopt a bill which will provide for special improvements for particular lakes and particular harbors. I prefer to have bills for each one of those lakes and the improvements upon it; and then we could so modify these bills as to meet the wishes of Senators from the States in which they are located, and if they were satisfactory I should have no objection to make on my own account, for I have no constitutional scruples on this question; but I do not want the improvements for the harbors on Lake Erie, in which my State is deeply interested, and where I know a vast amount of property and a vast number of lives are lost every year for want of these necessary improvements, mixed in with others, when a particular and very minute improvement may draw upon the bill the Executive veto, and thus disappoint everything.

Mr. BELL. I suggest to the honorable Senator from Ohio to move to strike out these objects which he thinks are objectionable. If the friends of these improvements on the lakes would take a suggestion from me, I would say that they had better agree on separate bills, the principle which has already been adopted, for each important harbor, and let the sense of the Senate be taken on that, whether it be constitutional or expedient, or otherwise; but, if the friends of the harbor improvements choose to crowd them all into one bill, they will risk them, as stated by the honorable Senator from Ohio; and I think that it is not unlikely, if we may indulge in conjectures, though, for myself, I do not think it is a proper mode of proceeding to speculate on what will or will not be the course of the Executive or of the House of Representatives, in regard to the money bills. I am anxious to get the improvements on the lakes —some of the most important harbors. I should prefer to have the sense of Congress expressed on each separately. That was the course adopted here the other day, and I had supposed, from what was announced on the other side of the Chamber, that there was an understanding to the effect that these improvements would be reported and acted on separately. The amendment may be amended; and I suggest it to the Senator from Ohio.

The PRESIDING OFFICER. The Chair will state to the Senator that the first question still in order is on the amendment to the original bill. A substitute being offered for the bill, the bill and the substitute are both open to modification before the question is taken; and the first question is on the amendment reported by the committee.

Mr. BELL. Whether that is voted in or not, the amendment of the Senator from New York does not propose to strike out the amendment of the committee, but includes it.

The PRESIDING OFFICER. The Chair so understands it.

Mr. BELL. Then the question will be on the Champlain improvement.

The PRESIDING OFFICER. Is the Senate ready for that question?

Mr. HUNTER. What is the question?

The PRESIDING OFFICER. The question is on the amendment of the Committee on Commerce to include $25,000 for Lake Champlain.

Mr. HUNTER. The Senator from New York moved an amendment to that.

The PRESIDING OFFICER. He moved a substitute for the whole bill.

Mr. HUNTER. Then the question comes first in order upon that. You may amend the original bill before you take the question on the substitute.

The PRESIDING OFFICER. The Senator from New York moves a substitute for the whole bill. That being the case, both the original bill and the substitute are open to amendment. The original bill being open to amendment, the first question must be on the amendment proposed by the committee. The question, therefore, is on the amendment as originally reported by the Committee on Commerce.

Mr. JOHNSON. The motion, I understood, was made by the Senator from Delaware to recommit the bill to the Committee on Commerce.

The PRESIDING OFFICER. That motion has not been submitted.

Mr. BAYARD. I submit it now.

The PRESIDING OFFICER. It is now moved that the bill be recommitted to the Committee on Commerce with instructions to report a bill specifying appropriations for the several harbors or other works on the lakes mentioned in the bill, for which, in their judgment, appropriations ought to be made.

Mr. JOHNSON. I should very much prefer to see it recommitted, and let the improvements on the whole take the same course that the river improvements have taken.

Mr. BELL. The only objection to that is, that I think we should never get it back to the Senate to have it acted upon here or in the other House. I think it can be amended now to answer the same purpose. We can amend it by striking out what is exceptionable and obnoxious to Senators.

Mr. JOHNSON. I shall regret if the course suggested by the Senator from Delaware is not taken, to refer the bill back to the committee, so that they may report it again in exact conformity with what seems to have been the settled opinion

when these bills were taken up. We have had some little experience in regard to the effect of a discretionary power vested in the hands of the Departments. It will be remembered, particularly by those who have favored the system of internal improvement by the General Government in regard to our rivers, that the Mississippi, Ohio, Missouri, and Arkansas, have almost invariably been covered by one appropriation, and the allotment of the different sums of money that should be expended on each river has been heretofore made at the discretion of the Secretary. That allotment has scarcely ever been satisfactory. It certainly never has been in regard to the Arkansas river. The returns of the accounts that are furnished of the disbursement of the moneys upon those rivers has ever been complicated, and it has been difficult to ascertain where the precise amounts were expended. At present, the whole amount ($40,000) that was set apart for the Arkansas river out of the entire appropriation to all those rivers, under the last general appropriation bill of that character, has been, I believe, expended or very nearly expended; but I have found the utmost difficulty, in fact, I have found it almost impossible, to ascertain the true condition of things. It so binds and connects itself with all the other interests, with which the appropriation for it was connected, that it seems to be impossible to understand it.

I deplore and lament over the manner in which the funds appropriated for the Arkansas river have been wasted, and scattered, and thrown away, and that, too, by men who ought to have attended to their business; but who, instead of that, have spent their time and the public money in running their boats up and down the river, or lying idly at the banks, neglecting their duties, or wholly abandoning them, while they go off a distance of two, three, or five hundred miles, to attend parties of private pleasure for personal amusement or for personal interest. All this has been charged to have been the case; and though no work was being done, the officers and crew continued under pay, and the money to be wasted. Such has been the character of much of the expenditure of money on that river.

Amounts have been set apart for that river, under appropriations exactly similar in effect to the proposition now before us; but so many objects have been connected with them, and the expenditures have been made there in such a way as to throw the burden upon the funds set apart for the Arkansas alone, while the benefits have been conferred upon the other rivers. For instance, three boats were sought to be equipped for all the rivers, out of the funds for the Arkansas river alone. Nominally, we have had our part; practically we have had no benefit. I have filed a protest in the Treasury Department against the manner of settling the accounts; but I can ascertain nothing as yet as to the manner in which they are settled. Forty thousand dollars, I know, have gone, but I also know that no benefit has resulted from it. This has resulted, in a great measure, from overslaughing Arkansas men, and appointing strangers to us and our interests, not to work—for they do not—but to waste all the means you give to us, and we rest our hopes upon. I have scarcely touched this subject. I do hope, sir, that the lakes, as well as the rivers, may be put upon such a basis as to specify the amount appropriated to each. I should, therefore, be glad to see the Senator from Delaware press his motion to refer the whole subject back again to the committee, so that they may report such a bill. And hereafter, I will now say, I will hold to rigid accountability, to the extent of the means in my power, all men who may have charge of the interests of Arkansas, or of the moneys appropriated for her benefit. Quietly and silently I will no longer submit to a disregard which does us such serious injury.

The PRESIDING OFFICER. The question is on the motion to recommit the bill to the Committee on Commerce, with instructions.

Mr. HUNTER. I regard that as raising the question between specific and indefinite appropriations, and therefore shall vote for the motion—not that I would vote for a bill containing those specific appropriations.

Mr. WADE called for the yeas and nays, and they were ordered.

Mr. GEYER. As the yeas and nays have been ordered, I desire to give my reasons for voting against the motion. The object contemplated by the Senator from Delaware will be answered by voting for the amendment submitted by the Senator from New York. If that amendment prevails, we shall have specific appropriations for every object contained in the bill—for every harbor that has ever been appropriated for on these lakes, and no others. The instructions are to bring in a bill which is to contain these specific appropriations. There is, therefore, no reason for recommitting the bill.

Mr. BAYARD. The honorable Senator is mistaken. The instructions to the Committee are to bring in a bill specifying the appropriations for those works which, in their judgment, require an appropriation, and when the bill shall be submitted, we can judge of the items contained in it. We can judge whether those items be proper and right, and whether the bill should be passed.

Mr. ADAMS. I would vote for a recommittal without instructions, but I could not vote for a bill prepared in compliance with such instructions, and therefore I do not see that I can consistently vote for the motion.

Mr. WADE. I deem the question a test question. If this goes to the committee, there is no hope of any improvement being made this year. I shall, therefore, vote against the reference.

The question being taken by yeas and nays, resulted—yeas 24, nays 17; as follows:

YEAS—Messrs. Allen, Bayard, Butler, Clay, Clayton, Dawson, Douglas, Evans, Fitzpatrick, Gwin, Hunter, Johnson, Jones of Iowa, Mallory, Mason, Morton, Pettit, Rusk, Sebastian, Shields, Slidell, Toucey, Weller, and Wells—24.

NAYS—Messrs. Adams, Bell, Brainerd, Cass, Chase, Dodge of Wisconsin, Fessenden, Foot, Geyer, Jones of Tennessee, Pratt, Seward, Stuart, Sumner, Thompson of Kentucky, Wade, and Wright—17.

So the motion to recommit was agreed to.

HOUSE BILLS REFERRED.

Mr. HUNTER. I move to postpone all prior orders for the purpose of taking up the Indian appropriation bill.

The PRESIDENT. Will the Senator withdraw that motion that some House bills may be referred?

Mr. HUNTER. Certainly.

A bill from the House to provide for holding the courts of the United States in the northern and southern districts of Florida, in case of sickness or disability of either of the judges of those districts, was read twice, and referred to the Committee on the Judiciary.

A bill from the House to amend an act approved August 31, 1852, entitled "An act making further provision for the satisfaction of Virginia land warrants," was read twice, and referred to the Committee on Revolutionary Claims.

The bill from the House concerning the apprehension and delivery of deserters from foreign vessels in the ports of the United States was read twice, and reported to the Committee on the Judiciary.

SENATE BILLS BECOME LAWS.

A message from the President of the United States, by Mr. WEBSTER, his Secretary, announced that he had approved and signed the following bills:

A bill for the relief of the heirs-at-law of William Van Wart, deceased;

A bill for the relief of Don B. Juan Domercq, a Spanish subject.

A bill for the relief of Catharine B. Arnold;

A bill to increase the pension of Patrick C. Miles;

A bill for the relief of the West Feliciana Railroad and the Georgia Railroad and Banking Companies;

A bill to change the appropriation for the erection of a building in the city of Milwaukie for a custom-house, post office, and the United States courts; and

A bill for the relief of E. J. McLane.

ILLINOIS JUDICIAL DISTRICTS.

The bill from the House to divide the State of Illinois into two judicial districts, was read twice by its title.

Mr. SHIELDS. I hope that bill will be put upon its passage at this time. A similar bill has been before the Committee on the Judiciary.

The Senate, by unanimous consent, as in Committee of the Whole, proceeded to consider the bill.

It proposes to enact that the counties of Hancock, McDonough, Peoria, Woodford, Livingston, and Iroquois, and the counties north of them shall constitute the northern district of Illinois, and the counties south of them, the southern district. The courts for the northern district are to be held at Chicago, and for the southern, at Springfield. In each there are to be held two regular terms a year, and special terms when necessary. Suits now pending are to be prosecuted in whichever court they would have been commenced in if both districts had been in existence when they were instituted.

The present officers of the court are to be assigned to the northern district, and a judge, clerk, marshal, and attorney are to be appointed for southern Illinois. The judge of the southern district is to receive a salary of $2,500 a year.

Mr. STUART. I would like to inquire, as this would seem to be very much a question of propriety, why the State should be divided into two districts, and the salary of each of the judges be $2,500. There has been a bill sent to us from the House, and one which is under consideration of the Senate, which does not proceed upon any such basis as that. The salary of the judge at Chicago stands at $2,500, with the whole State as his district. Now it is proposed to divide the State, and to give the additional judge $2,500. Certainly that cannot be right, while the judge at Milwaukie, with the whole State of Wisconsin as his district, is, according to that bill, to get but $2,000. At present he gets $1,500; but by the bill it is proposed to give him $2,000. The judge of the district of Michigan, with the whole State as his district, stands now only at $1,500.

Mr. DOUGLAS. If the Senator will allow me, I think I can make an explanation which will be entirely satisfactory. The next bill, or very nearly the next one, from the House of Representatives, he will find, fixes the salaries of all the district judges of the United States; and in that bill these very salaries are fixed at $2,500, that of Wisconsin at $2,500, and that of Michigan is $2,500. That bill is on our table, and it will pass in a few minutes, and will obviate the whole of that objection.

Mr. STUART. If the Senator had understood me he would not have made those remarks, because it was of the existence of that bill that I was speaking. I say that it gives to the Wisconsin judge $2,000, with the whole State as his district. It gives the Illinois judge $2,500, also, with the whole State as his district. Now, this bill divides this State, and gives the new judge $2,500. Proceed on the ground that the bill from the House shall be acted upon, the two judges in Illinois will stand at $2,500 each, and the judge in Wisconsin, with the whole State as his district, will stand at $2,000. This is not right. There is not as much business for the judge who is to be newly appointed in Illinois, as there is for the Wisconsin judge. Under the new bill, the judge at Detroit, with the State of Michigan for his district, stands also at $2,500. I submit that this does not seem to me to be right. I have no objection to the bill whatever. It is merely a question of graduation of salaries. If the Senator is in possession of such information as will show us that that judge ought to be paid as much, for instance, as the district judge of Michigan, why, then the bill will be right. I only allude to that as one example. I speak, however, in regard to the application of the bill on the table. If the principle upon which it is based will continue two judges in Illinois at the same salary that the bill on the table intended to give to one of them, he doing the whole business, that is right; but if not, it cannot be right.

Mr. DOUGLAS. I suppose the real question is, whether Illinois ought to be divided into two judicial districts. Upon that point, it is sufficient to say, that by a law which was passed some ten years ago giving maritime jurisdiction to the district courts in the districts bordering on the lakes, there is brought into the United States court at Chicago as much maritime business from the lakes as one judge can do during the whole year. It so happens that all vessels which start from the lower lakes, whether from Ogdensburg, Oswego, or Buffalo, for the upper lakes, or nearly all of them, have a cargo on board for Chicago. They run to Chicago as the port of destination,

that being the extreme point on the lakes, and run back again. Questions of collision, and other maritime questions are, for this reason, brought into the court of Chicago. Our judge, therefore, in fact, ceases to be judge of the district of Illinois, and becomes an admiralty judge for the lake business which concentrates at the port of Chicago. It is utterly impossible for one judge to do this business, and also the other judicial business of the United States in Illinois, although the court is open every secular day in the year, and there is scarcely a day when he is not called upon to discharge judicial functions. On this account, the House of Representatives have passed a bill to divide the State into two judicial districts, leaving about two thirds of the State, including the seat of government, in the southern district, with about the same business it has heretofore had, and the natural increase which must result.

My belief is that the judge of each of these courts will have much more to do than the judge for Wisconsin. If the Senator from Michigan thinks a salary of $2,000 a year is not enough for the judge of Wisconsin, let him, at the proper time, move to increase it to $2,500. I presume he will not insist that $2,500 is too much for a judge in Chicago. He does not think the district judge for Michigan, residing at Detroit, should have less than that; and, beyond all question, rents, provisions, and all the elements that enter into the cost of living, are higher at Chicago than at Detroit, or any other point in the whole northwestern country, arising from facts within the knowledge of the Senator?

Mr. STUART. How is it at Springfield?

Mr. DOUGLAS. At Springfield prices are fully as high, I think, as at Detroit. Springfield is the capital of Illinois, and, in consequence of being the seat of government, it is a point at which the expense of living is increased. We all know that the cost of board, hotel bills, and everything else, is higher at a political capital than at a mere commercial town. I would say that the salary of the judge of the southern district, including two thirds of the State, residing at Springfield, should be equal to that of the judge residing at Chicago. I am inclined to think there would be no justice in making a discrimination in salary between the northern and southern districts of Illinois. If you fix the scale for Michigan, Indiana, and Ohio, all lying in the same range of country, at a lower salary, of course I shall not object to the judge of the southern district of Illinois being put at a lower salary. If you fix the scale at a higher rate, I shall insist on his being put upon the same level, for the cost of living is about the same in all those districts; and there should, therefore, be no disparity.

Mr. STUART. I do not wish to oppose the bill; I only desire to call the Senator's attention to one fact, and, if he can explain it, it will be satisfactory to me. The House of Representatives, by a bill which they have passed, which was prepared by their Committee on the Judiciary, have graduated the salaries of the district judges; and, while Illinois stood as one judicial district, they fixed the salary of that judge at $2,500. Here is a bill dividing that district, and appointing an additional judge for it; but the salary of each is left, as was the salary of the judge for the whole State before the division. Was that a mistake of the committee? That is the point.

Mr. DOUGLAS. I will answer the Senator cheerfully. I do not suppose that, if Judge Drummond, at Chicago, acted for the whole State, his house rent would be more than it would be if he acted for the half of the State. It strikes me that the extent of his jurisdiction would not influence his landlord on the question of house rent. Nor do I suppose that the price of potatoes, beef, and all the articles of consumption, would be influenced by the question whether his jurisdiction extended over half the State or over the whole of it. I do not imagine, therefore, that his expenses, or the cost of living, would be at all varied by the extent of his jurisdiction. I think, then, that the salary ought not to be regulated by the extent of jurisdiction; but you ought to give a judge enough to enable him to live as a judge ought to live at the place where he resides. That question being disposed of, the other question is, whether or not the business requires the division of the State into two judicial districts. On that point there is no dispute. It is utterly impossible for one court, for the reasons which I have suggested, to do the business.

Mr. ADAMS. It seems to me that there are two questions involved in this matter. The first is, as to the necessity of having two judges in Illinois. The propriety of a division of that State into two districts, has been made manifest by the explanation of the Senator from Illinois, but as to the other question which is involved I should be better satisfied by the report of a committee. I refer to the certainty of the passage of the bill which has received the sanction of the House of Representatives, increasing the salaries of the different district judges of the United States.

Mr. PETTIT. Allow me to say to the Senator that that bill is, I believe, the next one which will be presented to us. It has been thoroughly examined, and is understood by the members, both of this House and the other. It has passed the other House, and is now here on our table—and I intend to ask for its consideration immediately after this shall be disposed of.

Mr. ADAMS. The salary fixed in this bill anticipates the passage of that bill. It may pass, or it may not, and I wish to submit, whether it would not be better to defer this bill until we determine the fate of that.

Mr. DOUGLAS. I will relieve my friend by this suggestion: Allow this bill to pass, and if the other does not pass, I pledge myself to move a reconsideration, and have these salaries reduced in accordance with the action on that bill.

Mr. WELLER. Mr. President, the question of dividing a State into two or more judicial districts is a question which has usually been submitted to the Committee on the Judiciary. Now, if there be a necessity for the division of the State of Illinois into two judicial districts, I apprehend no Senator on this floor will refuse to give his consent to it. But I am placed in this situation: I am compelled to rely on the statement of the Senator from Illinois. If a Senator, who has the local knowledge of his State that he has, undertakes to say that the public business requires an additional court to be organized in the State of Illinois, I am disposed to grant it. But a few days ago when the representatives of the State of California undertook to demonstrate, as they thought they did, to the satisfaction of nearly all the Senate, saving and excepting my friend from Illinois, that a circuit court was indispensable for the transaction of the public business on the Pacific coast, the Senator from Illinois interposed objections that we wanted no such court, and that we, who were the immediate representatives of that section of the Union, did not know what were the wants of the people on that side of the continent. Now, however, I am willing to take his declaration alone in regard to his State. I have not a single particle of testimony, except his declaration, to show that there is any necessity for the division of the State of Illinois into two judicial districts. If it were not for his declaration, I should be disposed to doubt, very much, the policy of dividing an agricultural State like Illinois into two judicial districts. Why, Mr. President, everybody knows that, according to the practice of later years, the common law courts have taken jurisdiction of very many of those cases which, in the olden time, belonged exclusively to the jurisdiction of admiralty courts. I grant that there must be a large amount of admiralty business at the city of Chicago; but if you divide the State into two judicial districts, I cannot, for my life, see what the judge of the southern district of Illinois will be engaged in.

As to compensation, I think the salary allowed in the bill is a fair one, although there is no proper distinction between the pay allowed in the State of Illinois and that which is proposed by the bill alluded to by the Senator from Indiana to be given to the judge of the southern district of California. That bill proposes to allow the district judge of southern California only $3,000 a year. One hundred and ninety cases have already been appealed from the decision of the land commissioners to the district court for southern California; and the despatch of the business which has already been introduced into that court will require the whole time of the judge for the next three years. Now, if it is supposed $2,500 is a proper salary for a judge in Illinois, I trust that when I ask that a corresponding salary shall be allowed to the judges in California, my friend from Illinois will not, as he did on a previous occasion, interpose his objection. I believe on that occasion, such was the feeling of the Senate, that we should have obtained what the wants of our State so imperiously demand, but for the Senator from Illinois. I am a Christian, and therefore I will return good for evil, and I shall vote for the Senator's bill on his own representations.

Mr. DOUGLAS. I certainly feel very grateful to the Senator from California for the kind remarks he has just made, and the Christian spirit he has exhibited. I should of course have expected such a manifestation of Christian spirit from him. He has referred to my course on the California judiciary bill. I did not object to giving his State the judicial relief which was demanded; but I differed from him as to the mode in which it should be done; as to the effect which it would have on the general organization of the judiciary of the United States. As to the salaries of the judges in California, I am satisfied they ought to be much higher than those fixed in the bill to which allusion has been made, on the same principle for which I contended, because the price of living is much greater there than in other portions of the Union.

That point being disposed of, I will relieve the Senator from California from the necessity of acting on my statement alone, though I am gratified to hear him say it is sufficient. The Committee on the Judiciary of this body had twice or three times reported in favor of the division of the State into two districts. But for that fact, neither my colleague nor myself would have asked that this bill should be acted on without being referred to the committee. Inasmuch as they had reported this precise bill two or three times, it was deemed unnecessary to refer it to them again.

Mr. GWIN. I hope the Senator from Illinois will remember that the bill to which my colleague has alluded—and which, I hope, will soon be brought up again—has also received the sanction of the Judiciary Committees of this body and the other House. I wish him, also, while providing for his own State, to bear in mind that other States have great wants, which should be promptly attended to. While my colleague and myself intend to accord to him what he asks for his constituents, we trust he will take our word for what our constituents desire. We are as much opposed as he is to the reorganization of the judicial system, to which he has alluded; but we can get nothing else than the bill to which my colleague referred. The wants of our State are such that it would be a much greater denial of justice to reject that bill than it would be to refuse to pass his own.

Mr. DAWSON. I do not desire to delay the passage of this bill, nor should I interpose in its discussion except for the purpose of doing justice to another State of this Union. The State of Georgia has a larger population than the State of Illinois; its territory embraces sixty thousand square miles; it is already divided into two districts, but we have only one judge, and we wish an additional one. We have an extensive seaboard, where a great many admiralty causes arise, sufficient of themselves to occupy the attention of one judge. At present our judge holds the district courts in both districts. I wish to have an opportunity of offering as an amendment to this bill an additional section to extend its provisions to the State of Georgia, or, perhaps, it would be better to refer it to the Committee on the Judiciary, with instructions to inquire whether any other State is in a like condition with Illinois.

Mr. SHIELDS. This bill pertains to Illinois alone, and I do not think it is proper to encumber it with other measures. Let the honorable Senator bring up his proposition as a separate bill.

The PRESIDENT. If the Senator from Georgia objects, as the Chair understands him to do, the bill cannot be considered now.

Mr. DOUGLAS. It strikes me that it is too late to make objection. The bill has been considered by unanimous consent.

The PRESIDENT. It cannot be read twice on the same day, under our rules, if objection be made by any Senator.

Mr. DOUGLAS. But it has been read the second time, and is now being considered by the Senate as in Committee of the Whole. It can be

perfected to the third reading, even if objection is made.

The PRESIDENT. Certainly, by the unanimous consent of the Senate.

Mr. DOUGLAS. Its consideration has been unanimously consented to. Of course its final passage can be objected to to-day.

Mr. DAWSON. I understood that we agreed to take up the House bills on the table, for the purpose of referring them to the appropriate committees.

Mr. SHIELDS. My colleague has already explained that this bill has been before the Senate Committee on the Judiciary, and approved by them. The House has acted more rapidly than we have done, and sent the bill to us. If at this stage of the session we undertake to amend it, and send it back to the House, it will be lost, and the gentleman's amendment will have no beneficial effect.

Mr. DOUGLAS. If we agree to this amendment, other Senators will offer similar amendments for their States.

Mr. DAWSON. I do not desire to delay this bill; but I submit to the Senators from Illinois themselves whether there ought to be any objection to my amendment. The State of Georgia is already divided into two districts, but we have only one district judge.

Mr. DOUGLAS. If this be added, other Senators will seek to insert similar provisions for other States. Surely, the Senator from Georgia would not wish to kill this bill by loading it with others, when the effect must be to defeat all, without benefiting him. I ask him, therefore, to bring in his proposition as a separate bill immediately after this is passed. Let us pass it on its own merits and send it to the House.

Mr. DAWSON. If I occupied the position which the Senators from Illinois do, and I could get my bills passed by the exercise of the persuasive conversational manner for which they are distinguished, I should readily yield to the Senator's suggestion.

Mr. DOUGLAS. If I had the personal popularity of the Senator from Georgia I should be sure of getting any bill through both Houses by unanimous consent.

The PRESIDENT. Does the Senator from Georgia offer an amendment?

Mr. DAWSON. No, sir; the Senators do not think it proper, and I will not, therefore, encumber their bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM B. KIBBEY.

Mr. DAWSON. I wish to call the attention of the Senate to a mistake which should be rectified. Yesterday we passed, and I suppose it has been sent to the House of Representatives to-day, a bill for the relief of William B. Kibbey. It is to provide for a claim against the Government for articles furnished for the penitentiary in this District. It was reported from the Committee on the District of Columbia, in August last, by our deceased friend and late associate, Mr. Norris, of New Hampshire, and it came up yesterday in its order, and was passed, without attracting the attention of the members of that committee. I learn, however, that on the 5th of January of this year, a "bill to liquidate the indebtedness of the penitentiary of the District of Columbia," was passed, which makes an appropriation for the same purpose. If the bill which we acted on yesterday should also be passed by the House, there would be a double appropriation to pay the same claim. For the purpose of enabling us to rectify the mistake, I move that the Secretary be instructed to request the House of Representatives to return to this body the bill for the relief of William B. Kibbey.

The PRESIDENT. It has not yet been sent to the House. Having ascertained the error, I directed the Secretary not to take the bill to the House for the present.

Mr. DAWSON. Then I move to reconsider the vote by which the Senate agreed to pass the bill.

The motion was agreed to.

Mr. DAWSON. I move that the bill be indefinately postponed.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McKEAN, Chief Clerk, announced that they had passed a bill authorizing the purchase or construction of four additional revenue cutters.

JUDICIAL SALARIES.

The bill from the House of Representatives to regulate the salaries of the district judges of the United States, was read the first time and ordered to a second reading.

Mr. PETTIT. At the instance of many Senators who feel a deep interest in the passage of this bill, I ask the Senate to proceed to its consideration now, without referring it to the committee. It is a bill which was reported by the Judiciary Committee of the House at an early period of the last session. It has been thoroughly examined, and is well understood. It was passed in the other House by an immense majority, and there is no doubt that there is a large majority of this body in favor of it. It was fully considered, and debated by the Senate some time ago, when a similar proposition, reported from our Committee on the Judiciary by the Senator from Georgia, [Mr. TOOMBS,] was offered as an amendment to another bill. It is possible that this measure does not do perfect justice to all sections of the Union, and to all the judges, but it is a compromise bill, which was adopted by the House, after much labor by their committee, and extensive consultation with those who should be consulted on such a question, and I hope no amendment will be offered to it.

Allow me to say further, that to my certain knowledge, at this time, some of the district judges of the United States are literally starving, for they have not the means of obtaining a comfortable living, in consequence of the increase of expenditure which the present condition of things has brought about. It is but sheer justice to them that the bill should be passed. The salaries which it proposes are in no instance extravagant. I hope the bill will be passed without amendment.

The PRESIDENT. It requires unanimous consent to consider the bill now.

Mr. CHASE. Let it lie over until Monday.

The PRESIDENT. Does the Senator from Ohio object to its consideration?

Mr. CHASE. I do, until Monday.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 10, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a communication from the President of the United States, in answer to a resolution of the House of Representatives of 26th of last month, in reference to correspondence between the Minister of the United States at Madrid and the Spanish Government; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

Also, a communication from the Secretary of the Treasury, transmitting a report of the Director of the United States Mint of the fineness and value of certain foreign gold and silver coin, as required by the act of Congress of January 25, 1834, and March 3, 1843.

Mr. CHANDLER. As that is a communication of a character similar to the one received yesterday, I ask that it take the same direction, and I offer the same resolution as to printing extra numbers, which resolution will go to the Committee on Printing.

Mr. HOUSTON. This communication has relation to the fineness of gold, and it is not usual to have any extra copies of such matters printed.

The SPEAKER. Then it will be laid upon the table and printed.

Also, a letter from the Secretary of the Interior, transmitting a report of the Commissioner of Indian Affairs, relative to the claim of the Brotherton tribe of Indians against the United States; which was laid on the table, and ordered to be printed.

Also, a letter from the Secretary of War, transmitting, in compliance with law, lists of clerks and other persons employed in that Department other than officers of the Army, during the year 1854; which was laid on the table, and ordered to be printed.

Also, a letter from the Secretary of War, transmitting, in compliance with law, a statement showing what contracts have been made under the authority of that Department during the year 1854; which was laid on the table, and ordered to be printed.

Also, a communication from the Secretary of War, transmitting, in compliance with law, a statement of expenditures from the appropriations for contingencies of that Department, its officers, and bureaus, during the last fiscal year; which was laid on the table, and ordered to be printed.

THE SCHOONER HENRY PLANTAGENET.

Mr. BARKSDALE. I ask the unanimous consent of the House to have taken from the Speaker's table Senate bill (No. 604) to change the name of the American-built schooner Henry Plantagenet, to that of A. G. Brown.

No objection being made, the bill was taken up and read a first and second time by its title, and ordered to a third reading. It was then read a third time, and passed.

NEW UNITED STATES REVENUE CUTTERS.

Mr. FULLER. I rise to ask the House to take a vote upon bill of the House No. 242, which stands upon its engrossment. It is a bill which was reported from the Committee on Commerce at the last session of Congress, authorizing the construction of four new revenue cutters, which are considered necessary for the protection of the revenue and the United States police service.

The bill was then reported to the House by its title, as follows:

A bill authorizing the purchase or construction of four additional revenue cutters, and for other purposes.

Mr. FULLER. I offer an amendment to the bill, and, as explanatory of that amendment, I ask that a letter from the Secretary of the Treasury, which I send to the Clerk's desk, may be read.

The amendment was read, as follows:

SEC. 4. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized and empowered to sell, in such mode as he may deem best for the interest of the United States, the revenue cutters Ingham and Harrison; and further, that he be authorized to cause to be built or purchased four revenue cutters for the revenue service of the lakes between the United States and Canada; said cutters not to exceed forty tons burden each, and when built not to employ more than two officers each, and to be located at such stations as the Secretary may designate; the proceeds of said sales, and the sum of $12,000, out of any money in the Treasury not otherwise appropriated, is hereby appropriated for building the same.

Mr. HOUSTON. Is the bill before the House?

The SPEAKER. It is.

Mr. PHELPS. Mr. Speaker, I ask for the reading of the bill, so that the House may know what the "and for other purposes" means.

The Clerk read the bill through. It appropriates $60,000, to enable the Secretary of the Treasury to cause to be built or purchased, in such mode as he may deem best for the public interest, four vessels of suitable size and construction, to be employed as revenue cutters, on such stations as he may designate. Besides fixing the compensation of the officers of the revenue cutters, at the various stations, it goes on to provide that, from and after the passage of the act, no person shall be appointed to the office of captain, first, second, or third lieutenant, of any revenue cutter, who shall not have served at least one year before the mast, and who does not adduce competent proof of proficiency and skill in navigation and seamanship.

Mr. FULLER. I now ask for the reading of the explanatory letter of the Secretary of the Treasury, which I have sent to the Clerk's desk.

Mr. JONES, of Pennsylvania. Before the letter is read, I should like to put a question to the gentleman.

Mr. HOUSTON. The bill contains an appropriation of money from the Treasury, and I presume that it must go to the Committee of the Whole on the state of the Union.

Mr. FULLER. The bill has been considered in the Committee of the Whole.

Mr. HOUSTON. I do not see the necessity for this bill. During the last session of Congress we added six cutters to the revenue service. We are now asked to add eight more, which will make in all, the addition of fourteen revenue cutters, more

than were in existence in our service altogether when this Administration commenced.

Mr. FULLER. I ask for the reading of the letter of the Secretary of the Treasury. When it is read I shall proceed to explain the bill and propose amendments.

Mr. KEITT. Mr. Speaker, how does the bill come here?

The SPEAKER. The bill was taken up for consideration by unanimous consent. It contains an appropriation, and, under the rules, must receive its first consideration in the Committee of the Whole on the state of the Union. It may be that, by general consent, the bill can now be considered in the House.

Mr. FULLER. The bill has been considered in the Committee of the Whole on the state of the Union. That committee were discharged from its further consideration by order of the House, and it was thus brought into the House.

The SPEAKER. Then the bill having been considered in the Committee of the Whole, the objection made by the gentleman from Alabama falls.

Mr. HOUSTON. When was this bill considered in the Committee of the Whole?

Mr. FULLER. At the last session.

Mr. JONES, of Tennessee. I do not understand the gentleman from Maine to say that the bill was ever really considered in the Committee of the Whole.

Mr. FULLER. The Committee of the Whole on the state of the Union was discharged from the further consideration of the bill, and coming before the House the question arose on its engrossment. In that stage it went upon the Speaker's table, where it has been ever since. If it were competent for the House to have acted on the bill then, surely it is competent for the House to act on it now, especially as it comes at the present time before us by unanimous consent.

The SPEAKER. The unanimous consent was to take the bill from the Speaker's table.

Mr. FULLER. So I understand; and the bill having been considered in the Committee of the Whole on the state of the Union, the objection made by the gentleman from Alabama fails.

The SPEAKER. As a matter of course, if the bill has been so considered, the objection fails.

Mr. HOUSTON. I do not understand that the bill has been considered in the Committee of the Whole. The gentleman does not say so. He says it was referred to the Committee of the Whole, and that that committee was discharged from its consideration by unanimous consent. He does not say that it was ever taken up and considered in committee. On the contrary, I think that he says it was not. I move that the bill be referred to the Committee of the Whole on the state of the Union. Gentlemen, by looking at the bill, will see that it makes other provisions besides that in regard to the building of additional revenue cutters.

Mr. JONES, of Pennsylvania. I will put an inquiry to the gentleman from Maine. Does not the bill alter and increase the rate of pay to the officers in the revenue service?

Mr. FULLER. Certainly it does.

Mr. ROBBINS. I would ask the gentleman from Maine whether the Committee of the Whole on the state of the Union has not been discharged from the further consideration of this bill?

Mr. FULLER. It has.

Mr. ROBBINS. Then, of course, it is regularly, under the rules, before the House.

Mr. FULLER. Certainly, sir. Let me now ask a question by way of reply to the gentleman from Alabama. Has it not been uniformly the practice of the House, when it has discharged the Committee of the Whole on the state of the Union from the further consideration of bills, to take them up and put them upon their passage, and that, too, when they have not undergone discussion in the committee?

Mr. HOUSTON. Only by unanimous consent.

Mr. FULLER. I would call the Chair's attention to the fact that the motion for a suspension of the rules to discharge the Committee of the Whole on the state of the Union from the further consideration of the bill required a two-third vote. The Journal shows that the rules were suspended for that purpose.

The SPEAKER. The House might well discharge the Committee of the Whole on the state of the Union with a view to referring the bill to some other committee, or giving it a direction different from that stated. The only difficulty that the Chair sees in the case arises from the proposition made by the gentleman from Maine—that the bill be taken up and a vote be had upon it in the House. The Chair inquired whether there was objection. None was made.

Mr. JONES, of Tennessee. I submit this further question: Suppose the original bill was considered in the Committee of the Whole on the state of the Union, and that committee, by order of the House, was discharged from its further consideration. The gentleman from Maine, now, when the bill has been brought into the House, and is up for consideration, moves an amendment authorizing the Secretary of the Treasury to sell two of the existing revenue cutters, and to build four more—to appropriate the proceeds from the sale of the two, and, with $12,000 additional, to build four more revenue cutters. Does not that amendment, under the rule, require the bill to go for consideration to the Committee of the Whole on the state of the Union?

Mr. FULLER. That is a separate question. If the gentleman makes a point of order on the amendment, I shall withdraw it.

The SPEAKER. The gentleman's point would only be a reason for ruling the amendment out of order.

Mr. FULLER. Certainly, sir; and it does not at all affect the original proposition.

Mr. PECKHAM. If the motion of the gentleman from Alabama is in order, I now call for the previous question on it.

The SPEAKER. It would have been in order if the gentleman from Alabama had the floor when he submitted his motion that the bill be referred to the Committee of the Whole on the state of the Union. The gentleman from Maine is upon the floor.

Mr. PECKHAM. Is the gentleman from Maine through with his remarks?

Mr. FULLER. The gentleman from Alabama has raised a question of order. When it has been disposed of, I propose to move that the bill be put on its passage, and on that motion to call for the previous question.

Mr. JONES, of Pennsylvania. I submit that the bill never has been considered in the Committee of the Whole on the state of the Union. It makes an appropriation of money from the Treasury and changes the rate of compensation heretofore allowed our revenue officers, and, under the rule, must go to the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair has no difficulty in regard to the rule of the House. It is plain that all bills appropriating moneys from the Treasury must have their first consideration in the Committee of the Whole on the state of the Union. After the bill was read by its title, and the proposed amendment was resd *in extenso* by the Clerk, the Chair inquired whether there was any objection to the consideration of the bill. None was made. The gentleman from Maine then asks that the bill be put on its passage.

Mr. HOUSTON. With the permission of the gentleman from Maine, I will say that there is another reason why this bill ought to go to the Committee of the Whole on the state of the Union.

Mr. FULLER. I must object to the gentleman until the question of order has been disposed of.

Mr. HOUSTON. What I wish to state is part of the question of order. The bill was only read by its title; but the usual course has been to read the bill through before asking for objection. The bill, by its title, proposes to do one thing, and when you come to read it through you find that it not only proposes to do that but a great many other and entirely different things.

The SPEAKER. If the House chooses to suspend its rules by unanimous consent in this way, it is not for the Chair to interfere. Taking the question literally as it arose, the proposition of the gentleman from Maine, being to take the bill up and vote upon it, and that proposition being unanimously agreed to by the House, the Chair cannot decide that it is out of order to put it upon its passage. The Chair, however, does decide that the amendment proposed by the gentleman from Maine is out of order, or rather that it must be considered in the Committee of the Whole.

Mr. FULLER. I withdraw the amendment. Now, sir, I will not take up but a minute of the time of the House.

The SPEAKER. Does the gentleman withdraw his demand for the previous question? Unless he does, no remarks are in order.

Mr. FULLER. I withdraw the demand for the previous question. Having withdrawn my amendment, I desire now to call the attention of the House to the provisions of the original bill, which is now before us. It authorizes the expenditure of $60,000 to enable the Secretary of the Treasury to purchase or build four revenue cutters, one of which is to take its position at Charleston, in the place of the Hamilton, which was unfortunately lost with all her officers and crew. The second is to take its place upon the coast of Texas, there having been a law passed as early as 1846 authorizing one to be built, but which law has never been carried into effect. The others are to be stationed upon the Pacific; one upon the southern extremity of our possessions there, and the other upon the northern portion of our Pacific coast. The officers charged with the collection of the revenue, and also those at the head of the Treasury Department, state that it is indispensably necessary for the public service that these revenue cutters should be provided. I move the previous question upon the engrossment of the bill.

Mr. JONES, of Tennessee. I ask the gentleman from Maine, who holds the floor, and who has the charge of this bill, to inform the House what increase in the compensation of the officers of these cutters is provided in this bill.

Mr. FULLER. The bill provides for increasing the compensation of the officers and seamen assigned to these cutters, and of no others. It provides for an increase to these officers, for the reason that it is impossible for the Government to secure the services of officers and seamen at these stations at the existing rate of compensation; and in that respect it meets the views of the head of the Treasury Department, growing out of the necessities of the case. It is useless for me to remind the House that an increase of the compensation of the officers and seamen stationed at Charleston, where the Hamilton was lost, is necessary. Such an increase is also necessary upon the coast of Texas in the sickly season, and everybody knows what wages the seamen and others upon the coast of the Pacific get. With this explanation, I trust that even my friend from Tennessee, with his notions upon public economy, will be satisfied.

Mr. HENN. I would like to ask the gentleman from Maine what is the *pro rata* increase provided for the compensation of those officers and seamen?

Mr. FULLER. I cannot state, precisely, what is the *pro rata* increase, but it only provides some two or three hundred dollars each for the officers, and enables the Secretary of the Treasury to increase the wages of the seamen in a like proportion.

The question now being upon seconding the demand for the previous question,

Mr. RICHARDSON demanded tellers.

Tellers were ordered; and Messrs. SOLLERS and EDMUNDSON were appointed.

The House was divided; and the tellers reported—ayes 80, noes 52.

So the previous question was seconded.

The main question was ordered to be put.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. FULLER. I demand the previous question on the passage of the bill.

Mr. EDGERTON. This being private bill day, I call for the regular order of business.

The SPEAKER. This bill is here by the unanimous consent of the House, and must be disposed of.

Mr. JONES, of Tennessee. With the permission of the gentleman from Maine, I would make an inquiry of him. I understood him to say that the bill only provided for an increase of the salaries of the officers of the cutters herein provided for?

Mr. FULLER. Yes, sir.

Mr. JONES. The second section of the bill is as follows:

That from and after the 1st day of July, 1854, the compensation of the officers of the revenue cutters shall be at the following rates, to wit: [the officers of all revenue cutters without distinction.]

Whilst actually employed on any one of the Atlantic or lake stations, except Charleston, South Carolina, captain, $1,500 per annum; first lieutenant, $1,200 per annum; second lieutenant, $1,000 per annum; third lieutenant, $850 per annum.

Whilst actually employed on the Charleston or Gulf station, captain, $1,800 per annum; first lieutenant, $1,500 per annum; second lieutenant, $1,200 per annum; third lieutenant, $1,000.

Whilst actually employed on the West coast, (California and Oregon,) captain, $2,100 per annum; first lieutenant, $1,800 per annum; second lieutenant, $1,500 per annum; third lieutenant, $1,200 per annum. And on said West coast the wages of the petty officers, gunners, and mariners, may be regulated and fixed by the President of the United States, so as not to exceed forty dollars per month, exclusive of rations.

Their present pay is, captain, $1,200; first lieutenant, $960; second lieutenant, $860; and third lieutenant, $790.

Now, that section provides for an increase of the pay of all revenue officers.

Mr. FULLER. When I made my statement just now, I had not the slightest idea that the bill provided for an increase of the pay of all the officers of the revenue cutters. I had not read the bill with reference to that particular since it was originally reported by the Committee on Commerce. I did not notice that feature of it until my attention was specially called to it by the gentleman from Tennessee.

Mr. CLINGMAN. I hope there will be no objection to the recommittal of the bill, since the chairman of the committee seems to be mistaken about its provisions.

Mr. MILLSON. Will the gentleman from Maine allow me to make a brief statement?

Mr. FULLER. Yes, sir. I withdraw the demand for the previous question, to allow my friend from Virginia to make an explanation in reference to this matter.

Mr. MILLSON. I see no necessity whatever for the recommittal of this bill. It is one of the few bills which I have had it in my power, I am sorry to say, to concur in reporting from the Committee on Commerce. I think this bill has the unanimous approbation of the Committee on Commerce. The question of an increase of the pay of the officers was considered by the committee, and we all thought that the small increase provided by this bill was a reasonable one. We all thought that the pay has been heretofore much too small, even without taking into consideration the increased cost of living everywhere.

Now, I thought that my friend from Maine, the chairman of the committee, was mistaken some time ago, when he said that the bill was only intended to provide for an increase of pay to the officers who are to command the cutters provided for by the bill. We intended that the bill should provide for an increase of the pay of all the officers on all the stations, and I think that the increase is perfectly just and proper. I do not think any gentleman should object to it.

Mr. HAVEN. I desire to say to the House that under the recommendation of the Department that this provision is necessary, I am ready and willing to vote for the construction of these additional revenue cutters. But I ask the gentleman from Maine, if he has the floor, to move an amendment, so that we shall not go to work by piecemeal with reference to the pay of these officers, because it will be sure to result in leveling others up instead of leveling these down. I therefore ask him to strike out the second section of the bill, and I will cheerfully help him to pass it.

Mr. FULLER. With the consent of the House I will strike out the second section of the bill.

The SPEAKER. At this stage of the proceedings that can only be done by the unanimous consent of the House.

[Cries of "Consent!"]

The SPEAKER. Is there objection?

Mr. PECKHAM. Yes, sir; I object to the striking out of the second section. I think that it is the best part of the bill.

The SPEAKER. Then the object of the gentleman from Maine can only be reached by a reconsideration of the vote by which the bill was ordered to be engrossed.

Mr. FULLER. Well, I will insist upon the demand for the previous question, and test the sense of the House upon the subject.

Mr. JONES, of Tennessee. I move to lay the bill upon the table.

Mr. LETCHER. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. LETCHER. Would it be in order to inquire of the gentleman from Maine what these cutters will cost apiece?

Mr. FULLER. They will cost $20,000 apiece, and the bill only appropriates $60,000 in gross.

Mr. LETCHER. And they are to cost $20,000 each?

Mr. FULLER. No; I am mistaken. They are to cost not to exceed $15,000 each—$60,000 in the whole.

Mr. LETCHER. Why not appropriate enough to cover the whole?

Mr. FULLER. The bill does that. Fifteen thousand dollars is believed to be a sufficient sum to build a cutter of the size and magnitude that the service requires.

Mr. LETCHER. One more question. How much will the increased compensation to the officers and men amount to?

Mr. FULLER. Well, sir, if the House should pass this bill, we shall have fourteen cutters, and there are four commissioned officers to each cutter. The second section of this bill provides for an increase of $300 to the pay of each of the captains of those fourteen cutters. They get $1,200 per annum now, and this bill will give them $1,500.

Mr. JONES, of Tennessee. It will give some of them $1,800 and some $2,000 per annum.

Mr. FULLER. Only on the stations at Charleston, Texas, and on the Pacific coast. The increase to the subordinate commissioned officers is less.

Mr. LETCHER. Can the gentleman tell us what will be the aggregate amount of this increase?

Mr. FULLER. That is a matter of computation merely. It will not be more than $3,000 or $4,000 in all.

Mr. LETCHER. Three or four thousand?

Mr. FULLER. Yes; $4,000 will cover the whole.

Mr. CLINGMAN. Four thousand dollars for each cutter?

Mr. FULLER. No, sir, altogether.

Mr. CLINGMAN. If there are four officers to each cutter, and they get an increase of $300 apiece——

Mr. FULLER. But they do not. The increase of the pay of a third lieutenant is less than $100.

Mr. COBB. Is this debate in order after the main question has been ordered to be put?

The SPEAKER. The debate is not in order, and if the gentlemen are called to order, the Chair will feel called upon to stop it.

Mr. COBB. I am not calling anybody to order; but, if the debate is to go on, I should like to say a word or two myself. I want to suggest to the chairman of the Committee on Commerce that he can accomplish his object by moving to reconsider the vote by which the bill was ordered to be engrossed. If that vote should be reconsidered, he can then move to strike out the second section of the bill.

Mr. JONES, of Tennessee. If the House is willing that a motion shall be made to strike out the second section of the bill, so that a vote can be taken on it, I will withdraw the motion to lay the bill upon the table.

Mr. PECKHAM. I have no objection to a vote being taken on that question.

Mr. JONES. I withdraw the motion to lay on the table.

Mr. COBB. I move to reconsider the vote by which the bill was ordered to be engrossed and read a third time.

Mr. HAVEN. Mr. Speaker——

The SPEAKER, (interrupting.) The gentleman from Alabama [Mr. COBB] submits a motion to reconsider the vote by which the previous question was seconded, with a view to the amendment of the bill.

Mr. HAVEN. That is the motion which I intended to make.

The question was taken on Mr. COBB's motion; and the vote was reconsidered.

Mr. JONES, of Tennessee. I now move to strike out the second section of the bill.

The question was taken; and the motion was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read a third time.

The question being on the passage of the bill—

Mr. LETCHER. I demand the yeas and nays.

The yeas and nays were not ordered.

The question was taken; and the bill was passed.

Mr. FULLER moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

Mr. JONES, of Tennessee. I now move to amend the title of the bill by striking out the words "and for other purposes."

The question was taken; and the amendment was adopted.

LIEUTENANT PENDERGRAST.

Mr. ZOLLICOFFER. I wish to enter a motion to reconsider the vote by which the bill for the relief of Lieutenant Pendergrast was yesterday sent to a Committee of the Whole House.

The SPEAKER. The motion may be entered, but not considered at this time.

Mr. ZOLLICOFFER. That is all I want.

ORDER OF BUSINESS.

Mr. EDGERTON. I call for the regular order of business.

The SPEAKER. The regular order of business is the call for reports of a private character from the committees.

COLT'S PATENT AND THE CONSULAR BILL.

Mr. HAMILTON. I desire to say, Mr. Speaker, that I was yesterday detained from the House by indisposition, and that, if I had been here, I should have voted against the diplomatic and consular bill, and against the bill for the extension of Colt's patent.

Mr. HOUSTON. I move that the rules of the House be suspended, and that the House do now resolve itself into the Committee of the Whole on the state of the Union, for the purpose of taking up the civil and diplomatic appropriation bill.

Mr. EDGERTON. I rise to a privileged motion. I move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

The question was taken on Mr. EDGERTON's motion; and it was agreed to.

The House thereupon resolved itself into a Committee of the Whole House on the Private Calendar, (Mr. HAVEN in the chair.)

HIRAM MOORE AND JOHN HASCALL.

The CHAIRMAN. The first bill in order on the Calendar this morning is House bill (No. 239) for the relief of Hiram Moore and John Hascall.

It grants to Hiram Moore and John Hascall, citizens of the United States, and their heirs, assigns, and legal representatives, for the term of fourteen years from the 27th of June, 1850, the full and exclusive right and liberty of making, constructing, using, and vending to others to be made or used, the improvements for cutting, threshing, or cleaning grain, which were invented by said Moore & Hascall, or either of them, and embraced in the model, drawings, or specifications connected with letters patent granted to them on the 28th of June, 1836, for a machine commonly known as Moore & Hascall's harvesting machine, together with the improvements invented by them, or either of them, in perfecting said machine, or any part thereof, from the date of their original patent to the day from which the same is hereby renewed and extended; and the Commissioner of Patents is directed and required to make a certificate of such renewal and extension, and append an authenticated copy thereof to the original patent, with the proper specifications and claims, provided that the said patentees shall first pay into the Treasury, to the credit of the patent fund, the fees required by law for the renewal or extension of patents. It also provides that, whenever the said Moore & Hascall, or their heirs, assigns, or legal representatives, shall file, in the office of the Commissioner of Patents, an application specifying the inventions and improvements claimed under this act, the said Commissioner shall cause public notice to be given of the time and place of hearing and considering said application, according to the provisions of section

eighteen of the general patent law, approved July 4, 1836, and shall thereupon determine and decide their right as original inventors, according to the provisions of this act, to the claims embraced in their application, from which decision an appeal may be taken, as in ordinary cases. It also provides that all rights and interests in said patent heretofore granted or assigned by said patentees, or by their duly authorized agents, in their name, shall inure to, and be enjoyed by, such assignees and purchasers thereof, respectively, during the renewed term of said patent, upon the same conditions and to the same extent as for the term that did exist when such sale or assignment was made.

The bill was read.

The CHAIRMAN. Unless objection be made to the bill it will be laid aside to be reported to the House.

Mr. WENTWORTH, of Illinois. I know nothing about the merits of the case, but I understand this to be a bill for the extension of a patent for some instrument connected with farming—some reaping machine. The Legislature of Illinois has passed resolutions giving instructions upon the matter, and I have presented several petitions from the farmers of that State against renewing this patent. I should like, therefore, to know what the patent is, and on what grounds the renewal is asked for.

Mr. SEWARD. If it is in order, I object to this bill.

Mr. SMITH, of Virginia. I will state, for the information of the committee, and for the purpose of letting us proceed with other business, that the same subject is up in the other House, and will be, I believe, disposed of to-day by some sort of compromise. It is of no use for us to go into this subject, and take up the time of the committee in discussing it to-day. I therefore move that the bill be passed over informally.

Mr. TRACY. I desire to say, in reply to the remark made by the gentleman from Virginia, that the subject does not come up in the Senate to-day. It has been postponed to some day next week, and will not be acted on to-day.

The CHAIRMAN. The question in regard to passing over the bill informally is not debatable. Is the motion made to pass it over informally?

Mr. SMITH, of Virginia. Yes; I make that motion.

Mr. WENTWORTH, of Illinois. I hope it will be passed over informally for the present, so that we may inquire into its merits. The farmers appear to be very hostile to its renewal.

The question being on the motion to pass over the bill informally,

Mr. SMITH, of Virginia, demanded tellers.

Mr. CLARK. I wish to state to the House that this measure has been indorsed by the Legislature of the State of Michigan; and if the committee will have the patience to investigate the matter, they will come to the conclusion, I have no doubt, that the bill ought to pass at this time.

Tellers were not ordered.

The question was then taken upon Mr. SMITH's motion; and, upon division, there were—ayes 41, noes 62.

The CHAIRMAN. No quorum voting.

Mr. HAMILTON demanded tellers.

The CHAIRMAN. Tellers have been refused.

Mr. HAMILTON. But cannot tellers be ordered by unanimous consent?

The CHAIRMAN. The Chair has already announced that there was no quorum.

Mr. ORR. Let us have tellers by unanimous consent.

Mr. JONES, of Tennessee. Tellers were called for before the Chair announced the result.

Mr. WENTWORTH, of Illinois. I would suggest that we had better pass by this bill, and take up some other bill to which there is no objection.

The CHAIRMAN. The question will be taken by tellers, as there appears to be no objection.

Messrs. SMITH, of Virginia, and MCQUEEN were appointed.

Mr. SMITH, of Virginia. I understand that the same amendment which has been proposed in the Senate will be offered here. That being so, I cheerfully withdraw my motion.

Mr. TRACY. The applicant in this case having applied here for some years for an extension of their patent, which has received, by a very strong vote, the favorable consideration of this House, has, nevertheless, become wearied at the delay attending it; and he desires me to offer the substitute which I now send to the Chair. In lieu of the bill now before the House, I propose to strike out all after the enacting clause, and insert a substitute.

The Clerk then read the substitute, as follows:

That the Commissioner of Patents be, and he is hereby, authorized and required to hear and consider the application of Hiram Moore for the renewal and extension of the letters patent granted to the said Hiram Moore and John Hascall for improvements in harvesting grain, dated June 28, 1836, in the same manner and upon the same principles as if he was applying under existing laws for the extension of an unexpired patent, and to refuse a renewal of said patent, or to revive and extend the same for the term of seven years from and after the passage of this bill, or to the 28th of June, 1864, as in this respect he shall think just and proper: *Provided*, The said Hiram Moore shall first, and within six months, pay into the Treasury to the credit of the patent fund the fees required by law for the extension of patents: *Provided also*, That no person shall be held under this act in any way accountable for the use or sale of any machine now made, or which may, within six months from the passage of this act, be made or sold for use. And all rights and interests in said patent heretofore granted or assigned by said patentees, shall inure to and be enjoyed by said assignees respectively during the renewed term of said patent, upon the same conditions and to the same extent as during the term that did exist when such sale or assignment was made.

Mr. HILL. I approve myself, not only as a member of the Committee of the Whole, but of the Committee on Patents, of the general features of this bill; but I desire to make a suggestion in connection with it. There are three patentees, as I understand, of the same improvement, and there is a great controversy going on as to the priority of the patent. If I understand it, there has been a great struggle between these parties, not only in the public prints, but in this House, involving the rights of these parties. The House, as I understand it, cannot properly adjudicate between these parties as to the relative merits of the patent or its priority, and a disposition has grown up here to refer all these matters to the Patent Office and the Commissioner of Patents—a tribunal constituted by the country to adjudicate upon such matters. As an individual member of the Committee on Patents, I would like to offer an amendment, as an additional section to the bill, making a provision of a similar character to that already in the bill, in favor of another one of the patentees of this improvement—Mr. McCormick. I would ask the Chair whether such an amendment would be in order at this time?

The CHAIRMAN. An amendment of a similar character is in order to the bill.

Mr. JONES, of Tennessee. This is a bill for a specific purpose—for relief in a particular case—and I would suggest that no amendment upon a different subject can be entertained.

Mr. SMITH, of Virginia. The amendment proposed by the gentleman from Vermont simply proposes to give the Commissioner of Patents the right to examine the applications of these patentees, and, according to the merits of the case, to extend the patent. The gentleman from Kentucky [Mr. HILL] has stated that a similar application is before Congress now for an extension of the same improvement; and the proposition is to get clear of as many of these claims as possible by introducing an independent section in this bill, which provides for giving to Cyrus McCormick the same privileges; and the question is, is that amendment in order?

The CHAIRMAN. The Chair thinks that any section providing for general legislation might possibly be in order; but the Chair also thinks that the adding a provision to this bill for the benefit of a distinct individual is not in order. This section is another act, for the benefit of another person, and the Chair will hold to that conclusion unless he is overruled.

Mr. SMITH. Well, I do not appeal from the decision of the Chair, and am perfectly willing that the bill should pass.

Mr. HILL. My amendment being ruled out of order, I have no more use for the floor, and I yield it.

Mr. TRACY. I wish to say only a very few words in reference to the application before the committee. The applicant, in 1836, obtained a patent for what he termed a "harvester," a machine combining reaping, threshing, and winnowing. It will readily be perceived, from the nature of the machine, that he could test its operation but once in twelve months, that is, only during harvest time, and, in that respect, it is unlike most machines, which can be perfected and tried in the shop where they are manufactured, from day to day, the whole year through.

The applicant spent the entire time of the running of the patent in making improvements, and bringing it to perfection, so that it would work to his satisfaction. In his application here, he sought to be protected in the improvements he made during the fourteen years. He sought to have them added to the patent granted in 1836. Wearied out with the delay that has attended his application, he has concluded to be satisfied with the extension of the original patent first granted.

But it may be asked why did he not apply to the Commissioner of Patents to have it extended under the general law? It was for the reason I have just stated, that he desired the benefits of the improvements he had made during fourteen years, and knowing that the Commissioner of Patents had not the power to do that, he applied to Congress. He made application here in season to have had his patent renewed had he applied to the Commissioner of Patents. He applied at the first session of the Thirty-First Congress, I think it was—at any rate, it was in December, 1849—the patent expiring June 28th, 1850. In January, 1850, the Committee on Patents of this House made a favorable report, and the House acted favorably upon it. It passed the House, and went to the Senate. It failed to be acted upon there at all during the session. In the mean time the patent had expired; and the time within which he had a right to apply to the Commissioner of Patents for an extension, had gone by, and he had no remedy but to apply to Congress.

The patentee has spent all he was worth in the world in constructing and maturing this machine; and not only all he was worth, but he applied to friends, who were able to assist him, and received their money, and spent that, also, in perfecting the machine. He spent $25,000, and has received back only $5,000, leaving him and his friends minus $20,000. And that is the way in which the matter stands to-day.

It seems to me it presents a case which should induce this House to grant the application, if there ever was a case in which an application for the extension of a patent should be granted. These men have not made a profit out of the public. They only ask that to which they would have been entitled had they made the application to the Commissioner in time. It seems to me it presents a strong case; and, believing that the committee will look upon it in the same light, I move the previous question.

Mr. ORR. Happily for us the previous question does not hold in a Committee of the Whole House. I have had no time to examine this case; but I have sent to the document room and procured a copy of the report which has been submitted; and I confess—with due deference to the committee, and without meaning any reflection at all upon the Committee on Patents—I have never examined a report in this House, which showed upon its face so little ground for passing the bill upon which the report is predicated.

Now, sir, I will read to the committee the entire report, and it will not trouble them much to listen to it, as it is a very short document. The report which I propose to read, was a report to recommend the passage of the original bill. It is true the honorable gentleman from Vermont [Mr. TRACY] has moved an amendment to the bill, because, I suppose, the original bill would have respected the right of no one who happened to have in his possession, since the patent expired, one of these machines; but it would have subjected every one of them to a liability to be brought into court, and probably every one of them would have been sued for an infringement of the patent. The amendment was introduced for the purpose of inducing the House to pass the original bill.

Now, to the report. Here it is:

That the petitioners first applied for a renewal of their patent at the first session of the Thirty-First Congress; that the Committee on Patents made a favorable report, and a bill was passed by the House at that session for their relief, but failed to be finally acted upon in the Senate. The subject was again presented at the first session of the Thirty-Second Congress, and received a like favorable report from the Committee on Patents, and a like favorable action on the part of the House, but again failed of final action in the Senate. The committee have examined the report made at the first session of the Thirty-First Congress, and, concurring therein, the same is adopted and submitted as part of this report.

The committee here rely exclusively upon the report made in 1850. Now, I invite the attention of the committee to the report of 1850, and it will be found to be as meager of facts as the report from which I have just read. Does it furnish any just ground for the renewal prayed for by these petitioners? Let us see. Here it is:

"The Committee on Patents, to whom was referred the petition of Hiram Moore and John Hascall, citizens of the United States, asking an extension of their patent for a machine for cutting, threshing, and cleaning grain, commonly known as Moore & Hascall's harvesting machine; and to whom were also referred several statements of highly respectable citizens of Michigan, and a joint resolution of the Legislature of that State, in support of the application of the petitioners, having had the same under consideration, and come to the conclusion that the prayer of their petition ought to be granted, report herewith a bill for that purpose, and respectfully recommend its passage.

"For a statement of the facts and reasons which have induced the committee to come to this conclusion, they beg leave to refer to the above-mentioned papers, which are hereunto appended, and made a part of this report."

Then follow the petition of Moore & Hascall, and certain other gentlemen, indorsed by many citizens of the State of Michigan, and the resolutions of the State of Michigan.

That is the report. On what ground, then, Mr. Chairman, can these claimants come here and ask that their patent shall be renewed? These patentees had the right to go to the Commissioner of Patents before the expiration of their first term—before the 28th of June, 1850—and secure exactly what is now asked. If they had shown, to the satisfaction of the Commissioner, what is now asserted here, that these patentees had made no money from their patent during the fourteen years of its existence, it would have been the Commissioner's duty, under the general patent laws, to have renewed the patent. They have not done that. The difference between that application and the one now, is this. Mark you, Mr. Chairman, that the patent expired on the 28th of June, 1850. This is February, 1855. The patent has been open to farmers, and to the entire public, from June, 1850, up to the present time; and it is now proposed, by the bill under consideration—for the passage of which, it is true, these parties have been knocking at our door since December, 1849—to divest the public of this right. If we do divest them, how much injury will result to private individuals! The patent expired; it was not renewed; and many persons, knowing these facts, engaged in the manufacture of these machines. And will you renew this patent for the benefit of these applicants, at the expense of the entire community?

Mr. Chairman, I think that the existing atent laws give sufficient encouragement to inventors. Patentees are sufficiently well protected in their rights. They are allowed the monopoly of their inventions for fourteen years, and if it has not been profitable during that period, a renewal for seven years longer—I doubt whether any patent ought to be renewed. I have voted on two or three occasions for renewal of patents. My attention had not been fully turned to the subject. And I now desire to say, in reference to this and to all other like cases, that they will have to present strong, equitable reasons, before I shall be willing to again vote for any renewal of patent, after the Commissioner of Patents has investigated the matter and refused a renewal. I think that this bill ought to be rejected.

Mr. SAGE. Mr. Chairman, I have been detained from my seat up to this time in consequence of illness. I have prepared an amendment to this bill, which, having left at my room, I have now sent for. When it is presented and read, I am sure the committee will acknowledge its justice and immediately adopt it. It is in substance as follows: It protects that class of men who, since the expiration of this patent, have engaged in the manufacture of these machines. It protects that class to which the gentleman from South Carolina referred.

I confess that I am opposed to this, and to all bills of a like character. This I believe to be one of the most flagrant attempts for a renewal of patent that has been presented to the consideration of this body since I have had the honor to be a member of it. The proceeding is a most extraordinary one. Five years after the patent has expired, and when more than a million of dollars has been invested in the construction of these machines for the benefit of agriculturists in the country, these patentees come here and ask for a renewal of their patent, without any provision being made for the protection of the men who have invested their money in the manufacture of these machines. It is, indeed, a most extraordinary proceeding; and I hope that this committee will well consider before they are led to adopt a principle which strikes at all enterprise in the country. I do not choose now to consume the time of the committee in the discussion of the subject; I will wait until my amendment is under consideration. If the bill be laid aside until my amendment is submitted, I shall be obliged to the committee. If it be not laid aside, I must prepare an amendment as hastily as possible, carrying out the object which I have stated. If it be in order, I will move the amendment, and prepare it as soon as I can.

The CHAIRMAN. The Chair will not consider the amendment offered until it is sent up and reported from the Clerk's desk.

Mr. STUART, of Michigan. Mr. Chairman, it is not my province, nor my disposition, in reply to the comments of the gentleman from South Carolina, [Mr. ORR,] to enter into a defense of the report made on this case by the Committee on Patents. Nevertheless, sir, I must say that I see more zeal than reason in his argument. To me there is no well grounded objection to that report. It seems to me to be like the reports from any other committee of the House. It reports favorably on the case, and refers to previous favorable reports. And let me suggest to the gentleman from South Carolina, that the reasons which governed the committee are to be found spread out in detail in the memorial of Moore & Hascall. It was, therefore, quite unnecessary, when the memorial was appended, for the report to set forth those reasons. There was no necessity for any recapitulation of the facts upon which these patentees asked for a renewal of their patent.

So far from this being the most "atrocious application" for a renewal of a patent ever presented to the consideration of Congress, I question whether there has ever before been an application so meritorious. One of the gentlemen applying here for the renewal of this patent happens to be a citizen of the State which I have the honor, in part, to represent. With him (Mr. Moore) I am personally acquainted. He was a man of no mechanical education, and, until this improvement was conceived in his brain, was not aware that he possessed the slightest mechanical talent. He was a man of comparatively small means; possessed of some $10,000 or $15,000, a sum by no means large enough to enable him thoroughly to test the value of his invention. He had friends, whom I also well know, and they assisted him. One of them, Mr. Rix Robinson, of the State of Michigan, embarked $20,000 or $25,000 in the enterprise.

But these men met with great difficulties in their experiments. The prominent one has already been referred to by my learned friend from Vermont, viz: that the machine could only be tested for two or three weeks of the harvesting season of each year. Year after year, while his patent was running, and up to the very period of its expiration, they were engaged in improving and perfecting their machine.

Let it not be overlooked, Mr. Chairman, by those gentlemen in the House who are disposed to give this subject a candid consideration, that while this patent extended fourteen years *nominally*, in point of fact, and practically, these inventors have had but fourteen months, really, in which to test the value and practicability of their machine, and to apply and test the improvements which their experiments suggested; for it is only during the harvesting season of each year that such experiments could be made. In this time they have made and perfected, at a loss of above $30,000, but two of their machines, and have never realized one dollar of profit.

Mr. SMITH, of Virginia. Will the gentleman from Michigan allow me to ask him a single question?

Mr. STUART. Certainly.

Mr. SMITH. I am friendly disposed to see this bill passed. But I wish the gentleman to notice one point which presents the only difficulty I have in the matter. I wish to know why these patentees did not apply long before the expiration of their term for a renewal under the existing patent laws?

Mr. STUART. I was about to notice this as another of the objections presented by my learned friend from South Carolina, [Mr. ORR.] Why, sir, the reason is most palpable. The original patent was for fourteen years, and, under the law, Congress alone had the power of renewal for fourteen years, the term applied for. They applied in time, and before the expiration of their first patent; and the House of Representatives, by a large vote, passed the bill to renew their right; but it was lost in the Senate for want of time to reach it. This was in 1850; and again, in February, 1852, the House, by a vote of one hundred and thirty-seven to thirty-nine, passed the bill, which, for a like reason, was also lost in the Senate. Besides this, there were improvements made in the machine from time to time, which others had availed themselves of, and introduced into the manufacture of other and rival machines.

Mr. ORR. If there were improvements made by these men, from time to time, during the fourteen years which their patent lasted, why did not they get those improvements patented, as they were entitled to do, at the Patent Office?

Mr. STUART. I will answer the gentleman as well as I can, while I confess that I am not familiar or conversant with all the facts of the case. Unlike most inventions, every experiment made to test this one, was of necessity made in the open field, and became, to a greater or less extent, public. Every improvement which the experiments suggested, or which was made in the machine from year to year, became known. Many of them were appropriated by the inventors of rival machines, and while the inventors in this case were patiently perfecting their machine, others, perhaps, were not only applying, but, for aught I know, patenting their improvements. Mr. Moore relied upon the justice of Congress, after he had expended so many years of labor, and so much money, in perfecting so useful an invention, to renew his patent, with all such improvements as he could establish before the Commissioner that *he* had invented. If others had appropriated the fruits of his labor and genius, he ought not to be the sufferer.

Well, sir, these men do not come here supported by a corps of lobbyers, who are well paid and well fed, as the saying goes, for advancing their interest with members of Congress, taking them by the button-hole, and seducing them from their reason and propriety, and inducing them, by outside influences, to support, as an act of grace, these applications. These men have given to the world the results of their genius, and they have given to the improvement of their machine their entire fortune, until they have scarcely enough left to bring them to Washington and take them back again. And they have not realized one farthing from it, while other men, the learned gentleman from New York [Mr. SAGE] says, have invested their millions in the manufacture of the same machine. I doubt whether any such sums of money have been expended; but if they have, I suppose they have made them from the machines invented by these men—they have made their money from the fruits of the ingenuity and inventive genius of the men who have spent their fortunes, and now come before Congress with a claim for their relief, which the gentleman from South Carolina characterizes as an outrage.

But, sir, this is aside, I conceive and admit, from the real merits of the proposition which lies upon your table. This application has been pending before this House, session after session, until the applicant, from hope deferred, has become heart-sick; he has now but little belief or hope that it will be granted. But, sir, the substitute which has been offered by the gentleman from Vermont, provides for the protection of these millionaires, who have invested their capital in the manufacture of these machines, and protects them abundantly.

Mr. ORR. For how long?

Mr. STUART. Forever. The proposition is simply to allow the Commissioner of Patents to examine the grounds upon which this petitioner rests his claims, reserving the rights of those persons who have heretofore invested capital in the manufacture of these machines, to sell them without it being regarded as an infringement of this patent.

Mr. ORR. I had the impression, from the reading of the amendment offered by the gentleman from Vermont, that other persons had invested

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something in the manufacture of these machines. I know nothing of the facts; but the gentleman from New York, as I understand him, says that millions have been invested.

Mr. SAGE. Yes, sir; millions have been invested.

Mr. ORR. I take it for granted that, if the machine is worth anything, in the five years which have elapsed since the patent expired, other mechanics would go into the manufacture of it, and invest capital in its manufacture.

From the reading of the amendment I stated that these persons are protected by it for a limited time. I think I stated that it protected them for six months only. My impression still is that my statement was correct. The gentleman from Michigan says that the amendment protects them forever, and to show which is right, I will read the second proviso to the substitute. It is as follows:

"*Provided also*, That no person shall be held, under this act, in any way accountable for the use or sale of any machine now made, or which shall, within six months from the date of this act, be finished and sold for use. And all rights and interests in said patent heretofore granted or assigned by said patentees, shall inure to, and be enjoyed by, such assignees and purchasers thereof, respectively, during the renewed term of said patents, upon the same conditions and to the same extent as during the term that did exist when such sale or assignment was made."

Gentlemen will see that it affords protection for six months only.

Mr. STUART. Well, sir, it protects them, as I said before, with respect to the interests they have already involved in these transactions, and it protects them in all the machines they can manufacture in six months from the passage of this act. It protects them in all the machines they have made and sold, and I hold that this is all the protection they ought to ask at our hands.

As I remarked, these men have devoted their whole energies to the improvements they have made, and are making, to their machine, and they have not only made not one farthing from it, but this applicant has sunk all his fortune upon it. I think, therefore, that this substitute protects other manufacturers to the full extent which they ought to be protected. If they desire to continue to manufacture the machines, and to avail themselves of the ingenuity, the talent, the invention of these applicants, let them pay them for the invention a just equivalent. But, admitting that there is an objection to that feature of the bill, is not the Commissioner of Patents invested with full authority in his action upon these applications to take this matter into consideration?

We have it loosely asserted that there are millions of dollars invested in the manufacture of these machines. I do not believe any such thing. It is a very loose, general statement. I believe the gentleman from New York has largely overestimated the amount of money invested; but, sir, certain it is that the inventor has never realized anything from the manufacture of the machine, and who is better qualified to adjudicate between the conflicting claims of the inventor and other manufacturers of this instrument than the Commissioner of Patents? Let him—as he will under this application, if this substitute is adopted—let him examine the facts carefully submitted to him under oath; let them be put before the Commissioner in a tangible and a responsible form, and not in the shape of mere assertion—mere hearsay evidence—and then if it shall be proved that the extension of this patent to Moore & Hascall will involve the injury of interests of such magnitude as, in his opinion, to render it improper that this patent should be extended, why, then, he will have power to reject it. I submit to the candor and sense of justice of the members of this House, that that is the proper tribunal, and the proper forum where a question of this kind should be adjudicated, where tangible and reliable evidence can be adduced and authenticated.

Now, sir, while I confess that I have very little knowledge, either of the practical operation of these machines, or of the interests involved in the manufacture of them in different sections of the country, it does strike me as but a simple act of justice to pass the substitute which has been sent up from the Committee on Patents. It does seem to me but simple justice to protect this man in the fruits of his ingenuity and talents. I would cheerfully have voted for the bill as it was first proposed. In the facts set forth by the memorialists themselves, which have been authenticated and proved before, and relied upon by two or three several committees of this House, I should have found sufficient reasons to have justified, either to my own sense of justice, or to my constituents, the vote which I should have given in favor of it. As it is, it seems to me that the substitute proposed by the gentleman from Vermont [Mr. TRACY] is the smallest measure of justice that any member upon this floor would mete out to acknowledged talent, great genius, indefatigable industry, and to, I may add, very great misfortune.

Mr. BENTON. I wish to bring—I was going to say to the knowledge of the House, but it would be presumptuous in me to say that I could bring anything to the knowledge of the House—but I will bring to the recollection of the House, some history upon the subject of renewing patents which, I think, will be beneficial to the public, and to ourselves. I am cotemporary with the first applications to obtain renewal of patents from Congress; and when they first came in, they were received as a strange intrusion upon the legislative body. These renewals and grants of patents were judicial questions, between an individual on the one side, and a community on the other; and we let those questions be decided where judicial questions can only be decided—by a tribunal sitting and acting as judges. In those days—twenty-two years ago—Congress held that the granting of this exclusive privilege to individuals was itself a favor. The Constitution goes upon that idea. It was no right. If it had been a right, it would be eternal to the man and his heirs. The whole thing was a favor. It operated as a bounty, not paid out of the Treasury, but paid directly out of the pockets of the people.

The Constitution gives to the Congress of the United States authority to grant these patents for useful inventions for a limited term. "Limited," I believe, is the word in the Constitution. In doing so, the Constitution acknowledged two things: first, that it was right to encourage useful inventions, and that, for that purpose, the inventor should have some limited property in his invention; and, in the second place, the Constitution assumed the right to say to what extent that property should be.

Well, sir, when the first applications came in, and, defying repulses, hung on till granted, they went through my ears so often that, although it is twenty-three years since I heard them, yet, no sooner do I hear the words "renewal of patent" here, than Jethro Wood stands before me, in all his proportions, and not only in all his proportions, but as a most pertinacious character, hanging on to the skirts of Congress, until Congress, worn out by his annual importunities, granted him a renewal of his patent. When was that? I believe it was on the 19th day of May, in the year 1832. Up to that time Congress had held that we were not fit to decide those questions; and, sir, if we entertain applications in the nature of appeals from the Commissioner of Patents, we give an invitation to every man who has a patent that is valuable to him, to come here and get it renewed. All he has to do, is to furnish his Representative with a representation of his case, and I believe that no representative disputes the truth of anything that a constituent tells him. That is my own way, and I suppose it is the same with others.

Mr. STUART, of Michigan. The gentleman from Missouri will allow me to say that I regret that I have not the honor of claiming to be the representative of this patentee. He does not happen to live in my district.

Mr. BENTON. Well, the remark is a perambulatory one, and it may light on the shoulders of the right person. [Laughter.] I do not take it back. I will leave it on its travels—meaning nothing invidious.

Well, sir, I will give you the date of that act. It was enacted on the 19th of May, 1832. What then? The Congress of the United States undertook to protect the community against further movements on the subject of the renewal of patents, except such application for renewal was under circumstances which would not divest the community of any right; and which would give Congress the chance, and give the community the chance of knowing everything connected with the matter on the trial of the suit instituted between them and the applicant. For, sir, a suit it is—a suit in which the community is a party on one side, and the applicant is a party on the other side. Congress having, theretofore, treated these applications for extension in the nature of law-suits, passed a law on the subject for the protection of the community, and to give itself some chance of information on the trial. Within two months after the same time—on the 3d of July, 1832—Congress passed an act on the subject of applications to itself for the renewal of these patents. The first section of this act was devised to let the whole community know when their right to the use of an expired patent accrued. It provides that it shall be the duty of the Secretary of State, annually, in the month of January, to report to Congress and to publish in two of the newspapers printed in the city of Washington, a list of all the patents for discoveries, inventions, and improvements, which shall have expired in the year succeeding, and the names of the patentees alphabetically arranged.

The object of this section, Mr. Chairman, was to let the community know on what day their right vested to use this improvement. Not, sir, that Congress had anything at all to do with the day on which any citizen should actually begin to use these same inventions. They considered the right of the citizen as accruing the day of the expiration of the patent. His right is complete on that day, and Congress merely took care that the community should know it, that the community should not be driven to make inquiries, that they should not have to send to the Patent Office for information, that they should not have to go about asking when such and such a patent would expire, but that they should see by two of the newspapers printed in Washington city, and from a report made to Congress, on what day any patent expires, so that every man in the community might know on what day the right to use the invention has vested in him whenever it may seem proper to himself to use it.

Congress then went upon the idea of acknowledging a vested right in the community on the expiration of a patent, and of taking care that notice should be given of the time at which such right vested. The first section is that which refers to the right of the community generally. Then comes something for the protection of Congress itself. If it must sit as judge, jurors, witnesses, and attorneys, combining all the judicial functions in itself, at least, Congress should have some chance of finding out what it was about—should have some chance of getting a knowledge of the case, by the exercise of all these judicial functions. The second section, therefore, provides that applications to Congress to prolong or renew the term of patents, shall be made before the expiration of such patents—before the right to use it shall have vested in the community. Yes, sir, that is the point. He shall notify the fact at least once a month for three months before the presentation of his application, in two newspapers printed in the city of Washington, and in one of the newspapers in which the laws of the United States shall be published in the State or Territory in which the patentee shall reside.

Now, sir, in the first part of that section, the Congress of the United States protects the rights of the community by rendering it imperative on an applicant for an extension of a patent to make his application, and to advertise the same before the expiration of the term for which it was granted. The next part looks to the security of the community, and the security of Congress, in prescribing the manner in which this application

shall be brought in our court. The application must be advertised for three months before its presentation, in two newspapers printed in Washington city, and in one of the newspapers in which the laws of the United States shall be published, in the State or Territory where the patentee shall reside. Congress would not trust the applicant to pick out his own newspaper, but makes it imperative on him to publish it in one of those newspapers in which the laws of the United States are published, so as to secure that kind of reasonable publicity which would give the community a chance to see it. So much for the notice. Then comes up the petition. The law states what the petition itself shall contain. The petition shall set forth particularly the grounds of the application, and shall be verified on oath. The testimony on the subject must be taken before a judge, or a justice of the peace. The petition shall be accompanied by a statement of the ascertained value of the discovery, invention, or improvement; and of the receipts and expenses arising out of the patent, so as to exhibit the profit or loss arising therefrom. I believe, sir, that is all which applies to it; and, although the Congress of the United States may assume to itself the right to disregard the act of a previous Congress, yet I hold that that privilege does not belong to every man in the community. I hold that a patentee has not the privilege himself to disregard an act of Congress; that he must conform to an existing act of Congress when he wants a new one passed for himself. And here he proceeds openly and flagrantly to break the provisions of an act of Congress. And if we shall dispense with some of the forms of the proceeding which that act describes, although all are necessary to the protection of the community, still we cannot dispense with that great principle which the whole act recognizes, and was intended to recognize, namely, the right of the community to use these inventions on the day of the expiration of their patent; and we cannot, by law, by justice, or in any legal way, divest the whole people of that general right which has vested in them.

Mr. PERKINS, of New York. The patent that you propose here to renew, or to make provision by which the parties interested hope to get a renewal, is like almost all other patents—a mere improvement upon a mass of machinery that has been invented by others before. Take, for instance, the printing press, which formerly was a very inferior thing to what is used at the present day. It has gone through a series of improvements, from time to time; one inventor adding something, and another inventor adding something else; and so proceeding, from time to time, until now we have a very perfect invention, embracing a great variety of improvements, suggested and patented at various periods. What is the effect of granting a patent to an inventor? It is to enable an individual who has made a new improvement, to avail himself of the inventions of all the inventors who have preceded him, and, by making an invention a mere trifle better, so as to supersede the others in the market, and create for himself, during the pendency of the patent, a perfect monopoly of all the inventions that have preceded his own. That is the clear and distinct definition, as I understand it, of the operation of the creation and renewal of patents. It is all very well to grant patents for a limited period of time, by way of encouraging inventions; but they should not be permitted to operate, by way of monopoly, where they are mere improvements of the inventions of other individuals who have gone before.

I am not intending to make war upon the patent laws as they now exist. Here is a case in which an individual has had the benefit of an improvement upon Hussey's patent exclusively for fourteen years. He not only has the benefit of this particular patent, but of other patents that have been granted for reaping machines, before he made his improvement; and in this way he has been enabled to make a little more perfect machine than those already in existence, and to drive other manufacturers out of the market.

I do not pretend to say anything about the merits of this particular machine—whether it is superior or not to the reaping machines that were patented previous to it. If it is better, the patentee in this case has had the benefit of his invention for fourteen years, by making a small improvement upon the other preceding inventions; and he has had the preference in the market over all other inventions of a similar character. In every aspect of the case, I can see no just reason for granting the extension of patents of this character, except in a very extraordinary case. If you deprive a man who, in pursuance of the laws of the land, has gone on and invested capital in the manufacturing of the improved machinery for which he may have received a patent, of the use of the machinery which he had to a greater or less extent erected for the purpose of carrying on his business, you thereby take away from him a vested right.

It is said, in this case, and perhaps truly, that the party was misled, and did not know exactly the provisions of the law, or he would have applied to the Commissioner of Patents for an extension of the patent. But that is his misfortune, and not his fault. And so it is your misfortune when your house is burned; and so it was the misfortune of the New York merchants in the great fire there some twenty years ago, or more, when their goods were burned, and Congress afterwards refused to refund to them the duties which they had paid to the Government upon them. It was their misfortune, and not their fault. And this is so in all human transactions. If a man has not the vigilance to protect his rights, and for want of it is deprived of his rights, he has no justification of appeal to the Government, as a matter of charity, to restore him the rights of which he has been deprived.

Mr. McMULLIN. I hope the committee will excuse me for making a very few remarks upon this question. It is one in which the agricultural interests of this country are deeply interested; and, as I represent upon this floor that portion of the community, perhaps, to as large an extent as any other member, I think I may ask the indulgence of the committee while I make a very few suggestions. Allow me to say, that I would be the last man upon this floor to infringe upon the rights of the great agricultural interests of this country.

The gentleman from Missouri, [Mr. BENTON,] to sustain the position he took, read extracts from an old law that ought to have been passed when it was passed, but a law which has been repeatedly, time and again, repealed, by special acts of repeal. Need I remind the committee that, not long since, a patent was renewed in favor of the manufacturer of felt cloth? We have had various acts repealing special acts of the law to which he referred. I differ with the gentleman from Missouri as to one of the issues which he presented to this committee and the country. The renewal of a patent is not a special favor conferred upon the individual who, by his ingenuity and industry, has discovered some valuable improvement. I hold that the favor conferred has been mutual between the discoverer and the community at large.

So it was in the case of the invention of this reaping machine—this great labor-saving machine—which, in respect to saving labor, is not surpassed by any machine in this country. In days gone by we used the scythe, the cradle, and the reap hook. But these men, by their extraordinary mechanical ingenuity, have invented a machine by which you save thousands of dollars annually to the agricultural interest.

But it seems to me that the distinguished gentleman from South Carolina, the gentleman from Missouri, and others who have discussed this matter, have lost sight of the principal question at issue. And what is it? Not that Congress shall renew the patent. No, sir. If I understand the bill now before the committee, it is proposed to refer this whole subject of extending the patent to the Commissioner of Patents, and he is to decide the question. If he can be satisfied by the patentees that they have not realized a sufficient and reasonable sum for the invention which they have made, he will extend the patent; but if he shall be satisfied that they have realized ample profits, he will reject it, as he ought to do.

But, Mr. Chairman, I insist, if there are any in this community who need protection, they are the humble mechanics of the country—men who are deprived of society, excluded from its benefits, and whom men of learning and distinction, like my friend from Missouri, would not invite to their houses.

Mr. BENTON. I deny that, out and out. I deny it, sir.

Mr. McMULLIN. Well, I take it all back. Then the gentleman is not so aristocratic as I supposed he was. But who does not know that humble mechanics, as a general rule, are not regarded as the *élite* of the country. They do not profess to belong to the aristocracy of the country. They are deprived of society.

Mr. PERKINS, of New York. In Virginia, but not elsewhere.

Mr. McMULLIN. Wherever I see the rights and interests of mechanics, either before the American Congress or out of it——

Mr. PENNINGTON, (in his seat.) Who knows when the next congressional election comes off in Virginia?

Mr. McMULLIN. Perhaps the gentleman in my rear [Mr. PENNINGTON] may pander for election, but I can inform the gentleman I do not. I make no Buncombe speeches in this House or elsewhere.

Sir, I desire to get this application before the proper tribunal, where all the facts can be brought out, and if it is right and proper that the patent should be extended, that tribunal will extend it, and if it is not right and proper, it will not extend it, and I shall therefore vote for the bill.

Mr. BRIDGES. I propose to claim the attention of the committee but for a short time, being in favor, as I am, of the proposition now before the committee. I was in favor of it as one of the Committee on Patents, and I was in favor of it because I believed there was merit in the application. I believed I was acting as the Commissioner of Patents would have acted, when I was considering the applications made by these gentlemen. I considered the application under the act of 1836. The honorable gentleman from Missouri has referred us to the act of 1832; and he has asked this committee whether they would disregard the act of 1832? I would say to the honorable gentleman from Missouri, that that act has been expressly repealed, and the question, therefore, very improperly fell from his lips, whether this committee would disregard the act of 1832. I say the committee must disregard that act, because it is repealed. To satisfy the committee that I am right in my assertion, I will refer to the act of 1836, by which it was repealed, and to which the gentleman from Missouri did not refer. In the twenty-first and last section of that act, gentlemen will find that all acts, and parts of acts passed upon this subject before that time, were thereby repealed. Then I ask what was the object in referring this committee to the act of 1832, which has become a dead letter upon the statute-book?

I invite the attention of the committee to the act in force in relation to patents, and that is the act of 1836—the principal and the binding act. Now, sir, I said that when I sat as one of the Committee on Patents, deliberating upon this question, I considered myself as acting in the place of the Commissioner of Patents, and I took the law of 1836 as my guide. And how did I seek my guide from the act of 1836? I will explain to the committee. The eighteenth section of the act under which a patentee may apply for the renewal of a patent is, in part, in the following language:

"The patentee shall furnish to such board a statement, in writing, of the full value of the invention, and the receipts and expenditures, sufficiently in detail to exhibit a true and faithful account of the loss and profit, in any manner accruing to him, from and by reason of such invention. And if, upon the hearing of the matter, it shall appear to the full and entire satisfaction of said board, having due regard to the public interest therein, that it is just and proper that the term of the patent should be extended by reason that the patentee, without neglect or fault on his part, having failed to obtain, from the use and sale of his invention, a reasonable remuneration for the time, ingenuity, and expense bestowed upon the same, and the introduction thereof into use, it shall be the duty of the commissioner"—

—not leaving it discretionary with the Commissioner of Patents—but, if he find all these facts to exist—

"it shall be the duty of the Commissioner to renew and extend the patent, by making a certificate thereon of such extension, for the term of seven years."

Now, in considering the question, I took the application made by the patentee. By that application I found that they had incurred great expense in getting up this invention; that they had expended $25,000 in its perfection, and had only realized some $5,000 from it, leaving them minus $20,000. I took that to be a fact which could not

be controverted; and it has not been controverted. I also took into consideration the fact that this patent expired in 1850, and that the patentees, the very first session of Congress afterwards, to wit: during the Thirty-First Congress, made application for its renewal. Favorable report and action was had here, but the Senate failed to act on the subject. Again application was made, which was favorably acted on here, and again failed to be acted on in the Senate. I see, therefore, industry on the part of the patentees. I see that they have neglected no duty, unless it was in not making application to the Commissioner of Patents. Why that was not done does not appear. Suffice it to say that, at the earliest opportunity, after the expiration of the patent, these parties made application for its extension to this House, as well as to the Senate. These patentees, then, having been industrious, having done their duty, are entitled to relief. I say that they have answered the requisitions of the law, and the language of the law applying to their case, and therefore merited my consideration. I was induced to consider the question, whether they had, or not, received money enough to remunerate them for their time, ingenuity, and expense, in perfecting the invention.

Then, sir, as the Commissioner of Patents could not act under the law of 1836, it was proper, as every man in this country enjoys the right of petition, that these parties should present their petition to Congress for the purpose of obtaining an extension of their patent. It was my duty to inquire whether they had been paid for their time, ingenuity, and expense. I did so inquire, and found that they had not. Acting under the law of 1836, and finding that they had not been thus paid, could I, as an honorable man, refuse to grant them the extension of their patent, which the Commissioner of Patents himself would have granted? I ask members of this committee, as honorable men, who are willing to be governed by the merits of the case submitted to their consideration, how they can resist an extension of the patent, if they are satisfied of the fact that the parties have not been paid for their time, ingenuity, and expense? That is the question which we are now to consider.

I would have been in favor of the first bill which was reported by the gentleman from Vermont. I take it that I am acting here as a Commissioner of Patents would act, and upon precisely the same principles; and I urge upon this committee to join with me in acting as the Commissioner would have acted in the case. The bill now proposes that the Commissioner of Patents shall be invested with the power which was taken from him under the act of 1836. I fully indorse that bill. I shall support it, and I do not believe that any gentleman upon this floor can hesitate to support it. Let it be referred to the Commissioner of Patents, in whose decision every member of this committee and every man in the country must have the most implicit confidence. Let him examine the question. If it possesses merits, he will grant an extension; if not, he will refuse it.

As to the vested right in the community, I say that it has not occurred. It does not take place, unless by implication, inasmuch as the act of 1832 has been repealed. At any rate, if the right has vested, Congress has the right to withdraw it.

I am for rewarding the mechanic and the man who possesses genius. The product of his inventive powers has conduced to the benefit of the country, and he has a right to be benefited himself by the fruits of his inventive genius. It is said that this is going to operate hard on the community. I say that it is a benefit to the community, inasmuch as this is a labor-saving machine. I say that the argument ought not to be made here, that it would be an injury to the community, inasmuch as it is, on the contrary, a benefit to the community, as I have before said. If it be a benefit to the community, then the inventor ought equally to share that benefit. He has not received his share. I am satisfied that if the honorable gentleman from South Carolina, [Mr. ORR,] who opposed this bill with so much zeal, had considered himself as sitting in the place of the Commissioner of Patents, acting under oath upon the merits of the case, he would never have lifted his voice against it. And there is the point to which I wish to bring every member of this committee. If they will do so, it appears to me that they must be convinced of the justice of the application in this case, and certainly of the justice of granting the Commissioner of Patents the right to consider and act on it. That is what the bill asks. Let it go to the Commissioner of Patents; let him consider the question. If he sees merit in it, he will grant the extension; if not, he will refuse it.

Mr. SAGE obtained the floor, and yielded to

Mr. BENTON. Mr. Chairman, there has been so much legislation by provisos, that it is hardly to be expected that any gentleman reading acts will see everything, especially when there happens to be a proviso at the end of a long section, in a long act, which is vital to the case. This act of 1836 has a proviso, acknowledging the principle which the act of 1832 acknowledged, that on the expiration of a patent the right of the community vests, and after that there is to be no extension by anybody. This is the clause:

"*Provided*, No extension of a patent shall be granted after the expiration of the term for which it was originally issued."

So that the application must not only be made before the patent has expired, but it must be granted before the expiration. And all that upon a principle which Congress cannot affect.

Now we come to that part from which the gentleman read: "That all acts and parts of acts heretofore passed on this subject be, and the same are, hereby repealed." After which comes two provisos. This first inquiry is: what is *this* subject? It is the subject of this act, which is an act of twenty-one sections—a very long act.

It is a codification of the whole Patent Office law—the whole method of obtaining patents out of the Patent Office. It applies to the office and the Commissioner, and not to Congress. The entire act is confined to the proceedings in the office of the Commissioner of Patents, and those resulting from his proceedings. That is the act, and all of the act. It is for obtaining patents in the Patent Office, and, in my opinion, does not apply at all to procuring them from Congress. One of the objects of the act, in my opinion, was to prevent applications for patents from coming before Congress. It is very clear that such was the intention in framing the act, from the fact that it provides for the organization of a board to decide such claims for patents as are not decided by the Commissioner of Patents.

The act provides that under certain circumstances, therein mentioned, the Secretary of State, the Commissioner of Patents, and the Solicitor of the Treasury, shall constitute a board to decide upon the evidence produced for and against the claim. And, sir, that the act of 1832, from which I read when I was before up, is in no way invalidated by this act. The great principle of a judicial tribunal, for the determination of these cases, is recognized in the constitution of this board. They are not only empowered to decide upon the evidence produced but to take testimony.

Now, sir, I hold that if the Congress of the United States is to undertake to consider all the applications for renewal of patents that may be brought before them, they will have to adopt one of two courses. They will have to grant every application made, or they must undertake the separate trial of every application; and if you go into that you might as well give up in the first place, for if your whole time were devoted to it you could not decide upon all the applications that would be brought.

I say, sir, that the act of 1836 was intended to exclude applications for the renewal of patents from coming before Congress, and certainly to exclude them after the expiration of the term of the patent.

Mr. SAGE. I do not propose to consume the time of the committee but for a few minutes, in what I have to say in relation to this application. My honorable friend from Michigan, [Mr. STUART,] in answer to what I said as to the amount invested by humble mechanics in the manufacture of these machines, speaks of them as a class of millionaires. Why, sir, the whole argument brought by the gentleman from Pennsylvania [Mr. BRIDGES] was in support of these very humble mechanics, which this bill seeks to proscribe. Sir, the men who have invested their capital in the manufacture of these machines since the expiration of the patent in 1850, are humble mechanics. They have invested their all in the business, and have invested it in accordance with the laws of the country.

Sir, the gentleman from Pennsylvania made a most fatal admission for this application, when he said he did not know why the applicant did not come before the Commissioner of Patents for a renewal before the expiration of his former patent. It will be well for this committee to inquire how many patents for improvements in reaping machines have been issued since the expiration of this patent in 1850. There cannot be less than one hundred, and my impression is, that there are one hundred and fifty.

And, sir, my statement as to the amount of capital invested in the manufacture of the machines was not exaggerated. There is $1,000,000 invested in my own State for the manufacture of these reaping machines. The General Assembly of the State of New York has instructed the Senators and Representatives in Congress from that State, by an almost unanimous vote—only two members voting in the negative—to vote against the extension of this patent. I hold in my hand the instructions. This is a matter in which the whole agricultural community is deeply interested, and which this House should well consider before they perpetrate so gross an act of injustice upon that community as the passage of this bill.

Again, sir, the gentleman from Pennsylvania argued here as if this were merely to allow the Commissioner of Patents to act the same as he would if it were an application for the renewal of a patent when the original term had not expired. Let us see what is the language of the substitute which is now proposed to be adopted:

That the Commissioner of Patents be, and he is hereby, authorized and required to hear and consider the application of Hiram Moore for the renewal and extension of letters patent granted to the said Hiram Moore and John Hascall for improvement in harvesting grain, dated June 28, 1836, in the same manner, and upon the same principles, as if he was applying under existing laws for the extension of an unexpired patent; and to refuse a renewal of said patent, or to revive and extend the same for the term of seven years from and after the passage of this bill, or to the 28th day of June, 1864, or in the respect he may think just and proper.

Striking out the privilege of manufacturing these machines to the men who have embarked in the business within the last five years. Is this meting out the justice to the humble mechanic which the gentleman from Virginia [Mr. MCMULLIN] so eloquently alluded to? I think not. I think it would be an act of the grossest injustice for this House to strike down these worthy men who, in accordance with your laws, have, within the last five years, invested their means in the manufacture of these machines.

This applicant has enjoyed the monopoly of his invention for years, and if he has not made money out of it he has certainly no claim to come before us, and ask that other mechanics shall be ruined to give him a further monopoly, especially when we have the evidence of the Commissioner of Patents that his application ought not to be granted. Sir, let us rely upon the fact before us, and we shall act more understandingly.

Before proceeding further, I will send up to the Clerk's desk the amendment which I propose to offer to the substitute:

Provided, That all persons who have heretofore been or are now engaged in the manufacture of any machine embracing any of the principles contained and patented in the patent herein mentioned, and every purchaser of any such machine from any such manufacturer, and any person owning any such machine, shall be exempt from the effect of the renewal or extension of said patent.

Mr. STUART, of Michigan. I desire to know of the gentleman from New York if he means to state, and means the House to understand him as stating, that Mr. Hascall made money out of his machine before the expiration of his patent?

Mr. SAGE. No, sir. I do not know anything about that fact.

Mr. STUART. I repeat to the committee what I have already stated, that Mr. Hascall made not one farthing out of his machine. And, sir, I desire to call the attention of the gentleman to the report of the Commissioner of Patents, where he expresses regret that he is unable to grant a renewal of the patent.

Mr. SAGE. He expresses his regret at the misfortune of Mr. Hascall in not applying for his renewal in time. But certainly that expression of regret should not be used against those men who, from the fact that his patent was not renewed, have engaged in the manufacture of these machines since 1850.

Mr. GOODE. Mr. Chairman, I had hoped that

the member from Missouri, or some one of the gentlemen who have spoken in opposition to this measure, would have submitted some motion to test the sense of the committee in respect to the propriety of passing the bill at all. It appears to me to be obviously proper that the sense of the House upon that point should be ascertained at once. Sir, if this House is to entertain the various propositions of this character which will be brought up here, we might remain in session forever trying patent cases. It is obvious, from the nature of the institution, from the number of patents that is issued, and from the great interests involved, that every man who has invented a useful machine will seek a renewal of his patent when his term expires, and Congress will be resolved into a commission to determine upon the propriety of extending patents.

That is the objection suggested by the argument of the gentleman from Pennsylvania, [Mr. BRIDGES.] He says that members of Congress are to sit here in place of the Commissioner of Patents, that each member of Congress is to have his time occupied day after day, and week after week, in substituting himself for the Commissioner of Patents to determine on the propriety of extending patents. If we undertake this duty, we shall have time for nothing else. If the patent laws are not sufficiently liberal for patentees, alter them. If they do not secure sufficient advantages to inventors, amend them so as to afford greater advantages. It is the business of Congress to pass general laws to operate equally advantageously to all the citizens of this Confederacy. It is not our business to sit here as a special commission to determine upon the advantages arising to each particular individual. Change your laws if they be not sufficiently advantageous, but do not detain us here to pass upon these particular cases. We have not time to do it, and we are not competent to do it.

Again, sir, it is impossible for us, in my opinion, to pass this bill to extend and secure advantages to these petitioners without trenching upon rights which have attached to other citizens of this Confederacy. We may speak as we please of those who are denounced as millionaires, and of whom I know but few in the world, but every man in society has a right to employ his own capital, and his own labor, and his own skill, to advance himself in life, and he has a right to take advantage of all the skill and science known to the world at the time. It is true that the Constitution of the United States has given to Congress the power to place a limitation upon this right, by securing to inventors the benefits of their discoveries, but it is for a limited term, and not longer.

Now, sir, we had passed a general law, and these petitioners had secured and derived the advantages of that general law. They suffered their patent to expire, they say, in 1850. Then, sir, rights attached to other individuals in society to employ the invention which they had given to the community, and to invest their capital in manufacturing it, and it is said that very large amounts have been so invested. The moment their patent expired, every individual in this Confederacy had a right to use their invention. Exercising that right, some parties have made large investments. Well, sir, the investment was just as much theirs, and the right to use the invention was just as much theirs, one day after the patent expired, as it had been the right of the original inventors before. Now, can we, by subsequent legislation, divest them of the right which had thus attached? Their right was as perfect as the right of the patentee. He had forfeited his right; he had suffered it to lapse. It had attached to others, who had entered into the exercise of the right, and cannot be divested of it by subsequent legislation. That is my view of the subject; and believing that the sense of the House will sustain a motion to strike out the enacting clause of the bill, I submit that motion.

Mr. LYON obtained the floor.

Mr. GOODE. I will withdraw my motion, if the gentleman will renew it.

Mr. JONES, of Tennessee. It is not necessary to withdraw it. It is a debatable motion when debate has not been closed by order of the House.

Mr. LYON. Mr. Chairman, I hold in my hand concurrent resolutions in relation to the extension of patents, passed by the Senate and Assembly of the State of New York, and approved by the Governor, in the following words:

Resolved, (if the Assembly concur,) That, in the judgment of the Legislature, the sentiment of the people of this State is opposed to the passage of any law by Congress extending the time of any patent or patents heretofore granted to Cyrus H. McCormick, Obed Hussey, or Moore & Hascall, or to either or any of them, for mowing or reaping machines, or to his or their representatives or assigns, or any law sanctioning or giving validity to the reissue of any such patent or patents.

Resolved, (if the Assembly concur,) That the Governor be requested to transmit a copy of the foregoing resolution to each of the Senators and Representatives in Congress from this State.

Resolved, That the Assembly do concur in the passage of the foregoing resolutions.

Mr. LYON addressed the committee in opposition to the bill. His remarks, withheld for revision, will be published in the Appendix.

Mr. GOODE. I now renew my motion to strike out the enacting clause of the bill.

Mr. HUGHES. I have probably received the same set of resolutions that have been referred to by my honorable colleague. Not having been a member of the Legislature of the State of New York, as my colleague has formerly been, I cannot refer particularly to the way in which measures are passed by that Legislature. But, judging from my visits to the capital of New York, I have no doubt that this resolution has passed as others do; and, as far as I am concerned, this resolution of the Legislature of the State of New York on this subject would have no other consideration at my hands than the opinion of any gentleman who should call upon me, and consult me, or advise in relation to it. I am too well aware of the way in which these resolutions are passed, and do not doubt that they emanated from parties interested in other reapers.

But I have the honor to represent an inland rural district of the State of New York—a farming, agricultural people, without guile, and who, I am happy to say, as a friend behind me suggests, "enjoy the stated preaching of the Gospel, [laughter,] and who have not advised me at all of their wishes in this regard. While I shall not essay to discuss the merits of this bill with the gentleman who has himself introduced wheat for distribution into the Patent Office from the farm of Abraham, at the foot of Mount Carmel; while I shall not essay to enter upon a discussion of this measure with a gentleman who has traveled in Europe among the agricultural schools that time has set its signet upon, and learned wisdom and gained experience there, I shall differ with him as regards the instructions which are sent from the State of New York to its Representatives upon this floor. But while I am not convinced, with the gentleman, and do not feel it to be my bounden duty to act according to the instructions sent from that Legislature, still my judgment is open to conviction, and the eloquence and earnestness of the gentleman representing a district agricultural like my own, has done more to convince me than the resolutions themselves. I see no propriety in the broad statement which the gentleman has advanced, that Representatives from our State ought to obey these instructions or resign. I cannot subscribe to it. If the conviction comes to my mind, upon an examination of this bill, that *it is right*, I shall act contrary to the request contained in those resolutions; and I only rise in my place now to say that I shall not follow in the path pointed out by the honorable gentleman for me to pursue—to obey those resolutions or resign. I shall follow in the wake of the distinguished gentleman [Mr. CASS] in the other wing of this Capitol, not in the position which was assumed by him some years ago, but that recently put forth to the world; and I shall act according to the dictates of my own good judgment in this matter. If I find that this is one of those cases which commends itself to my judgment, I shall shape my course accordingly, acting as an independent Representative of an independent constituency.

But the gentleman tells us that the wishes of the people engaged in agriculture throughout the land will appear to us in some form or other; whether in the modern way of "spirit-rappings," or in some other way that the inventive genius of the gentleman may predict, I know not. But if they should come here like Banquo's ghost, to "push us from our stools," still I shall act according to the promptings of my own judgment, free and untrammeled, although I have the great interests of the agriculturists of the country as much at heart, I believe, as has my honorable colleague. My own private opinion of the matter is, so far as Moore & Hascall are concerned, that they are entitled to the fair and impartial consideration of this Congress, and that the reaper is a most valuable one. I do not believe that every man who comes here as an inventor is to be treated in any other way than as a gentleman. I do not believe that every man who comes here with a claim before Congress is a rascal, and comes with malice in his heart and deceit upon his tongue. Neither do I believe, as I understood the gentleman to state, that the committee, of which the honorable gentleman from Virginia [Mr. LETCHER,] is chairman, has in the least impugned the character, standing, and integrity of members of this House. The report of that committee leads us to an entirely different conclusion as regards the Colt case. I was very glad that the committee was appointed, and I was very glad that the indefatigable gentleman from Virginia—a gentleman of known perseverance and ability—was placed at the head of that committee. I was very glad when that committee, after it had been in session for a year, put its seal upon these lying rumors which float about our heads, and that the most scrutinizing investigations of that committee have not been able to place a stain upon the escutcheon of any gentleman in this House. I am very glad that the House raised a committee, and placed upon it gentlemen of so much zeal, to investigate charges which have become as common as they are false, and which have grown out of our neglect to notice them, and that we have passed through this crucible thrice purified. Why, I believe every member upon this floor has passed through that investigation without even the "smell of fire" upon his garments.

I did not rise to make a speech upon this subject, but merely to repel the idea that there is any binding force in these resolves. I have the pleasure of knowing the gentleman who asks for the extension of this patent at the hands of Congress. I believe him to be a gentleman and an honorable citizen of this Republic, entitled to fair consideration at our hands, and I trust that every gentleman here will weigh this matter according to the dictates of his own conscience. I shall act in that way, regardless of the resolves of my State Legislature, and regardless of the importunities of those who may be sent here either to favor the passage or rejection of the extension of the patent in this case. I believe I have better facilities of forming an opinion as to what the rights of the petitioner are than those who passed these resolutions, and from a correspondence which I will send up to the desk, it will appear they passed under misapprehension of the purport of this bill, which simply authorizes the Commissioner of Patents to act on this case, instead of being an absolute extension of the patent for seven years, as suggested in the concurrent resolutions of my State Legislature.

Mr. CLARK. I rise simply for the purpose of attempting to answer some few of the objections which have been urged against the extension of this patent. One gentleman—from the State of New York—I believe from the St. Lawrence district [Mr. PERKINS]—objects to the renewal of the patent in this case upon the ground that it will interfere with Hussey's and McCormick's patents. I do not understand that the extension asked for in this case will interfere with the patents of either of those gentlemen. What has been the policy of our Government in reference to renewals of patents? By that policy, up to this period an inventor of a useful machine has the right, if he has not been sufficiently remunerated, and can satisfy the Commissioner of Patents of that fact, to have a renewal of his patent for seven years.

It has also been the policy of Congress, if there was any instance where the individual had not obtained the benefits of the law in that respect, if good reasons could be shown, to extend to him those privileges which he could otherwise have obtained by application to the Commissioner of Patents. I will endeavor to show very briefly why Moore & Hascall did not apply to the Commissioner of Patents for the seven years' renewal. It has been stated, and stated truly, to my own knowledge, that, up to the period when this patent expired, these gentlemen had been spending their whole time upon the improvement; in other words, that the machine had not been perfected until after the expiration of the patent. It was

so for this reason—which will be satisfactory to the committee—that there was but a few days, once a year, in which experiments could be made with it. Two or three weeks was the extent of time each year that it could be used. It was well said by my colleague that fourteen months in all was the extent of the period in which the inventor of this machine could possibly have had to perfect it.

Again, they believed, at the expiration of the fourteen years, during which time they were perfecting this harvesting machine, they ought to have a renewal by Congress for fourteen years; and in the year 1849, previous to the expiration of the patent, they did apply to Congress for a renewal of it. Twice has a bill for that purpose passed the House—first in 1849, and then again in 1851. So the patentee did not lie by, as has been said in the course of this discussion, for five years; but they came forward in 1849, before the expiration of the patent; and this branch of Congress then, and once afterwards, passed a bill renewing it. Then here was a notice to all parties interested—a notice to all who were pirating upon this invention. Here was a notice to the constituents of the gentleman from New York [Mr. SAGE]—his constituents in Troy, who have been investing their money in the manufacture of these machines. Here was an application to Congress in 1849, and before the expiration of the patent, to renew it, believing they had sufficient reasons for having it renewed. They believed they had the same rights which belonged to other inventors—that they would have fourteen years, after the machine was perfected, to enjoy the benefits arising therefrom.

One word further in reference to this matter. I know the patentee well. He is a resident of my district, and of the county in which I reside. I have seen this machine operate frequently, during a number of years past. I believe that for a prairie country it is the best machine now extant, for harvesting, threshing, and cleaning wheat. It will accomplish more work within the same length of time than any other machine. It will harvest over twenty acres a day, and does its work well, winnowing the grain, and dropping it into a bag.

Now comes up the question, and the important one as connected with a machine as valuable as we claim this to be, Has the inventor been remunerated for the invention? That is the only remaining question to which I wish to call the attention of the committee. It is in evidence before the committee that, instead of realizing any benefits from this great invention, Moore & Hascall had expended from twenty to thirty thousand dollars of their own means, and of the means of their friends, and have received no remuneration. If it is a useful invention, a great labor-saving invention—and if it is not, a renewal will do no harm—the question comes up, is the patentee in this case, as in all other cases, entitled to remuneration for this great invention? And here I appeal to the distinguished gentleman from South Carolina, [Mr. ORR,] who has denounced the matter in such unmeasured terms, does he mean that he would not in any case vote for the renewal of a patent? If so, he is consistent. If, on the contrary, he is in favor of the policy heretofore pursued, and is willing in any instance to vote for the renewal of a patent, it does seem to me that this is as strong a case as can be presented to him.

All they ask for now, is simply the seven years, extension—the same length of time they would have been entitled to, had they applied to the Commissioner within the time designated by law. I have attempted to state the reasons why they did not apply to the Commissioner.

One thing further. This is not an unqualified renewal of the patent. It only asks that the matter may be referred to the Commissioner of Patents for his consideration. If, for any good reason, he should come to the conclusion that the public interests would not be subserved, or that it was not due to the patentees that this patent should not be extended, he will reject it the same as if it had been applied for in the first place.

Mr. COX here obtained the floor.

Mr. HUGHES. I ask the gentleman to yield me the floor a moment, that I may have a short letter read?

Mr. COX. What is it?

Mr. HUGHES. It is a letter in reference to the passage of the resolutions by the New York Legislature.

Mr. COX. I will yield for that purpose.

Mr. HUGHES. I ask the Clerk to read the letter which I send up.

The letter was read, as follows:

WASHINGTON, *January* 22, 1855.

Learning that certain resolutions, passed by the Legislature of New York, were presented to the two Houses of Congress to-day, protesting against a renewal or extension of my patent for the reaper, I ask the favor of you to publish the following letter from a member of that Legislature, as furnishing the key to the passage of the said resolutions.

Very respectfully, your obedient servant,

CYRUS H. McCORMICK.

ALBANY, *January* 17, 1855.

DEAR SIR: Your letter of January 15, 1855, is just received, but too late—the resolution you refer to is passed. Had I got your letter and pamphlet it would not have passed. My position is unfortunate in this regard. Personal friends ask me to state the object of the resolution, and gave me *alleged* facts. I stated these, and, in doing so, have done you injustice, and stated what I *know now* not to be true. But I so stated, not knowing what your bill is; but stating it to be a bill of positive renewal and not of authority to the Commissioner of Patents to hear.

I have requested a friend to-morrow to move a reconsideration, when I will fully state the facts, and advise you.

Respectfully yours, AMBROSE STEVENS.

C. H. McCORMICK, Esq.

Mr. SAGE. That is in reference to the extension of Mr. McCormick's patent, and not for that of the one now under consideration.

Mr. COX. I intended, Mr. Chairman, to have made a motion which would have presented a test of this question to the committee, with a view of favoring the friends of the bill, so that they might have a vote on it to-day; but it is manifest that there is no quorum present, and I will move that the committee do now rise.

[Cries of "Yes there is a quorum!" "Withdraw your motion!"]

Mr. COX. I do not think that there is.

Mr. FAULKNER. If the gentleman will withdraw his motion that the committee rise, I will move to strike out the enacting clause of the bill.

Mr. CLARK. I hope the gentleman will withdraw his motion to rise for that purpose.

Mr. COX. If gentlemen desire a vote in the present condition of the committee, very well. I withdraw my motion to rise, and move to strike out the enacting clause of the bill, so that we may have a vote to-day.

[Cries of "That is right!"]

Mr. MILLSON. I rise, Mr. Chairman, simply for the purpose of making a motion. I think that we have had enough of this discussion. The opinions of members have been formed long ago, and the motion I design submitting is one which, I think, will effect the object of the gentleman from Kentucky, though his will not. A motion to strike out the enacting clause is now debatable, and will involve as much debate as the original bill.

Mr. COX. I understand that it has been ruled the motion to strike out the enacting clause is not debatable.

The CHAIRMAN. Debate not having been closed, the Chair will hold that the motion is debatable.

Mr. MILLSON. I intend, if I can get the floor in the House, to move that debate be closed on this bill within five minutes after its consideration shall be again resumed in the Committee of the Whole. With that view, I move that the committee do now rise.

Mr. JONES, of Tennessee. Debate is exhausted on the bill. I suppose that the committee is desirous of voting on the question, and I would appeal to the gentleman to withdraw his motion to rise. We can bring the matter to a conclusion without going into the House for the purpose of closing debate.

Mr. SAGE. I desire to secure a vote on my amendment.

Mr. COX. If gentlemen desire to vote now, I am willing the question shall be taken. Otherwise I am willing to withdraw my motion from that of the gentleman from Virginia, that the committee rise with a view to the closing of the debate.

Mr. MILLSON. If the committee is ready to vote, I withdraw my motion.

Mr. McNAIR. I move that the committee do now rise.

The question was taken; and on a division there were—ayes thirty-two, noes not counted.

So the committee refused to rise.

Mr. COX. I move to strike out the enacting clause of the bill.

Mr. SAGE. Can I submit my amendment when the bill goes into the House?

The CHAIRMAN. That will depend on the condition of the bill when the gentleman submits his amendment. If the previous question be not called, it will be in order.

Mr. CAMPBELL. I rise to a question of order. I hold that the motion to strike out the enacting clause is not in order.

Now, Mr. Chairman, I will not consume the time of the committee in discussing this point of order. Much may be said. I was in hopes that the honorable gentleman from Virginia, who took the floor awhile ago——

[Cries of "Order!"]

Mr. JONES, of Tennessee. I would suggest to the gentleman, that as the committee has repeatedly sustained the Chairman in deciding the motion to be in order, whether he had not better let his question of order go over to the next session, when I have no doubt he will have the existing decision overruled. [Laughter.]

Mr. CAMPBELL. There are a great many of us here now who will not be present at the next session. [Laughter.] That is very evident. I do think that this system is growing into an abuse, a gross abuse. It is resorted to on all occasions when gentlemen wish to force the committee to a vote on any measure.

Mr. PERKINS, of New York. Is the question of order debatable?

Mr. JONES, of Tennessee. The question is not debatable unless there is a decision and an appeal from it. The committee is prepared to vote on the question, and I hope the gentleman will yield his point of order at this time. If not, I will move that the committee rise and report the bill to the House.

Mr. CAMPBELL. I have no objection to that motion.

The CHAIRMAN. Is the question of order withdrawn?

Mr. CAMPBELL. It is, if the motion to strike out the enacting clause be withdrawn. I am willing the committee shall take a direct vote on reporting the bill to the House.

The CHAIRMAN. Then the question will be on the amendment to the bill.

Mr. COX. I insist on my motion to strike out the enacting clause. I would not insist on it but for the gentleman's point of order. He seems to be very particular about this question. The motion has been ruled over and over again to be in order.

Mr. CAMPBELL. I do not care if it has been settled ten thousand times. It would not change my opinion of them at all.

The CHAIRMAN. Further debate is not in order.

Mr. CAMPBELL. I make my point.

The CHAIRMAN. The question is upon striking out the enacting clause.

The question was taken, and agreed to.

Mr. HAMILTON. I move that the committee do now rise, and report the bill.

The question was taken, and agreed to. The committee accordingly rose; and the Speaker having resumed the chair, the Chairman reported that a Committee of the Whole House had had the Private Calendar generally under consideration, and particularly the bill for the relief of Hiram Moore and John Hascall, and had directed him to report it to the House with an amendment to strike out the enacting clause.

Mr. MILLSON. I call for the previous question on the report of the committee.

The call for the previous question received a second, and the main question was ordered to be now put.

Mr. WENTWORTH, of Illinois. I move to lay the whole subject upon the table. That is the quickest way to settle the matter.

[Cries of "No!" "Withdraw that motion!"]

Mr. WENTWORTH. I will withdraw the motion if gentlemen wish to stay here to pass the bill.

[Cries of "Withdraw it!"]

Mr. WENTWORTH. I withdraw it until the question is taken on the report of the Committee of the Whole House.

Mr. CLARK. I demand the yeas and nays on agreeing to the report of the Committee of the Whole House.

Mr. DAVIS, of Indiana. I move that this House do now adjourn.

[Cries of "Oh, no!" and "The bill will be lost!"]

Mr. DAVIS. The previous question has been ordered upon it, and that will bring it up. I insist upon my motion.

Mr. FAULKNER. I rise to a privileged motion. I move that when this House adjourns, it adjourn to meet at eleven o'clock, a. m., on Monday next.

The SPEAKER. The motion is not in order, for the reason that it proposes to change the regular hour of meeting, which requires unanimous consent.

Mr. HENDRICKS. I desire to make an inquiry of the Chair. I desire to know whether, the previous question having been sustained, the bill will be kept before the House in case they adjourn at this stage of the proceedings?

The SPEAKER. It will, and will come up as the first business in order on Monday morning.

Mr. HENDRICKS. Then I hope the House will adjourn.

The question was put; and the House refused to adjourn—ayes 45, noes 84.

The question then recurred upon concurring with the Committee of the Whole House in striking out the enacting clause of the bill.

Mr. HARLAN. I ask the unanimous consent of the House to offer a resolution of inquiry merely.

Mr. CLINGMAN. I object, and call for the regular order of business.

The question was then taken; and decided in the affirmative—yeas 96, nays 34; as follows:

YEAS—Messrs. Aiken, James C. Allen, Willis Allen, Ball, Barry, Bennett, Benson, Benton, Bristow, Bugg, Campbell, Carpenter, Caruthers, Chase, Clingman, Corwin, Cox, Cutting, De Witt, Dickinson, Eastman, Edmands, Thomas D. Eliot, Etheridge, Farley, Faulkner, Flagler, Franklin, Fuller, Gamble, Giddings, Goode, Goodwin, Grey, Grow, Aaron Harlan, Wiley P. Harris, Hastings, Haven, Henn, Johnson, Daniel T. Jones, George W. Jones, Kidwell, Kittredge, Knox, Letcher, Lindsley, McCulloch, Macdonald, McQueen, Matteson, Maxwell, Middleswarth, Millson, Morgan, Murray, Norton, Orr, Packer, Parker, Pennington, Bishop Perkins, Phelps, Phillips, Preston, Pringle, Puryear, David Ritchie, Thomas Ritchey, Robbins, Rogers, Rowe, Ruffin, Russell, Sage, Sapp, Shaw, Shower, Simmons, Singleton, William Smith, George W. Smyth, Sollers, Andrew Stuart, John J. Taylor, Nathaniel G. Taylor, Teller, Trout, Tweed, Wade, Walker, Elihu B. Washburne, John Wentworth, Westbrook, and Hendrick B. Wright—96.

NAYS—Messrs. Belcher, Bridges, Clark, Cobb, John G. Davis, Dunbar, Dunham, Eddy, English, Green, Greenwood, Hamilton, Andrew J. Harlan, Hendricks, Hill, Houston, Howe, Hughes, McDougall, McMullin, McNair, Smith Miller, Morrison, Nichols, Noble, Pratt, Hestor L. Stevens, Stratton, David Stuart, Thurston, Tracy, Upham, Wells, and Tappan Wentworth—34.

So the enacting clause was stricken out, and the bill rejected.

Pending the call of the roll,

Mr. BLISS stated that he had paired off with Mr. JONES, of Pennsylvania.

Mr. SAGE moved to reconsider the vote by which the enacting clause of the bill was stricken out, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

PAYMENT OF MONEYS TO MIAMI INDIANS.

Mr. HARLAN. I now ask the consent of the House to introduce the resolution which I hold in my hand. It is in the following words:

Resolved, That the Commissioner of Indian Affairs be requested to communicate to this House the amount of money he has paid to James T. Miller and Pymyth-te-moh, or to either of them, as directed by the Senate amendment to the treaty with the Miami Indians, made in August, 1854; and if he has not paid the whole of the $2,200, his reasons, if any he has, for not having done so, and the amount unpaid.

Mr. HOUSTON. I will not object, but I would suggest to the gentleman that it is very unusual to inquire of a bureau. It should be made of the Interior Department.

Mr. HARLAN. I will so modify the resolution.

There being no objection, the resolution, as modified, was considered and adopted.

Mr. LETCHER. I move that the House do now adjourn.

The question was put; and the motion was agreed to.

And thereupon, at four o'clock, p. m., the House adjourned until Monday at twelve o'clock, meridian.

IN SENATE.

MONDAY, *February* 12, 1855.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of Saturday was read and approved.

PETITIONS, ETC.

Mr. JONES, of Tennessee, presented a petition of practical licensed engineers engaged in steamboat navigation on the Mississippi and its tributaries, praying that an appropriation may be made to test, by experiment, Miller's condenser for steam-engines; which was ordered to lie on the table, and be printed.

Mr. DAWSON presented the petition of Edmund Falling, an Eastern Cherokee, praying to be allowed his share of the per capita money appropriated for the Cherokee Indians; which was referred to the Committee on Indian Affairs.

Mr. SUMNER presented a petition of legal voters in Providence, Rhode Island, praying that a clause may be inserted in all treaties with foreign Powers for referring to an umpire all questions which cannot be settled by negotiation; which was referred to the Committee on Foreign Relations.

Also, a petition of citizens of Worcester, Massachusetts, praying that slavery and the slave trade may be prohibited by law in all the Territories of the United States; which was ordered to lie on the table.

Mr. RUSK presented the memorial of Henry Volcker, of Texas, praying for the confirmation of his title to six hundred and forty acres of land in the Territory of New Mexico; which was referred to the Committee on Private Land Claims.

Mr. SLIDELL presented the memorial of John Temple, praying the confirmation of his title to a tract of land in the Bastrop grant; which was referred to the Committee on Private Land Claims.

Mr. JONES, of Iowa, presented resolutions of the Legislature of Iowa, asking an appropriation for the removal of the obstructions in the Mississippi river known as the Rock Island and Des Moines Rapids; which were ordered to lie on the table.

Also, a memorial of the Legislature of Iowa, praying protection to the overland route between the Mississippi valley and the Pacific ocean; which was referred to the Committee on Territories.

Mr. PRATT presented resolutions passed by the Corporation of Georgetown, District of Columbia, protesting against the continuance of the Long Bridge across the Potomac river, and praying Congress to appropriate a sum of money for its removal; which was ordered to lie on the table, and be printed.

PETITION RECOMMITTED.

On motion by Mr. WADE, the petition of John Brown, together with the adverse report thereon, was recommitted to the Committee on Pensions.

REPORTS FROM STANDING COMMITTEES.

Mr. EVANS, from the Committee on Revolutionary Claims, to whom was referred the petition of William A. Cameron, assignee of the claim of George Townley, for remuneration for supplies furnished the United States during the revolutionary war, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Henry Carson, administrator of Curtis Grubb, surviving partner of Curtis and Peter Grubb, praying payment of a final, settlement certificate, asked to be discharged from its further consideration; which was agreed to. He also submitted a report on the subject; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of the heirs of Alexander Harper, praying compensation for services during the revolutionary war, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of the heirs of Johannes Schultz, or Schultys, praying compensation for the services of their ancestor during the war of the Revolution, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of the heirs of William Beatty, praying remuneration for the services of said Beatty during the revolutionary war, submitted an adverse report thereon; which was ordered to be printed.

Mr. JONES, of Tennessee, from the Committee on Military Affairs, to whom was referred the joint resolution from the House for the relief of Joel Henry Dyer, reported it back without amendment, together with a report thereon; which was ordered to be printed.

Mr. STUART, from the Committee on Public Lands, to whom was referred the petition of A. S. Bender, praying compensation for his services as superintendent of the United States lead mines of the Upper Mississippi, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs; which was agreed to.

Mr. FESSENDEN, from the Committee on Patents and the Patent Office, to whom was referred the petition of James H. Stimpson, son and executor of the late James Stimpson, praying for the extension of patents for improvement in forming and using iron plates, or rails, on railroad tracks in cities and elsewhere, and for a new mode of turning short curves upon railroads, submitted an adverse report thereon; which was ordered to be printed.

Mr. JOHNSON, from the Committee on Public Lands, to whom was referred the bill from the House to establish an additional land district in the Territory of Oregon, reported it back without amendment.

He also, from the Committee on Printing, to whom was referred a motion to print five hundred extra copies of resolutions of the Legislature of Wisconsin, in regard to the naturalization laws, reported adversely thereon; and the report was agreed to.

He also, from the same committee, to whom was referred a resolution to print five thousand additional copies of the report of the United States Naval Astronomical Expedition to Chili, reported adversely thereon; and the report was agreed to.

Mr. SLIDELL, from the Committee on Roads and Canals, to whom was referred the petition of Mary W. Perrine, for herself and children, asking payment of the amount due her late husband, William E. Perrine, as one of the contractors on the Louisville and Portland canal, submitted an adverse report thereon; which was ordered to be printed.

FORT LEAVENWORTH.

Mr. HOUSTON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested, in addition to the information called for on Saturday last, to communicate, at the same time, all the information and correspondence in his Department in relation to the original establishment of Fort Leavenworth as a military post, the cause of the recent reduction of the reserve attached to that fort, with the correspondence that led to, and followed it, with the several officers at the fort; also, that the Secretary be requested to furnish all the correspondence to or from his Department, within the last year, in relation to the occupancy of Kansas Territory by emigrants, and the reasons which controlled General Clark, when he ordered the commandant at Fort Leavenworth not to interfere with the emigration.

BRISTOL, RHODE ISLAND.

Mr. JAMES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of recommending an appropriation for the erection of a building at the port of Bristol, Rhode Island, for a custom-house and post office.

INTERNAL IMPROVEMENT BILLS.

Mr. FOOT, in pursuance of previous notice, asked and obtained leave to introduce a bill making an appropriation for the continuation of the breakwater in the harbor of Burlington, on Lake Champlain; which was read twice by its title, and on his motion made the special order for to-morrow at one o'clock.

Mr. SEWARD, in pursuance of previous notice, asked and obtained leave to introduce the following bills; which were read twice by their titles:

A bill for continuing the improvement of the harbor of Oswego, New York, on Lake Ontario;

A bill making an appropriation for a steam dredge on Lake Ontario;

A bill for continuing the improvement of the harbor of Dunkirk, New York, on Lake Erie;

A bill for continuing the improvement of the

harbor at the mouth of Oak Orchard Creek, New York, on Lake Ontario;

A bill for continuing the improvement of the harbor of Buffalo, New York, on Lake Erie;

A bill for continuing the improvement of the harbor of Sodus bay, Wayne county, New York, on Lake Ontario; and

A bill for continuing the improvement of the harbor of Sodus bay, Cayuga county, New York, on Lake Ontario.

Mr. SEWARD. I ask that these bills may be made the special order for to-morrow.

Mr. STUART. I move that all of them be referred to the Committee on Commerce. They are embraced within the bill which was referred to that committee on Saturday, with instructions.

Mr. SEWARD. Very well, sir.

The motion to refer was agreed to.

WAGES OF SEAMEN.

Mr. SUMNER, in pursuance of previous notice, asked and obtained leave to introduce a bill to secure wages to seamen in case of wreck; which was read twice by its title.

Mr. SUMNER. In introducing this bill I desire to make a brief explanation, which shall, at least, be a record of my views with regard to it.

The bill proposes an amelioration of the existing maritime law in respect to the wages of merchant seamen, which, so far as England is concerned, has already been made by act of Parliament, and which, in our country, can only be accomplished by act of Congress.

By the existing maritime law the seaman's wages depend upon a technical rule, which sometimes occasions hardship. Freight is compendiously said to be the mother of wages. In conformity with this fanciful idea, the wages are made to depend upon the earning of freight, unless the freight has been waived by agreement of the owner, or unless the voyage or freight be lost by the negligence, fraud, or misconduct of the owner or master, or be voluntarily abandoned. In case of wreck, the sailor has simply the chance of something, under the name of salvage, if the fragments of the ship saved happen to be of any value. But if the loss be total, then the sailor is without remedy. In the wrecks which occur with melancholy frequency on our churlish winter coast, this hardship adds even to the sorrows of disaster. Thus, as in a case which has actually arisen, a crew may commence service at Calcutta, may navigate the Indian ocean, double the Cape of Good Hope, and bring their ship safely to the sight of land, and then, by the total loss of the ship and cargo, from the acknowledged perils of the sea, they may lose everything, and even their right to wages; and may find themselves in a strange port, the prey of poverty. Nor can any merit, either throughout the protracted voyage, or in the hour of peril and shipwreck, prevent the operation of this technical rule.

There is also another circumstance which constrains the poor sailor. The owner may insure his ship, and also his freight, so that he may lose nothing but the premium he pays; but the sailor is not allowed to protect himself by insurance from the loss of his wages. His loss is, therefore, literally total.

Now, this technical rule, which fastens the wages of the sailor to the fortunes of the vessel, or, in other words, makes the right dependent on the successful issue of the enterprise for which he is hired, must be considered an off-shoot of the medieval maritime law. It is not to be found in the Roman law, nor in the maritime legislation of the Eastern Empire, nor in that early compilation which goes under the name of the Rhodian law. An eminent American judge, who has shed great light upon maritime jurisprudence—I refer to the learned and able Judge Ware, of the district court of Maine—has said, in a judicial opinion, (see The Dawn, Davies's Rep. 133,) that it owes its origin to the necessities and peculiar hazards which maritime commerce was compelled to encounter in the middle ages, when to the dangers of the winds and waves were added the more formidable perils of piracy and robbery. The rule having been thus established, has been preserved in the maritime jurisprudence of Europe, when the special exigencies in which it had its birth have ceased to exist. It has outlived the circumstances and excuses of its origin; and now survives to vex, oppress, and disappoint the most needy, if not the most meritorious, of all who are concerned in the business of the seas.

This hard rule survives with us, but not everywhere. The greatest commercial nation of the world has led the way in its abolition, and set an example to the United States. The act of Parliament of 7th and 8th Victoria, chap. 112, sec. 17, (at the close)—called "the merchant seamen's act"—provides that

"In all cases of wreck or loss of the ship, every surviving seaman shall be entitled to his wages up to the period of the wreck or loss of the ship, whether such ship *shall or shall not have earned freight*; provided the seamen shall produce a certificate from the master, or chief surviving officer of the ship, to the effect that he had exerted himself to the utmost to save the ship, cargo, and stores."

But the sailor was not completely protected by this provision. Experience in England showed that the cunning of agents was able to introduce into the shipping articles an agreement waiving the right to wages in case of loss, which the unthrifty sailor signed, ignorant or careless of its import. To remedy this abuse, a further act of Parliament, of 13th and 14th Victoria, chap. 98, sec. 53—known as "the mercantile marine act"—provides that

"No seamen shall, by reason of any agreement, forfeit his lien upon the ship, or be deprived of any remedy for the recovery of his wages, to which he would otherwise have been entitled; and every stipulation which is inconsistent with any provision of this act, or of any other act relating to the merchant service, and every stipulation by which any seaman consents *to abandon his right to wages in the case of the loss of the ship*, or to abandon any rights which he may have or obtain in the nature of salvage, *shall be wholly inoperative.*"

The bill which I now introduce is grounded on the provisions quoted from the two acts of the British Parliament, and contains two principles: *First.* That seamen shall be paid their wages down to the time of the loss of the ship, in case they serve faithfully to the last; and *secondly*, that they shall not be permitted to lose their wages through any agreement in the shipping articles.

In some details I have departed from the British act. It has not seemed to me advisable to make the the wages dependent on "the certificate from the master or chief surviving officer of the ship," but to leave the question of services open to proof in any way according to the received rules of evidence. I have, therefore, said that the wages shall be paid, "*provided* the seaman shall have exerted himself to the utmost to save the ship, cargo, and stores." The reasons for this course are clear. Masters are often part owners of American ships, and thus have a personal interest adverse to the sailor. In a mood of selfishness or recklessness, they might refuse the certificate, even though well earned. Now, in constructing a protection to the sailor, it does not seem prudent to make his wages dependent upon any such quarter. Indeed, it is hardly just to take from him the right to establish his claim before the Admiralty court, merely because an interested master refuses a certificate, when, perhaps, plenary proof might be furnished *aliunde*. Moreover, if the question were put in the control of the master, he might obtain thereby an improper influence over the minds of the crew, inducing them even to sacrifice truth in the event of any litigation between the owners and the underwriters.

There can be no harm in leaving the question of fact to be proved by competent witnesses, like every other question of fact; and the seamen should be competent witnesses for each other. A sagacious court will know how to weigh their testimony, should it come in conflict with that of the officer. It seems proper that the master, too, though a party to the suit,—as in the case of a libel against him *in personam*, or in a suit at common law,—should be competent to testify to the conduct of the libellant or plaintiff; in other words, whether he had "exerted himself to the utmost," and I have introduced into the bill a provision accordingly.

The British act of 7th and 8th Victoria contains another defect. It limits the wages to "every surviving seaman." I can see no good reason why the wife and children of the sailor who has perished in the forlorn hope, perhaps, in the cause of all, should be deprived of the humble wages so dearly earned by their natural protectors, and thus be compelled to feel a new deprivation added to their bereavement. In the proposed bill there is no such limitation.

Beyond this brief statement I need not, on this occasion, add another word. Already Congress has shown a disposition to modify the rigorous maritime law in some of its provisions. In 1851, it made a change in the liability of ship owners as common carriers. But this very liability originated to a certain extent in the same principles from which is derived the liability of the seamen, if they fail to bring the ship and cargo to land. Shipowners and seamen were both treated as insurers. This was in the age of force, before the contract of insurance had spread its broad protection over commerce in every sea. The seaman should share this protection. He should be treated as not necessarily either a pirate or a coward.

In the discussions of the Senate on the proposed change in the liability of ship-owners, it was effectively urged by my immediate predecessor, a distinguished Senator from Massachusetts, the late Robert Rantoul, jr., that, if the United States failed to adopt that measure, the other maritime nations would have an advantage in the carrying trade. It is equally true that, unless we adopt the measure now proposed, Great Britain will have the advantage of us in the rate of seamen's wages; for, under her existing laws, the sailor can afford to work cheaper on board a British ship than under the American flag.

The measure now proposed is of direct importance to the two hundred thousand sailors constituting the mercantile marine of the United States. It also concerns the three millions of men constituting the mercantile marine of the civilized world, any of whom, in the vicissitudes of the sea, may find themselves in American bottoms. I commend it as a measure of enlightened philanthropy, as well as of simple justice.

I move that the bill—having been read twice—be referred to the Committee on Commerce.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had passed the Senate bill to change the name of the schooner Henry Plantagenet to A. G. Brown.

JOSEPH SAVAGE.

Mr. EVANS. The Committee on Revolutionary Claims, to whom was referred a bill from the House of Representatives, for the relief of the heirs and legal representatives of Joseph Savage, deceased, have directed me to report it back with an amendment, and to ask that it may now be considered.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, the object of which is to require the Secretary of the Treasury to pay to the legal representatives of Joseph Savage five years' full pay of a surgeon's mate in the Continental line of the Army of the Revolution, being the full amount of the sum due to him for his services; with a proviso that the sum so to be allowed shall be in full for all demands against the Government on this account.

The amendment of the Committee on Revolutionary Claims was to strike out the word "services," and in lieu of it insert the words "commutation of half-pay."

The amendment was agreed to, the bill was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed, and the bill to be read a third time. The bill, as amended, was read the third time, and passed.

JERARD WOOD.

Mr. EVANS. I am instructed by the same committee to report a bill for the relief of the heirs and legal representatives of Jerard Wood, deceased, which I ask may be now considered. It is exactly like the bill which the Senate has just passed.

The bill was read twice by its title, and considered as in Committee of the Whole. It proposes to direct that there be paid to the legal representatives of Jerard Wood five years' full pay of a surgeon's mate in the Continental line of the Army of the Revolution, which sum shall be received in full for all demands against the Government on this account.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

REMISSION OF DUTIES.

Mr. SEWARD. I ask the Senate this morning to take up a bill which will occupy, I believe,

no time, and which is a very important one. I refer to the bill reported by the Senator from Maryland, [Mr. PEARCE,] from the Committee on Finance, "to remit or refund duties upon goods, wares, and merchandise, destroyed by fire." It is important to the general policy of the country, and is intended to apply particularly to certain fires which occurred in the city of New York a long time ago, and more recently in the city of San Francisco.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole.

It provides that in all cases in which any importer or purchaser shall show probable cause to the Secretary of the Treasury to believe that he has paid or is bound to pay duties upon goods, wares, and merchandise destroyed by fire, in unbroken and original packages as imported, between the 7th of July, 1838, and the 28th of March 1854, it shall be the duty of the Secretary to appoint a commission composed of the collector and naval officer of the district within which the fire may have occurred, and when there shall not be a naval officer in the collection district within which the goods have been so destroyed by fire, the district attorney, surveyor, or such other officer as the Secretary of the Treasury shall designate. The commission is to ascertain the amount of duties paid or to be paid on the articles destroyed, the names and places of residence of the several persons entitled to have the duties refunded or remitted, and the kind and quantity of goods, wares, and merchandise destroyed, together with such other facts and particulars as the Secretary of the Treasury shall direct. No duties are to be remitted or refunded unless it shall satisfactorily appear that the destruction took place within the space of five years from the date of the importation of the goods, if imported prior to the passage of the act of 3d of March, 1849, entitled "an act requiring all moneys received from customs, and from all other sources to be paid immediately into the Treasury without abatement or reduction, and for other purposes;" but if imported subsequently to the passage of that act, then the destruction of the goods is to be proved to have taken place within the space of two years from the date of importation.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. FORNEY, their Clerk, announced that they had disagreed to the amendment of the Senate to the bill of the House for the relief of purchasers and locators of swamp and overflowed lands;

That they had passed, with an amendment, Senate bill for the relief of Zachariah Lawrence, of Ohio;

That they had passed, without amendment, Senate joint resolution authorizing the President of the United States to confer the title of lieutenant general by brevet, for eminent services;

Also, that they had passed a bill to establish an additional land district in Wisconsin.

DISTRICT OF COLUMBIA.

Mr. DAWSON. I rise to make a request on behalf of the Committee on the District of Columbia, for, by the death of the chairman of that committee, the late Senator from New Hampshire, [Mr. Norris,] I have been made its chairman *pro tempore*. Some very important measures for Washington and Georgetown have been reported upon by the committee; and, although I do not desire to embarrass any gentleman in the advancement of the business of which he may have charge, I ask the Senate to give us an opportunity to have them passed. Some of those bills are necessary to the prosperity of the District, and I have been called upon by several of its inhabitants to urge them upon the attention of the Senate. I therefore ask the Senate to make the business relating to the District of Columbia the special order for Wednesday next. One hour I think would be sufficient.

The motion was agreed to, and the bills relating to the District of Columbia were made the special order for Wednesday next, at one o'clock.

BRIG GENERAL ARMSTRONG.

Mr. JONES, of Iowa. I move that the Senate proceed to the consideration of the motion which I submitted on Friday last, to reconsider the vote by which the bill for the relief of the claimants of the private armed brig General Armstrong was ordered to lie upon the table.

Mr. HUNTER. That must go over until private bill day.

Mr. JONES, of Iowa. It will not take five minutes to dispose of it. There is an agreement, I believe, between the friends and the opponents of the bill, that a substitute shall be offered which will do away with all objection. The Senator from Delaware has a proposition to make which, I believe, will be acceded to.

The PRESIDENT. It belongs to business set apart for private bill day.

Mr. JONES, of Iowa. I ask the unanimous consent that it may be considered during the morning hour. ["No." "No."]

The PRESIDENT. It requires unanimous consent to entertain the motion.

Mr. HUNTER. I cannot agree to it.

CALIFORNIA CIRCUIT COURT.

Mr. TOUCEY. I move that the Senate resume the consideration of the bill to establish a circuit court in and for the State of California.

Mr. HUNTER. I ask the Senator from Connecticut whether, if we give him half an hour, and the bill is not disposed of in that time, he will consent to postpone it? I want to take up the Indian appropriation bill.

Mr. TOUCEY. I will consent, so far as I am concerned.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill. The pending question was on the amendment submitted by Mr. BENJAMIN to strike out of the first section the word "circuit," and insert "district," as the designation of the court.

Mr. TOUCEY. I hope the question will be taken, and that the amendment will not be agreed to.

The question was taken by yeas and nays, with the following result:

YEAS—Messrs. Adams, Benjamin, Brainerd, Brown, Evans, Fitzpatrick, Hamlin, Jones of Tennessee, Pearce, Slidell, Stuart, and Wade—12.

NAYS—Messrs. Badger, Bayard, Bell, Chase, Clay, Clayton, Dodge of Wisconsin, Fessenden, Foot, Gillette, Gwin, Houston, Hunter, Jones of Iowa, Mallory, Mason, Morton, Pettit, Rusk, Sebastian, Seward, Shields, Sumner, Thompson of Kentucky, Toucey, Weller, and Wilson—27.

So the amendment was rejected.

The bill was reported to the Senate as amended on a former day, and the amendments were concurred in.

The PRESIDENT. Shall the bill be engrossed and read a third time?

Mr. BENJAMIN. Before that question is taken, I desire to submit a motion. The Senate having decided, by a vote just taken, that a circuit court shall be established for California, and being desirous myself that the judiciary system of the United States shall not be changed piecemeal, I move that the bill be referred back to the Committee on the Judiciary, with instructions to report such a provision for a circuit court for California as will be in accordance with the judicial system established in other States of the Union.

The PRESIDENT. Will the Senator commit his instructions to writing?

Mr. BENJAMIN. I will have them prepared in a moment.

Mr. WELLER. That question has already been before the Committee on the Judiciary. The representation from California preferred that this court should be established by adding another judge to the Supreme bench. The committee have decided against it. The only form, then, in which we could obtain a circuit court upon that coast was in the form presented in the bill; and, therefore, it seems to me, it would be a work of supererogation to send the question back to the committee, when they have already passed upon it. I hope those who are willing to give us a circuit court in California will vote against the motion made by the Senator from Louisiana; for if it prevails, it will operate to defeat the bill.

Mr. TOUCEY. I wish to say that this bill has been acted upon deliberately by the Committee on the Judiciary of the Senate, and one precisely like it has been passed upon unanimously by the Committee on the Judiciary of the other House, but they have not been able to have it acted upon. If this bill be now passed, there is a hope that it may be acted upon in the House, and I appeal to the Senator from Louisiana not to embarrass it. I, for one, deem it indispensable that we should extend to the Pacific coast the benefits of our judicial system. The supreme court of that State has decided that the California mines belong to the State of California, though the title to the land belongs to the United States. They have also decided that no appeal can be taken from a State court to a court of the United States. Now, sir, it is a matter of the utmost importance that we should extend the judicial powers of this Government to the Pacific coast. There is no question before Congress at this time of more importance. We ought not to permit the State of California to have any just ground of complaint against us. It is entirely vain to hope that a Judge of the Supreme Court, discharging his duties here, can discharge the duties of a circuit court judge in California. It is worse than useless to multiply the district courts there with circuit court powers, because the decisions of those district courts come up immediately into this court. There is only one measure of redress that is practicable. You cannot increase the number of the Judges of the Supreme Court at this time, according to any view that may be taken of the opinions of this or of the other House. This measure can be adopted; and I beg leave to say that I know of no higher duty at this time incumbent upon the legislative branch of the Government than to bind the Pacific coast to the Atlantic coast by extending to it the full benefits of this Government.

Mr. BENJAMIN. I send the instructions to the Chair, and shall, after they have been read, make but a very few remarks in answer to the appeal made to me by the Senator from Connecticut.

The instructions were as follows:

That the bill be recommitted to the Committee on the Judiciary, with instructions to amend it in such a manner as to provide for a circuit court for the State of California, organized in conformity with the judicial system now prevailing in the other States of the Union.

Mr. BENJAMIN. The Senator from Connecticut appeals to me to withdraw any opposition to the passage of the bill, in order that the State of California may have the full advantage of the judicial system of the United States. To that I answer, as I did the other day, that I have not the slightest objection to giving my vote for any bill which shall provide for the judicial system on the coast of the Pacific, to the same extent, and in the same manner, as that system exists in the other States of the Union; but I cannot consent tacitly to acquiesce in any encroachment upon the judicial system of the United States, or in any innovation by which the Pacific coast shall be organized, as regards the Judiciary, upon a different footing from the other States of the Union.

I did intend, before the vote was taken on the proposition which I made to strike out "circuit," and insert "district," to make some answer to the arguments offered by the friends of this bill the other day, in which it was attempted to be shown that the organization of another district court with circuit court powers would not answer the exigencies of the community on the Pacific coast. In my judgment, there was no weight whatever in the arguments. I speak upon this subject from long personal experience. I speak upon it because we have had the same experience in relation to the judicial system in Louisiana that California is now undergoing. I know, sir, that for a long series of years, we had no circuit court in Louisiana, and how was that deficiency supplied? By investing our district courts, for the time being, with circuit court powers; and I never heard in Louisiana of the slightest difficulty in conducting the judicial business upon that system.

If the Senate will refer to an act passed only two or three years ago, for the western district of Arkansas, it will be seen that, for a vast extent of country, covering a population and interests equally important as those of California, there is but a district judge with circuit court powers.

Now, the proposition in the bill before the Senate is to establish a special circuit court for California, different from any circuit court ever established in the United States, different from the circuit courts which exist in all the sister States of California and the urgent appeal is made to

us to do this on the ground that business is accumulating in California. The accumulation of the business in California, Mr. President, has nothing to do with the question of the character of the court that is to be created. If we give them a court there competent to do the business, whether that court is organized upon the system now prevalent through all the States, or whether it be organized upon this favorite principle of the Committee on the Judiciary, the wants of the people of California will be fully met. I do not know of any objection whatever to requiring a circuit court to be held in California by one of the Judges of the Supreme Court of United States. The Senator from Connecticut tells us that it would be idle to attempt to organize such a circuit court, because no Judge of the Supreme Court would be willing to go there. I think that I am authorized to state that the reverse is the fact. I think I am authorized to say that there are Judges on the Supreme bench now, willing to go to California, and there hold a circuit court.

Upon what ground, then, is this State to be organized, as regards its judicial system, on a footing different from that of every other State of the Union? If you grant this special circuit court to California now, how are you to resist an appeal from Arkansas to-morrow, from Texas the next day, and from Iowa the day after? Is it the intention of the Senate to establish a precedent for a system by which half a dozen new judges are to be created, and that, too, without any urgent or pressing necessity? The necessities, I have just stated, can be met by organizing a circuit court in California, on the same footing as they are organized in all the other circuits. The proposition has just been voted down to give a new district court with circuit court powers. I cannot conceive why that would not answer the exigencies of California just as well as the new system which it is proposed to try by piecemeal.

I think that all this exceptional legislation is wrong—wrong in the extreme. I think it is not calculated to produce the effect contemplated by the Senator from Connecticut, but exactly the opposite effect. The Senator appeals to us to strengthen the ties which bind the Pacific and Atlantic coasts together. I am willing to do that; but that is to be done, not by legislating for California upon all occasions as an exceptional case; not by considering it as a State distinct in its features, in its character, and in its requirements, from all the other States of the Union, but by putting it on the some footing as the older States, by extending the judicial system to it, upon the same principles as that system is now operating upon in the older States. By so doing we shall create a homogeneous system of judicial proceedings; we shall bring California really into the Union as a sister State. This exceptional legislation for the Pacific coast is objectionable to my mind, objectionable upon the ground that it is creating a distinct set of States on the opposite coast. I think those States ought to be put upon the same footing as the old States, and I trust that the Senate will consent in giving this circuit court to California, to order that it be so organized as to make it conform to the system which prevails in the other States of the Confederacy.

Mr. HUNTER. I shall have to move to postpone the further consideration of the bill, unless we can take a vote.

Mr. WELLER. Let us have a vote upon it. I prefer that to having it postponed.

Mr. HUNTER. Very well.

Mr. BENJAMIN's motion was not agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

SALARIES OF DISTRICT JUDGES.

Mr. PETTIT. I move that the Senate proceed to the consideration of the House bill to regulate the salaries of the district judges of the United States. I believe that all objection to its passage is withdrawn.

Mr. HUNTER. If the Senate is ready to vote, I will give way again.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to the consideration of the bill.

Mr. FESSENDEN. I move to amend the bill by inserting $2,500 instead of $2,000, as the salary of the judge of the district of Maine. I simply wish to do my duty in regard to this matter. This is a bill in which different States are classed together in a very unequal manner. For instance, Maine, New Hampshire, and Vermont are all, as regards the salary of these judges, placed on the same footing. In the State of Vermont, and in the State of New Hampshire, there is hardly enough business to occupy the judge more than one week during the whole year, while the judge in the State of Maine is occupied the largest portion of the time. There is no propriety in placing them on the same footing. I am told that also to the judge of the western district of Virginia, $2,500 is allowed. Comparatively no business is done in that court. There certainly can be very little, in the nature of things, to occupy the court in the western district of Virginia. I make the motion, because I think the bill, as it now stands, is entirely improper; but if the Senate have made up their minds to pass the bill as it is, of course I cannot prevent it.

Mr. PETTIT. I sincerely hope that no amendment will be made to the bill. It has been a compromise bill in the House. It may be possible, as I said on Saturday, that injustice is done in some instances; but I am sure there is a positive necessity for the passage of the bill, and if it is now amended, we all know that there is no possibility of taking it up in the House. I appeal to the friends of the bill to sustain it as it is.

Mr. TOUCEY. The bill is not satisfactory to me in the compensation assigned to the judge of the State I represent; but I am satisfied that no other bill than this can pass. I shall, therefore, in the hope of making corrections hereafter, if any be needed, acquiesce in the bill, and vote for it as it is.

Mr. MALLORY. The bill makes an unjust discrimination between the two district judges of my State. Had the judges of the State, or the members of the bar, or the delegation from the State, been consulted, that discrimination would not have been made, for it would have appeared evident to the committee that no such discrimination ought to exist. I should feel it my duty, therefore, to make an effort to equalize the salaries of the two judges; but I am satisfied, as the Senator from Connecticut is, that any attempt at amendment will certainly defeat this measure of justice at present. I shall, therefore, rest content with the hope of getting the salary of the northern district judge increased hereafter.

Mr. FESSENDEN. Mr. President, I do not precisely understand what is meant by saying that this bill is a compromise bill from the House. I know very well that the Representatives from my State were no parties to any such compromise. It is a bill that has been carried in the House by an arrangement made there between a sufficient number to make a majority. In that sense it is a compromise, and in that sense every bill which is passed is a compromise; but if the Senate will look at it for one moment, I ask what is the propriety of giving to judges who certainly do not require it for the purpose of paying their expenses, who live comparatively cheap, a large sum of money, $2,000—for it is large in one sense—when the labors which those judges perform are really not enough in the whole course of the year to occupy them two weeks, as is the case in Vermont and New Hampshire, neither of them a maritime State, and neither of them with, comparatively, any business at all. Still, the judges, as they are judges, and can do no business in other States, are entitled to receive a reasonable compensation. To that I do not object; but where is the propriety in putting those judges on an equality, in point of salary, with the judge of the district of Maine, who has a large business to do from the beginning to the end of the year? We have a sea-coast of several hundred miles, with a large quantity of shipping, and the judge has to hold the court in three different parts of the State. In this classification of salaries there is no propriety; and I cannot consent, as a member of the Senate from the State of Maine, to see a bill passed which does so much injustice to its judge. His salary ought to be $2,500. He certainly ought to be placed on an equality with the judges in the western States. Take, for instance, the State of Illinois. There are to be two judges in that State; and if this bill should be passed, they will receive a salary of $2,500 each. The judge of the western district of Virginia is to receive $2,500, and his business must, from his location, be comparatively small.

Mr. BUTLER. He has a good deal of riding to do.

Mr. FESSENDEN. How can he have much riding to do when he has very little business? He cannot have any more riding to do than the judge in Maine, where we have only one district judge.

Mr. CLAYTON. I cannot agree with the Senator from Maine as to the principle upon which he thinks this bill should rest. We do not act on the idea of paying judges merely in proportion to the labor they perform. We do not pay them as we pay laborers on a farm, or in a factory. The true principle is to pay every judge so much as will enable him to lead a studious life while he is engaged in the service of the Government. If you want a district judge in a part of the country where, the Senator from Maine says, there is not more than a week's labor, and you pay him only for a week's labor, certainly that principle is totally erroneous. You want a man of ability there, and you must pay enough to engage the services of a man of ability. You must pay him enough to enable him to keep up with the profession—with the science of the law.

If it can be shown hereafter that the judge for the district of Maine does not receive sufficient compensation, I will go with the Senator from Maine to increase his salary. But the argument which he has urged is no reason why we should not employ able men in New Hampshire, Vermont, or any other State where there may not be as much labor as in Maine. Although, as has been well said by Senators on the other side of the Chamber, the bill is not perfect—and we never can get a bill that will suit every man—yet I wish to take the best we can get, and shall, therefore, vote for this bill.

Mr. FESSENDEN's amendment was rejected.

Mr. BELL. I concur entirely in the expediency and justice of increasing the salaries of the district judges. I have no objection to this bill. I do not consider it equal, in all respects, so far as regards the labors to be performed by the several judges of the district courts of the United States, a great many of whom necessarily have very little labor to perform; but I concur with the Senator from Delaware, that we cannot graduate their salaries by the time which they are actually employed sitting in the courts of their several districts. Yet, sir, I confess I do not feel entirely satisfied, while we are doing this act of justice to the district judges, to make no provision in this bill for increasing the salaries of the Judges of the Supreme Court.

Mr. PETTIT. We can take up the bill for that purpose immediately after this bill is passed, and pass it. I concur with the Senator entirely, that the salaries of the Supreme Court Judges ought to be raised; but an amendment would kill this bill.

Mr. BELL. I know that the general desire of the Senate is not to encumber this bill; but I want Senators to remember the amount of labor, as well as study, which the Judges of the Supreme Court of the United States have to submit to. All are employed the whole of their time, either in the consideration of questions which have been submitted to them under advisement, or in traveling to hold their respective circuits, or in sitting from day to day for months, in the Capitol of the United States, at a great distance from their homes. There has been no increase in the salaries of those judges from the time the court was organized. I want to state one or two facts to the Senate. I am told—I have not looked at the docket—that, at the last session of the Supreme Court, there were some four or five hundred causes before them; and those judges had to sit for five months last year, by pretermitting their duties in some of the circuits to which they belonged; and yet they did not get much more than half through their docket with all the economy of time they could employ, and with all the rigorous rules they could adopt, consistently and properly, in repressing tedious arguments before them. Then, sir, the term of actual labor and employment, as Judges of the Supreme Court, of those whose circuits are so situated that they could attend them at all, was ten months.

These are considerations which, I must think, do require the attention and consideration of the Senate and of Congress. We all see the nature of their labors in the court below. Every day any gentleman can see it; and there are some gentlemen, I know, in this body, who sympathize

with them. They have—nine of them—to sit four or five hours each day, day in and day out, for three and five months together, and they are not at liberty to say one word. They must listen to the debates, but never speak while they are in progress. If that were our condition, what would we sit for? What consideration would induce a large proportion of the members of this body to submit to such a state of thraldom, of dumb slavery and servitude?

The honorable Senator from New Hampshire [Mr. WELLS] informs me that Judge Woodbury, before his death, told him that the preceding year he was actually eight months employed on the bench. We know that these learned judges, if they do their duty, will have questions propounded to them while sitting in court—new, great, important constitutional questions—questions of international law, and with all the light that counsel shed on them, they feel it to be their duty to have an *advisare*, and to take, until the next meeting of the court, such hours as they have leisure, to consider them. They are so entirely engrossed that no attention, or very little, to private affairs can be reasonably in their power. It is not so with a large proportion of the district court judges.

I submit these considerations for the purpose of awakening, if I can, the attention of the Senate to the subject. But, as honorable Senators think it better not to encumber the bill, I will make no proposition to amend it, trusting that the Senate will voluntarily do a prompt act of justice to the Judges of the Supreme Court in a separate bill.

No further amendment being proposed, the bill was reported to the Senate, and ordered to a third reading. It was read the third time, and the question was, shall it pass?

Mr. GWIN. The bill commits a flagrant outrage upon one of the judges in California; but I will not oppose the bill, as I could not procure any remedy now.

The bill was passed.

ORDER OF BUSINESS.

Mr. HUNTER. I move now to postpone all prior orders for the purpose of taking up the Indian appropriation bill.

The PRESIDENT. There are some bills on the table from the House, which the Chair would desire to dispose of.

Mr. HUNTER. I have postponed my motion for so many objects, that I feel bound to press it.

Mr. FOOT. I hope the bills from the House, on the table, will be disposed of.

Mr. HAMLIN. I hope so.

The PRESIDENT. The Senator from Virginia objects.

Mr. HUNTER. They would take all day.

Mr. HAMLIN. They will not take five minutes.

Mr. HUNTER. I must press my motion.

On a division, the PRESIDENT declared that Mr. HUNTER's motion was not agreed to.

Mr. HUNTER called for the yeas and nays, and they were ordered.

Mr. PEARCE. I would merely suggest to the Senator from Virginia, that the object is not what he supposes. The object is simply to have taken up and referred the bills from the House, which have been on the table several days.

Mr. HUNTER. There are bills there which will occupy all day when they come up. The Texas debt bill is there; and whenever it comes up, it will take all day.

Mr. RUSK. Those bills will have to be disposed of some time or other. A great many can be disposed of by reading their titles and referring them to committees. If there are others which will consume time, they will have to be disposed of, and it may just as well be done now as at any other time.

Mr. GWIN. I hope the motion of the Senator from Virginia will prevail. Before we adjourn, he will give time to dispose of those bills. He will certainly give way to let them be referred in the evening. The great point is to get up the appropriation bill, so that we may make some progress with it. I am in favor of disposing of those bills at a reasonable time.

The question being taken by yeas and nays, resulted—yeas 26, nays 16; as follows:

YEAS—Messrs. Adams, Allen, Bayard, Brown, Butler, Chase, Clay, Dawson, Dodge of Wisconsin, Evans, Fitzpatrick, Gwin, Hunter, James, Johnson, Jones of Tennessee, Mason, Pratt, Sebastian, Slidell, Sumner, Toucey, Weller, Wells, Wilson, and Wright—26.

NAYS—Messrs. Badger, Bell, Bright, Clayton, Fessenden, Foot, Geyer, Gillette, Hamlin, Houston, Jones of Iowa, Mallory, Morton, Pearce, Rusk, Thompson of Kentucky, and Wade—16.

So the motion was agreed to.

INDIAN APPROPRIATION BILL.

The Senate, accordingly, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives, making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1856. It had been reported from the Committee on Finance, with amendments, the first of which was so to amend the following item:

"For the pay of the several Indian sub-agents, per act of 31st July, 1854, $15,382 79"—

as to make it read:

For the pay of the several Indian sub-agents, per act of 31st July, 1854, and for arrearages of pay to one in the State of New York, one at Green Bay, Wisconsin, one for the Seminoles west of Arkansas, and one for the Indian tribes in Utah, $15,382 79; and the Secretary of the Interior is authorized, hereafter to employ one sub-agent for the Indians in the State of New York, one for those at Green Bay, Wisconsin, one for the Seminoles west of Arkansas, and one for the tribes in the Territory of Utah, at the rate of $750 per annum each.

Mr. SEBASTIAN. Before that amendment of the committee is voted on, I may as well offer, as an amendment to it, the substance of a provision which the Committee on Indian Affairs instructed me to offer as a separate amendment. My object will be accomplished by striking out the word "sub," and inserting $1,000 in place of $750, the salary recommended by the Committee on Finance. The object of this is simply to conform to a provision of law which now exists, under which there are no sub-agents, and to make these subordinate officers second-class agents. I propose, therefore, as, since the act of 1854 there are no sub-agents at all, to strike out the word "sub" where it occurs. The other amendment is to raise the salary from $750 to $1,000. The Department has recommended this; and the result of the experience which they have on this subject is, that it is impossible, for so small a salary as the Committee on Finance provide for, to obtain a person of sufficient competence to fill these situations, which are frequently of vast importance. We deem it nothing more than fair that the salary of $750 should be raised to that of a second-class agent, at this time, $1,000. These are the only differences between the amendment of the Committee on Indian Affairs and that of the Committee on Finance.

Mr. HUNTER. I have no objection to striking out the word "sub" so as to make it conform to the system which has been introduced; but I do not see the necessity for raising the salaries. The salary of $750 was put in on an estimate from the Department. The only reason for an increase must arise from the fact of changing the sub-agent to agent. The Committee on Finance were informed that the service could be obtained for this amount of money.

Mr. SEBASTIAN. I probably was in error when I stated that the Department had estimated for the salary of this office at $1,000. I take it for granted that the chairman of the Committee on Finance is right, when he says that the estimates are for a salary of $750. But from frequent conferences with the head of the Department, and the Commissioner of Indian Affairs, I am satisfied that a salary of $1,000 is not more than sufficient to command that order of ability which ought to be required of a man to fill the office of second-class Indian agent. I think experience (without adverting to particulars) is sufficient to admonish us that the kind of ability which is necessary to discharge the duties of these offices, cannot be obtained for the salaries now provided by law.

The PRESIDENT. The word "sub" occurs in two places in this clause. Does the Chair understand the Senator from Arkansas to move to strike it out in each case?

Mr. SEBASTIAN. Yes, sir.

The motion to strike out was agreed to.

The PRESIDENT. The second amendment of the Senator from Arkansas is to increase the salary from $750 to $1,000.

The amendment was agreed to, and the amendment of the Committee on Finance, as thus amended, was adopted.

The next amendment of the Committee on Finance was to insert:

For defraying expenses incurred in negotiating treaty concluded on the 30th September, 1854, with the Chippewas of Lake Superior, $15,744 71.

The amendment was agreed to.

Mr. HUNTER. There are various verbal amendments reported by the Committee on Finance, which are printed with the bill. One of them is to strike out "4th article" and insert "3d article" in the description of a treaty. It is not necessary to act separately on them; I ask, therefore, that the question be taken generally on the verbal amendments reported by the committee, which are printed with the bill.

There being no objection, the amendments were adopted.

Mr. HUNTER. I am instructed by the Committee on Finance to offer this amendment, to come in before the appropriation for the Chippewas:

Cherokees.—For the payment of this sum, due the Cherokees on account of interest between the 1st of May, 1845, and the 1st of May, 1846, on stocks of the State of Michigan, held in trust by the Secretary of the Interior, under the treaty of 1835, and the supplement of March, 1836, $20 97.

This is according to estimate. It is merely to correct an error in the balance of an account.

The amendment was agreed to.

Mr. HUNTER. I offer from the same committee the following amendment, to come in at the close of the appropriation for the "Sioux of the Mississippi:"

For expenses of transportation of annuities, goods, and provisions to the Sioux of the Mississippi, during the fiscal years ending the 30th of June, 1855, and the 30th of June, 1856, $32,000.

The amendment was agreed to.

Mr. HUNTER. I am also instructed by the Committee on Finance to offer this amendment, to come in at the end of the bill:

For actual necessary expenses incurred, or that may hereafter be incurred, by officers of the Indian department in the rescue of prisoners from Indian tribes, and returning them to their homes, and for expenses incident to the arrest and confinement within the Territory of the United States, by order of those officers, of persons charged with crimes against the Indians, $5,000.

The amendment was agreed to.

Mr. HUNTER. I am now through with the amendments of the Committee on Finance.

Mr. SEBASTIAN. I have a number of amendments to offer from the Committee on Indian Affairs. The first is to insert the following additional section:

SEC. —. *And be it further enacted*, That section four of the act "making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1855, and for other purposes," approved the 31st of July, 1854, shall not be so construed as to interfere with the act entitled "An act to authorize the President of the United States to cause to be surveyed the tract of land in the Territory of Minnesota, belonging to the half-breeds or mixed bloods of the Dacotah or Sioux Nation of Indians, and for other purposes," approved July 17, 1854: *Provided*, That so much of the money appropriated by the first named act as may be necessary to carry out the last named act shall be applicable thereto.

Mr. HUNTER. I should like to hear that amendment explained.

Mr. SEBASTIAN. At the last session of Congress there was a section of the Indian appropriation bill, and also a special act relating to the same subject passed. It was inadvertently done. Upon examining their provisions, they were found to be in some respects inconsistent. This amendment merely reconciles that difficulty, and retains the appropriation made in the Indian appropriation bill of last year to carry out the object for which it was appropriated, but which object was more specifically described in the special bill passed on the same subject. It relates to the half-breed reservation in Minnesota, makes no new appropriation, but simply enables the Commissioner of the General Land Office to execute the act as it was passed.

The amendment was agreed to.

Mr. SEBASTIAN. The next amendment of the Committee on Indian Affairs is to insert the following additional section:

SEC. —. *And be it further enacted*, That the Secretary of the Interior is hereby authorized and required to cause to be paid to the North Carolina Cherokees, embraced in the roll of D. W. Siler, or to the legal representatives of such of them as have died since their enrollment, the sum of $53 33 respectively, for the expenses of their removal and subsistence, now held in trust by the United States, accord-

ing to the terms of the fourth section of the act of the 29th of July, Anno Domini 1848; for which purpose there is hereby appropriated the sum of $42,290 69: *Provided*, That each and every Indian so receiving such payment in full, shall give their assent thereto: *And provided further*, That said Secretary shall be first satisfied that the State of North Carolina has, before such payment, by some appropriate act, agreed that the said Cherokees may remain permanently in that State, anything in the treaty of 1835 to the contrary notwithstanding.

Mr. HUNTER. I should like to know what is the effect of this additional provision.

Mr. SEBASTIAN. A word of explanation will set the matter right. In the act of 1848 there was an amount of $53 33 apiece set apart in the Treasury of the United States in trust for such of the North Carolina Cherokees as had been suffered to remain in the State of North Carolina. The provision was made that the United States should pay interest on it at six per cent. until they did remove, and that whenever they did remove the principal sum of $53 33 should be paid to each of them, in lieu of their commutation allowance for removal and subsistence under the treaty of 1835. The Government has paid the interest ever since, and is bound perpetually under that act to pay the interest.

It is the wish of that small remnant of people now not to remove, and it is understood that the State of North Carolina has manifested, by its legislation, a disposition to retain them in the State, and make them citizens. This amendment provides for the redemption of that perpetual annuity by paying off the principal, and waiving the right of the Government of the United States to insist on their removal under the treaty. To the extent to which the appropriation is asked it is a debt of the Government drawing six per cent. interest in perpetuity; and this proposition is to redeem the principal by paying it off, and to waive the obligation which the Indians are under by the treaty of 1835 to remove to the west, on condition that the State of North Carolina will give its assent. If we decline to adopt a provision of this kind, the only consequence is, that we shall be paying an amount of between three and four dollars a year to each head of an Indian family in the State of North Carolina forever. To that extent it is part of the national debt. The Indians desire this provision, and I see no earthly objection to its being done.

Mr. BELL. I did not hear the explanation of my friend from Arkansas altogether; but from what I gather from him, sitting at this distance, I understand that this amount of money was appropriated subsequent to the treaty of 1835, upon condition that they would remove. I should like to be informed on that point.

Mr. SEBASTIAN. A word or two, I think, will satisfy the Senator. This amount, which was appropriated by the act of 1848 for the benefit of the North Carolina Cherokees, held in trust by the Government at six per centum, is an allowance for removal and subsistence under the treaty of 1835. I think this statement will enable the Senator to understand it, for he had a very large agency in procuring that appropriation. This proposes now to pay off the principal of that debt to those Indians, and waive the obligation of the Government to insist on their removal under the treaty.

Mr. BADGER. Provided the State of North Carolina shall consent to their remaining permanently in that State.

Mr. SEBASTIAN. Yes, sir; that is the provision.

Mr. BELL. It seems to me still that there ought to be some permanent arrangement made with these Indians. We have been compelled, for many years past, to appoint agents and pay money to the New York Indians, although it was supposed that we had disposed of them finally some fifteen years ago. I see a provision in this bill to appoint an agent for the New York Indians. I had supposed that New York took the control of those Indians, or many of them, and conceded their right to continue in the State. Whether they are allowed the privilege of citizenship there I do not know; but our experience in that State has shown that this Government never gets clear of its responsibility as *quasi* guardian, which it has assumed from the foundation of the Government, over the Indian tribes even in the States, and it should be a warning to us.

I do not remember the provision of the act of 1848, which is referred to. It may have been that I gave my assent to it fully on that occasion; but I know that we have had repeatedly to make appropriations for the North Carolina Indians, when, in strict truth, as it always has appeared to me, they claimed under a very doubtful title the benefits of the treaty of 1835. According to the representations of a large portion of the Cherokee tribe, they certainly were not entitled to anything under that treaty; but, because they were Indians, and were Cherokees settled within the limits of North Carolina, we have not felt ourselves altogether at liberty to resist their claim to be allowed a portion of the consideration given for the Cherokee country generally. The only reason why I make any remark now is, that I thought it was supposed we had done with these Indians forever. We have certainly been liberal to them heretofore; and before we vote them this money, which was appropriated for them upon the condition that they would remove, a very strong case ought to be presented. It ought to be distinctly understood that we are never to hear of them again as applicants for anything from this Government.

Mr. SEBASTIAN. I am sure, from the tenor of the remarks of the Senator from Tennessee, that he has not yet comprehended the object of the amendment. It is to avoid the very difficulty to which he alludes in the case of the New York Indians. It is to terminate the perpetual payment of interest to these Indians, and the employment of agents by the Government to pay them the interest, which, all will agree, is a wholly inadequate provision for their permanently remaining in North Carolina. It is thought to be a better provision to pay them the principal of that funded amount at once, than continue to pay them the small amount of six per centum interest on the fund, which gives to each head of a family only the small pittance of between three and four dollars per annum. The Senator made some allusions to the justice, originally, of the act of 1848. I voted against that at the time; but the question arising out of the consideration of that claim, is one which is not now open for discussion. Having incurred voluntarily the debt, the question is, how we shall best escape the difficulties which follow in its train?

Mr. BELL. I have very great respect and deference for the views of the Senator from Arkansas on such questions as this. I have had the honor of being a colleague of his on the Committee on Indian Affairs for many years, and I know the soundness of his judgment on these questions generally. I do not, however, see clearly the ground on which this application is now made; but I am disposed, for myself, to defer to the judgment of the committee, though I am not satisfied that this appropriation ought to be made on any ground except that the Committee on Indian Affairs recommended it.

Mr. HUNTER. If I understand it, this appropriation was originally made upon condition that these Indians would remove. That was the consideration. This is the sum which was allowed to each Indian for removal. It was granted upon that condition. Now, it is proposed to relieve them of the condition, and make them a present of this sum of money. I only refer to the fact, because it was predicted at the time by those who opposed that provision, that such would be the result. Here it is proposed to give to them that sum of money, no matter whether they remove or not; and I understand the proviso is that the State of North Carolina shall consent to their remaining within its limits. That being the case, I do not see that it can make any difference to the Treasury of the United States whether the amendment passes or not. All that this serves to me is "to point the moral," and show what is the end of it.

Mr. BADGER. I desire to say to my friend from Virginia, that that is not exactly all that it does. The Government now pays the interest yearly to these Indians on the principal sum of $53 33. It is a question, therefore, between a perpetual annuity, and paying the money and having done with it. That is the state of the case.

Mr. RUSK. It saves the annual interest.

Mr. BADGER. Certainly, we are now paying interest on this sum every year.

The amendment was agreed to.

Mr. SEBASTIAN. The next amendment of the Committee on Indian Affairs is to insert, after the appropriations for the Indian service in California, the following:

To meet the necessary expenses of colonizing, supporting, and furnishing agricultural implements for the Indians in Texas, $86,430.

For the purpose of enabling the proper Department to adopt such measures as may be necessary for opening communications with the Texas Camanches and Apaches who have not heretofore been parties to any treaties with the United States, $10,000.

Mr. HUNTER. I hope the Senator from Arkansas will explain this amendment.

Mr. SEBASTIAN. It is an estimated amount recommended by the Department for the purpose of carrying out the act of the last session of Congress providing for the removal of the Indians to reservations in Texas. The reservations have been selected by an officer from the Indian Department and an officer of the Army, and this is the amount estimated for the purpose of removing the Indians and subsisting them on these reservations, which have been selected in pursuance of the act of Congress.

Mr. HUNTER. I should like to know how many Indians there are to go on the reservations, when so large an appropriation is now required?

Mr. SEBASTIAN. I cannot exactly answer the gentleman; but according to the best information we have, there are twelve thousand Indians within the jurisdiction of Texas. I am certain that the amount named in the amendment will be required for the purpose had in view.

Mr. RUSK. This is not only estimated for by the Indian Bureau, but is approved by the Secretary of the Interior, and recommended in a message from the President of the United States. Difficulties existed in reference to the Texas Indians, because there was no place upon which to locate them. Propositions were, therefore, made from the Indian Bureau to the State of Texas through the Indian agent in Texas, that the State should assign a tract of land on which to locate the Indians. In pursuance of this request, the Legislature of the State of Texas assigned twelve leagues of land for the purpose of colonizing the Indians, and surrendered the jurisdiction over this land to the United States. Thereupon, on the recommendation of the Indian Department, at the last session of Congress, the sum of $86,430 was appropriated for the purpose of supporting the Indians. Captain Marcy was sent out in conjunction with the special agent of the Department, Mr. Neighbors, to make the selection of the lands. They were made, and the return was sent to the Indian Bureau, and approved by the President. The reason why the estimates did not come in at the commencement of the session arose out of this fact: Upon the gathering together of the Indians, who agreed at once to settle down on the reservations, it was found that they largely exceeded the number which the agent had estimated them at before, and inasmuch as a part of the fiscal year had passed over without any use of the money that had been appropriated, no increased appropriation was regarded as necessary by him for the succeeding fiscal year.

The Indians are now upon the reservations, and are doing well. The subject has been carefully investigated, not only by the agent, who is fully to be relied upon, but also by the Bureau of Indian Affairs, by the Secretary of the Interior, and by the President of the United States. The President has sent us a message recommending this appropriation, and this sum of $86,430 will, in my judgment, result in a saving of hundreds of thousands by turning these Indians, who roam over the prairies and commit depredations, into agriculturists. A portion of them are now so, and the effect must be a good one.

The amendment was agreed to.

Mr. SEBASTIAN. I am also authorized by the Committee on Indian Affairs to offer the following amendment:

For reimbursing to John W. Whitfield, late agent for the Indians on the Upper Platte, the amount expended by him for ransom from the Cheyennes, and clothing and transportation to the States of white and Mexican prisoners, $170.

Mr. HUNTER. I understood that the general provision, offered by the Committee on Finance, was to cover this among other objects. This was a case mentioned when the estimate was sent in—the case of Mexican boys who were restored by agent Whitfield. The amount of $5,000, appropriated by an amendment already adopted, was

supposed to be large enough to cover that and others. Either the one or the other provision ought to be stricken out.

Mr. SEBASTIAN. The only difference is, that one is a special appropriation for a particular case, and the other is a general provision, which I understood to be a prospective one entirely. If the one referred to by the Senator from Virginia covers past transactions, I see no reasons specially for this amendment, except that this sum is already audited as the amount of the expenses of Mr. Whitfield, for ransoming Mexican boys from the Cheyennes and Apaches.

Mr. HUNTER. The general appropriation which has been inserted on the recommendation of the Committee on Finance, will cover it.

Mr. SEBASTIAN. Then I withdraw the amendment, and rest on the general provision.

Subsequently, Mr. SEBASTIAN renewed the amendment, stating that Mr. HUNTER had withdrawn his opposition; and it was agreed to.

Mr. SEBASTIAN. The next amendment of the Committee on Indian Affairs is to insert the following, as an additional section:

SEC. —. *And be it further enacted*, That the eighth section of the act, approved the 31st of July, 1854, authorizing the payment of *per capita* allowance to Cherokees, east of the Mississippi, be so amended as to authorize the payment of all such Cherokees, as being properly entitled, were omitted on the roll of D. W. Siler, from any cause whatsoever.

Mr. HUNTER, I trust the honorable Senator from Arkansas will explain this provision.

Mr. SEBASTIAN. This amendment does not embrace any new appropriation at all. The sum of $5,000 was appropriated at the last session of Congress to pay a certain class of Cherokees; but in the description of the beneficiaries under that provision, a reference was made to a wrong roll. The mistake occurred in this way: Reference was made to the Mallett roll when it should have been to that of Siler. This is to correct that error, in order that the money may go to the persons for whom it was originally intended. It involves no increase of appropriation at all.

The amendment was agreed to.

Mr. SEBASTIAN. The Committee on Indian Affairs also authorize me to offer the following additional section:

SEC. —. *And be it further enacted*, That the Secretary of the Interior be authorized to invest in safe and profitable stocks, to be designated by the Choctaw nation, and at their risk, or, at his discretion, to hold in trust, at an interest of five per cent., all such moneys now received or hereafter to accrue from the Choctaw orphan lands in the State of Mississippi, or from the fund appropriated for the redemption of Choctaw scrip annuities, which may remain on hand by reason of the death of the parties properly entitled to claim the same. And that the said Secretary be authorized to pay the annual interest thereon to the Choctaw nation, for the support and maintenance of such neighborhood or common schools as they may establish among the Choctaw nation west of Arkansas: *Provided*, That upon lawful claim made upon such funds by any party entitled, the principal of such amount shall be paid, and the interest on the same shall cease.

Mr. HUNTER. This is a proposition, as I understand it, to allow the Secretary of the Interior to invest these Indian funds in State stocks. I think we have had some experience on this subject which should warn us in regard to the dangers of such an experiment. I do not regard the provision that it shall be at the risk of the Choctaws as being worth anything; because if the money should be invested in State stocks, and those stocks should turn out to be worthless, or worth less than par, this Government would be held bound, as guardian, to make it good. Such has been the history of the past; such will be our own experience in the future, if we attempt to renew that policy, which I had hoped was exploded. I think we cannot commence a more dangerous system than that of beginning in this way to invest the money of the Indians, or of the Government, in State stocks; because if we once commence, it will go on, and there will be propositions to invest not only this, but other money of the Government in these stocks. I hope the Senate will vote down the amendment.

Mr. SEBASTIAN. Mr. President, I do not think that the Senator from Virginia comprehends the full extent of all the provisions of this amendment. In the first place, the amount is very small, and the amendment does not embrace the general proposition of investing all Indian moneys or trust funds in State stocks. I am aware that proposition has never received much countenance in the Senate heretofore. The reason why I have brought forward this proposition is, that it has been urged most earnestly by the Choctaw delegation now in this city, who pressed upon the consideration of the Committee on Indian Affairs the necessity of making available what, to them, is now a useless fund, and of appropriating its proceeds to what every one must admit is a laudable and praiseworthy enterprise.

There are now about $70,000 of what is called the Choctaw orphan fund, and $120,000 of the Choctaw annuity fund. These amounts have been appropriated heretofore, and sent out to the agent of the Choctaws for the purpose of being disbursed, and having remained there a sufficient length of time they have become lapsed for the want of proper persons to claim them. It is a fact, familiar to all persons who are acquainted with the history of the emigrant tribes, that, in many instances, whole families have become extinct; so that whatever rights belonged to the family have become lapsed for the want of some surviving relative. The amount of these two funds of the Choctaws is now nearly $200,000, and the proposition is to allow the Secretary of the Interior, with their assent, to invest the sum in safe stocks, or else hold it in the Treasury at an interest of five per cent. in trust for them, to be devoted to the object which is specified.

The Choctaws, it is well known, occupy the foremost rank among the civilized nations of Indians, and they have been struggling against a great many difficulties for years in establishing a system of common schools. They have seized upon what seems to be a favorable opportunity of carrying out the very laudable and noble object which they have had so much at heart. It is to make an idle and unproductive fund yield a small interest, which they wish to devote to the maintenance of common schools.

The amendment further provides for reclamations on this fund hereafter, so that if persons come forward who prove that they are properly entitled to a share of the fund, the Secretary of the Interior can immediately appropriate so much of the principal as will satisfy that outstanding claim, and of course the payment of interest to that amount ceases. The extent of this proposition applies only to this special case, which arises in consequence of the urgent entreaties of the delegates of the Choctaw nation, and cannot be carried beyond the precise case to which it is applied. I differ with the Senator from Virginia, who supposes that the consent of the trustee in this case will not discharge all the obligations and responsibilities of the trust. These are independent people, and in the management of their own affairs they evince quite as much intelligence and regard for their own interests as we do in the management of ours. They are educated, intelligent, and civilized gentlemen, and would discuss a financial question with the best of us, with as much shrewdness and sagacity as any person. This, therefore, is not an attempt to overreach a dependent and ignorant people, but a very gracious condescension on our part in yielding to the importunities of these persons to enable them to carry out a worthy and laudable purpose.

This explanation, it appears to me, Mr. President, will strip this proposition of all those features which seem to alarm and excite the apprehensions of the Senator from Virginia. I, no more than he, propose to embark the Secretary of the Interior in the investment in all kinds of fancy stocks, in all kinds of reckless schemes of moneys which we hold in trust for persons who are dependent on us for the fidelity with which they are administered. This requires the consent of an intelligent and sagacious people. My own interpretation is, that the proposition will first have to go from the Secretary of the Interior, and be ratified by the Choctaw council, before the investment can be made; but if, after all, the Secretary of the Interior thinks this would be an unwise investment of their money, he may, at his discretion, hold it in trust in the Treasury of the United States, and pay them the interest annually at five per cent.

Mr. ADAMS. I do not know that I understand precisely the amendment which has been presented by the Senator from Arkansas. I wish to inquire of that Senator if it extends any further than to that portion of the Choctaw funds, owners for which cannot be found?

Mr. SEBASTIAN. I will answer the Senator from Mississippi, and I am glad he has made the inquiry, for I know how much interest he takes in the welfare of this particular tribe. It extends no further than the residuum which is left in the hands of the United States agent unclaimed, in consequence of no person being found entitled to it.

Mr. ADAMS. Then, sir, I suppose, there being no claimant, the Choctaw nation would be better entitled to it than any person. As has been shown by the Senator from Arkansas himself, they are quite as competent to receive that fund and loan it out, or invest it, as this Government through the Secretary of the Interior or any of its agents. In the treaty with the Choctaw Indians, certain portions of land were reserved to the then orphans of that nation. They have long since been of age. There is an accumulating fund still to be derived from that source. It is their individual property as much so as any property that you, sir, may hold in your own right. This Government has no authority to make any disposition of it, except according to the direction of the particular Indian entitled to the proceeds of his land. If, however, there are cases, as I now learn for the first time, where the parties have died, or if reservations have been given to orphans who had no existence, the money properly belongs to the Choctaw nation, and I should cheerfully vote for a proposition to authorize the proper officers to pay over the money to the nation, to be disposed of as they think proper. I concur with the Senator from Virginia, that the investing of this fund, or any other trust fund held by this Government, in State stocks, can never receive my sanction. If it were invested in United States stock it would be a little safer; but these men are just as competent to make their own investments, and dispose of their own funds, as we are to do it for them.

Mr. HUNTER. Mr. President, this fund belongs either to the Choctaw people or to those individuals who have not appeared to claim their rights. If it belongs to the Choctaw people, it ought to be paid to them, as the Senator from Mississippi proposes. If it does not belong to them, but is to be held in order to meet the possible demands of those for whom it was originally intended, but who have not yet appeared, then it seems to me it ought to be held in the Treasury of the United States, for we are not liable for interest until they do appear. We have been ready to pay, and we ought not to allow interest until they do appear. We must take either the one view or the other. If the money belongs to the nation, let us pay it to the Choctaw nation, and have no more to do with it. If it belongs to individuals, let us keep it in the Treasury until they appear to claim it.

The amendment was agreed to.

Mr. SEBASTIAN. I have a further amendment to present from the Committee on Indian Affairs:

SEC. —. *And be it further enacted*, That to enable the President of the United States to carry out, in good faith, the recent treaties with the Ottoes and Missourias, the Omahas, Delawares, Sacs and Foxes of Missouri, the Kickapoos, and the united tribes of the Kaskaskias and Peorias, Piankeshaws and Weas, Shawnees and Miamis, there shall be, and hereby is, appropriated the sum of $20,000, in addition to the appropriations heretofore made, for the execution of the surveys required by said treaties. And where the nett proceeds of the lands ceded by either of the said tribes, are required to be paid over to the Indians, the President shall cause said lands to be classified and valued; and when such classification and valuation have been made to his satisfaction, he shall cause said lands to be offered at public sale, by legal subdivisions or town lots, at such times and places, and in such manner and quantity, as to him shall appear proper and necessary to carry out faithfully the stipulations in said treaties; and said lands shall not be sold at public or private sale for a less price than that fixed by the valuation aforesaid, until otherwise directed by law.

Mr. JOHNSON. I move to amend the amendment offered by my colleague, by adding the following proviso:

Provided, That the President may order a new treaty to be made with the Delawares, Iowas, Weas, Peorias, Kaskaskias, and Piankeshaws, or such of them as he may deem it necessary.

This is to enable him to reach the difficulties which are now existing, in the event that it shall be necessary to reach them in that way.

Mr. SEBASTIAN. In reference to the appropriation of $20,000 contained in the amendment which I submitted, I have merely to remark that it is an estimate emanating from the appropriate

channel to this body. It becomes necessary in consequence of the running of the exterior surveys of the Indian reserves in Kansas and Nebraska Territories costing more than was originally estimated for. It is in the nature of a deficiency, to supply an inadequate appropriation of last year.

The amendment to the amendment was agreed to; and the amendment, as amended, was adopted.

Mr. SEBASTIAN. The next amendment of the Committee on Indian Affairs is to insert the following additional section:

SEC. —. *And be it further enacted*, That there shall be appointed, as now provided by law, an additional agent, at an annual salary of $1,000, to reside amongst the Kansas Indians, as required by the sixth article of the treaty of January 14, 1846, and to be charged with the duties therein specified, and to continue as long as the President may deem such agency to be advantageous to the said Indians; and also, one other agent for the Kickapoos, upon the same salary, and upon the same tenure.

The Kansas Indians are entitled, Mr. President, by the treaty of 1846, to a resident Indian agent, charged, by virtue of his office, with taking care of their farming operations and their national affairs, which has never been accorded to them. It will be remembered, I presume, by persons acquainted with the geography of the country, that the Kansas Indians are directly upon the great emigrant route to Oregon, in consequence of which there are a great many difficulties arising between the Indians and the emigrants.

It is charged that the Indians are not remarkable for integrity, or a peaceable disposition; and it has become necessary, therefore, to have an Indian agent residing amongst them, in pursuance of the treaty—a lowest class agent, with a salary of $1,000.

Mr. SHIELDS. I wish to ask the Senator whether a salary of $1,000 is sufficient? The general salary of Indian agents is $1,500.

Mr. SEBASTIAN. This sum is said to be sufficient by the Delegate from that Territory, whose judgment, I take it for granted, is sufficient on such questions.

Mr. SHIELDS. Perhaps the honorable Senator is mistaken as to the views of the Delegate. I know that he thinks $1,500 little enough for the Kickapoo agency.

Mr. SEBASTIAN. I expect the Senator from Illinois probably confounds a proposition which the Committee on Indian Affairs once entertained with that which they have now proposed. It was at first believed that a separation of the Kansas agency into two agencies, one for the Shawnees, and one for the Delawares and Kickapoos, would be sufficient, providing first class agencies for each. The committee has reported, however, for an additional agent as an agent for the Kickapoo Indians in consequence of their rather remotely detached position from the Delaware agency. The whole number of agents proposed to be created by this amendment, and the next one which I have to offer, is only two or three, and they become necessary in consequence of our very complicated relations with the Indians in Kansas.

The amendment was agreed to.

Mr. SEBASTIAN. The next amendment of the committee is:

SEC. —. *And be it further enacted*, That there shall be appointed, as now provided by law, one additional Indian agent, whose salary shall be $1,500 *per annum*, and who shall be assigned for such time as the President may deem necessary to the Delaware Indians, and the agents for the Kansas, Great Nemaha, and Osage agencies shall hereafter receive the annual salary of $1,500, in lieu of the salary now allowed by law.

The amendment was agreed to.

Mr. SEBASTIAN. I offer as one amendment these two sections:

SEC. —. *And be it further enacted*, That from and after the —— day of —— next, the Governors of the Territories of Minnesota and Washington shall cease to have and exercise the duties and powers now conferred upon them by law as superintendents of Indian affairs in their respective Territories; and instead thereof, the said Territory of Washington shall thereafter be attached to the superintendency of Indian affairs for the Territory of Oregon; and the Territory of Minnesota shall thereafter be attached to and form part of the northern superintendency.

SEC. —. *And be it further enacted*, That the Governor of Minnesota shall thereafter receive the annual salary now allowed to the Governors of Kansas and Nebraska; and the Governor of the Territory of Washington shall thereafter receive the annual salary now allowed to the Governor of the Territory of Oregon.

Mr. GWIN. I think the Governor of Washington Territory should be the superintendent of Indian affairs there. If you add it to Oregon, the superintendency will be very large—too large to be attended to by one man. I am perfectly confident that the Governor of Washington ought to be superintendent of Indian affairs in that Territory. I hope, therefore, that portion of the amendment will be stricken out. It is a very remote region, and an extensive country, and I believe the public interests would be promoted by retaining the superintendency in the hands of the Governor.

Mr. SEBASTIAN. The Senator probably is not aware of the position of affairs in those Territories, or he certainly would not entertain the opinion which he does. The Governor of the Territory of Oregon exercises nothing but executive duties, and there is a separate superintendency of Indian affairs for Oregon; and there was, probably, before Washington Territory was organized, but upon that point I am not fully informed. This anomaly is presented; that in the adjoining Territory of Oregon there is a superintendent and Governor, while in Washington Territory both duties are entrusted to the same person. It is very evident to any one at all familiar with the nature of the country, that the whole of these two Territories form but one great natural region in the geography of the country. The Indians have all the same character, and pretty much the same relations to the Government. The settlers have the same common interest. It is much better that the Indian policy there should be directed by one and the same mind, than be controlled by one policy in one Territory, and by a very different one in the other. It so happens that this is not mere theory or speculation, but is the case in practice; for while the Superintendent of Indian Affairs for Oregon is pursuing one policy, the Governor of Washington, in reference to the neighboring Indians occupying the north instead of the south side of the Columbia river, is pursuing a very different line of policy.

The Columbia river divides these two Territories. It is in the center of the whole geographical region which will be embraced within the superintendency, if both Territories be put in the same superintendency. I think that if there is any question at all about the propriety of the separation in any case, there should be less in this instance than anywhere else. This merely takes the Territory of Washington and adds it to what is already the superintendency of Mr. Palmer, so as to put Washington and Oregon Territories under one superintendent.

Mr. GWIN. Mr. President, the immense country embraced within the two Territories seems to me entirely too large for one superintendency. I think we had better have the two Governors superintendents, than to disconnect the offices. The Governor, it seems to me, is the peculiar person who should have charge of the Indians within Washington Territory. I think it is a very important policy, and a change ought not to be made in it without mature reflection. I know that the Governor of Washington is decidedly of opinion that the two functions should be continued. I have received a communication from him within the last few days on the subject, in which he says it is of vital importance to him for the discharge of his official duties that he should have control of the Indians within the Territory. Under the circumstances, his opinion, when he is upon the ground, and understands his duties thoroughly, should have more weight than any report which we may receive from other quarters.

Mr. SEBASTIAN. The region of country under the jurisdiction of the Superintendent of Oregon, with the two Territories together, would not be so large a region as that intrusted to the jurisdiction of the central superintendent at St. Louis. I am sure the Senator from California does not look to the nature of the duties which are incumbent on the superintendent. They are advisary in their character. All the active duties of management of the relations with the Indians, preserving peace among them, making payments to them, vindicating their wrongs, and giving them redress, are performed by inferior officers. The object of having a superintendent is for the sole purpose of enforcing responsibility among those officers, and directing a policy to be pursued by all of them with something like unity, so that the larger the district the more uniform will be the policy pursued in reference to all the Indians within it.

Mr. HUNTER. I have understood that the policy of separating the superintendency from the office of Territorial Governor does not work well, especially among distant and wild Indians. It seems to me that the Governor, especially at the distance at which the Governors of Oregon and Washington are placed from us, ought to have the sole control of our Indian relations in those Territories, except so far as it is necessary to supervise them here; and I believe it would be far better to return to the old policy in Oregon, than introduce the new in Washington. I have heard from those acquainted with the subject, and who have had some experience, that it has not worked well.

The question was put; and the amendment was declared to be agreed to.

Mr. HUNTER. Is it too late to ask for a division of the question?

The PRESIDING OFFICER, (Mr. STUART in the chair.) It is. The decision has been announced.

Mr. SHIELDS. A vote can be had on it in the Senate.

Mr. HUNTER. I will wait until the bill shall have been reported to the Senate, and then ask for a vote upon it.

Mr. SEBASTIAN. I have the authority of the Committee on Indian Affairs for offering this amendment:

For the pay of an additional clerk in the Indian Office, under the appropriation per act of August 5, 1854, for one year, $1,400.

The amendment was agreed to.

Mr. SEBASTIAN. I have another amendment from the same committee:

For the purpose of enabling the President to arrange and adjust the difficulties existing among the Stockbridge and Munsee Indians of Lake Winnebago, in the State of Wisconsin, arising out of the acts of Congress of March 3, 1843, and August 6, 1846, and the treaty of November 24, 1848, in such manner as, in his judgment, may be just to the Indians, and not inconsistent with the rights of white persons who may reside in the Stockbridge reserve, or the claims of the United States under the treaty of 1848, the sum of $1,000.

The amendment was agreed to.

Mr. SEBASTIAN. The next amendment which I have to offer, is the following:

For collecting, removing, and subsisting the Indians of California, as provided by law, on two additional military reserves, to be selected as heretofore, and not to contain exceeding twenty-five thousand acres each, in or near the State of California, the sum of $150,000: *Provided*, That the President may enlarge the quantity of the reserves heretofore selected, equal to those hereby provided for; and shall not expend the amount herein appropriated, unless, in his opinion, the same shall be expedient. And the last proviso to the authority for five military reservations in California, per act of 3d of March, 1853, be, and the same is hereby, repealed: *Provided*, That so much of the act approved on the 31st of July last, as requires that no more than $20,000 shall be drawn by the Superintendent of Indian Affairs, or be in his hands unexpended at one and the same time, be, and the same is hereby, repealed.

Mr. WELLER. Mr. President, it will be recollected that, at the last session of Congress, upon my motion, the quantity of lands which the President was authorized to reserve under the act, was limited to ten thousand acres in each case. The original law provided for five military reservations in California, Utah, and New Mexico. I had no idea that all those reservations would be made in the State of California. It was only designed that not exceeding three should be made in California, and the other two in Utah and New Mexico. I find it necessary, under convictions of duty, to move to reduce the quantity of land in each reservation from twenty-five thousand to ten thousand acres. Now, I understand those who are charged with the Indian affairs of California have reported that it is indispensably necessary that the original amount provided for in the act—twenty-five thousand acres—should be restored. I very reluctantly give my consent to it.

At the last session of Congress, however, upon reducing the reservations in California from five to three in number, the Commissioner of Indian Affairs decided that it applied to the original act; whereas in truth, my only object was to limit the number of reservations in the State of California to three, having no objection whatever to the location of the other two reservations in Utah and New Mexico. Now, I am very unwilling that all those five reservations shall be made in the State of California, and that they shall be authorized to withhold from the settlement of our people one hundred and twenty-five thousand acres of land for Indian purposes.

I have no doubt that if this policy be carried out, it is the only practical remedy of reclaiming the Indians. Those who have been carried down to the Tejon reserve have performed, during the past year, an immense amount of labor. I believe they have dug eleven miles of ditches. The ditches were five feet wide and six feet deep, and the whole of that labor was performed by the Indians, the greater proportion of them wild Indians. They also cultivated some fifteen hundred acres of land; and every foot of the ground was plowed by the native Indian boys. There are now, perhaps, some twelve or fifteen hundred of them on that reservation. On another reservation, recently made by Colonel Henley, the present superintendent of Indian affairs, there are now some ten or twelve hundred Indians. Those wild Indian boys are engaged in cultivating the soil, and all the labor is performed by Indians. I doubt not if this policy be persisted in, if it receives the patronizing care of the Government for two years to come, they will be able to extract labor enough from the Indians to support themselves, without being a drain on the charity of the Government.

Mr. GWIN. Mr. President, the original law contemplated the establishment of five reservations; and although the power was given to locate the Indians in the Territories of New Mexico and Utah, bordering on California, if better locations could be got there, it was intended for the Indians in California, and to be under the superintendence of the superintendent of Indian affairs for California. The object was to provide a place for those Indians. It was a new policy, and my colleague and myself did not at the time understand how it would work. At the last session he offered an amendment to the original law, which he has stated to the Senate.

Now, I understand from those who have charge of the subject, that they have great faith that the system will work well; and they do not want more than four reservations in California. The other one, which is authorized by this amendment, is proposed to be established immediately across the Sierra Nevada mountains, within two days' travel of twelve thousand or fifteen thousand Indians, where there are no white people, in a beautiful valley on Walker's river, surrounded by mountains, where they will never be interrupted. This system is working well. Instead of having Indian wars as heretofore, we have peace and quiet, and let them obtain this, as my colleague has said, in a year or two the whole of the Indians of California will be able to supply their own wants, without any expense to the Government, by the products of their reservations. It is an important policy, and I believe its working will be eminently successful. This amendment is merely to restore the original law.

The amendment was agreed to.

Mr. SEBASTIAN. I have one more amendment to offer from the Committee on Indian Affairs. It is to insert:

For the completion of the collection of the sixth and last volume of the statistics and other information of Indian tribes, authorized by the act of 3d March, 1847, and subsequent acts, the sum of $20,000: *Provided*, That said volume shall be so condensed as to embrace all the material now, or to be, collected, and not inferior in any respect to the preceding volumes, and to be completed within two years from the passage of this act.

Mr. HUNTER. We once imposed a limitation on this work, and we are now departing from it. It seems to me that it is time we put an end to this book-making business. It is a matter with which the Government ought not to interfere.

Mr. SEBASTIAN. I think this is the last volume. I drew the amendment with special reference to make it the last, because it provides for stopping the collection of materials for making such books. Whether this scheme of collecting Indian statistics, which, I think, is a very good idea in the abstract, was right or wrong originally, suffice it to say that, under the appropriation originally made, a vast amount of materials has been collected. Of one thing I am certain, that there is very interesting material now on hand in relation to the Indians in Utah and that neighborhood, supposed by some to be the descendants of the Aztec race, which will form the contents of the last volume. I have provided in the amendment that the collection shall stop, and all materials on hand shall be used up; and for that purpose to give the compiler two years instead of one. I think much damage to the value and reputation of this book has resulted in consequence of the great expedition with which Congress have required it to be done, making it an annual volume, something like the documentary reports from the Departments, thus rendering it utterly impossible that it could be condensed, and that which was valuable separated from that which was of no value at all. The consequence is, that these volumes heretofore have not attained the excellence of which the subject admitted, and which, I have no doubt, considering the abilities of the gentleman who has had the book in charge, would have been the case if more time had been allowed. I propose, therefore, to make a final administration upon the whole affair, with one more volume, by stopping the collection of statistics, and that is the only way that an efficient stop can be put to it. I trust the amendment will be adopted.

Mr. SHIELDS. I wish to ask the honorable Senator whether this volume has been commenced. I think it is time to stop it; but if the work has been commenced it may be as well to finish it.

Mr. SEBASTIAN. The duty of compilation, the labor which the author performs, has not been commenced; but expenses have been incurred for that purpose, and materials have been collected, enough to make one or two more volumes. The object is to condense them so as to put all in one volume. I am informed by the author, that it can be done by allowing sufficient time; and the committee, therefore, have reported in favor of extending the time to two years instead of one year, in order that we may get rid of a great deal of the trash which is a disgrace to some of our public compilations.

The amendment was agreed to.

Mr. WELLER. This bill contains a provision:

For defraying the expenses of the removal and subsistence of Indians in California to three military reservations, in accordance with the plan submitted by the superintendent of Indian affairs of that State, and approved by the President, $125,000.

I move to amend this clause by adding to it the following proviso:

Provided, That the superintendent of Indian affairs in that State be authorized, should he deem it expedient, to expend an amount not exceeding $20,000 of the sum herein appropriated to relieve the temporary wants of the Indians outside of the reservations.

It will be seen that the appropriation which has been made of $125,000, is for the removal and subsistence of the Indians on the reservations. Very frequently the Indians in a distant part of the State, without any knowledge of the character of the reservations, are unwilling to remove to them, though they are in a starving condition. If the superintendent of Indian affairs were authorized to expend any portion of the money in relieving their temporary wants, we could very soon obtain their consent to their removal to the reservations. All that I propose is, that a part of this appropriation shall be used, if the superintendent deems it proper, in relieving their temporary wants previous to removal.

Mr. HUNTER. Is there not danger that this will defeat the object? If the Indians can get provisions without work, is it to be supposed they will go on the reservations?

Mr. WELLER. The surest way to get the Indians to remove is to relieve their temporary wants, show them that the Government has ability to provide for their wants. Let the superintendent tell them, "I can no longer feed you here, but if you will go down to the reservation, and perform labor there, you shall have the necessaries of life." It is only necessary to obtain the confidence of the Indians, and then the superintendent will be enabled to get them to go to the reservations.

The amendment was agreed to.

Mr. GWIN. I offer the following as an additional section:

SEC. —. *And be it further enacted*, That the President be, and he is hereby, authorized to appoint a commissioner, under the limitations now provided by law, to take evidence of, investigate, and ascertain, the nature and amount of all claims arising in the State of California against the United States for services rendered or supplies furnished for the use of the Indians in that State, under the order, appointment, or contract of any superintendent, Indian agent, or commissioner; and the same, with a detailed statement of the names of the claimants, the amount claimed, and the facts and considerations of the claims, accompanied with a classification, as far as practicable, of the *bona fide* and fraudulent claims, to report to the next Congress of the United States, for their action thereon; and for this purpose there be, and is hereby, appropriated, the sum of $10,000: *Provided*, That nothing herein contained shall be construed as a recognition of the validity of such claims by or against the Government of the United States.

This amendment was brought before the Committee on Indian Affairs, but on account of a difference of opinion among the members of that committee, was not proposed by them. I undertake to say, that no better appropriation of money can be made than to have a thorough examination of these claims. We are now compelled to act in the dark upon them. They will all be presented here; and while the witnesses are in existence, who charge that there were frauds in these contracts and money transactions with the Indians of California, we ought to have the testimony collected and put upon record. My object is to have an agent sent there, to collect the testimony and put it on record, and have all those parties who are charged with committing frauds examined. Let us have no *ex parte* testimony such as we have had heretofore brought before Congress. It is certain that these claims must be examined, and paid or rejected by Congress. My colleague and myself have had, I suppose, hundreds of them sent to us, expecting us to present them at this session of Congress. My object is to ascertain the exact facts in connection with all of them, and have them reported to Congress for their action.

Mr. HUNTER. It seems to me that this amendment is not in order. There is no estimate for it, and no report of a committee in its favor. I feel constrained to raise the question, because, if we depart from the rule in this instance, there is no telling where it will lead us.

Mr. GWIN. I hope the Senator will not raise the point of order on this, the most meritorious amendment which has been proposed to the bill. To avoid his objection I will strike out the appropriation and leave the section providing for the bare appointment of a commissioner. I look upon it as indispensable to protect the public Treasury. I call on the chairman of the Committee on Indian Affairs [Mr. SEBASTIAN] to say if he has not had a number of claims before him, involving hundreds of thousands of dollars, on which he could not act for want of this testimony.

Mr. HUNTER. I raise the question of order; but I am told by the Senator that he has withdrawn that part of the amendment making an appropriation, but it will lead to the same thing in the end. I must confess I am doubtful in regard to the establishment of this commission. It seems to me that the Indian department is authorized now to have this question investigated by its agents, and I do not see, therefore, the necessity for establishing this commission.

Mr. SEBASTIAN. I understand that the Senator from California now offers the amendment without containing any appropriation. If that be the case, the rule is clear that it is in order. The Senator from Virginia, however, suggests that it may lead to the same thing in the end. That may be so; but, so far as technical propriety is concerned, it makes the amendment in order. It is true, as stated by the Senator from California, that this amendment was the subject of discussion before the Committee on Indian Affairs. It does not become me to say what differences of opinion there were there; but what I myself think about it, I will proceed to state.

It will be remembered, Mr. President, that, in 1851, the Administration saw proper to send out some Indian agents to California, for the purpose of pacifying the country, and negotiating Indian treaties; and that, in the exercise of this power, some nineteen treaties were made, which committed this Government to the payment of about $800,000; those treaties were executed *instanter*, before their presentation to the Senate; contracts were made, and provisions, in large quantities, were furnished to the Indians, or, at least, they were so said to be. In the execution of those contracts, I have no doubt that stupendous frauds were perpetrated. The claims which arose in consequence of those treaties, which were never ratified by the Senate, have been presented from session to session, and referred to the Committee on Indian Affairs, who have invariably reported them back, in consequence of the general suspicion that attached to this whole class of claims.

The principle upon which the claims rest was not settled by Congress until the last session. It may be within the recollection of most Senators, that a bill was then passed for the relief of Colonel Frémont, which allowed him some $230,000, upon the same principle precisely upon which the claims which this commission is intended to provide for are based. The great difficulty has been, that while we could separate the case of Colonel Frémont from all taint or suspicion of fraud, there has been an impossibility of separating the other *bona fide* from the fraudulent claims which arose under the contracts with the commissioners who negotiated treaties there. That difficulty will always attach to these cases. The committee never can understand, from *ex parte* evidence, which are genuine and which are fraudulent cases.

I know the general proposition to send commissioners to California for the purpose of investigating these claims has heretofore been received with little or no favor in the Senate. I think that the proposition has been decidedly repudiated once or twice. I have voted against it myself heretofore; but experience and a further knowledge of the character of the claims has satisfied me that this is the only means by which we can attain anything like an approximation to the truth in regard to them. We may pay them now with half a million or quarter of a million of dollars; but in a few years hence, the evidence which the Government can command as to the perpetration of fraud will expire, and they will all survive as *bona fide* claims, and who doubts that they will be ultimately paid? I think, therefore, with the Senator from California, that it is an economical measure, if proposed in time.

Another thing may be remarked—the amendment does not commit the Government to a recognition of the claims. It is merely to fortify itself with the necessary evidence to repudiate those which are fraudulent and unjust; and ratify, and confirm, and appropriate for those which are just. Finally, when the labors of the commission are ended and furnished to us, it will be entirely within the discretion of Congress to make an appropriation for the satisfaction of the claims or not. This is a step purely preliminary in its character, to provide ourselves and fortify the Government with evidence in regard to the claims. It does not, by the very terms of the amendment, operate as a recognition of the claims, though upon that point, it may be said that the passage of the bill for the relief of Colonel Frémont was a full acknowledgment of the principle. This is an honest effort; it may be an ineffectual one. It doubtless will lead to some abuses; but I believe that, taking the only alternative which is presented to us by this amendment, or trusting to the uncertain chances of the allowance of these claims, it is decidedly the best to adopt this, which, I think, is the only practicable mode of preventing ourselves from being imposed on by a large amount of fraudulent claims. Many of these claims are undoubtedly fraudulent; and yet, when the Committee on Indian Affairs is compelled to rest upon *ex parte* testimony of interested persons, who can doubt, who expects that any other result will follow, but that they will make out a complete case, and the Government be left unprotected?

These are the views which induced me, for one, to wish that this proposition should receive the sanction of the Committee on Indian Affairs. It is now offered on the individual responsibility of one Senator, and I have taken this occasion to express my hearty concurrence with the object which he has in view.

The question being taken; on a division, the ayes were 8, noes 10; no quorum voting.

Mr. GWIN. If no objection be made, let the amendment be considered as adopted, and those who are opposed to it can call for a vote on it when the bill shall be reported to the Senate.

Mr. WELLER. I hope the suggestion of my colleague will be adopted.

Mr. PRATT. As there was no quorum voting, I ask for the yeas and nays. That is the only way of getting a quorum.

Mr. CLAYTON. My objection to this amendment is, that I think it lays a bad precedent. I remember some years ago there was a proposition to send a commission similar to this, a sort of roving commission, into Florida, which gave rise to a great deal of debate, and after discussion it was voted down. I think the effect of this will be of the same description. Whenever we wish to ascertain what the amount of claims of this character may be, I think it would be well enough for the claimants themselves to hunt up testimony against us, without our volunteering to bring it forward against ourselves. I think it would be safer for the Treasury if we were to rest on our oars, and let them bring forward their claims. I know very well that it is said the object of it is (and doubtless this is the intention of our friends from Californina) to protect the Treasury against fraudulent claims; but will that be the practical effect? Really, sir, will not the effect of it be to bring forward testimony against us that never would be produced to show the validity of claims? Gentlemen talk about *ex parte* testimony. Why, sir, it will be *ex parte* any way. It will be a difficult thing for the Government to be represented in collecting this testimony. I prefer to follow the ancient course. I foresee that, if we adopt this commission, we must adopt others, and we shall continue to adopt them as often as the proposition is made if we pass this amendment. For that reason I voted against it, and I shall continue to do so.

Mr. WELLER. I will say to the Senator from Delaware that those parties who have claims now against the Government make out, *prima facie*, a very clear case, because nearly every one of the claimants has an order, signed by one of the Indian commissioners sent out by the Government, on the Treasurer of the United States, for the amount of the property which he sold. The three Indian commissioners who were sent out to California proceeded to purchase a large amount of beef, and other supplies, for the use of the Indians, amounting to some $800,000 or $900,000. To those individuals from whom they made the purchases, they gave drafts on the Treasury of the United States. Now, the case is a very clear one, so far as the claimant is concerned. He presents a draft, regularly drawn by the agent of the Government of the United States on the Treasury, and protested for want of funds. If that question is submitted to the Committee on Indian Affairs, without any additional testimony, they cannot hesitate to allow the claim, if these were proper charges against the Treasury. But we say that the appointment of a commissioner to take evidence in California will show that there was fraud in the giving of some of these certificates, or drafts, on the Treasury; that in some cases the cattle were not taken and applied for the use of the Indians, but were used and appropriated by other persons who were, perhaps, in collusion with some of the Indian agents.

I undertake to tell you, sir, that the only place where you can obtain evidence to show that fraud, is in the State of California. If you take the cases as the claimants send them here you will be compelled to allow the whole. I say the only protection you have against an improper use of the public money, is by taking testimony on the ground, in regard to the whole of these transactions. Persons are not apt to give themselves the trouble of sending their depositions here, to prevent others from getting their claims. If you wish to protect the Treasury, you must send an agent where you can obtain the proof, because the claimants now have all the proof which they desire. They have the drafts regularly drawn by the Indian agents. Now, Mr. President, I know enough about these affairs to know that there has been fraud practiced, and I am apprehensive that unless some steps are taken to obtain this testimony in California the Treasury of the United States will be compelled to pay at least three times as much as in justice it ought to pay.

Mr. JOHNSON. Has the amendment which was offered by the Senator from California been rejected?

The PRESIDING OFFICER, (Mr. STUART.) On a division upon it, there was no quorum voting. The Chair understood some Senator then to ask for the yeas and nays on the question. The Chair will now put the question on ordering the yeas and nays.

The yeas and nays were not ordered.

Mr. WELLER. What other way have we of ascertaining whether there is a quorum present or not, unless by taking the yeas and nays?

The PRESIDING OFFICER. The Chair will suggest that the Senator from California is right, that there is no other way of getting to business than by having a quorum present, and that the only way to ascertain whether there be a quorum present is to take the question by yeas and nays. The Chair will therefore put the question again on taking the vote by yeas and nays.

The yeas and nays were ordered.

Mr. CLAYTON. In order to a full understanding of this question by the Senate, I ask that the amendment, as modified, may be read again.

It was read as follows:

SEC. —. *And be it further enacted*, That the President be, and is hereby, authorized to appoint a commissioner, under the limitations now provided by law, to take evidence of, investigate, and ascertain the nature and amount of all claims arising in the State of California against the United States, for services rendered, or supplies furnished for the use of the Indians of that State, under the order, appointment, or contract of any superintendent, Indian agent, or commissioner; and the same, with a detailed statement of the names of the claimants, the amount claimed, and the facts and considerations of the claim, accompanied with a classification, as far as practicable, of the *bona fide* and fraudulent claims, to report to the next Congress of the United States for their action thereon: *Provided*, That nothing herein contained shall be construed as a recognition of the validity of such claims by or against the Government of the United States.

Mr. CLAYTON. I have not the slightest objection to the amendment if it be so stated as to inquire into what are supposed to be fraudulent claims; but that is not the object of the amendment. It is to substantiate all claims; it is to inquire into all claims of this class, of every description. I concur fully with the gentleman from California, that it is the interest of the Government to protect itself by evidence against claims which it has reason to suppose are fraudulent; and I am very willing to send a commission to protect the Government against claims that it believes or supposes to be fraudulent; but I do not wish to send a roving commission for the purpose of collecting testimony against itself, as this amendment does. If the Senator will alter the amendment in such a manner as to restrict it to an inquiry into such claims as he alleges are deemed to be fraudulent, I will vote for it, but I am not willing to heat the poker to burn myself. I do not want to send a roving commission there for the purpose of hunting up testimony against the Government. God knows it will come here fast enough without our aid.

Mr. GWIN. I can tell the Senator from Delaware that there are now before the Committee on Indian Affairs, as the chairman will state, claims which they are bound to allow, on the testimony presented by the claimants, but against which there are charges of fraud. I do not want an individual sent out to brand every claim with fraud. There are parties there who do make charges of fraud against the claims, who are willing to give testimony, but they will not volunteer to do it. If an agent of the Government calls on them, they will make statements which will invalidate some of the claims. So they say; so they have told me and others. I do not intend to charge fraud on these claimants, for I have no personal knowledge of the circumstances attending the claims, but if there is any testimony which can now be obtained which will prove that they ought not to be paid by the United States, it should be collected as soon as possible.

There is no danger of collecting any testimony in favor of these claims in California, because that will be collected by the claimants and sent here, thousands of miles from where the transaction occurred, and where it cannot be disproved. They will be brought before the Committee on Indian Affairs, and we shall be compelled, from the precedent we have already set, to pay the claims, which are based exactly on the same grounds as those that have heretofore been paid. I do not bring the charge of fraud against them. It is brought by others. I have no personal knowledge of the matter. All I desire, is to have the claims settled. I wish them put in such a position that all the testimony against them, as well as that in their favor, may be filed here. I have never heard of testimony being filed here against them. There are a number of suspended claims, and they will all be brought here in time, every one of them. My object is to get correct testimony in regard to those claims, from parties who are ready and willing to give it.

Mr. BROWN. I have no intention to enter into any discussion upon this amendment. I never gave my assent to it as a member of the Committee on Indian Affairs and I am opposed to it here.

I have seen no reason for excepting these claims out of the general rules which govern our action in reference to all claimants, that they shall send up their claims here with such testimony as they think proper, to have them investigated. I did not think it right in committee, and I do not think it right here, to send out a commission to California to investigate this particular class of claims I have heard no good reason urged from any quarter why it should be done, that satisfies my mind.

This is to be an expensive commission, involving us perhaps in $100,000 of expense, and possibly more; for you have not only to pay the commission, but you must pay its whole expenses, and I do not see where it is to end. If the object be to take testimony in favor of the Government, why not authorize some of the judges or officers in that State, to whom you are paying salaries now, to take testimony in your behalf? To-day we have passed a bill establishing a new court there. We have two district judges, one circuit judge, a district attorney, a land commission, and I know not what other officers in the pay of the Government, and it seems to me that if we want testimony on behalf of the Government, some of those officers might be required to take it. As for sending out a separate commission to take testimony in reference to this class of claims, I really have not seen the necessity for it. Without going into any discussion of it, I simply indicate that I did not give my assent to it as a member of the committee, and do not assent to it here.

The question being taken by yeas and nays, resulted—yeas 13, nays 25; as follows:

YEAS—Messrs. Benjamin, Dawson, Dodge of Wisconsin, Douglas, Fitzpatrick, Gwin, Houston, Johnson, Pratt, Rusk, Sebastian, Seward, and Weller—13.

NAYS—Messrs. Adams, Allen, Badger, Brainerd, Brown, Chase, Clay, Clayton, Evans, Foot, Geyer, Gillette, Hunter, James, Jones of Iowa, Jones of Tennessee, Mason, Pearce, Pettit, Stuart, Sumner, Wade, Wells, Wilson, and Wright—25.

Mr. JOHNSON. An amendment was adopted some time since, on the motion of my colleague, in regard to the compilation of statistics and information of the Indian tribes. After reflecting upon the subject, and conversing with him in regard to it, I propose to offer this proviso to that amendment:

And provided further, That the said volume shall be subject, before publication, to revision by the Secretary of the Interior, with a view to the curtailment in the work of all matters useless, irrelevant, or inconsistent with the objects of the work.

I think the work has been broken down heretofore by the collection of a mass of matter which is of little or no use for any practical purpose.

The PRESIDING OFFICER. The Chair will state that, as that amendment has been adopted, it will now require unanimous consent to offer this provision as a proviso to it. If there be no objection, this amendment of the Senator from Arkansas will be received.

Mr. JOHNSON. I suppose there will be no objection to it, for from what I gather, it is the general sense of the Senate that this ought to be done. It is now provided by the amendment to which I have alluded, which was adopted on the motion of my colleague, that we shall have no more of these publications after the statistics now collected shall be embodied and published in a volume. My object is to prevent, in this last volume, the publication of a vast mass of matter useless and irrelevant to the original objects contemplated by the act which authorized the publication of these volumes.

The PRESIDING OFFICER. The Chair hears no objection, and the question will be taken on the proviso offered as an amendment by the Senator from Arkansas.

The amendment was agreed to.

Mr. SHIELDS. I have an amendment to offer from the Committee on Military Affairs, as an additional section:

SEC. —. *And be it further enacted*, That the proper accounting officers of the Treasury be, and they are hereby, authorized to allow the paymasters of the United States Army, who served as such in Mexico during the war with that Republic, commissions of one and a half per centum on all moneys collected or received and paid over by them into the Treasury of the United States, arising from duties on imports, and from internal assessments and taxes in Mexico during that war: *Provided*, That no commission shall be allowed on any such sums of money so collected or received, on which commissions have heretofore been allowed to any other collector, or receiver, or other officer of the United States.

Mr. HUNTER. I ask if that is in order?

The PRESIDING OFFICER, (Mr. STUART.) The Chair is inclined to think not, from hearing the amendment read.

Mr. SHIELDS. It is reported by the Committee on Military Affairs.

Mr. HUNTER. It is a private claim.

Mr. SHIELDS. I think not.

Mr. GWIN. There was never a more meritorious claim, but I do not know how it gets on this bill.

Mr. SHIELDS. It is not a private claim; it is a general provision.

The PRESIDING OFFICER. The Chair speaks from general recollection of the rule, that the only modification which was made in it, in its general exclusion of private claims, was in respect to such claims as had been provided for by law.

Mr. SHIELDS. The amendment which I have offered is a general provision applying to the paymasters of the Army. It is true it will only cover two or three cases, but they are cases which have been omitted in former legislation, and they stand precisely on the same principle as the cases already determined and settled in the Department. It embraces the case of a most meritorious officer now dead, Colonel Randall; the case of Colonel Steuart, of the Army, and I think, perhaps, another, but I have made the provision general.

Mr. HUNTER. Surely this covers a private claim; and at any rate, this bill, the Indian appropriation bill, is no place for it. It belongs to the military, if to any general appropriation bill. If we commence with this system, there is no telling where it will end. This proposition ought to be voted down for incongruity, if there were no objection on the point of order; but it seems to me the point of order is clear.

Mr. SHIELDS. The proper place for this provision would have been the military appropriation bill, but by some oversight I neglected to move the amendment at that time. Having got into a conflict here in regard to an increase of the Army, this amendment somehow escaped my attention. I feel it to be my duty to present it, because it embraces three of perhaps the most meritorious cases in the Army. All the others have been provided for, so far as I can understand, and I feel it to be my duty to bring this forward on the first favorable opportunity.

Mr. FITZPATRICK. I wish to ask my honorable friend if he was instructed by the committee to present this amendment? I was not present when the Committee on Military Affairs concurred in it, and I wish to ask if he was instructed by that committee to offer it as an amendment to this bill?

Mr. SHIELDS. Not to this bill.

Mr. FITZPATRICK. Is it in order then?

Mr. HUNTER. It is clearly out of order, it seems to me.

The PRESIDING OFFICER. The Chair thinks it is not in order, but if desired, he will submit the question to the Senate.

Mr. SHIELDS. I hope, under the circumstances, there will be no objection. The Committee on Military Affairs authorized me to report it; I did report it as a separate bill, and the committee expected that I would offer it as an amendment to the military appropriation bill. I stated that by some oversight it was not then offered, and I feel it my duty to make up for my own *lashes*, so far as I can do so, by offering it to this bill.

Mr. HUNTER. I ask for the decision of the Chair on the point of order which I have raised.

The PRESIDING OFFICER. The Chair decides that the amendment is not in order.

Mr. PRATT. I should be glad to hear from the Chair on what ground it is out of order?

The PRESIDING OFFICER. The Chair will state to the Senator from Maryland that he decides the amendment to be out of order, on the ground that it provides for a private claim, and the rule only admits such claims as have hitherto been provided for by law.

Mr. SHIELDS. I will ask the Chair if a bill providing for the paymasters of the United States Army generally is a private claim?

The PRESIDING OFFICER. The Chair thinks not; but the Senator will see, by referring to this amendment, that it provides for such of the pay-masters as served in the Army during the war with Mexico, and is to pay them extra pay for particular service; but the Chair will beg, again, to state to the Senate, that if the Senator, desires it he will be very glad to submit the question to the decision of the Senate.

Mr. SHIELDS. According to this decision, the bounty land bill would be a private bill because it provides extra reward to those who served in the Army during war.

Mr. PRATT. If the honorable chairman of the Committee on Military Affairs was not authorized to offer this amendment by that committee, it is one question; but that it is not a private claim I think I can convince the Chair, as well as every member of the Senate who will please to listen to me. It is useless, however, to argue that, provided the other objection is in our way. If the honorable Senator has not been authorized by the committee to offer the amendment, however it may not be obnoxious to the other objection, it is still not permissible to press it; but if the only objection be that interposed by the Chair, I respectfully ask——

Mr. HUNTER. Both objections are raised.

Mr. PRATT. I do not so understand the Chair.

The PRESIDING OFFICER. The Chair understood the Senator from Illinois to say, that he was authorized to offer this amendment to the Army appropriation bill, but that he had no authority from the committee to offer it to this bill.

Mr. PRATT. But the Chair did not decide it on that ground.

The PRESIDING OFFICER. The Chair did not think it necessary to take that ground into consideration. The Chair decided it on the other point; but he will state the whole question to the Senate, and let the Senate decide it.

Mr. PRATT. There are two objections then involved: first as to the authority of the honorable Senator from Illinois to offer this as an amendment to the present bill. He now says that the Committee on Military Affairs authorized him to report this bill, and to offer it as an amendment to the Army appropriation bill; but that owing to the press of business, while that bill was under the consideration of the Senate, he omitted to comply with the directions of the committee of which he is chairman. It is, however, a measure sanctioned by one of the standing committees of the body. Now, your rule is, that no amendment can be received to a general appropriation bill, unless it comes from a standing committee. I apprehend that it is not necessary to obtain the sanction of a committee, or the direction of a committee that it shall be offered to this appropriation bill, or to that appropriation bill; but the rule is complied with, according to reason and common sense, if you have the direction of a committee to move the amendment to an appropriation bill; and it is perfectly immaterial whether it is offered to one or other of those bills. Therefore, it seems to me that the honorable chairman of the Committee on Military Affairs having omitted, by mistake, to offer the amendment to the Army appropriation bill, was, by the sanction of the measure itself by his committee, and by their direction to offer it as an amendment to an appropriation bill, authorized to present it as an amendment to this bill.

Now, I come to the consideration of the next question, whether this is to be considered as a private claim. The Chair decides that it is a private claim, because it directs payment to such of the paymasters as served in Mexico, and collected money in Mexico, and in regard to which money no other agent of the Government has received any compensation or commission. The decision is, that it is a private claim, because, although it is general and applies to all that class of officers in the Army, yet, it is confined to such as served in Mexico, and received money in Mexico.

Mr. SHIELDS. With the permission of the honorable Senator, I will state that I am now authorized by a majority of the Committee on Military Affairs to move the amendment to this bill.

Mr. PRATT. That relates to the first question. I am now asking whether this is a private claim, and is obnoxious to the other objection made by the Senator from Virginia. I say, Mr. President, that it cannot be properly considered as a private claim, because it is to apply to all the officers of this class attached to the Army; and although the amendment says that the officers of that class who have collected money in a particular part of the country, or out of the United States,

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are to receive the compensation, it does not make that a private claim which, by the very terms of the amendment itself, is to apply to the whole class. It is not within the knowledge of any Senator except, perhaps, the members of the Committee on Military Affairs—certainly it is not within mine—to whom it applies. It may be, for aught I know, that almost all officers of the Army connected with the revenue department of it—all the paymasters—were in Mexico. I believe that almost every regiment was there. The greater portion, at any rate, of that class of officers were with the Army in Mexico. The amendment, therefore, will apply to almost every one of the paymasters of the Army.

The reason why the number to whom it applies is reduced to the few stated by the honorable chairman of the Committee on Military Affairs is, that we have heretofore provided for several individual cases. I recollect that the honorable Senator from Michigan [Mr. CASS] had some two or three cases, identical with those whom the amendment will provide for, who were paid separately by private bills introduced for their individual benefit. But here comes a general provision to apply not to A or B, but to all the paymasters of the Army who have discharged a particular duty; and we might as well say that a law which is to apply to a whole class would become a private law if it provided that when that class had discharged a particular service, they should receive an additional sum of money, as to say that this is a private claim.

For these reasons, I think that the authority which the chairman of the Committee on Military Affairs has received from his committee to offer the amendment, relieves the case from one of the objections which have been urged; and that sound reason and common sense relieve it, clearly in the judgment of the Senate, from the other.

The PRESIDING OFFICER. The Chair will take the sense of the Senate upon the admissability of the amendment in this form: "Shall the amendment be received?"

It appeared, on a division, that there was not a quorum voting.

Mr. PRATT. I ask for the yeas and nays on the question, and hope they will be granted. There are certain Senators here, who, from their position, or otherwise, offer amendments and get them through; no objection is made to them. Other Senators offer amendments of precisely a similar character, which are admitted by Senators who vote against them, to be meritorious and right; and yet, because of some technical ground, seen only by themselves, they are objected to.

Now, sir, we stand here representing the States of this Union; we are on terms of equality. There is no man who does not know that this is a right claim to be paid by the Government of the United States. Those who object to the amendment, say that if it had been offered to the Army appropriation bill it would have been all right. They say it is a private claim. The question to be propounded to the Senate is, is this, in the opinion of the Senate, a private claim? I ask, that the question be so stated. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. ADAMS. I happen not to be in the category alluded to by the Senator from Maryland; I offer no amendments. I can see no propriety, however, in this body adopting rules for its government, and departing from them whenever a meritorious case arises. If so, we ought to change our rules. If we have rules, and profess to be governed by them, let us follow them. But the honorable Senator from Maryland insists that this is not a private claim because there are several persons interested in it.

Mr. PRATT. I did not say so. I am sure my honorable friend does not mean to misrepresent me.

Mr. ADAMS. Certainly not.

Mr. PRATT. I said that no law, which could be applicable to the whole Army of the United States, or to a whole class of the Army of the United States, could—because it was to pay them for a service rendered by the whole of that class—be a private claim; and I still say so.

Mr. ADAMS. Upon that point I respectfully differ from the honorable Senator. I understand that a claim is a private claim, or a public claim, according to the circumstances connected with it. If there are laws in existence by which the Government becomes liable for certain services, then this rule does not apply to a case arising under them; but if individuals—and the number makes no difference—perform services, supposed to be meritorious, but compensation for which is not authorized by any existing law, and come forward to the Congress of the United States asking compensation as individuals, although you may embrace a class to cover them, it is still a private claim. I apprehend it will be utterly impossible to draw a distinction between this claim and any other class of claims that may come up for private individuals separate and alone.

If I understand the merits of this claim, certain duties were imposed on certain officers during the war, in collecting revenue under military rule. They were not imposed on them by the particular duties of their office. They received no compensation for the collection. There was no law in force authorizing payment for this extraordinary service. Now, A, B, and C, as individuals, come here and ask payment for it. To be sure, you say, a class of them will be embraced by the amendment: but you might as well, if we had a solitary one of the class, use the term; he would come in under it. They rendered this service, and they come forward and ask the Government to make them compensation. Is that not a private claim? Was there any law in existence at the time when the service was rendered, or is there any now, creating any liability on the part of the Government to pay this? It is not pretended that there was or is. If so, is it not a private claim, to all intents and purposes, as much as any other private claim presented to Congress? It occurs to me that it is. I know nothing of the merits of the case. I only know that officers are exceedingly willing to accept office; they are very willing to take all the burdens on themselves when they are asking office; but it is very rarely that you can settle with them without having some extra compensation to pay to them.

Mr. CLAY. I wish to make a single remark in corroboration of what has been said by the Senator from Mississippi. There have been numerous petitions referred to the Committee on Commerce, of which you, sir, are a member, (Mr. STUART in the chair,) and to which your attention may have been directed, from different collectors and other agents of the Government, for disbursing the public moneys, praying that they may be paid for disbursements not in the ordinary line of their duty. That committee has unanimously reported against each application of the kind. Now, there is no distinction in principle between the cases of civil and military officers. We have refused to reward civil officers for the performance of duties beyond the ordinary line of their service; we have refused to pay them for disbursing moneys; and now, I ask, why should we pay military officers for the same service? If we agree to this, we shall be called upon, in virtue of the precedent, to reward them, and I do not see how we can refuse to do it.

Mr. SHIELDS. I will state that the collectors and receivers in the Army have already been paid by provisions precisely similar to this, and those provisions were offered to similar bills—not to an Indian appropriation bill, but to a military appropriation bill. All have been paid but a few cases that stand on the same principle. I do not know that there are more than two remaining in the Army who have not been provided for, and this is to do them that comparative justice which has been done to the others who have been already paid.

Mr. DAWSON. The chairman of the Committee on Military Affairs is right on this point. We are not proposing to pay a private claim. There was a claim presented to the committee; and on a review of that claim, we came to the conclusion that it was just and proper to grant it; but we were unwilling to legislate for individuals. We know that the laws which regulate the Army and the disbursement of the public money should be amended; and we propose a general amendment, not to cover a private claim of this or that individual, but to make a general law to regulate payment to particular officers of the Army, so that now and hereafter we shall never be troubled by the application of the principle to the individual case. That is the point upon which we stand. Then it becomes a general proposition, not for the benefit of A, B, or C, but a law to regulate a particular class of cases, being general, of course, because it extends to every individual connected with that class.

We are about winding up one of the last remnants connected with the war with Mexico. The chairman of the Committee on Finance shakes his head, as if he was afraid of something more coming; but I speak on this branch of the subject. There are but two individuals whom we know of, or have heard of, who have any claim against the Government on this ground. We confine it to the strictest possible terms, so as almost to do injustice. We say that, wherever the money has been touched by another individual getting percentage, it should not be retouched. But wherever it has gone into the coffers of the Government, and been paid out to individuals under an existing law to regulate the compensation, we should establish a general law by which it should be done. It will only affect an individual or two, but we had no idea of legislating specially for one or two cases, when we could do it by a general provision. Hence this amendment was drawn up by the Committee on Military Affairs. It was supposed that the chairman would offer it to the Army appropriation bill; but that has not been done. This winds up the transaction. But little difficulty can grow up at the Treasury under the amendment. I hope it will be adopted. In the Committee on Military Affairs we all concurred in the justice of the claim, and the propriety of this particular demand. But we wished to rid ourselves of the necessity of special legislation, and so we reported this general provision. It is intended for the good of the country, and not for the purpose of expediting any individual claim; but we are limiting the officers who paid out the money of the Government by law, instead of the discretion of Congress on the petition of the claimant.

Mr. RUSK. Congress have passed upon the principle involved in this amendment half a dozen times by admitting and paying for these extra services. It is not necessary to go into the merits of the services, for they are palpable. It was the exercise of an extra duty not imposed by any military authority, an onerous duty, because it was the reception and taking care of money in a country where the means of taking care of money were not plenty. Congress, in half a dozen instances, and by just such amendments as that proposed here, have recognized and paid similar claims. In this instance, I believe, the officers themselves not being alive, it is proposed to provide for the widow of one who is not here to look after his own interests. I hope the Senate of the United States, when they have agreed to the same principle, and paid men in existence who performed the services, will not refuse to make the same allowance to the widow, whose case stands on precisely the same principle.

Mr. HUNTER. If this be received, why might we not receive a proposition for codifying the revenue laws, or anything else? Would it not be as germane to an Indian appropriation bill as this proposition? Surely it would. It ought to be refused for want of congruity, if for nothing else. How are we to know where to find our laws, if we assemble such incongruous subjects in one bill. When we consider that, in order to ascertain what is to regulate the administration of the War Department, we have to look into an Indian

appropriation bill, we see at once what are the mischiefs to which such a practice would lead. I believe it has been shown by those gentlemen who have argued the other side, that this is a private claim. It does not exist under any law; but you are asked now to make a law to meet the special case of individual services, to provide for one or two people. That is the amount of it. It may be very good as a private claim. I am not disputing it; but I ask that the rules of order may be enforced. If the Senate should think as I do, that it is a private claim, we are bound to reject it on this bill.

The question, shall the amendment be received, being taken by yeas and nays, resulted—yeas 19, nays 15; as follows:

YEAS—Messrs. Bell, Benjamin, Brown, Dawson, Dodge of Wisconsin, Douglas, Foot, Houston, James, Johnson, Jones of Tennessee, Morton, Pratt, Rusk, Sebastian, Seward, Shields, Wade, and Weller—19.

NAYS—Messrs. Adams, Brainerd, Chase, Clay, Evans, Fitzpatrick, Gillette, Hunter, Pettit, Slidell, Stuart, Sumner, Toucey, Wells, and Wilson—15.

So the Senate decided the amendment to be in order; and the question was stated to be on agreeing to it.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *February* 12, 1855.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of Saturday was read and approved.

EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a communication from the Navy Department, transmitted in compliance with the twentieth section of the act approved August 26, 1842, giving a detailed statement of the expenditures of the contingent fund of the Navy Department for the year ending the 30th of June, 1854; which was laid upon the table, and ordered to be printed.

The SPEAKER also laid before the House a communication from the Governor of Oregon, containing an account of certain expenditures made by him in accordance with existing laws.

Mr. RICHARDSON. I move that, without reading, the communication be referred to the Committee of Ways and Means, and ordered to be printed.

The motion was agreed to.

LIMIT OF DEBATE.

Mr. STRATTON. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That on and after this day all discussion in the Committee of the Whole shall be limited to the bill or amendment under discussion.

Mr. CLINGMAN. I object.

Mr. STRATTON. I move to suspend the rules, to enable me to submit the resolution.

Mr. JONES, of Tennessee. I ask the gentleman from New York to accept in lieu of the resolution he proposes to offer, the following:

Resolved, That for the remainder of the present session all debate in the Committee of the Whole on the state of the Union shall be confined strictly to the question or proposition under consideration, unless during such evening sessions as a majority of said committee may order for the exclusive purpose of general debate.

Mr. STRATTON. I will accept the gentleman's proposition in lieu of mine.

The question was then taken; and two thirds having voted in the affirmative, the rules were suspended, and the resolution introduced.

Mr. JONES, of Tennessee. I move the previous question upon the adoption of the resolution.

The previous question was seconded, and the main question ordered to be now put.

Mr. McMULLIN. I desire to know whether the question is upon the resolution of the gentleman from New Jersey or upon that of the gentleman from Tennessee?

Mr. JONES. The gentleman from New Jersey accepted my resolution.

The question was taken; and the resolution was adopted.

Mr. JONES, of Tennessee. I rise to a privileged question. I move to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider upon the table.

The question was taken; and the latter motion agreed to.

PENSION AND BOUNTY LAND LAWS.

Mr. EDMUNDSON. I ask the unanimous consent of the House to introduce a resolution merely for reference to the Committee on Printing. I desire to introduce the following:

Resolved, That the Committee on Printing be instructed to inquire into the expediency of purchasing, for the use of the Senate and House of Representatives, —— copies of F. F. C. Tripolett's Digest of the Pension and Bounty Land Laws, at a price not exceeding —— dollars per copy.

Mr. HAMILTON, Mr. JONES, of Tennessee, and others, objected.

Mr. EDMUNDSON. I move to suspend the rules, to admit the resolution.

The question was taken; and two thirds not voting in favor thereof, the rules were not suspended.

ZACHARIAH LAWRENCE.

Mr. BALL. I have not occupied any portion of the time of the House during the present session, and now if they will give me three minutes it is the only proposition I will present to the House.

[Cries of "Agreed!" "Go ahead!"]

Mr. BALL. I ask the unanimous consent of the House to discharge the Committee of the Whole House from the further consideration of Senate bill (No. 148) for the relief of Zachariah Lawrence, of Ohio. It is a small private bill for the benefit of an old man—a constituent of mine. It was objected to some time ago, in a Committee of the Whole, by the gentleman from Tennessee, who afterwards became satisfied of the justice of the claim and asked the consent of the committee to withdraw his objection, but it was not accorded, and we have not reached it upon the Calendar since that time. I ask that the House will discharge the Committee of the Whole from the further consideration of the bill, and that it may be put upon its passage.

The bill was read *in extenso*.

It provides for the payment to Zachariah Lawrence, of Morgan county, in the State of Ohio, out of any money in the Treasury not otherwise appropriated, the sum of $2,645 40, his portion of the prize money for capturing and taking into the port of Passamaquoddy, in 1813, the British sloop Venture.

The bill was reported to the House by the Committee of Claims, with the following amendment:

Add at the end of the bill the following words:

"And there shall be paid to each of the other persons composing the boat's crew, severally, or to their legal representatives, the sum of $1,322 70, as the share of each in the capture of the said sloop Venture, on satisfactory proof being made to the Secretary of the Treasury of their being such persons, or their legal represenatives."

Mr. FLORENCE. How many are there?

Mr. BALL. Six.

Mr. DUNHAM. I object to the gentleman's motion.

Mr. BALL. Then I move to suspend the rules.

The question was taken; and (two thirds voting in favor thereof) the rules were suspended.

The question was then taken on Mr. BALL's motion; and it was agreed to.

So the Committee of the Whole House was discharged from the further consideration of the bill.

Mr. BALL. I demand the previous question, so as not to detain the House.

The previous question was seconded, and the main question was ordered to be put.

Mr. HAMILTON. I call for the reading of the report, so that we may know what the bill is.

The report was read.

Mr. MILLSON. I have examined this bill, and I move to lay it upon the table.

The question was taken; and the motion was disagreed to.

The amendment was adopted.

The bill was then ordered to a third reading; and was accordingly read the third time.

Mr. HAMILTON. I call for the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The bill was then passed.

Mr. BALL. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The question was taken on the latter motion; and it was agreed to.

LIEUTENANT GENERALCY BY BREVET.

Mr. BAYLY, of Virginia. I ask the unanimous consent of the House to discharge the Committee of the Whole on the state of the Union from the further consideration of Senate resolution No. 4; and that the House may understand what my object is, I will state that the resolution in question is that to do justice to General Scott.

[Cries of "Good."]

The SPEAKER. The joint resolution will be reported.

Mr. HAMILTON. For information?

The SPEAKER. For information, certainly.

The resolution was read by its title, as follows:

Senate joint resolution (No. 4) authorizing the President of the United States to confer the title of Lieutenant General by Brevet for eminent services.

The SPEAKER. The gentleman from Virginia [Mr. BAYLY] asks the unanimous consent of the House to submit a motion that the Committee of the Whole on the state of the Union be discharged from the further consideration of this resolution.

Mr. CRAIGE. I object.

Mr. BAYLY. Then I move that the rules of the House be suspended for the purpose of enabling me to submit the motion.

Mr. HAMILTON. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 132, nays 51; as follows:

YEAS—Messrs. Aiken, James C. Allen, Willis Allen, Appleton, Thomas H. Bayly, Ball, Bell, Bennett, Benson, Boyce, Breckinridge, Bristow, Brooks, Bugg, Campbell, Carpenter, Caruthers, Chandler, Chase, Chrisman, Clark, Clingman, Cook, Corwin, Cox, Crocker, Cullom, Cutting, De Witt, Dick, Dickinson, Eastman, Eddy, Edgerton, Edmands, Edmundson, Thomas D. Eliot, Etheridge, Everhart, Farley, Fenton, Flagler, Florence, Franklin, Gamble, Goode, Goodwin, Greenwood, Grey, Aaron Harlan, Andrew J. Harlan, Haven, Hill, Howe, Hughes, Hunt, Ingersoll, Johnson, J. Glancy Jones, Keitt, Kerr, Knox, Kurtz, Latham, Lindley, Lyon, McCulloch, Macdonald, McDougall, McMullin, McNair, Mace, Macy, Matteson, Maurice, May, Mayall, Meacham, Middleswarth, Morgan, Nichols, Noble, Norton, Andrew Oliver, Mordecai Oliver, Orr, Parker, Peckham, Pennington, Preston, Pringle, Puryear, Ready, Reese, Richardson, David Ritchie, Robbins, Rowe, Russell, Sabin, Sage, Sapp, Seward, Simmons, William Smith, William R. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Stratton, David Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Thurston, Tracy, Trout, Upham, Vail, Vansant, Walbridge, Walker, Walley, Warren, Elihu, B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Witte, and Yates—132.

NAYS—Ashe, Barksdale, Barry, Belcher, Bridges, Chastain, Churchwell, Cobb, Craige, John G. Davis, Dowdell, Ellison, English, Fuller, Grow, Hamilton, Sampson W. Harris, Wiley P. Harris, Hastings, Hendricks, Henn, Hibbard, Houston, Daniel T. Jones, George W. Jones, Roland Jones, Kidwell, Kitredge, Lamb, Lane, Letcher, Lilly, Lindsley, Maxwell, Millson, Morrison, Murray, Olds, Bishop Perkins, John Perkins, Phelps, Powell, Thomas Ritchey, Ruffin, Seymour, Shaw, Hestor L. Stevens, Andrew Stuart, Wade, Daniel B. Wright, and Hendrick B. Wright.—51

So the rules were suspended.

Mr. BAYLY. I now move that the Committee of the Whole on the state of the Union be discharged from the further consideration of the joint resolution, and I ask the previous question.

Mr. HUGHES. I ask the gentleman from Virginia to allow me to ask leave to withdraw——

Mr. HARRIS, of Mississippi. Will the gentleman from Virginia withdraw the call for the previous question for a moment?

Mr. BAYLY. It is impossible for me to yield the floor to the gentleman from New York, [Mr. HUGHES.] I might yield it to my friend from Mississippi, [Mr. HARRIS,] but the disposition of the House is, this being a question about which debate is not in order, to vote upon it at once. I therefore demand the previous question.

The SPEAKER, (to Mr. BAYLY.) The Chair understands the gentleman from New York merely to ask to withdraw papers from the files of the House, in order to send them to one of the Departments.

Mr. BAYLY. Well; there is no objection to his doing that.

On motion by Mr. HUGHES, it was

Ordered, That he be permitted to withdraw from the files of the House the papers in the case of Daniel S. Cash for use in one of the Executive Departments of the Government.

The question was then taken on the motion to discharge the committee; and it was agreed to.

Mr. BAYLY. I now move the previous question.

The previous question was seconded, and the

main question was ordered to be put; and under the operation thereof, the joint resolution was ordered to be read a third time; and it was accordingly read a third time.

Mr. BAYLY. I now demand the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question was ordered to be put, which was, "Shall the joint resolution pass?"

Mr. JONES, of Tennessee. I call for the yeas and nays on the passage of the joint resolution.

Mr. STUART, of Ohio. I move that the joint resolution be laid on the table; and upon that motion I call for the yeas and nays.

Mr. BAYLY. I hope the gentleman from Ohio will withdraw his motion, and let us take the yeas and nays on the passage of the resolution.

The motion was not withdrawn.

The yeas and nays were not ordered.

The question was then taken on Mr. STUART's motion; and it was not agreed to.

The question recurred on the passage of the joint resolution, on which the yeas and nays were demanded.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 126, nays 65; as follows:

YEAS—Messrs. Abercrombie, Aiken, James C. Allen, Appleton, Thomas H. Bayly, Ball, Banks, Bell, Bennett, Benson, Benton, Breckinridge, Bristow, Brooks, Bugg, Campbell, Carpenter, Caruthers, Chandler, Chase, Chrisman, Clingman, Cook, Corwin, Cox, Crocker, Cutting, De Witt, Dick, Dickinson, Dunbar, Eddy, Edmunds, Edmundson, Thomas D. Eliot, Etheridge, Everhart, Faulkner, Fenton, Flagler, Florence, Franklin, Gamble, Goode, Goodwin, Greenwood, Grey, Aaron Harlan, Haven, Hiester, Hill, Howe, Hughes, Hunt, Ingersoll, Johnson, J. Glancy Jones, Keitt, Kerr, Knox, Kurtz, Latham, Lewis, Lindley, Lyon, McCulloch, Macdonald, McDougall, McMullin, McNair, Mace, Macy, Matteson, Maurice, May, Mayall, Meacham, Middleswarth, Morgan, Noble, Norton, Andrew Oliver, Mordecai Oliver, Orr, Parker, Peckham, Pennington, Preston, Pringle, Puryear, Ready, Reese, Richardson, David Ritchie, Thomas Ritchey, Rowe, Russell, Sabin, Sage, Sapp, Seward, Simmons, William Smith, William R. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, David Stuart, John L. Taylor, Nathaniel G. Taylor, Thurston, Tracy, Trout, Upham, Vail, Vansant, Walbridge, Walker, Walley, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Yates, and Zollicoffer—126.

NAYS—Messrs. Willis Allen, Ashe, Barksdale, Barry, Belcher, Bocock, Bridges, Churchwell, Clark, Cobb, Craige, Curtis, John G. Davis, Disney, Dowdell, Dunham, Eastman, Edgerton, Ellison, English, Fuller, Giddings, Grow, Hamilton, Andrew J. Harlan, Sampson W. Harris, Wiley P. Harris, Hastings, Hendricks, Henn, Hibbard, Houston, Daniel T. Jones, George W. Jones, Roland Jones, Kidwell, Kittredge, Lamb, Lane, Letcher, Lilly, Lindsley, Maxwell, Millson, Morrison, Murray, Olds, Bishop Perkins, John Perkins, Phelps, Powell, Robbins, Ruffin, Seymour, Shaw, George W. Smyth, Hestor L. Stevens, Stratton, Andrew Stuart, John J. Taylor, Wade, Walsh, Witte, Daniel B. Wright, and Hendrick B. Wright—65.

Pending the announcement of the vote,

Mr. BLISS said: I was not present when my name was called; and I therefore desire to say, that if I had been present I would have voted in the negative.

Mr. BAYLY, of Virginia, moved to reconsider the vote by which the joint resolution was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

LAND DISTRICT OF FOND-DU-LAC.

Mr. EASTMAN. I ask the unanimous consent of the House to enable me to submit a motion that the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill No. 538.

Mr. GIDDINGS, of Ohio. I hope the gentleman from Wisconsin [Mr. EASTMAN] will yield me the floor, that I may submit a resolution which has connection with the joint resolution just passed.

Mr. EASTMAN yielded the floor.

Mr. GIDDINGS. I wish to state to the House that the resolution which I send to the Clerk's table is an explanation of the reason for my vote.

The resolution was reported, as follows:

Whereas, the true policy of this and all republican Governments consists in maintaining peace, as far as possible, with all nations, and discouraging the spirit of war and rapine: Therefore—

Resolved, That Major General Winfield Scott, for his persevering efforts to maintain peace and to avoid bloodshed on our northeastern and northwestern frontiers, when they were threatened with violence and war, is entitled to the thanks of Congress and the gratitude of the American people.

Mr. WARREN. I object to the introduction of the resolution.

Mr. GIDDINGS. Then I move that the rules of the House be suspended, in order to enable me to introduce the resolution.

Mr. EASTMAN. I cannot give way for any such purpose. I now move that the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill (No. 538) to establish an additional land district in the State of Wisconsin.

Mr. HAMILTON. Let the bill be read for information.

The bill was read.

The first section provides that all that part of the present Willow river land district, in the State of Wisconsin, lying north of the line dividing townships forty and forty-one, or fourth correction line, be created a land district, to be called the Fond-du-Lac district, the office for which shall be located at such place therein as the President may, from time to time, direct.

The second section provides that there shall be appointed by the President, by and with the advice and consent of the Senate, a register and a receiver for said district, who shall respectively be required to reside at the site of the office, be subject to the same laws, and entitled to the same compensation as is, or may hereafter be, prescribed by law in relation to other land offices of the United States.

The third section provides that the sales shall continue at the Willow river district till the land officers for that district are notified that the officers for the district created by this act are prepared to enter on their duties; and in all cases hereafter the salaries of land officers shall commence only from the time they enter on the discharge of their duties.

Mr. HAMILTON. Let the report be read.

Mr. WASHBURNE, of Illinois. There is no report.

Mr. EASTMAN. I have no speech to make on this subject. The bill sufficiently explains itself. It is recommended by the Commissioner of the General Land Office.

Mr. HAMILTON. Has the bill been before any committee of the House?

Mr. EASTMAN. It has been reported from the Committee on Public Lands, and is recommended by the Commissioner of the General Land Office I may state here that persons who desire to enter land on Lake Superior have now to travel some two hundred and fifty miles in order to have a single entry made.

The question was taken on the motion to discharge the Committee of the Whole on the state of the Union from the further consideration of the bill; and it was agreed to.

Mr. EASTMAN. I now move the previous question on the passage of the bill.

The previous question was seconded, and the main question was ordered to be put; and under the operation of the previous question the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read a third time, and passed.

SWAMP LAND BILL.

Mr. WASHBURNE, of Illinois. I desire to have taken from the Speaker's table House bill No. 9, known as the swamp land act, merely that the House may non-concur in the amendment of the Senate.

There being no objection, House bill (No. 9) for the relief of the purchasers and locators of swamp and overflowed land—returned from the Senate with an amendment—was taken from the Speaker's table.

The SPEAKER. The Senate have adopted the following amendment to the bill, which will be read for information:

Page one, section one. At the end of the section add the following proviso:

Provided, The proper authorities of the State in which any such land is situated shall first release and surrender, in such form as the Secretary of the Interior shall prescribe, all claims to land of purchasers and locators; and no patent shall be issued to any such purchaser or locator till the requisite surrender shall be made.

The question was then taken; and the amendment of the Senate was non-concurred in.

THE PUBLIC DOCUMENTS.

Mr. STANTON, of Kentucky. I rise to what I consider to be a question of privilege, because it relates to the duties of officers of the House. On Friday or Saturday last, I introduced a resolution here directing that the books and documents which are ordered by the House, should be sent to the homes of the members by the Superintendent of Public Printing. I understand from the Clerk of the House that, in all probability, it will produce some confusion in the arrangements which are made in his office for sending away the books of members. I hope, therefore, that a resolution may now be passed, in about these words, so as to obviate any difficulty that may grow out of the resolution adopted a few days ago.

Resolved, That the books and documents directed to be sent off to members, at their homes, by the resolution of the 9th instant, be sent off by the officers of the House in the usual manner.

Mr. JONES, of Tennessee. I wish to suggest to the gentleman from Kentucky, that he had better amend the resolution which he offered the other day by substituting the word "Doorkeeper" for the words "Superintendent of Public Printing." The folding room is under the superintendence of the Doorkeeper, and he has the charge of the whole force employed there. The books and documents which the Clerk of the House has to send off are the regular sets of books and documents to which each member is entitled; and they will not be affected by the resolution of the gentleman.

Mr. STANTON. I have no objection to the amendment of the gentlemen from Tennessee, but the same purpose will be accomplished by saying "officers of the House." I move, then, to strike out, in the original resolution, the words "Superintendent of Public Printing," and insert in lieu thereof the words "proper officers of the House."

The question was taken; and the amendment was agreed to.

The resolution, as modified, was agreed to.

SWAMP LAND BILL—AGAIN.

Mr. WARREN. I suppose the question which I am about to make is one of privilege. I move—if it is such a question—that a committee of conference be raised in this House, to confer with a like committee on the part of the Senate, in reference to the non-concurrence of this House in the amendment of the Senate to the swamp land bill.

The SPEAKER. It is not the usual stage for appointing committees of conference. The Senate may recede from their amendment.

OVERLAND MAIL TO SAN FRANCISCO.

Mr. McDOUGALL. I ask the unanimous consent of the House to dispose of a very important measure for California, and which will not occupy over ten minutes of the time of the House I am instructed by the Committee on the Post Office and Post Roads, to report House bill (No. 685) providing for an express mail overland from St. Louis to San Francisco.

I ask the Clerk to read the amendment which the committee report in the nature of a substitute for the bill.

The substitute was then read through by the Clerk.

Mr. McDOUGALL. I now ask the unanimous consent of the House to allow me to report it.

Mr. WALSH. I object.

Mr. McDOUGALL. I move that the rules of the House be suspended for that purpose.

Mr. JONES, of Tennessee. I would inquire, if this bill gets before the House, and is not disposed of to-day, will it come up to morrow, or whenever the special order is over? Will it be in order to offer an amendment to it, providing for the construction of the Pacific railroad?

The SPEAKER. It will be sufficient for the Chair to decide that question when it arises.

Mr. McDOUGALL. I will say to the gentleman from Tennessee that I do not intend to discuss the matter, but move it to an immediate vote. I do not think it necessary to discuss it. The bill has been prepared with great care; and, if the House is willing to give us this facility for communication with the Pacific, they will do it as soon without discussion as with.

The question recurring upon the motion to suspend the rules, there were, upon a division—ayes 88, noes 45; whereupon

Mr. JONES, of Tennessee, demanded the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and resulted—yeas 104, nays 65; as follows:

YEAS—Messrs. Abercrombie, James C. Allen, Ashe, Ball, Banks, Bell, Benton, Bliss, Boyce, Bristow, Brooks, Bugg, Campbell, Caruthers, Chamberlain, Cook, Corwin, Cox, Cullom, John G. Davis, De Witt, Dunbar, Edmands, Edmundson, Thomas D. Eliot, English, Etheridge, Everhart, Farley, Faulkner, Fenton, Florence, Franklin, Gamble, Goode, Grey, Andrew J. Harlan, Wiley P. Harris, Haven, Henn, Hill, Howe, Hughes, Knox, Kurtz, Lamb, Lane, Latham, Lindley, Lindsley, McCulloch, Macdonald, McDougall, Macy, Matteson, Maxwell, May, Meacham, Morgan, Noble, Olds, Andrew Oliver, Mordecai Oliver, Packer, Parker, Peckham, Pennington, John Perkins, Phelps, Pratt, Ready, Richardson, Riddle, David Ritchie, Robbins, Rogers, Rowe, Ruffin, Russell, Sabin, Sage, Seward, Seymour, Simmons, Sollers, Frederick P. Stanton, Hestor L. Stevens, Andrew Stuart, David Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Upham, Walbridge, Walker, Walley, Warren, Elihu B. Washburne, Wells, John Wentworth, Westbrook, Hendrick B. Wright, Yates, and Zollicoffer—104.

NAYS—Messrs. Aiken, Appleton, Barksdale, Barry, Belcher, Bennett, Benson, Bridges, Carpenter, Chase, Chastain, Chrisman, Clingman, Cobb, Craige, Crocker, Thomas Davis, Dickinson, Dowdell, Dunham, Ellison, Flagler, Giddings, Goodwin, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Hibbard, Hiester, Houston, George W. Jones, J. Glancy Jones, Roland Jones, Kidwell, Kittredge, Lewis, Lilly, McMullin, McNair, McQueen, Mace, Maurice, Middleswarth, Millson, Morrison, Peck, Bishop Perkins, Powell, Pringle, Thomas Ritchey, Sapp, Shannon, Shaw, Shower, William Smith, Stratton, Tracy, Trout, Vail, Vansant, Wade, Walsh, and Daniel B. Wright—65.

So the rules were not suspended, two thirds not voting in favor thereof.

HENRY S. SANFORD.

Mr. INGERSOLL. I ask the unanimous consent of the House to discharge the Committee of the Whole House from the further consideration of Senate bill (No. 430) for the relief of Henry S. Sanford.

Several MEMBERS. I object.

Mr. INGERSOLL. Objection being made, I move to suspend the rules to enable me to make the motion. If the House will indulge me for a few moments, I think I shall be able to satisfy them that this is a pressing case, and one that ought to receive the sanction of this body. The report is a very short one.

Several MEMBERS. Read the bill. That will be enough.

The SPEAKER. Report the title of the bill again.

Mr. INGERSOLL. The report in this case, which is a Senate report, is a very short one, and will occupy but a moment in reading.

Mr. PECKHAM. I object to the reading of the report, if I can do so, and save time thereby.

The SPEAKER. The Clerk will read the bill itself, as is usual where a suspension of the rules is asked, that the House may know what they are voting upon.

Mr. LETCHER. Is the bill taken up?

The SPEAKER. It is not. It will be read only for information.

Mr. LETCHER. I want it understood that I object to its introduction.

Mr. PECKHAM. I have a number of bills which I think ought to have precedence of that.

Mr. INGERSOLL. That is a question for the House to decide.

Mr. PECKHAM. They are for the relief of widows and orphans.

CONFERENCE AT OSTEND.

Some delay arising,

Mr. INGERSOLL said: If there is no objection, while the Clerk is looking for the bill, I wish to report back, from the Committee on Foreign Affairs, and in behalf of my colleague on that committee, [Mr. PERKINS, of Louisiana,] a resolution which was sent to them from this body, and which the committee have instructed shall be reported back, with a recommendation that it do pass. The resolution is as follows:

Resolved, That the President of the United States inform this House, if not incompatible with the public interest, what was the object or objects of the meeting or conference of the American Ministers at Ostend, and whether said meeting or conference was in obedience to instructions from the Secretary of State; what the said instructions were, and what was the result of said meeting or conference.

Mr. LETCHER. Is debate in order?

The SPEAKER. The gentleman is not debating, but asking the consent of the House for a particular purpose.

Mr. INGERSOLL. I merely wish to report back, from the Committee on Foreign Affairs, what is known as the Ostend resolution.

The SPEAKER. The Chair would remark to the gentleman from Connecticut, if this matter is introduced, it will take precedence of his motion to suspend the rules.

Mr. DAVIS, of Indiana. I object to it.

Mr. INGERSOLL. The committee have directed it to be reported back, with a recommendation that it be passed.

The SPEAKER. Does the Chair understand the gentleman from Connecticut to withdraw his motion to suspend the rules?

Mr. INGERSOLL. I do not.

The SPEAKER. Is it the pleasure of the House that the motion to suspend the rules shall stand good, while he makes a report from the Committee on Foreign Affairs?

Mr. CLINGMAN. I object to it.

Mr. DAVIS, of Indiana. Many of us want the floor, and I must object.

HENRY S. SANFORD—AGAIN.

The SPEAKER. The Clerk having found the bill, it will be read for information.

The bill, which was read *in extenso*, directs the payment to Henry S. Sanford of certain moneys for services and expenses as acting chargé d'affaires at Paris, from May 14, 1852, to January 22, 1854.

The question recurring upon the motion to suspend the rules,

Mr. INGERSOLL demanded tellers.

Tellers were ordered; and Messrs. PARKER and FAULKNER were appointed.

The question was taken; and the tellers reported sixty-nine in the affirmative; noes not counted.

The SPEAKER announced the motion as lost.

Mr. LETCHER. I understood the Chair to announce ninety-nine in the affirmative, and then I called for the yeas and nays.

The yeas and nays were ordered.

The question was taken on the motion to suspend the rules; and it was disagreed to—yeas 97, nays 71; as follows:

YEAS—Messrs. Abercrombie, Aiken, Appleton, Ashe, Thomas H. Bayly, Ball, Banks, Barksdale, Barry, Belcher, Bell, Benson, Benton, Boyce, Bristow, Bugg, Campbell, Chamberlain, Chandler, Chase, Chrisman, Clark, Cook, Corwin, Crocker, Cumming, Cutting, Thomas Davis, De Witt, Dickinson, Dunbar, Eastman, Edmands, Edmundson, Thomas D. Eliot, Etheridge, Faulkner, Fenton, Flagler, Florence, Goodwin, Aaron Harlan, Wiley P. Harris, Haven, Hiester, Howe, Hughes, Hunt, Ingersoll, Keitt, Kerr, Lane, Latham, Lindley, McDougall, Macy, Matteson, Meacham, Morgan, Noble, Olds, Mordecai Oliver, Orr, Peck, Pennington, John Perkins, Phelps, Pringle, Puryear, Ready, Reese, Richardson, David Ritchie, Rogers, Russell, Sabin, Sage, Sapp, Seymour, Simmons, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, David Stuart, John J. Taylor, Nathaniel G. Taylor, Thurston, Upham, Walbridge, Walley, Walsh, Elihu B. Washburne, Israel Washburn, John Wentworth, Tappan Wentworth, Westbrook, Witte, and Zollicoffer—97.

NAYS—Messrs. Bennett, Breckinridge, Bridges, Brooks, Carpenter, Chastain, Cobb, Cox, Curtis, John G. Davis, Eddy, Fuller, Gamble, Goode, Greenwood, Grey, Grow, Hamilton, Andrew J. Harlan, Sampson W. Harris, Hastings, Hendricks, Henn, Houston, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Kidwell, Kittredge, Knox, Kurtz, Lamb, Letcher, Lewis, Lilly, Lindsley, Lyon, McCulloch, Macdonald, McMullin, McNair, McQueen, Mace, Maurice, Mayall, Middleswarth, Millson, Murray, Norton, Packer, Parker, Peckham, Bishop Perkins, Powell, Thomas Ritchey, Ruffin, Seward, Shaw, Shower, William R. Smith, George W. Smyth, Stratton, Andrew Stuart, Trout, Tweed, Vansant, Walker, Hendrick B. Wright, and Yates—71.

ENROLLED BILLS SIGNED.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; which received the Speaker's signature:

An act for the relief of the heirs of Larkin Smith;

An act for the relief of William Parker;

Joint resolution for the relief of Lieutenant J. C. Cartter;

An act for the relief of the legal representatives of John Putnam;

An act for the relief of George J. Rallston;

An act for the relief of William Case;

An act for the relief of Sidney P. Pool;

An act for the relief of Polly Carver, widow and executrix of Nathan Carver, deceased;

An act for the relief of William Gore;

An act for the relief of Lincoln Bates;

An act for the relief of George Elliott;

An act for the relief of George Lynch;

An act for the relief of John Cole;

An act for the relief of Eleanor Hoople, of the Province of Canada;

An act granting bounty land to Cornelius Caffey;

An act to divide the State of Illinois into two judicial districts;

An act for the relief of Abraham Anseman;

An act for the relief of John Brown, second, of New Hampshire;

An act for the relief of John H. Hicks, of Indiana;

An act to provide a pension for Edmund Mitchell, of Carroll county, in the State of Kentucky;

An act to provide a pension for Oliver Brown, of Chemung county, New York;

An act for the relief of Lieutenant George H. Paige, of the United States Army;

An act for the relief of the widow and children of Ezra Chapman, deceased;

An act to change the name of the schooner Henry Plantagenet to that of A. G. Brown;

An act for the relief of Wm. Wallace, of the State of Illinois;

An act for the relief of Samuel McKnight, of the State of Kentucky;

An act for the relief of Gilbert C. Russell; and

An act to continue, temporarily, the offices of register and receiver at Vincennes, Indiana.

TREATY OF 1819.

Mr. STANTON, of Tennessee. Mr. Speaker, I move that the Committee of the Whole on the state of the Union be discharged from the further consideration of joint resolution (No. 47) to fulfill the stipulations of the sixth article of the treaty of 1819 between the United States and Spain. If there be objection I shall move a suspension of the rules.

Mr. HAMILTON. Let the resolution be first read for the information of the House.

The resolution was read by the Clerk. It authorizes and directs the Secretary of the Treasury to pay to the persons entitled to receive the same, or to their proper agent or attorney, the full amount, so far as not heretofore paid, of the damages decreed by the territorial and district judges of the United States for losses in East Florida, under the ninth article of the treaty of 1819 between the United States and Spain, out of the general appropriation heretofore made by the acts of 3d March, 1823, and of 26th June, 1834, passed to carry said treaty into effect.

Mr. HAMILTON. I object to the motion.

Mr. STANTON. Then I move that the rules be suspended for the purpose which I have indicated.

Mr. JONES, of Tennessee. I demand the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and the rules were suspended—yeas 118, nays 53; as follows:

YEAS—Messrs. Abercrombie, Aiken, Appleton, Thomas H. Bayly, Ball, Barksdale, Barry, Bell, Bennett, Benson, Bliss, Breckinridge, Bridges, Bristow, Bugg, Campbell, Carpenter, Chamberlain, Chandler, Chase, Chastain, Clingman, Corwin, Crocker, Cullom, Cumming, Cutting, John G. Davis, De Witt, Dickinson, Disney, Dunbar, Dunham, Eastman, Edmands, Edmundson, Thomas D. Eliot, Ellison, Etheridge, Everhart, Farley, Fenton, Flagler, Florence, Franklin, Goodwin, Green, Greenwood, Aaron Harlan, Andrew J. Harlan, Sampson W. Harris, Wiley P. Harris, Haven, Hiester, Howe, Hughes, Hunt, Johnson, Kerr, Knox, Lamb, Lindley, Lindsley, Mace, Macy, Matteson, Maurice, Maxwell, May, Mayall, Meacham, Middleswarth, Morgan, Nichols, Norton, Olds, Andrew Oliver, Peck, Peckham, Pennington, Pratt, Preston, Puryear, Ready, Reese, Riddle, David Ritchie, Robbins, Rogers, Rowe, Russell, Sabin, Sapp, Seward, Seymour, Shower, Samuel A. Smith, William R. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, David Stuart, John L. Taylor, Nathaniel G. Taylor, Thurston, Tracy, Tweed, Upham, Walbridge, Walley, Walsh, Warren, Israel Washburn, John Wentworth, Tappan Wentworth, Westbrook, and Hendrick B. Wright—118.

NAYS—Messrs. Willis Allen, Banks, Belcher, Chrisman, Cobb, Cook, Cox, Craige, Curtis, Dowdell, Faulkner, Fuller, Gamble, Goode, Grow, Hamilton, Hastings, Henn, Houston, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Kidwell, Kittredge, Kurtz, Letcher, Lewis, Lilly, McCulloch, McMullin, McNair, McQueen, Millson, Morrison, Murray, Mordecai Oliver, Orr, Packer, Parker, Bishop Perkins, Phelps, Pringle, Ruffin, George W. Smyth, Stratton, John J. Taylor, Trout, Vail, Vansant, Ellihu B. Washburne, Yates, and Zollicoffer—53.

So, two thirds voting in the affirmative, the rules were suspended for the purpose indicated.

Mr. STANTON. As the rules have been suspended for the purpose, I now move that the Committee of the Whole on the state of the Union be discharged from the further consideration of joint resolution (No. 47) to fulfill the stipulations of the ninth article of the treaty of 1819 between the United States and Spain.

The question was taken; and the motion was agreed to.

Mr. STANTON, of Tennessee. Mr. Speaker, I deem it necessary, as the principle involved in this bill is of great importance, and the amount considerable, to make a short explanation; although, if the members of the House have carefully read the report which I had the honor to make a short time ago, it seems to me that there could be but little necessity for any further remarks.

[Cries of "No speech!" "Let us vote!"]

Mr. JONES, of Tennessee. I would ask my colleague to state the amount which will be paid under this joint resolution.

Mr. STANTON. I will come to that point in the course of the few remarks which I intend submitting.

Mr. JONES. I would ask my colleague to state, in addition, whether there is or not an appropriation already made under former laws for the payment of these claims; and whether, if there is not, this bill does not, under the rules, go for consideration to the Committee of the Whole on the state of the Union? It would take two thirds to suspend that rule.

Mr. STANTON. Mr. Speaker, I have set forth in my report the laws of 1823 and 1834, on the construction of which this case depends. The appropriation under which these cases have been partly paid, was made in 1823; and from 1823 down to the present time, year after year, under that appropriation, the Secretary of the Treasury has continued to pay them, or, at least, partly to pay them; so that the bill before the House does not make an appropriation, but simply directs the Secretary of the Treasury to pay out of the appropriation already existing.

Mr. CRAIGE. The gentleman states that the Secretary of the Treasury has been paying these claims. Now, I would ask him whether the Secretary of the Treasury, under every Administration, has not expressly refused to pay them under the principle now presented for the adoption of the House; and also, whether every Attorney General, whether of Whig or Democratic administration, has not reported against the same principle? They have all struck out the question of interest entirely.

Mr. STANTON. I will answer the gentleman. I say that this is not a question of interest. I hold that the former Secretaries of the Treasury and Attorneys General have not decided against the principle in this case. All that the Secretaries of the Treasury have decided, and all that the Attorneys General have ever decided is, that the Departments have no authority to pay interest, except in the case of an express law authorizing it.

This is not a question of interest; and in order to prove it, it is necessary for me to say, that the claims in question originate under the treaty of 1819 between the United States and Spain, of which the ninth article in the English version is as follows:

"The United States will cause satisfaction to be made for the injuries, if any, which, by process of law, shall be established to have been suffered by the Spanish officers and individual Spanish inhabitants by the late operations of the American army in Florida."

That is the case—to pay for losses sustained which may be established by process of law. In the act of Congress of 3d March, 1823, entitled "An act *to carry into effect* the ninth article of the treaty concluded between the United States and Spain the 22d of February, 1819," is the following section, which authorizes these cases to be adjudicated by the judges of the Florida courts:

"SEC. 1. That *the judges* of the superior courts established at St. Augustine and Pensacola, in the Territory of Florida, respectively, shall be, and they are hereby, authorized and directed *to receive and adjust* all claims arising *within their respective jurisdictions*, of the inhabitants of said Territory, or their representatives, *agreeably to the provisions of the ninth article of the treaty with Spain*, by which the said Territory was ceded to the United States."

In 1834 another law was passed on the same subject. The judges of the Florida courts, in awarding these claims, after taking all the testimony that bore upon them, gave, by way of damages, the original value of the property destroyed, with interest at the rate of five per cent. down to the time, not of the rendition of the decree, not to the present time, but down to the time when Congress gave the first opportunity to these parties for the presentation of their claims. What is called interest in the decrees was, in reality, a part of the injury suffered; and was, in accordance with universal law, measured by the rate of interest which prevailed in Florida at the time. Each decree was an *entirety*, and could not be divided upon any principle known in the practice of the courts, or in the adjudication of similar claims. The Government of the United States having chosen its tribunal must submit to the judgment pronounced against it, if it be disposed to maintain its treaty obligations in good faith.

By the law of 1823 the awards of the Florida judges were to be paid by the Secretary of the Treasury, if found to be "just and equitable within the provisions of the treaty." The Secretary of the Treasury to whom the first case was presented, approved the award with the following indorsement, which I take from the public document now before me:

"With the exception of interest, which, it is believed, has not been allowed in claims similarly situated."

This apparently hasty and inconsiderate exception, is the origin of all the difficulty in these cases. The same exception has been uniformly made by subsequent Secretaries, and as they could not justify the principle adopted upon any better authority, they have intrenched themselves behind the "usages of the Department," and the precedent established in this case.

Now, sir, I undertake to say that the very reverse of the Secretary's assertion is true. So far from interest being disallowed in similar cases, I assert, and I challenge contradiction, that a single instance of a similar disallowance cannot be found in all the history of this Government. No court in Christendom has ever disallowed it in similar cases. No board of commissioners ever established, under any treaty ever made by this Government, would have refused to allow it. Our Government has invariably demanded interest upon a like claim from all other Governments, and there could be no fair indemnity without it.

Now, sir, I beg the House to recollect that these awards were repeatedly sent back by the Secretary of the Treasury for revision. The Attorney General said, that although the Secretary had no authority to send them back, yet he presumed the request of the Secretary of the Treasury would be persuasive. The awards were, therefore, frequently sent back, and the cases reëxamined by the Florida judges, but in all cases the decisions were made allowing interest up to the time when the parties presented their claims.

Mr. GIDDINGS, of Ohio. Will the gentleman permit me to put a question to him for information?

Mr. STANTON. Certainly.

Mr. GIDDINGS. I wish to inquire of the gentleman from Tennessee whether, by the ninth article of the treaty between Spain and the United States of 1819, those claims were not confined to those whose damages had been caused by our *late* army in Florida under General Jackson? And I wish to inquire further, whether, after the passage of the law of 1823, the Secretary of the Treasury, or the administrative branch of the Government, did not uniformly reject all claims prior to General Jackson's invasion in 1819? Were not all the claims arising under the invasion of General Mathews in 1812, and those under General Jackson in 1814, uniformly rejected by the Secretary of the Treasury, until a certain Secretary in 1853, not knowing the practice which had attained, proceeded to pay out some $30,000 of these claims? I wish to ask the gentleman from Tennessee, also, whether the law of 1834 was not enacted to put these claims upon the same footing as those which had been ignorantly allowed by this new Secretary, in direct opposition to the decisions of his predecessors?

Mr. STANTON. It is true that, by the decisions of the Secretaries of the Treasury, though not by those of the Florida judges, the claims arising under the war of General Mathews were rejected, and the payment of them refused at the Treasury Department. But the law of 1834 was passed to correct that evil; and I understand the passage of that law to be a legislative declaration that the claims of 1812 and 1813, were embraced within the treaty of 1819. Such is the view I entertain, and such have been the views of all the Secretaries of the Treasury, and of the Attorneys General, as well as of the Supreme Court of the United States. And, sir, I apprehend that no one who will look at this act of 1834, can arrive at any other conclusion. It was intended to place the proper construction upon the act of 1823, and it has been so considered ever since by all the public authorities.

Now, Mr. Speaker, it has been said that all the Secretaries of the Treasury, and all the Attorneys General have decided against this claim. I do not so understand it. It was decided by the Secretaries of the Treasury, and by the Attorneys General, that the Treasury Department had no right to pay these claims for interest, as they are improperly called, without the authority of Congress, because the Secretaries considered themselves bound by the acts of their predecessors and the usages of the Department to conform to the decisions which they had given. But, sir, every Attorney General who has given a written opinion upon the subject has virtually admitted that the decision is wrong in itself. I have before me the manuscript letters of almost every Secretary of the Treasury and of every Attorney General who has given a decision upon the subject, and they all acknowledge that they decided the matter solely upon the ground of former decisions and departmental usages, instead of the law of nations, which is the only proper rule to be applied in treaty cases.

Mr. CRAIGE. Do I understand the gentleman from Tennessee to assert, that any of the Secretaries, or any of the Attorneys General, who have given opinions upon this subject have decided in favor of the claim?

Mr. STANTON. I did not assert precisely that.

Mr. CRAIGE. On the contrary, have not these officers of every Administration given their very decided opinions against it?

Mr. STANTON. It is true, as I have already stated, that the Attorneys General have all given their opinions that the Secretary of the Treasury could not pay the claim without further authority of Congress, because they considered the Secretaries bound by the decisions of their predecessors. But, sir, I have before me the original letters of Judge Bibb, Secretary of the Treasury, Nelson, Secretary Spencer, Secretary Corwin, Secretary Ewing, and Attorney General Reverdy Johnson, in which, while they hold that the Secretaries might be bound by the decisions of their predecessors, they also admit that, as an original question, it ought to have been determined by the general principles of law applicable to such cases, and especially by the law of nations. For instance, ex-Secretary Bibb, in his letter, says:

"The question of interest upon the value of the property destroyed at the time of the trespass, by way of compensation for the deprivation of the use of the property, was not considered nor adjudicated by me in these cases, but passed *sub silentio*.

"If the question had been stirred, I feel confident I would not have committed so great a blunder as to have decided that, under the treaty and the acts of Congress to carry into effect the treaty between the United States and Spain, an allowance of interest, at the legal rate of the country, where the trespass in violation of the laws of nations had been committed, was not to be paid by the United States, as a just compensation for deprivation of the use of the property, valued at the time of the trespass."

Ex-Secretary Spencer is equally explicit. He says:

"Whatever decision I made upon the question of interest on the Florida claims, had reference to prospective interest accruing after the award was made, or to the allowance of interest *eo nomine*, and not as a measure of compensation, at the time of the award, for the loss of property."

* * * * * * *

"If I were now to give an opinion, I should say, unhesitatingly, that the rule of compensation in the above cases should be obtained from the stipulations of the treaty with Spain exclusively, and that such rule should govern the *Department* as well as the *courts*."

Now, sir, in my judgment, the Secretary of the Treasury had no right to refuse to carry out the decrees of a judicial tribunal. In my judgment, those judges could not have acted as commissioners. They were clothed with their authority by an act of Congress, and not by the President of the United States, by and with the advice and consent of the Senate. Sir, commissioners are officers, who, if appointed at all, must be appointed in the constitutional mode. Then again, sir, if you admit these judges to have acted in their judicial capacity—and I am sure they could have acted in no other—you could not give an appeal to the Secretary of the Treasury, who is a mere executive officer, who cannot be clothed with any part of the judicial power. To attempt such a thing would

be to subvert and destroy our whole system; for, by the Constitution, the judicial power is vested only in the courts. Every principle of construction requires us to presume that Congress intended to effect a valid and constitutional thing by the laws of 1823 and 1834. The treaty required these cases to be determined "by process of law;" and, when the acts of Congress referred them to the Florida judges, it is conclusive that it was intended thereby to fulfill the treaty stipulation by erecting a judicial tribunal for their adjudication. If this reasoning be correct, the Secretary of the Treasury had no authority to review the decisions, except so far as to see that they were "justly and equitably within the provisions of the treaty;" in other words, that they were within the jurisdiction of the court—a point which every ministerial officer has a right to determine.

Now, sir, the amount involved in these claims is made an objection to their payment. That amount is a little over one million of dollars. I hear gentlemen around me say, that if this principle is to be acknowledged, we shall have to pay ten, twenty, or a hundred millions of dollars; that every old claim will be brought up, and interest demanded on it. Sir, if there are any other claims in the position of these, I am not aware of it. But if there are any other claims which, by treaty stipulations of this Government, have been submitted to a judicial tribunal for adjudication, and the decrees of that judicial tribunal awarding damages have been divided, and a part paid and a part rejected—I say, if there are any such cases as that on the record, then they ought to be paid, even if they amount to $100,000,000.

Mr. Speaker, I have quoted, in the brief report which I have made—because I did not deem it necessary to go very minutely into this affair—all the authorities, or, at least, many of the authorities which bear upon the case. Sir, I have shown you that our Government has always recognized the justice of such claims as these; I have shown you that every judicial tribunal which has sat upon them has given the same measure of damages. I challenge the production of the authority of any respectable court that has decided upon a different principle. We are now a great commercial people. Our commerce floats upon every sea on the face of the globe, liable to depredations, especially from belligerent Powers. If we refuse to recognize these claims, we ought at once to announce to the country, and to our merchants, that whenever their commerce is preyed upon, whenever their property is stolen or destroyed, we will not demand the measure of damages which we have heretofore always demanded. We must abolish a great principle of the laws of nations, and until we do that, we stand dishonored as repudiating a just debt of this Government, which has been adjudicated by one of its tribunals, in pursuance of the provisions of one of its solemn treaties.

Mr. Speaker, gentlemen all around me warn me that I ought not to pursue this subject further.

Mr. CRAIGE. I would ask the gentleman whether one dollar of this claim is for principal—whether it is not all for interest?

Mr. STANTON. Every dollar has been awarded by the judicial tribunals of the country.

Mr. RICHARDSON. I would ask the gentleman whether the court, in rendering judgment, rendered judgment for so much, with interest for such a time?

Mr. STANTON. Yes; with interest up to the time when there was an opportunity to present the claims before the commission.

Mr. RICHARDSON. The interest was a part of the judgment?

Mr. STANTON. A part and parcel of the judgment. I now demand the previous question.

[Loud cries of "Question!"]

Mr. ORR. I hope the gentleman will withdraw the demand for the previous question.

[Loud cries of "No!" "No!"]

Mr. STANTON. I cannot withdraw it.

Mr. HOUSTON. I wish to present a point of order in connection with this bill, but I do not know whether this is the right time to present it. This bill makes an appropriation, or a reappropriation, which is the same thing, and therefore it requires a two-third vote to save it from that examination in the Committee of the Whole on the state of the Union which our rules require. I do not know that this is the right point at which to raise the question of order.

The SPEAKER. This is the right point, for the reason that the House is almost on the point of voting upon ordering the bill to be engrossed and read a third time.

Mr. HOUSTON. Well, sir, the gentleman from Tennessee refers, in his bill, to the act of 1823, which is given in his report. I have not got it before me, but it makes an indefinite appropriation. If the Chair, however, will turn to the subsequent law, he will find that all of these appropriations outstanding were put back into the Treasury.

Mr. WASHBURN, of Maine. What is the question before the House?

The SPEAKER. The gentleman from Alabama has a right to make a question of order on this bill, and to explain his point of order.

Mr. HOUSTON. I am not debating it. I am merely presenting my point of order. I call the attention of the Speaker to the fact that, some thirteen years afterwards, Congress passed another law upon this subject, in which they made an appropriation of money, showing that Congress did not believe that the law of 1823 made such an appropriation as is contended for here. In the law of 1834 Congress again took up the subject of these claims, and made another appropriation, in express language, to meet them, showing that Congress at that time did not believe that the appropriation of 1823 was outstanding.

Mr. STANTON. I desire simply to say that the Secretaries of the Treasury have always construed the law different. The Secretary of the Treasury has, from time to time, down to the present day, paid the principal of these claims; and he would to-day pay any one of these awards that might be presented to him under the appropriation of 1823. That has been the invariable construction of the law.

The SPEAKER. The only point in connection with the question of order is, whether or not Congress provided for the payment of interest on these claims? If Congress did not provide for the payment of interest, as provided for by this resolution, then it would seem to be a new appropriation.

Mr. HOUSTON. Well, the Secretary of the Treasury has decided that interest cannot be paid under existing laws.

The SPEAKER. The Chair is inquiring for information, desiring to decide the question properly, under the rules. If the effect of this resolution is to appropriate money out of the Treasury not heretofore appropriated, it must go to the Committee of the Whole on the state of the Union.

Mr. STANTON. That is not the case. The language of the law is express. A general appropriation was made in the act of March 3, 1823.

The SPEAKER. What is the character of that general appropriation?

Mr. STANTON. It is this:

"That in all cases in which said judges shall decide in favor of the claimants, the decisions, with the evidence on which they are founded, shall be by said judges reported to the Secretary of the Treasury, who, on being satisfied that the same are justly and equitably within the provisions of said treaty, shall pay the amount thereof to the person or persons in whose favor the same are adjudged, out of any money in the Treasury not otherwise appropriated."

Mr. HOUSTON. I would like to hear the gentleman read half a dozen lines on the next page of the report, showing what Congress thought upon the subject.

Mr. STANTON. The gentleman from Alabama is mistaken about the law of 1836. The first section of that law did make an appropriation for a few cases previously decided in favor of these claimants, but the second section provides for the adjudication of all future cases to be presented to the board, and the Secretary of the Treasury has always paid the awards made under that second section out of the appropriation made by the act of 1823. The appropriation in the first section was made simply for those cases that had been rejected by the Secretary of the Treasury. The second section provides for the adjudication of other cases, and the Secretary of the Treasury has always paid the awards in those cases without any appropriation being made, other than that made by the act of 1823.

The SPEAKER. The Chair has made these inquiries in the hope of getting at the facts which would govern the case. If the resolution appropriates money, it must be considered in the Committee of the Whole on the state of the Union. If this joint resolution be merely explanatory of an act appropriating money, it need not go to the Committee of the Whole on the state of the Union.

Mr. STANTON. Exactly; and it is merely explanatory.

Mr. JONES, of Tennessee. I wish to call the attention of my colleague [Mr. STANTON] to the provision of the act of 1823. It authorizes the Secretary of the Treasury to pay the award of the judges, if the Secretary be satisfied that the same is justly and equitably within the provisions of the treaty. Now, sir, I wish to ask my colleague, if the Secretary of the Treasury has not paid every dollar of these awards which he considered to be justly and equitably within the provisions of the treaty?

Mr. KERR. I rise to a point of order. This is a debate on the main question after the previous question has been called for, and therefore is out of order.

The SPEAKER. The Chair would state, that remarks of gentlemen must have a bearing upon the question of order only.

Mr. JONES. My object is to show that this resolution does make an appropriation, and therefore my remarks apply to the question of order. If the Secretary of the Treasury, being vested with the discretionary power to revise the decrees of these judges, has paid all that he, in his discretion, thought the claimant entitled to, under these awards and under the treaty, then there is no money in the Treasury appropriated for the payment of the balance of these claims; and in order to pay such balance, this resolution must make an additional appropriation.

Mr. STANTON. Mr. Speaker, my friend and colleague [Mr. JONES] must see that his statement goes to the whole merits of this case. Now, I take these words of the act to be just the same as if it had said that the Secretary, on being satisfied that these claims are justly and equitably within the provisions of the treaty, is to pay the award—not a part of the award—but the whole award. Now, the Secretary has decided that these claims are justly and equitably within the provisions of the treaty, but he has paid only a part of the award, and not the whole of it, as the act of 1823 directed him to do.

[Loud cries of "Question!" "Question!"]

Mr. ORR. Has the question of order raised by the gentleman from Alabama [Mr. HOUSTON] been decided yet?

The SPEAKER. The Chair has not yet decided the question of order, the Chair not having had time to look particularly into the various acts having a bearing on this question. The Chair is, however, inclined to think that this resolution is rather in the nature of an explanatory law.

Mr. KERR. Certainly it is.

Mr. HOUSTON. Mr. Speaker, I have the law now before me.

The SPEAKER. The Chair would like to hear it read.

Mr. HOUSTON. Then I refer to the sixteenth section.

The section was read by the Clerk. It provides, that in respect to any sum which shall have remained unexpended, on any appropriation other than that for the payment of interest on the funded debt, for the payment of interest upon and reimbursement according to contract of any loan or loans made on account of the United States, for the purpose of a sinking fund, or for any purpose in respect to which a longer duration is specially assigned by law, for more than two years after the expiration of the calendar year in which the act of appropriation shall have been passed, such appropriations shall be deemed to have ceased, and the sum so unexpended shall be carried to an account on the books of the Treasury, to be named the surplus fund.

Mr. DUNHAM. I do not think that that law has any bearing on this case, because as it is a continuing appropriation until the claims are paid, there clearly has not been any surplus in the Treasury to carry to the general fund.

Mr. HOUSTON. If the subject be debatable, I desire to reply to the gentleman from Indiana, [Mr. DUNHAM,] by saying that this law makes its own exception, and the only exception in which the money not carried back to the surplus fund is to be applied.

Mr. DISNEY. I desire to say one word in reference to this joint resolution.

The SPEAKER. The Chair will be pleased to hear the remarks of the gentleman from Ohio, if the House consent.

There being no objection—

Mr. DISNEY. It is apparent from the phraseology and the terms of the law of 1823, that there is no specific appropriation for this purpose, no setting apart of any fixed, determinate and named sum. It merely authorizes the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, these awards. Now, I ask the gentleman from Alabama, [Mr. HOUSTON,] how is it possible to turn the whole Treasury back into itself? How can there be a lapse, sir, of a sum not specifically set apart? There never has been yet a separation for this appropriation from the funds of the Treasury. And until such separation shall have taken place, by virtue of an act making a specific and determinate appropriation, the extension of the general act of limitation for two years cannot apply. There is no application of the law of this case as to any definite fixed sum, nor can there be in such case, where the charge is general that the officers of the Government shall determine claims. The act simply is, that the Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, such awards of the judges as he shall deem to come justly and equitably within the provisions of the treaty.

The SPEAKER. The Chair understands that Congress passed an act authorizing the Secretary of the Treasury to pay, out of any money in the Treasury, such awards as he should consider to be justly and equitably within the meaning of the provisions of the treaty of 1819?

Mr. DISNEY. Yes, sir.

The SPEAKER. The judges awarded interest; the Secretary of the Treasury has not seen fit, or did not consider it proper, under the law, to pay the interest. This resolution, the Chair understands, is to explain how the law was meant by Congress to be interpreted, and is not an appropriation in the sense the gentleman from Alabama puts it.

Mr. STANTON. I desire simply to say, that I hold in my hand the opinion of the Attorney General of the United States on this subject.

[Loud cries of "Question!" "Question!"]

Mr. ORR. I hope the gentleman from Tennessee [Mr. STANTON] will withdraw his demand for the previous question.

[Cries of "No!" "No!" and "Question!"]

Mr. HAMILTON. I move that the House do now adjourn.

Mr. ORR. This bill proposes to appropriate $1,000,000, or upwards, and we should have some discussion upon it. I hope, therefore, the gentleman will withdraw his demand for the previous question.

The demand for the previous question was not withdrawn.

Mr. ORR. Then I move that the House do now adjourn; and on that motion I call for tellers.

The yeas and nays were demanded, and ordered.

Mr. BOCOCK. I rise to a privileged motion, that when the House adjourns, it adjourn to meet to-morrow at eleven o'clock, a. m. To-morrow is set apart, by the special order of the House, for the consideration of business reported from the Committee on Naval Affairs, and I hope the House will agree to my motion, so that we may have time to get through with the business of that committee.

Mr. WALSH. I object.

Mr. BOCOCK. But is not the question a privileged one?

The SPEAKER. The House can adjourn over for three days at a time, but it cannot change the fixed time of meeting unless by the unanimous consent of the House.

The question was then taken upon Mr. ORR's motion; and there were—yeas 61, nays 112; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, Barry, Benton, Bugg, Chamberlain, Chastain, Chrisman, Clark, Clingman, Cobb, Cook, Craige, John G. Davis, Dowdell, Eastman, Eddy, Ellison, Flagler, Goode, Hamilton, Sampson W. Harris, Hastings, Haven, Henn, Hibbard, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Kidwell, Kittredge, Kurtz, Letcher, Lilly, McCullough, McMullin, McQueen, Middleswarth, Millson, Morgan, Murray, Noble, Olds, Orr, Parker, Bishop Perkins, Phelps, Pringle, Ruffin, Russell, George W. Smyth, Stratton, Andrew Stuart, David Stuart, John J. Taylor, Thurston, Vail, Wade, Walsh, and Daniel B. Wright—61.

NAYS—Messrs. Aiken, Appleton, Ball, Barksdale, Belcher, Bell, Bennett, Bliss, Breckinridge, Bridges, Bristow, Brooks, Campbell, Carpenter, Caruthers, Chandler, Chase, Churchwell, Corwin, Crocker, Cullom, Cutting, Thomas Davis, De Witt, Dickinson, Disney, Dunbar, Dunham, Edmands, Edmundson, Thomas D. Eliot, English, Etheridge, Everhart, Farley, Faulkner, Fenton, Florence, Franklin, Goodwin, Green, Greenwood, Grey, Grow, Aaron Harlan, Andrew J. Harlan, Wiley P. Harris, Hiester, Hill, Houston, Howe, Hughes, Hunt, Kerr, Knox, Latham, Lindley, Lindsley, McDougall, Mace, Macy, Matteson, Maurice, Maxwell, May, Mayall, Morrison, Nichols, Norton, Andrew Oliver, Mordecai Oliver, Peck, Pennington, John Perkins, Phillips, Pratt, Preston, Puryear, Ready, Reese, Richardson, Riddle, David Ritchie, Thomas Ritchey, Robbins, Rogers, Rowe, Sabin, Sage, Sapp, Seward, Shower, William Smith, William R. Smith, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, John L. Taylor, Nathaniel G. Taylor, Tracy, Trout, Upham, Walbridge, Walker, Walley, Elihu B. Washburne, Israel Washburn, John Wentworth, Tappan Wentworth, Westbrook, Witte, Yates, and Zollicoffer—112.

So the House refused to adjourn.

The SPEAKER. The question now is upon seconding the demand for the previous question.

Mr. CLINGMAN. Upon what is the previous question demanded?

The SPEAKER. Upon ordering the resolution to be engrossed and read a third time.

The question was then taken; and, upon division, there were—ayes 68, noes 62.

Mr. OLDS demanded tellers; which were ordered; and Messrs. STUART, of Ohio, and PERKINS, of New York, were appointed.

The question was taken; and the tellers reported —ayes 85, noes 63.

So there was a second to the demand for the previous question.

Mr. HIBBARD. I move that the House adjourn; and upon that motion I demand tellers.

Tellers were ordered; and Messrs. WITTE and PECKHAM were appointed.

The question was taken; and the tellers reported —ayes 72, noes 76.

Mr. HIBBARD demanded the yeas and nays; which were ordered.

The question was taken; and there were—yeas 86, nays 89; as follows:

YEAS—Messrs. Aiken, Willis Allen, Barksdale, Barry, Belcher, Benton, Bocock, Boyce, Bugg, Chamberlain, Chrisman, Clark, Clingman, Cobb, Cook, Cox, Craige, John G. Davis, Thomas Davis, De Witt, Dowdell, Eastman, Eddy, Edmundson, Ellison, Florence, Fuller, Gamble, Giddings, Goode, Greenwood, Grow, Hamilton, Sampson W. Harris, Hastings, Haven, Henn, Hibbard, Houston, Hughes, Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Kittredge, Latham, Letcher, Lewis, Lilly, McCulloch, Macdonald, McMullin, McQueen, Millson, Morgan, Morrison, Murray, Noble, Orr, Packer, Parker, Peck, Bishop Perkins, John Perkins, Phelps, Preston, Pringle, David Ritchie, Ruffin, Russell, Sage, William Smith, George W. Smyth, Solters, Stratton, Andrew Stuart, David Stuart, John J. Taylor, Vail, Vansant, Wade, Walsh, Elihu B. Washburne, John Wentworth, and Hendrick B. Wright—86.

NAYS—Messrs Appleton, Ball, Bell, Bennett, Benson, Bliss, Breckinridge, Bridges, Bristow, Campbell, Carpenter, Caruthers, Chandler, Chase, Corwin, Crocker, Cullom, Cutting, Dickinson, Disney, Dunbar, Dunham, Edmands, Thomas D. Eliot, English, Etheridge, Everhart, Farley, Faulkner, Fenton, Goodwin, Green, Grey, Aaron Harlan, Andrew J. Harlan, Wiley P Harris, Hiester, Hill, Howe, Hunt, Kerr, Knox, Lindley, Lindsley, McDougall, Mace, Macy, Matteson, Maurice, Maxwell, May, Mayall, Nichols, Norton, Andrew Oliver, Mordecai Oliver, Peckham, Pennington, Pratt, Puryear, Ready, Reese, Thomas Ritchey, Rogers, Rowe, Sabin, Sapp, Seward, Seymour, Shower, William R. Smith, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, John L. Taylor, Nathaniel G. Taylor, Tracy, Trout, Upham, Walbridge, Walker, Walley, Israel Washburn, Tappan Wentworth, Westbrook, Witte, Yates, and Zollicoffer—89.

So the House refused to adjourn.

Mr. ORR. I move to lay the resolution upon the table; and upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HAMILTON. I now move that the House adjourn.

Mr. FAULKNER. I appeal to the gentleman from Maryland to withdraw that motion for one moment, in order to allow me to give a notice to the House.

Mr. HAMILTON. Is it a notice only?

Mr. FAULKNER. It is simply a notice.

Mr. HAMILTON. I then withdraw my motion for that purpose.

Mr. FAULKNER. I have been struggling to get the floor to-day for the purpose of making a motion to have next Wednesday set apart for the consideration of the Army appropriation bill, and the bill to increase the Army. I have not succeeded in doing so, and I now simply desire to give notice to the House that, in consideration not only of the urgency of this public measure, but on account of my being necessarily absent next week, I will ask that Wednesday next be set apart for the consideration of these bills.

Several MEMBERS objected.

While the treaty bill was under consideration,

A message was received from the Senate, by the hands of ASBURY DICKINS, their Secretary, informing the House that they had passed Senate bill (No. 633) for the relief of the heirs and legal representatives of Gerard Wood, deceased; in which they asked the concurrence of the House.

Mr. HAMILTON. I now move that the House adjourn.

The question was taken; and it was decided in the affirmative.

And the House thereupon, at fifty minutes past three o'clock, adjourned till to-morrow at twelve o'clock, m.

IN SENATE.

TUESDAY, *February* 13, 1855.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

ENROLLED BILLS SIGNED.

The following enrolled bills were severally signed by the PRESIDENT *pro tempore*, they having previously received the signature of the Speaker of the House:

An act for the relief of Lieutenant J. C. Cartter;

An act for the relief of the heirs of Larkin Smith;

An act to change the name of the schooner Henry Plantagenet to that of A. G. Brown;

An act to divide the State of Illinois into two judicial districts;

An act to continue temporarily the offices of register and receiver at Vincennes;

An act for the relief of Samuel McKnight, of the State of Kentucky;

An act for the relief of William Wallace, of Illinois;

An act for the relief of Lieutenant George H. Paige, of the United States Army;

An act to provide a pension for Oliver Brown, of Chemung county, New York;

An act to provide a pension for Edmund Mitchell, of Carroll county, in the State of Kentucky;

An act for the relief of John Brown, second, of New Hampshire;

An act for the relief of John H. Hicks, of Indiana;

An act for the relief of Abraham Ausman;

An act for the relief of John Cole;

An act for the relief of George Lynch;

An act for the relief of George Elliot;

An act for the relief of George J. Rallston;

An act for the relief of William Gove;

An act for the relief of William Parker;

An act granting bounty land to Cornelius Coffey;

An act for the relief of Eleanor Hoople, of the Province of Canada;

An act for the relief of the legal representatives of John Putnam;

An act for the relief of Sidney P. Pool, of the State of Maine;

An act for the relief of Lincoln Bates;

An act for the relief of Polly Carver, widow and executrix of Nathan Carver, deceased;

An act for the relief of William Case;

An act for the relief of Gilbert C. Russell; and

An act for the relief of the widow and children of Ezra Chapman, deceased.

CREDENTIALS PRESENTED.

Mr. WADE presented the credentials of the Hon. WILLIAM H. SEWARD, chosen by the Legislature of the State of New York a Senator from that State for six years from the 4th of March, 1855, when his present term will expire. The credentials were read, and ordered to be filed.

Mr. MORTON presented the credentials of the Hon. DAVID L. YULEE, chosen by the Legislature of the State of Florida a Senator from that State for the term of six years from the 4th of March, 1855; which were read, and placed on file.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the

Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate, further correspondence in relation to the balance dock, basin, and railway at the Pensacola navy-yard; which, on motion by Mr. MORTON, was referred to the Committee on Naval Affairs, and ordered to be printed.

PETITIONS, ETC.

Mr. GWIN presented the memorial of A. H. Mechlin, in behalf of the families of the officers and crew of the United States schooner Sea Gull, praying that the same relief may be extended to them as has been granted by acts of Congress in similar cases; which was referred to the Committee on Naval Affairs.

Mr. DOUGLAS presented the petition of Jacob Cutter, R. C. Cutter, Horatio Coffice, and Charles W. March, sureties of Charles W. Cutter, late navy agent at the Portsmouth navy-yard, praying to be released from liability on their surety bonds; which was referred to the Committee on Naval Affairs.

Mr. BROWN presented the memorial of Lenman & Co., practical engineers, proposing to contract with the Government for supplying the city of Washington with water, on a plan cheaper and more effectual than any yet proposed; which was referred to the Committee on the District of Columbia.

Mr. GEYER presented the memorial of Adam D. Stuart, late inspector of the customs for the district of Michilimackinac, praying to be released from a judgment obtained against him by the United States; which was referred to the Committee on the Judiciary.

REPORTS FROM STANDING COMMITTEES.

Mr. HAMLIN, from the Committee on the Post Office and Post Roads, to whom was referred a bill to establish a semi-monthly line of steamships from San Francisco, in the State of California, to Puget's Sound, in the Territory of Oregon, reported it back with an amendment in the form of a substitute.

Mr. SUMNER, from the Committee on Pensions, to whom were referred additional documents in the case of Mrs. Lewright Browning, submitted a report, accompanied by a bill to continue half-pay to Mrs. Lewright Browning for a further term of five years; which was read, and passed to a second reading. The report was ordered to be printed.

Mr. RUSK, from the Committee on the Post Office and Post Roads, to whom was referred the memorial of Richard S. Coxe, praying to be allowed remuneration for legal services rendered as counsel for the Post Office Department, submitted a report, accompanied by a bill for his relief; which was read, and passed to a second reading. The report was ordered to be printed.

He also, from the same committee, to whom the subject was referred by the annual report of the Postmaster General, reported a bill to provide for the greater security of valuable letters conveyed in the mails of the United States; which was read and passed to a second reading.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the petition of G. A. Magruder, of the United States Navy, praying to be allowed the difference of pay between a lieutenant and captain during the time he acted as captain, submitted a report, accompanied by a bill for his relief; which was read and passed to a second reading. The report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Captain James Mc. McIntosh, praying compensation for losses sustained by the wreck of the United States schooner Firebrand, in 1819, submitted a report, accompanied by a bill for his relief; which was read, and passed to a second reading. The report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of C. W. Reed and others, citizens of Sackett's Harbor, asking for the removal of the obstructions in that harbor, caused by the gravel washed there from Navy Island, on account of the trees being cut down by order of the United States Government; and also the removal of the decayed hulk of a United States brig of war lying in the harbor; and also the construction of a dock, submitted a report, accompanied by a bill for the removal of obstructions from Sackett's Harbor; which was read, and passed to a second reading. The report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Surgeon J. Winthrop Taylor, of the United States Navy, praying to be allowed the difference of pay between the grade of assistant surgeon and that of surgeon, during the period he was acting in the latter grade, submitted an adverse report thereon; which was agreed to, and ordered to be printed.

Mr. EVANS, from the Committee on Revolutionary Claims, to whom was referred the petition of Maria Stevenson, praying to be allowed the commutation pay to which her husband, George Stevenson, was entitled for services as a surgeon's mate in the general hospital, during the revolutionary war, submitted a report, accompanied by a bill for her relief; which was read, and passed to a second reading. The report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of the heirs of John De Treville, for commutation pay, submitted a report, accompanied by a bill for the relief of the heirs and legal representatives of Captain John De Treville, deceased; which was read, and passed to a second reading. The report was ordered to be printed.

Mr. SLIDELL, from the Committee on Roads and Canals, to whom was referred a petition of citizens of Illinois, in relation to a subterranean telegraph from St. Louis to San Francisco, asked to be discharged from its further consideration; which was agreed to, the Senate having passed a bill of a like character.

He also, from the same committee, to whom was referred the petition of the Board of Trade of the city of Cleveland, Ohio, praying the construction of a ship canal around the falls of Niagara, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

He also, from the same committee, to whom was referred the petition of E. G. Chambers and others, proposing to construct a wagon road between the Mississippi river and the Pacific ocean, upon certain conditions, asked to be discharged from its further consideration, and that it be referred to the select committee on the Pacific railroad; which was agreed to.

LIGHT-HOUSES IN CALIFORNIA.

Mr. GWIN presented the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of providing for the building of light-houses at Crescent City and Trinity Bay, in the State of California.

NEW POST ROUTE.

Mr. BELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads inquire into the expediency of establishing a post route between Paris, in the State of Tennessee, and Elm Tree, in the same State.

BILLS INTRODUCED.

Mr. CLAYTON asked and obtained the unanimous consent of the Senate to introduce a bill for the relief of William Hunter; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. GWIN asked and obtained the unanimous consent of the Senate to introduce a joint resolution in relation to manifests in certain cases; which was read twice by its title, and referred to the Committee on Commerce.

Mr. CHASE asked and obtained the unanimous consent of the Senate to introduce a bill to increase the compensation of the collectors of the customs at Toledo and Cleveland, Ohio; which was read twice by its title, and referred to the Committee on Commerce.

Mr. THOMPSON, of Kentucky, asked and obtained the unanimous consent of the Senate to introduce a bill for the relief of Katherine M. Hamer, widow of General Thomas L. Hamer; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. WADE asked and obtained the unanimous consent of the Senate to introduce the following bills; which were read twice by their titles, and referred to the Committee on Commerce:

A bill to continue the improvement of the harbor of Conneaut, Ohio;

A bill to continue the improvement of the harbor of Ashtabula, Ohio;

A bill to continue the improvement of the harbor of Fairport, Ohio;

A bill to continue the improvement of the harbor of Cleveland, Ohio;

A bill to continue the improvement of the harbor of Huron, Ohio;

A bill to continue the improvement of the harbor of Sandusky City, Ohio; and

A bill to continue the improvement of the harbor at the mouth of Black river, Ohio.

Mr. MORTON asked and obtained the unanimous consent of the Senate to introduce a bill for the continuation and completion of the surveys for a canal route across the Isthmus of Florida; which was read twice by its title, and referred to the Committee on Commerce.

Mr. JONES, of Iowa, asked and obtained the unanimous consent of the Senate to introduce a bill to continue the improvement of the harbor of Dubuque, on the Mississippi river, in the State of Iowa; which was read twice by its title, and referred to the Committee on Commerce.

Mr. GWIN asked and obtained the unanimous consent of the Senate to introduce a bill to complete the fortifications at Fort Point, and on Alcatras Island, in the harbor of San Francisco, in the State of California; which was read twice by its title, and ordered to lie on the table for the present.

EMIGRANT PASSENGER VESSELS.

On motion by Mr. GWIN, the bill for the better protection of life and health on board of passenger ships, was referred to the Committee on Commerce.

WILLIAM HAGERTY.

Mr. CHASE. I am instructed by the Committee on Claims, to whom was referred House bill for the relief of William Hagerty, to report it back with a recommendation that it pass, and to ask for its consideration at this time. I will state that it is a bill for the relief of a laborer who has been engaged in grading the streets of this city, whose claim for relief is certified to by the Commissioner of Public Buildings, and by the engineer in charge of the work. The committee believe it to be perfectly just, and one of those claims that ought to be acted on at once.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. Its object is to direct the payment of $964 80 to William Hagerty, in full payment of his claim for grading the street around the Capitol inclosure.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ST. PETER'S RESERVE.

Mr. STUART. I am instructed by the Committee on Public Lands to report back, without amendment, the bill from the House of Representatives to amend the act approved the 26th of August, 1852, entitled, "An act to reduce and define the boundaries of the military reserve at St. Peter's river, in the Territory of Minnesota," and for other purposes. As there is no representative from that Territory here, I ask unanimous consent now to consider the bill. It is recommended in all its parts, and indeed prepared by the General Land Office. There is no objection to it.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to amend the act of August 26, 1852, so that the lands authorized to be sold at public sale by that act, shall be subject to the operation of the laws regulating the sale and disposition of the public lands; but where any of the lands are claimed by preëmption, under settlement and cultivation, made prior to the passage of this bill, proof and payment shall be made within three months after its passage. It further provides that the Rev. C. J. Geer shall be authorized to enter certain lots in the Minneapolis land district, at $1 25 per acre.

Mr. CHASE. I wish to inquire of the Senator who reported this bill from the Committee on Public Lands, whether it is a bill to reduce the military reservation at Fort Snelling?

Mr. STUART. It is not to reduce it. I will

state to the Senator that the reservation was reduced by the former act. The effect of this bill is simply to apply the public land laws to the amount which was taken off the reservation, and to secure the preëmption of a certain clergyman referred to in the bill, all of which is recommended specifically by the General Land Office.

Mr. CHASE. I hope the bill will be laid over until to-morrow. I think it will be necessary to move an amendment to it.

The PRESIDENT. Objection being made, the bill will lie over until to-morrow.

MEDFORD CAFFEY.

Mr. CLAY. The Committee on Claims, to whom was referred House bill for the relief of Medford Caffey, of the State of Tennessee, have instructed me to report it back, and recommend its passage. It is a bill to pay $106 for the loss of a horse for the want of forage which should have been furnished him by the Government, in the Seminole war of 1818. I think that the Senate had better take it up and pass it at once. The claim is well sustained by the testimony.

There being no objection, the bill was considered as in Committee of the Whole. Its object is to direct the payment of $106 to Medford Caffey, in full compensation for his horse and equipment, lost in the campaign of 1818 with the Seminoles.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHARLES PETTIT.

Mr. GWIN. I am instructed by the Committee on Finance to report a joint resolution for the relief of Charles Pettit, and to ask for its consideration now.

The joint resolution was read twice, by unanimous consent, and considered as in Committee of the Whole. The Secretary of the Treasury will be directed by it to pay to Charles Pettit, a messenger in the office of the Secretary of the Treasury, $250 per annum from July 1, 1851, to January 1, 1855, for services rendered in carrying the mail.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

TELEGRAPH TO THE PACIFIC.

Mr. DOUGLAS. The Committee on Territories, to whom was referred the amendments of the House to the bill of the Senate authorizing the construction of a subterranean line of telegraph from the Mississippi or Missouri river to the Pacific ocean, have instructed me to recommend the Senate to concur in the amendments. The House amendment is in the form of a substitute which strikes out of the bill the grant of land, so that it simply gives the right of way. They also strike the word "subterranean" out of the title. I hope the amendments will be considered now.

The amendments were concurred in.

TERRITORIAL PUBLIC BUILDINGS.

Mr. DOUGLAS. The Committee on Territories, to whom was referred the House bill making an appropriation for completing the public buildings of Oregon and Minnesota Territories, have instructed me to report it back without amendment, and to recommend its passage. I ask for its immediate consideration.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

It will appropriate $67,000 to defray the expenses of completing the public buildings in the Territory of Oregon, which are now commenced and partially completed: $40,000 of which are to be expended, according to the provisions of the act of the Legislative Assembly relating to the public buildings of the Territory, in completing the penitentiary; and $27,000, according to the provisions of that act, in completing the state-house, or house for the meeting of the Legislative Assembly. The commissioners elected to superintend the erection of those buildings, are to cause the money to be so expended as to insure their completion without additional expense to the United States. It will also appropriate $11,500 to complete the territorial capitol, and build a work-shop for the territorial prison, in the Territory of Minnesota, in accordance with estimates made by the agent appointed by the Secretary of the Treasury, the sum to be expended under the direction of the Secretary of the Treasury.

No amendment being proposed, the bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MINNESOTA MILITARY ROADS.

Mr. DOUGLAS. The Committee on Territories, to whom was referred House bill making appropriations for improving certain military roads in the Territory of Minnesota, have also instructed me to report it back without amendment, and ask its immediate consideration.

The Senate, as in Committee of the Whole, proceeded to cons der the bill.

It proposes to appropriate, for cutting out the timber on the territorial road from the Falls of St. Anthony to Fort Ridgely, $5.000, and for cutting out the timber on the road from Fort Ripley, via Crow Wing river, to the point where the road intersects the main road leading to the Red river of the north, $10,000; to be expended under the direction of the Secretary of War.

No amendment being proposed, the bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MILITARY ROAD IN OREGON.

Mr. DOUGLASS. The Committee on Territories have also instructed me to report back to the Senate House bill for the construction of a military road in Oregon Territory, recommend its passage, and ask for its immediate consideration.

The Senate, as in Committee of the Whole, considered the bill.

The sum of $30,000 is to be appropriated for the construction of a military road from Astoria to Salem, in the Territory of Oregon; the road to be constructed under the direction of the Secretary of War, pursuant to contracts to be made by him.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MISSOURI CIRCUIT COURT.

Mr. GEYER. The Committee on the Judiciary, to whom was referred the bill to provide for the holding of an additional term of the circuit court of the United States in the district of Missouri, have instructed me to report it back with an amendment. I ask for its immediate consideration.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment of the Committee on the Judiciary was to strike out the following:

SEC. 4. *And be it further enacted*, That as a full compensation for all such services as may be required by this act, said district judge shall receive, in addition to the compensation now allowed, the sum of $500 per annum, payable in the same manner as his regular salary.

The amendment was agreed to.

Mr. CHASE. I should be glad to have an amendment made to the bill authorizing an additional term for the district court of the northern district of Ohio. The bill which has recently passed the Senate, dividing the State of Ohio into two districts, does not authorize a special term of that court, and, in consequence of that, no term can be held, under the present provisions of the law, until July. There will be great inconvenience in the trial of causes arising from that fact.

Mr. HUNTER. Let the bill go over until to-morrow.

The PRESIDENT. Does the Senator object to the consideration of the bill?

Mr. CHASE. I do, until to-morrow.

The further consideration of the bill was postponed until to-morrow.

CUMBERLAND ROAD IN ILLINOIS.

Mr. SLIDELL. The Committee on Roads and Canals, to whom was referred House bill to cede to the State of Illinois that part of the Cumberland road lying within said State, have instructed me to report it back without amendment, and recommend its passage. The bill is identical in its terms with one which has been passed for the benefit of the State of Indiana. If there be no opposition, I ask that it may be put upon its passage.

Mr. HUNTER. I hope not. I trust it will go over until to-morrow.

Mr. SLIDELL. It will not take but a minute.

The Senate proceeded, as in Committee of the Whole, to consider the bill. It proposes to cede to the State of Illinois the portion of the road lying within its limits, and all the stone, timber, and other materials furnished by the United States for its use.

The bill was reported to the Senate without amendment.

The PRESIDENT. Shall the bill be read a third time?

Mr. STUART. On that question I desire to have the yeas and nays. I want to test the right to give away the property.

The yeas and nays were ordered.

Mr. SLIDELL. I merely wish to repeat the explanation which I have made. The bill is identical in its terms with one which has been passed ceding to the State of Indiana that portion of the Cumberland road lying within the limits of that State.

Mr. HUNTER. I hope it will go over until to-morrow. That was the understanding. I should like to look into it myself, if there is any doubt about it. I want to get up the Indian appropriation bill now.

The further consideration of the bill was postponed until to-morrow.

NEBRASKA TERRITORIAL ROAD.

Mr. JONES, of Iowa. I am instructed by the Committee on Territories, to whom was referred House bill making an appropriation for a territorial road in the Territory of Nebraska, to report it back; and ask for its immediate consideration.

The Senate, as in Committee of the Whole, considered the bill.

For the purpose of constructing a territorial road from a point on the Missouri river, (opposite the city of Council Bluffs,) in the Territory of Nebraska, to New Fort Kearny, in the Territory the sum of $50,000 is to be appropriated.

No amendment being proposed, the bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

INDIAN APPROPRIATION BILL.

Mr. HUNTER. I move to postpone all prior orders for the purpose of taking up the Indian appropriation bill.

Mr. JOHNSON. There is a little bill on the table, which will be a great relief to the people in Oregon, who have to travel perhaps three hundred and fifty miles to reach a land office. I will ask the Senator to let me get that bill up, giving them an additional land office.

Mr. HUNTER. I will go with the Senator to-morrow to get it up; but the hour has now arrived for proceeding with the consideration of the Indian appropriation bill.

Mr. JOHNSON. I would assent to the suggestion to let it go over until to-morrow, but the Delegate from that Territory is about leaving, and would desire to report upon this matter. There is now but one land office in the whole Territory of Oregon, one of the largest Territories, if not the very largest that we have ever created. I fear I may not get the floor to-morrow.

The PRESIDENT. Does the Senator from Virginia insist on his motion?

Mr. WELLER. I think the Senate had better take up the resolution which I offered several days ago, to change the hour of meeting.

Mr. JOHNSON I withdraw my request.

Mr. HUNTER. I insist on my motion.

The motion was agreed to; and the Senate, as in Committee of the Whole, accordingly proceeded to consider the bill from the House, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, the pending question being on the following amendment, proposed by Mr. SHIELDS, from the Committee on Military Affairs, as an additional section:

SEC. —. *And be it further enacted*, That the proper accounting officers of the Treasury be, and they are hereby, authorized to allow the paymasters of the United States Army, who served as such in Mexico during the war with that Republic, commissions of one and a half per centum on all moneys collected or received and paid over by them into the Treasury of the United States, arising from duties on imports, and from internal assessments and taxes in Mexico during that war: *Provided*, That no commission shall be allowed on any such sums of money so collected or received, on which commissions have heretofore been allowed to any other collector, or receiver, or other officer of the United States.

Mr. GWIN. While I might be willing to vote for this proposition as a private bill, or as an amendment to another appropriation bill to which

it would be pertinent, I cannot vote to put it on the Indian appropriation bill. I shall vote against it, though not opposed to the proposition at all; but simply because I think it is not right to put it on this bill.

Mr. HUNTER. I think it is a matter for the consideration of the Senate, whether they will resort to incongruous legislation of this sort. The subjects certainly are not related. This is all I have to say on it. I do not know anything about the justice of the claim; it may be a goodone; but I protest against putting it on this bill.

The PRESIDENT. The Senate yesterday decided, on the yeas and nays, that the amendment was in order. But for that, the Chair would readily decide the question which is presented.

Mr. HUNTER. I do not raise any question of order.

Mr. SHIELDS. I think it was almost unanimously conceded yesterday that this was a just amendment, and the only objection made at the time was that it was not in order. That question having been decided, I should fear if there were an adverse vote now on the case, it would prejudice it hereafter. This winds up an old matter, and really I wish to see it done before I take my leave of this body.

The amendment was agreed to.

Mr. SEBASTIAN. I ask leave now to offer, from the Committee on Indian Affairs, two or three amendments which were omitted by mistake yesterday. The first amendment which I now offer is intended to carry out the late treaty with the Chippewas. It involves the insertion of several items, and the striking out of some already in the bill. It is to strike out the following items from the appropriations for the Chippewas of Mississippi and Lake Superior, which have become unnecessary in consequence of the late treaty:

For nineteenth of twenty installments for the establishment of three smiths' shops, supporting the smiths, and furnishing iron and steel, per second article treaty 29th July, 1837, $3,000.

For nineteenth of twenty installments for the support of farmers, purchase of implements, grain and seed, to carry on their agricultural pursuits, per second article of treaty 29th July, 1837, $1,000.

For fourteenth of twenty-five installments for the support of two smiths' shops, including the pay of two smiths and assistants, and furnishing iron and steel, per fourth article treaty 4th October, 1842, $2,000.

For fourteenth of twenty-five installments for the pay of two farmers, per fourth article of treaty 4th October 1842, $1,000.

For fourteenth of twenty-five installments for the pay of two carpenters, per fourth article treaty 4th October, 1842, $1,200.

And in lieu of these items to insert the following:

For fulfilling treaties with the Chippewas of Lake Superior.

For expenses (in part) of selecting reservations, and surveying and marking the boundaries thereof, per 2d, 3d, and 12th articles of the treaty of September 30, 1854, $3,000.

For the payment of the first of twenty installments in coin, goods, &c., agricultural implements, &c., and education, &c., per 4th article of the treaty of September 30, 1854, $9,000.

For the purchase of clothing and other articles to be given to the young men at the next annuity payment, as per 4th article of the treaty of September 30, 1854, $4,800.

For the purchase of agricultural implements and other articles, as presents for the mixed bloods, per 4th article of the treaty of September 30, 1854, $6,000.

For the payment of such debts as may be directed by the chiefs in open council, and found to be just and correct by the Secretary of the Interior, per 4th article of the treaty of September 30, 1854, $90,000.

For the payment of such debts of the Bois Forte band as may be directed by their chiefs, and found to be just and correct by the Secretary of the Interior, per 12th article of the treaty of September 30, 1844, $10,000.

For the payment of the first of five installments in blankets, cloth, &c., to the Bois Forte band, per 12th article of the treaty of September 30, 1854, $2,000.

For the first of twenty installments for the pay of six smiths and assistants, per 5th and 2d articles of the treaty of September 30, 1854, $5,040.

For the first of twenty installments for the support of six smith shops, per 5th and 2d articles of the treaty of September 30, 1854, $1,320.

The amendment was agreed to.

Mr. SEBASTIAN. Yesterday I offered to the Senate, as an amendment, a provision enabling the President to treat with the Stockbridge tribe of Indians; and it was adopted. Since then, on conference with the gentleman of the other House, representing the district in which that tribe is located, I have thought it proper to consent to some verbal alterations, and I hope that, by unanimous consent, the amendment, as I now offer it, will be substituted in place of that which was agreed to yesterday.

There being no objection, the following amendment was substituted in place of the one yesterday adopted on the same subject:

For the purpose of enabling the President to treat with, and arrange the difficulties existing among the Stockbridge and Munsee Indians, of Lake Winnebago, in the State of Wisconsin, growing out of the acts of Congress of the 3d of March, 1843, and August 6, 1846, and the treaty of the 24th of November, 1848, in such a manner as may be just to the Indians, and with their assent, and not inconsistent with the legal rights of white persons who may reside in the Stockbridge reservation, and of the claims of the United States under the treaty of 1848, the sum of $1,000.

Mr. SEBASTIAN. I have another amendment to offer from the Committee on Indian Affairs, as an additional section:

SEC. —. *And be it further enacted*, That the laws of the United States, punishing the crimes of forgery and depredations upon the mails of the United States be, and the same hereby are, extended to, and declared to be in force in, the Indian country.

This amendment is presented because it has been decided by the judge of the district court of the United States, for the western district of Arkansas, the jurisdiction of which extends over many of the Indian tribes, that these laws are not in force in the Indian country. This is to supply what, in the judgment of the committee, is a very defective provision of existing laws.

The amendment was agreed to.

Mr. SEBASTIAN. I have no more amendments to present from the Committee on Indian Affairs.

Mr. MALLORY. I have an amendment to offer, as an additional section:

SEC. —. *And be it further enacted*, That the President of the United States be authorized and directed to appoint two persons to investigate and collect proof, under the instructions of the Department of the Interior, on the depredations upon private property by the Indians in Florida, subsequent to the 25th of December, 1835; the report and testimony to be submitted to Congress at its next session.

I will say, in explanation of this amendment, that it is precisely similar to one which was adopted by the Senate at the last session of Congress, without any opposition whatever. It provides for a similar commission to that appointed in Georgia and Alabama, under a clause in an Army appropriation bill some years ago. It does not contemplate the appropriation of any money.

Mr. HUNTER. This seems to me to be of the same nature with the amendment in regard to California, which we voted down yesterday, and is liable to the same objection. It is to institute a roving commission, as was well said yesterday, for the purpose of ascertaining claims against the United States. I think it is time enough when they come here and are presented, to decide upon them.

Mr. MALLORY. I think the chairman of the Committee on Finance will agree with me, if he reflects, that when these claims come up here, Congress has no means of rebutting them, or meeting the testimony produced in their favor. The witnesses of the claims are now living, and they can be produced. This amendment is not introduced particularly to support the claims of the people of Florida, but to enable the Government to have the very best testimony on the subject, at the very cheapest rate. It leaves the President to appoint any two commissioners he pleases. Two officers of the Army were formerly appointed, who collected the testimony, but it has been entirely lost. It has gone from the Department, and nobody knows where. It is essential to the interests of the Government that this testimony should be taken. This provision was passed at the last session of Congress, without any opposition, in the Senate, but the House struck it out, with a great many other useful amendments. I trust it will now be adopted.

Mr. BROWN. It seems to me to be much more important to the interests of the Government, and much more secure, to require that some officer already in Florida, or in any other State where the testimony is needed, shall take it and have it properly attested and sent here. It seems to me to be an abuse to send out a commission to take testimony every time any one has a claim against the Government. It involves a great deal of expense. Why not authorize the district attorney of Florida, who has very little to do, I apprehend, to take this testimony?

Mr. CLAYTON. This is certainly the very same principle which was decided yesterday. It is proposed to send out another one of these commissions to take testimony, and the same ground is given which was given yesterday in favor of sending a commission to California. It is said that it is a commission to take testimony, to protect ourselves; but that is not the language of the amendment. It is to take testimony to substantiate the claims. I hope the Senate will adhere to the principle which was adopted yesterday, when the California proposition was presented.

Mr. CHASE. There is no limitation upon this amendment, which will restrict this investigation to any class of claims whatever. The commissioners might report claims entirely without the principle of the Indian intercourse, and thus furnish the material for protracted controversy here, without benefit either to the claimants or the Government.

Mr. MALLORY. In reply to the honorable Senator from Ohio, I will remind him that we have no intercourse act with the Indians of Florida. If we had, this testimony would not be essential; but, I repeat, it is for the interest of the Government that testimony should be taken by impartial persons, selected by the Government, as a check, if you please, on the claimants themselves; so that Congress may not be left, upon the presentation of the claims, to the testimony taken *ex parte*, and produced by the parties. It is not expressly for the interest of the State of Florida that this testimony should be taken. If the amendment should be rejected, I now predict that there will be an occasion when the Senate will recur to this debate, and see the necessity of having this testimony before them. The amendment contemplates no appropriation of money whatever. There is no limitation, to be sure, except as to time. It is to take testimony in relation to Indian depredations from the 25th of December, 1835, when hostilities began, down to the termination of hostilities.

Mr. TOUCEY. Mr. President, the difficulty in this class of cases is, that unless evidence is reported against a claim, it is regarded as supported by a commission from this Government to inquire into its validity; and thus, in the future, we shall be involved in greater difficulty in resisting groundless claims. My objection is, that it produces an exactly contrary effect from that which is proposed. Besides, sir, we have passed a bill in the Senate establishing a court of claims, designed to apply to all claims upon the Government. I hope that bill will be finally acted on, and become a law, in order that Congress may be relieved from this branch of inquiry. For both hese reasons I am opposed to this amendment.

Mr. WELLER. I shall vote for the proposition submitted by the Senator from Florida, and simply for this reason: When I am called upon here, as a Senator, to decide on the validity of any claim presented against the Government, I prefer having the whole testimony before me; I prefer having all the testimony which shows the whole transaction, and not to be confined to *ex parte* statements of the claimants themselves. If we do not adopt this provision, the people of Florida will constantly be presenting claims to the Committee on Indian Affairs, and calls will be made on Congress to pass on *ex parte* statements prepared by the claimants themselves. If there be commissioners appointed to go to Florida and investigate the claims, they can get at the truth, and report the testimony as well in favor of the Government as against it. Now, whenever a large amount of claims exist, which have been produced by a state of war, as was the case in Florida, I think it far better that the Government should take the necessary steps to get the whole testimony before Congress is called upon to decide on the validity of the claims. I think that, in the end, it will be a matter of economy; it will be a saving to the Government of the United States to have the just separated from the unjust, in order that we may have all the facts before we decide upon them. I shall vote for the amendment.

Mr. CLAYTON called for the yeas and nays, and they were ordered; and being taken, resulted —yeas 11, nays 29; as follows:

YEAS—Messrs. Dawson, Fitzpatrick, Gwin, Johnson, Mallory, Morton, Pettit, Rusk, Sebastian, Thomson of New Jersey, and Weller—11.

NAYS—Messrs. Adams, Allen, Bayard, Bell, Benjamin, Brainerd, Brown, Chase, Clay, Clayton, Dodge of Wisconsin, Douglas, Evans, Fessenden, Geyer, Gillette, Hamlin, Houston, Hunter, Jones of Tennessee, Pearce, Slidell, Stuart, Sumner, Thompson of Kentucky, Toucey, Wade, Wells, and Wilson—29.

So the amendment was rejected.

Mr. BROWN. I offer the following amendment:

SEC. —. *And be it further enacted*, That, in accordance with the memorial of the Menomonee Indians to the President and Congress, dated the 4th of October, 1854, and executed in general council of the nation, there be paid to Richard W. Thompson, as attorney for the said Indians, under an agreement with them for the prosecution of a claim in their behalf for additional compensation for lands ceded by them to the United States, by the treaty of 1848, such amount of compensation for the services performed by the said Thompson, as may be lawful and equitable, according to the judgment and decision of the First Comptroller of the Treasury. And that the same be paid to him by the Secretary of the Treasury out of any money in the Treasury not otherwise appropriated, and deducted from the annuities, when due and payable, that are to be paid to the said Indians, under the treaty of the 12th of May, 1854, and the amendments thereto.

Mr. HUNTER. Is that in order? Is it not a private claim, to provide for the services of an Indian attorney?

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The Chair will examine the amendment.

Mr. BROWN. I only wish to say that the appropriation is not to be made out of the funds of the Treasury, but out of the funds of the Indians. The only point in controversy is, how much shall be paid to the attorney, the Indians themselves agreeing that he shall be paid, and paid out of their own funds. It is no claim against the Government.

The PRESIDING OFFICER. The Chair is of opinion that the proposition is in order. It is not a claim against the Government. It does not propose to pay any claim against the Government.

Mr. STUART. I should like to hear the amendment read.

The Secretary read it accordingly.

Mr. STUART. If anything is to be done in this case, it clearly ought not to be done in this way. The subject, I understand informally, has been before the Indian Department, and the Commissioner of Indian Affairs and the Secretary of the Interior deny that there is any claim on the part of this individual at all. Now, it is sought to transfer the decision of his rights to the First Comptroller of the Treasury. What has he to do with the Indian affairs of this country? Clearly nothing at all. I cannot speak as advisedly on this subject as I should like to do, because my information is not complete; but I can say that the Commissioner of Indian Affairs and the Secretary of the Interior are both of opinion that there is no foundation whatever for this claim. If the Senate are going to pass on the question in a general appropriation bill, they certainly ought not to take it away from the Indian Department, where the adjudication of all such questions properly belongs, and transfer it to the First Comptroller. I move, therefore, to amend the amendment by striking out "the First Comptroller of the Treasury," and inserting "the Secretary of the Interior;" and even if that be agreed to, I hope the Senate will reject the entire amendment.

Mr. BENJAMIN. I have an objection to this amendment, which goes a great deal further than that suggested by the honorable Senator from Michigan. I believe this is the first attempt that has ever been made to give the sanction of Congress to assignments in advance of annuities due to Indian tribes. If this first step is once made it is easy to see how long it will be before the Indians will not receive one cent out of the annuities that belong to them.

Mr. BAYARD. I wish to ask whether this amendment is offered by any committee of the Senate, or whether it is presented by an individual Senator?

Mr. BROWN. I will reply to the Senator that there are but three members of the Committee on Indian Affairs here, and two of them are for the amendment, and one against it.

Mr. BAYARD. Then there has been no formal recommendation by the committee in favor of the amendment. It does not come from the committee, and I shall vote against it.

Mr. BROWN. Mr. President, in reply to the Senator from Michigan, I will say that I am perfectly ready to admit that the Commissioner of Indian Affairs has decided that the party in this case has no claim against the Indians; but the Committee on Indian Affairs have investigated that matter, and they have unanimously come to the conclusion that he is entirely mistaken on that point. That the party has rendered service, and very important service to the Indians, there can be no question in the mind of any man who pays the least attention to the facts. That he has prosecuted the claim for them, and recovered for them a very large amount of money is true beyond all controversy. That they have been beneficiaries to the amount of from $150,000 to $200,000, principally in consequence of his exertion, is equally as true.

The Commissioner of Indian Affairs, however, has taken it upon himself to say that those services have been of no benefit to the Indians; but he does not sustain himself in making that assertion by any argument, or by any statement of facts warranted by the testimony in the case. What the Secretary of the Interior thinks about it I do not know. If there is any public document which shows his opinions, I have never seen it. That he has been appealed to for his opinion I know to be true. That he has ever given it publicly I do not know to be true. If my friend from Michigan knows of any document in which the opinion of that officer is set forth, I shall be very glad if he will refer me to it.

I have a word or two now to say in reply to my friend from Louisiana. He talks about this being the assignment of an Indian annuity. Why, sir, if he had heard the amendment read, he would have seen that the whole proceeding is based on the memorial of the Indians themselves. The amendment provides that, in accordance with the memorial of the Indians to the President and the Congress of the United States, this shall be done. We are not asking that anything shall be done in violation of the wishes of the tribe, but in conformity with their expressed desire; for they recognize the value of the services of this attorney, and the honesty of paying him. As I understand the case—and I have examined it thoroughly—they have been, at all times, and are yet, anxious to pay him for his services, recognizing the fact that they were valuable, and that they were enabled, through his agency, to recover a large sum of money, which perhaps they would never otherwise have obtained. They desire to pay him, but an officer of the Government interposes and says they shall not pay him; and that officer is the Commissioner of Indian Affairs. There is no difficulty in ascertaining what his opinions are; for, in his last annual report, he says:

"I cannot forbear expressing the hope that all persons having any agency in the administration of Indian affairs, whether connected with the executive or legislative departments of the Government, now or hereafter, will resolutely set their faces against, and frown down, all attempts to secure the allowance or payment of such unauthorized and improper demands against the Indians."

What unauthorized and improper demands against the Indians? The very demands which the Indians themselves ask shall be paid. Now, I do not know by what authority the Commissioner of Indian Affairs says there is an unauthorized demand. The Indians, to whom the money belongs, ask the President and Congress to pay it. They say, "It is our money; you hold it; we owe it to this man for valuable services; and we ask you to pay it to him." But the Commissioner of Indian Affairs expresses the hope that Congress will not permit it to be done. Why, sir—I beg Senators to recollect it—this is no claim against the Government; it is a claim against the Indians which they have recognized in council; which they have memoralized Congress and the President to pay out of their funds, and which, I think, ought to have been paid without the interference of Congress.

At this point a reflection crosses my mind, which I will mention to the Senate. The policy of this Government towards the Indians is a very peculiar one. The Government stands in the attitude of guardian to the Indians, constantly proclaiming that the Indian is wholly incapable of making a contract with anybody except his guardian. The Government contracts with the Indians to the extent of millions. It buys up their homes, sends them from one place to another, makes contracts with them involving millions of dollars; but the guardian will not permit his ward to contract with anybody else. The gentleman for whose benefit this amendment is designed does not ask that his contract shall be considered as binding. He says:

"I am willing to yield to the policy of the Government; if you recognize my contract, there is no difficulty about the amount which I shall be paid; if you do not, everybody who knows anything about it will admit that I have rendered service to these people; the Indians admit it, and they memorialize the President and Congress to pay me; and now I wish to know whether the guardian will stand in the way of paying an honest debt due from his ward?"

I hardly know where to commence in the discussion of a claim which is so palpably right as this. I hope the Senate will not insist on transferring the case back again to the Commissioner of Indian Affairs, who has already determined in his own mind, and so stated in his annual report to Congress, that this party shall not be paid, and who has expressed the hope that it will not be allowed to be done. Whoever knows the First Comptroller of the Treasury, Mr. Whittlesey, knows that he is about as tight-fisted as any fair-minded and honest man ought to be. I do not suppose there is a member of the Senate who believes that Mr. Whittlesey will allow one dollar to pass out of the Treasury which is not justly and rightly due. I think the complaint against him has been that he has been too close, too tight-fisted, in the settlement of accounts. I make no such complaint against him myself. What I ask is, that this party shall not be thrown into the hands of an officer who has already prejudged his case, and prejudged it against the united judgment of the Committee on Indian Affairs of this body.

Mr. STUART. Mr. President, I shall detain the Senate only a few minutes; but in those few minutes I hope to show the strongest reasons why this claim should not be adjudicated upon, particularly in this bill.

It will be recollected by every Senator here, that only as long ago as two or three years since, the practices of these Indian attorneys had arrived to that extent, that Congress passed a law providing in so many words that no money paid on any Indian claim should be allowed to any Indian attorney. I recollect upon that occasion in the House of Representatives a Representative from North Carolina rose in his place and said that an allowance had been made to some Indians in that State of $75,000, or about that sum, and $50,000 of it was claimed by the agent. At that time Congress, with an almost unanimous voice, in accordance with the wishes of the Indians, declared that such claims of attorneys should not be paid. Why? Because every man who knows any thing about this subject, knows that these attorneys and agents, by going round among the Indians get them to sign anything. I do not desire to qualify that statement; but I repeat that Indian traders, and Indian agents, and attorneys manage in one way or another to get Indians to sign any paper they choose. Scarcely any of the Indians can read; and these men practice upon them in one way or another, more frequently by intoxication than any other mode, and get them to sign requests to pay thousands and hundreds of thousands of dollars to themselves.

With these facts before us, what are the additional circumstances of this case? The Commissioner of Indian Affairs, whose business it is to know both sides of all these questions, as well the attorney's side as the Indians' side, has examined this question, and the honorable Senator from Mississippi has read from his report, where he says there is no foundation for the claim, and expresses the hope that Congress will not pay it. Now, what is said in opposition to this? The Committee on Indian Affairs—and certainly I would not say anything that would impute wrong action to them—have heard the attorney's side of the question.

Mr. SEBASTIAN. Let me say to the Senator from Michigan that the amendment now presented is not offered by the Committee on Indian Affairs, but it is presented by the Senator from Mississippi.

Mr. BROWN. I stated that two of the Committee who were present agreed to the amendment, and one did not. That one was the Senator from Arkansas.

Mr. STUART. The amendment certainly is not in order if it is not proposed by the Committee.

The PRESIDING OFFICER. The Chair understands the amendment to be proposed by a vote of two out of three members of the Committee on Indian Affairs.

Mr. STUART. But the chairman of the committee says it is not an amendment offered by the

committee. Two members do not constitute even a majority of a quorum of the committee, for there are six members on the committee.

Mr. SEBASTIAN. In making the statement which I did, I merely intended to say that it had not been acted on in this form by the Committee on Indian Affairs. At the same time it is true in point of fact that amendments are sometimes carried round the Chamber, and the assent of a majority of the committee obtained for them, and they are offered. I do not know whether the Senator from Mississippi offered this amendment on behalf of the committee, as expressing the views of a majority of those present, or only on his own responsibility.

Mr. BROWN. I stated distinctly in the beginning, that the amendment had received the sanction of two members of the committee, and that one dissented from it. There were only three members of the committee then in the Senate, or, in the city, I believe.

Mr. STUART. I did not wish to deal in any technical objection in this matter; but I was proceeding to inquire which was the better authority for Congress to act upon; and I ask again, without any disrespect to the committee, on which should we rely—the statement of the proper officer of the Government, who has charge of the Indian affairs of the country, who is familiar with every fact connected with this question, and who has investigated it thoroughly; or any investigation which has been had or could be had here by a committee of the Senate? It must be obvious, I think, to every Senator, that there is no motive on the part of the Commissioner of Indian Affairs to withhold a just debt from the applicant in this case. The money is appropriated to the Menomonee Indians, and it does not take a dollar more or less out of the Treasury, whether the claim be paid or denied; but, it does involve the protective power and the obligations of this Government over these unlettered Indians who cannot take care of themselves.

Sir, we have heard the distinguished Senators from Texas, and other distinguished Senators upon this floor, in the most eloquent strains, call, and properly call, upon Congress to protect the Indians. There is not a Senator who has not acknowledged the propriety of those appeals, both in reason and in feeling. And yet here, sir, although that Department of this Government whose duty and whose pleasure it is to carry out this guardianship in its true spirit, holds that there is no foundation for this claim, and expresses its hope that Congress will not allow it, now upon an appropriation bill we are asked to authorize the payment to this individual of as much money as the First Comptroller of the Treasury says he ought to have. I prefer greatly to leave the guardian protection of the Indians of this country to the Indian Department. But, sir, if the Committee on Indian Affairs shall see fit to report a separate bill for the relief of this individual, so as to give the Senate time to consider it, so as to give us an opportunity to refer to the Department and see what are the facts on which it bases its opinions, I shall not hesitate any more than any other Senator to overrule that decision, if I shall be satisfied that it is wrong.

Having no desire to detain the Senate, I close all that I wish to say upon this subject, or shall say, by expressing the hope that the Senate will not in this mode overrule the action of the proper Department, and submit the fund belonging to these Indians to the control of any other officer.

Mr. BELL. Mr. President——

Mr. BROWN. If my friend from Tennessee will allow me, I wish to call his attention, before he commences his remarks, to a point made by the Senator from Michigan which is at variance with the language of the amendment, as proposed by myself.

Mr. BELL. I yield the floor with pleasure.

Mr BROWN. The Senator from Michigan lays a great deal of stress on the assumed fact that a party may go among the Indians, and get them to sign any sort of a paper that he thinks proper to have them sign Now, this amendment provides that the settlement shall be made in accordance with the memorial of the Indians executed in general council. That was not a memorial signed by the Indians one at a time, under the influence of a white man; but it was the act of the nation, executed in its highest legislative capacity, a memorial executed by the Indians in their general council; and, therefore, it does not fall under the objection of the Senator from Michigan, even though that objection might be well taken in the case supposed by himself.

Again, that Senator lays stress on the fact that the Commissioner has expressed the hope that Congress will not pay this claim. Aye, sir, he does express that hope; and in that I beg leave to say, with all proper respect towards that officer, he manifests, I think, an extraordinary prejudice against this particular claim. Why should he express any hope as to what Congress should do in reference to this or any other claim, if he did not feel a special interest in its defeat? I express the hope that Congress will see justice done to this party. I repeat what I said before to my friend from Michigan, that the committee were unanimously of opinion that he had rendered important service, and the Indians feel that he is entitled to be compensated. On that point, after an investigation of the facts, the committee entirely differed from the Commissioner of Indian Affairs.

Mr. BELL. Mr. President, this case seems to present, fairly and properly, a few considerations which I desire to submit to the Senate in relation to it. I had no knowledge that such an amendment was intended to be proposed to this bill, and I rise to say a few words upon the subject, on the presumption that, as the amendment has been under discussion for some time, the question of order cannot intervene, as it was not taken originally. The amendment, therefore, being before the Senate for action, I have a few words to say upon it.

This proposition has one merit, which struck me very forcibly when I heard it read. It proposes to refer to a responsible officer of the Government the adjustment of the claims of an attorney for an Indian tribe. This appears to me to be one of the best modes of protecting the Indian tribes against the exorbitant and unreasonable demands of such agents; and if it could be carried out and be made to assume the form of a permanent law, applying to all such cases, I think it would be not only for the benefit of the Indians, but to the advantage of the Government itself. I therefore suggest the propriety of a general provision, that none of those allowances should be granted to Indian attorneys or agents, upon special contracts between them and the Indians, until those contracts undergo the supervision of some respectable and responsible officer of the Government. In this way it seems to me we can most surely and most faithfully carry out what is said to be the *quasi* guardianship of the Government over these children of the desert.

The honorable Senator from Michigan has stated that it is only necessary for one of these agents, or traders, to go round among the Indians to get their signatures by imposition, by misrepresentation, by the inducements which he may have it in his power, to hold out to the individual members of the tribe. In general, with a great majority of the Indian tribes, we know that this is true. We have known that heretofore, very exorbitant and enormous contracts have been complied with, on the part of the Indians, because the chiefs entered into them under their signatures, under which an amount of compensation has been allowed, for which there was no pretense in reality that any suitable services had been rendered. Because the Indians are liable to be imposed on in that way, as the honorable Senator from Michigan has suggested, the Government ought to provide some protection against it if possible. I do not know what the fact is in this particular case; but let us suppose, for the sake of illustration, that the gentleman whose name is mentioned in the amendment had a contract authorizing him to receive twenty, or thirty, or forty per cent. on the amount which might be obtained from the Government. These are not extravagant suppositions, for I have known and heard repeatedly of twenty per cent. being allowed on the amount recovered from the Government on these claims. Congress have seen and heard of so many examples of this sort, or rather they have inferred them from what they saw in this Chamber, and heard in debate from various honorable Senators and members, that they have been shocked at the enormity of the extortions of the agents and attorneys upon the Indians. It is this which excited the feeling referred to by the honorable Senator from Michigan, that induced the Senate, some years ago, to provide that no money should be paid from the Treasury upon any power of attorney given by Indians to an agent or other person; but that the agents, after they had prosecuted the claim here from year to year, at whatever expense to themselves, and however successfully, should at last go to the Indians, and if the Indians were disposed to pay them, they could do so, but that we would wash our hands of it. Such a provision was inserted in an Indian appropriation bill three years ago, I think, that no such moneys should be thereafter allowed to attorneys for Indian claims. I believe it would have been infinitely more beneficial for the Indians if Congress had required that the compensation proposed to be allowed should undergo the review, as provided for in this case, of some responsible officer of the Government, and that nothing should be allowed but what was a reasonable compensation on taking proof, or hearing the statements of the services performed by the agent.

I heard of a case the other day, which I will mention to the Senate. Owing to the joint industry of two or three agents, a large sum was allowed by Congress, in the end, upon an Indian claim, which was supposed at first to have no foundation. The agents, by persevering from year to year, searching up old documents and papers of payments and former settled accounts, satisfied both branches of Congress to such a degree, that there was but very little opposition to the claim in the end, and a large amount of money was given to that Indian tribe. One of the agents had a power of attorney from the Indians in council, as in this case, to pay him $40,000 for his services. The provision alluded to by the Senator from Michigan was added to an Indian appropriation bill, and he was thereby prevented from obtaining the money out of the Treasury. What then did he do? He went to the place where these sums of money were to be paid to the Indians *per capita*. He associated with them. He appealed to their pride and their sense of honor; because it seems that the Indians generally, are very sensitive upon the subject of complying with whatever they contract to do, and have deliberately agreed upon. By that means he was enabled to get every cent from the Indians. Perhaps the expenses to him in effecting the object were very considerable; but he realized a large portion of the sum originally agreed to be paid to him. If we had had a provision that such a claim should undergo investigation by some proper officer of the Government, it would have been more beneficial to the attorney of the Indians, and to the Indians themselves; and probably he would not have been allowed more than one third, possibly not more than one fourth of what the Indians actually paid him.

Members of Congress know these agents; they are very often annoyed by them; but those who have had any particular experience in relation to Indian affairs, as well as other branches of the service, know that it is very often by their industry that claims are brought to light and established upon a foundation proved to be irrefutable. There may be cases, perhaps, of an injury done, where the parties have been compelled to submit to it for, perhaps, a quarter of a century, and we are finally astonished ourselves at the developments which are made. They show what might have been done if we had had committees who had time to examine them originally. The fact is, however, that committees have not time to investigate and go into those old archives and papers. They act fairly and honestly, and with due fidelity; but it is not in their power, either physically or mentally, to make the inquiries necessary in all these cases. The agents bring up the documents and proofs, in many cases, that are well founded; and in many, no doubt, that have no foundation. Sometimes, possibly by fraud, and perjury, and subornation of perjury, claims are allowed here—I am not speaking particularly in relation to the Indians, but also of other branches of the service—which have no foundation in fact. That exists, however, in all countries, and in all Governments, and even courts of justice are not exempt from such things. It depends upon the fidelity and vigilance with which causes are investigated in courts of justice, whether justice be done at last. The parties, very often ignorant men, are made the victims of injustice, because they have not the management to present their own cases fairly to

the court; and so it is here. This case presents an illustration of it.

The gentleman who is named in the amendment was the man who brought forward and presented first to the Committee on Indian Affairs of the Senate, of which, I believe, I was then a member, the grounds upon which the Menomonees had, as he alleged, a just claim against the Government. I think I spent some hours with him in tracing out the boundaries of the lands which had been ceded by those Indians to the Government by various treaties—red lines, yellow lines, black lines, and dotted lines. This gentleman was most earnest and importunate, and seemed to be thoroughly convinced himself that injustice had been done to the Menomonees, and that they had a claim on the Government for a valuable portion of territory of which the United States had had the benefit, and had included within their treaties, but which was not intended to be included, and was not really included within the strict terms of the treaties. I state the claim from memory now, for it is some years ago since it was first presented. I resisted it. I think he convinced a majority of the committee that he was right; but he did not convince me. It was a claim for some hundreds of thousands of dollars, and my recollection is that I opposed it in the Senate in debate, and caused the defeat of the claim. It seems that he persevered, not only with the committee, but with the Executive Government, until he actually convinced the proper Department that the Indians had been injured, and he induced a new treaty to be made, by which they received from one hundred and fifty thousand to two hundred thousand dollars additional compensation for former cessions, for which I considered, after my investigation, they had been fully compensated.

I know this gentleman was a very active, industrious, and faithful agent of the Indians. He took a great deal pains to present the case. I have had no communication with him on the subject since that time to my remembrance. The circumstance to which I have alluded occurred three or four years ago. Since that time he has arrayed such facts and such arguments, and brought such influences to bear (proper ones no doubt) on the Indian Department, as to induce the making of a treaty giving the additional compensation, to which I have alluded, for lands which they said they had never ceded, but which the Government claimed, sold, and converted into money, and placed the proceeds in the Treasury. There were other circumstances, I believe, which intervened. The Menomonees were in circumstances which excited somewhat the sympathy of all those who inquired into them. They had my own sympathy. I stated then that I was willing to grant them, as a gratuity, a reasonable amount if the State of Wisconsin would give them a territory on which they could reside, but that I would not recognize their claim under this past treaty. Nevertheless, what was finally done by the Government grew out of that first investigation. There was at least a plausible ground on which to maintain that the Indians had been wronged; and when the question came up under the treaty, I had nothing more to say about it; I was willing that compensation should be made them.

As I have already stated, I have had no communication with this gentleman; but it seems to me that this proposition is made in the very best form that it could be. Still, I concur with the honorable Senator from Michigan that, in general, the head of the Indian Department is the proper person to investigate such matters. In this case, however, the head of the Indian Department has taken ground of positive opposition. He not only discourages, but denounces this as an unfounded claim. I do not know enough about it to understand all the grounds on which the head of the Indian Bureau or the Secretary of the Interior proceeds in thus stating his objections. His opposition may be well founded for anything that I know. I do not pretend to say that there may not be something in the case of which I have never heard; because, since it was before the Senate on a former occasion, at the time to which I allude, I have never heard anything about it, except that a treaty was concluded making a large allowance to the Indians. Now, I do say, from my knowledge of the subject originally, that this gentleman was at the bottom of the investigation which was instituted by Congress, and before the Departments, to show that these Indians ought to have a liberal provision, going beyond the mere gratuity which I stated at one time I was willing to grant them, independent of any supposed wrong which was done them in taking more lands under their treaties than they considered had been fairly ceded.

I submit these views, to show that I feel under these circumstances, that neither the Government nor the Indians could do better than refer the claim to this officer. If it be not done, this gentleman will be at the expense and trouble of going among the Indian chiefs and those who have influence and authority with the Menomonees, and he will be very likely to have his claim allowed after some time, and to receive a great deal more than the First Comptroller of the Treasury would allow him. If this were the proper occasion, I would suggest that some provision should be made by law that, in all such cases the allowance to agents, who prosecute these claims, and succeed in them, should be revised by some officer of the Government. In this mode, justice would be done to the Indians, to the agents, and to the public. The very circumstance stated by the honorable Senator from Michigan, shows that the public gain nothing by the course which has been adopted, prohibiting any payment from the Treasury to the agents, but the Indians are injured by it—for such is the character and nature of the Indians, in the condition in which they are in this country, that, as he has stated, they can be prevailed upon to agree to almost any thing when the influence of agents and traders is brought to bear on them. We do not then protect the Indians by rejecting the amendment; but we protect them by adopting it, and we do no injustice to the agent. I have made these remarks, because it has been my opinion that, even if this amendment be adopted, some separate provision ought to be made of the general description which I now suggest.

Mr. CLAYTON. Mr. President, I feel much disposed to vote in favor of this proposition, and on account chiefly of the very officer to whom the reference is proposed to be made. The case, as I understand, stands thus: This party, against whom the Commissioner of Indian Affairs has expressed his opinion, appeals to Congress and desires that an appropriation shall be made upon the memorial of the Indians themselves, in his favor. He desires that an appropriation may be made in his behalf to pay him his claim. The Indians themselves ask it—those who are interested. It is contended that we should decide the question upon the opinion of the Commissioner of Indian Affairs; but the party has appealed to us.

The proposition of the Senator from Michigan, is to refer the matter back again to the Indian Department that has already expressed an opinion against it. The amendment of the Senator from Mississippi is to refer it to the first comptroller of the Treasury, a gentleman who was never suspected of intentional error in any case; a man who has had more experience in reference to claims upon this Government than any other living man; a man, who, for more than twenty years, occupied the high position of chairman of the Committee on Claims in the other House, and was always regarded as one of the best and ablest guardians of the Treasury that this Government ever had—a man who has been distinguished in the position which he now occupies, by laborious application to the duties of his office, by the thorough investigation of every claim that has ever been presented to him, and by a character for integrity which never has been exceeded. I would refer this, or any other vexed question, to him with perfect confidence. I do not see how an abler tribunal could be named.

Well, sir, you are bound either to investigate the question yourselves, to decide upon the merits of it here; or to refer it to some one who has not prejudged it. It seems to me that, in common justice, the party applying here for relief has the right to ask that of you. Why will you refer the question back where it has been already decided against the claimants? Is there anything in the allegation made here to-day, to show us that the claim is fraudulent; that the Indians were made drunk, and signed the memorial; and that they have applied here for the relief of this party under any improper influences? Is there any exhibition of fraud? None whatever. Now, I do not choose to judge it, as no committee has decided it, but to send it to as able a man as we can possibly refer it to, and that is the First Comptroller of the Treasury.

Mr. WELLER. I wish to ask the Senator from Delaware this question: Why it is that this account is not referred to the Comptroller who has charge of all Indian accounts? This is not properly the duty of the First Comptroller, but it is the duty of Mr. Brodhead, who is Second Comptroller, and, as such, has charge of all the Indian accounts. Why, then, is it not proposed to refer the claim to him? I think he is quite as honest a man, in every respect, as the First Comptroller of the Treasury. For myself, I entertain a better opinion of him than I do of the First Comptroller.

Mr. BROWN. As I introduced the amendment, the answer to the question of the Senator from California should more properly come from me. Mr. Whittlesey was selected, as I have said from the outset, because he was supposed to be the most stringent accountant under the Government, the one who would look most closely and rigidly into the accounts. If the Senate think anybody else should be preferred to Mr. Whittlesey, I shall certainly make no objection; nor do I suppose the claimant in this case would. What he wants to do, and what I think he is right in asking, is to take his claim out of the hands of a man who has prejudged it; and he has asked to put it into the hands of that officer who on all sides is conceded to be the most rigid and close for what he supposes to be the interests of the Government.

Mr. CLAYTON. Yes, Mr. President, the Senator from Mississippi has represented exactly my own view in regard to that matter. I prefer the First Comptroller of the Treasury because I know the man, because the past history of this country shows that he has guarded the Treasury better against private claims than any other man in office. Will any one deny that, as chairman of the Committee on Claims in the other House, and as First Comptroller of the Treasury, he has saved millions to the Treasury? I rely upon it, if there is anything rotten or wrong in this claim, if it be referred to that man, it will be shown and exposed. There is no influence under Heaven that could make him decide against what he knows to be right. I trust him, sir.

Mr. PETTIT. Mr. President, I see no reason why this amendment should not be adopted; but, if I had time, I could state many reasons why it should be agreed to. I am not disposed, sir, to charge corruption, weakness, or imbecility, upon any officer of the Government, especially the Secretary of the Interior, or the Commissioner of Indian Affairs; but allow me to say that, in my judgment, all bias, or all prejudice, even though very illy-founded, is not corruption; nor is bias positively evidence of corruption. That the best of men may be biased and prejudiced against claims and against individuals, without a corrupt motive, and without a corrupt intention, I entertain no doubt. I am constrained to say, on a full examination of this case, that I fear, at least, that strong bias does exist, whether known or not, against doing this individual justice.

Mr. President, corrupt and wrong resorts have been referred to. The suggestion has been thrown out that the Indians may possibly have been made intoxicated to procure contracts or assignments from them—that corrupting and debasing influences may have been resorted to. So far as these remarks apply to this gentleman, I take pleasure in saying that they will not mar the fair proportions of his honest, and honorable, and upright character. The gentleman whose claim is under consideration, is not my political friend; he is averse to me; we have no political sympathies in common; but I take great pleasure in saying to the Senate, that I know no man of more high, more pure, more honest, or more upright intentions and motives. In this respect he will well compare with the Commissioner of the Indian Office. I intend to make no invidious distinctions, when I say that his character *is* as pure and as far above reproach as the character of that officer, and I will say that it would be paying him but a poor compliment to assert that his capacity was equal to his, at any rate.

Now, sir, a singular state of things exists in this country, and especially under the control of the Commissioner of Indian Affairs. I do not

like to make invidious comparisons, but I must say, that I have seen some men's heads which were so thin that they put me in mind of a one-story-and-a-half house, a very thin and narrow one, with the gable end turned to the street. You may judge what contents such a building can hold. [Laughter.] An idea is prevalent, with Indian Commissioners particularly, that they are the fathers proper of all the Indians in the country, dead or alive, created or to be created; and that no one has a right to circumvent, to cheat, to delude, or to mislead an Indian, or to contract with him, but themselves. I do not say that such is the case with the present Commissioner of Indian Affairs, but I fear there is too much tendency that way. Why is it, I ask you, sir, that the Indian Commissioner claims the exclusive right to contract with the Indians? Why is it that he says that he alone can, by his secret emissaries, prepare a treaty here in Washington city, send out a commissioner, or agent, or any person that he sees fit to name, order him to allow no white man to be present on the council ground, to allow no man to know when a council is to be held, take with him the articles of a treaty, and compel the Indians to sign it; and then turn round and say that a contract, made in the open, broad blaze of day, made and remade, approved by every officer of the Government then in power, is a fraud, is tinctured with fraud, and ought not to be paid? This gentleman made a contract, on an application to him by the Indians, the circumstances of which I will narrate.

A treaty was made by Mr. Medill, while Commissioner of Indian Affairs, buying out a large extent of the territory of the Menomonee Indians. He was instructed by President Polk to pay not less than eleven cents an acre for their land. It was estimated that it would amount to a large sum. He went out among them; he held a council; he estimated the sum to be paid them at the amount which was allowed, paying them twelve or twelve and a half cents an acre. His instructions were to pay not exceeding eighteen cents, and not less than eleven cents an acre. When the aggregate sum of money to be paid the Indians was made up, they protested. They said they had a larger country than that. They protested that he was not paying them for the whole of their country; but they were no surveyors; they could not survey and tell the exact amount. They could only judge of the extent of the country by the number of days it took them to travel over it. They were ignorant and unlearned. When the gross sum was figured up it was said to them: "There is your money, and the consideration for all your land." They were dissatisfied; and they afterwards sent a delegation to this city to investigate the matter, and to see whether they had not ceded more lands than were paid for by the United States. That delegation met with Mr. Thompson, the claimant here, who is an astute, learned, and honorable lawyer. He was for a number of years a member of the other House. He was employed in some capacity under President Taylor's Administration, with a view of making certain Indian treaties, and attending to the removal of certain Indians. These Indians became acquainted with him; they came to him, and asked him to allow himself to be employed by them. The delegation of chiefs from the Menomonee tribe, who came here to investigate their wrongs under the treaty made by Mr. Medill, asked him to accept their employment, to dig up from the hidden archives and rubbish of the Government the evidence of their claim. They gladly and willingly laid aside evidence of their wrongs in the Department, in order to shame the Government out of what was justly their due. He made a written contract with those chiefs, they having full power so to do, being delegated to come here to investigate their claims. He went with the contract to the then Commissioner of Indian Affairs, who approved it. He went to the then Secretary of the Interior, who approved it, and recognized it. The Attorney General then in office had previously published an opinion that such contracts were valid. An order had been made before, when the present Secretary of State was Secretary of War, recognizing such contracts. He had all possible assurances therefore, that the contract was valid, and would be carried out. This gentleman has labored assiduously for four years in the prosecution of the claim. A memorial was sent in by him, as attorney for this tribe of Indians, setting forth the short pay received for their territory, and that a larger sum was due to them. At first the Committee on Indian Affairs reported against it. Two years ago, however, near the close of the session, the honorable Senator from Wisconsin, [Mr. WALKER,] who was, and is a member of the Committee on Indian Affairs, made an able and learned, and, I may say, a perfect report upon the difference between the amount to which the land would come, estimated at the number of cents per acre which the treaty stipulated should be paid, and the sum that was actually paid. As I have said, the committee, at first, reported against the claim; but Mr. Thompson went to them and asked them to take it up and reinvestigate, and reëxamine it. He showed them the plats, and the Government surveys, and the diagrams; and he showed how many acres were within the lines sold by the Indians. The committee took up the matter again, and, as I have said, the Senator from Wisconsin made a long and able report, in which he showed that there was over $613,000 due the Menomonee Indians for the territory ceded by the treaty of 1848, which had not been paid for by the Government, estimating at the rate per acre which it stipulated to pay. It may be recollected, by many Senators, that just at the close of the session two years ago, perhaps on the very last day, that Senator made a strong and lucid speech in support of the claim; but inasmuch as the sum was large, as the hour was late, and there was no time to investigate it, he consented to withdraw it for the time being. This report, however, had been made, and the indebtedness to which I have alluded was shown to exist.

What was the next step? Mr. Manypenny came into office; and what did he do? I do not charge it to his detriment, for, perhaps, it may redound to his credit; but he sent out a secret agent to make a secret treaty with the same Indians to whom Mr. Thompson had shown plainly there were over $600,000 due, with instructions that that agent should allow no white man to know when the council was to be held, and that he should permit no white man to put his foot upon the council ground, that he should not allow their employed and accredited attorney to be present to advise them as to whether they were being cheated or not, and especially that Mr. Thompson, their agent, (who had shamed the Government, and by his influence and exertions had obtained an acknowledgment in one branch of it, and that, perhaps, its highest branch, that we honestly owed the Indians over $600,000,) was not to be at liberty to be present. Hearing, by accident, that such an agent had been sent out, Mr. Thompson, who was in the city when he left, immediately followed him to Milwaukie, and there he had a conversation with him. He desired to go with him into the Indian country. He offered to say nothing to the Indians, but that the interpreter should explain everything to the Indians for him, and he would leave them to do precisely what they wanted to do uninfluenced and undirected. He was told, however, by that officer appointed to make a treaty in secret, "you cannot go; I will not let you know when the council is to be held, and you especially are forbidden to be there." Mr. Thompson turned round and came back to this city.

What was the result of it? Not a new treaty to pay the Indians $613,000, but a treaty to pay them $150,000, and they were compelled to sign it as a relinquishment of all claims, although the Committee on Indian Affairs of this body had shown, beyond all cavil—there could be no doubt of it in a court of justice—that the evidence was conclusive as to the indebtedness, by this Government, of $613,000 to these Indians. It is charged now that fraud is committed by attorneys, and that Indians are got drunk to induce them to sign contracts. What, sir, is so broad a badge of fraud as secrecy and seclusion—undertaking to treat with a man half enlightened, half civilized, without allowing him to have a counselor or adviser? I know of none so broad.

Well, sir, a treaty was made, as I have described, stipulating to pay them $150,000 in full for their claim of $613,000, and, if my memory serves me well, the supulation was to pay them in stocks of the United States, payable in 1867—thirteen years off—without any yearly interest at all in the meanwhile, which was tantamount to paying them nothing. What are stocks worth, bringing no interest, and no dividends, having thirteen years to run? We all know they are good for nothing. Can you sell them in market for anything? Surely not. Simple interest on their face value would, in the course of that time, almost amount to the whole principal.

This, then, is the care which this beautiful guardian takes of the interest of the Indians! Does it not look as if he feared, perhaps, the presence of the attorney employed by them, whose character is as pure as the Commissioner's, at least, and who, so far from inducing an Indian to drink liquor, does not drink it himself, nor would not, under any circumstances, place the baleful glass to his lips—a man who neither drinks himself, nor advises others to drink. One hundred and fifty thousand dollars was provided, in a secret treaty, to pay an acknowledged debt of $613,000. After that treaty was known, and was sent here, Mr. Thompson returned to the Menomonee Indians—a tribe who, according to my recollection, have conferred a proud title on him, have adopted him as a chief in their nation, and have given him the euphonious name of the "Big Coon"—no doubt in their language a very honorable and creditable title, but perhaps not so in ours, in reference to the past history of that animal. [Laughter.]

As I have said, Mr. Thompson returned to his clients. That a perfect confidence exists, and has existed, between these Indians and him, there is not a doubt; a thousand evidences of it are in my possession. The Indians regard him as their best friend, as he has shown himself to be. By his exertion he procured the acknowledgment, at any rate, of the debt of $613,000, and compelled the stipulation to pay $150,000. As soon as this treaty was known, Mr. Thompson went to the Indian country, and there, in the presence of their agents and interpreters, their full-breeds and their half-breeds, a council was called together to affirm or disaffirm, change, alter, abrogate, or cut down, as they saw fit, the contract he had made for compensation for services. There, in full council, in the presence of the chiefs, his agreement was signed by every chief and head man of that whole nation—a thing that Mr. Manypenny cannot boast for his treaty, because two of the leading chiefs of the tribe refused to sign his midnight or secret treaty. Every one of them came forward and signed a renewed agreement, a renewed memorial, a renewed request to the President, their Great Father, that their honest and faithful attorney should be paid pursuant to the stipulations of their former agreement.

As another evidence of the indefatigable exertions of this gentleman, I may allude to the fact that having returned to this city while the Senate were yet in session, he drew up and presented to my colleague [Mr. BRIGHT] and myself, a long letter setting out the whole history of the transaction, and that letter was referred to the Committee on Indian Affairs when this treaty came in, with a view of their considering it with reference to an amendment to be proposed to the treaty by that committee. In consequence of the plain and undeniable statements of this attorney, we did increase that pitiful sum of $150,000, $92,000 more, directly in the face of the treaty made by this special guardian of all the Indians. The Senate amended the treaty by adding to it $92,000, thus providing for the payment of $242,000 instead of the $150,000 stipulated for by the treaty made by their especial friend and guardian.

Who then has befriended these Indians? The present or former Commissioner of Indian Affairs? Who is it that has taken from them $600,000 worth of land at eleven cents an acre, without reward and without compensation? Who is it that has sent to them a stealthy commissioner to induce them to take $150,000, payable in 1867, (which is just like issuing so many moonbeams and worth nothing more,) for an acknowledged debt of $613,000? Sir, it is not their agent or attorney, but their kind hearted guardians who have done this.

Mr. Thompson objects to the reference of this case to the Commissioner of Indian Affairs. While he does not charge that officer with corruption, he does charge that he is biased; that unheard, he has been prejudged by him. He proposes to refer it to an officer known to be the most close-fisted over the Treasury of any man who now is, or for years has been, charged with any fiduciary or

financial duties, or capacity, under the Government. The Commissioner of Indian Affairs prejudged the case, for a reason which I will state: When Mr. Thompson, on the 4th of October last, went out to see these Indians, and called the council of which I have spoken, not only did every Indian chief and headman sign the memorial to the President for the retention and payment of this money, but it was witnessed by the Indian agent, by all their interpreters, by a dozen men of respectability, credit, and standing, and certified to by the interpreters, that it was done with their knowledge, approbation, and assent, it being fully explained to, and fully understood by, every one of them. Duplicates of that memorial were made out at the instance of the Indians. One was given to Mr. Thompson, who brought it here. The other was retained by them, to be presented to the superintendent of Indian affairs, when he should go there; and the Indians were to request him to send it to their Great Father, as their "talk," as their wish, as their will in the case. What was done? And how is it that Mr. Manypenny comes so readily to prejudge this question? Instead of the superintendent sending on the original paper, signed, and attested, and certified to by all these men, what did he do? He made a copy of the body of the instrument, and signed the marks of the Indians' name, without a certificate, without a witness, without an explanation at all, and you might readily be led to believe, from that alone, that it was a *nudum pactum*, or that it was fraudulently obtained; but it was a fraud upon moral honesty, to have done so gross and villainous an act. That paper was communicated first to the Commissioner of Indian Affairs, and he took it for granted, as you would, and as I would, knowing no more about it, that it was a fraudulent transaction, a fabrication, a foundationless existence, and therefore he has used the strong terms which he has employed against this claim in his report. He having prejudged the case, what does Mr. Thompson ask, and what does the amendment propose? It does not propose that the First Comptroller, Mr. Whittlesey, shall allow to him, or audit to him, the amount of his contract or agreement; but it simply says he shall examine it, and shall allow such sum as he thinks just, right, and proper. That is all that is asked.

You commit it, then, to the most faithful guardian of the Treasury, as everybody says, that has ever been here. Does this man ask of you anything wrong? He has served this Indian tribe, that nature, at least, has said have as good a right to contract as any other organized political body; but we, their guardians, have seen fit to say to them: "you shall contract with no one; though you may starve, though the winter's inclement season may be over you without a hovel, without a blanket, or provisions; you must lie down and die, rather than pledge what is coming to you the next year, and if you do so, we will not pay it." It is no more and no less than fixing an immediate and early grave for those for whom we profess to be acting as guardians and protectors. Nay, sir, according to the doctrine for which some contend, these Indians cannot employ an attorney or a counselor! A treaty may be made here at Washington, by men without authority, happening in the city, who may be induced to sign under a pretence that they are mere witnesses; but when the document is examined, their signatures are found to a treaty granting away their interest, and that is to be submitted to the Senate. The tribe learn at home what has happened to them; they appoint a new deputation, and they employ a man in whom they have confidence to come here and explain their wants, and rights, and interests. He accomplishes that object; he asks to be paid out of their funds; the chiefs, every one of them, ask that he shall be so paid; but the Commissioner of Indian Affairs says: "No; you should have left it all with me; I would not have done more than cheated you out of all you have, and you should have left it to me."

Mr. President, I have no sympathy with that mock philanthropy which pretends to protect the red man of the forest, but which would crush and rob the white man of the clearings. I would do no wrong to the red man; and I would, least of all, while I was pretending to civilize, to christianize, and to elevate him to the standard of the white man, teach him first to be a robber, a knave, a swindler, and an ingrate, as our Government does by its policy. It does nothing less. It throws the Indians into jeopardy, into calamity, into danger at least, from which they cannot extricate themselves but by the employment of some friendly aid and counsel. That being done, these guardians of the Indians say, "there is no imperious necessity for paying it, though the service may be rendered; and though we want to christianize them, we will teach the Indians to repudiate their debts and liabilities, and say they shall not pay for the services of those who have befriended them." You hold out to them with the one hand elevation to the morality of the white man, and in the other you hold out to them deceit, lying, fraud, cheating, and villany, in every form. You speak to them with the voice of Jacob while you give them the hairy hand of Esau. Sir, what morals can you expect from such teachings? More than one chief have I myself seen in this city within the last year, with his head hanging in shame, feeling mortified, chagrined, and abased to the earth, that he could not pay the just liabilities of his tribe. Why, what does he say? "The chiefs all desire him to be paid; the Indians came into the council with us and directed us to pay it; but the moment you pay out the money *per capita* the wild Indians, who know nothing about it, grab their money in hand, and the first thing we hear is, that they are in some whisky-shop getting rid of it." That is the way these wards of the guardian get along, instead of being honestly made to pay their debts.

Would these Indians have ever got a dollar of the $242,000, but for the exertions of Mr. Thompson? I say they would not; and yet our Commissioner tells you he has rendered them no service. Is that Commissioner mad because he has been shamed into doing something like justice and right—because the Senate, upon the recommendation of their committee, the facts and justice of the case being shown to them by Mr. Thompson, increased the sum of $150,000 to $242,000 against the Commissioner's will?

But, sir, there was another case in regard to another tribe, which took very much the same direction, and this gentleman was interested in it. I refer to the case of the Ohio Shawnees. On their removal, by a treaty made in 1831, there was stipulated and secured to them about $66,000. It had been reported from this guardian to his ward, over and over again, from the Indian Department, during the interval, that there was no money due them. Application after application had been made by their chiefs here, and the universal response was, "no money is due you; go away." The Indians finally employed Mr. Thompson. He hunted up the records; he showed that the sum of $66,000 was justly due those Indians by the treaty. He shamed the Senate and the House of Representatives into paying it. He could not shame the Indian Bureau, for they were the guardians; they had the wards' money; I do not know how they were using it; I do not pretend to say. We were shamed out of it. It was made as plain as any debt from A was ever made out in a court of justice to B, that the money was due. A law was accordingly passed, in the spring of 1853, authorizing and directing it to be paid. What next? Mr. Thompson wanted to get his pay for having dug out of the grave, as it were, this claim; for having made for this band of Shawnees $66,000. Without nauseating gentlemen's stomachs with detailing all the facts, I will simply state that every obstacle which the Indian Department of this Government could throw in the way, every obstacle which they could arrange or manufacture to defeat, and delay, and prevent payment, was resorted to. The same story was then told to the Indians as is told in this report: "He has rendered you no service; you ought not to pay him." The Indians were expressly told that the money which Thompson had secured to them, which he had shamed us into paying, was sent in consequence of their Great Father having learned that they were on the borders in distress, and suffering; that it was a gratuity; and that they must spend it for their wives and children. That was the story of the guardian, to hide, to hoodwink from the Indians the fact that their attorney had brought the claim to light.

Sir, I hope this amendment will be adopted. I should be glad if a more direct money appropriation were made equal to the contract. The Indians have received value for it. The $242,000 have been obtained by virtue of his labor. They ought to have had $613,000. He is not to blame that they did not get it, but he should be paid *pro tanto* for what he has got for them. In referring this matter for investigation to such a man as Mr. Whittlesey, sure am I that no wrong, no injustice can be done the Government, and nothing but sheer, close-fisted justice will be done Mr. Thompson.

Mr. BAYARD. The more I have heard in the discussion of this amendment, the more objectionable does it seem to me. Of course I am not cognizant of the facts stated by the honorable Senator from Indiana. He may be mistaken in none of them. I do not mean to enter into them at all; though we have had a feeble disclaimer of any intention to attack a statement of facts which, if they be true, if there be no mistake, if they can be established in the bold and unhesitating manner asserted by the honorable Senator from Indiana, would call for a motion to impeach the Commissioner of Indian Affairs. Sir, I am not willing to believe that the officers of this Government, when Mr. Medill was Commissioner, negociated a fraudulent treaty with those Indians, and that subsequently there has been one uninterrupted series of frauds and persecutions against them, from which this very extraordinary agent on the part of the Indians from mere motives of humanity could alone protect them, while the whole Government, in its Indian Department, was arraying itself for the purpose of defrauding them. I am not willing to believe this, at least not unless the Committee on Indian Affairs will investigate the facts and give us a report. But what does the chairman tell us? He tells us that the committee have not agreed to this amendment. And is it so, that a case so glaring exists, that a wrong so great has been perpetrated, and that, it coming before the Senate of the United States, they suffer it to sleep quiescently, and leave it to individual members to notify us of the facts? The officers of the Government connected with this matter, I do not even personally know. I have had no communion with them of any kind. But they are undefended here; and it does seem to me that without something like the arraignment of a court, it is going very far indeed, under feeble disclaimers, to attack the characters and reputation of men to the extent they are attacked in this case, merely to pass a private claim.

I come, however, to my objection, which I consider perfectly satisfactory, to the amendment.

The claim agents for the Indians—who I suppose, stand on the same footing as claim agents for other parties who have a claim upon the Treasury here—these attorneys, or counsel for the Indians under the law as it formerly existed, were found to have taken so many advantages of them, and the evil had become so great, that during the last Congress you came to the conclusion by a positive, general law, that you would no longer ratify this species of contracts, and permit payments to be made on an authority of that kind; that you would make your payment to the Indians as the least evil of the two, but, that you would wash the hands of the Government clear of any such matters as this. What is the present proposition? It is, within two years after the general law was passed, founded upon a general evil, existing for years, to reheal it in the individual case by ratifying this arrangement between the Indians and their agent, and referring it to one of your officers to decide on the question. The First Comptroller of the Treasury has no particular knowledge of the Indians. It is incompatible with his duties. The First Comptroller of the Treasury is put there to guard the interests of the United States, to audit accounts against the United States, not to settle questions between Indians and their attorney, or agents; and yet that is the question which is now sought to be referred to him. Why withdraw it from the Indian Department at all, except on the ground of misconduct on the part of the Commissioner of Indian Affairs?

But my objection goes to the whole basis of the amendment. It is this: Under no circumstances, whether the party is agent or attorney of Indians as the claimants against the Government, or the agent or attorney of a white man as a claimant against the Government, will I agree to stimulate the system of claim agency which exists, by the Government interfering to secure the payment of an award between the agent and the client. We

have nothing to do with it. We ought to leave the party to settle with the Indians themselves. You would not hesitate in any other case. A party might come forward and represent to you the value of the services which he had rendered in advocating a claim for any other white claimants upon the Government; he had succeeded, he might show you, in procuring for them millions of dollars they would not otherwise have received; but if he asked you for a special law to refer the account between him and his clients to a Treasury officer, to decide how much should be paid to him, you would scout it at once. For what reason will you adopt it here, when you determined not two years ago that you would not interfere, but would leave the parties to get their contracts with the Indians the best way they could? That is the true principle. You will, by legislation in this specific case, as it seems to me, be literally repealing the law before it has been two years in operation. On that ground, and that alone, for I have nothing to do with that particular case, I would oppose it. I will never agree that the Government of the United States shall, by its act of legislation, stimulate this class of agents, be they representatives of Indians or of other claimants upon the Government, by securing to them the emoluments they expect to derive from the increased amount they get out of the Government. What an absurd state of things would it present? Claims exist against the Government of the United States, no matter who are the claimants, and not satisfied that those claims will be properly represented, and the full allowance made, the effect of this precedent will be, that the Government shall stimulate every attorney, every agent, throughout the country, to hunt up old claims, to exaggerate the amount of every claim, and to obtain the utmost possible amount of the Treasury, by interfering for the purpose of securing the emolument between him and his clients. Sir, I would leave to him to settle it with them, be they Indians or white men. I would not interfere under any circumstances. On this ground, I shall never vote for any amendment that embodies the principle I think this does.

Mr. CHASE. It so happened, Mr. President, that I was not in my seat when the Senator from Indiana [Mr. PETTIT] commenced his speech, and only heard his concluding observations. I infer, however, from the tenor of his remarks, and from what has fallen from the Senator from Delaware, [Mr. BAYARD,] that he thought proper to arraign the official conduct, and to impeach the personal integrity of a former Commissioner of Indian Affairs, and also of the present Commissioner, (Messrs. Medill and Manypenny.)

Both these gentlemen are citizens of the State which I in part represent. Both are well known to me, and for both, though unable to concur with them as to the course of political action which the times require of sincere adherents of the Democratic faith, I cherish sentiments of unfeigned esteem and respect. I should be wanting to my own sense of what is just and becoming, were I to suffer any imputation upon these gentlemen, made in this Chamber, to pass unnoticed. The former Commissioner (Colonel Medill) has been long known and honored in Ohio. Many years since, while yet a young man, he served in her State Legislature with ability and credit. Transferred by the suffrages of those who knew him best, the people of his congressional district, to the House of Representatives, he performed the duties of his new station with fidelity and zeal. Under the administration of Mr. Polk, he became Commissioner of Indian Affairs, and discharged tne duties of that responsible office with eminent advantage to the country, declining no labor and no responsibility necessary to the public good. Returning to Ohio, after the accession of President Taylor, he was called on to preside over the State Convention for forming a new constitution. He has since been chosen, first, Lieutenant Governor, and afterwards Governor, of the State, by the suffrages of the people, and is now the candidate of his party for reëlection to the same high office. These repeated marks of public confidence; these successive verdicts of the people attesting his capacity, integrity, and worth, may well stand as his ample and complete defense against any charges made in debate here, without the sanction of any report, and altogether unsustained by proof.

Of the present Commissioner, Colonel Manypenny, I need say less, because he is better known to the Senators who now occupy these seats. But he, too, has held high office in the great State from which we both come, and has been distinguished by successive marks of public confidence. For the important office which he now fills, he furnishes peculiar qualifications, in his intelligence, firmness, and patience. His integrity no man doubts who knows him. From his childhood up to this hour no stain has ever attached to his character. The interests of the Government and the interests of the Indians are alike safe in his hands. I venture to say, that the rights of the Government ever have been, and ever will be, faithfully maintained by him; and that he has guarded, and guards, the rights of the humblest Indian as sacredly as those of the Government itself.

But, Mr. President, I have said enough. It is not my purpose to discuss, at all, the merits of the particular proposition before the Senate, but to vindicate the characters of two distinguished citizens of my State, who have, in my judgment, been unjustly assailed. Having performed this duty, I leave the debate upon the pending amendment to other Senators.

Mr. WELLER. I do not mean to take part in this discussion; but I merely rise for the purpose of indorsing every word that has just been uttered by the Senator from Ohio. I have known both of those gentlemen for fifteen years; and I undertake to say that there are not more honorable, more honest, and incorruptible men to be found in the United States than those two gentlemen who have been arraigned here to-day by the Senator from Indiana.

Mr. BROWN. Just in this connection, without discussing this point, allow me to say, that I did not understand the Senator from Indiana, who happens, at this moment to be out of his seat, as arraigning the honor, or integrity of the Commissioner of Indian Affairs. I understood him as saying that that gentleman, like many others, was prejudiced in this case, possibly without his own knowledge. Then he went on to show from data which he gave, that he was so prejudiced, without at all arraigning his integrity or honor. But my friend from Indiana is now in his place; and he is quite competent to defend himself.

Mr. PETTIT. I do not know what has called out these remarks. I did not, certainly, directly impugn the integrity or honor of the Commissioner of Indian Affairs, or any other officer. I said, in the beginning, that all prejudice or bias was not corruption; and that I would fain believe that none did exist here, but that I did believe a bias, and an improper one, did exist. Therefore, I attributed it to no wrong motive, no corruption of the heart at all. Then, sir, I went on to refer to the making of this treaty—the making of it secretly. For my remarks, I hold myself responsible to establish them. To pay $150,000, in order to get rid of $613,000, and the treaty to be made in secret, without the aid of agents, advisers, or other chosen counselors, was wrong. I said that. I do not know that it savored of corruption. It was the action, perhaps, of a guardian, who thought it was best to treat with his ward in secret, and have it all to himself. It is altogether likely it was. But, I said, further, that in any contest that could be brought up as between these two gentlemen—the claimant, Mr. Thompson, and the Indian Commissioner—it would be no compliment to the former to place him in as high and elevated a position, morally, socially, honorably, and intellectually, as the latter. Yet, I have said nothing to impugn the moral integrity of the Commissioner.

Mr. WELLER. I certainly think that the whole tenor of the remarks of the Senator from Indiana was calculated to produce the impression that those two Commissioners on Indian affairs (Messrs. Medill and Manypenny) had defrauded the Indians. The charge was a direct and unequivocal one, if I can comprehend the English language; and I say, sir, that, if the statements made by that Senator are susceptible of proof, the present Commissioner ought not only to be kicked out of the office which he now holds, but he ought to be expelled from all respectable society. If I had the testimony in my possession to show that any public officer of this Government had been guilty of fraud, that he had swindled these Indians, by making midnight treaties with them, I should feel it my duty to move an impeachment of that public officer.

Mr. PETTIT. If I used the term "midnight," I did not mean, literally, that it was actually done at twelve o'clock in the night, between dark and daylight. I meant to infer by that, figuratively, that it was a secret and closed treaty.

Mr. WELLER. Mr. President, the Senator went further than that. The crime does not consist in the fact that the treaty had been made at the hour of midnight; but it was in the fact that that public officer, claiming to be the guardian of the Indians, had swindled them out of their property. The same charge is made by this agent in his letter to the Indians. It is printed in the public documents which are lying upon our tables; and in it he says that Commissioner Medill "had cheated the Indians" out of their just demands. I speak of the agent Thompson—the very agent whose claim is now presented here. The Senator from Michigan [Mr. STUART] has the report upon his table; and that letter can be read, in which this agent tells the Indians that Commissioner Medill, the representative of their great father, has cheated them out of their just demands! Now, Mr. President, I undertake to say that, if the Senator from Indiana will move an investigation, he will find that those commissioners are clear of all the charges and imputations that he has sought to make against their character. Sir, if they were true, as an American Senator, he owes it, in my judgment, to the public to establish their truth, and let them be expelled from their offices.

Mr. PETTIT. That is the business of the House of Representatives, not mine.

Mr. WELLER. The business of the House of Representatives! The Senator from Indiana has influence in that House, sir; and if he is prepared to sustain his charges, I will join any influence that I may have in procuring the impeachment of the present incumbent. I will go for giving him an ample opportunity of proving the truth of any of the allegations that he has made. In order to sustain the claim of this agent against the Government for one third of $242,000, he feels it necessary to assail the private integrity of the Commissioner of Indian Affairs. It seems to me that, if the claim had been so just and fair a one, there was another way of obtaining its payment than by sacrificing the integrity of the public officer. I am not the apologist of the Commissioner. If he is guilty of the offences charged against him, let him suffer the consequences. I do not seek to shield him; but, I tell the Senator that those who have known him from boyhood will require more than loud declamation to convict him of dishonesty. With a reputation hitherto unsullied, he would, doubtless, if allowed to speak, challenge investigation into these charges.

The amendment proposed by my friend from Mississippi, selects the First Comptroller of the Treasury as the only person who is competent, in this great Government of ours, to pass upon the claim of an Indian attorney. Why not, as I said before, select that Comptroller who has charge of the accounts connected with the Indian bureau? Why not select the Second Comptroller—a man of high integrity, and of unimpeachable honesty, a man of whom it cannot be said that he has the slightest bias against the claim of your agent? Why jump him? Is there but one honest man connected with the administration of your Government? Is there but one solitary individual who can safely be trusted in passing upon the claim of an Indian attorney? Mr. President, you will allow me to say that I do not think this Government would necessarily stop if the First Comptroller of the Treasury was turned out of office. I do not believe that the time has yet come when this Government necessarily requires the services of any particular individual in order to carry on its operations. If, sir, it could not dispense with his services, the day may come when he will die. Then, the Government, I suppose, will have to stop! Now, sir, I confess I may have my prejudices against that person. I have expressed my opinion, in times past, very fearlessly in regard to his conduct; and I undertake to say that I would no sooner rely upon his judgment, or upon his integrity, than on the various other Comptrollers who are connected with the Executive branch of the Treasury Department. You will allow me also to say, in passing, that the public would,

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in my judgment, sustain no loss by his removal, and I think the Government would survive!

Why has he been selected here? This agent was, in former times, a member of the House of Representatives. There are certain connections growing out of old familiar friendship, in times past, between the agent and the First Comptroller; and I doubt not, sir, that the opinion of that Comptroller is known now with regard to this claim. I have no idea that my friend from Mississippi would select a particular officer because of his knowledge of his opinion; but I undertake to say that, in my judgment, it would not have been presented in this form if the opinion of that Comptroller had not been known. I cannot otherwise account for passing over the Comptroller who has ordinarily the charge of all accounts of this kind. The reasons given are by no means satisfactory to me.

Mr. President, if you will look at the report, you will find that the claim which the agent alleges he has had allowed amounts to $242,000. That is to be paid in fifteen annual payments to the Menomonee Indians, commencing in the year 1867. Now, eleven years before the Indians can obtain any portion of this money, it is proposed that the Government of the United States shall pay, out of its own Treasury, the demands of this agent. There is the proposition. There is not a dollar of the $242,000 to be paid until the year 1867; and then it is to be in fifteen annual payments, which will amount to a little over $16,000 per annum; but you propose, by this amendment, at the present time to pay the demands of this agent against the Menomonee Indians. So far as these Indians have entered into a fair contract with the agent, I am willing that he shall receive a just and liberal compensation for whatever services he may have rendered; but I cannot, for the life of me, see how it is, that the Secretary of the Interior, and the Commissioner of Indian Affairs, who have no sort of interest in the result, should be prejudiced against a just and fair claim. I desire to have the agent paid a just and reasonable compensation for all the services which he rendered in adjusting the accounts of these Indians; but I am not willing to leave this question to the First Comptroller of the Treasury.

Mr. BROWN. There are some considerations connected with this claim to which I would invoke the attention of the Senate, and invoke it most earnestly. The attempt is being made to produce the impression that the Commissioner of Indian Affairs is perfectly willing to deal fairly with it. Against the idea that he is willing to deal fairly with Thompson in this case, I enter my protest; because he has voluntarily set forth in his report to the Senate that Thompson is entitled to no reward for his services; and I repeat, what I have said once or twice before, and what I wish to impress upon the mind of the Senate, that for that declaration there is no foundation in justice or in truth. Thompson prosecuted a claim against the Government, in the name of the Indians, which claim had been rejected by this same Commissioner; and he prosecuted it successfully to a point where the Government acknowledged it was due, and paid it Then, sir, were not the Indians the recipients of the benefits of his services? I say nothing as to whether the Government ought to have paid the money. Thompson was the attorney; the Indians were the clients. He prosecuted the case to a point where they recovered a large sum of money which the Government had denied it owed them. They got the money; or it now stands to their credit in the Treasury of the nation. In consideration of this service, the Indians ask that their attorney shall be paid. They recognize the justice of the claim. They feel that they have been benefited; and in their native simplicity, and allow me to say, Mr. President, in their native honesty, they ask that their attorney shall be compensated. Who interposes? The Commissioner who had first decided that the Government owed nothing, and whose decision, through the agency of Thompson, was overruled, and the indebtedness of the Government acknowledged, and that indebtedness paid, or at least, passed to their credit in the Treasury. Now, will anybody pretend to say that Thompson, in all this, has not rendered essential service to the Indians, for which he is entitled to be paid?

Mark you, Thompson has not come here and asked you to pay him according to his contract with the Indians. That is not the proposition before the Senate. He says, in the exercise of your authority over these people, if you choose, disregard the contract, but pay me according to the value of my services. I have rendered services to the Indians. They acknowledge it. The Committee on Indian Affairs acknowledge it. Every man, woman, and child in all Christendom acknowledges it, except the Commissioner of Indian Affairs. From his unjust decision I appeal. I appeal to some man who shall be an impartial arbiter in the transaction, to determine what my services are worth. The Indians are willing to pay him one third of what he recovered. Thompson says, freely I abandon the contract, if you will pay me what my services are worth. And, Mr. President, I stand up here to-day to tell you, upon the authority of as honorable a man as has ever served in Congress, Richard W. Thompson, himself, that he expended $10,000 in the prosecution of this claim. Yes, sir, in money, and in the neglect of his private business, he told me, not fifteen hours since, that he was willing to swear before high Heaven, he had sacrificed $10,000 in the prosecution of the claim. And now when you have acknowledged that you owed the money to the Indians, and have paid them, the Commissioner comes in and says Thompson is entitled to nothing for his services. I want to state one fact, and I want the Senate to mark it. Richard W. Thompson, (who has but one fault that I know anything about, for in all the social relations of life, in everything which constitutes the accomplished gentleman, I find no fault in him —he has but one fault, and that is a grievous one —he is a Whig; and I shall not be suspected of standing up here to advocate his claim because he is a Whig,) told me, and authorized me to state it in his name, that, in a transaction with the Indians, they were anxious to pay him what they acknowledge they owe him, but armed soldiers were placed around the paying table, and at the point of American bayonets the Indians were denied the privilege of paying to him what they individually acknowledged they owed him! Thirteen armed American soldiers were placed round the paying table to prevent the Indians paying what they acknowledged they owed to this man. More than that, sir; the very money which they had received *per capita* was taken from their hands by whisky sellers, when they were so drunk that they did not know to whom it was given. Yes, sir, an honest Indian was denied the privilege, at the point of the bayonet, of paying a debt which he acknowledged he owed; and then the money was taken from his hands by whisky sellers, when he was in a state of drunkenness.

I do not make this statement upon my own responsibility, but upon the responsibility of Richard W. Thompson, the claimant in this case, who, for many long years, served his State in the Congress of the United States, and was known to the old members as a man of as high honor as any who served in Congress.

My friend from California objects to the selection of Mr. Whittlesey in this case, and wants to know why the First Comptroller was selected. I have explained once or twice, and I now explain again, that he was selected because he was supposed to be the most stringent of all the accounting officers of the Government. But I say now that if any other accounting officer shall be preferred, strike out the First Comptroller and put him in. I would as soon have any other officer of the Government as Mr. Whittlesey.

Mr. CLAYTON. Will my honorable friend from Mississippi allow me at this moment to mention one fact? It has been stated, in the course of the debate, by some gentlemen on the other side, that the First Comptroller and Mr. Thompson had served together in the House of Representatives, and that seemed to be considered as some reason why this claim was desired to be referred to the First Comptroller. I wish to state that Mr. Whittlesey left the House of Representatives before Mr. Thompson became a member of it, and they never served together in the House.

Mr. BROWN. I know nothing about that; but I take it for granted that a matter of that sort ought not to incapacitate a man; but if it be a matter of serious objection to his settling the account, strike him out and put in the Second Comptroller, or any one else. If I dreamed for one instant that there was a purpose of selecting a particular man because he is favorable to the claim, I would reject the whole proposition; but since the Senator from California has suggested that there may be some understanding, I shall move, myself, to strike out, "First Comptroller," and insert "Second Comptroller," because I do not advocate any claim here when there is the least possible chance to suspect that there might be fraud in it, or any improper purpose against the Government in any way. I therefore shall ask, at the conclusion of my remarks, to strike out the words, "First Comptroller," and insert, "Second Comptroller."

A Senator. You can modify your amendment.

Mr. BROWN. My friend suggests that I can modify my amendment. I shall do so, I therefore strike out "First," and insert "Second."

Mr. BAYARD. I desire to make an inquiry of the honorable Senator, arising from a remark of the Senator from California. Will not the effect of the amendment be to cause the payment to be made by the Government, by anticipation, to the agent of these Indians, out of the money which will not be due until 1867? In other words are we not to pay the agent whatever sum the Comptroller or other officer decides his service entitles him to, as soon as that decision is made, although the money is not due to the principals until 1867?

Mr. BROWN. That, sir, is the fault of the Government. It is on account of their arrangement that we have postponed the payment of the debt to the Indians so long. It is only anticipating the payment of this amount of money for a few years.

Mr. BAYARD. It is only allowing the party eleven years interest; that is all.

Mr. BROWN. Then you are entitled certainly to charge the interest to the Indians. If you anticipate the payment in advance and pay it, unquestionably you have the right to charge the interest to the party on whose account you pay it. Suppose the Senator from Delaware owes me a sum of money which is not due until 1867; and I draw upon him to-morrow, and he pays it, to whom will he charge the interest? To me, as a matter of course. If, therefore, you pay the money on the order of the Indians, you charge it in the same way. I do not appreciate the importance of that objection.

But I am more anxious to have a vote upon this proposition than I am to discuss it. There were some considerations connected with it that I felt bound, in justice to myself and to the claimant, to present, and especially in reference to the objection made by my friend from California, which went, to some extent, to the competency of the First Comptroller. That I have corrected, by putting in "Second Comptroller," and if that be not acceptable, I will put in anybody else, so that it be some one who is not committed in advance against the rights of the claimant. I do not care whether it be the First or Second Comptroller, or the First, Second, or Third Auditor, or who it is; anybody who will take hold of the case and settle it fairly and truly, according to the law of the case and the obligation, will answer. That is all the claimant asks, and if he asked anything more I would not stand up here to advocate his cause.

Mr. DAWSON. Before the Senator takes his seat, I desire to ask him a question. Do I understand that there were other persons employed beside Thompson?

Mr. BROWN. I never heard of anybody except Thompson.

Mr. PETTIT. No, sir, there was no other.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The Chair will state, that the Senator has modified his amendment by striking out "First" and inserting "Second."

Mr. BROWN. I do that with the understanding that this Comptroller has expressed no opinion on the matter, one way or the other.

Mr. ADAMS. I shall not detain the Senate. I only wish to notice the objection raised by the Senator from Delaware. If I understand the provision of the amendment it only amounts to this: The Government, by a treaty, acknowledges it is indebted, payable some ten or eleven years hence, in a sufficient sum to pay this debt which the chiefs acknowledge to be due to Thompson. The proposition now is, that the Government shall anticipate that time as we have been proposing to anticipate the debt of Texas, and pay it now. There is the loss of interest, the Senator from Delaware says. It is not so, as I understand it. We have the money now in the Treasury, and I would rather pay every dollar of the annuity which we owe the Indians, if we could extinguish the debt, out of the surplus in the Treasury than keep the money there. Years hence we may not have the money as we have now. That is the whole proposition. The Indians acknowledge that they owe the debt. We acknowledge that we owe them more than that sum of money. We, by the amendment, will agree to pay it, though not by our contract with them. The money due to them will not be paid for eleven years; and they ask the Government to pay their debt to their agent. Under all the circumstances of the case, as it has been presented to the Senate to-day, it would seem to be a strong objection to anticipating the payment of the debt, not according to the contract with them, but according to the decision of a disinterested officer, (who has formerly expressed no opinion whatever in reference to it,) he being authorized to allow a reasonable compensation for the services rendered.

I draw a distinction between the claims of different characters which are presented here. A general denunciation of claim agents, a general denunciation of attorneys of Indians, does not control my action when a meritorious case comes up of any individual, of any class or any character of business. In fact, I can conceive of no occupation, under the sun, of a more meritorious and of a more elevated character than that of the man who steps forward and lends his aid to the feeble and imbecile in securing their rights, as, it has been manifest, Mr. Thompson has done in their case for the Indians in their transactions with this Government. The Government always desires to do them justice, but is not always informed as to the right of the case; and it rejoices when, by the labor of any individual, it is enabled to see the right and perform it to the Indians. This man having rendered the service, having spent his money, as it is admitted on all hands, is it not right that he should have his compensation? The Indians feel their obligation and are desirous to pay it; but owing to the fact that we have so shaped our treaty with them that they are unable to pay it out of the annuities secured to them by his labor, they ask us, out of our overflowing Treasury, to pay it in advance. That is the whole case. I shall not detain the Senate.

Mr. STUART obtained the floor.

Mr. BAYARD. Will the Senator allow me to say a word?

Mr. STUART. I only wish to make this suggestion: Most of this discussion has been carried on upon the other side, and I desire an opportunity to reply to it; but there is a necessity for a short Executive session, and I move, therefore, that the bill be postponed until to-morrow, in order that we may proceed to the consideration of Executive business.

Mr. HUNTER. I suggest to my friend that I think we can close up the bill this evening. A good many Senators have agreed to sit it out to-day.

Mr. STUART. I hope the Senator from Virginia will consent to let it go over.

The PRESIDING OFFICER. Before the subject is disposed of, the Chair asks the unanimous consent of the Senate to have some bills from the House of Representatives, which are on the table, read and referred.

Unanimous consent was given.

LIEUTENANT GENERAL BY BREVET.

The PRESIDENT *pro tempore* signed the joint resolution authorizing the President of the United States to confer the title of Lieutenant General by Brevet for eminent services.

NAVY DISCIPLINE.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that the House had passed a bill to provide a more efficient discipline for the Navy; which was read twice, and referred to the Committee on Naval Affairs.

HOUSE BILLS REFERRED.

The bill to remodel the diplomatic and consular systems of the United States, was read twice, and referred to the Committee on Foreign Relations.

The bill to authorize the purchase or construction of four additional revenue cutters, was read twice, and referred to the Committee on Commerce.

The bill to establish an additional land district in the State of Wisconsin, was read twice, and referred to the Committee on Public Lands.

The bill to authorize the printing of the opinions of the Attorney General, was read twice, and referred to the Committee on the Judiciary.

The bill changing the time of holding the United States courts in Tennessee, was read twice, and referred to the Committee on the Judiciary.

BALTIMORE COURT-HOUSE AND POST OFFICE

The bill from the House of Representatives to provide for the accommodation of the courts of the United States in the district of Maryland, and for the post-office at Baltimore, was read twice by its title.

Mr. PEARCE. That bill is identical in terms with one which was introduced here and referred to the Committee on the Post Office and Post Roads, of which the Senator from Texas, [Mr. RUSK] is chairman. There are only slight verbal differences between the two, and I hope, with the consent of that Senator, that this bill may now be put upon its passage.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

It proposes to authorize the President to procure a suitable site or sites for a building or buildings for the court-house and post office in Baltimore, and to submit to Congress, at as early a day as practicable, plans and estimates for the construction of the buildings on such sites, together with estimates for fitting up and furnishing them, for the purposes indicated; or if the buildings on the sites can be remodeled so as to answer the purpose, he is to submit to Congress plans and estimates for such alteration, and also the estimates for fitting up or furnishing them; but any contract that he may make for an such sites, is to be conditional and subject to the approval of Congress.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JUDGES WOODBRIDGE AND CHIPMAN.

The joint resolution from the House, explanatory of an act giving compensation to Judges Woodbridge and Chipman, was read twice by its title.

Mr. STUART. That is merely to explain a law which was passed at the last session, and is entirely right. It limits the law of the last session. I hope it will be considered now.

The joint resolution was considered as in Committee of the Whole. It will direct that the act passed at the first session of the Thirty-Third Congress to provide compensation for the services of George Morell in adjusting titles to land in Michigan, approved August 1, 1854, be so construed as to give to Judges Woodbridge and Chipman the compensation therein provided only from the date to the termination of their appointment as such judges.

Mr. STUART. The effect of the joint resolution is to limit the law which might be construed to give them pay when they were not in office. The effect is to confine it to the time when they were in office.

No amendment being proposed, the joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

INVALID PENSION BILL.

The PRESIDING OFFICER. The Senate passed a bill from the House making an appropriation for the payment of invalid and other pensions of the United States for the year ending 30th of June, 1856, and for other purposes, with amendments. The House have agreed to two of the amendments, and agreed to the other with an amendment.

Mr. HUNTER. The Senate is too thin to act upon the amendment of the House to our amendment. I move its reference to the Committee on Finance.

The motion was agreed to.

TEXAS DEBT BILL.

The PRESIDING OFFICER. The bill to provide for the payment of such creditors of the Republic of Texas as are comprehended in the act of Congress of September 9, 1850, has been returned from the House of Representatives, with amendments.

Mr. RUSK. I hope they will be acted upon.

Mr. HUNTER. The Senate is too thin to act on those amendments. I hope they will be postponed until to-morrow.

The PRESIDING OFFICER. They will be suffered to remain upon the table.

ZACHARIAH LAWRENCE.

The PRESIDING OFFICER. Senate bill for the relief of Zachariah Lawrence, of Ohio, has been returned from the House with an amendment.

Mr. WELLER. Let it go to the Committee on Claims.

Mr. HAMLIN. I hope not. I can make a statement in a very few words which will satisfy the Senator. The original bill provides for the payment of a claim to the captain of a vessel. The amendment of the House includes the crew, and makes provision for an appropriation to them according to the captain's share. I hope it will be agreed to.

Mr. WADE. I hope it will be considered, and the amendment concurred in. It is all right.

The amendment was to add:

And there shall be paid to each of the other persons composing the boat's crew, severally, or to their legal representatives, the sum of $1,322 70, as the share of each in the capture of the said sloop Venture, on satisfactory proof being made to the Secretary of the Treasury of their being such persons or their legal representatives.

The amendment was concurred in.

SWAMP LANDS.

The PRESIDING OFFICER. The bill from the House of Representatives for the relief of purchasers and locators of swamp and overflowed lands, was amended by the Senate, and returned to the House. The House have refused to concur in the amendment.

Mr. STUART. I move that the Senate insist on their amendment, and ask for a conference.

Mr. BRIGHT. I hope it will be passed over until to-morrow. The Senator from Illinois, who is not now in his place, has an amendment to offer.

The PRESIDING OFFICER. It will be passed over.

HOUR OF MEETING.

Mr. WELLER. I move that the Senate take up the order which I submitted some days ago to change the hour of meeting.

The motion was agreed to.

Mr. WELLER. I modify the order to read as follows:

Ordered, That on and after to-morrow, the daily hour of meeting of the Senate shall be at eleven o'clock, a. m.

Mr. BAYARD. I do not mean to discuss that order, but I wish to ask for the yeas and nays on it, and I think they had better be taken when the Senate is fuller than it is now. I am entirely opposed to it myself.

Mr. STUART. I hope the Senator, with that view, will consent to let it go over until to-morrow, so that we may now have an Executive session.

The yeas and nays were ordered.

Mr. STUART. I move to postpone its further consideration until to-morrow.

On a division, there were—ayes 16, noes 5; no quorum voting.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 13, 1855.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read.

CORRECTION OF JOURNAL.

Mr. HIBBARD. I rise to a question of privilege. I observe that I am not recorded as having voted upon the motion of the gentleman from Tennessee [Mr. STANTON] to suspend the rules to allow him to introduce a motion to discharge the Committee of the Whole on the state of the Union from the further consideration of joint resolution No. 47, to fulfill the stipulations of the sixth article of the treaty of 1819 between the United States and Spain. I was present, and voted in the negative, and desire to have the Journal corrected.

The SPEAKER. The Journal will be corrected accordingly.

ROCK ISLAND AND DES MOINES RAPIDS.

The SPEAKER, by unanimous consent, presented a joint resolution of the Legislature of Iowa; which was read, as follows:

Whereas, the people of Iowa, of Upper Illinois, of Wisconsin, and of Minnesota Territory, yearly suffer immense losses in property, and are put to great costs and charges in their course of travel and commerce, by and in consequence of the obstructions in the Mississippi river known as the Rock Island and Des Moines rapids: And whereas, the work done on these rapids for the improvement of navigation through and over the same, during the present year, has demonstrated the feasibility and ease with which a channel may be cut through said rapids of equal depth of the river in other points:

Resolved, That our Senators in Congress be instructed, and our Representatives be requested, to use their influence with energy to procure from Congress an immediate appropriation for the continuation of the work on said rapids, and the improvement of the channel through and over the same.

Resolved, That the Governor of this State be requested to forward copies of this joint resolution to our Senators and Representatives in Congress, and to the Senators and Representatives of the several States and Territories included within the valley of the Mississippi, and ask their assistance in procuring the appropriation herein prayed for.

Mr. COOK. I rise for the purpose of moving that those resolutions be referred to the Committee on Commerce and printed; and in connection with this motion I wish to say a few words to the House. It is a matter not only of vast importance to the State which I have the honor in part to represent, but it is a matter of vast importance to every State which borders on the Mississippi river. I hold in my hand a similar joint resolution, forwarded to me by the Executive of my State, and my colleague upon this floor [Mr. HENN] has another. Our colleagues in the other end of the Capitol have also each one. I have been endeavoring, for a day or two past, to get the floor for the purpose of presenting them.

Mr. WASHBURNE, of Illinois, (interrupting.) Will the gentleman from Iowa yield me the floor for a moment, that I may propound to the chairman of the Committee on Commerce a question, that the House may be put in possession of information in relation to what that committee expect or intend to do in regard to this matter?

Mr. HOUSTON. I object.

Several MEMBERS. Go on.

Mr. COOK. I stated that I had endeavored to get the floor for several days to present these resolutions, and to call the attention of the Committee on Commerce to them. I understand that it is determined, upon the part of that committee, that they will not report these bills back to the House separately—at least such appears to be the understanding of the House, so far as I have any information.

If I could have got the floor yesterday, I should have moved to suspend the rules for the purpose of introducing a motion to set apart a day for the consideration of the bills relating to harbor and river improvements which have passed the Senate, and which now lie upon your table.

Mr. WENTWORTH, of Massachusetts, (interrupting.) I desire to say to the gentleman and to the House that the Committee on Commerce have come to no such determination.

Mr. BOCOCK. I rise to a question of order. This is a day set apart for the consideration of business reported from the Committee on Naval Affairs, and that business takes precedence of other matters.

Mr. COOK. I am not in the habit of trespassing upon the time of the House, and do not desire to do so now, any further than to say a word or two which I think necessary. The Chair will decide whether I am in order or not.

The SPEAKER. These resolutions came in by the unanimous consent of the House. The gentleman from Iowa [Mr. COOK] made a motion to refer them to the Committee on Commerce; and upon that proposition, under the rules, he is entitled to the floor to make an argument in regard to the resolutions. The Chair will say, however, this day being set apart for the consideration of particular business, and the House having indulged the Chair in introducing them by unanimous consent, the gentleman will see the propriety of at least confining his remarks within a very limited range.

Mr. COOK. If I had not been interrupted, I should have finished my remarks before this time. I did not desire to occupy more than five minutes, and I am sorry any gentleman has thought it necessary to call me to order.

The SPEAKER. But the Chair does not decide the gentleman is out of order.

Mr. COOK. I understood the decision of the Chair correctly; but gentlemen upon both the right and left have called me to order. While I do not wish to occupy the time of the House, yet I think this a matter of too much importance to my constituents, and to the whole Mississippi valley, to be passed over in silence, or to be handed in under the rule. My principal object in these remarks is to ascertain the intention of the Committee on Commerce in reference to these matters. I have been told, outside of this House, that the Committee on Commerce had determined that they will not report these bills separately, but will embody them in one bill, similar to that of last session, and report that to the House. As I remarked before, if it were in order to move to suspend the rules, I should do so, but as it is not, I desire to make an inquiry of the chairman of that committee, and that is, whether they intend to report to the House, for its action, the bills which have passed the Senate, and which are now upon the Speaker's table?

Mr. FULLER. I presume it is not in accordance with usage, nor parliamentary, for a committee, or the chairman of a committee, to announce to the House what the committee intend to do or not to do. But I can inform the gentleman from Iowa that the Committee on Commerce have had no opportunity to report for more than six weeks, and gentlemen ought to be a little charry of their remarks concerning what the Committee on Commerce will or will not do, or what any other committee will do.

In reference to all these bills upon the table, whenever I have the opportunity, I shall move to refer them to the Committee on Commerce, but what the action of that committee may be I cannot say, as I do not know, for they have not come to any determination as to what they will do, any report to the contrary notwithstanding.

Mr. DUNBAR. As one of the members of that committee——

Mr. SKELTON, (interrupting.) I ask for the regular order of business.

The SPEAKER. The regular order of business is the consideration of the motion to refer these resolutions to the Committee on Commerce, having been introduced by the unanimous consent of the House.

Mr. BOCOCK. As the gentleman from Iowa [Mr. COOK] asked the unanimous consent of the House, with the remark that he would not occupy but a minute or two, I hope the Chair will hold that consent as confined to that short time.

The SPEAKER. The Chair asked leave of the House to present the resolutions of the State of Iowa, and the House gave its consent. They are therefore before the House by its unanimous consent, and the gentleman from Iowa is strictly in order in addressing the House in regard to them.

Mr. COOK. My motion is, that the resolutions be referred to the Committee on Commerce; and I understand the gentleman from Louisiana [Mr. DUNBAR] is a member of that committee, and was about to say a word or two.

Mr. DUNBAR. I wish to say what I consider will be the action of the Committee on Commerce.

Mr. ORR, (interrupting.) I think it is not consistent with parliamentary propriety for a member of a committee to rise in his place and state what the committee will or will not do, upon any subject before it.

Mr. DUNBAR. An inquiry has been made as to what will be the action of the committee.

Mr. HOUSTON. The question of order is not settled yet.

The SPEAKER. The Chair will not undertake to decide what a member of a committee may deem proper to say in reference to the action of the committee. But if the gentleman from South Carolina [Mr. ORR] raises the question, that this particular colloquy is not strictly in order under the rules of debate, the Chair might decide it.

Mr. DUNBAR. I will state to the House that, as a member of the Committee on Commerce, I am satisfied, if these separate bills, which have passed the Senate, in regard to internal improvements, are referred to the Committee on Commerce, they will not be reported favorably upon, and, therefore, those who are in favor of their passage should not vote to refer them to that committee, but, rather, to the Committee of the Whole House. They then can be taken up by the House, acted upon, and passed or rejected, as they see fit. No information can be obtained by referring them to that committee. The bills which have already passed the Senate are for improvements which were contained in the general bill of last session. That bill was then before the Committee on Commerce, and was reported upon favorably by them.

I repeat, that so far as I know the sentiments of that committee, they will be adverse to reporting the bills separately to the House. Therefore I hope the friends of these bills will not refer them to the Committee on Commerce, but to the Committee of the Whole House, in order that they may be rejected or passed by the House.

Mr. COOK. I have obtained the information I sought, and it concurs with what I had heard outside of the House; and for this reason I have called the attention of the House to this matter.

Mr. FULLER. I rise to a personal explanation in reference to the remarks which I have just made.

Mr. LILLY. I rise to a point of order. I insist that this entire debate, outside of the gentleman from Iowa, is out of order.

Mr. COOK. I do not yield to the gentleman from Maine.

The SPEAKER. The Chair will be under the necessity of insisting that the gentleman from Iowa confine his remarks to the propriety of committing the resolutions which have been presented to the Committee on Commerce.

Mr. COOK. Very well.

The SPEAKER. The Chair conceives that the gentleman from Maine [Mr. FULLER] has no right to claim the floor at this point in the proceedings, for the purpose of making a personal explanation.

Mr. COOK. My motion is, that these joint resolutions from the Legislature of Iowa be referred to the Committee on Commerce. While I am willing that they shall go to that committee, I at the same time give notice that on next Monday, if I get the floor, I shall move a suspension of the rules to set apart a day for the consideration of the subject of the improvement of rivers and harbors. That is a subject of great importance; and, in my opinion, its friends should be unwilling, at this late stage of the session, to allow it to sleep any longer in the Committee on Commerce.

Mr. ORR. I call for the previous question on the motion to commit the resolutions.

The call for the previous question received a second, and the main question was ordered to be now put.

The resolutions were referred to the Committee on Commerce.

Mr. ORR. I move to reconsider the vote by which the resolutions were referred to the Committee on Commerce, and to lay that motion upon the table.

The latter motion was agreed to.

SPECIAL ORDER.

The SPEAKER. The business first in order is the reception of reports from the Committee on Naval Affairs.

Mr. FENTON. I ask the unanimous consent of the House for action on a bill to which nobody can object.

Mr. SKELTON. I demand the regular order of business

Mr. FENTON. I trust that the objection may

be withdrawn. The bill on which I ask action merely proposes to change the name of a vessel, and to issue to her a new register.

Mr. ASHE. This day has been set apart for naval business, which has been accumulating for a long while, and it will all be needed. I must object to the gentleman's proposition.

DISCIPLINE IN THE NAVY.

The SPEAKER. Reports are in order from the Committee on Naval Affairs.

Mr. BOCOCK. Mr. Speaker, I am instructed by the Committee on Naval Affairs to report back House bill (No. 563) to provide a more efficient discipline for the Navy.

The bill was introduced by myself, and referred to the Committee on Naval Affairs. It has been read a first and second time, and I now propose that it be read through for information, and put on its passage.

The Clerk read the bill *in extenso*. It directs the manner of enlistment, discharge, and temporary leave of absence and liberty on shore; and also provides for summary courts-martial upon petty officers, and persons of inferior ratings, and the kind and extent of punishment.

Mr. BOCOCK. Now, at the commencement of the day, I think proper to say that I feel very much obliged to the House for the courtesy they have shown in setting apart this day for the consideration of business reported by the Committee on Naval Affairs. For my part, I intend to do everything to deserve this courtesy at their hands. Although the position I occupy, as the head of the Committee on Naval Affairs, may require me to be frequently before the House, I here now, at the commencement, pledge myself in advance that I shall not take up the time of the House one moment when I do not believe it to be absolutely necessary for me to do so. And I trust that gentlemen will believe me to be sincere when I say that I mean to consult the temper of the House, and their disposition, in the progress of this business, so far as I can consistently with the great object which I have in view, which is to have the business acted upon.

Gentlemen here may have subjects upon their minds which they may wish to discuss for their own pleasure, or for the purpose of being heard by their constituents; but, sir, I appeal to them to consider that this brief day is the only time that we can hope to obtain for the transaction of the important business we propose to bring up, while they may bring up the subjects they propose to discuss at some subsequent day of the session.

Mr. Speaker, there are three bills upon which I desire the action of the House, in some form or other, in the course of the day. One is the bill now before the House, and which has just been read; another is the bill recently sent us from the Senate, entitled "A bill to increase the efficiency of the Navy," which passed that body unanimously; and the third is the bill reported a few days ago, by the Committee on Naval Affairs, to authorize the construction of seven additional sloops of war. Unless we economize our time, and address ourselves to this business in a business-like way, it will be perfectly impossible for us to consider properly all these bills, and I therefore again earnestly appeal to the House to devote this entire day to the consideration, in good faith, of these propositions, and to discuss nothing irrelevant to them.

Mr. Speaker, in relation to the bill under consideration, I think proper to say that I have not yet heard the slightest objection to its passage. If there be such objections, they have not come to my ears. The bill has not been attacked in the newspapers, nor in private circles, nor before the public, nor anywhere else, so far as I know. Therefore, unless some objection be made now, after some brief explanatory remarks, I shall call the previous question upon the passage of the bill. In the course of those explanatory remarks, if any gentleman desires to give or receive information, I am quite willing to allow myself to be interrupted, and to afford him five or ten minutes of my time, either to propound inquiries, or to express his views upon any point in the bill.

Mr. PHELPS. I think the House understands the bill already, and I hope the gentleman will call the previous question at once.

Mr. BOCOCK. I will call it in two minutes, if no one has any questions to ask. I desire to say that there has been no general legislation upon the subject of discipline in the Navy since the year 1800. At that time our Navy was in its infancy. The system then adopted may have been the best for the exigencies of the time then in existence; but, sir, this is an age of progress, and half a century can have hardly passed away without some improvement having been matured.

It is true that one important measure respecting the discipline of the Navy has been adopted since 1800. The right to punish by the lash has been abolished. It was carried as an amendment to the naval appropriation bill in 1850, and since that time nothing has been provided in lieu thereof. When, some two or three years ago, the punishment by the lash was stricken out, the then Secretary of the Navy called together a board of the most experienced officers of the Navy, to propose the best measure of discipline for the Navy; and this bill comes up, in most particulars, to the recommendations then made. It contains, I believe, but one or two features not then recommended; one of which provides for punishing men who entice enlisted seamen away from the naval service. The district attorney for the southern district of New York has suggested that there is no such law now in existence. It remains for me to add, that this bill, as I have reason to know, meets the entire approval of the Secretary of the Navy.

Mr. Speaker, having made what explanation I deem necessary, and no gentleman having risen to propound any inquiry, in accordance with the notice I gave at the outset, I move the previous question.

Mr. MILLSON. I ask my colleague to withdraw the demand for a moment.

Mr. BOCOCK. I will, if my colleague desires to ask a question.

Mr. TWEED. I renew the demand for the previous question.

The SPEAKER. The gentleman from New York [Mr. TWEED] has not the floor for any such purpose.

Mr. MILLSON. I rise merely to make an inquiry of my colleague, for he knows very well that I am in favor of the bill now under consideration. He knows that this bill is substantially the same, or similar to one which I myself introduced into the Thirty-Second Congress. There is, however, one amendment which I would suggest to my colleague, that he should amend, in the sixth line of the seventh section, by inserting the words "any one," so that it shall read "that summary courts-martial may sentence petty officers and persons of inferior ratings to any one of the following punishments," instead of "to the following punishment."

Mr. BOCOCK. That amendment is already in the bill.

Mr. MILLSON. It is not in the printed bill.

Mr. BOCOCK. That is true; but it is in the bill as now before the House.

Mr. MILLSON. There is another point to which I wish to call the attention of my colleague. I think he will agree with me, upon reflection, that the bill as it now stands will authorize the discharge of men from the service of the Navy in a foreign country. Now, I do not think the commandant of any vessel should be allowed to discharge a citizen of the United States, and leave him to starve, perhaps, in a foreign country. I would, therefore, suggest to my colleague to amend the bill—I will not move the amendment myself—by adding the words, "this sentence not to be carried into effect in a foreign country."

Mr. BOCOCK. I will accept the amendment, and I now move the previous question.

Mr. HAVEN. The amendment suggested by the gentleman from Virginia seems to be very well. I suppose the House does not intend to take up much time in discussing the bill, and I only desire to say to it that, for one, I am ready to vote for the bill, and to vote for it now.

The previous question was seconded, and the main question was ordered to be put.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was read a third time, and passed.

Mr. BOCOCK moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled a bill of the following title; which thereupon received the signature of the Speaker:

A joint resolution authorizing the President of the United States to confer the title of lieutenant-general by brevet for eminent services.

EFFICIENCY OF THE NAVY.

Mr. BOCOCK. I am directed by the Committee on Naval Affairs to report back Senate bill (No. 568) to promote the efficiency of the Navy, with sundry amendments.

The bill was read, and is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as soon as practicable, after the passage of this act, the President of the United States shall cause a board of naval officers to be assembled, to consist of five captains, five commanders, and five lieutenants; which board, under such regulations as the Secretary of the Navy may prescribe, shall make a careful examination into the efficiency of the officers of the grades hereinafter mentioned, and shall report to the Secretary of the Navy the names and rank of all officers of the said grades who, in the judgment of said board, shall be incapable of performing promptly and efficiently all their duty ashore and afloat; and vacancies occurring in said board shall be filled by the Secretary of the Navy, who shall preserve the number and grades of its officers, as aforesaid: *Provided*, That no officers upon said board shall examine into, or report upon, the efficiency of officers of a grade above them.

SEC. 2. *And be it further enacted*, That all officers who shall be found by the said board incapable of performing the duties of their respective offices, ranks, or grades, shall, if such finding be approved by the President, be placed, in the order of their rank and seniority at the time, upon a list in the Navy Register, to be entitled the reserved list; and they shall receive the leave of absence pay, or the furlough pay, to which they may be entitled when so placed, and shall be ineligible to further promotion, but shall be subject to the orders of the Navy Department at all times for duty; and vacancies created in the active-service list, by placing officers on the reserved list, shall be filled by regular promotion in the order of rank or seniority. And officers who may be promoted to fill the vacancies created by the reserved list shall, while unemployed, receive only the "leave-of-absence" or "waiting-orders" pay to which they would have been entitled if such promotion had not been made; but when employed at sea, or on other duty, they shall receive, in addition to such "leave-of-absence" or "waiting orders" pay, the difference between the "waiting-orders" or "leave-of-absence" pay, and the "sea or other duty" pay of the grade to which they may be so promoted: *Provided*, That this scrutiny and reservation of officers shall extend only to the grades of captain, commander, lieutenant, passed midshipmen, and masters: *And provided further*, That nothing in this act contained shall be held or construed to authorize any increase of the aggregate pay of the said grades, or of the naval service, as now allowed by law.

SEC. 3. *And be it further enacted*, That nothing in this act contained shall be construed to restrict, apply to, or impair the regular promotion of officers in the service list of the Navy who may be at any time entitled to promotion consequent upon deaths, dismissals, or resignations, nor in any manner to abridge or impair the right of the Secretary of the Navy to place officers upon furlough.

Mr. BOCOCK. There are certain amendments that have been proposed to this bill by the committee, and which have not been reported by the Clerk. I propose now to make a few remarks in explanation of the bill, and I will explain the amendments as I proceed.

Mr. GROW. I would like to ask the gentleman one question before he commences his remarks. Why is this examination restricted to senior officers? Why is it not made general, to apply to all grades of officers?

Mr. BOCOCK. The examination is restricted only to officers of the line, amongst whom the evils complained of exist to a greater extent than they do among other offiers. It would be impracticable to extend the provision to some officers—to pursers, for instance. In the course of the remarks which I shall make—and they will be very few—I shall, perhaps, make the matter more intelligible to the gentleman than I have now done.

The House is aware—or, at least, that portion of it which has paid any attention to naval affairs—that, for some years past, there has been an opinion on the part of a great many persons, that great, thorough, and searching reform is necessary in the *personnel* of the Navy. I am inclined to think, Mr. Speaker, that there never was an opinion better founded than that. There are a great many men now upon the Navy Register of the country, drawing their pay as Navy officers, who ought not to be there. The question heretofore has been, how shall we get rid of them? Well, sir, if you say that these men, not being competent to the performance of duty, ought to

be utterly discharged from the service, without any compensation, you have this hardship: A young man enters the naval service when he is fifteen years old. He studies no other business or profession. He loses all connection with the ordinary business of the country, if he performs his duty faithfully, and acquires habits which totally disqualify him for the ordinary pursuits of life. He goes on from grade to grade, unable to save much money, or, at least, he does not save much, until he gets to be an old, care-worn, constitution-broken veteran, unable to do service longer. What will you do with him? Will you cut him off absolutely? Will you consign him to the cold charities of an unsympathizing world? There is something revolting in that idea. There is something revolting in the idea that a man who has devoted his life to the service of his country, and by that devotion has lost all power to support himself at any other business, should be turned adrift, penniless and helpless, to drag out a dependent and miserable old age. On the other hand, some of the men on the Navy Register ought never to have been there. They were unfit at first, and have done nothing since to render themselves more fit, and there may be others, who, by negligence, idleness, and dissipation, have lost any fitness they ever possessed, and have perhaps rendered themselves unworthy of the respect of gentlemen. I trust the number of such is not very large. I hope the House will believe that that number is not very large. To place this class on the same footing with the former class, would be unjust and improper.

But before I proceed in that direction, will the House bear with me while I cite them some cases on this Register which will, perhaps, open their eyes to the necessity of this reform? Here you have sixty-eight captains on the Navy Register for 1854. I find early on the list the name of a captain from one of the middle States, who entered the service in 1800, and has, consequently, been in it fifty-three years and eight months. Now, for how much of that time do you suppose that gentleman has been unemployed? He has been thirty-five years and nine months unemployed, but drawing his pay from the Government. He was made a captain in 1825, now thirty years ago. How much sea-service has he discharged since then? Two years and one month, for which he has received pay as captain in the Navy for thirty years. Here is a gentleman from a southern State, who entered the service so long ago, that he has been in it forty-eight years and five months. Of that time he has been unemployed twenty-four years and one month. He was made a captain in the year 1829, and since that time he has had four years and six months sea service.

Here is another gentleman—but as I see there is some sensitiveness here on the subject of the States from which these officers come, I will say no more about that—who has been in the service forty-four years and one month. Of that time he has been unemployed twenty-two years. He was made a captain in 1838, and since that time he has done sea service —— years —— months. Here is another gentleman—may I say he is from the far South?—who has been in the service forty years and three months. During that time he has been unemployed twenty-five years and six months. He was made a captain in the year 1840, and how much time do you suppose he has been employed since then? For the term of ten months. One of these gentlemen reported himself at the Department not many years ago, and was unknown to the Secretary. "Oh, said he, I have had nothing to do for a long time, and I have been down there at home amusing myself in farming." [Laughter.] He was engaged regularly in farming, but came up here annually, or semi-annually, or quarterly to receive his leave-of-absence pay.

Mr. RICHARDSON. What was his pay?

Mr. BOCOCK. Twenty-five hundred dollars a year as captain. Here is another man who entered the service so long ago that he has been in for forty-two years and six months. Since then he has been unemployed twenty-one years and eleven months. He was made a captain in 1844, and since that time he has done not one particle of sea service. So much for the list of the captains; but this thing is not confined to captains.

I come down now to the commanders, and I find a man from the State of New Jersey, who entered the service so long ago that he has been in it for forty-one years and five months. In all that time, of forty-one years and five months, that commander of the Navy did sea service for —— years and —— months.

Mr. RICHARDSON. What is his pay?

Mr. BOCOCK. One thousand eight hundred dollars a year, as commander on leave of absence.

Mr. WALSH. Perhaps he had a natural dislike to the sea. [Laughter.]

Mr. BOCOCK. I could go on and cite a number of other instances of this kind; but I think it unnecessary. The House must see that some measure of reform is absolutely necessary. Men not only stand there, cumbering the Navy Register, and receiving pay for services which they never performed, but worse still: they stand in the way of other officers, meritorious, energetic, and enterprising, who feel a pride in the service, and who would do honor to the country in any position to which they might be called.

I was stating, a short time ago, that the difficulty heretofore existing in the way of reform has been as to the mode of getting rid of those who are incompetent. I had stated the objection, which was properly made, to an absolute dismissal of meritorious old men from the service. When, on the other hand, it was proposed to place such on a retired list, gentlemen rose in the House, and said they were opposed to the policy, because it would be establishing a civil pension system, and would be recognizing the principle that men might be on this roll, receiving pay, recognized as officers, and yet not be subject to be required to do one particle of service. Well, sir, although that, in some point of view, seems objectionable, yet I am one of those who believe it to be a lesser evil than that which we now have; and in the bill which I presented at the last session of Congress, I provided for dropping the unworthy, and placing the meritorious, who have become incompetent, on a retired list. I accompanied this, however, with many other measures of reform, which I think are, if not vital, at least important, and which would have made that measure of reform, in my opinion, the most efficient and thorough which has ever been presented. That bill, however, was never regularly considered, and I feared could not be during this session.

The chairman of the Naval Committee of the Senate and myself had a consultation, a short time ago, and seeing that we were likely to have very little time for the consideration of naval subjects, not enough to carry a bill, of much length, agreed to address a letter to the Secretary of the Navy, asking him to give us his views as to some one measure of reform which might do much to correct the evils of which I have been speaking, and which might yet stand a chance of passing the Congress of the United States at the present session. This bill, sir, is the result. It was introduced to the Senate by the honorable and distinguished Senator from Florida, who has given naval subjects much attention, and is well informed in relation to them—I allude to the Hon. Mr. MALLORY—and the bill passed that body without a single dissentient voice. The bill was then brought into the House, and referred to the Committee on Naval Affairs. We have amended it in a manner which I hope will not render the bill less acceptable to any gentleman on this floor.

The bill provides, first, that there shall be a board of naval officers, convened under such regulations as the Secretary of the Navy may prescribe, who shall inquire into the condition of the officers on the service list of the grades of captain, commander, lieutenant, and midshipman, and report to the Secretary of the Navy the names and rank of all officers of those grades who, in the judgment of the board, shall be incapable of performing, promptly and efficiently, all their duty, ashore and afloat. This bill proceeds to say that whenever such board shall have reported, and whenever that report is approved by the President, all these officers shall be placed upon a list in the Navy Register, to be entitled the reserved list. The Committee on Naval Affairs of the House have proposed the following amendments:

After the word "afloat," in the thirteenth line of the bill, insert the following:

And whenever said board shall believe that said incompetency has arisen from any cause implying sufficient blame on the part of the officer to justify it, they shall recommend that his name be stricken altogether from the rolls.

Several MEMBERS. That is right.

Mr. BOCOCK. After the word "rolls" we propose to make a period, and commence the next sentence thus: "Vacancies occurring in said board shall be filled by the Secretary of the Navy," &c.

We propose, also, to amend the second section by inserting after the word "be," in the fourth line, the words "dropped from the rolls or," by striking out the word "they" in the sixth line, and inserting in lieu thereof the words "those so placed on the reserve list;" and in the eighth line, after the word "placed," inserting the words "according to the report of the board, and approval of the President."

The effect of these amendments will be that the second section shall, if so amended, provide that all officers who shall be found, by the said board, incapable of performing the duties of their respective offices, shall, if such finding be approved by the President, be dropped from the rolls, or placed in the order of their rank and seniority at the time, upon a list in the Navy Register, to be entitled the reserved list, and those so placed on the reserved list shall receive the leave-of-absence pay, or the furlough pay, to which they may be entitled when so placed, according to the report of the board, and approval of the President, and shall be ineligible to further promotion, but shall be subject to the orders of the Navy Department at all times, for duty; and vacancies created in the active service list, by placing officers on the reserved list, shall be filled by regular promotion, in the order of rank or seniority. And officers who may be promoted to fill the vacancies created by the reserved list, shall, while unemployed, receive only the "leave-of-absence" or "waiting-orders" pay to which they would have been entitled if such promotion had not been made; but when employed at sea, or on other duty, they shall receive, in addition to such "leave-of-absence" or "waiting-orders" pay, the difference between the leave of absence pay and the lowest sea-service pay of the grade to which they may be so promoted. I can explain this matter more specifically to the House if required to do so.

The original bill, as it came from the Senate, provides that when officers are put upon the reserved list, they shall receive the leave-of-absence pay, or the furlough pay to which they may be entitled when so placed—furlough pay being one half of the leave-of absence pay. There might be a difficulty in carrying out the provisions of the bill, as it stood, without amendment. The section says that the officers put upon the reserved list shall receive leave-of-absence pay or furlough pay, but who was to determine which? Shall the Secretary of the Navy determine it by his own authority? That would be disagreeable. It seems to me to be in every way better that a board shall recommend whether a man shall be placed upon leave-of-absence pay or furlough pay.

Mr. BENSON. Will this board of officers have the power to say whether an officer shall be stricken entirely from the rolls, or that he shall receive leave-of-absence or furlough pay.

Mr. BOCOCK. They have power to make their recommendation in relation to that matter, and if the President approves of their recommendation it is so decided.

Mr. CHANDLER. I would ask the gentleman, at this point, whether it is his intention to allow these amendments to be discussed when he shall have finished his remarks, or does he intend to call for the previous question?

Mr. BOCOCK. I do not intend to move the previous question immediately, but shall allow gentlemen some time to discuss the amendments I have suggested.

Mr. PECKHAM. Who is to blame for these officers not being in service?

Mr. BOCOCK. In some instances they themselves are to blame. In many instances the reason why these officers have not been called into service is, that there has been no service requiring them to be called out. This creates the very reason why this board ought to inquire into the incompetency of an officer, whether it has resulted from his own fault or from causes involving no blame on his part. If it has resulted from his own fault, then he ought to suffer the consequences. If it springs from no bad conduct of his own, then I say that he ought not to suffer for it.

The next amendment which I have to offer is in the twentieth line of the second section, to strike out the words "sea, or other duty," and insert in

lieu thereof, "lowest sea service;" and this brings me to explain the general operations of this bill. I will commence with the grade of captain. In the grade of captain there may be twenty men who are incompetent for the discharge of their duties. You put them upon the reserved list, and you promote men from the grade of commander by brevet to fill their places. They are not full captains. By the provisions of this bill, commanders, promoted to fill the places of captains, receive, when out of service, their leave-of-absence pay as commanders, and not as captains. When they go into service they receive, in addition to this leave-of-absence pay, the difference between the leave-of-absence pay, as captain, and the service-pay of the last named grade, which differs according to the nature of the service; but in any case the commander, made captain by brevet, receives better pay while in service than he would do as simple commander.

Mr. SOLLERS. Did the Committee on Naval Affairs agree to report this bill?

Mr. BOCOCK. Yes, sir, they did, this morning, agree to report it with the amendments I have suggested. The operation of the bill, as it came from the Senate, would not have made the pay of lieutenants, raised by brevet (so to speak) to be commanders, better than it is at present when employed on shore duty. This was not intended. To remedy it I have proposed to strike out the words "or other duty," in lines twenty and twenty-one, and say "lowest sea-service pay." This will make the bill symmetrical on the question of pay. This amendment designs to give lieutenants, raised by brevet to be commanders, better pay than they would have received by the provisions of the bill as it originally came from the Senate, while it does not affect the pay in other grades.

[Mr. BOCOCK here illustrated the operation of the bill on the subject of pay by many examples from the Navy Register.]

The next amendment is this: In line twenty-four, after the word "further," insert:

That all vacancies occurring in the grade of masters shall be filled by the promotion of the senior passed midshipman, to be entitled masters in the line of promotion, who, when promoted, shall receive the pay allowed by law to masters; that the number of masters in the line of promotion shall not exceed sixty.

The present number of masters is thirty-five, and a great number of passed-midshipmen discharge the duties of masters, and receive pay as such.

There is another section we propose to add, providing that the present officers of the Navy shall not be increased by this bill, it being already provided that the expenses of the naval service shall not be increased by it. It is provided by the amendment I have proposed, the number of officers shall not be increased, even including those upon the reserved list, so that the whole operation of the bill, as to number will be to change the grade of those now authorized.

Take, for example, the grade of captain. Put twenty of them upon the reserved list, and raise twenty commanders by brevet in their stead. Fill the vacancies thereby created by raising lieutenants to be brevet commanders. The vacancies in the grade of lieutenant are to be filled from the masters, and those again are to be replaced by midshipmen. But the numbers of midshipmen are to be so diminished as that the whole number of officers will not be increased by this bill.

I hope, now, this bill obviates all the difficulties gentlemen have had about the retired list. There is no retired list here. It does not recognize the principle that any man is in the service under pay, who is not liable to be called into duty. It merely says that certain of them shall not be in the line of promotion. This reserved list opens the way, *pro tanto*, to the promotion of a number of worthy men who now stand in lower grade.

I wish I had time to show the operation of the present system upon the promotion of those in the lowest grade, and show the House at what age it can be expected that a midshipman, as the law now stands, can expect to reach the grade of commander. They enter the naval service generally at about the age of nineteen, and serve three years at sea before examination, which makes them twenty-two when they become passed midshipmen. They then serve about fifteen years as midshipmen; which brings them to the age of thirty-seven. Entering the rank of lieutenant at thirty-six, they then, for the first time, have charge of the watch at night, at a time of life, when their active energies are already begun to wane. After getting into the rank of lieutenant, they remain there about twenty-five years, on the average, before they are promoted to the rank of commanders. They are then sixty-one years of age. Who of them will ever live to be captain?

If you expect to have spirit in your service, you must give to the meritorious a fair chance to reach the highest honors of his profession. When the officer beholds a long, dusty, unchanging road opening out interminably before him, his hope sickens and dies, his energy is destroyed, the spirit that should animate his corps is lost, and he loiters along the way reckless of the future, and careless about his own conduct, till, perhaps, he disgraces the service that he might otherwise have adorned. This bill, without increasing the expense, or adding one officer to the Navy, furnishes additional grades, makes promotion quicker and more frequent, and gives the meritorious a fair chance to reach the grade of captain at a reasonable period of life. It will thereby quicken hope, increase energy, and arouse unflagging effort for distinction. I hope it will pass.

Mr. SKELTON. As the bill came from the committee of which I am a member, and has been reported as the action of that committee, I think it due to myself, and to the House, that I should be heard briefly in regard to the merits of this measure.

It has been stated here that our Navy needs reform, and that it is in a bad condition. I believe, sir, no person on this floor, or elsewhere, will dispute the fact. The worthy chairman of the Committee on Naval Affairs has just shown us there are many and great abuses which have grown up in the Navy. Now, sir, we have here a remedy submitted, which proposes to cure the evils under which our Navy is suffering, to do justice to the meritorious officers, and to all classes. I think we should ponder well before we adopt this remedy. We should hesitate before we take this step. I look upon this measure as one of too much importance to be passed by, either in silence or without investigation.

What are the causes which have led to these evils complained of? Let us in this case, as we propose to correct the evils, look at the cause of them, and perhaps we shall derive some light as to the best way of treating them. Having ascertained the cause, we shall be able to judge of the efficiency and propriety of the means proposed to remedy the evils.

Now, sir, I do not believe that this bill is based upon a thorough examination and investigation of the causes of the mischiefs, nor do I believe these measures are calculated to accomplish the objects proposed to be effected; and I propose to show to the House a few of the reasons which have led me to this conclusion.

Our worthy chairman has stated that we have a large number of naval officers in commission, in idleness; that a large number drawing pay, for some cause or other, has not been in the service of the country for long periods of time—one for thirty-five years, one for thirty-four years, one for twenty-two years, one for twenty-five years, another for twenty-one years, and a large number more might be cited who have been kept in total idleness, out of employment, and rotting down for want of use. When you keep a man in idleness for a length of time you make him unfit for anything. Worse than all, you destroy his energy and his intellect, and throw before him temptation to vicious ways. We must all acknowledge the too palpable truth of the saying that "idleness is the parent of many vices." And I hold that this Government has no right to keep men in idleness. It has no right to employ men when it has no employment in which to engage them. It has no right to entice men from the peaceful and civilizing pursuits of civil life into the ranks of the naval profession, then, while drawing from the Treasury the people's hard-earned money, to rot down in idleness.

This is a great evil, and it is but fitting that we should carefully trace it back to its cause. What is the cause? I desire the attention of the House to the point, for it is important, and ought, and will, I have no doubt, govern action on this subject. We have too many officers. We are overburdened with them. There are a great many more than we can find employment for. Possibly, by a large increase in our naval service, we might find something for them to do.

Mr. Speaker, one of two things must be done, or our naval arm will still continue to rot and fall into decay. You must either largely increase the number of your ships, your naval force, and thus furnish employment for our naval officers, who have been so long without it, or discharge a great many of those officers from the service—turn them off, to engage in other pursuits for a livelihood. I hold that one of these things must be done, or the Navy will still continue to rot in idleness.

What is it proposed we shall do? To make a retired list. Notwithstanding the declaration of the honorable chairman of the Committee on Naval Affairs, in my judgment the bill under consideration does provide for a retired list. It does specify and set apart a portion of these naval officers who, without being asked to do anything, are to receive pay from the Treasury of the United States. They are not to be in readiness, when called on, to proceed to the discharge of their legitimate duties. No, sir; no such thing. It is admitted, on all sides, that a large portion of our naval officers are disabled for the performance of any naval service to the country. I would like to know upon what principle we are to keep men in the pay of the Government, when we are to call upon them for no service? But granting the justness of the principle, why is it proposed that we shall make a discrimination? Do we propose anything of a similar kind for the sailor? He receives but eight or ten dollars the month. He, equally with the captain, the lieutenant, or any other officer, exposes his life to the hard service and dangers of the sea. When there is no employment for that man, do you propose to keep him in idleness on pay? No, sir; and yet his salary is small—almost nothing compared with that given to the naval officers. See the difference: The moment your man of war touches our naval station, while the captain goes into snug quarters and waits orders, at a salary of $3,500 per annum, the sailor, who does the hard work, faces the most appalling terrors of the sea, and for all gets but little pay, he is turned adrift, to seek employment as he best can. Is this just? Is it republican; and is it a principle which the American Congress is willing to establish as a rule of action? Let me have an answer.

But, says a member, these officers are gentlemen, men of education, and qualified for commanders. Admit it all. I do not deny that in the naval profession there are as honorable and as well educated men as can be found in any other walk of life. I esteem worthy officers of the Navy as highly as any man upon this floor. I hope that I am the last man who would say aught against their skill, their intelligence, their bravery and honor, and everything which go to constitute a true man. For all these things I extend to them the credit which is their due.

But who made them such? Let us look into the organization of our naval system. How comes the distinction between the officer and the sailor? There are two boys moving in the same sphere of life. They are equal in all things but one. One is friendless, poor, and destitute; the other has gained, in one way or the other, it does not matter, political patronage; there is a member of Congress who secures for him a midshipman's berth. The sailor is placed in the forecastle, in the midst of the greatest privations and hardships. Heretofore he was subjected to the lash, hereafter he is to be subject to courts-martial, confinement in dungeons, and to being double-ironed. He is to be punished with the severest punishments which the law can inflict. The other boy, the midshipman, is sent to the Naval Academy, there to receive the most polished education. He is to live well, and be carefully taken care of; to be educated, and taught all the accomplishments of gentlemen, while the sailor is to remain in his forecastle in ignorance; worse than that, he is to be brutalized by a brutal treatment. In the hour of trial, when the country calls upon its sons for its defense, the sailor, with the captain, bares his breast to the enemy. He mans the guns, and hurls broadside after broadside in terrible destruction against his nation's foe. While he has strength left, the national emblem floats in triumph. Yet your favoritism still continues. The boy who started

with political patronage advances, step by step, from the humblest walk of life to the position of commander. For the friendless boy there is no advancement; he remains before the mast. Let him exercise skill and good management in his position, let him exhibit in fight the most desperate valor and courageous daring, starting as a sailor in the forecastle, he remains such; he never advances. The higher ranks in the Navy are closed against him. He entered as a dog; he remains and is treated as a dog.

Now we come to the point. The ship returns, after a cruise. He, whom the Government educated and made a man of, is to be retired on the pay of captain. The sailor, who after forty or fifty years of hard and nearly continuous service, is to be turned adrift into the world to seek a subsistence for his old days as best he can. An instance of this kind has fallen under my notice within the few days past. A man in my town entered the marine service in 1811. He was one of the bravest of the brave. He fearlessly trod the ship's deck in discharge of his duty to the country. Danger never turned him back. He served during the whole of the late war. Subsequently, worn out in the service, and, for a life of fidelity and courage, he was, in the munificence of the Government's charity, appointed to a situation in the Naval Asylum at Philadelphia. Through the grog rations of the Navy, his appetite for strong drink returned to him. He went out one day and came back drunk. For this he was dismissed the institution; an alms-house ticket was furnished him, and he was sent to the Blockley alms-house, there, half fed and clothed, and in disgrace, to serve out the remainder of his days.

What is asked here to-day? That the multitude who work for almost nothing, shall be turned adrift to be a tax on the community, when they are serviceless, and the officers retired in affluence. Yet both entered equally; neither displayed more daring and bravery than the other.

Mr. SMITH, of Virginia, (interrupting.) I am not acquainted with the alms-house system in Philadelphia, but I take it for granted that the gentleman from New Jersey is. I desire to know whether the alms-house half feeds and half clothes the men who go there?

Mr. SKELTON. I undertake to say, in reply to the question of the gentleman from Virginia, that there is hardly an alms house in Philadelphia, or any other city in the United States, that is a desirable place for gentlemen to go to.

Mr. SMITH. That is not an answer to my question. I desired to know whether the inmates of the Philadelphia alms-house are half fed and half clothed.

Mr SKELTON. I undertake to say, that the inmates of the alms-house at Philadelphia are not so well fed and clothed as the captains of the Navy. [Laughter.] I make that assertion without fear of contradiction. Sir, I ask the gentleman from Virginia whether it is justice to allow the poor sailor, who spends his whole life upon the ocean, at a rate of compensation that gives him no opportunity to provide for the support of his family, and when he returns, unable from age to continue longer in the service, having spent his life upon the high seas in fighting the battles of the country, to be turned over to the alms-house, while the naval captain is retired at an expense to the Treasury of $2,500 a year for doing nothing? Sir, the adoption of this course of policy can only be promotive of the greatest injustice to one portion of the Navy, while it does more than justice to another portion.

Mr. Speaker, if you allow your naval captains to get drunk without discharging them from the service, why not treat the sailors in the same manner? I do not desire, by any means, to be understood as an advocate for drunkenness. I do not drink myself, and would discourage the practice in others. But if you allow the naval captain to get drunk upon his champagne or brandy, and wines, and still draw his $2,500 a year, you ought not to discharge and disgrace the poor sailor for the same offense. Sir, the sailor has more temptations with less powers of resistance than the naval captain. The latter is educated at the expense of the Government, and possesses the powers of resistance which intellectual culture always throws around an individual, to enable him to control his appetites. He is surrounded with half the temptation, with double the powers of resistance, and yet he is not discharged from the service nor punished in any way.

Do gentlemen ask me what I would do with these men? Sir, the whole policy is wrong. Why do you employ so many men? I will tell you what I would do with them. Provide that every man who has been out of the service for one year or more, shall be discharged from the service of the country. You do no injustice to them by discharging them. You have educated them at the expense of the country. Many of them would not have had it in their power to obtain an education without. But suppose they had not been educated by the Government, but had been left to their own resources, would they have been better off? Does the Government do any injustice in taking the poor boy and educating him thoroughly, not only in the arts and sciences generally, but in the art of navigating a ship upon the ocean, and then discharging him? No, sir; the Government confers a lasting benefit upon him, enabling him by its munificence not only to procure his own support, but to enjoy a higher position in society from the distinction conferred upon him.

Then, sir, I ask, what injustice does it work by taking a young man and educating him, and fitting him to discharge high and responsible duties, qualifying him the better to provide for himself, and then discharging him from the service of the Government, and throwing him upon his own resources to provide for himself? I repeat, sir, that, instead of doing him injustice, you do him more than justice, you confer a lasting benefit upon him.

But gentlemen say that these men have been educated for a particular vocation, and if you discharge them how will they employ themselves for their support. Sir, our merchant marine wants able commanders. Our merchant marine wants able navigators. Now, sir, if you retain these men in the service of the Government with nothing to do, if you keep them in idleness they will rot out, and become unfit for service when you want them; but discharge them from the naval service, allow them to seek employment in the merchant service, and they will sustain themselves. They will continue their self-respect, and will be improving in the art of navigation. Instead of remaining a burden on the Government, they will become lasting benefits to the community and to commerce.

And then when the hour of danger comes; when war breaks out; when your merchant marine no longer finds safe employment upon the high seas, then these men will return to your service, and you will have able seamen in your Navy—men who will discharge their duty to their country, and to their country's flag, with honor. That would be the result of the adoption of such a course of policy.

Now, I ask the attention of the House for a moment, to the condition of things under your present system. There are sixty-eight captains in the United States Navy. By the last returns, there are twelve out of these sixty-eight at sea, leaving the balance—fifty-six in number—lounging upon shore, consuming the hard earnings of the laboring classes of the country, rotting down in idleness.

Now, sir, I find, by computation, that these sixty-eight naval captains have, altogether, been out of service, lounging in idleness, something over eleven hundred years, and drawing pay all this time for doing nothing. Just look at it; sixty-eight men paid by the hard earnings of the laboring classes of the country more than eleven hundred years for doing nothing! They have received about $3,000,000 from the public Treasury of the country for services never rendered.

Sir, can such a policy as this stand? Can such a policy as this be sound? Will any such patch-work as this improve it? No, sir; the remedy must be radical. The whole system is wrong, radically wrong. We started wrong, and if we would better our condition we must turn round and begin again.

A gentleman behind me wants to know if some of these men do not do shore work. Well, sir, those of us who have visited the navy-yards, and seen the snug places given to men in them, will suppose that they do. But, sir, they have but very little work to do. Your navy-yards hardly furnish work enough to make an excuse for keeping the places held by these men.

Sir, this policy was inaugurated by Great Britain. It is their policy to have a retired navy. They must have life officers. England is ruled by an aristocracy, and that aristocracy must provide for sons. The oldest sons must inherit the titles and the property, and the younger sons must be taken care of. They must have offices, and the question of providing for them is, of itself, a sufficient reason for carrying out this policy in the navy of England.

I find by looking at the English Naval Register, that there are upon her retired list the snug little number of two thousand five hundred and sixty-four retired naval officers. Now, sir, this is only carrying out the policy which is recognized in England. The younger sons must have places. There are but three professions taken by them. They must go into the Navy, the Army, or the Church. In this country there are but two places for the privileged aristocracy of our land—the Army and the Navy, and I hope we shall take such measures as will not leave these places as the asylums of our aristocracy.

Now, what are you doing in this bill? Why, making life officers. But one word more in regard to the policy of England in regard to her army and navy. How does it work? Why you all know that the navy and the army of England are rotting down just as ours are. Notwithstanding that she has more naval vessels than all the other navies of the world put together, she cannot keep her men from depreciating and running out. England once was the bravest nation, and had the best soldiers and sailors on the face of the earth. How stands the case now? Look at her gigantic navy sailing into the Baltic sea last summer and sailing back again without doing anything, like that army of the King of France, which marched up the hill and then marched down again. Look at her other fleet sailing into the Black sea, and doing nothing. Then, too, look at her army wasting away and rotting down before the fortress of Sebastopol. Why? Because England has placed her privileged classes over her worthy sons, to command them and keep them down. The people of England are to-day clamorous on the subject, and have just compelled their Lord Chancellor to vacate his seat for carrying on the war in this disastrous manner. What is to become of us if we depend upon a system of that kind to defend our country in the hour of danger? What kind of men do you want as the commanders of your ships and of your Army? Do not you want men of energy? Do not you want men inured to labor—who can stand privations and hardships, men of courage? Do not you want men of clear intellect—men who have kept themselves in employment, men who have kept their energies bright by active service?

Sir, our system is rotten in another particular. Our privileged classes, under our present system, are forcing their sons into the Army and Navy, many of whom are not qualified by nature to discharge the duties of the positions in which they are placed. It is not every man who is fitted for a commander. It is not every man who is fitted for a soldier. Some of us are qualified for civil duties; some for one place, and some for another. Nature has everywhere provided the right kind of men for the right places. But under our present system we take all kinds of men. The sons of rich men get into the Army and Navy by means of political influence, and have life offices, while nine out of ten of them were never intended by nature to be commanders; she has not given them the requisite talent and energy of character, and the indomitable courage which is necessary to a naval or military man.

Well, how shall we remedy this? Why, by doing as France has done. Notwithstanding that France is a despotism to-day more odious than that of England, her naval and military systems are more republican than those of England, or even our own. France, years gone by, republicanized her army; and look at the result before Sebastopol! Her army, well equipped, well commanded, successful and daring, stands there firm and unscathed; while the English, under their rotten commander, are sinking down like a flock of sheep with the rot. Why is it? Because France has republicanized her army. The great commander of the age, Napoleon Bonaparte, when he had command of the French troops, selected his officers from the ranks. He went amongst the

men; and when he saw a man naturally qualified for the position of a commander, he selected that man and educated him for the post of command. Where has the world ever seen such a set of commanders as went forth under the great Napoleon to conquest and to conquer? I need not tell this House the result of that system, and of that policy.

Gentlemen tell us that these naval officers cannot live upon their salaries. Now, I think that a man who gets $4,500 a year, might lay up something to support himself and his family in his old age.

You do a man injustice when he enters the service of the country. You tell him that he has a life office; that there is no necessity for him to practice economy; that he may squander his income as he pleases, that the Government will take care of him in his old age, and will not see him want. Now, sir, is that policy right? Does it not corrupt your officers? Economy is a virtue in a naval or military officer, as well as in a civilian. And not only that. Not only do you disqualify these men by destroying their principle of economy, but then you allow them to handle the public money of the country. These very officers whom you have thus encouraged to be extravagant, have the handling, without any security, of the dollars and cents that are paid out in the support of the Army and Navy. Can you expect them, when they have no economy in their private expenditures, to practice economy and prudence in the discharge of the public duties incumbent upon them? No, sir.

Mr. Speaker, I object to this class legislation. I object to making life officers anywhere. We have enough of them now. It is unjust to the men; it is unjust to the country, because, when you once place a man in the service, under the present system, the country must retain him and pay him, and employ him, even though he may not have a single trait of character which qualifies him for the post he is occupying. It is wrong to the men; it is wrong to the country; it is wrong to the defensive interests of the country; and it is wrong to the meritorious to keep in employment men who are not qualified, either naturally, or in any other way, for the discharge of their duties, and to keep out men who are naturally and otherwise qualified to discharge those duties. Thus it is a double injustice.

Sir, the creation of life offices, in another respect, is reversing the order of our Government. It is placing a man beyond the reach of the people. It is placing him over the people, and the people under him. It takes away his responsibility. I never would consent to acknowledge a principle of that sort. In England, and other monarchical countries, it may do very well; but in this country the public servants are under the control of the people; and when they cease to be faithful servants, they should be discharged. When they cease to perform the duties for which the people employ them, they should be discharged, and the people should have an opportunity of employing others who are better qualified.

Again, sir, this policy is bad in a defensive point of view. Suppose war breaks out, a military man by profession, who holds his office for life, is raised above the common interests of the people of the country. What has been the history of the world upon that point? Why, sir, men whose business it is to fight, and who are trained to it and to nothing else, generally fight for those who pay them best.

Mr. WALBRIDGE. I desire to ask the gentleman a question. I wish him to state if there are any instances on record where either the Army or Navy of the United States, under the present system, have been inadequate to the discharge of the duties devolved upon them? A stranger sitting here and listening to the gentleman would imagine that they had been derelict on every occasion. Will the gentleman state if, under the present system, there has been any dereliction on their part, or if they have ever failed to vindicate the honor and uphold the integrity of the country, either upon the field or on the sea?

Mr. SKELTON. I will only state, in reply to the gentleman, without going into details in regard to this matter, that Cooper, in his Naval History, relates that one of the battles on the lakes, in the war of 1812, was lost in consequence of the drunkenness of the commander. That will be a sufficient answer to the gentleman, without going into further particulars, or even mentioning the name of the commander.

Mr. WALBRIDGE. The gentleman brings this charge against the Navy. I rebut it by pointing to a long line of illustrious victories. The gentleman refers to one particular occasion. I know not the fact, nor do I believe that any gentleman in this House is aware of it. But I call upon the gentleman to state the time, the place, and the occasion when the honor of the American flag, in a naval engagement, was tarnished in consequence of the drunkenness of the commander. If it be true, if it be history, the name of that commander should be brought forth in order that others who are not liable to the charge may be vindicated. It is not right that the character of the whole Navy should suffer by such ungenerous remarks. I ask him to state whether, on any single occasion, when the honor of the American flag was confided to the American Navy, or when the honor of the American flag was confided to the Army of the United States, the Army or the Navy has ever failed to do its duty, to the honor and credit of the whole country.

Mr. WALSH. I would ask my colleague whether he supposes that either the Army or the Navy of the United States is composed exclusively of officers, and that, therefore, all the credit is to be attached to the officers?

Mr. WALBRIDGE. In answer to the interrogatory of my colleague, I would say that, so far as I am concerned, I desire not to appropriate all the honor and all the glory of the American arms to our officers. I am aware that the efficiency of both the Army and Navy of our country belongs not more to the officers than to the men; and I am aware that the men are entitled to equal credit with the officers. But the fact which I bring home to the gentleman from New Jersey [Mr. SKELTON] is this: that a stranger sitting here, and listening to the remarks of that honorable gentleman, would have been led irresistibly to the belief that, on every occasion, both the Navy and the Army have been derelict to their duty, and have failed to perform the services which the country should have expected from them.

Mr. SKELTON. I have made no such charge.

Mr. WALSH. As I understood the gentleman from New Jersey—and I have paid much attention to his remarks—he was merely giving examples of the abuses of the system; and what my friend from New York has said of the performance both of the Army and of the Navy, only shows what the Army and Navy are capable of effecting in defiance of these very abuses—not through them, but in defiance of them.

Mr. SKELTON. I will reply to the gentleman from New York, [Mr. WALBRIDGE,] that I have no controversy with him, but that the case I cited was a case related by Cooper, in his Naval History. It is not a charge which I have made. It is a historical fact, given by Cooper in his Naval History, and I refer the gentleman from New York to that work for justification of the statement which I have made.

Mr. WALBRIDGE. I would only remark here that Benedict Arnold belonged to the revolutionary army of the United States, yet no man would attempt to say that that army did not reflect honor and glory on the country. Such an isolated case as the gentleman refers to cannot be regarded as strengthening the position he assumes.

Mr. SKELTON. I do not think it necessary now, inasmuch as I commenced by according our naval officers all credit, to defend the honor of the naval or military service of the country. I give them all credit for their achievements. The history of the country, the history of our flag, the history of our battles on land and ocean, sufficiently demonstrate the prowess, the courage, the daring, and the energy of the American sailor, soldier, and commander. I appreciate, as highly as does the gentleman from New York, the ability, the worth, the talent, and the bravery of a large class of our military men. But, sir, I am speaking about systems, not about men. The only wonder to me is, that under the present system we have been able at all to keep up a sentiment of self-respect in the men. Sir, these men have done wonders in the very face of all the obstacles which our organization has thrown around them. We have thrown around them temptations. Our policy has been calculated to break them down in every way; and every member of the House—the honorable gentleman from New York among them—admits—no one can deny—that our system has worked badly to many of the men now employed in the service of the country.

But, Mr. Speaker, as the time set apart for the consideration of naval affairs is limited only to this day, I do not desire to consume the time of the House in empty declamation. Much more might be said in relation to this system which we are engaged in bolstering up here. Much more might be said in relation to the false system which has been established for the management of our Navy, and which this bill is calculated to perpetuate on the country. I believe, sir, that we shall not have a reform in the Navy of the United States until the evils of the present system become so apparent, until it becomes so apparent that the system is radically, fundamentally wrong, that it can no longer be allowed to exist. And, sir, the longer we patch it up, the longer we mend it, the longer we uphold it, so much the longer will this rotten system be perpetuated to the country, and the greater the evils to be inflicted on the country as a necessary consequence resulting from it.

All that I desired to say in relation to this bill, was to express my sentiments on the subject, as I thought the bill was likely to pass through, as other bills did yesterday, and the day before yesterday, without debate and without investigation. I desire the House to pause, to reflect, to examine, to look at this question before it hastily passes through, and becomes a part and parcel of the policy of our common country. I want to see—and my course on this floor will demonstrate that fact—an efficient Navy. I want not a large Navy. I want not a Navy equal to that of England. I want a few ships; but those few ships I want to have the best on the ocean. I say I want them to be superior in quality, though not equal in number, to the Navies of other countries, and that superiority I want to see, not only in ships, but in men. I am willing that our Naval Academy should be allowed to go on educating men for a naval career, from the sailor to the commander. I am willing that our Military Academy should be allowed to continue educating men for the military profession. But these men being so educated, I insist upon it that the country shall not keep them in idleness, paying them for services which they are not required to perform.

A gentleman by my side asks me what do I propose? My proposition I have already explained. But lest I should be misunderstood, I will state that I should propose that the Government should employ no man, for any business whatever, in which he has not constant or nearly constant employment. Another gentleman raises an objection to that course of policy, and says that our naval officers have families at home, and when they return from sea, they want to have some time to spend with their families. Sir, I admit that such is the case. But, then, in order to accommodate these gentlemen, we have our navy-yards where those who return after a three years' cruise may spend a year with their families. Or, if they please, they may take their families to the high seas. But I ask the gentleman what is to become of the family of the poor sailor, who is working for eight or twelve dollars a month? What is to become of his family? What opportunities has this man to spend some time with his family? And every member of this House will say that every honorable man, every virtuous man, ought to have a wife and family, and the Government should not place any man in such a condition as that he could not maintain a wife and family. [Laughter.]

Mr. BRIDGES. I beg leave to ask a question of the gentleman from New Jersey, if he will permit me to do so.

Mr. SKELTON. Certainly.

Mr. BRIDGES. I want to know whether the gentleman would like to see officers raise their families on ship-board?

Mr. SKELTON. I should like to see officers raise their families just where they please, without any dictation from this Government. Some of these gentlemen desire to educate their sons as sailors, and there is no better place for them to do so than on ship-board. [Laughter.] Sir, I insist upon the carrying out of justice to these men. I insist upon it, if these officers must be provided for, if they must have life offices, I insist upon

it, sir, in order to do justice, in order to be consistent, that you shall do the same with the men who are badly treated, badly fed, and badly paid. But, sir, I repudiate the whole policy. I repudiate all life offices. I repudiate all life tenures. I repudiate the principle of multiplying officers to eat out the substance of the people. Why, sir, this course of policy, if adopted, would give rise to a revolution in the end. It was one of the charges brought against Great Britain at the time of our Revolution, that she sent over swarms of office-holders to eat out our substance.

I contend that we ourselves, by the legislation of this country, are creating swarms of officers, more numerous than Great Britain ever sent here, to eat out the substance of the people who produce the real wealth of this country, and upon whom we are to rely in the hour of danger for the defense of our rights. The commanders of our armies and navies should have interests identified with the citizen, a common stake in the perpetuity of our republican institutions. In order to accomplish this, they should be liable to return to private life when the wants of the country no longer demand their services. A permanent military power is much to be dreaded; the liberties of the world have, in all ages, been destroyed by it. Europe is now held in bondage by the military power. The people are compelled to support over two millions of troops, at an expense of $1,000,000,000 annually, to keep themselves in bondage. Destroy the military power of Europe, the people would immediately establish their liberties, and rise regenerated. Life offices and standing armies, with large navies, are a curse to any country, and are incompatible with republican liberty. The citizen-soldier and merchant-mariner will ever be the true and strong defenders of our country's independence and liberty. Their interests are identified with the interests of the country, and in defending their country's liberties they are defending their own. We should, in all departments of the Government, promote industry, intelligence, economy, and self-reliance. If these virtues are maintained, the prosperity, power, independence, and liberty of our common and glorious country is secure from all harm.

Mr. CHANDLER. I do not purpose to reply to the argument of the honorable gentleman from New Jersey, [Mr. SKELTON,] because it confounds all distinctions, and would drive the sailor from the forecastle to the quarter-deck without any preparation for the change of duties. His remarks were full of suggestions, but suggestions not apposite to the bill before us. We have other bills to consider, but I rose simply to refer to one of the amendments which I heard the chairman of the Committee on Naval Affairs read. If I understood it rightly, it was that the board, when in session, should have the power to recommend the Secretary of the Navy, with the approval of the President, to direct the dismissal of officers of the Navy of any grade. This is quite too summary a mode of dispensing with the services of men who have been employed in an honorable profession, and who entered upon it with the view of serving for life.

Mr. BOCOCK. I am not aware that the amendment I propose confers any power upon the President and Secretary of the Navy which they have not at present. We all remember that, a few days ago, the President, without the recommendation of any board, dismissed from the service of the Navy an officer for misconduct.

Mr. SOLLERS. I would ask my friend from Virginia if, under the laws of the United States, the gentleman to whom he alludes, was not properly dismissed from the service?

Mr. BOCOCK. I certainly think so, and it is the very point for which I am contending in reply to the suggestion of the gentleman from Pennsylvania, that the President has the right now to dismiss a man from the service. If that is the state of the case now, what harm will it do to have an examination of an officer for misconduct made by a board, before he shall be dismissed from service? It is upon the recommendation of the board that the President and Secretary are to act in cases of removals, and then they possess only the same powers upon the subject that they now have. They can either approve or reject the action of the board, and it gives them no new powers.

Mr. CHANDLER. It is one of those proofs that prove too much. It proves nothing. There is no necessity, then, for this legislation. The President, with the concurrence of the Secretary of the Navy, has now the power to dismiss an officer from the service. Why, then, introduce this inquisitorial power to investigate the character of officers without formal charges? There lies the evil of the whole matter. The President of the United States, whenever he thinks that some gross overt act of disobedience has been performed by an officer that reflects discredit upon the Navy, and disgrace upon the country, may at once, by the laws as they stand, strike the name of that officer from the roll, and that, perhaps, is right. But if you add to that an investigation——

Mr. BOCOCK. Does my friend from Pennsylvania object altogether to the action of a board to examine investigations of this sort?

Mr. CHANDLER. I do not know that I object to it entirely. I confess that the amendments of the gentleman from Virginia have never met my eye, and I heard them but imperfectly from the manner in which they were read.

Mr. BOCOCK. I understand that the gentleman from Pennsylvania does not disapprove the appointment of a board altogether. I ask my friend from Pennsylvania to tell me how the amendment I propose makes the action of this board more inquisitorial than it would be without that amendment. Without the amendment that board must sit, must inquire into the condition, history, and character of these officers of the Navy. Without that amendment they are required also to recommend that these officers shall be placed upon the retired list or left off. How is it more inquisitorial when they reach that point, to say that they recommend the Secretary of the Navy with the approval of the President, to direct the dismissal of any of these officers? I say that the Secretary of the Navy and the President have the same power without the amendment as the amendment now gives them, with this difference only, that they have the recommendation of this board as a justification for their course before the country, which they might not otherwise have.

Mr. CHANDLER. That is the point, sir. This board, which is to appoint, is to stand as a shield between the President and any charge of responsibility which may rest upon him. Now, sir, when the President strikes from the roll an officer, or any man who has offended, it becomes necessary that the world should distinctly understand that the man had violated a rule, that the rule was imperative, so as to make it equally imperative on the President to punish him in an exemplary manner. But if there is a board to sit on trial; if *ex parte* testimony is to be presented before it; if this board is to be influenced by all the prejudices which may hang about officers who are older in the service, and who imagine that they have received offense from some junior officer; if they are to carry their verdict up to the President, and then the officer is to be stricken from the roll, and disgraced after thirty or forty years' service, perhaps, without the power of appeal, without being heard in his behalf, it becomes an inquisitorial board, which is a disgrace to the nation, and which would be scouted at by any civilized nation under heaven. It would be a board to investigate the quality and character of officers. I have no objection to a board, as such—though I think it had better be omitted entirely—which should have power to state that such a person, by reason of wrong desert, by neglect of duty, by having frequently applied to be released from labor, has shown himself incompetent, and, therefore, is disqualified for the kind of service which belongs to his rank. Let him be placed aside, and out of the service, but paid such a salary as shall comfortably support him. He deserves that. There was a pledge to that effect given to him by the nation when he was appointed, as much so as there was a pledge given by him to the Government.

Mr. HUNT. Does the gentleman object to that part of the bill which provides that the board "shall make a careful examination into the efficiency of the officers of the grades hereinafter mentioned, and shall report to the Secretary of the Navy the names and rank of all officers of the said grades who, in the judgment of said board, shall be incapable of performing promptly and efficiently all their duty ashore and afloat; and vacancies occurring in said board shall be filled by the Secretary of the Navy, who shall preserve the number and grades of its officers, as aforesaid, provided, that no officers upon said board shall examine into, or report upon, the efficiency of officers of a grade above them?"

Mr. CHANDLER. So far, so good. I like that, or rather, I do not object to it. I wish simply to object to that amendment which gives the power to two or three naval officers, whoever they may be, to inquire into personal wrongs, if they choose to do it; for it does not satisfy me that you tell me that this board would not do that. The true way to legislate is to place men beyond the power to do this wrong. Do not ask them to sit as inquisitors upon the conduct of men with whom they may have some personal dispute. I do not object to that part of the bill which the gentleman from Louisiana read. The board for that purpose is well enough; but I object to that part which calls for that extreme action proposed by the gentleman from Virginia, [Mr. BOCOCK.] I go for everything which will improve the Navy; everything which will give it efficiency. I go for all we have done, and more than that, for all which the next bill which comes up here proposes to do. But do not deal with gentlemen in the Navy in a way we would not deal with a servant. The Speaker of this House would not disgrace the smallest page upon this floor upon the recommendation of two or three members of this House, without inquiring into the cause of offense. Do not turn out to the world, for the finger of scorn to be pointed at, men who have devoted their whole lives to the service of the country, without giving them a hearing.

Mr. BENSON. Will the gentleman allow me to ask him one question?

Mr. CHANDLER. Certainly.

Mr. BENSON. Does not the proposed action of this board require the approval of the President? If so, no man can be stricken from the roll, even if recommended by the board, unless the President approves of the finding of the board. It seems to me there is sufficient protection to the officers.

Mr. CHANDLER. Well, sir, the clause of the bill conferring power upon this board will, when amended as proposed by the gentleman from Virginia, read as follows:

> Which board, under such regulations as the Secretary of the Navy may prescribe, shall make a careful examination into the efficiency of the officers of the grades hereinafter mentioned, and shall report to the Secretary of the Navy the names and rank of all officers of the said grades who, in the judgment of said board, shall be incapable of performing promptly and efficiently all their duty ashore and afloat; and whenever said board shall believe that said incompetency has arisen from any cause implying sufficient blame on the part of this officer to justify it, they shall recommend that his name be stricken altogether from the rolls.

All I oppose is the last clause, which says they shall recommend that his name shall be stricken altogether from the rolls. It provides for no trial. It is not a trial itself. It is not a court-martial, in which a man may bring forward his testimony for defense. There is no charge propounded against him. No judge-advocate is appointed to see to his right, or to see that the rights of the country are sustained. It is entirely inquisitorial; contrary to the general pursuits of our Navy, and the genius of the institutions of our country.

Mr. BENSON. But it is to be done under such rules and regulations as the Secretary of the Navy shall prescribe. It is to be presumed that such rules and regulations will be prescribed as will protect and preserve the rights of the officers.

Mr. CHANDLER. That would probably be true, if the present Secretary of the Navy should continue in his present office; but we do not know who may hereafter come into his place. It is better not to place such power there at all.

Look at the state of feeling among the older branch of our Navy. There are members in it who, from private griefs, are carrying on a mental war now, and will carry on a worse one, if this amendment is adopted. If there is a charge against a man, let him be tried regularly; if not, do not let him be disgraced by any *ex parte* testimony before an inquisitorial court.

Mr. ASHE. The gentleman from Pennsylvania having finished his speech, and as there is another important bill to come before the House to-day, reported from the Committee on Naval Affairs, and as two speeches have been made against the bill, and one in favor of it, I will demand the previous question upon the passage of the bill.

Mr. STANTON, of Tennessee. I appeal to the gentleman from North Carolina, that he will withdraw that demand for a few minutes, to allow me some brief remarks. I will renew the demand.

Mr. ASHE. I withdraw it.

Mr. STANTON, of Tennessee. I will renew the call for the previous question in a few minutes.

Mr. Speaker, I simply desire to say, that I shall vote for this bill because I believe it is a step of advancement in the right direction, not because I believe that it is such a bill as ought to be adopted under the circumstances in which our Navy is now found. When I had the honor to be a member of the Naval Committee, I presented a bill on one occasion which I think would meet the demands of the country at this time better than anything which I have seen presented from any other quarter. It is simple in its provisions; very harsh it may be, but violent diseases demand violent remedies. If I could control this matter, my proposition would be to strike every officer from the list, making such reservations as might be necessary to keep the service in order until these changes could be made, and then authorize the President of the United States to appoint the proper number from among the dismissed officers and others who may be fitted for such a position. It is a very different thing to appoint a good man and dismiss a bad one, especially when this thing is to be done by a board of brother officers, sitting as a sort of inquisition on every officer of the service. Sir, there have been examples in our history of such a prowess as this; and I believe the Navy never will be thoroughly renovated and put on a proper footing until some such measure as this shall be adopted.

I would also provide for those worthy men who, under the operation of this violent proceeding, may be dismissed from the Navy. I would not leave them without a support; but I would deal with them in the most liberal manner. And I think, in such a measure as this, no officer in the Navy, in whom the country has, or ought to have, confidence, would dread it for a single moment.

But, as I said before, while I should prefer a measure of reform more energetic and thorough in its character than this, I shall vote for this bill, because it is one step in advance towards the object desired. In compliance with my promise to the gentleman from North Carolina, [Mr. ASHE,] I now renew the call for the previous question.

Mr. SMITH, of Virginia. I hope the gentleman will not now call for the previous question; I desire to submit a few remarks.

Mr. STANTON. I have no control over the matter; it is in the hands of the gentleman from North Carolina.

Mr. SMITH. I would appeal, then, to the gentleman from North Carolina to withdraw his call for the previous question for a few moments.

Mr. ASHE. It is late, and there is, besides this, another important measure upon which the Naval Committee desire action. Therefore, the gentleman must pardon my insisting upon the call for the previous question.

The call for the previous question received a second, and the main question was ordered to be now put.

Mr. BOCOCK. Mr. Speaker, under the rules I am entitled to an hour in which to close the debate on this bill; but I do not propose occupying the whole of that time. I have been a little mortified at the very singular objection which the gentleman from Pennsylvania [Mr. CHANDLER] has made against the amendment I have proposed to the bill. Sir, I should be the last man to desire an inquisitorial board to sit upon the officers of the Navy, or upon any other officers in the country, if there were any other way by which we could reach the great and crying evil upon us. Here are incompetent men—men standing in the way of energy and talent. How can we get rid of them? If you required the Secretary of the Navy, or the President of the United States, to strike off the list officers of the Navy, without any tribunal whatsoever to pass on their fitness and character, would it not be infinitely worse than what is here proposed? Here you give them upon this board five of each grade—five captains, five commanders, and five lieutenants—who are to be selected by the Secretary of the Navy and the President of the United States. If officers were selected to try those above them, they would recommend the removal of all of them, so that they might secure their places. No officer is to act in the case of a man above him. With that exception, these fifteen men are to sit on this matter, and make recommendations to the President and Secretary of the Navy in relation to it.

Now, what is the thing to which the gentleman from Pennsylvania objects? Here you come to a man who is unqualified, if there be any such—and although I have great regard and respect for the Navy, though I am one who believes that it has always been equal to the exigencies of the country, when called on to discharge a particular duty, yet I hold it is not an impossible thing that there may be in the Navy a man without qualifications, who has been devoting himself to his own business, and dissipating until he has become unworthy of the position of an officer in the naval profession. When this purifying board gets to such a man, they are bound to make some recommendation. What shall they recommend? If they cannot recommend that he be dropped from the list, then they must recommend that he be put upon the reserved list. But does the gentleman desire that such a man, who has been rendered incompetent for service by his own folly, shall be placed upon the reserved list? Shall he be placed there among the old and war-worn veterans who have always been ready for duty, and who have borne our flag in triumph upon many a sea and through many a fight? Shall such incompetent men be put in company with those praiseworthy veterans? The board must make some recommendation; they must recommend either that these incompetent men be dropped from the list, or placed among the old veterans upon the reserved list.

Mr. CHANDLER. I merely want to say, in reply to the gentleman from Virginia, that I would have that man, whether he has been tilling his farm at the South, or catching fish at the North, out of the service, if he is reported incompetent by this committee, I would have him allowed the right to come forward, if he could, and disprove the accusation—to show that, instead of being negligent of his duties, he had been a constant applicant to the Department, or an occasional applicant even, for service. Under the system which once prevailed, when the Secretary of the Navy had a son, or uncle, or cousin, who wanted service, he received it, while others were turned aside, with the remark, that they suffered no injury, no wrong, they being allowed their pay, and to pursue their ordinary avocations. I would have that considered. I do think that the blame may be sometimes in the Department. If it be, let the man who is charged, have an opportunity to disprove the charge, or at least, to show that he was willing to do what he was not allowed to do. I only ask for justice at the hands of the committee.

Mr. BOCOCK. When justice calls, I am always ready to respond. I believe that, at last, there is but little difference between the gentleman from Pennsylvania and myself. He holds now, as I thought he held at first, that this unworthy man, if there be any such, ought not to go upon the reserved list, among the meritorious old veterans, of whom I have spoken. Then the question arises, how shall we get rid of them? The only way is the one which has been suggested. Let this board make their recommendation. And the error which seems to lurk in the mind of my friend from Pennsylvania, which I cannot get at, although I have attempted to reach it three or four times, is, that the action of this board is final and conclusive. It is not so. They make a recommendation to the President. If they make a recommendation that the officer shall be dropped from the list, he can go before the President, and say, if he can, "Sir, this recommendation has resulted from partiality, from enmity, from hatred, or from something of that sort. I can show from the record that I have been always ready to discharge my duty."

But, sir, if these fifteen men would so conduct themselves as to make a false recommendation to the President, do you suppose the President would follow their recommendation, when these men came before him and proved that the recommendation was made upon a false statement of facts? This bill gives no more power for removal than is now given under the existing system. The President has now the power of removal, and if this bill passes it will give him the same power, with the advice of these fifteen men.

As to this amendment I care very little about it; I am for the bill with the amendment, and I am for it without it. I am desirous, the people of the country are desirous, that something should be done for the Navy, that something should be done to uplift our flag, that it may float aloft as proudly as it did in the palmiest days of the Republic.

The House then proceeded to vote upon the following amendments, reported by the Committee on Naval Affairs; all of which were agreed to:

First amendment:

First section, line twelve, after the word "duty," insert the word "both," so as to make it read:

And shall report to the Secretary of the Navy the names and rank of all officers of the said grades, who, in the judgment of the said board, shall be incapable of performing promptly and efficiently all their duty, both ashore and afloat.

Second amendment:

First section, thirteenth line, after the word "and," insert:

Whenever said board shall believe that said incompetency has arisen from any cause implying sufficient blame upon the part of said officer to justify it, they shall recommend that his name be stricken altogether from the rolls.

Third amendment:

Second section, fourth line, after the word "be," insert the words "dropped from the rolls, or," so as to make it read:

That all officers who shall be found by the said board incapable of performing the duties of their respective offices, ranks, or grades, shall, if such finding be approved by the President, be dropped from the rolls, or placed, in the order of their rank and seniority at the time, upon a list in the Navy Register, to be entitled the reserved list.

Fourth amendment:

Section two, line six, strike out the word "they," and insert "those so placed on the reserved list," so as to make it read:

And those so placed on the reserved list shall receive the leave of absence pay or the furlough pay to which they may be entitled when so placed.

Fifth amendment:

Second section, line eight, insert the words "according to the report of the board, and approval of the President," so as to make it read:

And those so placed on the reserved list shall receive the leave of absence pay or the furlough pay to which they may be entitled when so placed, according to the report of the board and approval of the President, and shall be ineligible, &c.

Sixth amendment:

Section second, line twenty, strike out the words "sea or other duty," and insert "the lowest sea service," so as to make it read:

But when employed at sea, or on other duty, they shall receive, in addition to such "leave of absence" or "waiting orders" pay, the difference between the "waiting orders" or "leave of absence" pay, and the lowest sea-service pay of the grade to which they may be so promoted.

Seventh amendment:

Section two, line twenty four, strike out the words "passed midshipmen and masters," and insert "masters and passed midshipmen," so as to make it read:

Provided, That this scrutiny and reservation of officers, shall extend only to the grades of captain, commander lieutenant, masters, and passed midshipmen.

Eighth amendment:

Insert in the last proviso of the second section, so as to make it read, as follows:

And provided further, That all vacancies occurring in the grade of masters shall be filled by the promotion of the senior passed midshipmen—to be entitled masters in the line of promotion—who, when promoted, shall receive the pay allowed by law to masters; that the number of masters in the line of promotion shall not exceed sixty, &c.

Ninth amendment:

Section three, in line five, after the word "resignations," insert the words "in the naval service," and in the seventh line, after the word "place," insert the word "any," so as to make the section read:

SEC. 3. *And be it further enacted*, That nothing in this act shall be construed to restrict, apply to, or impair the regular promotion of officers in the service list of the navy who may be at any time entitled to promotion—consequent upon deaths, dismissals, or resignations in the naval service—nor in any manner to abridge or impair the right of the Secretary of the Navy to place any officers upon furlough.

Tenth amendment:

Insert at the end of the bill, the following:

SEC. 4. *And be it further enacted*, That nothing in this act shall be so construed as to increase the aggregate number of officers, and that all laws, or clauses of laws, so far as they conflict with the provisions of this act are hereby repealed.

The bill, as amended, was then ordered to a third reading, and was read the third time.

Mr. BOCOCK. I demand the previous question upon the passage of the bill.

The previous question was seconded; and the main question ordered to be now put.

Mr. HOUSTON. I ask for the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

Mr. HUGHES. There is a single amendment which, if I can have the unanimous consent of the House, it seems to me, ought to be made. The original bill provides that the appointments shal be made by the President; and further on, it isl provided that the vacancies shall be filled by the Secretary of the Navy. I think, in both cases, the appointments should be made by the same authority, and I therefore ask that the word "Secretary of the Navy" may be stricken out, and the word "President" inserted.

Mr. BOCOCK. I have no objection to that amendment.

Mr. WALSH. I object.

The SPEAKER. Then the amendment cannot be made in this stage of proceedings.

Mr. MORGAN. As this is a gigantic bill to grant pensions, I would suggest that, by general consent, it be so amended as to provide pensions also for a retired list of the members of the House.

[Laughter, and shouts of "Order!" and "Question!"]

The question was taken upon the passage of the bill; and decided in the affirmative—yeas 116, nays 46; as follows:

YEAS—Messrs. Abercrombie, Aiken, Willis Allen, Appleton, Ashe, David J. Bailey, Thomas H. Bayly, Banks, Barry, Belcher, Bell, Bennett, Benson, Bocock, Boyce, Breckinridge, Bugg, Carpenter, Chandler, Chastain, Chrisman, Clingman, Cook, Corwin, Crocker, Cumming, Cutting, De Witt, Dickinson, Dowdell, Dunbar, Edmands, Edmundson, Thomas D. Eliot, English, Etheridge, Farley, Flagler, Florence, Fuller, Goode, Green, Greenwood, Grey, Aaron Harlan, Wiley P. Harris, Haven, Hiester, Howe, Hughes, Hunt, J. Glancy Jones, Kerr, Kurtz, Lamb, Lane, Lilly, Lindsley, Lyon, Macdonald, McDougall, McNair, McQueen, Macy, Maxwell, May, Mayall, Millson, Morrison, Andrew Oliver, Orr, Packer, Parker, Peckham, Bishop Perkins, John Perkins, Phelps, Phillips, Powell, Preston, Pringle, Puryear, Ready, Reese, Riddle, David Ritchie, Robbins, Rogers, Rowe, Ruffin, Russell, Sabin, Sage, Seward, Shower, Simmons, William Smith, William R. Smith, George W. Smyth, Frederick P. Stanton, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Thurston, Trout, Upham, Vail, Walbridge, Walker, Walley, Israel Washburn, Tappan Wentworth, Westbrook, Daniel B. Wright, Hendrick B. Wright, and Zollicoffer—116.

NAYS—Messrs. Benton, Bridges, Cobb, Cox, Thomas Davis, Dawson, Eastman, Eddy, Edgerton, Gamble, Giddings, Grow, Hamilton, Andrew J. Harlan, Hendricks, Houston, Daniel T. Jones, George W. Jones, Kidwell, Kittredge, Letcher, Lewis, Lindley, McCulloch, Mace, Maurice, Middleswarth, Morgan, Murray, Norton, Mordecai Oliver, Sapp, Seymour, Shaw, Skelton, Sollers, Hestor L. Stevens, Stratton, Andrew Stuart, Tweed, Wade, Walsh, Elihu B. Washburne, Wells, Wheeler, and Yates—46.

Pending the call of the roll,

Mr. FAULKNER stated that he was outside the bar when his name was called, or he should have voted for the bill.

Mr. DAVIS, of Indiana, also stated that he was opposed to the bill, and should have voted against it, but for the fact that he had paired off with Mr. LATHAM.

Mr. SOLLERS, when his name was called, said: I desired to introduce an amendment putting surgeons and pursers upon the same grade. If that amendment had been in the bill, I should have voted for it. I now vote in the negative.

Mr. BOCOCK moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate was received, by Mr. MACHEN, their Chief Clerk, informing the House that the Senate had passed bills of the House of the following titles:

An act to regulate the salaries of the district judges of the United States; and

An act for the relief of the heirs and legal representatives of Joseph Savage, deceased.

The former without, and the latter with, an amendment; in which he was directed to ask the concurrence of the House.

Also, that the Senate had passed bills of the following titles; in which he was directed to ask the concurrence of the House:

An act to establish a circuit court of the United States in and for the State of California; and

An act to remit or refund duties upon goods, wares, and merchandise, destroyed by fire.

ADDITIONAL SLOOPS OF WAR.

Mr. BOCOCK. I desire to state to the House that I have but one single other bill of general character reported by the Committee on Naval Affairs, and, in order that it may be reached, it will be necessary to go into the Committee of the Whole on the state of the Union. I therefore move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was put, and the motion agreed to.

The rules were suspended, and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HAMILTON in the chair,) and proceeded to the consideration of House bill (No. 743) to authorize the construction of seven steam sloops of war.

The bill was read through by the Clerk.

Mr. BOCOCK. Mr. Chairman, I do not expect to take up more than ten minutes in the explanation which I shall think proper to make of the bill now under consideration. I have heard it stated that this bill provided for adding seven steam sloops of war to the Navy. If I believed it was so; if I believed it provided for so extensive an enlargement of our naval armament, I should not, at the present time, support it, because, although I voted, at the last session, for some addition to the naval service, I do not believe we ought ever to go into an extensive naval establishment. I believe there is a great deal of wisdom in many of the remarks of the distinguished gentleman from Missouri, [Mr. BENTON,] made at the last session of Congress, upon this subject. I believe we should not enlarge our Navy to a greater extent than is necessary for the protection of our coast and of our commerce upon the high seas, and for the protection of our citizens in all quarters of the globe.

Now, sir, at the commencement of the present session, the Secretary of the Navy, in his annual report, recommended the construction of additional war steamers. I have before me a letter from him upon the subject, which I propose to have read before I take my seat. He says that our sloops are many of them old, and that by the time these are constructed it will require them all to take the places of those now in the service of the Government.

Mr. SOLLERS, (interrupting.) If the gentleman from Virginia will allow me, I think he relies altogether too much upon the wishes of the Secretary of the Navy.

Mr. BOCOCK. Well, sir, in relation to our information upon these subjects, we are compelled to rely upon the Departments. If I mistake not, early in the present session the gentleman from Maryland introduced a resolution calling upon one of the Departments for certain information.

Mr. SOLLERS. And never got it. [Laughter.]

Mr. BOCOCK. Well, we are compelled to rely upon the Departments for our information. The Secretary of the Navy was called upon to furnish information upon this subject, and, in reply, he sent down a recommendation for additional sloops of war, and gave us, as a reason, a statement of the condition of our war vessels.

Then, as an additional reason, he states that the six steam frigates which were authorized to be built at the last session, will draw some twenty-two feet of water, which is too great to permit them to enter almost any one of our southern ports. There is not a depth of water amounting to twenty-two feet, in the ports of either Charleston, Savannah, or New Orleans.

Mr. SEWARD. If the gentleman will allow me, I wish to offer an amendment to this bill, that will obviate the difficulty in reference to southern harbors.

Mr. BOCOCK. Not now. I wish to finish my remarks.

Mr. SEWARD. Is it not in order for me to offer an amendment?

The CHAIRMAN. Not at present. The floor cannot be taken from the gentleman from Virginia for any such purpose.

Mr. BOCOCK. The Secretary states that the vessels ordered last session are all of too great a draught of water to enter the ports of Charleston, Savannah, or New Orleans, and he recommends the construction of sloops of less draught for the protection of those ports.

Mr. SOLLERS. Who does that? The Secretary of the Navy?

Mr. BOCOCK. Yes, sir. I promised the committee that I would occupy very little time upon this occasion, and I have but one single other remark to make. Those gentlemen who happened to read a communication from Lieutenant Maury, which appeared in the newspapers a short time ago, in reference to the navy-yard at Memphis, will have seen the idea well expressed, which I design now to suggest. The war that has been in progress in Europe, between England and France on the one side, and Russia on the other, has demonstrated the fact—if it was not known before—that for purposes of shore attack vessels of small draught are much more efficient, as a general thing, than vessels of a large draught. Improvements have been made recently in regard to the guns which are used on board these vessels, which enable small vessels very often to do as much destruction as large ones. The large vessels are more exposed to the fire of the hostile guns.

Mr. PECKHAM. Of how much less draught will these vessels be than those which were ordered last session?

Mr. BOCOCK. Four feet less draught.

Mr. PECKHAM. What will be their draught?

Mr. BOCOCK. Not to exceed eighteen feet?

I was going to say when the gentleman interposed, that any vessel, however small, can be constructed to carry as many as two large sized guns. Those large sized guns are now so made that they can carry eleven inch balls or shells. One of those shells thrown into the strongest vessel, and well thrown, explodes the vessel. So, too, one of these sloops, runs in shallow water, and can advance near to the object it is to attack, and can by one good shot explode the largest sized vessel.

I say, then, that it is necessary to have these small-sized vessels, in order to enter the southern ports, and because they cost less upon cruises. It is proper to have them, furthermore, because the sloops of war that we now have, having been constructed a long time ago, are fast going to decay, and it is proper to have others built to take their places.

My friend from New York [Mr. PERKINS] stated, a moment ago, that this House of Congress had refused to take up the question of the tariff. It is fully apparent that there is to be in the Treasury a surplus of revenue. Now, Mr. Chairman and gentlemen of the committee, if we do not appropriate that surplus revenue to some good purpose, it will be a fund for gamblers and speculators, and those who desire to plunder the public. If you do not appropriate it to this purpose, perhaps in little more than a year hence that surplus revenue may be gone, the present sloops may fail—for they are now fast getting into a condition to be retired from the service—and you may have to build others to take their places when you have no money to build them with. Had you not better, then, authorize the construction of these sloops now, when you have mony enough, to take the places, as they are constructed, of those sloops which are now fast going to decay?

Mr. STANTON, of Tennessee, obtained the floor.

Mr. SEWARD. I would like to know whether this bill is amendable?

The CHAIRMAN. It is.

Mr. SEWARD. At what stage of the proceedings will it be proper to offer an amendment?

Mr. STANTON. I believe I have the floor.

The CHAIRMAN. The gentleman from Tennessee has the floor.

Mr. SEWARD. I have it also, I believe. [A laugh.]

The CHAIRMAN. Whenever the gentleman from Georgia can obtain the floor, he will have an opportunity of offering his amendment.

Mr. SOLLERS. I appeal to the gentleman from Tennessee to yield me the floor for a few moments, because I am a member of the Committee on Naval Affairs, and I know perfectly well that my friend from Maryland, who occupies the chair, will never give me the floor if he can help it. [Laughter.]

The CHAIRMAN. The gentleman from Maryland will come to order.

Mr. SOLLERS. Oh, I am out of order, am I?

The CHAIRMAN. Does the gentleman from Tennessee yield to the gentleman from Maryland?

Mr. STANTON. No, sir; I cannot at present.

The CHAIRMAN. Then the gentleman will proceed.

Mr. STANTON. Mr. Chairman, I have but

little to say in reference to the bill now under consideration. I do not intend to throw any embarrassments in the way of its passage by any lengthened remarks of mine. I shall support the bill, but not upon the idea that it will increase our naval force. At the last session of Congress, upon this very question, I think there was quite a difference of opinion between the gentleman from Virginia and myself, as well as between the gentleman from Virginia and the gentleman from Missouri, [Mr. BENTON.] I then took the ground that the vessels proposed to be built at that time were necessary for the purpose of renovating the *materiel* of the Navy—not for the purpose of adding new vessels to the Navy, but for the purpose of making better and more efficient those then belonging to it.

Upon the same idea, sir, I shall vote for this bill, perfectly satisfied that the greater number of the vessels belonging to the Navy are of a character entirely behind the age, and such as ought to be thrown out of the service and abandoned.

I send to the Chair an amendment which I propose to offer at the proper time. I do not offer it now, but I desire that it shall be read for the information of the committee, and then I shall make a few remarks upon it, and submit the question, at the appropriate time, to the consideration of the committee.

The Clerk read the proposed amendment, as follows:

And be it further enacted, That one of said steam sloops shall be built at Memphis, provided that the authorities of that city shall first reconvey to the United States, by good and sufficient deeds, the navy-yard and appurtenances as ceded to them by the act of 4th of August, 1854, entitled "An act making appropriation for the naval service for the year ending 30th June, 1855."

Mr. STANTON, (resuming.) Mr. Chairman, it is known to every member present, that in the last hours of the last session of Congress, suddenly and unexpectedly, without any recommendation from the Executive, without any consideration upon the part of any committee of this House, the property at Memphis——

Mr. PHILLIPS, (interrupting.) I rise to a question of order. It is very evident that the proposition contained in the amendment offered by the gentleman from Tennessee, is to establish a navy-yard at Memphis. Now, I submit whether such an amendment as that is germane to the bill under consideration?

Mr. STANTON. I have not offered the amendment yet.

The CHAIRMAN. The gentleman has only given notice that he will offer the amendment.

Mr. PHILLIPS. Then I will make a further suggestion. I am informed that the House yesterday adopted a resolution——

Mr. SOLLERS, (interrupting.) Is that in order?

The CHAIRMAN. There is no question before the committee now.

Mr. PHILLIPS. I am making a point of order. The point of order I now make is, that the gentleman cannot speak to the establishment of a navy-yard at Memphis, inasmuch as the House has adopted a resolution that all debate in the Committee of the Whole shall be confined to the question before the committee.

The CHAIRMAN. Under the resolution to which the gentleman from Alabama refers, the gentleman from Tennessee must confine himself strictly to the question before the committee.

Mr. STANTON. The bill provides that four of the proposed sloops shall be built at the navy-yards of the Government. My proposition is to amend that provision in this particular: that one sloop shall be built on the banks of the Mississippi river, provided the city authorities of Memphis shall reconvey to the Government the navy-yard upon which $1,000,000 has been expended by the Government. I consider that entirely pertinent to the bill.

Mr. SOLLERS. Now, I rise to a question of order. I ask the simple question, if a proposition for the reëstablishment of a navy-yard is pertinent as an amendment to a bill providing for the building of war sloops?

The CHAIRMAN. The Chair would inform the gentleman from Maryland that the proposition is not yet before the committee. The gentleman from Tennessee should, however, confine his remarks to the bill under consideration.

Mr. STANTON. That is precisely what I purpose to do. Mr. Chairman, I propose simply to alter the place of building one of these steam sloops, which are provided to be built in the navy-yards of the United States, by providing that it shall be built at Memphis; and, as a part of the proposition, to make it conditional on the act of the public authorities of that city, reconveying to the Government of the United States the place on which to build it; a place on which the Government of the United States has already expended $1,000,000. Now, Mr. Chairman, I ask if that is not fairly and legitimately within the subject of the bill? The Government cannot build a ship on the Mississippi river, or at any other place in the country, without first providing a place for the purpose. The Government has already, as I have said, spent $1,000,000 at Memphis; and this proposition of mine is a mere incidental proviso, making the building of the ship at that point conditional, on the reconveyance of this property by the municipal corporation to which it belongs, to the United States. Now, I submit that question because this is the point which I wish to make, whether my proposition is not in order, and germane to the bill?

The CHAIRMAN. The Chair would inform the gentleman from Tennessee that his amendment, not being before the committee, is not a subject for consideration; and that he must confine himself to the bill before the committee.

Mr. STANTON. Then, sir, I offer my amendment.

The CHAIRMAN. The Chair holds the amendment to be in order.

Mr. PHILLIPS. That is the point of order which I make. I submit that the amendment of the gentleman from Tennessee is not in order.

The CHAIRMAN. The Chair holds the amendment to be in order, on the ground that the bill provides how these ships shall be built, and where they shall be built, whether in the public navy-yards or by private contract; and as it provides for this, it can certainly provide for the place at which one of them may be built.

Mr. PHILLIPS. May I state my point of order now?

The CHAIRMAN. Yes.

Mr. PHILLIPS. My point of order is this: that this amendment provides for a reconveyance of certain property by the city of Memphis to the Government of the United States, to be used as a navy-yard, and is as if the amendment itself provided for the creation of a navy-yard. That is my point of order.

Mr. HUNT. I call for the reading of the amendment.

The CHAIRMAN. This amendment provides that one of the steam sloops shall be built at Memphis, provided that the public authorities of that city shall first reconvey to the United States, by good and sufficient deeds, the navy-yard and appurtenances, as ceded to them by the act of 4th August, 1854, entitled "An act making appropriations for the naval service for the year ending 30th June, 1855."

Mr. SOLLERS. Let the amendment be read by the Clerk.

The amendment was again reported.

Mr. SOLLERS. I am opposed, Mr. Chairman, to all of this.

Mr. STANTON. I have the floor, I believe. I will state what I desire to do in a few minutes, because I do not intend to occupy the attention of the House long.

Mr. PHILLIPS. Has the Chair decided the point of order?

The CHAIRMAN. Yes; the Chair has decided that the amendment of the gentleman from Tennessee is in order.

Mr. STANTON. I desire simply to say that, for ten years, this establishment has existed on the banks of the Mississippi river, and during these ten years the Government of the United States has spent, in round numbers, $1,000,000. On the last night of the last session of Congress a proposition was made to strike out the appropriation for that navy-yard, and the proposition succeeded. I then, myself, agreed to concur in another amendment which had been put into the bill in the Senate, giving the establishment to the city of Memphis, because I thought it right if the property was to be abandoned in this manner, and if a great and important work belonging to these United States was thus to be stricken down, that the city which gave the greater part of the property to the Government should have it ceded back again. Sir, the navy-yard of Gosport at present is held by the Government of the United States precisely on this condition: By the act of 1800, expressly authorizing the sale of this property to the United States, the State of Virginia stipulated that, whenever the Government of the United States should cease to use it as a navy-yard, the property should revert to the State of Virginia on payment of the $12,000 which was paid to that State for it. Millions of dollars have been expended there, and whenever the Government shall strike down that establishment it belongs to the State of Virginia. Nothing more than that has been done with regard to the Memphis navy-yard, which is precisely in these circumstances.

Mr. FULLER. I should like to ask the gentleman from Tennessee a single question before I vote on this proposition.

Mr. STANTON. I am ready to answer the gentleman's question.

Mr. FULLER. I desire to know what is the depth of water in the Mississippi at this point? I read in a paper the other day that there was only six and a half feet of water in the Mississippi before Memphis. I want to know, therefore, whether, if this ship were built there, it could ever be gotten out, or whether it might be ever expected to reach the ocean?

Mr. STANTON. In reply to the interrogatory of the gentleman from Maine, [Mr. FULLER,] I would refer him to the case of the Alleghany, a ship of between eleven and twelve hundred tons, which was built at Pittsburg, and fitted out at Memphis, passing thence to the sea, visiting the Mediterranean and other parts of the world, and returning again to the United States. I point him, also, to the fact that vessels are often built at Cincinnati, at Pittsburg, and at other ports on the Ohio and Mississippi rivers, and sent out, even with cargoes, to foreign ports. I grant you that, at some seasons of the year, there are some places between Memphis and New Orleans where there is not more than seven or eight feet depth of water; but for a large portion of the year vessels drawing eighteen or twenty feet of water can sail from Memphis to the sea. And I ask the gentleman from Maine, whether the naval works at Kittery, in his State, or at some place in that locality, are not just as often blocked up by ice in the winter time for three or four months, as they are in the Mississippi by low water?

Mr. FULLER. I respond to the gentleman's inquiry by saying that I believe there is at Kittery navy-yard a depth of thirty feet of water at low tide, and there is always water there.

Mr. STANTON. This is the point to which I wish to call the attention of the committee. Some ten years ago, Government officers were commissioned to select a site for a navy-yard on the Mississippi; and they selected Memphis as the port at which a great naval establishment for the whole Mississippi valley should be located. It was located there after every necessary examination. Any number of vessels, of almost any tonnage, may be, at certain seasons of the year, carried from that port to the Gulf of Mexico.

Now, sir, it will be recollected that, in the early part of the session, a message from the President of the United States on this subject was, on my motion, referred to a select committee; and a majority of that committee authorized me to report a bill for the reëstablishment of the Memphis navy-yard, on the ground that the resources of the Mississippi valley are inexhaustible; that, in the event of a war, of which the Gulf of Mexico would become the theater, it would be absolutely necessary—with Jamaica and Cuba in the hands of a hostile Power—for the Government to avail itself of the resources of the Mississippi valley, and to have located an establishment in the center of the valley, convenient to all parts of it, where supplies can be got in any quantity, and where iron, coal, copper, lead, hemp, and timber of all kinds can be had at the lowest prices ruling in any part of the country. In view of that state of things, I say, the committee authorized me to report a bill for the reëstablishment of the yard. But I have not yet had an opportunity to ask the action of the House upon it; and I have, therefore, presented this amendment in the hope that it may be adopted, and that we will thus be able to accomplish the desired object, indirectly, in the manner which I have proposed by the

amendment. I believe that amendment to be legitimate. You, Mr. Chairman, have decided it to be legitimate. I come here now to secure thereby to the Government of the United States $1,000,000, which should be otherwise cast away. The sale of this property would put into the public treasury of Memphis not less than $500,000 in cash; and yet the citizens of Memphis are willing to abandon that advantage, and have patriotically proposed to abandon it, and to restore the navy-yard property to the country.

Mr. WALSH. I would like to ask the gentleman from Tennessee one question. Since the locality of Memphis enjoys the admirable advantages of which the gentleman speaks, how does it happen that they have not turned them to account, and established a ship-yard of their own?

Mr. STANTON. I can inform the gentleman from New York upon that point. They have made use of their advantages, and steamboats are built there every year. I have said all I think proper to say upon this occasion, and will now yield the floor.

Mr. SOLLERS. I am a member of the Committee on Naval Affairs, and I never saw this bill before to-day. If it has been reported from the Committee on Naval Affairs, it was without my knowledge, and certainly without my consent.

Mr. BOCOCK. My friend must be aware that there were several meetings of that committee at which he was not present.

Mr. SOLLERS. And there were several meetings of the committee, too, at which the chairman himself was not present. I never gave my sanction to the introduction of this bill, which provides, as I see by examining it, for building seven steam sloops of war. At the last session of Congress a law was passed authorizing the construction of six steam frigates; and it occurs to me that all this great appropriation for naval purposes is perfectly preposterous and uncalled for by any present urgency in the condition of our affairs. I have never been able to comprehend, for a single moment, the necessity of this immense organization and increase of our Navy. We are at peace with all the world, occupying an entirely neutral position in the present struggle going on in Europe, and there is nothing, certainly, in our position at present, which calls for this great increase of our sloops of war. I care not how hotly war may rage around us, my motto is, let others fight, we will beat them all. But where is the necessity for this great increase of our naval force? Are our shores invaded by any hostile force? Is our coast exposed to attacks from the sea? But yet, although there is no danger threatening us from any quarter, here is a proposition introduced by the chairman of the Committee on Naval Affairs to expend a million of dollars in the construction of seven sloops of war. And for what purpose? Is there any prospect of a war with any nation upon the face of God's earth? There is none.

But my friend from Virginia says, that there is an immense fund in the Treasury that may be used for purposes of corruption and bribery, unless diverted to some other purpose. Why, in the good old times, we never heard of such a thing. Has it come to this, that a Democratic chairman of one of the regularly constituted committees of this House recommends such an immense appropriation from the funds of the Treasury of the United States, as is contemplated by his bill, lest they be diverted to corrupt purposes by a Democratic Administration?

Mr. BOCOCK. The gentleman will bear me witness that I alluded to what was going to happen in the next Congress, when his friends, the Know-Nothings, would have control.

Mr. SOLLERS. Whatever he may say of the Know-Nothings, they know enough to preserve the integrity of the Union, and they will never take the step which he recommends, make an appropriation of immense sums of money for such a purpose as this, lest the funds of the Treasury should be converted to purposes of bribery and corruption. He may talk as much as he pleases about what the Know-Nothing party are going to do, they will have vigor and purity enough not to make appropriations of money upon that ground.

Mr. FLORENCE. I rise to a question of order. I submit that this grave discussion in reference to the sentiments entertained by a political organization has nothing to do with the bill before the committee, and for that reason I submit that the gentleman from Maryland is out of order, especially as the House yesterday passed a resolution confining all debate in Committee of the Whole to the question under consideration. I regret exceedingly to raise this point of order upon the gentleman. I have not spoken upon the subject, much as I desire to speak in regard to naval reform, on account of the small amount of time which has been set apart for the consideration of these naval bills.

The CHAIRMAN. The Chair holds the gentleman as in order, as speaking to the point.

Mr. SOLLERS then proceeded in, and concluded, his speech, in opposition to the bill. His remarks, withheld for revision, will be published in the Appendix.

Mr. SEWARD. I move the following amendment:

SEC. —. *And be it further enacted*, That for the purpose of protecting our naval vessels, and better providing for the common defense, as well as facilitating our foreign and domestic commerce, the following sums of money be, and the same are hereby, appropriated, and to be paid out of any money in the Treasury not otherwise appropriated, and to be expended under the superintendence of the Secretary of War, for the repair, preservation, and improvement of the following works, heretofore commenced, under the authority of law: The sum of $525,000 for the improvement of the harbors on Lakes Champlain, Ontario, Erie, St. Clair, Huron, Superior, and Michigan; and in the following proportions, to wit: $25,000 for Lake Champlain, $100,000 for Ontario, $100,000 for Erie, $100,000 for St. Clair and Huron combined, $100,000 for Superior, and $100,000 for Michigan.

For continuing the improvement of the channels at the mouths of the Mississippi river, $330,000; and it shall be the duty of the Secretary of War to apply said sum to the opening and keeping open of said channels, by contract or otherwise.

For continuing the improvement of the Savannah river, Georgia, $70,000, to remove obstructions placed in said river, in the revolutionary war, for the common defense.

For continuing the improvement of the harbor of Charleston, South Carolina, $70,000.

For continuing the improvement of the navigation of the Ohio, including the repair of the dam at Cumberland Island, $190,000; $100,000 of which sum to be expended in the improvement of the navigation of said river above the falls.

For continuing the improvement of the harbor of Mobile, Alabama, at Dog River bar, Choctaw pass, and to the lower flat, $100,000.

For continuing the improvement of the navigation of the Patapsco river, Maryland, from Fort McHenry to its mouth, $40,000.

Mr. ASHE. I rise to a question of order. I submit to the Chair that the amendment is entirely out of order, as it is not germane to the bill.

The CHAIRMAN. The Chair decides the amendment to be out of order.

Mr. SEWARD. Mr. Chairman, I am opposed to this bill for the reason that the class of vessels to be provided for are designed to be constructed with a certain draught of water to suit them for southern harbors, and it is proposed to expend $1,000,000 to accomplish that object. I think it would be infinitely better to take that $1,000,000 and appropriate it to the improvement of our harbors, so that a larger class of vessels might enter them, than to undertake to build vessels adapted to the condition of our harbors East or South.

Mr. ETHERIDGE. If the gentleman from Georgia will yield to me I will submit the motion that the committee rise. He will retain the floor to-morrow, to conclude his remarks.

Mr. SEWARD. I yield to the gentleman for that purpose.

Mr. ETHERIDGE. It is now near four o'clock, and I move that the committee do now rise.

Mr. WALBRIDGE. Does that motion include the reporting of the bill? If it does not, I move that the committee rise and report the bill.

The question was taken on the motion; and it was agreed to, there being, on a division, ayes seventy-three, noes not counted.

So the committee rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly, under the special order, House bill (No. 743) to authorize the construction of seven steam sloops of war, and had come to no resolution thereon.

Mr. BOCOCK. I move the usual resolution to terminate debate on House bill (No. 743) within five minutes after its consideration shall be again resumed in the Committee of the Whole.

[Cries of "No!" "No!"]

Mr. LETCHER. I move that the House do now adjourn.

Mr. BOCOCK. I am willing to change the time if any gentlemen desire to speak upon the bill.

Mr. SOLLERS. Is debate in order on the motion to adjourn?

The SPEAKER. It is not.

The question was put on the motion to adjourn, and upon a division there were—ayes 72——

Mr. KERR. I demand tellers.

Tellers were not ordered.

Mr. FLORENCE. I demand the yeas and nays.

The yeas and nays were not ordered.

The Chair then counted those in the negative, and found only thirty-two.

So the motion to adjourn was agreed to.

Thereupon (at four o'clock) the House adjourned till to-morrow at twelve, m.

IN SENATE.

WEDNESDAY, *February* 14, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War communicating, in compliance with a resolution of the Senate, copies of the correspondence between the Secretary of War and the Secretary of the Interior, in relation to the military reservation at Fort Leavenworth, and the alleged interference of certain Army officers with the rights of the Delaware Indians; which was referred to the Committee on Military Affairs, and ordered to be printed.

Also, a report of the Secretary of the Navy, communicating an abstract of offers received by the bureau of yards and docks, for furnishing articles falling under the cognizance of that bureau, for the year ending the 30th June, 1855; with an abstract of offers for furnishing the navy-yard at Pensacola, for the year ending the 30th June, 1854; which was referred to the Committee on Naval Affairs, and ordered to be printed.

PETITIONS, ETC.

Mr. COOPER presented the petition of C. M. Berry and others, citizens of Pennsylvania, praying an appropriation for the accommodation of the custom-house and other public offices in Philadelphia; which was referred to the Committee on the Post Office and Post Roads.

Also, the petition of Howell Evans and others, citizens of Pennsylvania, praying an appropriation for the accommodation of the custom-house and other public offices in Philadelphia; which was referred to the Committee on the Post Office and Post Roads.

Mr. CASS presented the petition of Eliza Whiting, widow of Brevet Brigadier General Henry Whiting, late assistant quartermaster general in the Army, praying an equitable settlement of her husband's accounts, and also that she may be allowed a pension; which was referred to the Committee on Pensions.

Mr. BRODHEAD presented the memorial of Edmund Du Barry, a surgeon in the Navy, praying to be allowed certain arrearages of pay; which was referred to the Committee on Naval Affairs.

REPORTS FROM STANDING COMMITTEES.

Mr. SHIELDS, from the Committee on Military Affairs, to whom was referred a bill to amend an act entitled "An act to provide for the payment of horses and other property lost or destroyed in the military service of the United States," approved March 3, 1849, reported it back with an amendment.

He also, from the same committee, to whom was referred a bill for the relief of Katharine M. Hamer, widow of General Thomas L. Hamer, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

Mr. CLAY, from the Committee on Commerce, to whom was referred House joint resolution for the relief of Charles W. Morgan, William R. Rodman, and Edward Merrill, submitted an adverse report thereon; which was ordered to be printed.

Mr. BELL, from the Committee on Naval Affairs, to whom was referred the petition of Frances C. Elliott, the widow of the late Captain Jesse D. Elliott, of the United States Navy, praying

indemnity for extraordinary expenses incurred by her late husband, while in command of the Mediterranean squadron, and compensation for services during the war of 1812, submitted a report, accompanied by a bill for the relief of the legal representatives of the late Captain Jesse D. Elliott; which was read and passed to a second reading. The report was ordered to be printed.

Mr. HAMLIN, from the Committee on Commerce, to whom was referred a bill from the House, authorizing the purchase or construction of four additional revenue cutters, reported it back without amendment.

He also, from the same committee, to whom was referred the petition of John C. McLemore, and others, citizens of California, praying that a port of entry may be opened at the junction of the Gila and Colorado rivers, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of W. C. Dennis, in favor of the imposition of a duty on salt and Sisal hemp, asked to be discharged from its further consideration and that it be referred to the Committee on Finance; which was agreed to.

He also, from the same committee, to whom was referred a joint resolution in relation to manifests in certain cases, reported it back with an amendment.

Mr. GWIN, from the Committee on Naval Affairs, to whom was referred the petition of Jacob Cutter, R. C. Cutter, Horatia Coffin, and Charles W. March, praying to be released from their liability as sureties on the bond of Charles W. Cutter, late navy agent at Portsmouth, New Hampshire, asked to be discharged from its further consideration, and that it be referred to the Committee on the Judiciary; which was agreed to.

He also, from the same committee, to whom were referred the petition of Mary Portman, widow of Henry Portman, and the petition of Isabella Duffy, widow of Charles Duffy, whose husbands were killed while in the service of the Government, and also the petition of Thomas Cahill, praying relief on account of expenses incurred in consequence of the death of his brother, Patrick Cahill, from injuries received while in the service of the Government, asked to be discharged from their further consideration; which was agreed to.

Mr. MALLORY, from the Committee on Naval Affairs, to whom were referred documents relating to the claims of Charles Reeder, Walter R. Johnson, and the legal representatives of Thomas P. Jones, asked to be discharged from their further consideration; which was agreed to.

Mr. FITZPATRICK, from the Committee on Military Affairs, to whom was referred the petition of Daniel Nippes, praying to be allowed an additional price in the manufacture of certain muskets, under a contract with the Secretary of War, submitted an adverse report thereon; which was ordered to be printed.

PRIVATE BILLS.

Mr. BADGER submitted the following resolution for consideration:

Resolved, That the order setting apart every Friday for the consideration of private business be, and the same is hereby, rescinded.

CORRESPONDENCE OF MR. MONROE.

Mr. CLAYTON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Library inquire into the propriety of publishing, under the superintendence of his executor, the papers and correspondence of Mr. Monroe.

HOUR OF MEETING.

Mr. WELLER. There is a resolution on the table which I have been trying to get through for several days. I ask the Senate now to take it up.

The Senate proceeded to consider the following resolution, which had been modified by Mr. WELLER, so as to read:

Ordered, That, on and after to-morrow, the daily hour of meeting shall be eleven o'clock, a. m.

The question being taken by yeas and nays on the resolution, as modified, resulted—yeas 24, nays 21; as follows:

YEAS—Messrs. Adams, Badger, Bell, Brainerd, Brodhead, Cass, Dodge of Wisconsin, Douglas, Fessenden, Geyer, Gwin, Houston, Hunter, James, Jones of Tennessee, Mallory, Pratt, Rusk, Shields, Stuart, Thomson of New Jersey, Wade, Weller, and Wilson—24.

NAYS—Messrs. Allen, Bayard, Benjamin, Brown, Chase, Clay, Clayton, Cooper, Dawson, Evans, Fitzpatrick, Foot, Hamlin, Johnson, Mason, Morton, Pearce, Sebastian, Seward, Slidell, Sumner, and Toucey—21.

So the order was adopted.

PENSIONS OF REVOLUTIONARY SOLDIERS.

Mr. CASS. I present a resolution to which, I suppose, there will be no objection on the part of any Senator:

Resolved, That the Committee on Pensions be instructed to inquire into the expediency of providing, by law, that all officers and soldiers of the revolutionary army now living and drawing a pension less than $100 a year, shall from the first day of January last past, receive a pension of $100 per year during the term of their natural life.

This subject has been brought to my attention in consequence of a letter which I received yesterday, stating the condition of a revolutionary pensioner, who is now ninety-two years of age, and receives but thirty-two dollars a year. I think there is not a member of this body who would not agree to give him more. This resolution, it will be observed, is confined to those who were officers or soldiers of the Revolution, and are now living.

The resolution was considered, by unanimous consent, and agreed to.

CAPTORS OF THE BRITISH BRIG CALEDONIA.

Mr. BELL, from the Committee on Naval Affairs, reported a bill for the benefit of the cantors of the British brig Caledonia, in the war of 1812, which was read the first time, and ordered to a second reading.

Mr. BELL. In consequence of the extraordinary character of this case I ask the Senate to consider the bill now.

There being no objection, the bill was read a second time, and considered as in Committee of the Whole. Its purpose is to direct the payment of $25,000 to the captors of the Caledonia, or to their legal representatives—the payment to be made to Frances C. Elliott, widow of the late Captain Jesse D. Elliott, and the legal representatives of the late General Nathan Towson, then a captain of artillery, and to the officers and men engaged in the capture, or their legal representatives, in such proportions as each may be found entitled to, according to the usages of the naval service.

Mr. BELL. Mr. President, it is proper perhaps that I should make a brief statement of the merits of this case. On the 8th of October, 1812, two British brigs came down Lake Erie, one called the Detroit, and the other the Caledonia. The Detroit anchored about two miles above Fort Erie, and the Caledonia anchored immediately under the guns of Fort Erie, then in the possession of the British. Lieutenant Elliott, who was then in command of a small American squadron at Black Rock, conceived the design immediately of capturing those brigs on that night; but, as he had not a sufficient force of his own for the purpose, he made a requisition on General Smith, who commanded the American troops at the time, to give him a detachment to aid him. Thirty men out of two companies of artillery, (Captain Towson commanding the one, and Captain Barker the other,) were detached for the purpose. As they were both captains, the question of command was decided by lot. It fell on the gallant Towson. Their plan of attack was to row up the lake from the mouth of Buffalo creek in their boats, with muffled oars, until they could get above both brigs. Lieutenant Elliott was in command of one boat, which was to attack the Detroit above. Sailing master Watts, in order that the usages of the service might be conformed to, remained in command of the other boat on board of which was Captain Towson and his thirty artillerymen.

It was intended that Lieutenant Elliott should first attack and capture the Detroit. It being very dark, however, as they proceeded up Lake Erie, and turned their bows towards the mouth of the Niagara, Captain Towson's boat got ahead of Lieutenant Elliott's, passed the Detroit, was hailed but not fired into, it being very dark. When, however, they got opposite the Caledonia, sailing-master Watts said, "we are too far below." They had then got into the current of the lake which discharges itself into the Niagara river. Sailing-master Watts said, "We are too far from shore; we cannot reach the brig; and we will not make the attempt." He accordingly directed the bow of the boat to be turned down the stream. Captain Towson sprung to his feet, and said "No; I assume the command and take the responsibility." He asked the pilot if he could reach the Caledonia. The officer said, "Yes, sir," and the response of Towson was, "Then do it." They did reach the Caledonia, though they had difficulty in closing their grappling irons. A destructive fire was poured into them as soon as they came alongside of her, but still they used their grapnels, got on board, and captured her. Shortly afterwards, Lieutenant Elliott captured the Detroit. Both vessels were got under way, and were turned down the stream, but unluckily both were grounded—Captain Towson's a little below the Detroit.

As soon as the morning light appeared, the British guns of the fort were fired on both vessels. Lieutenant Elliott set fire to the Detroit, burned her up, and sent an officer to demand that the Caledonia should also be fired. Captain Towson said, "No; I see no necessity for it, and we will retain her if we can." Most, if not all the marines deserted her. They said it was not worth while to seek to get her off. She had then been grounded for a second time. She had been got off once, and was grounded again. Captain Towson would not obey the order, but insisted on saving the vessel, if possible. He received some protection from the guns on the American side, and the vessel was saved.

The testimony as to the value of that brig varies from $15,000 to $30 000, with her armament. Some state her value at $15,000, without her armament. The testimony is, that her cargo—she having been employed to carry a rich cargo of furs and peltries—was worth $200,000. A large proportion of that, it is stated, was turned over to the commissary's or quartermaster's stores, and used by the troops during the severity of that winter. Most of the cargo, however, was sent to New York; and, being claimed by Mr. Astor, a legal investigation was had. The suit was decided against him; but, unluckily, the money went into the hands of the clerk of the court, who proved a defaulter, and the captors never got a cent.

As we had no definite proof as to the value of the cargo, which went into the possession of the American troops, the committee came to the conclusion to allow nothing for it. It may be that some proof of it will come to light hereafter, and then, perhaps, Congress may think it necessary and proper to make an allowance. In 1814, Congress voted to Lieutenant Elliott and his men, and the crews of the two boats, a gratuity for their gallant services in burning the Detroit. On some ground—not mysterious, but attempted to be shown in this proof—probably on account of the delicacy of Captain Towson himself, and some misunderstanding between him and Lieutenant Elliott, for a long time no notice was taken of it. Congress, in voting the testimonial to the gallantry of Lieutenant Elliott on that occasion, passed by Captain Towson entirely unnoticed; and yet he was undoubtedly the sole author of the capture of the Caledonia, Lieutenant Elliott only being entitled to the credit of having conceived the design.

The committee propose to make no allowance for the cargo of the vessel, but to give a medium amount, according to the testimony, of the value of the Caledonia, which became an American vessel, and I have statements in my hand showing that next to the flag-ship of Commodore Perry, she rendered most gallant service on Lake Erie, on another occasion, when British vessels were captured. If, after this statement, there is any opposition to the bill, I have not another word to say.

Mr. HUNTER. I hope the bill will be suffered to go over; I should like to look into it.

The PRESIDENT Objection being made, the bill will lie over until to-morrow.

Mr. EVANS. I move that the report in the case be printed.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House, announced that they had passed Senate bill to authorize the issue of a register to the Russian-built ship Aina, without amendment; that they had passed, with amendments, Senate bill to promote the efficiency of the Navy; and that they had passed a bill making an appropriation for military defenses at Proctor's Landing, Louisiana.

ENROLLED BILLS SIGNED.

The message also announced the signing by the Speaker of the following enrolled bills; which

were thereupon signed by the President *pro tempore:*

An act for the relief of Zachariah Lawrence, of Ohio; and

An act authorizing the construction of a line of telegraph from the Mississippi or Missouri river to the Pacific ocean.

TERRITORIAL MILITARY POSTS.

Mr. SHIELDS. The Committee on Military Affairs have instructed me to report, without amendment, House bill "for the erection of a military post on or near the Pembina river, in the Territory of Minnesota, and for other purposes." As this is a territorial matter for the benefit of a Territory which has no representative on this floor, I ask for the present consideration of the bill.

There being no objection, the Senate proceeded, as in Committee of the Whole, to consider the bill.

It will appropriate $5,000 for the erection of a military post in Minnesota, on the line of the 49th° north latitude, on or near Pembina river, and $10,000 for the establishment of military posts in Kansas and Nebraska, at such points as the Secretary of War may designate.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SCHOONER SEAGULL.

Mr. GWIN. The Committee on Naval Affairs, to whom was referred the memorial of A. H. Mechlin, have instructed me to report a bill for the relief of the families of the officers and crew of the United States schooner Seagull. It is a short bill. The vessel foundered at sea and all on board were lost. The bill is to place their families on the same footing with those who have been provided for in similar cases.

The bill was read twice, by unanimous consent, and considered as in Committee of the Whole.

It will extend the same provision as is made by the act of Congress of July 27, 1854, for the benefit of the families of the officers and crew of the United States schooner Grampus, to those of the United States schooner Seagull, which foundered at sea on or about May 1, 1839.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time, and passed.

JAPAN EXPEDITION.

Mr. JOHNSON. A motion was submitted by the Senator from Louisiana a few days ago, and referred to the Committee on Printing, relative to binding the correspondence of the naval expedition to Japan. The Committee on Printing instruct me to report in favor of the motion. The document is not quite the ordinary size which it is required to be, by law, in order to be bound; but it is believed that it should be bound. The committee therefore instruct me to report in favor of binding it. They also recommend that two hundred and fifty copies of the work, when published, be delivered for the use of Commodore Perry, who commanded the expedition.

The report was concurred in.

OREGON LAND DISTRICT.

Mr. JOHNSON. A few days ago I reported, from the Committee on Public Lands, the bill from the House to establish an additional land district in the Territory of Oregon. I was then almost compelled, as a matter of courtesy to another Senator, to give way and not to press its consideration. Yesterday I had to do the same thing again. It is a matter of immediate necessity that that bill should be passed. They have but one land district in Oregon. I therefore ask for the consideration of the bill at this time.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

It will create the land lying south of the fourth standard parallel a new land district, to be called the Umpqua district; the land office for which shall be established at such place within it as the President shall from time to time direct, and the officers for which are to be appointed in the same manner, and have the compensation, powers, duties, obligations, and responsibilities, that are prescribed in the sixth section of the act approved July 17, 1854, "to amend the act approved September 27, 1850, to create the office of surveyor general of the public lands in Oregon."

The bill is not to go into effect until three months after its passage.

The district lying north of the fourth standard parallel is to be known as the Willamette land district.

The bill was reported to the Senate without amendment, and ordered to a third reading. It was read the third time, and passed.

TEXAS DEBT BILL.

On motion by Mr. RUSK, the Senate proceeded to consider the amendments of the House to the bill to provide for the payment of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9, 1850.

The first amendment was to reduce the sum appropriated from $8,500,000 to $6,550,000. This amendment was made in the first section, and again in the fifth section.

The next amendment was to amend the second section so as to make it read as follows—the words inserted by the House being in *italics:*

And be it further enacted, That in all cases where the State of Texas may have paid any portion of the debt described in this act, the said Secretary shall refund to the proper officer of said State the amount actually so paid by the State upon the presentation at the Treasury Department of the evidences of said debt, on which the said State may have made such payment: *Provided*, The said sum shall not exceed the proportion which would have been allowed to the creditor or creditors, if such payment on said evidences of debt had not been made by the State of Texas; *and where the said sum that may be refunded to the State of Texas by the provisions of this section is less than the proportion which would have been allowed under this act to the holders of such evidences of debt, had such payment not been made them, such holders shall be entitled to receive the difference between said sum and the proportion they would have received under this act if no payment had been made them;* and where any original certificates or other evidences of debt have been surrendered to the authority of the State of Texas, *and new certificates issued therefor by said State of Texas*, such new certificates shall be received as evidences of the original amount of the claim.

The next amendments of the House were in the third section, to insert the words "and the State of Texas" after "shall forever release all claim against the United States;" to strike out the words "and shall also indorse upon the said security, or evidence of debt, a credit for the amount so received by said holder, in such form as the Secretary of the Treasury may prescribe;" and at the end of the section to strike out the words "for the benefit of those whom it may concern, until otherwise directed by law;" so that the section would read:

SEC. 3. *And be it further enacted*, That no payment shall be made under this act to any holder of said securities, or evidences of debt, unless the said holder shall first execute to the United States a receipt for the said payment, in which said holder shall forever release all claim against the United States *and the State of Texas* for or on account of the said securities, or evidences of debt, and the said certificates, or other evidences of debt, shall then be deposited with the Treasury Department.

The next was to add at the end of the following:

SEC. 6. *And be it further enacted*, That this act shall not take effect until it shall be assented to by an act of the Legislature of the State of Texas, and a copy of the act of said State, duly authenticated, deposited in the Treasury Department at Washington.

the words:

Nor until the Legislature of the State of Texas shall pass an act withdrawing and abandoning all claims and demands against the United States, growing out of Indian depredations prior to the admission of said State into the Union.

Mr. HUNTER. I suggest to the Senator from Texas, that perhaps the best way of arranging this matter, if he designs to ask for a committee of conference, would be to move to disagree generally to all the amendments, and ask the conference, without stopping to pass upon a portion of them.

Mr. RUSK. I submit that motion—to disagree to the amendments of the House, and ask a committee of conference.

The motion was agreed to.

The following Senators were appointed the committee to manage the conference on behalf of the Senate: Mr. RUSK, Mr. STUART, and Mr. FOOT.

MISSOURI AND OHIO U. S. COURTS.

Mr. CHASE. Yesterday a bill in which the Senator from Missouri [Mr. GEYER] feels an interest, to provide for holding an additional term of the circuit court of the United States for the district of Missouri, was laid over until to-day on my motion. I ask that it may be taken up now. It will occupy but a single minute.

The Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. CHASE. I move to amend the bill by adding the following:

SEC. 4 *And be it further enacted*, That there shall be held at the city of Cleveland, in the State of Ohio, on the third Tuesday in March of this year, a special term of the district court of the United States for the northern district of Ohio, and also a special term of the circuit court of the United States for said district, at which terms respectively any business may be transacted which might, under existing laws, be transacted at any regular term.

The amendment was agreed to.

The bill was reported to the Senate as amended; the amendments were concurred in; the bill was ordered to be engrossed for a third reading, and it was read the third time, and passed.

The title was amended so as to read: "A bill to provide for holding additional terms of the circuit courts of the United States for the districts of Missouri and Ohio, and for holding a special term of the district court for the northern district of Ohio."

ORDER OF BUSINESS.

Mr. HUNTER. I now call for the Indian appropriation bill, which is the first special order, being the business on which we adjourned yesterday. If the Chair should decide otherwise I will move to suspend the prior orders to take it up.

Mr. JONES, of Iowa. I appeal to the Senator from Virginia to allow me to take up a bill which my colleague reported from the Committee on Public Lands the other day, in regard to land districts in my State, and the consideration of which I then objected to, in order to prepare an amendment. It will only take a few minutes to consider it. If it should lead to debate, I will agree to lay it aside.

Mr. DAWSON. I object; and I move to take up the special order of the day—the bills relating to the District of Columbia.

The PRESIDENT. The Senator from Virginia has the floor.

Mr. HUNTER. I move to postpone all prior orders to take up the Indian appropriation bill, if such a motion is necessary. I apprehend, however, that it comes up as a matter of course, as we adjourned on it yesterday.

The PRESIDENT. The first special order is the unfinished business of yesterday, unless changed by a vote of the Senate.

Mr. HUNTER. And that is the Indian appropriation bill.

Mr. JONES, of Iowa. It is not one o'clock yet. I hope I shall be allowed to take up the bill to which I allude.

The PRESIDENT. Whether the bill of the Senator from Iowa, or any other bill can now be considered or not, depends on whether the Senator from Virginia withdraws his motion.

Mr. HUNTER. I am afraid to withdraw it. If I did I should have all the contest to go over again.

Mr. JONES, of Iowa. If any debate should arise, I will agree to let the bill go over. It was merely laid over on a former day in order to give me an opportunity to make an amendment.

Mr. HUNTER. I will aid the Senator to-morrow, in the morning hour, to get up his bill.

Mr. DAWSON. I dislike to interfere with the Senator from Virginia, who is anxious to go on with the appropriation bill; but all I have to say is that there is something certainly due to the District of Columbia, to the cities of Washington and Georgetown, and that we ought to act upon their bills.

Mr. HUNTER. I agree with the Senator from Georgia, that they ought to have a portion of the time, and I will aid him in dividing a portion of it. I will give him my vote as soon as we get the Indian appropriation bill out of the way.

Mr. DAWSON. These bills ought to pass this body and the other House. The volunteer kindness of my friend from Virginia, I know, would have great influence. I have found repeatedly, that his influence is so overwhelming as to carry through every bill with which he is connected, and in getting it to the House of Representatives. But I must now insist on taking up these bills. The day before yesterday, I made a motion to have those bills, which were reported from the Committee on the District of Columbia, made the special order for to-day, and it was unanimously agreed to. For my part, it is a trouble for me to carry on this kind of legislation; but it is an incumbent duty, and we ought immediately to pass

these bills, so as to let them go to the other House. The appropriation bill will pass any how, but there is danger to these if they are not acted upon soon. I ask, therefore, whether these bills, being made the special order for one o'clock, do not now come up as a matter of course? And I do hope if I am wrong on that point, that the Senate will agree to a motion to take them up.

Mr. HUNTER. I hope my motion will be put.

Mr. GWIN. I want to announce to the Senate that, as soon as the Indian appropriation bill is disposed of, I shall move to take up another special order, which has been long in advance of the bills for which the Senator from Georgia contends, and that is the Pacific railroad bill. I hope we shall take up that measure as soon as the Indian appropriation bill is disposed of. It is of a great deal more importance than the bills for this District, which can be passed at a subsequent period; but if we do not soon get up the Pacific railroad bill, it is evident it will have to go over.

Mr. PRATT. I ask for the yeas and nays on the question of taking up the Indian appropriation bill. Something, undoubtedly, is due to the residents of this District now. They have no representatives here, except every member; and I think "in the multitude of counselors there is" not "safety," so far as they are concerned. We do literally nothing for them. I do not believe that a single bill, in which the residents of this District are interested, has passed the present Congress. Unless they pass in a very few days, it is clear that they cannot receive the sanction of the other branch of the Legislature. I understand that on Monday, on the motion of my friend, the chairman of the Committee on the District of Columbia, the bills reported from that committee were made the special order for one o'clock to-day. If they are to be set aside, I want the yeas and nays, to let the citizens of the District see who will stand by them.

The PRESIDENT. The unfinished business of yesterday is the Indian appropriation bill, which is now before the Senate, unless some Senator moves to postpone it for the purpose of taking up some other bills.

Mr. DAWSON. I make that motion, in order to take up the bills for the District of Columbia, which were, on Monday, made the special order for one o'clock to-day.

The PRESIDENT. And on that motion the Senator from Maryland asks for the yeas and nays.

The yeas and nays were ordered; and being taken, were—yeas 16, nays 28; as follows:

YEAS—Messrs. Allen, Bell, Benjamin, Brainerd, Clayton, Cooper, Dawson, Foot, Geyer, Gillette, Morton, Pearce, Pratt, Seward, Thompson of Kentucky, and Thomson of New Jersey—16.

NAYS—Messrs. Adams, Badger, Bayard, Brown, Chase, Clay, Dodge of Wisconsin, Douglas, Evans, Fitzpatrick, Gwin, Hamlin, Houston, Hunter, Jones of Iowa, Jones of Tennessee, Mallory, Mason, Rusk, Sebastian, Shields, Slidell, Stuart, Sumner, Wade, Weller, Wells, and Wilson—28.

So the motion to postpone was not agreed to.

INDIAN APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives making appropriation for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes.

Mr. BROWN yesterday submitted the following amendment:

SEC. —. *And be it further enacted*, That, in accordance with the memorial of the Menomonee Indians to the President and Congress, dated the 4th of October, 1854, and executed in general council of the nation, there be paid to Richard W. Thompson, as attorney for the said Indians, under an agreement with them for the prosecution of a claim in their behalf for additional compensation for lands ceded by them to the United States by the treaty of 1848, such amount of compensation for the services performed by the said Thompson, as may be lawful and equitable according to the judgment and decision of the Second Comptroller of the Treasury. And that the same be paid to him by the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, and deducted from the annuities, when due and payable, that are to be paid to the said Indians under the treaty of the 12th of May, 1854, and the amendments thereto.

Mr. STUART moved to amend that amendment by striking out "Second Comptroller," and inserting "Secretary of the Interior;" and the pending question is on that amendment.

Mr. BAYARD. The honorable Senator from Mississippi, in the remarks which he submitted to the Senate, misapprehended one of my objections, and that was, that here was an attempt, by this amendment, to authorize a payment by anticipation to the attorney or agent of these Indians, when, by the stipulations of the treaty, the principal sum is not due to the Indians themselves until 1867.

I did not make the objection grounded on the fact that it was at all material to the Treasury whether the whole sum was paid now or not. I rather incline to the opinion that it would have been better if the treaty had provided that the whole sum should be paid to the Indians at once, instead of incurring it prospectively ten or twelve years hence; but I objected to the principle involved in the payment, of appropriating a sum to an agent employed by these Indians, at the same time that you do not pay the Indians themselves the money which is not yet due them under the terms of the treaty. I do not think it is right and fair that they should be treated in that way. That was the objection that I made. If you charge the interest against the Indians you do them wrong; if you do not, then you are making a voluntary payment to the attorney or agent of the Indians, with whom you have no connection, who has rendered services against the interest of the Government; and you are paying him, by anticipation, in such a mode as literally to make the payment fifty per cent. more than he would be entitled to according to the terms of the treaty.

But, sir, my principal objection remains, as I conceive, unanswered. I will restate it very briefly. The Congress of the United States, within two years, I believe, certainly within a very short period, found, upon the experience of the preceding time, that the evils which arise from suffering money to be paid out of the Treasury (under Indian treaties, or stipulations for the payment to the Indians) to any but the Indians themselves, the frauds and wrongs were so numerous, that they determined, by a general law, that no payment should be made to others under the authority of the Indians, where the money was to be paid under an appropriation, but they should be made directly to the Indians themselves. Before that general law is scarcely dry upon your statute-book, you have a motion made, by way of an amendment to an appropriation bill, to make an exception to it in favor of the particular attorney or agent of a class of Indians.

In order to sustain that exception, to show that it stands out from the general rule which had been adopted as the policy of this Government, of not interfering with the contracts between the Indians and their agents, at least we should have the right to require that some standing committee of this body should investigate the facts, and should report to us those facts which justify us in abandoning the general law, and adopting this special law as applicable to the particular case; and the more strongly in this case should that be so, because the only ground on which such an exceptional law can be passed must be, that there has been fraud or malversation in office on the part of the officers, who are undefended here, in their treatment with the Indians, while this agent alone has rightfully endeavored to sustain the interests of the Indians.

Sir, when these facts are established by the committee, and they report a special bill, if there has been wrong done, I should be perfectly willing to vote for the bill; but I cannot consent to throw an imputation upon the character of the officers of this Government without, at least, the report of some committee of the body to sustain such action. The maxim is not unfrequently true, *apecis juris sunt jura;* and if we are to abandon the principle of requiring, in cases of this kind, which involve the character of officers of the Government, at least an investigation by a committee, and a formal report of the facts, so that there will be no dispute as to the propriety of our action, we had better abandon our committees altogether. The Committee on Indian Affairs have had this case before them; they have not seen fit, on their information, to offer the amendment, or recommend such action to the Senate. It is the suggestion and recommendation of individual Senators; and on that ground I am unwilling to attach it to an appropriation bill, as altering the general policy of the law in other respects as regards Indian agents.

Since I came into the Senate this morning, the feeling as to the impropriety of such a course has been greatly strengthened by a printed document which has been brought to my notice by the honorable Senator from California, in which it appears that, in a speech delivered before the Indians, this particular agent—I suppose the speech has been truly reported; at all events, the facts require an investigation—tells them that he obtained the passage of the bill allowing the increased sum to them, by bribing a friend of his, or paying him money to get an individual Senator to stay away who would have opposed the bill. There is the declaration in a speech purporting to be made by him to these Indians. I do not know anything as to the truth of these statements. They may be a misrepresentation; but these things ought to be inquired into; for, if they be true, if that statement be true, it shows an act—no matter what may be the services rendered by the party—of such a character that no court of justice would recognize, and which, upon principles of general policy, no legislative assembly ought to recognize. If it be that a man can come into the Halls of Congress, and ask that we shall assist him in recovering remuneration from his clients, grounded on the fact that, by giving money to an individual friend of his, he, through the agency of that friend, procured a Senator of the United States to be absent from his post, who, if present, would have defeated the bill, that may be considered as a proper ground of compensation by some men, but I consider it entitled to but one appellation, and that is, corruption of the grossest character.

Mr. STUART. When the Senate adjourned yesterday, being entitled to the floor, I stated that it would probably become necessary for me to submit some views to the Senate on this question. I shall endeavor to do so as briefly as possible; and, in order to a correct understanding of the opposition that I make to this amendment, I beg leave to call the attention of the Senate to two or three facts, some of which have been alluded to by the Senator from Delaware, who has just taken his seat.

The manner in which this amendment is proposed, certainly ought not to subject the individuals, or the committee who propose it, to any animadversion—none at all. I make none, nor do I impute anything; but, sir, to my mind, it is not a proper mode of amending a general appropriation bill. I submit that every case of this sort ought to be brought to the attention of the Senate upon its own merits, and upon a full report of the facts from a committee who investigate the subject, which report, under our rules, could be printed with ample time to every Senator to inspect it and make up his opinion. It is next to impossible to investigate any such subject as this, in the few minutes in which we have an opportunity to do so, upon an appropriation bill.

But, again, it is in direct contravention of a policy established by Congress only in the last session, which seemed to have been done with great unanimity, for the purpose of preventing precisely such action as the claimant in this case seeks payment for. It is known to you, and to Senators generally, that formerly payments were made to the Indians as a tribe. The money was handed over to the chiefs, or some one individual representing the tribe in gross; and the consequence was that the agents, the attorneys, and the traders stood by, took it immediately out of the hands of the chief, or other individual, and it never went to the individual Indians at all. I say, such had become the corruption under those laws, that Congress interposed, and in the House, of which I was a member at that time, the feeling was almost unanimous to prevent, if possible, that sort of malappropriation of the funds belonging to individual Indians. To do that, two attempts were made, both upon an appropriation bill. The first one was found to be ineffectual, because it applied only to appropriations under that bill. But subsequently, in 1852, Congress placed this section in the appropriation bill, to cover the whole ground:

SEC. 3. *And be it further enacted*, That no part of the appropriations herein made, or that may hereafter be made, for the benefit of any Indian, or tribe, or part of a tribe of Indians, shall be paid to any attorney or agent of such Indian, or tribe, or part of a tribe; but shall, in every case, be paid directly to the Indian or Indians themselves, to whom it shall be due, or to the tribe or part of a tribe, *per capita*, unless the imperious interest of the Indian, or Indians, or

THE CONGRESSIONAL GLOBE.

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some treaty stipulation, shall require the payment to be made otherwise, under the direction of the President. Nor shall the Executive branch of the Government, now or hereafter, recognize any contract between any Indian, or tribe, or part of a tribe, and any attorney or agent, for the prosecution of any claim against the Government, under this act."

The law was intended, I say, to cover the whole ground, to compel the payment of these funds to the Indians *per capita*, and to declare absolutely null, so far as the Government is concerned, all the contracts made by agents and attorneys with the Indians. What is the claim in this case? Why, sir, the amendment proposes that it shall be referred to the Second Comptroller of the Treasury, as it now stands, to decide how much this attorney is entitled to under his contract, just such a contract as the law which I have read declares to be utterly null, and expressly prohibits the officers of the Government from recognizing, that he is to examine the claim under that contract, and to pay what is due to him legally or equitably, and to pay it, sir, out of the funds belonging to that tribe of Indians.

To show what was the sense of Congress at that time, let me read a portion of the remarks of a member from North Carolina, who renewed an amendment which had been offered to this effect. He says:

"In the five years that I have been a member of this Congress, claim-agents have stood around like buzzards around the carcase of a dead horse. Whenever a poor Indian gets a claim allowed him, they pounce down upon him, and one fourth, one half, or two thirds of the money falls into the hands of these men, who profess to be his friends and agents They have even filed caveats.

"I heard of a case, the other day, in which a claim-agent in this city filed his caveat with the Department, and a portion of the claim was withheld for his fee. The poor Indian comes here with a just claim against the Government. He falls into the hands of a set of borers and claim-agents, and when at last tardy justice is done him, and his claim is allowed, these claim-agents pounce down upon him, fix their talons in him, and carry off two thirds of the money, leaving him the skin and bones, teeth and toe-nails.

"Sir, we ought to protect the poor Indian. We know he is a savage. We know he is improvident. We profess to be a Christian people, and his guardians, and yet we place him in a position that, when we pay him that which he is entitled to under our treaty, it all falls into the hands of those who hang around him, and rob him of all the Government has given him."

Mr. BENJAMIN. Whose remarks are those?

Mr. STUART. They are the remarks of Mr. Venable, of North Carolina. That was almost the unanimous sentiment of the House of Representatives; and it was corroborated, at the time, by Mr. Hall, of Missouri, as appears by the same volume, who represented a border State, and who was conversant with these practices; I say that the moral sense of Congress had become shocked to that extent that it passed this law to put an end to the whole affair.

Now, sir, what is the position of this claimant in connection with that law? He claims under a contract made with the Indians. What is that contract for? A part of it is claimed for the reason that he prevented the Indians from carrying out the treaty which they had made. That is a part of the service for which he claims. He claims to have been instrumental in preventing the Indians from fulfilling the treaty of 1848, and removing to their reservation in Minnesota.

Now, Mr. President, let me turn the attention of the Senate, for a moment, to another law that stands upon the statute-books of this country.

The thirteenth section of the "act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," passed June 30, 1834, provides, "that if any citizen or other person residing within the United States or the Territories thereof, shall send any talk, speech, message, or letter, to any Indian nation, tribe, chief, or individual, with an intention to produce a contravention or infraction of any treaty or other law of the United States, or to disturb the peace and tranquillity of the United States, he shall forfeit and pay the sum of $2,000."

Section fourteen provides for a forfeiture of $1,000 on the part of any person who delivers such talk, speech, &c.

Section fifteen, among other things, provides that, if "any citizen or other person shall alienate or attempt to alienate the confidence of any Indian or Indians, from the Government of the United States, he shall forfeit the sum of $1,000.

Let me call the attention of the Senate to a letter which this agent sent to this tribe, to see whether it is not in contravention of the sections of the intercourse act which I have just read. In that letter he says:

"I have not forgotten you, but have thought of you very often, and hope that you are well, and that your women and children are well. I thought that I should come to see you all before now, and sent you word that I should do so. I was so certain that I should come, that I got ready to start, and had me a good thick coat made to keep me warm up in your cold climate; but I have had a good deal to do for you since your delegation came here last fall with Osh-kosh. I have been trying all the time to get you more money for your land, and to get you pay for what Colonel Medill cheated you out of when he made the treaty of 1848. I am still at work at it, and shall not stop till I get it. I find that if I were to leave your business now and turn my back upon it, there would be danger of your not getting anything."

I shall not read the whole letter, but a few extracts.

"I told your delegation when they were here, it is very hard to break a treaty."

That was his business, Mr. President, "breaking a treaty."

"And I do not think I could do it at all, so as to get anything for you, if I were to go away from here before the matter is decided, for Colonel Medill has a great many friends, and they would take advantage of my absence; but by staying here and watching everything closely, I am almost certain that I shall get you more money before spring."

Colonel Medill, the Commissioner of Indian Affairs, has a great many friends here; and if this agent does not stay here, and keep up his investment around Congress, with his sappers and miners, and trappers, he will not be able to break the treaty. Here him a little further on:

"I knew that you had been cheated by Colonel Medill, and was determined that justice should be done you if it was in my power."

Mr. President, compare that with the intercourse act, and see if this is not "a talk," a "letter" sent there for the purpose indicated in that act, and whether he is not now liable to be punished, under that intercourse act, for what he has done? I wish to read a little further on. He sends up certain papers that he wants signed, and says:

"I hope you will attend to this business directly, as Congress will adjourn on the 4th of March, and if you do not get your money before that time, you will have to wait more than a year for it. It is for this reason I stand here and send a friend to you, that you may send me word by him as soon as possible. I advise you to lose no time, but to attend to this business at once. As I cannot go to see you now, and as my friend, Mr. Ewing"——

I call attention to that, for it is important in other connections.

"As my friend Mr. Ewing is also here helping me in some business, and cannot leave, I have sent this to my friend in Indiana, and requested him to go up and take it to you, as I am anxious you should have it. I wish him to put it in your hands, and I hope you will be satisfied with the condition of your business. The friend I send this by is Mr. Richard Chute, whom you all know."

That is one of the firm of Ewing & Co., traders. He then sends his respects to the people. Mr. Chute says:

"MY FRIENDS: I cannot go to see you, as your friend and able attorney desires; but Judge Ewing will go in my stead. He is in every way worthy of your confidence, and will do all he can to serve you."

There are other letters here in connection with the same thing, some of which are particularly rich; but, in connection with this, let me read two more. Here is a letter from Mr. Ewing, written to Mr. J. B. Jacobs:

"I have just returned from the Wisconsin, where I was with Major Bruce, who, after seeing most of the Menomonees, has kindly certified Colonel Thompson's papers: same as Colonel Babcock and Colonel Lea did like ones for us last fall, and for Colonel Thompson.

"I was never before acquainted with Major Bruce, but I now believe that he has the true interest of the Menomonees at heart, and desires to do all he can, consistent with his official duty, to promote their true, present, and future interests."

That is the Indian agent.

"Major Bruce says that Medill's map did not include the Menomonee country west of the Wisconsin, and a large part of it north of Lake Pow-an he gon, and only embraced about a quarter of a million of acres out of all their country.

"This will be of great service at Washington in prosecuting the claim of the Menomonees, and I hope that there will be union and friendship between the agent and all interested in those Indian matters; he can help very much."

There it is: an agreement with the Indian agent that he is to turn in and help these claim agents and attorneys, and by his action he can "help much." Now let me turn over the leaf to an agreement made and entered into between W. G. and G. W. Ewing and William H. Bruce in April, 1851, by which Mr. Bruce, the Indian agent, agreed "to place no obstacle in the way of their collection;"—that is the collection of claims of the Ewings—and to aid the attorney of said Menomonee Indians in prosecuting a claim in favor of said Indians against the United States, for additional remuneration, for the lands sold by them in the treaty of 1848; and that he will in no way or manner put any obstacle in the way of the prosecution of said claim, but will aid and assist in procuring the largest possible additional remuneration for the largest quantity of land, and the largest consideration specified in the report of the Commissioner of Indian Affairs to the Secretary of the Interior, just made.

In consideration of which, by this agreement, they stipulated to pay the Indian agent $5,000 down, and if they succeeded, $5,000 more. Here, in the documents, is the paper signed and sealed.

Mr. ADAMS. Signed by whom?

Mr. STUART. By W. G. and G. W. Ewing and William H. Bruce. On the preceding page I find a letter dated Fort Wayne, March 29, 1851, written by W. G. Ewing, senior, to Major Bruce, and I call the especial attention of the Senate to it:

"DEAR SIR: On reaching home I found letters from my brother, giving an account of the amendments tacked on to the annual Indian appropriation bill in the House, much of which he attributes to Mr. ****** to get Colonel R. W. Thompson legislated out of the office of commissioner to treat with the Sioux and half breeds; and before he gets through with it he may have occasion to regret the part he played in it."

Sir, no man is safe; no member of Congress is safe. The Halls of Congress, as well as the Treasury of the country, are surrounded by men whose business it is to make money; and from the exhibition which we had here yesterday, a simple retailed statement of what this attorney had stated, it is evident that they are ready to sacrifice the Indian, they are ready to sacrifice the character of any officer, and to sacrifice the character of any member of Congress if he stands in their path between their desire and the money of the Indians. That is the question, sir, which is presented here to-day. In this letter it will be seen that they threatened a member of Congress: "before he gets through with it he may have occasion to regret the part he played in it." The letter continues: "In these same amendments"—we shall presently see what they are—

"In these same amendments, all the agents and sub-agents were legislated out, and but seventeen out of twenty-three east of the Rocky mountains and north of Mexico and Texas, retained; omitting six, when our country rather calls for an increase of them. I am surprised at our Whig Administration for this. Among this number, you and all in Michigan are omitted.

"Neither your office, nor that of commissioner to treat with the Sioux, was either very important or profitable, yet I regret to see uncalled-for changes; and particularly so, as they appeared to have been instigated by the recent apostate from the Whig cause, Mr. Locofoco ******. Colonel Thompson is much exasperated. During this short session there has been much excitement, and but little effected in these Indian matters. Nothing done or moved in the Menomonee matters; they are as before, and most likely will remain so for another year. In the mean time, if the President requires them to move west, the contract for that object will be an object."

Here they display themselves again. They make claims before Congress, and whenever Congress adjourns, and they have no opportunity to get laws passed to plunder the Indians, they turn round to the Indian Department and seek to get a contract for the removal of the Indians, so as to obtain plunder in that direction. But I have not yet done with this letter:

"Colonel Thompson will be at Washington for some time, and so will my brother. Write to them freely; you will find them right and true."

Now, Mr. President, (Mr. BADGER in the chair,) you, who have been, like myself and other gentlemen here, pretty extensively engaged in criminal practice in the courts, have learned something about these signs; "such a man is all right; you can talk to him;" that is to say, he belongs to the clan; he constitutes part of the machinery by which the honest portion of the community are to be plundered. The letter goes on:

"If that could be carried out as we talked the matter over, it would result in a good profit. Write to my brother about this. I have said to him what was proposed between you, Wright, and us. Mr. Chute will send you a copy of Mr. Coquillard's contract; I have handed it to him. I am compelled to go in the morning to St. Louis, to provide funds for our transportation contract to New Mexico, and write in haste. Will be back in twenty days. Let me then hear from you; we must try and make this business tell well yet."

Then there is this postscript to the letter:

"P. S. Captain Elias Murray is the superintendent for the northern Indians. Colonel Thompson and my brother took an active part in his appointment, and he is their friend; he lives in an adjoining county to us here, and expects to be stationed in Dubuque, Iowa, and next year at St. Paul, in Minnesota. He is a very worthy, experienced, and talented gentleman. E."

Now put some few of these things together; see these operations, and then turn your attention to the contracts, and see who it is that certifies them? The contracts which were made with the Menomonee Indians, under which Thompson claims, and under which the Ewings claim, made at the same time, are certified; one of them not at all. Thompson's contract is not certified to at all, but the other one is certified to by the same Indian agent who was to receive $10,000, and for that certificate the present Indian Bureau removed him promptly.

Let me call the attention of the Senate to the statement of the northern superintendent of Indian affairs, Mr. Huebschman, to whose integrity the Senators from Wisconsin will certify. What does he say about this transaction?

"NORTHERN SUPERINTENDENCY,
"MILWAUKIE, *November* 1, 1854.

"SIR: Soon after I arrived in the Menomonee country (on the 7th of October,) I learned that R. W. Thompson, of Indiana, had left there a day or two previous, after having obtained, at a meeting held at night, the signatures of the chiefs to a paper drawn by him, or one of his friends. Those of the chiefs whom I asked about it, did not exactly know the purport of the paper, but stated that Mr. Thompson claimed to have carried the late treaty, and the amendment to it, through the Senate; and from what they had been told they believed to be under great obligations to him.

"I notice that there were an extraordinary number of gentlemen on the pay-ground, without any ordinary business; and I soon found out that there was a general movement among traders and claimants, in relation to their claims against the Menomonees. Mr. Thompson had probably taken the lead; and as the good success of Robert Grignon, in obtaining an appropriation of $19,000 for a claim against the Menomonees, had set many in the north part of the State dreaming golden dreams, Mr. Thompson had found a field well prepared for his operations; and it seems that the other claimants had assisted him to obtain such action on the part of the chiefs as he desired, with the understanding that he was to assist them in return. All these movements were underhanded, and I was not approached in relation to these claims, except that Mr. Gunar and Mr. G. F. Wright suggested to me that it would be a good thing if claimants and Indians met and made an arrangement wiping out all old claims—"lumping it," so as to make an end of them. I answered, that I would investigate anything which would be brought before me properly; that as to "lumping it," that was not my way of doing business. I further told them that I could not encourage them, as there were no funds under the different treaties with the Menomonees applicable to claims of such magnitude and character; and as to obtaining appropriations from Congress, (like Robert Grignon did) such a bill might never again succeed in Congress.

"After the pay-roll was finished, I inquired of the chiefs in relation to the business they had transacted in their nightly meetings, which startled them, and they were evidently afraid that they had done something wrong However, they promised to make me acquainted, in a council to be held after the payment, with everything they had done. In relation to a contract which they had made with R. Jones about the same time, in August, when they had signed the supplementary agreement, accepting of the amendments of the Senate, and by which Mr. Jones was allowed to cut logs on the Menomonee reservation, I gave them an explanation of the limit of their rights as to the use of timber, &c., and reprimanded them earnestly for what they had done. However, sub-agent Suydam is more to blame for this transaction than the chiefs, and deserves the censure which he received in a letter, a copy of which is herewith enclosed."

Stopping at this point of the letter, let me remind Senators of the agreement which the Ewings had with Bruce, who died. He was succeeded by Suydam. By the statement of the superintendent, it seems that Suydam is more to blame than the Indians, and more to blame than anybody else. For that he recommended his removal, and he was removed. Why was Suydam doing this? Is it not reasonable to suppose that he was doing it under a contract similar to that under which Bruce has acted. I say, then, they bribe your very Government agents. If they can get, as in this case, one third of the amount, over $84,000, they can afford to pay an Indian sub-agent enough to make him rich for life, and they do it. Mr. Huebschman, the superintendent, continues:

"After many attempts to evade my inquiries, which were quite amusing, Osh-kosh, at the council held after the payment, handed to me the paper which they had signed in one of their nightly councils, a copy of which is herewith inclosed. The pretense that Mr. Thompson, by his influence, obtained the ratification of the late treaty, is not clearly expressed in the document, but was firmly impressed upon the minds of the Indians. I told the chiefs that it would be news to members of the Legislature of 1852, that Mr. Thompson, by his influence, obtained the passage of the resolution assenting to their remaining in the State, and that the United States Senators would be astonished to learn that they had ratified the late treaty at the instance of Mr. Thompson, while, if he had any influence, it was used in attempting to defeat the ratification of it. I told them, further, that as their signatures had been obtained under false pretenses, and as they had no right to grant or give any moneys which were to be applied by treaty stipulations for the benefit of their next generation, the whole transaction falls to the ground, and is null and void, with which declaration they seemed to be perfectly satisfied."

There is the statement of the superintendent, upon the ground, in a council with those Indians, after Thompson had got his contract, and left. He told them that the whole transaction was a nullity, and with that they seemed to be perfectly satisfied.

"On my inquiring afterwards, and repeatedly, if they had anything more to communicate to me, I was answered that they had not, and from that concluded that the other claimants were waiting for an opportunity more favorable to them, or intended to prosecute their claims without giving me an opportunity of examining them. I was therefore somewhat disappointed, when I opened the package from Mr. Suydam, in finding, instead of a draught of schoolhouse and other reports due from him, the inclosed memorial of the chiefs of the Menomonees in relation to claims against their tribe."

That sub-agent held the papers; he kept them from the knowledge of the superintendent; but after the superintendent had left, he sent him papers in respect to a school-house, and inclosed this contract or memorial.

"The list of claims was separate from the memorial, and merely folded in, as I forward it to you. The council must not have been as general a one as sub agent Suydam states, as three head chiefs, and a number of other chiefs, have not signed the memorial. I do not suppose that it can be contended, with any degree of probability, that these claims were ever carefully examined by the Menomonee council. It took them the most of two days, before the payment, to act upon a few simple accounts, out of which I have reported those to your office which were allowed; and, at the same rate, it would take them a great length of time to act understandingly upon such a number of claims as are included in the list. I doubt very much whether the young men of the Menomonees would sanction the action of some of their chiefs, if they were to understand that R. W. Thompson, and the other claimants, were to receive *two thirds* of the annuities stipulated to be paid to them after the year 1867."

Mr. BENJAMIN. Two-thirds?

Mr. STUART. One half of the whole of the claim is to go to Ewing & Co., and one third to Thompson, making together more than two thirds; in fact, five sixths of the whole amount of the claim. Mr. Huebschman continues:

"It will be perceived that the interpreters acting at the council, and all the witnesses to the signing of the memorial, are among the claimants."

There was not a single man certifying to it who was not a claimant. There was not an interpreter acting at that council who was not a claimant. Is not this a striking and significant fact? The superintendent concludes:

"I leave it to you to judge how fairly the whole transaction was conducted. However, as sub agent Suydam states that it is the desire of the chiefs that the memorial be forwarded to your office, I do not feel warranted to refuse to do so.

"Very respectfully, your obedient servant,
FRANCIS HUEBSCHMAN, *Superintendent.*

"HON. GEORGE W. MANYPENNY,
Commissioner of Indian Affairs, Washington city."

Mr. President, I have given some attention to this subject in the little time that has intervened since the debate of yesterday, and I find that the whole list of claims which was got up by Ewing & Co., on that occasion, has been paid twice before. When the first treaty was made with these Indians, by the honorable Senator from Wisconsin, [Mr. DODGE,] those claims were paid. At a subsequent one they managed to get them paid again, and now they come in for the third time.

With what propriety, sir, does this attorney have it stated here on the floor of the Senate that the council which was held in respect to this treaty was a midnight council? Here is the statement of the superintendent of Indian affairs that his was a midnight council.

Again, it is stated here, and stated upon the authority of Thompson, that the present head of the Indian Bureau has taken from these Indians a claim of over $600,000, and paid them but $150,000 for it. An inspection of the treaties refutes that whole statement. They received over $300,000 under the treaty of 1848, and, in exchange for their lands in Wisconsin, other lands in Minnesota. Thompson and the agents succeeded in getting the Indians to refuse to move. The Government then was compelled to make a new treaty, and what did it do? It agreed to give the Indians $150,000 in addition to, and not instead of, what was due them; and the Senate increased that amount $92,000 more, making it $242 000 altogether. Then the treaty did another thing: $40,000 had been appropriated as the expense of their removal; and the treaty authorized the President to use those $40,000, and he has done it for the benefit of the Indians. Thus nearly $300,000 more was allowed them by the late treaty, so that if you put what they got in 1848, and what they got by the treaty of 1854 together, it makes, I believe, something over $600,000.

But, sir, more: The Government, by that treaty, made an arrangement by which they are to remain in Wisconsin, and they now hold some three hundred thousand acres of land, I think, in Wisconsin, to settle upon, and reside upon.

Now, I ask you, sir, and I ask honorable Senators here present, with what propriety seeks this attorney to attack the character of the Government officers in this case, upon the floor of the Senate, through those who believe his representations, and charge them with fraud? No doubt the Senator from Indiana [Mr. PETTIT] believed the representations which were made by Mr. Thompson; and yet I think I may say with propriety that, if he did believe them, the attack he made on the Indian Bureau was unwarranted in matter, and unwarranted in manner. When the honorable Senator from Ohio [Mr. CHASE] and the honorable Senator from California, [Mr. WELLER,] who has also been a resident of the State of Ohio, certified to the integrity of Colonel Medill, and the present Commissioner, they but certified to what the whole world knows who know those men.

Mr. President, this calls to my mind a principle more important, in my judgment, than ten times the amount of money involved here. If you are to carry out the principles of the act of 1852; if you are to remain a guardian of those Indians worthy of the name of a guardian; if you are to perform that Christian duty which all admit devolves upon this Government in its guardianship over the Indian tribes, you must protect your Government officers. Sir, they will be attacked, and if Congress refuses to protect them, they must morally fall before the appliances and the threats of the Indian agents and attorneys. It requires a strong man; it requires a man not only of iron nerve, but of unbending integrity, to reject the appliances of Indian traders and attorneys. They can afford to pay him not only hundreds of thousands of dollars, but they can afford to pay him millions, if he will do what some agents have done—allow them to take without interposition the funds of the Indians. There is then a moral duty involved in this case; and it is to investigate it, to see that the head of the Indian Bureau, if he has acted properly and wisely, and the superintendent of Indian affairs for the northern superintendency, and all others who are protecting this fund sacredly, are maintained in their position.

A word now in respect to the payments under the last treaty, for that point seems not to have been understood. The Senator from Indiana found fault because the payments under this treaty were to commence in 1867. Why, sir, if he had investigated the case, he would have found that that is the time at which the payments under the treaty of 1848 will expire. The payments under the treaty of 1848 terminate in 1867; and at the expiration of those payments, those under the present treaty are to begin. I have been sur-

prised at the declaration of some Senators, who say they would be in favor of paying this money all over to the Indian tribes at once. What would they do with it? Will any gentleman who understands the character of the Indians, answer what would they do with it? Put $600,000 in their hands to-day, and to-morrow they will not have a dollar of it. The policy of the Government, then, is the true one, to pay them annuities, and to pay those annuities to them *per capita*, so that each Indian can get his money, and can protect himself and clothe himself with it. We find, then, that what the honorable Senator from Indiana asserts against the Commissioner as a fault, is, in truth, an act of wisdom, and was precisely what he ought to have done.

We find, sir, that the grounds of assertion against the officers of the Government in this case are without foundation. I could read you, if necessary, the instructions which were given by the Commissioner of Indian Affairs to the superintendent who made the last treaty. They are just such instructions as wisdom, prudence, and a careful consideration for the interests of the Indians would dictate.

Mr. HOUSTON. I trust the Senator will read them.

Mr. STUART. As the honorable Senator from Texas desires it, I will read a few extracts from them:

"You are therefore hereby instructed to proceed so soon as the duties of your office will admit after your return home, to enter into an arrangement with this tribe in the form of a supplement to the treaty of 1848, whereby the various stipulations of that treaty, which were by its terms only applicable upon a removal west of the Mississippi, may be carried into effect at their present location.

"You will procure from them a relinquishment to the lands assigned them under said treaty, and confirm to them in lieu thereof, their present possession upon the Wolf and Oconto rivers, with the exception of the three eastern townships, in range nineteen; provided their assent cannot as well be obtained to an exchange of the six townships in ranges seventeen and eighteen for the same number in ranges thirteen and fourteen, which it is very desirable should be done, and which it is expected you will use your best endeavors to effect, if not to the full extent of six townships, then to such extent as may be practicable. And, in consideration of the difference in extent between their present location (deducting as above and with the exchange of townships as may be arranged) and their lands west of the Mississippi, that being three hundred and eighty-two thousand five hundred acres, and for the relinquishment of all claims set up by, or for said tribe for the difference in quantity of lands supposed by them to have been ceded in the treaty of 1848, and what was actually ceded, you will contract to pay them a sum not exceeding $150,000, to be paid in fifteen annual instalments, commencing with the year 1867.

"It will be necessary to provide for the application of the $10,000, stipulated in that treaty for their removal to Crowwing, and subsistence after geuing there; and a clause should be inserted giving the President authority to apply said amount to such purposes, and uses, as in his judgment will most promote the improvement of the Menomonees, at such times and in such manner as he may deem advisable.

"A form of a treaty in accordance with the above instructions is herewith transmitted for your guidance.

"To enable you to carry the foregoing into effect, you are authorized to draw upon this office, from time to time, for such sums of money as may be needed, due regard being had in every movement taken, to the strictest economy. In rendering your account all expenditures should be stated, under the head of 'making treaty with the Menomonee Indians.'"

I have said that the treaty was made in the daytime upon a full and fair understanding of the whole case, and there is a fact connected with it which I ought not to omit stating; it is that these same Ewings held the chief Osh-kosh bound by an agreement which they had with his son-in-law. He had agreed with that son-in-law, a half-breed, who had married his daughter, who was the tool of these traders, and agents, that he would sign no treaty without that son-in-law's consent. When the superintendent made the treaty, Osh-kosh stood back and said to his brethren, "you ought to sign the treaty; it is right, but I am under an obligation by which I cannot do it." What could have been the object of the agreement which prevented him from signing the treaty. It was that these traders and agents, through him, might prevent the Government of the United States from making any treaty unless they were secured in the payment of just as much money as they might demand. Why, sir, these are not new things to those of us who live in the border States. We know that the settled policy and practice of these attorneys and agents is to win the confidence of the Indians, to trade with them, make them their friends, and then to prevent them from concluding any treaty unless the Government of the United States will pay them as much money as they demand.

Though I do not wish to detain the Senate, I will allude to one thing which occurred yesterday. It is so remarkable in its character, and so remarkable in the history of the Senate of the United States, that I ask leave of the Senate to give it some little attention. The honorable Senator from Mississippi came in here, and stated that he had been told within the last fifteen minutes——

Mr. BROWN. Not fifteen minutes, fifteen hours.

Mr. STUART. In order that there may be no mistake about that, I will turn to the report.

Mr. BROWN. I do not know how it is printed, but I know what I said.

Mr. STUART. I have no doubt of it; but I wish to read what the Senator said, as it is reported:

"Mark you, Thompson has not come here and asked you to pay him according to his contract with the Indians. That is not the proposition before the Senate. He says, in the exercise of your authority over these people, if you choose, disregard the contract, but pay me according to the value of my services. I have rendered services to the Indians. They acknowledge it. The Committee on Indian Affairs acknowledge it. Every man, woman, and child in all Christendom acknowledges it, except the Commissioner of Indian Affairs."

I presume the Senator meant to confine that sweeping declaration to those who knew the circumstances.

"From his unjust decision I appeal. I appeal to some man who shall be an impartial arbiter in the transaction, to determine what my services are worth. The Indians are willing to pay him one third of what he recovered. Thompson says, freely I abandon the contract, if you will pay me what my services are worth. And, Mr. President, I stand up here to-day to tell you, upon the authority of as honorable a man as has ever served in Congress, Richard W. Thompson, himself, that he expended $10,000 in the prosecution of this claim,"

How did he do it?

Mr. BROWN. Read the next sentence.

Mr. STUART. I am going to do it; but I ask Senators again, how did Richard W. Thompson honestly spend $10,000 in the prosecution of this claim? Listen to what the Senator said:

"Yes, sir, in money, and in the neglect of his private business, he told me, not fifteen hours since, that he was willing to swear before high Heaven, he had sacrificed $10,000 in the prosecution of the claim. And now when you have acknowledged that you owed the money to the Indians, and have paid them, the Commissioner comes in and says Thompson is entitled to nothing for his services. I want to state one fact, and I want the Senate to mark it. "Richard W. Thompson, (who has but one fault that I know anything about, for in all the social relations of life, in everything which constitutes the accomplished gentleman, I find no fault in him—he has but one fault, and that is a grievous one—he is a Whig, and I shall not be suspected of standing up here to advocate his claim because he is a Whig,) told me, and authorized me to state it in his name, that, in a transaction with the Indians, they were anxious to pay him what they acknowledged they owe him, but armed soldiers were placed around the paying table, and at the point of American bayonets the Indians were denied the privilege of paying to him what they individually acknowledged they owed him! Thirteen armed American soldiers were placed round the paying table to prevent the Indians paying what they acknowledged they owed to this man. More than that, sir; the very money which they had received *per capita* was taken from their hands by whisky sellers, when they were so drunk that they did not know to whom it was given. Yes, sir, an honest Indian was denied the privilege, at the point of the bayonet, of paying a debt which he acknowledged he owed; and then the money was taken from his hands by whisky sellers, when he was in a state of drunkenness.

"I do not make this statement upon my own responsibility, but upon the responsibility of Richard W. Thompson, the claimant in this case, who, for many long years, served his State in the Congress of the United States, and was known to the old members as a man of as high honor as any who served in Congress."

Now, I repeat, that it struck me as a little remarkable that a claim-agent should desire an honorable Senator to come into the Senate and state in his name, and upon his responsibility, that he would swear before high Heaven to that fact, leaving the impression to rest upon the Senate of the United States, and upon the country, that the Government agent who made that payment had violated his duty in the grossest possible manner; leaving it to be inferred, too, that it had some connection with this Menomonee claim, which he has been prosecuting, whereas, in truth, that occurrence took place at a payment made by Mr. Cumming in Kansas, I think? I do not know Mr. Cumming personally, but I have inquired in respect to him of honorable Senators who do know him, and they say he is a man like the Commissioner of Indian Affairs, who dares stand up and will stand up against the pressing invitations of traders and attorneys for payment, and that he will carry out the law. What was the law which it was his duty to execute? I have read it to you. It was that the money should be paid into the hands of the Indians *per capita*, disregarding all these contracts. The Government officers are compelled by law to disregard all contracts to pay agents or attorneys. Mr. Cumming carried out the law; and how did he do it? I call the attention of honorable Senators to the question—how did he do it? He was obliged to take with him thirteen armed American soldiers to enable him to carry out the letter of the law, in exercising his guardianship over these poor Indians. He did it; but after they got the money, and got it into their own hands, what control had he over it? Sir, it as melancholy as it is true, that one of the worst vices of the white race has been imbibed by these people, and that after they get their money they will get drunk upon it, and too often it is filched from them. The Government of the United States, through its officers, cannot follow the money so as to make it secure blankets and provisions for the comfort and sustenance of the Indians, but it can carry out the law and pay the money to whom it belongs.

Now, sir, that transaction, remarkable as it is, brought in here in as remarkable a manner as it has been, makes it necessary for me to call the attention of the Senate to another fact connected with it. Before I do so, however, let me say that I shall not imitate the Senator from Indiana, [Mr. PETTIT,] in attacking any man's character by my own personal remarks; but I wish to call attention to a document which I have, that is certified to by the individuals who were present at the time when the payment was made to which the honorable Senate from Mississippi referred. The United States interpreter, who is certified to by Mr. Cumming and others, as being an honorable and honest man, was present; and another educated individual, who was present at the time, and who is certified to be as pure as any other, took down the speech which Mr. Thompson made to the Shawnee Indians on the morning when that payment was made, in order to get his claim from them. It shows you, notwithstanding the purity of character which is awarded to Mr. Thompson, what a man may do when he is seeking for money, the love of which was long ago declared to be "the root of all evil." Here is his speech:

"My Shawnee friends, I am glad to see you, to meet you here in your own country, and have a talk with you.... Before 18— I knew you not. At that time you gave your business into my hands. I studied into your affairs; I saw that the Government had dealt treacherously with you."

I ask Senators to remember the provisions of the non-intercourse act.

"When you were two people, the one in Ohio, the other on the Mississippi, and the Government wanted the Ohio lands, she proposed buying you out and removing you. When she came to pay, the money was divided into two portions, and the Government withheld the larger part, and laid it in her own Treasury..... When I studied into your affairs, I saw that you were a wronged people, that you had been cheated out of your rites and property. I sympathized with you, and determined to bring about the right: so I commenced, resolved to succeed or die; for the Swanees' friend I was.... I found those to be your enemies whom I thought to be your friends. You sent your delegation in 18—, and we commenced work, and passed the bill through the lower House, but it was defeated in the Senate; the prospect was gloomy. I went to the Commissioner of Indian Affairs to get the bill reconsidered, but failed. I went to the Secretary of the Interior, and there failed. I went to your Great Father, but could avail nothing. I resolved never to give it up: I went to them day after day: after a while they got so tired of me every time they saw me coming, they said, "there comes that Shawnee." I continued to work, though all seemed to be enemies to the Shawnees..... In 18— you sent Captain Parks with power of attorney to do your business. He employed me. I went to work again, and employed many to help me, some sixteen persons, we got the bill through the House, but was defeated in the Senate by two votes; methought the case almost hopeless, but did not give it up. I found it was defeated by the influence of one man. We managed to have the bill reconsidered. I knew one only chance for success was to prevent this Senator from attending when the vote would be taken. I went to see him but could not see him; I went to see him again and again for many days but never could see him. I knew he had a friend who could see him and did see him. I went and engaged this friend to keep him away. I gave my note to that friend for more money than I am able to pay unless I get this of yours. By hiring this friend to keep the Senator away when the vote was taken I got the bill passed and got your money. It never could have been got before that time, nor in any other way than the one in which it was got neither will the time ever have come at which it could have been got."

There is the speech which was made by this

attorney to the Shawnees on the morning before the payment——

Mr. BROWN. Will the Senator be kind enough to tell who it is that reported that speech? I never heard of it before. It seems to be in manuscript.

Mr. STUART. If the Senator desires to know, I will tell him.

Mr. BROWN. I do desire to know.

Mr. STUART. This speech was sent to the Commissioner of Indian Affairs, by Mr. Cumming. It was taken down at the time in the council by a man who was educated and intelligent, but who Thompson did not know was there; and it is certified to be correct by him and by the interpreter.

Mr. BROWN. By whom was it reported?

Mr. STUART. The man's name I cannot give; but I will procure it.

Mr. HUNTER. His name is in the printed Executive document before the Senator.

Mr. JONES, of Tennessee. I wish to inquire of the Senator from Michigan who is the Senator alluded to in that speech?

Mr. STUART. I do not know. The Senator from Mississippi is at liberty to look at the document, although it belongs to Executive business. He will there find the name. Here, then, are the facts connected with that Shawnee payment. I suppose there are, perhaps, more than a score of gentlemen here who know agent Cumming, who will certify to his integrity in all respects. I repeat, he was obliged to take thirteen soldiers with bayonets to carry out the law; and yet this attorney, who made himself amenable to the Indian intercourse laws of the United States, and who is indictable and punishable for it, comes in here and asks as honorable a gentleman as the Senator from Mississippi—and he is as honorable as any other man—to make a statement which is to mislead and delude the Senate of the United States, practicing a fraud on that honorable Senator by not divulging to him the facts in the case, when, as I have shown, the facts are before the Senate, and can be got at by any honorable Senator. He made a speech to the Shawnees that morning, of the character which I have read. I am told, on the authority of the same Indian agent, Mr. Cumming, that there was an agreement between Thompson and the chief, in that case, that the chief was to have $4,000 of the money.

Mr. BROWN. The Senator does say that he knows so.

Mr. STUART. I say so on the authority of Mr. Cumming. There are many other facts which I shall not detain the Senate by detailing; but, I think, Mr. President, I have shown enough to satisfy the Senate of the United States that this claim should not be acted upon in an amendment upon an appropriation bill. Let us look at it, let us examine it upon its own merits, and upon a full report, when the Indian's side can be heard, as well as the attorney's side. I have shown you upon the authority of the superintendent at Milwaukie, that these Indians did not know what contract they had given, or what services Thompson had performed; and when he told the Indians afterwards in council that the whole contract was a nullity, and of no force against them, they seemed perfectly satisfied.

It is said that it is no matter whether the Government pays this money now or pays it in 1867. Why, sir, to receive it now would make it worth double to the claimant. The interest on the money from now until 1867 will double it; and whether he gets $84,000 now or then, makes $84,000 difference to him. Eighty-four thousand dollars is the amount, for his contract is one third of what the Indians might receive. I think the consideration stated by the superintendent of Indian affairs may be well considered by the Senate. He says he told the Indians that he denied their right to appropriate the money which belonged to the Indians of the next generation in this mode. Yes, sir, the effect of the law of 1852, requiring the payment of installments *per capita*, is to secure the money to the generations as they live and last. Sir, they are melting away like snow before the sun. There is scarcely a remnant of any tribe remaining. Fast are they being obliterated, and with equal facility are they being eaten up by the bad practices which they have learned from the white people. If there is any duty that this Government owes to them which is higher than any other, it is to secure their money to succeeding generations, and pay it to them *per capita*, so that they may wear out the balance of their existence—not in comfort, for that is impossible, but with as little discomfort and as little suffering as the great laws of the Deity will seem to permit. Every principle which is involved in the Christian guardianship of the Indian race is violated by carrying out this arrangement.

Now, sir, whatsoever the Senate and Congress of the United States shall, in their wisdom, see fit to do in this matter will meet my acquiescence; but I shall feel, not only to-day, but ever, that I have discharged my duty in seeking to retain such a guardianship over these funds as in some degree might relieve this suffering and unfortunate people. Sir, for all the reasons which I have indicated—and I shall not consume time by recapitulating them—I am compelled to vote against this proposition in any and every form in which it may be presented.

Mr. BROWN. I did not expect, Mr. President, when I came to the Senate Chamber this morning, that there was to be a general reopening of the discussion upon this proposition; much less did I anticipate that we were to be drawn into a full review of all our relations with the Indian tribes. The magnitude of the case did not seem to me to require any such discussion; but since it has pleased other gentlemen to enter thus into those questions, I shall be excused, as the introducer of this amendment, for giving some further explanation as to why I offered it, and some further defense of its justice.

Now, sir, I implore the Senate to disregard what the Senator from Michigan has said in reference to the Messrs. Ewing and their transactions with the Indians. There is no amendment pending here to pay them anything; they have no sort of connection with this claim, or with this claimant, so far as I know or have reason to believe. Whatever may have been their transactions with the Shawnees, or with any other Indians, it does not touch this claim in any manner, shape, or form. If the Senate have been paying attention to the remarks of the honorable Senator from Michigan, it has not escaped their observation, that about four fifths of the charges which he has preferred, have been laid at the door of the Messrs. Ewing. I say I know nothing of their transactions with the Indians, and I care less. If I had introduced an amendment to pay them money, I should have understood the basis upon which it was introduced. I am responsible, Mr. President, for the introduction of this amendment; but I am in no way responsible for the conduct of the Ewings, or any other agents, in their transactions and dealings with the Indian tribes.

There is, however, one point introduced by the Senator from Michigan in connection with them, which by mere chance I am enabled to explain, and that is in reference to the pretended bribery of Mr. Bruce, who was an Indian sub-agent. The Messrs. Ewing, as I understand, having had reason to believe that Bruce was ready to sell himself, for the purpose of exposing him before the Commissioner of Indian Affairs, did enter into the agreement which the Senator has read this morning; but upon the dawning of the very next day, they carried the agreement to the then Commissioner of Indian Affairs, Mr. Luke Lea, and exhibited to him the damning proof that his agent was untrustworthy and was capable of being bribed. That is the paper which is now paraded here. The late Commissioner of Indian Affairs himself, who has no interest in this transaction, has told me that this is the truth of the case. The whole thing was exposed to him the next day, and it was done for the purpose of showing him that his agent was not trustworthy. Yet that matter is brought in by the Senator from Michigan, although I cannot see that Mr. Thompson had any connection with it at all, because it was a contract between the Ewings and Bruce.

Now, Mr. President, I ask the Senate to bear with me for a few moments while I go back to the foundation of this claim, because it seems to have been drawn in question by the remarks of my honorable friend from Michigan. A great deal of stress was laid by him on the declaration of Mr. Thompson that the late Commissioner of Indian Affairs, Mr. Medill, had "cheated" the Indians. Well, sir, it is a matter of taste whether it were better to employ that or some other milder term. I will state the transaction, and leave the Senate to determine whether it was properly described by the word "cheat."

Mr. Medill went out under the direction of President Polk to treat with the Menomonee Indians for the purchase of their lands. Without going into a full detail of all the little minutiæ which I once examined, but which have now partly faded from my memory, I will simply state that there was a misunderstanding, an acknowledged misunderstanding as to the number of acres of land which Mr. Medill was acquiring from the tribe. Some marks were made upon the ground and some explanation given, which induced the Indians to believe that they only owned about so many millions of acres. I forget the number. Mr. Medill was instructed by the President to pay not exceeding eighteen and three fourth cents an acre for the land, but he bought it from the Indians at a less price, I think for about eleven and one fourth cents. He never disclosed to them the fact that he was authorized to pay them as high as eighteen and three fourth cents, and he bought from them, under representations made by himself, a much larger number of acres than the Indians were induced to believe they were selling. I forget the number of millions, but it was several millions of acres which we acquired.

You know, Mr. President, and so does every man who is at all acquainted with the nature of the Indian, that he has no idea of the size of an acre of land. He has no idea of taking general landmarks, as a river at one place, a mountain at another, and another great natural mark somewhere else, and computing that there are so many acres of land within those limits. The Indians believed they were selling this land by the acre, and were to have eleven and one fourth cents for each acre they sold. When you came to survey it, you ascertained that you had very many millions of acres more than you yourselves told the Indians you bought, and more than they thought you were buying when you were treating with them. The Indians, of course, became dissatisfied as soon as they ascertained that they had, to use Mr. Thompson's expression, been "cheated" as to the number of acres they were selling, and that the agent sent there, instead of telling them that their great father was willing to pay eighteen and three fourth cents an acre, bought the land from them at eleven and one fourth cents.

This was the cheat alluded to by Mr. Thompson. If he meant to say that Mr. Medill had corruptly cheated them, that he had dealt unfairly with them from improper motives, I do not agree with him. But that he did not deal fairly with them according to their understanding, is true beyond all question.

Well, sir, how did the matter come up? The Indians feeling that they had not been dealt with fairly, employed Mr. Thompson to prosecute their claim. He brought it before the Committee on Indian Affairs on a memorial. The question was investigated, and the committee came deliberately to the conclusion that we had got millions of acres from the Menomonee Indians for which we had paid them no compensation. I appeal to my colleagues on the committee, if this is not true, and if there was any question on the mind of any man who had investigated it that we had received millions of acres from this tribe for which we had paid nothing? Is it not equally true that the committee had come to the conclusion to recommend to Congress to pay to the tribe over $400,000 for the additional lands which we had got, and for which we had paid nothing? Mr. Thompson brought their claim to this point when the Department entered into a treaty with the Indians, and agreed to pay them $150,000.

After that treaty was made, this attorney of the Indians, true to the interests of his clients, came to Congress and again said: "this is unjust towards my clients; I have been employed by the Indians to prosecute their claim; Congress was on the very eve of voting them $400,000, when the commissioner sent post haste to them and made a treaty for $150,000, and I protest against it." So well were the Committee on Indian Affairs satisfied that this was not right, that they recommended an addition of over $90,000 to the sum agreed by the treaty to be paid to those Indians; and the Senate adopted that provision.

This, Mr. President, is the basis of the present claim, and these are the services which have been rendered by Mr. Thompson. Instead of attack-

ing his services in reference to this particular claim, the Senator from Michigan goes on and talks about what the Ewings have been doing—what Indian traders and attorneys generally have been doing; and about the attempt to bribe agent Bruce, with which Mr. Thompson is in no way connected as I know of; for certainly, his name does not appear upon the paper.

The Senator, also, alluded to a speech said to have been made by Thompson to the Shawnee Indians. Without disclosing names, I may say that the reporter of that speech is a person of whom I never heard before, and I solemnly declare that until this morning, I never heard that there was such a speech. Though it seems to have been among the printed documents of last year, it escaped my observation. What is the certificate of the person who reported that speech, for that has an important bearing upon this point. It does not purport to be a literal transcript of what Mr. Thompson said; but the certificate is:

"The foregoing is, in substance and language, as well as I remember, the speech of Colonel R. W. Thompson, spoken before the Shawnee council."

You, Mr. President, have made popular speeches and so have many other gentlemen here. How would you like to have some man, not friendly to you, but who was interested in breaking you down, prepare a report, some time after you had made your speech, "as well as he could remember?" What sort of report of a man's speech is that? What injustice may not be done to a public speaker if that sort of report of a speech is to be received by the Senate, and govern its decision? I know not whether the paper read by the Senator this morning is the same that is printed in the Executive documents, but I believe it is.

Mr. STUART. Yes, sir.

Mr. BROWN. Then, I say there is no pretense, even by the man who translated it from the Indian into the English, or *vice versa*, that it is a literal transcript of what Thompson said; but it seems to have been written down from memory some time after the speech was delivered. If it be true that Mr. Thompson has been tampering with a member of Congress corruptly, to procure him to advocate his claim here or in the other House of Congress, then I have wholly mistaken the character of the man.

Mr. BRIGHT. Will the Senator allow me, at this point, to say a word or two?

Mr. BROWN. Yes, sir; with pleasure.

Mr. BRIGHT. I do not wish to be considered as taking part in this discussion; but having heard the paper, which is being alluded to, read by the Senator from Michigan, I felt that it was due to Mr. Thompson, who is a constituent of mine, that I should advise him of what had been stated by the Senator, or rather of the contents of the paper which had been read, and ask him whether there was any truth it or not. He has authorized me to say for him, that it is a sheer fabrication from beginning to end; false in its conception, and false in its publication; and that there is no man living who dare face him and make the statement that he ever, either by word or deed, intimated to any one that he had thus operated on a Senator. I say this much in justice to Mr. Thompson, that his case may not be prejudiced by the introduction of a paper whose falsity is proved, permit me to say, sir, by every act of Mr. Thompson's life.

Mr. STUART. I only wish to say in reply to the Senator from Indiana, that if you will compare the statements in that paper indicative of the conduct of Mr. Thompson on that occasion, with the papers which are admitted to be genuine in respect to the Menomonee claim, the one is equally with the other in violation of the intercourse law. And, sir, I appealed before to the honorable Senator from Wisconsin, [Mr. DODGE,] who was then out, but who is now in his seat, to state what is the character of Mr. Huebschman, the superintendent, who certifies officially to the Commissioner of Indian Affairs that Thompson's operations were carried on there in the night, in a manner in which the Indians could not have understood them.

Mr. CLAYTON. I wish to ask the Senator who was the reporter of that speech?

Mr. BROWN. I would rather have the matter of the speech settled now; Mr. Huebschman has no connection with that.

Mr. DODGE, of Wisconsin. Mr. President, as my name has been mentioned by the honorable Senator from Michigan, I will state that I know Dr. Huebschman, the present superintendent of Indian affairs, resident in Milwaukie, in the State which I have the honor, in part, to represent. I knew him when he was a member of our convention, and I knew him when he was a State Senator. He is a gentleman of high character and high standing in the State. He is a German—one of those respectable Germans who emigrated to that portion of the country some years ago. He is a man in whose integrity and honor I have the greatest confidence.

Mr. DAWSON. I desire to ask a question of the Senator from Michigan, merely for information. How did the paper which he read get into the Senate? Was it reported from any one of the Departments, or forwarded to the Senator from Michigan?

Mr. STUART. The paper was sent, as I understand, by Mr. Cumming, the Indian superintendent, to the Commissioner of Indian Affairs, and I procured a copy of it from his office.

Mr. DAWSON. Then the Commissioner does not report it to the Senate of the United States in any official form or shape.

Mr. STUART. The Commissioner has communicated it in Executive session, with other papers. The copy which I had, I obtained at the Indian Bureau this morning.

Mr. CLAYTON. I wish to ask who reported that speech?

Mr. BROWN. It seems, by the name signed to it, that it was reported by Sam Johnson Huffaker, and who he is, nobody on earth knows.

Mr. STUART. Huffaker is his name. I understand Mr. Cumming knows him.

Mr. BROWN. Who is Mr. Cumming?

Mr. STUART. The Indian agent, as reputable a man, I understand, as there is.

Mr. BROWN. Mr. President, you now see how this matter stands. Here is a report of a speech, made by a person who seems to have no sort of connection with the Government, reported upon his remembrance of what occurred. I have already commented upon that, and shown how easy it is, by the change of words, and especially when you are translating from one language into another, even without design, grossly to misrepresent a party; but where there is design to do so it is the most easy and palpable thing in the world.

The Senator from Michigan has commented, with some degree of warmth, on the fact that I, yesterday, alluded to what the claimant in this case had said to me. Now, it turns out to-day that Mr. Cumming was one of the parties alluded to in that statement, though I never before heard his name mentioned. I did not know there was such a man. Doubtless he is a very honorable, high-toned gentleman; I have nothing to say against him. If, however, I am to be lectured by the Senator from Michigan, and if I am to be told that it is very extraordinary that I should come here to relate what Mr. Thompson said in his own defense in this matter, stating it upon his responsibility, and giving his name; if that is so remarkable, then how shall my friend from Michigan excuse himself for going into the out-door statements of Mr. Cumming?

Mr. STUART. I thought I made that so plain that I could not possibly be misunderstood. I said it was remarkable that any agent or attorney should ask a Senator to state, in his name, such a thing. That is what I said.

Mr. BROWN. It is not at all remarkable, for the fact does not happen to be as the gentleman says it is. Mr. Thompson did not ask me to do any such thing. He chanced to make a statement to me in the course of a conversation, not in reference to this claim, but in reference to Indian affairs generally. Subsequently I called his attention to that part of the conversation in relation to this particular case, and he repeated it. Deeming it very extraordinary, and foreseeing that it might perhaps become important to repeat it in the discussion of his claim for justice, I asked him if I could repeat it in the Senate if I should think it necessary. He said "yes." It was not given to me with any request that I should state it to the Senate: but I asked for authority to mention it if I should think the occasion required it, and I will now state how the contingency arose, which, as I thought, required me to make the statement. The Senator from Connecticut [Mr. TOUCEY] submitted to me yesterday a question which, he said, was weighing upon his mind. I am sorry that that Senator is not now in his seat to bear out my statement. His question was this: If these Indians are so anxious to pay Mr. Thompson, why do they not do it? Has the Government ever interfered to prevent their paying their just debts? Recollecting this conversation which Mr. Thompson had with me, and which he had authorized me to repeat—not requested me; I did not say that; but which, on my application, he had authorized me, if I thought it necessary to repeat it—when thus approached by the Senator from Connecticut, I mentioned the fact to show that in that instance there had been an interference on the part of Government officers to prevent Indians from paying their just debts. In making that statement I did not mean to assail Mr. Cumming in any possible degree; I did not mean to charge that the Commissioner of Indian Affairs had been guilty of impropriety, but simply to state the fact as I learned it from Thompson himself. I stated it simply to show the Senator from Connecticut, and others who thought with him, that there had been an interference by the Government agents to prevent Indians paying over what they believed themselves they owed their agents, and were willing and anxious to pay them. This is my explanation of that. If any injustice has been done to anybody, no one regrets it more than myself.

Sir, my friend from Michigan says this whole transaction of Thompson's is in contravention of the act of 1852. I beg to call attention to the fact that the contract was made long anterior to the passage of that law; that it was an actual subsisting contract, and the greater portion of the services were rendered before that act was passed by Congress. Was it your intention, Mr. President; was it the intention of honorable Senators, in passing that law, to step in and abrogate contracts already made, and to deny payment for services already rendered? If this was the object of the law, I think you have overstepped the bounds of moderation, and the sooner you retrace your steps back to the point of doing justice, the better. I am not complaining of the law; and if Mr. Thompson had made his contract in violation of the subsisting laws of the land, I should not have stood up here to defend his rights. But, sir, he had an actual existing contract at the time you passed the law, and he had rendered a large portion of the service. Now, suppose he had expended a large sum of money in traveling backwards and forwards from his residence here, and going to the Indian nation to see his clients, paying heavy expenses in the city of Washington, for staying here to prosecute the claim; suppose he had spent $3,000, or $4,000, or $5,000, at the time you passed that law, was he to abandon his contract with the Indians, throw down all he had done for them, in order to prosecute their suit to a successful termination, abandon all their rights, and abandon what he had already invested in the enterprise? Certainly no one would have expected him to do that. He simply went on under his contract with the Indians, concluded his labors, recovered a large amount for them, and now asks to be paid for his services.

But, sir, the Senator from Michigan causes it to figure very conspicuously in his speech that Mr. Thompson had said to me (and he throws himself back with an air of wonder at it) that, in the loss of professional business, and in the expenditure of money, he was willing to swear that he had sacrificed $10,000. Suppose he did so, is there anything wonderful in that? Why, sir, how long has Mr. Thompson been prosecuting this case? Since 1850, more than four years ago. How many trips has he made to the Indian nation during that time? How long has he been compelled to remain in Washington? I believe he has been here for twelve months at a time in the prosecution of this claim. That he should pay out large sums of money, and pay them legitimately, is not at all surprising. Is it to be expected that a man can come here from one extremity of the Union, then go to the Indian nation, be there weeks and weeks, perhaps months at a time, come back to Washington and spend a whole season, and thus be beat about from pillar to post without paying out money? The Indians had no money to pay their attorney. He had to furnish the means for himself. Then, is it wonderful that in these payments, and in the loss of professional business (for no one knows better than the Senator

from Michigan that Mr. Thompson is a lawyer of distinction, engaged in a heavy practice in his own State,) he should in four years sacrifice $10,000? I think not; and therefore the surprise expressed by the Senator from Michigan on this point fades away into nothing. Let Senators themselves reflect for a moment how much they have sacrificed? While they are getting their eight dollars a day, and mileage for coming here, is there one of them who does not feel, and especially one who has a family to support, that in four years, from the neglect of private business, and the excess of expenditures over receipts, he has sacrificed over $10,000? Is it surprising, then, that Mr. Thompson, who in point of intellect, who in point of political experience, who in point of standing as a lawyer, is equal to almost any one on this floor, should in four years have sacrificed $10,000 in prosecuting this claim for which he did not receive a solitary *sou* from his clients!

Mr. President, a great deal was said in the course of the Senator's remarks, about agents standing around the purlieus of the Capitol, and he read extracts from the speech of a very enthusiastic gentleman from your State, (Mr. BADGER in the chair,) a speech well enough said, and very sensibly said, to which I make no objection; but "in the name of all the gods at once," what has that to do with this case? Because somebody has been standing about the purlieus of the Capitol; because somebody may have cheated Indians, nay, if you please, because somebody has cheated them, is that any reason why Mr. Thompson should not be paid for services actually rendered? I know nothing of those agents who, it is said, are here trying to influence Congress. If Mr. Thompson has ever been charged with having undertaken to influence Congress in any manner, except according to the statement made in the alleged speech which has been read, and his flat denial of which you nave heard, rumor of it has never reached me. Although I was a member of the Committee on Indian Affairs, he never opened his mouth about this to me, until I asked him myself to give me a statement of his case. So help me Heaven, he never approached me even to explain his case. He did ask to come before the committee and there be allowed to make a statement of his case, which he was authorized by the committee to do, and which any other claimant has the right to do; but outside of that committee room, until I asked him myself to refresh my memory as to the prominent facts in his case, having determined to move this amendment, he never approached me in any manner, shape, or form. He has under all circumstances, and at all times, observed a most remarkable forbearance in that respect. From my intercourse with him as a member of the other House, and as the claimant in this case, I have been induced to believe, what I stated yesterday, that he is a man of high honor, incapable of a dishonorable transaction for the sake of money or for any other purpose. But, sir, when grave charges are made to the effect that a highly honorable ex-membet of Congress has been guilty of attempting to tamper with gentlemen of this body in the exercise of their duties, I think names should be given and responsible men should stand forth to sustain the charges. The idea of making a grave accusation upon the imperfect recollection of Mr. Sam Johnson Huffaker is, I think, carrying the joke a little too far. I do not understand the Senator from Michigan to even say that Mr. Cumming avouches for the correctness of Huffaker's report of that speech. He simply avouches that it is Sam Johnson Huffaker's translation of the speech.

Mr. STUART. I did say, sir, that that was certified to as correct; and I beg to say to the Senator and to the Senate, now, that I have inquired of General Whitfield, who knows this man Huffaker, and who tells me that he was, at the time, a teacher at the Shawnee mission. General Whitfield says he will indorse him as a gentleman of honor and respectability everywhere and anywhere.

Mr. BROWN. Is he a white man?

Mr. STUART. Yes, sir, he is.

Mr. BROWN. He has a very queer name. [Laughter.] Of course I can say nothing about the speech; you have the charge on one side, met as it is, by the broad and unqualified denial of Thompson on the other. I know nothing about it; but I ask the Senators to do this: To weigh the character of a man like Mr. Thompson against the probabilities of his having made such a speech. We know very well how these things may be gotten up. I do not say that it is not true, because I can say nothing about it, for I do not know anything of it; but, certainly, I have seen nothing in my long intercourse with Mr. Thompson, which would induce me to give a ready belief to any such charge.

I am very reluctant, Mr. President, to pursue this subject further. I regret that I have been involved in the discussion at all; but knowing full well, as it was my duty to know, of the services which Thompson had rendered the Indians; believing, as I think every member of the committee has not only felt, but freely expressed, that he was entitled to be compensated for his services; as the Commissioner had taken the ground that he was entitled to no compensation, and believing that to be unjust, I agreed to move this amendment. I moved it with no expectation of becoming involved in any discussion of this kind. If it be true that the laborer is worthy of his hire, I hope the Senate will adopt such a provision as will enable Mr. Thompson to recover a fair remuneration for his services. That is just. It is just between the Indians and their attorney. It is just between the Government and Thompson. The Indians desire to pay him for the services which they feel he has rendered them; and this Government ought not to stand in the way of their doing it. This amendment is simply to allow him to be paid, not the thirty-three and one third per cent. which the Senator from Michigan has talked about to-day—that may have been the contract—and he steps in and says the Ewings were to have so much more, as if that had anything to do with Mr. Thompson's transactions with the Indians. I repeat again—for I wish Senators to bear it in mind—Mr. Thompson is not asking you to give him thirty three and one third per cent. of the sum which was recovered from the Government, but he is asking you to allow him a fair and reasonable compensation for the services he has actually rendered.

As to the personal charges which have been made, many of them I know nothing about, and I cannot, therefore, answer them. The only one which seemed to me, after listening to the long speech of my friend from Michigan, to approach a direct charge against Mr. Thompson himself was that in reference to his having said that he had approached a member to get him out of the way when the vote was to be taken. Senators must remember, however, that Mr. Thompson himself says no such thing is true. If they noticed the Senator from Michigan closely, they would have perceived that most of the other charges, and all the important ones, were in some way connected with the transactions of the Ewings which I must remind the Senate again, have no sort of connection whatever with Mr. Thompson. The Senator talked of Ewing and Thompson, and Thompson and Ewing, and mixed them up together, so that a charge made against one is to be received against the other. But if there is any specific charge against Thompson in reference to this particular transaction, and it is stated separately by itself, I will undertake to answer it; but as I have stated in the outset of the desultory remarks which I have just made, I did not come here asking any legislation for the Ewings. I know nothing of their dealings with the Indians. They have never been thrust under my observation or examination, and have nothing whatever to do with the amendment which I have proposed. I have presented it, and I ask for a vote upon it on its own merits.

Mr. COOPER. Mr. President, I do not rise to continue the debate, but merely to state to the Senate that I have known Mr. Thompson for the last fifteen years, and have known him well, and do not believe that he is capable of a dishonorable act. I have listened to some of the charges which have been preferred against him, and especially to that involved in the reported speech which is attributed to Mr. Thompson. I desire to suggest that that is utterly worthless as evidence. In the first place, the Senate knows nothing of the character of the reporter. The evidence is unworthy of consideration before any tribunal whatever. It is not under oath. There is nothing which renders it authentic as a report of his speech, nothing that renders it authentic in any shape whatever.

But, Mr. President, from what I know, from what I believe you know of the character of this man, there is, I think, in his course in life, in his character as a private citizen and as a Representative of his State in Congress, in his intercourse with men, enough to satisfy the Senate that all the charges which have been preferred against him are false. I do not suppose my friend from Michigan would utter anything he believed to be false; but I think that any charges which impugn the honor and integrity of Mr. Thompson are false. I deem this to be due to the relations which have subsisted between that gentleman and myself for a long number of years, and I rose merely to bear testimony to his worth as a man and as a Representative.

Mr. BROWN. Before the vote is taken I wish to state that my friend from California [Mr. WELLER] has looked into the record, and that instead of this question having been carried by one or two majority, and that by the mysterious absence of a bribed Senator, no such vote in reference to the matter was taken at all. Therefore, the whole charge falls to the ground by its own weight. If any such vote was taken, and Mr. Thompson said any such thing, it was a mere idle boast. He positively denies that he ever said it. I think it proper to say this, not in justice to him, but in justice to the Senate in which the reputation of somebody seems to be involved. I understand no such vote has taken place.

Mr. WELLER. I have looked into the Journal, and it simply shows this: The House of Representatives inserted in the Indian appropriation bill an amendment appropriating $66,000 to the Ohio Shawnees. When the question came into the Senate, the yeas and nays were demanded upon that amendment, and the vote stood—yeas 13, nays 28. The Senate, therefore, refused to agree to the amendment. There was afterwards a committee of conference between the two Houses, and the Senate, with their accustomed liberality, gave up all of their amendments, and were compelled to concur in those of the House. The appropriation was made in that way, but no yeas and nays were taken on the question of concurrence, nor on any other question connected with it, except that one which I have mentioned.

Mr. DAWSON. Was there no reconsideration?

Mr. WELLER. None.

Mr. STUART. So far from that doing away with the supposition, I insist that it is conclusive to show that Mr. Thompson undertook to palm off on the Indians what was not true, in order to increase his claim for services.

Mr. CLAYTON. Now, I will ask the Senator from Michigan, in all fairness, would he, against the character of Mr. Thompson, known as he is amongst us here, credit a statement made by a man of a speech said to have been made by Thompson, and that statement not verified under the oath of the party? What sort of evidence is that, either in a court or in the Senate?

Mr. STUART. The Senator asks me a question, and I will answer it, and then I hope to be able to restrain myself from saying anything more in this debate. I have inquired into the character of this statement. I have inquired of the Commissioner of Indian Affairs, who says that the interpreter himself told him in person that it was true. He says that he saw the man who reported the speech; and Mr. Cumming, the superintendent of Indian affairs, whom I have hitherto, by mistake, called the agent, certifies to his integrity and truthfulness. I stated also, that I had talked here, to-day, with General Whitfield, who says that he knows Mr. Huffaker well, who reported this speech, that he is intelligent and honest, and that he will indorse him as a gentleman of perfect integrity anywhere. I take it, therefore, for what it purports to be.

Mr. CLAYTON. Now, I wish to make an appeal to my friend. Suppose a charge dishonorable to him were made in the Senate of the United States, or in any court of justice in Christendom, and the attempt to injure his reputation, his character, all that is dear to him, was sustained by a letter or report of a speech, written out some time after the speech was pretended to have been delivered, and not verified by the oath of the party, and occurring in the wilderness, without the benefit of cross-examination on the part of himself or any of his friends, would the honorable gentleman from Michigan hold himself dealt fairly by, in a court which should credit such evidence as that?

Mr. DAWSON. Mr. President, both Colonel Cumming, the Indian superintendent, who is from my own State, and Mr. Thompson, are friends of mine; and although Colonel Cumming's name has been used here, I take leave to assert, that at no time has he ever said that he heard the speech which is attributed to Mr. Thompson, notwithstanding the fact that the Senator from Michigan told us that he transmitted it to the Indian Department Colonel Cumming does not vouch for it; but he says the individual who reported the speech to him is a man of integrity and character.

Mr. STUART. Yes, sir, he says so distinctly.

Mr. DAWSON. I do not desire that such friends of mine as Colonel Cumming and Mr. Thompson shall be understood as testifying one against the other, for either of them, in my judgment, would be incapable of such an act. Now, sir, that Mr. Thompson has been injured most seriously by this charge, no one will deny. The poison is upon its way over the electric wires and it will be circulated throughout the land that he has attempted bribery and trickery with the Senate of the United States, and that, by his own statements, he succeeded in doing it, and made a speech altogether derogatory to the character of this body and derogatory to his own standing as an honest man and a gentleman.

My only object is to let the world know that there is no one on this floor, no one within the Senate Chamber, no one within the city of Washington, who states upon his individual responsibility that Richard W. Thompson ever did utter the words attributed to him. I wish the country and his friends to know that it is a statement, in regard to an occurrence said to have taken place beyond the civilized portion of the United States, sent here by an individual—I will not utter a word against his character—without saying whether he was a stenographer, or whether he was called on especially to observe what Mr. Thompson stated to the Indians; but a mere letter sent out before the country with charges destructive to his character, without the public mind having been informed of the real facts, or without any member of this body knowing of the existence of such a document until it was read from the desk of my friend from Michigan.

Sir, character in this body, is sacred. Character out of the body should be protected, and we ought, at all times, to refrain from so serious a charge, when there is no personal responsibility resting on us for it. Now, my friend from Michigan does not wish it to be understood that he vouches for a single word that he has read against the reputation of Mr. Thompson. He has merely stated declarations which have been placed in his hands to go forth to the world. Are they not of too serious a character to be presented here in such a manner, particularly in regard to a gentleman who has retired from association with us in legislation, but who has been heretofore honorable and distinguished amongst us? I know it is not intentional, because, I am sure, my friend from Michigan would not be so understood; but such is the effect—the charge is brought. The only request I have to make of that Senator is, that he will here in the Senate, and before the country, say that he is not authorized to believe any of those charges from any facts further than the information placed before him, and that he does not intend to brand Mr. Thompson with dishonesty, or with acts disgraceful to him as a gentleman, but that he, himself, merely presented what was laid before him by way of argument to the Senate. I think it due to Mr. Thompson that this should be done; and if hereafter the fact shall be proven on Mr. Thompson, let the disgrace rest on him, but let not the charge remain without the power of denial, and let not the country be misled in this way, unless there be something sent out calculated to counteract the poison which is now being circulated throughout the land, and which must injure Mr. Thompson, unless my friend from Michigan shall say, in his place, that he has no authority for making any charge further than the papers which have been presented to him.

Mr. HOUSTON. Mr. President, as in the discussion of this claim some matters have been brought to light, exposing the injustice which is too frequently practiced towards the Indians, I beg the indulgence of the Senate while I make a few remarks.

I know the gentleman for whose benefit this amendment is proposed. He is a man of respectability, and I am not disposed to assail his reputation in the least. I must say, however, that I do not look upon this, or upon any outrage committed on the Indians, as exactly in opposition to the character of a gentleman. I have seen the honorable Senate ratify treaties with the Indians which were never carried out or executed. I have seen them infracted with perfect impunity by citizens of the United States, and by the officers of the Government, without any notice being taken of it. And therefore it seems to me, that we should not regard an attempt to wrong an Indian, or the Indians, as incompatible with the character of an honest man, and a fair dealer. (Laughter.) I have found it to be so regarded for some fifty years, for I think it is about that far back that my recollection dates distinctly of transactions between the whites and the Indians. I hardly ever knew a man to lose his position, either in society or in office, for cheating the Indians, unless he committed some very flagrant violation of law, which would have exposed the Administration to odium or disgrace if they did not remove the officer. So far as the facts have been presented in this case, I must say they are not complimentary to the fair dealing and sincerity of the agent or attorney, who has been connected with obtaining this money for the Menomonee Indians.

I will not go beyond the records, sir; I never do go beyond them one inch in speaking of the character of any individual, and I never will while I occupy a place in the Senate. I cannot believe that the Senator from Michigan, in his reliance upon official documents, rendered himself in the slightest degree subject to censure or reprehension. He has a right to rely upon those documents, if they are presented to the Senate, or to the nation at large, for information. He has a right to place a fair construction on them, and to state his just deductions from the facts which they contain, and that, I understand, is all that he has done.

Mr. STUART. I will thank the Senator from Texas if he will, at this point, allow me to say, in answer to the Senator from Georgia, what I had supposed it was unnecessary to say, and what must have been obvious, I thought, to the whole Senate, that the documents and information which I presented to the Senate, were presented simply for what they were worth in themselves, without any indorsement at all of any of the statements by myself personally, for it was not possible that, personally, I could have known anything about the facts.

Mr. HOUSTON. Well, sir, throwing out of view entirely individual character in this matter, I should feel disposed to say that this claim ought not to be paid out of the annuities of the Indians. If injustice has been done to them, if money has been withheld from them to which they were justly entitled, that fact, in my opinion, will not justify the Government of the United States in deducting from the annuities of the Indians the amount which this individual may be entitled to claim for his agency in obtaining for them what was clearly their right. It was the duty of the Government to see that justice was done to the Indians. It had the power of controlling them. It had the making of their treaties without a yea or nay on their part. Then, if the Government withheld justice from them, but reluctantly at a subsequent period, when the injustice became manifest, paid what was due the Indians, in order to redeem the character of the United States from shame, it is bound, it seems to me, to pay the individual whose agency has been instrumental in achieving this justice to the Indians. The Government should pay it out of the Treasury of the United States, and it would be an act of dishonor and dishonesty to deduct it from the annuities of the Indians. Acknowledge that injustice was done to the Indians, and that they were for years complaining of it, and that justice was finally tardily conceded to them; why should you make them pay for the expense of the reparation which you ought long ago to have made to them? Sir, the Government is bound to pay it, and the Indians' annuities should not be taxed with it.

If this individual, or any other, has had any agency in procuring justice for the Indians, I would not only pay him the actual worth of his services, but I would pay him one hundred per centum more, and let him go; but I would not charge the Indians with it. Admit their incompetency to transact their own affairs, should they not be protected against extortion? I shall never vote for the claim in the shape in which it is now presented.

These are my opinions in relation to the justice that has been done these Indians. I think it would be a disgrace to this Government to withhold this small pittance from the money of the Indians. If the claim is just, pay it out of your own Treasury; do not saddle the Indians with it.

Now, it is a fact which, I believe, is conceded, that Mr. Thompson, in a letter to the Menomonees, did charge the late chief of the Indian Bureau, Colonel Medill, with having "cheated" the Indians. The charge was made in broad language, without qualification; it therefore is a charge against an agent of the Government of having acted criminally, dishonestly, and fraudulently. If he had said it was done unintentionally, or without design, there would have been some qualification to it, but there is no limitation; it is a broad, unqualified charge, that he had cheated the Menomonee Indians. This was calculated to produce a bad state of feeling on the part of the Indians towards the Government, and to engender hostility. They were situated in a remote region, in connection with hostile tribes, and such charges might have led to a state of feeling, on their part, threatening most detrimental consequences to the peace and safety of our frontier. There was an indiscretion in this, to say the least of it.

It may be said that this gentleman was not connected with the transactions of the Messrs. Ewings, which were exposed by the Senator from Michigan. If he has disclaimed any such connection I have nothing to say about it, but I am not aware of any such disclaimer. It has been shown that the object of some persons was to filch from the Indians all the money which it was possible to obtain from them. How far a conspiracy or combination for that purpose extended I leave for others to determine, on the conviction of the parties, as set forth in our public documents.

But, sir, the statement which was read by the Senator from Michigan, in manuscript, as a report of a speech made by this claimant to the Shawnee council, seems to be resisted with great power and earnestness. We are told that it is a report which was made subsequently, and that, therefore, no reliance is to be placed upon it. Why, sir, let me tell the Senate it is the easiest thing in the world to take down such things literally. When such communications are made to the Indians it is done through an interpreter. The speaker states what he means to say, sentence by sentence, and the interpreter translates each sentence to the Indians. The deliberate manner in which such a speech is made to them would afford an ordinary pensman an opportunity of taking it down literally, and exhibiting it to the world as it really occurred. For this reason I should be very much disposed to rely on the accuracy of the report thus presented to us, particularly when we have such strong testimonials as are presented to us in behalf of the character of the individual who furnished the translation to superintendent Cumming.

We have heard nothing against the character of that individual. We learn that he is an intelligent and educated man, who had been engaged as a teacher in one of the Indian missions—a man of respectability, whose character has never been assailed, except here to-day, by inuendo. I am disposed, until some refutation be brought forward, to conclude that he made a fair and just representation of what passed on that occasion; and that the sole object in view was to wring the greatest possible amount out of the Indians. It was not robbing the Indians of anything, for they had not then received the money, and, therefore, it is looked upon as not at all dishonest, though it might be considered improper to take money out of the pockets or hands of the Indians. At this point I will relate an incident which may throw some light on such transactions with the Indians. I was present on one occasion when an annuity was paid in the presence of officers of standing in the Army of the United States and in the Indian Department. That annuity was paid out in light and flimsy goods, amounting to only one third of the annuity which had been settled on the Indians. The vouchers, however, came to Washington city for the full amount, and were recognized and passed. Subsequently, proof of

the real transaction came here, and the agent was removed because the testimony was "strong as proof of Holy Writ," and could not be doubted. The vouchers were regular, and they contained the certificates of the blacksmiths, the mechanics, the interpreters, and, I believe, the sub-agent, that they had seen the money paid in cash, in hard bullion, though the Indians never saw one dollar of it.

I take it for granted, then, that on the frontier, men who are disposed to embezzle funds will do so if they have an opportunity. My belief is, that the Indians never receive what the Government appropriates for them, unless on some occasions when we send to them men of character, above the influence of filthy lucre. I think it safe to suppose that of the $100,000,000 paid to the Indians since the adoption of the Constitution of the United States, no more than one third of the amount has reached them, and they have never been benefited by one fifth of it. You may think, sir, that this is a startling fact, but it is true. It is time that a revision of this system should take place, and I am glad to perceive that in the Indian Department there are men of firmness and character who dare do right in the worst of times. Superintendent Cumming, who forwarded to the Indian Office the speech of which complaint is made, is a man who would countenance no surreptitious action. He is a man as spotless in honor, and as pure in reputation, as any gentleman within the range of my vision. None will dare to question his honor, his truthfulness, or his integrity. His frank, blunt honesty may not afford him the oily faculties which are necessary to shine in courts, but his rough character is like the diamond.

Who is General Whitfield? He, too, testifies to the capacity and integrity of the person who gave this speech to the superintendent Sir, I knew him in his boyhood, and in his early manhood. I know his training. I know his manly character. I know he would spurn a dishonest act as readily as any man that lives. His efficiency has been indorsed by his constituency—the people of Kansas Territory. In former times, in the proud State of Tennessee, he was not only placed among her legislators, but he took high rank in her bright calendar of chivalry. He is the man who comes forward to attest the wrongs which have been inflicted on the Indians.

Such men as these are needful to form a breastwork for the Indian, behind which he may entrench his defenseless situation, for he is not able to stand forth and confront your volunteers, and your increased legions. These are the men who feel an interest in the Indian, and on whose testimony I would rely.

The name of Colonel Medill has been introduced into this debate. I know him well, and the people of his State know him, and have indorsed his character and high reputation. I need not commend him to the Senate, for I presume he possesses the personal acquaintance of most Senators. He has been Governor of the great State in which he resides, his native State for aught I know. I knew his successor in the office of Indian Affairs, a man of intellect and character, who, I trust, would not do any act to soil the fair reputation which he inherited from his family, whose actions made them conspicuous in connection with the history of the country in which they have lived, and in which he was reared. And, sir, though but slightly acquainted with the present Commissioner of Indian Affairs, I must say that my perusal of the documents which he has sent us has convinced me that he feels a deep interest in maintaining the honor of the country, in vindicating the rights of the Indians, and in fairly administering in all respects the duties of his office. He is a man of intelligence, ability, and integrity, whose heart, I believe, is in the right place.

But, Mr. President, in this case, if every cloud which hangs over the present claim were dispelled by the partialities of friendship which I feel for the individual interested, I would not vote to rob the Indians of this pittance; but I would redeem, as far as possible, the honor of the country by saying the Indians were wronged; if through mistake, no matter; if by intention, no matter; give to this agent whatever is fair and liberal, and pay him out of the Treasury of the United States. Yes, sir, give him his pound of flesh, but not one drop of human blood. Do not rob the Indians; pay him out of the Treasury; redeem the honor of the country, and vindicate what little feeling there is in behalf of the poor Indian.

Mr. WELLER. I desire to correct a statement which I made a short time since in regard to the condition of the Journal. The vote to which I referred, which was taken in March, 1853, was on a proposition to appropriate $66,246 to the Ohio Shawnees. Upon concurring in that proposition, the Journal states that there were 13 yeas, and 28 nays. In point of fact, however, I am satisfied that the vote was exactly the other way, for all of those whom I remember, as the warm advocates of that appropriation, are put down in the negative. The appropriation which was made at that year was put in the bill by a vote of 28 yeas, against 13 nays. I mention this so that if it should be necessary hereafter, to refer to this Journal, it will be recollected that those who are recorded in the Journal as having voted in the affirmative, really voted in the negative. Whereas it appears from the book, that those who opposed the amendment voted for it, and put it in.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The question is on the amendment moved by the Senator from Michigan to the amendment offered by the Senator from Mississippi to strike out "Second Comptroller of the Treasury," and insert "Secretary of the Interior."

Mr. STUART. As the yeas and nays have not been ordered on that amendment of mine, I believe I have a right to withdraw it.

The PRESIDING OFFICER. Yes, sir.

Mr. STUART. I withdraw my amendment.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Mississippi.

Mr. SEBASTIAN. Before that question is taken, I desire to give notice of a proposition which I shall offer in lieu of this provision, if it shall be rejected. I trust the Senate will not agree to the present amendment, but will give me an opportunity of offering this:

SEC. —. *And be it further enacted*, That none of the moneys hereby appropriated, or hereafter to be appropriated, shall be paid to any agent or attorney of any Indian or Indians, except in those cases where the Secretary of the Interior shall, in his opinion, deem the consideration just and necessary, upon the written assent and order of such Indians, fairly obtained in open council, in the presence of the United States agent, after the same has been fully explained and been duly certified by said agent, and subject, nevertheless to the final revision of the Secretary of the Interior, who shall not allow or pay any amount beyond a fair and just compensation, disregarding all contracts or supposed contracts.

Mr. BROWN. That amendment does not at all cover the case under consideration, but I have no objection to it as a separate section.

Mr. HUNTER. I do not understand it to be an amendment to the amendment. It has only been read for information.

Mr. BROWN called for the yeas and nays on his amendment, and they were ordered; and, being taken, were—yeas 19, nays 24; as follows:

YEAS—Messrs. Adams, Badger, Bell, Brainard, Bright, Brown, Clayton, Cooper, Dawson, Fessenden, Foot, James, Jones of Tennessee, Morton, Pearce, Seward, Thompson of Kentucky, Wade, and Wilson—19.

NAYS—Messrs. Bayard, Benjamin, Brodhead, Clay, Dodge of Wisconsin, Dodge of Iowa, Evans, Fitzpatrick, Geyer, Gillette, Hamlin, Houston, Hunter, Jones of Iowa, Mason, Pratt, Rusk, Sebastian, Slidell, Stuart, Sumner, Toucy, Weller, and Wells—24.

So the amendment was rejected.

Mr. JONES, of Tennessee. I am instructed by the Committee on Military Affairs, unanimously, to offer the following amendment:

And be it further enacted, That the Secretary of War be, and he is hereby, authorized and directed to pay to Jean Baptist Faribault and Pelogie Faribault, his wife, the sum of $12,000, with interest thereupon, from the 12th of March, 1839, in full payment of their claim to land at the confluence of the rivers Mississippi and St. Pierre, and on which Fort Snelling now stands.

Mr. HUNTER. Is not that a private claim?

Mr. JONES of Tennessee. It is not a private claim, as I understand it. I will, very briefly, state the facts, and I am very sure the Senate will not reject the amendment. In 1832, Colonel Leavenworth was sent to make treaties with the Indians. He made a treaty with the Sioux tribe; and, in that treaty, provided that this piece of ground should be given to the parties named in the amendment. The wife is an Indian woman, and she received it as a reservation under that treaty. Subsequently to that time, the Government of the United States found that it would be necessary for the Government to own that land at the confluence of the Mississippi and St. Pierre rivers. A resolution passed Congress in 1839, directing the Secretary of War to purchase it. The purchase was made. In 1840, a report was made by the then Secretary of War, that the purchase had been made. An amendment was placed upon the Indian appropriation bill to pay her this sum. It went to the House of Representatives, and was lost there, with other amendments. Subsequently to that time, divers Secretaries of War have called the attention of Congress to it. The Government has held the property. It has built Fort Snelling upon it. It has had it from 1839 down to this hour. It is an Indian reservation, purchased by the Government, for which the Government is bound to pay. It seems to me that not a man on earth can object to it.

Mr. HUNTER. What is the decision of the Chair?

The PRESIDING OFFICER. The Chair considers that it is a private claim.

Mr. SEBASTIAN. I ask now for a vote upon the amendment which I have offered.

Mr. JONES, of Tennessee. Do I understand the Chair to decide that my amendment provides for a private claim?

The PRESIDING OFFICER. However strong or just it may be, still, in the opinion of the Chair, it is a private claim.

Mr. DAWSON. In justice to the committee who reported the claim, permit me to say a word. This is to provide for the carrying out of a contract——

Mr. HUNTER. Unless an appeal be taken from the decision of the Chair, there can be nothing said about the amendment.

Mr. DAWSON. There has been no decision.

Mr. HUNTER. The Chair has decided that it is not in order.

Mr. DAWSON. But I have a right to make a remark in regard to it. It is an appropriation to carry out a contract of the Government. The Government have called for the money to pay it. Now, how that can be a private claim, and thus be excluded from this bill, I cannot see. The contract was made by the Government in regard to that land on which a fort has been erected. Now suppose the Government goes over into Virginia and buys from an individual a tract of land, and erects a fort on it——

Mr. HUNTER. The Chair has decided that it is a private claim.

Mr. JONES, of Tennessee. I appeal from the decision of the Chair.

Mr. DAWSON. I was going on to say that the amendment provides for the payment of that claim which the Government has asked for. Is that a private claim? It is to carry out a contract of the Government—a contract of the entire nation. They bought the land; they agreed to give $12,000 for it, and now they ask for the money to pay for it; and because the money is to go to a particular individual, it is said that it is a private claim. It is not so. The Government wants the money to pay the individual for the property which it has purchased. It is only asking for an appropriation to carry out this contract. The committee thought that they knew what they were about. The Government promised to pay so much, and now we ask the Senate to appropriate the money to pay it. That is all that is asked—nothing more.

The PRESIDING OFFICER. The Chair wishes to state the ground on which he considers it a private claim. This property, belonging to the persons mentioned, was purchased by the Government, and the Government has now been in possession of it for many years. It is money due from the Government to the individuals named in the amendment. It is, undoubtedly, a case of the highest merit, but still, in the judgment of the Chair, it is, within the meaning of the rule, a private claim, if any case in which an individual had a claim against the Government could be considered as a private claim.

Mr. JONES, of Tennessee. Will the Chair allow me to make a suggestion?

Mr. FESSENDEN. I wish to suggest whether this bill might not be laid aside for a moment, to enable me to make a motion to reconsider the vote by which we this morning changed our hour of meeting? Will it not be a privileged motion?

Mr. HUNTER. It is not a privileged question while this bill is under consideration.

The PRESIDING OFFICER. It is not a privileged motion, and can only be entertained by unanimous consent.

Mr. WELLER. I object.

Mr. JONES, of Tennessee. I only want to make one remark, Mr. President. It is this: This claim cannot, in my judgment, with all deference to the opinion of the Chair, be considered a private claim. In January, 1842, the Secretary of War sent——

Mr. FESSENDEN. I understand, Mr. President, that the motion which I make is a privileged one that might be made at the present time.

The PRESIDING OFFICER. According to the rules of the Senate, there is no privileged question of that kind when another subject is before the Senate, unless a motion to adjourn.

Mr. CLAYTON. It can be made by unanimous consent.

Mr. HUNTER and Mr. WELLER. I object.

Mr. FESSENDEN. Then I move that the bill lie upon the table, with a view to make that motion.

Mr. HUNTER. I ask for the yeas and nays upon that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 16; as follows:

YEAS—Messrs. Bayard, Benjamin, Brainerd, Bright, Brodhead, Chase, Clayton, Cooper, Dawson, Evans, Fessenden, Fitzpatrick, Foote, Gillette, Hamlin, Mason, Morton, Pratt, Rusk, Seward, Slidell, Stuart, Sumner, Toucey, Wells, and Wilson—26.

NAYS—Messrs. Allen, Badger, Bell, Clay, Dodge of Wisconsin, Dodge of Iowa, Geyer, Gwin, Houston, Hunter, Jones of Iowa, Jones of Tennessee, Mallory, Sebastian, Wade, and Weller—16.

So the bill was ordered to lie on the table.

HOUR OF MEETING—EFFICIENCY OF THE NAVY.

Mr. FESSENDEN. I now move a reconsideration of the order which was made this morning changing the hour of meeting, and I will state that I do it at the suggestion of several Senators of experience who state that it would be almost impossible to get along with business in the committees if we change the hour of meeting now.

Mr. CLAYTON. I earnestly hope that the motion will prevail. I am sure that we shall gain nothing by meeting at eleven o'clock. There are some very important committees of this body that are compelled to meet one hour sooner than usual. They are now pressed with business, which could not be possibly transacted in the time which would be allowed before the meeting of the Senate, if the hour was changed to eleven o'clock. I submit to Senators who are acquainted as well as I am with the course of business in this body, that the time has not arrived when we should cut off the committees from work, and confine the work to the Senate. More work is done in the committees than in the Senate, and the Senate ought to give us the hour which we have had heretofore; and by-and-by, at a reasonable time, we shall agree to meet at eleven o'clock.

The motion to reconsider was agreed to.

The PRESIDING OFFICER. The order is now before the Senate.

Mr. STUART. I understand that there is a necessity for an Executive session. I therefore move that the Senate proceed to the consideration of Executive business.

The PRESIDING OFFICER. What disposition will the Senate make of the resolution?

Mr. WELLER. I move that the Senate adjourn.

Mr. HUNTER. I hope not. I hope we shall decide this matter, and then finish the Indian appropriation bill.

Mr. MASON. I rise to a question of order.

The PRESIDING OFFICER. A motion to adjourn is pending.

Mr. MASON. A question of order takes precedence of anything else, if I am right in what I am going to suggest, being a question of order. I want to know what will be the posture of the order for the hour of meeting upon the motion to reconsider?

The PRESIDING OFFICER. The motion to reconsider having been agreed to, the order is before the Senate for adoption.

Mr. MASON. Then we can let it alone, and we shall meet to-morrow morning at the usual hour.

Mr. MALLORY. Before the vote is taken on the adjournment, I ask the unanimous consent of the Senate to refer a bill which is upon the table, with amendments from the House, to the Committee on Naval Affairs. It is a bill to promote the efficiency of the Navy. I desire to have the amendments printed.

The PRESIDING OFFICER. Is there any objection to the course which the Senator from Florida asks to be adopted?

There was no objection.

Mr. PRATT. To that bill I propose an amendment which I desire to have printed also.

Mr. FESSENDEN. Is not the order in regard to the hour of meeting before the Senate?

The PRESIDING OFFICER. Yes, sir; but a motion to adjourn is pending.

Mr. WELLER. What has become of that motion?

Mr. FESSENDEN. I move that the order lie upon the table.

The PRESIDING OFFICER. That motion cannot be received pending a motion to adjourn. By unanimous consent, the bill of the Senate to promote the efficiency of the Navy, which has been returned from the House with amendments, will be referred to the Committee on Naval Affairs, and the amendments will also be ordered to be printed.

Mr. PRATT. I have offered an amendment, which I desire to have printed.

The PRESIDING OFFICER. The Chair understands that the Senator from Maryland proposes to lay on the table, by unanimous consent, and have ordered to be printed, an amendment which he intends to propose.

Mr. PRATT. I have offered it.

Mr. GWIN. Does not that go to the Committee on Naval Affairs with the bill?

Mr. PRATT. Certainly.

Mr. HUNTER. How can it be offered? The bill is not before the Senate for amendment.

The PRESIDING OFFICER. By unanimous consent the bill, with the amendments of the House, was referred to the Committee on Naval Affairs. The Senator from Maryland desires to have his amendment printed.

Mr. HUNTER. That is all right, but he cannot offer it now. The bill is not before us for amendment.

The PRESIDING OFFICER. Certainly not.

Mr. WELLER. If it is in order, I should like to have a vote on the motion to adjourn.

The PRESIDING OFFICER. That motion is pending. The Chair received this other business by unanimous consent.

The motion to adjourn was not agreed to—ayes 15, noes 21.

Mr. GWIN. I hope the Indian appropriation bill will now be taken up and disposed of.

The PRESIDING OFFICER. The first question is on agreeing to the order in regard to the hour of meeting.

Mr. MASON. I move that it lie upon the table.

The motion was agreed to.

INDIAN APPROPRIATION BILL.

Mr. HUNTER. I now move that the Senate take from the table the Indian appropriation bill, and proceed with its consideration. I think we can dispose of it in a little while if we go on with it.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. JONES of Tennessee. The question before the Senate, is, I believe, on the amendment offered by myself.

The PRESIDING OFFICER. The question is on the appeal taken by the Senator from Tennessee, from the decision of the Chair.

Mr. JONES, of Tennessee. I was going to say, Mr. President, that I dislike exceedingly to appeal from any decision which you make; but I am sure, when I state the facts, the Chair will reverse his decision. This is not a private claim as I understand it; it is to carry out an existing law. On the 13th of February, 1839, a joint resolution was passed by Congress, directing the Secretary of War to make this purchase. He made the purchase under that law, and this is an appropriation called for by the Secretary of War, to carry out the requirements of the law.

The PRESIDING OFFICER. The Chair is now of opinion that the amendment is in order, and, therefore, reverses his decision. The reading of the rule is:

"No amendments shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law, or a treaty stipulation."

The amendment, therefore, is in order, and the question is on agreeing to it.

The amendment was agreed to.

Mr. SEBASTIAN. I now ask for a vote on the amendment which I offered from the Committee on Indian Affairs.

The amendment was as follows:

And be it further enacted, That none of the moneys hereby appropriated, or hereafter to be appropriated, shall be paid to any agent or attorney of any Indian or Indians, except in those cases where the Secretary of the Interior shall, in his opinion, deem the consideration just and necessary, upon the written assent and order of such Indians, fairly obtained, in open council, in the presence of the United States agent, after the same has been fully explained, and been duly certified by said agent, and subject, nevertheless, to the final revision of the Secretary of the Interior, who shall not allow or pay any amount beyond a fair and just compensation, disregarding all contracts, or supposed contracts.

Mr. HUNTER. I will suggest to the Senator from Arkansas, that he make this retrospective. He does not mean to repeal the existing law, I presume, but only to provide for cases that occurred before the passage of the law. The amendment, then, requires some alteration.

The PRESIDING OFFICER. The amendment, as it stands, provides for the appropriations in this bill, and all appropriations hereafter made.

Mr. HUNTER. The Senator does not intend that; let him restrict it.

Mr. SEBASTIAN. It provides for those contracts supposed to have been made heretofore, and is consequently retrospective, not prospective.

Mr. WELLER. Insert a proviso making it apply to contracts made anterior to the general law in force on the subject, the law of 1852—I mean for services since the passage of that law.

Mr. SEBASTIAN. I have no objection to giving it a retrospective operation, although it lays down a rule which is perfectly sound and just for all time past and time to come; and I should prefer myself that it should be considered as a general adjustment of all the rights of contracts upon the funds of the Indians; and it has been so guarded and restricted, that at the same time that it disregards all speculative amounts to be secured on contingent funds, yet it pays what is a liberal and just compensation.

Mr. HUNTER. I move to insert the proviso suggested by the Senator from California.

The PRESIDING OFFICER. Will the Senator reduce it to writing?

Mr. BENJAMIN. I should like to understand what earthly necessity there is for Congress legislating for payments by Indians to their attorneys.

Mr. RUSK. Because they have legislated that they shall not pay.

Mr. BENJAMIN. The legislation is, that the Government will not interfere with that matter at all. Why not let contracts with the Indians stand as all other contracts do?

Mr. WELLER. The Senator will understand that the law prohibits contracts of this sort made between Indians and their attorney. We desire now, that for the services rendered before that law was passed, they shall be allowed a just and fair compensation.

Mr. BENJAMIN. I understand the law as it now exists prevents the Indians from paying their attorneys. The object is to mix up this Government with the payments of the Indians to their attorneys.

Mr. MASON. It is to protect the Indians against the attorneys.

Mr. BENJAMIN. I rather think the object is to get the money to the attorneys. The Indians do not require the protection.

Mr. TOUCEY. I doubt very much the expediency of passing this provision upon this bill. I think the policy of the Government and the law as it has long existed, denies the validity of any contract between an Indian and his agent, or any pretended assignee of an annuity or a debt. There was a law on the subject before 1852. The law has existed much longer; and all these assignments, and all these claims that are made stand upon this ground exclusively, that there is no valid contract between the Indian and the agent or assignee; and I am opposed to a proposition of this kind which seems to impose the duty upon

the Department in certain cases to pay. The policy of the Government is to pay the money over to those to whom it belongs, and then the tribe, or the individuals of the tribe, are capable of disposing of it when it comes into their hands. I am opposed to any interference by which the Government is prevented from paying over to the Indian tribe, or to any member of the Indian tribe, the money which by a treaty in any way belongs to the tribe or to the individual. After it is paid to the tribe, I am willing to trust them, the tribe, or the individual Indian, in the disposition of that money; but I am not willing to interfere to give efficacy to those contracts obtained in advance of the payment. That is the policy of the Government; and I think it should be upheld.

Mr. SEBASTIAN. I am so anxious to obtain the passage of this bill this evening, that, as I insisted upon the amendment, I will take the liberty of withdrawing it. In vindication of the committee, however, I desire, before that is done, to say, that the Senator from Connecticut, who is usually accurate, seems to have misconceived the object of the amendment. It disregards contracts. It provides only for a just compensation, according to the merits of the particular services which have been rendered. It does not proceed upon the ground that the contract must be enforced. It allows it only when the Indians themselves are willing to appropriate it out of their money by an act in open council, in the presence of the agent of the United States; and it is to be certified to by him that it has been explained, and it is also to be subject, finally, to the revision of the Secretary of the Interior. It makes that ordinary provision out of the Indian moneys, with their consent; and with those guardian restrictions, it was supposed by the committee to obtain that just policy which, by avoiding extremes, would neither plunder the Indian, nor rob the agent. It was intended to be general. After making these few remarks in explanation, I withdraw the amendment.

I have another amendment. I am confident of the sanction of the committee for it. It is to pay the expenses of an investigation ordered by a resolution of the Senate last year, and confided to the Attorney General, but which could not be performed by him in his own person. He has had to employ three clerks for the purpose of carrying out that resolution of the Senate. Upon an estimate which has been furnished, I ask that an appropriation may be made. The amendment is as follows:

For paying the expenses of one commissioner and two clerks, employed by the Attorney General in the investigation directed by the resolution of the Senate of the 3d of August, 1851, —— dollars: *Provided*, That said resolution, and any other since adopted, relating to the same subject, be, and the same are hereby, repealed.

The PRESIDING OFFICER. There is a blank to be filled.

Mr. SEBASTIAN. I move to fill it with $2,000.

The motion was agreed to; and the amendment was adopted.

Mr. SEBASTIAN. There is a verbal amendment, to which I have already called the attention of the Secretary. It is in the amendment in relation to the roll of the Cherokees. I wish to strike out "D. W. Siler," and insert "John C. Molloy."

The correction was made.

Mr. BROWN. I now beg leave to offer an amendment looking to the settlement of the accounts, which have been so long under discussion here, between the Menomonee Indians, and Richard W. Thompson. I suppose there can be no objection to it. I know that some of those who opposed the former amendment very strenuously, have no objection to this. It does not look to the appropriation of any money at all. It provides for a simple settlement of the accounts. It is:

And be it further enacted, That the Second Comptroller of the Treasury be, and he hereby is, authorized and required to determine, according to the principles of law and equity, what amount is due from the Menomonee Indians to Richard W. Thompson, of Indiana, for services rendered them as attorney, commencing in 1850, in the prosecution of the claim for additional compensation for lands ceded by them to the United States, by the treaty of 1848; and that he report the same to Congress at the commencement of the next session.

The question was put, and the Chair declared the noes appeared to have it.

Mr. BROWN. I ask for the yeas and nays. I did not suppose that there would be any objection to it.

The yeas and nays were ordered.

Mr. MASON. I want to inquire of the Senator from Mississippi if the object of the amendment which was rejected a little while ago, was to intercept this money from the Indians and pay it to the attorney?

Mr. BROWN. I suppose it is hardly worth while to return to that amendment.

Mr. MASON. I did not hear that amendment. I was called from the Senate very often while it was under consideration. I only mean to say that, unless some reason can be assigned, I do not know why we should interpose between the Indians and the fund which is due to them, when we would not interpose between any other persons and a fund due to them.

Mr. BROWN. If the Senate will listen, I will explain the amendment in a very few words. It will be seen that it does not propose to pay any money to Mr. Thompson, or anybody else. Here is an outstanding claim of Thompson against the Indians. This Government has interfered to prevent the settlement of it.

Mr. BENJAMIN. How?

Mr. BROWN. Because our Indian Commissioner will not settle it. He takes the ground that Thompson was not entitled to any compensation for his services. I do not believe anybody else agrees with him. Mr. Thompson now asks that the account be stated; and that the statement be made to us at the next session of Congress. The discussion to-day has certainly thrown some sort of suspicion over this transaction. Then, Mr. Thompson says, let the matter stand over until the next session; let gentlemen have all the summer to investigate it thoroughly, and, when the question of appropriation comes up, you can reinvestigate it. It proposes nothing on earth, except to state the account, to see how much it is. I cannot see, for the life of me, why we should not do that.

Mr. DOUGLAS. I avail myself of this opportunity to say that I regret I was called out and did not have an opportunity of voting upon the former amendment which, I learn, has already been decided by the Senate. I should have voted for the claim had I had the opportunity of voting; but I should have desired to accompany it with the declaration distinctly, that I did not sympathize at all with any reflections made upon the Commissioner of Indian Affairs. I believe he is one of the most prompt, faithful, business-like, and honest officers we have ever had in the Government; and the only regret and hesitation I should have had in voting for the claim would have been that some of its advocates have cast some imputations on that Commissioner. I shall vote now for this proposition of the Senator from Mississippi. I think it is reasonable and fair, and that we ought to arrive at some settlement of the question in order to get at it in the next Congress; otherwise we shall have it here forever.

Mr. BAYARD. This amendment seems to me, in principle, to be very much the same as the one which was presented to the Senate before, and discussed. If it does not require the money to be paid by the Government, it is, at least, an interference of the Government in contracts between the Indian and the agent, or attorney, as against the Government. I think this wrong in principle. I have not examined the law on the subject; but I understood the honorable Senator from Connecticut to state, that under our law no contract of that kind made with an Indian can be valid. If that be the law of the United States, what an absurdity would it be for the Senate and House, by a provision of this kind, to provide for ascertaining, on principles of equity and justice, what is due to a party for a contract that is not valid in law?

Mr. BROWN. If my friend will allow me, the Senator from Connecticut is altogether right in stating what the law is now. The law, however, was passed in 1852. The contract was made in 1850; and the services were rendered before the law was passed. I do not suppose, if this contract was valid in the beginning, the Government would interpose two years afterwards, to set it aside.

Mr. BAYARD. I do not so understand the honorable Senator from Connecticut. The law of 1852, it strikes my recollection—but the Senator from Connecticut, I see, will explain the matter himself.

Mr. TOUCEY. The law was the same prior to 1852 as practised by the Department, and as I think, expressly provided. I am sure that the subject was up before, and that was held to be the law.

Mr. BROWN. The Senator will oblige me if he will point to the law. A practice of the Department is no law at all. The Executive officers cannot make a law.

Mr. BAYARD. The law of 1852, as I understand it, required the payment of the money to the Indians *per capita*. The object was to prevent any payment, under any circumstances, to any but the Indians themselves; but the antecedent rule may have existed under a general law before that, that these prospective contracts made before, and the services rendered, were against the policy of the law, and therefore void. I should like to look into that. But what strikes me still more strongly as an objection to this proposition, is that it is an attempt to engraft upon a general appropriation bill, an amendment which I think is directly contrary to the general policy of the law at all events. Give us time to see it on a private bill. Bring it in separately; and if reasons can be given why this excepted case should be made, I am willing to vote for such a bill. I do not think it regularly comes here before the Senate upon an amendment to a general appropriation bill; I am, therefore, opposed to it on the ground I mentioned. If it was not the law, it ought to have been the law at all times, that the Government of the United States should not interfere for the purpose of securing the payment of agents for services employed against itself.

Mr. WELLER. It seems to me that this is a very plain question. Here is an agent who has performed services for a tribe of Indians. Everybody concedes that he has performed the services. They were performed under a contract made in violation of no existing law at that time. So far as the amendment disposes of this case, it is simply a proposition that the officer who has charge of the settlement of all the Indian accounts, shall investigate the subject and report all the facts to us for our decision and sanction. There is the whole of it. It is in the nature of a simple resolution of inquiry, instructing the officer to ascertain the facts, tell us what those services were, and, in his judgment, how much ought to be paid; and at the next session we shall decide the question whether we will pay him or not. Whether he shall be paid out of the Treasury, or out of the annuities of the Indians, is a matter of no consequence to the question; whether we shall instruct that officer, who has charge of this whole subject, and who ought to know all the facts, to report those facts to us before we finally decide.

Mr. PRATT. I did not vote against the former amendment because I believed any of the charges made against the party intended to be benefited by it; but I voted against it for the reason alone that, according to my conception, it was in direct conflict with the settled policy of the Government in regard to Indian annuities. I recollect, and I am sure I cannot be mistaken, that when the act of 1852 was under discussion, the great question in it was whether it should be retroactive; and, by the terms of the law, it will be perceived that it unquestionably is retroactive. I know that I voted, and I think, sir, you voted in the same way, for the purpose of making it retroactive. The object of that law, and its effect were, not to render illegal contracts which were antecedent, but, as between the parties making it, to prevent the question of the legality of that contract coming in conflict with any claim of any Indian upon the United States. The act of 1852 directs that all appropriations which are made to the Indians shall be paid *per capita* to the Indians. It was not intended to render illegal any contract which the tribe of Indians may have made with any agent, or set of agents; but it simply says that that agent shall not receive, from the Government of the United States, the money, the Indians receiving what might remain after there had been deducted the amount of the contract with him; but that the money shall be paid directly to the Indians, so as to leave it to the Indians, and to the attorney to settle the question between themselves, with regard to what their contract was. It is not our purpose to adjudicate—it is not the province of this

Government to adjudicate—on the contracts made by the Indians with any one else. That is for the Indians and the party. We do not pay their money because it is advocated by an agent; but because it is due the Indians. The act of 1852 directs that all such payments shall be made directly to the Indians themselves. When these annuities are paid to them, any agent may go to the Indian or tribe against whom he has the claim, and if he can get the parties with whom he made the contract to recognize it, he will be paid. It is not our province to interfere in a contract made in this manner.

Mr. TOUCEY. There is some doubt about this. I spoke from general recollection. I have had no time to look into past laws during this debate. My recollection is, that the law has been for many years, that when a sum of money is appropriated to an Indian tribe, or to any Indian, no power of attorney or contract to control any part of that money is of any validity, unless it is made after the appropriation, and has a direct reference to it.

Mr. PRATT. That is right; but that law was evaded previous to the act of 1852, by agents getting the subsequent authority.

Mr. TOUCEY. My recollection is, that there was not only that express law, but other legislation. I know that there was other legislation by which the War Department, which then had the control of this subject, did exercise the admitted power of controling all the contracts and powers of attorney, regarding the Indians as their wards under the control of the Government as their proper guardian; and this is the policy which was expressly reaffirmed in 1852; and for one I am not willing to depart from it.

Mr. HOUSTON. I was writing an amendment to provide that Thompson should render his account to the Commissioner of Indian Affairs on a statement of the facts, and that he should make his report thereon to this body.

Mr. SEBASTIAN. I shall vote against this amendment for investigating the claim, because, although apparently very fair on its face, in the assertion of a general principle which is harmless, we know now, after the debate, that it has a special reference to the claim of Thompson; and it becomes necessary to say something about that claim. The law as it has been heretofore, in reference to the payment of Indian agents, is as follows. The first was the act of 1847, which was intended to carry out the policy first inaugurated by Commissioner Medill for the political object of breaking down the influence of the chiefs among the Indians, which existed before the passage of the first law requiring the payments to be made *per capita* instead of to the nation. That, however, did not prevent the nation giving orders in council on the Department for the payment of a part of the money—anticipating it before it passed to the individuls *per capita;* and that made it necessary in the Indian appropriation bill of 1852, and in almost every Indian appropriation bill since, to put a proviso which looked especially to the preventing of payment to the agents, and for closing down such payments against all artifices and subterfuges to which they could resort for payment for their services

Under the treaty of 1854, made with the Menomonee Indians, and which disposes of the $242,000 said to have been obtained in part by Thompson, the payment is to be made *per capita*, in pursuance of that general policy, and it is a feature which is placed in all our treaties now. But in addition to that, the payment is not to commence until 1867, and is to run through a period of fifteen years. That is the position of the fund upon which it is proposed by this investigation to draw in advance. The rights of the Indians, under that treaty, are for the division of the fund *per capita*, and it is not to commence to be paid until 1867, because the Indians have an annuity of $25,000 a year from this time until that period, which is supposed to be amply sufficient for the wants of the present generation, so that if you make any attempt to appropriate, in advance, that fund provided for the wants of posterity, it raises the question whether, without a new treaty, that appropriation of the money can be made. It is very certain that an act less solemn than the act of the nation in open council would not be sufficient to give the authority, and would not dispose of that money; so that, in any event, under that treaty, as to this amendment in the one case or the other, it would not be operative. Looking at it in the view that what is proposed to be attained by the investigation as entirely illusory, I shall vote against it.

Mr. BROWN. I am amazed at the Senator from Arkansas going on and talking about appropriations of money not being made until 1867, when the amendment does not propose to appropriate anything now or hereafter. It is simply to authorize one of the officers of the Government to audit an account which would have been paid but for the interference of this Government. That is the whole of it. If the Government had not interposed between Thompson and his clients, they would have paid them, and we should have had no concern with them; but you have interposed to prevent the Indians from paying; and now that you have got yourselves that far entangled in it, all he asks is that you will authorize one of the accounting officers to state what they do owe him, so that he may appeal to you for the payment. All that he asks is, that you shall authorize one of your accounting officers to decide what they do owe him, so that you may pay him so much as he is entitled to; and all this story about a contract with the Indians, and paying the money now which is not due until 1867, has nothing to do with the amendment. That kind of debate may be very well next winter, when you are asked to make the appropriation, but what possible objection can you or any man have to allowing the accounting officer to state the account of two parties who have been unable to settle between themselves, because you interfered to prevent the settlement. If the Government had had nothing to do with this thing, but had let Thompson and the Indians alone, there would have been no difficulty. Having prevented the settlement of the matter, you are now asked to interpose to enable a statement to be made, to which, it seems to me, there can be no objection on earth. Nobody asks for an appropriation under this amendment, though I think it ought to be made. All that is asked is to allow the account to be stated.

The question being taken by yeas and nays on the amendment, resulted—yeas 14, nays 19; as follows:

YEAS—Messrs. Badger, Bell, Brainerd, Bright, Brown, Cooper, Dawson, Douglas, James, Mallory, Rusk, Seward, Weller, and Wilson—14.

NAYS—Messrs. Allen, Bayard, Benjamin, Chase, Clay, Dodge of Wisconsin, Dodge of Iowa, Evans, Fitzpatrick, Gillette, Houston, Hunter, Jones of Iowa, Mason, Pratt, Sebastian, Sumner, Toucey, and Wells—19.

So the amendment was rejected.

Mr. COOPER. I offer the following amendment:

And be it further enacted, That the tenth section of the "act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes," approved July 31, 1854, be carried into effect so as to pay to Henry Smith and others the respective sums assessed to them by the commission under the Cherokee Treaty of 1835-6, through their authorized and sworn agents, William A. Upton and Peter A. Somer, with interest on said sums respectively, from the 23d August, 1843, and that the Secretary of the Interior be further authorized and directed to fill the blanks in such awards as are on his files, with such amounts, respectively as may be established by satisfactory proofs.

Mr. HUNTER. Is not that a private claim?

Mr. COOPER. Allow me explain it. This has been decided before not to be a private claim. It is of precisely the same character as the Taylor claim, arising under the treaty of 1832. It is one of those reservations of one hundred and sixty acres which were made to Indians and which were afterwards taken from them and a money appropriation substituted in lieu of them.

Mr. DOUGLAS. I will ask the Senator from Pennsylvania to give way. I am satisfied that the Senate wishes to adjourn. We cannot get through with the bill to-day; and I wish to have a short Executive session.

Mr. HUNTER. I hope we shall get through with it to-day. It is now nearly five o'clock.

Mr. DOUGLAS. I do not wish to interrupt the business; but I want an Executive session for a moment before we adjourn, and I shall ask for it if there be no objection. I am satisfied that we cannot get through with the bill to-day.

Mr. HUNTER. I hope the Senator will allow me to try it. I think we can get through to-day.

Mr. BENJAMIN. Is it in order to move to adjourn. I submit that motion.

Mr. WELLER. I have no doubt that the motion will be agreed to now, because all the Senators who voted against an adjournment fifteen minutes ago have gone home. Their intention was to compel us to remain here; and therefore they voted down the adjournment.

Mr. DOUGLAS. I hope the Senator will withdraw his motion, and let us have an Executive session.

Mr. BENJAMIN. If there be no objection to an Executive session, I withdraw it.

Mr. WELLER. I renew the motion to adjourn.

The motion was decided in the negative—ayes 16, noes 16.

The further consideration of the bill was postponed until to-morrow.

HOUSE BILL REFERRED.

The bill from the House of Representatives, making an appropriation for military defenses at Proctor's landing, in Louisiana, was read twice by its title, and referred to the Committee on Military Affairs.

EXECUTIVE SESSION.

On motion by Mr. DOUGLAS, the Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 14, 1855.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a communication from the Navy Department, transmitting a letter from the Chief of the Bureau of Yards and Docks, containing an abstract of offers received for furnishing articles required by that Bureau during the fiscal year ending June 30, 1855, in conformity with the act of Congress approved 3d of March, 1853; also, an abstract of offers received by the same Bureau for furnishing like articles for the fiscal year ending 30th of June, 1854, which had not been received when the annual report for that year was made; which was laid upon the table and ordered to be printed.

NEW REGISTER FOR THE SHIP AINA.

Mr. FENTON. I ask the unanimous consent of the House to take from the Speaker's table Senate bill (No. 577) to authorize the issuing of a new register to the Russian-built ship Aina.

There being no objection, the bill was taken from the Speaker's table and read a first and second time by its title.

The bill was then read *in extenso*.

Mr. HAVEN. That bill will, of course, pass. I have no doubt it should pass, but I want to suggest to my colleague from New York, who is a member of the Committee on Commerce, that he should, at an early day, bring in a general bill providing for such general legislation upon this subject as will save us from the necessity of continually passing these private bills.

Mr. FENTON. I entirely concur in the suggestion of my colleague, and will, with the consent of the House, on to-morrow, or some day soon, bring in a bill of the character alluded to.

The bill was then ordered to its third reading, and was accordingly read a third time, and passed.

Mr. HENN. I demand the regular order of business.

DEFENSE AT PROCTOR'S LANDING.

Mr. HUNT. I will occupy but five minutes of the time of the House.

Mr. HENN. I insist upon the regular order of business.

Mr. HUNT. I hope the gentleman from Iowa will allow me to bring forward this bill. It will not take five minutes to dispose of it.

Mr. HENN. I would give way to the gentleman from Louisiana with the greatest pleasure in the world, but, sir, I have a dozen bills in my desk which I have been for a long time desirous to report, and have not had an opportunity.

Mr. HUNT. I beg the gentleman to withdraw his objection. This is a bill necessary to complete the defenses of the country.

Mr. HENN. There are others around me who

have matters they wish to bring up, and if I give way for one I must for another. I cannot withdraw my objection.

BOARD OF CLAIMS.

Mr. JONES, of Pennsylvania. I must appeal to the gentleman from Iowa, and to the House, to give me their unanimous consent in relation to a public measure. I have not been in the habit of making appeals to the House. I will merely state that there is a public measure which I am confident will meet the approval of every member of the House—certainly a large majority of the House. But, sir, it is a measure which can never be carried into effect unless the House will agree to do one thing: I ask that they make the board of claims bill the special order in a Committee of the Whole House on some private bill day, for two hours only. I have suggested some day appropriated to private business, because the bill has especial reference to private claims. I repeat, sir, that, unless this is done, the House will not be able to reach the bill in order during the present session of Congress.

The SPEAKER. What day does the gentleman propose to set apart?

Mr. JONES. Saturday next.

Mr. LILLY. I object.

PROCTOR'S LANDING—AGAIN.

Mr. HUNT. I now again appeal to the gentleman from Iowa to allow me to introduce the bill of which I spoke, to complete the defenses of the country at Proctor's Landing. What does the gentleman say?

Mr. HENN. I cannot withdraw my objection. I would yield to the gentleman from Louisiana as soon as I would to any gentleman in the House, but I must demand the regular order of business.

Mr. HUNT. It is a bill to complete the defenses of the country. The whole country is interested in it.

Mr. HENN. I gave way to the gentleman some time ago to introduce a bill, which took up a whole week of the time of the House.

Mr. HUNT. I only ask for five minutes. The bill can be disposed of in that time.

Mr. HENN. That was the supposition when the gentleman asked to introduce his bill some time ago, but it lasted a whole week.

Mr. HUNT. If the gentleman will allow me five minutes, that is all I ask. You may bind me down to that.

Mr. HENN. If the gentleman will take five minutes unconditionally, I will withdraw the objection for that time, but no longer.

Mr. HUNT. That is all I desire.

Mr. DAVIS, of Indiana, addressed the Chair.

Mr. HUNT. If the honorable gentleman from Indiana will indulge me to state what the bill is, I am sure he will not object—that no one will object. It is a public measure. It is not one in which I am particularly interested. The whole country are interested in it. The gentleman from Indiana is as much interested in it as I am. I hope he will not object.

Mr. DAVIS. I do not propose to object to the proposition of the gentleman from Louisiana, for I have the same indulgence to ask of the House myself. [Laughter.]

Mr. HUNT. Now, sir, there is no objection. I beg leave to report, from the Committee on Military Affairs, under their instructions, a bill authorizing the construction of such military defenses at Proctor's Landing as the Secretary of War may deem expedient. The bill will be explained by a brief report from General Totten, showing the necessity there is for these defenses. I ask the attention of the House to the reading of General Totten's letter, after which I shall ask the House to pass the bill—which they will not fail to do when they understand the circumstances of the case.

There being no objection, the bill was introduced, and read a first and second time by its title.

The bill was then read *in extenso*. It makes an appropriation of $125,000, to be expended under the direction of the Secretary of War, in the construction of such military defenses as he may deem expedient, at Proctor's Landing, near the terminus of the Mexican Gulf railway.

Mr. HUNT. I now ask that the letter of the Secretary of War, with that of General Totten, may be read.

Mr. HENN. That bill makes an appropriation. Must it not go to the Committee of the Whole on the state of the Union?

Mr. HUNT. Read the report.

The following letters were then read:

WAR DEPARTMENT,
WASHINGTON, *January* 19, 1855.

SIR: In compliance with the resolution of the House of Representatives of the 16th instant, "that the Secretary of War be instructed to report to this House whether any, and if any, what military defenses are necessary at Proctor's Landing, at the terminus of the Mexican Gulf railway in Louisiana, for the protection of the country," I have the honor to transmit you a report of the Chief Engineer giving the required information.

Very respectfully, your obedient servant,
JEFF. DAVIS, *Secretary of War.*

Hon. LINN BOYD, *Speaker of the House of Representatives.*

ENGINEER DEPARTMENT,
WASHINGTON, *January* 18, 1855.

SIR: In answer to the resolution of the House of Representatives of the 16th instant, inquiring "whether any, and if any, what military defenses are necessary at Proctor's Landing, at the terminus of the Mexican Gulf railway in Louisiana," I have the honor to report that a battery having a fire competent to prevent the approach of boats to the landing, together with an inaccessible tower for the accommodation of the garrison, will afford a sufficient defense for the position.

From this landing to the city of New Orleans the distance is twenty-eight miles; the road is one of the best in the country; and there is now no obstacle of any kind, natural or artificial, to hinder an enemy (landing from boats at Proctor's) from marching up to the city, with troops of all kinds, with their artillery and baggage. This is the only avenue of approach now without defenses. But it is plain that this remaining unguarded, all our efforts elsewhere may be neutralized. The enemy, turning away from the various defended channels of access, will seek the one which is open to his advance. Why this avenue was not provided for in the original defensive system for New Orleans I am not able to divine; but it is now incumbent upon us to close it at the earliest day practicable.

The water being shoal, the lake is navigable only for small steamers and boats; hence our preventive means need be only upon a reduced scale. The total cost of the battery and tower specified was estimated, when they were designed some years since, at $100,000. Allowing for increase of prices, I think it likely that the works may be now completed for $125,000, provided this sum be appropriated in a single grant, so that we may be able to avoid the expense arising from interrupted and protracted operations. The defenses can be finished in about a year from the time when we get possession of the proposed site of the work.

The importance of occupying this position has been several times urged upon Congress by this Department; as, for instance, November 1, 1845, February 27, 1846, and March 18, 1854.

The resolution is returned herewith.

I am, very respectfully, you obedient servant,
JOSEPH G. TOTTEN,
Brevet Brigadier General and Colonel Engineers.

Hon. JEFF. DAVIS, *Secretary of War.*

Mr. HUNT. I now ask that the bill may be read a third time and put upon its passage.

Mr. LILLY. Do not the rules require that the bill, making an appropriation, shall be first considered in the Committee of the Whole on the state of the Union?

The SPEAKER. The bill, making, as it does, an appropriation, must, under the rules, go to the Committee of the Whole.

Mr. HUNT. I move to suspend the rules.

The SPEAKER. The motion is not in order.

Mr. HUNT. Then I ask the unanimous consent of the House.

Mr. LILLY again rose.

Mr. HUNT. I ask the gentleman not to object. This appropriation is considered by the War Department as necessary for the public defense. This is an important point, and the only one where a proper defense has not been provided. It is connected with the city of New Orleans, twenty-eight miles distant, by a level road. It is perfectly accessible from the Gulf. An enemy could land there without difficulty. These defenses are necessary for the protection of the country. I hope the gentleman from New Jersey will not object. I appeal to him as a patriot to withdraw his objection?

Mr. LILLY. I have made no objection. I only inquired whether the rules did not require the bill to be referred to the Committee of the Whole.

Mr. HUNT. Then there is no objection. I ask that the bill may be read the third time, and passed.

There being no objection, the bill was ordered to be engrossed and read a third time, and being engrossed, was accordingly read a third time, and passed.

Mr. HUNT moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. MURRAY. I beg leave to make a report from the Committee on Printing.

WITHDRAWAL OF PAPERS.

Mr. FLORENCE. I ask the permission of the gentleman from New York to let me withdraw some papers, to be used immediately in the Senate.

Mr. MURRAY. I have no objection.

Mr. FLORENCE. Then I ask leave to withdraw from the files of the House the papers of Mrs. Du Barry, widow of Edmund L. Du Barry, late a surgeon in the United States Navy.

The leave was granted.

Mr. OLIVER. I desire leave, also, to withdraw some papers from the files of the House.

The SPEAKER. For what purpose does the gentleman wish the papers withdrawn?

Mr. OLIVER. I desire to withdraw the papers filed in the case of Colonel William L. Russell, late collector at the port of Monterey, California.

The SPEAKER. For what purpose?

Mr. OLIVER. To return them to the claimant.

The SPEAKER. The usual course is to have copies only returned to the claimant. Or, by leaving copies on file, the gentleman can have the papers, but not otherwise.

Mr. OLIVER. Very well, sir, copies shall be left.

The leave was then granted.

Mr. WENTWORTH, of Illinois. I wish to ask a similar favor. I desire to withdraw the papers in the case of William Wallace, an applicant for back pay, that they may be used at the Pension Office.

Leave was granted.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled the following bills; which thereupon received the signature of the Speaker:

An act authorizing the construction of a line of telegraph from the Mississippi or Missouri rivers to the Pacific ocean; and

An act for the relief of Zachariah Lawrence, of Ohio.

PRINTING OF PATENT OFFICE REPORT.

Mr. MURRAY, from the Committee on Printing, then reported the following resolution:

Resolved, That there be printed one hundred thousand extra copies of the agricultural portion of the Patent Office Report, with the plates, for the use of the members of the present House of Representatives, and ten thousand copies for the use of the Commissioner of Patents. And also fifty-thousand extra copies of the mechanical part of said report for the use of the said members, and ten thousand copies for the use of said Commissioner.

The resolution was adopted.

COMMODORE PERRY'S REPORT.

Mr. MURRAY. I am also instructed by the Committee on Printing to report the following resolutions:

Resolved, That the Secretary of the Navy be requested to communicate to this House a copy of the report of Commodore M. C. Perry, on the subject of the late expedition to Japan, and if said report shall not be completed before the expiration of the present session of Congress, then to deliver the same to the Clerk of the House during the recess.

Resolved, That ten thousand extra copies of said report, together with the maps, charts, and drawings, be printed and bound in the style of Lieutenant Gilliss's report, for the use of the members of the present House of Representatives, and five hundred additional copies for the use of said Commodore M. C. Perry.

Mr. JONES, of Tennessee. I wish to make an inquiry of the gentleman from New York. Those resolutions require that the report of Commodore Perry shall be bound in the same style as the report of Lieutenant Gibbon——

Mr. MURRAY. No, sir; Lieutenant Gilliss.

Mr. JONES. I thought it was Gibbon's Report. I wish to inquire of the gentleman in what sort of style that is bound, for we have never seen it or heard of it since it was ordered to be printed?

Mr. MURRAY. It is bound in quarto form.

Mr. JONES. I would inquire what has become of Gibbon's Report?

Mr. MURRAY. It is now in the hands of the binders, and will soon be delivered to the members of the House. I move the previous question on the resolution.

Mr. HAVEN. I wish my colleague would withdraw it for a moment.

Mr. MURRAY. I will do so.

Mr. HAVEN. I have no doubt that the report which is called for by these resolutions is a very interesting production, but I want to suggest to the House whether it is not a little premature for us to send for it and bring it in here after we adjourn, and put the publication of it under the authority of the Clerk of this House. I desire to inquire of the Chair—and that is the object for which I sought the floor—whether it would be in order for me to move to strike out the resolutions, and ingraft upon the foundation of the resolves a bill which shall authorize the publication of this report in the way that the report of the exploring expedition under Commodore Wilkes was published, under the superintendence of the Joint Committee on the Library? Would such a motion be in order?

The SPEAKER. It would not. This is a simple resolution for the House only, and it cannot be converted into a bill. Bills are introduced by leave, or are reported from committees.

Mr. HAVEN. That being the case, the object for which I sought the floor, pretty much fades away. I do not doubt that the country is very desirous of seeing this report, and yet it seems to me, that it would be about as well, inasmuch as this book business has been carried to such an immense extent, that this matter should be suspended until the report is made out and sent in to the House. I do not care, however, to interpose any objection to the passage of the resolutions.

Mr. MURRAY. I now demand the previous question.

The previous question was seconded; and the main question was ordered to be put, and, under the operation thereof, the resolutions were adopted.

Mr. MURRAY moved to reconsider the vote by which the resolutions were passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

EASTMAN'S MAP.

Mr. MURRAY, from the Committee on Printing, reported adversely on the resolution in relation to the purchase of Captain Eastman's map of Kansas and Nebraska; and it was ordered to lie on the table.

REPORT OF THE DIRECTOR OF THE MINT.

Mr. RUSSELL. I am instructed by the Committee on Printing to report the following resolution:

Resolved, That there be printed, for the use of the director of the Mint, five hundred extra copies of the message of the President of the United States, communicating the annual report of said director, in connection with the letter of the Secretary of the Treasury, communicating a report on the fineness and value of foreign gold and silver coin.

Mr. JONES, of Tennessee. There is no objection to that.

The resolution was adopted.

Mr. HENN. I demand the regular order of business.

Mr. SOLLERS. I ask the unanimous consent of the House to allow me to make a report from the Committee on Naval Affairs. It has been in my desk for three weeks. I just want to report a bill.

Mr. HENN. I cannot give way any longer. I have given way already for nearly half an hour.

PACIFIC RAILROAD SURVEYS.

Mr. STANTON, of Kentucky. I am instructed by the Committee on Printing to offer the following resolution:

Resolved, That there be printed, for the use of the House, ten thousand copies of the reports of surveys for a railroad to the Pacific, made under the direction of the Secretary of War, embracing the report of F. W. Lander, civil engineer, of the survey of a railroad route from Puget's Sound, by Fort Hill and the great Salt Lake, to the Mississippi river, and the report of J. C. Frémont for a route for a railroad from the head waters of Kansas river into the State of California, with the maps and plates, accompanying each of said reports, necessary to illustrate them.

Mr. COBB. What about the southern route?

Mr. STANTON. I demand the previous question on the passage of the report.

The previous question was seconded, and the main question was ordered to be put.

Mr. JONES, of Tennessee. I move to lay the resolution on the table.

The question was taken; and the motion was not agreed to.

The question recurred on Mr. STANTON's resolution, and it was adopted.

Mr. STANTON moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

Mr. WHEELER, Mr. HENN, and others called for the regular order of business.

Mr. SMITH, of Virginia. Mr. Speaker——

The SPEAKER, (interrupting.) The Chair is called upon by gentlemen on all sides for the regular order of business, and therefore feels it his duty to present it to the House.

Mr. SMITH, of Virginia. I am sure that no gentleman will object to the proposition that I wish to submit, which is to have the bill called the soldiers' bill, or the bounty land bill printed. All that I desire to effect now is to have an order made for this bill to be printed.

Mr. ORR. I object to it. I will consent to the bill's being referred to the Committee on Public Lands, which has charge of these matters. That committee can have the floor, and may report it back if they choose to do so. I insist upon the regular order of business.

THE STEAM SLOOPS BILL.

The SPEAKER. The Clerk will report the resolution which was pending last evening when the House adjourned.

The resolution was reported, as follows:

Resolved, That all debate in the Committee of the Whole on the state of the Union on bill of the House (No. 743) to authorize the construction of seven steam sloops of war, shall cease in five minutes after its consideration shall have been resumed, if the committee shall not sooner come to a conclusion on the same; and the committee shall then proceed to vote upon such amendments as may be pending, or offered to the same, and shall then report it to the House with such amendments as may have been agreed to by the committee.

Mr. HOUSTON. If that resolution be adopted, I suppose it will make that bill the order of business in preference to everything else. I move, therefore, to lay the resolution on the table.

Mr. FLORENCE. On that motion I call for the yeas and nays.

Mr. BOCOCK. This seems to be made a test vote. I will, therefore, state to the House that if the bill be not taken up now, it will not be considered any more during this session. It will not take long to dispose of it now, and I therefore ask that the vote on the motion of the gentleman from Alabama [Mr. HOUSTON] be considered as a test vote.

Mr. HENDRICKS. I wish to ask the Chair for information, as to whether the resolution closing debate will, if adopted, have the effect which the gentleman from Alabama suggests?

The SPEAKER. That will be a question for the chairman of the Committee of the Whole on the state of the Union to determine.

Mr. HENDRICKS. I only want the opinion of the Speaker on the question.

The SPEAKER. The Chair is inclined to the opinion that it would have that effect.

The yeas and nays were ordered.

Mr. CUTTING. Do I understand that those who are in favor of building the steam sloops of war are to vote "no" on this question, and that those who are opposed to it are to vote "aye?"

Mr. FLORENCE. That is so.

Mr. WHEELER. No test vote of this kind can be made here.

The SPEAKER. It is out of order to discuss a question of this sort while the roll is being called.

The question was taken; and it was decided in the affirmative—yeas 108, nays 66; as follows:

YEAS—Messrs. Aiken, James C. Allen, Willis Allen, Bennett, Benson, Bliss, Boyce, Bristow, Bugg, Campbell, Carpenter, Caruthers, Clark, Cobb, Cook, Corwin, Cox, Craige, Cullom, John G. Davis, Thomas Davis, Dawson, Dickinson, Eastman, Edgerton, Edmands, Thomas D. Eliot, English, Etheridge, Fuller, Gamble, Giddings, Goodwin, Greenwood, Grow, Hamilton, Aaron Harlan, Andrew J. Harlan, Hastings, Haven, Hendricks, Henn, Hill, Houston, Howe, Daniel T. Jones, George W. Jones, J. Glancy Jones, Knox, Kurtz, Lamb, Latham, Letcher, Lindley, Lindsley, McCulloch, McQueen, Mace, Macy, Matteson, Maurice, Mayall, Meacham, Middleswarth, Murray, Nichols, Noble, Norton, Olds, Andrew Oliver, Mordecai Oliver, Packer, Parker, Peck, Pennington, Phelps, Pratt, Pringle, Puryear, Thomas Ritchey, Rowe, Sabin, Sage, Sapp, Seward, Shannon, Shaw, Simmons, William R. Smith, George W. Smyth, Sollers, Hestor L. Stevens, Stratton, Andrew Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Tracy, Upham, Wade, Walley, Warren, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, and Yates—108.

NAYS—Messrs. Appleton, Ashe, David J. Bailey, Banks, Belcher, Bocock, Bridges, Caskie, Chamberlain, Chandler, Chastain, Crocker, Cutting, De Witt, Dowdell, Dunbar, Everhart, Farley, Fenton, Florence, Goode, Green, Grey, Wiley P. Harris, Hibbard, Hiester, Hughes, Ingersoll, Roland Jones, Kerr, Kittredge, Lilly, Macdonald, McDougall, McNair, Maxwell, Smith Miller, Millson, Morrison, Orr, Peckham, Phillips, Powell, Ready, Riddle, David Ritchie, Robbins, Rogers, Ruffin, Russell, Seymour, Shower, Skelton, William Smith, Frederick P. Stanton, Richard H. Stanton, Trout, Tweed, Vail, Vansant, Walbridge, Walker, Tappan Wentworth, Wheeler, Hendrick B. Wright, and Zollicoffer—66.

So the resolution closing debate on the bill was laid on the table.

CLAIMS IN FLORIDA.

Mr. JONES, of Tennessee. I move that the rules of the House be suspended, and that the House do now resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair is of opinion that the business first in order is the joint resolution reported the other day by the gentleman from Tennessee, [Mr. STANTON,] entitled "A joint resolution to fulfill the stipulations of the ninth article of the treaty of 1819 between the United States and Spain."

Mr. JONES. I make a point of order on that. That resolution was brought in here under the suspension of the rules on Monday. The rules could only be suspended on that day. And I think the practice of this House has been that when business is introduced here under the suspension of the rules on Monday, and is undisposed of, it goes over to the next Monday, when it comes up as the unfinished business of that day.

The SPEAKER. That proposition is a clear and correct one. But the previous question having been seconded, it brings up the bill now, in the opinion of the Chair.

Mr. JONES. The previous question was seconded, but the main question has not been ordered.

The SPEAKER. The seconding of the previous question has always been regarded as of equal force to the ordering of the main question, in respect to giving precedence to business.

Mr. JONES. I do not recollect a case establishing that principle.

The SPEAKER. The Chair will put a case: Suppose the House should refuse to order the main question to be put, what would be the effect of that? The effect of it would be, under the universal practice of this body, to carry it over until to-morrow, and to bring it up as the first business to-morrow.

Mr. JONES. I think it would have the effect of bringing it up on the next suspension day.

The SPEAKER. It would go over till to-morrow only, the Chair thinks. The practice has been universally the same as the Chair proposes to rule on this case—namely, that the seconding of the previous question has the same force which the ordering of the main question would have in respect to giving preference to the bill under consideration.

Mr. JONES. I submit this question to the Chair. The only difference between seconding the demand for the previous question and the ordering of the main question, is in the number of votes required for each——

Mr. SOLLERS, (interrupting.) I understand that the Chair has decided the question.

The SPEAKER. The Chair has decided that the bill reported by the gentleman from Tennessee [Mr. STANTON] is the first business in order.

Mr. SOLLERS. I rise to a question of order. This discussion is out of order.

Mr. JONES. Then I appeal from the decision of the Chair, and I have a right to debate that question.

The SPEAKER. The Chair must correct the gentleman from Tennessee. No question in regard to the precedence of business can be debated.

Mr. CLINGMAN. I move to lay the appeal on the table.

Mr. JONES. I withdraw the appeal; and I ask the Chair, as the main question has not been ordered, whether it is in order to move to go into the Committee of the Whole on the state of the Union?

The SPEAKER. The Chair thinks not. If his decision is correct, that motion is not in order.

Mr. ORR. I desire to inquire what the present condition of this bill is, and whether it is in order to move to reconsider the vote by which the previous question was seconded?

The SPEAKER. The immediate motion pending is to lay the bill on the table; and on that the yeas and nays are ordered.

Mr. ORR. Well, Mr. Speaker, it was I who made that motion; and if there is any prospect of the previous question being reconsidered, I am willing to withdraw the motion to lay the bill on the table. I desire to be heard on this bill, as I have got information which, I think, may prove serviceable to the House, if I have the privilege of laying it before the House. I therefore withdraw the motion to lay the bill on the table.

Mr. STANTON, of Tennessee. I desire to state simply, that if the seconding of the previous question be reconsidered, and if the gentleman from South Carolina [Mr. ORR] be allowed to make a speech against the bill, and if I be allowed to answer it without the probability of the case passing from before the House, and coming to the Speaker's table, where we would not reach it this session, I am perfectly willing to consent to it; but except this can be done, I am unwilling——

Mr. JONES, of Tennessee, (interrupting.) I ask if this debate is in order when the Chair has decided that the previous question has been seconded?

The SPEAKER. Debate is not in order.

Mr. SEWARD. I desire to inquire of the Chair what is the condition of the bill for the construction of the seven steam sloops?

The SPEAKER. That bill is now before the Committee of the Whole on the state of the Union.

[Cries of "Question!" "Question!"]

The SPEAKER. The question is on ordering the main question to be now put.

Mr. ORR. Suppose, Mr. Speaker, that the main question be ordered to be put, and the motion be then made to reconsider the vote on ordering the main question to be put, and that that motion be carried, will not that bring us back to the point, and open the question for debate?

The SPEAKER. If it be the desire of the House to go back, so as to be able to amend the bill, the motion may be made to reconsider the vote by which the previous question was seconded.

Mr. ORR. Then I move to reconsider the vote by which the previous question was seconded.

Mr. WASHBURN, of Maine. Is that motion in order?

The SPEAKER. The Chair has so decided.

The question was taken on the motion to reconsider the vote by which the previous question was seconded, and agreed to.

Mr. STANTON. I hope the gentleman from South Carolina will allow me to move to recommit this bill, so as to keep it before House.

Mr. ORR. Certainly, if the gentleman desires to make that motion.

Mr. JONES, of Tennessee. Is not the demand for the previous question now pending?

The SPEAKER. It is.

Mr. JONES. I hope that the House will vote it down.

Mr. STANTON. I withdraw the demand for the previous question.

Mr. JONES. I ask the gentleman from South Carolina to agree to let this measure go over until next Monday.

Mr. ORR. I would be perfectly willing to do it if there was time; but I hope the debate will be short upon this bill, and that it will be voted upon to-day.

Mr. HOUSTON. The Senate have disposed of all the appropriation bills sent from the House, and they are now without work from the House of that character. There are several appropriation bills which I desire to report, and I hope that gentlemen will allow some of these bills to be taken up and disposed of, so that we may give the Senate something to do.

Mr. STANTON. We can dispose of this Florida claims bill in a couple of hours, and I hope it will be done. I do not want to be precluded now from the consideration of this bill.

Mr ORR. I would myself be very glad to have the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of taking up the appropriation bills, because, looking to the condition in which the business of the House is at present, I think that some of these bills are in imminent peril, and may, possibly, be lost for the want of time. I do not think, though, that I could, in good faith, even yield the floor to allow that motion to be made, because many of the friends of this Florida claims bill have acceded to my request to be heard upon its merits, and have voted to reconsider the previous question ordered on Monday last, to give me the opportunity of expressing my opposition to the bill. I therefore propose to submit some remarks with reference to the bill now to be passed upon by the House. It is a very ungracious task for a Representative upon this floor to be putting himself in the way of claimants who believe that they have demands upon the Treasury. It provokes enmities, and rarely makes friends. I think, though, it is the duty of a Representative, not only in the consideration of public, but private questions, upon which he has to decide here, to guard the interests of his constituents with fidelity; and when he satisfies himself that a measure is wrong, he is solemnly bound to interpose his voice and efforts to secure its rejection.

When the rules were suspended on Monday last and this bill came up, I had not heard anything of its merits or demerits; but when I heard the proposition announced that a bill was to be passed to supersede, overrule, and override the consistent and uniform action and decisions of the Treasury Department from 1825 to the present time, I was unwilling to cast a vote upon the question, until I could hear what reasons could be assigned for the passage of a measure so radical in its purposes. The previous question, however, was demanded—all debate cut off—all explanation refused—and the House was well nigh precipitated into a vote, when few of the members had the slightest information to justify the passage of so important a bill. After a considerable struggle, an adjournment was obtained, and I have taken some pains to examine the merits of the bill. The examination which I have made has been, of course, a very hurried one, and the vast number of documents that have been accumulating from time to time since the origin of these claims, has precluded me from making the full and thorough investigation which I desired. The investigation satisfies me, beyond all doubt or controversy, and I think I shall be able to satisfy a majority of this House, that there is no merit in these claims, for the reason that the bill makes an appropriation for a sum far greater than was contemplated by the treaty of 1819 with Spain—greater than contemplated by the acts of 1823 and 1834—I think I shall be able to show that it exceeds the sums contemplated more than tenfold. The amount of property destroyed or despoiled bears no proportion to the amounts which these claimants have already received. This is a broad assertion; but the facts, when properly understood and appreciated, will fully sustain it.

In 1819, a treaty was negotiated between the United States and Spain for the acquisition of Florida. One of the stipulations of that treaty provided that the United States will cause satisfaction to be made for injuries, if any, which, by process of law, shall be established to have been suffered by Spanish officers and individual Spanish inhabitants by the *late* operations of the American army in Florida. In 1812 and 1813, there was an invasion of East Florida, and in 1814 an incursion was made into West Florida, under the direction and command of General Jackson. The army of the United States had also gone into the Territory of Florida in 1818, and the clause in the treaty already referred to evidently meant to provide for the spoliations committed during the last invasion, for it refers to the *late* operations of the American army in Florida.

The Secretary of the Treasury, [Mr. Crawford,] during Mr. Monroe's administration, decided, and the decision was acquiesced in by the whole of the Cabinet, including Mr. Monroe himself, that the spoliations which were committed prior to 1818 were not included within the provisions of the section which I have quoted. His decision was subsequently affirmed by Mr. Rush, and the Treasury Department conformed its action therewith. The decision was made on claims where the depredations were committed in 1812 and 1813, and they were disallowed because Mr. Crawford held that only the spoliations of 1818 were provided to be paid by the treaty.

Mr. STANTON, of Tennessee. I think the gentleman will find, upon examination, that the decision of Mr. Crawford was made upon a case which occurred during the invasion of West Florida, where it was decided that General Jackson had a right to follow the enemy into neutral territory, and that it was not against the law of nations. I think that the claim was based upon that ground. The case of General Matthews, in 1812 and 1813, stood in an entirely different position.

Mr. ORR. I will come to that point in a short time. By the second section of this act of 1823, to which I have referred, it is provided—

"That in all cases in which said judges"—

and I ask the attention of the House to its phraseology—

"in all cases in which said judges shall decide in favor of the claim, the *decisions, with the evidence* on which they are founded, shall be, *by the said judges, reported to the Secretary of the Treasury, who*, on being *satisfied* that the same are *just* and *equitable, and within the provisions of the treaty*, shall pay the amount thereof to the person or persons in whose favor the same are adjudged, out of any money in the Treasury not otherwise appropriated."

The act directed the district judges in the Territory of Florida to investigate all these claims, and report the result of their examination to the Secretary of the Treasury, subject to his revisal and approval.

It has been contended that it was unconstitutional to constitute the Secretary of the Treasury of the United States an appellate tribunal to overrule the judicial decisions which had been made by one of the district judges. It has been further insisted, in urging these claims upon the House, that where the judges decided that a certain amount was due, and awarded interest upon it, that the decree could not be separated by the Secretary of the Treasury, and if he paid any portion of it he was bound to pay all.

Well, I concede that that is true as a legal proposition, if the judicial officers in Florida were acting, in determining these questions, as *judges*. But they were acting in no such capacity. They were designated as "judges," &c., as a mere *discriptio personæ*, and were merely commissioners, as the act itself clearly demonstrates. They were to receive and adjust all claims, and, if they awarded favorably, they were to transmit the evidence and award to the Secretary of the Treasury, and if he determines the claims so reported, just and equitable, then he is to pay them. Is there not a wide discretion here confided to the Secretary, and with his right to supervise and reject their report, how can it be claimed that the functions of the judges were judicial?

But I have the very highest authority for declaring that the judges there did not act in a judicial capacity, but as commissioners, in which authority that very question is decided with reference to these very judges, and their acts. The authority is no less than the solemn decision of the Supreme Court of the United States, on this precise case—not a case merely analogous.

The following extracts from the opinion of Chief Justice Taney, delivered in the Supreme Court of the United States, will settle the question as to the character in which the Florida judges acted in these cases. It will show they acted as commissioners, and not judicially. The case was decided at December term, 1851. The case is the United States *vs.* Ferreria, reported in volume 13 Howard's S. C. R., 40. Chief Justice Taney says:

"The treaty of 1819, by which Spain ceded Florida to the United States, contains the following stipulation in the 9th article:

"The States shall cause satisfaction to be made for the injuries, if any, which by process of law shall be established to have been suffered by the Spanish officers and individual Spanish inhabitants, by the late operation of the American army in Florida.

"In 1823 Congress passed an act to carry into execution this article of the treaty. The first section of this law authorizes the judges of the superior courts established at St. Augustine and Pensacola, respectively, to receive and adjust all claims arising within their respective jurisdictions, agreeably to the provisions of the article of the treaty above-mentioned; and the second section provides, "that in all cases where the judges shall decide in favor of the claimants, the decision, with the evidence on which they are founded, shall be, by the said judges, reported to the Secretary of the Treasury, who, on being satisfied that the same is just and equitable, within the provisions of the treaty, shall pay the amount thereof to the person or persons in whose favor the same is adjudged.

"Under this law, the Secretary of the Treasury held that it did not apply to injuries suffered from the causes mentioned in the treaty of 1812 and 1813, but to those of a subsequent period. And in consequence of this decision, another law was passed in 1834, extending the provisions of the former act to injuries suffered in 1812 and 1813 but limiting the time for presenting the claims to one year from the passage of the act. This law embraced the claim of the present claimant." * * * * * *

"The territorial judges, therefore, in adjusting these

claims, derived their authority altogether from the laws above-mentioned; and their decisions can be entitled to no higher respect or authority than these laws gave them. They are referred, by the act of 1823, to the treaty for the description of the injury which the law requires them to adjust; but not to enlarge the power which the law confers, nor to change the character in which the law authorizes them to act.

"The law of 1823, therefore, and not the stipulations of the treaty, furnishes the rule for the proceeding of the territorial judges, and determines their character. And it is manifest that this power to decide upon the validity of these claims is not conferred on them as a judicial function, to be exercised in the ordinary forms of a court of justice, for there is to be no suit, no parties in the legal acceptance of the term are to be made, no process to issue, and no one is authorized to appear on behalf of the United States or to summon witnesses in the case. The proceeding is altogether *ex parte*; and all that the judge is required to do is to receive the claim when the party presents it, and to adjust it upon such evidence as he may have before him or be able to obtain. But neither the evidence nor his award are to be filed in the court in which he presides, nor recorded there; but he is required to transmit both the decision and the evidence upon which he decided, to the Secretary of the Treasury; and the claim is to be paid if the Secretary thinks it just and equitable, but not otherwise. It is to be a debt from the United States upon the decision of the Secretary, but not upon that of the judge.

"It is too evident for argument upon the subject, that such a tribunal is not a judicial one, and that the act of Congress did not intend to make it one. The authority conferred on the representative judges was nothing more than that of a commissioner to adjust certain claims against the United States; and the office of judges and their respective jurisdictions are referred to in the laws merely as a designation of the persons to whom the authority is confided and the territorial limits to which it extends. The decision is not the judgment of a court of justice. It is the *award* of a *commissioner*. The act of 1834 calls it an award, and an appeal to this court from such a decision, by such an authority from the judgment of a court of record would be an anomaly in the history of jurisprudence.

"Nor can we see any ground for objection to the power of revision given to the Secretary of the Treasury. When the United States consent to submit the adjustment of claims against them to any tribunal, they have a right to prescribe the conditions upon which they will pay. And they had a right, therefore, to make the approval of the award by the Secretary of the Treasury one of the conditions upon which they would agree to be liable. No claim is, therefore, due from the United States until it is sanctioned by him; and his decision against the claimant for the whole or a part of a claim as allowed by the judge is final and conclusive. It cannot afterwards be disturbed by an appeal to this or any other court, or in any other way, without the authority of an act of Congress."

* * * * * * * * * *

"The powers conferred by these acts of Congress upon the judge, as well as the Secretary, are, it is true, judicial in their nature. For judgment and discretion must be exercised by both of them. But it is nothing more than the power ordinarily given by law to a commissioner appointed to adjust claims to lands or money under a treaty, or special powers to inquire into or decide any other particular class of controversies in which the public or individuals may be concerned. A power of this description may constitutionally be conferred on a Secretary as well as a commissioner. But it is *not judicial* in either case in the sense in which judicial power is granted by the Constitution to the courts of the United States." * * * * * *

"Independent of these objections we are at some loss to understand how this case could be legally transmitted to this court, and certified as a transcript of a record in the district court.

"According to the directions of the act of Congress, the decision of the judge, and the evidence on which it is founded, ought to have been transmitted to the Secretary of the Treasury. They are not to remain in the district court, nor be recorded there. They legally belong to the office of the Secretary of the Treasury, and not to the court; and a copy from the clerk of the latter would not be evidence in any court of justice. There is no record of the proceedings of the district court of which a transcript can be legally made and certified; and consequently there is no transcript now before us that we can recognize as evidence of any proceeding or judgment in that court."

It is now fixed, I trust, beyond cavil, as to the character in which these judges acted. These extracts show that the Supreme Court have decided that the judges of Florida in acting, acted as commissioners, that they had the right to act as commissioners, and that Congress had not exceeded its constitutional powers in giving to the Secretary of the Treasury jurisdiction over the decrees and awards made by the judges or commissioners——

Mr. STANTON, of Tennessee, (interrupting.) With the permission of the gentleman, I wish to call his attention to the note which is appended to the decision. It appears by it, that after the decision was made, the attention of the court was called to previous decisions—which had not been printed—made by Judge Marshall, in which he decided that the judges, constituted by act of Congress, could not act as commissioners, unless they were nominated by the President and confirmed by the Senate. I need not refer him to the cases in which the Supreme Court of the United States has decided that an executive officer could not be clothed with the judicial power of the Government. I call his attention to that note, as I shall contest the inference which he has drawn from the case, and shall show that the court decided nothing, except that they had no jurisdiction, and that that is contradicted by the previous decisions of Judge Marshall.

Mr. ORR. I do not perceive the slightest conflict in the note to which the gentleman refers and the decision from which I have read, and hope he will point it out when he replies. I read the report to show what is the adjudicated law of the case with reference to these judges. I take this act, and show you from that what the fair interpretation of it is, and as further evidence, if the decision of the Supreme Court fails to satisfy my friend from Tennessee, [Mr. STANTON,] if the act still leaves him in doubt, I state, from reliable information, that these judges received a *per diem* compensation while they were thus serving as commissioners in addition to their regular salary as district judges. But suppose there was a conflict in the decisions of the Supreme Court, as the gentleman supposes; which would be best authority, the decision made in 1794, or in 1851? Would not the last decision control?

But I rely on these decisions to aid me in the construction which I give to the act of 1823 and 1834, that Congress never intended to confer upon the judges the power to decide these questions as *judges*, with the view of breaking down the conclusion which gentlemen attempt to adduce, that when they made a decree for the interest, the Government was as much bound to pay that as it was to pay the principal. The Secretary of the Treasury had the perfect right, under the law, to review the decisions. When the testimony was submitted, he had the right to dock the claims; he had the right to dock them to the extent of interest and principal, if he were satisfied that they were inequitably and unjustly awarded.

In 1823 this act was passed of which I have been speaking. Up to 1834, there had been drawn from the Treasury, under its provisions, the sum of $31,708. That was the whole amount drawn from the Treasury by the act of 1823. In 1834, however, Congress passed another act. It undertook to say by the passage of that act, that the spoliations committed in 1812-'13, in East Florida, and in 1814 in West Florida, were embraced in the treaty stipulations providing for the payment of indemnity. The act was passed; and I suspect that it was passed mainly upon the representations of the then Delegate from the Territory of Florida, and the report from the Committee on Foreign Affairs in the House of Representatives, submitted by Mr. Everett, of Massachusetts.

Before I enter upon this branch of the subject, it is necessary that I should make a preliminary statement. The Secretary of the Treasury, Mr. Crawford, during Mr. Monroe's administration, disallowed these claims of 1812, 1813, and 1814. The judge in Florida had previously proceeded to investigate them, made awards, and returned the awards and evidence to the Treasury Department, and they were filed there. Mr. Everett, in his report, asked that Congress should pass a supplemental bill to embrace those claims thus disallowed by the Secretary of the Treasury and his successors. The whole amount of claims provisionally awarded by the judge of the superior court of East Florida, Mr. Everett, in his report, says, was $41,866; and that claims to a much larger amount were presented, but rejected for various causes, which are set forth upon the record. These $41,866 embraced all the claims of 1812-'13; and there is left out of this item no claims except those of 1814. I assume that the amount of spoliations committed in 1814 were even less than those of 1812-'13. I have not the authority before me, but that inference is legitimate, especially when it is stated by Mr. Everett, in his report, that great care and caution was exercised by General Jackson in 1814, when he marched down into West Florida, to prevent any unnecessary spoliation or destruction of property.

Well, sir, the committee reported the bill, and it was passed in 1834. When that bill came before the House for consideration, the then Delegate from Florida, the honorable Mr. White—and I do not mean to cast any imputation upon him, or upon Mr. Everett, for I believe that they were both misled in regard to these claims—Mr. White, I say, made a specific declaration on this subject which is pertinent. I believe, further, with respect to both Mr. White and Mr. Everett, if they were standing where I now stand, that they would raise their voices, as I now lift mine, to prevent further payment of these claims. When the bill came up in the House for consideration, Mr. McKay, of North Carolina, inquired what was the amount of the claims provided for by the bill? It was a specific question—what is the amount of the claims provided for by this bill of 1834? Mr. White, the Delegate from Florida, the gentleman who had prepared an elaborate argument, and sent it to the Committee on Foreign Affairs, upon which their report was mainly predicated, a gentleman who was familiar with all of these claims and in all their aspects, gave a direct answer to that categorical question. What was that answer? Mr. White said "they would not exceed $40,000." Yet, Mr. Speaker, under the provisions of that act, with the report of Mr. Everett, declaring that the amount would not exceed $41,866 for all the claims of 1812 and 1813, the declaration of Mr. White, that the claims would not exceed $40,000, there has been already abstracted from the Treasury, by these claims, the enormous sum of $1,052,607 90.

Mr. STANTON, of Tennessee. I will make a suggestion to the gentleman. Mr. White, the Delegate from Florida, submitted an argument at that time to the committee which reported this bill, in favor of the admission of the West Florida claims, claims which are in express terms excluded from it; and I think the gentleman will find, on examination of that debate, that Mr. White was then speaking of the West Florida, and not of the East Florida claims.

Mr. ORR. Mr. Speaker, I will read all that was said on the subject. There is no misunderstanding it. There can be none with reference to what Mr. White intended to declare upon the floor of this House. None, sir. He may have been imposed on; he may have been deceived; but I charge here, sir, if the claims really, and in good faith, amounted to upwards of a million of dollars at that time, that a fraud was perpetrated on the House in the passage of that act.

The debate, which is to be found reported in the Congressional Globe of Twenty-Third Congress, vols. 1 and 2, is as follows:

"On motion of Mr. WHITE, the bill for the relief of certain inhabitants of East Florida was taken up and read.

"Mr. McKAY inquired what was the amount of the claims provided for by this bill?

"Mr. WHITE said they would not exceed $40,000.

"Mr. WILLIAMS called for the reading of the report of the committee relative to these claims.

"Mr. WHITE said he could explain these claims in less time than the reading of the report would require. Mr. W. went into a statement of the *occupation of East Florida by the United States in* 1811, *and the nature of the claims arising out of this occupation.*

"After a few remarks between Messrs. McKAY and WHITE, the bill was laid aside."

This is an exact quotation from the debate which resulted in the passage of the act.

Mr. CLINGMAN. I would like to know how much, in addition to what has already been allowed, this bill appropriates? I am told that it appropriates $1,400,000 additional. It is well that the House should be advised on this subject.

Mr. ORR. The information which I have upon that subject—I have not made the calculation myself—is, that, if this bill passes, to pay interest upon all these awards, it will require $1,556,000 in addition to what has been already paid.

Mr. STANTON. I wish to correct the gentleman. The whole amount claimed under this bill for interest will amount only to about $1,280 000.

Mr. ORR. If the gentleman has made the calculation, I do not call in question his result.

Mr. STANTON. I have made the calculation, and the result is what I have stated. The amount stated by the gentleman includes $244,000 for interest subsequent to the decrees to which the gentleman has alluded. That claim is not provided for in this bill. If they are included, the whole will amount to $1,556,000, as the gentleman has stated.

Mr. ORR. Well, sir, the aggregate amount of the claims included in this bill will reach nearly $1,500,000.

After the act of 1823, which was passed by the men who made the treaty of 1819, and which was expounded by the men who made the treaty, but $30,000 was paid for these claims during the first eleven years; and at the time of the supplemental legislation upon the subject, it was stated that they would not exceed $40,000. But, sir,

that $40,000 has already swelled to more than $1,050,000, and this bill proposes, without further examination, to increase it still further by appropriating now another $1,500,000.

Mr. Speaker, it was well that some revisory power was given to the Secretary of the Treasury over these claims. I regret exceedingly that he and his successors did not use the pruning knife on the claims allowed more vigorously. If we could examine all of them it would be most apparent that the provisions of the treaty providing for indemnity to Spanish subjects had been fully executed with prodigal liberality, and that these claimants have already received sums abundantly sufficient to pay all losses, damages, and interest. Are we under obligation to do more than this? The treaty has already been fulfilled—liberally, generously fulfilled.

Sir, I have a copy of abstracts of some of these claims which were awarded and paid at the Treasury Department, which I will read to the House presently, and which will show, in my judgment, the most monstrous exaggeration, if not fraud, ever allowed by this Government. Yes, sir, the most monstrous. I have before me abstracts of claims which were awarded, and every dollar paid by the Secretary of the Treasury, the perusal of which ought to make an honest man blush.

Mr. Woodbury, in 1835, was the first Secretary of the Treasury who refused to allow interest upon these awards.

Mr. GIDDINGS. If the gentleman will allow me, I desire to ask him a question. He has stated that Mr. Woodbury disallowed interest upon the awards paid by him. Now, I wish to ask, if General Harrison and his Secretary of the Treasury did not also disallow it upon the awards paid by them, and whether General Taylor and his Secretary of the Treasury (Mr. Ewing) did not make the same decision as Mr. Woodbury?

Mr. ORR. That decision has not been reversed by a single Secretary of the Treasury during a single Administration from 1835, the time Mr. Woodbury made his decision, down to the present time.

Now, sir, I desire the House to see how wise it was to confer this discretionary power upon the Secretary of the Treasury to revise these awards. Sir, how were they adjudicated? Was counsel sent to represent the United States? Not at all. The whole of these claims came up before the judges, and before the Secretary of the Treasury, wholly upon *ex parte* evidence. The showing was an *ex parte* statement. There was nobody there to contest them. Those who alleged that they had suffered, and chose to present their claims, presented them, and they were audited, and nothing was said or done to protect the Government from the most enormous frauds from being perpetrated.

Now, sir, I think the abstract to which I have alluded, of the awards in some of these cases, will show how little care or caution was taken in examining these claims, and how liberally these sufferers have already been paid. The first claim I shall refer to is that of Zepheniah Kingsley, and here it is:

In the claim of Zepheniah Kingsley the principal is stated that, for the loss of crops, two thirds the estimated appraisal is allowed.

This is said to have been the principle of previous decisions. Date of award, August 13, 1843.

In this award seventeen thousand five hundred pounds of ginned and packed cotton was allowed, at fifty cents per pound	$8,750
Twenty-five thousand pounds of cotton in the seed, at fifteen cents per pound	3,750
	$12,500

I ask the gentleman to notice that the cotton for which these amounts were claimed and paid, was not for cotton that was actually destroyed, but for the crop he claims that he was prevented from raising.

Mr. PRESTON. What is the date of that claim?

Mr. ORR. It was some time in the year 1812, I think. The precise date is not given.

The next claim to which I shall ask the attention of the House is of John Fraser, deceased, for losses sustained in East Florida—and, by the way, that does not sound like a Spanish name. The treaty provided that no persons, except Spanish subjects, should be entitled to the benefit of the provisions, or of the stipulations, which I read to the House at the opening of my remarks. Here is the claim:

Award in the matter of the claim of the executors of John Fraser, deceased, for losses in East Florida, in 1812 and 1813.

For the crops of the Greenfield plantation for 1812,	$82,087
For crops of the same plantation for 1813, or damages for being prevented from planting that year, say two thirds of the value of crops of previous year	54,725
[But, sir, there is another item even worse than that.]	
Crops of the rice plantation on the St. Mary's, in 1812	11,600
For crops in the same plantation, in 1813, or damages for being prevented from making crops that year, say	7,734
For merchandise destroyed, (vide testimony, particularly Richards's answer to forty-ninth interrogatory,) which is included in the first petition,	1,000
	$157,146

Making $157,146, which has already been paid to this claimant, and now this bill proposes to pay the same claimant something more than $160,000 in addition. Two large items being for crops that were never planted. Is it not preposterous, Mr. Speaker? Can it be that as extravagant, as prodigal as we are with the public money, can it be that a claim of this character will be allowed to pass the House of Representatives?

Well, Mr. Speaker, to quiet the fears of many gentlemen upon this subject who may suppose that I have gone and hunted out these particular cases, I desire to state that they were called for by me, and that they are abstracts of the two or three first claims that the auditors laid their hands upon. They have not been gotten up for the occasion, and if time had permitted, if I had been allowed the opportunity, I believe that I should have been able to have brought documents here showing that the awards of these judges for the benefit of these claimants allowed them from two dollars to five dollars per bushel for sweet potatoes! and other charges equally extortionate.

Mr. Speaker, I do not desire, unnecessarily, to detain the House upon this subject. But I felt that it was necessary that something should be said. I felt that it was necessary that a bill proposing to appropriate this large sum of money should be discussed. I have no doubt that the chairman of the Judiciary Committee, and many of the members of that committee, have been deceived into making a report in favor of this claim by *ex parte* statements. It is a long and difficult matter to go through all the documents in such cases. I myself have not been able to wade through all of them. There is one other document which I have not adverted to—a report submitted by Mr. Forsyth, of Georgia, when he was a member of the House of Representatives, adverse to this very claim, prior to the passage even of the act of 1834, and when it was supposed that we should only have to pay $40,000 for all the spoliations committed in 1812, 1813, and 1814.

Mr. Speaker, these claimants have already received more than they are entitled to, in my judgment. They have already received three dollars for spoliations where their property was only injured to the amount of one dollar; and I protest against the payment now of interest upon these spoliation claims that have already been paid. I call upon gentlemen on this floor to vote against this bill, at least until they have had explained to them the facts which I have felt it to be my duty to bring before the House for its consideration.

Mr. STANTON, of Tennessee. Mr. Speaker, I will give way to my friend from Florida when I have finished my argument, for I am sure that I shall not be under the necessity of speaking for more than half an hour in reply to the extravagant assertions and arguments of the gentleman from South Carolina, [Mr. ORR.] And here I beg leave to inform my friend from South Carolina that I have not been deceived into making this report. I had before me the representations of the present Secretary of the Treasury, made in his elaborate report, together with a statement of all these cases. I have also considered the opinions of all the Attorneys General, and all the Secretaries who have ever examined the claims. I think I shall be able, in a very few words, and in a very short time, to show gentlemen that all the enormities which that gentleman has pictured are the creation of his own imagination, and are not facts connected with this case.

Now, sir, in the first place, as to the losses. The assertion of Mr. White, made in 1834, to the effect that these claims would not amount to more than $40,000, I am at a loss to explain. I do not know what motives could have induced him to make such a representation, varying so much from the facts as they were subsequently established before the judicial tribunals. But whatever may have been the causes of that assertion on the part of Mr. White, they have no control, and ought not to have any effect upon the decision of this case. I believe, from having looked into the representations of Mr. White, who was extremely anxious and ardent in his advocacy of the claims which originated in West Florida, that his allusion was to those claims, and not to those which originated in East Florida.

I wish now to call the attention of the gentleman from South Carolina to the important fact, that in 1849, after a million and a quarter of these claims had been paid, the Congress of the United States passed a bill to authorize other parties who had not presented their claims in time, under the previous act, to present them and have them adjudicated. Congress was not then ignorant of the amount which had been established, by proof satisfactory to the judges and the Secretary of the Treasury.

Mr. ORR. I concede that fact. The Congress of the United States was appealed to by parties who had not presented their claims before the judges, under the previous act, and it was said that, if those parties had good claims, they ought to be paid, even although the time had expired. Congress simply said to those parties: Come in and prove your claims, and we will do you the same justice that we have done to those who presented their claims in time.

Mr. STANTON. Exactly. That is true. But Congress did that after a million of these claims had been paid, and with the distinct knowledge that such an amount had been awarded under the previous law.

Now, Mr. Speaker, let me say a few words in reference to these "enormous" cases, which the gentleman from South Carolina has cited here. These occurrences took place in 1812-'13. What was the condition of this country at that time? Does not everybody know that a certain port in Florida was almost the only neutral port in the world? Does not everybody know that the staple productions of the country, and especially cotton, bore an immense price at that time? And can my friend from South Carolina say that the estimate put upon the cotton that was destroyed by the American army—even although it might be fifteen cents per pound for seed cotton, and fifty cents per pound for ginned cotton—was not the price current of that time?

Again, sir, the gentleman from South Carolina ridicules the idea of some of these parties having been reimbursed by these judges for damages resulting from their having been prevented, by the operations of the American army, from making their crops. Well, I submit it to every lawyer in this House; I submit it to every man of common sense, whether that is not just as legitimate an object for indemnification as the destruction of a growing crop? Suppose, in the spring of the year, when I have just plowed my land, and got my seed ready to plant, when I have my negroes or hired laborers ready to perform the work, and all my contracts depending on it, an army marches through the country, breaks down my fences, burns my house, and drives away my whole force of laborers from the plantation, will the gentleman from South Carolina say that that is not just as legitimate a ground for indemnification as if the crop had been growing?

Sir, it is unnecessary for me to go further in reference to that point; but I tell the honorable gentleman that if he will examine all the proceedings in reference to those cases which he has quoted, he will find that Mr. Secretary Woodbury, before he paid the awards, sent the papers and the testimony back to the judges in Florida, and ordered them to take new testimony.

The gentleman says that the Government of the United States had no counsel. Now, sir, although the judges were not bound to obey the instructions of the Secretary of the Treasury, yet they did, from comity and deference to the Secretary, reopen and take new testimony in every case in which Secretary Woodbury, or any other Secre-

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tary of the Treasury, thought that an unreasonable allowance had been made. On these grounds, if on no other, I think the gentleman from South Carolina is utterly precluded from raising the objection that these claimants have had already paid to them a larger amount than they were entitled to. The cases in which the amount of award was considered too large by the Secretary, were sent back for reëxamination; and when the Secretary did decide upon them, he allowed these claims, with all the testimony before him, as just and equitable within the provisions of the treaty. Sir, I beg that gentleman [Mr. ORR] to understand this point of law which I put to him, and to every other lawyer in the House, that it was not on this ground that the Secretary of the Treasary refused to pay interest; not on the ground that the parties had been allowed more than they were entitled to; not on the ground that the assessments were extravagant; but on the single ground, as stated by Mr. Woodbury himself in these words: "Approved, with the exception of interest, which, it is believed, has not been allowed in any similar case."

I beg leave to refer you, Mr. Speaker, to the letter written by Mr. Spencer, who was Secretary of the Treasury, and who had the decision of these claims during his term of office. Mr. Secretary Spencer says:

"I am quite certain that, in considering the power of the Secretary to revise the decisions of the judges in Florida, on claims under the above acts, I did not take into view the question whether the measure of compensation for losses was to be found according to the rule prescribed by the law of nations, but rather regarded it as a question arising under our acts of Congress, and to be decided on the same principle which governs in cases of claims by our own citizens on our own Government. Whatever decision I made on the question of interest on the Florida claims, had reference to *prospective interest accruing after the award was made*, or to the allowance of interest *eo nomine*, and not as a measure of compensation at the time of the award for the losses of property; and so far as my decisions may be questioned, they are not to have any bearing on the points herein stated."

Judge Bibb, another of the Secretaries, says:

"I signed an order drawn up by one of the clerks according to the form previously observed in like cases."

Although I read from a printed pamphlet, I have before me the manuscript letters of these and other distinguished gentlemen, Secretaries and Attorneys General, to the same effect.

Now, sir, Judge Bibb signed an order written by one of the clerks, and he says it was a blunder, and that if the question had been brought to his mind he could not have decided in that way. Well, how did Mr. Secretary Woodbury treat these cases? He said "approved with the exception of interest." This is his exact language—"with the exception of interest, which, it is believed, has not been allowed in similar cases." That is the whole thing. Now, Mr. Woodbury might have intended the case to apply only to accruing prospective interest, as stated by Mr. Spencer. He might not have intended it to apply to the interest allowed by the Florida judges, and incorporated in the body of their awards. It is possible, and I might even say probable, that his order was misconstrued by the accounting officers. It seems afterwards to have been followed as a precedent without question, and with little consideration.

I am aware that when I quote the statements of these distinguished gentlemen, made after their retirement from office, it will be said that malign influences have operated upon them. There might be some plausibility in this objection, if there were only one or two who had placed themselves in this position, and if their well known character did not shield them from such an imputation. But when there is such a general concurrence among these distinguished gentlemen, the suspicion of their being influenced by undue motives, or controlled by a pliant and yielding disposition, becomes preposterous. The fact must, therefore, stand out as unquestionable, that most of the Secretaries who are quoted as having decided against the present claims, did not intend their decisions to have that effect.

The gentleman from South Carolina remarked, in the commencement of his speech, that this bill was designed to overrule the consistent action of the Treasury Department from 1834 down to the present time. I do not so understand it. It is not to overrule the Department in any particular; for, by the declaration of Mr. Guthrie, in his report which I have here, it is stated that the decision was based upon the *usages of the Department*, and *the precedents in these cases;* that is, upon the supposed principle that the Department was not authorized in any case to pay interest. It was not a decision against the propriety and justice of the allowance as made by the judges.

Now, Mr. Speaker, let us look at this position for a single moment. "The Department is not authorized in any case to pay interest." Well, now, the Secretary of the Treasury, according to the view of my friend from South Carolina—in which view, however, I do not concur—was acting as a commissioner in deciding upon these cases, and not as Secretary of the Treasury. He was acting as a judge, as an appellate tribunal, according to his idea, to review the decisions made by the Florida judges. If he was not acting as Secretary of the Treasury, he was acting under the law of nations, and should have been controlled by the principles of public law, which have governed the United States in all similar cases, and which have governed not only the United States, but every Government on the face of the earth, and every court that has ever decided questions of the kind, as I have shown in my report, quoting the decisions of the courts and the action of the Government in similar cases.

Mr. CLINGMAN. Will the gentleman from Tennessee let me state a single word before he sits down?

Mr. STANTON. The gentleman from North Carolina will excuse me for the present. Every man who considers this case must acknowledge that if the Secretary had the power to review and alter the awards of the judges, that could not have been in his capacity as a mere ministerial paying officer. He was not acting as Secretary of the Treasury—he was acting as a commissioner, or a judge. His functions, which he seems to have confounded with the ordinary duties of his office, were of a wholly different character. I do not mean to be understood as admitting that the Secretary had any such authority under the law; but I insist that, upon the supposition of his having such authority, he was invested with a new character, and had no right to apply the "usages of the Department" to a case originating under a treaty. The great principles of international law were the only principles upon which his decisions ought to have been founded. To repudiate those principles now, upon whatever pretext, will be, in my judgment, a gross violation of public faith.

Mr ORR, (interrupting.) I desire to call the attention of the House, and particularly that of the gentleman from Tennessee, to the second section of the act of 1823, to indicate the discretion which was intended to be confided to the Secretary of the Treasury, "who, on being satisfied (that is, the Secretary of the Treasury,) that the same is just and equitable within the provisions of the treaty, shall pay," &c.

Mr. STANTON. Exactly.

Mr. ORR. "Equitable and just" is the general direction, and the controlling of that "equitable and just" is, that it shall be embraced within the treaty.

Mr. STANTON. True, such is the language of the act of Congress; but I refer to the treaty in order to show that the position assumed by gentlemen here and elsewhere, and attempted to be sustained by the decisions of the Supreme Court, namely, that the Secretary of the Treasury had the power to review this case and to decide as he did, cannot be sustained upon any sound principle of construction. I shall presently argue and show that even if the Secretary of the Treasury had such an authority, he decided wrong; that his decision is against every principle that has been ever adopted in similar cases by every sort of tribunal. But I say that he had no such authority. And I take that position on the very ground of the decision of the Supreme Court, or rather of the two decisions of the Supreme Court of the United States, as quoted in Ferreira's case, and in the note appended by Judge Taney. In the case of Hale Todd, as stated in a note appended to the case quoted—it being a manuscript case and never reported—the judges could not act in the capacity of commissioners. Why? Because a commissioner is a judicial officer of the Government, under the Constitution. He is clothed with a sort of judicial power, and certainly exercises high functions of a very important character; he cannot, therefore, be nominated by an act of Congress. That is the effect of the decision of the Supreme Court, as I understand it, in the case of Hale Todd, as reported in 13 Howard. Judge Taney directed the note to be appended to the report of the case, although he does not correct his decision in any particular, and, for aught I know, he may still entertain the same views as when he first drew up his opinion.

I must, with all deference to that distinguished gentleman, and the court over which he presides, dissent *in toto* from the effect and operation of these opinions. The Government of the United States might probably appoint judges to be commissioners in the constitutional mode; but it must be done by regular appointment, with the advice and consent of the Senate, before a party can exercise the function of his office. I appeal to every gentleman present, whether this is not a truth which no man can deny. But, then, it may be said, as Judge Taney intimates, that the whole of these proceedings are void. Not at all; because by treaty these claims were to be adjudicated *by process of law*, and because, by the act of Congress, the Florida judges were clothed with authority and jurisdiction over them. It is a fair and universal rule of construction, that if a law can be understood to do a proper, constitutional thing, it ought to be so construed, and not so as to be void and without effect. Congress has the power to extend the jurisdiction of any particular court. It had the power to extend the jurisdiction of the Florida courts to the adjudication of these cases. It is only a fair construction of the act of 1823, to consider it as extending the jurisdiction of the Florida courts, in order to fulfil the treaty obligation, and to determine these cases by process of law.

By the act of Congress, the judges of the district courts in the Territory of Forida were authorized to make the adjudication. One of these judges afterwards resigned, and other judges were appointed under a different system, who went on to adjudicate these claims, which were settled at the Treasury. Does not this fact show that these judges were not appointed commissioners in their personal capacity, but that as courts they were clothed with jurisdiction to decide these cases. If this argument be sound, it follows, as a matter of course, that the Secretary of the Treasury could have had no authority whatever to review their decisions. If the Florida judges acted in their official capacity as a court, then the principle is too plain for argument that an appeal could not be granted to an executive officer. Such a thing would be a solecism in our political system, which vests the judicial authority in separate officers, and not in the Executive Departments. But if the principle were different, a more unfair and partial tribunal for the adjudication of international demands could not be well devised. The very instinct of a paying officer is to resist all demands, and to pay only upon positive law, settled and applied by other authority.

But what was the effect of the language used in the act of 1823, directing the Secretary to pay these adjudications? It gave authority simply to see that the cases were justly and equitably within the provisions of the treaty. The same authority is vested in every ministerial officer whose duty it is to execute the orders or judgments of a court. If he attempts an arrest he is guilty of false imprisonment, unless the court had power to issue the process upon which he acts. He is bound to know, at his peril, that he is not acting upon an

order which was beyond the authority and jurisdiction of the court. Just in the same way, and to the same extent, the Secretary of the Treasury was authorized, by the law of 1823, to examine the grounds and evidences upon which these were based, in order to ascertain whether they were within the provisions of the treaty.

Mr. ORR, (interrupting.) I have hurriedly glanced over the note to the decision to which the gentleman has directed my attention. I do not think that the opinion there expressed conflicts at all with the opinion given by Chief Justice Taney. The second point made in the note is this:

"That, as the act of Congress intended to confer the power on the courts, as a judicial function, it could not be considered as an authority to the judges composing the court to exercise the power out of court in the character of commissioners."

I do not see how there is any conflict between the two.

Mr. STANTON. I look upon the effect of the decision in an entirely different light from my friend from South Carolina. The case of Ferreira was carried up to the Supreme Court of the United States, at the suggestion of the Secretary of the Treasury, for the purpose of determining the question of interest. The district attorney of the United States was directed to argue and contest that case before the judges in Florida. He did so, and the judge [Bronson] delivered one of the most learned, forcible, and conclusive opinions that I have ever read. I now have it before me, and if it were necessary, I could quote passages showing that the decision of the Secretary was utterly unwarranted by any principle of law. The Supreme Court of the United States, whatever they may have said in their decision, have not touched the points contested in that case. They dismissed the appeal for want of jurisdiction, and having no jurisdiction of the case, whatever they may have said upon any point involved, is not a decision—it is, in technical language, a mere *obiter dictum*, and ought not to be cited as authority, especially when their argument is against well settled principles of constitutional construction.

But now, Mr. Speaker, suppose the Secretary of the Treasury had authority to review these cases; and suppose, in pursuance of that authority, he has decided those claims upon the grounds upon which he has placed his decision, and suppose, further, he has committed a gross error, what is Congress to do? If you will read the opinions of the Attorneys General, from the inception of this controversy, you will find that every one of them entirely overlooks the principles of public law applicable to the case, and bases his opinion solely and distinctly upon "the usage of the Department." I have already shown, I think, that whatever authority the Secretary may have had to review the awards and modify them, it could not have been in his capacity of Secretary, but in the wholly different one of commissioner or judge. If the judges in Florida did not act as judges, the Secretary of the Treasury did not act as a mere Executive officer. He was, therefore, not at all confined to the principles governing in the ordinary routine of departmental business. He was a judge, adjudicating treaty obligations, and subject only to the principles applicable in such cases. In that capacity of judge, he has decided a principle of international law contrary to every authority to be found upon the face of the globe. I ask if we ought not to correct these mistakes made by the Secretary of the Treasury? Here is the opinion of the present Attorney General, in which he distinctly admits that the weight of authority—and he ought to have said *all authority*—is against the decision of the Treasury officer. But, admitting the *weight* of authority to be against it, he says:

"I recommend, therefore, that the matter be now laid before Congress in the form required by the resolution of the Senate."

For what purpose? To decide a great principle of international law, which is to control this Government, and all other Governments, in all similar cases.

Sir, I have not, like the gentleman from South Carolina, thought it necessary or proper to go behind the decisions of the Florida judges. The Secretary has not attempted to go behind them. *He has approved the awards.* Let this fact be distinctly understood. Whatever authority he may have thought proper to exercise, in reviewing the cases and ordering them back, he has approved the awards, and they stand unimpeached and unimpeachable upon any just principle, notwithstanding the violent denunciation of the gentleman from South Carolina.

Mr. ORR. The Secretary of the Treasury, in the exercise of the authority conferred upon him by the act of 1823, rejected many of the claims which were sent to him by those judges.

Mr. STANTON. The Secretary of the Treasury did reject, and send them back, and the judges were in all instances directed to reëxamine them, and take new proof. These cases were sifted as thoroughly as ever any cases were sifted in any court of justice. The interests of the United States were carefully attended to, both by the judges and by the Secretary of the Treasury. Every sort of testimony in the knowledge of either of the parties was directed to be taken, and it was only when the cases were thus sifted that they came back to the Secretary of the Treasury, and were by him approved. I beg the House will understand this fact, that the Secretary approved these decisions, and allowed them, with the exception of the interest, which he believed was not allowed in similar cases. There was his mistake. There was his plain violation of authority, because he approved the estimates of the judges of the judicial tribunal which made them, and he pronounced upon a mere point of law, in which the Florida judges were right, and he was wrong. I place this important fact against the loud and violent assertions of the gentleman from South Carolina. The Secretary did not consider or decide that the Florida judges had allowed too much. On the contrary, he admitted their awards, and indorsed them with his approval; but he accompanied his approval with a decision against the allowance of interest. I insist that the action of the Secretary shall be considered precisely according to its legitimate force and effect, which was to sanction the facts and estimates of the Florida judges, and to overrule them in the application of a rule of law. I therefore maintain, that the awards are not open to question except so far as the interest is concerned. The gentleman from South Carolina is not justified upon any principle in going behind these awards. But if he were, it would be unfair and illiberal to stigmatize the awards, approved as they have been, without looking at the testimony on which they were made.

The whole question, therefore, being narrowed down to the point of law involved in the decision of the Secretaries, I feel that it would be an insult to the intelligence of this House, and especially of the many professional lawyers in it, to produce an argument to show the error committed. I content myself with referring to the authorities quoted in my report. No one has contested those citations of authority. The principle stands acknowledged. Every court, and every commission have allowed interest in like cases. Our Government demands it upon all occasions; and, as I have heretofore said, we must hereafter abandon all such claims, and announce a new principle in the law of nations if we refuse to pay the present demand. It will be the foulest violation of past obligations, it is true; but we shall measurably redeem ourselves, if, in repudiating this debt, we, at the same time, announce that we shall always act upon the same principle when we make demands of indemnity from other Governments.

My friend from South Carolina alluded to the fact that the Florida judges had been allowed additional compensation for their service in these cases. I cannot see that this fact has any bearing upon the question. They were required to take cognizance of cases which opened up a new field for adjudication, which greatly increased their labors for a period of several years. It was just as reasonable to allow them additional compensation as if they had been appointed in the capacity of commissioners.

I will now yield to the gentleman from Florida, [Mr. MAXWELL,] upon the condition that he will call the previous question.

Mr. CLINGMAN. I appeal to the gentleman to allow me a few moments to make an explanation in a matter personal to myself. It will be found that I voted the other day to suspend the rules to take up this bill. Before doing so, however, I went across the Hall to the chairman of the Committee on the Judiciary, [Mr. STANTON, of Tennessee,] and informed him that I was willing the bill should be considered, as I am that all demands should be considered; but I desired to know whether, if the rules were suspended to take it up, he intended to move the previous question, or to allow it to be discussed. He replied it was his intention to allow it to be debated. Under that impression, and with that understanding of the matter, I voted to suspend the rules to take it up. It was taken up; and after the gentleman had spoken upon it, he moved the previous question. I then reminded the gentleman of the conversation we had had, and appealed to him to withdraw the demand for the previous question, and let the matter be examined in debate. He declined to do so, and I informed him I should vote against the bill, although he had made out a plausible *prima facie* case. I shall vote against it; and in doing so, I act upon this principle: that when any one proposes to make an inroad upon the Treasury to a large amount, and refuses to allow discussion and debate, I assume that the measure will not bear discussion and investigation. I remember two or three bad bills have been passed by this House, and all on account of their being put through under the operation of the previous question; but I do not know of a single instance, in my time, where a claim against the Treasury, of any amount, has been wrongfully passed after a full and free discussion upon it.

Mr. KERR. I wish to remind the gentleman that the gentleman from South Carolina [Mr. ORR] has gone into the whole case, in opposition to the bill.

Mr. CLINGMAN. I am speaking principally of what occurred the other day. I think the gentleman from South Carolina showed conclusively that the bill ought to be defeated. But I was about remarking—and I hope gentlemen will bear it in mind—that I think every gentleman ought to be prepared to vote against any money demand when its friends come forward and refuse to allow an investigation of it. I would just as soon, were I one of a jury, after the Crown officer had ended his testimony, and before rebutting testimony had been given, or the case placed fully before the jury, give a verdict against the prisoner, as to give a verdict against the Treasury upon the *ex parte* statement of the friends of the claim, who refuse to allow debate, and, indeed, seek to stifle debate. If it had not been for this putting a stop to debate by the previous question, two or three bad bills would have been defeated in the last Congress, which did pass under this system. That clerk's bill, which passed, never would have got through had it been debated in the Committee of the Whole on the state of the Union; and the same is true of several others.

I beg leave further to say, that the gentleman from Tennessee [Mr. STANTON] told me, when I appealed to him to withdraw the demand for the previous question, his friends were insisting upon his adhering to it, and that he could not withdraw it. I then said I should vote against the bill on that ground alone.

Mr. STANTON. It never was my intention to attempt to pass this bill without debate. I had made a report, in which I had set out at length the provisions of the treaty and both the laws passed by Congress to carry it into effect. I had also distinctly stated the form and character of the awards, and pointed out the sources whence all proper information could be obtained. When I presented the matter on Monday, it was my intention to leave it open to debate. But I was appealed to from all sides by gentlemen who had other matters to bring before the House, informing me that the case was well understood, and that every body was prepared to vote on it. With that understanding I demanded the previous question in deference to others, and not on my own account; but I have not been afraid of debate on the question, because I believe the more it is debated the better it will stand before the House and the country. I now yield to the gentleman from Florida.

Mr. MAXWELL obtained the floor, but yielded it to

Mr. CRAIGE. I wish to correct a statement of my colleague. He speaks of this claim as having been fully discussed, and as not being objected to on the ground that it had not the fullest discussion. When this matter was taken up the other day I did desire to discuss it. I then thought that I understood it. I had been bored by the men who had these claims before Congress. I thought the bill asked Congress to legalize a

principle which I supposed the Democratic party regarded as one of the articles of its creed. But the gentleman called for the previous question, and I had no chance to discuss the question. I did not much care about doing so then, nor do I intend to discuss the question now.

Mr. BRECKINRIDGE. Mr. Speaker, by leave of the gentleman from Florida, I will make a suggestion. It is impossible for every member of the House to examine very thoroughly every claim which is brought before the body, and we have to rely, to some extent, upon the reports of committees. Understanding that this bill was unanimously reported on favorably by the Judiciary Committee, and having read a portion of the documentary evidence in its support, I, with many other gentlemen, came to the conclusion that the principle on which it was founded was correct—which was, that, in giving satisfaction to the subjects of a foreign nation for damages inflicted by our troops, it was proper to pay them full compensation for the losses which they sustained in the seizure of their property, and that no departmental regulation of the Government touching interest ought to interfere with it. But the principle for paying them for loss of their property reaches no further than the giving them full indemnity. And I want to call the attention of my friend from Florida to the point which has been made by the gentleman from South Carolina [Mr. RR] this morning—that the claimants probably have, if the cases which he read may be considered as a sample of the whole, received full indemnity for whatever loss they may have sustained. And it will be a considerable point, no doubt, in the minds of many gentlemen who were disposed to be favorable to this measure, if he can show that the amount already paid to these claimants out of the public Treasury was no more than a just and fair indemnity for the principal of the loss sustained, and can also explain the extraordinary conflict between the statement of the then Delegate from Florida (Mr. White) upon this floor, as to the amount of these claims being $40,000, with the fact that they have been already paid, as I understand from the gentleman from South Carolina, [Mr. ORR,] $1,200,000. If they have already been paid enough, I am unwilling to vote more, on the principle of indemnifying them in damages for the loss of the use of their property, although I believe that that principle is a correct one when this Government is making satisfaction to the subjects of foreign Governments under such a treaty as that with Spain of 1819.

Mr. PARKER. With the permission of the gentleman from Florida, I will make a brief personal explanation. I feel it to be my duty to state, after what has been said, that the House is laboring under a mistake if it supposes this bill comes here with the unanimous approval of the Judiciary Committee. Such is not the case. I voted against it; and, in doing so, I was not alone. I had the expectation that, when it came here, it would be referred to the Committee of the Whole on the state of the Union, and there be discussed.

Mr. BRECKINRIDGE. I was informed that the bill was unanimously reported to the House.

Mr. MAXWELL. Mr. Speaker, I feel it incumoent upon me to say something to the House in reference to the claim under consideration, although much I would have said, had I obtained the floor when my friend from Tennessee was recognized, has been already said by him. Yet in the discussion which we have had here this morning, it has been put in a position where my own self-respect and the respect which I entertain for the constituency who have sent me to this Hall, forbid that I should longer remain silent in my seat. I come, then, not only to urge the propriety of the passage of the bill, but to vindicate my people, to vindicate your eminent officers of Government—to vindicate all who have had conection with this claim from the charge which has been boldly made against them upon this floor, of having perpetrated a fraud upon the Congress of the United States. I feel that they can be vindicated; and really the case is so plain that I shall have to make but little effort to brush away the bug-bear which the gentleman has raised before the eyes of honorable members.

But for what has been said by my friend from South Carolina, [Mr. ORR,] I should have contented myself to leave this measure to be voted on without any word of mine in its behalf. The report of the able chairman of the Judiciary Committee [Mr. STANTON, of Tennessee] is so forcible and conclusive upon the merits of this claim, that I deemed it utterly unnecessary for me, although my constituents are interested in it, and it relates to a transaction in which my State is historically interested, to obtrude myself, as I very seldom do, (and of this the House will bear me witness,) on its attention. Therefore, I shall not now undertake to go fully into the merits of this claim. If the gentleman from Tennessee has not presented it with a force which will carry conviction to the mind of the House, I shall be unable to succeed any better.

I shall direct my remarks almost exclusively to a reply to the gentleman from South Carolina. He has made an argument which I think will not bear the test of scrutiny. He undertakes to prove it an unjust and improper claim. What argument did he adduce to prove it? He first went back to the action of the Department under the law of 1823, arrayed against us the word "late" in the English version of the treaty, which, however, does not occur in the Spanish version.

But, sir, his remarks in reference to the act of 1834, themselves render harmless any force that might otherwise have attached to this point in the argument he made, in bringing to the attention of the House the fact that the Congress of the United States, acting upon the responsibility which controls that body, acting upon the same responsibility which prompts the gentleman from South Carolina now to oppose this measure, feeling, I trust, all the conscientiousness in regard to the proper discharge of duty which he feels, I say, the Congress of the United States, under these circumstances, by its solemn act, recognized and adopted the fact that these claims came within the meaning of the ninth article of the treaty of 1819.

Now, sir, of what avail is it to urge the objections of Secretaries of the Treasury prior to 1834, when the act of Congress stands forth upon your statute-book, asserting that it was intended to provide for these claims under the treaty of 1819? They were intended to have been provided for under the act of 1823, and before the passage of the act of 1834 these citizens of Florida who were Spanish subjects when the injuries were inflicted, were pressing their claims for adjudication and settlement. But the Secretary of the Treasury, attaching importance to the word "late" in the treaty, upon which my friend from South Carolina has dwelt, but which, I think, was not intended to exclude these claims, refused to allow and pay them. During this time, there had been presented at the Treasury of the United States, by citizens of east Florida, claims amounting to about $40,000. These were all that had then been considered; and when Mr. White, the Delegate from Florida, stated that he did not believe the whole amount of the claims arising under the act of 1834 would amount to more than $42,000, I have no doubt he stated what was his honest belief. And the insinuation, the charge of fraud, made by the gentleman from South Carolina against Mr. White, falls to the ground, when we remember the circumstances, and the fact that these were all the claims that at that time had been presented for adjudication under the act of 1823.

Mr. ORR. If the gentleman will allow me, I expressly disclaimed any purpose to cast any reflection either upon Mr. Everett or Mr. White. I expressly disclaimed any purpose of charging either of them with the intention to commit a fraud upon Congress.

Mr. MAXWELL. Well, sir, the gentleman from South Carolina charged that a fraud had been committed upon the House, and intimated that it was through the statements then made that it was perpetrated. I do not see how he escapes from the position of having made that charge; but as he has disclaimed any such intention, I have nothing further to say upon the subject.

Now, sir, I come to prick this bubble which the gentleman has flaunted before our eyes to frighten us from our propriety. In order to prove that this claim is a fraud, he brings statements from the Treasury Department, which he has read to the House, setting forth certain allowances that have been made, which, in his opinion, are not only wrong, but monstrous. These claims, sir, were allowed, after having undergone the investigation of judicial officers of the United States, and after having undergone the scrutiny of the guardian of the funds of the United States in the Treasury Department; and if there had been anything about them so flagrantly improper as to shock the sense of propriety of any honest man; if there had been anything that would induce a fair-minded man to come at once to the confident conclusion to which the gentleman from South Carolina seems to have come, that the claims were fraudulent, they would have been very likely to have caught some glimpse of it. But, sir, they did allow them, and we have not one particle of evidence that they saw any impropriety in the allowance.

The gentleman reads that an allowance has been made for loss of crop on the Greenfield plantation in 1812, of $82,000, and then undertakes to bring discredit upon the claim from an assumption of the fact that the allowance was for an amount which the claimant was not entitled to. I know nothing about that. I know nothing of the losses sustained by any of these claimants; but I do say that the fact whether a large or small amount of property was destroyed in any particular case, cannot enter into the controversy as proof that a fraud has been perpetrated. There is no evidence to show that the cotton, or the crop, for which the claimant referred to received $82,000, would not have brought him that amount if he had been allowed to carry it to market.

But the gentleman says that some of this cotton is placed at fifty cents per pound. Well, sir, he knows, as everybody knows, that the price of cotton in 1812, and in 1813, bore no proportion to the price the same article has borne since the war closed. The war of 1812 occasioned a great rise in the price of cotton, and I am informed that ordinary cotton then brought from twenty-five to fifty cents. But when we consider the different classes of cotton, when we speak of that description of cotton which can only be produced upon the islands along the shores of South Carolina and Georgia, and upon the main land in Florida—the sea island cotton—you have, as the gentleman from South Carolina himself must admit, a sufficient explanation of the prices indicated in the paper he has read. Sea island cotton always brings three or four times as much as the ordinary classes, so that computing the ordinary classes of cotton at any rate then borne, the class raised mostly in East Florida would bring certainly not less than fifty cents. Hence, neither the fact of the price per pound, nor the aggregate amount of the claim, can furnish any evidence that the claim itself was not to the full extent allowed a just one.

But there are other facts going to show that this charge of fifty cents per pound was not too much. The Secretary of the Treasury finally adjudicated upon the claims, and he must have been aware that the price charged was about the market price of that day. Sir, can any gentleman in this Hall presume for a moment that a judge of Florida would have permitted, and that the Secretary of the Treasury would have permitted, a claim to be paid, the mere statement of which was enough to shock the moral sensibilities of an honest man, as it has seemed to shock those of my friend from South Carolina? I think it is a conclusion which no gentleman who has respect for high officers of the Government could possibly arrive at.

I think the explanation I have given, so far as the crops are concerned, is sufficient. And in reference to the allowance for crops which the party was prevented from making, and which is held up before the House as a great bug-bear, there is, in the facts, a conclusive demonstration that this portion of the claim was properly allowed at the Treasury Department. Sir, the army in 1812 and in 1813 went into Florida, not making its march across the line and returning, not confining its stay to a week and then going back, not confining its injuries to one day, or one week, or one month, or one year, but extending through those seasons of the years 1812 and 1813, when the planter should be most active to save, and also most active in his labor to produce. I ask you, sir, if what has been said by the gentleman from Tennessee is not, in reference to this particular point, a sufficient answer to the objection made by my friend from South Carolina. If these claimants, having their plantations ready to receive the seeds which were to bring forth the products by which their fortunes were to be made, or the products upon which they were to live, were prevented from sowing those seeds and tilling their soil by the operations of the United States army,

improperly there—and the Government of the United States has, by its subsequent action, admitted that it was improperly there—I ask if there is not induced by that fact as much obligation on the part of the United States to pay for the damages sustained by that prevention as there is to pay for losses sustained by the destruction of growing crops? I submit it as a proposition which no gentleman will or can deny, that there is as much justice that we should pay for the former class of damages as for the latter. I take it that this supervisory officer, as the gentleman from South Carolina calls him, would not have suffered such a claim to pass his scrutiny, but for the fact that he was satisfied that the position of the Army towards those persons who were prevented from raising their crops were such as to bring the same liability on the Government as if growing crops had actually been destroyed.

Mr. ORR. I do not like to interrupt my friend from Florida, but I would like to ask him how it was possible for the Secretary of the Treasury to satisfy himself so thoroughtly as to reject claims which were made out in Florida by *ex parte* testimony, without anybody to cross-examine the witnesses or to reduce the amount of the claims?

Mr. KERR. I am informed by a gentleman who was chief clerk of the Treasury Department at the time when these claims were scrutinized, that the Secretary of the Treasury, suspecting that the interests of the Government had not been sufficiently guarded, demanded them, and instructed the district attorney of the United States to defend the rights of the Government. He did appear before the court, cross-examined the witnesses, and defended the rights of the Government, and finally informed the Department that he believed the claims were all just.

Mr. ORR. I have no doubt that the gentleman from North Carolina has received the information which he speaks of, but it is new information to me. I desire the gentleman now to give us the name of the chief clerk who makes that statement, and to state further whether he indorses the statement, and whether he knows, of his own knowledge, that it is true.

Mr. KERR. Undoubtedly not, because I was not here at the time. I was a very young man in those days.

Mr. MAXWELL. As to the transactions before the judges before whom these claims were first presented, I have no knowledge; but as to the recent cases which have been tried before the judicial officers of Florida, I do know that the United States Government was represented by its district attorney. What may have taken place prior to that I cannot say. I believe that the case referred to by the gentleman from South Carolina is one of those that comes within my own knowledge.

Mr. ORR. I believe that it was presented under the act of 1849.

Mr. MAXWELL. Well, sir, the act of 1849 did not give them any powers, or impose upon them any duties different from those which before existed. It only granted an extension of time to those claimants who had not presented their claims. It does not, therefore, vary the position of facts in that connection.

Mr. Speaker, the fair presumption is, that whatever the judges of Florida might have been disposed to do, the Secretary of the Treasury would have scrutinized these cases, and would not have allowed one of them to be paid, under that supervisory power which he claims for himself, unless he had been satisfied that it was not only within the provisions of the treaty, but just in the amount claimed. I do not rest this upon mere presumption. The fact is, that all the Secretaries who have had anything to do with these claims, have scrutinized them to such an extent as to reduce some of them in amount, not only so far as interest was concerned, but in the principal also; and I am not sure but that they have disallowed some of them altogether. However that may be, it is certain that they did scrutinize them to such a degree that many of them were cut down, and largely cut down. Why was this done? Because the Secretary of the Treasury was satisfied that the amount allowed was greater than ought to have been allowed. Now, sir, the very fact that he did, in other cases, direct his mind not only to the propriety of the claims, but to the amount, must satisfy us that in this case, which is presented as an enormity, he must have had his mind directed to that point also.

With the explanation which I have made in reference to the declaration of Mr. White, that the Florida claims would probably not amount to more than $40,000, and the explanation I have made in connection with the claim which has been referred to by the gentleman from South Carolina, I do not feel that it is necessary to say more upon those particular points.

Let me return now for a few moments—for I shall not trespass upon the time of the House much longer—to the gist of the argument of the gentleman from South Carolina. Take away from him the prejudice which he may have created in the minds of members by the production of the papers which he has read, and the statement of the enormous amounts which have been allowed; take away from him the prejudice which may have been created in the minds of members by the fact that the Secretary of the Treasury have uniformly rejected this claim for interest, and direct your minds to the main question, the real point involved, and I ask if the gentleman has said a word touching it? No, sir, he has not ventured to argue that claims of this character, supposing them not to be fraudulent, ought not properly to be allowed by the Government of the United States. His citation of authorities aids him none in this argument, so far as the main merits of this question are concerned, because the decision he has referred to does not declare, as the law of this country, that where damages have been sustained by citizens, and the Government has enforced the rights of its citizens, those citizens are not entitled to full satisfaction, not only for property lost or destroyed, but also for the losses occasioned by the detention of that property, or for the injury sustained by the failure to repair the loss.

Now, sir, in what position is this Government to stand if it refuses the payment of claims of this character? Why, from the day when our flag was first unfurled, down to the hour when we are engaged in discussing this question, through all our history, the Government of the United States has never urged a claim in behalf of its citizens against another Government that it has not insisted on, ay, and obtained, satisfaction, not only to the full amount of the value of the property lost or destroyed, but indemnity for the detention of property. That has been the uniform practice of this Government. It is proved to be so by all the records in your State Department; and not only is this good international law, but it is good civil and common law. But it is unnecessary for me to discuss that. The gentleman from South Carolina shrinks from the main question involved in this resolution. I say here that he has not touched the merits of it at all. Suppose the court did dismiss the Ferreira case because of the want of jurisdiction; does that decide that there is no merit in the claim itself? Suppose that the Secretaries of the Treasury have refused to pay interest because they are in the habit of refusing to pay interest; does that effect the merits of the question itself? This joint resolution is, I suppose, in the nature of an appeal from the decisions of these Secretaries, who have, as I believe, mistaken the law by which they should have been governed, and have substituted departmental usage as superior to the law of nations. This resolution, sir, comes before Congress to correct those decisions and such usages of the Department as are in conflict with the plain duty of the Government.

Mr. STANTON, (interrupting.) Will the gentleman from Florida allow me to say a word in reply to a point presented by the statement made by the gentleman from North Carolina [Mr. KERR] a moment ago?

Mr. MAXWELL. Certainly.

Mr. STANTON. It is an unquestionable fact that the chief clerk of the Department, who is conversant with all these matters, Mr. Harrington, states that the district attorney of that district was instructed to appear in all these cases. He did appear, and contested the matter for the United States. Many of the cases were sent back, and the amounts reduced on a rehearing of the testimony, or on the hearing of new testimony taken in the case, according to the instructions of the Secretary of the Treasury.

Mr. ORR. I want to ask the gentleman from Tennessee a question or two. Was the Mr. Harrington he speaks of the chief clerk under Mr. Fillmore's administration?

Mr. KERR. That is the gentleman I alluded to. I think he was.

Mr. ORR. Well, Mr. Speaker, he was the chief clerk from certainly not earlier than 1849. Now, if the gentleman will refer back to the documents he will see how few of these claims have been paid since 1849. The whole bulk of them was paid previous to that time.

Mr. MAXWELL. I have very little more to say with respect to these claims, and really I should not have troubled the House at all with the subject, but for the imputations thrown on some of those to whom I am indebted for my position here, and in whose reputation I have a deep interest. But for these imputations, I say, I should not have felt myself called upon to say a word in addition to the very lucid exposition of this question made by the honorable chairman of the Judiciary Committee. Having said thus much, I will add only a word or two more.

Now, then, cut away all the covering which the gentleman from South Carolina has thrown around the main trunk of this question, take all that away, and every gentleman in this House will admit that these collateral issues, these incidental questions and subjects should not affect the merits of the main question itself. Cut away all that, I say, and then we have a principle which my friend from Tennessee truly says has been approved and enforced by all the courts in the country. There is not a single incidental opinion, not a single *obiter dictum*, nothing to destroy or interfere with its uniformity. Now, then, sir, should we not rather inquire into the main merits of the question, should we not rather inquire into the correctness of the decision of the Secretary of the Treasury—for that has been one of the things discussed here—than into these mere collateral questions? Sir, this is an appeal from all parties who have had any connection with it to the Congress of the United States, whose duty it is to do justice and right to its citizens and to all the world. And what I have to say further is, that when the Congress or the Government of the United States refuses to recognize this as a principle on which it will indemnify or satisfy the claims of foreign citizens when urged by foreign Governments, then the time has arrived when it must retrace its steps, and no more demand from any foreign Government satisfaction to the extent it has always heretofore demanded it. This is not a mere question affecting these claims. It is a question of high public policy, a question affecting our international relations, and affecting, vitally, the rights and interests of our citizens everywhere.

Mr. STANTON, (interrupting.) Will the gentleman from Florida allow me to state, in connection with this portion of his remarks, that I have here copies of two letters, addressed by Mr. Calderon de la Barca, late Spanish Minister to this country, to the Government of the United States, as to some of these claims held by persons residing in the island of Cuba—merely to show that this is a question of treaty obligations, and one to be determined by the principles of public law. One of these letters reads as follows:

"Mr. Calderon de la Barca presents his compliments to Mr. Clayton, Secretary of State of the United States, and incloses herewith a copy of a memorial which he has received from the representatives of a number of Her Catholic Majesty's subjects residing in the Island of Cuba, who are claimants under the ninth article of the treaty of 1819, with the accompanying letter of their attorney, the Hon. W. Cost Johnson.

"The memorialists insist that, by the treaty and the laws, the Executive of the United States is bound to pay the entire amount of the awards of the courts; and present numerous arguments of high authority to sustain their claim.

"Believing these judgments of the courts to be in conformity with the express stipulations of the treaty, and the public law which controls such decisions, Mr. Calderon de la Barca respectfully lays the copy of the memorial and letter before Mr. Clayton, and invites the attention of his Government to the subject, not doubting that the Executive will give it the early and favorable consideration which is claimed by the memorialists.

"WASHINGTON, *December* 3, 1849."

Mr. MAXWELL. That, sir, offers a good illustration of what I was saying. These claims are not confined to citizens of Florida, for some of the Spanish subjects who suffered injury by the incursion of the American army, on the cession of Florida to the United States emigrated to Cuba, and live there now; and they, through their Minister, are demanding this measure of justice from

the Government of the United States. This Government, by solemn treaty stipulations with their King, undertook to satisfy their losses. Now, then, in this very case, there arises a question whether this Government will stand forth before the other Powers of the world and declare that it will not pay that to foreign citizens which it invariably demands for its own citizens? I know not, sir, whether this claim, alluded to in the letter of the Spanish Minister, is in prosecution now. But this I do say: that if these claimants under this treaty can establish that they sustained losses, and can establish that this Government has kept them wrongfully out of satisfaction for these losses, the Government of the United States is forbid, by its own previous acts, and by all its history, from declaring that it will not pay, to the full extent, the demands so made. Should this Government seek to deny this, Spain herself could present a roll against it in which the like demand has been insisted on in behalf of citizens of the United States, and not merely insisted on, but where payment was made—not payment alone for the value of the property at the time it was destroyed, but payment for such value, with the addition of the value of the use of that property from the period of its loss to the period when payment was made for it.

Now sir, can the Government of the United States, with a watchful regard for its future international relations, with that spirit of justice which it would have dealt out to itself and its citizens, and which it ought to be prepared to deal out to all others—can this Government take a position to-day in contravention of all its past history, and of all the previous acts of its authority? That it will be doing if we reject these claims.

When our Government in behalf of citizens who may have suffered losses at the hands of a foreign Power shall demand redress in the shape of damages for the destruction or detention of property, then she will be met by this solemn legislative act of ours, and then will it be said, that, as she would not allow damages to others in cases of a similar character, she has no right to claim them for her citizens.

Having submitted these views upon great international principles, irrespective of the demands of these particular claimants, I leave the justice and merit of these claims to the judgment of honorable members, believing that a proper presentation of them would carry conviction to every mind.

I had promised to renew the demand for the previous question; but, with the leave of my friend from Tennessee, [Mr. STANTON,] I will not press it now, because I wish it distinctly understood that the friends of this bill have not, at any time, manifested a disposition to avoid the fullest discussion compatible with the condition of other important business.

Mr. JONES, of Tennessee. We have spent sufficient time in the consideration of this bill, and I believe that the House is prepared to vote upon it, I therefore move the previous question; but to shorten the disposition of the matter, I move to lay the bill upon the table.

Mr. WASHBURN, of Maine. I ask the gentleman from Tennessee to withdraw the demand for the previous question for five minutes, and I will renew it.

Mr. JONES. I think we had better vote upon the bill now.

Mr. STANTON, of Tennessee. Upon the motion to lay the bill upon the table I demand the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and there were—yeas 104, nays 90; as follows:

YEAS—Messrs. Aiken, James C. Allen, Appleton, Ashe, David J. Bailey, Banks, Barksdale, Barry, Belcher, Benton, Boyce, Brooks, Caskie, Chrisman, Clark, Clingman, Cobb, Cox, Craige, Curtis, John G. Davis, Thomas Davis, Dawson, De Witt, Dickinson, Dowdell, Dunbar, Edgerton, John M. Elliott, Ellison, Faulkner, Fenton, Florence, Fuller, Gamble, Giddings, Goode, Greenwood, Hamilton, Sampson W. Harris, Haven, Hendricks, Henn, Hibbard, Hiester, Houston, Howe, Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Kittredge, Kurtz, Letcher, Lewis, Lilly, McCulloch, Macdonald, McQueen, Middleswarth, Smith Miller, Millson, Morrison, Murray, Noble, Mordecai Oliver, Orr, Packer, Parker, Peckham, Bishop Perkins, John Perkins, Phelps, Phillips, Pratt, Pringle, Puryear, David Ritchie, Robbins, Ruffin, Russell, Sage, Seward, Shaw, Shower, Simmons, Skelton, William Smith, George W. Smyth, Stratton, Andrew Stuart, David Stuart, John J. Taylor, Tracy, Tweed, Vail, Vansant, Wade, Walsh, Elihu B. Washburne, John Wentworth, Wheeler, Daniel B. Wright, and Yates—104.

NAYS—Messrs. Willis Allen, Ball, Bell, Bennett, Benson, Bliss, Breckinridge, Bridges, Bristow, Bugg, Campbell, Carpenter, Caruthers, Chandler, Chase, Chastain, Cook, Corwin, Crocker, Cullom, Cutting, Disney, Dunham, Eastman, Edmands, Edmundson, Thomas D. Eliot, English, Etheridge, Everhart, Farley, Goodwin, Green, Grey, Aaron Harlan, Andrew J. Harlan, Wiley P. Harris, Hastings, Hill, Hughes, Hunt, Kerr, Knox, Lamb, Lane, Latham, Lindley, Lindsley, McDougall, Mace, Macy, Matteson, Maurice, Maxwell, May, Mayall, Nichols, Norton, Pennington, Preston, Ready, Reese, Riddle, Thomas Ritchey, Rogers, Rowe, Sabin, Sapp, Seymour, Shannon, William R. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Nathaniel G. Taylor, Teller, Thurston, Upham, Walbridge, Walker, Walley, Warren, Israel Washburn, Wells, Tappan Wentworth, Westbrook, Hendrick B. Wright, and Zollicoffer—90.

So the bill was laid on the table.

Mr. JONES. I move to reconsider the vote by which the bill was laid upon the table, and to lay the motion to reconsider upon the table.

Mr. STANTON. I move that the House adjourn.

Mr. JONES. I hope that we will not consume another day upon this bill.

The question was then taken upon Mr. STANTON's motion; and the House refused to adjourn.

The question was then taken on Mr. JONES's motion; and the House agreed to lay on the table the motion to reconsider the vote by which the bill was laid on the table.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of taking up the civil and diplomatic bill.

Mr. HENN. I ask the gentleman to withdraw that motion, so that we may have the balance of the day for receiving reports from the Committee on Public Lands.

Mr. SEWARD. I move that the House adjourn.

The question was then taken; and, upon division, there were—ayes ninety-one, noes not counted.

So the House adjourned, at twenty-five minutes past three o'clock, p. m., till to-morrow at twelve o'clock, m.

IN SENATE.

THURSDAY, *February* 15, 1855.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

AMENDMENT OF PASSENGER LAWS.

Mr. SEWARD. Mr. President, the Committee on Commerce, to whom was referred the bill "for the better protection of life and health on board of passenger ships," have directed me to report it back to the Senate, and ask leave to be discharged from its further consideration; and in lieu of it to introduce a bill "to regulate the carriage of passengers in steamships and other vessels." The passage of such a bill as the one which I now report is recommended by the Secretary of the Treasury, in order to obviate the difficulties arising from a misconstruction of the existing law, under which a great many seizures of vessels are made in the city of New York. I am therefore instructed by the Committee on Commerce to ask for the immediate consideration of this bill.

There being no objection, the bill was read a first and second time, and considered as in Committee of the Whole.

It proposes to make provision in regard to the number of passengers which each vessel plying between the United States and foreign ports, shall carry, the accommodations to be allowed to the passengers, and the provisions to be furnished to them.

The Secretary was proceeding to read the bill, but before he had concluded——

Mr. BENJAMIN. I ask that the further reading of this bill be suspended, while I make a statement in relation to it to the Senate. The Senate is aware that the subject of a passenger law was referred, at the last session, to a special committee, of which the honorable Senator from New York, [Mr. FISH,] now absent in consequence of ill-health, was chairman. This bill is now reported from the Committee on Commerce. I assented to it reluctantly, because, prior to the departure of that honorable Senator for New York, being satisfied that there was no time for his bill to pass at this session, he requested me to pay especial attention to it, and not allow action on it during his absence. I withdrew my opposition to the reporting of the present bill in the Committee on Commerce upon statements being made that that Senator had assented to the modification of the bill which he, as chairman of the select committee, had reported to the Senate. I have since received a letter from him, from which I ascertain that those statements were erroneous, and that he still adheres to the bill as reported by the select committee, and which, is the fruit of much labor, and the gathering together of much information from all parts of the Union. I think, under the circumstances, the Senate will not be disposed to put this bill upon its passage in this hasty manner.

Mr. WELLER. I desire to inquire whether this bill has ever been printed in the shape in which it is now presented for the action of the Senate?

The PRESIDENT. Does the Senator from Louisiana object to the further consideration of the bill to-day?

Mr. BENJAMIN. I do, for the reason which I have stated.

The PRESIDENT. Then it will be passed over, as a matter of course.

Mr. WELLER. I ask that the bill be printed.

Mr. HAMLIN. It has been printed.

Mr. WELLER. Never in the shape in which it is now presented. I never saw so ragged a bill submitted to the Senate. It is composed of forty or fifty different scraps of paper. I move that it be printed.

The PRESIDENT. The bill will be passed over, as objection is made.

Several SENATORS addressed the Chair.

Mr. SEWARD. I hope that the Senate will allow me to say a word concerning my own bill, especially after the circumstances which have been stated by the Senator from Louisiana. I wish to narrate the history of the transaction very briefly, and then submit the question to the consideration of the Senate.

Mr. STUART. If I understand the rules correctly, the bill cannot now be considered, objection being made.

Mr. SEWARD. I ask unanimous consent to make an explanation, after what has been said by the Senator from Louisiana.

Mr. STUART. Certainly.

Mr. SEWARD. Mr. President, my esteemed colleague [Mr. FISH] submitted at the last session, a motion to have a special committee appointed for the purpose of considering the defects in the passenger law. That committee reported a bill to remedy those defects He was leaving here the other day, when merchants of New York appeared here and stated that there was great embarrassment in the city of New York, owing to the misconstruction of existing laws. They called upon the Treasury Department, and that Department framed a bill which is just exactly the bill which has been submitted here, without any alteration. They requested me to introduce that bill here. I answered that if it conflicted with the bill of my colleague I could not, and that I must have his permission. My colleague went away suddenly, and I did not see him again. They reported to me that he assented to, and approved of, the introduction of this bill. I was prepared then to present it, and I called upon the Senator from Louisiana, one of my associates on the Committee on Commerce, to obtain his concurrence in it. He told me that he had been requested by my colleague to watch his own bill, and not to consent to, or permit, the passage of another one, which was proposed by citizens of New York. Thereupon I refrained, and advised the parties in New York of the circumstances. They replied to me that although I had not seen my colleague, he had assented to it, and they produced to me a letter from the Secretary of the Treasury, saying that the Department understood him to have assented to it.

Under these circumstances, the bill of my colleague was referred, on the motion of the Senator from California, [Mr. GWIN,] to the Committee on Commerce, by whom, yesterday morning, I was unanimously instructed to report this bill, and urge its passage. The honorable Senator from Louisiana was at that time present, and acting upon the information which he then had, concurred in that recommendation. Thus the bill came here in the shape in which it was sent from the Treasury Department. Now, my friend from Louisiana,

who has just come into the Senate during the reading of the bill, says that he has just now received late information from my colleague, [Mr. FISH,] in which he protests against the passage of this bill. Inasmuch as it concerns the city of New York, which is more immediately within his representation than mine, that is sufficient to induce me to consent that the matter lie over until we hear further from him.

Mr. BENJAMIN. I have but one word of further explanation, and it is simply to say, in justice to the Senator from New York now present, that when I informed him of the desire of his colleague that the bill should be deferred until he could return to have action on it, he cheerfully yielded, and did not insist on this bill until informed that his colleague had yielded his objections.

The further consideration of the bill was postponed until to-morrow, and it was ordered to be printed.

ATMOSPHERIC TELEGRAPH.

On motion by Mr. MALLORY, the bill to test the practicability of J. S. Richardson's atmospheric telegraph, was referred to the Committee on Commerce.

PERSONAL EXPLANATION.

Mr. HOUSTON. I ask the unanimous consent of the Senate to make a personal explanation. I find laid upon my desk a pamphlet, emanating, as it appears, from a certain Thomas J. Green. I believe each Senator has received a copy for himself. Had it been carried to them alone, I might not have noticed it; but, as it has been obtruded upon my personal notice, I think it proper to make a very few remarks upon it. There was a fellow of that name in Texas, whose notoriety has not yet died away from the recollection of Texans. I have a right to infer that it is the same individual. If it be so, it is he that an honorable member from South Carolina once pointed out as the circulator of a calumny against me, which became public, and which found its way into the newspapers; but it was explained and repelled. Of that calumny, this Thomas Jefferson Green, of Texas, was the author, and I may reasonably conclude that of this pamphlet he is also the author. At the last session it became my duty to criticise one of his books in the library of Congress, which was replete with calumnies. One statement certainly had the credit of authenticity; I refer to that which relates to the fraternity of Texas as a community. That I conceded to be true; but that is about the only truth in his four hundred pages.

In the pamphlet before me, I find a statement that presented itself, accidentally, on opening its pages, to which I will call the attention of the distinguished Senator from Michigan, [Mr. CASS,] who I am happy to see in his seat. But for this accidental discovery of this passage, I should not have honored my slanderer by noticing his production. I will read the passage to which I refer:

"Yet I have been told that when he, HOUSTON, was sent on to Ashland as one of the Senate's committee with the remains of that lamented patriot, [Mr. Clay,] that he, HOUSTON, in the presence of the people of Kentucky, stooped and kissed the coffin of the illustrious dead, with a sanctimonious phiz which would have shamed any Puritan face in the days of the Roundheads. Was such unblushing hypocrisy ever before witnessed?"

Sir, it can scarcely be necessary to say that no such ceremony was performed. It is a reflection upon the memory of the dead, and a calumny of the living. I call upon the distinguished Senator from Michigan [Mr. CASS] to say whether any such ceremony was performed, or whether any member of the committee, except the chairman, the Senator from Tennessee, [Mr. JONES,] I believe, approached the coffin of the deceased.

Sir, with every member of that committee, I thought that a "great man had fallen in Israel;" that one of the great lights of the country had become extinguished in the death of that illustrious man. It was not a new sentiment with me. When he was living, and a cloud seemed to have passed over him, I dared to assert in the Senate that he had rendered his country never-to-be-forgotten services. In his life he had my respect, and our associations were as intimate as could be expected between one so humble as myself, and one so illustrious as Henry Clay.

But, sir, the time of the Senate is too precious to be taken up by comments on the character of this man. I will not offend respectable ears with an allusion to dark reminiscences connected with his character and private life in Texas. From the time the lash was inflicted upon him by Jesse A. Bynum, in North Carolina, to the last act of swindling to which he resorted in Texas and in Mexico, his notoriety has been unenviable. I am sorry I have mentioned his name in the honorable Senate. He has obtruded it here. I would not advise any decent and respectable person to touch him with a fifteen-foot pole, unless he had gloves upon his hands of double thickness, and then he should cast away the pole to avoid the influence of the contaminating shock. I call upon the Senator from Michigan to corroborate my statement in opposition to what I have read from this pamphlet.

Mr. CASS. I merely wish to say that I saw no such thing; I never heard of it until this moment; and I do not believe a word of it.

SALARY OF SUPREME COURT JUDGES.

On the motion of Mr. TOUCEY, the Senate, as in Committee of the Whole, resumed the consideration of the bill to increase the salary of the Justices of the Supreme Court.

The bill was reported to the Senate as amended, and the amendments were concurred in; and the bill was ordered to be engrossed for a third reading.

On the question of the passage of the bill, Mr. HAMLIN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 30, nays 15; as follows:

YEAS—Messrs. Allen, Badger, Bayard, Bell, Benjamin, Bright, Brodhead, Cass, Clay, Cooper, Dawson, Dodge of Wisconsin, Evans, Geyer, Houston, Hunter, James, Jones of Iowa, Jones of Tennessee, Mallory, Mason, Morton, Pearce, Pettit, Pratt, Rusk, Thomson of New Jersey, Toucey, Walker, and Weller—30.

NAYS—Messrs. Brainerd, Douglas, Fessenden, Fitzpatrick, Foot, Gillette, Hamlin, Sebastian, Seward, Shdell, Stuart, Sumner, Thompson of Kentucky, Wade, and Wilson—15.

So the bill was passed.

On the motion of Mr. BADGER, the title was amended by striking out all except what relates to the Judges of the Supreme Court.

HENRY H. MARSH.

Mr. STUART. I am instructed by the Committee on Public Lands to report back House bill for the relief of Henry H. Marsh. I ask the Senate to oblige me by putting it on its passage. I can state, in a few words, what it is. A mistake was made by that man in entering a lot of land in 1836. He sent his petition here as long ago as 1838, but has never, to this time, been able to get what the Land Office recommends—the right to change that entry, and to take some land which is worth something. He made a mistake, as the proof shows.

The Senate, as in Committee of the Whole, proceeded to consider the bill. It will authorize Henry H. Marsh to relinquish to the United States the east half of the northeast quarter of section four, of township eight, south of range thirteen, west, in the district of land subject to sale at Kalamazoo, in Michigan, entered by him by mistake, on or about the 21st of July, 1836, and apply the money paid for that tract to the purchase of any land subject to entry at private sale at the minimum price of $1 25 per acre.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

IOWA LAND DISTRICTS.

Mr. JONES, of Iowa. I ask the unanimous consent of the Senate now to consider the bill to change the boundaries of the land districts in the State of Iowa, and for other purposes, which my colleague reported the other day, and which, on my motion, was postponed. If any discussion arises, I will agree to postpone the bill.

The Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. JONES, of Iowa. I desire to offer a substitute for the bill. It merely changes the time for the creation of these land districts, and makes a slight change as to the boundaries. The original bill having been read, I move that the reading of the substitute be dispensed with.

Mr. DODGE, of Iowa. As the whole of the bill was read the other day, and as the Senate are familiar with it, I hope its reading will be dispensed with.

Mr. BAYARD. I must object to action so irregular as passing a bill without its being read.

The substitute was read, and the question being taken, it was agreed to; and the bill was reported to the Senate as amended, and the amendment was concurred in. The bill was then ordered to be engrossed for a third reading, read the third time, and passed.

PETITIONS.

Mr. BAYARD presented three petitions of citizens of Pennsylvania, asking an appropriation for the erection of a building for the accommodation of the courts of the United States, the post office, and other public offices in the city of Philadelphia, and also in favor of a particular location for the same; which were referred to the Committee on the Post Office and Post Roads.

PAPERS WITHDRAWN.

On motion by Mr. JONES, of Iowa, it was

Ordered, That Jesse Steadman have leave to withdraw his petition and papers.

REPORTS FROM STANDING COMMITTEES.

Mr. MASON, from the Committee on Foreign Relations, to whom was referred a resolution of the Senate of the 27th December, 1854, instructing them to inquire whether any, and if any, what compensation should be allowed to Commodore M. C. Perry, for his diplomatic services in negotiating a treaty with the Empire of Japan, submitted a report, accompanied by a bill for his relief; which was read and passed to a second reading. The report was ordered to be printed.

He also, from the same committee, to whom were referred the petition of Peter Parker, praying compensation for acting as chargé d'affaires at Canton, in China, and the petition of Horatio J. Perry, praying compensation for services and expenses as chargé d'affaires to Spain, submitted a report, accompanied by a bill for their relief; which was read and passed to a second reading. The report was ordered to be printed.

Mr. EVANS, from the Committee on Revolutionary Claims, to whom was referred House bill for the relief of the children and grandchildren of Thomas Morris, reported it back without amendment.

He also, from the same committee, to whom was referred House bill for the benefit of the heirs of Philip R. Rice, deceased, reported it back without amendment.

Mr. PETTIT, from the Committee on Private Land Claims, to whom was referred the memorial of Robert Graham, praying a confirmation of his title to certain land, and compensation for such other land as belonged to him, but which was sold by the United States, submitted a report, accompanied by a bill for his relief; which was read and passed to a second reading. The report was ordered to be printed.

Mr. BAYARD, from the Committee on the Library, to whom was referred House bill for the relief of Titian R. Peale, reported it back without amendment.

TEXAS DEBT BILL.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they insisted on their amendment to the bill to provide for the payment of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9, 1850, disagreed to by the Senate; that they agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that they had appointed Mr. BRECKINRIDGE, Mr. HOWE, and Mr. GEORGE W. JONES, managers at the same on their part.

BILLS BECOME LAWS.

A message was received from the President of the United States, by Mr. WEBSTER, his Secretary, announcing that he had approved and signed the following acts:

An act to continue, temporarily, the offices of register and receiver at Vincennes, Indiana;

An act to change the name of the schooner Henry Plantagenet to that of A. G. Brown;

An act to amend "An act making appropriations for the improvement of certain harbors and rivers," approved August 30, 1852; and

An act for the relief of Don B. Juan Domercq, a Spanish subject.

INDIAN APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill from the

House, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, the pending question being on the following amendment, proposed by Mr. COOPER, as an additional section:

And be it further enacted, That the tenth section of the "Act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes," approved July 31, 1854, be carried into effect so as to pay to Henry Smith and others the respective sums assessed to them by the commissioners under the Cherokee treaty of 1835-'6, through their authorized and sworn agents, William A. Upton and Peter A. Somer, with interest on said sums, respectively, from the 23d August, 1843, and that the Secretary of the Interior be further authorized and directed to fill the blanks in such awards as are on his files, with such amounts, respectively, as may be established by satisfactory proofs.

Mr. HUNTER. It seems to me that this is a revival of a question which was so much debated yesterday. It is proposed to pay, through the Departments, Indian agents, and Indian attorneys. It proposes that we shall intervene for the purpose of settling these questions, and I understand that it has not been the policy of the Government to intervene for any such purpose.

Mr. COOPER. I am sure the Senator from Virginia did not correctly understand the amendment, or he would not have made the objection which I understood him to suggest. This is precisely the same case as one that was discussed at considerable length during the last session, I refer to the Taylor claim; but although the circumstances are substantially the same, the Secretary of the Interior has not thought himself at liberty under the tenth section of the act, passed the 31st of July, 1854, to pay it.

The Senate will recollect that by the treaty of 1835-'6, certain reservations and preëmptions were made to the Indians, and to those who had Indian wives. Taylor and Smith were of this class. Subsequently two agents were appointed by the Government for the purpose of assessing the money value of the reservations and preëmptions with authority to appoint sub-agents to visit the country, and make the assessments. Messrs. Upton and Somer were appointed for that purpose. They visited the country and fixed the amount due for the various reservations and preëmptions, and they made a report to the Secretary of War at that time, which was, I believe, on the 23d of August, 1843. The amount at which the reservation or preëmption of Smith was assessed, was $2,400. I hold in my hand a certified copy of the report of those agents, dated September 24, 1843. It is:

"*Henry Smith.*—In the first forks of Peach-tree creek, North Carolina, one hundred and sixty acres, valued at fifteen dollars per acre; forty acres improved land, one double house, hewed logs, two stories high; one round log house, one smoke-house—$2,400."

These reports were not filed in time, but subsequently they were put on file, and are now in the office of the Secretary of the Interior. There are two or three cases of a similar character, one of them amounting to $560, another to $240, and a third to $256, which embrace the whole. The claim of Taylor, which was a similar one, substantially, was for $14,000, and he was allowed interest from the date, which is fixed, by this amendment, for this claim, August 23, 1843.

I do not wish to detain the Senate, as I suppose there will be no objection to the amendment. The claim is certainly just, and its principle has been settled long since.

Mr. HUNTER. I was at such a distance that I could not understand distinctly the remarks of the Senator. My impression, however, is, that his amendment will require this money to be paid through an attorney.

Mr. COOPER. Not at all. It only requires that the Secretary of the Interior shall pay to Henry Smith the amount at which his property was assessed, in 1843, by Upton and Somer. This was a reservation or preëmption under the treaty of 1835-'6. It was afterwards agreed that instead of preëmption, a money consideration should be paid, and his agents fixed the value according to the statement which I have just read:

"In the first forks of Peach-tree creek, North Carolina, one hundred and sixty acres, valued at fifteen dollars per acre; forty acres improved land, one double house, hewed logs, two stories high; one round log house, one smoke-house—$2,400."

They made a return, but it was too late to be brought in under the terms of the tenth section of the act of July last, and this is to provide for this subsequent case. There is certainly no objection to it. It is similar to the case of Taylor, the only difference being that the report was filed at a different date.

Mr. HUNTER. It is not my purpose to argue against the decision of the Senate, they already having decided that it was not a private claim, but could be attached to this bill. I do not know what its merits are, nor have I the means to examine it. I do not think it is a fit claim to go upon the bill; but as the Senate have decided that it is in order, all that I can do is to vote against it.

The amendment was rejected.

Mr. SEBASTIAN. I offered an amendment for the creation of an additional agency for the Kickapoo tribe of Indians, and fixed the salary at $1,000. I stated, in moving that amount, that I had been informed by the Delegate from the Territory, that the duties of that agency were of the second class. I have reason to believe that I misunderstood that gentleman, and that the duties are those of the first class. I therefore now ask the unanimous consent of the Senate to fix the salary at $1,500 instead of $1,000.

By unanimous consent the correction was made.

Mr. WELLER. I offer the following amendment as an additional section:

SEC. 2. *And be it further enacted*, That from and after the passage of this act, the salary of the central superintendent of Indian affairs for the central superintendency shall, after this date, be $2,500 per annum, and for that purpose the sum of $500 is hereby appropriated.

It is an increase in the compensation of that superintendent of $500. It is recommended by the Commissioner of Indian Affairs. The field of that officer is very large and extensive. He is compelled to disburse more than a million and a half of dollars per annum. He is located at St. Louis.

Mr. HUNTER. All I have to say in relation to that is, that I believe he is a very estimable superintendent, and I have no doubt that he discharges his duties well; but we do not know how far we are to go, if we begin altering these salaries, and making an exception as to this superintendent. I understand that the whole matter in regard to the salaries has been classified, and I do not know but that this amendment will involve the revising of the others.

Mr. WELLER. I do not think there can be found another superintendent on whom the same responsibility rests, and who has the disbursement of so large an amount of money. He has to disburse $1,500,000 annually. He has charge of an immense number of Indians, extending north to Kansas and Nebraska. I hope the Senate will agree to it.

Mr. HUNTER. I am reluctant to interpose; but I desire to let the Senate know that we are departing from a system, and giving this superintendent more than other superintendents. I suppose, next year, we shall have to raise them all.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question is on concurring in the amendments made as in Committee of the Whole.

Mr. HUNTER. There were three amendments put on the bill in committee without my having had an opportunity to examine them, or at least I did not understand one of them, and to the other two I objected then; but as it was doubtful whether there was a quorum, I did not call for a division, intending to have the question taken when they were reported to the Senate.

The PRESIDING OFFICER. Will the Senator state what the amendments are?

Mr. HUNTER. The first is in relation to the Choctaws; the next is in relation to the Cherokees; and the third relates to the separation of the office of the superintendent from that of Governor in the Territories. On them I desire separate votes.

The rest of the amendments were concurred in.

The question then recurred upon the following amendment excepted by Mr. HUNTER:

SEC. —. *And be it further enacted*, That the Secretary of the Interior is hereby authorized and required to cause to be paid to the North Carolina Cherokees, embraced in the roll of John C. Molloy, or to the legal representatives of such of them as have died since their enrollment, the sum of $53 33 respectively, for the expenses of their removal and subsistence, now held in trust by the United States, according to the terms of the fourth section of the act of the 29th of July, Anno Domini 1848; for which purpose there is hereby appropriated the sum of $42,290 69: *Provided*, That each and every Indian so receiving such payment in full, shall give their assent thereto: *And provided further*, That said Secretary shall be first satisfied that the State of North Carolina has, before such payment, by some appropriate act, agreed that the said Cherokees may remain permanently in that State, anything in the treaty of 1835 to the contrary notwithstanding.

Mr. HUNTER. I wish simply to explain to the Senate that that proposes to take the money out of the Treasury to pay these Indians, while the act of 1848 contains this proviso:

"*Provided*, That the amount herein required to be funded for the benefit of the said Cherokee Indians in North Carolina, and the amount required to be paid them, shall be charged to the general Cherokee fund under the treaty of New Echota, and shall be reimbursed therefrom."

When it was passed, it was designed to be taken from the Indian fund, I suppose. I did not recollect this proviso, or rather I had not adverted to the provision in the amendment offered by the Committee on Indian Affairs by which it was to be paid out of the Treasury. I had supposed that it was no addition to the appropriation. It turns out, however, to be an addition to that amount. We paid the eastern Cherokees the sum designed as an allowance for the expenses of their removal, though they did not remove, and required it to be taken out of the general Cherokee fund as a sort of settlement of the accounts between the Cherokees east and west. Now, the amendment will repeal that proviso, and require it to be taken out of the Treasury of the United States. It is fair for the Senate to know that.

Mr. SEBASTIAN. I agree in the general statement that the Senator from Virginia has made about the appropriation, but whether the appropriation from the Indian fund in 1848 was right or wrong is, I now submit, a question quite irrelevant to the discussion. I might be allowed to ask that Senator whether it is not now a portion of the national debt; and whether it is not perpetual by its terms, and also whether the interest will not be paid to the Cherokees until they remove?

Mr. HUNTER. If the Senator desires an answer, I say it is not, because by the law it is a part of that fund. It is not a national debt.

Mr. SEBASTIAN. In point of fact it was an appropriation from the Treasury of the United States; that amount was set apart out of the Treasury, in the first instance, and the interest has been paid from that time to this. It is a recognized part of the national debt. It was to be charged to the five million fund. It was not so charged, as I believe, and the whole of that fund has been paid out some two or three years, notwithstanding the Government still pays interest upon it, and it being in the nature of a grant I take it that it is not now repealable, so that whether right or wrong, the fact is, that it is a part of the national debt. It is in that point of view that I look at it. If such be a correct view of the case, in which I am authorized to state the Department agree with me, it certainly accords with our general policy to redeem a portion of our national debt when the creditor is willing to receive the payment, and that is the case with these Indians.

I will state how, as I believe, it was not charged to the five million fund, and why it was not so charged. That appropriation was made in 1848, on the 21st of July, when I had been a member of the Senate some two or three weeks. In 1850, the general adjustment of the Cherokee question came up before the Senate of the United States, and the Senate, acting upon the report which had been made by the Auditor and Comptroller, containing a statement of all the accounts for and against the Cherokees, dated the 6th of August, 1848, but a few days after this act was passed, furnished the basis upon which the appropriation was made. A final residuum, under the treaty of 1846, was left to the Cherokee nation. That amount has all been paid out of the residue of the Cherokee fund taken from them. I am induced to believe that the amount funded under the act of 1848, was not embraced in the account of the Auditor and Comptroller, dated the 6th of August following, because there was no time to take the enrollment of the Indians, and ascertain the general amount for the purpose of charging it to that fund; and yet, the general terms in which that report of the Auditor and Comptroller was made, had probably the effect of misleading the Committee on Indian Affairs, who investigated the subject two years afterwards. I do not know

officially whether it ever was or was not included. I infer from a comparison of the dates that it could not have been included; but it leaves the fact as I stated it to be, that it was an appropriation out of the Treasury of the United States, and clearly to that extent a national debt, which we ought to redeem at our option, or pay the interest punctually. If the Senator will propose to repeal that act, that will bring up the question of its validity as being a perpetual grant of that amount of money to the Cherokees.

Mr. HUNTER. If I understand the statement of the chairman of the Committee on Indian Affairs, this is the state of the case: the law required this sum to be deducted from the general Cherokee fund, but the officer of the Government, in defiance of the law, paid it from the Treasury, and being paid, there is no other resource than to pay the eastern Cherokees out of the Treasury of the United States. Sir, it seems to me that is a state of things which is not creditable to the officers of the Government. They are bound to know the law and observe it. I do not know that we ought to punish the Indians because the officers have not observed the law, but they ought to have observed it. The proviso was put in for the purpose of protecting the Treasury against this very thing.

The PRESIDING OFFICER. Will the Senate concur in the amendment?

Mr. HUNTER. I have not said that we should not concur in it; but I think it my duty to call the attention of the Senate to the fact. If we pass a law it ought to be observed.

Mr. SEBASTIAN. I have said that the Senator from Virginia is right as to the statement of facts, but it is not controvertible that this is an amount on which we are paying interest, and the question is whether we shall redeem it or not. If I were going back to the consideration of the question in 1848, I would say to him that it ought never to have been charged to the five million fund; but that is irrelevant now.

The amendment was concurred in.

The next amendment, made as in Committee of the Whole, was to insert:

SEC. —. *And be it further enacted*, That the Secretary of the Interior be authorized to invest in safe and profitable stocks, to be designated by the Choctaw nation, and at their risk, or, at his discretion, to hold in trust, at an interest of five per cent., all such moneys now received or hereafter to accrue from the Choctaw orphan lands in the State of Mississippi, or from the fund appropriated for the redemption of Choctaw scrip annuities, which may remain on hand by reason of the death of the parties properly entitled to claim the same. And that the said Secretary be authorized to pay the annual interest thereon to the Choctaw nation, for the support and maintenance of such neighborhood or common schools as they may establish among the Choctaw nation west of Arkansas: *Provided*, That upon lawful claim made upon such funds by any party entitled, the principal of such amount shall be paid, and the interest on the same shall cease.

Mr. HUNTER. I objected to this amendment when it was offered in Committee of the Whole, because, as I said then, it seemed to me to be the commencement of a dangerous and improper policy. I believe that we ought not to allow the Government to invest these funds in State stocks. I think, if we do, we shall see repeated the experiment which we have already witnessed. We have invested moneys in State stocks, and have not been able to get them repaid. I believe this money belongs either to the Choctaw people as a nation, or else it belongs to those individuals who have been absent, and have not claimed it. If it belongs to the Choctaw people as a nation, it ought to be paid to them, for we have the testimony, on all hands, and especially from the Senator from Mississippi, who is well acquainted with them, that they are abundantly able to take care of their own affairs. If, on the other hand, it does not belong to the Choctaw nation, but to those individuals, it ought to remain in the Treasury of the United States, and when they come forward they will be paid. They will have no right to call for interest if they do not claim their money; and it ought to be kept there until they do come to be paid. I believe it will be the commencement of a very dangerous policy, if we now allow or require this money to be invested in State stocks.

Mr. ADAMS. In addition to the remarks of the Senator from Virginia, I wish to call the attention of the Senate to the fact that there is no report or pretense that the individual Indians to whom this money belongs are either dead or beyond the power of the Government to pay them. It is true, the Senator from Arkansas says, that the money has been sent out, and it has remained in the hands of the agent for some two years, and has not been claimed. That is the only evidence which we have of the death of the parties who are entitled to it. I do not think we should go on and administer upon these dead Indians' private funds on such testimony. Let the money remain where it is, in the Treasury, until there is certain proof that there are no Indians entitled to claim it.

Mr. SEBASTIAN. I had occasion to say, when this amendment was up before, a day or two since, that the amount which is sought to be funded for the benefit of the Choctaw nation were trust funds which had been created for particular purposes; that is, had been created for the purpose of being paid to a particular class of individuals. One fund, I think, is known as the orphan fund; the other as the Choctaw annuity fund. It is unnecessary to make any more allusion to the nature of the trust, because that has nothing to do with the disposition to be made of it. But out of those two funds there has accumulated something like $120,000, which is now, and has been for the last two or three years, lying idle in the hands of the United States agent, unclaimed by any person, because the families have become extinct, or the proprietors have failed for some cause or other to make that claim upon the fund to which they are entitled. It is true that fund belongs, generally, to that class of individuals, and whenever they make a claim upon it, the United States are required to take so much of the fund and dispose of it in the redemption of that portion of the claim; so that there are no private rights interfered with. But, in the mean time, what disposition is to be made of this unappropriated fund?

The Choctaw nation has, through their delegation here, (a body of very intelligent men, representing a nation who not only occupy a front, but the very foremost, rank among the civilized Indian tribes of the West,) asked that it shall be funded to the United States, as their friend and trustee, for it is not paid over to them yet, in order that they may be enabled to establish and carry out a system of common schools in the nation, which has already been inaugurated, but under such auspices that they cannot prosecute it effectually. No person will be injured by the appropriation. On the contrary, I think, it is a just and benevolent disposition by the Government to forward the general objects of the enterprise which they wish to accomplish. I do not put it upon the ground that there is a legal obligation to do so. So far as we assume any responsibility here, it is voluntary; but, for one, I am willing to do so for all those Indian nations who are willing to take the funds and appropriate them for a purpose so laudable. It is the first example in the history of those nations where they have asked that the funds of the nation may be appropriated to purposes like this. It is but a temporary arrangement after all. It is to make the fund productive while it is now idle for a purpose of this kind; and I ask, is the Senate going to turn a deaf ear to the first genuine proposition emanating from an Indian nation to appropriate its moneys for a most laudable purpose, and in the only true direction to attain anything like the civilization of the tribe? I have not put it upon a legal footing—nothing of the kind. I admit it to be a gratuity; and I hope the Senate will agree to it.

As to the particular feature objected to by the Senator from Virginia, and which seems to alarm him, that it is to embark this Government in a general scheme of investing all the trust funds, I have no particular objection to that; but I shall not insist upon it. I shall be perfectly content to get the balance of the amendment. I am not tenacious on that point. If the Senator objects to it, let him wipe out the obnoxious feature. My object is to give the aid of what is now a small, unproductive fund, to aid this tribe in the enterprise which they have inaugurated under such unpropitious circumstances.

Mr. HUNTER. What I do object to is the investment of this money in State stocks. I do not object to the appropriation of the fund to purposes of education among the Choctaws; but I do object to conferring on the Secretary of the Interior the power to invest Indian money in State stocks. I think it is the commencement of a bad system.

Mr. WELLER. It can be modified so as to obviate that difficulty.

Mr. HUNTER. Let the Secretary read the amendment, so that we can ascertain its terms, to see whether it can be so modified.

The amendment was accordingly read again.

Mr. WELLER. I do not see any objection to the amendment as it now stands. The Choctaw nation is a regular, organized, constitutional Government. The Choctaws have made more rapid advance than any other tribe of Indians. This investment is to be made in State stocks, or other securities, under the direction of the Choctaw nation. It is to be done at their risk, and I cannot see how, in any event, the Government of the United States can, at any subsequent time, be held liable for any loss which may be sustained by the failure of the States to redeem their bonds. The investment is to be made with the consent of the Choctaw nation, they being a regular, organized Government, with full capacity to make a contract. We simply come in and consent to act as trustees for the Choctaws, to make the investment, receive their interest, and pay it over to them. I cannot, for the life of me, discover any objection to this amendment; nor do I consider it as the commencement of a system to invest Indian moneys in State stocks. I should regret, as much as the Senator from Virginia, to see the Government engage in that again, because, in the end, it must be a loser.

Mr. PRATT. There is one difficulty which I desire that the chairman of the Committee on Indian Affairs should answer, for if it be not explained satisfactorily, I do not think any of us can vote for this amendment. The fund which is to be disposed of is, if I understand it, a fund belonging, not to the Choctaw nation, but to individuals of that tribe or nation. Now, the proposition is to divert this fund, which is an individual fund, and not a national one, from the individuals to whom it belongs, and to vest it in the nation for some national purpose.

Mr. SEBASTIAN. I conceive from the Senator's remarks that he evidently misunderstands the question. It is true these funds belong to two classes of individuals, if I may say so. The money has been in the hands of the United States agent under an appropriation made by an act of Congress for their payment. All who appeared and asserted their interest have been paid. The residuum which remains is what might be called the lapsed interest of parties who are either extinct or probably never will make a claim. This proposition is not to take it away from those parties, but merely that the Government shall hold it in trust, and pay the interest on it to the Indians, and devote the interest simply to national purposes, reserving the principal to pay the claimants, whenever they may come forward. There is a provision in the amendment that whenever any claimant comes forward, so much as is due to him shall be paid to him, and interest on that cease at once. The Government is to hold the money in trust—to take the principal and invest it as trustee. If one of the beneficiaries claims it, they have to sell so much of the stock as will amount to that principal, and pay it over. It is not an appropriation, but merely making an idle fund active for a short period of time.

Mr. HUNTER. Mr. President, we have had some experience upon this subject of investing Indian money in State stocks. We have done it before; and when the States failed to pay their interest, we considered ourselves bound to make it up to the Indians; and so it would be in this case. Notwithstanding the provision that the Choctaws are to give their assent, if we should invest their money in State stocks, and the States should fail to pay the interest, we should certainly hold ourselves bound, as guardians of the Indians, to make it good. This is a practice which I say is dangerous, and I think I am warranted in saying so from our past experience.

I find, since the amendment has been read again, that it will be very difficult to put it in a shape in which I think it ought to pass. I shall, therefore, vote against it. I believe it would be better to hold the money in the Treasury until we ascertain that there is no reasonable probability of the missing claimants ever appearing; and when that is the case, pay it over to the Choctaws. If they have a Government, as they have indeed, and are among the most advanced in civilization of any of the

Indian tribes, they will be able to take care of the money, when it is paid to them, and devote it to this purpose.

The amendment was non-concurred in.

The PRESIDENT. The last amendment, which has been excepted, is:

SEC. —. *And be it further enacted*, That from and after the —— day of —— next, the Governors of the Territories of Minnesota and Washington shall cease to have and exercise the duties and powers now conferred upon them by law as superintendents of Indian affairs in their respective Territories; and instead thereof, the said Territory of Washington shall hereafter be attached to the superintendency of Indian affairs for the Territory of Oregon; and the Territory of Minnesota shall thereafter be attached to and form part of the northern superintendency. And that the Governor of Minnesota shall thereafter receive the annual salary now allowed to the Governors of Kansas and Nebraska; and the Governor of the Territory of Washington shall thereafter receive the annual salary now allowed to the Governor of the Territory of Oregon.

Mr. GWIN. I hope the Chairman of the Committee on Indian Affairs will not insist on that amendment. It is ruinous to the public interests in the Territory of Washington, as I am assured by the Delegate from that Territory. I trust, therefore, it will be rejected.

Mr. STUART. I have had some conversation with the Chairman of the Committee on Indian Affairs on this subject, and I will suggest merely—for I have no feeling about it—a modification of the amendment. The existing law authorizes the President of the United States to separate these duties whenever he thinks it proper; but there is a difficulty attending doing so, because it reduces the salary of the Governor. Now if this amendment were to be modified, so as to provide that, if the President deems it proper in any one case to separate these duties, and shall do so, the salary of the Governor shall remain as it is now for both services. I think there would be no objection to it. I have no feeling about the matter myself; but I have conversed with several individuals residing in the Territories who are interested in this question, and it seems to me the power ought to be left with the President to divide these duties. Perhaps in one case he might think it proper, and not in another; for instance, he might divide them in Minnesota, and leave them as they stand in Washington Territory, or *vice versa;* but whenever he separates them, let the salary of the Governor remain as it stood before the separation. I think that would be a satisfactory arrangement.

Mr. HUNTER. I doubt the policy of the separation of the two offices. It seems to me the Governor of the Territory ought to have the control of the Indians in that Territory; at least so much as is given to the superintendent of Indian affairs, and especially in the distant Territory of Washington. The result of my inquiries—and I have made some—is, that it is bad policy to separate the offices. I believe the only instance in which it has been done on this side of the Rocky mountains was to meet a peculiar difficulty in Utah; and I believe the result of our experience has not been such as to encourage the practice. I hope, therefore, that the amendment will be rejected, and that it may be the pleasure of the chairman of the Committee on Indian Affairs not to press it.

Mr. GWIN. The Delegate from the Territory of Washington says it would be ruinous to the prosperity of that Territory to separate the two offices. I hope the proposition will be rejected.

Mr. SEBASTIAN. Mr. President, the Senator from Michigan states very truly that the amendment asserts the general principle and the general practice of the Government heretofore. The Senator from Virginia is mistaken in supposing that there is but one Territory which forms an exception to this general policy. Sir, the policy proposed by this amendment has been the usual policy of the Government of the United States. The Governors of Kansas and Nebraska are not superintendents of Indian affairs in those Territories; and in Oregon a large and very prosperous Territory, the policy of separation has worked remarkably well. Of one thing I am quite sure: either the offices ought to be reunited in Oregon, or separated in Washington Territory; because the anomaly prevails there, in the same region of country, of a separation in the one Territory, and a combination of the duties of Governor and superintendent in the other. I say the policy has generally been to separate the two offices.

Now, sir, as to the application of that general principle, which I have no doubt is a sound one, I could give many reasons why it is so. As to the necessity of enforcing it in Washington Territory at this time, I must admit that, in consequence of information which I have since received, and which was unknown to the committee at the time they adopted this amendment, it is probably a doubtful policy in that case to separate the two offices, from the fact that Governor Stevens has inaugurated an Indian policy there which, whether right or wrong, it is best to give him an opportunity of carrying out. For that reason, so far as that Territory is concerned, I shall not insist on it.

As to the Territory on this side of the Rocky mountains, Minnesota, I am clearly of opinion that the separation ought to take place. That Territory, on the one side, is surrounded by Nebraska, immediately below which is Kansas, both of which are subject to the jurisdiction of a superintendent of Indian affairs not connected with the Governors of the Territories. The country on the other side belongs to the northern superintendency. Here is a Territory in which there is a conflict of interest, between the white settlers on the one part—those men who control the political opinions of the Governor—and the reserved tribes of Indians on the other; and we ought to have a separate officer to take care of those Indians. This contest is perpetually going on. The inevitable consequence is, that, either the country is locked up from settlement by a policy favorable to the Indian, or the interest of the Indian is subverted before that of the white settlers. I think that where there are two distinct interests, as in Minnesota, those interests ought to be protected by two different officials.

There is a law existing at this time which authorizes the President to exercise the power of separating the offices of Governor and superintendent in Minnesota whenever he thinks proper to do so. I understand, informally, that it has never been done in consequence of the effect being to reduce the salary of the Governor of the Territory below what is deemed a just equivalent for his services; and to reduce his compensation might be considered as a reflection on the official ability of that gentleman. The view which the Senator from Michigan takes would obviate that difficulty; and I am disposed, therefore, to adopt the suggestion which he makes; and if he will move an amendment embodying his sentiments on that point, I shall very cheerfully agree to it, and yield my opposition, for the present, to the retention of the two offices in the same person in Washington Territory.

Mr. STUART. The sense of the Senate can be taken on the proposition which I have suggested, but it will require some time to modify the amendment so as to correspond with that. The Senate, however, understand very clearly what the proposition is.

Mr. SEBASTIAN. I ask, then, that this amendment be passed over informally by general consent, and we can go on with other amendments until the Senator shall have time to prepare his modification.

Mr. STUART. Very well.

The PRESIDENT. If no objection be made this amendment will be passed over for the present.

Mr. RUSK. Before that amendment is passed over, as I may not be in my seat when it comes up again, I desire to say a few words upon it.

I think this amendment should be adopted. I have no doubt as to its propriety in all the Territories. It seems to me that, if we intend to control intercourse with the Indians, we ought to do it by the proper officers; but if we intend to submit the question in each Territory to the local jurisdiction we ought to unite the offices of Governor and superintendent. We should do one or the other. If we unite the offices there will certainly be difficulties. I do not mean to cast any reflection on anybody when I say that we know that gentlemen go out to the Territories to take the office of Governor with the expectation of returning to Congress. That is the universal rule. I do not know that the present Governors are operated on by this feeling; but human nature is pretty much the same in everybody. They go out to the Territories; they subject themselves to great inconvenience and trouble, and aid in settling a new country. There is frequently a very strong temptation on their part to come to Congress, either as members of the House of Representatives or Senators, and therefore their interest is for the settler against the Indians. Whenever the Indians are located on a reservation, and there is very good land in the neighborhood, settlers crowd around them, and instantly wish to obtain the reservation. The Governor, as a matter of course, subject to local influences, would be tempted, at least, to disregard the rights of the Indians; and the result would be confusion and injustice, which would cause us much difficulty. I have no doubt that a great many of the Indian troubles have grown up under such circumstances.

As I have said before, I do not intend to cast any reflection on the Governors of the Territories; but at the same time I do not wish to subject them to these temptations. I think, sir, that the best prayer we find written in the New Testament, is "Lead us not into temptation;" and especially should it be remembered in regard to political preferment and honor. If we are going to control the Indians, let us do it by our own officers. You appoint agents, and they are amenable to this Government; but, at the same time, under the existing system, they are also amenable to the local territorial government. This is a species of double allegiance which seems to me to be very incongruous.

Mr. GWIN. I was speaking especially in reference to the Territory of Washington. The Delegate from that Territory has stated to me, and other members of the Senate, that he believes the effect of this separation will be to depopulate that Territory. If you do not keep the power of Governor and superintendent of Indian affairs together in the same hands, the Indians, who will then be practically under no control, will massacre the whites. It is impossible for the superintendent of Oregon to keep in check the Indians in Washington Territory. This is the opinion of the peculiar representative of that section of the country, and I think his views on such a subject ought to be respected by the Senate. I am speaking, not only by his authority, but by the authority of the Governor himself, for I have received a letter from him expressing the same sentiment. They anticipate great difficulties there with the Indians. It is a most dangerous country, heavily timbered, very much broken, and the Indians are entirely different from those on the plains. They dash in upon the white inhabitants and massacre them. If you do not have the power of the Governor and superintendent in the hands of the same individual, there will be no safety in that country. This is the testimony of the Delegate.

The PRESIDENT. At the request of Senators this amendment will be passed over informally.

Mr. BROWN. I offer the following amendment as an additional section:

SEC. —. *And be it further enacted*, That Indian agents and sub-agents be, and they are hereby, authorized to take acknowledgments of deeds, wills, and other instruments of writing; and that acknowledgments so taken shall have the same effect as if taken before a justice of the peace.

I simply wish to remark, in explanation of this amendment, that I learn from at least one of the agents—a highly intelligent gentleman, who lives with the Choctaw nation—that these people have sometimes to travel as far as one hundred and fifty or two hundred miles to find a justice of the peace, before whom to make an acknowledgment of a deed. Many of the Choctaws, Chickasaws, Creeks, and Cherokees, are men of fortune, but they cannot get anybody to acknowledge a will for them. I think this is a defect which ought to be remedied. I offer the amendment, however, on my own responsibility, and not on that of the committee.

The amendment was agreed to.

Mr. SHIELDS. I offer the following additional sections as one amendment:

SEC. —. *And be it further enacted*, That the Secretary of the Interior be, and he is hereby, authorized and required to make suitable compensation to agents for paying pensions, but in no case shall such compensation exceed three per cent. on the amount of moneys by such agent annually disbursed, and shall be paid out of the fund appropriated for the payment of revolutionary pensioners. Said compensation shall be in full for all services and contingent expenses of said agency, except for books, printing, and stationery: *Provided*, That the amount of compensation allowed to any one agent shall not exceed the sum of $1,500 a year.

SEC. —. *And be it further enacted*, That each of said agents shall state his account quarterly, and transmit the same to the proper accounting officer of the Treasury for

settlement, and a duplicate thereof to the Commissioner of Pensions. He shall also transmit semi-annually to said commissioner the names of all pensioners on the lists in his agency at the commencement of each half year, to whom he was liable to make payments; also the names of such pensioners as have been inscribed on said lists, or transferred to his agency during said time, and shall designate the names of those he has paid, those who have died, those whose pensions have terminated, those who have not demanded their pensions for fourteen months, those who have been transferred to other agencies, and the names of the female pensioners who have married.

SEC. —. *And be it further enacted*, That the Secretary of the Interior shall regulate the remittances of funds to said agents for the payment of pensioners in such manner and at such times as to prevent any accumulation of balances in their hands.

SEC. —. *And be it further enacted*, That the provisions of the first section of this act be also extended to those persons who served as pension agents prior to the 20th of February, 1847, and subsequent to the 20th of April, 1836, when no compensation was provided by law for such services: *Provided*, That no such compensation shall be paid to any president, cashier, or other bank-officer, who may have performed such services as pension agent.

Mr. HUNTER. Mr. President, I do not know what we shall have to call this bill, how we shall amend its title, if all these various provisions be passed. First comes the Committee on Military Affairs, proposing to amend the Indian appropriation bill; and next comes the Committee on Pensions, doing the same thing! Now, sir, it seems to me that it is worthy of consideration, whether the Senate will embrace so many incongruous subjects in one bill. I know they have already gone very far, but if we proceed in this way we shall never know what we are taking up. When we have prepared ourselves for Indian appropriations, we are met with provisions which belong more properly to the pension appropriation bill, or to the civil and diplomatic bill, or to the bill making appropriations for the military service. Is this right?

But, sir, I object to the amendment in itself. It seems to me that it is an old acquaintance. I think it is a bill which the Senate voted down some year or two ago, on a showing from the Department of the Interior in relation to the mode in which the pension fund had been abused, and the measure of compensation which we should be giving under its provisions. I apprehend we should be giving far more than the Senate supposes, if we were to pass this measure. Besides I am told that there is no class of offices more sought after than this very office which is held by the agents to pay pensions. Probably, there is none which is better paid in proportion to the services rendered. But, sir, here is a bill with multifarious provisions; a bill which none of us expected to have proposed when we came here, knowing that the Indian appropriation bill would be under consideration, and it is pressed on us for action as an amendment to that bill. Why, sir, in order to do justice to the country, if this mode of legislation is to be pursued, we ought to lay the bill over, and take time to study this matter of pensions, understand it, see what it is that we are invited to do. I hope the Senate will vote down the proposition, at least on this bill.

Mr. SHIELDS. This measure was considered by the Senate on a former occasion; and, if I recollect aright, the only objection then made to it was that it might include banks; but now it has been so modified as to do away with that objection. A portion of the amendment is to pay agents who received no compensation for paying pensions for many years. The residue of its provisions are recommended by the Pension Bureau and by the Secretary of the Interior, and have nothing whatever to do with the payment of agents, but are only to correct some errors which existed in the original legislation. My opinion is that it ought to be germane to this bill, for at the time when those agents were employed they were connected with the War Department, which then had charge of Indian affairs. I have offered the amendment because, on a former occasion, when I brought it forward, it was objected to that it might include banks, and that objection has been avoided; and I thought it might be perhaps as germane an amendment as many of the others.

Mr. HUNTER. Mr. President, when this subject was under consideration at a former period, I consulted the Department, and I can say that it is opposed to this increase of compensation. I believe, if the truth could be ascertained—indeed, I have been informed it is probably the case—many of these pension agents deposit the money which is advanced to them, and get interest on it. Certain it is, as I am informed at the Department, or was informed a year ago, when I applied there for information in relation to this very matter, that there is no office more sought after than that of pension agent. There may be a few instances in which the officers are not sufficiently paid; but in general I believe they are as well compensated as any class of officers under the Government.

Mr. SHIELDS. Let me state to the honorable Senator that this does not increase the compensation of any of the agents. It leaves their compensation as it now stands. It simply makes some regulations in relation to the pensioners, for the safety of the Government; and, in addition to that, proposes to make an allowance for two or three years, when there was no compensation paid to the agents, and prevents any such compensation being paid to banks.

Mr. BENJAMIN. I ask for the reading of the amendment.

Mr. WELLER. It is too long.

Mr. BENJAMIN. Very well, sir; I will read it myself.

Mr. SHIELDS. If the honorable Senator from Virginia thinks the amendment will embarrass the bill, and that it needs more time to consider it, I shall withdraw it, and offer it some other time.

Mr. HUNTER. I hope so.

Mr. SHIELDS. I withdraw the amendment.

Mr. WELLER. A slight modification of an amendment, which has been adopted on my motion, is necessary in order to explain what, perhaps, would otherwise require explanation. It is a mere verbal correction to add the words "in addition to the existing appropriation," so that it shall read:

And be it further enacted, That from and after the passage of this act, the salary of the central superintendent of Indian affairs for the central superintendency, shall be $2,500 per annum; and for that purpose the sum of $500 is hereby appropriated, in addition to the existing appropriation.

Mr. HUNTER. I understand that it is proposed to add these words by general consent, as the amendment has been acted on. I suppose there will be no objection to it, as it is merely to carry out the declared intention of the Senate.

Mr. WELLER. The existing law already makes an appropriation of $2,000 for his salary, and it becomes necessary, in consequence of this increase, to make an appropriation of $500 more.

The PRESIDENT. It requires unanimous consent to make an alteration now, as the amendment has been adopted. The Chair hears no objection, and the modification will be made.

Mr. STUART. I ask the Senate now to proceed to the consideration of the amendment which was laid over informally some time ago.

The PRESIDENT. The question now is on the amendment laid over, providing for the separation of the duties of Governor and superintendent of Indian affairs in Minnesota and Washington Territories, which has already been read.

Mr. STUART. I propose to offer, as a substitute for that amendment the following, which I have shown to several Senators, and which I think meets their views:

And be it further enacted, That whenever the President shall deem it proper to do so, he may separate the duties of superintendent of Indian affairs from those of Governor in any of the Territories of the United States, and attach such superintendency to such other superintendent as he shall direct; but the salary of the Governor in all such cases shall be and remain the same as now received for the united duties.

Mr. BAYARD. It seems to me that there is a very objectionable principle involved in that amendment. I have no objection whatever to giving to every Governor of a Territory, and to every officer in the employ of the Government, a full and ample salary. You give to the Governor an adequate salary as Governor, and you give him an additional salary for the duties of a distinct office—that of superintendent of Indian affairs. It is strange legislation indeed, when you withdraw the duties, to leave the emoluments untouched. I cannot vote for an amendment based on such a principle.

Mr. STUART. The Senator will find, I think, if he will examine this case, that the salary now paid for the performance of both duties is not more than a gentleman deserves for acting as Governor alone. These other duties are simply attached to the office of Governor, and were supposed to be somewhat temporary in their character.

Mr. BAYARD. That does not answer the objection to the principle. The precedent is an exceedingly bad one in its effect. If it be the fact that the Governors are not remunerated, I will vote for as large a salary as is sufficient, as cheerfully as any member of the body. I am willing to remunerate every officer for the services which he performs. If Congress, in this case, choose to recognize the offices as distinct, with a distinct salary to each office, I know of no principle on which you can withdraw the full performance of the duties of one of the offices, and suffer the salary to remain as it was for both.

The amendment of Mr. STUART was rejected.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The question recurs on the amendment adopted as in Committee of the Whole. The Chair will call the attention of the Senator from Arkansas, who moved the amendment, to the fact that there is a blank in it which should be filled. It provides "That from and after the —— day of —— next, the Governors," &c.

Mr. GWIN. We shall vote it all down.

Mr. STUART. There is no use in taking time to fill the blank, as the Senate, evidently, does not intend to adopt the amendment.

Mr. CHASE called for the yeas and nays; and they were ordered.

Mr. SEBASTIAN. Mr. President, as the modification proposed by the Senator from Michigan, to which I was willing to agree, has failed, and the only question now is between the rejection or adoption of the amendment as it stands, I shall vote in favor of it, as I am clearly of opinion, with the Senator from Texas, [Mr. RUSK,] that it ought to be adopted, as the committee have reported it. I will state but one reason which has induced the committee to agree to the separation. I think it is sufficient, without stating any others. It will be remembered that the Governor of a Territory, in his character as Governor, is responsible to the State Department; and reports to, and receives his instructions from, the Secretary of State. In his character as superintendent of Indian affairs, he reports to, and is responsible to the Secretary of the Interior. Thus, in his two characters, he is responsible to separate chiefs, who, in many instances which I might repeat if I thought it necessary, have not been governed by unity of counsel. Why, sir, in a case which happened last year, the State Department ordered the Executive of New Mexico, as Governor, to come here for the purpose of attending to some business in connection with the State Department. When the Governor came, of course he brought the superintendent of Indian affairs with him; and while he was gone the Jicarilla war broke out, and many of our troops and people were murdered. Inconveniences will frequently happen in consequence of such a state of things. While obeying the orders of one chief, the duties of another Department will be neglected. This is often the case in our distant Territories. Why, sir, Governor Stevens, of Washington Territory, has been here once or twice since his appointment to office, and during his absence the Indian affairs of that Territory were, necessarily, left in a precarious condition, and without that control which was necessary. Of course he could not come from such a distant Territory without consuming time.

I think, then, sir, it is hardly worth while to attempt on the one hand to balance the small increase of salary against the great inconvenience which results from withdrawing one officer upon the command of a chief to whom he is not responsible. If the Secretary of the Interior, who has charge of the Indian affairs, orders him, as superintendent, to repair to Washington, to settle business in that Department, he must come here in that character, and leave the Executive duties of the Territory in the hands of a subordinate officer. This, sir, is not theory; but practical inconveniences and mischiefs have arisen from these accidents, and they will always occur. It is one of the most striking illustrations of the necessity of separating duties so incompatible as these are, so entirely distinct and different, and committing them to the hands of different officials. In doing so, we accommodate legislation in this case to what has been the past policy of the Government.

For the reasons which I have stated, between the adoption and unconditional rejection of the amendment as it is offered, I greatly prefer that the Senate should adopt it.

Mr. GWIN. Mr. President, the absence of Governor Stevens from the Territory of which he is Governor, was in regard to another duty which he had to perform. He came here to make his report in regard to a survey across the continent. During his absence the Secretary of State for the Territory acted in his place, and there was no suffering in consequence of his absence. I undertake to say that the best judges of what is necessary to be done in legislation for the Territories are the Delegates of those Territories in the House of Representatives.

Since I have been in the Senate I have never known an occasion where the representations of those Delegates, in regard to the interests of their constituents, were disregarded by this body. The Territories have no representatives here, and we are accustomed to defer to what their Delegates in the other House say is their interest. The Delegate from the Territory of Washington says that we shall drive the white population out of that Territory if we separate these two officers, and put the charge of the Indians in Washington under the superintendent in Oregon, who cannot keep the Indians in his own superintendency at present under control. Acting upon his representations of the wants of his Territory, I trust the amendment will be rejected.

Mr. DOUGLAS. I sincerely hope this amendment will not prevail, and that we shall not separate the office of superintendent of Indian affairs from that of Governor of the Territories. The same proposition was presented and discussed at the last session of Congress, and the Senate then refused to agree to the separation. I am willing to do what the Senator from Michigan, a few minutes ago, proposed—provide that, whenever, in the opinion of the President of the United States, the public interests may require it in any Territory, he may separate the duties; but I am not willing to make a compulsory separation by law. I believe that it is essential to the good order of the Territories, to the preservation of the whites from the aggressions of the Indians, and also the preservation of the Indians from the aggressions of the whites, that the two offices should be united.

The Governor, in virtue of his executive authority, is clothed with the power of calling out the militia, whenever he thinks it necessary, to put down any insurrection, or to repel any invasion, either on the territory of the Indians or of the whites. Being armed with that power, he would certainly have more authority as superintendent of Indian affairs to preserve peace on the borders, to protect the whites from the Indians, and, what is still more important, protect the Indians from the whites. He has much more authority as Governor than he would have simply as superintendent of Indian affairs. Sir, you will have confusion, and violence, and anarchy, the moment you separate these two offices, so that the superintendent shall have no real authority to carry out the orders of the Government, or the laws of the country. I am willing to provide that the President shall have power to make the separation in any case where the public interests require it, and for that purpose I will offer, though in a slightly modified form, the amendment which the Senator from Michigan presented, and ask for the yeas and nays upon it. My amendment declares that the separation may take place whenever, in the opinion of the President of the United States, the public interests may require it.

Mr. EVANS. That is the law now.

Mr. DOUGLAS. I wish to modify this amendment in that way, and then pass the provision.

Mr. PRATT. It has just been voted down.

Mr. DOUGLAS. The proposition which I offer is not the same as that which has been voted down; it is slightly modified. My observation, as chairman of the Committee on Territories, has brought me to the firm conviction that the greatest injury you could inflict on the Territories would be to make this compulsory separation. What harm can there be in leaving the whole matter in the discretion of the Executive Department?

The PRESIDING OFFICER, (Mr. BADGER.) The amendment of the Senator from Illinois is precisely in the same words as that offered by the Senator from Michigan, except that he has stricken out the words "to do so" in one line, and the word "the" in another.

Mr. DOUGLAS. Precisely, so that the legal effect is the same. I call for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. BELL. Mr. President, I have a great deal of confidence in the judgment of the honorable Senator from Arkansas, and of the Committee on Indian Affairs; and as this proposition has been brought forward by them, after very thorough consideration, I am inclined to support it. The amendment of the honorable Senator from Illinois, however, seems to me to be perfectly nugatory; for I suppose it is not to be imagined that the Executive of the United States, having power to remove a territorial Governor, would think it proper to divest him of a jurisdiction once vested in him over the Indian tribes within the limits of his Territory. If an exigency arose which, in the opinion of the President, demanded such a thing, I think he would be very apt to remove the officer altogether. For this reason I think that amendment ineffectual.

This whole question, it seems to me, should be determined by what the Government considers its true policy, and what the public interest requires in regard to two points which I shall state. Is it the object of the officers who have the management and control of the Indian tribes within any Territory, to induce them to remove out of it as rapidly as possible, to get fresh acquisitions of land, to conciliate them, and open the road for new treaties with the Indians in order to clear them entirely out, and to promote rapid settlement? If that be the policy of the Government, the Governor is the proper person to be superintendent of Indian affairs, and he ought to have the whole control within his hands. The danger is, that they are very likely to become over-anxious to expel the Indians from their borders, and in this way we occasionally become involved in difficulties which might otherwise have been avoided.

I make no imputations on the Governor either of Washington or of Minnesota Territory. Every gentleman here knows what the ambition and policy of these Governors are likely to be, almost in spite of themselves, on questions of this kind. If the proper policy of the Government in regard to the Indian tribes be what I have just stated, there ought to be no change made; but the Governors ought to have the superintendency of Indian affairs. If, on the contrary, it is the policy of the Government only to remove the Indians as fast as they can be conveniently removed, with some degree of consideration for their situation, and wants, and desires; if we wish an officer to conciliate and secure the affections of the various tribes, it would be better, I think, to have a separate superintendent for that purpose.

As to the Territory of Washington, I believe there are but few Indians within its whole limits. Although it reaches from the Pacific ocean to the crest of the Rocky mountains, I do not believe the Indians in the whole Territory exceed six thousand or seven thousand, and they are made up of I do not know how many tribes. In Minnesota the Indians have ceded almost all the lands which are desirable for settlement.

The superintendents of Indians are more likely to contract feelings of friendship, and pursue a policy conciliatory and beneficent in regard to the Indian tribes, than the Governors of the Territories. That is about the whole question. If the superintendents are proper men, they will never allow their local feelings to come in conflict with their duty to the Government of the United States, and with our policy in extending white settlements where they ought to be extended, where there is need for Indian country, and to lay the foundation for new treaties as they ought to be made to meet the requirements of our extending borders. If our superintendents be the proper men who ought to occupy those places, they can have a powerful influence in restraining Indian difficulties and preventing hostilities, particularly if they be men of energy and sagacity, as well as of good principle. If they be men of no capacity, if they have not the means of adopting or pursuing a policy for the great end of the preservation of peace, then it makes very little difference who has the superintendency or management of the Indians.

I think myself the Committee on Indian Affairs are correct in regard to the rule which they have laid down. I feel no anxiety about it; but I think it is the truest policy of the Government to separate the office of Territorial Governor from that of the superintendent of Indian affairs, whenever it can be done conveniently. In this case, I understand it is proposed to attach Washington Territory to the superintendency of Oregon, where the superintendent was appointed for the whole territory when Oregon included the present Territory of Washington. In regard to Minnesota the proposition is, to attach it to the northern superintendency.

The question being taken by yeas and nays on Mr. DOUGLAS's amendment to the amendment, resulted—yeas 20, nays 19; as follows:

YEAS—Messrs. Bright, Brodhead, Brown, Clay, Dawson, Douglas, Fitzpatrick, Foot, Gwin, Hamlin, Jones of Iowa, Jones of Tennessee, Mason, Pettit, Seward, Slidell, Stuart, Thomson of New Jersey, Weller, and Wells—20.

NAYS—Messrs. Allen, Badger, Bayard, Bell, Benjamin, Brainerd, Chase, Clayton, Cooper, Evans, Gillette, Houston, Hunter, Pearce, Pratt, Rusk, Thompson of Kentucky, Wade, and Wilson—19.

The question recurring on the amendment made as in Committee of the Whole, as thus amended, was taken by yeas and nays, and resulted—yeas 16, nays 22; as follows:

YEAS—Messrs. Bright, Brodhead, Douglas, Fitzpatrick, Jones of Iowa, Mason, Pearce, Pettit, Sebastian, Seward, Slidell, Stuart, Thompson of Kentucky, Thomson of New Jersey, Weller, and Wells—16.

NAYS—Messrs. Adams, Allen, Badger, Bayard, Bell, Benjamin, Brainerd, Chase, Clay, Clayton, Dawson, Foot, Gillette, Gwin, Houston, Hunter, Jones of Tennessee, Mallory, Pratt, Rusk, Wade, and Wilson—22.

So the amendment was not concurred in.

Mr. PETTIT. There are, in my judgment, some instances where the Secretary of the Interior ought to have a discretionary power to pay out moneys owing to the Indians, sometimes for provisions furnished, for clothing, and at others for services rendered. I take it that such a provision would be wholesome and proper for the Indians, especially as putting them in a condition where they may possibly get credit when they shall need it, for services, and for provisions. A proposition of that kind cannot be properly objected to, if it is guarded against abuse. I propose to the Senate this amendment:

That the Secretary of the Interior is hereby authorized to pay, out of any money hereafter to be paid to any tribe, or part of tribe, of Indians, such sum as he may be fully satisfied shall be justly due and owing to any person, or persons, for necessary provisions furnished, or for proper and beneficial services rendered to such tribe, or part of tribe, the assent of such tribe, or part of tribe, being first properly obtained thereto.

Mr. BAYARD. I ask for the yeas and nays on that amendment. The Senate, yesterday, twice rejected the same provision in substance.

The yeas and nays were ordered; and being taken, were as follows:

YEAS—Messrs. Badger, Bright, Jones of Iowa, Pettit, Rusk, and Weller—6.

NAYS—Messrs. Allen, Bayard, Benjamin, Brainerd, Brodhead, Chase, Clay, Clayton, Dawson, Dodge of Iowa, Evans, Fitzpatrick, Foot, Geyer, Gillette, Hamlin, Hunter, Mallory, Mason, Pratt, Seward, Slidell, Stuart, Thompson of Kentucky, Thomson of New Jersey, Wade, Wells, and Wilson—28.

So the amendment was rejected.

The amendments were then ordered to be engrossed, and the bill to be read a third time. The bill, as amended, was read the third time, and passed.

Mr. HUNTER. I suppose after the amendments which we have adopted, it is necessary to amend the title of the bill, by adding, "and for other purposes."

The amendment was agreed to and the title, as thus amended, was adopted.

SWAMP LANDS.

Mr. STUART. The House bill for the relief of purchasers and locators of swamp and overflowed lands was amended by the Senate. The House has disagreed to our amendment. I now move that the Senate insist on its amendment, and ask for a conference thereon.

The motion was agreed to; and the PRESIDENT *pro tempore* was authorized to appoint the committee.

ORDER OF BUSINESS—PACIFIC RAILROAD.

Mr. GWIN. I ask the Senate now to proceed to the consideration of the first special order on the Calendar—the bill reported by the select committee in relation to the construction of a railroad to the Pacific ocean.

Mr. CLAY. Mr. President, there is a bill

which has been partly discussed, which I think should now be considered. I refer to the bill to grant a credit of three years to railroad companies for the payment of duties on iron imported for railroad purposes. This day a week ago that bill was taken up and partially discussed. It was postponed at the instance of the honorable Senator from Maryland, [Mr. PEARCE,] until the following Monday; and it was then laid over in consequence of the absence of the Pennsylvania Senators. They are now here. I am very anxious to have that bill disposed of, and I trust the Senate will take it up. I would yield without an objection to the Senator from California, if I believed that any practical good would be achieved by the passage by the Senate of his bill; but considering, as I do, that it will not be taken up in the House, and feeling very anxious to have this other bill disposed of, as we have progressed partially with it, I do trust the motion of the Senator from California will not prevail, but that we shall take up the bill which I have indicated.

Mr. GWIN. I hope the regular order of business will be adhered to. The Pacific railroad bill has been on the Calendar for more than ten months, and I trust there will be no objection to taking it up and considering it. I am willing to give the Senator a full opportunity to have his bill acted on and passed. I am in favor of it, but I think it due to the Senate and to the country, that the bill which I have moved to take up should be first disposed of.

Mr. JONES, of Tennessee. I am as much in favor of the Pacific railroad bill as the honorable Senator from California can be, and I think I have shown that by my votes at all times. I concur, however, with the honorable Senator from Alabama, that it is improbable that any practical results will grow out of the passage of that bill by the Senate now. The railroad iron bill has been under discussion. If you put it on the score of priority, I maintain—and I think the Chair will concur with me—that that bill has priority over the one which the Senator from California has moved to take up. It was made the special order at this session, before his was, I think. It was taken up last week and debated, and was the regular order of the day for Monday last. The Senator from Maryland, who then had the floor, was indisposed and could not go on with the debate. That, together with the fact that the Senators from Pennsylvania were not here, led to our passing the bill over on that day. It has been postponed from day to day since then, in order that the Indian appropriation bill might be disposed of. That bill has now been passed, and I insist that the bill alluded to by the Senator from Alabama, shall be taken up. It has been in part discussed, and I think we can get through with it to-day. If so, I shall consent that the Senator from California may have his bill taken up to-morrow.

The PRESIDING OFFICER, (Mr. BADGER.) The Chair will inform the Senate that the "bill for the construction of a railroad from the valley of the Mississippi to the Pacific ocean," is the first of the special orders. On the special orders being called for, it is before the Senate, unless the Senate—which is entirely within their power—make some other direction.

Mr. CLAY. I propose, then, a compromise with the Senator from California. If his bill shall not create any discussion, if a vote can be taken on it immediately, I shall not object to acting on it——

Mr. GWIN. I have no control of that matter. I will not discuss it myself.

Mr. CLAY. I wish to propose a compromise, as I have said. I understand that the honorable Senator from Pennsylvania, who did not address the Senate the other day on the bill to which I have alluded, [Mr. COOPER,] desires to be heard on it. I understand that the Senator from Maryland, on whose motion the bill was postponed last week, [Mr. PEARCE,] also desires to address the Senate on the subject. I myself wish to submit a few remarks to the Senate in relation to it. Under these circumstances, I do not think it probable that we could dispose of that bill to-day; and if the Senator will join me and the friends of the measure in taking up the bill to grant a credit on railroad iron, and make it the special order for Saturday, at half-past twelve o'clock, so that we may dispose of it on that day, I shall yield without objection to the present consideration of the Pacific railroad bill.

Mr. DAWSON. I beg leave to say, that I hope no compromise will be entered into for individual measures which will postpone action on the bills for the benefit of the District of Columbia. My friend from California has made several efforts to get up the Pacific railroad bill, and he has had, on two occasions within the last few weeks, an expression of opinion from this body refusing to take it up. Now, in order to allow the controversy between the Senators from Alabama and California to be settled, I move that we proceed to the consideration of the business of the District of Columbia.

The PRESIDING OFFICER. The Chair will inform the Senate, that the bill for the construction of a railroad from the valley of the Mississippi to the Pacific ocean being the first special order, is, upon the call for the special orders being made, before the Senate. It is now under consideration as in the Committee of the Whole, and will be proceeded with, unless the Senate direct it to be laid aside.

Mr. CLAY. I will throw no obstacle in the way of its consideration, if the Senator from California will join me in the attempt to take up the railroad iron bill, and make it the special order for Saturday. That bill has certainly been dealt unfairly by.

Mr. PRATT. The bill to which the Senator from Alabama refers, before it becomes a law, will occupy all the remaining time of this session in its discussion. It is a proposition to take an isolated article for the purpose of changing the tariff in regard to it, and leaving the tariff with regard to every other article untouched; and that, sir, is an article representing one of the leading, or, perhaps, the leading industrial interest of the country. Now, I apprehend that a measure of that magnitude cannot pass the Senate without being fully discussed. My colleague has already given notice of his intention to discuss it; and we know that not only a day, but several days, will be occupied in debating it if it be pressed. I can see no necessity for making it the special order for Saturday, or any particular day, as it is already a special order. The honorable Senator will not put the bill in a better position by having it made a special order, than by allowing it to remain as it is. It will depend at last on a majority of the Senate whether they will take it up at all or not. Let him move to take it up now, in preference to the other bill, and let the vote on that motion be considered as a test vote on the question whether a majority of the Senate are in favor of taking off the duty which is now imposed on railroad iron. In this way we can readily obtain a test of the disposition of the Senate. There is no use in consuming our time now in the discussion of the measure, if it is to have no beneficial result. I imagine there is a large majority of the body opposed to taking off this duty; I cannot but think so; but I am very willing that the honorable Senator from Alabama shall move to take up the bill and call for the yeas and nays on that motion, as a test question.

Mr. JONES, of Tennessee. The Senator from Maryland [Mr. PRATT] assumes that which is not to be found in the bill. He assumes that it is to repeal the duty on railroad iron, and is an interference with the tariff. I beg to inform that Senator that there is no such proposition in the bill. There is nothing that looks like it. It is simply an extension of credit to railroad companies, just such as was accorded to the railroad companies in the Senator's own State. It was no conflict with the tariff then, and, I apprehend, is not now.

The Senator from Maryland is, I think, mistaken in another point. He seems to suppose that the bill cannot pass the Senate. I have so much confidence in the justice of this body that I believe the bill will pass by a decided majority, and I am willing to risk it either with or without debate. But, sir, I do object to one point which was made by the Senator from Maryland. He seeks to force this bill in antagonism to another large interest; and he calls upon us now to bring it up and make a test question between it and the Pacific railroad bill. Sir, I think we are a little too smart to be driven into any such predicament as that. We do not wish to come in conflict with the friends of the Pacific railroad bill. They are the friends of this measure, and the friends of this measure are the friends of the Pacific railroad. We are with them. I hope my friend from Alabama will adhere to his agreement with them, and insist on having this bill taken up on Saturday.

Mr. COOPER. Mr. President, as I understand that I have received some courtesy at the hands of Senators on the other side on this subject, and desiring to requite it, I shall throw no obstacle in the way of taking up this bill. I am totally opposed to it, and shall expect to be heard upon it when it comes before the Senate for consideration. I only wish to state now, that I entirely disagree with the views which have just been expressed by the Senator from Tennessee. He declares that it is not intended as a modification of the tariff, that it does not interfere with the tariff, but that it is simply an extension of the time within which the duties on railroad iron are to be paid. I entirely disagree with him. I believe it is opening up the whole subject of the tariff; and if I shall be able to show that it does serious injustice to a great interest, I hope the Senate will not pass the bill. I think I shall be able to show that justice is on the other side from that supposed by the Senator from Tennessee. But, sir, I shall not discuss the question now. I shall wait until the bill is regularly before the Senate; and then, I think, I shall have an opportunity to be heard at length.

The PRESIDING OFFICER. The Chair will again state to the Senate, that the bill under consideration is a bill for the construction of a railroad from the valley of the Mississippi to the Pacific ocean. There is no motion to postpone it, and it is not in order to discuss the railroad iron bill. If any gentleman makes a motion to postpone the bill, of course it will be entertained.

Mr. GWIN. I trust the bill will be proceeded with.

Mr. BELL. I rise to suggest whether the Senate will not agree, by general consent, that the Senator from Alabama shall now make his motion. I will suggest, however, to him, to say Monday instead of Saturday, so as to allow the friends of the Pacific railroad bill a chance to dispose of that.

Mr. CLAY. I appeal to the Senate——

The PRESIDING OFFICER. Will the Senator from Alabama allow the Chair to suggest that the bill to which he alludes is now a special order, and that making it a special order for Saturday will make no difference at all; for it will put it exactly where it is now, on the list of special orders, liable to be called for at any time.

Mr. CLAY. Then I will not press the motion; but I give notice to the Senate that I shall call up the bill on Saturday, and press the consideration of it. As a further response to what was said by the honorable Senator from Maryland, I venture to assert that I shall then show that this interest, which he calls a great interest, is a very insignificant iron interest; and that, so far from the present duty being any protection, it is absolutely no protection at all.

The PRESIDING OFFICER. Senate bill (No. 273) for the construction of a railroad from the valley of the Mississippi to the Pacific ocean, is now before the Senate, as in Committee of the Whole, and open to amendment. The bill will be read for the information of the Senate, if desired.

Mr. GWIN. It is not necessary to occupy the time of the Senate by reading the original bill, as I intend to move, as a substitute for it, Senate bill No. 537, the bill introduced by the Senator from Illinois, [Mr. DOUGLAS,] as reported back from the select committee with amendments. In order to effect my purpose, I move the amended bill as a substitute for this. And, as I suppose it is in order now to perfect the substitute, I propose various verbal amendments, which I trust will be adopted by the Senate.

The PRESIDING OFFICER. The Chair understands that the Senator from California moves, as an amendment to this bill, a substitute to strike out the whole of the original bill after the enacting clause, and insert the other bill which he has mentioned.

Mr. GWIN. Can I not now move to perfect the substitute which I propose, by offering several amendments?

The PRESIDING OFFICER. The first question will be on perfecting the original bill; but if no amendment be moved to that, the Chair will receive the amendments of the Senator from California to the substitute.

Mr. GWIN proposed a number of verbal amendments, which were agreed to.

Mr. CHASE called for the reading of the substitute, but at the request of Senators he withdrew the call.

The original bill provides that, in order to secure the construction of a substantial first-class railroad through the Territories of the United States, from some point on the western boundary of one of the Atlantic States west of the Mississippi, to the eastern boundary of California, there shall be granted to any individual, or company, or corporation, chartered for the purpose by any state, who may contract with the United States for the work, every alternate section of land designated by odd numbers within twenty miles of each side of the route; and it appropriates a sum not exceeding $600 a mile for carrying the mail daily on the road for a period not longer than thirty years. The road is to be commenced within three years from the date of the contract, and finished within seven years; one seventh part to be completed in each year. The party who bids the lowest sum for the carrying of the mails and complies with the other stipulations of the bill is to receive the contract.

The substitute offered by Mr. GWIN, as amended on his motion, is to strike out all of the original bill after the enacting clause, and insert the following:

That with the view of aiding in the construction of suitable railroads and telegraphic communications between the Mississippi valley and the Pacific ocean, there shall be, and is hereby, appropriated and set apart a quantity of public land equal to the alternate sections for the space of twelve miles on each side of said roads from their eastern to their western termini, as follows:

One road and telegraph, to commence on the western border of the State of Texas, and to pursue the most eligible route to the navigable waters of the Pacific, in the State of California; which line shall be known as the Southern Pacific railroad;

One road and telegraph, to commence on the western border of the States of Missouri or Iowa, and to pursue the most eligible route to the Bay of San Francisco; which line shall be known as the Central Pacific railroad;

And one road and telegraph, to commence on the western border of the State of Wisconsin, in the Territory of Minnesota, and pursue the most eligible route to the navigable waters of the Pacific in Oregon or Washington Territories; which line shall be known as the Northern Pacific railroad; such lands to be selected from the sections which shall be designated in the public surveys of said land (when made) by odd numbers, and to be held and conveyed as herein provided; and in all cases when the United States may have disposed of said lands, or any part thereof, or shall from any cause be unable to convey a title thereto, the deficiency may be made up by the party or parties who may become entitled thereto from any unoccupied and unappropriated lands belonging to the United States within the distance of thirty miles of said road: *Provided, however*, That, for such deficiency within the State of California, and also in lieu of all mineral lands in said State, (which are hereby excepted from the appropriation herein made,) such selection may be made from any unoccupied and unappropriated lands of the United States within fifty miles of said road in the said State.

SEC. 2. *And be it further enacted*, That it shall be the duty of the Secretary of the Interior, Secretary of War, Secretary of the Navy, and the Postmaster General, upon the passage of this act, to cause advertisements to be published in two newspapers in each State, and in the District of Columbia, for a reasonable time, not exceeding six months, which advertisement shall invite sealed and separate proposals for the construction of each or either of said lines of road and telegraph in the manner herein provided; said advertisement shall include a copy of this act as containing the terms upon which the United States are willing to contract for the construction of either of said lines of road and telegraph, and shall require separate sealed proposals, stating specifically whether it be for the southern, central, or northern line, and also,

First. The time in which the party or parties propose to construct, complete, and finish the entire road and telegraph ready for use, which period must not exceed ten years from the signing of the contract; and also what extent and portion thereof they propose to complete and put in operation during each and every year.

Second. The time in which such party or parties will surrender and transfer, free of cost to the United States, for the purpose of being surrendered to several States as herein provided, the said road with its appurtenances and furniture.

Third. The sum, not exceeding $300 per mile per annum for carrying the United States mails daily both ways on said road, under the direction of the Post Office Department, for the period of fifteen years from the completion of the road; and, while in course of construction, for the portion in use and at what rate per mile, for a like period, and on the portions in use while being constructed, they will carry on said road, under the direction of the proper department, all military and naval stores, supplies, munitions, troops, and freights of all kinds for Government purposes, which sum or rate must not exceed that now paid in the aggregate for such service; and from and after the expiration of said period of fifteen years, said transportation, postal, military, naval, and for every other Government purpose, shall be in like manner performed on said road, under the direction of the proper Department, at reasonable prices, not exceeding those usually paid for the time being on other first-class roads, to be ascertained by Congress in the event of disagreement between the Government and the owners of the road.

SEC. 3. *And be it further enacted*, That the Secretary of the Interior, Secretary of War, Secretary of the Navy, and the Postmaster General, under the direction of the President be, and they are hereby, authorized to contract with the party or parties whose proposals, as aforesaid, may be accepted for the full and complete construction and keeping up of either line or each of said lines of road and telegraph; the said contract to provide for the road or roads as herein described, and also for a telegraph line or lines on the most approved plan; and that the party or parties whose proposal in any case may be accepted, shall deposit with the Secretary of the Treasury the sum of $500,000, or the value thereof in bonds or certificates of stock of the United States, or State bonds, whose market value shall be at or above par at the time of making the said deposit, which may be subsequently drawn out by them in sums of $5,000, as the work proceeds, on the production of vouchers showing satisfactorily to said Secretary that an amount equal thereto has been applied in good faith to the construction of said road; and all obligations, contracts, and securities, shall be binding and obligatory in law on the contracting parties, according to the exact terms of their respective obligations, contracts, and undertakings; all questions of damages and forfeiture by reason of any breach of said contracts being determined by the express terms of such obligations, contracts, and undertakings: *Provided*, That in all contracts made in pursuance of this act the provisions of the act shall be taken and considered as parts of said contracts in like manner as if the same were set forth in full in said contracts.

SEC. 4. *And be it further enacted*, That in making said contracts it shall be stipulated that, for the sake of convenience, the said roads shall be divided into sections of one hundred miles each, and that none of said lands shall be conveyed to the contractors until one of those sections shall be completed and put in successful operation, when the President shall convey by patent to the contractors three fourths of the land pertaining to the section so completed, retaining the other fourth as security for the completion of the next section of one hundred miles; and when the second section shall be completed, the President shall, in like manner, convey to the contractors three fourths of the land pertaining to that section, together with the remaining fourth on the previous section, and so with each section, conveying three fourths and retaining one fourth as security for the completion of the next, until the last section of the road shall be finished and put in operation, when the President shall convey to the contractors the residue of the lands; and it shall also be stipulated in said contracts that the mails shall at all times be carried on said roads under the direction of the Post Office Department, and that all other transportation for the use of the United States, as provided in this act, shall be performed under the direction of the proper department, and that the compensation therefor, at the prices specified in said contracts, in pursuance of this act, shall be regularly paid from the Treasury of the United States quarterly, or at such times as shall be agreed upon: *Provided*, That no money shall be advanced, nor shall any such compensation be made until the service, to the extent of the payment so made, shall have been first performed.

SEC. 5. *And be it further enacted*, That should any contracting party or parties substantially fail, neglect, or refuse to prosecute the work undertaken by said party or parties, in a manner to secure the completion thereof in compliance with their contract, and within the time stipulated, or should such party or parties violate the terms of the contracts, then all rights of said party or parties to said road, right of way, or property, shall be and become forfeited to the United States, and the United States may and shall enter upon and possess the same. In the event of such forfeiture, to be determined by the Secretary of the Interior, Secretary of War, Secretary of Navy, and Postmaster General, with the approval of the President, said Secretary of the Interior, Secretary of War, Secretary of Navy, and Postmaster General shall proceed to relet the work remaining under such forfeited contract, and provide for the disposition of the work, done in such manner as will secure its earliest completion, in conformity with the provisions of this act: *Provided*, That they shall not stipulate on the part of the United States for any higher or other terms than are herein expressly authorized and provided.

SEC. 6. *And be it further enacted*, That the party or parties with whom the contract or contracts aforesaid shall be made, shall proceed, as soon as practicable after the execution of such contract or contracts to locate the general route of said road or roads, and fix the eastern and western terminus of the same; and as soon as such general route or routes shall be determined, which shall not be more than two years from the date of said contract or contracts, a statement thereof shall be furnished by said party or parties to the Secretary of War, and as soon as practicable thereafter, the President shall cause the public lands on each side of said route or routes, to the extent of at least forty miles, to be surveyed, and the Indian title thereto extinguished if practicable; and the provisions of the act of September, 1841, granting preëmption rights, and the acts amendatory thereof, shall be, and the same are hereby, extended to such lands, saving and excepting the lands herein set apart and appropriated for the use of said road or roads, as aforesaid: *Provided, however*, That the alternate sections and parts of sections of land which, by this act, shall remain to the United States, within the lines of ten miles on each side of said road or roads, shall not be entered or sold, by preëmption or otherwise, for less than double the minimum price of the public lands when sold: *Provided further*, That so soon as a contract shall be made as aforesaid for the construction of either or each of said roads, it shall be the duty of the President to cause the public lands, for not exceeding forty miles on each side of so much of such route as the contractors thereof shall indicate, in pursuance of this act, to be withheld from settlement, sale, or occupation, until the lands shall have been surveyed, and the alternate sections selected, as provided in this act.

SEC. 7. *And be it further enacted*, That the party or parties receiving grants of alternate sections of land, under the provisions of this act, shall be required to sell, and unconditionally convey one half of the same, within five years from and after the issuing a patent for the same, or any part thereof; and all lands so granted to such party or parties, and remaining the property of such party or parties, or which may be held to the use or for the benefit of such party or parties at the expiration of ten years from the date of the patents, shall be and become forfeited to the United States.

SEC. 8. *And be it further enacted*, That the lands of the United States, for two hundred feet wide, along the entire line of said road or roads, shall be, and is hereby, set apart, and dedicated as a highway for railroad and telegraphic purposes; and the said party or parties may take any earth, ground, stone, timber, or other necessary materials, for the construction of said roads or telegraph, from any adjoining lands of the United States. All contracts made in pursuance of this act, for the construction and keeping up of a railroad or roads, and telegraphic line or lines, shall provide for and require the railroad or railroads to be constructed in a substantial, thorough, and workmanlike manner, with all necessary drains, culverts, bridges, viaducts, crossings, turnouts, sidings, stations, watering places, and all other appurtenants, including the furniture and rolling works of the road or roads, equal in all respects to a road of the first class when prepared for business, with rails of the best quality, weighing not less than sixty four pounds to the yard, and a uniform gauge throughout the entire length of each road; and shall also provide for and require a telegraphic line of the most substantial and approved description, along the line of each road: *Provided*, They shall not charge the Government higher rates than they do individuals for like service.

SEC. 9. *And be it further enacted*, That the party or parties constructing or owning either of said roads, may at any time construct one or more additional tracks along said routes within the two hundred feet herein granted for the right of way. And all connections with said road or roads shall be made under the direction of the Legislatures of the States and Territories respectively, in which the same shall be constructed; and no road shall be made in pursuance of this act in the State of California, without the authority of the Legislature of that State, and then only by virtue of the authority of such State.

SEC. 10. *And be it further enacted*, That whenever the said road or roads shall be surrendered to the United States in pursuance of the provisions of this act and the contracts authorized by it, thereupon so much of said road or roads as may lie within any of the States, shall, with their assent, vest in and become the property of the State or States within the limits of which the same may be located, subject to the use of the United States for postal, military, and all other Government service, and also subject to such regulations as Congress may prescribe, restricting the charge for transportation thereon. And all other States organized and admitted into the Union thereafter shall acquire the same rights, subject to like provisions and restrictions.

SEC. 11. *And be it further enacted*, That should the Secretary of the Interior, Secretary of War, Secretary of Navy, and Postmaster General, under the first advertisement, fail to receive proposals in compliance with the provisions of this act for making all or either of said roads, it shall be the duty of the said Secretary to issue new advertisements in like manner for new proposals, once in each year, until each of said railroads and telegraphic lines shall be put under contract, in pursuance of the provisions of this act, unless Congress shall otherwise order and direct.

The PRESIDING OFFICER. The question is on agreeing to the substitute of the Senator from California.

Mr. GEYER. The question, then, Mr. President, is between the bill reported at the last session by the select committee and this substitute. The original bill provides for one road; the substitute for three roads. The substitute provides, among other things, that propositions shall be received for all three of the roads, and in the event of there being bids for all, all are to be contracted for; and among the stipulations to be made, is one for the transportation of the United States mails between the Mississippi river and the Pacific ocean upon the three different roads, under a contract to pay $300 per mile on each road. I do not intend, at this time, to enter at length into an examination of this substitute, but merely to call the attention of the Senate to what I consider a most extravagant proposition. It is proposed that we shall enter into contracts for the construction of nearly six thousand miles of railroad, and to stipulate for the transportation of three mails daily at $300 per mile between the Mississippi and the Pacific ocean.

Now, sir, it will be readily perceived that, while the substitute proposes to enter into contracts for the construction of these roads within the very limited period of ten years, it is impossible that all the mills in the world can furnish the iron that will be necessary for their construction. But that is not all. I am as strongly in favor of constructing a road to the Pacific as any member of the Senate; but before we undertake to do that, we shall first have to make a pioneer road. We must advance the settlements. We must make an ordinary road. This substitute, however, contemplates three railroads at once. It is impossible that they can be constructed; and to pass a bill for three roads is equivalent to passing no bill at all.

I have said that I would not go at length into

the discussion. I will barely make a few suggestions for the consideration of the Senate.

Whenever bidders are invited for each of these roads, each set of bidders for each road must take into consideration that the other roads may be bid for, and that there will be a competition for the three roads. Now, sir, suppose it possible—which I can hardly believe—that persons would be willing to undertake the construction of the roads, I ask whether the man bidding for the southern road is not to consider and to calculate the chances that both the central road and the northern road will also be constructed in competition with his? This will lead to an advance of the price of labor and of iron, besides the competition of the roads in the transportation of merchandise across the continent. All these things would deter parties from bidding; and, I repeat, this consideration alone is sufficient to deter me from voting for the three roads.

Then, Mr. President, while a majority of the Senate, as I believe, (nearly unanimous I hope,) are in favor of some one road, let us look at the possibility of the construction of that road which we wish to have authorized. Let us look at the thing as it really is, and not indulge in vague speculations and conjectures about what may or may not be done. I repeat, sir, that before you can commence the work on that road, you must advance the settlements, you must establish posts, you must afford the means of protection as it is in process of construction, you must enable the workmen to have some road in order to transport their supplies; you cannot depend upon the construction of the railroad, one hundred yards at a time, for the purpose of transporting men, and materials, and supplies. When we look at that, and take into consideration the difficulty which will exist in the commencement of the road, I think we ought to be deterred from undertaking to build more than one. It would be as much, I think, as we could accomplish in the time limited by the bill.

I shall suggest an amendment to the original bill, if the substitute does not prevail; and that is to provide for the commencement of the road at two points on the eastern frontier, one of them south and the other north of the boundary line between Arkansas and Missouri, and thus connect it with the two systems on the different sides of the Ohio river, enabling all portions of the Atlantic States to connect with that road to whatever point it may be directed on the Pacific.

I did not expect, Mr. President, that the bill would be called up to-day. I am not prepared to enter, at length, into a discussion of the various questions that are presented by the substitute. Indeed, I have not examined it with sufficient care to understand it thoroughly. All I know is, that its general provisions are sufficient to prevent me from supporting it.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed as a substitute for the original bill.

Mr. SEWARD. Mr. President, before that question is taken, I desire to state the views which I entertain in regard to this subject. I need not say that I am very desirous for the passage of a bill which will authorize the immediate construction and insure the earliest possible completion of some road from the Atlantic States to San Francisco. I deem only one terminus material to be fixed, and that is the western terminus, which, I believe, ought to be at San Francisco. In regard to the eastern terminus, while I have my opinions about what would be the most expedient, and proper, and advantageous location of that terminus, I am prepared to surrender my convictions on that point for the purpose of obtaining harmony in Congress in regard to the passage of some bill which will accomplish the object. So far as the State which I represent is concerned, I feel entirely confident that her geographical position and her commercial advantages will make the city of New York the eastern terminus of any and of all roads which may be made across the plains to the Pacific ocean.

I am, therefore, prepared to vote for a road; but, in doing so, I wish to vote for a bill which will secure the construction of a road. This matter has been much discussed in the select committee of which I am a member. After long debates, I think it was concluded, by a majority of the committee, that it was better to submit to the two Houses the bill in this shape, authorizing advertisements and proposals, and the adoption of them for the construction of three roads, all of which should terminate, at their western extremity, at San Francisco; but one of which should have its eastern termination on the borders of Texas, the second one on the borders of Missouri or Iowa, and the third at a more northerly point.

I would very cheerfully go for this proposition if it seemed to me a feasible one, physically and fiscally; but I have been compelled to withhold my consent from it, upon the ground that practically it was not feasible; and that, even if it were feasible, the financial condition of the country is not such as to warrant the undertaking of building three such roads at once. The substitute of the select committee does not give merely a choice between three roads, but it provides for the making of contracts for the construction of three roads, and the acceptance of them all, or the adoption of one, and communal advertisement until the others shall be adopted and contracted. I believe that such is the condition of the country in regard to labor, such are the physical obstructions to the construction of this road, that it is unwise to undertake to construct three roads, or six thousand miles of railroad instead of one road, or two thousand miles of railroad. All the railroads that have been constructed in the State to which I belong, amount to about two thousand five hundred miles, and they have been the work of some twenty years. All the railroads constructed in the United States now, I think, amount to but fifteen thousand miles, and this is an undertaking to construct six thousand miles at once.

I quite agree with the remarks of the honorable Senator from Missouri, [Mr. GEYER,] that it is necessary, in order to the successful carrying out of this enterprise, that there should be settlements along the route or routes of the road or roads. I think the undertaking to colonize three routes is unwise, and will probably result in the defeat of the colonization of the route of each and all of them.

Again, sir, this is a period of unusual depression in the money market of the country, and that pressure has fallen more heavily upon the railroad system than upon any other part of our fiscal affairs. It is the very extraordinary extension of that system, indeed, which has, to a great extent produced the present depression in the country. The result of an attempt to complete three great railroads to the Pacific under such circumstances, when a large number of the railroads, carried on under the authority of the States, are actually suspended for want of funds, will be to throw discredit upon all those enterprises in which the States are engaged, and produce embarrassment by a diversion of funds. It must fail unless the Federal Government shall give such facilities to its own system of railroads as will divert capital from the State enterprises, and divert labor from them. If it does this, it will be injurious in that way; and if it does not furnish such extraordinary facilities, neither of the roads will be built.

It seems to me that the question now before the Senate, while it is in this form—whether we shall authorize the construction of one road or three—is, practically, nothing more nor less than the question of whether we shall authorize the construction of any road; because I cannot bring myself to believe that the construction of three railroads can be successfully attempted and carried on. When this work shall have begun on so large a scale, we then probably shall have occasion to refer to the enterprise of the Cumberland road. What I least desire to see is the Government of this country assuming a great national enterprise like this, and then abandoning it and casting it aside, and leaving the States, after all, to protect its ruins.

Now, sir, I have stated very briefly my objections to this substitute, and the reasons of my preference for the original bill. I have discharged my duty upon this subject. If I shall be sustained by the Senate, then we shall secure the passage of a bill authorizing the construction of a single road. If I shall be overruled, I shall defer to the judgment of the Senate, and shall go, with whatever strength, and policy, and good heart I have, in favor of the bill which may be adopted in the form of a substitute. I could not say less in justice to my own convictions, and I have no desire to say more, because I do not wish to occupy time, and thereby delay the consideration of the bill and hazard so great an enterprise.

The PRESIDING OFFICER. The question is on agreeing to the substitute moved by the Senator from California.

Mr. SEWARD called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 24, nays 14; as follows:

YEAS—Messrs. Adams, Allen, Badger, Bell, Benjamin, Brown, Clay, Dodge of Wisconsin, Douglas, Evans, Fitzpatrick, Foot, Gwin, Houston, James, Jones of Iowa, Jones of Tennessee, Rusk, Sebastian, Shields, Stuart, Thompson of Kentucky, Toucey, and Weller—24.

NAYS—Messrs. Bayard, Brainerd, Brodhead, Chase, Cooper, Dawson, Geyer, Pearce, Pettit, Seward, Sumner, Wade, Wells, and Wilson—14.

So the substitute was agreed to.

Mr. MASON. There is one provision in the bill as it now stands in regard to which I should like to have some information. The sixth section provides that "the President shall cause the public lands on each side of said route or routes, to the extent of at least forty miles, to be surveyed, and the Indian title thereto extinguished, if practicable." Now, to survey a strip of land forty miles wide, and two thousand miles long, I suppose will cost a good deal of money; how much I do not know; and to extinguish the Indian title to a strip of land forty miles wide and two thousand miles long, I suppose, will also require a good deal of money; and that is to be trebled, because it is to be done on each of the three roads. If any Senator is prepared to say what it will cost the Treasury to make these surveys and extinguish the Indian title as preliminary to the work, I should like to hear it.

Mr. DOUGLAS. It will doubtless cost the Treasury precisely the same amount to make the survey before the road is built as it will to make it afterwards. All these lands are public lands, and must be surveyed at some time. If this bill be passed, the cost will be nothing more than it will be if they should be surveyed afterwards. Instead of there being two thousand miles of a line to survey, as the Senator supposes, I can inform him that the extent of each route not yet surveyed will not average a thousand miles on the three routes. The cost will be the usual cost of surveying the public lands. They must all be surveyed at some time, and hence the extra cost by this bill is nothing.

Mr. MASON. Then I understand the Senator from Illinois to mean that the burden upon the Treasury will be no greater if this survey is made solely for the purpose of this road than if it is made under the general provisions of the public land law, which are, as I understand, to make surveys only as the demands of population may require them. We have a territory two thousand miles in extent, as is the general estimate, through a country desolate, without population, and the character of which we know very little about. If the surveys are to be made for the healthful purpose of population, through a country of that kind, I suppose it would be reasonable to estimate that those surveys would not be completed in one hundred years; perhaps not in one hundred and fifty. There would be no demand for them. There will be no reason of any kind or description for doing it, unless the demands of population require it with a view of settlement; and when the surveys are made in that way they will be made from time to time, as that demand may require. Yet the Senator from Illinois, as I understand him, says the burden upon the Treasury for making these surveys immediately, for no other purpose in the world but as preliminary to locate a railroad, will be no greater, than if they are extended over a period of one hundred years. That I understand to be his position.

Mr. RUSK. The honorable Senator from Virginia, is very much mistaken as to the length of the line that will have to be surveyed. It is true that the distance from the Mississippi river to the Pacific Ocean is two thousand miles, but several hundred miles of that distance are now surveyed and settled. On each of the more northern routes, the survey of the land would, in all probability, not exceed one thousand miles, certainly not fifteen hundred. I imagine that on the extreme southern route which is provided for in this bill, not more than one thousand miles will have to be surveyed; and it is now being surveyed at this very day, because upon that

territory people are settling down, and so it is on the other two routes also.

Besides, there is no great danger in that provision of the bill, for the reason that it requires the President of the United States to make the surveys, but the means are not provided in the bill by which he is to make the surveys. It will be hereafter in the discretion of the Senate, the honorable Senator being one the body, and of the House of Representatives, to furnish the means of making these surveys.

Mr. MASON. Do you order a survey without furnishing the necessary means to accomplish the object?

Mr. RUSK. The means are not furnished in the bill, and therefore an appropriation will hereafter be required for the purpose. This provision in the bill does not amount to any damage to the Treasury, for Congress will hereafter have to say whether it will give to the President the means necessary to make the surveys. The length of the line to be surveyed would not much exceed three thousand miles in the whole.

Mr. ADAMS. Mr. President, we have made various treaties with the Indians who formerly occupied portions of the country now occupied by the whites, giving to them the usufruct of the territory assigned to them, until they should think proper voluntarily to surrender it to the United States. I am not advised, and I would therefore inquire of the chairman of the Committee on Indian Affairs, whether either of these roads will pass through any portion of the territory of Indians with whom such treaties exist? I do not, however, see him in his seat at present.

Mr. RUSK. I can answer the Senator. Nearly all the treaties recently made with the Indians reserve to the United States the right of making roads through their country.

Mr. PETTIT. But they do not reserve the land within forty miles on each side of the road.

Mr. RUSK. It is provided that the land cannot be surveyed until the Indian title be extinguished.

Mr. ADAMS. "Nearly all" is a very unsatisfactory answer. I take it for granted that to reserve forty miles on each side of the roads—if Indian country which the Government has pledged its faith shall be always the property of the Indians, and subject to their control, occupation, and use, as our territory is to ours—would be an infraction of our treaties with those Indians.

Mr. GWIN. If it be impracticable to make the treaties, of course that is an obstruction which cannot be overcome, for the bill only provides that the President shall make treaties "if it be practicable;" and in that event the roads can be located, and not otherwise. There is, therefore, nothing in the Senator's objection.

Mr. ADAMS. Well, sir, I understand that that portion of the bill is, that the Indian title shall be extinguished, if practicable; but the duty to survey the whole line—forty miles on each side—whether it belongs to the Indians, or whether we are entitled to it or not, is obligatory, under this bill, as I understand.

Mr. GWIN. I will read the words of the bill:

"The President shall cause the public land on each side of said route, or routes, to the extent of at least forty miles, to be surveyed, and the Indian title thereto extinguished, if practicable."

If it is not practicable, of course he is not to do it; and if the Indian title be not extinguished, no surveys can be made, and no road be located.

Mr. GEYER. I desire to have the bill read as it stands. It is a measure of very considerable importance. Scarcely anybody has been furnished with a copy of it. It involves a very large expenditure; and I think it is important that we should know something of what is in it.

Mr. MASON. I will suggest to the Senator that there has been no opportunity of comparing opinions as to the probable vote on the bill. As a test vote for the present, I move that it lie upon the table.

Mr. WELLER. I ask for the yeas and nays on the motion, and hope it may be regarded as a test question.

Mr. CHASE. I suggest to the Senator from Virginia the expediency of withdrawing that motion for the present. It cannot be a test vote on this bill. It is true as has been said by the Senator from Missouri——

A SENATOR. The motion to lay on the table is not debatable.

Mr. CHASE. I ask the Senator from Virginia to withdraw the motion to allow me to make a statement.

Mr. MASON. I withdraw it.

Mr. CHASE. The vote to order the bill to lie on the table cannot be a test vote for the very reason suggested by the Senator from Missouri. The bill has been before the Senate for some time, it is true; but it has been generally understood that it would hardly be taken up or acted on at this session. In consequence of that, I dare say, many Senators, like myself, have not given the subject that consideration which ought to be given to one of such grave importance, and affecting so momentuously the greatest interests of this country. The bill has not even been read in its present form. We want time to consider it, and to reflect upon it, and for the purpose of giving that time, as it is now late, I move that the Senate adjourn.

Mr. SLIDELL called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 22, nays 22; as follows:

YEAS—Messrs. Adams, Allen, Badger, Bayard, Chase, Clayton, Cooper, Dawson, Evans, Fitzpatrick, Gillette, Hunter, Mallory, Mason, Pearce, Pettit, Sumner, Thompson of Kentucky, Toucey, Wade, Wells, and Wilson—22.

NAYS—Messrs. Bell, Benjamin, Brainerd, Bright, Brodhead, Brown, Clay, Dodge of Wisconsin, Douglas, Foot, Geyer, Gwin, Houston, James, Jones of Iowa, Jones of Tennessee, Rusk, Seward, Shields, Slidell, Stuart, and Weller—22.

So the Senate refused to adjourn.

Mr. JONES, of Tennessee. In order to test this question, I renew the motion that the bill lie on the table. I am in favor of the bill, and shall vote against laying it on the table; but if there is strength in the Senate to pass it, we may just as well pass it now as at any time. I make the motion with a view to test the matter.

Mr. WELLER called for the yeas and nays, and they were ordered.

Mr. CHASE. I shall vote against the motion, but not as a test.

The question being taken resulted—yeas 22, nays 23; as follows:

YEAS—Messrs. Adams, Allen, Bayard, Brodhead, Brown, Clay, Clayton, Cooper, Dawson, Evans, Fessenden, Fitzpatrick, Hunter, Mallory, Mason, Pearce, Pettit, Sumner, Thompson of Kentucky, Toucey, Wells, and Wilson—22.

NAYS—Messrs. Badger, Bell, Benjamin, Brainerd, Bright, Chase, Dodge of Wisconsin, Douglas, Foot, Geyer, Gillette, Gwin, Houston, James, Jones of Iowa, Jones of Tennessee, Rusk, Seward, Shields, Slidell, Stuart, Wade, and Weller—23.

So the Senate refused to order that the bill lie on the table.

Mr. GEYER. I have voted steadily against adjournment, and against laying the bill on the table, although, in my judgment, I cannot approve the bill as it stands. I did hope that we might have an opportunity of seeing a printed copy of it before we were called upon to vote on it finally; so that if it required amendments, they might be made. I suppose I shall eventually vote for the bill, if I cannot get a better one; but it seems to me that gentlemen are pressing it rather too hard, considering that we have not had an opportunity of reading it, or hearing it read in the Senate; and I state, as an apology due to the Senate, why I ask a little further time for the consideration of the bill, that my understanding when I was last in the committee was, that we had determined to adhere to the original bill. I suppose, now, I must have been mistaken, as the chairman, this morning, has reported this amendment.

Mr. GWIN. If the Senator will give way, I will certainly move to adjourn, that he may have an opportunity to examine it. I shall also make the motion to have other copies of the bill printed. It has been printed once.

Mr. EVANS. It is so long ago that we have lost our copies.

Mr. GWIN. I move that the substitute, as amended, be printed.

Mr. RUSK. Plenty of them have been printed.

Mr. GWIN. Then I hope there will be no objection to reading the bill to-night, so that we can get through with that part of the labor, and then adjourn, and order the bill to be printed.

Mr. WELLER. Let it be read. It has already been printed.

Mr. GWIN. I hope the bill will be read, and then we can adjourn, to accommodate Senators.

Mr. MASON. I move that the Senate adjourn.

Mr. GWIN. I hope not. Let us have the bill printed.

The PRESIDING OFFICER. By unanimous consent the bill, as amended, will be printed, without the necessity of a formal order. ["Agreed."]

Mr. MASON's motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 15, 1855.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

Mr. CORWIN obtained the floor.

Mr. HENN. I call for the regular order of business.

Mr. CORWIN. I desire merely to remark that I am a very old man; that I have been a member of this House for four years, and I have never asked a favor at the hands of the House to take up anything out of its regular order. But there is a bill now which I am anxious to have the House consider. I will not occupy the time of the House over five minutes. I ask the unanimous consent of the House to take from the Speaker's table Senate resolution for the relief of Rebecca Hinton. I appeal to the humanity and gallantry of the gentleman from Iowa, not to insist upon the regular order of business at this time, when the rights and interests of a lady are involved.

Mr. HENN. I demand and insist upon the regular order of business. I have refused a half dozen times this morning to withdraw the demand for the regular order of business, and I cannot, under any circumstances, yield my demand.

Mr. CORWIN. The bill which I desire to take up is for the relief of a lady, and I appeal to the gallantry of the gentleman to withdraw his demand for the regular order of business.

Mr. HENN. I have refused one widow lady already, and I cannot give way.

Mr. HAVEN. I would inquire of the Chair if it is in order to move that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. That motion would be in order.

Mr. HAVEN. I desire to make that motion. There are but fourteen days of the session left, and computing the sessions at four hours each, we shall have but fifty-six hours remaining, in which to dispose of the public business, of which there is much pending. I move that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HENN. Do I understand the Chair to decide that it is in order to move that the House resolve itself into the Committee of the Whole at this time?

The SPEAKER. That motion is in order, unless there is some old question before the House upon which some gentleman is entitled to the floor.

Mr. HAMILTON. What is the regular order of business?

The SPEAKER. It is House bill No. 102, being "An act granting lands equally to the several States to aid in the construction of railroads and for the support of schools," upon which the gentleman from Maryland [Mr. HAMILTON] is entitled to the floor. The motion, therefore, of the gentleman from New York [Mr. HAVEN] would not be in order at this time.

Mr. HAVEN. I see that the Chair is right, and I desire to appeal to the gentleman from Maryland to allow me to make the motion that the House resolve itself into the Committee of the Whole on the state of the Union, and I say to him and the House that the appropriation bills are in very great danger.

Mr. HAMILTON. In response to the gentleman from New York, I will say that it is my purpose, in order to proceed to the consideration of the important public business pressing before the House, to move that this bill be committed to the Committee of the Whole on the state of the Union, and upon that motion I demand the previous question.

Mr. HAVEN. The demand for the previous question being now pending, I move that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. SOLLERS. I ask the unanimous consent

of the House to allow me to make a report of a bill that has been in my desk for three weeks. It will take but a moment to dispose of it.

Mr. HENN. I hope that the House will vote down the motion of the gentleman from New York, [Mr. HAVEN,] so that we may devote the morning hour to reports from committees.

TEXAS INDEMNITY BILL.

Mr. BRECKINRIDGE. Before that motion is put to vote, I rise to what I suppose to be a privileged question. I learn that the Senate have disagreed to the amendments of this House to the Texas indemnity bill, and have asked a committee of conference. I believe the usual parliamentary motion is that the House insist upon their amendments, and agree to the request for a committee of conference. I make that motion.

Mr. COBB. Is that a question of privilege?

The SPEAKER. The Chair holds that the motion is in order. It is at least in order, as a rule of practice of this House, and a very proper one.

The question was then put; and the motion was agreed to.

The Speaker thereupon appointed Messrs. BRECKINRIDGE, JONES, of Tennessee, and HOWE, as such committee on the part of the House.

The question then recurring on the motion that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HENN called for tellers.

Tellers were not ordered.

Mr. HENN. I demand the yeas and nays.

The yeas and nays were not ordered.

The question was then put; and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. EDGERTON in the chair.)

ORDER OF BUSINESS.

The CHAIRMAN. The Chair would state that the first business in order before the committee is House bill (No. 569) making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1856, and for other purposes. The Clerk will read the first section of the bill.

Mr. FAULKNER. Mr. Chairman, I rise to a question of order and priority of business. I move that the Army appropriation bill be taken up, and considered by the committee, and I call the attention of the Chair to the 135th rule of the House, which provides "that general appropriation bills, *and, in time of war, bills for raising men and money*, shall be preferred to all other bills at the discretion of the committee; and, when demanded by any member, the question shall first be put in regard to them." The Army appropriation bill embraces provisions for raising men and money at the call of the Executive. Some gentlemen smile at the idea of there being now an existing war. But I stand here prepared to demonstrate to this House, and to the country, from official sources of information——

Mr. CLINGMAN. I call the gentleman from Virginia to order. I object to all debate.

Mr. FAULKNER, (amid loud cries of "Order!" from a portion of the House, was understood to say.) I stand here prepared, from official documents, to satisfy this House that a state of actual hostilities—of war—exists between the Indian tribes of the West and the whites—the frontiers bleeding—and, if not within the letter, I am certainly within the spirit of the rule.

The CHAIRMAN. The Chair overrules the point of order raised by the gentleman from Virginia, and will state to the gentleman that the civil and diplomatic bill has already been taken up by a vote of the House, and that is the bill now under consideration.

Mr. HOUSTON. I move that the first reading of this bill be dispensed with. I do not desire, at this late day of the session, to occupy the time of the House.

Mr. SOLLERS. I object to dispensing with the first reading. Let it be read.

Mr. FAULKNER. I appeal from the decision of the Chair.

Mr. JONES, of Tennessee. If the gentleman from Virginia will reflect for a moment upon the rule which he has read, he will see—even if what he states as fact be true that we are in a state of war already with the Indians—that it would not entitle the Army bill to be taken up in preference to the civil and diplomatic bill.

The CHAIRMAN. The Chair rules that debate is not in order upon this question. Does the Chair understand the gentleman from Virginia to appeal from the decision of the Chair?

Mr. FAULKNER. I do.

The CHAIRMAN. The question is, "Shall the decision of the Chair stand as the judgment of the committee."

The question was put; and it was decided in the affirmative.

So the decision of the Chair was sustained.

Mr. HOUSTON. I would inquire if there is any objection to dispensing with the first reading of this very long bill?

Mr. SOLLERS. I object.

Mr. HOUSTON. Then I desire to say a few words.

Mr. SOLLERS. The gentleman is not in order.

Mr. HOUSTON. I am in order. I am entitled to the floor, and have the right to discuss the question. I wish to say this to the committee——

Mr. HENN. I would ask the Chair if it is in order to move to lay aside this bill for the present?

The CHAIRMAN. The Chair decides such a motion would not be in order while the gentleman from Alabama is upon the floor.

Mr. HOUSTON. What I want to say to the committee is, that there are three or four most important appropriation bills which have not yet been sent to the Senate. My desire is, as well as the desire of those gentlemen who are cooperating with me, that they shall be taken up and passed through this House, in order that they may be sent to the Senate for action upon them. We have only fourteen days of this session left, and it is inevitable that some of these bills will be lost if we take up bills upon which extensive debate must arise.

Mr. HAVEN. I rise to a question of order. I believe the proposition of the gentleman from Alabama is to change the order of business. The question is not debatable. But the Chair has decided that the civil and diplomatic bill is before the committee for consideration. If the gentleman makes a motion to change it, I ask for the question upon it at once.

Mr. HOUSTON. The gentleman has entirely mistaken my remarks. I am desirous to keep before the committee the civil and diplomatic bill.

Mr. HAVEN. Very well; then let us go on with it.

Mr. OLDS. I move to lay aside the civil and diplomatic bill for the present. I make the motion for the purpose of afterwards submitting a motion to take up the ocean mail steamer bill.

Mr. JONES, of Tennessee. I rise to a question of order. I submit the question that the gentleman has no right to make such a motion. One bill is already up before the committee, and he can make no motion to put it aside.

The CHAIRMAN. The Chair rules that the motion of the gentleman from Ohio, to lay aside the civil and diplomatic bill, is in order.

Mr. OLDS. I make the motion. I had no doubt it was in order; and I hope it will be agreed to. This ocean steamer bill is a short one, and we can get through with it to-day.

Mr. JONES, of Tennessee. The gentleman from Ohio wishes to take up a bill which will consume more time in its consideration than the civil and diplomatic bill.

The CHAIRMAN. But the Chair decides the motion to lay aside the civil and diplomatic bill is in order.

Mr. SEWARD. I desire to inquire of the Chair what has become of the bill for the construction of the seven steam sloops of war?

The CHAIRMAN. That bill is not up. It is still in the Committee of the Whole.

Mr. LETCHER. I appeal from the decision of the Chair that the motion to lay aside the civil and diplomatic bill is in order.

Mr. SEWARD. But I want to be informed in reference to this subject of the steam war sloops. When the House was last in committee we had before us the bill to which I have referred, and I want to know in what way it has been got rid of.

The CHAIRMAN. In reply to the gentleman the Chair would say, that the committee, when last in session, by a vote took up the civil and diplomatic bill in preference to other business, and that bill is before the House at this time. The gentleman from Ohio moves to lay it aside, and take up the ocean mail steamer bill. The Chair decides the motion in order, and the gentleman from Virginia takes an appeal from that decision. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. LETCHER. I withdraw the appeal for the present.

Mr. OLDS. I demand tellers on my motion.

Tellers were ordered.

Mr. SEWARD. I move that the committee do now rise. I have made an inquiry which was not answered. I do not think any business will be done to-day.

The CHAIRMAN. A motion that the committee do rise is not in order while the committee is dividing.

Mr. SEWARD. I take an appeal from that decision of the Chair.

[Cries of "There is an appeal already pending."]

The CHAIRMAN appointed Messrs. OLDS and HENDRICKS tellers on the motion of Mr. OLDS.

Mr. HAVEN. I think the Chair is under a misapprehension. My friend from Virginia withdrew his appeal.

The CHAIRMAN. The Chair will state the question. The gentleman from Ohio moved that the civil and diplomatic bill be laid aside, and that the committee take up for consideration the bill making appropriations for the transportation of the United States mail, by ocean steamers and otherwise, during the fiscal year ending the 30th June, 1856. The Chair decided the motion to be in order; an appeal was taken from that decision, but was subsequently withdrawn. The question is now on the motion to lay aside the civil and diplomatic appropriation bill.

Mr. JONES, of Tennessee. Would it be in order before putting the question to have the 135th rule read?

The CHAIRMAN. The Chair is of the opinion that it would.

Mr. JONES. Then I hope that it may be read, so that this question may be set in its true light before the committee.

Mr. SEWARD. I move that the committee do now rise.

The CHAIRMAN. The Chair decides that the motion is not in order while the House is dividing.

Mr. SEWARD. From that decision I took an appeal.

The CHAIRMAN. The Chair decides no appeal can be entertained while the committee is dividing.

The question was taken on Mr. OLDS's motion; and it was agreed to, the tellers having reported—ayes 74, noes 57.

So the civil and diplomatic appropriation bill was laid aside, and the mail steamer bill was taken up.

Mr. FAULKNER. Mr. Chairman, I now move that the bill making appropriations for the transportation of the United States mail, by ocean steamers and otherwise, during the fiscal year ending the 30th of June, 1856, be laid aside, and that the committee take up for consideration the Army appropriation bill.

The CHAIRMAN. The Chair decides the motion to be in order.

Mr. FAULKNER. I demand tellers on the motion.

Tellers were ordered; and Messrs. MCDOUGALL and COBB were appointed.

The question was taken; and the motion was disagreed to, the tellers having reported—ayes 55, noes 74.

So the committee refused to lay the mail steamer appropriation bill aside.

OCEAN MAIL STEAMERS.

The Clerk then proceeded to report the bill to the committee.

Mr. OLDS. I ask that the first reading of the bill may be dispensed with.

Mr. L'ILLY. I object.

The bill was then read through.

The reading by sections was then commenced.

The first paragraph was read, as follows:

For transportation of the mails from New York to Liverpool and back, $819,500; and that the Secretary of the

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. FRIDAY, FEBRUARY 16, 1855. NEW SERIES....No. 48.

Navy is hereby directed to give the notice provided in the first section of the act entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852," approved the 21st day of July, 1852, to terminate the arrangement for the additional allowance for the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, as therein provided.

Mr. OLDS. I move to amend by striking out what has just been read, and inserting the following:

Strike out from the first to the eighteenth line and insert the following:

For transportation of the mails, from New York to Liverpool and back, $858,000; and that the proviso contained in the first section of an act entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852," approved the 21st day of July, 1852, be, and the same is hereby, repealed: *Provided*, That Edward K. Collins and his associates shall proceed, with all diligence, to build another steamship, in accordance with the terms of the contract, and have the same ready for the mail service in two years from and after the passage of this act. And if said steamship is not ready within the time above mentioned, by reason of any neglect or want of diligence on their part, then the said Edward K. Collins and his associates shall carry the United States mails, between New York and Liverpool, from the expiration of the said two years, every fortnight, free of any charge to the Government, until the new steamship shall have commenced the said mail service.

I will suggest to the House that, in consideration of the great press of business at this late period in the session, I shall not trouble the committee with a speech at this time, though I am prepared to do so, and fully to substantiate the justice of the amendment I have offered.

A MEMBER. Have you not prepared your speech?

Mr. OLDS. I have a manuscript speech before me which I propose to publish, but as I desire to obtain the right to answer such objections as may be urged in opposition, I prefer to occupy my hour at some subsequent stage in the debate.

Mr. HOUSTON. I object to any such proceeding. If the gentleman has any speech, let him make it now. I object to his repeating it.

Mr. TWEED. I desire to ask the gentleman from Ohio whether there have not been propositions made to carry the mails in the same time for a less sum than we are paying to the Collins line?

Mr. LETCHER. Yes, sir; for less than half the sum.

Mr. OLDS. There have been other propositions made, but as the gentleman from Alabama objects to the proposition I made, if I am compelled to make my speech now, I prefer to occupy the hour to which I am entitled in presenting a full explanation of my amendment.

Mr. SMITH, of Virginia. If the gentleman from Ohio proposes to withhold his remarks under the supposition that the members of the committee already understand the subject, I beg leave to say that, for one, I do not understand it. I expect to listen with great pleasure and instruction to the remarks of the gentleman. I beg that he will lay out before this committee and the country the reasons for making this enormous appropriation, in the face of other propositions to do the same service for less than half the amount.

Mr. TWEED. I desire to know from the gentleman from Ohio, what these other propositions are, by whom they are made, and where the members of this committee can obtain copies of them? I have for some days been endeavoring to obtain a copy, but I have been unable.

Mr. OLDS then addressed the committee for an hour in favor of the bill. His remarks will be published in the Appendix.

Mr. OLDS. Is my time out?

The CHAIRMAN. The gentleman's time has expired.

Mr. OLDS. I should like very much to occupy about ten minutes more.

Objection was made.

Mr. OLDS. Well, sir, my speech will be printed in full.

Mr. SMITH, of Virginia, obtained the floor.

Mr. OLDS. Will the gentleman yield me the floor for about five minutes?

Mr. SMITH. I am anxious that the gentleman should finish his speech, and I will give way to him with great pleasure if I can then resume the floor.

Mr. JONES, of Tennessee. I object to the gentleman's yielding the floor for any purpose except explanation.

Mr. OLDS. I do not desire the floor for explanation. I am very much obliged to the gentleman from Virginia, however, for his courtesy.

Mr. SMITH. Certainly. I am in favor of allowing the gentleman from Ohio the largest liberty in his remarks, for I think he ought to have the fullest opportunity of defining his position. I am here to-day, sir, with no expectation of participating in this debate, and I enter upon the remarks I have to make with but little, if any, preparation.

I have listened, sir, with inexpressible surprise to the extraordinary speech of the gentleman who has just taken his seat, coming from the quarter it did. He is the very last man, the very last member of the House from whom I could have expected this most remarkable speech. It has filled me with amazement.

At the outset of his remarks I requested him to explain why it was that he urged this appropriation for the Collins line when he had in his possession undoubted information that the service could be performed just as well for the Government for one half the amount. And yet, although I have listened to the whole of his speech with the greatest attention, he has taken his seat without having said one word in explanation of this most extraordinary position.

Mr. OLDS. If the gentleman will allow me, I will make the explanation now.

Mr. SMITH. I will; for I am very solicitous to hear the explanation.

Mr. OLDS. When this matter was up in 1852, there was an application before the Committee on the Post Office and Post Roads for what was called the Galway line, proposing to carry the mail for $10,000. I took occasion at that time to examine, with some degree of care, into that application, and I became satisfied that it was the intention of this man to get Mr. Collins to buy him off at that time. Now, sir, a clause was put into this appropriation bill during the last Congress requiring the Postmaster General to advertise for proposals for carrying the mail in ocean steamers, not only including the Collins line, but including our entire ocean mail steamship service, and he put forth that advertisement in the newspapers of New York, and the other newspapers of the country; and under that advertisement not a single bid was made for this service—not one.

Mr. SMITH. When was that?

Mr. OLDS. At the end of the last Congress. Not a single bid was made to perform this service.

A MEMBER. That was in 1852.

Mr. OLDS. No, sir, it was at the end of the last Congress. Well, sir, you hear nothing more about it until you see in the public press that an effort is to be made to withhold this extra compensation from Mr. Collins, and then it is that men come forward again with propositions to perform this service at a less rate of compensation than that paid to Mr. Collins.

Now, the agent of one of these men—Mr. Vanderbilt—came to me, as chairman of the Committee on the Post Office and Post Roads, and wanted to enlist me in his behalf, but after a conversation with him, I ascertained, to my satisfaction, that his whole object was to compel Mr. Collins to buy a steamship that Mr. Vanderbilt is building, and that if Mr. Collins would take that steamship Mr. Vanderbilt would be out of the way.

If I had been permitted to finish my speech, I would have demonstrated the fact that Mr. Collins could perform this service for $15,000—Mr. Vanderbilt's proposition—if we did not require him to perform it in war vessels, but in vessels like the North Star, in which the celebrated Commodore Vanderbilt performed his European tour. But when you require him to keep afloat these palaces of the ocean, capable of being converted into war steamers, I could have demonstrated to you that he cannot do it at this price. You are compelled to pay this large price because you require him to keep up such vessels, not for the mail service, but in order that they may, at a moment's notice, be converted into war vessels that can sweep our coast from the Bay of Fundy to the Gulf of Mexico.

Mr. SMITH. I am still by no means satisfied, and now let the committee hear me upon this subject. I will read to this committee from the gentleman's own evidence. Just hear me now. That is all I ask; and mark me, gentlemen of the committee, I am not dealing with this question with reference to the opinion of an individual member, but with reference to the opinion of the chairman of one of the most important committees of the House. Speaking upon this subject in 1852, and in relation to the proposed Galway line, to which he has just referred, Mr. OLDS said upon this floor:

"I move to amend by striking out all after the word 'provided,' and inserting 'that the Postmaster General, with the assent of E. K. Collins & Co., advertise in the usual manner, and at the usual time, for the transportation of the mail between New York and Liverpool in semi monthly trips, and that he award the contract to the lowest responsible bidder, said bidder to be an American citizen.'

"I desire, sir, that when gentlemen vote for this amendment for the Collins line, that they do not vote for it *supposing it to be necessary for the mail service of the United States.*

"I am opposed to this special contract system—this making a contract for transporting the mails for a period of ten years at a certain sum. Why, sir, what has been the effect of that system? You made a contract for transporting the mail from New York to San Francisco for the period of ten years.

"Mr. MCCORKLE. To Oregon.

"Mr. OLDS. Yes, to Oregon. And now, sir, although only two years of that time has expired, we have before the Committee on the Post Office and Post Roads, offers for transporting that mail at a saving of half a million of dollars annually to this Government. That, sir, shows the folly of making a contract of this kind. And now, sir, while they are asking for this appropriation for the mail service, as they say, we have responsible bidders before that committee—and a bill to carry it into effect was reported by my colleague on the committee [Mr. GREY] the other day—for transporting the mail from Jersey City to Galway, Ireland, at the sum of $10,000 the round trip. *If there are offers to carry this mail for $10,000 the round trip, why is it necessary for the mail service of the country to give E. K. Collins & Co. $33,000 for the same service?* If gentlemen wish to give this as a *bonus* to E. K. Collins & Co. for beating the British, let them say so, and not do it under the pretense that it is necessary for the mail service of the country—*for it is not.*

"I say you have responsible bids for carrying this mail for $10,000 the round trip, and they do not even ask that."

Mr. OLDS. Well, Mr. Chairman——

Mr. SMITH. I pray the gentleman not to interrupt me.

Mr. OLDS. I do not want to interrupt you.

Mr. SMITH. I appeal to the record, and the gentleman cannot controvert it.

Mr. OLDS. I say the same thing now, and I have said it here to-day.

Mr. SOLLERS. The gentleman from Ohio is out of order.

Mr. OLDS. Then I will take my seat.

Mr. SMITH. The gentleman then said that he had responsible bidders at $10,000 for the very service then being performed by E. K. Collins & Co. for $33,000; and he asked why you should pay $33,000 to E. K. Collins & Co., when you can get the service done for much less? I ask that gentleman now, and this committee, and the country, why this thing should be?

Mr. OLDS. If the gentleman will allow me, I will answer him. He asks the question.

Mr. SMITH. The gentleman has done it already. But whether he has said sufficient to justify the new light which appears to have broken upon him will be a question for the judgment of this committee and of the country.

Well, sir, that is not all. This question came up subsequently, and I send to the Clerk's desk, to be read, an extract from what the gentleman said upon that occasion, to wit, in 1852.

The Clerk read the extract, as follows:

"I am a friend to E. K. Collins, and am disposed to do him justice. It is true that if one of my constituents, or yours, Mr. Chairman, had made a bad contract for the transportation of the mail, the Government would hold him

to the bond. One of my constituents contracted to carry the mail from Zanesville, Ohio, to Maysville, Kentucky, and, like Mr. Collins, he made a bad bargain and failed. What was the consequence? The Post Office Department commenced a suit against his sureties. I have been negotiating for a compromise, and have just completed an arrangement by which the sureties of my constituent pay $2,500 to be released from the bond.

"Now, sir, I am willing to release Mr. Collins from his bond, without damages or prejudice. I do not wish to hold him to a bad bargain, and I am willing that he should have the opportunity not only of relinquishing and giving up that bargain, but also of being a bidder again. Surely this is giving over all competition. My amendment requires first-class steamers for the transportation of this mail. Collins has such steamers all ready for the service. This gives him a most decided preference over any other person. If he has a bad bargain, I do for him what the Government would not do for my constituent. I am willing to relieve him from the bad contract, and then suffer him to come in and compete for the contract again.

"I meet the objection of those who say that we are upon the British side, by excluding British competition. I require the steamers to be American steamers, and the bidder to be an American bidder. What can they ask more than this? Is it not doing full justice to Collins & Co.? I warn E. K. Collins & Co. not to relinquish this contract with a second thought. One of the largest steamboat owners and builders in the United States—a gentleman of great experience, and who has a memorial before the Post Office Committee for the transportation of the mail upon ocean steamers between New York and San Francisco—said to me that he would give Collins & Co. $200,000 for their contract, and transport this mail for the balance of their time, if he could get their contract without taking their steamers. *The contract, then, is a good one, and my friend from Kentucky* [Mr. MASON] *is right in supposing that this enormous appropriation is for rosewood and mirrors, and not for the mail service of the country.* The whole truth is, these steamers are extravagantly and gorgeously furnished; they are, in fact, floating palaces, too extravagant to be profitable to the owners unless, by this appropriation, the people can be compelled to foot the bill.

"Mr. HART. I would like to inquire if the gentleman has made a calculation how much the Cunard steamers cost?

"Mr. OLDS. I have nothing to do with the Cunarders. I am as much of an American citizen as the gentleman from New York, [Mr. HART,] and I have gone as far as he dare go, for I have excluded British competition, and required the bidder to be an American citizen. *What ought Collins to ask more than this?* Have I not done him full justice? If he has a hard contract and a hard bargain, *let him throw it up.* The Government would not let my constituent do it, but compelled his sureties to pay the penalty of the bond. Notwithstanding this, I would let Mr. Collins throw up his contract, and bid again. All he has to do is to enter into competition with other American citizens, and not British. I warn him, however, that there are American citizens enough ready to take this contract. He need not fear British competition. But let him beware of the enterprising Yankees, who will beat the British in this, as they have done in everything else. I repeat, sir, give the Yankees fa f a chance, and they will beat the British and give them four in the game.

Mr. SMITH. The committee cannot fail to see the point at issue. They cannot fail to see that the gentleman from Ohio at that time proposed to treat E. K. Collins & Co. with liberal justice. He was willing to let the contract out on a regular public bid. He was willing to let the Collins company loose from a bad bargain, although the securities of one of his constituents had to pay a sum of money to the Post Office Department for breach of contract. And he states that there were responsible men willing to take Collins's contract as it then stood, and to pay him for it $200,000

I call the attention of the committee to this for the purpose of letting them understand the gentleman's position at that time. But the gentleman says that an advertisement was published for bids for this contract, and that there was not a bidder. Sir, why was that so? The gentleman himself has furnished the answer; for, subsequently to this, at the last session of the present Congress, he, as chairman of the Committee on the Post Office and Post Roads, reported a bill annuling a portion of their heavy allowance with E. K. Collins on giving the very notice contemplated by the bill now lying upon your table.

Mr. OLDS. It was to amend the contract altogether, to make it different.

Mr. SMITH. There was a notice to discontinue the contract, as I understand it. That principle is now in the bill before the committee, and it is that which the gentleman from Ohio proposes to get rid of by his personal, individual effort and influence, not as chairman of the Committee on the Post Office and Post Roads. He rises here, not in his official capacity, but upon his own personal responsibility, and offers an amendment to get rid of the recommendation of the very committee over which he presides as chairman. Sir, that proposition comes in conflict with his whole antecedents; comes in conflict with all his positions; comes in conflict with the allegation, on his part, that Collins had then a good contract; comes in conflict with his own expressed opinions, founded upon an intimate knowledge of the subject; comes in conflict with his own allegation, that Collins could get $200,000 for his contract; comes in conflict, I say, with an allegation which he made, and which is true, that these steamers are palaces, floating palaces, and made so by the liberality of this Government. Sir, how is it, I ask, that the gentleman has suddenly undergone such a mighty change? When, sir, he was in this wise persecuting, it may be said, Collins & Co.; when he was engaged in the performance of his high duties, as chairman of the Committee on the Post Office and Post Roads; aye, sir, even when he was on his road from Tarsus to Damascus, he seems most unexpectedly to have fallen under the power of a new light, and now comes forward converted to a strange and extraordinary opinion.

Here, sir, is a very good lesson from the pages of the good book, to which I beg briefly to call the attention of the committee.

Mr. SOLLERS. Oh, the devil sometimes quotes Scripture for his own purposes. [Laughter.]

Mr. SMITH, (reading:)

"And as he journeyed he came near Damascus; and suddenly there shined round about him a light from Heaven.

"And he fell to the earth, and heard a voice saying unto him: Saul, Saul, why persecutest thou me?

"And he said: Who art thou, Lord? And the Lord said: I am Jesus whom thou persecutest. It is hard for thee to kick against the pricks."

I introduce this thing, Mr. Chairman, in no spirit of irreverence. I introduce it in this Hall,

"To point a moral and adorn a tale."

[Laughter.]

For, sir, the conversion of the chairman of the Committee on the Post Office and Post Roads is scarcely less remarkable than the conversion of the Apostle Paul, to that hour the greatest persecutor of the Christians of that day. [Laughter.]

Mr. OLDS. As to my conversion I can only say that the gentleman from Virginia [Mr. SMITH] may come to me to receive his sight, as Saul went to Ananias.

Mr. SMITH. I do hope that the motives of the conversion of the gentleman from Ohio may have been as true and as genuine as were those of the Apostle Paul himself But, sir, that will be a question for the gentlemen of the committee and for the country to determine. And although the devil sometimes quotes Scriptures, as the learned gentleman from Maryland [Mr. SOLLERS] has said, yet it is the duty of him who stands up for the right, in the temples temporal or spiritual of the country, to refer to that holy book for the purpose of rebuking error and sin. I did not expect in coming here to-day to have to speak in reference to this bill, because there are other bills, of infinitely higher importance to the country, which should have first engaged the consideration of the committee. Here are the bills providing for the Government of the country untouched. Here is the civil and diplomatic appropriation bill unconsidered. Here is the Army bill involving an important addition to our Army—made necessary by the hostilities of the Indians on the plains—unconsidered. All has been made to give way to this *quasi* personal claim, led on by the distinguished member from Ohio.

A few words more, Mr. Chairman, and I shall have done with the merits of the question, for most assuredly I would

"Nothing extenuate,
Nor set down aught in malice."

The gentleman from Ohio has given his various views on the subject, and has indulged in common dissertation which has often been indulged in in this Hall about the value of these Collins steamers for war purposes. And in that connection, in referring to the evidence of the Navy Department, and of the various officials of that Department, the gentleman has indulged in a course of remark which I think he should not have done. I say, sir, he has sought to get rid of the testimony of the Navy Department, and of the experienced officers of that Department, and by what means? By denouncing them as "Old Fogies," by sinking into a clap-trap description, to get rid of the just weight which ought to attach to their official representations. What has he done? He has not introduced new evidence to show that the Secretary of War was in error when he reported against the adaptation of these vessels for war purposes, but he has ventured to charge our young, gifted, and indefatigable Secretary, with his able and practical advisers, with being old fogies, and upon evidence which he has had before him for years, which he has repeatedly passed upon and disregarded, and wonderful to tell, upon the letter of that gallant and gifted old fogie, Commodore Stewart, who stands *senior* captain and Nestor of the American Navy.

"Oh wad some power the giftie gie us,
To see oursels as ithers see us;
It wad frae mony a blunder free us,
An' foolish notion."

A very few words more, and I will bring my remarks to a close. I state to this committee that men of the highest responsibility in this country, will take this contract for $15,000 the round trip. I will ask the Clerk to read a paper which I desire to put upon the record here, that it may go forth to the nation, so that we may have in an emphatic form, evidence to confront the action of this Congress if they should dare to do what the honorable gentleman from Ohio proposes.

The following paper was then read by the Clerk:

OCEAN STEAMERS.—Pursuant to a proposal of the Postmaster General, inviting bids for carrying the foreign mails in steamships, a gentleman of ample means, Christian Hansen, (see P. M. G. R., December 1, 1853, pages 65 to 71 and 79,) offered to run a line of four steamers of the first grade, to be constructed under the supervision of the Navy Department, from Brooklyn, New York, to Hamburg, in Holstein, Denmark, via Plymouth, Antwerp, and Rotterdam, to Glückstadt, at the mouth of the Elbe, thence by railway (two hours) to Hamburg.

This mail service is greater than any now performed by any mail ocean steamer in the service of the United States for the price, and less $28,000 than the *contract price* paid for the line now running to Liverpool, and less $428,000 paid the same line, aggregating the contract price and extra bonus of $500,000.

The advantages to be secured by the proposed line are:

1. The nearly simultaneous delivery of the mails at Liverpool, London, Paris, Brussels, and Hamburg, the chief commercial marts of Europe.

2. By the delivery of the mail at Plymouth, the mail to London and Liverpool by railway will be simultaneous; and the delivery some twenty-four hours sooner at London, and six hours sooner at Liverpool.

3. By this line, the transit postage of $300,000 paid on the Prussian, French, and Bremen closed mail, delivered now at Liverpool, will be saved, as they will be delivered at Antwerp, and reach their destination some three days sooner than by the present Bremen mail; also, will be saved to travelers the transit fare of passengers through England, of at least $1,200,000 per annum.

4. A large amount of letter postage to the continent will be saved by this line, the postage being reduced to ten cents in lieu of forty cents now paid on all letters passing through England.

5. The post office receipts will be materially improved by the increase of letters, as letters in large packages from Northern Europe are mailed in London for the United States which will come in this line.

6. By the shipment *direct* of our great staples to the continent, all the intermediate charges at Liverpool, such as commissions and expenses incident to reshipment to the continent, will be saved to the planter.

7. By direct shipment and a depot for cotton and tobacco at Glückstadt, the valley of the Rhine will be supplied with the raw material, and the planter thereby will have two markets, and to a great extent control the Liverpool market.

8. The advantage to the planter of a depot is seen, when the trade in cotton twist up the valley of the Rhine is taken into consideration. Sixty millions of dollars is now paid by the people of the Rhine (Zolverein Customs Union) to England annually for twist made of American cotton, which would be otherwise spun by German factories, if a supply of the raw material could be had.

9. For the *first time* a conveyance in steamships to America will be presented at reasonable prices, to a large class of artisans and agriculturists, who, hitherto dreading the "*emigrant ships*," have delayed emigrating, and who will bring with them means whereby the country will be benefited, if population be an element of power and a source of wealth.

10. By the *terminus* at Hamburg, and thence by the inland links of travel (by railway) through Prussia and Austria to the Trieste, on the Adriatic, and by the Danube to Odessa, Trebizond, and Constantinople, thence to Alexandria and Arabia, new markets, *now monopolized by England*, will be opened to American products of cotton texture.

11. As to the cost of these steamers, not a dollar of public money is asked for, nor a cent under the contract, until the steamers have rendered service: and the most ample bonds will be given by the contractor for the prompt performance of the service, in accordance with the requirements of the contract.

The proposed line, thus presenting so many advantages to the Government and the people, in point of economy, both as to time and money, appeals to a great American principle for support—and that is, the non-interference of Government, except public emergency demands it.

The Government now pay for the line of steamers to Liverpool $858,000! The gentleman in question proposes to perform the same and more service, to greater advantage to the Government, for the sum of $355,000; and by the change of the termini, will save the heavy *transit postage* of $300,000 now paid, by delivering the mails at Liverpool, and also the sum of $200,000 paid the Bremen line, (which ought never to have been established,) which will be rendered useless by the line proposed.

Summary.

Collins receives, per annum	$858,000 00
Hansen proposes rendering more service for..	355,000 00
Difference in price	$503,000 00
1. England receives from the *United States*, in closed mails, per annum....$178,422 66	
2. Postage, 16 cents, on 237,576 French letters, carried in the Cunard line..... 38,012 16	
	216,434 82
Total of items one and two saved by Hansen's line	$719,323 82
Amount paid the Bremen line	200,000 00
	$919,434 82

This large sum would be *saved* by the running of Hansen's line, and giving the notice to Collins.

Collins has received *extra* on his *original* contract, from January, 1852, to 30th June, 1855..	$1,750,000
Amount paid him under his original contract, from 1848 to 30th June, 1855.....	2,502,500
Whole amount paid Collins	$4,252,500

Which sum is *independent* of the large amounts received for *freight* and *passengers*.

Sixty cents is paid to Collins for every letter carried by his line to Liverpool.

The *postage* on every letter intended for the continent, carried by this line, amounts to *forty cents*, paid by the correspondent.

By Hansen's line, the postage per letter to the continent would be ten cents—a saving of three fourths.

Mr. SMITH. I wish this committee and the country to understand that, by this proposition, on the Collins steamer line alone five hundred and three thousand dollars, and nine hundred and odd thousand dollars on the steamer lines to Europe, can be saved *per annum*.

Mr. FAULKNER, (interrupting.) I wish to make one inquiry of the gentleman. I wish to ask him whether he has not seen in the public prints, within the last month, a proposition, made by a gentleman from New York, of ample responsibility, to carry these mails for the Government, for less than one half that is paid to the Collins line?

Mr. SMITH. Yes; I will notice my colleague's suggestion presently.

I proclaim here—and I would that the world could hear it—that here is a proposition to save to this country nine hundred thousand and odd dollars a year, and that, too, from men who are not, as I am assured, greedy speculators, but full of responsibility, and ready to give ample securities for the full and complete performance of the proposed contract. And yet the gentleman from Ohio advocates the continuance of this great monopoly!

Sir, it was only last session that the honorable chairman of the Post Office Committee went out of his way to speak in terms of indignation and contempt of the profligate waste of this public money in pampering the Collins line to the great detriment of the little inland post-lines required by the wants of our worthy and unpretending fellow-citizens. He then speculated upon the hundred and one deprivations, which our interior country would suffer in consequence of the appropriation of these enormous sums.

Sir, we all know Cornelius Vanderbilt, in person or by reputation. He has made fame for himself, and has also added to that of our country. I know him well, and he has no superior in the line of his profession. His late yacht expedition is a matter of pride and glory to our country, and was the admiration and wonder of all the countries of Europe. The magnificence of his movements was not believed, in many of the despotisms of Europe, to be that of a private individual; and, in consequence of a belief that it was a governmental movement, he fell under the surveillance of one, at least, of the countries of the Old World.

This man will perform these services for $15,000 a trip; and shall we pay E. K. Collins & Co. $33,000 for the same services, and that, too, at the instance of one who, up to the bursting of this new light upon him, was perfectly satisfied it was a gross misapplication of the public treasure, and that it was squandering upon a pampered company sums which ought to be distributed to supply the humble mail wants of a plain and unpretending people?

Mr. Speaker, I am opposed to the whole system of ocean steamers, as a governmental movement, between this country and foreign parts—opposed to the whole. I consider it a source of corruption, deep and damning. I consider it a source of gross violation of public duty.

Mr. OLDS. Will the gentleman permit me to ask him a question? I remember that last session, when my friend and colleague on the Committee on the Post Office and Post Roads reported a bill to pay a million and a half of dollars for a line of mail steamships to California, he found not a more efficient advocate for that bill upon this floor than the gentleman from Virginia himself.

Mr. JONES, of Tennessee. That was for the domestic mail service.

Mr. SMITH. Mr. Chairman,

"Optics keen hath he, I ween,
Who sees what is not to be seen."

I said I was hostile to all the ocean steamers which are to connect us with foreign parts. The gentleman lays hold upon it to make his wholly inapplicable remark.

Mr. OLDS. The gentleman has had new light bursting upon him.

Mr. SMITH. I say, so far as California is concerned—a part of our country which, up to a late period, has been neglected by our Government—I am ready to foster and assist it by every means in our power, which does not involve a great constitutional principle. I am not one of those who recognize the Constitution as limited to my own district, and not applying to a part of the country situated a few thousand miles distant.

Mr. OLDS. The gentleman must have been to Damascus lately.

Mr. SMITH. That is a place which I do not visit, and I leave it entirely to the gentleman from Ohio. [Laughter.] I ask this committee, and through it I ask the House, if it is the policy of a republican people to build, and foster, and sustain these splendid ocean palaces? I say the system is demoralizing. I say it corrupts the tastes and habits of the country, and it engenders a spirit of rivalry, and extravagance of habit which is wholly at war with that simplicity which ought to belong to republican institutions. I say it is using the treasure of the country for the purpose of corrupting the morals of the people. An elegant simplicity is true taste, whether in public or private affairs. But that gorgeous ostentation which makes everything marvelous to those who witness it, operates unfavorably upon the habits and tastes of the people.

Mr. OLDS. If the gentleman is opposed to all these extra appropriations, I should like to know how he acquired his name of "Extra Billy?"

Mr. SMITH. The gentleman has no right to interrupt me for the purpose of being impertinent. No man has a right to be impertinent—none in the world; and he is not a gentleman who will violate the rules of order for the purpose of violating the laws of good manners. [Cries of "Order!" "Order!"] I got that sobriquet in connection with the gentleman's own department, and, thank God, never by a dishonorable, mean, unworthy, and contemptible trick. Does the gentleman understand that?

Mr. OLDS. The gentleman understands it better than any one else.

Mr. SMITH. I say to this House, briefly, that I have, perhaps, a right to it, by a manly, frank, open, cordial, and faithful execution of all political and personal duties which have been devolved upon me. I care not. I am, I hope, like the Democratic party, which wins for any nickname you choose, popularity, because it touches the hearts and sympathies of the people. In conclusion, Mr. Chairman, I will say that I came here to-day with no purpose in the world to say anything. And what I have said has been the result of the feelings which have been aroused within me by this proposition which has come from the gentleman from Ohio, the more remarkable because of his most remarkable conversion.

Mr. WALBRIDGE. Mr. Chairman, in the remarks which I am about to submit I shall enter into no personal considerations of this question, but look at it as it affects the entire Union. I shall reply to the gentleman from Virginia [Mr. SMITH] so far as he says that he is opposed to this appropriation on constitutional grounds, and the views which I may express are entitled to some force, for they are and have been consistent. At the last and previous sessions of Congress, and even before I took a seat in this Hall, I was in favor of this Collins steamship line. I was in favor of it from the conviction that its support was essential to the naval prosperity of this country. We ought to have no concern with the question whether or not Mr. Collins, Commodore Vanderbilt, or any other equally meritorious citizen is interested in the contract. The question is one of greater magnitude, and entirely of higher consideration.

Mr. Chairman, looking to the important relations which the city of New York bears toward the commerce of the Union, and the measure of her annual contributions to the revenue of the country, no one will deny she has a legitimate right to be heard in the matter now before us.

The question involves high and grave considerations. It affects deeply our commercial interests, and is no less than this: Shall American naval enterprise, invited by your legislation, begun and sustained under your auspices for the wisest considerations, and resting upon a basis of the soundest economy to the country, be neglected or discarded by hesitancy or refusal to continue the contract which gives us a position of ascendency in the rivalry between this country and Great Britain, in ocean navigation?

The General Government had long felt the reproach that lay at its door for neglecting the interests of our commerce for seven years, by permitting our trans-Atlantic rival deliberately to assume superiority in ocean steam navigation.

In the year 1838, the first ship of the Cunard line was built. She was called the Great Britain. In the year following, the British Government made a contract for seven years with the proprietors for carrying the mails from their shores to ours. What was the condition of things at that time in the competition between the American and British sailing vessels? The former defied all competition in the transportation of light merchandise and of passengers. Superior speed and other sailing qualities placed them far ahead of the English models. What was to be done? The British Government, justly sensitive to the commercial interests of its citizens, sought a remedy in the contract of 1839 with Cunard; and with it went to that line almost a monopoly of the valuable carrying trade which we had previously possessed.

In this new and profitable channel of business, our Anglo rivals went on most prosperously for themselves, but most detrimentally to our splendid clipper ships, that had been doing a thrifty business, and had distinguished themselves in this special department of the carrying trade.

The country felt the neglect, our people saw the listlessness of the legislative department in the matter, but finally public opinion—the propelling power in our institutions—reached these Halls and dictated the enactment of 1845, by which the Postmaster General was authorized "to contract for the transportation of the United States mail between any of the ports of the United States and a port or ports of any foreign Power, whenever, in his opinion, the public interest would thereby be promoted;" and the Postmaster General was also directed, in all cases of offer to contract for carrying the mail between any ports of the United States and any foreign port or place "to give the preference to such bidder as shall contract to carry the mail in a steamship, or steamships, and the said contractor stipulating to deliver said ship or steamships to the United States, or to their proper officer, upon demand made, for the purpose of being converted into a vessel of war, the United States being bound on their part to pay to said owner or owners the fair full value of every such ship or vessel at the time of such delivery," &c. Well, after the passage of this act, which shows that Congress, though tardy, had at last waked up to the importance of doing something, the Postmaster General made proper advertisements for bids to perform the service. None was received. The British had taken the start of us. They had already been reaping the advantage of ocean steam navigation for seven years without competition; had acquired high standing, great experience, with unlimited capital. Who was then to be found ready to vindicate American enterprise and skill, and to enter into this fierce competition with capital and courage at hand? An energetic and patriotic citizen of New York, Mr. Edward K. Collins, came forward, after having been solicited by the Government to make a bid, and submitted his proposals, which were accepted.

The contract of Mr. Collins called for ships of two thousand tons measurement for each steamer, with one thousand horse power, to be built for great speed, and sufficiently strong for war purposes, and in 1847 Congress gave its deliberate and unequivocal sanction to the law of the 3d of March of that year, providing for the building and equipment of four naval steamships.

The second section of that act made it the duty of the Secretary of the Navy "to accept on the part of the Government of the United States the proposals of Mr. Collins and his associates," for the transportation of the United States mail between New York and Liverpool, and to contract with the said E. K. Collins and his associates for the faithful fulfillment of the stipulations therein contained; and in accordance with the provisions of that act, the third section of which declared "that the steamships to be employed by the said E. K. Collins and his associates in the transportation of the United States mail between New York and Liverpool, shall be constructed under the inspection of a naval conductor in the employ of the Navy Department, and shall be constructed so as to render them convertible, at the least possible cost, into war steamers of the first class."

At the time this contract was executed between the Government and Mr. Collins, the largest Cunard ship was only fourteen hundred tons, with five hundred horse power. Soon as the energetic action of this Government became known, Cunard laid the keels of the four ships, America, Europa, Canada, and Niagara, each of eighteen hundred tons.

Collins, fully appreciating the responsibilities he had assumed, determined to do his part in vindicating the ability of the American people to compete with the citizens of Great Britain, and he, therefore, applied to and received from the proper Department a *carte blanche* to build ships one thousand tons larger, with a corresponding increase of motive power.

By this increase in the steamships' capacity it requires but little calculation to determine that the running expenses were increased to the proprietor fifty per centum.

By the original contract it was stipulated that they should run twenty trips out and back at $19,250 per trip. They were then required to increase the trips to twenty-six at the same rate, and the whole allowance for the whole service was a fraction over $500,000. With all the care, prudence, economy, and the additional advantages of increased speed, it was found the proprietors were sinking money; and while the mail service was performed faithfully and to the benefit of the postal revenue, the finances of the owners were rapidly collapsing, and the whole business was on the point of discontinuance. The Congress of 1852 thoroughly sifted the whole subject. They found the then existing contract was a losing concern to the proprietors. As legislators they were unwilling, even if the ability of the owners would allow, that the service should be continued at a loss. The alternative was brought directly before them as it is now: Shall the American ocean steamship line to Great Britain stop, or shall it go on? The answer is found in the act of Congress of the 21st July, 1852, in which it is declared as follows:

"For additional compensation for increasing the transportation of the United States mail between New York and Liverpool in the Collins line of steamers to twenty-six trips per annum, at such times as shall be directed by the Postmaster General, and, in conformity to the last annual report to Congress, and his letter of the 15th of November last to the Secretary of the Navy, commencing said increased service on the 1st January, 1852, at the rate of $33,000 per trip, in lieu of the present allowance, the sum of $236,500: *Provided*, That it shall be in the power of Congress, at any time after the 31st of December, 1854, to terminate the additional allowance herein provided for upon giving six months' notice."

What effect did this legislation produce? By giving the increased compensation of $13,750 per trip, and making the aggregate for each trip equal to $33,000, the total for the service was raised from rising $500,000 to $858,000, and the increase continues until the 1st of January, 1855. After that period, unless you now interfere by further legislation, the original contract, which extends to the 1st of April, 1860, will leave the owners to do the service at the sum of $500,500, with the enormous loss which they must necessarily suffer, even if they have the ability to go on with the service.

Mr. SMITH, of Virginia. I beg to state to the gentleman from New York, [Mr. WALBRIDGE,] that Cornelius Vanderbilt, known as Commodore Vanderbilt, has now before the Postmaster General a written proposition, in which he agrees to perform this service for $15,000. I repeat that there is such a proposition now before the Postmaster General, made by Cornelius Vanderbilt.

Mr. TAYLOR, of Ohio. If my friend from New York [Mr. WALBRIDGE] will allow me, I desire to ask the gentleman from Virginia, who has told the committee that Mr. Vanderbilt has proposed to perform this mail service for $15,000, whether Mr. Vanderbilt will also relieve the Government from the responsibility of purchasing the Collins steamers?

Mr. SMITH. I do not know anything about that. If the Government has any contract with Mr. Collins in reference to the purchase of his steamers, they will fulfill it, without doubt.

Mr. TAYLOR. I wish to say that I understand the United States to be compelled to take those four steamers at a very high rate, they having cost originally about $300,000 each. Now, sir, these gentlemen, who have placed printed papers upon our desks day by day, proposing to take the contract for carrying the mail from New York to Liverpool, say nothing about relieving the Government from their contract to take these Collins steamers whenever his contract for carrying the mail ceases.

Mr. SMITH. One word more. I can only say to the gentleman from Ohio, and to the committee, that whether we are under any obligation, to take these ships, is a question not yet decided. I maintain that we are under no obligation whatever to take them.

Mr. BRECKINRIDGE. If the gentleman from New York will allow me, I desire to say, in reply to the gentleman from Ohio, that the question of giving notice for terminating the additional pay given to Mr. Collins, first in 1852, has no connection whatever with the original contract under which the gentleman says the Government are compelled to take these ships. The increased compensation given in 1852 was a mere bounty upon the part of the Government, which we are at liberty to terminate at any time by giving six months' notice, leaving the original contract precisely where it was prior to that time.

Mr. GOODE. The ships were never built in conformity with the contract.

Mr. WALBRIDGE resumed, and said: Now, all the world knows that the rates of living, and the cost in every department of the mechanic arts, have risen one hundred per centum since the original contract was made, and that they have been augmented fully fifty per centum since the increased allowance by the law of 1852. This of itself would be an unanswerable argument against any attempt at reduction, by failing to come up to the spirit and purpose of the law of 1852 But what advantages have not resulted from the establishment of this American line, in addition to the national reputation we have acquired upon the seas? Previous to its organization the maritime genius of our rival had ever triumphed. But in this fierce competition, American skill and genius has brought the two great continents nearer together than they have been brought before. The reduction of the cost of freight on light articles has been nearly one hundred per cent.; a reduction of twenty-six per cent. in the price of passage; a reduction of one-sixth of the time in the passage of crossing the Atlantic. The cheap support of war ships, ready, at a moment's warning, to pass from the hands of the present owners to those of the Government, and perfectly capable of taking on equipments of battery and iron material, should the exigencies of the service require it, withal officers and seamen, trained by discipline and experience in the science of navigation, constitute an element of strength in time of war, and a commercial facility in time of peace, which place them far beyond all competition.

Are all these advantages, positive and direct, not only to the city which I have in part the honor to represent, but the whole Union, to be sacrificed, by a discontinuance of that enlightened policy which has always given to the United States the palm of victory in a struggle for the commercial supremacy of the seas?

Mr. MURRAY. I would like to put a question to my colleague. How much did Collins & Co. receive annually for carrying the mails under the original contract?

Mr. WALBRIDGE. Mr. Chairman, I stated in advance that I should present only what I regard as the questions of public policy, leaving the questions of facts and figures to be illustrated by the distinguished chairman of the Committee on the Post Office and Post Roads.

Mr. MURRAY. Then my colleague declines to answer my question.

Mr. WALBRIDGE. If I had the information I would answer it with pleasure. My impression is, that the original contract was for $15,000 a trip.

Mr. MURRAY. The original contract was for twenty trips per annum, at $19,250 per trip, amounting to less than $500,000 per annum. We increased the number of trips to twenty-six per annum, and the pay per trip to $33,000, amounting to $858,000.

Mr. CUTTING. I think there is a slight error in the statement of my colleague, [Mr. MURRAY,] and I desire to correct it, although perhaps I shall be in error myself, for I do not profess to be very accurately posted up in reference to any part of this matter.

As I understand it, under the original contract, which was to endure for ten years, Collins & Co. were to perform twenty trips out and back—twenty trips from New York and twenty trips from Liverpool—and for that service they were to receive $385,000 per annum, being equal to $19,250 per trip.

Mr. MURRAY. That is exactly what I stated.

Mr. CUTTING. Very well. Thus far we agree. Now we come to our difference. On or about the 1st of January, 1852, the Post Office Department made an arrangement with Mr. Collins, prior to the passage of the act of 1852, and irrespective of it, by which the number of trips was increased to twenty-six per annum, at the same ratio of compensation, to wit: $19,250 per trip. Then, by the act of 1852, the compensation—not the number of trips, as they then existed, but the compensation—was increased to $33,000 the trip.

Now, if you will multiply the $19,250 by twenty-six, the number of the trips, and deduct that gross sum from the $858,000, it will be found that the difference is not, as my friend supposes, $500,000, but only some three hundred and odd thousand dollars.

Mr. MURRAY. My colleague misunderstood me entirely. I did not say that it was $500,000. I stated that the original contract for nearly $20,000 a trip amounted to about $500,000 per annum, and that the increased compensation of $33,000 a trip amounted to $858,000 per annum, making a difference of three hundred and odd thousand dollars.

Mr. WALBRIDGE. I believe that my speech was first-rate in all but the mathematics, and now that is supplied I have done. [Laughter.]

Mr. LETCHER obtained the floor.

Mr. WALBRIDGE. I beg the House to understand that, in the remark which I made just now, I intended no reflection on my colleague, for I am much obliged to him for his statement.

Mr. PECKHAM. Oh, no one suspected that you did.

Mr. LETCHER. Mr. Chairman, I do not propose to occupy much of the time of the committee with remarks upon this bill; but I propose to bring the minds of members back to the points which are in issue in this controversy, in the hope of bringing them to the conclusion that it is better to have the service rendered for $385,000 than to require the Government to pay $850,000 for like service. Our object here is not only to have the business of this Government done, and well done, but it is our duty to have that business done upon the best terms that can be secured in behalf of our constituents, whose agents we are.

Now, sir, I maintain that if, in the discharge of any representative duty here, I can get the service done for one half the amount that it now costs, I am discharging my obligations faithfully to my constituents, and discharging my obligations faithfully to all other parts of the country interested in the various schemes that are the subject of consideration.

A proposition has already been presented to the House by my colleague, [Mr. SMITH,] in which it is stated that an entirely responsible man proposes to do the very service which is now done by this Collins line, for $390,000, (I think it is.) Now,

sir, if this be true; if a responsible man makes this proposition to the Government; if he is a man who has shown by his past history that he is capable of fulfilling any obligation which he has thought proper to take upon himself, is it not our duty, if we can do so without violating the law or the principles of justice, to make the contract with that party, and thus protect our people from an abstraction from their pockets of $500,000 that they now pay? So it seems to me.

Well, then, again, this must be a business of profit to some extent. There is another individual who is here before Congress, competing for this service—Mr. Hansen. He proposes to take this contract, to deliver the mails at the points where they are now delivered by Collins, and to deliver them at other points in addition, for the sum of $385,000; thus proffering to do for that sum more than is done by Collins & Co. for $858,000!

At the proper time, if it shall ever come, of which I have some doubts—for I have arrived at the conclusion that there is a clear majority against us here in this House—but, if I do get a chance, I intend to propose, as a substitute for this portion of the bill, the proposition which I now send to the Clerk's table to be read, and I trust that, whether the friends of this bill have a majority and the power to pass this bill or not, they will, at least, allow the bill and the substitute to be placed in such a position before the House that, by a call of the roll on the yeas and nays, the matter may be so placed upon the record that the country may see who it is that stands by Collins & Co. at $858,000 when there is a proposition to do the same work for $385,000.

Mr. LETCHER's proposition was read by the Clerk, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be, and he is hereby, directed to enter into a contract, for a term not exceeding ten years, with Christian Hansen, of the city of Brooklyn, State of New York, for the transportation of the United States mails, semi monthly, from the city of Brooklyn, State of New York, to the continent of Europe, via England, Belgium, Holland, Bremen, to Glückstadt, on the river Elbe, near Hamburg, in Holstein. The British mails to be delivered at such southern ports in England as he, the Postmaster General shall direct, and the closed mails to be delivered at such port as the Postmaster General shall designate. The steamers employed under this contract shall leave the city of Brooklyn and the ports selected by the Postmaster General for the delivery of the British and closed mails, twice a month, at such time and date as the Postmaster General may direct. Four steamers shall be employed in the transportation of said mails, shall be of the first class, and of not less than two thousand tons burden each, Government measurement. This contract shall be made in the usual forms, and with the usual conditions, Mr. Christian Hansen giving satisfactory security for the faithful performance of the contract. The four steamers required shall be built under the supervision and plans of the Secretary of the Navy, and shall be either side-wheel or steam-propellers, as he may direct; they shall also be constructed so as to accommodate first, second, and third class passengers. The United States may reserve the right of purchasing these steamers at a fair valuation, on giving three months' notice; and also to confer the command of them upon officers of the United States Navy.

SEC. 2. *And be it further enacted*, That, as a consideration for the transportation of the United States mails as aforesaid, the said Christian Hansen shall receive the sum of $355,000 per annum, payable quarterly. That two of said steamers shall be ready for service within twelve months, or sooner, of the date of the contract. The other two steamers shall also be ready for service within eighteen months of the date of the contract: *Provided, however*, That no appropriation shall be required to carry this contract into effect at any earlier period than within twelve months of the date thereof.

SEC. 3. *And be it further enacted*, That if, any time between the date of said contract and the taking effect thereof, provision should not be made, or should not exist, for the transportation of said mails, the Postmaster General be, and is hereby, authorized to contract with Christian Hansen for the transportation of said mails, by temporary steamers, until the taking effect of the contract first made with said Hansen, upon the same conditions, and with the same restrictions as may be contained in the contract first made: *Provided, however*, That no appropriation shall be required to carry into effect the contract for the transportation of said mails by temporary steamers, until three months' service shall have been rendered.

Mr. LETCHER. I know none of these parties, Mr. Chairman. I know nothing of the means of these parties, or of their ability to fulfill their contract, should they receive it. I do not know, so far as my personal knowledge goes, whether Commodore Vanderbilt is capable of fulfilling an obligation of this sort; I do not know whether this man, Hansen, is capable of fulfilling an obligation of this sort, except as I derive information as to both of these persons from others who are acquainted with them, and with their means and energies. But, sir, I take it that they are competent to fulfill every obligation which they may incur, and that if they come forward here to make a proposition to this Government, and to proclaim at the same time that they are ready to give a sufficient guarantee that this work shall be fulfilled if the contract be made with them, they are gentlemen of some position, of some means, and that there is a reasonable calculation that they will comply with the terms of their contract. I know not, sir, whether these are not the same parties who proposed last year, or the year before, to enter into a contract with the Government for the carriage of this ocean mail. Perhaps the gentleman from Ohio [Mr. OLDS] will tell me.

Mr. OLDS. They are not.

Mr. LETCHER. Then they are not the same. I refer to the proposition which, in the last session, or in the Congress before, the gentleman from Ohio told us was made in good faith, and by men who were capable of executing their contract. Very well; then, sir, if there was a proposition here two years ago from a responsible source, from parties who were able to execute their contract—if the Government had made it with them—if there were at that time responsible parties before this House proposing to undertake the work for half the amount now charged for it, what excuse can this House undertake to render to the country—to the people, who are to foot this bill—for an expenditure of double the amount of money necessary to accomplish the same result?

But, besides all this, sir, besides the declaration of the gentleman from Ohio, we have the Postmaster General reporting to this House, in 1853, that there were applications made to him for this contract from responsible parties. Then, sir, as far as we can go, we have evidence on the subject. We have the evidence of the chairman of the Committee on the Post Office and Post Roads; we have the evidence of the Postmaster General on the subject, and we have the actual propositions introduced into the House, with pledges and guarantees that the contracts shall be faithfully executed. How much more could we have, in regard to a contract of this sort, to induce the House to go into its consideration, and, at least, induce it to try the experiment, when they have it within their power to do so, by terminating the Collins line contract, and throwing the matter open to the competition of the market? Will Mr. Collins come into that competition under any disadvantage? Will he come in with less opportunity and less means of securing an advantageous contract from the Post Office Department than Mr. Hansen, or Mr. Vanderbilt, or any of these other gentlemen who are applicants for this business with the Government? No, sir. On the contrary, he comes into the competition with decided advantages. He comes in with all his vessels already constructed for the purpose of fulfilling his obligations, and of carrying out the contract in the event of his getting it. He comes in with all the experience which he has acquired from being engaged several years in the service. Besides, he comes in with a full knowledge of the expenses to be incurred in prosecuting this business, and of the profits to be derived from it, not only from the amount paid by the Government, but from the amount received for freight and the transportation of passengers.

Mr. WALLEY. Does the gentleman from Virginia mean to have us understand that all of these parties propose to furnish vessels which will be convertible into war steamers in case of war, equal in character to those of Mr. Collins?

Mr. LETCHER. The gentleman from Massachusetts inquires as to the war steamers. Why, Mr. Chairman, does not the gentleman know that there is just as much contrariety of opinion now as to these vessels of the Collins line being fit for war purposes as there is about any other disputed and debatable question before this Congress, or before the American people? Officers of the Navy have said over and over again that they are not convertible into efficient war steamers; and, if the gentleman had noticed the proposition which has been read, he would have seen that there was a provision in it which authorizes these vessels to be built under the superintendence of the Navy Department.

Now, if the Collins steamers, built in this way, will answer for purposes of war, why will not vessels, of the same character, built by other parties, answer the same end. If the gentleman will look at the proposals made by these parties, he will find that they propose to build vessels provided for such a contingency. Now, in true Yankee style, I would like to put a question to the gentleman from Massachusetts. Does the gentleman believe that a broadside could be fired from any one of these vessels of the Collins line without sinking it?

Mr. WALLEY. The best commodores in service say that it could be, and that is the best kind of authority.

Mr. LETCHER. I ask the gentleman if there has not been every shade and difference of opinion reported upon that subject by the Navy Department, and by the officers of the Navy themselves.

Mr. ORR. I should like to ask the gentleman from Virginia a question. Is it not true that in the British navy they have abandoned the side wheel steamers altogether for war purposes, and resorted to propellers?

Mr. LETCHER. I have so understood, and I will now read an extract from the report of the Lords of Admiralty in regard to an examination of these English steam vessels, published in the London Gazette on the 2d February, that will show what their character for war purposes is.

"ARMAMENT OF MAIL STEAMERS.—The Lords Commissioners of the Admiralty and the Master General and Board of Ordnance having decided that a mixed committee of officers, consisting of Colonel Colquhoun, R. A., inspector royal carriage department; Commander Jerningham, R. N., and Mr. Henry Chatfield, should assemble to consider how far it may be possible to carry into effect a plan for arming the contract mail packet steamers, and to report whether the terms of their contract have been observed by the several companies as regards the preparation of their vessels for war purposes, have reported as follows:

"SIR: In pursuance of instructions received by us from the honorable Boards of Admiralty and Ordnance to consider the question of arming mail contract steam packets, on an emergency, for purposes of war, we have the honor to report to you that our attention has been directed, in the first instance, (as proposed in our letter of the 8th of June last,) to the Peninsular and Oriental and the Royal West India Mail Packet Companies.

"We find that the total number of vessels possessed by these companies amounts to fifty three, whose aggregate tonnage and horse power are as follows:

"Peninsular and Oriental Company.—Vessels—wood, 11; iron, 22; total, 33. Tonnage—wood, 12,800; iron, 26,449; total, 39,249. Horse power—wood, 4,086; iron, 7,481; total, 11 567.

"Royal West India Mail Packet Company.—Vessels—wood, 19; iron, 1; total, 20. Tonnage—wood, 32,612; iron, 2,720; total, 35,332. Horse power—wood, 8,750; iron, 800; total, 9,550.

"Total—Vessels, 53; tonnage, 74,581; horse power, 21,117.

"Not any of these vessels would, in our opinion, become efficient substitutes for regular men of war. Some of them might be made auxiliary to war purposes; constituting, as it were, part of a naval militia, under a very pressing necessity, for home service; but we should think them better calculated for armed packets and armed troop ships.

"Out of fifty three vessels, including wood and iron, only sixteen are employed between Southampton and foreign ports; twenty-three are employed inter-colonially; six are under repair; eight building; and five on an average in port at a time fit for sea. Two out of the five are vessels of inferior character, employed in the Peninsular service. Out of the sixteen vessels plying between Southampton and foreign ports, five are of iron, (Madrid, Ripos, Sultan, Bombay, and Madras,) and three (Jupiter, Iberia, and Tagus,) are considered incapable of carrying an efficient armament, being much inferior in tonnage and horse power to the vessels generally of the two companies, and having raised poops and forecastles, with other obstructions to carrying and fighting guns. There remain, therefore, only eight (wooden) vessels out of the sixteen, which we consider capable of being efficiently fitted to receive an armament for war purposes on an emergency; and that number would become gradually available as they return home, in succession, within periods varying from three to nine weeks. But here we would remark, that if any of these vessels were taken up by the Government, the mail packet companies might experience great difficulty in replacing them, more particularly since Government would be first in the market, and there would be a great demand for ships to afford the earliest means of communicating the news of hostilities, or of reinforcing the colonies with men and stores. The remaining thirty seven, with the exception of those building and under repair, (which in the month of June amounted to fourteen,) are employed inter-colonially, or otherwise permanently abroad.

"At this period of our report we think it right to invite attention to the fact that there are no less than twenty-two out of thirty-three vessels belonging to the Peninsular and Oriental Company of iron. These twenty-two vessels have all been built since 1843, to the exclusion of wooden vessels, with the exception of only two, now building, of nine hundred and ten tons each. Had we considered the iron vessels in other respects suitable for men of war, we should have hesitated to recommend them for that service, on account of the materials of which they are built.

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"Our opinion is, that the ships of these companies can never be regarded as efficient substitutes for regular men of war; and that opinion is based on the following considerations:

"First, Their sharp form of bow to promote speed, continued upwards as it is to the height of the port sills, renders it impossible to point and elevate guns in the line of keel. Secondly, their rake of stern would render it dan-

gerous to fire a gun when elevated, more particularly when trained from a fore-and-aft line. Thirdly, these vessels, having been designed entirely for steam propulsion and passenger accommodation, all other purposes have been made subservient to those ends. Hence we find that they are greatly under masted; that they have a height between decks unnecessary for men of war; that they appropriate more than the space usually allowed for engine room and the stowage of coal in her Majesty's ships; and the consumption of fuel on board these vessels, say Parana class, amounting to about eighty tons of coal per diem, would become a grave question with the Government, when estimated at per gun, considering how few guns it is proposed to place on board these vessels in relation to their tonnage, in comparison with regular men of war.

"We find, too, that no attention has been paid to the importance that should be attached to the exposure of the engines, boilers, and steam chest, to shot, which, though in some degree unavoidable in all paddle wheel steamers, appears to exist in these vessels to a most dangerous extent. Further, the paddle-wheels are usually of enormous size and weight, rendering them very vulnerable, and presenting a great impediment when under sail. That none of them carry paddle-box boats, and that if these were fitted in so elevated a position, it would cause the vessel to roll deeply and labor in heavy weather, and that the height and space for saloon and cabin accommodation is quite disproportionate to the requirements of a man of war."

Mr. LYON. What is the date of that report?

Mr. LETCHER. It is from the London Gazette of the 22d of February of last year.

Mr. STANTON, of Tennessee. Will the gentleman from Virginia allow me to say a single word. If he will look at that report further, he will find that one of the principle objections to these steamers is in the construction of their bows and sterns, especially in their bows. The construction of an English steamer is such as to render it almost impossible to use the bow or stern guns, on account of the peculiar construction of the bow—a construction which is altogether different from that of the American steamers of Mr. Collins. Any one who has seen the American steamers, knows that the bow is perpendicular from the water, so that a gun may be run out from any portion of the bow and used either in the bow or stern. The objection made to the English steamers, by the English Admiralty, does not, in any respect, apply to the American steamers. They are built upon an altogether different principle; and I believe, from my own knowledge upon the subject, and from information derived from one of the most gallant and experienced officers of the Navy—no other man than Commodore Perry, who was, I believe, one of the officers authorized to examine the construction of these vessels—that if these vessels were proposed to be used in case of war, they would constitute the best vessels for that purpose upon the globe. Commodore Perry told me with his own lips, that if he had his choice of any vessels built, he would select one of the Collins line of steamers in preference to any ship that floats.

Mr. LETCHER. It is a very remarkable fact that, when this question of granting aid to the Collins line of steamers first came up, one of the reasons offered in its support was, that they would relieve this Government, to some extent, of the expense of building up a navy, that it would be the means of furnishing us with naval vessels, and that they would be ready in an emergency for the purpose of prosecuting a war, or for defense in a war brought upon us by others. Why was it, then, that six steam frigates were ordered to be built at the last session of Congress, if these steamers were capable of fulfilling the purposes which the gentleman from Tennessee says they are capable of fulfilling?

Mr. STANTON. Will the gentleman allow me to answer him? It never was expected that these steamers, or any other mail steamers, would be employed by the Government, except in time of war. The contingency provided for in the bill authorizing the establishment of the Collins line has not happened, and there has been no occasion for the Government to call for the services of these steamers.

Mr. LETCHER. My friend from Tennessee dodges a point as well as anybody I have seen in this House. When the contracts were made in regard to carrying the mails—and the gentleman will not controvert this statement—one of the grounds upon which this contract was justified was that we should have a navy built in the best manner which, by the terms of the contract between the parties, could be converted into vessels for defense or assault, in case the country, at any time, should need their services. If we were building up a navy by these contracts for ocean mail steamers, where was the necessity for the Government undertaking to go on and incur a larger expenditure, even in each year, than had been made prior to the time these contracts were entered into?

Mr. STANTON. Everybody who knows anything of the history of the Government—and certainly the gentleman from Virginia should have knowledge of this fact—knows well that it is not the policy of this Government to maintain, in peace, a naval force that would be sufficient to defend the country in time of war. These mail steamers, built in time of peace, for war purposes, were designed to be, according to the original idea, an auxiliary force, performing civil service in time of peace, but capable of being rendered efficient in time of war. They were designed to meet a similar policy on the part of the British Government. At the time this system was commenced in this country, it is well known that the British Government had a large fleet of these steamers continually passing by our shores, some of them entering our ports, and some of them passing by the coast, and entering the West Indies. There were some fifteen or twenty of these vessels of large tonnage, of great capacity and power in case of war. That was commenced under Mr. Polk's administration. It was felt by that Administration as of very great importance that that policy of Great Britain should be counteracted. I say it commenced under Mr. Polk's administration, and met with its approval.

Mr. LETCHER. I am aware it was commenced under a Democratic Administration, but, like a great many things which pass this Democratic House, does not look very Democratic when done.

The gentleman says the policy of this Government is to keep up a large navy, and he takes it for granted that I understand that fact. I think the policy of this Government is to keep up a large navy, if we are to go on with this matter as it has been started. Just look at it. Last year we provided for the building of six naval steamers, and this year it is proposed to build seven steam sloops of war, and what will be recommended next year, or the year after, no man can tell.

Mr. STANTON. I would say to the gentleman from Virginia, in reference to the bill for the construction of seven sloops of war, that a large portion of this House voted for it upon the idea that these vessels were to be substituted for old and obsolete ones, now existing in the Navy, but no longer fit for use. If the gentleman will refer to the speech of his colleague, [Mr. Bocock,] the chairman of the Committee on Naval Affairs, he will see that that was the idea in reference to these proposed seven sloops of war.

I think these sloops of war ought to be built, and that an equal number of vessels now in the Navy, of a different character, ought to be put out of service. I do not think the Navy should be increased, but that it should be renovated by additional and proper vessels, which shall be able to protect our increasing commerce in foreign parts. That is the idea for which they are proposed to be constructed.

Mr. LETCHER. I know the gentleman is as strong an advocate for the Navy as any gentleman upon this floor. He was in favor of the construction of the six war steamers at the last session, and he is in favor of the construction of the seven war sloops this year; and I take it, from all I have been able to ascertain of the opinions of the gentleman, and of the Naval Committee, that, if that committee had reported in favor of the construction of fifteen or twenty sloops of war instead of seven, the gentleman would have been in favor of all of them.

Mr. STANTON. I beg leave to say to the gentleman from Virginia that he has no right to assume any such thing. He has no right to assume any such thing from any thing I have said or done. If he will look at my report, when chairman of the Committee on Naval Affairs, he will see that I have been consistent throughout.

Mr. LETCHER. I remark most cheerfully that my friend has been consistent; so far as I remember, I do not recollect an instance where he has found one single appropriation of money wrong which has been asked for at the hands of this Government. I do not recollect a single instance, though there may have been such.

Mr. STANTON. It is true I have very often differed from my friend from Virginia, and I am perfectly willing that the country should judge between the gentleman and myself.

Mr. LETCHER. I have certainly nothing to fear from my record upon the subject; but I can tell the gentleman this much: if I were to go home to my constituents—the plain, practical people I live among—with such a record as the gentleman from Tennessee has made up, I might well expect forever to bid farewell to public life.

Mr. STANTON. I have been home to my constituents several times since my first election to a seat in this body—four several times—and to an intelligent constituency, too, upon the record which I have made in this House, and which has always been the same, and I have never found any difficulty with my constituents. It is true I have been met by demagogues of all shades and character, and I have had objection from all quarters, but the intelligence and liberality of my people have prevailed against them all, and I have no doubt it will do so to the end.

Mr. LETCHER. I have no doubt the gentleman has a very good constituency, and, perhaps, if there was a navy-yard in my district, to which a vessel of the first class could not obtain access, but for which I had been able to obtain a very generous appropriation, my constituents, too, might look upon my action with a great deal of liberality. [Laughter.] I take it that when the gentleman has kept up a navy-yard which the people of the city of Memphis would not accept of as a gift, his constituents would look liberally upon his record.

Mr. STANTON. I wish to inform the gentleman that the people of Memphis, very prudently, I think, have accepted the gracious gift which this Congress imprudently gave them. They have pocketed thereby $1,000,000; but, at the same time, they have, as patriots, tendered it back to the Government, upon the condition that the Government would establish what was established there ten years ago, in order to bring the great resources of the Mississippi valley in aid of the Government of the United States for the defense of the country in case of emergency.

I should be very glad, if this were a suitable time, to discuss with the gentleman from Virginia that question; and I think I should be able to show that, in case of emergency, the Government must rely upon the resources of that valley, and upon no other source; and that it is necessary to have a naval depot in that valley; and that all parts of that valley—Illinois, Missouri, and all the hemp-growing and timber-growing region—are interested in it, because they furnish the productions and materials from which the navy must be built.

Mr. LETCHER. It may have been a very imprudent vote of this House by which the navy-yard of Memphis was given away. I did not vote for it. But it strikes me that a gentleman from Tennessee, in the other end of the Capitol, proposed the amendment to that effect; and, if I am not very much deceived, the gentleman from Tennessee himself voted for it. He says the people of Memphis, with very great liberality, propose to return it to us. With great liberality! A million of dollars! I take it their liberality grows out of the fact that they think they can do much better by getting the Government to keep it up than they would by taking it themselves, and be obliged to keep it up by prosecuting ship-building upon their own hook.

Mr. CAMPBELL. I rise to a question of order. Under the resolution of the House, passed last Monday, it is not in order to discuss the merits of any proposition not immediately before the committee, except during such evening sessions as a majority may decide to hold for general debate. Now, if the Memphis navy-yard, and all these matters are to be discussed, I insist upon gentlemen suspending their remarks until this evening. I insist their present discussion is not in order.

Mr. LETCHER. I suppose my friend from Ohio prefers night to day because his deeds are evil.

The CHAIRMAN. The gentleman must confine his remarks to the question before the committee.

Mr. CAMPBELL. The gentleman does not seem to talk as though he wanted light on this subject now.

Mr. STANTON. Mr. Chairman, I desire to say a word of a personal character. I did not hear the remark as it fell from my friend from Virginia.

Mr. CAMPBELL. I insist on my point of order.

The CHAIRMAN. Then gentlemen must confine their remarks to the question under consideration.

Mr. STANTON. I would ask the Chair whether I can make a single remark in reply to the gentleman from Virginia.

Mr. LETCHER. I hope that the gentleman will be allowed to make his reply.

Mr. STANTON. It is a personal explanation, and will not occupy more than a minute or two.

The CHAIRMAN. It is with the committee to say whether or not the gentleman shall be allowed to proceed.

Mr. LETCHER. I hope unanimous consent will be given the gentleman to proceed.

Mr. RICHARDSON. I rise to a point of order. The question is raised that we cannot depart in debate, from the subject immediately under consideration until the evening session.

Mr. STANTON, of Tennessee. The gentleman from Virginia said that I voted for the proposition ceding the Memphis navy-yard to the city of Memphis. I did so. I asked for it. I desired it most ardently, and I will do so again. But I did not do so until after this House and the Senate had resolved to strike down the establishment. Whenever they shall resolve again to strike it down, to throw away a million of dollars, I shall be as I was then, at the close of the last session, in favor of giving it to the city.

As I stated yesterday, or the day before, the Gosport navy-yard, in the gentleman's own State, is held precisely with that condition, and no property in any State ought to be held by the General Government on any other condition, that when it abandons the purpose for which the property was ceded, it should revert to the State, or the parties who gave it to the Government. Under similar circumstances I would act precisely as I did then; but I resisted to the very last hour the proposition to strike down the Memphis navy-yard, and wipe out the appropriations which had been asked for by the Executive Department. That is my position.

Mr. LETCHER. I will now go to the subject-matter in hand. If the State of Virginia had ceded to her the Gosport navy-yard, she would not come back here and give it up.

The CHAIRMAN. As the question of order has been insisted on, the Chair must warn gentlemen to confine their remarks to the question under consideration.

Mr. BALL. I understood that the gentleman from Virginia had introduced a proposition to abolish this contract. What I should like to know is this: If the Government annul this contract, is it not under obligation to take the ships already built?

Mr. LETCHER. I have not particularly examined that question; but my friend from Kentucky, who has examined it as a member of the Committee of Ways and Means, says that when this extra appropriation was made to Collins, the Government was released from the liability of taking the vessels.

Mr. BRECKINRIDGE. With the leave of my friend from Virginia, I will try and state what is the proposition before the committee. A contract was made with Mr. Collins and his associates to transport the mails for a period of years at so much per annum. In 1852, Mr. Collins came to Congress and said that it was not enough. He made an additional arrangement, as stated by the gentleman from New York, with the Postmaster General in the early part of that year to increase the trips from twenty to twenty-six, and to be paid $19,000 and odd per trip, the same as he was paid for the twenty trips. He came to Congress and asked to be given $33,000 per round trip instead of $19,000. Congress gave him the $33,000 the round trip by an act passed in July, 1852; and provided that that increase or extra pay, which was a simple bounty and not in the terms of the original agreement, might be terminated by act of Congress on six months' notice, any time after December, 1854. At the last session we passed, without a division, the notice to terminate.

[Cries of "No!" "No!"]

Mr. BRECKINRIDGE. I have been hunting for the yeas and nays but cannot find them.

A MEMBER. It was lost in committee by two votes.

Mr. BRECKINRIDGE. Well, the proposition now before the Committee is to give that notice which we have reserved to ourselves the right o give by the act of 1852. It has nothing whatever to do with the original contract, and if we give the notice, we simply terminate the bounty which we chose to give in 1852. The result will be that the contract continues, and they must go on for the period of the contract and perform the service at the original price. If notice be given, it simply terminates the bounty. We stop it and what is the effect? They go on with their contract and perform the service at the price specified in the original contract.

Mr. LETCHER. If you take the vessels for war, or for any other purpose, according to the theory of my friends from Tennessee and Ohio, they would be cheap bargains. They say that they are now admirable for war purposes. They are built with reference to that object; and the whole of the terms of the contract, say gentlemen, between the contractors and the Government have been fulfilled in furnishing a vesssel of first rate character of this kind. Now, I take it from our own expenditures in connection with the construction of war steamers that, if we can get these five vessels at $3,000,000, and if they are of the quality which these gentlemen say they are, the Government had better have all its vessels built by contract, and take them over at the first opportunity.

But there is one thing which I do not understand. If this business can be done for the terms proposed, if there have been fair propositions for doing it for a much less sum than that given to Mr. Collins I cannot see what can be the objection in giving this notice to terminate the extra pay; in other words, to returning to the terms of the original contract. I can see no good reason for it, and least of all, can I see any good reason, not only for striking out that provision of the law which authorizes the notice to be given, and for giving Collins a vested right in this $858,000, the year for a long series of years to come. Ought we not to try and get this thing on the best terms that we possibly can for the Government? Is there not a strong reason why we should do it? Is not the fact known here, that the postages arising from these steam lines are not sufficient to cover the expense which they impose upon the Government? If it is not, the deficiency must be applied from the Post Office Department, and every man who represents an interior district here, knows the fact, that his people are suffering in many places for want of mail facilities, and seriously suffering; and yet, owing to the embarrassments which these large appropriations for steam lines cause the Post Office Department, you cannot get the ordinary internal mail facilities which the people themselves need. The question arises whether we should take care of our own people at home by constructing mail lines, and thereby granting mail facilities to them, or whether we should undertake to neglect them—make large contracts, go abroad, outside of the United States for the purpose of carrying on these mail operations at a heavy and ruinous expense.

I am therefore not only for giving this notice, but if I can do it, I want to place the matter in a condition where the votes of members can be placed upon the record, that it can be seen where every man stands, so that the people of his district, if they approve his course, can manifest their approbation; and if they disapprove of it they can show their displeasure.

Mr. KERR obtained the floor.

Mr. TAYLOR, of Ohio. Will my friend from North Carolina allow me five minutes to make an explanation?

Mr. KERR. I will yield to the gentleman.

Mr. TAYLOR. Notwithstanding the fact that the committee has now been in session for four hours, and notwithstanding my own anxiety that we should come to a vote upon this bill, I desire to correct what seems to have been the impression of the gentleman from Kentucky, [Mr. BRECKINRIDGE,] in his recent interruption of the speech of the gentleman from Virginia, [Mr. LETCHER,] in relation to the act and *proviso* attached to the act of 1852, granting *extra* compensation to the Collins of steamers. Now, sir, I was a member of this House in 1852, and advocated the allowance of this additional compensation for various reasons, some of a high national character, which I will not trouble the committee with stating now. I rose principally for the purpose of having the provision in reference to this additional compensation read, that gentlemen may judge for themselves whether it was a *bounty*, as my honorable friend from Kentucky states, or whether it was *additional compensation for increased services*. I will read the provision in that act, and I think gentlemen will see that it was for increased services.

Mr. BRECKINRIDGE. I will explain, if the gentleman will allow me.

Mr. TAYLOR. First allow the provision to be read. Here it is:

"For additional compensation for increasing the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, to twenty-six trips per annum, at such times as shall be directed by the Postmaster General, and in conformity to his last annual report to Congress, and his letter of the 15th of November last to the Secretary of the Navy, commencing said increased service on the 1st of January, 1852, at the rate of $33,000 per trip, in lieu of the present allowance, the sum of $236,000: *Provided*, That it shall be in the power of Congress, at any time after the 31st day of December, 1854, to terminate the arrangement for the additional allowance herein provided for, upon giving six months' notice."

Now, sir, I merely wish to say that our contract, as I then understood it, and as I now understand it, originally required Messrs. Collins & Co. to make *twenty* trips per year. And when Congress gave additional compensation, they also required that six additional trips each way, making twelve trips, should be made per annum, upon the showing of Mr. Collins and his associates—for I understand that Mr. Collins was but a small owner, some thirty or forty others having contributed some $3,000,000 to build these ships—that their stock was worth only about fifty cents on the dollar; that the number of the Cunard ships having been increased to seven, making weekly trips, and that while the United States ships were making only twenty trips a year, it was impossible, under our postal arrangement with Great Britain, to compete with the British line of steamers. With a view, therefore, of securing our proper amount of revenue from the mail service between the United States and Great Britain, and with a view of encouraging this great national enterprise, an additional amount of service was required, increasing the number of trips from twenty to twenty-six, and an additional amount of compensation was granted for the purpose of keeping up this great national line of steamers. Under the contract, if the matter was abandoned, the Government was bound to take these ships at their valuation, and they preferred to increase the number of trips and the rate of compensation rather than to abandon it. Let it be remembered that the four Collins steamers were nearly equal in amount of tonnage to the seven Cunarders.

Mr. LETCHER. Will the gentleman from Ohio allow me to ask him a question?

Mr. TAYLOR. Unquestionably, with the consent of the gentleman from North Carolina, through whose courtesy I have been allowed to make this explanation.

Mr. KERR. I would yield to the gentleman with great pleasure if I had the time to spare.

Mr. LETCHER. I merely wish to ask the gentleman from Ohio how it is, if Collins & Co. are losing money upon each trip, that he is so anxious to hold on to his contract?

Mr. TAYLOR. Such is not the fact. I do not understand that Collins & Co. are losing money at this time. They lost money prior to 1852, as was shown in this House, and it was for the reason that he was losing money in this great national enterprise that Congress agreed, instead of paying him $19,000 or $20,000 per trip, for twenty trips a year, to increase the number of trips to twenty-six each way—making fifty-two trips across the Atlantic, and pay him an increased compensation.

Mr. LETCHER. Did I not understand that this company had never made a dividend?

Mr. TAYLOR. They have never declared dividends, I suppose, because the profits in the last two years have not been sufficient to make up for the deficiencies of the former years, during the existence of their contract. It extends to 1860.

Mr. BRECKINRIDGE. I ask my friend from North Carolina to yield to me for a moment.

Mr. KERR. I will if the gentleman desires to explain.

Mr. BRECKINRIDGE. In answer to the gentleman from Ohio, [Mr. TAYLOR,] in the earlier

part of his remarks, I have to say that it is true that to call this additional compensation clear bounty is not, strictly speaking, correct, for this reason: About $19,000 per trip was originally given for twenty trips a year; but when the number of trips was increased to twenty-six, the compensation was increased to $33,000 per trip. The increase of the compensation was, therefore, out of all proportion to the increase of service. When, therefore, I say that this extra compensation was a clear bounty, I desire to limit the remark to the explanation I have made.

Now, sir, one single remark more upon another point. I said that if we terminated this arrangement for additional compensation by giving the six months' notice, the original contract would still stand, and that we should not be obliged to take the ships. My friend from Virginia seems to be laboring under some misapprehension upon this subject. I will read the proviso. After the clause increasing the number of trips from twenty to twenty-six, and increasing the rate of compensation from $19,000 to $33,000 per trip, is the following:

"*Provided*, That it shall be in the power of Congress, at any time after the 31st of December, 1854, to terminate the arrangement for the additional allowance herein provided for upon giving six months' notice."

So that the effect of the notice provided for in this bill is simply to terminate the arrangement for the additional compensation, while the original contract will remain untouched.

Mr. CUTTING, (Mr. KERR still yielding the floor.) I desire to ask the gentleman from Kentucky to make a still further allowance in reference to what he is pleased to term "bounty." It is this: Under the original contract there were to be sixteen trips per annum, made during eight months in the year, including the spring, summer, and early in the autumn, when the travel is great and when the seas are comparatively smooth and calm, when the damage to the ships, and the wear and tear of the engines are comparatively light; but when the six additional trips were added, four of them were interpolated into the four winter months—December, January, February, and March—two of them falling just outside these months. Now, every person at all acquainted with steam navigation, will at once admit that the cost of running these extra trips during the stormy seasons, with an exceedingly limited number of passengers, when traveling for pleasure and traveling for business are comparatively rare occurrences, imposing upon the owner a very considerable loss in the returns compared with the same period during the summer months—I say, the fact that when this additional compensation was given, causing Mr. Collins to double his winter service, it should be considered in comparing the increase of compensation with the increase of service. I do not mean to say that the additional compensation was not allowed for all the other months also, but I think it will be perceived that the doubling of the winter service necessarily required an increase of pay, in order to enable the owner of these ships to meet the additional expense incurred in consequence.

Mr. KERR resumed the floor.

Mr. BRECKINRIDGE. I merely wish to say that I will answer the gentleman from New York, if I can get the floor.

Mr. OLDS. Before the gentleman from North Carolina proceeds with his remarks, I wish to say that his colleague, [Mr. ROGERS,] who is about to leave the city, desires to make a speech, not upon this bill. With the understanding, therefore, that the gentleman [Mr KERR] shall be entitled to the floor on this bill to-morrow, I move that the committee take a recess until seven o'clock this evening.

[Loud cries of "No!" "No!" and "Yes!"]

Mr. CULLOM. I hope the committee will agree to the motion. The gentleman from North Carolina desires to make a speech, and this will be the only opportunity he will have, as he is to leave for home to-morrow.

Mr. JONES, of Tennessee. I demand tellers on the motion for a recess.

Mr. BRECKINRIDGE. I want a little information before the vote is taken. If we take a recess until seven o'clock, shall we, when we meet this evening, go on with the consideration of this subject, or will gentlemen be at liberty to speak on other matters?

Mr. OLDS. This subject will go over till to-morrow.

The CHAIRMAN. As the Chair understands the question, if the committee take a recess now, this subject will be before them this evening.

Mr. COBB. And nothing else?

The CHAIRMAN. And nothing else.

Mr. JONES, of Tennessee. The resolution which was adopted on Monday provides that, for the remainder of this session, members, in the Committee of the Whole on the state of the Union, shall, in their remarks, confine themselves to the subject immediately under consideration, except in such evening sessions as the committee shall order, when general debate upon anything and everything may be had.

Mr. EASTMAN. I would ask the gentleman from Tennessee if that part of the resolution relating to evening sessions does not contain the words, "for the purpose of general debate?"

Mr. JONES. Certainly.

The CHAIRMAN. The Chair states that, if the committee take a recess, this bill will be before it this evening; but the debate upon it may be general in its character.

Mr. OLDS. And no vote will be taken.

[Cries of "Question!" "Question!"]

Mr. WASHBURNE, of Illinois. I wish to make one inquiry of the Chair. Cannot the committee, when it meets to-night, go on and act upon this bill, and report its action to the House, if it sees fit?

Mr. LETCHER. I wish to make an inquiry.

The CHAIRMAN. No debate is in order. Tellers have been demanded on the motion that the committee take a recess until seven o'clock this evening.

Mr. LETCHER. I want to know, before the vote is taken on that question, who will have the floor when we come here to-night, if we take a recess? Will it be the gentleman from North Carolina, [Mr. KERR?]

The CHAIRMAN. The Chair has already decided that this bill will be the business in order before the committee, and upon this bill the gentleman from North Carolina will be entitled to the floor.

Mr. LETCHER. Well, and if he should not happen to be here, he would, of course, lose his right to the floor.

The CHAIRMAN. As a matter of course.

Mr. KERR. Then, Mr. Chairman, I move that the committee do now rise.

The CHAIRMAN. The proposition before the committee is to take a recess till seven o'clock this evening.

Mr. GOODE. Is not the motion to rise in order?

The CHAIRMAN. The motion to take a recess having been first made, the question must be first put upon it, and tellers have been demanded by the gentleman from Tennessee.

Tellers were not ordered.

The question was then taken; and it was decided in the negative.

So the committee refused to take a recess.

Mr. WASHBURNE, of Illinois. I now move that the committee rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker *pro tempore* [Mr. BOCOCK] having taken the chair, the Chairman [Mr. EDGERTON] reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly House bill No. 595, being the ocean mail steamer appropriation bill, and had come to no conclusion thereon.

SWAMP LAND BILL.

Mr. WASHBURNE, of Illinois. The Senate have asked for a committee of conference on the disagreeing votes of the two Houses on House bill No. 9, which is the swamp land bill. I move that a committee of conference be appointed on the part of the House to meet the like committee on the part of the Senate.

The motion was agreed to.

Mr. COBB, (who stood in the area near the center of the Hall.) I ask the unanimous consent of the House to introduce a bill of which previous notice has been given.

Mr. LETCHER. I rise to a question of order. I believe the rules of this House require gentlemen to address the Chair from their seats, and I see that the gentleman from Alabama is a long way from home. [Laughter.]

Mr. COBB. I will state to the gentleman that I have to address the Chair from wherever I can get an opportunity, and I believe he generally does the same thing himself. I am only asking leave to introduce a private bill and have it referred to the Committee of Claims.

Mr. WHEELER. I object.

Mr. COBB. Then I shall object to everything from this time to the end of the session.

CLOSE OF DEBATE—MAIL STEAMER BILL.

Mr. CUTTING. If it is agreeable to the House, and not otherwise——

Mr. COBB. I object to everything.

[Cries of "Order!" and "Adjourn!"]

Mr. CUTTING. I say if it be agreeable to the House, and not otherwise——

Mr. COBB. I repeat that I object to everything that is out of order.

Mr. WARREN. I rise to what I believe to be a privileged question.

The SPEAKER *pro tempore*. The gentleman from New York has the floor, and has a right to state his proposition without being interrupted.

Mr. CUTTING. If it be agreeable to the House, and if there be no objection on the part of any gentleman, I will propose——

Mr. COBB. I say that I object to everything out of order from this to the end of the session, and I insist upon my objection.

Mr. CUTTING. In view of the pressure of the public business, I propose that all debate in the Committee of the Whole on the state of the Union on the ocean mail steamer bill shall cease in two hours after the committee shall again resume the consideration of the same.

Mr. WASHBURN, of Maine, and several other members. Say in one hour.

Mr. CUTTING. I will say one hour if gentlemen wish it.

Many MEMBERS. Oh, no; two hours.

Mr. CUTTING. Very well; then I will adhere to my original proposition, that the debate be closed in two hours.

Mr. ROGERS, by permission of the House, delivered a speech in regard to the action on the Nebraska bill; which will be found in the Appendix.

Mr. TWEED. I move that the House do now adjourn.

The SPEAKER *pro tempore*. The confusion in the Hall is so great that it will be impossible to decide the question without tellers.

Mr. HENN. Then let us have tellers.

Tellers were ordered; and Messrs. PRINGLE and WALKER were appointed.

Mr. WARREN. I demand the yeas and nays.

The SPEAKER *pro tempore*. The House is dividing now by tellers.

The question was taken; and the tellers reported—ayes 44, noes 38.

The SPEAKER *pro tempore*. Does the gentleman insist on his demand for the yeas and nays?

Mr. WARREN. No, sir; I withdraw the demand.

So Mr. TWEED's motion was agreed to;

And thereupon, at four o'clock, p. m., the House adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

FRIDAY, *February* 16, 1855.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

SWAMP LANDS.

The PRESIDENT *pro tem.* appointed Messrs. STUART, SLIDELL, and DOUGLAS, as the committee of conference on the part of the Senate on the disagreeing votes of the two Houses on the bill of the House for the relief of purchasers and locators of swamp and overflowed lands.

A message was subsequently received from the House of Representatives, announcing that they insisted on their disagreement to the amendment of the Senate to this bill, agreed to the conference asked by the Senate, and appointed Mr. LETCHER, Mr. DAWSON, and Mr. WASHBURNE of Illinois, managers at the conference on their part.

WILLIAM G. PRESTON.

Mr. JOHNSON, by unanimous consent, this being private bill day, reported from the Committee

on Military Affairs, without amendment, House bill for the relief of William G. Preston, and recommended its passage.

DIPLOMATIC AND CONSULAR SYSTEMS.

Mr. MASON. I also ask the unanimous consent of the Senate to enable me to report a bill in order that it may go on the Calendar. It is one of general interest, and I trust there will be no objection to it.

The PRESIDENT. The report cannot be received if there be objection. The Chair hears no objection.

Mr. MASON. I am instructed by the Committee on Foreign Relations to report back House bill to remodel the diplomatic and consular systems of the United States; and I give notice to the Senate that I shall ask them to take it up at an early day next week. As accompanying it, the committee have instructed me to ask that the Senate will order to be printed certain statistical papers, from the Department of State, which I now present, and which are designed to give information on the subject of the bill.

The motion to print was agreed to.

ORDER OF PROCEEDING.

Mr. WADE. I move that we go through the Calendar to-day, commencing at the point where we left off last Friday, and consider only such bills as are not objected to.

Mr. SEWARD. I ask the honorable Senator's consent to vary his motion so as to allow us to take up the Private Calendar and go through with those bills to which there may be no objection. There are one or two which were objected to last Friday, but the objections to which will be withdrawn. I think, therefore, that it would be better to begin and go through with the Calendar.

Mr. BADGER. I rise to ask whether this alteration of the order does not require unanimous consent?

The PRESIDENT. It does.

Mr. BADGER. I am compelled to object to it; and I wish to state that it is not with any disposition to interfere with the arrangements which gentlemen have, but I do not think it is right to take up the Calendar in this way, and put every bill, as it is reached, in the power of a single objection. If bills are improper, it is easy to move to lay them on the table.

The PRESIDENT. Objection being made, the motion cannot be entertained.

REBECCA WINN.

Mr. RUSK. I appeal to the Senate to take up the bill from the House of Representatives "for the relief of Rebecca Winn, widow and executrix of the last will and testament of Timothy Winn, deceased, late a purser in the Navy of the United States. It is a small bill, involving only the pitiful pittance of $600 to a widow lady. It has passed the House of Representatives, and been examined and found to be correct by the Committee on Naval Affairs of this body.

Mr. GWIN. I trust that bill will be taken up. When I reported it from the Committee on Naval Affairs I wished to have it considered, but I could not obtain consent for that purpose.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. Its object is to require the accounting officers to adjust the accounts of the late Purser Timothy Winn, so as to allow his legal representative $600 per annum for clerk hire during his term of service as purser at the Washington navy-yard, deducting whatever payments, on account of clerk hire, have already been made, either by the allowance of the Department, or the judgment of the court of the District of Columbia.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BRIG GENERAL ARMSTRONG.

Mr. JONES, of Iowa. I ask the Senate now to take up and act on the pending motion which I made on last Friday, to reconsider the vote on laying on the table the bill for the relief of the claimants of the private-armed brig General Armstrong. I hope the Senate will agree to take up the bill, because there is an understanding between its opponents and friends to agree to a proposition to appropriate $50,000 to the captain, officers and crew of the brig General Armstrong, as compensation for their gallant services.

Mr. CHASE. I wish to inquire if that motion is in order?

The PRESIDENT. The first business regularly in order this morning is the motion which was made by the Senator from Iowa, to reconsider the vote by which the Senate ordered the bill for the relief of the claimants of the private-armed brig General Armstrong to lie on the table. That question is not debatable.

Mr. STUART. I ask for the yeas and nays on the motion to reconsider.

The yeas and nays were ordered, and taken.

Mr. BENJAMIN, when his name was called, said: I promised the friends of this bill to vote for an express appropriation in this case, as a gratuity to the applicants, and, therefore, I vote "yea."

The motion to reconsider was agreed to; the yeas being 23, and nays 22; as follows:

YEAS—Messrs. Bayard, Bell, Benjamin, Brown, Cass, Clayton, Cooper, Dodge of Iowa, Douglas, Foot, Geyer, Houston, James, Jones of Iowa, Mallory, Mason, Morton, Rusk, Seward, Slidell, Thomson of New Jersey, Walker, and Weller—23.

NAYS—Messrs. Adams, Allen, Badger, Brainerd, Brodhead, Butler, Chase, Clay, Dawson, Evans, Fessenden, Fitzpatrick, Hunter, Jones of Tennessee, Pearce, Pratt, Stuart, Sumner, Toucey, Wade, Wells, and Wilson—22.

Mr. BAYARD. I presume the bill comes up now for consideration. I offer the following amendment as a substitute for it.

Mr. STUART. The question now is on the motion that the bill lie on the table.

Mr. BAYARD. No, sir; the motion to reconsider the motion which laid the bill on the table has been agreed to.

Mr. STUART. And the question now recurs on the motion that the bill lie on the table.

Mr. BADGER. The first question is on the motion that the bill lie on the table. I suppose it will now be withdrawn by whoever made it.

Several SENATORS. Oh, no.

The PRESIDENT. The first question is on ordering the bill to lie on the table.

Mr. CHASE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 24, nays 23; as follows:

YEAS—Messrs. Adams, Allen, Badger, Brainerd, Brodhead, Butler, Chase, Clay, Dawson, Evans, Fessenden, Fitzpatrick, Gillette, Hunter, Jones of Tennessee, Pearce, Pratt, Sebastian, Stuart, Sumner, Toucey, Wade, Wells, and Wilson—24.

NAYS—Messrs. Bayard, Bell, Benjamin, Brown, Cass, Clayton, Cooper, Dodge of Iowa, Douglas, Foot, Geyer, Houston, James, Jones of Iowa, Mallory, Mason, Morton, Rusk, Seward, Slidell, Thompson of Kentucky, Thomson of New Jersey, and Weller—23.

So the motion was agreed to; and the bill was ordered to lie upon the table.

THE PRIVATE CALENDAR.

Mr. JONES, of Iowa. Can I now make a report?

The PRESIDENT. It requires unanimous consent.

Mr. JONES, of Tennessee. Let us go on with the Calendar.

Mr. JONES, of Iowa. I ask the unanimous consent to report a private bill from the Committee on Pensions.

Mr. WADE. I object, and desire to renew my motion to go through with the Calendar.

The PRESIDENT. The first bill is the one for the relief of Hiram Moore and John Hascall.

Mr. STUART. That may be passed over.

The bill was accordingly passed over.

The PRESIDENT. The next bill is one for the relief of Benedict J. Heard.

Mr. FESSENDEN. On a former Friday the bill for the relief of Hiram Moore and John Hascall was taken up, and postponed until the next Monday. At the same time the bill for the relief of Cyrus H. McCormick was taken up and also postponed to the same day. The first bill has been called up and passed over at the suggestion of the Senator from Michigan; and I inquire whether the same course must necessarily be taken with the other, or whether it does not now come up.

Mr. STUART. The proceedings which were had on that day did not change the order of these bills upon the Calendar at all.

The PRESIDENT. The Chair is calling the bills in their order upon the Calendar.

Mr. WALKER. That is the very question which is raised, whether these two bills, having been postponed to the same time, that does not bring them up in the relation in which they were postponed? Does the Chair decide that it does not change their position upon the Calendar at all?

The PRESIDING OFFICER. The next bill upon the Calendar, the Chair announces as the bill for the relief of Benedict J. Heard.

Mr. BAYARD. The Senator from Maryland prefers that that shall go over. I shall be under the necessity of opposing it if it is taken up. There is no probability of its passing both Houses at this session. I have no objection to pursuing that course.

The PRESIDENT. The bill will be passed over if there be no objection.

CAPTAIN VOORHEES.

The next bill was one for the relief of Captain Philip F. Voorhees, United States Navy; which was considered as in Committee of the Whole.

It proposes to direct the proper accounting officers of the Treasury to pay $1,500 to Captain Voorhees, for expenses incurred in carrying Charles Eames, as Commissioner from the Government of the United States to the King of the Sandwich Islands, to California; for carrying Joseph Balestier, Envoy of the United States, from Macao to the Governments of southeastern Asia; and for extraordinary expenses incurred by him while he commanded the United States frigate Savannah, and while he commanded the East India squadron, in entertaining the dignitaries of the different Governments in connection with those missions.

Mr. SLIDELL. I feel great reluctance to oppose a bill of this sort, but I consider it so decidedly objectionable that I am compelled to do so. It proposes to give to Captain Voorhees compensation for the expenses incurred in carrying on board a Government ship diplomatic agents of the United States. By the regulations of the Navy Department, and by the usages of the service, every person who is ordered to be received on board a Government ship as a passenger, is bound to contribute his proportion of the expenses which attend such transportation.

The usage has grown up—I think it is a very great abuse—by which naval officers, refusing to receive from the persons whom they are thus ordered to transport, either in kind or in money, commutation for the expenses they may have incurred, apply to the Navy Department, and failing, under its regulations, to receive compensation there, throw themselves on the bounty of Congress.

On this point I have a letter from the Secretary of the Navy, to which I will call the attention of the Senate:

NAVY DEPARTMENT, *May* 3, 1854.

SIR: I have the honor to acknowledge the receipt of your communication of the 23th ultimo, and to inform you, in reply to your inquiry, that, by a regulation of this Department, adopted March 9, 1846, "although it is usual for our Ministers to be conveyed in ships of war, no allowance is made by the Government for the expenses of their maintenance whilst on board. In every such case, provision is to be made, and the expense to be defrayed, by the Minister himself, just as it would be if he took passage in a private vessel."

I am, very respectfully, your obedient servant,

J. C. DOBBIN.

Hon. JOHN SLIDELL, *United States Senate.*

The facts that I have thus stated, show that this is a mere gratuity. I should not, however, have objected to this, because there are precedents for it, but that there are antecedents in the conduct of Captain Voorhees, which, in my opinion, do not entitle him to the favorable consideration of the Senate; and I desire now to make a statement which I think will have a beneficial effect in producing unanimity on the part of the Senate, in the passage of the bill in regard to the Navy, returned from the House with amendments, which will probably be soon reported to us from the Committee on Naval Affairs. I beg leave to say here that I make this exposition very reluctantly indeed, and I may be permitted to say to the honorable Senator from Florida, [Mr. MALLORY,] that I wished to avoid the necessity of making these remarks in regard to a gentleman who now appears here as a postulant for our favor, and whose character, as a naval officer, would not bear examination.

Captain Voorhees was tried by a court-martial, in June, 1845, found guilty of "disobedience of orders," and sentenced to be reprimanded in general orders by the Secretary of the Navy, and suspended for three years. The sentence was

confirmed. He was tried again the same month, by another court, upon other charges, found guilty of "inflicting punishment illegally" and "scandalous conduct tending to the destruction of good morals," and sentenced "to be suspended for eighteen months." This sentence having been sent back for revision, the court altered it to dismissal from the Navy, with a recommendation to Executive clemency. The punishment was mitigated to suspension from duty, without pay, for five years, from September 29, 1845, and the residue of the punishment was remitted, January 7, 1847. In January, 1851, Commodore Voorhees returned from his command of the East India squadron, in his flag-ship, the Plymouth, without orders or permission from the Department. He was called upon for an explanation, which he rendered; but the Department informed him, by direction of the President, that it was not satisfactory, and that his leaving his station, "under the circumstances, was a clear breach of duty." No further proceedings, however, were had.

I repeat to the Senate that I make this statement most reluctantly. I have been compelled, by a sense of duty, to do it. I hope no gentleman here will attribute to me any personal ill-will to Captain Voorhees—whom I scarcely know. If there be any suspicion of that kind, I beg leave to repudiate it most unqualifiedly. I have now performed what I considered a duty, and a very disagreeable one.

Mr. MALLORY. The facts upon which the bill is based, are contained very briefly in some few paragraphs of the report of the committee which I will read:

The Secretary of the Navy, on the 15th of February, 1849, gave the petitioner, then commanding at Boston, the United States frigate Savannah, bound to the Pacific, the following order:

NAVY DEPARTMENT, *February* 15, 1849.

SIR: Be pleased to afford a passage in the United States frigate Savannah, under your command, to Charles Eames, Esq., United States Commissioner to the Sandwich Islands.

I am, respectfully, your obedient servant,

J. Y. MASON.

N. B.—Mr. Eames may be detained here for his instructions, so as not to be able to reach Boston before Monday. You will please await his arrival, and give him a passage.

J. Y. MASON.

Captain P. F. VOORHEES,
Commanding United States frigate Savannah, Boston.

In compliance with this order Mr. Eames was conveyed from Boston to San Francisco, and messed throughout the voyage—and while the ship remained at San Francisco, a period of six months—in the cabin, at the expense of the petitioner.

On the 21st of August, 1849, the Secretary of the Navy gave to the petitioner, then flag captain of the United States ship Plymouth, the following order:

NAVY DEPARTMENT, *August* 21, 1849.

SIR: This letter will be handed to you by Mr Joseph Balestier, who has been appointed by the President special agent and envoy of the United States for the purpose of proceeding to Cochin China, and to other parts of south-eastern Asia, in the execution of important public duties, which the instructions of the Department of State to him will explain.

You are hereby authorized and directed to receive Mr. Balestier on board your flag-ship and convey him, in conformity to his instructions, to the different ports and places indicated therein; and you will afford all the facilities of your command to accomplish the objects of his mission.

I am, sir, very respectfully, your obedient servant,

WM. BALLARD PRESTON.

To the COMMANDING OFFICER OF THE UNITED STATES SQUADRON, *East Indies.*

Under this order Mr. Balestier joined the Plymouth at Macao, China, on the 21st February, 1850, together with the interpreter of the mission, Mr. Dean; and both were provided for, at the expense of the petitioner, until the 3d of April following, when they landed in Siam.

Mr. Balestier rejoined the ship on the next day, and continued the guest of the petitioner until the 9th of July following.

The petitioner conveyed these gentlemen, in the execution of their duties, to several points in the China seas, where they and the ship were visited by public functionaries and representatives of the sovereign authorities—all of whom were more or less entertained at the expense of the petitioner. He presents no schedule of the details of the aforesaid expenses, but alleges that they amounted to at least $1,500; and he presents the statements of Messrs. Eames and Balestier, and the affidavit of his clerk, Mr. Wert, proving the matters hereinbefore detailed.

It is evident that the expenses were entailed upon the petitioner by the orders of the Department; which orders were promptly carried out, and resulted beneficially to the country, and that he is entitled to repayment. The sum of $1,500 does not seem to be unreasonable, and the committee report a bill to this extent for his relief.

These are the facts upon which the claim is founded; and the question for the Senate to decide is, has the Navy Department the power to entail on an officer of the Navy, receiving only the limited pay fixed for such an officer on special duty, the entertainment *ad libitum* of public functionaries, commissioners, or ministers, without compensation? I think there can be no doubt upon that head; but if there be any doubt, it must be removed by some twenty precedents directly in point, which are quoted in the report of the committee, but which I will not now read. In numerous instances precisely the same allowances have been made. That is an answer, so far as it goes, to some of the objections which have been made.

But, sir, the character of Captain Voorhees has been drawn in question. Now, it seems to me that the character of any naval officer who presents a claim here, is not a proper subject of investigation before this body. If it be, he ought to receive, as in a court of law, due notice that his reputation is to be attacked, so that he may come here prepared, through his friends, to rebut the *ex parte* statements which may be made. Without attempting to call in question or deny what has been stated as to the finding of the court-martial in Captain Voorhees's case, I have simply to say that it is inapplicable to this claim. If his claim be good, that does not affect it; but, on the contrary, Captain Voorhees having been purged of his offense by punishment, stands *rectus in curiâ* here, and is as much entitled to the consideration of this body as if no offense had ever been committed. I do not think it necessary to argue that point.

Mr. TOUCEY. I hope the day will not be spent in debating this bill. It is simply a question whether, according to the practice of Congress, we shall pay a debt of justice to an officer in the naval service, without regard to his personal merits as an officer or as a man. With those merits we have nothing to do upon a question of this kind. If the Navy Department has done wrong in making these orders, there should be another correction applied. It is to my mind perfectly clear, upon the report of the committee, without reference to this collateral question, that the claim is well founded and ought to be paid.

Mr. CLAY. Mr. President, I differ entirely from the honorable Senator from Connecticut. The official delinquencies of Captain Voorhees do not affect my judgment at all on this question, nor am I affected by the vicious precedents which are quoted as authorities for this bill. Now, sir, to reduce this question to the true issue which is presented to us, it stands simply thus: Here is Captain Voorhees, an officer of the United States Navy, commanding a Government vessel, manned by sailors paid by the Government, provisioned at the expense of the Government, taking on board an officer of the Government, a commissioner in the one case and an envoy in the other; and in another instance entertaining certain foreign dignitaries; and the question presented to us is, shall we pay him for feasting those gentlemen? I think the point to be decided is neither more nor less than this. Now, I am not prepared to sanction any such principle. I do not believe that it is the duty of this Government to pay for the entertainments given by our sea captains. I suppose that the provisions of the ship were probably used in entertaining these gentlemen with the exception of the wines and liquors, and I expect if the facts could be ascertained, it would be seen the expense of those articles is the portion of the feast for which we are now called upon to pay.

Mr. TOUCEY. Will my friend from Alabama allow me to state one point where we differ entirely?

Mr. CLAY. Certainly.

Mr. TOUCEY. I suppose these supplies were furnished from the private property of Captain Voorhees—from his rations, allowed him by law; and therefore the case stands upon the same footing precisely as if it had been in a private vessel furnished by him.

Mr SLIDELL. With the permission of my friend from Alabama, I will make a statement of fact. The Navy Department, we will suppose, instructs the commander of a ship to receive on board of his vessel, for transportation from one point to another, a certain public character, or private citizen. The captain of that ship, in receiving this passenger on board, knows that he is bound, not only by law, but by the usages of the service, to pay his own expenses.

Now, I agree fully with the Senator from Connecticut, that if this claim be one of strict right, if it be a legal claim upon the Government, the objection which I made to the antecedents of Captain Voorhees and his personal character, ought to have no possible influence or bearing; but I say the case before us is an application for a gratuity. Upon that point, I beg to refer to the statement of Mr. Eames, one of the gentlemen for whose entertainment compensation is now claimed. There is among the papers in this case a letter from him, in which he says that he offered, before he went on board the ship, to pay to Captain Voorhees his proportion of the stores, and the captain declined to receive it, preferring to throw himself on the bounty of Congress. The committee report the sum of $1,500 as a reasonable compensation for the expenditure made by Captain Voorhees, supposing the Government to be liable; but what did Captain Voorhees first ask? He asked $2,800. He wished to make a job out of this business. He did not choose that these passengers should pay their mess bill on board his ship; but he preferred to make out a hotel bill for the whole period he had them on board. Having made this statement of facts, allow me to read an extract from the letter of Mr. Eames:

"Before the ship sailed, I inquired of the captain what arrangement I should make with him in respect to the expense of my entertainment on board the ship, and tendered to him payment in advance of my share of the expense of the table, in such proportion as he should think proper."

Mr. Eames was behaving like a gentleman in this matter. He was doing not only what was usual, but what was proper, and just, and legal. He continues:

"He declined to receive any payment from me, saying that he regarded himself as under instructions from the Government to receive me as guest, and adding that on several cases where he had afforded passage to diplomatic representatives of the Government, proper allowance had been made by the Government for the necessary expense of their entertainment by him during the voyage."

This is a fact which did not strike me before—it is only in reading this letter that I observe it—he refers to various precedents in which a similar allowance was made to other officers, and he said to Mr. Eames, in substance, though, of course, this is not his exact language, "I will not take your money; I prefer that you should not pay me; for I shall receive from Congress a much more liberal compensation. I have done this in many instances, I am bound to receive you, and I will do it, and I shall be liberally compensated for it." Captain Voorhees refers to no precedent of that sort in his petition, but he says, deliberately, in this letter, that, on many occasions, he had received such allowance from the Government. In connection with this matter, I will now repeat that the offense for which Captain Voorhees was broken, was willful and deliberate falsehood, and disobedience of orders.

Mr. CASS. The practice which it is said has grown up, of allowing the expenses of a diplomatic agent on board a public vessel, is altogether a new one. The United States pay to every one of their diplomatic agents an outfit, which is intended to take him to the place of his destination, and to furnish him with the necessary furniture, or whatever is required to live there. For this reason, every diplomatic representative of the United States who goes abroad, is expected to go at his own expense. Formerly, before steam-packets were in existence, and particularly in the case of ministers to the larger and more important courts, it was the custom of the Government to order them to be sent out in a frigate, but they always bore their own expenses. The idea of coming to Congress for those expenses, is of very late origin. No man, for thirty years, I suppose, ever thought of it. The outfit was given for the express purpose of paying the expenses of taking the minister to his point of destination; and the arrangement as to payment of the expenses was always made between him and the captain. There were no orders requiring the captain to find him with provisions, and the captain was only to furnish him with his room, and whatever might be necessary for his accommodation on board of the vessel, but not to provide him with board, though, of course, he was to treat him well and properly.

I do not say that there may not be instances—for I believe, in fact, there are some—connected with the necessary communications between some of our ships of war and foreign Powers, which require uncommon expenses; but, certainly, in the ordinary matter of transportation of a diplo-

matic agent, I see no reason, in law or equity, why this Government should pay a single cent of his expenses on board the vessel which carries him to his destination.

Mr. SLIDELL. I will state, in confirmation of what the honorable Senator from Michigan has just said, that I have twice had the honor of being transported on board of the public ships of the United States, and that I should conceive myself grossly insulted and offended if any officer of the Navy were to come here and ask compensation for having carried me. That is all I have to say on that point.

Mr. CASS. I have been in the same situation as the honorable Senator from Louisiana for some months, on board the frigate Constitution. No officer will ever come here to ask you to pay my expenses.

Mr. CLAY. I have nothing to add to what I have already said in regard to the merits of the bill. I simply move its indefinite postponement; and if that does not prevail, I shall propose to recommit it to the Committee on Naval Affairs, with instructions to report a general bill providing in future certain sums for the entertainment of our own agents and of foreign dignitaries, according to their rank.

Mr. MALLORY. I ask my friend from Alabama to withdraw his motion for the present.

Mr. CLAY. I will do so.

Mr. MALLORY. Having made the report in this case, I feel it incumbent on me to place it right before the Senate. The objection which has now been raised by the honorable Senator from Alabama is, that the provisions which were furnished in this case were the rations allowed by the Government. Now, as to that, the Senator is in error. No captain of a public ship draws the rations from the Government. The ration is fixed by law, and the articles are determined specifically. The ration consists of certain articles, but they are not taken by the captain. He compromises for them by furnishing his own stores, and paying for them, and receiving from the Government the money value of the ration. Everything used by Mr. Balestier and his suite, and by Mr. Eames, on board this vessel, was the property of Captain Voorhees.

The objection of the honorable Senator from Louisiana is, that Mr. Eames states in his letter his willingness to pay his portion of his expenses. He did so. That was his offer on going on board the ship, and it was a very natural offer to pay his portion of the mess bill; but it was not received by Captain Voorhees, for the reason, I presume, that it had never been the custom of the Government to do so. The custom was exactly the reverse. It had not been usual to charge an officer thus placed on board of a public ship, any part of the mess bill; but Congress had thought proper in every instance to pay it. Captain Voorhees was therefore perfectly justified in his course on that point. I feel it incumbent on me to state some instances precisely analogous. On the 20th of February, 1833, in the naval appropriation act of that year, Congress directed "that there be paid to Master Commandant John D. Sloat, of the United States Navy, out of any money in the Treasury not otherwise appropriated, the sum of $1,360, being the amount of his account exhibited to the Navy Department for expenses incurred in entertaining, on board the St. Louis, under his command, General Bolivar and several of his officers, at Guayaquil, in the year 1829; and General La Fuente, President of Peru, and Major General Miller, of the Peruvian army, in the year 1831." On the 2d of March, 1833, the civil and diplomatic bill contained an appropriation "to indemnify Captain Daniel Turner, of the United States Navy, for the expense of conveying the Netherlands minister and his *suite* from New York to Curaçoa, by order of the Secretary of the Navy, in the year 1828, $1,182 78."

That is a case precisely in point; because it was conveying the Netherlands minister to and from New York to Curaçoa. The amount allowed was $1,182 78, a much larger sum *pro rata* than the committee report in this case. In the same act there was also an appropriation "to indemnify Captain George W. Storer, of the United States Navy, for the expenses of accommodating Commodore David Porter, chargé d'affaires of the United States at Constantinople, on board of the United States ship Boston; and for the expenses of conveying George Porter, consul of the United States at Tangiers, from Port Mahon to Tangiers; and of conveying Lieutenant Ebenezer Ridgway, consul of the United States at Tripoli, and his family, from Port Mahon to Tripoli—in all $500.

A similar provision was made in an act passed July 7, 1838, which provided for the payment of $3.391 to Captain Daniel T. Patterson, "for extraordinary expenses incurred when he commanded the United States squadron in the Mediterranean, in the years 1832, 1833, 1834, and 1835, in receiving and entertaining on board of his ship the head officers of the Governments of the countries where the presence of said squadron was required for the general protection of the commercial interests of his Government, and for his extraordinary expenses in visiting the courts of those Governments."

In a private act, passed on the 17th of June, 1844, Congress provided:

"That the Secretary of the Treasury be authorized and directed to pay to Captain Charles W. Morgan, of the United States Navy, the sum of $4,2[illegible]0, for extraordinary expenses incurred by him while he commanded the United States squadron in the Mediterranean, in the years 1841, 1842, and 1843, in conducting the negotiation with the minister plenipotentiary of the Emperor of Morocco, in relation to the indignity offered to the United States consul, Thomas N. Carr; in entertaining the Queen of Prussia and her suite; and in relation to the reception and entertainment of the Prince of Syracuse and the Prince of Lucca; including, also, losses on stores laid in at Toulon for a cruise, which were abandoned and sold upon being suddenly recalled by the Navy Department; the said allowance being in full compensation for all extraordinary expenses incurred by the said Captain Charles W. Morgan, during his command of the Mediterranean squadron, as aforesaid, and to be paid out of any moneys in the Treasury not otherwise appropriated."

At the last session of Congress we passed a bill appropriating six or seven thousand dollars to Commodore Paulding for similar expenses incurred at Bremerhaven and Southampton.

Now, Mr. President, with this legislation staring us in the face, would it not be manifestly unjust to a person, placed in that precise position, to refuse to give due weight to these precedents, and deny him a similar allowance under the same circumstances? The committee were not to presume that Congress would advance thus far, and then, without assigning any motive, stop suddenly when they reached Captain Voorhees. These gentlemen went on board this vessel under circumstances precisely analogous to those stated in the report. They conducted themselves precisely in the same way. The provisions consumed were the property of Captain Voorhees. And now, unless you shall come to the conclusion that he is required to entertain in this manner public functionaries without pay, then you will pass this bill. How can the Senate reject in view of the precedents which I have cited?

There is much, sir, in the suggestion of the Senator from Alabama, as to the propriety of general legislation on this subject, and I should concur immediately in the passage of such a bill; but that ought not to deter us from doing justice in the case before us. I am also inclined to agree with the suggestion of the Senator from Michigan, in relation to the outfit. On that point there was a doubt, and it was the only doubt which the committee had in making this report. The outfit has been furnished for the purpose of embracing all these expenses; but such has not been the legislation of the Government. For over twenty years we have pursued a contrary course; and when a public vessel has been assigned to a functionary, and the captain has been directed to carry him to a particular place, the compliment has been paid him of reimbursing to the captain all his expenses. It is true, as the Senator from Louisiana states, that Captain Voorhees put in a claim for $2,800; but that underwent a severe scrutiny, and upon investigation I collected together all the items for the use of the committee, and found he was justly entitled to $1,500; and for that sum, for the entertainment of these gentlemen, the committee reported the bill. I have no desire on this subject except to place the report of the committee properly before the Senate, and they may act upon the subject as they think proper.

Mr. BADGER. Mr. President, into the character of Captain Voorhees in any of the transactions which have been referred to by the honorable Senator from Louisiana, unconnected with the pending bill before the Senate, I do not propose to enter. I should consider it extremely unfair and unjust towards any officer of the Navy who came here for the purpose of asking relief at the hands of Congress for pecuniary losses which he had incurred, or pecuniary expenditures which had been put upon him under the orders of the Government, to entangle that question with inquiries about his conduct as an officer—with inquiries about whether he had been court-martialed, and if so, for what charges—with inquiries about whether he had disobeyed orders, and had received a rebuke from the Navy Department.

Sir, in the first place, it must be remarked that we are a tribunal exceedingly incompetent to pass upon such questions. Captain Voorhees is subject to the jurisdiction of the Navy Department. If he has done anything which deserved a rebuke, the head of that Department has given it to him. But, in the name of Heaven, the offense having been committed, and the punishment undergone, let it be forgotten; at least, let it be forgiven. If he has been subjected to the proceedings of a court-martial, and a punishment awarded to him, that punishment has either been executed, or it has been remitted by the President of the United States. If, in the first case, it falls precisely in the category of the rebuke—the punishment has been suffered, and let it be forgotten or forgiven. If the President of the United States, in the exercise of his plenary authority on the subject, has seen good reason to restore the officer to what was taken from him by the sentence of the court, it is decided by the proper and competent authority, and there let it rest.

We cannot, sir, as it seems to me, with proper consideration for what is due to ourselves for a character for justice, undertake to determine this question by mixing up these collateral inquiries. It would be exceedingly unjust, that the Senate should found a vote in regard to this claim, upon considerations of that kind; for it would be placing a stigma upon this officer, over whom we have no jurisdiction, and for which the present claim presents neither excuse nor apology.

Then, sir, laying these extraneous matters out of the question, about which I know nothing, but which I believe cannot be connected with this case, let us inquire what is his conduct in regard to this claim? Why, sir, from what has been read by the Senator from Louisiana, I think he has behaved as a gentleman should have done. When Mr. Eames came on board his vessel, he, as a gentleman should have done, proffered to pay his portion of the mess bill. This was declined by Captain Voorhees, and why? Because he said he understood the order which he had received from the Department made Mr. Eames his guest, as the representative of the Government, on board that ship; that he had, in several instances, received foreign ministers under the same circumstances, and the Government had recognized it, and Congress had paid the necessary expenses. In this I must say, that, so far from having subjected himself to the imputation of being disposed to act the part of a landlord, he acted as a gentleman of honor, it appears to me, would naturally have acted. The Government had directed him, according to his interpretation of the order, and according to the interpretation put upon it previously, in instances in which he was concerned, to receive this gentleman as a public guest. He did so; he entertained him; he sat at his table; he ate at his expense; and I do not think, sir, it could be any crying offense (although my friend from Alabama alluded to it as if he thought it would be) if he also drank wine at his expense. I presume it is not the intention of the Navy Department, or of the Government, when a foreign minister is put on board a public vessel, that he is to have served out to him the beans and pork allowed to the crew. I presume it is not intended that he shall be put in the mess with the common sailors on board the ship; that he is to be called up daily to receive his gill of whisky or gill of brandy. But it is intended that he shall be entertained; that he shall live there as the compeer, at least, of the commanding officer, and receive whatever his table furnishes, either of necessaries or luxuries.

This gentleman has done this. The Government has heretofore recognized and paid such claims. The honorable Senator from Florida tells us that the committee went over the claim, which was originally for $2,800, and they excluded everything except proper articles which he had furnished, and they have allowed to him what will just remunerate his expenses.

Now, Mr. President, a word as to the statement made by the honorable Senator from Michigan, and a similar one made also by the honorable Senator from Louisiana. They have been transported in public capacities on board public ships, and they have paid their share of the mess bill. Well, be it so; it is all very right, and proper, and correct; but does that furnish any reason in the world why the expenses of Mr. Eames, which were not paid by him, but which were paid by the commanding officer of the vessel, should be left as a charge upon the private or official resources of that officer? Surely not.

It may be very proper, sir, for aught I know, that a general bill should be reported, and I should probably agree with my friend from Alabama in that. But this is a particular case, occurring under the circumstances mentioned, and proposed to be paid for according to the course which Congress has heretofore pursued in similar cases. It may be proper that we should pursue it no further; it may be proper that we should make none of these allowances hereafter; but, if so, let the officers understand that distinctly; pass a resolution saying that hereafter the Senate will vote no such allowances to any officer, and then they will have notice; then they will either call on the gentleman who is entertained, by the direction of the Government, for his share of the expenses, or they will turn him over to the beans and pork and the gill of whisky a day of the men, or they will entertain him at their own expense, and know beforehand that they are to bear the loss. But do not let us adopt this rule now, without notice, without any change of the law, in order to put upon an officer in the Navy, who does not receive any large amount of pay under any circumstances, the loss of $1,500, expended in entertaining a guest put on board his vessel by the Government, when he had a reasonable expectation, according to the previous practice, that that much at least would be remunerated to him.

Mr. BUTLER. I wish to ask the Senator from Florida who reported this bill a question, on the answer to which will very much depend my vote. What was the true diplomatic character of Mr. Eames?

Mr. MALLORY. He was the Commissioner to the Sandwich Islands.

Mr. BUTLER. Was he a chargé, as that term is generally understood?

Mr. MALLORY. He is termed a commissioner. The other gentleman who was entertained, Mr. Balestier, was a special envoy or agent to Cochin China, and Siam, and carried with him an interpreter and secretary.

Mr. BUTLER. Had both outfits?

Mr. MALLORY. I do not know as to that.

Mr. SLIDELL. Mr. Balestier was liberally paid his whole expenses.

Mr. BUTLER. If Mr. Eames was a chargé, and the Government gave him $4,500 as an outfit to pay his expenses for going, I think he ought to have paid his bill out of his own pocket, and Captain Voorhees can make out a bill against him for furnishing him his wine and bread. Or it was competent, I take it, for Mr. Eames to have put his own wine on board, or supply himself with what little luxuries he chose, and eat what the others ate. In fact he offered to pay his mess bill, as I understand.

Mr. PRATT. Mr. President, the gentleman in favor of whom this bill has been reported, is now a resident of the State which I have the honor in part to represent. I know him personally very well, and I feel it, therefore, my duty to say a word or two in regard to the proposition which is before the Senate. The report of the Committee on Naval Affairs clearly demonstrates that, from 1833 down to 1844, it was the practice of Congress to pay the commanding officers of our Navy for similar charges to that which is made by Captain Voorhees. I submit, therefore, that whatever may have been the antecedent practice of ministers sent from our country abroad, in regard to the payment of their own expenses, when Captain Voorhees was directed by the Department to receive these two gentlemen on board his ship, and carry them to the different points of destination designated in the order, knowing, as he did, what was the practice from 1833 to 1844, it was his duty to conform to that practice, and to receive those gentlemen on board, to properly treat them there, and to call upon the Government for payment. He did right, as a man and as a gentleman, in refusing to receive from Commissioner Eames, and from Mr. Balestier, whom he carried abroad, compensation individually, because he knew that it was the practice, established in 1833, down to the period when he was taking those officers on board, that the Government, and not the individual, should pay the expenses. The Senator from Louisiana, as I understand, concedes that there are many precedents for the payment of such a claim.

Mr. SLIDELL. Allow me to inform my friend from Maryland that I concede no such thing. There is but one precedent, and if he will do me the favor to refer to the list of precedents accompanying the report of the committee, he will find that there is but one which is at all in point, and that is the appropriation which was made in the civil and diplomatic appropriation bill in 1833, "to indemnify Captain George W. Storer, of the United States Navy, for the expenses of conveying George Porter, consul of the United States at Tangiers, from Port Mahon to Tangiers; and of conveying Lieutenant Ebenezer Ridgway, consul of the United States at Tripoli, and his family, from Port Mahon to Tripoli."

In no one of those cases does it appear that those officers were taken on board by order of the Navy Department. Now, I will refer the Senator from Maryland, who naturally feels an interest in the success of this claim of his constituent, to a letter of the Secretary of the Navy, in which he says:

"By a regulation of this Department, adopted March 9, 1846, although it is usual for our ministers to be conveyed on ships of war, no allowance is made by the Government for the expense of their maintenance while on ship-board; and in every such case provision is to be made, and the expense to be defrayed, by the minister himself, just as it would if he took passage in a private vessel."

That is a regulation of the Navy Department. Now, there is no precedent since 1833 of Congress having allowed one dollar to any officer of the Navy for transporting a passenger taken on board under the instructions of the Government.

Mr. PRATT. The distinction which the Senator from Louisiana draws is, that the naval officers are paid when they are not ordered by the Navy Department to receive the commissioner or minister on board their vessels. So far as that distinction goes, I submit to the judgment of the Senator himself whether, where the officer is directed and ordered by the Navy Department to receive a minister on board his ship and carry him to a designated point, it does not afford a stronger reason why the Government should pay than if he were not so ordered?

Mr. SLIDELL. Does the Senator wish me to reply to that argument?

Mr. PRATT. I have stated what I understood to be the Senator's position.

Mr. SLIDELL. I say this: That where, under circumstances of emergency which could not have been foreseen, a public functionary, or citizen of any sort, finds himself on board a United States vessel, hospitality will not be refused to him; and under those circumstances I think it very fair to make an allowance; but where sufficient notice is given, and time elapses for taking in his stores, and the officer is ordered to take on board a public functionary, and to carry him from one point to another, that necessity does not exist, and the person so transported ought to pay his own expenses.

Mr. PRATT. Sir, I submit that, when the Navy Department orders an officer of the Navy to take any one on board his vessel and transport him to some foreign port; and when, in accordance with the practice of the Government, Navy officers, for the discharge of the same duties, have hitherto been paid, an officer who has received such an order from the Department would be justified in refusing pay from the individual, and would be authorized to claim it from the Government? The Senator is undoubtedly mistaken, for all the precedents which are mentioned in the report read by the honorable Senator from Florida are directly in point. From 1833 down to 1844, numerous cases occurred, which are referred to in the report, where the Navy Department directed an officer to take on board his ship some particular functionary, and the Government has paid that officer for the support of that functionary whilst on board.

The argument of the Senator from Louisiana, in his first speech, was, that this gentleman ought not to be paid, because he had been dismissed from the service for highly dishonorable and discreditable conduct. I do not know, sir, that this was the identical charge against the individual. I do not know precisely what are the facts; but my recollection is, that instead of having been dismissed from the Navy, he was suspended for a term of years without pay. I know that the question as to the legality of the finding of the court-martial was submitted, but recently, by the present Executive of the United States to the Attorney General, and the Attorney General has decided that the finding of the court-martial was illegal. I know, further, that there has been paid to the officer within the last few months, in consequence of that decision of the law officer of the Government, his full pay for the whole period embraced within the sentence of the court-martial. Here, then, was a court-martial which found this gentleman guilty of certain specified charges, and it has since been decided, not by the mercy of the Executive, as seems to be supposed, but by its justice, by the legal decision of the Attorney General, that the finding of the court was a nullity.

Now, I apprehend, in no aspect of the case, whether the original finding, in the opinion of any individual Senator, may have been right or not, can it have anything to do with the claim of this gentleman for the amount which is specified in this bill. He claims this sum for having discharged his duty in accordance with the order of the Government. He claims it as a charge similar to that which has been made by other officers, and allowed, in like cases, to them.

My friend from South Carolina, however, says his vote is to be governed by this consideration: That, inasmuch as an outfit was paid to the persons carried in the vessel it was their duty to provide for their own expenses. For that reason the Senator says he will not, by his vote, allow the Government to pay those expenses to this officer. Now, if there were no other case of the kind; if this were the first occasion on which such a charge was proposed to be allowed, the argument might be a good one; but when my honorable friend from South Carolina considers that, from 1833 down to 1844, as the Committee on Naval Affairs have reported, in every single case where diplomatic agents were carried in public vessels, the commanders of those vessels were paid for the service, he cannot but see that there is nothing in that object.

I shall not make the slightest complaint of a general bill, or of a resolution denying the obligation of the Government hereafter to make payment in similar cases; but it is manifestly unjust towards this officer, to interfere and single him out as the only party who is not to be paid for such services. There are many cases, as the report shows, in which applications have been made, and there is no instance where such an application has been refused.

Mr. WELLER. Will my friend from Maryland allow me to send to the Chair an amendment which I propose to move?

Mr. PRATT. I have concluded. I have nothing more to say.

Mr. CLAY. I made a motion a short time since for the indefinite postponement of the bill, but I withdrew it at the instance of my friend from Florida, and since then other Senators have taken advantage to protract the debate further than I desired or intended to permit. But, sir, the Senator from North Carolina, and the Senator from Maryland have made some remarks to which I consider it my duty to say something in reply. They have entered into an elaborate vindication of this naval officer from certain charges impugning his official conduct. I repeat what I said before, and what was said by the Senator from Louisiana, that that does not influence my judgment in the slightest degree. It is the principle of the bill itself which I condemn.

The Senator from North Carolina says that I object to the use of wine. By no means, sir. I simply object to a call upon this Government to pay for such indulgences. The Senator says I propose that the committee should report a general bill. I did no such thing; I did not intend to avow that I was the advocate of any such bill; but I intended to say that, if the Senate indicated a purpose to pass this bill, I would prefer to have a general bill presented. Both the Senator from Maryland and the Senator from North Carolina allege that it has been the custom of Congress

hitherto to pay such bills. Upon what number of precedents do they predicate this assertion? But five.

Mr. PRATT. It has been allowed in every case where it has been asked.

Mr. CLAY. Well, sir, to the credit of the Navy be it said, there are but five cases in which any captain in the service has preferred such a claim. For myself, I do not sympathize with those gentlemen who applaud this conduct. For myself, I would feel ashamed, I would feel that I had violated my own self-respect, if I were to come to this Government and ask it to pay for the entertainment of my guests, more especially when this Government provides them with means of entertaining themselves.

Now, sir, having made these remarks, I move the bill lie on the table, and I call for the yeas and nays on the motion, as I wish to know how many Senators there are disposed to encourage this vicious precedent of paying for the pleasures of our naval officers.

Mr. PRATT. Let the amendment be read.

Mr. WELLER. I ask that the amendment be read.

Mr. CLAY. I withdraw the motion, so as to allow the amendment to be read.

Mr. BAYARD. I trust the Senator will withdraw it unconditionally, as I wish to make a few remarks upon the subject.

Mr. CLAY. Very well, sir, I withdraw the motion for the present, but I hope the Senator will renew it.

The PRESIDENT. The amendment of the Senator from California is to add:

Provided, That no extra allowance shall hereafter be made to any officer in command of a national vessel for transporting a civil officer of the Government under the orders of the Secretary of the Navy.

Mr. BAYARD. Mr. President, I have had no knowledge of the facts of this case, or of the existence of such a bill before Congress, except what I have derived in the course of the debate here; but it seems to me that this is a case in which the party is entitled to relief according to your own practice and precedents. From the precedents which have been read, it appears, what is no uncommon thing in our or any other Government, that a vicious practice, to some extent, has grown up, so that, when captains of our naval vessels have received orders from the Navy Department to take ministers on board their vessels for the purpose of transportation to a particular place, the captains have paid all the expense attendant upon that, and have applied to Congress, and have been remunerated for the expenses thus incurred; and so they ought to be, if they paid them. There are other cases, such as those stated by the honorable Senator from Louisiana, and the honorable Senator from Michigan, in which gentlemen of fortune, who are foreign ministers, do not choose to put themselves in that position, and very properly take their own stores. Under such circumstances no claim could arise.

The ground on which my vote will rest in this case, I will state. I admit that the usage, independent of congressional sanction, would amount to nothing; yet, upon the precedents cited, it is evident that such a vicious usage has grown up, and four or five cases are shown in which, under the orders of the Department, the minister has been received, not as a guest, for he has been taken under orders. Whether it arises from a want of delicacy on the part of the party, or from considerations peculiar to the particular case, the expenses have, as a general rule, been reimbursed to the officer. Then, when Congress has chosen, under circumstances of that kind, to recognize the payment to the officer, I think that subsequently any officer in the Navy, when, under orders from the Department, he receives a minister of the United States, or of a foreign country, or any other agent of the Government, for the purpose of being taken to a particular place, is entitled to remuneration, unless you choose by positive legislation to prohibit the practice. The usage is wrong, in my judgment, and ought never to have been sanctioned; but Congress has chosen to ratify it, and it seems to me to be hard justice to this individual not only to refuse to him payment, when the expenditure has actually been incurred, but to infer, as the honorable Senator from Louisiana does, from his refusal to accept money from the person whom he transported, that he did it with a view to prey on the public Treasury. That is badly a fair inference, and I think it must be a prejudice against the character of the individual which induced the honorable Senator to draw that inference.

It might well be that when the practice existed—whether it was a practice which had its exception or not, or whether it existed in some cases and not in others—if officers of standing had conveyed such diplomatic agents, and had received payment from the Government for doing so, (and that cannot be doubted when you look at the precedents cited in this report,) this officer might very justly and naturally refuse to receive compensation. There might be some cases in which the minister chose to carry with him his own stores, but I think you will find no instance in which any officer in the naval service has received from a foreign minister, transported on board his vessel, the money for his board and rations during the time he entertained him on board that vessel. I presume such a case cannot be found. These are delicate relations; it is difficult to deal with them; but I do not believe there is an instance where an officer of the Navy, when receiving a minister of our or any other Government, or a gentleman occupying any official relation, on board his vessel, under orders, has taken from that individual a money compensation for his support during the time he was on board the vessel. I admit that perhaps most of our ministers have provided their own stores; and in such cases no charge has been made: but where they have not provided their own stores, and expenses have been incurred by the commander of the vessel, Congress has shown its willingness to reimburse that expense by its action in preceding cases.

It might be very proper to break up this system, which I believe to be a vicious one, by an amendment prohibiting in future anything of this kind; but I consider that it would be very hard justice on this gentleman to refuse to him the compensation in this case, when it has been allowed in all other similar cases.

As to the allegations connected with his alleged dismissal from the service, and the charges which have been made in regard to his character, I should be sorry to think that the Senate of the United States would decide on the propriety of a claim of an individual, when it is founded in a matter of justice or right, on the ground that, in other transactions, they may think his character cannot stand the light of an examination.

Mr. PEARCE. I do not mean, sir, to protract this debate; it has been extended quite far enough already. Hence, while I concur entirely with those gentlemen who think that there is no propriety in applying to this particular individual case a new general rule, and that therefore the same allowance ought to be made to Captain Voorhees which has been made to other officers who have applied for it under similar circumstances and obtained it, I will not go further into the subject than to say that there is one argument which has been urged or intimated here, which I think entirely fails, because of a mistake in fact. Somebody has intimated that the allowance, so far as the carrying of Mr. Eames to San Francisco, and from thence to the Sandwich Islands, is concerned, should not be made because there was an outfit given to him by which he was fully able to pay Captain Voorhees. Now, the fact is, that we give no outfit to the Commissioner to the Sandwich Islands. I mention this fact merely to disabuse the mind of the Senator from South Carolina, who presented that view. I hope the question may now be permitted to be taken.

Mr. CLAYTON. I should not trespass on the time of the Senate, after all that has been said in relation to this little private claim, if I did not think that the subject was not fully and fairly understood by the Senate.

We have several classes of diplomatic agents. We have ministers plenipotentiary and chargés d'affaires, with fixed and established salaries and outfits. Then we have another class of special agents sent abroad sometimes to negotiate treaties with foreign countries. Between those classes there is a wide distinction. A minister receives $9,000 a year as salary, and he receives an outfit. What is that outfit for? It is to pay his expenses in going upon his mission. So with regard to a chargé. He receives his outfit, and that is to pay his expenses, and he is expected to defray the expenses out of the outfit. But, sir, with regard to such a case as this of Balestier, referred to in this bill, he was neither a minister plenipotentiary nor a chargé d'affaires. He was nothing but a special agent, sent out to negotiate treaties with Siam and other countries in Asia, and the Navy Department instructed a captain of the Navy to take him on board his ship and carry him to the place where the treaties were to be made.

In the instructions of Mr. Balestier, which I myself drafted when I was in the State Department, he was told that his expenses would be allowed at that Department upon his producing vouchers for those expenditures. How is it possible that the State Department can act properly in such cases as this, if you assume to take jurisdiction over the whole subject and settle part of the accounts here? Mr. Balestier's accounts either have been or will be sent to the State Department and audited there. His instructions were to produce vouchers for every expense which he incurred. Every gentleman will see at once, that, if a part of the expenses can be presented here for settlement by the Senate, the whole matter is taken out of the hands of the State Department, which is the only proper tribunal for settling the question.

Mr. BADGER. Allow me to suggest to my friend that this bill does not propose to take any portion of the matter from the State Department. He has to return an account of his expenses, but as he did not pay anything to Captain Voorhees, that can form no item. The captain carried him at his own expense.

Mr. CLAYTON. I beg the gentleman's pardon; he is entirely mistaken. The objection is that by this means the Department has no opportunity of auditing the account for these expenses though that is the proper place to do it. They have established rules there by which they settle such questions. You have no rule. The gentleman says this matter has nothing to do with his expenses. Why, sir, it is one of the main items of his expenses.

Mr. BADGER. He has not paid anything for it.

Mr. CLAYTON. Very well, if he has not paid anything he ought not be allowed it at the Department. But if he ought to have paid anything, and shall pay it, whenever he does so he can present the account to the State Department, and what ought to be allowed, will be allowed. We can never interfere in this way without impropriety.

Mr. BADGER. This is to pay Captain Voorhees's expenses.

Mr. CLAYTON. I know this bill is for the relief of Voorhees; but what of that? Voorhees has his claim here for the whole expenses, establishing a sort of *table d'hote*, or hotel, in his ship, and presenting his bill before us. He presents Balesteir's bill of expenses before us, whereas it should be properly settled by the State Department, and not by Congress.

Now, sir, I do not know what are the cases to which the Senator from Maryland referred, but I venture to conjecture that if he can produce cases of this description, where such expenses have been allowed by Congress, they are not cases of this kind, where a special agent has been sent abroad, with instructions to present vouchers for every part of his expenses to be audited at the Department. If there are any such cases which have been allowed, they are the cases of regularly salaried ministers, with outfits, and for some extraordinary reason or other, it has been urged, and pressed, that something more than the outfit should be allowed. Substantially, this is an allowance to Balestier. Undoubtedly it must be an allowance to him, though it is in the name of Voorhees. I am against the bill altogether, but before I conclude, I wish to mention one fact——

Mr. BADGER. Allow me to ask the Senator one question: Suppose Voorhees were to present the bill at the State Department, would they audit and allow it?

Mr. CLAYTON. Not in his name; but if Balestier were to present it it would be audited.

Mr. BADGER. Suppose Balestier were to present the account, and ask that the money should be paid to him, and when questioned, he should answer that he himself had not paid the money, would they allow it to him?

Mr. CLAYTON. They would not allow it, unless he had bound himself to pay it, or had paid it; but then you cannot draw the question in that way from the State Department.

Mr. SHIELDS. Before the honorable Senator sits down, I hope he will permit me to make a suggestion, founded on information which I have received from the late Commissioner to the Sandwich Islands. As was stated by the honorable Senator from Maryland, he was not allowed an outfit, but he was transported by a Government vessel. If I understand aright, there were no instructions to him of any kind, as to his expenses. I know he had some difficulty in procuring the means to get to the Sandwich Islands. He was put on board the Government vessel, and carried there. I take it for granted the captain, or master, furnished him as this captain has done; and I suppose that it stands upon the same principle. Now, I would ask whether, in the case of the Commissioner to the Sandwich Islands, who has a salary of $6,000, without any provision for carrying him there, it would not be just to the captain of the vessel to make the allowance?

Mr. CLAYTON. It would be just in that case for the minister to pay his bills to the captain and present his claim to Congress. If no outfit is allowed him, and, under the equitable circumstances of the case, he thinks himself entitled to be paid his expenses in lieu of outfit, it would be his duty, after paying his expenses, to present his claim to Congress for consideration, as has been done in other cases, and during this session in the case of the Minister to Constantinople.

I was going to mention another fact. It will be found, I think, by looking at the correspondence of Mr. Balestier, that he made complaints against Captain Voorhees—that he complained, substantially, that his mission was broken up by the treatment he received from Captain Voorhees, and that he was compelled to leave Siam before he could get through with the negotiations I leave that out of the case, however; I do not pretend to throw it in as an item of the account, for, on the grounds which I have stated, the allowance ought not to be made.

Mr. CLAY. I renew the motion that the bill lie upon the table.

Mr. SLIDELL. I merely wish to say, before that question is taken, that as the Senator from Maryland——

The PRESIDENT. Debate is not in order pending a motion that the bill lie upon the table.

Mr. SLIDELL. I merely wish the Secretary to read a paper.

Mr. CLAY. I withdraw the motion.

Mr. SLIDELL. As the Senator from Maryland intimated that I had perhaps overstated some of the circumstances attending the antecedents of Captain Voorhees, I will ask the Secretary to read a paper.

Mr. CLAY. I cannot withdraw the motion for that, as I do not think it affects the merits of the question.

Mr. PRATT called for the yeas and nays on the motion, and they were ordered; and being taken, resulted—yeas 29, nays 15; as follows:

YEAS—Messrs. Adams, Allen, Benjamin, Brainerd, Brodhead, Brown, Butler, Chase, Clay, Clayton, Cooper, Dawson, Evans, Fitzpatrick, Geyer, Gillette, Hamlin, Hunter, Jones of Iowa, Jones of Tennessee, Sebastian, Slidell, Stuart, Sumner, Thompson of Kentucky, Wade, Walker, Wells, and Wilson—29.

NAYS—Messrs. Badger, Bayard, Bell, Fessenden, Foot, Gwin, Mallory, Morton, Pearce, Pratt, Seward, Shields, Thomson of New Jersey, Toucey, and Weller—15.

So the bill was ordered to lie upon the table.

ABIGAIL STAFFORD.

The Senate resumed the consideration of the joint resolution "explanatory of an act entitled 'An act for the relief of Abigail Stafford.'"

The PRESIDENT. The Senate formerly refused to engross the resolution for a third reading. That vote was reconsidered, and the question now is on its engrossment.

The resolution would direct the Secretary of the Treasury in the payment, under the act for the relief of Abigail Stafford, to allow interest at the rate of three per cent., from the 4th of July, 1798, to the date of the passage of the act.

Mr. BROWN. I propose to amend the resolution by striking out the part allowing interest, and inserting:

Settle the same in conformity to the resolution passed by Congress the 3d day of June, 1784.

Mr. WELLER. I should like to hear what that act is.

Mr. EVANS called for the reading of the report; and the report which was made on the original bill was read. Mrs. Stafford is the daughter of Henry Smith, of Massachusetts, a revolutionary soldier. He was in several battles, and among others in the battle of Lexington, where he was wounded. Mrs. Stafford's grandfather had five sons and five sons-in-law in that battle, in which two of them were killed. The females of the family, during the Revolution, aided the American army by making clothes for them. She is the sole survivor of the family. Her claim was for compensation for her father's services, and for supplies furnished to the army. He died from wounds received while in the service of the country, and her patrimony being invested in Continental money became almost worthless, and she is almost entirely dependent upon her relatives for support.

Mr. BAYARD. The relief contemplated by the position which that report sustains was granted, I believe, by an act of Congress. The object is now to add to the sum which Congress granted, interest at the rate of three per cent. per annum, independently of the amendment offered by the Senator from Mississippi. What that amendment would effect, I do not know. I do not know the terms of the resolution referred to—whether it is one which would allow a different rate of interest or not. But the bill was passed granting relief, on the facts which were presented, without allowing interest. The present proposition is to allow interest. It is for the Senate to say whether they will adopt that as a precedent or not. If it is adopted, there will be plenty of cases presented for the same allowance. All that I shall do is to ask for the yeas and nays.

Mr. BROWN. I do not care to debate the question. The Senate understand it as well as I do. In 1852 an act was passed allowing the claimant $2,000. I have it before me. The interest, as has been well stated by the Senator from Delaware, was not allowed. The claimant believes that she is entitled to interest under the resolution of 1784, which I have in my hand, and the part of which relating to this matter, I beg leave to read:

"That an interest of six per cent. per annum shall be allowed to all creditors of the United States for supplies furnished or services done, from the date the payment became due."

The claimant insists that this allowance was for services rendered, and for supplies furnished the revolutionary army; and that under this resolution of 1784, she was entitled to her six per cent. upon the sum. The question which you are called upon to decide is, whether that assumption is correct.

The way in which I came to know anything about this case was simply this: When it was up before, after listening to the speeches of Senators, I voted against it. I was appealed to by the claimant, and by some Senators who had voted to sustain her claim, to move a reconsideration of the vote by which the Senate refused to order the bill to a third reading, which I did. The subject then passed out of my mind until the present session, when I was reminded that the resolution still stood on my motion to reconsider. I called it up one morning. It was reconsidered, and put upon the Calendar, and it now comes up in its regular order. That is the case, as I understand it. I am perfectly willing that the Senate should take a vote without further debate, or debate it as long as it chooses.

The yeas and nays were ordered.

Mr. BAYARD. I do not mean to discuss the case. The act of 1784 has no application to it. I have some recollection of the time when the bill, of which this resolution is explanatory, was passed; and, I think, the interest was stricken out of it on a vote of the Senate. I may be mistaken. I will not be sure about it; but that is my recollection. Congress allowed the relief, but on the face of the report it is shown that it was a gratuity throughout; that there was no evidence of supplies furnished, or services rendered. The whole of the circumstances, which are conglomerated in that report, go to show that it was in the nature of a gratuity, on the supposition of general services rendered by the family of the petitioner. On that ground the relief was granted, but I do not think it is a case for allowing interest. I fear the precedent, or I would not care whether this were passed or not.

Mr. EVANS. The claim seemed to be a meritorious one originally, and it was probably right to grant it, although I do not perceive that, except for the services of her father, she had any claim to compensation; and $2,000 was a very extraordinary sum to allow for the services of a common soldier rendered in the Army. But the great objection to this resolution is, that it allows interest. Sir, if we open the question of interest, there will be a thousand applications for it next year. Twenty or thirty cases have passed under my review since I have been a member of the Senate, in which interest has been uniformly refused upon as meritorious cases as this. If you allow it in one case, it will be impossible to discriminate between this and others. You will, therefore, have to open the whole question; and if you allow interest on these demands, your Treasury will not meet them all.

Mr. BADGER. I simply wish to ask if the faith of the Government is not pledged by the resolution of 1784, which was read by my friend from Mississippi?

Mr. WALKER. It is on that point that I propose to say a word to the Senate.

From the time these services were rendered and the supplies furnished, or at least from as early a time as the representatives of Smith could make application, that application has been pending, but it was never recognized until 1852. The amount then appropriated was acknowledged to be due to the party. There is a peculiarity in the phraseology of that act, and that peculiarity was intended to cover just what is now claimed. I will read it.

"The Secretary of the Treasury of the United States pay to Mrs. Abigail Stafford, her heirs or legal representatives, $2,000 out of any money in the Treasury not otherwise appropriated, for supplies furnished the army in the revolutionary war, and services rendered by her father, Henry Smith, of Massachusetts, to be paid upon principles of equity and justice."

The latter clause was intended by the committee—I was a member of it at that time—to avoid the question which has always been raised in the Senate upon the allowance of interest to individuals who come here as claimants, and no one has been more diligent in making objection to that allowance in particular cases than the Senator from Delaware. When the case went before the Secretary of the Treasury for payment, he or the Comptrollers or Auditors disregarded the latter clause in the act entirely, and the refusal was made to give interest at all. Now the claimant wishes that Congress should speak in definite terms, and enact what is the equivalent of the declaration that the amount due was due in the view of the act of 1784, and ought to have been paid at that time, or if it was not then paid, but was paid at any subsequent day, should have carried with it the allowance of interest. This act of tardy justice was done in 1852, so far as the appropriation of the principal was concerned; but, notwithstanding that phraseology of the act, the resolution of 1784 was not complied with. Those now who advocate this resolution, explanatory of the act of 1852, say that the interest ought to have been allowed legally outside of the terms included in the act, that the payment should be made according to the principles of equity and justice.

Mr. WELLER. Out of what fund was it to be paid?

Mr. WALKER. Out of the Treasury of the United States, under the act of 1852. If it had not been for the old acts of limitation there is no question as to how the sum of $2,000 would have been paid. It would have been paid with interest. But the act of limitation precludes the proper accounting officers from making this payment at all; hence for principal and interest both parties have to come to the Congress of the United States. Congress made an appropriation for the principal—made it in the terms employed in the act, that not only should the sum be paid, but that it should throw the whole subject before the accounting officers of the Treasury for the allowance of whatever in addition thereto should be found to be due according to principles of equity and justice. Under the resolution of 1784, not three per centum, as the allowance stood in this resolution when reported by the committee, but six per centum, would have been paid. The Senator from Mississippi now proposes to put it upon the basis of the resolution of 1784. That will give six per centum interest, and for my part, I am willing to vote for it, though as the case came from the com-

mittee of which I am a member it allowed only three per centum, under the funding act of 1795.

Mr. DAWSON. I listened with great attention to the reading of the report; and that report shows that this is a very meritorious case. The claim, as I understand it, was for services rendered by the ancestor of the claimant. In 1852, Congress made an appropriation of $2,000, and in the bill making it, there was a reference of the question to the Department to settle it according to the principles of equity and justice. Now, it is contended by some Senators that the appropriation of $2,000 includes the whole claim and precludes any further payment, and that construction, I understand, is placed upon it by the Department. This resolution is explanatory of the act of 1852, in which the accounting officers were ordered to settle it upon principles of equity and justice. What principles were they? That the claim should be allowed, and if equity and justice required the payment of the interest, that it should be paid. How do we ascertain that equity and justice required the payment of interest, but by a reference to the law regulating such claims? The resolution of 1784, declares that interest shall be paid; and the words "equity and justice" in the act of 1852, were synonymous with saying "to be paid according to the resolution of 1784." As I understand the mover of the amendment the object is to declare that. It does not open the question of interest, for it is already opened; it is already the provision under the laws of the land; and the Department should have paid it according to the resolution of 1784.

Mr. BROWN. I am not going to continue this discussion, sir; but my object in striking out the three per centum provision, and putting in the per centum according to the resolution of 1784, is this: The party was entitled to have her bill of 1852 settled according to that resolution. There was no existing law, no existing obligation, upon us to pay her three per centum; but, if we were bound to pay her interest at all, we were bound to pay it under the resolution of 1784; and that was six per centum. If we were released from our obligation under that resolution, I would not vote for it at all. But what does the party claim? That in 1852 you examined her accounts, and allowed her $2,000—for what? For services rendered, and for supplies furnished to the Army. For that she says you allowed the $2,000. That being true, to what is she entitled? Under the act of 1784, she is entitled to six per centum interest for the sums due for supplies furnished and services rendered. Put the two facts together, and there is no difficulty in saying how you are to settle the claim. If you admit that you owed this party $2,000, for services rendered and supplies furnished, then the law entitles her, as it now stands, to six per centum interest; and what she complains of is, that the accounting officers do not pay it to her. I hope that the point presented by the amendment, and the object in presenting it, are fully understood. I do not care to discuss the question further. I would much rather vote on it.

The question was taken by yeas and nays; and resulted—yeas 26, nays 14; as follows:

YEAS—Messrs. Badger, Bell, Benjamin, Brainerd, Brown, Clayton, Cooper, Dawson, Dodge of Iowa, Fessenden, Foot, Gillette, Gwin, Hamlin, Houston, James, Jones of Iowa, Pearce, Rusk, Sebastian, Seward, Thompson of Kentucky, Thomson of New Jersey, Wade, Walker, and Wilson—26.

NAYS—Messrs. Adams, Allen, Bayard, Bright, Clay, Evans, Fitzpatrick, Geyer, Hunter, Pratt, Shields, Slidell, Stuart, and Weller—14.

So the amendment was agreed to.

The joint resolution was then ordered to be engrossed for a third reading, and was read the third time, and passed.

ENROLLED BILLS SIGNED.

The PRESIDENT *pro tempore* signed the following enrolled bills and joint resolution:

A bill to regulate the salaries of the district judges of the United States;

A bill for the relief of William Hagerty;

A bill for the relief of Medford Caffey of the State of Tennessee;

A bill for the construction of a military road in Oregon Territory;

A bill making appropriations for improving certain military roads in the Territory of Minnesota;

A bill making an appropriation for a territorial road in Nebraska;

A bill making an appropriation for completing the public buildings of Oregon Territory and Minnesota;

A bill to provide for the accommodation of the courts of the United States, in the district of Maryland, and for the post office at Baltimore;

A joint resolution explanatory of an act giving compensation to judges Woodbridge and Chipman;

A bill to authorize the issue of a register to the Russian-built ship Aina;

A bill for the erection of a military post on or near the Pembina river, in the Territory of Minnesota, and for other purposes; and

A bill to establish an additional land district in the Territory of Oregon.

LIEUTENANT GENERAL.

A message was received from the President of the United States, by Mr. WEBSTER, his Secretary, announcing that he had approved and signed a joint resolution authorizing the President of the United States to confer the title of Lieutenant General by Brevet for eminent services.

HARBOR IMPROVEMENTS.

The message also announced that he had approved an act to amend the act making appropriations for the improvement of certain harbors and rivers, approved August 30, 1852.

ORDER OF BUSINESS.

Mr. SUMNER. It seems to me we are admonished, by the time which is occupied by private claims which lead to discussion, that if we proceed debating them, we shall make but very little progress. I therefore beg leave to renew the motion which was made at the beginning of the session to-day, by the Senator from Ohio, to proceed with the consideration of such bills as are not objected to.

The PRESIDENT. That will require unanimous consent.

Mr. CLAY. I object.

RICHARD W. MEADE.

The Senate, as in Committee of the Whole, proceeded to consider the bill for settling the claim of the legal representatives of Richard W. Meade, deceased.

It proposes to direct the proper officers of the Treasury to settle the claim of the legal representatives of Richard W. Meade, on their producing the testimony required by the commission from the claimants, under the Florida treaty, which, in the opinion of the officers, shall be satisfactory as establishing the claim, according to law and usage; and further, to direct the Secretary of the Treasury to pay the amount so found due, with the provision, however, that more shall not be paid than Richard W. Meade would have received out of the $5,000,000 appropriated to pay the claimants under the Florida treaty, if his claim had been admitted by the commissioners.

The bill was reported to the Senate without amendment.

Mr. CLAYTON. I should like to hear the bill explained. I suppose the gentleman who reported it will be prepared to explain it.

Mr. EVANS. I have looked into this claim. A portion of it, I am satisfied, would have been admitted but for—I cannot say the misconduct—but the mistake or misaprehension of Mr. Meade himself. He had a fair and honest claim for a sum of upwards of $200,000 against the Spanish Government, which, it was conceded, would have come under the Florida treaty. He had another claim for a larger sum of money, amounting altogether to $290,000, for personal wrongs which he had suffered at the hands of the Spanish Government. Now, it seemed to be conceded, in the proceedings before the commissioners, that that was not allowed. There can be no doubt, however, that, if he had been able to produce his vouchers, the $200,000 would have been allowed him; but after that treaty was made, Mr. Meade, instead of waiting to see if it would be ratified, went immediately to Spain, and entered into a negotiation with the Spanish Government in relation to his claim. They afterwards allowed it; but when he came here and presented his claim, it was refused on the ground that the commissioners were to decide, and not the Spanish Government. His own allegation was, that he had given up his vouchers to the Spanish Government, and he could not establish it. Application was made to get the vouchers back again, but they never could be obtained. The commission expired; his claim was rejected.

The bill proposes to refer to the accounting officers of the Treasury to do what the commissioners would have done had the claim been presented. It seems to have been his misfortune that he had settled with the Spanish Government, and given up his vouchers; and the commissioners very properly rejected it, saying, we are to pay the claim which exists, and we are to judge, and not the Spanish Government. On the whole, it seems to me that this bill may, with great propriety, be passed, referring the case to the proper officers. The sum demanded is $490,000. The legitimate claim, according to my estimate—I have not my papers here, or I would give the precise sum—is about $220,000. The other is for personal wrongs, for which the Spanish Government had agreed to pay him, but which he would not have been entitled to under the treaty.

I think, upon that explanation, there can be no reasonable objection to passing the bill in the form in which it is presented.

Mr. CLAYTON. A bill of this description—I think in the very terms of this one—I understand has been before the House of Representatives at this session, and been rejected. I do not profess to be so well acquainted with the subject as to discuss it. But I know that it has been rejected in the House, after having been pending a great many years; and I should like to have an opportunity of examining it more thoroughly than I have done, before voting upon it. With the information which I have in relation to it, I should be compelled to vote against it.

Mr. BADGER. I should be willing to have it postponed if my friend from Delaware will look into it.

Mr. CLAYTON. I will; and I hope my friend from North Carolina will allow me to look into it.

Mr. BADGER. I shall follow the lead of my friend from South Carolina, unless my friend from Delaware finds something against the bill.

The PRESIDENT. Does the Senator submit a motion?

Mr. CLAYTON. I move that it lie upon the table.

Mr. BADGER. Oh, no; do not do that.

Mr. WELLER. I think it had better be postponed.

Mr. CLAYTON. Name a day.

Mr. WELLER. It will go over to next Friday.

Mr. EVANS. If it is not passed to-day it may as well lie on the table, for it cannot be considered again this session. I believe the Senator from Delaware is right when he says a similar bill has been rejected in the House. That, however, is no reason for postponing it. It is a reason why we should act on it now.

Mr WELLER. I understand the Senator from Delaware desires an opportunity to examine the bill; therefore it was I suggested the propriety of postponing its consideration until next Friday. I believe a similar bill has been rejected at the present session by the House of Representatives. The claim has been before Congress for a great many years, and I believe it has always been reported upon favorably by the different committees who have had charge of it. This bill comes from the Committee on Foreign Relations, of which I am a member. I believe the claim has never been rejected by any committee who have taken the trouble to investigate its merits; but if any member of this body is not prepared to vote upon it—as it is an important case, involving a large amount of money—I prefer that it should be postponed until next Friday; and I make that motion.

Mr. BADGER. I think there is a great deal in the suggestion of the Senator from South Carolina. If the Senate refuses to pass the bill to-day, it will never be taken up in the House.

The motion to postpone was agreed to.

FRANCISCO LOPE URRIZA.

The Senate, as in Committee of the Whole, proceeded to consider the bill for the relief of Francisco Lope Urriza.

Its object is to direct the Secretary of the Treasury to pay to Francisco Lope Urriza $10,250, as full compensation for the value of the schooner

Julia, his property, improperly seized by Commander S. F. Dupont, of the Navy, while lying at La Paz on the 18th of September, 1846.

The petitioner seeks to obtain from this Government remuneration and indemnity for losses alleged to have been sustained by him in Lower California in 1846 and 1848, while that Territory was in the military possession and under the protection of the United States.

The first item is for $10,250, the value of the schooner Julia; the second for $1,600, the value of a lot of cotton yarn deposited in the house of Don Francisco Palacio de Micanda, in La Paz, and destroyed by the Mexican forces in an attack upon the town on the 16th of November, 1848; the third for $3,287, the amount of arrearages alleged to be due him for pay as a retired lieutenant colonel of the Mexican army, lost by his espousing the American cause; and the fourth for $5,000, the alleged value of the island of San José, which he was compelled to abandon after the restoration of Lower California to Mexico, under the treaty of Guadalupe Hidalgo.

In regard to the first item, there is no evidence to show that the schooner Julia had ever been engaged in the service of the enemy. On the contrary, it is proved that she had been employed in peaceful commerce between La Paz and Mazatlan. While lying at La Paz, in a dismantled condition, without either flag or sails, on the 18th of September, 1846, she was seized by Commander Dupont, used as a tender for some months, and on the 24th of June, 1847, condemned and ordered to be sold as a lawful prize by Alcalde Colton.

Commodore Sloat, then commanding the naval forces of the United States on the Pacific coast, had, prior to the seizure of the Julia, (on the 7th July, 1846,) issued a proclamation to the citizens f California, in which he pledged full and ample protection, both of persons and property, to such of them as should lay down their arms, and either espouse the cause of the United States or remain neutral in the contest. Upon the issuing of that proclamation, the petitioner at once became an active partisan in our ranks, and identified himself with our cause; and further, the Julia was, at the time of seizure, his property, and of the value of $10,250.

Under these circumstances, it is clear that the schooner was not properly subject to seizure. And besides, the United States not having established a court of admiralty at Monterey, the decision of Alcalde Colton, condemning and ordering the vessel to be sold, was wholly unauthorized and illegal. The committee, therefore, recommended the allowance of this item.

The cotton yarn for which compensation is claimed, was, when destroyed, deposited in a private house not occupied by our troops for military purposes at the time it was burnt; nor does it appear that it had been previously so occupied. In no case has a claim of this character ever been allowed to our own citizens, and it should not be allowed in this.

As to the arrearages of pay due to him as a retired lieutenant colonel in the Mexican army, and forfeited by his taking side against his own country, upon no principle of justice or national morality recognized by this Government can this item be allowed.

In regard to the fourth item, it is believed that the protection promised by Commodore Sloat to the citizens of California, in his proclamation of the 7th of July, 1846, referred alone to Upper California, and, therefore, cannot apply to any rights of property in the island in question, it being an appendage of Lower California, which, under the treaty above mentioned, still remained as a part of Mexico. This item, therefore, is not allowed.

The bill was reported to the Senate without amendment; ordered to be engrossed for a third reading, read the third time, and passed.

AMOS AND JOHN E. KENDALL.

The PRESIDENT. The next bill on the Calendar is one for the relief of Amos Kendall and John E. Kendall.

Mr. EVANS. I move that it lie on the table. It involves an important principle which I do not think the Senate are now prepared to act upon.

On a division, there were—ayes 9, noes 7; no quorum voting.

Mr. BADGER. I move that the Senate adjourn.

Mr. CHASE called for the yeas and nays; which were ordered; and being taken, resulted—yeas 11, nays 30; as follows:

YEAS—Messrs. Adams, Allen, Badger, Benjamin, Clay, Fessenden, Fitzpatrick, Foot, Pearce, Pratt, and Stuart—11.

NAYS—Messrs. Bell, Brainerd, Brodhead, Brown, Chase, Clayton, Cooper, Dodge of Iowa, Douglas, Evans, Geyer, Gillette, Gwin, Houston, Hunter, Jones of Tennessee, Mallory, Morton, Rusk, Sebastian, Seward, Shields, Slidell, Sumner, Thomson of New Jersey, Toucey, Walker, Weller, and Wells—30.

So the Senate refused to adjourn.

The PRESIDENT. The question is on the motion that the bill lie on the table.

Mr. STUART called for the yeas and nays; and they were ordered.

Mr. BROWN. I have just heard that this is a proposition to order the bill for the relief of Amos Kendall and John E. Kendall to lie on the table. Has the bill been read?

The PRESIDENT. It has been read by its title.

Mr. BROWN. That is a very extraordinary manner of proceeding. Who submitted the motion to lay it on the table?

The PRESIDENT. The Senator from South Carolina.

Mr. BROWN. I hope he will withdraw it, to allow the bill and report to be read. It is certainly treating the committee in a very extraordinary manner.

Mr. EVANS. I supposed, as it involved a very important principle, and as there were so few Senators here, it would hardly be desired to consider it now. It was with that view that I submitted the motion—not that I was not prepared to vote upon it. I withdraw the motion.

Mr. BADGER. Let it be passed over.

Mr. BROWN. I consent to that. The bill does involve an important principle, but it is one which I do not want to see repudiated and put down in this short-hand way. I am willing to let the bill be passed over. I do not ask the Senate to go into a long discussion on it at this late day of the session, when it cannot pass both Houses; but I do not want to vote on laying it on the table.

Mr. EVANS. I did not intend to get rid of it by indirection.

The PRESIDENT. Is a motion submitted to postpone it until next Friday?

Mr. BROWN. I ask the Senate, by common consent, to pass it over informally and take up the next bill.

The PRESIDENT. That course will be pursued.

SIMON SMITH.

On motion by Mr. WELLS, the bill directing the payment of arrearages of pension due Simon Smith, deceased, late a pensioner of the United States, to his heirs-at-law, was read a second time, and considered as in Committee of the Whole.

The Secretary of the Interior will be directed by this bill to pay to the heirs-at-law of Simon Smith, deceased, $1,344 arrearages of pension due him from January 1, 1837, to January 1, 1851, during which period his pension was withheld on account of an omission in the terms of his discharge.

Smith applied to the bureau for an invalid pension in 1837, upon a certificate of discharge, stating that he was disabled. But as the discharge and the return on the rolls omitted to state that the disability was incurred in the service, his application was rejected. In 1851, fourteen years after his first application, he succeeded in proving that his disability was incurred in the service while in the line of his duty, and thereupon was placed on the rolls at the rate of eight dollars per month, which he continued to receive up to the date of his death. His heirs now pray for an act directing the payment to them of arrears for the fourteen years during which his case was suspended, on the ground that the officer who granted his discharge should have stated therein the fact that the disability was incurred in the service in the line of duty; and that this omission on the part of the officer to do him justice should not have deprived him of his rights under the law.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that they had passed the bill of the Senate to provide for holding additional terms of the circuit courts of the United States for the districts of Missouri and Ohio, and for holding a special term of the district court for the northern district of Ohio.

MRS. LEURIGHT BROWNING.

On motion by Mr. CHASE, the bill to continue half-pay to Mrs. Leuright Browning, for a further term of five years, was read a second time, and considered as in Committee of the Whole.

It will direct the Secretary of the Interior to continue to Mrs. Browning, widow of Robert L. Browning, late of the Navy, half the monthly pay of her husband, for the further term of five years from the time that that half-pay, granted by the act of September 20, 1850, shall cease.

Mr. CLAY. I ask for the reading of the report of the committee.

The PRESIDENT. There is no report accompanying the bill.

Mr. SUMNER. A report was made.

The PRESIDENT. Was it ordered to be printed?

Mr. SUMNER. Yes, sir.

Mr. CHASE. It merely continues a pension which was granted before by an act of Congress, for the term of five years.

The PRESIDENT. The Chair is informed by the Secretary, that the report has been taken off the files.

Mr. CLAY. My reason for calling for the report is known to every member of the Committee on Pensions. I will state, very briefly, the reason. When the case was submitted to our consideration, I thought the committee were determined to report against it, unless certain facts appeared, which could not be gathered from the papers then before us. It appeared from the evidence which we then had, that the husband of this lady did not die in the service of the United States, nor in consequence, as then appeared, of his being on furlough; but he was really engaged in an exploring expedition, with the view of ascertaining the mouth of some river on the Pacific coast. But it appears, that if he had been at that time on furlough, he still would not have been in the line of his duty. That was a voluntary service, not ordered by the Department, and consequently one in which he was not engaged in the service of the country. It was with the view of ascertaining the fact whether the Department had ordered this exploration, and whether, if he had received his orders to join this vessel, he would have been in the line of his duty, that it was laid over. I objected to it, simply on the ground that it was without any precedent, if the facts were as originally presented to the committee. The Senator who reported the bill can state what facts the further investigation of the subject has presented to remove the objection.

Mr. SUMNER. Mr. President, the petition was for a continuance of this pension for life, the pension having been originally granted for five years. The committee, taking all the facts into consideration, were unable to come to the conclusion that the pension should be continued for life. They were not satisfied, on the evidence which was introduced, that the husband had actually died while on duty in the service of the United States. The evidence was not explicit to that point. Still, there was reason to believe he had died on such service. At any rate, there was doubt on the question, and the committee felt it to be their duty to give the applicant the benefit of that doubt, but not to the full extent to which she claimed it, that is, to the extent of a pension for life. They sanctioned a continuance of the pension, therefore, for five years, which was in some respects a splitting of the difference between her petition and the first impression of the committee, which was adverse to it. It was at the last session of the committee that the subject was very fully considered, and they felt it to be their duty to authorize the bill which is now before the Senate to be presented.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CHARLES STEARNS.

Mr. TOUCEY. Mr. President, on Friday last a bill for the relief of Charles Stearns was passed

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over, upon the objection of the Senator from Delaware, [Mr. BAYARD,] on the ground that he considered the amount of it too large. The case is a very hard one, but I will not go into the particulars. It is a bill which was reported from the Judiciary Committee at the last session, by Mr. Williams, of New Hampshire. The objection is waived upon an amendment by which the allowance is to be reduced from $5,000 to $2,500. The condition of the petitioner is such that he feels under the necessity of acquiescing in that reduction of the amount. With the consent of the Senate, therefore, I ask that the bill may be taken up in order that I may move that amendment, and have it now acted upon.

Mr. WALKER. Does it require unanimous consent to consider the bill out of its order?

The PRESIDENT. It does.

Mr. TOUCEY. It was laid over last Friday, under objection.

The PRESIDENT. That does not alter the case. The order is peremptory that we shall take up the bills as they stand on the Calendar.

Mr. WALKER. Let the Calendar be proceeded with regularly.

Mr. TOUCEY. I appeal to the Senator from Wisconsin to withdraw his objection. I am sure he would consent to the passage of the bill if he knew the circumstances.

Mr. WALKER. I have an appeal of the same kind to make, which I would press, but I prefer that we should go on in regular order.

The PRESIDENT. Objection being made the bill cannot be taken up out of its order.

SOPHIA KIRBY.

The next bill on the Calendar was one for the relief of Sophia Kirby, which had been reported on by the Committee on Pensions adversely.

Mr. WELLER. I move that the adverse report of the committee be concurred in.

The motion was agreed to; and the bill was, therefore, rejected.

CONTINUANCE OF HALF-PAY.

The PRESIDENT. The next bill on the Calendar is "a bill in addition to an act entitled 'an act to continue half pay to certain widows and orphans.'"

Mr. WELLER. Is that a private bill?

Mr. EVANS. It seems to me that it is not a private bill.

The PRESIDENT. It appears to be a bill general in its provisions.

Mr. CLAY. The Senate, the other day, overruled, I think, several such decisions made by the then incumbent of the Chair.

The PRESIDENT. The Senate on last Friday decided that this was not a private bill, and it has been accidentally put in the file of private bills.

Mr. CLAY. Some subsequent decisions were made overruling that, and I think it was concluded that this was a private bill.

The PRESIDENT. I will submit the question to the Senate, if it is desired, to say whether this be a private bill or not.

Mr. CLAY. I will state that the bill provides for a certain class of widows and orphans of the Army, and I think it is much more important than many which are passed here. It will save the necessity of considering many separate bills.

The PRESIDENT. The Chair decides that is not a private bill. Does the Senator appeal from that decision?

Mr. CLAY. I will not take an appeal.

Mr. STUART. I understand that the bill only covers three or four cases on which the Committee on Pensions concluded to act favorably, but they thought it would be better to report a bill applying to the whole of the class. It is very important that it should be passed, and I will ask the unanimous consent of the Senate to take it up now. If it is not to be passed, the committee certainly ought to abandon it, and report separate bills in each of the cases.

The PRESIDENT. Does the Senator appeal from the decision of the Chair?

Mr. STUART. No, sir. I only ask the unanimous consent of the Senate to consider the bill.

Mr. SEWARD. I join in that appeal. If a single bill for the relief of one of these widows or orphans was presented here, the unanimous consent of the Senate would be given to take it up.

The PRESIDENT. Is there any objection to the consideration of the bill?

Mr. EVANS. I object.

Mr. STUART. Then I hope the Committee on Pensions will report separate bills for each case covered by the bill, so that we can act on them.

JOSEPH NOCK.

The PRESIDENT. The next bill on the Calendar is one reported from the Committee on the Post Office and Post Roads, for the relief of Joseph Nock.

Mr. BRODHEAD. That is withdrawn.

Mr. PRATT. By whom?

Mr. BRODHEAD. The applicant himself desires that the bill should be withdrawn at present. I reported the bill.

The PRESIDENT. What disposition will the Senate make of the bill? It must be disposed of.

Mr. BRODHEAD. I move that it lie on the table.

The motion was agreed to.

JOHN SHLY'S PATENT.

The Senate next considered, as in Committee of the Whole, the bill to extend the patent heretofore granted to John Shly, of the State of Georgia.

It proposes to direct the Commissioner of Patents to make to the executors or administrators of Shly, who is now dead, a certificate of extension for fourteen years, of the patent granted to Shly on the 27th of October, 1836, for an improvement on the saw cotton-gin, and its application to picking and breaking wool, ginned or seedless cotton, and for dislodging or cleaning them from burrs, briars, or any other substance which may prevent their being carded or dyed; and also for the mixing of cotton and wool together ready for the carding process.

Mr. GEYER. I should like to hear the report in that case.

Mr. DAWSON. It is a bill which I reported from the Committee on Patents; and I think I can state the facts in a manner which will satisfy the Senator from Missouri.

Mr. GEYER. I withdraw the call for the reading of the report.

Mr. DAWSON. Judge Shly, the inventor of this machine for his own manufacturing establishment, unfortunately died just before the time when, under the existing laws, he should have applied at the Patent Office for the purpose of having his patent extended. The period limited by law expired before letters of administration could be taken out upon his estate. This bill is merely to remedy that defect. It is to do what would have been done at the Patent Office but for the death of Judge Shly.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN ERVIN.

The PRESIDENT. The next bill on the Calendar is one to confirm the claim of John Ervin to a certain tract of land in the Bastrop claim.

Mr. SLIDELL. I perceive that that is an adverse report.

Mr. WELLER. I move that the adverse report be concurred in.

Several SENATORS. Let the bill be passed over.

Mr. CLAY. If we pass over these adverse reports we shall have them all coming up again at the next session.

Mr. BADGER. I desire to hear the report of the committee read. I wish to know the grounds on which the adverse report is made.

The Secretary accordingly read the report.

The object of the bill is to confirm John Ervin in his title to the land on which he resides in the parish of Morehouse, Louisiana, to the extent of six hundred and forty acres, to be taken by legal subdivisions so as to include his improvements, and to direct a patent to be issued to him, after a legal survey, under the direction of the surveyor general for the State; but it is to amount only to a relinquishment of title on the part of the United States.

The Committee on Private Land Claims say that the only evidence before them is a report submitted on the 20th January, 1852, by Mr. Downs, in which he states that the petitioner represents, and the evidence sustains his averment, that, twenty-three years since, he settled on and improved a tract of land in the Bastrop claim, in Louisiana, and has resided on and cultivated it ever since, that long previously to his settlement, the land had been sold by the grantee to Ballinger, who, after having made some improvements on it, abandoned it and left the country, and has not been heard of since, nor has any agent or heirs appeared, or been heard of, to act for him; that, in consequence of this absence, he has not been able, as he intended to do, to purchase the title of Ballinger, but that he has held peaceable and uninterrupted possession long enough to give him a title by prescription against all claimants, except the United States, under the laws of Louisiana; that an act of Congress, passed 3d March, 1851, intended, among other things, to give a donation claim to such settlers, for over twenty years, as he is, but that it has been decided not to embrace his case, because he has not a written title from Ballinger, holding under the original grantee; that he was a pioneer in the wilderness when he settled this place, on which, by his own labor and that of his family raised on it, he has made considerable improvements; that he is now old and infirm, and prays that he may be confirmed in his title to the land to the extent of six hundred and forty acres, the quantity granted by the act of the 3d March, 1851, to other claimants under the grant, who have occupied and cultivated the land for more than twenty years.

Whilst the committee are willing to admit the facts, as stated in the report of Mr. Downs to be true, they dissent from the conclusions. This case does not come within the spirit, or the letter, of the act of 3d March, 1851, granting six hundred and forty acres "to all *bona fide* claimants by purchase from De Bastrop, or those claiming under him, where the land has been occupied and cultivated for twenty years." The very basis of such grant must be the purchase from De Bastrop, or those holding under him; in this case, the petitioner was a trespasser upon the land and the rights of Ballinger, the grantee of De Bastrop, if the title had been in the original grantee; and, therefore, the petitioner held adversely to Ballinger, and could not be entitled to the benefits derived under that part of the act of 3d March, 1851. The committee are of opinion that expediency and justice alike forbid this confirmation, since great injustice would be done to other claimants similarly situated; they are only entitled, by virtue of their preëmption, to enter one hundred and sixty acres, when it is proposed, in this case, to confirm six hundred and forty acres to the petitioner without the payment of the purchase money; and they do not feel authorized to make such a discrimination.

Mr. BADGER. The question, I presume, is on the bill?

The PRESIDENT. The question is, "Shall the bill be engrossed for a third reading?"

It was decided in the negative; so the bill was rejected.

MARGARET A. COPLEY.

The PRESIDENT. The next bill on the Calendar is one for the relief of Margaret A. Copley, of the State of Louisiana, which has also been reported on adversely by the Committee on Private Land Claims. Its object is to allow Margaret A. Copley to enter a tract of land in Louisiana, not exceeding three hundred and twenty acres, at the price of $1 25 per acre.

George W. Copley purchased at sheriff's sale a

parcel of land, situated upon Bayou Bartholomew, in the parish of Morehouse, Louisiana. He was execution plaintiff, and the execution defendant was Alexander D. Peck. In 1845 the collectors of taxes seized and levied upon the land for the taxes due for 1844, which was assessed in the name of Lambeth & Thompson, non-residents of the parish, and was described as being situated on the Bayou Bartholomew, and containing eight hundred acres; and on the 5th of May, 1845, the collectors sold one hundred acres of the tract to Peck for $7 84, being the amount of taxes and costs upon the whole of the tract for 1844, from the said collector of taxes.

The lands are situated within the De Bastrop grant, and it does not appear from whom Lambeth & Thompson held their title, nor that Peck held any title or made any claim to any other lands than the one hundred acres so purchased at tax sale. The sheriff, however, levied upon and sold the whole of the eight hundred acres as the property of Peck, who also joined in the deed of the sheriff. These lands, lying within the De Bastrop grant, were Government lands, and consequently were not liable to taxation; hence the sale of one hundred acres to Peck for taxes was of no legal effect. Yet admitting that he went into possession under color of title, the most that he could claim was the one hundred acres.

From the fact that Peck joined in the deed to the execution plaintiff, thereby representing himself as the owner of the whole tract, and still continuing in the possession thereof, it does appear as if there was some collusion and fraud between Copley and Peck. If Lambeth & Thompson are the grantees of De Bastrop, or those who derived title under him, and can bring themselves within the requirements of the act of 1851, it is evident that they would have the right to enter the lands as against all other persons whatever. The bill under consideration grants the right to Margaret A. Copley to enter the said lands at the minimum price of public lands.

The committee are of opinion that manifest injustice would be done to others in the passage of this bill. They therefore recommend that it do not pass.

The question being taken, the bill was rejected.

L. E. L. A. LAWSON.

The PRESIDENT. The next bill on the Calendar is one for the relief of L. E. L. A. Lawson, sole surviving heiress of General Eleazer W. Ripley, deceased, which has been reported on adversely by the Committee on the Judiciary.

The bill proposes to direct the Secretary of War to cause the accounts of the late General E. W. Ripley with the Government, to be audited and settled, and to cause to be paid to L. E. L. A. Lawson, his sole surviving heiress, such sum as may be found due her late father, according to the principles of equity and justice, not to exceed $14,726 12, being the balance due by the United States as found by a verdict in favor of the said Ripley at the May term, 1835, of the district court of the United States for the eastern district of Louisiana.

While General Ripley was employed in the military service as major general of the southwestern division, he had devolved upon him important duties, independent of his proper command. Among other functions, he was required to discharge the duties of quartermaster and disbursing officer of his division. After his resignation, in 1822, the Government instituted suits against him to have his accounts settled. These suits being consolidated, the General pleaded against the Government a discount. The items of the set-off thus pleaded, consisted of claims against the Government for commissions on money disbursed as quartermaster, and for other services not falling within the proper sphere of his command as major general.

The case was submitted to a jury, and, by their verdict, they found that the Government was indebted to General Ripley $3,000. A second trial was had, in which General Ripley filed a claim, as part of his discount, of $6,000, alleged to be due him as a pension from the Government. On the trial, the jury found a verdict for him of $20,000. An appeal was taken to the Supreme Court, mainly to decide the question whether the $6,000 allowed as a pension was a proper item of discount. Before the court had decided the question, Congress allowed the pension to General Ripley; and thereupon the accounts of General Ripley were ordered to be balanced and settled at the Treasury. His daughter now says that there are still $14,000 due her father's estate, and coming to her as his only heir.

In no legal point of view can the verdict be regarded as valid against the Government, so as to impose upon it an obligation to pay it as authorizing any judgment. It is admitted that no judgment can be entered upon it; and then the question occurs, can or ought it to be regarded as such evidence of a claim against the Government as to call upon it to allow it? Such a verdict is not like the decision of auditors, setting forth the grounds upon which it was founded. If so, the committee would have felt bound to review the grounds of the decision, and, in passing on them, to have allowed or disallowed them.

A majority of the committee have come to the conclusion that it would be an unsafe practice for the Government to allow claims founded on verdicts setting up discounts beyond the amount claimed by the Government. The Judiciary Committee have repeatedly refused to recognize such proceedings as sufficient evidence upon which they would allow such claims. Such verdicts may be necessary in fact, and sometimes may be dictated from considerations which should not bind the Government. Such considerations may be honorable to the feelings of the jury, in reference to the merits of parties before them, but may not always be in accordance with the sterner dictates of justice, as to the matter of litigation. At any rate, the Government has not delegated to such a tribunal the power of deciding on the appropriations of money when acting beyond the sphere of its legitimate province.

The committee have not come to a conclusion that the memorialist is entitled to nothing from the Government in right of her father's services; but they have determined that the evidence before them is not sufficient to authorize them to make a favorable report on the claim submitted. Under these views, they report that it is inexpedient to allow the memorialist's claim for $14,000.

The bill was rejected.

COLT'S PATENT.

The PRESIDENT. The next bill on the Calendar is one "authorizing the Commissioner of Patents to grant an extension of his patent to Samuel Colt, a citizen of the United States, for an improvement in fire-arms."

Mr. STUART. I reported this bill from the Committee on Patents, but I suppose it is of no use to seek to pass it through Congress at this session; and yet I think the bill is one that has great merit in it. I wish nothing done which shall prejudice it, and I move, therefore, to postpone its further consideration until Friday next.

The motion was agreed to.

EDISTO ISLAND VOLUNTEERS.

Mr. JONES, of Tennessee. I ask the Senate now, by unanimous consent, to take up a bill which I reported from the Committee on Military Affairs, "for the relief of Whitemarsh B. Seabrook, Joseph Whaley, and others, officers and members of the Edisto Island Company of the State of South Carolina." When I make a statement of the case, I am sure no Senator will object to the consideration of the bill. In the first place it is a claim from some citizens of South Carolina, and I believe it is the first claim I have ever seen presented by citizens of South Carolina since I have been a member of this Senate. It is entitled, I think, to some consideration on that ground. In addition, one of the Senators from South Carolina is somewhat indisposed, and I hope the Senate, as a matter of courtesy to him, will allow me to call up the bill, and have it acted on now. It is to pay for the services of a company of volunteers in the war of 1812 who never received a cent.

Mr. SEWARD. I should be very glad to accede to the request, but I have been waiting all the morning for the purpose of calling up a bill for the relief of a widow.

Mr. JONES, of Tennessee. This is a harder case than that, for it embraces nine or ten widows. I will agree to take up the Senator's bill after this shall be disposed of.

Mr. SEWARD. Very well, I will not object.

There being no objection, the bill was read a second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of War to audit and settle, upon terms of equity and justice, the claims of Whitemarsh B. Seabrook, Joseph Whaley, and others, officers and members of the Edisto Island Company, of the State of South Carolina, for compensation for their military services in the war of 1812, and for reimbursement for money expended by them during that war in erecting two fortifications at Edisto inlet, in that State; but the claim for military services is not to exceed the sum of $54,050, and that for reimbursement is not to exceed the sum of $47,368 01.

Mr. CLAY. I should like to hear the report of the committee in this case.

Mr. JONES, of Tennessee. If the Senator will withdraw the call for the report, I will state, in a few words, the facts of the case. In the war of 1812 this company was organized, and it was mustered into the service of the United States on the 12th of July, 1812. It served during the whole war, and rendered very efficient service, being in two or three engagements with the enemy, and capturing two or three of their little vessels. The company was composed of men of comfortable means, to say the least, if not those in independent circumstances; they, therefore, made no claim whatever upon the Government. The papers show that they never received a cent for their services. They were under the orders of the Government, and fought during the whole war; but, being in independent circumstances, they made no demand for compensation. Since that time, changes have come over them. Some of them have become poor, and the representatives of others are dependent on themselves for support, and they come in now and ask the Government to settle their account, and pay them for their services. The records in the Department show that they were regularly mustered into service and served during the whole war, but never received a cent of pay.

Mr. CLAY. There is one feature in this bill which strikes me as original and unprecedented, and that is the provision to pay these officers for building a fort. If they have not been paid for their services during the war, I say pay them by all means—pay them liberally; but it seems to me, that no such proposition has ever been heard of before, as that of swelling their compensation, by paying them for building a fort. I have always thought that to build forts was part of the duty of an officer, and I have yet to learn that he is entitled to extra compensation for this discharge of duty, which is as much incumbent on him as is the duty of leading his men into battle.

Mr. JONES, of Tennessee. I can satisfy my friend from Alabama on that point, as I have looked into this question very fully. This company was organized when the enemy were approaching the harbor of Charleston, and the commanding officer, Colonel Bloodgood, issued his order to the captain of this company to proceed at once to the erection of a fort. The men did so, and the only claim they make is for their actual expenditures in erecting that fort, and the materials which they furnished and had to procure. Every one familiar with that part of the country, knows that there was no timber on the land which they could use, and they had to procure it elsewhere. A voucher for every single item in each account is to be presented to the Department before one dollar will be paid. The object is to reimburse the actual expenses in erecting the fort under the orders of the commander of that division.

Mr. BADGER. Not to pay them for their time?

Mr. JONES, of Tennessee. No; they charge nothing for the time. They were in actual service during the whole war. This is to pay the actual expense under which they were in erecting the fort. There are twenty similar cases which have heretofore been allowed. They ask for the cost of the material, and the means of getting it there, and putting it up.

Mr. BUTLER. I, perhaps, ought to say a word or two in relation to this case. I know pretty nearly all the gentlemen living on Edisto Island. It is an island known as the Long Staple Island—more remarkable for that than any other thing. It is inhabited by gentlemen of fortune, and, at that time, gentlemen distinguished for their public spirit,

refusing to apply either to the State treasury, or the Federal Treasury for pay. It was rather a matter of pride with them. They come now, however, as a matter of justice, like others who have received pay on the same ground. My father was commanding general at the time, and perhaps I might speak a little more definitely on the point, if I were to refer to his order-books. I know they received orders from him, for I have seen them in his order-books.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

W. IRVING.

Mr. SEWARD. I ask the Senate now to take up House bill for the relief of W. Irving.

Mr. BADGER. Does not that require unanimous consent?

The PRESIDENT. Yes, sir; it requires unanimous consent to take up the bill out of its order.

Mr. BADGER. Then I object. I have no objection to the Senator's particular bill, but if that is taken up, we shall have no end to these appeals to our courtesy, and I wish to get on with the regular order of business.

OVERTON LOVE AND JOHN GUEST.

The next bill on the Calendar was one reported by the Committee on Indian Affairs; for the relief of Overton Love and John Guest, of the Chickasaw nation; which was considered as in Committee of the Whole.

It proposes to pay $2,400 to Love, and $1,300 to Guest, or to his legal representatives, the value respectively of certain slaves, their property, forcibly seized and carried away from within the Chickasaw country by certain white persons from the State of Texas.

Mr. SUMNER. Let the report be read.

The Secretary accordingly read the report, from which it appears that some time in the month of December, 1847, or January, 1848, a band of nine or ten armed men from Texas, crossed Red river and forcibly took from the premises of Love four of his slaves, named Patrick, Malinda, Lucinda, and Susan, the right to which he acquired from a devise of Nancy Guest to his wife. At the same time and place they also seized and abducted their slaves named Harriet, and her infant, and a boy named Andy, the property, under the same will, of John Guest, a minor and brother of Mrs. Love. The value of the slaves, according to the lowest rate established by depositions before Indian agent Smith, was for those of Love, $2,400, and for those of Guest, $1,300. These slaves were the property of Chickasaw Indians, and were taken from their possession in the Chickasaw district of the Choctaw nation. The facts were duly communicated to the Commissioner of Indian Affairs, and the case was referred to the Solicitor of the Treasury, who instructed the district attorney of Texas to institute civil proceedings in the district court of the United States for that State, against the offenders. A report from the district attorney, after great delay, disclosed the fact that the defendants were all irresponsible, and either dead or fled to California or Mexico, and beyond the reach of process. The suit was, therefore, abandoned. The slaves were removed to parts unknown, and have never been recovered. The owners have not only not resorted to any violence or retaliation, but have patiently awaited the result of tedious and ineffectual legal proceedings for redress. They now ask that the United States pay the value of the property, as prescribed in the sixteenth section of the intercourse law of 1834.

It is said that the property was taken under some pretext of a claim—a pretext which is scarcely plausible, even when the character of the offenders, and their final concealment of the property and of themselves is considered. Such a claim, if honestly entertained, could not otherwise palliate the act, than to reduce the guilt of the parties from a larceny or robbery to a trespass. The property had been in the peaceable possession of the claimants and of the testator who bequeathed it to them; and the seizure of it by strong hand, without legal process, and within the territories of a nation with whom the United States were, and ever have been at peace, was, to say the least, an offense or misdemeanor, and, therefore, within a class of cases for which that act provides. The other conditions of the act have been fulfilled, and their right to the payment is now clear and absolute. They have not sought revenge or private satisfaction, and the offenders cannot be apprehended and brought to trial.

Mr. CHASE. This case involves some very grave considerations, and I hope it will be postponed.

Mr. BADGER. Indicate them.

Mr. CHASE. One is, whether this case comes within the provision of the intercourse law; and the other is in regard to the propriety of the Government of the United States paying for property in human beings.

Mr. BADGER. I hope it will not be postponed.

Mr. CHASE. I move that the further consideration of the bill be postponed until Friday next.

Mr. SEBASTIAN. This bill was reported by myself from the Committee on Indian Affairs, and I believe that the Senator from Ohio has once or twice before objected to its consideration.

Mr. CHASE. Never before.

Mr. SEBASTIAN. I understood the Senator to object to it on last Friday.

Mr. CHASE. That was when a single objection would throw it over. I then objected to it, because it would give rise to debate.

Mr. SEBASTIAN. There is no novel question in this bill, and I hope it will not be postponed.

Mr. CHASE. I ask for the yeas and nays on the motion to postpone.

The yeas and nays were ordered.

Mr. CHASE. Before the vote is taken on the motion to postpone, I wish simply to say that my attention has not been particularly directed to this case. I was not aware that it was coming up. It is quite true that, on the last private bill day, understanding from a Senator near me that it would give rise to debate, I objected to its consideration at that time; but I was not then aware of the precise character of the bill; nor am I certain that I fully comprehend it now. I desire time to consider it; I wish to look into the report and bill more carefully than is possible at this moment. I hope, therefore, the bill will be postponed.

Mr. BADGER. I will ask the Senator from Ohio whether he has any doubt at all about his final course on the bill? Because, if he has not, it is useless to postpone it.

Mr. CHASE. I do not know but that it is predetermined here that every bill which provides for payment for slaves, no matter what may be the merits of the particular case, shall be passed through the Senate.

Mr. BADGER. That was not my question. I asked the Senator from Ohio whether he had any reason to suppose that, after any examination, he could vote for the bill; whether he had not made up his mind, at all hazards, to vote against it?

Mr. CHASE. All that I have to say in answer to that question is that if, upon examination, I shall be satisfied that it violates no constitutional principle, and provides only for paying a just claim, I shall vote for it.

Mr. BADGER. Has the Senator not made up his mind that it is not constitutional?

Mr. CLAY. I wish to ask the Senator from Ohio if he doubts whether this case is within the Indian intercourse act of 1834?

Mr. CHASE. I certainly do.

Mr. CLAY. Well, Mr. President, I can see no question whatever as to its being within the intercourse act. It seems to me to come not only within the spirit but within the letter of that act. But the question which the Senator from Ohio has raised is as to the right of property in human beings. I would, under ordinary circumstances, extend this courtesy to the Senator. For him, personally, I have really sincere respect; but for his fanaticism I confess I have none. As I know that we differ "widely as the polls asunder" on that subject, and as that is the only point on which we can differ in respect to this question, I must be guilty of apparent discourtesy in voting against the proposition to postpone.

Mr. CHASE. I am very sorry that the Senator from Alabama, for whom I cherish all the respect which he expresses for me—respect entirely unfeigned and sincere—happens to have so fixed an opinion that this case is within the principle of the Indian intercourse law, that he feels himself bound to insist that the bill must be acted on at the moment, without allowing to me that time for examination which the courtesy of the Senate ordinarily secures to any Senator who desires it.

My honorable friend—if he will permit me so to call him—excepts from his general expression of respect for me what he is pleased to call my fanaticism. I might except his fanaticism on the other side, from my expression of respect for him. But, sir, I do not think that our respective opinions on a certain great question ought to be drawn into debate here in this form. I hold certain constitutional views of the subject of slavery, a matter of grave moment, vastly important to the people of this country. Those constitutional views of mine are not peculiar to myself. They are shared by thousands and hundreds of thousands of people in the free States. They are not decaying or dying out. They spread and grow stronger day by day. I hope to live—and if my life shall be protracted to the ordinary limits of human existence, I believe I shall live—to see them sanctioned by the highest courts and recognized in the legislation and administration of the country.

So much, sir, for my fanaticism. All I now desire is, that this bill may be postponed until Friday next. I do not know that I shall then have a single word to say in debate upon it. My impression is that I shall have nothing to say, but I ask for the postponement for the reasons which I have stated.

Mr. BADGER. I desire to say, sir, in explanation of the inquiry which I put, that the honorable Senator from Ohio has just stated precisely what I supposed. He proposes to postpone this bill, not that he wants to look into it with a view of relieving any doubts on his mind whether he ought to vote for it or not; and that is the very purpose for which I put the inquiry. He says this is a bill to pay persons who claim property in human beings, and upon that subject he has certain constitutional opinions shared by himself and by thousands of others, as he says, the number and the strength of the opinion increasing day by day. Then, if we postpone it to next Friday, the honorable Senator will observe, his convictions against the bill will only be increased, and as his vote "no" will be just the same now as a week hence, why postpone the bill? He has no doubts to solve; his mind is made up.

Mr. CHASE. I am in hopes that I shall be able to satisfy my friend from North Carolina by next Friday.

Mr. WELLER. I do not think it probable.

Mr. CHASE. It may be improbable, but it is not impossible that I shall satisfy him by next Friday, that he ought not to vote for the bill.

Mr. BADGER. I am decidedly of opinion that the Senator cannot convince me of that, for if any man steals my negroes, I think I ought to be paid for them.

Mr. MALLORY. I desire to avoid the denial of a request so reasonably made, which we are in the habit of granting daily; but I have not heard from the Senator from Ohio a reason satisfactory to govern me in voting for this postponement. I wish, therefore, to ask him simply, whether, if this question be narrowed down to the recognition of human beings as property, and the liability to pay for slaves as a consequence, he will vote for the bill so recognizing them. If the delay is asked for simply to ascertain that fact, as the honorable Senator from North Carolina says, I see no reason for delay, though I feel disinclined to vote against a request of this character.

Mr. SEWARD. I shall vote with the honorable Senator from Ohio to postpone this question until next Friday, and I do so simply upon the ground that I understand from him that he desires to examine the subject, in order to be heard upon it—whether to satisfy himself or convince others is immaterial to me. It is a courtesy every day and every hour asked, and every day and every hour granted. At the same time, I do not support the motion with any reference to any opinion of my own on the bill. I am prepared to vote on it now, just as I shall be prepared to vote then, but I am in favor of the postponement, because I think it is a courtesy due to the Senator from Ohio, and the question is one of sufficient magnitude to authorize him in asking it.

Mr. DAWSON. In regard to the point of courtesy, let me say, that we have now reached a period of the session when the postponement of the bill until next Friday will destroy all probability of its passage. Senatorial courtesy is not intended for the purpose of placing in the hands of

a single Senator a control on the action of the body, by a request to postpone a measure, in order that he may be heard, or in order that he may investigate it. We are now winding up the present session. Under any other circumstances I would cheerfully grant the time; but I consider it now as in the light of nothing but a defeat of the bill. It is but one mode of reaching the result which the Senator desires—the defeat of the bill; and I shall, therefore, vote against the postponement, but I beg him to understand, that I do so not from any want of courtesy at all.

Mr. ADAMS. I discover, by examination, that this bill was reported from the Committee on Indian Affairs on the 30th day of May, at the last session. Without intending any disrespect for the Senator from Ohio, or any other gentleman, I must say that when Senators have had that length of time to investigate a question in which they feel an interest, and have not done it, it is no disrespect, in my opinion, to vote against postponing the measure, if my mind is made up. If the Senator could not make up his mind, could not be prepared, from the 30th day of May last year, to the present time to vote on the bill, giving him a week now could hardly be considered a courtesy.

Mr. BAYARD. Mr. President, there is no Senator on this floor to whom, on a mere question of courtesy, I would sooner yield than to the honorable Senator from Ohio. His own course to every Senator would certainly always demand that at my hands.

Mr. BADGER. That is true.

Mr. BAYARD. But, sir, there are questions of a much higher character than those of courtesy, to which courtesy must necessarily give way. I apprehend that if this bill contained a provision to pay for any other property than slaves, there would have been no objection to its passage. I draw that conclusion from the general remarks of the honorable Senator from Ohio. His object, therefore, if we are to have a discussion on the bill on next Friday, is to bring up a debate involving the question of slavery and the obligations of the Constitution in relation to it. I do not mean, under any circumstances, unless they are inevitable, ever to agree, by my vote, on courtesy or any other ground, to sanction such an agitation in the Senate of the United States, while I am a member of the body; because I think such agitations tend to the destruction of the Union, and, if not prevented, will ultimately end in the destruction of the Union. Sir, I regret to say that if the honorable Senator from Ohio be right in his supposition that, at a future day, the opinions which he entertains in reference to the constitutional questions connected with the institution of slavery shall be recognized by the courts of the United States, or in the legislation of this country, they will be recognized as existing over a broken Union and a dissevered people.

Mr. CHASE. Mr. President, I feel very much indebted to the Senator from Delaware for the kind terms in which he has expressed himself in regard to me. I must further ask the indulgence of the Senate while I respond frankly to the question of the Senator from Florida, which was put in a manner that certainly demands a courteous and prompt answer from me. As at present advised, I could vote for no bill which treated persons—human beings—as property, within the meaning of the Indian intercourse law. I state that distinctly and explicitly. But I say, also, that this bill presents another and distinct question. It is this: Can those Senators even, who regard slaves as property within the meaning of the Constitution and the Indian intercourse law, vote for this bill as a measure falling within the principle and provisions of that law? I have had occasion, heretofore, to discuss questions of this nature somewhat at large, upon a proposition to indemnify certain citizens of Alabama for Indian depredations in Alabama. I doubt whether, even if slaves ought to be paid for at all, this bill could be vindicated upon the principles which govern our intercourse with the Indian tribes. Certainly I think there would be no such urgency for its immediate consideration if there were no slaves to be paid for. I must say frankly that I think there is an undue disposition here, whenever a bill comes up recognizing property in men, or giving, in any way, a benefit to the holder of slaves as such, to push it through without consideration and without debate.

The Senator from Mississippi says that this bill has been reported for a long time, and that the report has been lying upon the table. That is true; but then every body knows that we have just as much as we can do, to attend to the current duties of the Senate; that such is the irregular mode of transacting business, that no one can be certain what will come up from day to day, and that it is not usual for Senators, not members of the committees which report them, to look into these private bills until they actually come up for consideration. We, then, very often content ourselves with the reading of the report, or with the statement of a Senator. If that statement, or that report be unsatisfactory, and any Senator desires further time to consider, it is usually accorded.

Mr. BADGER. Will the honorable Senator allow me to ask him whether he did not object to this bill on this day last week?

Mr. CHASE. I did.

Mr. BADGER. And has not looked into it since?

Mr. CHASE. True. Now, sir, I am content that the Senate shall dispose of this matter as they see fit. I shall record my vote against the bill, if the question be taken now. I should prefer very much to have it postponed. If the Senate do not choose to postpone it, of course, I shall submit, as I always do, to their decision. Before I conclude, I must be permitted to say, that I have no such gloomy apprehensions as those which have been expressed by the Senator from Delaware. I do not believe that when the opinions which I cherish shall prevail in the legislation of the country, and shall be recognized by the judicial tribunals of the country, those mournful effects will follow which he so despondingly anticipates. The Constitution and the Union have survived much misinterpretation and perversion. Both will still survive when the former shall be interpreted in the sense of its framers and in the spirit of liberty, and the latter shall be made efficient to secure the great ends of its establishment, freedom, justice, and happiness for all.

The question being taken by yeas and nays, on the motion to postpone, resulted—yeas 13, nays 27; as follows:

YEAS—Messrs. Brainerd, Chase, Cooper, Fessenden, Foot, Gillette, Hamlin, Seward, Stuart, Sumner, Wade, Walker, and Wilson—13.

NAYS—Messrs. Adams, Badger, Bayard, Bell, Bright, Brodhead, Brown, Clay, Dawson, Dodge of Iowa, Evans, Fitzpatrick, Geyer, Hunter, Jones of Iowa, Jones of Tennessee, Mallory, Mason, Morton, Pearce, Pratt, Sebastian, Thompson of Kentucky, Thomson of New Jersey, Toucey, Weller, and Wells—27.

So the motion was not agreed to.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and read the third time; and the question was stated to be, "Shall the bill pass?"

Mr. CHASE. On that question I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 31, nays 10; as follows:

YEAS—Messrs. Adams, Badger, Bayard, Bell, Bright, Brodhead, Brown, Clay, Cooper, Dawson, Dodge of Iowa, Douglas, Evans, Fitzpatrick, Geyer, Hunter, Jones of Iowa, Jones of Tennessee, Mallory, Mason, Morton, Pearce, Pratt, Sebastian, Slidell, Stuart, Thompson of Kentucky, Thomson of New Jersey, Toucey, Weller, and Wells—31.

NAYS—Messrs. Brainerd, Chase, Fessenden, Foot, Gillette, Hamlin, Seward, Sumner, Wade, and Wilson—10.

So the bill was passed.

CHARLES STEARNS.

Mr. TOUCEY. I now move to take up the bill for the relief of Charles Stearns. The objection to it is withdrawn.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which designs to appropriate $5,000 to indemnify Charles Stearns for losses sustained and expenses incurred in defending his title to certain lands claimed by the United States; and also in defending two criminal prosecutions brought against him by direction of the Secretary of War.

Stearns was, for a number of years, the owner, in fee simple, of a tract of land in Springfield, Massachusetts, bounded eastwardly by lands owned by the United States, and used for the purpose of a national armory. The boundary line was acquiesced in from the founding of the armory, in or about the year 1801, and no doubt or question was ever suggested on the subject until 1845, when the United States authorities of the armory, without any just ground, saw fit to question it. As early as the year 1827 the memorialist joined with a number of other proprietors, who also owned land adjoining his, in opening a street or public highway on the westerly border of the lands of the United States, which was called Prospect street. This arrangement was made with the knowledge and approbation of the then superintendent of the armory, and in concert with him. This street has ever since remained an open and undisturbed public highway until the year 1845, and has afforded very great accommodation to the adjoining proprietors as a means of access to their respective lots and to the public, and especially to those connected with the armory. From time to time he sold portions of land, and bounded his grantees by Prospect street; and that street not having been laid out and dedicated by public authority, but the fee-simple remaining in the memorialist and the other proprietors of the land over which it passed, he was legally bound, by the terms of his deed to his grantees, to keep open this street, as the only means of access to the lots purchased by them. A portion of the ground was sold, in 1843, to Timothy Hays, for the purpose of erecting a church, with a boundary on Prospect street, which furnished the only access to it. In the summer of 1845, after the erection of the church had commenced, the authorities of the armory, without notice to him or his vendees, caused the whole of the street in front of the lot, except a space of about nine feet wide, to be closed by a fence, and also erected a shed, and placed other obstructions upon it; thus not only committing a trespass upon the land of the memorialist, but also cutting off all access whatever to the lot of the vendees by the obstruction of this part of this public street. Having been called on by his vendees to protect their rights under his deed, which was conveyed to them by a boundary line on Prospect street, and for protection against a trespass committed by one of the officers of the Government in the military department, he called upon the Secretary of War, who was then in Springfield, and notified him fully of the injury, and asked the exercise of his official authority for the purpose of removing the obstructions, and repairing the wrong. From some cause the Secretary left Springfield without affording any relief whatever. Under these trying circumstances, being pressed by his vendees, he proceeded, on the 19th day of June, 1845, with workmen in his employ, in a peaceable manner, to remove the obstructions thus unlawfully erected, and to place the materials on or near the line between him and the United States. This act was erroneously represented to the Secretary of War as "riotous" and a "high-handed trespass" upon the lands of the United States. In consequence of this the Secretary of War directed the United States district attorney to prosecute the memorialist; and he and his men were hurried off to Boston, where two bills of indictment were found against them; one for riot, and one for malicious trespass upon the lands of the United States. The result was a verdict of acquittal, and a unanimous certificate of the jury that there was no foundation for the prosecution. The indictment, after much trouble and expense, was finally dismissed by the attorney for the United States. The men being generally poor, and acting under the direction of the memorialist, he felt bound to pay all the expenses incurred by them, which he did.

For the purpose of bringing his case fully within the rule, and placing his title beyond all question, he caused a suit to be brought against the superintendent of the armory, in his private capacity, for trespass. The court of common pleas decided that the title to the land was in him. The supreme court of Massachusetts subsequently affirmed this decision. After the decision, the Government of the United States purchased the property of the memorialist, thereby recognizing his title to it.

Mr. TOUCEY. I now move the amendment which I before stated, to reduce the amount from $5,000 to $2,500.

The amendment was agreed to; the bill was reported to the Senate as amended, and the amendment concurred in. The bill was then ordered to be engrossed for a third reading, was read the third time, and passed.

SURVEYOR GENERAL FOR UTAH.

Mr. DODGE, of Iowa. I ask the unanimous consent of the Senate to allow me to report, from the Committee on Public Lands, a bill to establish the office of surveyor general of Utah, and to grant land for school and university purposes.

Mr. COOPER. I object to it now. I ask that the next bill on the Calendar, which is one for the relief of the legal representatives of James Bell, may be considered.

Mr. STUART. As objection is made, I move that the Senate adjourn.

Mr. WALKER. I call for the yeas and nays on that motion.

Mr. DODGE, of Iowa. My friend from Pennsylvania has withdrawn his objection to this bill, and I am sure that when the bill is read, there is not a Senator present who will object to it.

The PRESIDENT. The Senator from Michigan has moved an adjournment.

Mr. STUART. I withdraw that motion if permission is given to report the bill which the Senator from Iowa desires to report. It is one of the first importance.

The PRESIDENT. The question is on granting the Senator from Iowa leave to report the bill. It requires unanimous consent.

Mr. DODGE, of Iowa—there being no objection—reported back, without amendment, House bill to establish the office of surveyor general in Utah, and to grant land for school and university purposes.

Mr. BADGER. Is it intended to pass the bill now?

Mr. DODGE, of Iowa. I ask unanimous consent to consider the bill now. It is a very short one. My time here, like that of my friend from North Carolina, is exceedingly limited, and I know that he is the last man in this body to object to any reasonable proposition.

Mr. BADGER. I am not going to object, but I wish to suggest to the Senator from Iowa, as this is a bill for the benefit of Utah, that it is of very great importance that the question proposed here at the last session by the late Senator from Connecticut, (Mr. Smith,) as to the *modus operandi* of polygamy in Utah, should be answered. [Laughter.] Is it right to pass this bill before that question is answered? [Laughter.]

Mr. DODGE, of Iowa. This bill has no sort of connection with that interesting question, I assure the Senator.

By this bill the President, by and with the advice and consent of the Senate, will be authorized to appoint a surveyor general for Utah, at an annual salary of $3,000, and whose power, authority, and duties, are to be the same as those provided by law for the surveyor general of Oregon, prior to the act of July 17, 1854.

When the lands in Utah Territory shall be surveyed under the direction of the Government of the United States, preparatory to bringing them into market, sections numbered sixteen and thirty-six in each township are to be reserved for the purpose of being applied to schools in the Territory, and in the States and Territories hereafter to be created out of it. Two townships are also to be reserved for the establishment of a university.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. WELLER. I move that the Senate adjourn.

Mr. WALKER called for the yeas and nays; but they were not ordered.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 16, 1855.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

ADDITIONAL UNITED STATES COURTS.

Mr. BENTON. I ask the unanimous consent of the House to allow me to submit a motion to take up and dispose of a bill which has been received from the Senate. It is a bill merely altering the time of holding the United States courts in the district of Missouri and Ohio. I want to have it taken up and passed; I am sure there can be no objection to it.

There being no objection, Senate bill (No. 286) to provide for holding an additional term of the circuit court of the United States for the district of Missouri, and for holding special terms for the district and circuit courts of the United States for the northern district of Ohio, was taken from the Speaker's table, and read a first and second time by its title.

Mr. HAVEN. That is a Senate bill, sir, I believe.

The SPEAKER. It is.

Mr. HAVEN. It has reference, I believe—for I listened as accurately as I could to its reading—simply to holding additional terms of United States courts in Ohio and Missouri. It seems to me to be right, and I call for the previous question on the passage of the bill.

The previous question was seconded, and the main question was ordered to be put; and, under the operation of the previous question, the bill was read a third time, and passed.

Mr. EDGERTON. I call for the regular order of business.

BOARD OF CLAIMS.

Mr. LILLY. I rise to what I consider to be a question of privilege. The day before yesterday the gentleman from Pennsylvania [Mr. JONES] asked the unanimous consent of the House to have the bill for establishing a board of claims made the special order for to-morrow. I am reported in the Globe as having objected thereto. That is not the case. My colleague [Mr. SKELTON] made the objection. I, being in favor of the bill, wish to be placed right on the record. If the Journal makes me objecting in the same way I desire to be corrected on it. If not, I desire to be corrected in the Globe.

The SPEAKER. The Journal contains no such declaration.

Mr. JONES, of Pennsylvania. As opportune, I hope, to the removal of this objection, I now ask the unanimous consent of the House to allow me to report that bill—the board of claims bill.

Mr. EDGERTON. I call for the regular order of business.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled the following bills; which thereupon received the signature of the Speaker:

A bill to regulate the salaries of the district judges of the United States;

A bill making an appropriation for a territorial road in the Territory of Nebraska;

A bill for the relief of William Hagerty;

A bill making an appropriation for completing the public buildings of Oregon Territory and Minnesota;

A bill for the construction of a military road in Oregon Territory;

A bill to provide for the accommodation of the courts of the United States for the district of Maryland, and for a post office at Baltimore city, Maryland;

A bill making appropriations for improving certain military roads in the Territory of Minnesota;

Joint resolution explanatory of the act giving compensation to Judges Woodbury and Chipman; and

A bill for the relief of Medford Caffey, of the State of Tennessee.

MAIL STEAMER BILL.

Mr. HAVEN. Is it in order now to move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. There is a resolution pending to close debate on the mail steamer bill.

Mr. HAVEN. And is that resolution the first business in order?

The SPEAKER. That is the first business in order.

Mr. HAVEN. If that be so, I move to amend that resolution by inserting "half an hour," instead of "two hours."

Mr. JONES, of Pennsylvania. Have I not the floor, Mr. Speaker?

The SPEAKER. No, sir. Your proposition was objected to, and the regular order of business demanded.

Mr. HAVEN. I desire to make one inquiry of the Chair before my motion be put. This mail steamer bill was reported by the chairman of the Committee of Ways and Means of this House. If he was in his place in the House now—from which he is detained through indisposition—he would have an opportunity of occupying an hour in reply after the close of general debate. I understand that it is his desire that a member of the committee—Mr. BRECKINRIDGE—should occupy his place in that respect. Can that be done regularly and in order?

The SPEAKER. It cannot be done regularly and in order. It can only be done by the unanimous consent of the House.

Mr. WHEELER. I object.

Mr. BRECKINRIDGE. Mr. Speaker, this bill, was brought up very unexpectedly to us all yesterday. It was in charge of the chairman of the Committee of Ways and Means. He is too unwell at present to attend to it, and has intrusted it to me. I had no desire to participate in the general debate; but I desire in his [Mr. HOUSTON's] place to occupy a short time after debate closes in making some observations on the bill.

The SPEAKER. By unanimous consent the gentleman can do so.

Mr. SOLLERS. I object to any such arrangement.

Mr. HAVEN. I move to amend the resolution of the gentleman from New York, [Mr. CUTTING,] by inserting "one hour" instead of "two hours," and I call for the previous question on the resolution.

Mr. ORR, (to Mr. HAVEN.) Oh, leave it "two hours."

Mr. HAVEN. Perhaps one hour and a half would be better.

Mr. BRECKINRIDGE. I have some papers from the Department which I wish to have an opportunity of referring to.

Mr. HAVEN. It is my own judgment that the debate should close in an hour. The House can vote it down if it do not approve of it. I therefore move to amend the resolution by striking out the words "two hours," and inserting in lieu thereof the words "one hour." I do this to test the question, and shall be satisfied let it come out as it may. I call for the previous question.

Mr. EDGERTON. I rise to a privileged question. This, I believe, is private bill day, Mr. Speaker.

The SPEAKER. This is private bill day. The Chair, however, would state to the gentleman from Ohio, that, in the opinion of the Chair, the regular order of business is first the disposition of this resolution, then to proceed to the disposition of the business on the Speaker's table.

Mr. EDGERTON. This resolution is one to close debate on the mail steamer bill. I ask if it is not in order to move to go into a Committee of the Whole House on the Private Calendar, and if such motion would not take precedence of this resolution?

The SPEAKER. The Chair thinks not. The disposition of the resolution to close debate is first in order.

The previous question was seconded, and the main question ordered to be put.

Mr. TWEED demanded the yeas and nays on the adoption of the resolution.

Mr. BRECKINRIDGE. I wish to inquire of the Chair whether there is not a resolution pending before the House to close the debate upon the bill now under consideration in the Committee of the Whole in two hours.

The SPEAKER. The original resolution fixes the time for closing the debate in two hours, and the gentleman from New York [Mr. HAVEN] proposes to amend by making the time one hour.

Mr. BRECKINRIDGE. I hope the House will vote down the amendment.

Mr. TWEED. I call for the yeas and nays. I want discussion upon this question.

The yeas and nays were not ordered.

The question was then taken on the amendment of Mr. HAVEN; and, upon a division, there were—ayes 66, noes 58.

Mr. HENDRICKS demanded tellers; which were ordered; and Messrs. JONES, of Louisiana, and SAPP were appointed.

The question was taken; and the tellers reported—ayes 73, noes 60.

So the amendment was agreed to.

Mr. ORR. I move to reconsider the vote by which the amendment was agreed to, and upon that motion I call for the yeas and nays.

Mr. WENTWORTH, of Massachusetts. I move to lay the motion to reconsider upon the table.

Mr. LETCHER. And upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. CLINGMAN. I rise to a question of order; whether, in a decision made by tellers, a gentleman voting with the minority, can move to reconsider a vote taken in that way? I believe my friend from South Carolina [Mr. ORR] voted with the minority.

Mr. JONES, of Tennessee. I submit this question to the Chair: The House has ordered the main question, that is, upon the adoption of the resolution, and the amendment was not the main question. The motion to reconsider the vote by which the amendment was adopted is not, therefore, in order.

The SPEAKER. The Chair overrules the question of order, and decides that the motion to reconsider the vote by which the amendment was adopted is in order. Such has been the practice of the House every week, nay, almost every day, since the occupant of the chair has had a seat in this body, and the Chair is not disposed to change the practice.

Mr. JONES, of Tennessee. Was not the vote on the adoption of the amendment taken by tellers, and did not the gentleman who made the motion to reconsider vote in the minority?

The SPEAKER. There is no record of that being the case?

Mr. JONES. But there was a report by the tellers, and if he voted any way, he certainly voted in the negative.

The SPEAKER. Does the gentleman from Tennessee disagree with the Chair that such has been the practice of this body since he has been a member of it? Will the gentleman point to a single instance to the contrary?

Mr. JONES. I cannot now refer to a case.

The SPEAKER. Does the gentleman think there is one?

Mr. JONES. I think there has been.

The SPEAKER. The Chair thinks there has been no such instance within his recollection. If there had been a recorded vote the point would have been good; but in no other case does the question arise as to whether the individual who moves to reconsider voted in the majority or not. The motion has been made to reconsider the vote by which the amendment was adopted, and also a motion to lay the motion to reconsider upon the table. The yeas and nays have been ordered upon the latter motion, and the Clerk will call the roll.

The question was then taken; and resulted—yeas 107, nays 55; as follows:

YEAS—Messrs. Willis Allen, Appleton, Banks, Belcher, Bennett, Benson, Bristow, Bugg, Campbell, Carpenter, Chamberlain, Chandler, Chase, Clark, Clingman, Cobb, Cook, Corwin, Crocker, Cullom, Cutting, John G. Davis, Thomas Davis, Dawson, Dickinson, Dunbar, Eastman, Edgerton, Edmands, Thomas D. Eliot, Etheridge, Farley, Faulkner, Fenton, Flagler, Florence, Giddings, Goodwin, Green, Grey, Grow, Aaron Harlan, Andrew J. Harlan, Hastings, Haven, Henn, Heister, Hill, Howe, Hughes, Hunt, Daniel T. Jones, George W. Jones, J. Glancy Jones, Knox, Kurtz, Lane, Lyon, Macdonald, Matteson, Maurice, Mayall, Meacham, Millson, Morgan, Morrison, Norton, Olds, Andrew Oliver, Mordecai Oliver, Peck, Peckham, Pennington, Pringle, Puryear, David Ritchie, Thomas Ritchey, Rogers, Rowe, Russell, Sabin, Sage, Sapp, Shannon, Shower, Simmons, Samuel A. Smith, William R. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, John L. Taylor, Teller, Thurston, Trout, Upham, Wade, Walbridge, Walley, Warren, Elihu B. Washburne, Wells, John Wentworth, Tappan Wentworth, and Wheeler—107.

NAYS—Messrs. Barry, Benton, Breckinridge, Bridges, Brooks, Caskie, Chrisman, Cox, Craige, Dowdell, Eddy, Edmundson, Ellison, English, Fuller, Goode, Greenwood, Hamilton, Hendricks, Hibbard, Johnson, Roland Jones, Kittridge, Lamb, Latham, Letcher, Lewis, Lilly, Lindsley, McNair, McQueen, Middleswarth, Smith Miller, Murray, Nichols, Noble, Orr, Packer, Parker, Phelps, Phillips, Powell, Preston, Ready, Robbins, Ruffin, Seymour, Shaw, Skelton, George W. Smyth, Stratton, Straub, Andrew Stuart, John J. Taylor, Tracy, Vansant, Yates, and Zollicoffer—55.

So the motion to reconsider was laid upon the table.

The question then recurring upon the resolution as amended, the question was taken; and the resolution adopted.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by the hands of ASBURY DICKINS, Esq., their Secretary, informing the House that they had passed Senate bill No. 513, being an act to fix the salaries of the Justices of the Supreme Court of the United States, in which they asked the concurrence of the House.

INDIAN APPROPRIATION BILL.

Mr. JONES, of Tennessee. The Indian appropriation bill has been returned to us from the Senate with a great number of amendments adopted by that body. I move, if there is no objection, that it be taken from the Speaker's table and referred to the Committee of Ways and Means.

The motion was agreed to; and the bill was accordingly referred.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, here reported as correctly enrolled a bill and joint resolution of the House of the following titles; which thereupon received the signature of the Speaker:

An act for the erection of military posts on or near the Pembina river, in the Territory of Minnesota, and for other purposes.

Joint resolution explanatory of the act giving compensation to Judges Woodbridge and Chipman.

COMMITTEE OF THE WHOLE.

Mr. HAVEN. I now move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. EDGERTON. I move that the House resolve itself into a Committee of the Whole on the Private Calendar.

I will state, however, to the gentleman from New York, that if he will permit the standing committees to be called for the purpose of reporting private bills this morning, I will withdraw the motion to go into a Committee of the Whole House on the Private Calendar.

Mr. HAVEN. I desire to say to the gentleman from Ohio that I have made my motion upon my own responsibility, without consultation, but I will not withdraw it, leaving the House to dispose of it as they choose. They can vote it down if they see fit, but I think we ought to go into the Committee of the Whole on the state of the Union.

Mr. EDGERTON. Then I insist upon my motion.

The SPEAKER. The motion of the gentleman from Ohio has precedence over that of the gentleman from New York.

Mr. JONES, of Tennessee. The gentleman from Ohio must be aware, from his own experience, that it will require the entire time of the remainder of the session to dispose of the pressing public business—I mean the general appropriation bills.

The question was then taken on the motion submitted by Mr. EDGERTON; and it was not agreed to.

The question recurring on the motion to go into the Committee of the Whole on the state of the Union, it was put; and agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. EDGERTON in the chair.)

OCEAN MAIL STEAMER BILL—AGAIN.

The CHAIRMAN. When the committee last rose it had under consideration House bill (No. 595) making appropriations for the transportation of the United States mail, by ocean steamers and otherwise, during the fiscal year ending the 30th of June, 1856. The pending question is the amendment proposed by the gentleman from Ohio [Mr. OLDS] to the first section of the bill, and upon that question the gentleman from North Carolina [Mr. KERR] is entitled to the floor.

Mr. KERR addressed the committee in favor of the bill for an extension of the Collins contract. His remarks will be found in the Appendix.

Mr. BRECKINRIDGE. The chairman of the Committee of Ways and Means, [Mr. HOUSTON,] who reported this bill, did not avail himself of the right to open the discussion, which he had under the rules of the House; and if he had been able to be here to-day, he would have the right to close the debate with a speech of the usual time. As he has substituted me for himself, I ask the permission of the House to allow me to occupy a little more time than the few minutes which are left for general debate.

[Cries of "Agreed!" "Agreed!"]

Mr. BRECKINRIDGE. I hope my friend from Maryland [Mr. SOLLERS] will not object.

Mr. SOLLERS. It affords me infinite pain to object; but for three whole weeks I have had on my desk a bill, which I desired to report, from the Committee on Naval Affairs, and I could not get the consent of the House to report it. I shall, therefore, insist upon the most rigid execution of the rules of the House.

Mr. JONES, of Tennessee. I hope there will be now no objection to the gentleman from Maryland [Mr. SOLLERS] reporting the bill he refers to. I hope that the gentlemen who heretofore objected to it will not now do so.

Mr. TWEED. I will object to the reporting of any bill now.

The CHAIRMAN. This discussion is not in order.

Mr. BRECKINRIDGE. How much time have I?

The CHAIRMAN. Nineteen minutes.

Mr. SOLLERS. I withdraw my objection. Let the gentleman from Kentucky go on and occupy his hour.

Mr. TWEED. It is but fair to notify the gentleman from Maryland that if he has withdrawn his objection in the expectation that the objection to his bill will be withdrawn, he is mistaken. I gave notice to the House that I will object to his reporting that bill.

Mr. HUNT. The House will suspend its rules in order to allow the gentleman to report his bill.

Mr. BRECKINRIDGE then addressed the committee during the hour which was conceded to him, in opposition to the extension of the contract to Messrs. Collins & Co. His remarks, withheld for revision, will be found in the Appendix.

Mr. LYON obtained the floor.

Mr. CUTTING. I desire to ask my colleague to allow me to appeal to the committee for indulgence to make a few remarks on the new papers which have been introduced only this morning by the gentleman who represents the Committee of Ways and Means. There has been no opportunity whatever to criticise them; and I ask that I may be allowed by the committee to devote a short time to such criticism.

Mr. SOLLERS. Yes; that is right.

Mr. CUTTING. I ask this privilege, because I consider that these papers ought to have been introduced by the Committee of Ways and Means at the time that committee reported this bill, for the purpose of showing the foundation on which it proceeded. If they had been introduced then, time would have been given to have looked at them, and examined their accuracy. If, therefore, the committee will indulge me with an opportunity of making a few remarks on these papers, I will take it as a favor; for I think it but just that there should be an opportunity of criticising them.

Mr. JONES, of Tennessee. That cannot be done, Mr. Chairman.

The CHAIRMAN. The Chair would state to the gentleman from New York, [Mr. CUTTING,] that that can only be done by the unanimous consent of the committee. His colleague [Mr. LYON] is entitled to the floor for five minutes.

Mr. LYON. I move to amend the bill by increasing the compensation to E. K. Collins & Co. $1,000 per trip.

I have listened, Mr. Chairman, with a great deal of interest to the eloquent and able exposition of the chairman of the Committee on the Post Office and Post Roads [Mr. OLDS] on this whole subject. That gentleman was, if I understand it aright, selected from the various committees of this House to fill that position, because he had a peculiar fitness for it, because he understood everything which pertained to it from the Alpha to the Omega. And, sir, it is the duty of the Speaker to select such men for such positions who, from their brilliant services, either as men of figures or men of facts, either as men of experience or of theory, can elucidate any subject they take hold of. And, sir, when I heard that honorable gentleman speak on the subject now before the committee, I was charmed that he had been converted; I was charmed at that change, for he felt, no doubt, like old Luther at the Diet of Worms, and could have said with him to those Papists around him, "Do you think that I have lived forty years and learned nothing?" I felt that he might exclaim with Constantine, that he had turned from heathen honors

and come to the true glory, that he had come to the service of his country in upholding this enterprise, which has reflected more honor on the nation than any other one ever undertaken in the history of the Government.

It has been said by the gentleman from Kentucky [Mr. BRECKINRIDGE] that this war steamer suggestion was an unmitigated humbug, if I understand him right; that it was an unmitigated humbug to pretend that they could be used for war purposes. Was it a humbug for the British Government to take the Cunard ships from the line, and to convey troops in them to the Crimea? Was that a humbug? When England called on them they were willing to go. Without them she would have been without means of transporting her troops with the necessary quickness. In these steamers she has conveyed French troops to the seat of war, and is going to convey Swiss and Sardinian troops there. And she has thus illustrated the fact that these vessels are just fitted for that sort of service—better fitted for it than any others that tread the ocean, not only on account of their strength and adaptedness to accommodate passengers, but on account of their great speed. The time which they make is of the greatest importance for martial purposes, as is instanced by the fact of their bringing speedy aid to the besiegers of Sebastopol.

One word further, Mr. Chairman. What is this terrible array of figures and facts? Is the country in any danger from it? Why, sir, the expenditure asked for the support of this great enterprise, whose founders have never made one farthing by it, is only a little over $300,000 difference. And now, in regard to these facts and figures which the gentleman from Kentucky has brought to bear, I will say this: let the Postmaster General address Mr. Collins, or any member of the company, and he can have a perfect detailed statement, which will correspond with the statement given by the gentleman from Pennsylvania, [Mr. CHANDLER.] And as one of the members of the Post Office Committee—I allude to Mr. GREY, of Kentucky—refused to serve, for reasons which will be found in the Congressional Globe, let the Postmaster General, with that statement, send to the House a letter from Commodore Vanderbilt, who approached the chairman of the Committee on the Post Office and Post Roads, and offered to withdraw all his opposition to the Collins line if the company would buy his steamer. Is that the sort of authority to go to this House and to be used against the proposition of the chairman of that committee?

Mr. SMITH, of Virginia, (interrupting.) I feel authorized to contradict that statement.

[Here the hammer fell.]

Mr. YATES. Mr. Chairman, could I have obtained the floor when the bill for the construction of seven steam sloops of war was pending a few days ago, I should have opposed it almost for the same reasons that I shall now oppose this bill for additional ocean mail steamers. The only argument of any force at all which is now urged in favor of an additional appropriation for these steamers is, that such steamers will constitute an important adjunct to the Navy, and can be used as war ships, should they be needed for such a purpose. Mr. Chairman, I am in favor of an efficient Navy. It is a strong arm of our national defense; it is indispensable to the preservation of our rank among the nations of the earth; it is indispensable to the protection of our commerce, not only upon our extended coast, but to our commerce in the distant seas and ports of the world. I indorse all that gentlemen have said about the honor which the Navy has conferred upon the country. There are no brighter pages of American history than those which have been illustrated by the prowess, the enterprise, and the daring of the American sailor. The importance of the naval branch of the Government will never be undervalued while the names of a Paul Jones, a Perry, or Decatur, are remembered. And more recently, sir, it was a proud day for America when, on a distant sea, the exclamation "I am an American citizen" was the talisman of protection, and Austrian myrmidons shrank back in terror before the flutter of the stars and stripes.

But, sir, while no one can more highly appreciate than I do this efficient arm of our national defense, yet I cannot see that our Navy is now not sufficient for a nation whose mission is not conquest and propagandism, but peace; whose policy is neutrality, and whose highest glory is the promotion of all the arts of peace. It should be the object of Congress rather to curb the spirit of aggression than to promote it. And while, sir, I would have the American sailor and merchantman upon the quarter-decks of our American ships feel proudly secure beneath our flag, yet I would not, by the unreasonable increase of our naval armament, present to our sailors temptations to aggression on the rights of other nations. The filibustering expeditions constantly springing up but too plainly show that the spirit of war is in the hearts of our people. The sailor of no country now treads the quarter-deck of his ship with such a self-reliant and defiant look as Brother Jonathan. The tone of our press, the spirit of our legislation, the temper of our diplomacy, the grasping reach of our commerce is aggressive and warlike. Our great nation sits between the two oceans, self-poised, and conscious of her strength and power, and, if she does not fight the world, her language and bearing are that of bold defiance; and there is every reason to believe that one half of our people would rather court the provocation to war than to adopt the certain and cautious policy of its avoidance.

Mr. Chairman, this system of ocean mail steamers, to be kept up at the expense of the people, is a growing evil. It commenced, in 1845, with an appropriation of $350,000. It then increased to $800,000. The last year the expenditures on this account were near $1,500,000. The public money is paid out to millionaire speculators and individuals for the construction of floating palaces. And, sir, unless a stop is put to this system, it will result in the squandering of untold millions of the public money. There is, I admit, good reason in keeping up the lines of steamers for the present between our Atlantic cities and our Pacific possessions—these are demanded by the exigency of the case, otherwise those possessions would be inaccessible to us, and the affairs of the Government could not be properly administered there.

Mr. Chairman, Congress, at the last session, promptly responded to the recommendation of the Secretary of the Navy for the construction of six new steam frigates, and for completing and launching two others, then in process of construction; and we are informed that they will be ready for service during the ensuing summer. We already have nine navy-yards and docks—immense establishments, maintained at enormous expense; requiring large outlays for building, materials, men, and supplies. Then, sir, there are all the appendages of the Navy, such as light-houses, fortifications, &c., involving immense expense, not only in original construction, but for repairs constantly *needed* and *feigned* to be needed. And now the estimates of the Secretary of War, for the naval service alone, for the present fiscal year, amount to the sum of near $9,000,000; and it is to be feared that one third of this sum—millions of Federal money—are annually squandered for no other purpose than furnishing jobs to contractors and employment for the dwellers of our sea-board cities.

And now, Mr. Chairman, while I admit that the Navy is the property of the whole country, and designed for the benefit of the whole, yet, sir, an observant western man cannot shut his eyes to the fact that by far the major part of these appropriations are expended at, and inures to the benefit of the Atlantic cities, and operates to the protection of our foreign commerce only, while a commerce as much exposed, and more extensive, upon our great lakes and rivers, is passed by with neglect, not permitted to have a single dollar of Government money for the improvement of their navigation. The great Mississippi, flowing three thousand miles, from our northern boundary to the Gulf, watering, in its long track, thirteen States, with ten millions of people upon its banks, and floating $200,000,000 of commerce upon its bosom; the Ohio, with its magnificent commerce, extending from the foot of the Alleghanies, one thousand miles, to its point of confluence with the father of waters, in the bosom of the West; the Illinois, uniting the Mississippi and the great lakes of the North; the Missouri, extending her long arms four thousand miles, through the wall of the western half of the continent; these noble streams and lakes receive no fostering care from the Government.

Well authenticated statistics show that, on the western rivers alone, during the last year, seventy-one steamboats were sunk upon snags, that the loss of life by disasters was three hundred and fifty-five, and of property, $2,570,000. And, sir, though scores of sailors, emigrants, and travelers annually sink to the bottom of our lakes and rivers, and millions of dollars are annually sunk for the want of safe harbors, and the improvement of the channels of navigation, yet the Government turns a deaf ear to the imperious wants of the people of the West; or, sir, if Congress, after a hard struggle, shall agree to dole out, with penurious hand, a pittance, one eighth of the amount annually expended for the benefit of the sea-board, then even that amount is stopped *in transitu*, and clinched by the remorseless grasp of an Executive veto, under the plea of unconstitutionality—a plea long since exploded, and serving only to bring into ridicule those who use it.

The legislation of Congress incident to the acquisition of our Pacific possessions, is a strong illustration of the partial policy to which I have referred. California had scarcely been admitted as a State into the Union, before the Government had pledged millions for steamers from the eastern States to California and Oregon, by way of the Isthmus. This was right enough—I am not here to controvert it—but, sir, it inures almost entirely to the benefit of the Atlantic cities. The western emigrant, who desires to emigrate to California or Oregon with his family, cannot incur the expense of a thousand miles journey to arrive at a starting point, and then incur the additional expense of a long and hazardous voyage by sea. Moreover, he is unused to the sea—that is not his mode of travel. No, sir; he is left to battle, single-hand and unprotected, his long journey over a savage country, unbeaten roads, and unbridged rivers, and through narrow mountain defiles and deserts of sand. Why, sir, are the fifty thousand emigrants, those undaunted soldiers of progress, who annually emigrate overland to our Pacific possessions, not as much entitled to have a safe and easy path cut out for them as the eastern emigrant, who has for his comfort a floating palace, and for his security and safety the whole Navy at his command?

Mr. Chairman, I should not have ventured upon this line of remark, but for the fact that we have very lately seen this House give the go-by to the bill for the construction of a railroad to the Pacific, and even, sir, refused to entertain the proposition for a common post road from our western borders to the Pacific. Is this exact and equal justice? I am opposed to such partial legislation. And the fault, sir, is with Representatives from the West. It results from their jarring and divided councils, from a want of union among themselves. They ought, as the Representatives of the great valley of the Mississippi, to present a united and unbroken front, and not to remain content until a more liberal, impartial, and national policy is adopted, embracing alike the ocean, the lakes, the rivers, and the improvements of every section—a fair, equal, and just distribution of Government favors to all.

The question was taken on Mr. LYON's amendment; and it was rejected.

Mr. WASHBURN, of Maine. For the purpose of saying a few words, I propose to increase the amount $2,000.

It seems to me that very much of the discussion upon this question has been outside, and independent, of the true points in issue. I do not regard this in the light in which the gentleman from Kentucky [Mr. BRECKINRIDGE] does, as a question of bounty, but as a question of payment for services rendered to the country, and as nothing more or different. I would not vote for anything to these parties as a mere bounty; but if I can see clearly that the country, in consequence of making this arrangement with Mr. Collins and others, has received, and by continuing it will receive, advantages, on the whole, equivalent to and warranting the amount paid them, then I will go for continuing the payment to them of such sum; and it is upon that ground that I shall vote for the amendment of the gentleman from Ohio, [Mr. OLDS.] Gentlemen have said, that we are paying here more than it would cost if we were to throw up the contract with Collins, and make one with Vanderbilt, or others, and more than the English Government pay the Cunard line for a like number of trips. Do they bear in mind that

the Collins line performs the service in shorter time than the Cunard line does, or than any other can, at lower rates than are now paid to Collins? And do they remember, also, that time, in this country particularly, and at this time of day, is money? By the Collins line the mails are carried quicker than by any other line; and if the merchants of this country save a day upon every draft sent, save a day in all transactions between the Old World and New, and if all the people, and the Government, are interested in the speediest transmission of intelligence, that is something worth caring for, and paying for. And we must not forget, when we undertake to compare these ships with others, this difference and superiority, and that this increased speed, while it enhances largely the expense of the trips, secures to the American line, and to the country, through it, those advantages, direct and incidental, for which it was thought important to establish a line of our own in the beginning—advantages to the country of postal, commercial, and national consideration. Do gentlemen bear in mind, also, that the Collins steamers are capable of being made available in time of war, for war purposes, and that, therefore, in this respect, we derive a great advantage from this contract which no other that has been suggested proposes to afford? And do they take into consideration what the cost would be of keeping up these steamers for war purposes only? Granted that these ships may be made valuable and effective for war purposes—and that they may be seems to have been conclusively settled—how much better and more economical for the Government it is to have them so employed in time of peace that the net expense to the country is reduced to less than one fourth the sum that would be required to keep them up as purely war vessels, part and parcel of the Navy; and when, at a moment's notice, should occasion require, they may be placed in condition to perform the most valuable and efficient service in the Navy.

But the gentleman from Kentucky has resorted to figures. What confidence can be placed in them I do not know. I know that the man who has the making of figures, can generally, if at all ingenious, continue to make them fit whatever hypothesis he desires to maintain. I do not know that the gentlemen were well skilled and informed in reference to the matters concerning which they have made their estimates. But I understand this to be true, that the stock of the Collins line may be purchased by the gentleman from Kentucky, or any other gentleman, for much less than the par value; and that, I take it, is the best evidence which can be afforded on this point, safer, better, infinitely better, than any statements prepared to be used here for the purpose of making out a case. Sir, here is a fixed fact, the report of the stock market, the evidence of Wall street, the most conclusive and satisfactory that can be given, and it proves that this line cannot be sustained at lower rates than are now paid. Reduce those rates and abandon the line; retain them and continue it; these are the questions and the only practical questions before the committee.

The gentleman from Kentucky said that we have received only some $700,000 or $800,000 in all from postages from the Collins line. But this is not the entire amount for which we should credit this line. By an arrangement with Great Britain, we receive a percentage of the Cunard postages, which, added to the net revenues of the Collins line, increase largely the sum mentioned by the gentleman. This amount should be credited to the Collins steamers; for without them we should not have been in receipt of it. Again, in consequence of this line we were enabled to make a postal treaty with Great Britain whereby the postages between Europe and the United States have been greatly reduced—one half, or more, I believe.

The consequence is, that our people are able to receive their letters from Europe at less than one half the amount they had heretofore been obliged to pay. Is not that something worth considering by those whose province and duty it is to legislate for the interest of the people at large? Is not this a legitimate way for lightening the burdens of the people? Sir, considerations of this character should not escape us, when we are about to decide the question whether or not this line is to be abandoned, and the country fall back upon the old system of leaving the transportation of all our mails to our great rival and competitor, to be done in her own time and upon her own terms.

Mr. Chairman, I represent in part a maritime State; a State which probably constructs one half of the sailing vessels which are built in the United States; a State whose people have a deep and lively interest in this question. Every ship-owner, aye, every ship-carpenter in Maine, is peculiarly sensitive upon this subject. There is not a man in the State who does not feel that the honor of our country is involved in supporting and maintaining this line of steam-ships—that her interest is——

[Here the hammer fell.]

Mr. SMITH, of Virginia. I desire here to state that the statement made by the gentleman from New York, [Mr. LYON,] like many other statements which are circulating around, with a view of creating in the minds of the members of this body unjust and unwarrantable prejudices, is not in itself correct. I say, for I feel authorized to say, anything to the contrary notwithstanding, come from what quarter it may, that Cornelius Vanderbilt never did offer to abandon his project provided E. K. Collins & Co. would purchase a steamer which he had.

I make this statement most cheerfully, because I have known that gentleman long, and esteem him highly as a gentleman and an honorable man, and I call upon the gentleman from New York, [Mr. WHEELER,] who knows him, to say whether he is a gentleman or not.

Mr. WHEELER. I can say he is a gentleman and——

[Cries of "I object!" and "Go on!"]

Mr. SMITH. Well, I will go on. One word more. I have made that statement, and I felt it right to do so, for an argument has been founded upon the assertion of that fact upon this floor.

Mr. WHEELER. Will the gentleman allow me to interrupt him for a moment?

Mr. SMITH. I will; and I appeal to him to testify to the correctness of my statement as to Mr. Vanderbilt.

Mr. WHEELER. Mr. Chairman, the gentleman from Virginia has appealed to me to know whether Mr. Cornelius Vanderbilt is a man of honor and integrity. I know him well; and there is no man living, in my opinion, who bears that character better than he does.

Mr. SMITH. I will now proceed with my remarks.

Mr. CAMPBELL. I rise to a point of order. We are under the operation of the five-minute rule, and members should confine their remarks to the amendments under consideration.

The CHAIRMAN. The gentleman will proceed in order.

Mr. SMITH. I will proceed in order; but I will say, if it is in order for one member upon this floor to make a statement here, it is equally in order to deny his statement. But let that pass.

A great deal of talk has been had in this Hall to-day about the value of the ocean postage, and especially that derived from the Cunard line. Now, I have in my hand an official statement of the Postmaster General, made on the 4th day of December, 1854, of the net revenue of the Post Office Department for the current year, and I ascertain from that report that the postages of which we have heard so much, only brought the country in debt to the amount of $121,257 89. That is in reference to the Cunard line. So much for the postal treaty. This postal treaty with the British Government, under which we were to receive this twenty per centum has, I repeat, brought the country into debt $121,257 89. And giving to the Cunard line the whole benefit of our inland postage on the mail matter which it brings us, to which, of course, it can in no proper view be entitled, it gives us a revenue of only $1,483 91.

I advert to these facts to correct the impression that the postal arrangement with Great Britain has been a great boon to this country, or that the Collins line can look to that quarter for any advantage. I am opposed to the amendment of the gentleman from Maine, and hope it will not be adopted.

Mr. WASHBURN. I withdraw my amendment, if there is no objection.

Mr. JONES, of Tennessee. Let a vote be taken on it.

The question was put, and the amendment was not agreed to.

Mr. CUTTING. I move to strike out the two last words of the amendment, whatever they may be.

The CHAIRMAN. The gentleman will confine his remarks, under the rule, to the amendment proposed. [Laughter.]

Mr. CUTTING. I ask the indulgence of the committee to make a few remarks.

Mr. JONES, of Tennessee. If the gentleman will permit me I will move an amendment, and, in opposition to that amendment, he can make the remarks he desires.

Mr. CUTTING. I will move to increase the appropriation $5,000.

Mr. JONES. I ask the gentleman to allow me to move to amend, by striking out of the amendment offered by the gentleman from Ohio, [Mr. OLDS,] all included from the fourth to the thirteenth lines inclusive.

Mr. CUTTING. I will hear it read.

The amendment, which was read, proposes to strike out the following words:

"Proviso contained in the first section of the act entitled 'An act to supply deficiencies in the appropriation for the service of the fiscal year ending the 30th of June, 1852,' approved on the 21st day of July, 1852, be, and the same is hereby, repealed."

Mr. JONES, of Tennessee. The gentleman from New York can take the floor in reply to that amendment.

Mr. CUTTING. I wish to say a single word. I do not think it just that statements should be brought in, and submitted to the committee, when no opportunity is allowed to answer them. Now, I ask the unanimous consent of the committee to allow me to review the statements sent here by the Postmaster General, and to make some remarks in reference to the proposals made by other bidders for this service. I wish to be brief.

The CHAIRMAN. The Chair would state to the gentleman from New York that it can only be done by the unanimous consent of the committee.

Mr. CUTTING. I ask that unanimous consent. I ask it as a matter of justice.

Mr. JONES, of Tennessee. The general debate upon this bill has been closed, and we cannot open the general debate upon this subject again.

Mr. CUTTING. I desire to answer the remarks made by the gentleman from Kentucky, [Mr. BRECKINRIDGE.]

The CHAIRMAN. Does any gentleman object?

Mr. JONES. I do.

Mr. CUTTING. I would say to the gentleman from Tennessee that there is not a gentleman upon this floor who has taken up less time than I have, either in committee or in the House, and I ask the opportunity to answer the gentleman from Kentucky.

[Cries of "Order!" "Order!" and "Go on!"]

Mr. HUNT. I rise to a question of order. I had understood that it had been conceded that the gentleman should proceed.

[Cries of "Order!" "Order!" and "Let him go on!"]

Mr. JONES, of Tennessee. As gentlemen all around the House seem to wish that the gentleman should be permitted to speak, in obedience to that wish I withdraw my objection.

Mr. HAMILTON. I object, unless there is some understanding as to the length of time the gentleman shall occupy.

Mr. CUTTING. I will say this to the gentleman, that I will talk to the point, if I know how, and as rapidly as I can.

Mr. HAMILTON. I will not object, then.

The CHAIRMAN. The Chair hears no objection, and the gentleman will proceed.

Mr. CUTTING. If the Post Office Department, where the statement read by the gentleman from Kentucky was prepared, had been sent to the House at an earlier day, the committee might then readily have taken means to ascertain its accuracy or its imperfections. It was thrown into this debate at the last moment, simply, I presume, because it was not delivered to the gentleman from Kentucky in time to have submitted it sooner, and therefore the committee have not had any opportunity to investigate it.

Mr. BRECKINRIDGE. It was delivered to me yesterday by the chairman of the Committee of Ways and Means, [Mr. HOUSTON.]

Mr. CUTTING. Now for a brief review of the inaccuracies of this statement—striking inac-

curacies, even to me who am not familiar with the business of these ships.

They make a profit, according to the statement, upon each trip of $12,537. To make that profit they are credited with eighty passengers at $140 each. Now, at all times up to and until the first of July last, these ships carried first-class passengers to Liverpool, not at $140 each, but at $120. Therefore, to correct this very first item, we must deduct $20 from each of the eighty passengers, and we have at once $1,600 to deduct from the $12,537, thus reducing the alleged profits to less than $11,000 per trip.

Again, sir; since the fare has been raised, the charge is $130 for each first-class passenger, and no more. Why, I ask, if this statement has been sent in here as one upon which members might repose confidence, has there been, upon so simple a point, a point upon which information could have been so easily obtained, so glaring a divergence from accuracy?

Mr. BRECKINRIDGE. The statement which I first made to the House was an estimate made by the Post Office Department, and made before Captain Bell could get a correct list from the custom-house. He estimated the average number of passengers at eighty. By a supplemental statement, which he copied from the books of the custom-house—which I thought was too long to read entire—it appears that the average number of passengers for each trip is one hundred and thirty-five.

Mr. CUTTING. Now, the gentleman will perceive that what he read in reference to the charge for passengers was erroneous. That is conceded; but he desires to correct it by referring to another statement, and by giving credit for a larger number of passengers.

Mr. BRECKINRIDGE. I stated in my speech that it was an inaccuracy which was corrected by a subsequent report. But the inaccuracy there is in favor of the Government.

Mr. CUTTING. The gentleman is mistaken in that.

Mr. BRECKINRIDGE. Certainly it is, as you get one hundred and eighty passengers, when that statement shows only one hundred and thirty-five.

Mr. CUTTING. In reference to the passengers I have no means of ascertaining the true number. But what confidence can be placed in statements which stare each other in the face, as do these of the Post Office Department and of Captain Bell. Again, credit is assumed for five hundred tons of merchandise both ways, from and to Europe, as if the rate of freight were the same both coming and going. Any man who has any knowledge of ships knows there is no similarity in the rate of freight out and home.

Again, they charge the Collins line with freight at the rate of twenty-two dollars a ton, and make no deduction whatever for the expenses of receiving the cargo on board, or for discharging it. Not an allusion to that expense! Does not everybody know that to discharge a ship, and send the whole to the public store, as they have to do, within two or three days after arrival, is an expensive operation? Congress has altered the law authorizing goods to be sent to the public store within five days, so as to make steamers to discharge after twenty-four hours. The whole process, requiring great expedition, is performed by means of stationery steam engines. Go to the wharf at the foot of Canal street, and you will see the steam engine at work in loading and unloading.

I now advert to another item. It is notorious that, in order to keep these steamers in proper running order, constant and extensive repairs are required to be made to the machinery. They have something like four tubular boilers in each ship. Those acquainted with steam navigation know that the boilers are usually worn out in the space of three or four years; and, of course, they have to be replaced by new ones as often as that, and in the mean while expensive repairs are continually necessary. Now, I ask, if, over, beyond, and above the expenses of ordinary repairs at the end of each trip, required by the damages sustained during that trip, there is a single cent allowed by the Post Office statement for the extensive and frequent repairs which I have shown to be necessary? Not one farthing is allowed for such inevitable expenditures, either to the hull or to the engine of these vessels. This item of expense is the most extravagant of the whole. To keep two of these enormous engines in each ship in working order, so that they are able to perform their offices, and to keep the boilers in a safe condition, requires, at the end of each trip, very large outlays. The means are not at my command by which I can get the figures as to the amount of this expense. This much I can say, however, that the cost of repairs and of keeping the engines in proper order, fit to perform the service required of them, is as heavy as any other item of expense in the Secretary's estimate. Adding to it simply the expense I have suggested, it will be readily perceived, at a glance, that no reliance can be placed upon the accuracy of the supposed profit asserted by it. It, indeed, professes to be only conjectural. It is a mere estimate, and, like all estimates, it varies much from the truth.

I appeal to this committee, whether evidence thrown in in this way, not having been communicated to the parties in interest, ought to be sufficient to overthrow the fact that the company have never been able to make a dividend? And I ask whether it would have been anything more than common justice to Mr. Collins that the Post Office Department should have communicated to him a copy of their statement, so that he and his associates might have had the opportunity to correct any inaccuracies which it contained? If that had been done, its errors or omissions might have been pointed out, and then, between the Post Office estimate and its corrections, we should have had some reliable information. Now, why was it that the Post Office Department did not do this simple act of justice? Why was it that the Department did not communicate its intention to submit conjectural accounts for the purpose of attempting to prove to Congress that Mr. Collins ought to be cut off from the further compensation?

Mr. Chairman, there has been also presented to this House, this morning, a communication from Mr. Vanderbilt to the Post Office Department, proposing to run a line of steamers at $15,000 per trip. I beg to say that I have known Mr. Vanderbilt a great many years, and my opinion is, his character needs no indorsement from me, or from any other member of the House. He is one of the most sagacious and skillful managers of steam vessels, in my opinion, that exists in any part of the world, and I have no hesitation in declaring it is my deliberate judgment that he can make a dollar go further in running steamers than any other man within my knowledge. I understood the gentleman to say that Mr. Vanderbilt proposes to take the place of the Collins line.

Mr. BRECKINRIDGE. So I understand him.

Mr. CUTTING. If the gentleman will give his attention, for a minute, to his proposition, it will show him that he is entirely mistaken. But first I desire to say that I impute no unworthy motives to Mr. Vanderbilt; he is too well known to need that declaration. Too high a tribute has not been rendered, by his friends here, to his industry, his capacity, or his enterprise. But, sir, Mr. Vanderbilt does not propose to take the place of the Collins line. It is his desire to enter into competition with the Cunarders. He does not wish in any degree to interfere with, or to injure, Mr. Collins; and if he did he could not displace or break up his contract, for it has still over five years to run. Congress cannot annul the contract. It cannot be touched. Mr. Vanderbilt, therefore, does not propose to violate the rights of Mr. Collins. He merely offers, if the Government will give him $15,000 per round trip, and allow him to take such steamers as he chooses to put upon the line, that he will run, upon alternate weeks, in competition with the Cunarders; and I say, for one, that, if his proposition were put in the shape of a bill, I would support it. Yes, sir, I am for competing with the Cunarders, from the first to the last, from beginning to end, until American enterprise and skill can run them out of the carrying trade. Such is my wish upon the subject.

But, sir, what is this proposition? If ever there was one calculated to mislead the members of this House upon an important topic, I respectfully submit that his letter, and also the proposals which have been submitted here, by some one—I cannot recollect the name——

Mr. CUMMING. Hansen.

Mr. CUTTING. Hansen, that is the name. I have heard it here, as far as my memory serves, for the first time during this discussion. I never heard it before, that I recollect. But, sir, I desire to call the attention of the committee to the proposition which is presented by him.

Mr. CUMMING. The gentleman says he never heard the name before. Sir, I beg to say that I know Mr. Hansen well, and I know him to be as well able and well qualified to carry out the proposition he makes as the gentleman from New York.

Mr. CUTTING. I hope he is a great deal better——

Mr. CUMMING. It is very likely.

Mr. CUTTING. I hope he is a great deal better able to accomplish it than I am, for it is certainly beyond my capacity or means to carry out. But, sir, I have no desire to disparage Mr. Hansen. I said that I had not had the pleasure of his acquaintance, and I cast no reflection upon him, unless it be one not to have known him. [Laughter.] I have no doubt he is a very respectable gentleman, and if I ever had any doubt of the fact, the assertion of my friend and colleague from New York would have convinced me. But what is his proposition? Is it to run between New York and Liverpool? Not at all. He proposes to run to Plymouth, and thence to Antwerp, Rotterdam, and Glückstadt.

Mr. Chairman, I ask any gentleman in this committee to read his most extravagant communication, which undertakes to recommend his project, and to show its grand results upon the business of the world. He declares that, if Congress will give him a contract, it will change the whole trade of Europe. He proposes to divert all the trade and travel to Europe to a point in the north of Europe. He proposes to establish there a depot for our tobacco and cotton, and, in fact, to reverse and change the whole course of mercantile operations on the continent. And he proposes to do all this with four steamships, each of which carry five hundred tons of goods! He says, in effect, that with means like this he can change the commerce of the world. Can any assertion be more extravagant?

Mr. CUMMING. I ask the gentleman to permit me to make a single remark to show the difference between Mr. Hansen's proposition and the original proposition of Mr. Collins. Mr. Collins came to the Government for money to construct his steamships with, but Mr. Hansen does not ask Congress to pay him one cent until he shall have completed his first trip. He asks for nothing to build his ships.

Mr. CUTTING. And we are asked first to sacrifice Mr. Collins, and then wait until time proves whether Mr. Hansen can carry his enterprise into effect! We are asked to begin by taking the extra compensation from Mr. Collins for the sake of trying an experiment with Mr. Hansen!

Let me say one word more in reference to Mr. Vanderbilt's proposal, in view of which the gentleman from Kentucky asks whether this House is willing to stand by the Collins compensation, in face of the fact that there is a proposition before us from a responsible gentleman, who, it is said, proposes to do the same service as Mr. Collins for $15,000 per round trip. The gentleman very properly said that he did not urge it as an argument for terminating the contract with Mr. Collins, but he urged it for the purpose of showing that there was no need to pay the extra compensation, when Mr. Vanderbilt was able to perform the same service for $15,000 per trip. The argument, I think, is calculated to have greater weight with this committee than it is entitled to.

In the first place, I ask the gentleman from Kentucky what kind of steamships Mr. Vanderbilt has proposed to put upon his line? The proposal states that he can commence his trips in thirty days from the passage of the act. Now, I ask the gentleman from Kentucky are the ships to have single or double engines?

Mr. BRECKINRIDGE. I do not know, and I do not care, provided they carry the mails in the proper time.

Mr. CUTTING. But it is important upon the point of the comparative expense of running the steamers, as compared with those of Collins; and I propose to show that, if Mr. Vanderbilt makes his offer with reference to single-engine vessels, we are paying no more to Mr. Collins, at $33,000 per round trip, compared with the character of his steamers, than $15,000 would be to Mr. Vander-

bilt. I understand that the steamers proposed by Mr. Vanderbilt have single walking beam engines. One of the specifications in the contract with Mr. Collins is, that his ships should be built with double engines, of not less than fifteen hundred horse power each. He constructed first the Atlantic and the Pacific, with cylinders each of ninety-five inches in diameter, and with nine feet length of stroke. Each ship has four boilers, with an aggregate of seventeen thousand square feet of boiler surface.

Now, what class of ships does Mr. Vanderbilt propose to place on the line. My recollection is—and I speak from memory, without undertaking to vouch for the exactness of the statement—that two of his ships, with single engines, have not a greater capacity of cylinder than any one of the double engines of the Collins steamers. The steamers running to Charleston and Savannah are examples of the style of Mr. Vanderbilt's ships, though smaller. His ships have but single engines, of not more than half the power or capacity of each of the double engines of the Collins steamers.

Again, the tonnage of the Collins steamers, according to my recollection, is about twenty-seven or twenty-eight hundred tons, or about three thousand tons, according to English measurement. The tonnage of one of Mr. Vanderbilt's ships is, I think, about sixteen hundred, and of the other about twenty-two hundred.

Now, does not every gentleman of the committee see, at a glance, that a single-engine steamer of sixteen hundred tons can be run for half, or less than half, the expense of the Collins steamers, with double engines of ninety-five inch cylinders, and nine feet stroke? The Baltic, if I mistake not, has two cylinders, each of one hundred inches diameter, and ten feet stroke of piston.

I agree, sir, that Mr. Vanderbilt could run steamers, such as he contemplates, with success against expensive steamers of first-class size and expense, because his are comparatively cheap vessels. They cost about $300,000 each, whilst the Collins steamers cost over $600,000 each; and I submit, upon these facts, that if you were to give Mr. Vanderbilt $15,000 a trip, it is equivalent to twice that sum paid to Mr. Collins, relatively to the cost and character of the ships.

Mr. BRECKINRIDGE, (interrupting.) I believe that the gentleman from New York made some comments upon the fact that this proposition of Mr. Vanderbilt had been thrown before the committee without notice.

Mr. CUTTING. I thought so.

Mr. BRECKINRIDGE. The date of that proposition is February 15, 1855, from which it will be seen that it has only just been made to the Post Office Department.

Mr. CUTTING. I knew that Mr. Vanderbilt had made such a proposition some time ago. I take occasion to repeat, that I do not charge Mr. Vanderbilt with the least intention to damage Mr. Collins's cause. It is due to him that I should state, that when he spoke to me upon this subject he entirely disclaimed any idea or intention of opposing Mr. Collins.

Mr. BRECKINRIDGE. As the gentleman has reached an appropriate pause in his argument, I want to call his attention to one point, if he will allow me.

Mr. CUTTING. Certainly.

Mr. BRECKINRIDGE. If the gentleman has any statement—any authoritative, sworn statement, in regard to the expenditures and income of the Collins line, he will throw much light upon the subject if he will disclose it. If he has not such a statement, I call his attention, not to anything from the Post Office Department, but to the official report of Captain Bell, of the United States Navy—an officer of this Government, and a gentleman of high character—in which he makes an estimate of the income and expenditures of the company, accompanying it with a statement, copied from the books of the custom-house, of the number of passengers arriving in these ships during the year 1854. If the gentleman will take that and found some remarks upon it, I shall be much obliged to him.

Mr. CUTTING. I promised the committee that I would be brief, and I cannot, whilst addressing them, read Mr. Bell's statement, so as to be able to criticise it.

Mr. CHANDLER, (interrupting.) Will the gentleman allow me to put in that statement now of which I spoke some time since?

Mr. CUTTING. I will do so in a moment. I was about to observe to the gentleman from Kentucky, that this branch of my argument relates to the proposition of Mr. Vanderbilt, and I was endeavoring to show the committee that Mr. Vanderbilt might well make money at $15,000 a trip, with steamers of moderate cost.

Mr. WASHBURN, of Maine, (interrupting.) Will the gentleman from New York, before he leaves this branch of the subject, inform the committee whether Mr. Vanderbilt states in his letter what would be the average time that he would sequire for the performance of the trips?

Mr. CUTTING. No, he does not; he makes no sort of stipulation with regard to that. He is perfectly at liberty, with his single-engine boats, to take fourteen, fifteen, or sixteen days to make the trip. Let me say, in this connection, that there are now upon the Havre line two boats, one of which was intended for the Pacific navigation, and has double engines. When she was first put upon the line, it was supposed that she would be a very swift boat, and in calm weather she was so, but in coming to the westward, in the month of October, I think, she was found to be incapable of making headway, and they had to lay her up alongside the dock during the winter months. Ocean steamers must be of great power or they fail. I have no doubt that Mr. Vanderbilt would do whatever he contracted to do, but he offers no engagement as to the time within which he will perform his trips. I will now yield the floor to the gentleman from Pennsylvania.

Mr. CHANDLER. I have recovered the paper to which I referred a little while ago. The statement is made by one of the first merchants in the world, and he pledges his word that it is correct; and there is scarcely a merchant in the world that would not take that pledged word as readily as an affidavit. I will read it:

The total amount of stock that was subscribed for was		$1,132,000
Bonds issued $700—unpaid, due April 1		624,000
Due to agents in New York		85,000
Interest due the stockholders for four years, they not having received one cent		398,000
Deterioration of three steamers (one being lost) for four years on the cost of the three $21,257 18 at five per cent. per annum		425,000
Due for supplies and repairs		131,000
Due the Government balance of loan		231,000
		$3,026,000
Deduct due the company by the underwriters and agents in England	$312,000	
Due by the underwriters in New York	40,000	
Steamers Atlantic, Pacific, and Baltic, at cost	2,126,000	
		2,478,000
		548,000
From which deduct the quarterly payment due by the Government, January 1, but not paid for want of an appropriation		214,000
		$334,000

I was, therefore, correct in saying that the total loss of the company had been $334,000. I repeat, sir, when the word of the writer of that letter is given no oath is required.

Mr. LETCHER. That is no statement of facts at all.

Mr. CUMMING. Will my colleague yield me the floor for a moment?

Mr. CUTTING. As I am occupying the time of the committee by its indulgence, and out of the regular order, I do not feel myself at liberty to yield the floor, unless there appears to be a general desire on the part of the committee that the gentleman should be heard; in that case, I will yield cheerfully.

Mr. TAYLOR, of Ohio. I hope the gentleman from New York will allow the gentleman from Pennsylvania to give us the name of the writer of the statement which he has presented.

Mr. CUTTING. Certainly.

Mr. CHANDLER. The name of the writer is John A. Brown.

Mr. BRECKINRIDGE. Where does he live?

Mr. CHANDLER. In Philadelphia, sir.

Mr. BRECKINRIDGE. What does he know about it?

Mr. CHANDLER. He is a stockholder in the company.

Mr. BRECKINRIDGE. That is a general and unsworn statement.

Mr. CUMMING. I rise to a question of order, and it is this: I understand that we are now under the five-minute rule. My colleague, [Mr. CUTTING,] however, asked to be allowed to say a few words by way of explanation, and the permission was granted him. He has been interrupted by half a dozen gentlemen, and has given way to them. I asked him just now to yield me the floor for a moment, but he refused to do it, and now I object to his going on any longer.

The CHAIRMAN. The Chair will state to the gentleman from New York, in regard to his point of order, that his colleague is occupying the floor by the unanimous consent of the committee, and is entitled to occupy it.

Mr. CUMMING. Is there no limit to the leave granted?

The CHAIRMAN. One hour; the gentleman has a right to occupy the floor until the expiration of one hour from the time when he commenced his remarks.

Mr. CUTTING. My friend and colleague seems to be under the impression that I have refused to allow him to make a remark. I did not so intend. I hope he will take the floor now if he wishes to do so.

Mr. CUMMING. I am much obliged to my colleague, and will avail myself of his courtesy. The gentleman from Pennsylvania [Mr. CHANDLER] has read to the committee a statement from one of the first merchants in the United States, in which he says that Collins & Co. have received only $300,000 for insurance on the Arctic. Now, if those gentlemen did not take the precaution to insure their vessel for what she was worth, they deserve to lose.

Mr. CHANDLER. I said no such thing as that; I said that that was the amount now due, and which had not been paid.

Mr. CUMMING. Very well; but that amount does not come up to what you said the other vessels had cost.

Mr. CHANDLER. I said that that was the amount now due. The balance has been paid.

Mr. CUMMING. How much was the insurance?

Mr. CHANDLER. I do not know.

Mr. CUTTING. That was it, $300,000.

Mr. CUMMING. I am much obliged to my colleague for yielding me the floor.

Mr. CUTTING resumed the floor.

Mr. BRECKINRDIGE. If the gentleman from New York will yield the floor to me I would say a single word.

Mr. CUTTING. Certainly.

Mr. BRECKINRIDGE. I have looked into the paper which the gentleman from Pennsylvania [Mr. CHANDLER] has read, and I wish to call the attention of that gentleman and the gentleman from New York, [Mr. CUTTING,] to the fact, first, that it is a statement furnished to private friends by one of the stockholders of the company; that it is not an official statement; that it is not even a worn statement; that it does not contain a single item except those of the losses which the gentleman from Pennsylvania has mentioned; that there is no account of receipts to balance that of the expenditure; and that, taken in the whole, it should have no authority whatever on this floor as an exhibit of the affairs of this company.

Mr. CUTTING. I have never seen the statement, and never heard of it till now; and I am not disposed to enter into any debate as to whether that statement, or that of the Postmaster General is more accurate. The latter was, in my judgment, grossly inaccurate, and I think that all these statements which come in in this way, without any means of verifying them, ought not to receive so much attention as they seem likely to obtain. I think this case stands upon broader grounds than upon such arithmetic of the Post Office Department as we have had placed before us.

Now, Mr. Chairman, one more point. The gentleman from Kentucky has stated that these steamers were not entitled to the consideration of the committee as respects the extra compensation, because the idea of their being fitted for use as war steamers is an entire delusion. I beg to say that, at the time the contract of Mr. Collins was made, there was a specification prepared with the utmost minuteness, setting forth the exact size and dimensions of every timber, of all the planking, of the floors, and of every part of the vessel, drawn up either by the Navy Department, or corrected and agreed to by it, as being such a

specification as, if followed, make these vessels convertible into war steamers. Mr. Collins, in good faith, took this specification from the Navy Department. That Department also appointed Commodore Perry to superintend the building of these vessels, according to the specifications. That distinguished officer witnessed, from day to day, the building of the ships, and knew whether or not the contract and specifications were being fulfilled. Besides that, Captain William Skiddy—than whom, in my judgment, an abler shipwright and mechanic does not live—was specially employed by the War Office, as an associate with Commodore Perry, to watch the building of these vessels. They were built according to the specifications, and were certified to have been constructed in substantial accommodations by both of the Government superintendents. Commodore Perry had previously superintended the building of the Mississippi frigate and of the Missouri steam frigate, and had a more intimate knowledge of steamships than any one whom I know belonging to the Navy. This specification, so prepared or approved by the Department, was fulfilled by Mr. Collins, so that both Commodore Perry and Captain Skiddy reported that the vessels came up to the requirements.

Now, I ask, if, at the end of four or five years, certain officers of our Navy suggest that these steamers might have been built stronger, or in a different manner, does it lie in the mouth of the Government—does it lie in the mouth of Congress—to impute to Mr. Collins, or to his vessels, any failure or inadequacy, when they were built as the Government specification required they should be built, and when they were reported by the Government officers as coming up to the terms of the contract? It seems to me that this is unjust in the highest degree. But, Mr. Chairman, will any gentleman, with the European war before him, say that these strong, powerful, swift steamers of Mr. Collins may not become most efficient vessels in time of war, when it is of the utmost utility to transport troops with dispatch? What would the British Government have done without the ships of the Cunard line, and of others like them? What would the French Government have done but for mail steamers altogether inferior to the Collins steamers in point of size and power? Why, sir, as soon as the war broke out, seventy mercantile steam vessels were taken up by the War Department, and are now performing war service better, for practical purposes, than any frigates of the Navy. And the committee will observe, here were two countries—France and England—each of which had a numerous navy of steam ships, and yet they found that the Cunard vessels, and others of that class, were better fitted for certain purposes, in carrying on the war, than those which belonged to them; and, therefore, they preferred not to use navy steamers, and to hire, at great expense, the Cunarders and others, for the purpose of doing what they could do better than the regular national vessels.

Nobody has disputed that, while the Collins ships, with side wheels, cannot carry as heavy a battery as propellers, they can carry two Paixhan guns of ten or eleven inch bore, and ten of medium caliber. And I ask whether, for purposes of sloops, and particularly for purposes to which they are now employed by England, these vessels are not altogether adequate to some of the necessities which war imperiously requires?

Again: I assert that the difference between the postage received by the Government and the money which Government appropriates to this line, is not more than it would cost the Government to keep in commission, for one year, a steam frigate of three thousand tons burden. I call upon gentlemen who know more about these matters than I do, to say if it is not true that it would cost the Government to keep in commission, for one year, a steam frigate of three thousand tons, more than the difference between what the Government receives from the ocean postage and what it pays to Mr. Collins? And for that difference the Government has, at all times, at its command first-class steamers for sudden emergencies. I want to know, if it became necessary, at an instant, to send out a force to Cuba, or if it were necessary to send a force, on a sudden emergency, to any part of the Gulf, would there be a vessel selected by the War Department for such purpose so quickly, and with so little hesitation, as one of these Collins steamers? We do not want all our war vessels to be line of battle ships, or first-class frigates. We want sloops—small vessels; and we want, above all, such vessels as these of the Collins line to be employed as transports?

Now, one word as to the postage. I must say, Mr. Chairman—and I put it without any disrespect whatever—that never have I seen such a confused mass of figures as the report of the Postmaster General presents in regard to these ocean steamers. It would require a far better accountant than I am to make out from this return the exact amount of postage received on the Collins line. The statement made by the chairman of the Committee on the Post Office and Post Roads, and which, I understand, he obtained from the Auditor of the Post Office Department, is altogether different from the results of the reports of the Postmaster General in any way by which I can get the figures together. I tried them this morning in various ways, but the difficulty lies far deeper. I must further say, that, if I comprehend this report correctly in another respect, it little agrees with the high position that this country ought to have assumed with reference to this question of postage with Great Britain. When a small, insignificant town like San Juan, offends our Government, it is laid in ashes. When a weak and insignificant Power like Spain, magnificent only for the past, offends us, we at once demand satisfaction.

In 1847, I think it was, there was a postal treaty entered into with Great Britain, by which she contracted to make certain arrangements with reference to the transportation of the mails. Everybody knows what shuffling, year after year, took place in the Post Office Department of the English Government upon that subject; and we have submitted to it—I will not say tamely, because that might be construed into a disrespectful expression. In the year 1855, after having exhausted all negotiation upon the subject, there is still a discrimination made by Great Britain of six and a fourth cents against us upon each and every letter weighing a quarter of an ounce or less mailed in Paris, or anywhere upon the continent, coming via Liverpool to this country, if they go by the Cunard line of steamers. The people of the continent naturally choose the cheapest conveyance for their correspondence. The Cunard line make trips once a week, the Collins line once a fortnight. The Cunard line carry letters from the continent free from the tax of six and a fourth cents; and, of course, they carry the greatest number of letters. I get these facts from the last report of the Postmaster General.

In this state of the case gentlemen ask why it is that the postages received by the Collins line do not come up to those received by the Cunard line. The former are the finer and faster ships of the two. Why is it, then, gentlemen ask, when the Collins steamers are so much sought after, and when they can carry intelligence so much faster, that the amount of postages received by them falls far short of that of the Cunard line. It is because this Government has allowed the great, imperious and formidable power of Great Britain to make an unjust and illiberal distinction, and in the face of treaty stipulations to tax American steamers with six and one fourth cents additional postage. This Government ought to compel the British Government to observe the faith of treaties. I think that a country like our own, containing a population of from twenty-six to twenty-eight millions of people, ought always to be more determined and more exacting in matters of contest between us and the greatest Power on earth, than when we have to deal with those who are incapable of defending themselves, much less of harming us.

So much for the question of postages. I understood the gentleman who is at the head of the Post Office Committee to say yesterday that the postages by the Collins line have been greatly increasing, and that for the last year they had increased to $400,000.

Mr. OLDS. Three hundred and ninety thousand dollars.

Mr. JONES, of Tennessee. Will the gentleman from New York allow me to make a single remark. The net revenue of all ocean postages received from the Collins line, deducting the commissions paid to your postmasters and your inland postage, for the last fiscal year, according to the report of the Postmaster General, is $153,377 61.

Mr. CUTTING. I understand that as the amount received by the Government directly from the Collins steamers, but he does not credit the amount the British Government is bound to pay for letters carried by the Cunard line.

Mr. JONES. With the gentleman's permission, I will make a further remark. As I understand it, we do not get one farthing from any letters carried by the Cunard line. How is the postage made up? The postage upon a letter mailed in England to this country, is twenty-four cents, and the person mailing it there pays that sum. The letter is sent here by the Cunard line, and then there are three cents of the twenty-four that belong to the British Government for inland postage, and there are sixteen of the twenty-four cents belonging to the British Government for ocean postage. They pay to our post office five out of the twenty-four cents for the inland postage of the United States, and we get no postage by the ocean service of the Cunard line.

Mr. OLDS. With the permission of the gentleman from New York, I will read an extract from a statement furnished by the Auditor of the Post Office Department, in reply to a communication I addressed to the Postmaster General calling for information upon this question of postages.

I read in this statement, "that, for the year ending the 30th of June, 1854, the postages by the Cunard line were $589,160 65; the United States portion $122,741 80."

Mr. JONES, of Louisiana. I wish to know of the Chair how long the gentleman from New York is to occupy the floor?

The CHAIRMAN. Till five minutes of four o'clock.

Mr. OLDS. I will now finish my statement. The postage received by the Collins line was $265,407 75. The United States portion of that was $232,231 78. There was received by the closed mails of the Collins line, $33,599 80. Postage received on newspapers by the Collins line, $8,909 58. Now add to the postage received by the Collins line the twenty per cent. allowed by the postal treaty between this country and Great Britain, and take off the twenty per cent. from the postage by the Cunard line, and we have the total credit to the Collins line, for the year 1854, of $397,481 96.

Mr. CUTTING. I must hasten through with what I have to say. All I have to say is this, however this account may stand, if this Government will insist that England shall show fair play, and allow our letters to go at the same rate as with theirs, it cannot but be that superior speed will gain the victory, and then our postage will exceed that of the British. But if you put a discriminating tax, to our prejudice upon every letter of less than an ounce in weight, you drive the letters into the British mail bags.

The gentleman from Kentucky says he objects to this system of ocean mail steamers. I must say, if it had been in the power of this country to have prevented it, I should have been among the first to have seconded that effort, and I now say that there is nothing about which this Government can employ itself so profitably as to endeavor to effect an arrangement with Great Britain that when these contracts shall have expired, the two Governments should make no contracts whatever for mail steamers unless they stipulate to carry neither passengers nor freight, thereby bringing them down to mere mail carriers, and not carriers of passengers.

But when you have once commenced a system, and have induced the building of vessels, and made contracts, you must not turn around in the space of four or five years, and say you will no longer continue it with those you have made a contract with. You must not destroy contractors under a system, because you dislike it. This is not the time to discontinue extra compensation to Mr. Collins. Under the act of 1852, it is true, this Government reserved the power to give notice of terminating this extra compensation. But the exercise of power ought always to be reasonable. It is not a mere arbitrary thing. Men have bought stock, and invested capital upon the faith that the Government would not disturb this contract, unless there was some good reason for so doing, before the expiration of the contract. I ask you will you pick out this time of all others, in the hour and day of the calamities of this company; at a time when the noblest of their vessels has been lost, under circumstances which filled so many

hearts in this land with woe unutterable; will you select this time to break it up? I see by the papers that this line has recently met with another disaster, in running down an English vessel with a valuable cargo. Under this accumulation of adverse fortunes, will you select the present as the time to give the notice of discontinuance? I think you had better cherish them in the days of their adversity and trouble. The same principle which actuated Congress in 1852, apply now, when they have to build another vessel. They have suffered great calamities, and do not add to them by taking away the extra compensation which they have heretofore received, and at a moment, too, when all the arguments, which induced Congress in 1852 to bestow it, apply with ten fold greater force for its continuance.

With these remarks, I will resume my seat, thanking the committee for its kind indulgence.

Mr. JONES, of Tennessee. With the cost of the Collins steamers, the expense of running them, with the rates of fare for passengers, and the receipts for freight, we have nothing to do. That, sir, is the private business of E. K. Collins & Co. With them I have no more to do than I have with the amount of goods imported by Stuart, of New York, or of any other merchant in that city.

My business upon this subject, as a Representative of a tax-paying constituency, and as a legislator, is to inquire whether the services rendered by E. K. Collins & Co. are worth, in the first place, the money which we pay them; and, in the second place, whether or not we can get clear of any portion of that expense without violating the contract with that company, or giving them cause of complaint. In 1847, Collins & Co. came here and made a proposition, in accordance with which, without altering one word, Congress directed by law that the Secretary of the Navy should close the contract upon their own terms, which were that they should carry the mails twenty round trips a year, and receive for it $385,000 from the United States—being $19,250 for each round trip. They commenced the services in April, 1850, and in 1852 came back to Congress and represented that they could not carry out the contract and perform the services at the compensation they were receiving. The proposition was successfully advocated in Congress, that if you would increase the number of trips by six, and increase the compensation to $33,000 the round trip, they would carry out the contract and perform the services.

In both cases, one of the strongest arguments urged was, that it was the building up of your Navy, and would supersede the necessity of a direct expenditure in increasing the navy establishment. That argument has now no force, for I believe no one now seriously contends that these vessels will answer for war purposes.

Again, you were told when this compensation was increased that the increased mail facilities would so increase the correspondence between the two countries and, consequently, so increase the amount of postage as to remunerate the country for the extra expenses paid. Now, sir, the amount received by the Collins line from the Government, for the year ending 30th June, 1853 was $858,000, and the net revenue received through that line for the same year was $192,313 87, making the excess of payment over the receipts $665,686 13. The payment to them for the last fiscal year was the same ($858,000,) and the net receipts from them $153,337. This shows a decrease of receipts for the last year, from that of the preceding year of about $40,000. So that the loss for the two years has been $1,024,617 04.

E. K. Collins & Co. commenced the service on the 27th of April, 1850.

Amount paid E. K. Collins & Co. from April 27, 1850, to June 30, 1854	$2,835,406 57
Amount of ocean postages received for mails carried by Collins line from April 27, 1850, to June 30, 1854	734,466 01
Loss on Collins line since commencement	$2,100,940 56

Mr. OLDS. I am opposed to the amendment of the gentleman from Tennessee, for this reason: That if Mr. Collins continues his service he requires another steamer. The service requires that there should be another steamer. Now, will you require him to build another with this notice impending over him? If it is not given this year it may be the next, and will you require him to build another steamer under these circumstances?

Again, I hold that under the contract with Mr. Collins, the General Government are as much bound to pay him the extra compensation as they are to pay him the amount originally granted. After a full investigation in 1852, Congress determined that Collins & Co. should receive $33,000 per round trip, instead of the $19,000 or $20,000 they had heretofore received. This, in my opinion, was in effect entering into a new contract with Collins & Co. It is true that a proviso was appended, giving Congress the right to terminate the extra compensation, by giving six months notice; but I hold, nevertheless, that Congress are just as much under obligation to continue the additional as they are the original compensation.

The reserved right amounted to just this. If Congress became satisfied that they were giving the line too much for the service, they could terminate this portion of the compensation by giving the six month's notice. But I have demonstrated to the House the fact that the cost of making these trips is largely beyond what it was in 1852, when this new contract was made. I hold, therefore, I repeat, that Congress is just as much holden for one allowance as for the other, until they can produce evidence that the additional compensation is no longer needed. Now, sir, has any such evidence been produced? On the contrary, I have produced the sworn evidence of an engineer of the Navy Department, and of Mr. Collins himself, that the cost of running the vessels has largely increased. But, sir, I do not propose to detain the committee longer; I ask for a vote upon the amendment of the gentleman from Tennessee and ask for tellers upon its adoption.

Mr. ORR. I desire to hear the amendment again read.

Mr. JONES, of Tennessee. Perhaps, as some gentlemen around me do not seem to understand my amendment, it will be better that I should state what will be its effect. I propose to strike from the amendment of the gentleman from Ohio so much as provides for repealing the law of 1852, which authorizes Congress to give six months' notice for terminating the allowance of additional compensation. If the amendment prevails, it will then leave us to vote upon the question whether we will give the notice now or not. All I propose is, that we shall not prevent ourselves from giving the notice hereafter if we shall see fit.

Tellers were ordered; and Messrs. JONES, of Tennessee, and OLDS, were appointed.

The question was then taken; and the tellers reported—ayes 79, noes 83.

So the amendment to the amendment was not agreed to.

Mr. CRAIGE. I move that the committee do now rise.

The motion was not agreed to.

The question then recurred upon Mr. OLDS's amendment.

Mr. JONES, of Tennessee. I hope the vote will be taken upon the amendment of the gentleman from Ohio without further debate, and then let us decide the question in the House, where we can have the yeas and nays.

Mr. BRECKINRIDGE. I move to amend the amendment of the gentleman from Ohio so as to limit the time allowed for completing the new steamer to six months, instead of two years.

Mr. CHANDLER. Why, they cannot build a steamer in six months.

Mr. BRECKINRIDGE. I offer that amendment for the purpose of making a single remark, and then I hope a vote will be taken at once upon the amendment of the gentleman from Ohio, [Mr. OLDS.] I desire, sir, to call the attention of the committee to that amendment. I do not think their attention has been particularly directed to it. After repealing the proviso contained in the act of 1852, by which we reserved to ourselves the power to terminate the arrangement upon six months notice, the amendment goes on to provide that Edward K. Collins and his associates shall proceed, with all due diligence, to build another steamship, in accordance with the terms of the contract, and have the same ready, in two years after the passage of this act——

Mr. CAMPBELL, (interposing.) I wish to present a question of order to the Chair. The gentleman is not confining himself to the discussion of the merits of his amendment, to wit: the propriety of limiting the time for the construction of the steamer to six months. He is going on to discuss the merits of the original amendment, proposed by my colleague, [Mr. OLDS,] and I submit that that is not in order.

The CHAIRMAN. The Chair will state to the gentleman from Kentucky that he must confine his remarks to his own amendment, to the propriety of reducing the time allowed for the construction of the steamer to six months.

Mr. BRECKINRIDGE. Why, sir, when I was called to order I was engaged in stating the amendment itself! Why is not that in order, I should like to know?

Mr. CAMPBELL. I will explain to the gentleman my point of order. He was not proposing to discuss the amendment which he himself offered, but to discuss the amendment offered by my colleague. That is the point.

Mr. BRECKINRIDGE. Why, sir, have I not a right to read his amendment, in order to explain the effect which my amendment to his amendment will have? However, I will change my motion, and move to strike out the proviso to the amendment, and I hope that, instead of raising questions of order, the gentleman from Ohio will listen to that proviso, for it is certainly in order for me to read what I propose to strike out. It is as follows:

"*Provided*, That Edward K. Collins and his associates shall proceed, with all diligence, to build another steamship, in accordance with the terms of the contract, and have the same ready for the mail service in two years from and after the passage of this act. And if said steamship is not ready within the time above mentioned, by reason of any neglect or want of diligence on their part, then the said Edward K. Collins and his associates shall carry the United States mails, between New York and Liverpool, from the expiration of the said two years, every fortnight, free of any charge to the Government, until the new steamship shall have commenced the said mail service."

The effect of that proviso is, first, that they shall have two years in which to complete the proposed new steamship, and next, that if, by reason of any neglect on their part, they fail to complete it within the two years, then they shall carry the mails, free of charge, until they do complete it.

Now, why do we want this new steamship, unless we intend to make a new contract with Mr. Collins, after the present one has terminated, and unless we intend to extend this system of connecting the Government with these commercial monopolies? Mr. Collins's contract was for ten years? When did it commence?

Several MEMBERS. In 1847.

Mr. CUTTING. No, no; in 1850.

Mr. OLDS. The first trip was made in 1849.

Mr. CUTTING. The gentleman is mistaken; it was some time in the spring of the year 1850.

Mr. BRECKINRIDGE. When did the ten years commence to run?

Mr. JONES, of Tennessee. The service commenced on the 27th of April, 1850.

Mr. BRECKINRIDGE. Very well, sir; the service commenced on the 27th of April, 1850, and was to run for ten years. That would terminate it on the 27th of April, 1860. Well, they are to complete this new steamship within two years from the passage of this act. Suppose you pass it now. They must have their steamer built by the month of February, 1857, and there will then remain only between two and three years of their term under the existing contract.

Mr. OLDS. More than three years.

Mr. BRECKINRIDGE. Now, why do we want a new steamship, to run only between two and three years, unless it is intended to renew the contract?

Mr. CUTTING. Will the gentleman allow me a word just there?

Mr. BRECKINRIDGE. The contract will almost have expired before the vessel is completed, under the limitation contained in this proviso.

Mr. CUTTING. I will explain to the gentleman from Kentucky, with his permission, what I suppose to be the reason, although I am not personally informed about the matter. Under the original contract, Mr. Collins was allowed eighteen months to build the steamers, but it was found that that time was insufficient to complete them, and an act of Congress was passed by which the time was extended till 1850. Mr. Collins has now only three vessels—three vessels kept under whip and spur, to enable him to carry the mails

and fulfill his contract. Those three vessels must run from now on for five years, without the slightest accident, or else he will violate his contract. It is, therefore, necessary that there should be a fourth vessel to enable him to fulfill his contract under any contingency.

Now, I once heard the suggestion made by Mr. Collins himself, that the English are building a great iron steamship, called the Persia, of three thousand five hundred tons burden, which is to be ready some time this coming spring——

[Here the hammer fell.]

Mr. DISNEY obtained the floor.

Mr. BRECKINRIDGE. Is my time out?

The CHAIRMAN. It is.

Mr. CUTTING. I did not mean to consume the time of the gentleman from Kentucky, but I have the floor, and am entitled to speak five minutes in opposition to his amendment, and that time I will yield to him.

Mr. JONES, of Tennnesse. But the gentleman from New York has not got the floor.

Mr. CUTTING. I believe I have.

The CHAIRMAN. The floor has been assigned to the gentleman from Ohio, [Mr. DISNEY.]

Mr. DISNEY. Mr. Chairman, I desired to have got the floor during the progress of the general debate upon this subject, but I failed to do so, and experience has taught me pretty thoroughly, the folly of attempting, in a five-minute speech, to give my views upon this or any other question. I shall perpetrate no such folly on this occasion.

I am opposed to the amendment of the gentleman from Kentucky, and I rise to state to the House the impression which has been produced upon my mind by the general course of this debate, and by the facts which have been presented for our consideration. I am satisfied that this Collins concern has made no profit out of this affair, and the thought has occurred to me, that this whole matter might be adjusted practically with a just regard to the public interest, and without giving any ulterior or just cause of complaint to the parties on either side.

For one, I am willing that the contract with E. K. Collins & Co. shall be continued during the term for which it was originally made, but I cannot resist the conviction that these mails can be transported between this country and Europe at a much less price and to far greater advantage to all the parties concerned—I mean the community at large.

Now, a proposition has been made to Congress, emanating from Mr. Hansen, of Brooklyn, which, in my judgment, can be successfully carried out. Why not authorize the Postmaster General to contract with this individual upon satisfactory sureties, to transport the mails in the manner proposed by him? Let that contract commence, say two years from this time. At that point of time the existing contract with the Bremen and Havre line will have terminated. These two lines are considered failures. The contract of Mr. Hansen, then, would not increase the expenditure of the Post Office Department for the transportation of the European mails, and it would, at least, afford an opportunity to test the experiment, whether these mails can or cannot be transported in the manner proposed by him successfully, and whether we cannot dispense with the necessity of giving gratuity to these mail lines altogether.

Well, sir, I am willing that these parties get the contract for which they propose, and I therefore intend to introduce a proposition authorizing the Postmaster General to enter into a contract with Mr. Hansen, of such a character as he has indicated.

[Here the hammer fell.]

Mr. ORR. Mr. Chairman——

The CHAIRMAN, (interrupting.) No further debate is in order. The question is on the amendment proposed by the gentleman from Kentucky.

Mr. BRECKINRIDGE. I desire to withdraw it.

The question was taken; and the amendment to the amendment was rejected.

Mr. ORR. I move, Mr. Chairman, to strike out all that portion of the amendment of the gentleman from Ohio [Mr. OLDS] which provides for the building of a new steamer.

The CHAIRMAN. That is the proposition which was submitted by the gentleman from Kentucky, [Mr. BRECKINRIDGE,] and which has been just voted down.

Mr. JONES, of Tennessee. Was there a vote on that proposition? I understood the gentleman had withdrawn it.

The CHAIRMAN. There was a vote.

Mr. ORR. Well, I move to strike out all of the amendment of the gentleman from Ohio, except the first five words.

I am opposed, Mr. Chairman, to the amendment of the gentleman from Ohio. I think that the proposition reported by the Committee of Ways and Means ought to be adopted. I was a member of the Thirty-Second Congress when this proposition to give increased compensation to the Collins line of steamers was passed. It was passed here, after a long and doubtful struggle, by a majority of two votes. I do not know, Mr. Chairman, that it was stated distinctly on the floor at the time, but I think it was, that it was necessary to give this line the increased compensation of $33,000, with a view of enabling the company to relieve itself from pressing embarrassments; and that, if it were continued for a little time then the company would be able to get along without any further aid. Two years have expired. Congress reserved to itself the privilege of terminating the increased compensation by giving six months' notice; and I venture to say here, that if that reservation had not been contained in the amendment increasing the compensation from $19,250 to $33,000, it could never possibly have passed the House.

Still, Mr. Chairman, I think that the debate on this subject has been full. The proposition of the gentleman from Ohio presents one distinct issue—the proposition of the Committee of Ways and Means presents another. If the committee, however, should adopt the amendment of the gentleman from Ohio, and go into the House, then there is a direct vote. If the friends of the bill think the amendment strong enough to be carried, why, let them vote it in. We can have the two distinct propositions to vote on—the one being to give a notice of the termination of the increased compensation, according to the recommendation of the Committee of Ways and Means, and the other the amendment of the gentleman from Ohio.

Mr. OLDS. That is right; agreed.

Mr. ORR. There is no proposition that can be adopted by the committee which can give us a more direct, well-defined issue, than the two propositions now pending. I therefore hope that, if the gentleman from Pennsylvania [Mr. CHANDLER] has said what he desired to say on this subject, the debate will terminate now, that we may go into the House and determine the question by yeas and nays.

[Cries of "Right!" "Right!" "Agreed."]

Mr. BARRY, of Mississippi. I am very willing to let this matter be taken out of committee into the House, but as others have had their say, I think it but proper that I should make a few remarks.

The CHAIRMAN. Does the gentleman propose to speak in opposition to the amendment of the gentleman from South Carolina?

Mr. BARRY. Yes, sir; I intend to introduce an amendment appropriating this increased compensation, but with an aim to the establishment of another line of steamers—that is, to pay the difference between the $19,000 and the $33,000 as compensation to another line for running alternate trips with the Collins line, so as to have weekly departures. If we require this quick and constant communication with other countries, and if we must give this large compensation for it, let us at least take care to have additional facilities for our money.

Mr. SOLLERS. May I ask the gentleman from Mississippi if the other line he refers to is the Vanderbilt line?

Mr. BARRY. It is any line that will take $15,000 per round trip for the service.

Mr. SOLLERS. Yes; I understand.

Mr. BARRY. I come back to one thing contained in the amendment of the gentleman from Ohio, and which it is proposed to strike out; that is, the building of a new ship. These parties have undertaken to carry the mails, and we have no right to say, by subsequent law, that they shall build ships, or that they shall not. The contractor has got to build the ship; and if they are not of the kind contracted for, his contract becomes forfeited. Now why, I ask, with all due deference, was this proviso of building a new ship put in? Just to show that the company was going to an additional expense. But, sir, this is an expense which, when they entered into the contract, they became liable and responsible for. I can only regard it as having been put in for the purpose of having an effect on the committee. The company was bound, in its original contract, to build these ships, and it is unnecessary to have this proviso in the amendment.

Mr. BRECKINRIDGE. I ask if, in the original contract, the company was not bound to furnish five ships?

Mr. BARRY. Yes; and they have never done it.

Mr. WASHBURN, of Maine. Will the gentleman from Mississippi permit me to state——

Mr. BARRY. The gentleman can get the floor after I am through, if he chooses. I have only a minute or two left. Now, sir, I was proceeding to say that this proviso was put in simply for the purpose of making the amendment look more plausible and more strong before the House and the country—this proviso that the company shall build a ship, which they are already bound to build, and so fulfill this mail service contract.

Gentlemen talk of the great loss sustained by the company in the recent wreck of one of its vessels. That, sir, is one of the losses incident to every such undertaking; and they are bound to meet it as any other men meet losses incurred in the regular course of trade. About the frightful misfortune with which the country sympathizes I have only this to say: that if they had spent in life-boats for that vessel the money which they spent in ginger-bread ornaments and decorations, there might have been hundreds of valuable lives saved, which are now lost to the country. The loss of the vessel is theirs, and the responsibility is theirs. And why, sir, should we be called upon, at this time, to continue this large compensation; why should we give pap to this company, at the expense of the revenues of the country, which was intended to be only a temporary relief for a temporary embarrassment? They ask now to be favored in this manner on the plea of their recent misfortune. Why, sir, so far as I can see, it was their own conduct which made so many hearts in the country bleed; it was their own conduct which led to a calamity from which there is hardly a family in the Union which has not suffered. And they dare to put forward their money losses here as an argument in their favor, or as an appeal to the sympathy of Congress.

Mr. SOLLERS. I ask my friend from Mississippi whether he thinks Mr. Collins was to blame for a calamity by which he lost his family?

Mr. BARRY. I do not say he was, except in a business point of view. My sympathies with him are as profound as those of any other member.

[Here the hammer fell.]

The question was taken on the amendment offered by Mr. ORR; and it was not agreed to.

The CHAIRMAN. The question is now upon the amendment proposed by the gentleman from Ohio, [Mr. OLDS.]

Mr. OLDS demanded tellers; which were ordered; and Messrs. CASKIE and WHEELER were appointed.

The question was taken; and the tellers reported —ayes eighty-two, noes not counted.

So the amendment was agreed to.

Mr. BRECKINRIDGE. I am instructed by the Committee of Ways and Means to offer the following amendment.

The amendment was then read by the Clerk, as follows:

SEC. 3. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1855, out of any moneys in the Treasury not otherwise appropriated, namely:

For the transportation of the mails from New York to Liverpool and back, $559,238 75.

For the transportation of the mails from New York to New Orleans and Charleston, Savannah, Havana, Chagres, and back, $202,378 21.

For the transportation of the mails from Panama to California and Oregon and back, $349,242 02.

SEC. 4. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated for the service of the Post Office Department for the year ending the 30th of June, 1855, out of any moneys in the Treasury arising from the revenues of said Department in conformity to the act of the 2d of July, 1846:

For the transportation of the mails, in two steamships, from New York, by Southampton, to Bremen and back, at $100,000 for each ship; and in two steamships from New York, by Cowes, to Havre and back, at $75,000 for each

ship, under the contract with the Ocean Steam Navigation Company of New York, $350,000.

For the transportation of the mails between Charleston and Havana, under the contract with M. C. Mordecai, $50,000.

For the transportation of the mails across the Isthmus of Panama, $85,314.

Mr. BRECKINRIDGE. It will be observed by the committee that the appropriations fall short of the whole annual amount of the service, and the reason why I offer this amendment is, that there is an unexpended balance in the Treasury which, to the extent it would go, is appropriated for that purpose.

The question was then taken upon Mr. BRECKINRIDGE's amendment; and it was agreed to.

Mr. DISNEY. I now offer the amendment which I indicated I would offer awhile since.

The amendment was then read by the Clerk, as follows:

And the Postmaster General is hereby authorized, upon satisfactory security being furnished for its faithful execution, to enter into a contract with Christian Hansen, of the city of Brooklyn, for the transportation of the mails of the United States, to commence with the expiration of the present contracts with the Bremen and Havre lines, in four steamers or propellers, of not less than two thousand tons burden each, from the city of Brooklyn, in the State of New York, twice a month, via Plymouth, in England, Antwerp, Rotterdam, to Giickstadt, on the river Elbe, near Hamburg. The times of departure to be fixed as the Postmaster General shall direct. The said steamers to be built under the direction and supervision of the Secretary of the Navy, and the right to purchase them at a price to be fixed by valuation shall be reserved to the United States, and as a consideration for the transportation of the mails as herein provided, the Postmaster General is hereby authorized to contract to pay the said Christian Hansen, the sum of $355,000 per annum, or $14,791 per round trip, payable quarterly.

Mr. JONES, of Tennessee. I make the point of order that there is no law authorizing the appropriation contemplated by the gentleman in his amendment.

The CHAIRMAN. The Chair decides, under the 81st rule, that the amendment is not in order.

Mr. WALBRIDGE. I move that the committee rise and report the bill.

The question was taken; and it was decided in the affirmative.

So the committee rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bill (No. 595) making appropriation for the transportation of the United States mail, by ocean steamers and otherwise, during the fiscal year ending the 30th of June, 1856, which they had directed him to report to the House with two amendments.

Mr. BRECKINRIDGE. I demand the previous question on the bill.

The previous question was seconded.

The main question was then ordered to be now put.

Mr. SMITH, of Virginia. I move the House do now adjourn.

Mr. CAMPBELL. I desire to inquire of the Speaker, whether, under the rules, this bill will come up in the morning, if the House now adjourns?

The SPEAKER. The main question has been ordered to be now put, and the Chair thinks it will be the first business in order in the morning.

The question was then put upon the motion to adjourn; and it was agreed to.

The House accordingly, at twenty minutes past four, adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

SATURDAY, *February* 17, 1855.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The President *pro tempore* laid before the Senate a message of the President of the United States, in answer to a resolution of the Senate of December 11, 1854, asking for copies of correspondence relative to the late difficulties between the consul of the French Government at San Francisco and the Federal authorities in the State of California; which was ordered to lie on the table and be printed.

Also, a report of the Secretary of the Treasury, in compliance with a resolution of the Senate of the 10th instant, calling for a statement of the amounts of silver purchased for recoinage; also, the reasons for the difference of the prices paid at Philadelphia and New Orleans for the silver recoined; which was referred to the Committee on Finance and ordered to be printed.

Also, a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate, all the original papers, including a report of the Commissioner of Customs, in relation to the claim of Gibbons and Kelly, contractors for building light-houses in Oregon and California; which was referred to the Committee on Claims, and ordered to be printed.

PETITIONS, ETC.

Mr. SEWARD presented the memorial of the Minnesota and Northwestern Railroad Company, praying that the joint resolution of the House of Representatives, now before the Senate, disapproving the act of the Legislative Assembly of the Territory of Minnesota, incorporating that company, may be rejected by the Senate; which was referred to the Committee on Territories.

Also, documents in relation to the claim of Jesse Posey, a soldier in the late war with Mexico, to a pension; which was referred to the Committee on Pensions.

Mr. SHIELDS presented a petition of citizens of Alton, Illinois, praying that a pension may be allowed William Young, who was wounded in firing a salute in honor of ex-President Fillmore, on the occasion of his visit to that city; which was referred to the Committee on Pensions.

Also, a resolution of the Legislature of Illinois, against the renewal of patents heretofore granted to Cyrus H. McCormick, Obed Hussey, and Moore & Hascall, for improvements in mowing and reaping machines; which was ordered to lie on the table.

Mr. JONES, of Iowa, presented a petition of citizens of Iowa, praying the establishment of a mail route from McGregor's Landing to Independence, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. SUMNER presented a petition of citizens of Pennsylvania, praying the immediate repeal of the fugitive slave law; which was ordered to lie on the table.

Also, a petition of electors of Worcester, Massachusetts, praying that no State may hereafter be admitted into the Union whose constitution does not expressly prohibit slavery therein; which was ordered to lie on the table.

Mr. DODGE, of Iowa, presented a resolution of the Legislature of Iowa in favor of an appropriation to compensate the citizens of Iowa who were called into service by the Governor thereof to repel a threatened invasion of that Territory by the people of Missouri; which was referred to the Committee on Military Affairs.

Also, a resolution of the Legislature of Iowa, in favor of the establishment of a mail route from Bear Grove to Council Bluffs, and additional mail facilities from Fort Des Moines to Council Bluffs; which was referred to the Committee on the Post Office and Post Roads.

Also, a petition of citizens of Iowa, praying the establishment of a mail route from Elkader to Independence, in that State; which was referred to the Committee on the Post Office and Post Roads.

Also, a resolution of the Legislature of Iowa in favor of reducing the rates of ocean postage; which was referred to the Committee on the Post Office and Post Roads.

Also, a resolution of the Legislature of Iowa in favor of the establishment of a regular line of steamers, to be employed in the trade between the United States and the coast of Africa; which was referred to the Committee on Commerce.

Also, a resolution of the Legislature of Iowa against the renewal of the patents of McCormick, Hussey, and Moore & Hascall for improvements in mowing and reaping machines; which was referred to the Committee on Patents and the Patent Office.

Also, resolutions of the Legislature of Iowa concerning the protection of settlers and emigrants between the Mississippi valley and the Pacific ocean, including the establishment of postal and telegraphic communications across the American continent; which were ordered to lie on the table.

Also, a memorial of the General Assembly of Iowa, praying that the duties on sugar and molasses may be abolished; which was referred to the Committee on Finance.

Also, a memorial of the General Assembly of Iowa, praying the construction of a railroad between the States bordering on the Mississippi river and Pacific ocean; which was ordered to lie on the table, and be printed.

Also, an additional document in relation to the petition of Orson Young; which was referred to the Committee on Pensions.

Also, a memorial adopted at a meeting of citizens of Keokuk, Iowa, praying that ten thousand acres of the public lands may be set apart for the purpose of colonization on scientific and equitable principles; which was referred to the Committee on Public Lands.

Mr. CLAYTON presented six petitions of citizens of Pennsylvania, praying an appropriation for the erection of a building for the post office, custom-house, and United States Courts in the city of Philadelphia; which were referred to the Committee on the Post Office and Post Roads.

Mr. BRODHEAD presented four petitions of citizens of Pennsylvania, praying an appropriation for the erection of a building for the post office, custom-house, and United States courts in the city of Philadelphia; which were referred to the Committee on the Post Office and Post Roads.

PAPERS WITHDRAWN.

On motion by Mr. COOPER, it was

Ordered, That James A. Glanding have leave to withdraw his petition and papers.

Mr. THOMPSON, of Kentucky. I desire to withdraw from the files of the Senate the petition and papers of Elizabeth V. Drane.

The PRESIDENT. Has there been an adverse report upon them?

Mr. THOMPSON, of Kentucky. There has been.

The PRESIDENT. Then it is against the rule to withdraw them without some reason for it.

Mr. THOMPSON, of Kentucky. The petitioner wishes them for her own use.

Mr. MASON. The rule, I understand, is, that when an adverse report has been made, the papers cannot be withdrawn unless some proper reason be assigned for it.

REPORTS FROM STANDING COMMITTEES.

Mr. STUART, from the Committee on Commerce, to whom was recommitted Senate bill No. 524, with instructions to report a bill with specific appropriations for the several harbors or other works on the lakes mentioned in the above bill, for which, in their judgment, appropriations should be made, reported a bill making appropriations for the improvement of certain harbors on the northern lakes; which was read a first and second time by its title, and made the special order for Monday next, at one o'clock.

He also, from the same committee, to whom were referred the following bills, asked to be discharged from their further consideration, for the reason that they were embraced in the bill he had just reported for the improvement of certain harbors on the lakes;

A bill to continue the improvement of the harbor of Conneaut, Ohio;

A bill to continue the improvement of the harbor of Ashtabula, Ohio;

A bill to continue the improvement of the harbor of Fairport, Ohio;

A bill to continue the improvement of the harbor of Cleveland, Ohio;

A bill to continue the improvement of the harbor of Huron, Ohio;

A bill to continue the improvement of the harbor at the mouth of the Black river, Ohio;

A bill to continue the improvement of the harbor of Sandusky City, Ohio;

A bill for continuing the improvement of the harbor of Dunkirk, New York, on Lake Erie;

A bill for continuing the improvement of the harbor of Oswego, New York, on Lake Ontario;

A bill making an appropriation for a steam dredge on Lake Ontario;

A bill for continuing the improvement of the harbor at the mouth of Oak Orchard Creek, New York, on Lake Ontario;

A bill for continuing the improvement of the harbor of Buffalo, New York, on Lake Erie;

A bill for continuing the improvement of the harbor of Sodus Bay, Wayne county, New York, on Lake Ontario; and

A bill for continuing the improvement of the

harbor of Sodus Bay, Cayuga county, New York, on Lake Ontario.

He also, from the Committee on Public Lands, to whom was referred the petition of James Harper and Robert W. Harper, praying that a law may be passed authorizing the State of Virginia to pay her revolutionary officers as those of the Continental line, submitted an adverse report thereon; which was agreed to, and ordered to be printed.

Mr. HUNTER, from the Committee on Finance, to whom was referred the amendment of the House to the second amendment of the Senate to the bill of the House making appropriations for the payment of invalid and other pensions of the United States for the year ending 30th of June, 1856, recommended that the Senate concur therein.

Mr. SEWARD, from the Committee on the Post Office and Post Roads, to whom was referred a bill to aid in the transportation of the mails, reported it back with an amendment in the form of a substitute.

He also, from the Committee on Pensions, to whom was referred the petition of Thomas H. Bingham, son of Ralph Bingham, a soldier of the Revolution, praying remuneration for the services and sufferings of his deceased father, and losses sustained on account of the depreciated currency in which his pension was paid, submitted an adverse report thereon; which was agreed to, and ordered to be printed.

Mr. ALLEN, from the Committee on Pensions, to whom were referred documents in relation to the claim of the heirs of Stephen Morrill, to the pension due their father, together with a bill for that purpose, submitted an adverse report thereon; which was ordered to be printed.

Mr. SHIELDS, from the Committee on Military Affairs, to whom was referred a bill from the House making an appropriation for military defenses at Proctor's Landing, in Louisiana, reported it back, without amendment.

Mr. SLIDELL, from the Committee on Foreign Relations, to whom were referred additional documents in the case of Robert M. Hamilton, who claims compensation for diplomatic services while United States consul at Montevideo, submitted an adverse report thereon; which was ordered to be printed.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred a bill for the relief of the heirs and legal representatives of Pierre Cazelan, deceased, reported it back without amendment, together with a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Cephise Piseros, widow of Louis Labranche, praying the confirmation of her title to a certain tract of land, submitted a report, accompanied by a bill for the relief of Cephise Piseros, widow of Louis Labranche, of the parish of St. Charles and State of Louisiana, which was read, and passed to a second reading. The report was ordered to be printed.

Mr. GWIN, from the Committee on Naval Affairs, to whom was referred the memorial of Charles J. Swelt, praying compensation as purser during the time he acted as such on board the San Jacinto, submitted a report, accompanied by a bill for his relief; which was read, and passed to a second reading. The report was ordered to be printed.

Mr. TOUCEY, from the Committee on the Judiciary, reported a bill to protect officers and other persons acting under the authority of the United States; which was read a first and second time by its title.

Mr. HAMLIN, from the Committee on Commerce, reported a bill authorizing the Secretary of the Treasury to sell revenue cutters Ingham and Harrison, and to build or purchase four other small boats for the revenue service of the lakes; which was read, and passed to a second reading.

Mr. MALLORY, from the Committee on Naval Affairs, to whom were referred the amendments of the House of Representatives to the bill to promote the efficiency of the Navy, together with the amendment proposed thereto by Mr. PRATT, reported in favor of concurring in the amendments of the House of Representatives.

SURVEY OF RED RIVER.

Mr. SLIDELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to furnish to the Senate the report of Colonel Fuller, of his late survey of the Red river, in the region of the raft, with the accompanying map.

CONVICT AND PAUPER IMMIGRATION.

Mr. JONES, of Tennessee, submitted the following resolution for consideration:

Whereas, the Constitution of the United States confers on Congress the power to establish a uniform rule of naturalization, and is silent as to the exercise of any power over the subject of immigration: And whereas, it is declared in the Constitution that all powers not delegated to the United States by the Constitution, nor prohibited to the States by it, are reserved to the States respectively, or to the people: Therefore—

Resolved, That Congress has no power to pass any law regulating or controlling immigration into any of the States or Territories of this Union. But that the power to prescribe such rules and regulations touching this subject as may be deemed necessary to the safety and happiness of the people, belongs to the States respectively, or the people: And that each State may determine for itself the evils resulting from the great influx of criminal and pauper immigration to this country, and apply such remedy as their wisdom may suggest, or their safety demand.

BILL INTRODUCED.

Mr. SEWARD asked and obtained the unanimous consent of the Senate to introduce a joint resolution, authorizing the Secretary of the Treasury to settle the claim of Alfred G. Benson, on the principle of equity and justice; which was read twice by its title, and referred to the Committee on Foreign Relations.

MAIL STEAMER APPROPRIATION BILL.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that they had passed a bill making appropriations for the transportation of the United States mail by ocean steamers and otherwise, for the fiscal years ending June 30, 1855, and June 30, 1856.

STEAMER FANNY FERN.

Mr. HAMLIN. I am instructed by the Committee on Commerce, to whom was referred the memorial of William W. Martin, asking for the passage of an act to authorize the Secretary of the Treasury to change the name of a certain vessel therein named, to report a bill to change the name of the American-built steamer Fanny Fern to that of Thomas H. Stuart, and ask for its immediate consideration.

The bill was read twice, and considered as in Committee of the Whole.

The steamer was wrecked by a collision, was abandoned by her owners to the underwriters, and has been purchased and is now owned by William W. Martin, of Alleghany county, Pennsylvania. The bill directs the Secretary of the Treasury to admit her to register under the new name.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

REVOLUTIONARY PENSIONERS.

Mr. JONES, of Iowa. I am instructed by the Committee on Pensions, to whom was referred a resolution on the subject, to report a bill for the further relief of the surviving officers, non-commissioned officers, soldiers, and seamen, who served in the war of the Revolution.

The bill was read by its title.

Mr. CASS. I hope it will be read a second time and considered now. There can be no objection to it. It is a bill which simply provides that every revolutionary officer or soldier now living, who is upon the pension roll at a pension of less than $100 per annum, shall receive that sum. I do not suppose that a voice can be raised against it in the Senate. It is founded upon letters which I have received from one or two individuals, poor old pensioners of ninety-two and ninety-three years of age, who are now compelled to subsist on the means of others.

Mr. HAMLIN. I shall interpose no objection to the passage of that bill; but I do ask that it may not be finally considered now, and for this reason: there is a class of widows of those who served in the revolutionary war, who are entitled to a compensation equally with these persons. An amendment is pending upon the pension appropriation bill to meet their case. The Committee on Finance have, this morning, reported a recommendation to concur with the House in rejecting that amendment. Now, if the Senate should see fit to do that, I propose to add that amendment to this bill. I have not prepared it, but I will have it ready on Monday morning. If the bill then comes up, I shall interpose no objection to it.

The bill was read a second time; and its further consideration postponed until Monday next.

PERSONAL EXPLANATION.

Mr. CASS. I desire to give notice that on Monday, I shall ask the indulgence of the Senate to make some explanations which may perhaps be considered as personal. The Senate will recollect that during the last session, I called its attention to a declaration made by the British Secretary of State for Foreign Affairs, in the House of Lords, that a union had been formed between France and England that looked to every question of policy through the world. Since then, and recently, a statement has appeared in the public papers purporting to be, and I have no doubt it is, by the authority of Lord Clarendon, denying that the true construction was put upon his words, and condemning, pretty severely, the course I pursued. I now repeat, that on Monday I shall ask the indulgence of the Senate to make some remarks upon the subject.

ANTONY WALTER BAYARD.

Mr. JONES, of Iowa. I am instructed by the Committee on Pensions to report favorably on the bill of the House increasing the pension of Antony Walter Bayard, of Bellefonte, in the State of Pennsylvania.

Mr. BRODHEAD. The man for whose relief that bill is recommended saved General Taylor's life and his command at Fort Harrison. He was one of two or three men who volunteered their services to extinguish a fire of an outbuilding that had been fired by the enemy. His companions were at once shot down, and himself wounded, but he succeeded. I hope the Senate will consider the bill now.

The Senate, as in Committee of the Whole, considered the bill. It raises the amount which the pensioner now receives from eight dollars to twenty dollars a month; the increase to commence from the 1st January 1852, and to continue during life.

No amendment being proposed, the bill was reported to the Senate, and ordered to a third reading. It was read the third time, and passed.

NEW ORLEANS CUSTOM-HOUSE.

Mr. BENJAMIN. I am instructed by the Committee on Commerce, to whom was referred the joint resolution in relation to the New Orleans custom-house, to report it back without amendment, recommend its passage, and ask for its immediate consideration.

The Senate, by unanimous consent, considered the joint resolution as in Committee of the Whole.

It will give authority to the Secretary of the Treasury to make such a change in the mode of constructing the New Orleans custom-house as will be best, in his judgment, to lighten the foundations from the great weight of the superstructure.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EFFICIENCY OF THE NAVY.

Mr. MALLORY, from the Committee on Naval Affairs, reported the amendments of the House to the bill to promote the efficiency of the Navy, and asked the Senate to act upon them now, but at the earnest desire of gentlemen who wished to go through with other business, he withdrew his motion.

INVALID PENSION BILL.

Mr. HUNTER. I now move that the Senate take up and consider the amendment of the House to our amendment to the bill making appropriations for the payment of invalid and other pensions of the United States, for the year ending June 30, 1856. There is but one question presented which, I think, we can very soon decide.

The motion was agreed to.

The Senate passed the bill on the 20th of December last, with three amendments. The first was to add:

SEC. 2. *And be it further enacted*, That any moneys appropriated by the act of 31st of May, 1854, to supply deficiencies for the fiscal year ending the 30th of June, 1854, applicable to the payment of pensions of invalids who were wounded on board private-armed vessels during

the last war with Great Britain, not required under the provisions thereof, may be applied to the same purpose for the year ending June 30, 1855.

The House agreed to this amendment, and also to the third amendment of the Senate, which was to amend the title of the bill by adding, "and for other purposes."

The second amendment of the Senate was to add:

SEC. 3. *And be it further enacted*, That the widows of the officers, non-commissioned officers, marines, or mariners, who served in the Navy of the United States during the revolutionary war, and who were married since the 1st day of January, 1800, shall be entitled to pensions in the same manner, and to the same extent, as the widows of officers and soldiers of the army of the Revolution, under the second section of the act of February 3, 1853; and the pensions granted by this act, and those under said second section of the act of February 3, 1853, shall commence on the 4th of March, 1848.

The House agreed to this, with an amendment, to strike out "and the pensions granted by this act, and those under said second section of the act of February 3, 1853, shall commence on the 4th of March, 1848." The question is on concurring in this action of the House, as recommended by the Committee on Finance.

Mr. HUNTER. The reason for that amendment, which the Committee on Finance recommend the Senate to concur in, is given in a letter from the Commissioner of Pensions, which I ask to have read.

The Secretary read as follows:

PENSION OFFICE, *December* 26, 1854.

SIR: I have received your note of the 23d instant, calling my attention to the amendments, adopted by the Senate, to the bill making appropriation for the payment of invalid and other pensions of the United States for the year ending the 30th day of June, 1856, and asking me to furnish you with an estimate of the amount of money necessary to meet its requirements, and also an explanation of its provisions, and its effect on our pension system.

The amendment in question consists of two propositions. The first extends the benefits of the provision of the second section of the act of February 3, 1853, to the widows of the officers, non commissioned officers, mariners, and marines who served in the Navy of the United States during the revolutionary war. The second proposition requires all pensions under said section to be made to commence on the 4th day of March, 1848. The effect of the first proposition will be an addition of about twenty-five persons to the pension list, whose annual stipend will amount to about $2,000. This proposition harmonizes entirely with all former pension acts relating to the widows of officers and soldiers of the revolutionary war, and is required to supply an accidental omission in the act of February 3, 1853.

The second proposition will give to each pensioner under the second section of the act of February 3, 1853, an amount equal to the pension of such person for a period of four years and eleven months. The amount to each pensioner will vary from $9 33 to $2,950, according to the amount of pension to which they are now respectively entitled. This Department has decided that the second section of the act of February 3, 1853, is a new law; that it creates a new class of pensioners not before entitled, and being silent as to the time when its benefits are to commence; that it is controlled by the opinion of the Attorney General, dated October 24, 1836; and, consequently, that *it can confer no right anterior to its passage*. All pensions under it have, therefore, been made to commence on the day the act was approved.

The number of persons already admitted to the pension roll under this act, is two thousand five hundred and forty-five. The number of applications suspended, most of which will yet be admitted, is two hundred and eighty-six. Applications are now being presented at the rate of something over sixty a month. It is, therefore, manifest that the number of pensioners under this section will soon exceed three thousand. The average annual stipend to these pensioners is a trifle over eighty dollars. It will require, therefore, at least, $240,000 to pay these pensioners one year; $1,180,000 to pay them for the time specified in the proposed amendment. Besides, the husbands of many of these pensioners have lived since the 4th of March, 1848, and have received their pensions to the time of their death. This amendment will give to these widows a pension for the same time their husband received theirs, which has heretofore been prohibited by law.

I have thus endeavored to answer your inquiries as concisely as possible, and while I would not urge one objection to the adoption of this amendment, I would most earnestly request that in case the House of Representatives concur with the Senate, that you will take the proper measures to have the bill for the payment of invalid and other pensions further amended, so as to appropriate a sufficient sum to meet the increased demand under this act, which will be not less than $1,000,000.

I have the honor to remain, very respectfully, your obedient servant, L. P. WALDO, *Commissioner*.

Hon. R. M. T. HUNTER, *United States Senator*.

Mr. HUNTER. I wish to suggest to the Senator from Maine, that he had probably better make the question in regard to this provision on the bill reported by the Senator from Iowa, [Mr. JONES,] which was laid over until Monday. Let us have the appropriation bill finally passed, and if we are to have this additional legislation, let it be done on the other bill. I called this up, hoping to have it disposed of to-day, and let the question come up on the other bill.

The PRESIDENT. The question is on concurring in the amendment of the House.

Mr. ADAMS. I wish to ask the Senator from Virginia a question. The widows of revolutionary soldiers were entitled to a certain pension. In many instances, the former incumbent of the Pension Office determined, after the death of the soldier who had been in the receipt of a pension, which was granted upon sufficient and satisfactory testimony, that it required additional testimony from the widow to secure her pension. So unjust was that decision, that in 1848 Congress passed a law making the granting of the pension to the deceased husband sufficient evidence of his services. In conformity with the previous unjust and illiberal construction, the Pension Office determined that where the widow had died, after the death of the husband, before the passage of the law of 1848, the heirs were not entitled to it. The law was based upon the ground that an improper construction had been given to the rights of the parties; and if I understand the amendment correctly, it was to obviate that difficulty. If so, I am opposed to concurring in the action of the House. That law was based exclusively upon the ground that the testimony upon which the original pension was granted should be taken as conclusive evidence. Rights became vested under that. The construction of the Pension Office was illiberal, unjust, and a palpable violation of the intention of Congress. Congress passes a law. The Department thinks proper to legislate upon it; refuses to carry out the palpable intention of Congress, and compels Congress to open the door wider and wider, and wider and wider continually. That course has cost this Government more than all other causes put together. If I am not mistaken in the amendment of the Senate, which has been disagreed to by the House, I hope the action of the House will not be concurred in, and that a committee of conference will be secured, so as to maintain the rights which were declared by that act.

Mr. HUNTER. The Senator from Mississippi is mistaken. The amendment does not relate to the case which he suggests. In 1853 there was a provision passed giving the widows of the officers of the army of the Revolution five years' pension. The amendment proposed to put those of the Navy upon the same footing, which was not done in the act of 1853, and to allow them to receive back pensions from 1848. It has nothing to do with the testimony. It only relates to these arrearages of pensions. The House agreed to so much of the amendment as proposed to put the widows of those who served in the Navy upon the same footing as those of the Army, and disagree to the other part which proposed to give the arrearages of pensions for nearly five years.

Mr. HAMLIN. This is an important question; and I should be very glad if I could get the attention of the Senate while I state, as briefly as I can, the reasons which I think should induce us to insist upon this provision. Let me inquire of the Chair if it is now in order to submit a motion to insist upon the amendment of the Senate, or rather to disagree to the amendment of the House to it, and ask for a conference? Will not that have priority over a motion to concur?

Mr. HUNTER. The motion which terminates the contest, has priority over the one which prolongs it.

Mr. HAMLIN. Very well; I move that the Senate disagree to the amendment of the House, and ask a conference.

Mr. HUNTER. The motion which I submitted, under direction of the Committee on Finance, would terminate the contest, and, therefore, has priority over that of the Senator from Maine, which would prolong it. That is the rule.

Mr. HAMLIN. If it is not in order to make the motion which I indicated, I hope the Senate will disagree to the recommendation of the Committee on Finance.

Mr. GWIN. If this matter is about to lead to discussion I trust the Senator will give way, and let the bill go over until Monday.

Mr. HAMLIN. I think I shall not occupy more than ten minutes.

Mr. GWIN. But the Senator will be replied to by others, and thus the discussion will be continued.

I am very anxious that the unfinished business of Thursday—the Pacific railroad bill—shall be taken up and disposed of to-day. I had no idea that this matter would lead to discussion, or I should have objected to its consideration. I hope the Senator from Virginia will consent that the bill shall go over until Monday.

Mr. HUNTER. Under the circumstances I will not insist, as it was the general understanding that this bill should not interfere with other business this morning.

Mr. GWIN. I move that the further consideration of this bill be postponed until Monday.

The motion was agreed to.

PACIFIC RAILROAD.

Mr. GWIN. I now move that we proceed to the consideration of the unfinished business of Thursday—the bill for the construction of a railroad from the valley of the Mississippi to the Pacific ocean.

Mr. CLAY. I thought there was an understanding between the Senator from California and myself on Thursday last that to-day should be devoted to the consideration of the bill to extend a credit of three years to railway companies to pay for duties on railroad iron. I trust that he will not now break that agreement.

Mr. GWIN. At the time to which the Senators refers, I supposed that the rule setting apart Friday for private bills had been repealed, and that this bill would come up yesterday as unfinished business, and be then disposed of. I was informed on that morning that the rule had been repealed, a resolution for the purpose having been submitted on the previous day. I never knew otherwise until I came into the Senate Chamber yesterday. The Senate will recollect, however, that when the proposition to which the Senator from Alabama alludes was made, the Senator from Maryland, [Mr. PRATT,] and others, objected to any bargains at all, as they wished to debate the question. I said simply, that, so far as I was concerned, I did not wish to debate it. I hope, now, there will be no contest between these two great measures. The friends of the one are, to a great extent, the friends of the other; and I am confident that, if we take up the unfinished business this morning, it will be disposed of to-day. Let me tell the Senator from Alabama that some of the best friends of the measure which I seek to have considered are in favor of this bill, and will urge its passage, and I hope there will be no conflict between them.

The PRESIDENT. The Senate adjourned on Thursday last, leaving as unfinished business, Senate bill No 273, for the construction of a railroad from the valley of the Mississippi to the Pacific ocean.

The time for the consideration of the special orders having arrived, that bill is, therefore, now before the Senate, as in Committee of the Whole, without any motion.

Mr. CLAY. As it is a matter of life or death, I think, with either of these measures to be considered at once, and, as I believe, to defer the bill which I desire to have taken up, will result inevitably in its defeat in the other House, even if it should pass here, which I consider certain, I move now to postpone until Monday the consideration of the unfinished business, with a view of taking up the bill to give a credit of three years for the payment of duties on railroad iron.

Mr. DOUGLAS. On that motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BRODHEAD. I am very much opposed to the bill indicated by my friend from Alabama, but I feel bound from courtesy to vote for his motion. While I was absent, he, and other gentlemen, forbore to press the bill which he now desires to have taken up. I am opposed to that measure, and when it is taken up I shall be obliged to debate it still further, and I have no doubt it will lead to prolonged discussion. For that reason, I hope his motion will not prevail, although I feel bound, through courtesy, to vote for it myself.

The question being taken by yeas and nays, resulted—yeas 25, nays 21; as follows:

YEAS—Messrs. Adams, Allen, Bell, Brodhead, Brown, Butler, Chase, Clay, Clayton, Cooper, Dawson, Evans, Fitzpatrick, Gillette, Hunter, Johnson, Jones of Tennessee, Mason, Morton, Pettit, Sebastian, Sumner, Walker, Wells, and Wilson—25.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. SATURDAY, FEBRUARY 17, 1855. NEW SERIES....No. 50.

NAYS—Messrs. Benjamin, Brainerd, Bright, Dodge of Wisconsin, Dodge of Iowa, Douglas, Foot, Gwin, Hamlin, Jones of Iowa, Pratt, Rusk, Seward, Shields, Slidell, Stuart, Thompson of Kentucky, Thomson of New Jersey, Toucey, Wade, and Weller—21.

So the motion to postpone was agreed to.

DUTIES ON RAILROAD IRON.

On motion by Mr. CLAY, the Senate, as in Committee of the Whole, resumed the consideration of the bill granting to railroad companies three years in which to pay the duties on iron imported for railroad purposes.

Mr. CLAY. Although I intimated the other day an intention to address the Senate in support of this bill, I have determined, on consultation with its friends, not to do so, unless it shall become necessary in reply to something that may be said on the other side. I am so anxious to have the bill acted on that I shall forbear making any remarks in this stage of its progress.

Mr. COOPER. Mr. President, I had hoped that this measure would not be pressed upon the Senate at this time. There are now but two weeks of the session remaining; and it is known to you, sir, and to every member of the Senate, that there is a large amount of the current business yet to be done; and if the subject involved in the bill now pending should undergo that discussion to which its importance entitles it, very much of the residue of our time would be consumed. It is not, however, merely on this account that I think the bill has been introduced at an improper season; but at this very moment the interest which this bill is calculated to affect most deeply, is far from being in a prosperous condition. It is true, that not many months ago, owing to peculiar circumstances here and abroad, iron reached a price which made the business of its manufacture in this country flourishing and prosperous. Previously to that time, however, that interest had been completely prostrated, and a large portion of the manufacturing establishments of the country had been compelled to cease operations under the severe pressure of the times. A temporary season, a very short one, succeeded, during which, as I have just remarked, there was prosperity; prices rose, and all over the country furnaces, founderies, forges, and rolling mills were established, and the production promised to be much larger in future years than it had been in the years which were past. Everybody acquainted with the laws of trade felt assured that this increase in the amount of production would be followed by a decrease in the price of the article. But, sir, that season of prosperity continued only a short time. Other circumstances, adverse to this interest, succeeded, and now again it is groaning under a pressure which has driven out of operation those establishments whose owners were men of moderate means, leaving only the larger establishments, those controlled by men of large capital, to furnish the iron necessary for the consumption of the country.

Mr. President, for more than twenty years past the whole system of our congressional legislation (if that can be called a system which never was systematic) in relation to the imposition of duties on fabrics of foreign manufacture, and especially such as come into competition with our own domestic fabrics, has been radically wrong, calculated, for the most part, to retard the progress of home industry, and often to lay it prostrate at the feet of its foreign rivals. That this has been the effect of our legislation in regard to iron I shall attempt briefly to show; and, at the same time, it will be my own fault if I do not prove that this course of legislation, so prejudicial to the manufacturer of iron, has been detrimental, in the main, to the consumer also.

As a general rule, Mr. President, no proposition is truer than that frequent changes of legislation, on any subject, are mischievous; and this is true of changes in civil as well as political legislation. Frequent changes of legislation, either for prescribing the duties, defining the rights, or redressing the wrongs of individuals, argue a want of wisdom, stability, and forecast in the Legislature, and result in breeding contempt for the authority of its enactments. And besides this, a frequent change of laws renders it impossible for the people to be familiar with their requirements, or to respect them as unchangeable rules of action demanding their observance. And equally injurious are similar changes of that class of laws which affect, directly or indirectly, their pursuits and occupations. Nothing is more detrimental to the interests of labor than to invite it, by legislation, into a particular channel, and then to prostrate it by abandoning it to a competition which, owing to circumstances, it cannot endure. Yet for more than twenty years this has been the course of congressional legislation in respect to many of the branches of American industry; and none of them has suffered from it more than the manufacture of iron.

I will not go back, Mr. President, to the commencement of what was, at the time, designed to be *a system* of protection to such branches of our own industry as were considered of prime necessity, and which were subject to a disastrous competition from abroad. It will be enough for my present purpose to state, that prior to the enactment of the "compromise" of 1833, Congress had passed laws to encourage various branches of our infant industry, which were struggling against foreign competition. Under the encouraging auspices of this policy, a large amount of capital was invested in establishments for the manufacture of a great variety of necessary fabrics. Investments of this kind were remunerative as long as the policy of protection was pursued, and under this policy the country became prosperous. Not only did those branches of industry which were the immediate objects of Government protection feel the quickening and salutary influence of this policy, but other pursuits, not within its immediate range, grew and prospered under it. Its benefits were general and multifarious. It diffused widely throughout the country a spirit of mechanical and manufacturing enterprise. The absurd notion that our "work-shops should be located in Europe," and that our true vocation was agriculture and commerce, was exploded. The skill of our artisans was improved, and their ingenuity in the construction of machinery for labor-saving purposes, astonishingly developed.

It was, sir, under the influence of this policy, that the rivalry in skill between the American and foreign mechanic and manufacturer sprung into existence—a rivalry which promises, ere long, if properly cherished, to end in the admitted superiority of American skill and ingenuity. It is owing, too, to this policy, vacillating and changeful though it has been, that we owe our independence of foreign nations for those fabrics so essential to our prosperity in peace, and our security and success in war.

But, sir, while we owe to this policy the development of our skill in mechanical and manufacturing pursuits, and a large share of the general prosperity of the country, its frequent changes, and occasional abandonment, have been fruitful in producing some of the most serious embarrassments and disasters, which have occurred in the whole course of our national experience.

Before the passage of the compromise act of 1833, on the faith of existing laws for the protection of our domestic industry, a very large amount of capital had been invested in building furnaces, forges, woolen mills, cotton factories, glass works, and in the manufacture of steam engines, edge tools, nails, and other articles, for most of which we had been previously, in a great degree, dependent on foreign countries. These establishments were planted all over the country, everywhere withdrawing men from other pursuits, and creating new and convenient markets, not only for the grain and meat, the principal articles which the farmer sells in a distant market, but likewise for all the surplus commodities of the farm, the dairy and the garden, the profits of which are lost in the absence of a domestic market in which to sell them. The capital invested in these enterprises, directed by the untiring energy and skill, characteristic of our countrymen, soon began to be remunerative, though at first it was generally otherwise; and the influence of these enterprises, even when unfortunate themselves, being communicated to other departments of business and industry, gave an impulse to the useful arts which, notwithstanding the checks and drawbacks to which they have been subjected by unwise legislation, has carried them forward with a rapidity, unexampled in the history of industrial progress. The prosperity of the whole country, every branch of its business was promoted by the policy of protection; and the existence of a complete harmony of interests, in all the departments of industry, was clearly developed Trade, commerce, agriculture, and the mechanic arts, all felt its enlivening and stimulating influences, and all were rendered prosperous.

But this prosperity, so universal, did not long endure. The compromise of 1833 came to mar it, and blast the prospects of thousands and tens of thousands of those who had embarked their fortunes and labor in enterprises which had grown up under the policy repudiated by this mischievous compromise.

It is true, Mr. President, that the reduction of duties under this act was gradual; but a blow was struck at the former policy, and a time fixed when a horizontal rate of duties, entirely inadequate to the wants of our infant establishment, should take the place of the old one. Discrimination was repudiated, and notice given by Government to domestic labor that it should look to it for a helping hand no longer. Thenceforth it was to struggle alone against foreign competition and a skill which centuries of practice had developed and perfected.

This policy, by which discrimination in favor of American labor was repudiated, had scarcely been adopted before a change was everywhere visible. Its first effect was the destruction of confidence. Although the reduction of duties was gradual, the end could be seen from the beginning; and the day was known in advance, when a level rate of twenty per cent. duties on the *ad valorem* principle would take the place of the discriminated duties imposed by former acts. The consequence of this was, what was to be expected. Capital, instead of seeking investment in manufacturing and mechanical enterprises, began to be withdrawn from them, either to lie idle or be invested in lands, and thus to swell the amount of agricultural products, at the same time that the markets in which they were to be sold were being destroyed. This, sir, was the effect of the policy of the act of 1833; it was the effect, as I shall show, of the act of 1846; and it will be the effect of the measure now proposed, if it should become a law.

From 1833 until 1842, when the declining scale of duties, adopted by the act of the former year, had run down to its lowest notch, the decline of the prosperity of the country was constant; and for two or three years previous to the enactment of the tariff law of 1842, was rapid and disastrous. And, sir, it is well to remember, at this conjuncture, that manufacturing and mechanical industry did not suffer and fall alone. The prostration was general, embracing the whole country, and all its interests. Agriculture, and commerce, and the various branches of manufacturing and mechanical industry fell side by side.

I am not unaware, Mr. President, that between the two periods to which I have referred, (1833 and 1842,) there was a season of activity and apparent prosperity in many departments of business. But this activity and apparent prosperity had their rise in causes entirely independent of our revenue system. The deposits had been withdrawn from the old Bank of the United States, and placed, for safe-keeping, in State banks, which were invited to extend their discount facilities as widely as possible. The result of this policy was, to multiply State banks by hundreds. Politicians in the different States, hoping to be able to control the Government deposits, and banks without capital of their own, sought and obtained charters everywhere; and the consequence was, a flood of

paper money, which entirely unsettled the value of property, and begot a spirit of speculation, which in a short time ended in the ruin of most of those who were drawn into its devouring vortex.

But, sir, although fortunes may have been made whilst the period of wild speculation which followed the extension of the banking system lasted, there was no sound prosperity during the nine years which intervened between 1833 and 1842. Every branch of industry declined during this period, and the decline became more rapid as the duties became lower and lower. In my own State, between the latter part of 1839 and the early part of 1842, more than one third of the furnaces and forges had extinguished their fires and discharged their hands, who were forced to betake themselves to new employments, with which they were unacquainted, in order to earn their bread. But to assume that the manufacturer of iron was the only sufferer, or that the blow struck by the compromise fell upon him alone, would be to conclude rashly. The mischief wrought by that measure had a much wider sweep. It embraced all of the departments of industry, and, while it almost beggared thousands of people, it extended, likewise, to the Government, destroying its credit, and rendering it almost bankrupt.

You recollect, Mr. President—we all recollect—that the country, from one end to the other, was languishing, the Treasury of the nation empty, our creditors clamorous, while the public credit had fallen so low that we could scarcely borrow a dollar, either at home or abroad. You have not forgotten, none of us have forgotten, that an agent was sent abroad by the President for the purpose of making a loan; and that, after having hawked the bonds of the Government through the streets of the many capitals of Europe, he returned as empty-handed as he went. Here were the fruits of the policy of the act of 1833; and the fruits of every repetition of it will be the same.

Such as I have represented was the state of the country in 1842. Distress and bankruptcy prevailed throughout its length and breadth. Trade, and commerce, and agriculture, and industry of all kinds were languishing or prostrate. There was no life, no vitality, no energy apparent in any of the departments of business. Wages were low, though many foreign products were high. The markets, which the furnaces, forges, foundries, cotton factories, and workshops of various kinds had furnished to the farmer were, in a great measure destroyed; and the potato-rot, and famine consequent upon it, had not come, as it did, a few years later, to supply him with a foreign market for his surplus products.

At this period Congress saw fit to retrace its steps; and once more, in providing revenue for the Government by the imposition of duties on foreign fabrics, it discriminated in favor of the domestic manufacturer and mechanic. The tariff act of 1842 was passed, and by it our own labor was protected against what had been found to be the ruinous effect of the competition of the less than half-paid, half-starved, and half-clad laborers of Europe. And what, sir, was the effect of this legislation? Confidence was immediately restored; the empty coffers of the Government were filled; the prostrate branches of industry were set upon their feet; and prosperity once more returned to smile upon the country. The influence of this measure, like the sunshine and rain, descended upon the land to bless it and render it fruitful; and the change produced by it was instant and everywhere manifest. It was visible in the fields, in the factories, in the work-shops. It was to be seen in the schools, in the churches and in the countenances of the people, from which the gloom of despondency had been chased by the smile of restored confidence and renewed prosperity.

In my own State the influence of the tariff act of 1842 was almost magical. In the course of a very few months the fires were rekindled on the hearths of the furnaces, and the scattered workmen recalled to take their places around them. New furnaces and forges were built. Cotton and woolen factories sprung up in all the considerable towns. Our coal lands were developed, the mines opened, and that great branch of our industry extended far beyond all the anticipations of the most sanguine of those who had embarked in it. The wages of labor were increased, and all kinds of industry became remunerative. And whom did the policy which had produced such effects injure, and why was it repealed? It injured nobody, and was repealed for no other reason, Mr. President, than because it was for a time the watchword of a party—of a party in the minority, but a party whose principles, if they had been uniformly and honestly carried into practice, would have commended them to the majority of the people.

By what I have said, I do not mean to be understood that the act of 1842 was perfect, and without need of modification in the future. The work of human hands is never perfect, and less frequently, perhaps, is there perfection in the work of their heads. All I mean to say is, that its general effect was most salutary in restoring the prosperity of the country, in developing its industry, in increasing the skill of our workmen, and enabling them to compete successfully with those of foreign countries. In these respects its influence was undeniably salutary and beneficial. But that a day might come, and, perhaps, had come, at the time of its repeal, for modifications in some of its provisions, I do not intend to deny; and that some of the duties imposed by it were higher than necessary I am ready to admit. But that its repeal was called for, or that there was any necessity that it should be replaced by an act changing the system of specific for *ad valorem* duties, I cannot concede; and the operation of the act of 1846 will bear me out in declaring that the change was unwise and injurious.

I need not state, Mr. President, that the *ad valorem* system of duties not only opens a door to the perpetration of frauds, but affords likewise the least protection to the domestic manufacturer when most it is necessary. Take the article of iron for illustration: Two years ago, iron had fallen in England to some $22 per ton, the duty being but $6 60 per ton, when a large duty was necessary to protect the manufacturer in this country, and keep up the needful degree of competition. But a little while since the price of iron abroad had become so high that no protection was necessary to enable the domestic manufacturer to compete successfully with the foreign; yet the duty rising in proportion to the price had become so high as to be nearly prohibitory. Thus it will be seen that the *ad valorem* system is calculated to produce fluctuation in prices, and to reduce the rate of duties at the very time that sound policy would increase them; and *vice versa*. It is for this, amongst other reasons, that the *ad valorem* system has been repudiated by commercial nations everywhere.

But I may be told that the high prices and high duties which existed a few months ago, afford an argument in favor of the measure which is now pending. But this is an argument which can have no force with statesmen, who ought never to legislate on an accidental state of facts. In legislating on such a subject as this we should not act in reference to a single point of time, nor be governed by what might have been deemed the necessities of a moment. We should look at the subject as it has existed, or as it is likely to exist, through a course of years, and make provision accordingly. For much the greater portion of the time since the passage of the act of 1846, the duty has been entirely inadequate to the protection of the American manufacturer. Yet, without regard to what has been the general range of the rate of duty, we undertake, because for a moment it may have been too high, to repeal, reduce, or suspend it. Is this, permit me to ask, either just or statesmanlike?

Sir, under the act of 1846, the just complaint is, not that duties have been too high, but that both prices and duties have been ruinously low. For two or three years after the passage of that act, a state of circumstances entirely independent of it, prevented its worst effects from being felt. Previous to the time of its passage the public mind of Europe had embraced, with great ardor, the policy of uniting the commercial points of the continent by a system of railroads. Surveys were made, roads located, and contracts entered into for their construction between most of the large cities on the continent. Under this state of things the demand for iron was greatly increased, and the price correspondingly enhanced; and for a while the demand in Europe served to keep up the price here, and prevent the effects of the act of 1846 from being felt in all their force. But when the revolutions came, and works of internal improvement were abandoned on the continent of Europe, England was compelled to send to her old customer, the United States, the whole of her vast surplus, glutting the market, and breaking down our manufacturing establishments by the ruinous lowness of the price at which she could afford to sell it. And, Mr. President, although the prices at which iron was sold in this country, by the foreign manufacturer, between 1849 and the beginning of 1853, were lower than even his cheap capital and cheaper labor warranted him in receiving, we are not, therefore, to infer that he found himself out of pocket at the end of the year. It was but the surplus, which was not consumed at home, that was sold here at a price below the cost with the duty added. For the bulk of his production, which was disposed of at home, he received remunerating prices, and was thus enabled to send us his surplus at rates so ruinously low. And this, sir, was done upon calculation, with the view to break down our manufacturers, and leave to himself a clear field, without competition for the future. And in this he was successful; and would have been still more so, had it not been for the intervention of unlooked-for circumstances, to which I shall advert presently.

Mr. President, I know it may be said that prices are regulated by fixed and constantly operating laws of trade. And this I admit to be mainly true. But it is not always true, and especially not in regard to the iron trade in England. There, by means of associations, embracing all the manufacturers of the United Kingdom, arbitrary prices are often fixed, and adhered to with a pertinacity which is marvelous. These associations regulate not only the home price and the foreign price, but likewise the quantity to be produced; and through their supervising instrumentality, and for the purpose of breaking down the competition of our own manufactures, they favor us with the surplus of their productions at rates below the cost. But for the low rates at which they are willing to furnish us for a season, they expect to indemnify themselves by high prices afterwards, and in this they have succeeded.

I now come, Mr. President, to speak of the period when the act of 1846 began to produce its full effects upon the manufacturer in this country. For a time, as I have stated, this effect was materially mitigated, or rather postponed, by the condition of things in Europe. But as soon as the spirit of railroad enterprise, which for several years amounted almost to a mania in Europe, had subsided, or given way to the more absorbing spirit of revolution, the legitimate effects of that act became visible here in the decline of manufacturing prosperity, the low prices of agricultural products, and the diminution of the wages of labor. From the latter part of 1848 until the beginning of 1853, the downward progress of manufacturing industry in this country was quite as rapid as it had been in the corresponding period, between the latter part of 1839 and the early part of 1842; and the causes in both instances were precisely the same. During this period, very nearly, or quite, half the furnaces and forges in Pennsylvania blew out their fires. Scores of them were seized in execution and sold by the sheriff to satisfy the indebtedness of their owners, contracted in struggling against the competition of their foreign rivals. The workmen were without employment, and in some instances their families were without bread. The distress was general; nor was it limited to those who had been engaged in the manufacture of iron alone. Other branches of industry suffered along with it, though perhaps in a less degree.

During the existence of this state of things Congress was memorialized by thousands of our citizens to do something for their relief. All classes and trades united in the prayer preferred to Congress in behalf of this most important branch of Pennsylvania industry. But, sir, their prayer was unheeded; and they were told that the act of 1846 would not be disturbed. Defeated in their application, they struggled on, bearing up as well as they could against the accumulating tide of adversity and disaster, hoping, either that Congress would reconsider its determination and afford relief, or, that by some change of circumstances, relief might reach them from some other source. Congress was inexorable; but one of those strange commercial revolutions which defy all the calculations both of the economist and statesman, occurred to change for a time the previously exist-

ing state of things. The discovery of gold, first in California, and shortly afterwards in Australia, were the means by which American labor was to be raised from its prostrate condition. This relief came in a roundabout way; it came through the emigration of laborers in great numbers from England and Wales to California and Australia. Poverty and a life of toil, their only prospects at home, against the visions of wealth to be obtained by migrating to the modern El Dorado, or Ophir, were too tempting to be resisted; and hence the crowds of laborers who flocked to the one or the other, in the hope of finding fortune in its golden streams. This exodus from what they regarded as a life-bondage at home, was so great as seriously to affect the price of labor in England, which, in the course of a year or two, rose more than fifty per centum, especially on the rates paid to furnace and mining hands. This, together with the increased demand for iron, both here and in Europe, where the old enterprises, abandoned at the breaking out of the revolutions in 1848, were, two or three years since, revived, has been a principal cause for the rise in price, and the consequent restoration of a temporary prosperity to this important branch of our national industry.

Another cause for the increase which took place in the price of iron, is the great variety of uses to which it is now put. It is employed largely in building houses, and still more largely in building ships. During the year 1853, out of one hundred and fifty three steam vessels built in Great Britain, one hundred and seventeen were of iron; and during the same period, eight sailing vessels were constructed of this material. The Three Bells, so celebrated on account of the humanity, gallantry, and self-sacrificing spirit displayed by her captain and crew, in standing by the ill-fated San Francisco in her perilous extremity, was an iron vessel, built on the Clyde. Every day is exhibiting its adaptation to some new purpose. A great many articles of furniture, constructed formerly of wood, are now made of iron. It has been latterly extensively substituted for marble, especially for mantel-pieces, bedsteads, slabs for pier and dressing tables. It is used in paving streets, making fences, and, as the honest Irishman said, even in making "mile-stones." Its application to all these purposes necessarily increased the demand for it, and consequently the price.

And now, Mr. President, what do we see? This branch of industry to which relief was constantly denied during the years of low prices and prostration, under the influence of an unwise and pernicious system (if I may so call it) of legislation —a class of our people, who, by the legislation of 1842, had been induced to invest their means in erecting furnaces and forges for the manufacture of iron, and who, partly or wholly ruined by the operation of the act of 1846, have been laboring—and some of them successfully—to retrieve their broken fortunes during the sunshine of a brief season of prosperity, already passed away, are met by a proposition on the part of Congress to undo what accidental circumstances have done to aid them in recovering their losses, and in rising from their multiplied misfortunes. Congress, that was deaf to their prayers for relief in the day of their greatest need, will it now, at the call of their enemies, or of a few corporations, put forth its hand to pull down what it had previously refused to build up, on the plea that the legislation of 1846 was not to be disturbed? This would be for the parent to give his children a stone when they asked for bread. It would be unjust, cruel, and unnatural!

But who is it that asks Congress to strike a new blow at the iron interest of the country, so extensive and important? Do the people ask for the sacrifice of the interests and momentarily revived prosperity of a portion of their countrymen, so long unfortunate? No, sir; no. It is not the people. The people are just and generous, and would rather suffer some inconvenience themselves that step forward and ask that a class of their brethren, who have been for years struggling with adversity, should be plunged deeper into it by legislation. No, sir; it is not the people who ask for the legislation contemplated at this time. A suspension of the payment of duties on iron is desired by railroad companies, on the plea that railroad improvements minister to the prosperity of all classes of the community, and especially to those of the farmer and land owner. I do not deny that railroads and canals serve to develop the resources of the country generally, and enhance the value of lands favorably situated. But, Mr. President, I object to special legislation—to legislation which directly benefits one class of the community at the expense of another. There is no reason why rail road corporations should be entitled to any special sympathy at the hands of Congress; and I cannot see why the duties should not be suspended on that kind of iron which is used in the construction of the farmers' plow and other implements of husbandry, as well as on iron for railroads. Why should railroad companies be exempt from the taxation (so the friends of the measure call it) to which the mass of the people are subject? On what principle are corporations entitled to privileges which are denied to individuals? I propound this question especially to my Democratic friends, and I will expect them to answer it; and, what is of more importance to them, they will have to answer it to the people—to their constituents.

I know, Mr. President, I shall receive the old, stale, threadbare answer—old, stale, and threadbare, because no better can be devised—that the people are deeply interested in railroads, because they add value to their lands, open a way to market, and thus enhance the price of their products. But, sir, are the people not interested in cheap iron to make their plows and harrows, and reaping machines, and wagons, and every other implement of which iron forms a part? Is the farmer not as much interested in procuring cheap cloth, and shoes, and hats, for himself and his family, as railroad companies in procuring cheap iron for their roads? If he can buy his implements of husbandry, and clothing for himself and family, at cheap rates, will not his profits at the end of the year be greater than if he paid high rates? I suppose nobody will doubt this. Well, sir, is it not that their profits will be greater at the end of the year, that railroad companies have been endeavoring to procure cheap iron, by obtaining either a remission of the duties, or a credit for their payment?

Now, Mr. President, permit me to ask, why should not Congress legislate to increase the profits of farmers and others, laboring to make money by means of individual industry, as well as to increase the profits of railroad corporations for the same purpose? It will not satisfy the people to tell them the old, stale, threadbare story—that they derive great incidental advantages from having railroads built at cheap rates. In the first place, they will give you to understand that they have as good a right to *direct* advantages as the railroad companies, for whose benefit you are called on to legislate; and in the second place, they will venture to express to you their doubts, whether they will be carried themselves, or have their produce carried a whit cheaper, even if your bounty to the railroads should be double what they ask in the shape of a credit or a remission of the duty upon iron. And, as for the enhanced value of their lands, they will tell you that while this will doubtless be the effect as to part, others will reap none of the benefits, whilst a third class will be diminished in value.

They will also tell you, Mr. President, with justice, that by breaking down the manufacturing establishments of the country, the farmer loses a market in which he finds a profitable market for many of his surplus products. In this way, who that is conversant with the subject, does not know that he will lose much more by the destruction of the market afforded by a prosperous condition of these establishments, than he would gain by any supposed increase of facilities. In the absence of markets, increased facilities to reach them, will be of little avail.

I do not wish, Mr. President, to be understood, from what I have said, that I am opposed to the construction of railroads, or that they do not serve to promote the general prosperity of the country. I only designed to show that whilst these corporations will receive a direct advantage from the legislation contemplated by the bill which is now pending, the community at large will derive but an indirect advantage from it; and the manufacturers of iron a positive injury. The legislation which is proposed is class legislation, which is always wrong, and has always been condemned by the advocates of the pending measure.

But, Mr. President, I now come to examine the subject in another aspect—to inquire whether, either a reduction of duty, or a credit on its payment, will serve to promote the object which the friends of the bill have in view. I am aware that the immediate object of the bill as it stands, is merely to obtain a credit from the Government for the duty on the iron for certain roads. But, I consider a credit equivalent to a remission of the duty; and it is in that aspect that I shall consider it. The object both of the credit and the remission of the duty is the same—to cheapen the price of the iron which they need. Will it have this effect to the extent they expect, or to any extent, is the question I propose briefly to examine in the few further remarks which I have to submit to the Senate.

I admit, Mr. President, that the companies seeking a credit, or a postponement of the payment of the duties on the iron needed by them, will derive a temporary advantage from this measure, even though they should hereafter have to pay them, which it is not likely they ever will. But I contend that no permanent advantage is to be derived, either by a reduction of duties or a suspension of their payment for a limited time.

One of the most universally established laws of trade, is that the price of any particular article of commerce is mainly regulated by the state of its supply and demand. If the supply of an article exceeds the demand for it, the price will be low, because there are more sellers than buyers. On the other hand, if the demand for an article should exceed the supply in market, the price will be high, because there are more buyers than sellers. Whenever the supply of an article exceeds the demand for it, the competition to sell is amongst the holders, which gives to the buyers the power to fix the price; but when the demand is greater than the supply, the competition is amongst the buyers to get the article, and this gives the sellers the power to fix the price.

In other words, Mr. President, when any article is plenty, the price is low; and when it is scarce, the price is high. And it is from this almost universal law of trade it often happens that a short crop, of any staple, sells for more money than a full one. The history of the cotton trade for the last fifteen or twenty years, furnishes the evidence of this fact. This being the law of trade, principally concerned in the regulation of prices, is it likely that the passage of the pending measure will increase the supply of railroad iron? This is the question, Mr. President, which it behooves the friends of the bill to consider; for if it should not increase it, the price is not likely to be reduced.

The price of iron in Great Britain was, a short time since, higher than it has been for years; but causes have lately operated to reduce it, temporarily at least; but there is nothing in the existing state of the trade that indicates an increase in the amount of production. In the large price which the foreign manufacturers received for their iron a short time since, there was spur enough to induce them to work their furnaces and rolling mills up to their full capacity, and the existing prices, although much lower than they were six months ago, are still sufficient to insure the highest amount of production. But independently of the probability that present prices will induce them to produce as much as possible, we know the fact to be so, that their capacity for production at present is limited, and that they are capable of supplying little more than they are now doing.

If this be so, the passage of the bill will not increase the amount of production in Great Britian. Will it do so here? Let us inquire.

Under the act of 1833, by which the duty was brought down by a gradual declination from the protective standard to a level rate of twenty per cent., the production of iron was diminished nearly one half, and would have been diminished to a still greater extent but for the act of 1842, by which an adequate degree of protection was restored. Under this act, (the act of 1842) things took a favorable turn; the quantity of iron was greatly increased; the production running up from less than two hundred thousand tons a year, in 1842, to nearly eight hundred and fifty thousand tons in 1848. I have before stated, Mr. President, that, owing to certain causes which I need not now repeat, the effect of the act of 1846 was postponed until 1848, when the interfering causes having ceased to exist, its own legitimate operation commenced. From this period, to the close of

the year 1852, the diminution in the amount of production was rapid. Between these two dates nearly one half of the furnaces and forges in my own State ceased operation. The diminution in the quantity produced was probably not quite so large, though the disproportion between the number of furnaces and forges ceasing operation, and the diminution in the amount of production, could not have been great. I have seen no accurate tables of the amount of iron produced in the country since 1850; but at that time the production had fallen off nearly a third, and that the decrease was quite as rapid during the next eighteen months as it had been during the previous two years, I have no doubt whatever.

From this brief review, Mr. President, the Senate will see that, under the low duties of the last years of the compromise of 1833, the diminution in the production of iron was rapid, and that it affected the whole country injuriously, both in its credit and industry. Under the act of 1842, which afforded adequate protection to industrial pursuits, the increase of production was large, and prosperity universal. The act of 1846 produced results similar to that of 1833; under it production was rapidly diminished, and with diminished production came low wages, low prices for agricultural products, as a consequence of the destruction of domestic markets. The general prostration under the operation of the act of 1846 was not so great as under the act of 1833, because the supply of gold received from California came opportunely to fill the vacuum which an adverse balance of trade would have created in the precious metals, and in the substantial circulating medium of the country.

Now, Mr. President, in view of the facts which I have grouped together, what is likely to be the effect of the passage of the bill on your table? Is not the conclusion irresistible, that the returning prosperity of the iron interest of the country, produced by the operation of the causes to which I have adverted, will be checked by the adoption of this measure? There is, in my judgment, nothing more certain than that the preparation which is now being made over the whole country to increase the production will be at once abandoned. Men of moderate means, who were broken down under the operation of the act of 1846, before the intervention in their favor of the circumstances which lately produced so great a modification in its effects, and who were about to recommence business under the promise of better times, will be compelled to desist if hostile legislation on the part of Congress should be persevered in; and the apprehension of this kind of legislation will prevent many others from embarking their unemployed capital in enterprises of this kind. This, Mr. President, is no guess work. It is founded on information of the most reliable character, and supported by the opinion of practical men in various sections of the country.

In Pennsylvania, and elsewhere in the United States, the manufacture of railroad iron is yet in its infancy. Up to the year before last the production was very limited; and even in that year did not exceed, according to the best information in my possession, seventy thousand tons, though I have seen a different and higher estimate. But during the present year, if legislation on the subject should be let alone, and there should be a revival from the effect of bank and mercantile failures, the amount of production will be greatly increased. The table I hold in my hand is made up from reliable data, and exhibits an increase over my estimate for the year before last of eighty-five thousand tons, or one hundred and sixty thousand tons as the production of the whole year. This table shows the number of tons, the amount of pig iron consumed, the location of the various mills, and the quantity of the manufactured article produced by them respectively.

Railroad Mills, and their estimated production.

Montour Iron Works, Danville, Pa.	18,000 tons.
Rough and Ready, Danville, Pa.	4,000 "
Lackawanna, Scranton, Pa.	16,000 "
Phœnix Iron Works, Phœnixville, Pa.	20,000 "
Safe Harbor, Safe Harbor, Pa.	15,000 "
Great Western, Brady's Bend, Pa.	12,000 "
New Works, Pittsburg, Pa.	5,000 "
Pottsville Iron Works, Pottsville, Pa.	3,000 "
Cambria Iron Works, Cambria, Pa.	5,000 "
Trenton Works, Trenton, N. J.	15,000 "
Massachusetts Iron Works, Boston, Mass.	15,000 "
Mt. Savage Iron Works, Mt. Savage, Md.	12,000 "
Richmond Mill, Richmond, Va.	5,000 "
Washington Rolling Mill, Wheeling, Va.	5,000 tons.
Crescent Works, Wheeling, Va.	5,000 "
New Mill, Portsmouth, Ohio.	5,000 "
	160,000

Represented items in the production of 160,000 *tons of Railroad Iron.*

Pig Iron required—1¼ ton per ton of rails.	213,333 tons.
Coal used.....5¼ " " "	840,000 "
Iron Ore.....3½ " " "	560,000 "
Limestone.....1¼ " " "	213,333 "
Total number of tons raw material.....	1,826,666

Several furnaces and mills for the manufacture of railroad iron, about to be put into operation, if circumstances should be favorable, have, to my own knowledge, been omitted from the above list. But if the contemplated measure should pass, several of the works enumerated in the table which I have read will never go into operation. And, on the other hand, if Congress should indicate a determination not to repeal or change the existing laws, another year will see the amount estimated for this increased a third; and in three or four years from this time, if there should be a favorable change in the times, that is, if money should become plenty, the annual production will have arisen to half a million of tons, and will go on increasing as the demand increases.

But, sir, I repeat, that if this bill should pass, and things abroad return to something like a normal state, the production in this country, instead of increasing will be diminished, because, as I have already stated, the suspension or reduction of the existing duty will not only deter many of those who are disposed to embark in this branch of business from doing so, but will induce a certain class now engaged in it, men of limited means, relying to some extent upon credit, either to withdraw from it, or materially curtail their operations. That this will be the result of the adoption of this measure, past experience, as well as a positive knowledge of existing facts, render entirely certain.

Mr. SEWARD. Will the honorable Senator at this point excuse me for asking him a question?

Mr. COOPER. Certainly.

Mr. SEWARD. As the honorable Senator comes from the State of Pennsylvania, which is deeply interested in this question, he has probably made an estimate of the amount of duties which will be remitted or suspended under this bill. I wish to inquire if he can give us information as to the effect of the bill upon the Treasury—the amount of duties per annum which, under this bill, will be withheld from the Treasury.

Mr. COOPER. I do not know exactly; nor do I suppose it is possible to say what the amount will be.

Mr. BRODHEAD. Judging from the experience of the past three years, it will be $12,000,000, about $4,000,000 a year. This gives a bonus of about $12,000,000.

Mr. COOPER. I can hardly think it is quite so much as that, although I have seen some estimate of the kind. I will state a few facts, from which the Senator from New York will be able to form some estimate. The amount of railroad iron manufactured in the United States during the last year was about one hundred and fifty thousand tons, as near as I can judge from the statements of intelligent manufacturers in Pennsylvania. During the same period, I believe, about one hundred thousand tons were imported, and laid down. From these two items the Senator from New York can form some estimate of the amount of duties which the bill will withhold from the Treasury.

Mr. CLAY. With the permission of the Senator from Pennsylvania I will correct him. I have before me a statement made out by the Register of the Treasury, Mr. Bigger, showing that two hundred and eighty-two thousand eight hundred and sixty-six tons of railroad iron were imported during the last year.

Mr. COOPER. Then my colleague is right in the estimate which he has made. A duty of thirty per cent. on two hundred and eighty thousand tons would yield more than $4,000,000 a year. But, sir, let me return to the point which I was arguing.

Having shown, as I think I have done satisfactorily, that the passage of this bill will have no tendency to increase the production of railroad iron in Great Britain, and that it will necessarily diminish its production here, is it likely that the object of the advocates of the measure, which is a reduction of price, will be attained? We have seen that a principal regulator of the price of an article is the state of supply and demand, and that, as a general rule, the price falls as the supply increases; and, as it is clear that the supply of the article of iron will not be increased by the passage of this act, it follows that the price will not be reduced, unless there be something in the existing state of things to modify the rule to which I have referred; and if there be any circumstance likely to modify the operation of the general rule, it is for the advocates of the measure to point it out. To what good, then, will the act tend? What effect will it produce? Why, sir, this, and this alone: that the amount of duty removed or suspended will be added to the profits of the foreign manufacturer, without cheapening the article a farthing to the consumer in this country. This will be so in every case, except where the iron has been purchased already. Of course, where this is the case, a reduction of the duty will diminish the cost to the consumer to that extent. Mr. President, I am fully aware that the notion is very prevalent, especially amongst a certain school of political economists, that the imposition of a duty upon any particular article, is always followed by an increase of the price of the article to the consumer. But this notion is far from being correct, as experience has demonstrated in a hundred instances.

I am willing to admit that, if the imposition of a duty on any specific article produced no modification on the state of its supply at home or abroad; had no effect upon the amount of its production, or influence on its exchange between nations, this notion might be correct. But, Mr. President, as a general rule, the imposition of a duty does affect its production and influence its movement commercially. It operates in an hundred ways almost unseen, or seen only by the closest observer; and the modification produced on the article itself, increasing or diminishing its production, according to circumstances, causes it to act upon others, which, in their turn, react upon it, thus keeping up a constant action and reaction, which essentially modify the simple tendency and effect of the duty. If this be doubted, call in the aid of experience, and you will learn from it that what I have just stated is correct. Take up the prices current for the last twenty years, or any given number of years, and see if you can form from them any correct judgment of how duties have ranged in the mean time. You will find that low prices and high duties have occurred quite as often as low duties and low prices. Take the article of iron, for instance, and examine how prices and duties have ranged within the period I have named, and if you can deduce any general rule, it will be, instead of low prices following upon low duties, that whenever the duty was brought down to the point where domestic competition was destroyed, or nearly destroyed, prices have risen. And the reason is obvious. Competition being broken down at home, and the supply diminished, the foreign manufacturer was enabled to obtain his own price. Look at the effect of the act of 1842. At the time it was passed railroad iron and rolled iron brought from eighty to ninety dollars per ton; but a few years of domestic competition brought down the prices more than a third; and if that act had remained in force, instead of manufacturing from seventy thousand to one hundred thousand tons of railroad iron per annum, during the last year, at seventy dollars or seventy-five dollars per ton, we would be producing an half a million of tons annually, at from fifty dollars to fifty-five dollars per ton. This, Mr. President, is no guess-work. It is a fact demonstrated by our previous experience, and susceptible of the most satisfactory proof.

I do not mean to say, Mr. President, that the increase of duty on iron and other fabrics, by the act of 1842, did not enhance the price for a season. This it undoubtedly did. But no sooner was business fully resumed in our furnaces and forges, and the languishing and prostrate condition of the iron trade restored, than domestic competition began to produce its usual effect. As the business was extended, skill acquired, and the supply increased, prices began to fall; and long before the act of 1846 began to operate, they had gone down, as I have already stated, fully a third. Nor is

this all. Not only have prices fallen under the operation of high duties, but they have often risen under the operation of low duties, or no duties; and on the very same principle, namely, that high duties on particular articles induces numbers to embark in the business of producing them, thus creating competition, increasing the supply, and reducing the price; while, on the other hand, low duties, or no duties, destroy the confidence of the manufacturer, cause him to abandon the business, and, in this way, break down competition, diminish the supply, and enhance the price. The history of our tariffs will not permit these statements to be gainsaid; and while, as a general thing, I admit that the imposition of protective duties have generally increased the price of the articles on which they were levied, in the beginning, the alternate effect has usually been to reduce the price in the end, by stimulating domestic competition, improving the skill of the artizan, introducing labor-saving machinery, and by these means increasing the supply of the article.

But I will be asked, Mr. President, I doubt not, why, if low duties tend to increase the price, the manufacturer uniformly resists them? The interrogatory contains a good *ad captandum* argument, I admit, but one which is not quite satisfactory to the statesman who consults experience. The question, however, is susceptible of an easy answer, and one which the practical man of business will thoroughly appreciate.

I have already stated that the price of any given article, though it may be modified by a number of circumstances, is mainly regulated by the state of supply and demand; the cost of its production, having much less effect on its price than is usually believed. Let us suppose that in Great Britain, the cost of manufacturing a ton of railroad iron is £5 or $25; and in this country, owing to the higher price of capital, labor, and some of the most important materials entering into its production, it is £7 or $35. Suppose further, that the freight and other charges on a ton of iron from Liverpool to New York or Philadelphia amounts to £1 12s. or $8, this, added to the $25, the estimated cost of production, would make the whole cost of the article $33 per ton, or $2 less than it costs the American manufacturer to produce it at his own works, without saying anything of the cost of transportation from the point where it is made to the market where it is sold, which is often but little less than the cost of transportation across the Atlantic. Under this state of facts, without a duty, it is clearly apparent that the American manufacturer could not contend with his foreign competitor, even in the markets of his own country. But if you impose a duty, say of $10 per ton, on the foreign article, the manufacturer here is then able to go on, put up his furnace and rolling mill, and compete successfully with his foreign rival, because he knows that the duty, added to the price, will enable him to live; and that by perfecting his machinery, and improving his skill, his profits will be increased, and that he will not be at the mercy of a foreign system, which denies to labor an adequate reward, and makes unaided competition, on his part, hopeless and destructive.

But, suppose again, that prices are as I have stated, it is then clear that there can be no competition with the foreign manufacturer, and that he will have the market to himself, what will be the consequence? Do you think he will content himself with a reasonable profit, and not seek the highest prices he can obtain? Everybody knows that he will exact the utmost farthing, and that, having no competition here, he will be able to fix his own price, and compel the American consumer to pay it, or do without the article.

Here, then, Mr. President, is the reason why the domestic manufacturer is in favor of adequate duties. He knows that if proper duties be charged on the foreign article, he can safely go on with his business, though his profits may be small, while if the duties be greatly reduced, or entirely suspended, he must abandon his business, give way to the foreign manufacturer, who will then have the field to himself, and be able to ask exorbitant prices, which the consumer here will be obliged to pay. This, sir, I repeat, is the reason why the manufacturer resists low duties, at the same time that he knows they often result in increasing the price of the article on which they are imposed. But this increase of price comes too late to benefit him. It does not take place until he has been broken down, and the foreign manufacturer is in possession of the field, in which he has no competitor to curb his exorbitant demands.

It is to prevent such a state of things, to prevent the breaking down and turning adrift without employment that portion of the one hundred thousand laborers now at work, at fair wages, in the furnaces, forges, foundries, and rolling mills of the United States, and a great many of whom will be discharged if another revulsion in this branch of of business should take place, as will be the case sooner or later, if the policy contemplated by the measure which is now pending should be adopted. I wish to preserve to the farmer of the country a good market for his surplus products, and fair wages to the laborer, which his employer cannot pay him whilst he is obliged to compete, unaided by a duty, with the foreign manufacturer, who purchases labor at European rates.

I am not content, Mr. President, to see the American laborer toiling for the wretched pittance with which the foreign laborer is obliged to be satisfied, and especially for the benefit of corporations abler to bear an increase of price, even if such were to be the necessary result of leaving the present law unrepealed, than for him to endure a diminution of wages. I admit, sir, that by reducing wages to the European standard, the American manufacturer might be able to compete with his foreign rival without the aid of protecting duties. But in what condition would such a rate of compensation place the laborer here? He might, it is true, still realize wherewithal to purchase a little scanty raiment to cover his own and his family's nakedness; he might still afford enough of coarse food to prevent himself and them from enduring the pinchings of hunger. But this is not enough. He has been accustomed to more and better. He has not only been able to give his family sufficient and palatable food, but also to provide them with comfortable and decent clothing, so that when his six days of toil were done, and the Sabbath come, he and they might go, neatly and becomingly clad, to kneel together in the house of God to thank him for the abundance wherewith he had blessed them. If it were for nothing else than the soothing and humanizing influences wrought upon the laboring man by his ability to fit his family to appear at church in becoming apparel, on the Sabbath day, it would be the duty of Government, as far as practicable, to enable him to do so. How much better that he should bow down with a heart void of offense, content and hopeful, than in bitterness of spirit, resentful of the world's injustice, looking on his fellow men as harsh taskmasters, exacting and oppressive in their requirements?

But, in this country, the laborer ought not only to be able to feed and clothe his family, but to educate his children and fit them for the duty of citizens; and in this the Government itself is interested, for it is to the virtue and intelligence of the people that it must look for its own success and permanency.

To deal with labor, and afford it a proper degree of encouragement, is a problem with every Government, and one which becomes more difficult to solve as population increases. This much, however, experience has taught, that the more indirect the encouragement the more efficacious it has proved. Stimulants to industry are better than direct relief; and what stronger stimulant to the father than to know, that his toil will not be unavailing, and that as the fruit of it his children may be educated and qualified not only for the duty of citizens, but for the attainment of the highest honors of the Republic, to which worth and talents, however humble their origin, are invited by the genius of our noble institutions? What strength will it not impart to the father's arm, what endurance must it not lend to his perseverance, to be assured that his labor, if diligently pursued, and the fruit of it judiciously applied, will open to his children a prospect so rich in promise? Toil, sweetened by such reflections, is divested of the bitterness of the original curse, that "in the sweat of his face shall man eat his bread until he return to the ground." Let us then encourage labor by holding out to it a just reward for itself, and hope for its children.

But, Mr. President, I do not resist the passage of the pending measure because I regard the existing law as a wise and judicious one. The *ad valorem* principle upon which it is based is radically erroneous, and has, as I have stated already, been repudiated by almost every commercial country. In Great Britain, more than *ninety-nine per cent.* of the upwards of £22,000,000 of impost duties, is raised by specific charges; and less than *one per cent.* is assessed upon the value of the article; that is to say, on the *ad valorem* principle.

Under the *ad valorem* system, frauds are frequent, and their prevention entirely impracticable; and as to protection to the domestic manufacturer, it affords him the least when he requires it the most. The act of 1846 has manifested the justness of both these objections to our present impost system, and demonstrated the necessity for a change. The substitute which I have proposed for the bill, and which I shall now proceed to explain, will entirely obviate one of these objections and afford, I trust, a measurable remedy for the other.

The principle of this substitute, is, the assumption of a medium or average price for the article of railroad iron, on which a duty is to be assessed, and which is to rise as the price of the article falls, and *vice versa*. The price fixed by the bill is forty dollars per ton at the place of manufacture, that being ascertained to be about the average price of this kind of iron during a series of years. The duty on this price is to be twelve dollars a ton; but, as I have just stated, is to fall as the price rises, and rise as the price falls. Thus, when the price shall rise to forty-one dollars per ton, the duty is to fall to eleven dollars, and so on until the price has risen to fifty-two dollars per ton, when the duty shall cease altogether, and the article be admitted free. On the other hand, when the price falls to thirty-nine dollars per ton, the duty is to rise to thirteen dollars, and so on as the price falls the duty rises in the same proportion; but in the assessment of the duty fractions of dollars are not to be regarded.

It is clear, Mr. President, that by the adoption of the substitute which I have proposed, several very important improvements on the existing law will be secured. In the first place it will serve, in a great measure, to prevent the constant fluctuations to which the iron trade has been subject, and which has been almost equally detrimental to the producer and the consumer. The effect will be to keep the price of the article steady, for the bill provides, that as the price rises the duty shall fall, and that when the price falls the duty shall rise. Another effect, and perhaps it is the most important of all, will be, that it will encourage this branch of industry, not by securing exorbitant profits to the manufacturer, but by protecting him against those sudden depressions in price, which have heretofore proved so destructive to his interests. Under laws like the existing one, by which the price and duty always fall together, he has been often rendered bankrupt, and compelled to abandon his business altogether. I have stated already, in the course of my remarks, that under the operation of the present law, half the furnaces and forges in Pennsylvania were obliged to blow out the fires upon their hearths, turn their hands adrift, and abandon the field to the foreign manufacturer.

But, sir, the adoption of the substitute which I have proposed will prove as beneficial to the consumer as to the producer. Being protected by the operation of the law against sudden revulsions and ruinous depressions in the market, men will not be afraid to embark their means in the manufacture of iron as they have heretofore been, and especially under the existing law. And although the bill which I have proposed will not hold out the inducement of exorbitant profits, it will insure a certain and moderate return upon the capital invested, and thus encourage individuals and associations to employ their means in the erection of furnaces, and forges, and the manufacture of iron; and in this way the production of the most useful of all the metals will be largely and permanently increased. Competition at home will be stimulated, the skill of our workmen improved, and prices brought to a standard by which the manufacturer will thrive, whilst the consumer will be able to obtain this most necessary article at a fair rate.

Another important advantage, Mr. President, to be derived from the adoption of this substitute is its tendency to prevent frauds. Double invoices, one for the custom-house and the other for the importer, which the Senator from Rhode Island [Mr. JAMES] will tell you have been not uncommon

under the existing law, will be of no avail. The importer will have no motive for setting down a lower price in the invoice, than he has actually paid; for as the price is reduced in the same proportion will the duty be increased. My amendment provides that appraisers shall be appointed, who will monthly, or quarterly, as the Secretary of the Treasury shall direct, fix the price of the iron at the place of manufacture, and on the price so fixed the duty will be assessed at the various custom-houses, without reference to the actual price paid by the importer. In this way the door will be completely closed against fraud, and a most important and desirable object achieved.

I might, Mr. President, enlarge on the advantages to be derived from the adoption of this amendment. It would be easy to point out how largely it would operate to prevent the ruinous fluctuations which, from time to time, have prostrated the iron trade in the United States, and driven those engaged in it into new pursuits, making them rivals of the farmer in producing breadstuffs, instead of being his customers, looking to him for wheat and corn, pork and beef, and all the other numerous productions of the farm, and garden, and dairy, to feed their workmen. But I have already detained the Senate much longer than I had intended at the outset, and conclude by expressing the hope that Congress, who refused to grant relief when prayed for by the people, on the ground that it would be unwise to disturb the act of 1846, will deny the bounty now sought for by a few corporations, unless the whole system, as far as it respects railroad iron, should be modified in the manner proposed by the amendment I have offered. This will give the country iron at a moderate price, at the same time that it will prevent the destruction of the domestic producer by foreign competition.

Mr. BRODHEAD. Mr. President, this is a measure which, in my judgment, is entirely wrong, and ought not to be pressed upon our consideration. I have sundry amendments which I shall feel it my duty to offer before the vote is taken; but it is not my wish to prolong the discussion, though, if the Senate are determined to press it to a vote to-day, I must ask to be heard in reply to the remarks made on a former occasion by my distinguished friend from Tennessee.

Mr. JONES, of Tennessee. I will now, with the Senator's permission, correct one suggestion which both he and his colleague have made. I have been surprised to hear both those Senators speak about pressing this question, and bringing in the measure at a late hour of the session. If gentlemen will refer to the printed bill, they will see that it was introduced on the 13th of December, the second week of the session. We have not pressed it; we have waited week after week, and given its opponents every opportunity in the world, but now after we have given it to them, when the session is closing, and we ask for action on the bill, they say we are forcing it on them. It has been here during the whole of the session.

Mr. CLAY. And a similar will was pending at the last session.

Mr. BRODHEAD. I know very well that these gentlemen introduced the measure at a very early period of the session, and they have pressed it with great zeal, and I will add with ability. I complain that they press it all, because I think it entirely wrong. I do not say that they do not regard it as in the line of their duty; I do not say that they are pressing it unduly; but I think it ought not to be urged at all, and of that do I complain.

I have already stated to the Senate that I shall have sundry amendments to offer to the bill. In the first place, I shall move to strike out the second section, the object of which is to allow a suspension of duty on railroad iron now in bond. Why, sir, that would be a bonus to the English agents in this country. In the next place, I shall move to strike out, after "iron rails," the words "spikes, bolts, fastenings, or other iron." If these companies are to have a credit on rail iron, surely they do not want it on other descriptions of iron used in the construction of the railroads. If you are to take the duty off bolts, fastenings, and spikes, why not take it off all bar iron, and all iron used by the farmer and by the artisan? I shall have another amendment to offer, the object of which will be to allow a similar extension of credit to all importers of goods, wares, and merchandise of every description under the act of 1846.

This bill, Mr. President, necessarily opens a discussion of the whole tariff policy of the country. Surely it cannot be possible that a proposition of this nature to take the duty off a single article, thus legislating for a particular interest in violation of the settled revenue policy of the country, can prevail here. I have heard, sir, rumors of arrangement between southern gentlemen of the free-trade school and those of the protectionist school in New England. If so, it will not be the first bargain that has been made between those sections of the country. However, as I have already said, I do not desire to prolong the debate, and I therefore move to lay the bill upon the table, and upon that question I ask for the yeas and nays.

Mr. HAMLIN. I ask the Senator to withdraw that motion, so as to enable me to submit a question in regard to the remarks which he has just made.

Mr. BRODHEAD. Certainly, I withdraw the motion.

Mr. HAMLIN. I desire to ask him to state, specifically, if he pleases, what are the arrangements to which he alludes. I am a good deal of a free-trade man myself, but I reside in New England, and the probability is that I shall vote for this bill. As I have heard no earthly rumor of a collusion or bargain, in any way or shape, I should like a specific declaration from the Senator as to what he alludes?

Mr. BRODHEAD. I have only to state that I heard there was an arrangement made in the other House—not here—for the purpose of bringing those hitherto adverse interests together, and making a compromise between them. I do not say there is anything wrong in it; but I have heard of such a compromise between the New England States and the southern States, by which the manufactures in the former were to be benefited, and this bounty allowed to those engaged in the construction of railroads in the South and Southwest.

Mr. JOHNSON. On the part of those gentlemen here who are generally considered southern rights men, extremists—I believe I am regarded as one of them—I ask the Senator from Pennsylvania to feel no delicacy whatever in completing the disclosure, so far as those to whom I have referred may be implicated in any bargain. I have not heard of it. I will vote for the bill on its own merits. I believe sincerely that the allusion on the part of the Senator was only an accidental slip of the tongue, and has no meaning. If so he ought to say so.

Mr. BRODHEAD. I was only going to say that if there were any arrangements to be entered into, I wished to get in myself. [Laughter.]

Mr. CLAY. I do not suppose the Senator has any evidence whatever, at least not positive testimony, to establish any such charge. It is an immony, to establish any such charge. It is an imputation which is certainly very disreputable to the parties implicated. I presume, however, that the impression of the Senator originated in the circumstance, which I think is pregnant with important facts, which should be considered by the Senate, that the manufacturers of iron only, or those representing that interest in the House of Representatives refused to agree to any reduction of the tariff. Whilst the manufacturers of cloths and other articles were willing to submit to some reduction, this class resisted, and successfully resisted the taking up of the bill for that purpose.

Mr. DAWSON. Do I understand that there is a proposition to lay this bill on the table? If so, this question is not debatable, but I have a word or two to say to my friend from Pennsylvania.

Mr. BRODHEAD. I made the motion to lay on the table, but I have withdrawn it.

Mr. DAWSON. I do not understand the argument which has been made by both Senators from Pennsylvania as illustrative of the proposition now before us. It does not diminish to the extent of one dollar the amount which is to go into the Treasury from the duties levied upon iron. This bill is simply to extend the day for the payment of those duties. At present the duties must be paid upon the arrival of the iron in our ports. Sometimes months and almost years elapse before that iron is laid down and made useful for any purpose. The object of this bill is to allow the company to defer the payment of the duties until the iron shall be put down, so as to gain a benefit to those who import it. Now, I desire to know from the Senators from the iron State of Pennsylvania what possible effect that can have upon the importation of iron into this country? Will the delay of payment here diminish the price in England? If so, upon what principle? I should certainly like to hear it explained. Will it increase the price of labor? Will it in any form or shape diminish the value of the article which enters into the protection of iron in England?

Mr. BRODHDAD. I will endeavor to answer my friend from Georgia. Those engaged in the construction of railroads never pay money when they can give their bonds, and, therefore, when they can get iron upon credit, they will not pay cash. As they can obtain a credit under this bill on foreign iron, they will, of course, use the foreign article for that reason, and for another, which is, that they will entertain a well-grounded hope that the bonds will be remitted at the end of two, three, or four years. So that the effect of this measure on the iron trade, and those engaged in the manufacture of iron in the United States, will be the same as if you repeal the duty entirely. The purchase will be made entirely in Europe in pursuance of this bill. Now, sir, why not give a thousand dollars per mile from the Treasury to those railroad companies who use American iron? The duty which is paid on railroad iron at present amounts to about one thousand or thirteen hundred dollars per mile. Suppose we were to introduce a proposition here that those who use American rails should receive one thousand dollars a mile from the Treasury on a credit of three years upon their giving security to return it? Is it not the same in principle?

Mr. DAWSON. The whole argument of the gentleman from Pennsylvania is, as I supposed it would be, founded upon the presumption that this extension of the day of payment will amount to an entire release of the duties. I think he always desires to do justice between all the interests of this Union, and between all the States of this Confederacy. I desire, then, to ask him if he was in Congress when upwards of a million of dollars were refunded to the State of Pennsylvania, which had been received into the Treasury as duty on railroad iron?

Mr. BRODHEAD. In what year was that?

Mr. DAWSON. I cannot designate the year, but I think it was in 1833 or 1834.

Mr. BRODHEAD. I have this much to say in reply to my friend from Georgia, that I was not in Congress when any such act was passed. I will make this further remark, that though a considerable portion of the railroads in Pennsylvania were made when the iron came in duty free, those who imported it then paid more for it than the price which my friend from Georgia could purchase it at now, duty included.

Mr. DAWSON. That is immaterial. My proposition was, in order to show how matters are governed by the interests which influence persons at the time, that money had gone into the Treasury of the United States for duties on railroad iron, but in consideration of the fact that the Congress of the United States, in 1832, suffered iron to come in duty free, it was thought to be fair and just to all companies who had imported iron prior to that time that the duties should be remitted. That was done, and upwards of $7,000,000 were thereby taken out of the Treasury and given back to the importers of iron, on the ground that, from 1832 to 1843, railroad iron was admitted duty free. Then, sir, carrying out the same principle of equity, justice, and equality, how can those of us who are here at this day, deny to the younger States of this Union, to Tennessee, Kentucky, Arkansas, and Missouri, this boon? They come here and tell us: "You have had this boon of the Government; you have received not only a gift of $7,000,000, but after that time you imported your iron duty free for eleven years. We do not ask you to give us anything, but simply to grant us an extension of three years in order to aid us in these great enterprises at a period of pressure like this, when everybody is complaining of hard times." I respond, then, to my friend from Pennsylvania, that his State has received this boon. Out of $7,000,000 paid back from the Treasury to the importers of railroad iron, over $1,000,000 went to the State of Pennsylvania, and the remainder, $6,000,000, to the other old States. Georgia and other States—for my State is not deeply interested in this matter—while the duty-

free system prevailed, imported their iron, laid it down, and carried on their roads until they tapped the valley of the Mississippi. Now, those who live in the valley of the Mississippi come here to-day to ask you to permit them to go on with these great enterprises, not by importing iron duty free, but by a credit of three years, at the end of which time they will pay the duties. Can we, with any justice, with any propriety, or with any pretense of equality to those State, deny this boon?

The proposition which is now presented to the Senate seems to me exceedingly plain and clear. All the discussion which has been had in relation to the influence which it may have on the price of iron and the price of labor in England and this country, has nothing to do, it seems to me, with the question before us. This bill does not change the existing laws; it does not interrupt the tariff; but it only proposes to allow to the importers of railroad iron three years within which to pay the duty—not affecting the machinery of the tariff, or disturbing it in any form or shape. Although it is such a small request, it is pertinaciously refused.

And now let me say to the iron, and also to the sugar interest of this country, (for that, too, has been drawn into the debate,) that the amount of capital involved in either of them is but small compared to that in other interests which bear the taxation of the country. They should not assume to themselves the right of crying out against every extenuation of the tariff, particularly when it does not diminish the receipts of the Government. They ought not to alarm us by saying that the mode of taxation is to be changed. There are but two great interests protected to a very large and decided extent, and those are iron and sugar. I do not propose to interfere with that, as it now stands. What I propose to do now is merely to grant to this limited extent relief to an interest which is suffering severely under the hardness of the times, and to grant to the States, or to the individual companies by which railroads are being built, some aid in carrying on those great schemes of internal improvement. I do not see why it should be objected to, when the granting of the desired relief will not, in the least, interfere with the finances of the Government.

As was stated the other day by my friend from Tennessee, we are at this moment anticipating the debts due by the United States, and paying a large percentage to the holders of our bonds who will present them for payment now before they are due. When the Treasury is in this condition, why should we refuse to grant a credit which will not injure any interest in the country by allowing those who are building railroads which are to benefit the whole people, three years in which to pay the duties on the iron imported for that purpose?

For one, sir, I am unwilling at this session to make any great change in the tariff, for I know it is a great system which should be carefully touched. If it should be my lot to be here whenever that question shall be disturbed again, I will vote upon it in such a manner as will aid American labor and protect American interests; but I will not go to such an extent as to injure any portion of the Union by so doing. That, however, is foreign to the point before us. This is not a tariff question. It is not a protection question. It is merely a question as to whether you will insist on these duties being now paid in cash, or will allow three years within which to pay them.

Mr. BAYARD. Mr. President, before the discussion of this bill closes, I shall have something to say upon it. I think I shall be able to show that this is a tariff question. I think I shall be able to show that it is an entire abandonment of a principle connected with the tariff, which the Democratic party adopted as a leading principle on that subject in 1846. The honorable Senator from Georgia, and others of his party will, of course, not be bound by that consideration; but that the principle of the Democratic party, if there is any principle at all in a tariff, is utterly violated by the passage of this bill, I think I can show. My object at this time, however, is simply to move an amendment to the first section of the bill. It now contains a provision that, "in the event that the commissioner of customs, where the iron may be, shall be satisfied of the entire solvency of the company thus applying for this extension, he may require such security, personal or otherwise, as, in his judgment, will indemnify the United States against loss." I move to strike out, "Of the entire solvency of the company thus applying for this extension," and to insert in lieu of these words: "That the bond, or bonds, of any company, or companies, thus applying, are fully and entirely sufficient to secure the payment of the duties suspended;" and also to strike out the word "may," and insert "shall." If thus amended the clause will read:

"And in the event that the commissioner of customs, where the iron may be, shall not be satisfied that the bond or bonds of any company or companies thus applying are fully and entirely sufficient to secure the payment of the duties suspended, he shall require such security personal, or otherwise, as in his judgment will indemnify the United States against loss."

From the course of the debate, sir, I take it for granted, that the friends of this bill do not desire or anticipate that it shall end in turning the proposed credit into a release. They say so, and I give them credit for sincerity in their course. As the bill is worded, however, the "entire solvency" of the companies is a matter which no commissioner or collector can determine. A company is solvent as long as it is going on, and paying. He cannot examine into its affairs in detail; but he can form a judgment as to whether there is entire ability to pay; that is, whether there is full and entire security that the suspended duties will be paid. I wish the words of the bill put in such form, that the proper officer may have a right to require ample security. It may be that the company applying for this benefit is heavily indebted and deeply mortgaged. As by this measure you are abandoning the principle of cash duties, I wish that the proper officer may have power to require that the ultimate payment of the suspended duties shall be secured. I wish, in other words, that the discretion given by the bill shall be something more than nominal. I desire to strike out the word "may," and insert "shall," so as to make it mandatory; so that it shall not be left to the discretion of the officer to take bonds or not, but to compel him, in all cases where there is the least doubt, to take sufficient security for final payment.

I know enough of the situation of railroads in this country to know that, though the companies might be going on yet for any practical purpose of securing the payment of the duties, the bonds of those companies would not be worth one straw to the United States, because your priority of payment does not extend against mortgages. A road might be mortgaged to such an extent that no adversary proceeding on the part of the Government would enable it to get a cent. If sold, the road would be sold subject to the mortgages. In this way the Government would lose every dollar of the duties, and yet the company might be able to go on and might, therefore be "solvent" within the meaning of the language of the bill.

If the intent be to place the Government in a position in which it cannot enforce the payment of a duty bond given by a company, the object must be to elude the duties altogether. I only ask that the bill shall be so amended, that whenever the proper officer may be of opinion that the duties will not be fully and sufficiently secured by the bond of the company, he shall be required to take other satisfactory security in order that the duties may be finally paid if we are to give a credit. I think this is a reasonable request which should be acceded to by the friends of the bill, though it comes from an opponent. I hope the amendment will be agreed to.

Mr. JONES, of Tennessee. I have not the slightest objection to the amendment of the Senator from Delaware. If the language employed in the bill does not accomplish precisely the purpose which he wishes to accomplish it is because I was unfortunate in the selection of words. I undertake to say now to the Senator from Delaware, and to every Senator, that I have no indirection about what I do. If I was in favor of repealing the duties I would have said so in the bill. If I meant to employ any language by which they were to be exonerated from payment, I would have stated it in the bill. I intended to make payment obligatory on the companies. I intended that the officers of the Government should have full power to make the indemnity perfect and secure. We intend to pay the debt, and we are willing to pay it when we are able. I am perfectly willing that gentlemen shall make that provision as strong as they please. All I ask is that they will extend to us a boon which they themselves have enjoyed. If it is competent for me to accept the amendment, I do so.

The PRESIDENT. The question is on agreeing to the amendment. The Senator has no power to accept it as a part of the bill.

Mr. BAYARD. I supposed the amendment would not be opposed, but I thought it requisite.

The amendment was agreed to.

Mr. HAMLIN. I move to strike out the word "commissioner" in the clause which has just been amended, and insert "collector." It evidently means "collector," though it says "commissioner."

The amendment was agreed to.

Mr. CHASE. I wish to submit an amendment, which I believe is satisfactory to the friends of the bill. It is to add, at the end of the first section, the following:

Provided further, That the owners of every road for the use of which such iron may be imported, shall only be entitled to the benefits of this act on filing with the Postmaster General a sufficient contract, in writing, binding said road and owners thereof to transport the mails, property, and troops of the United States, in such manner and for such reasonable compensation as may be agreed upon between said owners and the proper Department, subject, however, to be ascertained and fixed by Congress, in case of disagreement between said Department and said owners.

Mr. JONES, of Tennessee. I have no objection to that.

Mr. BADGER. I have a decided objection to it.

Mr. BRODHEAD. I should like to know what reason can be given for this amendment? If I understood it correctly when it was read, it provides that, although they received their iron upon credit, the Postmaster General shall pay them a reasonable compensation for carrying the mails and other property of the United States. Is not that the law now? The Postmaster General now enters into contracts for carrying the mails, for such sum as he deems proper and reasonable.

Mr. CHASE. I think a single word of explanation will be sufficient to satisfy every Senator that there can be no possible objection to this amendment. As the law now stands, of course every railroad company transports the mails for such compensation as may be agreed upon between the Department and the company; but very great difficulties have frequently arisen because there is no common arbiter to whom the subject can be referred. This amendment provides that, in the event of a disagreement between the Postmaster General and the company, Congress shall finally determine what the rate of compensation shall be. It is taken, substantially, from the provision on the same subject in the Pacific railroad bill. I can see no objection to it whatever.

Mr. BADGER. The amendment, in my mind, is liable to a substantial and clear objection. It is to compel these railroad companies to transport the mails and the troops of the United States upon such terms as the Government shall require from them. That is the amount of it. It is to deprive them of all right as parties to a contract to determine upon the terms of the contract. It is to say that, if they and the executive officer do not agree, Congress shall decide. It is to put them at the complete command of the Government, to do whatever the Government may require on such terms as the Government shall direct.

I am opposed to it, and I hope it will not be adopted.

Mr. BRODHEAD called for the yeas and nays; and they were ordered.

Mr. JOHNSON. I am not very familiar with the rules of this body, and I therefore rise to inquire if there is any method by which a more full attendance can be secured? I do not think there is a quorum present. Is there any means of compelling the attendance of a quorum?

The PRESIDENT. Until the fact be ascertained by a vote of the Senate that a quorum is not present, nothing can be done in that respect.

Mr. CHASE. I wish to say a word in reference to this amendment. It involves no new principle. In nearly every one of the bills which have been passed granting lands to railroad companies, a provision has been inserted requiring those companies to perform this service for such compensation as the proper departments should prescribe, trusting and believing—and that is no vain trust or belief—that this Government never will exact service without giving a full and adequate remuneration. It is, therefore, not a new

principle; but this amendment does not even go to that extent. It simply provides that the companies shall perform this service for such compensation as shall be agreed upon between the Department and the Government, and then, that in the event of disagreement Congress shall determine the question. It avoids some very serious difficulties which have heretofore arisen in relation to contracts between the companies and the Department. In no event, it seems to me, can it possibly occasion the least detriment to the companies themselves.

Mr. BADGER. Mr. President, this case, and the cases to which the Senator from Ohio refers, have no anology. The railroads to which this bill will apply are not railroads which have been built by contribution of lands from the domain of the United States. The bill proposes to give a credit upon the payment of duties on railroad iron; and then, because a credit is given for the payment of the duties on railroad iron, the Government surrendering nothing, giving nothing, granting nothing but a simple delay in payment, it is proposed to do—what? Why, sir, that the railroad companies shall be obliged to transport the mails and troops of the United States upon such terms as the Government chooses to dictate without any authority in them to decide whether they will accept the proposed terms or not. There is no comparison between the two cases. If Congress should appropriate $1,000,000 for building a road, or should give away an immense amount of public land for building a railroad, as a consideration therefor, they might justly require, as in some instances I believe they have, that the company should transport these things for nothing; but it would be absurd, in my opinion, on a bill of this kind to put such a provision. It would be grossly unjust, because, after all, what is the question? What is the case supposed by the amendment? That the Postmaster General, for example, for a certain service, proposes to allow $100, and the company think they should have $200. Who is to decide? Congress; that is, the Government, in one form, or other, is to determine the question, and the railroad company is obliged to perform this service on terms not agreed to by themselves, but by the Government, and for what? For the mighty consideration of giving them two or three years delay in the payment of duties. It is unjust, it is unequal. If Congress is unwilling to grant this facility, refuse it; but do not come forward here with a miser's bargain, requiring what is equivalent to ten per cent. a month for the use of money, or for delay in the collection of these duties.

Mr. RUSK. I would suggest to the honorable Senator from Ohio to modify his amendment; that is, to require them to transport the mails simply, in place of entering into a contract. There is no necessity for that. The road may change owners. Nor is there any necessity for the provision in regard to troops. There will be no difficulty about that; that is only a temporary service. The mail service is a regular one, and, I think, ought to be provided for. If he will change it to the usual form of the provision in these railroad grants I will support it. If the Senator will not modify it, I will move an amendment to it.

Mr. WELLER. I really do not perceive that there is anything in the amendment at all. Suppose, after the expiration of three years, these companies should pay the duties which they agree to pay upon the railroad iron, and suppose they then should refuse to transport the mails upon their railroads at all, is there any power in this Government to compel them to carry the mails? I do not apprehend that there is. After they have paid their duties into the Treasury as they stipulated for, it will be optional with them whether they will transport the mails or not; and if they should not see proper to allow the mails to be carried on their cars, I know of no power in this Government to compel them to do it.

Mr. RUSK. I move to amend the amendment of the Senator from Ohio, so that it shall read as follows:

Provided further, That the railroads benefited by the provisions of this act shall be required to transport the mails at such compensation as shall be prescribed by law.

The PRESIDENT. The yeas and nays having been ordered upon the amendment first read, will have to be taken, unless this modification is accepted or received by unanimous consent.

Mr. CLAY. If I understand the amendment of the Senator from Texas aright, it seems more objectionable than the original amendment of the Senator from Ohio, for it takes away all discretion on the part of the company. It takes the bargain out of their own hands and transfers it to Congress who is to make the bargain, and they must abide by it.

The PRESIDENT. The question is on the amendment of the Senator from Ohio, and on that question the yeas and nays have been ordered.

Mr. STUART. Has the Senator from Ohio accepted the amendment of the Senator from Texas as a modification of his amendment?

Mr. CHASE. I shall not do that unless it is generally acceptable; but I will modify my amendment so as to meet the views of the Senator from Texas, by striking out all except what relates to the transportation of the mails—that is the transportation of the troops and property of the United States.

Mr. RUSK. Will the Secretary read the amendment as the Senator from Ohio modifies it?

The Secretary read it as follows:

Provided further, That the owners of every road for the use of which such iron may be imported, shall only be entitled to the benefits of this act upon filing with the Postmaster General a sufficient contract, in writing, binding said road and the owners thereof, to transport the mails in such manner and for such reasonable compensation as may be agreed upon between the said owners and the proper Department, subject, however, to be ascertained and fixed by Congress, in case of a disagreement between said Department and the said owners."

Mr. BADGER. Mr. President, that is a curious amendment, "binding said road and the owners thereof!" Binding the road! How can you bind a road? I suppose the Senator means by that the corporation that owns the road. Very well, then, you bind them, and then you are to bind, besides that, the owners of the road. Who are they?

Mr. BROWN. The stockholders.

Mr. BADGER. The individual stockholders—is that the intention?

Mr. SEWARD. I think the honorable Senator from North Carolina is quite too astute in his criticisms.

Mr. BADGER. Will the honorable Senator tell me the meaning of the language used?

Mr. SEWARD. It means this: that railroad companies shall carry the mails on such terms as the law provides. The road, of course, cannot carry the mails; but the owners of the railroad, the individual owners, if it is owned by individuals, or the corporation, if the owners are a corporation, can make provision for it.

Mr. BADGER. Will the Senator be good enough to inform me what he means by binding the road as contradistinguished from the owners of the road.

Mr. SEWARD. The words "the road," probably may be regarded as surplusage, and certainly they are not very necessary, but they do not at all render the proposition obscure.

But I desire to say a few words upon the merits of the amendment. A great difficulty in this country, Mr. President, is, that since our postal arrangements were established, our system of roads has been entirely, or greatly, changed. We formerly had the mails carried upon the common roads. Now, as to a large proportion of the mails, they are carried upon railroads. Those roads are made by individuals, and by corporations; possibly, by States, and are entirely independent of the action or control of Congress, or of the Federal Government. Another difficulty which arises, resulting from this change, which is, perhaps, only a temporary one, is that the railroads are, as yet, everywhere a monopoly. There is not that competition among the roads which will enable the Government to select one road to compete with another, or, to speak more accurately, the owners of one road to compete with another. We have felt this difficulty a long time—ever since the system of railroads has been introduced. It would be very desirable if we could secure the benefits of some understanding with the owners of the roads, or some power to legislate upon the subject, with the consent, of course, of the owners of the roads.

Now, as to the present case, here is a proposition calculated to acquire for us this power over a road. I see nothing wrong in it; but it will be a decided advantage, if it can be obtained, because, if we get this right, we shall then be able to limit the price of carrying the mails, so as to evade exaction and extortion. We do not get it at all, unless with the consent of those who are to be affected by its exercise—that is, the owners of the road. It will be perfectly fair, and equal, and just, and right, if they agree to give us what is stipulated for in the amendment. We do not compel them to give it to us, because they come here sueing to the Government for a boon to which they are not entitled, and Congress may give it or withhold it. If it can rightfully withhold it at all, or if it can rightfully give it, it can give it upon conditions, and if it can give it upon conditions, it can give it on conditions desiring to promote the public benefit, and the general interest of society. This is the consideration which is proposed on our part; and if it is adequate, the company will accede to the condition. If it is not, the company will refuse the boon, and will receive no wrong by it. I should be glad if there were other boons which it were in our power to give to other railroad companies, by offering which, and rendering them acceptable to such companies, we could gain that control, that interest in their councils, which would enable us to carry the mails upon more just and equal terms than we are now able to do.

Now, can this be made to operate harshly on a railroad company offering to carry the mail? Suppose they offer the Postmaster General certain terms upon which they will carry them, and he refuses; there is an appeal in that case to Congress. Is there any reason to apprehend that Congress will be unjust or illiberal? Congress is never illiberal in such cases. The claimants will come to Congress with the utmost confidence that their appeals from the fiscal administration of the Government will be properly attended to. There is more danger that Congress may be too liberal in allowances for the public mail service than that Congress will not be liberal enough; but I should not insist upon this reservation in favor of Congress if there were any other tribunal to which it might be taken, if it did not resuk from the Constitution and laws that there is no other tribunal but this to which such a question can be submitted. Congress acts as a court for the settlement of claims in law and equity, preferred by citizens against the Government of the United States. So far as my experience here has gone, there is no reason to complain that Congress is unjust or inequitable in its adjudications. The only complaint is that it is dilatory.

Mr. THOMPSON, of Kentucky. I desire to say one or two words explanatory of my views in reference to this subject. If this bill is to pass at all, it seems to me that the proposition for the extension of credit on the duties on railroad iron ought to be unincumbered by any such amendment as is proposed. Those railroads which are artificial legal personages that are to continue *in perpetuo*—many of them forever—would have, I think, by the amendment proposed by the Senator from Ohio, imposed upon them a burden vastly greater than what they would lose by the immediate payment of the duties; that is to say, you make a proposition to give them an indulgence, and you couple with that indulgence a requisition that, in point of fact, when you go to carry it out, will effectually counterbalance all the benefit which you bestow upon them.

If the young States within which these roads are situated, which are now struggling in these excessively hard times, are to be benefited, they ought not to be incumbered with any such burden as that. It does not stand upon the equality, the equity, and the liberality which have been extended to other roads previously to this time. Not only that, sir, but I do not see any particular propriety or necessity, as regards these public improvements which are just now progressing, everybody knows, from the stringency of the times, from the tightness of the money market, from the scarcity of money, under great difficulty, in thus impeding and stopping them by such burdensome conditions. There is no necessity for the money in the public Treasury, when you have twenty or thirty millions of dollars surplus money in the Treasury of the United States. For what purpose will you do this? What is the necessity for your having this money? You are now buying up at a large premium, at an excessive rate, the outstanding debts of the Government, with money

which you do not need. Why, then, impose this condition?

Many of these roads are struggling under great difficulties. They are weak The times are hard and tight. It is wrong to arrest the labor, to prevent the progress and completion of the roads. If you propose to give them a benefit, let it be a benefit; and do not couple with it any such condition as will make it a fallacy and a delusion, instead of a benefit at all. Either reject the bill or let it go through as other bills have gone through. Let it be a positive benefit to the roads, so as to let them get along in their work.

So far as we are concerned in the State of Kentucky, I have very little to calculate as to the benefit which it would confer or how it would operate. But if you want internal improvements to progress in the country under the guidance of these companies, these legal artificial personages, do not extinguish them, do not press them down; give them a chance to go forward. The Government does not need the money. If you give them a benefit, let it be a benefit, and do not, by this sort of indirection, profess to give a benefit, and yet so incumber it as to make it amount to nothing. Do not give the benefit grudgingly? I have no doubt, sir, that these roads are very often oppressive in their requisitions upon the Government; they make hard bargains; they will claim more than they ought to have. Doubtless they do so, because they think it is Uncle Sam they have to deal with, and that Uncle Sam is a fat goose, to be plucked by everybody who can pluck him. No doubt they often drive a hard bargain with him. No doubt that is the fact, for I believe all corporations are said to be soulless; but are we, on that pretense, not to give them a chance to prosecute their roads, by imposing such a burden as this amendment will impose upon them? Sir, in these stringent times we ought not to take from them the benefits and equalities which you have given to other companies in other States, and at other times, heretofore. That is what I have to say in reference to it.

Mr. RUSK. I shall vote against the amendment of the Senator from Ohio. I was in hopes that he would modify it so as not to require the ceremony of going through a contract with the Postmaster General, or to throw obstructions in the way of the benefits which the bill proposes to give to the railroads. I apprehend that the friends of the measure had better look into it before they say that the provision which I offer is an oppression to the road, or that it is grudgingly giving the benefits of the bill. It is cutting off the privilege which the roads have of practicing extortion upon the Government in the carrying of the mails. That is all there is in it. No Senator, I presume, will rise in his place here and say that there is any danger of the passage of a general law by which the Government will require the service to be performed at a price below what its real value is. I apprehend nobody will imagine that any such law will be passed. It will have to apply to all the roads situated like this, and there are now, or will be in a short time, several thousand miles of roads which will be required to carry the mail in the manner that the amendment which I offer would require these roads to carry it; so that if the benefits of this bill would oppress any road, they would oppress those other roads. There is, therefore, no danger to be apprehended on the score that Congress would pass any law which would not be just, and afford them a fair remuneration.

There are evils on the other side which ought to be considered; and I hope Senators will consider them for a moment, before they are so strenuous to keep this monopoly in the railroad companies, which enables them to impose upon the Government and upon the community. What is the condition of our postal affairs? With a large revenue of five or six millions of dollars, we are falling a million and upwards behind every year.

The mail service on the frontiers of the country, in sparsely populated regions, is actually pinched down. No facilities are given there. The utmost economy has to be exercised in reference to the expenditure for mail facilities in sections of the country where railroads do not exist; and what is the reason? The reason is, that the roads here have the Government under their control. "You must pay us an enormous price; you must submit to this exaction from us, which will consume all your post office revenue, and prevent the accommodation of mail service in other portions of the country, or we will throw off your mail." They have the monopoly. Is that fair? Is that right? Is the honorable Senator from Alabama anxious to see such a monopoly grow up in the country with such a power as that?

Mr. CLAY. By no means; but I think that all laws should operate equally, and while I subject these companies to the control of Congress entirely, I do not like to see all others acting freely and making their own bargains.

Mr. RUSK. It so happens that these companies come here and ask a privilege from Congress. They come and ask from Congress what is a benefit to them. We ask them to do what? To act honestly and fairly, and submit to the laws which Congress may pass. Nobody will say that Congress will attempt to cheat them. There is no probability of that; but our past history is full of the fact that we cannot trust railroads, because they have a monopoly, and we cannot get our mails transported with the same facility anywhere else as on railroads; therefore they make their heavy charges. They eat up the post office revenue. They curtail the mail facilities of the country with their monopoly. I have no doubt in my own mind that we have the power to force these roads, under the authority granted in the Constitution, to do this. It would, however, be a question that would create a good deal of discussion and difficulty. But I think it is wisdom and policy on the part of Congress, whenever they make grants to railroads, to couple with the grant a requisition that they shall comply with the general laws passed in reference to the price of transporting mails on railroads. They are monopolies in this respect. Experience shows that they are, and that they impose upon the Post Office Department and eat up the revenues, so that whenever privileges are granted to them—and God knows I was willing to grant them further than the friends of this bill ask, because I hold that they are very valuable—I am in favor of coupling with them that requisition.

Mr. BROWN. I shall vote against this amendment, and for the reason that I think it is calling upon the railroad companies to make too great a sacrifice in proportion to the benefit which you offer. If you pass this bill the Government parts with nothing. If you collect the duties, they pass into the Treasury which is already too full. If you do not collect them, you lose nothing in the way of interest; you lose only the naked custody of so much money. You save the company, however, from the payment of the interest during three years. Now, because, without damaging yourselves at all, you propose to give this slight benefit to the companies, what do you ask? Why that the company, through all after time, shall pledge itself to transport your mail upon such terms as you shall dictate.

Now, sir, suppose that $500 a mile shall be paid upon the railroad from Philadelphia to New York, and that sum, I undertake to say, has been paid in times gone by, and something like it is being paid now——

A SENATOR. Three hundred dollars.

Mr. BROWN. I know $300 per mile is paid for carrying the mail proper; but then you pay agents at each end, and you pay a great many travelling agents, so that it amounts to nearly $500 per mile. Now, shall one of these young roads, struggling into existence, be required to perform the same service for $50 or $100? Will you make such an exaction as that because of the consideration that you have allowed them three years' credit on their duties upon iron? I think, sir, it is asking too much. But my friend from California suggests that if, at the end of the time, a railroad company pays the duties and refuses to execute the contract, there will be no power to compel it to do so. I think he is mistaken. I take it for granted that, if a company enters into a written agreement with the Government to do a particular thing, and refuses to execute the contract, after receiving its part of the consideration, it may be sued in court, and damages would be recovered for its refusal to execute the contract.

I am willing—and I submit it to the friends of this measure with a good deal of confidence—to provide that these roads should be paid the same compensation as is paid to the roads of a like class in the United States. Is it at all fair that the railroads already in existence, between the principal commercial points, shall get the large sum which the law now authorizes, $300 a mile, with all the little perquisites of having agents at both ends, and agents along the line, and that these young companies shall carry the mails on such terms as the Postmaster General may dictate under the sanction of Congress? If they are in the same class as the others, ought they not to be treated in the same way? I offer no amendment, because I shall vote against the whole of this amendment.

Mr. COOPER. I shall vote for the amendment, but I do not rise for the purpose of discussing it. I think the reasons which have been submitted in its favor by the Senator from New York, and the Senator from Texas, are sufficient to justify its support, but I wish to call attention to another branch of the subject, which was adverted to by the honorable Senator from Kentucky.

He has referred to the Treasury, and its overflowing condition, and the very large amounts which are now locked up within its vaults. Has he heard, sir, exactly what its condition is at this time. I understand that there has been a falling off during the last quarter, in comparison with the same quarter last year of over six millions of dollars, and that a deficit, if I may use the word, of upwards of ten millions is anticipated between this and July. Now, sir, the Treasury, in all probability, will want all that it will receive.

Mr. THOMPSON, of Kentucky. Does the Senator mean a falling off, or that there will be a deficit?

Mr. COOPER. There has been a falling off during the last fiscal quarter of more than six millions of dollars, compared with the amount received last year, and it is anticipated that there will be a falling off of ten millions at the end of the fiscal year, and perhaps much more than that. I am inclined to think that this will be the case. Everybody knows that the orders which have gone out during the latter part of the year are much fewer, and less in extent, than they have been previously, and it is very likely that the anticipation of a falling off of ten millions will not only be realized, but that it will be much larger at the end of the present fiscal year. By that time, sir, the Treasury may need the money, and it will need it if we go on appropriating as we have done.

The PRESIDENT. The question is upon the amendment of the Senator from Ohio. The yeas and nays having been ordered upon it, no amendment can be offered to it unless by unanimous consent.

Mr. BADGER. Has not the amendment been modified?

The PRESIDENT. The Senator from Ohio does not accept the modification.

Mr. RUSK. It seems to me that the usual practice of the Senate in ordering the yeas and nays upon an amendment does not preclude that amendment from being amended. It is still open to amendments.

Mr. BADGER. Certainly.

Mr. RUSK. I therefore move my amendment as a substitute, by striking out all of the amendment of the Senator from Ohio after the word "provided."

The PRESIDENT. The yeas and nays having been ordered upon the amendment of the Senator from Ohio, it requires unanimous consent to amend that amendment.

Several SENATORS. Oh, no.

Mr. BADGER. Surely that is not the rule. The only effect of ordering the yeas and nays, according to the interpretation given to the rule upon that subject by the late Mr. King, when presiding officer, was this: that the mover of the amendment could not modify it without the consent of the Senate; but surely we can amend the amendment by a vote of the Senate.

The PRESIDENT. There is no doubt about the right to amend it after the vote is taken.

Mr. BADGER. Will the Chair allow me to state a case. Suppose a bill was pending, and the question was upon its engrossment, and on that question the Senate had ordered the yeas and nays, could not a Senator move to amend the bill before the question could be taken? If he could not, suppose the question should be passed affirmatively, and the bill was ordered to be engrossed, then it could not be amended at all. So it is here in regard to an amendment; the yeas and nays are ordered upon it, but still it is in the power of the

Senate to amend it. I submit, with all deference to the Chair, that its decision is incorrect.

Mr. TOUCEY. I would suggest that the ruling of the Chair puts it in the control of one fifth of the members present to cut off all power to amend the amendment.

Mr. BADGER. Certainly.

Mr. TOUCEY. At any time, therefore, one fifth of the Senate, if they were opposed to a bill, could cut short all amendments. It seems to me that has not been our usual course of procedure.

The PRESIDENT. The Senator from Ohio offered an amendment, and upon that the yeas and nays were ordered. Subsequently the Senator from Texas offered an amendment to the amendment. Are the yeas and nays called for upon the amendment to the amendment?

Mr. BADGER. I presume that cannot be done until the amendment is received. I understand the Chair to decide that an amendment to the amendment is not now in order.

The PRESIDENT. The Chair does not decide that an amendment is not in order; but the Senate has already ordered the yeas and nays upon the amendment offered by the Senator from Ohio.

Mr. CHASE. In order obviate the difficulty, I withdraw the call for the yeas and nays by unanimous consent.

The PRESIDENT. If the Senator withdraws the call for the yeas and nays, the amendment of the Senator from Texas is in order.

Mr. BADGER. I submit that, after the yeas and nays have been ordered they cannot be recalled on the motion of the gentleman who called for them.

Mr. HUNTER. By general consent.

The PRESIDENT. That can be done by unanimous consent. Does any Senator object?

There was no objection.

The PRESIDENT. Then the amendment offered by the Senator from Texas is in order, and that will be read.

It is to make the amendment read as follows:

Provided further, That on the railroads benefited by this act, the mails of the United States be transported at such compensation as shall be prescribed by law.

Mr. BROWN. I presume it is not in order now to move to amend the amendment.

The PRESIDENT. It is not; for this is an amendment to the amendment offered by the Senator from Ohio.

Mr. BROWN. If that is voted in, in its present form, will it be competent to reject the whole of it?

The PRESIDENT. Certainly it will.

Mr. CHASE. The Senator from Texas and myself aim at precisely the same object. The only question is as to the mode of accomplishing it. I should accept at once the modification which he proposes, if I supposed that it would be likely to attain the object as certainly as the amendment which I have offered. I have not the slightest feeling upon the subject whatever. I am quite willing that either form shall be adopted, only desiring that that form shall be adopted which will be most likely to accomplish our common object. What is that object? That the railroads who avail themselves of the benefits of this act, shall be bound to transport the mails of the United States for a reasonable compensation. As it now stands, the railroad company can make such contracts, and exact such terms from the Government, as it sees fit. The Government has no control whatever over the transportation. It must submit to the terms of the railroad company, or the community cannot receive the accommodation which is desired. This is the evil which we seek to remedy. We both seek to remedy the same evil.

Now, sir, if a simple provision like that of the Senator from Texas be adopted, I ask Senators whether it will effect the object we desire to accomplish? It is a simple provision of law, it is a simple declaration of the will of Congress, that the railroad companies who are to receive the benefits of this act, shall transport the mails at such rates as Congress shall prescribe by law. Where are those railroads? They are within the limits of the different States of the Union. They are created by State laws. They are responsible to State laws. How, by inserting a simple provision of this sort in the bill, are you to create a contract between them and the Government, which will bind them in such a manner as that it can be enforced? I doubt very much the power of Congress to make the contract in that form. I doubt very much the possibility of enforcing any provision made in this form, and I apprehend that if the amendment to the amendment be adopted, the substantial benefit which both are seeking to acquire for the Government will be lost.

But I would not desire any benefit for the Government, if that benefit was to be purchased by the oppression of any company whatever. How can it so operate? According to the provisions of the amendment of the Senator from Texas, ultimately the regulation of this thing, even supposing it be a binding obligation upon the part of the companies, is to be affected by the legislation of Congress. There is no danger, in my judgment, in any event, of any oppression to those companies. The Government of the United States has never shown itself indisposed to pay full and liberal rewards for this service; but, on the other hand, the companies have shown themselves disposed to exact exorbitant and unreasonable terms from the Government. We wish simply to avoid that, by authorizing the contract between the Government and the company, and immediate reference, in the last resort, to Congress, in case the companies and the Department shall disagree. There is no danger of any hardship on the part of any one of those companies. I think all apprehensions of that sort may be dismissed as unreal and imaginary; but, sir, if the provision I have submitted be adopted, there will be no doubt whatever on the subject. As Senators have already said, if a contract is made between certain companies and the Government, that contract can be enforced, and we secure, beyond all question, the object which so many in the Senate seek to accomplish; whereas, if the plan proposed by the Senator from Texas be adopted, there is great risk that we shall pass an act which will have no binding force upon anybody, and will not secure, in the end, the great benefits which every one desires to realize. I will not detain the Senate, Mr. President. I am willing to have a vote.

Mr. BADGER. I am extremely reluctant to intrude myself again upon the Senate; but I think there are some views put forth by the Senator from Ohio, which, if they are passed here without an answer, will be supposed to meet with the concurrence of the Senate generally. They do not meet with mine. The Senator says that this proposition is to prevent extortion on the part of railroad companies upon the Government. Now, I am as much opposed to extortion as the honorable Senator from Ohio; but how does he propose to accomplish his object? It is that when a bargain is to be made between the Government and a railroad company, it shall be made by one party, and the other party shall be compelled to abide by it, without giving its consent. That is the substance of the whole plan. It is immaterial whether you give the power to the Postmaster General, or to the head of another Department, or to Congress, or to any other person who serves this Government in any form. These various officers, and Congress itself, form one party to the contract. The honorable Senator says, that to prevent extortion, he is willing to agree to a provision that shall compel the other party to surrender his right to be consulted on the agreement by which he is to be bound. Sir, it is founded upon a false principle. It tends to injurious results. What sort of security does the honorable Senator give us why we may dismiss all fears of injustice, on the part of the Government, as idle and visionary? Why may we dismiss them? Is there anything, in our past history, to show us that the Government will not drive a hard bargain where it may? I will admit freely, with the honorable Senator, that, if we were to depend upon Congress, while he and I are here—upon this present Congress—there would be no fear of any injustice. We should go for exactly what was right; but every body knows that when we pass from the scene, no such confidence can be entertained. [Laughter.]

Then, what is the mighty consideration given by the Government for this yielding up of the right to be consulted in making their contract with the Government? What does the Government give, by this bill, as a consideration? It agrees to suspend, for three years, the collection of duties on railroad iron which may be imported under its provisions.

Well now, suppose the Government had the money, and suppose it could make interest upon it for the three years, it amounts to twelve per cent. upon the amount of duties on railroad iron, upon which those duties are suspended for three years, which is a loss to the Government; and in consideration of that grievous loss, the Government requires this concession of the free and independent power of American citizens to be bound by no contract made without their consent. In point of fact, the Government gives no consideration, as my friend from Mississippi has said; it is a relief to the roads, but without any loss or injury, present or contingent, to the Government of the United States. On the contrary it is an actual benefit to the whole country.

Mr. President, it is a miserable Shylock bargain. It is an attempt on the part of the Government, if we adopt it, to deal with these persons in their necessities, upon the same principle on which the usurer exacts an enormous sum for the small favor which he bestows upon the necessitous debtor. I hope the Senate will not yield their consent to any such proposition.

Mr. SHIELDS. Unless the question is about to be taken, I should like to have an Executive session.

Several SENATORS. Let us pass the bill.

Mr. JONES, of Tennessee. I beg the friends of the bill to sit it out.

The PRESIDENT. The question is on the amendment of the Senator from Texas to the amendment of the Senator from Ohio.

Mr. RUSK called for the yeas and nays; and they were ordered, and being taken, resulted—yeas 26, nays 18; as follows:

YEAS—Messrs. Adams, Allen, Bayard, Bell, Brodhead, Brown, Clay, Cooper, Dawson, Dodge of Iowa, Douglas, Fitzpatrick, Geyer, Hunter, Johnson, Jones of Tennessee, Morton, Pearce, Pratt, Rusk, Sebastian, Seward, Slidell, Stuart, and Weller—26.

NAYS—Messrs. Badger, Brainerd, Chase, Evans, Fessenden, Foot, Gillette, Hamlin, Jones of Iowa, Mallory, Pettit, Sumner, Thompson of Kentucky, Toucey, Wade, Walker, Wells, and Wilson—18.

Mr. SHIELDS. I now move that the further consideration of the subject be postponed until Monday, in order to proceed to the consideration of Executive business.

Mr. JONES, of Tennessee. I do hope the Senate will not adjourn without disposing of the bill.

Mr. SHIELDS. If a vote is to be taken, I shall not insist upon my motion.

Mr. SLIDELL. I move that the Senate adjourn.

Mr. BRODHEAD. Will the Senator withdraw that to enable me to make a privileged motion? At the instance of my friend from Iowa, I move a reconsideration of the vote had yesterday on the Armstrong case. I ask that it may be entered.

Mr. SLIDELL. I withdraw the motion.

Mr. BADGER. I object to the motion of the Senator from Pennsylvania.

The PRESIDENT. The question is on taking up the bill.

Mr. BADGER. I object to entertaining the motion.

Mr. BRODHEAD. Mr. President——

The PRESIDENT. The subject is not debatable. The motion was to lay on the table.

Mr. STUART. I object to the motion to reconsider.

Mr. CHASE. It cannot be objected to.

The PRESIDENT. There is a question before the Senate. The question is on the amendment of the Senator from Ohio.

Mr. BADGER called for the yeas and nays, and they were ordered.

Mr. ADAMS. I understand that the amendment of the Senator from Texas has been substituted for the amendment offered by the Senator from Ohio.

The PRESIDENT. It has been adopted as an amendment to the amendment of the Senator from Ohio, and the question is on the amendment as amended.

The question being taken by yeas and nays resulted—yeas 29, nays 16; as follows:

YEAS—Messrs. Adams, Allen, Bayard, Brainerd, Brodhead, Chase, Cooper, Dodge of Iowa, Douglas, Fessenden, Foot, Gillette, Hamlin, Johnson, Jones of Iowa, Pearce, Pratt, Rusk, Sebastian, Seward, Shields, Slidell, Stuart, Sumner, Toucey, Wade, Weller, Wells, and Wilson—29.

NAYS—Messrs. Badger, Bell, Brown, Butler, Clay, Dawson, Evans, Fitzpatrick, Geyer, Hunter, Jones of Tennessee, Mallory, Morton, Pettit, Thompson of Kentucky, and Walker—16.

So the amendment was agreed to.

Mr. CLAY. I wish to move an amendment to which I think there will be no objection. It is to insert after the words "collector of customs" the words "or surveyor of the port of delivery," so that that part of the section will read:

And in the event the collector of customs or surveyor of the port of delivery where the iron may be, shall not be satisfied that the bond or bonds of any company or companies thus applying, are fully and entirely sufficient to secure the payment of the duties suspended, he shall require such security, personal or otherwise, as in his judgment will indemnify the United States against loss.

The reason for that is obvious to every Senator. The iron may be imported and delivered at some ports which are not ports of entry, and where there is no collector of the customs.

The amendment was agreed to.

Mr. PEARCE. I wish to move a reconsideration of the amendment which was adopted on the motion of the Senator from Delaware, [Mr. BAYARD,] and I am not sure that it will not require me to move, also, a reconsideration of the amendment adopted on the motion of the Senator from Alabama. I did not hear it read.

Mr. STUART. It will require that.

Mr. PEARCE. The amendment of the Senator from Delaware would be a very good and proper one if a railroad company was obliged to pay duties at the place of importation. I think, however, there are two errors in it. In the first place, the reference to the discretion of the collectors of customs at the port where the iron may be, to determine the sufficiency of the bonds of the company, I think is an error, because we shall scarcely secure uniformity of action by having this discretion lodged in so many different hands. I think it would be proper to qualify that amendment by requiring the Secretary of the Treasury to determine whether or not the bonds are sufficient. That is one point.

But, in another aspect, I think I would carry the amendment further. I think, in all cases, it ought to require a security beyond the bonds of the company. I scarcely know a railroad company whose bonds are not below par. I know a great many whose bonds are down to little or nothing; and I do not know that there are any whose punctuality is such that we can depend upon their bonds. I think we ought to provide in every case that they shall give sureties in addition to their own bonds.

I propose, therefore, that the Senate reconsider those amendments, in order to insert, after the word "same," the words "with such surety or sureties as, in the opinion of the Secretary of the Treasury, shall be amply sufficient;" so that that proviso will read:

Provided, That before the delivery of said iron rails' spikes, bolts, fastenings, or other iron, the payment of the duties thus suspended shall be secured by the bonds of the company applying for the same, with such surety or sureties as, in the opinion of the Secretary of the Treasury, shall be amply sufficient.

That will require uniformity of action, and provide a uniform rule for all the companies. Then, sir, it will be necessary to strike out the residue of that section.

The PRESIDENT. The Senator from Maryland moves to reconsider the vote by which the amendment of the Senator from Delaware was adopted, striking out the words "of the entire solvency of the company thus applying for this extension," and inserting "that the bond or bonds of any company thus applying are fully and entirely sufficient to secure the payment of the duties suspended," and striking out "may," and inserting "shall."

Mr. HAMLIN. I think the Senator from Maryland labors under a misapprehension. I hope the motion which he has submitted will not be agreed to; and I will state, in very few words, the reasons why I think it should not be agreed to. I know of no case, either in the present or past history of the country, in which bonds have been required for the payment of duties where they have not been made and executed by the collector, for the reason that the collector must be better acquainted with the parties who execute the bond than the Secretary can know them thousands of miles away. In the next place, if you strike out the collector here, it will not only be a departure from what has been the practice of the Government always, but you will make the Secretary act in a secondary degree, as he must rely upon the recommendations that are made to him by the collector—the collector knowing the parties and the Secretary not knowing them. I believe the security of the Government would be much better guarded by the bill as it now stands than it would be by making the Secretary of the Treasury the person who is to judge of the solvency of the party executing the bond.

Mr. PEARCE. That might be an objection to my amendment, when it comes to be considered; but that is not the only object I have in view. Therefore, it is not necessary to my proposition to reconsider. I want to require all the companies to give sureties. I do not want to make a distinction, and allow one to give a bond, and one to give sureties. I want them to be all on the same footing. If the amendment of the Senator from Delaware be reconsidered, and I offer my amendment, the Senate may direct the "Secretary of the Treasury" to be stricken out, and the "collector of the customs" put in.

Mr. HAMLIN. The amendments which were submitted by the Senator from Alabama and myself, in regard to the collectors of customs and the surveyors will not change the phraseology of the bill; will not change the principle which the Senator from Maryland proposes to arrive at. There is, therefore, no necessity for reconsidering those two amendments. There may be a necessity for reconsidering the amendment made on the motion of the Senator from Delaware.

Mr. STUART. I think that perhaps in a few words I can satisfy the Senator from Maine that the principle for which he contends has no application in this case. It is a sound one in the cases to which he alludes, for the reason which he has stated, that the importers of the goods, who have given bonds in the cases to which he refers, reside at the locality where the officer does, and therefore, as the Senator says, that officer knows more about their responsibility than the Secretary of the Treasury can know. The railroad corporators, however, who will import iron under this bill, will reside thousands of miles from the port of entry, and the officer residing at New York or New Orleans knows nothing about them at all. Hence, the reason which the Senator has alluded to as applicable to the cases arising heretofore, has no application in the case. For instance, iron is imported into New York; the company importing it, and who are to lay it down, reside in Iowa. What does the collector at New York know about their responsibilities? Nothing at all. Therefore, sir, the principle contended for by my friend from Maryland is the true principle as applied to this case. The Secretry of the Treasury will require, under his amendment, a security in all the cases of importation. Now, if the company be a solvent one, it can give the security without difficulty. If it be not solvent, it certainly should give the security or not avail itself of the privileges of the bill. It will be seen, therefore, at a glance, that the principle alluded to by the Senator from Maine has no application to this class of cases.

Mr. BAYARD. I have not the slighest objection to the reconsideration of my amendment. I am inclined to think I shall vote for the motion of the honorable Senator from Maryland, and for his amendment; but my present object in rising is—as it is very evident that we cannot get through with the bill to-day, as the usual time for adjournment has arrived, and as there are several other amendments to be offered—to move that the Senate adjourn.

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 17, 1855.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

COMMUNICATION FROM WAR DEPARTMENT.

The SPEAKER presented to the House a communication from the Secretary of War, transmitting therewith two hundred and fifty copies of the official Army Register for the year 1855, in conformity with the resolution of the House dated February 1, 1830; which was laid on the table and order to be printed.

WASHINGTON NATIONAL MONUMENT.

Mr. MAY. I hope the House will allow to one who has not occupied, during the entire session, two hours of its time, the short space of five minutes, in order to dispose of some important public business. I desire to ask the House to take up two Senate bills from the Speaker's table, not that they may be passed, not that they may be considered, but simply for the purpose of referring them to the appropriate committees.

Mr. COBB. The Committee on Public Lands have not had thirty minutes during the session for the purpose of making reports, and I am very anxious to have an opportunity to do so. I object to anything but reports from committees.

Mr. MAY. I did not ask to take up the bills for the purpose of action, but that they may be referred, and I trust the gentleman will not object.

Mr. COBB. I object decidedly. The Committee on Public Lands have had no time to report.

Mr. MAY. Well, then, I desire to make a report upon the subject of the building of the national monument to Washington in this city. But I cannot do it for this reason: I was appointed, at last session, the chairman of a select committee of thirteen members of this House to consider the subject of the building of this monument, to which I have referred. We met and examined the officers of the National Monument Society; we examined its architects, its books, and all its transactions. But we find that that committee has expired. We desire to make a report, in order to remove from the minds of the country the distrust which prevails, touching the character of those who have charge of this pious work; and also of the character of the work itself, and to enable us to do so, it is necessary that the House continue that committee in existence.

Mr. COBB. I call the gentleman to order.

Mr. MAY. I merely ask the House to continue that committee.

Mr. COBB. I call the gentleman to order. I say if I were making a speech I should be called to order.

The SPEAKER. The Chair understands that the gentleman from Maryland refers to the select committee appointed last session, which expired last session, but which he supposed continued this session; and under which impression they have continued their investigations. The gentleman asks that the committee may be continued this session. Can there be any objection to that?

[Cries of "No!" "No!"]

The SPEAKER. No objection being made, an order to that effect will be entered.

Mr. MAY, by unanimous consent, reported, from the Committee on the Judiciary, a bill supplemental to the act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys, of the circuit and district courts of the United States, and for other purposes," approved February 26, 1853; which was read, recommitted to the Committee on the Judiciary, and ordered to be printed.

Mr. MAY. I now ask the consent of the House to take from the Speaker's table Senate bills Nos. 633 and 436, for the purpose of referring them—the first, to the Committee on Revolutionary Claims, and the other to the Committee on Commerce.

Mr. COBB. I object, unless we take up the business on the Speaker's table in regular order. There are important measures there in which the people of the whole country are interested, and I object to the gentleman taking up these bills out of order.

The SPEAKER. Objection being made, the bills cannot be referred as proposed.

Mr. HUGHES. I ask the unanimous consent of the House to introduce a bill merely for the purpose of reference?

Mr. JONES, of New York. I rise to a question of privilege. I believe this is private bill day, and I ask consent to report two private bills that they may be referred.

Mr. HUGHES. I beg my colleague to allow me to introduce and refer my bill first?

No objection being made,

Mr. HUGHES introduced the following bill; which was read a first and second time by its title, and referred to the Committee on Public Lands:

A bill for the relief of the actual occupants of lands in California held under location on State warrants.

Mr. JONES, of New York. I now ask leave to report some private bills which I hold in my hand.

The SPEAKER. The Chair begs leave to propose to the House that it spend half an hour disposing of bills which may be reported for the purpose of reference only, and which are not to be reconsidered. It will be a great relief to the Chair, and particularly to gentlemen who are fainting in their places to report.

Mr. COBB. What is the proposition?

The SPEAKER. The Chair suggests that the House spend half an hour in receiving bills for the purpose of reference only.

Mr. COBB. And the gentleman from Alabama objects to the proposition of the Chair, because the Chair——

The SPEAKER. The gentleman from Alabama objects, and the gentleman is out of order in making a speech.

Mr. CLINGMAN. I call for the regular order of business.

Mr. CHASTAIN. I have been making efforts for some time to obtain the floor for the purpose of making a speech; but as I have not succeeded, I ask the permission of the House to print it.

No objection was made; and the request was granted. [See Appendix for speech.]

Mr. COBB. I am requested by many friends, to whom I am under deep obligations, to withdraw my objection to the proposition of the gentleman from Maryland [Mr. MAY] to take up and refer certain bills. I accordingly withdraw my objection.

Mr. MAY. There being no objection, then, those bills will be referred.

Mr. WENTWORTH, of Illinois. But I understood the proposition was to spend half an hour in receiving reports.

The SPEAKER. The gentleman from Alabama objects.

Mr. COBB. I do not object to anything which a member——

[Cries of "Order!" and great confusion.]

Mr. JONES, of Tennessee. I wish to remark that I have nothing to report; but I think it would be an accommodation to the whole House if we should spend half an hour in receiving reports which gentlemen wish to make, and to have them referred and ordered to be printed.

The SPEAKER. The gentleman from Alabama objects distinctly to it.

Mr. COBB. I cannot say anything; if I could I could satisfy the House of my reasons.

Mr. BAYLY, of Virginia. The Speaker has been "Cobb-ed," and I object to the House being "Cobb-ed" too.

Mr. MAY. I now ask that those bills may be taken up and referred.

No objection being made, the following bills were taken from the Speaker's table, read a first and second time, respectively, by their titles, and referred as indicated below:

An act for the relief of the heirs of the legal representatives of Gerard Wood. Referred to the Committee on Revolutionary Claims.

An act for improving the navigation of the Patapsco river, and to render the port of Baltimore accessible to war steamers of the United States. Referred to the Committee on Commerce.

Mr. ELIOT, of Massachusetts. I ask the unanimous consent of the House to take up a bill from the Speaker's table for the purpose of reference merely.

Mr. EDGERTON. I object, unless all private bills shall be allowed to be reported.

Mr. CLINGMAN. I call for the regular order of business.

OCEAN MAIL STEAMER BILL.

The SPEAKER. The business first in order is the consideration of the bill making appropriations for the transportation of the United States mail, by ocean steamers and otherwise, during the fiscal year ending the 30th of June, 1856.

The Clerk will report the first amendment.

The amendment was reported, as follows:

Strike out the following clause:

"For transportation of the mails from New York to Liverpool and back, $819,500; and that the Secretary of the Navy is hereby directed to give the notice provided in the first section of the act entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852," approved the 21st day of July, 1852, to terminate the arrangement for the additional allowance for the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, as therein provided."

And insert in lieu thereof the following:

For transportation of the mails, from New York to Liverpool and back, $858,000; and that the proviso contained in the first section of an act entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852," approved the 21st day of July, 1852, be, and the same is hereby, repealed: *Provided*, That Edward K. Collins and his associates shall proceed, with all diligence, to build another steamship, in accordance with the terms of the contract, and have the same ready for the mail service in two years from and after the passage of this act. And if said steamship is not ready within the time above mentioned, by reason of any neglect or want of diligence on their part, then the said Edward K. Collins and his associates shall carry the United States mails, between New York and Liverpool, from the expiration of the said two years, every fortnight, free of any charge to the Government, until the new steamship shall have commenced the said mail service.

The SPEAKER. The yeas and nays have been demanded.

Mr. FULLER. I wish to inquire of the Chair in relation to a question of order. I desire to know whether the proposition or amendment of the gentleman from Ohio, the chairman of the Committee on the Post Office and Post Roads, is not divisible.

The SPEAKER. It being a single amendment reported from the Committee of the Whole on the state of the Union, it is not divisible. It must be voted on as a whole.

Mr. JONES, of Tennessee. The main question has been ordered, has it not?

The SPEAKER. It has.

Mr. JONES. Then it is not in order to move that there be a call of the House.

The SPEAKER. It is not.

Mr. JONES. I move that the vote by which the main question was ordered to be put be reconsidered. I wish to give time for the members of the House to get in, so as to secure as full a vote as possible. I submit, therefore, the motion to reconsider, and call for the yeas and nays upon it.

Mr. EDGERTON. I move to lay the motion to reconsider upon the table.

Mr. JONES. I ask for the yeas and nays upon that.

The SPEAKER. That being a motion that can be repeated at any time, the Chair will hold that the motion to lay on the table is not in order.

The yeas and nays were then ordered upon the motion to reconsider.

Mr. EDGERTON. Did I understand the Chair to decide that my motion to lay the motion to reconsider on the table was not in order?

The SPEAKER. The Chair so decides, for the reason that the motion to reconsider the vote by which the main question was ordered to be put is not debatable, and for the reason that that class of motions can be repeated again and again. The practice, the Chair thinks, is wrong, as taking up the time of the House unnecessarily. He decides that the motion is not in order.

The question was then taken upon the motion to reconsider; and decided in the negative—yeas 51, nays 113; as follows:

YEAS—Messrs. Aiken, David J. Bailey, Barry, Bridges, Bristow, Brooks, Chastain, Chrisman, Cobb, Craige, Dowdell, Eddy, Edmundson, John M. Elliott, Ellison, English, Etheridge, Fuller, Goode, Greenwood, Grey, Hamilton, Aaron Harlan, Sampson W. Harris, Haven, Hendricks, Henn, Hibbard, Hiester, Johnson, Keitt, Lamb, Letcher, Lilly, Lindsley, McQueen, Millson, Morrison, Orr, Packer, Phelps, Phillips, Powell, Pratt, Ruffin, Russell, Shaw, Skelton, Straub, Andrew Stuart, and Vansant—51.

NAYS—Messrs. Willis Allen, Thomas H. Bayly, Ball, Banks, Belcher, Bennett, Benson, Bliss, Bocock, Boyce, Breckinridge, Campbell, Carpenter, Caruthers, Caskie, Chamberlain, Chandler, Chase, Clark, Cook, Corwin, Cox, Crocker, Cullom, Curtis, Cutting, John G. Davis, Thomas Davis, Dawson, De Witt, Dickinson, Disney, Drum, Dunbar, Eastman, Edgerton, Edmands, Thomas D. Eliot, Everhart, Faulkner, Fenton, Flagler, Gamble, Giddings, Goodwin, Green, Andrew J. Harlan, Hastings, Hill, Howe, Hughes, Hunt, Daniel T. Jones, George W. Jones, Kerr, Knox, Kurtz, Lane, Latham, Lyon, Macdonald, McDougall, Macy, Matteson, Maurice, Mayall, Meacham, Middleswarth, Morgan, Murray, Nichols, Norton, Olds, Andrew Oliver, Mordecai Oliver, Parker, Peck, Pennington, John Perkins, Preston, Ready, David Ritchie, Rowe, Sabin, Sage, Sapp, Seymour, Shower, Simmons, Singleton, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Stratton, David Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Trout, Upham, Walbridge, Walley, Warren, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, and Wheeler—113.

So the House refused to reconsider the motion by which the main question was ordered to be put.

Pending the call of the roll,

Mr. ZOLLICOFFER stated that he had paired off with his colleague, Mr. BUGG, who was opposed to giving the notice to Mr. Collins. He [Mr. Z.] was in favor of giving the notice, but should refrain from voting upon any question involving the first section of the bill.

Mr. PURYEAR, also, stated that he had paired off with his colleague, Mr. ROGERS, who was necessarily absent from the city, he being opposed to the bill, and Mr. ROGERS in favor of it.

The question then recurred upon the adoption of the amendment.

Mr. LETCHER. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and decided in the affirmative—yeas 100, nays 83; as follows:

YEAS—Messrs. Willis Allen, Appleton, Thomas H. Bayly, Ball, Banks, Belcher, Bell, Bennett, Benson, Bliss, Campbell, Carpenter, Chamberlain, Chandler, Chase, Clark, Clingman, Cook, Corwin, Crocker, Cullom, Curtis, Cutting, Thomas Davis, De Witt, Dickinson, Disney, Drum, Dunbar, Eastman, Edgerton, Edmands, Thomas D. Eliot, Everhart, Fenton, Flagler, Gamble, Goodwin, Green, Andrew J. Harlan, Hastings, Hiester, Hill, Howe, Hughes, Hunt, Daniel T. Jones, J. Glancy Jones, Kerr, Knox, Kurtz, Lane, Latham, Lyon, McCulloch, Macdonald, McDougall, Macy, Matteson, Maurice, Mayall, Meacham, Middleswarth, Morgan, Norton, Olds, Andrew Oliver, Peck, Pennington, David Ritchie, Rowe, Sabin, Sage, Sapp, Seward, Shower, Simmons, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, David Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Trout, Tweed, Upham, Wade, Walbridge, Walley, Warren, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, and Wheeler—100.

NAYS—Messrs. Aiken, David J. Bailey, Barksdale, Barry, Benton, Bocock, Boyce, Breckinridge, Bridges, Bristow, Brooks, Caruthers, Caskie, Chastain, Chrisman, Cobb, Cox, Craige, John G. Davis, Dawson, Dowdell, Dunham, Eddy, Edmundson, John M. Elliott, Ellison, Etheridge, Faulkner, Giddings, Goode, Greenwood, Grey, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Wiley P. Harris, Haven, Hendricks, Henn, Hibbard, Johnson, George W. Jones, Roland Jones, Keitt, Kittredge, Lamb, Letcher, Lilly, Lindsley, McQueen, May, Smith Miller, Millson, Morrison, Murray, Mordecai Oliver, Orr, Packer, Parker, John Perkins, Phelps, Phillips, Powell, Pratt, Pringle, Ready, Robbins, Ruffin, Russell, Seymour, Shaw, Singleton, Skelton, Samuel A. Smith, William R. Smith, George W. Smyth, Stratton, Straub, Andrew Stuart, John J. Taylor, Tracy, and Vansant—83.

So the amendment was agreed to.

Pending the call of the roll,

Mr. KIDWELL said he was unavoidably absent when his name was called. If he had been present, he would have voted against the amendment.

Mr. FARLEY stated that he had paired off with Mr. SMITH, of Virginia, he being in favor of the amendment, and Mr. SMITH opposed to it.

Mr. PECKHAM, also, stated that he was called out of the House, and was not within the bar when his name was called. He asked leave to vote in the affirmative.

Mr. HAMILTON objected.

Mr. WASHBURN, of Maine. I move to reconsider the vote by which the amendment was adopted, and to lay the motion to reconsider upon the table.

Mr. MILLSON. I demand the yeas and nays on the motion.

The yeas and nays were ordered.

FRENCH SPOLIATION BILL—VETO MESSAGE.

A message was received from the President of the United States, by SIDNEY WEBSTER, Esq., his Private Secretary, returning the bill for the ascertainment and satisfaction of claims of American citizens for spoliations committed by the French prior to the 31st of June, 1801, with the objections of the President.

The SPEAKER. The Secretary of the President announces that he has returned the French spoliation bill with his veto message.

[Cries of "Let it be read!"]

The SPEAKER. A question of order arises under the Constitution precisely at this point.

Mr. ORR. I propose that the message shall be read, ordered to be printed, and assigned for consideration on Monday next at one o'clock. I make that proposition if it meets the concurrence of the House.

Mr. BAYLY, of Virginia. I hope my friend from South Carolina will change his motion from Monday till Tuesday. I desire to be heard upon the subject, and I shall not be able to speak on Monday.

Mr. ORR. Of course I cannot make the motion now. I merely indicated to the House that I would make such a motion, if it should meet their approbation, when the message had been read.

Mr. OLDS. I rise to a question of order. I

submit that it is not in order to have the message read until the main question, which has been ordered, has been exhausted.

The SPEAKER. The Secretary of the President having announced the fact that the communication presented by him was a veto message, the Chair is in doubt as to the proper course to proceed. The clause of the Constitution, in reference to such messages, is familiar to every gentleman.

[Cries of "Read it!" "Read it!"]

Mr. HAVEN. I suppose the message is rightfully before the House. But, sir, without meaning any disrespect whatever to the President of the United States, I would suggest to my friend from South Carolina, that, inasmuch as time presses pretty closely upon us, perhaps we had better dispense with the reading of the message, and allow it to be printed.

Several MEMBERS. Oh, no.

Mr. ORR. The Constitution of the United States requires that the President should send his objections to the House, and, of course, they should be read to the House.

Mr. JONES, of Tennessee. The Constitution provides that they shall be sent to the House and spread upon the Journal; but not that they shall be read.

Mr. ORR. Of course they should be read.

Mr. JONES. Does the Chair decide that the reading of the President's message must take precedence of the business before the House, the main question having been ordered?

The SPEAKER. The Chair has made no such decision. He merely called the attention of the House to the facts.

Mr. JONES. I submit that it is not in order to read the message until the question under consideration has been disposed of. The rules were framed with reference to the Constitution, and are not in conflict with it.

The SPEAKER. The clause of the Constitution in reference to this subject is the following:

"Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; and if he approve it, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it."

Mr. JONES. Certainly; but I submit that we must first dispose of the question under consideration, and then proceed to the consideration of the message. We can thus preserve our rules and the Constitution—both of them.

OCEAN MAIL STEAMERS.

The SPEAKER. The Chair so understands the question, and he will decide that the business must proceed, as the rules require. The main question having been ordered upon the proposition under consideration, the Chair decides that the question first to be disposed of is the motion of the gentleman from Maine, [Mr. WASHBURN,] to lay on the table the motion to reconsider the vote by which the amendment of the gentleman from Ohio [Mr. OLDS] was adopted.

The question was then taken; and it was decided in the affirmative—yeas 103, nays 77; as follows:

YEAS—Messrs. Willis Allen, Appleton, Thomas H. Bayly, Ball, Banks, Belcher, Bell, Bennett, Benson, Bliss, Bristow, Campbell, Carpenter, Chamberlain, Chandler, Chase, Clark, Clingman, Corwin, Crocker, Cullom, Curtis, Cutting, Thomas Davis, DeWitt, Dickinson, Disney, Drum, Dunbar, Eastman, Edgerton, Edmands, Thomas D. Eliot, Etheridge, Everhart, Fenton, Flagler, Gamble, Goodwin, Green, Andrew J. Harlan, Hastings, Hiester, Hill, Howe, Hughes, Hunt, Daniel T. Jones, J. Glancy Jones, Kerr, Knox, Kurtz, Lane, Latham, Lyon, McCulloch, Macdonald, McDougall, Macy, Matteson, Maurice, Mayall, Meacham, Middleswarth, Morgan, Norton, Olds, Andrew Oliver, Peck, Peckham, Pennington, David Ritchie, Rowe, Sabin, Sage, Sapp, Seward, Shower, Simmons, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, David Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Trout, Tweed, Upham, Wade, Walbridge, Walley, Warren, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Wheeler, and Witte—103.

NAYS—Messrs. Aiken, David J. Bailey, Barksdale, Barry, Benton, Bocock, Boyce, Breckinridge, Brooks, Caruthers, Caskie, Chastian, Chrisman, Cobb, Cox, Craige, Cumming, John G. Davis, Dawson, Dowdell, Eddy, Edmundson, Ellison, Faulkner, Goode, Grey, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Wiley P. Harris, Haven, Hendricks, Henn, Hibbard, Johnson, George W. Jones, Roland Jones, Keitt, Kittredge, Lamb, Letcher, Lilly, Lindsley, McQueen, May, Smith Miller, Millson, Morrison, Murray, Mordecai Oliver, Orr, Packer, Parker, John Perkins, Phelps, Phillips, Powell, Pratt, Preston, Ready, Richardson, Robbins, Ruffin, Russell, Seymour, Shaw, Singleton, George W. Smyth, Stratton, Straub, Andrew Stuart, John J. Taylor, Tracy, Vansant, Daniel B. Wright, and Hendrick B. Wright—77.

So the motion to reconsider was laid upon the table.

Mr. RICHARDSON. I desire to say that, if I had been present this morning, I should have voted against this line in every phase that the question assumed.

The SPEAKER. The Committee of the Whole on the state of the Union report another amendment to the bill.

Mr. JONES, of Tennessee. It is unnecessary to read it. It is merely the appropriations for the present year, and it was read yesterday.

The amendment was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read a third time.

The question now being, "'Shall the bill pass?"

Mr. HAMILTON demanded the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 99, nays 82; as follows:

YEAS—Messrs. Willis Allen, Appleton, Thomas H. Bayly, Ball, Banks, Belcher, Bell, Bennett, Benson, Campbell, Carpenter, Chamberlain, Chandler, Chase, Clark, Clingman, Cook, Corwin, Crocker, Cullom, Thomas Davis, De Witt, Dickinson, Disney, Drum, Dunbar, Eastman, Edgerton, Edmands, Thomas D. Eliot, Everhart, Fenton, Flagler, Gamble, Goodwin, Green, Andrew J. Harlan, Hastings, Hiester, Hill, Howe, Hughes, Hunt, Daniel T. Jones, J. Glancy Jones, Kerr, Knox, Kurtz, Lane, Latham, Lyon, McCulloch, Macdonald, McDougall, Macy, Matteson, Maurice, Mayall, Meacham, Middleswarth, Morgan, Norton, Olds, Andrew Oliver, Peck, Peckham, Pennington, David Ritchie, Rowe, Sabin, Sage, Sapp, Seward, Shower, Simmons, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, David Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Trout, Tweed, Upham, Wade, Walbridge, Walley, Warren, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Wheeler, and Witte—99.

NAYS—Messrs. Aiken, David J. Bailey, Barksdale, Barry, Benton, Bocock, Boyce, Breckinridge, Bridges, Brooks, Caruthers, Caskie, Chastain, Chrisman, Cobb, Cox, Craige, Cummings, John G. Davis, Dawson, Dowdell, Eddy, Edmundson, John M. Elliott, Ellison, Etheridge, Faulkner, Giddings, Goode, Grey, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Haven, Hendricks, Henn, Hibbard, Johnson, George W. Jones, Roland Jones, Keitt, Kittredge, Lamb, Letcher, Lilly, Lindsley, McQueen, May, Smith Miller, Millson, Morrison, Murray, Nichols, Mordecai Oliver, Orr, Packer, Parker, John Perkins, Phelps, Phillips, Powell, Pratt, Pringle, Ready, Richardson, Robbins, Ruffin, Russell, Seymour, Shaw, Singleton, Skelton, George W. Smyth, Stratton, Straub, Andrew Stuart, John J. Taylor, Tracy, Vansant, and Daniel B. Wright—82.

So the bill was passed.

Mr. OLDS. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. BRECKINRIDGE. I move to amend the title of the bill, by striking out all after the word "fiscal," and inserting in lieu thereof, the words "years ending 30th of June, 1855, and 30th of June, 1856."

That amendment to the title is made necessary by the adoption of the amendment inserting the appropriations for the current year.

The amendment was agreed to.

The title, as amended, was then adopted.

Mr. OLDS. I move to reconsider the vote by which the title was adopted, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

FRENCH SPOLIATION BILL---VETO MESSAGE.

The SPEAKER. The veto message of the President of the United States will now be read.

The Clerk then proceeded to read the message, which is as follows:

To the House of Representatives:

I have received and carefully considered the bill entitled "An act to provide for the ascertainment of claims of American citizens for spoliations committed by the French prior to the thirty-first of July, one thousand eight hundred and one," and, in the discharge of a duty imperatively enjoined on me by the Constitution, I return the same, with my objections, to the House of Representatives in which it originated.

In the organization of the Government of the United States, the legislative and executive functions were separated, and placed in distinct hands. Although the President is required, from time to time, to recommend to the consideration of Congress such measures as he shall judge necessary and expedient, his participation in the formal business of legislation is limited to the single duty, in a certain contingency, of demanding for a bill a particular form of vote, prescribed by the Constitution, before it can become a law. He is not invested with power to defeat legislation by an absolute veto, but only to restrain it, and is charged with the duty, in case he disapproves a measure, of invoking a second, and a more deliberate and solemn consideration of it on the part of Congress. It is not incumbent on the President to sign a bill as a matter of course, and thus merely to authenticate the action of Congress, for he must exercise intelligent judgment, or be faithless to the trust reposed in him. If he approve a bill he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, for such further action as the Constitution demands, which is its enactment, if at all, not by a bare numerical majority, as in the first instance, but by a constitutional majority of two thirds of both Houses.

While the Constitution thus confers on the legislative bodies the complete power of legislation in all cases, it proceeds, in the spirit of justice, to provide for the protection of the responsibility of the President. It does not compel him to affix the signature of approval to any bill unless it actually have his approbation; for, while it requires him to sign if he approve, it, in my judgment, imposes upon him the duty of withholding his signature if he do not approve. In the execution of his official duty in this respect, he is not to perform a mere mechanical part, but is to decide and act according to conscientious convictions of the rightfulness or the wrongfulness of the proposed law. In a matter as to which he is doubtful in his own mind, he may well defer to the majority of the two Houses. Individual members of the respective Houses, owing to the nature, variety, and amount of business pending, must necessarily rely, for their guidance in many, perhaps most cases, when the matters involved are not of popular interest, upon the investigation of appropriate committees, or, it may be, that of a single member, whose attention has been particularly directed to the subject. For similar reasons, but even to a greater extent, from the number and variety of subjects daily urged upon his attention, the President naturally relies much upon the investigation had, and the results arrived at, by the two Houses, and hence those results, in large classes of cases, constitute the basis upon which his approval rests. The President's responsibility is to the whole people of the United States; as that of a Senator is to the people of a particular State; that of a Representative to the people of a State or district; and it may be safely assumed that he will not resort to the clearly-defined and limited power of arresting legislation, and calling for reconsideration of any measure, except in obedience to requirements of duty. When, however, he entertains a decisive and fixed conclusion, not merely of the unconstitutionality, but of the impropriety, or injustice in other respects, of any measure if he declare that he approves it, he is false to his oath, and he deliberately disregards his constitutional obligations.

I cheerfully recognise the weight of authority which attaches to the action of a majority of the two Houses. But, in this case, as in some others, the framers of our Constitution, for wise considerations of public good, provided that nothing less than a two-thirds vote of one or both of the Houses of Congress shall become effective to bind the coordinate Departments of the Government, the people, and the several States. If there be anything of seeming invidiousness in the official right thus conferred on the President, it is in appearance only, for the same right of approving or disapproving a bill, according to each one's own judgment, is conferred on every member of the Senate and of the House of Representatives.

It is apparent, therefore, that the circumstances must be extraordinary which would induce the President to withhold approval from a bill involving no violation of the Constitution. The amount of the claims proposed to be discharged by the bill before me, the nature of the transactions in which those claims are alleged to have originated, the length of time during which they have occupied the attention of Congress and the country, present such an exigency. Their history renders it

impossible that a President who has participated, to any considerable degree, in public affairs, could have failed to form, respecting them, a decided opinion, upon what he would deem satisfactory grounds. Nevertheless, instead of resting on former opinions, it has seemed to me proper to review and more carefully examine the whole subject, so as satisfactorily to determine the nature and extent of my obligations in the premises.

I feel called upon, at the threshold, to notice an assertion, often repeated, that the refusal of the United States to satisfy these claims, in the manner provided by the present bill, rests as a stain on the justice of our country. If it be so, the imputation on the public honor is aggravated by the consideration that the claims are coeval with the present century, and it has been a persistent wrong during that whole period of time. The allegation is, that private property has been taken for public use without just compensation, in violation of express provision of the Constitution; and that reparation has been withheld, and justice denied, until the injured parties have, for the most part, descended to the grave. But it is not to be forgotten or overlooked, that those who represented the people, in different capacities, at the time when the alleged obligations were incurred, and to whom the charge of injustice attaches, in the first instance, have also passed away, and borne with them the special information which controlled their decision, and, it may be well presumed, constituted the justification of their acts.

If, however, the charge in question be well founded, although its admission would inscribe on our history a page which we might desire most of all to obliterate, and although, if true, it must painfully disturb our confidence in the justice and the high sense of moral and political responsibility of those whose memories we have been taught to cherish with so much reverence and respect, still, we have only one course of action left to us, and that is, to make the most prompt and ample reparation in our power, and consign the wrong, as far as may be, to forgetfulness.

But no such heavy sentence of condemnation should be lightly passed upon the sagacious and patriotic men who participated in the transactions out of which these claims are supposed to have arisen, and who, from their ample means of knowledge of the general subject in its minute details, and from their official position, are peculiarly responsible for whatever there is of wrong or injustice in the decisions of the Government.

Their justification consists in that which constitutes the objection to the present bill—namely, the absence of any indebtedness on the part of the United States. The charge of a denial of justice in this case, and a consequent stain upon our national character, has not yet been indorsed by the American people. But, if it were otherwise, this bill, so far from relieving the past, would only stamp on the present a more deep and indelible stigma. It admits the justice of the claims, concedes that payment has been wrongfully withheld for fifty years, and then proposes, not to pay them, but to compound with the public creditors by providing, that whether the claims shall be presented or not, whether the sum appropriated shall pay much or little of what shall be found due, the law itself shall constitute a perpetual bar to all future demands. This is not, in my judgment, the way to atone for wrongs, if they exist, nor to meet subsisting obligations.

If new facts, not known or not accessible during the administration of Mr. Jefferson, Mr. Madison, or Mr. Monroe, had since been brought to light, or new sources of information discovered, this would greatly relieve the subject of embarrassment. But nothing of this nature has occurred.

That those eminent statesmen had the best means of arriving at a correct conclusion, no one will deny. That they never recognized the alleged obligation on the part of the Government, is shown by the history of their respective Administrations. Indeed, it stands not as a matter of controlling authority, but as a fact of history, that these claims have never, since our existence as a nation, been deemed by any President worthy of recommendation to Congress.

Claims to payment can rest only on the plea of indebtedness on the part of the Government. This requires that it should be shown that the United States have incurred liability to the claimants, either by such acts as deprive them of their property, or by having actually taken it for public use, without making just compensation for it.

The first branch of the proposition—that on which an equitable claim to be indemnified by the United States for losses sustained might rest—requires at least a cursory examination of the history of the transactions on which the claims depend. The first link which in the chain of events arrests attention, is the treaties of alliance and of amity and commerce between the United States and France, negotiated in 1778. By those treaties, peculiar privileges were secured to armed vessels of each of the contracting parties in the ports of the other; the freedom of trade was greatly enlarged; and mutual obligations were incurred by each to guarantee to the other their territorial possessions in America.

In 1792–'93, when war broke out between France and Great Britain, the former claimed privileges in American ports which our Government did not admit as deducible from the treaties of 1778, and which, it was held, were in conflict with obligations to the other belligerent Powers. The liberal principle of one of the treaties referred to—that free ships make free goods, and that subsistence and supplies were not contraband of war, unless destined to a blockaded port—was found, in a commercial view, to operate disadvantageously to France, as compared with her enemy, Great Britain, the latter asserting, under the law of nations, the right to capture, as contraband, supplies when bound for an enemy's port.

Induced mainly, it is believed, by these considerations, the Government of France decreed, on the 9th of May, 1793, the first year of the war, that "the French people are no longer permitted to fulfill towards the neutral powers in general the vows they have so often manifested, and which they constantly make for the full and entire liberty of commerce and navigation; and, as a counter measure to the course of Great Britain, authorized the seizure of neutral vessels bound to an enemy's port, in like manner as that was done by her great maritime rival. This decree was made to act retrospectively, and to continue until the enemies of France should desist from depredations on the neutral vessels bound to the ports of France. Then followed the embargo, by which our vessels were detained in Bordeaux; the seizure of British goods on board of our ships, and of the property of American citizens, under the pretense that it belonged to English subjects, and the imprisonment of American citizens captured on the high seas.

Against these infractions of existing treaties and violations of our rights as a neutral Power, we complained and remonstrated. For the property of our injured citizens we demanded that due compensation should be made, and from 1793 to 1797 used every means, ordinary and extraordinary, to obtain redress by negotiation. In the last mentioned year these efforts were met by a refusal to receive a minister sent by our Government with special instructions to represent the amicable disposition of the Government and people of the United States, and their desire to remove jealousies and to restore confidence by showing that the complaints against them were groundless. Failing in this, another attempt to adjust all differences between the two Republics was made in the form of an extraordinary mission, composed of three distinguished citizens, but the refusal to receive was offensively repeated; and thus terminated this last effort to preserve peace and restore kind relations with our early friend and ally, to whom a debt of gratitude was due which the American people have never been willing to depreciate or to forget. Years of negotiation had not only failed to secure indemnity for our citizens and exemption from further depredation, but these long continued efforts had brought upon the Government the suspension of diplomatic intercourse with France, and such indignities as to induce President Adams, in his message of May 16, 1797, to Congress, convened in special session, to present it as the particular matter for their consideration, and to speak of it in terms of the highest indignation. Thenceforward the action of our Government assumed a character which clearly indicates that hope was no longer entertained from the amicable feeling or justice of the Government of France; and hence the subsequent measures were those of force.

On the 28th of May, 1798, an act was passed for the employment of the Navy of the United States against "armed vessels of the Republic of France," and authorized their capture, if "found hovering on the coast of the United States for the purpose of committing depredations on the vessels belonging to the citizens thereof." On the 18th of June, 1798, an act was passed prohibiting commercial intercourse with France, under the penalty of the forfeiture of the vessels so employed. On the 25th of June, the same year, an act to arm the merchant marine to oppose searches, capture aggressors, and recapture American vessels taken by the French. On the 28th of June, same year, an act for the condemnation and sale of French vessels captured by authority of the act of 28th of May preceding. On the 27th of July, same year, an act abrogating the treaties and the convention which had been concluded between the United States and France, and declaring "that the same shall not henceforth be regarded as legally obligatory on the Government or citizens of the United States." On the 9th of the same month an act was passed which enlarged the limits of the hostilities then existing by authorizing our public vessels to capture armed vessels of France wherever found upon the high seas, and conferred power on the President to issue commissions to private armed vessels to engage in like service.

These acts, though short of a declaration of war, which would put all the citizens of each country in hostility with those of the other, were, nevertheless, actual war, partial in its application, maritime in its character, but which required the expenditure of much of our public treasure, and much of the blood of our patriotic citizens, who, in vessels but little suited to the purposes of war, went forth to battle on the high seas for the rights and security of their fellow citizens, and to repel indignities offered to the national honor.

It is not, then, because of any failure to use all available means, diplomatic and military, to obtain reparation that liability for private claims can have been incurred by the United States; and if there is any pretense for such liability, it must flow from the action, not from the neglect, of the United States. The first complaint on the part of France was against the proclamation of President Washington, of April 22, 1793. At that early period in the war which involved Austria, Prussia, Sardinia, the United Netherlands, and Great Britain on the one part, and France on the other, the great and wise man who was the Chief Executive, as he was and had been the guardian of our then infant Republic, proclaimed that "the duty and interest of the United States require that they should, with sincerity and good faith, adopt and pursue a conduct friendly and impartial towards the belligerent Powers." This attitude of neutrality, it was pretended, was in disregard of the obligations of alliance between the United States and France. And this, together with the often-renewed complaint that the stipulations of the treaties of 1778 had not been observed and executed by the United States, formed the pretext for the series of outrages upon our Government and its citizens, which finally drove us to seek redress and safety by an appeal to force. The treaties of 1778, so long the subject of French complaints, are now understood to be the foundation upon which are laid these claims of indemnity from the United States for spoliations committed by the French prior to 1800. The act of our Government which abrogated not only the treaties of 1778, but also the subsequent consular convention of 1788, has already been referred to, and it may be well here to inquire what the course of France was in relation thereto. By the decrees of 9th of May, 1793, 7th of July, 1796, and 2d of March, 1797, the stipulations which were then and subsequently most important to the United States were rendered wholly inoperative. The highly injurious effects which these decrees are known to have produced show how vital were the provisions of treaty which they violated, and make manifest the incontrovertible right of the United States to declare, as the consequence of these acts of the other contracting party, the treaties at an end.

The next step in this inquiry is, whether the act declaring the treaties null and void was ever repealed, or whether by any other means the treaties were ever revived so as to be either the subject or the source of national obligation. The war which has been described was terminated by the treaty of Paris of 1800, and to that instrument it

is necessary to turn to find how much of preëxisting obligations between the two Governments outlived the hostilities in which they had been engaged. By the second article of the treaty of 1800 it was declared that the ministers plenipotentiary of the two parties, not being able to agree respecting the treaties of alliance, amity, and commerce of 1778, and the convention of 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time, and until they shall have agreed upon these points the said treaties and convention shall have no operation.

When the treaty was submitted to the Senate of the United States, the second article was disagreed to, and the treaty amended by striking it out, and inserting a provision that the convention then made should continue in force eight years from the date of ratification, which convention thus amended was accepted by the First Consul of France, with the addition of a note explanatory of his construction of the convention, to the effect that by the retrenchment of the second article the two States renounce the respective pretensions which were the object of the said article.

It will be perceived by the language of the second article, as originally framed by the negotiators, that they had found themselves unable to adjust the controversies on which years of diplomacy and of hostilities had been expended; and that they were at last compelled to postpone the discussion of those questions to that most indefinite period, a "convenient time." All, then, of these subjects which was revived by the convention was the right to renew, when it should be convenient to the parties, a discussion which had already exhausted negotiation, involved the two countries in a maritime war, and on which the parties had approached no nearer to concurrence than they were when the controversy began.

The obligations of the treaties of 1778, and the convention of 1788, were mutual, and estimated to be equal. But, however onerous they may have been to the United States, they had been abrogated, and were not revived by the convention of 1800, but expressly spoken of as suspended until an event which could only occur by the pleasure of the United States. It seems clear, then, that the United States were relieved of no obligation to France by the retrenchment of the second article of the convention; and if thereby France was relieved of any valid claims against her, the United States received no consideration in return, and that if private property was taken by the United States from their own citizens, it was not for public use. But it is here proper to inquire whether the United States did relieve France from valid claims against her on the part of citizens of the United States, and did thus deprive them of their property.

The complaints and counter-complaints of the two Governments had been, that treaties were violated, and that both public and individual rights and interests had been sacrificed. The correspondence of our ministers engaged in negotiations both before and after the convention of 1800, sufficiently proves how hopeless was the effort to obtain full indemnity from France for injuries inflicted on our commerce from 1793 to 1800, unless it should be by an account in which the rival pretensions of the two Governments should each be acknowledged, and the balance struck between them.

It is supposable, and may be inferred from the contemporaneous history as probable, that had the United States agreed in 1800 to revive the treaties of 1778 and 1788 with the construction which France had placed upon them, that the latter Government would, on the other hand, have agreed to make indemnity for those spoliations which were committed under the pretext that the United States were faithless to the obligations of the alliance between the two countries.

Hence the conclusion that the United States did not sacrifice private rights or property to get rid of public obligations, but only refused to reassume public obligations for the purpose of obtaining the recognition of the claims of American citizens on the part of France.

All those claims which the French Government was willing to admit were carefully provided for elsewhere in the convention, and the declaration of the First Consul, which was appended in his additional note, had no other application than to the claims which had been mutually made by the Governments, but on which they had never approximated to an adjustment. In confirmation of the fact that our Government did not intend to cease from the prosecution of the just claims of our citizens against France, reference is here made to the annual message of President Jefferson of December 8, 1801, which opens with expressions of his gratification at the restoration of peace among sister nations; and, after speaking of the assurances received from all nations with whom we had principal relations, and of the confidence thus inspired that our peace with them would not have been disturbed if they had continued at war with each other, he proceeds to say:

"But a cessation of irregularities which had afflicted the commerce of neutral nations, and of the irritations and injuries produced by them, cannot but add to this confidence, and strengthen, at the same time, the hope that wrongs committed on unoffending friends, under a pressure of circumstances, will now be reviewed with candor, and will be considered as founding just claims of retribution for the past and new assurances for the future."

The zeal and diligence with which the claims of our citizens against France were prosecuted appear in the diplomatic correspondence of the three years next succeeding the convention of 1800, and the effect of these efforts is made manifest in the convention of 1803, in which provision was made for payment of a class of cases, the consideration of which France had at all previous periods refused to entertain, and which are of that very class which it has been often assumed were released by striking out the second article of the convention of 1800. This is shown by reference to the preamble, and to the fourth and fifth articles of the convention of 1803, by which were admitted among the debts due by France to citizens of the United States the amounts chargeable for "prizes made at sea in which the appeal has been properly lodged within the time mentioned in the said convention of the 30th of September, 1800," and this class was further defined to be only "captures of which the council of prizes shall have ordered restitution, it being well understood that the claimants cannot have recourse to the United States, otherwise than he might have had to the French Republic, and only in case of the insufficiency of the captors."

If, as was affirmed on all hands, the convention of 1803 was intended to close all questions between the Governments of France and the United States, and 20,000,000 of francs were set apart as a sum which might exceed, but could not fall short, of the debts due by France to the citizens of the United States, how are we to reconcile the claim now presented with the estimates made by those who were of the time and immediately connected with the events, and whose intelligence and integrity have, in no small degree, contributed to the character and prosperity of the country in which we live? Is it rational to assume that the claimants, who now present themselves for indemnity by the United States, represent debts which would have been admitted and paid by France but for the intervention of the United States? And is it possible to escape from the effect of the voluminous evidence tending to establish the fact that France resisted all these claims, that it was only after long and skillful negotiation that the agents of the United States obtained the recognition of such of the claims as were provided for in the conventions of 1800 and 1803? And is not this conclusive against any pretensions of possible success on the part of the claimants if left unaided to make their applications to France, that the only debts due to American citizens, which have been paid by France, are those which were assumed by the United States as part of the consideration in the purchase of Louisiana?

There is little which is creditable either to the judgment or patriotism of those of our fellow-citizens who at this day arraign the justice, the fidelity, or love of country of the men who founded the Republic, in representing them as having bartered away the property of individuals to escape from public obligations, and then to have withheld from them just compensation. It has been gratifying to me, in tracing the history of these claims, to find that ample evidence exists to refute an accusation which would impeach the purity, the justice, and the magnanimity of the illustrious men who guided and controlled the early destinies of the Republic.

I pass from this review of the history of the subject, and, omitting many substantial objections to these claims, proceed to examine somewhat more closely the only grounds upon which they can by possibility be maintained.

Before entering on this, it may be proper to state distinctly certain propositions which, it is admitted on all hands, are essential to prove the obligations of the Government.

First. That at the date of the treaty of September 30, 1800, these claims were valid and subsisting as against France.

Second. That they were released or extinguished by the United States in that treaty, and by the manner of its ratification.

Third, That they were so released or extinguished for a consideration valuable to the Government, but in which the claimants had no more interest than any other citizens.

The convention between the French Republic and the United States of America, signed at Paris on the 30th day of September, 1800, purports in the preamble to be founded on the equal desire of the First Consul (Napoleon Bonaparte) and the President of the United States to terminate the differences which have arisen between the two States. It declares, in the first place, that there shall be firm, inviolable, and universal peace, and a true and sincere friendship, between the French Republic and the United States. Next it proceeds, in the second, third, fourth, and fifth articles, to make provision in sundry respects, having reference to past differences and the transition from the state of war between the two countries to that of general and permanent peace. Finally, in the residue of the twenty-seventh article, it stipulates anew the conditions of amity and intercourse, commercial and political, thereafter to exist, and, of course, to be substituted in place of the previous conditions of the treaties of alliance and of commerce, and the consular convention, which are thus tacitly, but unequivocally, recognized as no longer in force, but in effect abrogated, either by the state of war or by the political action of the two Republics.

Except in so far as the whole convention goes to establish the fact that the previous treaties were admitted on both sides to be at an end, none of the articles are directly material to the present question, save the following:

"ART. II. The ministers plenipotentiary of the two parties not being able to agree at present, respecting the treaty of alliance of 6th February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows:

"ART. V. The debts contracted by one of the two nations with individuals of the other, or by the individuals of one with the individuals of the other, shall be paid, or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two States. But this clause shall not extend to indemnities claimed on account of captures or confiscations."

On this convention being submitted to the Senate of the United States, they consented and advised to its ratification, with the following proviso:

"*Provided*, That the second article be expunged, and that the following article be added or inserted: It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of ratifications."

The spirit and purpose of this change are apparent and unmistakable. The convention, as signed by the respective plenipotentiaries, did not adjust all the points of controversy. Both nations, however, desired the restoration of peace. Accordingly, as to those matters, in the relations of the two countries concerning which they could agree, they did agree for the time being; and as to the rest, concerning which they could not agree, they suspended and postponed further negotiation.

They abandoned no pretensions, they relinquished no right on either side, but simply adjourned the question until "a convenient time." Meanwhile, and until the arrival of such convenient time, the relations of the two countries were to be regulated by the stipulations of the convention.

Of course the convention was, on its face, a temporary and provisional one, but in the worst possible form of prospective termination. It was to cease at a convenient time. But how should that convenient time be ascertained? It is plain that such a stipulation, while professedly not disposing of the present controversy, had within

itself the germ of a fresh one; for the two Governments might at any moment fall into dispute on the question whether that convenient time had or had not arrived. The Senate of the United States anticipated and prevented this question by the only possible expedient—that is, the designation of a precise date. This being done, the remaining parts of the second article became superfluous and useless; for, as all the provisions of the convention would expire in eight years, it would necessarily follow that negotiations must be renewed within that period; more especially, as the operation of the amendment which covered the whole convention was that even the stipulation of peace in the first article became temporary, and expired in eight years, whereas that article, and that article alone, was permanent, according to the original tenor of the convention.

The convention thus amended being submitted to the First Consul, was ratified by him, accompanying his act of acceptance by the following declaratory note:

"The Government of the United States having added in its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the Government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided*, That by this retrenchment the two States renounce the respective pretensions which are the object of the said articles."

The convention, as thus ratified by the First Consul, having been again submitted to the Senate of the United States, that body resolved that "they considered the convention as fully ratified," and returned the same to the President for promulgation, and it was accordingly promulgated in the usual form by President Jefferson.

Now, it is clear, that in simply resolving that "they considered the convention as fully ratified," the Senate did, in fact, abstain from any express declaration of dissent or assent to the construction put by the First Consul on the retrenchment of the second article. If any inference beyond this can be drawn from their resolution, it is, that they regarded the proviso annexed by the First Consul to his declaration of acceptance as foreign to the subject, as nugatory, or, as without consequence or effect. Notwithstanding this proviso, they considered the ratification as full. If the new proviso made any change in the previous import of the convention, then it was not full. And in considering it a full ratification they, in substance, deny that the proviso did, in any respect, change the tenor of the convention.

By the second article, as it originally stood, neither Republic had relinquished its existing rights or pretensions either as to other previous treaties, or the indemnities mutually due or claimed, but only deferred the consideration of them to a convenient time. By the amendment of the Senate of the United States that convenient time, instead of being left indefinite, was fixed at eight years; but no right or pretension of either party was surrendered or abandoned.

If the Senate erred in assuming that the proviso added by the First Consul did not affect the question, then the transaction would amount to nothing more than to have raised a new question to be disposed of on resuming the negotiations, namely, the question whether the proviso of the First Consul did, or not, modify or impair the effect of the convention as it had been ratified by the Senate.

That such, and such only, was the true meaning and effect of the transaction; that it was not, and was not intended to be, a relinquishment by the United States of any existing claim on France, and especially that it was not an abandonment of any claims of individual citizens, nor the set-off of these against any conceded national obligations to France, is shown by the fact that President Jefferson did at once resume and prosecute to successful conclusion negotiations to obtain from France indemnification for the claims of citizens of the United States existing at the date of that convention; for, on the 30th of April, 1803, three treaties were concluded at Paris between the United States of America and the French Republic, one of which embraced the cession of Louisiana; another stipulated for the payment of sixty millions of francs by the United States to France; and a third provided that, for the satisfaction of sums due by France to citizens of the United States at the conclusion of the convention of September 30, 1800, and in express compliance with the second and fifth articles thereof, a further sum of twenty millions of francs should be appropriated and paid by the United States. In the preamble to the first of these treaties, which ceded Louisiana, it is set forth that "The President of the United States of America and the First Consul of the French Republic, in the name of the French people, desiring to remove all source of misunderstanding relative to objects of discussion mentioned in the second and fifth articles of the convention of the 8th Vendémaire, an. 9, (30th September, 1800,) relative to the rights claimed by the United States in virtue of the treaty concluded at Madrid the 27th of October, 1795, between his Catholic Majesty and the said United States, and willing to strengthen the union and friendship which, at the time of the said convention, was happily reëstablished between the two nations, have respectively named their plenipotentiaries," who "have agreed to the following articles."

Here is the most distinct and categorical declaration of the two Governments, that the matters of claim in the second article of the convention of 1800 had not been ceded away, relinquished, or set off, but they were still subsisting subjects of demand against France. The same declaration appears in equally emphatic language in the third of these treaties, bearing the same date, the preamble of which recites that—"The President of the United States of America and the First Consul of the French Republic, in the name of the French people, having, by a treaty of this date terminated all difficulties relative to Louisiana, and established, on a solid foundation, the friendship which unites the two nations, and being desirous, in compliance with the second and fifth articles of the convention of the eighth Vendémaire, ninth year of the French Republic, (September 30, 1800,) to secure the payment of the sums due by France to the citizens of the United States," and "have appointed plenipotentiaries," who agreed to the following among other articles:

"ART. I. The debts due by France to citizens of the United States, contracted before the 8th of Vendémaire, ninth year of the French Republic (30th September, 1800,) shall be paid according to the following regulations, with interest at six per centum, to commence from the periods when the accounts and vouchers were presented to the French Government.

"ART. II. The debts provided for by the preceding article are those whose result is comprised in the conjectural note (a) annexed to the present convention, and which, with the interest, cannot exceed the sum of twenty millions of francs. The claims comprised in the said note which fall within the exceptions of the following articles shall not be admitted to the benefit of this provision."

"ART. IV. It is expressly agreed that the preceding articles shall comprehend no debts but such as are due to citizens of the United States, who have been and are yet creditors of France for supplies, for embargoes, and prizes made at sea, in which the appeal has been properly lodged within the time mentioned in the said convention, 8th Vendémaire, ninth year, (30th September, 1800.)

"ART. V. The preceding articles shall apply only—1st, to captures of which the council of prizes shall have ordered restitution, it being well understood that the claimant cannot have recourse to the United States, otherwise than he might have had to the Government of the French Republic, and only in case of insufficiency of the captors; 2d, the debts mentioned in the said fifth article of the convention contracted before the 8th Vendémaire, an. 9, (30th September, 1800,) the payment of which has been heretofore claimed of the actual Government of France, and for which the creditors have a right to the protection of the United States; the said fifth article does not comprehend prizes whose condemnation has been or shall be confirmed. It is the express intention of the contracting parties not to extend the benefit of the present convention to reclamations of American citizens who shall have established houses of commerce in France, England, or other countries than the United States, in partnership with foreigners, and who by that reason, on the nature of their commerce, ought to be regarded as domiciliated in the places where such houses exist. All agreements and bargains concerning merchandise, which shall not be the property of American citizens, are equally excepted from the benefit of the said convention, saving, however, to such persons their claims in like manner as if this treaty had not been made."

"ART. XII. In case of claims for debts contracted by the Government of France with citizens of the United States, since the 8th Vendémaire, ninth year, (30th September, 1800,) not being comprised in this convention, may be pursued, and the payment demanded in the same manner as if it had not been made."

Other articles of the treaty provide for the appointment of agents to liquidate the claims intended to be secured, and for the payment of them, as allowed, at the Treasury of the United States. The following is the concluding clause of the tenth article:

"The rejection of any claim shall have no other effect than to exempt the United States from the payment of it, the French Government reserving to itself the right to decide definitely on such claim so far as it concerns itself."

Now, from the provisions of the treaties thus collated, the following deductions undeniably follow, namely:

First. Neither the second article of the convention of 1800, as it originally stood, nor the retrenchment of that article, nor the proviso in the ratification by the First Consul, nor the action of the Senate of the United States thereon, was regarded by either France or the United States as the renouncement of any claims of American citizens against France.

Second. On the contrary, in the treaties of 1803 the two Governments took up the question precisely where it was left on the day of the signature of that of 1800, without suggestion on the part of France, that the claims of our citizens were excluded by the retrenchment of the second article; or the note of the First Consul, and proceeded to make ample provision for such as France could be induced to admit were justly due, and they were accordingly discharged in full, with interest, by the United States in the stead and behalf of France.

Third. The United States, not having admitted in the convention of 1800 that they were under any obligations to France, by reason of the abrogation of the treaties of 1778 and 1788, persevered in this view of the question by the tenor of the treaties of 1803, and, therefore, had no such national obligation to discharge; and did not, either in purpose or in fact, at any time, undertake to discharge themselves from any such obligation at the expense and with the property of individual citizens of the United States.

Fourth. By the treaties of 1803, the United States obtained from France the acknowledgment and payment, as part of the indemnity for the cession of Louisiana, of claims of citizens of the United States for spoliations, so far as France would admit her liability in the premises; but even then the United States did not relinquish any claim of American citizens not provided for by those treaties; so far from it, to the honor of France be it remembered, she expressly reserved to herself the right to reconsider any rejected claims of citizens of the United States.

Fifth. As to claims of citizens of the United States against France, which had been the subject of controversy between the two countries prior to the signature of the convention of 1800, and the further consideration of which was reserved for a more convenient time by the second article of that convention: for these claims, and these only, provision was made in the treaties of 1803—all other claims being expressly excluded by them from their scope and purview.

It is not to be overlooked, though not necessary to the conclusion, that by the convention between France and the United States of the 4th of July, 1831, complete provision was made for the liquidation, discharge, and payment, on both sides, of all claims of citizens of either against the other for unlawful seizures, captures, sequestrations, or destructions of the vessels, cargoes, or other property, without any limitation of time, so as in terms to run back to the date of the last preceding settlement, at least to that of 1803, if not to the commencement of our national relations with France.

This review of the successive treaties between France and the United States has brought my mind to the undoubting conviction that while the United States have in the most ample and the completest manner discharged their duty towards such of their citizens as may have been at any time aggrieved by acts of the French Government, so, also, France has honorably discharged herself of all obligations in the premises towards the United States. To concede what this bill assumes, would be to impute undeserved reproach both to France and to the United States.

I am, of course, aware that the bill proposes only to provide indemnification for such valid claims of citizens of the United States against France as shall not have been stipulated for and embraced in any of the treaties enumerated. But in excluding all such claims, it excludes all, in fact, for which, during the negotiations, France could be persuaded to agree that she was in any wise liable to the United States, or our citizens. What remains? And for what is five millions appropriated? In view of what has been said, there would seem to be no ground on which to raise a liability of the United States, unless it be the

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assumption that the United States are to be considered the insurers and the guarantor of all claims, of whatever nature, which any individual citizen may have against a foreign nation.

FRANKLIN PIERCE.

WASHINGTON, *February* 17, 1855.

Mr. BAYLY, of Virginia. Considering that this is the exercise on the part of the President of a high constitutional prerogative which was never designed to be used, except upon extraordinary occasions, considering the number of persons interested in the bill now brought again before us, and the consideration it has heretofore received from the country and its representatives in the two Houses of Congress, I do not think that we ought to proceed to consider this veto until the message has been printed. I think that the spirit of the Constitution is, that in such a case as this we ought to have a larger latitude of judgment than we can have from merely hearing the message read. As little impressed as I am with the reasoning of the veto, I think it yet due to the President that we should have an opportunity of deliberately studying that document. I do not desire it for myself; but I think it is due to the occasion, that we should have that opportunity. I am a friend of the Administration, but I am still more a friend of the veto power; and I therefore wish the House to have an opportunity to consider whether this has been an occasion where it has been properly invoked. I hope it may be the pleasure of the House to postpone the consideration of this message until Wednesday next. I said at first Tuesday.

Many MEMBERS. Say Wednesday.

Mr. BAYLY. I shall not be well by Monday, and I want to say something upon this subject. I move that the further consideration of the message be postponed until Wednesday next.

Mr. PRESTON. I would ask the gentleman from Virginia to make a motion to have the message printed in the meantime.

Mr. BAYLY. I meant to follow up my motion with that motion. If the message shall be postponed, I will ask to have it printed. My friend from South Carolina [Mr. ORR] suggests that I should name half past twelve on Wednesday.

Mr. FLORENCE. Oh, say Thursday.

Mr. BAYLY. I should prefer Thursday myself, but I cannot please everybody.

The SPEAKER. If the consideration of the message is postponed until Wednesday next, it will come up as the first business in order on that day.

Mr. JONES, of Tennessee. I regret very much that there is so short a time remaining of this session, as must necessarily preclude any lengthened or elaborate discussion of the paper which has just been read. I, sir, should be as much gratified as any gentleman here, if every member in this House who desires it, could have full and ample time to express his views upon the principles of the bill, and of the duty of the President to return it with his objections. But, sir, we have the entire business almost of this session upon our hands, undisposed of. We have but twelve legislative days remaining; and convinced as I am that there is not time to give it that discussion and consideration which gentlemen would be glad to give it——

Mr. BAYLY. I would say to my friend my Tennessee that it is not my purpose to ask the House to spend more than one day upon this message, and considering the magnitude of the question involved, I do not think that it is asking too much of the House to give it one day.

Mr. HUNT. Certainly not.

Mr. BAYLY. As it came from the committee of which I have the honor to be the chairman, and as I have asked no favor of the House at this session, I do think that we might be permitted to have one day, and I assure my friend from Tennessee that I will not ask more than one day.

Allow me to state to my friend, further, what is my object in naming a day. We did not know when this message was to come in, although we have been anticipating it. The object I have in naming a day is that the Representatives of the American people may know when the question is coming up here, and the day when the bill is to be reconsidered, so that we may have a full, fair, and impartial vote upon it.

Mr. RICHARDSON. I hope the gentleman from Tennessee will give the gentleman from Virginia an opportunity to say all he can say in favor of the measure.

Mr. SEWARD. There is not time.

Mr. RICHARDSON. I think we shall be able to satisfy him that the President's veto is right, and ought to be sustained.

Mr. JONES, of Tennessee. If the House should determine to postpone the consideration of the message, and we should appropriate to its consideration only one day, as the gentleman from Virginia suggests, but very few of the two hundred and thirty-four members of this House can be heard upon it. And, sir, with a sense of the pressing nature of the public business, and the importance of having it, if possible, disposed of, and finding that there are a number of gentlemen in the House who are disposed to vote on it to-day, I hope the majority will determine whether they will do so or not; and for the purpose of testing that point, whether or not the majority are now prepared to vote upon it, I ask the previous question.

Mr. HUNT. I hope the gentleman from Tennessee [Mr. JONES] will not insist on his demand for the previous question.

Mr. JONES. If the majority be against it, the call for the previous question can be voted down.

Mr. HUNT. The gentleman from Tennessee has said what he wanted to say. If there is to be a gag law established——

[Cries of "Order!" "Order!" and "Question!"]

The SPEAKER. The question is on seconding the demand for the previous question.

Mr. FLORENCE. On that I demand tellers.

Mr. ORR. I desire to ask what the previous question will operate on. Will it be on the motion to postpone?

The SPEAKER. If the previous question be seconded the motion to postpone will be cut off, and the House will be brought to vote upon the reconsideration of the bill.

Tellers were ordered; and Messrs. RIDDLE and GREY were appointed.

Mr. SEWARD. I move that the House do now adjourn.

The question was taken; and the tellers reported —ayes 62, noes 90.

So (two thirds not voting in favor thereof) the demand for the previous question was not seconded.

The SPEAKER. The question recurs on the motion of the gentleman from Virginia, [Mr. BAYLY,] to postpone the consideration of this matter till Wednesday next, and to have the veto message printed.

Mr. PRESTON. On that motion I call for the previous question.

Mr. SEWARD. I move that the House do now adjourn.

The SPEAKER. (To Mr. SEWARD.) The gentleman from Kentucky [Mr. PRESTON] was recognized by the Chair.

Mr. PRESTON. I believe the question before the House is on the motion of the gentleman from Virginia to postpone till Wednesday?

The SPEAKER. That is the question.

Mr. PRESTON. Then, I call for the previous question.

Mr. WALBRIDGE. I suggest to the gentleman from Virginia to defer the consideration of this matter till next Saturday.

[Loud cries of "No!" "No!"]

Mr. WALBRIDGE. I suggest that the motion be to postpone the consideration of this matter till Thursday, at the same hour as that named by the gentleman from Virginia, [Mr. BAYLY.]

The SPEAKER. The gentleman from Virginia has not named an hour.

Mr. WALBRIDGE. Well, say half past twelve o'clock. The reason of the change which I propose is this——

Mr. PRESTON, (interrupting.) I believe, Mr. Speaker, that I have the floor.

The SPEAKER. The Chair was under the impression that the gentleman from Kentucky had relinquished the floor. Is the Chair mistaken about that?

Mr. PRESTON. I desired that the House should come to a vote on the proposition of the gentleman from Virginia. I will, however, relinquish the floor.

Mr. WALBRIDGE. My reason in proposing the change of time from Wednesday to Thursday is this: I understand that it is probable we may get through the civil and diplomatic bill on Wednesday evening. In that event, it would be desirable to have the consideration of this matter postponed till Thursday at half past twelve o'clock.

Mr. JONES, of Tennessee. If the gentleman from York [Mr. WALBRIDGE] will yield me the floor a moment, I would suggest, to accommodate the House—if it meet the views of the gentleman from Virginia—that this matter be made the special order of the day for Saturday next, and that the House meet at ten o'clock on that day.

[Loud cries of "Oh, no; say Wednesday!"]

Mr. SEWARD. The floor has been transferred from the gentleman from Kentucky [Mr. PRESTON] to the gentleman from New York, [Mr. WALBRIDGE,] and then to the gentleman from Tennessee, [Mr. JONES.] Now, I should like to know why those gentlemen should have the right to the floor, and I should be refused it?

[Cries of "Order!" "Question!"]

The SPEAKER. The Chair requests leave to explain to the gentleman from Georgia, [Mr. SEWARD.] While the vote was being taken by tellers, the gentleman from Georgia rose in his place and moved that the House adjourn. The Chair, however, did not recognize the gentleman, and could not at that time, for such purpose. The gentleman from Kentucky afterwards regularly obtained the floor, having been recognized by the Chair. Having finished what he had to say, the gentleman from New York [Mr. WALBRIDGE] was as regularly assigned the floor by the Speaker. The gentleman from New York has given way to one or two gentlemen, to make explanations.

Mr. WALBRIDGE. I now move that the consideration of this message be deferred until next Thursday, at half past twelve o'clock, and I will give way for no one.

Mr. SEWARD. I move that the House adjourn.

The SPEAKER. The motion of the gentleman from New York would be the first in order, which is to postpone until Thursday next, that being the longest time fixed upon by any of the propositions.

The question was then taken upon the motion to adjourn, and it was disagreed to.

Mr. WALBRIDGE. I withdraw the proposition for Thursday next, and suggest that the consideration of the message be deferred until Wednesday next, at half past twelve o'clock.

Mr. LETCHER. I propose that we defer the matter till next Wednesday evening at half past seven o'clock; and the object I have in making that motion is to afford us opportunity for discussion. If we agree upon that time for discussion, it will not interfere with the business of the House under the resolution adopted the other day, by which an arrangement was made that discussions of this kind or any other kind which did not relate to the business immediately before the House, should be made in evening session. I move, therefore, that the consideration of this subject be made the special order for Wednesday evening next at half past seven o'clock.

The SPEAKER. The gentleman from Virginia [Mr. BAYLY] moves to postpone the consideration of this subject until Wednesday next at half past twelve o'clock. The gentleman from New York [Mr. WALBRIDGE] moves to make the time Thursday next, at half past twelve o'clock.

Mr. WALBRIDGE. I withdraw my motion at the suggestion of the chairman of the Committee on Foreign Affairs, and I move that the time be fixed at Wednesday next at half past twelve o'clock, as originally proposed by the gentleman from Virginia.

Mr. LETCHER. I move that the consideration of this subject be deferred till Wednesday evening next at half past seven o'clock, and be made the special order from night to night until the subject is disposed of.

Mr. PECKHAM. Is that motion in order? Can we defer the consideration of this subject to Wednesday evening without unanimous consent?

The SPEAKER. The motion is not in order, in the opinion of the Chair.

A question of order being raised upon the Chair, the Chair asks the attention of gentlemen to his decision, which is, that it is not in order to fix the hour at all. There is but a single proposition pending, which is to postpone this subject until Wednesday next.

Mr. JONES, of Tennessee. I move to amend the motion by making the time Saturday next.

Mr. CAMPBELL. Is it in order to move an amendment to the amendment?

The SPEAKER. The Chair will hear the proposition of the gentleman from Ohio.

Mr. CAMPBELL. I move to postpone the further consideration of the message indefinitely.

The SPEAKER. The Chair thinks that the motion of the gentleman is not in order. A motion to postpone to a day certain, if the Chair recollects rightly, must be first put.

Mr. CAMPBELL. I move to postpone it to the first Monday of December next.

The SPEAKER. That is indefinite, going beyond the present session.

Mr. JONES, of Tennessee. Does not a motion to postpone to a day certain take precedence of any other motion?

The SPEAKER. It does take precedence of any other motion, as the Chair is informed. The gentleman from Tennessee [Mr. JONES] moves to amend the motion to postpone the consideration of this subject till Wednesday next, at half past twelve o'clock, by substituting Saturday.

Mr. GREENWOOD. I desire to make a motion with regard to the several propositions before the House. I believe the Chair has recognized the propositions as separate and distinct motions.

The SPEAKER. In the character of amendments, but we cannot go beyond the third degree. We have all the amendments now before the House which can come in.

Mr. GREENWOOD. I was about to make a motion to strike out all the propositions.

Mr. CAMPBELL. Is my motion out of order?

The SPEAKER. The motion of the gentleman was ruled out of order until the motion to postpone to a day certain is disposed of.

Mr. CAMPBELL. I move to postpone the consideration of the message until the 4th of March, which is a day certain, and it is the longest time of any proposition now before the House. I submit, if the motion I now make does not take precedence of any other motion?

Mr. KEITT. The 4th of March comes on Sunday.

The SPEAKER. There is already an amendment pending to the proposition to make this subject the special order for Wednesday next, by inserting, in lieu of Wednesday, Saturday next.

Mr. PRESTON. I rise to a point of order. The proposition of the gentleman from Ohio, as I understand it, is to postpone to a day beyond the session.

Mr. CAMPBELL. Oh, no.

Mr. PRESTON. I understood the gentleman to move to postpone the consideration of the message indefinitely.

Mr. CAMPBELL. No, sir; I moved to postpone to the 4th of March.

Mr. PRESTON. But the 4th of March comes on Sunday. I withdraw my question of order.

Mr. CAMPBELL. We have but two weeks remaining of the session, and——

Mr. HAVEN. I rise to a question of order. I think the Chair is mistaken in stating the proposition before the House. The gentleman from Virginia moved to postpone the further consideration until Wednesday next, and the gentleman from Tennessee [Mr. JONES] proposed to amend by inserting Saturday next, and which amendment has not been withdrawn.

The SPEAKER. And the gentleman from Ohio [Mr. CAMPBELL] moves to amend the amendment, which amendment is in the third and last degree, and no other amendment can be introduced until that is disposed of.

Mr. HENN. I rise to a question of order. The motion of the gentleman from Ohio is to postpone the consideration until the 3d of March, at twelve o'clock. That amendment proposes to make the veto message a special order; and I submit that it is not in order.

The SPEAKER. The Chair holds that it is not in order to fix an hour.

Mr. CAMPBELL. In accordance with the suggestion of the gentleman from Iowa and the decision of the Chair, I modify my amendment by leaving out the hour. I move to postpone the consideration until the 3d of March next.

I shall state, in a very few minutes, my reasons. There is a vast amount of unfinished business, of very great importance to the country, now pending before this body, and we have but two weeks to discharge the duties we owe to the interests involved in the measures before us. We have legislated upon this measure, and passed it by a large majority, and it must be evident to every gentleman here, that it cannot be carried into a law by a two-third vote, under the provisions of the Constitution. Why, therefore, shall we consume any portion of the precious time of the House in the consideration of the flimsy reasons of the veto, which has been presented to us this morning, when we know that no practical benefit can result from the further discussion of the bill? Sir, I want that message to go to the country through the Journals of this body, where, under the Constitution, the President has a right to place it; but I shall never vote the one hundredth part of a red cent out of the Treasury of the people to give further circulation to the dangerous doctrines upon which this act of the Executive is founded, than the plain letter of the Constitution guaranties.

Sir, I can appreciate the reasons which actuate an Executive in thus striking down the will of the people, as expressed in this body, when founded upon a constitutional point, but, sir, I have no——

Mr. ORR, (interrupting.) I rise to a question of order. I make a point of order upon the gentleman from Ohio for the purpose, Mr. Speaker, of saying, if we are to go into the debate of this message to-day then this proposition for a postponement had better be voted down. My question of order is, that the proposition to postpone is not debatable, and if it is, the debate must be confined to the particular subject-matter, namely, why the consideration of it should be postponed.

The SPEAKER. The Chair thinks the practice, under the rules, uniformly has been, when debate has been allowed at all—and, I believe, some of my predecessors have decided that the motion is not debatable at all—that it must be limited to the question of time to which the consideration shall be postponed.

Mr. CAMPBELL. Mr. Speaker, as my purpose is to get clear of the message altogether, I think I have the legitimate right to discuss its merits; but I propose only to touch very cursorily the great principle which underlies this extraordinary act of Executive usurpation.

Mr. HIBBARD. I rise to a question of order. It is, whether this is not a question touching the priority of business, which question is not debatable under the rules of this House.

I wish to say that I am a friend of the principles of the veto, and there is, upon this side of the House, no disposition to avoid this discussion, but rather a disposition to allow it to go on at the proper time.

The SPEAKER. The Chair thinks the gentleman from Ohio is in order when confining his remarks to the question as to what time the consideration of the message shall be postponed.

Mr. CAMPBELL. My proposition amounts, practically, to its indefinite postponement. I was about to remark that I have, and I hope I shall ever have, a high degree of respect for the station which the President fills, but, sir, I have no respect whatever for the principle avowed and practically carried out in this message, which claims for the Chief Executive of this nation, independent of constitutional considerations, the right to set at defiance the will of the people, as expressed through their Representatives in Congress. Sir, the claim is anti-American—anti-Republican. I denounce it as despotic!

Mr. ORR. I call the gentleman to order.

The SPEAKER. The Chair feels itself called upon to remind the gentleman from Ohio that it is not in order to debate the merits of this veto message, and the Chair is called upon to enforce the rule.

Mr. CAMPBELL. Then I will confine my remarks to a more limited range. I do not wish to impose a lengthy speech upon the House, although I should be glad to show the dangerous tendencies of Executive vetoes based exclusively upon a question of policy. I will simply say, in addition to the reasons I have already given, and the force of which every member of this House must observe at once, that we cannot carry the bill into a law by a two-third vote, and that we cannot have time, without sacrificing other interests, to give a lengthy discussion to the great principle involved in this message, for the first time in the history of the country—to wit, the right of the Executive, without *constitutional objections*, to overwhelm the popular will expressed through their Representatives. The exercise of such a power asserts a high and direct legislative function in the President, which the framers of the Constitution never intended to confer.

Hence I am in favor of such a postponement as will carry the discussion into the next Congress, or this document, most extraordinary and despotic, to the tomb of the Capulets!

Mr. KEITT. Can you carry it there?

Mr. CAMPBELL. We can carry it to the 3d of March, and I do not think much will be done with it after that time.

Independent, Mr. Speaker, of the reasons immediately and directly connected with the principles avowed by the document, there are other interests which demand attention. I do not know whether it is very important that we should sit here and legislate at all, as the immediate Representatives of the people, if we have no more dignified duties to perform than to follow where the Executive whistle calls, or dance, like puppets, to the music of presidential organ-grinders!

Mr. ORR. I call the gentleman to order. I understood the Chair to decide that debate upon the motion must be confined to the question of time.

The SPEAKER. The Chair is compelled to call the gentleman to order, as going beyond the limit of debate, under the rules.

Mr. CAMPBELL. I submit to the construction of the rules given by the Chair, and shall await, patiently, a "good time coming," when we may administer to the principles of the document just read that rebuke which the usurpation deserves from an American Congress.

Mr. KEITT. I rise to make an inquiry of the Chair, and it is, whether or not, if the motion submitted by the gentleman from Virginia [Mr. BAYLY] prevails, the discussion will be limited to a single day? It seems to me the question of time is an important one, and I think there should be no objection to the proposition, if it will confine the debate to a single day.

The SPEAKER. The Chair decides that the veto message of the President is the thing in order until disposed of by the order of the House.

Mr. BAYLY, of Virginia. I ask the House to allow me to say to my friend from South Carolina, that as far as I can have any control over the matter, I shall ask to have it disposed of in one day; but the question will be in the power of the House to decide. For one, I shall favor consuming only one day with the matter.

Mr. KEITT. The explanation of the gentleman from Virginia satisfies me, and I shall vote for his motion.

Mr. BAYLY. I have said what was my purpose. The Speaker of the House, however, decided, most unquestionably correctly, that this bill is the regular business in order until disposed of. It will not, therefore, be in my power to close the debate upon it until the House see fit to come to a vote. My purpose, however, I repeat, is to ask the House to dispose of the matter in one day.

Mr. KEITT. My second question is this——

Mr. JONES. If the gentleman, before he proceeds further, will permit me, I will suggest another proposition which may possibly meet the views of the House: I would suggest that this

proposition be made the special order for Thursday next, and that no motion shall be in order until it is disposed of.

[Cries of "No!" "No!" "That will not do!"]

Mr. HARRIS, of Mississippi. Will the gentleman from South Carolina allow me to ask a question?

Mr. KEITT. I will.

Mr. HARRIS. I want to test the sincerity of the House in reference to this matter of evening sessions. I want to know whether we are to have evening sessions for the purpose of letting off gas——

The SPEAKER. That is not the question before the House.

Mr. HARRIS. Well, sir, I will come to the question before the House——

Mr. KEITT. I cannot yield the floor longer. I am satisfied with the explanation which has been given by my friend from Virginia, and will cheerfully vote for his proposition. I will not vote for that of the gentleman from Ohio, [Mr. CAMPBELL,] because, if the time of the House is so precious that we cannot afford to spare one day next week, we certainly cannot afford to spare the 3d of March, when the time of the House will be much more precious.

Mr. CAMPBELL. There is not much danger of any time being lost if we postpone the matter until the 3d of March.

Mr. BARKSDALE. It seems to me that the proposition made by the gentleman from Tennessee is the proper one. The claims provided for by this bill have been discussed for the last fifty years. They have been voted upon repeatedly in this House and in the Senate. Report after report has been made upon them to both Houses of Congress. The ablest statesmen of the country have investigated and elucidated all the facts connected with this bill. It passed this House, the present session, after an elaborate and able discussion. The gentleman from Virginia, [Mr. BAYLY,] to whom I always listen with pleasure and profit, if I am not very much mistaken, made two speeches upon it. He has, then, had a fair opportunity to discuss its provisions. The history of these claims is well known to the House, and no new light can be shed upon it by further discussion. I submit to the House, therefore, if, at this late period of the session, when there is so much business pressing upon us, we should not proceed to vote on the bill to-day, and consume no more time with it.

Mr. BAYLY, of Virginia. Mr. Speaker, my friend from Mississippi certainly misunderstood entirely my purpose. My voice is so far gone that I was probably not heard by him. I stated that my motive in fixing a day certain for considering this bill, was not for the purpose of extended debate, but that the Representatives of the American people ought to know when the vote was to be taken.

Mr. BARKSDALE resumed——

Mr. HAMILTON. I ask the gentleman from Mississippi to allow me to say a word.

Mr. BARKSDALE. I would like to accommodate my friend from Maryland, but I must decline to yield the floor. I would suggest to the gentleman from Virginia, that the House is much fuller now than it usually is. I believe we can have as large a vote to-day as at any future period of the session. There is no necessity for postponing a vote on the bill. Notwithstanding the efforts of the chairman of the Committee on Military Affairs [Mr. FAULKNER] to induce the House to do so, the bill to increase the Army has not been acted upon. Our whole western frontier is defenseless, and exposed to the depredations of the Indians. Congress has been called upon by the President to increase the Army, and give the Government the means to protect our citizens, but his earnest recommendations have not been heeded. The bill reported by the chairman of the Committee on Naval Affairs, to construct additional sloops of war, so necessary for the protection of our commerce, has not been disposed of. The civil and diplomatic appropriation bill has not been touched even. Very nearly the whole time of the present session of Congress has been engrossed with bills of a private nature and bills of this character, and the public business has been neglected—I liked to have said, shamefully neglected—to legislate upon bills to plunder the Treasury. I am, then, in favor of taking the vote now. We are as well prepared to do so as we will be at any future period.

Mr. HUNT. I hope the gentleman will allow me to say a word.

Mr. PHILLIPS also rose.

Mr. BARKSDALE. I yield first to my friend from Alabama.

Mr. PHILLIPS. The proposition of the gentleman from Mississippi is, that we should proceed at once to take a vote upon the bill which has been vetoed by the President. Now, I would ask my friend from Mississippi if we are fulfilling our constitutional obligations, if we are paying proper respect to the President of the United States if we accede to his proposition?

Why, sir, what is it that the Constitution has provided? It is, sir, that when a bill has been passed by the two Houses it shall be presented to the President; if the President approve it, he shall sign it; if he disapprove it, he shall send it back to the House in which it originated, and that House shall then proceed—to do what? To *consider* the reasons which he has advanced. Now, sir, is it a proper consideration in any constitutional sense, that, when a message, covering some sixty or seventy pages of manuscript, has just been read by the clerk, we should be called upon at once to proceed to a vote? Sir, no gentleman can say that he has given that consideration, not to the bill, not to the discussions which have taken place, but to the President's reasons. That is what we are to consider.

Gentlemen say that we have heard debates upon this bill. True, but that is not the question. The question presented is on the reasons given by the President for his veto. It seems to me, sir, in conclusion, as I said in the beginning, that if we proceed at once to a vote upon the bill, the President's reasons having been only just read at the clerk's desk, and being in their character very lengthy and very voluminous, we shall be neither fulfilling our duty in considering them in a constitutional sense, nor shall we be paying proper respect to the Executive who has furnished us with those reasons.

Mr. BARKSDALE resumed the floor.

Mr. HUNT. I ask the gentleman from Mississippi to yield to me for a moment or two.

Mr. BARKSDALE. I will do so.

Mr. WASHBURN, of Maine. I rise to a question of order.

Mr. HUNT. The honorable member has alluded to certain great interests of the country. Those interests, sir, will be protected.

The SPEAKER. Does the gentleman from Maine insist on his question of order?

Mr. HUNT. Allow me one word, if you please.

Mr. WASHBURN. I will waive the question of order for the present.

Mr. BARKSDALE. I have yielded the floor temporarily to the gentleman from Louisiana.

Mr. HUNT, (resuming.) The great interests of the country to which the gentleman from Mississippi has alluded, will doubtless be provided for. We will not disperse without protecting our citizens on the frontier. All the other great interests of the people to which the gentleman has referred, will also be taken care of. But, sir, shall we not take care of that high interest intrusted to us by the people of this country, our constitutional right to legislate freely and independently as the representatives of a free people? That, sir, is the great question involved in the consideration of the President's message, which has just been read. Are we to be the slaves of Executive power? Is the legislative will of this country to be trampled under foot? Are we to cease to be a free people, and to speak authoritatively and effectually through the two Houses of Congress? These, sir, are the questions which I shall be prepared to argue at the proper time, and which my noble friend from Ohio [Mr. CAMPBELL] was not allowed to discuss before you. It is not a mere question as to the opinion of the Executive upon the facts reported in his message, which facts have been heretofore examined and discussed; but the true question—the constitutional question—the great question of liberty, is this: Shall we, the people of the United States, through the Congress of the United States, be allowed to exercise our constitutional power of legislation, or shall the Executive of the country be permitted to control and set aside that power, and to substitute his will for that of the National Legislature?

Mr. WASHBURN, of Maine. I believe that all sides have now said enough.

Mr. BARKSDALE. I do not yield to the gentleman from Maine.

Mr. WASHBURN. I rise to renew my point of order, and I will state it. I believe that the question immediately before the House is upon the amendment of the gentleman from Ohio [Mr. CAMPBELL] to postpone the consideration of this message until the 3d of March. It is an amendment to the amendment of the gentleman from New York, [Mr. WALBRIDGE,] and I submit that the remarks of the gentleman from Mississippi are not pertinent to that question, and are not in order. I trust that we shall come to a vote at once.

Mr. BARKSDALE. I am just about as much in order as the gentleman from Maine generally is. I am confining myself strictly to the subject under consideration.

Mr. STRAUB. Is a motion to adjourn in order?

The SPEAKER. It would be in order if the gentleman could obtain the floor to make it; but he cannot do so, as the gentleman from Mississippi is upon the floor. The Chair has not understood the gentleman from Mississippi to do more than discuss the propriety of postponing the consideration of the message. Within that limit, he is clearly in order.

Mr. WASHBURN. The gentleman is discussing the propriety of postponing at all, whereas the question is between Wednesday and Thursday.

[Loud and general cries of "Order!"]

The SPEAKER. The propriety of postponing is certainly embraced in the amendment, and in the original proposition, and, therefore, may be discussed.

Mr. WASHBURN. The direct question is between Wednesday and Thursday.

[Renewed cries of "Order!"]

Mr. SOLLERS. Will the gentleman from Mississippi allow me to make a motion that the House do now adjourn?

Mr. BARKSDALE. I prefer not to yield for that purpose.

The SPEAKER. The gentleman from Mississippi is entitled to the floor, and will proceed with his remarks.

Mr. BARKSDALE. I beg leave, for the benefit of the gentleman from Alabama, [Mr. PHILLIPS,] to read the clause of the Constitution to which he has referred. It is as follows:

"Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it. If, after such reconsideration, two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the Journal of each House respectively."

That is the language of the Constitution. It does not say that the bill shall be discussed. It does not say that there shall be a debate upon it on the floor of the House, but that the House shall "proceed to *reconsider it.*" I ask the gentleman from Alabama if voting upon it is not reconsidering it? Is it not the highest reconsideration that we can give it? When we "reconsider" a bill, do we discuss or vote upon it. Reconsidering is voting upon it. Let me say further, in reply to the gentleman from Louisiana, that the rights of this body have not been invaded. The power of legislation is vested, by the Constitution, in Congress; but no bill can become a law until it has been approved by the President. Congress has exercised its rights under the Constitution, and the President has exercised his. What right of Congress, then, has been invaded? I insist that now is the time to act upon the President's message, in order that we may prevent the unnecessary consumption of time, and that we may proceed to the consideration of other business of the highest interest to the country.

Mr. HUGHES. It seems to me, Mr. Speaker, that there is not so much contrariety of opinion as regards the propriety of doing something as there is as to *what* we shall do. I believe that the House are resolved to take some action upon the question which is before them. The gentleman from Virginia, [Mr. BAYLY,] under the circumstances of the case—this being a long and argumentative

message—desires time for members to have an opportunity to examine it and act understandingly, when they come to vote on reconsidering the bill. It seems to me, then, that the motion to postpone until Wednesday is wisely made, and that the House ought to take that action.

Sir, while gentlemen upon the right hand and upon the left, are urging the important interests of the country upon the House, it seems to me that it is wrong to take up time in discussing this question. It is not so much a question as regards what we shall do as when we shall do it. If the consideration of this message is postponed until Wednesday the House can coolly and calmly meet the question and act upon it. There can be no manner of doubt that one day will meet the views of all the members of the House, so far as they desire to discuss this question, and I implore and entreat the House to come to a vote upon the various propositions which have been made without further discussion or delay. I trust that no more time will be consumed in this way, and that the House will vote down the proposition of the gentleman from Ohio, [Mr. CAMPBELL,] which I consider—with all due consideration to the gentleman—is disrespectful to the President of the United States, who, in the exercise of a high prerogative, has sent in his message to this House. I trust that we shall now proceed to vote, and that the House will settle down on Wednesday for the consideration of this matter; for, though I should prefer to have it deferred for one day longer, still I will be glad to have Wednesday fixed, so as to get that question before the consideration of the House.

Mr. HAMILTON. I think, Mr. Speaker, that we are now as far from coming to a determination of the time when this veto message will be considered as we were when it was sent in. If the House adjourns this evening without fixing any time for its consideration, it will be the first business in order on Monday, which will be as good a day for that purpose as any other we can fix.

[Cries of "No!" "No!"]

Mr. HAMILTON. If the House adjourn now, we will then dispose of this matter on Monday. That is a day which is generally lost in motions to suspend the rules.

Mr. KEITT. Will the veto message be printed in the meantime?

Mr. HAMILTON. Yes; it can be printed. It will be published in the papers. Every member of the House will have an opportunity of reading it, and of coming, I am sure, to some determination in respect to it. The opinion of the House, at all events, is already made up on the matter. Nothing can, in one way or other, alter the opinion of the House, or any member of it.

Mr. PECKHAM. I am not so sure of that.

Mr. HAMILTON. I am willing to abide by the opinion of the House. Now, I think that as this message comes up regularly in order on Monday, and as that day will be a compromise between those gentlemen who desire to have it postponed till Wednesday and those who wish for its immediate consideration, the best way is for the House to adjourn. I therefore move that the House do now adjourn.

The question was taken by division; and the Speaker announced seventy-four voting in the affirmative.

Mr. WHEELER. I call for tellers.

Tellers were ordered; and Messrs. BRECKINRIDGE and WHEELER were appointed.

The question was taken; and the tellers reported—ayes eighty-one.

Mr. HAMILTON. I call for the yeas and nays.

The yeas and nays were not ordered.

The tellers resumed their place, and reported—ayes 90, noes 76.

So the motion was agreed to; and thereupon

The House (at half past three o'clock, p. m.) adjourned to meet on Monday at twelve o'clock, m.

IN SENATE.

MONDAY, *February* 19, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of Saturday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of War, accompanied by seventy-five copies of the official Army Register for 1855; which was ordered to lie on the table.

FOREIGN INTERPOSITION.

Mr. CASS. I intended, with the permission of the Senate, to make some remarks to-day connected with some which I presented last session in regard to the declaration of Lord Clarendon, that the alliance of England with France extended to questions relating to all quarters of the globe, and his late denial that the construction which I gave to his declaration was the true one. I am yet laboring under the effects of a cold; and, therefore, without making the infliction upon the Senate to-day, I shall postpone my remarks until to-morrow, and ask leave to make them then.

WROUGHT IRON BEAMS AND GIRDERS.

On motion by Mr. HUNTER, a letter of the Secretary of the Treasury to him, as chairman of the Committee on Finance, accompanied by a report relative to the use of wrought iron beams and girders in the buildings authorized to be erected for the accommodation of the United States courts, custom-houses, post offices, &c., and asking an appropriation for the complete testing of the strength of the same, was ordered to be printed for the use of the Senate.

PETITIONS, ETC.

Mr. MASON presented the memorial of C. E. Anderson, late secretary of legation to France, praying to be allowed additional compensation during the time he acted as chargé d'affaires at that court; which was referred to the Committee on Foreign Relations.

Mr. SEWARD presented the petition of Carrington Wilson, praying the extension of his patent for an improvement in the cooking stove; which was referred to the Committee on Patents and the Patent Office.

Also, the proceedings of a meeting of merchants and others connected with commerce, held in New York, in favor of the passage of the bill "to regulate the carriage of passengers by steamships and other vessels;" which were referred to the Committee on Commerce.

Mr. BAYARD presented three petitions of citizens of Philadelphia, praying an appropriation for the erection of a building for the accommodation of the United States courts, post office, and other public offices in that city; also, relative to the location of the same; which were referred to the Committee on the Post Office and Post Roads.

Mr. SUMNER presented the petition of Martha W. Clark, widow of Truman Clark, a soldier in the war of 1812, praying to be allowed a sum of money transmitted to her through the mail, but which never came to hand, with interest thereon; also a half-pay pension; which was referred to the Committee on Pensions.

Mr. JOHNSON presented eleven petitions of citizens of Philadelphia, praying an appropriation for the erection of a building for the accommodation of the United States courts, post office, and other public offices in that city; also, relative to the location of the same; which was referred to the Committee on the Post Office and Post Roads.

Mr. DAWSON presented a memorial of the inspectors of the penitentiary of the District of Columbia, praying for the restoration of their former salary; which was referred to the Committee on the District of Columbia.

Mr. CHASE presented the petition of Polly Scott, widow of John W. Scott, praying to be allowed the bounty land and pay to which her son, Benjamin B. Scott, was entitled on account of military services in Mexico; which was referred to the Committee on Pensions.

JAMES ROBERTSON.

Mr. BADGER. I present the memorial of James Robertson, praying remuneration, out of the contingent fund of the Senate, by way of damages on account of his arrest and imprisonment under circumstances set out in the memorial. I ask its reference to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. EVANS. I hope not.

The PRESIDENT. It will be so referred unless objected to.

Mr. EVANS subsequently said: My friend from North Carolina presented a memorial of James Robertson, and moved its reference to the Committee to Audit and Control the Contingent Expenses of the Senate. The same thing was referred to that committee last session. They reported against it, and no man in the Senate could be found to object to the report. I therefore object to the reference of this petition to that committee. If any gentleman desires it to go to any other committee I have no objection; but I object to its going to that committee, because they have already reported against it, and their report has been sanctioned by the Senate.

The PRESIDENT. The only way to attain the object is to move a reconsideration of the vote by which it was referred.

Mr. EVANS. There was no vote upon it.

Mr. BADGER. If the Senator were to read this memorial, he would find that the case was never properly presented before that committee. [Laughter.]

Mr. EVANS. I hope it will be referred to a special committee, of which the honorable Senator shall be chairman. [Laughter.] I was willing to give the man something, but he made a very extravagant demand.

Mr. BADGER. Only for $25,000.

Mr. EVANS. I hope it will not be referred. The Senator moved its reference, but I objected to it; and there was no vote taken upon it. I move that it lie upon the table.

The motion was agreed to.

PAPERS WITHDRAWN.

On motion by Mr. MALLORY, it was

Ordered, That William B. Scott have leave to withdraw his petition and papers.

REPORTS FROM STANDING COMMITTEES.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the memorial of Scott Campbell, interpreter to the Sioux Indians, praying the payment to him of certain money, and confirmation of title to a certain tract of land, as stipulated in the treaty with the Sioux Indians, of September 28, 1837, asked to be discharged from its further consideration, and that it be referred to the Committee on Private Land Claims; which was agreed to.

He also, from the same committee, to whom were referred the following petitions, &c., asked to be discharged from their further consideration, which was agreed to:

The petition of J. Williams, praying remuneration for merchandise and provisions distributed to the chiefs and people of the Coahuila and San Louis Rey tribes of Indians, at Rancho del Chino, California.

The memorial of R. W. Thompson, asking compensation for services rendered by him as attorney for the Menomonee Indians.

The memorial of John C. Morris and Eliza McKee, Cherokee Indians, residing in the State of North Carolina, asking indemnity for being deprived of the preëmptions to which they were entitled under the treaty between the United States and the Cherokees in 1835 and 1836.

The memorial of B. F. Marshall, praying compensation for beef and other provisions furnished to Indians in California.

The petition of Edmund Falling, an eastern Cherokee, praying that he, his wife, and children, may be allowed the same amount of money (*per capita*) as was allowed to the other Cherokees by the acts of Congress of 1850, 1851, and 1854.

The petition of William Leonard, praying indemnification for depredations committed by the Pawnee Indians on his cattle, while being driven from the Atlantic States to California.

The petition of the heirs of Nathaniel Steele, praying indemnity on account of damages sustained by his being ejected, by the United States troops, from a valuable tract of land, purchased of a half-breed Cherokee.

The petition of Dr. Roger B. Ironside, praying remuneration for professional services rendered to the Shasta Indians, by direction of a United States Indian agent.

Mr. JOHNSON, from the Committee on Printing, to whom was referred a motion to print the report and map of A. B. Gray, late United States surveyor under the treaty of Guadalupe Hidalgo, relative to the Mexican boundary, reported the following resolution, which was agreed to:

Resolved, That two thousand copies of the said report be printed, and the map engraved, for the use of the Senate; and that the Superintendent of Public Printing be authorized and directed to add to such map any additional information obtained by Mr. Gray in his recent explorations

through the newly acquired territory from Mexico: *Provided*, That any such addition shall not exceed the sum of thirty cents per copy; and that one hundred copies be and are hereby appropriated for the use of A. B. Gray.

Mr. BRAINERD, from the Committee on Revolutionary Claims, to whom was referred the petition of the heirs of Nathan Weeks, a lieutenant of the Revolution, who was killed in action, praying to be allowed the pay due to him, and the seven years' half-pay due his widow and children, submitted a report, accompanied by a bill for their relief; which was read and passed to a second reading. The report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of the heirs of Colonel Charles Lewis, praying seven years' half-pay, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was recommitted the memorial of the heirs of Lieutenant Colonel Uriah Forrest, for half-pay under resolves of Congress of 10th April and 21st October, 1780, with interest, deducting seven years' half-pay advanced by the State of Maryland, also with interest, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Susannah Hayne Pinckney, praying remuneration for the services of her father, Richard Shubrick, during the revolutionary war, submitted an adverse report thereon; which was ordered to be printed.

MILITARY RESERVATIONS.

Mr. STUART submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate whether there were originally appropriations of land for military purposes at Fort Laramie, Fort Ripley on the Kansas, old Fort Kearny on the Missouri, and new Fort Kearny on the Platte, or either of them, and if so, the extent and area of each so originally appropriated; and if there were not such original appropriations, then what extent of land is claimed by the War Department as belonging to each of said forts or military reservations respectively.

HISTORY OF PUBLIC AFFAIRS.

Mr. DAWSON submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That the Secretary of the Senate be directed to purchase, for the use of the Senate, twenty thousand copies of "The State of the Union, a Documentary History of the Public Affairs of the United States, Foreign and Domestic, for the year 1854:" *Provided*, The same can be procured at a price not exceeding one dollar per copy.

CUSTOM-HOUSE AT CLEVELAND.

Mr. WADE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be requested to report to the Senate whether in his opinion the public service requires the erection at Cleveland, in the State of Ohio, of a building for the accommodation of the custom-house, post office, and the district and circuit courts of the northern district of Ohio; and if so, to furnish an estimate of the cost of such building.

CUSTOM HOUSE AT PENSACOLA.

Mr. MORTON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of causing a building to be erected at Pensacola, Florida, for a custom-house, with accommodations for a post office and the courts of the United States.

BILLS INTRODUCED.

Mr. WELLER asked and obtained the unanimous consent of the Senate to introduce a joint resolution for the relief of Theodore Adams; which was read twice by its title, and referred to the Committee on Finance.

Mr. HAMLIN asked and obtained the unanimous consent of the Senate to introduce a bill to establish the collection districts of Cape Perpetua and Port Orford, in the Territory of Oregon, and to fix the salaries of the officers of the customs therein; which was read twice by its title, and referred to the Committee on Commerce.

Mr. MASON, in pursuance of previous notice, asked and obtained leave to introduce a joint resolution for the arrangement of the clerks in the Department of State; which was read twice by its title, and referred to the Committee on Finance.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. WEBSTER, his Secretary, announcing that he had approved and signed the following acts:

An act authorizing the construction of a line of telegraph from the Mississippi or Missouri river, to the Pacific ocean; and

An act for the relief of Zachariah Lawrence, of Ohio.

THE LATE GOVERNOR BURT.

Mr. BRODHEAD. The Committee on Claims, to whom was referred the memorial of the representatives of Francis Burt, late Governor of Nebraska, have instructed me to report a joint resolution "for the settlement of the accounts of the late Governor Burt." I presume, when it is read, there will be no objection to it.

The joint resolution was read twice, and considered by the Senate as in Committee of the Whole.

It proposes to direct that in the settlement of the accounts of the late Governor Burt, there be paid to his legal representatives the amount of his salary as Governor of Nebraska for the period of six months.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MRS. J. J. M'CLELLAN.

Mr. JONES, of Iowa. The Committee on Pensions, to whom was referred the petition of Mrs. J. Josephine McClellan, widow of Lieutenant Colonel McClellan of the United States Army, have instructed me to ask for the recommittal of the petition and papers in her case. They were originally referred to the Committee on Pensions; but we were discharged from their consideration upon the ground that a general bill had been reported from the committee by the Senator from Alabama [Mr. CLAY] to provide for her case, and all other widows similarly situated. I am now instructed by the same committee to report a bill for the relief of Mrs. J. Josephine McClellan, and to ask the unanimous consent of the Senate to consider it now.

The bill was read, and ordered to a second reading.

The PRESIDENT. The bill will be read a second time if no objection be made.

Mr. CLAY. I object.

WISCONSIN LAND DISTRICT.

Mr. DODGE, of Wisconsin. I present three petitions of citizens of Wisconsin, asking the establishment of a land district on Lake Superior, and ask for their reference to the Committee on Public Lands.

Mr. WALKER. It is usual for such petitions to be referred to the Committee on Public Lands; but I hold in my hand a bill upon this subject which I am instructed to report from that committee.

The PRESIDENT. The memorials will lie on the table if there be no objection.

Mr. WALKER. I am instructed by the Committee on Public Lands, to whom was referred House bill to establish an additional land district in the State of Wisconsin, to report it back without amendment, and ask for its immediate consideration. It is recommended by the Secretary of the Interior.

The Senate, as in Committee of the Whole, considered the bill.

It proposes to create all that portion of the present Willow River land district, north of the line dividing townships forty and forty-one on the fourteenth correction line, a new district to be called the Fond-du-Lac district; makes the usual provisions in regard to the office and officers; and declares that in all cases hereafter the salaries of land officers shall commence only from the time they enter on the discharge of their duties.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REVENUE CUTTERS.

Mr. HAMLIN. I ask the Senate to consider the House bill which was reported a few days since from the Committee on Commerce, authorizing the Secretary of the Treasury to purchase or construct a revenue cutter for California; another for Washington Territory; another for the Gulf of Mexico; and another for Charleston, South Carolina. I apprehend it will give rise to no debate; and it is recommended very strongly by the Treasury Department.

Mr. GWIN. I hope the Senator will not press that. Here is the Pacific railroad bill which was postponed on Saturday, and which I want to get up to-day.

Mr. HAMLIN. Very well.

WILLIAM MONAGAN.

Mr. WADE. I am instructed by the Committee on Claims to report House joint resolution in favor of William Monagan, and ask for its immediate consideration.

The Senate, as in Committee of the Whole, considered the joint resolution.

It will direct the Secretary of the Treasury to pay to William Monagan $36 50, it being one fourth of the moneys awarded by the umpire on the claim of Martin Sherlock, Monagan, and McCartney, reported to the Twenty-Third Congress at their first session.

Mr. PEARCE. I should like to have some explanation of it.

Mr. WADE. Those men were laborers on the Cumberland road. They offered their claims in 1820 against the Government for $146. It was referred to an umpire, and he awarded that sum. This relates to Monagan's proportion.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PACIFIC RAILROAD.

Mr. GWIN. I move to suspend all prior orders for the purpose of taking up the bill for the construction of a railroad from the valley of the Mississippi to the Pacific ocean.

Mr. CHASE. When the Senate adjourned on Saturday the bill to extend the time for the collection of duties on railroad iron was under discussion. It seems to me we ought to proceed with, and close that discussion. If the friends of the bill are desirous to close it, I think it can be done.

Mr. CLAY. With the Senator from Ohio, I feel anxious to proceed to the consideration of that bill, and I suppose it is entitled to preference, as it is the unfinished business of Saturday; but inasmuch as I moved on Saturday to take up that bill and to postpone the consideration of the Pacific railroad bill until this day, I should feel that I was violating my own bargain if I were to insist, at this time, on the consideration of the bill to extend a credit to railroad companies. Besides, being assured by the friends of the Pacific railroad bill that they do not propose to discuss it, but to take a vote on it without debate on their part, I have agreed to let them take precedence, with the understanding that they will assist me hereafter in taking up the railroad iron bill and disposing of it.

Mr. GWIN's motion was agreed to; and the Senate accordingly resumed, as in Committee of the Whole, the consideration of the bill for the construction of a railroad from the valley of the Mississippi to the Pacific ocean.

The bill as amended was read.

Mr. FESSENDEN. I move to amend the bill by inserting in the eighth section, after the words "uniform gauge," the words "of not less than five and a half feet between the rails." That is the smallest gauge which I think ought to be allowed. I suppose there can be no objection to this proposition, because there should certainly be some reasonable limit.

Mr. GWIN. If the bill is open to amendment I shall not object.

Mr. FESSENDEN. I understand it is open by agreement.

Mr. RUSK. I have no objection to the amendment, but I wish to suggest to the honorable Senator from Maine, whether any road built under the provisions of the bill is likely to be of a less gauge?

Mr. FESSENDEN. That might or might not be the case, but there is a difference in expense which might control the matter if it were not fixed. I believe it of very great importance to fix the minimum gauge.

Mr. RUSK. I do not object to it.

Mr. GWIN. Nor do I.

The PRESIDING OFFICER, (Mr. STUART in the chair.) It requires unanimous consent to agree to the amendment, the present bill having been adopted as a substitute for the original one.

The amendment was agreed to.

Mr. CLAYTON. Mr. President, if it were

not that I apprehend my vote might subject me to misapprehension and misconstruction, I should be content at this late period of the session to give a silent vote on the bill before us; but, sir, as I feel compelled to vote against this bill, I ask the attention of the Senate for a few moments only, while I state some of the reasons which compel me to follow that course.

I am anxious, sir, to establish, as soon as practicable, a communication both to Oregon and California, through our own country. I have sought, from the time those Territories were acquired, to obtain access to them in the shortest mode possible, considering it indispensable in order to retain them within the limits of the Union. I devoted myself, therefore, during the year 1849 and 1850, sedulously to the business of endeavoring to procure, by the shortest and best means some route through the Isthmus, to San Francisco and to Oregon, not that I considered the route through the Isthmus as antagonizing with the project then entertained of a railroad across the continent to California. On the other hand, I always viewed those routes at Tehuantepec, at Nicaragua, and at Panama, as ancillary to the great communication, which in time, must be established between the Pacific and Atlantic oceans.

But, sir, while I am thus sincerely anxious to obtain, and shall be ready on all occasions to give my vote in favor of, what I deem to be the best and most practicable means of securing access to those Pacific territories, I feel bound to say, after the best examination which I have been able to give the subject, that the plans presented by the bill as it stands amended, of three roads, is, at least for the present, entirely impracticable. I do not believe that any one of the three roads will be made under this bill. I go further, sir, and I say that, if the road were made, judging from all the information which I have been enabled to obtain in reference to the expenses of railroads in this country and in England, the travel and transportation on the road would not be sufficient to defray its expenses, and that, even if it were built, it could be maintained only by large drafts upon the Treasury of the United States. By the provisions of this bill, as I understand them, those who are to build the road are to become entitled to the lands amounting to twelve miles of alternate sections from one extremity to the other. When the road is completed the whole of that fund then, so far as regards the maintenance and keeping up of the roads is exhausted, it is gone to those who build it. When it is once c onstructed, it must be maintained from some other source than the land that is donated by the bill; and what can that other source be but the Treasury of the United States?

Mr. President, I recollect having read not long since, in an English paper, an account of a debate in the House of Commons, in which it was stated that the great railroad between London and Liverpool could not be kept up without the aid of way travel. I think, sir, that the experience of all the successfal railroad companies in this country, will justify me in the assertion that no railroad has been made yet that has been kept up with any degree of success without the aid of way travel. The road between Baltimore and Philadelphia, a great thoroughfare between the North and the South, the road between Philadelphia and New York, and the great New England roads, depend not on the passengers who travel between the *termini* of the roads, but upon those who take passage at the intermediate places, called the way travelers. If that be true, if there be any degree of truth in it, how could we expect if the road to the Pacific were made at this time, to keep it up without immense drafts upon the Treasury, in the present condition of that country, utterly unsettled, wild—a desert.

Sir, it is my opinion that we ought to establish a communication to San Francisco by some practicable means as soon as possible; but let us not resort to impracticable projects that will defeat the practicable one. I think a road can be made to California overland, and ought to be made by the aid of this Government. I am ready to render my assistance to have it made. I believe that in some places we might make perhaps ten, twenty, thirty, or even one hundred or one hundred and fifty miles of railroad, and might join that with a macademized road, or a plank road, or a turnpike road, or a gravel road, and get over the country successfully by that means; but as for a continuous railroad, I have not seen anything yet that has demonstrated to my satisfaction that such a thing can be done, or that when it is done, it can be made available for the great purposes intended by those gentlemen who have projected this bill.

Mr. President, there are objections, I think, to this bill, independent of this consideration; but I have only suggested this point to justify myself in the eyes of my constituents and the country for the course I am about to take; but independently of that, there are objections to the bill. If I understand it, the Government stands pledged and bound under it to transport the mails and all the munitions of war and stores of the Government on these roads, to the exclusion of all others, and it is bound to pay at the rate of some $300 a mile, which would amount annually to about $600,000, for the transportation of the mail alone on each one of the three roads. If I had no other objection to the bill, I would say in regard to that matter, let the Government have the choice; if the Government chooses to transport on the road, I would bind the company, in consideration of the grants made to it, to carry the mail on the road; but I would not bind the Government, as I think the bill does, in any and every event, to carry the mails on those roads, or any one of them, no matter what others may be opened.

I do not, sir, as I have said, purpose to go at large into the discussion of the subject. I know it would be entirely *malapropos* to offer a set speech on such a subject at this time. The Senate would not have patience for such an effort; other business of the country presses upon them, and demands consideration, and I am willing to leave the subject with the few remarks that I have made.

Mr. BUTLER. It is not my purpose to discuss the bill; my health would not allow me to do so if I choose. I concur very much in what has been said by the honorable Senator from Delaware. If we are to have a railroad to the Pacific, one road is enough, and what its route should be, depends, I think, on the disclosures of time, and demands more light than has yet been shed on the subject. I have no hesitation in saying that the time will come when the interests of the country may require such a road; but, sir, if you could have the disclosures of twenty years from this time you would find this project attended with disaster and failure in many particulars, and you would find the consequences of this disaster and failure falling upon this Government.

We are not fully informed. We are plunging into a system without seeing where we are going. We are acting upon one of the most stupendous undertakings that man has ever looked at; and here I am told that I am to vote without discussion, and without even having the common lights which would be shed on a proposal to make a road through a country twenty miles in length. I do not desire to indulge in debate, but simply at this stage of the session, as a Senator, I protest against this hasty legislation on so momentous a subject.

Mr. GEYER addressed the Senate in opposition to the bill as amended, although he expressed himself in favor of the original bill, which provided for one road. [His remarks will be published in the Appendix.]

Mr. PEARCE. Mr. President, I must express my astonishment at the earnestness and sincerity with which this enormous measure appears to be pressed, and pressed so precipitately upon the Senate. I confess I thought, when the project was first introduced, that it was rather as a feeler to ascertain how public sentiment would point towards a project of such magnitude and uncertainty. I did not suppose, when it was first brought to the notice of the Senate, nor have I since expected, that we should be seriously asked to connect the Government of the Union with individuals or corporations, and schemes which, in extent and in difficulty, are so far beyond everything that has ever heretofore been known in the history of artificial communications. What do we know, sir, of the feasibility of any of these routes, of all those conditions which are absolutely necessary to make a railroad available, and without which such projects are only the bottomless pits of capital, snares to individual speculation, and delusions to national enterprise. What do we know of the elevations and of the declivities of the country? What do we know of the supplies of wood and water? What engineers have ever ascertained, not by hasty reconnoissance, but by careful surveys, the great number of difficulties which everybody admits to be in the way of the execution of this scheme? And yet we are asked, without any of this information—information which has not been, because it could not be, furnished—to enter upon this monstrous system of railroads, the like of which no country in the world ever saw, and which, great as our resources are, is infinitely beyond them. Why, sir, as if the difficulty were not enough in the execution of one railroad, from the waters of the Mississippi to the Pacific, we are startled with the enormous proposition to make three, when the energies of the whole country would be taxed to the utmost, even with the governmental aid which this bill proffers to execute and maintain one.

I have not examined the reports which have recently come from the War Department, and which have been ordered to be printed, giving some information in regard to these routes. I inquired for one the other day, and was informed that it was defective, that a certain number of pages had been omitted in the impression, and that it had been sent back to the printer to be filled up. I am, therefore, without that information; but I am very sure that if I had it, it would only increase the opposition which I make to this measure.

Here are three railroads which it is proposed we shall offer inducements to the capital and enterprise of the country to enter upon, each of which, I understand, will be about two thousand miles in length—one, perhaps, something under that length, and the others, probably, a little exceeding it; but averaging about two thousand miles, making, in the whole, six thousand miles of railroad which we design to invite proposals for making, through a country for the most part utterly uninhabited, and, to a considerable extent, equally uninhabitable, without those means which have been found absolutely necessary to their execution in all settled countries through which railroads have heretofore been made, and in spite of the existence of which means the cost of many of them has exceeded all calculation, and will scarcely obtain credence when the statement is made.

We propose to accomplish this by inviting persons to make contracts upon the promise of a gift of lands twelve miles in width on each side, in alternate sections, which is equal to a continuous grant twelve miles in extent along the whole length of the railroads. If the railroads be each two thousand miles long, that will involve a grant of seventy-two thousand square miles of land—larger than the State of Virginia—about as large as the States of Virginia and Maryland united, and more than six times as large as the entire State of Maryland. It will contain forty-eight million eighty thousand acres of land, to be given to one, two, or three companies—a territorial grant exceeding in liberality anything known in modern times, and which, if the land were valuable; would make the individuals or companies concerned, the most powerful land barons in the world. This enormous grant, with the other aids of Government, it is supposed will enable the parties to execute these works. Well, sir, if this grant of lands were made through the fertile prairies of Illinois, or through such regions as the rich valleys of Pennsylvania, very probably, monstrous as the cost of this work will be, it might be sufficient to induce the ardent and earnest efforts of individual enterprise to attempt its accomplishment. But who expects, under any state of things, that these lands will sell at anything like the minimum price at which we have heretofore sold our public lands? Even if they were vastly better than they are, considering the legislation of Congress (so far as the Senate can give it effect) as to the distribution of immense quantities of bounty lands, it could not be expected to dispose of them at the minimum price of $1 25 per acre; but when we consider that the greater portion of the country through which these railroads must run is necessarily and forever sterile—that it stretches across the central wilderness of a great continent, and is made up, in a large degree, of barren wastes and inhospitable rocks, we must know that it will be utterly impossible to dispose of these lands at any price which will be at all adequate even to the commencement of such an enterprise. Without sufficient wood and water, for the most part destitute of inhabitants save the scattered hordes of savages

which infest them, unknown to civilization, and containing little to invite it, your forty-eight millions of acres will not be worth ten cents an acre, and will not furnish, at any Atlantic or Gulf port, the tenth part of the money necessary to provide even the rails required for these extensive lines of road.

Here let me ask the attention of the Senate to the cost of the mere iron necessary to lay these roads with rails. We are told that it takes one hundred tons of railroad iron of the kind now usually approved to lay a mile of railroad. If you have six thousand miles of railroad, it will require six hundred thousand tons of iron for rails alone, and the cost of that quantity, at sixty dollars per ton, will be $36.000,000. We were told the other day, by the Senator from Tennessee, [Mr. JONES,] that the other iron required in the construction and equipment of railroads amounts to quite as much, if not more; that is, that the iron used in the locomotives, chairs, spikes, turn-outs, &c., amounts to even more than that much. You have, then, $72,000,000 required as the outlay for the purchase of iron alone; and that, be it recollected, is iron not put on the spot where it is required, but merely delivered at tide water. I presume you must transport it, therefore, from tide water, by steam navigation, to the highest sources of the rivers of the West; near the points where you propose to start, and then you must provide such means as you can afterwards. What is it going to cost? Why at least double the sum which it will cost when it arrives at the port of entry or delivery. If you surmount this difficulty, how are you to grade the road, to blast the rocks, to fill up the hollows, and raise the embankments which will be necessary? How will you support the multitudes of men who must be engaged in making the road, who must be fed and lodged far from the settlements, where food and lodging are to be found? How sustain the horses and mules, which are indispensable on such work, which cannot live on sterile sands or barren rocks? You must buy food at a distance, transport it at immense cost, and protect it as you would the supplies of an army.

I did not mention one other circumstance which should properly have been stated in advance of what I have just mentioned, and that is, that you have not yet acquired a complete title to these lands. You have not extinguished the Indian claim. When you are going to effect that, at what cost will it be? Are you sure that you can effect it by money? May it not be necessary to resort to force for that purpose? How will you get rid of those four hundred thousand predatory savages, who, it is said, dwell within the borders of the United States, beyond the Mississippi; many of whom roam over the tracts of land through which it is proposed to run these railroads—hostile to you—ready to tear up your rails and burn up your wooden sills? Where will you get your wooden sills and ties? I do not know whether you will be able to find them on the southern route, unless you can make the crooked little mezquite answer the purpose; and in the northern division, though you may, indeed, find wood, it is not such wood as will answer the purpose; and that will have to be brought, at an immense cost, from distant sources of supply. I take it, that when you consider these great and numerous difficulties, the cost of these railroads will exceed that of any known road in the United States; and what are they? I had the curiosity to look at the cost of some of the principal railroads in the United States, and I confess I was quite astonished at the result of my examination. I find that the Philadelphia, Wilmington, and Baltimore railroad, made through a well settled country, between two great commercial cities, through a region abounding in everything necessary for the construction of a railroad, and only ninety-eight miles in length, has cost $8,067,000; being an average of more than $80,000 a mile. I find that the New York and Erie railroad, four hundred and sixty-four miles in length, has cost $33,070,000; being an average of about $70,000 per mile. The Pennsylvania Central railroad, two hundred and fifty miles long, has cost $13,600,000; an average of over $54,000 a mile. The Baltimore and Ohio railroad, three hundred and eighty-one miles long, has cost $22,254,000, as reported in the Railroad Journal of May last; an average of about $60,000 a mile. The Boston and Worcester railroad, sixty-nine miles long, cost $4,850,000; being an average of $70,000 a mile. The Reading railroad, ninety-five miles long, and pursuing a gentle decline towards the city of Philadelphia, has cost upwards of $17,000,000; being about $170,000 a mile. Of course, in giving these figures, I speak of the whole expense of construction and equipment.

Now, sir, I think it exceedingly doubtful whether, under any circumstances, these railroads to the Pacific can be completed at less rates than the average cost of the railroads which I have here mentioned. Suppose they should require $80,000 a mile; then you have $480,000,000 as the cost of these works, which you are asked, without any adequate information, to enter upon at once; or to invite them to enter upon with the inducement of Government land grants as their aid. It does seem to me to be monstrous.

Consider, sir, the character of the regions through which these roads will have to pass. The mighty West is to be crossed, in all its breadth, from the borders of the States which line the Mississippi to the Pacific. That portion of our continent, to say nothing of the mountains, is marked by a vast plateau running nearly north and south, which divides this wide region into two portions. The very lowest point on the water shed of this region is about four thousand five hundred feet above the tide; that is between the waters of the Rio Grande and the San Pedro which flows into the Gila. Further north, in about latitude 38°, it is eight thousand feet in height, and above the latitude of 42° it still has an elevation of seven thousand feet. These are the heights of the lowest passes of the water shed of this great plateau, as I learn from the Secretary of War's report of last year. Then, sir, your roads must penetrate, not a single mountain, or chain of mountains, but a mountain system, which, in latitude 40°, is nine hundred miles wide, and where it is narrowest is still five hundred miles in width.

The least difficult of these routes, it seems to me, is that which lies in the south, because, in that quarter, I believe the mountains are more isolated and scattered about, with intervening plains over which the road may be more easily passed. Even there we find great and almost insurmountable difficulties. There is the difficulty of a want of water, which, I suppose no one will pretend can be supplied unless by Artesian wells, and how do we know that Artesian wells will afford a sufficient supply? Then there is the difficulty of insufficient and unsuitable wood, in any line which the road can take, and the sterile belts of land, in one case two hundred and fifty miles in width, which physical geography tells us is sterile from natural and constant causes.

Then, sir, it is proposed to keep up these roads, or to contribute to their support by employing them all to take the mails between different points in the valley of the Mississippi and the Pacific. One railroad will be amply sufficient to take the mail from the Mississippi region to the Pacific coast; but we must have three roads, and we must provide that they shall all take the mails, and we propose in this bill to give them $300 a mile for the service. I think a bill which was introduced at a former session of Congress, by an honorable gentleman in the other House, from California, proposed to give $600 per mile; but I believe those best informed on the subject, and those most in favor of the execution of this graet project, estimate that $3,000 a mile will hardly be sufficient; but suppose it takes $1,000 a mile, to be anything like an adequate compensation to these companies for the transportation af the mail over these roads, then you must pay $6,000,000 a year for the transportation of the mails from the waters of the Mississippi to the Pacific coast. Even at $300 a mile, the cost will be $1,800,000 a year. The only railroad authority to which I have had access, the American Railroad Journal, estimates that as entirely insufficient. The editor of that paper seems to think $3,000 a mile absolutely necessary, and he appears to doubt whether even that will be sufficient. He says: "We are satisfied that it is still far from being up to the exigency of the case." And he adds: "As well might a person hope to storm the rock of Gibraltar with a cannon loaded with green peas, as to construct a railroad to the Pacific by any plan yet proposed."

For my part I think the committee should have given us an extensive and thorough report, examining minutely into all the difficulties, and the means of overcoming them, before they asked us to rush into schemes requiring an expenditure of money so enormous as, it seems to me, must necessarily result from this project. We are asked to do this at a time the least favorable of all for such an enterprise—an enterprise exceeding in extent and in difficulty any that the world has ever seen. These great artificial communications are among the wonders of the age. They mark the time in which we live. They distinguish the people who undertake them. I know the energy of my countrymen, in this respect, exceeds that of all other nations. I know, as the honorable Senator from Missouri [Mr. GEYER] has stated, that the railroads within the limits of the United States are twenty-one thousand miles in extent, being two thousand seven hundred miles more extensive than all the railroads of all the rest of the world put together. We have put those roads in operation at a cost of $616,000,000, as he said. But, sir, we have incurred debts to what amount I shall not undertake to say with any precision. But I footed up, last night, the funded debt of the two hundred and seventy-one railroads which exist in the United States, and I found that it amounted to $150,000,000. How much their floating debt is I do not know, and I suppose no one can tell. We have sixteen thousand miles of railroad now in progress. Where is the capital to construct them in this condition of monetary difficulty in which we all know the country is laboring? What are the means, what is the mode by which we undertake to construct these great artificial communications? We subscribe stock, and pay up part, and issue our bonds or stock to the contractors in whole or in part, send bonds over to Europe, and purchase iron with them, or negotiate them at shaving and ruinous discounts; and finally, even those very railroads which we have undertaken, as we supposed, under flattering auspices, perhaps, however, without proper calculation as to the objects, the means, the cost, and the results, are in such a condition that Congress is invoked now to relieve them, by granting them a credit of three years for the duties on the iron imported for rails. In this condition of embarrassment, in which almost the whole railroad system of the United States is plunged—a difficulty which the companies have brought upon themselves by reckless extravagance, by improvidence, and by hasty speculation, or by the uncalculated magnitude of their undertakings—we are asked to enter into this scheme which looms up so monstrously before any one who looks at it soberly.

And, sir, if these roads contemplated in this bill were finished, how would they be supported? Do you think that the trade between the Pacific and the East will be sufficient even to keep them up, to defray the great and inevitable expenses of the army of employees, of fuel, of wear and tear of road and engines? Even the far shorter roads of the old States, loaded as they are with the agricultural and mechanical products of a thickly settled, industrious, and fertile country, and crowded with the passengers, who, for pleasure or on business, pass from one city to another, can seldom earn income which allow of dividends. California has not any bulky products to send across the continent to the Atlantic States, and any such articles going from this side to the Pacific will ever find the sea route cheaper and better. It is delusion to suppose that the trade of Asia will seek this route. Some of the finer articles might so come; but the great body of commercial exchanges between America and the East must always find their way in ships, or propellers, without transhipment. When California shall be filled with population, and the intervening deserts be subdued and settled, then, indeed, a railroad across the continent may pay; but not till then.

I have not inquired into the details of the bill, though I think there are provisions in it which are objectionable. I admit that a railroad to the Pacific would be very desirable, if it were practicable and within any moderate estimate of expense. It would furnish great military facilities, and be a strong bond of union between us and the distant States beyond the Sierra Nevada. My principal objection to the present scheme is, that it gives the countenance and assistance of the Government in advance to an enterprise not well considered, not justified by the condition of the country, the means of the parties invited to undertake it, and which, if it be completed in one day,

can only be done by the Government assuming the burden and exhausting all its means for many years in the effort. If the bill pass, and no other aid be given than that now provided, the whole scheme will prove an utter and mortifying failure.

Sir, I regret that I have not obtained a greater amount of reliable information to spread before the Senate. I had purposed to do so, if time should be afforded; but I did not expect this bill to come up to-day, and have not at hand all the information which I have gathered. I think, however, I have said enough to justify me in refusing to vote for this scheme in whole or in part, and I shall be very much surprised if the Senate of the United States do not pause before they encourage the entering upon a course of expenditure so enormous and so reckless.

Mr. RUSK. Mr. President, the speech of the honorable Senator from Maryland would be a capital argument as applied to the persons who may desire to take a contract under the provisions of this bill, but it is totally inapplicable, as I think, to the bill before us. All that the bill proposes to do——

Mr. PEARCE. I think the Senator has misunderstood me. I do not suppose that Congress is in fact to expend all this money, but it is invoked to give existence to schemes which involve the expenditure of so much money, and I do not think it wise legislation to enter into schemes the failure of which is so inevitable.

Mr. RUSK. Taking the experience of the world generally, it appears to me that the men who will have to make the expenditure of so much money as the Senator supposes, have sense enough not to make it if the result is to be what he imagines. According to his own statement, the Government is to expend no more than twelve sections of land to the mile, through deserts, destitute of water, which will have to be supplied by Artesian wells. If any one is fool enough to enter into a contract for building the road, after the lucid argument which the Senator has made, we require ample security so as to keep out bogus companies; we require them before they can get the contract to deposit $500,000 in the Treasury, to be actually expended in the construction of the road for which they contract.

Mr. BUTLER. Mr. President, I have no doubt that, in addressing myself to the Senate on this subject, I shall be speaking to gentlemen with foregone conclusions, and I shall, therefore, content myself with one or two remarks in addition to what has been said by my friend from Maryland.

Have you any idea, sir, that the contractors who will undertake this road will do it upon any assumption that, out of their own funds, they are to finish it? Any one who enters into this scheme upon the delusion that the contractors are to bear the burden, will see, in the end, that the Federal Government and the Federal Treasury will be regarded as nothing more than an insurance company, to make up all deficiencies.

Now, sir, what is the proposition? Here, at the end of the session, without examination, Congress is to give up its jurisdiction—to whom? We are called on to part with our jurisdiction over the greatest measure that can regulate the commerce of this country. And to whom are we to give it? To the contractors and the Secretaries spoken of in the bill. If this is a measure to regulate commerce, what right have we to part with this power in the way provided by the bill? I repeat, sir, that, at this time, Congress is called upon to part with all control over the greatest measure that can regulate the commerce of the country between the Atlantic and the Pacific, under the delusive idea that there shall be three roads. I have no expectation that there will be three roads—at any rate, there will not be three roads until one is finished; and what man is there who can place his hand upon his heart and say that, as a great measure for the regulation of commerce, for the transportation of troops, and for the transportation of everything connected with the Post Office Department, more than one road from the Mississippi to the Pacific is necessary? I say, further, that if you are to make a road from any point on the Pacific to any point upon the Mississippi, the termini should be settled by Congress. I have always said so. Congress should assume the responsibility of saying that it has intelligence enough upon the subject to designate the two points from the one to the other of which the road shall run.

As far as I have examined the plats which have been presented to us, I know there are many routes indicated, and we have had many plausible representations from the surveyors. Some of them say it does not snow to any extent beyond the latitude of 40°; and I believe, according to other surveyors, the mountains are getting lower every day. We are to overcome mountains upon false and plausible representations. Well, sir, I lay down this proposition: that the sun will make and indicate a track for this railroad preferable to any of those indicated by surveyors. In my opinion—I give it as a mere conjecture; for I do not speak with intelligence on the subject, and I complain that gentlemen require me to vote upon it without intelligence; and that is the security they have for this tremendous scheme—if I were to select the points for such a road, I would say, that it should run from San Diego directly to Albuquerque, and thence to the Mississippi river. That is a latitude suitable for such an enterprise; and when you reach the Mississippi river, you have a current from almost every part of the United States.

Am I to disguise from myself the fact that this proposition is entirely different from that? I call upon gentlemen representing the middle States, especially, as my friend from Missouri has done, to look at a startling fact. There is Nebraska river, which is looked upon as one of the indications where the road should run; there is the Platte river, the Arkansas river, and the Red river, which are also looked upon as indications where roads should run. But, sir, what turns out to be the fact here? Neither the Platte, nor the Arkansas, nor the Red river is selected; but the certainty before me is, that there are two tracks to go to the Nebraska river. My friend from Missouri has demonstrated that there is but one course the contractors would take, and that is to carry the road through the northern portion of California, for in doing so they get a very large bounty in lands. Do you suppose they will go south of any point that will avoid getting the lands provided for in this bill? Why, sir, they have baited it so effectually at one end of the road, that you cannot give it any other direction. They have absolutely put it in such a situation that the road must go to one place, and cannot go to any other, unless the patriotism of the contractors should overrule their interests—quite a probable proposition. [Laughter.] Is it quite a probable proposition that they will rather be governed by the dictates of patriotism than yield to the obvious temptations of interest? Yes, sir; it has been managed so as to appeal to the interests of those engaged in the road to say where it shall run. It does not take the Platte, which would carry it to St. Louis; nor the Arkansas, which would take it to Memphis; nor the Red river, which would take it probably to New Orleans. The bill does not indicate what course it shall take.

Gentlemen intimate that Congress ought not to indicate the course of the road. Sir, we are parting at this time with a jurisdiction over the greatest subject that can possibly employ the funds of the country. I know that they will have the road finished to some extent near the two termini; and I know that after they get a little way on it will be quite a strong interest enough to make the Federal Government pave it with money from the Treasury.

But, sir, I did not intend to go into this subject. I was not prepared to do so. I had no idea that such a measure as this was to be disposed of in this summary mode; but as it seems to be a foregone conclusion on the part of gentlemen who have embarked in this scheme, be it so.

Mr. GWIN. I only rise for the purpose of correcting the geography of the gentlemen from South Carolina and Missouri. The Senator from Missouri has told us that the temptation for the southern route is so great, because it goes through such a fine region in California, that it is the only route which has a chance. That is what he said; and yet the Senator from South Carolina quotes him the other way.

Mr. GEYER. I did not suppose, nor am I allowed to suppose, that that is the only route, because this bill contemplates that the whole three roads shall be constructed, and if proposals for all three are not received at one time, they are to be continued until contracts are made for all. I had reference to the terminus of that road when I said that it was the interest of the contractor for the southern road to extend it, after turning the mountains at the south, to San Francisco. That is the temptation.

Mr. GWIN. The Senator from South Carolina announced to the Senate and the country, on the authority of the Senator from Missouri, that the northern route, because it is the longest and most valuable, will be selected. I hope both Senators know what is the distance from the mouth of the Gila, which would probably be the terminus of the southern route, to San Francisco, and what is the distance from Noble's pass to San Francisco.

Mr. BUTLER. Really I am not informed on that point. I have not studied the subject. The Senator probably knows.

Mr. GWIN. I do not suppose that there is fifty miles difference between them. I do not intend to argue this bill, because, if it is not passed without argument now, it cannot be passed at all; but as I am on geography, I should like to know of the Senator from Missouri, if he starts a railroad from St. Louis, how he will get to the bay of San Francisco, unless he goes through Noble's pass; and, if it starts from Iowa, as he supposes, how can they get to San Francisco in any way unless by going through Noble's pass? His argument that this bill excludes Missouri is of no foundation, from the fact that there is but one pass through which a road from either Missouri or Iowa could get to San Francisco.

Mr. GEYER. Mr. President, I thought I had made myself understood. I stated that the strong inducement for adopting what I call a northern route, that is, from Chicago to Council Bluff, or somewhere in that neighborhood, and thence by the South pass and Noble's pass to San Francisco, was, that the roads there were owned by Wall street. That was my expression. The roads from Lake Erie to the Mississippi are nearly all owned by Wall street. If they can get the northern and central roads, they can combine with them an influence which can be brought to bear in the State of California, that will be benefited by having a road all through the whole line of that State, so that Missouri must be left out.

The Senator from California asks me how a road can be made from Missouri, that is not to go through Noble's pass. To that I answer by referring to the map, which that honorable Senator had published a year or two ago, in which he proposed to run from San Francisco, by way of Walker's pass. According to that map, his route was to run to Albuquerque and from thence have branches to Fort Smith, to the Red River, to St. Louis, and some other points, I believe, including Dubuque. Now, whether there is a pass at Coochatope or not, it is ascertained that, although the expense of constructing it is large, a road is practicable by way of Albuquerque and it will not go to Noble's pass; but that route will not be selected under this bill for the reason that if they went by Walker's pass they would come in contact with the other road going up to San Francisco, and the inducement therefore would be not to take the Albuquerque or the Coochatope route, but to take the South pass and strike Noble's pass, so as to enter California on the north and make a road through the whole line of the State.

Mr. GWIN. I supposed the Senator had read the reports of the engineers. If so, he would have seen that those reports pronounce Walker's pass impracticable for a railroad, and therefore, the very route he has indicated impracticable. We have no place of crossing the Sierra Nevada at that point if we are to be guided by the reports of the engineers.

Mr. SEWARD Mr. President, I did not ever expect that I should stand here in the Senate to advocate the passage of this bill in its present shape; that is, proposing to make arrangements for the construction of three railroads to the Pacific. Still I am now in that attitude. I have listened very attentively to what has fallen from the honorable Senator from Delaware, and from the honorable Senator from Maryland, and also to my esteemed friend from Mississippi, and it seems to me that all the answer which need be given on this occasion to the arguments of those gentlemen, is that their objections are quite too late; they are out of time. Early in the last session, I submitted to the Senate a proposition for the construction of one railroad from the Atlantic to the Pacific States, going through the Territories of the United States.

leaving the terminations at both ends unsettled, and proposing that the railroad should be made from such point to such point, and through such regions as should be found upon competition by capitalists to be most feasible and most advantageous. The subject was referred to the select committee, with various other projects. That select committee had the matter under consideration, and the result has been that the committee instead of adopting such a plan for the construction of one railroad, have adopted this plan, by which it is proposed to invite proposals for the construction of three railways. Upon that proposition, as a substitute, there was a debate here the other day, and a question taken; and after all the light which those of us who were in favor of one road as most practicable and most wise, could throw on the subject, the Senate, I think, by about two to one, overruled that project and decided that they would adopt this substitute. The question, therefore, now, is not whether we shall have one railroad or three, but whether we shall have this or no railroad bill at all.

Mr. BUTLER. I do not want any now; we shall have it by and by.

Mr. SEWARD. The honorable Senator from South Carolina says truly, just as I stated the question, that he does not want any railroad at all now.

Mr. BUTLER. I say that I do not want a route selected now until we know where the road should run. That is what I mean.

Mr. SEWARD. It amounts to this then, that we shall pass no railroad bill at all at the present time. We have no other alternative. That is the question. The honorable Senator from Delaware tells us, and so does the Senator from Maryland, that he is in favor of a road. They are both in favor of a road. I say, however, it must be this or nothing. The minority must yield to the majority or else the project will be defeated, and then those who agree with the honorable Senator from South Carolina, that at this time we should make no provision at all for a railroad, will carry the day. I ask honorable Senators if they are not prepared to make provision for a railroad now, when shall we be better prepared? There never will be a time again in this country when it will be so rich, and when its Treasury will be so full. There will never be a time when there will be more information before the public in regard to the practicability of such a road. There never will be a time again when embarrassments, resulting from the diversity of interest in regard to the location of the road, will be less than they are now. If, then, we are ever to build a road, or provide for making a road, this seems to me to be just exactly the time. At all events the responsibility will be off the shoulders of those of us who say that this scheme is possible, and who acquiesce in the decision of a majority of Congress who have determined (I cannot say they have not determined wisely) that, in order to engage the people and Government in the adoption of this enterprise, there must be liberality on the part of Congress in offering facilities to every section, north and south, on the Atlantic and on the Pacific, and in the Mississippi region, to compete for the construction of the road. This, I have no doubt, explains the reason why a majority of the Senate prefer this system to the other. It is that they cannot find an agreement in Congress of a sufficient number to constitute a majority to determine upon any one route; and they, overruling us, have agreed, therefore, to adopt a plan which will invite competition for three roads. To those on the Atlantic and Pacific coasts it can make very little difference. The location of this road concerns chiefly the central inland States, and is to them a matter of very great consequence; but the road must terminate at San Francisco, on the Pacific point, and we can all be satisfied that it must terminate at some center of commerce on the Atlantic coast.

I hope, therefore, we may look at this as a question no longer open, whether we shall adopt the bill in this shape or the one which has already been disposed of by a vote of the Senate of nearly two to one, but look at the question of whether we want a railroad at all. Upon that point I do not intend to go into an argument, because it would consume time, and I am one of the friends of the measure, and wish to see the bill passed, and, therefore, do not intend to debate it. I will say, however, that if this is not the moment to undertake this enterprise, I do not know when the moment will come when it will be more necessary. Will it be when the Indians are harassing the people on our frontiers in California and Oregon, and when we lay at the mercy of foreign enemies, who can blockade the port of San Francisco, and can deprive us of all communication with the gold region, and by the interruption of a single week or month destroy the entire balance of trade between the two sections of the Union, and involve the country in the most imminent danger?

All these considerations seem to me to urge on the Senate the adoption of the best system that a majority of the Senate can agree upon.

Mr. MASON. Mr. President, whether the provisions of this bill will tempt that class of speculative contractors who are found in the country ready to take hold of everything and anything, I do not know; I am not sufficiently conversant with that department of public business to know; but there is one thing very certain, that the Government of the United States is to furnish the entire subject for this speculation. Whether what it offers will tempt this speculative class to take hold of it, I do not know; but I repeat that, whether they do or not, the whole subject of the speculation is to be furnished by the Government of the United States. What is it?

The Government, in the first place, is to give to the contractors a strip of land twelve miles wide along the whole extent of the roads through the Territories—not the public domain, not the public property, for the Government is to acquire the property before it can be passed over to the contractors. In the next place, the Government is to contract to carry the mail on these roads for a period of fifteen years at a maximum rate of $300 per mile, which, as the honorable Senator from Maryland has said, as the bill now stands, will be $1,800,000 a year, to be paid out of the Treasury for the purpose of carrying the mail alone. Then the Government is to contract for the same period to carry all the munitions of war along with the troops over the roads. What that will amount to I do not know. The maximum is fixed here in the bill not to exceed what is now paid for the same grade of service; but I suppose it will be fair to estimate it at $2,000,000 more. Then, in round numbers, the Government is to offer a bonus of $4,000,000 a year to enable contractors to build a capital upon it, out of which, in connection with the public lands, they are to make these roads. Thus it is, that, whether the scheme is successful or unsuccessful, the Government of the United States, or more properly the people of the United States, whose property is thus to be disposed of, are to offer this bounty to speculators at their cost, because if it is a failure they bear the whole loss, and the contractors, if it is successful, are to take all the benefit. That is about the scheme.

I say, then, that the Government is to furnish the whole means by which these roads are to be built. Whether the cost is to be one hundred, or two hundred, or five hundred millions of dollars, the Government is to pay it. There is, on that point, no other provision in the bill, of any kind. You offer to contractors $4,000,000 a year for the transportation of the mails and the munitions of war. An annual revenue of $4,000,000 is thus to be taken from the Government when the roads are completed, and whatever capital the contractors can obtain, they obtain upon this pledge of the Government to furnish an interest equal to $4,000,000 a year. Then take the public lands; they are to have twelve miles wide on each of these roads, with a strange and extraordinary provision, as far as the Government service is concerned, that you are to send a mail over three separate railroads to California, when the Government service would not require it to be sent over more than one of them. I think that is the scheme of the bill, if I am capable of understanding it.

What is to be the result? Why, sir, the three Secretaries named in the bill are empowered to make contracts that shall bind the Government, provided proposals come from contractors within the maximum of the transportation of the mails, and the transportation of the troops and munitions of war. The Secretaries have no discretion, they are to make the contracts, and the contracts then are to be obligatory on the Government, to carry them out. What next? The bill provides that if any of the contractors fail to comply with their contract, the road, and whatever may be upon the road as the property of these contractors, incident to the road, is to become the property of the United States. The forfeiture is to the United States. The United States, then, are to become the owners. What are they to do next? The bill says the same Secretaries shall proceed to relet it to other contractors.

Now, let me put the case of a state of things which may naturally arise. We know something about the breaking down of contracts in the making of roads by private companies. We know very well, in the experience of roads made by private companies, that contractors are constantly failing to comply with their contracts, and then the companies whose roads are to be made often find themselves under the necessity of enlarging the price to be paid to the contractors, in order to sustain them, and enable them to carry on the work. You place the Government in that position. It is in vain for gentlemen to say this bill does not authorize that. I say, when the emergency arises, the necessity will be imposed on the Government either to abandon the work, and all the Government property that has been wasted on the work, or to take it on its own shoulders to carry it on, and to make direct appropriations from the Treasury for the purpose of doing it. To this state of things we are to be brought in a Government which at one day it was supposed had no constitutional power to take hold of a subject of this sort in any form.

Mr. President, we have had experience enough even in this Government to realize the fortunes of all who have gone before us. We know the result whenever a Government takes hold of a subject. As I heard it once strongly illustrated and expressed by an eminent statesman, if the Government touches a thing with its little finger, it is committed to it forever, and cannot shake it off, and cannot get rid of it. Then you are to commit this Government, and the whole property of this Government, and the whole property of the people, to make three railroads from the western States to the Pacific ocean, in utter ignorance, when you ordain it, whether it is practicable to make them at all, or what it will cost to do it. That is the provision of this bill, which is to be passed here at the close of the session, without investigation, honorable gentlemen who are friends of the bill saying, that "to get through with it, we will not debate it, and will not meet any objections."

The honorable Senator from Maryland said, as I understood him, that we had not yet the information as to the practicability of making these roads furnished to the Senate in print. My recollection is that some two or three weeks since there was laid on my table a mass of documents which I sent to my lodgings, and which are there necessarily unopened at this moment, which would weigh, I believe, some ten or fifteen pounds, and which are said to be reports of engineers employed by the Government, under the authority of Congress, not for the purpose of locating roads, but of making mere reconnoissances to see if it was practicable to locate railroads at particular points. That information has come in and been printed at this session; but my word for it, there is not one Senator in ten, or perhaps not one in twenty, who has been enabled to cut the leaves of the documents. I certainly have not. They are lying at my lodgings now in a mass uncut as they were brought to me, from the impracticability of looking at them.

There is another feature in this bill. I put it to honorable Senators, if these roads are made, whose property do they become? The property of the contractors who make them. Such is the provision of the bill. The contract is to employ men to make the road at the Government expense, who shall own the road when it is made. One provision is that contractors shall make proposals, determining at what time the road, after they have had the use of it, shall be surrendered to the United States. What authority have the United States to accept a surrender of these railroads? If they do accept the surrender, what are they to do with them? Where is the power to make the immense organization that is necessary in detail for the practical working of those roads? The answer made to that objection in the bill, is that they are to be surrendered to the United States for the purpose of handing them over to the States through

which they pass. How do you know the States will accept the surrender?

Sir, we are in such utter ignorance of this whole matter that no man can venture to foretell whether, if a road were made, it would be practicable to work it. We know very well that the experience of the railroads in this country has shown that many of them, even on the great thoroughfares, among dense populations, leading from important points to important points, are not paying their expenses. Let anybody look through the prices current which are reported daily in the New York press, and see how their large roads there are weighed down under a load of debt, which the financial ability of those engaged in them cannot extricate them from, and there is very great doubt whether it is practicable to carry on many of those roads at the cost at which they have been made. Now, in utter ignorance of how this railroad project will succeed, the only provision to relieve the United States from this incubus when the contractors surrender it, is that they are to surrender it to the States, although it is impossible to know whether there will be States then to receive it, or if there be, whether they will take it at all.

Mr. President, I should be exceedingly reluctant to see the United States embarking in this scheme, but if it is to be done, I put it to the Senate and to the country, whether it is right in reference to the public fisc, to the property of the nation, that contracts which are to involve hundreds of millions of dollars shall be made, without the Government knowing what the contracts are when they are made; for power is given here to the three Secretaries named in the bill to make contracts, without reference to any other branch of the Government whatever. I have drawn up an amendment which I intend to submit in lieu of the third section of the bill, to provide "that all proposals that may be received under the provisions of the preceding section, shall be reported by the said Secretaries to Congress, recommending such, if any, which in their opinions should be accepted." I move to strike out the third section and insert this provision as an amendment.

Mr. WELLER. I apprehend the amendment is not in order now. We have already adopted a substitute for the bill.

Mr. DOUGLAS. After a substitute has been adopted, of course no amendment to it is in order.

Mr. WELLER. The amendment can be offered after the bill shall have been reported to the Senate, but certainly not now.

Mr. MASON. Let the Chair decide the point.

The PRESIDENT. The amendment will be in order after the bill shall be reported to the Senate.

Mr. MASON. I do not know the exact posture of the bill. Is it now in Committee of the Whole?

Mr. BUTLER. They have run us on so smoothly that we have no idea of where we are. [Laughter.]

The PRESIDENT. The bill is now before the Senate as in Committee of the Whole.

Mr. WELLER. Then the amendment is certainly not in order.

The PRESIDENT. Certainly not now.

Mr. WELLER. After the bill shall be reported to the Senate I presume it will be in order.

The PRESIDENT. Certainly.

Mr. HUNTER. If the bill has not been reported to the Senate, it seems to me that the amendment is in order.

Mr. WELLER. It is not in order, because a substitute has already been put in the bill.

Mr. DOUGLAS. The original bill was before the Senate. A substitute was offered and perfected, and then the substitute was adopted. Hence it is not in order to move an amendment to the substitute which has been adopted. It must be reported to the Senate, and the amendments made, as in Committee of the Whole, be acted on, and then it will be in order to move an amendment.

Mr. HUNTER. If offered after the bill shall be reported to the Senate, it must be offered before the amendment made as in Committee of the Whole, be concurred in; because if the Senate determine to put in the substitute, you cannot afterwards move to strike out any part of it.

The PRESIDENT. The proper course will be to propose to amend the amendment made as in Committee of the Whole. It is perfectly competent to concur in that amendment with an amendment.

Mr. HUNTER. If that substitute is pending as an amendment to the original bill, my colleague may offer his proposition as an amendment to that amendment.

Mr. DOUGLAS. The bill must first be reported to the Senate. I trust it will now be reported.

The PRESIDENT. If no further amendment be offered, the bill will be reported to the Senate. (After a pause.) The Senate, as in Committee of the Whole, have had under consideration the bill for the construction of a railroad from the valley of the Mississippi to the Pacific ocean, and have agreed to an amendment in the nature of a substitute. The question is, will the Senate concur in this amendment, made as in Committee of the Whole.

Mr. MASON. I now move my amendment, to strike out the third section of the substitute, and insert the following:

And be it further enacted, That all proposals that may be received under the provisions of the preceding section shall be reported by the said Secretaries to Congress recommending such, if any, which, in their opinion, should be accepted.

Mr. CHASE. Two years ago, Mr. President, I had the honor to submit a proposition to the Senate for the purpose of providing for surveys of the several routes to the Pacific ocean. That proposition proved acceptable to a majority here. It was also agreed to in the other House, with an amendment striking out one clause, which I regarded at the time, and now regard as of great importance. It provided for receiving propositions from companies or associations for the construction of a railroad to the Pacific, upon such route as should seem to them the best; and that those propositions should be submitted to Congress at the next session, for its action, together with the reports of surveys which were contemplated by the act. Under the proposition which I submitted, the sum of $150,000 has been expended in obtaining information. Several routes have been explored, and a mass of documents, communicating in part the results of the explorations, has been recently laid upon our tables. I presume that the select committee, of which I have not the honor to be a member, has examined these reports. I, for one, have not had an opportunity to do so; but it is certainly clear that, after expending $150,000 for information, it does not seem to be exactly wise statesmanship to disregard that information altogether, and legislate without any reference to it. I must say, therefore, that, anxious as I am to provide for the construction of a road to the Pacific, and having done my part, I think, faithfully, heretofore, for the purpose of obtaining the information necessary to the present action of Congress upon it, I do not see how I can vote for this bill in its present shape.

I shall vote for the amendment of the Senator from Virginia, because it contains the identical principle which I formerly proposed, which was adopted by the Senate, but was stricken out by the House; and because, instead of referring this whole great subject to the discretion of three officers of the Government, it will reserve it for the control of Congress, where it legitimately resides, and from which it should never be taken.

The Senator from New York, [Mr. SEWARD,] in the course of some very instructive observations—for he always speaks clearly and to the purpose—which he submitted when the bill was under consideration two or three days ago, took occasion to say, that he never expected to come before the Senate as an advocate for the proposition of this bill, three roads to the Pacific, to be constructed at once, and to be provided for alike. He told us then that such a project was not adapted to the physical circumstances of the country to be traversed, or to the fiscal condition of the people who were to build the road.

Certainly, I did not expect from him the speech which he has to-day made in support of this scheme, after the objections which he stated to it the other day; although I am bound in candor to say that he then declared his purpose in case the bill now before us should be adopted as a substitute for the original bill for one road, he would go with its friends in its support.

But, sir, let me remind that Senator, and let me remind the Senate, of the objections which he urged a few days ago, against the bill of my friend from Michigan, [Mr. STUART,] for the improvement of the harbors of the lakes. What did that bill propose? That the expenditure of $100,000 for Lake Erie, and proportionate amounts for the other lakes, should be confided to the discretion of the Secretary of War, to be exercised as we knew it would be and must be, through the board of topographical engineers, from whom we receive the information upon which we base all our legislation on such subjects. The Senator from New York, at that time, insisted that it was an enormous departure from the proper line of legislation, to confine even that limited discretion to the Secretary of War, and such was his opposition to the bill, made upon no other ground, that its opponents succeeded in sending it back to the Committee on Commerce, with instructions to report specific appropriations for each particular improvement. Thus were much needed appropriations for objects of great importance, and close at home, put in jeopardy by the Senator's jealousy of Executive discretion. Now, what does the bill which the Senator defends propose? To confide to three officers of the Government the making of contracts for three great routes to the Pacific ocean. You propose to abdicate the whole power of Congress over this great and interesting subject to three Executive officers of the Government. If the one was wrong, how much more wrong is the other? If the bill of the Senator from Michigan was indefensible, how much more indefensible is the proposition contained in this bill?

I do not wish, sir, to detain the Senate upon this question. I am for one road to the Pacific ocean; I am for one road, with a route and terminations fixed by Congress; I am for taking time to examine the information already collected, and for collecting more, if necessary. Then I am for building the road with cash, and not with land. I want no legislation which promises so much, and secures so little.

In the mean time, if I had the control of this business, I would urge the making of a military road, or a common post road to the Pacific. More than one such road might be opened, if circumstances should indicate the propriety of doing so. Along such routes the currents of emigration would naturally flow. At convenient points settlements could be established; and in due time the railroad would necessarily follow. That, it seems to me, would be practical, common sense legislation. It would give you a road at once for mail routes across the continent. It would secure emigration better than your new regiments. It would more certainly secure a good railroad within three years than will the provisions of this bill. But, sir, the responsibility of this measure rests chiefly upon others. I have only the voice of a single Senator upon this subject; and all I mean now to say is, that in voting for the proposition of the Senator from Virginia, as I intend to do, I shall vote in accordance with the line of action which I originally marked out for myself, and which I have pursued from the commencement of the discussions on this subject.

Mr. BELL. Mr. President, it was a common understanding among the friends of this measure that they would not debate it; but it seems to me to be rather hard that they should continue to be bound by that understanding, and hear the many objections, many of them, in my opinion, ill-founded, which are urged, without being at liberty to state anything in answer to them. I do not now propose to avail myself of the privilege extended to me by awarding me the floor at this time to discuss this bill; but I wish to correct a few of what I consider the misstatements of gentlemen founded on a want of recollection in regard to the manner in which this bill is now brought before the Senate.

In the first place, it is said that it is hurried, that gentlemen are taken by surprise, with no opportunity to examine it, and that we do not know enough on the subject to say whether the measure is practicable or not. This question has been for at least three years before the consideration of the public, and to some extent before the Senate and House of Representatives. Two years ago the whole matter was pretty well examined according to the lights we then had. We had a number of reports of engineers who had been sent on exploring expeditions to the various passes supposed to be practicable at that moment; but they were not

considered to be sufficient, and Congress, at that session, determined, on the motion of the Senator from Ohio, that we should have still further explorations before we decided upon that subject. Again, sir, even at the last session, a year ago, there was considerable discussion on this subject, if I do not disremember. In addition to that, you have had, during the most of the last session and the whole of the present session, a special committee of gentlemen who take a deep interest in this subject, and who felt some responsibility in the proper discharge of the duties which had been assigned them, and who considered every question, pertinent and proper to be considered, before they would venture, or, perhaps, I may say dare, to offer any proposition to the Senate. It seems to me, therefore, that there is no surprise, but that there has been full time.

The other objection is, that we might have still more information on the subject if we were to delay action I have no doubt that if we were to defer the measure till the next Congress, and then till the succeeding one, and so on, we should finally get some further information. But, sir, I shall not dwell on that, for I wish to call the attention of honorable Senators to what took place in debate on this question two years ago, so as to show the grounds on which the select committee who reported this bill, thought this was probably the only practicable measure by which we could ever get Congress to sanction any railroad to the Pacific. They thought this measure to receive bids, and open competition for three roads, the only one which could be carried. We had a test of that question to some extent two years ago, in the debate to which I have already alluded.

Mr. BUTLER. I wish to ask my friend a question, as I know he will answer it candidly. Has he examined the plats and surveys with such critical precision and accuracy as to say which route he would prefer, if it depended on his judgment?

Mr. BELL. I have satisfied myself on the point.

Mr. BUTLER. I am a slower scholar; it would take me at least a month to inform myself on the maps which were submitted to us only about a week ago.

Mr. BELL. I do not desire to occupy the time of the Senate, because it is in consequence of the courtesy of gentlemen who feel a deep interest in other bills which are pressing on the attention of the body, that we have been permitted to take up this bill at all; but I will say, in answer to the question propounded by the Senator from South Carolina, that the select committee thought it best to leave the selection of routes to those who were to build the roads. The committee gave full examination to the question, what route was most practicable and advantageous, which could be constructed with the greatest economy, which would be most useful practically; but they finally came to the conclusion that it would be better to refer that whole subject to the capitalists who would build the road, and who would have to calculate, according to the provisions of the bill, upon expending at least $80,000,000 or $100,000,000 of their money. We thought their judgment, as to the probable results in passengers and freight on any one route, would be the safest to rely upon. We thought they would be much more sagacious, that they would be apt to be more cautious, and would arrive at a safer conclusion than any or all of the members of the Senate put together, on a question of that sort; and when they arrived at the conclusion that such or such a route was the most practicable, the most feasible for making a road of the solid nature which is proposed in the bill; the one the most likely to be remunerative to themselves, and of the greatest advantage to the public; the one over which there would be the greatest amount of transportation of troops and munitions of war, both in the military and naval service; and the one which would be most amply supported by way travelers and freight, when they had done that, they would be most likely to select the route which would be most generally useful and advantageous for all sections of the Union. We transfer the tribunal from ourselves, and commit it, by the proposition contained in the bill, to those who have a deeper interest in the matter, if possible, than we have.

But, sir, with regard to one route—there is no one that would combine a majority of voices here if it was as clear as sunlight that it was practicable and feasible; because it cannot be contended for a moment but that there are several routes that are practicable and feasible, if you apply sufficient means for the construction of the road. Though it might be as clear, I say, as day, that such a route was the most practicable, and would meet the wants of the largest portion of the people of the United States, of all sections, north, middle, and south, it could not combine a majority of this body or of the other House. Do you ask why? Because such is human nature; such is the nature of our representative system. As long as there is another route that is more in conformity with the wishes and supposed advantages of another section—a route North or a route South which is equally as good as, or approximates to, the other—they will not give their concurrence to the one route. We have had sufficient evidence to satisfy us—at least I had, as one of the committee—that every year that we propose to postpone the subject, the greater will be the difficulty in getting any road authorized.

Mr. BUTLER. I desire to ask the Senator whether he thinks there will be three roads?

Mr. BELL. I do not.

Mr. BUTLER. You do not think there will be more than one?

Mr. BELL. Not in our day; we concluded that unless we proposed the three routes, and gave the chances to the different sections, no bill could pass; and if we could not do it now, it would be equally impossible next year, or the year after that. I want to illustrate it by a single example. When we had a long debate on this subject two years ago, and we attempted a compromise, by which we could get a proposition to pass through both Houses for one road, to leave the Executive to determine where the eastern terminus should be placed, the honorable Senator from Ohio [Mr. CHASE] was appealed to by myself—for he took an interest in the question as he does now—to sustain it, and after considering it, he rejected the proposition, and said he never would give his support to any railroad, the eastern terminus of which was south of Missouri. That honorable Senator will not deny it now. He thinks that five years, or ten years hence, when we have substituted what he calls a military road for communication between the valley of the Mississippi, or the old States on the Atlantic, and the Pacific, it will be time enough to determine where this great railroad shall be communicating between the Atlantic and the States on the Pacific. No doubt, sir, there would be a probability then that his own particular views would be more certainly carried out, but those views do not suit me; and I think we ought to have an equal chance, and have it now. As to where the great mass of the population of this Union, in the territory of which it is now composed, shall be finally concentrated, no man can doubt, and how long it may be before those objects are accomplished, we do not know. I do not know what the honorable Senator's views or motives are now; but, I say, his course does not suit me upon that subject. I know there are those who will never agree to any road south, or to any road which does not exactly tally with their views of what the future prospects of the country require. There are not many such in Congress, I admit. They are not numerous. A great many gentlemen from the North are liberal and catholic in their views on this subject, and they are willing to give equal chances to all.

For these reasons, Mr. President, I do not think that the proposition of the honorable Senator from Virginia would facilitate Congress in coming to a decision as to where the road should be. Suppose his amendment should be adopted, and it were referred to the Secretaries to report the bids, and they should be reported to Congress, and then Congress should attempt to decide which would be most advantageous to the Government; and suppose the advantages greatly preponderated in favor of one route over the others, would Congress agree to it? He shows little experience in public affairs upon questions involving great sectional and local interests, who says it would be done. I am not speaking of any general sectional question, north or south, but of all sections, northern, southern, and middle. You could not get a concurrence of the majority, though the advantages of one route should preponderate greatly over the other. That was the reason why the committee were not disposed to have the question come before Congress again. They knew that it would be fatal to the scheme.

Mr. MASON. Do I understand the Senator to say, that as it is perfectly certain in his judgment that Congress never could determine upon the route, therefore it is wise to delegate the power to the Secretaries of the Navy, and War, and to the Postmaster General?

Mr. BELL. Under the restriction provided in the bill I do say so most confidently. Well, we do not select the road. It is the capitalists who select, and each section which concurs in the passage of this bill runs the risk of the sagacity and ability of the bidders who propose to construct the road. If I fail in getting the road where I desire it, I must submit, because I think we ought to have a road somewhere. If it is the extreme northern road, and if we are to have nothing but the northern road, let us have the advantage of it. If it is to be the middle route, then, I say, let it be the middle route. But, I repeat, Congress will never concur in one road, and that in the nature of things, because the local interests of the whole frontier, from the Rio Grande to the lakes, are great; and they will necessarily have a bias on the judgment of the Representatives.

I shall not detain the Senate, but I want to state one or two facts in reply to what has been said on the other side. The Senator from Maryland says this is a most reckless proposition on the part of the Government, to undertake, or give encouragement to, the construction of three great roads. What does the Government propose to give? In what is this charge of recklessness, as to the proposition before the Senate, founded? How is it in regard to the public property? That was the language used by the honorable Senator from Virginia. It is indeed proposed to give twelve sections of land in the mile, in a Territory which the honorable Senator from Maryland describes as a barren, sterile, waste. We propose to give that amount of land, but not one cent does the Government propose to give beyond that, unless for a fair consideration received in return, either at the beginning or end. But gentlemen are so sensitive and jealous about it that they think the Government will have to do all the work at last. We propose to take $500,000 as a deposit for the accomplishment of some part of the work by either class of contractors on either one of these roads. We hold out no pledge or inducement to give one cent beyond the land, except the $300 a mile for carrying a mail daily—only one third of what we give now for carrying it semi-monthly, or monthly perhaps, I do not know which. Then, if it goes one hundred miles into the interior, and we give that sum upon that distance, it amounts to $30,000 for that one hundred miles. Then we are that much nearer the bay of San Francisco, from which we can extend the military road which the Senator from Ohio speaks of. Not one cent beyond that do we give. As to munitions of war, we only agree to give the rate of what is now the aggregate cost of transportation, even if the three roads should be made.

Now, sir, where is the recklessness with which we are liable to be justly chargeable in making such a proposition as that? As for the public property, I put it to the honorable Senator from Virginia how much of that public property—the public lands, the twelve sections in the mile—will ever enure to the benefit of the United States' Treasury, running through a territory of sterility, as we are told by the Senator from Maryland they do, and through mountain passes, which some gentlemen say are impracticable anyhow. They do not suppose they would ever be of any advantage to the United States.

But, sir, this bill falls far short of what I should be willing to give to encourage the competition of bidders for the road. I should be willing to give them the credit of this Government for $20,000,000 in addition to the public lands. It would be economy in the Government to do so.

I just wanted to say a few words in answer to this charge. I do not wish to stand here with my mouth closed and hear this denounced as a most extravagant and reckless demand upon the Treasury of the United States.

Mr. WELLS. I have been listening to this debate with the view of forming a correct judgment in relation to the measure now pending. It is well known to you, sir, that I have not been

here to examine this question; and my vote must depend, so far as information is concerned, upon that which is obtained in debate. But, in listening to the arguments of the friends of the measure, I have been not a little surprised. Take the honorable Senator who has just resumed his seat, and compare his speech with that of the honorable Senator from New York, [Mr. SEWARD,] and how does it strike us? Then compare the declarations of those two Senators with that of the honorable Senator from Virginia, and it brings to my mind a fatal objection to voting for the measure.

The Senator who has just taken his seat says that all they ask of the Government is merely to pledge lands to a certain extent, of little or no value; and so it is by the terms of the bill which I have hastily read. They ask not for money from the public Treasury; but they ask the Government to pledge the domain to a certain extent on each side of the road, to enable them to pursue this project; and all the funds, all the money that is asked, is the amount that is to be paid for the transportation of the mails. If that be so, I ask why the honorable Senator from New York urged upon us to pass the measure now, because we shall never be so rich again? Why was that argument presented to me and to others as a consideration which should induce us to vote for the bill? What consequence is it, if we have only to give this land, these mountain passes, and this worthless tract of country? Why, then, ask us to do it because now the Treasury is full, and it never will be so full again? It convinces me, sir, by the argument they themselves make, that it has come precisely to what the honorable Senator from Virginia asserted—put your hands once in, and you will be forever in the matter. It is as my friend from South Carolina, in his proper, pertinent, and accurate language, styled it—a plunge in the dark.

It is so in my judgment, and what does it come to? If you once pass this measure you take the incipient step, and, as it has been said, when the Government's finger is once in, it must go the entire length. We, then, should have to go on as a Government, and sustain, and create, and make the thing perfect. Thus you would do what is radically objectionable in every view, and that is for the Government to advance its funds to make this immense work. It is a work greater than has ever been contemplated, certainly in the days of any man in the Senate. My idea is, that it is all premature, even though it was to be made; for I do not believe that, if omnipotent power were this hour to create it, the business upon the road could keep it clear from the snows of winter. It is of immense length; and look at the shorter roads of the country, and I say the declaration of the Senator from Delaware will be sustained by the facts. The thing is impracticable. I shall not take up the time of the Senate in going through with the various objections to the measure. Hundreds of things could be urged as an objection to it; but when it comes to the great constitutional objection stated by the Senator from Virginia, I go with him and vote against the measure.

The PRESIDENT. The question is on the amendment of the Senator from Virginia.

Mr. MASON called for the yeas and nays, and they were ordered.

Mr. EVANS. I have looked somewhat into this matter, and I have read what, perhaps, other gentlemen have not read. I have read all the reports except one. The result of my examination from reading the reports of the explorations is, that two out of the four routes that have been explored, are utterly impracticable. One other is practicable, but at a cost of $200,000,000. If it were really the fact that this were to be left to private enterprise, that the Government were only willing to give what they offer in the bill by way of inducement, then, perhaps, it would not be a matter of any great consequence; but we all know that if this thing is attempted, it will be regarded, as gentlemen say, as a great enterprise; and I have not the slightest doubt but that men will be found to undertake it as a matter of speculation. And what says the Senator from Tennessee? That he is willing now to lend the credit of this Government for $20,000,000!

Mr. BELL. Yes; and I voted for it in committee.

Mr. EVANS. I have no doubt of it. A member of the committee proposed to build this road by creating stock to the amount of $75,000,000, giving them $25,000,000, and taking their bonds for the other $50,000,000. There is no doubt but that it will come to that. If it does come to that, if the Government is to be saddled with all this expense, then the question is, whether the thing is practicable, and whether, after the expenditure of all the money, we are to derive any benefit from it whatever?

It has not been long since these reports from the engineers were printed. The largest one is that by Governor Stevens. It was too long for me to read through, and, therefore, I only opened it in some places, and made extracts from it.

At page 256, under the date of October 20, and the 1st of November, he says the distance from the summit to Fort Benton is estimated at one hundred and thirty-six miles, and the week spent in accomplishing this distance, was a time of excessive cold; and in another part he says, that the snow, before the 1st of November—before the 1st of November, mark you—fell on the prairies a depth of five inches. In another part of the report, at page 404, under date of October 24, he says:

"Snow fell on the night of the 23d and the morning of the 24th of October. The Indians, who resort to this place for berries, informed me that the weather was usually such as we found it. From the same source I gathered the information that the snow falls there as early as November 1, and during the winter of sufficient depth to cover the trees."

I infer, from that, that over such a route a railroad is impracticable.

I understand that the city of St. Louis is between seven hundred and eight hundred feet above the level of the sea, and that the river is often frozen over in the winter for a month at a time, so that wagons can pass over it. Well, sir, the pass through the mountains over which this road is to go is between five thousand and six thousand feet above the level of the sea; and what is the difference of temperature between an elevation of seven hundred or eight hundred feet and almost as many thousands. We all know that the difference of temperature on account of elevation is equal to one degree for every three hundred feet; and, therefore, even if it were in the same latitude as St. Louis, an elevation of six thousand feet would bring this not very far from the region of perpetual snow. I take it for granted then, that that route is impracticable according to any information which we have acquired. That is the first route. As to the second route, the survey was made by Captain Gunnison. That commenced at Fort Leavenworth, in a latitude of between 38° and 39°. I need not say here that three things are essential to a railroad. The first is that the elevation shall be such that steam power can overcome it; the second is that there shall be wood; and the third is that there shall be water. I had marked some extracts to read from this report. There is one part of it, to which I cannot immediately make reference, in which it is stated that wood will be found in sufficient abundance in the valley of one of the rivers, provided it were applied exclusively to that purpose; but that the settlers in that region would have no wood if it was used for the purposes of the railroad. Captain Gunnison was sent to survey three passes. Speaking of one of them, he says it will be entirely impracticable for a railroad, the grade to the west being for the first mile and a quarter, at the foot of a ravine, two hundred and ninety-eight feet to the mile, four hundred and ninety feet to the mile for the succeeding seven tenths, and five hundred and forty-four feet to the mile for the last three fourths of a mile. That is one pass. Then, of Gunnison's Pass, he says:

"They give grades of 185.5 feet per mile for four miles, ascending the pass from the east; then 2.28 feet per mile for a mile and a half, followed by a grade of 113 feet to the mile for three fourths of a mile to the summit. Descending to the west, the difference of level is 56 feet per mile for six miles, then 68 feet to the mile for three miles to the center of Homan's park, from which a road can be carried in any direction across the San Luis valley."

Then comes another pass, which was referred to by some gentleman who has spoken—the Coochetopa Pass. Here is what he says:

"But, in the construction of a railroad, it will be necessary to carry it on the side of the ravine considerably above the stream, giving an elevation of at least 200 feet at the fifteen mile station referred to; which, from the formation of the hills, must be done upon the last few miles below that point, the elevation of which is 8,960 feet above the sea, while the summit of the pass, 3.83 miles distant, is 10,032 feet, which will require for its passage a grade of 124 feet per mile for the 3.83 miles, and a tunnel entering the mountain from the east three fourths of a mile below the summit, diminishing the elevation to be overcome by 400 feet, and terminating to the west with a deep approach near our camp of September 2d, 1.33 miles below the summit, the length of the tunnel, including the approach, being two miles."

Mr. President, I think it very evident from this that the passes over the Rocky mountains, surveyed by Captain Gunnison, are utterly impracticable. He went no further than the Great Valley; and all the reports which I have seen represent the Sierra Nevada as utterly impassable. That is another route.

In relation to the route which is usually called the Memphis route, and which I suppose the Senator from Tennessee would prefer, and which was surveyed by Captain Pope, I have only these remarks to make: so far as the grades are concerned, it is perhaps practicable; so far as wood and water are concerned, it is doubtful, though perhaps they could be obtained. Therefore, without going minutely into it, I beg leave to state merely this: that at the end of the survey he says that the distance is one thousand eight hundred and forty-nine miles from Fort Smith to San Pedro, which is five hundred or six hundred miles short of San Francisco. The distance is one thousand eight hundred and forty-nine miles. He seems to have gone very minutely into the calculation; and, estimating the cost of the road at $89,000 a mile, which is much less than some roads are being constructed for, from Fort Smith to San Francisco the cost would be $166,230,000. After having obtained that, the great object is to carry this road to San Francisco. You have five hundred miles of road to add to that, which will cost at least $40,000,000 more, and this will make the total cost not a dollar under $200,000,000.

Mr. GWIN. Will the Senator permit me to ask him whether San Pedro is not directly on the Pacific ocean?

Mr. EVANS. Yes, sir; but I never understood from the Senator from California that it was designed that the road should stop anywhere short of San Francisco.

The next route explored is what is usually called the Texas route. The surveys which have been made, one by Pope and the other by Lieutenant Parke, extend from Fort Preston, I think it is, on the Red river, crossing the Rio Grande, and from that going to the junction of the Gila and the Colorado. That part of the road which lies between the mouth of the Gila and the Mesilla valley was surveyed by Lieutenant Parke, and I beg to call attention to what he says. I should say here that I believe, according to the accounts which have been given, so far as the grades are concerned, it is practicable, as the highest grade is only about eighty feet to the mile, which, I understand, is a practicable grade. After deciding whether the grade is practicable, the next question is whether wood and water can be had. He says:

"The supply of timber along the route is very limited. Cottonwood, the only growth of size sufficient to answer the purposes of sills, is found in but four localities: on the Gila, at Tucson, on the Mimbres, and Rio Bravo. Water being so very essential to the very existence of this tree, ir only grows on the banks of streams, and disappears with the sinking of the waters, as is the case at Tucson and Rio Mimbres. At Tocson I was informed that a variety of the pine is found in the cañadas of Sierra de Santa Catarina, in the east and northeast of the town. In the mountains, about fifteen or twenty miles north of the crossing of the Mimbres, the pine also exists. But the plains are entirely destitute of trees of any description, and the mountains have a general appearance of sterility and ruggedness, yielding in the concealed nooks and valleys a meager cedar and dwarfish evergreen oak."

So much for the wood. Now for the water:

"There is a great scarcity of water along the line, there being but nine localities where the supply could be said to be permanent.

"Whether water can be obtained on these plains by digging within reasonable limits is a question to be solved in every case by experiment, owing to the geological structure of the country. This experiment I consider worthy of attention, not only on account of its great and all-important bearing upon the question of locating a line of railroad over this country, where are intervals of fifty or seventy miles between permanent waters, but also, if successful, on account of the relief rendered the various parties crossing during the dry season, whose sole and great anxiety now is, when entering upon these jornadas, to get their animals through to the next water."

If water is to be supplied, it must be by sinking artesian wells in a region where one was never sunk before, for all this region of country is vol-

canic, and in no instance has water been found in an artesian well in a volcanic region. All that have been dug were either in the crustaceous or tertian formation. You come then to that region of country which lies between the Rio Grande and Fort Preston, above the Red river. I concede that the grades are such as may be overcome. The great difficulty that arises is from the want of wood and water. There is a region of country the like of which is not, perhaps, found elsewhere in the world. It is what is called the Staked Plain, or, as the Spaniards term it, the *Llano Estacado*. This, in its greatest width, is one hundred and seventy-five miles, and in its smallest width, one hundred and thirty miles. That whole region passing over the plain is utterly destitute of wood and water, and is as perfectly barren as the desert of Sahara. This railroad has to pass through it. There is no getting around it, because this region of country extends from the 30th° to the 35th° of north latitude. There is no getting around it; you have to go through it.

How could we find a supply of water there? It must be by artesian wells. No artesian well, in such a region, has ever been dug. It is true that Pope supposes water might be obtained at a depth of from sixty to one hundred and twenty feet. He supposes it might be obtained; but no one knows it. It never has been obtained. The examination has never been made, and every one who has looked into the subject knows perfectly well that you cannot tell, by any external indication, whether water can be obtained by an artesian well at all or not. I understand that, in the city of St. Louis, a well has been sunk to a depth of two thousand four hundred feet, and no water has been obtained. In Alabama it is usually obtained at a depth of from six hundred to seven hundred feet. The great artesian well near Paris is one thousand eight hundred feet deep; so that there can be no certainty until the experiment has been made whether water can be obtained or not. I therefore conclude, Mr. President, that we have no information yet which will enable us to determine whether this is practicable or not; and I repeat again, that, if I supposed this was to be done by private enterprise, I would put no difficulties in the way. If men are fools enough to embark their money in an unprofitable or an impracticable enterprise, it is their own folly, but who does not know, who has been in the Senate any length of time, (I have been here only two years, and I have found it out,) that any pretext is sufficient to bring a man here to ask that the country, with an overflowing Treasury, to reward him for his patriotic enterprise? These people will come and tell you, when the service has turned out to be a failure, that they entered into the contract at the instance of the Government; that they did it with the most honorable and patriotic motives; and, sir, Senators in abundance will be found to say that, under the circumstances, they ought not to lose, but let the Government, with an overflowing Treasury, be the loser.

Mr. TOUCEY. I am hardly willing, after the part which I took on a former occasion in reference to the construction of the Pacific railroad, to give a mere silent vote on this bill. It is yet not my intention to discuss its merits; but I do purpose to state the position which I shall occupy in regard to it. I think I am justified in assuming that position. I regard the construction of the Pacific railroad—a railroad connecting the Atlantic and the Pacific—as an object of such paramount importance as to justify the exercise of the constitutional powers of this Government. There is only one indispensable requisite which I would insist upon beside that of keeping within the strict powers of this Government. It is that the communication should be entirely within the jurisdiction of the United States; and I may as well here acknowledge that, without a minute investigation, my impression is in favor of the feasibility of a road through that territory which we have acquired by the recent treaty commonly called the Gadsden treaty. Whether my impressions are right or wrong I am unable to say. It matters nothing to me whether the road is to pass through the southern or the northern portion of the country. The Atlantic States are so connected by the innumerable railroads which are already in existence, that I regard them as a unit. What I want is a connecting link between these roads and the Pacific ocean. If I comprehend this bill, it proposes to furnish that link by authorizing three distinct routes; but it leaves to capital to select which is the most practicable route instead of arbitrarily determining it by a vote of Congress. It leaves it to capital to say where the investment can be most productive—where it will most effectually accommodate the public interest; and I have the impression, from all experience, that it is the owners of the capital who will most surely select the most eligible route.

Many arguments have been adduced here to-day which, it seems to me, are not applicable to any proposition contained in the bill. If I understand its propositions, they are only three. The first is that this Government shall set apart for a distance of twelve miles on each side of each route, the alternate sections of land. I ask of what value are they in a waste wilderness? They now have no value, or at all events, a mere nominal value. The value that will be communicated to them will be by the road which is constructed through them; and am I not willing to give one half of the sections within that distance, that will thus be designated, for the advantages which will result from the construction of this great work? Sir, I am willing to do it; and I consider that the Government, and the country, will be immensely the gainers by any such gift as that. If by it, sir, individual enterprise can construct this great work from the Atlantic to the Pacific, it will accomplish an object which, in the future—I do not mean in the distant future, but in the immediate future—will be of immense importance, not only to the Government but to the people of the whole country. What else do we do according to the proposition contained in this bill? I will tell you what we do. We agree to contract for a period of fifteen years, to carry the public mails across the road at a rate, not exceeding $300 a mile. That is but a small fraction of what we pay now by the various routes, through the Gulf of Mexico and across the continent to the various points on the Pacific. If you enter into this contract it will be an economical one. I am willing to do that.

We propose to do one thing more; and that is to transport the public stores—the naval and military stores—at a rate not exceeding the average now paid, if I rightly comprehend the terms of the bill. Am I not willing to do that? How do we lose anything by it? Is the Government a sufferer by that? When I have said this, I have mentioned every obligation which is to be assumed by the Government under the provisions of the bill; namely, to give the alternate sections, to enter into a contract for the carrying of the mail, and to enter into a contract for the transportation of military and naval stores. Will any one tell me that the Government will be a sufferer by a contract of that kind? I have not heard, in the debate, from any Senator who has participated in it, any objection on the score of economy, to either of these contracts. Are they unreasonable? No one advances the idea that they are. Do you implicate the Government for too long a time—fifteen years? No one advances any such proposition as that. Well, why shall we not be willing to do this for the purpose of accomplishing this great enterprise.

But, sir, there seems to be a supposition that we are to enter into some obligations besides those which I have enumerated. I desire Senators to lay their finger on any part of the bill which involves this Government in any obligation whatever. Does it interfere with the legislation of the States, either present or prospective? Does it abridge the legislative powers of the States? Not an iota. Does it even come into conflict with the legislative power of the Territories to make regulations, to pass laws? I find no such conflict in this bill. I find nothing in it that does not leave the legislative power of the State and the legislative power of the Territories untouched, unabridged, unrestricted for all purposes of police, and for all purposes of beneficial regulations.

Why, then, am I called upon to vote against the bill? Is it because Congress cannot decide which is the best road? Sir, I know not how it is here, I hope we are never to be called upon to enact a charter for a railroad; but, in a State Legislature when they are called upon to do that public service, they prescribe the termini and leave it to those who advance the money to indicate the route, subject to control. What can we do better than that? What can we do better than to leave it to capital to select the route?

But it is said that there will be three routes. Mr. President, I believe that the form of this bill is calculated to call for a contract from capitalists for the best of the routes, with that instinctive certainty with which capital will always seek the best enterprise, when different propositions are submitted to them upon different terms; and when they have selected one, does any one suppose that a second route will be constructed? It is under the control of Congress. You can repeal the proposition at any time before the contract has been formed.

In short, I regard the form of this bill as the only one in which it can be submitted to the public, whether private enterprise will construct the road. If it is not constructed by private enterprise, how can it be constructed? Can it be constructed by this Government? I deny it, sir. I deny the power of this Government to construct and carry on such a road as that for commercial purposes; but I admit the power to make these grants which we make in other less important cases, to make them in a case of the utmost importance; for I undertake to say, sir, that if you have reference to the future; if you have reference as well to a time of war as to a time of peace; if you have reference to naval and military operations upon the Pacific coast and upon the Atlantic coast, there is no work which can be presented to Congress of as vast importance as that which is embraced in the one which will secure an internal and communication between the oceans.

These are my deliberate views; and I cannot, however I may differ from any of my friends, act in opposition to these views. I think they are the true views which should govern us in a question of this kind, and which certainly will govern me. But it is said the proposition is a magnificent one. Well, sir, the territory of this country is magnificent. The progress of this Government is magnificent. You can hardly propose anything with reference to the future, and applicable to this country, if it comprehends the whole country, which is not necessarily magnificent. As long as this Government is not implicated beyond entering into a simple contract; as long as you charter no company, no incorporated company; as long as you leave the reserved rights of the States untouched; as long as the people of the Territories are left in the full enjoyment of the right and power which they have, or ought to have, I find no objection to a contract of the kind proposed in the bill. I, therefore, in accordance with these views, must give my vote in favor of its passage.

Mr. CHASE. The Senator from Delaware [Mr. BAYARD] proposes to say a few words to the Senate on this bill. I desire now, as it is very important to have an Executive session, to move to postpone the further consideration of the bill, for the purpose of proceeeding to the consideration of Executive business.

Mr. GWIN. The friends of the bill have to-day scarcely participated in the discussion with the anticipation that those who were opposed to it would let us have a vote before we adjourn. That is all we ask. If we can pass the bill, we wish to do it. We desire to settle the question to-day.

The PRESIDENT. Does the Senator from Ohio insist on his motion?

Mr. GWIN. I hope not. I hope the Senator will give us an opportunity to vote.

Mr. CHASE. If the vote is to be taken at once I will not object, though I am anxious to have an Executive session. But I wish, before the vote is taken, to say a few words in response to a remark which fell from the Senator from Tennessee. He stated that on a former occasion I had declared my determination to vote for no route south of the Missouri river.

Mr. BELL. I meant the State of Missouri.

Mr. CHASE. The Senator certainly labors under a misapprehension in regard to that. I have always said I would vote for any route which should commend itself to the consideration of Congress as a proper route; and I said, in some remarks which I submitted some sessions ago, that, in my judgment, one of the most important routes would ultimately be found to be the route from Matagorda to San Diego. I have, therefore, never committed myself to any sectional view upon this question whatever; and I wish to say now, and say it briefly, Mr. President, that if a route from Matagorda to San Diego should be brought before

the Senate, or a company should present itself, offering to construct a road upon the ordinary terms upon which we grant aid to railroads, I should vote just such aid and just as cheerfully as I would for any other route. If double the amount was required, so important do I consider it, that I would vote double the amount. But I do not consider this bill, as I have said, as founded on right principles. I think the true course is to receive the propositions from the companies, and that Congress shall determine upon what terms proper aid shall be afforded.

Mr. BELL. I merely desire to say, that I probably misunderstood the language of the honorable Senator upon the occasion referred to, when there was a proposition to compromise, so as to enable the Senate to pass the bill which was under discussion two years ago, by referring it to the Executive to get the information, and select the eastern terminus. Some gentlemen were unwilling to accede to that, because they thought it ought to be within certain parallels of latitude. A proposition was submitted for that purpose, and the honorable Senator was appealed to to say whether he would not modify his proposition, so as to take the road as far south, I think, as Memphis or Vicksburg; and he, after consideration, I think, not only on the floor of the Senate, but after a night's deliberation, came in the next day, and said he would not agree to any compromise of that kind, to bring the southern terminus to any point south of Missouri. But now I exonerate him, because he stated to me privately, as well as on the floor of the Senate, that I have been mistaken. I am very happy to see that I was mistaken in my inference. I supposed he would not vote for any road with the terminus south of Missouri.

Mr. CHASE. I only declined to modify under the circumstances which existed at that time; but as to the general proposition, the Senator certainly misapprehended me.

The question being taken by yeas and nays, on Mr. MASON's amendment, resulted—yeas 21, nays 26; as follows:

YEAS—Messrs. Adams, Allen, Bayard, Brainerd, Brown, Butler, Chase, Clay, Clayton, Dawson, Evans, Fitzpatrick, Gillette, Hunter, Mason, Pearce, Pratt, Sumner, Thompson of Kentucky, Wells, and Wilson—21.

NAYS—Messrs. Badger, Bell, Benjamin, Dodge of Wisconsin, Dodge of Iowa, Douglas, Fessenden, Foot, Geyer, Gwin, Hamlin, Johnson, Jones of Iowa, Jones of Tennessee, Morton, Pettit, Rusk, Sebastain, Seward, Shields, Slidell, Stuart, Toucey, Wade, Walker, and Weller—26.

So the amendment was rejected.

Mr. STUART. I desire to offer an amendment to the ninth section to carry out the present provisions. It is, after the word "California" to insert "nor in any other States through which it may run," so as to require the assent of any State that may be formed hereafter. The clause will then read:

And no road shall be made in pursuance of this act in the State of California, nor in any other State through which it may run, without the authority of the Legislature of that State, and then only by virtue of the authority of such State.

Mr. DOUGLAS and Mr. GWIN. That is right.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time. On the question "Shall the bill pass?" Mr. HUNTER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 24, nays 21; as follows:

YEAS—Messrs. Badger, Bell, Benjamin, Dodge of Wisconsin, Dodge of Iowa, Douglas, Foot, Gillette, Gwin, Hamlin, James, Johnson, Jones of Iowa, Jones of Tennessee, Morton, Rusk, Sebastian, Seward, Shields, Slidell, Stuart, Toucey, Wade, and Weller—24.

NAYS—Messrs. Adams, Allen, Bayard, Brainerd, Brodhead, Brown, Butler, Chase, Clay, Clayton, Dawson, Evans, Fitzpatrick, Geyer, Hunter, Mason, Pearce, Pratt, Sumner, Thompson of Kentucky, and Wells—21.

So the bill was passed.

On motion by Mr. WELLER, the title was amended so as to read "An act to authorize and facilitate the construction of a northern, a southern, and a central Pacific railroad and magnetic telegraph through the Territories of the United States."

RAILROAD IRON DUTIES.

Mr. JONES, of Tennessee. I move that the Senate resume the consideration of the bill granting to railroad companies three years in which to pay the duties on iron imported for railroad purposes. I make the motion in order that the bill may be the unfinished business of to-day.

Mr. STUART. I understand that the Senator does not intend to press the consideration of the bill to-day. His only desire is to take it up, and then to let us proceed to the consideration of Executive business.

Mr. JONES, of Tennessee. I simply desire to have it the unfinished business, so that it will come up to-morrow.

The motion was agreed to.

Mr. CHASE. I now move to postpone the further consideration of the bill until one o'clock to-morrow, and make it the special order for that time. I make this motion in order that we may proceed to the consideration of Executive business.

The motion was agreed to.

ENROLLED BILLS SIGNED.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that the Speaker had signed the following enrolled bills, which were thereupon signed by the PRESIDENT *pro tempore:*

A bill for the relief of Henry H. Marsh;

A bill authorizing the issue of a register to the Russian-built ship Aina;

A bill for the relief of Rebecca Winn, widow and executrix of the last will and testament of Timothy Winn, deceased, late a purser in the Navy of the United States;

A bill to provide for holding an additional term of the circuit court of the United States for the district of Missouri, and for holding special terms of the district and circuit courts of the United States for the northern district of Ohio;

A bill to establish the office of surveyor general of Utah, and to grant land for school and university purposes; and

A bill increasing the pension of Anthony Walter Bayard, of Bellefonte, in the State of Pennsylvania.

IRON FOR PUBLIC BUILDINGS.

Mr. JAMES submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed, for the use of the Senate, two thousand additional copies of the letter of the Secretary of the Treasury, communicating a report and drawings of experiments to test the strength of wrought iron, beams, and girders, to be used in the construction of buildings for the accommodation of United States courts, custom houses, and post offices.

EXECUTIVE SESSION.

Mr. CHASE. I move that the Senate proceed to the consideration of Executive business.

Mr. JOHNSON. I believe there is another motion which has precedence of that. I move that the Senate adjourn.

The motion was not agreed to—ayes 17, noes 22.

Mr. CHASE's motion was agreed to; and the Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened.

MAIL STEAMER BILL.

The bill from the House of Representatives making appropriations for the transportation of the United States mail by ocean steamers and otherwise, for the fiscal years ending June 30, 1855, and June 30, 1856, was read a first and second time, and referred to the Committee on Finance.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *February* 19, 1855.

The House met at twelve o'clock, m. Prayer by Rev. HENRY SLICER.

The Journal of Saturday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting additional estimates for the public service in Kansas and Nebraska; which was referred to the Committee of Ways and Means, and ordered to be printed.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting, in compliance with a resolution of the House of the 10th instant, a copy of a communication received from the Commissioner of Indian Affairs, with reference to the amount of money paid to James T. Miller and another, as directed by the Senate amendment to the treaty with the Miami Indians, of August, 1854.

On motion by Mr. CLINGMAN, the communication and accompanying document were ordered to be printed and referred to the Committee on Indian Affairs.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled the following bills; which thereupon received the signature of the Speaker:

Senate bill (No. 577) authorizing the issue of a register to the Russian-built ship Aina.

Senate bill (No. 286) to provide for holding an additional term of the circuit court of the United States for the district of Missouri, and for holding special terms of the district and circuit courts of the United States for the northern district of Ohio.

STEAMSHIP PASSENGER REGULATIONS.

Mr. WHEELER. I desire to present the following resolutions, and ask to have them read for information.

At a meeting of merchants, ship-owners, ship-masters, and others connected with commerce in New York, in approval of the bill prepared by the Treasury Department to regulate the carriage of passengers by steamships and other vessels, the following preamble and resolutions were unanimously adopted:

Whereas, it appears by the proceedings of the Senate of the United States, that the bill "to regulate the carriage of passengers by steamships and other vessels," prepared by the Treasury Department, to remedy defects in the existing laws on the subject, from which so much embarrassment has been caused to the shipping interests of the whole country, after being reported unanimously by the Committee on Commerce of the Senate, was arrested in its passage by a deference to the expressed wishes of Senator FISH, as stated in his behalf: And whereas, the provisions of this bill are acceptable to the commercial and shipping interests of the country, as a remedy of existing defects in the law, and as such, have also received the unanimous approval of the Committee on Commerce in the Senate and House of Representatives, and contains no provision inconsistent with the bill on the subject as reported by Senator FISH himself, and the passage of the bill before the rising of Congress is imperatively demanded by the exigencies of the case: And whereas, the only obstacle to its passage is understood to arise from the wish of Senator FISH that the subject should not be acted upon in his absence, unless the law include novel provisions satisfactory to him; and we understand that his absence is to continue for the remainder of the present session of Congress—

Resolved, That the passage of the bill "to regulate the carriage of passengers by steamships and other vessels," as prepared by the Treasury Department, and unanimously approved by the Committees on Commerce of both Houses of Congress, is imperatively demanded to remedy recognized defects of the law, and to protect the merchants and ship-owners of the commercial ports of the whole country from oppressive and vexatious litigation, and ruinous embarrassment in the employment of their vessels.

Resolved, That whatever respect we may entertain for Senator FISH and his views and wishes on this subject, we cannot consent that our important interests should be sacrificed in deference to his absence from the Senate, and thus a measure of pressing necessity, which has secured the approval of the Treasury Department, and the committees of Congress, and is satisfactory to the commercial interests of the country, should be lost.

Resolved, That regarding both the Senators from this State as the guardians of its interests in the Senate of the United States, we cannot consent that either shall be considered as the exclusive representative of its commerce; and that, as Senator FISH will be absent from Washington during the remainder of the session of Congress, we respectfully and earnestly request that Senator SEWARD will, in accordance with his wise and enlightened views in respect to the commerce of the nation, advocate the passage of the bill now before the Senate.

Resolved, That the Representatives from the city of New York in Congress, be respectfully requested to further the passage of the bill now before the Senate, that it may by no means fail to become a law at the present session of Congress.

Resolved, That a copy of these resolutions be published in the papers, and a copy be forwarded to Senator SEWARD, and to each of the Representatives from this city in Congress.

Mr. JONES, of Tennessee. I ask for the regular order of business.

Mr. WHEELER. I desire to have the resolutions which I have presented referred to the Committee on Commerce.

Mr. JONES. I object, and insist on the regular order of business.

The SPEAKER. Objection being made, the Chair will have to rule the resolutions out of order.

Mr. WHEELER. Very well; then I will have to object to everything else out of order; and will have the resolutions referred, under the rule, to the Committee on Commerce.

VETO MESSAGE.

The SPEAKER. The business first in order is the consideration of the President's veto message.

Mr. PECKHAM. I wish to make a motion——

The SPEAKER. The Chair holds that it is not in order to proceed to any other business until the consideration of the veto message is disposed of in some form or other. The pending question in reference to this matter is to postpone the consideration of the message until Saturday, the 3d of March.

Mr. PECKHAM. I do not wish to make any motion at all, if the House will only come to a vote upon this matter.

Mr. CAMPBELL. I wish to inquire of the chairman of the Committee on Foreign Affairs, who reported this bill, if he is desirous of having this matter laid over till Thursday?

Mr. BAYLY. I am.

Mr. CAMPBELL. I will, therefore, under the expectation that the House will agree to that proposition, withdraw the motion which I submitted on Saturday.

Mr. BAYLY. I would be very glad to address myself to this veto message, if it were possible; but my lungs are so exceedingly inflamed that I shall find it impossible to do so at this time. I hope, therefore, that the House will agree to postpone the consideration of this matter till Thursday next.

Mr. McDOUGALL. I wish to ask the gentleman from Virginia a question. If the consideration of this subject should be deferred till Thursday next, will he, if possible, call the previous question, and dispose of the matter at that time?

Mr. BAYLY. No, sir.

Mr. HUNT. No gag law.

The SPEAKER. The question before the House is to postpone the consideration of this matter till Thursday next; and the motion now pending is to strike out "Thursday" and insert "Saturday."

Mr. ORR. I am very anxious that the House should come to a vote upon this veto question directly. I should like extremely to extend to the gentleman from Virginia the opportunity of being heard in reply to the objections which the President has urged against the passage of this bill. It does seem to me, in consideration of the present state of the public business, that it would not be proper to postpone the consideration of this question, which would lead to a protracted debate. The gentleman from Virginia, under these circumstances, cannot consider it discourteous if the House, by a majority, should determine to come directly to a vote upon this question without further debate. Those of us who are inclined to sustain the veto, are perfectly willing, so far as I am informed, to come to a vote now, without further debate.

Mr. BAYLY. I beg leave to say to the House, that I shall not consider it discourteous to me personally, if, for public considerations, the House should deem it proper to take a vote now. It is not my purpose at all to review the message, but I do wish, however, to show the character of the veto power; and I do wish to show, as I think I shall be able to do, that this is not a case for its application. But if the condition of the public business is such that the House desire to vote at once, I have not a word to say adverse to action.

Mr. WASHBURN, of Maine. I would inquire of the gentleman from South Carolina, whether it would not be satisfactory to him to have this matter postponed until Thursday, to be made the special order for that day only? I think that there should be some reconsideration of this message.

Mr. BRECKINRIDGE. I only desire, with the leave of the gentleman from South Carolina, to make a single remark. I do not expect to participate in the discussion of this question, when it takes place. I have certainly no disposition to stifle discussion upon any question. I believe it is the opinion of every gentleman upon this floor, who has taken any pains to ascertain the present state of things, that there never was so much danger to the necessary public business of the country as now. In the few remaining days of the session important appropriation bills, necessary to the public service, may be lost for the want of time; and we have not one hour to spare for anything not immediately and intimately connected with carrying on the operations of Government.

Mr. ORR. In reply to the inquiry propounded by the gentleman from Maine, I would say, the consumption of even a day's time, at this period of the session, will, as suggested by the gentleman from Kentucky, [Mr. BRECKINRIDGE,] jeopardize the passage of important bills.

Mr. PECKHAM. What bill?

Mr. ORR. I will enumerate them. There is, first, the civil and diplomatic bill. Gentlemen who have had experience here upon this floor know that this bill consumes rarely ever less than a week's time, and oftentimes it consumes three weeks' time of the House. The civil and diplomatic bill appropriates $10,000,000, or somewhere in the neighborhood of that sum. We have, then, in addition, the naval appropriation bill, which proposes to appropriate some $7,000,000 or $10,000,000 more. We have also had returned to us from the Senate the Army bill, with a great number of amendments. One of these amendments proposes to increase the regular Army of the country to the extent of four regiments. That will, perhaps, give rise, as it ought, to some debate in the House. In addition to that, there has been returned to us from the Senate the Indian appropriation bill, with numerous amendments that must lead to debate. There is the Military Academy bill, too.

Mr. HOUSTON. The fortification and the Post Office bills will be returned from the Senate to-day.

Mr. ORR. I thank the gentleman for the suggestion. All these matters, Mr. Speaker, have to be disposed of between this and Saturday week. We have remaining but twelve days, including to-day, to dispose of bills appropriating $30,000,000. Some gentlemen near me say $60,000,000, but certainly it is upwards of $30,000,000. This being the condition of the public business, I submit to the House that we have not a day to devote to this discussion; and I submit it with the more confidence, for the reason that this question has been discussed before the House, and the minds of members are made up. The President has exercised his constitutional authority of opposing an objection to this bill, and the probability is, that not a great many votes will be changed. At least gentlemen understand the question as well without debate as with it.

The gentleman from Virginia indicates his purpose if he makes a speech—and I regret, judging from the appearance of the gentleman, and the hoarseness with which he is afflicted, to express the opinion that I fear he will not be able to do by Thursday next——

Mr. HUNT and Mr. CAMPBELL. Others will.

Mr. OLIVER. If the gentleman from South Carolina will yield to me a moment, I desire to say that I can see no possible good to result to the country from a discussion of this veto message at this time. If I could see any possible good to result from it, I should be glad to see it gone into; but we have but twelve days of the session left—only forty-eight hours, according to our ordinary length of sessions, for the transaction of the important business of the session. The gentleman from South Carolina has mentioned the important bills which are pressing for consideration; and among others, he has alluded to the Army bill, to which the Senate has appended a provision increasing the Army, for the protection of our frontiers against the murders which are being perpetrated by the Indian tribes upon our western borders. In view of the shortness of time remaining; in view of the exposed condition of our western frontiers; in view of the fact that the Indians are daily committing murders upon our peaceful and unoffending citizens, I ask this House if they are willing to consume the time proposed in discussing this veto message?

Mr. WASHBURN, of Maine. Will the gentleman allow me a moment of his time?

Mr. WHEELER. I object to this farming out the floor.

Mr. OLIVER. I wish to say only one word further. Gentlemen who seem anxious to discuss this veto message, have not asserted that any possible good can result to the country from such discussion. Gentlemen say they desire to denounce it, because it is a usurpation of power, and because it tramples upon the rights and privileges of this House, and of the country. If gentlemen desire to denounce the veto for such reasons, let them take some other time, some other occasion and opportunity.

Besides, this question has been thoroughly discussed. The distinguished champion of this measure upon this floor [Mr. BAYLY, of Virginia] has spoken twice upon it, and he apologized for saying no more upon it by saying that the honorable gentleman from Ohio [Mr. DISNEY] had exhausted the subject, and had left nothing to any other gentleman to say. The House voted understandingly; the bill passed after due consideration; and it has been vetoed by the President, and now I hope this House will proceed at once to a vote upon the measure.

Mr. CAMPBELL. I ask the gentleman from South Carolina to allow me to say a word.

Mr. WHEELER. I object to this farming out the floor.

The SPEAKER. The Chair would remark that it is not in order for any gentleman to yield the floor except for the purpose of explanation.

Mr. CAMPBELL. I wish to say but a word or two. A few moments ago I withdrew the motion which I submitted and explained on Saturday, to postpone the consideration of this message to the 3d day of March next, with the view of sinking all further discussion upon this subject during this session. I did it because I understood the gentleman from Virginia, who had charge of the bill, was anxious to be heard in reply to the arguments of the message. I see, however, that the purpose of the gentleman from South Carolina [Mr. ORR] is to cut off all debate and bring the House to a direct vote upon the argument submitted by the President, without any opportunity to any one to reply to its most remarkable assumptions. Now, I cannot acknowledge the force of his reasons for driving the House to a vote on the bill in this way. I know the civil and diplomatic bill has not been touched. I urged, Mr. Speaker, the very reasons which the gentleman has given in support of the motion which I made, to rid the House of the whole subject without further consideration, and make way for important unfinished business. The gentleman objected on Saturday, and his purpose now is to bring this House to a direct vote upon the passage of the bill, under the provision of the Constitution, without any reply either from the honorable gentleman from Virginia, [Mr. BAYLY,] or any other member, to what I regard the flimsy and unsubstantial argument of the President. If that is his purpose I notify him now that I will renew, if it becomes necessary, the motion I made on Saturday.

It is not our fault if the civil and diplomatic bill, or any other measure, is lost. It will not be the fault of the House. It is the fault of the President, who has thrown obstacles in the way of business by a most extraordinary assumption of Executive power.

[Cries of "Order!" "Order!"]

The SPEAKER. The Chair is compelled to say that this discussion is not strictly in order. The debate is not confined to an explanation, but assumes the nature of an argument.

Mr. CAMPBELL. I understood the gentleman from South Carolina [Mr. ORR] extended to me the same courtesy which he extended to the gentleman from Missouri, [Mr. OLIVER,] and claim for myself no other right of debate than has just now been extended to him.

The SPEAKER. But other members of the House object.

Mr. CAMPBELL. Then the rule is made to bear more rigorously on me than others.

Mr. ORR. The gentleman from Ohio [Mr. CAMPBELL] is the last man upon this floor who can, with propriety, take the position that the effect of my motion is to cut off debate, with the view of bringing this question before the country upon the argument of the President, as contained in his veto. The very last man; for his proposition on Saturday last was to postpone the consideration of this Executive veto to a period in the session when there could not be any legislative action growing out of it. And now the gentleman rises in his place and says we desire to bring the House to a direct vote upon the question without debate. When that is now proposed to be done he objects, because we desire to preclude argument. Did not his course indicate the very same thing?

Mr. WASHBURN, of Maine. I hope the gentleman will yield to me for a moment.

Mr. ORR. The gentleman must excuse me.

I have now stated, Mr. Speaker, the necessities which, in my judgment, induce the House to come to a direct vote on this question at once. If there be a majority of the House concurring with me in that opinion, the motion which I am going to move will be then seconded, and the House will be brought to a direct vote. If there be not a majority of the House concurring with me my proposition will be voted down. I call for the previous question.

Mr. WASHBURN, of Maine. I hope, Mr. Speaker, that the gentleman's call for the previous question may not be sustained.

Mr. BAYLY, of Virginia. All I desire is that the House may understand the effect of this vote. I have no objection to the previous question being sustained; but that brings the House to a vote on the bill, and not on the proposition to postpone.

The SPEAKER. The effect will be to cut off the motion for postponement, and bring the House to a direct vote on the reconsideration.

Mr. TAYLOR, of Ohio. I demand tellers on sustaining the call for the previous question.

Tellers were ordered; and Messrs. WHEELER and EDMUNDSON were appointed.

The question was taken; and the call for the previous question was sustained; the tellers having reported—ayes 88, noes 74.

Mr. WASHBURN, of Maine. I demand the yeas and nays on ordering the main question to be now put.

The yeas and nays were ordered.

Mr. JONES, of Tennessee. I wish to make an inquiry of the Chair, so that we may vote understandingly on this question. If we refuse to order the main question to be now put, does not this question just go over until to-morrow morning, when it will be put? Debate is now precluded, and we must come to a vote.

The SPEAKER. The Chair will decide questions as they arise. This is a peculiar question before the House. The Chair doubts whether or not, we must not, under the Constitution, consider it in some form before we take up any other business.

Mr. PECKHAM. If the main question be ordered to be now put, we vote alone on the motion for reconsideration?

The SPEAKER. Yes, sir.

The question was taken; and the main question was ordered to be now put—yeas 112, nays 77; as follows:

YEAS—Messrs. Aiken, James C. Allen, Ashe, Barksdale, Barry, Belcher, Benton, Bocock, Boyce, Breckinridge, Bridges, Caruthers, Caskie, Chamberlain, Chastain, Chrisman, Clark, Clingman, Cobb, Cook, Craige, Curtis, John G. Davis, Thomas Davis, Dawson, Dowdell, Drum, Dunbar, Dunham, Eddy, Edgerton, Edmundson, John M. Elliott, Ellison, English, Faulkner, Fuller, Goode, Green, Greenwood, Grow, Hamilton, Andrew J. Harlan, Haven, Hendricks, Henn, Hibbard, Hill, Houston, Hughes, Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kurtz, Lamb, Lane, Letcher, Lindley, Lindsley, Macdonald, McDougall, McMullin, McNair, McQueen, Maxwell, May, Smith Miller, Millson, Morrison, Murray, Nichols, Noble, Olds, Mordecai Oliver, Orr, Packer, John Perkins, Phillips, Powell, Pratt, Richardson, David Ritchie, Thomas Ritchey, Robbins, Rowe, Ruffin, Seward, Seymour, Shannon, Shaw, Shower, Singleton, Skelton, William Smith, William R. Smith, Frederick P. Stanton, Richard H. Stanton, Stratton, Straub, Andrew Stuart, John J. Taylor, Teller, Thurston, Vansant, Walker, Warren, Wells, Daniel B. Wright, and Hendrick B. Wright—112.

NAYS—Messrs. Thomas H. Bayly, Ball, Banks, Bennett, Benson, Bliss, Bristow, Brooks, Campbell, Carpenter, Chandler, Chase, Corwin, Cox, Crocker, Cullom, Cutting, De Witt, Dickinson, Disney, Eastman, Edmonds, Thomas D. Eliot, Etheridge, Farley, Fenton, Flagler, Florence, Gamble, Giddings, Goodrich, Goodwin, Aaron Harlan, Harrison, Hastings, Hiester, Howe, Hunt, Kittredge, Knox, Latham, Lyon, McCulloch, Mace, Meacham, Middleswarth, Morgan, Norton, Andrew Oliver, Parker, Peck, Peckham, Pennington, Bishop Perkins, Pringle, Puryear, Ready, Reese, Riddle, Russell, Sabin, Sapp, Simmons, Sollers, John L. Taylor, Nathaniel G. Taylor, Tracy, Upham, Wade, Walbridge, Elihu B. Washburne, Israel Washburn, John Wentworth, Tappan Wentworth, Wheeler, Yates, and Zollicoffer—77.

So the main question was ordered to be now put.

Mr. ORR. I move to reconsider the vote by which the main question was ordered to be now put, and that that motion be laid upon the table.

The latter motion was agreed to.

The SPEAKER. Will the House, on reconsideration, agree to pass the bill?

Mr. FLORENCE. I demand the yeas and nays.

The SPEAKER. The yeas and nays are ordered by the Constitution itself.

Mr. PRATT. The question is not understood in this part of the Hall.

The SPEAKER. It is, whether, on reconsideration, the bill shall or shall not pass? Those in favor of the passage of the bill, the President's objections to the contrary notwithstanding, will answer, when called, aye; those opposed will answer, no.

The question was then taken on the passage of the bill; and it was disagreed to—yeas 113, nays 86; as follows:

YEAS—Messrs. Abercrombie, Aiken, Willis Allen, Appleton, Thomas H. Bayly, Ball, Banks, Belcher, Bennett, Benson, Bliss, Bridges, Bristow, Brooks, Campbell, Carpenter, Caruthers, Chamberlain, Chandler, Chase, Clingman, Cook, Corwin, Crocker, Cullom, Curtis, Cutting, Thomas Davis, De Witt, Dickinson, Disney, Eastman, Edgerton, Edmands, Thomas D. Eliot, Everhart, Farley, Fenton, Florence, Fuller, Gamble, Giddings, Goodrich, Goodwin, Harrison, Hastings, Haven, Hill, Howe, Hunt, Ingersoll, J. Glancy Jones, Keitt, Kerr, Kittredge, Knox, Lindley, McCulloch, Macdonald, McDougall, Macy, Matteson, Maxwell, May, Mayall, Meacham, Middleswarth, Morgan, Norton, Packer, Parker, Peck, Peckham, Pennington, Bishop Perkins, Phillips, Pratt, Pringle, Puryear, Ready, Reese, Riddle, David Ritchie, Robbins, Russell, Sabin, Seymour, Shower, Simmons, William Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Tracy, Trout, Tweed, Upham, Vansant, Wade, Walbridge, Walker, Elihu B. Washburne, Israel Washburn, John Wentworth, Tappan Wentworth, Westbrook, Wheeler, Yates, and Zollicoffer—113.

NAYS—Messrs. James C. Allen, Ashe, David J. Bailey, Barksdale, Barry, Benton, Bocock, Boyce, Breckinridge, Caskie, Chastain, Chrisman, Clark, Cobb, Cox, Craige, John G. Davis, Dawson, Dowdell, Dunbar, Dunham, Eddy, Edmundson, John M. Elliott, Ellison, English, Etheridge, Faulkner, Goode, Green, Greenwood, Grey, Grow, Hamilton, Andrew J. Harlan, Hendricks, Henn, Hibbard, Houston, Hughes, Johnson, Daniel T. Jones, George W. Jones, Roland Jones, Kurtz, Lamb, Lane, Latham, Letcher, Lilly, Lindsley, McMullin, McNair, McQueen, Smith Miller, Millson, Morrison, Murray, Nichols, Noble, Olds, Mordecai Oliver, Orr, John Perkins, Powell, Richardson, Thomas Ritchey, Rowe, Ruffin, Sapp, Seward, Shannon, Shaw, Singleton, Skelton, Samuel A. Smith, William R. Smith, George W. Smyth, Stratton, Straub, Andrew Stuart, John J. Taylor, Warren, Witte, Daniel B. Wright, and Hendrick B. Wright—86.

So, two thirds not voting in the affirmative, the House refused to pass the bill over the President's veto.

Previous to the announcement of the above vote,

Mr. ETHERIDGE said: Mr. Speaker, I voted against the bill on its passage, and shall vote against it now; but I do not wish to have my vote considered as either approving or disapproving the President's veto message.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, their Secretary, notifying the House that that body had passed sundry bills, and asked its concurrence therein.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; which received the Speaker's signature:

An act for the relief of Henry A. Marsh;

An act for the relief of Rebecca Winn, widow and executrix of the last will and testament of Timothy Winn, deceased, late a purser in the Navy of the United States; and

An act to establish the office of surveyor general of Utah, and to grant land for school and university purposes.

CHANGE OF THE HOUR OF DAILY MEETING.

Mr. ETHERIDGE. I submit the following resolution:

Resolved, That after this day the hour of daily meeting of this House be eleven o'clock, a. m.

[Cries of "I object!"]

Mr. ETHERIDGE. Objection being made, I move a suspension of the rules to enable me to submit that resolution.

The question was taken; and the rules were suspended.

Mr. WENTWORTH, of Massachusetts. I move to amend the resolution by adding as follows:

Resolved, That on Tuesday, Thursday, and Saturday of the present week, the House will meet one hour before the usual time, and that such hour be devoted to the reception of reports from committees to be recommitted, or to lie upon the table—the committees to be called in their usual order.

Mr. DISNEY. I object.

The SPEAKER. As the resolution offered as an amendment relates to a different subject from that of the original resolution, the Chair is of the opinion that, being objected to, it is not in order.

Mr. ETHERIDGE. I call for the previous question on my resolution.

The call for the previous question received a second, and the main question was ordered to be now put.

The question was taken; and the resolution was passed.

Mr. ETHERIDGE. I rise to a privileged question. I move to reconsider the vote by which the resolution was passed, and to lay the motion to reconsider on the table.

The question was taken; and the latter motion agreed to.

COMMITTEE OF THE WHOLE.

Mr. HAVEN. Is it in order to move to go into the Committee of the Whole on the state of the Union?

The SPEAKER. It is in order.

Mr. HAVEN. Without enlarging upon what has been said in relation to the condition of the public business, I desire to test the sense of the House——

Mr. HENN. I call the gentleman to order. I want to know what is before the House?

The SPEAKER. The gentleman is not in order in his remarks unless he submits some proposition.

Mr. HAVEN. Well, sir, I move that the rules be suspended and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken; and the motion was agreed to—ayes ninety-six, noes not counted.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair.)

CIVIL AND DIPLOMATIC BILL.

Mr. JONES, of Tennessee. I move to take up the bill of the House (No. 569) making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1856, and for other purposes.

Mr. HOUSTON. That is the unfinished business. There is no need of the motion.

Mr. HENN. I ask the Chair if that bill is the first business in order?

The CHAIRMAN. It is not; but that fact makes no difference in the opinion of the Chair. The Chair thinks it is in order to move to take up any appropriation bill.

Mr. HENN. Is there not another appropriation bill in advance of that?

The CHAIRMAN. There is; but that makes no difference. The Chair decides the motion of the gentleman from Tennessee to be in order.

The question was put; and the motion agreed to.

Mr. FAULKNER. I move to lay aside the civil and diplomatic bill and take up the Army appropriation bill.

The CHAIRMAN. It is the opinion of the Chair that the motion is not in order, the Committee having just decided to take up the bill now under consideration. The Clerk will proceed to read the bill.

Mr. FAULKNER. I must take an appeal from the decision of the Chair.

The CHAIRMAN. The committee have voted to take up and now proceed to the consideration of the civil and diplomatic bill. The gentleman from Virginia moves to lay aside that bill, and to take up the Army appropriation bill. The Chair decides that the committee having voted to proceed with the consideration of the bill they have taken up, the motion of the gentleman from Virginia is not in order. From this decision that gentleman takes an appeal, and the question is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was taken; and the decision of the Chair sustained.

Mr. JONES, of Tennessee. I ask the consent of the House to dispense with the first reading of the bill.

Mr. WHEELER. I object.

The CHAIRMAN. Then the Clerk will proceed with the reading of the bill.

Mr. JONES. I have only to remark that I

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. TUESDAY, FEBRUARY 20, 1855. NEW SERIES....No. 52.

hope the gentleman from New York will find the reading of the bill entertaining.

The CHAIRMAN. The Clerk will proceed to read the bill.

The Clerk proceeded to read.

Mr. ORR. Is it in order to move to dispense with the first reading of the bill, and to read it by paragraphs for amendment? If it is, I make that motion.

The CHAIRMAN. The Chair thinks not. The rule is imperative, and unless the gentleman from New York withdraws his objection, the bill must be read through.

Mr. HENN. I appeal to the gentleman from New York to withdraw his objection.

The CHAIRMAN. The gentleman from New York has been appealed to half a dozen times to withdraw his objection, and has refused. The Clerk will proceed to read the bill.

Mr. ORR. I desire to ask the Chair one question. The reading of this bill through before reading for amendments has never been practiced by the House. The gentleman from New York, however, now insists upon that reading. I desire to inquire of the Chair whether, if the committee now agree to rise, it will be in the power of the House to suspend the rule requiring the first reading of this bill?

The CHAIRMAN. The Chair so thinks.

Mr. ORR. I then submit that motion. It will occupy much less time than to read the bill through.

Mr. JONES, of Tennessee. I hope the gentleman will not submit that motion.

Mr. WHEELER. I withdraw my objection.

The reading of the bill by paragraphs for amendments was then proceeded with.

Mr. MURRAY. I move to amend the bill by striking out the word "seventy," in the seventy-eighth line, and inserting "one hundred" in lieu thereof, so as to make it read, "for binding documents, $100,000."

The amendment was agreed to.

Mr. MURRAY. I have another amendment which I desire to offer. I move to insert, after the ninetieth line, the words "for additional engraving and lithographing, $30,000."

Mr. JONES, of Tennessee. I ask the gentleman from New York if that is from the Committee on Printing?

Mr. MURRAY. Yes, sir; from the Joint Committee on Printing.

The amendment was agreed to.

Mr. McDOUGALL. I offer the following amendment:

After the ninety-third line, insert as follows:

For compensation to F. W. Lander, civil engineer, for furnishing a report of his reconnoissance for a railroad route from Washington and Oregon Territories, by way of Fort Hall, to the Salt Lake, $5,000.

We passed an order last session authorizing the Secretary of War to procure this report; it was ordered to be printed, and is now published as one of the documents of the House. I wish only to state that this is a mere matter of justice to Mr. Lander.

Mr. HOUSTON. This is not the right place for the amendment. It ought to come in under a different head.

The CHAIRMAN. Does the gentleman from Alabama raise a question of order?

Mr. HOUSTON. I think the amendment is out of place here. This portion of the bill is to provide for the expenses proper of the House of Representatives. And it is not competent to attach to a clause of that kind a provision for railroad surveys.

Mr. McDOUGALL. The Secretary of War, by the order of this House last session, was directed to procure the report of F. W. Lander. It was procured from him by the Secretary, and published by order of the House. It seems to me that it can be introduced at this point as appropriately as at any other in the bill.

I will now briefly explain my amendment. Mr. F. W. Lander is an eminent civil engineer who accompanied Governor Stevens in his survey of the northern route. Upon his arrival in that Territory, the Legislative Assembly of the Territory passed a resolution requesting Mr. Lander to conduct a reconnoissance from Puget's Sound, so as to communicate with what it was supposed would be a central route to California, and which was then supposed by that Legislature to be the only practicable one. The Legislature have passed a resolution requesting their Delegate upon this floor to ask Congress to pay him his expenses.

At his own expense he made a reconnoissance from Puget's Sound, by Fort Hall and the Salt Lake, to the Mississippi river. At his own expense he prepared his report and furnished it in response to the order of this House. It is an able report, prepared by an able civil engineer, and all he asks is, that you will return to him, for his expenses and his services, the small sum of $5,000, whereas the reconnoissance conducted by Governor Stevens cost the Government some $60,000. I think it a mere matter of absolute justice.

Mr. JONES, of Tennessee. I do not intend to go into a discussion of this policy of railroad surveys, but to ask the gentleman to withdraw his amendment, and bring it in under the miscellaneous head, and not put it in here among the items for the contingent expenses of the House of Representatives.

Mr. McDOUGALL. I will state to the gentleman from Tennessee that I think the amendment is as good here as anywhere else. This item is to pay for a reconnoissance and report which was ordered by the House to be procured.

Mr. JONES. The gentleman has said that it was procured by the Secretary of War.

Mr. McDOUGALL. Yes; but the Secretary of War was required, by order of the House, to procure it.

Mr. BENTON. Let me say a word before the question be taken. I will say to the committee that Mr. Lander is a practical civil engineer, and has been engaged in the business practically for some fifteen years. He went out with Governor Stevens as part of his expedition, and having gone through the passage of Puget's Sound, he returned on a different route, making a reconnoissance on a different line, and thereby, in my opinion, doubling his service; and it is for the survey of this return route that it is now proposed to pay his expenses. That is all.

The question was taken; and the amendment was agreed to.

For two messengers in Clerk's office, $3,600.

Mr. SMITH, of Virginia. I simply desire to ask why we have to pay two messengers in the Clerk's office this large sum of $3,600?

Mr. JONES, of Tennessee. That is done by a resolution of this House. The item immediately before this is one appropriating $1,740 to a messenger in the Hall. These salaries have been fixed by resolution at different times. This item is to pay two messengers in the Clerk's office, whose salaries, by order of the House, amount to this sum.

Mr. CLINGMAN. One thousand eight hundred dollars each, is it?

Mr. JONES, of Tennessee. Yes; the salary of these officers was, previous to last session, $1,500, and at last session we gave them twenty per centum additional, which additional pay amounts to $300.

Mr. CLINGMAN. And this item is in conformity with the resolution of last session?

Mr. JONES. Yes, sir.

Mr. CLINGMAN. Would it be in order to take the sense of the House as to the amount of these salaries? If it were in order, I would move to strike out the amount, and reduce it to what these salaries were before they were raised by the House. I do not know what the feeling of the House on the subject is. I very well know that I opposed the increase of salaries last year as unnecessary. It was, however, said at that time, that money was so plenty that men could not live on their then salaries. Money is not quite so plenty now, and I want to see whether Congress desires to bring back prices to what they were a year or two ago. Therefore, not with a view of throwing any obstacles in the way of business, but as this is the first item to which my attention is called, I offer to make a motion to reduce the amount. I would say to the House that, last year and the year before, salaries were increased upon the ground of the extraordinary contingency which has fallen upon the country. I then told gentlemen that I never knew of salaries being reduced. As times are much harder and money less plenty now than a year ago, I wish to say why I acted on the reasoning of the last session, and I hope——

Mr. ORR, (interrupting.) I want to suggest to the gentleman from North Carolina, that while I concur with him in his notions of economy, yet we have provided by existing resolutions and laws for the payment of such and such salaries. And if we reduce these appropriations now, we do not thereby change existing laws; and these clerks would have claims to come before Congress for additional compensation.

Mr. CLINGMAN. I presume, Mr. Chairman, that my friend from South Carolina is right. That resolution which passed last year is a permanent one, and I would take nothing by making the motion. I will therefore withdraw it.

For reporting the debates of the second session of the Thirty-Third Congress, $7,500.

Mr. HAVEN. I desire, Mr. Chairman, to offer an amendment here; and I wish to say to the committee that I do not desire them to vote upon it without understanding it. It comes from no committee whatever. I offer it on my own suggestion. It is to pay the reporters. I offered a similar amendment last year, and I, for one, am willing to vote them this year what they have asked, and what they have heretofore received from Congress for successive years. They have to work nights, while we work only days. I offer the following amendment:

To enable John C. Rives to pay the reporters of the House for the Congressional Globe, to wit, William W. Curran, William Hincks, Francis H. Smith, John J. McElhone, Theodore F. Andrews, Charles B. Collar, and Henry G. Hayes, the same amount of additional compensation for reporting the debates of the House for the present session of Congress as has been heretofore paid them, $800 each—$5,600: *Provided*, The usual extra compensation shall not be allowed to said reporters at the close of the present session.

There is nothing more that I desire to say in reference to this proposition. It stands upon its own merits, and is sanctioned, I believe, by every member of the House.

The question was taken; and the amendment was adopted.

For purchase of law books for said library, $2,000.

Mr. MURRAY. I desire here to offer an amendment from the Joint Committee on Printing. The amendment is as follows:

For the completion of the printing of the Senate ordered at the present session, and paper for the same, $30,000.

To complete the printing of the House ordered at the present session, and paper for the same, $60,000.

Mr. JONES, of Tennessee. I would say to the gentleman from New York, [Mr. MURRAY,] that this amendment of his is to supply a deficiency. There are deficiency items at the end of the bill, and it is better to have this put in there.

Mr. MURRAY. I think it might as well go in where I propose.

Mr. JONES. This is a deficiency, and this part of the bill does not go into effect till the 30th of June next. It is better for the gentleman to reserve his amendment and bring it in among the deficiency items at the end of the bill.

Mr. MURRAY. Very well. I withdraw my amendment for the present.

For compensation of the Secretary of State and Assistant Secretary of State, clerks, messenger, assistant messenger, and laborers in his office, $48,342.

Mr. MEACHAM offered the following amendment:

That the Secretary of State be, and he is hereby, authorized and required to arrange the clerks in the Department of State according to the classification designated in the third section of the "Act making appropriations for the civil and diplomatic expenses of Government for the year ending

the 30th of June, 1854," approved March 3, 1853; and that the clerks so classified shall receive the same compensation as has been paid to the clerks of the same grades in the other executive departments; said compensation to take effect from and after the 1st day of July, 1853: *Provided*, That, under the operation of this resolution, no salary shall be reduced prior to the 1st day of July, 1855.

Mr. JONES, of Tennessee. I submit that the amendment is not in order to this bill, under the rules of the House. It changes the rate of compensation, and introduces new legislation.

The CHAIRMAN. The Chair is of the opinion, for the reason stated by the gentleman from Tennessee, that the amendment is not in order.

For binding books and music in the copy-right bureau, and procuring portfolios for prints and engravings, $500.

Mr. MAY offered the following amendment:

That the Secretary of State be, and he is hereby, authorized and instructed to purchase from the publishers thereof, two thousand copies of the tenth volume of the Statutes at Large of the United States, published by Little & Brown, for distribution according to the acts and resolutions of Congress directing the same. And the sum of $7,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to carry this provision into effect.

That the sum of $4,125 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to pay said Little & Brown for the volumes of the acts of the last session of Congress furnished by them to the Department of State for distribution in conformity to the acts and resolutions aforesaid; the same to be paid to them by the Secretary of State.

That the sum of $2,500 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of State to purchase of Little & Brown, the publishers thereof, five hundred copies of their new edition of Wheaton's Elements of International Law; the same to be distributed to the foreign ministers and consuls, and to the Departments at home.

Mr. JONES, of Tennessee. The Committee of Ways and Means have prepared an amendment to come in at that place. The subject embraced in the amendment offered by the gentleman from Maryland was referred to the committee, and they have acted upon it.

Mr. MAY. I am happy to hear that the Committee of Ways and Means have recommended a proposition which is so reasonable.

Mr. JONES. I offer the following amendment in lieu of that which the gentleman from Maryland has offered:

To enable the Secretary of State to purchase of Messrs. Little, Brown & Co five hundred copies of their new edition of Wheaton's Elements of International Law, to be distributed to foreign ministers, consuls, and Departments at home, $2,500;

To enable the Secretary of State to purchase fifty copies of each volume of the Sixteenth and Seventeenth of Howard's Reports of the Decisions of the Supreme Court of the United States, $500;

To enable the Secretary of State to purchase of Messrs. Little, Brown & Co. two thousand copies of the tenth volume of the United States Statutes at Large, for distribution, agreeably to the acts of Congress directing the distribution of the other volumes, $7,000.

The question was taken; and the amendment was agreed to.

Mr. MAY. I offer the following amendment:

That the Secretary of the Interior be, and he hereby is, authorized to purchase from the publishers thereof, one hundred and eighty copies of Alden's Index to the Reports of the Supreme Court of the United States, and that he distribute the same, when purchased, as follows:

For the use of the Supreme Court of the United States, twelve copies;

For each court of the United States, including territorial courts, forty-eight copies;

For the United States district attorneys, fifty-six copies;

For executive departments of Government, seven copies;

For Governors of Territories, seven copies;

For First and Second Comptrollers of the Treasury Department, two copies;

For Auditors of Treasury Department, six copies;

For Solicitor of the Treasury, one copy;

For Register of the Treasury, one copy;

For Commissioner and Recorder of the General Land Office, two copies;

For Commissioner of Patents, one copy;

For President of the United States, two copies;

One copy to each of the following standing committees of the Senate, to wit: on Foreign Relations, on Finance, on Commerce, on Public Lands, on Claims, on Territories, on the Judiciary—seven copies;

One copy to each of the following standing committees of the House of Representatives, to wit: of Ways and Means, of Claims, on Commerce, on Public Lands, on the Judiciary, on Foreign Affairs, on the Territories—seven copies;

And the residue to the law department of the Library of Congress. And the money required for this object is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. JONES, of Tennessee. I submit the point of order that there is no law authorizing this appropriation, and it is not asked for by any Department of Government.

Mr. MAY. The book proposed to be purchased is an Index of the Decisions of the Supreme Court of the United States. Under existing laws those reports are provided for the use of the Departments of the Government. The design of the amendment I have offered is to give this digested Index to the Departments that are already furnished with the text books. The Judiciary Committee have authorized me to report it as an amendment to this part of the bill.

Mr. HOUSTON. The amendment offered by the gentleman from Maryland proposes a distribution unknown to the laws heretofore. It proposes to distribute this Index to committees, which is not only an innovation upon the practice of this House, but an innovation upon law. There is no authority of law to purchase this digested Index, and this distribution is not to be made in pursuance of any existing law.

Mr. MAY. In that respect the chairman of the Committee of Ways and Means is right; but the Committee on the Judiciary, and gentlemen upon other committees, thought that the book was one of so much value, presenting so much law touching the duties to be performed by committees, that it ought to be distributed to some of the standing committees. We have felt, in the Committee on the Judiciary, the importance of possessing such an Index, and we have, therefore, recommended that this distribution should be made. The amendment I propose gives to half a dozen of the principal committees only a single copy each. Copies are also distributed to the Supreme Court, and to the courts of the United States, including territorial courts.

The CHAIRMAN. The Chair is of the opinion that the point of order taken by the gentleman from Alabama is well taken, as the amendment changes existing law.

Mr. SOLLERS. I want to inquire of the Chair at what time it would be in order to move, as an amendment to the civil and diplomatic bill, the bill which has just been vetoed by the President, entitled "An act to provide for the ascertainment and satisfaction of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801;" for if I can get an opportunity I intend to offer that bill as an amendment, and I hope and trust that every friend of the veto power will stand by me, for there has never been so deadly a blow struck at the rights of the people as was struck by the President of the United States when he sent in his veto message here. If I retain a single democratic principle——

Mr. ORR. I rise to a question of order. I do not like to interrupt the gentleman from Maryland, but certainly he is not in order.

Mr. SOLLERS. Well, I am making an inquiry of the Chair.

The CHAIRMAN. The Chair would say to the gentleman from Maryland that he can only decide questions of order as they come up.

Mr. SOLLERS. At what period will it be in order to offer that amendment?

The CHAIRMAN. The Chair will decide, when the amendment is offered, whether it is in order or not.

Mr. SOLLERS. Then I offer it now.

Mr. JONES, of Tennessee. It is not necessary to read the amendment. As I understand, it is the vetoed French spoliation bill. I submit to the Chair that that bill is not in order as an amendment to the civil and diplomatic bill.

The CHAIRMAN. If the amendment be of the nature indicated by the gentleman from Tennessee, [Mr. JONES,] the Chair is of opinion it is a private claim, and not in order as an amendment to the civil and diplomatic bill.

Mr. SOLLERS. I appeal from that decision of the Chair.

The CHAIRMAN. The Chair has decided that the bill known as the French spoliation bill is not in order as an amendment to the civil and diplomatic bill. From that decision the gentleman from Maryland appeals. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. MEACHAM. I call for the reading of the amendment, so that we may know what it is.

The amendment was then read, as follows:

Insert, after the hundred and sixty-fifth line, the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That satisfaction shall be made, as hereinafter provided, to an amount not exceeding $5,000,000, to such citizens of the United States, or to their legal representatives, as had valid claims to indemnity upon the French Government, arising out of illegal captures, detentions, forcible seizures, illegal condemnations, and confiscations, committed prior to the ratification of the convention between the United States and the French Republic, concluded on the 30th day of September, 1800, the ratifications of which were exchanged on the 31st day of July following: *Provided*, That the provisions of this act shall not extend to such claims as are stipulated for and embraced in the convention between the United States and the French Republic, concluded on the 30th day of April, 1803, and for the liquidation and payment whereof provision is made in the said convention; nor to such claims as were allowed and paid, in whole or in part, under the provisions of the treaty between the United States and Spain, concluded on the 22d day of February, 1819; nor to such claims as were allowed, in whole or in part, under the provisions of the treaty between the United States and France, concluded on the 4th day of July, 1831: *And provided, also*, That in all cases of transfer or assignment, except gifts or donations, no assignee shall be entitled to receive an amount beyond the consideration paid, and interest thereon, provided the same do not exceed the amount to which he would be entitled if such assignee were the original holder.

SEC. 2. *And be it further enacted*, That for the purpose of carrying into effect the provisions of this act, and to ascertain the full amount and validity of said claims, three commissioners shall be appointed by the President, by and with the advice and consent of the Senate, who shall meet at the city of Washington, on or before the first Monday in October next, and, within the space of two years from the time of their first meeting, shall receive, examine, and decide upon the amount and validity of all the claims included within the description above mentioned; and the Secretary of State is required, forthwith, after the passage of this act, to give notice of said meeting, to be published in three newspapers in Washington, and in such other papers as he may think proper. The said commissioners shall take an oath or affirmation, to be entered on the record of their proceedings, for the faithful and diligent performance of their duties; and in case of the death or resignation of any such commissioner, his place may be supplied by appointment as aforesaid, or by the President during the recess of the Senate, of another commissioner in his stead. The said commissioners shall be authorized to hear and examine all questions relative to the said claims, and to receive all suitable testimony, on oath or affirmation, and all other proper evidence and documents concerning the same; and the rules for the decision of said commissioners shall be the principles of justice, the law of nations, and the former treaties between the United States and France, to wit: the treaty of amity and commerce of the 6th of February, 1778, the treaty of alliance of the same date, and the consular convention of the 14th of November, 1788. Their decisions shall be in writing, and filed with their secretary, and the individuals interested therein shall, on demand, have a copy thereof; and the promulgation of the decisions of said commissioners shall be in public. The said commissioners shall not, at any one time after the first day of December next, adjourn for a longer period than ten days, without the consent of the President of the United States, in writing, first had and obtained.

SEC. 3. *And be it further enacted*, That the said commissioners shall be, and they are hereby, authorized to make all needful rules and regulations, not contravening the laws of the land or the provisions of this act, for carrying their said commission into full and complete effect.

SEC. 4. *And be it further enacted*, That it shall be the duty of the Secretary of State to procure, within the shortest time after the passage of this act, through the American Minister at Paris, or otherwise, all such evidence, and documents relating to said claims, as can be obtained from abroad; which, together with the like evidence and documents on file in the Department of State, or which may be filed in the said Department, may be used before said commissioners by the claimants interested therein; but the same shall not be removed from the files of said commissioners.

SEC. 5. *And be it further enacted*, That the awards of all such claims as may be admitted and adjusted by the said commissioners, to an amount not exceeding $5,000,000, shall be paid *pro rata;* and that the Secretary of State, acting upon that principle, shall ascertain and fix the amount to be paid upon each award.

SEC. 6. *And be it further enacted*, That the record of the proceedings of said commissioners, and the documents produced before them, shall, after the commission is closed, be deposited in the Department of State.

SEC. 7. *And be it further enacted*, That so soon as said commission is closed, and the records of proceedings of the commissioners are deposited in the Department of State, the Secretary of the Treasury shall, on the application in writing of any claimant, his lawful attorney, executor, administrator, or assignee, forthwith sign and issue to the person entitled thereto, certificates of United States five per cent. stock, in such sums as such applicant shall desire, not less than $200 in each certificate, unless the award be for a less sum, for the full *pro rata* amount awarded to such claimant; and such certificates of stock shall be redeemable, at the pleasure of the United States.

SEC. 8. *And be it further enacted*, That the President of the United States is hereby authorized to take any measure which he may deem expedient for organizing the said board of commissioners, and for this purpose appoint, with the advice and consent of the Senate, a secretary well versed in the French and Spanish languages; and the said commissioners shall have power to appoint a clerk, and also a messenger.

SEC. 9. *And be it further enacted*, That the compensation of the respective officers, for whose appointment provision is made by this act, shall not exceed the following sums, which shall be paid out of an appropriation hereafter to be provided:

To each commissioner, at the rate, by the year, of $3,000, for two years only. No compensation shall be allowed them for a longer period.

To the secretary of the board, at the rate, by the year, of $2,000.

To the clerk, at the rate, by the year, of $1,000; and to the messenger, at the rate, by the year, of $500: *Provided*, That the whole expenses of the commission shall not exceed $50,000.

SEC. 10. *And be it further enacted*, That during the continuance of said commission, all documents and communications having relation to said claims, which shall be addressed to or from the said secretary, shall be free from postage.

SEC. 11. *And be it further enacted*, That the sum of $5,000,000 herein specified, shall be in full discharge of all claims for compensation for the class of cases provided for in this act; and that the presentation of any claim or memorial to the commissioners, for adjudication under this act, shall be taken to be a release and discharge of the United States from all other and further compensation that he, she, or they, may be entitled to receive under the provisions of this act: *Provided, however*, That in case any alleged holder of any claim contemplated by this act shall fail, for any cause, to present the same for adjudication and adjustment, as is herein provided, such claim shall forever after be deemed and taken as altogether invalid, in whose hands soever the same may be. It being the true intent and meaning of this act that the proper amount of indemnity for the damages herein provided for cannot be considered in the aggregate to exceed the amount herein appropriated, however much the claims for indemnity in the aggregate may exceed that sum. And should the Board of Commissioners, under their rules and regulations of allowance, find a larger aggregate, the reduction, *pro rata*, then required, shall only be considered as a mode of ascertaining the true amount of damages sustained in each case.

SEC. 12. *And be it further enacted*, That an attorney to the said board shall be appointed by the President, by and with the advice and consent of the Senate, whose duty it shall be to resist all unjust claims, and to protect the interest of the United States and of the fund that may be appropriated to carry this act into execution; and, to this end, he shall have power to examine witnesses and to cause testimony to be taken, and have access to all testimony before the commission for the purpose of examining it, and a right to be heard in all cases. He shall be sworn to the faithful performance of his duty as attorney, and shall be entitled to the same compensation as one of the commissioners."

Mr. ORR. I can hardly suppose that my friend from Maryland is serious in his purpose to have the French spoliation bill ingrafted upon the civil and diplomatic appropriation bill.

Mr. SOLLERS. I have offered the amendment. The Chair decided it out of order, and the question now is upon my appeal from that decision, which I take is not debatable, and I call the gentleman to order.

Mr. ORR. I am in order in discussing the appeal.

The CHAIRMAN. The gentleman from South Carolina has the floor. The Chair will state the case. The gentleman from Maryland offered the French spoliation bill as an amendment to the one now under consideration. The Chair decided the amendment to be out of order. From that decision the gentleman took an appeal, and the question now is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. HOUSTON. I would appeal to my friend from South Carolina to let us have a vote on the question. If discussion be commenced on the point we can hardly tell where it will end.

Mr. ORR. I will withhold the remarks which I intended submitting and only ask that the 81st rule be read for the information of the committee.

The Clerk read the 81st rule as follows:

"No appropriation shall be reported in such general appropriation bill, or be in order as an amendment thereto for any expenditure not previously authorized by law unless in continuation of appropriations for such public works and objects as are already in progress, and for contingencies for carrying on the several departments of the Government."

Mr. SEYMOUR. I am a friend to the French spoliation bill, but this amendment is clearly out of order, and I shall vote to sustain the Chair's decision.

[Cries of "Order!" "Order!"]

Mr. SEYMOUR. This question is debatable, but I have no disposition to debate it, as the amendment is clearly out of order. I shall vote to sustain the Chair's decision, although decidedly in favor of the vetoed French spoliation bill.

Mr. KERR. Mr. Speaker, I simply desire to state that I am as much in favor of the French spoliation bill as any man in this body, but I regard this amendment as out of order. Even if I did not so regard it, I would not vote to put it upon the civil and diplomatic appropriation bill, and for the reason that it might force the President to veto a measure which would stop the wheels of the Government. I have no idea of any such system of legislation.

Mr. TAYLOR, of Ohio. Mr. Chairman, I simply want to remark that a majority of this House this morning refused to allow us the privilege of discussing the veto message, even for an hour, or to assign a day for its discussion. I am a friend to the French spoliation bill, and opposed to the exercise of the veto power upon questions of expediency as claimed by the President in the last veto message which he has sent us. This is one of three vetoes during the present Congress, a most extraordinary manifestation of the power of the Executive, General Washington, I believe, having only vetoed one or two bills during his eight years of service. I say, sir, I am willing to sustain my friend from Maryland in offering the French spoliation bill as an amendment to the civil and diplomatic bill. I am of opinion that the amendment is in order. And, Mr. Speaker, I take occasion to say here, that if I were in the majority in this House, sooner than proscribe debate on so great a measure as the veto message of the President, as was done this morning, I would allow all the appropriation bills of the present session to fail, and let a new Congress come together to discuss them. I deem the discussion of the principles which are involved in the President's veto message, as of vastly more importance to the liberty of the people of this country, than to pass all your appropriation bills.

Mr. JONES, of Tennessee. I rise to a question of order. It is not now in order to discuss the veto message, or what the House did this morning. The House a week ago adopted a resolution that, with the exception of night sessions, all debate should be confined to the subject under consideration. This is a mere question of order.

The CHAIRMAN. The Chair must remind gentleman, on both sides of the committee, that while this question of order is debatable on appeal, yet it must be confined to that question, which is, whether the decision of the Chair, in ruling the amendment out of order, is right under the rules? The Chair is of the opinion that it is not in order to discuss the merits of the veto message upon the French spoliation bill.

Mr. TAYLOR. I will waive that, for I find that it is evidently distasteful to a majority of the committee to hear anything in regard to that veto message.

Now, Mr. Speaker, I come to the French spoliation bill itself. That bill provides for the payment of just claims, which have been recognized and passed by two Congresses, and which have been favorably reported on by committees more than twenty different times. They are just and honest claims, and ought to be in order to the civil and diplomatic appropriation bill.

Mr. CUMMING. I rise to a question of order. The appeal from the decision of the Chair is the question now before us, and not the President's veto message, nor the French spoliation bill.

The CHAIRMAN. The question being raised the Chair must decide that discussion must be confined to the subject under consideration.

Mr. TAYLOR. I was endeavoring to confine my remarks as strictly as possible within the rules of the House.

The CHAIRMAN. Gentlemen must confine their remarks to the appeal from the decision of the Chair. They can go on to show that the amendment of the gentleman from Maryland is in order to this bill.

Mr. TAYLOR. The bill under consideration is for the purpose of carrying on the Government of the United States. It appropriates money for all the civil departments, and, in my humble judgment, one of the best things which can be done in administering the Government, is to pay all the just and honest claims against it, even if they be of very long standing. I do not know of any better ascertainment of the justice of the claims provided for by the French spoliation bill, than what has been done heretofore by Congress after Congress. Those claims have been carefully examined by many of the most eminent men of the country, and they have reported favorably upon them time and time again, during the last forty years. And, sir, if I were to illustrate the propriety of annexing a bill of this character to the civil and diplomatic appropriation bill, I would say that the claim is as just, and may be as properly considered by the members of this committee, as the claim of the heirs of Baron de Kalb, passed and approved at this session. The De Kalb claim was more ancient than those for French spoliations.

Mr. ORR. Has that claim been attached to the civil and diplomatic bill?

Mr. TAYLOR. I will answer the gentleman from South Carolina.

The CHAIRMAN. The Chair must decide that the remarks of the gentleman from Ohio are not in order.

Mr. TAYLOR. Well, sir, as gentlemen upon the other side of the House seem averse to any discussion of the veto message, or even allusion to it, I will not trouble them with any further remarks.

Mr. SOLLERS. I offered this amendment in good faith, and the amendment having been ruled out of order, I have taken an appeal, for the reason that it is legitimate and proper for this House, as it has the right to do, to sustain its own dignity and its own respectability. That is what I think. I knew that by the decision of the Chair, I should be ruled out of order; but, sir, I trust the committee will overrule that decision. I do not know one single claimant under this spoliation bill. I do not know that I ever saw one of them. But, sir, I do believe this to be a just claim; and I derived my impression from reading the history of the claim. I do know, however, one thing: I know that the exercise of the veto power, in vetoing this bill, is a violation of the Constitution of the country. That is my firm conviction. And I know another thing——

Mr. ORR. I rise to a question of order. The gentleman from Maryland is discussing the veto power. I ask that he shall be confined to the discussion of his appeal.

Mr. SOLLERS. Well, what can I do?

Mr. ORR. I insist that the gentleman shall be confined to the appeal.

Mr. SOLLERS. No man in this House has consumed more time than the gentleman from South Carolina himself.

Mr. MILLSON obtained the floor.

Mr. ORR. I hope the gentleman from Maryland does not mean to be personally offensive.

Mr. SOLLERS. I mean just what I say, that no man occupies more of the time of the House than the gentleman from South Carolina, and he should be the last man to raise the question of order upon me.

The CHAIRMAN. The Chair calls the gentleman from Maryland and the gentleman from South Carolina to order. The gentleman from Virginia is entitled to the floor.

Mr. MILLSON. The Chair has held, and properly, too, that this appeal is debatable. It is so, because the debate has not been closed upon the bill itself. Now, sir, it would be useless to protract this debate, as I foresee it is likely to be protracted during the whole of this day.

The CHAIRMAN. The Chair is compelled to remind the gentleman from Virginia that he must confine himself to the appeal.

Mr. MILLSON. I will do so. I was about to appeal to my friends on this floor, and especially from the South, to warn them earnestly of the fatal precedent that might be set by establishing the doctrine that it was competent for the House to place in one of the general appropriation bills a measure of the character of that proposed by the gentleman from Maryland.

Mr. WHEELER. I rise to a question of order. The gentleman from Virginia is discussing the bill, not the appeal.

The CHAIRMAN. The gentleman must confine himself to the appeal.

Mr. MILLSON. I am doing so now.

The CHAIRMAN. The gentleman can only assign reasons in connection with the question. He must not discuss the merits of the bill.

Mr. MILLSON. I am confining myself to the question of order.

The CHAIRMAN. The gentleman will proceed in order.

Mr. MILLSON. I intended the remarks I made only as introductory to the motion I am about to make, that the committee rise for the purpose of terminating this debate. Sir, it is in the power of members of this House to protract this debate for days and days, unless it is terminated by a resolution of the House. We have already commenced voting upon amendments. No one desires to speak upon the bill itself. If we go into the House, therefore, and terminate the debate upon the bill, the debate upon the appeal will be cut off altogether. I move, therefore, that the committee rise for the purpose of submitting such a resolution.

Mr. JONES, of Tennessee. I hope the gentleman from Virginia will withdraw the motion and allow us to vote upon the appeal.

Mr. MILLSON. I would readily withdraw the motion, if I thought there was any prospect of coming to a vote; but I see plainly that the indications are that we shall spend most of the day in the discussion of the appeal.

Mr. JONES. I hope the gentleman will withdraw the motion. I think we shall come to a vote without more debate.

Mr. MILLSON. The gentleman from Tennessee has charge of this bill. If he is willing to take the responsibility of the discussion that is likely to grow out of the appeal, I will withdraw the motion.

Mr. JONES, of Pennsylvania. I wish to ask the gentleman from Virginia one question. I desire to know if he has any idea what will be the character of the amendments to be offered to this bill? I am perfectly willing that the debate should be closed at once upon this appeal. I voted for the French spoliation bill when it was before the House, and I would do it again, but I will never vote to put it in as an amendment to this bill. I regard it as clearly out of order. I am perfectly willing to cut off all collateral discussion upon this and all similar propositions. But I would suggest that there may be another bill offered as an amendment to this which I shall desire to speak for more than five minutes.

Mr. WASHBURN, of Maine. I rise to a question of order. I understand that the amendment offered by the gentleman from Maryland, which is in substance the French spoliation bill, has been ruled out of order as an amendment to this bill, upon the ground that there is no law authorizing the payment of these claims.

The CHAIRMAN. The Chair ruled the amendment not to be in order upon the ground that it is not in pursuance of any existing law, and upon the ground that it is, in his opinion, in the nature of a private claim.

Mr. WASHBURN. I have always understood that a treaty was the supreme law of the land, and I have also always understood that, under the operation of the treaty of 1800, these claims were established against the United States—claims which have been recognized by the Senate of the United States some half dozen times, which have been recognized by the House twice. Yes, sir, both branches of Congress have twice, by large majorities, decided that these claims did exist by virtue of a treaty with France, by a treaty which is admitted to be the highest authority in the land except the Constitution. Therefore, I hold that the point of order was not well taken, and that the amendment offered by the gentleman from Maryland, so far as that question is concerned, is clearly in order. I hold that it cannot be a private bill, inasmuch as it embraces the interests of too many of our citizens to bring it within that category. It is, therefore, a public measure; it is in pursuance of an existing treaty, which is a law of the land; and it is, in my opinion, clearly in order. I hope the committee will sustain the appeal taken by the gentleman from Maryland, and overrule the decision of the Chair.

Mr. CHANDLER. I rise simply to express my conviction that the amendment offered by the gentleman from Maryland is entirely in order. I do not know whether the decision which has been made against it was made upon the ground as has been asserted. I understood the Chair to decide that it was out of order upon the ground that it was a private bill. Sir, we did not act upon it as a private bill, nor did it go upon the Calendar among the private bills. There is a standing remark in this House on the part of those gentlemen who are opposed to paying interest upon the nation's debt, that this Government is always ready to pay its debts. An application is now made for the payment of a debt. A treaty, as has been remarked by my friend in front, has been made for the payment of this debt. It is the law of God—a higher law than even that—that you shall owe no man anything. We have more than once, during this Congress, strained our rules in order to carry a point. Who, before the last session, ever heard of striking from a bill its enacting clause with a view of introducing into the Committee of the Whole anything like the previous question? And yet that was done here, and it has since become a favorite rule, and one which is often resorted to here.

Sir, there is every reason why this amendment should be regarded in order. There is no reason why any gentleman who voted for the bill should now escape the responsibility of it by voting that it is out of order to bring it in here. God forbid that it should ever be out of order for the House of Representatives of the United States to pay the debts of the Union. Let us find a law in our natures—if there is not a law upon our statute-books—to pay it. Let us understand that we really owe this money, and that we are bound to pay it, and when there is an opportunity for us to do it, I cannot see why it is not in order.

Mr. ORR. I am surprised to hear the remark of the gentleman from Pennsylvania, that he considers this claim in order as an amendment to the civil and diplomatic appropriation bill.

Mr. TAYLOR, of Ohio. I dislike to make a point of order upon the gentleman from South Carolina; but I think he has spoken once upon this question, and under the rules, he has no right to speak a second time.

Mr. CLINGMAN. Then I claim the floor.

The CHAIRMAN. The Chair believes that the point of order is well taken.

Mr. ORR. I have not spoken upon this question.

The CHAIRMAN. If the gentleman from South Carolina has already spoken upon this question, he is not, the Chair believes, under the rules, entitled to speak again, if any other gentleman wishes the floor.

Mr. ORR. I did not speak. I waived my right to the floor without speaking.

The CHAIRMAN. If that be so, the gentleman is entitled to proceed.

Mr. ORR. The gentleman from Pennsylvania predicates his opinion that the claim is in order upon some treaty stipulations. Now, sir, by the treaty of 1800, and by the treaty of 1803, every claim which France recognized as a valid claim against her, was provided for, and those claims were all paid.

Mr. WASHBURN. That is the very thing that is denied—the very question at issue.

Mr. SEYMOUR. Will the gentleman from South Carolina permit me to make a remark upon this point?

Mr. ORR. Certainly.

Mr. SEYMOUR. Even if these claims were provided for by the treaty, there is an express rule which forbids the mingling of appropriations to carry out treaties with other appropriations. It is the 78th rule, and is as follows:

"In preparing bills of appropriation for other objects, the Committee of Ways and Means shall not include appropriations for carrying into effect treaties made by the United States; and where an appropriation bill shall be referred to them, for their consideration, which contains appropriations for carrying a treaty into effect, and for other objects, they shall propose such amendments as shall prevent the appropriations for carrying the treaty into effect being included in the same bill with appropriations for other objects."

Mr. WASHBURN. I submit that that rule does not touch the case at all. It does not preclude the Committee of the Whole on the state of the Union from making the amendment.

Mr. HOUSTON. Certainly it does.

Mr. SEYMOUR. If even the Committee of Ways and Means are not allowed to introduce a bill which contains these two kinds of appropriations mingled together, and if the rule provides that, if such a bill is referred to that committee, they shall so amend it that they shall not be brought together before the House, is it not, for the same reason, out of order to introduce into a general appropriation bill that is pending appropriations for carrying a treaty into effect?

Mr. ORR. The rule which the gentleman has read is conclusive upon that view of the question. But in addition to that, we have, as a House of Representatives, established rules for the government of this body in the House and in committee. One of those rules declares that nothing shall be in order as an amendment to the general appropriation bill that is not provided for by existing law, or to carry out some public work that has already been commenced, or unless it be to meet the contingencies of some one of the Departments of the Government. That is the rule we have established. Now, sir, does this claim come under either of those heads? Can any gentleman, who will look at the matter impartially, come to any other conclusion than that the claim is out of order? Surely, sir, there can be no doubt about it, if this House means to stand by the rules which it has adopted for its own government. Those rules cannot be changed by a mere majority. Is it because a majority are in favor of the passage of a particular bill that the rules are to be superseded to carry that point? Would you not load down all your appropriation bills if there were not rules of this sort, and if those rules were not strictly enforced? I think there can be no doubt that if the 81st rule which has been adopted by the House is to be in force, this amendment is, in no point of view, in order.

Mr. CAMPBELL. Mr. Chairman, I think there is no pertinency in the position assumed by the gentleman from Connecticut, [Mr. SEYMOUR,] no force in his construction of the rule he reads. This House has decided again and again—it has decided this very morning, that under the treaty of 1800, there is a *legal liability* on the part of this Government to American citizens in relation to these French spoliations. If there be a legal liability, it is clearly in order to provide, as the gentleman from Maryland proposes to do, by his amendment, an *appropriation* to meet it.

Now, Mr. Chairman, I do not wish to throw any obstacles in the way of the progress of legitimate legislation, but I am not to be deterred from doing what I believe to be right—as the gentleman from North Carolina [Mr. KERR] seems to be—by fears that our determination to do justice and vindicate our own course may bring another veto from the other end of the avenue.

Sir, I hold that this Government was organized to accomplish something more than simply to provide appropriations for the payment of office-holders, through the civil and diplomatic and other appropriation bills. The gentleman from Pennsylvania [Mr. CHANDLER] has well remarked that one of its highest purposes is to provide for the payment of its just and honest debts. The amendment is clearly in order, because this House has recognized the liability of the Government for these losses. Within the last hour, this House has, by a decided majority, declared its conviction that there is a legal liability to pay this debt, be it more or less. The idea, therefore, that it is out of order to provide the appropriation, is utterly fallacious. I hope members will not stultify themselves by sustaining the decision. True, the President says we have not, by the vetoed bill, provided enough to pay the claim; but if we cannot pay the whole loaf which we owe, can we not provide an appropriation to pay half the loaf? Besides, sir, why may we not remove that obstacle in the President's mind, by carrying with the civil and diplomatic bill, an appropriation for the full amount honestly due.

I am a little surprised, Mr. Chairman, that the honorable member from South Carolina [Mr. ORR] should support a point of order like this. He has so long trained with that company which have been striking out enacting clauses and stretching and riding down the rules, in order to carry measures through this House, that his scruples this morning rather amazed me. But I desire to refer the gentleman and the Chair, to a case where a civil and diplomatic bill embraced the point in a much stronger form than does the present proposed amendment. The second section of the civil and diplomatic act of 1846 actually contains a provision materially modifying the tariff act of that year. I think a similar proposition to modify the tariff was decided to be in order as an amendment to the general appropriation bill of 1850, when that distinguished parliamentarian, Hon. Howell Cobb, was the Speaker. I am surprised at the position assumed by the honorable gentleman from Pennsylvania, [Mr. J. G. JONES,] though I believe he was not a member of the House at that time, when a proposition was introduced in 1850, as an amendment to the civil and diplomatic bill providing for a protective duty on iron. It was called the iron protective amendment. It was introduced by the gentleman's predecessor, [Mr. Strong,] and sustained, I believe, by nearly every Democrat from Pennsylvania, when the same point of order was raised.

Why, then, is it, sir, that gentlemen now declare, that pending the consideration of the civil and diplomatic appropriation bill, we cannot provide the means of paying that which, within the last hour, this House has declared to the world to be a legal claim, and one which the Government

is liable to pay? I hold, Mr. Chairman, that this amendment is in order. And I do not intend to occupy the time of the House further than to say, that as I am a Representative direct and fresh from the people, I assert, by vote and speech, one of the purposes of this Government is to provide the means of paying its honest and long-neglected debts, as well as of paying eight dollars per day to members of Congress, as provided for by this bill.

Mr. JONES, of Pennsylvania. Do I understand the gentleman from Ohio to allude to me as the gentleman from Pennsylvania?

Mr. CAMPBELL. Yes. I understood you to object to the amendment now presented to the committee.

Mr. JONES. Then I merely wish to correct the gentleman in that particular. The question of tariff is properly germane to the question of revenue, and is more or less connected with it. But I never yet have voted to sustain any modification of the tariff in the civil and diplomatic appropriation bill. At least I do not know that I ever have. There is a vast difference between the subject of revenue and that of a private claim. Now, although the French spoliation bill is composed of a great number of claims, still it is in the nature of a private claim, and is not germane to the subject of revenue.

Mr. CAMPBELL. It is no more a private claim than the claim which you and I may have on the Treasury for eight dollars per day as members of Congress.

Mr. JONES. And I would object to that.

Mr. CAMPBELL. The pay of members of Congress, and officeholders generally, are but private claims.

Mr. JONES. And, I repeat, I would object to it as an amendment to the civil and diplomatic bill.

Mr. CAMPBELL. The bill provides means to pay these claims of officeholders. I believe we ought not to legislate for the payment of officeholders alone; and I am willing to come here and sit here in the face of vetoes of the civil and diplomatic appropriation bill without any money, trusting to my constituents, if it becomes necessary, to send around a hat and raise contributions to sustain me in the position which I take, to wit: that one of the highest obligations of the Government is to pay its honest debts to its citizens. Because, sir, when it becomes the well understood policy of the Government that private claims are not to be provided for, that the private citizen is to be plundered, whilst those who hold power and place are regularly provided with the gold of their Treasury, then I hold that the private citizen has a right to plunder the Government in self-defense.

Gentlemen do not establish their point by the rule that has been referred to. There is most certainly an existing legal liability to pay this debt, let it amount to much or little. That there is such a liability is shown by the terms of the treaty of 1800. The conclusion, then, is forced upon us that the amendment of the gentleman from Maryland [Mr. SOLLERS] is in order. And I quote the vote of the House to-day, within the last hour, declaring this legal liability; for if there is no legal liability how is this House to explain the vote which it has just given in the face of the Executive veto? There can be no explanation given. The point of order, therefore, is not well taken; and I hope, in vindication of the rights of the House, and of the law of justice and of right, that the committee will overrule the decision of the Chair.

[Loud cries of "Question!" "Question!"]

Mr. OLIVER. Mr. Chairman, I desire to engage the attention of the committee for a few moments. I have heard the arguments of distinguished gentlemen on this floor, and must confess, sir, that although comparatively a novitiate in parliamentary affairs, I have been utterly surprised at them. The question is, whether the amendment offered by the gentleman from Maryland [Mr. SOLLERS] is in order, and germane to the bill under consideration, the civil and diplomatic appropriation bill. I am surprised to hear the honorable member from Ohio, [Mr. CAMPBELL,] and the honorable member from Pennsylvania, [Mr. CHANDLER,] insist that it is in order, after hearing the rule read by the Clerk, at the instance of the gentleman from South Carolina, [Mr. ORR.] In order, however, to make their position good, they have to proceed on the assumption that the amendment provides for the payment of a debt, a debt recognized by law. Would the gentlemen, or either of them, inform me what law exists recognizing this as a debt? The question before us in regard to the French spoliation bill, is as to whether it is a debt or not, either by or under the treaty with France, or otherwise. This is a question of fact and of law, first to be settled by this House. The gentleman from Ohio asks what difference there is between this and a private claim. I undertake to assert that there is no difference between this claim and a private claim, for these are private in their character. But I ask, would a private claim be germane to this bill? Would it be in order? I appeal to the gentleman from Ohio, [Mr. CAMPBELL,] and the gentleman from Pennsylvania, [Mr. CHANDLER,] both apt parliamentarians, to answer that question.

Mr. CHANDLER. Will the gentleman from Missouri, [Mr. OLIVER,] allow me to say that, with the exception of last year, there has not been a civil and diplomatic bill passed these twenty years, which has not contained a private claim. Not one for twenty years, with the exception, perhaps, of last year.

Mr. SOLLERS. I will ask the gentleman from Missouri one single question. Is not this debt one that is allowed and recognized by treaty?

Mr. KEITT. That is not law.

Mr. OLIVER. I reply to the question of the gentleman from Maryland in this way. He assumes and asserts on this floor that this is a debt, and that it is recognized by the treaty with France. If such was the case it would be a debt, but no such thing appears. This is the question before the House, sir, on which this discussion has arisen: whether under treaties with France, whether under any law of Congress, whether according to the facts which apply to the case, this is a debt either recognized by the treaties with France or by the laws of the country? which I deny on all the grounds. There is no necessity for any further discussion of these claims; they have already been discussed in this and the other branch of Congress; and although they passed both, yet the bill containing them was vetoed, and the question is still open as to whether these claims are a lawful charge against the Government.

Mr. HOUSTON. I desire to make a point here, with the leave of the gentleman from Missouri, [Mr. OLIVER,] in connection with the remark of the gentleman from Pennsylvania, [Mr. CHANDLER,] that we have passed civil and diplomatic appropriation bills in this House until within the last year or two, which contained appropriations for private matters. If the gentleman had taken the pains to have examined the circumstances attending the passage of these bills, he would have been kind enough, I am sure, to have told this House that, in every single instance where amendments of a private character have been incorporated into civil and diplomatic bills, they have been made by the Senate, whose rules are not like our own, and which are administered upon an entirely different plan. When amendments providing for private claims were made by the Senate they came here, and by reason of not being able to make a point of order in regard to them, it is frequently the case that they were retained by the House.

Mr. OLIVER. I am surprised at the position which some of the gentlemen occupy who hold that this amendment is in order, and in this connection I wish to call the attention of gentlemen to the 81st rule of the House, which reads as follows:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto for any expenditure not previously authorized by law, unless in connection with appropriations for such public works and acts as are already in operation, and for contingencies for carrying on the several departments of the Government."

A debt is an amount due from one person to another, either expressed or implied. Consequently, before these claims can be regarded as a debt against the Government, it must be shown that the spoliations were committed by the French in times of peace between us and France, and that, in an arrangement with France, we—that is, this Government—assumed to pay them, either expressly or by clear implication. I deny that these claims can, in fairness, be regarded as a lawful charge against the Government of the United States. If the treaty of 1800 with France provided that this Government should pay the claims, then they would be a debt, strictly speaking, against us; but no such thing can be shown, and gentlemen have utterly failed to do so. These claims constitute no debt against this Government, therefore the amendment is out of order, not being germane to the bill under consideration.

Mr. WASHBURN, of Maine. Will the gentleman give way for a moment. I will ask if we have not passed in committee, this very day, an amendment offered by the gentleman from California [Mr. MCDOUGALL] providing for the payment of Mr. Lander for expenses which he had incurred while making a survey of a railroad route to the Pacific?

Mr. OLIVER. Was a point of order made?

Mr. WASHBURN. I understand that it was made.

Mr. SOLLERS. A provision in the treaty which required the payment of money is an appropriation authorized by law. A treaty to pay is as obligatory as a law.

At the last session of Congress it was contended that we were bound to appropriate $10,000,000 in obedience to the treaty entered into between the Government of the United States and Mexico.

Mr. MCDOUGALL. I wish simply to state that the amendment I offered in favor of Mr. Lander was based upon the ground that the House had ordered his report, obtained and published it, and that the survey was made in pursuance of existing law.

Mr. LANE, of Oregon. I will say, if I may be allowed a single word in reply to the gentleman from California, that a law was passed, as gentlemen will recollect, appropriating money for a railroad survey to the Pacific.

Mr. WHEELER. Is this debate in order?

Mr. LANE. I desire merely to make an explanation. As I was saying, an appropriation was made for surveys of a railroad route to the Pacific. Governor Stevens was intrusted with the survey of one of these routes, and he employed this man, Mr. Lander, as a civil engineer to accompany his expedition, and make a survey of the route, and the amendment of the gentleman from California was to make an appropriation for his services.

Mr. LETCHER. I rise to a question of order. I should be very glad to hear an explanation from the gentleman from Oregon, [Mr. LANE,] but we have other matters to consider besides railroad routes to the Pacific.

Mr. OLIVER, of Missouri. I appeal to any member upon this floor in all candor, and ask if he believes the amendment of the gentleman from Maryland [Mr. SOLLERS] to be in order, under the 81st rule, which I have just read?

Mr. WASHBURN, of Maine. Of course, as the payment of these claims is authorized by law.

Mr. OLIVER. The gentleman from Maine answers me that of course it is in order, because the payment of these claims is authorized by law. By what law, I would ask?

Mr. WASHBURN. The law of 1800.

Mr. OLIVER. The gentleman answers by the treaty of 1800. I ask the gentleman from Maine to take up that treaty and put his finger upon a single clause which authorizes the payment of these claims. I challenge him to do it.

Mr. WASHBURN. The second article of the treaty.

Mr. OLIVER. It is argued upon the part of these gentlemen that the payment of these claims is a debt which this Government owes to these claimants. It is a question under discussion whether, under the treaty, it is a debt or not, according to law. My friend from Pennsylvania [Mr. CHANDLER] says it is God's law that we should pay our debts. I grant it, and the gentleman need not have told us of that; but we are dealing with a matter of legislation in temporal matters that are this side of heaven. [Laughter.] We are acting with regard to human law, and we are not to base action upon this measure, as the gentleman says, upon higher law. The gentleman may plant himself upon that higher law, but for myself I cannot follow him in his dazzling flight. What is a debt in this country? The gentleman answers, that it is not worth much here. I am sorry my friend has so poor an opinion of his country as to say that a debt is not worth much here. The definition of a debt, as I understand it, is a sum ascertained to be due by law. Gentlemen have assumed that these claims are a

debt, that the treaty of 1800 recognized and regarded them as such, and yet they are unable to put their fingers upon the clause of the treaty that proves the truth of the assertion. These claims cannot in any sense be considered as a debt owing by this Government to these claimants, and under the 81st rule, therefore, which I have read, the amendment now under consideration is clearly out of order, and I hope it will be so regarded by the House.

Mr. MAXWELL. As I occupy a position in reference to this main question very different from that which most of the gentlemen occupy who are now urging this appeal from the decision of the Chair, I desire to say something touching that point. I favored the passage of this bill, favored it when it was originally considered, and also upon reconsideration after the veto. I voted for it, and therefore it cannot be supposed that, in any remark I may make on this question of order, I am prompted by motives of opposition to the measure itself. I would vote for it again, if properly before the House; and I say this with all respect for the President of the United States, whose message I do not condemn in the spirit which characterizes the remarks of other gentlemen. We differ as to the obligation of the Government. But I accord to him the same privilege of judgment which I claim for myself, and do not doubt but that he has exercised it with that scrupulous desire to discharge rightly his duty which has marked all his previous conduct. I do not admit that his use of the veto power in this instance amounts to any trampling upon the liberties of the people, as represented through Congress, or that he has transcended the legitimate bounds of his authority. Where he cannot "approve" the Constitution empowers him to veto. As to this point, therefore, I stand upon very different ground from those who have so vehemently denounced his message. I think he had a right to veto, if he thought proper so to do, although I confess that the case is one where the exercise of that right becomes a very delicate question.

But I return to the question of order. Gentlemen, in their efforts to get over the rule of the House, which is so plain that, certainly, the weakest judgment must admit its force and concede its applicability, refer to some higher obligation upon the part of this Government, something which supersedes our rules, such as that which the gentleman from Pennsylvania [Mr. CHANDLER] derives from his own nature. What are our rules worth, sir, if they are not to bind us, and to prevent the irregular interposition of supposed overruling ideas of right? But conceding the force of the rule, the gentleman from Maine, [Mr. WASHBURN,] and the gentleman from Maryland, [Mr. SOLLERS,] refer particularly to a treaty upon which these claims are based as bringing this amendment within the rule. The gentleman from Missouri [Mr. OLIVER] has well asked those gentlemen to point to a provision of the treaty which provides that these claims shall be paid. I was convinced that they were founded in justice without being referred to any such clause of a treaty directing their payment; and I say to the peculiar friends of the bill, if they can point out any clause in the treaty which provides for their payment, I would guaranty the passage of a bill for that purpose, if in a proper condition to be acted on. They have never done so. But, of course, we cannot act now, after the veto of the President and our subsequent vote. This view will not serve gentlemen. They can point to no such provision, and must admit that it was because the Government *failed* to provide for the relief and indemnification of its citizens by an express article of the treaty that they are now before Congress. Through their Government they had been urging these claims against the French Government, and the French Government, on the other hand, had been urging other claims against ours; and the negotiations resulted in the mutual abandonment of their respective claims as against each other. Hence the obligation of each to its own citizens. There is, therefore, no more a treaty provision than an express law to provide for these claims. They must rest upon that obligation, imposed upon the United States by reason of failure specifically to secure the rights of her citizens, and not upon any express law or treaty. It is clear, then, that the rule so often read sustains the Chair in its rejection of the amendment of the gentleman from Maryland, [Mr. SOLLERS.] But even if the rule did permit such an amendment I would not favor it in the face of a solemn veto, however much I might wish to have the object of the amendment accomplished. The President would be constrained, under his views, to veto the civil and diplomatic bill, if incumbered with the French spoliation bill. This, sir, is what no prudent member can desire. Why shall we complicate and endanger other high and important interests by stickling for that which no one can now hope to obtain. For one, sir, although I voted for the bill in other positions, I cannot vote to tack it on here by way of an effort to force the President into its approval.

Mr. JONES, of Tennessee. Some of the gentlemen who are opposed to the decision of the Chair seem to rest their opinion, with confidence, upon the fact that this claim is a valid and substantial debt against the Government. Why, sir, we could not, if it were admitted to be such by every gentleman upon this floor, bring it within the rule, and make it in order as an amendment to this bill. Take the case of the appropriation necessary for the pay of the officers and men of the Army, who are specifically provided for by law, and which is certain and fixed; or take the case of the appropriation for the pay of the men and officers of the Navy, and yet neither of those appropriations would be in order as amendments to this bill.

Again, there was a commission, which recently sat in London, under a treaty between the United States and Great Britain, which made an award against this Government, and to meet which an appropriation must be made, and yet it is not in order to propose that appropriation as an amendment to this bill.

The amendment is not in order to this bill, because it is, in the first place, if a debt at all, made up of private claims, and private claims are not in order as amendments to this bill. In the next place, if gentlemen claim that it is a debt under a treaty stipulation, it is not, under the rule, in order to any bill, except one to carry out the provisions of the treaty. And, again, allowing it to be a debt under a treaty, as I stated before, that fact does not bring it within the rule, because it should be an admitted debt.

Mr. KEITT. Mr. Chairman, I entertain no doubt of the propriety of the decision of the Chair. What is the question? The ingraftment of the bill making indemnity for French spoliations upon the civil and diplomatic bill. To this I have two objections, one of parliamentary order, and the other of policy.

The parliamentary objection rests upon two rules of the House; the one requiring all appropriations arising out of treaty stipulations to be reported independently; and the other excluding from the civil and diplomatic bill all appropriations not authorized by preëxisting laws, or in continuation of such laws. Now, sir, do not the advocates of this French spoliation bill, as it is called, rest our obligation to pay upon treaty faith? If so, is it not excluded, under a rule of the House, from a general appropriation bill? Again, does not the other rule (the 81st) require he amount to be ascertained to be liquidated? Must it not be in the nature of an adjudicated claim, not a mere cause of action? I think, then, sir, upon the score of parliamentary order, the amendment is clearly inadmissible. I object, in the second place, upon the score of policy. The bill now sought to be put as a rider upon the civil and diplomatic appropriation bill, was passed by both Houses of Congress, and sent to the President for his signature. The President, in conformity with his construction of his constitutional duty, could not approve and sign it; therefore he returned it to this House, where it originated, with his objections in the manner provided by the Constitution. The vote was taken this morning, and the bill was defeated.

Now, sir, what does the proposition to attach this defeated bill to the bill before us amount to? It either means to drive the President to trample upon his constitutional obligations, or by vetoing this general appropriation bill thus incumbered, clog the wheels of Government. It is not, in reality, the circumvention of a great constitutional prerogative? The veto was given by the framers of our Constitution for great and wise purposes; it was given to broaden and strengthen the basis of popular representation; and will not the circuitous mode of action contemplated in this proceeding, if adopted, effectually discharge it from the Constitution? It was put in our Federal charter to save us in part from the tyranny of a numerical majority. Will it not be worthless and contemptible if it can be thus trifled with? The argument against the veto is applicable to the Senate, and the judiciary, and degenerates this Government into an irresponsible despotism. I know, sir, it is not in order to discuss the veto power, and I do not mean to do so.

I wish, however, to say distinctly and emphatically that the exercise of the veto in this case by the President is perfectly constitutional, and in high consistency with his whole course. This power has been exercised too seldom in the history of our Government, and whenever a President arrays it against a dominant majority, particularly if it be a majority of his own party, he deserves great credit for firmness of purpose and energy of will. Clamor may rage, and declamation rave itself out; the President, in this instance, rests upon his constitutional prerogative and his conscious rectitude. Sir, I say this the more readily because I differed from the President in his estimate of the claims of our citizens for French spoliations. What I claim for myself, however, I concede to him, honesty of purpose and purity of motive. I acted within the sphere of my duty, and the President within the sphere of his; and in his right thus to act I will unflinchingly uphold him. In this veto the President has signalized his administration by an act of courageous and disinterested patriotism. This I say regarding the claims in the aspect in which he regards them. I differ from the President in the character of these claims, but not at all as to his power and duty.

Let me notice for a moment the charge of usurpation, brought against the President by the member from Ohio, [Mr. CAMPBELL.] Sir, the charge comes ungraciously from him. The treaty-making power is lodged in the President and Senate. Not twelve months ago we had an appropriation to carry out a treaty before us. Then——

Mr. SOLLERS, (interrupting.) I rise to a point of order. I insist the gentleman from South Carolina is not in order in his course of remarks.

The CHAIRMAN. The Chair thinks the gentleman from South Carolina is wandering from the question before the committee. The question is, "Shall the decision of the Chair stand as the judgment of the committee?" Does the gentleman from Maryland insist upon his point of order?

Mr. SOLLERS. I do not withdraw my objection to this course of remark.

Mr. KEITT. I have not a particle of objection to yielding the floor if the committee is ready to come to a vote.

Mr. STRAUB. I wish to call the attention of the committee to a point which I have not yet heard discussed, nor even suggested. I would inquire of the Chair whether it is in order, in a general appropriation bill, to authorize the President of the United States to appoint commissioners?

Mr. KEITT. Mr. Chairman, I yielded the floor only on the understanding that we were to vote on the proposition before us.

Mr. STRAUB. I will take but a minute or two, and I am sure that the gentleman will yield to me.

Mr. KEITT. Certainly.

Mr. STRAUB. My point, is that it is not in order to provide in a general appropriation bill for the appointment by the President of the United States of commissioners. Gentlemen will perceive, by looking at the second section of the bill, that it does provide for the appointment of commissioners.

[Cries of "Read it!" "Read it!"]

Mr. STRAUB. I will read it for the information of the committee. It is as follows:

SEC. 2. *And be it further enacted*, That for the purpose of carrying into effect the provisions of this act, and to ascertain the full amount and validity of said claims, three commissioners shall be appointed by the President, by and with the advice and consent of the Senate, who shall meet at the city of Washington, on or before the first Monday in October next, and, within the space of two years from the time of their first meeting, shall receive, examine, and decide upon the amount and validity of all the claims included within the description above mentioned; and the Secretary of State is required forthwith after the passage of this act, to give notice of said meeting, to be published in three newspapers in Washington, and in such other papers as he

may think proper. The said commissioners shall take an oath or affirmation, to be entered on the record of their proceedings, for the faithful and diligent performance of their duties; and in case of the death or resignation of any such commissioner, his place may be supplied by appointment as aforesaid, or by the President during the recess of the Senate, of another commissioner in his stead. The said commissioners shall be authorized to hear and examine all questions relative to the said claims, and to receive all suitable testimony, on oath or affirmation, and all other proper evidence and documents concerning the same; and the rules for the decision of said commissioners shall be the principles of justice, the law of nations, and the former treaties between the United States and France, to wit: the treaty of amity and commerce of the 6th of February, 1778, the treaty of alliance of the same date, and the consular convention of the 14th of November, 1788. Their decisions shall be in writing, and filed with their secretary, and the individuals interested therein shall, on demand, have a copy thereof; and the promulgation of the decisions of said commissioners shall be in public. The said commissioners shall not, at any one time after the 1st day of December next, adjourn for a longer period than ten days, without the consent of the President of the United States, in writing, first had and obtained.

[Cries of "Question!" "Question!"]

Mr. KEITT. I demand tellers on the question.

Tellers were ordered; and Messrs WHEELER and HAMILTON were appointed.

The question was taken; and the decision of the Chair was sustained; the tellers having reported—ayes 103, noes not counted.

So the amendment was ruled out of order.

Mr. CRAIGE. Mr. Chairman, I move to insert under the heading of Northeast Executive Building, the following:

For the continuation of the Treasury Building $300,000; to be expended under the direction of the President of the United States according to the plan proposed by Thomas U. Walters, architect, and approved of by the Committees of the Senate and House of Rrepresentatives on Buildings and Grounds at the last session of Congress.

Mr. WASHBURNE, of Illinois. I should like to know under which rule that amendment comes in?

The CHAIRMAN. The amendment provides for the continuation of a building already begun by law, and the Chair decides it to be in order.

Mr. CRAIGE. This building was commenced many years ago, and although its completion has been recommended by every Administration since, still, for some reason or other, Congress has not provided for it. At the last session of Congress, a bill passed the Senate for that purpose.

Mr. JONES, of Tennessee. This amendment cannot be in order here, nor anywhere else in the bill. It is to make a new State Department.

The CHAIRMAN. The amendment relates to the Northeast Executive Building.

Mr. CRAIGE. I shall not trouble gentlemen with the amendment now. I shall withdraw it, and ask that I may be allowed the floor at an early day for the consideration of the bill which passed the Senate. I tried during the last six or seven weeks of the last session to get it up, and have it passed, but I was unsuccessful.

Mr. LYON. I move to strike out "five" from line one hundred and seventy-six, and to insert, in lieu thereof "seven," and to add "$2,000 of which sum shall be expended in the increase of the salary of the Assistant Secretary of the Treasury;" so that the paragraph, if amended, will read as follows:

For compensation of the Secretary of the Treasury and Assistant Secretary of the Treasury, clerks, messenger, assistant messenger, and laborers in his office, $57,572, $2,000 of which sum shall be expended in the increase of the salary of the Assistant Secretary of the Treasury.

Mr. JONES, of Tennessee. That amendment is clearly not in order. The salary of the Assistant Secretary of the Treasury is fixed at $3,000. The effect of the amendment would be to change the law.

The CHAIRMAN. The Chair thinks the amendment is not in order upon the ground that it does have the effect to change the existing law.

Mr. LYON. I should like to have the 81st rule read, under which, I think, I can show that the amendment is in order.

The CHAIRMAN. Does the gentleman appeal from the decision of the Chair?

Mr. LYON. I do take an appeal, and now, sir, I desire to call the attention of the committee to the 81st rule, which is as follows:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for contingencies for carrying on the several departments of the Government."

Now, Mr. Chairman, a contingency has arisen since the passage of the law fixing the salary of this officer.

Mr. HUGHES. What contingency?

Mr. LYON. I will show what contingency, if I can have an opportunity. A great amount of additional labor has been devolved upon this officer under the reciprocity treaty, in collecting the facts and arranging them into tables. He has been faithful and impartial in the discharge of those duties, as well as those ordinarily devolving upon the office of Assistant Treasurer, and has received but $3,000, while your collectors, in different places, receive $6,000 per annum. I say, therefore, that a contingency has arisen in consequence of the arduous and extraordinary amount of labor which has devolved upon this officer, which demands that he should receive an adequate compensation. He receives now $3,000. I simply ask that his compensation shall be increased $2,000 for his extraordinary service under the reciprocity treaty. It is a contingency that has never before arisen since the office was created, and may never arise again. I hope the House will allow this amendment to be adopted. When I see a man toiling for the good of the country, guarding the Treasury like a Cerberus, I want to see him fairly, honorably, and justly compensated. Sir, this man has labored assiduously, not only during the ordinary working days of the week, but on Sundays. [Laughter.]

This increase has not been asked by him; the offering of this amendment is unknown to him. But, sir, I hope, in consideration of the large amount of the extra services he has performed, the amendment will be received by the committee, and the decision of the Chair overruled.

The question, "Shall the decision of the Chair stand as the judgment of the committee?" was put, and sustained.

Mr. LILLY. I move to amend as follows:

At the end of the twenty-ninth line, insert:

Provided, That the provisions of the "joint resolution to fix the compensation of the employees in the legislative Department of the Government," approved July 20, 1854, be, and the same is hereby, extended to such of the clerks in the Executive Departments of the Government in Washington, as are not included in an "An act to amend the third section of the act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th June, 1854, and for other purposes," approved April 22, 1854.

Mr. JONES, of Tennessee. That amendment is not in order It is to change the existing laws.

The CHAIRMAN. The Chair thinks the amendment is out of order.

Mr. CRAIGE. I now offer the amendment which I proposed some time since; and I submit to the Chair that it is clearly in order under the 81st rule. The building was commenced many years ago, but has never been finished.

The Clerk read the amendment, as follows:

For the continuation of the Treasury building, $300,000, to be expended under the direction of the President of the United States, according to the plan proposed by Thomas U. Walter, Architect, and approved by the Committees of the Senate and House of Representatives on Public Buildings and Grounds at the last session of Congress.

Mr. JONES, of Tennessee. I submit that that amendment is not in order. No appropriation has been made for the continuation of this building, I think, for twelve or fifteen years. Whatever the original plan was, I do not know; but certainly it was not Mr. Walter's.

Mr. STANTON, of Kentucky. I desire to say that this appropriation is demanded by the necessities of the Department itself. The building at present is not large enough to carry on the operations of the Department. There is not room enough for the clerks to perform their usual and ordinary duties. It is certainly one of those contingencies contemplated by the rule to which the gentleman from North Carolina has referred. It was not intended when the original appropriation was made that the building should be completed at that time; but it was to be elongated and enlarged as the necessities of the Government required. This appropriation is simply to carry out the original intention of Congress, and it is clearly in order.

The CHAIRMAN. The Chair begs leave to say that when he suggested that the amendment was not in order, he supposed that it referred to a different building. The Chair, understanding differently now, is not prepared to rule the amendment out of order.

Mr. CRAIGE. I now ask that the Clerk will read a letter from Mr. Walter, which I send to the desk, and which explains his plan.

The Clerk read the letter, as follows:

ARCHITECT'S OFFICE, EX. U. S. CAPITOL,
WASHINGTON, D. C., *January* 10, 1854.

SIR: In compliance with your request, I submit the accompanying design for completing the Treasury building, and extending it, so as to embrace accommodations for the Department of State.

The rooms in the additions are made much larger than those of the present building, which, it is believed, will facilitate the business of the Departments.

I propose to make the rooms higher and more airy, by dispensing with the old method of vaulting, and introducing arches of short span, supported by iron girders. This plan is quite as strong as the ordinary arching, while it is lighter, and requires no piers in the corners of the rooms. It has also the advantage of imposing no lateral pressure on the walls.

The order of architecture of the present building is necessarily carried out in the additions; I have, however, omitted any more columns than seem to be required to give a proper effect to the elevations.

The following statement exhibits the relative size, accommodations, and cost of the present building, and the proposed additions:

Ground covered by the present building. 30,930 feet.
do. do. " additions.....68,916 "
Flooring in rooms of present building....44,560 "
do. do. " additions.....102,200 "
Number of rooms in present building.....152
do. do. " additions.....202
Cost of the present building.....$650,000
do. " additions.....$1,250,000

This estimate is founded on the supposition that the additions will be made of *marble* or *granite*, and the present building painted in imitation of the additions.

I also submit, herewith, a sketch for new buildings for the War and Navy Departments, to be erected on the site of the present buildings, and to correspond, in general architectural finish, to those of the Treasury and State Departments.

These buildings will contain three hundred and sixteen rooms, and will cost about $1,750,000.

In case it should be deemed expedient to provide accommodations in this building for the Department of the Interior, it may be done without interfering with the War and Navy Departments, as there are *four* separate entrances, and the room is ample.

In these designs I contemplate covering all the buildings with thick copper, laid on iron rafters; and constructing the ceilings of the upper story of cast iron, similar in principle to the ceiling and roof of the congressional library, as I consider it important that the public buildings should be entirely and thoroughly *fire-proof*, which they cannot be, if wood is used in the construction of the roofs, as has heretofore been the practice.

A skylight may be made in each of the upper rooms, which would render them the most desirable rooms in the buildings, especially for topographical drawings, engrossing clerks, and every employment that requires a constant and strong light.

I am, sir, very respectfully, your obedient servant,
THOMAS U. WALTER,
Architect of Public Buildings.

HON. JAMES A. BAYARD, *Chairman of Committee on Public Buildings and Grounds, United States Senate.*

Mr. CRAIGE. In order to satisfy the House of the necessity of this appropriation, I think I need only say, that almost every Administration since the building was commenced, has recommended its completion. Almost all the Departments are suffering for want of room, and more especially the State Department; and this extension is intended partly for the accommodation of the State Department. At the last session the Senate passed a bill making this appropriation almost unanimously. It came to this House, and was referred to the Committee on Public Buildings and Grounds. That committee recommended its passage, and I have been endeavoring to get the bill up, but have failed to do so. There can be no doubt of the propriety of the appropriation.

Mr. LILLY. I move to amend the amendment by inserting, after the word "President," the words "by such civil architect as he may appoint by and with the advice and consent of the Senate." I do not desire to discuss the question of civil and military superintendence at this stage of the session. We had a long and able discussion upon that subject last session. But I desire to prevent, for the future, any military men being put to superintend civil works. We are about to increase the Army. Now, if an increase of the Army is necessary, we ought certainly to cause the officers engaged in civil employments——

Mr. JONES, of Tennessee, (interrupting.) I think that amendment to the amendment is not in order. It creates a new office. The amendment provides for the continuation of a building.

Mr. CRAIGE. I would say to the gentleman from New Jersey that the plan for this work has been submitted by a civil architect.

Mr. LILLY. So was the plan for the Capitol

extension, but the work was afterwards placed under the superintendence of a military man.

The CHAIRMAN. As an amendment to the amendment of the gentleman from North Carolina, [Mr. CRAIGE,] the Chair is not prepared to rule the amendment of the gentleman from New Jersey [Mr. LILLY] out of order.

Mr. HENN. I wish to ask the gentleman from North Carolina a question: that is, whether the appropriation of $300,000 is enough to finish the building?

Mr. CRAIGE. No sir. We have heard the letter of the architect read just now, which stated that it is not enough; but it is as much as the architect can properly employ.

Mr. HENN. And how much will it take to finish the building?

Mr. CRAIGE. Six hundred thousand dollars.

The question being on Mr. LILLY's amendment to the amendment,

Mr. TWEED demanded tellers.

Tellers were not ordered.

The question was taken; and the amendment to the amendment was rejected.

The question recurred on Mr. CRAIGE's amendment.

Mr. FULLER. I wish to propound a question to the gentleman from North Carolina: Whether or not the Government is not now renting rooms for the accommodation of its officers, and also what number of persons are thus accommodated in rented buildings?

Mr. CRAIGE. The Government is compelled at present to rent rooms in this city for the accommodation of its officers. I do not know exactly what number of officials are thus accommodated, but the number is very large.

The CHAIRMAN. The question is on the amendment of the gentleman from North Carolina.

Mr. TAYLOR, of Ohio, demanded tellers.

Tellers were ordered.

Mr. DAVIS, of Indiana. I move that the committee do now rise.

[Cries of "Oh, no; let us finish!"]

The question was taken on Mr. DAVIS's motion; and it was agreed to.

So the committee rose; and Mr. JONES, of Tennessee, having taken the chair as Speaker *pro tempore*, the Chairman of the committee reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bill (No. 569) to provide for the civil and diplomatic expenses of the Government, and had come to no resolution thereon.

Mr. KEITT. I move that the House do now adjourn.

[Several MEMBERS. I hope the gentleman will withdraw that motion for a moment.]

Mr. KEITT. Very well. I withdraw the motion for these gentlemen.

Mr. DAVIS, of Indiana. I ask the unanimous consent of the House to introduce a bill from the Committee for the District of Columbia, for the purpose of organizing an institution for the insane of the Army and Navy and of the District of Columbia. I ask to introduce it, so that it may be put upon its passage. It can be disposed of in a few minutes.

Mr. LYON. I object.

Mr. DAVIS. Then I ask that the rules of the House be suspended, so as to enable me to introduce the bill.

Mr. HOUSTON. I move that the House do now adjourn.

Mr. HAVEN. I should like to inquire of the gentleman from Indiana if this is the bill to regulate the administration of affairs over the Lunatic Asylum?

Mr. DAVIS. I answer the gentleman it is.

Mr. HAVEN. Then I hope it will be received.

Mr. DAVIS. Yes; because it is a matter of public necessity. I wish, Mr. Speaker, before the question is put, to make a few remarks.

Mr. FLORENCE. Oh, yes; we can pass this bill in ten minutes.

The SPEAKER *pro tempore*. With the consent of the House the gentleman from Indiana can make his remarks, but not otherwise, as the motion to suspend the rules is not debatable.

Mr. HUGHES. With the consent of the gentleman from Indiana, I move that the House do now adjourn.

Mr. DAVIS. I am willing that that motion be made.

Mr. UPHAM. May I ask the gentleman from New York [Mr. HUGHES] whether he will withdraw his motion, so as to allow me to introduce a motion which will occupy only a moment.

The SPEAKER *pro tempore*. If the gentleman from New York even were to withdraw his motion, no other motion can be received, unless, by the unanimous consent of the House, the motion of the gentleman from Indiana [Mr. DAVIS] to suspend the rules, go over.

Mr. UPHAM. I wish, by the unanimous consent of the House, to ask for the appointment of a clerk to the Committee on the Smithsonian Institution. We have been at work nearly one month, most laboriously, and have been compelled to employ a clerk, and sometimes more than one. I have not had an opportunity to bring my motion for the appointment of a clerk before the House, because every morning gentlemen insisted on the regular order of business; and I now ask the House to allow that committee to employ a clerk.

[General cries of "Oh yes—let them have a clerk!"]

Mr. HUGHES. If the House give unanimous consent to the gentleman's proposition, I will withdraw the motion to adjourn.

Mr. PERKINS, of New York, and others. I object.

Mr. UPHAM. Then I move that the rules be suspended, to enable me to submit my proposition.

The SPEAKER *pro tempore*. That cannot be done, as there is a motion to suspend the rules pending.

Mr. HUGHES. I now renew my motion to adjourn.

The question was taken; and the motion was agreed to.

The House thereupon, at three o'clock and forty-five minutes, adjourned till to-morrow, at eleven o'clock, a. m.

IN SENATE.

TUESDAY, *February* 20, 1855.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating a letter of the Secretary of the Interior, asking for an appropriation to supply a deficit in the amount held on Indian account, caused by the failure of Selden, Withers & Co., with whom it was deposited; which was referred to the Committee on Finance, and ordered to be printed.

Also, a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate, copies of all surveys and reports in that Department upon the fitness of the harbor of Brunswick, in Georgia, for a naval depot, and the opinion of the Department on the propriety of establishing such a depot at that place; which was referred to the Committee on Naval Affairs, and ordered to be printed.

Also, a letter from the Secretary of the Navy, accompanied by eighty copies of the Navy Register for the year 1855; which was ordered to lie on the table.

PETITIONS, ETC.

Mr. BRODHEAD presented the proceedings of the National Convention of the Soldiers of the War of 1812, held at the Presbyterian Church on Four-and-a-half street, in the city of Washington, on the 8th of January, 1855; which was ordered to lie on the table and be printed.

Mr. JONES, of Tennessee, moved that the petition of James Thompson and others, practical engineers, engaged in steamboat navigation on the Mississippi and its tributaries, praying an appropriation to test Miller's steam-condenser, be referred to the Committee on Commerce; which was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. MALLORY, it was

Ordered, That James P. Lightbourne have leave to withdraw his petition and papers.

On motion by Mr. GWIN, it was

Ordered, That the petition of Roger B. Ironside be referred to the Committee on Claims.

Mr. WALKER. I am requested to withdraw from the files of the Senate the papers in the case of J. M. Crane. This matter was referred to the Committee on Claims, as the Senator from Pennsylvania [Mr. BRODHEAD] will probably recollect. It was a claim for printing in California, and on it there has been, as I understand, an adverse report. I am requested to withdraw the papers with a view to get possession of the vouchers, with the hope of having the matter settled either by the public authorities of California, or the assignee of the claim.

The PRESIDENT. There having been an adverse report, it requires unanimous consent. If there be no objection the order will be made.

There was no objection.

CASTNER HANWAY.

Mr. COOPER. I am requested to present the memorial of Castner Hanway, of Chester county, Pennsylvania, praying to be indemnified for the expenses to which he was subjected by his imprisonment in Philadelphia on the charge of high treason. I desire briefly to state the circumstances of the case.

On the 12th of September, 1852, Castner Hanway was charged with the commission of high treason against the United States. He was committed to prison, where he remained until sometime in November, when he was put upon trial, and was finally acquitted. He was over three months in prison, and was put to very great expense in procuring witnesses for the purpose of proving his innocence of the charge which was imputed to him. He was acquitted by the jury. He asks that he may be refunded the expenses, which amounted to something over $3,000. I will state that, in similar cases, under the decision of other tribunals, parties indicted for treason have been allowed pay for their witnesses. Judge Marshall, on the trial of Burr, at Richmond, ordered the marshal to furnish in advance the pay to the witnesses of the defendant, and that decision of Judge Marshall was followed in other cases; but when the application was made to Judges Grier and Kane, at Philadelphia, they did not find themselves warranted in making the order which was prayed for by Hanway's counsel, and he was obliged to pay the whole amount himself. It entirely beggared the man. That I know. You know that I do not sympathize with infractions of the law in that way; but this man was acquitted. His case was really a hard one. It was clearly made manifest that he was a man of exemplary character, always enjoying the confidence of all classes in the community as a peaceful and upright man. I do think, therefore, that Congress ought to make the compensation. I move that the memorial be referred to the Committee on the Judiciary who, I hope, will take favorable action upon it.

The memorial was so referred.

REPORTS FROM STANDING COMMITTEES.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the petition of Dominic Lynch, praying to be allowed pay as a master, while he acted in that capacity on board the United States schooner Shark in 1840–'41, submitted an adverse report thereon; which was ordered to be be printed.

Mr. MASON, from the Committee on Foreign Relations, to whom was referred the petition of Thomas W. Mather, of New York, and William R. Glover, of Kentucky, merchants trading in Mexico, praying indemnity for property forcibly seized by officials of that Republic, submitted an adverse report thereon; which was ordered to be printed.

He also, from same committee, to whom was referred the petition of George P. Marsh, minister resident to the Ottoman Porte, under the act of August 11, 1848, imposing judicial duties on the minister, and for services under a special mission to the Government of Greece, submitted a report, accompanied by a bill for his relief; which was read, and passed to a second reading. The report was ordered to be printed.

Mr. TOUCEY, from the Committee on Finance, to whom was referred a joint resolution for the relief of Theodore Adams, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. EVANS, from the Committee on Revolu-

tionary Claims, to whom was referred the bill of the House for the relief of Charles J. Davis, administrator of Captain John Davis, an officer in the war of the Revolution, reported it back without amendment.

FRENCH SPOLIATION BILL.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they, on reconsideration of the bill of the House entitled "an act to provide for the ascertainment and satisfaction of claims of American citizens for spoliations committed by the French prior to the 31st of July, 1801," returned on the 17th instant by the President of the United States, with his objections thereto, had refused to pass the same.

ADJOURNMENT SINE DIE.

Mr. BROWN. At the close of the short sessions heretofore, as we all know, it has been the practice to sit over until the 4th day of March at twelve o'clock. The 4th day of March this year comes on Sunday. If we sit until twelve o'clock on the 4th of March this year we shall violate the Sabbath. To obviate a difficulty of that sort, I propose to take time by the forelock, and provide that we shall adjourn at twelve o'clock on Saturday night. I therefore offer the following resolution:

Resolved, (the House of Representatives concurring,) That the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses *sine die* on the night of the 3d of March, at twelve o'clock.

Mr. WELLER. I shall object to the consideration of that resolution until the Senate agree to pass my resolution to meet at eleven o'clock in the morning. If we adopt that order, we can get through our business by the time which the Senator from Mississippi mentions.

The resolution lies over one day under the rule.

SLOOP OF WAR ALBANY.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent:

Resolved, That the Secretary of the Navy be required to communicate to the Senate a copy of the order issued by the Navy Department to the officer in command of the home squadron, in pursuance of which the United States sloop of war Albany was ordered, on her last cruise, to Carthagena and Aspinwall, &c.; also, of the orders given by such officer, to Commander Gerry, to proceed upon such cruise; and also, of any reports or letters from the captain of the Albany, or others, respecting the condition of the Albany, or the necessity of repairs to said vessel.

Mr. WELLER. I know nothing about the character of those instructions, but I can readily conceive that there may be something of a private character, the exposure of which would be incompatible with the public interest. Therefore, I should prefer that the call be made on the President, with the usual qualification that the information be communicated if not incompatible with the public interest.

Mr. SEWARD. I modify the resolution in that way.

The resolution was so amended and agreed to.

MRS. M'CLELLAN.

Mr. JONES, of Iowa. I desire now to call up the bill which I yesterday morning reported from the Committee on Pensions, for the relief of Mrs. J. Josephine McClellan. No one will object to it. It was yesterday morning laid over, on the objection of my colleague on the committee, the Senator from Alabama, [Mr. CLAY.] He has examined the matter, and is now willing to let it pass.

The Senate, as in Committee of the Whole, proceeded to consider the bill. It will direct the Secretary of the Interior to pay to Mrs. McClellan, widow of Brevet Lieutenant Colonel John McClellan, late of the corps of topographical engineers, half of the monthly pay to which her husband was entitled at the time of his death, for five years from the date of the death of her husband, and in case of her death or intermarriage before the expiration of the five years, it is to enure for the balance of the term to his child or children under sixteen years of age.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THE EMIGRANT PASSENGER BILL.

Mr. BENJAMIN. Mr. President, I regret to find myself compelled to ask the attention of the Senate this morning for a very few minutes, to a matter personal to an esteemed colleague of ours, now absent from the Senate. I refer to the Senator from New York, [Mr. FISH.] I have had my attention called to the proceedings of a meeting of merchants, held in the city of New York, upon the subject of the passenger laws, and the speech made at that meeting by Mr. Grinnell, a well known merchant of New York, in which the absent Senator [Mr. FISH] is accused of having acted with duplicity towards a committee of merchants, who were present here, upon the subject of that bill. This accusation of intentional duplicity is indorsed at the same meeting by Mr. Mortimer Livingston, another merchant. In the speeches made at that meeting, my name occurs in connection with the conversation which took place between Mr. FISH and that committee of merchants, and, therefore, it becomes incumbent on me, as a duty, to defend the reputation of our absent colleague from imputations which I consider to be entirely unjust and ill-founded.

The Senate will remember that, at our last session, the Senator from New York [Mr. FISH] moved the appointment of a select committee for the purpose of gathering the information necessary for a general revisal of the laws regulating the transportation of emigrants in vessels across the Atlantic. The Senate will also remember that a large amount of information was accumulated by the committee, of which that Senator was named chairman, and was partially embodied in the report which I hold in my hand, which was made at the close of the last session. That report was accompanied by a bill; and in that bill new and, as the select committee deemed, efficient safeguards for the protection of the life and health of the emigrants were provided. Very soon it became obvious to the members of the committee that the merchants engaged in the transportation of these emigrant passengers were dissatisfied with the bill. It was natural that they should be so. The bill proposed to impose upon them additional expenses. It proposed to reduce the number of emigrants which they had previously by law been allowed to carry on board of their vessels; and it had reference rather to those provisions which were necessary for securing the life and comforts of the emigrant passenger than the interests of the owners of the vessels. Additional expense is entailed upon the owners, and diminished remuneration allowed for the passengers. A violent opposition sprung up to the bill; and especially to one feature of it, which was made the subject of special remark in this meeting, and ridiculed in every manner in which it was possible for the speakers to ridicule it, and to which it is my intention now to draw the attention of the Senate.

In the course of our investigation upon this subject we ascertained that a provision had been adopted into the system by which convicts and emigrants were carried from Great Britain to her colonies in the South Seas, and by which instead of the passenger money being paid to the owners of the vessel according to the number of passengers received on board, they were paid only for the number who were delivered at the expiration of the voyage, thereby involving in the protection and security of the passengers that principle of self interest, which is the best and most effectual guard in cases of this kind as is evidenced by the experience of all mankind. I hold in my hand that report, and I will trouble the Senate by reading a few extracts from it. The evidence is most abundant to support the passage which I shall read:

"It is stated that when the system of transportation was first adopted, in some of the earlier voyages, full one half of those who embarked were lost; later, on the passage to New South Wales, as in the Hillsborough, out of three hundred and six who embarked, one hundred were lost; and, in another ship, the Atlas, out of one hundred and seventy-five embarked, sixty-one were lost. Yet, there were no omissions palpable to common observation, or which could be distinctly proved as matter of crimination to which responsibility might be attached. The shippers were, no doubt, honorable men, chargeable with no conscious designs against the lives of the human beings committed to their care, and with no unusual omissions; but their thoughts were directed by their interests, exclusively to profits; they got as much freight as they could, and they saw no reason why convicts and emigrants should not put up with temporary inconveniences, to make room for cargo.

"By a simple change, (based on the principle of self-interest, the most uniform, general, and when properly directed, really beneficent of all principles of action,) by the short alterations of the terms of the contract, so as to apply the motive where alone there was the effectual means of prevention, by engaging to pay for those *landed* alive, instead of paying for all those *embarked*, these extreme horrors were arrested; the generation of extensive mortal epidemics was, in a short time, prevented, and clean bills of health might have been given to all the ships which before would have been entitled to none. From the report of the select committee on transportations, in the year 1812, it appears that in one period, namely, from 1795 to 1801, out of three thousand eight hundred and thirty-three convicts embarked, three hundred and eighty-five died, being nearly one in ten. But since 1801, after the principle of responsibility began to be applied, out of two thousand three hundred and ninety-eight embarked, only fifty-two have died, being one in forty-six. The improvement has continued up to the present time, when it amounts only to one and a half per centum, or even lower than the average mortality of such a class living on shore."

Now, Mr. President, it was against the adoption of this principle in the bill, for the protection of passenger emigrants, that the merchants of New York arrayed themselves in that meeting, and arrayed themselves in their private arrangements, which resulted in their sending a committee here for the purpose of embarrassing the adoption of the principle. My colleague on the select committee was aware of this attempt on the part of the merchants to oppose the adoption of the principle. Being compelled by ill health to absent himself for the remainder of the session, and it being perfectly obvious to all that no general bill like that which was reported, consisting of a large number of sections, and requiring minute investigation, and probably a long debate, could be passed during the remainder of the session, he requested me, before leaving, to watch over it. I concurred fully in his views; I agreed with him that this principle ought to be adopted; and if from anything that I have said before on this floor, the inference has been drawn that I acted only in his behalf, and without concurring with him in that opinion, that inference is not well founded. I fully agree with him as to the propriety and necessity for such a safeguard as this in the adoption of any bill which may hereafter be passed on the subject.

About the period of his departure a committee of merchants from New York reached here with a view of obviating some pressing difficulties which were then weighing upon the mercantile and shipping interest. The difficulties arose from the fact that a change had been made in the construction of the passenger law in the Treasury Department, by which a number of vessels belonging to merchants in all our ports had been seized for a violation of the provisions of that law, provisions which had hitherto been liberally interpreted, and the violations of which, if any existed at all, had been unnoticed. The Senator from New York [Mr. FISH] agreed with me in preparing a law for the remission of the penalties, and for a temporary relief to that interest, but agreed with me that it would be injudicious to allow any general passenger bill to pass at the present session without the improvements and modifications suggested by the select committee being embraced in it. He left here with these impressions, I sharing them with him. After his departure a bill was brought forward, stated to have been prepared with the concurrence of the Treasury Department, and that of the merchants of New York, providing for a general revision of the passenger laws. I objected to the reporting of that bill, which was brought forward first by the Senator's colleague from New York, [Mr. SEWARD;] but I withdrew my objection on being informed, from sources which I believed to be entitled to credit, that Mr. FISH had waived his objection, and was willing to try the success of his bill at the next session. After withdrawing that objection, I heard from the Senator, by a letter dated at Charleston, in which he stated that he had heard of the existence of such rumors; that they were unfounded; that he still adhered in principle to the provisions of his own bill, and left me to be guided, as regards my own course, by my own opinions and convictions on the subject.

Under these circumstances I stated to the Senate, the other day, that I should oppose the passage of the bill reported from the Committee on Commerce. On my opposition it went over. I now find myself complimented in these speeches as the true friend of the mercantile interest, on the ground that I made the opposition solely on account of the Senator from New York, [Mr. FISH,] and he is charged with duplicity. I can take no share of the compliment under such circumstances to myself. I agree fully with the Senator [Mr. FISH] in his conviction as to the necessity of such

a provision as the select committee reported. As regards the charge made against him I feel bound to say here, for those who may not know him so well as he is known by his colleagues on this floor, what it would otherwise be unnecessary to say, that there is not the slightest shadow, in my estimation, for such an accusation being made against him. It will find no credit here among those who know him well. It can find no credit among persons who have watched his course in relation to this bill, in which the best interests of humanity are involved. It is to be regretted that the gentlemen whose interests are so deeply involved in a measure of this kind, should be blinded by self-interest to such an extent as to permit themselves to make use of such language in regard to an honorable gentleman, who is not present to defend himself.

Mr. HAMLIN, chairman of the Committee on Commerce, desired to enter upon an explanation; but, as Mr. Cass desired to speak on another subject, and as Mr. Seward also sought the floor, he yielded, and Mr. Cass also deferred the commencement of his speech.

Mr. SEWARD. I wish to address a very few remarks to the Senate, which are due to the occasion, and to my colleague. I was not an indifferent observer of the proceedings and debates in the meeting to which the honorable Senator has referred. If I had been so indifferent, still I could not have pleaded ignorance, because I have been called upon by some friends of my colleague in the city of New York, to allude to that meeting, and to vindicate him against the censures passed upon him there. I have refrained from doing so, for the same reason that I always refrain from making personal explanations in regard to myself on this floor. What was said of him, was said in the Exchange, among the merchants, ship-masters, and ship-owners of the city of New York; and however large its circulation, it would have made but a limited impression upon the public mind. I thought that, to bring it up here, would have been to give it a wider circulation and greater notoriety. For myself, if all the merchants in the city of New York should denounce me in the Exchange, charging me with duplicity, or even crime, and if all the citizens of New York should assemble in Castle Garden, and charge me with disloyalty to my country and society, it would not wring from me an acknowledgment that I was bound to explain. To all such charges, my life must be my answer.

Sir, I know, in regard to my distinguished and esteemed colleague, that his life is a full answer to every charge of duplicity which may be brought against him. He has held the office of the chief magistrate of the State of New York, and now holds one of the most eminent trusts here which she can confer upon any of her citizens. No more honest man has ever filled the first trust since his own distinguished ancestor, Peter Stuyvesant, of immortal memory, and immortal, because he was an honest man. I knew, sir, that there was in the character of my colleague that which would shield him from any aspersions.

I am, at the same time, bound to say, that this is a matter occurring between him and those who must necessarily be regarded as more immediately his constituents, and that all the persons who made these accusations against him are his own personal friends. It is proper that I should state that I am not a resident of the city of New York, but that my residence is in the interior of the State, where I am more remote from the city of New York, than I am when in attendance upon my duties here.

The subject of immigrant passenger laws, which is a very important one, affecting peculiarly the interests of that portion of the State in which my colleague resides, was brought by him to the attention of the Senate at the last session. An elaborate report was made, and in pursuance of the principles of that report a bill was prepared by him. When he was about leaving here, he informed me that one of the considerations which made him reluctant to depart, was the unpleasant circumstance of leaving that bill not to be acted upon at the present session; and distinctly told me it would not be brought up for consideration. When he was about leaving, a committee of the merchants of New York were here, complaining of embarrassments, resulting from what they supposed to be a misconstruction of an ancient law. They applied to me to introduce a bill which would relieve them from those difficulties, and they assured me that the bill which they proposed had been prepared at the Treasury Department.

There remained but one thing more, and that was, to explain to them explicitly that, under the circumstances, I would have nothing to do with that subject if the new measure conflicted with the bill of my colleague, which he presented from the select committee. That was understood by them. They returned to me, and notified me that he had assented, and I understood that the matter of which the bill was composed did not interfere with the one which he had prepared, and which he was willing to have the consideration of postponed until another session. Under these circumstances, and especially having that assurance, I brought the bill in, and was pressing to have it passed, when the Senator from Louisiana rose and made the objection in my colleague's name and behalf, very properly; and thereupon I at once declined to press the bill; and there the matter has remained until this time.

While I have thus paid a tribute which is due to my esteemed and distinguished colleague, it is due alike to the character of those gentlemen who have participated in the meeting in the city of New York, to say that there are no more honorable, no more just, no more intelligent men, no men whom my colleague holds in higher respect. Moses H. Grinnell, Thomas Tilerton, and Mortimer Livingston are names that are identical with justice, honor, truth, manhood. It is manifest that there is a misapprehension between him and them. We cannot explain it here because we know nothing of the communication which passed between them and my colleague. I have not the least doubt, when this subject shall have been passed by here, and it shall come to the knowledge of my colleague in his travels abroad for his health, such mutual explanation will be made as will be satisfactory on both sides, and while his character will be protected and vindicated, their own sincerity and truthfulness will remain stainless.

Mr. GWIN. I moved to commit this bill to the Committee on Commerce. The honorable Senator from New York [Mr. Fish] is a member of the Committee on Naval Affairs, of which I am chairman; and I was requested to move to commit the bill, which I did, without the slightest knowledge of any such conflict as this. I thought the friends of the bill had it so arranged as to prevent any difficulty. I meant no reflection on my friend from New York [Mr. Fish] by the motion which I made.

INTERFERENCE OF FOREIGN POWERS.

Mr. CASS. Mr. President, during the last session of Congress I took occasion, in some remarks here, to call the attention of the Senate to an extraordinary declaration, made by Lord Clarendon, in the British House of Peers, in these words:

"Your Lordships would be glad also to hear that the union of the two Governments (of France and England) is not confined to the Eastern question, but that the habit of a good understanding between them has become general on all matters of policy, and extends to all parts of the world; and that, on the question of policy, there is no part of the world, in either hemisphere, with regard to which we are not entirely in accord."

There is no misunderstanding the nature of this annunciation. The speaker was most unfortunate in the language he employed, if it does not distinctly make known that France and England have been looking at the various questions, concerning the foreign relations of other countries, in both hemispheres, and that they have discussed them—for discussion must precede arrangement—and have come to a mutual accord in relation to them. As was well remarked by a prominent New York journal, in some judicious observations upon this subject, "the language of Lord Clarendon is susceptible of but one possible construction. It was in itself a general threat of armed intervention, avowing the purpose to enforce the views of France and England by armed attack upon any independent nation, which declined to accept her dual dictatorship." My object in bringing this subject before the Senate was, that the attention of the Government and country might be directed to this authoritative avowal of a course of policy, deeply affecting our interests and our honor.

Doubts have been expressed as to the extent of Lord Clarendon's meaning, though such doubts must arise from exterior circumstances, and among others from the strangeness of the procedure, rather than from any uncertainty in the language itself. Recently, however, a State paper has appeared from a still higher quarter, which comes to confirm, in a striking degree, the construction put in the United States upon the words of Lord Clarendon, and leaves no room to doubt, what has been this *good understanding*, and how far it reaches. The French Emperor, in his address to the Legislative Chambers on the 26th of December last, thus spoke:

"What firmer bonds can there in fact be, than those bearing the names of victories belonging to the two armies, recalling a common glory? than the same anxieties and the same hopes, agitating the two countries? than the same views and the same intentions, animating the two Governments in every corner of the globe?"

Sur tous les points du globe, are the comprehensive words—literally, all the points of the globe. The language here used, with respect to this union of policy, is identical in its meaning with that employed by Lord Clarendon, and it was used at the first legislative convocation after the British Secretary of State had publicly proclaimed the same sentiments. And it is a significant fact, that the address of the Emperor must have been under consideration at the time Lord Palmerston visited Paris, and when the British statesman was reported to be in the habit of daily intercourse with the French Ruler. I suppose, that among the strong points of Lord Palmerston's character, there is none stronger than his bitter aversion to this country, which he probably dislikes with a concentration of feeling, rare even among English politicians; and it is worthy of observation, that this declaration of the adhesion of France to a combination with England, was pronounced, not only after Lord Clarendon had made known through the House of Peers the views of the British Cabinet, but after their effect in this country, and the conviction they were intended to be words of warning—of threatening, rather—to us, were well understood in France and England. But this circumstance occasioned no change in the terms of the Imperial avowal, which was as comprehensive and as offensive, as those heard in the House of Lords. Had the intention of the parties been misunderstood, and offense taken where none was designed, the address of the Emperor would have furnished a proper opportunity to do justice to the policy of the two united Powers. Instead of this, sir, the objects of the obnoxious combination are repeated, apparently with as much complacency, as though they met the approbation of the world.

I do not know that the French Emperor has written any letter, disavowing the obvious meaning of his language. He is not very likely to do so. Tenacity of purpose is part of his moral temperament. Though these designs may not be sufficiently grave in their object, nor distinct in their avowal, to attract the attention of American patriotism, yet they have not escaped the vigilance of Spanish jealousy, the more gratified, as the more difficulties beset our path. The Spanish views of this united action are clearly given in the Diario de la Marina of January 28, 1855, a journal published at Havana, and under the control of the Government. It no doubt speaks the sentiments of the Madrid statesmen. It considers the declaration of the French Emperor a remarkable one, but not of a nature to justify American sympathy for Russia, while admitting that, after curbing the ambition of the Czar, the formidable league may be directed to check the aggrandizement of the United States. Words, it says, uttered, on so solemn an occasion by a man of Louis Napoleon's fixed purposes, cannot be unmeaning. The Diario continues:

"This intimate accord of the two great Powers implies the adoption of a political system, based on general principles, the first evidence of which consists in the pending contest. Resistance to the views of Russia cannot be an isolated fact. The bitter warfare calling for efforts and sacrifices so great has an especial character, and is gradually drawing the support of all civilized Europe." "It is a war, to support justice, to establish *the principles of international law*, and to maintain the just balance of power. It is a war which sanctions the progress of modern civilization, and which will have to be renewed, whenever its fundamental maxims shall appear to be in danger of being overturned," &c.

"Now, there is no threat in this, for whoever is willing to respect the conservative principles, the practice of which redounds to universal advantage. But for the advocates of the *celebrated Monroe doctrine, according to their last and elastic interpretations*, and for those who, in a different

scene, would wish to imitate the conduct of Russia, and *appropriate a whole continent, without obstacle, there is no doubt but that this European system must be exceedingly disagreeable.*"

And why this authoritative announciation by these two great Governments? He who runs may read the purpose. It was made to the United States; for, in fact, they alone were seriously interested in it, and it was hoped, that the knowledge of such a formidable combination to prevent our aggrandizement would turn us from our course, wherever we might have such a purpose, and thus accomplish the object by words instead of deeds. That the progress of our country and the success of our political institutions have excited alarm among the Governments of the Old World, no American can doubt. Contempt and aversion were the sentiments felt towards us, especially in England, at the commencement of our career. The aversion remains, having grown with our growth and strengthened with our strength; but contempt has given place to apprehension, and there is no question, but that the most practicable plan to check our power and prosperity, is now a problem of deep importance in Europe. Not with the people; we have their good will and sympathies, but with the statesmen, imbued with the love of the few and the hatred of the many, who foresee, if they do not see, the danger of our example. I shall not go far back in search of proofs of the truth of this assertion. Time would fail me; nor, indeed, can it be necessary. I shall pass by the numerous facts establishing it, which our foreign policy exhibits, and come at once to the period, when a more intimate union between France and England sprung up, bringing with it an identity of views and action with respect to the United States.

A few years since, in commenting upon the declaration made by Mr. Polk, concerning the exclusion of European intervention from this continent, M. Guizot, in the French Chamber of Deputies, broached the plan of an American balance of power, to be preserved, when necessary, by the interposition of the Governments of Europe. Upon that occasion the French Premier said: "It is, in fact, advisable to multiply in America the number of independent States," and if this process of multiplication could go on, till it reduced the United States to their political constituent elements, thus adding their thirty-one members to the list of American Sovereignties, a *balance of power* would, indeed, be manufactured, which the finger of France or England might elevate or depress at pleasure. A consummation devoutly to be wished for at St. James and at the Tuilleries.

On that memorable occasion, M. Thiers displayed nobler sentiments, and advocated a more just, as well as a wiser policy. He rebuked his great rival for his narrow views and his subserviency to England. He condemned the opposition to the annexation of Texas to the United States, dealing with it as an English measure, which France should have indignantly repudiated. He remarked:

"It has been objected that the annexation of Texas to the United States disturbed the balance of power in America. It is, I must confess, the first time I ever heard this equilibrium spoken of. I can fully comprehend a balance of power in Europe, &c., but I will ask, What are we to do with America in that respect? The honorable M. Guizot is afraid, that the Spanish race will be annihilated by the Anglo-American one. Oh, when that time comes, when the United States, like England, shall have one hundred ships of the line and two hundred frigates, when they no longer shall profess the principle that the flag shall cover the merchandise, then the European equilibrium may go to the assistance of that of America."

"The conduct of France," continued the ex-Minister, "in the affair of Texas, has been the purchase-money paid for the right of search."

In some remarks in the Paris Constitutionnel upon this discussion, the distinction is well taken between the French Government and the French people, in all questions of united action with England against the United States, and this distinction is just as true and important now, when Louis Napoleon has joined *perfide Albion*—the old Gallic epithet of aversion—in all her jealous projects against the United States, as when Louis Philippe lent himself to the same policy. Thus speaks the Constitutionnel:

"France and the United States are natural allies, whom neither the faults, nor the errors of their Governments can separate.

"The Government of France may protest against the annexation of Texas to the United States, but such a measure, as M. Guizot will soon discover, finds no favor with the French. Whatever influence may prevail to endeavor to estrange their feelings from us, and to transfer them to the British, will be signally defeated in the end."

This policy of united action on the part of these two great Powers, applied in this case to a particular emergency, is now announced by the Governments of France and England as a permanent arrangement, extending through the world. In the intercourse of diplomacy, there is said to be "a language official and a language confidential." So the United States were told many years since, by high authority, and under circumstances, which rendered this canon of interpretation equally remarkable for the sincerity of the avowal, and for the bold contempt of common honesty, it inculcated. If the benefit of some such convenient glossary is not called in, by which deceptive explanations may be made to take the place of explicit declarations, we may well look around us and examine our true position—a position menaced by a new combination reaching every *corner of the globe*, to adopt the phraseology of one of the parties, and *all parts of the world*, to borrow from the other. It is a new treaty of Pilnitz to control our destiny. Not a whit better in principle, than its notorious predecessor. But it is entitled to the merit of bold and open arrogance. Similar arrangements, like those of 1791 and of 1854, are sometimes formed, but rarely are they spread before the world. The profligacy of the design imposes prudent, if not precautionary secrecy. It is a tribute to public morality, which is feared while it is outraged. We have lived to see even this slight barrier prostrated. There is no other nation, east, west, south, or north, but this Republic, against which this combination was formed, or to which these minatory words were spoken. In the old continent, they have no application, for Europe is at the mercy of *the* five Powers, as they call themselves—the five *Dictators*, as they should be called; a coalition, interrupted, indeed, by the existing war, but sure to resume its work of direction on the advent of peace. As to Asia and Africa, which furnish fields for the harvest of annexation, to gratify, not to fill, the demands of British and French aggrandizement, neither of these old enemies, but recent friends, and always rivals, would permit the other to interfere with their existing arrangements, or their future prospects. America only is left, and the universality of the proposition, embracing *every corner of the globe*, and *all parts of the world*, becomes practically restricted to this continent, and its actual operation to those portions of it, which present questions affecting the interests of the United States, and to no other. In fact, there are no other of sufficient magnitude to call for this unusual declaration; none, indeed, but the little temporary points of collision, daily appearing and disappearing in the mutations of the squabbles, I can call them by no more respectable name, among the Republics south of us, and which are adjusted as easily as they arise. These tempests in tea-pots would never have presented to French and English statesmen an occasion for a solemn admonition like this, nor did they weigh one feather in its consideration.

But admitting I am wrong, and rejecting the overpowering considerations, which lead to this conclusion, how stands this world-wide declaration of united policy? Where are the United States—the great Power upon this continent—in this publicly proclaimed design to circumscribe their progress and extent? Were they consulted before the completion of the project, or advised of it, in the usual diplomatic mode, by friendly communications, after the course was decided on? Nothing of all this. From the English Parliament and from the French Throne the American people first learned this formidable identity of views and purposes, upon subjects equally affecting their interests and their honor, and this warning announciation: WE, THE TWO GREAT MARITIME POWERS OF THE WORLD, ARE IN ACCORD UPON ALL SUBJECTS OF POLICY ON THE AMERICAN CONTINENT; AND, WITH OR WITHOUT THE CONSENT OF THE UNITED STATES, WE MEAN TO REGULATE THEM. Never was the exclusion of a nation from participation in all affairs affecting it more contemptuously arranged, or more offensively avowed.

Restricting the inquiry to the period of the new relations of confidence, which have recently sprung up between France and England, it will be found, on examination, that these Powers have acted in concert, in opposition to every measure of our foreign policy, which could excite their jealousy; and, I may add, but too successfully. They seem to have followed us over the world, watching, counteracting, and opposing, from the loading of a cargo of guano, to the acquisition of a kingdom. At the Sandwich Islands their influence has been in constant operation, openly used, and pertinaciously exerted. In Dominica they tracked us, and frustrated, it is said, a very reasonable arrangement, to which there could be no proper objection, unless that it was acceptable and useful to the United States, and was disapproved by the two great American regulators. And so at the Gallipagos Islands, where interests far more reasonable than any views of acquisition were struck down by the same interposition. I observe, sir, in the public papers, various other alleged instances of this jealous interference, but having no authentic information, I shall make no specific reference to them. It is proper to remark, also, that my knowledge of the various circumstances to which I have referred, has been gathered from the usual sources of information, and not at all from the Department of State.

Certainly it is an extraordinary fact, that in the whole Antilles, so near us, and where our vessels are daily passing, with their rich freights and their numerous passengers, we have not even so much as an anchorage for our vessels. Sixteen of those islands belong to Great Britain, three to France, two to Holland, two to Spain, three to Denmark, and one to Sweden, while one is independent and divided into two Governments. I suppose if we should attempt to procure even a coal depot among these islands, forming the door through which the commerce of the vast country drained by the Mississippi and its tributaries, as also that of West Florida, Alabama, and Texas passes, we should receive an imperial and royal rescript, saying, *Touch not, taste not, handle not;* raise not your flag in these regions, under pain of our displeasure. Besides, our communication with our possessions on the Pacific can only be preserved by the free use of these seas. If the hour has not already arrived, it is certainly hastening, when imperative duty will compel us to say, in more distinct terms than we have yet employed, to the would-be regulators of the "balance of power" in this hemisphere, that we understand our interests in the Gulf of Mexico, and in the Caribbean sea, and that, with God's blessing, we shall maintain them in all time to come

As to Cuba, the avowed policy of intervention has lost none of its offensive character by this union. On the contrary, as it has added physical strength to the opposition against us, it has added, also, a more resolute purpose, and more confidence to avow it. During the presidency of Louis Napoleon, on the 5th of December, 1851, the French Chief Magistrate informed the Duke of Valencia, that he had dispatched three ships of war for the protection of the Island of Cuba, and that the English Government had done the same, "for the purpose of preventing a repetition of attempts which might bring up serious complications between America and the States of Europe." And we learn from the current reports of the day, that a similar measure has been adopted, and that French and English armed ships have recently been ordered on the same service. I suppose, sir, the sound public opinion of this country supports, with almost entire unanimity, the views of Mr. Fillmore, as made known by Mr. Everett in his able letter to the French Minister, dated December 1st, 1852, that "he (the President) would consider the acquisition of Cuba by force, except in a just war with Spain, (should such an event, so greatly to be deprecated, take place) as a disgrace to the civilization of the age." Such a case of rapacity will, I trust, never stain our annals. But the history of France and England teaches no lesson of national forbearance, and gives no peculiar right to their Governments to preach homilies upon the duty of rigidly preserving their existing territorial limits to the other independent communities of the world. If we were to regulate our conduct by their examples rather than by their precepts, and interpose ourselves between them and the accomplishment of their projects of aggrandizement, forming combinations with other Powers for this purpose, we should have occasion for action from the rising to the setting of the sun, in mighty continents, as well as in the smallest isles that strew

the ocean. And such American presumption would call forth denunciation on both sides of the English channel, expressions of the most virtuous indignation. The fact is, sir, and it cannot be denied, that France and England have taken the fate of Cuba into their own hands, and with little regard to the patriotic pride and feelings of the people of this country. They have assumed unjustly, but naturally enough, looking at their own rule of action, that we mean to have it, right or wrong, and they have proclaimed haughtily to us, and openly to the world, that, right or wrong, we shall not have it. Well was it intimated by Mr. Everett, in his letter before referred to, that if such an Island as Cuba guarded the entrance of the Seine or the Thames, the interests of France and England being reversed, their purposes would be reversed also; and it may be safely added, that it would have been seized long ago, as almost half the world has been seized by one or the other of these lecturers upon the duty of national humility. The London Times, that faithful exponent of English feelings, made a remark upon the subject of the annexation of Texas, which should be reprinted in every paper of the United States at least once a year, and thus held in perpetual remembrance. It denounced this equal, peaceful, voluntary union between two kindred nations as "an act of rapine," (hard words are easy things in the columns of the thunderer,) and why? Aye, there's the rub, and it rubs very closely. Because it is "calculated to deprive us of a useful ally, to perpetuate slavery, and to create a rival maritime power in the Gulf of Mexico." This key unlocks the English heart. The abolition of slavery, as the fanatics avowed a short time since at Exeter Hall, is to be made the occasion or the pretext for breaking up this Union, and the putting down of commercial rivalry is the great object of English policy. While Cuba furnishes food for the indulgence of these feelings, its acquisition would be as obnoxious, and will be as steadily resisted, as was that of Texas.

Some two months since—though it did not meet my eye until recently—an article was published in the New York Courier and Enquirer, evidently written by the editor, a gentleman of high character and intelligence, and who has recently spent much time in England, and, as I am informed, has been brought into contact with some of the prominent public men in that country. This article, semi-official in its appearance, purports to speak the sentiments of Lord Clarendon, and, I have no doubt, truly. The statesman and the editor must have discussed this whole matter upon quite confidential terms, and the result gives us the authorized contradiction, by Lord Clarendon, of the construction put upon his own language. The narrative of the circumstances is preceded in the Courier by a rebuke of the *filibustering and bullying spirit of Democracy*, and of the alleged design of myself, and of others of much more importance than I am, to involve our country in a war with England. This is the way that every attempt to awaken public attention to the flagrant designs of foreign Powers against the United States, with a view to be prepared for, and to counteract them, has been characterized and denounced. It is an old stratagem in political contests, and a most unworthy one. It is quite time that this cant were no longer canted. Nothing is lost by the open examination and exposition of projects hostile to our own rights and interests. Nor is anything gained by an effort to conceal or to palliate them. It has long ago been found out, that merely covering the head, and thus intercepting our own observation, affords no protection to the body, which remains exposed. We shall have no war with England, nor with any other Power, until such war is forced upon us by the most serious injuries. Nobody wants war in this country—almost nobody. But we shall not prevent its advent by shutting our eyes to the signs of the times, and crying "Peace! Peace!" when there is no peace.

Well, sir, the editor of the Courier says, that in my place in the Senate, I "called attention to some remarks of Lord Clarendon, (the English Minister of Foreign Affairs,) made in the House of Lords, supposed to indicate an alliance between France and England in relation to Cuba, and all other questions on this side of the Atlantic as well as the other." This is the unjust and offensive charge, so bitterly reprobated. It is conceded that "the language quoted, certainly admitted of such forced construction." Even this qualified admission reduces somewhat the flagrancy of the accusation. But it sticks in the bark. No man can put any other construction upon the words, and the editor adds, that "the press, without distinction of party, applauded General Cass, denounced the alliance, and called upon the Administration to beware of the consequences." Is it possible, that the editor of one of the most influential papers in our country, holds the opinion of his colaborers in the great field of journalism in so little estimation, that he believes they would unanimously adopt a "forced" construction of a speech like that, and hold it up without reason to public condemnation? The error is with the single dissentient, not with the united community of editors, and should have taught juster views and more moderation of language. And now Louis Napoleon has come to add his evidence to the universal conviction of the American people.

The editor of the Courier, attributing a change of public opinion in this country, respecting the objects of the pending war in Europe, to this declaration of Lord Clarendon, makes that circumstance the reason for entering into his exculpation, which, when analyzed, amounts to this: that Lord Clarendon, learning the construction which had been put in this country upon his remarks in the House of Lords, addressed two letters to our minister in London, "explaining the true import of his speech, and giving the most emphatic and precise denial of any, the least intention, of pursuing any such course, in regard to Cuba, as was charged in the Senate of the United States." All I said, in the Senate of the United States, on the subject of Cuba, was, briefly, as follows:

"Now there is no misunderstanding that statement, (the declaration of the British Minister.) It is intended to be a notice to us, that France and England have come to an agreement with respect to the schemes of aggrandizement of the United States, and to stop them. It means Cuba. It means any place where we wish to procure the acquisition of territory."

If the editor has authority to speak for Lord Clarendon, when he says that the English Minister had taken no such course with respect to Cuba; that is, no course to check any effort for acquisition on our part, all I have to say is, I am glad he has come to this rational view, though certainly it will be news in this country, as well as in France and England. If this be the determination of the English Cabinet, one of the most powerful obstacles in the way of acquisition will have been removed Let those believe this who can. I go out from among them.

We are told that "Lord Clarendon was the most astonished man in Europe at General Cass's construction of his speech in the House of Lords." How large his lordship's bump of astonishment may be I have no means of knowing; but I should think, judging from this exercise of its powers, that it was of the most capacious dimensions, as otherwise his astonishment would not have been so unmeasured at a construction put upon his language, which admitted no other meaning, and which construction was adopted by the "whole American press, without distinction of party."

Lord Clarendon indignantly sought to redeem himself from a false position, originating in this "wicked story," and *volunteered*—the word is underscored in the Courier—to teach us the value of this peace offering—*volunteered*, with the assent of the British Cabinet to write these two letters to Mr. Buchanan, for the purpose of showing "to the American Government the untruthfulness of the allegations made, and the earnest desire of the British Government, speaking the sentiments of the British people, to preserve with us the closest and most amicable relations."

It is not a little remarkable, sir, that, in this labored vindication, the materials for which was doubtless provided by Lord Clarendon, not a ray of light is cast upon his avowed intentions. We are told he did not mean what he said; but why he did not say what he meant, either when he spoke or when this explanation was prepared, remains shrouded in Delphic obscurity. We have misunderstood, it is complained, "the import" of his language. Why not tell us, then, what its true import is? The natural course of injured innocence would have been to disclaim the obnoxious designs, thus publicly deduced from the phrase employed, and to say: "I am wrongly charged with this offensive supervision of the conduct of the United States. I meant no such thing. What I did mean by the avowal that there was a *good understanding between* France and *England on all matters of policy in all parts of the world*, was a very harmless declaration, intended to give offense to no one, and I am the most astonished man in Europe that offense has been taken at it." And then, if he had shown what he considered the error by the frank avowal of his object, the equivocation of the language would have been atoned for by the promptness of the explanation.

The editor of the Courier makes it the subject of grave accusation against our Administration, that these letters have been retained in the pigeon holes of the Department of State, instead of having been given to the American people, thus leaving them to the unjust conviction, that a flagrant insult against them had been committed. The editor approaches this topic with appropriate solemnity. He says: "We state upon our responsibility, as the conductor of a public press, which has never wavered in its duty to the country, that for months preceding the adjournment of Congress there were on file in the Department of State letters from Lord Clarendon, explaining to our Minister in London the true import of his speech in the House of Lords, and the most emphatic and precise denial of any, the slightest intention, of pursuing any such course in regard to Cuba, as was charged in the Senate of the United States." That is, to prevent us from acquiring it.

And this desire to preserve the relations of friendship with the United States, by restoring to the words of Lord Clarendon their true import, was met by the American Government in a far different spirit. "*The letters were suppressed*," says the Courier in italics, "and the gross slanders put forth by the Administration and its tools;" that is, *the whole American press*, without distinction of party, "permitted to do their work on the public mind."

Here is an expenditure of indignation very uselessly indulged, which had better been reserved for a more appropriate occasion. Lord Clarendon made a speech in the British House of Lords, containing the disclosure of a policy equally injurious and offensive to this country. Soon after, he learns, to his *astonishment*, but surely to that of no one else, that this avowal had excited public attention in the United States, and had given great dissatisfaction to the American people. Lord Clarendon says his words are misunderstood. What, then, was his remedy? He wanted no diplomatic correspondence to put him right. In constitutional Governments there is a shield of protection thrown over the speakers in all branches of the Legislature; and the right of foreign countries to demand explanations respecting words there uttered is everywhere denied. But Lord Clarendon possessed a mode of self-exculpation, subject to no will but his own. He could, at any moment, have risen in his seat, and there, where the words misunderstood to his prejudice were uttered, avow their true import, as he intended them, and thus redeem himself from a charge, which could not but occasion pain to an upright and ingenuous statesman. It is all idle to talk about "the gross slanders put forth by the Administration and its tools being permitted to do their work on the public mind," because Lord Clarendon's letters, if he wrote any, were not published. Ten minutes in the House of Lords would have placed his refutation independent of any Government or people, if that brief space had been employed in giving a rational and satisfactory explanation of his declaration. Such an explanation would have traveled through the world, giving another proof of the mighty power of free discussion, and of a free press. The very neglect to follow this obvious course but adds to the impression originally made.

As to the existence of any such letters I know nothing. I have made no inquiry; none at all. I do not doubt, however, but that the chairman of the Committee on Foreign Relations, who sits beside me, and who discharges his important trust so honorably to himself and so acceptably to the Senate and the country, can tell us what are the true facts in relation to this curious diplomatic episode, and can satisfactorily explain the course of the Administration in regard to it. I trust he will gratify us with any information he may possess upon the subject.

But, sir, if such letters were received, it is

obvious, that their official publication here could not have taken place without the admission of the Government, by that very act, that this alleged union, for the purpose indicated, had no foundation in fact. And I must say here, that such an admission, in the face of the words spoken, fortified by the accompanying circumstances, and with the anticipation, now become reality, of the acquiescence of the French Government in this scheme of territorial compression, would have been an act of self-stultification which I should be sorry to see an American Administration commit, be it, politically, friend or foe. In all this, it is no part of my duty to search for the construction, which Lord Clarendon has felt it expedient to put upon his own words. I take them as I find them, without endeavoring to ascertain whether the terms employed belong to a "language confidential or to a language official." Certainly the forms of human expression admit much doubt, and charity should teach us to receive with favor reasonable explanations, where the terms are uncertain. I see no such claim for the employment of charity in this case, because I consider the terms as definite as the English tongue can furnish.

To avoid the awkwardness of making itself a party to Lord Clarendon's disavowal, the Government, indeed, might have accompanied the act of publication with the declaration of its incredulity; but I suppose every one will agree that, to keep the letters, if letters there were, in their pigeon-hole repositories, was much better than would have been such an undignified exhibition.

The editor of the Courier attributes to this *forced construction* of the language of Lord Clarendon much of the change which he admits has taken place in the sentiments of the people of the United States regarding the war now prevailing in Europe. And while "honoring and respecting" the feeling of patriotism, in which he says this change has originated, owing to the conviction of the ultimate unfriendly purposes of France and England, he does but little justice to the intelligence of his countrymen when he assigns this change to the "falsehood and treachery" of a reckless Administration and its supporters. Far beyond the work of any Administration is this alteration in the views of the American people. For that it has taken place no one doubts. I have felt the process going on in my own mind. It appears to be an insoluble problem in France and England, and yet there is not the least real difficulty in its solution. When the troubles commenced, the sympathies of this country were with the Turks, and so far as these are concerned, they are so yet. Turkey was the injured nation. Demands were made upon her absolutely revolting to the moral feelings of the world. An independent community, she was bullied by Russia; no other word will express the arrogant attempt. She was haughtily required to make concessions absolutely incompatible with her honor and her interest, with her position, indeed, among the sovereign States of the world. The Turk had proved himself a better Christian than his Muscovite neighbor and would-be plunderer. The course of the Moslem Government, with regard to the Hungarian and Polish exiles, commends itself to the respect of Christendom, by its firmness and loyalty. Its unflinching defense of the rights of asylum to the political victims of a despotic Union, seeking whom it might devour, and in the very face of two powerful Empires thirsting for blood, is among the noblest examples of public honor and intrepidity to be found in Christian or in Pagan annals. Well did the successor of Othman maintain the indomitable courage of his race. And encamped only in Europe, as he is tauntingly said to be, he made himself the champion of that great code of national law which protects the weak against the powerful, whether marching under the banner of the cross or of the crescent. As to the Russian claim of protectorate over the Holy places, as they are called; that is, the doubtful sites of miracles long since passed—of empty sepulchers and dilapidated churches—it is beneath contempt; not entitled to the smallest consideration. It was a demand, not for the purpose of religion, but of power; not to guard Jerusalem from danger or oppression, but to exercise a controlling influence over ten millions of people—subjects of the Ottoman Empire.

The disclosure of the objects of the Czar, in his interviews with the British embassador, are among the most extraordinary developments, that ever found their way from a royal cabinet to an indignant public. The pretense of piety in the protection of the Christian religion is abandoned in these confidential effusions, and the inheritance of the "sick man" is avowed to be the object of Russian cupidity, and its proposed division among the great Powers is held out as a proof of Russian wisdom and moderation. I know nothing more atrocious in the dark catalogue of diplomatic atrocities, than this unprincipled scheme of partition. Its equal is only to be found in the graphic pictures of robber life, spread before the reader of Gil Blas.

Neither does the position nor do the antecedents of the Russian Government present to an American republican any elements of hope, nor any grounds of sympathy. It is an unmitigated despotism, both in principle and practice. The Emperor unites, in his own person, the superior authority—supreme, indeed, unlimited authority—sacred and secular. He is not only the head of the State, but the head of the Church. Not merely politically, but religiously; an object of faith, and, it is said, of adoration. It is useless to talk of the personal character and good intentions of the present Russian Sovereign. He may possess all his panegyrists claim for him; but woe to any people, whose dearest interest depends on the disposition and constitutional temperament of their ruler. The Trajan of to-day may be succeeded by the Nero of to-morrow; a wise man by a fool; a virtuous man by a monster. These are the accidents of birth. The only security against bad Government is the bulwark of a Constitution, and eternal vigilance in guarding it. At home, the Russian system of administration is one of sheer tyranny, unredeemed by a single institution devoted to the equal good of the people; not the aristocracy, but the vast mass of the nation, serfs in condition, and outcasts in treatment. Abroad, its external system is one of encroachment. Its battle-cry is onward. It conquers, not to enlighten and make happy, but to subject new realms to the rapacious grasp of its double-headed eagle. The partition of Poland a first, second, and third time, constituted deeds of infamy whose stain will never be effaced from its escutcheon, nor from the remembrance of mankind. And the policy of Catharine is still that of her grandson. It comes to him by inheritance, and it is nourished by habit and by inclination. Under these circumstances, past and prospective, had the contest been confined to the Czar and the Sultan, not a heart in America would have throbbed in sympathy with the former. The successor of the Prophet would have had our hopes and our good wishes, unalloyed by any other consideration.

But new actors appear in the arena, though I yet believe the protection of Turkey from the designs of Russia is still the desire of this country. The difficulty is in the separation of that object from ulterior purposes, looking first to the reduction of the power and extent of the Russian Empire, and then to the accomplishment of plans, if not of immediate aggrandizement, at any rate of armed interposition in all PARTS of the WORLD; again, to borrow the Clarendonian expression: We have signs enough in the political atmosphere, that this would be the second act in the drama of the union. Even if Lord Clarendon did not warn us, Louis Napoleon has done it. The significant hints in the English and French papers, from time to time, have done it. The current of conversation in France and England, as reported by observing Americans abroad, has done it. And a striking incident has added force to the general conviction. There was a moment when it was thought Sebastopol had fallen; a moment of triumphant exultation. It was then that the French Emperor, on reading a telegraphic dispatch, in the camp at Boulogne, exclaimed, with unrepressed feelings of gratulation, SEBASTOPOL IS TAKEN. It is stated in our journals, on the authority of European correspondents, that during the period of three days, while this error prevailed, the United States were freely spoken of as the next Power, to which the Allies would extend their attention and their force.

It is a subject of vehement reproach against us in England, that we exhibit such national ingratitude, by not sympathizing with the "noble conduct" of France and England, as the Courier calls it, who are now fighting the battles of the world, "the battles of Christianity and civilization," protected, as the Courier also says, by this combination.

Now, sir, I do not believe one word of all this. I believe France and England are fighting their own battles, just as Russia is fighting hers. And each for its own purposes. This charge of ingratitude against our country is not a new one. I heard it long ago. England told us for twenty years, that she was fighting the battles of the world, from the commencement, in fact, of General Washington's administration down to the war of 1812; and countless were the diatribes poured out against us by the British press, and which found a response in every heart in England because we presumed to doubt her disinterestedness, and to deny the obligation of admiration and thankfulness. Even in the State paper, signed by the Prince Regent, containing the English exposition of the causes of the war, this characteristic trait appears in bold relief. After recapitulating the obnoxious course of the United States, who had absolutely refused to be robbed any longer by France or England, the document goes on to say, "Against this course of conduct, the real cause of the present war, the Prince Regent solemnly protests. Whilst contending against France in defense, not only of the liberties of Great Britain, but of the world, his Royal Highness was entitled to look for a far different result." All this is said with as much apparent solemnity and sincerity, as if there were a single word of truth in this claim to be the great bulwark of nations. That war originated in an attempt to prevent the French people from exchanging a despotic Government for a free one, by a revolution, which, as General Washington said to the French Minister, Adet, awakened all his sympathy. As if to preclude misapprehension, the execution of Louis XVI. was the signal for dismissing Chauvelin, the French Embassador, and for commencing the war. That deed of blood was a wicked and unnecessary one, but it did not concern foreign nations any more than the execution of Charles I. concerned them, in days long gone by. The Bourbon was a far better man than the Stuart. The course of England was dictated by the eloquent rhapsodies of Burke, and guided by the overruling counsels of Pitt. But time has done its usual offices of reflection, and I suppose there are now very few men in England, who do not condemn the policy then adopted. The immense debt it left is at once her warning and her punishment. And how did England fight for the liberties of the world? I will tell you, sir. From the commencement of the war, her course was marked by a most contemptuous disregard of the law of nations. Our coasts were watched by her armed cruisers, our seamen impressed, our vessels captured, condemned, and plundered, and every injury inflicted, which imagination could contrive or power execute. It was a race between France and England as to which should make the most out of us by their atrocious acts of rapine. Orders in council were met by Berlin and Milan decrees, and the coasts of the world were laid open to plunder by fictitious blockades, with no force to maintain them, and in the very face of the established principle of the law of nations. The great political dispute of the day between the rival belli erents was, which committed the first outrage. Both conceded that neither had the right to begin; but each contended that the other was the first aggressor upon neutral commerce, and that he had the right to rob the neutral, because the neutral had been robbed before. There is neither misrepresentation nor exaggeration in this statement. It is plain historical truth. There was then at the head of the Admiralty Court in England, a man who bent the law of nations to the will of the British Cabinet, and who was just as ready to condemn vessels, as the Cabinet was to authorize their capture.

It is consoling to look back, and to recollect that there was one British judicial functionary, remote in position, but high in character and independence, who asserted the obligation of the laws of the world, and the inadequacy of a single nation to change or to control them. This was, sir, James McIntosh, at Bombay. But the delusion has passed away, and reason has resumed her empire. Whether this return to the true doctrine is owing to conviction or to the knowledge that such a formidable weapon in the hands of the United States, with their growing power, might

be wielded to the destruction of English commerce at some day not remote, I shall not undertake to ascertain. Having been born in a guessing country, I may guess; but I shall not pronounce. However this may be, the doctrine is now repudiated by the English courts. And I will quote a few lines from one of the latest and most esteemed English writers upon public law, (Wildman,) in proof of this assertion:

"These authorities show the illegality of the Berlin decree, the British orders in council issued in retaliation, and of the Milan decree, which followed them. These decrees and orders were an invasion of the right of every neutral State to carry on its own lawful trade with a belligerent."

But in those days of strange things, nothing checked the spirit of rapacity. Even Allison, at a much later period, tries to delude his readers, if not himself, with this pretense of the debt of gratitude due to England. He says:

"The United States have the disgrace of going to war against Great Britain, the last refuge of liberty," &c.

This disgrace was in the assertion of national rights, now universally acknowledged to have been shamelessly violated. It is no wonder, however, that an Englishman should take this view, when a State Legislature, in our own country, in the midst of the contest solemnly resolved that it did not become a moral and religious people to rejoice at victories gained in such an unholy war. The human intellect is strangely led captive in times of excitement. I look back upon these circumstances historically that we may profit by the retrospect, and not be misled by any parade of deep obligation to the present belligerent Powers. If England fought the battles of the world, at the commencement of this century, she has no claim to disinterestedness, for she got well paid for all she did. I have not time to count the acquisitions she made. They checker the world. We do not want France, nor England, nor any other nation to fight our battles. When we cannot do our own fighting, and defend our own honor and interest, let us strike our national flag, and bow to the yoke of the conqueror. We shall never be saved from that calamity by England.

It is impossible to look upon the elements of commotion, which are now at work in Europe without anxiety. Into what formidable combinations they may ultimately arrange themselves is beyond the reach of human sagacity. Whatever these may be, they will neither be formed, nor will they operate, in any friendly spirit to the United States. That this Republic is unconquerable by any earthly power, or by any confederation of powers, may be well said by an American, without the charge of national vanity. Our means of resistance, and our knowledge and ability to apply them, place us, as far as a people can be placed, beyond the danger of subjugation. But we are exposed to evils, which, though far short of the annihilation of national independence, are yet of sufficient magnitude to excite the solicitude of a free and intelligent country. The improvements of the age will tell upon our position, should we be forced into a collision with the powerful nations of the Old World. In rapidity of transportation, in the concentration of force, and in the power to throw it upon any given point, as well as in all the *materiel* of war, wonderful advances have been made, which promise to be followed by an almost entire revolution in the science of attack and defense, and generally in the mode of carrying on hostilities. The intellect, that is engaged in seeking valuable improvement and new discoveries, is ever acting, never doubting, always advancing. We must not be taken by surprise in this new condition of the world. We shall lose nothing by wise preparation, nor by looking steadily at the dangers, which beset us, with the resolution to follow the example of our fathers, and to do our duty in a perilous crisis, as they did theirs in a still more perilous one.

Mr. MASON. Mr. President, I am not entirely at liberty to decline some answer to the inquiry which has been made by the honorable Senator from Michigan in reference to the principal topic and the very interesting discussion with which he has favored us this morning; and I may be excused, perhaps, holding as I do, by the assignment of the Senate, a very responsible position, so far as this body is concerned, in reference to the foreign relations of the country, for very briefly bringing to the notice of the Senate and the country some facts which are connected with the interference by European Powers spoken of by the Senator from Michigan.

As to the first alleged disclaimer by Lord Clarendon of the language imputed to him in the House of Lords, I have but little to say. If he was correctly reported, as I presume was the fact, in the transcript which has been exhibited to the Senate by the Senator from Michigan, he certainly did convey the meaning that the alliance subsisting between the two Governments of France and England had become general on all matters of policy, and extended to all parts of the world, and that "on the question of policy there is no part of the world, in either hemisphere, with regard to which we are not perfectly in accord." The terms used are very broad, and, I fear, intended to cover a very extended meaning. I am at liberty to say, however, in reply to the inquiry made by the honorable Senator from Michigan, that, as I am informed, and I know correctly informed, Lord Clarendon, in an inofficial conversation held with the Minister of the United States at London, said substantially that his attention had been called to the interpretation which had been placed on those remarks of his by the Senator from Michigan, in the Senate, and that he had been surprised to find that the Senator from Michigan thought them susceptible of such an interpretation; and that his true meaning was only that France and England were acting jointly, with a joint purpose, in effecting certain commercial treaties with the countries bordering on the river De La Platte. That I have understood, and I know I have correctly understood, was the meaning assigned by Lord Clarendon to his language in the debate that has been alluded to.

I am free to concede to that gentleman, as we all will concede, what is due to him as a gentleman and a man of honor, full right to put his own interpretation on his own language, difficult as we may find it to reconcile that interpretation with the language itself. But, sir, with any declaration or disclaimer of Lord Clarendon, I should think that I should have very little to do, though with the acts of the Government of which Lord Clarendon was then the foreign organ, or with the acts of that Government with which it was, and is, in alliance, we have more to do; and if it shall be found that the conduct of those Governments is in direct antagonism to this disclaimer of Lord Clarendon, the attention of the American people would be, and should be, strongly drawn to it.

Now, Mr. President, that a cloud has been gathering for some years in the relations which subsist between this Government and the English Government originally, and now the Governments of France and England jointly, none can doubt. It has been evinced in both seas, the Atlantic and the Pacific, commencing many, many years ago, and brought down to a very recent period, evincive of a joint policy on their part, for reasons undisclosed by them, to interfere in matters with which I am satisfied the American people, with one voice, will declare they have no right to interfere.

Sir, we know the history of the affair at San Juan or Greytown. We know that the British Government, for reasons undisclosed, assumed the strange and shadowy pretension that, because of some undefined and vague protectorate, never yet defined by her, supposed to exist between her and a vagabond remnant of a band of Indians on the coast of South America, she claimed the right of interposition between those Indians and the sovereignty of the country over which they roamed—the Mosquito coast. This state of things was disregarded for a time by this country, because, until it became a matter of moment with us to have ready and unobstructed access to our possessions on the Pacific, the attention of the American people was not called to it. It was continued by England, until at last it resulted in christening anew a port within the limits of a sovereign State of Central America, giving it an English name, and bringing it under English protection—the town of Greytown. The two countries were brought into communication in consequence of it, and a treaty was framed which has been the subject of discussion in the Senate, negotiated on the part of this Government by the very able and distinguished Senator from Delaware, [Mr. CLAYTON,] then the Secretary of State, of which at present I shall say nothing more than that in it, the renunciation on the part of Great Britain of any purpose or design at any future day to colonize, occupy, fortify, or assume, or exercise dominion over any part of Central America, was distinct. How far she has complied with that pledge, history may tell at a future day. I will say this, simply, that under this assumed protectorate, on the part of England, she did succeed in placing the people at Greytown in such an equivocal position toward the rest of the world that they were unable to determine whether they constituted a responsible, political community or not; and, in order to protect our people and the honor of our country, by what I consider a fortunate incident, the town was battered about their ears on a very recent occasion, by a gallant officer of the American Navy. It was well done, and, in my judgment, correctly done. England was the cause of it, because she placed them in that equivocal condition toward the rest of the world, in which we could only look upon them as they turned out to be—utterly irresponsible. Every opportunity, under the instruction of our Government, was given to them to disclaim the intended offense, and to make amends, but nothing was obtained from them but silence. They showed themselves utterly in a state of disorganization. In my judgment they were correctly treated as you would treat any horde of savages who placed themselves in the path of civilization.

Mr. President, this question arose many years ago. We all know very well, in looking back to the period of Mr. Monroe's administration in 1822, that Spain had sought most diligently and earnestly to obtain the intervention of the Allied Powers of Europe upon the southern continent of America, for the purpose of resubjugating her colonies. England and the United States were then found together in opposition to that intended purpose. England, as I construe the history of the occasion, was brought to it because of the exigencies of her own commerce in the commercial relations that had arisen between the people of England and the people of those colonies, as consequent upon the independence which they had attained. So it was. England was with us in protesting, and, I believe, in being prepared to defeat, if necessary, the extension of that European policy to this continent at that time. But, sir, the United States took the lead in advance of England, although at the hazard of a general European war if that policy had been carried out. The United States took the lead in acknowledging the independence of those Spanish American States; England followed soon after; and at that day was given birth the celebrated protest of Mr. Monroe, handed down since as the Monroe doctrine, from which I have yet to hear the first statesman of America dissent. What was it? In his annual message, in December, 1823, Mr. Monroe informed Congress that, at the invitation of Russia, instructions had been given to the American Minister at St. Petersburgh to arrange, by negotiation, questions of boundary between the two Governments on the northwest coast of America, and that a similar proposal had been made by Russia to England, and accepted by her, and then the message proceeds:

"In the discussions to which this interest has given rise, and in the arrangements by which they may terminate, the occasion has been judged proper for asserting, as a principle in which the rights and interests of the United States are involved, that the American continents"—

Both the North and South American continents—

"by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European Powers."

That was the Monroe doctrine, as it has been called, promulged in 1823, and I repeat, I have yet to hear the first American statesman who dissents from this resolution on the part of the Government of the United States. In the same message Mr. Monroe went further, and in reviewing the apprehended interference on the part of any European Power in the politics and policy of these continents, he held this language:

"We owe it, therefore, to candor and to the amicable relations existing between the United States and those Powers, to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European Power we have not interfered, and shall not interfere. But with the Governments who have declared their independence, and maintained it, and whose independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling, in any other manner, their

destiny, by any European Power, in any other light than as a manifestation of an unfriendly disposition toward the United States."

Sir, the protest here is, that "we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety." This was the American doctrine, promulged in 1823—a protest that the attempt on the part of any European Powers to extend their system anywhere upon these continents would be dangerous to the peace and safety of the American people. Let us see if those Governments have done it.

Sir, for reasons, as I have said, undisclosed, I am free to declare, as far as I am capable of construing conduct and action—not profession, either declaration or disclaimer—conduct and action continuous, preserved, and persevered in, these European Powers, more especially the two great maritime Powers of Europe, are interfering, and yet interfere, in matters purely of American and domestic policy; and they have done it in both seas, as well in the Pacific as in the Atlantic. Having been kindly informed by the honorable Senator from Michigan as to what would be the general scope of his remarks, I have taken some pains to collect information on this subject, and to bring it together for the information of the Senate, as far as they may consider it of value, and more especially for the information of the American people. I wish to point out to them those clouds that have arisen in the horizon, and are increasing every day. I must be permitted, however, before going into it, to say that I remarked, as doubtless the country did, with very great pleasure, that the present Executive, the President of the United States, in his annual message at this session, exhibited what he considered to be the chart of American policy on the subject of foreign interference. In that message he says:

"The wise theory of this Government, so early adopted and steadily pursued, of avoiding all entangling alliances, has hitherto exempted it from many complications, in which it would otherwise have become involved. Notwithstanding this, our clearly-defined and well-sustained course of action, and our geographical position so remote from Europe, increasing disposition has been manifested by some of its Governments to supervise, and, in certain respects, to direct, our foreign policy. In plans for adjusting the balance of power among themselves, they have assumed to take us into account, and would constrain us to conform our conduct to their views. One or another of the Powers of Europe has, from time to time, undertaken to enforce arbitrary regulations, contrary in many respects to established principles of international law. That law the United States have, in their foreign intercourse, uniformly respected and observed, and they cannot recognize any such interpolations therein as the temporary interests of others may suggest. They do not admit that the sovereigns of one continent, or of a particular community of States, can legislate for all others.

"Leaving the trans Atlantic nations to adjust their political system in the way they may think best for their common welfare, the independent Powers of this continent may well assert the right to be exempt from all annoying interference on their part. Systematic abstinence from intimate political connection with distant foreign nations, does not conflict with giving the widest range to our foreign commerce. This distinction, so clearly marked in history, seems to have been overlooked, or disregarded, by some leading foreign States. Our refusal to be brought within, and subjected to, their peculiar system, has, I fear, created a jealous distrust of our conduct, and induced, on their part, occasional acts of disturbing effect upon our foreign relations. Our present attitude and past course gives assurances, which should not be questioned, that our purposes are not aggressive, nor threatening to the safety and welfare of other nations. Our military establishment, in time of peace, is adapted to maintain exterior defenses, and to preserve order among the aboriginal tribes within the limits of the Union. Our naval force is intended only for the protection of our citizens abroad, and of our commerce, diffused, as it is, over all the seas of the globe. The Government of the United States, being essentially pacific in policy, stands prepared to repel invasion by the voluntary service of a patriotic people, and provides no permanent means of foreign aggression. These considerations should allay all apprehension that we are disposed to encroach on the rights, or endanger the security, of other States.

"Some European Powers have regarded, with disquieting concern, the territorial expansion of the United States. This rapid growth has resulted from the legitimate exercise of sovereign rights, belonging alike to all nations, and by many liberally exercised. Under such circumstances it could hardly have been expected that those among them which have, within a comparatively recent period, subdued and absorbed ancient kingdoms, planted their standards on every continent, and now possess, or claim the control of, the islands of every ocean as their appropriate domain, would look with unfriendly sentiments upon the acquisitions of this country, in every instance honorably obtained, or would feel themselves justified in imputing our advancement to a spirit of aggression or to a passion for political predominance."

The first instance to which I shall advert is one of which I was not aware until I went to the Department of State to obtain information; and here I will say that having access to the information contained in the Department, upon my own responsibility, certainly with the knowledge of the head of the Department, I caused such extracts to be made from the foreign correspondence as I considered would enlighten the country on this subject; and here is one of them, and a very striking one. Mr. Savage, an American citizen who has been for many years residing in Guatemala, a private gentleman, but who, in the absence of a diplomatic functionary, has been in correspondence with the Department of State, has furnished them much valuable information, and his information is regarded as correct and reliable. In a letter to the State Department, dated the 26th of March, 1853, he gives this information:

"Herewith I send inclosed a copy of a treaty unauthorizedly signed in Brussels, on the 14th April, 1852, by Mr. L. Veydt, consul general of Guatemala, residing in Brussels, and the Commissioners of the Belgian Company of Colonization of St. Thomas." * * * * "But this Government has, notwithstanding, declared the contract forfeited, and now refuses to ratify the treaty.

"Great efforts are, however, being made to place the colony of St. Thomas, which is in the vicinity of Belize, British Honduras, under more powerful influences; and I am informed, from a reliable quarter, that the British consul has, by directions of his Government, interposed the influence of his office to obtain the ratification of this treaty, and several notes have been interchanged between the Minister of State and the British consulate, on this subject."

It would thus appear that the consul of Guatemala, at Brussels, had, without authority, undertaken to commit his Government in reference to some proposed Belgian colony to be planted at Santo Thomas, in Guatemala. Santo Thomas is the most important, if not the only important, port of Guatemala, in the bay of Honduras. The Government of Guatemala, as it had an undoubted right to do, repudiated the act of its consul, and refused to acknowledge the rights under this colonial grant. The British consul interposed, as is alleged here, to use the influence of his office to obtain the ratification of that grant by the Government of Guatemala. This is not all. The communication which I have read was made in March, 1853, and on the first of April following Mr. Savage sent a dispatch to the Secretary of State, recurring to that subject, in which he says:

"I have now the honor to submit for your perusal copy of a note from the original, addressed to the Minister of the Interior, by the British Consul General, in which he emphatically asserts that his instructions were most positive, not only to support, but even to state that Her Majesty's Government might see itself compelled to insist upon the ratification of the convention of the 14th of April, 1852, founded, as it was, upon the memorandum of the 29th of November, 1851, which, he thinks, is a sufficient proof of the importance attached to that document.

"Now, as the ratification of this treaty would imply a right to the permanent establishment of an European colony, by which means also, it would be brought under more powerful influences than the Belgian Government could exert in its favor, and as it would be in direct opposition to the principles advanced by Mr. Monroe, which it is the duty of every American to sustain, I have judged proper to bring it under your immediate notice."

The British Government, acknowledging themselves under treaty stipulations not themselves anywhere to colonize in Central America, but seeking to avail themselves of an alleged but repudiated grant made to a Belgian colony, interposed with the Central American Government of Guatemala, and declared that her Britannic Majesty might consider it incumbent on her to insist on the execution of that convention and the confirmation of the grant. That is one incident.

Sir, we have heard, through newspapers, and occasionally by the publication of some official paper which finds its way to the press, of the open, avowed, continued, and, at last, successful intervention both of the French and English authorities in the Sandwich Islands to frustrate negotiations on the part of this Government with the authorities of those islands. Whether it ever will be the policy of the American people or the American Government to annex the Sandwich Islands to this Confederacy I know not. For one, as far as I am at present advised, I should deprecate such an annexation. Our Government is not intended for colonization. It cannot colonize. Our Government has no power to hold distant and dependent provinces; and such an attempt would have the most corrupting and debasing tendency. But if the day has come, or shall come, when the necessities of this Government require that the United States should, with the assent of the sovereignty at the Sandwich Islands, make those islands a part of this Confederacy, I apprehend that all the Powers on earth cannot and shall not prevent it.

Sir, notwithstanding the disclaimer as it is said on the part of Lord Clarendon, I am not aware whether such disclaimers have come from the Government with which England is in alliance. The fact is notorious, that there is a consistent and continued intervention on the part of those two Powers, sometimes jointly and sometimes separately, to prevent that annexation; and there are some remarkable papers connected with that subject, which have been transmitted to this Government, which I desire to bring to the attention of the country. The first is in the shape of a joint protest, filed by the consuls of England and France, with the Government of the late King of the Sandwich Islands, in which this language is held:

"Under these circumstances we consider it our duty to remind you that Great Britain and France have entered into solemn treaties with the Sandwich Islands, by which treaties your Majesty, your heirs and successors are bound to extend at all times to French and British subjects the same advantages and privileges as may be granted to subjects or citizens of the most favored nation; and that the joint declaration of England and France of the 28th of November, 1843, was founded upon the clear understanding that your Majesty was to preserve your kingdom as an independent State.

"Therefore we declare, in the name of our Governments, that any attempt to annex the Sandwich Islands to any foreign Power whatever, would be in contravention to existing treaties, and could not be looked upon with indifference by either the British or French Governments."

Then these two gentlemen, the consular representatives of these two Powers, undertake to lecture King Kamehameha upon what they considered his regal duty to his subjects, and to give them what they consider the true interpretation of their own domestic laws, both of which they supposed would preclude the idea of annexation, thus taking them as it were under the tutelage of the two Powers. That paper was written in September, 1853. In March, 1854, the Government here was advised in a dispatch, from which I have caused an extract to be taken, from our Commissioner to the Sandwich Islands, Mr. Gregg, to the Secretary of State:

"I learn that Messrs. Miller & Perrin have received dispatches from their Government approving the course pursued by them, in protesting against 'annexation' on the 1st of September last, and that representations had been addressed to the Government of the United States, on the subject, by Great Britain and France. The fact merely was mentioned to him, and he was unable to gather anything like full particulars, either as to the terms of the approval, or the character of the representations to our Government."

And I am informed that from England at least a formal protest was made against any such annexation. But, sir, this is not all. I shall have occasion, painfully, to show to the Senate that, whether with or without authority, the accredited representatives of both these Powers at the Sandwich Islands, and at the Island of San Domingo, have endeavored to alarm and intimidate the people there, and their Governments, by producing the impression that if they do cultivate relations of amity with us, our aggressive policy will eventually encroach on them, and make them slaves. That language has been held both at the Sandwich Islands, and at San Domingo, by the representatives of these courts, and never disclaimed, so far as I know. In a dispatch from Mr. Gregg, of the 6th of June, 1854, he says:

"The British consul general is as busily as ever engaged at his old course, of disparaging the institutions of the United States, and trying to excite prejudices against them in the minds of the native Islanders." * * * * *

"Yesterday he sought out Koeni Ana, the Premier, and placed in his hands, with many injunctions of secrecy and caution, a manuscript in Hawaiian, requesting him to read it to the King, and return it as soon as possible. It purported to be an argument against annexation to the United States, and set out with the statement, that the first effect of such a measure would be to make slaves of the natives! It then denounced our Government as corrupt in its tendencies, grasping in its policy, and unscrupulous in its action."

Again, sir, so late as October 2, 1854, in a dispatch of that date from our Commissioner at the Sandwich Islands, there was communicated to this Government a paper, which I think I saw in print—I am pretty sure that I saw the substance of it in print, purporting to have been a speech delivered by the British consul to the King of the Sandwich Islands, to intimidate and deter him from the annexation which they supposed then to be imminent. The commissioner says:

"An arrangement was made to receive him [General Miller, British Consul General] on the 18th, when he made an extemporaneous speech of an hour and a quarter, against

annexation to the United States, and in dispraise of our country, her Government and people. The substance of his remarks has been stated to me by those who heard them. He deprecated annexation to the United States, and represented it to be one of the worst evils which could befal the Hawaiian race, denouncing our institutions as corrupting in their tendency, and wholly unequal to protect in security the enjoyment of life and property. As an illustration he referred to California, and described numerous disorders, which, he alleged, had prevailed there, in the strongest terms, predicting that the introduction of American rule in these Islands would be the signal for the commencement of a similar state of things, in which the rights of the natives would be altogether lost sight of and sacrificed. He read at length the articles in the New York Tribune of July 20th and the Herald of a previous date, on the subject of annexation, to show that the designs of our Government were hostile to Hawaiian interests, and ought to be regarded in no friendly light. These papers, he insisted, were fair and honest, rising above the corrupting tendency of Republican institutions, and entitled to great weight in forming an opinion of the policy of the American nation."

Mr. WELLER. I wish to ask my friend from Virginia whether he is aware of the fact that there was a board appointed soon after that speech was made, composed of the surgeons of the French and English fleet lying at Honolulu, which found that this consul was insane. There was a board regularly appointed to try that question, and they found that he was insane. That is the reason why I shall make no reply to what he says against my constituents.

Mr. MASON. Mr. President, I was aware, sir, of the fact, not that a commission of lunacy had issued upon him, but that it had been said afterwards, in some manner, that he was insane. If this were the only instance where these two Powers, either jointly or separately, had interfered in our policy, I might consider it worthy only of a passing notice; but I regard it as a mere link in a great chain. Whether this man be insane or not, Heaven knows; but if he held the language which is ascribed to him, and which doubtless he did hold, being himself the representative of his country to the foreign Power to which he was accredited, in defaming the institutions of a Government with which his was on terms of peace and amity; and that Government did not only not make a disclaimer of the act of its representative, but a disclaimer of the sentiments, and of the purpose and policy, we have a right to hold them responsible for it.

Now, sir, I have to call the attention of the Senate to a very recent matter with which my honorable friend, the Senator from Louisiana, [Mr. BENJAMIN,] has probably some acquaintance. It was considered desirable on the part of this Government, for purposes of high national interest in the promotion of commerce, to make a convention with the State of Ecuador on the Pacific, where we have a chargé d'affaires, in relation to the commerce in guano, which it was supposed had been recently discovered within the possessions of Ecuador. Negotiations were entered into for the purpose of making a commercial treaty to secure to this Government, in some form, the advantages resulting from such a trade, and we forthwith find the representatives, not of England and France alone, but of Spain and Peru with them, remonstrating against any such treaty on the part of the Government of Ecuador. Here is the evidence. In a dispatch from Mr. White, our chargé d'affaires at Quito, to the Secretary of State, dated November 24, 1854, he says:

"Called last night at my house, to advise me that Messrs. De Paz and Villámos, chargés from Spain and France, Sor Lauz, the Peruvian minister, and Mr. Walter Cope, the English consul, called upon the minister on Wednesday in a body, without the usual courtesy of asking in advance for a conference; and that they abruptly demanded the right to protest against the ratification of our treaty with Ecuador, in relation to the trade in guano," &c.

The minister of Peru and the minister of Spain are here, intervening for the first time in the affairs of this Government, but their objects and purposes, and the *quo animo*, are manifested by the company in which they are found. They went there and abruptly demanded the right of protesting against any such treaty with this Government. This is not the only evidence of it, for there is a dispatch from Mr. Clay, our minister at Peru, dated so late as the 25th of December last, in which he tells the Secretary of State:

"Mr. Moncayo, Minister of Ecuador, in Lima, was also instructed by his Government to inform me that, at an official interview with the Minister of Foreign Affairs of the Ecuador, Mr. Villámos, the French chargé d'affaires, had said, in referring to the treaty, 'he was surprised that the Government of the Ecuador would seek the protection of a nation whose ambitious views and unscrupulous desire of extending its territories were notorious, and which was shown by the annexation of Texas, California, and our designs with respect to the Sandwich Islands and Cuba. That in so far as France was concerned, the Emperor was resolved to curb that spirit; and although, under present circumstances, it did not suit the policy of his Government to undertake anything against the United States, yet, upon the conclusion of the war with Russia, the Emperor would turn his attention to the United States; and that a war between the two countries he considered unavoidable, as it was desired by the French Government.' I do not pretend to give the *exact* words of this extraordinary assertion of Mr. Villámos; but it was conveyed to me by Mr. Moncayo in language fully as strong, and substantially as I have stated it."

Now, sir, if there were an inquisition of lunacy on the gentleman here mentioned, I apprehend he would be as fit a subject for a return of lunacy as the consul of Great Britain at Honolulu; but what does it evince? Why, sir, it evinces that in some extraordinary way, these consuls and diplomatic functionaries have a general license, not in Europe, but here upon the adjacent American continent, to defame the institutions of this country in their official character, to intimidate the Powers to which they are accredited, for the purpose of preventing commercial treaties, connections that we seek or may choose to form with them, and that they go, as far as their own Governments are concerned, unwhipped of justice.

I come now to the more recent case at San Domingo. It was considered important, on the part of this Government, to form commercial connections of some kind with the Dominican Government, which, we are well informed, is in the hands of the white race, the principal and great object being to attain the most desirable end of having a depot for coal. The Island of San Domingo is the only one of those islands that is not in possession of some one of the European Powers. As we all know, one end of that island is in the hands of the negro race, who have relapsed into savagism and barbarism; and the other end is in the hands of the African race, as they are represented now by the white race, and who are too feeble and puny to take care of themselves. It was deemed important by our Government, for high national purposes, to obtain a coal depot there; and, if coal existed in the island, as there was strong reason to believe, to be allowed, under proper contracts and engagements, to have the privilege of obtaining it. Here again we find the French consul and the English consul actively and personally interfering, until they at last successfully frustrated the negotiation. Here is a letter from Mr. Cazneau, the commercial agent there, addressed to the Secretary of State, so late as December 23, 1854, in which he says:

"I would respectfully beg leave to call your attention to the documents herewith inclosed, as they present a full and connected chain of evidence from the most eminent and indisputable witnesses, that the interruption of the friendly relations between the United States and the Dominican Republic, was entirely effected by the menaces and intrigues of the diplomatic agents of France and England in their active hostility to the interests of the United States.

"France and England assume here, under the title of the 'mediating Powers,' a dictatorial supervision altogether incompatible with the independence of the Dominican Republic."

We know very well, Mr. President, that the Spanish negroes at one end of the island are comparatively few and feeble, and the French negroes at the other end are in a state of perfect savagism, are far more numerous, and that these too mediating powers claim the credit of keeping the French negroes from exterminating the Spanish negroes at the other end, and they have been there in that character for a considerable time. San Domingo once belonged to France. At an evil day she surrendered it to the African race, who at the time were her slaves, but who had succeeded in a revolt. What has been the consequence? After the whites were expelled from the island, the negroes relapsed into a state of absolute savagism, which is paralleled only by the same race on the coast of Africa from whence they came; and the only vestige, as far as I am informed, of civilization, of progress, of a capability to take care of themselves, which is evinced by any portion of the African race on that island is at the Dominican end, where the Government is in the hands of the whites, at their surrender, and by whom they are controlled.

Sir, as was strongly said by the honorable Senator from Michigan, the European powers are in possession of every island near us—all the Windward Islands, the islands of the Caribbean sea, extending by the English Bahamian possessions to our own State of Florida. They have been in possession of them from an early day, we asserting no right and intending no purpose to interfere with that possession, notwithstanding the great interests of this country in protecting a commerce which is increasing every day in importance and in value, along the whole coast of Central America, across the Isthmus, to our possessions on the Pacific coast, without a right to even an anchorage ground anywhere in those seas, for we are unable to get it, all being in possession of those European Powers. Although this is the case, when an effort was made, openly and avowedly, to obtain so simple an advantage as a depot for coal, these two European Powers, by their representatives, interposed to prevent it, and successfully frustrated it.

There is no shutting our eyes to these facts. We should be recreant to the trust imposed on us by the American people if they were not exposed, in order that the public mind may prepare for the events that may occur if they are persevered in, as we have every reason to believe they will be. In connection with this subject there is a very extraordinary paper—one presented by the consuls of France and England, to the President of the Republic of Dominica, which I have obtained, and upon the truth and verity of which I rely—a paper presented by the consuls of England and France, in December, 1854, in which they inquired of the Dominican Government, whether if the two mediating Powers guaranteed a truce with the Empire of Hayti—the French side—the Dominican Power would, as a party thereto, make certain guarantees. Now, I ask the Senate to listen to those proposed engagements. Mark, England and France proposed through their representatives—and when I speak of those countries, I speak of the acts of their authorized diplomatic functionaries—to the President of the Republic of Dominica, to guarantee a truce with their enemy Faustin, provided the President of Dominica would, as a part of that guarantee, enter into the following stipulations with those Powers:

"1st. Never to sell, to lease, to mortgage or give away, either absolutely or temporarily, any portion of the Dominican territory, particularly on the bay of Samana, to any Government whatever.

"2d. Never to contract a financial engagement with any foreign State, nor accept any subsidy from such, or mortgage or hypothecate to it any branch of the revenues of the State of St. Domingo.

"3d. Never to consent to any alienation of the sovereign national jurisdiction in favor of any foreign State.

"4th. Never to permit any Government whatever to found or occupy, upon Dominican territory, any maritime establishment, or any factories or depots whatever.

"5th. Never to permit the landing of any troops of adventurers, whether armed or not, at any point in the same territory.

"6th. Never to conclude any treaty with any Power whatever, according it more than has been accorded to other Powers by previous conventions; but above all no treaty in which such Power will not guarantee the same treatment, the same rights, the same advantages, and the same privileges to all Dominicans, without distinction of origin or color."

Upon those conditions, the functionaries of France and England offered to guarantee a truce with their enemies on the other side of the island. The paper containing them was placed in my hands from a source which satisfies me that it is a genuine paper, and that these propositions were made to the President of the Dominican Republic, under the sanction and by the authority of those whose names are signed to it—the consuls of England and France at St. Domingo. What is the meaning of it? In the first place, knowing, as they do know, the unfortunate differences, not to say dissensions, of a domestic character, at home, arising out of our institution of African slavery, they avail themselves of it as a means to alienate forever any portion of that island from American possession, if they go to that extent, have we not a right to infer that—not avowedly, not in the form of an official dispatch, but quietly and secretly—the authorities of that island were persuaded, as the attempt was made to persuade those at Honolulu, that the consequence of any connection with this Government would be to reduce them to a state of slavery? That, however, is a matter of inference only.

I have, Mr. President, given the proofs. Taken by themselves, detached one from the other, they might not amount to much to impress the public mind; but collect them and collate them, and who can shut his eyes to the fact that, from reasons undisclosed, but which we have a right to con-

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jecture while they are undisclosed, the two great maritime Powers of Europe consider themselves entitled of right to interfere here upon our coasts and on our borders with matters purely of American policy? Why, sir, all the countries of Europe now, with the exception of England, are under the absolute sway of despotism. The rulers look upon their countries as their domain—their private property. They look upon their people also as property belonging to them, with a right to govern and control them at pleasure, to parcel them out and divide and subdivide them, to add a little here and take off a little there, in order, as they express it, to maintain an equilibrium in the balance of power. What is the present war about? In relation to it I shall express no opinion whatever, for I am entitled to none; but, as a mere observer, let me ask what is the present war about? The western European Powers declare that it is to prevent the aggrandizement of Russia at the expense of Turkey. For what purpose was the intervention of Russia in the conflict between Hungary and Austria, but to prevent a disturbance of the balance of power, and more especially a disturbance of the great principle of the divine right to govern men? So, it is a matter of European policy. They assume and exercise the right, by curbing here and retrenching there, to take care that one Government does not grow too strong for another. And here, if we are capable of reading the signs of the times—disavowed, not admitted, disclaimed inofficially—we find that for some undisclosed purpose, they are at their work on this continent; and they have done it effectually, seriously to the detriment of the maritime interests of this country, in the case of St. Domingo and Ecuador, if not at the Sandwich Islands. We cannot shut our eyes to the fact that they have such a policy. Is it to be submitted to?

I should not have gone into this discussion, I can assure the Senate, but that the occasion seemed proper on my part, from the ground which was occupied by the honorable Senator from Michigan. At last, sir, this question is but abstract with us. Congress cannot act in matters connected with our foreign relations, unless at the recommendation of the Executive. But, sir, I have no doubt—knowing as I do, and confiding, as I fully confide in, the exceedingly able hands to which, as an Executive officer of the Government, the foreign policy of the country is committed—that measures, if not now in progress, will be speedily taken to bring this matter of European interference in questions purely of American and domestic interest to an issue, that we may know the meaning of it, how far it goes, and to what it tends. When that issue is presented to the American people, if I am capable of understanding the hearts of my countrymen, there will be but one voice.

Sir, I am not aware of an instance in which this Government ever attempted to interfere in anything on the other side of the Atlantic. We have seen the Governments there interfering with each other, and parcelling themselves out at pleasure. We have seen France taking possession of part of the African coast at Algeria; but we never expressed an opinion about it, far less attempt an interference. We have seen England recently obtaining complete mastery of the overland route to India by seizing Aden at the mouth of the Red Sea. We never interfered—never expressed an opinion. We know they are in possession here, claiming to be the rightful owners of every Island both in the Caribbean Sea, and in the Atlantic, upon our own coast. We have never questioned their right of property—never attempted to interfere with them; our policy has been one purely domestic. I say again that when this matter is brought to an issue, and those Governments are made to avow or disavow their real intentions and objects in this persistent interference, let the Executive recommend what may be considered necessary to put an end to it, and the Executive will be sustained with unanimity by the whole American people.

Several Senators, among them Mr. CLAYTON, addressed the Chair, but the floor was awarded to

Mr. JONES, of Tennessee, who said: I move that the Senate proceed to the consideration of the special order of the day, which was assigned for one o'clock—the railroad iron bill.

Mr. BADGER. I hope the opportunity will be afforded by the Senate to the Senator from Delaware to say a word on this subject. ["Certainly."] I hope so.

Mr. JONES, of Tennessee. I think my motion is in order.

The PRESIDING OFFICER, (Mr. BROWN in the chair.) The Chair understands that the subject which has been discussed embraces no question before the Senate; and therefore, of course, the discussion cannot go on without the consent of the Senate.

Mr. BADGER. I move that the Senator from Delaware be allowed to address the Senate on the question which has just been discussed.

Mr. DAWSON. He certainly should be allowed to make a personal explanation.

Mr. CASS. There is peculiar reason why the honorable Senator from Delaware should be heard on this subject.

The PRESIDING OFFICER. Does the Senator from Tennessee insist on his motion?

Mr. JONES, of Tennessee. Mr. President, I am as little liable to a charge of a want of courtesy as any man in the Senate. I have never been wanting in courtesy to any member of this body; but I submit to the Senate if the forty remaining hours of the legislative session are to be thrown away here on mere abstractions, while the interests of our constituents are being sacrificed every hour? Are we to give ourselves up to the discussion of abstract questions when only forty hours of action remain, according to the ordinary rules of legislation?

A SENATOR. Forty hours!

Mr. JONES, of Tennessee. There are but ten days of the session remaining, and I compute four hours of session to each day. If any practical results were to grow out of this discussion, if there was any question before the Senate, I should yield without a single murmur. If the honorable Senator from Delaware were assailed I should yield to him with pleasure; but I am not aware that he is. He needs no vindication. His vindication is before the country, and was made in this body two years ago, and this is the old question brought up here again. Are the interests of our constituents to be sacrificed that we may hear long speeches about mere abstractions? I protest against it; and, for one, I will not yield the ground I have taken.

Mr. DAWSON. I desire to say a word on the subject that has been discussed by the honorable Senator from Michigan, and the honorable Senator from Virginia. We have had from them grave and thoroughly-reflected-upon speeches on a vastly important question—a question that did not originate with the Senate, but with those speakers themselves. My only object in rising now is to ascertain from them whether they are speaking for the Administration, or whether the views which they have presented are their individual views? The particular relation which the last speaker [Mr. MASON] occupies towards the Administration, as chairman of the Committee on Foreign Relations of this body, will impress the country with the idea that he has been stating the views of the Administration; and the importance of those speeches, and the importance of the subject involved in them, will strike the public mind at once. It would be improper and unjust to the people at large that this subject should be permitted to pass off, even for a day, without the nation comprehending the object and meaning of this discussion. If it be merely an introductory process to a communication which we are to receive from the President on these great questions, let it be so announced, and let us be prepared to anticipate the character of that communication.

Mr. JONES, of Tennessee. I call my friend from Georgia to order. I do not think he is debating the question before the Senate.

Mr. DAWSON. I am debating the question; I am showing the reason why I shall vote against the proposition of my friend from Tennessee, to call up the order of the day. I am anxious for the passage of the bill which I know he desires to have taken up, but I am equally anxious that the public mind should be instructed upon this question.

Mr. JONES, of Tennessee. What question?

Mr. DAWSON. The question which has just been discussed.

Mr. JONES, of Tennessee. What question is it?

Mr. DAWSON. That question, I say, is made important from the character of the gentlemen who have discussed it. They are two of the most distinguished Senators in the body, who are intimately connected with the Administration. Until I inquired into the matter, (for I did not at the moment attend to how the discussion commenced,) I thought that some communication had been presented here which led to the presentation of the views which have been laid before us to-day. I only rose in order to ascertain whether the views of my friend from Virginia, the chairman of the Committee on Foreign Relations, emanate from the Executive Department, and whether he really anticipates a communication on this subject before we adjourn. If so, I shall wait with great patience for that communication, and will investigate it. None of us could know what was to be the character of the discussion to-day. None of us were prepared to inquire into the testimony which has been presented. All the testimony which has been laid before us seems to have come from the Department of State, but has not been published, and is not known to Senators generally. I am struck with the character of the discussion.

Mr. CLAY. I call the Senator from Georgia to order. We have too much important business before us to permit him or any other gentleman to proceed with such explanations unless there be some question before the body which makes it proper. There is no such question before the Senate at this time. I ask, then, if the Senator is in order? I hope we may proceed with the consideration of the unfinished business of yesterday.

Mr. BUTLER. I hope my friend from Georgia will proceed. If this discussion originated by the courtesy of the Senate allowing the Senator from Michigan to address the body on his mere motion, I think it ought not to pass off without other gentlemen having a like opportunity.

Mr. CLAY. A motion has been made that we proceed to the unfinished business of yesterday.

The PRESIDENT. There is really no question before the Senate. The Senator from Michigan opened the debate by unanimous consent.

Mr. BADGER. I move that the Senator from Delaware be permitted to proceed.

Mr. WELLER. That, I apprehend, can only be done by unanimous consent, as another motion is now pending.

Mr. CLAYTON. I never trespassed on the Senate in my life, and I will not speak now when objection is made to hearing me. I am not fond of speaking. I had purposed, however, to address the Senate on the subject which has been started and discussed to-day by the Senator from Michigan and the Senator from Virginia; but, sir, as objection has been made, I will retire entirely from the field.

Mr. BUTLER. Do I understand the Senator from Delaware to say that he declines of his own accord, or is it because he thinks there is an intimation that the Senate do not wish to hear him?

Mr. CLAYTON. I decline because there is objection.

Mr. BUTLER. Well, sir, after what has occurred, and after the intimation of the Senator from Delaware that he wishes to speak, I think it would be injustice to him to refuse to allow him to be heard. He probably has information on the subject which it would be proper to lay before the Senate. I do not know that I ought to use the term "subject," because I believe all the Euro-

pean wars, and our entire foreign relations, have been reviewed in the course of this discussion. But standing in the relation which the Senator from Delaware does to the history of this country, having once been Secretary of State, he may think that it is necessary that he should vindicate his own course. I say he certainly ought to go on.

Mr. CLAYTON. I decline entirely under the circumstances. If the gentleman from Tennessee wishes to press his bill, let the Senate go on with it.

The PRESIDENT. Debate is out of order. If any Senator submits a motion the Chair will entertain it.

Mr. MASON. I hope the Senate will indulge me for a moment, as I have been asked by the honorable Senator from Georgia to give an answer to his question.

Mr. DAWSON. All that I asked was that the Senator should let the country know whether there was anything before us at this time except merely individual representation of facts.

Mr. MASON. I am sorry that the discussion which took place under the example of my honorable friend from Michigan, whose example I am always proud to follow, has not met the approbation of the gentleman from Tennessee, who says it is a matter of mere abstraction; but it did occur to me that the facts which have been brought before the notice of the Senate would be of some interest to the American people, and, therefore, I thought it my duty to present them to the Senate. As to the inquiry from the honorable gentleman from Georgia I can only say that I certainly speak by no other authority than that of my commission to hold this seat.

Mr. DAWSON. That is all I wanted to know.

Mr. TOUCEY. I beg leave to appeal to the gentlemen who have interposed objection to withdraw it, and permit the Senator from Delaware to proceed. I think it is very much out of the usual course of proceedings in this body to interpose an objection to such a thing.

Mr. JONES, of Tennessee. I would withdraw my objection with a great deal of pleasure, if I thought the Senator from Delaware needed any vindication; but he has not been attacked. Neither of the Senators alluded to him, as I understand, in any way or shape. That he could enlighten the Senate, we all know; but, sir, there are various channels of communicating that intelligence to the country, of which that Senator can avail himself, and I know he does not desire to consume the few remaining hours which we have left. If this were a matter personal in its character to him or to any other Senator, I should yield with a great deal of pleasure, as all here know. But I repeat, the Senator needs no vindication. His history is a vindication. His whole public service is a vindication. As the honorable Senator from Virginia himself said, in his concluding remarks, this subject is a mere abstraction. In saying so, I only avail myself of his own words.

Mr. BADGER. I must call the Senator from Tennessee to order.

Mr. JONES, of Tennessee. I acknowledge I am out of order, and I yield.

Mr. BADGER. I ask whether there is any question before the Senate now? Is not the unfinished business of yesterday under consideration? If so, I move to postpone its further consideration until to-morrow.

The PRESIDENT. There is nothing before the Senate to postpone.

Mr. BADGER. The unfinished business of yesterday being the first order of the day, was called for, and, I suppose, is immediately before the Senate when called for.

The PRESIDENT. That is the fact. The bill granting to railroad companies three years in which to pay the duties on iron imported for railroad purposes, is now before the Senate, as in Committee of the Whole.

Mr. BADGER. I move to postpone its further consideration until to-morrow.

Mr. CASS. Allow me to say one word before any question is taken.

Mr. BADGER. I cannot. If order is to be enforced on others, I must insist on enforcing it myself. I move to postpone.

Mr. CASS. I merely desire to explain to the Senator from North Carolina, in one word——

Mr. BADGER. If the Senator desires to say one word, I have nothing to say.

Mr. CLAYTON. I hope, if the Senate desire to go on with the public business, they will not postpone it on my account, but will proceed with it.

Mr. BADGER. We want to postpone this bill on general principles—on our own account.

The PRESIDENT. Does the Chair understand the Senator from North Carolina as moving to postpone until to-morrow the further consideration of the bill granting to railroad companies three years in which to pay the duties on iron imported for railroad purposes?

Mr. BADGER. Yes, sir; I move to postpone it.

Mr. JONES, of Tennessee, called for the yeas and nays; and they were ordered.

Mr. MASON. Understanding the object to be to enable the Senator from Delaware to address the Senate, I shall vote for the postponement.

Mr. WELLER. I apprehend that if the bill is postponed until to-morrow, no Senator can address the Senate when there is no question pending, except by unanimous consent.

The PRESIDENT. The first question is on the postponement. Then the question will arise whether it will be in order for the Senator to speak.

Mr. WELLER. I am stating, as I have a right to do, what will be the effect of the postponement. It will still be in the power of a single Senator to prevent the discussion of an abstract question.

The PRESIDENT. After the postponement, if the Senator from Delaware claims the floor, and any Senator objects, the Chair will submit the question to the Senate whether he shall have leave to proceed.

Mr. MALLORY. I wish to state, in a few words, the reason why I shall vote for postponing the bill until to-morrow. The honorable Senator from Michigan, on a former occasion, took the opportunity to place a construction, as he informed the Senate, upon the language of Lord Clarendon. Lord Clarendon has denied that construction, and to-day we have had a reiteration of it. The question discussed by the Senator from Michigan was not confined to that, but has led the chairman of the Committee on Foreign Relations to discuss the general state of our foreign relations. Neither of those gentlemen has, in my judgment, touched the question in which the hearts of the American people at this moment are more particularly interested—our foreign relations as regards the Island of Cuba; and although I am in favor of this railroad iron duties bill, I shall vote to postpone it until to-morrow, in the hope that in the general discussion which may spring up, we shall get at that question and discuss it generally.

The question being taken by yeas and nays, resulted—yeas 32, nays 10; as follows:

YEAS—Messrs. Adams, Allen, Badger, Bayard, Benjamin, Brainerd, Butler, Chase, Cooper, Dawson, Evans, Fessenden, Foot, Gillette, James, Mallory, Mason, Morton, Pearce, Petit, Pratt, Rusk, Seward, Slidell, Stuart, Sumner, Thompson of Kentucky, Thomson of New Jersey, Toucey, Wade, Wells, and Wilson—32.

NAYS—Messrs. Bell, Clay, Douglas, Gwin, Hamlin, Hunter, Jones of Iowa, Jones of Tennessee, Walker, and Weller—10.

So the motion to postpone was agreed to.

Mr. BADGER. I now move that the Senator from Delaware have leave to proceed with the discussion.

Several SENATORS. There is no objection to it now.

Mr. CLAYTON. I did not expect this course of discussion to-day. I had no idea, when the honorable Senator from Michigan commenced his address to the Senate, of saying anything upon the subject. But, sir, the remarks which the honorable Senators have made seem to impose upon me the necessity of adding a few observations to theirs. I do not rise for the purpose of opposing their views generally, but rather to prevent the consequences of a misconception of some of the facts they have stated. As I do not speak at all from preparation, I take as first in order the subject which seems to me to be most important. I refer to what has been said in regard to the Sandwich Islands.

The honorable Senator from Virginia has read extracts, taken from papers on file in the State Department, to show that the Governments of Great Britain and France have interposed to defeat a treaty of annexation of those islands to the United States. I do not doubt, sir, that both Great Britain and France have, in consequence of some past transactions with us, earnestly and anxiously interposed against our acquisition of those islands as a part of the United States. Let us go back to the year 1842. During the administration of President Tyler, when Mr. Upshur was Secretary of State, Lord George Paulet, in command of a British man of war, actually seized those islands, claiming them as a part of the British Empire. The intelligence of this event, when received in the United States, excited great indignation, and our people, as well as our Government, did not hesitate to express that indignation. The result of all the expostulations against this aggression was, that the British Government disavowed the act of Lord George Paulet, restored the Sandwich Islands to the condition in which they stood before that act of rapacity, assured this Government that they did not intend in future to take possession of them, and quieted all our apprehensions on this subject. In the correspondence between Mr. Upshur and the then British Minister, Mr. Fox, which was published in the papers of that day, you will find that, while on the part of both France and England, assurances were given that the independence of the Sandwich Islands should be maintained, we assured the British Minister that the Government of the United States never intended to take or claim, for its citizens, any rights, benefits, or advantages in those islands which should not be conceded equally to the subjects or citizens of other countries. The Governments of France and England did not hesitate to recognize the independence of the Sandwich Islands, and the President of the United States, in a message to Congress, after those events, desired that their independence might be also acknowledged by Congress.

The understanding between the Governments of France, England, and the United States, in the diplomatic notes which passed at the time, was that those islands should remain neutral territory, and that neither one of the three great Powers should annex or disturb it, or attempt to interfere with it, but that each should have the privilege of trading on the same terms in its ports. The day will never come when we shall consent that any foreign nation shall take possession of those islands, so as to jeopard the great maritime interests of the United States in the Pacific ocean. President Taylor distinctly declared, in his annual message of December, 1849, that the United States could not tolerate the annexation of these islands to any European Power. That, I hold, is now, and ever will remain, the settled policy of this Government.

In pursuance of the understanding between their Governments and the United States, France and England having acknowledged the independence of the Sandwich Islands, as I have stated, we, too, at last, made a treaty with them, acknowledging their independence. We made a treaty of commerce and navigation with them, embracing a postal treaty, and a treaty of extradition. Now, is it to be wondered at that the Governments of France and England, finding us, after all this, treating for the annexation of the islands, and recollecting the pledges given by Mr. Upshur in one of his dispatches, should have felt some little portion of that same indignation which we felt in 1842, when we heard of the act of aggression of Lord George Paulet?

Mr. WELLER. I hope the Senator from Delaware will allow me to ask him a question on this point, and I desire to ask it for information, because I have a sort of indistinct recollection that a state of facts did exist similar to those to which I am about to allude. Was there not a convention framed between France and England, in which it was stipulated that neither party should ever attempt to exercise exclusive control over these islands? And was there not a vigorous effort made by the Government of England to get the United States to form a party in that convention? And did not the Government of the United States steadily refuse to become a party to it?

Mr. CLAYTON. There was some conversation between the ministers of the three nations at the time, and I think a diplomatic correspondence, too, in which the question was agitated whether a tripartite treaty between the three Governments should be made; but instead of entering into a tripartite convention, we gave Great Britain the

assurances I have mentioned, and the diplomatic note of Mr. Upshur. I can show this note to the Senator from California whenever he wishes to see it—a note which, in my judgment, pledges the faith and honor of this Government, so far as the President could pledge it, not to annex or take possession of those islands. The honorable Senator will put his own construction on the letter.

Now, sir, in the cause of my country, when I think it is trampled upon or injured, I shall probably be as prompt to quarrel as any man here; but I want no unjust quarrels. I desire the nation to avoid all unjust warfare. I am opposed to the annexation of the Sandwich Islands to the territory of the United States. Whatever advantages might be conferred by the annexation upon the commerce of the country would be counterbalanced and overbalanced a thousand-fold by the injury inflicted upon the honor and faith of the country.

Mr. BENJAMIN. Will the honorable Senator allow me to ask him a question? I am as much opposed as he can be to the annexation of the Sandwich Islands as a measure of public policy; but do I understand the honorable Senator to lay down the proposition, that the Secretary of State can, by his diplomatic correspondence, pledge the faith of this Government in relation to its public policy for all time to come?

Mr. CLAYTON. I say that the Secretary of State is the organ of the President of the United States, and the President is the Executive of the nation, intrusted with its foreign relations, and that, if he enters into an arrangement, by diplomatic notes through the Secretary of State with a foreign Government, and the other branches of the Government of the country do not repudiate that arrangement, but stand contented with it, and receive all the benefits of it from the opposite party, foreign Governments have a right to repose confidence in the assurances so given by the President of the United States. The honorable Senator will observe that this note of Mr. Upsher is not merely the language of the Secretary of State. The Secretary writes under the order of the President, and the President of the United States can commit the honor of this Government so far in relation to a question of this description, that, for the violation of an arrangement or understanding between him and foreign nations, remaining for years undisturbed, and never repudiated by any other branch of our Government, the honor of the United States could not escape unstained.

Mr. WELLER. I wish to ask the Senator whether he does not consider that it was repudiated by the subsequent refusal of the Government of the United States to become a party to any such agreement?

Mr. CLAYTON. No, sir. The note was never repudiated or disapproved by this Government.

Mr. MASON. I think it would be better if the note were produced.

Mr. CLAYTON. Sir, on my motion the Senate, a year ago, made a call for that note. No answer was ever returned to the Senate in public session. The response to the call was communicated to the Senate by the President in secret session, and there it has slept ever since.

Mr. DOUGLAS. I must be allowed to ask by what authority the Senator speaks of that note, if it has never been communicated to the public?

Mr. CLAYTON. I stated that it was published in the papers at the time of the correspondence; and I speak from my own recollection of it; about the accuracy of which there is no mistake.

Mr. DOUGLAS. Then it can be produced.

Mr. CLAYTON. Certainly, whenever you really wish it laid before the country. If this debate should be protracted, and any Senator should desire it to be produced, that desire may be promptly gratified by the publication of the correspondence in the possession of the Senate.

I desire to say but little at this time upon the propriety and expediency of annexing islands in the middle of the Pacific ocean (or, at least, two thousand miles west of the western extremity of the territories of the United States) to the United States of *America*. Let the people determine the propriety of making those islands a part of the United States of *America* when they are at least two thousand miles from *America*. I say nothing now about the constitutional right to annex such islands, but leave every Senator here to form his own opinion in regard to those subjects.

I come to another point which has been touched by the honorable Senator from Virginia, with his accustomed ability. I refer to the controversy that exists between this Government and Great Britain in reference to Central America. Like the Senator from Michigan, I looked with much interest to the declaration of Louis Napoleon, at the time he made it, to the French Chambers, in which he spoke of an alliance and connection, or union of views and intentions, between Great Britain and France animating them both in every corner of the globe. I reflected that, at the very time he made the declaration, a discussion was going on between the American Minister in London and Lord Clarendon, the British Secretary for Foreign Affairs, in reference to that very matter of Central America. I thought I understood what the points of difference between the two ministers were, and I therefore felt some degree of anxiety—I will not say alarm—when I saw the declaration that the two great nations of France and England were about to act in connection, animated by the same views and the same intentions, in reference to everything that was controverted in this hemisphere as well as in the other. In addition to what has been said on that subject by others, let me add that there was in the language of Lord Clarendon, in that dispatch which was read and communicated by Mr. Crampton to Mr. Marcy two years ago, which was the topic of discussion here on a former occasion, much that was exceptionable in the highest degree.

It was a declaration seemingly intended as a kind of curtain lecture to the President of the United States immediately upon his coming into office, which could be interpreted into nothing but a threat in the event that one of these Central American Republics, with which it was understood we were, if not in alliance, yet certainly on terms of the strictest amity, should attempt to interfere with the rights of that Indian King whom Great Britain had undertaken to protect, and declared to be the monarch over the country, it would do it at its peril. This was said to *us*, sir, not to Nicaragua. It was written to the Minister here, to be read to the Secretary here, and to the President here. It was a word in the ear of the American Executive upon coming into office, and communicated as it was shortly after his inauguration, it struck me as a response to that part of his inaugural address which contained an enunciation of the Monroe doctrine, to which the honorable Senators have referred. It looked very much like snapping their fingers in his face, and telling him "that for your Monroe doctrine." I confess it excited some resentment in me at the time I read it, and I expressed it afterwards on the floor of the Senate.

But, sir, there is one feature in the correspondence between the British and American Governments in relation to the British claim of a protectorate in Central America which is very remarkable, and that is the utter inconsistency that exists in the notes of different ministers of Great Britain upon the same topic. Let any man take the letter of Lord John Russell while acting as Secretary for Foreign Affairs in the month of January or February, before President Pierce was sworn into office—a letter written to Mr. Everett, and subsequently published. He will there find that Great Britain was then perfectly satisfied with the American construction of the treaty of 1850, that Lord John Russell regarded the British protectorate as a sheer "fiction," and he calls it such.

But, unfortunately for us, and, as I think, unfortunately for Great Britain, Lord John Russell left the place which he had temporarily occupied, and Lord Clarendon, who had probably never given this subject his attention—indeed, I think he confessed afterwards that he never had—came into office, and wrote, or signed, that most extraordinary dispatch which was sent here to the Senate, containing the menace to which I have referred. Now, take those two dispatches together, that of Lord John Russell and that of Lord Clarendon, put them side by side, in parallel columns, and you could hardly believe, unless you were assured upon irresistible evidence, that each of them proceeded from a British Secretary for Foreign Affairs. They are as contradictory as any letter of our Secretary of State and any letter of their Secretary in reference to the same subject.

Since that letter of Lord Clarendon was written, what has been done in reference to this controversy? I have no official intimation; but I do not doubt that the distinguished gentleman who represents this country as Minister to England has well and ably vindicated the honor and interests of his country in reference to the treaty; but I have not the correspondence, and I am not authorized to speak of it. The question, as I understand, remains unsettled, and probably, sir, the difficulties in reference to Central America have been increased by the attack, referred to by the honorable Senator from Virginia, on the town of San Juan de Nicaragua by one of our ships of war.

Sir, it is a very easy thing, if France and England desire to get up a quarrel, and to make war upon this country, to find occasion for the purpose. They can find that occasion in Central America, if they choose. And this leads me to consider the declaration of the honorable Senator from Virginia in the conclusion of his remarks, that the issue presented by the facts which he stated so luminouly must be speedily made up and met. How is the issue to be met? By threats, by diplomatic correspondence, by debates in Congress, by a declaration of the Monroe doctrine, which has been treated by foreign Governments as a mere *brutum fulmen* for more than thirty years? Is this the way we are to meet the issue? Sir, reflect upon the unprotected state of our own country. What is the condition of its fortifications? They are mostly in a state of dilapidation and decay, and utterly unfitted for defense in case of war with any great maritime Power. There has not existed a period *ab urbe condita*, when we were less prepared for war than we are at the present moment; and are we speedily, in the language of the Senator from Virginia, to make up and meet the issue he refers to at this time? We are bound to look at the wretched condition of the defenses of the country. Who is to blame for their condition? The attention of Congress ought to be called to that. Who, or what party, I repeat, is to blame for the neglect of the defenses of this country? Where is the navy with which you are to meet the powerful nations of France and Great Britain? Why is it that you go unarmed when you admit that you are daily in danger? Why is it that you are unprepared, and yet threaten, or, at least, say that you areready to make up and meet the issue?

Sir, you cannot go to a single port in the United States, where a fortification exists, and examine that fortification without finding that it is defective and unfit for a state of war. There is scarcely an efficient gun mounted from the capes of the Delaware to the city of Philadelphia to defend all the beautiful and fertile country which lies on that noble river. I only speak of that as an example. Why is this? Is there any fortification bill now before Congress to build up or repair the fortifications? No, sir. The walls of Fort Delaware, which was burnt twenty-five years ago, have scarcely risen three feet above high-water mark. About $200,000 have been appropriated to rebuild a work which will require a million to complete it. If we are really in peril of a war, it is well that the people should understand and reflect upon their unprotected condition. What Navy have we? Why, sir, it is scarcely superior to that of little Denmark, with only some two or three millions of people. Our Army is composed of some eleven thousand men, for the defense of twenty-five millions of people and a territory larger than that of the Roman Empire.

With regard to the Monroe doctrine, which the honorable Senator from Virginia said no statesman of this day would deny, I think his declaration on that subject must be taken *cum grano salis*. If you will look back to the history of that declaration, you will find that the American Congress never sanctioned it. Congress has invariably refused to approve it whenever the question has been before it. At the time of the debate on the Panama mission in the House of Representatives, every Democrat in the House voted against it. The party of the Senators from Michigan and Virginia came into power originally on the principle of opposition to the Monroe doctrine and the Panama mission. You cannot show a single instance in which either branch of Congress ever sanctioned it. It never was anything more than a recommendation of the President of the Uuited

States—a recommendation of the President in his message to Congress, that Congress should make this declaration, and Congress always refused to do it.

Mr. MASON. I think the Senator has utterly misconstrued the matter. Do I understand him to say that it was a recommendation by President Monroe to Congress to make the declaration?

Mr. CLAYTON. I say so.

Mr. MASON. President Monroe, on the contrary, distinctly said that he had availed himself of the negotiations about to be entered into between Russia on the one part, England on the other, and this country on the third, in regard to their possessions on the northwest coast, to insist upon that doctrine being advanced and admitted in those discussions.

Mr. CLAYTON. I know that perfectly, and I know, too, that, in the seventh annual message of Mr. Monroe to Congress, which I can show the honorable Senator in a few minutes, he states the facts, and recommends the declaration to Congress as a measure of policy for the Government; but Congress never responded to it. An attempt was made by Mr. Clay, who was a great friend of Mr. Monroe's administration, to get some kind of an indorsement by one or other of the two Houses of Congress to that declaration, but he utterly failed. He did not even—bold as he was—dare to come up to the declaration and ask Congress to indorse it in full; but he drew up a resolution, which he offered in the House of Representatives, and which partially dodged the question; and even in that weak and diluted form in which he presented it, it never could pass the House. It was afterwards scoffed and sneered at in the Senate by every Democratic Senator who took part in the debate on the Panama mission, and it then found not a single advocate on this floor.

Sir, you may try it to-day, or at any time you please, in either House of Congress, and you cannot prevail upon either to sanction the declaration. I therefore must be permitted to differ from my honorable friend from Virginia, who asserts, with so much confidence, that every American statesman agrees to this declaration. Sir, when Great Britain, or any other nation, has made a contract with us, as she did by the treaty of 1850, neither to colonize, to occupy, fortify, or exercise or assume any dominion over a country, then, if she violates that treaty, we have a good and substantial *casus belli* against her which Congress could not disregard; but, without a treaty to prevent it, we have suffered foreign countries to interfere constantly upon this continent, and never have been able to carry out the Monroe doctrine.

I beg the honorable Senator from Virginia not to understand me as denying that a possible case may exist where the Monroe doctrine might be well applied. I have always thought the principle it announced has been treated with two great neglect, not to say contempt, by the different branches of the Government; but, sir, I have been compelled to look to the fact that Congress, over and over again, refused to indorse it. You can never prevail on Congress to go to war with a foreign nation for a violation of a principle laid down in the Monroe doctrine. You cannot get even a respectable party in either branch of Congress to vote to go to war upon that ground. You must have something more substantial than that, or you will never go to war with any foreign country for interference on this continent.

Sir, the declaration of an American President is not the declaration of the American Government. My honorable friend from Virginia would never contend for that. He is too good a republican, too strict a constructionist, too sound a jurist to contend for a single instant that the President of the United States forms the Government of the country. No, sir; I agree entirely with the honorable Senator who interrupted me not long since, that the Secretary of State is not the Government, nor is the President either.

Mr. President, there were other subjects which were touched upon by the honorable Senator from Virginia. There were sentiments expressed by him with which I heartily concur. I have regretted, and deeply regretted, to see the effort made by England and France to prevent us from getting a depot for coal for our commerce in St. Domingo, and their interference in other places to which he adverted. My sympathies are all with my own countrymen in these matters; and in reference to the controversy which is going on with Central America, if it be not speedily adjusted, I trust the President of the United States will avail himself of some early occasion to notify the British Government, that when it has made a treaty with this country that treaty must be observed and faithfully executed; and I would go as far to sustain the Executive of the country in vindicating the honor and maintaining the rights of the nation, by enforcing the observance of treaties, as he who dare go farthest.

But, sir, while we on our part are jealous to maintain the honor of the country by insisting upon the performance of all stipulations contained in this and other treaties with Great Britain and other Powers, let us reflect how important it is that we should not in any way give rise to charges against ourselves; charges against ourselves for violating the same treaty; charges against ourselves for indulging in that lawless species of aggression called filibusterism, which, I am happy to perceive, is now sinking rapidly into disgrace. Sir, I read with great pleasure a letter, published a few days ago, from Mr. Marcy, the Secretary of State, to Colonel Kinney. The principles laid down in that letter meet with my entire approbation. If Colonel Kinney is going with his expedition to Central America for pacific purposes, with the consent, knowledge, and approbation of the legal government there, I say God speed him, and those who go with him; success attend their efforts to introduce the comforts and blessings of civilized life into that region; but if Colonel Kinney goes with armed ships and armed men for the purpose of asserting a title of the Mosquito King or the Shepherd grant, in opposition to the laws of Nicaragua or Costa Rica, I would utterly denounce the expedition, and trust the Secretary of State will, as he intimated would be the duty of the Government, arrest that expedition. I cannot but observe with deep interest the position which Nicaragua occupies towards my country. I have had ample opportunity of studying her feelings towards us. They were kind, generous, and truly American on every occasion. At the moment when there was a struggle between the subjects of Great Britain and the citizens of this country to obtain the right of way through Nicaragua, then deemed indispensable to us, as it enabled us to reach our Territories on the Pacific, she did not stand indifferent, but granted us all that we asked, and refused to become the ally of Great Britain. Our countrymen, because they were Americans, obtained the grant of the right of way there. She agreed to protect it with us. I am sorry to say, sir, that by the neglect of this Government afterwards to confirm the treaty which bound both Governments to protect whatever works should be made from the Caribbean sea to the Pacific in that quarter, Nicaragua was, to a very great degree, for a time alienated from us. But I trust that alienation was but temporary.

Let us not now forget that when Great Britain, at the very moment of our acquisition of California, seized the town of San Juan de Nicaragua, and dictated her own terms to Nicaragua at the point of the bayonet, Nicaragua appealed to us, relied upon us, and we promised her protection and support to the extent, at least, that we would maintain and defend the country against British aggression. We made the treaty of 1850, excluding Great Britain from any further interference there. I believe, sir, I shall always believe, that Great Britain, at the time she signed that treaty, intended to fulfill it, but, unfortunately, shortly after my successor came into office he made an arrangement with Sir Henry L. Bulwer, which Mr. Marcy has since repudiated, by which the title of the Mosquito King was acknowledged over a portion of that territory—an acknowledgment which conflicted with the treaty, and which, I understand, has been thrown in the teeth of our minister in the correspondence which he has had with Lord Clarendon.

California has the deepest interest in defending this little American Republic, and I assure my friend from California, and all others who feel an interest in this subject, and desire to know the truth, that this little State threw herself into the arms of the American Republic, and by it incurred the hostility of England. England has visited her with her wrath ever since. Of all the States of Central America she should be the last one against which an American expedition should be permitted to be fitted out. She should never be frowned upon by us. She should be the first to be cherished by us, and to which our hand should be always extended in friendship for the aid she has given us in opening the intercourse with our territories on the Pacific.

I must apologize for the length of time which I have occupied with these remarks. They have been made hastily, on the spur of the occasion, produced by the honorable Senators from Michigan and Virginia; and now, thanking the Senate for its indulgence, I will consume its time no longer.

Mr. CHASE. I ask the Senate now to proceed to the consideration of Executive business. It is extremely important that we should do so.

Mr. MASON. I hope the Senator will allow me to introduce an order.

Mr. CHASE. Certainly.

PRIVATE BILL DAY.

Mr. MASON. I offer the following:

Ordered, That the order of the Senate setting apart Friday for the consideration of private bills, be, and the same is hereby, rescinded.

Several SENATORS. Oh, no.

Mr. MASON. Then I shall offer it to-morow.

LAND OFFICERS.

Mr. DODGE, of Iowa. I hope the Senator from Ohio will allow me to report a bill from the Committee on Public Lands. It will take but a few moments, and it is very important.

Mr. CHASE. With the understanding that, if it leads to debate, it will go over, I have no objection.

Mr. DODGE, of Iowa. If it provokes any debate I shall not press it. I am instructed by the Committee on Public Lands to report a bill to prevent officers and persons engaged in the management and sale of the public lands being concerned in the purchase of those lands, and for other purposes.

The bill was read twice.

Mr. WELLER. I desire to inquire whether that bill has ever been printed?

Mr. DODGE, of Iowa. It has not been printed. It is recommended by the Secretary of the Interior, and has been in my hands for some weeks, with instructions to report it.

Mr. WELLER. It is a very important bill, and involves the interest of the new States, especially California, where the land office has just been opened. I have had no opportunity to examine it, in order to see what would be its practical effects.

Mr. STUART. If the honorable Senator will allow me one moment, I think I can satisfy him in regard to the bill. Its only effect is to prevent land officers from speculating in the public lands. That is all.

Mr. WELLER. It goes a good deal further than that. I think it undertakes to regulate the fees.

Mr. DODGE, of Iowa. No, sir.

Mr. STUART. Not at all.

Mr. WELLER, The bill goes further than that. It undertakes to prescribe cases in which the receiver and register shall be entitled to fees. How far that is in conformity with the existing laws I do not know. That is a question that I can determine only upon an examination of the printed bill, and by comparing it with the laws that now exist. I am sure that I have no disposition to interpose any difficulty in the way of bills which are reported from the Committee on Public Lands, but when a bill of that character comes up, which must affect all the new States of the Union, and which makes a radical change in the land offices, I desire to know what that change is before I vote for it.

The PRESIDENT. Does the Senator object to its consideration?

Mr. DODGE, of Iowa. If my friend desires, I will let it pass over.

The PRESIDENT. The bill will be postponed until to-morrow.

EXECUTIVE SESSION.

On motion by Mr. CHASE, the Senate proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 20, 1855.

The House met at eleven o'clock, a. m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a message from the President of the United States, communicating a letter from the Secretary of the Interior, with an estimate for additional appropriations; which was referred to the Committee of Ways and Means, and ordered to be printed.

The SPEAKER also laid before the House a communication from the Secretary of the Navy, transmitting three hundred printed copies of the Navy Register for the current year, for the use of members of the House of Representatives; which was ordered to be laid on the table.

ORDER OF BUSINESS.

Mr. CORWIN. I ask the unanimous consent of the House to take from the Speaker's table Senate resolution No. 38, for the purpose of——

Mr. DISNEY. I insist on the regular order of business.

Mr. CORWIN. I never before in my life asked a privilege from the House; and I promise that I never will again. [Laughter.]

Mr. WASHBURNE, of Illinois. I appeal to the gentleman from Ohio to withdraw his call for the regular order of business, to enable me to present a petition, that it may be laid on the table.

Mr. DISNEY. No; I object.

Mr. CORWIN. I ask the unanimous consent of the House to take from the Speaker's table the resolution to which I have referred. It can be disposed of in three minutes. I have never before asked a privilege of the House.

The SPEAKER. The gentleman from Ohio, [Mr. DISNEY,] and others, have objected, and announced that they will not yield for any purpose whatever.

Mr. DISNEY. For none whatever.

Mr. HAMILTON. As the regular order of business has been called for, and as that brings up before the House a very important bill, I move that there be a call of the House.

[Cries of "No!" "No!"]

Mr. JONES, of Tennessee. There is hardly a quorum present.

Mr. DISNEY. For the purpose of making an explanation to the House, I desire to say one word——

Mr. WASHBURNE, of Illinois. And I will have to object.

Mr. DISNEY. The gentleman from Illinois may object; but my purpose was not to present a petition.

GRANTS OF LAND.

The SPEAKER. The regular order of business is the consideration of House bill (No. 102) granting lands equally to the several States to aid in the construction of railroads and the support of schools. The immediate question is upon the motion for the commitment of the bill to the Committee of the Whole on the state of the Union, and the previous question has been demanded.

Mr. HAMILTON. I will make a proposition which, I understand, will be satisfactory to the House.

Mr. CAMPBELL. I will appeal to my colleague to withdraw his objection, and let reports and petitions be presented.

Mr. DISNEY. It is perfectly idle to appeal to me.

Mr. CAMPBELL. We might as well dispose of these immaterial matters, to which there can be no objection, while members are coming in. We will have a full quorum directly.

Mr. DISNEY. I have been waiting for six weeks to get some matters before the House which would not occupy a minute, and have not been able to do so. The Committee on Public Lands have a great many matters of this sort which would not take ten minutes to dispose of, and we have been yielding to requests for six weeks. I will not do so longer.

The SPEAKER. The question is on the motion of the gentleman from Maryland, [Mr. HAMILTON,] that there be a call of the House.

Mr. HAMILTON. I withdraw that motion.

Mr. JONES, of Tennessee. I ask for tellers on seconding the demand for the previous question. That will give time for members to come in.

Tellers were ordered; and Messrs. BOYCE and JOHNSON were appointed.

The question was taken; and the tellers reported—ayes 65, noes 23; no quorum voting.

Mr. CAMPBELL. I do not think that we ought to consume the time by a call of the House. I suggest to my colleague again that, if he would withdraw his objection, a great deal of business that will consume the time of the House in future might be saved.

Mr. DISNEY. I do not yield the floor.

Mr. CAMPBELL. I move, then, a call of the House.

The question was taken on Mr. CAMPBELL's motion; and, upon a division, there were—ayes 62, noes 36.

So a call of the House was ordered.

The Clerk then proceeded to call the roll, and one hundred and nineteen members (being a quorum) answered to their names.

Mr. HENN. I move to dispense with all further proceedings under the call.

The question was taken; and all further proceedings under the call were suspended.

The SPEAKER. The question now pending is on seconding the demand for the previous question upon the motion to commit to the Committee of the Whole on the state of the Union, the bill granting lands equally to the several States to aid in the construction of railroads and for the support of schools.

The previous question was seconded, and the main question ordered to be put.

Mr. WENTWORTH, of Illinois. I move to lay the bill upon the table.

Mr. HAVEN. I understand that it is agreeable to the gentleman who introduced the bill to have it recommitted to the Committee of the Whole on the state of the Union; and I hope that the House will agree to that course.

Mr. DAVIS. On the motion to lay the bill upon the table I call for the yeas and nays.

Mr. OLDS demanded tellers on the yeas and nays, which were ordered; and Messrs. KERR and SAPP were appointed.

Mr. HENDRICKS. I wish to appeal to the gentleman from Illinois [Mr. WENTWORTH] to withdraw his motion to lay the bill upon the table.

Mr. WENTWORTH. I cannot withdraw it, as I wish to make a test question of this motion.

The House was then divided; and the tellers reported—ayes thirty-six, noes not counted.

So the yeas and nays were ordered.

The question was taken; and there were—yeas 69, nays 67; as follows:

YEAS—Messrs. Aiken, James C. Allen, Ashe, Banks, Barry, Benton, Boyce, Breckinridge, Bridges, Chamberlain, Chastain, Chrisman, Clark, Cobb, Craige, John G. Davis, Dawson, Disney, Dowdell, Drum, Dunbar, Eastman, Edgerton, John M. Elliott, Ellison, Faulkner, Florence, Fuller, Gamble, Greenwood, Grow, Hamilton, Andrew J. Harlan, Hendricks, Henn, Hibbard, Houston, Johnson, George W. Jones, J. Glancy Jones, Keitt, Kittredge, Letcher, Lindsley, Macdonald, McDougall, McNair, McQueen, Maxwell, Millson, Murray, Nichols, Olds, Mordecai Oliver, Orr, Phelps, Powell, Richardson, Robbins, Ruffin, Shaw, Shower, George W. Smyth, Andrew Stuart, Warren, E. B. Washburne, Wells, John Wentworth, and Witte—69.

NAYS—Messrs. Appleton, Ball, Bennett, Benson, Bristow, Bugg, Campbell, Carpenter, Caruthers, Chase, Cook, Corwin, Cox, Cullom, Cutting, De Witt, Dickinson, Edmands, Thomas D. Eliot, Etheridge, Farley, Giddings, Goodwin, Aaron Harlan, Harrison, Haven, Hill, Howe, Hughes, Kerr, Knox, Kurtz, Latham, Lilly, Lindley, McCulloch, Maurice, Mayall, Middleswarth, Morgan, Norton, Parker, Puryear, Ready, Riddle, David Ritchie, Rowe, Russell, Sapp, Seward, Seymour, Skelton, Frederick P. Stanton, Stratton, John J. Taylor, John L. Taylor, Thurston, Tracy, Tweed, Upham, Wade, Walker, Walley, Tappan Wentworth, Wheeler, and Zollicoffer—67.

So the bill was laid upon the table.

Pending the call of the roll,

Mr. ENGLISH stated that, if he had been present, he should have voted in the affirmative.

Mr. WENTWORTH moved to reconsider the vote by which the bill was laid upon the table, and to lay the motion to reconsider upon the table.

Mr. MORGAN demanded the yeas and nays; which were ordered.

The question was then taken; and there were—yeas 81, nays 62; as follows:

YEAS—Messrs. Aiken, James C. Allen, Ashe, Banks, Barry, Belcher, Benton, Bocock, Boyce, Breckinridge, Bridges, Chamberlain, Chastain, Clark, Cobb, Craige, John G. Davis, Dawson, Disney, Dowdell, Drum, Dunbar, Eastman, Edgerton, Ellison, English, Faulkner, Florence, Fuller, Gamble, Green, Greenwood, Grow, Hamilton, Andrew J. Harlan, Hastings, Hendricks, Hibbard, Houston, Johnson, George W. Jones, J. Glancy Jones, Keitt, Kittredge, Latham, Letcher, Lindsley, Macdonald, McDougall, McNair, McQueen, Maxwell, Millson, Murray, Nichols, Olds, Mordecai Oliver, Orr, John Perkins, Phelps, Powell, Richardson, Robbins, Ruffin, Shannon, Shaw, Shower, Samuel A. Smith, William R. Smith, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Andrew Stuart, John J. Taylor, Vansant, Warren, Elihu B. Washburne, Wells, John Wentworth, Witte, and Hendrick B. Wright—81.

NAYS—Messrs. Appleton, Ball, Bennett, Benson, Bristow, Bugg, Campbell, Carpenter, Caruthers, Chase, Corwin, Cox, Crocker, Cullom, Thomas D. Eliot, Etheridge, Everhart, Farley, Flagler, Giddings, Goodwin, Aaron Harlan, Harrison, Haven, Hiester, Hill, Howe, Hughes, Kerr, Knox, Kurtz, Lilly, McCulloch, Middleswarth, Morgan, Norton, Parker, Pennington, Puryear, Ready, David Ritchie, Rowe, Russell, Sabin, Sage, Sapp, Seward, Seymour, Simmons, Skelton, Stratton, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Tracy, Upham, Wade, Walker, Walley, Tappan Wentworth, Wheeler, and Zollicoffer—62.

So the motion to reconsider was laid upon the table.

GRADUATION BILL.

Mr. COBB. I desire to make a report of a bill, founded upon a petition sent to the Committee on Public Lands, making a slight modification of the graduation bill. We have stricken everything that is objectionable from the bill, and I hope it will meet the approbation of the House. After the House shall have listened to the reading of the bill, I will call the previous question. I was anxious to offer other amendments to the graduation bill, but the short time remaining of the session would hardly admit of action upon them, and I did not desire to put in jeopardy the success of the bill, which I now ask leave of the House to report. It simply authorizes affidavits to be taken before magistrates, without compelling parties to go three or four hundred miles, as they were required to do before, to make affidavits before other parties. The title of the bill is as follows: "A bill to amend the act of the 24th August, 1854, entitled 'An act to graduate and reduce the price of the public lands to actual settlers and cultivators.'"

The bill was then read through by the Clerk, as follows:

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That the act approved 4th of August, 1854, "to graduate and reduce the price of the public lands to actual settlers and cultivators," shall be so construed that the affidavits required by the third section of that act may be made before any officer duly authorized by law to administer oaths, according to such forms and pursuant to such regulations as shall be prescribed by the Secretary of the Interior; and that portion of said act that has been construed as requiring that lands entered or applied for for the use of an adjoining farm or plantation, shall form a compact body with such farm or plantation, shall hereafter be construed as applicable to any lands cornering or adjoining such farm or plantation; and the portion of said law that has been construed as authorizing the entry of lands under said graduating act, on filing a declaration of intention to enter lands for the use of the applicant, and for the purpose of settlement and cultivation, shall hereafter be considered as authorizing an entry in such cases, only on proof of actual settlement and improvement by the party making such application, under such rules and regulations as may be prescribed by the Secretary of the Interior for that purpose, and the oath of the applicants that it is for their own use, and not in trust for another.

Mr. HAMILTON. I appeal to the gentleman from Alabama to allow me to offer an amendment to the bill. I have no objection to the bill as far as it goes, but I wish to amend one of its features.

Mr. COBB. I do not like to hazard the success of the bill by getting into any controversy about its provisions. The Secretary of the Interior and Commissioner of the Public Lands, are determined to prevent any frauds under the original bill.

Mr. HAMILTON. I have an amendment which I think will obviate many of the difficulties growing out of the graduation law of last session.

Mr. WASHBURNE, of Illinois. I desire to ask if the amendment of the gentleman from Maryland has not been drawn up by the Commissioner of the General Land Office?

Mr. HAMILTON. A part of it. I wish to have it read; and if the previous question is not sustained I will offer it. I ask that it may be read for information.

Mr. HENDRICKS objected to the reading.

The House was then divided upon the demand of the previous question, and the Chair announcing only thirty-eight voting in favor thereof——

Mr. HENDRICKS demanded tellers.

Mr. COBB. If the bill should be read again, so that members may understand it, every gentleman in the House will vote for it. If the previ-

ous question shall not be sustained, I have another amendment I desire to offer, similar, I suppose, to the one which the gentleman from Maryland desires to offer. I ask that my amendment may be read again.

Mr. JONES, of Tennessee. I ask the gentleman from Alabama to withdraw his demand for the previous question for a moment, to enable me to make a remark or two.

Mr. COBB. I withdraw it for that purpose.

Mr. JONES. I am in favor of this amendment, and shall sustain the previous question upon it. I will say to the House that this is the same bill which I asked leave to introduce some two or three weeks ago. It has but a solitary provision in it, and that is to authorize those who may be entitled, under the provisions of the graduation act of last session, to make their affidavits before any person within the State or Territory in which they live duly authorized to administer oaths under such rules and regulations as the Secretary of the Interior shall prescribe.

That, sir, in my opinion, is an important amendment, and ought to be passed for the relief of those who live upon the lands, but who cannot, at all times, incur the expense, fatigue, and trouble of going to the land office.

Mr. COBB. And for the relief of widows and invalids who cannot get there.

Mr. JONES. Yes, for that class of persons also. At the land office at Huntsville, some thirty miles from the place of my residence, I understood that, at one time two or three hundred persons were waiting to enter lands under the law, and the officers of the land office could not attend to more than ten or fifteen persons a day; and many who came one and two hundred miles, had to go home without making their entries, and had again to return to the land office, at a subsequent time, merely for the purpose of making the affidavit required by the law. If this provision shall be passed, the Secretary of the Interior can authorize such affidavits to be made before justices of the peace, and they can be sent up, and thereby obviate the necessity of the applicants going to the land office personally.

Mr. COBB. I now demand the previous question.

Mr. HAMILTON. I appeal to the gentleman from Alabama to allow me to offer my amendment. He proposes to amend the graduation bill of last session, and the object of my amendment is to perfect the bill. It is an amendment which is recommended by the Department. It proposes to meet a system of frauds which is apprehended by the Department. I hope the previous question will not be sustained.

Mr. WELLS. I appeal to the gentleman from Alabama to withdraw his demand for the previous question for a moment, until the amendment of the gentleman from Maryland can be read.

Mr. COBB. I have no objection to its being read; but it is objected to by other members, and of course it would be useless for me to withdraw my demand.

Mr. WELLS. The Commissioner of the General Land Office recommends that amendment.

Mr. COBB. He also recommends the amendment which I have offered.

The SPEAKER. This debate is not strictly in order, as the demand for the previous question is pending.

Mr. ZOLLICOFFER. I hope the House will allow the amendment of the gentleman from Maryland to be read.

The SPEAKER. The objection to its reading is insisted upon, the Chair understands.

The House was then divided on the demand for tellers, and they were not ordered.

The SPEAKER. Tellers not being ordered, and upon a division of the House some time since, on the demand for the previous question, there were only thirty-eight voting in favor thereof, and consequently the demand for the previous question is not sustained.

Mr. COBB. The demand for the previous question not being sustained, I now offer another amendment, upon the responsibility that eighty-five members voted for it upon another occasion.

The amendment was then reported, as follows:

"And that portion of said act that has been construed as requiring that lands entered or applied for, for the use of as adjoining farm or plantation, shall form a compact body with such farm or plantation, shall hereafter be construed as applicable to any lands cornering or adjoining such farm or plantation, and the portion of said law that has been construed as authorizing the entry of lands under said graduating act, on filing a declaration of intention to enter lands for the use of the applicant, and for the purpose of settlement and cultivation, shall hereafter be considered as authorizing an entry in such case only, on proof of actual settlement and improvement by the party making such application, under such rules and regulations as may be prescribed by the Secretary of the Interior for that purpose, and the oath of the applicant that it is for their own use, and not in trust for another."

Mr. COBB. In order that the House may understand distinctly what the proposition is before them, I ask the gentleman from Maryland to send up his amendment, to be read for information; and then, if the House prefer his amendment to mine, they can take a vote upon it.

Mr. HAMILTON. It is the same as the amendment of the gentleman from Alabama. I will send it up that it may be read.

Mr. COBB. I understood it was nearly the same.

The amendment was then read, as follows:

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act approved 4th August, 1854, "to graduate and reduce the price of the public lands to actual settlers and cultivators," shall be so construed that the affidavits required by the third section of that act may be made before any officer duly authorized by law to administer oaths, according to such forms and pursuant to such regulations as shall be prescribed by the Secretary of the Interior; and the portion of said law that has been construed as authorizing the entry of lands under said graduating act, on filing a declaration of intention to enter lands for the use of the applicant, and for the purpose of settlement and cultivation, shall hereafter be considered as authorizing an entry in such cases, only on proof of actual settlement and improvement in accordance with the provisions of the pre-emption act of 1841, except as to notice, and under such rules and regulations as may be prescribed by the Secretary of the Interior for that purpose; and that portion of said act which authorizes lands to be entered or applied for, for the use of an adjoining farm or plantation, be, and the same is hereby, repealed.

SEC. 2. *And be it further enacted*, That patents shall not issue for any entries under the said act of 4th August, 1854, until satisfactory evidence has been produced that the land so entered has been in the actual possession and cultivation of the person who entered it for the period of three years, commencing within sixty days next after the date of the entry; and on failure to furnish such evidence within twelve months next after the expiration of the three years aforesaid, said entry shall be declared null and void, the purchase money shall be refunded, and the land restored to market as public land, after notice of not less than sixty days: *Provided, however*, That in no case shall certificates of entry under this act be considered assignable; and all patents shall issue in the names of the parties who made the entries; and if the parties who made such entries shall have died before the issue of the patents, the rights under such patents shall inure to the widow and heirs of the patentee in equal proportions.

The SPEAKER. Is the proposition of the gentleman from Maryland [Mr. HAMILTON] offered as an amendment to the amendment of the gentleman from Alabama?

Mr. HAMILTON. Certainly, sir.

Mr. COBB. I think not. I only asked that the gentleman's proposition might be read for information. The gentleman misled me when he stated that his proposition was substantially the same as my amendment. His proposition embraces two principles which are not at all in my amendment; and those principles are very important.

The SPEAKER. Had the gentleman from Maryland the floor for the purpose of introducing his proposition?

Mr. COBB. No, sir.

The SPEAKER. Then his amendment is not before the body.

Mr. HAMILTON. I would like to say a word.

Mr. COBB. I hope that I may be allowed to proceed. I hardly ever trouble the House with any remarks.

Mr. HAMILTON. I rise to a point of order. I understood the gentleman from Alabama to state that he yielded the floor to me for the purpose of offering my amendment.

Mr. COBB. I only yielded the floor for the purpose of hearing the gentleman's amendment read for the information of the House. Such was my intention, and the words which I used I think conveyed it.

Mr. HAMILTON. That is not as I understood the gentleman. He said that I might offer my amendment, and the House could then determine between my amendment and the one which he had offered.

The SPEAKER. Then the amendment is before the body.

Mr. COBB. No, sir; I had the gentleman's amendment read merely for information—nothing more. My friends say that I so stated at the time. Now I will proceed with my comments upon the question.

Mr. JAMES C. ALLEN. With the permission of the gentleman from Alabama, I will make a single remark.

Mr. COBB. I trust that the gentleman will first let me get through with what I have to say. My remarks are usually broken enough, without making them more so by interruptions. I shall not occupy much time.

Mr. JAMES C. ALLEN. I rise for the purpose of stating that I understood the gentleman from Alabama gave way merely for the reading of the amendment of the gentleman from Maryland. Had I understood otherwise I should have objected.

Mr. HAMILTON. I understood otherwise. If, however, it be the understanding that the gentleman from Alabama only yielded for the reading of my amendment for information, very well. I do not object.

Mr. COBB. Mr. Speaker, I would call the careful attention of the House to the proposition of the gentleman from Maryland. In it there is a provision requiring settlement under the preëmption act of 1841, confining every one to that act. The second section of the original graduation bill does not confine the preëmption to any one particular act—it embraces all acts, and allows of preëmptions under all of them. Thus, it will be seen, that by the adoption of the gentleman's proposition, we would exclude a large portion of the preëmptors, by this restriction, to one act. My amendment not only gives latitude to the pre-emption act of 1841, but to all other preëmption acts. This, it will be acknowledged, is a very important difference between the two propositions. I do not attempt to bring up vexed questions. My object is merely to regulate the machinery of the existing law.

The second principle of the gentleman's amendment, for which I cannot and will not vote—the House can do as it pleases—is the one requiring an individual to live three years upon the land, for which he has paid the Government price, before he shall have a patent for it. Is the House ready for the adoption of such a principle? Is the land given to the individual here as it is proposed to be given under the homestead bill, in which it is required that no patent shall issue until he shall have lived upon the land five years? No. The cases are dissimilar. In this case the settler pays for the land. We make him pay the price which the Government is willing to receive for the land. The gentleman proposes that the settler shall live three years upon the land for which he paid before he can get a title to it. Is that just? Is that right?

We do not give the land away. Much of it is entered at one dollar the acre. Is that giving it to the individual? When the settler pays one dollar the acre for his land he ought to get a title to it without that condition of residence. It is neither right nor just that he should be compelled to live upon land for which he paid all that was asked three years before he can receive a title to it. I cannot vote for the gentleman's amendment. If it is attached to the bill, I shall vote against the whole. I shall not require a man to pay for land, and then provide that, unless he resides upon it for three years, he shall forfeit all right to it. If his family should sicken one after the other, and he be compelled to go elsewhere, he loses his land and the money which he paid for it. Is that right? Let gentlemen look at the question. The House can certainly determine between my proposition and that of the gentleman from Maryland. My amendment, like the original bill, simply authorizes the settler to qualify before a magistrate. I am willing to provide for preëmption, and leave the vexed questions out.

My amendment provides that the preëmptor may enter lands adjoining those which he has pre-empted. The Commissioner of the General Land Office construed the law that lands did not join where the corners only come together. The construction does not meet with my approval. I contend that lands are adjoining whose corners join. So I understood when I drafted the bill, and when it passed through this House. The amendment, then, authorizes the Commissioner

to construe lands to be adjoining that corner one the other.

The next feature of the amendment is to put an end to that provision of the act under which, it is said, frauds have been committed. It requires absolute settlement upon the land before any individual can be entitled, either under the graduation or the preëmption bills. Is that right? I think that it is, and ask that it may be ingrafted upon the bill. The amendment then provides for the prevention of much inconvenience resulting to settlers under the original bill. I extend the law so that it may comport with the other laws on the same subject. Instead of making settlers travel two or three hundred miles to enter land, let them qualify before the proper magistrate. Let us consider, for a moment, the suffering of individuals who have been entering land during the present winter. If the members of this House had to suffer only what ten widows or five partial invalids have suffered during the last winter, in tramping over two or three hundred miles to enter little homes, that their children might be sheltered from the inclemency of the weather, they would now come up, and with one unanimous response, say, "Let the widow, let the invalid, let each and every one of them be entitled to enter the land by qualifying before properly authorized officers, according to the direction of the Secretary of the Interior." Will this provision be withheld from suffering humanity? Is there a gentleman here who will object to it?

The question is with the House. I hope that my proposition may be sustained. I have confidence in the Commissioner of the General Land Office and in the Secretary of the Interior. I have had business to transact with them, and know that they are able and efficient, and ready to discharge their duty. I have confidence in their putting a stop to many of the fraudulent entries said to have been made under provisions of the original bill. They tell me that they will do it. They will apply the knife closely. It ought to be done, and they will do what they say. I ought to stop here.

[Laughter, and cries of "We understand the question!"]

Mr. COBB. Very well, then. I call for the previous question.

Mr. HAMILTON. Has the morning hour expired?

The SPEAKER. It has. The gentleman from Alabama, however, demands the previous question.

Mr. HAMILTON. These amendments will be printed in the morning papers. Members will then have the opportunity of seeing them, and will be better able to understand them. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. COBB. I hope the House will take a vote upon this bill first.

INDIAN APPROPRIATION BILL.

Mr. HAVEN. I appeal to the gentleman from Maryland to withdraw his motion, to enable me to report back a bill from the Committee of Ways and Means, for the purpose of having it referred and printed.

Mr. HAMILTON. I will withdraw for that purpose.

Mr. HAVEN then, by unanimous consent, reported back the bill of the House making appropriations for the current and contingent expenses of the Indian department, and to fulfill treaty stipulations with the various Indian tribes for the fiscal year ending the 30th of June, 1856, with the Senate amendments thereto, and with various amendments by the Committee of Ways and Means; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

GRADUATION BILL—AGAIN.

Mr. HENN. I appeal to the gentleman from Maryland to withdraw his motion to go into the Committee of the Whole on the state of the Union, and allow us to dispose of this matter this morning.

Mr. HAMILTON. The morning hour has been spent in the consideration of the legitimate business, and I think we had better allow the matter to go over till to-morrow morning. I renew the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HENN. It will not take more than fifteen minutes to dispose of this bill.

Mr. HAMILTON. I cannot withdraw my motion.

Mr. CRAIGE. I demand tellers upon the motion.

Tellers were ordered; and Messrs. PARKER and EDMUNDSON were appointed.

The question was taken; and the tellers reported—ayes forty-eight, a further count not being demanded.

So the motion was not agreed to.

The question then recurred upon seconding the demand for the previous question.

Mr. COBB. I ask for the vote.

The question was taken; and, upon a division, there were—ayes 62, noes 29, no quorum voting.

Mr. PHELPS. I ask for tellers.

The SPEAKER. Tellers have been refused. No quorum has voted, and the Chair will ascertain whether there is a quorum in the House.

Mr. PHELPS. I do not think tellers have been refused upon seconding the demand for the previous question.

The SPEAKER. If there be no objection tellers will be considered as ordered.

Tellers were ordered; and Messrs. PARKER and EDMUNDSON were appointed.

The question was taken; and the tellers reported—ayes 89, noes 45.

So the previous question was seconded.

The main question was then ordered to be put, being first upon Mr. COBB's amendment.

Mr. CHAMBERLAIN. I wish to inquire whether, if the pending amendment be voted down, the amendment offered by the gentleman from Maryland will then be in order?

The SPEAKER. The amendment proposed by the gentleman from Maryland is not before the body at all. The previous question cuts off all amendments.

Mr. PERKINS, of New York. I call for the yeas and nays on the amendment of the gentleman from Alabama.

The yeas and nays were not ordered.

Mr. COBB. I ask for tellers.

Tellers were ordered; and Messrs. BOYCE and CARUTHERS were appointed.

The question was taken; and the tellers reported—ayes fifty-six.

Mr. HAMILTON. Count the other side.

The SPEAKER. Fifty-six is less than half of a quorum, and the Chair does not choose to take up the time of the House in counting the other side. The amendment is rejected.

The question recurred upon ordering the bill to be engrossed and read a third time, and being put, the House was divided, and there were—ayes 80, noes 25—no quorum voting.

The SPEAKER. If there be no objection the Chair will direct the House to be divided by tellers in order that we may ascertain if there is a quorum present.

No objection was made, and Messrs. KEITT and STANTON, of Kentucky, were appointed tellers.

The question was taken; and the tellers reported ayes 95, noes 32.

So the bill was then ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read a third time.

The bill was then passed.

Mr. COBB. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. HOUSTON. I now move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. To get at that now, the motion would be to go to the business on the Speaker's table; but it is hardly worth while to go through that routine. The gentleman from Alabama [Mr. COBB] proposes to report from the Committee on Public Lands.

Mr. COBB. It is my privilege to report, if I am recognized as having the floor.

The SPEAKER. The Chair does recognize the gentleman.

Mr. ORR. I move that the House proceed to the consideration of business on the Speaker's table.

The SPEAKER. That motion is in order.

Mr. COBB. Have I not the floor, Mr. Speaker?

The SPEAKER. That motion takes the floor from the gentleman from Alabama.

Mr. ORR. I now move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken; and the motion was agreed to.

CIVIL AND DIPLOMATIC BILL.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair.)

The CHAIRMAN. The business in order before the committee is the consideration of House bill (No. 569) making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1856, and for other purposes. The question immediately before the committee is the following amendment, submitted by the gentleman from North Carolina, [Mr. CRAIGE:]

At the end of line three hundred and one, on the 13th page, insert the following:

For the continuation of the Treasury Building, $300,000, to be expended under the direction of the President of the United States, according to the plan proposed by Thomas U. Walter, architect, and approved of by the Committees of the Senate and House of Representatives on Buildings and Grounds at last session of Congress.

On the question of the amendment, tellers were yesterday ordered.

Messrs. EDMUNDSON, and TAYLOR of Tennessee, were appointed.

Mr. STANTON, of Tennessee. I propose to amend that amendment.

The CHAIRMAN. The committee has commenced dividing, and the tellers have reported in part. It is the impression of the Chair that the amendment of the gentleman from Tennessee comes too late.

The question was taken; and the tellers reported—ayes 83, noes 37.

So Mr. CRAIGE's amendment was adopted.

Mr. STANTON, of Tennessee. I now propose the following amendment, to come in at that point in the bill:

And the work shall be erected by such civil architect as the President may appoint.

Mr. HOUSTON. I understand that that amendment was ruled out of order yesterday. I make the point of order now, and I do so for the reason that I do not want the committee to go into this vexed question now. We have not time to discuss the subjects which would arise in connection with this amendment. It proposes to change an existing law, and therefore I raise the point of order.

Mr. STANTON. It does not propose to change an existing law.

Mr. SEYMOUR. The proposition of the gentleman from Tennessee [Mr. STANTON] is virtually an amendment to the amendment of the gentleman from North Carolina, [Mr. CRAIGE,] which the committee has voted on. It is, therefore, not in order.

The CHAIRMAN. The Chair is of opinion that it is too late to amend an amendment which has just been adopted. The Chair rules it out of order.

Mr. HOUSTON. I offer the following amendment: After the word "thousand," in line three hundred and eight, insert the words "five hundred," so that the clause will read as follows:

Fuel, lights, repairs, and miscellaneous, $8,500.

The question was taken, and the amendment was agreed to.

The following clause was then read by the Clerk:

For compensation of the Commissioner of the General Land Office, and the recorder, draughtsman, assistant draughtsman, clerks, messengers, assistant messengers, packers, and laborers, in his office, $168,186."

Mr. DISNEY. I offer the following amendments to the clause just read: After the word "office," in line three hundred and forty-three, to insert the following: "whose salaries shall hereafter be $4,000 per annum;" and in line three hundred and forty-three, to strike out the word "eight," and insert in lieu thereof "nine," so that the clause would then read as follows:

For compensation of the Commissioner of the General Land Office, and the recorder, draughtsman, assistant draughtsman, clerks, messengers, assistant messengers, packers, and laborers in his office, whose salaries shall hereafter be $4,000 per annum—$169,186.

Mr. HOUSTON. I rise to a point of order. The amendment that the gentleman offers is intended to increase the salaries of the officers of the Land Office.

Mr. DISNEY. Why is the amendment objectionable?

Mr. HOUSTON. It is objectionable, because it is introducing legislation into an appropriation bill.

Mr. DISNEY. I confess that I would like to reply to the objection of the gentleman from Alabama, if I could see any point in it. I do not see anything of the sort. In general appropriation bills, you make appropriations of particular, designated sums, to be paid to particular departments, which, in the judgment of the House, is perfectly right and proper. Why can you not, then, in a bill designating the amount of money to be appropriated for a particular purpose, designate the class of officers who shall receive it?

The CHAIRMAN. The gentleman from Alabama [Mr. HOUSTON] raises a point of order, that the amendment is not in order. The 81st rule provides "that no appropriation shall be reported, in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law." It would seem that this amendment is not authorized by any existing law.

Mr. DISNEY. I was about to say——

Mr. HOUSTON. I object to the gentleman proceeding with his remarks, as it seems to be very difficult for him to see the point which the Chair sees clearly. Unless the gentleman appeals——

Mr. DISNEY. I do appeal, in order to gratify my friend from Alabama. I appeal, because the rule, as read by the Chair, does not apply to the case. The construction which the Chair intimates as being the just and true one, in relation to the rule just read, will limit the action of the committee upon all appropriation bills to such specific sums as were called for by preëxisting laws. To apply that doctrine now, what have the committee done within the last five minutes. They have appropriated $300,000 as an additional appropriation for the construction of the extension of the present Treasury building? Was this additional amount provided for by existing law?

Mr. HOUSTON. It was so provided for.

Mr. DISNEY. It certainly was not; but because an existing law provided for the construction of the building, it is held to be sufficient justification to authorize this committee to go on and increase the amount. My colleague here suggests very properly that, in point of fact, the appropriation is to erect a new building for the State Department, and to do it under the color of a law authorizing the erection of a building for the purposes of the Treasury Department. By your existing laws you provide for the existence of an officer designated as Commissioner of the General Land Office; and you have provided for his compensation. The amendment I have offered is only to alter the amount of his compensation; and it creates nothing new. The existence of this officer has been acknowledged by existing laws; and you have made an appropriation for compensating him for his services. In the case to which I just adverted, relying upon the fact that an existing law has provided for the expenditure of money for the purpose of erecting the Treasury Building, you go on and make an additional appropriation.

Mr. HOUSTON. The gentleman from Ohio is in the habit of explaining points that are presented in debate here, and he seems very often to see things that do not exist. The Chair has had no difficulty in discovering the point which I presented when his amendment was offered. The gentleman brings forward, as an illustration of his position, the proposition that was made by the honorable gentleman from North Carolina, [Mr. CRAIGE,] to carry out the provisions of an existing law; and, if I understood him correctly, he said that there was no existing law for that purpose. If there is an existing law for the construction of the Treasury Building, then the argument of the gentleman has no application to the point before us.

Mr. DISNEY. We do not provide for the erection of a new State Department.

Mr. HOUSTON. If the gentleman will take the trouble to examine the question, he will find that the erection of a building for the State Department was within the original plan of the Treasury Building.

Mr. HENDRICKS. Let us vote upon this question.

Mr. HOUSTON. I do not intend to interpose questions of order, unless I believe they are well founded. I confess I deemed it necessary to reply to the remarks of the gentleman from Ohio, [Mr. DISNEY,] which he made in a manner which seemed to imply that he treated, almost with contempt, the point of order made by another member of this body, and sustained by the Chair.

Now, sir, I say that the amendment offered this morning, appropriating $300,000, was not only authorized by law, but was in pursuance of existing law, which has been standing upon the statute-book ever since the Treasury Building was authorized to be erected. There is, probably, one other building which stands in the same position. But, yesterday, when a proposition was made to make, as an amendment to this bill, an appropriation for the erection of a new building, it was ruled out of order, and very properly too. The rule says:

"That no appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several Departments of the Government."

Mr. DISNEY. I would inquire of the gentleman from Alabama if the amendment now pending before the committee is not in continuation of appropriations heretofore authorized by law?

Mr. HOUSTON. I say it is not. There is not only no law for it, but it is in direct conflict with the law. It is true the Commissioner of the General Land Office is an officer known to the law, and that he is to be compensated by a salary, which is also known to the law; but the law fixes the salary. And now, I ask, if the gentleman can come forward, and, as an amendment to the civil and diplomatic bill, give to an officer double compensation, when there is not only no law for it, but when the law says he shall have but $3,500.

Mr. DISNEY. I would ask the gentleman whether the preëxisting appropriation being limited by law, as in this case, and that appropriation being exhausted, and the fact of the exhaustion being the reason why the additional appropriation is asked for, I say, I ask the gentleman, whether, in such a case the appropriation is not warranted by law?

Mr. HOUSTON. The rule expressly makes the exception of those cases where previous appropriations have been made to carry out any particular object. But this is no such case at all.

Mr. HAVEN. I would like to appeal to the gentlemen on the other side of the House, to let us take the vote now.

Mr. HOUSTON. I acknowledge the force of the appeal, and I yield the floor that the vote may be taken.

The question being, "Shall the decision of the Chair stand as the judgment of the committee?" it was put, and decided in the affirmative.

So the decision of the Chair was sustained.

Mr. TRACY. I offer the following amendment, to come in after the three hundred and fifty-first line:

For additional compensation to five assistant examiners in the Patent Office, for such time as they shall have performed the duties of principal examiners, to make their salaries equal to that of a principal examiner; and to ten clerks of the second class, in said office, for such time as they shall have performed the duties of assistant examiners, to make their salaries equal to that of an assistant examiner—$7,350, to be paid out of the Patent fund.

Mr. JONES, of Tennessee. I submit to the Chair that that amendment would be ruled out of order under the decision just made by the Chair, and which has been sustained by the committee.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment out of order on the ground that it is not in pursuance of law, but proposes to change the existing law.

Mr. TRACY. I am not disposed to take an appeal from the decision of the Chair, but I may be allowed to make a suggestion.

The CHAIRMAN. That can be done by unanimous consent. The Chair hears no objection.

Mr. TRACY. It will be observed, from reading the amendment, that five assistant examiners in the Patent Office have been required by the Commissioner of Patents to perform the duties of principal examiners.

Mr. HOUSTON. Has not the amendment been ruled out of order?

The CHAIRMAN. It has been, but the gentleman is speaking by unanimous consent, which he asked and obtained.

Mr. TRACY. Five of the assistant examiners have, in order to perform the duties of that office, been required by the Commissioner of the Patent Office to do the duties of the principal examiners, since the 1st of April last. The promotion of these five to the position of examiners in chief, required the addition of ten assistant examiners, five to fill the places of those promoted, and five to act as assistants to those promoted.

These examiners have been performing that higher grade of duty since the 1st of April last, and it is but just that they should be put upon an equal footing, as to salaries, with those who perform the same duties. I am aware that there is no law by which an additional number of examiners in chief can be appoined by the Commissioner of Patents, but it seems to me that the amendment can properly be regarded as coming within the last clause of the rule in regard to contingencies necessary to carry on the Government. The Patent Office at that time was eight months in arrears with its business; and it was found impossible to bring up that business with the then force in the office, and the Commissioner deemed it his duty to take the course which was adopted, and these individuals have been performing those higher duties. It seems to me exceedingly unjust to require services of that kind, and yet not compensate those who perform them.

If the amendment can be brought within the last clause of the rule in reference to contingencies, I trust it will be so ruled by the Chair.

The CHAIRMAN. The Chair is under the impression that the amendment provides for an appropriation which is not authorized by law, and, as such, rules it out of order. It is in contravention, also, of existing law, and for that reason is out of order.

Mr. TRACY. I do not regard it as forbidden by law.

The CHAIRMAN. Does the gentleman appeal?

Mr. TRACY. I do not.

Mr. THURSTON. I offer the following amendment:

For providing copper-plates, suitably engraved, to illustrate the patents issued during the year 1854, $9,450.

Mr. Chairman, I send up to the Clerk to be read a communication which I have received from the Commissioner of Patents. It fully explains the amendment. Before it is read, however, I would state that, in my opinion, the engraving of the plates for the Patent Office reports, as suggested, would result in great good. They would set forth to the public more precisely than is now done, the inventions for which patents have been issued during the past year. The amendment is, in brief, for the perfection of a book acknowledged by all to be eminently useful and important, and I hope that it may be adopted.

The Clerk read the letter and contract, as follow:

UNITED STATES PATENT OFFICE,
WASHINGTON, *January* 2, 1855.

SIR: I inclose herewith a copy of a contract made by me with Mr. Gritzner. The amount to be appropriated to carry out the provisions of this contract (should Congress approve of the arrangement) will be as follows:

The whole number of patents issued during the year 1854 is a little short of one thousand nine hundred. Of these, probably about one thousand eight hundred will need to be illustrated by these engravings.

Should Congress conclude to take the copper-plates from Mr. Gritzner and give the printing to some one else, he is to be paid at the rate of $5 25 for each patent illustrated. This on one thousand eight hundred patents will amount to $9,450.

If it be decided to employ Mr. Gritzner to print ten thousand copies or more of all these engravings, he is to be paid in all $255 for each large plate. There will, probably, be twenty-five of these which will contain all the engravings. The whole price of the plates, in that case, will be only $6,375.

It will be seen by the contract that for printing ten thousand copies he is to have $785 per plate, which, for twenty-five plates, would be in all $19,625. Adding to this the above $6,375, will make just $26,000, as the whole cost of

preparing the copper-plates and printing ten thousand copies of all the engravings. If a larger number of copies should be desired the contract will enable you to calculate the costs.

Should it be thought very desirable to diminish the cost of these engravings, the whole cost of plates and printing may be diminished to about one half the estimate for copper-plate printing by having them printed from transfers on stone. But, even in that case, the same original copper-plates will be needed.

Perhaps you may think it better to merely make the appropriation for purchasing the plates at present, which will be $9,450, and be diminished to $6,375, in case Mr. Gritzner gets the job of printing ten thousand copies, or more.

I would, therefore, suggest the following amendment to the appropriation bill, leaving the question of printing to be subsequently provided for:

"For providing copper-plates suitably engraved to illustrate the patents issued during the year 1854, *nine thousand four hundred and fifty dollars.*"

Yours, very respectfully, C. MASON.

HON. B. B. THURSTON.

This agreement, made the 28th day of September, 1854, between Charles Mason, Commissioner of Patents, acting for and in behalf of the United States of the one part, and M. C. Gritzner, of the other part, witnesses: That the said Gritzner agrees to make copper plate engravings of all the patents issued during the present year, which the Commissioner of Patents, for the time being, may direct to have illustrated in that manner. The engravings are to be on plates of copper twenty-two by thirty-three inches in size, each plate being suitably divided into eight pages eight by ten and one half inches in size, and to contain as many diagrams as can be conveniently placed thereon.

He is to be furnished by the Patent Office with such brief descriptions of each of the patents to be so illustrated as may be thought necessary. He is to make the necessary sketches or drawings, and to furnish all the materials he may need in the prosecution of his work, and to have the whole finished by the 1st day of March next.

He is to be paid monthly at the rate of $130 for each plate engraved as aforesaid. And he having already been paid for his services the sum of $180, that amount is to be credited under this agreement upon the last payments that will be due for the plates under the arrangement above stated. Nothing further is to be paid the said Gritzner, unless an appropriation for that purpose be made by Congress.

Upon the payment of an additional sum sufficient in all to cause the sum already paid to amount to $5 25 for each patent illustrated as aforesaid, the plates so engraved are to become the property of the office. And if, at any time, the work is not done in a satisfactory manner, the said Commissioner is to have the right to put a stop to any further engravings under this contract, and to have the same right in relation to the number then engraved as are above provided.

Should the said Gritzner be employed to print ten thousand copies or more of any of the plates so engraved upon the terms hereinafter stated, the plates upon which such numbers of copies shall have been printed are to become the property of the Office, by paying said Gritzner the sum of $125 per plate, in addition to the sum of $130 per plate, above provided for.

The said Gritzner is to print electrotypes, taken from the copper-plates aforesaid, as many copies of any and all these plates, as may be ordered by the Commissioner, and at the rates following, that is to say:

For printing ten thousand copies of one plate, and furnishing electrotypes and paper, $785 00; fifteen thousand copies for $1,151 94; twenty thousand copies for $1,405 47; thirty thousand copies for $2,124 47; forty thousand copies for $2,843 47; fifty thousand copies for $3,562 47; sixty thousand copies for $4,281 47; seventy thousand copies for $5,000 47; eighty thousand copies for $5,719 47; ninety thousand copies for $6,438 47; and one hundred thousand copies for $7,157 47.

If the Patent Office furnishes paper for printing these copies, a deduction on the above prices is to be made, at the rate of $12 50 per thousand copies of one plate. And if the Office furnishes the electrotype also, a further deduction is to be made of six dollars per thousand copies of each plate, on that account.

If, instead of having these copies printed in the manner above contemplated, the Commissioner prefers to have them printed from transfers on stone, the original copper-plates are to be paid for in the same manner and at the same rates as is above stated, and the printing of ten thousand copies or more of any one plate is to have the same effect of diminishing the price to be paid per plate, as is above provided. And the printing from transfer is to be done by the said Gritzner at the rate of $333 for each ten thousand copies of one plate, as aforesaid, for as many such copies as may be ordered by the said Commissioner—the said Gritzner furnishing the stone and making the transfers himself.

CHAS. MASON,
M C. GRITZNER.

Mr. STANTON, of Kentucky. Mr. Chairman, before the mechanical portion of the Patent Office report was sent, either to the Senate or this House, the Commissioner of Patents entered into a conditional contract for the engraving and plates. The style and character of these engravings were such as to make necessary a change in the form of the book, and as the joint resolution of Congress confided that matter exclusively to the Joint Committee on Printing of the two Houses, we met a few days ago to consider the proposed plan of the Commissioner. Mr. Mason, the Commissioner, appeared before us, and we patiently heard all he had to say in favor of the plates as contracted for, and the proposed change in the form of the work. We examined the engravings, and it is due to the artist to say, that they were admirably executed, and from their accuracy of detail were well calculated to be useful in giving a clear idea of the principles intended to be shown in the patents. But they made necessary an expensive change in the book, from that of royal octavo, the size heretofore adopted for the Patent Office reports, to quarto, and would thus break the serial character of that class of books. We submitted the question as to the cost of engraving and printing the plates in the style, and upon the scale proposed by the Commissioner, to the Superintendent of Printing, who furnished us with his estimate. The result was astounding. The additional cost to be incurred by the Government, on account of engravings for that single book and the printing, would be $139,000. The committee, in view of their responsibility to Congress and the country, very properly decided, and that with perfect unanimity, that they would sanction no such enormous expenditure. They decided, under the authority conferred upon them by the joint resolution of Congress, that the book should be executed in the usual octavo form, and the plates prepared in a somewhat similar (though much better) style, to those of the last year.

The effect of this amendment, it seems to me, would be to accept and ratify the contract entered into by the Commissioner of Patents. While I have not the least doubt the Commissioner of Patents acted from a laudable desire to improve the character of the work, and make it more practically valuable, I am constrained to say, that he had no right to take steps calculated to forestall the action of Congress both as to the expense, and the particular form of the book. The precedent would be a bad one, and, if sanctioned, might lead to great abuses by the heads of bureaus. The Committee on Printing, for that reason, as well as on account of the great expense, thought it best to reject his arrangements, and no doubt this House will do the same thing.

It is true the amendment proposes only to pay for the engraving and plates, but this is only a small part of the expense. Transferring, printing, and paper are the items which swell up the amount so enormously. But, the drawings and engravings are not yet fully executed, and the work done, according to the judgment of the Superintendent, is not worth more than about $4,000. The committee thought that by allowing the contractor this amount, it would amply pay him for his labor, and by arresting the work at this stage Congress would get rid of the enormous sum which the contract, if fully carried out, would require.

My colleague on the committee [Mr. MURRAY] reminds me that I have made a mistake as to the amount which the engraving under the contract of the Commissioner would cost. He says the estimate was $89,000, instead of $139,000. That is bad enough, but I intended in the latter sum to embrace the additional cost which would ensue for printing, binding, and paper for the book, in consequence of its change of form from octavo to quarto size.

Mr. LETCHER. The gentleman from Kentucky seems to be communicating important facts in reference to this amendment, not one of which we have heard here at all.

Mr. STANTON. The facts are briefly these: Before the Patent Office report was made to the House, the Commissioner of Patents entered into a conditional contract for engraving, without any authority of law, or any authority from the Joint Committee on Public Printing—a contract which would have made the expenses in publishing the plates for the mechanical portion of the report, $89,000. This amendment is to pay for the engraving of these plates, which are not yet executed. There is no necessity for executing them. The Committee on Printing have determined that the book shall be of a different character; that, instead of enlarging it to a quarto size, and using these plates in it, it shall be just as it was last year—with engravings on wood. It would cost $89,000 to procure the new plates, and some $20,000 or $30,000 more to adapt the book to them.

Mr. WHEELER. What is the difference of cost?

Mr. STANTON. The cost of the plates, if executed so as to make the book as it has been heretofore published, will be $28,000; that is for engraving, plates, and everything connected with that part of the work.

Mr. SOLLERS. Did the gentleman say that the Commissioner of Patents entered into a contract not authorized by law?

Mr. STANTON. A contract commenced and partially executed, and the pay dependent upon the action of Congress.

Mr. SOLLERS. I asked the question for the protection of the character of the Administration. [Laughter.]

Mr. MURRAY. The Commissioner of Patents agreed with a gentleman to engrave the plates. He submitted the arrangement to the Committee on Patents and the Patent Office. That committee concurred in it provided Congress would carry it out.

Mr. WHEELER. The difference is between $28,000 and $89,000.

Mr. MURRAY. The difference is greater than that.

Mr. HAVEN. I do not want to prolong this discussion. When the amendment was read, I thought that it was a proper one. I supposed that I understood it; but it seems that I was mistaken. I should like to know whether there is any explanation in regard to it from the Committee on Patents? As I understand it now, from the remarks of the gentleman from Kentucky, a conditional contract has been made by the Commissioner of Patents, and that, in the opinion of the Committee on Printing, if we adopt this amendment it will saddle upon us a contract which they deem very improper and extravagant. I hope, therefore, we shall have some explanation from some member of the Committee on Patents and the Patent Office, so that we may vote upon the matter understandingly.

Mr. PECK. I wish to ask my colleague [Mr. MURRAY] one question in reference to the expense involved. I desire to know what will be the additional cost of adopting this amendment?

Mr. MURRAY. The mechanical report of the Patent Office, as made for the present year, will have to be bound in two volumes, and I understand the additional cost for engraving, if this amendment is carried out, will be something like a dollar a copy. Last year illustrations were furnished for the Patent Office report, made on wood, but if they are made on copper, as this amendment provides, I understand the additional expense will be something like $89,000. It will require those reports to be published in quarto form, which will considerably increase the expense.

Mr. DAVIS, of Rhode Island. I hope we shall adopt the amendment, and that we shall furnish the mechanics of the country with copies of the inventions that have been patented during the past year, for, if I understand it, that is the object of the amendment now before the committee.

Mr. MURRAY, (interrupting.) In my opinion, and in the opinion of the Committee on Printing, these engravings can be done on wood so that they will appear just as well, and so that the inventions will be equally well illustrated as if engraved on copper.

Mr. DAVIS. I do not know but that those engravings can be done just as well on wood as on copper, but it strikes me that it cannot. This is a matter in which the mechanical interest of the country is deeply interested. The proposition has been before the Committee on Patents. They have given it their consideration, and they have given it their sanction. For one, I think if this Patent Office report can be put forth to the country with these great improvements we shall be doing but justice to the mechanical interest. Gradually we have taken step by step in the improvement of these reports. At the outset they were scarcely worth having, and not until last year were we able to obtain anything worthy to be put into the hands of the mechanics and inventors of the country as of practical utility.

Mr. STANTON, of Kentucky. If the gentleman will allow me, I will say to him that the mechanics and inventors of the country will get precisely the same benefit by the arrangement which the Committee on Printing have recommended that they would obtain by carrying out the arrangement recommended by the Commissioner of Patents. Precisely the same illustrations will go into the book under our arrangement as under the other. They will, in my opinion, be as well executed, and will be as useful, if not so acceptable on account of their expensive character, to those for whom they are intended.

So far as the Committee on Printing are con-

cerned, their only object was to save the country from a great expense, which they believed to be entirely unnecessary, amounting to some eighty or ninety thousand dollars, by having these engravings done on copper. But, sir, knowing that the Committee on Patents, without authority, as we thought, had entered into a conditional contract for having these illustrations engraved on copper, we directed the Superintendent of Public Printing to make inquiry as to what amount of expense had been incurred, with a view of providing, as far as we could, against any loss to the person who had undertaken the work. He estimates that the expense already incurred will not exceed $4,000. Now, sir, we propose to pay for what has been done, and have these engravings transferred to wood and electrotyped, by which process they will become almost equal to copper-plate engravings. We thought, that to authorize copper-plate engravings after the style recommended by the Commissioner, would be incurring unnecessary expense, and render the work, when published, of no more practical value to the class for whom it is intended, than it will be when published in a more economical form and style.

Mr. DAVIS. If I understand the gentleman from Kentucky, the same object, practically, will be accomplished, whether we carry out one plan or the other. I had supposed that to reject this amendment was to provide for bringing out an imperfect book.

Mr. STANTON. Not at all.

Mr. DAVIS. If the gentleman from Kentucky says this engraving can be done just as well in the manner in which he indicates I have great confidence in his statement, and the remarks I before made, therefore, do not apply to the facts as they exist. But, sir, it does seem to me a little strange that the Commissioner of Patents should have presented the matter in this form, and the Committee on Patents have recommended the adoption of the same plan, when the work could have been done just as well in a cheaper form. I cannot quite understand that fact.

Mr. WASHBURNE, of Illinois. If I understand this matter, the question presented for us to decide is as to the form in which we are to have the mechanical part of the Patent Office report printed. Now, sir, I understand that the Committee on Patents, following the recommendations of the Commissioner of Patents, recommend that it shall be printed in a particular way—that we shall have a quarto volume, with copper-plate engravings. But I understand the gentleman from Kentucky, and the Committee on Printing, of which he is the chairman, to oppose the adoption of this plan, and to recommend that the same course should be taken with regard to the illustrations of this book that was taken at the last session of Congress.

Now, sir, I am in favor of the proposition of the Patent Office Committee. I believe it is expedient that we should print this document in the way in which they suggest. Sir, I believe it is proper and right that we should print these books in the form in which the farmers and mechanics of the country will receive the most information. We are expending money for everything else. We are appropriating some $5,000,000 for the Patent Office building, and for the extension of the Capitol. But when it is proposed to expend a few thousand dollars for the benefit of the farmers and mechanics of the country the cry of retrenchment and reform is raised. Sir, I am in favor of printing these Patent Office reports in the form suggested by the Commissioner of Patents, and I hope the amendment will be adopted.

Mr. JONES, of Tennessee. For the purpose of facilitating the action of the committee upon this bill, I move that the committee do now rise for the purpose of terminating the general debate upon this bill.

The question was taken; and the motion was not agreed to.

Mr. LETCHER. I do not exactly agree with my friend from Illinois in his views upon this subject. If this book can be printed at a cost of only $4,000 for engravings, according to the plan recommended by the Committee on Printing, I think it is all that the farmers and mechanics of the country require, and all that is necessary for us to do.

The gentleman from Illinois insists upon the expenditure of this $80,000 or $100,000 additional, not because it is necessary, but because a good deal of money has been thrown away for other purposes, and, therefore, some of it had better be expended in this way. Sir, if that is the principle upon which we are to act, I would suggest that we had better have the books bound with gilt edges, and stamped as the copies of the Constitution were which were presented to the members the other day. If money from the public Treasury is to be thrown away, it might as well go for one purpose as another.

Mr. SAGE. Move an amendment providing for gilt edges.

Mr. LETCHER. No, sir; I cannot accept my friend's suggestion to move an amendment for gilt edges. I will wait to see whether this amendment is adopted. If it is, I do not know what I may do.

Mr. WENTWORTH, of Illinois. This Patent Office report is about all that the farmers are getting from this General Government, under any circumstances whatever. Then there is the mechanical report, which is about all the mechanics get, and it is generally understood that the farmers and mechanics are proper and legitimate subjects of plunder.

Now, I am willing to go with my friend from Virginia, to give the farmers the most useful book they can have, leaving out all extra ornaments, gilt edges, painted plates, and things of that kind. But if there is anything solid or substantial that the Commissioner of Patents can get for our farmers I am willing to favor it by all the means in my power. I may as well remark here, that a plan has recently been gotten up for which this extra favoritism to the books may perhaps be a sort of compensation. I understand that it is proposed—and that an amendment will soon be introduced for that purpose—to take the duty off the farmers' wool without taking it off woolens. I hope no one will call me to order for telling secrets.

Mr. SKELTON. I desire to ask the honorable gentleman a question. He says that this Government is plundering the farmers and mechanics. I would like him to inform me where the money is to come from to pay for these books, if it does not come from the farmers and mechanics of the country?

Mr. WENTWORTH. It would be out of order for me to answer that question. I have been out of order so much that I dare not be out of order any more, because I know the Chair will be obliged to call me to order, and as the committee seems impatient to take the vote, I have nothing further to submit.

The question now being upon Mr. THURSTON's amendment,

Mr. PRATT demanded tellers.

Tellers were not ordered.

The amendment was then rejected.

Mr. DAVIS, of Indiana. I offer the following amendment; at the end of line three hundred and seventy-six, add the following:

To enable the register and receiver of the land office at Indianapolis, Indiana, to rent a suitable room for the preservation of the records and papers of the several land offices in said State which have been discontinued, and the books and papers thereof transferred to the said land office at the said city of Indianapolis, the sum of $500.

The amendment was agreed to.

The Clerk proceeded with the reading of the bill, and reached line four hundred and seventeen.

Mr. DISNEY. I desire to offer an amendment at line four hundred and ten.

The CHAIRMAN. If there be no objection the amendment can be received.

Mr. LETCHER. I object to going back.

Mr. DISNEY. The Clerk made no pause at all. I am instructed by the Committee on Public Lands to offer the following amendment, to come in after line four hundred and ten:

For the expenses incurred by Dr. John Evans in geological explorations of Oregon, Washington, &c., and for the completion of those explorations in Washington Territory and in Coosa bay, $23,560; and the Department of the Interior is hereby authorized to have the report of Dr. Evans published under its direction, the expense to be paid out of any money in the Treasury not otherwise appropriated.

Mr. HOUSTON. I object to going back on the bill.

Mr. DISNEY. I hope the gentleman will withdraw his objection.

The CHAIRMAN. If the gentleman from Alabama [Mr. HOUSTON] insists on his objection the Chair is of opinion that, under the rule, the committee cannot go back.

Mr. DISNEY. I would suggest to the Chair that the Clerk should not be allowed to read so rapidly.

Mr. HOUSTON. We are getting on very slowly with the bill. I shall, however, withdraw my objection to this amendment, but I will object to going back on any other occasion.

Mr. DISNEY. I am directed by the Committee on Public Lands to offer that amendment; and I send to the Clerk's desk papers which, if the committee desire to hear them read, will explain this matter.

[Cries of "Never mind the papers."]

Mr. DISNEY. In order to save the time of the committee, I will state, in general terms, the facts connected with this case. Dr. Evans was the regularly appointed geologist to make geological explorations in Oregon and Washington Territories. He was subsequently instructed to join the expedition conducted by Governor Stevens, who was exploring a route for a railroad to the Pacific. Congress, from some cause or other, failed, at the last session, to make any appropriation for the purpose of covering the additional expenses of the expedition and the current expenses of Dr. Evans. He continued his labors, and before the Department of the Interior could cause advices to reach him he had expended some $5,000 above the amount which had been appropriated. That item is intended to be covered by this appropriation, in conformity with the instructions given by the Department of the Interior. In acting as geologist to the explorations of Governor Stevens, Dr. Evans incurred an expenditure of $5,000 or $6,000 in addition. That sum is also intended to be covered by the proposition which I have offered.

The Territorial Legislature of Washington have asked Congress to appropriate an additional sum of $10,000, in order to enable the exploration to be finished; and this act of the Territorial Legislature is sustained by the papers which I have sent up to the Clerk's desk, from the citizens of San Francisco, and is also indorsed by the Delegates from Washington and Oregon. General facts are set forth in these papers showing the importance of the discoveries which they suppose will be made, in view of those which have already been made by this reconnoissance. Dr. Evans has already discovered coal beds, covering a very considerable region of this country; and the importance of the discovery of coal in this locality, which they hope and believe will be found extensively, is evidenced by a solitary fact, which I will quote. It is said that even now the amount of coal consumed by American steamers in the Pacific ocean costs annually $3,000,000. A vast proportion of this amount of cost would be saved if coal should be found in that region. I do not advert, as I might, to all the other advantages which would necessarily result from a discovery of coal for the purpose of manufacturing, and for all other purposes in which coal is to be applied.

There is, also, the further appropriation of $3,000 to cover another exploration to Coos bay. These $3,000, and $10,000 added to the $10,000 already expended by Dr. Evans, under the authority of law, makes the $23,000 asked for in this appropriation. The papers, however, which I have sent to the Clerk's desk will set forth all the facts, if the committee desire to hear them read.

Mr. KEITT. Oh, no; we do not want to hear them read.

Mr. HOUSTON. The gentleman from Ohio [Mr. DISNEY] is in error in one of his points. It was not a mistake, it was not a common failure on the part of Congress to provide for this geological survey. It was the intention of Congress to withhold appropriations on this subject; not only that, but Congress passed a law saying that no further surveys of this sort should be made, unless preceded by an act of Congress.

Mr. FULLER. That referred to railroad surveys, not geological.

Mr. DISNEY. As I stated before, the Department of the Interior could not notify Dr. Evans of this action of Congress until the amount indicated by the papers had been expended. The Department advised him by the earliest opportunity of this action on the part of Congress, and after it was received no further expenditures were made. But this proposition asked for is intended to cover the expenditures made by Dr. Evans

before he could be advised of the intentions of Congress, to which the gentleman from Alabama [Mr. HOUSTON] has adverted. It is not at all material whether the failure of Congress to make an appropriation for this purpose was by accident or design. It was only intended to restrain or limit further explorations. The Department of the Interior took immediate action thereupon, and proceeded to advise the party; but, I repeat, before the advices had reached the party the expenditure had been incurred under the previous authority, which Dr. Evans had obtained from the Department.

Mr. HOUSTON. The section of the law under which this expenditure was made is very short. It appropriates $5,952 to cover the balance of compensation to surveyors, geologists, &c., including the cost of superintending the geological reports, provided that there be no further geological surveys of the Government, unless hereafter authorized by law. The object of this law was evidently a good one. It was an object which ought to be in the mind of Congress whenever it passes a law at all, and that is, that the legislation must precede the expenditure of money.

Now, the statement of the gentleman from Ohio relieves this particular appropriation, because he states to the committee that the information could not be made to reach Dr. Evans until after this expenditure had been made

Mr. SOLLERS. From the bottom of my heart I deplore the unnecessary and useless expenditure of public money in publishing these reports. I have read the reports of the explorations made of the Amazon and of the course of the Red river, and they are all utterly useless. I have read them carefully and critically, and my judgment is, that the best thing Congress can do is to cut off all these unnecessary and useless appropriations for the publication of these works.

Mr. STANTON, of Kentucky. I propose to amend the amendment of the gentleman from Ohio, [Mr. DISNEY,] so as to strike out so much of it as leaves that work to be published under the direction of the Secretary of the Interior, and insert in it that it is to be published by the public printer. My reason for doing so is this, that the work, if published under the direction of the Secretary of the Interior, will cost four times as much as if it were published under the direction of the public printer.

Mr. DISNEY. I accept that modification.

The amendment was modified so as to make it read:

And the Department of the Interior is hereby authorized to have the report of Dr. Evans published by the printer of the House, the expense to be paid out of any money in the Treasury not otherwise appropriated.

The question was taken; and Mr. DISNEY's amendment, as modified, was adopted.

Mr. DISNEY. I am directed by the Committee on Public Lands to move to strike out, in line four hundred and forty-nine, the word "seven," and insert the following: "including a translator of the Spanish language, $18,500."

So that the clause will read, as follows:

For compensation of the surveyor general of New Mexico, and the clerks in his office, including a translator of the Spanish language, $18,500.

At the last session of Congress an allowance was made for this item by the committee, but the House refused to grant it. In obedience to instructions from the Committee on Public Lands I send to the Clerk's desk papers which I wish to have read in connection with this matter.

Mr. LETCHER. I rise to a question of order——

Mr. DISNEY. If the gentleman from Virginia will only allow the papers to be read, he will find that the amendment I have offered does not increase the compensation of the surveyor general. I believe it ought to be increased, but I have not offered an amendment for that purpose, because I knew the point of order would be raised. I have omitted that part relating to the surveyor general, and have only provided for the pay of the clerks. I ask that the letter from the General Land Office be read first.

The letter was then read, as follows:

GENERAL LAND OFFICE, *February* 2, 1855.

SIR: In the organic law creating the office of surveyor general of New Mexico, the salary of that officer is made to be $3,000. In view of the *exorbitantly high* rates of all the necessaries of life in that Territory, and of the great amount of duties imposed on that officer, I deem it my duty to recommend that his salary be made equal to that of the surveyor general of California, viz: $4,500; and that the amount of compensation allowed to his office for clerk hire, which was estimated for the fiscal year ending 30th June, 1856, at $4,0 0, exclusive of a translator of the Spanish language, (in the absence of any official information from the surveyor general) be increased to $14.000, inclusive of the compensation of translator. The inclosed l tter from the surveyor general fully sets forth the reasons which seem to require the additional allowance herein submitted.

I also take occasion to set forth the fact that the duties required of the surveyor general of Kansas and Nebraska, in respect to the surveying of the Indian reservations in those Territories, in addition to the surveying of the public lands, which will be prosecuted on a large scale, and the high cost of living there, suggests that the annual compensation of $2.000 now provided for that officer, is an insufficient compensation, and that the allowance be increased to $3,000. And as evidence of the fact of the high cost of living, the rates of surveying contracts in Kansas and Nebraska, exceed those allowed elsewhere, thus far, in any of the surveying districts, this side of the Rocky mountains.

With great respect, your obedient servant,

JOHN WILSON, *Commissioner.*

HON. DAVID T. DISNEY, *Chairman Committee on Public Lands, House of Representatives.*

P. S. The letter from the surveyor general of New Mexico, to Hon. A. B. Greenwood, submitted by the latter to the Committee on Public Lands, and by the committee referred to this Office on the 26th ultimo, is herewith returned.

Mr. LETCHER. I raise the question of order that the amendment is to provide for an increase of salaries all through.

Mr. DISNEY. It does not provide for any increase of salary at all, but it merely provides an allowance for clerk hire.

The CHAIRMAN. The Chair is inclined to the opinion that the amendment is in order.

Mr. LETCHER. It proposes an increase of salary to enable the surveyor general to hire clerks.

Mr. DISNEY. It simply makes an appropriation of a general allowance of money.

Mr. LETCHER. There is no difference between allowing one man $5,000, or saying that five men shall receive $1,000 each. The amendment provides for an increase of salary, and the only difference is that it is given to an aggregate number of men. It is changing the law——

Mr. DISNEY. I ask that a letter which I have sent up may be read by the Clerk, which will show more fully the necessity of the amendment I have offered.

The Clerk read the letter, as follows:

NEW MEXICO, NEAR EL PASO DEL NORTE, *December* 7, 1854.

DEAR JUDGE: I have arrived in my district, and will proceed to select the point for the intersection of the meridian with the base line in a few days.

I find every article necessary for living astonishingly high here; and tacy are higher still further up the country. Coffee and sugar, fifty cents per pound; bacon ham, seventy-five cents; flour, twenty-four dollars per barrel, and merchandise in proportion.

I find the sum appropriated for clerk hire far below a sum equal to give a clerical force sufficient to perform the great amount of business which will come before me. The bill establishing the surveyor's office in New Mexico, as it passed the Senate, was properly arranged; but Mr. Letcher, from Virginia, had it cut down. The amount for clerk hire will not furnish half the force necessary to perform the multitude of business which will come before the office in New Mexico. I see in the appropriation bill of last session an item of $105,000 for the land commissioner for setling land titles in California, and two items for clerk hire and the salary of the surveyor general in the same State, $30,500.

Now, sir, the surveyor general of New Mexico has the duty of a land commissioner, register, receiver, and surveyor general to perform, and that, too, with a salary of $3,000 and $4,000 for clerk hire, in a country where all prices are much higher than in California. I have estimated for the year ending 1856, and have fixed the sums as they were in the original bill—$4,500 for the salary of the surveyor general, and $14,000 for clerk hire; which, I think, will be required to have the office well organized. Will you do me the favor to have it passed for me in the House? I have written to Judge Sebastian and Colonel Johnson on the subject, with whom I hope you will cooperate.

If the House will give this additional salary, they will save many thousands of dollars to the national Treasury; for you see the amounts appropriated to the board of commissioners in California, and there are probably more land claims to adjudicate and report to Congress in New Mexico than in California. If the appropriation can be had, I would *prefer* the law to remain as it is now; but if it cannot, I will like the land clause stricken out, and let a land commission be organized.

I may work for nothing myself, but I cannot get clerks to do so; and the amounts appropriated will not half do for clerk hire.

Please have the law worded so that the salary will be raised until the settlement of the land claims.

Very respectfully, your friend, WM. PELHAM.

Major Emory requests me to state the facts, that he has had the storm, yellow fever, rain, mud, and winter to encounter on his way to his commencement point, which are all true, I know, from my own knowledge. The high prices and difficulties referred to, he is fearful, will cause his expenses to be so much above the estimate he had made, that he will not be able to finish the line with the sum at his disposal. I know nothing but great necessity will cause him to ask for a further sum. I have traveled with him, and know him to be an energetic, persevering officer. Any assistance he may ask at the hands of Congress, I hope you may feel yourself authorized to grant him. Very respectfully, yours,

WILLIAM PELHAM.

HON. A. B. GREENWOOD.

Mr. LETCHER. I insist upon my point of order.

Mr. DISNEY. What is it?

Mr. LETCHER. It is stated distinctly in the communication just read, that it is an increase of salary of the surveyor general from $3,000 to $4,500.

Mr. DISNEY. I did not offer an amendment to increase the salary of the surveyor general.

Mr. LETCHER. You offered an amendment to cover that amount.

Mr. DISNEY. I have offered an amendment to furnish an additional sum of money for the general contingencies of the office, covering clerk-hire, &c.

Mr. LETCHER. And so forth!

Mr. DISNEY. It is not to increase the salary of the surveyor general.

Mr. LETCHER. That is the amount stated in the paper which has just been read; and is it not the same amount stated in the gentleman's amendment?

Mr. DISNEY. The letter says $4,500 for the salary of the surveyor general. I have offered the amendment for the contingencies of the office, and have said nothing in my amendment about the compensation of the surveyor general.

Mr. JONES, of Tennessee. I ask the gentleman from Ohio if his amendment is not to increase the sum to $14,500?

Mr. DISNEY. That is the amount.

Mr. JONES. Well, Mr. Chairman, I submit the additional question of order to the Chair, that the amendment proposed by the gentleman from Ohio proposes to create a new office, and therefore is not in order.

Mr. DISNEY. The office exists now; and it does not propose to create a new office.

The CHAIRMAN. The Chair would state, that if the amendment proposes to alter any salaries which are now fixed by law, or to increase the number of any employees now existing by law, it would not be considered by him to be in order. But the Chair has not yet perceived either of these things in the amendment. The gentleman from Ohio has offered the amendment for an appropriation necessary to carry out a contingency. Whether it is so or not, may, perhaps, be developed by a discussion upon the merits. The Chair, under present circumstances, declines to rule the amendment out of order.

Mr. DISNEY. Now, I say that the law creating the office of surveyor general does not specify the number of clerks that shall be employed. It does not specify their salaries.

Mr. SOLLERS. I rise to a question of order.

The CHAIRMAN. The Chair would state that the question is upon the amendment offered by the gentleman from Ohio. The Chair has ruled that amendment in order, and from that decision the gentleman from Tennessee [Mr. JONES] takes an appeal.

Mr. JONES. No, sir, I no not.

The CHAIRMAN. No appeal being taken, then, the Chair decides that debate upon the merits of the proposition is in order. If the gentleman from Ohio is debating the merits of his amendment, he will proceed.

Mr. DISNEY. I only desire to say a word or two, for the purpose of correcting some impressions which, I fear, have seized upon the minds of the members of the committee.

It is true the surveyor general asked for an increase of compensation. It is true the Commissioner of the General Land Office recommended that increase; but it is likewise true that I have forborne to ask it. There is an end of that, and the question of increase of compensation is not before the committee.

Now, the law creating the office of surveyor general of New Mexico, contains a general provision for contingencies, for the payment of clerk hire, &c., and not specifying the number of employees who shall be engaged; but limiting only the amount of money which shall be employed for such purpose. Now, sir, it has been found, by

actual experiment in this case, that the sum of money heretofore appropriated for that purpose has not been sufficient to employ a force of clerks adequate to the performance of the labors of the office. They cannot get along without a translator of the Spanish language; and to give them such a translator is not only proper, but necessary—a necessity not to be avoided or escaped. You must have an individual employed in that capacity.

The Committee on Public Lands recommend to the House, in the amendment which I have submitted, that there be allowed the sum of $14,000 for the general contingent expenses of the office, neither increasing the salaries of the clerks, nor enlarging or diminishing the number of employees of the office, but simply placing that sum of money at the disposal of the surveyor general, that he may thereby be enabled to execute the duties which the law has imposed upon him.

Mr. JONES, of Tennessee. The Chair has decided this amendment to be in order, but I think the committee should reject it, because of its wanting the character of a specific appropriation. It proposes to increase the appropriation contained in the bill from $7,500 to $14,000, for the purpose of enabling the surveyor general to employ clerks, &c. Now, if you give him that additional amount of $7,000, it seems to me you give him authority to fix the compensation, and under that authority he may give the clerks any amount of salary he, for any reason, may think proper. Under that authority also, he may fix the salary of the translator of the Spanish language. That, I think, is the creation of a new office, and as such, an amendment for that purpose ought not to be considered as in order to this bill.

But, if we are going to authorize the surveyor general to employ additional clerks, let us fix the compensation, and say what it shall be, and not leave it to the surveyor general to employ whom he pleases, and at what compensation he pleases.

Mr. HOUSTON. I think it proper that I should say a word at this point of the discussion. The gentleman from Ohio presents estimates from the Commissioner of the General Land Office covering this case. I confess it presents itself to my mind as a singular proceeding. It is bad enough for the heads of Departments to send estimates in this irregular manner to either House. This case is even stronger; the head of a bureau sends estimates, not to the House, where they would be printed and accessible to the members, but sends them to a committee, and they are never heard of by the balance of us until they are presented in debate. This is not as it should be. Estimates are treated as very common and unimportant things in this age of progress. True, the Secretary of the Treasury sends to the two Houses at the beginning of the session his estimates, not only for his own, but embracing all of the other departments, purporting to contain all the necessary estimates for a year's service; they are printed, and constitute a part of the public documents, and the casual reader might suppose no more was asked from Congress; this, I regret to say, is a total mistake. The estimates presented at the first part of a session, of late years, serve more as a blind to mislead and deceive the public, than as an indication of the amount of money which may be called for. I have those regular estimates before me: the Secretary of the Interior asks for the item in question, $7,000, and no more; the Committee of Ways and Means give the amount in their bill, now before us; but, instead of that being all that is wanted, I find that the Commissioner of the General Land Office calls for $18,500, or $11,500 more than the sum estimated by the Secretary of the Interior—he asks, for the very same object, more than double the amount found in the regular estimates. These last estimates not being printed, the members generally are not only deprived of a fair opportunity of seeing them, but they will never constitute any portion of the documents of the House. I repeat, this is wrong, and I think its practice should be discontinued. The House should promptly put a stop to it. It is due to ourselves, as well as the public service, that estimates should reach us through the proper channel, and be printed.

At the commencement of this session, the President of the United States, in his annual message, stated that Congress had appropriated at its preceding session about $20,000,000 more than were estimated for. I have no doubt the President made that statement fully satisfied that it was correct. Of course he could not have examined these things personally. No sane man would expect it of him; he doubtless took the statement of others, whose duty it is to examine into and understand more fully the details of such things, and they, from some cause or other, misled him. Whether they knew better is not for me to say; be that, however, as it may, I feel it due to myself, as one of the members of this House, to say that it is a very wide mistake, unquestionably an error. If the President refers to the regular estimates which were printed and laid upon our tables, then he may be very nearly correct—not otherwise. Who does not remember the frequent occasions, at the last session, when items of appropriation were being resisted and the member interested would deliberately draw from his pockets estimates from the Secretary of the Treasury covering the precise case, estimates which had not been seen by the other members, and, of course, of which we would be entirely ignorant until drawn forth for use. They answered their purpose, and now where are they? They were not printed—they are not to be found in the documents—and if the Secretary should deny that he ever sent them, or that they were not estimates, how could you establish the fact? Not at all. Let us, then, have no more of such irregular intercourse with the Departments. Let their estimates reach us in the regular mode, so that they will be printed for use, giving every member an opportunity to inspect them, and also making them constitute a part of the documents of the House. I have received such estimates this session, but in every instance where I have been able to get the consent of the House, I have obtained an order to have them printed, and I have but few cases now in my hands where the House has not made an order to print. I think the practice likely to lead to evil, and hope the House will promptly put it down.

Mr. LETCHER. I offer the following amendment to the amendment of the gentleman from Ohio, as a proviso:

Provided, That no clerk now in office shall receive a sum greater than that allowed under the law to a clerk of the same grade.

Mr. Chairman, I offer the amendment for the express purpose of ascertaining what is the sense of the committee in regard to the surveyor general's office. I think that every one must have come to the conclusion, from the papers which have been read at the Clerk's desk, that the design is to give to the surveyor general a discretion to increase the salaries of officers under him; and next to give him power to employ a translator of the Spanish language, and to assign to him such compensation as he chooses. Now, sir, Congress has fixed this compensation.

Mr. DISNEY. Where has it fixed it?

Mr. LETCHER. I suppose the Secretary had it in view when he sent in an estimate of $7,000.

Mr. DISNEY. There is no law fixing the compensation of any clerk in any surveyor general's office.

Mr. LETCHER. Here is an officer of the Government who sends in a recommendation for the appropriation of a certain amount as necessary to meet the expenses of the surveyor general's office. How did he get it, I ask the gentleman from Ohio?

Mr. DISNEY. By reference to the action of Congress at its last session.

Mr. LETCHER. Precisely. Then there must have been some action of Congress which fixed this matter, to enable him to make his recommendation.

Mr. HOUSTON. Here is the law, if the gentleman will allow me to read it.

Mr. LETCHER. Certainly.

Mr. HOUSTON. Speaking of the surveyor general, it says that "he shall have proper allowances for clerk hire, rent, and fuel, not exceeding what now is, or hereafter may be, allowed by law to said surveyor general of Oregon; and he shall locate his office from time to time," &c. If the gentleman from Virginia will turn over to the next page in the bill, he will find an item intended to cover this very thing which the gentleman from Ohio has presented. I call the attention of the committee to it. It is in these words:

"For compensation of clerks in the offices of the surveyors general, to be apportioned to them according to the exigencies of the public service, and to be employed in transcribing field-notes of surveys for the purpose of preserving them at the seat of Government, $61,000."

That is intended as a sort of general fund, to be under the control of the Department here, for the purpose of being apportioned to the surveyors general in their various localities whenever a deficiency is about to take place in their service. For instance: if the amount apportioned to the surveyor general in Oregon at this season is not enough, and the fact is made apparent to the Department here, then that Department can take for it, of this $61,000, more than the portion belonging to that office, in order to make up the deficiency. So with all the other offices. That is the object of the item.

Mr. HENN. With the gentleman's permission I will have the eighth section of the law read. It shows the duties of the surveyor general.

The Clerk read, as follows:

SEC. 8. *And be it further enacted*, That it shall be the duty of the surveyor general, under such instructions as may be given by the Secretary of the Interior, to ascertain the origin, nature, character, and extent of all claims to lands under the laws, usages, and customs of Spain and Mexico; and for this purpose may issue notices, summon witnesses, administer oaths, and do and perform all other necessary acts in the premises. He shall make a full report on all such claims as originated before the cession of the Territory to the United States by the treaty of Guadalupe Hidalgo, of 1848, denoting the various grades of title, with his decision as to the validity or invalidity of each of the same under the laws, usages, and customs of the country before its cession to the United States; and shall also make a report in regard to all the Pueblos existing in the Territory, showing the extent and locality of each, stating the number of inhabitants in the said Pueblos, respectively, and the nature of their titles to the land. Such report to be made according to the form which may be prescribed by the Secretary of the Interior; which report shall be laid before Congress for such action thereon as may be deemed just and proper, with a view to confirm *bona fide* grants, and give full effect to the treaty of 1848 between the United States and Mexico; and, until the final action of Congress on such claims, all lands covered thereby shall be reserved from sale or other disposal by the Government, and shall not be subject to the donations granted by the previous provisions of this act.

Mr. HENN. The gentleman will now see the necessity for a translator of the Spanish language.

Mr. LETCHER. Why did you not offer a proposition for a translator? Why come here and offer a proposition, not only to create a translator, but to increase the amount from $7,000 to $14,500, more than double. The translation here is not for a translation of the language, but for a translation which shall result in putting more money in their pockets from the Treasury. That is the sort of translation which is covered.

When these duties were all prescribed in the section of the law which the gentleman has had read, the surveyor general of New Mexico knew all about it. He took the office knowing precisely what his duties were. There was a fair contract between him and the Government in regard to it; and until he comes forward and satisfies the House, or at least satisfies the proper Department at the other end of the avenue, that there ought to be an increase, and it sends it in as it sends in its other estimates for the government of the body, my own impression is that it ought not to be allowed.

One other remark in connection with the suggestion thrown out by my friend from Alabama. We had these pocket estimates here last year on the custom-houses and other things. Nobody knew they were in existence until some attack was made upon the measures, when these pocket recommendations were brought out; and in that way the measures were carried through the body. Here are recommendations published, estimates in full, and when these matters come up, instead of being governed by them, gentlemen come at us again with these pocket recommendations. I hope we shall confine them to the estimates, or, at least, wait for a better reason for departing from them than that furnished in this instance. When the Department says that $7,000 is enough, we should not undertake to double the amount, and go even $500 beyond that.

Mr. DISNEY. Mr. Chairman, the gentleman from Alabama seems to object and think it a little strange that the Commissioner of the General Land Office should at any time vary from the original estimates which he presented to the House, or to the committee of which that gentleman is chairman. Permit me to suggest that the variation may be accounted for in a very natural way. At the time the estimates possessed by the chairman of the Committee of Ways and Means, and to which he alluded in his remarks, were made out, the Commissioner of the General Land Office was not aware of the facts subsequently commu-

nicated to him, which facts led to the change in his opinion in regard to the amount that ought to be allowed. This explanation is natural, and such are the facts in the case, as I understand them.

One word about this tirade upon pocket recommendations, which was started by the gentleman from Alabama, and caught up and reëchoed by the gentleman from Virginia. What do you mean by it?

Mr. LETCHER. I mean exactly this by the expression "pocket estimates," that these estimates are not sent into the House by the Secretary of the Treasury, or by the head of a Department, but by a subordinate, and that they are kept in the pockets of individual members, or in the hands of committees of the House, until they are presented here for our action.

Mr. DISNEY. Sir, the phrase "pocket estimates" has been bandied about from lip to lip in this House. We have heard here that this amendment for the surveyor general's office has been introduced here improperly, and that the estimates are not properly before the House. Sir, I do not choose to sit here and hear such charges made. I say distinctly to this committee that for one, while I concede to the Committee of Ways and Means, and to its very respectable and distinguished chairman, all the consideration which of right properly belongs to them, yet, sir, as the chairman of the Committee on Public Lands, at the same time, I shall claim for the committee over which I have the honor to preside the same consideration; and when the head of a bureau, acting in the discharge of his duty as an officer of this Government, shall intrust to me, as the chairman of the Committee on Public Lands, estimates or recommendations, as has been done in this case, and call my attention to them, when they belong properly and legitimately to subjects of which that committee have charge, I shall present them to the committee, and shall also take the liberty of presenting them before this Committee of the Whole.

Mr. HOUSTON. I wish to say to the gentleman from Ohio that, in my remarks, I did not intend to reflect upon him, upon his committee, nor upon any other committee of this House, for acting upon estimates submitted to them. I spoke only of the irregular manner in which these estimates, from the Departments and from bureaus, were being introduced into this House. That was my complaint; and I complained that these estimates were kept from the knowledge of the House until the matter to which they alluded came up for consideration. Whenever any supplemental estimates have been sent to the Committee of Ways and Means, I have endeavored to get the floor on the first opportunity, and ask the consent of the House to have them printed. And with two or three exceptions, I have succeeded in getting such estimates printed, and they have gone among the documents of the House.

Sir, my complaint is, not that these estimates have gone to an improper committee. I have never claimed for the Committee of Ways and Means the right to take charge of them over that of the Committee on Public Lands. But, sir, I do claim that the House of Representatives, and all the members of the House, have as much right to know what these estimates are as any standing committee of the House. That is what I claim; and not that the Committee of Ways and Means have any more right to them than the Committee on Public Lands.

Mr. DISNEY. I am perfectly satisfied with the explanation given by the chairman of the Ways and Means; and now I think I can satisfy the gentleman from Alabama and this committee, that these estimates did come before our committee in a perfectly proper and legitimate form. The Commissioner of the General Land Office had not the information upon which to make his report when his annual estimates were submitted at the commencement of the present session of Congress. My colleague upon the Committee on Public Lands—the gentleman from Iowa, [Mr. HENN]—has just called my attention to a paragraph in the report of the Commissioner of the General Land Office, submitted on the 9th of December last, in which he says that he is unable to submit estimates in full for the Territories of Washington and Oregon, for the reason that he has not received information from the surveyors general of those Territories.

Mr. HOUSTON. That is all very true; but the estimates to which the Commissioner there alludes have been sent in long ago, and they either are included in the bill, or will be offered as an amendment to it. I think they are already in the bill. They have been received by the House, and printed by the order of the House, and the appropriations contained in the bill will be found to cover every item set forth by him.

Mr. DISNEY. I will say to the gentleman from Alabama, and the committee, that the information received by the Commissioner of the General Land Office, upon which this case is predicated, was received by him subsequent to the presentation of the estimates to which the chairman of the Committee of Ways and Means has alluded.

But, sir, enough upon that subject; and now a word upon the merits of the amendment. The gentleman from Tennessee [Mr. JONES] and the gentleman from Virginia [Mr. LETCHER] objected to this amendment upon its merits, because they say it is increasing the compensation of clerks in the surveyor general's office beyond the amount allowed by existing law. Now, sir, allow me to say that the compensation to the clerks allowed to surveyors general is not fixed by law in any case. The practice has been to make an appropriation of a specific sum. That sum is placed at the disposal of a designated officer, and to be expended by him for the object set forth in the appropriation. So in this case the amount is estimated at $7,000, to be disbursed for the objects set forth in the appropriation—$7,000, if that is all the House will allow, or $14,000 if the House will allow that amount.

I repeat, sir, that the gentlemen were under an entire misapprehension, when they talked about increasing the compensation allowed by law to these clerks. I say there is no positive compensation for these clerks, and no objection can be properly urged upon that ground. It is simply to increase the amount allowed to the surveyor general, to be expended, at his discretion, for the purposes designated. And the facts disclosed by the Commissioner of Public Lands, and by the papers which have just now been read at the Clerk's desk, show conclusively that there is very great propriety in making the increase which the Committee on Public Lands have recommended.

I am reminded by the gentleman from Arkansas [Mr. GREENWOOD] that this report from the surveyor general of New Mexico was not received until some time after the commencement of the present session, and, therefore, could not have been included in the annual report of the Commissioner.

Mr. GREENWOOD. I will simply say that this report was received by the House and referred to the Committee on Public Lands sometime after the commencement of the present session of Congress, and, therefore, could not have been embraced in the estimates which were referred to the Committee of Ways and Means, and which were mentioned by the gentleman from Alabama, [Mr. HOUSTON.]

Mr. HOUSTON. The gentleman from Arkansas is, I think, unquestionably wrong in this. The estimates of which he speaks did not have to come from the surveyor general at all. They are submitted by the General Land Office. And in reference to the information to which the Commissioner of the General Land Office refers in his communication of the 9th of September, as not having been received, it was received before his supplemental estimates were presented to the House, which have been printed; so that those estimates could not have been based upon the information to which the Commissioner alludes in that communication.

Mr. GREENWOOD. I will state that these estimates have been received since the additional estimates to which the gentleman refers were transmitted to the House.

Mr. HOUSTON. I take it the gentleman from Arkansas is mistaken if he supposes these estimates were founded upon information received by the Commissioner of the General Land Office since the transmission to the House of the supplemental estimates which have been printed, for the reason that the information derived from these surveyors general had been received at the Department when these estimates were sent in.

The question was then taken upon Mr. LETCHER's amendment; and it was disagreed to.

The question then recurred upon Mr. DISNEY's amendment.

Mr. GREENWOOD demanded tellers.

Tellers were not ordered.

The question was taken; and the amendment was rejected.

Mr. MURRAY. I am instructed by the Joint Committee on Printing to offer the following amendment, to come in after the clause for the payment of the Superintendent of Public Printing and his clerks:

After the line four hundred and sixty-five, insert as follows:

And the Superintendent, and the clerks and messenger in his office, shall be entitled to, and shall receive, the benefits of the joint resolution approved July 20, 1854, fixing the compensation of the legislative employees of the Government, in the same manner and to the same extent as officers of the same grade in the legislative department.

Mr. HOUSTON. I rise to a question of order. That is intended to include these officers in the twenty per centum joint resolution, which was passed last session, and which the proper authorities have decided does not embrace them. It is intended, by this amendment, to amend that law so as to make it embrace them. It will be remembered that, during the last session, at the instance of a gentleman from Tenneesee, a joint resolution passed this House by a very large majority declaring that that law did not embrace these officers.

The CHAIRMAN. The Chair thinks that the point of order is well taken, and that the amendment is not in order.

Mr. STANTON, of Kentucky. I appeal from the decision of the Chair, and I wish simply to say that the only question involved in this matter is, do these clerks, and the officer at the head of them, belong to the legislative or to the executive department of the Government. Now, I understand that, when an act of Congress was passed, a short time ago, for the benefit of the clerks in the executive department of the Government, these clerks were excluded from the operation of that act, because they came under no one of the classifications into which those clerks were arranged. Now, when the act of July 20, 1854, was passed, giving twenty per centum to all the clerks, messengers, and employees of the legislative department, the same Treasury Department which had decided that these men were not executive officers, decided that they did not come within the provisions of that law. Sir, they are as completely under the control of this House as any of the officers belonging to the legislative department are and they are so intimately connected with our operations here, that I cannot conceive how such an idea could for a moment enter into the mind of any sensible man, as that they are not officers belonging to the legislative department. If they are, they come under the provisions of the law of July, 1854, and have been improperly excluded from the benefits of it.

Mr. INGERSOLL. I would inquire of the gentleman whether the salaries at present received by the Superintendent of Printing and his employees were not fixed about a year ago?

Mr. STANTON. I believe so.

Mr. INGERSOLL. Do they, therefore, stand on the same footing as those whose salaries were fixed many years ago, and who were intended to be benefited by our late legislation?

Mr. STANTON. I do not know anything about that.

Mr. INGERSOLL. Does not the gentleman remember that, at the time the compensation of these officers was fixed, it was the general understanding that it was to remain at that rate?

Mr. STANTON. I do not recollect that at all. I know this fact: that he gets less money than any head of a bureau belonging to this Government, and that his clerks do three times as much work and are less paid than the messengers who attend upon this House.

Mr. STRATTON. It will be recollected by the House that, before the adoption of the resolution of the gentleman from Tennessee, an amendment was offered by a gentleman from Connecticut, and adopted by a large majority, that the Superintendent of Public Printing and his clerks were not included in the resolution fixing the compensation of the employees in the legislative department.

Mr. PRATT. Do I understand that the Chair rules that amendment out of order?

The CHAIRMAN. The Chair rules it out of order.

Mr. PRATT. I hope the Chair will be sustained, because, if the gentleman who is at the head of that bureau is not satisfied with his salary, plenty of better men can be got to fill his place. He now rides about in a carriage with a pair of horses that must have cost $1,500.

Mr. FLORENCE. What has that to do with the question?

Mr. PRATT. It has nothing to do with the question, I admit; but there is no propriety in raising these salaries.

Mr. FLORENCE. I apprehend that the question submitted here, is not one of a personal character. It is, whether the additional compensation shall be given to all the officers of the executive and legislative departments, or whether distinctions shall be made among them? That is the question. Now, I have before me an amendment which I intend to offer during the discussion upon this bill.

Mr. HAMILTON. I call the gentleman from Pennsylvania to order. What is before the committee?

Mr. FLORENCE. I am before the committee. [Laughter.]

The CHAIRMAN. The Chair was going to remind the gentleman from Pennsylvania that his remarks were taking too wide a range.

Mr. FLORENCE. I am debating the question of order. My good natured friend from Maryland, by whom I am always very willing to be corrected, is not always so very correct when he attempts to call others to order, and I think that is the case now. I was going on to say, when I was interrupted, that I have before me an amendment that I intend to offer during the morning, of a similar character to this——

The CHAIRMAN. The Chair must suggest to the gentleman, as the question of order has been raised, the necessity of restricting his remarks to the question of order.

Mr. FLORENCE. I was just getting to the point of order. I was going to say that while it is exceedingly fortunate for the clerks in any of the Departments of the Government to earn sufficient to be able to ride in their carriages——

The CHAIRMAN. The gentleman is out of order. The question now being, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. FLORENCE demanded tellers.

Tellers were ordered; and Messrs. FLORENCE, and JONES of Louisiana, were appointed.

The question was taken, and the tellers reported —ayes 93, noes 31.

So the decision of the Chair was sustained.

Mr. STANTON, of Kentucky. I have an amendment which I desire to offer at this part of the bill.

At the end of line four hundred and sixty-five, add the following:

And said superintendent, clerks, and messengers are employees in the legislative department, and subject to the control of Congress.

The one great object, Mr. Chairman, which I desire to have accomplished is——

Mr. BRIDGES, (interrupting.) I submit, Mr. Chairman, that that amendment is not in order.

Mr. HOUSTON. It is precisely the same question as has been just disposed of, and ruled out of order.

The CHAIRMAN. The Chair thinks that the amendment proposed by the gentleman from Kentucky is not in order.

Mr. STANTON. Then, Mr. Chairman, I appeal from the decision of the Chair; and I take an appeal simply for the purpose of saying to the House this: that the object of that amendment is to settle the vexed question, which I believe cannot be settled in any other way—to settle the conflict between the Treasury Department and the committee, which, by the law of Congress, is clothed with power over the superintendent and his clerks. A conflict has arisen in reference to the character of these officers, and the decision of the committee is sometimes reversed by the heads of Departments, and others, while the sole power of control is given by law to the committee of the two Houses of Congress. This is one of the cases where the Treasury Department has decided that these men are properly executive officers, and not legislative officers; and in matters of printing directed to be done by Congress, through his agency and instrumentality, we have the Department undertaking sometimes to nullify and set aside decisions, which, under the law, they have no right to do. Where questions of this kind arise, the law provides that they shall be submitted to the Committee on Printing; and it is in consequence of that conflict, that I ask the House to settle the question, whether these men are to be regarded as legislative or as executive officers.

Mr. HOUSTON. There has been no question of business yet where this conflict has grown up or intervened between the Secretary of the Treasury and the Committee on Printing. None at all, and I appeal to my friend from Kentucky, if he believes the sense of the committee to be against him, to let us go on with the bill.

Mr. STANTON. I have no desire, Mr. Chairman, to consume the time of the committee, or to throw any obstacle in the way of the passage of this bill. But I have to correct the gentleman from Alabama in one thing he says. He states that no conflict has yet arisen in relation to business. In that he is in error. No conflict has arisen in reference to the printing of Congress; but conflicts have arisen in reference to certain descriptions and classes of printing ordered to be done under the direction of the Department.

Mr. HOUSTON. That does not grow out of the question at all. It has no relativeness to the question of the gentleman's amendment. And I appeal to the gentleman to withdraw his amendment. Here is the day almost expired, and we have not progressed ten pages in a bill of over fifty pages. Now I hope that when the committee expresses its sentiment as being for or against this thing, the gentleman will acquiesce in that opinion, and let us proceed with the business.

Mr. STANTON. Very well; to save time, I withdraw my appeal.

Mr. WASHBURNE, of Illinois. I move to insert at the end of the four hundred and ninety-seventh line the following:

For continuing the improvements of the Rock Island and Des Moines Rapids, in the Mississippi river, $200,000, to be expended under the direction of the Secretary of War.

Mr. HAMILTON. That amendment is clearly out of order.

The CHAIRMAN. It is the impression of the Chair that the amendment is out of order.

Mr. WASHBURNE. Upon what ground?

The CHAIRMAN. Does the gentleman from Illinois appeal from the decision of the Chair?

Mr. WASHBURNE. I do appeal; and I would like to know of the Chair the difference between this amendment and the amendment offered by the gentleman from North Carolina, [Mr. CRAIGE,] in regard to finishing one of the public buildings here?

Mr. HOUSTON. The gentleman can find a very ready reply to his question. That is such an item as always goes into the civil and diplomatic bill, but the item which the gentleman introduces here goes into a bill by itself, and never does go into a civil and diplomatic bill. It is not an item germane to this bill, and therefore I make the point of order that the amendment of the gentleman from Illinois is not in order, and I presume that the gentleman will not press the question any further.

Mr. WASHBURNE. It is an item which should go into this appropriation bill.

Mr. HOUSTON. Then the gentleman has discovered that which preceding Congresses did not believe.

Mr. WASHBURNE. I am not satisfied with the statement made by the gentleman from Alabama, and I do not understand the distinction which he has made between the amendment I have offered and the amendment of the gentleman from North Carolina, [Mr. CRAIGE,] which provided for an appropriation of $300,000 to continue the construction of the Treasury Building. The point of order was made upon that amendment, that it could not properly come in, but the Chair decided that if the work had been commenced, it was properly in order. The work in regard to which I have offered an amendment is an improvement already commenced, as was that in regard to which the gentleman from North Carolina offered his amendment.

Mr. HOUSTON. The gentleman seems not to have discovered the distinction between the two cases. Suppose the amendment had been to provide for a continuation of a fortification. All the fortifications upon your coast in every direction have been already commenced. But would it therefore be in order to offer an amendment to this bill to continue the work on any one of these fortifications? Clearly not, because it would not be germane to the bill. It would be just precisely the case if you were to offer to this bill an amendment making an appropriation for the pay and subsistence of the regular Army for building a steam frigate or any other work of the kind. I say, then, that the amendment of the gentleman from Illinois is not germane to the bill.

Mr. WASHBURNE. The matters to which the gentleman from Alabama alludes, properly belong to other bills. This is the civil and diplomatic bill. An amendment in regard to a continuation of the improvement of a fortress would, of course, belong to a military appropriation bill.

Mr. HOUSTON. The amendment of the gentleman from Illinois belongs to the internal improvement bill, and amendments of the character of that now proposed have never been introduced in any other bill.

Mr. WASHBURNE. The gentleman from Alabama says that my amendment belongs to the river and harbor bill. We have no river and harbor bills; they are stricken down by the Executive——

[Cries of "Order!" "Order!"]

The CHAIRMAN. The part of the bill under consideration provides for appropriations for the War Department. The gentleman from Illinois offers an amendment providing for an appropriation for continuing the improvement of the Des Moines rapids.

Mr. WASHBURNE. To be expended under the direction of the Secretary of War.

The CHAIRMAN. In the opinion of the Chair that makes no difference, and the Chair decides the amendment to be already out of order.

Mr. WASHBURNE. From that decision I appeal.

Mr. ORR. I would like to have the title of the bill we are considering read.

The CHAIRMAN. Unless there be objection it will be read.

A MEMBER objected.

Mr. ORR. But I will read it as a part of my speech: "A bill making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1856, and for other purposes." Is the appropriation proposed by the gentleman from Illinois for civil or diplomatic purposes?

Mr. WASHBURNE. It comes in under the "other purposes."

The question now being, on the appeal, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. WASHBURNE demanded tellers; which were ordered, and Messrs. JONES, of Louisiana, and LYON were appointed.

The question was taken; and the tellers reported —ayes 87, noes 42.

So the decision of the Chair was sustained.

Mr. CHANDLER. I offer the following amendment, to come in after the five hundred and seventy-sixth line:

Provided, That the compensation of the Chiefs of the Bureau of Construction, Equipment, and Repair, and of Medicine and Surgery, be the same as now allowed to the other Chiefs of Bureaus of the Navy Department; and that the deficiency be paid out of any money in the Treasury not otherwise appropriated.

Mr. JONES, of Tennessee. I rise to a question of order. That amendment is not in order to the bill.

The CHAIRMAN. The Chair decides that the amendment is not in order, on the ground that the salaries of the clerks mentioned in it are fixed by law, and the amendment would change the law.

Mr. CHANDLER. Does the Chair rule the amendment out of order?

The CHAIRMAN. He does.

Mr. CHANDLER. Well, I agree with the Chair. [Laughter.]

Mr. HENN. I wish to ask the chairman of the Committee of Ways and Means if the twenty per cent. additional compensation allowed to the

clerks in the executive departments, by a law of last Congress, is included in these appropriations for payment of the clerks in the Navy Department?

Mr. HOUSTON. It is.

Mr. HENN. I want to know by what authority the gentleman put it in?

Mr. HOUSTON. By authority of law.

Mr. HENN. But I wish to say that the law is as follows:

"*Provided*, That nothing herein contained shall be construed as making an appropriation for any purpose beyond the 30th of June, 1854."

As I understood the law when it was passed, it was only intended to increase the compensation twenty per cent. for that year, and not for this.

Mr. JONES, of Tennessee. I understand the gentleman refers to the joint resolution which was passed during the last Congress. The proviso to which the gentleman refers was put into that bill upon my motion, and it was not intended, as it was declared at the time, to limit the period for which the compensation should be increased, but merely to prevent the appropriation from being a continuing one.

Mr. HENN. I understood the gentleman directly the reverse of that.

Mr. JONES. No, sir; the gentleman misunderstood me, and if he will look to the debates in the Congressional Globe, he will find that it was not intended to limit the time for which the compensation was increased, but merely to limit the appropriation for the period specified in that act, so that we might have the estimates submitted at each session, and the appropriation made for each fiscal year.

Mr. KEITT. I am authorized by the Committee on Public Buildings to offer the following amendment, to come in after the six hundred and fifteenth line, among the appropriations for the Post Office Department:

For the enlargement of the Post Office Building $300,000, to be expended under the direction of the President of the United States, according to the plan submitted by Thomas U. Walter to the Postmaster General, and approved by the committees of the Senate and House of Representatives at the present session of Congress.

I mean to say only this in explanation of the amendment I have offered. The proper Department has sent in this estimate, with the statement that the Post Office Building is utterly insufficient for the accommodation of the business of the country.

Mr. WASHBURNE, of Illinois. I submit to the Chair that the amendment is not in order.

The CHAIRMAN. The Chair thinks the amendment is in order, upon the same ground that he yesterday ruled an amendment for continuing the construction of the Treasury Building in order.

Mr. SEWARD. I appeal from that decision of the Chair.

Mr. KEITT. I ask the gentleman from Georgia to withdraw his point until I make a short explanation of the amendment.

Mr. SEWARD. I withdraw it.

Mr. KEITT. Mr. Chairman, information has been sent to both Houses that the accommodations of the Post Office Building are entirely insufficient for the postal business of the country. The committee of the Senate unanimously reported a bill for the purpose set forth in my amendment. The committee of this House unanimously reported a like bill. We wanted to present the matter for the action of the House in a bill, but have been unable to do so. We now endeavor to carry it through in this way. I believe that the Senate unanimously passed a bill to carry out the object designed.

Mr. STANTON, of Tennessee. I offer the following amendment to the amendment:

Provided, The work shall be executed by such civil architect as the President may appoint.

Mr. HOUSTON. I wish to make an inquiry of the gentleman from South Carolina. The phraseology of his amendment is not the same as that of the one offered yesterday in regard to the Treasury Building. This, I understand, like that, provides for the continuation of a building already commenced.

Mr. KEITT. Certainly. I will modify my amendment as suggested.

Mr. STANTON, of Tennessee. In reference to my amendment I have a single word to say. It is well known that the present Treasury Building as well as the Post Office Building were designed, and the work, so far as it has gone, executed by an architect who is a resident of this city.

Mr. KEITT. Who?

Mr. STANTON. Mr. Robert Mills. I believe that he is a native of South Carolina. Now, it would be very proper that the work on these buildings should be carried out by the same mind which originated the plans upon which they are constructed. However, that will be a matter for the Executive of the country to determine. But when we are increasing the Army, and when it is necessary that the officers of the Army should be engaged in their proper employment, it seems to me to be altogether improper that these works, and all works of a similar character, should be put under military men. Therefore it is that I have proposed the amendment, and I hope that it may be adopted.

Mr. KEITT. The gentleman from Tennessee made an allusion to Mr. Mills, and said that he was from South Carolina. That is so. He is a gentleman of reputation for high scientific ability. The gentleman, however, does not say, in his amendment, that Mr. Mills is to be the architect. What really is the amendment? That this building shall be completed according to a plan suggested by Mr. Walter, under the superintendence of the President. I do not know that it is necessary that any architect shall be employed. Neither the President nor any Department has called upon us for the appointment of an architect; and until a demand is made from some Department for an officer to carry out anything I am unwilling to appoint any. I leave this to the President. I have no idea that the President intends appointing any military man, if he does appoint. When the President says that he wants an architect appointed, then the amendment of the member from Tennessee may be properly considered. Under the circumstances I do not see any necessity for it whatever.

Mr. STANTON, of Tennessee. I beg to say to the gentleman that I have not proposed the appointment of any individual. I mentioned the fact that the plans of the Treasury Building and of the Post Office Building were the designs of Mr. Mills. I mentioned that fact because I understood that yesterday somebody said, in debate, it was unknown who was the author of these plans. I did so, not with any expectation or design that Mr. Mills should be appointed by any action of this House, because that is impossible under the Constitution.

Mr. CRAIGE. The object of the gentleman from Tennessee will be accomplished by the amendment already offered. Mr. Walters submitted a plan which has been approved by the Senate committee, and that body passed a bill to carry it out. We have had the bill before our committee and would have reported it some time ago, if we had had the opportunity of doing so.

Mr. STANTON. I will suggest to the gentleman from North Carolina, that my proposition makes that certain, which he says will probably be carried out by the amendment as it is. My amendment proposes that the work shall be done by a civil architect, and that excludes the probability of its being done by a military engineer.

Mr. STANTON, of Kentucky. Mr. Chairman, I desire to say a few words in favor of the amendment offered by the gentleman from Tennessee, [Mr. STANTON.] When the present Administration came into power, the public works of this character in the city of Washington were very properly under the direction of the Department of the Interior. Some, I believe, were there by express direction of law, and others, perhaps, by order of the President. When, however, the new Administration became installed, such as could be transferred without interference with the rights of contractors were placed under the War Department. The Patent Office, the Capitol extension, and, I believe, one or more bridges in the course of construction, or to be constructed, were ordered to be taken from civil control, and placed under the management of military officers. In regard to the Patent Office, it was, I believe, ascertained that such a transfer would affect the rights of certain contractors; and the order, so far as that building was concerned, did not go into execution. This is the only reason why that structure—one of the very best ever erected by Government, not only on account of its beautiful architectural features, but because of the perfection of the work in all its parts—is not now under the control of a military officer.

I have always believed, and have repeatedly maintained on this floor, that the employment of military officers upon these works was not only an act of gross injustice to the distinguished civil architects of the country, but was bad policy in other respects, and, in one instance, at least, a gross violation of law. I allude to the Capitol extension. The law authorizing that work created the office of architect, and provided that he should be appointed by the President. His duty was to execute the work.

Mr. CRAIGE. I do not want to enter into any discussion of this vexed question; but it is a fact known to me, and everybody else, from reports made to the two Houses of Congress, in regard to that business, that Congress itself changed the direction, and left it discretionary with the President to carry it on.

Mr. STANTON. I think the idea the gentleman means to convey is a mistake. I do not think the gentleman can point me to any act of Congress, or any authority given by this body to the President, or any one else, to change the character of the supervision from civil to military. I intended to say when interrupted, that, notwithstanding the law creating the office of architect, and its provision requiring him to be appointed by the President, the War Department assumes the power of controlling that officer, and has placed over him a military engineer, who is not only authorized to perform the duties of architect, but absolutely to dismiss him from his place, whenever he pleases; to regulate the whole character and management of the work; and, in fact, exercise unlimited control in all matters relating to the structure. This is a fact which no man can dispute. I beg to refer those who are curious on the subject, or who may doubt what I have said, to the reports which accompany the President's message of the last session. They will there see the instructions issued by the Secretary of War to the engineer, placing him in charge of the work, and conferring upon him the extraordinary power of dismissing from office a civilian, who derived his place from the appointment of the President, and assigning to the engineer duties expressly confided to the architect by authority of law.

The apprehension which I labor under is this: if we authorize the extension of the Treasury or Post Office Building, or provide for the erection of any other civil work, if it is not provided in the law in express terms, that the work shall be executed by a civil architect, it will be placed under the military engineers, and assigned to the control of the War Department. Sir, it is a reproach to the character of our Government, that its distinguished and experienced civil architects are not deemed capable of constructing our public edifices, or are thought unworthy of employment in such positions. I venture to say, sir, that they are equal to any in the world; and I venture further, too; I do not hesitate to say that there is not a single engineer belonging to the Army, I care not what may have been his experience upon military works, who is capable, without the assistance of an experienced civil architect, of constructing, as it should be constructed, any one of our public edifices. It is a great mistake to suppose, because these gentlemen acquire a theoretic knowledge of architecture at West Point, as part of an education begun and completed in five years, that, therefore, they are qualified for the construction of any edifice, no matter how elaborate or complicated its architectural details. Where have these officers had the experience necessary to qualify them for the practical duties of civil architects? Not upon your forts and military roads. Surely works like these afford them no facilities for learning how to construct such a work as the Capitol. Sir, even upon your Capitol extension, with the military engineer, who has had two years' experience under the best architect in the world, you cannot dispense with the services of the architect. The engineer alluded to, I agree, is a gentleman of fine talents in his profession, of high character, and great ambition, and has learned enough in his position at the Capitol to make him, with more experience, a good civil architect; but let what may be said of him now, when he first assumed control of that work, he could no more

have carried it on successfully without the aid of the architect, than the several parts of the solar system could move harmoniously in their orbits without the presence of the sun.

I do not wish to underrate the engineers of the War Department in the appropriate line of their military duties. Many of them are accomplished gentlemen, experienced in their professions, and a credit and ornament to their class. But military architecture and engineering are totally different things from civil architecture and civil engineering. Men who may erect a log hut are not, necessarily, qualified to build a palace; nor does it follow, because a military engineer may plan a fort, or lay out a road, he is, therefore, qualified to construct a stately portico, or erect a splendid dome. The building you propose to erect must have a civil architect. You cannot get along without such an officer. Were you to place a dozen military engineers in charge of the work you could not dispense with his services. Then why not provide at once that the work shall be placed under the control of some competent person of that class, and intrust his selection to the President? The presence of a military engineer is but an incumbrance, and serves only to embarrass the architect. His judgment is controlled by the engineer, his designs frequently mutilated, and the harmonious progress of the work often impeded. I do not know of any civil work in progress, which is placed under the control of a military engineer, that some half-paid civil architect is not employed to do the work for which the credit is given to the Army officer. Sir, it is a notorious fact, that these civil architects, occupying these subordinate and humiliating positions, draw all the designs, make all the calculations and estimates, measure the work and materials, and perform the valuable services supposed usually to be performed by the engineers, while the engineers sign the drawings and reports, and, in the eyes of the world, receive the whole credit for what is achieved. Why, sir, in the very proposition now pending to enlarge the Post Office Department, you pay involuntary tribute to the civil architects of the country, by requiring, not that the plan of any military engineer shall be carried out, but that the work shall be constructed according to a plan designed by Thomas U. Walter, the distinguished architect of the Capitol! Who would ever think of calling upon a military engineer for the plan of a Treasury building or a Post Office edifice!

It would seem to me to be worse than folly to place over the man who designs a great work a less competent man to superintend and control its construction. The evil of this has been made manifest upon the extension of the Capitol, where plans have been ruthlessly changed, details altered, and immense additional expense incurred, which was never contemplated, and which no civil architect would ever have dared to incur. But, sir, I do not propose to discuss this subject now. I am not complaining of the manner in which the Capitol extension has been managed. Complaints in that respect are useless while the work remains under the control of the War Department.

But, it is sometimes urged that there is more safety to the Government in the employment of a military officer than a civilian. The military officer is said to afford a greater security to the Government for the proper expenditure of the public money, because he is more directly responsible to the Department. His life office is at stake, and the fear of losing this would deter him from any wrongful act. Sir, the fair name and character of a civilian is as dear to him as the office of the engineer; and it is unjust to set up for military men pretensions of greater integrity upon such grounds. But, sir, the question as to how the public money is to be disbursed is a matter not involved in the amendment under consideration. That is left to the discretion of the President, and he may choose whom he pleases for that service. What I desire, and what will be accomplished if this amendment succeeds, is, that the President shall be required to select a civil architect, competent to execute the work, who shall be allowed to perform the service without being subject to the control of an Army officer.

Mr. DICKINSON. I desire to ask the gentleman from Kentucky, under whose direction it is proposed to place the construction of this building in the amendment which he advocates?

Mr. STANTON. I understand the amendment proposes that the work, under the direction of the President of the United States, shall be executed by such an architect as he may appoint. I think it is precisely in the language of the original law authorizing the extension of the Capitol. It is to be placed under the supervision of such a civil architect as the President may appoint. The disbursement of the money is another matter, which may be provided for as gentlemen please.

Mr. DICKINSON. I should like to make another inquiry. I ask the gentleman from Kentucky whether there is any objection to the manner in which the work of the Capitol extension is carried on?

Mr. STANTON. That is a question which I do not propose now to enter into. It would require more time to explain my opinions on that subject than it would be proper now to take.

Mr. FLORENCE. I rise to a question of order. I submit that this debate is not pertinent to the proposition under consideration.

The CHAIRMAN. The Chair cannot rule the discussion out of order from any remarks that have yet been made.

Mr. DICKINSON. I should like to make still a third inquiry. I ask whether the propriety of the manner in which the work of the Capitol extension is progressing has not been referred to a special committee of this House, which committee have taken no steps to enlighten the House as to the charges made against those having the work in charge? And whether that committee are making any progress in their investigations, or whether they have become satisfied that there is no foundation whatever for the charge of mal-administration?

Mr. STANTON. In answer to the gentleman I have to say, that the committee of which I have the honor to be the chairman was intrusted with an inquiry as to the general policy of employing military officers in superintending civil works. They had also in charge the matter of inquiring into the military superintendency of the armories. They spent nearly the whole of the last session in their investigations upon this latter branch of the subject. They reported to the House their conclusions, and Congress, after full discussion, approved their report, and abolished the military superintendency so far as the armories were concerned. The committee was revived this session, and has made some progress in the other branches of inquiry. Some important facts have been elicited, which the gentleman can examine when he chooses to call at the committee room. He will find, that while many of the engineers of the War Department are taken from their proper military duties to act as superintendents of civil works, the service is embarrassed for the want of enough officers to take charge of the military works of the country. He knows, too, that, for several years, the engineer department has regularly asked of Congress an increase of the number of their officers.

Mr. CRAIGE. Will the gentleman from Kentucky allow me to say that a portion of the subject referred to the committee of which the gentleman was chairman, was also referred to the Committee on Public Buildings and Grounds. We had the same under consideration, and came to a totally different conclusion from that stated by the gentleman from Kentucky. We gave the matter a careful investigation, and became perfectly satisfied that, so far from there being any mal-administration upon the part of the man having the matter in charge, the work was carried out in accordance with law.

Mr. STANTON. I ask the gentleman to point to any law authorizing the appointment of a military engineer over the work.

Mr. CRAIGE. I did not expect this discussion would arise to-day.

Mr. STANTON. Neither did I.

Mr. CRAIGE. I cannot turn to the law at this moment; we, however, became satisfied that there was no ground for the charge of mismanagement. The law simply authorized the appropriation which was made to be expended under the direction of the President of the United States, and the President of the United States had a right to appoint whom he chose.

Mr. STANTON. Does not the law to which the gentleman refers simply require the appointment of a disbursing officer, and expressly provide that he shall settle his accounts at the Treasury as the "accounts of *other* civil officers" are settled?

Mr. CRAIGE. The law directed the appropriation to be expended under the direction of the President of the United States, and he had the power to appoint a civil engineer, or a military engineer, as he saw fit. The gentleman speaks of the settlement of accounts. Well, sir, Congress had the right to direct that a military officer should settle his accounts in a particular manner if they saw fit, and because they did see fit to make such a requisition is no reason for not appointing a military officer. Our committee were unanimous in coming to the conclusion that no such construction could be placed upon the law as to require the President to appoint a civil engineer over the work.

As to the alterations which have been made, I ask the gentleman from Kentucky whether he is prepared to say that alterations have been made to the injury of the building?

Mr. DICKINSON. Mr. Chairman——

Mr. STANTON, (interrupting.) Allow me a single word more. The whole purpose of the amendment which was offered in the Senate by Mr. Borland, and under which it is claimed, the President had power to appoint a military officer at the Capitol, was to appoint a disbursing officer, and he named in it the Commissioner of Public Buildings, and it so passed the Senate. When that amendment came to the House, I went myself to the chairman of the Committee of Ways and Means, and had the words "Commissioner of Public Buildings" stricken out, and the words "disbursing agent" inserted. And if the gentleman will examine the record, he will see that the whole design of that was to put the disbursement of the public funds under some other officer than the architect, and clearly, from the language of the amendment, it was to go into the hands of a civil officer.

Now, the office of architect which was created by the original clause authorizing the extension of the Capitol, is not repealed by that amendment, by no means, but that amendment simply created an additional office, namely, that of a disbursing agent. Now, under the authority conferred by that amendment, I have always contended it was an usurpation of power to supplant the architect by appointing a military officer over him, clothed with power not only to control all the designs of the architect, and to alter and change the plans for the erection of the building, but to remove an officer who was appointed by the President, and whose office was created by law. If the gentleman will look at the instructions of the Secretary of War to the engineer officer at the Capitol, he will find that he has authority to dismiss every person on that building, and to change the management of it whenever he pleases. Now, under that clause, such authority was never contemplated to be conferred upon him, and no man who will take the pains to examine it, and does so without prejudice, can fail to concur with me. Here is the clause, word for word as it stands upon the statute-book:

"For the extension of the United States Capitol, $400,000: *Provided*, That so much of former appropriations for the extension of the Capitol as remains unexpended, and the appropriation now made, or which may be hereafter made, for that object, shall be disbursed under such regulations as the President of the United States may prescribe; the accounts for such disbursement to be audited and paid at the Treasury, in the same manner as the accounts of *other civil officers* charged with the disbursement of the public money. And said *disbursing agent* shall report to the President his disbursements and proceedings, in time to be presented to Congress at the commencement of each annual session, and at any other time when required."

Under such a provision, how can it be possible that any man can be mistaken as to the kind of officer contemplated?

Mr. CRAIGE. I must only say this: That the gentleman from Kentucky comes to a different conclusion, with regard to this matter, from that which he formerly came to, according to the statement which he made two years ago, from the Committee on the Capitol extension, in relation to the mode in which the appropriations were expended. I was not in Congress, however, at that time, and had no such light as the gentleman had. The committee over which I preside have come to this conclusion by the law as written—and by the true construction of that law they could come to no other conclusion—to wit: that the work was placed under the direction of the President of

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

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the United States, without suggesting anything as to the employment of civil or military officers; and it does not follow, from the mere fact of the law saying that the accounts of the disbursing agent shall be settled as the accounts of other civil officers under the Government, that, therefore, the contemplation of those who passed that act was, that it should be placed under civil management. I take it that there are other instances besides this in which the accounts of military men have been settled just in the same way as the accounts of civil officers are settled.

Mr. STANTON. The gentleman will recollect that the language of the law is this: his accounts are to be audited and paid in the same manner as the "accounts of *other* civil officers" are audited and paid. Now, what effect has the word "*other*" in that relation? Does it not clearly import that the disbursing agent provided for is to be of the class referred to of civil officers? How can the language be tortured so as to mean anything else?

Mr. CRAIGE. I and the gentleman differ as to our construction of the law, and there is this further difference between us: The Committee on Public Buildings and Grounds were unanimously of opinion with me, that there had been no usurpation of power on the part of the President, but that he had a right to select either a military or civil engineer, at his discretion; while the committee over which he [Mr. STANTON] presided were equally divided.

Mr. KEITT. No, sir; you are mistaken. A large majority of that committee are in favor of the present mode.

Mr. CRAIGE. Yes; that is so.

Mr. DICKINSON. I believe that the discussion which this subject has given rise to in the House, has done some good, even if it should proceed no further. We have heard, during this Congress, frequent complaints made in regard to officers in charge of public works. We have had repeated attacks made upon officers who had charge of the construction of the wings of the Capitol. As early as the fore-part of the last session, a committee was appointed, of which the gentleman from Kentucky [Mr. STANTON] was made chairman, and of which I was a member, to consider the charges which have been constantly brought before this House with regard to these officers who had charge of this work, the national armories, and various other civil works. And at one time during the last session, so loud was the clamor in this Hall, in regard to the malconstruction of the wings of the Capitol, and in regard to the impossibility of Congess being ever able to do business in them, that the committee was called together, at my own suggestion, on purpose to see whether the work should be permitted to proceed; or whether the committee should not bring before the House a proposition to order the work to be suspended until some change should be made. That committee convened and summoned the architect before them; and the result of their examination was—and I think the committee were unanimous about it, for I never heard anything more from the chairman—that the work was progressing in the most skillful, the most scientific, and the best possible manner.

Mr. STANTON. Will the gentleman allow me to correct him? The architect was, on a single morning, brought into the committee room, and informally, without being under oath—but his word was just as good to me as his oath—he was examined touching the question of ventilation, and touching nothing else. I do not recollect that a single question was asked him save on that subject. He told us distinctly, in that examination, that he did not approve the plans of ventilation which had been adopted by Captain Meigs against his consent; but that he had prevailed on Captain Meigs to permit him so to construct the concern, that, by reversing the action, the atmosphere would ascend up through the floor, instead of being brought down through the ceiling.

Mr. DICKINSON. The gentleman says that the architect employed by Congress was not *under oath*. Why did not the gentleman place him under oath? I undertake to say that all of the committee, with the exception of himself, were perfectly satisfied with the statement of the architect. If the gentleman wanted to elicit more information, why did he not ask the architect to come again? and if he were not satisfied with his answers, why did he not examine him *under oath*?

Mr. STANTON. I will answer the gentleman from Massachusetts, [Mr. DICKINSON.] He knows as well as I do, that we had just concluded our labors on a single branch of the investigation. The session of Congress was just about to expire; and the committee had no time to enter into the investigation as to the management. We had not time to do so. The whole time of our session was occupied in other portions of the investigation. That is the reason why I did not call upon the architect to answer as to the manner of the management.

At the present session of Congress, when the committee met, I proposed to enter vigorously upon that examination, but the committee seemed disposed not to sustain me, and, therefore, I dropped it. I did not want to stand singly and alone on the question, when it was obvious to me that the rest of the committee were indisposed to enter into it. But I was willing to take off my coat and go to work, so as to show to the country that the more economical plan of management was not to place the management under military control, not to place it in the hands of an engineer officer, who was never brought up to such business, and who would take the plans of others and sign his name to them, and claim the credit of them.

Mr. DICKINSON. I think, Mr. Chairman, the committee had abundant time, before the close of the last session of Congress, to make as full an examination of this matter as could be of any practical benefit. We had time to make any other inquiry which the chairman of that committee might choose to make of the architect or otherwise. And if the work on these Capitol wings, to be erected at an expense of some hundreds of thousands of dollars, was to be continued during the recess of Congress, and if the chairman of that committee considered that, when completed, they were to be unfit for the purposes for which they were intended, I am astonished that he should undertake to state to this House, in the presence of all the other members of that committee, that we had not time to enlighten them in regard to this great matter, and to protect the country from an expenditure which was to be worse than useless, and that he should not have insisted upon the further and prompt action of the committee in the exigency. I do not so recollect the facts as stated by him; and in regard to the gentleman's taking off his coat at the commencement of this session, I can say that we were as ready as he was to examine engineers, and architects, and everybody who knew anything about the matter. But we did not see the necessity of further investigation; and that is why he says the majority of the committee were not disposed to go into it. It was not for the reason which the gentleman assigns, but because the majority of the committee had become satisfied that these charges were a farce, that they were without foundation, and that the subject had become a perfect monomania with him. The majority of the committee saw that there was no foundation in fact for the charges made here, and reiterated from session to session, and from Congress to Congress, in relation to the manner in which the public money was expended by these military officers.

I am prepared to say that there is not a gentleman anywhere, who has any knowledge of the engineer and architect and their plans, who is not perfectly satisfied with their integrity, their eminent capacity, and the perfect sympathy which exists between these two officers, and the perfect coöperation which these gentlemen show in all these public works. If the amendment be adopted to construct a Post Office or Treasury Building, without the amendment to the amendment offered by the gentleman from Tennessee, [Mr. STANTON,] this same engineer and architect may go hand in hand in the same manner to construct them, and the country will have great reason to feel proud of such eminent professional skill, and abundantly satisfied with the result of their joint labors and responsibilities.

Mr. CRAIGE. I rise to a question of order. I think that we have had quite enough of this discussion in regard to the Capitol extension. It is not the matter before the committee now.

The CHAIRMAN. The Chair thinks that remarks in regard to the extension of the Capitol are in order, and the Chair is compelled to overrule the point of order.

Mr. DICKINSON. I do not desire to discuss this question any further than to state to the House that this House, and the country, have been most unmitigatedly imposed upon by the charges that have been made here against the military superintendency of the public works, without any ground to sustain them; and I think it is high time for members to understand what they are legislating about. I say this with all respect for the intelligence of the body. We have spent the greater part of one session already in investigating one branch of this matter, and heard continually the charges of fraud which have been committed by officers having in charge the public works.

Mr. STANTON, of Kentucky, (interposing.) The gentleman from Massachusetts, as well as other gentlemen here, know that I never made any such charges of fraud.

Mr. DICKINSON. I do not mean to make any charges against the gentleman from Kentucky, or any other member upon this floor; but the resolutions upon record bear me out in saying—or else they mean nothing—that charges of fraud were made against these officers. There were resolutions of inquiry offered by the gentleman himself, as to the mode of expending money in constructing public works by Army officers, and the expediency of providing by law that no military man should have the charge of their construction; and no gentleman has occupied the time of the House so much as he in trying to convince the country that great frauds have been committed by officers connected with the Army while engaged in this service. If the country does not understand that these charges have been made, and that resolutions of inquiry were offered in this House to draw out facts to sustain these charges, then all I have to say is, that I have entirely misunderstood its proceedings; that I have misunderstood the proceedings of the select committee upon this subject, of which I am a member, that sat here for nearly six months of the last session; and that I have misunderstood the whole object of these inquiries.

I think, then, that it is high time that the House was enlightened upon this subject; and I undertake to say, with the most perfect confidence, that if the question of changing the superintendency of the national armories, which was practically done at the last session, were to be reconsidered to-day, I have great confidence that I should be able to convince the House, notwithstanding there was a majority of nearly a hundred votes in favor of the change from military officers to civilians, that it would be better for the country to restore the management of the armories to military officers. There is no justice, every time we make an appropriation for a Government building, in saying, when the President of the United States is authorized to take charge of the work and select the men under whose superintendence it shall be built, that he shall be restricted and precluded from making a selection of Army officers for that purpose, if he desires to do so, and thinks the public interest demands it. It is very unjust to single out Army officers as incompetent, from education, to take charge of these works, when it is well known to everybody that the officers who are educated at the military schools of the country are approved practical engineers; and while the demand for engineers is so great, not only for the service of the Government, but for private enterprises, shall the

President of the United States be prohibited from employing an officer to superintend any public work because he has been educated at a military school? I think we have been legislating upon this subject with very narrow views; and I am very glad that a distinct, general bill has been introduced by the gentleman from Kentucky, changing the superintendence of the national armories from military to civil officers, because it will give an opportunity to discuss the impolicy of the change made at the last session, and open the whole subject to reëxamination. I do not believe in the doctrine of prohibiting the President from employing any man to superintend these works who might have been educated at West Point, and enjoyed the best advantages of education as a practical engineer. I would allow him to select the most competent men, without requiring or prohibiting the selection either from the officers of the Army, or from any other class or profession. I make these remarks because it does seem to me that it is quite time to make some demonstration against the daily introduction of this political humbug, and repudiate this demagogical idea that is urged so unceasingly, that these gentlemen are unfit for the duty of superintending these works. I have no desire to discuss the matter further at this time. I hope that the amendment will not prevail.

Mr. FLORENCE. With a view of saving the public time I move that the committee rise. If the motion is agreed to, I will then move that debate be closed in five minutes after the committee shall have resumed its session.

Several MEMBERS. Vote on the amendment first.

Mr. FLORENCE. Very well; I withdraw the motion.

Mr. WHEELER. I move that the committee rise.

The question was taken; and it was decided in the negative.

So the committee refused to rise.

The question was then taken on Mr. STANTON's amendment; and the Chair announced that it was rejected.

Mr. WHEELER. I called for a division.

The CHAIRMAN. The Chair did not hear the gentleman.

Mr. WHEELER. Then it was because the Chair did not want to hear me, for I called for a division distinctly.

The CHAIRMAN. The question is upon the amendment of the gentleman from Tennessee.

Mr. VANSANT. I call for tellers upon that amendment.

Tellers were not ordered.

Mr. DAVIS, of Indiana. I move that the committee do now rise.

The motion was not agreed to.

Mr. STANTON, of Tennessee. I withdraw the amendment for the purpose of preventing the breaking up of the committee.

The question recurring upon the amendment offered by Mr. KEITT, it was put; and the amendment was agreed to.

Mr. KEITT. I move that the committee do now rise.

[Cries of "No!" "No!"]

Mr. KEITT. I withdraw it.

Mr. SOLLERS. And I renew it.

The question was put; and the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, the Chairman of the committee reported that the Committee of the Whole on the state of the Union, according to order, had had the state of the Union generally under consideration, and particularly House bill (No. 569) making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1856, and had come to no resolution thereon.

INCREASE OF COMPENSATION.

Mr. BARKSDALE. I ask the unanimous consent of the House to take up from the Speaker's table Senate bill (No. 516) to increase the compensation of the registers and receivers of the land offices. No gentleman in the House will object to it.

Mr. JONES, of Tennessee. There is not a sufficient number of members here to take up and dispose of a bill.

Mr. SKELTON. I object to taking it up.

Mr. JONES, of Tennessee. I move that all debate in the Committee of the Whole on the state of the Union upon the civil and diplomatic appropriation bill be terminated in five minutes after the consideration of the same shall have been resumed in the Committee of the Whole on the state of the Union.

Mr. CAMPBELL. I move that the House do now adjourn.

Mr. McDOUGALL. I ask the gentleman from Ohio to withdraw that motion to allow me to ask a small favor of the House.

Mr. CAMPBELL. I withdraw it.

Mr. McDOUGALL. I wish to state to the House that, at the last session of Congress, I reported, from the committee of which I am a member, a bill for the establishment of a mail line between California and China. Since that time the bill has passed the Senate, and it may come up for consideration in the House. I wish to print an argument upon that subject to lay upon the table of members. I ask the permission of the House to do so.

The request was granted.

Mr. JONES, of Tennessee. Is not my motion to terminate debate now before the House?

The CHAIRMAN. It is.

Mr. JONES. I call the previous question upon it.

Mr. CAMPBELL. I move the House do now adjourn.

Mr. HENN. I request the gentleman from Ohio to allow me first to present certain joint resolutions and memorials of the Legislature of Iowa, that they may be printed?

Mr. CAMPBELL. Well, I withdraw it.

RESOLUTIONS OF IOWA LEGISLATURE.

Mr. HENN thereupon, by unanimous consent, introduced the following memorials and joint resolutions of the Legislative Assembly of Iowa; which were laid on the table, and ordered to be printed, viz:

Memorial asking for the repeal of duties on sugar and molasses.

Memorial and joint resolution asking for the establishment of a garrison at or near the mouth of the Big Sioux river, in Iowa.

Preamble and resolution asking for pay of the militia called out by the United States marshal, to repel a supposed armed invasion of Iowa Territory, before the boundary line between Missouri and said Territory was defined.

Joint resolution asking for the establishment of a mail route from Independence, via Camp Creek and Nautrill, to Janesville.

Joint resolution asking for the establishment of a post route from Bear Grove, Ballard Bridge, Indian Creek, and Wooster, to Council Bluffs.

Preamble and joint resolution asking for the establishment of a line of steamers to trade regularly between the coast of Africa and the United States.

Memorial and joint resolution asking for the construction of a railroad from the States bordering upon the Mississippi river, via Platte valley and South pass, to the Pacific ocean.

Joint resolution concerning the protection of settlers and emigrants between the Mississippi valley and the Pacific ocean, including the establishment of postal and telegraphic correspondence across the American continent.

RICHARD S. COXE.

Mr. STANTON, of Tennessee, by unanimous consent, from the Committee on the Judiciary, reported a bill for the relief Richard S. Coxe, trustee of the Union Land Company; which was read a first and second time by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

WITHDRAWAL OF PAPERS.

On motion by Mr. FULLER, it was

Ordered, That leave be granted to withdraw from the files of the House the papers in the case of the application of Jenness, Chase & Co., for the purpose of being presented at the Treasury Department.

Mr. CAMPBELL. I now move that the House adjourn.

The motion was agreed to; and the House accordingly, at three o'clock and fifty-five minutes, adjourned until to-morrow at eleven o'clock, a. m.

IN SENATE.

WEDNESDAY, *February* 21, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, information and correspondence in relation to the original establishment of Fort Leavenworth as a military post, the cause of the reduction of the reserve attached thereto, and the order of the commandant of that post respecting emigration to the Territory of Kansas; which was ordered to lie on the table and be printed.

APPROPRIATION BILLS.

Mr. HUNTER. Mr. President, it is getting late in the session, and I am constrained to appeal to the Senate to take up the pension appropriation bill. I think we can dispose of it in the morning hour to-day, and I believe we ought to do some work on each of the appropriation bills every day from this time out.

Several SENATORS. Wait until one o'clock.

Mr. HUNTER. If I wait until one o'clock I know the appropriation bill will be put aside for the railroad iron bill, and, therefore, I ask the Senate now to suspend the prior orders for the purpose of taking up the pension appropriation bill.

Mr. PETTIT. I object to that. Let us make reports.

Mr. WELLER. If there be no objection, I should like to have the Senate now determine the question whether they will not hereafter meet at eleven o'clock. It is apparent that the public business will be delayed and very much endangered if we do not meet at an earlier hour than we do. I ask, therefore, that the order fixing eleven o'clock as the hour of meeting may be taken up.

Mr. BADGER. That is right.

The PRESIDENT. The first question is on the motion of the Senator from Virginia.

Mr. WELLER. I trust the Senator will give way to allow my resolution to be acted upon.

Mr. HUNTER. If I give up the floor now, I may not get it again; but the other question can be decided after one o'clock.

The PRESIDENT. The question is on the motion of the Senator from Virginia.

Mr. ADAMS. On that motion I wish to say that I am in the habit of following the Senator from Virginia, but in this case I am not disposed to vote with him. The morning hour is devoted to the complaints of the citizens of the country, and I cannot consent to deprive them of that opportunity of presenting their claims, their petitions, and their remonstrances to the Senate. I think it would be wrong, under existing circumstances, to take that hour from them. We have ample time to act upon the appropriation bills which have been sent to us by the House of Representatives, and I therefore feel it to be my duty to vote against the motion of the Senator from Virginia.

Mr. HUNTER. I withdraw the motion, as I see time will be consumed in debating it.

MESSAGE FROM THE HOUSE.

A message from the House or Representatives, by Mr. McKEAN, Chief Clerk, announced that the House had passed a bill "to amend an act entitled 'An act to graduate and reduce the price of public lands to actual settlers and cultivators.'"

HOUR OF MEETING.

On motion by Mr. WELLER, the Senate proceeded to the consideration of the following resolution, which was submitted by him some days ago, and then ordered to lie on the table:

Ordered, That from and after to-morrow the daily hour of meeting of the Senate shall be eleven o'clock, a. m.

Mr. BAYARD. I move to amend the resolution by striking out "to-morrow," and inserting "Monday next."

Mr. STUART. I hope the Senator from California will agree to that amendment, and simply for this reason: I suppose the experience of every gentleman will corroborate mine, that upon the meeting of the committees it is next to impossible to get gentlemen together before eleven o'clock; and between this and Monday next it will be very

essential to have several committee meetings of the various committees of the Senate.

Mr. BADGER. Let me say to the Senator from Michigan that so long as the Senate meets at twelve o'clock, he can never get committees together before eleven; but if the Senate meet at eleven, he will find it as easy to get them together at ten. That is my experience.

Mr. WELLER. I apprehend there is very little business remaining to be transacted by the committees. Nearly all the standing committees have closed their business, and it will be utterly impossible to obtain the action of the Senate, at this late day of the session, on any bills which may now be reported by those committees.

Mr. CLAYTON. I have only to say to my friend from North Carolina, that so long as the Senate meet at eleven o'clock, the committees will not meet at all. The time will be so short that they cannot transact the business. I am for delaying the change of the hour of meeting until Monday at all events.

The amendment of Mr. BAYARD was rejected, and the resolution was agreed to.

NATURALIZATION LAWS.

Mr. ALLEN presented resolutions of the General Assembly of the State of Rhode Island, in favor of the enactment of a law to prohibit the introduction into the United States of foreign paupers and criminals, and such an amendment of the naturalization laws as will require a residence of twenty-one years to acquire the right of citizenship, and all oaths and processes to be taken and had before the judges of the circuit and district courts of the United States; which were ordered to lie on the table, and be printed.

REPORT FROM A STANDING COMMITTEE.

Mr. CLAY, from the Committee on Commerce, to whom was referred the bill of the House for the relief of John R. Bowes, agent in charge of the property of the United States at Michigan City, in the State of Indiana, and of Isaac S. Smith, of the city of Buffalo, New York, reported it with an amendment to strike out the section for the relief of Isaac S. Smith.

THE LOBOS ISLANDS.

Mr. CLAYTON submitted the following resolution for consideration; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested, if compatible with the public interest, to communicate to the Senate a copy of the letter of the minister of Peru, Joakin J. de Osma, to the Secretary of State of the United States, dated November 17, 1852, containing propositions for the settlement of the controversy in regard to the Lobos Islands.

MARINE HOSPITAL IN NORTH CAROLINA.

Mr. BADGER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of establishing a marine hospital in or near Wilmington, North Carolina.

PRIVATE BILL DAY.

Mr. BADGER. I laid upon the table, last week, a resolution rescinding the order fixing the Fridays of this session for the consideration of private bills. I allowed it to remain without being acted on, because several gentlemen thought we ought to have last Friday. I think it must be obvious to every Senator, now, that we cannot persevere with that order without hazarding important public business. I hope the Senate will take it up and agree to it.

Mr. PETTIT and Mr. SHIELDS. I hope not.

Mr. HUNTER. Allow me to say to the Senate, that but one of the appropriation bills has become a law, and that is the bill making appropriations for the military academy. All the rest are behind. It is, therefore, indispensable to devote every day now to public business.

Mr. WALKER. From the manner in which we have proceeded with private bills on the last two private bill days, it is evident that it will not take long to get through with the Private Calendar; and there will be extreme dissatisfaction, I know, among many meritorious claimants whose cases are before Congress, if we shall cut off the last opportunity which they have for the consideration of their business. For one, I hope we shall occupy the ensuing Friday in the consideration of private bills. I am confident that we can then go through with the Calendar, and dispose of a great deal of business to which there is no objection; and we shall thus afford very great satisfaction to many persons who have honest private claims.

Mr. SHIELDS. I agree in the hope which has just been expressed by the honorable Senator from Wisconsin. On the Friday before last we did more business, when our action was limited to private bills, than for three weeks before, and I think that on the next Friday we can dispose of all the private claims before us, if that day be allowed for their consideration.

Mr. PETTIT. I am certainly very much opposed to the taking up or the passage of this resolution. There are important interests, and important questions arising here in behalf of individuals, to which we ought to attend. One day in the week is none too much to set apart for that purpose. While I am on the floor, I wish to call the attention of Senators to a report which has been laid on their tables this morning, in regard to an important bill, which I reported a few days ago from the Committee on Private Land Claims. The bill is one for the relief of Robert Graham, and is No. 668, and the report is No. 522. The report is somewhat lengthy, and I ask Senators to take it home with them, to read it, and to be prepared to vote on it when the bill shall be called up. It is one of some importance, and one that I desire to have disposed of. There is no necessity for any discussion of it, as the Senate can learn the whole facts from the report.

Mr. BADGER. I wish to say to the Senator, if he will allow me, before he takes his seat, that I think that is rather an unreasonable request to ask us to read a long report. I will hear him with a great deal of pleasure, if he will state what the substance of it is.

The PRESIDENT. It would not be in order now.

Mr. PETTIT. As the Chair has stated, it is not in order, and I shall not do it; but I ask the Senator to take the pains and trouble for himself to read that report. He will find some good reading in it. [Laughter.]

Mr. GWIN. We have already passed a vast number of bills for the relief of private claimants during the present Congress; and every chairman of a committee, and every member of this body who has reported private bills can, if he will avail himself of the morning hour from now until the end of the session, get his bills through. I trust, therefore, we shall take up this resolution, and pass it. I call for the yeas and nays upon the motion.

The yeas and nays were ordered.

Mr. ADAMS. I only wish to say as a reason for my vote, that I do not think any private bill which is now passed by this body, can possibly be acted on in the other House.

The question being taken by yeas and nays resulted—yeas 23, nays 22; as follows:

YEAS—Messrs. Adams, Badger, Bayard, Benjamin, Brodhead, Brown, Butler, Chase, Clay, Clayton, Dawson, Evans, Fitzpatrick, Gwin, Hamlin, Hunter, Mallory, Sebastian, Slidell, Stuart, Thomson of New Jersey, Toucey, and Wells—23.

NAYS—Messrs. Allen, Brainerd, Cooper, Fessenden, Foot, Geyer, Gillette, James, Jones of Iowa, Jones of Tennessee, Pearce, Pettit, Pratt, Rusk, Seward, Shields, Sumner, Thompson of Kentucky, Wade, Walker, Weller, and Wilson—22.

So the motion was agreed to; and the Senate proceeded to the consideration of the following resolution, which was submitted by Mr. BADGER on the 14th instant:

Resolved, That the order setting apart every Friday for the consideration of private business be, and the same is hereby, rescinded.

Mr. PRATT. This resolution seems to be put upon the ground that there is particular business of a public character which will require the whole attention of the Senate for the rest of the session. Now, sir, let me inquire of Senators, how have we occupied the public time? Has it been as profitably occupied as it would have been in the consideration of private claims; in paying the just indebtedness of this Government to its citizens? How do we propose to dispose of Friday next? Why, sir, in the consideration and the discussion of a bill for the purpose of giving, from the public Treasury of this country, to corporations, the public money.

A SENATOR. What bill?

Mr. PRATT. I speak of the railroad iron duties bill.

A SENATOR. It was discussed the other day.

Mr. PRATT. Yes, sir, and it will be discussed to-day and on Friday. The object of putting off the payment to claimants who have their just demands upon the Government, is to enable you to pass a bill, by which you will pay money out of the Treasury, and put it into the pockets of those overgrown corporations. Disguise it as you will, Mr. President, this bill, which is to postpone all private bills, is nothing more nor less than a proposition to advance so much money from the Treasury of the country to those corporations. No one can deny that that is precisely its effect. Take the railroads in Alabama. They have imported their iron already on bond for which they owe the Government $375,000. The bill will authorize them to take out that iron without paying the duties on it. It gives them a credit, without interest, of three years upon it. You are then to postpone the public justice of the country to its creditors for the purpose of enabling the railroads of Alabama, and the railroads of other States, to get out their iron without compliance with the existing laws—without paying the money which is due the Treasury, because you propose to give them a credit of three years upon what they owe.

I appeal to the common justice of the Senate whether it is right or not? Yesterday was occupied, Mr. President, in a very able discussion, I admit, and one which, at another time, I should have listened to with great pleasure; but what practical good can result from such discussions, I cannot myself perceive; and we are asked to give up all idea of the possibility of passing any further private claims for the purpose of such a discussion, and for the purpose of passing such bills as these. I do not look upon this as being just or proper.

Mr. CLAY. The Senator from Maryland is striking in the dark. This resolution did not originate with those who are advocating the taking up of the bill to which he alludes.

Mr. PRATT. I did not say it did.

Mr. CLAY. Then his remarks have been a most wanton and unnecessary attack upon a measure that does not conflict with his views upon the propriety of taking up bills for private individuals. It was for the purpose of considering the appropriation bills that this resolution was taken up. That was the suggestion which induced the introduction of the resolution.

I shall not pause to answer the remarks which the Senator has made in respect to the interest of railroads. I will endeavor to do that when it is a legitimate subject of discussion; but I say, if the Senate are sincere in the purpose of doing the most good they can for private claimants, they had better agree to this resolution; for there are two bills which have been reported by the Committee on Pensions which would, if passed, afford relief to hundreds—yea, sir, perhaps to thousands—who are importuning that relief by individual memorials to Congress. Here, day after day, we are importuned by the friends of those who are applicants to take up their private bills and consider them; but if the Senate had done as I have besought them repeatedly to do—if they had taken up the general bills which have been reported by that committee—we could have dispensed with all these individual cases, and relieved the Senate from a great deal of unnecessary legislation. It is for the interest of private claimants, no less than for the public interest, that I advocate the adoption of the resolution of the Senator from North Carolina; and I now state, that if it is not adopted, I shall oppose, so far as I can, the introduction of any measure for the relief of any individual claimant whose interests may be promoted by the general bills.

Mr. PRATT. I have no doubt that the Senator would be precisely pursuing the course by opposing the passage of any bill for the payment of the private creditors of the Government, which he is pursuing, by refusing to take up on the day indicated by the Senate, these private measures for consideration. Why, sir, if this resolution should pass, you know that no private bill will be taken up, or considered, this session. That is known to every one.

The Senator says that my attack on his railroads is wanton. Of that I am to be the judge. How is it wanton? He says the resolution was not introduced at his instance. I did not say it was. There are other Senators upon the floor besides the

Senator from Alabama. I knew, as well as he did, that he had not introduced the resolution; but what I said was—and it is a fact known to every Senator—that the bill which is pressing out the appropriation bills—the bill which will carry the vote here—for the purpose of postponing this resolution, is a bill in favor of giving a credit of three years for the payment of the duties on imported railroad iron. I have, therefore, the right to argue in reference to the relative position of the private claims upon Congress, and of this railroad iron interest. I had no intention of referring to the Senator at all, not the slightest or remotest in the world.

Mr. BAYARD. Certainly, in voting to take up this resolution, I entertained no design to further the passage of the bill to which the Senator from Maryland alludes. In voting with the majority to take up the resolution, that consideration did not influence me at all; but I was influenced to give that vote because, in the first place, any private bill which may now be passed, has not the slightest probability of being acted upon in the House; and in the next place, I presume that the public interest necessarily ought to take precedence of private interests; and from what I understand from the statement of the honorable Senator from Virginia, for the transaction of the public business connected with the appropriation bill we should have the whole of the time during the rest of the session.

But, Mr. President, there is another consideration which has induced me to give that vote, and that is, though it be perfectly true that the Government of the United States ought to pay its just creditors, I am by no means sure, that, in the private bills which are passed by Congress, certainly those that are passed by the Senate, we do not do a great deal more than pay the just debts of the Government. Where we pay one just debt, we pay a great many claims that ought not to be paid at all. We have, this session, passed a bill which provides for a proper tribunal for the adjudication of claims against the Government of the United States. If that bill be acted upon favorably, as I have reason to believe it will be, in the House of Representatives, the result will be that hereafter you will have a speedy tribunal for the proper settlement of claims against the Government, in which the just claimants will receive, in proper time, their demands as they would in the case of debts that existed between man and man. I think there can be no great injury if any private bill, which now stands upon the Calendar, should be passed over unacted upon at this session, if that court of claims bill should be passed. I think it will be better for the Government; and the delay would be very immaterial to the private claimants, if the court should be organized as soon as possible after Congress adjourns.

Mr. JONES, of Tennessee. In reply to the Senator from Maryland, I have but a word to say. I think it is a misconception of his that the friends of this bill have any agency whatever in the taking up of this resolution.

Mr. PRATT. I did not say they had.

Mr. JONES, of Tennessee. So far from it, I concurred with the Senator from Maryland in voting to refuse to take up the resolution, in order to hold on to Friday as a private bill day; but I confess his argument has satisfied me that I was mistaken, and that I ought to vote the other way; for he tells us that, by dispensing with the private bill day we shall deny justice to a great many citizens, and that this railroad iron bill is in conflict with that. If justice is to be administered to the largest number of persons in the United States, it is by the bill to which the Senator alludes. More persons in the United States, ten times over, are interested in that bill than in all the private claims which are before the Congress of the United States.

Allow me to say one word as to the justice to which the Senator alludes. He has very strange notions of justice, as it occurs to my mind. He objects to the bill upon the score of injustice, and yet his State has enjoyed the benefits of similar provisions to a greater extent than any State in the United States, except New York and Pennsylvania. It was perfectly just when they were getting their iron in free; but it is a matter of total injustice now when we ask simply a credit of three years. I confess I do not understand that system of justice. I shall vote according to the suggestion which the Senator has made. If this bill is to be defeated by making next Friday private bill day, I shall vote against continuing the order to that effect.

Mr. PRATT. What has been said by the Senator from Tennessee renders it necessary for me to say a word. He is utterly mistaken in regard to Maryland. All the railroads which were made anterior to 1843 received their iron free of duty. Now, sir, I do not suppose that there is a single foot of railroad in Maryland, with the exception, perhaps, of that from Annapolis to the junction, a distance of only twenty miles, which has iron rails that were received free of duty. They have been renewed, and renewed, and duties have been paid upon every foot of the rails which has been laid in Maryland, I believe. That is my impression.

Mr. JONES of Tennessee. Let me correct the Senator. The records are the best testimony that we have. I can show the honorable Senator where the railroads in his State have put their hands into the Treasury and taken money out of it. Records are stubborn facts. It is true, sir, that those companies built most of their railroads anterior to 1843, and they have worn the iron out. They have enjoyed the benefits of the provision until their iron has been worn out, and they are now replacing it upon the terms under which we introduce the iron. We ask that they may be put on an equal footing with us in the replacing of their iron. They have worn out the road, and enjoyed the provisions of our laws for over ten years without paying a cent.

Mr. PRATT. They paid the duty on it.

Mr. JONES, of Tennessee. They never paid a cent on it.

Mr. BADGER. As I claim the paternity of this resolution, I think it is right that I should say a word in its behalf: something about its origin, and the *modus operandi* of its production. I submitted the resolution early last week; and I can assure my friend from Maryland, and all others who are concerned, that the idea never entered my head that the adoption of it was to have a favorable or an adverse operation upon the railroad iron bill, or any other particular bill. Why, Mr. President, when I first came into the Senate, it was not the custom to have any day set apart for the exclusive consideration of private bills, as you well know; but for two or three years past it has become the custom, by a special order, not by a standing order, but by one made at each session, to set apart Fridays for their consideration; but it has also been the custom, regularly, towards the close of the session, to rescind that order and give the precedence to public bills on all the days of the week.

I repeat, I offered the resolution early last week, and I intended to call it up during last week, but at the request of several Senators, who said they desired to have one more day for private bills, I allowed it to remain on the table. We have had that day. We have but one more Friday after this week during the existing session; and, I apprehend, an inspection of the Journals will show that this sessional order has always been rescinded at a period as remote from the close of the session as we now are. I hope, therefore, my friends, on all sides, will not imagine that the measure is intended as hostile to any particular bill.

Mr. GWIN called for the yeas and nays on the resolution, and they were ordered; and being taken, resulted—yeas 23, nays 21; as follows:

YEAS—Messrs. Adams, Badger, Bayard, Benjamin, Brown, Butler, Chase, Clay, Clayton, Dawson, Evans, Fitzpatrick, Gwin, Hamlin, Hunter, Jones of Tennessee, Mallory, Mason, Sebastian, Slidell, Stuart, Thomson of New Jersey, and Toucey—23.

NAYS—Messrs. Allen, Brainerd, Brodhead, Fessenden, Foot, Geyer, Gillette, James, Jones of Iowa, Pearce, Pettit, Pratt, Seward, Shields, Sumner, Thompson of Kentucky, Wade, Walker, Weller, Wells, and Wilson—21.

So the resolution was agreed to.

DESERTERS FROM FOREIGN VESSELS.

Mr. BUTLER. The Committee on the Judiciary, to whom was referred the bill from the House of Representatives, "concerning the apprehension and delivery of deserters from foreign vessels in the ports of the United States," have had the same under consideration, and recommend its passage; and I trust it will immediately be considered and passed. It concerns international justice.

Two of the ministers from foreign countries have called upon me and requested that it should have as early attention as it could get from the Senate. I ask that it may now be put on its passage.

There being no objection, the Senate proceeded, as in Committee of the Whole, to the consideration of the bill. Its object is to allow commissioners who are, or may be, appointed by the circuit courts of the United States to take acknowledgments of bail, and for other purposes to exercise all the powers conferred on any court, judge, or other magistrate, by the act of March 2, 1829, entitled "An act to provide for the apprehension and delivery of deserters from certain foreign vessels in the ports of the United States."

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PURCHASERS OF SWAMP LANDS.

Mr. BROWN. I ask the Senate now to take up the resolution which I submitted yesterday morning, fixing the hour for the final adjournment. I presume there will be no objection to it.

Mr. PETTIT. I object, until we can make reports from the committees.

Mr. STUART. I rise to a privileged question. A few days ago a committee of conference was appointed on a certain bill, and the report of that committee has been delayed for two or three days, at the request of the Senator from Arkansas, [Mr. JOHNSON.] That Senator is now in the Senate, and I hope I shall be allowed to present the report, as it is very important that it should be acted on here and sent to the other House.

The PRESIDENT. As it is a privileged question, the Chair will, of course, receive the report.

The Secretary read the report, as follows:

The committee of conference of the Senate and House of Representatives on the disagreement between the two Houses on the bill of the House No. 9, entitled "An act for the relief of purchasers and locators of swamp and overflowed lan'ds," have conferred together, and unanimously agreed to offer to the Senate and House of Representatives, respectively, the following proviso to the first section of said act, instead of the one adopted by the Senate:

Provided, That in all cases where any State, through its constituted authorities, has sold or disposed of any tract or tracts of said lands to any individual or individuals prior to the entry, sale, or location of the same under the pre-emption or other laws of the United States, no patents shall be issued by the President for such tract or tracts of lands, until such State, through its constituted authorities, shall release its claim thereto, in such form as shall be prescribed by the Secretary of the Interior: *And provided further*, That if such State shall not, within ninety days from the passage of this act, through its constituted authorities, return to the General Land Office of the United States a list of all the lands sold as aforesaid, together with the date of such sale, and the names of the purchasers, the patents shall be issued immediately thereafter, as directed in the foregoing section.

Mr. JOHNSON. The report has been read, but I imagine there are not more than five Senators on the floor who know anything in regard to it—I mean who have examined the subject. The bill is all wrong. I know it to be so. It is unjust in its action and ought not to be passed. I think under these circumstances, with this character of protest against it, Senators should at least demand of those who support it to state the grounds on which they ask it.

Mr. STUART. Mr. President, I must be permitted to say that the Senator might have asked for the information in language certainly more parliamentary. I have delayed the report of this bill for two or three days—three days I think—for the purpose of enabling the Senator from Arkansas to be here at the time when the report should be made, in order to present to the Senate any objection that he might think proper to offer. It was not necessary for that Senator to protest against action upon it in order to require at the hands of the committee a statement of the meaning of the report. A request would have answered every purpose.

Sir, the bill is intended to obviate a difficulty which I will explain. Congress, some years ago, passed a law granting, upon certain conditions, the swamp lands to the various States of the Union in which those lands lay. The extent of that grant had to be ascertained by the Government officers. Before its extent was ascertained, the United States land offices remaining open, individuals entered at those land offices portions of the lands. When the reports came to be made to the General Land Office of the United States, this fact was ascertained: that the lands were covered by the grant to the States, but at the same time parcels had

been entered by individuals. The Commissioner of the General Land Office consequently issued his instructions to cancel the entries and refund the money. Great injustice was done under such circumstances to various individuals who had made purchases of the lands. The object of the present bill is to do justice to those individuals at the same time that it retains to the States all that Congress intended to give them. The provisions of the original bill, therefore, were substantially that, in all cases where such entries had been made, if made in money, the money should be paid to the State, and if made by scrip or land warrants, the State should be authorized to enter an equal quantity of other Government land in its stead, and that patents should be issued to the purchasers.

There are said to be cases where the States themselves sold the lands before they were entered at the United States land offices, thus producing, under the original wording of the bill, a conflict of title. One effect of the amendment proposed by the committee of conference is to make it necessary in such cases, before the patent shall be issued to the purchaser from the United States, that the State having sold the land shall release its claim. Another provision of the amendment is, in order to secure the object of the first one, to make it necessary for the States who have thus sold lands to present a report specifying what lands they have sold, and to present it, within three months after the passage of this act, to the United States authorities, so that it can be seen by the United States authorities to what extent it is necessary to withhold patents.

These are the provisions of the bill and the provisions of the amendment; and, sir, I must say—I think I am bound to say—that the committee of conference of the two Houses upon this bill were unanimous in their report. It was supposed that every important interest was represented upon that committee—it was intended that it should be so—and a report thus unanimous, the Senator from Arkansas says, is a report which ought never to be adopted. I think that Senator, upon a review of the facts, will come to the conclusion at least, that his statement is too strong. It seems to me that the bill, with the amendment suggested, protects every right which requires protection—the rights of the States under the grant, and the rights of individuals, whether purchasing from the United States or the States respectively.

I shall be very happy to state to the Senate, if it shall become necessary, any further explanation of the bill, or amendment; but I wish to express the hope that, inasmuch as action upon the report has been deferred to this late hour, the Senate will act upon it at this time, in order that the bill may be sent to the House to receive action there.

Mr. JONES, of Tennessee. I move to lay the bill before the Senate on the table, that we may proceed with the special order, the hour of one having arrived.

Mr. RUSK. I have a report to make from a committee of conference.

Mr. DOUGLAS. I think we can get a vote on this report in a few minutes.

The PRESIDENT. This is a privileged question, and the Chair is in doubt as to whether he ought to receive the motion of the Senator from Tennessee.

Mr. JONES, of Tennessee. I would concede everything that is asked, but for the fact that I am sure this bill cannot pass now, without debate. The Senator from Arkansas will feel himself constrained to discuss it; and I may consider myself bound to say something upon it, as my constituents are interested. I move to lay it on the table for the present.

The PRESIDENT. The Chair will not receive the motion, as the report of the committee of conference is a privileged question. That report is now before the Senate, and the question is either upon agreeing or disagreeing to it.

Mr. JOHNSON. I must be heard upon that question; but, so far as I am concerned, I am perfectly willing to postpone it until to-morrow.

Mr. ADAMS. Then I move to postpone the further consideration of this report until to-morrow.

Mr. JONES, of Tennessee. I hope that will be done.

Mr. STUART. I have no objection, myself, if the Senate desire it, that the question upon this report be passed over until to-morrow; but it is important that very early action should be had.

Mr. SLIDELL. Before assenting to that arrangement I wish to ask whether the precedence of this question, arising from its privileged character, will be lost by the postponement? Can it be called up at any time?

The PRESIDENT. It is a privileged question, and if it be the sense of the Senate to defer it until to-morrow, it will retain its privileged character, and can then be brought up at any time that it is thought proper to call for its consideration. The Chair will put the question on the motion to postpone until to-morrow.

The motion was agreed to.

TEXAS DEBT BILL.

A message from the House of Representatives, by Mr. FORNEY, their Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the Senate to provide for the payment of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9, 1850.

Mr. RUSK, from the committee of conference on the part of the Senate, to whom the same bill was referred, made a report, with the following recommendations:

That in lieu of the sum specified in the first amendment of the House, the two Houses substitute $7,750,000.

That the Senate recede from their disagreement to the second amendment of the House.

That the Senate recede from their disagreement to the third amendment of the House.

In lieu of the words stricken out by the fourth amendment of the House insert, "also similar releases to said State of Texas."

That the Senate recede from their disagreement to the fifth amendment.

In the sixth amendment of the House insert, in lieu of "six millions six hundred and fifty," seven millions seven hundred and fifty.

That the Senate recede from their disagreement to the seventh amendment of the House.

Mr. HUNTER. If I understand that report, it proposes, instead of the $6,550,000, which the House agreed to give to the Texas creditors, to give them $7,750,000. Does it also release the State of Texas from the obligation to release its claim for Indian indemnities?

Mr. RUSK. No, sir. That requirement is to remain in the bill.

Mr. HUNTER. Then, if I understand the report, it proposes to give to the State of Texas, in this settlement, more than we are bound to pay under the boundary act. I was willing to go to the extent of $5,000,000, with the interest, and a reasonable premium; but beyond that I consider it as an assumption of a State debt, and I cannot vote for it. I believe we shall have all the residue of the claims back upon us hereafter. I wish simply to state this in explanation of the vote which I shall give, which will be against the report of the committee.

Mr. RUSK. The honorable Senator from Virginia will certainly very well remember that, in the discussion of this bill in the Senate, the claim of Texas, amounting, as it was shown, to $3,800,000, for what was alledged by Texas to be a violation of the treaty obligations of the United States in allowing the Indians of the United States, to commit depredations on Texas, was urged as one of the considerations for the passage of this bill. He will remember, also, that there was another consideration urged by gentlemen whose opinions were entitled to the highest respect, that, from the beginning, there was a liability on this Government for this debt of Texas. There was also another question raised in that discussion, which, I think, he did not very well controvert, that, by the reservation in the boundary act of 1850, the United States had assumed to act as the trustee both of the creditors and of the State of Texas; and that, although Texas had $5,000,000 of bonds in the Treasury of the United States for the satisfaction of her creditors, still, from the want of action on the part of the Government of the United States, those bonds remained in the Treasury, and interest accumulated upon them to nearly $1,000,000, and neither the State of Texas nor her creditors could receive one dollar of it.

The bonds belonged to Texas; she passed a law in 1852 appropriating them to her creditors, many of whom have been begging ever since to be allowed to take them at the rates proposed by Texas. This Government has refused to allow them to be paid out because the creditors would not release the United States; and now we are told that the United States are not liable. If there is no liability, demanding a release is a mere pretext; and will gentlemen contend that this Government, on such a foundation, has the constitutional right to control the action of a sovereign State. The refusal of the United States to deliver these bonds just amounts to that.

The calculation which makes the amount of the debt of the United States to Texas $6,500,000—the sum for the payment of which the Senator from Virginia [Mr. HUNTER] voted—clearly excluded the creditors and the State of Texas from at least $500,000 to which they were justly entitled. At the time this bill was passed by the Senate, the premium on United States bonds was fourteen per cent., which, on $5,000,000, would amount to $700,000. Allowing only $6,500,000, the premium was calculated at but six per cent., amounting to $300,000. There was at once a loss in one item of $400,000 to the creditors and to the State of Texas. This was caused by the action of this Government, and yet the Senator would throw the loss upon Texas and her creditors.

Although I do not intend to discuss the subject, for I have no desire to consume time, I will say this, that if the unadjusted claim of Texas against the United States should remain open, such is my conviction of its justice that I think, in time, and that not very distant, the State of Texas would be able to obtain from the Government of the United States $3,800,000, together with the interest upon that amount. This bill, however, settles off that claim, and obtains a release in full for the claim of Texas for Indian depredations. The United States, as well as Texas, obtains a release from the creditors. The creditors, who are suffering by your delay, the State of Texas, who has an unadjusted difficulty with the United States, growing out of the different constructions put on the boundary act, are all satisfied by the passage of this bill. My own conscientious judgment is, that the United States, in place of paying anything more than they are liable to pay, or coming to the neighborhood of anything like the assumption of State debts, will save to their Treasury, by the passage of this bill, several millions of dollars. Over four years have elapsed since the passage of the boundary bill, but the difficulty has not been settled. Will the honorable Senator from Virginia tell me how long it will be before it is settled and these bonds taken from the Treasury? If it continues ten years longer—and I see no reason to suppose that the time would be any shorter, unless this bill be passed—then, in place of paying out of the Treasury $7,750,000, you will have to pay $8,500,000. Under these circumstances I hope the bill will pass. It will be barely, if at all, acceptable to the State of Texas. I trust, however, if it pass it will be accepted. It settles her debt. It leaves her without controversy or cause of quarrel with this Government, and certainly relieves me from a heavy and unpleasant responsibility.

Mr. PEARCE. Mr. President, I trust that the Senate will agree to this report. When the bill passed the Senate at the last session of Congress, it appropriated $8,500,000, and it contained no provision for the release by Texas of her claims against the United States for alleged Indian depredations. At this session the bill passed the House with amendments reducing that amount to $6,550,000, and making a provision, which is now left in the bill, for the release by Texas of those claims. The bill, thus amended, came to the Senate, and we dissented from the amendments of the House. We were not satisfied with the reduction of the sum of $8,500,000 to $6,550,000, which the House proposed. We disagreed to their amendments, and asked for a committee of conference. The result of the action of the committee of conference is to make the bill much more favorable to the United States than it was when it passed the Senate. In the first place, we obtain by it the release of Texas, which I have before mentioned; and in the next place, we reduce the sum by $750,000.

Now, sir, I think this is a good bargain for the United States. We owe $5,000,000 of principal, and the interest upon it up to this time is over a million of dollars. Besides that, if the stock had been issued and we were now to purchase it in, so as to save the accruing interest, we should have to pay $300,000 of premium, making about $6,500,000 in all, or near that sum, certainly

acknowledged to be due. Then the sum which we pay over that, which is indisputably due, and which we should have to pay in order to liquidate these bonds now at a premium, is about one and a quarter millions of dollars. For that sum we get rid of the claim of Texas to which I have before alluded, which in itself must be considered rather a formidable thing; for whatever gentlemen may think of the validity of the claim, it is not to be disguised that, being a State claim, it is likely to be continually pressed, and at some time or other pressed with effect.

We get rid of the claim, then, of $3,800,000 by the payment of $1,250,000, and redeem ourselves of an obligation which a great many gentlemen deem binding and imperative to satisfy, at least such creditors of the Republic of Texas as hold bonds secured by a pledge of their revenues, which includes their revenues from customs.

Sir, it seems to me that when we consider these facts, and remember, further, that if we do not now settle this claim, the $5,000,000 reserved in the Treasury will not be issued, and interest will continue to accrue on them, until probably they arrive at maturity, when they will amount to $8,500,000. We are really gainers by the transaction. At all events, considering what the legislation of the Senate has been, and that the proposition, as it comes to us from the House, is an advantage to the United States in so much as I have mentioned, I hardly think the Senate will hesitate to adopt the recommendations of the committee of conference.

Mr. HUNTER. Mr. President, it is not my purpose to reopen the argument of this question. When the bill was originally passed by the Senate, I expressed my views, and I do not desire to add to what I then said, especially as I suppose this report is to be adopted. My sole purpose in rising originally, was to save myself from being concluded, by the passage of this bill, into the admission that we were liable for this debt of Texas to these creditors.

I know that various other considerations are presented, for the purpose of reconciling Congress to the passage of this bill. One is the claim of Texas of $3,800,000. In regard to that, the Senator from Texas and myself differ. I do not believe that claim is worth a cent; and I think, when it comes to be examined, it will be found to be worth nothing. Another is, that we are buying peace—that we shall get rid of these demands hereafter. Why, sir, we are compounding a debt; and how do we know that the debtors will not come to us hereafter? It was supposed, when the boundary act was passed, that $5,000,000 would pay them. How can we expect they will be satisfied until they get paid in full?

Another consideration which is urged is, that there is some mistake in regard to the premium. Why, sir, all that I said was—I did not pretend to enter into the arithmetical calculation—that I was willing to give the principal, interest, and a fair premium. But I presume the question is settled, and the sole object I had in rising was to say that I should not vote for the report, because I believe that, to the extent of the difference between the sum which I have mentioned and that which is proposed to be appropriated here, we are admitting our liability for the debts of Texas, and I am afraid it will carry us further than this bill proposes to do.

Mr. TOUCEY. Mr. President, I do not concur at all in the view of my friend from Virginia. I do not think that, by this bill as it passed the Senate, or by the bill as it is now proposed to be amended, we admit the liability of this Government for the debt of Texas to her creditors. We admit by the bill, as it is now proposed to be amended, only the debt of five millions which we owe, with interest running through a series of years, which we expressly stipulated in the boundary act. If this were a case between individuals, there is no court of law or of equity in the country which would discharge the party owing the debt without paying the principal and the interest. If it became the object of the debtor to pay the debt, and he should resort to any legal or equitable process, it would not be in his power to get rid of that debt without paying the principal and interest, running through the whole number of years, to the moment when the last sum became due; and if he would get rid of it at the present time, he would be bound to tender, not only the principal, but the interest, in advance. He is not obliged to do it, nor is the creditor obliged to accept it, upon a tender of anything less than the whole amount. For this reason, when the Senate passed the bill appropriating the whole sum, principal and interest, the Senate did no more than what courts of law and courts of equity would compel the debtor to do, provided the creditor did not make a new arrangement by voluntarily accepting a part in advance.

Now, sir, what are we contending for? If the State of Texas refuses to receive this money in advance, what must this Government pay? It must pay the sum of $8,500,000, which would be the principal and interest up to the time when the several respective sums become due. Nothing less could be paid. Now, what do we do? What are we contending for? We have the money in the Treasury. Are we obliged to keep the gold and silver locked up in the Treasury, in order to pay it when the money becomes due? We may do so if we please, but shall we do it? What do we gain by it?

The bill, as it stands, presents several considerations. In the first place, we get rid of the claim of $3,800,000 which is made by the State of Texas; that State will voluntarily relinquish that claim. Again, we get rid of the claim—be it worth something or be it worth nothing—which the creditors of Texas are actually making upon this Government for some $5,000,000 more than the sum which is now appropriated. I agree with my friend from Virginia, that that claim is baseless, in my judgment. I do not concede, for a moment, that, by admitting Texas into the Union as a sovereign and independent State under this Confederacy, we became liable for the debts of that State. I do not believe that any state of facts exist which would subject us to any liability for those debts beyond our express agreement to pay the $5,000,000 and the interest, running through a series of years. But yet, while I think that claim is without foundation, surely no one can suppose that it becomes any more valid because the parties voluntarily relinquish it, and superadd to the security which we have on the ground that it is not due, a voluntary undertaking on their part never to present any such claim to Congress.

I say, therefore, sir, that, if this bill pass, we admit no liability to Texas beyond the $5,000,000 and interest. We admit no liability to the creditors of Texas. We pay the money now which otherwise we must keep on hand, and by doing so we get rid of those claims on the Government in a manner as secure as it is possible for Congress to provide. I know, sir, that it is our duty to guard against future claims, and after all we have done they may be presented to Congress; but yet, I hold it to be our imperative duty, when they are presented to us, to go to the utmost extent to which we are bound to go, in order to cancel those claims, and to prevent again a recurrence of any part of them.

Mr. CHASE. I do not propose to reopen this debate. On a former occasion I expressed my own convictions on the subject clearly though but briefly, and I rise now for the purpose of saying, simply, that I see nothing in the present proposition which recommends it to favor beyond the former proposition which was before the Senate. The whole difference is between the paying of $7,750,000 and $8,500,000. The principle of the bill is the same now as it was then, and the same argument which compelled me to withhold my vote from it then, will constrain me to withhold my vote from it now.

Argue it as we may, and put it as we may, it is paying the debts of Texas provided for by the so-called compromise acts of 1850, in full, with interest and premium, and adding to that $1,250,000 in payment of a claim which has never been presented to the Senate, but which is held by one of the Senators from Texas, as I understand, ready to be presented. We are paying $1,250,000 for a claim which has never been presented to this body, never been examined by any committee, never passed upon at all. Now, it seems to me, the true course would be to pay Texas the whole amount required by the act of 1850, with interest and premium, also—I go the full extent—and then let the State of Texas, like every other creditor, present her claim and have it adjusted by the deliberate action of Congress. I do not propose to say anything further at this time. My main object, however, was to say that I have paired off, on this question, with the honorable Senator from Texas, who is now absent from the city, [Mr. HOUSTON.]

Mr. STUART. Having been one of the members of this committee of conference I only wish to say a few words in addition to what has been said by the honorable Senator from Maryland, [Mr. PEARCE,] and the honorable Senator from Connecticut, [Mr. TOUCEY,] and I shall not restate what they said so well. I wish simply to add that, to my judgment, the House amendment will release the United States from all claims of whatever character that Texas may have, or may think she has, against them, is an amendment highly beneficial in its character; one that commended itself very strongly to my favor, and one which, I may be permitted to add, will, I think, be worth at least $4,000,000 or $5,000,000 in the end.

Mr. HUNTER. I do not wish to protract this debate, but I desire to ask the Senator from Michigan a question, if he will allow me to do so.

Mr. STUART. Certainly.

Mr. HUNTER. Does not this sum of money cover a portion of the very bonds issued by Texas, in order to pay for those Indian depredations? Are we not paying that very debt now?

Mr. STUART. Undoubtedly that is true; but it is just as true that the fact that Texas herself has paid for some of these Indian depredations, does not at all release us from the liability to pay them, if we are liable at all; but, on the contrary, strengthens it. I was only going to add, that this bill is a receipt in full to all the parties. It requires a perfect release on the part of Texas of all claims against the United States. It requires that the creditors shall release the United States, and release Texas, so that there can be no plausible pretext hereafter for any claim growing out of this transaction. Now, I am willing to believe, and state to the Senate that I do believe, that even if honorable Senators are correct in saying that these claims of Texas could never be made good against the United States, it would cost the United States, in legislative expenses, to resist them, three times as much money as this bill proposes to pay for them. So that, in any point of view in which this subject may be regarded, the report commends itself to my judgment as the best bargain the United States will ever be able to make.

Mr. FESSENDEN. Mr. President, I wish to say a few words upon this subject, but not with the idea that anything I can say will affect the vote of any member of the Senate. Ordinarily I should be desirous and very willing, and should esteem it to be a duty, to vote in favor of agreeing to the unanimous report of a committee of conference; but, sir, understanding what are the principles on which this report is founded, and not being satisfied to vote for it, I wish to give a few reasons for my course.

I do not believe, in the first place, that we ought ever to have given Texas anything; but that being out of the question, as we have agreed to do so, I do not recognize, and never have recognized, the slightest obligation on the part of this Government to pay anything to the creditors of Texas. Nor do I accede, in any case, to the correctness of the argument that a Government or an individual, and especially a Government, should pay money which it does not admit to be due, for fear it may be called upon afterwards to pay a still larger amount. I think we ought not to act on that principle, so far as it is presented as an argument in this case. I do not believe that this Government was ever bound to pay the creditors of Texas, and, therefore, I do not admit the force of any argument advanced to show that we had better do it to a certain degree at the present time, because we may be called upon hereafter to pay more.

The argument has been adduced here more than once, and particularly on this occasion, that if we do not pay now, although we may not be obliged to pay hereafter, yet we may really lose as much in the consumption of time and in legislative expense. Well, sir, that is to be expected; Government is always obliged to resist claims. Government is instituted for the purpose of doing justice to its creditors, as well as for other purposes; but it must examine the claims of its creditors, and it is no correct principle of legislation to say that because we may spend time and money in resisting an improper and unrighteous claim against us, it is therefore best to pay a large sum of money in

advance; but yet that is the argument presented here.

Another argument in support of this proposition is, that Texas has, or pretends to have, a claim against this Government for $3,800,000, which, as the honorable Senator from Ohio has remarked, has never been presented here. I know nothing about it; and I do not believe in it, for the simple reason that it has never been advanced; but if I did believe in it, I never would act upon it, according to the principle which has been announced by some gentlemen. If we honestly owe to the State of Texas $3,800,000, it is our duty to pay her that amount. If that sum is due for Indian depredations, at one time or another, from this Government to that State, we ought to pay principal and interest, if she has followed up the claim in such manner as to entitle herself to interest; but it is no argument to my mind, that because she has a claim of that kind, it is, therefore, our duty to get rid of the claim, not on the ground that we do not owe the money, but on the ground that, by possibility, we do owe it, and that we can defraud Texas of a large portion of it by accepting this proposition. Why, sir, I confess, with all my respect for the eminent Senator from Texas, [Mr. RUSK,] I look with a little suspicion upon an argument of that description, which is brought forward here, when he asserts that, in his belief, we honestly owe to the State of Texas $3,800,000; and yet he is ready to use all his influence and his power to make Texas compound that claim, and give it up for $1,250,000, to be paid at the present moment. I would prefer to have that claim produced here, and examined before Congress; and I would spend all the time it might be necessary to spend, in order to examine it; and if it be found to be due, I would pay it as a debt honestly due, rather than have it put on this bill, and in this shape, saying to Texas, "If you will release us from this claim, whether real or imaginary, we will pay you $1,250,000."

Now, sir, I object to the whole idea upon which such a system of legislation is founded, which is, that the Senators and Representatives of this nation—men who ought to be competent to examine and understand claims; men who ought to be honest enough to resist and defeat unjust claims, men who ought to be honest enough to pay those which are really just claims against the Government—should come here and legislate on the principle, in the first place, that the States and individuals are always disposed to defraud the Government, and, in the next place, that these Senators and that these Representatives have not honesty and firmness enough to resist a dishonest claim; and that, therefore, the only reasonable course to take, is to pay one quarter or one half of it in advance, and dismiss it without examination. I say sir, that I object to the whole idea of legislating in that way and upon that principle.

What does this bill propose, as provided to be amended by this report? It admits that we owe $6,500,000, but it provides that we shall pay $1,250,000 more. For what reason? Simply because some gentlemen, not the Government, think we may be called upon hereafter to pay more to the creditors of Texas if we do not pay this now. The idea advanced is, substantially, that here is a claim which is good for nothing, which many gentlemen do not pretend to say is of the slightest validity in the world, but yet it is said to be very good policy on the part of the Government to give the handsome sum of $1,250,000 to the State of Texas in order that it may not be presented hereafter, and in order, as the Senator from Michigan says, that we may not spend time in contesting a claim of this kind at some future day. Why, sir, that time is not lost which is spent in contesting a dishonest claim, if that dishonest claim is defeated. The time is not lost which is devoted to the investigation of an honest claim, if we ascertain that it is honest, and finally pay it.

For these reasons, I say that the two main arguments which are presented, in order to justify the taking of $1,250,000 out of the Treasury, and presenting it to the creditors of the State of Texas, are founded on a fallacy, on an idea which ought never to prevail in any legislative assembly in the world which is formed for the purpose of defending the rights of the Government, as well as for ascertaining the rights of individuals against the Government, and acting upon them as the case may require. Looking upon the question in this light, not regarding the arguments which are advanced in favor of this unanimous report—for I understand it is unanimous—as being entitled to the slightest weight in legislative action, but as false in point of fact and principle, I feel disposed to vote, as I did before, against the proposition embraced in the bill and report now under consideration.

Mr. SEWARD. Mr. President, it seems to me that the only question here was, whether the Senate, having passed a bill for a larger sum by a very decided majority, could conscientiously pass a bill for a smaller sum. All the argument which I have heard, to-day, is against paying anything at all—against the original bill. As the argument is on that ground, I may as well, perhaps, state my convictions on that subject.

When the proposition was made for the annexation of Texas to the United States, I was amongst those who thought it was an unwise proceeding. One of the grounds of my objection was, that it would involve an obligation on the part of the United States to assume and pay the debts of Texas. The annexation was finally obtained by waiving that condition, or, at least, by insisting that we would not pay the debts of Texas. At that time I thought that the restriction was a futile one, and that the time would come when we should have to pay the debts of Texas. So, after the annexation, when the boundary bill was before the Senate, it was then proposed to assume $10,000,000 of the debt of the State of Texas; but I supported the proposition to pay the whole debt upon the ground that, having absorbed the sovereignty of that country, we were appropriately responsible for its debts to its creditors. When, therefore, the proposition was made to the present Congress to pay a sum less than $10,000,000, I was for paying that on the ground that I always acknowledged the obligation on the part of the Government to pay the debt of the late Republic, now State, of Texas.

Now, then, we have before us the question whether we shall discharge ourselves of this debt, paying, certainly, no more than the original debt, an amount falling below the stipulation contained in the articles for the annexation of Texas. Here are the $5,000,000 which were due to those creditors. Here is a claim of the State of Texas for $3,800,000 for depredations committed by the American Indians upon the people of Texas when we were under a stipulation to the Mexican Government to prevent those depredations.

Under these circumstances, it seems to me, that it must be satisfactory to everybody, a majority of the Senate having already decided that we owe $8,500,000, conscientiously to vote for paying this lesser sum, and I shall go for it, as I should if the amount were $10,000,000, or even more. When we go to annex foreign territory or foreign countries, we ought, like an honest nation, make a calculation as to the consequences.

The PRESIDING OFFICER, (Mr. BADGER.) The question is on agreeing to the report of the committee of conference.

Mr. WADE called for the yeas and nays; and they were ordered.

Mr. CHASE stated that he had paired off with Mr. HOUSTON.

Mr. DOUGLAS. I should vote to agree to the report of the committee, but I have paired off with the Senator from Florida, [Mr. MORTON,] whose illness prevents his being present.

The question being taken by yeas and nays, resulted—yeas 30, nays 14; as follows:

YEAS—Messrs. Allen, Badger, Bayard, Bell, Benjamin, Brainerd, Bright, Brodhead, Brown, Clayton, Cooper, Dawson, Evans, Foot, Gwin, James, Johnson, Jones of Iowa, Jones of Tennessee, Mallory, Pearce, Pettit, Pratt, Rusk, Sebastian, Seward, Stuart, Thompson of Kentucky, Toucey, and Weller—30.

NAYS—Messrs. Adams, Butler, Clay, Dodge of Wisconsin, Fessenden, Fitzpatrick, Geyer, Gillette, Hunter, Sumner, Thomson of New Jersey, Wade, Walker, and Wilson—14.

So the report was concurred in.

INVALID PENSION BILL.

Mr. HUNTER. I move to postpone all prior orders for the purpose of taking up the pension appropriation bill.

Mr. PETTIT. I hope the Senator will allow me to make a report.

Mr. HUNTER. I cannot withdraw my motion. It is nearly two o'clock now.

Mr. PETTIT. I should like to test the sense of the Senate whether I shall be permitted to make a report or not, if there is any way to do it.

The PRESIDING OFFICER. The only way to do it is by voting down the motion of the Senator from Virginia.

Mr. CLAY. I hope the Senate will not agree to that motion, but that we shall be permitted to finish one thing before we begin another. I trust we shall succeed to-day in obtaining the final action of the Senate on the bill granting to railroad companies three years in which to pay the duties on iron imported for railroad purposes. I wish to see the bill either adopted by the Senate or defeated, so that we may know what is to be its fate. If the Senator presses his motion, I trust the Senate will vote it down.

Mr. BAYARD. I trust that the motion of the Senator from Virginia will prevail. We have certain appropriation bills to act upon. The general appropriation bill has not yet come to us. If we do not now dispose of those which we have, we shall prevent the chairman of the Committee on Finance from giving that attention to those which are to come, which he would otherwise give. I think, in justice to the Committee on Finance, and to the business of the Senate, we ought to proceed with the appropriation bills which are ready for action.

The question was taken, and the Chair declared that the "noes" appeared to have it.

Mr. BAYARD called for the yeas and nays, but they were not ordered.

The motion was not agreed to, there being, on a division—ayes fifteen, noes not counted.

RAILROAD IRON DUTIES BILL.

Mr. CLAY. I move that the Senate proceed with the special order.

Mr. BRODHEAD. I hope I shall be allowed to make a report by common consent.

Mr. CLAY. I hope not.

The PRESIDENT. The special order being called for comes up as a matter of course, and that is a bill granting to railroad companies three years in which to pay the duties on iron imported for railroad purposes.

The pending question was on the motion of Mr. PEARCE to reconsider the vote by which the amendment of Mr. BAYARD was adopted, striking out the words "of the entire solvency of the company thus applying for this extension," and inserting "that the bond or bonds of any company thus applying are fully and entirely sufficient to secure the payment of the duties suspended," and striking out "may," and inserting "shall."

The proviso to the first section, before Mr. BAYARD's amendment was agreed to, was—

"That before the delivery of said iron rails, spikes, bolts, fastenings, or other iron, the payment of the duties thus suspended shall be secured by the bonds of the company applying for the same; and in the event the collector of customs or surveyor of the port of delivery, where the iron may be shall not be satisfied *of the entire solvency of the company thus applying for this extension*, he *may* require such security, personal or otherwise, as in his judgment, will indemnify the United States against loss.

Mr. PEARCE. The motion to reconsider, which I made, was made with the intention, as I announced to the Senate, of offering another amendment designed, more effectually, to answer the same purpose. I will state the object in a very few words. I shall not occupy a moment longer than is necessary.

The amendment of the Senator from Delaware leaves it open to the discretion of the officers, indicated in the bill, whether the railroad companies should be required to give security or not. I think they ought to be required, in all cases, to give it. The bill, as it stands, proposes that they shall issue their bonds for these duties. Without the operation of this bill, they would be obliged to pay cash, or pay when they take the iron out of the bonded warehouses where they have the privilege of leaving it for two years without paying the duties. Now, as I said the other day, I think there are very few of these companies whose bonds are so thoroughly good that we can rely upon their being taken at maturity; and certainly if they are so, if they possess the means which will enable them to pay at maturity, it can be no hardship to require them to give sureties for doing so. If the Senate think so they will agree to the motion to reconsider, and then I will offer my amendment.

Mr. JONES, of Tennessee. So far as I am concerned I have no objection to the amendment of the Senator from Maryland. If I understand the wording of the bill, it contemplates all that he

seeks to accomplish. We have sworn officers of the Government to watch over its interests, and the question of solvency is to be submitted to them, and they are directed positively to require such security if there is any question about the solvency of the company. Now, if that will satisfy the Senator, so far as I am concerned, I am willing to accept his amendment and require them to give security in all cases. I take occasion again to repeat, that we do not seek to defraud this Government of one dollar. We intend, in good faith, to pay the money according to the contract, and if the bill does not accomplish that purpose, make it accomplish it. I am ready to make it as strong as any gentleman wants to make it; but I do ask that no amendment shall be put upon the bill which is calculated to defeat it by indirection. I do not charge that intention upon the Senator, for I believe he is incapable of it; and if what he seeks will satisfy him, I am willing, so far as I am concerned, to accept his amendment and require the security in every case. I hope the Senate, by unanimous consent, will agree that each company shall give the security, and then I hope there will be no further amendment.

The motion to reconsider was agreed to.

Mr. PEARCE. I now ask the Senator from Delaware to withdraw his amendment, and then I shall offer mine.

Mr. BAYARD. If I can do so, I certainly shall do it.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. PEARCE. I am not sure but that there is another amendment which was made to the bill on the motion of the Senator from Alabama, which stands also in the way of that which I desire to propose. I must ask that that be reconsidered and disposed of.

The PRESIDING OFFICER. To what amendment does the Senator refer?

Mr. PEARCE. It was an amendment made in the same proviso of the first section, on the motion of the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Maryland then moves to reconsider the amendment, by which the word "commissioner" was stricken out, and "collector" inserted, and after the word "customs" the words "or surveyor of the port of delivery" inserted.

Mr. CLAY. I trust the Senate will not agree to reconsider that amendment. Sir, it does appear to me that it is the purpose of the opponents of this bill to encumber it with such amendments as will render it wholly unacceptable to its friends, because, if they can delude the friends of the measure upon this floor into admitting the amendments which are proposed, they will render the bill utterly valueless to the several railroad companies. Already we are required by one of the amendments which have been imposed upon us, to transmit the public mails—the mails of the United States—not upon such terms as the companies and the Postmaster General may agree upon, not upon such terms as will indemnify them for this public service, but upon such terms as may be imposed upon them by Congress. We are constrained, by that amendment, to submit to those terms, however onerous, however oppressive, however ruinous, to the interests of these railways, which may be imposed by a majority of Congress.

What next are we asked to submit to? The Senator from Maryland proposes that, instead of these bonds being taken by the collectors of customs, or by the surveyors at the ports of delivery, we shall be constrained to come to the Secretary of the Treasury, and to give such bonds as may satisfy him. What, now, is the purpose of this amendment? I say, whatever may be its purpose or intention, its effect will be almost to destroy all the virtue which this bill may have; for, sir, those companies who have imported their iron will not take it out of bond, or out of the custom-house, except as they may require it. They will withdraw it in two thousand, or five thousand, or eight thousand tons at a time, whenever they wish to lay it down upon the roads which are prepared to receive it. But by the amendment it is proposed to require them to send a special agent to the Secretary of the Treasury, at Washington, in order to induce him to accept the bond which they may tender. Why not suffer the collectors or surveyors to take the bonds? Why, I ask, do you object to them? Are they less capable of determining upon the security of those bonds than the Secretary of the Treasury? Certainly not; on the other hand, I think the advocates of this amendment must themselves concede that they ought to be far more capable of ascertaining whether the security tendered is sufficient or not. Take, as an instance, the roads in my own State, in which I feel a peculiar interest. What public agent is so competent to determine upon the sufficiency of the security which may be tendered by the companies building the roads within the limits of Alabama, as the collector of customs at Mobile, or the surveyor of the port of delivery at Tuscumbia? None whatever. How would your Secretary of the Treasury be capable to decide whether the tendered security was sufficient? It could be only upon the testimony of others. He can have no personal knowledge of the credit or the means of those companies, or of those whom they may tender as security. He would have to depend upon the collector of the customs, or the surveyor, at last; and, sir, unless you will impeach their integrity—unless you will say that they might be seduced from their duty to the Government, and betray the interests of the Treasury of the United States for the sake of these companies, you cannot maintain that they are not fitter depositaries of this trust than the Secretary of the Treasury.

If the Senator's amendment prevails, the Memphis and Charleston railroad, the Alabama and Tennessee River railroad, within the limits of my State, must send a special agent to Washington city perhaps every month, or, at least, four times in the year, in order to present the bonds, and satisfy the demands of the Secretary of the Treasury. They must incur this additional expense. When they come here, if the Secretary of the Treasury is not satisfied, they must go back for additional security. Why, I ask, take from those agents of the Government—who are near the spot, who must be familiar with the condition of the road, and who may be supposed to know most about the credit and solvency of the persons offered as security—the power of determining what is best for the interests of the Government, and transfer it to the Secretary of the Treasury? I can see no imaginable reason other than that of incumbering these roads, and defeating the intention of the bill. I trust, therefore, the amendment will not prevail.

Mr. PEARCE. I have not intended to defeat the bill by the provision which I have submitted. The Secretary of the Treasury is, I think, the proper depositary of so great a power as this, without meaning to impeach the collectors or surveyors, who, I suppose, are like other men through the country. I may say this, however, that I have known collectors of the customs heretofore, at the principal ports of the United States, who were utterly unfit to be intrusted with any such power as this. I do not speak of the present collectors, of whom I know nothing, and who, I dare say, are men of the strictest integrity; but we have had, within our memory, and during my service in Congress, two enormous defaulters, who held the post of collectors of customs at New York; and I think a man who has been a defaulter to the amount of a million of dollars, or a much less sum than that, is scarcely a fit depositary for a power like this. Besides, as I stated before, by reposing the power in the Secretary of the Treasury, you secure uniformity of decision; and in regard to the men, I take it, that neither the collector nor the surveyor at the port of delivery, which is very often far distant from where the proposed roads are to be laid, is likely to have any personal direct knowledge of the condition of the company. Unless he be a director—an actual, responsible director—concerned in all its transactions, he must depend upon the evidence which is furnished by the company itself; and that same evidence, which would have to be furnished to the collector or the surveyor, it would be equally easy to furnish to the Secretary of the Treasury. Besides, I think it is a mistake in the Senator, to suppose that it would be necessary to send a special messenger to Washington, when the company wanted to draw from the warehouses a portion of their iron. I apprehend the object could be accomplished as easily, and even more promptly, by means of the ordinary course of communication—the mails—than by sending a special agent to Washington. The information can be furnished to the Secretary of the Treasury, upon which he, as well as the collector or the surveyor, would have to rely, and it can be furnished by mail quite as well as by a special messenger. I think, therefore, there is no valid objection to the proposition which I have submitted.

Mr. JONES, of Tennessee. I regret that I cannot accommodate myself to the wishes of every gentleman. I have already made concessions for purposes which, I think, amount to nothing except an embarrassment of the bill. The amendment proposed by the Senator from Maryland will operate very seriously to the prejudice of the bill. I think I can satisfy him that it will do so. As I like to be practical in my illustrations, I will give the Senator a case. The Memphis and Charleston railroad, of which the honorable Senator from Alabama spoke, runs through an extent of three hundred miles, or nearly that much. There is a port of delivery at Memphis, where we receive a portion of the iron. There is a port of delivery at Tuscumbia, where we receive another portion of the iron. Then another portion is received at Charleston, in South Carolina. Now I submit to that Senator whether the Secretary of the Treasury will undertake, upon any knowledge which he possesses of the men, or the security upon these three different points, to say whether the bond is sufficient or not. We have already provided, on the motion of the Senator, that the company shall give security. Who is to judge of that security? The Senator proposes that the Secretary of the Treasury shall judge of it. We suppose that the sworn officer of the Government, who is presumed to be as capable, and as honest, in every sense of the word, as the Secretary of the Treasury, living on the ground, and having a personal knowledge of the parties, is more competent to determine that question than a man who lives a thousand or fifteen hundred miles off. Take Tuscumbia, if you please. I doubt very strongly whether, if the bonds were issued at Tuscumbia, under the security provided for in the Senator's amendment—personal security—that A, B, and C, of Franklin county, the county in which Tuscumbia is situated, are securities for the payment of $10,000, the Secretary of the Treasury would know a single man in the county; but the officers of the Government living there, having a personal knowledge of the parties, would be better judges; and at last the Secretary of the Treasury would be compelled to rely upon their testimony.

The only effect, therefore, will be, not to add any security whatever to the Government, but to delay the execution of the purpose of the company. To-day they want a thousand tons of iron. Under the bill, as it stands, they would go to the inspector or the surveyor at Tuscumbia, and offer the bond of the company with the personal security provided for by the Senator from Maryland. That officer knows them to be perfectly solvent, and able to meet their liabilities; and they get their iron the next day and carry it out on the road; but if this amendment be agreed to, if they want the iron, they will have to wait either to send a messenger here or abide the slow, tardy process of the mails, which are sometimes thirty days in getting here, and twenty days getting back. During that time the companies will have to delay their work; and after all, what additional security will you have? You have got the only security that you can have, and the Secretary of the Treasury will have at last to rely on the testimony of his subalterns, the officers of the Government who are sworn to discharge their duty. It is in that view that I object to the amendment.

Mr. BAYARD. It seems to me the advantage of selecting the Secretary of the Treasury for the purpose of approving these bonds——

The PRESIDING OFFICER. The Chair will suggest to the Senate that that is not the question now pending before the Senate. The Senate has reconsidered the amendment made on the motion of the Senator from Delaware.

Mr. BAYARD. The question is on the reconsideration of the amendment made on the motion of the honorable Senator from Alabama; but I suppose I am at liberty to answer the suggestions directly made by Senators on the other side, in reference to the propriety of vesting the power to judge of the character of the security in the Secretary of the Treasury, or in the collector of the customs, or the surveyor.

The PRESIDING OFFICER. The Chair

did not mean to intimate that the discussion was irregular, but merely to call the attention of the Senate to the question.

Mr. BAYARD. The answer that I should give in reference to that is this: the Secretary of the Treasury being an officer of a higher grade, remote from local influences, it is more probable that there would be uniformity in his decisions, and less liability to error than on the part of these persons. It will not require a personal knowledge of the security to enable him to judge. He may acquire the knowledge in a variety of ways. He is removed from any influence which would be likely to embarrass him in his judgment based upon the facts on which a sufficient security is tendered. It seems to me he is the proper officer to whom it should be committed.

The PRESIDING OFFICER. The question is on reconsidering the amendment which was made on the motion of the Senator from Alabama, to insert after the word "customs," the words "or surveyor at the port of delivery."

Mr. BAYARD called for the yeas and nays; and they were ordered.

Mr. PRATT. I wish to say one word in reference to the reconsideration of this question. The only argument I have heard advanced against it is, that it would be inconvenient to those companies to send on here for the purpose of having their bonds approved whenever it shall be necessary for them to withdraw from bond the iron required for immediate use. I may misunderstand the bill, sir, but if I appreciate its provisions, a railroad company will derive no advantage by taking the iron out of bond, as required for the road, at the very time it is required, and only as it is required; because they pay no interest upon the bond which they have to give with the security proposed to be required by the amendment of my colleague; and, therefore, sir, if a railroad company has imported enough iron to make the whole road, there would be no reason or necessity for waiting until the iron was required for this much of the road, and that much, before they take it out of bond. The course, I apprehend, would be for the company to give the bonds at once to the Secretary of the Treasury for the whole amount of iron imported for the use of the road. No disadvantage would result to them by pursuing that course, because, paying no interest upon the bonds, they would hardly send here every week or two, as they might want the iron, when they could take it out of bond and give their security for the whole at once. It does seem to me, unless I misapprehend the bill——

Mr. JONES, of Tennessee. My honorable friend does not only misapprehend the bill, but the whole working operation of a railroad company, as I understand it. How does this matter work? You import your iron; do you get it all at once? Do you make all your purchases at once? Not at all. You make your purchases deliverable at certain periods. One shipment of iron comes to Charleston to be delivered at Chattanooga. That iron is brought up by railroad, and comes in small detached portions. Another portion is landed at New Orleans; that comes in small detached portions to Memphis. A third portion is landed at New Orleans, and comes to Tuscumbia in detached portions. The company could not give their bonds for the whole amount of the iron, because it is not there. They receive it by installments, and take it out by installments. That is the whole process, as every railroad man in the Senate knows. But, according to the argument of the honorable Senator from Maryland, you would require a company having a thousand tons of iron coming in detached portions through a series of six months, to bind themselves to pay the duties on them when, perhaps, they will never be received. There is the great mistake. We take our iron just as we use it, and it is delivered just as we want it. We buy ten thousand tons, one thousand to be delivered this month, another thousand the next month, and another the next, and so on; and yet, according to the Senator's argument, we should have to give bonds to pay the duty on the whole of the iron, when it may never enter the port at all, when it may be swallowed in the ocean and lost forever.

Mr. PRATT. It is the Senator who misapprehends my argument——

Mr. CLAY. If the Senator will suspend his remarks for a moment, I think I shall show a mutual misapprehension on the part of himself and the Senator from Tennessee. I think the Senator from Tennessee misapprehends the argument of the Senator from Maryland, but the Senator from Maryland, also, misapprehends the bill. The bill provides that a credit of three years shall be given on all railroad iron from the time it is taken from the custom-house. It provides further that this credit shall extend only to such iron as shall be received within two years. Therefore, it is manifest that the companies, within those two years, will have the credit from the time they take the iron out of the custom-house, for three years thereafter. Now, the Senator from Maryland argues as if we were to allow but one uniform period of three years from the date of the passage of this bill as a credit for the duties on the iron which may be imported. Therein I think he is mistaken. The credit extends for three years from the time the iron is taken out of the custom-house, and the companies are allowed two years within which they may import and remove this iron. Therefore, I think, his argument is founded on a misapprehension of the true character of the bill.

Mr. COOPER. It seems to me no inconvenience whatever can arise from adopting the amendment proposed by the Senator from Maryland. Iron is shipped to the United States, is placed in the warehouses of the Government, and remains in bond. When the company wishes to use it, no matter where their location is, the bonds that the amendment proposes shall be given to secure the Government, may be executed anywhere and sent on here to the Secretary of the Treasury with such testimony as to the responsibility of the parties to the bonds as will satisfy him. There is, therefore, no inconvenience whatever in providing the security for the Government which it proposes. It seems to me that the Senator from Tennessee, and the Senator from Alabama ought not to object to this. Neither of them, I believe, wishes that the Government should be defrauded through the instrumentality of the companies. Then, if there is no more inconvenience to the companies in providing security in this form than in any other, why not permit the amendment to prevail? It seems to me that its operation has been misconceived by them.

Mr. BENJAMIN. I did intend to give a silent vote in favor of this bill; but really it appears to me that the Senators who oppose the passage of this relief to railroad companies are going further than ordinary parliamentary tactics warrant. The attack made on the bill at present is this: That the bonds ought to be given to the satisfaction of the Secretary of the Treasury; and ingenious and far-fetched arguments are used to show us that the Secretary of the Treasury is a much safer officer than the collectors of customs at the different ports. Now, Mr. President, it is within your recollection, and within the recollection of every Senator on this floor, that the time has not long passed, since the entire revenue of this Government was collected by bonds given by the merchants in the ports of the country; and that those bonds were invariably given to the satisfaction of the collectors of the port. Why, then, when for a short space of time, a relief to the railroad interest of the southwest is sought by a short credit on the payment of their duties, why, for this small fraction of the general revenue of the Government, cannot we trust the same officers as formerly we had trusted to their discretion and prudence the entire revenue of the United States as gathered in at the custom-houses? I think that Senators cannot seriously mean that this objection should be made to the collectors at the various ports judging of the sufficiency of the bonds. When the revenues were collected on that system, and when the responsibility of the parties to the bonds was decided by the officers of the customs at the different ports, we know, as a matter of history, that the revenue of the Government was collected with scarcely a loss. Such a thing as a loss upon a bond at the custom-house is hardly ever heard of; and why should it be heard of in the short space of two years, when bonds are given by companies with large capital, and securities to the satisfaction of the officers of the revenue at the ports?

Mr. BRODHEAD. I rise to correct one error of my friend from Louisiana. I understand him to say that the amendments offered and the speeches made upon them go beyond the usual parliamentary tactics. Now, sir, I do not think that the facts warrant any remark of that kind, especially when the friends of the bill, and the opponents of so slight an amendment as this, have spoken twice to the opponents of the bill once. If I recollect aright, my friend from Alabama [Mr. CLAY] has spoken twice, my friend from Tennessee [Mr. JONES] twice, and the honorable Senator from Louisiana himself, once. I think that the friends of the bill have had a full share of the debate.

Mr. COOPER. I think the suggestions of my colleague very well timed. I hardly anticipated from the Senator from Louisiana such a remark as fell from him; for I have seen nothing in the conduct of the opponents of this measure to warrant the charge that they have gone beyond what a parliamentary opposition warrants. I think, sir, if they did go as far as his remarks suggested, that they might find some excuse in the fact that a particular interest is demanding relief which is not asked for by the country generally, although there are other interests which call for relief, which require it, and which are as much entitled to it as the railroad interest.

The Senator from Louisiana tells us that some years ago it was "the custom of the country to receive bonds for all duties, and that the whole revenue was collected by bonds or through their instrumentality." Why, sir, was that system changed? There was some reason for it; and if I remember aright, it was the want of security under that system which produced the change. It was considered safer to adopt the system that now exists; and I surely think there can be no objection, on the score of inconvenience, when the operation of the amendment is properly understood. It will produce no inconvenience whatever. As I have already said, iron is shipped, it is placed in the warehouses, and bonds are given to the Government, to the satisfaction, now, I believe, of the collector of the port. But it is proposed to require security that they shall pay the duties at the end of the time to which this credit proposed by the bill extends. The Government wants some security for their payment, and this is the only mode of giving the security which is contemplated. I say there is no inconvenience whatever to result from it. The railroad company can execute its bond at its own office, the securities can add their signatures to the bonds at the same place, and the bonds will be transmitted here with such testimony as to the solvency of the sureties, as the railroad company may deem necessary to insure the acceptance of the bond. Is there any inconvenience in that? Is there any greater inconvenience in it than in the execution of the bonds by the surveyor or by the collector. I believe the surveyor is proposed by the amendment of my friend from Alabama.

As there would be no inconvenience whatever, why do Senators object? It would lead us to suppose that these companies are insolvent, and that there is really danger that they are not able to give the security demanded. The effect it has on me is to make me insist more strongly on this kind of security, than I should have done, if I had not seen the opposition.

Mr. PEARCE. I desire to say to the Senate, that if they will allow the call for the yeas and nays to be withdrawn, and also the motion to reconsider which I have made, I will then move an amendment which will bring us directly to the question which I propose to submit, and that will be to strike out of the first section all after the word "same," and insert "with such surety or sureties as in the opinion of the Secretary of the Treasury shall be amply sufficient." If the Senate think the collector of the customs a better depositary of this power, then they may strike out "Secretary of the Treasury," and insert "collector of the customs," and we shall have the question adjusted without any difficulty.

The PRESIDING OFFICER. Will the Senate give leave to the Senator from Maryland to withdraw his motion to reconsider?

There was no objection, and leave was granted.

The PRESIDING OFFICER. The Senator from Maryland now moves to strike out all after word "same," and insert what will be read.

Mr. WELLER. Do I understand the Senator from Maryland to move an amendment that these bonds shall be approved by the Secretary of the Treasury? I apprehend that a large quantity of iron will be imported into the city of San Francisco, and do you propose to require, before we

can avail ourselves of the benefit of the law, that we shall send an agent here, requiring a whole month's travel, before we can obtain the iron? It seems to me, Mr. President, that it would be very unjust to adopt a provision of that sort. The collector at San Francisco is a much better judge of the competency of the individual securities than the Secretary of the Treasury would be. Besides, there is the objection in regard to the delay which must necessarily be produced in consequence of our distance from this city.

Mr. CLAY. I call for the reading of the amendment.

The PRESIDING OFFICER. The amendment is to strike out the words:

"And in the event the collector of the customs, or the surveyor of the port of delivery where the iron may be, shall not be satisfied of the entire solvency of the company thus applying for this extension, he may require such security, personal or otherwise, as, in his judgment, will indemnify the United States against loss."

—and insert:

With such surety or sureties as, in the opinion of the Secretary of the Treasury, shall be amply sufficient.

So that the first section of the bill would read:

That the Secretary of the Treasury be and he is hereby authorized and directed to extend the time of payment of all duties (except only the amount due in fees to custom house officers) on all iron rails, spikes, bolts, fast nings, or other iron necessary for the construction of railroads, for the term of three years from the time that such iron may be received from the custom-house: *Provided*, That before the delivery of said iron rails, spikes, bolts, fastenings, or other iron, the payment of the duties thus suspended shall be secured by the bonds of the company applying for the same, with such surety or sureties as, in the opinion of the Secretary of the Treasury, shall be amply sufficient.

Mr. CLAY. The Senate will perceive that that amendment has substantially the same effect as the Senator from Maryland proposed to accomplish by his amendment, which was, on my motion, reconsidered. It brings us back to the same question; that is, whether we shall transfer, from the collectors of the customs and the surveyors of the ports of delivery, to the Secretary of the Treasury, the decision of the question, whether the bonds be good or bad. The Senator from Pennsylvania, [Mr. COOPER,] again and again repeats, that it will not subject the company to any inconvenience whatever. I am amazed to hear him repeat this, and certainly he will not continue to hold that opinion after what he has heard from the Senator from California. I ask him now, in all candor, to state whether he thinks it would subject a company in California to no inconvenience to send to the Secretary of the Treasury the bond executed at San Francisco for his approval, before they could withdraw their iron from the custom-house? He certainly will not maintain that this would be no inconvenience?

Let me suggest to him another view of this subject. When are these bonds to bear date? Assuredly from the time the iron is withdrawn from the custom-house, because they have three years to run. Suppose the amendment of the Senator from Maryland be adopted, and then suppose that to-day, in Alabama, a company desire five thousand tons of iron to lay down. They execute a bond bearing date on the day of its execution, and send it to the Secretary of the Treasury. It may be a month, it may be months, before he decides upon it. Hence the company will be bound to pay for the iron one or two months, or, perhaps, longer, in advance of the time at which they would be bound to pay, if the bond bore date at the time of the delivery of the iron, or its withdrawal from the custom-house. It is very manifest that here would be an inconvenience.

Mr. COOPER. Mr President, I perhaps went too far when I said there would be no inconvenience to these companies in giving the required security. I suspect, very strongly, some of them would experience much inconvenience in providing the necessary amount of security; but certainly there would be no undue inconvenience in having the bonds transmitted from any portion of this Confederacy to Washington city, because it is not to be presumed that the company would not know its business well enough to provide a little in advance of the time, when it would want to withdraw the iron from the custom-house. If the engineer, or officer of the company, waited until the last moment, and, when it was necessary to commence laying their rails, should send the bonds to the Secretary, for his approval, there might be inconvenient delay; but it is to be presumed that wise, sagacious men, accustomed to the conduct of business, will have charge of these roads, and that they will, in advance of the time at which they need the iron, remit the bonds.

In relation to the date of the bond I think the Senator from Alabama is mistaken. The bonds will begin to run only from the time when the iron is withdrawn from the custom-house, and not from the time they are forwarded here, because the iron will be retained in the store-houses of the Government until the bond is furnished, and then the bond will commence to run as soon as the iron is withdrawn from the custom-house. So there would be no incovenience in that.

Mr. MALLORY. The honorable Senator from Pennsylvania, I think, if he will reflect upon this view of the subject, will be aided in a correct solution of it. The railroad iron will be imported like all other merchandise into the port of entry nearest to where it is to be used—at the very nearest point. An effort will be made to get the vessel in where there is positively less water than is necessary to admit her, in order that the less transportation of the iron may be had. Where is the capital collected, whence you are to find the security, but in the commercial cities. Merchandise which is to be used upon the lakes in the interior, and the western States, imported into the city of New York, has been bonded there when the bonded system prevailed; and now, under the warehouse system it is bonded there. The securities are in the city of New York; and not where the merchandise is to be used; and there where the vessel enters, her consignee will naturally, in the case of iron as in the case of other species of merchandise, himself furnish the bond, and the collector of the port is the proper judge of the securities. They have to present the securities to satisfy the collector. If you refer it to the Secretary of the Treasury, he will very naturally ask the local authorities where the iron is imported, whether the sureties offered are responsible parties or not, and it will be a mere question of delay for the matter will rest with the collectors of the customs anyhow. It is a question merely of delay in coming to Washington and sending back.

In the district in which I reside, and which has been a collection district since 1821, so long as the bonded system prevailed, and up to this hour, there never has been a bond forfeited, altogether, beyond $450; or in other words, that is the entire sum that has been lost by the Government in the collection of some millions of dollars upon merchandise in that district. So careful are the collectors on the subject that a bond is very rarely forfeited indeed. The honorable Senator from Pennsylvania, in alluding to the bonded system, says it was abondoned. Why was it abandoned? There was some reason for it. It was abandoned simply to substitute the cash system; and the answer to that does not necessarily involve the question whether the collector of the customs, who is on the spot, or the Secretary of the Treasury at Washington, is, or is not, the best judge of the liability of the surety.

Mr. BAYARD called for the yeas and nays, and they were ordered.

Mr. BAYARD. The amendment embodies something more than a mere question of who is to approve the sureties. It proposes, instead of making it discretionary with the officer to take the surety or not, that we shall make it mandatory that in all cases he shall take sureties on the duties on which the credit is allowed. If the Senate vote down the amendment, they determine that iron, imported into the United States, may be received by the party on credit, without security, unless, as the original bill proposes, the local officer of the customs chooses to require it. That is the way the bill stands. The amendment proposes to exact security in all cases, on the ground that where credit is given, there can be no hardship in that. I think the reasons given by the honorable Senator from Maryland for it, arises principally from the fact that almost every railroad company in this country stands with their bonds below their par value. That would be a sufficient reason why the United States should ask for security if they give the credit.

As to the question who is to approve the bonds, for my own part, I feel indifferent about it; and I rather incline to the view, if gentlemen will agree to the rest of the amendment, that it might be well to modify it, by striking out "Secretary of the Treasury," and putting in the collector of the district in which the iron is delivered. I shall be disposed to vote for an amendment to that effect to the amendment, and then vote for the amendment of the Senator from Maryland; but I should be very sorry to see the whole amendment rejected.

The question being taken by yeas and nays, resulted—yeas 13, nays 32; as follows:

YEAS—Messrs. Allen, Bayard, Brainerd, Brodhead, Cooper, Fessenden, Foot, Jones of Iowa, Pearce, Pratt, Seward, Stuart, and Toucey—13.

NAYS—Messrs. Adams, Badger, Bell, Benjamin, Brown, Butler, Chase, Clay, Clayton, Dawson, Dodge of Wisconsin, Douglas, Evans, Fitzpatrick, Geyer, Gwin, Hamlin, Hunter, Johnson, Jones of Tennessee, Mallory, Pettit, Rusk, Sebastian, Shields, Sumner, Thompson of Kentucky, Wade, Walker, Weller, Wells, and Wilson—32.

So the amendment was rejected.

Mr. PEARCE. That amendment was resisted because the approval of the Secretary of the Treasury was required. I now make a motion to strike out the same portion of the bill which my former amendment proposed to strike out, and insert the following:

With such surety or sureties as, in the opinion of the collector of the customs at the port where said iron may be entered, shall be amply sufficient.

Mr. WELLER. Put in the surveyor of the port of delivery.

Mr. PEARCE. I will say, in reply to that suggestion, that I do not know that a surveyor has ever been authorized to receive the duties for customs.

Mr. GWIN. There are some ports where there are only surveyors.

Mr. PEARCE. Are they ports of entry?

Several SENATORS. They are ports of delivery.

Mr. PEARCE. That may be. I suppose that formerly, when a credit was allowed on the duties, the collector of the customs was the proper person to approve the bonds, and I want to follow that.

Mr. HAMLIN. I think, if the Senator from Maryland will allow me to make a statement, he will see the propriety of inserting the surveyor. All goods that enter the mouth of the Mississippi must be entered by law at New Orleans, where the port of entry is; but above that, all the others are ports of delivery, at which surveyors are appointed, and where they reside.

Now, sir, all duties that are paid at Cincinnati, at Louisville, at Evansville, and at all other places above there, are paid to the surveyor, who discharges, at the port of delivery, precisely the same duties that are discharged by the collector at the port of entry. The goods are allowed to go up in packages; there the duties are paid, and you will see at a glance that the amendment would compel the companies at all the ports a thousand miles above New Orleans, and all other ports distant from a port of entry, to send that distance to transact their business with the collector, instead of the surveyor.

Mr. BAYARD. I should like to know whether, when the United States authorized a delivery on credit, the collector was not, in all cases, required to approve the bond given by the importer? My recollection is, that the collector in whose district it was, was required to approve the bond. I can see an evident difference between allowing the surveyor to receive the money and judge of the sureties. I can see no hardship to the importers, because they can always apply beforehand, to give their bonds, where the iron is imported, as it will be received at the custom-house; and within three years after the delivery they are to pay the duties. Those are the terms of the bill, and I think the officer who receives the duties ought at least to judge of the securities.

Mr. TOUCEY. I voted for the last proposition to amend merely for the purpose of requiring the security to be given in all cases. I am not willing that, in any case, duties should be received by an officer of this Government without bond; and if the duties are not received by an officer of this Government, I am not willing that they should, in any case, remain in the hands of an individual, or of a corporation, without security for the payment. It is contrary to the policy of all our past or existing laws, where the public money is permitted to go into the hands of another, unless it may be in the Army and Navy in some cases.

With regard to the approval of the security, I prefer that it should be approved by the officer who is entitled to collect the money when it is paid in cash—the collector, if he is the collecting officer, or the surveyor, if he performs the duty of a collector.

Mr. CLAY. I suggest to the Senator from Maryland to modify his amendment by inserting the surveyor.

Several SENATORS. He has done it.

The PRESIDING OFFICER. That is not in the amendment.

Mr. PEARCE. I think it would be better to leave it as it is; but as it seems to be the sense of the Senate that the surveyor should be put in, I request the Secretary to make the modification.

The amendment, as modified, would be to strike out the words as before stated, and to insert:

With such surety or sureties as, in the opinion of the collector of the customs, or the surveyor at the port where the said iron may be entered or delivered, shall be amply sufficient.

The amendment was agreed to.

Mr. PEARCE. I offer another amendment, to come in at the close of the first section. It is to add:

And such bonds shall also be conditioned for the laying down on the track of the railroad of such company within twelve months next succeeding such extension of the time of payment.

Mr. CLAY. I do not see the necessity for that amendment. If it is laid down within the three years to which the credit is extended, it is indemnity to the United States. Why exact that it shall be laid down in twelve months?

Mr. PEARCE. There is no part of the bill, as it now stands, providing for the laying down of the iron on the roads at any time. As to any provision that is contained in the bill, they may apply it to entirely different purposes. It may never be applied for that object which, it is said, is the imperative necessity that demands the passage of this bill. Now I hold that one year is ample time to lay down the road after they get this extension; for it is not to be presumed that any company is likely to import the iron several years before they want it. I take it, if they are at all wise men, such as should be in the business, they will import the iron in quantities to meet their demands.

Mr. CLAY. I withdraw the objection.

Mr. BRODHEAD. I should like to have the amendment read again, to see whether it accomplishes the purpose of my friend from Maryland.

The amendment was again read.

Mr. CLAY. It seems to me that the amendment imports more than I presume was intended by the Senator from Maryland. It literally means that the whole track of the road shall be laid down in twelve months. I presume he means that they shall only lay down the iron that is taken from the custom-house.

Mr. PEARCE. Some words were accidentally omitted. I modify the amendment to read as follows:

And such bonds shall also be conditioned for the laying down of such iron on the track of the railroad of such company within the twelve months next succeeding such extension of the time of payment.

The amendment was agreed to.

Mr. PEARCE. It seems to me that there is another amendment necessary to the first section. I find the provision is that the time of payment of all the duties shall be extended "on all iron rails, spikes, bolts, fastenings, or other iron necessary for the construction of railroads." I do not like that phrase. It seems to be rather too large; for all iron, except pig, I take it, is necessary for the construction of railroads. You might import iron for a thousand purposes, of a very different kind, but still being iron, it is necessary to construct some railroads. I want, therefore, to say "all iron rails, bolts, spikes, fastenings, or other iron imported for the construction of railroads."

The PRESIDING OFFICER. What is the xact amendment which the Senator proposes?

Mr. PEARCE. To strike out the word "necessary" and insert "imported."

Mr. CLAY. We have no objection to that.

Mr. JONES, of Tennessee. That is exactly the bill as it now stands, as I understand it; but I have no objection to the amendment.

Mr. PRATT. I would respectfully suggest to my colleague that the amendment which has just been adopted will secure the Government against the provisions of the bill being extended to iron imported for other purposes than railroad purposes. The amendment which he now proposes would not have that effect. I do not know how it is to be ascertained at all that iron is imported for railroad purposes. If it is bar iron, it is imported and the railroad companies buy it from the importer; and when they buy it from the importer, the iron being in bond, in reference to so much of the price as is contained in the duty, they are to give their bonds to the Government conditioned under the provisions of this bill. If it is imported as bar iron it is imported by the merchants and not by the railroad company. The railroad company, when they buy that bar iron for railroad purposes, give their bonds for so much as the duty amounts to. I cannot see that the amendment, as it is worded, would have any effect, but I suppose that the amendment which has been adopted was designed to have this effect as I understand it—that all the parties who were to receive the benefit under this act were to give security, approved by the proper officers, that the iron, with reference to the duties on which they gave their bonds, was within twelve months to be laid down on the railroad. I supposed that was the design.

Mr. CLAY. That, I think, is already effected by the language of the bill.

Mr. PRATT. By the amendment just adopted?

Mr. CLAY. Certainly.

Mr. PEARCE. I will modify the amendment by saying "imported for laying down the tracks of railroads." That will make it specific.

Mr. COOPER. I would suggest to the Senator from Maryland, that, though that will certainly cover a large part, it will by no means cover the whole of the iron necessary for the construction of railroads. There is a vast amount of iron, besides that which is necessary for laying down the tracks. Even in the construction of wooden bridges, a great quantity of iron being required for the bolts—long, large bolts—many tons are used.

The PRESIDING OFFICER. The Senator from Maryland has modified his amendment, so as to insert "imported for laying down the tracks of railroads," instead of "necessary for the construction of railroads."

Mr. JONES, of Tennessee. I do not think the Senator means exactly what his amendment purports, "laying down the tracks." Now, it is specified distinctly in the bill what is meant, and I copied it from a bill which was introduced by the present Presiding Officer, [Mr. BADGER,] and which was passed two years ago by the Senate, giving a credit on railroad iron to a railroad company in your own State, sir. "Rails, spikes, bolts, fastenings," that covers the whole. It does not embrace any other variety of iron; you cannot use it for any other purpose. It does seem to me that this amendment is merely proposed to be put on to embarrass the bill. If that is not intended, it will be its effect. I hope, if the friends of the bill mean to pass it, they will reject all amendments and pass it as it is.

Mr. PEARCE. It is not moved with any such intention, whatever the Senator may think. He knows what he intends, but he does not know what I intend, and he has no right to assume it.

Mr. JONES, of Tennessee. I said that would be the effect of it; I did not charge that intention on the Senator. I said such would be its effect.

Mr. PEARCE. The amendment is offered, but I do not care a button whether it is accepted or rejected.

The amendment was rejected.

Mr. BAYARD. I desire to offer an amendment, which I think will not be objected to. It is to relieve the bill of what I suppose to be a doubt. It is to strike out the proviso of the second section:

"That the provisions of this act shall continue for two years, and no longer, unless otherwise provided for by law."

—and insert:

"That the provisions of this act, extending the time of payment of duties, shall be held to apply to iron rails, spikes, bolts, fastenings, and other iron necessary for the construction of railroads, actually delivered on bond as aforesaid, within two years, and no longer.

As the bill reads, I am by no means sure that if you repeal all the provisions of the law, the bonds taken under it will be good for anything.

Mr. CLAY. I should not vote against the amendment but that I think the bill at present accomplishes the very same object. I can see no difference in effect. It is only, to my mind, a difference in words, and, on that account, I shall vote against it.

Mr. BAYARD. I ask for the yeas and nays on the amendment. The honorable Senator says he can see no difference; but to my mind it presents great doubt whether the effect of such a clause as exists in the proviso as it stands, would not, after the lapse of the two years, render the bonds void. If the provisions of the act are entirely repealed, I think it would be difficult to maintain an action on these bonds in a court of justice at the end of three years.

The yeas and nays were ordered.

Mr. BAYARD. Mr. President, I did not offer this amendment for the purpose of defeating the bill, although I am opposed to it, and I shall give hereafter, as briefly as possible, the reasons why I am opposed to it. It was not my intention, by this proposition, to embarrass or prevent the passage of this measure. I am perfectly satisfied that when brought to a vote in the Senate, it will pass, objectionable as I think it to be; but there is nothing embarrassing in the amendment whatever. It carries out the view of the bill in the sense in which the honorable Senator from Alabama understands it. My amendment does that certainly; but I doubt the effect of the bill as it stands. And surely, it is not unreasonable that I should ask the friends of the measure, while giving a credit upon the duties, that those duties should be legally secured; and I doubt whether the bill does secure them in that respect, as the proviso stands.

The question being taken by yeas and nays, resulted—yeas 20, nays 24; as follows:

YEAS—Messrs. Allen, Bayard, Brainerd, Bright, Brodhead, Clayton, Cooper, Fessenden, Foot, Hamlin, Hunter, Pearce, Pratt, Seward, Shields, Slidell, Sumner, Thomson of New Jersey, Toucey, and Wells—20.

NAYS—Messrs. Adams, Badger, Bell, Benjamin, Brown, Butler, Chase, Clay, Dawson, Dodge of Wisconsin, Evans, Fitzpatrick, Geyer, Johnson, Jones of Tennessee, Mallory, Mason, Pettit, Rusk, Sebastian, Thompson of Kentucky, Wade, Walker, and Weller—24.

So the amendment was rejected.

Mr. COOPER. I stated on Saturday last that I designed to propose an amendment to the bill. I hold that amendment in my hand, and I will state, before presenting it, that I do not expect it to be agreed to; yet I believe it embraces a system which would cure many evils arising under the present law. It is to strike out all after the enacting clause, and insert:

That from and after the passage of this act, a duty of ten dollars per ton shall be levied and collected on all railroad iron used in the construction of railroads imported into the United States from foreign countries, and that the price on which said duty shall be levied shall be forty dollars per ton at the place of manufacture, until the same shall be changed by the provisions of this act hereinafter contained.

SEC. —. *And be it further enacted*, That, whenever the price of said iron shall rise above forty dollars per ton at the place of manufacture, and such rise shall be made known to the Secretary of the Treasury by the report of the appraisers, the appointment of whom is hereinafter provided for, the duty shall be reduced dollar for dollar as the price rises; that is to say, when the price of said iron shall have risen to forty-one dollars per ton at the place of manufacture, and such rise shall have been made known by the report of the appraisers to be appointed as aforesaid, the duty shall be reduced to nine dollars per ton, and so on, as the price of the iron rises, the duty shall be reduced until the price shall have risen to fifty dollars per ton or upwards, when the duty shall cease, and railroad iron be admitted free.

SEC. —. *And be it further enacted*, That when the price of said iron shall have fallen to thirty-nine dollars per ton at the place of manufacture, and such fall in the price thereof shall be made known by the appraisers, the duty shall be increased to eleven dollars per ton, and so on, as the price of iron falls the duty shall be increased; but neither in the rise nor fall of the price shall fractions of dollars be regarded by the appraisers in making their report

SEC. —. *And be it further enacted*, That, immediately after the passage of this act, it shall be the duty of the President, by and with the advice and consent of the Senate, to appoint two appraisers, who shall monthly or quarterly, as the Secretary of the Treasury shall direct, proceed to ascertain the price of the said iron at the place of manufacture, and report the same to the said Secretary, who shall give notice thereof to the collectors in the several collection districts of the United States, and upon the price so ascertained and reported by the appraisers to the Secretary, and by him notified to the collectors, shall the rate of duty, hereinbefore directed, be assessed until the price shall have been changed in virtue of a new report, whereof the collectors shall be notified as aforesaid.

SEC. —. *And be it further enacted*, That in addition to the notice required to be given to the collectors of the several collection districts, the Secretary of the Treasury shall, immediately on the report of the said appraisers being made to him, cause the same to be inserted in not less than one newspaper nor more than three, published, respectively, in

New York, Philadelphia, Boston, Baltimore, New Orleans, Charleston, Savannah, Mobile, Norfolk, Portland, Maine, and Washington city, in the District of Columbia.

SEC. —. *And be it further enacted*, That the appraisers to be appointed in pursuance of this act, before proceeding to the discharge of their duties, shall severally take an oath or affirmation before some judge or other official officer competent to administer the same, to make a true and just report of the price of railroad iron at the place of manufacture at the date of such report; and the said appraisers shall be liable to prosecution and punishment for perjury in like manner as other officers of the United States are now liable for such offense.

SEC. —. *And be it further enacted*, That all laws inconsistent with the provisions of this act be, and the same are hereby, repealed.

I presume the object of this amendment will be understood from its reading. The great difficulty under the existing law is, that the least amount of protection is afforded at the time most is needed; that is, when the price under the *ad valorem* system is lowest, the duties are lowest. This breaks down the domestic manufacturer, drives him out of employment, and leaves the field to the foreign manufacturer, who comes in and demands whatever price he thinks proper. This evil the amendment is intended to cure. When the price was high, as it was nine months ago, the duties being assessed upon that price became prohibitory, and so they were at the period referred to. This causes fluctuations, disastrous not only to the interests of those engaged in the manufacture of iron, but equally so to the consumer, because when the domestic establishments are broken down, and operations cease, the foreign manufacturer gets possession of the field, and is able to control the price to the disadvantage and injury of the consumer.

The present amendment proposes that there shall be a rate fixed, and the rate that is fixed in the bill is the average price of a number of years. On that the duty is assessed—a duty of ten dollars, which would make the price here equal to fifty dollars. Of course I do not include the mere port charges that accrue from lading, unlading, &c. But the average price of forty dollars is taken, and the duty of ten dollars is imposed. When the price rises to forty-one dollars the duty goes down to nine dollars; so that, add the nine dollars to the forty-one dollars, and you will still have fifty dollars for the result. It would keep up the price of iron to about fifty dollars per ton. So, on the other hand, when the price falls to thirty-nine dollars per ton, and the report is made, under the direction of the Secretary of the Treasury, by the appraisers to be appointed, the duty rises to eleven dollars per ton, which, added to the thirty-nine dollars, again makes fifty dollars. It is a sliding scale, in other words, to prevent the fluctuation in the price, which is disastrous alike to the purchaser and to the consumer.

There is another advantage in this system over that which exists, and, indeed, over the strictly specific system, but I shall not detain the Senate further than to point out the important advantage of this over the existing law. It completely prevents the perpetration of frauds on the custom-house. Fraudulent invoices will be of no use, because the standard of prices will be an arbitrary one. The price will be fixed from the report of the manufacturers, which come here monthly from the other side. The price will be fixed; the amount of duties will be assessed upon that price, whatever it may be; and, therefore, the fictions that are resorted to now of sending double invoices—one for the custom-house, and another for the purchaser—will cease to have any effect. The duty and price of iron, added together, will keep the article in some kind of equilibrium, and prevent the fluctuation to which I have referred.

I do not desire to detain the Senate. I have no hope that the amendment will pass now; but I do hope that before long the country will adopt it, because it commends itself to the manufacturers all over the country, and to the consumers who have paid attention to it likewise. I trust that it will be passed some day.

The amendment was rejected.

Mr. BRODHEAD. I have an amendment which, I presume, the friends of the bill will not object to.

Although this is a bill greatly injurious to two great interests of one of the largest States of the Union, I have troubled the Senate with but few remarks. Before the bill is finally disposed of, however, I may have much to say. A bill so deeply injurious to the State which I have the honor to represent, cannot pass without my opposition. At any rate, I offer this amendment, to which, I presume, the friends of the bill will not object, especially since they have themselves said that they desire the passage of this bill in order to develop the resources of the country, to enable them to bring their produce to market, and to give them means of communication which they do not now possess.

The great difficulty is always in opening the first track of a railroad. When the commerce of the country demands two tracks, the company opening the first will always have the means of opening the second. Now, under this bill, more railroad iron will be imported for double tracks, or for relaying old railroads than for making new first tracks in the new States. If we pass the bill, extending its operation two years, for the benefit of the new States, there will be, at the end of two years, other new States demanding an extension of it, so that we might as well make the limitation twenty years as two years; for the States will be constantly coming in.

But, sir, I rose for the purpose of offering an amendment to the first section, which is as follows:

Provided, That such extension of time for the payment of such duties shall only be given on such rails, spikes, bolts, and fastenings imported for new first track railroads.

If the friends of the measure accept this amendment, of course I have nothing further to say; but if they do not readily agree to it without debate, I think I can show that it is eminently proper. Sir, I would like to inquire of gentlemen who are now advocating this roundabout, oblique mode of getting the Federal Government to aid in internal improvements, why the rich railroad companies of the old States should have a credit on railroad iron for double tracks, or for relaying their roads?

There are about twenty-two thousand miles of railroad in the United States. The greater part of this has been made with an inferior article of English iron, which is now pretty well crushed out. Under this bill large importations will be made, because many miles of road will have to be relaid; large importations will be made for the purpose of laying new rails on old roads, so that those gentlemen from the new States who are now urging this bill, will accomplish a purpose which I think they do not design. Why do they urge it? Why will they make objection to an amendment of this kind? I cannot conceive any reason for such a course, and therefore hope my amendment will be agreed to.

Mr. JONES, of Tennessee. I should be very happy to agree to anything which my friend should propose; but it must be very obvious to every Senator that if that amendment be adopted it will defeat the bill. It seeks to make the provisions of the bill apply only to new roads. That would suit my State very well; we have no old roads there; but the Representatives from the old States, which have a great preponderance in the other branch of Congress, would vote against it on that principle, and kill the bill, so that I hope no friend of the bill will be misled by that.

Mr. BRODHEAD called for the yeas and nays; but they were not ordered.

The amendment was rejected.

Mr. BRODHEAD. I have another amendment to offer, to insert the following as an additional section:

SEC. —. *And be it further enacted*, That a similar extension for the payment of all duties now authorized to be collected under the tariff act of 1848 on salt, sugar, woolen and cotton goods, is hereby given: *Provided*, That the importer thereof under said act shall give security personal or otherwise to be approved by the collector of the customs where the goods shall be entered.

[Question. Question.]

I am sorry, Mr. President, to perceive such a fixed determination on the part of the Senate to pass this bill, but there are some considerations connected with the subject to which I must be permitted to advert, and to which I desire to call the particular attention of our friends from the southern States. We of the North have been taught, particularly by southern teachers, that it is not proper to engage the Federal Government in a system of internal improvements. I have always been told by southern gentlemen that we ought not to engage in any oblique mode of legislation, and that it is against the Constitution and against sound policy to embark the Federal Government, directly or indirectly, in any system of internal improvements. Does not this bill violate that doctrine? In 1846, when the tariff bill of that year was pressed with zeal and ability by gentlemen from the southern States, we were told that it contained a great Democratic principle, which was to collect from all alike the moneys necessary to carry on the Government.

I then heard, in another branch of the National Legislature, a great deal said against class legislation, and against protection to manufacturers. Now, what is this bill but protection to railroad companies? How can any man who sustained the act of 1846 stand up here and say that railroad companies should have a credit of three years, and that the same benefit should not be extended to those who import salt, sugar, woolen and cotton goods? I beg our friends from New England to remember that the fate of Pennsylvania's interests to-day may be theirs to-morrow; and I ask our southern friends, who have had the support of old Pennsylvania upon another great question, to remember that hereafter they may need support against Abolition fanaticism. I know of no Democratic Senator on this floor, north of Mason and Dixon's line, in favor of this species of special legislation.

I had hoped, sir, that we should be able to come to some compromise on the general subject involved in this bill, upon the basis suggested by the Secretary of the Treasury; but it seems that one particular interest is to be selected, and this blow is aimed by States which have had the most benefit from Federal legislation in relation to internal improvements—I allude to the western States, which have had large grants of land for their railroads. The southern States, also, who have forced upon us a tariff policy that has been adopted, are the first to come here with a proposition to abandon it. Sir, Pennsylvania has been a faithful member of this Confederacy; she has stood firm between the dividing interests of the North and the South, always moderate in pretense, but very much in demand, especially at election times, and when Abolitionism is to be resisted. This is an unexpected blow from an unexpected quarter at two of her great interests; because the coal interest is as much, if not more, affected by this bill than the iron interest, because the establishments which manufacture iron are the great consumers of coal.

By this bill you select a particular article, and have free trade in that; or, what is the same thing, give three years' credit for the payment of these duties without charging interest. How much would the interest amount to? Last year we received duties on railroad iron to an amount between $3,000,000 and $4,000,000. When the companies can get the iron from the custom-houses by giving their bonds for the duties, I apprehend the amount imported will be more; but put the amount of duties at $4,000,000 a year. This bill is to be in operation for two years. Then you have $8,000,000 kept out of the Treasury for three years. The interest on it for a single year would be nearly $500,000, and for three years it would amount to over $1,000,000.

Is not that amount a bonus paid to railroad companies? Is it not so much paid to enable States, and companies, which is worse, to engage in a system of internal improvements? Will not its effect be to keep up the railroad mania which is absorbing the capital of the country and withdrawing it from other legitimate pursuits? Is it not to have the effect of increasing our already fearful amount of foreign indebtedness? Notwithstanding these facts, gentlemen seem to take it for granted that this bill is all right. I have heard of many changes in my day, but I did not expect that those who stood in the northern States in exposed positions on another great question in which our southern friends have an interest, would be deserted by the South on this question. Sir, on former occasions there were those who stood in exposed positions in the north in the maintenance of the constitutional rights of the South and who disregarded instructions in order to do it. Southern gentlemen on that question are in an entrenched position, and they can very easily defend it; but it is sometimes difficult for those of us at the North who are so disposed to stand up for them. We did not expect that they would single out the two great interests of my State and aim this fatal blow at both.

I feel that this is a very improper measure, but I do not say that it is urged with improper mo-

tives. I know very well that where there is money and power, there will always be a disposition to use the one and exercise the other. I have always belonged to the school of politicians who believe that our railroads should be built by the States or by companies, and that the Federal Government should not either directly or indirectly embark in them; but here is a proposition to extend the bounty of the Government to a special class—those who construct railroads. Is it not to this extent an attempt to embark the Federal Government in internal improvements?

But, sir, if a credit is to be given to the importers of railroad iron, I ask gentlemen to say by their votes on the amendment which I have offered, whether they will not give a like credit for duties on salt or on sugar? Will any man tell me why a great interest in Louisiana must be sustained by retaining a duty on sugar when you deny an equal measure of protection to great interests in Pennsylvania. We do not ask to be placed on a better footing than our sister States, but we ask for general laws which shall operate on all alike, and we protest against this special legislation.

I know that some gentlemen are disposed to vote for this bill because they regard it as free trade, and they tell us they are in favor of free trade. I believe that Pennsylvania can stand absolute free trade and direct taxation as well as any State of the Union; but if we come to direct taxation, where will the heaviest part of it fall? Would it not be on the southern States? Negroes cannot be concealed, and taxes would have to be paid on them as property, according to the doctrine which the South sustain, and which I sustain. If we are to have free trade upon particular articles, I ask that it may be extended to all alike; and for that reason I have offered this amendment.

Mr. WILSON. Mr. President, the Senator from Pennsylvania [Mr. BRODHEAD] has made a direct appeal to the Senators from the section of country where I reside to vote against this bill. He has warned us that the knife may yet be put to our throats. Sir, I desire to say for Massachusetts, that she expects no exclusive favors here, and asks none. She simply demands her just rights. The appeal which has been made to Senators from the South, to stand by Pennsylvania, because her Senators, in violation of the wishes and instructions of their constituents, have stood with the South and resisted what he is pleased to designate "the fanaticism of Abolition," is not at all calculated to win sympathy from me or from those whom I represent on this floor.

I shall give no votes here, sir, of a sectional character; I hope to comprehend the whole country and embrace the interests of the whole Union in my action here. I will vote for any measure, national in its character, that may benefit any section of the country, as readily as for any that may benefit my own State only; but, sir, I shall give no votes in favor of southern interests with the idea that "thrift may follow fawning."

The tendency of the public mind—I know it to be so in my section of the country—is towards the freedom of trade. I am in favor of free coal; the people of my section are for it. I am in favor of free wool; the interests of my section require and demand it; and, in my opinion, the interests of the wool-growing sections of the country require it also. I am in favor of free sugar. I am in favor of the enlargement of the free list by placing upon it all those articles which enter largely into the consumption of the masses of the people. If the Senators from Pennsylvania, or from any other section, wish for the reduction of the duties, or for free trade, on the finer and more costly fabrics, I say, let them have free trade on those articles. We, of Massachusetts, will take care of ourselves. Our skill, capital, and intelligent free labor will enable us, I am confident, to do so.

Sir, I shall vote for this measure, I confess, with some degree of reluctance, for I have no wish to stimulate the building of railways in the country. That business has been overdone; and in our quarter of the Union we have severely suffered, directly and indirectly, by the losses thereby incurred in the new portions of the Confederacy. I undertake to say here, that the railways of New England are not worth more than fifty cents on the dollar of their cost. I believe the railway interests of the country, as a whole, are in no better condition. But, sir, few railways are made for the direct benefit of the stockholders; they are made to devolope the resources of the country. So believing, and thinking that this measure will contribute something to aid that depressed interest, to develope the resources of the new States of the Confederacy, I shall vote for the measure, although I do so with some reluctance. I do not like this mode of legislation, but, looking at the interests of the whole Union, and at this depressed railway interest, I feel constrained to give it my vote.

I had hoped, sir, and the people of my section of the Union hoped, that the tariff would be revised at this session of Congress. Action, however, may not be taken upon that subject; but I hope that, before we adjourn, wool and dye-stuffs, and articles which enter into manufactures, will be made free of duty. I assure the Senator from Pennsylvania that I have no wish to give a vote that shall injure the State of Pennsylvania. I believe, sincerely, that if the fourteen thousand or fifteen thousand miles of railway now in process of construction were completed, the demand for the iron of Pennsylvania during the next five years would be greater than it will be if this interest remains in its present depression. The completion of these railways will develop the resources and increase the wealth of the new States beyond the calculations of the most sanguine men among us. The demand for iron will be largely increased for the use of the roads and for the wants of the people, and that State will reap the benefits of the increased demand.

Mr. BRODHEAD. Mr. President, I had reason to believe that the Senator from Massachusetts entertained the views which he has just expressed. I had reason to believe that Massachusetts and the southern States would unite upon this question. It is not the first time when they have united. Sir, they united to continue the slave trade; and I am not sure but that they would do it again. [Laughter.] In the convention which framed the Constitution, it was first proposed that the slave trade should be discontinued from and after 1800. Mr. Pinckney, of South Carolina, I think, moved to strike out 1800 and insert 1808; and every New England State (the votes in the convention were taken by States) voted for that amendment to the original proposition.

The speech which has just been made by my friend from Massachusetts satisfies me of another thing: that it will not be long before all New England will be asking for free trade, and the southern States will be asking for protection. When that time comes, I think Pennsylvania will ask for absolute free trade; we shall not be satisfied that you continue the duty on cotton goods, or on coarse articles, or fine articles, but we must have a proper general system. If we are to have free trade, we of Pennsylvania want it to be absolute, and then we wish to have the revenues necessary to carry on the Government collected by direct taxation. We can beat you all at that. When you have laws of that kind, bordering as we do on the Atlantic, on the western lakes, and on the western rivers, with a monopoly of Anthracite coal, which, in a northern climate, is better than all other species of coal, we can stand absolute free trade as well as anybody. But this partial free trade, this getting round a point, and helping railroads but yet going against internal improvements, is something which we do not understand; it is not, in my opinion, the right kind of legislation. Why, sir, if an entire stranger had come here this morning and taken his seat in the gallery, he would have supposed that he was in some State Legislature where the members were debating how they could best promote the railroad interest. On a great question of this nature—one involving the doctrine of internal improvements—I had hoped to have the aid of my distinguished friend from Virginia, [Mr. MASON,] who was so vigorous the other day in his opposition to a western internal improvement system.

I hope the amendment which I have offered will be adopted. It is certainly the same in principle as the original bill. My amendment proposes that the benefit which the bill grants to railroad companies shall be extended to those who use salt, sugar, and cotton, and woolen goods. What reason is there why we should grant this special favor to railroad companies alone? Have they not deranged the currency of the country? Have they not been the means of accumulating a large balance of debt against us abroad? Two years ago I submitted a resolution calling for information on that subject, and the report of the Secretary of the Treasury in answer to that resolution showed that the railroad companies of the United States had contracted fifty millions of foreign indebtedness.

Does not that tend to take from us our coin which is the life-blood of the body politic, and the basis of all legitimate banking?

I presume, sir, that the struggle on this bill is the battle of the 23d, which preceded the battle of the 8th. I suppose that the strain is to come when a proposition of this nature shall be offered as an amendment to some one of the appropriation bills, for I have no idea that such a bill as this can become a law at this period of the session. I think it ought not to become a law at any time.

In conclusion, I beg leave to say to my southern friends, you are violating the rule of revenue policy which you have laid down for us; you are not standing by the men who, in exposed positions, have heretofore been willing to stand by you. When you get into trouble hereafter I hope you will have more efficient men than I am to sustain you.

Mr. WILSON. Mr. President, a single word in reply to the charge made by the Senator from Pennsylvania, that Massachusetts voted with the South for the extension of the slave trade in 1808. If Massachusetts voted for and sanctioned the slave trade at the time to which he refers, I will assure him and the Senate that she has long since repented of that unhallowed deed. She does not stand here to-day to boast of that act; and she never will come here and appeal to Senators from the South to stand by her, because her Representatives once voted against the wishes of her people. Her Senators, I trust, will never follow the example set to-day by the Senator from Pennsylvania.

Mr. MASON. I wish to ask the Senator who has just taken his seat one question. He says "*if*" Massachusetts voted with the South to continue the slave trade. I desire to know from him if she did not so vote?

Mr. WILSON. She did.

Mr. BRODHEAD. There is no doubt of it.

Mr. BUTLER. My friend from Pennsylvania has made issues which I do not think anybody has made but himself. If it should turn out, on taking the vote, that there are as many men from the North, the West, and the Northwest, in favor of this bill as from the South, I should like to know on what assumption he undertakes to make an issue with the South upon it. He has chosen to make an issue, arraigning Massachusetts and the southern States, although I believe not a single gentleman from what are called the southern States proper, has spoken on this subject. I do not know upon what ground that assumption of his is founded. He has convinced me of one thing, however, that, whatever may be the fate of the extremes, Pennsylvania occupies a position *in medio tutissimus ibis*—that she is in no danger any way—that let legislation take what course it may, she is safe; I believe so. I believe she has the greatest elements of almost any Commonwealth in the Union.

An appeal has been made by the Senator from Pennsylvania, to the members from the southern States. I do not rise to speak for them, as I believe I am not their oldest member; but I beg leave to tell the gentleman, that the Southern States have proclaimed doctrines and adhered to them, I believe, as fairly and consistently as any portion of the Union. I do not know of an instance in which my State has deviated from any doctrine which she has propagated—not one. I perceive, however, sir, that those who have been most busily nailing planks upon the Baltimore platform in relation to internal improvements, are among the first to disregard the very structure which they have contributed to erect. Internal improvements! Democratic party! Why, sir, these are names to catch; but whenever there is a temptation to make a big ditch, or a canal, through Michigan, who votes for it but the very apostle of a party against the doctrine of internal improvements by the Federal Government. I observe that many, if not all, are willing to vote—and they reconcile it to doctrine—for anything that happens for the time being to contribute to what may be regarded their local interests under the name of national patriotism.

Now, sir, I must confesss that I was rather

opposed to this mode of legislation. I preferred a general system for the reduction of the duties on imports. Since the gentleman has mentioned the subject of free trade, I will tell him that I wish there was not a custom-house in the Confederacy.

Mr. BRODHEAD. How would you collect money to carry on the Government?

Mr. BUTLER. The sooner we have no money the better. [Laughter.] Sir, we shall never have a virtuous Government until we have a responsible constituency, and we shall never have a responsible constituency until we have a tax-paying constituency, who know what they pay, and for what they pay it. That is my opinion. If our constituency knew what they really paid, and if they had to subject themselves to direct taxation to pay it, you would see a very different system of legislation from that which now obtains here by favor and by courtesy. It is considered nothing to ask us to pay out of the Treasury $3,000,000 or $4,000,000 for this object and for that object, upon the ground that it is liberal and patriotic. In this way this power is abused, because we have not a tax-paying constituency.

The gentleman from Pennsylvania asks how we should get on with the Government. Sir, I want no Government that cannot get on except by the consent of the people to pay their own taxes. Let resort be had to the southern States for their taxes; and if those taxes be for an object within the sphere of the Constitution, they will perish as soon as any portion of this Confederacy in maintaining it. Allow me to say, further, that if the taxation was for an object against the Constitution, there is no portion of the Confederacy that would sooner play the part of Hampden. When he was asked for his shilling, or whatever the amount was, for ship-money, he said, in substance: "I will pay the legitimate taxes which I am bound as a subject to pay; but rather than comply with your demand, I will throw the money to the first servant who comes by; sooner than allow you to take it against my consent, I will lose my life." A Government based on such principles is the only Government that can subsist, a Government composed of a constituency who know what they pay. And, sir, allow me to tell my friend from Pennsylvania that the sooner we can get down to that system, the better for the whole of us. However, I perceive that I am going far beyond what I intended when I rose. I shall, therefore, leave the subject.

Mr. BRODHEAD. I know very well, sir, that there are many strong arguments in favor of absolute free trade and taking down all custom-houses. By that course we should get rid of the burden of supporting some three thousand persons who are engaged in collecting the revenue, at pretty high salaries, to say nothing of the "stealings;" but how many would you be obliged to employ if you collected the revenue by means of direct taxation? You would have to employ people for that purpose, unless you relied on the State governments to collect it for you by their own action. If you did that in a country so extended as this, with such a variety of climate and productions, how would you levy taxation in an equal and uniform manner? In some States they have one mode of taxation, and in some another; and this would present difficulties. I am sometimes strongly impressed with the belief that if we could have a system of equitable and just direct taxation, it would, perhaps, be as well. Then, sir, my word for it, economy and frugality would be regarded in the administration of the Federal Government. We should then have no cry for the expenditure of Government money for internal improvements. We should have no call on the Federal Government to aid certain railroads. We should have no gentlemen applying to the Treasury to borrow money. This is, in fact, an application to borrow money from the Treasury. Upon the same principle on which this bill rests why not give to a railroad company, who choose to use American rails, a credit for the same amount of money on which it will give a credit to those using foreign rails? Why not advance to the company using American rails the amount which they would have to pay on duties, if they used foreign rails, and pay back the amount at the end of three years? Would not that be the same in principle with this bill? Who that supports the one can consistently reject the other?

We are told by the Senator from Massachusetts that the railroad interest is in a suffering condition. I do not think those concerned in that interest suffer much more than those engaged in the great American interest of manufacturing iron in all its varieties. What have they been doing? Giving their bonds in Europe for iron, and now it is proposed to allow them to give their bonds at the custom-houses in payment of the duties. This bill is worth $300,000 to English agents now in New York for the credit which it gives on railroad iron that they have in bond, because it extends to railroad iron now in bond.

Mr. President, I am not in the habit of making captious objections to measures which are brought here; and I do not speak for the mere purpose of prolonging debate, or of talking down bills, or sitting them out. That is not the proper way to legislate. I must be permitted to say, however, that since I have been a member of this body, or of the other branch of Congress, I have never known a measure to be urged which was so partial in its character, and so violative of principle. It is in opposition to the principle of the act of 1846, which was forced upon us, and under which the great interests of the State which I have the honor in part to represent suffered from 1846 to 1851. Our people came here at that time and asked for relief, but a deaf ear was turned to them. You told them that you could not engage in special legislation for particular interests. Now, the tables are turned. Here let me say to those gentlemen who are so anxious, as I know some are, for a modification of the tariff of 1846, that I doubt very much whether, if this bill be passed, they can obtain a modification of that tariff. My reason for this opinion is, that by the passage of this bill the great motive power, the great locomotive power, if I may use that term, of the combined capital of these railroad companies will be withdrawn, and can never again be brought to bear against the act of 1846. Pass this bill, and the act of 1846 is fastened upon us, while the only benefits which it conferred on my State are taken away. The act of 1846 having been forced upon us, we were obliged to acquiesce in it, but now when it happens to operate slightly in our favor it is to be withdrawn.

Mr. COOPER. Mr. President, times change, and men change with them, and I presume the Senate were all reminded of this fact by the speech which we heard a few moments since, from the honorable Senator from Massachusetts. A few years ago, when that old Commonwealth was represented here by another class of men, sentiments such as were uttered by him would have been considered strange indeed, as proceeding from the mouths of Senators of Massachusetts. Then there was, at least in some respects, sympathy between Massachusetts and Pennsylvania. Both of them regarded the industry of the country as worthy of the protection of the Government. Both of them regarded labor as peculiarly within the province of governmental protection.

Sir, I do not rise for the purpose of invoking the aid of Massachusetts, or of South Carolina, or of North Carolina. I rise merely for the purpose of showing, that in the improvement that goes on from age to age, Massachusetts has other representatives, with other views and other opinions—men who separate from old relations and betake themselves to new, for what purpose I know not.

The Senator from Massachusetts is loud in his declaration that no sectional vote shall ever proceed from him; he entertains only broad and statesman-like views, and will follow them out only by broad and statesman-like practices; yet almost his first act is to aim a blow at an interest which is sometimes improperly regarded as sectional; and he is ready to lend his hand to any body who will aid him in striking down that interest. He repudiates all connection with South Carolina, as well as with Pennsylvania. And yet he aids South Carolina, and other States sympathizing with her, in breaking down a branch of industry at the same time he tells you he hopes for legislation——

Mr. BUTLER. Will my friend allow me to say one word?

Mr. COOPER. Certainly; as many as you please.

Mr. BUTLER. How is it that South Carolina has been made a party in this matter?

Mr. COOPER. The Senator made himself a party. I find him voting with the enemies of——

Mr. BUTLER. Why do you not select Louisiana or some other State?

Mr. COOPER. I will tell the Senator. There is something more harmonious to me in the sound of Massachusetts and South Carolina, in connection, than of any other States. That is the reason why I selected them; but, at the same time, I coupled with them all those in favor of this measure.

Mr. President, while the Senator from Massachusetts was disclaiming everything sectional—while he assures you that he would never ask that special care should be taken of Massachusetts, he also told you that he hoped that before the end of this session, the duty would be removed from foreign wool, that foreign log-wood might come in free of duty, and that the manufacturers of New England might sweeten their tea and coffee with free sugar. When all comes to all, we find that the Senator's broad national sentiments dwindle down to the latitude of Lowell, or some other place in Massachusetts.

I have stated, sir, that, at other times, and when Massachusetts was represented by other men, there was some conformity of view, on some subjects, between the Representatives of that State and my own; but now it seems that there is to be no longer any conformity of sentiment or of action. I do not know that Pennsylvania will suffer more from the separation which is about to take place than will Massachusetts. In the course of things the day will come, proud and independent as the Senator from Massachusetts now seems to be, when, as in times past, you will find Massachusetts beseeching Congress to take care of some little interest or other. I have seen that day, and it may return.

But, Mr. President, I am opposed to this measure in good faith. I am opposed to class legislation. If an attempt were made to strike down any particular interest in the State of Massachusetts, or in any other State of the Union, I should oppose it as earnestly as I oppose this. Sir, my sympathy is not with the men who own the great manufacturing establishments of my State. My sympathies have been excited for the hundreds and thousands of those who will be turned out of employment, and whose families will suffer for bread in consequence of this legislation. I have far more community and sympathy of feeling with this latter class than with the other class to which I have referred.

We are told that this bill only proposes to give a credit for a limited time; but I have already said that if it passes, it will be an indication on the part of Congress that this great interest of the country is not hereafter to receive any protection. The consequence will be that all the weaker establishments in my own State, and in other States, will cease operations, and their hands will be turned adrift without work, and in many instances without bread. To what shall they betake themselves when they leave the employment to which they have served an apprenticeship, and which alone they are capable of performing? To agricultural employments, if they can find means to purchase a little land to cultivate; but they will not be able to do that; their earnings will not have been enough to enable them to do it. The consequence must be that they must become the inmates of poor-houses, or drag on in hopeless poverty outside of them.

For these reasons, I am opposed to the measure. Although I know that it is to pass this body, I feel that I am but doing my duty in stating the reasons which actuate me in opposing it. I do not wish to detain the Senate longer, and I shall not do so.

Mr. SEWARD. I move that the Senate adjourn.

Mr. CLAY. I trust not.

Mr. JONES, of Tennessee. I hope the motion will not be agreed to.

Mr. BROWN called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 26, nays 20; as follows:

YEAS—Messrs. Allen, Bayard, Brainerd, Brodhead, Butler, Clayton, Cooper, Evans, Fessenden, Foot, Gillette, James, Jones of Iowa, Mason, Pearce, Pratt, Seward, Shields, Slidell, Stuart, Sumner, Thomson of New Jersey, Toucey, Wade, Wells, and Wilson—26.

NAYS—Messrs. Badger, Bell, Benjamin, Brown, Chase, Clay, Dawson, Douglas, Fitzpatrick, Geyer, Gwin, Hamlin, Hunter, Johnson, Jones of Tennessee, Mallory, Pettit, Rusk, Thompson of Kentucky, and Walker—20.

So the motion was agreed to; and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 21, 1855.

The House met at eleven o'clock, a. m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of State, transmitting the annual statement of the number and designation of passengers arriving in the United States, by sea, from foreign countries, during the year ending December 31, 1854; which was read, laid on the table, and ordered to be printed.

IMMIGRANT PASSENGER LAW.

Mr. FULLER. It cannot have escaped the attention of the House, that a great deal of interest is manifested just at this time in reference to the carriage of immigrant passengers——

Mr. COBB. I call for the regular order of business.

Mr. FULLER. Will the gentleman hear me a moment? On the 23d of January last I introduced, and had referred to the Committee on Commerce, a consolidated revenue law, containing fifteen chapters. One of those chapters relates to the carriage of passengers. The Committee on Commerce would be prepared to report that bill, large as it is, for the consideration of the House, but at this late day of the session the committee have thought it due to the great interests now jeoparded by the great amount of public business pressing upon the House, to select out chapter nine of that codification, and report it back to the House, and ask for its immediate consideration. Upon that suggestion I want to say a word to the House.

Mr. COBB. I demand the regular order of business. My duty requires I should do so; and unless I do so I shall not be able to make a report I wish to present.

Mr. FULLER. Can the gentleman make a report while I am upon the floor?

The SPEAKER. The gentleman from Maine is not entitled to the floor, under the rules of the House, when the regular order of business is called for. It is not in order to introduce a bill, unless by unanimous consent, and the gentleman from Alabama objects.

Mr. FULLER. Will the gentleman from Alabama hear me a moment?

Mr. COBB. The gentleman from Alabama would oblige every member of this House, but it is important that I should make a report, which the House can dispose of in a few moments.

Mr. FULLER. Let me say one word more. The reason why the committee have considered this bill, and instructed me to report it, is, that twelve vessels have, within the last week, been seized in New York, under the construction of the passenger law, placed upon it by the Secretary. Thirty vessels in all have been seized under that law, and the Secretary has remitted the penalties. He has deemed it his duty to place the construction, which he has, upon that law, and under it vessels are daily seized in New York. It therefore becomes necessary that the House should act upon this matter immediately.

Mr. COBB. If it is the pleasure of the House that the bill is passed, I——

Mr. CUTTING. It is a bill of the utmost importance.

Mr. COBB. Let me take my own course, and I will not throw serious obstacles in the gentleman's way.

Mr. CUTTING. I am glad to hear it.

Mr. COBB. Trust me for once. I was going to suggest that if I could get the floor, to make a report, immediately after the gentleman shall have made his report——

The SPEAKER. The gentleman from Alabama would be entitled to the floor in the morning hour.

Mr. COBB. Then I have no objection.

CIVIL AND DIPLOMATIC BILL.

Mr. JONES, of Tennessee. Is not the business first in order the resolution I offered yesterday, to close debate upon the civil and diplomatic bill?

The SPEAKER. That is so. The Chair had lost sight of that resolution.

Mr. JONES. I ask that the resolution be taken up. It will take but little of the time of the House, and if we get into a debate on other subjects, it may be neglected.

The SPEAKER. The question immediately pending before the body is the resolution which was submitted last evening, that debate be closed on the civil and diplomatic appropriation bill within five minutes after its consideration shall be again resumed in the Committee of the Whole on the state of the Union. The previous question has been called for.

The call for the previous question received a second, and the main question was ordered to be now put.

The resolution was then adopted.

Mr. JONES, of Tennessee. I move to reconsider the vote by which the resolution was adopted, and that that motion be laid upon the table.

The latter motion was agreed to.

REVENUE LAWS—AGAIN.

The SPEAKER. Is it the unanimous consent of the House that the gentleman from Maine have leave to report, from the Committee on Commerce, the bill to which he has referred.

Mr. JONES, of Tennessee. I have no objection, if the morning hour has commenced.

Mr. CUTTING. I hope that there may be no objection. This is a very important and urgent matter. Very little debate will occur.

The SPEAKER. The Chair hears no objection.

Mr. FULLER, from the Committee on Commerce, reported a bill, which was read the first and second time by its title, as follows:

A bill to regulate the carriage of passengers in steamships and other vessels.

Mr. HAVEN. Before the bill is read, I would ask the gentleman from Maine whether this bill is a transcript of the ninth chapter of the general bill which the committee have prepared as a codification of the revenue laws?

Mr. FULLER. It is a transcript of that chapter, with some few slight changes which were made at the request of merchants and others, of New York and other cities, and at the recommendation of the Secretary of the Treasury.

Mr. DISNEY. I move to dispense with the first reading of the bill. It is a very long one.

The SPEAKER. That can only be done by the unanimous consent of the House.

Mr. FLORENCE. Let the bill be read through, so that we may understand exactly what are its provisions.

The Clerk read the bill *in extenso*.

Mr. FULLER. I will make no speech. I will only say to the House that I believe the bill is right; and I demand the previous question upon it.

Mr. SKELTON. I desire to ask the gentleman one question before he demands the previous question.

Mr. FULLER. What is the question?

Mr. SKELTON. It is, whether this bill gives passengers increased protection, or decreases the protection now afforded them?

Mr. FULLER. It gives increased protection.

Mr. FLORENCE. Largely increased protection.

The previous question received a second, and the main question was ordered to be put.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question now being, "Shall the bill pass?"

Mr. JONES, of Tennessee, demanded the yeas and nays.

The yeas and nays were not ordered.

The bill was then passed.

Mr. FULLER. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

DREDGE AND SNAG BOATS.

Mr. DUNBAR, from the Committee on Commerce, by unanimous consent, reported a bill "to provide for working dredge and snag boats, and for other purposes," which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. COBB claimed the floor.

Mr. BRECKINRIDGE. I rise to what I believe to be a privileged question.

Mr. COBB. I hope the gentleman will first allow me to have this one bill reported, and acted on. My political salvation depends upon it. I appeal to him not to press his privileged question now. It was the general understanding that I was to have the floor as soon as the report from the Committee on Commerce was disposed of.

Mr. BRECKINRIDGE. The gentleman can introduce his bill afterwards.

Mr. COBB. It will not take many minutes.

Mr. SOLLERS. I call the gentleman from Alabama to order.

Mr. COBB. I am only insisting on my rights.

The SPEAKER. The Chair will hear what question the gentleman from Kentucky has to present.

TEXAS DEBT BILL.

Mr. BRECKINRIDGE. Mr. Speaker, I am directed by the joint committee upon the disagreeing votes of the two Houses upon the Texas indemnity bill, to make a report, which I send to the Clerk's table.

The Clerk read the report, which is as follows:

The committee of conference on the disagreeing votes of the two Houses on bill (No. 96) "to provide for the payment of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9, 1850," have met, and after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That in lieu of the sum specified in the first amendment of the House, the two Houses substitute "$7,750,000;"

That the Senate recede from their disagreement to the second amendment of the House;

That the Senate recede from their disagreement to the third amendment of the House;

In lieu of the words stricken out by the fourth amendment of the House, insert "also similar releases to said State of Texas;"

That the Senate recede from their disagreement to the fifth amendment of the House;

In the sixth amendment of the House, insert in lieu of "$6,650 000," "$7,750 000."

That the Senate recede from their disagreement to the seventh amendment of the House.

THOMAS J. RUSK,
CHARLES E. STUART,
SOLOMON G. FOOT,
Managers on the part of the Senate.

JOHN C. BRECKINRIDGE,
THOMAS M. HOWE,
Managers on the part of the House.

I do not concur in the above recommendations and report. GEORGE W. JONES.

Mr. BRECKINRIDGE. I do not intend to detain the House at this late period of the session by a speech. I shall not occupy their attention five minutes.

It will be seen by this report, that the Senate recedes from all its disagreements to the amendments of this House, except in regard to the sum, and on that point the Senate recedes $750,000, making the amount proposed $7,750,000, instead of $8,500,000. The amendment put in by this House requiring Texas to abandon all her claims against the United States on account of Indian depredations or otherwise, is retained in the bill. The report also provides for the release, by the creditors, of the United States and Texas.

I can only say to the House that the joint committee had three or four meetings upon the subject, occupying altogether perhaps ten or twelve hours; and after long, patient, and temperate investigation of the whole question in all its aspects, they felt justified in recommending this adjustment to the House and to the Senate.

I will not recapitulate the arguments which I have had the honor to advance heretofore in reference to the importance of a settlement of this question as regards the interests of the United States. I repeat my firm belief that the adjustment at present proposed is the very best and cheapest which it is now possible, or will at any time hereafter be possible, for the United States to make of a perplexed and vexed question. I believe it will cost us an infinitely larger sum of money if we do not agree to the adjustment now proposed.

Mr. CUTTING, (interposing.) Will the gentleman from Kentucky allow me to ask him a question?

Mr. BRECKINRIDGE. Certainly.

Mr. CUTTING. I desire to ask the gentleman whether the effect of the present bill will not be to put at rest, now and forever, all matters of claim and contention between the United States and Texas?

Mr. BRECKINRIDGE. And the creditors.

Mr. HOUSTON. Just as much as the law of 1850 did, and no further.

Mr. CUTTING. As far as practicable.

Mr. BRECKINRIDGE. Well, Mr. Speaker, I suppose it is proper to add, that, in the present

condition of our legislation, it was important that whatever we did should receive the assent of all the parties concerned—this Government, Texas, and the creditors; and accordingly the distinguished Senator from Texas, [Mr. RUSK,] who was a member of that joint committee, after long conference, finally agreed to the proposition of the committee of the House, and with great candor and sincerity pledged himself to use all his influence to obtain the assent of Texas to the measure, and he thinks it can be done. I believe that both the Representatives from Texas upon this floor, after conference among themselves, have agreed to support this bill if the House shall think it proper to pass it.

My friend and colleague upon the committee, from Pennsylvania, [Mr. HOWE,] who originally voted against the proposition, is now friendly to it, and may wish to make a statement. Without, therefore, detaining the House longer, I yield the floor to him to make any explanation he desires.

Mr. HOWE. It was not my intention, Mr. Speaker, to intrude any remarks upon the attention of the House at this late period of the session; yet considering the important relation which I have been called upon to occupy in regard to this measure, it is, perhaps, due to myself, as well as to the subject, that I should say a few words. As has been stated by my colleague on the committee, [Mr. BRECKINRIDGE,] I voted for the amendment offered by the gentleman from Tennessee, [Mr. JONES,] fixing the amount appropriated by this bill at $6,550,000. I cast my vote on that occasion in pursuance of the dictates of my judgment, and in accordance with the best information that I had been able to obtain from a diligent inquiry; not on a few days examination, but on a diligent examination of this subject, running through a period of two years.

I may state here, sir, that, although not then a member of the House, I was entirely opposed to the annexation of Texas. I watched the progress of that movement, and finally saw it consummated. And I find amongst the provisions of the act annexing that State, a stipulation that Texas should retain all her public lands, so as to enable her to settle her debts, and that in no event this Government should ever be chargeable with the debts of Texas. I thought, under these circumstances, that this Government was never to be held accountable for her debts. But, by the act annexing Texas, we succeeded to the revenue of Texas derived from duties upon imports, which duties had been pledged to a certain class of her creditors as security for the payment of the debts which Texas owed to them. We find ourselves here, then, importuned by the creditors of Texas to pay the debts due to them, on the plea that we have taken possession of the revenues which were pledged to them to satisfy their claims. The principle of our liability was recognized in 1850, at the time of the passage of the boundary act. I need not particularly refer to the circumstances which brought about the passage of that act. It is sufficient for me to say that, in 1850, an act was passed by this Government making an arrangement with Texas for the settlement of her boundary, and for our acquisition from Texas of a certain portion of her territory. Under that act, we acquired from Texas—computing the area of her territory as claimed by her in 1836—sixty-seven millions of acres of land. I am aware that that claim was disputed both here and elsewhere. It was alleged that Texas had no valid claim to the lands which she ceded. But there was a certain portion of the territory that was ceded by the act of 1850 *to which Texas had an undoubted right*. I refer to that portion of the territory comprehended between latitude 36° 30′ north and the Arkansas river, which was the northern boundary of Texas, lying in the latitude of about 38° north. As to so much of that territory as lies between 36° 30′ and 38°, about one hundred miles in width, and stretching west at least 3°, and, I am told, stretching as far west as the mountains, making nearly 6°—as to all that part of Texas, I say, comprehending from twenty to twenty-five millions of acres, there was no dispute. I allude to this circumstance for the purpose of saying that, although great stress has been laid on the fact that the import duties were pledged in payment of those debts to the creditors of Texas, yet the fact of the transfer of this land to our Government constitutes as strong a claim on the part of the creditors.

Mr. GIDDINGS, of Ohio. I wish to propound a single question to the gentleman from Pennsylvania.

Mr. HOWE. The gentleman from Ohio will be good enough to excuse me until I get through. I am not so old or experienced a speaker as he is; and if I allow interruptions, I may be thrown from my track.

Texas, to secure her creditors, made a variety of pledges. Revolutionary Governments, as we know from our own history, are sometimes put to great straits to raise money. Texas pledged everything she had. She pledged her duties arising from imports for the payment of principal and interest of a certain class of her debts. She pledged her duties on imports for the payment of interest only accruing on a certain other class of her debts. She pledged the proceeds of her public lands for still another class of debts. There was a great variety of classes of debts against Texas for which different pledges were made. By a solemn resolution of the Legislature of Texas, on the 14th of January, 1840, she pledged the proceeds of her public lands generally, the proceeds of her revenues, and her public faith, for the payment of her debts. I refer to the fifteenth section of the act of the Legislature or Congress of Texas entitled "An act to provide for the more certain operation of the sinking fund to extinguish the five million loan:"

Be it further enacted, &c., That, for the redemption of all loans negotiated by the authority of the Republic of Texas, independently of the reservation of the sinking fund, the proceeds of the public lands generally, its revenues, and public faith are solemnly pledged.

Here we find, on the 14th of January, 1840, the public lands, the duties arising from imports, and the public faith of Texas, pledged—everything which she had to give, her property and her honor, were solemnly pledged to her creditors.

Now, under this pledge comes in these public lands, transferred to the General Government by the boundary act of 1850, before referred to. If the creditors of Texas might properly institute a claim growing out of the transfer of revenues from imports, how much higher claim might they institute against us for the transfer of these public lands which had been pledged to them—not, as has been the impression of many gentlemen, lands to which she had but a vague, uncertain claim, but lands which, as I have said, and as all will say who examine the facts—indisputably belonging to herself, from latitude 36° 30′ to latitude 38°, her claim to which was never questioned, and comprising from twenty millions to twenty-five millions of acres.

I merely allude to these matters for the purpose of showing the House that this is a complicated question. I approached its consideration under the impression that I should probably not become convinced that it was proper for this House to give more than the $5,000,000 appropriated by the act of 1850, with the accrued interest and the premium. But, upon a further and fuller examination of the matter, in all its complications, I became satisfied that it is of very great importance to the country that the question should be settled in some way, that it was the duty of the Senate and House of Representatives to come to an understanding in regard to their disagreeing votes. I became satisfied that some compromise arrangement should be made between them, and that this question, moreover, had to be settled in such a way as to receive the coöperation of the third party, the State of Texas. Your legislation, in this matter, to be practical, must be such as will meet the approbation of the authorities of Texas. Hence, the committee of the House directed their attention to this point: What kind of legislation would so commend itself to the authorities of Texas as to receive their approbation, and we are satisfied that the sum named in the bill is the smallest sum which can receive its approbation and approval, without which, from the very circumstances which surround the case, our action would be wholly ineffectual and void.

I am not in the habit of basing my action upon my prejudices or my passions; but like a plain business man as I am, I take counsel of my own judgment, and do what I think is best under the circumstances. I am asked to state what is the amount of the claims of the creditors of Texas. I would say, in reply to that question, that it appears, from the best information accessible to the Committee, that the amount of claims recognized by Mr. Corwin, late Secretary of the Treasury, as falling within the provisions of the act of 1850, including interest to the 1st July of that year, was $8,270,769. Mr. Cushing, the present Attorney General, I believe, has decided that what is called the funded debt of Texas, and which was omitted by Mr. Corwin, amounting to $1,711,428, ought to have been included, making the whole amount on the first July, 1850, say $9,982,197; to this must, of course, be added the interest since the first July, 1850, to be determined by the existing laws of Texas—but computing the interest upon the amount at five per cent. per annum until the first of January next, being the earliest period at which the debt could be paid if the bill becomes a law, it would make the amount then due say $12,727,301.

I wish to allude to another branch of this question that has reference to the last amendment of the House, which requires Texas to yield all her claims for Indian depredations. When the bill was under consideration in the House, I did attach considerable importance to that branch of it, as my friend from Ohio [Mr. CAMPBELL] knows. I consulted with him in reference to the proper shape which should be given to the amendment in order to effect *a final settlement* with Texas in case of her acceptance of the act. It appears that Texas has in reserve against this Government a large claim for Indian depredations. Such is probably not the general impression in the House, or the country. I myself supposed that we had effected a final settlement with Texas in 1850, at the time of the passage of the boundary act; but, upon an examination of that subject, I think it will be found that there is no relinquishment upon the part of Texas, of her claims growing out of depredations upon the part of Indians.

Mr. HOUSTON. Will the gentleman from Pennsylvania allow me to ask him a question?

Mr. HOWE. I have declined yielding the floor to gentlemen upon this side of the House, and I had rather not yield just now to any one. I will answer any inquiry of the gentleman from Alabama with great pleasure when I get through.

I am assured by a distinguished representative of Texas in the other branch of Congress, that these claims will be pressed upon this Government; that it never was the intention of the authorities of Texas to abandon them, and that this matter was the subject of controversy to some extent, (perhaps not in the Senate,) but certainly in the celebrated Committee of Thirteen in 1850. He assured me, also, that, in a conversation with the distinguished statesman who originated this boundary bill, he had distinctly stated that if it involved an abandonment of the claim which Texas had for Indian depredations, he would oppose the measure; and further, that Mr. Clay told him, if it were practicable to do so, he would willingly insert in the bill two millions and a half more, making twelve and a half millions instead of ten millions, but that it would greatly complicate a vexed question which that great statesman was trying to adjust, and that it would be better to make the amount $10,000,000, leaving this claim for Indian depredations in abeyance.

Gentlemen may think that there is nothing in this claim for Indian depredations. She alleges that she has a good claim, growing out of the obligations of good neighborhood at least, and that we were bound in good faith not to do anything to the injury of Texas. She alleges that we transferred the Seminole, the Chickasaw, and the Cherokee Indians, from points east of the Mississippi river, to the borders of Texas, and that these Indians had no possessory right to the lands upon which they were colonized by us. This is the allegation upon the part of Texas, and it gives to her claim some degree of plausibility. I am inclined to think unless this claim is settled *now*, that it will prove a source of much controversy hereafter in the Halls of Congress, and may result ultimately in a recognition of her claim, amounting to some four millions nearly ten years ago.

In this somewhat desultory manner, I have endeavored to state some of the points of this case, which I consider an exceedingly complicated one. The question now before the House is, whether, in view of all this difficulty, it is not better to make a settlement now? There are some questions which are too complicated and knotty ever to be untied, and it is sometimes the part of wisdom to

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cut the knot. I think this is a question of that class, and I think with my friend from Kentucky, [Mr. BRECKINRIDGE,] that the very best thing which the House can do, is to agree to the report of the committee of conference, and cut this knot by giving to the creditors of Texas $7,750,000, which I have no doubt will be satisfactory both to them and Texas.

Mr. GIDDINGS. As my friend from Pennsylvania is the only Representative from a free State upon the committee of conference, I wish to propound to him this question: If Pennsylvania did not surrender all the privileges of revenue arising from imports in her State and from her public lands, on coming into the Union? And I would ask him this further question, if a free State has ever called upon this Government to pay her debts? We know his answer, and he need occupy no time in stating it. I wish the gentleman to say further, however, if there is any just reason why the people of Pennsylvania should be taxed to pay the debts of Texas any more than the people of Texas should be taxed to pay the debts of Pennsylvania?

Mr. HOWE. My reply to the gentleman is, that the State of Texas ought to have paid her whole debt to the last farthing, without calling upon this Government. My further reply is, that this Government has undertaken, for certain considerations satisfactory to itself, to pay a share of this debt—has acknowledged its liability by agreeing to pay—and her undertaking or contract, if you please, is upon the statute-book, and now amounts to $6,500,000. So far you have an existing contract, which I feel bound in good conscience to execute, and to this amount I am willing to add the further sum of $1,200,000, to get a full acquittance from Texas for a claim of three or four times that amount.

Mr. GIDDINGS. I wish to propound a further inquiry to the gentleman from Pennsylvania: If he feels bound in conscience, by the act of 1850, to pay this money from the Treasury of the United States? Is he bound to any extent or any degree by the action of the Congress of 1850, or is he bound to act according to the dictates of his oath and conscience, when sitting in his supreme capacity as a legislator? Is he bound to put his hand into the Treasury of the United States for the purpose of paying the debts of Texas, to pay this $7,750,000 because the Congress of 1850 passed a law to pay $6,500,000?

Mr. HOWE. I have this to say in reply, that when I find an act upon your statute-book, which in its nature is not repealable, and I am called upon to participate in the execution of that act, it becomes my duty to see it executed, and I will allow nothing except my conscience to interfere with that duty. I am satisfied that our predecessors did in 1850 agree to pay the creditors of Texas a sum which, with the accrued interest and premium, amounts to $6,550,000, and I am satisfied too, that it has not been paid.

Mr. GIDDINGS. I wish my friend from Pennsylvania to answer my question distinctly. Does he feel his conscience and judgment bound by the legislation of a former Congress, or by his own judgment and conscience? I want him, in his answer, to come up distinctly to the point.

Mr. HOWE. I cannot hear the gentleman distinctly.

Mr. GIDDINGS. I wish the gentleman distinctly to state whether this body, which only last July repudiated the action of a former Congress, and acted *against* the interests of the whole free States, is now bound to turn round and recognize the act of 1850, as binding on us, or are we to sanction that act by adding $175,000 to the amount they awarded?

Mr. HOWE. I do not feel exactly bound to go into that discussion just now. I think my opinions may very well be deduced from my action upon those matters when they have been legitimately before the House.

Mr. CAMPBELL. If the gentleman from Pennsylvania will allow me, I wish to say a word. I do not wish to embark at all in a general discussion of this subject now, for want of time. I did not participate in the debate upon this bill before its passage, but for the reasons which have been assigned by the gentleman from Pennsylvania, I made up my mind that the safety of the future would justify the support of the measure, as a matter of national economy. Perhaps there is no man upon this floor who opposed the annexation of Texas with a greater degree of ardor than I did. No man upon this floor in 1850, not even my colleague, [Mr. GIDDINGS,] who resisted with a more determined and ceaseless opposition that measure which I regarded, and still regard, a great wrong. But, sir, the so called compromise measure giving Texas and her creditors $10,000,000 for certain territory, was passed.

Mr. HAMILTON. I rise to a question of order. I submit that this debate is not in order.

Mr. CAMPBELL. I am answering a question propounded by my colleague. My proposition is this, to which I wish to call the attention of my colleague.

The SPEAKER. Being called upon by the gentleman from Maryland, the Chair must decide that it is not in order to make anything more than an explanation.

Mr. CAMPBELL. That is all I wish to do. I understand, from the best information I can obtain, that the debt of Texas to her creditors amounts now to nearly $12,000,000. By the provision of this bill, we give for that $7,750,000, $6,500,000 of which has already been provided by the act of 1850; and by a provision which I procured to the present act, we procure a full release from all the parties—Texas and her creditors. What I wish to know of my colleague, is, whether, pending the proposition to annex Texas, he, and I, and all who were opposed to that measure, did not take the ground before the country, that, if Texas were annexed, this Government would become liable for every dollar of that debt? I wish to know of my colleague whether he did not take that ground upon every stump in northern Ohio? I confess I did so in the southern part of the State; and what I then said I still believe.

Mr. GIDDINGS. I most cheerfully answer the question of my colleague. When the proposition to annex Texas to the Union, by a "*joint resolution*," was first propounded, I denounced it as unconstitutional, and entirely *void;* as imposing no obligation upon me, or any other human being under Heaven. My friend, too, then denounced it as such, unless it were annexed by *treaty* instead of joint resolution.

Mr. HAMILTON. I object to all this discussion out of order.

Mr. GIDDINGS. I hope, then, gentlemen will not be quite so fond of consenting to the propounding questions, if they are not willing to hear answers to them.

[Cries of "Order!" "Order!"]

The SPEAKER. The Chair must call the gentleman to order, if he is extending his remarks beyond a mere personal explanation. But the Chair did not hear what the gentleman from Ohio was debating.

Mr. GIDDINGS. I was simply replying to the gentleman from Ohio. He propounded to me a certain question, to which he desired an answer, and the whole House consented to it.

The SPEAKER. The Chair decides, in the first place, that the gentleman from Pennsylvania [Mr. HOWE] is entitled to the floor, and cannot yield it except for explanation. That is the rule.

Mr. GIDDINGS. Can he not yield it by unanimous consent?

The SPEAKER. Certainly, by general consent.

Mr. GIDDINGS. I was speaking by unanimous consent. No person interposed any objection.

The SPEAKER. The gentleman from Ohio [Mr. CAMPBELL] propounded a question to his colleague, and the gentleman from Maryland objects to this discursive debate. The Chair understands the rule, and must enforce it.

Mr. GIDDINGS. I respectfully trust the Chair will allow me to define my position.

The SPEAKER. Does the gentleman from Pennsylvania yield to the gentleman from Ohio for personal explanation?

Mr. HOWE. I do.

The SPEAKER. The gentleman from Ohio will proceed in order.

Mr. GIDDINGS. While I was speaking, my colleague propounded to me a question, and the whole House consented that I should answer it.

The SPEAKER. Whether the gentleman is in order or not will depend upon what he says.

Mr. GIDDINGS. The gentleman asked me if I did not object to the Texas annexation upon the ground that we should be bound to pay the debt of Texas? I then took the ground, and have ever since maintained it, that if Texas were constitutionally annexed to the United States, it must be by *treaty*, and not by joint resolution; that such joint resolutions would bind us no longer than their passage, or they might be repealed at any moment; that they imposed no obligation upon any future Congress, and that, being void in the beginning, it never could be any otherwise than void.

Mr. McMULLIN. I object to this debate.

The SPEAKER. The gentleman, then, is out of order, and the gentleman from Pennsylvania will proceed in his remarks.

Mr. GIDDINGS. I only wish to remark, then, that I hope gentlemen will be a little more careful in propounding questions if they will not allow answers to be given.

Mr. CAMPBELL. I certainly do not object. I have never, in my life, propounded a question and objected to a reply.

Mr. HOWE. I have but a few words more to say. In reply to the question of the gentleman from Ohio, I wish to say that Pennsylvania, so far as I recollect, did *not* part with her public lands; and I wish to say, furthermore, if I understand the financial history of the country, the revolutionary debts of the several States were assumed and paid by the Government. I understand, if this arrangement of the committee of conference is carried out, it covers the entire debt of Texas not already provided for. As far as the geographical question is concerned, which is evidently sought to be brought in here by the gentleman from Ohio, I wish to say that the committee of conference was composed of three northern and three southern men, all of whom, I do not hesitate to believe, acted under a high sense of duty to the country as well as themselves, and with an earnest desire to do justice to all parties, in effecting a satisfactory adjustment of a complicated and vexatious subject.

I have nothing more to say; and, in obedience to what seems to be the general desire, I call the previous question.

[Cries of "No!" "No!"]

Mr. HAVEN. I ask the gentleman from Pennsylvania to withdraw his call for the previous question, that I may have a few minutes in which to say something in reference to the bill, not so much with the expectation of controlling the House in any action it may take on it, as with a view of putting myself right upon the record.

Mr. HOWE. With the consent of the House I will withdraw my call for the previous question for the gentleman from New York, with the condition that when he has occupied five minutes he will renew it.

Mr. HAVEN. I do not like to take the floor under that condition; but——

Mr. HAMILTON. I hope there may be no such proposition agreed to.

Mr. HOWE. The gentleman from New York desires to set himself right, and I yield to him for personal explanation.

[Cries of "I object!" "No!" "Yes!"]

The SPEAKER. The Chair would like to understand how the matter is. Does the gentleman from Pennsylvania withdraw the call for the previous question, and yield the floor to the gentleman from New York?

Mr. HOWE. I withdraw the call for the pre-

vious question, and yield the floor to the gentleman from New York in order that he may make a personal explanation, provided he renews the call when he has finished what he has to say.

The SPEAKER. Then the gentleman retains the floor, and yields to the gentleman from New York for personal explanation.

Mr. HAVEN. I desire to say but one word to the gentleman and the House.

Mr. McMULLIN. I have no objection to the floor being occupied by the gentleman from New York for a personal explanation, but I do object to the committee of conference coming in here, making two speeches in favor of the bill, calling for the previous question, and gagging those who desire to say one word against it.

Mr. HAVEN. If the House will permit me a moment I will say that I do not want the floor for the purpose of a personal explanation merely. I would not take up the time of the House for that purpose. I want to put my opinions briefly upon the record. In doing so I think I will hardly occupy more than five minutes. If I can get the floor for that time, without any further condition, I am willing to take it; otherwise I am willing to vote on the report.

Mr. McMULLIN. I want four or five minutes for the same purpose.

Mr. HOWE. I should be much pleased indeed to afford my friend from New York an opportunity to express his opinions on this subject; but, as he says that he does not desire the floor for a personal explanation, by yielding to him I may be called on by two hundred and thirty-four gentlemen for the same purpose, with precisely the same propriety. I feel, therefore, bound, as the House has indulged me so kindly in the discursive remarks which I have made, to put an end to the discussion by insisting on my call for the previous question.

Mr. McMULLIN. I believe, Mr. Speaker, that it is now in order to move to lay the bill upon the table.

The SPEAKER. It is.

Mr. McMULLIN. Then I submit that motion.

Mr. HAMILTON. I desire to ask the Chair a question for information. If the call for the previous question is seconded, and the main question ordered to be now put, will the report of the committee of conference be divisible?

The SPEAKER. It will not.

Mr. HAMILTON. Then the House will be brought to vote upon the report as a whole.

The SPEAKER. The report of the committee of conference must be voted on as a whole. It cannot be divided, whether the call for the previous question is, or is not sustained.

Mr. HAMILTON. I demand the yeas and nays on the motion to lay the report upon the table.

The yeas and nays were ordered.

Mr. McMULLIN. I withdraw my motion to lay upon the table.

Mr. HAMILTON. I renew it.

Mr. DAVIS, of Indiana. I demand the yeas and nays on the motion.

The yeas and nays were ordered.

The question was taken; and the motion was disagreed to—yeas 46, nays 139; as follows:

YEAS—Messrs. Ashe, Barksdale, Belcher, Caskie, Chrisman, Cobb, Craige, John G. Davis, Edgerton, Edmundson, Ellison, Flagler, Fuller, Giddings, Goode, Hamilton, Hicster, Houston, J. Glancy Jones, Kidwell, Knox, Lamb, Letcher, Lilly, Lindley, McCulloch, McMullin, McQueen, Maurice, Millson, Morgan, Morrison, Murray, Noble, Norton, Packer, Phelps, Powell, Ruffin, Russell, Shaw, Skelton, Tracy, Wade, Ellihu B. Washburne, and Yates—46.

NAYS—Messrs. Abercrombie, Aiken, Appleton, David J. Bailey, Banks, Barry, Bell, Bennett, Benton, Bliss, Bocock, Breckinridge, Bridges, Bristow, Campbell, Carpenter, Caruthers, Chamberlain, Chandler, Chase, Chastain, Clark, Clingman, Cook, Corwin, Cox, Crocker, Cullom, Cumming, Curtis, Cutting, Thomas Davis, Dawson, De Witt, Dickinson, Dowdell, Drum, Dunbar, Eastman, Eddy, Edmands, John M. Elliott, English, Etheridge, Everhart, Farley, Fenton, Florence, Gamble, Goodrich, Green, Greenwood, Grey, Aaron Harlan, Andrew J. Harlan, Harrison, Hastings, Haven, Hendricks, Hibbard, Hill, Howe, Hughes, Hunt, George W. Jones, Roland Jones, Kittredge, Kurtz, Latham, Lindsley, Lyon, Macdonald, McNair, Mace, Macy, Matteson, Maxwell, May, Mayall, Meacham, Middleswarth, Smith Miller, Nichols, Olds, Mordecai Oliver, Orr, Parker, Peckham, Pennington, John Perkins, Pratt, Preston, Puryear, Ready, Reese, Richardson, Riddle, David Ritchie, Thomas Ritchey, Robbins, Rowe, Sabin, Sage, Sapp, Seward, Seymour, Shannon, Simmons, Singleton, Samuel A. Smith, William Smith, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Stratton, Straub, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Trout, Tweed, Upham, Vansant, Walbridge, Walker, Walley, Warren, Wells, John Wentworth, Tappan Wentworth, Westbrook, Wheeler, Witte, Daniel B. Wright, Hendrick B. Wright, and Zollicoffer—139.

So the House refused to lay the report of the committee of conference upon the table.

Mr. HAVEN. I desire once more to ask the gentleman from Pennsylvania [Mr. HOWE] to withdraw his call for the previous question. I was in the committee which examined this matter in the first instance.

Mr. CLINGMAN. I object. There are several gentlemen who desire the same opportunity for the submission of remarks upon the bill.

Mr. HAVEN. I only desire to put myself right.

Mr. HOWE. I am admonished by gentlemen upon my right and upon my left that I shall be called on to yield the floor to them for the same purpose. I should be really glad to accommodate the gentleman from New York, but in doing so now, I shall involve myself in much difficulty.

The call for the previous question received a second, and the main question was ordered to be now put.

The question recurred on agreeing to the report of the committee of conference.

Mr. DAVIS, of Indiana, demanded the yeas and nays.

The yeas and nays were ordered.

Mr. HOUSTON. If this report of the committee of conference be disagreed to, is it not competent for the House to then ask for another conference?

Mr. CLINGMAN. I call the gentleman to order. Debate is out of order.

Mr. HOUSTON. I know when I am in order.

The SPEAKER. The House can do what it pleases. If this report be disagreed to, another committee of conference can be appointed.

The question was taken; and the report was agreed to—yeas 123, nays 77; as follows:

YEAS—Messrs. Aiken, Willis Allen, Appleton, David J. Bailey, Thomas H. Bayly, Banks, Barry, Bell, Bennett, Bliss, Breckinridge, Bridges, Bristow, Bugg, Campbell, Carpenter, Chamberlain, Chandler, Chase, Clark, Clingman, Cook, Corwin, Cox, Crocker, Cullom, Cumming, Curtis, Cutting, Thomas Davis, Dawson, De Witt, Dick, Dickinson, Dowdell, Drum, Dunbar, Eastman, Eddy, Thomas D. Eliot, John M. Elliott, English, Fenton, Florence, Gamble, Goodrich, Green, Grey, Andrew J. Harlan, Harrison, Hastings, Hendricks, Hill, Howe, Hughes, Hunt, Kerr, Kurtz, Latham, Lindsley, Lyon, Macdonald, McDougall, McNair, Mace, Macy, Matteson, Maxwell, Mayall, Meacham, Middleswarth, Smith Miller, Olds, Orr, Peckham, Pennington, John Perkins, Phillips, Pratt, Preston, Puryear, Ready, Reese, Riddle, David Ritchie, Thomas Ritchey, Robbins, Rowe, Sabin, Sapp, Seward, Seymour, Shannon, Simmons, Samuel A. Smith, William Smith, George W. Smyth, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, David Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Trout, Tweed, Upham, Walbridge, Walker, Walley, Warren, Wells, John Wentworth, Westbrook, Wheeler, Witte, Daniel B. Wright, Hendrick B. Wright, and Zollicoffer—123.

NAYS—Messrs. Abercrombie, James C. Allen, Ashe, Barksdale, Belcher, Benson, Benton, Bocock, Boyce, Caruthers, Caskie, Chastain, Chrisman, Cobb, Craige, John G. Davis, Edgerton, Edmundson, Ellison, Etheridge, Everhart, Farley, Flagler, Fuller, Giddings, Goode, Grow, Hamilton, Aaron Harlan, Haven, Henn, Hibbard, Hiester, Houston, George W. Jones, J. Glancy Jones, Roland Jones, Kidwell, Kittredge, Knox, Lamb, Lane, Letcher, Lilly, Lindley, McCulloch, McMullin, McQueen, Maurice, Millson, Morgan, Morrison, Murray, Nichols, Noble, Norton, Mordecai Oliver, Packer, Parker, Phelps, Powell, Pringle, Ruffin, Russell, Sage, Shaw, Shower, Singleton, Skelton, Stratton, Tracy, Vansant, Wade, Ellihu B. Washburne, Israel Washburn, Tappan Wentworth, and Yates—77.

Mr. BRECKINRIDGE. I move to reconsider the vote by which the report was adopted, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. ETHERIDGE. Mr. Speaker, I rise to a question of privilege. In the Globe of this morning, which contains the proceedings of Monday last, I am represented to have said, in reference to my vote upon the French spoliation bill, which was then again upon its passage in consequence of the veto, that "I voted against the bill upon its passage, and shall vote against it now, but I do not wish to have my vote considered as either approving or disapproving the President's veto message." This report is incorrect. I said I did not wish my vote at that time to be considered as a justification or approval of the reasoning of that particular message.

WILLIAM H. DE FORREST.

On motion by Mr. HIBBARD, the Committee of Ways and Means were discharged from the further consideration of the memorial of William H. De Forrest, claiming indemnity for the destruction of some powder by Captain Hollins, near Greytown, and leave was granted to the memorialist to withdraw the same.

PUBLIC LANDS TO RAILROADS IN ALABAMA.

The SPEAKER. Reports are now in order from the Committee on Public Lands.

Mr. HOUSTON. Has the morning hour expired?

The SPEAKER. It has not yet commenced.

Mr. COBB, from the Committee on Public Lands, reported a bill; which was read a first and second time by its title, as follows:

A bill granting to the State of Alabama public lands in alternate sections, to aid in the construction of railroads from Mobile to Girard, from Selma to or near Gunter's Landing, with branches from or near Gadsden, through Wills and Chattanooga Valleys to the eastern State line of Alabama; from Memphis, Tennessee, to a point intersecting the Nashville, Chattanooga and Charleston railroad, at or near Stephenson, Alabama; from Beard's Bluffs, via Elyton and Tuscaloosa, to some point on the Mobile and Ohio railroad, and from Montgomery to the northern State line of Alabama, via Decatur and Athens, in said State.

The SPEAKER. The Clerk will now read the bill through.

Mr. WARREN. This is a railroad bill of the ordinary character. It contains precisely the same guards and restrictions as the bills which have already passed contained. Therefore I ask that its first reading may be dispensed with.

The SPEAKER. Is it the unanimous pleasure of the House that the first reading of the bill be dispensed with?

Mr. HAMILTON. I object. I want to hear every provision of every railroad bill.

The Clerk read the bill *in extenso*.

Mr. COBB. Mr. Speaker, the House will see that this is just such a bill as has been reported in this body for the various States in the Union, asking grants of lands. I will state, before I proceed to give a history of the rise and progress of the roads which it is now proposed to be provided for, that there are a number of roads included in this bill. The reason that there are so many roads embraced is, that they are being constructed by different companies, and therefore it is necessary that each one should be mentioned in the bill. In some instances they pass for one hundred and fifty or two hundred miles through a country where there are but little public lands.

I will also state, for the information of the House, that the whole length of the roads running through the public lands embraced in this bill, is only eight hundred and fifteen miles, while the total length is one thousand one hundred and twenty-nine miles and three quarters, being three hundred and fourteen and three quarter miles through a State in which there are no lands to be granted. It is fair and proper that I should state these facts, because I do not intend to take the House by surprise.

Now, sir, I propose to state some facts to which I ask the earnest attention of the House, which will show, that not only is the State of Alabama interested in the passage of this bill, but many others in the Union, and many of them to a much greater extent than my own.

The Mobile and Girard railroad leads from Columbus, Georgia, to Mobile, Alabama; length two hundred and thirty miles; connects with the Georgia line of railroad northeast, and Mobile and New Orleans southwest, passing through from Girard, for one hundred miles, a fine agricultural country—thence to Mobile through a poor pine country; land extremely poor—good for nothing but the timber.

Capital stock, about $4,000,000; subscription by the city of Mobile, $1,000,000; Columbus, Georgia, $300,000; the balance by farmers, will be paid in. Fifty-two miles in process of construction; twenty-two miles of which will be in operation in a short time.

Now, here is something to which I ask the particular attention of gentlemen:

Benefits to result to the Government in selling the lands and carrying the mails. The latter, that is, "the carrying of the mails" can be done for $20,000 per annum less than it now costs from the East to Mobile and New Orleans.

Now, I call the attention of the House to the

length of time these lands have been in market; for it is important that, although this bill gives us a good deal of land, it is worth but very little, without the construction of the roads, which have been culled for these many years:

Land brought into market in 1819 and 1823—from thirty to thirty-five years ago—through which this road runs.

Grant of land asked for, about four hundred and fifty thousand acres—before the passage of the graduation bill; of course much less now.

Now, in reference to the Memphis and Charleston railroad.

It leads from Memphis, Tennessee, to the Nashville, Chattanooga, and Charleston railroad. Length of road and branches, two hundred and eighty-eight and a half miles. Connects with the Mississippi river, west; with the Tennessee, Georgia, and Virginia, north; and South Carolina roads, east, passing through portions of Tennessee, Mississippi, and Alabama.

Length through public land one hundred and fifty miles; gets but little; being nearly all taken up that is suitable for agriculture; timber and limestone rocks plenty.

Good for lime—a very useful article. Now, mark what we are doing towards completing this road. This will show you that it is no humbug; that it is no air operation; but that it is founded upon dollars and cents, and is sure to be constructed. Completed in Tennessee and Alabama, one hundred and six miles and a half. Capital necessary to complete the road about $4,000,000, of which $3,700,000 is taken, and much paid in, principally by persons on the line. Nearly all of the road graded. One hundred thousand dollars worth of irom now in New Orleans, as I am informed.

The grant of land now asked for—and a few dollars of subscription—will complete the road in three years, thus forming one unbroken connection, principally by railroad, to the Canadas. Grants of land, about one hundred and fifty thousand acres before the passage of the graduation act, of course, much less now. Land brought into market in 1809 and 1818, from thirty to thirty-five years ago. I will state to the House that since the passage of the graduation act, nearly five hundred thousand acres of land have been sold at one land office situated near this road.

Alabama and Tennessee river railroad and branches from Selma to or near Gunter's landing, Alabama, on the Tennessee river, leading from south to north, in the direction to Nashville, Louisville, and the lakes, with branches through Wills and Chattanooga valleys, to connect the Tennessee, Georgia, Virginia, North and South Carolina line of railroads.

Length of road and branches two hundred and eighty-three miles within Alabama. Capital stock about $4,000,000, about $3,000,000 taken; fifty-six miles completed, and much of the residue under contract. Benefits to flow to the Government innumerable, by bringing into market a quantity of mineral and timber land now too remote to be useful—connecting the North and South. The land through which the road passes has been in market from five to thirty-five years, having been mostly brought into market in 1819.

Now, let me say to the House something relative to the character of the country through which this road passes. The distance from the navigable waters of the Tennessee river to Selma, on the Alabama, is about one hundred and fifty miles. Between those two rivers there are about fifty or sixty miles of the richest coal, iron, and marble country that you can perhaps find anywhere, and they have recently discovered perhaps the finest copper mines that exist in the United States. You may well suppose that, this fact being understood, there will not be much land left for this company.

The Northeast and Southwest railroad leads from Beard's Bluff, on the Tennessee river, via Elyton and Tuscaloosa, to the Mobile and Ohio railroad, at or near where the Vicksburg and Montgomery road crosses the Alabama State line, connecting the States of Louisiana, Mississippi, Alabama, Tennessee, Kentucky, and the northern States. Length is one hundred and sixty-eight miles. The face of the country through which it passes, now public, contains an abundance of iron ore, coal, pine timber, &c. Remote from market; produce to be hauled on wagons and carts from fifty to one hundred miles. Capital stock about $6,000,000, to be employed for railroad and manufacturing purposes. Considerable paid in, and much of the road now under contract for grading. Subscription mostly by persons on the line. Land through which it passes was brought into market in 1819 and 1821. Amount of land granted will be comparatively small, since the effects of the graduation act in bringing into market an immense amount along the line of road, together with the proposed construction of the road.

I will say to my friends from Pennsylvania upon this floor, that they must not be alarmed at that word "manufacturing," and flare off. The company are going to endeavor to make their own railroad iron in the neighborhood of the road, for there is an abundance of coal and iron upon the line.

Now, Mr. Speaker, it will cost to finish all these roads about $18,500,000. If Congress grant to the State of Alabama what this bill proposes to grant, to aid in the construction of these roads, it will be only giving one million six hundred thousand and odd acres of land, less by three hundred thousand acres than was appropriated to the Illinois railroad. And then let the House take this into consideration: these lands have been in the market for the last twenty, thirty, or forty years, and have not found purchasers. But suppose that the grant contemplated by this bill be made, in what proportion do you think you contribute for the purpose of completing these roads, provided you made a clear donation to the State? They will have cost, as I stated, $18,500,000. Now, the land proposed to be granted could not be sold for a sum which would pay one eleventh part of the cost of the road; and that is all which Congress will have contributed to build these great and important railroads, the making of which will bring thousands of acres into market that would, perhaps, never have been sold, and which will connect Alabama with every State of the Union. Will you not come forward, then, and cheerfully contribute this one eleventh part of the cost toward the construction of these important roads—roads which will connect with Mobile bay, and with every portion of the country, north, east, and west?

My time, Mr. Speaker, admonishes me to conclude my remarks, which I will do—the constitutional question having been discussed and disposed of—by simply moving the previous question. I do this because I want a vote upon it now. When I was before my people, a part of this bill was referred to, and I was upbraided with not having brought it forward, and properly advocating it before the House, and that I had not even done that which I might have done. If I do not now get a vote upon this bill, I cannot, of course, successfully enter the canvass [laughter] on which I am about to enter for reëlection.

I do not want any charge to be made against me that this House has not acted upon any measure in which my people have an interest. I ask the House to vote for this bill. My people are a people who do not want nor ask for what is wrong; but they are a grateful people; and if this bill is passed, they will show their gratitude by finishing the roads, and inviting a connection with them, thereby facilitating the commerce of the country. And not only will they be thankful to me, but they will contribute much to the prosperity of the States of Tennessee, Kentucky, and Ohio, in opening a new market to their pork, bagging and rope, flour, and other productions. The passage of this bill will be a matter of great satisfaction to us, and of immense interest to the citizens of those States which are particularly interested in finding a market among us for their productions.

Mr. ABERCROMBIE. I ask my colleague not to call the previous question, as I have an amendment, which I want to propose to this bill.

The amendment was reported, as follows:

And be it further enacted, That all the benefits and privileges granted to the several railroads mentioned in this act, shall be extended to the States of Alabama and Florida, for the railroad now being constructed from Montgomery, Alabama, to Pensacola, Florida.

Mr. SINGLETON. I would ask the gentleman from Alabama [Mr. COBB] what has become of the Mississippi and Alabama railroad bill, which was referred to the Committee on Public Lands?

Mr. COBB. A very worthy gentleman on that committee has charge of that bill, and has the instructions of the committee to report it.

Let me say, lest it might be considered that I have acted hastily in reporting this bill, that I gave way last session to two railroad bills—one of them the Wisconsin bill, and the other the Minnesota bill—and the fact of my yielding for that bill to be reported in preference to this, while I really had the floor to report my bill, is one great point with which I have been charged. The House, at that time, took action upon that bill.

And now let me say that, in offering this bill, I offer a bill a part of which, so far as the appropriation of land is concerned, is the second bill that was ever offered, or prepared to be offered, to the Congress of the United States containing that proposition. Since it was first brought forward millions of acres of land have been granted to other States for similar purposes.

Mr. ABERCROMBIE. I ask my colleague to yield me the floor to make a statement to the House.

Mr. COBB. Oh, yes; certainly.

Mr. ABERCROMBIE. I only wish to say a few words in relation to the bill now before the House. The amendment which I have offered is to appropriate lands to the town of Montgomery, and the city of Pensacola, which are distant from each other some one hundred and sixty or one hundred and seventy miles. A large portion of the region between these places possesses no public lands. The line of railroad runs through a rich and fertile country, and the lands are already sold. The lands asked for by this amendment are worthless to the General Government, and are worthless to the State; they can never be sold until some improvement is made in them. There are no inhabitants there, but gophers and salamanders. It is a country which, in its present condition, cannot be settled. But if this amendment be adopted the contiguous lands will be improved, and then they will bring some profit to the Government, and revenue to the State, as it will afford the means of transporting timber which cannot be made use of unless such means are provided. The Great Western railroad, from Girard to Mobile, passes, for a great extent, through a pine wood country, where the land is entirely valueless. It has been in the market for thirty years, and has not been sold. These lands have recently, under the graduation act, been cut down to twelve and a half cents an acre. Thousands of acres of these lands have been sold lately, and the balance is entirely useless, and will remain so forever unless some improvement be made in the country by which the lands can be made available. The Government may hold on to these lands, but they cannot be sold unless such improvement be made; which, if made, will bring immense advantage to the State by giving it settlers, and opening facilities for the sale of timber and turpentine. This is not a favor to the State alone; it is a favor as well to the Government. It will be the means of bringing a revenue to the Government which it never otherwise could get.

I state these facts from my own knowledge, and I hope that my character in this House will repel distrust as to my statement. I am confident that the Government will be benefited by the measure, and every man knows the same who has any acquaintance with that district of country. It is not a gift presented by the Government without remuneration. The Government will find itself fully remunerated when it comes to see the immense quantity of land which it will bring into market, and the value of turpentine and timber which will be brought into market by it. It will render those timbered lands very valuable. I know that there is no speculation in any of these roads, and I know that neither the Montgomery, nor the road from Girard to Mobile, are to be constructed for merely speculative purposes. The road for which the aid of the Government is now asked will prove a great benefit to the planters of that section of the country, as it will open a means by which they may be able to reach market. It is to run along the borders of a prairie country, where the roads are almost impassable in the rainy, unpleasant season of the year, so that the best teams cannot carry more than four or five bales of cotton at a time.

Recently $1,000,000 have been subscribed to the stock of this road at Mobile, which will insure its completion. There are twenty-two miles of the road now in running order, and there are twenty or thirty miles more which are under contract. The road runs, a part of the way, through

a portion of the country that requires the aid of the Government. If the southern part of the road had as much population as the other portion has, they could build that section of the road without asking the aid of the Government. The very thing that prevents the building of the road is the fact, that along a large portion of the line of the road the people are very poor, have not the capital to subscribe for the stock. My colleague has said so much upon this subject, that I feel it unnecessary for me to add anything more in regard to the necessity that exists for aid at the hands of the General Government. I could say a great deal more upon this question, to show the advantage the country would derive from the construction of this road, if it were necessary to do so. I do not think that there has been a railroad bill before the House where the Government would derive a greater advantage, and be more largely benefited, than they would be by the passage of the bill now under consideration.

Mr. JONES, of Tennessee. I ask the Chair if the morning hour has not expired?

Mr. COBB. There is a motion I desire to make in order to keep the bill from being entirely lost, and I will now make it. I move, therefore, to recommit the bill to the Committee on Public Lands; and upon that motion I call for the previous question.

Mr. McDOUGALL. With the leave of the gentleman from Alabama, I desire to offer an amendment to the amendment. If the gentleman will give me the opportunity to present it now, I will go with him for sustaining the demand for the previous question; otherwise I hope the demand for the previous question and the motion to recommit the bill to the Committee on Public Lands, will not be sustained.

Mr. COBB. I insist upon my demand for the previous question.

Mr. JONES, of Tennessee. I move, then, that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. McDOUGALL. I wish to understand whether an amendment to the amendment is now pending?

The SPEAKER. There is but a single amendment to the bill, and that is offered by the gentleman from Alabama, [Mr. ABERCROMBIE.]

Mr. McDOUGALL. I wish to offer an amendment to the amendment now pending.

The SPEAKER. It would not be in order, the previous question having been demanded by the gentleman from Alabama, [Mr. COBB.]

Mr. JONES. Is my motion in order?

Mr. COBB. When I reported this bill, I did not expect such a proposition as the gentleman from California [Mr. McDOUGALL] desires to submit.

Mr. HOUSTON. I insist upon the vote being taken on the motion of the gentleman from Tennessee, [Mr. JONES.]

Mr. PECKHAM. Has the motion of the gentleman from Tennessee the preference of any other motion before the House?

The SPEAKER. That motion has the preference. If the House refuse to go into the Committee of the Whole on the state of the Union, the next question will be on seconding the demand for the previous question.

The question was then taken upon Mr. JONES's motion; and it was decided in the affirmative—ayes 79, noes 53.

CIVIL AND DIPLOMATIC BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair,) and resumed the consideration of House bill (No. 569) making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1856, and for other purposes.

Mr. JONES, of Tennessee, offered the following proviso, to come in at the end of line six hundred and twenty-two:

Provided, The blank books, binding and ruling of the same for the several executive departments, herein provided for, shall be furnished under the direction and supervision of the Superintendent of the Public Printing.

So that the clause would then read:

For paper and printing for the executive departments, including the annual statement of commerce and navigation, the Biennial Register, and annual estimates of appropriations, $35,000: *Provided*, The blank books, binding and ruling of the same for the several executive departments, herein provided for, shall be furnished under the direction and supervision of the Superintendent of the Public Printing.

The question was taken; and the amendment was agreed to.

Mr. MURRAY offered the following amendment thereto:

To strike out "$35,000," and insert in lieu thereof "$146,500."

Mr. MURRAY. I send to the Clerk a letter explaining the amendment, which I move the reading of.

The motion was agreed to; and the letter was accordingly read, as follows:

OFFICE SUPERINTENDENT PUBLIC PRINTING,
WASHINGTON, *January* 23, 1855.

SIR: I have the honor to submit, in order that they may be laid before Congress, additional estimates for the printing for the executive departments.

It will be seen, on referring to the letters from the Post Office Department, (marked A and B,) that this Office could not procure the information necessary to enable me to include the printing for that Department in the regular estimates prepared prior to the commencement of the present session.

For the paper and printing for the Post Office Department, agreeably to the schedule furnished by that Department on the 16th of November, 1854, the sum of $6,250 will be required; and, agreeably to the schedule of the 18th instant, the additional sum of $85,250; making together the sum of $91,500.

The Post Office Department, on the 1st April, 1851, made a contract for the printing of all blanks required for that Department for the term of four years.

The printing act of 26th August, 1852, (Sec. 13) provided that no contract then in force should be abrogated by that act, and consequently the blanks for the Post Office Department have been furnished up to this time by the old contractors. That contract expires on the 1st of April next, and the Postmaster General has notified this Office of the probable amount of paper required for such blanks. Upon this are based the calculations of the appropriations necessary for this work.

Until recently a large amount of printing has been executed by persons who had contracts for binding blank books for the various Departments. This printing consisted of headings, blanks, records, &c., and was a subject of separate charge—the person having such binding contract furnishing the paper, printing, and binding, and obtaining his pay from the contingent fund of the several Departments.

This class of printing is now, however, required to be done in accordance with the provisions of the printing act, which directs that *all* printing shall be executed by the public printer.

Additional appropriations will be required for this service.

As the existing contracts for the printing of the Post Office Department will expire on the 1st of April next, being three months before the expiration of the present fiscal year, and as, from the causes above stated, there will be a deficiency in the amount appropriated at the last session for executive printing, it will be necessary to insert an item in the civil and diplomatic bill, to the following effect:

For supplying a deficiency in the appropriation for the printing of the executive departments, $32,875.

It will also be necessary to increase the appropriation for the printing for the executive departments, &c., from the sum stated in line six hundred and twenty-two of the civil and diplomatic bill, to $146,500.

Very respectfully your obedient servant,
A. G. SEAMAN, *Superintendent.*

HON. WILLIAM MURRAY,
Chairman House Committee on Printing.

The question was then put; and the amendment was agreed to.

Mr. HOUSTON. By an oversight, in drawing up the bill, the words "assistant smelter and refiner" were omitted from line six hundred and twenty in the appropriation for the support of the Mint at Philadelphia. I move that they be inserted after the word "assayer."

The question was put; and the amendment was agreed to.

The following clause being under consideration:

"For transportation of bullion from New York assay office to the United States Mint for coinage, $10,000"—

Mr. CUTTING moved to amend the same by adding the following proviso:

Provided, All bullion required by law to be transmitted from said office to the Mint for coinage, shall, if practicable, be in the form of refined bars.

Mr. CUTTING. I will say to the committee that a difference of opinion has arisen as to the construction to be given to the act establishing the assay office in New York.

Mr. CHANDLER. The gentleman will allow me to interrupt him by a point of order. It is that the amendment is not in order; not being germane to the matter at all.

Mr. CUTTING. Well, I submit to the Chairman that the amendment is just the thing. The appropriation in the bill is $10,000 for transportation of bullion from the New York assay office to the United States Mint, and my amendment provides that the bullion so transported shall, as far as practicable, be in refined bars, which will operate to require their being refined in New York.

The CHAIRMAN. If the amendment proposes to change any existing law, it is not in order. Whether it does so or not does not as yet appear.

Mr. CUTTING. I will go on with the explanation, and, having only five minutes, I hope I shall not be interrupted. I was saying, a difference of opinion has arisen as to the true construction of the law in relation to the functions of the assay office in New York. By the original act, establishing that office, its duties were to receive bullion, to melt it, part it, refine it, assay it, and then stamp the exact value upon the bar, or ingot, into which it should be run.

The assay office went into operation, and for six weeks received gold dust and bullion, and performed those functions. At the expiration of about six weeks the director of the Mint at Philadelphia raised a question for the consideration of the Secretary of the Treasury. While it was conceded that such were the functions of the office in New York, it was insisted that where the owner of gold, which was to be melted and refined, delivered it to the office in New York, and asked to receive for that gold refined bars, then the office in New York was to perform all the operation of refining; but if the owner of the gold demanded pay in coin, then it was insisted that all the New York office could do was to melt and assay, and in that shape send the gold, partially refined, to the Mint in Philadelphia, for the purpose of having the process of refining, thus commenced in New York, completed in Philadelphia.

The Secretary of the Treasury decided that the office in New York had the right to finish the whole operation of melting and refining. He, however, left Washington and went to Louisville, and during his absence the Assistant Secretary of the Treasury issued an order, suspending for ninety days the power of the New York office to do more than melt and assay, and prohibiting the office from refining and running into bars, unless the owner of the gold demanded pay in coin. Subsequently that construction has been adhered to.

In my opinion such a construction is contrary to law, which I will take the liberty to read for the purpose of letting the House see that it was not the intention of Congress that this gold should be simply melted in the New York office, and then forwarded to Philadelphia to have the operation of refining completed; and I have not the smallest doubt but that the Secretary of the Treasury was right in the construction which he put upon this act. I will ask the careful attention of the committee while I read. By the tenth section of the act it was provided "that the Secretary of the Treasury is authorized and required to establish in the city of New York an office for the receipt," and for what? "and for the melting, refining, parting, and assaying of gold and silver bullion, and foreign coin, and for casting the same into bars, ingots, or disks."

Here, then, we have the functions of the office. Here you have its duties. It is to perform all the operations of melting, refining, parting, and assaying. [Here the hammer fell.]

Mr. CHANDLER. Does the Chair decide that the amendment is in order?

The CHAIRMAN. The Chair is unable to see that the amendment is out of order. The question is one of fact for the committee.

Mr. SKELTON. The reading of the very act by the gentleman from New York shows that the amendment proposes to change the existing law.

Mr. CHANDLER. Of course it is an attempt to change the existing law. If the Department has authority it can decide on the question now. If it has not we must pass a special act to enable it to do it. I understood, from the Chair's previous decisions, that it was not in order to commence any legislation in this bill; that we are only to appropriate by it money for certain purposes. If it is the intention to argue the amendment, I have another ground to take in my five minutes.

The CHAIRMAN. If the amendment proposes to change the construction given by the Department to an existing law it virtually proposes a change of that law.

Mr. CUTTING. I will take the liberty of saying this as to its being in order: An appropriation is now proposed to be made for the transportation of bullion from the New York assay office

to the United States Mint for coinage, of $10,000. That is what is proposed—to make this appropriation for the transportation of bullion from New York to Philadelphia for coinage. Now, my amendment is that that $10,000 shall not pass unless the New York office sends to the Philadelphia office the bullion after it has been refined. It is an objection to that appropriation. It is a limitation of the appropriation. It is an objection to its passing unless we put a proviso to it which shall describe what is the service to be rendered for that $10,000. Therefore, it seems to me that it is perfectly germane to this subject. It is not, by me, the introduction of a new proposition. I am not introducing a new proposition; I am dealing with an appropriation regularly reported; and I say in regard to this appropriation, thus regularly before the committee, that it ought not to pass unless with an amendment limiting the terms upon which the $10,000 are paid.

Mr. LETCHER. Is it in order to debate this question?

The CHAIRMAN. It is not until there has been a ruling and an appeal. The Chair would like to hear the explanation.

Mr. CUTTING. I will only make one further remark.

The CHAIRMAN. The debate is not in order. Objection is made, and the Chair must enforce the rule. The Chair rules the amendment out of order. It changes a construction given to the law by the Department, and therefore, virtually changes the law.

Mr. CUTTING. I do not think that that is exactly accurate.

The CHAIRMAN. It is the impression of the Chair, and he so rules. If the committee think otherwise, they can overrule the decision.

Mr. CUTTING. Then I take an appeal from the decision of the Chair. I appeal on this ground: I am introducing no new appropriation. I am introducing no new subject-matter.

The CHAIRMAN. The Chair forgot, for the moment, that a resolution was adopted by the House this morning closing debate upon this bill. Under that resolution the Chair rules that debate is out of order, unless by unanimous consent.

Mr. WITTE. I would ask the unanimous consent of the committee to say a very few words.

Mr. LETCHER. I object. We want to get along with the business.

The CHAIRMAN. The Chair held that the amendment offered by the gentleman from New York was out of order to this bill. From that decision the gentleman takes an appeal. The question now is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. CUTTING. I ask for the reading of the eleventh section of the law.

Mr. SEWARD. I object.

Mr. FULLER. If we are to vote on an appeal from the decision of the Chair, and the reading of that section of the law is pertinent to our voting understandingly on the question, I ask and hope that it may be read.

The CHAIRMAN. The House have closed debate, and the Chair, objection being made to the reading, must enforce the order of the House.

Mr. FULLER. The Chair can state the grounds upon which he makes his decision. I call that section of the law to the Chair's attention.

The CHAIRMAN. The Chair ruled the amendment of the gentleman from New York out of order on the ground that it virtually changes the existing law. The Department have given the law a construction, which construction this amendment proposes to modify.

Mr. WASHBURNE, of Illinois. Let the law be read.

The CHAIRMAN. It can be read if there be no objection.

Mr. SEWARD. I withdraw my objection to the reading of the law.

The eleventh section of the law was read, as follows:

"SEC. 11. *And be it further enacted*, That the owner or owners of any gold or silver bullion, in dust or otherwise, or of any foreign coin, shall be entitled to deposit the same in the said office, and the treasurer thereof shall give a receipt, stating the weight and description thereof, in the manner and under the regulations that are or may be provided in like cases on deposits at the Mint of the United States, with the treasurer thereof. And such bullion shall, without delay, be melted, parted, refined, and assayed, and the net value thereof, and of all foreign coins deposited in said office, shall be ascertained, and the treasurer shall thereupon forthwith issue his certificate of the net value thereof, payable in coins of the same metal as that deposited, either at the office of the assistant treasurer of the United States, in New York, or at the Mint of the United States, at the option of the depositor, to be expressed in the certificate, which certificate shall be receivable at any time within sixty days from the date thereof, in payment of all debts due to the United States at the port of New York for the full sum therein certified; all gold or silver bullion and foreign coin deposited, melted, parted, refined, or assayed, as aforesaid, shall, at the option of the depositor, be cast in the said office into bars, ingots, or disks, either of pure metal or of standard fineness, (as the owner may prefer,) with a stamp thereon of such form and device as shall be prescribed by the Secretary of the Treasury, accurately designating its weight and fineness: *Provided*, That no ingot, bar, or disk, shall be cast of less weight than five ounces, unless the same be of standard fineness, and of either one, two, or three ounces in weight. And all gold or silver bullion and foreign coin intended by the depositor to be converted into the coins of the United States, shall, as soon as assayed, and its net value certified as above provided, be transferred to the Mint of the United States, under such directions as shall be made by the Secretary of the Treasury, and at the expense of the contingent fund of the Mint, and shall then be coined. And the Secretary of the Treasury is hereby authorized, with the approval of the President of the United States, to make the necessary regulations for the adjustment of the accounts between the respective officers, upon the transfer of any bullion or coin between the assay officer, the Mint, and assistant treasurer in New York."

Mr. CUTTING. Now, Mr. Chairman, it will be seen that this amendment does not provide for changing the law, but that it is simply to give it a construction.

Mr. WITTE. I beg leave to read the law to which this amendment refers. Here it is:

"And the gold and silver bullion, and foreign coin, intended by the depositor to be converted into coins of the United States, shall, as soon as assayed, and its net value certified, as above provided, be transferred to the Mint of the United States, under such directions as shall be made by the Secretary of the Treasury, as the contingent fund of the Mint, and shall there be coined."

Now, the point I wish to make is this, and it is a point to which I ask the attention of the committee. The bullion deposited at the assay office in New York is to be assayed, and its net value ascertained, but not to be refined or parted for coinage. That must be done at the parent Mint. If bullion sent to the different assay offices could be refined and parted there, and stamped for coinage, we should have a different standard of coinage. I do not know that there has been any different practice, and if there has been, the practice is evidently in error. The law is specific upon that subject. Bullion may be deposited at the assay office in New York, where it may be assayed, and its value ascertained and certified, but the process of refining and parting must take place at the parent Mint, in Philadelphia.

Mr. CUTTING. It will be observed that the quibble—I do not use the word disrespectfully——

Mr. SKELTON. I rise to a question of order. Is this discussion in order?

The CHAIRMAN. It is not, if objection be made.

Mr. SKELTON. I object.

The CHAIRMAN. Then debate upon the question of order is out of order. In the opinion of the Chair, the law provides for one process of refining, and the amendment for another. Upon this ground the Chair rules it to be out of order.

The question now being "Shall the decision of the Chair stand as the judgment of the House?"

Mr. ORR demanded tellers.

Tellers were ordered; and Messrs. LYON and WITTE were appointed.

The question was taken; and the tellers reported—ayes 76, noes 42.

So the decision of the Chair was sustained by the committee.

The section with reference to Nebraska Territory being under consideration, the following clause was read:

"For contingent expenses of said Territory, $1,000."

Mr. GIDDINGS, of Nebraska. I move to amend that clause by inserting, after the word "thousand," the words "five hundred."

That additional appropriation is recommended by the Secretary of the Treasury, in supplemental estimates sent in this week. It will make the amount the same as has always been given to the other Territories.

Mr. ORR. I tried to hear the gentleman from Nebraska, but failed to do so. I desire to say to him that I have prepared an amendment to the same paragraph, to strike out "one thousand," and insert "two thousand six hundred and twenty-five," and to add "and the accounting officers of the Treasury shall audit and pay out of said sum the amount expended by acting-Governor Cumming in removing the remains of the late Governor Burt from Nebraska to his late residence in South Carolina." I ask the gentleman from Nebraska to accept of my amendment, adding $500 to the sum; so as to make it $3,125.

Mr. GIDDINGS. I accept that as a modification of my amendment.

The amendment, as modified, was agreed to.

Mr. PHELPS. I propose the following amendment, to come in after line seven hundred and twenty-nine:

For the expenses of taking the census authorized by the fourth section of act of May 30, 1854, $2,000.

I have only this explanation to give of this amendment; that is, that it is in accordance with estimates. By the act organizing the Territories of Kansas and Nebraska, it was provided that a census should be taken before the first election for members of the Territorial Legislature, and there was a provision, furthermore, that the persons employed by the Governor to take the census should receive a reasonable compensation for the same. No appropriation has yet been made for that purpose, and the Secretary of the Treasury recommends this amount.

The amendment was agreed to.

Mr. PHELPS. I move to add $500 to the appropriation for contingent expenses of Kansas Territory, so as to make the amount $1,500 instead of $1,000. It is in accordance with the same estimate to which the gentleman from Nebraska referred.

Mr. LETCHER. What is the reason for the increase?

Mr. JONES, of Tennessee. Just because the other Territories have it.

Mr. LETCHER. We ought to understand it.

Mr. PHELPS. The committee have just now, upon the motion of the gentleman from Nebraska, added $500 to the appropriation for the contingent expenses of Nebraska Territory. The Secretary of the Treasury has submitted to this House estimates for $500 additional for the contingent expenses of each of those Territories. Those estimates were not before the Committee of Ways and Means at the time when the bill was prepared. The estimates were submitted at the beginning of the week, if I mistake not.

Mr. ORR. But they have been printed.

Mr. PHELPS. Yes, they have been printed and laid before members. No estimates had been submitted by the Governors of those Territories at the time the annual estimates of the Secretary of the Treasury were made up.

The amendment was agreed to.

Mr. PHELPS. I have another amendment; to provide for the expenses of taking the census in Kansas. It is as follows:

For the expenses of taking the census authorized by the fourth section of act of May 30, 1854, $2,000.

The amendment was agreed to.

Mr. HOUSTON. I am instructed by the Committee of Ways and Means to offer the following amendment, to come under the head of Kansas Territory:

For expenses of the election of a Delegate to the House of Representatives of the United States, second session of the Thirty-Second Congress, $700.

Mr. LETCHER. Where is that to come in?

Mr. HOUSTON. At the end of line seven hundred and thirty-seven.

Mr. LETCHER. How did that Delegate come here? There was no such Territory at that time. By what authority was he elected?

Mr. HOUSTON. It is intended for this Congress.

Mr. LETCHER. It reads the Thirty-Second Congress.

Mr. HOUSTON. That is a mistake. It should be changed to the Thirty-Third. It is in pursuance of an estimate.

Mr. LETCHER. It is all right I suppose. But a Delegate came here, during the last Congress, who was not elected by any authority, and I do not want to pay him.

The amendment was agreed to.

The following clause was then read:

"For salaries of the district judges, $72,000."

Mr. PARKER. I offer an amendment to strike out all after the word "judges," and insert the following;

Inclusive of deficiencies for the year ending the 30th June next, $111,668.

Mr. Chairman, this amendment becomes indispensable because of the act which was approved yesterday, regulating the salaries of the district judges of the United States, and the acts creating judges for the two new districts in Ohio and Illinois. I have made the calculation carefully, and the amount I propose is correct to cover the deficiency for the current year, and the amount required for the next fiscal year.

The question was taken; and the amendment was agreed to.

The following clause was then read:

"For compensation of the district attorneys, $10,150."

Mr. HENN. I wish to offer the following amendment, to come in at the end of the clause just read:

And the district attorney of Utah shall receive the same compensation as is now allowed by law to the district attorney for the Territory of Oregon.

I will merely state that the amendment I have offered does not provide for an increase of compensation at all, but it allows the district attorney of Utah the same fees as are now allowed by law to the same officer in Oregon.

Mr. LETCHER. I rise to a question of order, and I would ask if it is not changing a law?

Mr. HENN. Not at all. It simply allows this officer in the Territory of Utah the same compensation as is given to the district attorney of Oregon.

Mr. HOUSTON. I do not think that the phraseology of the amendment is very clear. The amendment makes use of the word "compensation" when it should say "fees," if I correctly understand the meaning of the amendment offered by the gentleman from Iowa.

Mr. LETCHER. I would ask the gentleman from Iowa to make the word "fees" instead of "compensation."

Mr. HENN. I accept the modification.

The question was then taken on the amendment as modified; and it was agreed to.

Mr. WALKER. I offer the following amendment:

For repairs made in and furniture supplied for the court rooms and offices of the circuit court and district judges, the district attorney and marshal of the southern district of New York, rendered necessary in consequence of the destruction of the court building by fire, $7,148 81.

Mr. HOUSTON. I should like the gentleman from New York to state when that debt was incurred?

Mr. WALKER. During the recess of this Congress.

Mr. HOUSTON. There is a general appropriation bill which is intended to cover this expenditure.

Mr. CUTTING. There is no appropriation covering this expenditure of money.

Mr. WALKER. I wish to say that, after the destruction of the court-rooms and offices, in the city of New-York, in which the business of the judicial branch of the Government was carried on, upon the motion of my colleague [Mr. CUTTING] a law was passed enabling the marshal, under the direction of the Secretary of the Interior, to hire new court-rooms and offices for the district attorney, for the marshals, and for the other functionaries engaged in that department of the Government of New York, and to furnish the same with the necessary furniture. The necessary buildings were hired, and it then became necessary that furniture and other articles for the use of the court should be provided at once. They were furnished by the marshal himself, and the amendment I have offered is intended to meet the actual expenses to which the marshal was subjected for the purpose of fitting up these rooms; and it was done with the greatest economy.

Mr. ORR. By whom has this account been audited and vouched? Has it undergone the scrutiny of any committee?

Mr. WALKER. We have the certificates of the judges of the courts of New York, and of the district attorney there, that the work has been performed. We have vouchers for this account in the Department of the Interior, and the testimony universally is, that the work has been done, and the materials applied upon an economical scale.

Mr. ORR. What response does the Secretary of the Interior make? The papers must have been left with him.

Mr. WALKER. The Secretary of the Interior has never brought to the attention of Congress anything relating to the subject, except that he has expressed an embarrassment as to the extent of his powers. If the gentleman from South Carolina will look at his letter, he will find that he has expressed some embarrassment in reference to a class of cases very similar to that now under consideration, and to meet this embarrassment I have introduced the amendment.

Mr. CUTTING. I understand the difficulty to have arisen in this way: There was a great and pressing urgency to furnish these new court rooms, in order to keep the wheels of justice in motion. By the direction, or by the order, if you choose, of the judges of the court, the marshal proceeded to purchase furniture of a very simple and moderate character. The carpeting was what is termed Scotch carpeting, and all the furniture was of the plainest description. The officer in New York, who furnished these articles, did so upon his own responsibility, to the amount of $7,148 81, and they have ever since been in use in the court-rooms, and the other offices. Although the marshal acted in advance of his authority, as the case was an urgent one, the Secretary of the Interior, inasmuch as the order ought to have emanated from him, and the vouchers returned to him before the furniture was obtained, was unwilling to act upon the subject, and thus no action has been taken in the matter.

Now, I had an interview with the Secretary of the Interior a few days ago upon this subject, and that officer said it was right, proper, and just that there should be an appropriation made for the purpose of paying for the articles actually used; and the only difficulty he had upon the subject was this. he was not aware whether the prices paid for these articles were too much or not. He suggests that this appropriation should pass, with a proviso that the vouchers should be adjusted and allowed by the proper officer of the Treasury Department. That was the only suggestion he made, and with that proviso, he stated he considered that Congress should adopt this amendment.

Mr. ORR. The explanation of the gentleman from New York is entirely satisfactory to me. I think that whatever expenses have been incurred ought to be paid. The thing which struck my attention was the fact that the amendment proposes to pay a specific amount when the expenditures have not undergone the scrutiny of a committee, and was to be paid without referring the matter to the officers of the Treasury.

Mr. HOUSTON. If the gentleman from New York, and the gentleman from South Carolina, will turn to page forty-six of this bill, they will find there a very large item of appropriation, intended to cover precisely this sort of cases, if the marshal has conformed himself to the law.

Now, sir, in the purchase of all the furniture intended for the court-room, my understanding is that the marshal is first to get permission from the Secretary of the Interior to purchase, and then his vouchers are made up by himself, certified to by the court, and the Secretary passes upon the amount according to those vouchers. Why it is that this case does not come within the ordinary law, I cannot understand.

Mr. CUTTING. I assure the gentleman it arises—and I speak from personal knowledge after conversation with the Secretary—from no circumstances other than those I have already stated.

Mr. HOUSTON. I did not hear the gentleman's statement.

Mr. CUTTING. If it is the pleasure of the committee, I will explain it again. I explained the matter to the gentleman from South Carolina [Mr. ORR] to his satisfaction.

Mr. HOUSTON. I think it is a bad practice to make special appropriations for particular expenditures, when there is a general item of appropriation out of which it could be paid. The difficulty in my mind is, why it has not been adjudicated by the Department and paid there, if there has not been some conflict of conduct of the marshal with the provisions of the existing law.

Mr. CUTTING. I will state to the gentleman that the reason why the Secretary of the Interior did not pass this amount, and pay for the furniture which is actually in use, was that, in his judgment, the marshal was a little too quick in furnishing the court-room. He ought first to have sent the estimate for the necessary expenses, and obtained the consent of the Department. He neglected to do that, and, under the circumstances, the Secretary of the Interior refuses to audit the account, at the same time that he agrees it ought to be paid.

Mr. HOUSTON. That state of facts is precisely what I apprehended. The marshal has contracted for furniture not in pursuance of law, and therefore his vouchers cannot be audited.

Mr. LETCHER. I rise to a question of order. I submit that the amendment is for the payment of a private claim, and nothing more or less.

Mr. CUTTING. It is for the payment of property now used by the Government.

Mr. LETCHER. But it was bought by a gentleman without authority of law, and he now comes here and asks for payment.

Mr. CUTTING. And shall the Government have and use this property, and not pay for it?

The CHAIRMAN. The Chair is not able to see that it is a private claim, and therefore he overrules the point of order.

Mr. ORR. I propose an amendment which I think will be acceptable. I think the appropriation should be passed with the amendment.

The amendment was read, as follows:

Provided, That the vouchers shall be submitted to the Secretary of the Interior, and the expenses approved by him.

Mr. WALKER. I accept the amendment.

The question was then taken upon the amendment as amended; and it was agreed to.

Mr. MAY. I think this is the place to which I should offer the amendment which I send to the Clerk.

The amendment was reported, as follows:

Page thirty-two, after line seven hundred and fifty-three, insert:

For one hundred and fifty copies of volume sixteen of Howard's Report of the Decisions of the Supreme Court of the United States, furnished by the reporter thereof to the said Department, for distribution according to existing laws, $1,300.

Mr. BRIDGES. I propose to amend that amendment by increasing the number of copies to four hundred and eighty-three.

Mr. HOUSTON. I rise to a point of order. I submit that the amendment is out of order. The Chair ruled it out the other day.

The CHAIRMAN. The Chair would inquire if the law now limits the number?

Mr. BRIDGES. There is no law limiting the number.

Mr. MAY. The law does fix it.

Mr. HOUSTON. The amendment offered by the gentleman from Maryland [Mr. MAY] is to carry out an existing law. As I understand, it is designed to authorize the publication of the second volume of the Reports of the Decisions of the Supreme Court, when the court has transacted an amount of business so large that the judges may deem it proper to direct the clerk to publish a second volume, for the reason that one volume will not contain the reports of the term.

Mr. MAY. The volume has been published.

Mr. HOUSTON. It has been published then, and the gentleman's amendment is not in order as an amendment to this amendment, as the number is fixed by law.

Mr. BRIDGES. I withdraw my amendment, as I was laboring under an error. I supposed the amendment of the gentleman from Maryland referred to Alden's Index to the Decisions of the Supreme Court.

The question was then taken upon Mr. MAY's amendment; and it was agreed to.

Mr. SINGLETON. I offer the following amendment. After line seven hundred and fifty-seven add the following:

For completing and furnishing a court-room, jury rooms, a clerk's office, and other necessary and proper apartments, for holding the United States Circuit Court, in the building now in process of erection in the city of Jackson, Mississippi, and known as the City Hall, the sum of $20,000: *Provided*, The Secretary of the Interior shall have, from the authorities of the city of Jackson, a sufficient guarantee that these apartments shall be used in perpetuity for the purposes aforesaid.

Mr. HOUSTON. For the purpose of saving the time of the committee, I make a point of order upon that amendment.

Mr. SINGLETON. I hope the gentleman will not raise the point of order until I shall have made a few remarks in explanation of this amendment. It is not often that I venture to trouble the House with anything I may desire to say, and do not like to be ruled off so unceremoniously. In explanation, then, I would say, that the proposition contained in this amendment has been before the Committee on the Judiciary, and after reading and examining the petition of the city council of Jackson, and numerous other citizens, including the United States circuit judge, the marshal of the district, and others, and learning the facts which were laid before them by myself, that committee agreed unanimously to report a bill asking the appropriation to be made. That bill is now in the hands of the chairman of that committee, and his report on it is only delayed because he has not been able to obtain leave of the House to offer it. From the present state of the business before this body, I greatly fear that he may not be able to make it at all during the session, and hence I desire this amendment to the civil and diplomatic bill.

It may be proper here to explain, further, that the United States circuit court has been held in the City Hall, a public building erected by the enterprise and capital of the citizens of Jackson, unaided, so far as I am aware, by the General Government. This court would have continued to hold its sessions there, and this application would never have been made, but for the fact that this building became unfit for that use, from the walls giving way for the want of a proper foundation. It became dangerous to occupy it, and it was deemed necessary to pull it down, that another and a more permanent one might be erected in its place. It has been removed, and a new one commenced, and the work pushed forward by the enterprise of the citizens of Jackson and vicinity, until it is now almost or quite ready for the roofing. In this new hall is a large court-room, clerk's office, jury rooms, and other apartments, to be dedicated to the use of that court. The city has been scourged, for two summers past, with yellow fever, which has interrupted, to some extent, the business matters of the place, and forced upon the citizens the necessity of making provision, out of their own means, for taking care of the indigent sick, which, together with the revulsion in money matters, has retarded the work and delayed its completion. I may here say that several terms of the court have failed to be held for the want of suitable rooms. The city of Jackson and the State of Mississippi are not alone interested in the regular sessions of said court. Many who have never been in the State have a deep interest in it; and it therefore becomes a matter of public concern that the court should set regularly. It is but right, sir, that the General Government should lend a helping hand, as it has done in other cases; and I shall take it as a personal kindness, as well as a public benefit, if the committee will allow this amendment to be made. The question of order will be made upon me, but I trust the committee will vote it down.

Mr. HOUSTON. I rise to a point of order. This is a proposition to build a court-house; and if it be ruled in order, there will be at least fifty or one hundred of a similar character submitted.

Mr. SINGLETON. I think not. I hope the gentleman will withdraw his point of order.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment out.

Mr. SINGLETON. From that decision of the Chair I take an appeal.

The question was put; and, on a division, there were—ayes 68, noes 28.

Mr. SINGLETON. I demand tellers.

Tellers were ordered; and Messrs. SINGLETON and FULLER were appointed.

The question was taken; and the decision of the Chair was sustained, the tellers having reported—ayes sixty-six, noes not counted.

Mr. KEITT. I ask the consent of the committee to return to the seven hundred and fifty-ninth line of the bill, where I have the following amendment to propose:

For continuing the works for supplying the city of Washington with water, $500,000.

The CHAIRMAN. The committee, having passed that portion of the bill, it is not in order to return to it, except by unanimous consent.

Mr. BRIDGES. I object to going back.

The next paragraph was read:

"For seamen's wages, repairs, supplies, and incidental expenses, of forty-nine light-vessels, $186,861 23."

Mr. WADE. I move to insert after that clause:

For housing, keeping in order and manning the life-boat kept at the harbor of Cleveland, Ohio, $250.

I wish simply to say that the life-boat kept at Cleveland will be rendered unfit for use, unless some appropriation is made for keeping it in order, and for housing and manning it.

Mr. HOUSTON. I would inquire if there is a life-boat kept at Cleveland by the Government?

Mr. WADE. There is.

Mr. HOUSTON. Is it not provided for in this bill?

Mr. WADE. No, sir; there is no general appropriation made by law for keeping these life-boats in order; but an appropriation is much needed in this particular case.

Mr. HAVEN. If the gentleman from Ohio will allow me, I will explain to the chairman of the Committee of Ways and Means how this matter stands. Last year an appropriation was made to furnish the upper lakes with life-boats. Some of these boats had been sent to the lower lakes before. Before any of these boats were sent out, it has been the custom of the Secretary of the Treasury to require some responsible man to give bond that they should be safely housed, and taken care of, and returned to the Government when called for without further expense.

Mr. HOUSTON. Then this amendment is not in order, and I object to it.

Mr. WADE. I do not know how that is. I believe, however, that it is in order.

The CHAIRMAN. It is the opinion of the Chair, from the statement of the gentleman from New York, that the amendment is not in order.

Mr. WADE. I take an appeal from the decision of the Chair.

The question, "Shall the decision of the Chair stand as the judgment of the committee?" was taken, and decided in the affirmative.

So the decision of the Chair was sustained, and the amendment ruled out of order.

The next item was read:

"For continuing the construction of the light-house on Ship shoal, Louisiana, to take the place of the light-vessel at that point, $30,000."

Mr. SMYTH, of Texas. I move to amend by adding, at the end of that clause, the following:

For continuing the appropriation made the 3d of March 1853, for a first-class light-house at the mouth of the Sabine, river, $30,000.

I send to the Clerk a communication from the Secretary of the Light-House Board, which I ask to have read.

The communication was read, as follows:

TREASURY DEPARTMENT,
OFFICE LIGHT-HOUSE BOARD, *December* 23, 1854.

SIR: In reply to your communication of the 20th instant, I have the honor to state, for your information, that the site at Sabine Pass has been selected, the illuminating apparatus received, and the district inspector is now negotiating with the owner of the land for the purchase of the necessary quantity.

The work will not be delayed a day after the land is purchased and the title approved by the United States Attorney General in conformity to law.

Efforts have been making for a year to get the necessary quantity of land. From a late letter from the inspector, strong hopes are felt that the negotiations will be brought to a successful issue at an early day, if not already completed. Very respectfully,

THORNTON A. JENKINS, *Secretary.*

Hon. GEORGE W. SMYTH, *House of Representatives.*

The amendment was adopted.

Mr. WENTWORTH, of Massachusetts. I offer the following amendment:

For continuing the system of protecting human life from shipwreck, as heretofore established, by life-boats and other means, on the coast of Massachusetts, the sum of $10,000, said money to be expended by the Boston Humane Society, under the direction of the Secretary of the Treasury.

A petition from the Boston Humane Society has been before the Committee on Commerce, and they offer this amendment in answer to its prayer. There are forty-three life-boats on that coast, some of which are suitable for the purpose intended, and some of which are not. Last year we appropriated $20,000 for the New Jersey coast, certainly not a greater extent of coast than this is to provide for. The object is to provide a better class of boats to supply the place of some of the old ones, and also to supply other means of saving life which have come into use since the present system was established. One grant has heretofore been made by the Government to this Society for this purpose, and boats have been furnished for which bonds have been given under the law. The Committee on Commerce believe the appropriation to be necessary, and I hope the House will grant it.

The amendment was agreed to.

Mr. HOUSTON. I am instructed by the Committee of Ways and Means to offer an amendment, to come in after line eight hundred and nine-nine, as follows:

For continuation of custom-house at Charleston, South Carolina, $200,000.

For continuation of custom-house at New Orleans, Louisiana, $275,000.

Mr. HOUSTON. I ask for the reading of the letter, which I send up to the Clerk's desk.

The letter was read, and is as follows:

TREASURY DEPARTMENT, *February* 3, 1855.

SIR: Omission having been made, in the estimates of appropriations, of the amounts required in the construction of the Charleston and New Orleans custom-houses during the year ending June 30, 1856, I have the honor to state that such amounts will be as follows, viz:

For the continuation of Charleston custom-house, $200,000.

For the continuation of New Orleans custom-house, $275,000.

I have the honor to be, very respectfully,
JAMES GUTHRIE, *Secretary of the Treasury.*

Hon. GEORGE S. HOUSTON, *Chairman of the Committee of Ways and Means, House of Representatives.*

The amendment was adopted.

Mr. CHANDLER. I offer the following amendment:

For completing the shelter or harbor at Reedy Island, in the Delaware, $30,000.

Mr. HOUSTON. I submit that that amendment is not in order.

The CHAIRMAN. The Chair does not see the pertinency of the amendment to this part of the bill.

Mr. CHANDLER. Will the Chair allow me one word before he decides the question of order?

The CHAIRMAN. The Chair will hear the gentleman.

Mr. CHANDLER. The amendment which has just been adopted lacks any quality of being germane as much as this does. The property of the United States is going to decay, and this appropriation ought to be made.

The CHAIRMAN. The Chair thinks the amendment is not in order.

Mr. CHANDLER. I am very anxious to have that amendment adopted; but I am also very solicitous to go on with the bill, and quite unwilling to place myself in opposition to the Chairman. I will not, therefore, appeal from the decision of the Chair.

Mr. BENSON. I move to insert after the last amendment, adopted on the motion of the gentleman from Alabama, the following:

To complete the custom-house at Bath, Maine, $10,000.

Mr. LETCHER. Is that amendment in order?

The CHAIRMAN. The Chair understands that the custom-house at Bath, Maine, has been commenced, and is not, therefore, prepared to rule the amendment out of order.

Mr. BENSON. Mr. Chairman, I heard the chairman of the Committee of Ways and Means remark, since I offered my amendment, that this was something like the tenth time that there had been an appropriation to complete this custom-house. Having heard that remark, a great error in point of fact by the way, there having been but four appropriations in all for the custom-house and post office at Bath, including the purchase of the site. I ask the honorable gentleman to listen to what I may say, for I have the fullest confidence in being able to satisfy him and a majority of the committee that this appropriation should be made.

I hold in my hand a letter from the Secretary of the Treasury, which I will send to be read at the Clerk's desk, assigning the reason why the amount which he recommended last year, $20,000, was not enough, and stating that the building can be finished complete for the additional sum of $10,000.

I will not trouble the committee with the statistics in detail, which I have at hand, showing the importance of Bath collection district. I can show that the amount of duties for the year 1854 collected was $36,828 45, and on goods in bonds over $73,000; that ninety-two vessels entered

from, and one hundred and fifty cleared for foreign countries; that ninety-three vessels with an aggregate of seventy thousand seven hundred and eighty-four tons were built during the past year, exceeding the amount built in any district in the United States; that the tonnage of the district on the 31st of December last, registered, enrolled, and licensed, was one hundred and seventy-nine thousand five hundred and forty-eight tons, and that the receipts of the post office at Bath, for the year ending September 30, were $5,591 82.

In consideration of these facts, and others which might be stated, showing the entire insufficiency and unfitness of the rooms now used for the custom-house and post office, it seems to me that we cannot hesitate to complete the building designed for both, according to the original plan. I am authorized to state that the Committee on Commerce, on the part of the Senate, being of that opinion, unanimously recommend this amendment, and that seven out of the nine members of the House committee concur with them. And I trust this committee will be of the same opinion.

Mr. LETCHER. Report the amendment again.

The amendment was again reported.

Mr LETCHER. Mr. Chairman——

Mr. BENSON, (interrupting.) Will the gentleman from Virginia give way till the letter from the Secretary of the Treasury be read.

The following letter was then read:

TREASURY DEPARTMENT, *January* 19, 1855.

SIR: In reply to your letter of the 5th instant, I have the honor to state that a contract for the granite work of the Bath custom-house was made with Charles Webb for the sum of $31,676 13. Mr. Webb also offered to execute the remaining work of the building for the additional sum of $19,924 42, amounting together to the sum of $51,600 55. To meet this, there remained a balance of appropriations amounting to $33,000, to which add the probable amount to be derived from the sale of the old custom-house and lot, $2,500; giving a total available amount of $35,500.

Supposing that Mr. Webb would carry out his offer in good faith, an additional appropriation of $20,000 was asked by the Department, and given by Congress during the last session, making a gross sum of $55,500.

Immediately after the appropriation, Mr. Webb was notified that his proposal for the additional work, at $19,924 42, was accepted, and that contracts would be prepared for his signature. Mr. Webb declined to execute the contract upon the grounds of the enhanced value of labor and materials, and demanded the additional sum of $11,714 58 to complete the work. That amount does not, though it is considered high, include the cost of superintendence and other contingent expenses, which will probably amount to $4,000. The building, it is believed, can be finished complete for the additional sum of $10,000.

I have the honor to be, very respectfully,

JAMES GUTHRIE, *Secretary of the Treasury.*

HON. S. P. BENSON, *House of Representatives.*

Mr. BENSON. One word more. I wish simply to say that in consequence of the restrictions which were last year imposed in the bill by which $20,000 were appropriated to the Bath custom-house, the Secretary of the Treasury has been unable to enter into a contract with any parties to finish the work. It has been entirely suspended, and must so remain until this additional appropriation is made.

Mr. LETCHER. Mr. Chairman, I stated here last session that, although every custom-house had been regularly finished at each session since I have been in Congress, not one of them is yet completed, and that I would venture to say that, should I come back here for ten years to come, I would never hear of any one of them not being embraced in the bill. Gentlemen, then—the gentleman from Maine [Mr. BENSON] among others—assured me that if they got the appropriations looked for last year they would never come back to look for further appropriations to complete these custom-houses.

Mr. BENSON, (interrupting.) Do I understand the gentleman to say that I made such a pledge?

Mr. LETCHER. So I understood last year.

Mr. BENSON. The honorable gentleman misunderstood me then. I said no such thing, Mr. Chairman, because I was at the time fearful that the sum would not be enough. I carefully abstained from making any assertion last year that I should have to retract this. But I do say now, that I believe this sum will complete the building.

Mr. LETCHER. Then I have been wronging the gentleman; but will the committee just hear what the Secretary of the Treasury says on the subject in his report last year?

He says "the present appropriation of $20,000 is asked for this purpose, and, if made, would complete the whole works in and about said custom-house."

Now, sir, that representation was made. I was under the impression that the gentleman from Maine concurred in that representation; but as he says he did not, I, of course, take back what I said in that respect. But here is the representation of the officer of the Government, who said that if that appropriation of $20,000 were made, it would accomplish the purpose. Sir, that appropriation was made, and now gentlemen come forward and ask for an appropriation of half as much as the whole sum specified as necessary to complete it last session. The gentleman says there were restrictions. True, sir, it was the intention of Congress, at the time the appropriation was made, to impose restrictions; but I do not deem it necessary now to read the provision, as I imagine it is familiar to every member of the House.

But, sir, I have not much idea that I can prevent these expenditures even if they ask appropriations for ten years to come. And yet I enter my protest, as one, against the action on the part of the Departments of the Government. When they make an estimate; when they say that a certain sum will effect a certain result, they should make their estimate on such data as would enable them to make it correctly, so that it can be depended upon. I have said all that I intended to say on the subject.

Mr. FULLER. I move to amend the amendment by increasing the appropriation one dollar.

I make that motion for the purpose merely of having an opportunity to do justice to the Secretary of the Treasury in this matter, although I am, also, in favor of this appropriation. It is right that truth and justice should be vindicated.

Mr. BENSON, (interrupting.) Will my colleague allow me to make an explanation?

Mr. FULLER. Not for a moment yet. The Secretary of the Treasury made his estimate last year on previous offers that had been made. The building was to be erected of granite; but the contractor has refused to comply with his contract. The Secretary will have the building completed with the appropriation voted him by Congress, but some of it will have to be done with brick instead of granite. A portion of the building is now completed with granite. The Secretary stands upon his own recommendation, and has wished simply to state the facts to Congress, and then it is for Congress to judge. The Secretary has not exhibited any inconsistency whatever in the matter. I say this in justice to him. It will cost more than the estimate furnished to him to complete the building in granite; and if the additional appropriation be not made he will have a cheaper material substituted, and the building completed. I submit that the Secretary has done what all other practical men would have done; what every man who builds a house and finds some unforeseen contingency arise, would have done. And now, sir, whether or not, after this building is partially completed with granite, whether or not we should change the material of its construction, and carry out the remainder of it with brick, is a question which I submit to the discretion of the House. I suppose that it is preferable to complete it with granite, and, therefore, the Committee on Commerce think that this additional appropriation should be made.

Mr. LETCHER. I believe that all that has been stated is in miscellaneous document No. 5, of last session of Congress, which I will read to the committee. Here is what the Secretary of the Treasury says on the subject of the Bath custom-house:

The plans and specifications for this building were prepared with much care and study to answer the purposes contemplated, and with special reference to the most economical fire-proof manner; and it was expected that they could be executed in a proper manner for the amount of the appropriation.

Bids were solicited by advertisement of January 12, 1853, for sixty days; but, owing to the great advance in the prices of labor and materials, the lowest bids in the aggregate amounted to much more than the appropriation; and as this was a contingency which Congress could not have anticipated, and there being no way of reducing the cost of the building to within the amount of the appropriation without entirely spoiling the same, the Department decided to bring the matter to the attention of Congress by asking for the additional appropriation of $20,000, feeling assured it would meet with proper consideration.

Contracts have only been made for the foundations and the stone and brick-work.

Estimated aggregate of lowest bids	$47,964
Contingencies at ten per cent., (about)	4,664
	$52,628
Amount now available	32,628
Amount asked for	$20,000

The appropriation of $20,000 was given on that statement of facts at the last session of Congress. And now $10,000 more is asked. I should like to know from the gentleman from Maine [Mr. FULLER] whether or not this recommendation was insisted on with the other recommendations to the Committee of Ways and Means, or whether it was not put forward as a recommendation coming from the Treasury Department?

Mr. FULLER. I would say that the Secretary of the Interior sent a communication to the Committee on Commerce of the character of that which has been read, but upon personal application by parties interested, and upon a statement of the facts of the case, that communication was withdrawn. The committee have reported a bill making an additional appropriation for the custom-house at Bath, for the custom-house at Mobile, and for changing the plan of the custom-house at Milwaukie.

Mr. LETCHER. Have these recommendations been published for the benefit of the House?

Mr. FULLER. They were called for by the authority of the committee.

Mr. LETCHER. Precisely, by the authority of the committee; and nobody knows that they have come from the Treasury Department, but they are used here upon applications for appropriations to these custom-houses.

Mr. FULLER. The committee would have reported them and had them printed weeks ago, if they could have had an opportunity of doing so.

Mr. LETCHER. I do not know whether this thing can be stopped; but if it cannot be stopped, it would be just as well to place the whole Treasury of the United States at the disposal of the Secretary of the Treasury, and let him expend it as he pleases.

Mr. FULLER. I withdraw my amendment.

The question was then taken on Mr. BENSON'S amendment; and it was agreed to.

The following clause was read:

"For salary of the dragoman of the legation to Turkey, $2,500."

Mr. CHANDLER. At the end of the clause just read I move to add the following:

For the payment of the draft of Francis Dainese, late United States consul for Constantinople, being for compensation, under the act approved August 11, 1848, for his services from May 16, 1849, to December 20, 1852, inclusive, $3,594 40.

Mr. LETCHER. I rise to a question of order. This appears to be a private claim.

Mr. CHANDLER. It is no private claim, but it is the salary of an officer of the Government, for which I wish to provide by the amendment I have offered.

Mr. LETCHER. A salaried officer, not provided for by law.

The CHAIRMAN. The Chair would state that the question, whether the amendment submitted by the gentleman from Pennsylvania is in order or not, would depend upon the fact whether the payment of this officer is provided for by existing law. If it is not, the Chair would decide that the amendment is not in order.

Mr. LETCHER. It is manifest, I think, that the salary of this person is not provided for by law.

The CHAIRMAN. The amendment states that it is for compensation under the act approved 11th of August, 1848, and if, in point of fact, that law authorizes the payment of this money, the amendment submitted by the gentleman from Pennsylvania is in order, and not otherwise.

Mr. LETCHER. If the law authorizes the payment why was not the money paid?

Mr. CHANDLER. Because there was no appropriation made. Let me read the law upon that point:

"That in consideration of the duties herein imposed upon the commissioner, there shall be paid to him, out of the Treasury of the United States, annually the sum of $1,000, in addition to his salary, and there shall also be paid annually to each of the said consuls, for a like reason, the sum of $1,000, in addition to consul fees."

I find the following in the same law:

"That the word 'commissioners,' when used in this act, shall be understood to mean persons vested with and exer-

cising the principal diplomatic functions in China, and the word 'minister' as meaning a person vested with the powers of chief diplomatic functionary of the United States in Turkey, and the word 'consul' shall be understood to mean any person vested by the United States with, and exercising, the consular authority in any of the five ports in China named in the treaty, or any port in Turkey."

The compensation of this officer is fixed by law at $1,000, and the amendment I have offered only asks an appropriation to pay this salary. The Committee on Foreign Relations have examined this subject and instructed me to report the amendment now under consideration.

Mr. LETCHER. I would inquire who received the money that was appropriated in 1852?

Mr. CHANDLER. There never was a dollar appropriated to anybody for the compensation here claimed.

Mr. LETCHER. Did not Mr. Brown get it?

Mr. CHANDLER. Mr. Brown was not consul. He was the dragoman.

Mr. CLINGMAN. The appropriation for that purpose was put in the deficiency bill, but the bill was defeated; and when a new bill was presented it was left out by some means.

The CHAIRMAN. Upon the statement of the gentleman from Pennsylvania, the Chair thinks that the amendment is in order.

Mr. LETCHER. I should like to know of the chairman of the Committee of Ways and Means what information he has about this matter. If it is a legitimate appropriation, why was it not incorporated into this bill by the Committee of Ways and Means?

Mr. HOUSTON. There was no estimate submitted to the Committee of Ways and Means touching this subject in any way whatsoever. I understand it to be a claim from a former consul at Constantinople, under the law of 1848. A contest existed for a considerable length of time as to the consulate at Constantinople, as whether that consulship was within the provisions of the law. Since that time, it has been settled in favor of Mr. Carr, of Maryland, and now this gentleman, whose claim is here presented, is presenting a claim for $1,000 a year for the time he occupied the consulship at Constantinople. This is not all of his claim, however. It seems that he claims some further amount for contingent and other expenses.

Mr. CHANDLER. I do not urge that now, and have not offered it.

Mr. PECKHAM. The first claim is all that is presented in the amendment.

Mr. APPLETON. I would inquire of the gentleman from Pennsylvania, [Mr. CHANDLER,] whether the gentleman in whose favor he is applying for a compensation, held the office of consul during the length of time for which compensation is asked, so as to entitle him to it?

Mr. CHANDLER. He did. He acted first as vice consul, afterwards as acting consul, and finally as consul. But the latter clause of the act which I have read shows that any person who discharges, under due authority, the duties of the consul was properly to be considered as consul. That is the meaning of the law. He acted as consul for a long time, and was our representative there until he was recalled.

Mr. APPLETON. Did not this gentleman act as vice consul for a short time, and afterwards was he not removed?

Mr. CHANDLER. This gentleman was first appointed vice consul, and performed the duties of that office first as such, and afterwards as acting consul. Afterwards a disturbance arose between him and other officers, which was referred to Mr. Webster, then Secretary of State, and Mr. Webster sustained his course, reinstated him, and promoted him to a full consulship, and an order was issued for the commander of the United States squadron in the Mediterranean to convey him to his post in a national vessel, and land him at Constantinople under full honors. In Mr. Dainese's absence from Constantinople he was represented by a Mr. Vigoureux, who was recognized by the Department of State as acting under Mr. Dainese's responsibility; but before Mr. Dainese reached there he was recalled, for reasons that have nothing to do with the claim here presented. It has, however, appeared, and will be shown when the other claim is presented, that the statements on which the recall was made were unfounded.

But there can be no doubt that, while this man was the recognized incumbent of that office, he was entitled to the compensation upon the principle "*qui facit per alium facit per se.*" Any man discharging those duties, under the authority of the Department, whether he be consul or vice consul, is, by the law which I hold in my hand, entitled to the compensation. He claims nothing after he was recalled, and nothing before he was appointed. The law says that the word "consul" shall be understood to mean any person holding consular authority in any of the five ports of China named in the treaty, or in Turkey, and shall receive $1,000 per year as a judicial officer. His position was in Turkey.

Mr. APPLETON. Was this recommended by the Department?

Mr. CHANDLER. I know that his draft was presented to the Department, and the answer to that was, that payment thereof was declined *only for the want of the necessary appropriation.* The House will recollect that they never made an appropriation until 1852 to pay for the judicial services of officers at Constantinople, though the appropriation was always made for those in China. In 1852 we did make an appropriation for Mr. Carr, who served in Constantinople.

Mr. HOUSTON. I think what has occurred in debate here ought to be satisfactory to the committee that this matter is not properly in place as an amendment to the civil and diplomatic bill.

Mr. PECKHAM. Does the gentleman appeal from the decision of the Chair?

Mr. HOUSTON. I am not making a point of order. I am presenting an argument to the committee, and I am presenting it especially to my friend from New York.

Mr. PECKHAM. I am happy to be considered with so much attention by the gentleman from Alabama; but nevertheless I must make a point of order upon him. A point of order was raised as to the admissibility of this amendment. The Chair decided it to be in order. From that decision no appeal was taken, and, therefore, it is not in order now to discuss the point of order.

The CHAIRMAN. That is true; but the gentleman from Alabama was not discussing the point of order, but was opposing the amendment and speaking to its merits.

Mr. HOUSTON. The gentleman from New York is only a little too hasty. I was going to present the case to the committee in opposition, of course, to the amendment, and not in reference to the point of order. I desire to call the attention of the committee to the facts which have been developed in this conversation which has taken place between my friend from Massachusetts [Mr. APPLETON] and my friend from Pennsylvania, [Mr. CHANDLER.]

Mr. CLINGMAN. Will the gentleman allow me to remind him of an occurrence? This claim, and for a much larger amount, was, after discussion and examination, placed in the deficiency bill last year. That bill was rejected on account of its containing appropriations for certain custom-houses, and the Committee of Ways and Means brought in another bill which they told us was identical with the one which had been rejected, with the exception that it excluded the appropriations for the custom-houses. I supposed that that bill contained this item, and it went through the House. I was greatly surprised, as were others, to find, afterwards, that this appropriation had been left out of the bill.

Mr. HOUSTON. I do not see why the gentleman should look to me for that.

Mr. CLINGMAN. I want to inform the gentleman and the committee that the claim was investigated then by the House and the committee.

Mr. HOUSTON. I have not said it was not.

Mr. CLINGMAN. My object was to make an explanation to the committee of the occurrences which then took place.

Mr. HOUSTON. Mr. Chairman, it seems, from what has transpired, that there are two claimants for the very time covered by this claim. This, then, being one of the general appropriation bills—not a bill in which it is necessary and proper to adjudicate the difference between parties, but one intended to carry out existing laws of the land—it seems to me that it is not the place in which to settle the contest between Mr. Brown and Mr. Dainese.

Mr. CHANDLER. There is no dispute between Mr. Brown and this claimant. Mr. Brown is dragoman, and gets his pay every year.

Mr. HOUSTON. I understood my friend from Massachusetts to say that there was a dispute between Mr. Brown and Mr. Dainese.

Mr. APPLETON. I should have said Mr. Holmes and Mr. Dainese.

Mr. HOUSTON. Then there is another gentleman claiming for this time, besides Mr. Dainese?

Mr. APPLETON. Yes, sir.

Mr. WHEELER. Who is Mr. Holmes? I understand that he was a missionary at Constantinople at the time, and had a personal difficulty with this man. That is the whole case, as I understand it.

Mr. HOUSTON. I do not care whether it is Mr. Brown, or Mr. Holmes, or anybody else. Either illustrates the view which I intend to present to the committee, and it is that this is a claim of a character which ought not to go into a general appropriation bill. It is offered as an amendment to this bill; and at a time when the committee cannot go into the investigation of the case, which it ought to, before we settle the rights of these parties. I hope the committee will vote down the amendment.

The question was taken; and the amendment was adopted.

Mr. HOUSTON. I am instructed by the Committee of Ways and Means to offer the following amendment:

From the nine hundred and nineteenth line, strike out "forty," and in lieu thereof insert "sixty," so that the paragraph will read, if amended,

For contingent expenses of foreign intercourse, $60,000.

The question was taken; and the amendment was adopted.

Mr. DRUM. I submit the following amendment: After the provision for the compensation of the consuls to the five ports in China, insert as follows:

And the Secretary of the Treasury is hereby authorized and directed to pay to James Keenan, consul at Hong Kong, in China, the sum of $581 58, expended by him for the relief of American citizens shipwrecked in Chinese waters in August last: *Provided*, That the account and vouchers shall be filed in the office of the Secretary of State, and the claim be first approved by him.

Mr. Chairman, in August last an American ship was cast away upon one of the islands near the coast of Japan. The passengers, who were American citizens, remained there about twenty days, living in a state of almost destitution. Their food was roots and such other edibles as they could procure there. They were finally taken off by an American man of war, and sent to Hong Kong. Mr. Keenan, the present consul there, took charge of them. He provided for them until they could get away.

The amendment is a simple one. It appropriates $581 58 to reimburse Mr. Keenan. The vouchers are in the State Department. I have a letter from Mr. Marcy, who says that he is perfectly satisfied with them, but that he can do nothing with the claim because there is no appropriation made to pay it. Therefore I ask that the appropriation be made here to pay Mr. Keenan for the actual expenses which he incurred in protecting American citizens.

Mr. HOUSTON. The next item contains an appropriation for cases of this description.

Mr. DRUM. That provides for seamen; my amendment is for American citizens who were passengers.

The question was taken, and the amendment was adopted.

Mr. FULLER. I offer the following amendment; after the words,

"For the relief and protection of American seamen in foreign countries, $125,000,"

insert as follows:

And it shall be lawful for the President of the United States to cause such measures to be taken as, in his opinion, may be expedient for providing convenient accommodations, medical assistance, necessary attendance and supplies for the relief of sick and disabled seamen of the United States who may be at or near the port of Havana, in case the same may be done with the assent of the Government having jurisdiction over the port; and for this purpose to establish such regulations and to authorize the employment of such persons as he may judge proper; and that for defraying the expenses thereof a sum not exceeding $10,000 be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated.

Mr. JONES, of Tennessee. That amendment is not in order. There is no law authorizing it. It involves an expenditure for the purchase of a place upon which to erect the establishment.

Mr. FULLER. I differ with the gentleman.

I think I can show that the amendment is in order. The amendment which I offer is a qualification of the appropriation which it follows. It limits the expenditure of the appropriation. It is copied from the second section of an act passed in 1802, under Mr. Jefferson's administration, which made similar regulations at the port of New Orleans while it was under Spanish authority.

Mr. JONES. I have raised a question of order, and ask the Chair to decide it.

The CHAIRMAN. The amendment seems to confer a new power upon the Executive in this matter of taking care of our seamen, and, in the opinion of the Chair, is out of order.

Mr. FULLER. I beg to respectfully call the Chair's attention to one fact. The paragraph in the bill to which this is an amendment is for the relief and protection of American seamen in foreign countries.

Mr. LETCHER. Does the gentleman appeal from the decision of the Chair?

Mr. FULLER. I have the Chair's consent to make an explanation.

Mr. LETCHER. I rise to a question of order. The question has been decided, and debate is not in order.

The CHAIRMAN. The Chair would be glad to hear the gentleman's explanation, but debate is objected to, and cannot be allowed.

Mr. FULLER. This is a question of importance, and I ask the indulgence for a brief explanation.

The CHAIRMAN. Does the gentleman from Virginia withdraw his objection?

Mr. LETCHER. I do not.

Mr, FULLER. I wish to state but one fact. I appeal to the Chair to reverse his ruling. I am sure he will do it when he hears the fact of the case. Here is a sum of money appropriated for the protection of American seamen in foreign countries. That has necessarily to be expended under the direction of the President of the United States, and is not a matter that is now regulated by law. My amendment, therefore, violates no law now in existence. The expenditure of the money is in the President's discretion. This amendment is a restriction upon the expenditure of the money. Is it out of order to specify the manner in which $10,000 of the appropriation shall be expended?

Mr. HOUSTON. Let me ask the gentleman a question. Suppose he should offer a proposition to take this $125,000 to build houses with——

Mr. FULLER. That is not what I propose.

Mr. HOUSTON. It is a parallel case.

The CHAIRMAN. Is there any existing law directing the appropriation of this money?

Mr. FULLER. There is none; and its expenditure is at the President's discretion. I propose but to limit $10,000 of it.

The CHAIRMAN. If there be no law directing the expenditure of this amount, the Chair is disposed to reconsider his decision, and to decide that it is in order to limit the manner in which the amount appropriated shall be expended. Gentlemen will readily perceive the difficulties under which the Chair labors in deciding questions relating to laws which he has not before him. If there be no law specifying the manner in which the appropriation shall be expended, the Chair prefers that the committee shall decide for themselves whether they will limit its expenditure as the amendment proposes.

Mr. FULLER. There is no such law.

The CHAIRMAN. Then the Chair will rule the amendment to be in order.

Mr. FULLER. I now call for the reading of the letters of the Secretary of the Treasury and the consul at Havana, which will explain the whole matter.

Mr. JONES, of Tennessee. Mr. Chairman, I think if the gentleman from Maine——

Mr. FULLER. Does the gentleman from Tennessee appeal from the decision of the Chair? If he does not, I have the floor.

Mr. JONES. I will say to the Chair that the amount of this appropriation is authorized by law.

The CHAIRMAN. The Chair did not rule the amendment in order upon the ground that the original appropriation in the bill was not authorized by law, but upon the ground that, by the statement of the gentleman from Maine, there is no law specifying the disposition of the appropriation. If this be so, the Chair decides the amendment, proposing as it does to simply limit the disposition of a portion of the appropriation, is not out of order. If there is any law directing how the money shall be expended, the Chair will be happy to have his attention called to it.

Mr. HOUSTON. This appropriation is as old as the appropriation bills. This amount has been expended regularly and constantly every year, and I take it for granted, although I cannot at this moment turn to the precise provision, that the expenditure is regulated by law.

Mr. FULLER. The gentleman is mistaken. There is no such regulation by law.

Mr. HOUSTON. I take it for granted there is. I will send for the law.

Mr. PECKHAM. I hope the committee will not take it for granted until they hear the law.

The CHAIRMAN. Is there a question of order raised?

Mr. HOUSTON. I have raised no question of order. I merely stated to the Chair what I understand to be the facts.

Mr. FULLER. If the Chair will allow the letters to which I have referred, to be read, I think they will throw some light upon the question of order.

The CHAIRMAN. The letters will be read, unless objection be made.

Mr. WHEELER. I object.

Mr. JONES, of Tennessee. That amendment virtually authorizes the President to construct a hospital at Havana.

Mr. FULLER. No such thing.

Mr. JONES. It is to provide for the accommodation of sick seamen, and I should like to know what they want but hospital accommodations?

Mr. FULLER. In point of fact, the amount of money here authorized to be expended at Havana is annually expended there. This amendment only provides the manner in which it shall be expended. If the committee had allowed the letters to which I alluded to be read, they would have shown the necessity there is for this provision. During the prevalence of the epidemic at Havana, some two hundred American seamen died there. They were thrown into bags and buried, for which the authorities charged our Government twenty-five dollars each. Now, this amendment proposes that in future, when our seamen die there, they shall be buried in coffins, and that they shall be attended to when they are sick. I call for the reading of those letters.

The CHAIRMAN. The Chair is compelled to say that this discussion is not in order except by the consent of the committee. The Chair desired to obtain information upon the subject.

Mr. WHEELER. I object.

Mr. HOUSTON. Here is the law to which I referred. I ask the Clerk to read it.

The section was read, as follows:

"SEC. 4. *And be it further enacted*, That it shall be the duty of the consuls, vice consuls, commercial agents, or vice commercial agents of the United States, from time to time, to provide for the mariners and seamen of the United States, who may be found destitute within their districts respectively, sufficient subsistence and passages to some port in the United States, in the most reasonable manner, at the expense of the United States, subject to such instructions as the Secretary of State shall give; and that all masters and commanders of vessels belonging to citizens of the United States, and bound to some port of the same, are hereby required and enjoined to take such mariners or seamen on board of their ships or vessels, at the request of the said consuls, vice-consuls, commercial agents, or vice commercial agents respectively, and to transport them to the port in the United States to which such ships or vessels may be bound, on such terms not exceeding ten dollars for each person, as may be agreed between the said master and consul, or commercial agent. And the said mariners or seamen shall, if able, be bound to do duty on board such ships or vessels according to their several abilities: *Provided*, That no master or captain of any ship or vessel shall be obliged to take a greater number than two men to every one hundred tons burden of the said ship or vessel, on any voyage; and if any such captain or master shall refuse the same on the request or order of the consul, vice consul, commercial agent, or vice commercial agent, such captain or master shall forfeit and pay the sum of $100 for each mariner or seaman so refused, to be recovered for the benefit of the United States in any court of competent jurisdiction. And the certificate of any such consul or commercial agent, given under his hand and official seal, shall be *prima facie* evidence of such refusal in any court of law having jurisdiction for the recovery of the penalty aforesaid."

Mr. FULLER. There is nothing in that law which applies to this case. That is to provide for sending foreign seamen home. I call for the reading of the letters.

Mr. TAYLOR, of Tennessee. I move that the committee do now rise.

The question was put, and the motion was not agreed to.

Mr. FULLER. Again I call for the reading of the letters.

The Clerk then read the following letters:

TREASURY DEPARTMENT, *February* 9, 1855.

SIR: I have the honor to submit, for the information and consideration of the Committee on Commerce, a copy of a letter from W. H. Robertson, Esq., acting consul of the United States at Havana, setting forth the neglect, suffering, and consequent mortality of sick American seamen in that port. Similar representations have heretofore been verbally made at the Department, leading to the conviction that the condition of seamen overtaken by disease, and compelled to leave their vessels for relief, is appalling. Many die who, with reasonable care, would be restored to health, to their professions, and their families.

The third section of the act of 16th July, 1798, evidently contemplates the expenditure within the United States of the fund arising from the tax on seamen. The first section of the act of 3d May, 1802, enlarges the powers of the President in respect to this fund, but as the second section makes special provision for a case without, the conclusion is, that the fund is still subject to the restriction contained in the former act.

Louisiana, at the time of the passage of the latter act, had not been ceded to the United States, and New Orleans was then a foreign port. There is, therefore, an exact analogy between that port at that period, and Havana at the present, in that particular, as well as in those of climate, and its diseases, the character and habits of the local population, &c.

Under these circumstances, I respectfully recommend that provision similar to that contained in the act of 1802, be made for sick American seamen at Havana, but that the amount may be $10,000, instead of that therein contained.

I am, very respectfully, &c.,

JAMES GUTHRIE,
Secretary of the Treasury.

HON. T. J. D. FULLER, *Chairman Committee on Commerce, House of Representatives.*

UNITED STATES CONSULATE,
HAVANA, *January* 21, 1855.

SIR: While in Washington last August, I had the honor of a brief interview with you on the subject of a United States hospital in this city. I stated to you that we had lost some two hundred sailors, in the private hospitals with "vomito" the past summer, not one of which were buried with a coffin—the hospitals charging at the same time for each one twenty-five dollars for their burial expenses—which includes a coffin, but in no instance that I can learn, has a coffin ever been furnished.

These hospitals are owned by individuals, over which there is no supervision, and the poor sailor is left to the tender mercies of the managers; in one instance, where the individual had strength of constitution enough to overcome disease, neglect, and suffering, he complained at this office of the treatment he had to suffer, saying that it would be more humane, on their being attacked, to sew them up in a blanket with sufficient weights to sink them and throw them overboard. I am informed that representation after representation has been made to different administrations, without producing any result or notice, although it cries aloud for *reforms* or something done in a place where so much suffering exists during the summer.

Pardon me, if I betray a weakness in sympathizing with the poor sailor, and attribute it to the fact, that I am obliged to witness so much of their suffering.

I am satisfied that, with a small appropriation by the Government, for the procurement of furniture, medicine, and the payment of rent and nurses, that the hospital would support itself after the first year, even under reduced charges, and procuring to each a decent burial in a coffin.

It is my intention to have an interview with the Captain General on this subject, the result I may be able to give you by the next steamer.

I am with great respect and consideration, your obedient servant,

WILLIAM H. ROBERTSON,
Acting Consul.

To the Hon. JAMES GUTHRIE, *Secretary of the Treasury.*

Before the reading of the letters was concluded,

Mr. PECKHAM. I object to the reading of those letters. The time of the gentleman from Maine has expired, and he only claimed the right to have them read as a part of his speech.

The CHAIRMAN. The Chair understood that there was no objection to the reading.

Mr. WHEELER. I beg the Chair's pardon. I objected as distinctly as I ever do, and the Chair never attended to me.

The CHAIRMAN. The Chair did not hear the gentleman.

Mr. PECKHAM. I also objected; and the gentleman from Maine then stated that he would have the letters read as a part of his speech. I desire only to save time. No one is listening to the reading.

The CHAIRMAN. The Chair will inquire of the gentleman from Maine if he asked to have the papers read as a part of his speech?

Mr. FULLER. I did at one time, but a great deal of discussion took place after that.

The CHAIRMAN. Did the gentleman have the papers read as part of his speech?

Mr. FULLER. I cannot say that.

The CHAIRMAN. The gentleman from New York says that he did, and the Chair will take the

statement of the gentleman from New York. The five minutes allotted to the gentleman from Maine have expired, and the reading of the papers cannot be proceeded with.

Mr. JONES, of Tennessee. Now that that paper has been read, I submit a question of order to the Chair. The gentlemen who wrote it, Mr. Robertson, says that he had an interview with Mr. Guthrie on the subject of the establishment of a hospital at Havana, and the Chair will admit that if this was a proposition to build a hospital in the United States, it would not be in order.

Mr. FULLER. The amendment says nothing about a hospital.

Mr. JONES. It does not say a hospital, but it says to provide accommodations, medical attendance, and so forth. Now, there is no law authorizing anything of that sort.

Mr. FULLER. Does the gentleman from Tennessee deny the fact that for a series of years there have been funds appropriated for the purpose of taking care of seamen at the port of Havana?

Mr. JONES. I do not, but it comes in in one general appropriation.

Mr. WHEELER. Is this discussion in order?

The CHAIRMAN. It is not.

Mr. WHEELER. Then I object to it.

The CHAIRMAN. The Chair is not very clear in regard to the question whether this amendment is authorized by existing law. It is a question of construction. The Chair is not prepared to decide the amendment out of order and thinks it better to leave it to the decision of the committee.

Mr. LETCHER. I desire now to reply to the remarks of the gentleman from Maine.

The CHAIRMAN. Then the gentleman from Virginia appeals from the decision of the Chair.

Mr. CAMPBELL. I move that the committee do now rise.

Mr. LETCHER. Mr. Chairman, this is an age of progress——

Mr. CAMPBELL. Is the motion to rise debatable?

The CHAIRMAN. It is not.

Mr. LETCHER. I have the floor. I have taken no appeal from the decision of the Chair.

The CHAIRMAN. Then the floor could not be taken from the gentleman from Virginia.

Mr. CAMPBELL. The Chair recognized me, and entertained my motion.

The CHAIRMAN. The Chair then supposed that the gentleman from Virginia had taken an appeal from the decision of the Chair.

Mr. LETCHER. Mr. Chairman, this is an age of progress. We some time ago decided, under the guidance of the gentleman from Maine, [Mr. FULLER,] that it was perfectly constitutional to build a light-house outside of the United States.

Mr. EDGERTON. I rise to a question of order. My question of order is this, that the debate having been closed upon this bill, it is only competent for a member to offer an amendment and speak in favor of it, and for another to speak against it.

Mr. LETCHER. Well, who has spoken against this amendment?

Mr. EDGERTON. Three or four gentlemen have done so.

Mr. LETCHER. Not at all. It was the question of order they were debating.

The CHAIRMAN. The discussion has been upon the question of order.

Mr. LETCHER, (resuming.) The same gentleman from Maine comes here to-day and has letters from the Treasury Department read, which propose to build a hospital outside of the United States.

Mr. FULLER. I beg to correct the gentleman.

Mr. LETCHER. It is stated in Mr. Robertson's letter that they want a hospital at Havana.

Mr. FULLER. That is not the point. It is my amendment the gentleman should speak to, and the amendment does not propose to build a hospital, anywhere.

Mr. LETCHER. It proposes to give this money to an officer of the Government to expend, and it does not say whether he shall expend it on a hospital or expend it in some other way.

Now, sir, I suppose that this is somewhat in anticipation of annexation. They say Cuba is almost a ripe pear, and it may be that it will fall into our laps now, and that the gentleman from Maine and the Secretary of the Treasury are merely taking steps to provide a hospital there in advance, before we get the island. [Laughter.]

Mr. HOUSTON. I rise to a question of order. I cannot consent, at this late stage of the evening and of the session, that a debate on the annexation of Cuba should be brought in. [A laugh]

Mr. LETCHER. I shall have done directly. I should have been through long ago if the gentleman had not interrupted me.

Mr. HOUSTON. But then other gentlemen will want to follow the gentleman from Virginia.

Mr. LETCHER. They cannot. This is the last speech that can be made on the amendment.

Mr. HOUSTON. Well, I object to this debate.

Mr. LETCHER. It may be that when the difficulty comes about getting Cuba, there may have to be a fight, and the gentleman from Maine wants to provide a hospital for the sick and disabled, and wounded——

Mr. HOUSTON. I call the gentleman to order.

Mr. LETCHER. Well, I have done.

Mr. CAMPBELL. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, the Chairman of the committee reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly House bill (No. 569) to provide for the civil and diplomatic expenses of the Government for the year ending 30th June, 1856, and had come to no resolution thereon.

BOUNTY LAND BILL.

Mr. DAWSON. I ask the unanimous consent of the House to offer the following resolution. It is merely a resolution calling for information, and will not be objected to.

The resolution was reported, as follows:

Resolved, That the Secretary of the Interior be, and he is hereby, required to inform the House, as soon as practicable, what quantity of land will probably be required to satisfy the claims provided for by the bounty land bill recently passed by the Senate of the United States, and now pending before this House.

There being no objection, the question was taken on the resolution, and it was adopted.

ADJOURNMENT OVER.

Mr. CAMPBELL. It is usual, I believe, Mr. Speaker, to celebrate the 22d of February, the 8th of January, and the 4th of July. To-morrow being the anniversary of the birth-day of Washington, I move that when the House adjourns, it adjourn to meet on Friday.

[Cries of "Oh, no!" "No!"]

Mr. SMITH, of Virginia. I want to appeal to the gentleman from Ohio to withdraw his motion. The best way to celebrate the birth-day of Washington is to attend to the business of the country. Any other way would only lead to headaches and other disorders. [Laughter.]

Mr. ORR. We cannot spare time for this purpose.

The motion was not withdrawn.

The question was taken; and the motion was not agreed to.

REBECCA HINTON.

Mr. SAPP. I ask the unanimous consent of the House to take from the Speaker's table Senate resolution No. 38, for the purpose of having it put upon its passage. I would say to the House that I have not heretofore occupied a single moment of the time of the House. The measure which I now wish to have passed takes no money whatever out of the public Treasury.

Mr. DAVIS, of Indiana. It is evident that there is not a quorum here, and I therefore move that the House do now adjourn.

Mr. JONES, of Louisiana. The gentleman from Indiana has not the floor to make that motion.

Mr. DAVIS (at the request of Mr. SAPP) withdrew his motion to adjourn.

The resolution was reported by the Clerk, as follows:

Senate resolution (No. 38) for the relief of Rebecca Hinton.

The resolution, which was read, authorizes the United States district attorney for the district of Ohio to settle a suit now pending in the circuit court of that district against the bail of Otho Hinton, and to discharge the bail bond on payment of $1,000 and the taxable costs of said suit.

Mr. McMULLIN. I object to this resolution being put upon its passage now, and I move that the House do now adjourn.

Mr. McMULLIN subsequently, at the solicitation of Mr. SAPP, withdrew his objection and the motion to adjourn.

The report was read. It appears therefrom that, at the term of the circuit court of the United States for the district of Ohio held in July, 1850, Otho Hinton was indicted for purloining a letter, containing a draft and a small sum of money, from the United States mail; that afterwards, in 1851, Messrs. Powell & Moore gave bond for his appearance in the sum of $10,000; that Rebecca Hinton, the wife of said Otho Hinton, having a separate estate, of the value of $9,000, in the hands of a trustee for her separate use for her life, with remainder to her daughters, was induced to join with her daughters and said trustee in conveying it to the bail for their security in order to relieve her husband from imprisonment. The husband afterwards fled beyond the jurisdiction of the court, forfeiting his bail bond, and subjecting his wife and daughters to the loss of all, or nearly all, their estate. They had no other object in view, it is alleged, than to enable him to prepare his defense and prepare for trial. A suit being pending for the recovery of the forfeited bail, the committee reported the resolution for the purpose of discharging the bond on payment of $1,000 and the costs.

[Cries of "Question!" "Question!"]

The question being on ordering the resolution to a third reading, it was ordered to a third reading, and being accordingly read a third time, it was passed.

Mr. SAPP moved to reconsider the vote by which the resolution was passed, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

COLONEL FULLER'S REPORT.

Mr. JONES, of Louisiana. I ask for the adoption of the following resolution, and I am sure nobody will object to it:

Resolved, That the Secretary of War be requested to furnish the House with the report and accompanying maps of Colonel A. C. Fuller's late survey of the Red river, in the region of the raft.

The question was taken; and it was decided in the affirmative.

So the resolution was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, their Secretary, informing the House that the Senate had passed a joint resolution and bills of the following titles:

A resolution (No. 43) for the settlement of the accounts of the late Governor Burt;

An act (No. 273) to authorize and facilitate the construction of a northern, a southern, and a central Pacific railroad and magnetic telegraph through the Territories of the United States; and

An act (No. 677) for the relief of Mrs. J. Josephine McClellan,

In which he was directed to ask the concurrence of the House.

Also, that the Senate had passed, without amendment, a bill and resolution of the House, of the following titles:

An act (No. 538) to establish an additional land district in the State of Wisconsin; and

A resolution (No. 53) in favor of William Monagan.

ELIJAH KING, DECEASED.

Mr. SMITH, of Virginia. I ask the unanimous consent of the House to present a case to which, I am confident, no objection will be made upon the part of any member. It is the case of a colored man who was manumitted by his master in Virginia, and came to this city, but who died here some six months ago possessed of property to the amount of $6,000 or $7,000. He has left a wife and two children in Virginia in slavery, and the object of this bill is to give to his wife and children the estate left here, upon evidence that they have been manumitted. There is no person now to inherit this estate, except it be the Government of the United States.

The bill was then read through by the Clerk, as follows:

An act for the relief of Christian King, Thomas King, and Bayliss King:

Whereas, Elijah King, a free man of color, has recently died possessed of real estate valued at $6,000 or $7,000, leaving no will, but a widow, Christian King, and two sons, Thomas and Bayliss King, slaves, belonging to Robert Carter, of Virginia; and whereas the said Carter has promised to manumit said slaves upon condition that Congress will pass an act to enable them to hold the property left by the said Elijah King, which they cannot now do without a special act: Therefore—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said Christian King, Thomas King, and Bayliss King be, and they are hereby, authorized to possess, hold, and enjoy the said property so left by said Elijah King, *upon condition* that they furnish proper evidence of their having been manumitted by the said Robert Carter.

Mr. RUFFIN. I object.

Mr. McMULLIN. I now renew the motion that the House adjourn.

The question was taken; and it was decided in the affirmative.

The House thereupon, at twenty minutes past four o'clock, adjourned till to-morrow at eleven o'clock, a. m.

IN SENATE.

THURSDAY, *February* 22, 1855.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

CUSTOM-HOUSE AT CLEVELAND.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate, information relative to the erection of a building for the accommodation of the custom-house and other public buildings, at Cleveland, Ohio; which was referred to the Committee on Commerce, and ordered to be printed.

PETITIONS, ETC.

Mr. SEWARD presented the memorial of William A. Powell, praying for further compensation for his services in executing the historical painting of the discovery of the Mississippi by De Soto, for the vacant panel in the Rotunda of the Capitol; which was referred to the Committee on the Library.

Also, the memorial of William H. De Forrest, praying for compensation for powder destroyed at Punta Arenas, during the bombardment of Greytown by Captain Hollins, of the Navy; which was referred to the Committee on Foreign Relations.

Mr SLIDELL presented the petition of Hannibal Faulk, and Eliza S. Collier, of Louisiana, for the confirmation of a tract of land in the Bastrop grant; which was referred to the Committee on Private Land Claims.

Mr. BADGER presented a memorial of the Vestry of Washington Parish, asking Congress to purchase an additional number of burial sites in the Congressional Burying Ground; which was referred to the Committee on Public Buildings.

Mr. GWIN presented the petition of Mrs. Emma Du Barry, widow of Edmund L. Du Barry, late a surgeon in the United States Navy, praying reimbursement for extraordinary expenses incurred by her husband in Hong Kong, &c.; which was referred to the Committee on Naval Affairs.

MERCANTILE MARINE.

Mr. PRATT. I hold in my hand a resolution of the Board of Trade of Baltimore, asking Congress to appoint a committee to sit during the recess and examine into the necessities of shipowners in regard to seamen and in relation to the passage of some law to provide a substitute for flogging in the mercantile service. I ask its reference to the Committee on Commerce.

Mr. HAMLIN. I desire to report a resolution from the Committee on Commerce to meet that very case.

Mr. PRATT. Then the resolution which I have presented may lie upon the table.

Mr. HAMLIN. I present the following resolution:

Resolved, That the Committee on Commerce of the Senate be authorized to designate three of its members, who may sit during the coming recess for the purpose of examining into the subject of the laws now existing for the government of our mercantile marine, for the encouragement and improvement of American seamen; but they shall not sit more than ninety days, and they shall prepare a bill for the better organization and encouragement of seamen, to be submitted, together with their report, at the next Congress.

Mr. MASON. Let it lie over.

REPORTS FROM STANDING COMMITTEES.

Mr. BRODHEAD, from the Committee on Claims, to whom was referred the petition of Hall Neilson, praying remission of interest on notes given the United States in payment for land, submitted a report, accompanied by a joint resolution for his relief, which was read and passed to a second reading. The report was ordered to be printed.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the bill from the House to provide a more efficient discipline for the Navy, reported it back without amendment.

Mr. SLIDELL, from the Committee on Foreign Relations, to whom was referred the petition of Richard B. Carmichael, in behalf of the legal representatives of William Carmichael, deceased, late chargé d'affaires of the United States at Madrid, praying the allowance of an outfit, &c., submitted an adverse report thereon; which was ordered to be printed.

Mr. SHIELDS, from the Committee on Military Affairs, to whom was referred the petition of A. S. Bender, submitted a report accompanied by a bill for his relief; which was read, and passed to a second reading. The report was ordered to be printed.

GEORGIA AND FLORIDA BOUNDARY LINE.

Mr. MALLORY submitted the following order for consideration:

Ordered, That the Secretary of the Senate cause to be compiled and printed, with the documents of the present session, all the documents and other papers in anywise relating to the boundary line between the States of Georgia and Florida, heretofore laid before either House of Congress, and of the reports of committees, and all proceedings and action of either House thereon, so arranging the same that no paper be twice printed in such compilation.

UNITED STATES CONSUL AT ACAPULCO.

Mr. GWIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested, if not incompatible with the public interest, to communicate to the Senate a copy of a letter addressed to the Secretary of State by Francis W. Rice, late United States consul at Alcapulco, since the 11th of January last, in relation to the outrages committed upon him by the authorities of Mexico, at that port.

COLONEL GILPIN'S REPORT.

Mr. GWIN submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That the Secretary of the Senate be requested to procure, for the use of the Senate, a copy of the report of Colonel William Gilpin, on the Hydrography of the North American Continent; and also nine hundred and thirty sets of the maps accompanying the same.

MESSAGES FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, informing the Senate that the House had passed a bill to regulate the carriage of passengers in steamships and other vessels; also, that they had passed, without amendment, Senate joint resolution for the relief of Rebecca Hinton; and a bill to organize an institution for the insane of the Army and Navy, and of the District of Columbia in the said District.

DIPLOMATIC AND CONSULAR BILL.

Mr. MASON. I give notice that I shall, on Saturday, during the morning hour, ask permission of the Senate to call up the bill from the House of Representives, which has been reported from the Committee on Foreign Relations, to remodel the diplomatic and consular system of the United States.

WILLIAM H. DE FORREST.

Mr. SEWARD. I ask the unanimous consent of the Senate to introduce, at the instance of the State Department, a joint resolution to authorize the payment to William H. De Forrest, of the sum of $12,000, for a quantity of powder destroyed at Punta Arenas.

Unanimous consent was given, and the joint resolution was introduced, and read twice.

Mr. SEWARD. I ask for its consideration now.

Mr. PETTIT. I object.

UNITED STATES BUILDING IN MICHIGAN.

Mr. STUART. I ask leave to introduce a resolution to refer a subject to the Committee on the Judiciary. It is to instruct them to inquire into the propriety of erecting a building in the city of Detroit, in the State of Michigan, for the confinement of such persons as it shall become necessary to confine under the laws of the United States. To show its necessity, I ask the Secretary to read the resolution, and a law recently passed by the Legislature of that State.

The resolution is as follows:

Resolved, That the Committee on the Judiciary be instructed to inquire into the necessity of providing for the erection at Detroit, in the State of Michigan, of suitable buildings for the safe keeping of such persons as may be subject to confinement under the laws of the United States.

The Secretary read the act referred to, as follows:

A Bill to Protect the Rights and Liberties of the Inhabitants of this State.

SEC. 1. The people of the State of Michigan enact, that it shall be the duty of the prosecuting attorneys, within their respective counties, whenever any inhabitant of this State is arrested or claimed as a fugitive slave, on being informed thereof, diligently and faithfully to use all lawful means to protect, defend, and procure to be discharged, every such person so arrested or claimed as a fugitive slave.

SEC. 2. All persons so arrested and claimed as fugitive slaves shall be entitled to all the benefits of the writ of habeas corpus and of trial by jury.

SEC. 3. If such writ of habeas corpus shall be sued out in vacation, and if, upon the hearing of the same, the person imprisoned, arrested, or claimed as a fugitive slave, shall not be discharged, such person shall be entitled to an appeal to the circuit court for the county in which such hearing shall have been had, on furnishing such bail within such time as the officer granting the writ, or hearing the case, shall judge reasonable or proper.

SEC. 4. The court to which such appeal is taken, and any court to which a writ of habeas corpus in behalf of any such person claimed or arrested as a fugitive slave is made returnable, may, and shall, on application of either party to such proceedings, allow and direct a trial by jury on all questions of fact in issue between the parties in the matter aforesaid; and the taxable costs of such trial shall be chargeable to the State whenever the same would be otherwise chargeable to the person arrested or claimed as a fugitive slave.

SEC. 5. No person so arrested or claimed as a fugitive slave shall be imprisoned in any jail or other prison in this State; and any person having the care or control of any prison, and permitting the imprisonment of such alleged fugitive slave therein, shall be subjected to the payment of a fine of not less than $500 nor more than $1,000.

SEC. 6. Every person who shall falsely declare, represent, or pretend that any free person entitled to freedom is a slave, or owes service or labor to any person or persons, with intent to procure, or aid, or assist in procuring the forcible removal of such free person from this State, as a slave, shall be imprisoned not less than three nor more than five years in the State prison.

SEC. 7. Every person who shall wrongfully and maliciously seize, or procure to be seized, any free person entitled to freedom, with intent to have such person held in slavery, shall pay a fine of $1,000 and be imprisoned five years in the State prison.

SEC. 8. In all cases arising under the provisions of sections seven and eight of this act, the truth of any declaration, representation, or pretense, that any person being, or having been, in this State, is, or was a slave, or owes, or did owe service or labor to any other person or persons, shall not be proved except by the testimony of at least two credible witnesses, testifying to facts directly tending to establish the truth of such declaration, pretense, or representation, or by legal evidence equivalent thereto.

SEC. 9. No declaration, pretense, or representation that any person is or was an apprentice for a fixed term of years, or owes, or did owe, service merely as such apprentice for such fixed term, shall be deemed prohibited by this act; and no such declaration, pretense, or representation that any person is, or was, such an apprentice for such fixed term, or owes or did owe service, merely as such an apprentice for such fixed term, shall be liable to any penalty under this act.

SEC. 10. All acts, or parts of acts, conflicting with the provisions of this act are hereby repealed.

Mr. STUART. I do not desire, at this time, to discuss that question. I only wish to say that there is now in the State of Michigan no building of the kind contemplated by the resolution belonging to the United States which can be used for their own purposes. As is known to all, the State buildings are used only by comity between the General and State Governments. I hope, therefore, the Committee on the Judiciary will inquire into the subject, and if it is necessary, in order to a full execution of the laws, that a building should be erected, they will make a recommendation for that purpose. It may hereafter become necessary for me to discuss the propriety of that law; but it is not necessary now. I, however, unhesitatingly express the conviction that all the laws of the United States, which are constitutional and proper, will be executed in the State of Michigan as perfectly as they will in any other State.

Mr. CHASE. I object to the consideration of the resolution. I hold in my hand, Mr. President, several petitions of citizens of New York in relation to slavery. It is my duty to present them to the Senate, and the present seems a fitting time. I propose to state briefly the purport of each, and

then to move that they be referred to a select committee.

They present various phases of the slavery question. In one, the petitioners ask that the protection of Congress may be extended to citizens of one State traveling in another; in another, they pray for the prohibition of the traffic in slaves among the several States; in a third, they recommend the abolition of slavery in this District; in another, they insist on the repeal of the fugitive slave act; in another, they demand that slaves be no longer sold under judicial process for the payment of debts to the United States; in still another, they remonstrate against payment, out of the Federal Treasury, for the negroes of the Amistad, who were declared freemen by the Supreme Court, but claimed to be property by the Spanish Government; and in the last, they ask for the prohibition of slavery and the slave trade in the Territories of the United States.

These several petitions are signed, in part, by the same, and, in part, by different individuals. They were committed to my charge by a gentleman of distinguished worth and high social position The signers are men of character and substance, intelligent and patriotic. They have a right to be respectfully and fairly heard.

I move the reference of these petitions to a select committee for several reasons.

First, the importance of the general question of slavery, which they present under different aspects, justifies such a reference. No one here can fail to observe the immense, not to say overpowering, influence which slavery exerts over almost every act of the Government. It was but yesterday that the Senator from Pennsylvania [Mr. BRODHEAD] invoked the aid of Senators from the slave States against the proposed credits for duties on railroad iron, and intimated, not obscurely, that the loyalty of Pennsylvania to the South might be affected by their refusal. To-day, the Senator from Michigan [Mr. STUART] causes to be read, at the Clerk's table, an act of the Legislature of his State, for the protection of its inhabitants against unlawful seizure, as evidence of the necessity of prompt action upon his resolution of inquiry into the necessity of providing United States jails at Detroit. Thus, on every side, we confront this question. Hardly a question, indeed, I may say, no subject comes before Congress which is not, nearly or remotely, affected by considerations and influences growing out of the institution of slavery. No attempt to settle this slavery question has yet succeeded. Adjusted by one compromise, it demands another; settled again, it is again renewed. The very compromises by which it was adjusted, are broken by its power. Such a question, so important, and so importunate, so pervasive, and so controlling, certainly deserves the consideration of a select committee.

Secondly, I submit that the ordinary rule of legislative proceedings requires such a reference. All memorials and all propositions, according to the common course of parliamentary action, should be referred to a favorable, or, at least, to an impartial committee. Every Senator knows that the standing committees of this body to which these petitions might be otherwise appropriately referred, are so constituted, that the petitioners could not expect from them even an impartial, much less a favorable, consideration. A reference to a select committee is therefore necessary to secure for these petitioners that candid and liberal hearing which American citizens have a right to demand from their national Legislature.

Thirdly, I beg Senators to consider whether justice to brother Senators and members of the other House of Congress, who share, in a greater or less degree, the sentiments of these petitioners does not require the reference which I propose. It is very common to impute to certain Senators, myself among them, fanatical notions on the subject of slavery. A great deal of loose representation, and not a little gross misrepresentation of our opinions, is propagated through the country. Certainly, it is but fair, and I hope Senators from all sections will agree in this, to give us an opportunity of stating, in the authentic form of a report, our real views, and our plan for the final settlement of this great question, to the consideration of Congress and the country. Let it be seen whether we are fanatics, or whether we are sincere men, holding only in good faith the opinions of Washington and Jefferson, of Franklin and Adams, and seeking only their just and impartial application to legislation and administration. We are no longer inconsiderable in number here, and we represent a majority of the voting population of the Union. Under such circumstances, I respectfully ask, how can a reference to a select committee be denied with propriety or justice?

Finally, sir, it is due to the people of the slave States, and to the slaveholding class itself, that this reference should be ordered. They ought to have correct and authentic information as to the views and purposes of those who agree in the general with these petitioners. I have already said that I believe they constitute at this moment a majority of the electors of the country. Party ties have hitherto restrained their action. But party ties, as we have been made to see clearly, during the debates of the last two days, visibly decay, wax old, and are ready to vanish away. Instead of the old parties, new organizations arise. Through these new organizations, or over them, the people will assert their supremacy; and the people are against slavery. Under these circumstances, what interest can the slave States have in suppressing the clear expression of distinct opinions on this subject? Is it not better for them to know what the opponents of slavery in the free States really propose to do? Why should they fight shadows and phantoms? Why not inform themselves accurately and carefully of real facts and the actual situation? Surely, sir, it is best that each section of the country should fully understand what the other sections wish or propose in reference to matters of such interest. If real dangers exist they can be best encountered when clearly seen and fully understood. If no real danger exist, true information will dispel needless alarms.

It is not my habit, Mr. President, to make long speeches. I confess to some reluctance even to make this motion, and to say what I have said. But I seek no debate. I merely propose a reference, that a committee may consider and report. For this sufficient time remains, and I trust that my motion may be agreed to.

Mr. WELLER. It is very remarkable, if the Senator from Ohio has had these petitions in his possession for a long time, that he should have been delayed up to this hour introducing them before the Senate. Now, sir, there are but eight legislative days left for Congress, and there is a vast amount of public business to transact; but here, at the very heel of the session, he proposes that we shall enter into a general discussion of the subject of slavery. If it were desirable, at any time, that we should discuss those questions to which he has alluded, it would certainly be improper now. It is manifestly improper, from the fact that there isa large amount of business which must be disposed of before we adjourn. I move, therefore, that the petitions, with the pending motion of the Senator from Ohio, be laid on the table, where, I trust, they will sleep the sleep that knows no waking.

Mr. SUMNER. On that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 13; as follows:

YEAS—Messrs. Bell, Benjamin, Bright, Brodhead, Brown, Butler, Clay, Clayton, Evans, Fitzpatrick, Geyer, Gwin, Hunter, Johnson, Jones of Tennessee, Mallory, Mason, Morton, Pettit, Rusk, Sebastian, Shields, Slidell, Stuart, Thompson of Kentucky, Thomson of New Jersey, Toucey, Weller, and Wright—29.

NAYS—Messrs. Brainerd, Chase, Cooper, Dodge of Wisconsin, Fessenden, Foot, Gillette, Hamlin, James, Seward, Sumner, Wade, and Walker—13.

So the petitions were ordered to lie on the table.

ALTERNATION OF JUDGES IN FLORIDA.

Mr. GEYER. The Committee on the Judiciary, to whom was referred House bill to provide for holding the United States courts in the northern and southern districts of Florida, in case of the sickness or disability of either of the judges of those districts, have directed me to report it back without amendment, and to recommend its passage. I am requested by the Senators from Florida to ask for its present consideration, and I trust the Senate will agree to act upon it now.

Several SENATORS. What is it?

Mr. MALLORY. This is a bill to authorize the judges of the two districts in Florida to alternate. One has been indisposed, and cannot hold his court. The object of the bill is only to allow them to alternate. That is all that it provides for, and surely there can be no objection to it.

The Senate, by unanimous consent, proceeded to consider the bill as in Committee of the Whole, It proposes to extend to the two judicial districts of Florida the provisions of the act of Congress approved July 29, 1852, entitled "An act to provide for holding the courts of the United States in case of the sickness or other disability of the judges of the district courts," and that the appointment of either of those judges to hold the courts in the district of the other, in consequence of sickness or disability, may be made by the Chief Justice of the United States, or by the circuit judge of an adjoining circuit. Notwithstanding this, however, the certificate of a judge of either district, certifying that he is unable, from sickness or physical disability, to hold any regular, adjourned, or extra term of the courts of his district, and requesting the judge of the other district to hold them, shall, when filed in the clerk's office, be sufficient to authorize the other judge to hold the courts.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REVOLUTIONARY CLAIMS.

Mr. EVANS. Mr. President, I have been reminded by something that I have seen in the morning papers, that this is the birth-day of General Washington, and I know of no more fit occasion that can occur upon which to call up the bill, which has now been for more than a year before the Senate, to provide for the final settlement of the claims of the officers of the revolutionary army, and of the widows and orphan children of those who died in the service. I presume every Senator has made up his opinion about that bill. I do not propose to discuss it or to say a word upon it. All that I desire is that there shall be a vote upon it.

Mr. CLAY. That bill must necessarily lead to some debate, and I insist that it would be a better economy of the public time to finish the business on which we have been engaged. I must, therefore, oppose taking up that bill until we dispose of the business which we yesterday left unfinished.

Mr. JOHNSON. Before voting on taking up this bill, I should be very glad to hear it read, or to hear something about it. If it is a general bill which will lead to general debate, I must certainly object to its consideration at this time.

Mr. EVANS. An hour and a half is wanting before one o'clock will arrive—the hour when the unfinished business of yesterday will regularly come up. The bill which I have moved to take up has been before the Senate since the 6th of February, 1854, and if gentlemen have not read it, they never will read it.

Mr. CLAY. I will assist the Senator in taking it up when we dispose of the unfinished business of yesterday.

Mr. JOHNSON. I understand that this is a general bill, and it is whispered around the Chamber that it is an immense pension bill, which embraces millions of dollars. If that be the case, I really think it ought not to be, and probably will not be, passed without debate; and for that reason I must object to taking it up now.

Mr. EVANS. Let us take up the bill, and see whether it will lead to debate.

Mr. SEWARD called for the yeas and nays on the motion; and they were ordered.

Mr. HAMLIN. Mr. President, there is no Senator in this body to whom I would render an act of courtesy more cheerfully than to the Senator who has submitted this motion; but I desire to state the reason which will compel me to vote against his motion, and which, I think, will excuse me from all suspicion of a want of courtesy. It is true that this bill involves the expenditure of millions of dollars; it is equally true that I have coöperated with that Senator in maturing it, and I am disposed to vote for a measure embracing much of what is included in his bill; but suppose we take it up and pass it in the Senate, it is a bill which can never be acted on in the House at this session. It is consequently so much labor thrown away. For that reason I must vote against the motion.

Mr. SEWARD. I beg leave to remind the honorable Senator from Maine, and all other Senators, that this is the 22d of February, and that

this is an old subject. It concerns the payment of just claims of the relics of the revolutionary war, and we cannot do a better thing than pass the bill on this day, even though it should involve the payment of a large amount of money.

Mr. SHIELDS. I agree with the honorable Senator from New York. This bill has been before the Senate for two sessions, but it has hardly received the slightest consideration, although the honorable Senator from South Carolina has repeatedly pressed it upon the attention of the Senate. Now I think it is time to take it up. To do so is not, as is supposed by the honorable Senator from Maine, an act of courtesy: justice requires that this bill should be acted upon. I hope it will be taken up this morning.

Mr. BROWN. I wish to ask my friend from South Carolina whether this is not a Senate bill Has it ever passed the House?

Mr. EVANS. It has not passed the House; but I have assurances, so far as the declaration of persons are concerned, that it will pass the House.

Mr. BROWN. Well, sir, I do not think anybody who knows anything about the House of Representatives, supposes they will take up a pension bill involving several millions of dollars, and pass it within the next seven or eight days. It is entirely out of the question; it is an utter waste of time; and I shall, therefore, vote against taking up the bill.

Mr. CLAY. I will ask the Senator from South Carolina of how many millions of dollars he supposes this bill will involve the expenditure? I have been advised that the amount will not be less than $5,000,000.

Mr. EVANS. On a former occasion I stated that the best judgment which I could form, was that it would require $3,000,000, the payment of which would be scattered over a period of about four years, giving a sum considerably less than $1,000,000 a year, and not much more than half your present pension list. I am bound in candor, however, to say, that, from what I have since learned as to the vigilance of pension agents, as they are called, probably a still greater sum than that may be required—possibly $4,000,000; but even if every man who served in the war and received his commutation shall be paid over again, it will only amount to about $6,000,000. It cannot exceed that.

The question being taken by yeas and nays upon proceeding to the consideration of the bill, resulted—yeas 25, nays 16; as follows:

YEAS—Messrs. Bayard, Bell, Benjamin, Brainerd, Brodhead, Butler, Clayton, Cooper, Dawson, Evans, Fessenden, Foot, Geyer, Gillette, James, Morton, Seward, Shields, Sumner, Thompson of Kentucky, Wade, Walker, Weller, Wells, and Wright—25.

NAYS—Messrs. Brown, Chase, Clay, Fitzpatrick, Hamlin, Hunter, Johnson, Jones of Tennessee, Mallory, Mason, Pearce, Pettit, Rusk, Sebastian, Slidell, and Stuart—16.

So the motion was agreed to; and the Senate accordingly, as in Committee of the Whole, resumed the consideration of the bill to provide for the final settlement of the claims of the officers of the revolutionary army, and of the widows and orphan children of those who died in the service.

Mr. WELLS. I move to amend the bill in the fourth section, by striking out the words "and have not since been provided for by any special act of Congress." The connection in which these words occur is,

"That those officers who were entitled to receive half-pay for life under the resolutions aforesaid, and did not receive the same, or the commutation in lieu thereof, and have not since been provided for, by any special act of Congress, shall be paid," &c.

Mr. EVANS. I would prefer to amend the clause so as to read, "and have not since received their commutation under any special act of Congress." The reason for this alteration is, that General Stark received some special provision under an act of Congress, but it was not his commutation. I have no objection to the amendment, however; but if the clause were modified as I propose, it would be sufficiently provided for, and I think my proposition would be better than to strike out the words.

The amendment of Mr. WELLS was agreed to.

Mr. EVANS. There is a verbal amendment necessary in the twelfth section where the word "its" should be "their." The word should be plural instead of singular. The connection is, "and all claims not presented with the evidence for *its* adjudication within that time, shall be forever barred."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time. It proposes to pay the officers of the army of the Revolution the half-pay for life to which they were entitled under the resolutions of Congress of October 21, 1780, January 17, 1781, May 8, 1781, and March 8, 1785, including assistant surgeons, or surgeons' mates, who are to be allowed the same as lieutenants, although they may have received, in lieu of it, the commutation of full pay for five years, under the resolution of Congress of March 22, 1783.

It is to be the duty of the proper accounting officer of the Treasury, when applied to for that purpose, by any one who, by this bill, is entitled to receive, or his or her guardian, to ascertain what is due to any officer, from the time he became entitled to half-pay until his death, if that occurred before the 3d day of March, 1826; but if he died after that time, then up to the 3d day of March, 1826. When the amount due to any officer has been ascertained, the Secretary of the Treasury is to pay it, after deducting the amount received for commutation, under the resolution of March 22, 1783. Those officers who were entitled to receive half-pay for life, under the resolutions mentioned, and did not receive it, or commutation in lieu of it, are to be paid, on establishing their rights to the satisfaction of the accounting officer. The half-pay for seven years, promised by the resolution of Congress of August 24, 1780, to the widows and orphan children of those officers, who died in the service, is to be paid in like manner, on proof to the satisfaction of the accounting officer; and the benefit of that resolution is to be extended to the widow and orphan children of all officers who were killed in battle or died of wounds received in battle, whether the officer belonged to the Continental line, or any volunteer corps called into service under the authority of any State; but no payment is to be made under this provision except to those specially described in that resolution.

The Secretary of War, under the direction, and with the approbation of the President, is to prescribe such rules of evidence as may be necessary to carry into effect the provisions of the act, according to its true intent and meaning. All payments made by its authority are to be without interest. In every case satisfactory proof is to be made that the person in whose name a claim is presented, is the *bona fide* owner, and that it has not been sold, transferred, pledged, or mortgaged to any person; and all sales, transfers, mortgages, or pledges of any of the claims, are declared void.

All persons receiving the benefit of the act are to receive it in full satisfaction of all claims, under any of the resolutions of Congress recited in it, and for all losses alleged to have been sustained by depreciation in the value of commutation certificates. All claims not presented within ten years after to be forever barred.

The PRESIDENT. The question now is, shall the bill pass?

Mr. CLAY. On that question I call for the yeas and nays.

The yeas and nays were ordered

Mr. SLIDELL. If I thought there was the slightest probability of this bill being passed by the House of Representatives I should feel myself obliged to state the very many objections which I have to it; but as I know the Senate is very anxious to proceed to the consideration of other business I shall simply content myself with recording my vote in the negative.

Mr. BELL. Mr. President, I cannot allow this bill to pass without making one remark to my friend from South Carolina, the author of the bill. I know that he sympathizes with me sincerely and deeply in regard to a class of distinguished men, some of whom fell in battle and others survived for many long years after that contest, who were not called into service either by the authority of the General Government or by any State. If this bill shall be passed, I shall at some future time, if I have the honor of a seat on this floor, introduce a bill to do equal justice to those men; but I will not now attempt to arrest the passage of this measure by any debate, or by an attempt to amend it, which might prove fatal both to the principal object of the bill and of the amendment.

Mr. PETTIT. I wish to ask the Senator from Tennessee whether this bill, by its provisions, or by any construction which can be put upon it, will allow payment to the Hessians, or the descendants of the mercenary troops who fought against us in the Revolution?

Mr. BELL. I presume not.

Mr. PETTIT. Has the Senator examined it in reference to that point?

Mr. BELL. I have examined it sufficiently to see that it does not cover all the claims which might very well be made.

Mr. EVANS. It covers no classes except those to whom Congress promised half-pay.

The vote on the passage of the bill was—yeas 26, nays 15; as follows:

YEAS—Messrs. Badger, Bell, Brainerd, Brodhead, Butler, Clayton, Cooper, Dawson, Dodge of Wisconsin, Evans, Fessenden, Foot, Gillette, Hamlin, James, Jones of Iowa, Jones of Tennessee, Morton, Seward, Shields, Sumner, Thompson of Kentucky, Wade, Walker, Wells, and Wright—26.

NAYS—Messrs. Brown, Clay, Fitzpatrick, Geyer, Hunter, Johnson, Mason, Pearce, Pettit, Pratt, Rusk, Slidell, Stuart, Thomson of New Jersey, and Weller—15.

So the bill was passed.

INVALID PENSION BILL.

Mr. HUNTER. I move to postpone the prior orders, for the purpose of taking up the pension appropriation bill. The Senator from Maine [Mr. HAMLIN] is anxious to have it disposed of, as he may be called away to-morrow. I hope gentlemen will give me at least until one o'clock to have the bill disposed of. I think that by that time we can finish it.

Mr. JONES, of Tennessee. I hope that it will not be taken up now.

Mr. CLAY. I trust the Senate will first proceed with the unfinished business of yesterday.

Mr. STUART. I desire to dispose of the report made yesterday from the committee of conference on the swamp land bill, and yet I do not wish to interpose against the motion made by the Senator from Virginia. If the bill is likely to be disposed of in the time which he anticipates, and the Senate choose to take it up, I shall yield, and vote to take it up, but, otherwise, I shall ask the Senate to dispose of the privileged question to which I have alluded.

Mr. HUNTER. I hope Senators will agree to take up the pension appropriation bill. I think we can dispose of it in an hour or less. There is but a single point remaining on the bill to be settled by our vote.

The motion was agreed to; and the Senate accordingly resumed the consideration of the amendment of the House of Representatives to the second amendment of the Senate to the bill of the House making appropriations for the payment of invalid and other pensions of the United States, for the year ending June 30, 1856.

The second amendment of the Senate was to add:

SEC. 3. *And be it further enacted*, That the widows of the officers, non-commissioned officers, marines, or mariners, who served in the Navy of the United States during the revolutionary war, and who were married since the 1st day of January, 1800, shall be entitled to pensions in the same manner, and to the same extent, as the widows of officers and soldiers of the army of the Revolution, under the second section of the act of February 3, 1853; and the pensions granted by this act, and those under said second section of the act of February 3, 1853, shall commence on the 4th of March, 1848.

The House agreed to this, with an amendment, to strike out "and the pensions granted by this act, and those under said second section of the act of February 3, 1853, shall commence on the 4th of March, 1848." The question is on concurring in this action of the House, as recommended by the Committee on Finance.

Mr. HAMLIN. Mr. President, I hope the Senate will not concur in the amendment recommended by the Committee on Finance. I was not present at the time when the original amendment was adopted by the Senate. I was then at my home, but I read the debates which took place on that occasion. If I am not mistaken, many Senators concurred in the propriety of the amendment, but objected to it only as being out of place. That objection I think, can no longer obtain. It has been attached to the bill by the Senate, and most of our amendment has been concurred in by the House, and the question now remains whether the Senate will recede from their former vote, or

will insist upon their whole amendment. It is an important amendment, and I ask the attention of the Senate while I state, as briefly as I can, and much more briefly than was my original intention, the reasons which I think should, with all propriety, induce the Senate to insist upon their former amendment.

By the original law, pensions were granted to the widows of revolutionary officers and soldiers who were married prior to 1783. There was a good reason for fixing the time in 1783, because the soldiers prior to that date were absent from their families, and those widows were necessarily compelled to discharge duties towards the family which were more onerous, responsible, and burdensome to them than those who were married after the war. By the law of 1848 the time limiting the marriage to 1783 was extended to 1800, and the act of 1848, which I have now before me, provided that the widows of every revolutionary officer, soldier, mariner, or any Indian spy, married prior to the 1st of January, 1800, should be entitled to that pension to which her husband would have been entitled, if alive. That was fixing an arbitrary line, excluding entirely every person married subsequent to 1800, while it allowed a pension to every widow who was married prior to 1800.

In 1853, when the bill extending the five years pensions of the widows of those officers and soldiers was before the Senate, sitting here in my place, I drafted an amendment very hastily and sent it to the Chair, which was adopted by a large vote of the Senate. It was one which gave a pension to the widows of those who served in the revolutionary army only, omitting, by mistake, mariners and marines. The provision including the widows of mariners and marines has now been adopted by the Senate, and concurred in by the House. Allow me, at this point, to read the section of the act of 1853 to the Senate; it is very brief:

"That the widows of all officers, non-commissioned officers, musicians, and privates, of the revolutionary army, who were married subsequent to January *Anno Domini* 1800, shall be entitled to a pension in the same manner as those who were married before that date."

What was the meaning, what was the intention of the Senate in adopting that section? for I contend that our amendment to this bill, if insisted upon and adopted by the two Houses, is but simply explanatory of what is, in fact, the true meaning of that section of the act of 1853, and what was intended by Congress to be its true meaning at the time of its adoption. That section provides that those widows who were married subsequent to 1800, should receive the pension "in the same manner" as those who were married prior to 1800. Does the construction which has been put upon the law by the Secretary of the Interior give to the widows who were married subsequent to 1800, pensions in the same manner as those who were married prior to that date? Certainly it does not.

I am sorry that the Senator from South Carolina [Mr. BUTLER] is not now in his seat; but I recollect, distinctly, and I doubt not other Senators will recollect, that when this section was under discussion in the Senate, that Senator objected to it because it might be construed by the Department as going back to 1836. It was, however, adopted by the Senate. It went to the House, and the House non-concurred in our amendment. A committee of conference was agreed upon between the two branches. I was myself upon that committee of managers. While the subject was under consideration by the managers between the two Houses of Congress, I went to the then Secretary of the Interior, and submitted the proposition to him for his consideration; and he stated to me, in terms, as he would state if he were here, that his construction would be that the section would take effect from 1848. Acting under that direct assurance of the Secretary of the Interior that he would give that construction to it, the committee of conference on the part of the Senate agreed to the section in the words in which it was passed, under the belief that it would go back to 1848, but not to 1836. It passed in that way, with the assurance of the Department to the committee of managers that such a construction would be given to it. The Secretary of the Interior, at that time, was a citizen of Virginia, [Mr. A. H. H. Stuart.] Before any case was officially presented to the Department, under that act, for its consideration, he had retired from office, and the present Secretary was appointed in his place. The present Secretary has given to it the construction which now prevails, and, I doubt not, with a full belief on his mind, that, if he committed an error, it was one which Congress would certainly remedy and correct.

Now, sir, look at the language of the Commissioner of Pensions in the letter which he has sent to us on this subject. The Committee of Ways and Means of the House did not see fit to ask the Department its opinion as to the amount of money that would be required to carry it out if it should take effect, as Congress designed and intended that it should, and as the fair import of the language implies, according to my construction of it. What says the Commissioner of Pensions? Mark, sir, the very language of this letter is a *quasi* recommendation in favor of the adoption of this provision of the Senate; for, after stating in his letter the data required by the Committee of Ways and Means, an estimated number of pensioners, and the amount required upon that estimated number to be paid from the Treasury to satisfy those pensions, he says:

"I have thus endeavored to answer your inquiries as concisely as possible, and while *I would not urge one objection to the adoption of this amendment*, I would most earnestly request that, in case the House of Representatives concur with the Senate, you will take the proper measures to have the bill for the payment of invalid and other pensions further amended, so as to appropriate a sufficient sum to meet the increased demand under this act, which will be not less than $1,000,000."

I think the language itself is pregnant with meaning.

Mr. HUNTER. Will the Senator read the whole letter?

Mr. HAMLIN. I have stated substantially what the whole letter is. It states that the whole number of persons who would be entitled to a pension, under the provision of the Senate amendment, is estimated at two thousand nine hundred; and he estimates the amount of pension to each as equal to eighty dollars; and then he says, that if you allow the act of 1853 to take effect from 1848, about $1,180,000 will be required; but in his concluding paragraph he limits the appropriation which he asks to $1,000,000, which, I take it, is the sum necessary to carry out the provisions of the law if it should take effect from 1848.

This, then, is the true statement of the case: Congress passed a law which their debates show they intended should take effect from 1848, and that it should simply remove an odious, an improper, and an unjust discrimination between widows who were married prior, and those married subsequent, to 1800. The committee of conference of the two branches, taking the direction of the Secretary of the Interior at that time, as to what would be the true construction given to that language, recommended it with that purpose. Now, it is simply for the Senate to say whether they will insist upon what was clearly the intention of the law of Congress, and what is the meaning of the law, fairly interpreted, upon its face; and whether, in doing that, they will adopt a system which will place all the widows of our revolutionary soldiers upon terms of equality; or whether they will say to one widow, who was married on the last day of December in 1799, "You shall be entitled to a full pension;" while the widow who was married on the first day of January, 1800, shall not receive one farthing for the four or five years, when the other widows were entitled to, and did receive, their pensions.

This is the true state of the case. I do not propose to take up the time of the Senate in elaborating it. It is a case that, in my judgment, commends itself to the good sense of this body.

I do sincerely hope the Senate will insist upon their former vote, and let the matter go back to the House of Representatives. I wish that it may go back, even without a request for a conference, for the reason that an examination of the proceedings of the House shows that not a solitary word of discussion was allowed there on the subject; and I am assured by gentlemen who feel a deep interest in the matter, that if it can be allowed to be discussed there very briefly, and a fair and just statement made, there can be no doubt of the vote of that branch of the Legislature. Still, if it is more expedient to do so, the question can be settled by a committee of conference.

Mr. HUNTER. I only ask that the letter of the Commissioner of Pensions be read, and then I am willing to submit the question to the Senate.

The Secretary read the letter, as follows:

PENSION OFFICE, *December* 26, 1854.

SIR: I have received your note of the 23d instant, calling my attention to the amendments adopted by the Senate to the bill making appropriation for the payment of invalid and other pensions of the United States for the year ending the 30th day of June, 1856, and asking me to furnish you with an estimate of the amount of money necessary to meet its requirements, and also an explanation of its provisions and its effect on our pension system.

The amendment in question consists of two propositions. The first extends the benefits of the provision of the second section of the act of February 3, 1853, to the widows of the officers, non-commissioned officers, mariners, and marines who served in the Navy of the United States during the revolutionary war. The second proposition requires all pensions under said section to be made to commence on the 4th day of March, 1848. The effect of the first proposition will be an addition of about twenty-five persons to the pension list, whose annual stipend will amount to about $2,000. This proposition harmonizes entirely with all former pension acts relating to the widows of officers and soldiers of the revolutionary war, and is required to supply an accidental omission in the act of February 3, 1853.

The second proposition will give to each pensioner under the second section of the act of February 3, 1853, an amount equal to the pension of such person for a period of four years and eleven months. The amount to each pensioner will vary from $9 33 to $2,950, according to the amount of pension to which they are now respectively entitled. This Department has decided that the second section of the act of February 3, 1853, is a new law; that it creates a new class of pensioners not before entitled, and being silent as to the time when its benefits are to commence; that it is controlled by the opinion of the Attorney General, dated October 24, 1836; and, consequently, that *it can confer no right anterior to its passage.* All pensions under it have, therefore, been made to commence on the day the act was approved.

The number of persons already admitted to the pension roll under this act, is two thousand five hundred and forty-five. The number of applications suspended, most of which will yet be admitted, is two hundred and eighty-six. Applications are now being presented at the rate of something over sixty a month. It is, therefore, manifest that the number of pensioners under this section will soon exceed three thousand. The average annual stipend to these pensioners is a trifle over eighty dollars. It will require, therefore at least, $240,000 to pay these pensioners one year; $1,180,000 to pay them for the time specified in the proposed amendment. Besides, the husbands of many of these pensioners have lived since the 4th of March, 1848, and have received their pensions to the time of their death. This amendment will give to these widows a pension for the same time their husband received theirs, which has heretofore been prohibited by law.

I have thus endeavored to answer your inquiries as concisely as possible, and while I would not urge one objection to the adoption of this amendment, I would most earnestly request that in case the House of Representatives concur with the Senate, that you will take the proper measures to have the bill for the payment of invalid and other pensions further amended, so as to appropriate a sufficient sum to meet the increased demand under this act, which will be not less than $1,000,000.

I have the honor to remain, very respectfully, your obedient servant, L. P. WALDO, *Commissioner.*

Hon. G. S. HOUSTON, *Chairman of the Committee of Ways and Means.*

Mr. HAMLIN. There is one point in that letter to which I intended to allude, and that is the statement that the amendment of the Senate, as it stands, might give pensions to the widows for the same time that their husbands were entitled and did actually receive pensions. That is true, and I will state a case. Suppose the husband died in 1850, the pension would go back to 1848 according to the terms of our amendment; but that is a feature which, if the Senate shall insist on their former vote, can be remedied by the committee of conference, by simply adding a proviso that no widow shall receive a pension for the time her husband was entitled to and did receive one.

Mr. FESSENDEN. Lest there should be some apprehension about it, I wish to call the attention of the Senate to the fact that our amendment will not add a single person to the pension list which the bill, as it now stands, does not place thsre. It does not affect the number of persons on the pension list at all, and when this sum of $1,000,000 is paid, it is finally paid, and the amount does not reach that in any single year hereafter. The only question, therefore, is, whether the Senate will appropriate this sum to do justice to this class of persons. I will add, Mr. President, that, although the proposition may be amended by the committee of conference, as suggested by my colleague, the Commissioner of Pensions, if he should review his own opinion on that point, I think will find that there is no danger of its applying, at any period, to a person whose husband when alive received a pension. It cannot be so from the nature of things, nor according to the proper construction of the amendment of the Senate.

Mr. HUNTER called for the yeas and nays; and they were ordered.

Mr. HUNTER. Before the vote is taken I wish to state the exact question before us. The question now is on the amendment of the House, which strikes out so much of the Senate's amendment as makes the act retrospective from 1853 to 1848. The Senate's amendment not only placed widows of naval officers on the same footing with those in the Army, but also gave them back pay for nearly five years. The House agreed to put the widows of naval officers on a footing with those of the Army, but struck out so much of our amendment as gave five years' back pay. The question now is on concurring in that amendment of the House.

Mr. BADGER. I wish to ask my friend from Virginia this question: Will the effect of the amendment as made by the Senate be to give to the widows of those navy officers a pension for a period of time for which the widows of Army officers have not got it—between 1848 and 1853?

Mr. HUNTER. No, sir. The effect of the Senate's amendment, if we do not agree to that of the House, will be to give them back pay for five years.

Mr. BADGER. Widows of Army officers and Navy officers both?

Mr. HUNTER. Yes, sir. All.

The question being taken by yeas and nays, resulted—yeas 20, nays 19; as follows:

YEAS—Messrs. Bayard, Benjamin, Bright, Brodhead, Clay, Dawson, Evans, Fitzpatrick, Geyer, Hunter, Johnson, Jones of Tennessee, Mallory, Pearce, Slidell, Stuart, Thomson of New Jersey, Toucey, Weller, and Wright—20.

NAYS—Messrs. Badger, Brainerd, Chase, Clayton, Cooper, Dodge of Wisconsin, Fessenden, Gillette, Hamlin, James, Pettit, Rusk, Seward, Sumner, Thompson of Kentucky, Wade, Walker, Wells, and Wilson—19.

So the Senate concurred in the amendment of the House to their second amendment; and the bill, as thus modified, was finally passed.

PURCHASERS OF SWAMP LANDS.

Mr. STUART. I now move to take up for consideration the report made by the committee of conference, yesterday, on the bill of the House for the relief of purchasers and locators of swamp and overflowed lands.

Mr. CLAY. I move that the Senate proceed to the consideration of the unfinished business of yesterday. The bill to which the Senator from Michigan alludes will necessarily lead to debate; and I do not now see in their seats the Senators from Arkansas, who feel a deep interest in it.

The PRESIDENT. The first question is on the motion of the Senator from Michigan to take up the report of the committee of conference on the bill to which he has alluded.

Mr. CLAY. I wish to suggest whether the first question is not on postponing the unfinished business of yesterday?

Mr. STUART. Not at all. Mine is a privileged motion.

The PRESIDENT. The question involved in the motion of the Senator from Michigan is a privileged one, and has preference.

Mr. BRODHEAD. I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. STUART. In order that the Senate may understand what this question is, I desire to state that my motion is to take up the report of the committee of conference on the disagreeing vote of the two Houses on the bill amending the swamp land act, which was laid over yesterday at the suggestion of gentlemen who wished to look into it, and especially, I think, the honorable Senator from Arkansas.

Mr. JOHNSON. Not at my suggestion; but to accommodate others.

Mr. STUART. I believe it is the universal practice to take up reports of committees of conference at all times, and dispose of them. They are privileged questions; they concern disagreeing votes between the two Houses. They involve the passage of a law. At this stage of the session, certainly, I think we should take up such a question and dispose of it. This report cannot occupy more than a few minutes. The whole point is presented in an amendment of a very few lines. For myself, I have no other feeling than to subserve the public interest, and I apprehend the Senate would dispatch business as rapidly as in any other way by disposing of that report at this time.

Mr. JOHNSON. I hope the Senator's motion will be agreed to. I am opposed to the action which the committee of conference has recommended on grounds that I consider sound; but I shall be very glad if the Senator from Michigan be permitted to get the subject off his hands by having it disposed of.

The question being taken on Mr. STUART's motion by yeas and nays, resulted—yeas 16, nays 22; as follows:

YEAS—Messrs. Bayard, Benjamin, Bright, Brodhead, Brown, Cooper, Dodge of Wisconsin, Fessenden, Hamlin, Johnson, Pearce, Pratt, Slidell, Stuart, Wells, and Wright—16.

NAYS—Messrs. Badger, Bell, Butler, Chase, Clay, Clayton, Dawson, Evans, Fitzpatrick, Gwin, Hunter, Jones of Tennessee, Mason, Pettit, Rusk, Seward, Sumner, Thompson of Kentucky, Wade, Walker, Weller, and Wilson—22.

So the motion was not agreed to.

DUTIES ON RAILROAD IRON.

On motion by Mr. CLAY, the Senate, as in Committee of the Whole, resumed the consideration of the bill granting to railroad companies three years in which to pay the duties on iron imported for railroad purposes; the pending question being on an amendment moved by Mr. BRODHEAD, to add the following as an additional section:

SEC. —. *And be it further enacted*, That a similar extension for the payment of all duties now authorized to be collected under the tariff act of 1846, on salt, sugar, woolen and cotton goods, is hereby given: *Provided*, That the importers thereof, under said act, shall give security, personal or otherwise, to be approved by the collector of the customs where the goods shall be entered.

Mr. BRODHEAD called for the yeas and nays, and they were ordered, and being taken, resulted—yeas 7, nays 30; as follows:

YEAS—Messrs. Brodhead, Butler, Cooper, Evans, Gillette, Jones of Iowa, and Walker—7.

NAYS—Messrs. Badger, Bell, Benjamin, Brown, Chase, Clay, Clayton, Dawson, Dodge of Wisconsin, Fessenden, Fitzpatrick, Geyer, Gwin, Hamlin, Johnson, Jones of Tennessee, Mason, Pratt, Rusk, Seward, Shields, Slidell, Stuart, Sumner, Thompson of Kentucky, Thomson of New Jersey, Toucy, Wade, Weller, and Wilson—30.

So the amendment was rejected.

The PRESIDENT. If no further amendment be proposed the bill will be reported to the Senate as amended.

Mr. PEARCE. Before the bill shall be reported to the Senate, I desire to make a few remarks. I do not purpose to enter at length into the discussion of the bill. It has been argued very elaborately by several gentlemen, and, considering the late stage of the session, it seems to me becoming that I should not attempt to expand their arguments. But what I wish to do is, to state to the Senate, what has not yet been done, the reasons which induced me, as a member of the Committee on Finance, to report against the bill.

These reasons were such as spring from the general policy of our revenue system. I considered the bill as a departure from that general policy—a departure which has been urged upon us for the benefit of a single special interest. The reason assigned for asking the action of the Senate in its behalf is, that this special interest is said to be suffering under great embarrassment—an embarrassment which, indeed, it shares with all the other industrial interests of the country, and which grows out of a monetary depression that affects all alike. While, therefore, the embarrassment of the industrial interests in this country is general, I may say universal, we are asked to depart from the general system which we adopted, with the hope that there would be some stability in it, and to make a special change for the benefit of the companies now engaged in the construction of railroads, and that, too, when those who are thus interested, by entering upon enterprises of great magnitude without adequate means, and by the adoption of a very questionable, not to say an excessive and dangerous credit system, have contributed very much to bring about the very embarrassment under which they are suffering, by increasing, to a large extent, our foreign indebtedness, and by creating demands of capital beyond the monetary means of the country.

However important the system of railroads might be to the general welfare of the United States—and I think it is so, for I admit that they develop the resources of the country; I admit that they stimulate trade; that they even create trade, start new employments, and in the end are beneficial to all the industrial interests of the country—it did seem to me that a system which had been undertaken without due calculation of means, and costs, and results, was not, at a time of general money pressure, when it was not the only interest suffering from the embarrassment, entitled to this special legislation of Congress for its particular benefit.

Now, sir, what is the cause of this application? We are told that these railroads are unable to pay cash upon the iron they import with which to lay down their rails. What is the amount of that interest? We are told that the cost of purchasing railroad iron, for a single mile of railroad, is from five to six thousand dollars. The cost of a single mile of railroad, in that part of the country where the most of these enterprises are for the most part in progress, may be assumed to average at least $25,000. Five thousand dollars being the cost of the iron and $25,000 the whole cost of a single mile, it follows that the cost of the iron is about one fifth of the cost of the road. The duty upon the iron is thirty per cent., less than one third. Then the duty upon the iron is about one fifteenth of the cost of the road; and we are asked to relieve these companies who have undertaken, without adequate resources, works of great magnitude, by relinquishing to them, for the specific term of three years, a sum of money equivalent to one fifteenth part of what would be required to make their road. They have not the means of paying less than seven per cent. upon the capital required to be invested in the works they have undertaken. I think these statements must show, very conclusively, that these speculations have been entered into extravagantly, without calculation, without the slightest regard to the means or resources of the companies or the country, and as if there never would occur a reverse in its monetary condition. Now, it is not the part of wisdom to expect always to have a fair sea to sail upon. Everybody ought to know that changes in monetary affairs are just as certain as the changes of the seasons; that as we know even when the summer smiles, that "stern winter must come to rule the varied year," so periods must arrive, in the course of every few years, when the whole country will feel the effect of commercial fluctuation, and suffer more or less from monetary embarrassment. Such fluctuations belong to the systems of all nations, and most peculiarly to our own, because we have no stability of system, because of our changing from year to year, because we do not frame our revenue laws with reference to the general interests of the whole country, but are frequently singling out special interests for favor and protection. This is a paramount objection to the bill. If we depart from the general policy, in order to relieve any particular interest from embarrassment, any other particular interest, which may also fall into embarrassment, would have an equal right to demand of us similar legislative favor and concession; and it would be difficult, on any principle of equality and justice, to say that what was extended to one should be refused to another.

Sir, I think no one can fail to perceive the danger of such interpolations into our general policy. I have seen it stated somewhere that, since the commencement of this Government, the changes in our revenue system have been as numerous as the years which have passed by; and I know that since 1816, some six or seven large, general, fundamental changes of our revenue policy have been passed by Congress, to say nothing of partial ones, of themselves sometimes of very great importance. There was the tariff of 1816; the tariff of 1824; the general change of the tariff in 1828; the tariff of 1832–'3, which last was itself a system of changes varying the rates of duty from year to year, down to 1841, when another act, rendered necessary by a bankrupt Treasury, was adopted as a temporary measure of finance. Then came the tariff of 1842, followed by that of 1846. Such has been our course of legislation—so little stability has there been in the policy of this country in regard to one of the most important duties with which Governments can ever be charged.

I know, sir, in regard to this matter of iron, that there was a time when political economists contended that railroad iron ought to be considered as *raw material;* and that I suppose to be the consideration which, in 1830-'32, determined the policy of the Government which has been spoken of here

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so much. At that time, not a single establishment existed in the United States for the making of railroad iron. It was, therefore, though not properly raw material so called, a *quasi* raw material. It was a thing on which no labor was expended in this country. The industry of the country had not then been directed to this important article, the use of which was then quite new to the world. Then we adopted the policy of admitting railroad iron free, and so we continued down to 1841. Numerous attempts have been made to obtain legislative favors in this regard since that period; but I believe in no instance have they been granted.

And now, sir, when in consequence of what was supposed to be the settled system of the country, the industry of the country has been developed in a new direction, when a large amount of capital has been invested in the production of railroad iron, when that has, itself, grown up into a great interest, a great interest not merely because of the capital involved, but because also of the incidental advantages which it affords to labor of other sorts, to the agriculturist, to the owner of coal mines, of lime quarries, and of ore banks, to all of whom it furnishes new markets; when we have some sixteen thousand nine hundred miles of railroad, it is said, in process of construction, and when the iron necessary for those roads must be equal to nearly one million seven hundred thousand tons, we are called upon to grant to the companies this favor of a three years' credit on the duties to make them an exception to every industrial interest of the country—to grant them a favor which no other interest asks, it is true, but which, if it were asked, everybody must know, would most probably be denied. It seems to me that such a request as this could not be supported with any probability of success in Congress if it were not that the vast amount of capital invested in these railroads has created a corporation interest which is acquiring an influence too controlling over the legislation of the country. Why, sir, it will cost over $100,000 000 to buy the railroad iron intended for the roads now in course of construction. It must be at least eight or ten years before they can be completed; and although this is a comparatively modest request—and gentlemen, I believe, take some credit to themselves for being modest in asking only an extension of credit—everybody must know that the precedent which we are now about to set will be followed (as was the precedent of 1830) by calling upon us—when a portion of the roads shall have been laid with iron imported with a credit on the duties, when the period of two years having expired, and at least four fifths of the lines of these roads will still be unfinished—to extend the policy; and we shall be invoked to do it with much more show of justice than is now presented by the Senator from Tennessee. He asks us now to grant this favor, because we allowed a freedom from duty on railroad iron from 1832 to 1841, and because so many railroads in this country have been built with free iron.

If that be a fair argument, surely at the end of the two years, when other companies who have not received the benefit of this act apply to us to renew in their favor the rule which in 1855 we passed for the advantage of others, we shall find it exceedingly difficult to resist their demands, if, as is quite probable, they too should be suffering such embarrassment, as relied on as a justification of the bill now pending, so that if we pass this bill, we may expect that it will be the beginning of that which will grow into a system. I apprehend, sir, it will not stop here. I imagine that we shall find that the measure will take a stronger shape at the end of two years, and even before that time, and that the duties on which we are now asked to give a credit of three years, we shall be invoked to release altogether. Of that, I cannot have a doubt.

Iron is one of the great necessities of the country. It is a greater necessity to-day than it ever has been before in the world's history, for it is applied to vastly more uses, and it is consumed in larger quantities. The hills and mountains of our country abound in this mineral. It furnishes the richest resources of labor I know of in the whole Union. If we suffer it to be developed—if we continue our system in this regard, we shall, after a while, produce more iron than even England does; but if we do that which will break down our railroad iron manufacturers, we shall be dependent upon England for an indefinite period.

Now, I think, looking at it as one of the great necessities of the country, we ought not to depart from our established revenue system in order to afford relief to the embarrassment of these companies, when its effect must be to postpone that period when we shall be able to manufacture railroad iron for ourselves in ample quantity, and of better quality than we ever get from England. Every one knows that American iron is about fifteen per centum better than that of England.

But, Mr. President, I promised not to detain the Senate long. I did not design to enter upon the considerations in detail which belong to the subject. I shall, therefore, only mention one thing more. I have seen it stated in a railroad journal that in the early part of 1854 there were sixteen establishments at work in the United States upon railroad iron. A statement furnished to me by an honorable member of the other House, from Pittsburg, shows that there were nineteen which had changed, or had made the necessary preparations to change their business from the manufacture of other iron to that of railroad iron. The capacity of those nineteen establishments was about one hundred and ninety-seven thousand tons of iron per year, about as much, I take it, as would be likely to be imported annually into this country until the end of the next five years. It is said that this measure will not interfere with the production of such iron by those establishments. Perhaps it may not operate directly, but consequentially it will. It will, at all events, create distrust in the minds of those who have invested a large amount of capital in those operations. Distrust and doubt will stop the business. Such fears, not ill-founded, have already stopped it in several establishments, and if this policy takes effect, you may, I think, not only expect a continuance, but an increase of that distrust, and so far as the establishments can, they will, endeavor to change their business. Yes, sir, you will by this bill delay the progress of one of the greatest and most important interests of this country. And, then, there is the consideration that I can scarcely repeat too often, that it is a departure from a general system for the benefit of a particular interest which if it has not created, in part, that embarrassment under which the country is suffering ought, nevertheless, to bear a proportionate share of it. Let all suffer alike. Let the companies which have undertaken enterprises beyond their means, who have not looked before they leaped, who have not calculated their own resources and the condition of the country as they should have done before hand, not receive a special legislative benefit claimed to be necessary because of their indiscretion.

Mr. BELL then addressed the Senate. His remarks will be published in the Appendix.

Mr. TOUCEY. I think, Mr. President, that this bill proceeds upon an assumption of a necessity on the part of the railroad companies of the country which is really without much foundation. The assumption is, that these great and powerful companies are not able to pay the trifling amount of duties imposed upon railroad iron imported from abroad for the purpose of laying their tracks and constructing their roads. That amount is but from $1,200 to $1,500 per mile, and it is gravely urged in the Senate of the United States that these companies cannot proceed with great public enterprises because, if they obtain their railroad iron from abroad, the payment of that small sum per mile will embarrass them, and, in fact, stop the undertaking. Now, sir, I believe no such thing.

Mr. JONES, of Tennesssee. I do not wish to prolong this debate, but just here, as the honorable Senator says there is no such embarrassment, I want to state to him that I hold in my hand a letter from an honorable gentleman, known to you, sir, in which he informs me that the iron for his road is now advertised to be sold for the duties.

Mr. TOUCEY. What company is that?

Mr. JONES, of Tennessee. The Cincinnati and Chicago Railroad Company.

Mr. COOPER. And there are twenty furnaces in my own State under execution.

Mr. TOUCEY. I do not say—for it would be contrary to what we all know to be true—that these railroad companies are not embarrassed; but they are not embarrassed, and they are not to be embarrassed, by exacting the payment of their duties in cash, to the amount of $1,200 per mile upon the iron with which to lay their tracks. They are embarrassed, and I will state the reason why they are embarrassed. During the past year, there have been expended upon railroads $150,000,000. There have been constructed three thousand nine hundred miles of road; and the amount expended upon those roads and upon unfinished roads amounted to $150,000,000. Now, sir, this vast expenditure is enough not only to embarrass those who have embarked in these undertakings, but to embarrass every other interest in the country; and at this moment there is no interest in the Union which is not suffering severely under this embarrassment. The manufactures, the commerce, the mercantile interest, and every other great interest is now suffering under this vast expansion; and the question that is now presented to the Senate is, shall you remove a portion of the restraints in order that the extension may go on to a greater height.

Sir, we have provided various laws for the purpose of preventing an expansion of this kind, this running on until the business and the currency of the country are involved in destruction. In the first place, you adopted a system of cash duties, by which, for all imports from abroad upon which duty is required, the money must be paid, not left upon bond. In the policy of this Government it was thought indispensably necessary, instead of allowing the duties to rest in bond to be paid at a future day, to require them to be paid down in cash. It was supposed—and very wisely supposed—that that requirement would check excessive importations, would restrain those expansions which always involve the business of the country in ruin.

We went further. We required not only that the duties should be paid in cash, but a contest was entered into by the great political parties of the country, and it resulted in the establishment of an independent Treasury, providing that the duties should be paid in cash—in gold and silver—and that the gold and silver should be deposited actually, and in fact, in the Treasury of the United States. That law, which was resisted at the outset, has now become the settled policy of the country; it is upheld by the manufacturing and the mercantile interests, and all parties in the country unite in maintaining the wisdom of it.

But what do you propose now to do? You propose not only that for two years to come the duties on railroad iron shall not be paid in cash, not only that they shall not be paid in gold and silver into the Treasury of the United States, but you propose to put this money into the hands of railroad companies, that they may go on with this railroad expansion. Sir, they have already gone on further and faster than they ought to have gone. It is the part of true wisdom not to encourage them to go still further and still faster. It is the part of true wisdom to hold them where they are, to continue the restraints which we have imposed upon excessive importations, and upon these expansions of the currency and the business of the country. To act otherwise is like administering to a patient in the last stages of fever, remedies that shall aggravate it until a disastrous result is produced.

This bill, sir, is contrary to all the principles which have been triumphantly advocated and sustained here for years, and which, I may say, the country now applauds with one voice. I am opposed to it because, in the first place, it strikes

a blow at the tariff of 1846, as adjusted and settled during the administration of Mr. Polk, and very wisely adjusted and settled. I oppose it as hostile to that tariff, and as infringing it—as I shall show in a moment—by assailing one great interest of the country for the purpose of conferring a benefit upon another interest that has already rushed nearly to destruction. I am opposed to it because it is hostile to the system of cash duties. I would not relax that system; I would not depart from it; I would maintain and guard it as the settled policy of the country, which ought in all cases to be sustained. I am opposed to the bill, because, if it should go into effect, its operation will be the same as to take from the Treasury of the United States, in the two years to come, $8,000,000 of cash, deposited there under existing laws, and to loan it out to railroad companies—to encourage what? To encourage them to go on to an extent to which they should not go; because, I hesitate not to say, that, if any one of the great railroad companies is not able now to pay $1,200 or $1,500 for the duties upon the iron for each mile of its road, it is time for it to stop; it is for the best interests of those who are engaged in the road that it should stop.

But I oppose the bill because it is a species of partial legislation of the worst character. What do you propose to do? Iron is used in every business; it is essential to every interest; it is in universal use; and you propose to say to the people, You shall pay cash duties; you shall not import an article from abroad without paying cash. But you say to these great and powerful companies, You shall have an easier law; you shall not be required to pay cash duties; no, you may give a bond, and at the end of three years to come you may pay the duties, without interest, that others are obliged to pay in cash on the day they receive the imported article.

I am opposed to that kind of legislation, and I desire to ask, where is there a representative of the people who would go before them, and say to the laboring and industrial classes of this country, we will pass a law that will require you to pay cash, but we will pass another law for those rich companies, of vast capital and vast power, who are engaged in enterprises which will cost millions. We will give them an indulgence of three years, without interest, to pay what we require you to pay in cash. This is a species of legislation which has never commended itself to my mind. It is contrary to the very principle of equal legislation. It is contrary to the principle which ought to be carried out in order to protect equally all classes of the people. I am opposed to it. I am opposed to any legislation of that kind here or elsewhere.

But, the bill has another object, and that is, to help a system of internal improvements. How? By substantially making a loan from the public Treasury for three years without interest. I say substantially, because the operation of it will be precisely the same as if the money should be paid into the Treasury, and then taken out and loaned to the companies for a period of three years without interest. This is a great benefit in a certain point of view. It is a pecuniary benefit. It ultimately, however, offers no benefit, because it leads to disastrous consequences; but immediately, it is a benefit; and precisely to the extent of that benefit you strike a blow at that great interest which has sprung up—the iron and coal interest—so far as it is engaged in the production of railroad iron. You strike at your own people. You strike at the iron and coal in your mountains. You strike at the people who are engaged in that business, in order that companies may have the advantage of going abroad and purchasing iron at a less sum than they can purchase it for in this country. If that is desirable, be it so. If the iron duty ought to be repealed, let us come up to the work and repeal it. If the coal duty ought to be repealed, let us come up to the work and repeal that.

I do not agree with my honorable friend from South Carolina, [Mr. BUTLER,] that a system of direct taxation is better than a system of duties. I am the advocate of free trade—free trade subject to the revenue that is necessary to carry on this Government. The people know that these duties are taxes upon them. The consumer knows that he pays these taxes. Let the taxes be equal; let them be laid for the purpose of carrying on the Government, not for the purpose of building up one interest at the expense of another. Sir, I heard the honorable Senator from Massachusetts [Mr. WILSON] advocate this bill upon the principles of free trade. Free trade! What, sir; a bill that grants an extraordinary privilege to railroad companies which is denied to the people, which is denied to every industrial class of the country—is that free trade? Until we modify the tariff of 1846, I say hold to it as it is. There are vast interests in this country, at both ends of the Union; the men who framed that law, looked at these interests, and by a legislative act you have an adjustment of them. I say, let it remain until, by the direct action of Congress, you may modify the system. I agree that, for some years past, it has produced too much revenue; and I agree that there ought to be a reduction in some form or other, that shall bring down the revenue to the necessary wants of the country. It is an object that I fully approve; but yet, in doing it, I would have reference mainly to such a modification as shall repeal taxes that press equally upon all the people. I would relieve them from the taxes. I am against any modification, the effect of which is to benefit the most privileged class of the country—to benefit the great railroad companies—while the masses of the people are not benefited. I am opposed to such a modification of the tariff.

But, sir, in speaking of this bill I do not treat it as a relinquishment of duties, although I think it probably will lead to that, as has been the case before; nor do I look at it as a law that will die at the end of the term without being continued longer; you will find it difficult to stop. It will be very likely to go on. There will be stronger reasons at the end of two years, why the law should be continued than there are why it should be enacted now.

It has been said that, prior to 1841, when we were about entering upon the construction of railroads, this Government did not lay a duty on railroad iron, or if it did, it afterwards remitted the duty, and that that operated beneficially to certain portions of the Union and not to other portions. If there has been any inequality it should operate as a warning to us not to enact another law that will create another inequality.

When the construction of railroads was a new undertaking in this country, there was a want of confidence, there was a want of skill, and there was undoubtedly, to a certain extent, encouragement given to them in the manner which has been mentioned so often in the course of this debate. It was open to the whole country. The West and South, and every portion of the country were equally entitled to the benefit of that encouragement, and of that protection, if it were protection. Those who went forward in these great enterprises, and expended their means, and led the way, took the advantage of it. Those who did not, lost the advantage. But, sir, my answer to the argument is contained in one sentence. The skill, the experience, which were required in the construction of railroads, of which those who are embarked in such enterprises have now the benefit, are worth more than the remission of the duties. Those who early engaged in the enterprise had difficulties to encounter which no longer exist. Those who now come forward in this work of public improvement, conducted by private or by State enterprise, with the advantage of that skill and experience, can now construct a road at much less than the cost which was incurred at the period that has been alluded to; so that there is equality—there is no inequality. The bill now before us is one which, if adopted, will lead to similar bills; and the system will go on. I think it is obnoxious to all the objections which I have stated. As I participated in reporting adversely upon the bill, I have felt it to be my duty, though in opposition to many of my highly esteemed friends, to say thus much in vindication of the course I have taken.

Mr. BAYARD. It is not my intention to trouble the Senate with more than a very few remarks in reference to the bill now pending. I am satisfied, from the votes which were given yesterday, that there is an absolute majority in the body who are determined that the bill shall pass. It would be useless, therefore, and vain to expect that what I have to say will alter their determination; but I owe it to the principle which I suppose to be involved in the passage of the bill to explain the general ground of objection which I have to it. My State has no interest in this iron question whatever. Probably the prevalent feeling among my constituents, inasmuch as few roads have yet been made there, and many are now contemplated, would be in favor of the bill as it stands before the Senate. But, here or elsewhere, as the representative of a State, I should never be willing to sacrifice a great principle for the sake of any temporary advantage to individuals or corporations that might be located within her limits.

Mr. President, in a Republic, or in any other free Government, men will, of necessity, divide themselves into parties; and in this country there has always been a division into two great parties. Sometimes there have been accessory parties, arising temporarily on occasions of particular excitements; but the general division has been into two great parties, and the great basis of distinction between those parties, or the leading principle on which they have differed, has been, if I judge rightly, in reference to the construction of the powers of the Federal Government. All admit that Government to be one of limited powers; but the Democratic party has sought to give a stricter construction to the general powers which have been granted by the Constitution, and to resist powers arising from implication—to resist the exercise of powers, unless they were specifically granted, or absolutely necessary to carry out those which are granted. On the contrary, the Whig party have, in general, given a broader, and, if I may so speak, a looser construction to the Federal Constitution. In all the measures which have arisen, creating the difference between the parties, you will find that general principle runs through, or lies at the bottom of, the division between the two.

In reference to the Bank of the United States, the question involved was not merely as to the expediency of the institution, but as to the power of Congress, under a proper construction of the Constitution, to establish it. That question has passed away. It has passed away, because, I think, experience has indicated the fact that, supposing the constitutional power to exist, there are few men in the country who believe that it would be expedient to organize the institution, because we can get along without such a delegation of power better than with it. That was one of the measures founded on the difference between the parties.

Another measure founded on the same principle was the extent to which the doctrine of internal improvements could be carried constitutionally under the powers of the General Government. There the parties divided on a similar ground. No doubt there were fluctuations in their attitude in reference to the practical application of the doctrine at different periods of time, but the general line of division was founded on the difference as to the construction of the Constitution. On the part of the Democratic party, the right of the General Government to exercise the power of internal improvements was opposed, (though exceptions were made to that in particular cases, sometimes doubtless erroneously, and contrary to the principle,) and on the other hand the broad and general advocacy of the power was maintained by their opponents. This was another ground of division; but it has probably been, from its liability to exception, a ground of division in which the parties have been merged more than any other; and it has produced greater difficulty, in its practical operation, in discriminating the point where the power ends and where the restriction commences. You therefore will find that on this question of internal improvements, the division of party rarely obtains at any time to any decided extent.

But there is a third question which has arisen in the Halls of Congress, connecting itself with the same doctrine of the limitation of powers, in which the Democratic party, unless I have greatly misread its history, took a decided position in 1846; that is, the extent to which the General Government could carry the power of imposing duties on articles imported into the country, what are called imposts, or the establishment of a tariff. The division on principle between the parties here—I speak of principle, Mr. President—was, as I have always understood, that, although in 1828 the Democratic party had agreed to, and had voted for, a very high and exceptionable tariff—and these things will always happen in the history of parties—they came back to their original principle in 1846; and that which was intended to be estab-

lished as the avowed principle of the party then was, that in the exercise of the power delegated to the Federal Government, for the purpose of imposing duties upon foreign articles imported, the revenue principle must alone be looked to; and that whatever of protection might arise to the general industry of the country, should arise incidentally, and not be its primary object in any imposition of duty. That was the principle of the Democratic party. On the other hand, the principle contended for by our opponents was, that the entire power to impose duties being vested in Congress without express limitation, it was in the absolute discretion of Congress, in the imposition of the duties, either to impose them for the purpose of protection, or for the mere purpose of revenue. That I suppose to be the meaning of the distinction between the parties. The broad line of distinction drawn between them, on principle—without reference to whether they erred in the practical operation in detail as to one or another particular article—was, that the Democratic party adopted as its principle a revenue tariff, while the Whig party contended that you had the right to go beyond the principle of revenue, and impose duties with a view to protection.

If I am right in this position, how stands the Democratic party now, with a considerable majority of its number here voting in favor of this bill? Is this bill introduced here, Mr. President, for revenue purposes within the intendment of the Constitution? Are you making a change in your tariff for the purposes of revenue? Certainly not. We adopted, after our experience connected with the revenue, the principle of a cash payment of duties, as avoiding the chances of loss, and as operating more equally on the industry of the whole country. But this bill proposes not to revise the tariff for the purpose of increasing the general revenue, or reducing it, as the wants of the Government require, but it proposes, in favor of special classes, to extend the credit system to them, to the exclusion of the importers of any other articles. This is clearly the principle of protection, out and out. It is an entire abandonment, by the Democratic party, of their constitutional doctrine that the power is granted for the purposes of revenue, and to be exercised for the purposes of revenue alone, and that all other considerations of benefit to others must be incidental to that great principle.

Mr. President, this bill is nothing more than a bounty. Its true intention is to grant to the railroad companies of this country a bounty, as against the iron interest of the country. It is not intended to increase the revenue of the United States. It has no relation to the revenue at all. Its sole and entire object is to grant a bounty to a particular class of interests in this country, at the expense, as is alleged by the honorable Senators from Pennsylvania, of another class in the country which has grown up and sustained itself under your revenue tariff, as established in 1846.

Is this, then, an adherence to principle, Mr. President, on the part of the Democratic party? Is it not an entire abandonment of principle, because of particular interests, and of certain localities which maintain that that principle is no longer adapted to their particular desires or interests? Others can vote on this subject as their judgment dictates, I make no charge against individuals in all this. I am dealing, on the question, with what I suppose to be a great principle of the construction of the Constitution. Others may shift their views of the Federal Constitution, its applicability, and its rule of construction, to suit either the temper of their constituents for the time being, or the particular interests that they suppose to be involved in their own States; but I cannot consent, representing in a confederated Government the people of my State, holding myself bound to carry out the intent of that Constitution, to abandon a principle which, in common with the rest of the Democratic party, I believed to be right in 1846, because there happens to be a local change in the wants of particular States in 1855. It is on this ground, having no interest in this whatever, so far as my State is concerned, that I cannot abandon this principle; and it is to me inscrutable on what ground it can be abandoned by others, who, I always supposed, held similar opinions with myself as to the extent of the power which we are about to exercise.

But, Mr. President, I have merely stated this question. I cannot dwell upon it. It is the only one which has been involved in the past disputes of parties as to the tariff; and I think it will commend itself to the judgment of every one. All the questions of the application of it to particular items are matters of detail. Men might differ about them. They might differ about the quantity of imposts that any particular article would bear with a view to revenue. The judgment might some times be biased to a certain extent by what they supposed to be an incidental benefit to their own State. All that might occur; but the entire abandonment of the principle has never occurred since 1846; and yet it is certainly entirely abandoned in this bill. I consider that if it passes, and passes by the strength of the Democratic party, through the Congress of the United States, it will destroy the last remaining principle which severs the parties of this country, and set all things afloat as regards party organization. I am not one of those, Mr. President, who believe that a party is a benefit, unless it is founded on great principles. A party may exist, founded on principles which draw men together, and make them sacrifice their opinions on incidental and minor points, because more important questions to their country at large are involved; but if a party is a mere congregation of men, who abandon general principles with a view to retain office under a particular name, *stat nominis umbra*, I care not how soon such a party perishes, or how soon it is lost. It must die, and will die whenever the great general principle is abandoned.

Passing from this, there is another objection to this provision. It is an objection founded on the question of expediency, and of its effect. Sir, there can be no doubt that the object and intent of this provision is to enable the different railroad companies, who are now constructing railroads, to construct them either at less cost than they can do now, or to have a credit in the construction of them, though the cost may be equal or even greater. I have no doubt that the last result may be effected. The cost will not be diminished if the bill passes, but it will enable those who are unwilling, or unable to construct their roads for cash, to do it by means of the thousand bonds that are spread throughout the country. If they can obtain credit on the duties due to the Government, they can buy their iron out on those bonds at a large discount, and construct their roads on credit altogether; and, as in general, the mass of these railroads are mortgaged previously, the result is, that they may go on, and put both the Government and the creditors at defiance as well as the bond holders. That will in my judgment be the effect, and it will increase the cost to the companies that purchase I have no doubt.

Sir, we are laboring under a reaction which has been the result of an improvident and wild system of internal improvements through the means of railroads. I admit the benefits of railroads; I admit that, probably, scarcely anything in the modern scientific occupations has had more beneficial influence in advancing the wealth and promoting the prosperity of the country than the system of railroads, but like all other systems it may be carried too far, and its reaction may be disastrous. In 1836, the disasters which arose to this country were produced mainly by the over issue in the banking system, and as there was no restraining power, as exists now in the case of the subtreasury, the devastation was complete, and individuals and communities were reduced from riches to poverty in the prostration that ensued. But in their action the pressure that has taken place throughout the country, has arisen solely from the attempt to pursue the railroad system beyond the capital and capacity of the country. You cannot pick up a paper in any of the large cities without finding millions of bonds of every little petty municipality in the country; issued for the purpose of making railroads—a thing with which they ought to have no connection. In my opinion, valuable as railroads are, I believe they must follow civilization, commerce, and density of population; and if you attempt to make them beyond your own capital, though they may have some advantages, the ruin which will be inflicted in the attempt to go beyond your means, will be far greater than the benefit which will be derived.

There is always a tendency to excess in these cases. I beg leave to read from the American Railroad Journal some remarks on this question, which I think are very proper and essentially true. It is the issue of March, 1854, and, of course, can have no reference to the measure which is now pending. I read the statement of the general views of the editorial, because I think they are sound in themselves, and it would be well if they were followed by the States who are now pressing this bill:

"There is still further necessity of subjecting railroad enterprises to the ordinary principles that govern all commercial transactions, for the reason, that, from the social advantages they confer, and from their influence in increasing the value of all kinds of property, the public is in much greater danger of running to excess in their construction, than in the prosecution of any other industrial pursuit. The results they have achieved have been most marvelous; and it is natural that those of the most successful roads should always be predicated of every project brought forward, no matter what may be its real merits. As the experience of the operation of the road can only disprove the claims put forth in its favor, it often happens that their soundness comes to be fully admitted by the public, and becomes the basis of its action, when, in fact, they may be entirely unfounded.

"Take, for instance, the Vermont Central railroad. When this project was first brought forward, the results achieved by the most successful road in New England were claimed for it. These claims were received with full credit by the most sagacious and successful merchants of Boston. So confident were they of the success of this road, that its stock was taken in large quantities by them, and 'salted down,' as the phrase is, as something to lean upon when everything else should fail. All now see how groundless and absurd were such high wrought expectations, and what a stupendous catastrophe the road has proved itself to be. There are still a plenty of 'Vermont Centrals,' in embryo, in all parts of the country, about which just as flattering hopes are raised with as little reason, to be followed by like results, if allowed to be built. People can be made to see only the bright side of the picture, till the other forces itself upon their vision. Hence the danger of overdoing in the construction of railroads. It is almost inevitable that they should be carried to excess. They have been in Old England, in New England, and are beginning to be in other portions of the country, which can be taught wisdom, only by tasting the fruits of their own folly.

"Our people need no incitements in the shape of adventitious aid, to the construction of railroads. If Government interfere, it should be to restrain instead of exciting the public sentiment in their favor. No stimulants are wanted, nor means, that a particular community interested in a work that is really needed, cannot supply."

He then takes the case of the State of Indiana for example, now the third State in the Union, and shows how successful she has been in the construction of her roads, without any extraordinary stimulant.

Mr. President, I believe these general views to be true, and that (even if there were no constitutional objection to this mode of exercising the revenue power) instead of its being a matter of sound policy, for the interest either of the States in which the roads are to be constructed, or for the general prosperity of the Union, to pass this bill, and thus stimulate the construction of other railroads founded upon credit, and credit alone, which will be its effect, it will only tend to increase the pressure which now exists in the country in reference to all monetary transactions. It will be felt throughout the country as increasing that pressure. Why, sir, does not every man know that these railroads in the country, while being involved in debt, have almost prostrated the mercantile interest? Does not every man know that the effect of the bill will be to stimulate the introduction of foreign iron into the country, and increase the indebtedness that now exists, that indebtedness existing in the shape of credit altogether?

My objection is not to the railroads; my objection is not to the system; but it is to prosecuting it beyond what the capacity of the individual or general means will enable them to do. I believe that the system needs no stimulant, no excitement. On the contrary, the part of wisdom would be to restrain, if it were in your power to legislate for that purpose, instead of stimulating this passion for the extension of railroads. I do not ask you, for I do not think it is in your power, to make any regulation of that kind; but I do think you should abstain from exercising the power to change the tariff of the country, not for the purpose of revenue at all, but for the sole, naked purpose of stimulating the introduction of foreign commodities for the purpose of benefiting a particular class, and that in violation of a principle which has been the leading principle of the Democratic party for the last ten years.

Mr. President, there are other objections to this bill which I think might be urged; but I will forbear. As I stated, I am satisfied that no objection of mine will prevail to defeat it, much as I deplore its passage; having stated the general grounds on

which I object to it, I shall, of course, submit to whatever may be the will of the Senate.

Mr. COOPER. I am not going to detain the Senate for any length of time with further remarks upon the subject of this bill; but before its passage—for I presume it will pass—I desire, in the first place, to express my thanks to the Senators from Connecticut [Mr. TOUCEY] and Delaware, [Mr. BAYARD,] for the views which they have presented,—views that are sound, statesmanlike, and applicable to the condition of the country as it exists at this time, and especially applicable to the railroad interest of the country. They are the views that are entertained by the practical men in my State, and they are such as I have tried myself feebly to enforce during the discussion which has taken place on this measure.

In the few remarks which I have to submit, I desire to answer the question propounded to me by my friend the Senator from Tennessee, [Mr. BELL,] whether, under the existing prices abroad, the establishment for the manufacture of iron in Pennsylvania, and other States, could go on even if this bill should not become a law. I answer him, without hesitation, that under the existing prices, the establishments now in operation would go on, and that their production would be increased. The amount of that production, it is true, would not be increased to the same extent as would be the case if the condition of things existing a year ago, still existed; but although iron has fallen largely in England, the imposition of a duty of thirty per cent., and the cost of transportation hither, together with the incidental charges, afford a sufficient amount of protection to keep these establishments in operation. It is true that they would not make very large profits; but they would be able to maintain themselves, and there would still be a competition with the English manufacturers, which will not be the case if this bill should pass, and that interest be satisfied that no further protection is to be expected from Congress. This is undoubtedly the truth.

Now, it can hardly be that the railroad interest expects to pay these bonds at the end of the time at which the credit is limited. It is quite too small a thing to be urged with such pertinacity and in violation of the principles of the bill which it repeals in part, if it were not with the expectation that ultimately the whole of the duties will be remitted. I know that this is disavowed by Senators here; and I have no doubt it is disavowed honestly; but these corporations will not be satisfied with the three years credit upon the duty. When the time for payment comes they will be here with memorials asking that the bonds may be cancelled and the duties entirely remitted. This much I venture to predict. That the bill will stimulate the building of railroads largely, there can be no doubt—not because the advantage, the immediate advantage, which is held out, is great: but because of that which is anticipated—the ultimate remission of the duties entirely.

What is to be the effect upon the country at large. I do not speak now of what is to be the effect upon the manufacturers of iron in my State, and in other States—but what is to be the general effect upon the interests of the country? What is it that has produced the condition of things that now exists, and which existed in a greater degree, perhaps, a few months since—that is the prostration of the business of the country? It has been the exportation of specie. The want of confidence on the part of the banks, and their refusal to accommodate their customers with the amount of money necessary to carry on their current business, resulted undoubtedly from the large exportation of specie, which narrowed the basis on which the credit system stands. But give the stimulus to railroad enterprises, teach companies that they can have a credit on all the iron, which in most of the States, particularly in the western States, constitutes nearly one half of the entire cost of the roads, and what will be the consequence? Again bonds will be sent out to pay for large quantities of iron, and your foreign debt will be largely increased. The interest upon that debt must be paid annually, and how is it to be paid? It must be paid generally in specie, because the surplus products of the country will not more than pay for the ordinary imports that are brought in from year to year. The amount, then, of the foreign debt being increased, it will increase the demand for specie, and it will be exported in larger quantities than heretofore, thus reproducing the consequences which a large export of specie has always produced, striking down domestic industry, paralyzing all the business of the country, and giving up our markets to foreigners.

I have but a few more words to say, and I shall have ceased the opposition which I have felt it to be my duty to make to the passage of this measure. Is it right that you should stimulate an interest which has already exceeded all reasonable bounds, to extend itself still further, at the expense of another interest that has not yet attained to the point which it ought to occupy amongst the industrial interests of the country? I mean that of the manufacture of iron. We have the raw material for the manufacture of all the iron that is needed for all the railroads now constructed, or in course of construction in the country. We have all that is necessary, in every respect, to give this interest such a development as would enable it to supply the whole wants of the country, but the character of our legislation being such as was referred to by the honorable Senator from Maryland, [Mr. PEARCE,] in his remarks this morning, scarcely a year passing that there was not some change operating in general disastrously to this interest; it has prevented its extension to the point that is necessary for the snpply of the wants of the country. Now you propose to strike another blow, and that interest which is not in a highly prosperous condition, is to be brought down still lower. You refused, sir, a few years ago, when those engaged in it memorialized you for relief by an increase of duty, to afford such relief because you would not break in upon the principle of the act of 1846. You refused it; you turned a deaf ear to the prayer of this great interest which afforded employment to thousands of people; but now, on the application of associated capital, that is able to withstand the hardship of the times, you are about to make a change adverse to the iron interest, though you refused, a year or two since, to make a change in its favor. You are about to strike another blow at this interest, and drive out of employment thousands and thousands of those who now find subsistence from it. Hoping that something would arise in the course of events that would restore prosperity, it labored on, and many of the establishments in my own State, and in other States, continued their operations even at a loss. That period did arrive, through a concurrence of circumstances, and when, without having experienced relief through legislation, this has been effected in another manner, you are about to lift your hand to strike it down at the moment when it is recovering from the prostration under which it has labored for so many years. Is this just, is it proper, or is it in consonance with the views that have heretofore been entertained especially by the party, Mr. President, to which you belong? I know, sir, how you feel on this subject; I know how other honorable gentlemen feel in relation to it; I know that they condemn it; but still the bill is to pass, and I shall make no further opposition to it. Having done my duty, I shall desist from any further effort to prevent its passage.

Mr. CLAY. Mr. President, according to parliamentary usage, the friends of this measure would have the right to conclude the debate; but as that rule does not obtain in the Senate, at least in practice, and as it is perfectly clear to me that it is the purpose of the adversaries of this measure to defeat it, if they can, by delay, I shall forego what I earnestly desired, and what I intended to do: to address the Senate on this question. I think I could show, indeed, I may say, that I know I could show that, if the testimony of the opponents of this measure, the advocates of the so-called iron interest themselves, could be accredited, the present duty affords them no protection whatever. I have on my table now a pamphlet advocating this peculiar interest; which asserts, substantially, what I now state. I could show it though by more indubitable testimony. I have prepared tables of the importations of this species of iron, and of all other iron, and I can demonstrate that, so far from operating as any protection to this interest, those tables show, beyond controversy, that it has afforded them no protection, and they corroborate fully the assertion of the advocates of protection themselves in this respect. I could show that the importations of railroad iron have far outrun the aggregate importations of all foreign merchandise in the country for the last ten years; that they have outrun the aggregate importations of all species of foreign merchandise over nine hundred per cent. in six years, and that they have outrun the importations of all other species of iron within the same period upwards of one thousand three hundred per cent.

Sir, I am well prepared to establish all the positions which I maintain upon this question. I should be glad to show, too, that it is not any departure from Democratic policy; for, I hold that, when a duty is not necessary for revenue, when it affords no protection, there is no reason whatever for continuing that duty. That proposition, I think, is susceptible of demonstration; but I shall not detain the Senate, as I see, from the vacant seats of the Chamber, that gentlemen are disinclined to hear further debate. If it should be convenient hereafter, I shall endeavor to establish that proposition by the records of the Treasury Department. I trust, sir, that the question will now be taken.

Mr. WELLS. Mr. President, I regret, for one, that the honorable Senator from Alabama has not gone on and demonstrated that this is not an anti-Democratic measure. I should be glad to see the principle upon which he asks me to vote for a measure of this kind, because, if it stands upon principle, and is just and expedient, I shall vote with him; but, if it violates the great faith which I have always regarded as sound, neither the fertile fields of the West, nor the beauty of the South, nor the splendid addresses to which he and his eloquent friends could give utterance, will induce me to violate that great faith which I cherish

What, sir, is the proposition here presented to us? It is a money matter, and in it is involved a great principle, as I regard it. Certain things are confessed here. It is confessed that the duty which is now proposed to be postponed, equals between $3,500,000 and $4,000,000 annually. It has been assumed in the debate, for convenience, in round numbers at $4,000,000. The bill proposes to postpone the payment of those duties, without interest, for a period of three years. The amount is, say $4.000,000 a year. The interest on that for one year at six per centum would be $240 000, and for three years it would amount to $720,000. For the other year (because the bill is to be in operation for two years) the interest would be $240,000 more, making $960,000; to which should be properly added the interest upon these sums for the period delayed. Therefore, the the interest will amount, in round numbers, to $1,000,000. Then what is this proposition? I ask gentlemen, if I am wrong, to correct my error; but let me inquire is it anything else than calling on us by our votes to give outright to certain railroad corporations in this country that amount of money?

If such is the fact, where is our constitutional right to do it? If we have not a constitutional right to give this money and we do give it, shall a million of dollars limit us? No, sir; it is only to be governed by the wishes of parties hereafter and the power of the votes in the Legislature to take it. It comes to this, and, it seems to me, that the argument results in this. Gentlemen who addressed the Senate this morning, as an argument in favor of this measure, spoke of the depressed condition of their portion of the country, and of its natural resources, and they spoke, too, of the country beyond them—the prairie land—created the most fertile on this continent by the God who made the whole; and they told us that it yet remains untouched by the hand of cultivation because they have not the means of building railroads to convey its products to market. Why not, on the same principle, go the entire length and take the whole sum necessary to build those railroads? Is there any limit to it? If you take this money from the Treasury and give it to these railroad companies, why not take $100,000,000, if you have that amount, and give it to others for the same purpose. There is no limit to it.

When I look at this point, I ask my friend from Alabama, for whom I entertain a very high opinion, and I ask other gentlemen who hold to the doctrines in which he believes, to examine the matter and see whether we ought to take this step. How can we stand, and how do we stand as a nation, but by adhering, as the gentleman from Delaware, [Mr. BAYARD,] a few moments ago well said, to constitutional obligations? Can we stand

upon any other footing? No, sir. I live in a section of the country where we have been taunted from my boyhood because we have stood up fearlessly in the maintenance of constitutional obligations. I have lived only in the State of New Hampshire in all my political life, and in that good old State in the thirty years that I have been a voter, we have ever maintained, and still maintain, and are yet to reëxamine and act upon again, on the second Tuesday of March coming, those great principles of national obligation and fidelity which are involved in a strict construction of the Constitution. I have never abandoned them in New Hampshire; nor will I while I have the honor of occupying a seat in this Chamber. Whoever will enjoy benefits from the faithful observance of the Constitution is of no consequence. Who is to suffer under it, is not a consideration. The only question with me, and with my political associates, is, what is our constitutional duty? That we will perform, and the consequences must rest on those who created the instrument under which we live.

Then, sir, I say this is a violation, in my judgment, of constitutional obligation, and of constitutional right and duty; and, therefore, I cannot, however urgent the necessity, and however well and strongly it is presented to me, vote for it, because I say if I do, I unsettle the great principle which secures to many gentlemen here their political rights under this Government. We can stand upon nothing else than upon strict construction. It has been with us a strong theme of argument. I say, and I believe, before the God who rules, that but for adherence to that sound Democratic principle of a strict construction of the Constitution, we should not have been here to day. This Union would, before this, have been dissolved, but for the honest, and firm, and righteous adherence of honest men to constitutional obligation. Shall we now abandon it? Shall do so out of consideration for the interest of a mere railroad corporation?

I believe, as the gentleman from Delaware has well said, that these corporations are entirely mistaken as to the consequences of this measure. I do not believe it will eventuate in the benefit of railroads. We, in the eastern States, have passed railroad relief bills; we have tried to aid those railroads which have gone beyond their means, and I appeal to every gentleman from my section of the country familiar with the matter, and I think he will sustain me when I say that all the relief bills we have passed, or attempted to pass, have resulted to the injury of those corporations. They have gone too far and too fast. They have taken money out of its legitimate channels, and thereby embarrassed the entire business operations of the country. Their bonds are floating all around, and at a discount. I perceive in a paper which I received this morning a very strong case which I will mention to the Senate.

A few years ago, in this Hall, you voted to give alternate sections of land for six miles wide to the Illinois Central railroad—a road seven hundred miles in length. Nearly three millions of acres of land were given to that company. What was the argument in favor of it? Substantially the same argument that is used here to-day to give them the money. What has been the result of that gift? Instead of being a relief, in what condition do we find them now? For the purpose of raising $3,000,000, they have put their bonds into circulation; and they are to-day selling in the market a one thousand dollar bond bearing an interest of seven per cent., payable semi-annually, for $700—being a discount of $900,000, besides the interest on that sum, to raise $2,100,000. I have only referred to this to show that this relief does not aid them. Railroad enterprises should be left, like all others, to sustain themselves. When the demands of public necessity require additional roads, the means will be at hand, in my judgment, to construct them.

I do not, however, propose to go into that question. I rose only for the purpose of stating my objections to this bill, because I know that, taking the remarks which have been made in the Senate upon this subject, if I voted against the bill without explanation, it might be said that I was voting here against an honest proposition to relieve an interest which could be constitutionally and rightfully relieved. I have made these remarks solely for the purpose of letting my constituents see and know that whatever may be the consequences of this act, while I have the honor of representing them in the Senate, my vote shall be in accordance with the theory of the Democracy of New Hampshire.

Mr. CLAY. Mr. President, I shall not be seduced from my purpose not to debate this bill; but I have a single remark to make in reply to what has fallen from the gentleman from New Hampshire. He and others denounce this measure as anti-Democratic and unconstitutional; and how do they arrive at that conclusion? They say it is indirectly aiding railroads by granting them money. I say, on the other hand, that it is only letting railroads alone, and not imposing burdens upon them. There is the difference between us. According to our policy, we take off from these railroads a burden which obstructs and prevents their construction. He says that because we let them alone, we are, therefore, aiding them.

Again, he and others say it is anti-Democratic, because it is class legislation and a departure from the policy of the tariff act of 1846, which they denominate a Democratic measure; and yet, in that very tariff act I see a feature far more obnoxious to the reproach of class legislation than that which I now propose; for I there see that sheathing copper is exempted from all duty and admitted free. For what purpose? To promote the ship-building interest. There is a bounty, according to their view of the question, offered to ship-builders. There is class legislation more emphatically than they can denounce this as class legislation. They all concede in their arguments on this question that it is not to benefit the stockholders in the railroads, and in the same breath they concede that railroads are of great interest to the community. Now, compare the mere number of stockholders in the several railroads interested in this measure with the number of persons engaged in the manufacture of railroad iron, and in what relation do they stand? Why, sir, as one to one hundred, and yet the interests of the one hundred must be sacrificed for the benefit of the one. This they call class legislation! I will not multiply words on this subject; but I trust we shall take the vote.

Mr. SEWARD offered an amendment, to give to railroad companies using American iron the same bounty granted by the bill to those using foreign iron, by loaning them from the Treasury, for three years, the same amount for which they would receive a credit if they used foreign iron. His remarks on the subject will be published in the Appendix.

Mr. CHASE. I am sorry, Mr. President, that I cannot vote with the Senator from New York for his amendment; nor can I quite agree with him that its principle is identical with that of the bill. The amendment proposes taxation, and a loan. The bill proposes temporary relief to taxpayers, and no loan. The amendment contemplates the continuance of all existing burdens upon industry. The bill relieves, for a time, one great, but now depressed, interest from these burdens, in a manner which will give life and activity, and sure reward to industry in many branches. Far from being kindred to the bill, the amendment directly antagonizes it. If the amendment be adopted, the bill must be lost. I must express the hope, therefore, that it may not be agreed to.

The question being taken by yeas and nays, resulted—yeas 8, nays 29; as follows:

YEAS—Messrs. Brainerd, Brodhead, Cooper, Seward, Thomson of New Jersey, Wade, Walker, and Wright—8.

NAYS—Messrs. Adams, Bell, Benjamin, Brown, Chase, Clay, Dawson, Dodge of Wisconsin, Douglas, Fitzpatrick, Geyer, Gwin, Hamlin, Hunter, Johnson, Jones of Tennessee, Mason, Pettit, Rusk, Sebastian, Shields, Slidell, Stuart, Sumner, Thompson of Kentucky, Toucy, Weller, Wells, and Wilson—29.

So the amendment was rejected.

Mr STUART. I move, in the second section, to strike out the words "for two years," and insert "until the 1st day of July next," so as to make the clause read:

The benefits of this act shall extend to all railroad iron received and in bond, on which the duties have not been paid, as well as such as may hereafter be received: *Provided*, That the provisions of this act shall continue *until the 1st day of July next*, and no longer, unless otherwise provided for by law.

I do not intend to detain the Senate at this moment by making any speech upon the subject. The bill has been amended, in some particulars, since it was reported from the Committee on Finance; but it will be recollected that the report of the committee was adverse to the bill. An amendment has been adopted, which I have thought a very important one, requiring security to be given in all cases. That was one objection which induced me, as a member of the Committee on Finance, to oppose the original bill.

The remaining objection which I had to the bill was its probable effect upon undue investments in railroad interests. I am willing that the bill should apply to iron already imported, and iron already ordered. I propose to fix the 1st of July next, for two reasons. In the first place, it is the end of the fiscal year; and in the next place it precludes all undue investments in railroad enterprises on account of this credit. With that modification of the bill, I should myself have no objection to it. I can conceive very readily that every interest in the country, especially the agricultural interest, may be, and will be, ultimately benefited by giving a temporary relief to railroad companies to that extent; but it is equally true that the agricultural interest, with every other, suffers, and suffers deeply, when there is an improper investment in this, or in any other business of the country.

Sir, I could, and, if time permitted, I should be glad to give my views at some little length—perhaps twenty or thirty minutes—on this branch of the inquiry. But I will not detain the Senate now to elaborate my position. I have stated distinctly the object of the amendment; and I state as distinctly that if the friends of the bill are willing to confine it, as I propose to limit it, I shall myself have no objection to the bill in the form in which it will then be, but shall be very glad to record my vote in its favor. If, however, it is extended to two years hence, the inevitable result of it must, in my mind, be to continue the difficulty under which we now labor; that is, the improper investment of money in railroads that the public interests do not require. Unless some such amendment be made, I shall be compelled to vote against the bill.

Mr. JONES, of Tennessee. I hope the friends of the bill will not think of voting for the amendment, as its effect is to destroy the virtue of the bill.

Mr. BAYARD called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 16, nays 26; as follows:

YEAS—Messrs. Bayard, Brainerd, Bright, Brodhead Cooper, Fessenden, Gillette, James, Pearce, Seward, Slidell, Stuart, Thomson of New Jersey, Toucey, Wells, and Wright—16.

NAYS—Messrs. Adams, Bell, Benjamin, Chase, Clay, Dawson, Dodge of Wisconsin, Douglas, Fitzpatrick, Gwin, Hamlin, Hunter, Johnson, Jones of Tennessee, Mallory, Mason, Pettit, Rusk, Sebastian, Shields, Sumner, Thompson of Kentucky, Wade, Walker, Weller, and Wilson—26.

So the amendment was rejected.

Mr. STUART. At the suggestion of several Senators, I am disposed to modify the amendment which has just been rejected. I move now to strike out the same words which I before moved to strike out, and insert "one year from the first day of July next." I think it is very important to limit the period to less than that fixed in the bill. I shall not consume the time of the Senate in discussing the amendment. I simply ask for the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 22; as follows:

YEAS—Messrs. Bayard, Brainerd, Bright, Brodhead, Chase, Cooper, Fessenden, Gillette, Hamlin, Pearce, Seward, Slidell, Stuart, Sumner, Thomson of New Jersey, Toucey, Wells, Wilson, and Wright—19.

NAYS—Messrs. Adams, Bell, Benjamin, Clay, Dawson, Dodge of Wisconsin, Douglas, Fitzpatrick, Gwin, Hunter, Johnson, Jones of Tennessee, Mallory, Mason, Pettit, Rusk, Sebastian, Shields, Thompson of Kentucky, Wade, Walker, and Weller—22.

So the amendment was disagreed to.

Mr. BRODHEAD. I have not offered an amendment to this bill to-day, nor have I said a word upon it. I now intend to offer but one amendment. As we are taking off duties for the purpose of giving protection to particular interests, I offer the following amendment, as an additional section:

SEC. —. *And be it further enacted*, That all laws authorizing the payment of fishing bounties, be, and the same are, hereby repealed.

On this amendment I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 10, nays 30; as follows:

YEAS—Messrs. Bayard, Brainerd, Bright, Brodhead, Pearce, Pettit, Stuart, Thompson of Kentucky, Walker, and Wright—10.

NAYS—Messrs. Bell, Benjamin, Chase, Clay, Cooper, Dawson, Dodge of Wisconsin, Fessenden, Fitzpatrick, Gillette, Gwin, Hamlin, Hunter, James, Johnson, Jones of Tennessee, Mallory, Mason, Rusk, Sebastian, Seward, Shields, Slidell, Sumner, Thomson of New Jersey, Toucey, Wade, Weller, Wells, and Wilson—30.

So the amendment was rejected.

The bill was reported to the Senate as amended, and the amendments made, as in the Committee of the Whole, were concurred in.

The PRESIDENT. The bill is still open to amendment.

Mr. BAYARD. I desire now to renew the amendment which I offered yesterday in Committee of the Whole, in order that another vote may be taken upon it; I mean the amendment striking out the proviso at the end of the second section, and inserting the one which I then offered in lieu of it. Honorable gentlemen yesterday saw fit to treat it with great indifference, as a matter of no doubt whatever. I do not intend to compete with them in a knowledge of the law; I have no doubt that the majority who voted against my amendment, probably understand it better than I do; but still I beg leave to express a doubt, according to the mode in which the language is worded, if all the provisions of the bill are repealed at the end of two years, a statutory bond taken under this law can be enforced after the lapse of two years against the surety on the bond. I doubt it. There is a wide distinction between a statutory bond, and a bond taken at common law; and it was to remove that doubt, not at all to interfere with the bill or prevent its passage, that I offered the amendment yesterday.

Honorable Senators then admitted that the construction which ought to be given, and was intended to be given to the bill was that which I sought to give to it expressly by my amendment; and yet they voted down that amendment. I can reconcile the rejection of the amendment in but one mode, and that is: that it gives the excuse hereafter, founded on a doubt as to the right of recovery from the surety, to come forward and ask Congress to discharge them from the payment altogether. I suppose that is the reason why it was voted down. I now present the amendment again, and I ask for the yeas and nays upon it. It is in section two, to strike out the words, "that the provisions of this act shall continue for two years and no longer, unless otherwise provided for by law," and insert: "that the provisions of this act extending the time of payment of duties, shall be held to apply to iron rails, spikes, bolts, fastenings, and other iron necessary for a construction of railroads, actually delivered on bond as aforesaid within two years, and no longer."

The yeas and nays were ordered.

Mr. CLAY. I stated yesterday that I did not believe this amendment would alter the true construction of the bill. I am of that opinion now. I think it is but effecting the same purpose which the bill in its present shape effects; and yet I shall vote for the amendment which is proposed. At the same time, however, I do not like to pass without notice the remarks which fell from the Senator from Delaware. One remark which he made, though, I trust, not so intended, was, I think, exceedingly disrespectful to those who opposed his amendment yesterday, for it imputed to them a purpose to frame this bill so as to take advantage of what he regards as a defect in it, with a view of evading the payment of the duties entirely. He said it would afford a pretext hereafter for the remission of the duties on the ground that they could not be collected, as the bond was a statutory bond, that would not bind the party. I think this was exceedingly disrespectful to the friends of this measure. I am not induced by that remark to vote for this amendment. On the contrary, it rather disinclines me to support it; but, believing as I do sincerely, that it does not change the true construction of the measure, I shall vote for it.

Mr. BAYARD. I cannot see that there was any disrespect in my remark—I certainly intended none—to any individual Senator; but I have an undeniable right to draw my own conclusions from votes taken in this body, and I have the right to draw these conclusions without being justly liable to the charge of disrespect, either to the majority, or to any individual Senator. The friends of this bill deliberately, on the yeas and nays yesterday, voted down this amendment which I proposed, without giving any reason for doing so. They admitted that the construction which I sought to give in precise language to the section was that which they were willing to agree to; but they rejected the amendment without giving any reason, simply saying they did not concur with me in opinion. Now, I have suggested a ground of doubt. I did not think it necessary to do so yesterday. I supposed honorable Senators were so well instructed in the law that they would at once recognize the distinction between a statutory bond and a common law bond; and that they might easily suppose that a doubt could arise as to the obligation of the surety under a proviso so worded as to declare that the law should only continue, in all its provisions, for a period of two years, when the bond was to last for at least three years.

Under such circumstances, I think, if there was any question of courtesy or want of courtesy involved, I might well have complained of a want of courtesy when the friends of the bill refused to insert my amendment, although it did not derogate from the object which they professed. But, sir, I complained of nothing of the kind, nor do I now. I did not mean any disrespect; but I did endeavor to find out a solution, in some mode, of the meaning and design of voting down an amendment which was simply to make clear of doubt an object which the majority said they had in view. If there was no ulterior object, I could conceive of no ground for rejecting the amendment.

Mr. WELLER. I hope the call for the yeas and nays will be withdrawn, as I suppose there will be no opposition to the amendment.

The PRESIDENT. It will require unanimous consent to withdraw the call for the yeas and nays. The Chair hears no objection.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed for a third reading.

The PRESIDENT. The bill will now have its third reading.

Mr. BRODHEAD. Can that be done to-day?

The PRESIDENT. Yes, sir; it has been read twice before to-day.

The bill was read a third time, and the question was stated to be on its passage.

Mr. BRODHEAD. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. SHIELDS. I confess that I do not exactly like the principle of this bill, and I consider it partial and unequal and not very wise legislation; but I shall vote for it in obedience to the instructions of the Legislature of my State.

Mr. DAWSON. I am requested by the Senator from Delaware [Mr. CLAYTON] to announce that he would have voted for the bill if he were here, but he and the Senator from Maryland, [Mr. PRATT,] who is against the bill, have paired off.

The question being taken by yeas and nays, resulted—yeas 25, nays 18, as follows:

YEAS—Messrs. Adams, Bell, Benjamin, Brown, Chase, Clay, Dawson, Douglas, Evans, Fitzpatrick, Gwin, Hamlin, Hunter, Johnson, Jones of Tennessee, Mallory, Mason, Rusk, Sebastian, Shields, Sumner, Thompson of Kentucky, Wade, Weller, and Wilson—25.

NAYS—Messrs. Bayard, Brainerd, Bright, Brodhead, Cooper, Dodge of Wisconsin, Fessenden, Gillette, James, Pearce, Seward, Slidell, Stuart, Thomson of New Jersey, Toucey, Walker, Wells, and Wright—18.

So the bill was passed.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. WEBSTER, his Secretary, announcing that he had approved and signed an act to provide for holding an additional term of the circuit court of the United States for the district of Missouri, and for holding special terms of the district and circuit courts of the United States for the northern district of Ohio.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the House for the relief of purchasers and locators of swamp and overflowed lands.

ADDITIONAL REVENUE CUTTERS.

Mr. HAMLIN. I desire to state to the Senate that there is very little probability that I shall be able to remain here more than one day in addition to this. There are two bills reported from the Committee on Commerce which I think can be passed in half an hour; perhaps in much less time than that. I feel an interest in them because the Secretary of the Treasury has repeatedly invited my attention to them. I ask the Senate to consider them at this time as a special favor to me. One is a House bill authorizing the Secretary of the Treasury to have constructed four revenue cutters; one for the port of Charleston, South Carolina; one for the port of Galveston, Texas; one for the port of San Francisco, on the coast of California; and one for the coast of the Territory of Washington. I move that all prior orders be suspended for the purpose of taking up that bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to the consideration of House bill authorizing the purchase or construction of four additional revenue cutters. Its first section proposes to appropriate $60,000 to enable the Secretary of the Treasury to cause to be built or purchased in such mode as he may deem best for the public interest, four vessels of suitable size and construction, to be employed as revenue cutters, at such stations as he may designate. The second section proposes to provide that hereafter no person shall be appointed to the office of captain, first, second, or third lieutenant of any revenue cutter, who shall not have served at least one year before the mast, and who does not adduce competent proof of efficiency and skill in navigation and seamanship.

Mr. HUNTER. I move to strike out the second section of the bill, which provides that nobody shall be appointed an officer in the revenue service who has not served one year before the mast, thus confining the appointments to one class of persons.

Mr. HAMLIN. I hope the Senate will not strike out that section. It seems to me that no person should be appointed for sea-service who has not seen sea-service. One year's sea-service is a very small amount to require. An officer who commands a revenue cutter ought to have, at least, that much experience.

Mr. MALLORY. In order to attain the object of the Senator from Virginia, it will not be necessary to strike out the whole section. I concur with him, that it is altogether wrong to make it a test of appointment to a command in the revenue service that the party shall have served before the mast in the character of an ordinary seaman. It is not exacted in the Navy. It is exacted in no part of our public service. I would ask the Senator from Virginia, however, to examine the section; and in order to accomplish the object which he says he desires, instead of moving to strike out the whole section, let him move to strike out so much as requires one year's service before the mast, retaining that portion which requires the appointee to be skilled in seamanship and navigation. That may be acquired in various ways, as mate, or second or third mate, for example.

Mr. TOUCEY. I hope the amendment will be adopted. I am opposed to all legislation which attempts to restrain the power of the Executive to select persons proposed to be appointed to office. The whole field should be left open for the exercise of the constitutional power of the Executive. If you undertake to limit it in one case, I know not why it may not be limited in any other case, and to any other extent. I consider all legislation of this kind as very objectionable. I hope the section will be stricken out without much reference to the propriety or the impropriety of the restriction.

Mr. HUNTER. I modify my amendment, at the suggestion of the honorable Senator from Florida, so as to strike out the words "shall not have served at least one year before the mast and who;" so as to leave the section to provide that no person shall be appointed to these places, "who does not adduce competent proof of efficiency and skill in navigation and seamanship."

Mr. HAMLIN. I should not have much objection to the amendment submitted by the Senator from Virginia in its present shape, if it were not for the fact that its effect will be to hazard the bill. I think there is very great propriety in limiting the Executive as to what quarters the appointments for the revenue service shall come from. I think a man who has never seen any sea-service, who is entirely a landsman, to use a seaman's phrase, who does not know a sloop from a

schooner, or a brig from a bark, or a bark from a ship, is a very wrong person to incumber the revenue service—and I use the word impressively because I know that the revenue service has been too often filled up with a class of men who are unfitted for it. It is the decided opinion of the Treasury Department that it should be a requisite that this sea-service should be seen. It might not be important that it should be seen before the mast, that is, in the capacity of a common sailor; but still I do not think that will be onerous. I should not, however, object to the amendment in its present shape if there were ample time; but there is no time to have it considered in the House if we send the bill back. These revenue cutters are necessary for service on your coasts, and I think we had better take the bill as it comes from the House. I trust the Senate will do so.

Mr. PEARCE. Mr. President, if bills come to us with absurd and preposterous conditions, we ought to strike them out, even if we lose the bills. What does the Senator say? That you ought not to take for this service a man who does not know a bark from a schooner. Well, sir, does the Senator suppose that the President or the Secretary of the Treasury is going to appoint any such men? I do not believe, ill as I might perhaps think of some gentlemen who have held the place of Secretary of the Treasury, that we have ever had a gentleman in that position who would do so absurd a thing, and that is saying very little.

I do not suppose for myself that the provisions of the bill, if this amendment be adopted, will be at all insufficient. They will then require that persons appointed to these places shall have skill and experience. Is not that sufficient? Can we not expect common honesty from a Secretary of the Treasury? Can we suppose that he will violate the instructions of a bill like this, which makes it so plainly his duty to take a man fit for the place? Must we distrust him and distrust ourselves so much that we are obliged to put in a condition of this sort which is really so disreputable, for I think it is absolutely disreputable to any branch of the Executive department to suppose that they will do a thing so justly subject to condemnation. It is entirely unnecessary. It looks to me—not that it was so intended—as if it might be supposed to be designed to cultivate a little peculiar sort of popularity with a class of people for whom we should make no such provision. I hope it will be stricken out as a thing altogether impertinent.

Mr. HAMLIN. I think as highly of the present incumbent of the office of Secretary of the Treasury as any Senator in this body. My intercourse with him has been such as to lead me to entertain a very high opinion of him. When I say that, I need only add that this section has been added to the bill at his own suggestion. I should not, perhaps, have favored it, if it had not been originally incorporated in the bill at his suggestion, for the reason that the best Secretaries who ever existed are liable to deception, and may be deceived by those who are applying for place. This is a safeguard thrown around it solely for the purpose of requiring applicants to come within that rule, rather than as a direct guide to the Secretary. It provides that there shall have been one year's service before the mast, which is simply the service of an ordinary seaman.

Mr. ADAMS. Mr. President, in legislating upon this and all other subjects, I have nothing to do with incumbents in office or their predecessors, but with their successors. I do not look to whether this may reflect or not reflect upon your officers. The only question, as it seems to me, is, whether the qualification provided for in this bill be right and proper. I have heard no one object to it on the ground that the experience which it proposed to require disqualifies a man for these positions; or that any can be well qualified without it. That is the sole question for our decision. If you regard it as improper to give an unlimited discretion to the appointing power, it is no reflection on that power to limit its discretion. When we have a right to fix the qualifications of particular officers, I do not see how our doing so can be regarded as a reflection on anybody. I think it would be a great deal better for the public service if all public officers were required to possess certain qualifications, and where Congress has the power of prescribing qualifications I can see no impropriety in doing so; and, therefore, I shall vote against the amendment of my friend from Virginia.

Mr. BAYARD. I trust this amendment will be adopted. I should at all times resist an attempt to confer legislative powers on the Executive, and I should equally resist an attempt to intrench on the Executive power by giving it to the Legislature. The right of selection from any citizens of the United States, according to their merits, and on his responsibility to public opinion, and, when the nomination is to come to the Senate, on his responsibility to the Senate, is what the Constitution of the United States delegates to the Executive of the United States; and I am not willing, by legislation, to confine or curb that discretion on the part of the Executive. He shall have it, as far as my vote goes.

Mr. RUSK. I understand that these appointments do not come to the Senate from the President to be confirmed, and, therefore, there is no objection on that ground. I learn from good authority that there are many men in the revenue marine who have seen no service as sailors. These officers are appointed, as I understand, by the Secretary of the Treasury for the purpose of protecting the revenue; and this is a limitation which the Secretary of the Treasury asks shall be imposed upon those appointments. If they are sent to the Senate, it is merely a nominal thing; for, since I have been a member of the body, I have never heard of the rejection of an officer of a revenue cutter. I am voting for the benefit of the service of the country, and I shall vote against this amendment, because I think it is better to put into the revenue marine those who have seen sea-service and know how to perform it; but I am not voting for a multiplication of offices. This provision is necessary for the service of the country, and, besides, the probability is that, if the bill be amended, it will be lost in the House of Representatives.

Mr. HUNTER. I am opposed to this limitation of the power of the Executive. It seems to me that, as has been very well remarked, this is an Executive matter. We have to trust him at last with this discretion. If you were to insert this provision, and if he did not choose to follow it, could you compel him to do so? If you could, is he not to select from men who have been sailors and have served more than a year before the mast? Is it proper to impose such a restriction? May it not be that the most of the class to whom it is proposed to confine the selection are utterly unfit to command one of these cutters. You have to trust to the discretion of the Executive at last, and it seems to me that such legislative restrictions as these upon him are altogether improper. Besides that, I do not see why it is that he should be restricted in his appointments to one class of persons who may have seen sea-service. A man may have seen sea-service without having been before the mast. It is not necessary that he should have served in the capacity of a common sailor to enable him to have seen sea-service.

Mr. HAMLIN. Allow me to state to the Senator from Virginia that, by the present law, a gunner in the Navy must have seen two years' sea-service before he can be appointed; and though I cannot refresh my recollection upon the subject at this moment, I think there are a great many officers for which the law requires now, as a preliminary, that those appointed shall have seen sea-service.

Mr. HUNTER. There may be restrictions in other laws, but I am not aware of them, and I am not speaking of them; I am speaking of this provision in this bill. I know what this is. I see no reason for limiting the discretion of the Executive in this way; nor am I satisfied in regard to the other point, that we ought to increase the number of revenue cutters. I do not believe it is a branch of service which ought to be much increased. I do not know how many of them are now in commission. I know that during Mr. Meredith's administration of the Treasury Department, he did reduce the number of cutters, with some advantage to the service. Whether they are about to be increased again I do not know; but in regard to this provision, at any rate, I feel convinced that it ought not to remain in the bill.

Mr. PEARCE. Mr. President, I am sorry to find that the Secretary of the Treasury has so much less confidence in himself than I have in him. I learn from the honorable Senator from Maine that he desires to tie his own hands. It seems to me entirely unnecessary. Now, sir, the test of qualification proposed is one year's service before the mast. Does anybody believe that would give any guarantee of qualification for this post? The other provision in the bill requires that a person of proper skill and knowledge shall be appointed. Now, if we have an officer in the Treasury Department who is disposed honestly to do his duty, that is all the requirement you need impose on him; but the test of one year's service before the mast is so manifestly inadequate, so altogether insufficient, that it seems to me we ought to discard it. Why, sir, out of the fifty thousand men who serve before the mast, how many do you suppose are qualified, by one year's service, to command a ship? Will one year's experience before the mast enable the men who serve in that capacity to command ships? Sir, other qualities are necessary to the command of a vessel, and other qualities than seamanship are required in the captain of a revenue cutter. There is an intelligence required that does not ordinarily belong to the class of men who serve before the mast. This looks to me like an attempt to bring up those who have not arrived at a proper condition of knowledge and general competency for these places.

Mr. MALLORY. The more this section is examined, the more apparent becomes its impropriety. I can speak with some little knowledge on this subject, because I have been familiar with the service of revenue cutters for some years past. This section imposes a single test for official station in that service, and that is seamanship. How does it provide that seamanship shall be acquired? By one year's service before the mast as a common sailor! "Sea-service" is a specific term which has a well settled meaning; the master of a vessel sees sea-service; but this section goes on to prescribe in what position the required sea-service shall have been seen; and what is it? It is before the mast—the very poorest position in which a man can acquire skill in navigation.

But, sir, this is the very last qualification for a revenue officer. If Senators have been familiar with the manner in which these officers do their duty in the collection of the revenue, they will find that this is the very last qualification which should be required. Our revenue cutters are employed within our collection districts, and on our lakes; they never go beyond them. They are under the orders of the collectors of the customs. They are rarely used, even as dispatch boats, beyond the sight of land. No peculiar confidence in their own skill and powers of navigation is therefore necessary; but what they do want is a knowledge of the general revenue system of the country, of the laws governing the importation of merchandise, and the duties of inspectors of the customs. They are tide-waiters, although dressed in uniform; they are inspectors of the customs, and nothing more than inspectors. Under the singular mode of procedure in this country in which desks are made bureaus, and bureaus are made departments, these men have grown up into a large system; but still they occupy an intermediate position between civil and military life. They are not naval officers; they are entitled to no pensions. They simply belong to the preventive service, and they are only qualified to perform that service as they understand the laws in regard to the importation of merchandise which they have to enforce. If you were to search the revenue service to-day you would find that some of the best officers, those whom every collector would desire to retain, are the worst seamen in the service; and yet this section presumes that is the only test.

Now, sir, to the building of these additional cutters we can have no objection; the cutters, perhaps, are wanted, but why should any attempt be made to modify the present condition of the revenue service upon a bill to provide for the building of cutters? Why have not the Committee on Commerce, if they wished to modify or touch the revenue service proper, proposed a separate bill to reform it? There is no service in our Government which requires the action of Congress more than the revenue service at this time. There are a great many points, of which this is the smallest, which need reformation. But, sir, the idea that a man is to acquire a knowledge of navigation and seamanship from one year's service before the mast, seems to me to be preposterous. It would exclude

a commodore in our Navy, who was the most efficient man in it, who has never been to sea before the mast an hour in his life. Not one in fifty of the men who serve before the mast can manage a quadrant or a sextant, and they are never called upon to assume responsibility. A man in that position knows nothing of navigation. He "knows the ropes," as the seamen say, but he has no responsibility; he is simply to obey the orders which are given to him. His position is not to give orders to others.

The general objection is, also, it seems to me overpowering: that this does place a test on this appointment, which heretofore has been in the hands of the Executive Department; and that Executive Department, so far as my knowledge extends, of late years, has exercised a very sound discretion. I know of no appointments to the service within the last fifteen years which are not creditable to it. I could point out officers who, in former years—twenty-five years ago—were taken from the desk, from the counting house, and from the store, who did not know one end of a vessel from another; but that period has passed by, and the officers themselves are now endeavoring to place the service on a respectable footing, in order that hereafter it may be a portion of the military service of the country.

Mr. HAMLIN called for the yeas and nays; and they were ordered.

Mr. SEWARD. Before the question is taken I wish to say a word, as a member of the Committee on Commerce. It seems to me that there is a great deal of cannonading against a very small object. I do not see what harm this provision can possibly do. Although it requires a single qualification, it leaves the whole range of the country in all other respects open to the discretion of the Secretary of the Treasury in making his selections. What it does require is simply that seamen shall be appointed for the command of these vessels who have practical experience. What is this service? It does not belong to the Army or the Navy, nor to the revenue department proper; but it is the revenue police. If you want to have a police officer in your harbors to take care of the interests of the United States, to prevent smuggling and other offenses against the revenue laws he ought to be a man who, in all weathers, and at all times, by night as well as by day, shall not be afraid to go out from his lair to seize the object of arrest. It seems to me that if the Secretary of the Treasury, with his experience, approved this provision we should not object to it.

Mr. MALLORY. I wish to ask the precise form in which the amendment of the Senator from Virginia now stands. Is it to strike out the whole section?

Mr. HUNTER. No, sir, it is only to strike out the words which the Senator from Florida suggested.

The PRESIDENT. The amendment is to strike out the words "shall not have served at least one year before the mast, and who."

Mr BAYARD. I should have preferred striking out the whole qualification, on the ground which I stated, that I think the less we trench on Executive discretion in matters which ought to be transacted by the Executive on his discretion and responsibility to the country, the better; but the particular clause which this motion is made to strike out I consider shocking. Its effect is to exclude every man, who has not been a common sailor before the mast, from being appointed to office in the revenue service. That is the effect of the section as it now stands. I will suppose a case of this kind, and I will only mention one. I will suppose the case of a young man, a midshipman in your Navy, who has never been before the mast, but has actually served at sea. He finds promotion in the Navy so slow and difficult that it is vain to wait there in time of peace, and so he prefers taking a berth in the revenue service. Would you exclude him? And yet the effect of the section would be necessarily to preclude appointments from that class altogether. There might be many other instances which I could mention, but it is not necessary. If you confine it simply to persons who have served a year before the mast, I doubt very much whether their qualifications are such as to enable them to be proper and efficient revenue officers.

Mr. HAMLIN. I desire to make a single statement to explain what was said by the Senator from New York, and the Senator from Florida. It is true these officers are a police force to guard the revenue; but it is also true, as probably every Senator knows, that, for the last ten years at least—perhaps for the last twenty—under express directions of the Treasury Department all the revenue cutters have acted in the capacity of rescuing sick and disabled seamen all along our coasts. I have before me papers showing that a vast number of people have been rescued by them. This requires a knowledge of seamanship as well as of the revenue laws.

Mr. MALLORY. I should like to ask the Senator from Maine whether there is any naval officer, who ever served before the mast?

Mr. HAMLIN. I believe not.

Mr. HUNTER. I will modify my amendment, so as to strike out the whole section.

Mr. STUART. I think that cannot be done without unanimous consent. I object.

The PRESIDENT. It requires unanimous consent to modify the amendment, the yeas and nays having been ordered.

Mr. STUART. I object to the modification.

The question being taken by yeas and nays on the amendment resulted—yeas 20, nays 16; as follows:

YEAS—Messrs. Bayard, Benjamin, Brodhead, Brown, Clay, Cooper, Dawson, Fitzpatrick, Gwin, Hunter, Jones of Tennessee, Mallory, Mason, Pearce, Pettit, Sebastain, Shields, Slidell, Toucey, and Wells—20.

NAYS—Messrs. Adams, Bell, Bramerd, Chase, Dodge of Wisconsin, Fessenden, Gillette, Hamlin, James, Rusk, Seward, Stuart, Sumner, Wade, Wilson, and Wright—16.

So the amendment was agreed to.

Mr. MALLORY. I now move to strike out the whole of the second section of the bill.

Mr. STUART. I think we certainly ought not to go that length. Once in a while, sir, we get very technical and wise, and then again we lose sight of all those rules entirely. I suppose the statute-books are full of regulations of this kind in regard to the Army and Navy. You authorize the President to appoint certain officers, to be selected out of a given class, for instance, the captains; you confine his selection to captains or lieutenants. It has been done again and again, and there never was any objection to it when fairly considered. Now it is insisted that there shall be no qualifications whatever prescribed, notwithstanding it is conceded by the Senator from Florida, who makes this motion, that the time is but a little way back when you used to take merchants' clerks, men from desks or stores, anybody and everybody, who was totally unfit for the service, and put them in command of revenue cutters. The Senator from Florida says it has been managed better lately. How long may it be before they will return to the old plan? We know that the importunities to put some friend into a place whether he has any qualification for the place or not are sometimes almost irresistible.

Now, what does the section, as it stands, require? Simply that a man shall be selected who is qualified, who can furnish evidence to the pointing power that he is qualified for the duties; and yet the Senate undertake to say, by striking out the section, that it shall be permissible to appoint a man who is unqualified. Sir, it is but a short time ago since the Senate was aroused by the fear of trusting the War Department with the discretion of determining upon an inspection whether one harbor required an amount of money to be laid out upon its improvement sooner than another; and yet, almost the next day, the Senate, by a large vote, conveyed the whole discretion of the Government to three executive officers, in relation to making railroads from here to California. To-day it is insisted that the Senate shall not qualify the right of the Executive in any degree; that they shall object to saying in this second section that none shall be appointed to these officers who are not qualified. I confess that I think we had better retain this provision. I think we had better say that whoever is appointed to the revenue service shall first satisfy the appointing power that he possesses the requisite qualifications. That certainly gives the whole world to appoint from, who possess the qualifications required. Unless the Senate mean to say that they are perfectly willing that somebody shall be appointed who is destitute of the qualifications, I can see no good reason for not retaining the section as it stands.

Mr. BROWN. I voted for the first amendment proposed, but I shall vote against this. I thought that the requirement that a man in order to be an officer in the revenue service should have served a year before the mast, according to the explanations given by gentlemen who seemed to understand sea-faring life, was, to say the least of it, an embarrassment which ought not to be imposed; and though it might not embarrass the present Secretary of the Treasury, it might embarrass his successor, and how long it may be before he has a successor, of course we cannot tell. I think, however, that it is altogether proper to retain the section as it now stands. The argument that the Secretary will not appoint an improper man does not strike my mind with peculiar force. We know very well that Secretaries have appointed improper men to office. Every department at Washington was crowded with incompetency, and what did Congress do? They interposed, and ordered them to have their own clerks examined by a board to see whether they were qualified before they should be appointed. A Secretary who has shown that he either would not or could not inquire into the capacity of a clerk in his own Department, before appointing him at a salary ranging from $1,000 to $1,800, ought to be restricted into an examination of the qualifications of these officers before he appoints them. I think the section imposes a very proper restriction upon the appointing power, and gives a very proper direction to it; and I have no idea of striking it out.

The motion to strike out was not agreed to.

The bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in, and ordered to be engrossed, and the bill to be read the third time. The bill, as amended, was read the third time, and passed.

LOT DAVIS.

Mr. HAMLIN. I now ask the Senate to take up a private bill granting a pension of six dollars a month to Lot Davis. It is a bill which has passed the House, and I apprehend no Senator will raise his voice against it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS.

Mr. MALLORY. I now move that the Senate take up the bill which has been returned from the House with amendments, to promote the efficiency of the Navy. I have been struggling for several days to get that bill up, and my object in making the motion now, is, that when it is taken up, I may move an adjournment, so that it may be the first business to-morrow morning.

Mr. PETTIT. I have a small bill to report from the Committee on the Judiciary for the benefit of the State of Tennessee, which it is important should be passed immediately. It is merely a bill to change the time of the terms of the courts. For three days past I have endeavored to get an opportunity to report that bill, which is a House bill, to which there can be no objection. It ought to be passed at once.

The PRESIDENT. Does the Senator from Florida yield the floor to the Senator from Indiana?

Mr. MALLORY. By unanimous consent, I suppose, the Senator from Indiana can report his bill; but I do not wish to yield the floor. If I lose this opportunity of bringing up the bill which I have moved to take up, I may not get another.

Mr. SEWARD. I shall object to the motions of the Senator from Florida and the Senator from Indiana. Both Senators will have an opportunity to-morrow morning to get up their bills.

Mr. PETTIT. I am afraid I shall not have an opportunity to-morrow.

The PRESIDENT. Does the Senator from Florida yield the floor?

Mr. MALLORY. No, sir.

The PRESIDENT. The question is on the motion of the Senator from Florida.

Mr. PETTIT. On that I ask for the yeas and nays.

Mr. HAMLIN. I beg one indulgence more of the Senate. I hold in my hand a bill which I desire to report from the Committee on Commerce to establish collection districts in the Territory of

Oregon. It is extremely important that it should be passed at once.

Mr. MALLORY. I will yield to the Senator from Maine, in consideration of the fact that he has to leave the city to-morrow.

COLLECTION DISTRICT IN OREGON.

Mr. HAMLIN. It is extremely necessary that the bill to which I have alluded should be promptly passed. The Delegate from the Territory of Oregon has called my attention to it for the last four days, and for four days I have struggled to get the floor for the purpose of reporting it. I now report back, without amendment, Senate bill "to establish the collection districts of Cape Perpetua and Port Orford, in the Territory of Oregon, and to fix the salaries of the officers of the customs therein." I ask for the immediate consideration of the bill, and I think it need not be read through. I will simply say that it is in the usual form, fixes the limits of the districts, and authorizes the President to appoint the necessary officers.

Mr. PETTIT. Does the bill require another reading to-day?

The PRESIDENT. It was read twice and referred to the Committee on Commerce. It is now reported back without amendment, and is before the Senate as in Committee of the Whole.

Mr. PETTIT. I object to its third reading to-day.

Mr. STUART. It can be read the third time to-day.

The PRESIDENT. The Senator cannot object because the bill has previously been read twice.

The Secretary was proceeding to read the bill, but he was interrupted by—

Mr. STUART. No Senator asks that the bill shall be read through. It is in the ordinary form of bills establishing collection districts.

Mr. COOPER. I move that the Senate adjourn.

On a division, the ayes were 9, and noes 16—no quorum voting.

Mr. DAWSON. As there is not a quorum of the body present I move that the Senate adjourn.

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 22, 1855.

The House met at eleven o'clock, a. m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

SWAMP LAND BILL.

Mr. WASHBURNE, of Illinois. I rise to a privileged question. I ask leave to make a report from the committee of conference of the two Houses on the swamp land bill.

Mr. GREENWOOD. I trust that the gentleman from Illinois will not make the report at this time until I can examine the bill and report together. The report may be made at any time.

Mr. WASHBURNE. I ask that the report may be read.

Mr. GREENWOOD. I appeal to the gentleman from Illinois not to make the report at this time. There is no necessity for immediate action upon it. Has the gentleman presented a bill, also, with the report?

Mr. WASHBURNE. The bill has been presented at the Clerk's desk.

Mr. GREENWOOD. My only object is to examine the bill in connection with the report of the committee.

The SPEAKER. The only matter that can be considered is the report of the committee as a whole, and it is not amendable.

Mr. GREENWOOD. An examination of the report and bill might determine my course in relation to the adoption of the report of the committee of conference.

Mr. WASHBURNE. I am instructed to make the report of the committee at this time, and I have no disposition to press the matter; but I think we had better dispose of the subject now. I ask for the reading of the report, and upon its adoption I demand the previous question.

The report of the committee of conference was then read by the Clerk, as follows:

The committee of conference of the Senate and House of Representatives on the disagreement between the two Houses, on the bill of the House No. 9, entitled "An act for the relief of purchasers and locators of swamp and overflowed lands," have conferred together, and unanimously agreed to recommend to the Senate and House of Representatives, respectively, the following proviso to the first section of said act, instead of the one adopted by the Senate.

Provided, That in all cases where any State, through its constituted authorities, may have sold or disposed of any tract or tracts of said land to any individual or individuals prior to the entry, sale, or location of the same under the preemption or other laws of the United States, no patent shall be issued by the President for such tract or tracts of land until such State, through its constituted authorities, shall release its claim thereto in such form as shall be prescribed by the Secretary of the Interior; and provided further, that if such State shall not within ninety days from the passage of this act, through its constituted authorities, return to the General Land Office of the United States a list of all the land sold as aforesaid, together with the dates of such sale and the names of the purchasers, the patents shall be issued immediately thereafter, as directed in the foregoing sections.

CHAS. E. STUART,
S. A. DOUGLAS,
JOHN SLIDELL,
Senate Committee.

E. B. WASHBURNE,
J. LETCHER,
JNO. L. DAWSON,
House Committee.

Mr. GREENWOOD. I ask the gentleman from Illinois to withdraw the demand for the previous question until I can make an inquiry of the gentleman?

Mr. WASHBURNE. I withdraw the demand.

Mr. GREENWOOD. I understand the object of the section that has been reported by the committee of conference to be this: In the event of a State failing to make their returns to the General Land Office within ninety days from the time of the passage of this act, then the entries made at the General Land Office are declared to be valid. That is what I understand to be the effect of the section as reported by the committee of conference.

Mr. WASHBURNE. I understand that to be the case.

Mr. GREENWOOD. If that be the case Congress will have undertaken, by the adoption of this report, to legislate with regard to the interests of parties, or assume a judicial discretion rather in settling titles to conflicting interests, whereas this matter should belong to the courts. That is the view which I take of this matter, and it seems to me that it is the construction which the section will evidently bear. Congress has no right to interfere with or determine the rights of parties as proposed.

Mr. WASHBURNE. As I understand the matter, it is this: The amendment which the committee of conference proposes provides that where any State has sold lands in good faith, and has sent notice of that fact to the Land Office here within ninety days—which time is considered to be sufficiently long—then a patent to the purchaser is not issued. On the other hand, where a purchaser has gone on and purchased of the United States from the Land Office in good faith, and the State has not sold the land, then the Commissioner of the General Land Office is directed to issue a patent. I cannot conceive how such a provision can interfere with the rights of any person. Let me here say, that all interests were represented in the committee of conference; and although it was supposed that this matter would give rise to some difficulty, yet we were agreed unanimously upon the report that has just been read.

Mr. GREENWOOD. I will state, in response to the gentleman from Illinois, that by the original act no such restriction was placed upon the State whatever. This provision proposes to place a restriction upon the States to which these swamp lands have been granted, which was not intended to be placed upon them by the original bill; and it is proposed now, that if you pay for the lands within a given time, and report the sales made in good faith, that your title to the lands will become forfeited, and the purchasers at the Government land offices shall acquire a title. That is, as I understand, the sum and substance of this report. I move to lay the report of the committee of conference upon the table, and upon that motion I ask for the yeas and nays.

Mr. WASHBURNE. I was not aware that the gentleman from Arkansas had the floor for that purpose. I yielded to him simply for the purpose of explanation.

The SPEAKER. The gentleman from Illinois claims the floor, and the gentleman from Arkansas would not be entitled to make the motion that he proposes.

Mr. WASHBURNE. I ask for the previous question upon the adoption of the report of the committee.

Mr. GREENWOOD. I move to lay the report upon the table.

Mr. HENN. If the report is laid upon the table, will it not carry the bill with it?

The SPEAKER. Certainly.

Mr. HENN. I hope the gentleman from Arkansas will not press the motion to lay the report upon the table, for if it prevails it will cause the loss of the bill.

Mr. GREENWOOD. I would prefer to see the bill defeated than have the report of the committee adopted.

Mr. JONES, of Louisiana, demanded the yeas and nays; which were not ordered.

The question was then taken upon Mr. GREENWOOD's motion; and the House refused to lay the report upon the table.

The previous question was seconded, and the main question ordered.

The question recurring upon the adoption of the report,

Mr. GREENWOOD demanded the yeas and nays; which were not ordered.

The question was then put; and the report was adopted.

Mr. DAWSON moved to reconsider the vote by which the report was agreed to, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

SOLDIERS OF THE WAR OF 1812.

Mr. MIDDLESWARTH here obtained the floor.

The SPEAKER. The Chair would state that the business first in order is the further consideration of the bill reported by the gentleman from Alabama [Mr. COBB] yesterday, granting land for railroads in Alabama, upon which he demanded the previous question.

Mr. MIDDLESWARTH. I think the House will agree with me that I have not troubled them much during this session, and I desire to make a motion at this time, which I hope will not be objected to.

There is a bill now upon the Speaker's table, which came from the Senate, in which a very large number, I suppose, of the constituents of every member of this body are interested. If we do not take it up within a day or two I fear it will be lost, and before another year comes round a very large number of those interested will have gone to that "country from whose bourne no traveler returns." I refer to the bill of the Senate (No. 511) granting bounty land to the soldiers of the war of 1812. I ask that it be taken up now and considered.

Mr. COBB. I insist upon the regular order of business.

The SPEAKER. Objection being made the bill cannot be taken up.

Mr. MIDDLESWARTH. I move to suspend the rules to enable me to submit a motion to take it up.

Mr. HUNT. I call for the yeas and nays.

Mr. FLORENCE. That is the better way, and I hope the yeas and nays will be ordered.

Mr. HUNT. We cannot suspend the rules without.

Mr. FARLEY. I desire to state to the House, Mr. Speaker, that a portion of the people of the New England States are excluded from the benefits of this bill.

Mr. CHASTAIN. I rise to a question of order. I wish to know if it is in order to move to suspend the rules to-day?

The SPEAKER. It is; and that motion is already made.

Mr. JONES, of Tennessee. I would inquire of the Chair if the motion to suspend the rules is in order while another subject is before the committee? Must not the House dispose of the business before them before going to other business, except it be business upon the Speaker's table?

The SPEAKER. The gentleman from Tennessee himself yesterday moved to go into the Committee of the Whole immediately upon the previous question being demanded by the gentleman from Alabama. But the gentleman from

Pennsylvania proposes to suspend all the rules of the House to enable him to submit his motion.

Mr. COBB. The Chair will allow me to make a statement, in order to place myself right. I objected to the consideration of that bounty land bill now, because the other matter was pending. The subject which is pending is a bill in which I am deeply interested.

Mr. MIDDLESWARTH. I believe the Chair has decided that my motion is in order. If the House do not like it, let them vote it down.

The SPEAKER. The Chair is reminded that there is already a motion to suspend the rules holding over from last Monday. The motion was made by the gentleman from Indiana, [Mr. DAVIS,] to enable him to report a bill from the Committee for the District of Columbia. The Chair is of opinion that that motion takes precedence of the motion of the gentleman from Pennsylvania.

Mr. FLORENCE. I hope the gentleman will withdraw it.

Mr. DAVIS, of Indiana. I do not withdraw it.

Here, amid much confusion,

Mr. MIDDLESWARTH inquired what the decision of the Chair was.

The SPEAKER. If the House will come to order the Chair will state that he is very much inclined, so far as he is concerned, to have no business transacted unless it is done in order. The Chair will not hear motions made unless made in order. Nor will he hear speeches unless compelled to; but as to that, gentlemen are determined that the Chair shall hear speeches at all events, and he has no control over that. The Chair hopes the House will aid him.

The Chair decided that the motion to suspend the rules holding over from last Monday, takes precedence of the motion of the gentleman from Pennsylvania.

Mr. DICKINSON. I would inquire of the Chair whether it is in order to move that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. It is in order; but the motion to suspend the rules to go into the Committee of the Whole on the state of the Union, the motion to suspend the rules generally, and one or two other privileged motions, are all of the same character, and must be put in the order in which they are made, that being the only distinction made by the rules in regard to them.

Mr. DAVIS. On Monday last I made a motion to suspend the rules, in order to enable me to report a bill from the Committee for the District of Columbia, simply to organize an institution for the insane of the Army and Navy, and of the District of Columbia. Pending that motion the House adjourned. I am willing now to take that matter up, and dispose of it, in order that other gentlemen may have the opportunity to make such motions as they desire.

Mr. HOUSTON. If the gentleman from Indiana is willing, I should like to have the vote taken without any debate, without speeches upon the bill of my colleague, [Mr. COBB.]

Mr. CHASTAIN. I rise to a question of order. The gentleman from Pennsylvania has, as I understand it, moved to suspend the rules for the purpose of taking up the bill he indicated. Is it in order, pending that motion, for the gentleman from Indiana to bring up another question?

The SPEAKER. The Chair has so decided. The motion of the gentleman from Indiana, to suspend the rules, was made on Monday last, and takes precedence, or rather must be disposed of, before another similar motion can be entertained.

Mr. CHASTAIN. But I understand that proposition was voted down.

The SPEAKER. Not at all. The House adjourned pending the motion, and it held over. The Clerk will report the bill which the gentleman from Indiana wishes to report.

The bill was reported, as follows:

A bill to organize an institution for the insane of the Army and Navy, and of the District of Columbia, in said District.

The SPEAKER. Is it the pleasure of the House to consider the bill without objection?

[Cries of "Yes!" "Yes!"]

Mr. DAVIS. I will make only one remark, and not consume the time of the House.

The SPEAKER. The object of the question of the Chair was to prevent the necessity of moving to suspend the rules. There was no objection.

Mr. DAVIS. Well, if there is no objection, I will defer any remarks for the present.

The Clerk read the bill through.

Mr. DAVIS, of Indiana. Mr. Speaker, I will make a few remarks upon the bill and then call for the previous question on its passage. It will be remembered that at the first session of the last Congress an appropriation was made for the construction within the limits of the District of Columbia an institution for the care of the insane of the Army and Navy, and of the District. At the last session an additional appropriation was made for the same object. A portion of the building, of sufficient capacity to accommodate about forty patients is now completed, and is occupied by the insane of this District. Another portion of the building sufficiently large to accommodate about fifty patients more is completed, and will soon be ready for the reception of patients. It becomes necessary in this stage of progress to have an act of Congress for the organization of the institution. The Committee for the District of Columbia, after having examined the mode and manner of organizing and conducting similar institutions in the various sections of the Union, have come to the conclusion, unanimously, that the bill now submitted is better calculated to carry out the benevolent purposes of Congress in making the appropriations referred to than any other. It is a mere act of organization.

Mr. CHANDLER. Is this bill and the arrangements made under it founded upon the current opinions of Dr. Kirkbride and others?

Mr. DAVIS. Yes, sir; I will say further, that I had collected a considerable amount of statistical information in regard to the organization and management of similar institutions in the several States, and had intended to have presented them with some comments to the House. But I will not now, at this late day of the session, when time is so important, take up the time of the House. I will print them, not for the effect which they will produce in the House, as that is, I am sure, unnecessary, but for the benefit of those who may come after us. I suppose that there can be no objection to the bill, and, therefore, call for the previous question

The call for the previous question received a second, and the main question was ordered to be now put.

The bill was ordered to be engrossed, and read a third time, and being engrossed it was read a third time, and passed.

Mr. HOUSTON. I move to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union.

BOUNTY LAND BILL—AGAIN.

Mr. MIDDLESWARTH. What becomes of the motion which I submitted in regard to the old soldiers' bill?

The SPEAKER. It was superseded by another motion. The two motions, the one made by the gentleman from Indiana, [Mr. DAVIS,] holding over from last Monday, and the other made by the gentleman from Pennsylvania, could not exist at the same time. The motion of the gentleman from Indiana superseded that of the gentleman from Pennsylvania. When that motion was disposed of, the gentleman from Pennsylvania did not seek the floor to renew his motion. The gentleman from Alabama [Mr. HOUSTON] was the only gentleman who addressed the Chair, and he moved that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. MIDDLESWARTH. I hope the gentleman from Alabama will withdraw his motion for one minute. I do not propose to put the bill upon its passage.

Mr. HOUSTON. What motion does the gentleman propose to submit?

Mr. MIDDLESWARTH. I understand that the bill which I desired to have action upon has been considerably changed, and I desire that it may be ordered to be printed for the information of members.

Mr. HUNT. And propose to set apart Tuesday of next week for its consideration.

Mr. MIDDLESWARTH. Yes, sir.

Mr. HOUSTON. I have no objection to the bill being ordered to be printed.

Mr. HENN. I object to any order being made in regard to the bill.

The SPEAKER. The gentleman from Pennsylvania desires the consent of the House to have the bill referred to by him printed for the use of the members of the House. Is there objection?

There being no objection, the order was made.

Mr. MIDDLESWARTH. I desire further to give notice that I will call it up for consideration at an early day—say Saturday next.

Mr. RICHARDSON. I hope the gentleman will say Tuesday next.

Mr. MIDDLESWARTH. I have no objection to that. I will say Tuesday next.

The SPEAKER. Does the gentleman propose to make the bill a special order for that day?

Mr. MIDDLESWARTH. Yes, sir.

The SPEAKER. That can be done only by unanimous consent.

Mr. HOUSTON. I object to its being made a special order. I yielded the floor for no such purpose.

Mr. MIDDLESWARTH. Then, all I can do will be to give notice to the House that, on Tuesday next, I will move to take it up. I give that notice.

The SPEAKER. The Chair desires to call the attention of the House to a question of order, the decision of which may affect very much the progress of the business of the House. The Chair recognized the gentleman from Indiana and the gentleman from Pennsylvania, and, under the circumstances, received motions to suspend the rules, as taking precedence of the disposal of the bill before the House. He is, however, upon reflection, of the opinion that his decision was wrong, and that the motion should not have been received until the question pending before the House had been disposed of, which was the bill introduced by the gentleman from Alabama, [Mr. COBB,] and the question immediately pending was the seconding of the demand for the previous question.

In order to make the rules at all practical, the Chair will in future decide that, until that and other similar propositions pending before the body at the time are disposed of, it is not in order to move to suspend the rules generally. Under a special rule of the House, however, it is in order to move to suspend the rules and go into the Committee of the Whole on the state of the Union. That is the language of the rule; and it takes that motion, out of the category of motions, to suspend the rules generally. The Chair, therefore, decides that the motion made by the gentleman from Alabama to suspend the rules and go into the Committee of the Whole on the state of the Union, is in order.

Mr. HOUSTON. I made that motion, but I am willing to withdraw it to allow a test vote to be taken, by yeas and nays, upon the bill now before the House, reported by my colleague, [Mr. COBB.]

Mr. COBB. I now desire to withdraw two motions which I made yesterday in reference to this bill.

Mr. MIDDLESWARTH. I desire to know whether the bill reported by me was ordered to be printed?

The SPEAKER. It was.

Mr. SEWARD. I would like to understand more fully the effect of the decision just now made by the Chair.

The SPEAKER. The Chair will repeat his decision.

Mr. SEWARD. Will the Chair allow me first to make a suggestion? Under the rules of the House, it is in order to move to suspend the rules generally at any time within ten days of the close of a session. The object of that rule, as I understand it, is to place it within the power of the House to act upon such business as, in their opinion, is most important to be acted upon before the close of the session. The object is to put the House in the control of its own business; and therefore the privilege which, for the preceding portion of the session, only applied to Mondays, was extended to every day within the last ten days. Now, sir, if the decision which I understand the Chair to have made is to prevail—if it is not to be in order to move to suspend the rules until the matter pending before the House is disposed of—those matters may extend through the whole ten days, until the close of the session, and the object of the rule will thus be entirely superseded.

The SPEAKER. Will the gentleman allow the

Chair to state another view of the question? Suppose it should be decided that the motion to suspend the rules was in order generally; a gentleman moves to take up a bill upon the Speaker's table. It is taken up, and he demands the previous question upon it. Another gentleman rises and moves to suspend the rules to take up another bill, and so we might go on till the close of the session, without disposing of any proposition. The Chair thinks the construction given by him to the rule is the only practical one.

Mr. SEWARD. Will the Chair allow me to make another suggestion? I think the case stated by the Chair is quite a different one. If a bill has been taken up under a suspension of the rules, and the previous question called upon it, the House which has voted to take it up, will of course dispose of it. The whole matter is within the control of the House. I think this case is an exception to the rule laid down by the Chair.

The SPEAKER. The practice of allowing any member to move to suspend the rules at any time, while a proposition is under consideration, would, in the opinion of the Chair, result in breaking down the business of the House. The Chair adheres to his decision. The business before the House is the bill reported by the gentleman from Alabama, upon which that gentleman is entitled to the floor.

Mr. COBB. On yesterday I made two motions. I moved to recommit the bill, and I demanded the previous question upon the motion. I now desire to withdraw both those motions, and to offer an amendment which I send to the Clerk's desk, and again demand the previous question. I will state, however, that the effect of that amendment is this: The Committee on Public Lands have decided upon the principle not to give lands to any railroad which has been completed. Since this bill was drawn up a portion of the roads embraced in it have been completed.

Mr. SEWARD. I call the gentleman from Alabama to order.

Mr. COBB. I am in order.

Mr. SEWARD. I do not think the gentleman is in order. I submit that it is not competent for any gentleman to move the previous question and retain the motion as long as it suits his convenience, and then withdraw it, and make other motions to accomplish his own purposes. The gentleman from Alabama having withdrawn the demand for the previous question, I hold that I am entitled to the floor, and I move to take up Senate bill No. 579.

The SPEAKER. The gentleman from Alabama yesterday called the previous question upon the bill, but before the motion was disposed of the House chose to adjourn. The gentleman had the right to withdraw the motion, therefore, this morning.

Mr. McDOUGALL. I rise to a question of order.

The SPEAKER. The Chair will hear the gentleman after he has disposed of the question of order already pending, raised by the gentleman from Georgia.

Mr. CRAIGE. I rise to a privileged question. The Chair has decided that it is in order at any time to move to go into the Committee of the Whole on the state of the Union. I submit that motion, and I hold that it must take precedence of the motion of the gentleman from Alabama.

The SPEAKER. The Chair will entertain the motion of the gentleman from North Carolina. But first he will dispose of the question of order raised by the gentleman from Georgia. The gentleman from Alabama [Mr. COBB] withdrew the demand for the previous question, offered an amendment, and again renewed the demand for the previous question, as he had the right to do.

Mr. COBB. I am, then, upon the floor, and I desire to make a single statement.

The SPEAKER. The Chair, notwithstanding, must satisfy the gentleman from Georgia upon his question of order. The gentleman from Georgia claims the floor. The Chair decides that he is not entitled to it for the purpose indicated by him, the previous question having been demanded by the gentleman from Alabama. And the gentleman from Georgia will see that the gentleman from Alabama could not take advantage of the House at all. He submitted the motion yesterday for the previous question, and it was in the power of the House to second it at once; but the House having decided to adjourn without any action having been taken upon his motion, it was certainly in his power to withdraw it, and to submit the amendment which he has.

Mr. COBB. I will now endeavor to conform to the rules as laid down by the Chair.

Mr. CLINGMAN. Has the previous question been called? If it has, I call the gentleman to order.

The SPEAKER. The Chair will execute the rules of order rigidly; for if he does not, he cannot execute them at all. The Chair understood the gentleman from Alabama to demand the previous question. He is not, therefore, entitled to the floor to submit any remarks. The gentleman from North Carolina has moved to go into the Committee of the Whole on the state of the Union.

Mr. COBB. I did not intend to call the previous question until I had submitted some remarks. If the Chair decides that I did call it, however, let it go.

The SPEAKER. The Chair understood the gentleman from Alabama to demand the previous question, and it is for him to determine whether he did or not. He has the right to withdraw it if he desires.

Mr. COBB. Well, let it go. I leave it for the House to decide.

The question now being upon the motion to go into the Committee of the Whole on the state of the Union,

Mr. MILLSON demanded tellers upon the motion.

Tellers were ordered; and Messrs. JONES, of Louisiana, and HARLAN, of Indiana, were appointed.

The question was taken; and the tellers reported—ayes 70, noes 80.

So the motion was disagreed to.

Mr. ETHERIDGE. I now move to lay the Alabama railroad bill upon the table.

Mr. COBB. I demand the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 97, nays 78; as follows:

YEAS—Messrs. Aiken, Appleton, Ashe, David J. Bailey, Belcher, Bennett, Benson, Bocock, Boyce, Bridges, Carpenter, Caskie, Chase, Chastain, Chrisman, Clingman, Cox, Craige, Crocker, Curtis, Cutting, Dawson, Dickinson, Drum, Eddy, Thomas D. Eliot, English, Etheridge, Farley, Fenton, Flagler, Fuller, Gamble, Giddings, Hamilton, Aaron Harlan, Hastings, Haven, Hendricks, Hibbard, Hiester, Hill, Hughes, Daniel T. Jones, George W. Jones, J. Glancy Jones, Kerr, Kidwell, Kittredge, Kurtz, Lane, Letcher, Lewis, Lilly, McMullin, Maurice, May, Meacham, Middleswarth, Smith Miller, Millson, Morgan, Morrison, Murray, Nichols, Andrew Oliver, Packer, Parker, Peckham, Pennington, Powell, Puryear, Ready, David Ritchie, Ruffin, Russell, Sabin, Sage, Seymour, Shannon, Shower, Simmons, Skelton, Richard H. Stanton, Stratton, Andrew Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Tracy, Trout, Vansant, Wade, Walley, Israel Washburn, Tappan Wentworth, and Wheeler—97.

NAYS—Messrs. Abercrombie, James C. Allen, Willis Allen, Banks, Barry, Benton, Bugg, Campbell, Caruthers, Clark, Cobb, Cook, Corwin, Cullom, John G. Davis, Thomas Davis, De Witt, Dick, Disney, Dowdell, Dunbar, Dunham, Eastman, Edgerton, Ellison, Florence, Green, Greenwood, Grey, Sampson W. Harris, Wiley P. Harris, Harrison, Henn, Houston, Hunt, Roland Jones, Knox, Latham, Lindley, Lindsley, McDougall, Macy, Matteson, Maxwell, Mayall, Noble, Olds, Mordecai Oliver, Orr, John Perkins, Phelps, Phillips, Pratt, Reese, Richardson, Thomas Ritchey, Rowe, Sapp, Seward, Singleton, Samuel A. Smith, William R. Smith, George W. Smyth, Sollers, Frederick P. Stanton, Hestor L. Stevens, David Stuart, Teller, Thurston, Tweed, Upham, Warren, Elihu B. Washburne, John Wentworth, Westbrook, Daniel B. Wright, Hendrick B. Wright, and Zollicoffer—78.

So the bill was laid upon the table.

Mr. NORTON stated that he had paired off with Mr. GROW; he being in favor of the bill and Mr. GROW opposed to it.

Mr. GOODE stated that he was not within the bar when his name was called, or that he should have voted in the affirmative.

Mr. HAMILTON. I rise to a privileged question. I think we had better fix these matters as we go along. I move to reconsider the vote by which the bill was laid upon the table, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

COURT OF CLAIMS.

Mr. JONES, of Pennsylvania. I have been endeavoring for the last week to bring to the attention of the House a bill which I think will not occupy more than a few minutes. I ask the unanimous consent of the House, to allow me to report the court of claims bill, from the Committee of Claims.

Mr. SKELTON. I object.

Mr. WARREN. I understand that the regular order of business now is the call of the Committee on Public Lands for reports.

The SPEAKER. The decision of the Chair only extended to such matters as were then immediately pending before the House. It is in order to move to suspend the rules, after one matter has been disposed of and before another has been taken up.

Mr. JONES, of Pennsylvania. I move to suspend the rules to enable me to report the bill which I have indicated.

Mr. JONES, of Tennessee. The gentleman has made a motion to suspend the rules for the purpose of bringing up the court of claims bill. That bill would, perhaps, come up more appropriately to-morrow, which is private bill day If the gentleman will yield me the floor, I will now move to go into the Committee of the Whole on the state of the Union. We can then endeavor to dispose of the civil and diplomatic bill to-day, and to-morrow the gentleman's motion will come up.

The SPEAKER. That can only be done by unanimous consent.

Mr. JONES, of Tennessee. I hope there will be no objection to that. The gentleman's motion will come up first thing to-morrow.

The SPEAKER. Is there any objection?

No objection was interposed.

The question was then taken on the motion of Mr. JONES, of Tennessee; and it was decided in the affirmative—ayes one hundred and twenty, noes not counted.

So the motion was agreed to.

CIVIL AND DIPLOMATIC BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair,) and resumed the consideration of the bill making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1856, and for other purposes.

The CHAIRMAN stated that the pending question was on the amendment offered last evening by Mr FULLER, which is as follows:

And it shall be lawful for the President of the United States to cause such measures to be taken as, in his opinion, may be expedient for providing convenient accommodations, medical assistance, and the necessary attendance, and supplies for the relief of sick and disabled seamen of the United States, who may be at or near the port of Havana, in case the same may be done with the consent of the Government having jurisdiction over the port, and, for that purpose, to establish such regulations and to authorize the employment of such persons as he may judge proper; and that for defraying the expenses thereof a sum not exceeding $10,000 be, and the same is, hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. FULLER. I move to increase the appropriation one dollar. I merely want to invite the attention of the committee to this one fact, that the amendment which I offer is an exact copy of the second section of the act of 1802, authorizing the President to fix accommodations for the relief of the United States seamen at New Orleans, with the consent of the local authorities there. It was that very act which assessed the twenty per cent. per month upon the wages of boatmen down the Mississippi river to be levied at Fort Adams at that time, for the purpose of supporting the expenses of a hospital at New Orleans. That act was approved by Mr. Jefferson; and I would call the attention of the gentleman from Virginia, [Mr. LETCHER,] who opposed the amendment yesterday, to that fact.

Mr. JONES, of Tennessee. I would inquire of the Chair if the five-minute debate was not exhausted upon this amendment yesterday evening?

The CHAIRMAN. The gentleman from Maine has moved to amend his amendment.

Mr. HOUSTON. He cannot do that.

Mr. JONES He cannot move to amend his own amendment.

The CHAIRMAN. The gentleman from Tennessee is right. The amendment of the gentleman from Maine to the amendment is not in order.

Mr. TAYLOR, of Ohio I should like to hear the original amendment reported.

The Clerk again read the amendment.

Mr. PECKHAM. I move to amend the amendment so as to increase the sum one dollar, and I yield the floor to my friend from Maine.

Mr. FULLER. I am much obliged to my friend from New York. I merely wish to say a word in reply to the gentleman from Virginia, [Mr. LETCHER,] where he alluded to what he seemed to consider the looseness of my views on certain constitutional questions. I wish to call his attention to the fact, that the act of 1802 providing for the establishment of a hospital by means of money taken from the wages of seamen passing down the Mississippi river was approved by Mr. Jefferson, and that this amendment is an exact copy of the second section of that act, with no change whatever but the simple substitution of the word "Havana" for "New Orleans."

The gentleman from Virginia commenced his remarks by saying that we had fallen upon degenerate times. I agree with the gentleman that we have fallen upon degenerate times; but it is for the committee to say whether the word "degeneracy" applies to the mover or the opposer of an amendment which is precisely in the language of the act of 1802, and which was approved by Mr. Jefferson while New Orleans was a French port, and situated in precisely the same circumstances as Havana now is.

Mr. PECKHAM. If there be no objection, I will withdraw my amendment to the amendment.

The amendment to the amendment was withdrawn.

The question recurred on Mr. FULLER's amendment.

Mr. FULLER demanded tellers.

Tellers were ordered; and Messrs. KEITT and LYON were appointed.

The question was taken; and the tellers reported —ayes 82, noes 44.

So the amendment was adopted.

Mr. TAYLOR, of Ohio, obtained the floor.

Mr. SMITH, of Virginia. Will the gentleman from Ohio be good enough to allow me to offer an amendment which comes in at this point of the bill.

Mr. TAYLOR. I will withhold my amendment for the accommodation of the gentleman from Virginia.

Mr. SMITH. I offer the amendment. In page forty, after line nine hundred and forty-five, insert as follows:

For office rent up to 1st of July, 1854, paid by our consul, H. O. Claughton, at Turk's Island while in the performance of his duties, a sum not exceeding $300: *Provided, however*, That said consul shall, by satisfactory evidence to be laid before the Secretary of State, show the amount actually paid by him.

This is a very small matter, but if the committee do not choose to allow it, it is immaterial to me.

The question was taken; and the amendment was rejected.

Mr. TAYLOR, of Ohio. I now offer the following amendment:

For compensation of John P. Brown as chargé d'affaires *ad interim* to the Ottoman Government, which office he filled, by order of the President of the United States, for twelve months and nineteen days, between the 30th July, 1852, and the 31st January, 1854, $2,216 1½, that being the difference between the compensation received by him as principal interpreter of the Turkish language to the United States legation at Constantinople, and the usual allowance to a chargé d'affaires for the time he acted in the latter capacity.

Mr. HOUSTON. I rise to a question of order. All of this class of claims was ruled out at the last session because they are private claims.

Mr. TAYLOR. I think the amendment is in order, as it relates to our foreign intercourse. We passed yesterday, at the instance of my friend from Pennsylvania, on my left, [Mr. CHANDLER,] a proposition to pay a consul for judicial services performed by him. The amendment which I introduce is a proposition to pay the dragoman or interpreter of the Turkish language of the United States legation, at Constantinople, for twelve months' service as chargé d'affaires, under the order of the President, the difference between his salary as such interpreter and the salary allowed to the chargé d'affaires there. I will state to the committee that the Senate has lately made such an appropriation to Mr. Brown in a bill which is now on the Speaker's table. But as we are not likely to reach it, and for the purpose of saving time, I offer this amendment here.

Mr. HOUSTON. The fact of a private bill having been passed in this case by the Senate is a conclusive reason why it should not be inserted in this appropriation bill. It is a private claim.

The CHAIRMAN. It appears that the proposition offered by the gentleman from Ohio is not in order, not being properly authorized by law. But particularly as there is a bill pending before the House making the same provision, that—as suggested by the gentleman from Alabama, [Mr. HOUSTON,]—constitutes an additional reason why this is not in order.

Mr. TAYLOR. I would suggest to the Chair, that the latter part of the rule read will justify the introduction of this amendment.

The CHAIRMAN. The Chair is compelled to hold differently, and decides that the amendment of the gentleman from Ohio is not in order.

Mr. WASHBURN, of Maine. I wish to say, that it strikes me that the eighty-first rule——

The CHAIRMAN. The question is not debatable.

Mr. WASHBURN. I appeal from the decision of the Chair, for the purpose of stating the point I desire to make. I have a right to make such an appeal, and stating the grounds of my appeal.

The CHAIRMAN. The gentleman from Maine may take an appeal from the decision of the Chair, but he cannot debate the question of appeal, unless he has the unanimous consent of the committee for that purpose. If there is no objection, the gentleman from Maine can state the grounds of his appeal.

Mr. WASHBURN. We have made provision by law for the payment of our ministers to foreign courts, and they have never been regarded as private claims——

The CHAIRMAN. The Chair will remind the gentleman that he is arguing the question.

Mr. WASHBURN. It has been already settled that claims of this character are in order.

The CHAIRMAN. The Chair decides that the amendment of the gentleman from Ohio [Mr. TAYLOR] is not in order. From that decision an appeal has been taken, and the question now is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was taken, and, upon a division, there were—ayes 75, noes 26.

The CHAIRMAN. No quorum voting, the Clerk will proceed to call the roll.

The roll was then called, and the absentees noted. The committee rose, and the Chairman reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly House bill No. 569, being the civil and diplomatic bill, had made some progress therein, but before coming to any resolution thereon had found itself without a quorum, had caused the roll to be called, and directed him to report the names of the absentees to the House.

The following is the list of the absentees:

Messrs. Abercrombie, James C. Allen, Willis Allen, Bail, Barksdale, Belcher, Bell, Bennett, Bissell, Bliss, Boyce, Bugg, Campbell, Carpenter, Colquitt, Crocker, Cullom, Cumming, Curtis, Dawson, Dent, Drum, Eastman, John M. Elliott, Faulkner, Franklin, Goodwin, Green, Grey, Grow, Hillyer, Ingersoll, Johnson, Kerr, Kittredge, Lane, Latham, Macdonald, McDougall, Mace, Macy, John G. Miller, Morrison, Nichols, Noble, Norton, Richardson, Rogers, Sapp, Shannon, Shaw, Simmons, William R. Smith, Frederick P. Stanton, Alexander H. Stevens, Teller, Thurston, Vail, Walbridge, Walker, Walsh, Wheeler, and Hendrick B. Wright.

There being a quorum present—one hundred and sixty-four members having answered to their names—the committee resumed its session.

The CHAIRMAN. The question pending when the committee found itself without a quorum was upon sustaining the decision of the Chair overruling the amendment offered by the gentleman from Ohio, [Mr. TAYLOR.] If there be no objection, the question will be again taken.

Mr. ORR. I demand tellers. It cannot now be said that tellers have been refused, for the committee found itself without a quorum, and I therefore ask for tellers.

Mr. TAYLOR. Is it in order to have the amendment read again for the information of the House?

Mr. WARREN. I object.

Tellers were ordered; and Messrs. KEITT and CULLOM were appointed.

The question was taken; and the tellers reported —ayes eighty-four, noes not counted.

So the decision of the Chair was sustained.

The following clause was then read:

"For salaries and commissions of registers of land offices and receivers of public moneys, $253,400."

Mr. HOUSTON. I am instructed by the Committee of Ways and Means to offer an amendment to the clause just read. After the word "moneys" strike out "$253,400" and insert "$318,000," and also after the word "moneys" in the clause: For expenses of depositing public moneys by receivers of public moneys, $37,650, to strike out "$37,650" and insert "$100,000."

Mr. TAYLOR, of Ohio. I would like the gentleman from Alabama to explain why there is this increase of appropriation from $37,650 to $100,000.

Mr. HOUSTON. The following paragraph from the letter of the Secretary of the Interior will afford the necessary explanation to the gentleman from Ohio:

"For salaries and commissions, instead of $253,400, the sum of $318,000 is asked; and for the expenses of depositing, instead of $37,650, the sum of $100,000 is requested."

The necessity for this amendment grows out of the large increase in the sales of lands under the graduation act.

The question was then taken upon the amendment; and it was agreed to.

The following clause being under consideration:

"For compensation of a translator in the office of the surveyor general of New Mexico, $2,000,"

Mr. DISNEY offered the following amendment:

For compensation of surveyor general of Utah Territory, $3,000;

For clerks in his office, $4,000;

For office rent of the surveyor general of Utah Territory, fuel, books, stationery, furniture, and other incidental expenses, $3,000.

Mr. DISNEY. It is only necessary to say, that since this bill was prepared, a bill creating the office of the surveyor general of the Territory of Utah has passed into a law, and, therefore, it becomes necessary to provide for the expenses of that office.

The question was taken; and the amendment was agreed to.

The following clause being under consideration,

"For surveying the necessary base, meridian, standard parallels, and section lines in Kansas and Nebraska, also outlines of Indian reservations, $52,000,"

Mr. HOUSTON offered the following amendment:

Strike out "$52,000," and insert in lieu thereof "$101,000."

The question was put; and the amendment was agreed to.

The following clause being under consideration,

"For compensation of three inspectors of said penitentiary, $300,"

Mr. SEWARD offered the following amendment:

Strike out "$300," and insert in lieu thereof "$750," and for the present fiscal year $450, in addition to the sum already appropriated.

Mr. HOUSTON. I do not understand that that amendment is in order, and I therefore raise the point upon it.

Mr. SEWARD. I will simply say, that my amendment is based upon estimates which the gentleman from Alabama [Mr. HOUSTON] acted upon at the last session of Congress in drawing up the civil and diplomatic bill of that session. The amount which I have asked for was put in that bill, but, upon my motion, it was stricken out, and the sum of $300 was inserted instead. I made the motion to strike it out under a misapprehension of facts, and I seek now to correct the wrong I then did. I only want to place in the bill of this session the amount which the gentleman from Alabama recommended last session.

Mr. HOUSTON. I did not recommend it.

The CHAIRMAN. In deciding the question of order, the Chair would inquire whether the appropriation is authorized by existing law?

Mr. HOUSTON. I take it for granted that it is merely an amendment for an increase of compensation, and I have no more to say upon it.

Mr. SEWARD. All I have to say is, that the appropriation was put into the bill of last session by the gentleman from Alabama.

Mr. HOUSTON. The gentleman is greatly mistaken. I did not present it to the House at all. I did not present any estimates whatever.

Mr. SEWARD. I did not say the gentleman made the estimates, but the amount was contained in the estimates which the gentleman used in drawing up the civil and diplomatic bill.

Mr. HENN. I would say to the committee,

that the amount asked for now by the gentleman from Georgia, was last year offered by the gentleman from Kentucky, [Mr. BRECKINRIDGE,] and it was objected to by the gentleman from Georgia.

Mr. SEWARD. In further explanation I will say that this is the very amendment offered last session.

The CHAIRMAN. Will the gentleman from Georgia allow the Chair to ask whether there is any existing law authorizing the appropriation which he asks?

Mr. SEWARD. I do not understand that there is not—that is, as to the precise amount which is expressed in the amendment.

The CHAIRMAN. Is there any law fixing any compensation at all?

Mr. SEWARD. I cannot tell.

The CHAIRMAN. If there be any such law the amendment is out of order. If there is no such law the Chair cannot see why the amendment is not in order. In absence of further information the Chair rules the amendment to be in order.

Mr. SEWARD. I desire to make an explanation.

The CHAIRMAN. Debate is not in order, but the gentleman may proceed if nobody objects.

Mr. SEWARD. I only desire to state to the committee that I offer this amendment at the suggestion of members of the Committee of Ways and Means. The gentleman from Kentucky, [Mr. BRECKINRIDGE,] one of that committee, called on me and asked that I should correct the error which I committed at the last session. I have offered the amendment to do so, and hope that it may be adopted.

The question was taken; and the amendment was adopted.

Mr. HAVEN. I offer the following amendment: after the words, "for the support, clothing, and medical treatment of the insane of the District of Columbia, and of the Army and Navy at the asylum in said district, $16,800," insert as follows:

For finishing and furnishing the two last sections of the hospital building, which comprises all that has been commenced, $22,512; and for the erection of a lodge for the colored insane, fences, repair of the farm houses, for ten cows for use of the asylum, for a carriage and harness for patients, for ditching, grading and setting out trees, $12,620.

Mr. Chairman, I state to the committee that I offer the amendment not on my own responsibility, but upon the estimate of the gentleman who is in charge of the establishment. Perhaps I ask too much. I want to put it to the consciences of members. I will say that I have a heart pretty warm towards that institution, and I hope that the amendment may be adopted.

The question was taken; and the amendment was adopted.

Mr. KEITT. I offer the following amendment:

For continuing the Washington aqueduct, $200,000.

Mr. JONES, of Tennessee. I submit the point whether that amendment is in order.

Mr. KEITT. Mr. Chairman, it is for continuing the Washington aqueduct; and I take it that any amendment which makes appropriations in pursuance of law is, under the rules, in order.

The CHAIRMAN. Has the work been already begun?

Mr. KEITT. It has.

The CHAIRMAN. The Chair rules the amendment to be in order.

Mr. TAYLOR, of Ohio. I demand tellers on the amendment.

Tellers were ordered; and Messrs. STUART, of Michigan, and EDMUNDSON were appointed.

The question was taken; and the amendment was rejected, the tellers having reported—ayes fifty-three, noes not counted.

Mr. CRAIGE. I am directed by the Committee on Public Buildings and Grounds to offer the following amendment:

For removing fences, grading streets, &c., preparatory to the extension of Capitol square in accordance with plans submitted by the Commissioner of Public Buildings, $15,000: *Provided*, That no part of this appropriation shall be expended except upon property now owned by the United States.

Mr. Chairman, that amendment becomes necessary in consequence of the extension of the Capitol north and south. It is intended that the Capitol extension shall be completed by the next session of Congress, and therefore it is proper that we should now provide for the extension of the Capitol grounds north and south. It is with that view my amendment is now offered.

Mr. STANTON, of Kentucky. Mr. Chairman, I have no doubt that important changes in the grounds will be necessary in consequence of the extension of the Capitol. I am not opposed to this appropriation. But I simply desire the chairman of the Committee on Public Buildings and Grounds to state whether the plan proposed by the Commissioner of Public Buildings will conflict at all with that proposed in connection with the original plan for the extension of the Capitol. I understand that the plan originally devised will take in the whole or a large portion of the territory belonging to the Government on both sides of the Capitol grounds, so as to relieve to a considerable extent the abruptness of the ascent? If that plan is carried out it will involve the expenditure of much more than $15,000, and the appropriation is not what will be required.

Mr. JONES. It will be as much as can be expended during this year, I presume.

Mr. CRAIGE. I do not understand precisely what the original plan was. The plan I have indicated, however, of the Commissioner of Public Buildings, contemplates the extension of the grounds to B street north, and to B street south. The appropriation, the gentleman will see, is not to complete the grounds, but to remove the fences and rubbish, preparatory to completing them.

Mr. STANTON. I only desired to know whether the plan of the Commissioner of Public Buildings would conflict with the one originally proposed in connection with the extension of the Capitol. I think it is a matter of some importance that that plan should be carried out. It is necessary for the symmetry of the plan. The terraces will have to be altered, and a great deal of work done, besides removing fences and rubbish; and this appropriation will certainly not carry out that plan. If the two plans conflict, we might as well decide between them now.

Mr. CRAIGE. This appropriation certainly cannot conflict with any plan for extending these grounds, for it is only to remove fences, and to make the preparations necessary for making the extension.

Mr. STANTON. Very well. I do not object to it.

The question was taken and the amendment adopted.

The following clause of the bill was read:

"For compensation of sixteen laborers, employed in the public grounds and President's garden, at forty dollars per month each, $9,216."

Mr. HOUSTON. Under the law of 1854 the salaries of these laborers was raised from forty to forty-eight dollars per month. To make the appropriation conform to that law, I move to strike out the "forty" and insert "forty-eight."

The question was taken; and the amendment agreed to.

The following clause of the bill was read:

"For compensation of two day watchmen, employed in the Capitol square, at $500 each, $1,200."

Mr. HOUSTON. By the same law, the compensation of these watchmen was also increased. I move to strike out "$500" and insert "$600."

The question was put; and the amendment agreed to.

The following clause of the bill was read:

"For compensation of the Auxiliary Guard, fuel, and oil for lamps, $16,400."

Mr. HOUSTON. For the same reason, I move to strike out the appropriation of "$16,400" and insert "$19,400."

The question was taken and the amendment agreed to.

Mr. KEITT. I move to amend the bill by inserting the following amendment:

For removing the stone wall which now forms the southern boundary of the park at the President's house, in accordance with the plan submitted by the Commissioner on Public Buildings, $15,000.

For the removal of the old engine house of the Franklin Fire Company from the triangular space on Pennsylvania avenue, between Thirteenth and Fourteenth streets, and inclosing said space with an iron fence, and improving it, $6,000.

Mr. HOUSTON. I desire to hear the first part of the amendment read again, or that my friend from Kentucky [Mr. STANTON] will explain it.

Mr. STANTON, of Kentucky. I do not precisely understand it myself.

Mr. HOUSTON. If the proposition is to remove the wall on the south side of the President's grounds, and to inclose the road running round there—as there was some talk about at the last session—I object to that part of the amendment.

Mr. TAYLOR, of Ohio. I will explain the amendment if the gentleman desires.

Mr. HOUSTON. I understand the amendment is not what I had supposed. I withdraw my objection.

The question was taken, and the amendment was agreed to.

Mr. STANTON, of Kentucky. I desire to offer the following amendment:

For removing the present dome over the central portion of the Capitol, and the construction of one upon the plan designed by T. U. Walter, architect of the Capitol extension, $100,000.

Mr. KEITT. Is that to remove the dome on this building?

Mr. STANTON. Yes, sir.

Mr. HOUSTON. I desire to know whether that amendment comes from any committee of this House?

Mr. STANTON. No, sir; I offer it upon my own responsibility. It comes recommended by no committee, but it comes recommended by a necessity which every gentleman who examines the subject must see. The present dome does very well for the original building, but, as everybody must see, requires to be changed to preserve the symmetry of the building when the extensions are completed. It is important that the appropriation should be made now; and I understand the change can be made before the meeting of the next Congress. The architect of the building has designed a dome, the plan of which I have seen, and which commends itself to my judgment; and which all who have seen it say is most beautiful and perfect. It is well known that the present dome is entirely too low to preserve the symmetry of the building when the extensions are completed. It will give it a squatty appearance, if I may be allowed the expression. Unless this is done the whole purpose of the extensions, so far as its beauty of construction is concerned, will be defeated. Now, sir, I understand that the plan proposed by the architect is a proper one, and that it will not be attended with great cost. That dome has always been an eye-sore to architects and others who have taste in such matters; and it seems to me that now is the appropriate time to authorize the reconstruction of it. It can be, perhaps, completed before we get back here during the next fall.

I am requested to say that it is designed to construct it of cast iron, and from the experience which the architect has had in these matters I have no doubt he will make it a very perfect thing. No man can look at the library, which is constructed entirely of cast iron, without being immediately convinced that such a structure can be erected as will be a credit to the architect and to the country.

Mr. GREENWOOD. I understand that the gentleman from Kentucky has offered this amendment upon his own responsibility, and that it has not been proposed by any committee having charge of the subject. I have no doubt but what we might find objects about this Capitol upon which to spend money for the next fifty years. I have no doubt that we might find some beautiful drawings by experienced architects which would suggest something that might beautify the Capitol. But while, I trust, I have some national pride, I am opposed to making these useless expenditures. I am opposed to the amendment, and hope the committee will vote it down.

Mr. SOLLERS. I move to increase the appropriation one dollar. My object in rising is not to discuss the question of improving the architecture of the Capitol, but I wish to say that I am not much in favor of any of these new schemes of improvement. I have been over the Capitol extension with my friend from Kentucky, [Mr. STANTON,] and have looked at it carefully; and if I had to designate it, I would call it the pill-box style of architecture—one box above another, and no light or air from any quarter except by artificial means.

I do not think you can get anybody to put up an iron dome, as my friend thinks. My impression is, that whenever Congress enters into a

contract of this sort with anybody, it is always cheated. I do not object to the amendment because an iron dome would not be a good dome, if it could be constructed; but does the history of the architecture of the world present an example of an iron dome? I have done.

Mr. TAYLOR, of Ohio. I think that it would be very wrong for this committee to interfere between the superintendent of the Capitol extension and the very eminent architect who is to coöperate with him in the work.

Mr. STANTON, of Kentucky. Allow me to say that there is no conflict whatever between them.

Mr. TAYLOR. I am aware of that; but I understand that the gentleman proposes, by this amendment, to remove the present dome from the central portion of the Capitol, and construct, in place of it, one designed by Thomas U. Walter, the architect of the Capitol extension, to be constructed under his direction. Now, sir, if Messrs. Meigs and Walter had communicated to us that this was necessary I should most cheerfully have voted for it.

Mr. STANTON. If the gentleman is afraid of a conflict, I will strike out that part of the amendment providing that the work shall be done under the direction of the architect.

Mr. TAYLOR. I do not say that there is any conflict, but I dislike that the House should undertake to direct what kind of dome shall be placed on the Capitol of the United States. I know nothing of architecture; but I have the utmost confidence in Captain Meigs, the eminent engineer, who has been designated by the President to superintend the building, and I believe Mr. Walter has not a superior, as an architect, in this or any other country. I am content to make the appropriations necessary to complete this great building—an honor to our country, and which is progressing, as far as I can see, to the satisfaction of everybody; and I am not prepared to reflect on the plan of the building, as the gentleman from Maryland [Mr. SOLLERS] seems to have done. It appears to be progressing beautifully. I believe that Captain Meigs and Mr. Walter, who have submitted plans for this work—which any gentleman can see who will walk into the new building—are eminently entitled to our confidence, and that we ought not to interfere with them, or direct in what manner the dome shall be placed on the Capitol.

Mr. SOLLERS. Will the gentleman allow me one question?

Mr. TAYLOR. Yes, sir.

Mr. SOLLERS. The gentleman has had great experience, and has traveled abroad, which I have not. I would ask him if he believes that the House of Representatives of the United States, which will have to contain a great many more members than it now does, and therefore ought to be larger, can ever be supplied with air by artificial means?

Mr. TAYLOR. I can only say, as I said before, that I am no architect, and am not acquainted with the best modes of ventilating and lighting buildings. But I will say to the gentleman that the Committee on Public Buildings and Grounds have been informed by Captain Meigs, and Mr. Walter, the architect, that the best talent of this country has been invoked to insure proper lighting and ventilating of the new Capitol extension. I may mention Professors Bache and Henry as among them. After consultation with these gentlemen, and others, a plan has been adopted for ventilating and lighting the new parts of this building. Now, what are we to do? Are we, who are not versed in architecture, to disarrange a plan which has been adopted by eminent scientific men? It is true, as my friend from Maryland says, that I have had some experience, and have seen some buildings, both at home and abroad, but I do not profess to understand anything of architecture. I can admire a fine building. I know when one is well lighted. I know that this Hall, though well lighted, is very poorly ventilated, and I trust that the new one will be better prepared to accommodate the members of the House.

Mr. STANTON. I will modify my amendment by striking out that portion of it which proposes to put the construction of the dome under the direction of the architect. Now, I desire to say this with reference to the plan. I understand that the plan is one which has been studied by the architect, and that it is approved by the engineer, as well as by the architect. There is no conflict between them in the world. They both believe that the design is practicable, that it is necessary to the perfection of the building, and that without it the building would be imperfect. I understand further, that they desire this appropriation. I understand from the chairman of the Committee on Public Buildings and Grounds that he was called upon—very recently, it is true—to summon his committee together, but something intervened and prevented it, or the matter would have been properly before the committee. I believe that the chairman of the committee concurs with me in my views upon this subject. I repeat that there is no sort of conflict between the engineer and the architect.

Mr. TAYLOR. If the words "under the direction of the architect" are stricken out, there will probably be no conflict.

Mr. STANTON. I have modified my amendment in that way.

Mr. SOLLERS. I withdraw my amendment to the amendment.

The question recurred on Mr. STANTON's amendment.

Mr. TWEED demanded tellers.

Tellers were ordered; and Messrs. STUART, of Michigan, and WITTE were appointed.

The question was taken; and the tellers reported —ayes 70, noes 70.

The CHAIRMAN. The Chair votes in the affirmative.

So the amendment was adopted.

Mr. TAYLOR, of Ohio. I am instructed by the Committee on Public Buildings and Grounds to offer the following amendment; which has been estimated for by the Secretary of the Interior and recommended:

At the end of line one thousand one hundred and sixty-five insert the following:

To complete and revise the grades of the city of Washington, and to determine the plans for the drainage and sewerage thereof, per act of August 31, 1852, $5,000.

The question was taken; and the amendment was agreed to.

The following clause of the bill was read:

"To meet the expenses of the transportation of certain persons from San Diego to San Francisco, California, charged with a violation of the neutrality laws of the United States, and who surrendered themselves to the military authorities, $1,200."

Mr. READY. I move to amend by striking out the clause just read. That sentence proposes to appropriate $1,200 to meet the expenses designated in it. I make this motion under the 81st rule. I know of no law that authorizes an expenditure of the kind provided for by that clause of the bill, and I therefore maintain that the Committee of Ways and Means had no authority to include such an appropriation in the civil and diplomatic bill. It is necessary to an understanding of my point, that I mention to the committee that the 78th, 79th, and 80th rules of the House define the powers and duties of the Committee of Ways and Means. Rule 81st says:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in connection with appropriation for such public purposes and objects as are already in progress, and for contingencies for carrying on the several departments of the Government."

I maintain that this appropriation is not authorized, upon the ground that it is not to meet any public expenditure previously authorized by law, nor is it any continuation of appropriations for public purposes or objects already in progress, and which may be necessary for carrying on the several departments of the Government. If there is any law under which this provision is inserted in the bill I should like to have the chairman of the Committee of Ways and Means, or any other gentleman, refer to it.

The question was then taken; and the amendment was rejected.

Mr. EDGERTON. I offer the following amendment as an additional section to the bill:

SEC. —. *And be it further enacted*, That so much of the act entitled "An act making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th day of June, 1849, and for other purposes," approved August 12, A. D. 1848, as provides "for refunding certain duties paid by colleges, academies, schools, and seminaries of learning, in the United States, on philosophical apparatus, instruments, books, maps, and charts," and that the same articles, and also certain other articles therein named, might and should thereafter be, in the manner and under the circumstances therein specified, imported into the United States free of duty, be, and the same is hereby, so enlarged, altered, and amended, as to provide that the duties paid on railroad iron actually and permanently laid down, from and after the 30th of June, A. D. 1853, up to the 1st of July, A. D. 1856, being for the full period of three years, shall, on satisfactory proof being made to the Secretary of the Treasury of the fact aforesaid, be refunded to the State or railroad company so laying down said iron, or causing the same to be done, and said Secretary is hereby directed to repay said duties out of any money in the Treasury not otherwise appropriated; and from and after the passage of this act, dyes, dye-woods, dye-stuffs, (of whatever name or nature,) and wool, unmanufactured, costing more than fifty cents and less than twenty cents per pound, at the place whence imported, may and shall be imported into the United States free of duty: *Provided*, That in all cases of wool falsely invoiced and valued under the foregoing provision to defraud the revenue, there shall be levied and collected on the same, double the amount of duty now imposed by law on said article."

Mr. HOWE. I make the question of order on the amendment. It proposes a radical change in the revenue laws of the country, and as an amendment to this bill, it is not, therefore, in order.

The CHAIRMAN. The 81st rule says "that no appropriation shall be reported in general appropriation bills, or be reported as an amendment thereto for any expenditure not previously authorized by law." The bill under consideration is an appropriation bill, and inasmuch as the amendment proposed by the gentleman from Ohio proposes to vary the existing revenue laws, it is, in the opinion of the Chair, clearly out of order.

Mr. EDGERTON. I appeal from the decision of the Chair.

The CHAIRMAN. The appeal is not debatable.

Mr. EDGERTON. Can I be permitted to state the grounds of my appeal?

The CHAIRMAN. The Chair would be very happy to hear the gentleman state the grounds of his appeal, but if there be objection made it would not be in order.

Mr. FLORENCE. I object.

The CHAIRMAN. Objection is made, and the Chair must enforce the rule.

Mr. EDGERTON. I take an appeal from the decision of the Chair.

The CHAIRMAN. Two appeals cannot be entertained at the same time.

Mr. WHEELER demanded tellers; which were ordered; and Messrs. DAVIS, of Indiana, and KERR were appointed.

Mr. PHILLIPS. I rise to a question of order.

The CHAIRMAN. The Chair cannot entertain another question of order until the one now before the committee is settled.

The question was taken; and the tellers reported —ayes 76, noes 68.

So the decision of the Chair was sustained.

Mr. RUSSELL offered the following amendment:

Page 50, after line one thousand one hundred and ninety-six, insert:

For the Metropolitan Railroad Company, the sum of $500,000: *Provided*, That said sum shall be expended upon that part of said road lying within the limits of the District of Columbia.

Mr. FLORENCE. I submit to the Chair that the amendment is not in order.

The CHAIRMAN. The Chair holds the point of order well taken, and rules the amendment out of order.

Mr. CHANDLER. I offer the following amendment:

Page 50, after line one thousand one hundred and ninety-six, insert:

For continuing the Annals of Congress from the Eighteenth to the end of the Twenty-Fifth Congress, on the same terms, conditions, and directions as to number, reception, mode of payment and distribution, as are provided by the acts of Congress of September 30, 1850, and June 13, 1852; and each member of Congress who has been authorized by resolution of either House to receive the preceding volumes of the Annals, shall be entitled to a copy of the continuation.

I am directed to offer that amendment by the Committee on the Library.

The CHAIRMAN. Will the gentleman suspend until order is restored in the Hall?

Mr. CHANDLER. I will; and I will defer my remarks for the present, as I see I shall be likely to disturb the conversation of gentlemen over the way. [Laughter.]

Mr. JONES, of Tennessee. I think, Mr. Chairman, if I understand the amendment, it is rather an extraordinary proposition. If I recollect aright,

the proceedings of Congress, from 1823 up to 1832 or 1833, were printed by the Congresses of those years, under the name of "Register of Debate." Since that time we have ordered the printing of the proceedings of Congress, from the first Congress up to the time of those Registers, under the name of "Annals of Congress." Now, sir, the "Registers of Debate" have been distributed to all the members of this Congress, and the proposition now is, as I understand it, to reprint the "Register of Debate" under the name of "Annals of Congress," and to give them to the members again, thereby duplicating them. When the contract with Gales & Seaton, which now exists, expires, we shall have, under the title of "Annals of Congress" the entire proceedings from the First Congress up to the time of the commencement of the Congressional Globe and Appendix.

Mr. CHANDLER. I rise to a question of order. Having introduced the proposition, I suppose I have a right to speak in its favor.

The CHAIRMAN. The gentleman from Pennsylvania had the floor to debate his amendment, but waived his right and declined to do so.

Mr. CHANDLER. I beg the Chair's pardon. I waived the right only for the moment, as I did not feel that it would be gentlemanly, on my part, to disturb the conversation which was going on between gentlemen in various parts of the Hall.

The CHAIRMAN. Then the gentleman is not precluded from debating his amendment.

Mr. JONES, of Tennessee. Then I rise to a question of order. This amendment proposes the publication of a new work. No law authorizes it, and it is without the authority of Congress.

Mr. CHANDLER. Have I the right to speak to my amendment?

The CHAIRMAN. The gentleman would have, but that a question of order is pending, which supersedes debate on the merits of the amendment.

Mr. CHANDLER. But the gentleman from Tennessee spoke to the merits, and then raised a question of order.

The CHAIRMAN. If there is no objection the gentleman will proceed with his remarks. The Chair hears no objection.

Mr. CHANDLER. I have only to say, that the amendment provides for the continuance of the "Annals of Congress." We all know that, for the years mentioned in the amendment, there was a set of books made; but the amount of information since acquired, which has given such value to the volumes which precede these, renders it necessary that they should be continued up to, and until, the commencement of the Congressional Globe. That is the whole object of the amendment. It is no new undertaking, but the continuance of an undertaking already commenced.

Mr. JONES, of Tennessee. I wish to ask the gentleman from Pennsylvania if the amendment does not propose to publish, under the name of "Annals of Congress," the very same books heretofore published and distributed to all the members of every Congress for the last twelve and thirteen years, under the name of "Register of Debates."

Mr. CHANDLER. It does not.

Mr. JONES. What period does it cover.

Mr. CHANDLER. It covers the same period as the "Register of Debates;" but the publications will be no more like that work than the ordinary telegraphic proceedings of this House are like the official debates in the Congressional Globe.

Mr. TWEED. Is this debate in order?

The CHAIRMAN. It is not, if objected to.

Mr. TWEED. Well, I object to it.

The CHAIRMAN. It appears to the Chair that this amendment makes a change in the existing law, and for that reason is precluded by the rule.

Mr. WALBRIDGE. I offer the following amendment. After the words:

"For salaries and incidental expenses of the commission appointed under the act of 3d March, 1851, for settling land claims in California, from 3d March, 1855, to 3d March, 1856, in addition to unexpended balance, $120,000,"

insert the following:

Provided, None of the money to be so appropriated shall be raised from any duty on foreign coal, the same being hereafter admitted duty free.

Mr. FLORENCE. I insist that the amendment is not in order.

The CHAIRMAN. The Chair rules the amendment out of order.

Mr. WALBRIDGE. This is a most important provision, and I take an appeal from the decision of the Chair. I hope that it may prevail.

Mr. BRIDGES. I object to discussion.

Mr. WALBRIDGE. I wish to make but a brief explanation.

The CHAIRMAN. Objection being made the gentleman cannot proceed. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. WALBRIDGE. I ask for the reading of the amendment.

[Cries of "I object!"]

The question was taken, and the decision of the Chair was sustained, there being on a division—ayes seventy-one, noes not counted.

Mr. JONES, of Tennessee. Mr. Chairman, I see, in looking over the bill, that the appropriation for twenty-four copies of the Globe for each member and delegate of the second session of the Thirty-Third Congress, for binding the same, and to pay for the reporting for the Globe, are, by mistake, in the first section of the bill, and among the estimates for the salaries of the clerks for the next fiscal year. In order to make them available to the publisher and reporter of the Globe, and that he may get paid for the present session when the work shall be done, it will be necessary to transfer the items from the first section to the second section, and put them under the head of deficiencies. The matter is all right, and I hope there may be no objection to the transfer.

Mr. HAVEN. What the gentleman from Tennessee proposes, is undoubtedly right, and should be done; but I would inquire of him whether his motion embraces the transfer of the amendment in reference to the reporters which was adopted the other day on my motion?

Mr. JONES. It does.

Mr. HAVEN. If it carries that amendment with it, then I have nothing further to say.

There was no objection, and the items in the first section of the bill, from line one hundred and seven to line one hundred and fifteen inclusive, together with the amendment to them adopted on the motion by Mr. HAVEN, were ordered to be transferred to the second section, under the head of deficiencies for the House of Representatives.

Mr. PHELPS. I offer the following amendment:

After the first paragraph of the second section, insert the following:

To pay for twenty-four copies of the Congressional Globe and Appendix of the first session of the present Congress for each of the Delegates from Nebraska and Kansas, being forty-eight copies, at six dollars the copy, $288; and for binding the same one hundred and ninety-two volumes, at sixty cents the volume, $115 20.

Mr. Chairman, this amendment is for the purpose of furnishing the Congressional Globe and Appendix of the last session to the Delegates from Nebraska and Kansas. It only gives them what the other members of this Congress have already received.

The question was taken; and the amendment was adopted.

Mr. MURRAY. I ask that the additions which I moved to appropriations in line ninety-nine, be put in the second section, under the head of deficiencies, where they ought to be. Let the items stand as they were in the first, when the bill was reported, and the following items be inserted in the second section:

For additional amount for binding documents, $30,000;
For additional amount required for engraving and lithographing, $30,000.

There was no objection, and the transfer was so ordered.

Mr. MURRAY. I offer the following amendment:

For the payment of salaries and other expenses of the Census Bureau, until the completion of the mortality statistics, $5,000, to be expended under the direction of the Secretary of the Interior.

The question was taken; and the amendment was adopted.

Mr. MURRAY. I offer the following amendment:

For supplying a deficiency in the appropriation for the printing of the executive departments, $32,875.

The question was taken; and the amendment was adopted.

Mr. CHANDLER. I would like to know whether we have passed the first section. I have been endeavoring for some time to get the floor, with a view of offering an amendment there.

The CHAIRMAN. The first section has been passed; but if there be no objection the gentleman's amendment will be received.

Mr. CHANDLER. I offer an amendment to come in as a second section.

Mr. ORR. I must object to going back in the bill. If the privilege is granted to one gentleman, it must be to another, and we shall never get through with the bill.

Mr. HOUSTON. I have not objected to going back in the bill, so long as the object was merely to transfer appropriations which had been improperly made to the deficiency portion of the bill. If gentlemen have offered their amendments prematurely, I have no objection to their being transferred; but I must object to going back for the purpose of offering new amendments.

Mr. MURRAY. I move the following amendment:

For completing the printing of the Senate ordered during the present session, and paper for the same, $30,000.
For completing the printing ordered by the House during the present session, and paper for the same, $60,000.

The amendment was agreed to.

Mr. NOBLE. I move to amend by inserting the following:

To Norman R. Haskell, of Michigan, $350 56, in full of all charges as custodian of the public property.

The appropriation is recommended by the Secretary of War, and arises under circumstances which make it very proper that it should be allowed, and proper that it should be allowed in a deficiency bill. Mr. Haskell was placed as custodian over public property at the rate of $15 per month. His accounts have been regularly audited at the War Department, but have not been paid from the fact that there was no appropriation out of which they could be paid. I send to the Clerk's desk letters from the Secretary of War, and from Colonel Abert, of the Topographical Engineers, which I ask to have read, and which will explain the whole matter.

The letters were read, as follows:

WAR DEPARTMENT,
WASHINGTON, *February* 5, 1855.

SIR: In reply to your inquiry, received on the 18th ultimo, in regard to the claim of N. R. Haskell for compensation for his services as agent in charge of the public property at the harbor of Monroe, Michigan, I have the honor to transmit you a report of the Chief Topographical Engineer, which gives a statement of the account of Mr. Haskell, and the reason why it has not been paid.

Very respectfully, your obedient servant,
JEFF. DAVIS, *Secretary of War.*

Hon. D. A. NOBLE, *House of Representatives.*

BUREAU OF TOPOGRAPHICAL ENGINEERS,
WASHINGTON, *February* 2, 1855.

SIR: In reply to the letter of the Hon. D. A. NOBLE, asking information in relation to the claim of N. R. Haskell, Esq., for services as acting agent in charge of public property at the harbor of Monroe, Michigan, I have the honor to report as follows:

Upon referring to the accounts and correspondence of C. L. Emerson, Esq., the person having charge of the property prior to its being placed under the charge of Mr. Haskell, it appears that the former was suddenly called from Monroe, and on the 23d of April, 1851, placed the property under the charge of the latter; and, at the same time, transferred to him a balance of $14 44, on account of the light-house at Monroe.

This office was duly advised by Mr. Emerson, on the 23d of April, 1851, of his having placed the property under the charge of Mr. Haskell, who has subsequently accounted for it.

The accounts rendered by Mr. Haskell to this office, are to the close of the first quarter of 1853, showing a balance due him of $360, for attending to the preservation of the property.

The United States *To N. R. Haskell, Dr.*

For services as custodian of public property at the harbor of Monroe, Michigan, from 23d of April, 1851, to 2d of May, 1854, inclusive, twenty-four months and ten days, at fifteen dollars per month	$365 00
From which should be deducted a balance transferred to Mr. Haskell, on account of Monroe light-house, not accounted for by him, of	14 44
Leaving a balance due him of	$350 56

But there is no appropriation out of which said balance can be paid. It comes within the category of arrearages or deficiencies, for which, before payment can be made, it will be necessary that Congress should make the desired appropriation. Respectfully, sir, your obedient servant,

J. J. ABERT, *Colonel Topographical Engineers.*

Hon. JEFF. DAVIS, *Secretary of War.*

The question was taken; and the amendment adopted.

Mr. DISNEY. I offer for adoption the amendment which I send to the Clerk's desk, and ask to have read.

The amendment was read, as follows:

To pay the clerks and draftsmen employed upon the maps of the public lands for the House of Representatives, and the Committee on Public Lands, for the balance of the present fiscal year, $4,000.

Mr. DISNEY. I have no speech to make; the amendment will explain itself.

The question was taken; and the amendment adopted.

Mr. SOLLERS. I offer the following amendment, which I send to the Clerk's desk; and I desire to say a word upon it before the Chair rules it out of order.

The amendment was read, as follows:

And be it further enacted, That the sum of $10,000 be, and the same is hereby, appropriated towards the completion of the Washington Monument in the city of Washington, in aid of the Washington Monument Association, under the direction of the Secretary of War.

Mr. HOUSTON. I object to that amendment. It is not in order.

The CHAIRMAN. The Chair sustains the objection, and rules the amendment to be out of order.

Mr. SOLLERS. Who raises a question of order upon that amendment?

Mr. HOUSTON. I do.

Mr. SOLLERS. Well, sir, I appeal from the decision of the Chair.

Mr. WHEELER. I demand tellers upon the appeal.

Tellers were ordered; and Messrs. SOLLERS and KIDWELL were appointed.

The question "Shall the decision of the Chair stand as the judgment of the committee?" was taken; and the tellers reported—ayes 79, noes 36; no quorum voting.

[Cries of "Call the roll!"]

The roll was then called, and the names of the absentees noted.

The committee then rose; and the Speaker having resumed the chair, the Chairman [Mr. HIBBARD] reported that the Committee of the Whole on the state of Union had, according to order, had the state of the Union generally under consideration, and particularly the civil and diplomatic appropriation bill, and having found itself without a quorum had caused the roll to be called, and had directed him to report the fact to the House, with the names of the absentees.

A quorum (163 members) having answered to their names, the committee again resumed its session, and proceeded with the consideration of the civil and diplomatic bill, the question being "Shall the decision of the Chair stand as the judgment of the committee?"

The tellers (Messrs. KIDWELL and SOLLERS) resumed their places.

The question was again put: "Shall the decision of the Chair stand as the judgment of the committee?" and the tellers reported—ayes 100, noes 27.

So the decision of the Chair, ruling the amendment out of order, was sustained.

Mr. MAY. I offer the following amendment:

For increased compensation to the clerks of the State Department, as provided for by existing law, $3,700.

Now, before the Chair decides any question of order, I desire to be heard.

Mr. JONES, of Tennessee. I will say to the gentleman, if he wishes to make his speech, that a question of order might be raised, but for myself, as I understand that the object of the amendment is to place the clerks in the State Department upon the same footing as the clerks in the other Departments, I shall not make a question of order.

Mr. MAY. That is precisely the object of it; but the gentleman from Maryland does not desire to make a speech. He thinks the amendment speaks for itself.

Mr. HOUSTON. I understand that the amendment proposes to change the salaries of the clerical force in the State Department. Some few salaries it may diminish, but a majority of them it largely increases. If that be true, it is against the rules of the House, and I raise the question of order.

Mr. MAY. I will state——

[Cries of "Order!"]

The CHAIRMAN. The question of order is not debatable. The gentleman from Maryland can proceed if no objection be made.

Mr. SOLLERS. I must object.

The CHAIRMAN. The Chair sustains the point of order raised by the gentleman from Alabama, and rules the amendment out of order.

Mr. COBB. I offer the following amendment:

Provided further, That the Secretary of the Treasury be, and he is hereby, authorized and directed to extend the time of payment of all duties, except only the amount due in fees to custom house officers, upon all iron rails, spikes, bolts, fastenings, and other iron necessary for and to be used in the construction of railroads, now or hereafter to be imported into any of the ports of the United States, for the term of four years, from and after the passage of this act: *Provided*, That, before the delivery of such iron rails, spikes, bolts, fastenings, as above, the payment of the said duties so suspended by this act shall be secured by the bonds of such railroad companies with good personal security, to be approved by the United States district judges: *Provided further*, That, as soon as any portion of such railroads shall be completed as will render it expedient, in the judgment of the Postmaster General, to contract with such railroad companies for the transportation of the mail upon such railroads, that the Postmaster General do make contracts with such railroad companies to carry the mails, as aforesaid, within such rates as are charged by other railroad companies for like service; and that all such sums as may arise in favor of such railroad companies for carrying the mail as aforesaid within the said term of four years, from and after the passage of this act, shall be reserved by the Postmaster General for the benefit of the Treasury, and applied, as they fall due, towards the payment and satisfaction of the bonds of said companies, to be executed by them for the payment of duties as aforesaid.

SEC. 2. *And be it further enacted*, That, before such railroad companies shall be entitled to the benefit of this act, they shall enter into an agreement to transport the United States mail upon the terms and conditions prescribed by law and the regulations of the Post Office Department made in pursuance thereof: *Provided*, That the bonds to be executed to secure the payment of the duties suspended by this act shall be so drawn as to secure the payment of interest on said duties at the rate of six per cent. per annum.

Mr. ROBBINS. I raise a question of order on that amendment.

The CHAIRMAN. The Chair rules the amendment out of order.

Mr. COBB. I appeal from the decision of the Chair.

The question was taken; and the decision of the Chair was sustained.

Mr. HOUSTON. I offer the following amendment:

In page 50, line twelve, after the word "appropriations," strike out "$20,700 75," and insert in lieu thereof, "$21,396."

The sentence, as amended, will read:

For publishing the laws in pamphlet form, and in the newspapers in the States and Territories, and in the District of Columbia, in addition to any balance that may remain of former appropriations, $21,396.

The question was taken; and the amendment was adopted.

Mr. ORR. I propose the following amendment to the bill:

And Indian treaties hereafter shall be published only in the official newspaper at Washington, and in the State or Territory wherein the Indians making such treaties reside.

Mr. EDGERTON. I rise to a question of order. The amendment is not in order.

The CHAIRMAN. The Chair sustains the objection, and rules the amendment to be out of order.

Mr. ROWE. I move that the committee do now rise.

Mr. JONES, of Tennessee. Is it to report the bill?

Mr. ROWE. No.

Mr. JONES. Then I hope the gentleman will withdraw his motion.

Mr. ROWE. I decline to withdraw it.

The question was taken; and the motion was not agreed to.

Mr. HENN. I offer the following amendment:

That the accounting officers of the Treasury be, and they are hereby, authorized to allow the Secretary of the Territory of Nebraska the difference between the salary of the Governor of said Territory and his salary as Secretary during the period he acted as Governor after the decease of, and till the arrival of the successor of, the late Governor Burt; which amount, after being ascertained, is payable out of the appropriation for salaries of Governor, three judges, and Secretary of said Territory, as made by Congress for the fiscal year ending 30th June, 1855.

Mr. HAMILTON. That amendment is not in order.

The CHAIRMAN. The Chair holds that the amendment offered by the gentleman from Iowa is out of order.

Mr. HENN. I think if the Chair would examine the subject, he will find that the amendment is not out of order.

[Cries of "Order!" "Order!"]

The CHAIRMAN. The Chair has held that the amendment is out of order.

Mr. HENN. On what grounds?

The CHAIRMAN. That it proposes to change existing laws.

Mr. HENN. But it does not propose to change existing laws.

The CHAIRMAN. The Chair has no right to discuss the question more than any other member. [Laughter.]

Mr. HOUSTON. A gentleman was talking to me at the time the Clerk read by the point where I now propose to offer an amendment, which is provided for by resolution of the House.

Mr. WHEELER, and several other members. I object to going back. [Laughter.]

Mr. HOUSTON. Oh, very well.

Mr. LANE, of Oregon. I offer the following amendment:

That the Secretary of the Treasury be, and he hereby is, authorized to settle the accounts of John Adair, collector of customs at Astoria, Oregon, on principles of equity and justice, taking into consideration the particular circumstances of the case.

Mr. LETCHER. I raise a point of order there; the amendment is not in order.

The CHAIRMAN. The Chair sustains the objection, and rules the amendment to be out of order.

Mr. LANE. I would be very much obliged to the gentleman from Virginia if he would allow me to have a letter read from the Secretary of the Treasury.

Mr. LETCHER. I should do so cheerfully, but it cannot make the amendment in order.

Mr. LANE. I want to satisfy my friend that I ask nothing by this amendment.

Mr. LETCHER. Oh, yes; the accounts are to be settled on principles of equity and justice.

Mr. LANE. My friend from Virginia would not object if he heard——

[Loud cries of "Order!" "Order!"]

Mr. HAVEN. I propose to say a word as to this amendment——

The CHAIRMAN. Debate is not in order.

Mr. HOUSTON. I propose the following amendment:

For contingent expenditure of the Territory of Utah, $1,168 37, to discharge such sum as the accounting officers may deem to have been necessarily expended by the Executive during the years 1852, 1853, and 1854.

Mr. WHEELER. Is that amendment in order, Mr. Chairman?

The CHAIRMAN. The Chair sees no reason why it is not in order.

Mr. HOUSTON. It is a deficiency for a contingent outlay.

The question was taken; and the amendment was adopted.

Mr. PHELPS. I submit the following as an amendment, to come in at this point. It is a deficiency for the clothing of the Army.

Mr. HOUSTON. That amendment had better come in under the head of "Miscellanies"—the last item in the bill.

Mr. PHELPS. I prefer that it should come in here. It is for the clothing of the Army.

The amendment was reported as follows:

For clothing for the Army, garrison and camp equipage and horse equipments, $125,069 03.

Mr. PHELPS. I merely desire to explain to the committee——

Mr. WHEELER. Is that amendment in order, Mr. Chairman?

Mr. PHELPS. I can only say that it is a deficiency to an appropriation—it is only to supply a deficiency for clothing for the Army.

The CHAIRMAN, (to Mr. WHEELER.) The Chair sees no reason why the amendment is not in order.

Mr. WHEELER. Then the decisions of the Chair are inconsistent.

The CHAIRMAN. The gentleman from New York is out of order.

Mr. PHELPS. I have no desire to debate this amendment. I have here in my hand a letter from the Secretary of War, and also a letter from the Quartermaster General, stating how this deficiency has arisen, and the necessity there is for this appropriation.

The question was taken; and the amendment was adopted.

Mr. CHANDLER. I offer the following amendment:

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. FRIDAY, FEBRUARY 23, 1855. NEW SERIES....No. 57.

To supply deficiencies in the appropriation for the support of the Mint in Philadelphia, $37,000; and to supply deficiencies in the appropriation for the support of the branch Mint in California, $66,000.

This is an amendment which is recommended by the Secretary of the Treasury.

Mr. HOUSTON. I wish to know from what quarter these estimates came. There are deficiency estimates put into the bill, in relation to the Mint at Philadelphia.

Mr. ROBBINS. With the consent of my colleague [Mr. CHANDLER] I wish to state that the Secretary of the Treasury asked for this appropriation after the civil and diplomatic bill was presented to the House, and I ask that the following communications be read by the Clerk.

The following papers were then read by the Clerk:

TREASURY DEPARTMENT, *January* 16, 1855.

SIR: I have the honor to transmit a copy of a letter received by this Department from the Director of the Mint at Philadelphia, inclosing a copy of a letter received by him from the superintendent of the branch Mint at San Francisco, asking for an appropriation of $66,000 to supply a deficiency of means for the support of the branch Mint during the current fiscal year; and also asking for a special appropriation for the Mint at Philadelphia, for an estimated deficiency of means for the current fiscal year. A copy of the statements on which such estimate is founded is also inclosed.

I remain, very respectfully,

JAMES GUTHRIE, *Secretary of the Treasury.*

Hon. LINN BOYD, *Speaker of the House of Representatives.*

MINT OF THE UNITED STATES, PHILADELPHIA, *January* 13, 1855.

SIR: Herewith I inclose a copy of a letter received from the superintendent of the branch Mint at San Francisco, asking for an appropriation of $66,000, to supply a deficiency of means for their support during the current fiscal year. The grounds of the request are sufficiently set forth in the superintendent's letter, and I believe the appropriation indispensably necessary.

I also find it absolutely essential to ask for a special appropriation for this Mint, to supply an estimated deficiency in our means for the current fiscal year. The grounds of the estimate are presented in the statement which I inclose. In explanation of the particular causes which have originated this deficiency, it may be sufficient to state that, in consequence of the late fall in the rate of exchange, all the bullion now received from California is sent to the Mint for refining and coinage, none of it being exported in the shape of bars. When I estimated for the appropriations requisite to our support in the current fiscal year, I anticipated not only that the New York assay office would have commenced operations in February last, but also that the larger part of the bullion received from California would be refined and cast into bars there for exportation. Neither of these anticipations have been realized. Not only was the opening of the office delayed till after October last, but (in consequence of the turn of exchange in our favor) the lack of demand for bars at that office throws the greater part of the bullion upon this Mint. Under such circumstances I have found it impossible to reduce our expenses within the limit assigned by the appropriations which would otherwise have sufficed, and have to request $40,000 in addition to supply deficiencies; but, inasmuch as $38,000 of this sum is already reported, as I find from the printed bill of the Committee of Ways and Means, the sum I now ask to be added thereto is $37,000.

I might, perhaps, with a prudent regard to the probabilities of the future, ask also an increase to our appropriation for the fiscal year 1855-'56, but as it is possible that the present course of commercial affairs is temporary, and it is my wish to conduct this establishment with the least possible expenditure, I abstain from such a request at present.

In my letter of the 26th October last, above referred to, I adverted to some of the difficulties of estimating for the Mints and the assay office, and referred particularly to the impracticability of anticipating, with any certainty, how the total mass of bullion and coinage operations would divide itself, from year to year, among the several establishments, and consequently of determining in advance the probable expenses of each establishment. The aggregate expenses of all the establishments can, however, be estimated with tolerable approximation; any increase at one being measurably the cause, or due to, a decrease of another. In view of such considerations, I suggested that it would be a wise measure of legislation, if the appropriations for the Mints, &c., had a special clause added to them authorizing you, when you deemed it expedient, to transfer the benefit of an appropriation from one establishment to another. Permit me again to recommend this measure. The precise form of legislation I suggested was the following, which would, I suppose, meet the object in view: "These several appropriations for the Mints and the assay office may, at the option of the Secretary of the Treasury, be regarded as general appropriations for their support, and may be transferred, by his authority, from one institution to another, as the demands of the public service may require."

I take this occasion to refer to some discrepancies between the appropriations reported lately from the Committee of Ways and Means and those asked for, and indulge the hope that the bill will be corrected before its passage.

In the appropriation for salaries at this Mint, no mention is made of the "assistant melter and refiner" among the officers, although the sum appropriated actually covers the salary required for him. At the New York assay office the aggregate appropriation for salaries is $14,400, while $24,400 was asked for, and is necessary. The difference is, I suppose, due to an error of copying. For the San Francisco Mint the appropriations for salaries is but $28,000. The amount asked for was $33,000. By the inclosed letter of the superintendent, it would seem that $31,000 will have been expended during the current fiscal year for salaries, and the necessity for an additional clerk, which he adverts to, will demand the $33,000 asked for.

I have the honor to be, with great respect, your faithful servant, JAMES ROSS SNOWDEN,

Director.

Hon. JAMES GUTHRIE, *Secretary of the Treasury, Washington.*

UNITED STATES BRANCH MINT, SAN FRANCISCO, *December* 15, 1854.

SIR: Your favor of the 18th November has been duly received and contents noted.

You will herewith receive a statement drawn in accordance with your suggestion; I hope it will furnish you with the desired information relative to the probable deficiency in the appropriations of the current fiscal year, available for the expenses of this institution.

Our deductions from old deposits, as well as our ordinary and contingent expenses, are so very variable, that it is impossible to set them down with anything like accuracy. I can, therefore, make only an approximate estimate of these items. And the probability is, I fear, that the former, in consequence of a great falling off in deposits for coinage, arising from a want of acids, will, for a time at least, be much less than we had a right to expect when our first estimates were made up; while the latter, in view of our commencing the coinage of silver, will be considerably increased. I have accordingly made what I deem a proper allowance for these contingencies.

My estimate covers also the salary of an additional clerk, which the treasurer found it necessary to employ at the commencement of the current fiscal year, as well as that of one which I find that I shall be compelled to employ from the 1st proximo.

Hoping that the accompanying statement, in connection with that which I have already forwarded, may furnish all the information which the Department requires, I remain, very respectfully, your obedient servant,

LEWIS AIKEN BIRDSALL, *Superintendent.*

Supplies from appropriations and Mint profits, 1853-'4, about	$13,000
Appropriations of fiscal year 1854-'5	116,000
Probable amount of deductions, 1854-'5	71,000
Total probable means	$200,000
Amount of salaries to be paid	$31,000
Wages of workmen	115,000
Incidental and contingent expenses	120,000
Total estimate of expenses	$266,000
	200,000
Total estimated deficiency of the fiscal year	$066,000

Grounds of an estimated appropriation required to supply a deficiency of means for the support of the Mint of the United States during the fiscal year ending June 30, 1855.

The present balance in the ordinary fund of the Mint, January, 12, 1855, is	$36,176
The appropriations undrawn and available, amount to	38,525
The estimated deductions for the remainder of the year, available for expenses, after subtracting the amount necessary to defray the chief coiner's and melter and refiner's wastage for 1854, and a balance to debit of profit and loss, may be set down at	11,000
Total estimated means	$85,701
The estimated amount payable for wages is	$42,000
That for salaries	13,950
That for incidental expenses	69,751
	$125,701
Difference between estimated means and expenses, or probable deficiency	$40,000
Of this deficiency, $3,000 will be due for salaries, increased under the last general appropriation bill. For this amount the Committee of Ways and Means have already reported an appropriation, so that the amount to be further appropriated will be less than $40,000 by that sum, or say	$37,000
Appropriations required to meet a deficiency at the Mint of the United States, during the fiscal year ending June 30, 1855:	
For a deficiency in the appropriation for wages	$12,000
For a deficiency in the appropriation for incidental and contingent expenses and wastage	25,000
Total appropriation required	$37,000

Mr. HAVEN. Is debate exhausted upon this amendment?

The CHAIRMAN. The Chair is not aware that opposition has been made to this amendment.

Mr. HAVEN. I wish to say a word or two upon this matter, for the purpose of showing that this subject has not escaped the attention of the Committee of Ways and Means. It was before that committee, was acted upon by them, and the appropriation now asked for was rejected by them, whether for a sufficient reason, it is for this committee to determine. One of the great reasons that actuated me in the action I took upon this subject was, that there are not any approximate means for ascertaining for what purpose, and for what end this additional appropriation is wanted. The main object of the appropriation seems to be to enable the Mint department to take the appropriations that are made for the assay office in New York, and for the branch Mints in different parts of the country, to transfer them from one institution to another, and by that means control the entire appropriation. Let me read what the gentleman who signs the communication, Mr. James Ross Snowden, says upon this subject:

"Permit me again to recommend this measure. The precise form of legislation I suggested was the following, which would, I suppose, meet the object in view. 'These several appropriations for the Mints and the assay office may, at the option of the Secretary of the Treasury, be regarded as general appropriations for their support, and may be transferred, by his authority, from one institution to another, as the demands of the public service may require.'"

The amendment offered is only a part of the system to carry out what is here suggested, so that the assaying in New York, the coining in Louisiana, or in any other branch Mint of the country may be crippled, and so that the avails of this appropriation may be used for similar purposes in the parent Mint at Philadelphia.

[Cries of "No!" "No!"]

Mr. HAVEN. Mr. Chairman, gentlemen say all around "No, no." I do not propose to take any issue upon the subject. I read to them from the documents, and I was only saying to them that I desired to put the committee in possession of the fact that the Committee of Ways and Means had acted upon the subject, and had for their own reasons, at least, concluded not to recommend the appropriation asked for in the official communication. It is entirely indifferent to me whether the amendment be adopted or not. I am entirely willing it should be; but I do not want to see the Committee of Ways and Means whistled down here, as having given this subject no attention.

Mr. LATHAM. I move to amend, by adding one dollar to the amount. I offer the amendment merely to afford me an opportunity to say, that however strong the position taken by the gentleman from New York may be, his arguments will not apply to this appropriation, so far as the branch Mint at San Francisco is concerned. The letter of the superintendent of the branch Mint at San Francisco shows that the $66,000 for the present fiscal year, is necessarry to carry on the legitimate purposes of that Mint, to carry out the purposes prescribed by law, and not, as the gentleman from New York [Mr. HAVEN] says, for diminishing the business of the assay office in New York, or of the Mints in any other portion of the country. It simply gives the means of employing the requisite number of laborers and workmen to carry on the different departments of the Mint, which they cannot do unless the $66,000 be appropriated for the purpose.

I think the letter of the superintendent discloses the fact that certain laborers are wanted, and are necessary for the operations of the Mint. The additional expenses have been incurred for which they now ask Congress for the $66,000.

Mr. HAVEN. I will reply, as fairly as I know how, to the gentleman from California. I stated that the objects of this appropriation lay behind this communication. Now, in reference to the Mint in California: The committee will remember that I stated that this communication did not afford an approximate means, even, of guessing what it is wanted for. I will read from the communication

in reference to the California Mint, from the superintendent, Mr. Birdsall. We will see whether he can even guess as well as a Yankee. He says:

"You will herewith receive a statement, drawn in accordance with your suggestion; I hope it will furnish you with the desired information relative to the *probable* deficiency in the appropriations of the current fiscal year, available for the expenses of this institution.

"Our deductions from old deposits, as well as our ordinary and contingent expenses, are so very variable, that it is impossible to set them down with anything like accuracy. I can, therefore, make only an approximate estimate of these items. And the probability is, I fear, that the former, in consequence of a great falling off in deposits for coinage, arising from a want of acids, will, for a time at least, be much less than we had a right to expect when our first estimates were made up; while the latter, in view of our commencing the coinage of silver, will be considerably increased. I have accordingly made what I deem a proper allowance for these contingencies."

So the committee will see that it is what the superintendent fears, and for which he makes an approximate estimate; but there is nothing upon the subject of laborers, or nothing approaching to it. It is all indefinite and uncertain.

[Here the hammer fell.]

Mr. LATHAM, by permission, withdrew his amendment.

Mr. ORR. I suppose an amendment to the amendment of the gentleman from Pennsylvania [Mr. CHANDLER] would relieve the propositions of the difficulties suggested by the gentleman from New York. I move to amend by inserting the words "if so much be necessary."

Mr. CHANDLER. I accept the amendment.

The question recurring upon the amendment as modified,

Mr. FLORENCE demanded tellers.

Tellers were ordered; and Messrs. CHANDLER and WHEELER were appointed.

The question was taken; and the tellers reported —ayes 64, noes 63.

So the amendment was agreed to.

Mr. CRAIGE. I offer the following amendment:

For construction of a new roof to branch Mint at Charlotte, North Carolina, $8,850.

Mr. CHAIRMAN, the following lettter from the Secretary of the Treasury explains the amendment and the necessity for it:

TREASURY DEPARTMENT, *January* 13, 1855.

SIR: Representations having been made to this Department that the United States branch Mint at Charlotte, North Carolina, needed certain repairs, the superintendent was directed to report its condition. From his letter, and those of the Director of the Mint—extracts from which are herewith sent—and from specimens of the material used, it appears that the roof of the building is so decayed as scarcely to afford protection against the weather. The superintendent also states, as will appear from his letter, that there is constantly great danger from fire.

This Department caused measurements of the building to be made, with a view to estimates for a fire-proof roof for the same. From these, and other data at hand, it is ascertained that a metallic roof will cost $8,850.

Congress has directed that the buildings, now in the course of construction under this Department shall be covered with fire-proof roofs. A sound policy would seem to dictate that like roofs be substituted for wooden ones, wherever there is necessity for a change, and the character of the buildings otherwise justifies such a measure.

I have, therefore, respectfully to suggest the propriety of an appropriation of the amount named, and for the purpose specified.

I have the honor to be, very respectfully,
JAMES GUTHRIE, *Secretary of the Treasury.*

HON. GEORGE S. HOUSTON, *Chairman of the Committee of Ways and Means, House of Representatives.*

It will be seen that the amount of appropriation in the amendment is in accordance with the Secretary's estimate. The building has been on fire; and taking into consideration the facts stated by the superintendent of the Mint to the Director of the United States Mint at Philadelphia, in the following extracts from his communication, I think gentlemen will conclude with me that the amendment ought to be adopted:

UNITED STATES BRANCH MINT,
CHARLOTTE, N. C., *December* 8, 1854.

SIR: On yesterday we had quite a narrow escape from being destroyed by fire. Between one and two o'clock, as the melter was melting a pot of ingots, a spark from his chimney lighted on the roof, and set fire to the shingles; and had it not been immediately discovered, there is no telling what damage might have been done. * *

I therefore earnestly request that an appropriation be made by Congress for covering the Mint with a metallic or slate roof, as our present wooden one is very unsafe, samples of which, taken indiscriminately from the roof, I inclose for your inspection, and from which you will perceive we are daily in danger. * * * * *

I beg, therefore, if it meets your approbation, that you will have an item appropriated for covering the roof of this Mint, either with tin or slate, whichever may be considered to combine the greatest safety with the greatest economy, and that authority be granted for the immediate expenditure of the money.

I have the honor to be, with great respect, your obedient servant, G. W. CALDWELL, *Superintendent.*

Mr. EDGERTON. Does the business of that office pay its expenses?

Mr. CRAIGE. Yes, sir; and a great deal more. The mining district is one of the largest in the Union.

Mr. EDGERTON. That is not my question. Does the business of the Mint pay its expenses?

Mr. CRAIGE. I have no doubt it does.

Mr. HOUSTON. Mr. Chairman, I do not think that there is a Mint, or branch Mint of the United States which does not bring this Government into debt every year.

Mr. CRAIGE. There is more gold coined at the Charlotte branch Mint than at almost any other.

Mr. EDGERTON. I do not think that there is any necessity for a Mint there at all.

Mr. CRAIGE. I demand tellers on the amendment.

Tellers were ordered; and Messrs. LAMB and CRAIGE were appointed.

The question was taken; and the amendment was adopted, the tellers having reported—ayes 87, noes 49.

The next paragraph was read:

"*Independent Treasury.*—For additional compensation of the assistant treasurer at New York, $2,000."

Mr. WENTWORTH, of Massachusetts. I move to amend that paragraph by adding the following:

For additional compensation to the assistant treasurer at Boston, $1,000.

Mr. HOUSTON. Is that amendment in order?

The CHAIRMAN. In the opinion of the Chair it is not.

Mr. WENTWORTH. It is certainly germane to the language of the clause of the bill to which it is offered.

The CHAIRMAN. That may be true, but it would have the effect to change the existing law.

Mr. EDGERTON. I move that the committee do now rise. I will state that the item coming up next in the bill is for custom-houses. I think we had better postpone that item until to-morrow.

Mr. WENTWORTH, of Illinois. I ask for tellers upon the motion.

Tellers were not ordered.

The question was then taken; and the committee refused to rise—ayes 56, noes 62.

Next paragraph:

"*Custom Houses.*—For the completion of the custom-house at San Francisco, California, $141,271 69."

Mr. FULLER. I move to amend by adding the following:

For the completion of the custom-house at Mobile, with granite in the room of brick, $95,000.

Mr. LETCHER. I rise to a question of order. That custom-house was finished last year, and there cannot be any law authorizing this appropriation.

The CHAIRMAN. The Chair can see no reason for ruling the amendment to be out of order.

Mr. FULLER. In explanation of that amendment, I will simply say that there has been appropriated for this custom-house $265,000. The contract was made on the 30th of December, 1852, to complete the building, with the alternative that it should be completed either with brick or granite. A portion of the building is of granite, and it was the opinion of the Committee on Commerce, based upon the report made by the Secretary of the Treasury, and from that of the architect of the building, that considering the size and commerce of Mobile, and considering the amount which had been expended upon custom-houses in Charleston, New Orleans, St. Louis, and other places, it would be prudent and proper to complete the custom-house at Mobile with granite, as it was commenced.

The architect has sent in a communication, which I think will be satisfactory, to show the manner in which he made the mistake in his estimates which were sent in last year. I have the letter in my hand which I will have read if the committee desire it.

Mr. LETCHER. I desire it. Let us have the letter.

Mr. GREENWOOD. I object to the reading of the letter.

The CHAIRMAN. The gentleman from Maine can have it read as a part of his speech if he desires it.

Mr. FULLER. Certainly I do. Read first the letter from the Secretary of the Treasury.

The letter was read, as follows:

TREASURY DEPARTMENT, *February* 22, 1855.

SIR: In reply to your letter of the 20th instant, I have the honor to state that the contract for the erection of the Mobile custom-house, as it is now being executed, requires the lower story to be faced with granite, and the upper to be of bricks. It, however, contains a clause providing that the whole building shall be of granite, if Congress shall appropriate the necessary funds. The proviso of the last appropriation should complete the buildings, leaves the Department no option but to construct the upper stories of this custom-house of brick.

Granite is better suited to the climate of Mobile, and would make a much more beautiful building than brick. The additional sum required, if granite is used, is estimated by the superintendent at $95,000.

I have the honor to be, very respectfully,
JAMES GUTHRIE, *Secretary of the Treasury.*

Hon. T. J. D. FULLER, *Chairman Committee of Commerce, House of Representatives.*

Mr. LETCHER. Now, let us have the letter of the architect.

The CHAIRMAN. The time of the gentleman from Maine is out. The question is upon the adoption of the amendment.

Mr. LETCHER. I oppose the amendment, and now I want the statement of the architect read. I do not see any mistake in the letter that has been read:

The statement was read, as follows:

Statement of Facts relative to the deficiency in the amount of appropriations for completing the Mobile custom house.

The site of the custom-house at Mobile is so far removed from the river, and elevated so much above tide water, that no trouble was anticipated from a bad soil, particularly as there are, in the vicinity, many large buildings which had shown no settlement, and every superficial indication led to the belief that it was the best of alluvial formation for sustaining a building. This led to the adoption of the original design for the foundations; but after the contract was made, upon digging, to put in the foundations, they came, very unexpectedly, upon a quicksand, in many places of the worst character, requiring a change of design and construction, involving a large additional outlay to make the foundations permanent and secure. This occurred some time after the estimate for the completion of the custom-house was submitted to Congress at its sessions of 1852-'53, and involved the necessity of enlarging many of the granite stones of the basement story, which very much increased their cost.

The remainder of the deficiency now proposed to be made up by an appropriation, to enable the Department to construct the whole of the exterior of granite, as originally contemplated, arose from the fact that the prices in the granite contract were *by the foot*, (not for an aggregate sum,) and graduated to the values of the different kinds of work, so that, at the time of making out the above estimate of 1852-'53, it would have required a great deal of labor to have ascertained the exact aggregate amount of the granite contract; and as at that time the whole force in the office of construction of buildings was otherwise fully employed, it could not be done.

Consequently it was necessary to trust to an approximate estimate of its amount, which was then supposed to be ample, but which was found not to be so upon an accurate measurement made by the superintendent at Mobile since the passage of the last appropriation.

All which is respectfully submitted.

AMMI B. YOUNG,
Superintending Architect Treasury Department.

Mr. LETCHER. I shall say nothing about this matter, but I ask that the Clerk shall read a portion of the law upon this subject.

The Clerk read the law, as follows:

"And said Secretary of the Treasury shall enter into no contract, either conditional or final, for the purposes mentioned, which shall involve an expenditure, in any one case, beyond the sum appropriated and remaining unexpended for such case, and in all cases where such unexpended appropriation shall be insufficient to complete the entire work, in such case the said Secretary of the Treasury shall suspend all action in reference thereto, and shall report to Congress, on the first day of the session, the condition of the work in such case, and shall, at the same time, lay before Congress such plans and estimates as in his judgment shall be proper for the completion of the building and work in such case."

Mr. PHILLIPS. Will the gentleman from Virginia permit me to make a remark in reference to this matter?

Mr. LETCHER. I have no objection at all.

Mr. PHILLIPS. The contract for this custom-house was made more than two years ago. There never was but one contract made for the building. It was a contract in the alternative to build either of brick or of granite. There has been no change of the contract, either a year before the passage of the law, which has just been read, or since. There has, therefore, been no

violation whatever of the provisions of that law. At the last session of Congress a recommendation from the Secretary of the Treasury was sent to this House, asking for an additional appropriation. I confess that I did understand that that additional appropriation would have completed the building in granite. On looking, however, to the Secretary's letter I perceive that he did not seem to have come to that conclusion.

[Here the hammer fell.]

Mr. EASTMAN. I move that the committee do now rise.

Mr. ROWE. I call for tellers.

Tellers were ordered; and Messrs. WHEELER and HAMILTON were appointed.

The question was taken; and the tellers reported—ayes 51, noes 84.

So the committee refused to rise.

The question recurred upon Mr. FULLER's amendment.

Mr. PHILLIPS demanded tellers.

Tellers were ordered; and Messrs. PHILLIPS and EDMUNDSON were appointed.

The question was taken; and the tellers reported—ayes 40; noes not counted.

So the amendment was rejected.

Mr. HOUSTON. I am instructed by the Committee of Ways and Means to offer the following amendment:

To enable the Secretary of State to pay to Messrs. Little, Brown & Co. for one hundred and ninety-seven pages of additional post office routes, in the pamphlet volume of the United States Statutes at Large, first session of the Thirty-Third Congress, $4,125.

To defray expenses incurred, and to be incurred, in complying with the resolution of the House of Representatives of 27th December, 1854, $3,000.

For outfit of Minister of the United States to Spain, $9,000.

For outfit of chargé d'affaires or minister resident to New Grenada, $4,500.

For salaries and commissions of registers of land offices, and receivers of public moneys, $110,000.

For expenses of depositing public moneys by receivers of public moneys, $41,000.

For incidental expenses of the several land offices, $11,000.

To enable the Clerk of the House of Representatives to purchase for the new members from Virginia, Kentucky, and New York, and the Delegates from Kansas and Nebraska, the same books as have been furnished the other members of the present House of Representatives, $7,452.

For the contingent expenses of the House of Representatives.—For stationery for members, $2,500.

For miscellaneous items, $10,000.

Mr. SEWARD. I rise to a question of order. The amendment is not in order.

The CHAIRMAN, (to Mr. HOUSTON.) Is there any law providing for this appropriation?

Mr. HOUSTON. Yes, sir. By a resolution of the House, passed a few days ago, when my friend from Georgia [Mr. SEWARD] was perhaps at home, the House directed this expenditure of money.

Mr. SEWARD. I came here, but the gentleman from Alabama [Mr. HOUSTON] was at home sick.

[Laughter, and cries of "Order."]

The CHAIRMAN. Then the Chair rules the amendment to be in order.

Mr. HOUSTON. If the committee will give a moment's attention, I will say what that first clause means. The appropriation for $471 to which I called the attention of the committee a short time since, was a deficiency for the publication of the laws in the various newspapers in the States and Territories. By the contract with Little & Brown for publishing this pamphlet edition of the laws, which I hold in my hand, the same deficiency has grown up, occasioned by the same post office bill. The large amount of matter put into this bill made it so much more voluminous than usual, that it caused this deficiency.

Mr. STANTON, of Kentucky. I propose an amendment to that section of the amendment which relates to the appropriation for stationery for members of the House:

And that the allowance to each member of Congress at the present session shall be thirty-five dollars, instead of twenty five dollars, as heretofore.

I desire to say this: that I do not believe there is a member of Congress who discharges his duty to his constituents that does not, during a short session, consume more stationery than he can purchase at the office of the Clerk for twenty-five dollars, which is now the allowance. My amendment proposes to make the allowance thirty-five dollars.

Mr. JONES, of Tennessee. I say to the gentleman from Kentucky [Mr. STANTON] that I believe I have attended to every application from my constituents—to each and every one of them. I have heard no complaint from any of them that I did not attend to their private business here, either at this or any former session, and I have always found the allowance for stationery sufficient, and abundance to spare, for the business which devolves upon me.

Mr. STANTON. Certainly I never intended to charge the gentleman from Tennessee, or any other member, with not discharging his duties to his constituents. I believe I am as economical in the use of stationery as even the gentleman from Tennessee himself, and yet I have found that it has cost me, out of my pocket, more than the amount Congress allows for that purpose, in order to meet the exigencies of my position as a member.

Mr. JONES. I think that forty-five dollars at the long session, and twenty-five at the short session is amply sufficient for stationery.

Mr. HUNT. By no means.

The question being on Mr. STANTON's amendment to the amendment, offered by Mr. HOUSTON,

Mr. JONES, of Tennessee, demanded tellers.

Tellers were ordered; and Messrs. WHEELER and DAWSON were appointed.

The question was taken; and the tellers reported—ayes 77, noes 57.

So the amendment to the amendment was adopted.

The question was then taken on Mr. STANTON's amendment, and it was agreed to.

Mr. STANTON, of Kentucky. It will be necessary to increase the appropriation in view of the vote just taken. I move to strike out $2,500, and insert $4,910.

Mr. HOUSTON. I suppose that follows as a matter of course.

Mr. JONES, of Tennessee. I would ask the gentlemen if that amount is estimated to include the Delegates. There are two hundred and thirty-four members, exclusive of the Delegates.

Mr. STANTON. I have added $2,410, and the amendment provides for two hundred and forty-one members.

The question was taken; and the amendment was agreed to.

The question was then taken on the amendment as amended; and it was agreed to.

Mr. SMITH, of Virginia. I offer the following amendment:

For completing the Little Falls bridge, $60,000, provided the said bridge can be completed under contract with some responsible bidder for said sum of money, in the style and manner in which said bridge has been so far constructed.

Mr. ROWE. I will ask the Chair if that amendment is in order.

Mr. SMITH. I will read an extract from the report of the Secretary of the Interior upon this subject, which will show the necessity of the amendment I have offered:

"Under the appropriation of $15,000 for completing the Little Falls bridge, a contract has been entered into for erecting on the stone abutment and piers already built, two spans of wooden bridge, in length three hundred and twenty feet. The plan adopted is known as 'Howe's Truss,' combined with arches, and the structure is to be capable of sustaining a test-weight or load of one ton for every foot in length. To make it available for travel, an inclined timber road way will be constructed, to lead from the river bottom, which is dry at low water, up to the road way of the bridge. This part is liable to be carried away by the spring freshets, but can be replaced at a comparatively small cost. The whole will be completed by the 15th instant. To finish the bridge as originally proposed would, according to the estimate of the engineer in charge, cost $75,000 more. If appropriated, the Department will endeavor to expend it judiciously and with frugality."

I need say nothing more to show the necessity of the appropriation; and I hope that the committee will agree to the amendment.

Mr. ROWE. Is this amendment in order? Has there been any law authorizing the construction of this work?

Mr. SMITH. There have been two preceding appropriations made for this very bridge.

The CHAIRMAN. The Chair decides that as the bridge has been commenced under the authority of the Government, that the amendment of the gentleman from Virginia is in order.

Mr. DAVIS, of Indiana. I move that the committee rise.

The motion was lost—ayes forty-three, noes not counted.

Mr. MORGAN demanded tellers, which were ordered; and Messrs. WHEELER, and JONES, of Louisiana, were appointed.

The question was taken; and the tellers reported—ayes 44, noes 80. So the committee refused to rise.

Mr. JAMES C. ALLEN. I move the committee do now rise, and report the bill to the House.

The CHAIRMAN. That motion is not in order, while there is an amendment pending.

The question was then taken upon the amendment of Mr. SMITH, of Virginia; and it was not agreed to.

Mr. STUART, of Michigan. I have an amendment which I propose to offer. If the committee will listen to me a moment, I will explain it so fully that all will be satisfied of its correctness.

The amendment was read as follows:

SEC. —. *And be it further enacted*, That the Secretary of the Treasury be authorized to sell the United States court-house and the water lot belonging to the United States, at Detroit, Michigan, upon which the custom-house, post office and court-house were directed to be constructed under the provision of the second section of the act approved August 5, 1854, and to apply so much of the proceeds as may be necessary, to purchase a suitable site for said building as is therein provided for, and on which the Secretary is authorized to erect the same.

Mr. STUART. The lot in the city of Detroit which belongs to the Commissary Department of the Government, and on which this building was authorized to be erected, is too small for the building, the plan of which has been designed for this custom-house, post office and court-house. The amendment asks no new appropriation from the Treasury, but simply that this property may be sold and the proceeds applied to the purchase of a suitable lot for the building.

Mr. SOLLERS. I object to the amendment, as out of order.

The CHAIRMAN. The Chair sustains the objection and rules it out of order.

Mr. STUART. I appeal from the decision of the Chair. I cannot see upon what ground the Chair decides the amendment out of order.

The CHAIRMAN. Upon the ground that it changes the existing law, by its very words. The question is "Shall the decision of the Chair stand as the judgment of the Committee?"

Mr. STUART. Upon that I demand tellers.

Tellers were ordered; and Messrs. STUART, of Michigan, and DAVIS, of Indiana, were appointed.

The question was taken; and the tellers reported—ayes fifty-three, not a majority of a quorum.

So the decision of the Chair was overruled.

The question recurring upon the amendment,

Mr. STUART demanded tellers.

Tellers were ordered; and Messrs. STUART, of Michigan, and MORGAN were appointed.

The question was taken; and the amendment was agreed to, the tellers having reported—ayes ninety-three, noes not counted.

Mr. JAMES C. ALLEN. I move that the committee do now rise and report the bill to the House.

Mr. CHANDLER. I have an amendment to offer.

Mr. EDGERTON. So have I.

The CHAIRMAN. The motion to rise and report the bill, is not in order while gentlemen have amendments to offer. Motion may be made that the committee rise.

Mr. BARKSDALE. I move that the committee do now rise.

Mr. TAYLOR, of Ohio. I demand tellers.

Tellers were ordered; and Messrs. DAVIS, of Indiana, and MACY were appointed.

The question was taken; and the committee agreed to rise, the tellers having reported—ayes 69, noes 65.

So the committee rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration and particularly the civil and diplomatic appropriation bill, and had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. SIDNEY WEBSTER, his Secretary, notifying the House that he had approved and signed bill of the House (No. 689) "establishing the office of surveyor general in Utah, and granting land for school and university purposes," and several bills of a private character.

WASHINGTON MONUMENT.

Mr. MAY. Mr. Speaker, this is the 22d of February, the birth-day of the Father of his Country, and it is most fitting that the House should now receive the report of the select committee in reference to the Washington National Monument. They have instructed me to report a joint resolution.

Mr. JONES. Does the gentleman propose to put the resolution on its passage?

Mr. MAY. No, sir. The committee have also instructed me, after a due consideration of the report and its relation to the true interest of that pious work, and in order to remove from the minds of the people any distrust touching its management and character, to move that one hundred thousand extra copies of the report be ordered to be printed for distribution by members among their constituents.

[Cries of "Report the resolution!"]

The Clerk reported the resolution, as follows:

Resolved, That the sum of $200,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to be paid to the board of managers of the Washington National Monument Society, on requisition therefor of the President of the United States; the same to be paid in five equal annual instalments; it being a subscription by the Congress of the United States towards the monument now erecting by said Society to the memory of Washington.

The joint resolution was read a second time by its title.

The SPEAKER. What does the gentleman propose in reference to the disposition of the resolution?

Mr. MAY. I leave it with the House.

[Cries of "Put it on its passage."]

Mr. HUNT. I move that the resolution be put on its passage. Public sentiment is with us, and every man's heart is in the action.

Mr. SOLLERS. Right! Let the resolution be passed; I second the gentleman heartily.

Mr. HUNT. I move a suspension of the rules, if it be necessary, in order that the resolution may be put on its passage.

The SPEAKER. There is a motion for the suspension of the rules already pending. The gentleman's motion can be entertained by unanimous consent.

Mr. DUNHAM. I object.

Mr. MAY. I will state again that the instructions of the select committee were to present the joint resolution to the House, and ask that one hundred thousand extra copies of the report may be printed.

Mr. MURRAY. The motion for extra copies must go to the Committee on Printing.

[Much confusion prevailed in the Hall, members on all sides of the Hall addressing the Speaker at the top of their voices.]

The SPEAKER. The rules of the House gives the Speaker the right to speak first upon a question of order, and the Chair will insist upon the rule being observed. Gentlemen on all sides seem desirous of suspending the rules, that this bill may be put upon its passage. The Chair announced that there was already a motion pending to suspend the rules, made by the gentleman from Pennsylvania, and that the joint resolution could only be taken up by unanimous consent. Objection being made, the gentleman from Maryland now proposes that one hundred thousand extra copies of the report of the select committee be printed. The Chair must state that the rules of the House require motions to print extra numbers of any document to go to the Committee on Printing.

Mr. MAY. By unanimous consent the rule may be dispensed with.

Mr. MACDONALD. I object.

Mr. MAY. Cannot the rules be suspended, to admit action on the motion to print extra copies?

The SPEAKER. Not at this time. The motion will go to the Committee on Printing without a motion.

Mr. MACDONALD. I move that the House do now adjourn.

Mr. SOLLERS. Upon that motion I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. HENDRICKS. I desire to make an inquiry of the Chair for information. Some gentlemen may vote against adjourning with a view of enabling the gentleman from Maryland to suspend the rules. Now, I ask the Chair whether there is not a motion pending to suspend the rules made by the gentleman from Pennsylvania, which must first be disposed of, in case the House refuse to adjourn?

The SPEAKER. The Chair will again state, that no motion can be made to suspend the rules, for any purpose whatever, until the motion of the gentleman from Pennsylvania has been decided by the House.

Mr. CAMPBELL. Well, cannot we dispose of the motion of the gentleman from Pennsylvania, and then take up that of the gentleman from Maryland?

Mr. JONES, of Pennsylvania. The motion made by me, I understand, is now pending, and is the only obstacle in the way of taking up the matter which the gentleman from Maryland desires to bring before the House, I can say to the House in one word——

The SPEAKER. The Chair must remind the gentleman from Pennsylvania that the pending motion is that made by the gentleman from Maine, that the House do now adjourn, which motion is not debatable.

Mr. DAVIS, of Indiana. I demand the vote upon the motion to adjourn.

Mr. JONES. Well, I will only say that if the House refuse to adjourn I will withdraw my motion.

[Cries of "Order!" "Order!"]

The question was taken, and the motion agreed to—ayes 75, noes 56.

And thereupon, the House, at half past four o'clock, adjourned until to-morrow at eleven o'clock.

IN SENATE.

FRIDAY, *February* 23, 1855.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

PETITION.

Mr. BROWN presented the petition of David Holt, a soldier of the war of 1812, praying to be allowed to locate his eighty-acre bounty land warrant on a certain tract of land not subject to private entry, with the privilege of entering the residue of the tract at private entry; which was referred to the Committee on Public Lands.

FUNERAL EXPENSES.

Mr. TOUCEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That there be paid to the widow of the late Hon. Moses Norris, deceased, out of the contingent fund of the Senate, the same amount, for the funeral expenses of the deceased, that was paid to the widow of Hon. William Upham, late a Senator, for a similar purpose; and that the expenses of the committee and officers of the Senate who accompanied the remains to New Hampshire, be also paid out of the contingent fund, under the direction of the committee of arrangement.

ADJOURNMENT SINE DIE.

Mr. BROWN. I move to take up the resolution which I laid upon the table some mornings ago, fixing the hour of adjournment at twelve o'clock on Saturday night the 3d of March.

Mr. PETTIT. Does that take precedence of reports?

The PRESIDENT. The first business properly in order is the reception of petitions, and the next is reports; but if Senators make motions to suspend the regular order of business, the Chair must put them.

Mr. BROWN. I have had this resolution lying on the table for several mornings, waiting until we should be able to take it up in its regular order, but it seems I may wait to all eternity without getting it up, for members will introduce other matters.

The motion was agreed to; and the Senate proceeded to the consideration of the following resolution:

Resolved, (the House of Representatives concurring,) That the President of the Senate and Speaker of the House of Representatives adjourn their respective Houses *sine die* on the night of the 3d of March, at twelve o'clock.

Mr. BROWN. I do not wish to discuss the resolution unless others do.

Mr. STUART. I move to strike out the words "at twelve o'clock."

Mr. BROWN. I wish to say a word on that. We all know very well that the 4th of March this year comes on Sunday, and every member of Congress knows perfectly well that if we fix the hour of adjournment at twelve o'clock on Saturday night, we shall get through our business just as well as if we sit here until twelve o'clock on Sunday, to which hour Congress has sometimes sat. On one occasion the Senate resolved that the 3d of March did not expire until meridian the next day. It was a resolution that was passed under extraordinary circumstances, and it laid down a rule that it would be better to violate than to observe. While I do not profess to be a saint in such matters, I believe the moral example of Congress sitting here in broad daylight on Sunday cannot have otherwise than a demoralizing effect upon the country. I hope that no such thing will be done, unless there shall be some more pressing necessity for it than there will be if we simply discharge our duties.

There is another consideration, Mr. President. Sessions from midnight until day have never been creditable to Congress. They will not be so this year, if we permit them to occur. We are required to adjourn on the 3d of March. That is well known; but there have been decisions in which I cannot concur as to the hour at which the day terminates. I doubt the right of Congress to continue the session beyond midnight, and on this occasion I do not hesitate to say, that we ought not to sit beyond that hour, in opposition to the moral sense of the country, for the 4th of March will be Sunday. If, however, the Senate are determined, by a deliberate vote, to sit here until Sunday morning dawns, let them do it. I wash my hands clear of any such business.

Mr. STUART. My object in moving the amendment is not to demoralize Congress. Whoever attempts it, will find that he cannot go further than his individual person is concerned. It is true it frequently happens, at the close of a session, that measures of the very highest importance require half an hour, or an hour, for their consideration. The experience of Congress has shown that over and over again. Sir, in the little time that I have been here, I have seen measures of the most vital importance to the country undetermined on the last day of the short sessions, and carrying Congress three or four hours beyond the time of adjournment.

Mr. BROWN. Allow me to ask the Senator one question. Has he known of a solitary instance where Congress fixed the hour of adjournment, that it was not ready to adjourn when the hour came? I know of but one case where we run five minutes over the time. The civil and diplomatic bill had been sent to the President, who was in the Capitol, and it had not been returned at twelve o'clock. The Speaker of the House of Representatives, [Mr. Cobb,] said: "I will allow a little for the variation in time-pieces; by our clock it is twelve o'clock, but by that of the Senate and the President, it may not be twelve." Before the expiration of five minutes the bill was brought back, and that is the only instance in which I have ever known the session to run even five minutes beyond the time fixed for the adjournment; but when we do not fix the hour we run ten, twelve, or fourteen hours over.

Mr. STUART. No longer ago than the last session of this Congress we were compelled to extend, for twenty-four hours, the period fixed by a resolution which was adopted against the protestation of a very large number of the Senate. We could not have done the business without that extension of time, and yet at every session the argument is used that if you only fix the hour you will certainly get through the business by the time you may fix.

There is another point, Mr. President. This resolution may be just as well considered four or five days hence as now. It may just as well be considered on the morning of the 3d of March as now; and we shall be vastly better prepared to decide it then, for we shall then know what is the condition of business, and we shall be able to act much more intelligently than we can now. Besides, sir, there are not two-thirds of the Senate present to vote upon this resolution, and as it is not of such a pressing character that it need be disposed of this morning, I move that it lie upon the table.

Mr. BROWN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 11, nays 26, as follows:

YEAS—Messrs. Badger, Bayard, Bell, Benjamin, Brod-

head, Gwin, Mallory, Pratt, Rusk, Stuart and Walker—11.

NAYS—Messrs. Brainerd, Bright, Brown, Butler, Chase, Clay, Cooper, Dodge of Wisconsin, Evans, Fessenden, Fitzpatrick, Geyer, Gillette, Johnson, Jones of Tennessee, Pearce, Seward, Shields, Sumner, Thompson of Kentucky, Thomson of New Jersey, Toucey, Wade, Wells, Wilson, and Wright—26.

So the motion to lay on the table was not agreed to.

The PRESIDENT. The question now is on the amendment offered by the Senator from Michigan, to strike out the words "at twelve o'clock."

Mr. BROWN. That, of course, simply destroys the effect of the resolution.

The amendment was rejected.

The PRESIDENT. The question now is on the passage of the resolution.

Mr. BADGER. I hope my friend who offers this resolution will at least permit it to lie over for a day. My impression is, that this is a commencement—that it is the first proposition of the kind that has ever been made. I do not know that we have ever adopted any such proceeding as this before. The resolution, if I understand it, is a resolution proposing that the session shall be brought to a close at twelve o'clock on Saturday night the 3d of March. I believe that has never been done before. I do not understand the purpose it is to serve, or the end it is to answer, or the good that it is to do.

Mr. EVANS. To vindicate the Bible.

Mr. BADGER. To vindicate the Bible! should be sorry if the Bible needed that vindication.

The PRESIDENT. Does the Senator submit a motion?

Mr. BADGER. I do not.

Mr. BROWN. I cannot consent to let the resolution lie over.

Mr. BADGER called for the yeas and nays on the adoption of the resolution; and they were ordered.

Mr. RUSK. The time of the adjournment of Congress is fixed by law. It is well known to every one that it cannot be altered. It is known to every one, too, that the appropriation bills are much behind. If we get through with them, and are as religiously inclined on Saturday night as we are now, we shall doubtless adjourn at twelve o'clock. If we do not, and an appropriation bill should be undisposed of before twelve o'clock, this resolution will be rescinded if it should be now adopted. That will be the effect of it, so that, in my judgment, by considering this resolution, we are merely wasting time, for nothing will be accomplished.

Mr. GWIN. I recollect, within my term of service here, an occasion on which every one of the appropriation bills was passed after twelve o'clock on the night of the 3d of March. A contest sprung up on the river and harbor bill, which it is well known lasted for two days. We were in session for more than twenty hours on a particular occasion, and at four o'clock in the morning the friends of that measure—the Senator from Tennessee [Mr. BELL] taking the lead—gave up the river and harbor bill. We then took up the appropriation bills and passed them between that time and twelve o'clock at noon. Now, Mr. President, it is perfectly evident that if this resolution should pass, and we should be found in that condition, we should of course rescind it. I look on it as an entirely useless expenditure of time to consider it. I do not think it will have any good effect, and it is a new precedent to which I am opposed.

Mr. TOUCEY. I rise only to say, that I believe the members of this body are competent to pass on this question without much discussion. It has been so often discussed that I beg leave to ask that it may be acted upon without any further debate.

Mr. BADGER. I will say to my honorable friend from Connecticut, that I have no doubt this body is competent to pass upon all questions without discussion; and perhaps if it had been the original institution of things, in the Senate, that we should vote upon all questions without discussion, the country would have sustained no serious inconvenience; and, beyond all dispute, the country would have saved some money. But still we have acquired a habit in the Senate of discussing things. It has got now to be that even when a subject has been discussed until it is thread-bare; aye, sir, and more than that, when the threads are not only exposed, but are worn through, and manifest opportunities of seeing, through and through the cloth, the woof, we still think that, upon the fragments which are left, it is well to hang discussion, and upon what is left still, to apply the triturating effect which is produced by the speeches which we make here. Now, sir, my friend says he thinks the Senate is able to decide this subject without much discussion. Why, Mr. President, we decide every question by our votes. The discussion decides nothing; the discussion is a consumptive process; it consumes time; it wears out lungs; it sometimes affects the ears; it sometimes empties the Senate Chamber, but it decides nothing; the vote is the thing by which our decision is made.

Well, Mr. President, I do not think it is worth while for us to be in such an exceeding hurry to pass a measure admitted to be *primer impressionis*. I think that, at a short session of Congress, we have never fixed the period of the adjournment, short of the expiration of the session by a constitutional law. When it is now, for the first time, proposed to do this, it seems to me a little unreasonable that we should not have an opportunity of applying the old process of discussion, of combing the cloth of the subject, of wearing off, at least, the nap which shows itself on the exterior, and of letting us have it exhibited with the naked threads before we make a final disposition of it.

Now, Mr. President, I have to say, that I wish to submit a few remarks on this question. The inquiry before the Senate presents itself under two or three heads, each of which, in my judgment, is worthy a little attentive consideration by the Senate, and of some little remark. I will not say that it needs argument, but I think it is worthy of a little talk, and that is what I propose to give it.

In the first place, the measure may be considered as intended to save a certain amount of time, to wit: the time that may elapse from twelve o'clock on Saturday night until noon of the succeeding day, which, although I am not skilled in arithmetic, I think amounts to just twelve hours, and those twelve hours amount to one-half of an astronomical day consisting of twenty-four hours. [Laughter.] The first benefit we propose to gain by this experiment, in the process of conducting the business of the session, is to save twelve hours of time. Well, sir, let us inquire to whom it is to be saved? Will it be saved to the country? Why, certainly not; for the people of the United States will not be here from twelve o'clock on Saturday night, until twelve o'clock on Sunday. They will be at home, more profitably, and, I hope, more agreeably occupied than in attending a night session, and disposing of appropriation bills. It is manifest, therefore, this will save no time to the country. Then, sir, will it save any time to us? If we break off here at twelve o'clock on Saturday night, and leave the public business unfinished, what shall we do with the hours that will elapse between twelve o'clock at night and the noon of the next day? Can we devote them to repose? No, sir; because we shall be followed to our beds and haunted with the thought that, in consequence of a new experiment made by us, without reason, and contrary to all the previous practice of the Government, we have failed to discharge our duty to the country, and that some interests are suffering, or some wrongs are unredressed, which would have escaped such a consequence but for this new experiment of ours. Then, sir, we shall by that process save no time to the country, and we shall save no time to ourselves. On the contrary, we shall plant the pillow on which we lay our heads with the thorn of self-reproach.

A second object which it may be thought this measure is calculated to attain is the saving of expense. If it would save any of the people's money, I should be eager and anxious to adopt the resolution. [Laughter.] I hold, Mr. President, as you know, that money is not intended to be spent, but to be hoarded, [laughter;] that it is not meant to be put forth in appropriations, and spread through the whole country, revivifying, aiding, assisting, and stimulating all the sources of industry and enterprise; but that it ought to be locked in a sub-treasury; and, therefore, if the effect of the proceeding, now contemplated for the first time in our legislative experience, would be to save any money I should be heartily in favor of its adoption. But will it save any money? According to the theory of the Constitution the session necessarily expires with the expiration of the 3d of March. According to legislative interpretation the 3d of March does not expire until twelve o'clock on the 4th; and, therefore, if we sit until Sunday at twelve o'clock we shall not be paid any more than if we adjourn at twelve o'clock on Saturday night. For this reason there will be nothing saved to the country, because, if we do not adopt this resolution, nothing will be paid which will be saved from the criminal process of being spent in consequence of its adoption.

Well then, Mr. President, what other reason can be assigned for the adoption of this resolution? A third reason, which I can imagine is, that this is an age of progress; that it is foul scorn for us to go on in our legislative business as the old fogies of the last generation have been in the habit of doing. They were content to let the short session of Congress expire; they were willing to let it go out without resorting to any process in virtue of which they might hasten its expiration; but we now adopt a different plan in conformity with the progressive spirit of the age. Sir, I heard a very distinguished gentleman once remark—I think it was the late Judge Martin, of Louisiana—that if a sick man sent for an English doctor, he killed him; if he sent for a French doctor, he let him die. We have heretofore been in the habit of treating the short session upon the French plan of practice; we have allowed it to die. Now, in the age of progress and the speculative spirit of improvement, we resolve to adopt to the English process of treating a patient, and to kill him twelve hours before he would expire if we let him alone. [Laughter.] Sir, I am an old fogy myself. I desire to stand *super antiquas vias* both in the great policy of the country and in the ordinary system of carrying on the legislative business of the country. I do not object to young gentlemen, men who do not belong to the class of fogyism in which I have unfortunately been enrolled by time and age, and in which, I may say, I willingly enroll myself from voluntary choice—I do not object to them. I think it is proper that they should go forward and endeavor to keep pace with the spirit of the age, with this age of steam and electricity, when nothing can be done in the old-fashioned style of proceeding by which our forefathers advanced to the accomplishment of their ends. Then, upon this third head of making an improvement to correspond to the spirit of the age, it cannot be expected that I shall vote for the resolution.

Now, Mr. President, is there any other reason which can be urged in support of this resolution? One other I can conceive, and that is, that by this process, we may possibly bring upon the country the necessity of an extra session of Congress. I confess, for one, as I read the signs of the times, and according to the decided complexion which the other branch of Congress is to bear after the ensuing 4th day of March, I have not the least disposition to bring them into a potential capacity for mischief one minute sooner than it can be avoided, [laughter,] and, therefore, so far from it being a recommendation to me, that by possibility the adoption of this resolution may precipitate upon us an extra session, is a decided objection with me. I do not wish to see an extra session. I do not want to have these gentlemen collected together at the seat of Government in their political capacity as a Congress, one hour sooner than the first Monday of the next ensuing December. Perhaps, if I could I would postpone their meeting a little beyond that time.

If I did not occupy the unfortunate situation that I do, I might have some reason, perhaps, to go for this resolution, upon the particular ground I am now mentioning, because nothing would please me more than to meet again in this Hall, upon the same footing on which we now stand, the many valued friends that I have here, to participate with them again in the transaction of the public business of the country, to aid them, as I have in my humble way endeavored, in times past, to consume time, to annihilate subjects in this useless process of discussion which my friend from Connecticut thinks ought not to be resorted to now; but unfortunately, Mr. President, unfortunately for the Senate, unfortunately for my friends, unfortunately for myself, that *reunion* is never again to take place; and, therefore, there is not even an auxiliary advantage, not a tempta-

tion, nothing in the world, that can either incline me to do anything that will tend to produce an extra session, or even reconcile me to it by the consideration of any incidental advantages, or incidental gratification.

Then, Mr. President, what other consideration can be imagined as the moving cause to this change the mode of proceeding in administering legislative business? Whom will it benefit? Who will be helped by it? What interest of the country will be promoted by it? What mighty operation is it? It is to cut off twelve hours from the existing session?

In the next place, is it sought thus summarily to bring the session to a close, irrespective of the public business at that time, because the 4th of March happens, in the present year, to fall on Sunday? Is it out of a sacred regard for the solemn duties to which that day should be devoted? If that be the object, I do not agree in the supposed suggestion. Sir, I know no more proper and justifiable object to which Sunday can be applied than the discharge of the business which concerns the welfare and the happiness of twenty-five millions of people, when it is necessary so to apply it. I recognize nothing in Sunday which makes it unlawful to treat it as an institution made for man, intended for the benefit of man, to be used for the benefit of man, primarily to be used, ordinarily to be used, undoubtedly, in the discharge of the religious duties that belong to man; but not because those religious duties are of such a description that it is unlawful to apply it to any other purpose. I know and recognize no theology which teaches such a proposition; and though I should consider it highly unbecoming for Congress wantonly, or unnecessarily, to devote Sunday to legislative business, I say that if, when twelve o'clock arrives on Saturday night, the legislative business of the session is not concluded, it is a high Christian duty of Congress to prosecute that business until it is finished. If, indeed, we had the power to meet again on the Monday thereafter, it would be our duty to adjourn to Monday; but, not having the constitutional power to do so, I say, Mr. President, according to the notions of religious duty which I have been taught, it is a high solemn religious duty to prosecute the session for the few hours that may be necessary to bring to a close those measures which we have initiated, and in the successful prosecution of which the country has a deep interest.

Mr. President, I should not have made these remarks if an opportunity had been afforded us to think upon this subject. This matter is suddenly brought up; it is to be hurried through without precedent, without example, and must, in the result, be either useless, as the honorable Senator from Texas has suggested, by having it rescinded if the public business requires it, or must be mischievous, if persevered in, by compelling us to close the session before we have concluded the business for which the session was opened, and be thereby guilty of the solecism of making the means more important than the end. For these reasons I hope the resolution will not be adopted.

Mr. TOUCEY. Mr. President, I had no idea that it was possible to throw such a flood of light upon this intricate subject. I am convinced by my very distinguished friend from North Carolina, experimentally, if not logically, that I was in a very great error. My apology for it is, that I was extremely anxious to bring up this morning, for the consideration of the Senate, a bill, in my judgment, of the very highest importance—a bill providing for the effectual execution of the laws of the United States, by extending the judicial protection of this Government to its officers. That is my apology, and I will not again venture to hope that a subject may pass without being debated, especially if it be a very intricate one.

Mr. BADGER. I wish to say that the explanation of my friend from Connecticut is entirely satisfactory, and I accept his apology. [Laughter.]

Mr. SEWARD. Mr. President, I shall vote for this resolution, and I wish to state why in a very few words. The experience that I have had here has satisfied me that no session of Congress can be brought to an end and its responsibilities fully discharged, unless Congress shall sit, or the Senate shall sit here one or two nights towards the close of the session; and that if no such resolution as this be passed, we shall then sit the whole of Saturday night, and until Sunday; but if a limitation be fixed, as is proposed in this resolution, all the inconvenience will be that we shall sit on Friday night instead of on Saturday night, and I think it is much wiser and much better to sit on Friday night, and adjourn at twelve o'clock on Saturday night, and thus conform our interpretation of the duration of the legislative day to the judicial and customary interpretation of the country, and not offend the public morals by setting a different construction here from that which is maintained by society at large.

The question being taken by yeas and nays on the adoption of the resolution, resulted—yeas 28; nays 13; as follows:

YEAS—Messrs. Adams, Bayard, Brainerd, Bright, Brown, Butler, Chase, Clay, Cooper, Dawson, Dodge of Wisconsin, Evans, Fessenden, Fitzpatrick, Geyer, Gillette, Hamlin, James, Jones of Iowa, Jones of Tennessee, Pearce, Seward, Shields, Sumner, Thompson of Kentucky, Toucey, Wade, and Wilson—28.

NAYS—Messrs. Badger, Bell, Benjamin, Brodhead, Gwin, Mallory, Morton, Pratt, Rusk, Sebastian, Stuart, Thomson of New Jersey, and Walker—13.

So the resolution was agreed to.

SAFE-KEEPING OF PRISONERS.

On motion by Mr. STUART, the Senate proceeded to the consideration of the following resolution, yesterday submitted by him, and it was agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the necessity of providing for the erection at Detroit, in the State of Michigan, of suitable buildings for the safe-keeping of such persons as may be subject to confinement under the laws of the United States.

TEXAS DEBT BILL.

Mr. RUSK. An error has occurred in the Journal, and in the report of the committee of conference on Senate bill to provide for the payment of the claims of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9, 1850, by which "six" was substituted for "five." I ask the unanimous consent of the Senate that the error may be corrected.

Mr. HUNTER. The Journal is right, I understand; but the report of the committee of conference made that error. It is not, however, a material error, because the vital part—that is, the amount which has been appropriated—is right. We cannot, however, by unanimous consent, correct the error in the report of the committee of conference. The House should first do that.

Mr. RUSK. It has already been corrected in the House.

Mr. HUNTER. That makes a difference.

There being no objection the correction was ordered to be made.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. FORNEY, their Clerk, announced that they had agreed to the following resolution:

Resolved, That the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the Senate entitled "An act to provide for the payment of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9, 1850," heretofore agreed to by the two Houses, be amended by striking out the words "six hundred and fifty," in the third line of the second page of said report, and inserting in lieu thereof the words "five hundred and fifty."

COURT OF CLAIMS.

The message also informed the Senate that the House had passed the bill of the Senate to establish a court for the investigation of claims against the United States.

GENERAL JACKSON'S SWORD.

Mr. JONES, of Tennessee. Mr. President, by the death of General Andrew Jackson, General Robert Armstrong became the possessor of the sword which was worn by that distinguished man in his southern campaigns during the war of 1812. The late General Robert Armstrong, as you are aware, sir, is dead, and his heirs are anxious to preserve and perpetuate so appropriate a memento of the distinguished services of that illustrious man. With that view, they are desirous to present it to the Congress of the United States, that it may become the property of the Republic, in whose cause it was drawn. I rise, therefore, to inform the Senate, that the venerable Senator from Michigan [Mr. CASS] and my respected colleague [Mr. BELL] will ask permission to present it to the Congress of the United States at twelve o'clock on Monday next.

ENROLLED BILLS SIGNED.

The following enrolled bills and joint resolutions were severally signed by the President *pro tempore*, having previously received the signature of the Speaker of the House of Representatives:

A joint resolution in favor of William Monagan;

House bill to provide for holding the United States courts in the northern and southern districts of Florida, in case of the sickness or disability of either of the judges of those districts;

A bill increasing the pension of Anthony W. Bayard, of Bellefonte, in the State of Pennsylvania;

A bill to establish a court for the investigation of claims against the United States;

A bill concerning the apprehension and delivery of deserters from foreign vessels in the ports of the United States;

A bill to provide for the payment of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9, 1850; and

A joint resolution for the relief of Rebecca Hinton.

PROTECTION OF OFFICERS OF THE UNITED STATES.

Mr. TOUCEY. I move that the Senate proceed to the consideration of the bill reported by myself from the Committee on the Judiciary to protect officers and other persons acting under the authority of the United States.

Mr. BELL. I ask the honorable Senator from Connecticut to allow me to present two resolutions of inquiry, that they may go to the committees. I have been waiting for some time to present them.

Mr. TOUCEY. I trust the Senator from Tennessee will indulge me in taking up this bill.

Mr. WALKER. It will be recollected that but for the adoption of the order which was agreed to yesterday, this would be private bill day. When the order was made, dispensing with private business for to-day, the Senate were assured that it was not the design to cut off action on private bills, but it was even argued that it would give greater facility to taking up private business. Now, the morning hour has expired, and I desire that the Senate shall appropriate some portion of this day to the consideration of the few private bills yet upon the Calendar. Some of them are cases on which I have reflected, and into which I have looked, and ascertained, I think, their merits; and I desire that they may be acted upon.

I hope the Senate will not adopt the motion of the Senator from Connecticut, and will not take up the bill which he has moved to take up, which, we must see, or which most of us think we see, will occupy this day, to say the least, in its discussion. I have a motion to make to take up a private bill, and a second, and a third private bill, and that, I think, will see the end of my senatorial duties in this Chamber. I had hoped that a portion of this day would be devoted to private business, after the assurances we had yesterday when the order was made.

The PRESIDENT. The question is on the motion of the Senator from Connecticut.

Mr. PETTIT. On that I call for the yeas and nays.

The yeas and nays were ordered.

Mr. CHASE. I simply wish to say—I have not voice enough to say more than two or three words—that this bill must inevitably lead to debate. It presents questions of very great importance, and, in my judgment, is so framed that the Senate cannot finally pass it in its present shape. I think, at any rate, there is no possibility of the bill being passed by the House at this session, so that it will be a waste of time for the Senate to consider it now.

The question being taken by yeas and nays, resulted—yeas 23, nays 15; as follows:

YEAS—Messrs. Badger, Bayard, Bell, Benjamin, Bright, Dawson, Evans, Fitzpatrick, Geyer, Gwin, Hunter, Johnson, Jones of Tennessee, Mallory, Morton, Pearce, Pratt, Rusk, Sebastian, Stuart, Thompson of Kentucky, Toucey, and Wells—23.

NAYS—Messrs. Adams, Brainerd, Chase, Cooper, Fessenden, Gillette, James, Pettit, Seward, Shields, Sumner, Wade, Walker, Wilson, and Wright—15.

So the motion was agreed to; and the bill to protect officers and other persons acting under the authority of the United States, was read a second

time, and considered as in Committee of the Whole.

It was debated nearly twelve hours, and passed at midnight.

[See the Appendix for the debate and other proceedings on the bill.]

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 23, 1855.

The House met at eleven o'clock, a. m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

Mr. INGERSOLL obtained the floor.

CORRECTION—TEXAS BILL.

Mr. JONES, of Tennessee. I rise to what I consider a question of privilege. I do not see the gentleman from Kentucky [Mr. BRECKINRIDGE] in his seat, and, therefore, I desire to call the attention of the House to the fact that the enrolling committee, on examining the Texas bill yesterday, found that a mistake had been made by the committee of conference in relation to the amendment proposed by them.

The amendment of the House was to strike out $8,500,000, and to insert $6,550,000. The committee of conference, however, proposed to insert $7,550,000. But in stating their report, by a clerical error, the sum fixed upon by the House was stated as $6,650,000. The mistake does not alter the effect of the bill at all, because the amount which the committee of conference proposed to put in is stated correctly in the bill. The error is in stating the amount which the House put in, in making out the report. I ask that the Journal and the report of the committee of conference may be corrected.

The SPEAKER. The correction will be made if no one objects.

Mr. CLINGMAN. If it makes no difference in the effect of the bill; I think the explanation of the gentleman from Tennessee will remove any difficulty. I do not see any necessity for correction.

Mr. JONES. And it can do no possible harm to have the Journal and report corrected.

Mr. CLINGMAN. I will withdraw my objection.

The correction was then ordered to be made.

FREE NAVIGATION OF THE AMAZON.

Mr. INGERSOLL. I ask the unanimous consent of the House to make a report from the Committee on Foreign Affairs. It involves no appropriation. The committee merely ask that their report may be laid upon the table and printed, and the committee discharged from the further consideration of the subject.

Mr. LETCHER. Does it require any action on the part of the House? What is it?

Mr. INGERSOLL. It is a report upon the memorial of the Memphis convention and of Lieutenant Maury, upon the subject of the free navigation of the Amazon river. The committee recommend no action whatever, but simply that their report may be laid on the table and ordered to be printed, and that they be discharged from the further consideration of the subject.

There being no objection, the report was received, and ordered to be printed.

Mr. JONES, of Pennsylvania. Am I entitled to the floor?

The SPEAKER. The gentleman is entitled to the floor. Does he wish to withdraw his motion to suspend the rules as he indicated yesterday when the House adjourned?

Mr. JONES. No, sir.

REPORTS OF COMMITTEES.

The SPEAKER. It would be a great relief to gentlemen upon the floor, and certainly a much greater relief to the Chair, if half an hour could be appropriated this morning to receiving reports to be referred only, with the understanding that no motion to reconsider shall be made. The Chair makes the suggestion for his own relief, and hopes the House will adopt it.

There being no objection, the proposition was assented to.

MINNESOTA RAILROAD.

Mr. CUTTING. I rise to what I conceive to be a matter of privilege, and I hope the House will so consider it. It will be recollected that some time since the Committee on the Judiciary reported in favor of disapproving certain acts of the Territorial Government of Minnesota. Amongst other reasons upon which the House based its action upon that report, was the statement that Governor Gorman and the Secretary of the Territory were included in the grantees under the bill which was disapproved. I have this morning received a letter from Governor Gorman, in which he begs that I will bring the subject to the attention of the House as a matter of justice to him. The letter is written in a manly, straight-forward, and simple manner, which, I think, is well calculated to relieve him from any of the odium connected with that legislation. And, as an act of justice to Governor Gorman, I ask that the letter may be read, omitting certain passages.

Mr. WENTWORTH, of Illinois. I see no occasion for the reading of the letter, everybody knows that Govenor Gorman was in favor of the other route.

Mr. HAMILTON. Does the gentleman from New York propose any action upon the part of the House?

Mr. CUTTING. No action at all. I simply desire that the letter may be read.

Mr. WENTWORTH. Everybody knows what the opinion of Governor Gorman was. I object.

Mr. CUTTING. I am upon the floor then, and will read it myself.

Mr. WENTWORTH. If it contains any imputations on the men interested in the other road, I object to its being read.

Mr. CUTTING. It does not.

The SPEAKER. Is there any objection to the reading of the letter?

Mr. WENTWORTH. If it contains any personal imputation upon Governor Ramsay, I object.

Mr. CUTTING. Not one word. I shall omit one passage.

Mr. WENTWORTH. I object, if any part of the letter is to be suppressed.

Mr. CUTTING. Well, I give notice that I shall publish it as a part of my speech.

The following is the letter referred to by Mr. Cutting:

EXECUTIVE DEPARTMENT, MINNESOTA TERRITORY, ST. PAUL, *February* 12, 1855.

SIR: My attention has been called to a brief speech made by you on the report of the Committee on the Judiciary, to whom was referred a resolution of the House relative to the disapproval by Congress of certain acts passed by the Legislative Assembly and the Governor of the Territory of Minnesota, in which you take occasion to say: "Again, Mr. Speaker, there is another ground," &c. * * * "When the Committee of the Judiciary came to look at the names of the persons mentioned in the territorial act proposed to be repealed, who were to receive, &c., the committee found that one of the immediate grantees of the Government was the Governor of that Territory who signed the bill," &c. Again: "When, therefore, we find a territorial act passed for the benefit of Governors, &c., concerned officially in the passage of this act," &c.

The error into which you and your committee seem to have fallen, is a natural one I confess; but, sir, my name and that of Secretary Rossers were put into that charter as incorporators, without our knowledge or consent. On the contrary, Secretary Rossers and myself, and our friends, opposed the charter of the Minnesota and North-Western Railroad Company from the day it was introduced, until it passed into a law, and have opposed it ever since. It was myself and Mr. Sibley that drew up the bill (while in Washington) that passed Congress, expressly excluding from any participation in the benefits of said grant, the Minnesota and North-Western Railroad Company, and all other companies. It is known that I approved the charter as Governor, under a written protest. By reference to my last message, you will see that I recommend, especially, to our present Legislature, to memorialize Congress to *disapprove* the charter to said company.

The political parties in Minnesota are divided upon this railroad question. The Democratic or "Gorman's party," as it is at times called, heading the opposition to said railroad company and its charter. And but day before yesterday, sir, I vetoed a bill of the present Legislature, reënacting and amending the said charter, which you have just disapproved.

I inclose you a copy of that veto message.

So far, then, from my desiring acts of the Legislature for my benefit, my course has been the precise reverse in regard to these railroads; and all the enemies I have in Minnesota are the champions of that railroad fraud!

As to the "Transit Railroad Company," it has no existence except upon paper, and does not amount to anything, for good or evil, whether approved or disapproved. I will transmit you by mail a copy of my annual message.

I then approve the action of your committee. I approve the action of Congress; but I deeply regret that myself and secretary have been so misunderstood by yourself and your committee.

I have had the honor to serve in Congress with General BAYLY, Mr. LETCHER, Mr. FULLER, Mr. DUNHAM, Mr. STANTON, and Speaker BOYD, and numerous other members of your present body, and I am only amazed that some of those gentlemen have not taken occasion to inform you of my position.

I have the honor to be, with high regard, your very obedient servant, W. A. GORMAN.

Hon. FRANCIS B. CUTTING, *House of Representatives, Washington.*

REPORTS OF COMMITTEES.

The SPEAKER then proceeded to carry out the general agreement of the House by calling the committees for reports.

WILLIAM CARR LANE.

Mr. DICKINSON. I am instructed by the Committee of Elections to offer the following resolution:

Resolved, That the Clerk of the House of Representatives pay to William Carr Lane the usual mileage and per diem from the commencement of the last session until the day upon which the contest between himself and the Hon. JOSE MANUEL GALLEGOS for a seat in this House, as Delegate from the Territory of New Mexico, was finally decided.

Mr. JONES, of Tennessee. That will have to go to a Committee of the Whole House, under the general understanding.

The SPEAKER. Under the general understanding it will have to be so referred.

Mr. DICKINSON. I would like to inquire how broad the order was?

The SPEAKER. The order was very positive—one made by the unanimous consent of the House—that half an hour should be devoted to the reception of reports for reference only, that should give rise to no debate, with the understanding that no bill should be put upon its passage, or its reference reconsidered.

Mr. DICKINSON. Well, I had misunderstood the order, and will withdraw the report.

Mr. WITTE. I desire to inquire whether during the half hour any other motion would be in order?

The SPEAKER. None other.

Mr. DICKINSON. I desire to inquire whether there is to be any time when a member can offer a resolution or make a motion?

The SPEAKER. It is impossible for the Chair to point out a time when it will be in order, under the rules, to offer a resolution.

Mr. DICKINSON. I have been trying to offer it for a number of days, but never could get the floor.

Mr. HOUSTON. I am instructed by the Committee of Ways and Means to report a bill. I desire to put it upon its passage. It will not take five minutes.

[Cries of "Object!"]

The SPEAKER. The Chair holds it to be out of order.

Mr. HOUSTON. Very well, then I will let it go to the Committee of the Whole on the state of the Union. If gentlemen would hear the title read, I am sure no one would object to the passage of the bill.

Mr. HAVEN. The bill is a very important one. I hope the gentleman will not report it now.

Mr. HOUSTON. Very well, I will not report it.

Mr. READY, from the Committee of Claims, reported back Senate bill No. 590 for the relief of Franklin Chase, with a recommendation that it do pass.

The bill was referred to a Committee of the Whole House, and, with the accompanying report, was ordered to be printed.

Mr. GIDDINGS, from the Committee of Claims, reported back Senate bill (No. 484) for the relief of Gad Humphreys, with an adverse recommendation, accompanied by a detailed report:

Ordered, That the report be printed, and, together with the bill, be referred to a Committee of the Whole House.

Mr. FENTON, from the Committee on Commerce, reported a bill to require the employment of apprentices in the commercial marine of the United States; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. FENTON. I am requested to ask the consent of the House to have twice the usual number of copies of that bill and report printed for circulation.

The SPEAKER. The motion is not in order under the general understanding.

Mr. WENTWORTH, of Massachusetts, from the Committee on Commerce, reported a bill for the relief of Henry Little and Jacob Felch; which was read a first and second time by its title, referred to a Committee of the Whole House, and ordered to be printed.

Mr. HARLAN, of Ohio, from the Committee on Commerce, reported a bill further to amend an act entitled "An act to provide for the better security of the lives of passengers on board vessels propelled in whole or in part by steam, and for other purposes; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. H., from the same committee, reported back Senate resolution (No. 3) for the relief of the owners of the brig Kate Boyd, with a recommendation that it do pass.

The resolution was referred to a Committee of the Whole House, and ordered to be printed.

Mr. HIESTER, from the Committee on Public Lands, reported back Senate bill for the relief of Mrs. Felch, widow of the Rev. Cheever Felch, with a recommendation that it do pass.

The bill was referred to a Committee of the Whole House, and ordered to be printed.

Mr. HIESTER also, from the same committee, made an adverse report on the petition of Sarah Viney, sister and administratrix of John Viney; and the report was ordered to lie on the table, and be printed.

Mr. DISNEY, from the Committee on Public Lands, reported back Senate bill (No. 272) for the relief of Mark Bean and Richard H. Bean of Arkansas, with an amendment, and moved that said bill be referred to a Committee of the Whole House, and printed.

The motion was agreed to.

Mr. DISNEY. I am instructed by the same committee to report back Senate bill (No. 297) to continue in force for a limited period the act to ascertain and settle private land claims in the State of California. An act for that purpose has already passed, and I therefore move to lay the bill upon the table.

The motion was agreed to.

Mr. BENNETT, from the Committee on Public Lands, reported a bill granting public lands for railroad purposes, in the manner and on the conditions therein mentioned, which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. STEVENS, of Michigan, from the same committee, reported a bill to authorize the full satisfaction of certain claims to revolutionary bounty lands, allowed by the State of Virginia; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. HENN, from the same committee, reported back, with a recommendation that it do not pass, Senate bill (No. 45) for the relief of the purchasers and locators of swamp and overflowed lands. This is a matter which has been disposed of by the passage of another bill.

It was laid on the table.

On motion by Mr. HENN, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of the following memorials and petitions asking for grants of land for railroad purposes:

Petition of citizens of Iowa, residing along the line of the Iowa Central air line railroad;

Memorial asking grant of lands for Fort Madison, Kosaqua, and Bloomfield railroad, Iowa;

Petition of J. Culbertson and sixty-one others, citizens of Cedar county, Iowa, asking a grant of land to the Lyons Central Railroad Company, to aid in the construction of a railroad from Lyons to Council Bluffs;

Petition of two hundred and twenty six citizens of Monroe county, Iowa, asking for a grant of land, to aid in the construction of a railroad from Burlington to the Missouri river;

Petition of five hundred and sixty-six citizens of the city of Keokuk, Iowa, asking that the Iowa land bill, as it passed the Senate, may be adopted by the House of Representatives, in the present session of Congress; and

Petitions for grants of land to aid in the construction of Fort Wayne and Platte Valley air line railroad.

Mr. HENN. Is it a part of the order of the House this morning to introduce bills?

The SPEAKER. Yes; for reference only.

Mr. HENN. Well, I wish to introduce a bill to provide for telegraphic and express mail communication between the Mississippi river and the Pacific ocean, with a view of having it referred to the Committee on the Post Office and Post Roads. I would state that this bill contains the plan of Henry O'Reilley, the principal telegraphic constructor in the United States, who has already constructed over four thousand miles of telegraphic line; and there are now in successful operation several lines constructed under his direction from the Atlantic to the Mississippi river, embracing the first section of a line from the Atlantic to the Pacific, projected by him many years since. This bill proposes a plan by which the second section from the Mississippi to the Pacific may be constructed. I would add, that a large number of States and Territories have, through their Governors and Legislatures, indorsed this plan for a telegraph and express mail; and my own State Legislature has memorialized Congress in its favor, which memorial I had the honor to present to the House on Wednesday last.

I ask that the bill may be referred to the Committee of the Whole on the state of the Union, and be printed.

The bill was read a first and second time by its title, as follows; referred to the Committee of the Whole on the state of the Union, and ordered to be printed:

A bill to provide for telegraphic and express mail communication between the Mississippi river and the Pacific ocean.

Mr. DUNBAR, from the Committee on Commerce, reported back, with a recommendation that it do pass, Senate bill (No. 436) for the improvement of the navigation of the Patapsco river and to render the port of Baltimore accessible to the war steamers of the United States; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. DUNBAR, from the same committee, reported a bill to complete the improvement of the harbor of Chicago, in the State of Illinois; which was read a first and second time by its title, committed to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. COBB. I have about half a bushel of reports to make from the Committee on Public Lands, but they are not sorted at present. If the House will allow me to report them hereafter I will get them ready.

[Cries of "No!" "Report them now!"]

Mr. COBB. I cannot report them now. Some other day I will.

Mr. WARREN. Are reports in order from the Committee on Public Lands generally, or is it under agreement only that the House started with receiving reports?

The SPEAKER. It is under agreement.

Mr. WARREN. Then I cannot report a bill without having it referred.

The SPEAKER. No; that is the order.

Mr. WARREN. I have a bill which I wish to report, but not to have referred.

Mr. JONES, of New York, from the Committee on the Post Office and Post Roads, reported a bill for the relief of Daniel Searl & Co., for extra services rendered the Post Office Department of the United States; which was read a first and second time by its title, referred to a Committee of the Whole House, and ordered to be printed.

Mr. JONES also, from the same committee, reported back, without amendment, and with a recommendation that it do pass, Senate resolution for the settlement of the claim of the late firm of C. M. Strader & Co., mail contractors; which was referred to a Committee of the Whole House, and ordered to be printed.

Mr. JONES also, from the same committee, reported back, with a recommendation that it do not pass, Senate bill for the relief of Robert Jemison and the legal representative of Benjamin Williamson; which was ordered to lie on the table.

Mr. McDOUGALL, from the same committee, reported a bill for the relief of Uriah P. Monroe; which was read a first and second time by its title, referred to the Committee of the Whole House, and ordered to be printed.

Mr. DAVIS, of Indiana. I was not in the House, Mr. Speaker, when the order for receiving reports was made by the House. I wish to inquire if it is in order to introduce a bill for the purpose of having it put upon its passage?

The SPEAKER. That is not in order.

On motion by Mr. DAVIS, of Indiana, from the Committee on the District of Columbia, it was

Ordered, That the Committee for the District of Columbia be discharged from the further consideration of the following bill and petitions:

Bill to provide for the purchase of so much of the Columbia turnpike as is within the limits of the District of Columbia.

Petition of Joseph H. Bradley, and others, of the District of Columbia, asking the incorporation of a saving institution.

Mr. WRIGHT, of Pennsylvania, from the Committee on the Judiciary, reported back, with a recommendation that it do pass, Senate bill for the relief of Magdalena Van Ness, widow of Cornelius P. Van Ness, deceased; which was referred to a Committee of the Whole House, and ordered to be printed.

Mr. CROCKER, from the Committee on Revolutionary Claims, reported a bill for the relief of the legal representatives of David Noble, deceased; which was read a first and second time by its title, referred to a Committee of the Whole House, and ordered to be printed.

Mr. DRUM, from the same committee, reported a bill for the relief of William Craige; which was read a first and second time by its title, referred to to a Committee of the Whole House, and ordered be printed.

Mr. SHOWER, from the same committee, reported back, with a recommendation that it do pass, Senate bill for the relief of the heirs and legal representatives of Gerard Wood, deceased; which was referred to a Committee of the Whole House, and ordered to be printed.

Mr. PECKHAM, from the same committee, reported back, with a recommendation that it do pass, Senate bill for the relief of the heirs of Captain Joshua Chamberlain, deceased, which was referred to a Committee of the Whole House, and ordered to be printed.

Mr. NICHOLS, from the Committee on Private Land Claims, reported the following bills; which were severally read a first and second time by their titles, referred to a Committee of the Whole House, and ordered to be printed:

A bill for the relief of James M. Lindsley;

A bill for the relief of William Demprey; and

A bill for the relief of the heirs of Jacob Moyer.

On motion by Mr. NICHOLS, it was

Ordered, That the Committee on Private Land Claims be discharged from the further consideration of the following petitions:

Petition of Catharine Struburg;

Petition of Louis Lebaume's heirs; and

Petition of W. A. and H. Jacobs.

The SPEAKER. Are the adverse reports in these cases printed?

Mr. NICHOLS. No, they are written reports. I move that they be laid on the table and ordered to be printed.

It was so ordered.

Mr. JONES, of Louisiana. The Committee on Private Land Claims have instructed me to make an adverse report on the petition of James S. Hickman; and I move that the report be ordered to lie on the table and be printed.

It was so ordered.

On motion by Mr. JONES, of Louisiana, it was

Ordered, That the Committee on Private Land Claims be discharged from the further consideration of the petitions of David L. Maynard and nineteen others, referred to it; and that the report be ordered to lie on the table and be printed.

On motion by Mr. JONES, of Louisiana, the same committee was discharged from the further consideration of the bill to provide for the claims of officers and soldiers of the Virginia State and Continental line of the revolutionary army; and it was referred to the Committee on Revolutionary Pensions.

Mr. DUNBAR, from the Committee on Commerce, reported back Senate bill to remove obstructions to navigation in the mouth of the Mississippi, at the Southwest Pass, and the Pass à l'Outre; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. BENTON asked and obtained leave to introduce a bill to impose stamp duty on bank notes and paper currency of small denominations; which

was read the first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. PRINGLE, from the Committee on Indian Affairs, reported a bill for the relief of the heirs of Mary Jemison, deceased; which was read the first and second time by its title, referred to a Committee of the Whole House, and ordered to be printed.

On motion by Mr. BALL, the same committee was discharged from the further consideration of the memorial of Elestra R. Sprague and others, asking pay for removing the Choctaw Indians, and it was laid on the table.

On motion by Mr. ORR, the same committee was discharged from the further consideration of the memorial of Kew-ai-zie-O-Shawa-Naw, chief of the Sault de Ste. Marie band of Indians; and it was ordered to lie on the table.

Mr. ORR, from the same committee, made an adverse report in the case of Felix Argentiys, praying relief for supplies furnished to Indians in the State of California.

Mr. LATHAM. The report now presented by the chairman of the committee was not made unanimously by the committee, and I would have preferred a dissenting report were it not for the fact that at this late period of the session it was absolutely impossible to take any action upon it. I trust that the chairman of the Committee on Indian Affairs will let the bill go to the Committee of the Whole on the state of the Union, instead of laying it upon the table.

Mr. ORR. There is no bill in the case, but the committee simply make an adverse report.

The report was then laid on the table, and ordered to be printed.

On motion by Mr. MAXWELL, the Committee on Indian Affairs was discharged from the further consideration of the petition of John Fox and eight other Tuscarora Indians, praying compensation for services rendered the United States in the war of 1812; and it was ordered to lie on the table.

Mr. HAVEN. There is Senate bill No. 498 upon the Speaker's table, which is of the same character of bills that have been already reported back from the Committee on Commerce. It is the bill in reference to the improvement of the St. Clair flats, and I ask that it be read and referred to the Committee of the Whole on the state of the Union.

The bill was then read the first and second time by its title, as follows, referred to the Committee of the Whole on the state of the Union, and ordered to be printed:

An act making appropriations for deepening the channel over the St. Clair flats and for deepening the channel over the flats of the St. Mary's river, in the State of Michigan.

Mr. SEWARD, from the Committee on Commerce, reported back, without amendment, Senate bill appropriating money to remove obstructions in the Savannah river below the city of Savannah, in the State of Georgia; which was referred to the Committee of the Whole on the state of the Union.

Mr. ASHE, from the Committee on Naval Affairs, reported bills for the relief of Joseph White and Andrew Armstrong; which were read the first and second time by their titles, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

On motion by Mr. ASHE, the same committee was discharged from the further consideration of the petition of Mrs. Ann W. Angus, widow of the late Captain S. Angus, of the United States Navy; and it was referred to the Committee on Invalid Pensions.

On motion by Mr. FLORENCE, the Committee on Naval Affairs were discharged from the further consideration of the petitions of Mrs. Mary Putman, widow of Henry Putman, who was killed by the falling of a derrick at the United States navy-yard; of Thomas Cahill, brother of Patrick Cahill, who was killed at the same place and by the same accident; of Mrs. Isabella Duffy, widow of Charles Duffy, who was also killed at the same time and place; all praying that Congress should pass a law for their relief; and they were severally referred to the Committee on the Judiciary.

Mr. BOCOCK, from the Committee on Naval Affairs, reported a bill for the relief of Harrison Hough; which was read a first and second time by its title, referred to a Committee of the Whole House, and ordered to be printed.

Mr. BOCOCK, from the Committee of Claims, reported back Senate bill for the relief of Thomas Ap Catesby Jones; which was referred to a Committee of the Whole House, made the order of the day for to-morrow, and bill and the report ordered to be printed.

Mr. SMITH, of Virginia. In reference to that bill, I desire it to have such a position as will enable me to have it put upon its passage.

The SPEAKER. That is not in order, under the order of the House this morning.

Mr. SMITH. My object was not to move to put it upon its passage now. I did not want it to go to a Committee of the Whole House, but to have it laid upon the table, in order that I might, at a proper time, move to take it up.

Mr. FLORENCE, from the Committee on Naval Affairs, reported back Senate bill for the relief of Otway H. Berryman; which was referred to a Committee of the Whole House, made the order of the day for to-morrow, and the bill and report ordered to be printed.

Mr. MACDONALD, from the same committee, reported back, with a recommendation that it do not pass, Senate bill for the relief of Robert Joyner; which was laid on the table.

Mr. PERKINS, of Louisiana. I have been instructed by the Committee on Foreign Affairs to report back the resolution of this House which was referred to them under the belief that it would have been reported back at an earlier day. I have not been able to get the floor to do so until the present moment. It is simply a resolution of inquiry as to the Ostend Conference of American Ministers.

Mr. JONES, of Tennessee. I am willing that a vote should be taken upon the resolution, but if any debate arises upon it, I shall object.

There being no objection, the resolution was reported, as follows:

Resolved, That the President of the United States inform this House, if not incompatible with the public interest, what was the object or objects of the meeting or conference of the American Ministers at Ostend; whether said meeting or conference was in obedience to instructions from the Secretary of State; what said instructions were, and what was the result of said meeting or conference.

Mr. PERKINS. I move the previous question upon the adoption of the resolution.

Mr. CHASTAIN. I would inquire of the Chair whether the half hour, devoted to receiving reports, under the understanding of the House this morning, has not expired?

The SPEAKER. It has expired; but the Chair would say there are but a very few more committees to call, and the Chair would be glad, on very many accounts, to continue the call through the committees.

Mr. CHAMBERLAIN. Before the question is put upon the resolution, I desire to ask the Chair if a motion to lay on the table would be in order?

The SPEAKER. It would.

Mr. CHAMBERLAIN. Then I make that motion.

The question was put; and the motion was not agreed to.

Mr. CHAMBERLAIN. I ask for tellers upon the adoption of the resolution.

Mr. JONES, of Tennessee. Is it too late to object to the consideration of that resolution?

The SPEAKER. The Chair thinks it is. The resolution came in by unanimous consent.

Tellers were not ordered.

The question was then taken; and the resolution was adopted.

On motion by Mr. TAYLOR, of New York, it was

Ordered, That the Committee on Foreign Affairs be discharged from the further consideration of the petition and papers of Thomas M. Mather and William R. Glover, asking for relief against the Mexican Government, and that they be laid on the table, and the report printed.

On motion by Mr. FARLEY, it was

Ordered, That the Committee on Territories be discharged from the further consideration of the following memorials of the Legislative Assembly of the Territory of Minnesota, and that they be laid on the table:

A memorial praying Congress to establish a road from St. Paul, by way of Little Canada, to Rum river; and

A memorial asking Congress to make an appropriation to construct a military road from Winona to Fort Ridgley.

Also, a memorial of the inhabitants of Browneville, in said Territory, for a territorial road opposite to that place.

On motion by Mr. MIDDLESWARTH, it was

Ordered, That the Committee on Revolutionary Claims be discharged from the further consideration of the petition and papers of Sally Shed, widow of Daniel Shed, for arrears of pension; and from the memorial of the legal representatives of Major E. Waller, asking allowance of pension for three years' services in the revolutionary war, and that the same be laid on the table.

Mr. MIDDLESWARTH. I am instructed by the Committee on Revolutionary Pensions to offer the following resolution:

Whereas, some few years since the House of Representatives directed the Commissioner of Pensions to furnish a tabular list of all soldiers who served in the revolutionary and other wars, their rank, time and date of service, &c., &c., and the Commissioner, in compliance with the order, furnished the document, which was never printed, but by direction of the House was sealed, and placed in charge of the Clerk, not to be opened except by order of the House; while said document was in progress of preparation two or three persons obtained copies in some manner, and they have, and are now, using the information thus obtained for their own advantage, and to the detriment of the revolutionary soldiers: Therefore,

Resolved, That the tabular list of the soldiers who served in the revolutionary and other wars, &c., prepared by the Commissioner of Pensions, and now in charge of the Clerk of the House of Representatives, be printed for the use of the members thereof.

Mr. JONES, of Tennessee. I object to the printing of any such list.

The SPEAKER. As it is objected to, the resolution cannot be received.

Mr. WASHBURN, of Maine. The gentleman will remember that there are copies.

Mr. JONES. Yes, sir; and they are in the hands of gentlemen who send all over the country and get up pensions on them.

Mr. WASHBURN. I would inquire if it is in order now to move to suspend the rule in order to receive the resolution?

The SPEAKER. It is not.

Mr. FLAGLER, from the Committee on Revolutionary Pensions, made adverse reports in the following cases; which were laid upon the table:

Petition of Ebenezer Benjamin, a revolutionary soldier;

Petition of Richard Pattison, of Maryland;

Petition of Jane Gaston;

Petition of Mary Bensell; and

Petition of Amos Jones, a revolutionary soldier.

Mr. MILLER, from the Committee on Revolutionary Pensions, reported adversely on the following cases; which were laid on the table:

Petition in the case of Mary Miller, one of the heirs of Elnathan Sears, of the county of Sullivan, New York, for an additional pension; and of the heirs of John and Ann Winslow; and of David Bayles.

Mr. ROWE, from the Committee on Revolutionary Pensions, reported adversely on the following cases; which were laid upon the table:

Memorial of Joseph Kirk, praying for the passage of an act granting to him moneys due his father for revolutionary services;

Petition of George W. Sampson and Maria S. Johnson, for pension and bounty lands;

Petition of Sally Ketchum, asking to be placed upon the pension roll; and

Petition of Susan Scott, widow of William Scott, praying for a pension in consideration of the services of her husband during the revolutionary war.

Mr. EDMUNDSON, from the Committee on Revolutionary Pensions, reported adversely upon the following case; which was laid upon the table:

Petition of Smith Crane, a revolutionary soldier, of Montville, Maine, for a pension.

Mr. EDMANDS, from the Committee on Revolutionary Pensions, reported adversely in the following cases; which were laid upon the table:

Application of Lathrop Foster, for increase of pension;

Petition of Elisha Besse for pension or pecuniary compensation for wounds received in the Mexican war;

Petition and papers of Hezekiah Windgate for invalid pension; and

Petition and papers of Thomas Priddy, of Huntington county, in the State of Indiana, for pension on account of sickness, disease and injuries incurred in the line of his duty as a soldier of the war of 1812.

Petition of Thomas W. McMahon, for invalid pension.

Mr. EDMUNDS, from the same committee,

reported the following bills; which were read a first and second time by their titles, referred to a Committee of the Whole House, made the order for to-morrow, and, with the accompanying reports, ordered to be printed:

A bill for the relief of Jesse French, of Braintree, Massachusetts;

A bill to enable P. M. Kent, late pension agent in New Albany, Indiana, to adjudicate and settle his accounts; and

A bill for the relief of Mary P. B. Levely.

Mr. HENDRICKS, from the Committee on Invalid Pensions, reported bills, which were read a first and second time by their titles, as follows, referred to a Committee of the Whole House, made the order of the day for to-morrow, and, with the accompanying reports, ordered to be printed:

A bill granting a pension to Dolly Empson;

A bill for the relief of Robert H. Stevens;

A bill for the relief of Charles H. Pointer; and

A bill for the relief of Daniel Nickel.

Also, from the same committee, reported a bill to amend and extend certain acts granting pensions; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Also, from the same committee, reported back Senate bill (No. 603) for the relief of Mrs. Nancy Weatherford, widow of Colonel Wm. Weatherford, of the 1st regiment Illinois Volunteers in the Mexican war, with amendments; which were referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

On motion by Mr. HENDRICKS, it was

Ordered, That the Committee on Invalid Pensions be discharged from the further consideration of Senate bill (No. 412) for the relief of Mrs. Catharine Dickerson, and that it be referred to the Committee on Revolutionary Pensions.

Mr. HENDRICKS, from the Committee on Invalid Pensions, reported adversely in the following case; which was laid upon the table:

Petition of Irene G. Scarritt, widow of Jeremiah W. Scarritt, an officer in the Army of the United States, praying for a pension.

Mr. STUART, of Ohio, from the Committee on Invalid Pensions, reported bills; which were read a first and second time by their titles, as follows, referred to a Committee of the Whole House, made the order of the day for to-morrow, and, with the accompanying reports, ordered to be printed:

A bill for the relief of George W. Whitten, of Newfield, in the State of Maine.

A bill granting a bounty land warrant to Ozias Hart, of Seneca county, Ohio.

Mr. THURSTON, from the Committee on Patents, reported adversely in the following cases; which were laid upon the table:

Memorial of Alexander Mitchell for extension of patent for screw pile iron light-house.

Petition of Joseph Nock, for the renewal of a patent right, the original term of which has expired.

Petition of Andrew Norse, for extension of patent for improvement in capstans.

Petition of John Pettibone.

Mr. BRIDGES, from the Committee on Patents, reported back Senate bill for the relief of Obed Hussey, with the recommendation that it do pass; which was referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

Mr. HILL, from the Committee on Patents, reported a bill for the relief of Cyrus H. McCormick; which was read a first and second time by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and, with the accompanying report, ordered to be printed.

Mr. FAULKNER. I was out of the House when the Committee on Military Affairs was called, and I hope that I may have the unanimous consent to now submit some reports from that committee.

There was no objection.

Mr. FAULKNER, from the Committee on Military Affairs, reported back the following Senate bills, with the recommendation that they do pass; which were referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed:

A bill for the relief of Brevet Brigadier General John B. Walbach, of the United States Army.

A bill for the relief of Jacob Dodson; and

A bill for the relief of George W. Torrence.

Mr. F. also, from the same committee, reported a bill for the relief of the heirs of the late Colonel Hardin; which was read a first and second time by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and, with the accompanying report, ordered to be printed.

Mr. F., also, from the same committee, reported the following, which were read the first and second time, referred to a Committee of the Whole House, and ordered to be printed:

A bill for the relief of Mrs. Ann W. Butler;

A joint resolution for the relief of Joseph Aymer;

A bill authorizing the payment of certain clerks in the Third Auditor's Office an additional allowance out of the military contribution fund;

A bill explanatory of an act entitled "An act to increase the pay of the rank and file of the Army, and to encourage enlistment;" and

A bill for the improvement of certain military roads in the Territory of New Mexico.

Mr. F., also, from the same committee, made an adverse report upon the following memorials; which were laid upon the table, and the committee discharged from the further consideration thereof:

The petition of Charles W. Ogden, for compensation while acting as paymaster;

The memoial of W. F. Reynolds, for expenses incurred whilst acting on the northeast boundary;

The petition of Nathan Dickerson, praying relief for injuries received whilst in the military service of the United States;

The memorial of S. T. Van Deusen, praying the passage of an act granting quartermasters in the war of 1812 bounty land;

The petition of eighty-eight inhabitants of Vermont, praying Congress to protect their rights as stockholders in the Concord Railroad Corporation;

The memorial of Julian Ann Morgan for a pension;

The memorial of John Prentis, offering an improvement in shells, &c., to the Government;

The papers in the case of S. Calvert Ford, late sutler, United States Army;

The memorial of William Hutchenson, asking compensation for services rendered in the war of 1812;

The claim of Robert Kirkham for remuneration for property destroyed by the United States troops;

The memorial of Gustavus Hingburgh for an increase of pension;

The memorial of William Harwell, asking pay for his services in the war of 1812; and

The memorial of John C. McFerrar, of the United States Army, praying for relief.

Mr. PENNINGTON. There is a bill upon the Speaker's table, from the Senate, (No. 530,) which is similar in its character to many which have been referred to the Committee of the Whole on the state of the Union. I ask that it may be taken up and referred.

There being no objection, Senate bill to continue the improvement of the harbor of Newark, New Jersey, was taken from the Speaker's table, read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. BOYCE I was accidentally out of my seat when the Committee of Claims was called. I ask the consent of the House to make a report from that committee.

There being no objection,

Mr. BOYCE, from the Committee of Claims, reported a bill for the relief of Cassius M. Clay; which was read a first and second time by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

Mr. HAVEN. There is a bill on the Speaker's table (No. 565) in reference to the improvement of the Ohio river, which is in the same category with that just taken up and referred by the gentleman from New Jersey, [Mr. PENNINGTON.] I ask that it may be taken up and referred.

There being no objection, Senate bill for the improvement of the navigation of the Ohio river was taken from the Speaker's table, read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. WASHBURNE, of Illinois. I ask the consent of the House to take from the Speaker's table Senate bill (No. 500) to continue the improvement of the Des Moines and Rock river rapids, in the Upper Mississippi, and have it referred to the Committee of the Whole on the state of the Union.

Mr. McMULLIN. Has the call of the committees for reports been gone through with?

The SPEAKER. It has not.

Mr. McMULLIN. I object to anything else being done until the committees have all been called.

Mr. WASHBURNE. The bill is of the same character of others which have just been taken up and referred. I hope no one will object.

Mr. FULLER. What bill is that?

The SPEAKER. For the improvement of the Des Moines and Rock river rapids.

PERSONAL EXPLANATIONS.

Mr. FULLER. I object; and I wish to call the attention of the House, for a moment, to the fact that I understand certain bills have been reported as coming from the Committee on Commerce this morning, and referred to the Committee of the Whole on the state of the Union. I have a question which I desire to make in reference to that action.

Mr. WASHBURNE, of Illinois. I rise to a question of order. The gentleman from Maine is not in order in making a speech.

The SPEAKER. The Chair cannot tell whether the gentleman is in order or not, until he hears what proposition he proposes to make.

Mr. FULLER. I have a question to present to the House, as to the regularity of these reports. Friday is the regular morning for the meeting of our committee. They did meet, and were in session until the time of the organization of the House. Since that time, however, I understand, that certain members of the committee have met informally and agreed to report certain bills, which had been referred to the committee—selected from some fifty in number. The question which I wish to make is, that that meeting of the committee during the session of the House was unparliamentary, and irregular, and that the action of the committee under such circumstances was unfair to a large number of bills referred to that committee which were similarly situated.

Mr. WENTWORTH, of Illinois. No member of the Committee on Commerce, knew when the House met this morning, that the House would adopt an order to call committees for reports, nor had we any reason to believe that such an order would be made. The House did, however, adopt the order. It was to last but half an hour, and a majority of the members of the committee acting under the necessity of the case, got together as soon as they could, and agreed to report these bills, and have them referred to the Committee of the Whole on the state of the Union, where as everybody knows, they will, in all probability, sleep the sleep of death.

Mr. DUNBAR. I wish to make a reply to the gentleman from Maine, [Mr. FULLER.] Upon the motion of one of the members of the Committee on Commerce, a majority of that committee met this morning, since the House adopted the proposition suggested by the Speaker to have the committees informally called for reports to be referred. A majority of that committee agreed to report a bill for the improvement of the harbor of Baltimore, at the suggestion of my friend from Maryland, [Mr. MAY,] and have it referred to the Committee of the Whole on the state of the Union. The other day I asked the House to take up from the Speaker's table a bill for the improvement of the mouths of the Mississippi river, a great national improvement; and the gentleman from Maine made a motion to refer it to the Committee on Commerce. I suspected that the object of the gentleman in making that motion was to defeat the bill.

Mr. HOUSTON. I object to this debate.

Mr. HUNT. You heard the gentleman from Maine; now hear my colleague.

Mr. DUNBAR. The gentleman from Maine has been heard, and I hope that I may be heard in explanation of my conduct.

The SPEAKER. If the objection be insisted on, the gentleman from Louisiana and every other gentleman kno w that it is the duty of the Chair to arrest the discussion——

Mr. DUNBAR. I have a right to make a personal explanation, I suppose.

The SPEAKER. There is a rule of this House, which the Chair wishes the gentleman would remember once in a while, that the Chair shall have a right to state questions of order in preference to gentlemen on the floor. The Chair claims no prerogatives that are not absolutely necessary for the good order of the body. The Chair was about stating to the gentleman from Louisiana that he and all other members must be aware that it is the duty of the Chair to arrest this discussion, if it is objected to by any member.

Mr. DUNBAR. I desire to make a personal explanation, and I suppose that I have a right to do so.

The SPEAKER. Is the objection withdrawn?

Mr. HOUSTON. No, sir.

Mr. DUNBAR. Have I not a right to make a personal explanation?

The SPEAKER. Not unless it partakes of the character of a privileged question.

Mr. BRECKINRIDGE. Those of us who sit upon this side of the House, and who heard the remarks of my friend, the chairman of the Committee on Commerce, generally consider, I believe, that the remarks of the gentleman from Louisiana would partake of the character of a personal explanation.

Mr. WHEELER. The gentleman from Maine was heard, and no objection was made.

The SPEAKER. The gentleman's remarks may partake of the character of a personal explanation, and yet not be a question of privilege, or even a privileged question.

Mr. DUNBAR. The conduct of the members of the Committee on Commerce has been brought before the House——

Mr. HENN: I did not understand that unanimous consent was asked for the gentleman to proceed.

The SPEAKER. The Chair asked whether or not there was unanimous consent.

Mr. HENN. I was trying to get the Speaker's ear to say that I would not object if the gentleman would not take more than ten minutes.

Mr. WASHBURNE, of Illinois. He will not take half that time.

Mr. DUNBAR. I shall take a very few minutes.

Mr. HENN. Well, I withdraw my objection for ten minutes.

No further objection was made.

Mr. DUNBAR. The conduct of the majority of the Committee on Commerce has been brought in question before this House by the chairman of that committee, and I wish to make an explanation of the conduct of that majority, and to show that it has been correct, and according to the usual proceedings of the House.

I was going on to remark, when I was interrupted, that when the bill to improve the mouths of the Mississippi came up here the other day, the chairman of the Committee on Commerce moved to refer it to that committee. I opposed that motion, and asked that the bill should be referred to the Committee of the Whole on the state of the Union, because I knew that no good could be accomplished by its reference to the Committee on Commerce. The subject had been under the consideration of the Committee on Commerce at the last session of Congress. Nothing new could be learned by its reference to that committee. The appropriation contained in this bill is the same appropriation which was made in the general river and harbor bill passed at the last session, and which was reported from the Committee on Commerce. The object of the gentleman from Maine in moving the reference of that bill to the committee was to defeat it. I therefore opposed his motion. I may have done the gentleman injustice, but that was my impression. My impression was that if these bills for internal improvements were referred to the Committee on Commerce no good would come of it, and that nothing would be done with them.

The Committee on Commerce could not agree to report the bills separately. That was my understanding; and understanding it as I did, I objected to the reference to the Committee on Commerce. This morning a majority of the Committee on Commerce agreed to report the bill for the improvement of Baltimore harbor. I then asked that same majority of the committee to agree that I should withdraw my motion to reconsider the vote by which the bill for the improvement of the mouth of the Mississippi river was referred to the Committee on Commerce, and that that bill should share the same fate as the bill for the improvement of Baltimore harbor. The majority of the committee agreed to that, and I, therefore, withdrew the motion to reconsider, reported the bill, and asked the House to refer it to the Committee of the Whole on the state of the Union.

Now, was there anything unfair in that? I presume not. No one can say there was anything unfair in it; and I will bring to the recollection of the chairman of the Committee on Commerce that he has frequently, in the same manner, obtained the consent of a majority of the committee to report bills. He has, upon several occasions, come to me, in this House, after the committee had adjourned, and asked my consent that he might report bills. I dare him to deny that. I say, again, that there is nothing improper in the course which has been pursued by the majority of the Committee on Commerce. The same course is pursued, I understand, every day, by other committees.

Mr. FULLER, (interrupting.) In what I said, I did not intend to, nor shall I bring myself in collision with any of the members of the Committee on Commerce. My objection was founded on the order of business, and it was in self-defense that I made it, because, as organ of that committee, certain bills being reported without my knowledge, and certain bills not reported, I could neither justify myself before this House, nor before the country.

We have a rule that no committee shall be in session while this House is in session. I make no charge against any gentleman who is a member of the committee. All I have to say is in relation to the order of conducting business in that committee, whether it was regular or irregular. There was a meeting of the committee this morning, while the House was in session, without the knowledge of its chairman, and certain bills were agreed to be reported. It must be apparent, at once, what will be the position of members of that committee, if some bills are reported for consideration, and others are not reported.

It was for the purpose of bringing this matter to the knowledge of the House, that I have made the remarks that I have. It was not for the purpose of coming in collision with any member of that committee. I have no reflections to cast upon any member of that committee. But I simply objected to this order of business, in order that I might justify myself. If the House deem it regular, they can take such action upon it as they think proper. I only wanted to bring the fact as to how these bills came to be reported before the House.

Mr. DUNBAR. Then I understand that the gentleman merely complains of the irregularity of the proceeding. I am glad he goes no further.

I wish to say to the House further, that I have been anxious since the commencement of this session to report all these bills from the Committee on Commerce, to which the gentleman from Maine refers. I am in favor of improvements of a national character by the General Government. Although I differed with the President of the United States with regard to his veto of the river and harbor bill, I yet agree with him in one particular, and that is, that every bill for improvements of this kind should contain but one single appropriation for a particular improvement, and that every measure of the kind should stand upon its own merits. I greatly prefer separate bills. Although I think the President of the United States was wrong in vetoing the general river and harbor bill of last session, and that his reasons for so doing were not satisfactory, yet I think that the position he has taken with regard to separate bills for internal improvements is a correct one. If the House will indulge me, I will say that I thought that a great national measure, such as the river and harbor bill of last session, should not have been vetoed because there might have been a few improvements of a local character in the bill, which should not have been there.

Mr. WENTWORTH, of Massachusetts, (Mr. DUNBAR yielding the floor.) As I was one of the majority of the Committee on Commerce, who authorized the reporting of the two bills which have been referred to, I wish to say one word in defense of my conduct. I have, from the commencement, been in favor of these improvements, whether reported in a general bill or in separate bills; and I believe, notwithstanding what has been said by the gentleman from Louisiana, [Mr. DUNBAR,] that a majority of the Committee on Commerce have always been ready to report either a general measure or separate measures, in conformity with the bill reported at the last session; and, sir, although I refused, when appealed to by my colleague on the committee, in the first instance, to allow the bill to be reported, yet, when applied to by another gentleman, I agreed to the informal meeting, and allowed the two bills to be reported. I know, sir, the course to be irregular, although it is frequently done by committees. I had a desire that these bills might be reported by the gentleman from Louisiana, [Mr. DUNBAR,] in order to put the committee right before the House. Some days since, the gentleman from Iowa, [Mr. COOK,] and the gentleman from Illinois arraigned the Committee on Commerce as opposed to reporting these bills. The gentleman from Louisiana [Mr. DUNBAR] came forward in the support——

Mr. DAVIS, of Indiana, (interrupting.) I think enough has been said on both sides in respect to this matter; and I object to further debate on it.

Mr. WENTWORTH. I will conclude what I have to say in a few minutes, if the House will allow me.

Mr. DAVIS. I persist in my objection.

Mr. CLINGMAN. Is it in order now to move to go into the Committee of the Whole on the state of the Union?

The SPEAKER. It is not.

Mr. DUNBAR. I wish merely to answer the gentleman——

Mr. DAVIS. I object.

Mr. WENTWORTH. I think I should be allowed to make a statement.

Mr. DAVIS. I object to this debate.

Mr. DUNBAR. I had yielded the floor to the gentleman from Massachusetts——

The SPEAKER, (interrupting). The Chair is compelled—as he is called upon to do so—to say to the gentleman from Louisiana, [Mr. DUNBAR,] that the course of remarks which he has indulged in in discussing the veto message, is not, in the opinion of the Chair, such as was authorized by the House in granting leave to make a personal explanation.

Mr. DUNBAR. I was making an explanation as to the conduct of the Committee on Commerce.

Mr. WENTWORTH. Does the Chair rule that I am out of order?

The SPEAKER. The Chair rules that the gentleman from Louisiana is entitled to the floor, to make a personal explanation in connection with the action of the Committee on Commerce this morning, referred to by the gentleman from Maine, [Mr. FULLER.] But, in the opinion of the Chair, the gentleman from Louisiana is not entitled to go beyond a simple explanation as to that action.

Mr. DUNBAR. I wished to do nothing more, except to make a few remarks in relation——

Mr. WENTWORTH, (interrupting). I have not got through what I desired to say.

Mr. DAVIS, of Indiana. I object.

Mr. CLINGMAN. As I understand, the gentleman from Indiana objects to this proceeding; and, therefore, I insist on the regular order of business.

Mr. DAVIS. I do object.

The SPEAKER. The gentleman from Louisiana [Mr. DUNBAR] is entitled to the floor for a personal explanation in respect to the doings of the Committee on Commerce this morning; but he has not the floor for any other purpose.

Mr. WENTWORTH. The gentleman from Louisiana has yielded to me for a similar purpose.

Mr. LILLY. Has the gentleman from Louisiana a right to do so? I object.

The SPEAKER. The Chair thinks he has not, as it is objected to by the gentleman from New Jersey.

Mr. DUNBAR. May I not yield the floor to my colleague from Massachusetts?

The SPEAKER. The Chair thinks not, and is compelled to enforce the rules.

Mr. WENTWORTH. I do not want the gentleman to answer my remarks until I shall have had an opportunity of making them.

The SPEAKER. The Chair is not deciding as to the propriety or impropriety of enforcing the rule at all. The Chair only wishes to perform his duty.

Mr. WENTWORTH. Allow me to say, Mr. Speaker, that every day and every hour, it is the practice of gentlemen in this House to yield the floor for personal explanation.

The SPEAKER. If not objected to, the gentleman from Massachusetts may explain.

Mr. DAVIS, of Indiana. I do not wish to object, but I must do so, as this discussion is improperly occupying the time of the House.

Mr. DUNBAR. I merely wish to say that I am sorry to have to intrude on the attention of the House; but I desire to say, in answer to the remark of the gentleman from Massachusetts, as to the committee being ready at all times to report separate bills, that I have endeavored, since the commencement of this session, to get this important bill reported by the Committee on Commerce for the improvement of the mouth of the Mississippi, without being able to do so. That is all I wish to say.

Mr. CLINGMAN. I call for the regular order of business.

Mr. WENTWORTH. I wish to say a word in answer to the gentleman from Louisiana.

The SPEAKER. Is it the pleasure of the House that the gentleman from Massachusetts be allowed to explain?

Mr. LILLY and others. I object.

Mr. CLINGMAN. I now insist on the regular order of business.

Mr. FULLER. I wish simply to occupy the attention of the House for a few moments.

Mr. WENTWORTH, of Massachusetts, and others. I object.

Mr. FULLER. I rise to what I consider a privileged question. I submit to the Chair this motion: to reconsider the vote by which certain reports made this morning from the Committee on Commerce were referred to the Committee of the Whole on the state of the Union.

The SPEAKER. These reports were made with the express understanding—and such an agreement of the House was unanimously made—that no motion to reconsider should be made.

Mr. FULLER. I wish to make a suggestion which merely goes back as to the regularity of these reports.

Mr. BRIDGES. I object to this discussion.

The SPEAKER. The Chair again states that it is not in order to reconsider the votes by which the reports in question were referred.

Mr. FULLER. They were regularly reported, I admit, by agreement of the House; but it seems to me, with all due deference to the Chair, that, under the rule, the question may be received whether it is competent for the Chair to consider whether that was a proper agreement.

The SPEAKER. If that objection had been made at the time the reception of reports was proposed to the House, it might have made a matter for the consideration of the Chair whether these reports might be made. But as no objection was made, and as the reports were regularly referred, the Chair thinks it is not in order to go back and inquire as to the legality of these reports.

Mr. FULLER. I only want to make one suggestion.

The SPEAKER. Is it the pleasure of the House that the gentleman from Maine [Mr. FULLER] be allowed to make a suggestion?

Mr. CLINGMAN. No, sir. I insist on the regular order of business.

Mr. McMULLIN. I desire to know if it is not in order to ask to discharge the committee to which these bills have been referred from their consideration, and to have them referred back to the committee from which they were reported?

The SPEAKER. That would not be in order under the general order of the House this morning, because it would be tantamount at least to a reconsideration.

Mr. McMULLIN. Then I call up the regular order of business.

REPORTS FROM COMMITTEES.

The SPEAKER. The regular order of business is to continue the call of committees for reports.

Mr. YATES asked and obtained the consent of the House to publish a speech prepared by him on the Pacific railroad bill.

Mr. TAYLOR, of Tennessee, asked and obtained the like consent.

Mr. WASHBURN, of Maine, asked and obtained the like consent to publish a speech prepared by him on the President's veto.

Mr. HARLAN, from the Committee on Accounts, reported a bill to change the mode of compensation to the members of the Senate and House of Representatives, and the Delegates from Territories; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. WARREN. I desire to present a resolution from the Legislature of the State of Arkansas, so as to have it referred to the Committee on the Post Office and Post Roads.

The resolution was received and so referred.

Mr. STANTON, of Kentucky. I am instructed by the Committee on Printing to offer the following resolution:

Resolved, That there be printed for the use of the members of the House, one hundred thousand extra copies of the report of the select committee on the subject of the Washington Monument.

Mr. CLINGMAN. I object.

The SPEAKER. Being objected to the resolution cannot be received.

Mr. STANTON. Permit me to say that, under the rules of the House, I have a right to introduce the resolution.

The SPEAKER. We are acting under a special order of the House, which is limited to the reception of reports from the committees.

Mr. STANTON. But I understand that the order expired some half hour since.

The SPEAKER. The time for calling upon committees to report was extended.

Mr. JONES, of Tennessee. I would ask the Speaker whether this question was referred yesterday to the Committee on Printing?

The SPEAKER. It was.

Mr. JONES. My understanding of the matter was, that the report of the select committee was not disposed of.

The SPEAKER. The motion to print an extra number of copies was referred, under the rules, to the Committee on Printing.

Mr. JONES. Not until the report was adopted and ordered to be printed. It is a part of the motion that the report be received and printed, and then the motion to print extra copies follows. As I understand the state of the case, the report was not acted upon, and, until the House orders the report to be printed, it seems to me that no motion could be entertained to print extra copies.

The SPEAKER. The Chair, at the moment, regarded the motion to print an extra number as a distinct and separate motion, and, under that impression, ordered it to go to the Committee on Printing.

Mr. JONES. Suppose, when we come to a vote, the House should refuse to print the report?

The SPEAKER. The Chair acknowledges that the gentleman from Tennessee is ordinarily correct in his view of the course of business, which is, that the printing of any document must be first ordered, and the order for an extra number of copies must then follow. The Chair will state that the motion to print an extra number of copies was regarded at the time as a distinct and separate motion, and it is so entered upon the Journal upon the reference of the matter.

Mr. STANTON. I desire to say, if it is in order—so that the House may understand the operation of that rule—that we have a law of Congress which requires that whenever a proposition to print an extra number of copies of any report or document shall be made, it shall go to the Committee on Printing.

On motion by Mr. McQUEEN, the Committee on Territories was discharged from the further consideration of a joint resolution of the Legislative Assembly of Washington Territory, asking that $10,000 be expended for a geological survey of that Territory; and the matter was then referred to the Committee on Public Lands.

On motion by Mr. McQUEEN, the same committe was also discharged from the further consideration of a joint resolution of the Legislative Assembly of Washington Territory relating to certain debts due from the marshals of that Territory; and it was referred to the Committee on the Judiciary.

On motion by Mr. McQUEEN, the same committee, was discharged from the further consideration of a joint resolution of the Territorial Assembly of Oregon Territory, relating to territorial roads; and it was ordered to lie upon the table.

On motion by Mr. McQUEEN, the same committee was discharged from the further consideration of the memorial of the Legislative Assembly of Washington Territory relative to an amendment of the organic law of said Territory; which was laid upon the table.

Mr. STANTON, of Kentucky. I now offer the following resolution:

Resolved, That there be printed, for the use of the members of the House, one hundred thousand extra copies of the report of the select committee on the subject of the Washington Monument.

I desire to say, that the report contains very interesting accounts of the history of the Washington Monument Association, together with an exposition of its affairs from the time of its organization to the present moment. The report will cost less than a cent a copy, probably not exceed half a cent, and the expenditure for the whole number named in this resolution will not exceed $500. I hope the resolution will be agreed to.

Mr. McMULLIN. I desire to know whether this proposition includes a resolution which was reported by the select committee on the subject of the monument.

Mr. STANTON. Not at all.

Mr. HAVEN. I should like to know something as to the extent of the cost of the printing of this report.

Mr. STANTON. The report is a very short one, and it will not cost a cent a copy, perhaps not more than a half cent.

Mr. HAVEN. What will be the aggregate amount of the cost?

Mr. STANTON. About $500.

Mr. HAVEN. I offer a substitute for the resolution, that that amount be subscribed for the erection of the monument by this House.

Mr. HAMILTON. Is that amendment in order?

The SPEAKER. The amendment is not in order.

Mr. HAVEN. If it is not in order I have nothing further to say.

Mr. WARREN. I move to lay the resolution upon the table.

The question was taken; and, a upon division, there were—ayes fifty-one, noes not counted.

Mr. WARREN demanded tellers; which were ordered; and Messrs. WHEELER and READY were appointed.

The question was taken; and the tellers reported—ayes forty-seven, noes not counted.

Mr. WARREN demanded the yeas and nays; which were not ordered.

The question was then put; and the resolution was agreed to.

Mr. STANTON, of Kentucky, moved to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. WELLS. I wish to offer a resolution merely for the purpose of reference.

Mr. CLINGMAN. I call for the regular order of business.

The SPEAKER. As it is objected to it cannot be done.

Mr. COBB. When the Committee on Public Lands was called I had a bundle of reports which I could not get at at the time. I ask permission to report them now.

Objection was made.

Mr. LETCHER. I desire to make a report from a select committee. I am directed by the select committee appointed under a resolution of the House, passed July 10, 1854, to make a report from the same, and to ask to be discharged from the further consideration of all the matters referred to it.

The report was received, ordered to be printed, and the committee was discharged from further duties.

The SPEAKER. The question is now upon the motion to suspend the rules, made by the gentleman from Pennsylvania yesterday.

Mr. READY. I desire to offer a resolution which, if I mistake not, is one of privilege. It is in reference to a matter in which every gentleman upon this floor has a personal interest, and to which, I presume, there will be no objection.

The resolution was read for information, as follows:

Joint resolution for the adjournment of the two Houses of Congress at twelve o'clock on Saturday night, the 3d of March.

Mr. CLINGMAN. I object to it now; and I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

COURT OF CLAIMS.

The SPEAKER. There is already a motion pending to suspend the rules, and until that is disposed of another similar motion cannot be entertained.

Mr. MURRAY. I now call for the yeas and nays on the motion of the gentleman from Pennsylvania to suspend the rules.

The yeas and nays were not ordered.

Mr. HOUSTON. If I thought I could accomplish anything, I would appeal to the gentleman from Pennsylvania to let me have the day to finish the consideration of the civil and diplomatic bill. The consideration of the bill for the establishment of a court of claims will occupy the whole day, if we enter upon it. The civil and diplomatic bill ought to have passed this House and been sent to the Senate before this.

The SPEAKER. Is it the unanimous consent that the House resolve itself into the Committee of the Whole on the state of the Union?

Mr. WHEELER. I object.

The SPEAKER. Then the motion cannot be made until the pending question is disposed of.

Mr. SKELTON. I call for tellers upon the question.

Tellers were not ordered.

The question was then put; and the resolution was agreed to, two thirds voting in favor thereof.

So the rules were suspended.

Mr. JONES, of Pennsylvania. I have a very high sense of regard for the feeling of the House——

Mr. SEWARD, (interrupting.) Is it in order to move to recommit the bill?

The SPEAKER. The bill is not yet reported to the House.

Mr. SEWARD. Will it be in order when it is reported?

The SPEAKER. It will be, if the gentleman can obtain the floor for the purpose of making it.

Mr. JONES, of Pennsylvania. I was about to remark that I did not wish to consume any part of the time of this House, and therefore I forbear making a speech in explanation of this bill, because I am satisfied that every member of this House understands it. I will merely remark, that this bill has already passed the Senate, that it met the approval of the Committee of Claims in this House, and I am authorized by that committee to withdraw the amendment which they had recommended should be made to it, so that the bill will now be put before the House just as it came from the Senate. In order that no time may be consumed, and that we may come to an immediate vote, I demand the previous question.

Mr. SEWARD. I move to commit the bill to the Committee on the Judiciary.

The SPEAKER. Until the previous question is disposed of, no such motion is in order.

Mr. JONES. It is necessary that I should state that the rules are suspended in order to allow me to report the bill. I do report it, and move to put it upon its passage.

Mr. SKELTON. I move to lay the bill upon the table.

The question was put; and the motion was not agreed to.

The Clerk read the bill *in extenso*.

Mr. JONES, of Pennsylvania. I now ask that the bill may be read the third time.

The SPEAKER. That is the first question pending

Mr. JONES, of Tennessee. The first question is upon seconding the demand for the previous question.

The question was seconded, and the main question ordered to be put.

The bill was then ordered to a third reading, and was accordingly read the third time.

Mr. JONES, of Pennsylvania. I call for the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be now put.

Mr. MURRAY. I demand the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was then taken; and decided in the affirmative—yeas 150, nays 46; as follows:

YEAS—Messrs. Abercrombie, Aiken, James C. Allen, Willis Allen, Ashe, Barksdale, Barry, Belcher, Benson, Bliss, Bocock, Boyce, Bridges, Brooks, Bugg, Campbell, Chamberlain, Chandler, Chastain, Chrisman, Churchwell, Clark, Cook, Corwin, Cox, Crocker, Cullom, Curtis, Cutting, Thomas Davis, De Witt, Dick, Dickinson, Disney, Dowdell, Drum, Dunbar, Eastman, Eddy, Edmands, Edmundson, Thomas D. Eliot, Everhart, Faulkner, Fenton, Flagler, Florence, Fuller, Gamble, Giddings, Goode, Goodrich, Green, Greenwood, Grey, Aaron Harlan, Andrew J. Harlan, Harrison, Hastings, Haven, Hendricks, Henn, Hibbard, Hiester, Hill, Houston, Howe, Hughes, Hunt, Ingersoll, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kidwell, Knox, Kurtz, Latham, Letcher, Lewis, Lilley, Lindley, Lyon, McCulloch, Macdonald, McDougall, McNair, McQueen, Mace, Macy, May, Meacham, Middleswarth, Millson, Morrison, Noble, Norton, Olds, Mordecai Oliver, Orr, Packer, Parker, Peck, Peckham, Pennington, John Perkins, Phillips, Powell, Pratt, Preston, Pringle, Puryear, Ready, Richardson, Riddle, David Ritchie, Rowe, Sabin, Sage, Seymour, Shannon, Shower, Samuel A. Smith, William Smith, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, David Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Tracy, Trout, Upham, Wade, Walbridge, Walker, Walley, Warren, Israel Washburn, John Wentworth, Westbrook, Daniel B. Wright, Hendrick B. Wright, and Yates—150.

NAYS—Messrs. David J. Bailey, Ball, Bennett, Carpenter, Caskie, Cobb, Craige, John G. Davis, Dawson, Dunham, Edgerton, Ellison, English, Etheridge, Goodwin, Hamilton, Daniel T. Jones, Lamb, Lindsley, McMullin, Maurice, Maxwell, Mayall, Smith Miller, Morgan, Murray, Nichols, Andrew Oliver, Bishop Perkins, Phelps, Thomas Ritchey, Robbins, Ruffin, Sapp, Seward, Shaw, Simmons, Skelton, Stratton, Andrew Stuart, Tweed, Vansant, Walsh, Elihu B. Washburne, Wheeler, and Witte—46.

So the bill was passed.

Pending the call of the roll,

Mr. MILLSON, when his name was called, said: I wish to be allowed to say that I shall vote for the bill as an experiment, having, however, many objections to it; but the present method of acting upon claims has lately worked so badly that I am willing to try a change.

Mr JONES, of Pennsylvania, moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider on the table.

MESSAGE FROM THE SENATE.

Here a message was received from the Senate, by ASBURY DICKINS, Esq., their Secretary, notifying the House that that body had passed bills of the following titles; in which it asked the concurrence of the House:

Senate bill (No. 186) to provide for the final settlement of the claims of officers of the revolutionary army and of the widows and orphan children of those who died in the service.

Senate bill (No. 514) granting railroad companies three years in which to pay the duties on iron imported for railroad purposes.

That it had passed the following House bill, with an amendment:

House bill (No. 242) authorizing the purchase or construction of four additional revenue cutters.

And that it had passed the following House bill, without amendment:

House bill (No. 527) for the relief of Lot Davis.

Also, a resolution proposing that the two Houses of Congress should adjourn *sine die* at twelve o'clock on the night of the 3d of March; in which he was directed to ask the concurrence of the House.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, here reported as correctly enrolled joint resolutions and bills of the following titles; which thereupon received the signature of the Speaker:

A resolution for the relief of Rebecca Hinton;

An act to establish an additional land district in the State of Wisconsin;

An act increasing the pension of Anthony W. Bayard, of Bellefonte, in the State of Pennsylvania;

Joint resolution in favor of William Monagan; and

An act to provide for the payment of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9, 1850.

CONVENTION BETWEEN UNITED STATES AND GREAT BRITAIN.

Mr. HOUSTON. If the House will give me their consent, I now propose to report, from the Committee of Ways and Means, a bill making an appropriation to pay the awards made against the United States Government in the recent convention between Great Britain and the United States, and ask them to put the bill upon its passage.

There being no objection, the bill was reported and read twice by its title, as follows:

A bill to carry into effect the convention, upon the subject of claims, between the United States and her Britannic Majesty, of the 8th of February, 1855.

The bill was then read *in extenso* by the Clerk.

It appropriates $277,102 88—that amount having been awarded to British subjects against the United States, under the late convention between Great Britain and the United States, deducting a certain amount, not exceeding five per cent.—to defray the expenses of the commission.

Mr. HOUSTON. I demand the previous question upon the engrossment of the bill.

The SPEAKER. The bill making, as it does, an appropriation, must, under the rules, be first considered in the Committee of the Whole.

Mr. HOUSTON. By general consent that rule may be dispensed with.

Mr. GIDDINGS, of Ohio. I object.

Mr. HOUSTON. I asked the consent of the House to take up the bill and put it upon its passage, and that consent was extended, as I understood it, to dispensing with its consideration in the Committee of the Whole.

Mr. WHEELER. Certainly not. The bill was only read for information.

Mr. HOUSTON. I move to suspend the rules.

Mr. GIDDINGS. I rise to a question of order. I rose to object to dispensing with the consideration of the bill in the Committee of the Whole. Have I not the floor?

The SPEAKER. The gentleman has not the floor. The motion is to suspend the rules, which is not debatable.

Mr. GIDDINGS. But I objected before that motion was made, and did not yield the floor for any such purpose.

The SPEAKER. The gentleman from Alabama [Mr. HOUSTON] was upon the floor, and about to speak upon the bill, when the Chair reminded him that the bill, under the rules, must be first considered in the Committee of the Whole. The gentleman from Alabama then moved to suspend the rules.

Mr. GIDDINGS. I understood the gentleman to move to refer the bill.

The SPEAKER. He did not.

Mr. GIDDINGS. I demand the yeas and nays upon the motion to suspend the rules.

The yeas and nays were not ordered.

Mr. JONES, of Tennessee. I will make one remark, if the House will permit me, and particularly to the gentleman from Ohio, [Mr. GIDDINGS.] That commission, sir, awarded something over $777,000 against this Government as due to British subjects. And I ask the attention of the House to the fact that the same commission awarded $329,000 against the British Government as due to American citizens. It was required that the money should be paid within one year after the expiration of the commission. The commission expired on the 15th of the last month, and the probability is, that if we do not pass it now, it will not be done within the year. This is what we are to pay to British subjects, and has nothing to do with anything else.

Mr. WHEELER. Does it not also make provision for paying the expenses of the commission itself?

Mr. GIDDINGS. I have no objection to this bill coming before the House if it can be explained by some one who is opposed to it. If I can have half an hour for that purpose, I will not make any objection.

Mr. DAVIS, of Indiana. I rise to a question of order. I desire to ask the Chair one question. Suppose the House go into the Committee of the Whole on the state of the Union in the present

stage of the proceedings, will this bill not come up as unfinished business to-morrow morning?

The SPEAKER. The gentleman from Alabama has moved to suspend the rule requiring this bill to be considered in the Committee of the Whole on the state of the Union, which motion would cut off a motion to go into the Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee. I desire to say to the House that this bill has nothing to do with the awards against the British Government in favor of our own citizens. It is merely to provide for the payment of the awards against our own Government.

Mr. GIDDINGS. The gentleman from Tennessee has been allowed to explain his side of the bill. Now, will the gentleman allow me as long to explain the opposite side?

Mr. JONES, of Tennessee. I have no control over the bill. What I said I said with the unanimous permission of the House.

Mr. GIDDINGS. Well, sir, if the House will allow me a short time to explain my opposition to the bill, I will then not object to its being disposed of at once.

The SPEAKER. The gentleman will proceed unless objection be made.

Mr. DAVIS, of Indiana. I object.

The question was then put; and, two thirds having voted in favor thereof, the rules were suspended, and the bill taken up for consideration.

Mr. HOUSTON. I demand the previous question upon the engrossment of the bill.

The previous question was seconded, and the main question ordered to be put.

The bill was then ordered to be engrossed and read a third time.

Mr. GIDDINGS. Now, Mr. Speaker, I have the floor.

The SPEAKER. The gentleman has not the floor, for the reason that the bill has not received its third reading, and the previous question is, therefore, not exhausted.

The bill was then read the third time.

Mr. HOUSTON. I demand the previous question upon the passage of the bill.

Mr. GIDDINGS. I move to reconsider the vote by which the bill was ordered to be engrossed and read the third time; and upon that motion I desire to submit a few remarks.

Mr. ORR. Is that motion debatable?

Mr. GIDDINGS. I have the floor.

The SPEAKER. The gentleman from Ohio has the floor, but the motion is not debatable, for the reason that the previous question has been demanded upon the passage of the bill.

Mr. GIDDINGS. I made the motion for the purpose of assigning my reasons for opposing the bill.

The SPEAKER. But the gentleman must be aware that no debate is in order during the pendency of the previous question.

Mr. GIDDINGS. The previous question has been exhausted upon the engrossment of the bill. It is that motion I propose to reconsider.

The SPEAKER. The gentleman must recollect that it is the every day practice of the House, that, when the previous question has been demanded, no debate is in order upon a motion to reconsider until the demand for the previous question has been disposed of.

Mr. GIDDINGS. Did not the Chair notice that I was upon the floor, and made the motion to reconsider before the gentleman from Alabama demanded the previous question?

The SPEAKER. As the remark of the gentleman from Ohio would imply censure on the Chair the Chair begs leave to explain. The gentleman from Ohio must know as well as any member upon this floor, and every member must know, that common courtesy to the introducer of a bill requires that the Chair should recognize him in preference to any other member.

Mr. HOUSTON. Certainly; that is the universal practice.

Mr. GIDDINGS. It was not my intention to cast any censure upon the Chair, but I desire some opportunity of saying a word in explanation of this bill before it passes the House.

Mr. ORR. I move to lay the motion to reconsider upon the table.

The SPEAKER. The motion to reconsider is not debatable, and the Chair will rule that the motion to lay upon the table is not in order. The question is upon the motion to reconsider.

Mr. GIDDINGS. One word. I did not design to cast any reflection upon the Chair, but sir——

[Cries of "Order!" "Order!"]

The SPEAKER. The statement of the gentleman is perfectly satisfactory between him and the Chair.

Mr. PRINGLE. I ask, as a matter of courtesy, that some one will explain this bill. There seems to be a strong feeling upon this side of the House that some explanation should be made. I hope the House will allow it to be done.

Mr. GIDDINGS. I will explain it, if the House will permit me.

The SPEAKER. Is it the pleasure of the House that the gentleman from Ohio should be allowed to explain?

[Cries of "No!" "No!" "No!"]

Mr. PRINGLE. Then I would like to hear the gentleman from Alabama [Mr. HOUSTON] explain it.

Mr. GIDDINGS. Well, the time is coming, thank God, when we shall have these gags removed.

Mr. WASHBURN, of Maine. I desire to inquire if the question on seconding the demand for the previous question must not be put before it is put upon the motion to reconsider, so that if the previous question is not seconded, debate can be had upon the motion?

The SPEAKER. It has been usual, as a matter of convenience, to put the question first upon the motion to reconsider.

Mr. WASHBURN. I had supposed that the question must first be taken on seconding the demand for the previous question, because then, in case that should be voted down, the motion to reconsider would be debatable.

The SPEAKER. The Chair sees the point made by the gentleman, and yields at once. The question will be taken first upon the demand for the previous question.

The previous question was seconded, and the main question was ordered to be put; being first upon the motion submitted by Mr. GIDDINGS, to reconsider the vote by which the bill was ordered to be engrossed and read a third time.

The question was taken; and the motion was disagreed to.

Under the further operation of the previous question, the bill was passed.

Mr. HOUSTON. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

REPORT OF SELECT COMMITTEE.

Mr. CAMPBELL. I rise to what I believe to be a question of privilege, and I will state it very briefly. It will be remembered that at the close of the last session a select committee was appointed to investigate the alteration of the Minnesota land bill. That committee made a report on the last day of the session, announcing that they were receiving testimony by telegraph, and it was the understanding that that testimony should be published with the report. The testimony did not arrive, however, until after the adjournment, and it came to me at my residence in Ohio. I ask now to offer a resolution authorizing the publication of the additional testimony.

The resolution, which was received by unanimous consent, was read, and agreed to, as follows:

Resolved, That the testimony of A. Hunt, hereunto attached, taken by the select committee last session to investigate the alteration made to the Minnesota land bill, and which has not heretofore been published, be printed as a part of the report of said committee.

Mr. JONES, of Tennessee. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

CIVIL AND DIPLOMATIC BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair,) and resumed the consideration of the civil and diplomatic appropriation bill, Mr. EDGERTON being entitled to the floor.

Mr. HOUSTON. I have a small amendment to offer to provide for a deficiency which I will present now if the gentleman from Ohio will allow me.

Mr. EDGERTON. Certainly; if by so doing I do not lose my right to the floor.

Mr. HOUSTON. I am instructed by the Committee of Ways and Means to offer the following amendment:

For oil for light-houses, being the difference between the estimated and the actual cost of that article, $82,034 17.

For compensation of commissioner provided in 1st article of reciprocity treaty with Great Britain, $2,000.

For boats and other incidental expenses connected with the duties of commissioner, provided in the 1st article of the reciprocity treaty with Great Britain, $3,000.

I hold in my hand a regular detailed estimate, which has been printed, showing the deficiency for oil for light-houses to grow out of the fact that, after the estimates were made, and before the purchases were made, the price of oil increased very greatly, and that this appropriation is absolutely necessary.

The amendment was agreed to.

Mr. EDGERTON. I offer the following amendment:

SEC. —. *And be it further enacted*, That so much of the act entitled "An act making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th day of June, 1849, and for other purposes," approved August 12, 1848, as provides "for refunding certain duties paid by colleges, academies, schools, and seminaries of learning, in the United States, on philosophical apparatus, instruments, books, maps, and charts," and that the same articles, and also certain other articles therein named, might, and should, thereafter be in the manner and under the circumstances therein specified, imported into the United States free of duty, be, and the same is hereby, so enlarged, altered, and amended as to provide that the duties paid on railroad iron actually and permanently laid down from and after the 30th of June, 1853, up to the 1st of July, 1856, being for the full period of three years, shall, on satisfactory proof being made to the Secretary of the Treasury of the fact aforesaid, be refunded to the State, or railroad company so laying down said iron, or causing the same to be done, and said Secretary is hereby directed to repay said duties out of any money in the Treasury not otherwise appropriated; and from and after the passage of this act, dyes, dye-wood, dye-stuffs, raw silks, (of whatever name or nature,) and wool, unmanufactured, costing more than fifty cents, and less than eighteen cents per pound at the place whence imported, may, and shall, be imported into the United States free of duty: *Provided*, That in all cases of wool falsely invoiced and valued under the foregoing provision to defraud the revenue, there shall be levied and collected on the same, double the amount of duty now imposed by law on said article.

Mr. FLORENCE. That amendment is not in order.

Mr. STRAUB. It is the same amendment that was ruled out of order yesterday.

The CHAIRMAN. The Chair holds the amendment to be out of order.

Mr. EDGERTON. I appeal from the decision of the Chair.

Mr. PENNINGTON. I rise to a question of order.

The CHAIRMAN. The Chair cannot entertain it, for the reason that there is one point of order already pending, and an appeal is taken from the decision of the Chair.

Mr. PENNINGTON. That is the very point I make. The gentleman from Ohio has no right to appeal. This very question was decided by the committee yesterday.

Mr. DAWSON. The amendment is the same as that offered yesterday, and which the Chair ruled out of order. That decision of the Chair was sustained by the committee, and it is not in order to present the same question again to-day.

[Loud cries of "Order!" "Order!"]

Mr. FLORENCE. The same proposition was ruled out of order yesterday.

Mr. EDGERTON. It is not the same proposition as the one I offered yesterday.

Mr. DAWSON. It is the same in effect, if not in words. I maintain that an appeal cannot lie from the decision of the Chair, and if the chairman will hear me for a moment, I think I can satisfy him that I am correct.

[Loud cries of "Order!" and "Question!"]

Mr. PECK. I call for tellers on the appeal.

Tellers were ordered; and Messrs. FLORENCE and WHEELER were appointed.

The question was taken; and the tellers reported —ayes 81, noes 87.

So the decision of the Chair was overruled.

The question being on the amendment offered by Mr. EDGERTON,

Mr. EDGERTON. The railroad interest of this country is now so large and so extended, that it is eminently worthy the consideration of Congress. Congress is unwilling, in fact has no right, to construct, at the national expense, the numerous railroads required by the various interests of the several States of this Union. Yet the construction

of railroads is of national importance, as they aid the development of State and National resources, and confer great benefits upon the National Government, affording new means of seeking markets for the various articles of produce and manufacture; of more efficiently and more cheaply defending the country in the time of war, and more safely and rapidly transporting its mails. The railroad interest, thus important to the General Government, is at present deeply embarrassed. Into the causes of that embarrassment it is not now necessary to inquire; the embarrassment exists, and the remedy is what we seek. This Government can give partial relief by releasing the railroad companies from the payment of duties on their railroad iron. For this there is precedent, and the right is unquestionable. But this, it is said, will injure the railroad iron makers of Pennsylvania, and from that State proceeds the greatest hostility to this measure, but with what justice and reason, I now propose to inquire.

The number of railroad iron mills in Pennsylvania, according to the memorial made to Congress in 1850, by the iron manufacturers, is six; their annual capacity 64,400 tons of rails, but their actual make was, in 1849, 18,973 tons of rails. (See memorial, page 105.) On page 88 of the memorial, it is estimated that the make of iron metal in the United States in 1847, was 800,000 tons; in 1848, the same; in 1849, 650,000 tons. The United States Census Compendium, page 181, shows a make, in 1850, of 823,455 tons of pig and other iron. Of pig iron alone, 563,755 tons were made, and of this amount, 285,702 tons were made in Pennsylvania. But the real make was much greater than the census shows. The Superintendent of the Census appends a note to page 181, which says "the production of pig or cast iron in Pennsylvania was estimated by the local reports in 1850 at 564,575 tons." As the returns show that Pennsylvania made one half of all the pig iron in the United States, and as the local returns show that the official census returns are too low by one half, it is reasonable to suppose the same of the other States; if so, the real make of pig iron in the United States, in 1850, was about one million one hundred and twenty-five thousand tons; add to this the "other products," and the total amount of iron actually made in the United States in 1850 was 1,385,000 tons. Of this vast amount of production, less than 20,000 tons were manufactured in the Pennsylvania rail mills into rails, unless they did better than the year before, which no one pretended. On the contrary, they are in a constant "state of ruin," 18,973 tons of rails is the whole amount of iron used by the Pennsylvania rail mills out of 1,385,000 tons of iron made in 1850! And if the mills had worked up to their greatest capacity, they could have only made about three times the small amount named. This amount we have furnished to our hands by the iron men themselves, and is, undoubtedly, to be relied on.

The single item of "castings" consumed, (see Compendium Census, page 181,) in 1850, three hundred and sixty-six thousand eight hundred and nineteen tons of iron, being nearly twenty times greater an amount of iron than is used by the Pennsylvania iron rail mills.

The estimates made by the iron manufacturers for the use of Congress, justify us in supposing that these six rail mills cost about $2,500,000. The cost of all railroads, finished and unfinished, including stock of all kinds, is estimated at $1,200,000,000. To benefit the $2,500,000, the $1,200,000,000 have, since 1843, paid taxes enough to have paid for the six mills and burned them, and repeated the operation of buying and burning ten times.

It is not republican, neither is it just, in theory or practice, to make the railroads in the United States submit to a grievous burden for the benefit of six iron rail mills in Pennsylvania. The capital and the business of these six iron rail mills look quite insignificant when compared even with the capital and business of the railroads of Pennsylvania; and to oppress one for the benefit of the other, especially to make the greater bow to the lesser, is an operation not self-evidently right, and requires more than the metaphysics of a Philadelphia lawyer to make it conform to a plain man's notions of right. Again: in representing the iron business as weak, prostrate, and only to be revived, strengthened, and permanently maintained by judicious and continuous Government aid, in representing it as a pauper, it is grievously slandered by those who so ostentatiously claim to be its only true friends. The iron trade is neither weak nor prostrate, but is strong, sturdy, and honorable to the nation. It is the reverse of the lachrymose statements made every year or two to Congress. It has become too strong for it to "look well" to come here whining and blubbering, and begging like a street mendicant.

Attached to the memorial of the iron men to Congress, is a statement made by some of them in reply to the Journal of Commerce and the New York Evening Post. See pages 55 and 56:

"To correct a prevailing error, let it be presumed that this country *exports* but little or no iron. The exportation of nails, to which your journal recently referred, consisted of a few casks shipped by an American provision house, as an experiment for coopering pork barrels in Liverpool; and it is absurd to suppose that such a trade will ever be worth a second thought. So the exports of iron, to which the Evening Post referred, a few days since, really consist of *machinery* sent to the Spanish colonies and South America, and were only kept up by the superiority of the American sugar mills. So again, a few tons of pig iron have, at various times, been sent to England—by the writers among others—for the purpose of being tried for steel, the raw material for which Great Britain now imports from Sweden at very high prices. The discovery of such an iron in this country would, undoubtedly, lead to its exportation; but such a result has not yet been reached, and even if it had been, it would be due not to our own capacity to produce iron *more cheaply*, but to the impossibility of making it in England at all for the want of suitable ore. We have, therefore, only a home market: and when that is closed, the iron trade is prostrated."

Now, I undertake to say that the fact is exactly otherwise. Not only have we a large home market, but we have long since entered into a successful competition with other nations in the markets of the world. During that very year, when the foregoing positive statement was made, and during each of several years before, our annual exports of iron exceeded $1,000,000; our yearly exports of iron and its manufactures were then half as great as all the Pennsylvania iron rail mills were worth. This past year, those exports sold for money enough, probably, to buy those six mills twice over—the value of the exports exceeding $4,000,000. The value of the annual make of iron, and of iron manufactures in the United States, must greatly overgo $100,000 000—three classes alone, show an aggregate value of over $60,000,000. (See Comp. Census., pp. 181, 182.)

Manufactures of pig iron	$12,748,727
Manufactures of iron casting	25,108,155
Manufactures of wrought iron	22,629,271
	$60,486,153

While achieving such wonderful results; while filling the home market with such a prodigious amount of goods and value; while exporting more than any other manufacturing interest except that of cotton manufactures, and nearly equaling that, it is idle to talk of feebleness, prostration, and pauperism. The iron interests of this country exceed those of any other save one; and when our roads and canals open up an easy intercourse with the interior portions of the country lying near this side of Kansas and Nebraska, those iron interests will swell to an aggregate of the most flattering dimensions.

To show that there is no mistake about this matter—to prove that no reliance can be placed on these iron statements which represent that the United States export little or no iron the following table is submitted. It is taken from Secretary Guthrie's last annual report, page sixty-eight, and exhibits the value of all pig and bar iron, of nails and other manufactures of iron, exported from the United States during nine consecutive years, the table shows a steady and gratifying increase in the export of iron, and particular attention is invited to it.

Value of iron, pig and bar, castings, and all manufactures of iron, exported from the United States to foreign countries, from June 30, 1845, to June 30, 1854;

1846	$1,151,782	1851	$2,255,698
1847	1,167,484	1852	2,303,819
1848	1,259,632	1853	2,499,652
1849	1,096,172	1854	4,210,350
1850	1,911,320		
			$17,855,909

Nations, in their character as nations, generally construct canals, and military postal and commercial highways. President Jackson doubted the power of Congress to construct certain roads. He vetoed the Maysville road. But when States or companies chose to do what nations usually do, President Jackson, instead of discouraging the enterprise, approved the act of July 14, 1832, which refunded to such States and companies the money that had been exacted from them as duties in payment for the privilege of importing iron rails, spikes, &c., to be used in constructing railroads. To this, no vigorous opposition seems to have been made in any quarter; on the contrary, bills enlarging this privilege passed without opposition; not even the yeas and nays were asked for in this House on those bills. Mr. Clay and Mr. Calhoun, Mr. Buchanan and Mr. Woodbury, Mr. Webster, and Mr. Polk, Mr. Wright and Mr. Tazewell, alike seemed to concur in the policy of allowing such companies as would build railroads in any part of the nation, and thus furnish facilities for speedy and cheap Government transportation of all kinds in time of need, in peace and in war, to do so free from all Government charge upon such articles of iron as they might import to use in the construction of such roads.

This law remained in force some eleven years. In the tariff of 1842 a provision was inserted, extending it to March, 1843, and then terminating it. Under that beneficent act of 1832 all duties that had previously been collected from railroad companies were refunded, and all iron laid down during the succeeding eleven years was exempted from duty. To New England, New York, and Pennsylvania this wise policy was of great advantage. Pennsylvania obtained under that act from the United States Treasury, prior to 1841, at the single port of Philadelphia, $1,044,875 24; considerable quantities of iron for the railroad to Baltimore and to New York were landed in Delaware, at Baltimore, at Newark, Perth Amboy, &c. From 1841 to 1844 considerable sums were received by Pennsylvania on the same account. To this policy Pennsylvania assented. It is believed that not one of her numerous representatives dissented.

Having, in pursuance of that policy, received aid from the Treasury during the infancy of its enterprise, Pennsylvania surely will not now resist the revival of that policy, and insist upon the payment of thirty dollars upon every one hundred dollars worth of railroad iron imported by the feeble and embarrassed companies of the South and West; surely, in her wealth and power, she will not refuse to others what was granted to herself in the days of her greatest need. During the continuance of the policy of General Jackson $6,371,212 39 were refunded to railroad companies. More than one fifth—probably one entire fourth of this sum—went to aid Pennsylvania roads. Will Pennsylvania do this day by the new States as she was done by?

In reply to the demagogue cry about aiding rich corporations, this may be said: Railroad enterprises are generally gotten up by the people to be benefited. To carry them forward they give all the money they can, and beg friends elsewhere to help them. When finished the roads greatly benefit the country through which they run, by increasing the value of lands and of products generally. But the stockholders, living elsewhere, could have done better with their money. Hence it is becoming difficult to get stock taken in new roads except from the people along their line. This is known to all. To show how false is the cry about rich corporations, we have only to reflect that not one man in Congress would buy stock at par in any railroad company in the United States, with the intent and upon the condition to hold it for ten years. True, the stock of a few is above par, and is worth what it sells for; but our past history shows that the best may depreciate from some one of the many causes which affect railroad stocks in all countries. It is important to the country, to the nation at large, that roads from all the sea-ports to the interior, from the interior to the lakes, and to navigable rivers leading to the lakes, and to the ocean, and to the Gulf, should be built. They are better munitions of war and of defense than were ever known to the ancients; and if individuals will build the roads that nations need in time of war, surely they ought to be encouraged to do it, and thus relieve Government from the oppressions and corruptions incident to extended and overpowering patronage. If individuals will build roads wanted by Government to carry mails, and troops, and stores, on the condition that they shall be allowed to obtain

their building materials where they please, free from taxation, who that wishes to see Government patronage confined within as narrow limits as possible would hesitate, for one moment, to allow them to do so?

Mr. WITTE. I do not agree with my honorable friend from Ohio [Mr. EDGERTON] in the views he has presented. I cannot believe that he intended to do injustice to Pennsylvania when he made special reference to the iron interests of that State. I desire to say a word upon this subject, not for Pennsylvania alone, not with reference to any peculiar interests which she may have, or of any class of her manufactures or people, nor with reference to the influence which the introduction of any new change in the revenue system might produce upon any of her interests. I do not propose to inquire whether this measure would benefit any one class of her manufactures. I trust that, wherever the great principles of Democracy are involved, I am, and shall ever remain, above and beyond all personal and local considerations. I desire to state simply what I conceive to be the important principle involved in this question. I wish it to be known to the country, that gentlemen claiming to be Democrats, who represent the railroad, woolen, or other interests of their various States, should not come here and ask for a peculiar character of special legislation in favor of those interests under the shallow pretext of being actuated in so doing by an earnest desire to defend the best interests of their constituents.

We have now, for the first time during the time I have occupied a seat here, heard the attempt made to interpolate the new dogma in our theory of Government, that we can, by a single act of legislation, discriminate, not as between individuals personally, but as between corporations and individuals—a principle at once the most odious in character and dangerous in tendency. If the doctrine is to be held by the Democratic party of this country, that this new feature is to be introduced, let it be understood by whom the responsibility is to be assumed, and let us know who will act in opposition to what has been hitherto regarded not only as a perfectly clear and well defined, but a cardinal principal of Democratic policy. How does this matter stand? Look to the history of this country for the last four or five years, and especially the last year or two, and see if it justifies the introduction of any such feature of policy into our system. The whole system of our manufactures and commerce has been deranged and shaken to the very center. In what manner has it been done, and by what agency has it been produced? By the railroad interests of this country, by that gigantic interest which now rolls up a capital of six or seven hundred millions of dollars, and which has been, from the very first day of this Congress, knocking at our doors and importuning us most pertinaciously and impudently from the lobby, for the enactment of class legislation, and to do just that very thing which has been this day attempted.

I will not speak of what Pennsylvania can do, or what she cannot do. I will not here attempt to say whether she can sustain herself or not. I can point with pride to the history of her growth and the development of her resources. But I will say that Pennsylvania has never asked anything at the hands of the Government. If you will examine the question you will find that she has paid a larger price for the railroad iron used in the construction of her roads than it can be now bought for, without reference to any duty.

There is another point in this matter to which I invite the attention of the committee. We have never asked assistance from any quarter, and, I speak for myself personally, so far as my knowledge goes, we have never asked for class legislation. We see the ancient Whig doctrine—and I say it without any disrespect to gentlemen on the opposite side—attempted here to-day, of protection in its most odious phase; not that system merely which seeks to protect the manufacturers, but that which seeks to crush the manufacturers, and protect the already bloated and overgrown railroad corporations.

[Here the hammer fell.]

Mr. PRATT. I move to amend the amendment so as to include raw silk.

There are very good reasons why this amendment to the amendment should prevail. Raw silk is not grown in this country to any extent, and it now pays a duty. It is imported extensively, and manufactured here. Wool is also grown extensively here. If the amendment now before the committee should prevail, many of our wool growers would fail, and their interests would be jeopardized in consequence of it; but there is no interest that will suffer if the amendment which I propose to the amendment shall prevail. If my amendment be adopted, as I trust it will be, those interested in the manufacture of silk will be greatly benefited.

Mr. MILLSON. We are presenting, at this time, a strange spectacle. We commenced this session of Congress with an effort to reduce the duties on imports, and relax the rigors of the restrictive system, and we are now about to introduce one of still greater severity. The proposition is to exempt from taxation the raw materials used by the manufacturers of New England, without a corresponding reduction of the duties on the imported articles that come into competition with them. When, during the last Congress, a similar attempt was made by a gentleman from New York, it was discountenanced by almost the united sentiment of the Democratic party in the House, yet we find to-day, members of the Democratic party, opponents of the restrictive system, uniting in the effort to secure further bounties to the protected interests of New England, in the shape of mitigated duties on the materials they use—and for what? What do they hope to gain in return for these concessions? Not the exemption of railroad iron from all duty, to which, or to a reduction of duty I myself incline, but the refunding of the duties which have been already paid by certain railroad companies, on the iron laid down since the 30th June, 1853, and a remission of the duties which they may have to pay within the space of little more than a year from this time. The gentleman from Connecticut [Mr. PRATT] now proposes still further to secure these partial advantages and bounties to the protected interests by repealing the duty upon raw silk, as well as the dye-stuffs and other articles embraced in the amendment of the gentleman from Ohio.

Now, sir, to the proposed donation of a large sum of money from the Treasury of the United States to those railroad companies which have heretofore paid duties on their iron, I am utterly and irreconcilably opposed, for I conceive that we have no more right to pay back to railroad companies the amounts they have paid into the Treasury—the amount of duties they have discharged—than to make a gratuitous grant of any other sum for any other purpose. I regard it as a pure and simple donation, and therefore I could not be reconciled to the proposition to grant further protection to the protected interests of New England, by what seems to be only a reduction of duties, for I am as much opposed to the consideration tendered as I am to the proposed reduction itself, I trust we are not now to abandon our proper policy and return to the protective and restrictive system; not, it is true, by increasing the rate of duty, but by giving a protection just as efficacious, and just as sure to prevent the introduction of goods from abroad. I trust we shall not consent by such means to diminish the expenses of manufacture, and thus to enable the protected interests to get rid of foreign competition. It makes no difference whether we lessen the duty on what they buy, or increase the duty on the imported article; the effect is just the same in securing protection to them and imposing burdens on the people; for the slight gain in the diminished cost of the domestic article will not at all make amends for the serious reductions in the revenue on the imported goods, the importation of which will be diminished precisely in proportion to the increase of the domestic manufacture.

[Here the hammer fell.]

The question was then taken upon Mr. PRATT's amendment, and it was not agreed to.

Mr. BANKS. I move to amend by striking out the word "eighteen," so that it will provide that wool shall be free of duty, without limit. I move the amendment for the purpose of making a suggestion in reply to the gentleman from Virginia, [Mr. MILLSON,] and also to my friend from Pennsylvania, [Mr. WITTE.] This is not the first time that the question of the reduction of duties has been presented at this session. It has been proposed before, and I have to say to the gentlemen from Pennsylvania and Virginia, that they do not find the manufacturing interests of the East in opposition to that reduction. On the contrary, the Representatives from Massachusetts, with no more than one exception, who represent a constituency as deeply interested in this question as any other section of the country, voted in favor of a general and liberal reduction. They were willing to assent to a reduction upon manufactured articles for the reason that it was accompanied by a still greater reduction upon raw materials. While it reduced the duties upon imports, and thus tended to satisfy the demands of the friends of free trade, it removed the onerous burdens upon manufactures, by imposing merely nominal duties on the articles they consumed. If it was free trade on one side, it was protection on the other. It was not, therefore, the manufactures of the East that demand high protection, as the gentleman from Virginia says, who defeated it. They were willing and ready to take the bill which was proposed some time since by the gentleman from Alabama, [Mr. HOUSTON.] I need not say to my friend from Pennsylvania that the fixed, determined, and resistless opposition to that measure, came from the middle States, particularly from Pennsylvania, and not from New England. The proposition before us differs from that referred to only in the fact that it goes directly to the extension of the free list, without making a general reduction of duties. It will greatly relieve the most depressed interests of the country without inflicting material injury upon any. It does exactly what the friends of free trade have always claimed their measures would do—afford necessary protection without imposing burdens.

I have another suggestion to make to the gentleman from Virginia, [Mr. MILLSON.] If he desires to break down that rigorous system of protection of which he complains, is it not better to begin by striking at it in detail than by fruitless efforts to form combinations against it? By detaching from its support those who are willing to be detached, whose interests are protected by extension of the *free* lists, and who can thus bear such reduction of duties as free trade demands? Is it not in that way only that this object can be attained? We have only to refer to England as an example. England now approaches nearer the position of a free trade Government than either our own or any other State. And how has she reached that position? By going to work upon the old system in detail; and in that manner, one after another, has she put upon her free list four hundred and thirty different articles—making an annual reduction in her import duties of £1,100,000. By placing sheep's wool upon the free list she reduced the burdens then oppressing her manufactures, as a similar duty oppresses ours, at the rate of £100,000 yearly, and substituted general prosperity for the general gloom that rested upon them. The abolition of the duty on cotton and wool cost her annually £680,000. It was by such measures that England has attained the position which she occupies, and by which she has given to her people prosperity, employment, bread, and free trade to her commerce. In the same manner it is proposed by the committee to-day to extend here the principles for which the gentleman from Virginia contends—and I much doubt if, by any other method, he can reach his object—a general reduction of duties.

Now, a word in relation to the rights of Pennsylvania upon this question, so far as railroad iron is concerned. The West and southwest are now building their roads, and they have had no favor from the Government whatever. I understand, from what was stated by the gentleman from Ohio, [Mr. EDGERTON,] that, until 1842, every dollar which was paid as duty upon railroad iron was remitted. The West and southwest have had no such favor. New England has had comparatively little, but the middle States have been largely favored in this ten years of legislation in everything, except as to time, exactly like that which is proposed now. Pennsylvania especially and particularly has been favored. Let me call the attention of the committee to a particular fact. In 1853, Pennsylvania had thirteen hundred and twenty-six miles of railroad; every dollar that she paid in duties for railroad iron, upon nine hundred miles of that road, has been remitted under legislation from 1832 to 1842. In that year she had eight hundred and ninety-three miles of railroad, so that upon her roads of one thousand three hundred and

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fifty-six miles in 1853, she has paid duties only on iron for four hundred and thirty-three miles. No other State, and no section of the country, has had favors to such extent. The West and South, with three thousand two hundred and seventy miles of road, have had duties remitted up to 1842 only on one hundred and fifty miles. The South, that had three thousand three hundred and twenty-one miles in 1853, has had duties remitted only on one thousand one hundred and sixty miles of road. New England, that had, in the same year, two thousand two hundred and twenty-four miles, has received return duties on only seven hundred and sixteen miles. The middle States, that had three thousand seven hundred and fifty-five miles of road in 1853, have received return duties on one thousand seven hundred miles, or nearly one half. And Pennsylvania, most favored of all, has had sixty-seven per cent. of her whole expenditures upon railroad iron returned back to her under the legislation of 1832. She has thus received in refunded duties more than a million of dollars. How, then, can she complain of this necessary measure for the relief of other sections of the country, as unjust to her?

The following table exhibits the extent of railroads in 1842 and 1853:

1842.		1853.	
Maine.....	37 miles.	Maine.....	394 miles.
Massachusetts...	435 "	Massachusetts..	1,153 "
Rhode Island....	50 "	Rhode Island..	50 "
Connecticut.....	238 "	Connecticut....	627 "
New York.....	590 "	New York.....	2,123 "
New Jersey.....	186 "	New Jersey....	290 "
Pennsylvania....	893 "	Pennsylvania ..	1,326 "
Delaware	16 "	Delaware.....	16 "
Maryland.....	223 "	Maryland	521 "
Virginia.....	223 "	Virginia	624 "
North Carolina ..	87 "	North Carolina,	249 "
South Carolina..	204 "	South Carolina,	599 "
Georgia	323 "	Georgia.....	857 "
Alabama	46 "	Alabama	236 "
Mississippi.....	14 "	Mississippi.....	95 "
Louisiana.....	40 "	Louisiana.....	117 "
Kentucky	28 "	Kentucky.....	93 "
Ohio.....	84 "	Ohio	1,385 "
Michigan.....	138 "	Michigan	474 "
Illinois.....	22 "	Illinois.....	296 "

Mr. HOWE. I am opposed, Mr. Chairman, to the amendment of the gentleman from Massachusetts, [Mr. BANKS,] which provides that wool shall be duty free. My constituents are, more or less, interested in the growing of wool, and now receive, under your revenue laws, the same degree of encouragement which is awarded to other branches of industry. I am opposed to taking it from them, and conferring it upon the constituents of the gentleman, who are chiefly engaged, as he says, in manufacturing pursuits.

I have not time, however, under the five-minute rule, to enter into a discussion of the merits of protection to our own domestic industry, against the oftentimes ruinous competition of the products of foreign labor; my object in rising was to say a few words to the gentleman from Massachusetts by way of refreshing his memory, in regard to a few historical facts connected with the memorable struggle on this floor between the friends and enemies of protection, and which resulted in the passage of the act of 1846; the act which constitutes your present system of duties upon imports. I wish to remind him that then Pennsylvania and Massachusetts, flourishing under the benign influence of the legislation of 1842, stood side by side in defense of protection as a great American principle, worth contending for as a principle.

The doctrine just uttered by the honorable gentleman, "that the way to break down the rigorous system of protection by striking at it in detail, and not by combination—by detaching from its support the interests of those who are *willing* to be detached," had never, up to that moment, found favor with Massachusetts Representatives. The detail system of appeals to the dollar interests of those willing to be detached, although tried, had been tried in vain—Massachusetts stood by Pennsylvania, and Pennsylvania stood by Massachusetts, unseduced by appeals to their sectional interests. They stood upon a principle, the principle of specific duties, wherever applicable, for the double purpose of revenue *and protection* in contradistinction to an indiscriminate system of *revenue duties* merely, without regard to protection. When, sir, the effort was made, in the struggle of 1846, to detach the Pennsylvania representation on this floor, by appeals to her peculiar interests, what did you see? When they were told, as told they were, that protection, ample protection, to iron would readily be accorded to her, as an equivalent for the support by her delegation of the measure which was to strike a fatal blow at other great and cherished interests of other States, what was the response? The united delegation of Pennsylvania, Whig and Democrat, with one single exception, indignantly answered: No. We are Pennsylvanians, but we are Americans also. We will accept no boon for Pennsylvania as the price of treachery to New England, to Louisiana, and other sections which have nobly stood by us in the day of our most urgent need.

As I have stated, sir, but a single member of the Pennsylvania delegation in Congress left our ranks upon that occasion; and that one was the Hon. David Wilmot.

I have recently seen a letter purporting to have been written by that gentleman to a member of the present Legislature of Pennsylvania, in vindication of the course he then pursued. This letter lets you into some of the secrets of party movements of that period. Mr. Wilmot says:

"I am of the firm belief, if six Democrats from Pennsylvania would have acted with me, instead of adhering immovably to the act of 1842, that our State would have obtained all that reasonably could have been asked. In the early stages of the bill, before its friends had counted and marshaled their forces, we could, in my opinion, have secured *specific* duties. In this I may be mistaken, but I think not. It is certain we could have obtained fifty per cent. ad valorem. Even in the latter stages of the bill, and when its passage was certain without any of our votes, so anxious were its friends to secure Pennsylvania support, (*from party considerations,*) that McKay, who had charge of the bill, as chairman of the Committee of Ways and Means, offered to *move forty per cent. upon iron, if half the Democrats from our State would then vote for the bill.*"

And Mr. Wilmot further adds, that "it always seemed strange, when the passage of the bill was certain, that our men would not make sure of all they could get." Yes, sir, if Pennsylvania had then consented to have abandoned her friends, she might, no doubt, have reaped a rich harvest as the reward of her treachery; but instead of standing here this day with the proud consciousness of her fidelity in the hour of temptation, the blush of shame would tinge the cheek of her present Representatives as they contemplated the foul dishonor reflected by their predecessors.

The question was taken on Mr. BANKS's amendment to the amendment; and it was disagreed to.

Mr. LETCHER. I offer the following substitute for the amendment of the gentleman from Ohio:

And be it further enacted, That on and after the 1st day of July, 1855, there shall be a reduction of twenty per cent. on the rates of duty imposed by the act entitled "An act reducing the duty on imports, and for other purposes," approved July 30, 1846, on the goods, wares, and merchandise, imported from foreign countries, enumerated and provided for in schedules A, B, C, D, E, F, G, and H, and also those provided for in the third section of said act, except as hereinafter provided.

And be it further enacted, That the following named articles embraced in schedule D of said act of 31st July, 1846, be, and they are hereby, transferred to schedule C, to wit: manufactures and articles of silk, or of which silk shall be a component material; that the manufactures and articles of flax, or of which flax shall be a component material, and blankets of all kinds embraced in schedule E of the said act of 31st July, 1846, be transferred to schedule D; that wool, unmanufactured, shall be transferred to schedule G; that flax unmanufactured, silk raw, with or without the gum, not being doubled, twisted, or advanced in manufactures in any way; jute, manilla, and sisal grass, coir, and other vegetable substances, unmanufactured, not otherwise provided for; lac spirits, lac sulphur, lamp-black, Prussian blue; articles not in a crude state used in dyeing or tanning, not otherwise provided for; brimstone, crude, in bulk; cream-of-tartar, extracts of indigo, India rubber in bottles, slabs, or sheets, unmanufactured, extracts of madder, barilla, cudbear, bleaching-powder or chloride of lime, indigo, cochineal, woad or pastel; acids, acetic, benzoic, boracic, citric, muriatic, white and yellow, nitric, oxalic, pyroligneous and tartaric, and all other acids of every description used for chemical, medicinal, or manufacturing purposes, not otherwise provided for—be transferred to schedule H.

And that salt, berries, nuts, flowers, plants, and vegetables, used exclusively in dyeing or in composing dyes; but no article shall be classed as such that has undergone any manufacture; Brazil-wood, brazilletto, and all other dye-woods in sticks; burr-stones, wrought or unwrought; codilla or tow of hemp or flax; fruits and vegetables, green, or ripe, not otherwise provided for; garden seeds and all other seeds for agricultural, horticultural, medicinal, and manufacturing purposes, not otherwise provided for; bolting-cloths; madder-root; madder ground or prepared; ice; animals of all kinds—be transferred to schedule 1.

SEC. —. *And be it further enacted*, That all goods, wares, and merchandise which shall be imported from foreign countries after the passage of this act, and be in the public stores on the first day of July aforesaid, shall be subject, on entry thereof for consumption, to no other duty than if the same had been imported, respectively, after that day.

SEC. —. *And be it further enacted*, That on the entry of any goods, wares, and merchandise imported on and after the first day of July aforesaid, the decision of the collector of the customs at the port of importation and entry, as to their liability to duty or exemption therefrom, shall be final and conclusive against the owner, importer, consignee, or agent, of any such goods, wares, and merchandise, unless the owner, importer, consignee, or agent, shall, within ten days after such decision, give notice to the collector, in writing, of his dissatisfaction with the same, setting forth therein distinctly and specifically his grounds of objection thereto; and shall, within thirty days after the date of such decision, appeal therefrom to the Secretary of the Treasury, whose decision on such appeal shall be final and conclusive; and the said goods, wares, and merchandise shall be liable to duty or exempted therefrom accordingly, any act of Congress to the contrary notwithstanding, unless suit shall be brought within thirty days after such decision of said Secretary for any duties that may have been paid, or may thereafter be paid, on said goods, or within thirty days after the duties shall have been paid in cases where such goods shall be in bond.

SEC. —. *And be it further enacted*, That on and after the first day of July aforesaid, all provisions of existing laws inconsistent with the provisions of this act shall be inoperative and void.

Mr. GROW. Is it in order to vote on the original amendment before the substitute?

The CHAIRMAN. The Chair is of the impression that, under the 34th rule, the vote must be first taken on the substitute.

Mr. LETCHER. Mr. Chairman, I look upon this as nothing more than a war between a party of soulless railroad corporations and the private interests of the country. I look upon it as an attempt to give to corporations privileges that not one of the gentlemen who are in favor of this proposition propose to give to the mechanical and agricultural interests of the country. If it be right that the duty should be taken off railroad iron for the benefit of these corporations, is not the principle far stronger when applied to the individual citizen? Ought not these gentlemen propose to take the duty off the iron which goes into a part of the annual consumption of the day laborer of the country in the prosecution of his business? It strikes me that they ought. And while you see this attempt made to relieve the corporations, you find no attempt made at the same time, to relieve the common day laborers of the land.

This thing is not now started for the first time. Members of this House will recollect that this corporation flag came here at the last session, borne in the hands of one Azariah Boody, backed up by Samuel F. Vinton and others, as a committee, who were to get five per cent. on all money which could be got in an operation of this sort. They published a circular, and that circular was sent out through the land. We find while they were not successful then, that this combination has continued. The work has been prosecuted, and it now bids fair to be successful, and to be carried out exactly as this committee desired in their publication it should be.

If we are to have a revision of the tariff, I want such a revision as will operate to the benefit of my people of all classes, as well as to the railroad corporations which happen to be in my State. I want a general revision; one which will affect all the various articles which come into private and individual use; one which will provide for the farmer, the mechanic, and the day laborer, at the same time it provides for corporations—men of wealth, associated influence, and the moneyed power of this land.

Sir, it is so. Then look at it in another point of view, and see what there is in this proposition that should command the votes of southern men. How are the railroads of the West being prosecuted—

many of them? Is it not by means of the public lands of the Federal Government? But, sir, not content with the lands which the Government give them, they now come here and ask that you should refund to them the duties paid upon their iron—that you should relieve them at the expense of the National Treasury, while their burdens are thrown upon the shoulders of you, and I, and every other man in the country.

Sir, is it right? Is it just? Is there any consideration of policy or propriety that can be relied on to justify action of this sort upon the part of the National Legislature of the country? It strikes me that there can be none. If there should be discrimination at all, that discrimination ought to be rather in favor of individuals, than against individuals and in favor of associated wealth.

Mr. INGERSOLL. Mr. Chairman, if I had not ceased to be surprised at any legislation, I should have been surprised at the proposition made this morning by the gentleman from Ohio, [Mr. EDGERTON.] When, sir, I came into this Hall, this morning, and read the proceedings of the Senate on yesterday, I found to my surprise that, upon a question almost in the very terms of the proposition before us, but one solitary southern member voted against it.

Mr. EDGERTON. I rise to a question of order. I will state that it is the desire, I think, of this whole committee, that debate shall be confined to the advocacy or opposition of the proposition immediately under consideration. Now, sir, the gentleman from Virginia [Mr. LETCHER] has offered an amendment here, which he did not speak to at all, and the gentleman from Connecticut is following now upon the same side of the question.

Mr. INGERSOLL. I am opposing the amendment of the gentleman from Virginia.

The CHAIRMAN. The gentleman must confine himself to the opposition of the amendment.

Mr. INGERSOLL. I will. I say, sir, when I saw this state of things, I came here, and looked calmly at this question; and what was the result? Why, sir, the attempt is now being made to establish here the protective system in its most odious form.

Mr. CHAMBERLAIN. I desire to ask the gentleman from Connecticut a question.

Mr. INGERSOLL. I do not yield the floor.

Mr. CHAMBERLAIN. I call the gentleman to order. I ask the Chair if it is in order for two gentlemen to speak upon the same side of an amendment?

Mr. INGERSOLL. I am opposed to the original amendment of the gentleman from Ohio, and also to that of the gentleman from Virginia.

The CHAIRMAN. The Chair will suggest to the gentleman from Connecticut that the question pending is upon the amendment of the gentleman from Virginia, [Mr. LETCHER,] and that the rules require the gentleman to confine himself to the opposition of that amendment.

Mr. INGERSOLL. Have I not the right to discuss the amendment of the gentleman from Virginia in connection with that of the gentleman from Ohio, to which it is offered?

The CHAIRMAN. The gentleman will proceed in order.

Mr. INGERSOLL. I was proceeding to say that the amendment of the gentleman from Ohio proposed to establish protection here in its most odious sense. What is it? Sir, in Connecticut, and particularly in my own district, there are many workers in iron; but do you propose to protect them? Why not protect the individual interest in the country as well as corporations?

Mr. CHAMBERLAIN. I call the gentleman from Connecticut to order.

The CHAIRMAN. The Chair has not heard enough of the remarks of the gentleman to determine that they are out of order.

Mr. CHAMBERLAIN. I ask whether one word the gentleman has said was in opposition to the amendment offered by the gentleman from Virginia?

The CHAIRMAN. The gentleman from Connecticut will proceed in order. The proposition is upon the amendment of the gentleman from Virginia.

Mr. INGERSOLL. Sir, it is now attempted to do upon this floor by indirection what you dare not do directly as Democrats. You are attempting to fasten upon this country a system of internal improvements, which no member on this side of the House dare support directly.

Mr. CHAMBERLAIN. I rise to a question of order; and I will state my question of order. I ask the gentleman from Connecticut if the amendment of the gentleman from Virginia, which is now pending, proposes to establish the system upon which he is now speaking?

Mr. INGERSOLL. If the gentleman from Indiana had waited until I was through with my remarks he would have seen what the application of my remarks was. Sir, the Democratic party of this country long ago established the cash system of duties. But, sir, we now find that members of this House, who are bound by the principles of that party, are now acting with the other side of the House upon this question.

Mr. EDGERTON. I must insist upon my point of order.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

Mr. KERR obtained the floor.

The CHAIRMAN. The Chair must remind gentlemen that, under the rule restricting debate in committee to five minutes, one member is allowed to speak five minutes in favor of an amendment, and another five minutes in opposition to it. The rule is imperative that debate must be confined strictly to the proposition under consideration; and the attention of the Chair having been called to it, he will feel called upon to enforce it strictly in future. In the opinion of the Chair the remarks of the two gentlemen who have last spoken were not strictly in accordance with the rule. But the Chair having been called upon to enforce it, he will enforce it upon both sides of the House in future.

The Chair will remark to the gentleman from North Carolina [Mr. KERR] that debate has been exhausted upon the amendment of the gentleman from Virginia.

Mr. HAVEN. I ask for tellers upon that amendment.

Mr. HAMILTON. Is not the original proposition debatable?

The CHAIRMAN. Debate has been exhausted upon that, too.

Tellers were ordered; and Messrs. JONES, of Louisiana, and RIDDLE were appointed.

Mr. SEYMOUR. I rise to a question of order. I wish to inquire whether, as this amendment is offered as a substitute to the original amendment, it is not in order to amend the substitute?

The CHAIRMAN. It is not.

Mr. SEYMOUR. Is not the amendment pending in the nature of a substitute?

The CHAIRMAN. It is; but it is an amendment to an amendment, and is not amendable. The committee are compelled to vote now upon the substitute.

The question was then taken; and the tellers reported—ayes 99, noes 86.

So the amendment to the amendment was adopted.

The question recurred upon Mr. EDGERTON's amendment as amended.

Mr. TAYLOR, of Ohio, demanded tellers.

Tellers were ordered; and Messrs. RIDDLE, and JONES, of Louisiana, were appointed.

The question was taken; and the tellers reported—ayes one hundred and two, noes not counted.

So the amendment, as amended, was agreed to.

Mr. SMITH, of Virginia. I offer the following amendment:

For the completion of Little Falls bridge, $25,000: *Provided*, That said bridge shall be finished upon the plan and in the style in which it has been so far constructed, under a contract to be first made therefor by the Secretary of the Interior with some responsible contractor.

Mr. JONES, of Tennessee. I submit the question of order that, the part of the bill to which that amendment is germane having been passed, it is not in order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. HAMILTON. I move that the committee do now rise, and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, the Chairman of the committee reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly House bill (No. 569) to provide for the civil and diplomatic expenses of the Government, for the year ending 30th June, 1856, and had directed him to report back the same to the House with sundry amendments.

Mr. HOUSTON. I ask the previous question on the passage of the bill and amendments.

Mr. WRIGHT, of Pennsylvania. I move that the House do now adjourn.

[Cries of "No!" "No!" "Withdraw that motion."]

Mr. WRIGHT. Well, I will withdraw my motion until the main question shall have been ordered, but I will then claim the privilege of renewing it.

Mr. WHEELER. I ask the Chair whether the main question is to be ordered on all the amendments together?

[Cries of "No!" "No!"]

Mr. HOUSTON, (amid loud cries of order.) I was going to say to the gentleman from New York, [Mr. WHEELER]——

Mr. HUNT, (interrupting.) I object to the gentleman from Alabama making any explanation, while we are not allowed to speak at all, and while the gag has been put upon us.

[Cries of "Order!" "Order!"]

Mr. HOUSTON. May I not ask the Chair to put the vote on these amendments, which are not objectionable in gross, and let any gentleman select such amendments as he may desire a separate vote upon?

The SPEAKER. The Chair was about to answer the inquiry of the gentleman from New York, [Mr. WHEELER.] The previous question, if seconded, will cover all the amendments—but not taken as a whole—until each amendment is voted on, so that if gentlemen desire a separate vote upon any amendment, it can be had.

Mr. WHEELER. That is all I wanted to know.

The SPEAKER. For convenience sake, and to facilitate the action of the House upon the bill, it is usual to vote upon such amendments as are not objected to in gross. The amendments, therefore, will be read, and as to such amendments as any gentleman on the floor may desire a separate vote upon, he will so declare when it is read from the Clerk's desk, and it will be reserved for such separate vote.

Mr. MACE. I move that the House do now adjourn.

The question was taken; and the motion was not agreed to.

The question recurred on Mr. HOUSTON's demand for the previous question.

The previous question was seconded, and the main question was ordered to be put.

Mr. DAWSON. I move that the House do now adjourn.

[Loud cries of "Oh, no." "Withdraw that motion." "Let us vote first upon the amendments."]

The SPEAKER. The question of adjournment is not debatable, according to the express rules of the House.

Mr. DAWSON. I wish to remark that, in order that the House may pass upon such amendments as there is no objection to, I will withdraw my motion to adjourn until that is done, giving notice, however, that I will then renew the motion.

Mr. ORR. I move to reconsider the vote by which the main question was ordered.

The motion was not agreed to.

Mr. SAGE. This is a very important bill, Mr. Speaker, so important that I think members should have an opportunity of considering before they vote upon it. I therefore move that the House do now adjourn.

The question was taken; and the motion was not agreed to.

Mr. WRIGHT, of Pennsylvania. I ask the yeas and nays on the motion to adjourn.

The SPEAKER. It is too late to call for the yeas and nays, the question having been decided.

Mr. JONES, of Tennessee. There is quite a number of amendments to this bill, and as to a great number of them there will be no objection. There are a few amendments which gentlemen desire to have separate votes on, particularly that upon the tariff; and if gentlemen would just designate what one they require to have a separate vote

on, it would not be necessary for all of them to be read over, and this would greatly expedite business.

Mr. WHEELER. Oh, no; let them all be read over, so that we can tell what we object to.

The Clerk then proceeded to read the amendments in order.

Mr. RITCHIE, of Pennsylvania, asked for a separate vote on the amendment of the committee in reference to the tariff.

Mr. WALSH, by unanimous consent, withdrew his demand for a separate vote on the forty-ninth amendment, in reference to the Land Office clerks.

The question was then taken on all the amendments to which there was no objection, and on which a separate vote had not been asked, and they were concurred in.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; which received the Speaker's signature:

An act to provide for holding the United States courts in the northern and southern districts of Florida in case of the sickness or disability of either of the judges of these districts;

An act to establish a court for the investigation of claims against the United States; and

An act concerning the apprehension and delivery of deserters on vessels in the ports of the United States.

Mr. WASHBURNE, of Illinois. I move that the House do now adjourn.

The question was taken; and the motion was agreed to.

Thereupon, the House (at half past three o'clock) adjourned until to-morrow, at eleven, a. m.

IN SENATE.

SATURDAY, *February* 24, 1855.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating a report from the Secretary of the Interior, asking for an appropriation for the extension of the culvert running from the Capitol grounds; which was referred to the Committee on Finance, and ordered to be printed.

Also, a message from the President of the United States, transmitting, in compliance with a resolution of the Senate, a report from the Secretary of State, inclosing a copy of the letter addressed to the Department of State, on the 17th of November, 1852, by M. Joaquin J. de Osma, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Peru; which was ordered to lie on the table, and be printed.

Also, a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, a report and map of C. A. Fuller, Esq., civil engineer, of his late survey of the Red river, in the region of the raft; which was ordered to lie on the table, and be printed.

PETITIONS.

Mr. SEWARD presented the petition of C. Ludwig Richter, praying Congress to make an appropriation for a bronze monument in commemoration of Thomas Jefferson, and that he may be employed to execute the same; which was referred to the Committee on the Library.

Mr. GWIN presented the petition of D. O. Shattuck, praying a revival of the act of February 23, 1854, supplemental to the act to ascertain and settle the private land claims in the State of California; which was referred to the Committee on Private Land Claims.

PAPERS WITHDRAWN.

On motion by Mr. SEWARD, it was

Ordered, That E. S. Parker, of the Seneca nation, have leave to withdraw the memorials of the Seneca tribe of Indians, respecting the transfer of certain stock held in trust for them by the Ontario Bank, an allowance of further compensation for their lands, and the payment of annuities.

On motion by Mr. SLIDELL, it was

Ordered, That leave be granted to withdraw the petition of C. E. Greneaux.

REPORT FROM A STANDING COMMITTEE.

Mr. CLAYTON, from the Committee on Foreign Relations, to whom was referred the petition of A. G. Benson, reported a joint resolution authorizing the Secretary of the Treasury to settle the claim of Alfred G. Benson on the principles of equity and justice; which was read, and passed to a second reading.

MAIL STEAMER APPROPRIATION BILL.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill making appropriations for the transportation of the United States mail by ocean steamers and otherwise, during the fiscal years ending the 30th of June, 1855, and the 30th of June, 1856, reported it with amendments.

WATER-ROTTED HEMP.

Mr. BELL submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Committee on Naval Affairs inquire into the expediency of authorizing the Secretary of the Navy, after giving due public notice, to contract, for a period of five years, with the lowest bidder, for a sufficient supply of water-rotted hemp for the use of the Navy, giving a preference to American grown hemp, at the same price, and raising the test to four thousand four hundred pounds upon a rope one inch and three quarters in circumference.

INSPECTORS OF STEAMBOATS.

Mr. BELL submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Committee on Commerce inquire into the expediency of increasing the salaries of the local inspectors of steamboats at Wheeling and Nashville.

SURVEY IN FLORIDA.

Mr. MORTON submitted the following resolution; which was considered by unanimous consent:

Resolved, That the Secretary of War be requested to communicate to the Senate the result of the late survey in Florida, made under an appropriation provided in the act approved 30th August, 1852, or so much thereof as relates to the line examined between Cedar Key and Amelia Island.

Mr. MALLORY. I would say to my colleague, in relation to that matter, what, perhaps, may render the resolution unnecessary, and which he is not probably aware of, that the survey of the line has not been completed. The Committee on Commerce have now under consideration a proposition to make an appropriation to enable the Secretary of War to complete it, and he is only waiting for that appropriation to send in his report. Perhaps my colleague is not aware of that.

Mr. MORTON. I am well aware of the fact stated by my colleague, that the survey is not completed; but I wish to obtain the report of it as far as it has progressed.

The resolution was agreed to.

FOX AND WISCONSIN RIVERS.

Mr. WALKER. The Committee on Public Lands have directed me to report a joint resolution explanatory of an act passed August 3, 1854. I wish to make a very brief explanation in regard to it after it shall have been read, and then to ask for its passage.

The resolution was read twice, and considered as in Committee of the Whole.

It proposes to declare that it was the intention of the act of Congress, approved August 5, 1854—and that that act shall be so construed—to give to Wisconsin, in aid of the improvements of the navigation of the Fox and Wisconsin rivers, a quantity of land equal, mile for mile of those improvements, to that granted in Indiana under the provisions of the act of Congress, approved May 9, 1848.

Mr. WALKER. I have endeavored to get that measure through Congress for several years. I have got it five times through the Senate, but, until the last session, I was not so fortunate as to get it through the House of Representatives. Under the phraseology of the act to which reference is made, a difficulty has arisen at the General Land Office in its construction. The intention of the committee and of Congress was to do for Wisconsin, in the selection of the residue of her lands—for she got the original appropriation in 1846—what had been done for Indiana; but, as I have mentioned, a difficulty arises in the construction of the act under its peculiar phraseology. This resolution is the form drawn by the Commissioner of the General Land Office. I have his letter addressed to the chairman of the Committee on Public Lands in the House on the subject, requesting this explanatory resolution to be passed to enable him to carry out the act. I therefore ask that it may be put upon its passage.

Several SENATORS. There is no objection to it.

The resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PACIFIC RAILROAD ROUTE REPORTS.

Mr. JOHNSON. I report, from the Committee on Printing, the following resolution:

Resolved, That there be printed, for the use of the Senate, ten thousand copies of the several reports of surveys for a railroad to the Pacific, made under the direction of the Secretary of War; and also of the report of F. W. Lander, civil engineer, of a survey of a railroad route from Puget's Sound, by Fort Hall and the Great Salt Lake, to the Mississippi river; and the report of John C. Frémont, of a route for a railroad from the head waters of the Arkansas river into the State of California; together with the maps and plates accompanying said reports, necessary to illustrate the same; and that five hundred copies be printed for the use of the Secretary of War, and fifty copies for each of the commanding officers engaged in said service. And the binding of such books as have been ordered to be printed in quarto, shall be executed in such style and paid for at such price as the Committee on Printing shall direct.

Mr. WELLER. I should like to have an additional number of copies printed of a report and map made by the late surveyor of the Mexican boundary, which was sent in some ten days ago. The Committee on Printing, I believe, recommended the printing of two thousand extra copies. If it be in order, I move to amend this resolution by adding a provision that five thousand additional copies of that report be printed.

The PRESIDENT. Under our rule, that must go to the Committee on Printing, to be reported upon.

Mr. WELLER. Is it not in order to move to increase the number reported by the committee?

Mr. JOHNSON. I hope the rule will not be enforced upon the Senator, when I make the following statement: The subject of printing ten thousand additional copies of that work, or, in other words, eight thousand more than they agreed to, was before the committee, and they decided adversely upon it. I presume, under these circumstances, the Senate will vote the amendment down.

Mr. WELLER. I do not think the statement made by the Senator from Arkansas has anything to do with the question. If I make a motion to print an additional number of any document, under the rules, that motion goes to the Committee on Printing; but whoever supposed that the report of that committee was conclusive upon the Senate? Suppose a majority of the Senate think there ought to be five thousand instead of two or three thousand copies printed. Is it not competent for any member of the Senate to move to increase the number? I apprehend that, by the rule under which these resolutions go to the Committee on Printing, it was never intended that the decision of that committee should be final, and that we should be precluded from offering amendments to increase the number recommended by the committee. I have no disposition to embarrass this resolution, and if my amendment does that, I withdraw it.

The PRESIDENT. It is in the power of the Senate to reverse the recommendation of the committee.

Mr. WELLER. I should like to understand this question, whether, when a resolution is referred to the Committee on Printing, their report upon that resolution is final?

The PRESIDENT. The rule is, that when a motion is first made in reference to printing such papers, it must go necessarily to the Committee on Printing. After it has been reported back, the Senate can make such order as they think proper. Does the Senator withdraw his amendment?

Mr. WELLER. If in order, I desire to have the number that I have indicated of that report and map printed. I regard it as a very important map. It will, when completed, be one of the most perfect maps we have of the country between the Rio Grande and the boundary of California.

The PRESIDENT. The Chair is under the impression that the amendment is not in order.

Mr. JOHNSON. I hope the Senate will be allowed to vote upon it, and that will settle the question at once. The Senator has the right to make the motion, I suggest to the Chair. I want

to state, moreover, that I did not pretend that the report of the committee was conclusive at all; on the contrary, I think it is his right to make a motion to amend; but I also wanted to state the additional fact to the Senate, that the subject had been considered by the committee, and they had been compelled to reject the idea of printing more than two thousand copies of it, as they thought that would be sufficient for the public service.

The PRESIDENT. The question is on agreeing to the resolution, as reported from the Committee on Printing.

Mr. ADAMS. I am unable to see the distinction between the cases; and therefore I move to strike out "ten thousand," and insert "two thousand," so that the same number may be printed of each one of the reports as well as of the survey.

Mr. FITZPATRICK. I desire to ask the Senator from Mississippi whether his object is to increase or diminish the number?

Mr. ADAMS. To diminish it from ten thousand to two thousand.

Mr. FITZPATRICK. I will suggest to the Senator that his motion will increase the number. The printing of the reports of eight or nine surveys is recommended in that resolution; and by his motion, he will make the number of copies sixteen or eighteen thousand. I trust the amendment will not prevail. I think the committee went to the utmost verge in recommending the printing of ten thousand, and that number ought to be divided among the reports—ten thousand of all of them.

The PRESIDENT. The question is on the amendment of the Senator from Mississippi, to strike out "ten thousand" and insert "two thousand," so that there shall be directed to be "printed for the use of the Senate two thousand copies of the several reports of surveys," &c.

Mr. FESSENDEN. I do not understand, from the explanation, whether the proposition of the Senator from Mississippi is to increase or reduce the number of copies to be printed.

Mr. ADAMS. It is to reduce the number.

Mr. FESSENDEN. Is it intended to strike out "ten thousand," and insert "two thousand" only of each? The plan proposed to be pursued is to publish these reports altogether. It was thought it would be better for them to be published at once, and ten thousand was fixed upon, on consideration, as being the number necessary in order to give a proper circulation to the book when published. It is not proposed to publish them separately, but as one document.

Mr. ADAMS. My proposition is simply to strike out "ten thousand" and insert "two thousand." There can be no mistake about that.

Mr. FITZPATRICK. I will ask the honorable chairman if I am correct in supposing that the intention of the committee was to publish only ten thousand of all, or ten thousand of each?

Mr. JOHNSON. Ten thousand copies of the whole work. I am very familiar with the action of the committee. The resolution expresses the object of the committee very fully, though some Senators do not seem to understand it. I have in my hand the document which it is proposed to print. It will make two volumes, pressed and bound. We recommend the printing of ten thousand copies of the whole report. That was adopted by the committee upon the ground that it was, perhaps, the most interesting document that could now be furnished to the American public, that it would be more universally read and examined, and that consequences were attached to the results which would be produced, in the minds of men, on an examination of it, of perhaps more importance than would be produced by any other document put out at the present day. Under these circumstances, in order to circulate that information, in a reasonable amount, in every direction throughout the United States, it was deemed proper by the committee that ten thousand copies of the work, in two volumes, containing the several reports, should be printed, and so it is reported. As to printing two thousand copies only, it was deemed by the committee, on discussing the subject in their own room, that a less number than ten thousand could not supply anything like the demand, and I have no idea that ten thousand will supply it. Two thousand certainly would be entirely inadequate to impart sufficiently to the public for any useful purpose the facts and knowledge which were designed to be obtained by the heavy appropriation that was made by the Government in order to obtain these reports. I hope the report of the committee will be adopted; but, having no feeling upon the subject, I care nothing about it.

Mr. ADAMS's amendment was rejected; and the resolution was agreed to.

LOBOS ISLAND.

Mr. CLAYTON. I present a resolution, which is offered in pursuance of a suggestion of the Secretary of State, and as it is one of inquiry merely, I suppose there can be no objection to its immediate consideration:

Resolved, That the President of the United States be respectfully requested, if compatible with the public interest, to communicate to the Senate copies of all documents on record or on file, in relation to the settlement of the controversy in regard to the Lobos Island, and without which, as is stated by the Secretary, it is apprehended the subject cannot be properly understood.

The resolution was considered by unanimous consent, and agreed to.

BRITISH POSTAL TREATY.

Mr. RUSK submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of State and Postmaster General be requested, if not incompatible with the public interest, to communicate to the Senate any correspondence which has taken place on the part of the United States with the British Government, on the subject of the existing postal treaty between the two Governments, in addition to that contained in Senate Executive Document No. 32, Thirty-Second Congress, second session, as communicated to the Senate by the President of the United States, under date of February 3, 1853.

DIPLOMATIC AND CONSULAR SYSTEMS.

Mr. MASON. I gave notice, on Thursday last, that I should to-day ask the Senate to take up House bill to remodel the diplomatic and consular systems of the United States. The Senate, I presume, are aware of the general character of the bill; and, I think, from the conversation which I have had with Senators, indeed I am quite sure, that it will not take more than twenty minutes or half an hour to act upon it. I move to take up the bill for consideration.

Mr. BRODHEAD. It will not take ten minutes, in my opinion. It is a well considered bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

It proposes to give the following salaries to envoys extraordinary and ministers plenipotentiary: to Great Britain, $17,000; France, $15,000; Spain, Russia, Austria, and Prussia, $12,000; Switzerland, Rome, Naples, Sardinia, Belgium, Holland, Portugal, Denmark, and Sweden, $7,500; Turkey, $9,000; China, $15,000; Brazil, $12,000; Peru, $10,000; Chili, $9,000; Argentine Republic, New Granada, Bolivia, Ecuador, Venezuela, Guatemala, and Nicaragua, $7,500; Mexico, $12,000.

Secretaries of legation are to be paid as follows: to Great Britain, $2,500; France and Spain, $2,250; Russia, Austria, and Prussia, $2,000; Switzerland, Rome, Naples, Sardinia, Belgium, Holland, Portugal, Denmark, Sweden, Chili, Argentine Republic, New Granada, Bolivia, Ecuador, Venezuela, Guatemala, and Nicaragua, $1,500; Brazil, Peru, and Mexico, $2,000. A commissioner to the Sandwich Islands is to receive an annual compensation of $6,000; an interpreter to the mission to China, $2,500; and a dragoman to the mission to Turkey, $2,500.

Consuls are to be appointed for consular business alone with fixed salaries. In Great Britain they are to be paid thus: At London and Liverpool, $7,500; Glasgow, $4,000; Dundee, $2,000; Newcastle and Leeds, $1,500; Belfast, $2,000: Hong-Kong, $3,000; Calcutta, $3,500; Halifax, $2,000; Melbourne, $4,000; Nassau, $2,000; Kingston, (Jamaica,) $2,000. At Rotterdam and Amsterdam, in Holland, $1,000; Aix-la-Chapelle, in Prussia, $2,500. In France: Paris and Havre, $5,000; Marseilles, $2,500; Bordeaux, $2,000; Lyons, La Rochelle, and Nantes, $1,000. In Spain: Cadiz and Malaga, $1,500; St. Jago de Cuba, $2,000; Matanzas, $3,000; St. John's, (Porto Rico,) $2,000; Trinidad de Cuba, $3,000; Ponce, (Porto Rico,) $1,500; Havana, $6,000. At Lisbon and Funchal, in Portugal, $1,500; Antwerp, in Belgium, $2,500; St. Petersburgh, in Russia, $2,500. In Denmark: St. Thomas, $4,000; Elsineur, $1,500. In Austria: Trieste, $2,000; Vienna, $1,000. Leipsic, in Saxony, $1,500; Munich, in Bavaria, $1,000. Hanseatic and Free Cites: Bremen and Hamburg, $2,000. Frankfort-on-the-Maine, including the Grand Duchy of Hesse-Darmstadt, the Electorate of Hesse-Cassel, the Duchy of Nassau, and the Landgraviate of Hesse-Hombourg, $2,000. Stuttgardt, in Wurtemburg, $1,000; Carlsrueh, in Baden, $1,000; at Basle, Zurich, and Geneva, in Switzerland, $1,500; Genoa, in Sardinia, $1,500; Leghorn, in Tuscany, $1,500. In the Kingdom of the Two Sicilies: Naples and Palermo, $1,500; and Messina, $1,000. In the Turkish Dominions: Constantinople, $2,500; Smyrna and Beirut, $2,000; Jerusalem, $1,000; Alexandria, $3,500. In the Barbary States: Tangiers, Tripoli, and Tunis, $2,500. In China: Canton and Shanghai, $3,000; Amoy, Fouchow, and Ningpo, $2,500. At Honolulu, in the Sandwich Islands, $4,000. In Hayti: Port-au-Prince, $2,000; City of St. Domingo, $1,500. In Mexico: Vera Cruz, $3,500; Acapulco, $2,000. San Juan del Norte, and San Juan del Sur, in Central America, $2,000. In New Granada: Panama, $3,500; Aspinwall, $2,500. Laguayra, in Venezuela, $1,500. In Brazil: Rio de Janeiro, $6,000; Pernambuco, $2,000. Buenos Ayres, in the Argentine Republic, $2,000. Callao, in Peru, $3,500. Valparaiso, in Chili, $3,000. Consuls and commercial agents who are not to be prohibited from engaging in commercial pursuits are to be appointed: In Great Britain: at Southampton, Bristol, Leith, Dublin, Cork, Galway, Bombay, Singapore, Island of Malta, Cape Town, Port Louis, St. John's, (New Brunswick,) Pictou, Demarara, Sidney, Falkland Islands, Hobart Town, Bermuda, Turk's Island, Barbados, Island of Trinidad, St. Helena, St. Christopher, Antigua, and Ceylon, $1,000: Gibraltar, $750. In Russia: at Odessa, $1,500; Galatza, $1,000. Martinique, and Miquelon, in France, $750. Barcelona and Manilla, in Spain, $750. In Portugal: Macao, $1,000; Mozambique, Fayal, and St. Jago Cape Verd, $750 each. Hanover: Hanover and Brunswick, $500. Schwerin, in Mecklenberg-Schwerin and Mecklenberg-Strelitz, $500. Oldenburg, in Oldenburg, $500. Santa Cruz, in the Danish Dominions, $750. Gothenburg, Sweden and Norway, $750. Venice, Austria, $750. Spezzia, Sardinia, $750. Athens, Greece, $1,000. Candia, and Cyprus, in Turkey, $1,000 each. Zante, Ionian Islands, $1,000. Monrovia and Zanzabar, in Africa, $1,000 each. Bay Islands, in New Zealand, $1,000. In Hayti: Cape Haytien, $1,000; and Aux Cayes, $500. In Mexico: Mexico, Tampico, Matamora, Tehuantepec, and Manatitlan, $1,000; Paso del Norte, Tabasco, and Mazatlan, $500. In Central America: Omoa and Truxillo, $1,000; San José, $500; Cartagena and Sebanillo, in New Granada, $500; Ciudad Bolivar, Puerto Cabello, and Maracaibo, in Venezuela, $750; Guayaquil, in Ecuador, $750. In Brazil: Maranham Island, $750; Rio, Grande, Bahia, and Para, $1,000 each: Montevideo, in Uruguay, $1,000; Talcahuano, in Chili, $1,000; Paita and Tumbez, in Peru, $500; Lahaina and Hilo, in the Sandwich Islands, $1,000; Apia, in the Navigator's Islands, $1,000; Tahiti, at the Society Islands, $1,000; Lanthala, at the Fejee Islands, $1,000. In Holland: commercial agents at Batavia, $1,000; Paramaribo, Padang, St. Martin, and Curacoa, $500 each.

The bill also contains provisions that limit the compensation to the actual time of service, as no officer is to be paid for any time previous to his arrival at his post and entering upon his official duties, and his compensation is to cease on the day that his successor enters upon the duties of his office. None of these officers is to absent himself from the country or consular district to which he is accredited for a longer period than ten days, without having previously obtained leave from the President of the United States, and during his absence for any period longer than ten days, either with or without leave, his salary is not to be allowed. These offices are to be filled by citizens of the United States alone. Other sections prescribe the location of legations and consulates, and the hours during which these offices shall be open; the bonds that are to be executed, and the fees that are to be charged and accounted for to the Government here. No charges are to be made for verifying passports, nor any commissions for receiving or disbursing the wages to which seamen may be entitled, or for moneys advanced to

such as may be found in distress. Other sections prescribe duties that devolve upon consuls in relation to mariners and other citizens of the United States, and provide penalties for neglect. Infits, outfits, attaches, clerk hire, and office rent, are no longer recognized.

Mr. MASON. The Senate are doubtless aware that this is the first attempt, in the history of our Government, to obtain anything like organization, or systematized legislation, upon the subject, either of our diplomatic intercourse with foreign nations, or in the consular establishment. It is, therefore, not at all remarkable that in an attempt to systematize the rude and indigested mass pertaining to the whole foreign intercourse of the country, it was found very difficult to conciliate opinion. Hence, while many of the Senators with whom I have conversed, and gentlemen, too, of the other House, where the bill originated, think that there are provisions in the bill—chiefly, however, affecting the salaries of these functionaries—which ought to be modified, it seems to be conceded on all sides that, as so great a step has been taken in the indispensable reform of our present establishments at foreign courts, it would be better to take the bill as it is, for the purpose of obtaining hereafter any modification or amendment which, on experience, may be found necessary, than to jeopard the whole reform by attempting, at this stage of the session, to amend it. I shall be allowed to say, and I say it with great pleasure, that I consider the country is under obligation to the very able gentleman of the other House, [Mr. PERKINS, of Louisiana,] who prepared this bill. Those who have examined it, I think, those certainly who have read his remarks which were made upon it when it was passed in the other House, will say that he has shown, not only ability and comprehensive design, but a thorough information on all that pertains to the foreign intercourse of the country. I do not mean to detain the Senate, except by a brief exposition of the general character of the bill.

In the first place, as to our diplomatic intercourse, it leaves that, so far as the number of missions is concerned, exactly where it found it; it does not increase or diminish it, but for the purpose—and I think very properly—of simplifying that intercourse, it reduces the various grades to one, or rather blends and combines them into one. It abolishes the office of chargé and of minister resident, so that, so far as our diplomatic intercourse is concerned, it is to be governed only by functionaries of the grade of ministers plenipotentiaries. It takes away outfits and infits, in every case. It gives a fixed salary; it provides that the salary is not to commence until the minister enters upon the duties of his office; and that the salary shall cease when he ceases to perform these duties.

Mr. SEWARD. May I ask the honorable Senator a question in regard to this matter, for I have not had an opportunity of looking particularly into it. What constitutes the act of commencing the duties of his office? Can a foreign minister be regarded as entering upon the duties of his office before he embarks, or will he be so regarded when he has arrived at the foreign port, or while he is in this country after being appointed?

Mr. MASON. The provision of the bill is, that he shall not "be entitled to compensation until he shall have reached his post and entered upon his official duties." I suppose the construction which would be placed upon that would be, that his compensation shall commence when he is accredited at the Court to which he has been sent; and his salary will cease when the duties of his office terminate, which, I presume, would be when he takes leave. The great reform in that is, that it prevents the operation of double salaries at the same time to the same mission. By a computation, which I shall not go through with, but which has been prepared by the gentleman who originated the measure, it has been found that these double salaries continue, on an average, for each mission, about four months, which is called now, technically, overlapping, and amounts to $3,000 a year for a full mission.

Then, it prohibits any minister from being absent from his post, or from the country to which he is accredited, without the leave of the President of the United States; and if he is absent for more than ten days, either with or without leave, his salary is to cease. That is a reform which I consider very necessary in our foreign intercourse. It provides further, that none but citizens of the United States are to be entitled to diplomatic, or consular appointments, or employed as clerks, or have access to the archives in our foreign offices. This was intended to apply chiefly to consular establishments. We know that, in many parts of the world where there is but little intercourse, comparatively, with our citizens, the consular appointments have fallen into the hands of foreigners, in many instances to the detriment and even the disparagement of the country.

Now, sir, take up the diplomatic intercourse first, and it will be found, by a series of carefully prepared tables, upon information obtained from the Department of State, that, although, upon the face of the bill, the salaries of ministers will be raised from the amount which is now paid to them as salaries; yet that, in truth, the expenses of the mission will be materially reduced; because there is taken away the outfit and infit, and the overlapping of salaries, and the great source of expenditure, increasing every day, by which, at every session of Congress, sums of money are appropriated to pay officers of legations of inferior grade for discharging the services of an office of a higher grade in the absence of the functionary who holds that office. All that will be taken away.

Under the present system—I cannot call it the present law, there being very little legislation applicable to the subject—the actual allowance to a minister plenipotentiary to any of the Courts for the first year of his mission, is $23,250. The amounts, very briefly, which make up that sum, are: Outfit $9,000, salary $9,000, infit $2,250, and the average of the overlapping salary $3,000—making $23,250 as the actual expense to the Government, in the case of a foreign minister who remains abroad one year. If he remains abroad two years upon a full mission, under the present system, the actual expense to the Government is $32,250, and the receipts of the minister are $16,250. If he remains abroad four years, or one presidential term, the actual expense to the Government is $50,250, and the receipts of the minister $12,562.

Now, sir, Senators will understand well, that so far as economy is concerned in these expenditures, it is for the interest of the Government that the minister should remain abroad at least for one presidential term of four years. We know, from the experience of the country, however, that very few do so. I presume they do not in the greater number of cases, because, really, before they have been two years abroad, their whole resources, private and public, are consumed; and they generally come home bankrupt, unless they are gentlemen of fortune. But, be that as it may, under the present system, the annual income of the minister who remains four years abroad, is $12,562; and Senators will find, upon an examination of the bill, that there are but two salaries, namely, that of the Minister to France, and that of the Minister to England, which, under it will amount to that sum. The same computations which, I have said, have been made with great care, and which I have examined, will show that under the present bill, taking the average of the last six years, in the whole expenses of the diplomatic intercourse of the country with foreign nations, there will be found to be an actual saving to the Government of $33,468. Then, although upon the face of this bill, the salaries are larger than are given now to our ministers abroad; yet, when there is cut off the appropriations for outfits, for infits, for overlapping of salaries, for the contingent expenses of the mission, and for the incidental expenses which we are constantly called upon to pay to an inferior grade of officers for performing the duties of a higher grade, it will be an actual economy to the Government, while the ministers abroad will be paid better than they are now. I shall not detain the Senate any more upon that part of the subject.

The greatest difficulty, however, was met in arranging the consular establishment. Those gentlemen—I instance the honorable Senator from Michigan, [Mr. CASS,] who has discharged a great deal of honorable service to his country abroad—who have been abroad, either in public or in private life, when they come home filled with the information which they have obtained from their experience, are convinced of the utter deterioration of the whole consular system under the present establishment. The offices are not only very often in the hands of inferior and unworthy men, foreigners, men unknown to the country, but the system is such, that while some are barely paid, others are paid more than any other functionary of the Government, at home or abroad, and paid by a system which is almost a depredation upon the Government, and which is done under the forms of legislation through which it passes. The reforms proposed in the consular system are two. All consuls are to receive fixed salaries, and those salaries, I have found from conversation, have engendered the chief source of discontent with the bill in its present aspects. It has been thought, and very naturally thought, by the friends of some consuls, that they were not paid enough. It has been thought by the friends of others, that whatever was paid to them as salary was disproportioned to that of some of their colleagues in office; but Senators will well understand how very difficult it is, in digesting a system of legislation for the first time, providing for salaries to these functionaries, how utterly impracticable it is, indeed, to get all to unite in the belief that it was a perfect thing in itself.

The bill, then, Mr. President, gives fixed salaries to all our consuls abroad. You are aware that in some few consulates, salaries are already given, but they are very few. The bill proposes to extend that provision to all; and upon this subject I would say, that in looking back through the archives of the Government, I have found that this mode of compensating consuls by fixed salaries, in lieu of the present system of commission, and the emoluments derived from trade, has had the successive recommendation of Mr. Livingston, Mr. Forsyth, and Mr. Buchanan, while they were presiding over the State Department, and I doubt not that my very able and distinguished colleague on the Committee on Foreign Relations, the Senator from Delaware, [Mr. CLAYTON,] who has been in the State Department, would concur in that.

That is one reform in the consular system. It abolishes fees, so far as they form, for the consul, a source of private emolument. It prescribes what fees, and they are very few, shall now be charged by the consul, and requires him, under penalties of law, and under the security of an official bond, to account for those fees, and pay them to the Government. It abolishes all fees for passports and commissions upon money advanced as wages, or for the relief of seamen in distress. The system of having fees for passports, and more especially for what is called the *visé* of passports, has degenerated so far abroad, that since this bill has been reported to the Senate, I have been furnished with two remarkable documents, brought in by gentlemen who have been abroad, and who say that, in making the tour of Europe, they had to incur expenses equal to $200 for the *visé* upon their passports. The documents themselves are worn out in the service, and shingled over with these *visés*.

Mr. President, in looking at the information furnished by the Department of State on this subject, we have found that, through the present want of organization in the consular establishment, and the want of power, because of the defects in legislation, in the Executive to restrain consuls in the expenditure of the public money, the single fund which is appropriated every year, and necessarily appropriated for the relief of sick, disabled, and distressed seamen abroad has risen, within the last two or three years, in a proportion that is astounding. It began with comparatively a very moderate sum. It was natural that it should increase; but I think the last appropriation was about $140,000, and it is dispensed under a system of expenditure which invites the consuls to depredate upon the public money, and defraud the Government. The system is this: the consuls are obliged, when seamen are discharged in foreign ports, to require the captains to pay to the seaman three months' wages; one month's wages is retained in the consulate fund for the relief of sick and disabled seamen, and then the consuls are authorized to draw upon the Department of State, from time to time, for such sums of money as they may have expended in aid of this fund for the relief of seamen in that condition, and they are allowed five per centum, not only upon the consular fund which comes from the seamen's wages, but upon their draft which they make upon the Government in

aid of that fund. At two ports of the Sandwich Islands alone, where, by the way, from the character of our commerce there, being carried on by whaling vessels, the expenditure will necessarily be larger, these commissions amounted to an enormous sum. I have a document here which states the amount for two of those ports, Honolulu and Lahaina. At Lahaina, there was drawn by the consul last year, nearly $50,000—upwards of $45,000—and the year before about $25,000. His receipts upon his commission of five per centum for the years 1850 and 1851 were $1,241, and for 1852, $2,135. That was the commission of five per centum, showing that the amount during 1852, on which it was the commission, was upwards of $40,000.

Now, at these remote places—I by no means mean to say that such is the fact, because I am not informed about it; yet—if the consul himself provides for these sick and disabled seamen clothing, lodging, nursing, &c., and receives the emoluments himself which are derived from so maintaining and clothing seamen, he is placed in a position to be tempted to expend the public money unnecessarily in that form, by placing it in his own pocket, and drawing five per cent. for the liberty of doing it; or in other words, it is his interest to charge these bills as high as he can, because not only does he derive a profit from the expenditure, but he gets a commission upon the gross sum. The bill, in giving these consuls fixed salaries, and taking away all these commissions, will rid the Government of that dangerous and increasing source of wasteful expenditure which is experienced by the country.

The scheme of the bill is to divide the consuls into two classes. One class are to receive salaries, and are prohibited from transacting any business of any kind except their public duties. The other class are also to receive salaries, but reduced ones, and are permitted to enter into trade; but there is a clause in the bill expressly prohibiting the consuls from themselves furnishing anything to the sick and disabled seamen; so that, although they may go into trade generally, they cannot trade with the seamen, and so be tempted to depredate upon the public money. That, I think, to be a very great step taken in this reform, and one which will be found very wholesome and economical.

As to the amount of salaries that are paid to these consuls respectively, I have found in my examination, aided, I am again happy to say, by the labor, the great labor, of the gentleman of the other House who prepared the bill, that they have been adjusted, as far as it was practicable, with reference to the existing receipts at the various consulates—not measured by, but framed in reference to them; and again in reference to the degree of public service that the consul is called upon to perform, the character of that service, and the expense of living at the place where he may be located.

It has been found, so far as the materials could be obtained at the Department to get at the information, that the high degree of probability is, when the system goes into full effect, and when, as I trust it will be, it is diligently supervised and guarded, that, in the course of one or two years, the fees that will be paid by these consuls into the Treasury will discharge the whole burden of the consular establishment.

I shall not detain the Senate longer, Mr. President. I only desired to make a short explanation of the main features of the bill.

Mr. BROWN. The Senator from Virginia told us in the beginning of his speech—and I do not at all attempt to controvert it—that it has been agreed to pass this bill without amendment. I do not know who entered into the agreement; and I shall have to be better satisfied than I am now, on one or two points, before I become a party to it. The first section provides that the President shall, after the 30th of June next, appoint the officers who are therein named. The last section repeals all laws heretofore existing upon that subject. It strikes me, therefore, that on the morning of the 1st of July we shall be without a foreign minister or foreign consul. You repeal the law under which they are now holding—under which they have been appointed—and you require the President to appoint successors. He cannot appoint them until this law takes effect.

Mr. MASON. The bill certainly contemplates that after the 30th of June it shall be incumbent on the President to appoint the various ministers who are mentioned in the bill. He will have to reappoint them; and it was necessary for this reason: We have abroad but six ministers plenipotentiary; the rest are chargés or ministers resident. They are all to be comprised, by the bill, in the one grade of minister plenipotentiary; and the President would have been obliged to reappoint all except the six who are now ministers plenipotentiary. Then it was found, as there was a necessity to reappoint a large number of them, it would simplify the matter by extending the reappointment to the whole.

Mr. BROWN. Then, I understand, the purpose of the bill is to turn out all the present officers, or will they hold on until the reappointment is made?

Mr. MASON. That is to be taken for granted.

Mr. BROWN. I doubt very much whether that is the construction of the bill. Then there is another point. Under the explanation given by the Senator from Virginia, in answer to the question of the Senator from New York, it seems to me that the operation of this bill will be exceedingly unjust. Those foreign ministers are not to receive pay, their salaries are not to commence, until their diplomatic duties are commenced. I understand the Senator from Virginia to explain that to mean, that they must actually have been accredited at the Court to which they are appointed.

Mr. SEWARD. If the honorable Senator will allow me, I will read that portion of the bill.

And be it further enacted, That no envoy extraordinary and minister plenipotentiary, commissioner, secretary of legation, dragoman, interpreter, consul, or commercial agent, who shall, after the 30th day of June, next, be appointed to any of the countries or places herein named, be entitled to compensation until he shall have reached his post and entered upon his official duties.

Mr. BROWN. I suggest that that is exceedingly unjust. The Minister to England can go from New York in twelve or fourteen days, and he can go for $150 or $200, certainly not exceeding $200. A Minister to China cannot reach his post under four or five months, and at an expense, perhaps, of $1,000 or $1,500, and yet he is liable to be recalled if a change of Administration occurs, before he has been there a month. Now, what will be his compensation?

Mr. MASON. Fifteen thousand dollars.

Mr. BROWN. Fifteen thousand dollars, whether he performs any duty or not—if he simply enters upon them?

Mr. MASON. That is the annual salary of the mission.

Mr. BROWN. Does he get the year's salary whether he is called home or not before its expiration?

A SENATOR. No.

Mr. BROWN. Very well; then, I was right. It takes him four months to reach his mission. Before he has been there three months, through a change of Administration, he may be recalled home. Then what is his compensation? A man will not get enough to take him out and bring him home. I think, to say the least of it, the salary ought to commence when he enters upon the duties of his mission, and that ought to be when he leaves his home and starts to the country to which he is appointed, for he is then in the public service.

There is another point which I do not exactly comprehend. The Senator says that the expenses of these missions are to be diminished by this bill. I understand him to say that we cannot keep our ministers abroad now, because, in the course of two years, they have exhausted not only their salaries, but their private means, unless they chance to be men of fortune. How are we, then, to keep them abroad under the diminished salary? If you pay them less hereafter than you pay them now, and now with their pay they cannot stay abroad, how they are to stay under a smaller pay for the life of me I cannot comprehend. If you can show me that a man who gets less can live for less, I shall be satisfied on that point; but unless you can diminish a man's expenses, I cannot, for the soul of me, see how you are to enable him to live on less money, simply by changing the law. These are the points of embarrassment in the case which have struck my mind; and before I can agree to pass the bill without amendment, I think these points ought to be understood.

Mr. MASON. I think the honorable Senator will modify his objection, if he does not entirely abandon it, upon this statement: It is very certain that it will cost more to go to some places than to others. It will cost more money to go into the interior of Europe than to one of the sea-ports, and it will cost more to go China than to England or France—I do not know how much more—and a person would be a longer time about it. The Senator would find not only that the salaries of consuls, but, to some extent, the diplomatic salaries, are increased somewhat in proportion to the distance from our country to which they are sent. Now, there is to be given to the Minister to China $15,000. My recollection is, that, until a very recent period, he was not a minister, but only a commissioner, and received but $6,000 a year. Lately it has been raised to the grade of minister plenipotentiary, with the ordinary salary of $6,000; but now it is proposed to pay him $15,000, and one reason for entering into the increase of the salary was the distance of the mission and the time and expense which it took to go there.

The next objection of the honorable Senator is to the position that, under the bill, the expense to the Government will not be increased, while there will be a very large increase to the receipts of the missions. He cannot understand that, he says. If he does not know the advantage resulting from that, I will suggest it to him. What I said was, that it is now the interest, and occasionally becomes the necessity, of our foreign ministers to remain abroad as short a time as possible, for the longer they remain, the less emolument do they receive. If they remain abroad one year they receive $23,250; and we know very well that some of our ministers have gone abroad and remained but a year. If they remain abroad two years they receive upwards of $16,000 a year—the sum in each instance being greater than the present amount. But if they remain abroad four years, they come down as low as $12,000. Now, what I meant to say was, that while you place it in the power of the minister to increase his salary, by diminishing his term of office, you tempt him to submit to the unfortunate necessity to which many of them are reduced, to go abroad with the knowledge that if they remain a long time they will come home bankrupt; and to avoid that, to the injury of the public service, he shortens his mission. Now, what he is to receive, under this bill, will be fixed and determined, let him remain a longer or a shorter time, and then, I presume, it will result that the gentlemen who propose to take these missions, or desire to do it, will know exactly what they can count upon from the public fisc for their expenditure, and regulate their affairs accordingly. I am not prepared to say that, if I had modeled this bill, I would have made the salaries just as they are. I should have enlarged some of them; but we have attained a great step when we take from foreign ministers that temptation to derogate from the public service in order to avoid coming home bankrupt.

Mr. CLAYTON. I wish to state, in addition to what has been so well said by my colleague on the committee, [Mr. MASON,] in reply to my friend from Mississippi, some other reasons why the bill which has been reported is much better than the system which we now have. It provides—and my friend objects to it on that account—that the minister's salary shall not commence until he has reached the place of his destination, and entered on his duties. He anticipates that injustice will grow from that. He may have started, and a change of Administration may occur, and then, he says, it would be very unjust that he should return home without being paid; but, sir, if my friend will reflect upon the policy of the change, he will see how greatly it overbalances the disadvantage to which he has pointed.

This has been the practice of many of our ministers: Many of them have been in the habit of remaining in this country after receiving their commissions, and after their salaries have commenced. I know an instance in which one of them was a whole year in reaching his place of destination; yet he received his salary for the whole time. I could point out many instances in which this abuse has existed, and it is for the purpose of cutting that up by the roots that this proposition is now made that the salaries shall not commence until they reach their place of destination.

In regard to the general policy contained in the bill, I trust it will commend itself to the favor and attention of every Senator, when they reflect on this. Our ministers heretofore have gone abroad, many of them but little acquainted with diplomatic affairs; they have remained just about long enough to become useful to the country; they have remained about long enough to become acquainted with the duties of their mission, and perform them well; and just about the period they are becoming useful to the country, they have come home, because they could not afford to remain any longer abroad. Now, the policy of the measure which is reported from the Committee on Foreign Relations is to offer the minister inducements to remain there, and not to come home after one or two years. His yearly compensation is increased as he remains there, as gentlemen will see by examining the bill. He has every inducement which we can honorably offer him to stay and perform the duties of his mission. And, sir, I think that every one who has looked into the subject, who has had any experience in regard to it, will agree with me that one of the greatest mischiefs from which this Government has suffered, has been the constant change of its ministers abroad. We thus lose the benefit of all experience. Young, inexperienced men are sent abroad in lieu of those who have acquired some experience; and it is this perpetual rotation or revolution among these officers, that this bill will remedy; and it, therefore, commends itself strongly to me, and I hope it will to my friend.

Mr. BROWN. The point to which I wish to call the attention of the Senate is this: Take the instance of our Minister to Spain. He gets $9,000 for outfit, and $9,000 salary, besides his infit, and the overlapping of which my friend from Virginia has spoken; consequently his pay for the first year would be about $23,250. That is nearly equal to two years' salary under this bill. If he stays out the whole four years now he will get about $50,000. Under this bill he would get $48,000; but the argument is, that, under the law as it now stands, our ministers cannot stay abroad because they are compelled to exhaust their salaries and their private fortunes into the bargain. What I wanted to call attention to is this: If they cannot stay abroad under their present pay—and you are not increasing their pay by the bill—how is it to be expected that they can stay abroad hereafter?

Mr. BENJAMIN. Will the Senator allow me to give him an explanation on that point, which seems to embarass him?

Mr. BROWN. Certainly.

Mr. BENJAMIN. It is very plain to me. A minister now goes abroad and gets his outfit, $9,000, and his salary of $9,000 a year. He receives the $18,000 for the first year's service. After establishing himself abroad, he finds the second year that he gets but $9,000 as a regular income.

Mr. CLAYTON. That is all.

Mr. BENJAMIN. At the end of the second year he finds his income is not equal to the expenditure required by his office. What is the result? It is that he abandons his post and comes home with an infit. He remains abroad for two years; he, therefore, receives pay for those two years, at an average of $15,000 or $16,000 a year. He is incited to return home, because the longer he stays abroad the less becomes the remuneration which he receives. Under the bill, if he goes abroad the first year, at a salary of $12,000, a suitable proportion of that is expended in his passage, and in establishing himself abroad. His first year's salary is, therefore, diminished by those expenses of outfit which are necessarily incurred when he first removes to a foreign country; but, after these expenditures have been incurred, he finds that, being relieved from them, his salary in fact becomes increased, and he will get $12,000 a year. The first expenses having been incurred, he is able to remain abroad then at $12,000 a year his whole term. If he remains abroad the whole four years, what he receives would be equivalent to what the bill allows; but, under the present system, after receiving the extra compensation of the first year, the remuneration is suddenly cut down to such an extent as to make it his interest to return home immediately.

Mr. CLAYTON. Certainly.

Mr. BENJAMIN. And you put his interest against the interest of the Government.

Mr. BROWN. My friend from Louisiana does not see the point to which I was alluding, namely, that they were compelled to return because they had exhausted their salaries and private fortunes.

Mr. BENJAMIN. Exactly; they would exhaust their salaries and their private fortunes if they remained abroad. I understand my friend from Virginia to say, at the end of the second year, that they would be unable to remain abroad without drawing on their private fortunes to such an extent as to make them unable to stand the sacrifice; and, therefore, they return home. The object of the bill is to make it the interest of the ministers to stay abroad. If they would remain the whole four years, under the present system, there would be no object in changing it.

Mr. BADGER. I do not know that the bill can be considered as entirely perfect, or that it entirely meets my approbation; but I am for voting for it as we have it. It is an important and valuable improvement—very necessary, indeed, for the transaction of the public business. It is a move in the right direction, and, so far as it goes, it is, I think, a highly valuable and excellent measure. I am not, therefore, myself for putting it in any hazard of not becoming a law; and I am, therefore, disposed to vote for it precisely in the form in which we now have it.

Having said thus much, Mr. President—all that I designed to say upon the merits of the measure—I wish to make a remark which I think is due to my honorable friend from Delaware. He has hastily thrown out an ill-considered suggestion, which, if he does not take an opportunity of setting it right, will do some injury to his character in the estimation of the public, as a gentleman of long experience and intimate acquaintance with the principles and operation of our system of Government. It will leave him under the suspicion, notwithstanding certain exterior testimonials to the contrary, of being green even at the time of life to which he and I have attained. [Laughter.] Why, sir, he has said that these frequent changes of ministers abroad produce an exceedingly injurious influence upon the interest of the country abroad; as if my friend did not very well know that ministers were not sent abroad on account of promoting the interest of the country, but for the convenience and advantage of the minister. [Laughter.] If, therefore, by the frequent changing, a minister remains only a year or two abroad, and a succession of good fellows, who may have very little business at home, or prefer being abroad, are provided with an increased compensation abroad, which they would not receive if they remained abroad four or five years, does not he see that the great end and purpose of our missions are better accomplished by that? [Laughter.]

Sir, we establish missions for the benefit of our own people. They should generally be established in such a manner as will produce that beneficial result in the largest degree. [Laughter.] I hope my friend will take occasion to set himself right, for I should be sorry that that expression should pass without some explanation from him.

Mr. CLAYTON. My friend from North Carolina is an incorrigible wag. [Laughter.] He professes to be old in this matter, but I think his remarks show that he is very verdant. Sir, we have had, it is true, some very incompetent men abroad, and the sooner they return home the better for us. The present system is better for them undoubtedly. But we have, also, had some very able men; and some of those very able men, I do verily believe, from the small amount of their private fortunes, and the incompetency of their salary, have been compelled to return home just at the very period when they were becoming useful to the country. Take, as an instance, our Minister to London. I believe the first American minister who ever gave a cabinet dinner was Abbot Lawrence, a gentleman of large fortune, who was able to do it. The rent of his house, alone, was $10,000, exceeding the whole amount of his salary. However, it is not necessary to protract this debate. I think the Senate is convinced that the salaries ought to be raised.

Mr. BADGER. I want to ask my friend if he is not in favor of rotation in office? [Laughter.]

Mr. CLAYTON. I beg pardon—no, sir.

Mr. BADGER. Does he not think that everybody ought to have a chance? [Renewed laughter.]

Mr. CLAYTON. I would have a minister remain abroad, if he was fit for the place, and thoroughly acquainted with all his duties, and doing honor to his country, as long as he continued to discharge them properly. The doctrine of rotation in office does not satisfy me, and I do not believe that it satisfies my friend from North Carolina.

Mr. BADGER. Oh, I am a better Democrat than you. [Laughter.]

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

APPROPRIATION BILLS.

Mr. HUNTER. I move to postpone the prior orders for the purpose of taking up the Post Office appropriation bill.

Mr. STUART. I hope the Senator from Virginia will not press that motion to-day. I think there is a general disposition in the Senate to push the appropriation bills next week to the exclusion of everything else, and I hope we shall be permitted to-day to dispose of several important bills that are on the public table, and ought to be acted upon.

After the presentation of some reports and petitions, which are given before,

Mr. HUNTER. It has been suggested to me by various friends that if I will not press my appropriation bills to-day, they will assist me on Monday and all next week with them, and will aid me every day to get them up. ["Agreed!" "Agreed!"] With that understanding, I will not press my motion to-day, but allow the Senate to go on with other business.

PRIORITY OF BUSINESS.

Mr. STUART. There are two or three measures remaining undisposed of, which I am anxious to take up, which can be acted on in a few minutes. One is the report of the committee of conference on the swamp land bill.

Mr. BADGER. That will not be disposed of in the whole day.

Mr. STUART. It will in fifteen minutes, I think. It is a privileged question, and one I beg leave to submit, which we ought not to have postponed at all as a matter of precedent. It never should be done, I think, in any case, and especially at this stage of the session. I hope, therefore, the Senate will proceed to consider and dispose of that bill at this time.

Mr. DAWSON. I wish to state to the Senate that I have been obliged to ask them once or twice to take up the business of the District of Columbia, and assign special days for its consideration; but in every instance this District has been superseded, and not a measure for its benefit has been taken up. I ask the Senate, now, to take up the District bills, and it is the last time, as chairman of that committee, that I shall make the request, unless I change my mind. It is due to the citizens of the District, that we should pass some of the measures which I desire to have taken up. There are several bills which have been reported by the committee, of great importance, and one of them will be entirely useless, if two days longer shall elapse before it be passed. It is a bill from the House of Representatives, intended to have effect upon the city of Georgetown, where the elections take place on Monday. There are other propositions which have been lying over from the beginning of the session, that should be disposed of. I only ask for a few hours. If gentlemen will take my word for them, there need be no discussion of the measures presented by the Committee on the District of Columbia. I shall not discuss them unless somebody attacks them. I assure the Senate, moreover, that they have been well considered by the committee, and that they are ready for their passage.

The PRESIDING OFFICER, (Mr. WELLER in the chair). The first question is on the motion of the Senator from Michigan.

Mr. STUART. I submit to the Senator from Georgia, that if we shall all of us agree to-day not to discuss the priority of business, we shall dispose of a great many bills, and his among the rest. The measure which I have brought forward is one which ought to have precedence over every other.

Mr. BELL. I desire to ask if the internal improvement bills were not made the special order for one o'clock this day?

Mr. DAWSON. My bills were made the

special order for one o'clock last Saturday, and those bills have been for a long time reported.

The PRESIDING OFFICER. The motion of the Senator from Michigan is to proceed to the consideration of the report of the committee of conference on House bill for the relief of purchasers and locators of swamp and overflowed lands.

Mr. BADGER. Upon that question I wish to submit a remark or two to the Chair and to the Senate. The Senator from Michigan is under a mistake in supposing that that is a privileged question in the Senate. The honorable Senator brings his notions from the other House. We have privileged motions in the Senate, such as to lie on the table, to adjourn, &c.; and a question of privilege may arise when there is a disorder in the House, or upon the swearing in of a new member; but we have no other privileged questions. This application stands precisely like an application to take up anything else which is on the table of the Senate.

Now, sir, I differ entirely from the Senator from Michigan as to the necessity or propriety of selecting that in preference to other measures. It is a question upon concurring with a committee of conference. When that is done the whole business is ended; it has not to go any further to the other House, but the law will stand as passed. The two other classes of bills, however—the classes referred to by the Senator from Georgia and by the Senator from Tennessee—stand in different situations. First, as to the bills referred to by my friend from Georgia: they have to pass this House and go to the other. They are bills that necessarily require a concurrent action of both Houses in order to become laws. We ought, therefore, to speed them, to put them forward, to give them a reasonable opportunity of passing through their various stages.

So, Mr. President, in regard to the internal improvement bills, if we can take them up and pass them, they will go to the House and be acted upon, otherwise they will fail; whereas the proposition which the Senator from Michigan desires now to consider, is a matter that will be ended by one vote of the Senate. And let me say to the honorable Senator, it is not going to be disposed of in the brief space he imagines. That report will be discussed, and if it is taken up, I simply wish to advise gentlemen here who feel an interest in the internal improvement bills, and in the bills referred to by my friend from Georgia, that the probability is, that they will not be disposed of to-day.

Mr. BRIGHT. Although the report referred to by the honorable Senator from North Carolina is not properly a privileged question, there is great propriety in taking it up, and disposing of it. If, however, it is to lead to a long discussion, I shall not insist upon its being taken up. I must aid the Senator from Georgia in urging that some consideration be given to the bills reported by the Committee on the District of Columbia; for, thus far in the session, really less attention has been given to the reports of that committee than of any other committee in the body. There is, to my mind, great propriety in taking up some of the bills reported from that committee, involving important interests in the District. Congress is the only body to which the citizens of the District can appeal for something like justice. There is great propriety in the motion made by the Senator from Georgia, and I hope the Senate will sustain it.

The PRESIDING OFFICER. The question is on the motion of the Senator from Michigan to proceed to the consideration of the report of the committee of conference, on the bill which has been mentioned.

The motion was not agreed to, there being, on a division—ayes 16, noes 18.

WASHINGTON AND GEORGETOWN CORPORATE POWERS.

Mr. DAWSON. I now move to take up the bills appertaining to the business of the District of Columbia.

The motion was agreed to.

The PRESIDING OFFICER. Will the Senator indicate the first bill which he proposes to take up.

Mr. DAWSON. It is House bill granting certain additional powers to the Corporation of Washington.

The PRESIDING OFFICER. That bill is before the Senate as in Committee of the Whole, and the question is on agreeing to the amendments reported to it by the Committee on the District of Columbia.

Mr. DAWSON. I rise to ask the Senate to disagree to the amendments proposed by the committee to the House bill; and I trust my colleagues on the committee will consent to this course. I am permitted to withdraw the amendments by the committee, so that the bill may be passed as it came from the House. The amendments were reported by the committee at the suggestion of the Senator from Mississippi, [Mr. BROWN,] but an election comes on in Georgetown, on Monday, and if the provision reported by the committee be added to the bill it will postpone any arrangements until twelve months from next Monday.

Mr. BROWN. The amendments proposed by the committee, I understand, have nothing to do with the election coming on next Monday.

The PRESIDING OFFICER. The question will be taken on the amendments of the committee.

Mr. BROWN. I do not wish to have them smothered. Let them be read.

The amendments were read.

The first was to strike out the word "such" and insert "all," in the first section, in the power to be granted to the Corporation of Washington to prescribe the time, place, and manner of holding elections for officers. The object of the amendment is to apply the provision to all elections.

Mr. BROWN. That amendment was asked for by the Corporation of Washington itself.

The amendment was rejected.

The second amendment of the committee was to insert in the second section, which proposes to confer certain powers on the Corporation of Washington, the following:

"And the same authority and power as to the grading, paving, or otherwise improving the streets, alleys, or the carriage-ways or foot-ways of Georgetown, in the District of Columbia, and as to the construction of drains and sewers, and lighting the streets of said town with gas, as well as the same authority and power to provide for the expense of any such works or improvements by a special tax or out of its corporate funds generally, or both, at its discretion, are hereby conferred upon the Corporation of Georgetown."

Mr. BROWN. I care nothing about that amendment, but it was incorporated into the bill at the solicitation of the corporation itself. I do not understand this thing of the Corporations of Georgetown and Washington coming to the committee and annoying them as they have done from day to day and week to week, with their business, and then, when we have prepared it, getting the chairman of the committee to come in here and ask for the rejection of amendments to which the committee have agreed. If this is the way in which we are to be treated, I wash my hands of all connection with their business. The first amendment which was read was asked for by the Mayor of this city, and put in at his solicitation. This amendment has been proposed at the solicitation of Georgetown. You may vote it down if you please, but if we are to be treated in this way, if, after being annoyed as we have been on the committee every morning, when the bills are prepared and about to be passed, they come and ask to have them knocked all to pieces, I will not submit to the corporations beating the committees, who have charge of their business, in this way. I care nothing about the amendment, but I protest against this mode of proceeding.

The amendment was rejected.

The PRESIDING OFFICER. The next amendment is to insert at the end of the third section:

Provided, That nothing in this act shall be so construed as to authorize the Corporation of Washington to open alleys into, or otherwise exercise control over, the public reservations in said city, without the special permission of Congress.

Mr. BROWN. That is an amendment which I think the Senate ought to adopt, notwithstanding the remonstrances of the Senator from Georgia. You are giving the Corporation of Washington, under this bill, authority to open alleys and close up alleys in the city; and if, simply because there may be some danger that this bill is to be lost, you are going to allow this corporation to run its lanes, alleys, and streets through the public reservations without limit, go on and do it. That is what you are about to do under the provisions of this bill unless this amendment be adopted. For one I protest against it. I protested against it in the committee and I had this amendment inserted to prevent any such thing being done. I trust the Senate will not vote it down simply because the Corporation of Washington may, by possibility, lose a bill. I have no idea of allowing this corporation to run its streets through the reservations and open alleys wherever it may deem it proper to open them.

The amendment was agreed to.

Mr. DAWSON. The other amendments depended entirely upon the adoption of this, which I think myself is correct in principle, and the others ought to follow as a matter of course. I therefore move to reconsider the vote by which the other two amendments were rejected, so that we may agree to them, and then the bill will be correct.

The PRESIDING OFFICER. The Chair will suggest that there is only one other amendment of the committee, and when that is disposed of the motion to reconsider may more properly be made.

Mr. DAWSON. Very well, sir.

The last amendment of the committee was to add the following additional section:

SEC. 8. *And be it further enacted*, That Congress may at any time, in its discretion, alter, amend, or repeal this act.

The amendment was agreed to.

Mr. DAWSON. I now move to reconsider the vote by which the two former amendments were rejected.

The motion was agreed to.

The PRESIDING OFFICER. The question recurs on the adoption of those amendments.

Mr. DAWSON. I hope now they will be agreed to.

The amendments were adopted; and the bill was reported to the Senate, as amended, and the amendments made as in Committee of the Whole were concurred in.

The bill, as thus amended, authorizes the Mayor, Board of Aldermen, and Board of Common Council of Washington, to provide for the election, by the inhabitants, at stated periods, of officers of the corporation not now elective under the existing charter; and to prescribe the time, place, and manner of holding all elections, and the duties, terms, and tenure of those officers, as well of the register, collector, and surveyor of the corporation. At all such elections the voters must be such persons, and no others, as may be competent to vote at elections holden under the charter of the city for the time being; and no person can vote who shall not be returned on the books of the corporation, as provided by the fifth section of the act entitled "An act to continue, alter, and amend the charter of the city of Washington," approved May 17, 1848, and who shall not have the other qualifications required by that act. Any person who shall vote or offer to vote contrary to these requirements, is, upon conviction, to be sentenced to pay a fine of not less than ten nor more than fifty dollars, and to imprisonment not less than one nor more than four months for each offense. The corporation is to have full power and authority to provide for the proper conducting of all elections in the city, and for the punishment of any person who may wilfully disturb, or interfere with the commissioners or other persons who may be appointed to superintend elections, from time to time, while in the discharge of their duty, or who may wilfully disturb, or interfere with any voter while at, or going to, or returning from the polls, to vote, as well as for the punishment of any commissioner or other person appointed to superintend an election, who may wilfully and knowingly receive, or permit to be received, the vote of any person not legally authorized to vote. At all elections, either of the commissioners or judges of election at the polls where any vote shall be offered, and which vote shall be challenged or suspected to be illegal, may administer an oath or affirmation to the person offering to vote, and to any witness whom it may be material to examine. Any assessor, in the discharge of his duty, under existing or future laws, may administer oaths or affirmations to any person whose taxable property may be the subject of inquiry, and to any other person whom he may deem it expedient to examine touching the same, and to interrogate all such persons on such oath or affirmation. The Corporation of Washington

is to have power to pass all ordinances which may be necessary to enforce, by fines, penalties, and imprisonment, the appearance of all persons who may be required to testify, under oath or affirmation, before an assessor, or commissioner, or judge of election, and to compel them to answer all interrogatories as may be necessary and proper in the premises.

Washington and Georgetown Corporations are to have power to cause any streets, or the carriage-ways or foot-ways thereof, or of any portions of them, to be paved, graded, or otherwise improved, whenever, in their discretion, it may be necessary; to cause to be constructed drains and sewers for the proper drainage, health, or convenience of the cities, and upon such plan of surface or underground drainage, or by taking advantage of the natural drainage, or changing the course thereof, as may be deemed most eligible; and to cause the streets, or any of them, to be lighted by gas or otherwise, and to provide for the expense of such improvements, either by a special tax or out of their corporate funds generally, or both. The jurisdiction of Washington is to be extended over the whole extent of the bridges and abutments which are, or may be, constructed, from the city across the Eastern Branch or the Potomac river. It may cause new alleys to be opened into the squares, and to open, extend, change, or close those already laid out; subject always to the proviso, concerning damages to individuals, contained in the eighth section of the act of May 15,1820, incorporating the city of Washington; to dispose of the ground occupied by any such alley or alleys as have been, or hereafter may be, closed by its authority. It is not, however, to open alleys into or interfere with public reservations without congressional permission. It may create and establish police and municipal courts, houses of refuge or correction for juvenile or other offenders, and may provide for their support and government by special tax, or out of its corporate funds, or otherwise; may pass any laws, not inconsistent with the Constitution and laws of the United States, for the establishment of an efficient police, for the maintenance of order, the protection of persons and property, and for the punishment of offenses against the ordinances and police regulations of the corporation.

The Corporation of Washington is to have power to provide by law for the levying and collection of all taxes which it is, or may be, authorized to impose, or which may have been heretofore lawfully imposed, but are remaining unsatisfied, in such manner as may be deemed most efficient and conducive to the interests of the city, any existing provisions in its present charter, in that respect, to the contrary notwithstanding. All sales and conveyances of real estate charged with taxes, which shall be made in conformity with the rules, directions, and provisions, prescribed by the corporation, are to be valid and effectual, at law and in equity, to pass to and vest in the purchaser or purchasers, his, her, or their heirs or assigns, a title in fee-simple, or such lesser estate as may be sold and conveyed in the land and appurtenances so sold, and an absolute title to all chattels which may be so sold and conveyed, subject, however, to such right of redemption of the real estate as is provided by existing laws. In all cases of redemption hereafter, the person so redeeming is, in addition to the requirements of existing laws, to repay to the purchaser all taxes paid by him to the corporation upon the property between the time of purchase and redemption, together with interest, at the rate of ten per centum per annum. All taxation, except of special taxes, shall be within the limit prescribed by the charter of the corporation, and nothing contained in the bill is to authorize the imposition of any tax upon any of the property of the United States.

Authority is also given to organize a fire department; and power is reserved to amend, alter, or repeal the act.

The amendments were ordered to be engrossed, and the bill to be read the third time. It was read the third time, and passed; and the title was amended so as to read, "An act granting certain additional powers to the Corporations of Washington and Georgetown."

TAXES FOR THE METROPOLITAN RAILROAD.

Mr. DAWSON. The next bill which I propose to take up is House bill authorizing the corporate authorities of Georgetown to impose additional taxes, and for other purposes.

Mr. TOUCEY. Before that is done I wish to suggest to the chairman of the Committee on the Judiciary the propriety of now taking up the bill which I reported by direction of that committee, for reorganizing the courts in the District of Columbia.

Mr. BADGER. I hope the bill referred to by the Senator from Connecticut will not be taken up, at least to-day. It must necessarily lead to considerable debate.

The PRESIDING OFFICER. The question is on the motion of the Senator from Georgia, to take up the bill which he has named.

Mr. RUSK. I desire to ask the Senator from Georgia if the additional tax authorized to be laid by that bill, is not for the purpose of subscribing to stock in a railroad company.

Mr. SEWARD. Let the bill be read.

Mr. DAWSON. The reading of the bill will show what it is for.

Mr. RUSK. It is not necessary for my purposes to consume time by reading the bill; I wish to know whether it does that?

Mr. DAWSON. Yes, sir; it does.

Mr. RUSK. Then it is a bill to authorize the Corporation of Georgetown to tax their citizens oppressively, to subscribe largely to a private work, and the result will be, as it has been heretofore, that Congress will have to pay the subscription. As a test question, I move that the bill lie upon the table.

The PRESIDING OFFICER. The bill is not yet before the Senate; the question is on taking it up.

Mr. RUSK. I was under the impression that that had been decided.

The PRESIDING OFFICER. No, sir. The question is on the motion to take up the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. DAWSON. Let it be read.

Mr. BROWN. Before the bill is read I desire to appeal to my friend from Georgia and colleague on the Committee on the District of Columbia, to allow this bill to be passed over, and to take up others which we can dispose of to-day. Beyond all question, this will give rise to debate. I cannot allow it to pass without expressing my views upon it. As we have but a little time for the business of the District of Columbia, would it not be better to take up bills about which there is no controversy? I think it will be better to lay this bill aside.

Mr. DAWSON. The only principle involved in the bill is this: An overwhelming majority of the citizens of Georgetown petitioned the corporation to take stock in a certain railroad company, and now they ask permission levy a tax to pay for the stock as the installments may be required. As it is the wish of the citizens of Georgetown thus to tax themselves, what opposition can we make to it? I have a petition from a large majority of the people of the city showing their anxiety for this measure.

Mr. SEWARD. I wish to ask the Senator whether the bill provides for submitting the question to the people of Georgetown?

Mr. DAWSON. The committee reported an amendment to the bill to provide that the subscription should not take place until after the next election, but the annual election of the city will be held on Monday next; and, if the amendment be agreed to, it will postpone the operation of the bill for twelve months longer, and will prevent the payment of the subscription to the road for that length of time. The citizens of Georgetown desire that the bill should be passed without amendment.

Mr. SEWARD. I am not very much in favor of the proposition, but, if the citizens desire it, I shall not object to giving it to them.

Mr. DAWSON. That is my position about it.

Mr. BRIGHT. Let the bill be read.

The bill, as passed by the House, proposed to empower the Mayor, Recorder, Aldermen, and Common Council of Georgetown to collect a special annual tax of seventy-five cents, or so much thereof as may be necessary, upon every hundred dollars of property by law taxable within the corporate limits of the town, in order to meet the engagements recently assumed in subscribing to the stock of the Metropolitan Railroad Company; and to pledge it to secure the engagements in such a manner that no part shall in any event be applied to any other object; the like remedy to be used for the recovery thereof as is now used for the recovery of other public taxes in the town.

It would also give the corporation full power and authority to introduce a supply of water for the use of the inhabitants, and to cause the streets, lanes, and alleys, to be lighted by gas or otherwise, and to provide for the expense of any such works or improvements either by a special tax or out of its corporate funds generally, or both, at its discretion.

The PRESIDING OFFICER. The bill has been reported with amendments.

Mr. DAWSON. I wish to make a single observation to my friend and colleague on the committee, [Mr. BROWN,] whose amendment is now the subject-matter of discussion. That amendment provides that this act shall not be carried into effect until after the next election. The corporation election in Georgetown takes place on Monday. The delay which has occurred since the bill was reported supersedes, in some degree, the necessity for the incorporation of that amendment into the bill. If it be agreed to, the act cannot be carried into execution until twelve months from next Monday, because the elections are annual. I trust that the Senate will disagree to the amendment, as it is the request of a majority of the people of Georgetown that it should be done.

Mr. BROWN. I have no particular objection to voting down the amendment, for I am opposed to this bill with the amendment or without it. The Corporation of Georgetown, without authority of law, made a large subscription for the stock of this railroad company, and now they come and ask Congress, after they have contracted the debt without authority of law, to authorize them to levy a tax of seventy-five cents per annum on each one hundred dollars worth of property to pay their subscription to that stock. I believe, sir, that minorities have rights as well as majorities; and that, when contracts are entered into by corporations which bind the property of all the people alike, there ought to be a law authorizing the making of the contract before it is entered into. The proper way for this corporation to proceed would have been first to get authority from Congress to authorize them to make the subscription, and not go on first and make the subscription, and then come here and ask, against the protest of a minority, though it may be a small minority, for authority to tax them to pay the debt contracted without law. I was willing before, I am willing now, to pass a law authorizing the Corporation of Georgetown to subscribe for this stock, and to levy taxes to pay for the stock, and then submit that law to the people, and see if they are willing to approve it; but I cannot consent to allow a corporation to go on and contract debts, and then come here and ask Congress to legalize them, for that is what this proceeding is seeking. Sir, I have seen such proceedings in my own State; and the result has been to bring reproach, not only on the corporations concerned, but upon the State itself. I have known corporations there, with the consent of a majority of the people, subscribe large sums of money in the way of stocks; I have seen pay-day come, and I have seen the bonds repudiated. I want corporations to enter into this species of contracts only when they have a law authorizing them to do so. But when it is done without law, and they come here and ask Congress to legalize their acts, and authorize them to levy taxes on the people to pay for a debt illegally contracted, I cannot consent to it. This is my objection, briefly stated, to the whole bill.

Mr. DAWSON. As is known to the members of the Committee on the District of Columbia, this bill is founded on a petition from citizens of Georgetown. They understood their action, and also the legal responsibility which would accrue from the course they were pursuing. I hold in my hand their petition to their corporation, which occupies but a few lines:

"We the subscribers, tax-paying citizens of Georgetown, recommend to the corporate authorities thereof a subscription, in the name and on behalf of the town, of five thousand shares of stock in the Metropolitan Railroad Company, if such an amount should be necessary to secure the early organization of the company and the commencement of a work calculated to secure us such great benefits."

It is signed by more than two thirds—some say

more than three fourths—of the citizens of that town. As the certificate of the collector of taxes of that corporation will show, it is signed by an overwhelming majority of the people, and by nine tenths of the property holders of the city, asking the passage of this act for their benefit. It is founded upon the principle that every people in every Territory have a right to tax themselves to the extent they desire. We only propose to give them authority to carry out what they have themselves determined to do. I concurred with my friends on the committee that it was better to have a proviso put in providing that an election should ensue at which there could be an approval of the act; but we are in such a condition now as to dispense with the necessity of an election. To retain the proviso will postpone the carrying into effect of the railroad subscription for twelve months.

Mr. SHIELDS. My honorable friend from Georgia is right in the enunciation of his principle that every man ought to be permitted to tax himself, but that is not the principle here. The principle of this bill is that of a majority taxing a minority *ad libitum*.

Mr. DAWSON. Not *ad libitum*, because we restrict it. Only a tax of seventy-five cents on the one hundred dollars can be imposed; and that is not to be collected annually, but five, or six, or eight per cent. a year, according to the amount that may be necessary. They are authorized, however, to raise the full sum if that should be required. The Senator talks about the majority taxing the minority. Now, I should like to know what man is willing to be taxed if he can prevent it? In this country the majority always tax.

Mr. SHIELDS. I think the honorable Senator from Mississippi [Mr. BROWN] has stated the proposition correctly that this ought to be left to the people of Georgetown; let them act upon it, and we ought not to give this power without first consulting the people. The honorable Senator from Georgia brings forward a petition which he says is signed by a majority of the citizens of that corporation. It seems to me from the size of the paper, that it cannot possibly be signed by a majority of the citizens.

Mr. DAWSON. I will only read a certificate of the officers. "Among the above names are those composing a very large majority of the holders of real estate in Georgetown, I should say to the amount of three fourths thereof." That certificate is signed by the collector of taxes. Then the following are the names of the gentlemen who compose the board of aldermen and common council, all of whom voted in favor of the bill to subscribe five thousand shares of stock in the Metropolitan Railroad Company.

Mr. SHIELDS. How much is it a share?

Mr. DAWSON. Twenty dollars.

Mr. SEWARD. What is the whole amount?

Mr. DAWSON. One hundred thousand dollars.

Mr. BROWN. I know very well, sir, that a large number of the citizens of Georgetown have petitioned for this tax, but that is not the question which operates upon my mind. I do not care if a majority have asked for it. Minorities have rights as well as majorities. The minority protest against it, and say the debt was contracted originally without authority, and now the majority come forward and ask that all shall be taxed to redeem that subscription. What I proposed in the beginning was, that Georgetown should have lawful authority conferred on her corporation to subscribe for this stock if she chose, and coupled with that should be authority to tax her people to redeem it; and then, at an election for that purpose, the whole question should be submitted to the people of Georgetown for their ratification, and if they chose thus to bind themselves, let it be so. What I protest against is, that a corporation subscribes for stock in a railroad company, without lawful authority to do so, and then comes here and asks Congress to ratify it, and make it binding on the minority, who protest against it. That is the provision. I think before the Senate pass this bill, they ought at least to give some consideration to it.

Mr. SHIELDS. The honorable Senator from Georgia has said that majorities tax minorities. That is very true, where the tax is necessary for the support of the corporation, the Government, the community; but in a mere scheme of speculation like this, I think it would be a very bad principle to permit a majority to tax the minority.

Mr. BRIGHT. Mr. President, I regard this bill as merely a proposition to permit the capital of Georgetown to tax itself for the purpose of making a public work. The Senator from Mississippi has spoken about a minority protesting. Of whom does that minority consist? If the Senator from Georgia will read the paper before him, it will disclose the fact that nine tenths of the property holders of Georgetown have signed it; and those who protest against it, are generally the employees of the Government, who work in this city and live temporarily in Georgetown. The question submitted here, is simply whether or not actual residents in Georgetown—the property holders of that city—those who own the property and represent it, shall have the sanction of Congress to tax themselves as they see proper. I think there is eminent propriety in giving them this authority. We have refused to grant them land for the purpose of making a railroad, on the ground that we had no such power under the Constitution; we have refused to appropriate them money for any of their public works. Now, when they ask us to give them the simple privilege of applying their own money for the purpose of making a public work, the Senator from Mississippi says a minority protests against it. I say it is a non-resident minority; and I think there is a great deal of justice in the application which the people make to us.

Mr. BROWN. The Senator from Indiana says that nine tenths have petitioned for it. I do not think the proportion is anything like that.

Mr. BRIGHT. I said nine tenths of those who own property upon which taxes are paid.

Mr. BROWN. I do not know that the Senator is precisely accurate in that statement; but suppose he is, have the other one tenth of the people no rights? May nine tenths tax the property of the remaining one tenth without their consent, to pay a debt which, I repeat again, was contracted without law, and to which you are asked now to give your sanction? The Senator says the property-holders wish this. Then why do not the property-holders put their individual money into the enterprise? If it is going to be a speculation to the one tenth who protest against it, why do not the nine tenths put in their own money? They seem careful to avoid that, unless they can drag in the other one tenth, and force them, against their will, to contribute to an enterprise which, they say, is going to be a failure, with which they desire to have nothing to do.

There are a great many representations in regard to the petition which has been alluded to, which I need not repeat here; but since it has been said that the minority amount to nothing, I may mention that the minority charge that this petition was gotten up unfairly. I know not whether it be so or not, but I know this, that when you are going to contract debts on the public faith, you ought to proceed properly, regularly, and in order; and if there is to be a corporation subscription to this railroad, it ought to be authorized before it is made, and it ought to have the popular sanction before you undertake to tax the people to redeem it.

Mr. DAWSON. The Senator is right as to the authority of the citizens to levy the tax; but for the purpose of inducing the corporation to make the subscription, the citizens of Georgetown sent them a petition, which I hold in my hand, asking the corporation to take this stock; and, as the Senator from Indiana has said, nearly nine tenths of the land-holders in the city, and three fourths of all the residents, signed the petition. They held a meeting, and passed a resolution instructing the Board of Aldermen and Common Council to appoint a committee to make this application, in conformity with the wishes of the people of Georgetown, thereby pledging themselves to be responsible for the payment of the stock. In order to have it done by law, they filed their petition for an act of incorporation for the company, in accordance with their wishes and the wishes of the people of Maryland, and we granted the charter. Now, the subscription has been made by nine tenths of the property holders of the town, and they ask us to allow them to make it. Why should we object?

Mr. SEWARD. There seem to be two questions involved in this bill. The first is, whether a municipal corporation ought to have the power given to them to levy taxes upon their constituents for a public enterprise in the nature of a railroad. It is supposed by the honorable Senator from Mississippi, and by the honorable Senator from Illinois, that there is a legitimate presumption against the safety of any such enterprise. My own experience does not support the position which they assume. It is true I have seen very disastrous enterprises in the shape of local improvements undertaken by town corporations; but I have also seen very important and great enterprises carried to a successful conclusion, partly by the adoption of a course like this by corporations. The capital city of my own State has subscribed liberally, for a period of twenty years, to the great railroad enterprises which center in that city; and I think it has never lost a dollar from so doing, but has realized great benefits for itself and for the whole State. I think that the Croton Aqueduct enterprise, in the city of New York, falls in the same category. So I am not at liberty to presume that all enterprises of this kind are bad speculations; but I must assume that the enterprise which is in question here may be a good one or a bad one. Somebody is to decide that question, and I think the decision belongs to the people of the town.

It is a safe principle to require the consent of the people to an enterprise of this kind; and when I speak of the consent of the people, I mean that portion of the people who are to bear the taxes which are to be imposed, and whose prosperity will be benefited by the improvement. Others, who are transient persons, and are not taxable, have little interest in the question, and though they may be there, the law properly holds a person, on such a question, to the place of his domicile. We would agree, I think, that the citizens might be trusted in deciding this question for themselves, but the honorable Senator from Mississippi insists upon the form of an election. I agree with him that the form of an election is a very proper one, and I should insist upon it, if it were not superseded by an equivalent expression—equivalent in numbers, equivalent in solemnity. That seems to be what is presented here by the petition which has been read, and the proceedings of the meeting of the people to which allusion has been made. I can, therefore, see no objection to the passage of the bill.

Mr. BADGER. I agree entirely with what was said on this subject by my friend from Mississippi. This is an attempt which I think ought to receive no aid or countenance at the hands of Congress. The Corporation of Georgetown undertakes to make a subscription to some scheme of internal improvement, without any authority of law whatever. The Corporation of Georgetown has no funds, created and under the control and direction of the corporation, for that purpose, but the subscription has to be made good by a levy of taxes upon the people of Georgetown. Then how stands the case? A subscription was made by persons who were absolutely without any authority to pledge the corporation, or to pledge the people or the property of Georgetown. It was an absolute nullity. It had no more force, effect, or legal character, than if it had been done by any other number of citizens than those who compose the corporate body of Georgetown. Now, when this illegal act is done, Congress is applied to in order to interpose a law which, by an *ex post facto* operation, shall make that good from the beginning which was a nullity from the beginning.

Sir, when I say this is an act of *ex post facto* operation, I do not mean in the sense in which the Constitution of the United States prohibits such a law. I know that expression, technically considered, refers only to criminal prosecutions; but I mean to use it as a convenient term to express precisely what is to be done here, by an act of *ex post facto* legislation, to make this corporate act of the authorities of Georgetown binding upon the property of citizens of the town from the time when it was adopted, although it was adopted without authority of law.

I am opposed to it. What reason do gentlemen assign why such an act as this should not be passed? It is admitted that the property holders in Georgetown have an interest in this question, that their means are to be used to make good the subscription, and that it would be wrong to compel them to make good a subscription made in their name without authority, unless they consent

to it. But it is said they have consented. How? Why, sir, there are certain petitions brought here, and those petitions are supposed to be adequate to supply the place of an authentic, legal expression of the will of the people of Georgetown. Why, Mr. President, who that ever knew, who that ever heard anything about the process by which signatures are obtained to petitions and other papers, can place any such reliance on those papers as is now sought to be attributed to them? If the people of Georgetown who are interested in this question, and who are to bear the expenses of this outlay of money, wish that it should be done, why not commit to their corporate authorities hereafter to be elected by them, the power hereafter to make a subscription if they think proper to do it? I can see no reason why this legitimate mode of ascertaining what is the sense of the people who are to bear this burden should not be resorted to. What stringent necessity is there? Why should we now step in retroactively and make that good from the beginning which was void in the beginning? What mighty good is to be accomplished by it? What fearful evil is to be apprehended from the short delay which is to elapse before allowing new corporate authorities, elected by the people of Georgetown with an express view to this question, having the subject brought under their consideration, to pass upon it?

I think, Mr. President, that while we should be willing—as certainly I should be at all times—to give every proper legal facility to those improvements which may advance the interests and promote the welfare of the old town of Georgetown, we ought to have some respect to the legitimate method of accomplishing this purpose; and we should ascertain, by the most regular and authentic means, that the approbation of the people of that town is freely and intelligently given to the proposal. I know no other legal mode than the one I have suggested. Let the power be committed to the corporate authorities of Georgetown to be hereafter elected by the people of the town with a view to this question, knowing that it is to arise, the people selecting those who will represent and truly express their opinions. As to petitions, for certain purposes petitions may be useful. For this purpose, as a substitute for an authentic expression of the will of the people of the town, I look upon them as absolutely worthless, and not entitled to the slightest consideration.

Mr. DAWSON. If the Senator from North Carolina would attend to the facts of the case and examine his own principles, he would find that we are precisely within them. It is true, that the subscription was made before the passage of this bill, but who made the subscription? The people of Georgetown. How could they do it? By applying to the city councils, who had the authority by their voice to do it. Did the people of Georgetown authorize the city councils to make the subscription? If they did, will not my friend admit that they had the right to do so? I hold in my hand their petition. It is in these words:

"We, the subscribers, the tax-paying people of the city of Georgetown, ask the corporation, and recommend to them, to subscribe in behalf of the corporation," &c.

The corporation did it at their request. Whose petition, whose recommendation is it? That of the people who ask it. They do not desire you, by this bill, to give them authority to make the subscription, but they ask you to authorize them annually to levy a tax, which tax is to be levied upon the same people who requested the subscription to be made to this railroad company. They wish to legalize the tax, not to legalize the subscription, for that is already made. It is not a retroactive bill at all. It may be said that these gentlemen can pay the money themselves, but they prefer to have it paid annually under a system adopted through their own agents—the corporation.

The Senator from North Carolina does not say that there would be any objection to the bill if a law had been first passed authorizing the corporation to make the subscription, and this authority was afterwards called for. What difference is there in principle, between people anticipating an act and pledging themselves to do it to-day instead of the day after to-morrow? It is founded on the will of the majority. We have ascertained their will, and we know that it is for this measure. Besides, if the people of Georgetown should be dissatisfied with the payment of this tax, or with the conduct of the corporate body imposing the tax, they have annual elections, and can turn out the aldermen and councilmen who assessed the tax on them, and thereby defeat the object of the entire bill. There is no danger of imposing an improper tax under this bill; but if there be, there is a correcting power in the hands of the people of Georgetown, who can turn out all the men in office in their corporation who tax them, and put their municipal power in the hands of those who will not tax them.

I repeat to my friend from North Carolina, that I think the ground on which he bases his opposition is superseded by the fact that the subscription was made at the request of the people themselves. If so, why not let the measure pass? Why postpone it for twelve months, and thereby defeat the very object of the subscription at this time, when the contracts are being let out by the railroad company? I hope the corporation will not be placed in so disadvantageous a position.

Mr. BADGER. My friend from Georgia says this act is not required to give validity to the subscription. Well, now, sir, where was the authority in the Corporation of Georgetown to make the subscription?

Mr. DAWSON. Nothing but the request of the citizens.

Mr. BADGER. Then my friend considers that a corporate obligation has been incurred by a petition signed by the citizens of Georgetown! Assuredly I need not say that position will not bear the test of legal scrutiny. We confer corporate authority on the people of Georgetown. Georgetown, as a corporate authority, exists under our law. As individuals, if every single man among them incurs anything at all, it does not speak the voice of Georgetown.

Mr. DAWSON. There is no difference between my friend and myself on this point when we come to understand each other. I do not say that the act of the people conferred corporate power to make the subscription, but I said the people had a right to ask the agency of the aldermen and city council of Georgetown to make the subscription, not in their corporate character, but acting for those gentlemen who compose the city, and afterwards, for the purpose of giving it the appearance of a corporate act, they ask us to pass this law and allow them to levy a tax to carry out the object.

Mr. BADGER. Now my friend says they asked the corporate authorities to subscribe, not as a corporation, but as agents of persons who signed that paper. Then the subscription is not a corporate subscription, but it is a subscription made by the corporate authorities as the agents of the subscribers, and the subscribers own the stock, and the subscribers are bound to pay for it, and nobody else. Then, upon this view of the subject, additional objections rise mountain high against the bill.

I now understand from my friend the state of the case to be that these gentlemen, having made individual subscriptions through the agency of their appointees, the persons who happened to be the mayor and aldermen of Georgetown, now ask Congress by a law to change the character of that subscription from an individual one, and to make it binding on the city in its corporate character. Surely, sir, we ought not to do that. If they repent of their bargain, if they are no longer willing to be individual subscribers, if they are not willing to charge themselves personally with the subscription which they have authorized to be made by persons as their agents, then let them get out of the difficulty as other men do when they find themselves by such an imprudent act placed in a similar strait; but certainly it can be no reason why we should change the character of the subscription, and make it a charge on the Corporation of Georgetown.

Mr. BROWN. I desire to ask my friend from Georgia a question by way of illustration. If the Corporation of Georgetown, on a petition of the majority of the citizens, could make a subscription which was binding, could not the Corporation of Georgetown, upon the same petition, levy taxes which should be binding? In other words, if they could contract the debt without law, can they not pay it without law? If so, why come before Congress for this law?

Mr. DAWSON. I will answer the Senator. The people wished the act to be done. They had not power, under their charter, to subscribe. For fear the railroad would fail, they rose *en masse*, and said to the Corporation: "Make the subscription for us in advance, and we pledge ourselves to pay the taxes necessary to carry it out." That is what they did. Now, they ask you merely to give them the power of carrying out what they desire. You say it is unauthorized. They knew it was unauthorized, but they thought Congress would authorize it, and they knew that if they had the power to tax themselves, they could carry out their subscription. If you deny them this liberty, what are you doing? Denying to them the very power which you granted to Alexandria when she was in the District, and the very power which you have granted to Washington, and which is granted by every State Legislature in the Union to municipal corporations within their limits.

Mr. BROWN. My friend is altogether mistaken as to my position. I have not opposed giving Georgetown authority to make the subscription. What I am opposing now is giving Georgetown authority to levy taxes to pay a debt contracted without law, and which was, and is, a nullity.

Mr. DAWSON. On the face of the bill there is no such power vested or asked for; because the people voluntarily, prior to the passage of this bill, commenced a proceeding which they desire to carry out. They do not ask you to make their subscription legal. The bill does not purport to do that. The only object of the bill is to give them the power of taxation for internal improvement purposes; and, if they think proper, to apply the taxes thus received to the subscription already made. What objection, on our part, can there be to it? None at all, on principle. If we refuse it to them, we shall be denying a principle which has been in existence in this District since its foundation. We purpose merely to give to the corporation the power to levy taxes to pay for stock which has been subscribed to a railroad company. Suppose I were to say that the object was to allow them to subscribe for the same quantity of stock after the passage of this bill, would anybody deny the right to do so? Surely not; but for the purpose of acting honestly and fairly, and not deceiving Congress as to the power which they were about to grant, the petition of the people of Georgetown, signed by nearly every man in that city, tells you that they have done this thing as individuals, and not in corporate capacity, and they ask you now to do for them what we ought to have done for them a year ago. We are giving no power which is extraordinary. The bill does not propose to confirm an illegal act on the part of the corporation, or of any individual. It is merely vesting an ordinary power.

Mr. RUSK. I know very well, sir, at least I believe I know, who will foot this bill eventually. It will be the United States. I do not know the amount of the stock which has been subscribed by Georgetown to this railroad company; I do not know the propriety of building the road; but I know that it is a rival road to one already in existence. If the citizens of Georgetown need a railroad and will ask Congress to make an appropriation to aid them in building it, I will vote it directly but not indirectly. That is not the only authority conferred by this bill. It also gives them power to engage in a system of obtaining water for Georgetown. More, it gives authority to set up gas-works, and light the city with gas.

Now, sir, I object to the bill. We shall have eventually to pay this subscription. I do not know the amount of it, nor do I know the propriety of building the road, or the public convenience which will be subserved by it. I object, therefore, to giving the Corporation of Georgetown the power to oppress their own citizens by taxation, when I have the evidence before me that they have contracted a very large debt by subscribing for stock without any sort of authority at all. I object to giving them the power to tax their own citizens, first to enter into a visionary scheme for a railroad, next into a visionary scheme for water-works, and lastly into a visionary scheme of gas-works. As a test question, I move that the bill lie on the table; and on that I ask for the yeas and nays.

Mr. BRIGHT. I hope the Senator will withdraw the motion for a moment, to enable me to say a word.

Mr. RUSK. I will withdraw it if the Senator will renew it.

Mr. BRIGHT. I shall do so. I say, Mr. President, there is no privilege or power contained in any provision of this bill, which is not conferred session after session by the Legislatures of the different States throughout the Union, on their counties and towns. Congress being the only legislative tribunal having jurisdiction over the people of this District, they necessarily come here to ask of Congress that which the citizens of the different States obtain for themselves through their Legislatures. This, I admit, is not a matter of very great consequence. There are on the Calendar other very important bills for this District which ought to be reached to-day, and which, if not reached to-day, will be lost. It is a matter of more consequence that this bill should be disposed of speedily, than how it may be disposed of. While I think the bill right and proper, there is another bill which I am still more anxious to reach as connected with the interests of this District. I am glad the Senator from Texas has made his motion as a test question. I am willing to vote on it as such. I hope, however, the Senate will not lay the bill on the table, but will pass it without further debate. I renew the motion, however, in accordance with my promise.

Mr. RUSK called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 16, nays 17; as follows:

YEAS—Messrs. Badger, Brainerd, Brodhead, Brown, Chase, Fessenden, Fitzpatrick, Gwin, Hunter, Rusk, Shields, Stuart, Sumner, Wade, Wells, and Wilson—16.

NAYS—Messrs. Adams, Benjamin, Bright, Cooper, Dawson, Geyer, Gillette, Jones of Iowa, Mason, Morton, Pettit, Seward, Toombs, Toucey, Walker, Weller, and Wright—17.

So the motion was not agreed to.

The PRESIDING OFFICER. The bill has been reported from the Committee on the District of Columbia with amendments, the first of which is to insert the word "now" between the words "law" and "taxable," in the clause allowing the additional tax to be levied upon any property by law taxable.

The amendment was agreed to.

The next amendment was to insert among the property taxable, the words:

And all money vested or held in any banking, insurance, brokerage, or exchange company, or institution, upon all State or Corporation stocks, and money loaned at interest on bond, mortgage, or other evidence of indebtedness.

The amendment was agreed to.

The next amendment was to add at the end of the first section:

Provided, That said tax or assessment of seventy-five cents upon every hundred dollars of property shall not be made until after the next general election of Mayor, Aldermen, and Common Council of Georgetown.

Mr. DAWSON. For reasons which I have already stated, I hope the amendment will not be agreed to.

The amendment was rejected.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in and ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and the question was stated to be: "Shall the bill pass?"

Mr. BROWN. I regard this bill as being so pernicious in its provisions, that I cannot allow it to pass without asking the Senate to take the vote by yeas and nays on its passage. It is not only authorizing the Corporation of Georgetown to levy a tax to pay an illegal debt for one purpose, but it is to authorize that corporation to tax without limit, for two other purposes, gas and water.

The yeas and nays were ordered.

Mr. BRIGHT. If the Senator's statement be correct, I cannot vote for the bill, but I understand it differently.

Mr. BROWN. The last section, in my judgment, gives the power which I have stated.

Mr. WELLS. Mr. President, I wish to correct an error into which the Senator from Georgia, in my judgment, has fallen, in stating that the practice is universal in the country, of allowing majorities to bind minorities in subscriptions of corporation stock. That is not correct, as I know. Congress have power, as I suppose, to create within this District ordinary municipal corporations. The authority of such corporations is understood everywhere. It is to do that which was alluded to by the Senator from New York as one thing incident to a corporation; that is, to supply itself with water. It is, in short, to do all those things which are necessary to the existence of the corporation, the preservation of health, the protection of the poor, the erection of necessary public buildings, and all the various things requisite for the enjoyment of the corporate rights; but when it comes to an extraordinary matter, such as giving a majority of voices the power to bind the minority, on a proposal of this kind, and thus to make it a mere money making corporation, by so doing you trench, as I believe, on the rights of the minority.

In my judgment, none of the suggestions which have been made, in answer to the honorable Senator from Mississippi, reach the original objection which he made. Here is a grant for a railroad corporation. It is a matter of stock; individuals own portions of it. In this case a municipal corporation, by a mere majority of voices, (it may be by a majority of one voice,) subscribe to any extent they please to the stock of a railroad company. Then they come here and ask Congress to approve and sanction that principle. It is, in my judgment, an unsound principle, because a railroad is not essential to the enjoyment of the corporate privileges originally granted. If it is not, it is an invasion of their rights, as much so as it would be to authorize, by a majority of voices, a subscription to the stock of a manufacturing corporation in the town. Is it not the same in principle?

The Senator from Georgia has used a petition in this case as evidence upon which to act. Now, suppose a majority of the people should declare, in that petition, that they believed it to be for the interest of the town of Georgetown that a manufacturing corporation should be erected within the limits of the town. Suppose a charter was granted by Congress to such a company in that town, whose stock should be a million of dollars, and the municipal Corporation of Georgetown should subscribe for half the stock; suppose the minority should protest against the subscription, and yet it should be carried by a majority of one voice, and they were to come here with a petition signed by any number exceeding the majority asking us to sanction it, is that to be taken as evidence on which we are to act? I trust not. If you can grant power to subscribe to the stock of a manufacturing company, where will you stop short of giving an absolute and unqualified control over the property of the minority to the majority, and that, it may be, by the power of a single voice?

I know this question has been discussed at length in some portions of the Union, and the discussion has almost always been followed, when fairly and thoroughly examined in the State Legislatures, by a majority against the exercise of such a power.

For the reasons which I have stated, I cannot vote for a bill of this kind. If I were to vote to give a right to bind property for stock in a railroad corporation, I would as soon vote to bind their property for stock in any other corporation, and thus you might compel, in any manner, the property of the corporation to be hoarded up, and then divided, by a majority of voices, among the people *per capita*. All these consequences result from this mode of legislation. I think it unjust, and I cannot sanction it.

The question being taken by yeas and nays on the passage of the bill, resulted—yeas 20, nays 13; as follows:

YEAS—Messrs. Benjamin, Bright, Butler, Cooper, Dawson, Douglas, James, Johnson, Mallory, Mason, Morton, Sebastian, Seward, Slidell, Stuart, Thompson of Kentucky, Thomson of New Jersey, Walker, Weller, and Wright—20.

NAYS—Messrs. Badger, Brainerd, Brodhead, Brown, Chase, Fessenden, Fitzpatrick, Rusk, Shields, Toombs, Wade, Wells, and Wilson—13.

So the bill was passed.

CIVIL AND DIPLOMATIC BILL.

A message from the House of Representatives, by Mr. FORNEY, their Clerk, announced that they had passed a bill making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1856, and for other purposes.

On motion by Mr. HUNTER, the bill was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

ORDER OF BUSINESS.

Mr. STUART. I move now that the special order of the day, which are sundry internal improvement bills, be taken up, and I trust we shall be permitted to dispose of them. They will lead to no debate.

Mr. DAWSON. I hope not. I trust the Senate will proceed with the bills for the District of Columbia. We have not yet had an hour for legislation for this District, and two or three times during that period we have had to send out in order to get a quorum.

Mr. STUART. The Senator is certainly mistaken about the time. He has had, I think, two hours for his bills. It is now half past two o'clock.

Mr. DAWSON. But a very small portion of the bills for the benefit of the District of Columbia have yet been acted on.

Mr. STUART. One of those bills is in regard to a railroad crossing the Potomac.

Mr. DAWSON. It is a very important measure.

Mr. STUART. One of the District bills will occupy a great deal more than this day in its discussion—I refer to the District judiciary bill.

Mr. BRIGHT. I stated, in some remarks which I made this morning, that this was the first day that the Senate had given to the consideration of the bills relating to the business of this District. There are many bills of importance to the people here, which, I think, and which I know, can be disposed of. There is one, however, which should be taken up above all others—I refer to the bill to reorganize the judicial system of this District. It is a very important bill, it is one which has passed the House of Representatives, and which many of us here are anxious to reach for the purpose of voting for it just as it is. I do not know that there is a majority of the Senate in favor of that bill, but I should like to make a motion that would test the sense of the body on that point; so that if there be a majority here, we may use the remainder of the day, if necessary, in disposing of that bill. I cannot make a motion for that purpose now, while the motion of the Senator from Michigan is pending, but I hope that Senator will withdraw his motion, for the purpose of enabling me to submit mine.

Mr. STUART. I submitted a motion this morning to take up certain bills, and then the friends of the District bills discussed that motion until they occupied half an hour against my wish. I have now submitted another motion, and it is again being discussed. The question which the Senator from Indiana proposes to take up cannot be disposed of to-day, nor in three days, but the bills which I have moved to take up can be disposed of without any debate at all. I must, therefore, insist on my motion. I shall refrain from debating it, because I think we had better do almost anything else than exhaust the day in discussing the priority of business.

Mr. BRIGHT. Yesterday, when the bill for the protection of officers of the United States was taken up, it was said that it could not be disposed of in three days. The same remark which the Senator from Michigan makes in reference to the bill to which I have referred, was made by the Senator from Massachusetts then, as to the bill which was yesterday acted upon. But, sir, we had an illustration of what perseverance would do. The measure being right, we sat here until twelve o'clock last night and passed the bill. The bill to reorganize the judiciary of this District, in my judgment, has more merit than any other bill that has been reported from any committee during this session of Congress. I know it embraces vast interests and great questions, but, in my judgment, we cannot more profitably employ the residue of this day than in considering it. I believe we can sit here to-day and to-night until we dispose of it. I hope, therefore, that the Senator from Michigan will withdraw his motion, and that the Senator from Georgia, who has charge of the bill to which I allude, [Mr. TOOMBS,] may make a motion to take it up.

Mr. SHIELDS. I hope the honorable Senator from Michigan will persist in his motion; I think there is great propriety in it. A portion of the internal improvement bills have already passed the Senate, and the rest of them are now lying upon the table. Those of us who are interested in the bills now on the table, will be accused of negligence unless we press those measures for action. I think it is but fair that those bills which

are now on the table, should follow the others as speedily as possible to the other House. For one, I do not mean to debate a single one of these bills, and I believe my friend from Michigan intends pursuing the same course. After we pass them, we can help the Senator from Indiana in getting up the other measure.

Mr. BRIGHT. I am afraid, if we wait until that time, we shall never reach it. We are now on the business of the District of Columbia, and this motion, of course, is to suspend the prior order of business.

Mr. STUART. No, sir.

Mr. BRIGHT. Clearly so.

The PRESIDING OFFICER, (Mr. WELLER.) The question was taken on the motion to proceed to the consideration of the District business, and that was agreed to. Then the Chair asked the Senator from Georgia [Mr. DAWSON] to indicate the first bill which he wished to have taken up. This motion, of course, dispenses with that business.

Mr. TOOMBS. As that decision, I understand, rules out the motion of the Senator from Michigan, I move to take up House bill to reorganize the courts of the District of Columbia, and to reform and improve the laws thereof.

Mr. STUART. That motion is not in order, according to the decision of the Chair.

The PRESIDING OFFICER. The last bill under consideration was disposed of; and as soon as that was done, the Senator from Michigan obtained the floor and moved to proceed with other business. His motion is, therefore, in order.

Mr. TOOMBS. The bill to which I alluded is one of very great importance to this district, one which would have been brought before the Senate at a previous time but for my absence from the city. I should be very much gratified if the Senate would now take it up and dispose of it.

The PRESIDING OFFICER. The question is on the motion of the Senator from Michigan.

Mr. DAWSON. I think I may be pardoned for saying a word on this motion as chairman of the Committee on the District of Columbia. We know the unfortunate event which deprived that committee of its late lamented chairman, [Mr. Norris.] The business has devolved on three of us who remain in the city; we have discharged the duty imposed upon us as far as our industry would permit us to do. We have prepared fifteen bills for this District. Two of them have been acted on this morning. The Senator from Michigan says we have had nearly two hours to legislate for the District, and that the friends of the last bill which was under discussion argued it for half an hour. Sir, who created the necessity for the argument? Those opposed to the measure, for I proposed, in the beginning, to go on without a word of discussion. We have passed two bills out of the fifteen, and now it is proposed that the business of the District shall be no further regarded. I hope the Senate will proceed in accordance with the order which was made this morning to take up the bills for the District and pass one or two others, and then the committee will have discharged their duty; and this is the last time, while I am on this floor, that I shall ask to take up the business of the District. This but confirms my opinion that the representatives of the people should always have a responsibility to the people which may be brought to bear upon them.

Mr. SEWARD. Let us not neglect that portion of the country which has no representative here. Let us give it a hearing.

Mr. STUART. Mr. President, I have tried in vain, to-day, as I have done heretofore, to get at the question of whether the Senate will take up business without discussion; but it cannot be done. The Senator from Georgia has misunderstood me. I said that upon the question of the priority of business, this morning, the Senator and his friends took up half an hour in discussing it, and we are now discussing it again. I wish to say, because this sort of discussion puts a Senator in a wrong position, that there is not a gentleman on this floor more anxious than I am to dispose of the bill for the reorganization of the Judiciary of this District; but the Senator from Georgia wishes to take up a proposition to make a railroad across the Potomac river.

Mr. DAWSON. Not at all.

Mr. STUART. I so understood the Senator from Georgia.

Mr. DAWSON. It is a bill for the purpose of authorizing a ferry across the river.

Mr. STUART. Precisely; and it involves the question of making a railroad to the depot in this city. Now, I am not disposed to yield the public interests of the country for the purpose of considering that vexed question here to-day, when it is of no importance to this District. If the Senator from Georgia will follow the indication of the honorable Senator from Indiana, and agree to take up the District Judiciary bill, and submit, as a test question, whether the Senate will take up the bill of the House or not, (because, in no other way can it be passed at this session,) I shall yield to it with the greatest pleasure. If, however, it is to come up and to be discussed, to be talked about for five or six hours, until midnight to-night, and all the rest of the session, I am not in favor of passing over all the public business for that purpose. I say again, if Senators will submit to the Senate a test question as to whether the body will take up and pass the House bill, I am ready to agree that it shall be taken up.

Mr. WALKER. Very well, let us have a test on that.

Mr. STUART. I withdraw the motion with that understanding.

Mr. BUTLER. If it is to be supposed that we are to take it as a test question to pass the House bill, I am bound to say that I shall not only speak myself, but I know other gentlemen, my friend from North Carolina [Mr. BADGER] particularly, and others here, will go very much at large into the subject of judicial tenure; and I give notice that I cannot consent to anything being done with that bill in the way of passing it, unless I can state my objections to it.

Mr. STUART. Then I renew my motion, and I ask for a vote upon it.

Mr. BRIGHT. If the Senator will withdraw that motion, I will make the one which he indicated some time ago with the view of ascertaining whether it be the pleasure of the Senate to act on that question during this session.

Mr. DAWSON. If my friend from Indiana will wait for a moment, in order to gratify the wishes of the Senate and continue with the business of the District of Columbia, I will move to take up the next bill in order, to which, I suppose, there will be no objection.

The PRESIDING OFFICER. Does the Chair understand the Senator from Michigan to insist on his motion?

Mr. STUART. Yes, sir.

Mr. BADGER. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 11; as follows:

YEAS—Messrs. Badger, Bayard, Bell, Benjamin, Brainerd, Butler, Cass, Chase, Fessenden, Geyer, Gwin, Mason, Pearce, Rusk, Sebastian, Seward, Shields, Slidell, Stuart, Wade, Wells, Wilson, and Wright—24.

NAYS—Messrs. Adams, Bright, Dawson, Fitzpatrick, Gillette, Johnson, Morton, Thompson of Kentucky, Toombs, Walker, and Weller—11.

So the motion was agreed to.

Mr. DAWSON. I think it due to myself to say now in behalf of the District of Columbia, that I have endeavored to do what I thought right, and hereafter, whenever the Senate feel a disposition to pass any legislation for the benefit of the District, only signify it to me, and I will make a motion to take up that business.

Mr. BRIGHT. I wish to say, in reply to the Senator from Georgia, that lest intimation should not be given by the Senate as to the time they will desire that bill to be taken up, I shall, on every occasion when it is proper and appropriate for me to do so, submit a motion to take it up, unless somebody else does. I refer to the District judiciary bill.

COLLECTION DISTRICTS IN OREGON.

The PRESIDING OFFICER. The first bill in order is a bill to establish the collection districts of Cape Perpetua and Port Orford, in the Territory of Oregon, and to fix the salaries of the officers of the customs therein.

Mr. STUART. My motion was to take up the internal improvement bills which were the special orders.

Mr. PETTIT. I hope the Senator will allow the bill which has been announced from the Chair to be passed. It will not take more than a minute.

Mr. STUART. I know it ought to be passed, and I have no objection to it.

There being no objection, the bill was considered as in Committee of the Whole, reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HARBOR OF WAUKEGAN.

The PRESIDING OFFICER. The next bill on the Calendar is the bill for continuing the improvement of the harbor of Waukegan, in Illinois, upon Lake Michigan.

The bill was considered as in Committee of the Whole, and reported to the Senate without amendment. It proposes to appropriate $16,000 for the purpose expressed in its title.

Mr. ADAMS. I understand that the Committee on Commerce recommended that this bill should not be passed.

Mr. BENJAMIN. The Committee on Commerce made an adverse report on these special bills, and reported a general bill; but the Senate sent that general bill back to the Committee on Commerce, with a direction to report separate bills, and so I presume that the bills which we previously reported on adversely should now be regarded as favorably reported on.

Mr. ADAMS. It appears on the face of the bill to have been reported adversely by the committee.

Mr. STUART. The Senator from Louisiana is slightly mistaken. This bill was reported before instructions were sent to the Committee on Commerce. That committee, in obedience to those instructions, have reported a general bill, specifying the particular appropriations for the lakes, and that general bill covers this case. This bill should, therefore, be passed by, and the other one taken up, because that covers this.

Mr. ADAMS. Then I move that this bill lie on the table.

The motion was agreed to.

LAKE HARBORS.

The PRESIDING OFFICER. The next bill on the Calendar is a bill making appropriations for the improvement of certain harbors on the northern lakes.

The bill was read and considered as in Committee of the Whole. It proposes to appropriate the following sums of money to be expended, under the superintendence of the Secretary of War, for the repair, preservation, and completion of public works, heretofore commenced under the authority of law:

For the improvement of the harbor of Burlington, Vermont, on Lake Champlain, $18,000; for current expenses of the steam-dredge on Lake Champlain, $7,500; for the harbor of Oswego, New York, on Lake Ontario, $21,000; for the harbor of Sodus bay, Cayuga county, New York, on Lake Ontario, $14,500; for the harbor of Sodus bay, Wayne county, New York, on Lake Ontario, $10,000; for the harbor (Charlotte) at the mouth of Genesee river, New York, on Lake Ontario, $24,000; for the harbor at the mouth of Oak Orchard creek, New York, on Lake Ontario, $14,500; for current expenses of steam-dredge on Lake Ontario, $7,500; for the harbor of Buffalo, New York, on Lake Erie, $33,000; for the harbor of Dunkirk, New York, on Lake Erie, $30,000; for the harbor of Erie, Pennsylvania, on Lake Erie, $25,500; for the harbor of Conneaut, Ohio, on Lake Erie, $11,500; for the harbor of Ashtabula, Ohio, on Lake Erie, $13,500; for the harbor of Fairport, (Grand river,) Ohio, on Lake Erie, $13,000; for the harbor of Cleveland, Ohio, on Lake Erie, $10,000; for the harbor at the mouth of Black river, Ohio, on Lake Erie, $10,000; for the harbor of Huron, Ohio, on Lake Erie, $13,500; for the harbor of Sandusky city, Ohio, on Lake Erie, $28,500; for the harbor (Monroe) at the mouth of the river Raisin, Michigan, on Lake Erie, $10,000; for current expenses of the steam-dredge on Lake Erie, $7,500; for the St. Clair flats, Michigan, on Lake St. Clair, $45,000; for the harbor at the mouth of Clinton river, Michigan, on Lake St. Clair, $5,000; for the harbor (Grand Haven) at the mouth of Grand river, Michigan, on Lake Michigan, $29,000; for the harbor of Black Lake, Michigan, $20,500; for the harbor of St. Joseph, Michigan, on Lake Michigan, $18,000; for the harbor of New Buffalo, Michigan, on Lake Michigan, $16,000; for the harbor of Michigan city, Indiana, on Lake Michigan, $19,000; for the harbor of Chicago, Illinois, on Lake Michigan,

$24,000; for the harbor of Waukegan, Illinois, on Lake Michigan, $16,000; for the harbor of Kenosha, (formerly Southport,) Wisconsin, on Lake Michigan, $15,500; for the harbor of Racine, Wisconsin, on Lake Michigan, $11,000; for the harbor of Milwaukie, at the North Cut, Wisconsin, on Lake Michigan, $17,500; for the harbor of Sheboygan, Wisconsin, on Lake Michigan, $11,000; for the harbor of Manitowoc, Wisconsin, on Lake Michigan, $12,500; for current expenses of the steam-dredge on Lake Michigan, $7,500.

It also proposes to appropriate $20,000 for repairs and preservation of public property and contingencies of lake harbors, and for commutation of transportation of baggage, and of quarters and fuel of officers in cases no longer provided for by the quartermaster's department, and for allowances to meet extra expenses, under the special direction of the Secretary of War.

Mr. WADE. I move to amend the bill by increasing the appropriation for the harbor of Cleveland from $10,000 to $25,000. I think $10,000 is copied by mistake from the original bill. The estimate of the Department, I understand, was $25,000. Ten thousand dollars is so small a sum that it is hardly worth while to appropriate it. I wish to conform to what I understand to be the estimate and recommendation of the Department. From memory, I think it is $25,000; but perhaps the Senator from Michigan can tell me.

Mr. STUART. I cannot state that distinctly, but I can state to the Senator that these items are copied from the bill of last year, and that bill was based on the estimates.

Mr. WADE. But I think there was a mistake in that bill in this particular. It must be evident to every one at all familiar with the lakes that the harbor of Cleveland, being a much more important harbor than many of those for which larger sums are appropriated should receive more than $10,000. I move to make the amount $25,000.

The amendment was agreed to; the bill was reported to the Senate, as amended, and the amendment was concurred in. The bill, as amended, was ordered to be engrossed for a third reading; read the third time, and passed.

ROCKS AT HELL GATE.

The Senate, as in Committee of the Whole, proceed to consider the bill introduced by Mr. SEWARD, to continue the removal of the rocks at Hell Gate and Diamond reef, New York harbor, which proposes to appropriate $20,000 for the purpose, including the amount expended prior to August 30, 1852.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ARKANSAS RIVER.

The bill introduced by Mr. SEBASTIAN, for the improvement of the Arkansas river, was considered as in Committee of the Whole. It proposes to appropriate ——— dollars for the purpose.

Mr. SEBASTIAN. I move to fill the blank with $40,000, which is the amount of the estimate contained in the last report from the proper Department.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

TENNESSEE RIVER.

The bill introduced by Mr. BELL, making an appropriation for continuing the improvement of the navigation of the Tennessee river, was next considered as in Committee of the Whole. Its object is to appropriate $50,000 for the improvement of the river.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

Mr. TOOMBS. These bills are passing *sub silentio*, and I suppose it is wholly useless to attempt to resist them; but I wish it to be understood that I am not to be considered as assenting to their passage. I am opposed to all of them.

The bill was passed.

PUBLIC WORKS IN MASSACHUSETTS.

The bill introduced by Mr. SUMNER, for continuing certain public works in the State of Massachusetts, was next considered as in Committee of the Whole. It proposes to appropriate, for continuing the repairs of the sea-walls on Deer and Lovell's islands, in Boston harbor, $2,500; for continuing the sea-wall for the protection of Great Brewster island, Boston harbor, $30,000; for continuing the repairs of the injuries done to the Government works on Plymouth beach, $13,000; for the breakwater at Hyannis harbor, $13,000; for the harbor of Great Wood's Hole, $2,000; for New Bedford harbor, $12,000; and $15,000 for a resurvey of the harbors of Marblehead, Nantucket, and Sandy bay.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HUDSON RIVER.

The bill introduced by Mr. SEWARD, to continue the improvement of the Hudson river in the State of New York, (which appropriates $50,000, to be expended above and below Albany, and not above Troy,) was considered as in Committee of the Whole, reported to the Senate without amendment, ordered to be engrossed, read the third time, and passed.

CAPE FEAR RIVER.

The bill introduced by Mr. BADGER, making an appropriation for refunding to the citizens of Wilmington certain moneys advanced by them and expended by the agent of the United States in the improvement of Cape Fear river, North Carolina, was considered as in Committee of the Whole. It appropriates $60,000, or so much as may be necessary for the object indicated in its title.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NEWCASTLE HARBOR.

The bill introduced by Mr. BAYARD, for continuing the improvement of the harbor of Newcastle, Delaware, which appropriates $15,000 for the purpose, was considered as in Committee of the Whole, reported to the Senate without amendment, ordered to be engrossed, read the third time, and passed.

REEDY ISLAND.

The bill introduced by Mr. BAYARD, for the construction of a harbor on the east side of Reedy Island, which proposes to appropriate $30,000, was considered as in Committee of the Whole, reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MOBILE BAY.

The bill introduced by Mr. CLAY, for continuing the improvement of Mobile bay, which proposes to appropriate $100,000 for that purpose, was considered as in Committee of the Whole, reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

CHARLESTON HARBOR.

The bill introduced by Mr. BUTLER, to continue the improvement of the harbor of Charleston, South Carolina, which appropriates $70,000 for that object, was considered as in Committee of the Whole, reported without amendment, ordered to be engrossed, read the third time, and passed.

HARBOR OF DUBUQUE.

Mr. SEWARD. The Committee on Commerce, to whom was referred the bill for continuing the improvement of the harbor of Dubuque, on the Mississippi river, in the State of Iowa, have directed me to report it back, and recommend its passage.

The bill was considered as in Committee of the Whole.

The PRESIDING OFFICER. The amount of appropriation is left blank in the bill.

Mr. JONES, of Iowa. I move to fill it with $15,000.

The amendment was agreed to; the bill was reported to the Senate as amended, and the amendment was concurred in. The bill, as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

FORTIFICATIONS AT SAN FRANCISCO.

Mr. SEWARD. I move the Senate take up the bill to complete the fortifications at Fort Point, and on Alcatraz Island, in the harbor at San Francisco, in the State of California.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill, which proposes to appropriate $1,050,000 for the purpose.

Mr. GWIN. The bill is in exact accordance with estimate.

Mr. BAYARD. I have no objection to the bill, but I am not aware of the fact that fortification bills are within the line of those on which the Senator determined to act separately in regard to each work. If there is to be a fortification bill, I certainly desire to have other works included. If this bill is to be pressed, I shall be compelled to move an amendment making an appropriation for Fort Delaware. I do not see any objection to including it on the score of containing in one bill of different forts throughout the country. I think myself the fortifications should be provided for in one bill.

Mr. GWIN. I will state to the Senator that this bill is drawn in exact accordance with the estimate made by the engineers, who say that, by this appropriation, they can complete these works within the next fiscal year. Both these important fortifications can be completed with this amount of money. I have a letter before me showing that fact.

Mr. BAYARD. I am not objecting to it at all.

Mr. GWIN. I will state further, that the last fortification bill passed the House by only three majority, and there is scarcely any prospect of one being passed this year. In order to get that bill through the House, they were compelled to cut down the estimates for San Francisco so much as almost to leave nothing to be expended, commensurate with the importance of these fortifications. Our first appropriation was $500,000, and the estimates then were that $1,100,000 would complete these works, and make the harbor of San Francisco impregnable. The appropriation was cut down to $500,000, but now, with the amount which this bill proposes to appropriate, the engineers say the work can be completed within the next fiscal year. Let me read what General Totten says on the subject:

ENGINEER DEPARTMENT,
WASHINGTON, *February* 12, 1855.

SIR: On the subject of your letter of this date, addressed to the honorable Secretary of War, I have the honor to furnish herewith estimates of the officers in charge at Fort Point and Alcatraz, for their respective works.

The estimate for the fort at Fort Point, San Francisco bay, for the year ending June 30, 1856, is $650,000; the officer requests "that this sum be asked from Congress for the fiscal year commencing July 1855," and should this sum be now granted, the engineer expresses his belief that the work may be finished in the next fiscal year without difficulty.

One hundred and fifty thousand cubic yards of rock have been excavated from the site, and the officer in charge expected to commence the masonry foundations of the fort and of the ten gun battery in January—this being the last report from him. We shall remit to him to-day, on his call, all the balance ($54,500) now remaining in the Treasury for this fort.

The officer in charge of the works at Alcatraz recommends, "that Congress appropriates $400,000 for finishing the defenses commenced upon Alcatraz."

He reports the left face of the south battery ready for eight guns, and the flanking capponier high enough to be left for the present; so that the whole force may be turned upon the right face of the battery.

For this work there are in the Treasury $29,500. Operations, both here and at Fort Point, have been much impeded by the smallness of last year's appropriations.

I have the honor to be, very respectfully, sir, your obedient servant, JOS. G. TOTTEN,
Brevet Brigadier General and Colonel Engineers.

Hon. WILLIAM M. GWIN, *United States Senate.*

P. S. On the subject of the condition of the defenses at San Francisco, the engineer department reported on the 18th of January, in answer to a resolution of the Senate, and this report has been printed.—*See Senate Ex. Doc. No. 24, present session.*

"*Estimate for continuing the operations at the Fort at Fort Point, for the fiscal year ending June 30, 1856.*

* * * * * * *

"For the next fiscal year, (commencing July 1, 1855,) I would respectfully urge that an appropriation be asked sufficient to complete the work. The immense importance of having, with the least possible delay, this, the sole commercial port, and key to our possessions on the Pacific, in a state of defensibility, need not be enlarged upon. I think it only necessary to state, that with the arrangements now completed for constructing the work, and the information now obtained as to the sources of supply of materials, there need not be entertained the *slightest doubt* of the practicability of applying the appropriation asked for, and completing the work in the ensuing fiscal year. Experience enough has not yet been obtained to enable me to revise the first estimate of the board of engineers, but I feel great confidence, from such knowledge as I have, that the cost of

the work need not much exceed that estimate. Roughly approximating the cost of the work yet to be done, I put it at $836,950, of which there is now available, (September 30,) $86,950 of the old appropriation, and $150,000 of the appropriation for the current year, leaving $650,000 yet to be appropriated."

* * * * * * *

"As the importance of placing San Francisco bay and harbor in a state of defense, in the shortest possible time, cannot be overrated, it is most strongly urged that an appropriation deemed adequate to complete the work may be asked from the next Congress.

"The sum of $650,600 is now estimated to be sufficient for this purpose."

"*Estimate for continuing the operations on the defensive works at Alcatraz, for the fiscal year ending June 30, 1856.*

* * * * * * *

"Since the fortifications at this point will be almost entirely useless until finished, and would be liable to be seized by a boat attack from an enemy's squadron; further, as there is no fortified point in this important bay and harbor, I would earnestly recommend that $400,000 be appropriated by the next Congress to finish the defensive works upon Alcatraz island. This amount will be expended in building the north battery, the three hundred and sixty-eight gun batteries, the barracks, and defensive line around the island, and should be available as soon as appropriated.

"I would earnestly recommend that Congress appropriate $400,000 for finishing the defenses commenced upon Alcatraz, so that there may be one fortified and inaccessible point in the important bay and harbor of San Francisco."

Mr. BAYARD. I do not doubt that Congress ought, at this session, to make appropriations for the purpose of continuing a variety of fortifications in the United States. I consider that there is no more unquestioned and clear constitutional right than our power to appropriate for fortifications. If the case which is stated by the honorable Senator from California be a hard one, how much harder is the case of Fort Delaware? Sir, in urging an appropriation for that work, it is not to subserve the particular interest of my own State; but that fort is for the protection of the city of Philadelphia. The Government of the United States stands under a positive contract with the State of Delaware, not only to erect, but to keep in repair that fort all the time. That stipulation was distinctly made when the State ceded to the United States the island on which the fort was erected. Notwithstanding this, although the fort was burned down in 1834, you have appropriated, since that time, only $200,000 for reconstructing it. It is lying now in such a condition that, according to the engineer in charge of the work, $200,000 could be used on it with the utmost facility during a fiscal year. The appropriation which you made at the last session in the fortification bill was but $50,000, which is entirely inadequate for the purpose.

Sir, on the Delaware river is one of the most important commercial cities of your Union, and Fort Delaware is the only defense of that river which protects the whole line of its banks above the fort, and which protects the intercommunication between the Delaware and Chesapeake bay, constructed at so much cost, and in which the Government has so deep an interest. That fort has been suffered to lie for a period of twenty years almost untouched, although the Government was under a positive contract with the State of Delaware to keep it always in repair.

Now, in the case of these fortifications in San Francisco, I do not object to the appropriations. I think they ought to be made for the purpose; but I do object to taking up and passing here a single isolated bill, which has never been acted on by the appropriate committee of the body. I do object to passing such a bill alone, and providing for no other fortifications. I think the bill ought to be amended by adding such works of defense as are absolutely requisite. I have stated the case in my own State. I am perfectly willing to vote for the bill; but I must move, as an amendment, that $200,000 be appropriated for continuing the fortification on Pea-Patch Island—Fort Delaware.

Mr. GWIN. Has the Senator an estimate for that?

Mr. BAYARD. The estimate was made long ago.

Mr. GWIN. I should like to hear it read. I hope the Senator from Delaware will not interfere with this bill, for I have brought it before the Senate in accordance with the estimates. He has the same privilege. It is well known that each internal improvement bill is to be passed here on its own merits, and for that reason I have presented this. If he will introduce a bill for the work to which he has referred, I will readily and cheerfully sustain it; but I do not wish to have it added to this bill, and thus embarrass my measure. I have brought this bill before the Senate in exact conformity to the estimates of the engineers, who say, that with this amount they can complete these works. As to their importance, surely no one can pretend that any fortifications in the United States are so important as these are to the harbor of San Francisco, which is now entirely defenseless, without a single gun. According to the engineers, a solitary ship of war can take possession of our harbor in its present condition. What objection, then, can there be to making this appropriation to complete these forts, and make the harbor impregnable?

Mr. BAYARD. I cannot see the ground on which I should refrain from moving the amendment. The Senate have not indicated, by any resolution or action, that they intend to act separately on appropriations for fortifications. They have done so in regard to appropriations for what are called river and harbor improvements; but as regards fortifications, I know of no act of the Senate, no resolution of the body, no expression of opinion, that single bills should be passed for that purpose. I see no reason for doing so.

The fortification system of the United States has been conducted hitherto on a general system applying to larger works, and Fort Delaware comes within them. It was erected as a first-class fortress. It was destroyed by fire in the year 1834, and has never been rebuilt, though the Government has been and is under contract obligation to do it. I do not mean at all to disparage the importance of the works for the defense of San Francisco, but this work is equally important to the city of Philadelphia and the whole line of the Delaware river, as are the works which are contemplated in this bill for San Francisco. And besides, the appropriation which I ask is not one fifth of the appropriation proposed to be made by the bill. The original estimate, I think, for Fort Delaware, was between $500,000 and $600,000. Two hundred thousand dollars, I think, have already been appropriated. I ask now for an appropriation of $200,000 for that work, because the engineers state that that sum can be advantageously expended during the fiscal year.

Mr. GWIN. The Senator from Delaware has not been so perfectly overwhelmed with business this session that he could not have prepared his bill and submitted it to us on its own merits. But, sir, rather than have my bill incumbered with such an amendment, I move that it be referred to the Committee on Military Affairs; and I hope they will take it up, and if the Senator has any proposition, let it go before them.

The motion to refer was agreed to.

AMENDMENT OF PASSENGER LAWS.

Mr. STUART. There is a very important bill on the table which I hope the Senate will now take up and dispose of. It is House bill to regulate the carriage of passengers in steamships and other vessels.

Mr. SHIELDS. I hope the honorable Senator will consent that that bill shall lie over until Monday.

Mr. STUART. At any rate, let us have it read.

The PRESIDING OFFICER. The question is on taking up the bill mentioned by the Senator from Michigan.

Mr. BENJAMIN. Upon that question I beg leave to say that that is a bill about which a controversy has arisen, in which our absent colleague from New York [Mr. FISH] is interested. I shall not interpose objection to its consideration if the Senate desire to proceed with it. But, if it is to be considered at all, it ought to be in a full Senate, and with a full understanding that the bill will undergo a thorough discussion, and that those who are in favor of affording proper protection to emigrant passengers who cross the Atlantic will be prepared with amendments to offer to the bill.

Mr. STUART. I only desire to have the bill taken up and read twice, and then it can lie on the table until Monday.

Mr. BENJAMIN. I understand that it was reported from the Committee on Commerce, then read twice, and is now on its third reading.

Mr. STUART. No, sir; this is a House bill which has not been read in the Senate, although it is substantially the same as the Senate bill referred to by the Senator from Louisiana.

Mr. BENJAMIN. I shall interpose no objections to what the Senator now suggests.

There being no objection, the House bill to regulate the carriage of passengers in steamships and other vessels was read twice, and postponed until Monday.

DEFENSES AT PROCTOR'S LANDING.

Mr. SLIDELL. I ask the Senate now to take up for consideration House bill making an appropriation for military defenses at Proctor's Landing in Louisiana. I will state to the Senate that at the last session, by some means or other, this appropriation was neglected to be appended to the fortification bill in the House. It was urged upon me as a motive for abstaining from pressing any such amendment at the time—and I believe it was the only reason why it was not adopted by the Senate—that to amend the bill at that time would jeopard its fate in the House of Representatives. For fear the whole bill might be lost, we refrained from having this provision inserted. The present bill contains but one appropriation for a specific purpose. That appears to be a favorite mode of legislation now. I think it is the best mode of legislation. At any rate, it has received the sanction of the Senate. The appropriation provided for in the bill is in conformity with an estimate and recommendation from the Secretary of War. If the Senate will consent to take it up, I shall occupy no time in its discussion, but shall simply refer the Senate to the reports of the engineers and Secretary of War, recommending, for various urgent reasons, the immediate construction of this work.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It proposes to appropriate $125,000 for the purchase of a site, and the erection and completion of such military defenses as may be deemed expedient, at Proctor's Landing, at the terminus of the Mexican Gulf railway, in Louisiana.

Mr. GWIN. I should like to know the difference between this bill and the one which has just been referred to the Committee on Military Affairs? I am in favor of this bill, and hope it will be passed.

Mr. BENJAMIN. The difference is that this bill passed the House of Representatives, came here in its regular turn, was read twice, referred to the Committee on Military Affairs, examined by them, and reported back with a recommendation that it pass.

Mr. GWIN. I think that is a mistake. Has it been reported by the Committee on Military Affairs?

Mr. BENJAMIN. Certainly, it is so stated on the face of the bill.

Mr. GWIN. I am in favor of it.

Mr. BROWN. Is there any report accompanying the bill?

Mr. BENJAMIN. Yes, sir; a very full one.

Mr. BROWN. I should like to hear it read. I understand the bill is to appropriate $125,000 for the purchase of a site.

Mr. SLIDELL. Not only to purchase a site, but to erect and complete the fortification.

Mr. BENJAMIN. I find that the Committee on Military Affairs in the Senate has not filed a report with this bill; I am mistaken on that point; but there is a report which accompanied the bill in the House of Representatives, from General Totten, warmly recommending it. I believe my colleague has the paper in his hands.

Mr. SLIDELL. Yes, sir; I have the paper here, containing a letter from the War Department, and from General Totten, recommending the appropriation.

Mr. BROWN. I should like to hear it read

Mr. BENJAMIN. I will read that report.

"ENGINEER DEPARTMENT,
"WASHINGTON, *January* 18, 1855.

"SIR: In answer to the resolution of the House of Representatives of the 16th instant, inquiring 'whether any, and if any, what military defenses are necessary at Proctor's Landing, at the terminus of the Mexican Gulf railway, in Louisiana,' I have the honor to report that a battery having a fire competent to prevent the approach of boats to the landing, together with an inaccessible tower for the accommodation of the garrison, will afford a sufficient defense for the position.

"From this landing to the city of New Orleans the distance is twenty-eight miles; the road is one of the best in the country; and there is now no obstacle of any kind, natural or artificial, to hinder an enemy (landing from boats at Proctor's) from marching up to the city, with troops of all kinds, with their artillery and baggage. This is the only

avenue of approach now without defenses. But it is plain that this remaining unguarded, all our efforts elsewhere may be neutralized. The enemy, turning away from the various defended channels of access, will seek the one which is open to his advance. Why this avenue was not provided for in the original defensive system for New Orleans I am not able to divine; but it is now incumbent upon us to close it at the earliest day practicable."

That is from Colonel Totten. The report goes a little further, and if Senators desire, I will continue the reading, but I do not think it is necessary. This is part of the regular system of fortifications which ought to have been included in the bill of last year, but which, as my colleague explained, we gave up in behalf of the other defenses of the country, in order not to jeopard the passage of appropriations for their benefit.

Mr. BRODHEAD. I wish to inquire of my friend from Louisiana whether the sum is sufficient?

Mr. BENJAMIN. Yes, sir; this will complete the defenses. Let me read what is said in the report on that subject:

"The water being shoal, the lake is navigable only for small steamers and boats; hence our preventive means need be only upon a reduced scale. The total cost of the battery and tower specified was estimated, when they were designed some years since, at $109,000. Allowing for increase of prices, I think it likely that the works may be now completed for $125,000, provided this sum be appropriated in a single grant, so that we may be able to avoid the expenses arising from interrupted and protracted operations. The defenses can be finished in about a year from the time when we get possession of the proposed site of the work."

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CONTINUANCE OF TRIALS.

Mr. SEWARD. Mr. President, I desire the Senate now to pass a bill to amend a defective provision of the judiciary act applying to the city of New York. It is a bill which I propose to introduce, after consultation with the Committee on the Judiciary, who say it is very necessary that it should be passed. It will take no time, I am sure. If any question be raised, I shall not insist upon it. I ask leave to introduce the bill, and to have it acted on and passed now.

There being no objection, leave was granted to introduce a bill to prevent mistrials in the district and circuit courts of the United States, in certain cases, and it was read twice and considered as in Committee of the Whole. It proposes to enact that the trial or hearing of any cause, civil or criminal, in any district or circuit court of the United States, which has been commenced and is in progress before a jury, or the court, shall not be stayed or discontinued by the arrival of the period fixed by law for another session of the court; but it shall be lawful for the court to proceed with the trial or hearing, and bring it to a conclusion in like manner and with the same effect as if another stated term of the court had not intervened.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JUDICIARY OF THE DISTRICT OF COLUMBIA.

Mr. TOOMBS. The Senate passed a number of internal improvement bills, and they then went on to fortifications bills. The business of the District of Columbia was postponed to give way to those matters. As they have been disposed of I move to take up House bill to reorganize the courts of the District of Columbia and to reform and improve the laws thereof.

The motion was agreed to.

The PRESIDING OFFICER. The bill is before the Senate as in Committee of the Whole

Mr. RUSK. The Senator from North Carolina [Mr. BADGER] has gone to his rooms rather indisposed. He is very anxious to be present when this bill shall be acted upon. He requested me, if it should be taken up, to ask that it might be postponed or he be sent for.

Several SENATORS. Send for him.

Mr. RUSK. As it is nearly four o'clock, I move that the Senate adjourn.

The motion was not agreed to.

The Secretary proceeded to read the amendments reported to the bill by the Committee on the Judiciary.

The PRESIDING OFFICER. Shall the question be taken on agreeing to the amendments altogether or separately?

Mr. RUSK. Separately. I insist on a division.

The PRESIDING OFFICER. Then the question is on the first amendment of the Committee on the Judiciary.

The amendment was to strike out the first section in the following words:

"That so much of the acts of Congress heretofore passed as create the circuit court, the district court, the orphans' court, and the criminal court of the said District, be, and the same are hereby, repealed; and all said courts, and the offices of judges and other officers thereof be, and the same are hereby, forever abolished."

Mr. PETTIT. If any gentleman desires the floor upon this question, I shall yield to him with the greatest pleasure; but if no one desires to address the Senate on the subject, I simply wish to say that I hope this amendment of the committee will not be agreed to. I deem it all-important that the bill shall be passed as it came from the House. I believe it is well guarded in every respect. It is true it abolishes the old judiciary system here, and creates a new one—the judges to be appointed, as all other officers are appointed, and as these were formerly appointed, by the nomination of the President, and the confirmation of the Senate. The Committee on the Judiciary, by a majority vote—for they were not unanimous by any means—recommended these alterations; but I hope they will not be agreed to.

The bill has been drawn up by a gentleman who has had long practice in these courts, [Mr. MAY,] who knows all about them and all their defects. I will add, that, in my judgment, nine tenths at least, in fact, I believe nineteen twentieths of all the bar, and of all the people of the District who know anything about the subject, or have any interest in the courts, are desirous that the bill should be passed as it came from the House. I shall not say anything further upon the subject, unless there shall be something said which, in my judgment, requires it.

Mr. BUTLER. Mr. President, I am not now prepared to go on with the discussion of this bill. Are gentlemen serious in insisting now upon the House bill? My friend from North Carolina, [Mr. BADGER,] I know, has prepared himself very well upon the question involved in the tenure of these judges. I am prepared to vote, for myself; but I think courtesy to him requires that he should have an opportunity to be heard. When my friend from Indiana says that nineteen twentieths of the bar are in favor of abolishing the offices, or in other words, removing from their places the present judges under the tenure by which they hold their offices, I beg leave to say to him that he is mistaken.

Mr. SEWARD. Will the honorable Senator allow me to make a motion to adjourn?

Mr. BUTLER. I consent to the motion. This is one of the greatest questions which can be discussed, and it should be fully considered.

Mr. SEWARD. I move that the Senate adjourn.

Mr. BAYARD called for the yeas and nays on the motion, but they were not ordered.

The motion was not agreed to.

Mr. GEYER. I move to postpone the further consideration of the bill until Monday, and make it the special order for one o'clock on that day.

Mr. GWIN. I am opposed to making any special orders for next week until our appropriation bills shall be finally disposed of. If the Senator from Virginia [Mr. HUNTER] were here, I am sure he would never consent to making this or any other bill the special order for next week in preference to the appropriation bills.

Mr. BRIGHT. This morning the Senator from Virginia who has charge, on the part of the Senate, of the financial business of the country, announced that he would yield this day for other business, but that on Monday next he must insist on the Senate taking up the appropriation bills, and there was not a dissentient in the Senate to that course. There was not a Senator that said, "No." His suggestion was agreed to by general consent. I am sorry that he is not present now, but if he were, I know he would object to making other bills the special order in preference to the appropriation bills. The chances are, I think, that we can dispose of this bill to-day. We sat here last night until twelve o'clock, and we can do it again. If the Senator from Virginia were here to assent to an arrangement, he might agree to make it the special order for Monday at eleven o'clock, and leave the appropriation bills to come up at the regular time. In his absence I think we had better go on with the bill. One thing is certain, that if we yield and postpone it from day to day, it will not become a law at this session.

The PRESIDING OFFICER. The question is on the motion of the Senator from Missouri, to postpone the further consideration of the bill to, and make it the special order for, Monday, at one o'clock.

Mr. BAYARD called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 18, nays 20; as follows:

YEAS—Messrs. Bayard, Bell, Brainerd, Butler, Chase, Clayton, Dawson, Evans, Geyer, Gwin, Mason, Morton, Pearce, Rusk, Sumner, Toucey, Wade, and Wilson—18.

NAYS—Messrs. Benjamin, Bright, Brodhead, Brown, Cooper, Dodge of Wisconsin, Douglas, Fitzpatrick, Hunter, Johnson, Jones of Iowa, Pettit, Seward, Slidell, Stuart, Toombs, Walker, Weller, Wells, and Wright—20.

So the motion was not agreed to.

The PRESIDING OFFICER. The question is on the first amendment of the Committee on the Judiciary.

Mr. BUTLER. As my friend from Georgia is intrusted with the bill, I hope he will explain that feature of it. I think it very probable, from the present temper of the Senate, and the indications which I see around me, that the amendment will be voted down; but I know that my friend from North Carolina has taken this subject deeply to heart, and has prepared himself with a very elaborate argument upon it. I am not prepared to go on myself; but I know that no excuse of that kind will avail, and I intend, therefore, to submit my views. I hope, however, the Senator from Georgia will explain—as the matter has been intrusted to him—some views which were entertained by the committee.

Mr. TOOMBS. Mr. President, it is not at all my purpose to enter into a general discussion of this bill; but I can very readily reply to the question which the Senator from South Carolina has asked. For myself I should desire to have the amendments of the committee adopted; and I expected that we should be able to carry them; but inasmuch as I find that the gentlemen of my committee who were willing to vote for the great body of the legislation contained in the bill, with the amendments, seem to have united, in their votes and actions at least, with those who want it not, I have coöperated with those who desire legislation on this subject.

The object of the first section, which the Committee on the Judiciary propose to strike out, is to get rid of all the judges in the District of Columbia. The bill comes plainly and distinctly to its object. It conceals nothing. It proposes to remodel the entire judiciary of this District. It is the opinion of some gentlemen—not that I fully concur with them—that the abolishment of all existing courts, and making new courts and dividing the jurisdiction among those courts, is legitimate. I do not wish to go into that question at all. It was decided in 1801, during the administration of Mr. Jefferson, after very elaborate argument. If your object be to get rid of your judges by evading the constitutional provision in reference to the tenure, it would be a violation of the Constitution; but, if you find that the existing system does not work well, that it is a bad system, (though you cannot annihilate the jurisdiction, for that must exist somewhere,) you can get rid of all those courts which are badly constructed, and all those judges who are unfit. That is the object of those who have originated this bill. I do not concur to the whole extent with them in both propositions which they have stated, and particularly the last one, but the first I do maintain.

There is, however, one fatal objection which I have to the bill as it came from the House, and unless the provision which I consider unconstitutional be stricken out, I cannot support the bill. I believe that these are constitutional courts, and that the tenure of the offices of their judges cannot be restricted by this Legislature. That is the only point which I am not prepared to yield, in order to give the bill of the House to the people of the District. One amendment of the committee is to strike out the provision fixing a term of years to these judges, and I am in favor of that amendment. This amendment, however, is to strike out a section of the bill which sweeps away all the courts of the District, gets rid of their judges, and authorizes a new system. It meets the question

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C

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promptly. I shall not now insist upon it, though I should have preferred this and the other amendments of the committee if I could have had the active coöperation of those gentlemen who agreed with me in committee as to the tenure. I am ready now to take up the bill and support what I suppose to be the action of the committee. If, however, the bill is attempted to be defeated on account of an objection which may be got rid of, I must decline coöperation with those who go further than even I desire to go. When I come to any point which interferes with constitutional duty, there I must stop.

The first section of the bill of the House, as I have already said, proposes to get rid of all the courts and all the judges. The amendment of the Committee on the Judiciary is to strike out that section. It presents the issue at once. Those gentlemen who are in favor of getting rid of all the judges and all the courts, and of then building up a new system with new judges, will, of course, oppose the amendment. I am willing to continue the present judges; but I care nothing particularly on that subject. I am, however, solicitous that the judges shall not be limited to their tenure; because I think that unconstitutional; or perhaps I should more properly say that I am rather doubtful of the question than satisfied about it.

Mr. BAYARD. I move that the Senate do now adjourn.

The motion was not agreed to; there being, on a division—ayes 17, noes 20.

Mr. BUTLER. Mr. President, I believe this involves as much principle as almost any bill that has been brought before Congress. It has not been explained in all its provisions. If any one had told me that such a bill as the one which has come to us from the House could have passed that body with the unanimity and with the numbers that sanctioned this bill, I could not have believed it. But, sir, such is the fact. I now say to the Senate that this bill, in its aim and in its provisions, contains propositions which are utterly inconsistent, in my opinion, not only with the Constitution of the United States, prescribing the tenure of judicial office, but in violation of good faith to the present judges who hold these offices. Here let me ask, "Doth our law judge any man before it hear him and know what he doeth?" Sir, you are condemning these men without knowing what is the truth of the charges against them.

I am told out of doors that the present judges of this District are unfit for their offices. Have I a right to take an opinion of that kind, uttered without any responsibility, to break down the tenure of an office that has subsisted from the beginning of this Government to this time, by the approbation and judgment of the wisest juris consults in this country? I do not know that my friend from Georgia fully understands the mode in which this measure is to be managed; but have we not agreed that these are not legislative courts? Have we not determined that they are not legislative judges merely? And yet from the eagerness, and I must say the concert, which seem to be exhibited, I am afraid that, by a mere act of legislation, after four o'clock this evening, these judges will be impeached and removed. I say that there has been an influence in some way brought to bear against these gentlemen which is unjust to them. There is a cry raised without any just cause. What is the objection, except that Judge Cranch is said to be too old to do his work? Remember, sir, the dog in the fable. After his master pursued him and overtook him, and he could not hold out any longer, the master whipped him; and he turned and asked him "for God's sake spare me; it is true I cannot hold out at this time, but remember what I have done." Yes, sir, this venerable man, who has shed light on the jurisprudence of the country by his luminous and able decisions for the benefit of the profession, is now to be condemned because he is old, and is to be turned out in this form! The other judges are to be condemned without a hearing. Is this right?

I had prepared myself with some memoranda on this subject, in relation to the tenure of judicial office, but not expecting this bill to come up today, I have not them with me. Let me, however, ask whether, when this Government assumed jurisdiction over the District of Columbia, it was assumed as a jurisdiction over a transitory territory, one that must have, necessarily, a limited existence? Was it not, on the contrary, understood that the Government assumed a permanent jurisdiction over this Territory? When the judicial system of the District was established, was it not understood that it was that kind of system contemplated by the Constitution itself? Was it not clearly understood that there could be no limit to the tenure of the judicial office in these courts, except that prescribed by the Constitution? In the Territories there was originally a limited tenure, in some cases for ten, in some for four, and some for three years, but always to expire with the existence of the territorial government. In this case, however, the tenure commenced with and was to be coextensive with the existence of the District of Columbia, as the seat of Government of the United States.

Well, sir, what did our forefathers do? What did the men who organized this Government, and put the judicial system into operation do? When they established the courts of the United States they provided a certain tenure—the tenure of good behavior. What does this bill from the House propose? To put the judges under the control and discretion of Congress, whenever Congress may think proper to legislate upon the subject. That was not what our fathers did. The act of 1802, under which the judicial system of this District went into operation, provided that the judges should be appointed by the President and confirmed by the Senate, and should hold their offices according to the tenure prescribed in the Constitution. Now, I ask the Senator from Ohio, who sits beside me, to read that clause of the Constitution.

Mr. CHASE read as follows:

"The judges both of the supreme and inferior courts shall hold their offices during good behavior, and shall, at stated times receive for their services a compensation which shall not be diminished during their continuance in office."

Mr. BUTLER. There, sir, is the provision under which this judicial system went into operation, and that was the tenure under which these judges were to hold their offices—during good behavior, or for life. How is that invaded here? By assuming that you can turn these very judges out by abolishing their offices. Why, sir, it is not so. This bill provides for abolishing the criminal court, as it at present exists, and in the very next sentence it provides for a criminal court, and leaves it open for the President to make a new appointment; that is all the difference. Sir, the the gentlemen who hold the offices of judges in this District were appointed for the tenure prescribed in the article of the Constitution which has just been read by the Senator from Ohio. But, perhaps, gentlemen are now more enlightened than our forefathers were when they put this Constitution into operation. It shows that what is called progressive improvement is nothing more than aggressive improvement. This is an aggression upon vested rights.

When this system went into operation the tenure of office was entirely different from that provided for territorial judges. There were then territorial judges in existence, holding some for four years, and some for three years, but all of them judges only during the existence of the territorial government. When Congress came to constitute judges for this District, they were looked upon as being as permanent as the judges of the circuit courts in the States. That was the understanding then.

Now, sir, will gentlemen tell me that we can abolish the offices under this guise, and retain the jurisdiction? Will any man tell me that when this bill abolishes the criminal court, and yet retains the jurisdiction of a criminal court; when it abolishes the circuit court, and yet retains the jurisdiction of that court, it is not, in effect, abolishing, by implication, the tenure of these judges? My friend from Georgia [Mr. TOOMBS] has said, that in Jefferson's time Congress abolished the offices of the ten judges created by John Adams. I shall not undertake to say whether that was constitutional or not. They could not help themselves; but I believe that act was done in good faith. They abolished the office of circuit judge, in contradistinction to the judges who were then in the Supreme Court, and the district judges, under the then existing system; and when they abolished the offices of those judges, they abolished the very jurisdiction which they exercised. Do you tell me here that you can abolish the office, and yet retain everything that pertains to the jurisdiction for which that office was created? Sir, it is an evasion of the constitutional tenure by which these judges have held their offices.

I agree with the provisions of this bill in regard to the fees and other regulations connected with modifying the proceedings of the courts. To that extent the Senator from Georgia and myself concur; but I understand now, for the first time, that the difference between him and myself is, that he is willing to turn these judges out of office and bring in new ones with a prescribed tenure for life. If the Senator from Georgia contends for the tenure of the Constitution, why turn out these judges? I ask any man, why? I repeat, "doeth our law judge any man before it hear him and know what he doeth?" Why should you arraign Judge Morsell? I do not know him, and I know Judge Dunlop but slightly. Is it to be assumed that you can turn these gentlemen out of office under an irresponsible decision of the multitude? Sir, allow me to say, it is not the fair decision of the public mind of the District, as far as I can learn it. I have kept aloof from the bar here, I have conferred with but a few of them on the subject, but I think the gentleman from Indiana is greatly mistaken when he says nine tenths of the bar are for this measure. Sir, I protest against this blow at those who cannot defend themselves. The object is to vacate the seats of those judges, that others may be put in. I say you have no right to abolish these offices, unless with a view to abolish the jurisdiction, and to really abolish, in fact, the offices themselves. I admit you can dispense with these offices if you choose; you can abolish every one of them in the District of Columbia, and remit them to the jurisdiction of the United States circuit judge for Maryland or for Virginia; but as long as you retain the very jurisdiction of the circuit and criminal courts, it is an evasion to disguise the fact that it is nothing more or less than cutting the very thread by which they hold their rights.

I said, sir, that I was not prepared to discuss this question; and as I see that the Senator from North Carolina has now arrived, I will resume my seat, and I shall endeavor on Monday to sum up my notes and go more fully into the subject.

Mr. CLAYTON. Mr. President, I do not know these judges, and I am moved in the vote which I am about to give, by no personal consideration towards them, for or against them; but I am like the Senator from South Carolina, utterly opposed to the introduction of such a principle as that which this bill proposes.

I do believe, sir, that the great question of the independence of the judiciary, is involved in it, and I believe further, that the rights and privileges of a minority in Congress may be involved in it. The day may come, and probably will come, when some man of iron will at the head of this Government, with a decided majority in Congress, seeking entirely to prostrate the minority in the two branches of the National Legislature, and to make everything subservient to his own will, may, by the influence which he shall exercise over Congress, procure a law abolishing these offices or these judges, who now constitute our protection, and the protection of all minorities here. When he shall have done that, what protection will be left to gentlemen in the two branches of Congress who are under the ban of the powers that be, or will be then? I think that in the course of my congressional career, there was a case when a President of the United States was believed to be

on the very verge of proceeding criminally within this District against a Senator of the United States, then in a minority. I will not mention names.

Sir, I am not legislating merely for this time; there is no danger now; but I am looking ahead to what may happen when you and I, and all of us, are under the sod. Men may be then at the head of this Government who may seek to crush the minority in Congress, perhaps, for aught we know, contending for the liberties of the people. The minority have a right now to appeal to these judges when their personal rights are invaded; but these very same judges who are intended here to be their protectors, may become the instruments of tyranny and oppression against that minority. I say, therefore, that the question raised by this bill, has bearings and relations far beyond even that great question of the independence of the judiciary itself.

But, sir, is there a man within the limits of the Senate who does not feel the importance of standing up and maintaining the independence of the judiciary of the country? It has been said to be the weakest of all the branches of the Government. In one respect, undoubtedly it is; it has no patronage; it has no power; and the instant that it loses the confidence of the community, by any corruption or ignorance, it ceases to have any strength at all. What is the strength of the present Supreme Court of the United States? What was the strength of the Supreme Court of the United States in the days of John Marshall? Sir, it was the consciousness on the part of all who looked at their proceedings that they were honest and capable. You need never fear the judiciary; so long as it is honest and intelligent, it is strong; but the moment it becomes corrupt and ignorant, it is utterly without any power whatever. We must protect it. Sir, I never shall forget the words used by John Marshall himself, in the convention of Virginia in reference to this very subject of the independence of the judiciary, and it ought never to be forgotten. He warned his friends in that convention, when they were about to make a constitution, that there was no greater curse that could be inflicted by an angry Heaven upon a sinning people, than a dependent judiciary.

Now, sir, I entreat the Senate to pause before they establish a principle upon which a court proceeding in this District, which has our personal rights under its care, is to become subject to every whim of party. I earnestly hope the bill will be defeated.

Mr. TOUCEY. Mr. President, I did not suppose that this question would be taken up at this late period of the week, and acted upon with a view to its passage, without full consideration, as I think it certainly will be, if it is passed here on the present occasion. The object of the first amendment moved by the Committee on the Judiciary, is to assert the independence of the judges. It was the view of the majority of that committee that if there were any evils in the system of the administration of the law in this District, as indicated by the bill which came from the House of Representatives, we should be willing to give them an improvement upon that system and apply a remedy to any abuse that existed. Accordingly, this bill has been amended with a view to give to the District of Columbia the system that is proposed, without interfering with the judges who are now in office upon the nomination of the President, and the confirmation of the Senate, under the Constitution of the United States.

Mr. BADGER. Will my friend from Connecticut allow me to suggest that he is in a situation with regard to this bill that a number of others of us are. I, as well as my friend from South Carolina, look upon it as a bill involving the very deepest and most important principles; I wish, therefore, to suggest to my friend from Connecticut, that it would be much better for him to yield now to a motion to adjourn. I have no disposition to evade the question, but I think we cannot come to a proper decision of it to-day. I therefore move that the Senate adjourn.

Mr. TOOMBS. I have no objection, if we can have the consent of the gentleman, to make the bill the special order for Monday, at one o'clock.

Mr. BADGER. I am willing to agree to that proposition.

Mr. HUNTER. I yielded the appropriation bills to-day with the understanding that Monday, and all the rest of next week, should be devoted to them. I am willing to sit here to finish this bill to-day, but I cannot devote Monday to it.

Mr. BADGER. I move that the Senate adjourn.

Mr. STUART called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 20, nays 17; as follows:

YEAS—Messrs. Badger, Bayard, Bell, Benjamin, Butler, Chase, Clayton, Cooper, Dawson, Evans, Geyer, Mason, Morton, Pearce, Sebastian, Seward, Sumner, Wade, Wells, and Wilson—20.

NAYS—Messrs. Bright, Brodhead, Brown, Clay, Dodge of Wisconsin, Douglass, Fitzpatrick, Hunter, Johnson, Jones of Iowa, Mallory, Pettit, Slidell, Stuart, Toombs, Walker, and Wright—17.

So the motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 24, 1855.

The House met at eleven o'clock, a. m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

Mr. CLINGMAN. Mr. Speaker, I call for the regular order of business.

QUESTION OF PRIVILEGE.

Mr. GIDDINGS, of Ohio. I rise to a question of privilege in regard to the Journal of this House. I shall occupy no more of the time of the House than I deem necessary for my own justification. In order that I may not be misunderstood, I have reduced my question to writing:

Whereas, under the Federal Constitution each member of this body is considered responsible for its action, unless his dissent appears by vote or objection duly entered upon the Journal or current report of its proceedings:

And whereas, important bills and measures are pressed through this body by resort to expedients until recently unknown to American legislation, by which such bills and measures are often hurried to their legislative consummation without explanation or discussion, and without being understood by those whose duty it is to vote upon their passage:

And whereas, on yesterday, the bill for carrying into effect the convention between the Executive of this Government and that of Great Britain, entered into on the 8th of February, A. D. 1853, appropriating $277,000 from the Treasury was passed without being referred, under the rules of the House; without permitting any exposure of the causes which led to that convention; without permitting any exhibition of the fact that it was obtained on the part of the American Executive principally for the purpose of lending the influence of this Government to support and encourage a commerce in human beings, to aid and encourage slave merchants in their vocation of dealing in the bodies of men and women:

And whereas, the extraordinary manner in which said bill was protected from all investigation and exposure was, in the opinion of the undersigned, inconsistent with just and fair legislation, and opposed to the true dignity of the American Congress:

Therefore, against said convention; the objects which prompted our Executive to obtain it; against the claims urged by our President, as the agent and solicitor of slave merchants, to the award rendered in favor of those slave merchants; and especially to the bill referred to; the manner in which it was shielded from examination and exposure; against the tacit approval thereof by this body in which the passage of said bill apparently involves its members, the undersigned *respectfully, but most solemnly protests.* J. R. GIDDINGS.

Mr. GIDDINGS. I move that this protest be entered upon the Journal.

Mr. CLINGMAN. I have called for the regular order of business.

The SPEAKER. The gentleman from Ohio rises to a correction of the Journal.

Mr. GIDDINGS. The gentleman from North Carolina will understand that I am proceeding in regular order.

Mr. CLINGMAN. I make the point, whether or not this proceeding is in order.

The SPEAKER. So far the Chair has been unable to discover any question of order. The gentleman from Ohio will please state the motion which he intends to submit.

Mr. GIDDINGS. I have moved to enter this protest upon the Journal of the House.

Mr. CLINGMAN. I object.

The SPEAKER. Being objected to, the Chair decides that what the gentleman proposes is not in order.

Mr. GIDDINGS. Cannot I be permitted to state my question of privilege to the House?

The SPEAKER. The gentleman has not stated any question of privilege thus far.

Mr. GIDDINGS. I have stated, Mr. Speaker, that I was not permitted, under my privilege as a member of this body, to either express my dissent to the bill to which I have referred, or to record my vote against it; a privilege to which every member is entitled, but from which I was precluded by the extraordinary action of the majority of the House. Therefore, I make the question of privilege. It is expressed in my protest against the manner of transacting business in this Hall, and I insist that it may be spread upon the Journal of this House.

The SPEAKER. There is no rule of this body authorizing the entering of protests upon its Journal.

Mr. CLINGMAN. I insist upon the regular order of business.

The SPEAKER. The Chair will hear what the gentleman from Ohio has to say that is in order. He will hear nothing out of order.

Mr. GIDDINGS. Mr. Speaker, I think the rule too well settled for either the Chair or myself to misapprehend it—that questions of privilege are submitted to the decision of the House, and not to the Speaker.

The SPEAKER. The Chair differs with the gentleman from Ohio. He is perfectly assured of the correctness of his decision.

Mr. GIDDINGS. I respectfully take an appeal from the decision of the Chair; and upon that appeal I demand the yeas and nays.

The SPEAKER. The gentleman from Ohio complains that yesterday, during the proceedings had in reference to a bill indicated, he was not allowed to make a speech. Not being allowed to make a speech then, he now insists that he has the right to place a speech, in the form of a protest, upon the Journal of this House. The Chair decides that he does not know of any rule making such a proposition a question of privilege, nor of any rule authorizing the spreading of any such document upon the Journal. The gentleman further holds that, whether or not it be a question of privilege under the rules, must be determined by the House, and not by the Speaker. The Chair differs with the gentleman. He decides that it is not a question of privilege; that he cannot, under the rules, claim the right as a privileged question, or a question of privilege, to spread upon the Journal what he states to be his protest. From that decision of the Chair the gentleman takes an appeal, and demands the yeas and nays on it. The question now is, "Shall the decision of the Chair stand as the judgment of the House?"

Mr. GIDDINGS. There is one thing in the Chair's statement I would correct, and that is the inference of the honorable Speaker with regard to my making a speech, or of putting a speech upon the record.

The SPEAKER. The Chair will withdraw that part of his statement.

Mr. GIDDINGS. Very well, sir; then we agree on that point.

The SPEAKER. The Chair, then, does not know of what the gentleman complains under the rules. He understands that the gentleman from Ohio does not charge him with any mistake of the rule in his yesterday's decision. The gentlemen does not charge that the Chair even committed a blunder, much less a wrong, by his decision of yesterday.

Mr. GIDDINGS. The Chair is correct. I have made no *personal* charge against any one. I avoided that purposely.

The SPEAKER. So the Chair understands. The complaint is against the rules as acted on by the House yesterday.

Mr. GIDDINGS. My protest declares that this manner of transacting business was unknown to American legislation until recently, and is now justified by no rule and by no parliamentary law. That it has risen and is practiced solely to suppress the freedom of debate. To expose this practice as an abuse, an usurpation of power, is the object of my motion.

The yeas and nays were ordered on the appeal from the Chair's decision.

Mr. ORR. What is the precise question?

The SPEAKER. The Chair would like to have a perfect understanding with the gentleman from Ohio. He claims the right to have his protest spread upon the Journal of this House. The Chair decides that he has no such right.

Mr. ORR. I move to lay the appeal from the Chair's decision upon the table.

[Cries of "No!" "Let us vote upon the appeal!"]

Mr. GIDDINGS. If the appeal be laid upon the table, will the protest go upon the Journal?

The SPEAKER. It will not.

Mr. GIDDINGS. Will it not if the question upon laying the appeal upon the table be taken by yeas and nays?

The SPEAKER. The Chair thinks it will not; but he will take the matter under advisement, and act as he deems right under the rule.

Mr. GIDDINGS. Then I hope that my friends will give me the yeas and nays upon the motion to lay the appeal upon the table; which I now demand. I request the yeas and nays as a personal favor.

The yeas and nays were ordered.

The question was then taken; and decided in the affirmative—yeas 137, nays 46; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, Appleton, Ashe, David J. Bailey, Barry, Belcher, Bell, Boyce, Breckinridge, Bridges, Brooks, Bugg, Caruthers, Caskie, Chastain, Chrisman, Clark, Clingman, Cobb, Cox, Craige, Cullom, Curtis, Cutting, John G. Davis, Dawson, Disney, Dowdell, Drum, Dunbar, Dunham, Eastman, Eddy, Edgerton, Edmundson, John M. Elliott, Ellison, Farley, Faulkner, Fenton, Florence, Fuller, Gamble, Goode, Greenwood, Grey, Hamilton, Sampson W. Harris, Hastings, Haven, Hendricks, Henn, Hibbard, Hiester, Hill, Houston, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kidwell, Kurtz, Lamb, Lane, Latham, Letcher, Lewis, Lindley, Lindsley, Macdonald, McDougall, McMullin, McNair, McQueen, May, Smith Miller, Millson, Morrison, Murray, Noble, Olds, Andrew Oliver, Mordecai Oliver, Orr, Packer, Peckham, Pennington, John Perkins, Phelps, Phillips, Powell, Preston, Puryear, Ready, Reese, Richardson, Riddle, Thomas Ritchey, Robbins, Rowe, Ruffin, Seward, Seymour, Shannon, Shaw, Shower, Skelton, Samuel A. Smith, William R. Smith, George W. Smyth, Sollers, Frederick P. Stanton, Richard H. Stanton, Stratton, Straub, David Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Teller, Tracy, Trout, Tweed, Vansant, Walbridge, Walker, Walley, Walsh, Warren, Tappan Wentworth, Westbrook, Witte, Hendrick B. Wright, and Zollicoffer—137.

NAYS—Messrs. Ball, Banks, Bennett, Benson, Campbell, Carpenter, Chamberlain, Chase, Corwin, Crocker, Thomas Davis, De Witt, Dick, Dickinson, Thomas D. Eliot, Flagler, Giddings, Goodrich, Goodwin, Aaron Harlan, Harrison, Howe, Knox, Matteson, Maurice, Meacham, Middleswarth, Morgan, Nichols, Norton, Parker, Peck, Pringle, Russell, Sabin, Sage, Sapp, Simmons, Andrew Stuart, Upham, Wade, Elihu B. Washburne, Israel Washburn, John Wentworth, Wheeler, and Yates—46.

So the decision of the Chair was sustained.

MESSAGE FROM THE SENATE.

Here a message was received from the Senate, by ASBURY DICKINS, Esq., their Secretary, notifying the House that that body had approved and signed "An act to protect officers and other persons acting under the authority of the United States," and asking its concurrence therein.

MESSAGE FROM THE PRESIDENT.

The SPEAKER laid before the House a message from the President of the United States, transmitting a communication from the Secretary of the Interior, with an accompanying paper, and recommending the appropriation of $5,000 for the improvement of a culvert near the Capitol grounds; which was referred to the Committee of Ways and Means, and ordered to be printed.

The SPEAKER. The business first in order is the consideration of amendments to the civil and diplomatic bill.

PUBLIC LANDS BUSINESS.

Mr. DISNEY. I am requested to tender a suggestion to the House. It is this: The Committee on Public Lands have some five or six bills in their possession, some of them general in their character, which it is important that the House should pass. I suggest that these bills shall be reported, and put upon their passage without debate.

I am also urged to suggest this proposition to the House: There are various railroad bills now within our possession upon which the committee have acted, and we believe it to be due to fairness that these bills should be at least acted upon by the House during the present session. Now, sir, it is proposed, that, at the proper time, these bills shall be reported, simply asking the House to take a vote upon them without a speech being made for or against them.

Mr. HAMILTON. That is the very thing that I desire to prevent. I want all these railroad bills to be examined. I object, and call for the regular order of business.

Mr. DISNEY. I will only say to the House, as far as the suggestion of the gentleman from Maryland is concerned, that these railroad bills need no examination except as to the general question. The form of the bills is precisely the same in every case—the roads being located in different portions of the Union.

Mr. MURRAY. I call the gentleman from Ohio to order, and demand the regular order of business.

Mr. DISNEY. I was only about to remark——

The SPEAKER. The gentleman from Ohio cannot remark further, the regular order of business having been called for and insisted on by the gentleman from New York.

NOTICE OF A SPEECH.

Mr. CARPENTER. I desire to say that I designed making some remarks upon the river and harbor bill. But, as I shall probably not have an opportunity now, I ask the consent of the House to print the remarks I intended to make.

The proposition was assented to.

REFERENCE OF BILLS.

Mr. McQUEEN. I ask the unanimous consent of the House to have two or three bills rereferred to the Committee on Military Affairs. I do it at the request of Mr. GALLEGOS, the Delegate from New Mexico. The Committee on Military Affairs was discharged some time ago from certain bills in reference to military roads in the Territory of New Mexico. Since that time additional information has been obtained. The Delegate from that Territory now requests—and I understand it is also the request of the committee—that the bills shall be re-referred to the Committee on Military Affairs.

There being no objection, the order was made.

POST ROUTE BILL.

Mr. OLDS. I desire to give notice to the House, that on Monday next I propose to report the post route bill, upon which I shall ask the previous question. I ask, therefore, that members who have post routes to be established in their districts will, in the course of the day, call at the room of the Committee on the Post Office and Post Roads, and see that the names are properly entered.

Mr. JONES, of Tennessee. Does the gentleman from Ohio, after the bill of last year, propose to bring in another post route bill?

Mr. OLDS. Yes, sir.

CIVIL AND DIPLOMATIC BILL.

The SPEAKER. The business first in order is the consideration of the civil and diplomatic bill, and the amendments reported from the Committee of the Whole on the state of the Union, and the question immediately pending is upon the adoption of an amendment to the clause appropriating $125,000 for the protection of American seamen in foreign countries, as follows:

And it shall be lawful for the President of the United States to cause such measures to be taken as, in his opinion, may be expedient for providing convenient accommodations, medical assistance, and the necessary attendance and supplies for the relief of sick and disabled seamen of the United States, who may be at or near the port of Havana, in case the same may be done with the consent of the Government having jurisdiction over the port, and, for that purpose, to establish such regulations and to authorize the employment of such persons as he may judge proper; and that for defraying the expenses thereof a sum not exceeding $10,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. JONES, of Tennessee. I demand the yeas and nays upon the adoption of that amendment. It is establishing a new principle, and I think a dangerous one, to provide for hospitals in foreign countries.

The yeas and nays were ordered.

The question was taken; and decided in the negative—yeas 77, nays 112; as follows:

YEAS—Messrs. Appleton, Ashe, Ball, Banks, Brooks, Campbell, Chamberlain, Churchwell, Corwin, Crocker, Curtis, Cutting, Disney, Dowdell, Drum, Dunbar, Edmands, Edmundson, Everhart, Farley, Florence, Fuller, Gamble, Goodrich, Green, Greenwood, Grey, Aaron Harlan, Andrew J. Harlan, Harrison, Hiester, Howe, Hughes, Hunt, Knox, McCulloch, McDougall, Maxwell, May, Mayall, Meacham, Noble, Norton, Peckham, John Perkins, Phillips, Ready, Rowe, Russell, Sabin, Seward, Skelton, George W. Smyth, Richard H. Stanton, Stratton, David Stuart, Nathaniel G. Taylor, Teller, Thurston, Tweed, Upham, Wade, Walbridge, Walker, Walley, Warren, Israel Washburn, Wells, Tappan Wentworth, Wheeler, Witte, Yates, and Zollicoffer—77.

NAYS—Messrs. Aiken, James C. Allen, Willis Allen, David J. Bailey, Barksdale, Barry, Belcher, Bennett, Boyce, Bridges, Bugg, Carpenter, Caruthers, Chase, Chrisman, Clark, Clingman, Cobb, Cook, Cox, Craige, Cullom, John G. Davis, Thomas Davis, Dawson, Dick, Dickinson, Dunham, Eastman, Eddy, Edgerton, Thomas D. Eliot, John M. Elliott, Ellison, Etheridge, Fenton, Flagler, Giddings, Goode, Goodwin, Hamilton, Sampson W. Harris, Hastings, Haven, Hendricks, Henn, Hill, Houston, Ingersoll, Daniel T. Jones, George W. Jones, J. Glancy Jones, Keitt, Kidwell, Kurtz, Lamb, Latham, Letcher, Lewis, Lindley, Lindsley, McMullin, McNair, McQueen, Macy, Maurice, Middleswarth, Smith Miller, Millson, Morgan, Murray, Olds, Andrew Oliver, Mordecai Oliver, Orr, Packer, Peck, Pennington, Phelps, Powell, Pratt, Preston, Pringle, Puryear, Richardson, David Ritchie, Thomas Ritchey, Robbins, Ruffin, Sage, Sapp, Shannon, Shaw, Shower, Simmons, Samuel A. Smith, William Smith, William R. Smith, Sollers, Frederick P. Stanton, Hestor L. Stevens, Straub, Andrew Stuart, John J. Taylor, John L. Taylor, Tracy, Trout, Vansant, Walsh, Elihu B. Washburne, John Wentworth, Westbrook, Daniel B. Wright, and Hendrick B. Wright—112.

So the amendment was not agreed to.

Mr. WENTWORTH, of Massachusetts. I ask the consent of the House to report a bill merely for reference.

Mr. CLINGMAN. I object, and insist upon the regular order of business.

The next amendment was reported, as follows:

For removing the present dome over the central portion of the Capitol, and the construction of one under the plan designed by T. U. Walter, architect of the Capitol extension—$100,000.

The question was taken; and the House concurred in the amendment.

The SPEAKER. The next amendment is that in reference to the tariff. Is it the desire of the House that it shall be read?

Mr. WENTWORTH, of Illinois. I call for the reading.

The amendment was read. [It was inserted in the proceedings of yesterday.]

Mr. HIESTER. I demand the yeas and nays upon concurring in that amendment.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 126, nays 82; as follows:

YEAS—Messrs. Abercrombie, Aiken, James C. Allen, Willis Allen, Appleton, Ashe, David J. Bailey, Banks, Barksdale, Barry, Bell, Benton, Bliss, Bocock, Boyce, Breckinridge, Bridges, Brooks, Caskie, Chamberlain, Chastain, Chrisman, Churchwell, Clark, Clingman, Cobb, Craige, Cutting, John G. Davis, Thomas Davis, De Witt, Dickinson, Disney, Dowdell, Dunbar, Dunham, Eastman, Eddy, Edgerton, Edmands, Edmundson, Thomas D. Eliot, Ellison, English, Etheridge, Faulkner, Florence, Fuller, Goode, Goodrich, Green, Greenwood, Grey, Hamilton, Andrew J. Harlan, Sampson W. Harris, Hastings, Hendricks, Henn, Hibbard, Houston, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kidwell, Lamb, Lane, Latham, Letcher, Lewis, Lilly, Lindsley, McMullin, McNair, McQueen, Macy, Maxwell, May, Smith Miller, Millson, Morrison, Murray, Nichols, Noble, Olds, Andrew Oliver, Orr, Peck, Peckham, John Perkins, Phelps, Phillips, Powell, Richardson, Thomas Ritchey, Ruffin, Seward, Shannon, Shaw, Shower, Skelton, Samuel A. Smith, William Smith, William R. Smith, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, Andrew Stuart, David Stuart, Thurston, Upham, Walbridge, Walley, Walsh, Warren, Wells, John Wentworth, Westbrook, Wheeler, Witte, Daniel B. Wright, and Hendrick B. Wright—126.

NAYS—Messrs. Ball, Belcher, Bennett, Benson, Bugg, Campbell, Carpenter, Caruthers, Chase, Cook, Corwin, Cox, Crocker, Cullom, Curtis, Dawson, Dick, Drum, Everhart, Farley, Fenton, Flagler, Gamble, Giddings, Goodwin, Aaron Harlan, Harrison, Haven, Hiester, Howe, Hughes, Hunt, Ingersoll, Knox, Kurtz, Lindley, Lyon, McCulloch, Macdonald, Matteson, Maurice, Mayall, Meacham, Middleswarth, Morgan, Norton, Mordecai Oliver, Packer, Parker, Pennington, Pratt, Preston, Pringle, Puryear, Ready, Riddle, David Ritchie, Robbins, Rowe, Russell, Sabin, Sage, Sapp, Seymour, Simmons, Sollers, Stratton, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Teller, Tracy, Trout, Tweed, Vansant, Wade, Walker, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, Yates, and Zollicoffer—82.

So the amendment was agreed to.

Pending the call of the roll on the above vote,

Mr. GAMBLE said, that he was requested to state that his colleague [Mr. Grow] was absent on account of sickness, being confined to his room.

Mr. ELLIOTT, of Kentucky, stated that he was not within the bar when his name was called, but that, had he been, he should have voted in the affirmative.

Mr. HOUSTON moved to reconsider the vote by which the amendment was agreed to, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. WALSH moved to reconsider the vote by which the amendment in reference to the hospital at Havana was rejected, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The question now being upon ordering the bill to be engrossed and read a third time,

Mr. CAMPBELL demanded the yeas and nays.

Mr. WASHBURN, of Maine, called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. JAMES C. ALLEN and PARKER were appointed.

The House was divided; and the tellers reported —ayes 39, noes 123.

So the yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 126, nays 74; as follows:

YEAS—Messrs. Abercrombie, Aiken, James C. Allen, Willis Allen, Appleton, Ashe, David J. Bailey, Barksdale, Barry, Benton, Bliss, Bocock, Boyce, Breckinridge, Bridges, Brooks, Caskie, Chamberlain, Chastain, Chrisman, Clark, Clingman, Cobb, Craige, Cutting, John G. Davis, Thomas Davis, De Witt, Dickinson, Disney, Dowdell, Dunbar, Dunham, Eddy, Edgerton, Edmands, Edmundson, Thomas D. Eliot, John M. Elliott, Ellison, English, Etheridge, Faulkner, Florence, Fuller, Green, Greenwood, Hamilton, Andrew J. Harlan, Sampson W. Harris, Hastings, Hendricks, Henn, Hibbard, Houston, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kidwell, Lamb, Lane, Latham, Letcher, Lewis, Lilly, Lindsley, Macdonald, McMullin, McNair, McQueen, Macy, Maxwell, Smith Miller, Millson, Morrison, Murray, Nichols, Noble, Olds, Orr, Peck, Peckham, Bishop Perkins, John Perkins, Phelps, Phillips, Powell, Richardson, Riddle, Thomas Ritchey, Robbins, Ruffin, Seward, Seymour, Shannon, Shaw, Shower, Skelton, Samuel A. Smith, William Smith, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, Andrew Stuart, David Stuart, John J. Taylor, Thurston, Upham, Vansant, Walbridge, Walker, Walley, Walsh, Warren, Wells, John Wentworth, Westbrook, Witte, Daniel B. Wright, and Hendrick B. Wright —126.

NAYS—Messrs. Ball, Belcher, Bennett, Benson, Campbell, Carpenter, Caruthers, Chase, Cook, Corwin, Cox, Crocker, Cullom, Curtis, Dawson, Dick, Drum, Eastman, Everhart, Farley, Flagler, Gamble, Goodwin, Grey, Aaron Harlan, Harrison, Haven, Hiester, Hill, Howe, Hunt, Ingersoll, Knox, Kurtz, Lindley, McCulloch, Mace, Matteson, Maurice, Mayall, Meacham, Middleswarth, Morgan, Norton, Mordecai Oliver, Packer, Parker, Pennington, Pratt, Preston, Pringle, Ready, David Ritchie, Rowe, Russell, Sabin, Sage, Sapp, Simmons, Sollers, Stratton, John L. Taylor, Nathaniel G. Taylor, Teller, Tracy, Trout, Tweed, Wade, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, Wheeler, Yates, and Zollicoffer—74.

So the bill was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time.

Mr. HOUSTON. I move the previous question on the passage of the bill, and I also move to reconsider the vote by which the bill was ordered to be engrossed and read a third time, and to lay the motion to reconsider upon the table.

Several MEMBERS. One at a time.

Mr. EDGERTON. Can the gentleman make two motions at the same time?

Mr. HIBBARD. I rise to a privileged question. If there is any doubt as to the right of the gentleman from Alabama to submit the two motions, I move to reconsider the vote by which the bill was ordered to be engrossed and read a third time, and to lay that motion upon the table.

The latter motion was agreed to.

Mr. EDGERTON. I wish to make an inquiry of the Chair. If the demand for the previous question be not sustained, will it then be in order to recommit the bill with instructions?

The SPEAKER. Under a special rule of the House, it would be in order to recommit, and the Chair thinks it would be in order to instruct.

Mr. EDGERTON. Then I give notice that if the previous question should be voted down, I will move to recommit the bill with instructions to report the same back with a provision to remit the duties on railroad iron.

[Loud cries of "Order."]

The question now being upon seconding the demand for the previous question,

Mr. WASHBURNE, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. KEITT and PARKER were appointed.

The question was taken; and the tellers reported —ayes 100, noes 80.

So the previous question was seconded.

The question being on ordering the main question to be put,

Mr. WASHBURN, of Maine. I call for the yeas and nays on ordering the main question.

Mr. EDGERTON. I ask now if it is in order to move to recommit the bill to the Committee of the Whole on the state of the Union?

The SPEAKER. It is not in order to move to recommit, the main question having been ordered.

The yeas and nays were ordered.

Mr. MEACHAM. Is it in order, Mr. Speaker, to move to lay the bill on the table?

The SPEAKER. That motion is in order.

Mr. MEACHAM. Then I make that motion, and on it I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 62, nays 141; as follows:

YEAS—Messrs. Ball, Bennett, Bugg, Campbell, Carpenter, Chase, Cook, Corwin, Cox, Crocker, Cullom, Curtis, Dawson, Drum, Eastman, Farley, Flagler, Gamble, Giddings, Goodwin, Aaron Harlan, Harrison, Haven, Hiester, Hill, Howe, Hunt, Knox, Kurtz, Lindley, Lyon, McCulloch, Mace, Matteson, Maurice, Meacham, Middleswarth, Morgan, Norton, Packer, Pennington, Preston, Pringle, David Ritchie, Rowe, Russell, Sabin, Sage, Sapp, Simmons, Sollers, Stratton, John L. Taylor, Nathaniel G. Taylor, Teller, Tracy, Trout, Tweed, Elihu B. Washburne, Israel Washburn, Wheeler, and Yates—62.

NAYS—Messrs. Abercrombie, Aiken, James C. Allen, Willis Allen, Ashe, David J. Bailey, Banks, Barksdale, Barry, Bell, Benton, Bliss, Bocock, Boyce, Breckinridge, Bridges, Brooks, Caruthers, Caskie, Chamberlain, Chastain, Chrisman, Churchwell, Clark, Clingman, Cobb, Craige, Cutting, John G. Davis, T. Davis, De Witt, Dick, Dickinson, Disney, Dowdell, Dunbar, Dunham, Eddy, Edgerton, Edmands, Edmundson, Thomas D. Eliot, John M. Elliott, Ellison, English, Etheridge, Everhart, Faulkner, Florence, Fuller, Goode, Goodrich, Green, Greenwood, Grey, Hamilton, Andrew J. Harlan, Sampson W. Harris, Hastings, Hendricks, Henn, Hibbard, Houston, Ingersoll, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kidwell, Lamb, Lane, Latham, Letcher, Lewis, Lindsley, Macdonald, McMullin, McNair, McQueen, Macy, May, Mayall, Smith Miller, Millson, Morrison, Murray, Nichols, Noble, Olds, Andrew Oliver, Mordecai Oliver, Orr, Parker, Peck, Peckham, John Perkins, Phelps, Phillips, Powell, Pratt, Puryear, Ready, Richardson, Riddle, Thomas Ritchie, Robbins, Ruffin, Seward, Seymour, Shannon, Shaw, Shower, Skelton, Samuel A. Smith, William Smith, William R. Smith, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, Andrew Stuart, John J. Taylor, Thurston, Upham, Vansant, Wade, Walbridge, Walker, Walley, Walsh, Warren, Wells, John Wentworth, Tappan Wentworth, Westbrook, Witte, Daniel B. Wright, and Hendrick B. Wright—141.

So the House refused to lay the bill on the table.

Mr. INGERSOLL. I desire to ask what the next vote will be on?

The SPEAKER. It will be on ordering the main question to be put.

Mr. INGERSOLL. I simply desire to say, that while I am opposed to any alteration of the tariff at present, I do not desire to embarrass the appropriation bill; and, therefore, on the next question I shall vote aye.

The question recurred on ordering the main question to be put, on which the yeas and nays had been ordered.

The question was taken; and it was decided in the affirmative—yeas 116, nays 91; as follows:

YEAS—Messrs. Aiken, James C. Allen, Willis Allen, Ashe, David J. Bailey, Barksdale, Barry, Bell, Benton, Bliss, Bocock, Boyce, Breckinridge, Bridges, Brooks, Caskie, Chamberlain, Chastain, Chrisman, Churchwell, Clark, Clingman, Cobb, Craige, Cutting, John G. Davis, Disney, Dowdell, Dunbar, Dunham, Eddy, Edgerton, Edmundson, John M. Elliott, Ellison, English, Faulkner, Florence, Fuller, Goode, Green, Greenwood, Hamilton, Sampson W. Harris, Hastings, Hendricks, Henn, Hibbard, Houston, Ingersoll, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kidwell, Lamb, Lane, Latham, Letcher, Lewis, Lindsley, Macdonald, McDougall, McMullin, McNair, McQueen, Maxwell, May, Smith Miller, Millson, Murray, Nichols, Noble, Olds, Mordecai Oliver, Orr, Peck, John Perkins, Phelps, Phillips, Powell, Pratt, Richardson, Riddle, Thomas Ritchey, Robbins, Ruffin, Seward, Seymour, Shannon, Shaw, Shower, Skelton, Samuel A. Smith, William Smith, William R. Smith, George W. Smyth, Frederick P. Stanton, Hestor L. Stevens, Straub, Andrew Stuart, David Stuart, John J. Taylor, Thurston, Vansant, Walbridge, Walker, Walsh, Warren, Wells, Westbrook, Witte, Daniel B. Wright, and Hendrick B. Wright—116.

NAYS—Messrs. Abercrombie, Appleton, Ball, Banks, Belcher, Bennett, Benson, Bugg, Campbell, Carpenter, Caruthers, Chase, Cook, Corwin, Cox, Crocker, Cullom, Thomas Davis, Dawson, De Witt, Dick, Dickinson, Drum, Eastman, Edmands, Thomas D. Eliot, Etheridge, Everhart, Farley, Flagler, Gamble, Giddings, Goodrich, Goodwin, Grey, Aaron Harlan, Andrew J. Harlan, Harrison, Haven, Hiester, Hill, Howe, Hughes, Hunt, Knox, Kurtz, Lilly, Lindley, Lyon, McCulloch, Mace, Matteson, Maurice, Mayall, Meacham, Middleswarth, Morgan, Norton, Andrew Oliver, Packer, Parker, Pennington, Preston, Pringle, Puryear, Ready, David Ritchie, Rowe, Russell, Sabin, Sage, Sapp, Simmons, Sollers, Stratton, John L. Taylor, Nathaniel G. Taylor, Teller, Tracy, Trout, Tweed, Upham, Wade, Walley, Elihu B. Washburne, Israel Washburn, John Wentworth, Tappan Wentworth, Wheeler, Yates, and Zollicoffer—91.

So the main question was ordered to be put.

Mr. HIBBARD moved to reconsider the vote by which the main question was ordered, and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

The question recurred on the passage of the bill.

Mr. ORR. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 126, nays 80; as follows:

YEAS—Messrs. Abercrombie, James C. Allen, Willis Allen, Appleton, Ashe, David J. Bailey, Banks, Barksdale, Barry, Bell, Benton, Bliss, Bocock, Boyce, Breckinridge, Bridges, Brooks, Caskie, Chamberlain, Chastian, Chrisman, Churchwell, Clark, Clingman, Cobb, Craige, Cutting, John G. Davis, De Witt, Dickinson, Disney, Dowdell, Dunbar, Dunham, Edgerton, Edmands, Edmundson, Thomas D. Eliot, John M. Elliott, Ellison, English, Etheridge, Faulkner, Florence, Fuller, Goode, Green, Greenwood, Hamilton, Andrew J. Harlan, Sampson W. Harris, Hastings, Hendricks, Henn, Hibbard, Houston, Daniel T. Jones, George W. Jones, J. Glancy Jones, Roland Jones, Keitt, Kerr, Kidwell, Lamb, Lane, Latham, Letcher, Lewis, Lilly, Lindsley, McDougall, McMullin, McNair, McQueen, Macy, Maxwell, May, Smith Miller, Millson, Morrison, Murray, Nichols, Noble, Olds, Orr, Peck, Peckham, John Perkins, Phelps, Phillips, Powell, Pratt, Puryear, Ready, Richardson, Riddle, Robbins, Ruffin, Seward, Seymour, Shannon, Shaw, Shower, Skelton, Samuel A. Smith, William Smith, William R. Smith, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Straub, Andrew Stuart, David Stuart, John J. Taylor, Thurston, Upham, Vansant, Walbridge, Walker, Walley, Walsh, Warren, Wells, Witte, Daniel B. Wright, and Hendrick B. Wright—126.

NAYS—Messrs. Ball, Belcher, Bennett, Benson, Bugg, Campbell, Carpenter, Caruthers, Chase, Cook, Corwin, Cox, Crocker, Cullom, Thomas Davis, Dawson, Dick, Drum, Eastman, Everhart, Farley, Flagler, Gamble, Giddings, Goodwin, Grey, Aaron Harlan, Harrison, Haven, Hiester, Hill, Howe, Hughes, Hunt, Ingersoll, Knox, Kurtz, Lindley, Lyon, McCulloch, Mace, Matteson, Maurice, Mayall, Meacham, Middleswarth, Morgan, Norton, Andrew Oliver, Mordecai Oliver, Packer, Parker, Pennington, Preston, Pringle, David Ritchie, Rowe, Russell, Sabin, Sage, Sapp, Simmons, Sollers, Stratton, John L. Taylor, Nathaniel G. Taylor, Teller, Tracy, Trout, Tweed, Wade, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, Wheeler, Yates, and Zollicoffer—80.

So the bill was passed.

Mr. HOUSTON moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

Mr. JONES, of Tennessee. I ask the previous question on the adoption of the title.

The previous question was seconded; and under the operation thereof the title was agreed to.

Mr. JONES moved to reconsider the vote by which the title of the bill was agreed to, and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled the following bills; which thereupon received the signature of the Speaker:

Bill for the relief of Lot Davis; and

Bill making an appropriation for the payment of invalid and other pensions of the United States, for the year ending 30th June, 1856, and for other purposes.

ORDER OF BUSINESS.

The SPEAKER. Reports are in order from the Committee on Public Lands.

Mr. DISNEY obtained the floor.

Mr. PHELPS. I desire to submit a motion to go into the Committee of the Whole on the state of the Union. Is that motion in order now?

The SPEAKER. It would be in order if the gentleman had the floor to offer it.

Mr. PHELPS. I trust the gentleman from Ohio will yield me the floor for that purpose, that we may take up the Navy appropriation bill.

Mr. DISNEY declined to yield the floor.

Mr. PECKHAM. Is it in order to make a motion to go to the business on the Speaker's table?

The SPEAKER. The Chair having announced the regular business in order to be reports from the Committee on Public Lands, and the gentleman from Ohio [Mr. DISNEY] having been recognized by the Chair, no motion, as a matter of course, is in order, save such as he may make, as he is the only gentleman entitled to the floor.

Mr. BENTON. I desire to ask the indulgence of the House to let me ask to have printed an amendment which I propose to offer to the military bounty land bill of the Senate.

Mr. DISNEY. Certainly.

Mr. BENTON. I ask to have the amendment printed.

It was so ordered.

Mr. HAMILTON. I have, also, an amendment to the same bill, which I ask leave to have printed.

Leave was granted.

Mr. ETHERIDGE. I have, also, an amendment which I propose to offer to this bill, and I ask that the same leave to print may be accorded me.

Leave was granted.

Mr. HENN made a similar request, and obtained leave.

REPORTS OF COMMITTEES.

Mr. DISNEY. The first motion which I wish to submit is, to discharge the Committee of the Whole on the state of the Union from the bill providing for the sale of military and naval reserves. As chairman of the Committee on Public Lands, I had it so referred under the supposition that the Committee of the Whole on the state of the Union was about to proceed to the consideration of territorial business.

Mr. JONES, of Tennessee. Does the gentleman from Ohio propose to present a report from his committee.

Mr. DISNEY. The gentleman from Tennessee will recollect that the bill in question is one reported from the Committee on Public Lands. Supposing that the Committee of the Whole on the state of the Union was about to dispose of territorial business, and to have a day set apart for that purpose, that reference was given to the bill. I now desire to have that committee discharged from its further consideration.

Mr. JONES. I object to bringing this matter on now.

Mr. DISNEY. I hope the gentleman will withdraw his objection. I would state to him that there is no authority any where now to sell these reserves.

Mr. JONES. I cannot help it. We have not got time now to consider it.

GRANTS OF LAND TO OHIO.

Mr. DISNEY. I am directed by the Committee on Public Lands to report back Senate bill (No. 6) granting to the State of Ohio the unsold and unappropriated public lands remaining unsold in said State. The committee propose to amend by striking out all after the enacting clause, and insert the following:

That the selections of land by the State of Ohio for canal purposes under the act of 2d March, 1827, and the 24th May, 1828, be, and the same are hereby, confirmed.

The committee report adversely to the Senate bill, and propose the amendment which I have indicated. It is simply to confirm the land selections which the State of Ohio has made some twenty-five or thirty years ago. They are long since cultivatable farms; but there is some dispute and the Land Office, as there was heretofore with as to the settlement of the question between Ohio Indiana and Illinois. The Committee on Public Lands is willing to have this dispute settled as it has been heretofore settled in many other States.

The question was taken on the amendment; and it was adopted.

Mr. TAYLOR, of Ohio. I propose the following amendment to the amendment, if I am in order:

That the vacant and unappropriated lands in the Virginia military district in Ohio be, and the same are hereby, granted to said State, to be disposed of in such manner as the Legislature of said State may direct.

The SPEAKER. The gentleman's colleague has the right to the floor, and still claims it. The amendment of the gentleman, therefore, is not in order.

Mr. TAYLOR. I ask my colleague to accept it as a modification of the amendment reported with the bill.

Mr. DISNEY. I should like to oblige my colleague, but I am decidedly against the proposition he has submitted, and so is the Committee on Public Lands. I ask the previous question.

The previous question was seconded, and the main question ordered to be put.

The following amendment was then read:

Strike out all after the enacting clause, and insert:

That the selections of lands by the State of Ohio for canal purposes, under the act of the 2d of March, 1827, and the act of the 24th of May, 1828, be, and the same are hereby, confirmed.

The question was taken; and the amendment was agreed to.

The bill, as amended, was then ordered to a third reading; and having been read the third time, it was subsequently passed.

Mr. HENN. I move to amend the title of the bill, in order to make it correspond with the body of the bill, so that it will read as follows:

An act to confirm canal selections in the State of Ohio.

The question was taken; and the amendment was agreed to.

So the title of the bill was amended.

Mr. DISNEY. I am instructed by the Committee on Public Lands to report back Senate bill (No. 352) entitled "An act extending in certain cases the provisions of the act entitled an act to extend preëmption rights to certain lands therein mentioned," approved March 3, 1853, with the following amendment:

In sixth line, after the words "Maison Rouge," to insert the words "De Bastrop grant."

The question was taken; and the amendment was agreed to.

The bill, as amended, was then ordered to a third reading; and having been read the third time, it was subsequently passed.

Mr. DISNEY. I am instructed by the Committee on Public Lands to report back Senate bill (No. 564) granting bounty land to Susan Palmer, without amendment.

The bill was then ordered to a third reading, and having been read the third time, it was subsequently passed.

Mr. COBB moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

RIGHT OF WAY THROUGH KANSAS.

Mr. DISNEY. I am instructed by the Committee on Public Lands to report back House bill (No. 665) granting the right of way to the Wyandott and Pawnee Railroad Company through the public lands in Kansas Territory; which having been read the first and second time by its title, was then ordered to a third reading.

The bill was then read through by the Clerk.

Mr. WASHBURN, of Maine. I understand that there is a blank in the bill.

Mr. WHITFIELD. I propose to fill the blank with the words "one mile." I desire to say a word in explanation to the House. In the treaties with the Delaware and Pottawattamie Indians, the United States reserved the right to establish roads through the reserves, and by the treaties the owners of the railroads are bound to pay for the right of way. The Committee on Public Lands have had the treaties before them, and understand its provisions.

Mr. McDOUGALL. I offer the following amendment to the bill.

And be it further enacted, That the provisions of this bill be extended to all railroad companies through the Territories of the United States and the State of California.

Mr. WASHBURNE, of Illinois. Will the gentleman from California yield to me a moment, that I may inquire of the delegate from Kansas if this proposed railroad runs through lands to which the Indian title is not extinguished?

Mr. WHITFIELD. It does. It runs through the Delaware and Pottawattamie reservations; but by the treaty with those Indians, the United States have the right to establish roads through the reserves, on condition that the owners of the roads pay the Indians for the right of way. The treaty has been examined by the Committee on Public Lands, and they are satisfied that the owners get nothing but what they pay for.

Mr. WASHBURNE. I do not see what right the Government has to grant the right of way.

Mr. WHITFIELD. That right is reserved by the treaty.

Mr. McDOUGALL. I desire to say to the House that the amendment which I have proposed is merely to extend the provisions of the bill, if passed, to all the Territories and the State of California.

The SPEAKER. Will the gentleman from California suspend for a moment. There is a blank in the bill, which the Delegate from Kansas proposes to fill with "one mile." That amendment is not yet disposed of.

Mr. SMITH, of Alabama. The usual width for a road is, I believe, one hundred feet.

Mr. WHITFIELD. I would say to the gentleman from Alabama, that the blank I propose to fill, has reference to the distance on each side of the road within which the company may take materials for the construction of the road, and not to the width of the right of way.

Mr. SMITH, of Alabama. Then I move to amend by striking out "one mile," and inserting in lieu thereof, "two hundred yards."

Mr. WASHBURN, of Maine. I understood the gentleman from Kansas to say, that the right of the Government to grant the right of way for railroad purposes, was reserved by treaty, but I do not understand him to say that any right is reserved to the United States to grant the right to take timber and other property from the land within any distance whatever. It therefore seems to me, that, by the passage of this bill, we should be encroaching upon the rights of the Indians.

Mr. HOWE. I have the treaty before me, and I will read it for the information of the House. The twelfth section of the treaty is as follows:

"In the settlement of the country adjacent to the Delaware and Pottawatomie reservations, roads and highways will become necessary, and it is agreed that all roads and highways laid out by authority of law shall have a right of way through the reserved lands on the terms that the law provides for their location through the lands of citizens of the United States. And railroad companies, when the line of their roads necessarily pass through said reserve, shall have the right of way on payment of just compensation therefor in money."

MESSAGE FROM THE SENATE.

A message was here received from the Senate, by ASBURY DICKINS, Esq., their Secretary, informing the House that the Senate had passed a joint resolution explanatory of an act passed August 3, 1854.

Mr. EASTMAN. I wish to say to the House that the bill just sent in by the Senate was recommended by the Commissioner of the General Land Office. It will take but a moment for the House to pass it. I ask that it may be taken up and acted upon now.

Mr. COBB. What is it?

Mr. EASTMAN. It is an explanatory act, and declares that it was the intention of the act of Congress, approved August 3, 1854, and that the same shall be continued, to give to Wisconsin in aid of improvement of the navigation of the Fox and Wisconsin rivers a quantity of land equal, mile for mile of its improvement, to that granted to Indiana under the act of Congress approved May 9, 1848.

Mr. WALSH. I object.

The SPEAKER. Being objected to it cannot be taken up now.

Mr. EASTMAN. I move, then, that the joint resolution be referred to the Committee on Public Lands.

The question was taken; and the motion was agreed to.

RIGHT OF WAY THROUGH KANSAS—AGAIN.

Mr. HOWE. I wish to say that I desire to interpose no objection to granting the right of way to railroad companies through the Indian reservation, upon such terms as would be in strict conformity to the provisions of this treaty, and upon such terms as would be satisfactory to the Indians themselves. It would not seem, from the provisions of the treaty itself, that we have the authority to authorize these railroad companies to enter upon the reserved lands to take timber and other materials. With a provision put into the bill, requiring the consent of the Indians, and suitable other restrictions, so that the Indians will not be taken advantage of, I have no objections to the bill. My object was to call the attention of the House to the provisions of the treaty, leaving it to the judgment of the House to interpose such restrictions as it may deem necessary.

Mr. WHITFIELD. Mr. Speaker, as I before remarked, the treaty gave Congress the right to establish roads through the reserved lands of the Indians, provided the owners of the roads paid for them. This bill is strictly in accordance with the stipulations of treaty. It asks for the taking of nothing from the Indians except what is proposed to be paid for. Certainly, then, if the Indians are willing—and they are willing—there can be no objection to the bill here. This is the explanation I make, and I do not know of any other. It surely must be satisfactory, and I hope that the right of way will be granted.

Mr. PHELPS. I would suggest to the gentleman from Kansas, that the amendment of the gentleman from California [Mr. McDOUGALL] provides for the extension of the provisions of the act of 1852, so that they will not only embrace the

grant of the right of way to railroad companies, but also to plank and macadamized roads through the public land. Therefore, I would propose that the bill be recommitted to the Committee on Public Lands, with instructions to report a bill for the extension of the provisions of that law to the public lands within the Territories of the United States, and to which the Indian title has been extinguished by treaty. This is merely a suggestion which I throw out.

The SPEAKER. The pending question is to strike out "one mile" and insert "two hundred yards."

Mr. DISNEY. I call for the previous question.

The House refused to second the call for the previous question.

Mr. McDOUGALL. The object which I have in view has already been stated by the gentleman from Missouri, [Mr. PHELPS.] I propose to extend the provisions of the act of 1852 to the Territories of the United States and to California.

The SPEAKER. The gentleman's amendment is not before the body, for the reason that there are pending an amendment and an amendment to an amendment.

Mr. McDOUGALL. Then I will just here give notice that I shall prepare and offer at the proper time, an amendment providing for the extension of the provisions of the law of 1852 to the Territories of the United States and the State of California, and giving the right of way to plank and macadamized roads as well as railroads.

Mr. PHELPS. I do not rise for the purpose of interfering with the reporting of these bills from the Committee on Public Lands. I am fully aware of the importance of the one which has just been presented; but I am most desirous to proceed with the consideration of the naval appropriation bill. I indicated, when the floor was assigned to the gentleman from Ohio, [Mr. DISNEY,] that if I could obtain the floor I would move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. I now submit that motion.

Mr. STUART, of Michigan. I rise to a question of order. Is it competent for the gentleman from Missouri to make this motion to go into the Committee of the Whole on the state of the Union when another gentleman is in the occupation of the floor? The chairman of the Committee on Public Lands had the floor, the gentleman from Kansas had the floor——

The SPEAKER. And the gentleman from California—all had the floor. [Laughter.]

Mr. STUART. The chairman of the Committee on Public Lands yielded to the gentleman from Kansas.

The SPEAKER. It is a question of fact about which the gentleman and the Chair differ. The gentleman from Ohio introduced the bill from the Committee on Public Lands; after the submission of some remarks on it he demanded the previous question—the House refused to sustain the demand. Then the gentleman from Kansas took the floor and made an explanation. He took his seat, and the gentleman from Missouri took the floor, and moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. When the motion was made, the gentleman from Missouri was the only gentleman in occupation of the floor.

Mr. BENSON. There was a motion to recommit the bill to the Committee on Public Lands. I move, so that we may all be enabled to examine the provisions of the bill, that the bill be ordered to be printed.

The SPEAKER. If there be no objection the motion will be entertained, and considered as agreed to.

There was no objection.

The question was taken on Mr. PHELPS's motion; and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. MILLSON in the chair.)

NAVY APPROPRIATION BILL.

Mr. PHELPS. Mr. Chairman, I move that the committee do now proceed to the consideration of the bill making appropriations for the naval service for the year ending 30th of June, 1856.

The question was taken; and the motion was agreed to.

Mr. PHELPS. I move that the first reading of the bill be dispensed with, and that the Clerk proceed to read the bill by paragraphs for amendment.

Mr. WHEELER. I object.

The CHAIRMAN. The Clerk, objection being made, will proceed to read the bill.

The Clerk read the bill through.

Mr. PHELPS. I merely desire to make a brief explanation in reference to this bill, and I shall not detain the committee long. The Secretary of the Navy submitted estimates, to be included in this bill, amounting to $16,241,000. The whole of these estimates, however, were not for the support of the Navy proper. They also included estimates for the payment of those mail steamers whose contracts were made by the Secretary of the Navy. But the practice during the last Congress, and also during the present Congress, has been to place the appropriations for the support of the mail service by ocean steamers in a bill by themselves.

The amount of appropriations which have been placed in this bill, including the amendments which I have been instructed to offer by the Committee of Ways and Means, will amount to about $14,669,000, being less by something over $500,000 than was estimated for by the Department.

At the time I was instructed by the Committee of Ways and Means to report this bill, the committee had not been furnished with detailed estimates respecting the expenditures necessary to be made at the different navy-yards in the country. The Committee of Ways and Means, therefore, determined to embrace all the objects specified by the Secretary of the Navy in his estimates, and afterwards if, in their judgment, upon examination, they did not approve of any of the details, to move to strike them out, and also to move to insert any additional estimates which, in their judgment, they might think necessary and proper. In the course of the session the Secretary of the Navy has furnished additional estimates, which were presented to the House, and ordered to be printed, at the time this bill was reported. These estimates amounted in all to $597,891, making the entire amount estimated for by the Secretary of the Navy, as necessary to be appropriated during the present session, $16,597,891.

It will be necessary, perhaps, as we proceed with the consideration of the details of this bill, to explain to the committee some of the reasons why we have refused estimates which have been sent to us from the Navy Department. But, sir, I did not rise for the purpose of going, at the commencement, into an explanation of those details. I will only remark, in addition, that we have inserted only one item in the bill which was not estimated for regularly, which is that for the salary of Professor Espy. I call for the reading of the first section of the bill.

[Here Mr. MILLSON vacated the chair, calling Mr. DAVIS, of Indiana, thereto.]

The Clerk then reported the first clause of the bill, as follows:

"For pay of commission, warrant, and petty officers and seamen, including the engineer corps of the Navy, $3,515,111."

Mr. MILLSON moved to amend that clause by adding thereto the following:

And the pay of the pursers' clerks at the navy-yards at Charlestown, New York, and Norfolk be raised to a sum not exceeding $900.

Mr. PHELPS. I raise the point of order upon that amendment, that it is a proposition to change the existing law so as to increase the salaries of officers.

Mr. MILLSON. My friend from Missouri is mistaken in that respect. I should not have made the proposition if I had so understood it. It is not a proposition to change the existing law. The pay of pursers' clerks is fixed by law at $500, but the pay of the pursers' clerks at these navy-yards is now $750. It depends upon estimates alone. In the appropriation bill of 1854, an estimate was made for the pay of the pursers' clerks at these yards; and it is under that bill that they are receiving $750. But sir, since that allowance was made——

The CHAIRMAN *pro tempore*. If the gentleman from Virginia will suspend his remarks for a moment, the Clerk will report the amendment, and the Chair will decide the question of order.

Mr. MILLSON. I will modify my amendment, so as to make it read:

And the Secretary of the Navy is hereby authorized to allow the pursers' clerks at the navy-yards at Charlestown, New York, and Norfolk, a sum not exceeding $900.

I will now state the facts. The pay of pursers' clerks serving at sea is fixed at $500 a year, but the pay of pursers' clerks in the navy-yards is regulated by the appropriation bills, and in no other way, and is fixed at $750 a year. Now, this would probably have been included in the estimates for the year, but for an oversight. The Secretary of the Navy is desirous to increase the pay, but inasmuch as he estimated only for $750, the bill is founded on that estimate alone, and he will consider himself restricted to the amount for which he estimated.

A great amount of labor has been imposed upon these pursers' clerks by the law requiring the building of new steamships—such a quantity of additional labor as makes $750 an entirely inadequate compensation. The Secretary of the Navy informs me that the only way in which he can, at present, remedy the evil is by the appointment of an additional clerk, which he can do. But then it would cost more than the addition of $150 to the pay of these purser's clerks; for he could not appoint an additional clerk at a less compensation than $500. They are now building two of the new steam frigates at the navy-yard at Norfolk, requiring the employment of some fifteen hundred men. The purser's clerk is obliged to keep the accounts of all these men. The Secretary of the Navy is perfectly satisfied that the present compensation is inadeqaate, and all the amendment proposes is to allow the Secretary, at his discretion, to increase the pay. It does not require him to do so.

The CHAIRMAN *pro tempore*. The Chair is of the opinion that the amendment is not in order under the rules of the House.

Mr. MILLSON. I will not appeal from that decision.

Mr. MILLSON then resumed the chair.

The Clerk reported the second clause of the bill as follows:

"For pay of superintendants, naval constructors, and all the civil establishments at the several navy-yards and stations, $124,480."

Mr. BANKS. I move to amend that clause by adding thereto the following:

Provided, That the salary of the naval store-keepers at Norfolk, New York, and Boston, be raised to the sum of $700.

Mr. PHELPS. That amendment is not in order. It proposes to increase the salary of naval store-keepers.

The CHAIRMAN. The Chair would like to understand whether it is now regulated by existing law?

Mr. BANKS. I will state to the Chairman that this amendment is very like the one he offered just now.

The CHAIRMAN. The Chair is not informed of the fact. If the salary be now fixed by law, the amendment is not in order.

Mr. BANKS. It is fixed by law.

The CHAIRMAN. Then the amendment is not in order.

Mr. MACDONALD. I offer the following amendment:

At the end of the fourteenth line, add as follows:

And that the law approved April 22, 1854, increasing the pay of the clerks at the navy-yard, Washington, District of Columbia, shall apply to the pay of clerks, draughtsmen, inspectors of timber, and surgeons' and pursers' stewards, at all the United States navy-yards.

Mr. FAULKNER. I raise a question of order upon that amendment.

Mr. MACDONALD. I cannot conceive upon what ground the objection is made. The amendment merely proposes to apply the same rate of compensation to the officers of all the navy-yards that is now given by law to the officers at the Washington navy-yard.

Mr. SEYMOUR. It proposes to change an existing law.

The CHAIRMAN. The Chair would like to inquire of the gentleman from Virginia upon what ground he objects to the amendment?

Mr. FAULKNER. That it changes the existing law.

The CHAIRMAN. If the pay of these officers is regulated by an existing law, the Chair will rule it not to be in order, but the Chair would like to be informed by the gentleman from Virginia

whether the pay of this class of officers is now regulated by any law?

Mr. SEYMOUR. I would inquire if the amendment does not specially provide that certain laws shall be extended beyond their present application?

Mr. MACDONALD. That is merely the wording of the amendment. I can change that.

Mr. SEYMOUR. Words designate things.

The CHAIRMAN. As the Chair understands the question of the pay of this class of officers is regulated by law, it is not in order by an amendment to change the law. But if the pay be not regulated by law, then the Chair will hold to be in order an amendment to increase the compensation of that class of officers. Now, the Chair has some doubt as to the provisions of the law on the subject.

Mr. MACDONALD. I suppose that the pay of these officers is regulated only by the appropriation bills of each year, and that we are here in the discharge of that very business; if the law exists only in the appropriation bill, it may be changed.

Mr. PHILLIPS. I would ask the Chair this question: Whether any officers of this Government receive pay which is not regulated by law?

The CHAIRMAN. The Chair would respond to the gentleman from Alabama, that many of the persons employed in the civil service of the Government receive the pay fixed by the Secretary of the Navy. The Chair is inclined to the opinion that many of the officers embraced in this amendment have their pay regulated by the Secretary of the Navy alone; and the Chair would hold to be in order an amendment to increase the compensation of that class. The Chair thinks, however, that as to some of the classes of officers embraced in this amendment, their pay is regulated by law.

Mr. HENDRICKS. Then, of course, the amendment is out of order.

The CHAIRMAN. Unless the gentleman from Maine discriminate between these classes the Chair will rule the amendment out of order.

Mr. BOCOCK. The gentleman from Maine wishes to modify his amendment, and strike out such parts of it as the Chair rules to be out of order, and bring forward such as the Chair holds to be in order.

The amendment was handed to Mr. MACDONALD, who presented it in a modified form, as follows:

And that the law approved April 22, 1854, including the pay of the clerks at the navy-yard of Washington, District of Columbia, shall apply to the pay of writers, draughtsmen, and inspectors of timber, at all the United States navy-yards.

Mr. DUNHAM. I rise to a question of order on this amendment. It strikes me to be clear that if this law, to which the amendment refers, does regulate the pay of these officers, the amendment cannot be in order, as it proposes to change the existing law. And if that law, to which it refers, does not regulate the pay, but the pay is under the control of the Secretary of the Navy, then the amendment is not in order, as it proposes to regulate the pay by law; so that, whether this law does or does not regulate the pay of officers, the amendment must, of necessity, change the law.

The CHAIRMAN. The Chair is of opinion that the pay of writers, draughtsmen, and timber inspectors in the navy-yard is regulated by the Secretary of the Navy, and that estimates are sent in for so much as the Secretary may deem reasonable for that purpose; and it is, therefore, competent for the House to increase the amount to be appropriated for that object if the House be willing that the Secretary shall allow a larger sum. If, then, it be the intention of the amendment to alter the mode of compensating this class of officers by fixing their compensation now by law, the Chair would hold the amendment to be out of order, according to the suggestion of the gentleman from Indiana, [Mr. DUNHAM.] If, however, it be designed simply to authorize the Secretary of the Navy to increase the amount of compensation, the Chair would hold that the amendment is not out of order, But the Chair cannot determine this amendment unless by reference to the law to which it is intended to be applied.

Mr. PHELPS. The pay of these officers is fixed by the act of 1845, reorganizing the Navy Department. I cannot say whether all of them have their pay fixed or not. I do not know whether the law fixes the pay of all of these officers referred to by the amendment, but it does a greater part of them.

Mr. BANKS. I desire to make an inquiry of the Chair. Would it not be in order for the committee which reported this bill, to have made in their reported bill the amendment proposed by the gentleman from Maine? And, if so, it is clearly in order for the Committee of the Whole on the state of the Union to do the same thing.

[Cries of "Oh, no!"]

Mr. BANKS. The rule of the House bearing on this question bears upon the committee that reported the bill in exactly the same terms as upon the Committee of the Whole on the state of the Union. If, therefore, it is in order for the committee to have reported the bill with these changes, it is certainly in order for the Committee of the Whole on the state of the Union to make them.

Mr. HAMILTON. We must consider what the committee reports.

The CHAIRMAN. The Chair decides that, in his opinion, the pay of writers, draughtsmen, and timber inspectors is not fixed by law, and that it is competent for the House to authorize an increase of it, and to authorize an increased appropriation for the purpose of enabling the Secretary to make the increase. But the Chair holds that the amendment, in the form in which it is offered by the gentleman from Maine, does propose to make a compulsory and legal increase of the compensation, which would be changing the existing law. The Chair, therefore, holds that the amendment, in its present form, is not in order.

Mr. BANKS. I take an appeal from that decision.

Mr. HENDRICKS. I move to lay the appeal upon the table.

Mr. BANKS. I withdraw my appeal.

The following clause was read by the Clerk:

"For provisions for commission, warrant, and petty officers and seamen, including engineers and marines attached to vessels for sea-service, $686,200."

Mr. STRATTON. I offer the following amendment, to come in at the end of the clause just read:

But no intoxicating liquors shall be provided as a beverage.

Mr. PHELPS. I rise to a question of order, that the amendment offered by the gentleman from New Jersey [Mr. STRATTON] changes existing law.

The CHAIRMAN. The Chair, upon the point of order raised by the gentleman from Missouri, decides that the amendment is not in order.

The following clause was read by the Clerk:

"For increase, repair, armament, and equipment of the Navy, including the wear and tear of vessels in commission, fuel for steamers, and purchase of hemp for the Navy, $2,799,500."

Mr. STANTON, of Tennessee. I propose to add the following at the end of the section just read:

And the Secretary of the Navy shall have authority to contract with the lowest bidder, after due advertisement, who will supply the Navy with water-rotted hemp for a period of five years, giving preference to American hemp at the same price, and raising the test to forty-four hundred pounds on rope of one and three fourths inches in circumference.

Mr. PHELPS. I raise the question of order that the amendment offered by the gentleman from Tennessee proposes to change existing law. It proposes to authorize the Secretary of the Navy to make a contract for the purchase of hemp for a longer period than that now authorized by law.

Mr. STANTON. That is true; but the provision to which the gentleman refers was inserted in the appropriation bill, just as I propose to insert this amendment.

The CHAIRMAN. The Chair sustains the point of order made by the gentleman from Missouri, and decides the amendment of the gentleman from Tennessee to be out of order.

Mr. STANTON. I have another amendment which I propose to offer in the same place:

The amendment was then read, as follows:

And such American hemp as may be purchased in the western States shall be manufactured at the rope-walk in Memphis: *Provided*, The public authorities of that city will first reconvey the navy-yard property at that place to the Government, by deeds satisfactory to the Secretary of the Navy.

Mr. PHELPS. I again raise the question of order upon the gentleman from Tennessee, that the amendment he offers is not in order. At the last session of Congress we abolished the navy-yard and the rope-walk at Memphis. The amendment now submitted by the gentleman from Tennessee, proposes to reëstablish the rope-walk and the navy-yard at Memphis, Tennessee, upon such conditions as are therein mentioned, thus changing existing law, which I hold cannot be done in an appropriation bill.

The CHAIRMAN. The Chair sustains the point of order made by the gentleman from Missouri, and rules the amendment out of order.

Mr. STANTON, of Tennessee. The clause of the bill just read makes an appropriation "For increase, repair, armament, and equipment of the Navy, including the wear and tear of vessels in commission, fuel for steamers, and purchase of hemp for the Navy, of $2,799,500." Now it is known, perhaps, to every gentleman upon this floor, that we have certain hemp agencies in the western States for the purchase of American water-rotted hemp for the use of the Navy. It is, perhaps, not known to many gentlemen upon this floor that, for the last fiscal year ending the 30th of June last, not one pound of American hemp was purchased. Although very large quantities of hemp are made in this country, and although experience shows that, when properly made, the American hemp is stronger, and admits a higher test than the Russian hemp, yet no measures have been taken to secure it; and now, when I propose to adopt efficient measures for that purpose, I am met with the technical objection that it is not in order to regulate the manner in which the appropriation shall be expended. I submit to the decision of the Chair, I submit to the will of the committee, whether it should tie its hands upon a mere technical question of order, and refuse to do that which ought to be done. I call upon every western man, every man who represents a hemp-growing region—even the gentleman from Missouri, [Mr. PHELPS,] himself, to answer upon what principle it is, they can stand by and see such injustice as this perpetrated against their own constituents.

Mr. WENTWORTH, of Illinois. Some years ago, if I remember right, the gentleman from Tennessee appealed to me to assist him in building a navy-yard at Memphis. I did assist him. At the last session of Congress he asked my assistance in giving that navy-yard to the city. I gave him my assistance then; will he have the kindness to tell me what he wants I should do now?

Mr. STANTON. The gentleman from Illinois is just about as accurate in the one case as in the other, for he is inaccurate in both. I never asked the gentleman from Illinois, or any other gentleman here, to build the navy-yard at Memphis. I was not a member of this House when the appropriation for that purpose was made. Again, as to the other point he has made—I attribute the gentleman's want of accuracy not to any disposition on his part to misrepresent the facts—it is true, sir, that, on the last night of the last session of Congress, to my utter amazement I was informed that the Senate had stricken out the appropriation for the Memphis navy-yard; or, rather, that it had refused to appropriate the amount required by the Navy Department for the purpose of carrying on and keeping up that yard.

Mr. WENTWORTH, of Illinois. I wish to ask the gentleman if he was not here before he was a member of Congress?

Mr. STANTON. Was I not here before I came here as a member of Congress? I have often been here.

Mr. WENTWORTH. Was I not introduced to the gentleman from Tennessee by John Bashe?

Mr. STANTON. No, sir. I was not here at the time the Memphis navy-yard was established.

Mr. WENTWORTH. I was introduced to a number of citizens of Memphis, who requested me, as a western man, to favor the establishment of that yard, and I had the impression that the gentleman from Tennessee was one of them. That was before he was elected a member of Congress. At any rate, I was introduced to a gentleman who, I was informed, was the Democratic candidate for Congress from the Memphis district, and I was told he certainly would be elected.

Mr. STANTON. I had not been in Washington for about ten years before the bill establishing the Memphis navy-yard was passed. And I had not been here for ten years, up to the year after the bill was passed.

Mr. HENDRICKS. I rise to a question of order.

Mr. STANTON. I beg leave to say to the committee that I have not introduced this discussion at all. The credit of it belongs to the gentleman from Illinois.

Mr. HENDRICKS. Has not the Chair decided the amendment of the gentleman from Tennessee out of order?

The CHAIRMAN. The Chair has so decided; but the gentleman from Tennessee is upon the floor now to speak to the merits of the bill.

Mr. HENDRICKS. Then debate must be confined to the bill; and as there is nothing in the bill in reference to the Memphis navy-yard, all this debate is out of order.

The CHAIRMAN. The gentleman from Tennessee will confine his remarks to the bill.

Mr. STANTON. I was discussing this hemp question, in reference to its purchase in the western States, and the gentleman from Illinois interrupted me, and I yielded, as he desired to ask me a question, and that is the matter to which the gentleman takes objection.

The CHAIRMAN. The Chair will only say generally, that, under the order of the House, debate must be confined to the bill itself; but the Chair is not prepared to say there are no provisions in the bill which justify the course of remark pursued by the gentleman from Tennessee.

Mr. STANTON. In reference to another part of the naval policy of the country to which the gentleman from Illinois referred, I desire to say a single word. On being informed, to my astonishment, as I said, that the Senate had stricken out the appropriation for the continuance of the navy-yard at Memphis, when one of the Senators from Tennessee inquired of me whether, in that state of things, I would be willing to go for a proposition to give the establishment to the city of Memphis, I told him I would. When the bill came to the House, upon the first proposition to strike out the appropriation, I resisted, with all my power, its adoption by the House. I desired to have that appropriation retained in the bill, and then the establishment would have gone on as usual; but when it was voted down, and every dollar, even for the necessary repairs of keeping up the establishment, was stricken out of the bill, I did vote for giving the establishment to the city of Memphis; and I would do the same again under similar circumstances. And I say more, that unless the Government is disposed to reëstablish that navy-yard, I am in favor of the city keeping it. But while I was very anxious the bill should pass in that form, after the appropriation had been stricken out, I am very sure I made no personal application to the gentleman from Illinois. I did make the request of the House, and made an argument in favor of it.

What I wanted to say in relation to this hemp provision was, that American hemp can be furnished to the Government as cheaply, and much stronger, than Russian hemp. It can be spun at Memphis by machinery already there, and which is ready to be given back to the United States. It cost, with the building, some two or three hundred thousand dollars. The hemp can be spun there as well as anywhere else in the world, for the rope-walk, which was completed by the Government, is said to be the most complete establishment of the kind anywhere to be found.

It seems to me, sir, it is a gross injustice to American interests not to do so. I do not ask you to protect American hemp any more than it is protected by existing law. I do not ask you to show any favor to American hemp, but simply that you should purchase American hemp at the same price at which you can procure Russian hemp, and to give western men an opportunity to furnish it at such price. I think that request is reasonable and right. I have a letter from the Secretary of the Navy, in which he admits to me that measures taken for obtaining American hemp entirely failed, and that he believes it would be desirable to make contracts for it, running from three to five years.

I desire to say one word further in relation to the Memphis navy-yard. I do not intend to trouble the House with a long speech, for I know I should do no good by such a course, nor would it enlighten the House. If the House is prepared, at the proper time, to vote for the establishment of that yard, I know they are sufficiently enlightened upon the subject, from looking at the reports submitted from time to time, without needing a long argument from me. I will say, however, in a few words, that the Government of the United States have expended $1.000,000 in building up an establishment at a point where it can be extremely useful to the Government in a variety of ways. I say, moreover, that every western man, every man in the valley of the Mississippi, is deeply interested in the reëstablishment of that yard. A greater portion of the supplies for the navy, coal, iron, hemp, copper, and provisions of all kinds, must come from that portion of the country. Although they may be purchased at other points, at the east and elsewhere, yet they are produced in the great valley of the Mississippi. In order, under all circumstances and in all times, to be able to avail ourselves of the resources of that valley, it is necessary that this establishment should be retained in the center of it.

It is perfectly idle to say that vessels of a class suitable for the service of the Navy, cannot be built in Memphis and carried out to sea, in any numbers. I need not say to you, Mr. Chairman, who understand this matter so well, that in case of a naval war, the first operation of any great naval Power would be to shut up completely the Gulf of Mexico. It is apparent that that could be done, and the whole commerce of that country would be closed and shut up, and it is evident that all the greatest interests of the country would suffer materially thereby. You are told by the chairman of the Committee on Naval Affairs——

Mr. PHILLIPS. I rise to a question of order. I regret to be compelled to make it on my friend from Tennessee; but I have waited to see whether he was coming to a conclusion. I submit whether this discussion on the Memphis navy-yard is in order?

The CHAIRMAN. The Chair is not informed that there is in the bill any provision in reference to the Memphis navy-yard, and would suggest to the gentleman from Tennessee, that, under the resolution of the House, he must confine his remarks to the subject of the bill now under consideration.

Mr. STANTON. I am speaking on the general interests of the Navy, and if it be not in order to here discuss the general naval policy of the country, I am at a loss to know where it is.

The CHAIRMAN. The Chair is disposed to allow debate as far as he can justly do so under the rule. He thinks that debate ought not to be restricted to the words and letters of the bill, and that any remarks relating to the objects of the appropriations would be in order. The Chair would, at the same time, indicate that remarks applying to questions not embraced by the bill, would not be in order.

Mr. STANTON. I have nothing more to say in regard to what I conceive to be the principal naval policy of the country; but desire to say, simply, that if any gentleman here supposes I am looking for popularity at home, he is entirely mistaken. I do not intend to be again a candidate for reëlection; and my only purpose in urging this matter at the present time, and which I will have at any future time, is to do what I believe to be a duty to the people whom I represent and to the country which I serve—to save this vast amount of property which has been thrown away, inconsiderately, I believe, at the last session of Congress. So far as the local interests are concerned, I doubt not, it would be better for her to take the property, sell it, and put the proceeds in the Treasury.

Mr. STANTON, of Kentucky. I offer the following amendment:

After the words "for increase, repair, armament, and equipment of the Navy, including the wear and tear of vessels in commission, fuel for steamers, and purchase of hemp for the Navy, $2,799,500," insert:

Provided, The Secretary of the Navy may purchase by contract American water-rotted hemp in any suitable quantity, if the same can be obtained of equal quality, not to exceed the price of Russian water-rotted hemp.

Mr. Chairman, that proviso is not in conflict with any law which now exists, unless in respect to the quantity of hemp that the Secretary may purchase. The law now is, that the Secretary may purchase American water-rotted hemp, provided it be of the same quality and can be obtained for the same price as the Russian water-rotted hemp. In my proviso I say that the Secretary may purchase it by contract in any suitable quantity. If that alters the law, let it do so.

But I wish to state to the committee a few facts in connection with this matter, which will show the reason why the American Navy has not used, for the last eighteen months or two years, a single pound of American water-rotted hemp. The Government has authorized the appointment of two hemp agents; one at St. Louis, in Missouri, and the other at Lexington, in the State which I have the honor in part to represent. These agents, it is true, are authorized by the Government to procure American water-rotted hemp for the Navy. The Government, and the officers of the Navy, know that hemp can be, and is, produced in this country of as good quality, if not infinitely better, because it bears a greater test than that purchased from the commission merchants of Boston, and imported from Russia. The Secretary of the Navy is, I believe, anxious—I know he is, for he told me so—to encourage, as far as he had it in his power, the culture and production of American hemp; but he says that he is dependent upon those who surround him, and who are more experienced, for information on this subject. He does not exactly know what good water-rotted hemp is; and it is not to be presumed that he should know. He has been raised in a State where hemp is not cultivated. But the instructions issued from his office by his subordinates are of such a character that it is utterly impossible to buy a single pound of hemp, no matter what is its quality for durability and strength——

Mr. PHELPS. I would suggest to my friend to let us take a vote, and the proposition be adopted.

Mr. STANTON. I wish to explain the matter in a few words. These instructions, issued to the hemp agents at Louisville and St. Louis, make the requisitions that the hemp purchased for the Government shall be of a particular odor, of a particular color, of a particular feel, and, in addition to all this, that each fiber in a hank shall be of precisely the same length. These requisitions it is utterly impossible to comply with, and therefore it is no American water-rotted hemp is used in the Navy.

Here is another reason why it cannot be procured in great quantities: The farmers of Kentucky, who are able to undergo the expense of providing machinery, and all the means for water-rotting hemp, will not do so while these instructions hang over the heads of the hemp agents. They say, if they expend $50,000 or $100,000 in the culture of the hemp, that, when it goes before the agents, and does not agree with all of the requisitions, even to the uniformity of length of the fibers, they lose all. But give one of these Kentucky farmers a contract to supply one hundred tons, or fifty tons, or even twenty-five tons, and he will go to work and make the necessary preparations. It is an expensive operation to provide vats and a steam engine for the purpose of water-rotting hemp as it should be water-rotted. They will not enter into it if there exists this uncertainty of their hemp being purchased by the authorities of the Government. I hope the amendment may be adopted.

Mr. JONES, of Tennessee. I think the amendment unnecessary. I have become satisfied, for one, that the contract system is an injurious one. It is the best way for the Government to go into open market, and there buy what it wants.

Mr. STANTON. Then it will buy nothing but Russian hemp.

Mr. JONES. If the Russian hemp be cheapest and best let the Government buy it.

Mr. STANTON. The American hemp is best.

Mr. JONES. Then let it buy that.

Mr. STANTON. But American farmers will not grow it unless they have an assurance of its being purchased when it is grown and water-rotted. The necessary apparatus costs from $50,000 to $100,000.

The question was taken; and the amendment was disagreed to.

Mr. WELLS. I move to amend the amendment by striking out the word "three" and inserting the word "two" in the clause of the bill appropriating $3,000,000 for six steam frigates, and insert, at the end of the bill, the following:

That the Secretary of the Navy is hereby directed to suspend the further construction of three of the six steam frigates authorized to be built at the last session, as soon as it can be done with a due regard to the preservation of the unfinished work until the other three are completed.

Mr. HAMILTON. That is right. Let it be adopted.

Mr. DAVIS, of Indiana. If the gentleman from Wisconsin will give way I will move that the committee do now rise. It is getting very late in the day, and the committee is thin.

Mr. FAULKNER. I trust the gentleman will not make that motion. Let us get through with the bill first.

Mr. BOCOCK. I rise to a question of order. If no other gentleman has submitted the point of order, I submit that the amendment of the gentleman from Wisconsin is not in order. At the last session of Congress we passed a law authorizing the Secretary of the Navy to proceed with the construction of six steam frigates, and to complete them. This amendment denies the authority to complete more than three of them, and therefore changes the law of the last session. I submit that the amendment is not in order.

Mr. DAVIS, of Indiana. I rise to a question of order. When the gentleman from Wisconsin obtained the floor, he yielded it to me to move that the committee rise. I submitted the motion, and I desire to know why the motion has not been put?

The CHAIRMAN. The Chair did not understand the gentleman from Wisconsin to yield the floor, and, therefore, did not recognize the gentleman from Indiana.

Mr. DAVIS. The gentleman from Wisconsin did yield the floor, and I submitted the motion.

Mr. PHELPS. I appeal to the gentleman from Indiana to withdraw the motion.

Mr. DAVIS. No, sir; I do not withdraw it.

The CHAIRMAN. The gentleman from Wisconsin had not the floor to make the motion. The Chair sustains the question of order raised by the gentleman from Virginia, and decides the amendment to be out of order.

Mr. WELLS. Is the question of order debatable?

The CHAIRMAN. It is not.

Mr. WELLS. I appeal from the decision of the Chair, and call for the reading of the amendment.

The CHAIRMAN. Then the question will be: "Shall the decision of the Chair stand as the judgment of the committee?" The Chair will state the grounds of his decision.

Mr. McMULLIN. I rise to a privileged question. There is certainly not a quorum present with which to decide the appeal. I move that the committee do now rise.

Mr. JONES, of Tennessee. Then let us vote down the motion, and have a call of the roll.

Mr. HENN. I demand tellers upon the motion that the committee rise.

Tellers were not ordered.

The question was taken; and the committee refused to rise—ayes 35, noes 50.

[Cries of "Call the roll!"]

Mr. ORR. I ask the unanimous consent that tellers may be ordered, and a recount made.

Mr. JONES, of Tennessee. I object, and demand that the roll be called.

The roll was called, and the names of the absentees noted.

The committee then rose, and the Speaker *pro tempore* (Mr. JONES, of Tennessee) having taken the chair, the Chairman [Mr. MILLSON] reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the naval appropriation bill, and having found itself without a quorum, had directed the roll to be called, and had instructed him to report the facts to the House with the names of the absentees.

The SPEAKER *pro tempore* announced that a hundred and eight—no quorum—had answered to their names.

Mr. HENN. I ask the unanimous consent of the House to take up Senate bill No. 621, which provides for establishing additional land districts in the State of Iowa. There will be no objection to the bill, and I hope it will be taken up and passed.

The SPEAKER *pro tempore*. No quorum having appeared upon a call of the roll in committee, the proposition of the gentleman is not in order.

Mr. HENN. Will it be in order to move to suspend the rules, and have the motion entered?

The SPEAKER *pro tempore*. It will not. No quorum is present, and no motion is, therefore, in order, except to adjourn, and for a call of the House.

Mr. HAMILTON. I move that the House do now adjourn.

The question was put; and the motion agreed to.

And thereupon, at four oclock, p. m., the House adjourned until eleven o'clock, a. m., on Monday next.

IN SENATE.

MONDAY, *February* 26, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of Saturday was read and approved.

EFFICIENCY OF THE NAVY.

On the motion of Mr. MALLORY, the Senate proceeded to the consideration of the amendments of the House of Representatives to the bill of the Senate to promote the efficiency of the Navy.

The first amendment of the House was to insert, in the first section, after the word "duty," the word "both."

The second was to insert in the same section, before "vacancies," the words:

Whenever said board shall believe that said incompetency has arisen from any cause implying sufficient blame upon the part of said officer to justify it, they shall recommend that his name be stricken altogether from the rolls.

The section, as thus amended, will read:

That as soon as practicable after the passage of this act, the President of the United States shall cause a board of naval officers to be assembled, to consist of five captains, five commanders, and five lieutenants; which board, under such regulations as the Secretary of the Navy may prescribe, shall make a careful examination into the efficiency of the officers of the grades hereinafter mentioned, and shall report to the Secretary of the Navy the names and rank of all officers of the said grades who, in the judgment of said board, shall be incapable of performing promptly and efficiently all their duty, both ashore and afloat; and whenever said board shall believe that said incompetency has arisen from any cause implying sufficient blame upon the part of said officer to justify it, they shall recommend that his name be stricken altogether from the rolls. Vacancies occurring in said board shall be filled by the Secretary of the Navy, who shall preserve the number and grades of its officers, as aforesaid: *Provided*, That no officers upon said board shall examine into, or report upon, the efficiency of officers of a grade above them.

The second amendment of the bill, as it passed the Senate, was as follows:

SEC. 2. *And be it further enacted*, That all officers who shall be found by the said board incapable of performing the duties of their respective offices, ranks, or grades, shall, if such finding be approved by the President, be placed, in the order of their rank and seniority at the time, upon a list in the Navy Register, to be entitled the reserved list; and they shall receive the leave-of-absence pay, or the furlough pay, to which they may be entitled when so placed, and shall be ineligible to further promotion, but shall be subject to the orders of the Navy Department at all times for duty; and vacancies created in the active-service list, by placing officers on the reserved list, shall be filled by regular promotion in the order of rank or seniority. And officers who may be promoted to fill the vacancies created by the reserved list shall, while unemployed, receive only the "leave-of-absence" or "waiting-orders" pay to which they would have been entitled if such promotion had not been made; but when employed at sea, or on other duty, they shall receive, in addition to such "leave-of-absence" or "waiting-orders" pay, the difference between the "waiting-orders" or "leave-of-absence" pay, and the "sea or other duty" pay of the grade to which they may be so promoted: *Provided*, That this scrutiny and reservation of officers shall extend only to the grades of captain, commander, lieutenant, passed midshipmen, and masters: *And provided further*, That nothing in this act contained shall be held or construed to authorize any increase of the aggregate pay of the said grades, or of the naval service, as now allowed by law.

The third amendment of the House was to insert between the words "be" and "placed" the words "dropped from the rolls or."

The fourth was to amend the clause "and they shall receive the leave-of-absence pay to which they may be entitled when so placed," by striking out "they" and inserting "those so placed on the reserved list."

The fifth was to add at the end of that clause the words "according to the report of the board, and approval of the President."

The sixth was to strike out "sea or other duty," and insert "the lowest sea service."

The seventh was to strike out of the first proviso "passed midshipmen and masters," and insert "masters and passed midshipmen."

The eighth was to insert, after "and provided further," the words:

"That all vacancies occurring in the grade of masters shall be filled by the promotion of the senior passed midshipmen—to be entitled masters in the line of promotion—who, when promoted, shall receive the pay allowed by law to masters; that the number of masters in the line of promotion shall not exceed sixty," &c.

That section, as thus amended, would read:

SEC. 2. *And be it further enacted*, That all officers who shall be found by the said board incapable of performing the duties of their respective offices, ranks, or grades, shall, if such finding be approved by the President, be dropped from the rolls, or placed in the order of their rank and seniority at the time, upon a list in the Navy Register, to be entitled the reserved list; and those so placed on the reserved list shall receive the leave-of-absence-pay, or the furlough pay, to which they may be entitled when so placed, according to the report of the board and approval of the President, and shall be ineligible to further promotion, but shall be subject to the orders of the Navy Department at all times for duty; and vacancies created in the active-service list, by placing officers on the reserved list, shall be filled by regular promotion in the order of rank or seniority. And officers who may be promoted to fill the vacancies created by the reserved list shall, while unemployed, receive only the "leave of absence" or "waiting orders" pay to which they would have been entitled if such promotion had not been made; but when employed at sea, or on other duty, they shall receive, in addition to such "leave-of-absence" or "waiting orders" pay, the difference between the "waiting orders" or "leave-of-absence" pay, and the lowest sea-service pay of the grade to which they may be so promoted: *Provided*, That this scrutiny and reservation of officers shall extend only to the grades of captain, commander, lieutenant, masters, and passed midshipmen: *And provided further*, That all vacancies occurring in the grade of masters shall be filled by the promotion of the senior passed midshipmen—to be entitled masters in the line of promotion—who, when promoted, shall receive the pay allowed by law to masters; that the number of masters in the line of promotion shall not exceed sixty; and that nothing in this act contained shall be held or construed to authorize any increase of the aggregate pay of the said grades, or of the naval service, as now allowed by law.

The ninth amendment was to insert in the third section the words printed in italics:

SEC. 3. *And be it further enacted*, That nothing in this act contained shall be construed to restrict, apply to, or impair the regular promotion of officers in the service list of the Navy who may be at any time entitled to promotion consequent upon deaths, dismissals, or resignations *in the naval service*, nor in any manner to abridge or impair the right of the Secretary of the Navy to place *any* officers upon furlough.

The tenth amendment was to add:

SEC. 4. *And be it further enacted*, That nothing in this act shall be so construed as to increase the aggregate number of officers, and that all laws, or clauses of laws, so far as they conflict with the provisions of this act, are hereby repealed.

The PRESIDENT. The question is on concurring in the amendments of the House. That question will be taken on the amendments generally, or separately if any Senator desires it.

Mr. PRATT. I now propose to submit as an amendment to the amendments of the House, the one which I had the honor to lay on the table some days ago and have printed.

Mr. MALLORY. I suggest to the Senator from Maryland to let us first concur in the amendments from the House.

Mr. PRATT. Then I could not offer mine at all.

Mr. MORTON. I rise to make an inquiry. I am opposed to the bill in principle and detail; but I desire to inquire whether, if we act upon the amendments of the House and agree to them, and also to the amendment of the Senator from Maryland, that would not be an end of the bill? Or whether, if we reject the amendment of the Senator from Maryland, and agree to the amendments of the House, that would not be an end of the bill, so far as the Senate is concerned? Would it then be in order, in other words, to move its indefinite postponement?

The PRESIDENT. It is in order to move the indefinite postponement of a bill at any stage of its consideration.

Mr. MORTON. I know it would be perfectly in order to move its indefinite postponement at this time, but my friend from Maryland desires that the Senate should first vote on his amendment. I am willing to allow his amendment to be voted on if that will not preclude my right to submit the motion to postpone the bill indefinitely after it has been voted upon; but I do not want to forego the right which I have of making that motion.

Mr. PRATT. I apprehend that the amendment which I have proposed, if adopted, will not prevent the motion of the honorable Senator from Florida to postpone the bill indefinitely; but if the amendments of the House be agreed to by the Senate, then the bill will have finally passed, and it would not be competent to submit that motion unless a motion were made to reconsider the amendments. It is certainly, however, in order to have considered the amendment which I have proposed. If that amendment should be adopted,

or if it should not be adopted, anterior to a vote on the amendments of the House, the honorable Senator from Florida can make his motion.

The PRESIDENT. The Senator from Maryland is correct. By concurring in the amendments of the House generally, the question is disposed of, as far as the Senate is concerned. If the Senate concur in the amendments of the House, it will not be in the power of the Senator from Florida to move the indefinite postponement of the bill. The motion can be submitted before they are acted upon. The question is upon the amendment of the Senator from Maryland.

The amendment was as follows:

That the Senate concur in the amendments of the House of Representatives, with the following amendment:

SEC. —. *And be it further enacted*, That as soon as practicable after the passage of this act, the President of the United States shall cause a board of naval medical officers to be assembled, to consist of five surgeons, five passed assistant surgeons, and five assistant surgeons; which board, under such regulations as the Secretary may prescribe, shall make a careful examination into the efficiency of the officers of said grades, and shall report to the Secretary of the Navy the names and rank of all officers of the said grades who, in the judgment of said board, shall be incapable of performing, promptly and efficiently, all their duty ashore and afloat; and vacancies occurring in said board shall be filled by the Secretary of the Navy, who shall preserve the number and grades of its officers, as aforesaid: *Provided*, That no officers upon said board shall examine into, or report upon, the efficiency of officers of a grade above them, and that the provisions of the second section of this bill shall extend to the officers specified in this.

Mr. BAYARD. Mr. President, the amendment now proposed, as I understand it, is an amendment to the amendments of the House to the Senate bill. I do not know that I have any objection to the amendment of the honorable Senator from Maryland, if the amendments of the House are to be concurred in, nor do I mean to discuss, at length, those amendments. I wish simply to enter my protest against the erection of any tribunal of the character which one amendment of the House directs to be created. Sir, I am perfectly aware that reformation is wanted in the naval service. I admit it; but I am not willing to sacrifice what I consider to be a great principle, even for attaining that reformation. I do not wish to agree to the irresponsible exercise of the power which it will confer. The bill as it passed the Senate, I could assent to cheerfully. One of the amendments of the House embodies a provision by which an irresponsible court of five officers is to be created, upon whose opinions, or belief, as to the capacity or fitness of their fellows in the service, the President of the United States, without responsibility, may drop them from the service, though they may have been in it twenty, r thirty, or forty years. No such power, with my consent, shall be given to any board of officers. If the Navy cannot be reformed without that, so far as my vote goes, it shall stand as it is. I think the principle involved in that amendment wrong in itself.

It is wrong in principle to take out of the service a board of officers who shall pass their opinions on the respective merits and qualifications of other officers in the service, without accusation, without hearing, without a charge, and then, sanctioned by that report, without responsibility, to say that the President may drop them from the service. Sir, I was willing to go for the retired list; for I look upon the naval service as one in which, if a man continues long, he becomes unqualified for the performance of any other duty. It may well be that an officer of the Navy may not have been distinguished in the service, though he may have performed, as men often do in private life, his duties in a manner sufficiently creditable. He may have done that, but not in any distinguished manner; and I should be unwilling, when that man reaches the age of forty or fifty years, unless there be some positive charge against him, to throw him out of the service into beggary. I think the principle of the House amendment intolerable; and I believe that, if it is concurred in, the oppressions that will necessarily take place under it will be such that it will have to be amended. I make the objection, Mr. President; but if the Senate choose to agree to the amendment, be it so. Experience must indicate whether I am right or not; but I am not willing, without making the objection, and without voting against the amendment, that such a tribunal should be erected by the authority of the Congress of the United States.

Mr. PRATT. I desire the honorable Senator from Delaware, and other Senators, to notice that it is not now upon the amendment of the House, but upon the amendment which I have proposed, that the Senate is first to vote. My amendment puts surgeons in the Navy on the same footing as officers of the line. I do not propose, Mr. President, unless others do so, to discuss the propriety of this amendment. I only ask for the yeas and nays upon its adoption.

The yeas and nays were ordered.

Mr. MALLORY. I do not propose to occupy the attention of the Senate five minutes in discussing this amendment. The bill, as it went from the Senate to the House, was a good bill, maturely considered in the Navy Department, maturely considered by the Senate committee appointed for the purpose, and, in my judgment, it will really promote the efficiency of the Navy. As it comes from the House, it has been improved. The committee in the House gave it a thorough investigation. In those amendments of the House the Navy Department fully concur. In those amendments the Senate committee fully concur. I propose, in a very few words, to answer the objection of the honorable Senator from Delaware.

He objects to confiding to the board this power to designate for reservation any officer whose conduct is such as to justify a recommendation of dismissal from the Navy. The board is to have no other authority than to recommend. Over them the Secretary of the Navy first, the President next, and the Senate next, as a matter of course, will exercise jurisdiction and authority. The exercise of this power in regard to the officers is to be placed where it ought to be placed—in the judgment of their peers; and, sir, if there be a man in the service whose character is so degraded, whose standing is so infamous, that a jury of his peers, after thirty years' acquaintance, will decide that he ought to be dismissed from the service, I say, in due deference to the judgment of the Senator from Delaware, that that decision should be taken as a final judgment; and I am willing to trust the question to a jury of his peers. Every man in every profession of life looks alone to the opinion of his peers for a correct judgment; and if, in the Navy, we cannot trust the delegation of this power to judge of an officer, where may we look for justice?

I am in favor of promoting the efficiency of the Navy; it has no better friend in Congress than I am. I have labored for years to obtain some thorough reformation. It is almost impossible to pass through Congress anything that strikes at the root of the heart-burnings which are wearing the Navy out; and when you find men coming from all parts of the earth, men perfectly unknown to the Navy Department, whose names are looked upon by the clerks of the Department as abstractions, a sort of John Does and Richard Roes, in the service, men of thirty-two years standing, who have not raised their hands in the service, whose characters are so bad in some instances that they cannot get a common bill for compensation through this body, and when we make the slightest attempt to place a hand upon them, we are met by objections. If this bill goes back to the House, filled as it is with the germ of excellence and improvement of the service, it fails. The amendments of the House are good, but they have not time to act upon it if we amend their amendments.

As to the amendment of my friend from Maryland I shall say but a few words. He is in favor of this bill, with his amendment or without it. His amendment is simply to extend the provisions of the bill from the line officers of the Navy, the sailor officers of the Navy, to the medical officers—from the fighting men to the non-combatants, from the line to the staff.

Now, Mr. President, the committee of the Senate have had this thing under mature consideration. It is in favor of legislating for the staff officers of the service. In the general bill which passed this body those corps are legislated for; but this is an experiment, an experiment which can be confined only to the line officers, because the philosophy of the bill contemplates that no increase of expenditure for the naval service, and no increase of grades, shall be had; but adopt this amendment and you increase the expense and increase the number of grades in the Navy. Hence it is that you cannot agree to the amendment and preserve the philosophy of the bill. It is so for this reason: we have an academy from which to take officers, and we decrease the lower grades as we reserve the higher. The same number will be educated in the academy. The law of the United States fixes that number one for each congressional district; but when you come to retire surgeons you must promote other surgeons from civil life. The Secretary of the Navy tells you that you have not enough now; and the moment you reserve any you must take others from civil life, and that will increase the expenditures of the Navy.

But another objection to the amendment is, that the corps of surgeons is but one corps of the staff. There are the engineers, the marine officers, the chaplains, the naval constructors, and all other staff corps, who will, if you agree to this, be demanding the same measure of justice. It is in contemplation by the Committee on Naval Affairs, at the next session, to take up the entire corps and legislate for them, but not to legislate for one in detail—not to do justice to one and withhold it from another. The committee at this session have agreed to report this measure in a separate bill. I trust the amendment will not be agreed to, and that we shall not jeopard the bill by our action here, because, if we return it to the House, there is a strong probability that it will fail.

Mr. BAYARD. The services of the honorable Senator from Florida, in behalf of the Navy, no one will question. His knowledge in reference to the matter no one will doubt. But, sir, I differ from him as to what he calls the judgment of a man's peers—that is, in this case of five officers brought together at the will of the President, who are to make no inquiry upon testimony, who are not to hear the party, but who, on their own opinion and belief—for that is the substance of the language of the bill—may, by an arbitrary discretion, recommend to the President that A, B, C, and D, their fellow officers, be dropped from the list; and then, that on that authority the President may drop a man from the list and turn him forth to the world without means of support, though he may have been ten, twenty, or thirty years in the service of the country.

Mr. SHIELDS. Will the honorable Senator permit me to ask him whether the President cannot drop an officer from the list without this examination?

Mr. BAYARD. I have no doubt about that; but the wide distinction is this: There is the power with responsibility; but if you interpose this board of officers the President will throw himself upon the opinion of the board, and he will not carry his responsibility beyond it. The board recommend him to drop A, B, C, and D from the list; therefore there will be no individual responsibility; but as to the power of the President of the United States now to dismiss an officer from the Navy, without a court-martial, and to exercise that power in an arbitrary manner, there is an independent spirit in the Navy and in the country, there is a jealousy in the Navy as to its exercise which no President would hazard; and therefore you find in your experience that, though the President has in certain cases dismissed officers from the Navy without a court-martial, the power has not been exercised for the purposes of abuse. But it seems to me here is an inquisitorial tribunal, dependent upon the opinion of the board alone; and the result will be, that, if you constitute such a board, you will introduce personal cliques into the Navy, and personal favoritism and subserviency, and bring difficulty into it.

I do not consider that a reform. I am in favor of a reform of the Navy, and I regret that I have to oppose this provision, but I opposed it before when it was in the bill which was originally brought into the Senate. The Senate has refused to adopt it before. The Senate passed the bill without granting to the board, which might place a man upon the reserved list, but still leave him the means of subsistence, the power which might throw him out of the service altogether. That is my objection to the amendment. I cannot consider such a board, so constituted and so acting, as anything more than something like a star chamber, and the result of it would be beyond all question, injurious to the Navy. I am anxious to see this bill passed finally as it passed the Senate; and if any amendment but one which I think violates an important principle had been put into it, I would have waived all my objections to it; I should not

have proposed any amendment, even if I had deemed it desirable myself, but I cannot consent to give my vote in favor of the passage of this bill, with a provision as objectionable as I consider the amendment of the House, to which I refer, to be.

Mr. PRATT. I should have been very glad if the discussion had been confined to the question which is now under the immediate consideration of the Senate. I shall not discuss the general merits of this bill. The simple proposition on which the yeas and nays have been ordered, and upon which we are now to vote, is whether the provisions of the bill shall be extended to surgeons in the Navy? The honorable Senator from Florida [Mr. MALLORY] admits that they ought to be extended to them. Sir, there is no man who can deny that these provisions, if they are right, ought to be extended to all the branches of the naval service. The honorable Senator says that the bill only extends to the fighting men of the Navy. Its provisions are, that if those who are in the regular line of the Navy, or as the Senator designates them, the fighting men of the Navy, are unfit to fight, they shall be retired from the service. Now I ask, in the name of common sense, any man to tell me, if a fighting man is retired because he is unable to fight, why a doctor who, on account of mental imbecility, is unable to give a dose of medicine, or perform a surgical operation, should not be retired also?

It is conceded, then, by the advocates of the bill that the amendment which I have proposed is one which is proper in itself, and that it is one which should be adopted; but the objection is, that its adoption now would endanger the passage of the bill in the House of Representatives, and it is to that question that I propose to direct the attention of the friends of the bill for a few moments.

The bill passed the House by a majority of seventy, if I am correctly informed. Now, we are to suppose that, in that branch of the Legislature, where there are seventy majority for the bill, an amendment, admitted by all to be right in itself, will occasion the final rejection of the bill. This is the only argument used against the amendment. It is the only one which can be brought against it. The honorable Senator says that expense is incurred. What expense? He is willing to go for the amendment in a separate bill; he therefore does not dread the expense, for he is in favor of it with the expense.

Mr. President, I think we have had enough of this objecting to measures which come up here, that they will be endangered in the other House. We are asked not to amend this, because it will occasion its failure in the other branch of the Legislature. That is an argument which is used on almost every measure. It is an argument which has had heretofore too much weight. It is an argument which, I think, should have but little weight with us. It is our province to do what we think right, and leave to those in the other branch of the Legislature the obligations upon their part to discharge their duty according to what they think right. Here, then, is an amendment upon which we are about to vote, which is admitted by all to be correct; and I cannot believe, for one moment, that the passage of the bill will be endangered by its incorporation upon the amendments of the House, when there was a majority of seventy in that House for the bill as it passed there.

Again, sir, if the amendment which I propose should be agreed to by the Senate, and there should not be a majority of the House in favor of it, which I think almost impossible to conceive, yet what would be the result? They would nonconcur in our amendment. The bill, however, would not then fail, but it would come back to us, and it would then be for us to say whether we would prefer to give up the amendment, or to lose the whole bill, and in that event, I am free to admit that I would give up the amendment which I have the honor to propose. Sir, I am as warmly in favor of a measure to promote the efficiency of the Navy as the honorable Senator from Florida, or any other member of this body. I believe that this amendment will be calculated to promote the object. I do not believe that the bill would be endangered by it. I feel confident that it ought to be agreed to, or I should not assume the responsibility of running the risk of defeating a bill which I believe to be so beneficial.

Mr. MORTON addressed the Senate in opposition to the bill. His speech will be published in the Appendix.

Mr. CLAYTON. I do not wish to delay the vote on this bill, but I must assign, very briefly, the reason why I cannot support the amendment of the Senator from Maryland. While I am decidedly in favor of extending the principle of the bill to the class of officers mentioned in the amendment, I must say that I cannot hazard, by such an amendment, the passage of the bill itself.

The honorable Senator observes, in support of his amendment, that, as the measure was passed in the other House by a large majority, his amendment would undoubtedly be agreed to there; but, under the rules which they have in that House, if the bill should go back, it would be almost impossible to reach it during the brief remainder of this session. Inasmuch as the measure proposed by the bill itself is one of great good to the country, I am constrained to oppose the adoption of the amendment of the Senator from Maryland. Though I admit the bill is not perfect, yet it is an important step in the right direction.

I do not agree with the views of my colleague [Mr. BAYARD] on this subject. He thinks this bill will establish an inquisitorial tribunal which will prove tyrannical. Why, sir, the principles which my honorable friend presses upon the attention of the Senate would be very applicable to civil officers, but it is impossible without inquisitorial and summary tribunals, without extraordinary guards, such as those proposed by the amendment of the House, to maintain the order, the discipline, and the high character of the Army and Navy.

The difficulty which this bill is intended to obviate is this: It is alleged that many of the officers are entirely unfit for their places. It is said that these drag down the character of the Navy, and destroy the efficiency of the service. It is alleged that many of the drones in the service can be disposed of in no other way than according to the provisions of this bill. For the honor of the service I am willing to subject them to the investigation of their own brother officers, and if they cannot stand the test they ought not to remain.

With regard to inquisitorial tribunals, we have them even in civil life. Our own examinations in secret session into the character of public officers, are inquisitorial. The secret sessions of the President and his Cabinet to determine upon the nominations which he submits to the Senate are inquisitorial in their character. We cannot dispense with these inquisitorial tribunals even in civil life, but much greater is the necessity for them in military life.

I am anxious to sustain the honor of the Navy. During the last war with Great Britain it won the name of "the right arm of the nation's defense." I am in favor of any and every measure that will relieve it from the odium that has been cast upon it in regard to the efficiency of some of its officers, and would gladly aid, by every means in my power, any effort to enable it to retain its honored name, and to add hereafter to the brilliant reputation it possessed at the close of the last war with Great Britain.

Mr. SHIELDS. I do not wish to delay the taking of the vote on the amendment, but I wish to state why I shall vote against the amendment of the Senator from Maryland. I take the same ground that the honorable Senator from Delaware [Mr. CLAYTON] takes. So far as this measure goes it is perfect in itself. It is necessary however, that the surgeons, and the pursers, and the marines, should also have a similar measure applicable to them. I understood from the honorable Senator from Florida, [Mr. MALLORY,] that such a measure is also prepared and about to be introduced, and I do not want to peril or hazard this measure by voting for the amendment of the Senator from Maryland.

Several SENATORS. Question.

Mr. SHIELDS. I do not wish to continue the debate any longer. I shall vote against the amendment, because I fear it would defeat what I believe to be an excellent measure for the Navy.

The question being taken by yeas and nays on Mr. PRATT's amendment, resulted—yeas 7, nays 36; as follows:

YEAS—Messrs. Benjamin, Morton, Pearce, Pratt, Rusk, Stuart, and Sumner—7.

NAYS—Messrs. Adams, Badger, Bayard, Bell, Brainerd, Bright, Brodhead, Brown, Cass, Chase, Clayton, Cooper, Dawson, Dodge of Wisconsin, Evans, Fessenden, Fitzpatrick, Geyer, Gillette, Gwin, Hunter, James, Johnson, Mallory, Mason, Pettit, Sebastian, Seward, Shields, Slidell, Thompson of Kentucky, Thomson of New Jersey, Toombs, Weller, Wells, and Wright—36.

So the amendment was rejected.

The PRESIDENT. The question now recurs on agreeing to the amendment of the House.

Mr. MORTON. If it is now in order, I desire to submit the motion which I have indicated for the indefinite postponement of the bill, and upon that motion I ask for the yeas and nays.

The yeas and nays were ordered, and being taken, resulted—yeas 2, nays 41; as follows:

YEAS—Messrs. Morton, and Toombs—2.

NAYS—Messrs. Adams, Allen, Badger, Bayard, Bell, Benjamin, Brainerd, Bright, Brodhead, Brown, Cass, Chase, Clayton, Cooper, Dawson, Dodge of Wisconsin, Douglas, Evans, Fessenden, Fitzpatrick, Geyer, Gillette, Gwin, Hunter, James, Johnson, Mallory, Mason, Pettit, Pratt, Sebastian, Seward, Shields, Slidell, Stuart, Sumner, Thomson of New Jersey, Walker, Weller, Wells, and Wright—41.

So the motion was not agreed to.

Mr. BAYARD. I ask that the question be taken separately on concurring in the first amendment of the House, which relates to the power to be granted to the board. If it be the pleasure of the Senate to decide in favor of that amendment; I have no particular objection to the others. If it is not agreed to, there must necessarily be some slight verbal alterations in some of the other amendments. I ask for a division upon the amendment. I shall not ask for the yeas and nays.

The PRESIDENT. The question, then, is, in the first place, on concurring in the amendment of the House, to insert:

"And whenever said board shall believe that said incompetency has arisen from any cause implying sufficient blame on the part of the officer to justify it, they shall recommend that his name be stricken altogether from the rolls."

The amendment was concurred in; there being, on a division—ayes twenty-three, noes not counted.

The question being taken on the other amendments of the House of Representatives, they were concurred in.

PRESENTATION OF GEN. JACKSON'S SWORD.

Mr. SHIELDS. Mr. President, the hour has arrived which has been designated for a very interesting ceremony. It is one in which ladies take as deep an interest as gentlemen, but the crowded state of the galleries excludes many of them from the Chamber. A motion to suspend the rule which limits admissions to the floor, so that those who are now excluded may be permitted to be present, I think, will meet with general acceptance, and, therefore, I submit that motion.

The motion was agreed to; and many ladies were admitted to seats without the bar.

Mr. CASS. Mr. President, I must ask the indulgence of the Senate for requesting that its usual business may be suspended, in order to give me an opportunity to discharge a trust which has been committed to me; a trust I had not the heart to decline, but which I knew I had not the power to fulfill as such a mission should be fulfilled. I hold in my hand the sword of General Jackson, which he wore in all his expeditions while in the military service of the country, and which was his faithful companion in his last and crowning victory, when New Orleans was saved from the grasp of a rapacious and powerful enemy, and our nation from the disgrace and disaster which defeat would have brought in its train. When the hand of death was upon him, General Jackson presented this sword to his friend, the late General Armstrong, as a testimonial of his high appreciation of the services, worth, and courage of that most estimable citizen and distinguished soldier, whose desperate valor on one occasion stayed the tide of Indian success and saved the army from destruction. The family of the lamented depositary, now that death has released him from the guardianship of this treasure of patriotism, are desirous it should be surrendered to the custody of the National Legislature, believing that to be the proper disposition of a memorial which, in all time to come, will be a cherished one for the American people. To carry that purpose into effect, I now offer it in their name to Congress.

Mr. President, this is no doubtful relic, whose identity depends upon uncertain tradition, and

which owes its interest to an impulsive imagination. Its authenticity is established beyond controversy, by the papers which accompany it, and it derives its value as well from our knowledge of its history, as from its association with the great captain, whose days of toil and nights of trouble it shared and witnessed, and who never drew it from its scabbard but to defend the honor and the interests of his country.

This is neither the time nor the place to portray those great traits of character which gave to General Jackson the ascendency that no man ever denied who approached him, and that wonderful influence with his countrymen which marked almost his whole course, from his entrance upon a public career till the grave closed upon his life and his labors, and left him to that equality which the mighty and the lowly must find at last. Still from my personal and official relations with him, and, I trust I may add, from his friendship towards me, of which I had many proofs, I cannot withhold the acknowledgment of the impression which his high qualities made upon me, and which becomes more lasting and profound as time is doing its work of separation from the days of my intercourse with him.

I have been no careless observer of the men of my time, who, controlled by events, or controlling them, have stood prominent among them, and will occupy distinguished positions in the annals of the age; and circumstances have extended my opportunities of examination to the Old World, as well as to the New. But I say, and with a deep conviction of its truth, that I never have been brought into contact with a man who possessed more native sagacity, more profundity of intellect, higher powers of observation, or greater probity of purpose, more ardor of patriotism, nor more firmness of resolution, after he had surveyed his position, and occupied it, than the lamented subject of this feeble tribute—not to him—but to truth. And I will add that, during the process of determination upon important subjects, he was sometimes slow, and generally cautious and inquiring; and he has more than once told me, anxious and uneasy, not seldom passing the night without sleep; but he was calm in his mind, and inflexible in his will, when reflection had given place to decision. The prevailing opinion that he was rash and hasty in his conclusions, is founded upon an erroneous impression of his habits of thought and action; upon a want of discrimination between his conduct before and after his judgment had pronounced upon his course.

This is not the first offering of a similar nature which has been laid upon the altar of our country, with the sanction of the legislative department of the Government. Some years since another precious relic was deposited here, the sword of him who, in life, was first in the affections of his countrymen, and in death is now the first in their memory. I need not name his name. It is written in characters of living light on every heart, and springs instinctively to every tongue. His fame is committed to time, his example to mankind, and himself, we may humbly hope, to the reward of the righteous. When centuries shall have passed over us, bringing with them the mutations that belong to the lapse of ages, and our country shall yet be fulfilling, or shall have fulfilled, her magnificent destiny, for good, I devoutly hope, and not for evil, pilgrims from our ocean coasts, and our inland seas, and from the vast regions which now separate, but ere long, by our wonderful progress, must unite them, will come up to the high places of our land, consecrated by days and deeds of world-wide renown. And turning aside to the humble tomb, dearer than this proud Capitol, they will meditate upon the eventful history of their country, and will recall the example while they bless the name of Washington.

And on the same occasion was presented the cane of Franklin, which was deposited in our national archives with the sword of his friend and co-laborer in the great cause of human rights. Truly and beautifully has it been said, that "peace hath its victories as well as war." And never was nobler conquest won, than that achieved by the American apprentice, printer, author, statesman, embassador, philosopher, and better than all, model of common sense, over one of the most powerful elements in the economy of nature, subduing its might to his own, thus enabling man to answer the sublime interrogatory addressed to Job, "Canst thou send lightnings, that they may go and say unto thee, Here we are?" Yes, they now come at our command and say, "Here we are, ready to do your work." And it was our illustrious countryman who first opened the way for this subjugation of the fire of heaven to the human will. The staff that guided the steps of Franklin, and the sword that guarded the person of Washington, may well occupy the same repository, under the care of the nation they served, and loved, and honored.

And now, another legacy of departed greatness, another weapon from the armory of patriotism, comes to claim its place in the sanctuary assigned to its predecessor, and to share with it the veneration of the country in whose defense it was wielded.

The memorial of the first and greatest of our Chief Magistrates, and this memorial of his successor in the administration of the Government, and second only to him in the gratitude and affections of the American people, will lie side by side, united tokens of patriotic self-devotion, and of successful military prowess, though they who bore them and gave them value by their services, are now tenants of distant and lowly graves, separated by mountains, and rivers, and valleys. And in ages shut out from our vision by the far away future, when remote generations, heirs of our heritage of freedom, but succeeding to it without the labor and the privations of acquisition, shall gaze, as they will gaze, upon these testimonials of victories, time-worn but time-honored, they will be carried back by association to those heroes of early story, and will find their love of country strengthened, and their pride in her institutions, and their confidence in her fate and fortunes increased by this powerful faculty of the mind—a faculty which enables us to triumph over the distant and the future, as well as over the stern realities of the present; gathering around us the mighty dead, and the mighty deeds that excited the admiration of mankind, and will ever command their respect and gratitude. And thus will communion be held with the great leaders of our country in war and in peace, who wore these swords in her service, and hallowed them by their patriotism, their valor, and success.

I will now read to the Senate two letters connected with the circumstance of the presentation—one from Mr. Nicholson, and the other from Mr. Vaux, the son-in-law of the late General Armstrong.

NASHVILLE, *February* 7, 1855.

DEAR SIR: Doctor W. S. McNairy left here a few days ago for Washington, having in charge the sword that General Jackson before his death gave to General Armstrong. The Doctor was requested by William M. Armstrong, (in whose keeping it had been left by his father,) to hand it over to you, on his arrival in Washington. You, I believe, were present at the time when General Armstrong had the honor of having it presented to him by his distinguished friend. It is the sword worn by General Jackson in his various campaigns, and during the whole time he remained in the military service of his country. It is, therefore, justly regarded as a relic of great value. It was General Armstrong's wish that it should be placed at the disposal of Congress, or the Government, with a view to its being deposited in a suitable place, where, doubtless, millions of General Jackson's admiring countrymen will, in time to come, gladly look on it as the war sword of one, whose brilliant services in the cause of his country, places his name in bold relief on the historic page of our beloved country. No person, I believe, would have been preferred to yourself by General Armstrong, as the medium for presenting the sword to Congress, or the Government, which, at the request of his son, you will please do, in such terms as you may deem proper.

I am, very respectfully, your obedient servant,

JOSEPH VAUX.

Hon. A. O. P. NICHOLSON.

WASHINGTON, *February* 13, 1855.

DEAR SIR: A short time before the death of General Jackson, I received a note from him, inviting me to visit him for a special purpose. I did so, and found, amongst other things, he desired to put into my hands the sword which he had used at the battle of New Orleans, for the purpose of delivering it to the late General Robert Armstrong, as a testimonial of warm personal friendship, and as an evidence of his high appreciation of his military service, and his patriotic devotion to the honor of his country. I delivered the sword, as requested, and it was kept by General Armstrong during his life. Since his death his family have concluded that the most proper disposition they could make of it would be to present it to Congress, to be kept as a perpetual memento of the brilliant achievement with which it is connected. For this purpose the sword has been forwarded to me, with the request that I would present it to Congress in the name of General Armstrong's family. It has occurred to me that I could not more appropriately discharge this trust than to place the sword in your hands, and to ask that you will present it, in such way as you shall deem most proper. The known relations in public and private between General Jackson and yourself, as well as your constant friendship for General Armstrong, seem to me to render it eminently fit that the presentation should be made by you. I, therefore, place the sword at your disposal, and respectfully request that you would undertake to carry out the wishes of the donors.

I am, very respectfully, your friend,

A. O. P. NICHOLSON.

General LEWIS CASS.

Mr. CASS then delivered the sword to the Sergeant-at-Arms, who bore it to the desk of the President of the Senate.

Mr. BELL. Mr. President, I am fully aware that, in undertaking to accompany the offer of the resolution which I propose to send to the Chair with any remarks upon the public services and character of the illustrious man, whose name and whose memory have been so eloquently and appropriately brought to our notice by the distinguished Senator from Michigan, I assume an office of great delicacy, and one which I, especially, may well have some distrust of my ability to perform in a proper and satisfactory manner; yet, as the senior representative of the State of Tennessee in the Senate, I do not feel at liberty to decline it.

In what I propose to say, I must tread with caution and reserve, or not at all, upon grounds on which the fires of political controversy raged with such fierceness, at a period so recent, that the embers yet smoulder, and may not prudently be disturbed.

In the great drama of affairs now being enacted on this continent, the opening act of which was the Revolution—the closing scenes, I trust, will be in the far, far, future—Andrew Jackson was, in his day, a great and successful actor. Whatever difference of opinion may have existed among his cotemporaries of the merits of some parts of his performance, yet, as a whole, it received the plaudits of his countrymen, and a large proportion of them pronounced it masterly throughout.

General Jackson possessed rare endowments, and was, indeed, one of the most, if not *the* most remarkable man of the age in which he lived. With but slight and indifferent mental or professional training and discipline in early life, so generally regarded as important, if not essential to eminent success in either of the two great departments of human effort, the civil and the military, yet, at the very outset of his military career, he exhibited talents for command of a high order, and in less than three years, by his brilliant achievements, established his reputation as the first military chief of the country. But this is not all; retiring from the army when there appeared to be no further demand for active service, he was in a few years thereafter elevated to the highest civil station under the National Government, and for eight successive years he wielded the power and influence of his position, as Executive Chief, with such vigor and address that he was sustained in, and succeeded in carrying out, all the great measures of his administration, some of them presenting questions of the gravest nature, and giving rise to the most intense excitement; and this, too, in the face of an opposition combining an amount of ability, eloquence, skill, and experience in affairs, in both Houses of Congress, but more especially in the Senate, greater than was ever witnessed before or since. The jars and contentions between those great moral elements were sometimes such as shook the whole country.

A man who, having addicted his early manhood mainly to the pursuits of private life, without any appreciable culture or experience in public affairs, could thus, when there arose a public exigency of sufficient urgency to induce him to enter the public service, *per saltum*, as it were, raise himself to the first rank as a military leader, and then, for so long a period, as Chief Magistrate of a great and free country, thus direct and control its civil administration, must be allowed to have possessed great capacity.

His was no negative or unmarked career, no meteor-like appearance upon the great theater of affairs to blaze and dazzle for a moment, and then pass away forever, but both as a military commander and a civil chief, he left his impress upon his country and its institutions deep, striking, and indelible.

It would be idle to assume, as some have done, that General Jackson was indebted alone, or chiefly, to fortune and adventitious circumstances for his extraordinary success. He was such a man as, when he had once attained position, had

the faculty of creating the circumstances, if he needed them, necessary to further and continued successes. Posterity will inquire, with eager curiosity, the secret of his amazing success—the distinctive traits of mind and of personal character by which he achieved it; some of which they will probably seek in vain in the pages of cotemporary history.

General Jackson had what may be called an intuitive perception of the passions and interests by which the mass of mankind are controlled. He was a shrewd observer of individual character, and he was seldom mistaken in his estimate of the men with whom he associated as friends, or came in contact with as opponents. He was devoted to his friends; and the more others opposed or denounced them, the more determined he became to sustain them, and never cast them off, until they arrayed themselves in open opposition to his plans and wishes. Nor was he deficient in courtesy to opponents—not personal enemies—and could even court them, when he desired or needed their support, but never by fawning or unmanly appeals.

His self-reliance was wonderful. He never despaired of his fortune. As the obstacles to the success of any favorite scheme of policy multiplied, and the storm of opposition was wildest, it was then that one of his most striking traits was exhibited. He became the soul—the animating principle of his followers, revived their fainting courage, reinspired their confidence in his infallibility, and cheered them on to renewed and more vigorous efforts.

When the emergency required it, no man was more prompt in coming to a decision. When the question presented difficulties, and admitted of deliberation, he counseled with his friends. When his own conviction was clear, he seldom deferred to the views of others; and when he once decided upon his course, he was inflexible and immovable. He was, emphatically and truly, a man of stern resolve and iron will; and when opposition to the accomplishment of his purposes appeared formidable and discouraging, he was apt to become impatient of the restraints and trammels of official and customary routine. He had the courage, both moral and physical, to dare and to do whatever he thought proper and necessary to the successful issue of whatever he had resolved upon. He was, withal, a patriot, devoted to the honor, dignity, and glory of his country; and he had the faculty of persuading himself that whatever measure or course of policy, either in peace or in war, he resolved upon, and strongly desired to accomplish, was proper, and necessary to the public welfare.

No man, since the days of Washington, was more devoted to the union of these States, or would have more cheerfully laid down his life to defend and uphold it, than Andrew Jackson.

Many have supposed that General Jackson was often controlled by passion and resentment, and that he sometimes embraced measures and engaged in enterprises without any calculation of the chances of success or defeat, and reckless of both. There never was a greater mistake; and this was the error into which the great opponents of his measures and policy in the Senate fell; and the event showed that he had estimated the elements of his power and the true sources of his strength with greater sagacity than themselves.

When General Jackson made his first essay in the art of war, and led the Tennessee volunteers against a wily foe, formidable from their numbers and mode of warfare, many careless observers of his early career had their misgivings, that a rash valor and his eager desire to distinguish himself in arms, might result in disaster and the unnecessary sacrifice of his men; but they were soon undeceived. Those who knew him best and knew him well, never had any distrust of his discretion as a military commander.

But his qualities as a General, and his powers of combination in conducting the operations of an army, were best illustrated and put to the severest test in the campaign of 1814, '15, in the South. It was then that ample scope was given him for the exercise of his genius and capacity for military command.

In 1814, Great Britain, by the overthrow of the French Emperor, found herself in a condition to employ the whole of her great naval and military resources in an effort to humble or to crush the United States. The first blow fell upon the shores of the Chesapeake. The seat of the National Government fell into the hands of the enemy, and the blackened walls of this Capitol gave warning of the ruthless spirit with which the war was thenceforth to be conducted. This wound to the national pride was inflicted at a time when the public finances and the public credit were at the lowest ebb. The recruiting service went on sluggishly, and gave no promise of an adequate increase of the regular Army; and the whole of our extended and almost defenseless sea-coast was exposed to the attacks of the enemy. Rumors soon afterwards reached the country that a still more formidable armament was to make a descent upon our shores; but where the storm would burst, there was no clue to determine. A general gloom, not without some admixture of despondency, then hung over the country.

At a later date it became manifest that the Gulf coast was to be the scene of operations. Every day the gathering clouds of war in that quarter became darker and more portentous. Still it was uncertain upon what particular point the bolt would fall; but wherever it might fall on that coast it was certain that it would be in the military department, the protection and defense of which was assigned to General Jackson. All eyes and hopes were now turned upon him. He had already exhibited such uncommon energy, skill, and intrepidity in his conduct of the war against the Creek Indians, as to inspire some confidence, when there seemed to be scarcely ground for hope. It was known that he had no army in the field, save two or three regiments of regulars, and a single regiment of mounted Tennessee volunteers, and that there were no adequate supplies, either of provisions or munitions of war, at any point in his command for conducting military operations upon a large scale; but never was confidence so well repaid. His energy and discretion, and the confidence he inspired, supplied every deficiency.

When it became evident that New Orleans was to be the point of attack, and that the hostile armament had made its appearance off the Gulf coast, he called upon the authorities of Kentucky and Tennessee to send forward their contingents of militia and volunteers with all dispatch, as the enemy was approaching. Upon the States threatened with invasion he urged the employment of all their energies and resources to be in readiness to meet the foe. He called, in strains of inspiring eloquence, upon the free colored inhabitants of Louisiana to protect their native soil from invasion and pollution by a foreign enemy. He offered pardon, and invoked the very pirates who infested the neighboring coast to the rescue.

By these energetic steps General Jackson found assembled around him a force of five thousand men, of all arms—all, save two regiments of the regular Army, being volunteers and militia men, and with this hastily assembled army, on the 8th of January, he met, and, in a sanguinary battle, overcame more than double their number of veteran troops, led by experienced generals, flushed with recent victory on the battle-fields of Europe, and closed the war in a blaze of glory.

Mr. President, the sword worn by the victor on that day—the man of stern resolve and iron will, when gazed upon in unborn ages, will send a thrill through the heart of every true American.

I ask the unanimous consent of the Senate to introduce "a joint resolution accepting the sword of General Andrew Jackson, and returning the thanks of Congress to the family of the late General Robert Armstrong."

Unanimous consent was given, and the joint resolution was read twice, and considered as in Committee of the Whole. It is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of this Congress be presented to the family of the late General Robert Armstrong, for the present of the sword worn by General Andrew Jackson, while in the military service of his country; and that this precious relic be hereby accepted in the name of the nation, and be deposited, for safe keeping, in the Department of State; and that a copy of this resolution be transmitted to the family of the late General Robert Armstrong.

The joint resolution was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time, and passed.

Mr. GWIN submitted the following; which was considered by unanimous consent, and agreed to:

Ordered, That the addresses of Mr. CASS and Mr. BELL be entered on the journal: that the resolution and the sword be taken to the House of Representatives by the Secretary, with a request that the House will concur in the said resolution.

PETITIONS.

Mr. WELLER presented a petition of citizens of California, praying an appropriation for the construction of a breakwater at Santa Barbara, on the Pacific coast; which was referred to the Committee on Commerce.

Mr. DOUGLAS presented resolutions of the Council of the Legislative Assembly of the Territory of Minnesota, in favor of the repeal of so much of the organic law of that Territory as makes the acts of the Assembly, when not approved by Congress, null and void; which was referred to the Committee on Territories.

REPORTS FROM STANDING COMMITTEES.

Mr. PETTIT, from the Committee on Private Land Claims, to whom was referred the bill from the House of Representatives for the relief of James P. Roan, reported it back without amendment, together with a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of J. Williams, on behalf of his minor children; and also the petition of David O. Shattuck, praying for the passage of an act extending the time for filing claims to lands in California, submitted a report, accompanied by a bill supplemental to an act entitled "An act to ascertain and settle the private land claims in California," approved March 3, 1851; which was read and passed to a second reading. The report was ordered to be printed.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the petition of Joseph Wandestrand, praying a confirmation of his title to a certain tract of land, submitted a report, accompanied by a bill to confirm Joseph Wandestrand in his title to certain lands; which was read, and passed to a second reading. The report was ordered to be printed.

He also, from the Committee on Commerce, who were directed by a resolution of the Senate to inquire into the subject, reported a bill in relation to pilotage; which was read, and passed to a second reading.

Mr. GEYER, from the Committee on the Judiciary, to whom was referred the bill from the House of Representatives for the relief of Frederick Griffing, submitted an adverse report thereon; which was ordered to be printed.

Mr. JONES, of Iowa, from the Committee on Pensions, to whom was referred the petition of Lemuel Worster, praying a pension on account of a disability incurred while employed as a waiter to a militia officer in the United States service, during the last war with Great Britain, submitted a report, accompanied by a bill for his relief; which was read, and passed to a second reading. The report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Irene G. Scarritt, widow of Jeremiah M. Scarritt, an officer in the Army of the United States, praying a pension, submitted a report, accompanied by a bill for her relief; which was read, and passed to a second reading. The report was ordered to be printed.

Mr. JOHNSON, from the Committee on Printing, to whom was referred a resolution to print two thousand additional copies of the letter of the Secretary of the Treasury, on the subject of wrought iron beams and girders to be used in the erection of buildings for the use of the United States courts, custom-houses, and post offices, reported in favor of printing the same; and the report was concurred in.

He also, from the same committee, to whom was referred a resolution, directing the purchase, for the use of the Senate, of twenty thousand copies of "The State of the Union, a Documentary History of the United States, Foreign and Domestic, for the year 1854," reported adversely thereon; and the report was concurred in.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the bill of the House to authorize the printing of the Opinions of the Attorney General, reported adversely thereon.

Mr. MASON, from the Committee on Foreign Relations, to whom was referred the joint resolution of the House, authorizing the President to give the requisite notice to terminate our recipro-

city treaties of commerce and navigation in certain cases, reported it back, with amendments.

NEW CUSTOM-HOUSE.

Mr. THOMSON, of New Jersey, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of erecting a suitable building for a custom-house, at the port of Perth Amboy, in the State of New Jersey.

PAGES OF THE SENATE.

Mr. MORTON submitted the following resolution for consideration:

Resolved, That there be paid to each of the pages in the service of the Senate, out of the contingent fund, the usual extra compensation heretofore allowed them by resolution of the Senate at the end of the session.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that they had passed the following Senate bills;

A bill to grant to the State of Ohio the unsold and unappropriated public lands remaining in that State;

A bill extending in certain cases the provisions of the act entitled "An act to extend preëmption rights to certain lands therein mentioned," approved March 3, 1853; and

A bill granting bounty land to Susan Palmer.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker had signed the following bills, which were thereupon signed by the President *pro tempore:*

A bill making appropriations for the payment of invalid and other pensions of the United States, for the year ending June 30, 1856; and

A bill for the relief of Lot Davis.

PUBLIC BUILDINGS AT BARNSTABLE.

Mr. SUMNER offered the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to consider the expediency of erecting a building for a custom-house and post office at Barnstable, in Massachusetts.

PAY OF SENATORS.

Mr. SEWARD submitted the following resolution for consideration:

Resolved, That the Secretary of the Senate pay, under the direction of the President of the Senate, the usual per diem to such Senators as did not take their seats at the opening of the session by reason of the sickness of themselves or their families, providential causes, or necessary business.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. FORNEY, their Clerk, announced that they had passed the following bill and resolution of the Senate:

A bill for the relief of Mrs. Helen Mackay, administratrix of Lieutenant Colonel Æneas Mackay, late a deputy quartermaster in the United States Army; and

A joint resolution accepting the sword of General Andrew Jackson, and returning the thanks of Congress to the family of the late General Robert Armstrong.

UNITED STATES COURTS IN TENNESSEE.

Mr. PETTIT. The Committee on the Judiciary, to whom was referred House bill changing the times of holding the United States courts in Tennessee, have instructed me to report it back without amendment, and ask for its immediate consideration.

The Senate, as in Committee of the Whole, considered the bill.

No amendment being proposed, it was reported to the Senate, ordered to a third reading, read the third time, and passed.

LOUISVILLE AND PORTLAND CANAL.

Mr. SLIDELL. I am directed by the Committee on Roads and Canals, to whom the subject was referred, to submit a report, accompanied by a bill, for the relinquishment to the State of Kentucky of the stock held by the United States in the Louisville and Portland Canal Company, with a view of making that canal free; and for the construction of a public canal for the use of the Army and Navy, trade, travel, and commerce, and passage of the mails on the Indiana side of the falls of the Ohio, and for other purposes. The report and bill have been very carefully prepared by the Senator who now presides over the Senate, [Mr. BRIGHT,] who at that time was chairman of the Committee on Roads and Canals. A majority of the committee do not approve of it; and it is only on account of the peculiar situation of the gentleman who, after long consideration, prepared it, that I now present it to the Senate.

The bill was read, and passed to a second reading, and the report was ordered to be printed.

PUBLIC DOCUMENTS.

Mr. PEARCE. I am instructed by the Committee on the Library to report a joint resolution respecting the distribution of certain public documents. I ask that it may be read twice, and I shall then explain it in a very few words, and ask for its passage.

The joint resolution was read twice, and considered as in Committee of the Whole. It will direct that the ten copies of the Journals, and other documents of Congress, authorized by law to be deposited in the library of Congress, by section three of the joint resolution of May 4, 1828, shall hereafter be deposited with the Secretary of State for foreign exchanges; that the fifty copies of the Journals and documents of the Senate and House of Representatives, ordered to be placed in the library of Congress for foreign exchanges, by the resolution of July 20, 1840; and the fifty copies of the Journals and documents of the Senate and House of Representatives, authorized to be deposited with the Secretary of the Senate by the joint resolution of April 20, 1844, shall hereafter be deposited with the Secretary of the Interior; that instead of the one hundred copies of the Journals and documents authorized to be printed by the joint resolution of April 30, 1844, there shall hereafter be printed fifty copies only; that the Journals and congressional documents heretofore deposited in the library of Congress by the authority of that resolution, and so many of the four hundred copies of the public documents in the Department of State as are now distributed by that Department to the colleges and other literary institutions, shall be deposited with the Secretary of the Interior for distribution to such colleges, public libraries, atheneums, literary and scientific institutions, as may be designated by him; that all the copies of the Journals mentioned, so far as they have been saved from the late fire, shall be reserved for the library of Congress; and that in future six copies only of the Journal and documents, and of any book printed by either House of Congress, well bound in calf, shall be deposited in the library, and not taken therefrom.

Mr. PEARCE. I can explain very briefly the motives for reporting that resolution.

Several SENATORS. There is no necessity for an explanation.

Mr. PEARCE. Very well; if the Senate will pass it on faith, I shall say nothing.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

POST OFFICE APPROPRIATION BILL.

Mr. HUNTER. I move to postpone all the prior orders, for the purpose of taking up the Post Office appropriation bill.

Mr. PETTIT. I hope that motion will not prevail. When the Senate adjourned on Saturday last, the judiciary bill for the District of Columbia was before us, and I hope we shall proceed with the consideration of that, and dispose of it.

Mr. HUNTER. It is well known that I gave way on Saturday with the understanding that we would take up the appropriation bills to-day. We have but this week to act upon all the important appropriation bills of the session; it seems to me, therefore, that we cannot safely postpone them any further.

Mr. WALKER. I shall vote against the motion of the Senator from Virginia with the express belief that if we do not take up the bill proposed by him, we shall go on with the consideration of the judiciary bill for this District. That is the unfinished business of the last legislative day. I am in favor of taking up the unfinished business, and going through with it, so that I may have it to say, that in the last session of Congress in which I am to have the honor of having a seat here, we did finish one subject before we took up another.

Mr. HUNTER. The effect of that will be, that we shall spend to-day and to-morrow debating the judiciary bill, and we shall have no time left for the appropriation bills. I ask for the yeas and nays on my motion. I wish to do my duty as regards this bill.

The PRESIDENT. The Senator from Virginia moves to postpone the unfinished business of Saturday, that being the bill to reorganize the courts of the District of Columbia, and reform and improve the laws thereof, in order to take up the Post Office appropriation bill.

The yeas and nays were ordered.

Mr. SLIDELL. I desire to ask the Chair for information, what is the first order?

The PRESIDENT. The unfinished business of Saturday.

Mr. SLIDELL. And that is the judiciary bill for this District. I regard its postponement as tantamount to its loss. I shall, therefore, not vote in favor of the motion of the chairman of the Committee on Finance.

The PRESIDENT. The first question is on the postponement. Then will come up the question of taking up any other bill.

Mr. HUNTER. I wish simply to suggest to to the Senate what we have before us in reference to the appropriation bills. It is known that the civil and diplomatic appropriation bill has not yet been acted upon, and the subjects which it embraces are known to the Senate.

The question being taken by yeas and nays on Mr. HUNTER's motion, resulted—yeas 30, nays 12, as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Brainerd, Brodhead, Butler, Cass, Chase, Clayton, Cooper, Dawson, Evans, Fessenden, Fitzpatrick, Foot, Geyer, Gillette, Gwin, Hunter, Mason, Morton, Pearce, Seward, Shields, Stuart, Thomson of New Jersey, Wade, Wells, and Wright—30.

NAYS—Messrs. Bright, Brown, Dodge of Wisconsin, Douglas, Johnson, Pettit, Rusk, Sebastian, Slidell, Toombs, Walker, and Weller—12.

So the motion to postpone was agreed to.

Mr. HUNTER. The Post Office appropriation bill is now before the Senate.

The PRESIDNT. No, sir. It requires a vote to take it up.

Mr. HUNTER. I submit the motion to take it up.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1856.

The bill was debated, and passed with amendments.

[The debate on this bill will be found in the Appendix.]

RESERVE AT ST. PETER'S RIVER.

Mr. STUART. I ask the Senate now to take up a bill, which has been lying on the table for several days, of very great importance to the Territory of Minnesota. It will require but a very few minutes to act upon it. The bill to which I allude is House bill to amend the act approved the 26th of August, 1852, entitled "An act to reduce and define the boundaries of the military reserve at St. Peter's river, in the Territory of Minnesota," and for other purposes.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. CHASE. I offer the following amendment, to come in at the end of the first section:

And provided also, That the heirs of Stephen Johnston be, and they are hereby, confirmed in the location of the lands applied for under the certificate or warrant issued to said heirs in virtue of the provisions of the acts of 20th July, 1840, and 3d of March, 1847, for the relief of said heirs, so far as the same do not interfere with the settlement and improvement of an actual settler or settlers at the time said location was applied for.

Mr. STUART. I object to that amendment, and I hope the Senate will not agree to it.

Mr. CHASE. I ask that the letter which I hold in my hand, which I have received from the Commissioner of the General Land Office, may be read.

The Secretary read it, as follows:

GENERAL LAND OFFICE, *February* 17, 1855.

SIR: In answer to your oral inquiry of this morning, I have the honor to state, that the location for the heirs of Stephen Johnston within the former limits of the military reserve at Fort Snelling can be secured to them by the

accompanying proviso, to come in at the end of the first section of House bill No. 688, without prejudice to valid preëmption claims, or *bona fide* actual settlers, and would, therefore, seem just and fair to all parties.

Yours, respectfully, JOHN WILSON,
Commissioner.

Hon. S. P. CHASE, *United States Senate.*

Mr. CHASE. It will be seen that the amendment which I propose, was drawn at the General Land Office for the purpose of doing justice to the heirs of Stephen Johnston; and the letter of the Commissioner says, it is proper in order to do justice to all parties. Now, sir, let me state the case to the Senate.

The Senate, sometime since, passed a bill proposing the sale of the military reserves of the United States, under the direction of the President; and the theory upon which that bill was based, as I understand it, was this: these military reserves have derived values from the establishment of the posts of the United States in their immediate vicinity. They have also derived value, undoubtedly, from cultivation by persons who have gone upon them, sometimes by the permission of the officers, and sometimes without warrant of law or any permission, and cultivated the soil. It is the opinion of the Department that these reserves ought not to be subjected, as they never have been hitherto subjected, to ordinary preëmption claims, but should be sold under some regulations which will do justice to the actual settlers, and also to the Government of the United States. This is the purpose which the War Department seeks to accomplish in respect to these reserves. Embodying that policy, as I understand, a bill has passed this House, and is now in the other House, agreed on in the Committee on Public Lands, as I am informed by the chairman, carrying out that policy. It authorizes sales under the general direction of the President.

That is the general policy in regard to the military reserves. In reference to this particular reserve, a different policy is proposed by the bill now before the Senate. It is proposed to allow the settlers upon the lands—no matter whether of remote or recent date—to enter the lands under the ordinary preëmption law at $1 25 an acre. Some of those lands are of very considerable value. I do not pretend to say that it is not proper, in this particular instance, that there should be a departure from the general system contemplated by the general bill; but if there is to be such a departure, I say that the heirs of Stephen Johnston, whose claim I am bound to represent here, ought to have the privilege which is contemplated by this amendment, and I desire to ask the attention of the Senate to a brief statement showing what that claim is.

Stephen Johnston was an employee of the Government during the war of 1812. He was employed, as I understand, upon a dangerous mission, and, in the execution of his duties, he was killed by the Indians. At a subsequent day, the United States made a treaty with the Indian tribe by whom he was killed, and they, considering the loss which the family had sustained in consequence of the killing of their father by the tribe, made an appropriation of certain lands for his benefit. Those lands were situated somewhere near Fort Wayne, in the State of Indiana.

At a subsequent period the children of this individual, who was thus slain in the discharge of his duty, surrendered those lands to the General Government, desiring to obtain some which were nearer their own place of residence in Ohio. Difficulties arose, however, and they were not permitted to locate other lands. The surrender was accepted, and a certificate issued authorizing them to locate it on any other lands of the United States not subject to preëmption; but some peculiar difficulties arose, in consequence of which they were not able to locate it on the land they desired.

The representative of these children, in August last offered to purchase a half-section of these lands. He applied to the Commissioner of the General Land office to direct the register at Minneapolis, within whose district the lands lie, to permit him to make the entry. The Commissioner declined, upon the ground that the lands were to be offered at public sale; that they were valuable lands which were to be disposed of to the highest bidder at public sale; and that, therefore, the interests of the Government would not permit this half-section to be located by a warrant of the kind which this family held. An appeal was taken to the Secretary of the Interior. I called upon the Secretary of the Interior, and I then stated to him that I thought the controversy was between the person representing these children and holding this certificate, and other persons who would be permitted to take the lands at one dollar and twenty-five cents an acre. The Secretary of the Interior said that would not be the case; that the Government had determined, inasmuch as those lands had very great value, to insist upon a public sale of them. Now, this bill proposes to give to the settlers upon those lands the lands themselves, at one dollar and twenty-five cents per acre. What I ask is, that, since they are not to be sold at public sale, since the only objection which was made upon the part of the Government to permitting this family to locate their warrant or certificate is removed, the Government shall fulfill its contract with these persons. That is all. The certificate is a pledge to them that they shall have the privilege of entering it upon any land not subject to preëmption. This land was not subject to preëmption. The entry has been made; the certificate has been tendered at the Land Office; the rights of their representative are fixed, and this bill does not take them away, if the land is reserved from public sale. I say the right of the party was fixed by the tender of the certificate at the Land Office, unless those lands were to be offered at public sale. That was conceded by the officer of the Government. Now, all I ask is, that the amendment may be adopted, which will give to this party the land to which he was entitled.

If the bill be passed, most undoubtedly, it seems to me, this individual is entitled to the rights which he claims. What objection can be made to it? It may be said that it will interfere with some actual settlers; but the amendment itself provides that it shall interfere with the rights of no actual settlement made at the time of the tender of the certificate at the land office. At that time, when the rights of the party were fixed, in August last, only six months ago, there was no actual settler on this land; and if there was, his rights are protected by the amendment. But there was none, or otherwise the certificate would not have been tendered. Hence the amendment can do no harm to anybody, unless it be somebody who has gone in since August last, for the purpose of obtaining possession of those lands at $1 25 per acre, knowing them to be worth a considerable sum more than that. If that was the object, that person is not entitled to protection. If, with this entry made at the land office, in pursuance of a solemn contract with the Government, a person went in and took possession of the particular section of land to which this entry applies, he has no right to hold it against the entry. I hope, therefore, the amendment will be agreed to, notwithstanding the opposition of my friend from Michigan.

Mr. PEARCE. This amendment is, I understand, likely to be contested. It is late; the Senate is inattentive and weary; and I think, sir, we had better husband our strength for some of the inevitable exhaustions and fatigues of the latter days of the session. I therefore move that the Senate do now adjourn.

Mr. DOUGLAS and Mr. STUART called for the yeas and nays, and they were ordered.

Mr. STUART. I think we can dispose of the bill even before the yeas and nays can be taken. I can explain the matter in five minutes. I have for two weeks——

Mr. DAWSON. Is debate in order?

The PRESIDING OFFICER. The motion is not debatable. The Secretary will call the roll.

The yeas were 19, and the nays 17; as follows:

YEAS—Messrs. Badger, Benjamin, Chase, Clayton, Dawson, Fessenden, Fitzpatrick, Foot, Gillette, Morton, Pearce, Rusk, Sumner, Thompson of Kentucky, Toombs, Wade, Weller, Wells, and Wilson—19.

NAYS—Messrs. Bell, Bright, Brodhead, Cooper, Douglas, Geyer, Gwin, Hunter, James, Jones of Iowa, Mallory, Mason, Sebastian, Seward, Slidell, Stuart, and Wright—17.

So the motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *February* 26, 1855.

The House met at eleven o'clock, a. m. Prayer by Rev. HENRY SLICER.

The Journal of Saturday was read and approved.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, their Secretary, informing the House that the Senate had passed bills of the following titles:

An act to continue the removal of the rocks at Hell Gate and Diamond Reef, New York harbor;

An act for the improvement of the Arkansas river;

An act making an appropriation to continue the improvement of the Tennessee river;

An act to continue the improvement of the Hudson river, in the State of New York;

An act making an appropriation for refunding to the citizens of Wilmington certain moneys advanced by them and expended by the agent of the United States in the improvement of the Cape Fear river, North Carolina;

An act for continuing the improvement of the harbor of Newcastle;

An act for continuing certain public works in the State of Massachusetts;

An act for the construction of a harbor on the east side of Reedy Island;

An act for continuing the improvement of Mobile bay;

An act to continue the improvement of the harbor of Charleston, South Carolina;

An act for continuing the improvement of the harbor of Dubuque, on the Mississippi river, in the State of Iowa;

An act making appropriations for the improvement of certain harbors on the northern lakes;

An act to establish the collection district of Perpetua and Port Orford in the Territory of Oregon, and to fix the salaries of the officers of the customs therein; and

An act to prevent mistrials in the circuit courts of the United States, in certain cases;

In which he asked the concurrence of the House.

Also, that the Senate had passed, without amendment, bills of the House of the following titles:

An act to remodel the diplomatic and consular systems of the United States; and

An act making an appropriation for the military defenses at Proctor's Landing, in Louisiana.

Also, that the Senate had passed, with amendment, bills of the House of the following titles; in which he asked the concurrence of the House:

An act authorizing the corporate authorities of Georgetown to impose additional taxes, and for other purposes; and

An act granting certain additional powers to the city of Washington.

RIGHT OF WAY IN KANSAS.

The SPEAKER. The regular order of business is the consideration of the bill of the House (No. 665) granting the right of way to the Wyandot and Pawnee railroad through public lands in the Territory of Kansas, introduced on Saturday last by the gentleman from Ohio, [Mr. DISNEY.]

Mr. DICKINSON. I appeal to the gentleman from Ohio to yield me the floor for a moment, to enable me to introduce a resolution from the Committee on the Library, providing for the reprinting of certain copies of Wilkes's Expedition.

Mr. PHELPS. I object, and demand the regular order of business. I ask the gentleman from Ohio to yield me the floor for a moment, to enable me to withdraw the motion made by me in reference to the bill introduced by him.

Mr. DISNEY. I will yield for that purpose.

Mr. PHELPS. On Saturday last I moved to recommit the bill under consideration to the Committee on Public Lands, for the purpose of keeping it before the House. I now desire to withdraw that motion, and to move an amendment to the bill, which I believe to be preferable to the bill as it stands. I shall move to strike out all after the enacting clause, and to insert a substitute for the bill. And to enable me to offer the amendment, I ask the gentleman from Kansas, [Mr. WHITFIELD,] and the gentleman from California, [Mr. LATHAM,] to withdraw the amendment submitted by them on Saturday.

Mr. WHITFIELD and Mr. LATHAM agreed to withdraw their amendments.

Mr. PHELPS. I now propose to offer my amendment.

Mr. PECKHAM. I rise to a question of order. The point of order I submit is, that the gentleman from Ohio cannot yield the floor to allow other

members to submit motions, and still retain it himself.

The SPEAKER. The practice has been for members to yield the floor for that purpose.

Mr. PECKHAM. To make an independent motion?

The SPEAKER. To make an independent motion. It is a very convenient practice, if not a regular one. It has been the practice for members holding the floor to yield for explanation, or to submit amendments. The gentleman from Ohio would have the right to offer the amendment himself, and he has the right to yield the floor to the gentleman from Missouri to offer it.

Mr. PECKHAM. I objected because the gentleman refused to yield the floor to the gentleman from Massachusetts [Mr. DICKINSON] to transact equally important business.

Mr. PHELPS. I now move to strike out all after the enacting clause of the bill, and to insert as follows:

That the provisions of the act entitled "An act granting the right of way to rail and plank roads, and Macadamized turnpikes passing through public lands belonging to the United States," approved August 4, 1852, be, and the same is hereby, extended to the public lands in the Territories of the United States.

On the 4th of August, this right of way was granted through the public lands situated in the States, but not through those in the Territories of the United States. My amendment proposes to extend the provisions of that act to the public lands in the Territories, thereby avoiding the necessity for this special legislation. I demand the previous question on the passage of the bill.

The previous question was seconded, and the main question was ordered to be put.

The SPEAKER. There is an amendment pending to the original bill to strike out "one mile," and insert "one hundred yards."

Mr. SMITH, of Alabama. I offered that amendment, and I now withdraw it.

The question was then taken on Mr. PHELPS's substitute; and it was agreed to.

The bill was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time, and passed.

The title was amended so as to conform to the action of the House.

Several MEMBERS here addressed the Chair.

The SPEAKER. The gentleman from Ohio [Mr. DISNEY] is upon the floor for the purpose of making reports from the Committee on Public Lands, which is the business in order.

Mr. DICKINSON. Will the gentleman from Ohio give way to me for a single moment, to enable me to report a resolution from the Committee on the Library?

Mr. DISNEY. I have no discretion upon the subject. I am acting under positive instructions with respect to the course which I shall pursue. More than two applications have been made to me by gentlemen who have matters to bring before the House, which will "only take one minute." I repeat that I have no discretion in the matter, and cannot yield.

The SPEAKER. The gentleman from Ohio will proceed.

VIRGINIA MILITARY DISTRICT IN OHIO.

Mr. DISNEY, from the Committee on Public Lands, reported back, with a recommendation that it do pass, a bill allowing the further time of two years to those holding lands by entries in the Virginia military district in Ohio, which were made prior to the 1st of July, 1852, to have the same surveyed and patented.

The bill was read *in extenso*.

Mr. DISNEY. I will only say to the House that the object of that bill is merely to correct an error of the enrolling clerk at the last session, by which the word "on" was enrolled "or," making nonsense of the bill. It simply proposes a re-enactment of a bill passed last session.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. PECKHAM. I move that the bill do lie upon the table.

Mr. TAYLOR, of Ohio. I hope the gentleman from New York will withdraw that motion, and hear me for a single minute.

Mr. PECKHAM. I decline to withdraw it.

Mr. TAYLOR. The bill only corrects a single error in the enrollment of a bill passed last session.

[Cries of "Order!" "Order!"]

The question was then taken on Mr. PECKHAM's motion, and the House refused to lay the bill upon the table.

The bill was then passed.

Mr. SEWARD. I rise to a question of privilege. The Speaker has laid down a rule, that he will recognize the chairman of the standing committees, so as to further legislation that affects the general interests of the country. Now, to a certain extent, I can appreciate that rule which has been laid down by the Chair, but it seems to me that it is being carried out too stringently. If the House will indulge me, I desire to make a suggestion. Under the rules of the House, general appropriation bills can be taken up by a majority vote, so that the bills appropriating money to pay the current expenses of the country cannot be jeoparded by putting them in the same condition as other bills, which can only be taken up under a suspension of the rules, by a two third vote. There are seventy four or seventy five new members here, who are not familiar with the rules of the House, which are very complex, and they are stricken down, and their interests are compelled to suffer under the rule that the Speaker has established.

The gentleman from Ohio, as chairman of the Committee on Public Lands, has reported two bills this morning, and yet the Chair, under this rule, permits him to retain the floor, and as one bill is disposed of, to report another, until all the business confided to that committee shall have been disposed of. Now I submit to the Speaker, what benefit that rule of the House allowing the rules to be suspended any time during the last ten days of the session can be to us, under this stringent rule? I want it to be understood, that I do not mean to be discourteous to the Speaker, because I am satisfied that the Speaker has tried to do justice to us all, but I think the construction he has given to the rules wrong in itself.

The SPEAKER. If the Chair were to follow the suggestion made by the gentleman from Georgia, he would give the floor to him, and the consequence would be, that of the two hundred and thirty five gentlemen wanting the floor, the gentleman from Georgia would alone be gratified by the Chair having departed from his duty, under the rules, which is to announce the business in order under the rules. That is all the Chair has done. During the morning hour reports are in order from the Committee on Public Lands. The Committee on Public Lands is now being called, and the Chair recognized the gentleman from Ohio to make reports from that committee.

Mr. SEWARD. I hope the Speaker does not understand me as meaning in any way to reflect upon the Chair.

The SPEAKER. Not at all; but the Chair wishes to state to the gentleman from Georgia the difficulties which would arise in following his suggestion, because it is impossible that all the gentlemen on the floor can be heard, and all the bills acted upon, on which action is desired by them, and in the opinion of very many that impossibility will be attended by hardships. The Chair is aware of the existence of that fact. But the Chair would say to the gentleman from Georgia that he is only executing the rule, not laying down any new rule. And the rule, as the Chair understands it, is that it is in order to call for reports during the morning hour. Reports from the Committee on Public Lands are now in order. When the morning hour will have expired, then other business may be taken up.

Mr. PECKHAM. I desire to inquire from the Chair whether it has not been the practice of the House to call for reports of committees, and to allow but one report to be made from each committee?

The SPEAKER. The Chair never knew any such practice to be followed in this body.

Mr. HOUSTON. I desire to ask the Chair one question.

The SPEAKER. It must be by leave of the House, and of the gentleman from Ohio, [Mr. DISNEY,] who is entitled to the floor.

Mr. DISNEY. I yield to the gentleman from Alabama, [Mr. HOUSTON,] for an inquiry.

Mr. HOUSTON. I wish to know whether it is not in order, if I can get the floor at any time during the morning hour, to move to suspend the rules, and go into the Committee of the Whole on the state of the Union for the purpose of taking up some of the general business?

The SPEAKER. The Chair will decide that point when it arises. Under a certain state of the case it would be, while under another state it would not be. The gentleman from Ohio is, under the rules of the House, entitled to the floor. If these rules are wrong, the House can alter them at its pleasure.

LANDS FOR RAILROADS IN MICHIGAN.

Mr. DISNEY. I am directed by the Committee on Public Lands to report back, with one amendment, Senate bill (No. 84) granting to the State of Michigan lands in alternate sections to aid in the construction of the Oakland and Ottawa railroad, and a railroad from the Grand Rapids to the Straits of Mackinaw, and a railroad from Pontiac via Pere Marquette river, Manitowoc and Ontonagon river, to Kewana Point, with a branch to the vicinity of Carp river, upon Lake Superior.

Mr. PERKINS, of Louisiana. I ask the gentleman from Ohio to yield me the floor for the purpose of offering an amendment to the amendment proposed by the Committee on Public Lands.

Mr. DISNEY. I yield the floor for that purpose only.

Mr. PERKINS. I send up to the Clerk's desk the amendment which I wish to offer.

The SPEAKER, (to Mr. DISNEY.) Is it the purpose of the gentleman from Ohio to have this bill put upon its passage?

Mr. DISNEY. It is.

The SPEAKER. Then is it the desire of any gentleman on the floor to have the bill read? It is very long.

Mr. LETCHER, and others. Yes; let it be read.

Mr. WHEELER. I move that the bill be laid upon the table.

The SPEAKER. The gentleman from Ohio is on the floor, (to Mr. PERKINS.) The gentleman from Louisiana will state where his amendment is to apply.

Mr. PERKINS. I offer the amendment to the bill introduced by the gentleman from Ohio, or to so much of it as describes one of the railroads mentioned therein—the Shreveport and Louisiana railroad.

Mr. DISNEY. Then I understand the gentleman from Louisiana merely offers that as an amendment to that part of the bill descriptive of a particular road.

Mr. PERKINS. That is so.

The bill was read *in extenso* by the Clerk.

The amendments reported by the committee were then read as follows:

Strike out all of the first section down to the proviso, and insert the following in lieu thereof:

"That to aid in the construction of a railroad from the Grand Rapids to the Straits of Mackinaw, and a railroad from Pontiac via Pere Marquette river, Manitowoc and Ontonagon river, upon Lake Superior, there shall be, and hereby is granted to said State a quantity of land equal to one half of six sections in width on each side of the line of said roads respectively, to be taken of the vacant lands in the odd numbered sections within fifteen miles on each side of and nearest to said road, where sufficient lands for that purpose can be found vacant in each lateral tier of sections, and not otherwise; and the lands remaining to the Government in the even numbered sections, coextensive with the selections for said roads respectively, shall not be sold for less than double the ordinary minimum price. The said State shall also be authorized to take from the Government lands within the said limits, free of cost, the necessary materials of timber, earth, stone, gravel, &c., for the construction of said roads respectively, with the necessary culverts, bridges," &c.

Strike out sections two and three, which read as follows:

SEC. 2. *And be it further enacted*, That the sections, and parts of sections of land, which, by such grant shall remain to the United States within six miles of each side of said roads and branch, shall not be sold for less than double the minimum price of the public lands when sold, nor shall any of the lands become subject to private entry until the same shall have been offered to be sold at the increased price.

SEC. 3. *And be it further enacted*, That the said lands hereby granted to said State shall be subject to the disposal of the Legislature thereof, for the purpose aforesaid, and no other; and the said roads shall be, and remain a public highway for the use of the Government of the United States, free from toll or other charge upon the transportation of any property or troops of the United States.

Mr. DISNEY. The amendments reported by the Committee on Public Lands are simply to strike out the balance of the words provided for in the Senate bill.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. TUESDAY, FEBRUARY 27, 1855. NEW SERIES....No. 60.

Mr. HUNT. I ask the gentleman from Ohio if he will not accept a modification of the amendments reported by him?

Mr. DISNEY not answering the question,

Mr. HUNT. I asked a question of the gentleman from Ohio, and have received no answer. I am accustomed to be treated with civility.

Mr. DISNEY. The question which the gentleman asks should be addressed to his colleague, and not to me.

Mr. HUNT. I would ask my colleague to accept a modification of his amendment so as to include the New Orleans and Opelousas railroad, and also the New Orleans and Jackson railroad. This would embrace all the railroads in Louisiana.

Mr. PERKINS. I feel a very great interest, Mr. Speaker, in the passage of every bill which affects Louisiana; but I cannot, under the circumstances, yield to my colleague. If I did so, I would endanger the fate of not only the bill now before the House, but all the other Louisiana bills.

Mr. HUNT. I have nothing to say, except that I desire the House to keep its eye upon the course of favor.

Mr. DISNEY. The amendment reported by the House is simply to strike out the various roads provided for in the Senate bill, leaving only two roads, one from Pontiac, terminating at Lake Superior, and another road from Grand Rapids, terminating at Mackinaw. These two roads are provided for in the Senate bill. For the satisfaction of the House, I announce here, that it is not my purpose to make a speech upon this subject; nor will I inflict upon the House any argument to show the propriety of passing this or any other kindred bills. Enough has been said already upon this subject. By way of a general statement of facts, I now proceed to apprise the House that this bill provides for four hundred and nineteen miles of railroad, embracing a grant of one million six hundred and forty-four thousand acres of uncultivated land. In order to dispose of this matter I call the previous question.

Mr. CLINGMAN. I move to lay the bill upon the table.

Mr. PERKINS. I ask the gentleman from North Carolina to withdraw his motion.

Mr. CLINGMAN. I would like to oblige the gentleman, but I cannot withdraw the demand.

Mr. JONES, of Tennessee. I move to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. PERKINS. I appeal to the courtesy of the gentleman from Ohio [Mr. DISNEY] to withdraw his demand for the previous question. I was under the impression that I had the floor, as I was certainly recognized by the Speaker.

Mr. WARREN. The gentleman from Tennessee [Mr. JONES] was not entitled to the floor to make the motion he did, as the gentleman from Ohio [Mr. DISNEY] had not yielded the floor. The gentleman from Ohio called the previous question. The gentleman from Louisiana [Mr. PERKINS] rises in his place, was recognized by the Chair, and appealed to the gentleman from Ohio to withdraw the demand for the previous question, and the gentleman from Louisiana had never yielded the floor.

The SPEAKER. The gentleman from Ohio [Mr. DISNEY] demanded the previous question. The gentleman from North Carolina [Mr. CLINGMAN] rises in his place, was regularly recognized by the Chair, and moved to lay the bill upon the table. At that point the gentleman from Louisiana [Mr. PERKINS] rose and appealed to the gentleman from North Carolina to withdraw his demand for the previous question. The gentleman from Tennessee [Mr. JONES] then moved that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. PERKINS. The gentleman from Ohio, [Mr. DISNEY,] as I understand it, withdrew the demand for the previous question, in order that I might have five minutes to explain the amendment I have offered to this bill.

The SPEAKER. The Chair heard nothing of that arrangement at all between the two gentlemen. If made at all, it must have been made after the gentleman from North Carolina moved to lay the bill upon the table.

Mr. PERKINS. I appeal to the gentleman from North Carolina to withdaw his motion.

Mr. CLINGMAN. The Committee on Public Lands has taken up too much of the time of this House already. If I could, I would lay every one of these land bills upon the table. I cannot withdraw the motion I made.

Mr. PHELPS. I move the usual resolution to close debate in the Committee of the Whole on the state of the Union on the naval appropriation bill in five minutes after the committee shall have resumed its consideration.

The SPEAKER. That motion would take precedence of all other motions.

The question was taken; and the motion was agreed to.

Mr. PHELPS. I move to reconsider the vote by which the resolution to close debate upon the naval appropriation bill was adopted, and to lay the motion to reconsider upon the table.

The question was put; and the latter motion was agreed to.

Mr. JONES, of Tennessee. I withdraw the motion that the rules be suspended to go into the Committee of the Whole on the state of the Union, in order to let the vote be taken upon the bill.

Mr. PERKINS, of Louisiana. I would appeal, if it is in order to do so, to the gentleman from North Carolina to allow me five minutes to explain this amendment.

[Cries of "Order!" "Order!"]

Mr. WHEELER. I object to it.

Mr. CLINGMAN. I beg leave to say to my friend from Louisiana, that I would do anything I could consistently to oblige him, but I would do anything to abolish entirely the Committee on Public Lands, and I have been of that opinion for twelve months past; and under such circumstances I cannot withdraw my motion.

Mr. WALSH. I insist upon the regular order of business.

Mr. WARREN. As the gentleman from North Carolina has made an attack upon the Committee on Public Lands, I desire to respond to it.

Mr. PERKINS. I would inquire of the Chair if a motion to suspend the rules, to enable me to make the explanation I desire, would be in order. I only ask five minutes to explain an important amendment.

Mr. MATTESON. I object.

Mr. PERKINS. Is it not in order to move to suspend the rules?

The SPEAKER. It would be in order to move to suspend the rules were it not that there is a motion pending to lay the bill upon the table which has precedence.

Mr. PERKINS. I then ask permission to write out and print the facts and statistics which I have desired to state in connection with this bill——

[Cries of "Agreed!" "Agreed!"]

The SPEAKER. The Chair hears no objection.

Mr. WASHBURNE, of Illinois. I call for the yeas and nays upon the motion to lay the bill upon the table.

The yeas and nays were ordered.

The question was then put; and resulted—yeas 98, nays 72; as follows:

YEAS—Messrs. Aiken, Appleton, Ashe, Thomas H. Bayly, Ball, Benson, Bocock, Bridges, Bristow, Bugg, Carpenter, Caskie, Chandler, Ghastain, Chrisman, Clingman, Corwin, Craige, Crocker, Cullom, Curtis, Cutting, De Witt, Dickinson, Edmundson, John M. Elliott, Ellison, Etheridge, Everhart, Farley, Faulkner, Fenton, Flagler, Florence, Fuller, Gamble, Giddings, Goode, Grey, Hamilton, Aaron Harlan, Hastings, Haven, Hiester, Ingersoll, Daniel T. Jones, George W. Jones, J. Glancy Jones, Keitt, Kerr, Kidwell, Kurtz, Lane, Letcher, Lewis, Lilly, Lindsley, McCulloch, Macdonald, McNair, McQueen, Maurice, Middleswarth, Millson, Morrison, Murray, Nichols, Andrew Oliver, Packer, Parker, Peckham, Pennington, Bishop Perkins, Powell, Preston, Pringle, Puryear, Ready, David Ritchie, Robbins, Ruffin, Russell, Sapp, Seymour, Shaw, Simmons, William Smith, Straub, Nathaniel G. Taylor, Trout, Vansant, Wade, Walley, Walsh, Wheeler, Witte, Hendrick B. Wright, and Zollicoffer—98.

NAYS—Messrs. Abercrombie, James C. Allen, Banks, Barksdale, Barry, Benton, Bliss, Campbell, Caruthers, Chamberlain, Chase, Clark, Cobb, Cook, John G. Davis, Disney, Dunbar, Eastman, Eddy, Edgerton, Edmands, Thomas D. Eliot, Goodrich, Goodwin, Green, Greenwood, Andrew J. Harlan, Sampson W. Harris, Wiley P. Harris, Hendricks, Henn, Houston, Howe, Hughes, Hunt, Roland Jones, Knox, Lamb, Latham, Lindley, McDougall, Mace, Macy, Matteson, Maxwell, Mayall, Smith Miller, Morgan, Noble, Norton, Olds, Mordecai Oliver, John Perkins, Phelps, Richardson, Riddle, Rowe, Sabin, Seward, George W. Smyth, Frederick P. Stanton, Hestor L. Stevens, John L. Taylor, Teller, Thurston, Upham, Warren, Elihu B. Washburne, Wells, John Wentworth, Westbrook, and Daniel B. Wright—72.

So the bill was laid upon the table.

Mr. CLINGMAN. I move to reconsider the vote by which the bill was laid upon the table, and to lay the motion to reconsider upon the table.

The SPEAKER. The Chair has ruled that the motion to lay upon the table is unnecessary, as there can be no debate. The question will be taken upon the motion to reconsider.

The question was put; and the motion was not agreed to.

GRANT OF LAND TO FLORIDA.

Mr. DISNEY. I am instructed by the Committee on Public Lands to report back Senate bill No. 98, with an amendment, making a grant of land to the State of Florida to aid in the construction of certain railroads in said State.

The bill was reported at the Clerk's desk.

Mr. DICKINSON. I move to lay the bill upon the table.

The SPEAKER. The gentleman from Ohio [Mr. DISNEY] has the floor, and until he yields, the gentleman cannot make the motion.

Mr. MAXWELL. I desire to ask the gentleman from Ohio to yield me the floor for a moment.

Mr. DISNEY. I yield to the gentleman from Florida.

The SPEAKER. The Chair would inform the gentleman from Ohio that there is some confusion as to the bill and amendment which he has reported.

Mr. DISNEY. The bill which is reported from the Committee on Public Lands is reported as an amendment to the Senate bill.

The SPEAKER. The original bill will be read, and then the amendment as reported by the committee, and the gentleman from Florida will suspend until that is done.

Mr. MAXWELL. I desire to relieve the House from the loss of time which will occur from the reading of the bill, as I propose to submit a substitute for it.

FRANCIS DAINESE.

Mr. CHANDLER. I ask the gentleman from Florida to yield to me a moment, that I may report, from the Committee on Foreign Affairs, a bill, simply that it may be referred and printed, and nothing else.

Mr. MAXWELL. I have no objection; and I yield for that purpose.

Mr. CHANDLER thereupon reported, from the Committee on Foreign Affairs, a bill for the relief of Francis Dainese; which was read a first and second time by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

GRANT OF LAND TO FLORIDA—AGAIN.

Mr. MAXWELL. I ask that my amendment, by way of substitute, may be read.

The amendment was accordingly read, as follows:

That the right and privilege is hereby granted to the State of Florida, to aid in the construction of contemplated lines of railroads in said State, from the Atlantic ocean, near the island of Amelia, to Tampa Bay and the Gulf of Mexico, and from Cedar Key to the north line of the State, and from Jacksonville to Pensacola bay, with an extension to St. Andrew's bay, and from Pensacola to the north line of the State in the direction to Montgomery, Alabama; to select from the lands of the United States six sections to the mile upon each side of the central line of each road, upon the terms and conditions hereinafter mentioned. And the right of preemption to the lands so selected is hereby granted to the said State of Florida, and the same shall immediately be withdrawn from sale by the Secretary of the Interior, to be disposed of as hereinafter directed. And the State of Florida shall have the right of purchasing the land so selected, for the period of ten years at the price now established by law, which shall remain unaltered during that

period without graduation or reduction: *Provided*, That said lands shall be selected, and the construction of said railroads actually commenced, within eighteen months from the passage of this act, or the said land shall be again subjected to sale and private entry under the direction of the Secretary of the Interior.

SEC. 2. *And be it further enacted*, That all land remaining unpaid for at the expiration of ten years from the time the same shall have been selected by Florida, shall revert back to the United States. But in case the construction of said roads is actually commenced, the said State may, during the period of ten years from the time of selection, sell or transfer its right to preëmption and purchase, granted as aforesaid, to corporations or individvals, but no title shall vest in any such purchaser or grantee, until a duly certified copy of such acts of the Legislature of the said State of Florida, making such grants or transfer, shall be presented to the receiver of the proper land office, and payment made for said lands, at the price aforesaid, after which a patent shall issue to any such purchaser or grantee in the manner provided by law: *Provided*, That this act shall not apply to any lands on which there is a preëmption right or actual cultivation, nor to any reserved lands for naval or military stations, nor to any school, saline, or mineral lands.

SEC. 3. *And be it further enacted*, That the United States mails shall be at all times transported on the railroads mentioned in this act, under the direction of the proper officers and for such compensation as Congress may by law direct.

The SPEAKER. There are several amendments pending to the original bill reported by the gentleman from Ohio. It is in order to perfect the original bill, and then to perfect the substitute proposed by the gentleman from Florida, which has just been read, and then to vote between the two.

Mr. MAXWELL. In order to save the unnecessary consumption of the time of the House, I would inquire whether the gentleman from Ohio accepts the substitute which I have proposed and which has just been read at the Clerk's desk.

The SPEAKER. The Chair would presume that the gentleman from Ohio has no such power over the report which he has been instructed by the committee to submit to the House.

Mr. DISNEY. I was just about making the same remark in reply to the gentleman from Florida. I have no power to accept the gentleman's substitute in lieu of what I have reported as the action of the committee.

Mr. MAXWELL. I suppose that the acceptance of the report might be had by the unanimous consent of the House. My suggestion is made with the view of saving time and progressing our business.

Mr. WARREN. I do not suppose that the gentleman from Ohio has any personal objection to the proposition, and I trust, as that is the only legitimate way of reaching it, that there may be unanimous consent to the modification of the committee's report as indicated.

Mr. WHEELER. I object.

Mr. DISNEY. I have reported the bill with amendments, at the direction of the committee. I have no power to change that report, although I will say, at the same time, that I have not personally the least objection to the acceptance of the gentleman's substitute for the bill, as amended by the committee. The substitute is entirely acceptable. But we may as well proceed to vote; the matter can soon be determined by the House. I therefore call for the previous question.

Mr. JONES, of Tennessee. I move to lay the bill and amendments upon the table. And I also move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

[Cries of "No!" "Let us take the vote first on the bill!"]

Mr. McDOUGALL. Mr. Speaker, has the morning hour expired?

The SPEAKER. It has.

Mr. McDOUGALL. Is it not in order to move that the House do now proceed to the consideration of the business upon the Speaker's table.

The SPEAKER. It will be in order when the House votes down the proposition to go into the Committee of the Whole on the state of the Union.

Mr. McDOUGALL. I hope that the motion to go into committee will be voted down, so that the motion which I have indicated may be submitted.

Mr. DICKINSON. I trust that the House will not resolve itself into the Committee of the Whole on the state of the Union until we have disposed of some general business, which ought to be attended to at this time.

The question was put on going into the Committee of the Whole on the state of the Union; and, on a division, there were—ayes fifty.

Mr. JONES. I demand tellers.

Tellers were ordered; and Messrs. WITTE and PARKER were appointed.

The question was taken; and the motion was disagreed to, the tellers having reported—ayes forty-seven, noes not counted.

So the House refused to resolve itself into the Committee of the Whole on the state of the Union.

Mr. READY. I propose to move the suspension of the rules in order to take up a resolution.

The SPEAKER. There is a motion pending to lay upon the table, which is privileged over all others, except the motion to go into the Committee of the Whole on the state of the Union.

Mr. WENTWORTH. I demand the yeas and nays on the motion to lay upon the table.

The yeas and nays were ordered.

The question was taken on Mr. JONES's motion; and it was agreed to—yeas 98, nays 66; as follows:

YEAS—Messrs. Ashe, Belcher, Bocock, Bridges, Carpenter, Caskie, Chastain, Clingman, Craige, Crocker, Cullom, Curtis, Cutting, Thomas Davis, Dawson, Dick, Dickinson, Edmands, Edmundson, Thomas D. Eliot, John M. Elliott, Ellison, Etheridge, Everhart, Faulkner, Fenton, Flagler, Florence, Fuller, Gamble, Giddings, Goode, Goodrich, Grey, Hamilton, Aaron Harlan, Hastings, Haven, Hibbard, Hiester, Howe, Ingersoll, David T. Jones, George W. Jones, J. Glancy Jones, Keitt, Kerr, Kidwell, Kurtz, Lane, Letcher, Lewis, Lilly, Lyon, McCulloch, Macdonald, McNair, Maurice, May, Middleswarth, Smith Miller, Millson, Morgan, Morrison, Murray, Nichols, Andrew Oliver, Parker, Peckham, Bishop Perkins, Powell, Puryear, Ready, David Ritchie, Robbins, Ruffin, Russell, Sabin, Sage, Seymour, Shaw, Simmons, Willam R. Smith, George W. Smyth, Stratton, Straub, Andrew Stuart, Nathaniel G. Taylor, Tracy, Trout, Vansant, Wade, Walley, Walsh, Israel Washburn, Wheeler, Witte, and Hendrick B. Wright—98.

NAYS—Messrs. Abercombie, James C. Allen, Banks, Barksdale, Barry, Bennett, Benson, Benton, Bristow, Bugg, Campbell, Caruthers, Chamberlain, Chase, Cobb, Cook, Corwin, John G. Davis, Disney, Dunbar, Dunham, Eastman, Edgerton, English, Goodwin, Green, Greenwood, Andrew J. Harlan, Sampson W. Harris, Wiley P. Harris, Harrison, Hendricks, Henn, Houston, Hughes, Knox, Lamb, Latham, Lindley, McDougall, Macy, Matteson, Maxwell, Mayall, Norton, Mordecai Oliver, John Perkins, Phelps, Pratt, Thomas Ritchey, Rowe, Sapp, Seward, Singleton, Hestor L. Stevens, John L. Taylor, Thurston, Tweed, Upham, Warren, Elihu B. Washburne, Wells, John Wentworth, Westbrook, Daniel B. Wright, and Zollicoffer—66.

So the bill and amendments were laid upon the table.

Mr. LETCHER. I move to reconsider the vote by which the bill and amendments were laid upon the table.

The question was taken; and the House refused to reconsider.

Mr. DISNEY. I believe that I am entitled to the floor.

The SPEAKER. The gentleman is entitled to the floor.

Mr. HOUSTON. Has the morning hour expired?

The SPEAKER. It has.

Mr. PHELPS. Then I move that the rules be suspended, and that the House do now proceed to the consideration of the business upon the Speaker's table.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. BENTON. I ask for the suspension of the gentleman's motion but for a single moment.

The SPEAKER. Until the expiration of the morning hour the gentleman from Ohio and his colleagues upon the Committee on Public Lands were entitled to the floor, it being in order to call upon committees for reports. The morning hour has expired, and the gentleman from Missouri moves that the House proceed to the consideration of the business upon the Speaker's table, which motion is in order. The gentleman from Alabama follows that motion with another that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. That is the pending question.

Mr. DISNEY. I would inquire of the Chair whether I was not upon the floor and recognized when the gentleman from Missouri submitted his motion?

The SPEAKER. The gentleman was upon the floor; but, under the rules of the House, the morning hour having expired, the gentleman from Missouri had the right to take it from him and to submit the motion that the rules be suspended and that the House do now proceed to the consideration of the business upon the Speaker's table. The motion first before the House, however, is the motion that the rules be suspended, and that the House do now resolve itself into the Committee of the Whole on the state of the Union.

Mr. PHELPS. My colleague desires to submit a proposition, and I yield for that purpose.

Mr. BENTON. I ask that the Committee of the Whole House may be discharged from the further consideration of Senate bill (No. 170) for the relief of Mrs. Helen Mackay, administratrix of Lieutenant Colonel Æneas Mackay, late a deputy quartermaster in the United States Army.

GENERAL JACKSON'S SWORD.

Here a message was received from the Senate, by ASBURY DICKINS, Esq., their Secretary, notifying the House that that body had passed a resolution accepting the sword of General Andrew Jackson, and returning the thanks of Congress to the family of General Robert Armstrong therefor.

Mr. SMITH, of Tennessee. I ask that the House do now proceed to the consideration of the resolution just brought to us from the Senate.

Mr. STANTON, of Kentucky. As the ceremony of presentation is to be an interesting one, and there are a great many ladies who desire to be present, and are unable to get in the galleries, I move that the rules be suspended, and that the ladies be admitted upon the floor on the occasion.

[Cries of "Agreed!" "Object!"]

Mr. HAMILTON. I demand the yeas and nays.

[Great confusion prevailed in the Hall.]

The SPEAKER, (after repeated attempts to call the House to order.) The Chair announces to the House that no business can be done except in order, so long as the present incumbent occupies the chair. If it is the purpose of the House to do business in the present state of disorder they must select some other person to preside in his place.

Mr. HAMILTON. I ask if this motion to suspend the rules is in order? Is there not another motion to suspend the rules pending?

The SPEAKER. The other motion was withdrawn.

Mr. WARREN. The gentleman from Maryland is surely not serious in demanding the yeas and nays upon this motion.

Mr. HAMILTON. I am.

The yeas and nays were not ordered.

The question was put; and two thirds having voted in the affirmative, the rules were suspended.

The motion was then agreed to.

The SPEAKER directed the officers of the House to execute its order, and open the doors for the admission of ladies.

The doors were thrown open, and a large number of ladies in attendance were admitted, occupying most of the members' seats in the outskirts, while the members themselves removed into the area in front of the Speaker's chair; the lobbies were filled by gentlemen entitled to admission on the floor of the House; the galleries were crowded almost to suffocation; and with the sword itself lying in sight of all upon the Speaker's desk, the scene presented was most imposing.

After a pause of some minutes, the joint resolution was read, as follows:

A resolution to accept the sword of General Andrew Jackson, and returning the thanks of Congress to the family of the late General Robert Armstrong.

Resolved, That the thanks of this Congress be presented to the family of the late General Robert Armstrong for the present of the sword worn by General Andrew Jackson while in the service of his country, and that this precious relic be hereby accepted in the name of the nation, and be deposited for safe-keeping in the Department of State, and that a copy of this resolution be presented to the family of the late General Robert Armstrong.

Mr. SMITH, of Tennessee. In asking the consideration of the resolution just read, justice to the occasion requires a few remarks from me, and I only regret that this responsibility had not devolved upon some one more capable than I of performing so important a duty.

In all ages, and in all countries, it has been customary to commemorate the deeds of illustrious men. Painting, poetry, and sculpture have been brought into requisition to perpetuate the memory of their achievements, and to keep alive, in the hearts of the young, veneration for their ancestors, and pride of country.

Every capital in Christendom is adorned with monuments, erected to the brave and wise, who

have, by counsel or deeds, given direction to the policy, or illustrated the pages of their country's history. Their museums are filled with relics, which, from their intimate personal association with the gallant dead, ever keep vividly before the mind their public acts and private virtues. These teach lessons as impressive as towering monuments or glowing canvas.

Brief as our existence has been, the history of no nation on earth has been so fruitful of stirring incidents—incidents which have had an influence not only upon our own land, but upon the civilized world. The painters' art has adorned the walls of our Capitol with representations of some of the most important of these events. Here we have the first grand scene of our Revolution—the Declaration of Independence—upon which no American can look without experiencing feelings of the most ennobling character. The very features are preserved of the statesmen who proclaimed doctrines which startled the world from its long lethargic sleep; revived again the spirit of Sydney and of Hampden, and gave the first just conception of the true dignity and capacity of man. Their voices are all hushed in death; but the echo of the appeal of 1776 still lives, and is reverberating throughout the earth, making strong the arms and hearts of those who for their rights and liberties would proudly welcome death and the grave.

With what glowing pride do we look upon the battle scenes here portrayed. Battles fought, not to further the schemes of ambition, but in defense of freedom and universal humanity. No enslaved people have bewailed the triumphs of *our* warriors, but the whole earth has arisen and pronounced them blessed.

The battles and victories which the artist has here celebrated were still fresh and green in the memory of the people when the nation was again called to arms to vindicate its honor and the rights of man. Many of the leading spirits of the Revolution still lived. Upon some the palsying hand of time had been heavily laid, but in their hearts the love of country and the fires of patriotism still brightly burned. They urged the young to the conflict. The voice of Jefferson rang through the land cheering the brave, nerving the arms of the timid, and giving hope and courage to the hearts of all. The warriors of the Revolution who still retained their vigor buckled on their armor for the conflict. Conspicuous among these were Van Rensselaer, of New York, Smith, of Maryland, and Jackson, of Tennessee. Our countrymen, under the lead of their gallant commanders, triumphed upon the land and upon the sea, and established forever our rank among the nations of the earth. The actors in these scenes are fast passing away. But few of the gallant leaders in this glorious war still survive, and they are fast verging upon their threescore and ten, and must soon be gathered to their fathers. Duty, gratitude, and patriotism should prompt us to collect trophies of their victories, and garner up memorials which will speak to future generations of their greatness and patriotism, and which will keep the memory of their deeds of noble daring alive forever in the heart of the nation.

Not long before the death of that distinguished chieftain, Andrew Jackson, he placed the sword he had worn in all of his battles in the war of 1812, in the hands of a friend, to be delivered to his compatriot in arms, the late General Robert Armstrong, who had, in an eminent degree, commanded his respect and enjoyed his confidence. These two lamented patriots had shared together the hardships of the camp and the dangers of the battle-field; and the bestowal of this relic by the illustrious hero was a fit testimonial of his appreciation of one whose courage he had seen tested on many a bloody field, and whose patriotism had often elicited the warmest gratitude and highest applause of his countrymen.

It was at the battle of Enotochopco, where the little army commanded by Jackson was almost surrounded by the enemy, and, in the heat of the conflict, General Armstrong was severely wounded. But he did not desert his post; and when unable longer to wield a sword or stand upon his feet, he clung to a small tree which stood near him, and cried, "My brave fellows, some may fall, but save the cannon!" Such bravery elicited the thanks and gratitude of his commander, and made him the worthy recipient of the favorite weapon worn by him on that trying occasion.

The family of General Armstrong, actuated by the patriotic impulses which ever characterized their sire, have placed this sword at the disposal of Congress. It seems to me eminently fit that it should become the property of the Government, and be placed among the trophies of our victories and the mementoes of our heroes, for it is associated with the names of two of the "bravest of the brave," and with battles the history of which will fill the brightest pages in our country's annals.

In moving the adoption of the resolution on your table, accepting the sword, I do not feel called upon to pronounce a eulogy upon General Jackson. He needs it not. "God blessed him with length of days and he filled them with deeds of glory," which have entered into the history of the nation, and become the heritage of his countrymen.

Mr. ZOLLICOFFER. Mr. Speaker, it being my fortune to represent the Hermitage district, where that great man lived, and where his remains are entombed, the House will pardon me for briefly giving utterance to emotions which fill me on this peculiar occasion. The martial renown of Andrew Jackson has become national property. But it must be allowed to Tennesseans to feel more than an ordinary interest in that renown, and in this occasion. The brave-hearted the world over, I apprehend, pay to his heroic spirit their true homage; and I can well imagine that even the boldest, when treading the paths of danger, walk more erect and confident under the broad sunlight of his chivalrous history; yet, to those who were his neighbors when he tenanted the Hermitage, and who inhabit the mountains and the valleys which sent forth the gallant men who followed and upheld his standard in all his victories—men, who saw this very sword unsheathed on all his brilliant and perilous battle-fields—I say, sir, to such a people, something more than this feeling is but a common impulse of that human nature which we all readily comprehend. The sons of those gallant men are the present young men of Tennessee. As these young men catch a glimpse of this shining blade passing into the depository of the nation's precious relics, how can it be otherwise than that their hearts will throb with quickened pulsations of patriotic State and National pride? Rest assured, sir, that they feel, and must ever feel, a lofty and commendable State pride in the military renown and unquestioned personal heroism of Andrew Jackson. I hesitate not to say, sir, that this feeling has contributed in no small degree to the full development of that chivalric sentiment which has ever characterized the volunteer troops of Tennessee when their country has demanded their services in the field.

Allow me to say, sir, that I for near twenty years have held a position of antagonism, more or less, to those who have claimed to be the especial political friends of General Jackson, and in that State our contests have been sharp, animated, and continuous, through that long period. I mention this merely by way of suggesting that the sentiments to which I have given utterance are expressed with the more freedom from all undue partiality or bias. They are sentiments such as I feel that no native Tennessean, and I trust no citizen of any other State in our glorious Confederacy, can fail cordially and heartily to respond to. They should be held in common by the whole American people; for this very sword, sir, gleamed over that memorable battle field of which every citizen of the Union is so justly proud, and which has unquestionably given a more world-wide fame to American prowess than any other single battle field which has ever emblazoned the bright annals of American warfare. Let the sword, sir, be preserved and transmitted carefully to posterity. Let it be deposited, along with the sword and camp chest of Washington and the staff and printing press of Franklin, among the most precious relics of a grateful country, preserved and cared for as high incentives to the honorable ambition of American youth, as long as Liberty shall have a home or the Union of these States an existence among the nations of the earth.

But, sir, I will here pause. I will not dwell upon a theme which has already been enlarged upon by others with so much more ability than I possess. I will trespass upon the valuable time of the House only for a moment longer. I cannot, in justice to my own feelings, withhold a brief allusion to General Robert Armstrong, from whose family this present is received. He was my neighbor and personal friend. The confidence which General Jackson, who knew him so long and so well, reposed in the sterling qualities of his heart and head, is itself a sufficient eulogy, requiring no aid from anything I can offer. I must, however, say that I held him to be one of the bravest, most magnanimous, and most truly kind-hearted men it was ever my good fortune personally to know. In conclusion, I need hardly add that I take it for granted the resolutions will be sanctioned, not only unanimously, but with the most cheerful alacrity by every American Representative.

Mr. BENTON said: Mr. Chairman, the manner in which this sword has been used for the honor and benefit of the country, is known to the world: the manner in which the privilege was obtained of so using it, is but little known; even to the living age, and must be lost to posterity unless preserved by contemporaneous history. At the same time it is well worth knowing, in order to show what difficulties talent may have to contend with, what mistakes Governments may commit, and upon what chances and accidents it may depend that the greatest talent, and the purest patriotism, may be able to get into the service of its country. There is a moral in such history which it may be instructive to Governments and to people to learn. When a warrior, or a statesman, is seen in the midst of his career and in the fullness of his glory, showing himself to be in his natural place, people overlook his previous steps and suppose he had been called by a general voice—by wise councils—to the fulfillment of a natural destiny. In a few instances it is so: in the greater part not. In the greater part there is a toilsome, uncertain, discouraging, and mortifying progress to be gone through before the future resplendent man is able to get on the theatre, which is to give him the use of his talent. So it was with Jackson. He had his difficulties to surmount, and surmounted them. He conquered savage tribes and the conquerors of the conquerors of Europe; but he had to conquer his own Government first—and did it—and that was, for him, the most difficult of the two; for, while his military victories were the regular result of a genius for war and brave troops to execute his plans—enabling him to command success—his civil victory over his own Government was the result of chances and accidents, and the contrivances of others, in which he could have but little hand, and no control. I proceed to give some view of this inside and preliminary history, and have some qualification for the task, having taken some part, though not great, in all that I relate.

Retired from the United States Senate, of which he had been a member, and from the supreme judicial bench of his State, on which he had sat as judge, this future warrior and President—and alike illustrious in both characters—was living upon his farm, on the banks of the Cumberland, when the war of 1812 broke out. He was a major general in the Tennessee militia—the only place he would continue to hold—and to which he had been elected by the contingency of one vote—so close was the chance for a miss in this first step. His friends believed that he had military genius, and proposed him for the brigadier's appointment which was allotted to the West. That appointment was given to another, and Jackson remained, unnoticed, on his farm. Soon another appointment of general was allotted to the West. Jackson was proposed again; and was again left to attend to his farm. Then a batch of generals, as they were called, was authorized by law—six at a time—and from all parts of the Union; and then his friends believed that surely his time had come. Not so the fact. The six appointments went elsewhere, and the hero patriot, who was born to lead armies to victory, was still left to the care of his fields, while incompetent men were leading our troops to defeat, to captivity, to slaughter: for that is the way the war opened. The door to military service seemed to be closed and barred against him; and was so, so far as the Government was concerned.

It may be wondered why this repugnance to appointment of Jackson, who, though not yet the greatly distinguished, was still a man of mark—had been a Senator, and a supreme judge, and was still a major general, and a man of tried and heroic courage. I can tell the reason. He had a great many home enemies, for he was a man of decided temper, had a great many contests, no compromises, always went for a clean victory, or a clean defeat; though placable after the contest

was over. That was one reason, but not the main one. The Administration had a prejudice against him on account of Colonel Burr, with whom he had been associated in the American Senate, and to whom he gave a hospitable reception in his house, at the time of his western expedition, relying upon his assurance that his designs were against the Spanish dominion in Mexico, and not against the integrity of this Union. These were some of the causes, not all, of Jackson's rejection from Federal military employment.

I was young then, and one of his aids, and believed in his military talent and patriotism, greatly attached to him, and was grieved and vexed to see him passed by when so much incompetence was preferred. Besides, I was to go with him, and his appointment would be partly my own. I was vexed, as were all his friends, but I did not despair as most of them did. I turned from the Government to ourselves—to our own resources—and looked to the chapter of accidents to turn up a chance for incidental employment, confident that he would do the rest for himself if he could only get a start. I was in this mood in my office, a young lawyer with more books than briefs, when the tardy mail of that time, one "raw and gusty day" in February, 1812, brought an act of Congress authorizing the President to accept organized bodies of volunteers, to the extent of fifty thousand—to serve for one year—and to be called into service when some emergency should require it. Here was a chance. I knew that Jackson could raise a general's command, and trusted to events for him to be called out, and felt that one year was more than enough for him to prove himself. I drew up a plan—rode thirty miles to his house, that same raw day in February—rain, hail, sleet, wind—and such roads as we then had there in winter—deep in rich mud and mixed with ice. I arrived at the Hermitage—a name then but little known—at night fall, and found him solitary, and almost alone, but not quite; for it was the evening mentioned in the "Thirty Years' View," when I found him with the lamb and the child between his knees. I laid the plan before him. He was struck with it—adopted it—acted upon it. We began to raise volunteer companies. While this was going on an order arrived from the War Department to the Governor, (Willie Blount,) to detach fifteen hundred militia to the Lower Mississippi, the object to meet the British, then expected to make an attempt on New Orleans. The Governor was a friend to Jackson, and to his country. He agreed to accept his three thousand volunteers instead of the fifteen hundred drafted militia. He issued an address to his division. I galloped to the muster grounds and harangued the young men. The success was ample. Three regiments were completed—Coffee, William Hall, Benton, the colonels; and in December, 1812, we descended the Cumberland and the Mississippi in a fleet of flat-bottomed boats, and landed at Natchez. There we got the news that the British would not come that winter—a great disappointment, and a fine chance lost.

We remained in camp, six miles from Natchez, waiting ulterior orders. In March they came—not orders for further service, or even to return home, but to disband the volunteers where they were. The command was positive, in the name of the President, and by the then Secretary at War, General Armstrong. I well remember the day—Sunday morning, the 25th day of March, 1813. The first I knew of it was a message from the General to come to him at his tent; for, though as colonel of a regiment I had ceased to be aid, yet my place had not been filled, and I was sent for as much as ever. He showed me the order, and also his character, in his instant determination not to obey it, but to lead his volunteers home. He had sketched a severe answer to the Secretary at War, and gave it to me to copy, and arrange the matter of it. It was very severe. I tried hard to get some parts softened, but impossible. I have never seen that letter since, but would know it if I should meet it in any form, anywhere, without names. I concurred with the General in the determination to take home our young troops. He then called a "*council*" of the field officers, as he called it, though there was but little of the council in it—the only object being to hear his determination, and take measures for executing it. The officers were unanimous in their determination to support him; but it was one of those cases in which he would have acted, not only without, but against a "*council*."

The officers were unanimous and vehement in their determination, as much so as the general was himself; for the volunteers were composed of the best young men of the country—farmers' sons, themselves clever young men, since filling high offices in the State and the Federal Government—intrusted to these officers by their fathers, in full confidence that they would act a father's part by them; and the recreant thought of turning them loose, on the lower Mississippi, five hundred miles from home without the means of getting home, and a wilderness and Indian tribes to traverse, did not find a moment's thought in any one's bosom. To carry them back was the instant and indignant determination; but great difficulties were in the way. The cost of getting back three thousand men, under such circumstances, must be great, and here Jackson's character showed itself again. We have all heard of his responsibilities—his readiness to assume political responsibility when the public service required it: he was now equally ready to take responsibility of another kind—moneyed responsibility! and that beyond the whole extent of his fortune! He had no military chest—not a dollar of public money—and three thousand men were not to be conducted five hundred miles through a wilderness country and Indian tribes without a great outlay of money. Wagons were wanted, and many of them, for transport of provisions, baggage, and the sick, so numerous among new troops. He had no money to hire teams; he impressed: and at the end of the service gave drafts upon the quartermaster general of the southern department (General Wilkinson's) for the amount. The wagons were ten dollars a day, coming and going. They were numerous. It was a service of two months: the amount to be incurred was great. He incurred it! and, as will be seen, at imminent risk of his own ruin. This assumption on the General's part met the first great difficulty, but there were lesser difficulties, still serious, to be surmounted. The troops had received no pay: clothes and shoes were worn out: men were in no condition for a march so long, and so exposed. The officers had received no pay—did not expect to need money—had made no provision for the unexpected contingency of large demands upon their own pockets to enable them to do justice to their men. But there was patriotism outside of the camp, as well as within. The merchants of Natchez put their stores at our disposition—take what we needed—pay when convenient at Nashville. I will name one among these patriotic merchants—name him because he belongs to a class now struck at, and because I do not ignore a friend when he is struck. Washington Jackson was the one I mean—Irish by birth, American by choice, by law, and feeling, and conduct. I took some hundred pairs shoes from him for my regiment, and other articles: and I proclaim it here, that patriotic men of foreign birth may see that there are a plenty of Americans to recognize their merit—to name them with honor in high places—and to give them the right hand of friendship when they are struck at.

We all returned—were discharged—dispersed among our homes—and the fine chance on which we had so much counted, was all gone. And now came a blow upon Jackson himself—the fruit of the moneyed responsibility which he had assumed. His transportation drafts were all protested—returned upon him for payment, which was impossible—and directions to bring suit. This was the month of May. I was coming on to Washington on my own account, and cordially took charge of Jackson's case. Suits were delayed until the result of his application for relief could be heard. I arrived at this city: Congress was in session—the extra session of the spring and summer of 1813. I applied to the members of Congress from Tennessee: they could do nothing. I applied to the Secretary at War: he did nothing. Weeks had passed away, and the time for delay was expiring at Nashville. Ruin seemed to be hovering over the head of Jackson, and I felt the necessity of some decisive movement. I was young then, and had some material in me—perhaps some boldness; and the occasion brought it out. I resolved to take a step, characterized in the letter which I wrote to the General, as "*an appeal from the justice to the fears of the Administration.*" I remember the words, though I have never seen the letter since. I drew up a memoir addressed to the Secretary at War, representing to him that these volunteers were drawn from the bosoms of almost every substantial family in Tennessee—that the whole State stood by Jackson in bringing them home—and that the State would be lost to the Administration, if he was left to suffer. It was upon this last argument that I relied—all those founded in justice having failed. It was of a Saturday morning, 12th of June, that I carried this memoir to the War Office, and delivered it. Monday morning I came back early, to learn the result of my argument. The Secretary was not yet in. I spoke to the chief clerk, (then the afterwards Adjutant General Parker,) and inquired if the Secretary had left any answer for me before he left the office on Saturday. He said no; but that he had put the memoir in his side pocket—the breast pocket—and carried it home with him, saying he would take it for his Sunday's consideration. That encouraged me—gave a gleam of hope—and a feeling of satisfaction. I thought it a good subject for his Sunday's meditation. Presently he arrived. I stept in before anybody to his office. He told me quickly, and kindly, that there was much reason in what I had said, but that there was no way for him to do it—that Congress would have to give the relief. I answered him that I thought there was a way for him to do it: it was to give an order to General Wilkinson's quartermaster general in the southern department, to pay for so much transportation as General Jackson's command would have been entitled to if it had returned under regular orders. Upon the instant he took up a pen, wrote down the very words I had spoken, directed a clerk to put them into form; and the work was done. The order went off immediately, and Jackson was relieved from imminent impending ruin, and Tennessee remained firm to the Administration.

Thus, this case of responsibility was over, but the original cause of our concern was still in full force. Jackson was again on his farm, unemployed, and the fine chance gone which had flattered us so much. But the chapter of accidents soon presented another—not so brilliant as New Orleans had promised, and afterwards realized—but sufficient for the purpose. The massacre at Fort Mimms took place. The banks of the Mobile river smoked with fire and blood. Jackson called up his volunteers, reinforced by some militia, marched to the Creek nation—and there commenced that career of victories which soon extorted the commission which had so long been denied to his merit, and which ended in filling the "measure" of his own "and his country's glory." And that, Mr. Chairman, was the way in which this great man gained the privilege of using *that* sword for his country which, after triumphing in many fields which it immortalized, has come here, to repose in the hands of the representatives of a grateful and admiring country.

The resolution was ordered to be read a third time; and being read a third time, it was unanimously passed.

PUBLICATION OF THE PROCEEDINGS.

Mr. WALBRIDGE. I move that fifty thousand copies of the proceedings in both Houses, including the speeches of Senators and Members, on the occasion of the presentation of the sword of General Andrew Jackson to Congress, be printed for the use of members.

Mr. BRIDGES. I move to amend by providing for the printing of one hundred thousand copies instead of fifty thousand.

Mr. WALBRIDGE. I accept the gentleman's amendment.

The question was taken; and the motion, as modified, was agreed to.

MRS. HELEN MACKAY.

The SPEAKER. The gentleman from Missouri [Mr. BENTON] was upon the floor when the House, by unanimous consent, proceeded to the consideration of the message from the Senate.

Mr. BENTON. I move that the Committee of the Whole House be discharged from the further consideration of Senate bill (No. 170) for the relief of Mrs. Helen Mackay, administratrix of Lieutenant Colonel Æneas Mackay, late a deputy quartermaster in the United States Army.

[Cries of "Read the bill for information!"]

The bill was read through. It directs the proper

accounting officers of the Treasury, in settling the accounts of Lieutenant Colonel Mackay, deceased, deputy quartermaster general in the United States Army, to allow, as a credit for $25,000, the receipt of Captain McKissack for that amount, dated May 1, 1847, as well as the receipt of Captain McKissack for a similar amount, dated August 14, 1847. And also, that the Secretary of the Treasury pay to Mrs. Helen Mackay, administratrix of Colonel Æneas Mackay, out of any money in the Treasury not otherwise appropriated, whatever balance may be found due her late husband upon a final settlement of his accounts in the manner directed by the first section of the act.

Mr. HAMILTON. I object to the motion for discharging the committee from that bill.

Mr. BENTON. I wish to suspend the rules, in order that the bill may be brought before the House for consideration.

The question was taken; and the rules were suspended for the purpose indicated.

Mr. BENTON. I now move that the bill be read a third time and passed.

Mr. WASHBURNE, of Illinois. I call for the previous question on the third reading of the bill.

The call for the previous question received a second, and the main question was ordered to be now put.

The bill was ordered to be read a third time; and it was read a third time.

Mr. WASHBURNE. I call for the previous question on the passage of the bill.

The call for the previous question received a second, and the main question was ordered to be now put.

The bill was then passed.

Mr. WASHBURNE. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

EXPLORING EXPEDITION.

Mr. DICKINSON. I offer the following joint resolution:

Resolved, That ten thousand copies of the narrative and scientific reports of the exploring expedition under Captain Charles Wilkes, of the United States Navy, be printed and bound, under the direction of the joint committee on the library, and that the books be distributed as follows: One copy or set of the whole work to each member of the present Congress; one copy or set of the whole work to some library or literary institution easily accessible to the public in each congressional district, to be designated by the Representative of that district; and one copy or set of the whole work to be placed in some literary institution or library by each Senator; the remainder of the copies to be distributed in the usual mode by the State Department.

Mr. JONES, of Tennessee. I object. That book has been already printed and distributed.

Mr. DICKINSON. I move a suspension of the rules for the purpose which I have indicated.

The question was taken; and the rules were suspended.

The SPEAKER. The resolution is now before the House.

At the request of several members the joint resolution was again read.

Mr. DICKINSON. I demand the previous question upon the adoption of the resolution.

Mr. STANTON, of Kentucky. Will the gentleman from Massachusetts allow me to make a single suggestion?

Mr. DICKINSON. No, sir; I do not yield the floor.

Mr. STANTON. My proposition is this: the resolution proposes that this work shall be printed under the direction of the Joint Committee on the Library. Under that authority they will have the right to have it printed wherever they please. It seems to me that the work should be done under the direction of the Committee on Printing, and by the public printer of the House. I would suggest to the gentleman, therefore, that he modify his resolution so as to make it printed by the public printer.

[Cries of "No!" "No!"]

Mr. DICKINSON. I do not modify my resolution.

Mr. STANTON. I have one more suggestion to make. Unless the printing of this work is confined to the public printer, to be regulated by the prices fixed by Congress, it will cost infinitely more than there is any necessity for.

[Cries of "Order!"]

Mr. DICKINSON. I do not accept the proposition of the gentleman. I demand the previous question upon the passage of the resolution.

The previous question was seconded, and the main question ordered to be put.

Mr. PHELPS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. That motion is not in order, the main question having been ordered to be put.

Mr. RUSSELL. Is it in order to inquire of the gentleman from Massachusetts how much the printing of this work, as proposed in his resolution, will cost?

The SPEAKER. It is not in order.

Mr. DICKINSON. I wish the House would hear me one minute in reference to the inquiry of the gentleman from Pennsylvania.

The SPEAKER. No remarks are in order.

Mr. DICKINSON. It will cost $160.000. The House, some years ago, authorized the work to be printed, at a cost of about $1,000,000. Only one hundred copies were ordered to be published, which were distributed to the different States of the Union, and to foreign nations.

Mr. KEITT. I call the gentleman to order. The main question has been ordered to be put.

Mr. DICKINSON. I must be heard by the House. The plates were prepared at all this cost, and only one hundred copies ordered to be printed. They are not worth a dollar, unless they are applied to this purpose.

Mr. FLORENCE. Is it contemplated that the public printer shall print this work? I want to ask one question, and I want to hear an answer.

The SPEAKER. No debate is in order.

Mr. FLORENCE. I am not debating, I merely wish to ask a question.

The SPEAKER. Is it the pleasure of the House that the gentleman from Pennsylvania shall ask a question in reference to the resolution under consideration?

[Cries of "No!" "No!"]

Mr. HAMILTON. I demand the yeas and nays upon the adoption of the resolution.

The yeas and nays were ordered.

The question was taken; and decided in the negative—yeas 66, nays 101; as follows:

YEAS—Messrs. Aiken, Appleton, Banks, Bennett, Benson, Bristow, Bugg, Campbell, Carpenter, Caruthers, Chamberlain, Chandler, Chase, Cook, Crocker, Cumming, Curtis, Thomas Davis, De Witt, Dick, Dunbar, Edmands, Thomas D. Eliot, Etheridge, Flagler, Giddings, Goodrich, Goodwin, Grey, Aaron Harlan, Howe, Hughes, Hunt, Kerr, Lamb, Lewis, McCulloch, McDougall, Maurice, Meacham, Middleswarth, Murray, Norton, Parker, Peck, Pratt, Pringle, Riddle, Rowe, Sabin, Sapp, John L. Taylor, Teller, Tracy, Tweed, Upham, Wade, Walker, Walley, Elihu B. Washburne, Wells, John Wentworth, Tappan Wentworth, Westbrook, and Wheeler—66.

NAYS—Messrs. Abercrombie, James C. Allen, David J. Bailey, Ball, Barksdale, Barry, Breckinridge, Bridges, Brooks, Caskie, Chastain, Chrisman, Clark, Cobb, Craige, John G. Davis, Dawson, Dickinson, Dowdell, Dunham, Eastman, Eddy, Edgerton, Edmundson, John M. Elliott, Ellison, English, Faulkner, Florence, Fuller, Gamble, Goode, Green, Greenwood, Hamilton, Andrew J. Harlan, Sampson W. Harris, Wiley P. Harris, Hastings, Hendricks, Henn, Hibbard, Hiester, Houston, George W. Jones, J. Glancy Jones, Roland Jones, Kidwell, Lane, Letcher, Lindsley, Macdonald, McMullin, McNair, McQueen, Macy, Matteson, Maxwell, May, Mayall, Millson, Morrison, Mordecai Oliver, Packer, Bishop Perkins, John Perkins, Phillips, Powell, Preston, Puryear, Ready, Reese, Robbins, Ruffin, Russell, Seward, Seymour, Shaw, Shower, Simmons, Singleton, Samuel A. Smith, William Smith, George W. Smyth, Sollers, Frederick P. Stanton, Richard H. Stanton, Stratton, Straub, Andrew Stuart, David Stuart, John J. Taylor, Nathaniel G. Taylor, Thurston, Trout, Vansant, Walsh, Israel Washburn, Daniel B. Wright, Hendrick B. Wright, and Zollicoffer—101.

So the resolution was rejected.

Mr. RICHARDSON, pending the call of the roll, stated that if he had been within the bar when his name was called, he should have voted in opposition to the resolution.

Mr. JONES, of Tennessee, moved to reconsider the vote by which the resolution was rejected, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. PHELPS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. WITTE. I ask the gentleman to withdraw that motion for one moment.

Mr. PHELPS. I cannot give way further.

Mr. WITTE. Only for one moment. I desire to appeal to the gentleman from Missouri that he will extend to me the same courtesy that he this morning extended to his colleague, [Mr. BENTON.]

Mr. PHELPS. I am compelled to refuse to accede to the request of the gentleman from Pennsylvania.

Mr. WITTE. There is a bill upon the Speaker's table which I desire to take up and have passed. It will occupy but a moment. There will be no opposition. I have not taken up the time of the House. I have too much regard for the public business——

Mr. PHELPS. I cannot yield the floor. I insist upon my motion. I demand tellers upon my motion.

Tellers were ordered; and Messrs. READY and EDMUNDSON were appointed.

The question was taken; and the tellers reported —ayes 75, noes 50.

So the motion was agreed to.

NAVAL APPROPRIATION BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. MILLSON in the chair,) and resumed the consideration of House bill (No. 579) making appropriations for the naval service for the year ending the 30th of June, 1856.

The CHAIRMAN. The Chair understands that there is no amendment now pending.

Mr. WELLS. Yes, sir; I offered an amendment which was pending at the time the committee rose.

The CHAIRMAN. The Chair ruled that amendment out of order.

Mr. WELLS. And I appealed from that decision of the Chair, and the appeal was pending when the committee rose.

The CHAIRMAN. Then the Chair will state the pending question. On Saturday the gentleman from Wisconsin [Mr. WELLS] submitted an amendment to the twenty-seventh line of the bill. The Chair ruled that amendment out of order. The gentleman from Wisconsin appealed from the decision of the Chair.

Mr. HAVEN. What is the amendment?

Mr. LETCHER. Let it be read.

The Clerk read the amendment:

In line twenty-seven which reads "For six steam-frigates $3,000,000," strike out "three" and insert "two" in lieu thereof, and add, at the end of the line, the following:

And the Secretary of the Navy is hereby directed to suspend the further construction of three of the six steam-frigates authorized to be built at the last session, as soon as it can be done, with a due regard for the preservation of the unfinished works until the other three are completed.

Mr. PHELPS. I wish to say a few words in explanation of this matter, and I think that the gentleman from Wisconsin will himself see that the amendment ought not to be adopted.

Mr. PECKHAM. I call the gentleman from Missouri to order.

Mr. WELLS. I ask that I may be heard for a few minutes.

The CHAIRMAN. The Chair will remind the gentleman that the appeal is not now debatable, the debate upon this bill having been closed by a resolution of the House.

Mr. HENDRICKS. I would suggest to the Chair that the general debate may continue under that resolution for five minutes, and the gentleman can have that time to speak in.

Mr. PHELPS. I understand that the gentleman from Wisconsin desires information in regard to this matter, rather than that his amendment shall be adopted.

Mr. WHEELER. Is that in order?

The CHAIRMAN. It is not.

Mr. WHEELER. Then I object to it.

Mr. WALSH. The gentleman from Missouri grants no favors, and he ought not to expect them from others.

Mr. WELLS. I will modify my amendment so as merely to strike out "three," and insert "two."

The CHAIRMAN. Does the gentleman withdraw his appeal?

Mr. WELLS. I withdraw it for the present.

The CHAIRMAN. If the appeal is withdrawn, it will not be in order for the gentleman to renew it.

Mr. WELLS. I wish simply to state——

The CHAIRMAN, (interrupting.) The Chair wants to know whether the gentleman is about to speak on the question of appeal?

Mr. WELLS. I ask that I may be heard for

five minutes in respect to the amendment which I have offered; and if the House will hear me by unanimous consent, I think I will be able to show that my amendment should be adopted.

Mr. WHEELER, and several other MEMBERS, objected.

The CHAIRMAN. The Chair would suggest to the gentleman from Wisconsin, that he will be entitled to speak for five minutes on the question of the appeal.

Mr. WELLS. In offering the amendment which I have submitted, I have done so with the view not of embarrassing the bill for the construction of these frigates. It is rather to perfect that bill, and that the frigates may be built more completely than they are likely to be, if the work is carried on as it now is. The amendment which I propose is to strike out the word "three," and insert "two," so as that the bill may appropriate $2,000,000 instead of $3,000,000, as I think the smaller sum is as much as can be advantageously expended before the next session of Congress. I would state further——

The CHAIRMAN, (interrupting.) Does the Chair understand the gentleman from Wisconsin as discussing his appeal or the proposition which he is now submitting? The Chair has not ruled that proposition out of order.

Mr. WELLS. I am discussing my amendment by the unanimous consent of the committee.

[Cries of "No!" "No!"]

Mr. WELLS. I am discussing this whole question, and believe that I am in order in doing so, and that my proposition is in order.

The CHAIRMAN. The Chair would suggest to the gentleman that it has never ruled out of order such an amendment as he now proposes.

Mr. WELLS. I understood the Chair to rule the amendment which I offered to be out of order.

Mr. PHELPS. A word of explanation. If I understand the gentleman from Wisconsin, he submitted on Saturday an amendment. The Chair decided that amendment to be out of order. The gentleman from Wisconsin took an appeal. He now withdraws his appeal, and also withdraws the amendment which he then proposed. He proposes now to submit another amendment reducing the amount of money proposed to be appropriated in this clause. Instead of appropriating $3,000,000, he proposes to appropriate $2,000,000. If that be the state of facts——

Mr. WELLS, (interrupting.) That is not the case. I asked to be heard for five minutes on my original amendment.

[Cries of "Go ahead."]

Mr. WELLS. That is what I am now taking leave to speak on; and if not again interrupted, I think I will express my ideas in the shortest manner.

As I said, the amendment which I have offered, was offered not to embarrass the bill, or to embarrass the construction of these frigates. But my design in submitting it is, that these vessels may be the more perfect in their construction. What I ask is, that three of them may be completed as soon as may be; and when they are so completed, that the Secretary of the Navy may then go on and complete the other three. I desire this for the very reason that, should there be any mistakes or errors in the building of them, these errors can be avoided in the construction of the other three. I would state that it is the common custom of all ship builders, and of all commercial men, that when they wish to build a number of vessles, they build one or two at first, and see what improvements they may make in the rest. That has been the rule adopted in the construction of the Cunard line of steamers, of the Collins line, and of all lines built by private individuals or companies.

The CHAIRMAN, (interrupting.) The Chair would state to the gentleman from Wisconsin, that he must confine his remarks to the question of appeal. The gentleman asked the unanimous consent of the House to speak to his amendment, and that was refused. He is entitled to the floor for five minutes on the question of appeal.

Mr. WELLS. I suppose it to be the common custom of the committee, when no objection is made, that the Chair should permit discussion to go on for the space of five minutes.

The CHAIRMAN. But objection was made by several gentlemen.

Mr. WELLS. I wish to go on and state further, that either individuals are all wrong in the construction of their own vessels, or else the Government must be wrong. The two systems are entirely different; and it is well known that the only successful steamship that has been built has been built by individuals, and that those built by the Government are usually failures in the main. For that reason it is proper, and my proposition is, not to waste at once so much money, and to have but three vessels constructed at once, and then if any improvement is apparent, it can be carried out in the other three. For that reason, the House will see the pertinency of the proposal which I make.

[Here the hammer fell.]

Mr. PHELPS. A few words in reply to the remarks of the gentleman from Wisconsin. If I understand him, his position is this: The amount of money proposed for the construction of the steam frigates in this appropriation bill ought to be reduced because he thinks it unwise that all the steamers should be built at the same time. That is a matter over which the Secretary of the Navy has no control, because Congress, at its last session, directed that six first-class steam frigates should be built. The Secretary of the Navy is endeavoring to execute that law in the quickest possible time. He has now estimated the amount which he deems sufficient to complete these vessels; and if we should withhold any portion of the appropriation proposed to be made at the present session of Congress to be used for the next fiscal year, you would, perhaps, retard the construction of some two or three of these vessels, and thereby increase their cost.

The CHAIRMAN, (interrupting.) The Chair would remind the gentleman from Missouri that the question is on the appeal pending.

Mr. KEITT. Certainly; and I call for the question to be taken.

Mr. PHELPS. Then I have misunderstood the question. I understood that the appeal was withdrawn; and that the gentleman from Wisconsin [Mr. WELLS] proceeded to discuss his modified amendment this morning. I would not trespass on the rules of the House.

The CHAIRMAN. The Chair did not understand the gentleman from Wisconsin as withdrawing his appeal.

Mr. PHELPS, (to Mr. WELLS.) Did not the gentleman from Wisconsin withdraw his appeal?

Mr. WELLS. No; I did not.

Mr. PHELPS. Then I acknowledge that I have been out of order; and I think the gentleman from Wisconsin was also out of order.

Mr. HENDRICKS. Oh, no; he had five minutes to discuss his appeal.

[Cries of "Question!" "Question!"]

The CHAIRMAN. The gentleman from Wisconsin submitted, on Saturday, an amendment reducing the appropriation from $3,000,000 to $2,000,000. The Chair ruled that amendment to be out of order, on the ground that it was not competent for the committee, in an amendment to an appropriation bill, to restrict or suspend the operations of an act of Congress. From that decision of the Chair, the gentleman from Wisconsin has taken an appeal; and the question is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was taken; and the decision of the Chair was sustained.

Mr. PRINGLE. I move the following amendment:

Strike out line twenty-seven, and insert in lieu thereof the following:

To continue the construction of the six steam frigates authorized to be built by act of the first session of the Thirty-Third Congress, $3,000,000.

Mr. PHELPS. I have no objection to having the clause put in the language of the amendment of the gentleman from New York, [Mr. PRINGLE.]

Mr. HAVEN. Let us vote upon it now.

[Cries of "Question!" "Question!"]

The question was taken; and the amendment was adopted.

Mr. HOWE. I propose to submit an amendment to the bill, to come in after the twenty-seventh line.

Mr. PECKHAM. I move to amend line seventeen, by striking out the word "three" and inserting the word "one," so as to make the appropriation $1,000,000.

The CHAIRMAN. The Chair would suggest to the gentleman from New York that the twenty-seventh line has been already stricken out by a vote of the committee, and is not now susceptible to further amendment.

Mr. PECKHAM. Then I propose it as an amendment to the substitute.

Mr. PHELPS. It is incompetent for the gentleman from New York to move to strike out anything contained in the substitute just adopted.

Mr. PECKHAM. Very good; I can take it in another line.

Mr. WHEELER. I think my colleague is in order. This line is open to amendment.

Mr. PHELPS. No, it is not.

Mr. PECKHAM. Well, certainly it is in order to move to strike out something in the twenty-eighth line.

The CHAIRMAN. The twenty-eighth line is not yet read.

The Clerk proceeded with the reading of the bill:

For Stevens's war steamers, $250,000.

Mr. PECKHAM. I move to strike out "$250,000," and insert "$100,000."

Mr. HOWE. Mr. Chairman, the amendment which I desire to propose is to come in at the end of the twenty-seventh line. Am I not entitled to the floor?

The CHAIRMAN. The Chair did not know that the gentleman was seeking the floor.

The amendment was then read by the Clerk, as follows:

After the twenty-seventh line insert the following:

Provided, That, in the construction and equipment of said frigates, as well as all other vessels now building, or which may hereafter be built, either for the naval or revenue service, the preference shall be given to materials which are the growth and manufacture of the United States.

Mr. PHELPS. I rise to a question of order; that the amendment changes existing law, and is not, therefore, in order to this appropriation bill.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment out of order.

Mr. PECKHAM. If my amendment be now in order, I move to strike out "$250,000" and insert "$100,000." For what purpose are these steamers built?

Mr. BOCOCK. I rise to a question of order. There are no steamers mentioned in this clause.

Mr. PECKHAM. The gentleman is mistaken; and he had better understand about what he is talking.

Mr. BOCOCK. The gentleman from New York speaks of these steamers.

Mr. PECKHAM. I am out of order by one letter. I should say "war steamer" instead of "steamers." For what particular purpose is this war steamer to be constructed? To what particular purpose devoted? Under whose control is it to be placed? It is to be placed under the control of the present Administration, if the vessel be soon enough completed. The President is Commander-in-Chief of the Army and Navy, and when we look at the achievements of the Administration during the last session, we may well inquire whether it is proper for us to place any greater power in the hands of the present Executive? I allude to the destruction of Greytown, and I do it for the purpose of saying, in my place here, under the responsibility that attaches to it, that I regard the orders issued by the Executive in that case as wholly unwarranted.

Mr. PHELPS. I call the gentleman from New York to order. We are not discussing the affairs of Greytown.

Mr. PECKHAM. I am discussing precisely what is in order.

The CHAIRMAN. The Chair thinks, if the gentleman is arguing to show that it is not safe to confide the management of this steamer to the Executive, that he is in order; but he is clearly not in order in referring to the past conduct of the Administration.

Mr. PECKHAM. I am showing that it is not proper to continue the construction of this steamer, and for the purpose of continuing my remarks I am willing to assume, or attempt to prove that it is not proper to give to the President the control of more war steamers.

Mr. HENDRICKS. Greytown is destroyed.

Mr. PECKHAM. Certainly, it is destroyed; and from the past we can judge of the future use of war steamers.

The CHAIRMAN. The Chair cannot pronounce at present whether the gentleman is in order, until he shall more fully have explained his amendment.

Mr. WHEELER. I will suggest to my colleague that there is no danger of this Administration attacking any larger place, so he had better let the matter go.

Mr. PECKHAM. I do not speak of this Administration in any offensive sense. I make no charge against its motives. I do not rise to attack either the President or the Secretary of the Navy, but in an appropriate manner to express my opinion upon the course of the Executive in the destruction of Greytown; not to advance arguments at length, or to present particular facts. There is no time for that. There has been no opportunity for general discussion on this floor for months past. Though I have been desirous of reviewing this Greytown bombardment somewhat critically, yet I should always do so with courtesy and kindness, as I conceive it involves most important principles, and it sets a dangerous precedent. Under this five-minute rule I can do little more than enter my protest in this Hall against the action of the Executive on this subject, in thus assuming the right to make war.

The CHAIRMAN. The gentleman from New York is certainly out of order.

Mr. PECKHAM. If the Chair pleases, my object is to show the improper use to which this steamer may be applied, and hence that we should not continue its construction, and I believe I am in order.

The CHAIRMAN. The Chair has already decided that the gentleman would be in order if he submits an argument intended to show that it is not safe to confide this steamer to the present Executive, but he would not be in order if he proceeds to discuss the past conduct of the Administration.

Mr. PECKHAM. I only discuss the past conduct of the Administration as illustrative of its future action, and in no other sense. Is there any safer guide to ascertain the future? I desire to say further, that this order by the Secretary of the Navy was not only illegally issued, but it was issued without any sufficient ground of justification, even though he had authority to issue such an order in a proper case.

Mr. McMULLIN. I call the gentleman to order.

Mr. PECKHAM. I will leave that branch of the subject, and go one step further. I say, that when these orders were issued——

Mr. JAMES C. ALLEN. I call the gentleman to order.

The CHAIRMAN. The gentleman from New York is certainly not in order.

Mr. HIBBARD. I hope the gentleman from New York will be permitted to proceed, whether in order or not. It will be satisfactory to him individually, and trouble nobody else.

Mr. PECKHAM. I trust that these questions of order do not come out of my time. They leave room for little else.

Mr. HIBBARD. I hope the gentleman will have the unanimous consent of the committee to proceed.

Mr. McMULLIN. I object to any gentleman proceeding with remarks out of order.

Mr. PECKHAM. I intend to speak to the point, and to speak in order, also.

Mr. McMULLIN. I call the gentleman again to order.

Mr. SOLLERS. I hope that everybody will preserve order.

[Here the hammer fell.]

Mr. PHELPS. I hope the gentleman from New York is not in earnest in asking this committee to adopt the amendment he has offered. I would ask him to withdraw it.

Mr. PECKHAM. I withdraw my amendment.

Mr. PHELPS. I will not trouble the committee, then, by discussing it.

Mr. PECKHAM. I offer another amendment at this point. I move to reduce the amount contained in the bill to $200,000.

Mr. BOCOCK. Then, if the gentleman offers another amendment, he will permit me to make upon him another question of order. When you come to consider the strict rule of the House, if a gentleman rises in his place and moves to strike out $250,000, and to insert in its place $200,000, he must confine his remarks to show the necessity of his amendment; that is, in this case, to show why $200,000 should be inserted in the place of $250,000.

Mr. PECKHAM. I shall confine my remarks to the proper object; but I will change my amendment, so as to reduce the sum to $50,000. My belief is, if we stop the appropriation, the construction of this steamer will not go on rapidly, and the purpose will be obtained precisely as well, if we appropriate but $50,000 for this steamer, as if we should say in another act that the construction of this steamer shall cease, and not be continued.

I was about to say, sir, in further illustration of the absence of any necessity for the construction of this vessel, that its probable use would not be in accordance with the wishes of this House, and this Congress. I was about to illustrate that by a further reference to this affair at Greytown, and to show that if the ship of war Cyane had been employed by the Executive for an unlawful purpose, it was rational to infer that this steam vessel might, probably, be used for a like object, and therefore should not be completed—or if vessels of war were so numerous now in the Navy that they could be diverted from their legitimate use without detriment to the public service, surely there could be no necessity to build more. Having said that, in my belief, the order issued by the Secretary of the Navy was illegal and unfounded, without justification in fact or in law, contrary to the Constitution of this country, I wish to go a step further, and say——

Mr. SMITH, of Virginia, (interrupting.) I rise to a question of order. I only desire to remark, that I believe that the resolution of the House, adopted some time since, requiring that, for the balance of the present session of Congress, members, in committee, should confine their remarks to the matter under consideration, is in force, and would confine the gentleman now upon the floor to showing why we should strike out $250,000 and insert $50,000. But as he is not doing that, I submit the point that he is not in order in his remarks.

Mr. PECKHAM. Well, sir, I am not inclined to disagree with the gentleman from Virginia, as to the rule.

Mr. SMITH. Very well; if the gentleman agrees with me, I presume he will conform to the rule, and it is unnecessary for me to press the point further.

Mr. PECKHAM. Certainly; of course I must confine myself within the rule.

The CHAIRMAN. The Chair will say that he desires to administer the rules of the House correctly, and he must state to the gentleman from New York that, while it is competent for him to explain the reasons which operate upon his own mind for proposing this reduction, yet there must be some connection between the employment of the Stevens war steamer, and the proposed policy of the Administration.

Mr. SMITH. Very well, if the gentleman agrees with me, I presume he will conform to the rule, and it is unnecessary for me to press the point further.

Mr. PECKHAM. Certainly, of course I must confine myself within the rule.

The CHAIRMAN. The Chair will say, that he desires to administer the rules of the House correctly; and he must state to the gentleman from New York, that while it is competent for him to explain the reasons which operate upon his own mind for proposing this reduction, yet there must be some connection between the employment of the Stevens war steamer and the proposed policy of the Administration.

Mr. PECKHAM. I entirely concur in the views of the Chair; but I must be permitted to say, at the same time, that these continued interruptions render any effort to make a connected argument utterly useless. I must certainly, sir, finish one part of my argument before I proceed to another.

What was the order issued by the Secretary of the Navy, under which Captain Hollins was sent to Greytown? I do not intend to say a word against the gallant Captain. My friend from Maryland [Mr. VANSANT] says I must not. But I must say that the order was carried out seemingly in the same spirit in which it was issued. It was issued without authority of law, and it was executed, most unfortunately. But what was the order to Captain Hollins? After directing him to repair, with his vessel, to Greytown, the Secretary said that "the property of the American citizens interested in the Accessory Transit Company, it is said, has been unlawfully detained by persons residing in Greytown. Apprehension is felt that further outrages will be committed. Our minister [Mr. Borland] has been treated with rudeness and disrespect;" and he added: "Now, it is very desirable that these people should be taught that the United States will not tolerate these outrages, and that they have the power and the determination to check them. It is, however, very much to be hoped that you can effect the purposes of your visit without resort to violence, and destruction of property, and loss of life."

Here, it appears, he enumerated the grievances, and then alluded, negatively, to the remedy which might go to "the destruction of property and loss of life."

Did the Constitution, in declaring that Congress shall have power "to declare war, grant letters of marque and reprisal," ever intend to vest any such power in the Executive as was thus conferred upon this naval officer? Was it not intended in thus vesting in Congress the right to "grant letters of marque and reprisal"—a species of distress-warrant among nations to enforce the payment of a debt or the performance of some duty—carefully to avoid conferring upon the Executive, under any circumstances, without the consent of Congress, power to involve the country in war? And why was this city of Greytown, thus entirely placed, by the Executive of this nation, at the mercy of Captain Hollins, to destroy or not at his option? It was an old town; for several years subsequent to 1848 it was under the assumed protectorate of Great Britain, but for more than two years prior to its destruction, it had acted independently as a free city, with its own laws and constitution, adopted by its citizens. It had so acted with the virtual, if not strictly formal, assent of both Great Britain and this Government. Independent in fact, no power on earth exercised control over it. It was a peaceable town; property and person were nowhere in Central America more secure than in that city. But the town became involved in a controversy with a foreign corporation called the Accessory Transit Company, in which company certain American citizens owned stock, and our Government was appealed to, to take part with the offending party, the Transit Company; the only party whose agents, the papers before the Executive and sent to this House, show, had broken the peace; and our Government, forgetting its duty and its dignity, most readily engaged in the dispute, and destroyed the town.

The Executive assumed this authority, too, when Congress was in session, without necessity and on an *ex parte* affidavit of an agent who assumed to have no personal knowledge of the matters he pretended to detail.

The papers containing all the alleged facts on which the Executive acted have been laid upon our tables, pursuant to a resolution of the House, and they show, when carefully examined, no violation of law on the part of that town; no offense or insult to our minister on the part of its authorities; he was not arrested or imprisoned.

If the Executive had authority to direct the destruction of this town, why has he not authority to make war on Cuba? Where is the limit to his power? What but his own will shall prevent his involving the country in war at any time? Sir, we have become a great and powerful nation. Far too great to descend to prevarication or injustice; too great to quote the outrages of other nations to justify our own.

[Here the hammer fell.]

Mr. PHELPS. I am opposed to the amendments submitted by the gentleman from New York. When the gentleman from New York indicated his willingness to withdraw his amendment, and I abstained from discussing it, I was of the opinion that he had come to the conclusion that he had let off a sufficient quantity of gas for this occasion. [Laughter.] But I found I was mistaken, for he immediately offered another amendment, and the gentleman has now come to be the advocate, to a certain extent, of the repudiation of the contract made by this Government with a citizen of the State of New York.

Mr. PECKHAM. Oh, no. The gentleman is mistaken.

Mr. PHELPS. Well he certainly does not desire that the contract made by the Government of the United States with Robert L. Stevens, who resides in New York, should be executed and carried out.

Mr. WHEELER. He does not reside in New York.

Mr. PHELPS. Well, if he does not reside in New York, he resides in Hoboken, which is in the suburbs of the city of New York.

Mr. PECKHAM. The gentleman has misconceived me. I offered my amendment in accordance with the usage here, not to be voted upon, but for the purpose of making a few general remarks; but upon this, as upon every other occasion I am in favor of the Government executing its contracts honorably and entirely.

Mr. PHELPS. The gentleman now acknowledges that he has trespassed upon the well known rules of the House.

[Cries of "Order!" "Order!"]

Mr. PECKHAM. The gentleman from Missouri was never more mistaken. My remarks were entirely pertinent to my amendment, and that amendment, being in order, I had the right to discuss it.

Mr. PHELPS. The gentleman shows that he does not know what he is talking about. [Laughter.] This war steamer was ordered to be constructed for the purpose of harbor defenses, and for that alone, and not for navigating the ocean, but for navigating the harbor of New York only; and that upon a plan which was submitted to Congress at the time Congress directed the Secretary of the Navy to make a contract with Robert L. Stevens for the construction of a steamer for harbor defenses alone. Two hundred and fifty thousand dollars were appropriated, but a portion of it went back into the surplus fund of the Treasury, not being called for within two years after the appropriation was made.

Mr. PECKHAM. Does the gentleman pretend that that steamer may not go to any place the President of the United States may think proper to send it? He is the commander-in-chief of the Army and Navy.

Mr. PHELPS. The amount proposed to be appropriated here is nothing more than has been recommended by the naval officer superintending the construction of that vessel as needed, and needed at the present moment.

Congress, in 1852, after the money before appropriated had gone into the surplus fund of the Treasury, directed that the contract should be executed, and the Secretary of the Navy directed that the money which had gone into the surplus fund should be reappropriated.

The Secretary of the Navy, if he were consulted in reference to the matter, would declare, at once, that he had no desire to violate the contract. If the money be required, and it is so reported by the officer superintending the construction of that vessel, I hold that the appropriation should be made.

Mr. PECKHAM, by unaimous consent, withdrew his amendment.

Mr. FLORENCE. I offer the following amendment:

After the paragraph providing for contingent expenses, insert as follows:

That the law approved the 3d of March, 1843, directing advertisements for materials for the Navy be so restored as to require a full description of each and every article to be furnished, with dates and places of delivery: *Provided*, the price to be paid for all advertisements for the supplies of the Government shall hereafter be the same, and no more, than is charged others who occupy a similar place and position in newspapers in which such advertisements are published.

Mr. PHELPS. I rise to a question of order. The amendment is not in order for the reason that it changes the existing law. It restores that portion of the law repealed at the last session.

The CHAIRMAN. The Chair decides the amendment out of order.

Mr. FLORENCE. It only proposes to do what a similar amendment to the naval bill did at the last session.

Mr. PHELPS. What the gentlemen refers to was done by joint resolution.

Mr. FLORENCE. I appeal to the Journal of the House. It will bear out what I have said.

Mr. LETCHER. The amendment has been decided to be out of order, and I would inquire whether debate can be allowed?

Mr. FLORENCE. I appeal from the decision of the Chair, and beg to state the ground of my appeal.

The CHAIRMAN. The Chair would cheerfully reconsider its decision, if the gentleman could suggest anything to show that it was wrong.

Mr. FLORENCE. I suggest that a similar provision was introduced into the naval appropriation bill at the last session.

Mr. PHELPS. The gentleman is mistaken. What he alludes to was accomplished by a joint resolution, approved on the 27th March.

Mr. FLORENCE. I will look over the Journal, and, with the facts before me, will renew the amendment at some other point in the bill.

Mr. PHELPS. I offer the following amendment:

Strike out the words "and grounds" and the word "thirty," and in lieu thereof insert "twenty-five," so that the paragraph would read:

For repair of buildings, for the necessary additions and repairs to the works for heating the buildings, and support of the Naval Academy, at Annapolis, Maryland, $25,040 22,

and add as follows:

For continuing the sea-wall along the northern front of the Naval Academy grounds, grading and filling in low grounds, and for keeping the grounds in order, $23,000.

Mr. Chairman, this is a modification of the bill as it was reported by the Committee of Ways and Means. The amendment is offered at the instance of that committee.

Mr. SOLLERS. According to the estimates of the Secretary of the Navy, which I have read, he proposes the sum of $39,000.

Mr. PHELPS. There is $25,000 appropriated in the preceding paragraph.

Mr. SOLLERS. What is the whole amount proposed to be appropriated for the Naval Academy at Annapolis?

Mr. PHELPS. Forty-eight thousand dollars.

Mr. SOLLERS. I have no objection to that.

The question was taken; and the amendment was agreed to.

Mr. PHELPS. I am instructed by the Committee of Ways and Means to propose several amendments respecting the different navy-yards. If it be the pleasure of the committee, I will move them all at once.

[Cries of "Agreed!"]

Mr. PHELPS. When we took up this bill, I explained that the Committee of Ways and Means reported in the bill the objects in the navy-yards for which appropriations were to be made, but without reporting the amounts. They were left for future consideration. In addition, the committee had before them official estimates for the purpose of perfecting the buildings and machinery necessary for constructing steam-engines at the Boston, New York, and Norfolk navy-yards.

Mr. PHELPS. The Committee of Ways and Means propose the following:

Page 5, in line ninety-three, after the word "basin,' strike out the words "offices and muster-room."

Page 5, in line ninety-four, after the word "ledge," insert the words "bank of timber shed."

Page 5, in line ninety-five, after the word "floating-dock," insert the words "for a new shell house, for the safe-keeping of shells."

Same page and line, after the word "kinds," insert "$58,258."

So that the paragraph will read:

Portsmouth, New Hampshire.—For completing cooper's shop and watchmen's quarters; dredging front of basin; dock basin; sewer and drainage; removing ledge bank of timber shed; paving; flue-boiler at smithery; repairs of floating-dock; for a new shell-house for safe-keeping of shells; and repairs of all kinds, $58,258.

The amendment was agreed to.

Mr. PHELPS. The next amendment is the following:

Page 5, in line ninety-nine, after the word "smithery," strike out the words "copper and iron store, and paint shop."

Page 5, in line one hundred and two, after the word "thirty," strike out the words "two gas pipes and burners for the yard, commandant's and officers' quarters," and insert the word "three."

Page 5, in line one hundred and six, after the word "rope-walk," strike out the words "oakum picker," and insert "completing foundery, boiler, and machine-shop, and necessary tools for the same."

Page 5, in line one hundred and six, after the word "kinds," insert "$255,352."

So that the paragraph will read:

Boston.—For removing and altering coal-house at smithery; stone wall north side of timber-dock, and filling area around machine-shop and smithery; packing-house and cooperage; rebuilding dock-engine boiler-house; paving area around dry dock; paving between sheds numbers thirty one and thirty-three; extension of city sewer to sea-wall; finishing coal-house at rope-walk; machinery for machine-shop and smithery; steam-engine and pump for rope-walk; completing foundery, boiler, and machine-shop, and necessary tools for the same; and repairs of all kinds, $255,352.

The estimates of the Navy Department for this yard were at first for $226,900, and subsequent estimates were sent in for $62,100, making, in all, $289,000. The committee reduced the amount to $255,352, which they now propose to insert.

Mr. BANKS. I should like to know why the committee propose to strike out the item for gas pipes and burners at that point?

Mr. PHELPS. The committee thought it was not expedient to provide for them at this time.

The question was taken; and the amendment agreed to.

Mr. PHELPS. The next amendment is the following:

Page 5, in line one hundred and eleven, after the word "grading," strike out the words "filling in new purchase, and repairs of all kinds," and insert "oakum picker and completing foundery, boiler, and machine-shop, and machinery for the same, $345,946.

"For the sum required to pay the amount due for iron work for engine-house, $9,500.

"For repairs of all kinds, $25,000."

So that the paragraph will read:

New York.—For the extension of smithery; machinery for smithery; carpenter's shop; oakum shop; quay wall; paving and flagging; dredging channels; timber and knee slip; dry dock pavement; filling in low places and grading; oakum picker, and completing the foundery, boiler, and machine-shop, and machinery for the same, $345,946.

For the sum required to pay amount due for iron work for engine house, $9,500.

For repairs of all kinds, $25,000.

I will merely state that that is a reduction on the estimates which were submitted to the Committee of Ways and Means.

The question was put; and the amendment agreed to.

Mr. PHELPS. The Committee of Ways and Means next propose to amend, as follows:

Page 6, in line one hundred and sixteen, after the word "kinds," insert "$76,700."

So that the paragraph will read:

Philadelphia—For adding sixty feet to ship-house F; roof of ship-house F; roof to ship-house G; wharf No. 4; dredging channels; repairs of dry dock; and repairs of all kinds $76,700.

The question was put, and the amendment agreed to.

Mr. PHELPS. The Committee of Ways and Means next propose to amend as follows:

Page 6, in line one hundred and eighteen, after the word "building," striking out the words "to refund amount borrowed from machinery."

Page 6, in line one hundred and twenty-five, after the word "water," insert "gas pipes and fixtures."

Page 6, in line one hundred and twenty-five, after the word "kinds," insert "$192,386."

So that the paragraph will read as follows:

Washington—For ordnance building; completing cradle to marine railway; extension of boiler-shop; conversion of ordnance to machine shop; forge-shop for new steam hammer; shoring ways in ship-house T; lining walls of slip; pavements, drains, and gutters; grading and filling low places; raising roof of brass foundery; fire-engine house; dredging channels; reservoir for water, gas pipes, and fixtures; and repairs of all kinds, $192,386.

This is in accordance with the estimates submitted to the Committee of Ways and Means.

The question was put; and the amendment agreed to.

Mr. PHELPS. The next amendment is as follows:

Page 6, line one hundred and thirty, after the word "derricks," strike out the words "cart-shed, lime and cement store-house," and insert "completing foundery, boilers, and machine-shop, and necessary tools for the same."

Page 6, in line one hundred and thirty-two, after the word "kinds," insert "$321,317;"

so that the paragraph will read:

Norfolk.—For continuing quay-wall; reservoirs for rain water; dredging channels; foundery; engine of dry dock; carpenters' work-shop; rail tracks and cars at St. Helena; scows; landing cranes, and derricks; completing foundery, boiler and machine-shop, and necessary tools for the same; steam-boxes and boilers; pitch-house; and repairs of all kinds, $321,317.

This is also less than the amount estimated for by the Department.

The question was put, and the motion agreed to.

Mr. PHELPS. The committee next propose to amend as follows:

Page 6, in line one hundred and thirty-five, after the word "paving," strike out the words "removing," "sunk," "Caisson."

Page 7, in line one hundred and thirty-eight, after the word "shell-house," strike out the words "wall around shell-house."

Page 7, in line one hundred and forty, after the word

"house," strike out the words "towards west basin and launching slip."

Page 7, in line one hundred and forty-one, after the word "kinds," insert as follows: "$104,870.

"For repairs of officers' houses, numbered from one to thirteen, rebuilding of small stables, repairs of warrant officers' houses, and building of kitchens, $12,000;"

so that the paragraph will read:

Pensacola.—For permanent wharf, deep basin, and dredging; coping for basin; filling in and paving; paint shop and cooperage, (to complete;) repairs of cisterns Nos. 14, 25, and 26; water-pipes to permanent wharf; guard house at west gate; shell house; lightning conductors; railway to spar-house; steam-box; fire-engine house; and repairs of all kinds, $104,870.

For repairs of officers' houses, numbered from one to thirteen, rebuilding of small stables, repairs of warrant officers' houses, and building kitchens, $12,000.

The committee have made this amendment conform with the estimates of the Department.

The question was taken; and the amendment agreed to.

Mr. PHELPS. The Committee of Ways and Means propose to amend the next paragraph as follows:

Page 8, in line one hundred and forty-three, after the word "kinds," insert "$2,000;"

so that the paragraph will read:

Sackett's Harbor.—For repairs of all kinds, $2,000.

The question was put; and the amendment agreed to.

Mr. PHELPS. The Committee of Ways and Means propose to amend the next paragraph as follows:

Page 8, in line one hundred and forty-six, after the word "wharf," strike out the words "houses (three) for quarters; repairs of all kinds;" and insert "$230,000;"

so that the paragraph will read:

San Francisco.—For completing store-house; completing blacksmiths' shop; completing carpenters' shop; wharf; $230,000.

The question was put; and the amendment agreed to.

Mr. PHELPS. The next amendment is as follows:

Page 8, in line one hundred and forty-eight, after the word "railway," insert "$400,000;"

so that the paragraph will read:

For continuation of basin and railway, $400,000.

This is for San Francisco.

The question was put; and the amendment agreed to.

Mr. FLORENCE. I offer the amendment which I send up to the Clerk's desk to come in at line one hundred and ninety-eight, and I will say to the Chair that, at the last session of Congress, a similar amendment was inserted just at this point in the naval appropriation bill.

The amendment was read, as follows:

And that the provisions of the law approved March 3, 1843, directing advertisement for materials for the Navy be so far restored as to require a full description of each and every article to be furnished, with date and place of delivery; provided the price to be paid for all advertising for supplies for the Government shall, hereafter, be the same, and no more than is charged others who occupy a similar place and position in the newspapers in which such advertisements are published.

Mr. PHELPS. I must still raise a question of order on that amendment. It is immaterial what the committee may have done at the last session of Congress, so far as the question of order is concerned. I am not prepared to say but that that amendment was inserted by the Senate. I I do not know where it was inserted; but, nevertheless, in my opinion, it is not in order.

Mr. FLORENCE. I will state, in explanation, that this amendment is recommended by the Bureau of Provisions and Clothing, and is also recommended by the Committee on Naval Affairs of this House. Reflection, judgment, experience, and observation satisfy me that it costs the Government $50,000 more than it ought to do for advertising, and more than it would do if this provision were adopted. I hope the committee will insert it.

The CHAIRMAN. The single question for the Chair to decide is, whether the proposition be in order as an amendment to the naval appropriation bill. The Chair believes that the amendment is not in order, and the fact that a previous bill may have contained a similar proposition would not, in the opinion of the Chair, affect the propriety of its present decision.

Mr. FLORENCE. I do not urge that. I urge that it is merely a modification of an existing law.

Mr. HENDRICKS. I object to discussion.

The CHAIRMAN. The Chair rules the amendment out of order.

The Clerk then proceeded with and finished the reading of the bill.

Mr. HAVEN. If this bill is finished, I desire to ask the committee to lay it aside, and take up the amendments of the Senate to the Indian appropriation bill. I think we can dispose of them in ten or fifteen minutes, and I promise the committee that if we get into a snarl about them, I will at once consent that the committee shall rise.

Mr. MACDONALD. I have an amendment to the bill now pending, to come in as an additional clause:

And be it further enacted, That the Secretary of the Treasury be, and he hereby is, authorized to permit the Seavy's Island Bridge Company to connect with the navy-yard at Kittery, Maine, a bridge extending thereto from said Seavy's Island, to such point thereon as they shall desire, and may permit a right of way through the said yard to said bridge, under such directions and such regulations as the commandant of the yard, for the time being, shall establish, under the authority of the Navy Department: *Provided*, That no expense whatever in connecting said bridge with said yard, or making said way across the same, shall be incurred by the United States; and said bridge and said right of way may, at any time, be discontinued by the Secretary of the Navy.

Mr. PRINGLE. I object to that amendment as being out of order.

The CHAIRMAN. The Chair thinks it is out of order.

Mr. MACDONALD. I think, if the committee will hear me, that it will consent to have that amendment inserted in the bill. It is a matter which has been recommended by the Navy Department, and it has the approval of the Committee on Naval Affairs. It is for the accommodation of some thirty families who have no access to their homes save by water. It is a mere local matter, and it is all to be under the control of the commandant of the yard, and of the Navy Department.

Mr. BOCOCK. It is all right.

Mr. MACDONALD. I hope the point of order raised by the gentleman from New York will be withdrawn.

Mr. PRINGLE. I withdraw it.

The question was taken; and the amendment was adopted.

Mr. HAVEN. I would say to my friend, the chairman of the Committee on Military Affairs, [Mr. FAULKNER,] whom I see to be a little active on the other side of the House, and who I suppose desires to get up the military appropriation bill——

Mr. FAULKNER, (interrupting.) I do.

Mr. HAVEN. I go willingly for that purpose; but I wish to say to him that it is now nearly half past three o'clock; and I think if we were to take up that bill we should make no progress on it to-night. But if he would let us take up and finish the Senate amendments to the Indian appropriation bill, I think we could finish them in about fifteen minutes; and then we can take up his bill to-morrow.

[Cries of "Agreed!—go ahead!"]

Mr. FAULKNER. I assent to that proposal.

Mr. HAVEN. Then I move that the naval bill be laid aside, to be reported to the House with the action of the committee upon it.

Mr. WELLS. I wish first to propose the following amendment:

That the sum of $140,000 be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the continuation of the improvement of the main ship channel to the entrance of the Mississippi river. And that the sum of $140,000 be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the continuation of the deepening and improvement of the channel over the St. Clair flats, on lake St. Clair, Michigan, and the improvement of the channel of the St. Marie river, Michigan; to be expended under the superintendence of the Secretary of the Navy, or such officer as he may appoint.

Mr. JONES, of Tennessee. I rise to a question of order. That amendment is not in order.

Mr. WELLS. I think it is well known that in reference to the steam frigates of war now being built, there is no harbor on the Gulf of Mexico sufficiently deep to allow them to get in there. And I think, therefore, that if we build them, it is in order to provide for having the ship channels deepened. And even if the amendment is not strictly in order, I think that the importance of the case is such as to make it appear to be in order. I think that if we violate rules of the House for the benefit of railroad companies, we should not have much hesitation in violating them for such a purpose as this.

[Loud cries of "Order!" "Order!"]

Mr. WELLS. I hope that the committee will consider the amendment, and pass upon it.

The CHAIRMAN. The Chair would very cheerfully hear the suggestions of the gentleman from Wisconsin on the point of order. The Chair, however, feels that his proposition is not in order, and so rules.

Mr. WELLS. Then I respectfully take an appeal from the decision of the Chair.

[Cries of "Question!" "Question!"]

The CHAIRMAN. The Chair, for reasons which it is unnecessary to mention, rules the proposition of the gentleman from Wisconsin to be out of order. From that the gentleman takes an appeal. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was taken; and the decision of the Chair was sustained.

Mr. PHELPS. I now move that the bill be laid aside to be reported to the House, with the action of the committee thereon.

The question was taken; and the bill was so laid aside.

INDIAN APPROPRIATION BILL.

On motion by Mr. HAVEN, the committee then proceeded to the consideration of the amendments of the Senate to House bill (No. 555) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1856.

First amendment:

Page 2, line twenty, after the word "Indian," strike out the "snb," so as to make it read: For the pay of the several Indian agents, &c.

Mr. HAVEN. That is a very brief matter. I think the Senate are right about their amendment, and I hope the committee will concur in it.

The question was taken; and the amendment was concured in.

Mr. HOUSTON. The next two amendments follow exactly the same rule.

Second amendment:

After the word "four" in the twenty-first line, insert, and for arrearages of pay to one in the State of New York; one at Green Bay, Wisconsin; one for the Seminoles west of Arkansas; and one for the Indian tribes in Utah, so as to make the section read:

For the pay of the several Indian agents, per act of 31st July, 1854, and for arrearages of pay to one in the State of New York; one at Green Bay, Wisconsin; one for the Seminoles west of Arkansas and one for the Indian tribes in Utah, &c.

Mr. HAVEN. The Committee of Ways and Means recommend concurrence in that amendment.

The question was taken; and the amendment was concurred in.

Third amendment:

After the word "cents" in the twenty-sixth line, insert the following:

And the Secretary of the Interior is authorized hereafter to employ one agent for the Indians in the State of New York; one for those at Green Bay, Wisconsin; one for the Seminoles west of Arkansas; and one for the tribes in the Territory of Utah, at the rate of $1,000 per annum each.

The section, as amended, will read:

For the pay of the several Indian agents, per act of 31st July, 1854, and for arrearages of pay to one in the State of New York; one at Green Bay, Wisconsin; one for the Seminoles west of Arkansas, and one for the Indian tribes in Utah, $15,382 79: and the Secretary of the Interior is authorized hereafter to employ one agent for the Indians in the State of New York; one for those at Green Bay, Wisconsin; one for the Seminoles west of Arkansas; and one for the tribes in the Territory of Utah, at the rate of $1,000 per annum each.

Mr. HAVEN. The Committee of Ways and Means recommend a concurrence in that amendment.

The question was taken; and the amendment was concurred in.

Fourth amendment:

After the fifty-ninth line, insert the following:

For the payment of this sum due the Cherokees, on account of interest, between the 1st of May, 1845, and 1st of May, 1846, on stocks of the State of Michigan, held in trust by the Secretary of the Interior, under the treaty of 1835, and the supplement of March, 1836, $20 97.

Mr. HAVEN. The Committee of Ways and Means recommend concurrence.

The question was taken; and the amendment was concurred in.

Fifth amendment:

For expenses (in part) of selecting reservations, and surveying and marking the boundaries thereof, per second, third, and twelfth articles of the treaty of September 30, 1854, $3,000.

Mr. HAVEN. The Committee of Ways and Means recommend concurrence.

The question was taken; and the amendment was concurred in.

Sixth amendment:

For the payment of the first of twenty installments in coin, goods, &c., agricultural implements, &c., and education, &c., per fourth article of the treaty of September 30, 1854, $19,000.

Mr. HAVEN. The Committee of Ways and Means recommend concurrence in that amendment.

The question was taken; and the amendment was concurred in.

Mr. HAVEN. I think I could save some time by saying that the committee recommend concurrence in the seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth, and thirty-ninth amendments.

These amendments are as follows:

Seventh amendment:

For the purchase of clothing and other articles, to be given to the young men at the next annuity payment, as per fourth article of the treaty of September 30, 1854, $4,800.

Eighth amendment:

For the purchase of agricultural implements and other articles, as presents for the mixed-bloods, per fourth article of the treaty of September 30, 1854, $6,000.

Ninth amendment:

For the payment of such debts as may be directed by the chiefs in open council, and found to be just and correct by the Secretary of the Interior, per fourth article of the treaty of September 30, 1854, $90,000.

Tenth amendment:

For the payment of such debts of the Bois Forte bands as may be directed by their chiefs, and found to be just and correct by the Secretary of the Interior, per twelfth article of the treaty of September 30, 1854, $10,000.

Eleventh amendment:

For the payment of the first of five installments in blankets, cloth, &c., to the Bois Forte band, per twelfth article of the treaty of September 30, 1854, $2,000.

Twelfth amendment:

For the first of twenty installments for the pay of six smiths and assistants, per fifth and second articles of the treaty of September 30, 1854, $5,040.

Thirteenth amendment:

For the first of twenty installments for the support of six smith-shops, per fifth and second articles of the treaty of September 30, 1854. $1,320.

Fourteenth amendment:

Strike out the following:

For nineteenth of twenty installments for the establishment of three smiths' shops, supporting the smiths, and furnishing iron and steel, per second article of the treaty of 29th July, 1837, $3,000.

Fifteenth amendment:

Strike out the following:

For nineteenth of twenty installments for the support of farmers, purchase of implements, grain, and seed, to carry on their agricultural pursuits, per second article of the treaty of 29th July, 1837, $1,000.

Sixteenth amendment:

Strike out the following:

For fourteenth of twenty-five installments for the support of two smiths' shops, including the pay of two smiths and assistants, and furnishing iron and steel, per fourth article treaty 4th October, 1842, $2,000.

Seventeenth amendment:

Strike out the following:

For fourteenth of twenty five installments for the pay of two farmers, per fourth article treaty 4th October, 1842, $1,000.

Eighteenth amendment:

Strike out the following:

For fourteenth of twenty-five installments for the pay of two carpenters, per fourth article treaty 4th October, 1842, $1,200.

Nineteenth amendment:

For defraying expenses incurred in negotiating treaty concluded on the 30th September, 1854, with the Chippewas of Lake Superior, $15,744 71.

Twentieth amendment:

In line four hundred and forty, strike out the word "July," and insert in lieu thereof the word "January," so as to make the section read:

For eighteenth of twenty installments as annuity in money, or otherwise, per second article treaty 11th January, 1839, $20,000.

Twenty-first amendment:

Line four hundred and forty-four, make like alteration, so as to make the section read:

For eighteenth of twenty installments for two smiths' establishments, per second article treaty 11th January, 1839, $2,000.

Twenty-second amendment:

After the word "money," line four hundred and seventy-nine, insert the words "or otherwise," so as to make the section read:

For permanent annuity in money, or otherwise, per second article treaty 17th November, 1807, $800.

Twenty-third amendment:

Line five hundred and thirty-four, strike out the word "fourth," and insert the word "third," so as to make the clause read:

For permanent annuity in silver, per third article treaty 30th September, 1809, $500.

Twenty-fourth amendment:

Line five hundred and thirty-seven, strike out the word "fourth," and insert word "third," so as to make the clause read:

For permanent annuity in silver, per third article treaty 2d October, 1818, $2,500.

Twenty-fifth amendment:

Line five hundred and forty-nine, strike out the word "chief," and insert in lieu thereof the word "chiefs," so as to make the clause read:

For life annuity to chiefs, per third article of treaty 20th October, 1832, $400.

Twenty-sixth amendment:

After line five hundred and fifty-two in the same way, so as to make the clause read:

For life annuity to chiefs, per third article treaty 26th September, 1853, $700.

Twenty-seventh amendment:

Line five hundred and seventy, strike out the words "treaties of," and insert the words "treaty of the," so as to make the clause read:

For permanent provision for the payment of money, in lieu of tobacco, iron, and steel, per second article treaty 20th September, 1828, and tenth article of the treaty of the 5th and 17th June, 1846, $300.

Twenty-eighth amendment:

Line five hundred and ninety-one, strike out the word "treaty," and insert in lieu thereof the words "the treaty of the," so as to make the clause read:

For interest on $643,000, at five per centum, per seventh article of the treaty of the 5th and 17th June, 1846, $32,150.

Twenty-ninth amendment:

After the word "implements," in line seven hundred and nineteen, insert the words "and stock;" and in line seven hundred and twenty strike out the words "farmers, physician, and blacksmith, per third article treaty," and insert in lieu thereof the words "a physician, farmers, and blacksmiths, and for other beneficial objects, per second article treaty," so as to make the clause read:

For nineteenth of twenty installments for the purchase of medicines, agricultural implements, and stock, and for the support of a physician, farmers, and blacksmiths, and for other beneficial objects, per second article treaty 29th September, 1837, $8,250.

Thirtieth amendment:

Line seven hundred and thirty-five, strike out the words "of Senate's amendment of 23d June, 1852," and insert in lieu thereof the words "per Senate's amendment," so as to make the clause read:

For fifth of fifty installments of interest at five per centum, on $112,000, being the amount in lieu of the reservations set apart in the third article per Senate's amendment to treaty 23d July, 1854, $5,600.

Thirty-first amendment:

Line seven hundred and forty-six, make like alteration, so as to make the clause read:

For fifth of fifty installments of interest at five per centum, on $69,000, being the amount allowed in lieu of the reservation of lands set apart by the third article per Senate's amendment to treaty 5th August, 1851, $3,450.

Thirty-second amendment:

After line seven hundred and forty-nine insert the following:

For expenses of transportation of annuity, goods, and provisions to the Sioux of Mississippi, during the fiscal years ending 30th June, 1855, and 30th June, 1856, $32,000.

Thirty-third amendment:

After the word "dollars," in the eight hundred and forty-ninth line, insert the following proviso:

"*Provided*, That the superintendent of Indian affairs in that State be authorized, should he deem it expedient, to expend an amount not exceeding $20,000 of the sum herein appropriated, to relieve the temporary wants of the Indians outside of the reservations;" so as to make the clause read:

For defraying the expenses of the removal and subsistence of Indians in California to three military reservations, in accordance with the plan submitted by the superintendent of Indian affairs of that State, and approved by the President, $125,000: *Provided*, That the superintendent of Indian affairs in that State be authorized, should he deem it expedient, to expend an amount not exceeding $20,000 of the sum herein appropriated, to relieve the temporary wants of the Indians outside of the reservations.

Thirty-fourth amendment:

After line eight hundred and seventy-first, insert the following:

For actual necessary expenses incurred, and that may hereafter be incurred, by officers of the Indian Department in the rescue of prisoners from Indian tribes and returning them to their homes, and for expenses incident to the arrest and confinement within the territory of the United States, by order of these officers, of persons charged with crimes against Indians, $5,000.

Thirty-fifth amendment:

To meet the necessary expenses of colonizing, supporting, and furnishing agricultural implements to the Indians in Texas, $86,430.

For the purpose of enabling the proper department to adopt such measures as may be necessary for opening communications with the Texas Comanches and Apaches, who have not heretofore been parties to any treaties with the United States, $10,000.

Thirty-sixth amendment:

For reimbursing to John W. Whitfield, late agent for the Indians on the Upper Platte, the amount expended by him for ransom from the Cheyennes, and clothing, and transportation to the States, of one white and ten Mexican prisoners, $170.

Thirty-seventh amendment:

For pay of an additional clerk of the Indian Office, under the appropriation per act of August 5, 1854, for one year, $1,400.

Thirty-eighth amendment:

For paying the expenses of one commissioner and two clerks employed by the Attorney General in the investigation directed by the resolution of the Senate of 4th August, 1854, $2,000: *Provided*, That said resolution, and any other since adopted relating to the same object, be, and the same are hereby, repealed.

Thirty-ninth amendment:

For collecting, removing, and subsisting the Indians of California (as provided by law) on two additional military reservations, to be selected as heretofore, and not to contain exceeding twenty-five thousand acres each, in or near the State of California, the sum of $150,000: *Provided*, That the President may enlarge the quantity of reservations heretofore selected, equal to those hereby provided for, and shall not expend the amount herein appropriated unless, in his opinion, the same shall be expedient, and the last proviso to the authority for five military reservations in California; per act of 3d of March, 1853, be, and the same is hereby, repealed: *Provided*, That so much of the act approved on the 31st of July last, as requires that no more than $20,000 shall be drawn by the superintendent of Indian affairs, or be in his hands unexpended at one and the same time, be, and the same is hereby, repealed.

Mr. HAVEN. I suggest to the House that the question be taken upon them in gross.

The question was taken; and the amendments of the Senate, stated above, were concurred in.

The fortieth amendment was then read, as follows:

For the purpose of enabling the President to treat with, and arrange the difficulties existing among the Stockbridge and Munsee Indians of Lake Winnebago, in the State of Wisconsin, arising out of the acts of Congress of 3d of March, 1843, and August 6, 1846, and the treaty of 24th of November 1848, in such manner as may be just to the Indians, and with their assent, and not inconsistent with the legal rights of white persons who may reside on the Stockbridge reserve, of the claim of the United States under the treaty of 1848, $1,500.

Mr. HAVEN. The committee recommend a non-concurrence in the fortieth amendment.

Mr. ORR. I hope that the amendment of the Senate will be agreed to. The sum appropriated is a small one, only $1,500. A good deal of difficulty exists in that section of country, growing out of various acts and treaties of Congress, and I suppose it originates from the legislation of this body. In 1843, a bill was passed making certain of these Indians citizens, but in 1846, that bill was repealed, and in consequence difficulty has arisen. The amendment now before the committee is concurred in by the Commissioner of Indian Affairs, by the Senate Committee on Indian Affairs, by the gentleman representing this particular interest upon this floor, and by the delegates of the Stockbridge Indians now in this city. The sum asked for is a very small one, and is one which, in all probability, if adopted, will lead to the settlement of a very long and troublesome controversy. I hope the Senate amendment will be concurred in.

Mr. HAVEN. It is a matter of indifference to me, and I am quite willing that the amendment should be adopted in this case, as it involves only an amount of $1,500. The Committee of Ways and Means took the matter into careful consideration, and they had no objection to appropriating the amount of money here named. I am quite willing to agree with the Senate in this amendment, so far as I am concerned.

The question was taken; and the amendment was concurred in.

The forty-first amendment was then read, as follows:

For the completion of the collection of the sixth and last volume of the statistics and other information of Indian tribes, authorized by the act of 3d of March, 1847, and sub-

sequent acts, the sum of $20,000: *Provided*, That said volume shall be so condensed as to embrace all the material now, or to be collected, and not inferior in any respect to the preceding volumes, and to be completed within two years from the passage of this act: *And provided further*, That said compilation shall be subjected, before publication, to revision by the Secretary of the Interior, with a view to the curtailment in the work of all matters useless, irrelevant, or inconsistent with the objects of the work.

Mr. HAVEN. The Committee of Ways and Means recommend a concurrence in this amendment, with the following amendment:

To strike out "$20,000," and insert "$17,200."

Mr. BENSON. I would ask the gentleman from New York whether the object of the Senate amendment will not be defeated by adopting the amendment he has offered?

Mr. HAVEN. I can inform my friend from Maine that the difference between "$20,000" and "$17,200" is a matter in reference to some clerk hire which the Commissioner on Indian Affairs refused to recommend. He thought it ought not to be allowed.

The question was taken; and the amendment was agreed to.

The amendment of the Senate, as amended, was then concurred in.

The forty-second amendment of the Senate was then read, as follows:

And be it further enacted, That section four of the "Act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1855, and for other purposes," approved 31st July, 1854, shall not be so construed as to interfere with an act entitled "An act to authorize the President of the United States to cause to be surveyed the tract of land in the Territory of Minnesota belonging to the half breeds or mixed bloods of the Dacotah or Sioux nation of Indians, and for other purposes," approved July 17, 1854: *Provided*, That so much of the money appropriated by the first named act as may be necessary to carry out the last named act shall be applicable thereto.

Mr. HAVEN. The Committee of Ways and Means recommend a concurrence.

The question was taken; and the amendment was concurred in.

The forty-third amendment of the Senate was then read, as follows:

And be it further enacted, That the Secretary of the Interior is hereby authorized and required to cause to be paid to the North Carolina Cherokees, embraced in the roll of John C. Mullay, or the legal representatives of such of them as have died since their enrollment, the sum of $53 33, respectively, for the expenses of their removal and subsistence, now held in trust by the United States according to the terms of the fourth section of the act of 29th July, Anno Domini 1848; for which purpose there is hereby appropriated the sum of $42,290 69: *Provided*, That each and every Indian, so receiving such payment in full, shall give his assent thereto: *And provided further*, That said Secretary shall be first satisfied that the State of North Carolina has, before such payment, by some appropriate act, agreed that said Cherokees may remain permanently in that State, anything in the treaty of 1835-'36 to the contrary notwithstanding.

Mr. HAVEN The Committee of Ways and Means recommend a concurrence in this amendment.

The question was taken; and the amendment was concurred in.

Forty-fourth amendment:

SEC. 4. *And be it further enacted*, That the eighth section of the act approved 31st July, 1854, authorizing the payment of *per capita* allowance to Cherokees east of the Mississippi, be so amended as to authorize the payment of all such Cherokees as, being properly entitled, were omitted on the roll of D. W. Siler, from any cause whatever.

Mr. HAVEN. The Committee of Ways and Means recommend a concurrence.

The question was put; and the amendment was concurred in.

Forty-fifth amendment:

SEC. 5. *And be it further enacted*, That to enable the President of the United States to carry out in good faith the recent treaties with the Ottoes and Missourias, Omahas, Delawares, Ioways, Sacs and Foxes of Missouri, Kickapoos, and the united tribes of Kaskaskias and Peorias, Piankeshaws and Weas, Shawnees, and Miamies, there shall be, and hereby is, appropriated the sum of $20,000, in addition to the appropriations heretofore made, for the execution of the surveys required by said treaties; and where the net proceeds of the lands ceded by either of said treaties are required to be paid over to the Indians, the President shall cause said lands to be classified and valued; and when such classification and valuation have been made to his satisfaction, he shall cause said lands to be offered at public sale, by legal subdivisions or town lots, at such times and places, and in such manner and quantity, as to him shall appear proper and necessary to carry out faithfully the stipulations in said treaties; and said lands shall not be sold at public or private sale for a less price than that fixed by the valuation aforesaid, till otherwise directed by law: *Provided*, That the President may order a new treaty to be made with the Delawares, Ioways, Weas, Peorias, Kaskaskias, and Piankeshaws, or such of them as he may deem necessary.

Mr. HAVEN. The Committee of Ways and Means in this case recommend a concurrence in this amendment with certain amendments, and from conversation with the chairman of the Committee on Indian Affairs, since the Committee of Ways and Means had this matter under consideration, I am myself of opinion there is a verbal amendment which should be made, in addition to those recommended by the Committee of Ways and Means. The first amendment recommended by the committee comes in in the twelfth line after the word "lands," and provides that the said lands, "or such parts thereof as he (the President) may deem proper," should be classified and valued, &c. At the end of line eighteen, after the words "and said lands shall not be sold at public or private sale at a less price than that fixed by the valuation aforesaid," the Committee of Ways and Means propose to insert the words "nor shall any land be sold at public sale at a less price than one dollar and twenty-five cents per acre."

Here it is I believe that the Committee on Indian Affairs desire an amendment to be made.

Mr. ORR. I propose to amend the amendment at this point by striking out the words "till otherwise directed by law," and to insert in lieu thereof the words "for three years and thereafter, as may be directed by law pursuant to treaty." The treaty requires that these lands shall be exposed for sale for three years before there can be any graduation or reduction in price.

Mr. HAVEN. I understand the amendment which the chairman of the Committee on Indian Affairs suggests, is in accordance with the views of the Committee of Ways and Means, who did not have the treaty before them at the time they considered this amendment.

Mr. HOUSTON. That is right.

Mr. HAVEN. Then the committee propose to strike out the proviso, as follows:

Provided, That the President may order a new treaty to be made with the Delawares, Ioways, Weas, Peorias, Kaskaskias, and Piankeshaws, or such of them as he may deem necessary.

The committee understand that the President has power to institute proceedings for the purpose of making treaties if he chooses, and the committee preferred to leave it to him without indicating the course he shall pursue.

If the amendment suggested by the chairman of the Committee on Indian Affairs, and the amendments recommended by the Committee of Ways and Means are adopted, the entire amendment will read as follows:

SEC. 5. *And be it further enacted*, That to enable the President of the United States to carry out, in good faith, the recent treaties with the Ottoes, and Missourias, Omahas, Delawares, Ioways, Sacs and Foxes of Missouri, Kickapoos, and the united tribes of Kaskaskias and Peorias, Piankeshaws and Weas, Shawnees and Miamies, there shall be, and hereby is, appropriated the sum of $20,000, in addition to the appropriations heretofore made, for the execution of the surveys required by said treaties; and where the net proceeds of the lands ceded by either of said treaties are required to be paid over to the Indians, the President shall cause said lands or such part thereof as he may deem proper, to be classified and valued; and when such classification and valuation have been made to his satisfaction, he shall cause said lands to be offered at public sale, by legal subdivisions or town lots, at such times and places, and in such manner and quantity, as to him shall appear proper and necessary to carry out faithfully the stipulations in said treaties; and said lands shall not be sold at public or private sale for less price than that fixed by the valuation aforesaid, nor shall any land be sold at public sale at a less price than $1 20 per acre, for three years, and thereafter as may be directed by law pursuant to treaty.

Mr. PHELPS. I desire to say a few words as to this proposed Senate amendment. To that part of the amendment which proposes to appropriate $20,000 for the purpose of carrying out the surveys of the Indian reserves I have no objection; but to so much of it as proposes that the surveyed lands shall be classified and valued, I do object, for I think it is adding to the authority under which these lands are to be sold, a provision which is somewhat in conflict with the treaty made by the United States with the Delaware Indians. The first part of this amendment provides:

"To enable the President of the United States to carry out, in good faith, the recent treaties with the Ottoes and Missourias, Omahas, Delawares, Ioways, Sacs and Foxes, of Missouri, Kickapoos, and the united tribes of Kaskaskias and Peorias, Piankeshaws and Weas, Shawnees and Miamies, there shall be, and hereby is, appropriated the sum of $20,000."

It then goes on to provide that where, under the treaties with the Indians, the net proceeds of the lands are required to be paid over to the Indians, the President shall cause the lands to be classified and valued, and when such classification and valuation have been made, he shall cause the lands to be offered at public sale, and that they shall not be sold at public or private sale for a less price than that fixed by the valuation; and by the amendment proposed by the gentleman from South Carolina [Mr. ORR] it is provided that they shall not be sold at a less price than $1 25 per acre for three years after the passage of this bill.

The treaty made with the Delaware Indians—and I refer to it particularly because it is a fair sample of the treaties made with the Ottoes, Omahas, Ioways, Kaskaskias, Peorias, Piankeshaws, Weas, and all the other tribes of these Indians—is as follows:

"The United States hereby agree to have the ceded country (except the said outlet) surveyed as soon as it can be conveniently done, in the same manner that the public lands are surveyed; such surveys to be commenced and prosecuted as the President of the United States may deem best; and the President will, so soon as the whole or any portion of said lands are surveyed, proceed to offer said surveyed lands for sale at public auction, in such quantities as he may deem proper. Being governed in all respects, in continuing such sales, by the laws of the United States respecting the sales of public lands. And such of the lands as may not be sold at public sale, shall thereafter be subject to private entry, in the same manner that private entries are made of United States lands."

Now, it is proposed to add to that treaty another condition; and that is, that these lands shall be examined, valued, and classified, and that, when thus classified and valued, they shall not be sold at public auction for any price less than the valuers shall put upon them. The tracts of land which it is proposed to value embraces a million of acres. More than half a million of acres were ceded by the Delaware Indians, with the stipulation that they should be sold, or offered for sale, at public auction, in the same manner that the lands of the United States are offered, and sold to the highest bidder, and that, after such sales, they were to be subject to private entry, at $1 25 per acre, and that the prices thereof might be reduced in three years thereafter. The other lands, ceded by the Omahas, Kickapoos, Piankeshaws, Weas, Miamies, &c., embrace only four hundred thousand acres, making in all about a million of acres, which, by this amendment, are to be valued by the persons sent there for the purpose of making the valuation.

Mr. HOUSTON. Only a part of them are to be valued.

Mr. PHELPS. The gentleman from Alabama says only a part of them are to be valued. That is very true, under the amendment which the Committee of Ways and Means recommend to the amendment of the Senate. Only such part is to be valued as the President shall direct. These lands embrace some of the best lands in the Territory of Kansas. They are lands which will soon be surveyed. An appropriation was made at the last session of Congress for the prosecution of the surveys in both the Territories of Kansas and Nebraska. The surveyor general has already had preliminary surveys made—that is, the base lines, &c; and he is now prepared to enter into a contract to have these lands surveyed forthwith. If there shall not be any unexpected delays in prosecuting these surveys, we may expect they will be finished during the coming summer, so that those lands can be offered for sale during the next autumn, or the first part of winter. But if this amendment shall prevail, the valuers to be appointed would proceed to the execution of the duties required of them under this amendment; but they cannot do so until those surveys shall have been approved of by the surveyor general and the Commissioner of the General Land Office. Then they may proceed and value such tracts as the President may deem proper; but they are not to be sold at a less price than shall have been placed upon them by such commissioners appointed to classify and value them.

I recollect very well that several years ago the Wyandots, in the State of Ohio, sold certain lands to the Government of the United States. Those lands, together with the improvements which had been put upon them, were to be appraised. There was a further stipulation that they should not be sold for less than the valuation which was put upon them. They were appraised, and the

result was, that their sale was delayed for a long period of time. It was alleged that fraud had been perpetrated by the persons who had made the valuation. A second valuation was made; but we subsequently agreed to pay the Wyandots the first valuation, and then sold the lands upon such terms as we could get, reserving the restriction that they should not be sold for less than the price put upon them by the appraisers.

As it was in that, so I think it will be in this case. If you send gentlemen there to value this land, they being unacquainted with the country, it will take them some time to do it. They will put upon it a minimum price per acre; and not until their report has been made to the President of the United States, and approved by him, can it be sold at auction. By these means you retard the settlement of that portion of country where the land lies. And I contend that you are even doing injustice to the Indians, because it is better that their lands should be sold now, if they are to be sold, than that their sale should be postponed for eighteen months or two years.

These, Mr. Chairman, are some of the objections which I have to the amendment. I have not time, at this late stage of the session, to enter into a full discussion of the subject. I have presented my points briefly for the consideration of the committee. I hope the Senate's amendment, or, at least, a part of it, shall be non-concurred in.

Mr. ORR. Mr. Chairman, I had hoped that there would have been no opposition here to the recommendation of the Committee of Ways and Means. I concur entirely in their recommendation to strike out the words which have been indicated. With reference to the point made by the gentleman from Missouri, I will say that I differ from him *in toto*.

When the Delaware Indians were removed west of the Mississippi, we conveyed to them the land which has since been reconveyed in trust to the United States. The Government used the following language:

"The land shall be conveyed and *forever secured* by the United States to the Delaware nation as their permanent residence, and the United States hereby pledges the faith of the Government to guarantee to the said Delaware nation *forever* the possession, &c., against the claims and assaults of all and every people whatever."

That is the title which the Delaware Indians had to this land. Having that title, the Commissioner of Indian Affairs last summer, under the instruction of the President of the United States, negotiated a treaty with them. That treaty is different from most of the Indian treaties which have been negotiated by the Government; for it provided, after securing about five hundred thousand acres for $10,000—what was called the outlet of the nation—that the remaining portion, amounting to upwards of one million of acres, was conveyed to the United States in trust; that the Government should have the land surveyed and sold at public auction, and that the Indians should have the proceeds after deducting the expenses of the survey and sale. It was just and equitable that they should receive these proceeds. This land was not open to settlement after the treaty was ratified by the Senate; but contrary to the provisions of the treaty, and in violation of law, persons went upon it and made settlements. They are there upon the land now. Gentlemen who are familiar with western life, and who are acquainted with our frontiers, know that there exists at this moment squatter organizations for the purpose of protecting themselves against paying more than $1 25 the acre, although the land may be worth twenty-five dollars the acre. It would imperil a man's life to go to the sales and bid more than $1 25 per acre. He would not escape with whole bones. This fact is too notorious to dwell upon.

Then, if the views of the gentleman from Missouri be carried out, it is proposed that you shall go on and survey these lands, take no steps whatever to defeat these squatter organizations, and deprive the Indians from ever receiving one dollar for their land beyond $1 25 the acre, although they may be worth twenty, thirty, or fifty dollars the acre. Is it right for us to stand by and allow the Indians to be deprived of that which they had the right to expect from the Government when it negotiated the treaty?

But the gentleman says that this is violating the terms of the treaty. I suppose the gentlemen who had charge of this amendment, the honorable chairman of the Committee on Public Lands, [Mr. DISNEY,] the honorable chairman of the Committee on Indian Affairs in the Senate, [Mr. SEBASTIAN,] and myself, would consider it no compliment to our intelligence to be told that we could not introduce into this bill any amendment violating the spirit or letter of the treaty. If the gentleman from Missouri [Mr. PHELPS] will refer to this treaty with the Delawares, he will find provision made in the fifteenth article by the Indians themselves for the very contingency which has arisen?

Mr. PHELPS. I am well aware of the provisions to which the gentleman refers, and I still say that the Senate's amendment proposes a condition to those lands ceded by the Delaware Indians in trust to the United States, in addition to the stipulations contained in the treaty.

Mr. ORR. I presumed the gentleman had not read the article to which I have referred; I am still of the same opinion. I will read it.

Mr. PHELPS. I have read it several times.

Mr. ORR. I do not have reference to the act of March, 1807. In the fifteenth article of the treaty, we have express authority to do the very thing proposed to be done by the amendment which has been concurred in by the Committee of Ways and Means. It is in these words:

"ART. 15. A primary object of this instrument being to advance the interests and welfare of the Delaware people, it is agreed, that if it prove insufficient to effect these ends, from causes which cannot now be foreseen, Congress may hereafter make such further, by law, not inconsistent herewith, as experience may prove to be necessary to promote the interests, peace, and happiness of the Delaware people."

Mr. PHELPS. Will the gentleman permit me to ask him a question?

Mr. ORR. Certainly.

Mr. PHELPS. The land is valued at two dollars the acre, and persons are ready to give more than that price——

Mr. ORR. I will answer the gentleman. I fear that when the commissioners go there and make a valuation of this land, that if they put it at three dollars the acre, the sale will be a mere form. This land has been assessed at three dollars per acre, and they refuse to allow it to be sold for a price less than that. Persons may be very willing to pay three dollars per acre for land which is worth five, six, eight, ten, and perhaps fifteen or twenty dollars per acre. Well, sir, the same combination which this amendment is intended to provide against, for the protection of the Indians, may prevent the land from going beyond the assessment, although they may go through the form and ceremony of a public sale. But if you will place this guard, which is contained in this amendment, around the rights of the Indians, then if honest men go there, as I take it for granted they will, and the land is assessed at three, four, or five dollars per acre, the Indians will secure to themselves that price just as certainly as they would $1 25 per acre, now without such assessment. And the advantage to the Indians will be, that they will receive the assessed value of these lands, in despite of the present combination. If assessed at twenty dollars per acre, they will receive that sum before the settler can acquire any title to the land. If the lands are not assessed, it is morally certain they will never receive more than $1 25 per acre, although it may be worth fifty dollars per acre.

Now, Mr. Chairman, it was some time before I could bring my mind to assent to the provisions contained in this amendment; for the reason that persons who are now upon the Delaware lands, for whose benefit, to some extent, this provision is made, are trespassers. The Attorney General of the United States, in August last, when called upon to give his opinion in reference to this subject, decided officially that these lands were not subject to preëmption, because the United States was not the absolute owner. The United States is the owner, in trust, for the Indians. That is the opinion he gave the Secretary of the Interior when interrogated as to the right of settlement and preëmption on the Delaware lands. In what light, then, can they be regarded but as trespassers?

Mr. WHITFIELD. When was that opinion given?

Mr. ORR. I do not know the precise time. The treaty seems to have been ratified on the 11th of July, 1854, and the opinion of the Attorney General was published in August of the same year. But I was going on to explain how it was that the honorable gentleman from Ohio, the honorable chairman of the Committee on Indian Affairs in the Senate and myself, upon full inquiry and consultation, assented to this amendment, as it stands at the present time, the proviso excepted. It seems that, after the negotiation of this treaty, before it was published, and before it was certainly known what the terms of the treaty were, some persons, supposing it was precisely in the same terms of other treaties with these Indians, had gone there with a view of securing their preëmption rights. They, therefore, went innocently there, and not for the purpose of violating the law, and are entitled to the tender consideration of Congress; and we accord them that tender consideration by not driving them from the Territory as trespassers, but by sending a commissioner there to assess their lands at their fair value; and certainly no purchaser should desire to procure them at a less price. By that means they will be able to secure for themselves the houses they have built, and the improvements they have put upon their lands.

Mr. WHITFIELD. Does the gentleman think the Government has any right to drive these settlers from their lands?

Mr. ORR. Well, Mr. Chairman, that is a question I do not care to go into at this time. It is very clear that they are trespassers upon these lands. They are there without authority of law, in violation of the law, and in violation of the treaty stipulations; and while I would not say that it would be right to drive them off, I do say that it would be monstrous for the assertion to be made that the Congress of the United States had passed an act, or the Government of the United States entered into treaty stipulations, which it had not the power to carry into effect. It would be a startling announcement to be made to the country, and to the world, that the Government had not the power to protect itself, and to enforce its own laws and its own treaty stipulations.

But, Mr. Chairman, I do not propose to drive these parties off. I think that those who have gone there since the particular stipulations of that treaty have become known, are not entitled to the tender consideration upon the part of Congress which the other class which I have mentioned are. But I desire to do all full justice, and to accord to them all the consideration that is consistent with full and complete justice to the Indians. Sir, I think full justice will be done to the Indians by the provisions of the amendment without the proviso, and no injustice done to the settler.

These Indians are entitled, by the stipulations of the treaty, to the full value of their lands. They were induced to believe that they should receive high prices for some of their lands. We have had the example of the Chickasaw Indians in Mississippi. Some twenty years ago the United States took their lands in trust, and was to sell them and to pay to the Indians the whole of the net proceeds. They had this example before them, and the history of the transaction shows that some of the lands were sold at five, ten, and twenty dollars per acre. And it is reasonable to believe that some of these Delaware lands are worth as much as any that were sold for the Chickasaws; and, if they are, then the Government should secure for them its fair value. I ask you, sir, if it is acting in good faith; if it is carrying the treaty, in good faith, into effect; if it was ever contemplated in the negotiation of the treaty, by which the Government took these lands in trust, that they should sell lands worth twenty dollars per acre for one dollar and a quarter per acre? I think not. But, sir, I do not desire to trouble the committee further upon this subject. I think the proviso in the Senate amendment should be stricken out. The proviso reads as follows:

Provided, That the President may order a new treaty to be made with the Delawares, Ioways, Weas, Peorias, Kaskaskias, and Piankeshaws, or such of them as he may deem necessary.

Now, sir, the Committee of Ways and Means recommend, and the Committee on Indian Affairs concur with them in the recommendation, that this proviso shall be stricken out, for the reason that the President has the power to enter into negotiations for the formation of new treaties whenever, in his judgment, the public service demands it; but to insert such a provision in this bill would have the effect to increase the trespasses upon the lands of the Delawares ten-fold. You will find

that all their valuable land would soon be taken up under the expectation that a new treaty would soon be made. It is true, that if this provision were to be inserted in the bill, and a commissioner were to be sent there, that the Delawares, being pressed on all sides, representations being made to them that it was the wish of the President of the United States that a new treaty should be made, and that there might probably be difficulty in carrying out the existing treaty, a new treaty might be made; for sir, faithless as the white man has too often been to the unlettered savage, they still repose great confidence in their great father, the President of the United States. His wishes most likely would be complied with, but could he ask them in conscience to change the present treaty? Surely not, and the proviso could only have the effect of deceiving and deluding others to trespass in the vain hope that the treaty would be changed. They surrendered the lands which had been guarantied to them forever, on the terms of this treaty which I hold in my hand; and justice to them requires that the treaty shall be carried out, and that if its stipulations are insufficient for the purpose, you should adopt such additional legislation as will carry it out, and protect the faith and honor of the Government and all the treaty rights of the Indians.

Mr. CAMPBELL. I do not propose to speak to the bill before the House at all. I rise simply for the purpose of making a suggestion to carry out an understanding that prevailed at the time the resolution was adopted confining debate strictly to the measures before the committee, that there should be one or two evening sessions for the purpose of general debate. There is a number of gentlemen who are anxious to be heard upon matters not immediately connected with bills that will be before the committee.

Mr. DUNHAM. Who are anxious to filibuster.

Mr. CAMPBELL. I, myself, have waited for a month to have an opportunity to reply to the speech made some time ago by the gentleman from Georgia. [Mr. STEPHENS.] I should like to do it to-morrow if it is agreeable to the committee, and I understand that there are several gentlemen who would like to speak to-night. The resolution to which I have referred provides that we may hold evening sessions for the purpose of general debate, at which no vote shall be taken upon any subject whatever. I therefore move that the committee do now take a recess until seven o'clock.

Mr. DISNEY. Let us dispose of this amendment first.

Mr. CAMPBELL. Well, I will withdraw my motion until that amendment is disposed of.

Mr. JONES, of Tennessee. I think the resolution provides for such evening sessions "as may be ordered by the committee" for general debate.

Mr. CAMPBELL. Then I move that there be an evening session to-night and to-morrow night.

Mr. JONES. I do not think this committee could order an evening session for to-morrow night. We should take one evening at a time.

Mr. CAMPBELL. Very well, then I will move that this committee do order a session for general debate this evening, at seven o'clock.

Mr. FLORENCE. No business is to be done?

Mr. CAMPBELL. Certainly not.

The CHAIRMAN. The Chair will examine the resolution, and see if it is competent to the committee to pursue the course indicated by the motion of the gentleman from Ohio.

Mr. SEWARD. Let us have the resolution read.

The Clerk read the resolution, which is as follows:

Resolved, That for the remainder of the present session, all debate in Committee of the Whole House on the state of the Union shall be confined strictly to the question or proposition under consideration, unless during such evening sessions as a majority of said committee may order for the exclusive purpose of general debate.

The CHAIRMAN. The Chair thinks it competent to the committee, under the terms of that resolution, to order an evening session as proposed.

The question was then taken on Mr. CAMPBELL's motion, and it was agreed to.

Mr. HAVEN. I would inquire whether gentlemen desire to debate the pending amendment any further?

Mr. WHITFIELD. Yes, sir.

Mr. PHELPS. The gentleman from Kansas desires to debate it at length.

Mr. HAVEN. If that be so, in order to keep my promise to the committee, when I said that if we got into any snarl about these amendments, I would not ask them to stay any longer. I move that the committee do now rise.

I suppose that if the committee should rise now, the order just made will be executed by the committee coming back here at seven o'clock, and the Chairman resuming the chair at that hour.

Mr. BENSON. Is it understood that no vote is to be taken on this amendment to-night?

[Cries of "Yes!" "Yes!"]

Mr. HAVEN. To prevent any difficulty, I withdraw my motion to rise, and move that the committee do now take a recess.

Mr. DISNEY. I desire to have an understanding, to know what it is that we are agreeing to. The committee, as I understand it, has made an order that there be a meeting of the committee to-night, for the purpose of general gammon. [A laugh.] I also understand that the gentleman from Kansas [Mr. WHITFIELD] intends to claim the floor on the reassembling of the committee this evening, and wants to go on with this matter. Now, as I originated the pending amendment, and have some little interest in it, I desire to watch its fate, and what I desire to know is this: will there be any vote taken on it to-night?

[Loud cries of "No!" "No!"]

Mr. SEWARD. I move that the committee do now rise.

Mr. HOUSTON. And report the naval appropriation bill to the House.

Mr. HAVEN. I suppose the question will be first taken upon my motion, as it was first made.

The CHAIRMAN. The question will be first upon the motion of the gentleman from New York.

Mr. STANTON, of Tennessee. It would be perfectly in order to go into the House and finish the naval appropriation bill, and then go back into committee and take a recess.

Mr. HAVEN. There is but little time to spare. This committee has made an order that there shall be a session to-night. If we go into the House now, we may not be able to come back into committee. I therefore insist on my motion.

The question was taken on Mr. HAVEN's motion, and it was agreed to; and thereupon (at half past four o'clock, p. m.,) the committee took a recess until seven o'clock, p. m.

EVENING SESSION.

The Committee of the Whole on the state of the Union, met at seven o'clock, p. m., (Mr. MILLSON in the chair.)

The CHAIRMAN. The business before the committee is the consideration of the Indian appropriation bill; and on that bill the gentleman from Kansas is entitled to the floor.

Mr. WASHBURN, of Maine. If the gentleman from Kansas does not desire to occupy the floor at this time, I shall be very glad to do so.

Mr. WHITFIELD. I had desired, Mr. Chairman, to submit a few remarks to the committee this evening; but as there is to be no action taken on the amendments to-night, I do not wish to intrude upon the attention of the committee by making a speech to-night. On to-morrow, if I can get the floor, I desire to defend my constituents from what I regard as an attack upon them to-day.

Mr. PHELPS. I submit this question: I believe that, under the resolution, the debates to-night may be on every subject except that under consideration. The gentleman from Kansas [Mr. WHITFIELD] desires to speak to the subject-matter before the committee; and, therefore, I suppose he would be entitled to the floor to-morrow, when the committee resumes the consideration of the subject; and he cheerfully surrenders the floor to any person who desires to address the committee.

The CHAIRMAN. The Chair does not hold that the gentleman from Kansas is entitled to the floor to-morrow. Certainly he is now entitled to the floor, if he thinks proper to occupy it.

Mr. PHELPS. That, as a matter of course, depends upon the awarding of the Chair.

Mr. WASHBURN, of Maine, obtained the floor.

Mr. MAYALL. I had desired to make a speech on the subject of the tariff, but I do not wish to intrude upon the time of the committee, and therefore ask leave to publish my remarks.

Leave was granted for that purpose.

Mr. WASHBURN. I thought that I might have had an opportunity of addressing the House on the subject of the President's veto message at the time it was before us for reconsideration; and I was prepared then to submit some observations to the House. But as the matter was disposed of before we had any opportunity given for discussion, and as an order had passed the House limiting all debate in the day session to the question immediately under consideration, I supposed I should, probably, have no opportunity of delivering a speech on this subject; and then I made up my mind to avail myself of the privilege ordinarily given of publishing my remarks in the Globe, and with that view, I proceeded to write them out, and having done so, I will do here what I have never done, deliver a written speech.

Mr. W. then addressed the House during an hour. His remarks will be published in the Appendix.

Mr. McNAIR. Mr. Chairman, I had intended to say much more than I shall say on the subject about which I am now going to speak, had it not been that during most of this session I have been confined to my room by indisposition, and I am not entirely well yet. But I feel such a deep interest for people who are poor, and who have defended our country, and who are unable to come here to talk to us about it, that I am willing to rise in my seat in their behalf. There has been a bill lingering before Congress for a long time—a bill in which nobody seems to take much interest—a bill in behalf of the soldiers of our country, and their widows and orphans—a bill in behalf of those, many of whom have been placed in the front of our battles. When war is declared, we always want soldiers, and they are taken generally from the poorer classes of the people—from the lowest ranks. It was so in the war of 1812. Our country was threatened on the north by the Canadians, who were about to invade it. Our country was threatened at the south by our enemy's vessels at the mouths of our rivers. Our country was threatened in the west by the invasions of the red men, and our country was threatened in the east, I am sorry to say, by our own people, who were opposed to the declaration of war. Well, if we want soldiers when a declaration of war is made, we must give them some encouragement, or we will not get them. Without that we could not have got them in the war of 1812, and then we had no money to get them with, and Congress sat here in cold debate, fearful to pass an act to raise money by direct taxation, believing that the Union would be endangered by it. And at that very time, sir, the British fleet was at the mouth of the Potomac. The Government raised enough men to send to the north, on our lines, to be slain, but not enough to defend the northern borders, where many of our brave fellows perished. And when there, some refused to cross the line. I say, sir, that if we want men in time of war, to defend our country, we must encourage them. And will we not now give the little pittance of one hundred and sixty acres of land to the widow or the children of the men who have fought their country's battles, and defended that country—the happiest country in the world? They defended those lands which are now settled by a numerous population, represented by many members on this floor; lands which were then a wilderness, inhabited by Indians, but now cultivated and made beautiful to the eye.

Well, sir, I say that I have been rather surprised to find how little interest is taken in this matter. I always feel an interest in those who are unable to protect their own interests. I know of many of our poor soldiers, and the widows of soldiers, who have, through poverty, been forced to go into the alms-houses in the north, and, I have no doubt, in all parts of the country.

Mr. WRIGHT, of Mississippi. We have none in the South. [Laughter.]

Mr. McNAIR. No; I believe there are no alms-houses in the South. Well, sir, I say it is a disgrace to our country to let the widows of soldiers, or the soldiers themselves, go into alms-houses. You do not find it so in England, or in France. They there support their discharged soldiers in their old age. An old English soldier

died in my place, Norristown, only a few months ago, who had been allowed his half-pay, and lived comfortably on it in this country for many years. But we will not keep our old soldiers and widows out of the alms-houses, although those widows may have washed off their nails in supporting their children while their husbands were serving in the army, and defending their country. And yet, when they come here to ask a small pittance of one hundred and sixty acres of land their petitions are either neglected or refused. Now, there would be no hesitation, I think, in passing this bill, were it not for the immense grasping after public lands on the part of railroad companies. I think that we ought to vote them one hundred and sixty acres of land whether the railroads get their grants or not. If these railroads do get the public lands, let it be so, but do not cut off those who have defended that very land, and protected it. These things are usually forgotten unless they are brought to mind. Yes, gentlemen, the man who goes into battle, and spills his blood, expends treasure more precious than that expended by the rich man, who wears his ruffled shirt and white stockings, and pays his taxes.

Blood is dearer than treasure. The poor man spills his blood in the front of the battle, and the rich man pays the money for the support of the war. If the rich man is called out in defense of his country he hires his substitute. Some poor man goes in his place, and the wealthy man sits in his chimney corner or in his parlor and reads the accounts of the battles of the day. Yes, sir, wealth stands back in the battle where cannon and musket balls are scarce, and were it not for the services of the poor—of those men whose tottering limbs are fast taking them down to the grave—the country could not have been defended. If it had not been that an immense quantity of public land has been granted within the last five or six years for railroad purposes, there certainly could be no hesitation in giving to these men the one hundred and sixty acres of land which they ask. But it is not a pension for them; but about $180, the price at which land is now selling. It is but a trifle to an old soldier, which may keep him from the almshouse a short time.

Mr. MIDDLESWARTH. It is only $160—as the land now sells for one dollar an acre.

Mr. McNAIR. Oh, yes; more than that.

Mr. FLORENCE. That is all it sold for latterly.

Mr. McNAIR. I do think that this country would be ungrateful if it do not uphold the old soldiers and their widows and orphans; if we do not keep the old men from starvation; do not keep them from being a burden to their friends or relatives; I think the country would be ungrateful, as we now owe to them the very land occupied by settlers in the West and southwest. It was only last summer that a poor old soldier was here trying to get a claim for services rendered his country. He remained here for a considerable length of time, and lay, night after night, during the warm weather, under a tree, with his head upon a stone, and with frequently nothing but an onion in his pocket for his supper. His claim was for a small amount; and although he was wounded and fought bravely in the service of his country, yet the committee reported against his claim. If I had made any preparation, I could have cited cases without number of a similar character, showing the great necessity that exists for the passage of a law which will do ample justice to this class of our citizens. Suppose any of us had been present at the battle of Queenstown, where blood ran freely, and where hundreds of our men were cast over the precipice; where Colonel Van Rensselaer was wounded, and where Captains Clark, Saunders, and Nelson fell, do you suppose that we would have refused the old soldiers, their widows and orphans, a small pittance of one hundred and sixty acres of land as a reward for their services? Look at the history of the battle of Queenstown—I shall not recur to the different battles wherein our brave soldiers have fought and bled—and there you will find that three hundred and ninety-seven of our brave fellows lay bleeding on the ground, and among whom were the most brilliant sons of Kentucky, Indiana, Ohio, and western Pennsylvania; and, if I mistake not, one or more members of Congress fell there. The wounded were tomahawked and scalped, although they had been promised protection by the British officers. I have no doubt that some persons now before me may have a recollection of the brave fellows who fell there—of Captains Mead, Edwards, Price, McCracken, Edmundson, Woodford, and many others.

In conclusion, I would ask the House to take up and pass the old soldiers' bill to-morrow. It can be taken up and passed in a very short time. It has already passed the Senate by an almost unanimous vote, and I earnestly hope—and it is the only request I have made this session—that the bill will be considered and passed by the House to-morrow morning.

Mr. FLORENCE. The gentleman from Maine, [Mr. WASHBURN,] in the course of his remarks, referred to the fact, that on the morning this House concluded to take action upon the subject of the President's veto of the French spoliation bill, the gag of the previous question was applied, and the friends of the Administration upon this floor moved the previous question. It is, I presume, well known to the members of the committee, indeed to all the members of the House, and to the country, that perhaps there was no warmer or more zealous advocate of the passage of the French spoliation bill, as it is generally called, than myself. I differed, as my vote will fully attest, from the conclusions of the President in relation to that very important measure; and I desire that the fact may be placed on the record by my vote against sustaining the veto of the bill which he, in the performance of a constitutional function, considered it his duty, honestly and conscientiously, I have no right to doubt, to exercise. I have not heard it mentioned before, but it is proper to say that the friends of the French spoliation bill are responsible for seconding the demand for the previous question. "Let justice be done, though the heavens fall," and I think it is due to justice and due to history, that this fact should be placed upon the record. The reasons which were given, so far as they could be expressed under the application of the previous question, and most generally by the warmest friends of the bill, were, that no favorable result could ensue from the postponement of the consideration of that document; and the friends of the bill, under the pressing demand of the public business, rather than hazard and perhaps lose the important appropriation bills to which they had not yet given any consideration, deemed it much better that action should be had even under the gag, as it is called, of the previous question, than to permit the question to remain open, and consume, in discussion merely, without hope of any practical good, or any prospect of a favorable result, three or four of the few remaining days of the session.

I must say, further, that I cannot see the force of the gentleman's reasoning in making either the Administration or the friends of the Administration responsible for the exercise of what the gentleman pleases to call the gag of the previous question upon that morning. It was participated in, and was as much a movement of the friends of the bill, alone intended to promote the success of public measures that had scarcely been perfected or scarcely presented from the different committees to be acted upon, rather than hazard the loss of important appropriation bills then about to be considered. I think it is proper to take this opportunity and state these facts, which were patent to every one, that so much, at least, of the record may be historically and literally true. I deem it due to a true history of the case, that this, which is, I consider, merely a proper statement of the facts, should be made. I must candidly acknowledge here that I did not sympathize with those fears, and it is due to myself to say that *I voted against* the demand for the previous question.

A word or two in relation to the "old soldiers' bill," which is expected to come up in the morning.

"Is there a doubt of the justice of this bill?" says a forcible and patriotic writer. "What does it propose? To compensate, in some measure, these men who not only periled their lives, but sacrificed their interest and those of their families on the altar of patriotism. When the British army, flushed with expectation of an easy victory, landed on our shores in 1812, these men who are now asking Congress to remember them in their old age, were young, just entering on the busy theater of life, with all its duties pressing upon their attention, and a majority with but scanty means to work out their fortunes. But did they hesitate to quit the allurements of home, to leave their different avocations—the forge, the workshop, the counting-house, the bar—for the camp, with all its dangers, hardships and sufferings? Did they count the cost of their acts dollar by dollar, as some would the bounty land now proposed to be given acre by acre? Was there a moment's thought given by these brave men to the pecuniary loss that must follow the course taken? Not one. They made the sacrifice willingly. Many of them died on the field of battle, and left their families depending on the cold charity of strangers. Others returned with shattered constitutions, unable to labor and toil as they had formerly done, while still others, when peace smiled upon the land once more, found, to their sorow, that during their absence, the labor of years had become dissipated, and thus their hopes were nipped in the bud. It is in this light that the claims of the soldiers of 1812 should be viewed. They cannot be weighed in a balance, nor measured with a yardstick. The men who are now living in ease and comfort, won by the toil and sacrifice of the veterans who now respectfully ask for justice, can scarcely realize the services performed by American soldiers during the last war with Great Britain. It is only when the tale is told by old, gray-haired men, that the blood warms, and we feel that full justice should be meted out to those who won our second independence.

"In the old Keystone State public sentiment is a unit upon the passage of this bill, or some equivalent one that will give additional compensation to the soldiers of 1812. The State Legislature has several times instructed our Senators and requested our Representatives in Congress to vote for such a bill, while the press in every section of the State, and without reference to party, is united upon the same platform of patriotic fidelity to those men who protected the stars and stripes, the hearths and homes of their country, when attacked by a foreign foe. Large popular meetings have also been held in almost every county in the Commonwealth, at which resolutions were passed urging upon Congress to pass a bounty land bill without delay. All parties and classes unite as a band of brothers in this holy and patriotic work. The keen edge of political rancor is blunted—the partisan forgets his dividing l nes, while some war-scarred veteran recounts the dangers and glories of those times, when the volunteers of free America drove before them the best troops of invincible England. There is no two opinions in this State with reference to the claims of the soldiers of 1812. The additional bounty which is proposed to be extended by the provisions of the Senate bill, is justly due to these men, and therefore every delegate from this State who desires faithfully to represent public sentiment, will vote for the bill on Tuesday. Old Pennsylvania has never yet faltered when a call was made for volunteers to defend our country at home, or its honor abroad. Her patriotic sons went forth with full confidence that, if they fell upon the bloody field, those who were near and dear to them would be protected by the nation. It was so in 1812, and shall a single vote from this Commonwealth insult the memory of the dead, or wound the feelings of the living? Shall it be said that while we talk of patriotism, the men who toiled, and suffered, and bled for liberty, are living in want and penury? This must not be. It would disgrace the nation, the State, and the people."

I feel a deep interest in the passage of that bill, and seconding the very eloquent appeal of my colleague, [Mr. McNAIR,] I earnestly hope that we may all be here in the morning in full force, and pass the bill, if necessary, even under the "gag of the previous question," however unpalatable it may be to some of those who, when they can best attain their purpose by so doing, are the readiest to resort to it, and are the most clamorous in demanding it.

Mr. DAVIS, of Rhode Island. I feel some interest in the bill which will be attempted to be brought up before the House to-morrow—the old soldiers' bill, as it is called—an interest growing out of the state, somewhat peculiar, of the old soldiers in my own State. The gentleman from Pennsylvania [Mr. McNAIR] made a remark which induces me to say a few words. His remark was this: "Threatened on the east by our own people." This he said after reciting the dangers

which surrounded the nation at that time. Now, sir, I understand this bill, as it comes to us from the Senate, has in it a clause which excludes the soldiers of Rhode Island, Massachusetts, and Connecticut, and for a cause which came not from the people, but from a class. It was a class which was opposed to that war, and not the people. I am personally acquainted with some of the men who served in that war, or who were enrolled in the regiment, at least, raised for that purpose, and I think if courage, integrity, and all the qualities which go to make up the man and the patriot form the criterion, those men have as good a title to land at the hands of the Government, as any of those who are included in the bill, and I feel that it would be doing gross injustice to a large class of men, should that bill pass this House without an amendment to include them. The gentleman from Pennsylvania will recollect that the State of Rhode Island furnished, in the last war, some of the men who distinguished themselves most eminently on the frontier. I need not name Perry and his associates, one of whom is now in this city, and who was an active and efficient officer in that campaign.

Mr. McNAIR. Will the gentleman allow me to correct him? I hope the gentleman will understand me, that when I spoke of the East, I did not speak of everybody in the East.

Mr. DAVIS. The gentleman seemed to say so.

Mr. McNAIR. But that that thing did come from the East I suppose the gentleman will not deny.

Mr. DAVIS. What struck me was the gentleman's language—"Threatened on the east by the people." The gentleman seemed to speak as of the whole people of the East. I only quoted the gentleman's own language, but, of course, do not wish to give it any other construction than he puts upon it himself. But certainly his remark was an imputation upon the patriotism of the East. But in the State of Rhode Island there were companies which volunteered for the service of the General Government. It is well known that at that time a large portion of the leading men, the commercial class of the East, were opposed to the war. It involved them in consequences which affected their property so materially that they stood up against it at the outset, and at that time that class had a much more controlling influence than now. The people had hardly spoken out at that time. They were overawed by the wealthy class more than they are now. It is a fact which gentlemen will see is strictly true, and it was only by breaking over that influence, which they did, and by revolutionizing the whole East, that the East became from being a Federal a republican people. The aristocracy of that day resisted the war, and set at nought the patriotism which existed in the minds of the people. This is a matter of history; and now you could not do a greater injustice than to shut out these people—as you will if the bill passes in its present form—and preclude them from the benefits of this bill. The Rhode Island regiment was organized for eighteen or twenty months, and every man in it was ready and willing to start at the word of command. But the Governor of Rhode Island forbid them to go, even at the call of the General Government.

At that time the body of the people of Rhode Island had hardly any votes. Only the landed aristocracy could vote, and the people did not have the right to vote until the year 1842. Previous to that period not more than one third of the people could exercise the right of suffrage. That continued until 1842, when Thomas W. Dorr distinguished himself by an effort to give that right to the people, and finally obtained some measure of right for them.

I wish to impress upon the members of the House present this evening the facts in this case, in order that justice may be done to all the people of the East who lent themselves, in a patriotic spirit, to the support of the Government, or who were prepared to do so, and were only prevented by the superior power of the State government. The State government was not in the hands of the people at that time, so far as my own State was concerned.

I have before me a short extract from a communication from one of those very soldiers. He speaks of the matter in this way:

"We were drafted, mustered, or embodied as a regiment, enrolled, and the roll sent to Washington under a United States law, ordered to hold ourselves in readiness to march on the shortest notice, and so held for twenty months; whereas, if we had been permitted to serve, we should have been discharged at the end of six months."

Thus they were mustered into service for twenty months, for which they received no consideration, and during all that time they were liable to be called upon at any moment. They were prevented from engaging in other business—which is a very important matter for a poor man, and most of them were poor men; they were prevented from doing anything else; and it cannot be doubted that those men, had there been an urgent necessity for it, would have broken over the restraints thrown around them by the Governor. Those men protested against the action of the Governor at that time. They declared, and they made a record of it at the time, that they were opposed to the course of the Governor, and that they were ready to obey the call of the country. Therefore it would be a cruel act in the Government to exclude from the benefits of the bill—benefits which you are to lavish upon other men—those men who faithfully served their country to the extent which their State government permitted them to do.

Nothing has struck me as more remarkable than this amendment made by the Senate to the bill, coming from a high source, seemingly; and that the old feelings of those times should have been revived for such a purpose, and that men should not be acknowledged as patriotic as those from any other part of the country. The impulses of the masses for war are everywhere strong enough and clear enough; and patriotism, in that sense, is almost too cheap a virtue to be even questioned. I do not mean to speak disrespectfully of those who are willing to fight; but there are other services which men may perform which we think too little of rewarding.

My purpose was, and is, to set these men of my own State, and of other New England States, right, knowing that feats of valor were performed by them, and often without receiving any reward. The men who served during that time were among the most patriotic, because they had home opposition to encounter; and to cut off such men would be an act of injustice so cruel that I cannot think any member of this House who is in favor of giving this land to any one, will withhold his assent from giving it in good faith, and in a generous spirit, to all men who showed their disposition by their acts at that time.

Mr. MIDDLESWARTH. Mr. Chairman, I beg leave to state to the gentleman from Rhode Island, [Mr. DAVIS,] that a number of the friends of the old soldiers had a consultation on the subject; that they came to the unanimous conclusion that the proviso in the first section of the bill which includes the men to whom he has referred ought not to be adopted. And, if I get the floor, they have instructed me to move that it be stricken out. I believe, with him, that if the Governor of a State refused to permit those men to go into the service when they were willing to go—and I understand that a large portion of them protested against such refusal, and even many ran away and engaged in battle—that they ought not to suffer for that action of the State government. I, for one, am unwilling that the stigma of the proviso shall be placed upon them; and, as I have already said, if I get the floor, I shall move to strike it out.

Mr. RUFFIN obtained the floor, but yielded to

Mr. HENDRICKS. I move that the committee do now rise. I make the motion with the understanding that the gentleman from North Carolina will be entitled to the floor when we meet to-morrow evening.

The CHAIRMAN. The Chair cannot say that the gentleman will have the floor to-morrow evening. There may be another question before the committee and another Chairman then.

Mr. RUFFIN. I desire to submit some remarks, but would rather defer them until to-morrow evening.

The CHAIRMAN. The gentleman moving that the committee rise will be entitled to the floor to-morrow when the committee again resumes its sessions. The Chair does not wish any misapprehension to exist on the subject.

Mr. FLORENCE. We have finished the Navy appropriation bill. To-morrow we shall get through with the Indian appropriation bill. In all probability the House will then resolve itself into the Committee of the Whole on the state of the Union for the consideration of the Army appropriation bill. There will be another Chairman, and how can he recognise the gentleman from North Carolina? I have no doubt that the courtesy of the committee will be extended to the gentleman. It is only just that it should be.

Mr. RUFFIN. I do not wish to occupy the time of the House to-morrow, for I do not expect to speak on the subject immediately before the body. I have not occupied any portion of the time of the House since I have been a member here.

Mr. FLORENCE. I hope the gentleman does not, for a moment, suppose that I am making objection to his occupying the floor. I am merely stating a contingency which may arise, and bringing it to the Chair's consideration, in order that he may be protected. I suggest that he had better make his speech to night, for he is now certain of the floor. I presume that any chairman of committee to-morrow night would recognize the gentleman from North Carolina; that is, if we have an evening session for the same purpose as was the one this evening.

Mr. RUFFIN. If we do not have an evening session I do not expect to get the floor.

Mr. HENDRICKS. It seems to me that there can be no trouble on this question. The resolution directing the order of business in committee provides that the debate, during the day, shall be confined to the subject immediately under consideration; and that during the evening sessions it may be on any question affecting the Union to which gentlemen may wish to speak.

Mr. FLORENCE. That is true.

The CHAIRMAN. The Chair does not wish to be understood by the gentleman from North Carolina as deciding that he cannot have the floor to-morrow evening. He merely wishes that there may be no misconception in regard to the rule. The Chair does not say that the gentleman will necessarily have the floor to-morrow evening. He is entitled to the floor upon the bill now under consideration. To-morrow evening there may be another committee, another bill, and another Chairman.

Mr. HENDRICKS. The committee has now nothing before it except the state of the Union. Under the rule the committee would have, during the day, a particular bill as the business before it. The gentleman from North Carolina claims the floor on the class of businsss which is in order during the evening sessions. In my judgment, if the committee now rises he will be entitled to the floor the next time we resume the consideration of the class of business which we have had before us this evening.

The CHAIRMAN. The gentleman from North Carolina is now entitled to the floor. The Chair cannot undertake to say whether he will or will not be entitled to it to-morrow evening.

Mr. HOWE. Is not the Indian appropriation bill now before the committee?

The CHAIRMAN. It is.

Mr. FLORENCE. This committee, having finished its business, will, in all probability, be dissolved to-morrow.

The CHAIRMAN. The motion is, that the committee do now rise.

Mr. RUFFIN. And I yield to that motion.

The question was taken; and the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the Navy appropriation bill, and had directed him to report the same back to the House with sundry amendments; and that it had also under consideration the amendments of the Senate to the Indian appropriation bill, but had come to no resolution thereon.

Mr. PHELPS. I move that the Navy appropriation bill be recommitted.

Mr. SEWARD. I hope that motion will not prevail. I move that the bill be laid upon the table.

Mr. HENDRICKS. There is no quorum here, and gentlemen cannot transact any business.

Mr. SEWARD. I withdraw my motion to lay upon the table; and ask that the Clerk enter

my motion that the rules be suspended for the purpose of discharging the Committee of the Whole on the state of the Union from the further consideration of the bill for the improvement of the Savannah river.

Mr. PHILLIPS. I desire to submit the motion, for the purpose of having it entered, to discharge the Committee of the Whole on the state of the Union from the further consideration of a Senate bill.

The SPEAKER. It is not in order, under the rules, for the reason that there is a motion already pending to suspend the rules for a similar purpose, offered by the gentleman from Georgia, [Mr. SEWARD.]

Mr. PHILLIPS. Is it not in order to duplicate that motion?

The SPEAKER. It is not in order, as only one motion of the kind can, under the rules, be pending at the same time.

Mr. FLORENCE. I move that this House do now adjourn.

The motion was agreed to; and thereupon (at ten minutes past nine o'clock, p. m.,) the House adjourned until to-morrow at eleven o'clock, a. m.

IN SENATE.

TUESDAY, *February* 27, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

SLOOP OF WAR ALBANY.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a report of the Secretary of the Navy, in compliance with a resolution of the Senate of the 20th of February, communicating a copy of the order issued by the Navy Department to the officer in command of the home squadron in pursuance of which the United States sloop of war Albany was ordered on her last cruise; also, copies of the orders issued by the officer in command to the captain of the Albany; and, also, all reports and letters from the captain of the Albany on the necessity of repairs to his vessel; which was ordered to lie on the table, and be printed.

PETITIONS, ETC.

Mr. MASON presented the petition of H. O. Claughton, late commercial agent of the United States for the Netherland division of the Island of St. Martin, praying to be allowed office-rent and other expenses incurred by him in the execution of his duties; which was referred to the Committee on Foreign Relations.

Mr. BENJAMIN presented resolutions of the Legislature of Louisiana, instructing the Senators and requesting the Representatives from that State to use their exertions to obtain a mail route from New Orleans to San Francisco, across the Isthmus of Tehuantepec; which were referred to the Committee on the Post Office and Post Roads.

Mr. SEWARD presented the memorial of Isaac Knight, praying the aid of Congress to enable him to carry out his improvements in light-houses, and his plan for saving lives and property from vessels wrecked on the coast; which was referred to the Committee on Commerce.

Mr. FESSENDEN presented a petition of merchants and others of Portland, Maine, praying an appropriation for the construction of a "Tidal alarm apparatus" at the entrance of Portland harbor, on the plan invented by M. R. Fletcher; which was ordered to lie on the table.

Mr. JONES, of Iowa, presented a memorial of the General Assembly of Iowa, praying the establishment of a military post at or near the mouth of the Big Sioux river, in Iowa; which was referred to the Committee on Military Affairs.

PAPERS WITHDRAWN.

On motion by Mr. ADAMS, it was

Ordered, That John Hollohan have leave to withdraw his petition and papers.

On motion by Mr. JONES, of Iowa, it was

Ordered, That Harriet D. P. Baker have leave to withdraw her petition and papers.

On motion by Mr. WELLER, it was

Ordered, That Theodore Adams have leave to withdraw his petition and papers.

REPORTS FROM STANDING COMMITTEES.

Mr. FESSENDEN, from the Committee on Printing, to whom was referred a resolution to print three thousand copies of the Fourth Meteorological Report of Professor Espy, reported adversely thereon, and the report was concurred in. Mr. PEARCE subsequently moved to reconsider the vote by which the report was concurred in, and gave notice that he should ask action on it in the morning hour to-morrow.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the memorial of the heirs of Robert McConnell, asked to be discharged from its further consideration; which was agreed to.

Mr. WALKER. The Committee on Revolutionary Claims, to whom was referred the bill of the House of Representatives to amend the act approved 31st of August, 1852, entitled "An act making further provision for the satisfaction of Virginia land warrants," have had it under consideration, but are unable to agree. They have, therefore, directed me to report it back without any recommendation, and ask to be discharged from its further consideration, and that the letter of the Commissioner of the General Land Office on the subject be printed. I will add, that I hope the Secretary will see that the letter is printed during the day, as I desire very much to call up the bill to-morrow.

The motion to print was agreed to.

Mr. COOPER. I have been instructed by the Committee on Territories, to whom were referred the joint resolutions from the House to disapprove and disaffirm an act of the Legislative Assembly of the Territory of Minnesota, entitled "An act to incorporate the Minnesota and Northwestern Railroad Company," and the joint resolution from the House disapproving the act of the Legislative Assembly of the Territory of Minnesota, entitled "An act to incorporate the Transit Railroad Company," which are accompanied by resolutions of the Territorial Legislature and memorials of the companies, to report them back, and ask for the printing of all the papers. They have also instructed me to submit a report on the subject. In justice to myself, I wish to state, that, while I concur in all the recommendations of the report, there is one argument in it which does not entirely meet my approbation.

The motion to print was agreed to.

CUSTOM-HOUSE AT ALEXANDRIA.

Mr. MASON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of causing a building to be erected at Alexandria, Virginia, for a custom-house, with accommodations for a post office.

GENERAL JACKSON'S SWORD.

Mr. SHIELDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That there be printed, for the use of the Senate, twenty thousand copies of the proceedings and remarks, upon the presentation of the sword of General Jackson to Congress, and that the same be bound in such style as the Committee on Printing shall direct.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had passed the following bills, in which they requested the concurrence of the Senate:

A bill allowing the further time of two years to those holding lands by entries in the Virginia military district, in Ohio, which were made prior to the 1st January, 1852, to have the same surveyed and patented;

A bill extending the provisions of the act of August 4, 1852, entitled "An act to grant the right of way to all plank and railroads and macadamized turnpikes passing through the public lands belonging to the United States," to the public lands in the Territories of the United States;

A bill making appropriations for the naval service for the year ending the 30th of June, 1856; and

A bill making appropriations for fortifications and other works of defense, and for repairs of barracks and quarters, for the year ending the 30th of June, 1856.

Also, that the House had agreed to the amendment of the Senate to the bill authorizing the purchase or construction of four additional revenue cutters, and to the amendment of the Senate to the bill for the relief of the heirs and legal representatives of Joseph Savage, deceased; and that they had passed, without amendment, the bill of the Senate, to establish a circuit court of the United States in and for the State of California.

ENROLLED BILLS SIGNED.

The message further announced, that the Speaker had signed the following enrolled bills and joint resolution; which were signed by the President *pro tempore:*

An act for the relief of Mrs. Helen Mackay, administratrix of Lieutenant Colonel Æneas Mackay, late a deputy quartermaster in the United States Army;

An act granting bounty land to Susan Palmer;

An act to promote the efficiency of the Navy;

An act to remodel the diplomatic and consular systems of the United States;

An act making an appropriation for military defenses at Proctor's Landing, in Louisiana; and

A joint resolution accepting the sword of General Andrew Jackson, and returning the thanks of Congress to the family of the late General Robert Armstrong.

HOUSE BILLS REFERRED.

The bill from the House making appropriations for the naval service for the year ending the 30th of June, 1856, was read twice by its title, and referred to the Committee on Finance.

The bill from the House making appropriations for fortifications and other works of defense, and for repairs of barracks and quarters for the year ending the 30th of June, 1856, was read twice by its title, and referred to the Committee on Finance.

The bill from the House allowing the further time of two years to those holding lands by entries in the Virginia military district in Ohio, which were made prior to the 1st of January, 1852, to have the same surveyed and patented, was read twice by its title, and referred to the Committee on Public Lands.

The bill from the House extending the provisions of the act of August 4, 1852, entitled "an act to grant the right of way to all plank and railroads, and macadamized turnpikes passing through the public lands belonging to the United States," to the public lands in the Territories of the United States, was read twice by its title, and referred to the Committee on Public Lands.

The bill from the House to amend an act approved the 4th of August, 1854, entitled "an act to graduate and reduce the price of the public lands to actual settlers and cultivators," was read twice by its title, and referred to the Committee on Public Lands.

The bill from the House to organize an institution for the insane of the Army and Navy, and of the District of Columbia, in the said District, was read twice by its title, and referred to the Committee on the District of Columbia.

The bill from the House for carrying into effect the convention upon the subject of claims between the United States and her Britannic Majesty, of the 8th of February, 1853, was read twice by its title, and referred to the Committee on Finance.

COMMANDER RINGGOLD'S REPORT.

On motion by Mr. SEWARD, the Senate resumed the consideration of the motion submitted by him on the 31st of January, to reconsider the vote on agreeing to the resolution in relation to printing the report of Commander Ringgold, of his expedition to the North Pacific; and the motion was agreed to.

BOWES AND SMITH.

Mr. PETTIT. House bill for the relief of John R. Bowes, agent in charge of the property of the United States at Michigan City, in the State of Indiana, and of Isaac S. Smith, of the city of Buffalo, New York, has been reported back from the Committee on Commerce, with an amendment striking out the section in regard to Smith. It is a matter of considerable interest to a mutual constituent of ours, Mr. President, and I hope the Senate will take up the bill, and concur in the report of the Committee on Commerce. I move that the Senate proceed to the consideration of the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, considered the bill.

The proper accounting officers of the Treasury will be directed by it to pay to John R. Bowes, of

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

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the State of Indiana, agent in charge of the property of the United States at Michigan City, $470 33, in payment and in full discharge of all his claims against the United States for services as agent; and to pay to Isaac S. Smith $452 32, in full for his account for care and charge of the public property at the city of Buffalo, up to the 30th of April, 1853, under the direction of the Topographical Bureau.

The PRESIDENT. The Committee on Commerce reported the bill with an amendment to strike out that portion making provision for the relief of Isaac S. Smith.

Mr. PETTIT. I hope the amendment of the committee will be concurred in.

Mr. SEWARD. When that report was made by the Committee on Commerce, of which I am a member, it was made on papers before us which showed no title of Smith to the benefit of the bill; but after the report was made, the Committee on Commerce of the House of Representatives sent to us further papers, which enables us now to ascertain that our report was wrong. I ask, therefore, that we may non-concur in the amendment, and pass the bill in its original shape.

Mr. PETTIT. If that be the state of the case, of course the amendment should be rejected.

The amendment was not agreed to.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

RATES OF POSTAGES.

Mr. STUART. I wish very much to dispose of two matters on my hands, which I think very important. The first is the report of the committee of conference on the bills for the relief of purchasers and locators of swamp and overflowed lands, which has lain over too long. I hope the Senate will indulge me by taking it up and disposing of it at this time.

Mr. RUSK. I hope the honorable Senator will allow me to have a small bill considered, which will not occupy ten minutes. If it goes beyond that time, I shall consent that it be postponed. It is very necessary that it should go back to the House of Representatives immediately, as it is a House bill, to which we have made some amendments.

Mr. HUNTER. I hope that whatever is taken up will be taken up with the understanding that, at one o'clock, we shall proceed to the consideration of the appropriation bills.

Mr. STUART. I wish to say in relation to that suggestion of the Senator from Virginia, that I cannot consent this morning, so far as I am concerned, to yield to the appropriation bills until I can have the two matters to which I have referred disposed of. I have yielded to the appropriation bills, but now, I perceive, that if we defer other matters until the close of the day's session we adjourn without any opportunity to attend to them. If the Senator from Virginia will allow me to dispose, this morning, of the two matters to which I have referred—the report of the committee of conference, which, he will agree with me, as a matter of precedent, ought never to have been delayed at all, and the business on which we adjourned yesterday—then I shall be ready to stand by him in insisting on action upon the appropriation bills. I will yield, however, to the Senator from Texas at present.

Mr. RUSK. I move to take up House bill further to amend the act entitled "An act to reduce and modify the rates of postages in the United States, and for other purposes," passed March 3, 1851.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The bill was passed by the House at the last session. The Senate, as in Committee of the Whole, considered it on the 31st of July last, and many amendments were then made, on the motion of Mr. RUSK, on behalf of the Committee on the Post Office and Post Roads. He to-day, from the same committee, reported more amendments, many of which are merely verbal. The principal one is to strike out the following provision:

For every such letter or paper, when conveyed wholly or in part by sea, and to or from a foreign country, for any distance not exceeding three thousand miles, the ocean postage shall be five cents; and for any distance exceeding three thousand miles, such ocean postage shall be ten cents, (excepting, however, all cases where such postages have been, or shall be, adjusted at different rates by postal treaty or convention already concluded or hereafter to be made.)

The bill, as proposed to be amended by the Senate committee, provides that, in lieu of the rates now established by law, there shall, after the commencement of the next fiscal quarter, be charged for every single letter in manuscript, or paper of any kind in which information shall be asked for, or communicated in writing, or by marks or signs, conveyed in the mail for any distance between places in the United States not exceeding three thousand miles, three cents; and for any distance exceeding three thousand miles, ten cents. For a double letter the charge is to be double, for a treble letter, treble, and for a quadruple letter, quadruple these rates. Every letter or parcel not exceeding half an ounce in weight is to be deemed a single letter; and every additional weight of half an ounce, or of less than half an ounce, is to be charged with an additional single postage. Upon all letters passing through or in the mail of the United States, excepting such as are to or from a foreign country, the postage is to be prepaid, except upon letters and packages addressed to officers of the Government on official business, which shall be so marked on the envelope. And from and after January 1, 1856, the Postmaster General may require postmasters to place postage stamps upon all prepaid letters upon which such stamps may not have been placed by the writers. All drop-letters, or letters placed in any post office not for transmission through the mail, but for delivery only, are to be charged with postage at the rate of one cent each; and all letters which are hereafter advertised as remaining over, or uncalled for, in any post office, are to be charged with one cent each, in addition to the regular postage, both to be accounted for as other postages now are.

No postmaster, or other person, is to be allowed to sell any postage stamps or stamp envelopes for any larger sum than that indicated upon their face, or for a larger sum than that charged therefor by the Post Office Department; and any person who violates this provision is to be deemed guilty of a misdemeanor, and, on conviction, is to be fined in any sum not less than ten, nor more than five hundred dollars.

Mr. WELLER. I think the Senator from Texas had better make the phraseology of this bill conform to the fact, which is, that all citizens of the United States, unless they live in the State of California, or in Washington, or Oregon Territories, shall be entitled to receive their letters at three cents for the single letter. That is the effect of the provision. For a distance over three thousand miles the postage is to be ten cents. As a matter of course, that operates only upon the people of California, Washington, and Oregon. I think he had better change the phraseology, so as to provide that all citizens who do not live in those parts of country which I have mentioned, shall receive their letters at three cents.

Mr. RUSK. It includes a great many citizens of Texas also.

The amendments reported by the committee were agreed to.

Mr. RUSK. I offer an amendment as an additional section to come in at the close of the bill. Although the bill does not alter the law in relation to the franking privilege, I offer this proviso to meet the views of some gentlemen who have thought it may be so construed:

Provided, That nothing herein contained shall be so construed as to alter the laws in relation to the franking privilege.

The amendment was agreed to.

Mr. RUSK. I offer the following as an additional section:

And be it further enacted, That for the greater security of valuable letters posted for transmission in the mails of the United States, the Postmaster General be, and hereby is, authorized to establish a uniform plan for the registration of such letters on application of the parties posting the same, to require the prepayment of the postage as well as a registration fee of five cents on every such letter or packet, to be accounted for by the postmasters receiving the same in such manner as the Postmaster General shall direct; *Provided, however*, That such registration shall not be compulsory, and it shall not render the Post Office Department, or its revenue, liable for the loss of such letters or packets, or the contents thereof.

The amendment was agreed to.

Mr. RUSK. I desire now to say a few words in explanation of the bill. It has been submitted to the Post Office Department, and examined very thoroughly by the committees of both Houses. Its object is to require prepayment. It makes no alteration in the laws of any consequence, except simply requiring prepayment in all cases, after the commencement of the next fiscal year. It also authorizes the Postmaster General to require that prepayment be made in postage stamps after the first day of January, 1856.

The additional section is to authorize the registration of such valuable letters as the writers may desire to register, by an additional payment of a sum which was thought sufficient to justify that additional labor; but it incurs no further responsibility either on the United States or on the revenues of the Post Office Department.

The bill was reported to the Senate, as amended, and the amendments were concurred in, ordered to be engrossed, and the bill to be read a third time. The bill, as amended, was read the third time.

The PRESIDENT. The question is, "Shall the bill pass?"

Mr. ADAMS. I only wish to say, that I differed with the majority of the committee as to the propriety of requiring prepayments, which is the great object of this bill. I have my doubts about its propriety, and am opposed to any change of the law in that respect.

The bill was passed.

PURCHASERS OF SWAMP LANDS.

On motion by Mr. STUART, the Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the House bill for the relief of purchasers and locators of swamp and overflowed lands. The report was in favor of substituting the following proviso at the end of the first section, in lieu of the amendment of the Senate:

Provided, That in all cases where any State, through its constituted authorities, may have sold or disposed of any tract or tracts of said land to any individual or individuals prior to the entry, sale, or location of the same under the preëmption or other laws of the United States, no patent shall be issued by the President for such tract or tracts of land until such State, through its constituted authorities, shall release its claim thereto in such form as shall be prescribed by the Secretary of the Interior: *And provided further*, That if such State shall not within ninety days from the passage of this act, through its constituted authorities, return to the General Land Office of the United States a list of all the lands sold as aforesaid, together with the dates of such sale and the names of the purchasers, the patents shall be issued immediately thereafter, as directed in the foregoing section.

Mr. STUART. I stated the other day in detail the effect of the amendment proposed by the committee of conference, and that the report was unanimous on the part of the Senate committee, as well as the committee of the House. The House has acted on the report and agreed to it. The Senator from Arkansas, I believe, has some views which he wishes to submit to the Senate this morning, and I shall not detain the Senate unless it shall become necessary by something which the Senator may submit.

Mr. JOHNSON. Mr. President, the action of the Senate on this report of the committee of conference has been deferred for some days, partly from causes which were not in my control. There is one protest, from the Senator from Michigan, which I think is unauthorized and not justifiable. At each successive time, when he has proposed to take up this report, the Senator has prefaced what he has said with the remark that it ought never to have been delayed or deferred. Now, sir,

if when a report is brought into the Senate, affecting from fifteen thousand to twenty thousand of the constituents of any Senator, he ought not to ask a delay of action on that report when he has never before seen it nor heard the results to which the committee have arrived, then action on this report should not have been delayed. It was under those circumstances that I asked delay. If the interests of the constituents of a Senator are of no consequence to him when acting upon this floor, of course there ought to have been no delay. Otherwise he *ought* to be allowed time to read, if not to investigate the question. The cause of the delay in the first instance was, that I desired time to examine the effects of the proposed action on the rights of my constituents. Subsequently, I have been too unwell to be able to consider this subject; but still, regardless of health, I agreed with the gentleman from Michigan that he should have it taken up at any moment whether I was sick or well; and if I could defend the interests of my constituency, very well; and if not, then upon my head be the blame, rather than that I should demand anything not in accordance with the usual rule.

This report of the committee of conference is one which, I believe, affects most seriously the citizens of my own State. The real object of the bill is a good one, if it were guarded as the Senate guarded it by the amendments which they sent to the House. So guarded, it ought to have been passed. It would have benefited both the United States and the different States, and would have facilitated action under the swamp land law in a manner satisfactory to all concerned. The views of the Senate were expressed in their amendment; but after the House disagreed, the gentlemen who composed the committee of conference have arrived at a different result. The amendment of the Senate was passed here without the slightest objection. It was *unanimously* reported from the Committee on Public Lands after a full consideration, and was pronounced entirely right. Now a report comes from the committee of conference, sanctified by the fact that it was unanimous, although inconsistent with the amendment which the Senate originally put upon the bill and which was rejected by the House. It is insisted that we shall take it because it is a unanimous report, and that its real worth and benefits are guarantied sufficiently by the fact that it has been passed by the House of Representatives.

Well, sir, it is possible the House *may* err; it is possible the *committee of conference* may err, and I propose to subject this report to the test of a few remarks. I believe I have never been in the habit of speaking long, and I shall certainly utter not a single word intentionally that has not direct reference to the subject. I feel, and I know, that I cannot do full justice to the merits of the question in exposing the wrongs which are to be suffered by the swamp land purchasers, if this act, in its present shape, should be permitted to pass the Senate.

The bill, in the first place, was intended to facilitate the transaction of business connected with the conflicts of title which originated under the swamp land law. The swamp land act gives to the States a title to the "swamp or overflowed lands rendered thereby unfit for cultivation," from and after the passage of the act. It has been adjudicated, after full consideration and some contest, by the Secretary of the Interior, distinctly, that the land was conveyed by the description, "*swamp and overflowed, rendered thereby unfit for cultivation*," to the States, from and after the 28th September, 1850, the date of the passage of the act. This is the decision of the Department of the Interior, founded on the express terms of the act itself. The swamp and overflowed lands were not then separated from the public domain and the particular sections ascertained; and the law could not, and did not describe the lands by sections or sub-divisions, or by metes and bounds. This land being thus embraced in the public domain, and not separated from it by numbers, was left exposed, to be entered in the United States land offices, although the act had already granted it away to the States. Thus the land was entered in a great many instances in the United States land offices, and certificates were issued to the purchasers, and in *some* cases patents have been already issued, before it was discovered that the land was embraced in the terms of the description contained in the swamp land act and had been conveyed away.

The object of this bill was, where there was no conflict of title between individuals, or in other words, where the land had not been sold by the State to any individual, to enable the State to release her title to the United States, in order that the United States might make a good title to their alienee, and that the money which had been received into the United States Treasury should be paid over into the treasury of the State. That was the original object, and it was a good one, promoting justice, and simplifying the difficulties which existed. It was an object, I am free to admit and declare, which ought to be carried out by the Senate; but, sir, the bill, as it now stands, does not stop there. A provision was passed by the Senate, in the shape of an amendment, which did arrest it at that point; it was as follows:

"*Provided*, That the proper authorities of the State in which any such lands are situated, shall first release and surrender, in such form as the Secretary of the Interior shall prescribe, all claim to the land so purchased or located; but no patent shall be issued to such purchaser or locator in the United States land offices, until the required surrender shall have been made by the State."

That was the provision of the Senate in the first place. With that provision no difficulty could have originated, and no injury could have been done; but it was rejected by the House. The Senate insisted on it, and the result was a committee of conference.

Now, sir, the report of the committee of conference is identical with the bill as it first came from the House, with the solitary exception that it does not injure one class of those who hold title under the State, whilst it does destroy the rights of another class. In other words, where a man has entered swamp land in the State land office before any other individual has entered the same land in the United States land office, he is protected; but where an individual has entered the swamp land in the State land offices after it had been entered in the United States land office, then he is sacrificed by the terms of this act, as far as Congress can do it, and a patent is ordered to be issued to his opponent, who is the United States alienee; and all because he entered first in point of time, without reference to the title of the party who suffered the entry to be made. That is the provision of this report. This action here, then, is intended to declare, and does declare, that the man who enters at the United States land office in such a case shall have the *whole title*. It seems to me this is directly in the teeth of the law, which says that the swamp lands "*shall be, and are hereby, granted*," (and which also describes them,) "from and after the passage of the swamp land act." That is the operation of it, an operation that must bring loss, if not ruin and sorrow, to many of the people of the new States, and mine among the others.

I know that an immense number of these cases exist in my own State, because it was our object so soon as the swamp land law was passed to put into effect the provisions embraced in its conditions, which was the redemption of the swamp lands by draining and leveling. Most persons who have purchased from the State are cut off by this provision, although it must be admitted the State had all the equitable right, and legal too, I believe, and wanted nothing but the mere patent which the United States were permitted to hold as trustee at best for those lands. The man who entered in the State land office has a right to the title of the State. There are great numbers of such cases in my own State, for vast amounts of these lands have already been sold by the State. I give but a moderate number, I think, when I say, there are fifteen or twenty thousand locators. These men will find they are stricken down by the act we are now considering, as far as an act of Congress can do it.

They entered in the first place knowing that the United States had given all their right and title to these swamp lands to the States of whom they bought That the land was entered in the United States land office by an individual previously to their entry was a matter of no consequence, if that entry was made after the United States had parted with her title. The object of issuing patents and giving the legal title of the United States into the hands of any one who entered in their land office, whether before or after those lands were entered at the State swamp land office, is not a matter a child would stop to discuss. The object is to give him good and full title. Can the United States in good faith come forward and pass an act of that description, and will the Senate thus pass an act in the teeth of the former law, to violate the vested rights of individuals, rights resulting from the previous acts of Congress?

The reply, as I understand, of those who are in favor of the passage of this provision is, that if it be true that the United States parted with the whole of their title by the swamp land act, those who entered in the State office are entitled to go into the courts and sue. In what attitude can they go and sue in our courts? They are placed simply in this attitude: they are compelled to meet a patent which does not now exist against them; they are compelled to meet an act of Congress which goes as far as it can to divest them of all right, and destroy the title which they previously acquired. They have to meet this, and also the additional difficulty that all the burden of proof is thrown on them, with additional legal obstacles and legal disabilities, and in your own courts they become, by your own act, a proscribed class, whom you choose to condemn in violation of the rights which you yourselves conferred by a previous law. If they acquired any rights by entering in the State swamp land office, will you seek to deprive them of those rights? Then how can you justify yourselves when you have passed an act throwing additional difficulties in their way? You can only justify action of that sort by disputing the power and effectiveness of the original swamp land act by the description which it contained, to pass the title of those lands from the moment of the passage of the act, and I defy any dispute upon the subject of that construction of the act, for I have maturely examined it, and, to my own mind, it is perfectly clear that such was the intent and effect of the swamp land act. Now, it seems to me, there can be no justification for the course now proposed. Either that act conveys the swamp lands to the States in which they lie, from the passage of the act, or it does not. If it does not, let gentlemen then proclaim it. If it does not, then every gentleman from a swamp land State who makes such an assertion, to wit: that it does not so convey the land from the passage of the act, unquestionably takes new ground, never taken by any Senator from any one of those States heretofore, such as I do not believe the act itself will justify or authorize, and such as must be a most serious injury to the State which he represents as well as a surprise to all parties. I will not say he *willfully* strikes a blow at the people who honor and trust him here; I will only say he strikes the blow. We have not only had the act already construed, but that construction has been acted upon ever since the 28th September, 1850, for that construction was given but a short time after the passage of the act.

Now, Mr. President, I call attention to the result of this in another respect. Look at it in its regular operation, and see how it acts in complicating the accounts of the United States upon this subject. The United States have given the land. I assume that they gave it, and that construction is a sound one, that the act took effect by the description upon each tract of land from and after the passage of the act. The United States have given it to the States, as the people of the United States may say, for nothing; in other words, the consideration upon which it was given was the good of those who were to receive it—that good to be obtained by the reclamation of the swamp and overflowed lands by levees and drainage. The United States, then, have given it, so far as their Treasury is concerned, to those States for nothing. By the operation of the law, as it now stands, the State has gone on to sell it as swamp land, and has the pay for it in her Treasury. The next step is to pass this provision, by which the United States compel themselves, wherever they have sold any portion of what was swamp land, to pay the money received for that land over to the State treasury, also. The United States sold to the individual, gave the title, received the money; and under this act, then, she pays it over into the treasury of the State. The State holds the land which she received from the United States. When she sells it she holds the money which is received from the individuals to whom she sold it, and holds the money by this act which she received from the United States, who also sold it.

The gentlemen who are in favor of this amendment, say, that in this attitude the parties can go

into court. Suppose they do go into court, and, after they do so, a tract in dispute is decided to be swamp land. Under that decision the United States are compelled again to come forward, having once given away the land, and having also sold it, and received full pay for it, and having paid over what was received into the coffers of the State; and she is then called on, by the individual to whom she sold, to refund the money; and when that individual, having lost the title, calls upon her for its return, the reply is, "We have no money now to refund, because it is paid over to the States." There is the operation of this measure, and there is the obligation to which we are subjected, resulting either in injustice to the individuals to whom the United States sell an invalid title, or injustice to the Treasury of the United States, who first give away the land, and then pay away the money she had illegally received, and then pay back the like amount to the person from whom she had improperly received it. This would be a trying process upon any private exchequer. But it is the more to be regretted when we recollect, that what she improperly received from the individual she had improperly paid away to a State, over whom she could exercise no coercive power to compel repayment, and with whom the wisest statesmen have declared she should hold no dealings, and keep no accounts, as a first and essential policy.

Now, sir, the sympathy for the United States Treasury is not very general nor very great in these matters; but certainly the disposition of all will be to prevent any complication or difficulty in our accounts, if it can be possibly avoided. Then I call your attention to the complications which must necessarily occur, and cannot be escaped, by which the most extraordinary state of things will be brought about, leading to difficulty and vexation.

Again, sir, I contend that this act has an *ex post facto* character, in this: that it assails the previous act under which vested rights have accrued; and so far as that is concerned, though it may not be considered to be so directly, yet it is so indirectly, and is unconstitutional in its character, it certainly is so in its effect upon the rights of individuals, as will be demonstrated and discovered hereafter. But is it right, sir, that additional burdens shall be thrown on those who hold your swamp land title, which was deemed to be good, and which has always been so considered? Is it right that you should compel them, in every instance where you issue patents under this bill to those who purchased from the United States, (the United States having previously parted with all the title except the mere legal title,) to come into court to await the slow decision of courts of justice for relief, and suffer all the incidental and accumulated expenses? Is the system of relief we thus get for these people better than it is now?

Do you improve their condition in that respect, and leave them with the same rights and no greater obstacles to the establishment of those rights? If you left them in that condition some of my most serious objections to this measure would be removed; but such is not the fact. As matters stand at present, the conflicts are now in existence which this proposed law is to operate upon. At the present time, when an individual holds under the United States by a sale made subsequent to the passage of the swamp land act, and another individual holds a title under the State, each makes application to have the patent. The individual purchasing from the United States applies to the United States for a patent. The State which has sold the same land gives out her title. The conflicting entries are discovered at the General Land Office, though, in some instances, the individuals themselves knew nothing of it; and thereupon the Commissioner informs the respective parties, and he addresses himself to the local land officer of the district in which the lands lie, and invests him with power to administer oaths and take testimony in regard to the fact of whether the lands were swamp or not. He summons both parties to come forward with their witnesses and prove whether they were swamp lands or not, because, on the simple question whether they be swamp and overflowed lands or not, must depend the title. That is an easy matter to settle in that way, because all the persons who live in the neighborhood may be summoned, and they are summoned, to a convenient point; that is, the land office within the district. Their testimony is given under oath, and the land officers can easily determine, from their testimony, whether the land be swamp and overflowed or not. They make their decision upon the testimony thus before them. If that decision be unsatisfactory to either party, an appeal is taken to the Commissioner of the General Land Office, and there it is finally settled by the interposition, if necessary, of the Secretary of the Interior. In ninety-nine cases out of a hundred the matter there ends; but still, if either party is dissatisfied, he can go to the courts. In ninety-nine cases out of a hundred, however, the testimony of the neighbors in regard to the character of the land is conclusive, and settles the question upon the adjudication of the local land officers. In that mode there is no delay; there is no expense; there are no fees for sheriffs, and clerks, and publications; there is no intervention of lawyers; there is no oppression put upon the parties, but they can easily go forward and settle their difficulties without trouble.

It is here proposed, however, to give the legal title out of the hands of the United States, who hold it, at best, as a mere trustee, and confer it on the wrong party, or, at least, we determine it to be the right party on grounds which, to my mind, are very strange. The principal ground is, that the land was purchased from the United States before it was purchased from the State, and is the best title, because the alienee of the United States purchased in point of time before the alienee of the State purchased, although it is admitted that the swamp land act was passed prior to the purchase of either party.

The citizens who have purchased from the States ought not to be forced to go into the courts with the whole burden of proof put upon them. Great difficulties are interposed by this action in the way of their asserting their just rights. A very serious question is raised at once when a man holds a legal title, to wit: the patent of the United States. In this country, in the land States, the patent of the United States is said to be like the possession in other countries—nine points of the law. A man having that patent holds the legal title. It is true, in this case he obtains it from the party which was but a trustee at the time; but still he holds it, and he holds it by a law passed here expressly repudiating the construction and provisions of the law under which the conflicting rights had been vested. I cannot be satisfied but that this course is utterly unjust in this: that the holder from the State is compelled to come forward all the time in the shape of a complainant, whilst the other party stands back in a defensive attitude. Under the present system, both can go forward without difficulty to settle the question; but here you propose to give an oppressive advantage to one party, to which he is not fairly entitled, either in law or equity.

The injustice of this measure is palpable in another provision, which is, that even where it is attempted to provide for and protect a class who entered swamp lands prior to any one entering it in the State land offices, yet if the State does not come forward in three months from the passage of this act, and show such entry and its priority, they are to lose that right. I do not know how it is that gentlemen can reconcile themselves to say, that when the law has given rights to certain men, and conflicts of title have originated, they will come forward and pass an act which must result, in effect, in the destruction of such rights. If a right is vested, you cannot burden it with conditions. It is true, it may be justified by some on the ground that the act itself does so much general good that they will agree to do this amount of injustice in order to attain the benefits otherwise secured by the act. This is the only ground on which I conceive it can possibly be sustained; but it is not sufficient grounds with me. I cannot consent to do this injustice for any amount of supposed good.

Mr. President, these are but a few points in relation to this subject. I know I have not discussed it regularly, for I have attempted to prepare no notes on the subject. Many things have escaped my mind in the course of the few and desultory remarks that I have made. I may have occasion to say something more upon it; but at present, I believe that *prima facie* to the mind of every Senator who has not already settled his conviction, the case will stand as a very hard one; and they will perceive, on examination, that the report of the committee of conference is one which should be rejected, and ought never to be adopted under any circumstances.

Mr. SLIDELL. Mr. President, as a member of the committee of conference on this bill, I think it proper that I should say something upon the subject; and I shall confine myself to a very brief explanation of the history of the bill, and the action of the committee upon it. The House of Representatives passed the original bill, which virtually contained this principle, although it was not avowed on its face, that, under the law making donations of all the swamp and overflowed lands within the limits of the respective States, the title was not to be divested from the United States until the issuing of the patents. That was the spirit of the act; and, in compliance with that spirit, they directed, that for all sales which might have been made in the United States land offices previous to issuing patents to the States, the sale made by the United States should be confirmed, and patents issued by the General Land Office. The bill was sent to the Senate, and was here amended, on the motion of the Committee on Public Lands, who unanimously concurred in another and different view of the subject. The principle which directed the Committee on Public Lands in the amendment which they reported to the Senate, was, that the title vested fully in the States from the time of the passage of the law; that the patent was a mere muniment of title, and that the want of it would not, in any degree, affect its validity, even if it had never been issued. That was the principle, I understand, on which the amendment was reported by the Committee on Public Lands. The Senate gave their assent to this doctrine. I have no doubt myself as to the correctness of that position, that the title to every acre of swamp and overflowed land within the limits of the States to which those donations were made, vested in the States from the date of the passage of the law, and that the United States had no right to sell those lands after the grant was made.

Our amendment was sent to the House, and there rejected, and a committee of conference was asked for and appointed by the two bodies. The members of that committee, on the part of the Senate and on the part of the House, then approached this subject, entertaining totally different views of the construction that should be given to the law, as to the time from which the grant took effect, whether it took effect from the day of the passage of the law, or from the time of issuing the patents. I will state, however, in this connection, that two of the committee on the part of the Senate concurred in the opinion of the title vested in the States from the passage of the act making the grant; and one of the members of the committee of conference on the part of the Senate differed from that opinion. The members of the House committee were unanimous in the belief that the title took effect, if not from the date of the issuing of the patent, at least from the time when the Commissioner of the General Land Office designated certain lands to be swamp lands, although the patent might not have been issued until afterwards.

The committee of conference then found itself divided by two irreconcilable pretensions—utterly irreconcilable, because they differed as to a principle. It was considered highly desirable for the interests of many parties that, as nearly as possible, the difficulties of conflicting titles should be removed. A suggestion was made, on the part of the committee of the Senate, which, after explanation, met the unanimous approval of the House members of the committee of conference. It was this: We did not pretend to say, that, by any legislation, we could divest a complete legal title, held either by persons who are claiming, under the authority of the States, or by those holding it under the authority of the United States. That is a purely judicial question. We did not touch that question at all. We did not wish to do so; but we thought that we could adopt an equitable principle, which would, in ninety-nine instances of a hundred, decide the question, and prevent litigation. That principle is to give, so far as we can give, the authority of the United States to protect the man who was the first purchaser in good faith. Now, I will state an instance, and there are hundreds of such instances in my State, and I presume in every other State in which swamp lands are situated. Immediately after the passage

of the act, swamp land offices were created in different States. The United States land offices were also open. The officers of the State land office, although not in possession of the patent, and, perhaps, not always even having had the lands designated by any formal authority, knew what the swamp lands were, and knew what would be the ultimate decision of the Government; and, acting on the principle that the title vested from the day of the passage of the act, they permitted entries to be made, though they were not in possession of the ordinary muniments of title, they received the price, and granted certificates of such receipt. A person living in the immediate neighborhood, or perhaps a speculator, availing himself of what he presumed to be the local knowledge of persons who entered those lands, sometimes after an interval of several months, or, perhaps, not knowing that the lands had been entered and paid for in the State land office, went to the United States land office, made entries of the same land, paid his money, and received the ordinary certificate. So again, on the other hand, persons in good faith, ignorant whether these lands would be decided to be swamp lands or not, presented themselves at the United States land offices, paid their money, received their certificates, and, months afterwards, other persons knowing that those lands had been entered in good faith and paid for, went to the State land offices, made corresponding entries there, paid their money, andreceived certificates.

Now, sir, what is the effect of the provision adopted by the committee of conference? It is not, as my friend from Arkansas says, to decide on the rights of individuals, or attempt to decide on them by the action of Congress; but simply to give, if possible, the advantage of the legislation of Congress, not to deprive a man of a vested right, for that we cannot do; but, as far as we can do it, to give the preference to the original purchaser of the land in good faith, whether he made that purchase in the United States land office, or in the land office of the State. There is the whole proposition, neither more nor less than that.

In one case, let us suppose a man has made an entry of a piece of land, (which has been afterwards decided to be swamp land,) and obtained a patent from the United States land office. This provision declares that in such a case the patent shall issue. What is the effect of the patent? Surely, if a man has entered the land in the State land office, and the title of the United States was utterly divested from the time of the passage of the law, his patent will not avail. That is clear; but still it will facilitate the settlement of disputes, because there is a very potential influence attached to the idea of a patent. Ninety-nine men out of a hundred in the land States think that when a man has a United States land patent, his title is complete, and cannot be attacked by anybody. In the other case, where the land has been first entered in the State land office, and a conflicting entry made in the United States land office, on the establishment of the fact that the first entry was made in the State land office in the manner in which this bill provides for sending on a list of all the swamp lands entered in State land offices within the period of three months, the patent is withheld, the United States refund the money to the man who has made the last entry. In all cases, however, the States, if they think proper, may cede to the United States the beneficial title to the land.

I am surprised that my friend from Arkansas should manifest any astonishment at the provisions of this compromise, having been advocated by gentlemen from the swamp land States. According to its provisions, in every case if the patent issue to the purchaser from the United States, the money is refunded to the State treasury. The quantity of swamp land which may be decreed, now or hereafter, to have belonged to any State of this Union, cannot be diminished a single acre by the operation of this provision. If they have not the lands, they have the money. Now I will state that in Louisiana, and, I believe, in every other State, there are no swamp lands held at more than $1 25 an acre. It has been the policy of our State, and, I think, in a rather more remarkable degree, the policy of Arkansas, by putting the lands at a low rate, to invite immediate purchase if not settlement.

I have made this brief explanation of the motives which governed the committee; and I will say, though my experience of committees of conference is somewhat limited, that I have never seen any such committee in which there was so hearty adhesion to the decision arrived at as in this case. The proposition, so soon as stated, appeared so plain, it so conciliated, as far as possible by legislation, the conflicting rights of the parties as soon as it was proposed, that it was immediately accepted by the members of the committee on the part of the House. I simply state the facts without any argument upon them, that the Senate may understand the principles involved in the case.

Mr. STUART. I only wish to detain the Senate a very few minutes, and chiefly for the purpose of satisfying the honorable Senator from Arkansas that he was under a misapprehension in the outset of his remarks. I am certain that, if he had exercised his usual discrimination, he never would have fallen into the error to which I allude. I said to the Senator from Virginia [Mr. HUNTER] that, as a matter of precedent, this report, being the report of a committee of conference, never ought to have been postponed. I suppose it is the first time in the history of Congress, perhaps, that such a thing was ever done. But the Senator from Arkansas knew, and I had stated to the Senate, that, by an understanding with him, it was postponed until last Saturday morning, and since that time it has been postponed against his wishes and mine too. Now, I never undertook to intimate that, so far as the wishes of the Senator were concerned, it was improperly postponed; but, as a matter of precedent, the further postponement of this question was wrong, and that, as a precedent, it ought never to have been postponed at all. There were, however, peculiar circumstances, growing out of the Senator's situation, which made that course proper in the present case, though I think the principle of postponing such a report a bad one.

Now, sir, I think that, in a very few minutes, I can satisfactorily explain the objection which the Senator has raised to this provision. The States in which the swamp lands lie, in almost every instance, have asked Congress to pass this law; individuals have asked it, and I suppose it may be safely assumed that, if the Senator from Arkansas is right in respect to the effect of the law in some instances, those instances are no more than one in a thousand among the purchasers under the law.

Mr. JOHNSON. The statement just made by the Senator is well calculated to have a strong influence, and I wish, therefore, to call his attention to one point, for I am sure he would not willfully misstate any fact. He will not say, I imagine, that any State has requested the passage of this provision upon the particular subject in regard to which difficulty is now raised. In other words, I think he will not say that any State has asked that conflicts of title arising under the circumstances which we have been debating, shall be settled by any law at all.

Mr. STUART. Mr. President, I suppose it would not be assumed by any Senator that a petition had been received indicating the particular language of a law; but the requests are that the patents may issue to the individual purchasers, and that the proceeds of the purchase may be given to the States. Now, that is the House bill. It declares, that in all these cases where individuals have purchased of the United States, the patent shall issue to them, and the proceeds of the purchase be paid over to the States. If sold for money the money itself is to be paid to the State; if entered by scrip or land warrants, the States are to be authorized to enter a corresponding amount of other Government land. The effect of the amendment is simply to modify that provision in cases where the States have themselves first sold the land. The Senate will, therefore, see that the objection urged by the Senator from Arkansas applies to those cases, and those only, where the States sold the land after the United States sold it. I say that those cases will not bear the proportion, probably, of more than one in a thousand of all the cases which have occurred; so that the amendment proposed by the committee of conference will adjust nine hundred and ninety-nine out of a thousand of all the cases which exist. I suppose it may be safely assumed that there is no other general law which disposes of the interests of the community more perfectly than that.

Now let us consider for one moment—because I am not going to detain the Senate—what is the effect on the one man in a thousand. It is simply to test, judicially, whether the land grant passed at the date of the act or at the subsequent issuing of the patent. That is all. There will then be one case in a thousand when individuals may, if they choose, test the effect of that law. I confess, sir, I should, before a judicial tribunal, argue with a good deal of confidence that the States held this land from the date of the grant, upon the principle that it was a grant of all lands of a particular character from the date, but it required time to ascertain the extent of the grant, and that was the only reason why the patent was not issued immediately. But, sir, that principle is retained in the amendment to every citizen of the United States who desires to test it.

The effect of the law, as it now stands, and as it will stand if this bill fail, is to prevent the quieting of the title in nine hundred and ninety-nine cases out of a thousand where there is no dispute about it, but where everybody wants it done. Certainly, justice to so large a proportion of purchasers of swamp land should not be withheld because, possibly, inconvenience may arise to a very few individuals. That is the extent of the whole question.

I cannot consent to detain the Senate further. I have explained all that is susceptible of explanation, and I express the hope that, inasmuch as the House has concurred in this amendment, the Senate will do so rather than lose the question; because I feel authorized to say, from the knowledge that was acquired in conference with the gentlemen of the committee who unanimously agreed to this report, that we are now brought to a point where we must either deny justice to this large proportion of settlers by losing the whole question, or we must pass this act as it is.

Mr. SEWARD. Will the honorable Senator allow me to ask him what are the States in which these swamp lands lie which are more especially affected by the bill?

Mr. STUART. I understand that perhaps Arkansas, possibly Louisiana, and perhaps Mississippi.

Mr. BENJAMIN. Louisiana very largely.

Mr. STUART. The States I have just named are affected by this question. The State which I in part represent is well enough off with the bill of the House, but then Louisiana and Arkansas, and I think, perhaps, Mississippi, require some adjustment of this question upon some such principle as this.

Mr. SEWARD. Will the honorable Senator excuse me? In my view of the subject, I find Senators from those States saying the bill, as agreed to by the committee of conference, will not answer the purpose of quieting the titles, while the Senator from Michigan, speaking for them, or for the committee, taking care of their rights, says it will. I am perplexed between them.

Mr. STUART. There is no such difficulty as the Senator supposes. The Senator from Louisiana, who has just spoken, [Mr. SLIDELL,] was one of the committee, and agrees to the report as entirely satisfactory to his State. The Senator from Illinois [Mr. DOUGLAS] was another. His State is largely interested in it, and he agrees to the amendment. One of the members on the part of the House was from the State of Illinois, also entertaining similar views, and agrees to it.

Mr. BENJAMIN. I am not aware of a single Senator from any of the swamp land States who is opposed to this provision of the committee of conference, except the gentleman from Arkansas, who has spoken, [Mr. JOHNSON.] There may be some other Senators who think with him; but, in my judgment, the legislation is as perfect as it can be made according to the report of the committee of conference. That cannot be improved.

Mr. JOHNSON. I am well aware of the fact that, standing alone, I should have but little influence upon this question; but, sir, let me suggest to the Senator from Louisiana, that my colleague, [Mr. SEBASTIAN,] whose clear head and sound judgment is appreciated in this body, concurs with me fully in my opposition to this report. I know that our opposition to it would not amount to much if the Senators from our State were the only representatives of the States interested in this

matter who opposed it. Sir, I feel this most sensitively, and it is this which has caused me to desire other Senators to consider the matter fully before they come to a vote upon it. Feeling most sensitively that it is a hard thing for me to contend against such an array of intellect and of distinction as it falls to my unfortunate lot to oppose in this instance, I cannot but ask that other Senators whose views are entitled to higher consideration than my own will give their attention to the question.

Sir, it is with feelings like these that I have ventured to protest against the passage of this provision, as unjust to a large portion of the people whom I represent, and as unfortunate for the clearness, distinctness, and regularity of the accounts of the Treasury of the United States. I should be very glad to have other Senators look into my position. I have not opposed this report from a pertinacious or contentious disposition. I do not think I have ever distinguished myself in this body in that particular. I merely ask gentleman to give their thoughts to this subject. I must say, however, that the report of the committee of conference is the most obscure, the most difficult worded, the most complexly incomprehensible proposition that I ever saw in my life to be drawn up by men so distinguished as those who have presented this. I say it is entirely incomprehensible to any person but one familiar with the operation and effect of the swamp land law and its minutiæ in every particular, who has seen its effect at home within half a mile of his own house.

I have been somewhat involved in one of these conflicting titles. I have had to defend swamp land titles where the United States titles were held upon the opposite side, and *vice versa*. I have been compelled, weak as might have been my powers of perception, to look into the subject and study it until it could be comprehended, and until in every case where I have been consulted at home, by friends and neighbors, it could be adjudicated and settled. Under such circumstances, in obedience to the appeals of neighbors living around my immediate home, I was compelled to investigate the subject, and I was enabled to find out from that knowledge the meaning of the very skillfully and very obscurely drawn compromise conference report which, I contend, does gross injustice in the disputes which exist between fifteen thousand or twenty thousand of the people whom I have the honor to represent here. I ask, then, of the Senate, if they will not condemn the act, that they will at least excuse the State which my colleague and myself represent from being made to suffer under its effects.

Mr. BROWN. Mr. President, my State is one of those interested in this bill, and I regret very much that I have not had the opportunity, in the multiplicity of other engagements, to give to it that attention which, perhaps, I ought to have done, and which I should now feel very glad if I had done. It seems to me there is a great deal more difficulty raised about the titles to these swamp lands than there is any occasion for.

Instantly on the passage of what is known as the swamp land act, the title to all the "swamp and overflowed lands, rendered unfit thereby for cultivation," was passed to the States in which they lay. Their title was imperfect, it is true; but, nevertheless, it was such a title as barred this Government from selling those swamp and overflowed lands to any one else. The lands, however, had not been selected, and could not be designated by the purchasers of public lands, or by the public officers. Hence it sometimes happened that a man entered land at the Government minimum of $1 25 an acre, supposing it not to be swamp or overflowed land, and afterwards it turns out that it was covered by the grant. So soon as the title of the State was perfected by the selection and the approval of that selection, the State went on to sell the same lands to somebody else at the price she fixed on it. Now, according to the law of the case, who has the title to the land—the purchaser under the Federal Government, which, it is admitted, had no right to sell, or the purchaser under the State Government, which had the title, and therefore had the right to sell? It seems to me there is no necessity for controversy about a proposition so plain. All that can be done under such circumstances, with propriety, is, for the Federal Government to return the money to the person purchasing from it, upon the principle that it had no title to convey, and therefore had no right to sell, and let the purchase under the State stand as valid, because it is a purchase from a party holding a title, and from the only party who did hold the title.

This being the state of things, how can Congress with propriety interpose? Can you make good your own title when it is admitted that you had none at the time of the sale? When you admit that the title was in the State and not in the Federal Government, how can you, by legislation or otherwise, sell the land and make the title perfect? You may go on and legislate; but your legislation is mere *brutum fulmen;* it amounts to nothing. It may have the effect of involving innocent parties in litigation without cause, because the purchaser from the Federal Government, feeling that he is backed up by the Government, who gave him his title, will stand upon it, and will undertake to contest it, whereas the purchaser from the State Government, feeling assured that he has legal title to the land, will insist upon holding it. It does seem to me, if I understand this bill as proposed to be amended, that it is a proposition to put men by the ears, throw them into court to settle that which can be settled better out of court, under the decisions of your departments, which I think are thus far right. I understand the ruling of the Department to have been that the purchaser under the Federal Government of these swamp lands, since the passage of the swamp land act, got no title; that they received his money through mistake, under the belief the land was not swamp or overflowed; but when it turned out, afterwards, that it was covered by the grant, they have ruled that the money should be returned to the party from whom they received it. That is the law.

Mr. DAWSON. Of the State?

Mr. BROWN. No, sir; the Federal Government has done it. The land is not subject to entry, and is in the same category with school lands and military reservations, and all other reservations of the Government. When it was purchased it was purchased by mistake. All that was necessary to be done, was simply to return the party his money. I cannot see for the life of me how the difficulty is to be cured by this legislation.

I understand my friend from Louisiana [Mr. SLIDELL] to say that it is not proposed to confer the title absolutely, but to do all you can do. Well, sir, how much is all you can do? Simply to give the purchaser the assurance that you will stand by the title which you confer on him, and thereby entice him to stand a lawsuit, when, if you did not interfere in the matter, he would receive his money from the Government, feeling that he had an assurance from the proper quarter that he had no title, and could not hold the land.

Now, sir, how is this going to work in practice? A purchased a section of land from the Government at $1 25 an acre, and it afterwards turns out to be swamp land. The Federal Government, under this provision, instead of returning A his money, pays it over to the State. That is your proposition.

Mr. SEWARD. Is that the proposition of the committee of conference?

Mr. BROWN. That is the proposition of this bill. I do not know whether it comes from the committee of conference or is the original proposition. Instead of returning the money to the party who paid it, to whom you are conveying no title, you hand his money over to the State. The State has, in the mean time, gone on and sold the land to B, at her price, say fifty cents an acre, and put that money into her treasury. The State, therefore, is twice paid for the same land, and two of her citizens are put by the ears to decide which has the right to it. If I understand this proposition, it is simply to promote litigation, and I shall, therefore, vote against it.

Mr. BENJAMIN. Mr. President, I have been asked by some friends around me to state, in a few words, to the Senate, the difficulty which has arisen, and my own views about the propriety of the adoption of this report of the committee of conference. I am persuaded that, if my friend from Mississippi had studied the subject, he would have joined me in urging the adoption of the report, instead of making the speech which he has just made against it.

The state of facts is one exceedingly simple. Congress passed a law granting to the several States of the Union the swamp lands remaining unsold within their respective limits. Now, every gentleman will understand at once that, until those swamp lands were designated, until they were selected, nobody could tell which were the lands that, by the act of Congress, were so granted. The consequence was, that a year or two elapsed before those lands were designated and so appropriated, under the act of Congress, as to vest the legal title in the States. During that interval, the public land offices of the General Government remained open. Men, ignorant whether certain lands would or would not be included in the State grant, perhaps ignorant of the existence of the State grant, went to the United States land offices in the ordinary course of business, purchased lands which they required, and paid for them.

Mr. BUTLER. And which, I suppose, were not swamp lands.

Mr. BENJAMIN. Whether they were or were not is a matter of no consequence in regard to the controversy now arising, because that controversy only relates to those which were afterwards included as swamp lands. When the lands came afterwards to be selected by the States, it was found that some sales made by the General Government were of lands already included in the State grant. The General Government then found itself in the position of having sold land after having given it away. But, so far as the States were concerned, there was no difficulty, because none of the States of this Union would, under such circumstances, claim the lands from their own citizens. What was done, then, was simply this: the General Government, with the consent of the State, paid over to the State the price it had received, and the purchaser obtained his land as if the General Government had acted as State agent.

But, sir, the difficulties which arise are these: In some cases not only was the land sold by the General Government to a private individual, but the States established land offices, and sold the land to other citizens, under the swamp land law; and now two sets of persons come before the Commissioner of the General Land Office asking for a patent. One says, "I bought from the United States Government, and I want my patent for the land which I bought and paid for." The other says, "I bought from the State, which had a prior title under the general swamp land law, and I want the patent." Here are two private claimants for the patent. The question is, to which of the two shall the Commissioner of the General Land Office issue the Government patent? thus divesting the legal title of the Government, and leaving the parties to assert their equitable rights in the courts of justice.

The committee of conference has reported on this basis, they say, as a general rule, when a man goes to either one or the other office in the State, and enters land which has already been entered by another, he knows that fact. It may occasionally occur that a man may have gone to one office and entered land which had been previously entered by another, without a knowledge of the fact; but those who know what the land States are know perfectly well that in ninety-nine cases out of one hundred, the man who went to the State office to enter land, after it had been entered in the land office of the General Government, or went to the office of the General Government to enter land that had been entered in the State land office, knew perfectly well that the land had been entered by one of his fellow-citizens before, and was trying to raise litigation with him for a choice piece of land. Now, this Government has to choose between these two sets of entries. You have got to give the legal title to one or the other. You must abandon the legal right of the Government to one of the two. Will you give it to the man who last entered, or to the man who first entered? Which of the two will you choose as the recipients of the legal fee, leaving the question of equitable title to the decision of the courts? The committee of conference has thought it will conform with equity in ninety-nine cases out of one hundred, to give the legal fee, the muniment of title, to the first locator, and leave the other to assert his equitable title, if any he have, in the courts of justice. In ninety-nine cases out of one hundred the possession of this legal muniment of title will determine the controversy; but if there

be any exceptional case, where the second locator has the higher equity, this bill leaves him to assert that higher equity in the proper courts of equity.

A question has been raised, and something has been stated, by some of my friends, in relation to the effect of the act of Congress which conveyed the swamp lands to the States. Now, as a lawyer, I have not the slightest doubt or hesitation on that subject. I speak, perhaps, with a greater force of conviction than I ought to do on a question which is contested, from the fact that I argued that very point before the Supreme Court at its last session, and I had it determined, in one of my own cases, a few months ago. The law is, according to that decision, that the State had no title to those lands which would evict a purchaser under the General Government until the lands were designated and located under the direction of the proper officers of the United States land office, so as to designate the particular land included by the grant of the General Government.

Mr. JOHNSON. Will the gentleman state the title of that case?

Mr. BENJAMIN. It is one to which I have referred the Senator privately, the case of Foley *vs.* Harrison; but that case refers to a dozen previous cases in which the same principle was repeatedly recognized.

Mr. JOHNSON. I should be very glad if the Senator would state any ground on which he relied in that case?

Mr. BENJAMIN. I do not think this the place to discuss the legal question; and I am not going to discuss it; I simply state to the Senate my full and entire conviction that such is the law. It may not be the law. I am liable to err. I have no question on it myself, however. My friend from South Carolina who sits next to me, [Mr. EVANS,] says that must be the law; no other law is possible. There is no doubt I think in the mind of all land lawyers that such is the law. Now, as I said before, the question is for Congress to legislate to which, of two sets of parties it will grant the legal fee, to those who first, or those who last entered the land. The committee of conference think that in ninety-nine cases of one hundred the equitable rights of the parties will be best preserved by giving the legal fee to those who first entered, leaving the parties who purchased afterwards to settle their equitable rights in the courts of equity. I believe that to be right, and I shall support the report.

Mr. BROWN. I have no doubt myself that the Senator from Louisiana has stated the law of the case which he cited very correctly; that is, that up to the time when the land was designated, the State had no right to sell or convey the title, that the State had an inchoate title from the Government, a title which would not justify her in selling, herself, but is it not, nevertheless, such a title as forbade the Federal Government from selling the same land?

Mr. BENJAMIN. Unquestionably; but anybody that knows the fact is buying land already ceded.

Mr. BROWN. Precisely. Then, sir, the whole case is covered by the statement I first made in reference to it. I know very well the State cannot sell the land until it has been designated under the law; but the grant, having been made, the Federal Government cannot sell it. Neither party can sell until something else is done beyond the mere act of granting it; and that something else must be the selection of it—the designation of it under the same law. My friend from Louisiana, however, now misstates one proposition, and it is that the second purchaser must necessarily know that the land has been sold to somebody else.

Mr. BENJAMIN. I said it might very well happen that the second purchaser did not know; but that those who were aware of the condition of things in the land States, knew that, in a large majority of cases, the man who made the second entry knew that some one else had entered before himself.

Mr. BROWN. That is precisely the case that I stated, and on that I take issue with my friend, and I will show him that it is impossible he can be right. The purchasers under the United States purchase at several land offices. The purchasers under the State government purchase at the State land office. There is no affinity between the two. How can my friend go into the State land office at Baton Rouge, if there be one there, to enter land, and be enabled to ascertain that the same land was entered at the Federal land office in New Orleans?

Mr. BENJAMIN. I would not go there to find it out, but if I went to Baton Rouge to enter land I should take very good care to look at both offices to see whether the land had been entered before, unless I wished to join the body of land sharks, of whom I know there are a great many in my own State and other land States.

Mr. BROWN. Let me take the case of my own State. The State government has one land office at Jackson. The Federal Government has five land offices, and some of them are distant one hundred and fifty miles from the seat of government. Suppose A goes to the land office at Pontotoc, for instance, to-day, and enters a quarter section of land; and B goes to-morrow, or next month, or even next year, to the State land office in Jackson, and enters the same land, how can the land agent there tell what has been going on at the Federal land office one hundred and fifty miles off?

Mr. SHIELDS. Having listened to the statement of the principle laid down by the Senator from Louisiana, I desire to state my recollection of the principle established in the General Land Office. It is that in case of a general grant, such as this, of swamp lands or any other lands to a State, that grant, as the Senator from Louisiana said, is imperfect until there is a designation of the lands and until they are set apart by the General Land Office. But when the lands are designated and set apart by the Department, then it strikes me the title in the State is complete and perfect.

Mr. BENJAMIN. That is the law.

Mr. SHIELDS. I think the Senator went a little further, and, if I did not misunderstand him, he said it required an individual location in addition to that.

Mr. BENJAMIN. No, sir, I said the designation or location.

Mr. SHIELDS. Then the principle of the honorable Senator is correct, that in this case, for instance, where a general grant of swamp lands was made to the States, it was necessary, in order to perfect that grant that those lands should be first designated and set apart by the Department.

Mr. BENJAMIN. No doubt about that.

Mr. DAWSON. Mr. President, I consider this a very important question, and one which, if decided in one way, will involve the Government in a very large amount of money to be repaid for lands sold. If I understand the question rightly, under a law passed in 1850, containing but three sections, the whole difficulty arises. The rights of the States, in the first place, were secured in the first section of that act, and as it has not yet been read, permit me to read it to the Senate:

> "That to enable the State of Arkansas to construct the necessary levees and drains to reclaim the swamp lands therein, the whole of those swamp and overflowed lands made unfit thereby for cultivation, which shall remain unsold at the passage of this act, shall be, and the same are hereby, granted to said State."

As I understand this act, none but the overflowed and swamp lands unfit for cultivation were granted to the States. Who had the right, up to the time when the patent was made out, to judge whether lands were overflowed and unfit for cultivation or not? Of course every man in the United States had a right to enter a tract of land, and whenever he entered it, and paid his money, and got the cerificate, the title to the land necessarily vested in him; but what do the States do now? The States insist that, although those lands were taken up by individuals, the money paid to the United States, at the rate of $1 25 an acre, and a certificate given, yet, at a subsequent time, whenever the lands were surveyed, so as to ascertain what were swamp, and what were overflowed, if any mistake occurred, and lands were returned as swamp lands which were in the possession of individuals, those tracts should belong to the States, notwithstanding the sale made by the United States.

Mr. HUNTER. I ask the Senator from Georgia to give way for the purpose of allowing me to move to postpone the prior orders, in order to take up the mail steamer appropriation bill.

Mr. STUART. I hope that will not be done.

Mr. HUNTER. Will the Senator from Georgia allow me to make the motion?

Mr. DAWSON. Certainly.

Mr. HUNTER. I move to postpone the prior orders for the purpose of taking up the mail steamer appropriation bill.

Mr. STUART. I shall resist this and all other motions of the kind, so far as I can, until this question be disposed of. I certainly regret very much to stand in the way of the Senator from Virginia, being on the same committee with him; but there was an understanding, so far as I could make it with him, that I should have an opportunity to dispose of this question, and another of equal importance——

Mr. HUNTER. I never agreed to any such thing. I said I would wait until one o'clock, and that hour has now arrived.

The PRESIDING OFFICER, (Mr. FOOT in the chair.) The question is on the motion of the Senator from Virginia.

Mr. JOHNSON. I feel bound to vote against that motion, because I have been, in some measure, the cause of delay on this subject, and I wish to have it disposed of. I believe that, by following it up consecutively, we shall get along better than by debating it now, and then postponing it, and having it debated over again.

Mr. GWIN. It is well known that we have three or four appropriation bills, among them the civil and diplomatic bill, which have not yet been acted upon. This is a mere isolated question. The two Houses have acted upon the whole bill but one point; and it is perfectly certain that, before the adjournment, we can vote upon that. Then why not allow us take up the appropriation bills, and make some progress with them? The Senator from Georgia may speak an hour, and there is no knowing when the debate will be ended.

Mr. SEWARD. I am in favor of the mail steamer bill, as all know; but I think we had better give the parties time now to close the present debate. It cannot take long to finish the question, and I shall, therefore, vote against the motion.

Mr. ADAMS. I hope this question will be postponed. Important principles are involved in it. It is evident that there are differences of opinion in regard to legal rights. I consider this as an attempt to legislate upon the subject of legal and vested rights involving important questions which cannot be decided in a moment. I hope the motion of the Senator from Virginia will prevail. The argument on this subject has convinced me that there should be no legislation upon it.

Mr. HUNTER called for the yeas and nays on his motion; and they were ordered.

Mr. STUART. I mean to put myself right upon this question. It is known to everybody that it is impossible to limit debate in the Senate; we have no rule that will do it; and hence, unless there can be some understanding when a subject is fairly before the Senate, that it shall be disposed of, the grossest injustice is being done. An appropriation bill will always be passed; there is no difficulty about that. You can easily sit it out. If you get up an appropriation bill to-day, you can sit here until twelve o'clock to-night, for there is a genera' disposition to finish it; but any other bill, except an appropriation bill, can be killed by an adjournment at four o'clock. We had an example of that yesterday. A bill of almost as much importance to the country at large as an appropriation bill was then under consideration, but the Senate generally did not so understand it, and voted to adjourn, although we might have disposed of that bill in fifteen or twenty minutes. Now, in the morning hour we take up a bill, and, by a general discussion of the Senate, it is run on beyond one o'clock. Then an appropriation bill comes in its way, and if that appropriation bill be disposed of at four o'clock there is a motion to adjourn, and you cannot take up any other bill.

Mr. GWIN. Will the friends of this measure agree to take the vote at two o'clock?

Mr. STUART. Certainly.

Mr. DOUGLAS. We are willing to take the vote now.

Mr. STUART. We are willing to take it as soon as the Senator from Georgia shall be through.

Mr. DAWSON. I shall not stand in the way of allowing the question to be taken.

Several SENATORS. That is right.

Mr. JOHNSON. I cannot consent to let this subject go by without making a few more remarks on it. It is not my desire to delay time by speaking. The Senate will clear me of that. I know

I never distinguished myself in that way; but I have a few words to say in justification and defense of those who I know will be injured by the act which is about to be passed.

Mr. STUART. The Senator from Georgia manifests a willingness to let the vote be taken. I hope, therefore, the Senator from Virginia will withdraw his motion, and then let the Senator from Arkansas, if he desires to say anything more, do so.

Mr. HUNTER. I would withdraw my motion, but that the Senator from Arkansas wished to be heard.

Mr. STUART. He will not occupy ten minutes.

Mr. JOHNSON. I never speak long, but I cannot on this occasion yield up my rights.

Mr. HUNTER. Well, sir, I withdraw the motion for the present, but I shall renew it as soon as the vote is taken.

The PRESIDING OFFICER. It will require unanimous consent to withdraw the motion, as the yeas and nays have been ordered. The Chair hears no objection. The question, therefore, is on agreeing with the report of the committee of conference, upon which the Senator from Georgia is entitled to the floor.

Mr. DAWSON. I yield my right to the floor.

Mr. JOHNSON. Mr. President, from the direction which the debate has taken, I feel that it is a duty incumbent on me not to allow the vote to be taken without saying a few words more. The Senator from Louisiana, [Mr. BENJAMIN,] the clearness of whose mind upon legal points is generally admitted throughout the country, has stated his own explicit convictions upon the construction of the swamp land law, and I know that they are stated with a force and authority which, he thinks, may not be rebutted by the humbler convictions of as obscure a lawyer as myself. I shall, therefore, appeal at once to the act itself, looking at that act, and endeavoring, if I can, to find out what its true construction is. The Senator says that his convictions are fixed and determined that the swamp lands were not conveyed by the terms of the act from the day of its passage.

Mr. BENJAMIN. That the legal title was not.

Mr. JOHNSON. Then the Senator admits that all but the legal title was conveyed.

Mr. BENJAMIN. I admit that the States were vested with an equitable interest to the swamp lands.

Mr JOHNSON. I trust the Senator will pardon me for further question, as I desire to understand him distinctly. Does he admit that the States were so far vested with the title to the land under the swamp land act, that the Government of the United States was merely a trustee for the legal title until it could transfer that legal title to the State?

Mr. BENJAMIN. I do not admit the Senator's proposition to the full extent which he has just stated. I will state to the Senator exactly what my position is in regard to the title conveyed by that act. It is an inchoate title, equitable in its nature, binding on the conscience of the Government, not to sell those lands knowingly; but still so imperfect a title that an innocent third purchaser, giving his money for those lands to the Government, obtains a perfect title from it until they are designated.

Mr. JOHNSON. I confess the Senator's superior ability, and in no instance do I more cordially admit it than in this; but I must say that I cannot appreciate the position in which the Senator's distinction places him upon this question. He does not admit that the United States parted with all but the legal title, and is, therefore, a mere holder in trust of that title, for the benefit of the State, till such time as the precise lands described could be ascertained and conveyed to the State. He does not admit, as I understand, that the State herself had all the equitable title and could appeal to the United States against the United States alienee, as soon as she pointed out the lands as swamp, and asks for a conveyance of that legal title to her or to her alienee, and could justly obtain that title through the courts. The fact is, the Senator does not like his own positions; or, liking them, deals not candidly in this debate by avowing them. He neither admits nor denies the title of the swamp land purchaser, but by his acts here he would drive him, under burdens, to expensive courts. Now, in the first place, I will take the point as to the terms of the act, for I understand there is a dispute as to whether the land was conveyed distinctly by the description in the terms of the act. Let me read to the Senate the first section of that act:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That to enable the State of Arkansas to construct the necessary levees and drains to reclaim the swamp and overflowed lands therein, the *whole* of those swamp and overflowed lands, made unfit thereby for cultivation, *which shall remain unsold at the passage of this act*, shall be, and the same *are* hereby, granted to said State."

There is the specific description of the grant in the act itself. It does not go on to define the metes and bounds of the grant; it does not go on to give the numbers of the sections according to the terms of the public surveys, granting this and that section in such a township. The description, however, is full and explicit: "Swamp and overflowed lands made unfit thereby for cultivation." There is a precise and specific description. It does not stop to say that they should be granted, but goes on to say: "are *hereby* granted." Not only that, but it applies *in hæc verba* to the swamp and overflowed lands "*which shall remain unsold at the passage of this act.*" If all are granted *which remain unsold then*, how can you proceed to sell them? With such language, how is it possible to resist the conclusion to which the Secretary of the Interior, on full investigation, came? He declared that, by the description of the lands contained in the act, the grant was made perfect upon its passage. If any more intrinsic evidence is wanted in the terms of the act, it can be found by looking at the subsequent sections. The first section distinctly grants all the equitable title to the lands, and then the second section provides for the issuing of the patent immediately after the swamp lands should be declared, "and on that patent the *fee-simple* to said lands shall vest in the said State of Arkansas."

This shows clearly that, while the equitable title was vested in the State by the terms of the act itself, it was also contemplated that the muniment of title, the patent, was to vest temporarily in the Government of the United States, as the trustee, and that that title should be parted with at the very moment when the lands should be described by metes and bounds, or, in other words, by the numbers which expressed them on the face of the public surveys.

The Senator from Louisiana, however, spoke of a decision of the Supreme Court upon the point, and in a conversation which I had with him upon the subject, he referred me to the decision in the case of Foley *vs.* Harrison, as the one on which he relied to sustain his position. I asked to be permitted to examine it, and I have done so, and I will read to the Senate the argument of the Senator himself in that case, and a portion of the decision to which he particularly adverted, and then ask that the Senate, not on my authority, or that of my judgment, but for themselves, will take the language of the court, and see its meaning. Here is the Senator's argument in that case:

"Mr. Benjamin, for the defendant in error, made the following points:

"1. The title set up by plaintiff is not, under the evidence adduced, either a legal or equitable title to the land in controversy.

"The eighth section of the act of Congress of the 4th September, 1841, (5 Statutes at Large, p. 455,) granting five hundred thousand acres of land to the State of Louisiana, does not set apart any particular land, and separate it from the public domain."

Why, sir, the cases are not to be compared. He says expressly that the act of 1841, upon which that case turned, does not set apart the land. This act unquestionably does. In the act of 1841, making a grant of five hundred thousand acres, the land is not described in such a way as to make the grant perfect by the description contained in the terms of the act; but on the contrary, the title to it, after the grant was made, was dependent on the action of the State, which was to come forward and make the location; and, at the time when the location was made, the equitable title was to become perfect, and subsequently the United States were to make out the legal title. In the swamp land act, however, nothing was left to be done, under the terms of the act, before the whole equitable title vested in the State of Arkansas and the other swamp land States. Let us examine this matter a little further. The Senator, speaking of the act of 1841, said, "It only authorized the State to make locations of land to that extent." But the swamp land act is dependent on no locations made by the State. The lands were fully conveyed by the terms of the grant—"swamp and overflowed lands, rendered thereby unfit for cultivation." The Senator's argument in relation to the act of 1841, proceeds:

"It only authorizes the State to make locations of land to that extent; and the location, when made by the State, does not, *ipso facto*, separate from the public domain the land so located. Nothing in the act deprives the officers who are charged with the duty of executing the land laws of their control over the locations, in order to see that they conform to the law, that they are lands which have been previously surveyed, that they are vacant, that they have not been reserved, &c., &c. It is only upon the approval of such locations, that the final severance from the public domain of the lands so located takes effect."

That is the fact in reference to the act granting Louisiana five hundred thousand acres with no specific description, whereas, the swamp land act gives a distinct description easily ascertained and well known by those living in the States where the lands were to be found. There is, therefore, no analogy, and no similarity, as it seems to me, between this case and the one out of which a precedent is sought to be drawn to apply to it. But, sir, I am pointed to this paragraph in the decision of Judge McLean in giving the opinion of the Supreme Court:

"The act of 1841 authorized the State to enter the lands, where surveys had been executed and the lands were open to entry, under the acts of Congress. The State of Louisiana acted within its powers, in issuing warrants, and establishing land offices as a means of disposing of the lands. But it had not the power to convey the fee, as it had not been parted with by the General Government. The words of the act of 1841 are 'that there shall be granted to each State,' *not that there is hereby granted.* The words import that a grant shall be made in future.—Lessieur *et al. vs.* Price, 12 *Peters*, 175.

"It could not have been the intention of the Government to relinquish the exercise of power over the public lands, that might be located by the State. The same system was to be observed in the entry of lands by the State as by individuals, except the payment of the money; and this was necessary to give effect to the act, and to prevent conflicting entries."

I have already read to you the language of the act of 1850, which is, that the lands "*are hereby granted*"—the express words excepted by Judge McLane as establishing a different conclusion. The Senator does not use his high authority to stultify the Senate, I feel assured; yet his position on this authority is too absurd to suppose he could, on reflection, have even asserted it. The description of the grant is complete and perfect. "The whole of those swamp and overflowed lands made unfit thereby for cultivation, which shall remain unsold at the passage of this act," are the lands that are granted. Why, sir, it is questionable, under the authority of the decision of the Supreme Court, referred to by the Senator from Louisiana, whether, even if these descriptive words had been left out, there would not still have been a full conveyance, *in presenti*, to the State of Arkansas, and the other swamp land States, on account of the words, "are hereby granted." Taking, then, the authority to which the Senator has himself referred us, I say that, comparing the decision with the language of the act in regard to which controversy in this case has arisen, it is evident that where the swamp lands were not ascertained, the United States held the possession of the legal title as trustee for the States. If it be true that the State, as a consequence, has all the equitable title, by what reasoning is it that Senators can justify themselves in coming in and saying, "We will interpose against the alienee of the equitable title of the States the authority of another act of Congress to cut them off from the enjoyment of the rights to which they, as purchasers from the State, are entitled, and then proceed to give them to the party to whom the United States had sold them wrongfully." It is proposed that the Senate shall do this, in face of the fact that, whilst so doing, you complicate the accounts of the United States; and you not only give away the lands to the States, and the money for them, but also pass an act which, by its terms, recognizes additional and subsequent sales of the same land by the United States, and compels the General Government, at the same time, to pay over the money which she gets on account of the land thus wrongfully sold into the treasury of the State, thus giving the State possession of the land, and putting the proceeds into her treasury, and filling it with money which the United States illegally received.

That is the effect of it, and all the circumlocution and sophistry which may be brought to bear upon the question by astute lawyers, cannot take away from us the conviction and the knowledge that such is its effect. I assert, without fear of contradiction, that gentlemen who will unprejudicially examine the question for themselves, minutely and maturely, will come to the same conclusion to which I have arrived. I do say, although I well know that my opinions may not be entitled to great weight in this body, that there is a strange anxiety on the part of some Senators representing swamp land States, to have this provision passed. I know that it will secure some benefits to those States; but, while that is the case, I see, also, that, within the limits of my own State, and, I believe, within the limits of every other State which has sought to carry out the original intention of the swamp land act, a very large number of people will be made the victims of this legislation, unwise and unsanctioned by any past experience, and which violates vested rights that we ourselves have conferred. Not only does it do that, but it complicates the public land accounts of the United States to a scandalous extent, and brings on unwise and uncalled-for contests between the States and the General Government? By this action of ours the States will have received double pay for the same land; and when the individuals who have been deprived of their land, and whose money has been paid by the United States to the States, come here and demand it, can you deny it to them? When they ask it, your reply will be, we have paid it over to the State to which we presumed it belonged. Who can doubt, however, that Congress will compel the money to be paid back to that individual out of the general Treasury?

Sir, I have repeatedly heard gentlemen eloquently deprecate the idea of anything like an account between the States and the United States; and I have heard repeated declarations that no money ed consideration should stop them from settling such a controversy. I say that the legislation which you are here about to adopt will involve such contests. By this legislation, too, you are complicating the rights of other parties, and throwing serious legal difficulties in the way of persons who have a just and lawful title, which may defeat their rights altogether, and you are doing it, it seems to me, under the guidance of gentlemen who ought to know better, ought to be opposed to it, and who ought to step forward for the protection of these people—yes, their own people—against such unpardonable wrong. I, as a citizen, could not forgive the man I honored and clothed with power, who thus trifled with my rights, and destroyed them, as far as his laws could do it. But I will say to those who are thus recklessly to be assailed and overridden, *yield not an inch*. They have put burdens on you; they have filled your path with obstacles; but, thank God, the Constitution is left; place your hopes upon it; your rights are vested; thread your weary way along the path beset with sophistical, concerted, and deadly technicalities and legal deadfalls, and, if you do it with fortitude and manliness, though some may fall by the wayside, many will reach relief, will reach the highest court, and there find enshrined, intact, the Constitution.

You have proposed to do this when there is no public necessity for it. I defy the Senators on the other side of the question to show a public necessity for anything of this kind. Every difficulty which now exists in regard to these titles is at present easily settled. If the States had the title, the United States had no right to sell. If the United States had a right to sell, it must be on account of the fact that the land was not swamp land. If it was not swamp land, it can easily be proved before the United States officers, and they will thereby protect the rights of their own alienees. The effect of this legislation will be to drive the litigants into the courts of law, and to put one party under a ban with a rope, as it were, about his neck, with a predetermined judgment against him, that judgment being a special act of the Congress of the United States. It seems to me that, under such circumstances, we have no right to drive these innocent purchasers to litigation in the courts. I protest against it. I would rather see the whole bill destroyed than have so gross an act of injustice, as this palpably is to my mind, perpetrated by a deliberate vote of this body.

Mr. ADAMS. Mr. President, I have no recollection of intruding any remarks of mine upon the Senate, when there was a manifest anxiety to take a vote on the pending question; but this proposition seems to me to be so palpably improper, that I cannot consent that the vote shall be taken upon it without entering my protest against it, and briefly stating my reasons for opposing the adoption of this report.

In the first place it is admitted that there are conflicting rights, growing out of different entries, in reference to the lands covered by this bill. I submit to Senators, if they do not at once see the impropriety of legislating in behalf of the one or the other, when those rights can be correctly settled by the courts. If no other reason existed for the rejection of this proposition; this, it seems to me, would of itself be sufficient. But, sir, there is another reason. I differ, with great diffidence, from the distinguished lawyer, statesman, and Senator from Louisiana [Mr. BENJAMIN] in reference to any legal question; but, upon this point I do differ most directly; not, however, upon the authority on which he has relied—the decision of the Supreme Court—because, as has been shown already by the Senator from Arkansas, the cases are not parallel. In the case in which that decision was made, the grant to the State was prospectively. The words were "there shall be granted," without designation, without metes and bounds, without description, and as a matter of course, until the property was described, and the location made and approved, the title did not vest. In this case, however, all lands of a particular description "are hereby granted," according to the language of the original act. Now, I ask that Senator, if the language used in the swamp land act was not sufficient to convey to the States the fee without any patent? Why, sir, what is a patent? Mere evidence of title. An act of Congress granted to the State for a particular purpose the lands conveyed; the fee itself, and the patent, was a mere evidence of the particular land granted.

Now, sir, I beg leave to call the attention of the Senator from Louisiana to a decision of the supreme court of the State of Mississippi in reference to the very question here involved. It is not a matter left to my decision. I apprehend there will be no decision found, either of the Supreme Court of the United States or of any State court in this Union, to conflict with the opinion of the supreme court of Mississippi in the case to which I allude. By the treaty with the Choctaw and Chickasaw Indians certain reservations were granted to certain Indians. The supreme court of our State decided that the reservation conveyed the fee and that the location gave identity to it. Here, in this case, the grant to the States conveyed the absolute fee. No lawyer who will read the language will deny that. The mode of ascertaining what lands were thus granted was provided by the law, and the moment the land was ascertained, it gave, in the language of the supreme court of Mississippi, identity to the grant. Did the rights of the States accrue under the ascertainment and identity, or did they obtain from the grant made by Congress? No man will deny that they obtained by the grant of Congress unconditionally. The location was a mere ministerial act of an officer appointed by the law; but the rights of the States reverted back to the time of the absolute grant.

If I am right in this position, if the supreme court of Mississippi were right when they said, in the case to which I have alluded, that a reservation to an Indian granted the fee, and the location only gave identity to it; how can you distinguish that from this case, where the act contained a particular description of the land granted to the States, and the grant was made as absolute as if it were described by metes and bounds? Suppose the act of Congress, granting the swamp lands to the States, had described them by metes and bounds, giving the numbers of the sections, I ask would a patent have been necessary? I ask what title the Government could convey after that grant by Congress?

If then, sir, the Government had parted with its title, I ask the Senate to reflect in what an absurd condition we should place ourselves by first granting the lands to a State, and then having our officers sell those lands through mistake or otherwise, and we attempt to bolster up that sale by an act of legislation, interfering with the vested rights of parties. What respect can the country have for such legislation as that? The motive may be a good one, but the effect is a bad one.

My friend from Louisiana who first spoke [Mr. SLIDELL] says there is a magical idea attached to the patents, and although he agrees with me that the title was vested in the States by the grant, yet he says a large portion of the claims will be settled under—he did not use the language, but that is the substance—the delusive idea that the patent is conclusive, and therefore we must legislate in this way. I call on Senators to reflect on the proposition that we must legislate in such a way as to induce parties to yield up rights to which they are legally entitled, under the idea that the patent is conclusive.

Mr. SLIDELL. Will the honorable Senator from Mississippi allow me to correct him as to my position?

Mr. ADAMS. Certainly.

Mr. SLIDELL. I said that I had a very distinct conviction myself that the original law vested the lands in the States from the day of its passage, but that persons much better informed upon legal subjects than myself, were equally decided in entertaining a different opinion, and that, so far as the committee of conference were concerned, four out of the six members of that committee entertained an opinion different from my own, and I thought it was better, in that point of view, to endeavor to throw the moral influence of the Government, as far as it could be thrown for the decision of the question, in favor of the first purchaser.

Mr. ADAMS. I am glad to be corrected by my friend from Louisiana. I have only to say that, according to my humble judgment, the two were right, and the four were wrong; but whether right or wrong, this difference of opinion shows the absolute impropriety of Congress legislating in favor of one class of men at the expense of another.

The Senator from Michigan says that a large majority of persons are interested in the passage of this bill. Sir, I care nothing about majorities where legal rights are concerned. If but one man, and he the humblest man in this land, had a vested right, my legislative sanction could never be had to deprive, or attempt to deprive, him of that right for the benefit of a majority. I have great respect for majorities where they have a right to rule, but not where vested rights are concerned. I have an equal, and, in fact, a more sacred respect for minorities, who are not so well able to protect themselves as majorities are.

In this case it is admitted on all hands that rights have vested under our grant to the purchasers from the State, and our courts are the proper tribunals to settle the question. A more improper act could not be performed by the Congress of the United States, than to interfere in any way, I care not how, in regard to those vested rights.

Then, sir, upon the ground of the inexpediency and impropriety of interfering with vested rights, I shall be bound to vote against this report. I am actuated by the further ground that the Government parted with its title, beyond all controversy, in language as broad as it is possible for language to be, and has no title, although the officers may have believed it. The Government granted to the States the swamp and overflowed lands unfit for cultivation; and although identity was not given to the grant until the location was made, yet, whenever it was made, it related back, beyond doubt, to the time of the grant, and all that can be properly done is what the Commissioner of the General Land Office has recommended. He is a sensible man, and, though not a lawyer, I believe, he generally decides cases rightly. I think he has decided this question properly, and as the Supreme Court of the United States would decide it. I have not a doubt that the grant related back to the time of the passage of the act, as its language imports, and that the Government, having sold the land through mistake, should refund to the purchaser the money he had paid. This was right and proper, leaving the parties to their legal rights. In order that we may have a test vote on this subject, as it has been fully discussed, and as it has been intimated that the friends of the report do not desire to discuss it further, I move that the whole subject lie on the table.

Mr. BENJAMIN. I hope the Senator will

withdraw that motion, and allow us to vote directly on the adoption of the report.

Mr. ADAMS. If the Senate are ready to vote I have no objection to withdraw that motion.

The PRESIDING OFFICER. Is the Senate ready for the question on concurring in the report of the committee of conference?

Mr. BADGER. Mr. President, I am ready, but I am afraid the Senate is not quite ready, and I wish to say a word or two before the question is taken. I wish to state, in a very few words, why I cannot vote for concurring in this report of the committee of conference. The committee recommend, as a mode of composing the disagreeing votes of the two Houses, this provision:

Provided, That in all cases where any State, through its constituted authorities, may have sold or disposed of any tract or tracts of said land, to any individual or individuals, prior to the entry, sale, or location of the same, under the preëmption or other laws of the United States, no patent shall be issued by the President for such tract or tracts of land until such State, through its constituted authorities, shall release its claim thereto, in such form as shall be prescribed by the Secretary of the Interior.

That is to say, if the State shall have granted the land, the State, before the patent issues, shall release its right to the United States to the amount which it has granted—evidently a perfect absurdity. The very case stated, presupposed, asserted, and expressly set out in the proviso, is, that if the State has no possible interest, the State shall, before a patent issues, release its interest to the United States. It is a complete absurdity. It amounts to making the legislation of Congress positive nonsense. It is: "That in all cases where any State, through its constituted authorities, may have sold, or disposed of any tract or tracts of said lands, to any individual or individuals, prior to the entry, sale, or location of the same, under the preëmption or other laws of the United States," before a patent issues, the State shall release its interest, when, upon the very statement put by the proviso, it can have no possible interest. In other words, the State is to release what it has not. Now, I cannot vote for that. But in the next place it is:

"*Provided further*, That if such State shall not, within ninety days from the passage of this act, through its constituted authorities, return to the General Land Office of the United States a list of all the land sold as aforesaid, together with the dates of such sale, and the names of the purchasers, the patents shall be issued immediately thereafter, as directed by the foregoing section."

Within ninety days! Why, what an absurdity! Within ninety days after the passage of this act the State of Arkansas, for example, is not only to have prepared but returned into the Land Office here, a full and complete list of all these entries, o else the patents are void. Sir, it is an outrage. They cannot do it in ninety days. They first want the authority of law for it. They want some public officer to comply with the requisitions of the act. Whether there is such a one depends on the law of Arkansas. If it were possible, if we could move to amend the report of the committee of conference, I should move to amend it by making the time a year or eighteen months, instead of ninety days, or give some reasonable time, something that might answer the purpose in view; but, in my judgment, if we put ninety days there, it is a mere pretense, and we are really taking a snap judgment against any State interested in this subject. I hope the Senate, for these reasons—I do not enter into the general question—will not concur in the report of the committee.

Mr. SEBASTIAN. Before the vote is taken I cannot allow this opportunity to pass without expressing my hearty concurrence in the general views of those Senators who have disapproved a concurrence in the report of the committee of conference of the two Houses. I do so, because I see that the report is couched in terms calculated to defeat the very object with which it sets out. It proposes to quiet litigation by the adoption of a course which, I think, will multiply it, and the only effect that it will have will be to drive that litigation, which is now conducted before the Department into the courts of the United States; and a formidable array is presented on one side by the Government taking part with one individual, while the other part is left to make proof by himself. It presents quite an unequal contest, and so far from diminishing litigation, will, I think, have a precisely contrary effect

I think, moreover, that the proposed legislation here defeats the very object which its friends have in view. It leaves unnoticed a large class of cases which formed the motive for the enactment of this law, and seems to me to travel out of the necessity of the case to provide for those whose cases can already be determined before the Departments, and in regard to which there is no pressing necessity for legislation at all. The Senator from Mississippi [Mr. ADAMS] has very felicitously and happily sketched the difficulties which will arise out of this act, and it shows the difficulties into which we shall always get when we attempt to amend the legislation of Congress, which, by its terms, was complete and final in the first instance. Here was a complete grant, leaving nothing to legislate about except those matters relating only to the administration of the act, and it was not competent for us either to alter, prescribe, or limit the terms of the original grant. In 1850, having granted all the swamp lands in the swamp land States, by terms definitive in their character, which cannot be misconceived, we now propose, in reference to the very same class of lands, to grant a portion of them away to a different class of persons than the beneficiaries to whom the grant was made in 1850. Is it competent for us to do this? I think not.

The Senator from Louisiana [Mr. BENJAMIN] advanced a legal proposition this morning, which, in my judgment, has no application at all to this case. It must be remembered that, by the act of 1850, its operation was to commence at the date of the act itself. The ascertainment of the lands which fell within its operation was, nevertheless, a matter of administration, which was to be determined afterwards. That has been determined, and when determined, the title vests in the States so perfectly that it is not competent for the grantor in the case to reverse, by its own action, the grant, and distribute the lands to an entirely different class of persons. Why, sir, we are legislating here in contrary directions. I submit that nothing is left for us now but to carry out the terms and objects of the act of 1850, and not to thwart them, as we propose here to do. The Senator from Louisiana [Mr. SLIDELL] seems to concede this principle, and by conceding that, he concedes the whole question; for if we have parted with the subject about which we are legislating, there is nothing on which we can legislate. That is a plain and practical point of view.

I hope, for these briefly stated reasons, that the report of the committee of conference will not be adopted; and I do not despair, if we reject it, but that we shall come to an adjustment yet, which will compromise the rights of no one, but will wholly secure the object which all the friends of the original measure, including my colleague and myself, have so much at heart. I think that the views of those gentlemen who advocate the adoption of this report, can be better carried out by a different arrangement; and I am sure that it can be made so as to obviate that great mischief which will otherwise inevitably fall upon the State most deeply interested in the administration of this class of lands. I hope the report will not be concurred in; and if we reject it we can then take measures for a new committee of conference, and I am sure we can come to a just conclusion, which will compromise no one.

Mr. MALLORY. Mr. President, no State in the Union is more deeply interested in this question than the State which I have the honor in part to represent. We regard the lands ceded to us by the act of 1850, as now belonging to the State, and we are in process of settling them. We do not regard, neither does the Federal Government, nor any of its departments, that there is necessity for further legislation to vest the title in the State of Florida. When, therefore, the recommendation of the committee of conference came up, without looking into it very closely, I was disposed to think it rendered the difficulties which grew out of the application of that law to the lands in Florida, more simple; but from the discussion here I see at a glance that it will complicate them, and throw the litigants or contestors into the legal tribunals. I do not desire to detain the Senate on this question, and rather than see a vote taken now I should like to have the subject postponed until to-morrow.

Mr. WELLER. I hope that will not be done. If we postpone it we shall have the whole discussion over again.

Mr. MALLORY. If I am compelled to vote now, I must vote against concurrence in the report.

Mr. SLIDELL called for the yeas and nays, and they were ordered and taken.

Mr. JOHNSON at first voted in the negative. Before the result was announced, he said: I change my vote for the express purpose of exercising one more reserved right which I have to secure justice. I vote "yea," for the purpose of moving a reconsideration.

The vote was announced, as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bright, Cass, Cooper, Douglas, Fessenden, Foot, Gwin, James, Johnson, Jones of Iowa, Mason, Pettit, Pratt, Shields, Slidell, Stuart, Toombs, Wade, Wells, Wilson, and Wright—24.

NAYS—Messrs. Adams, Badger, Brainerd, Brown, Butler, Clayton, Dawson, Evans, Fitzpatrick, Geyer, Jones of Tennessee, Mallory, Morton, Pearce, Rusk, Sebastian, Seward, Sumner, Thompson of Kentucky, and Weller—20.

So the report was agreed to.

Mr. JOHNSON moved to reconsider the vote by which the report was concurred in, and the further consideration of the motion was postponed until to-morrow.

MAIL STEAMER APPROPRIATIONS.

The bill of the House making appropriations for the transportation of the United States mail in ocean steamers, and otherwise, for the fiscal years ending June 30, 1855, and June 30, 1856, was considered as in Committee of the Whole. It was not disposed of when the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 27, 1855.

The House met at eleven o'clock, a. m. Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

Mr. FULLER. Before the House proceeds to the consideration of the regular order of business, I desire to state that there is a House bill returned from the Senate with a few words stricken out. I desire that the House will take up the bill, and concur in the Senate amendment, and then it will be out of the way.

The SPEAKER. The gentleman from Maine will first allow the Chair to lay before the House two Executive communications which have been received.

Mr. FULLER. Certainly.

EXECUTIVE COMMUNICATIONS.

The SPEAKER then laid before the House a communication from the Secretary of the Interior, transmitting, in obedience to the resolution of the House of Representatives of the 21st instant, a statement showing the probable quantity of land that would be required to satisfy the claimants provided for by the bounty land act, which has passed the Senate, and is now pending before the House of Representatives; which was laid upon the table, and ordered to be printed.

Also, a communication from the Post Office Department, transmitting a list of the clerks and other persons employed in that Department; which received the same order.

Mr. FULLER. I now ask the consent of the House to call up my motion.

Mr. EDMUNDSON. I ask the gentleman from Maine to yield the floor for one minute to enable me to make a motion. If it occupies more than two minutes I will allow it to go over.

Mr. DAWSON. I rise to a privileged question.

Mr. PHELPS. Call for the regular order of business.

Mr. DAWSON. My privileged question is in order. I move to reconsider the vote by which the communication from the Secretary of the Interior, with the statement of the Commissioner of Pensions, was ordered to be printed. My object is to have that statement read.

The SPEAKER. The motion to reconsider may be made and entered; but the communication cannot now be read except by unanimous consent.

Mr. DAWSON. Well, sir, I hope we shall have the unanimous consent of the House to have that communication read. But, sir, have I not the right to have it read?

The SPEAKER. You have not, for the reason that there is a motion pending to suspend the rules, and the motion to reconsider cannot be considered.

Mr. DAWSON. Well, sir, I ask unanimous consent.

Mr. HOUSTON. I object.

Mr. DAWSON. If I cannot have the papers read, I will withdraw my motion to reconsider.

REVENUE CUTTERS.

Mr. FULLER. I now ask the unanimous consent of the House to have the bill of the House (No. 242) authorizing the purchase or construction of four additional revenue cutters taken up, and the amendment of the Senate considered. There is but a single amendment, to strike out half a line, which nobody will object to.

There being no objection the bill was taken up.

The Senate propose to amend, in section two, line four, by striking out after the word "who" to the word "does" in the sixth line, the following words, "shall not have served at least one year before the mast."

Mr. FULLER. I move that the House concur in the amendment of the Senate.

The question was put; and the motion agreed to.

JOSEPH SAVAGE.

The SPEAKER. As the House have indulged the gentleman from Maine, will they allow the Chair, for a single moment, to make a suggestion? There is a bill of the House upon the Speaker's table, which has been returned from the Senate with a single amendment. It is a bill for the relief of the heirs of Joseph Savage, deceased. Will the House take up the bill and dispose of the amendment?

[Cries of "Certainly!" and "Agreed!"]

There being no objection the bill was taken up.

The Senate proposed to strike out the word "services," and insert "commutation of half-pay."

The question was put; and the amendment agreed to.

CHARLES H. POINTER.

Mr. EDMUNDSON. I ask the unanimous consent of the House that the Committee of the Whole be discharged from the further consideration of bill No. 777, for the relief of Charles H. Pointer. It is a bill reported by the Committee on Invalid Pensions, and there can be no objection to it.

No objection was made.

The SPEAKER. The bill referred to by the gentleman from Virginia was reported a few days ago, and is now in the hands of the printers. It cannot, therefore, be acted on at present.

FOREIGN PAUPERS, CRIMINALS, ETC.

Mr. WENTWORTH, of Massachusetts. I ask the unanimous consent of the House to report back, from the Committee on Commerce, a bill (No. 613) to prevent the introduction into the United States of foreign criminals, paupers, idiots, lunatics, and insane and blind persons, with some amendments.

Mr. PHELPS. I object.

Mr. WENTWORTH. I move to suspend the rules.

The SPEAKER. There is a motion already pending to suspend the rules.

Mr. PHELPS. I desire that the pending motion to suspend the rules shall be disposed of, in order that the House may act upon the naval appropriation bill which was reported last evening from the Committee of the Whole on the state of the Union, and that it may be sent to the Senate.

IMPROVEMENT OF THE SAVANNAH RIVER.

The House then proceeded to consider the motion, submitted last evening by Mr. SEWARD, to suspend the rules for the purpose of taking up from the Speaker's table Senate bill No. 599, being "An act to appropriate money to remove the obstructions in the Savannah river, below the city of Savannah, in the State of Georgia."

Mr. DAVIS, of Indiana, demanded the yeas and nays.

Mr. HIBBARD called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. KERR and CHAMBERLAIN were appointed.

The House was divided: and the tellers reported thirty-seven in the affirmative.

So the yeas and nays were ordered.

The question was taken; and there were—yeas 86, nays 62; as follows:

YEAS—Messrs. Appleton, Ashe, Bennett, Bliss, Bristow, Brooks, Campbell, Carpenter, Caruthers, Chamberlain, Chandler, Chastain, Clark, Clingman, Cook, Cox, Craige, Crocker, Cullom, Dickinson, Dunbar, Eastman, Eddy, Thomas D. Eliot, Etheridge, Florence, Green, Grey, Haven, Henn, Hiester, Howe, Hughes, Hunt, Roland Jones, Kerr, Latham, Lindsley, McDougall, McNair, Matteson, Maurice, Maxwell, May, Middleswarth, Morgan, Nichols, Olds, Mordecai Oliver, Orr, Phillips, Pringle, Puryear, Ready, Richardson, Thomas Ritchey, Robbins, Ruffin, Russell, Sabin, Sage, Sapp, Seward, Shower, Simmons, Samuel A. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, David Stuart, John L. Taylor, Nathaniel G. Taylor, Thurston, Tweed, Upham, Vansant, Walley, Elihu B. Washburne, Wells, John Wentworth, Tappan Wentworth, Westbrook, Wheeler, Witte, and Zollicoffer—86.

NAYS—Messrs. Ball, Banks, Belcher, Benson, Bridges, Caskie, Chase, Cobb, Corwin, Cutting, John G. Davis, Dawson, Disney, Edgerton, Edmundson, John M. Elliott, Ellison, Everhart, Faulkner, Fenton, Fuller, Gamble, Giddings, Hamilton, Aaron Harlan, Andrew J. Harlan, Hendricks, Hibbard, Houston, Ingersoll, Daniel T. Jones, George W. Jones, Kidwell, Knox, Kurtz, Lamb, Lane, Letcher, McCulloch, Macdonald, McQueen, Mace, Mayall, Meacham, Millson, Morrison, Murray, Norton, Andrew Oliver, Parker, Peck, Peckham, Phelps, Powell, Seymour, Skelton, Stratton, Straub, Tracy, Trout, Wade, and Hendrick B. Wright—62.

So (two thirds not voting in favor thereof) the rules were not suspended.

Mr. PENNINGTON stated that he was not within the bar when his name was called on the above vote, or that he should have voted in the affirmative.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, their Secretary, informing the House that the Senate had passed the Post Office appropriation bill, with sundry amendments; in which he was requested to ask the concurrence of the House.

Mr. JONES, of Tennessee. I ask the unanimous consent of the House to have that bill, with the amendments, referred to the Committee of Ways and Means.

No objection being made, it was so ordered.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled the following bills and joint resolution; when the Speaker signed the same:

An act granting bounty land to Susan Palmer;

A bill for the relief of Mrs. Helen Mackay, administratrix of Lieutenant Colonel Æneas Mackay, late a deputy quartermaster in the United States Army;

An act making appropriation for military defenses at Proctor's Landing, in Louisiana;

An act to remodel the diplomatic and consular systems of the United States;

An act to promote the efficiency of the Navy; and

A resolution accepting the sword of General Andrew Jackson, and returning the thanks of Congress to the family of the late General Robert Armstrong.

NAVAL APPROPRIATION BILL.

The SPEAKER. The business next in order is the motion to commit the naval appropriation bill.

Mr. PHELPS. I withdraw the motion to commit, and move the previous question on the engrossment of the bill.

CIRCUIT COURT IN CALIFORNIA.

Mr. LATHAM. I move to take from the Speaker's table Senate bill No. 589.

The SPEAKER. The motion of the gentleman from California is not in order, unless by unanimous consent, or by a suspension of the rules.

Mr. LATHAM. Well, I ask unanimous consent for that purpose.

Mr. PHELPS. I object.

Mr. LATHAM. I move to suspend the rules.

Several MEMBERS. What is the bill?

Mr. LATHAM. It is a bill to establish a circuit court in the State of California.

Mr. STANTON, of Tennessee. I suggest to the gentleman from California that he let his motion be passed over informally until the naval appropriation bill is disposed of. I presume there will be no objection to his bill then.

The SPEAKER. If there be no objection that course will be pursued.

No objection was made.

NAVAL APPROPRIATION BILL—AGAIN.

The previous question was then seconded, and the main question was ordered to be put.

Mr. PHELPS. The amendments to this bill were read over yesterday, and adopted without any objection. I hope the question will be taken upon them in gross, and I am of the opinion that the House will not require them to be read again.

By unanimous consent, the question was taken in gross upon all the amendments reported from the Committee of the Whole on the state of the Union; and they were agreed to without being read.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read a third time, and passed.

Mr. PHELPS moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider do lie upon the table; which latter motion was agreed to.

Mr. HOUSTON took the floor.

Mr. LATHAM. I now rise to the privileged question which I have mentioned.

The SPEAKER. The motion of the gentleman from California [Mr. LATHAM] to suspend the rules for the purpose of acting on the bill which he refers to, is the matter regularly in order; but the Chair does not know what proposition the gentleman from Alabama [Mr. HOUSTON] wishes to submit.

Mr HOUSTON. Was the motion of the gentleman from California in order when it was made?

The SPEAKER. It was.

FORTIFICATION BILL.

Mr. HOUSTON. I did not so understand it. I have one of the appropriation bills which has not yet been considered. There is but one small amendment to it, and my purpose is to ask the House to discharge from its further consideration the Committee of the Whole on the state of the Union, and let it be acted on at once that it may be sent to the Senate.

The SPEAKER. Is it the pleasure of the House that the gentleman from Alabama shall be at liberty to pursue the course proposed by him as to the bill he refers to?

There was no objection.

Mr. HOUSTON. The bill in question is the fortification bill; it will not take ten minutes in disposing of it. I move that the Committee of the Whole on the state of the Union be discharged from its further consideration.

The bill was then taken up, and reported by its title, as follows:

House bill (No. 580) making appropriations for fortifications and other works of defense, and for repairs of barracks and quarters for the year ending 30th June, 1856.

The SPEAKER. If there be no objection the bill will be considered by the House, the rule requiring it to be considered by the Committee of the Whole on the state of the Union to the contrary notwithstanding.

There was no objection. The Committee of the Whole on the state of the Union was accordingly discharged from the further consideration of the bill, and it was taken up to be acted on.

Mr. HOUSTON. There is but one amendment which I am instructed by the Committee of Ways and Means to propose; and I ask the previous question on it.

The previous question was seconded, and the main question ordered to be put.

The amendment was then reported, as follows:

Page 3, after the word "Carolina," in the fifty sixth line, strike out "$1,500," and insert in lieu thereof "$5,000;" so that the clause will read:

For repairs of Fort Moultrie, Charleston harbor, South Carolina, $5,000.

The question was taken; and the amendment was adopted.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read a third time, and passed.

Mr. FLORENCE moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

Mr. LATHAM. I now renew my motion to suspend the rules.

Mr. EDMUNDSON. I ask the gentleman from California to yield me the floor for one moment, that I may ask the unanimous consent of the House to take up and pass a private bill to which there is no objection.

Mr. LATHAM. I yield the floor to the gentleman from Virginia for that purpose, provided it does not interfere with my motion, and that the House unanimously consent to the proposition of

the gentleman. Otherwise I will not yield the floor.

CHARLES H. POINTER.

Mr. EDMUNDSON. I ask the unanimous consent of the House to allow me to move to take up the bill referred to, and have the Committee of the Whole House discharged from its further consideration.

There being no objection, it was, on motion by Mr. EDMUNDSON,

Ordered, That the Committee of the Whole House be discharged from the further consideration of House bill (No. 777) for the relief of Charles H. Pointer.

The bill was then taken up and read. It directs the Secretary of the Interior to place the name of Charles H. Pointer on the roll of invalid pensions of the United States, at the rate of eight dollars per month; and that said pension commence from 1st of January, 1854, and continue during his life.

Mr. EDMUNDSON. I ask the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

The question being on ordering the bill to be engrossed and read a third time—

Mr. WITTE. I rise to a question of privilege. I desire simply to ask my friend from California [Mr. LATHAM] this question: whether if, as it seems to be a custom here, of the courtesy of which I very much approve, I ask him to yield me the floor after this matter is disposed of, he will extend to me the same courtesy which he has extended to the gentleman from Virginia?

Mr. LATHAM. I cannot do it.

Mr. WITTE. Then I object.

Mr. EDMUNDSON. I have had the unanimous consent of the House to dispose of this matter.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read a third time, and passed.

UNITED STATES CIRCUIT COURT.

Mr. LATHAM. I now renew my motion to suspend the rules, for the purpose of taking up and acting upon Senate bill (No. 589) to establish a circuit court of the United States in and for the State of California.

Pending the reading of the bill,

Mr. STANTON, of Tennessee, said: I suppose it is hardly necessary that the bill should be read through. It is for the establishment of a circuit court in California, and the appointment of one judge at a salary of $4 500. The provisions of the bill are mere details necessary for the establishment of that court, and there is no necessity of reading the bill through at length.

The SPEAKER. Is it the unanimous wish of the House that the reading of the bill be dispensed with?

Mr. JONES, of Tennessee. The bill must be read through before it is passed. If the reading of the bill is dispensed with now, I shall call for it upon its engrossment.

The Clerk then completed the reading of the bill.

Mr. LATHAM. I merely wish to state that this bill has been acted favorably upon by both the Judiciary Committees of the Senate and the House.

The question was then taken; and the rules were suspended.

Mr. LATHAM. I now move to put the bill upon its passage.

The bill was then ordered to a third reading, and having been read the third time, it was subsequently passed.

Mr. LATHAM moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

BOUNTY LAND BILL.

Mr. MIDDLESWARTH. I desire to take from the Speaker's table Senate bill (No. 511) granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States, of which I gave notice a few days ago. I am very anxious to put it upon its passage now, and I move to suspend the rules for that purpose.

Mr. DISNEY. I trust that the gentleman will withdraw his motion until the amendments have been printed.

Mr. MIDDLESWARTH. If I wait, I shall never get the floor again.

Mr. BENTON. I presented an elaborate amendment to this bill, which was ordered to be printed last Saturday, but which has not yet come up. I have sent after it, and I hope that the motion will go over until the amendment comes up.

Mr. DAVIS, of Indiana. I wish to propound a question to the gentlemen from Pennsylvania, before I vote upon this question, and it is this: Is it the intention of the gentleman and the friends of this PARTICULAR bill to call the previous question, and put it upon its passage, or leave it open for debate and amendment?

Mr. MIDDLESWARTH. If I get the bill before the House, I wish to state now that I myself and the friends of the bill desire at least one amendment to be made to it. There is a proviso in the first section which excludes from the benefits of the act a portion of the soldiers of the war of 1812, which I think is unjust, and which I believe the friends of the bill consider as unjust. I say to gentlemen upon this floor, who represent that portion of the soldiers who are excluded by that proviso, that I will make the motion myself to strike out that proviso.

Mr. BENTON. The public interests require that this bill should be examined.

Mr. DAVIS. I am not opposed to a reasonable extension of the acts of Congress granting bounty lands to the soldiers of the wars in which we have been engaged, but I say now that I cannot and will not vote for the bill in its present shape; and, inasmuch as the gentleman from Pennsylvania, as I understand him, intends to call the previous question and thereby cut off all amendments except one, and that an immaterial one, I shall vote against the suspension of the rules; and, as an act of justice, I ask that a communication from the Commissioner of the General Land Office, which was handed me this morning, may be read for the information of the House.

Mr. FLORENCE. To what does the communication relate?

Mr. DAVIS. It is a communication from the Commissioner of the General Land Office, stating the amount of the public lands that will be taken up by this bill, if it passes. I understand that the whole amount will be some two hundred millions of acres of land. I ask that the communication to which I refer may be read.

The SPEAKER. Is there objection to the reading of the communication?

Mr. KERR. I object.

Mr. HAMILTON. I desire to ask the gentleman from Pennsylvania if the rules are suspended whether he will not defer the consideration of this bill until to-morrow, so that the amendment I have offered, as well as the amendments which other gentlemen have submitted, may be printed and laid before the House?

Mr. MACE. I rise to a question of order, that it is not in order to ask the gentleman from Pennsylvania, or anybody else, a question.

Mr. WENTWORTH, of Illinois, demanded the yeas and nays upon the suspension of the rules; which were ordered.

Mr. PHELPS. I desire to inquire whether the letter of the Commissioner of the General Land Office does not show that, to satisfy the provisions of the bill, it will require two hundred million acres of land?

Mr. KERR. I object to all inquiry.

Mr. DAWSON. The bill ought to be amended before it is passed, for the reason that, to satisfy the claims under the provisions of the bill, it will require an amount of land equal in area to the original States, which carried us through the war of the Revolution, and that it will amount to about double the quantity of land which the Government has sold since the establishment of the Land Office in 1787 up to the present time.

[Cries of "Order!" from all parts of the Hall.]

Mr. BENTON. And the land is not in our America to satisfy the bill.

[Cries of "Order!" "Order!"]

Mr. MIDDLESWARTH. Will the House permit me to say a word?

[Cries of "Order!" and "No!" "No!"]

The SPEAKER. There is no order of the House.

The question was then taken; and resulted—yeas 126, nays 51; as follows:

YEAS—Messrs. Appleton, Ashe, Thomas H. Bayly, Ball, Barksdale, Bennett, Benson, Bridges, Bristow, Bugg, Campbell, Carpenter, Caskie, Chandler, Chase, Chastain, Chrisman, Clark, Cook, Corwin, Cox, Crocker, Cullom, Curtis, Thomas Davis, De Witt, Dickinson, Dunbar, Dunham, Thomas D. Eliot, John M. Elliott, Ellison, English, Etheridge, Everhart, Farley, Fenton, Florence, Gamble, Giddings, Goodrich, Green, Grey, Andrew J. Harlan, Harrison, Haven, Hiester, Howe, Hughes, Hunt, Ingersoll, Daniel T. Jones, Kerr, Kidwell, Knox, Kurtz, Lane, Lewis, Lilly, Lindley, McCulloch, McMullin, McNair, Mace, Matteson, Maurice, May, Middleswarth, Morgan, Murray, Noble, Norton, Olds, Andrew Oliver, Packer, Parker, Peck, Peckham, Pennington, Bishop Perkins, Powell, Pratt, Preston, Pringle, Puryear, Ready, Reese, Richardson, David Ritchie, Thomas Ritchey, Robbins, Rogers, Rowe, Ruffin, Russell, Sabin, Sage, Sapp, Shower, Simmons, Skelton, William Smith, Sollers, Richard H. Stanton, Stratton, Straub, David Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Teller, Trout, Tweed, Upham, Vansant, Walley, Elihu B. Washburne, Israel Washburn, John Wentworth, Tappan Wentworth, Westbrook, Wheeler, Witte, Daniel B. Wright, Hendrick B. Wright, Yates, and Zollicoffer—123.

NAYS—Messrs. Abercrombie, Aiken, James C. Allen, David J. Bailey, Barry, Belcher, Benton, Boyce, Brooks, Caruthers, Chamberlain, Cobb, Craige, John G. Davis, Dawson, Disney, Dowdell, Eastman, Eddy, Edgerton, Fuller, Hamilton, Aaron Harlan, Hendricks, Hibbard, Houston, Johnson, George W. Jones, Roland Jones, Kerr, Lamb, Letcher, Lindsley, Macdonald, McDougall, McQueen, Millson, Nichols, Mordecai Oliver, O'r, Phelps, Phillips, Seymour, Shannon, Shaw, George W. Smyth, Hestor L. Stevens, Andrew Stuart, Wade, Walker, and Wells—51.

So the rules were suspended, two thirds voting in favor thereof.

Mr. MIDDLESWARTH. I now ask that the bill be taken up.

The bill was accordingly taken up, and read a first and second time *in extenso*.

Mr. MIDDLESWARTH obtained the floor.

Mr. PHILLIPS. Will the gentleman from Pennsylvania permit me to ask for the reading of the report of the Commissioner of Pensions before we proceed to act upon the bill?

Mr. JONES, of Tennessee. It is a communication in answer to a resolution of the House, and before we can proceed to vote upon the bill intelligently, we certainly ought to have the information which the call of the House has brought out.

Mr. MIDDLESWARTH. If I do not lose the floor thereby, I have no objection to the communication being read.

Mr. PHILLIPS. I believe there is no objection.

The SPEAKER. The gentleman from Alabama asks for the reading of a paper which he designates. The gentleman from Pennsylvania consents to it, and, if there is no objection, it will be read.

Mr. MACE. I object to the reading.

Mr. PHILLIPS. I rise to a question of order. Can a single member object to the reading of a paper?

The SPEAKER. But it is competent, by a vote of the House, to order a paper read.

Mr. PHILLIPS. I move that the paper be read.

The question was put; and the motion was agreed to.

The communication was then read, as follows:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, *February* 26, 1855.

SIR: In obedience to the resolution of the House of Representatives of the 21st instant, I have the honor to transmit herewith a report from the Commissioner of Pensions of the present date, of the quantity of land which will probably be required to satisfy the claims provided for by the bounty land bill recently passed by the Senate, and now pending before the House of Representatives.

I am, sir, with much respect, your obedient servant,

R. McCLELLAND, *Secretary*.

To the Hon. LINN BOYD, *Speaker of the House of Representatives*.

Report referred to in the above letter:

PENSION OFFICE, *February* 26, 1855.

SIR: The resolution of the House of Representatives of the 21st instant, requesting you "to inform the House, as soon as practicable, what quantity of land will probably be required to satisfy the claims provided for by the bounty land bill recently passed by the Senate of the United States, and now pending before the House," having been referred to me, I have the honor to submit the following report:

In analyzing said bill, I find the following classes of persons are embraced in its provisions, to wit:

I. The surviving, and the widows or minor children deceased, officers and soldiers who were regularly mustered into the service in the Army of the United States, in any of the wars since 1790, and served therein a period of fourteen days, and shall not have deserted or been dishonorably discharged, whose service shall have been proved by record evidence: provided one hundred and sixty acres of land has not heretofore been received for the military service of such officer or soldier.

II. The surviving, and the widows or minor children of deceased, militia men, volunteers, or State troops of any

State or Territory, who have been called into military service, and regularly mustered therein, who have served fourteen days, and whose services have been paid by the United States subsequent to the 18th day of June, 1812, which shall be proved by record evidence, and who have not heretofore received one hundred and sixty acres of land for military service.

III. The surviving, and widows and minor children of deceased, officers—commissioned and non-commissioned—seamen, ordinary seamen, marines, clerks, and landsmen, who have served fourteen days in the Navy of the United States, in any of the wars since 1790, whose service shall be proved by record evidence; provided such person has not heretofore received one hundred and sixty acres of land.

IV. The surviving, and the widows or minor children of deceased, Indians who have, in like manner, served, and whose services shall be in like manner proved, and who have not received one hundred and sixty acres of land.

V. The widows of the officers and soldiers of the revolutionary war, who served therein fourteen days, whose service shall be proved by record evidence, and who have not heretofore received one hundred and sixty acres of land.

VI. The volunteers who served at the invasion of Plattsburg, in September, 1814.

VII. Chaplains who served with the Army in any of said wars.

VIII. The volunteers who served at Lewistown, Delaware, when that place was attacked by the British fleet, in the war of 1812.

IX. The surviving, and the widows or children of deceased, officers and privates in any of the wars in which this country has been engaged, who have performed military service against the public enemy, though not regularly called or mustered into service.

Many of the persons embraced in the two first of these classes are now beneficiaries under the acts of February 11, 1847, September 28, 1850, and March 22, 1852. The provisions of the present bill merely enlarge the *provisions* of said acts by giving to all persons in service fourteen days one hundred and sixty acres of land each. There are seven thousand eight hundred and eighty-six persons who have received forty acres each under the act of February 11, 1847, and one hundred and twelve thousand one hundred and fifteen persons who have each received forty acres under the acts of September 28, 1850, and March 22, 1850, who will each be entitled to one hundred and twenty acres under this bill. There are fifty-eight thousand nine hundred and forty-one persons who have each received eighty acres under the two last mentioned acts who will each be entitled to receive eighty acres under this bill. Besides these there will doubtless be thirty thousand persons whose service was short of one month that will be entitled under this bill. The aggregate amount of land necessary to satisfy the claims of these two classes will be about twenty-three million eight hundred and fifteen thousand acres.

I have no reliable data on which to predicate an estimate for the third class. It may be safely estimated that sixty thousand persons have been engaged in the naval service of the United States in all the wars since 1790, and it is probable that one half this number will be beneficiaries under this bill.

The number of claimants in the fourth class may reach eight thousand.

There are over six thousand widows of revolutionary soldiers now pensioners under the various acts. It is highly probable that the number of those whose husbands' services were not such as to entitle them to pensions, but who served fourteen days, will make the whole number of this class ten thousand.

The number of claimants embraced in the sixth, seventh, and eighth classes is merely conjectural, but may amount to five thousand.

I am unable to form any estimate, even by conjecture, of the number embraced in the ninth class. This class is created by the thirteenth section of the bill, which provides: "That such of the surviving officers and privates who, in any of the wars in which this country has been engaged, performed military service against the public enemy, though not regularly called or mustered into service of the United States, and the widows and children of such officers and privates as are dead, shall be entitled to all the benefits of the first and second sections of this act." It seems to be the object of this section to give bounty land to all persons who have served in any capacity against the public enemy in any of the wars in which this country has ever been engaged, without any regard to the time they served, and to the widows and children (*not minor* children) of such of those persons as have deceased. If this be the final construction of the language used, the number of the beneficiaries created by it will be nearly equal to the whole military force engaged in all our wars since our Independence. I know of no data by which to estimate this number. The quantity of land that would be required to meet this demand will be immense. It will probably exceed one hundred millions, and may exceed two hundred millions of acres. It is true this section may receive a more limited construction; but, like other laws giving gratuities, it will, in the end, be likely to receive the most liberal construction. Without making any estimate for this class, it may be safely estimated that the other classes will require more than thirty-two millions of acres to satisfy their demands; a sum exceeding by one million of acres the whole amount of land donated by all the laws passed by Congress since the revolutionary war.

There is another section in this bill, which, though not alluded to by the resolution referred to me, should not pass unnoticed. The seventh section provides "That, from and after the passage of this act, all persons now enrolled upon the invalid pension list, whose pensions have been allowed under any general law or laws, shall be entitled to receive, if a commissioned officer, twenty-one per centum upon the amount now allowed, and non-commissioned officers and privates forty-two per centum on the amount now allowed or paid under existing laws." If this section becomes a law it will increase the stipends of this class of pensioners for about sixteen months, for which estimates have already been sent to Congress, and appropriations made therefor at the present rates of pension. The whole increase will be about $232,700, and will leave the appropriations for the year ending June 30, 1855, deficient about $59,000, and for the year ending 30th of June, 1856, about $173,700. This deficiency should be provided for before the adjournment of Congress. It is not clear, from the language of this section, that Navy invalids are to receive the benefit of this act, there being two lists of invalid pensioners—one the Army list, and the other the Navy list. It has been usual to name both class of pensioners when both have been intended. But the section provides only for those *now enrolled*, not for such as may hereafter be enrolled. Is it intended to make a distinction in pensioners of the same class, by giving to those who shall be admitted before the passage of the act a larger sum than those admitted after the said act is approved? I am of the opinion that the annual stipends of the lower grades of the invalid pensioners should be increased; but, in making provision for such increase, further provision should be made, so that the increase could be graduated by their present degree of disability.

I make these suggestions for your own consideration, in case this section should become a law.

I have the honor to be, very respectfully, your obedient servant, L. P. WALDO, *Commissioner.*

Hon. R. McCLELLAND, *Secretary of the Interior.*

Mr. CRAIGE. Now, Mr. Speaker, I wish to say a few words.

The SPEAKER. The gentleman from Pennsylvania is entitled to the floor.

Mr. CRAIGE. This, Mr. Speaker, is an important question. It seems to be the giving away of the whole of our public domain; and, in my judgment, should not be passed on in haste or passion. It ought to be referred to one of the committees, there to receive proper investigation. I move that it be referred to the Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman cannot take the floor from the gentleman from Pennsylvania for the purpose of submitting that motion.

Mr. CRAIGE. I have a question of order. The bill provides that the commissioned officers shall receive twenty-one per cent. on the pension which they are now entitled to; and that non-commissioned officers shall receive forty-two per cent. on their present pension. It makes an appropriation out of the Treasury, and ought, therefore, to go for its first consideration to the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair understands the Commissioner to say, in his report, that the passage of the bill will involve an expenditure of money; but in the bill there is no provision for drawing money from the Treasury of the United States.

Mr. LETCHER. I would ask the gentleman from Pennsylvania to yield to me for a suggestion.

Mr. MIDDLESWARTH. I yield to the gentleman for that purpose.

Mr. LETCHER. I would suggest to the gentleman the propriety of striking out the word "minor" in the fourth and fifth lines of the second section, and the proviso, that those shall be considered minors who are so at the time this act shall take effect; so that the section would read:

SEC. 2. *And be it further enacted*, That in case of the death of any person who, if living, would be entitled to a certificate or warrant as aforesaid under this act, leaving a widow, or, if no widow, a child or children, such widow, or, if no widow, such child or children, shall be entitled to receive a certificate or warrant for the same quantity of land that such deceased person would be entitled to receive under the provisions of this act, if now living: *Provided*, That a subsequent marriage shall not impair the right of any such widow to such warrant, if she be a widow at the time of making her application.

Mr. BENTON. Will the gentleman from Pennsylvania allow me to say a word?

Mr. MIDDLESWARTH. The gentleman will excuse me. I desire, in the first place, to get my amendment before the House. I gave notice last night of my intention to move that the proviso to the first section be stricken out, and it is my intention now to fulfill that promise. I do not intend, however, to inflict a speech upon the House. There is not a member here who has not considered the matter, and who does not understand the provisions of the bill just as well as I do. I have never had the bill before me as a member of a committee. I have only taken it up as a member of the House. And having made the motion to take up the bill for consideration, I have promised certain gentlemen in the House that I would move an amendment. Having made that promise, I am in honor bound to move the amendment. I move to strike out the last proviso to the first section of the bill, which is as follows:

"*And provided further*, That no officer, non-commissioned officer, or private, of the militia or volunteers, who was called out for the service of any State, and refused by the authorities of such State to be placed in the service of the United States, shall be entitled to the benefits of this act."

Several MEMBERS sought the floor.

Mr. MIDDLESWARTH. I know there are many members who desire to offer amendments, and who wish to submit remarks; but I am afraid that, if I give way, we shall never get through with the bill.

Mr. JONES, of Tennessee. I wish to suggest an amendment in the first section; and if it does not meet the views of the gentleman from Pennsylvania, and the views of the friends of this bill, it will, of course, go for nothing. In the first section I find this clause:

—"or State troops of any State or Territory, called into military service, and regularly mustered therein, and whose services have been paid by the United States subsequent to the 18th day of June, 1812, shall be entitled to receive a certificate or warrant from the Department of the Interior for one hundred and sixty acres of land."

Now, sir, if these soldiers were called into service at any period prior to 1812 they will not be included in this bill. Sir, there was a regiment called out in 1804, upon the order of the President, when Louisiana was to be delivered up to this country. There was a regiment in east Tennessee, if I mistake not, called out at this time under Colonel Dougherty—I know little or nothing in reference to them; but if the bill passes in its present shape these men will be deprived of its benefits. They were called out by the order of the President, and were some time in the service. Not in active service, but they went South as far as Natchez. I would suggest, therefore, that the gentleman strike out the words "18th day of June, 1812," and insert "1790," so that it shall read "and whose services have been paid by the United States subsequent to 1790."

Mr. MIDDLESWARTH. I cannot accept the amendment.

Mr. JONES. One word further. I desire to say that I do not intend to vote for this bill; but I suppose that those who have it in charge would like to have made it as perfect as possible. The constituents of some of my colleagues are interested in this provision, and I hope they will attend to it.

The SPEAKER. Does the gentleman from Pennsylvania yield the floor to the gentleman from Tennessee to submit the amendment he has indicated?

Mr. MIDDLESWARTH. No, sir. It is the solicitation of gentlemen all around me that I should not yield the floor. But, sir, the amendment of the gentleman from Tennessee proposes to extend the benefits of the bill. Why, sir, the objection to the bill as it now stands, upon the part of many members of the House, is that it is too large already, and I cannot move to make it larger.

Several MEMBERS. Move the previous question.

Mr. MIDDLESWARTH. I am appealed to on all sides to yield the floor for various purposes. I cannot accommodate all these gentlemen, and I desire to move the previous question before I take my seat.

Several MEMBERS. That's right; move it now.

Mr. COBB. I appeal to the gentleman from Pennsylvania to allow me to suggest an amendment which it is the wish of the Committee on Public Lands should go in the bill. The Committee on Public Lands, at the last session, ordered me to report a bill, which was reported, and is upon your Calendar. Sir, there are two provisions in that bill which ought to be attached to this bill. The first is this: we propose to provide that where a soldier entitled to bounty shall have died without leaving a widow or minor child, a warrant may vest in his heirs. Here is the provision which the Committee on Public Lands proposed to offer to other bounty land acts, and it is my wish that such a provision shall attach to this:

That when any commissioned or non-commissioned officer, musician, or private, to whom bounty land is promised by the act of September 28, 1850, or the act of March 22, 1852, shall make or shall have made application therefor, and shall die or shall have died before the issue of his warrant, without leaving a widow or minor child, a warrant in such case may issue to, and vest in, his heir-at-law, upon proof of identity and heirship.

[Cries of "No!" "Order!" and "Previous Question!"]

Mr. COBB. Another provision is this——

Mr. EDMUNDSON. I rise to a question of order.

Mr. MIDDLESWARTH. Then I do not yield the floor further

Mr. COBB. Will not the gentleman allow me to read the other amendment?

Mr. EDMUNDSON. I rise to a question of order.

The SPEAKER. If the gentleman from Pennsylvania yielded the floor, the gentleman from Alabama is in order.

Mr. COBB. The other provision which we had reported, and the substance of which I desire to see attached to this bill, is this:

That the children of a deceased officer or soldier, who were minors on the day of the passage of said acts, respectively, may receive the warrants promised them by said acts, although they may have since attained the age of twenty-one years: *Provided*, That a warrant for the identical service for which the claim is made has not already issued to some person entitled to receive the same.

Mr. WHEELER. I rise to a question of order. The previous question has been demanded, and no debate is in order.

The SPEAKER. The Chair understood the gentleman from Pennsylvania to withdraw the demand for the previous question.

Mr. WHEELER. The gentleman from Pennsylvania assures me that he has not withdrawn his demand.

The SPEAKER. Then no debate is in order.

Mr. HAMILTON. The House allowed amendments to be presented to this bill the other day, and ordered them to be printed. I submit that these amendments should be considered as offered to the bill before the previous question is seconded.

[Loud cries of "Order!"]

Mr. EDGERTON. I move to lay the bill upon the table; and upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. MIDDLESWARTH. I should like to know how the gentleman from Ohio obtained the floor to make that motion? I have not yielded it for any such purpose.

The SPEAKER. The gentleman from Pennsylvania could not occupy the floor. Having demanded the previous question, he was no more entitled to the floor than any other member of the House. The gentleman from Ohio then rose, was recognized regularly by the Chair, and made the motion to lay the bill upon the table, which motion he had the right to make.

Mr. McMULLIN. I desire to appeal to the gentleman from Ohio to withdraw his motion to lay on the table, and allow the vote to be taken upon the bill. It is consuming the time of the House unnecessarily——

[Loud and repeated cries of "Order!"]

Mr. McMULLIN. I am addressing myself to the gentleman from Ohio, and gentlemen have no right to call me to order.

Mr. EDGERTON. I do not withdraw the motion.

Mr. McMULLIN. Then I hope the House will vote the previous question down.

The question was then taken upon Mr. EDGERTON's motion, and decided in the negative—yeas 55, nays 132; as follows:

YEAS—Messrs. Aiken, James C. Allen, Barksdale, Barry, Belcher, Benton, Bliss, Boyce, Brooks, Campbell, Cobb, Craige, John G. Davis, Disney, Dowdell, Eastman, Eddy, Edgerton, Fuller, Goode, Aaron Harlan, Hastings, Hendricks, Hibbard, Houston, Johnson, George W. Jones, Roland Jones, Keitt, Lamb, Latham, Letcher, McDougall, McQueen, Smith Miller, Millson, Morrison, Nichols, Orr, Parker, Pennington, Phelps, Phillips, Riddle, Seward, Seymour, Shannon, Shaw, George W. Smyth, Hestor L. Stevens, Andrew Stuart, Wade, Walker, and Wells—55.

NAYS—Messrs. Abercrombie, Willis Allen, Appleton, Ashe, Ball, Bennett, Benson, Bocock, Bridges, Bristow, Bugg, Carpenter, Caruthers, Caskie, Chamberlain, Chandler, Chastain, Chrisman, Clingman, Cook, Corwin, Cox, Cullom, Curtis, Thomas Davis, Dawson, De Witt, Dick, Dickinson, Dunbar, Dunham, Edmundson, Thomas D. Eliot, John M. Elliott, Ellison, English, Etheridge, Everhart, Farley, Flagler, Florence, Gamble, Giddings, Goodrich, Goodwin, Green, Greenwood, Grey, Hamilton, Andrew J. Harlan, Harrison, Haven, Henn, Hiester, Howe, Hunt, Daniel T. Jones, Kerr, Kidwell, Knox, Kurtz, Lane, Lewis, Lilly, Lindley, Lindsley, McCulloch, McMullin, McNair, Mace, Matteson, Maurice, Maxwell, May, Meacham, Middleswarth, Morgan, Murray, Noble, Norton, Andrew Oliver, Mordecai Oliver, Packer, Peck, Peckham, Bishop Perkins, Powell, Pratt, Preston, Pringle, Puryear, Ready, Reese, Richardson, David Ritchie, Robbins, Rogers, Rowe, Ruffin, Russell, Sabin, Sage, Sapp, Shower, Skelton, Samuel A. Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Stratton, Straub, David Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Trout, Upham, Vansant, Walley, Ellihu B. Washburne, Israel Washburn, John Wentworth, Tappan Wentworth, Westbrook, Wheeler, Witte, Daniel B. Wright, Hendrick B. Wright, Yates, and Zollicoffer—132.

So the bill was not laid upon the table.

Pending the call of the roll,

Mr. BAILEY, of Georgia, when his name was called, declined to vote, for the reason that, if the bill should pass, he would be entitled to receive a tract of land under it for military services.

Mr. RICHARDSON. I appeal to the gentleman from Pennsylvania to withdraw the demand for the previous question, to allow the House to perfect the bill.

Mr. JONES, of Louisiana. I must object to any discussion.

Mr. RICHARDSON. I ask the attention of the gentleman from Pennsylvania [Mr. MIDDLESWARTH] to the following points, which I think have escaped his attention. By the first section of the bill land is given to those who have been regularly mustered into the service, and whose services have been paid by the United States to their widow or minor children. The thirteenth section gives land to any one who has performed military service, though not regularly mustered into the service of the United States, and the widows and children. Where they served and their service has been recognized by the Government, the benefit of the act extends only to minor children, where they have children both minor and adult. Before I support this bill it must be changed in this particular.

[Cries of "Order!" "Order!"]

Mr. GREENWOOD. I desire the attention of the gentleman from Pennsylvania for one single moment. I understand that before he demanded the previous question he moved an amendment to strike out the last proviso to the first section of the bill.

Mr. MIDDLESWARTH. Yes, sir.

Mr. GREENWOOD. I would suggest to the gentleman that he insert, in lieu of the proviso which he proposes to strike out, the following:

Provided, That no member of either branch of Congress shall be entitled to receive any benefit under this act.

[Cries of "No!" "No!" "Order!"]

Mr. JONES. I object to all discussion.

The SPEAKER. If the demand for the previous question be not withdrawn, all propositions to amend, explain, or debate, are out of order.

Mr. HAMILTON. I ask unanimous consent, then, that my amendment may be read before the vote is taken upon seconding the demand for the previous question.

Mr. JONES, of Louisiana. I object, and call for the question.

The following is the amendment of Mr. HAMILTON:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each of the surviving commissioned and non-commissioned officers, musicians, and privates, whether of regulars, volunteers, rangers, or militia, who were regularly mustered into the service of the United States, and every officer, commissioned and non commissioned, seaman, ordinary seaman, marine, clerk, and landsman in the Navy, in any of the wars in which this country has been engaged since 1790, and each of the survivors of the militia, or volunteers, or State troops of any State or Territory, called into military service, and regularly mustered therein, and whose services have been paid by the United States, shall be entitled to receive a certificate or warrant from the Department of the Interior for one hundred and sixty acres of land; and where any of those who have so been mustered into service and paid shall have received a certificate or warrant, he shall be entitled to a certificate or warrant for such quantity of land as will make, in the whole, with what he may have heretofore received, one hundred and sixty acres to each such person having served as aforesaid: *Provided*, The person so having been in service shall not receive said land warrant if it shall appear by the muster-rolls of his regiment or corps that he deserted, or was dishonorably discharged from service: *Provided*, That no certificate or warrant shall issue for a service less than fourteen days: *And provided*, That in the case of the death of any person who, if living, would have been entitled to the provision of this act, leaving a widow, then said widow shall be entitled to receive a certificate or warrant for the same quantity of land that such deceased person would have been entitled to under the provision of this act if living.

SEC. 2. *And be it further enacted*, That said certificates or warrants may be assigned, transferred, or located by the warrantees or their heirs-at-law, according to the provisions of existing laws regulating the assignment, transfer, and location of bounty land warrants, but no warrant or certificate issued under the provisions of this act shall be located on any public lands, except such as shall at the time be subject to sale, either at the minimum or lower graduated prices: *Provided*, That the receivers and registers of the several land offices shall be severally authorized to charge and receive for their services in locating all warrants or certificates under the provisions of this act, the same percentage or compensation to which they are entitled by law for sales of the public lands for cash, (at the rate of $1 25 per acre,) the said compensation or percentage to be paid by the holders or assignees of such warrants or certificates.

SEC. 3. *And be it further enacted*, That the Secretary of the Interior establish such rules and regulations for the execution of this act as he may deem necessary and proper.

Mr. ETHERIDGE. There is a clerical error in the fourth section. I hope it will be corrected. There can be no objection.

Mr. JONES, of Louisiana. I call the gentleman to order. I object to all discussion.

The SPEAKER. The Chair announces that no gentleman can be in order pending the demand for the previous question, unless he rises to a privileged question.

Mr. ORR. I rise to a question of order. I desire to know whether, if the previous question be sustained, it will not bring us to a vote upon the bill?

The SPEAKER. And the pending amendments.

Mr. McMULLIN. I rise for the purpose of appealing to the gentleman from Pennsylvania——

[Loud cries of "Order!"]

Mr. McMULLIN. I desire to offer an amendment to the first section of the bill. I am a friend of the bill, as the gentleman from Pennsylvania knows.

Mr. JONES, of Louisiana. I call the gentleman to order.

The SPEAKER. Does the gentleman from Pennsylvania withdraw the demand for the previous question?

Mr. MIDDLESWARTH. I do not.

Mr. McMULLIN. Then the gentleman will force me to vote against the bill.

[Cries of "Order!"]

Mr. LANE, of Indiana. I desire to propound a question to the gentleman from Pennsylvania.

Mr. EDGERTON. I object to all discussion.

Mr. SHAW. Is it in order to move to refer the bill to the Committee on Public Lands?

The SPEAKER. It is not, until the House shall have disposed of the demand for the previous question.

Mr. HENN. I wish to ask the Chair whether, if the previous question is now sustained, it will cut off the privilege of having the amendments, which have been printed by the order of the House, read?

The SPEAKER. Those amendments have been printed, it is true, by the order of the House, but they are not pending to the bill, or connected with it in any way, and will be excluded by the operation of the previous question.

Mr. HENN. Cannot they be read now?

The SPEAKER. They cannot except by unanimous consent. The gentleman from Maryland [Mr. HAMILTON] has appealed to the House to allow them to be read, and it has been refused.

Mr. CAMPBELL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair doubts whether the motion of the gentleman from Ohio is in order, for the reason that the House is acting under a suspension of the rules. The Chair thinks the practice has been both ways in regard to the matter.

Mr. JONES, of Tennessee. I would suggest to the Chair that the suspension of the rules only operated to bring the bill before the House, and that being before the House, it is subject to the same rules as if it had come up regularly, and that any motion is in order now, which would have been in order if the bill had come up regularly.

The SPEAKER. The motion, it is true, was to suspend the rules for the purpose of taking up the bill, but that motion carried with it a disposition of the bill, and the House has not yet made any disposition of it. We are now acting under a suspension of the rules which authorizes the taking up and disposing of the bill, in the opinion of the Chair.

Mr. JONES. I would ask the Chair one question.

[Loud cries of "Order!"]

Mr. JONES. If this bill had come up regularly, without a suspension of the rules, would not the motion of the gentleman from Ohio have been in order?

Mr. SOLLERS. I call the gentleman to order.

The SPEAKER. Debate is not in order.

The question now being upon the demand for the previous question,

Mr. WASHBURNE, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. KEITT and SOLLERS were appointed.

The House was divided; and the tellers reported —ayes 74, noes 99.

So the previous question was not seconded.

Mr. BENTON. The pending motion, I believe, Mr. Speaker, is on the amendment offered by the gentleman from Pennsylvania, [Mr. MIDDLESWARTH,] to strike out the last proviso, and substitute that which he offers. I move to amend that amendment by inserting a set of provisos.

Mr. BENTON's amendment to the amendment was then reported, as follows:

Provided, That the representatives of no British deserter who received bounty land, or was entitled to receive it, for services in the revolutionary war, under the acts approved August 8, 1776, and March 27, 1792, shall be entitled to receive any land, or pension, or increase of pension, under this act: Also, that the representatives of no Canadian or Nova Scotia refugee, who received, or was entitled to receive, land or pension for services in the revolutionary war, under the acts passed April 23, 1783, April 13, 1785, May 20, 1785, February 18, 1801, April 29, 1816, April 7, 1798, March 16, 1804, February 18, 1801, March 3, 1803, April 23, 1812, March 3, 1827, or under any other act granting lands or pensions to said Canadian or Nova Scotia refugees, or their representatives, shall receive any bounty land, or pension, or increase of pension, under this act: Also, that no officer or soldier of the revolutionary war, or their representatives, who received bounty land for revolutionary services, or were entitled to receive it, under any one of the forty-seven acts passed for such purpose, from May 20, 1785, to March 3, 1859, inclusively, shall receive any land under this act: Also, that no person, or their representatives, who received, or were entitled to receive, bounty lands under any one of the forty-four of the acts passed by Congress for satisfying bounties granted by the State of Virginia to her officers and soldiers engaged in the revolutionary war: Also, that no person, or his representative, shall receive any bounty land under the said act who shall have received, or been entitled to receive, bounty land from any one of the States for services performed in the revolutionary war: Also, that no person, or his representative, who belonged to French or other foreign troops, who served in the revolutionary war, shall receive any land under this act: Also, that no evidence, except official record evidence, shall be received and acted upon in any case whatever for bounty land under the provisions of this act: *And provided further*, That no person, or his representative, who served in any war between the years 1790 and 1812, shall be entitled to receive any bounty land under this act, who shall have received, or been entitled to receive, any land under this act, and that all claims for land founded on such service shall only be considered and allowed upon record evidence: *And provided further*, That no person, or his representative, claiming land under this act, who served in the war of 1812, and who received bounty land, or were entitled to receive bounty land, under any one of the fifty-eight acts, public or private, passed from December 24, 1811, to March 3, 1845, inclusively, for granting or assuring bounty lands to persons serving in said war, and especially who received bounty lands under the act of May 6, 1812, granting six millions of acres for bounties to such persons, lying in the Territories of Michigan, Illinois, and Missouri, or under the act of April 16, 1816 granting an additional quantity of two millions of acres to such persons, lying in the Territory of Arkansas, shall be entitled to receive any bounty land under this act; and no evidence but that of the record shall be received or considered in support of any claim for service in the said war of 1812 with Great Britain: *And provided further*, That no person, or his legal representative, who shall claim bounty land for services in the late war with Mexico, and who received, or were entitled to receive bounty lands for such service, under either of the thirteen acts passed for that purpose, from February 11 to July 25, 1848, inclusively, shall receive any land under this act; nor shall any evidence except the record be received in support of any such claim after the lapse of thirty years after the date of the origin of such claim: *And provided further*, That no Indian shall be considered as entitled to the benefits of a white man under this act, unless he shall have been domiciliated among the white people, and shall have been regularly enrolled in the military service, and his claim proved by record evidence: *And provided further*, That no person, or his legal representative, belonging to the naval service of the United States, shall be allowed to receive any bounty land under this act, who received, or were entitled by law to receive, prize-money for captures, or destruction of enemie's vessels, during the war, or who have received pensions for such service; and no evidence but that of the record shall be received or considered in support of any claim which shall, at the time it is offered, relate back to a period of thirty years: *And provided further*, That the period of service to entitle any person whatever to bounty land under this act shall, in no case, be less than the ordinary length of a campaign, which shall be averaged at six months: *And provided further*, That no increase of pension shall be made under this act to any person whatever, or his representative, which person shall already have received his or her pension for a period of seven years, without having made to Congress, or the Government, a written application for an increase, and stating the particular reasons on which such application was founded: *And provided further*, That all bounty lands granted under this act, shall be free from tax until the patent shall be granted therefor, and shall be unassignable or transferable during the same period, and that all contracts with agents for any part of the same, or for money, or other thing, in consideration of being instrumental in getting this act passed, or obtaining the warrant or patent after it shall have passed, shall be, and the same is hereby, declared to be null and void; and all payments made on such account shall be recoverable back by any person interested therein, without limitation of time; and that no member of the present Congress, or any person related to him within the levitical degrees of prohibited marriages, shall ever receive an assignment or transfer of any bounty land granted under this act, all such transfers and assignments being hereby declared to be null and void *ab initio*.

Mr. JONES, of Tennessee. If the gentleman from Missouri [Mr. BENTON] will yield to me for a moment—as I see that he is quite hoarse—I will move to refer this bill, with the amendments, to the Committee of the Whole on the state of the Union. That motion will bring the bill up to-morrow as unfinished business; and then, after making that motion, I will move that the House resolve itself into the Committee of the Whole on the state of the Union. I submit the question to the Chair, whether the motion to refer would not bring the bill up to-morrow morning?

The SPEAKER. That motion would bring up this bill for consideration to-morrow as unfinished business.

Mr. JONES. If the gentleman from Missouri will yield the floor to me, I will then make that motion.

Mr. BENTON. I am dreadfully hoarse, occasioned by sitting up night after night examining this very matter, and during that time I have referred to about one hundred and fifty acts. I will yield the floor to the gentleman from Tennessee, for the purpose indicated by him.

Mr. JONES. I then move to refer the bill and amendments to the Committee of the Whole on the state of the Union, and I now move that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr WITTE. I want to know whether it is competent for the gentleman from Tennessee to take the floor from the gentleman from Missouri, for the purpose of making a motion first to refer the bill and amendments to the Committee of the Whole on the state of the Union, and then to make a motion, also, that the House now resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. The gentleman from Tennessee has the right, under the rules, to make the two motions. If not objected to, the question will be upon the motion that the House now resolve itself into the Committee of the Whole on the state of the Union.

Mr. STRAUB. I object.

The SPEAKER. The question then arises as to the right of the House to go into the Committee of the Whole on the state of the Union when they were considering a bill brought before them for consideration by a suspension of the rules.

Mr. STANTON, of Tennessee. I would inquire whether a motion to postpone this matter until to-morrow at twelve o'clock would be in order?

The SPEAKER. Such a motion would be in order.

Mr. STANTON. I then make that motion.

Mr. ETHERIDGE. Upon that motion I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. TAYLOR, of Tennessee, demanded tellers on the yeas and nays; which were not ordered.

The question was then taken on Mr. STANTON's motion; and it was decided in the affirmative.

So the further consideration of the bill was postponed till to-morrow at twelve o'clock.

Mr. HAVEN. I rise to make a privileged motion. I move the usual resolution to close debate on the amendments to the Indian appropriation bill in twenty minutes after the Committee of the Whole shall resume their consideration.

The question was taken; and the resolution was agreed to.

Mr. DUNBAR. Before the House resolve itself into the Committee of the Whole on the state of the Union, I ask the unanimous consent of the House to take from the Speaker's table a joint resolution of the Senate with regard to the custom-house at New Orleans. It does not make an appropriation of money, and it is a matter of urgent necessity that the resolution pass, or the building of the custom-house will have to be stopped.

Mr. HENDRICKS. I object.

Mr. HUNT. Will not the gentleman from Indiana withdraw his objection?

Mr. HENDRICKS. I will withdraw it.

Mr. JONES, of Tennessee. But I do not withdraw my motion to go into the Committee of the Whole on the state of the Union.

Mr. WITTE. I desire to submit a motion to suspend the rules, to enable me to take from the Speaker's table a Senate bill——

The SPEAKER. There is a proposition pending to suspend the rules for the purpose of going into the Committee of the Whole on the state of the Union, which supersedes that motion, and no other motion to suspend the rules is at this time in order.

The question was then taken on Mr. JONES's motion, and it was decided in the affirmative.

INDIAN APPROPRIATION BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HENDRICKS in the chair,) and resumed the consideration of the Senate amendments to the Indian appropriation bill.

The following Senate amendment being under consideration:

SEC. 5. *And be it further enacted*, That to enable the President of the United States to carry out in good faith the recent treaties with the Otoes and Missourias, Omahas, Delawares, Ioways, Sacs and Foxes of Missouri, Kickapoos, and the united tribes of Kaskaskias and Peorias, Piankeshaws and Weas, Shawnees, and Miamies, there shall be, and hereby is, appropriated the sum of $20,000, in addition to the appropriations heretofore made, for the execution of the surveys required by said treaties; and where the net proceeds of the lands ceded by either of said treaties are required to be paid over to the Indians, the President shall cause said lands to be classified and valued: and when such classification and valuation have been made to his satisfaction, he shall cause said lands to be offered at public sale, by legal subdivisions or town lots, at such times and places, and in such manner and quantity, as to him shall appear proper and necessary to carry out faithfully the stipulations in said treaties; and said lands shall not be sold at public or private sale for a less price than that fixed by the valuation aforesaid, till otherwise directed by law: *Provided*, That the President may order a new treaty to be made with the Delawares, Ioways, Weas, Peorias, Kaskaskias, and Piankeshaws, or such of them as he may deem necessary.

The first question before the committee was upon the following pending amendments to the same, recommended by the Committee of Ways and Means:

After the words "the President shall cause said lands," insert the words "or such parts thereof as he may deem proper;" and to insert, after the words "fixed by the valuation aforesaid," the words, "nor shall any land be sold at public sale at a less price than $1 25 per acre." And also to strike out the words "*Provided*, That the President may order a new treaty to be made with the Delawares, Ioways, Weas, Peorias, Kaskaskias, and Piankeshaws, or such of them as he may deem necessary."

The CHAIRMAN. The gentleman from Kansas [Mr. WHITFIELD] is entitled to the floor upon the amendments, but as he is not present the question will be taken, if no other person desires to discuss it.

The question was taken; and the amendments were agreed to.

The question then recurred upon the amendment offered yesterday by Mr. ORR, as follows:

Strike out the words "till otherwise directed by law," and insert in lieu thereof the words "for three years, and thereafter as may be directed by law, pursuant to the treaty."

The question was taken; and the amendment was agreed to.

The CHAIRMAN. The question now is upon concurring in the Senate amendment, as amended.

Mr. PHELPS. I desire to offer an amendment to the amendment. I move to strike out all after the word "treaties," in the ninth line, that is, all after the word "treaties" where it occurs the second time. That is the amendment which I intended to have offered yesterday, but was prevented by the committee taking a recess before the previous pending amendments were acted upon. I do not desire, however, to detain the committee now, as the remarks which I submitted yesterday to the committee were made in view of this amendment. I will only say that the amendment proposes to strike out all that part of the Senate amendment which relates to the valuation and classification of the lands which the Delawares, Ioways, Kickapoos, and other tribes of Indians, ceded in trust to the United States.

Mr. ORR. I hope the motion of the gentleman from Missouri will not prevail. If his amendment

is adopted, the effect of it will be to leave these Indians without the legislation which I attempted to show yesterday was so necessary to protect their rights and to carry out our treaty stipulation with them. I hope, therefore, his amendment will be rejected

Mr. WHITFIELD. In taking the floor at this time, on the pending amendment, I promise the committee, that I will not detain them long. It is known to the Committee on Indian Affairs that I have been opposed to this amendment from the time it was first introduced; and I desire briefly to state the grounds of my opposition to it. I am aware that in this opposition I have to contend against two or three committees of this House, and it therefore seems almost useless for me to occupy the time of the committee in the expression of my opinions. Yet I deem it my duty, as the representative of the people of Kansas—of a community of high-minded men—that I should repel some of the charges which were made upon them yesterday. The settlers upon the Delaware lands are charged in this House with having gone upon and occupied those lands without authority; in fact, with being trespassers, and acting in violation of law. Now, sir, what are the facts? A treaty was made with the Delaware Indians in May last. This House passed a preëmption law in July last. By this law settlers were invited into Kansas Territory. By both its spirit and letter they were told that they had a right to go and settle upon any lands in that Territory. That law contained no reservation of the Delaware or other lands, but its direct effect was to inform the settlers that they had the right to go and settle upon any lands in the Territory of Kansas.

Previous to making the treaty with the Delaware Indians, it is well known to those who reside in the western country that from the moment the organization of Kansas and Nebraska was spoken of, a large number of those living upon the western borders of Missouri and other States, were waiting anxiously to pass over into those Territories. It was soon announced that the bill organizing Kansas and Nebraska was passed; and, without any further announcement, these enterprising emigrants passed over into those Territories. Directly after, they learned, by the publication of your laws, that the preëmption law had passed, by which the people thought they had the right given to them to settle upon any lands in those Territories, for so the law itself expressly provides. This treaty with the Delawares was made in May, and ratified sometime in July or August. Before the publication of the treaty, however, the people of Kansas heard that Attorney General Cushing had decided that the settlers had no right to go there, notwithstanding they were already there under the published law.

In regard to this opinion of Attorney General Cushing, it does not, perhaps, become so humble an individual as myself to speak, as I can scarcely venture to put my opinion in opposition to that of so distinguished and learned an officer. But I will nevertheless say, that I do not concur in that opinion, without now entering fully into an explanation of the grounds of my opposition. If I had time, and a more favorable opportunity, I would do so, yet with becoming diffidence and respect. My present purpose will be accomplished by a statement of the leading points of difference between that opinion and my own.

By the Delaware treaty, as I understand it, the Government of the United States holds nothing in trust but the money to be realized from the sale of the lands. By the first article the Indians transferred their lands and vested the absolute right of soil and occupation in the United States. This was coupled with no condition, but left the lands subject only to the general legislation of Congress, to be governed, as to occupancy and settlement, by the general law Yet, notwithstanding this, the committee have come to the determination, at least I think they have, to pass this amendment. Now, what will be the result? Why, it would be this: that you will now exempt these lands from the general law and shut out from Kansas Territory the settlement of perhaps the very finest portion of that Territory. You will have one law for the people of that Territory, and another for all other citizens of the United States. You will leave your general law upon the statute-book, applicable to all other lands in the United States, but not applicable to these Delaware lands, upon which, by its very terms, you have invited these emigrants to settle. To say nothing now of the policy of such legislation as this, it may be well to inquire how far it is competent, under our form of Government, for the *treaty-making power* thus to impose conditions and restrictions upon the *law-making power*. The latter includes all questions of domestic policy, and when it acts it extends its authority over the whole Union. But the former embraces only questions of *foreign policy*, strictly speaking, and although what it does is the primary law of the land, yet it cannot, under the Constitution, exercise any *legislative* authority. It may bind the United States, as a whole, to a foreign Government or an Indian tribe, that it will do or not do a certain thing, but then the thing to be done or not be done must not be in conflict with the general and domestic law, it must not change or limit that law. That can only be done by the legislative department. As in the case I am now discussing, the general law, passed by both branches of Congress, extends the right of preëmption over all the lands in Kansas, yet this treaty, made by the President and Senate, limits this right to particular portions of the Territory. I submit that these are grave questions, into the full discussion of which I shall not now enter. But the mere presentation of them are well calculated to excite the inquiry, as to how far it is in the constitutional power of the President and Senate to limit and restrain the right of legislation which is lodged, not in the States merely, but in the people of all the States.

But what do you accomplish by this amendment, if it passes? You gain nothing, and do much injury to the settlers. You produce confusion that will neither benefit Indian nor settler. Mr. Chairman, I have done all that I could since I have occupied a seat upon this floor to promote the interest and secure the advantage of the settlers and Indians. I have said to them, as I now say to this committee, that the white settlers of Kansas are willing to pay a fair price for this land. Do you believe, Mr. Chairman, that the Government can sell it for more than $1 25 per acre? If that be the expectation of gentlemen, they will be disappointed—and yet you now propose to act under an impression that they will produce a much larger sum. And by thus acting you will impose hardships upon these settlers who did not receive proper notice of the Government before they went upon the lands of the restrictions which you are now seeking to impose. The people who went there in May and July went there and settled upon these lands as honestly as any men ever did elsewhere. There was no publication informing them that they had no right to go there until they had actually settled and put improvements upon the land. Deprive them of their land, and you take from them what has been purchased by their last dollar, and turn their wives and children out to endure the inclemency of the season in a wild country. In their name I ask for justice; nothing more. They do not ask the land as a gift, but they do ask that no more than a fair price shall be demanded for it. They do ask that, as they have been invited by the general law to settle upon these lands, that they may enjoy all the privileges and advantages extended to them by that law; and that they may not be deprived of rights common to all the other citizens of the United States. They are devoted to the Government, and I beseech you that you do nothing to weaken the confidence they now feel in the impartiality and integrity of your legislation.

Mr. NICHOLS. Mr. Chairman, I trust the motion of the gentleman from Missouri will not prevail. There is infinitely more in the question, if I am enabled to judge correctly, than either the gentleman from Missouri or the gentleman from Kansas are willing to admit in their remarks. For my own part, I say unqualifiedly that the whole matter is wrong. The question ought to have rested on the treaty with the Delaware Indians—on that alone; and to the inquiry as to whether it would have been advisable to attempt a forcible dispossession of the intruders upon the Delaware lands, I answer yes; that if the solemnly pledged faith of the Government, its treaty stipulations, are to be ridden down by any combination of men who seek personal advantage in so doing, that it is full time we should know it; but it also should be known that the Government sought to preserve its faith, in order that we should preserve our own self-respect.

Sir, what is this question? Last year, on the 6th day of May, we concluded a treaty with the Delaware Indians. I suppose that this, in common with other treaties, was concluded in anticipation of the passage of the far-famed Nebraska bill. Be this as it may, the treaty was made. The Delawares were but the feeble remnant of a once mighty nation. They had been pushed westward by the advancing tide of civilization, changing their location, from time to time, to suit the inclinations of our people, and undoubtedly they had been, from time to time, swindled and hardly dealt with; because, when they eventually determined to treat for their Kansas lands, it was upon condition only; a condition which they designed should protect them from wrong and injustice. What was that condition? Let us examine it, in order to understand this question properly:

"The United States hereby agree to have the ceded country (excepting the said 'outlet') surveyed, as soon as it can be conveniently done, in the same manner that the public lands are surveyed, such survey to be commenced and prosecuted as the President of the United States may deem best. And the President will, so soon as the whole or any portion of said lands are surveyed, proceed to offer such surveyed lands for sale, at public auction, in such quantities as he may deem proper, being governed in all respects, in conducting such sales, by the laws of the United States respecting the sales of the public lands; and such of the lands as may not be sold at the public sales, shall thereafter be subject to private entry, in the same manner that private entries are made of United States lands; and any, or all, of such lands as remain unsold, after being three years subject to private entry, at the minimum Government price, may, by act of Congress, be graduated and reduced in price, until all said lands are sold; regard being had, in said graduation and reduction, to the interests of the Delawares, and also to the speedy settlement of the country."

This, sir, was a clause in the treaty of the Delawares. It was further provided, that the act of March 3, 1807, providing for the forcible expulsion of trespassers upon Indian lands, should be extended over the Delaware lands ceded; and, to make assurance doubly sure, to secure absolute, undoubted protection, by the thirteenth article of the treaty it was provided, that if, in the chapter of accidents, anything more were necessary, Congress should legislate to secure these ends, and these alone. That we, the Representatives of the people, *whose faith had been pledged*, should carry out the letter and spirit of the treaty, *and do nothing inconsistent with it.*

Have we done so? No, sir! How does the matter stand? Precisely, sir, at variance with our treaty obligations. The trust lands of the Delawares are shingled over with squatters' claims. We have, in the Senate amendment to the bill under consideration, a practical abandonment of the treaty, authority conferred upon the President of the United States to make a new treaty, and the object, Mr. Chairman, is, that those who have occupied these lands in violation of law, may be protected in their trespasses. But, sir, the House has manifested its sense of justice by striking out of the Senate amendment this authority to make a new treaty, and the question comes upon the amendment of the Senate, as amended. I will read it, Mr. Chairman:

And be it further enacted, That to enable the President of the United States to carry out in good faith the recent treaties with the Ottoes and Missourias, Omahas, Delawares, Ioways, Sacs and Foxes of Missouri, Kickapoos, and the united tribes of Kaskaskias and Peorias, Piankeshaws and Weas, Shawnees, and Miamies, there shall be, and hereby is, appropriated the sum of $20,000, in addition to the appropriations heretofore made, for the execution of the surveys required by said treaties; and where the net proceeds of the lands ceded by either of said treaties are required to be paid over to the Indians, the President shall cause said lands to be classified and valued; and when such classification and valuation have been made to his satisfaction, he shall cause said lands to be offered at public sale, by legal subdivisions or town lots, at such times and places, and in such manner and quantity, as to him shall appear proper and necessary to carry out faithfully the stipulations in said treaties; and said lands shall not be sold at public or private sale for a less price than that fixed by the valuation aforesaid, till otherwise directed by law.

Now, sir, the gentleman from Missouri [Mr. PHELPS] moves to strike out that portion of the Senate amendment which provides for a valuation of these lands; and the gentleman from Kansas [Mr. WHITFIELD] concurs with the gentleman from Missouri, and urges the same proposition. Mr. Chairman, I hope this motion may not prevail, for I am satisfied, if it does, that gross injustice will prevail. I understand the gentleman from Kansas to say that we passed a preëmption law for his Territory, inviting emigration into it, and making no reservation of any lands

in the same; therefore, that those who had occupied the Delaware lands should be protected in their occupancy. I do not agree with the honorable gentleman, Mr. Chairman, and, with due deference to him, he will permit me to say, that I doubt if many others will. We passed a preemption law, it is true; but, sir, what did it operate upon? Simply, sir, upon such lands as we owned in fee, and not upon those lands which we had taken in trust for specific purposes, clearly and unmistakably pointed out by law. And does any one pretend that those who occupy these lands, had not sufficient notice of the risks they run? Why, sir, the plea of ignorance cannot be supported for a moment. I hold in my hand the report of the Secretary of the Interior in answer to the resolution of inquiry of this House of January 23d. Mr. Commissioner Manypenny asks of the Secretary of the Interior the following questions, August 8, 1854:

"Can settlers, under the authority of the act of July 22, 1854, make locations and obtain preëmption of the lands ceded by the Ioways, Delawares, Weas, &c.?

"Or, is the treaty the paramount law, and must it prevail?

"If these questions be answered adverse to the right to preëmption settlements on these cessions, there is still a view of the case which has been presented to me, and which, if once established in the mind of the settler, would effectually amount to a denial of a faithful fulfillment of the stipulations of these treaty provisions. It is this: That although the Government is bound to the Indians, by the treaties, to sell the lands at public sale, &c., and pay the proceeds of the sales to them, less the cost of surveying, managing, and selling, yet the preëmption law, as between the settler and the Government, may be considered in the light of a contract, and that the Government will be bound to give the lands alluded to to the settlers who comply with the law of July 22, 1854, at the sum of $1,50 per acre.

"Is this so?"

These interrogatories were submitted to the Attorney General, and on the 14th of the same month Mr. Cushing replies. After reviewing the whole question, he says:

"Not to observe a treaty is to violate a deliberate and express engagement. To violate such engagements of a treaty with any foreign power affords, of course, good cause of war. When Congress takes upon itself to disregard the provisions of any foreign treaty, it infringes the same in the exercise of sovereign right, and voluntarily accepts the *casus belli*, as when, in 1798, it annulled the treaties between the United States and France.

"There is a distinction, undoubtedly, between a treaty with a foreign Power and a treaty with Indians, who are subjects of the United States. Examples may be cited of acts of Congress which operate so as to modify or amend treaties with Indians. As their sovereign and their guardian, we have occasionally assumed to do this, acting in their interest and our own, and not in such case violating engagements with them, but seeking to give a more beneficial effect to such engagement; for, though they be weak, and we strong, they subjects, and we masters, yet they are not the less entitled to the exercise towards them of the most scrupulous good faith on the part of the United States.

"It is not to be inferred, because Congress may in some cases have modified by legislation this or that incident of Indian relations for their benefit, or under paramount political exigency, that, therefore, Congress intended, before the ink had become dry on these treaties with the Delawares, Ioways, and Weas, to violate those treaties, and to do this deliberately and wantonly for the petty object of enabling a few individuals to obtain lands at the minimum price rather than at the price of public sale, and so to inflict a wrong and a loss to that amount, on the Indians.

"I feel entire confidence in the belief that Congress had no such discreditable intentionin fact, and assurcdly, such is not the legal intendment of the act of Congress.

"As for the idea suggested in behalf of these individuals, that the act of Congress raises a contract between the settlers and the Government, it is a singular obliquity of vision which perceives a contract in that act, and fails to see any in the several treaties with the Indians. The obvious answer to the suggestion is, that no implication of legislative contract between the Government and individuals can be raised by a mere violation of law.

"In fine, my opinion is, that the act of Congress gives preëmption only in such of those lands ceded as are not required first to be offered at public sale; that the lands ceded by the Delawares, Ioways, and Weas, under condition of being first offered at public sale, are no more opened to preëmption by the act of Congress, than was the military reservation at Fort Leavenworth; that those lands cannot be taken up by settlers under claim of preëmption; and that all claims of preëmption there will be merely void in law, and will confer no right, now or hereafter, on which to demand the issue of a patent from the Commissioner of Public Lands.

"Moreover, it will be the duty of the President to maintain, by force, if need be, the plighted faith of the United States in this behalf."

And this decision, Mr. Chairman, went into the Territory at the heels of the preëmption law. Can it be possible, then, sir, that any person was misled by that law. I think not, sir. I am confident none were misled by it, and I am the more confirmed in that opinion by the correspondence I hold in my hand.

But what will be the effect of the motion made by the gentleman from Missouri? It will place all these lands in the hands of those who have squatted upon them, at nominal prices. We all know, sir, how these matters are conducted? Publish your land sale! Let it be understood that the lands may sell without valuation, and what will be the effect. What western man does not understand squatter law? Why, sir, hundreds of claims will be log-rolled together, and under the "you favor me, and I'll favor you" system, and the perils attending adverse bidding, not an acre of these lands will bring over $1 25. And the gentleman from Kansas says you cannot sell lands for more than $1 25 per acre, and experience has demonstrated it. I cannot concur in such opinion, Mr. Chairman. Experience, at least my experience, has demonstrated other things. But be this as it may, I have no disposition to argue any such question. The treaty says that an effort shall be made to sell them for more; we have pledged our faith to attempt to sell them for more. I insist upon the reaty. I insist upon the effort to sell as we agreed to sell.

But how are we to understand the gentleman from Kansas? Cannot these lands be sold for more than $1 25 per acre. Let me recur again to the answer of the Secretary of the Interior to our resolution of inquiry. I find there letters from certain Indian agents to the Commissioner of Indian Affairs. Let me quote two of them:

POTTAWATOMIE AND KANSAS AGENCY,
November 7, 1854.

SIR: I deem it my duty again to call your attention, and that of the Commissioner of Indian Affairs, to the subject of the half-breed Kansas reservations. Speculators are traveling through the Territory purchasing from the half-breeds their reservations of land; taking their deeds without any other consideration than promissory notes, payable when the President confirms the sale. In some instances the notes given for the deeds are only for four and five hundred dollars, making the consideration at the rate of sixty and seventy cents per acre, whereas the lands can be sold at any moment for six or seven dollars per acre.

G. W. CLARKE.

G. W. MANYPENNY, *Commissioner of Indian Affairs.*

And, again, Mr. Chairman, in the same document, I find the following from the gentleman from Kansas himself, dated November 6, 1854:

"Pardon me for meddling with, perhaps, other men's business. Recent transactions have taken place here, that I believe, as an officer of the Indian Department, it is my duty to let you know; and what I state I am willing for you to let the President see, as I shall make no statement but what can be well substantiated. Governor Reeder reached Fort Leavenworth a short time ago, remained five days, and left, as was reported, on an exploring expedition; but instead of that, it turns out that his object was to buy land claims and to have others made. He went to the Pottawatomie nation, where he remained about a week. During that time he was engaged in purchasing Kaw half-breed claims at less than half their value, say $2 50 per acre, taking their deeds, and giving notes payable when the President confers the title; in addition to that, he has had thirteen claims made on this land, (paying five dollars for each foundation.) His having claims located, has induced others to follow the example of his excellency, and at this time I suppose every foot of this land is taken." * * * *

"It is certainly a very bad example for the Governor to be setting. Instead of sustaining the President in treaties that have long since been made, he is the first man to give him trouble. I desire to see those Indians get a fair price for their land." * * * * "I have no money to buy, which you well know; but to show and prove what I have said about his not paying more than half price, I am authorized by a company of gentlemen to say to you, and desire you to say to the President, that they will give five dollars per acre for the twenty-three sections owned by the half breed Kaws. I do not advise you to consent to their having the land at that price—I merely want to show that men (not Governors) will give each one $1,500 more than the Governor proposes.

"I presume the deeds for the land will reach Washington in a few days, and if the President is aware of the facts I have no idea he will think of confirming the contracts."

Now, sir, I desire the country to know how the gentleman from Kansas wishes to be understood. Are these lands in Kansas, protected by treaty stipulations, worth more than $1 25 per acre? Let the extracts above cited answer the question. Mr. Chairman, can we doubt that many of them are worth five times that sum? I do not doubt it. Mr. Clarke did not doubt it. The gentleman from Kansas, himself, did not doubt it, while an officer of the Indian department. Then, why can they not be sold for more than $1 25 per acre? Do gentlemen doubt the power of the Government to enforce its treaty faith and its laws? Do they believe that private combinations are stronger than the Constitution and laws? I know of no other conclusion to adopt, Mr. Chairman, in the consideration of the question.

Sir, let us meet this question properly. Let us try to do right. There is merit in that, at least, and if, unfortunately, we are compelled to succumb to wrong and injustice, let us have, at least, the approval of consciences void of guilty intent. I think, sir, the history of this whole Delaware transaction a singular one, an unfortunate one, sir, to give it no harsher name. Scarcely was public attention turned to Kansas, before speculation, wrong, and trespass followed. I think, with the gentleman from South Carolina, [Mr. ORR,] that humanity requires us to act.

In the first place, sir, you call to this metropolis of your nation the chiefs and head men of a once mighty nation. You ask them to cede their homes, and to become again God-forsaken wanderers upon the face of a country upon which they once had more power than yourselves. They were once mighty; they are now feeble; and when, half-starved and ill-clad, they had answered your call, and stood here with the symbols of your power and greatness around them, they asked of you only protection, only for the boon of living in peace, and dying without being impoverished by injustice. Their minds were filled with doubt and with distrust. Examples were not wanting to point out to them the unerring consequences of our confidence. They did not wish to wander again. They had no hope but in civilization. They had experienced some of the benefits of civilized life; they desired to know more of it. They hesitated many days, and finally treated; in what manner, and upon what condition, has been already developed. They treated, and returned to their homes. Speculation followed apace. It coiled around and about the nation, and but a few months after we had solemnly pledged our faith to these weak and dependent Indians, we are asked, for individual advantage, to break our word with them, and to admit our incapacity to make good our treaties. Sir, to me this is mortifying in the extreme.

Mr. Cushing says, in his opinion of the 14th of August last:

"Moreover, it will be the duty of the President to maintain, by force if need be, the plighted faith of the United States in this behalf."

Sir, if this was the duty of the President, I much regret that it was not exercised at the proper time; and just men throughout the whole country will have ample room to wonder why the Executive of the nation did not exercise the power given him by law, when it was first apparent that these trespasses were commencing. Certainly ignorance cannot be plead in extenuation, for as early as September 26, 1854, an officer, the chief of the Indian Bureau himself, called the attention of the Executive to what was passing in Kansas, being himself upon the ground, and an eye-witness to the proceedings there.

The repeated solicitations of this officer have evoked no response. No efficient interference has been the result of the repeated and urgent representations of that honest and capable officer. Far from it; so far, indeed, that, if we may trust the correspondence to which I have so frequently alluded, the only effect of the interference of this gentleman, honestly desirous of discharging his duty, has been to call down upon his head the bitterness and abuse of those implicated in these unlawful acts. The military, Mr. Chairman, in Kansas—certain officers stationed there *to execute laws, and not to violate them*—have appeared in this conflict, and, with sword and shield hung upon the willow, in these piping times of peace, they have magnanimously turned from the duty of drilling and maneuvering to the less onerous and more profitable field of speculation.

But, sir, wherever the wrong is, and by whom committed, it is proper to rebuke it. For my own part, I believe, if there was neither an officer or soldier sent into the Indian country, and very few left in any branch of the national service, it would be infinitely better for the country at large—her reputation, and her finances. But, sir, if Army officers are to become speculators in town sites; if they are to become concerned in the occupation of Indian lands, without the color of law, I shall still insist that their privileged faces shall not be turned with contempt against the civil authority, that they shall not abuse civil officers in the service of the Government, unless their hands are clean in the meanwhile. Nor, sir, do I imagine it contributes in a very great degree to the honor or glory of our country, when civil officers, sent into our Territories "to execute laws, and not to violate them," are the first to set the example

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of purchasing Indian lands, for a mere nominal consideration, and in contravention of law.

I had hoped, sir, for a full discussion of this question; but the pressure of public business has prevented it. Let us then, sir, in our action upon this amendment, maintain our plighted faith.

Mr. DISNEY. The gentleman from Missouri [Mr. PHELPS] has moved to amend, by striking out a portion of the Senate amendment. Now, sir, for the purpose of enabling me to submit a few remarks upon the subject of that amendment, and to conform to the rules of parliamentary law, I move to amend the words proposed to be stricken out. I move to amend by striking out the word "public" in the fourteenth line, so that the clause will read: "He shall cause such lands to be offered at sale." Now, sir, in the five minutes to which I am entitled, I will endeavor to speak as rapidly as possible.

The CHAIRMAN. The gentleman from Ohio is only entitled to three minutes.

Mr. DISNEY. If the Chair gives that construction to the rule, I will take my seat at once. I desire to know why I am not entitled to five minutes?

The CHAIRMAN. The gentleman from Ohio occupied about three minutes before he submitted his amendment.

Mr. DISNEY. I occupied no time in discussion. I understand the rule to allow a member five minutes to speak upon his amendment.

The CHAIRMAN. The Chair will give the construction to the rule which he has already indicated.

Mr. DISNEY. I simply desire to state that the amendment which came from the Senate was an amendment which originated with myself. As chairman of the Committee on Public Lands, it became my duty to investigate the facts connected with this case. The result of my investigation is given in the amendment which came from the Senate, and is now under consideration; which amendment I had the honor to submit to the gentleman from South Carolina, the chairman of the Committee on Indian Affairs, who gave it his concurrence, and also to present it to the Committee on Indian Affairs, in the Senate; which committee also concurred in it. It was inserted by the Senate in this bill, as a matter of policy to save time, rather than to introduce an original bill for the purpose.

Now, sir, the facts of the case were substantially stated on yesterday by the gentleman from South Carolina, [Mr. ORR.] It is perfectly evident that these men are trespassing upon the rights of the Indians. They are under no legal authority whatever. And this amendment is intended simply for the purpose of protecting the rights of the Delaware Indians, who this Government has covenanted by solemn treaty stipulations to protect. The object of the amendment, requiring these lands to be appraised and placed at public sale at their valuation, is to protect the rights of the Indians against an organization which, if it does not already exist, will be made to defeat entirely the objects of a public sale at a fair valuation of these Indian lands.

So far as the reasoning of the gentleman from Kansas is concerned, or so far as any reasoning coming from whatever quarter it may, to show that these parties upon the lands of the Delawares are not trespassers there, I do not think it necessary to say a single word in reference to it. There is not a lawyer in the land, I apprehend, of any standing, who will not sustain the Attorney General in the opinion he has given upon this subject. Sir, they are there in violation of treaty stipulations, and in violation of the rights of the Indians themselves.

Sir, this amendment, as I stated, had its originality with myself; but, sir, it has the approval of the Committee on Indian Affairs in this House, of the Committee on Indian Affairs in the Senate, of the Secretary of the Interior, of the Land Office, and of the Bureau of Indian Affairs. And, sir, no scheme has been devised by which the rights of those Indians can be protected except that indicated in the amendment now before us.

Mr. ORR. Without the proviso?

Mr. DISNEY. Certainly, without the proviso. That was placed there in the Senate, and with it I had nothing to do. It will be perceived that the amendment provides not only for the ordinary legal subdivisions of land, but also for town lots; for these parties have not only taken possession of the ordinary farming lands, but they have also laid off town lots for the purpose of furnishing building sites.

[Here the hammer fell.]

Mr. WHITFIELD obtained the floor.

Mr. PHELPS. I rise to a question of order. I desire to know how another amendment can be offered to the amendment submitted by me? My amendment was an amendment in the second degree.

The CHAIRMAN. The amendment of the gentleman from Missouri moved to strike out a portion of the forty-fifth amendment of the Senate; the gentleman from Ohio proposed to perfect the portion proposed to be stricken out, which was in order.

Mr. PHELPS. Then I have no question to submit.

Mr. WHITFIELD. I desire to say a word in reference to the proviso which the Senate inserted at the end of their amendment. It was at my suggestion, sir, that that proviso was put in. I requested a friend in the Senate to procure its insertion, which he did. And, sir, permit me to say, that it is a matter of considerable importance that it should be inserted. It is, in my opinion, the only way by which we can prevent difficulty in that Territory. I say, sir, that it was at my suggestion that this proviso was inserted, and I am responsible for it. The gentleman from Ohio has referred to certain town lands taken by these parties. I presume he has reference to the town of Leavenworth.

Mr. DISNEY. Yes, sir.

Mr. WHITFIELD. Well, sir, I will say to the gentleman from Ohio, that it is a question whether Leavenworth is included in the Delaware lands or not. Sir, some of the ablest lawyers in the city of Washington have given it as their opinion that it is not. And furthermore, the gentleman from Ohio says that there is no lawyer of standing in the country who would not concur with the Attorney General in the opinion that those people occupying the Delaware lands are trespassers. I desire to state to the gentleman from Ohio that there are lawyers—yes, sir, and some of the best lawyers in the city of Washington—who say they are not trespassers, but have the right to settle there.

And still further, I desire to say that I have never learned that the opinions of the Attorney General are the law of the land. In my view, his opinions should be regarded as of no higher importance than those of other able lawyers in the country, and of no higher importance than the opinions of some of the able lawyers who have given it as their opinion that, by the treaty with the Delaware Indians, the preëmption laws of the United States are extended over their lands, and that these men had a perfect right to go there and settle as they have done.

But, sir, I will consume the time of the committee no longer. I will only say that, if you establish the value of these lands at a price higher than the people of the Territory are willing to pay, the result will be the same in Kansas as it was in Michigan, where the lands remained for years in the market. Sir, the day has gone by when the people will pay more than $1 25 an acre for land. These Indians do not expect any more; they do not want any more, and we do not intend to give any more.

Mr. DISNEY. I withdraw my amendment. I merely offered it, as I stated at the time, for the purpose of being able to submit some remarks in order.

The question was then taken on Mr. PHELPS's amendment; and it was disagreed to.

The forty-fifth amendment of the Senate, as amended; was then concurred in.

Forty-sixth amendment of the Senate:

SEC. 6. *And be it further enacted*, That there shall be appointed, as now provided by law, an additional agent, at the annual salary of $1,000, to reside among the Kansas Indians, as required by the sixth article of the treaty of January 14, 1846, and to be charged with the duties therein specified, and to continue as long as the President may deem such agency to be advantageous to the said Indians; and also one other agent for the Kickapoos, at the same salary and upon the same tenure.

Mr. HAVEN. The Committee of Ways and Means recommend a concurrence in that amendment, with an amendment, which is to strike out the words "and also one other agent for the Kickapoos, at the same salary and upon the same tenure."

Mr. ORR. Before the vote is taken upon that proposition I desire to offer an amendment to the words proposed to be stricken out. My amendment is as follows:

After the word "Kickapoos," strike out the words "at the same salary," and insert in lieu thereof "at an annual salary of $1,500."

The amendment of the Senate, as it now stands, proposes that the salary shall be $1,000. This Kickapoo agent disburses annually a sum of some $60,000 or $70,000 among the Indians.

At the present time, this agent is not only supervising the Kickapoos, but some other tribes; and he is removed a considerable distance from the Kickapoos—some forty miles. The Kickapoos are surrounded entirely by whites, and it is necessary, in my judgment, and in that of others who have looked into this matter, that the agent should reside within the limits of the agency, for the purpose of protecting the Indians against the frauds and impositions that may be attempted upon them by the whites; and also for the purpose of protecting the whites against the depredations which they might be inclined to commit. Whilst I am not very solicitous on the subject, I think that the clause ought to be first amended and then retained.

Mr. HAVEN. One word in reference to this matter. The proposition of the gentleman from South Carolina is, in substance, to amend this provision which gives an agent to the Kickapoo Indians; and he proposes not only to do that, but to increase the compensation from what the other agents get, and what agents generally get, and which is $1,000 to $1,500.

Mr. WHITFIELD. Will the gentleman allow me to say a word?

Mr. HAVEN. Certainly.

Mr. WHITFIELD. I merely desire to say that the agent of the Kickapoos is removed from them some forty miles, and that it is impossible for him to discharge his duty living so far from them. In addition to that, I will say that the amendment proposed by the chairman of the Committee on Indian Affairs is the amendment of the Senate as it was adopted; but a mistake was made in the enrollment of the bill.

Mr. HAVEN. I defer always with a great deal of pleasure to the judgment of my friend from South Carolina in these matters, but I must be allowed to say that I do not see the reason first for duplicating the agency, and then adding fifty per cent. to the salary—raising it from $1,000 to $1,500. Now, it may be, and, from the information which he and the Delegate from Kansas give us, it very likely is true, that there ought to be another agency, although we ought to look into that with a little care. But if there is another agency created—even though the agent may have charge of $70,000—is that any reason why, when the work is decreased, the salary should be increased $500?

Now, I hope that—although this is not a matter of very great consequence—if these offices are duplicated in this way, the amendment of the gentleman from South Carolina will be voted down, leaving the two agents on the same footing as to salary—$1,000 a year.

Mr. ORR. While it is true the agents have been duplicated, the work has been greatly increased. Heretofore the agents for the Kickapoos distributed but a few thousand dollars—a small

sum—among them. But, by the late treaty, negotiated with them last summer, they are entitled to receive between $60,000 and $70,000 a year, which increases the responsibility of the agent. It is a very great responsibility to impose upon a man—in addition to his other duties as Indian agent—for the compensation of $1,000.

Mr. HAVEN. I only desire to say, in reply to the remarks of the chairman of the Committee on Indian Affairs, that the agent is bound, for his present salary, to give us his best energies, and care, and responsibility for the discharge of all his business as Indian agent. Can he now give us energy, and care, and responsibility beyond that for $1,500 a year?

I should like to inquire, if this agency be duplicated, and a larger amount of money distributed among the Indians than formerly, how that imposes upon the agent additional responsibility? We do not pay him for responsibility. We pay for his time and labor, and not for his responsibility.

[Cries of "Question!" "Question!"]

Mr. WHITFIELD. I would ask to say a word in reply——

The CHAIRMAN, (interrupting.) Debate on the amendment is exhausted.

Mr. WHITFIELD. I ask the unanimous consent of the committee to say one word in reply to the question of the gentleman from New York.

Objection was made.

The question was taken on Mr. ORR's amendment; and it was not agreed to.

Mr. WHITFIELD. I now move to amend by fixing the salary at $1,499.

I desire to say, that it is proposed to make a new agency for the Kickapoo Indians, who formerly were comprised in the agency of the Ioways, and Sacs, and Foxes. This is necessary, as the Kickapoos have been removed some forty miles from their agent, and as their annuities have been increased by the sale of their lands, last year, to some $60,000 or $70,000. It is absolutely for their protection that the agent should reside among them. The rule which applies to the Delawares should also properly apply to the Kickapoos; and we should not ask an agent to attend to all of this business for the salary of $1,000.

The question being on the adoption of Mr. WHITFIELD's amendment,

Mr. WHITFIELD. I ask leave to withdraw my amendment.

There being no objection, the amendment was withdrawn.

Mr. ORR. As the committee has indicated an unwillingness to increase the salary of this Indian agent beyond the $1,000, by the vote which has been taken on my amendment, I do not feel called upon to press that question on the committee a second time. But I hope that after the explanation made, the gentleman from New York [Mr. HAVEN] will not press his amendment to strike out this additional agency.

Mr. HAVEN. The amendment which I proposed would strike out the additional agency. If it is the judgment of the Committee on Indian Affairs that that additional agency be created, I do not wish to press my opposition to it.

The CHAIRMAN. Does the gentleman from New York withdraw his amendment?

Mr. HAVEN. No. I cannot withdraw it. It is a proposition from the Committee of Ways and Means.

The question was taken; and Mr. HAVEN's amendment was not agreed to.

The question recurred on the Senate amendment, and it was concurred in.

Forty-seventh amendment:

SEC. 7. *And be it further enacted*, That there shall be appointed, as now provided by law, an additional Indian agent, whose salary shall be $1,500 per annum, and who shall be assigned, for such time as the President may deem necessary, to the Delaware Indians; and the agents for the Kansas, Great Nemaha, and Osage agencies, shall hereafter receive the annual salary of $1,500, in lieu of the salary now allowed by law.

Mr. ORR. I propose to amend the sixth line of that amendment by inserting, after the word "Osage," the word "river," so that it may read, "and Osage river agencies." That will properly describe the agency.

The amendment to the amendment was adopted.

Mr. HAVEN. The Committee of Ways and Means agree to concur with the Senate amendment.

The question was taken; and the amendment, as amended, was concurred in.

Forty-eighth amendment:

SEC. 8. *And be it further enacted*, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized to allow the paymasters of the United States Army, who served as such in Mexico during the war with that Republic, commissions of one and a half per cent. on all moneys collected or received, and paid over by them into the Treasury of the United States, arising from duties on imports, and from internal assessments and taxes in Mexico during that war: *Provided*, That no commissions shall be allowed on any such sums of money so collected or received, on which commissions have heretofore been allowed to any other collector or receiver, or other officer of the United States.

Mr. HAVEN. The Committee of Ways and Means recommend concurrence in that amendment.

Mr. PHELPS. I wish to make a suggestion with reference to this amendment, before the vote is taken.

The CHAIRMAN. Does the gentleman from Missouri propose an amendment?

Mr. PHELPS. Yes; I propose to amend by striking out the proviso. Although this amendment, Mr. Chairman, was not in the Indian appropriation bill when it was reported, yet, in the opinion of the Committee of Ways and Means, the amendment is not wrong. You have provided for the compensation of all the officers of the United States Army who were engaged in the collection of military contributions during the invasion of Mexico, with the exception of some two or three officers. These are officers of the pay department.

This amendment proposed by the Senate merely extends the existing laws so as to embrace paymasters, the provision which I have moved to strike out, but which I desire to retain, providing that no double commissions are to be paid. The opinion of the Committee of Ways and Means at the time was, that this was an improper bill to place this in; but I believe my colleagues on that committee will bear me witness that that was the objection made to it. I therefore desire that the committee will do this act of justice to these two or three officers of the pay department, by placing them on the same footing with other military officers engaged in the same service. It merely metes out justice to them.

Mr. HAVEN. I only represent the committee of which I am a member, in saying that I do not concur in the amendment of the Senate. I think that this committee ought not to concur in the amendment. It is true, as was suggested by the gentleman from Missouri, [Mr. PHELPS,] that this amendment is in the wrong bill, and in the wrong place, but that fact will not control my action in reference to this matter. The paymasters of the United States Army stand upon a little different footing from the other officers. I do not desire to call the attention of the committee to the fact whether these moneys have been tolled before in the other hands through which they have passed. If we pass the amendment of the Senate we may just as well surrender all kind of control over the military contributions and other moneys that were collected during the war with Mexico. My friend from Missouri says that this will be the last application of officers for a percentage on these moneys; but you and I, Mr. Chairman, have heard, time and time again, when provision for a class of officers in reference to these moneys has been made, that it was to be the last one. Sir, that last one has never yet arrived. I care not to trouble the committee with any further remarks, only to reiterate what I have already said, that the Committee of Ways and Means recommend a non-concurrence in the amendment, for the reason that they consider it to be put in the wrong place and in the wrong bill. With this explanation, if the committee are willing to vote for it, I have no objection, but I cannot myself vote for it.

Mr. GREENWOOD. I desire the attention of the gentleman from New York for a moment. I would ask the gentleman what would be the probable amount of money appropriated if the amendment of the Senate should be adopted?

Mr. HAVEN. As to that matter I have no particular information. I know that the amount collected in California was about $1,400,000. What the amount was which was collected in the City of Mexico, and other places this side of there, I do not know; nor do I know of any officer connected with the General Government who can tell.

Mr. PHELPS. I withdraw my amendment.

The question was then taken on concurring with the Senate amendment; and it was decided in the negative.

So the amendment was non-concurred in.

The forty-ninth amendment was then read, as follows:

SEC. 9. *And be it further enacted*, That the laws of the United States punishing the crimes of forgery, or of depredations upon the mails of the United States, be, and the same are hereby, extended to, and declared to be in full force in, the Indian country.

Mr. HAVEN. The Committee of Ways and Means recommend a concurrence in that amendment.

The amendment was concurred in.

The fiftieth amendment was then read, as follows:

SEC. 10. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized and directed to pay to Jean Baptist Faribault, and Pelagie Faribault, his wife, the sum of $12,000, with interest thereon from the 12th of March, 1839, in full payment of their claim to the island at the confluence of the rivers Mississippi and St. Pierre, and on which Fort Snelling now stands.

Mr. JAMES C. ALLEN. I move to strike out the amendment. I do not see why this private claim has been ingrafted upon an Indian appropriation bill. I presume it is a claim for property taken by the Government for some purpose, and, like all other private claims, it seeks a reimbursement for losses sustained. I am opposed to this principle of ingrafting claims of individuals upon bills of this character.

Mr. STRAUB. I ask that the report of the Senate committee upon this subject be read. It will explain this whole matter.

Mr. HAVEN. The Committee of Ways and Means recommend a non-concurrence in the amendment, which would be exactly in accordance with the views of the gentleman from Illinois.

Mr. BRECKINRIDGE. I propose to reduce the amount one dollar. I agree with my friend from Illinois, [Mr. ALLEN,] that we ought never to provide for a private claim in a general appropriation bill; and although our rules cannot control the Senate, yet if we can properly criticise the action of that body, we might say the same as regards their legislation. There was no objection in the Committee of Ways and Means as to the merits of the claim, but the objection to it was founded upon the fact that it was a private claim provided for in a general appropriation bill. My attention was called to this matter, and I went over to the Senate and had a conversation with the gentleman (the Hon. JOHN BELL, of Tennessee,) who was the Secretary of War during a part of the period covering this transaction. From him I heard the following statement, which seems to be fortified by the papers I have seen, and which takes it out of the class of private claims, and makes it rather a public claim.

In 1838 the Sioux Indians made a treaty with the United States for the sale of their lands. They set apart, however, a little island at the confluence of the Mississippi and St. Peter's rivers, containing about three hundred acres, which were not to be embraced in the treaty. Mr. Poinsett, who was the then Secretary of War, made an agreement with them that it should be reserved to them; and it was stipulated on the part of the Government, that their title should remain undisputed. Congress next year passed a resolution directing the Secretary of War to make a contract with Jean Baptist Faribault and Pelagie Faribault, his wife, for the purchase of the island, subject to the ratification of Congress. Mr. Poinsett did make the contract to purchase it, in March, 1839, for $12,000, and he recommended Congress to make the appropriation. The bill for that purpose passed the Senate, but failed in the House, as Mr. Poinsett says in his letter, for want of time. It was stipulated in the contract, that if the appropriation was not made at the next session of Congress, the contract should be declared void. The appropriation was not made, but, so far from the contract being declared void, the United States have held, and still hold, the property in their possession. The facts in the case then are, that there was an island set apart by these Indians for themselves, and so recognized by solemn treaty; that there was a resolution passed by Congress directing the Secretary of War to make payment of $12,000 for it when purchased from the Indians, and that the Government have built a fort upon the island, which they still retain in their keeping.

The title of the Indians to this property is undisputed, and I think that we should make this appropriation of $12,000, to carry out the contract made by the Secretary of War with them for the purchase of their lands. I am satisfied, and I think that every member of the committee was satisfied, that their title to these lands was undisputed.

Mr. ORR. I would ask the gentleman from Kentucky [Mr. BRECKINRIDGE] if this claim has ever been presented to any committee of this House—the Indian Committee or any other committee, especially during the present session?

Mr. BRECKINRIDGE. I am not aware that it has. I stated when I rose that, for the purpose of informing myself about this matter, I had had a conference with the honorable Senator from Tennessee, [Mr. BELL,] who was Secretary of War during a portion of the period covering this transaction; and he gave me the facts which I have narrated in the hearing of the committee.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. STRAUB] desires that the report of the Senate committee upon this subject shall be read.

Mr. EASTMAN. I object.

Mr. BRECKINRIDGE. I was only going to add that it was a bill which had passed the Senate, and there is a Senate report.

Mr. HAVEN. I desire to give the committee all the information I have upon the subject. This matter, when before the Committee of Ways and Means, received, as has been suggested by my friend from Kentucky, some consideration at their hands. But my recollection is, that the consideration which it there received was in reference to the question whether or not this was a proper bill to which to attach it. I think no member of the committee went into a particular examination of the propriety or validity of the claim. I think that is so.

Mr. BRECKINRIDGE. My recollection is, that my friend from New York remarked in committee that he did not think this matter proper as an amendment to the Indian appropriation bill; but that he would offer it in the House, and would move to suspend the rules to pass it. My friend from Massachusetts over the way, also said the same thing.

Mr. HAVEN. My friend from Kentucky is right to a certain extent. Upon the communication being made to the committee of the information which the gentleman has made here to-day, and upon the suggestion being made that this was not the proper place for it, I said, if the statements made about it were correct, I would be willing to take the course which the gentleman has referred to. I believe I am right about that. But, as I stated before, the validity of this claim was not, as I am aware, examined by the committee. I have learned this morning all I have ever known as to the validity of this claim; and from what I heard this morning I have learned these facts: In 1839, Mr. Poinsett, being Secretary of War, a conditional contract was made for this island, by which contract this man Faribault, and Pelagie Faribault, were to be paid $12,000 for this island, provided the said agreement should be ratified by the Congress of the United States, according to the provisions of a joint resolution passed the 13th of February, 1839; and provided, further, that an appropriation of said sum of $12,000 should be made to carry the said agreement into execution, which appropriation the Secretary agreed to recommend and ask for at the then next session of Congress. And, in consideration of what I have stated, the said Faribaults agreed they would, before the said sum of $12,000, or any part thereof, should be demanded or received by them, deed the said island to the United States. And it was further provided by said conditional agreement, that, unless it was ratified by Congress at the next session thereafter, and an appropriation be then made, its execution should be void and of no effect.

I have not examined to see if Congress ratified the agreement as provided by the contract; but it is quite certain that it failed to make the appropriation, and, by the terms of the agreement, the contract was, therefore, at an end.

There is one other fact, however, not mentioned by my friend from Kentucky, and which may have considerable effect upon the minds of this committee. I am informed, and believe it to be true, that after the failure of Congress to appropriate, as required by the contract, to prevent it becoming void, Mr. Poinsett advised the Faribaults, or their agents, by letter, that they had better not treat the contract as at an end, that he did not regard the action of Congress as conclusive upon the subject, and that he would call the attention of Congress to the matter again. The attention of Congress was called to it by Mr. Bell, whilst Secretary of War, and perhaps by others, but Congress has failed to act from that time down to the present.

I will say further, that I have no knowledge as to what right or title the Faribaults ever had to the island. Perhaps this Government ought to be estopped from denying that they had title, owing to its former action in reference to it, and its contract with them on the assumption that they had title.

But there is another suggestion in reference to which this committee had no knowledge, unless some gentleman besides myself had it. I do not know what has been done with the island since, nor where these Faribaults are.

Mr. BRECKINRIDGE. I do not know where they are, or whether they are alive; but I am informed by the Senator from Tennessee—who gave me all my information upon the subject—that the island, from that time to this, has been in the possession of the United States, and that the Government has erected a fort upon it.

Mr. HAVEN. I am free to say *that* would have some influence upon my own judgment in the examination of this claim, if I were to enter upon the examination of it. But I have entered upon no such examination, and I only say to this committee now, so far as I am concerned, and so far as the Committee of Ways and Means are concerned, as far as I know, that the conclusion of the Committee of Ways and Means was arrived at from statements made to them by gentlemen now upon this floor, and by members of the Senate, as stated by my friend from Kentucky. The Committee of Ways and Means did not undertake to examine into it. They regarded it as a private claim. I do not think it ought to be here. If the committee think otherwise they can vote to concur with the Senate, and keep it in the bill.

Mr. STRAUB. I propose to amend by increasing the appropriation one dollar. I now ask that the report I handed up to the Chair may be read as a part of my remarks. I do not understand the matter as well as the gentleman from Kentucky, but I think the report will throw some light upon it.

The report was read, as follows:

"On the 13th February, 1839, Congress passed a joint resolution authorizing the Secretary of War 'to contract with J. B. and Pelagie Faribault for the purchase of the island at the confluence of St. Peter's and Mississippi rivers, and to report his proceedings to Congress, subject to their approbation or rejection.' In compliance with the authority thus granted, the Secretary of War, on the 12th day of March, 1839, entered into an agreement in writing with the attorneys of the petitioners for the purchase of the island for the sum of $12,000, and asked from Congress an appropriation for that amount to enable him to make the purchase, but the requisition was made too late for the action of Congress.

"In January, 1840, the Secretary of War communicated to Congress the contract entered into with the representatives of the Faribaults, in conformity with the requirements of the joint resolution of February 13, 1839; and in July, 1840, in a letter addressed to the Senate Military Committee, the Secretary says: 'In my opinion, the possession of the island at the confluence of the Mississippi and St. Peter's rivers is necessary to the police discipline and security of the post on the Upper Mississippi.

"'From the testimony of disinterested persons, I consider the value of that island to be not less than $10,000, nor to exceed $12,000.'

"In the same month, (July, 1840,) the Senate passed the appropriation of $12,000 for the purchase of the island, but it was lost in the House of Representatives, with several other amendments to the appropriation bill, on the last days of the session.

"On the 2d September, 1842, Secretary of War, (Bell,) writing to the Speaker of the House of Representatives, says: 'I am induced to recommend the claim to the favorable consideration of Congress, and to ask that an appropriation be made of the sum of $12,000, for the purpose of paying for the island, &c., &c., in fulfillment of the contract of March 12, 1839.'

"The petitioners now pray that the justice so long delayed may be done them. The Government has had possession of this island since the 12th March, 1839, under the contract with the Secretary of War, and upon this island Fort Snelling now stands.

"The committee are unanimously of the opinion that the appropriation ought to be made for $12,000, with interest thereupon from the date of the contract, to be paid to the petitioners in payment of said island, and accordingly report a bill for the relief of J. B. and Pelagie Faribault."

Mr. STRAUB. It will be observed that the committee of the Senate agree unanimously upon the subject, and it is entirely unnecessary that I should offer any remarks upon this matter.

Mr. HAVEN. I wish to say one word further about this matter. Of course it is a matter of no very great consequence what becomes of it, but I wish to say that this committee of the Senate did not understand the subject, or, if they did understand it, they have not set out the true history of the case, in the report just read. They do not say that this was a conditional contract, and that it was to be void, and as if never made, in case an appropriation was not made at the then next session of Congress, as I have heretofore explained. On the other hand, this report is evidently made to conceal that point—it does not show that fact at all. Nor does it say in any way that the Government of the United States has since been in possession of this island. And, inasmuch as this report is intended to show the best side of the case, and seems to conceal, or fails to mention the rest, I am inclined to think it is very questionable whether the United States has ever been in possession of that property since this contract was made. And if so, I think the case is very much weakened, and that we should refuse to concur with the Senate in the amendment.

Mr. BRECKINRIDGE. Does the gentleman deny that the Government has had possession of it since, and that it has a United States fort upon it at this very time?

Mr. HAVEN. I deny nothing on the subject, for personally I know nothing about it. I only speak of what I suspect from hearing the report read.

Mr. EASTMAN. I desire to disabuse the mind of the gentleman from Kentucky as to his impression that there is a fort upon the island. It is an island at the mouth of the St. Peter's river, and it was the policy of the soldiers to get possession of that island, which was then in the possession of the Indians. The fort is not upon it——

Mr. HAVEN. The testimony of my friend from Wisconsin shows that the report is incorrect in the other particulars in reference to this Fort Snelling being upon the island. I suspected as much from the previous part of the report.

Mr. EASTMAN. I did not understand the report as saying that the fort was upon the island.

Mr. BRECKINRIDGE. I understood from the gentleman that the fort was upon the island. I would ask the gentleman from Wisconsin whether he knows that the Government has been in possession of the island?

Mr. EASTMAN. I would state, that so far as my knowledge of the geography of that country is concerned——

The CHAIRMAN. The gentleman will allow the Chair to state that the Clerk has made a mistake in the reading of the report. In the copy which he had there was an interlineation. As printed, it is:

"The petitioners now pray that the justice so long delayed may be done them. The Government has had possession of this island since the 12th of March, 1839, under the contract with the Secretary of War, and upon this island Fort Snelling now stands."

The interlineation makes it read:

"The Government has had possession of this island since the 12th of March, 1839, under the contract with the Secretary of War, *as part of the military reservation of Fort Snelling.*"

Mr. EASTMAN. It is a portion of the reservation, but the fort, so far as I recollect, does not stand upon it.

Mr. JAMES C. ALLEN. The Senate committee was evidently mistaken about the fact of this fort being upon the island, and it is only another to the many reasons why a private claim should not be attached to a general appropriation bill.

Mr. STRAUB, by unanimous consent, withdrew his amendment.

The question was taken; and the Senate's amendment was non-concurred in.

The next amendment was reported, as follows:

Fifty-first amendment:

SEC. 11. *And be it further enacted*, That Indian agents and sub agents be, and they are hereby, authorized to take acknowledgments of deeds, wills, and other instruments of writing, and that acknowledgments so taken shall have the same effect as if taken before a justice of the peace.

Mr. HAVEN. The Committee of Ways and Means recommend a non-concurrence in the

amendment. My friend from North Carolina proposes to allow commissioners to take affidavits in reference to their duties, and affairs committed to them in the Indian territories, but not to allow them to take proof of wills, deeds and other instruments. I do not think that is objectionable, if it is allowed to go no further.

Mr. ORR. I intend to move an amendment if the Senate's amendment be concurred in; but I have no objection to its being stricken out.

The question was taken; and the amendment was non-concurred in.

The fifty-second amendment was reported as follows:

SEC. 12. *And be it further enacted*, That from and after the passage of this act, the salary of the central superintendent of the Indian affairs for the central superintendency shall be $2,500 per annum, and for that purpose the sum of $500 is hereby appropriated in addition to the existing appropriation.

Mr. HAVEN. The Committee of Ways and Means recommend a non-concurrence in the amendment.

Mr. ORR. I move *pro forma* to increase the appropriation one dollar.

Mr. Chairman, on reading this amendment at first, I was inclined to agree with the Committee of Ways and Means in non-concurrence. Since then, I have received information in reference to the duties of this office, which has changed my opinion. I think that the salary of the central superintendent ought to be increased. He is charged with the disbursement of upwards of $1,500,000. His bond is a heavy one. He is compelled to travel long distances at considerable expense, and with this responsibility of disbursement, a responsibility which has been increased by the treaties negotiated during the last summer.

With regard to the question of responsibility, I did not reply to the remarks of the gentleman from New York, [Mr. HAVEN,] when he objected to paying for increased responsibility of the Kickapoo agency. I will now say that, in my judgment, an agent is entitled, in justice and equity, to increase of compensation where large sums of money are placed in his hands for disbursement. If he is robbed, if he loses the money in any way, he has to make it good with the Government. If he were paid a commission on his disbursements then what he received would pay for the responsibility. But here additional compensation ought to be given to this agent on account of his great additional responsibility. His pay should be commensurate with his responsibility; for, if he merely attended to his superintendency in overlooking the sub-agents, his duties would be lighter and his responsibility small compared with that he now bears. I hope the amendment may be concurred in.

Mr. HAVEN. Mr. Chairman, on the contrary I hope, though not very strongly, that the amendment may be non-concurred in. I am not very particular about it, but we ought to do right. It is true that these gentlemen should receive a fair compensation; but I do not think that any duties have been thrown upon this superintendent which would make it necessary for us, at this time, to increase his compensation. He lives at St. Louis, if I am correctly informed. I do not suppose that he is there liable to robbery by the Indians, or any vicissitudes of that description. His money is deposited in the sub-treasury in that city; and when it is to be carried into the Indian country this Government furnishes and pays for its guard and transportation. For that reason I do not see any propriety in concurrence in the amendment.

You and I know, Mr. Chairman, however, that when any loss happens to any of these agents, or other public officers, they come here and ask, and usually are not disappointed in having that loss made up to them. We see this House almost constantly passing bills for canceling bonds of sureties in cases of this and similar description.

I do not think that this agent, or any other, is likely to be overcharged or overburdened with public duties, and I repeat that I hope the amendment may not be concurred in. In saying thus much I do not wish to urge objection beyond the bounds of propriety. I think that the present compensation is sufficient.

Mr. WHITFIELD. Mr. Chairman, it was at my suggestion that this amendment was put upon the bill by the Senate. It was done without the solicitation of the superintendent. He had no idea that such a thing was proposed. I did it as an act of simple justice to a faithful officer; for his duties have been enlarged so much by the action of the Government in recent treaties with the Indian tribes that, in my opinion, justice does demand for him this increase of compensation.

On entering office he gave a $40,000 bond; now he has to give a $100,000 bond. He is required, when necessary, to travel from the head of the Arkansas river to the head of the Missouri river. He is now under orders for the head of the Missouri river. He does more duty than any other superintendent of the Government. He disburses more money, and as an act of justice to him I hope this amendment will be passed. He does not ask it himself; I ask for him.

Mr. HAVEN. My friend furnishes an additional reason why the amendment should be voted down. It seems that this is the work of a general roving philanthropy on the part of my friend from Kansas. He says that this increase of compensation has been on his motion, and without solicitation on the part of the superintendent. If this man's pay be insufficient we had better wait until he finds it out himself, and asks for an increase. When he says that it is insufficient we might tell him that it would be better for him to leave the place, as there were hundreds willing to take it at the compensation which he was paid.

Mr. ORR. I will withdraw my amendment.

The question then recurred upon the adoption of the fifty-second amendment of the Senate; and being taken, was decided in the negative.

So the amendment was not agreed to.

Fifty-third amendment:

Amend the title by adding to the end thereof, "and for other purposes."

Mr. HARLAN, of Indiana. Before the committee proceed to the consideration of that amendment, I have an amendment to propose to the original language of the bill.

Mr. JONES, of Tennessee. I rise to a question of order. It is not in order to amend the original bill. There is nothing under consideration except the Senate amendments, and no amendment can be offered to them unless it is germane to them.

The CHAIRMAN. The Chair sustains the question of order, and decides that the amendment cannot be offered to the original bill.

Mr. HARLAN. I will offer it as an independent section.

The CHAIRMAN. The Chair decides that it is not in order to offer an amendment as an additional section. The question is on the adoption of the Senate amendment.

The question was taken; and the Senate amendment was agreed to.

ARMY APPROPRIATION BILL.

Mr. FAULKNER. I move to lay aside this bill, and take up the Senate amendments to the bill of the House (No. 562) making appropriations for the support of the Army for the year ending the 30th of June, 1856.

Mr. WHEELER. I object.

The CHAIRMAN. The Senate amendments of the Indian appropriation bill having been all disposed of, the Chair thinks the motion of the gentleman from Virginia is in order.

Mr. HAVEN. If it is agreeable to the gentleman from Virginia, I would suggest that the committee had better rise and dispose of the amendments to the Indian appropriation bill in the House, and then go back into committee and take up the Army bill.

Mr. FAULKNER. As the gentleman suggested yesterday, there may be some danger that the House will not go into Committee of the Whole again if they rise. I would prefer that we should go on with the Army bill now.

Mr. HAVEN. Very well. I will not be in the gentleman's way.

Mr. WHEELER. I object to laying aside this bill, as the gentleman from Virginia suggests.

Mr. FAULKNER. Can one member prevent the proposition I have made from being carried out? Is not the motion in order?

The CHAIRMAN. The motion is in order, and will be put to the committee.

The question was put; and the motion agreed to.

The first amendment of the Senate was reported as follows:

For pay, supplies, and traveling expenses of six companies of Texas volunteers, called into service by the Governor of Texas, and mustered into the service of the United States, $137,755 38.

Mr. PHELPS. I am instructed by the Committee of Ways and Means to recommend that the House concur in this amendment. The estimates from the War Department recommending it have been presented to the House and printed. I suppose it is not necessary to have them read.

The question was taken; and the amendment agreed to.

The second amendment of the Senate was reported, as follows:

Page 2, line twenty-four, strike out "104,855" and insert "381,068 75;" so that the paragraph will read:

For subsistence in kind, $1,381,068 75.

Mr. PHELPS. The Committee of Ways and Means recommend a concurrence in this amendment. It is restoring the estimates which were submitted to us at the commencement of the session.

The question was put; and the amendment concurred in.

Mr. PHELPS. The third and fourth amendments of the Senate relate to the armories. I ask that they may be considered in connection with each other.

The amendments were read, as follows:

For repairs and improvements and new machinery at Springfield armory, $54,000

For new machinery at Harper's Ferry armory, $20,000.

Mr. PHELPS. I will state that the Committee of Ways and Means, in considering these amendments of the Senate, have agreed to reconsider their former action, and to recommend a concurrence in the amendments.

Mr. ROWE. I move to amend the third amendment providing for the Springfield armory, by adding, at the end, the following:

And for materials, tools, machinery, and labor, furnished by Dean S. Howard, in painting four steam-dredge boats in use, by the War Department, on Lakes Champlain, Erie, Michigan, and Ontario, $1,696 15.

Mr. FAULKNER. I rise to a question of order. I could not hear the amendment distinctly, but it strikes me, from what I did hear, that it is not in order. I think it is a private claim.

Mr. ROWE. It is recommended by the War Department. I have here a letter from that Department, and also a communication from the Bureau of Topographical Engineers, showing that the appropriation is required.

The CHAIRMAN. The Chair thinks, as near as he can guess, that it is a private claim, and if so, it is out of order as an amendment to this bill.

Mr. ROWE. An appropriation of $20,000 was made by the Thirty-Second Congress for building these boats. But it was found that the appropriation for building them did not include the painting of them. When they were built, of course they must be painted; but there was no appropriation out of which they could be painted. This is to pay for the painting them. It certainly is not in the nature of a private claim.

The CHAIRMAN. The Chair thinks the amendment is not in order to this bill.

Mr. HENN. I desire to ask why there is an appropriation for machinery for the armories in two different places in the bill? I notice such an appropriation in the original bill, and again in the Senate amendment.

Mr. PHELPS. I will tell the gentleman. The Committee of Ways and Means reported an appropriation for machinery at the Harper's Ferry armory, in accordance with the estimates which were originally sent to the Committee of Ways and Means. Subsequently it was determined to rifle the present muskets, and hence new machinery was required, and a new appropriation was of course required.

Mr. HENN. Why not place them all together?

Mr. PHELPS. The amendment was in pursuance of supplemental estimates, which were sent to the Senate.

Mr. FAULKNER. Mr. Chairman, I move to increase the appropriation for the armory at Harper's Ferry the sum of $10,000. I offer this amendment for the simple purpose of enabling me to respond to the inquiries of the gentleman from Iowa, [Mr. HENN,] and also to do justice to the skill and genius of the mechanics of the national armory at Harper's Ferry. The gentleman from Iowa inquires why this appropriation for new machinery at the national armories? I tell him it

is in accordance with a recommendation of the Secretary of War, and to enable the superintendents of those establishments to adapt the machinery at those places to work on the new model rifle musket with the Maynard primer. It is, no doubt, well known to every gentleman here that improvements of a remarkable nature have, within the last few years, been made in infantry firearms that must render obsolete, for all the purposes of war, the ordinary musket. The recent events in the Crimea have shown the vast importance to be attached to that formidable instrument of war, the Minié rifle. This weapon has been found, by experiment, to carry a thousand yards, and the bullet, at that distance, to have sufficient force to penetrate into hard wood. Now, sir, I desire to say that experiments have been made at Harper's Ferry, testing most satisfactorily that the ordinary musket, when properly grooved, is not inferior in range and accuracy of fire to the celebrated gun to which I have referred. I have now before me the results of some careful experiments made at Harper's Ferry, Carlisle barracks, and the Washington arsenal, which have been communicated to me by the head of the Ordnance Bureau, and which I propose to append to these remarks. These experiments are in the highest degree honorable to the War and Ordnance Departments, which planned, and to the mechanics of Harper's Ferry, who have carried their suggestions into execution. Having made the explanations which I intended, I will now withdraw my amendment.

ORDNANCE OFFICE,
WASHINGTON, D. C., *February* 14, 1855.

SIR: In compliance with a verbal request made by you a few days since, I have the honor to send you a tabular statement, showing the results of experiments made with three kinds of projectiles, fired from our present model Harper's Ferry rifle, with different numbers of grooves.

Also, a tabular statement, in part, of experiments at the Harper's Ferry armory, with same rifle.

Also, a brief statement of a few trials with the American musket, with a rifle barrel, and the present regulation British rifle musket, of twenty-four round balls to the pound. In these trials, however, the expanding elongated bullets were used.

The above named trials were made under the direction of officers of this department, and clearly exhibit the great advantage in point of range and accuracy of fire from the use of expanding projectiles in rifled barrels.

I also inclose the copy of a report of an officer of the second regiment of infantry, of practice by the company under his command, armed with the Harper's Ferry rifle, prepared for long ranges. By the results, you will perceive the practice was decidedly satisfactory.

With much respect, your obedient,
A. K. CRAIG, *Colonel Ordnance.*

To Hon. C. J. FAULKNER, *Chairman Committee Military Affairs, House of Representatives.*

CARLISLE BARRACKS, PENNSYLVANIA, }
January 22, 1855. }

SIR: In compliance with orders No. 67. dated headquarters, Carlisle Barracks, Pennsylvania, December 15, 1854, I have the honor to submit the following report of the firing made by Company I, Second United States Infantry, with the new pattern rifle for long ranges.

The height of the target fired at is seven feet and six inches; the width of the target is equal to the width of two men standing in ranks. The body of the target is painted white; the figure of a man, six feet high, life size; with cap, seven inches high, is painted in black, in the middle of the target. The target is made of oak plank, seasoned, from two to two and a half inches in thickness.

Two hundred and seventy-two (272) shots were fired at two hundred yards, using the two hundred yards sight, of which about one hundred and forty-one (141) hit the target, and forty-nine (49) the man. The missing balls generally went *over* the target. Firing at two hundred yards, *fine* sight should be taken, and the aim should be as low as the middle of the thigh.

Two hundred and seventy-eight (278) shots were fired at three hundred yards, of which about ninety-three (93) hit the target, and about thirty (30) the man. Noticed that in firing this distance, with the three hundred yards sight, the balls invariably struck above the target, but that in firing this distance with the two hundred yards sight, taking aim at the breast, the balls generally struck at the height aimed at.

Two hundred and forty-nine (249) shots were fired at four hundred yards, of which forty-one (41) hit the target, and about ten (10) the man. Noticed that in firing this distance with the four hundred yards sight, the balls invariably struck above the target, but that in using the three hundred yards sight, or the three hundred and fifty yards sight, the balls generally struck at the point aimed at.

One hundred and sixty-eight (168) shots, at five hundred yards, were fired, of which about sixteen struck the target and seven the man. Noticed that in firing this distance with the five hundred yards sight, the balls invariably struck above the target, but that, in using the four hundred and fifty yards sight, the balls struck at the point aimed at.

Thirty (30) shots, at one hundred yards, were fired, of which twenty-eight (28) struck the target and twenty four the man. Noticed that in firing this distance with the two hundred yards sight, the aim should be taken as low as the middle of the thigh, or at the knee, in order to hit the man between the shoulders and hips.

Eighteen (18) shots were fired at seven hundred (700) yards, of which four (4) hit the target, and one the man. Noticed that in firing this distance with the six hundred and fifty yards sight, the ball would strike the object aimed at.

Most of the firing at long ranges, (at four hundred and five hundred yards,) during the week, was in cold and windy days, and without any previous knowledge of the proper elevation to give the sight.

The balls at four hundred yards, and under, all went through the plank. At five hundred yards they went either through or nearly through the plank, and at seven hundred yards they penetrated from an inch to an inch and a half. All the firing, except that at seven hundred yards, which was firing from a rest, was what is called *off-hand firing.*

From my use of the piece, and from my observation of its use with the company, I have no hesitation in saying that this rifle is most decidedly a more accurate and effective weapon than any that I have ever seen. In firing at long ranges the least unsteadiness, or error in sighting the piece, will cause the ball to strike at some distance from the target. In such firing a rest should always be used, if practicable. The weight of the ball, before firing, is six drachms and twenty-one grains, apothecary's weight. The weight of the ball, after passing through the target, is six drachms and eight and a half grains. Loss, twelve and a half grains. I am, sir, very respectfully, your obedient servant,
L. M. KELLOGG,
Second Lieutenant Second Infantry, Commanding Company.

To Brevet Brigadier General E. A. HITCHCOCK, *Colonel Second Regiment Infantry, Carlisle Barracks, Pennsylvania.*

Extract from a report of a series of Experiments made at Harper's Ferry with the Regulative Rifle, October, 1854.

Depth of grooves.	Number of grooves.	Kind of ball used.	Distances. 200 yds.	300 yds.	400 yds.	500 yds.	600 yds.	700 yds.	Number of shots fired.
10/1000 inch.	7	Round.....	76	90	45	-	-	-	25
		English.....	80	85	70	50	10	25	25
		Harper's Ferry	100	100	90	95	45	25	25
	5	Round.....	92	70	35	-	-	-	20
		English.....	100	90	70	30	45	20	20
		Harper's Ferry	96	100	100	75	65	45	20
	3	Round.....	76	70	30	-	-	-	20
		English.....	96	85	55	15	05	-	20
		Harper's Ferry	100	100	90	65	60	15	20
15/1000 inch.	7	Round.....	85	40	20	-	-	-	20
		English.....	100	90	70	35	30	10	20
		Harper's Ferry	95	100	90	65	60	10	20
	5	Round.....	95	65	35	-	-	-	20
		English.....	100	95	80	35	30	20	20
		Harper's Ferry	100	100	90	95	60	35	20
	3	Round.....	70	25	15	-	-	-	20
		English.....	85	75	30	60	10	-	20
		Harper's Ferry	100	100	100	90	95	65	20
20/1000 inch.	7	Round.....	85	45	10	-	-	-	20
		English.....	95	85	85	35	30	-	20
		Harper's Ferry	100	100	100	70	39	05	20
	5	Round.....	95	50	20	-	-	-	20
		English.....	100	100	90	45	50	20	20
		Harper's Ferry	100	100	100	100	95	55	20
	3	Round.....	85	65	10	-	-	-	20
		English.....	95	70	70	45	30	05	20
		Harper's Ferry	100	100	100	95	75	10	20

The figures show the percentage of shots which hit a target 8 feet square. Three kinds of balls were used, viz: the ordinary round one, the new English Minie, and the French Minié, as improved at Harper's Ferry; round fired with 75 grains of powder, and the others with 50 grains.

Target practice with the Regulative Rifle, at Harper's Ferry, February, 1854.

Distance.	Size target in feet.	Number of shots fired.	Mean vertical deviation.	Mean horizontal deviation.	Mean absolute deviation.	Remarks.
yds	*feet.*		*inches*	*inches*	*inches*	
150	8×8	25	4.63	3.93	6.46	12 in bull's eye 8 inches in diameter.
200	8×8	25	6.28	5.64	9.71	5 in bull's eye 8 inches in diameter.
300	8×8	25	10.72	10.76	16.75	5 in bull's eye 8 inches in diameter.
400	8×8	25	14.07	11.80	20.45	5 in bull's eye 8 inches in diameter.
450	8×8	25	16.64	10.03	21 63	4 in bull's eye 8 inches in diameter.

Weight of ball 400 grains, charge of powder 50 grains. No patch used.

Synopsis of a few trials made at the Washington Arsenal during the present month, with the new English musket (Minié) and our present musket, with a rifled bore.

American rifle musket.....300 yards, 30 shots, 15 hit.
American rifle musket.....400 yards, 22 shots, 8 hit.
American rifle musket.....500 yards, 34 shots, 17 hit.

English rifle musket.....400 yards, 15 shots, 4 hit.
English rifle musket.....500 yards, 14 shots, 6 hit.

Target 8 feet square.

Mr. CAMPBELL. What sort of a ball is it?

Mr. FAULKNER. It is a ball somewhat like the ball used in France, but differing slightly in its character.

Mr. CAMPBELL. Is it oblong?

Mr. FAULKNER. Yes, sir. I have before me the results of experiments made at a distance of three hundred, four hundred, and seven hundred yards, which show that the ordinary musket has been enabled to exceed in its accuracy and range the celebrated Minié rifle. Now, the object of this appropriation is to have those experiments applied to all the muskets in the national armories. I withdraw my amendment.

The third and fourth amendments of the Senate were then concurred in.

Fifth amendment of the Senate:

Strike out the words "for repairs, preservation, and contingencies of arsenals, $50,000," and insert in lieu thereof the following:

For arsenals, including the purchase of sites for new arsenals in Texas and New Mexico, and the erection of suitable magazines and other arsenal buildings in Texas, California, Oregon, and New Mexico, $268,175.

Mr. PHELPS. I am instructed by the Committee of Ways and Means to move to concur in that amendment of the Senate, with an amendment that will make it read as follows:

For repairs, preservation, and contingencies of arsenals, $50,000; and for continuing the construction of the arsenal at Benicia, California, $40,000; and it is hereby provided that the annual compensation of the civil superintendents of the national armories be $2,500, without perquisites, allowances, or additions of any kind, and that the same be paid out of the appropriation for the national armories.

The Committee of Ways and Means have instructed me to recommend that that be adopted in lieu of the Senate's amendment. Appropriations for the construction of arsenals in Texas, New Mexico, and Oregon, have already been made in bills which have passed this House.

Mr. LETCHER. Let the amendment proposed by the Committee of Ways and Means be read.

The Clerk read the amendment.

Mr. PHELPS. I desire to make a brief explanation of this matter. The Senate amended the bill by striking out the words "for repairs, preservation, and contingencies of arsenals, $50,000," and inserted this provision:

"For arsenals, including the purchase of sites for new arsenals in Texas and New Mexico, and the erection of suitable magazines, and other arsenal buildings, in Texas, California, Oregon, and New Mexico, $268,175."

The Committee of Ways and Means propose to retain the appropriation of $50,000 for contingencies of arsenals, and to appropriate $40,000 for the completion of the arsenal at Benicia. An estimate for that was submitted in the annual estimates, and the committee believe that that arsenal ought to be completed. There is no necessity of concurring in that part of the Senate's amendment which makes an appropriation for arsenals in Texas, New Mexico, and Oregon, for we have passed a bill appropriating money for the construction of arsenals in those places. The Committee of Ways and Means propose to add to this amendment an amendment fixing the salaries of the superintendents of the armories at Springfield and Harper's Ferry. It will be recollected that, at the last session of Congress, we removed those armories from under military superintendence, and placed civilians in charge of them. At that time no salary was fixed, and no salary has yet been fixed, by law. The committee, after considering the matter, determined to fix the salary at $2,500, with no contingencies or perquisites. The Secretary of War recommended that the civil superintendent should receive the pay and emoluments of a major of ordnance.

Mr. LETCHER. What was the salary under the old law?

Mr. PHELPS. The superintendent was then a military man, and his pay and emoluments amounted to something like $2,800.

Mr. LETCHER. I mean under the former civil superintendency.

Mr. FAULKNER. He received $1,500.

Mr. LETCHER. Well, this seems a pretty large increase.

Mr. LILLY. I would inquire of the gentleman from Missouri what is the reason for making the pay of the civil superintendents less than the pay of the military superintendents was? Are they inferior officers to the military?

Mr. PHELPS. The pay of the military superintendent depended very much on the grade of the military officer who might be assigned to the discharge of this duty. If he was a captain, his pay was less than it would have been had he been a major of ordnance, and so on. Now the labors of these superintendents are very arduous. An armory is a large Government manufacturing establishment, and the Committee of Ways and Means deemed $2,500 not an unreasonable salary.

Mr. LILLY. I do not want the gentleman to understand that I object to the amount. I only want to know why a distinction is made against the civil superintendents.

Mr. PHELPS. I do not think, in fact, that there is any distinction made, because something was allowed to be paid to the military officer for his service rations. If he had been in the armory for a certain number of years, he was entitled to rations in proportion to his rank and service. And the law did not require any particular grade of officer to be assigned to that post. Therefore the salary of the incumbent was fortuitous, depending on the commission which the officer who was discharging this duty of superintendence in the Army.

I may as well make a further explanation here, and it is right that I should.

The Committee of Ways and Means has instructed me to recommend that the salaries of the superintendents shall be paid out of the sum appropriated for the support of these armories. I know that that proposition does not meet with the approbation of my friend from Virginia, [Mr. FAULKNER,] who does not wish to see the armory fund diminished, and it matters but very little whether they shall be thus paid, provided we fix the amount which shall be paid to them.

Again: it may be urged by some gentlemen on this floor, that as we have a building which has been erected for the use and occupation of a military superintendant at these two armories, that the civil superintendent shall also occupy this building. The Committee of Ways and Means was not willing to sanction that by legislation, fearing that a bad precedent might be established by that course of procedure, and that hereafter, other officers discharging civil duties would require and beseech the Congress of the United States to make appropriations to erect a building which they were to occupy when discharging these duties. For instance, collectors of customs in ports might require it. I would have no objection, speaking as one of the members of this House, to the Secretary of War permitting the civil superintendents to occupy these houses, but I dislike to declare by legislative enactment that they shall have possession of them, for I fear that that would be dwelt upon as a precedent in other cases.

These are the explanations which I have to give with reference to this amendment, and I would remark, in relation to the amount of money proposed to be appropriated to the arsenals, that it is not the sum estimated for them. However, it is as much as the Committee of Ways and Means are willing to recommend to the House.

Mr. FAULKNER. I ask to amend so much of that amendment of the Committee of Ways and Means, as directs that the salary of the superintendents shall be paid out of the appropriation for the national armories.

Mr. LETCHER. Was the amount estimated for inclusive of the salaries of the superintendents?

Mr. FAULKNER. No; the amount estimated for was independent of the salaries.

The CHAIRMAN, (to Mr. FAULKNER.) Is that an amendment to the amendment proposed by the gentleman from Missouri? [Mr. PHELPS.]

Mr. FAULKNER. It is to perfect the amendment of the Committee of Ways and Means.

The CHAIRMAN. That is, the amendment proposed by the gentleman from Missouri?

Mr. FAULKNER. Yes; and it is an amendment to which the gentleman from Missouri does not object.

The CHAIRMAN. If no objection be made, the amendment to the amendment will be entertained.

Mr. ROWE. I object to it.

The CHAIRMAN. Then the Chair is of opinion that the amendment of the gentleman from Virginia is out of order, as it is an amendment in the third degree.

Mr. FAULKNER. Is it not in order when it is concurred in by the gentleman from Missouri, who offered the amendment?

The CHAIRMAN. The gentleman from Missouri may accept of it as a modification of his own.

Mr. PHELPS. In consulting my own feelings in regard to this matter, I have no objections to the modification, and would accept it as indicated by the gentleman from Virginia, but it is the report of the committee of which I am a member, and therefore I cannot modify it. If the Committee of Ways and Means are willing to accept of it, it may be made.

It is proposed in the amendment submitted by the Committee of Ways and Means, that the salary of the civil superintendents shall be paid out of the sum of money appropriated for the support of the national armories, and it is further recommended by the Secretary of War. Individually I have no objection to the modification of the report; but I cannot agree to accept it without the direction of the members of the committee.

Mr. FAULKNER. I suppose the amendment which I offer can be acted on by the unanimous consent of this committee.

The CHAIRMAN. The gentleman from New York [Mr. ROWE] has objected to it.

Mr. FAULKNER. Well, I suppose that gentleman will withdraw his objection.

Mr. ROWE. No; I decidedly object.

The CHAIRMAN. Then the proposition cannot be received.

Mr. FAULKNER. And is there no mode of reaching a proposition like this, when we are all willing to adopt it?

The CHAIRMAN. The Chair sees none, unless the gentleman from Missouri accepts it as a modification of his own.

Mr. PHELPS. Well, then, I take upon myself the responsibility of accepting the modification proposed by the gentleman from Virginia.

The CHAIRMAN. That modification is to strike out the words "and that the same be paid out of the appropriation for the national armories."

Mr. PHELPS. I agree to have my amendment so modified as that it will read, "and that the same be paid out of the Treasury."

The amendment, as modified, reads:

For repairs, preservation, and contingencies of arsenals, $50,000; and for continuing the construction of the arsenal at Benicia, California, $40,000. And it is hereby provided that the annual compensation of the civil superintendents of the national armories be $2,500, without perquisites, allowances, or additions of any kind, and that the same be paid out of any money in the Treasury not otherwise appropriated.

Mr. LILLY. I understand that by that amendment the civil superintendent is to receive $2,500 a year, without perquisites or additions of any kind. I desire to know from the gentleman from Missouri, or from the chairman of the Committee on Military Affairs, whether the use of these houses built for the military superintendents is to be considered in the light of perquisites or additions? If it is to be so considered, and is to be so construed by the War Department, I desire to have it stricken out, because I wish to have the civil superintendents placed on exactly the same footing as the military superintendents.

Mr. FAULKNER. I can only say, as far as I am concerned, that I take it for granted the Government having erected these houses for the use of the superintendents, they will be permitted to enjoy them without rent. Such is my construction of it, and I have no doubt it will be so construed by the War Department.

Mr. LILLY. Still I think these words ought to be stricken out.

Mr. PHELPS. I would say to the gentleman from New Jersey that if this amendment be adopted, I think the civil superintendents would not be permitted the use of these houses, except by the payment of rent. That is, they are not legally entitled to it.

Mr. LILLY. Then I move to strike out these words.

The CHAIRMAN. The amendment of the gentleman from Missouri is not amendable.

Mr. JONES, of Tennessee. It has not been customary in any branch of the civil service that I know of for the Executive head of the Government to furnish residences for the officers. And one object of getting rid of the military superintendents was, that the civil superintendents should have a salary, and no perquisites or emoluments beyond it.

If we are to commence first by giving to the civil superintendency the quarters and residences of the military superintendency, and then follow it up by giving them the perquisites and emoluments which were given to the military superintendency, I see no advantage that will have been gained by the change from the military to the civil superintendency.

Mr. FLORENCE. I apprehend that my friend from Tennessee [Mr. JONES] is somewhat in error in relation to the practice which prevails in and around arsenals, and other depositories of property owned by the Government of the United States. I think that the different superintendents at Philadelphia of boots, shoes, and other supplies for the Government, have quarters in and around the arsenal; and I think that the workmen generally have quarters which have been considered economical and advantageous. Further than that, when these superintendents were appointed, it was made a *sine qua non* by the appointing power that they should reside at the arsenal. I recollect very distinctly—for I was very much interested in getting some clever people appointed to fill some of these places—that objection was urged against the appointment of a gentleman, for which I was very anxious, because he would not consent to reside at the arsenal. It strikes me that these parties at Springfield, Harper's Ferry, and California are entitled to quite as much consideration under the civil superintendency as those who held office under the military superintendency of the armories. Further than that, I think that the sum of $2,500 a year is not sufficient compensation, in my humble judgment, for any person competent to supervise an establishment of that kind. It requires a man of more than ordinary ability, scientific and mechanical ability, to perform properly the duties of that position. I would rather make it $3,500 than $2,500, striking out the emoluments. It is high time for this House, and this Congress—and there is no better time for this purpose than the present—to recognize mechanical skill and ability in the performance of duties especially belonging to that class of our citizens. I hope now, a favorable opportunity presenting itself here, that we will do something in the Thirty-Third Congress to make a mark in favor of the mechanics of the country.

Mr. BANKS. Is it in order to offer an amendment to the amendment?

The CHAIRMAN. It is not in order.

Mr. BANKS. I have then to say in regard to the amendment now before the committee, that while I do not take exception to the amount proposed as the salary for the superintendent, yet I think the amendment ought to be more distinct and definite as regards the occcupation of the quarters that Government has provided for the superintendents of the national armories. They may or may not be included, just exactly as the War Department shall determine. If the War Department be not favorable to the civil superintendency, or inclined to the military superintendency, it has the power to make a very great change in the condition of the officers of respective classes. The salary paid under the old law to civil superintendents amounts, with the cash salary and the allowance for men and horses, to between $2,200 and $2,300. The salary now proposed to be paid to the same officers is $2,500. The difference in expense of living between the time when the salary was first fixed and the present is thirty or forty per centum, and perhaps as much as fifty per centum. It is right, therefore, that the committee should provide a salary for these officers with reference to the condition of things as they now exist, and not as compared with the salary paid the same officers at previous times. If the committee will make the salary of these officers $2,500, with the express stipulation that the civil superintendents may occupy the quarters already owned by the Government, that will be a compensation adequate to the place and adequate to the persons appointed to fill the place. I trust that the committee will adopt an amendment carrying out this view of the matter.

Mr. VANSANT. With the leave of the gen-

tleman from Massachusetts, I would suggest an amendment something like this:

Provided, That the buildings constructed at the national armories for the occupation of the superintendents of the armories shall, as heretofore, be appropriated for the use of the superintendents of said armories without charge.

Mr. BANKS. I had intended to move an amendment, if it was in order to do so. The amendment the gentleman from Maryland has suggested would meet my views.

Mr. PHELPS. If the gentleman will permit the question to be taken upon the amendment now pending, then it would be in order for him to offer an amendment.

Mr. KERR. I move that the committee rise. I understand that the residence of the honorable gentleman from Missouri [Mr. BENTON] is on fire, and that there is a good deal of excitement prevailing in regard to it.

Mr. JONES, of Tennessee. I move that the committee take a recess until seven o'clock for the purpose of general debate.

Mr. WITTE. I desire to ask this question of the Chair; whether any business will be done this evening after the committee shall rise? That was the understanding yesterday evening when the recess was taken, but it was violated.

The CHAIRMAN. The motion of the gentleman from Tennessee is, that the committee take a recess until seven o'clock, and it is for the purpose of general debate, and that only.

The question was taken upon Mr. JONES's motion, and it was decided in the affirmative.

The committee then, at four o'clock, took a recess till seven o'clock p. m.

EVENING SESSION.

The committee, according to order, resumed its session at seven o'clock, p. m.

Mr. RUFFIN, who was entitled to the floor, yielded to——

Mr. WALBRIDGE, who addressed the committee on the subject of our maritime rights. He contended that the present juncture in the affairs of the belligerents of Europe rendered it necessary that we should declare our maritime rights as a neutral Power and a member of the family of nations. He also argued in favor of the enforcement of the Monroe doctrine of resistance to any attempt at European interference in the affairs of this continent, and urged legislation on the subject by Congress.

Mr. RUFFIN next obtained the floor. He gave the reasons which influenced his vote on the anti-Know-Nothing resolutions introduced some time since by Mr. WITTE. He could conceive of no evil, either real or imaginary, existing or supposed to exist in this country, which could justify American freemen in forming secret, oath-bound, political associations. They might do for the despotism of Russia and Austria, but in a country like this there could certainly be no necessity for them. He replied to the speech of Mr. SMITH, of Alabama, and argued that there was a striking similarity between the order of Jesuits and the order of Know-Nothings. He entered into an argument to prove the abolition tendencies of the new party, and declared that he was as much opposed to the introduction of foreign paupers and criminals into this country as anybody, and was in favor of the most stringent laws on the subject; but well disposed foreigners should not be punished on account of this bad class of immigrants. But a year or so ago the northern people made gods and goddesses of show-girls and fiddlers; but now they were attempting to exclude them from their States. He referred to the office-seeking propensities of the Know-Nothing party, and alluded to their even having banded themselves together to obtain possession of the management of the Washington Monument, turning out such men as Winfield Scott, Mr. Seaton, General Jones, Mr. Whittlesey, and others—striking the eagle from his aerie to put in a mousing owl.

Mr. ENGLISH next addressed the committee. He spoke in reference to the present condition and management of the Smithsonian Institution. Although not entirely approving of all that had been done, he must say that when he reflected upon the vastness of the subject, and that Congress was ten years in adopting even the outlines of a plan for the organization of the institution, he thought that its present condition was not only encouraging, but a subject of congratulation rather than of censure of those who were charged with the management of its affairs. He highly lauded the management of the institution. Having concluded,

Mr. GOODWIN addressed the committee at length in favor of a bill which he had given notice he would introduce to prohibit slavery in the Territories of Kansas and Nebraska, and forbidding its introduction and establishment into any Territory of the United States. He had sought an opportunity to introduce this bill, but in vain, and should embrace the first opportunity to do so.

Mr. UPHAM. Mr. Chairman, I had intended, at an early period of the session to present my views to the House upon two subjects, namely, in favor of the proposition offered by the honorable member from North Carolina, [Mr. CLINGMAN,] recommending a mediation by the Government of the United States in the eastern war, and also on the subject of the business corporations of Massachusetts, which one of my colleagues [Mr. BANKS] brought conspicuously to the notice of this body in a speech delivered in the early part of the session. When it was proclaimed and pronounced, and considered as settled, that we should not have an opportunity of presenting our views in free debate, I deposited on paper the remarks which I designed to make, intending to ask leave of the House to have them printed. Since freedom of debate has been acceded to us during this last week of the session, my mind has been wholly occupied in the matter in respect to which the honorable member from Indiana [Mr. ENGLISH] has spoken to-night, and in which he has rather got ahead of me, I think—I have been so wholly absorbed by it, that I have not been able to call to mind the matter which I had prepared to present in a written form. It would be most disagreeable to me, particularly at this hour, and, under my engagements, quite inconvenient, as well as altogether against my custom and my taste, to read a speech to the committee. I therefore beg the committee to be so kind as to consider that, in these introductory remarks, I have commenced my speech, and to allow me to hand the rest of it to the reporters.

Consent was unanimously given.

[These speeches will be found in the Appendix.]

Mr. HAMILTON. My design is to speak on the Army appropriation bill; but I do not desire to consume the time of the committee this evening if I can get the floor to-morrow evening.

Mr. WHEELER. Will the gentleman from Maryland yield the floor to me for the purpose of submitting a motion that the committee do now rise?

Mr. LETCHER. I hope my friend from Maryland will yield to me for a few moments. It is well enough that members from the different sections of the country should properly understand each other.

The CHAIRMAN. Does the gentleman from Maryland yield the floor to the gentleman from Virginia, [Mr. LETCHER?]

Mr. HAMILTON. Certainly, sir.

Mr. KEITT. But I believe it is with the understanding, however, that the gentleman from Maryland shall have the floor to-morrow.

Mr. LETCHER. I promise not to occupy many minutes.

Mr. HAMILTON. I yield the floor to the gentleman.

Mr. GOODE. Before the committee adjourns, I want my colleague to yield to me for an instant. I understand, and I am afraid, that an impression prevails, from a statement made by the gentleman from Massachusetts, [Mr. UPHAM,] that there was some occasion on which this clause restricting slavery in the Northwestern Territory was voted on, standing separate and alone, by the South. Now, sir, I do not so understand the gentleman. I do not understand him to say that there ever was a time when the restriction on southern institutions was presented to the consideration of Congress, to be inserted into the ordinance of 1787, as a part of the form of government in that Territory, when it received the vote of the southern Representatives. And I deny that it ever was so voted on by the South.

Mr. LETCHER next obtained the floor, and replied to the speech of Mr. GOODWIN, in the course of which frequent interruptions and explanations took place. This debate was participated in by Mr. HUGHES, Mr. GIDDINGS, Mr. BANKS, and others; and will be found, with Mr. LETCHER's speech, in the Appendix.

Mr. LETCHER having concluded—

Mr. HAMILTON obtained the floor, but yielded to

Mr. HAVEN, who moved that the committee rise.

The question was taken, and the motion was agreed to.

The committee rose, and Mr. LETCHER having taken the chair as Speaker *pro tempore*, the Chairman of the committee reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the amendments of the Senate to House bill No. 555, being the Indian appropriation bill, and had desired him to report the same back, some of the amendments with amendments, and some without amendments, and some non-concurred in; and that the committee had also had under consideration House bill No. 562, being a bill to provide for the support of the Army for the year ending the 30th June, 1856, and had come to no conclusion thereon.

Mr. HAVEN. I move to recommit the Indian appropriation bill, with the amendments, to the Committee of Ways and Means. And I desire to make a further motion, which is to suspend the rules, for the purpose of taking up Senate bill No. 265.

Mr. SEWARD. Under the rule the motion cannot be put to-night.

Mr. CAMPBELL. I rise to a question of order. It was very evidently the understanding of the House that no business should be done in the House proper to-night, and this is business. Besides, even though the gentleman from New York can make one motion, he certainly cannot make two.

The SPEAKER *pro tempore*. Will the gentleman from New York state what his second motion was?

Mr. HAVEN. It was to suspend the rules. But I am not very particular in respect to that, as I see there is a struggle by so many gentlemen to get the floor.

Mr. CAMPBELL. Then I move that the House do now adjourn.

Mr. LANE, of Oregon, and Mr. McDOUGALL appealed to Mr. CAMPBELL to withdraw his motion.

The SPEAKER *pro tempore*. Does the gentleman from Ohio yield to the gentleman from Oregon?

Mr. CAMPBELL. If I should yield to the gentleman I should have half a dozen others appealing to me to extend the same consideration to them. Besides, it is very evident that the understanding of the House was, that no business of any kind should be done at night without a quorum. I insist on my motion.

Mr. LANE, of Oregon. Will the gentleman yield, so as to let my motion be entered?

Mr. CAMPBELL, (to the Chair.) The question of order, I suppose, is disposed of by the withdrawal of the second motion made by the gentleman from New York.

Mr. HAVEN. So far as any withdrawal is concerned, I would say, that I have withdrawn nothing, because I do not suppose that we can settle anything here to-night.

Mr. McDOUGALL. Then I want to know what is pending?

Mr. CAMPBELL. I insist on my point of order, and I shall move for a division of the House on the first proposition.

The SPEAKER *pro tempore*. The Chair understands that the Speaker, last night, entertained precisely the same proposition as is now submitted by the gentleman from New York. The Chair, therefore, overrules the point of order.

Mr. CAMPBELL. I wish to understand whether it is one or two motions that have been made by the gentleman from New York; and whether, if two, the Chair decides them to be in order?

The SPEAKER *pro tempore*. There were two motions made; and the Chair sustains the right of the gentleman to make them on the principle on which the same point has been sustained heretofore.

Mr. CAMPBELL. I ask the question of the Chair, if the gentleman from New York can make two distinct and separate motions at the same

time? If the Chair decides that he can, I take an appeal from the decision of the Chair.

Mr. McDOUGALL. I understand the gentleman from New York rose to make a specific motion, was recognized, made his motion, and before leaving the floor made another motion. I wish to know if it is consistent with the practice of the House to do so?

Mr. ROBBINS. I move that the House adjourn.

The SPEAKER *pro tempore*. The present occupant of the chair has already answered the question. The Speaker last night decided the same question.

Mr. McDOUGALL. I beg leave to say that was not the same question. There is a misunderstanding.

Mr. CAMPBELL. I appeal from the decision of the Chair.

Mr. McDOUGALL. There is a misunderstanding between the Chair and myself. The decision last night was, that the Speaker could entertain the motion to suspend the rules, and nothing more. The point of order was not made, that when a gentleman was upon the floor to make one motion, that he could then go on and make another.

Mr. ROBBINS. I move that the House adjourn.

The question was taken; decided in the affirmative, and the House adjourned till to-morrow at eleven o'clock, a. m.

IN SENATE.

WEDNESDAY, *February* 28, 1855.

Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, in compliance with a resolution of the Senate of March 10, 1853, calling for a statement of the amounts paid as annuities to the Choctaw tribe of Indians, and a detail of the expenditures under the various treaty stipulations for education; which was ordered to be laid on the table, and be printed.

PETITIONS, ETC.

Mr. FOOT. I have been requested to present a petition of wool-growers of the county of Chittenden, in the State of Vermont, asking Congress to remit or abolish the present duty on wool, in which they say that, in their opinion, the interests of both the wool-grower and the manufacturer will be subserved by this course. I move that the petition be referred to the Committee on Finance.

The motion was agreed to.

Mr. COOPER presented two petitions of citizens of Pennsylvania, praying an appropriation for the erection of a building for the accommodation of the post office, custom-house, and United States courts, in the city of Philadelphia; which were referred to the Committee on the Post Office and Post Roads.

Mr. CASS presented documents relating to the claim of John Randolph Clay, for compensation as Minister to Peru, from the date of his appointment to the time at which he commenced to perform the duties of that office; which were referred to the Committee on Foreign Relations.

Also, a memorial of the Board of Trustees of Public Schools at Washington city, District of Columbia, praying a donation of city lots for educational purposes, or that a portion of the proceeds of sales of lots belonging to the Government heretofore made, may be invested for that purpose; which was ordered to lie on the table, and be printed.

Mr. GEYER presented the petition of the assistant treasurers of the United States at Boston and St. Louis, praying to be allowed an increase of salary; which was referred to the Committee on Commerce.

Mr. SHIELDS presented a petition of citizens of Randolph county, Illinois, praying that the pension of Valentine G. Wehrheim, a volunteer in the late war with Mexico, may be increased; which was referred to the Committee on Pensions.

Mr. CASS moved that the petition of Eliza Whiting, widow of an officer who died in the service of the United States, praying aid for herself and family, be referred to the Committee on Military Affairs; which was agreed to.

RELIGIOUS FREEDOM ABROAD.

Mr. CASS. I gave notice some time since that I should ask the Senate to consider the resolutions which I submitted, requesting the Executive to endeavor to secure the right of religious worship to American citizens abroad, on a day which has passed. I have been prevented, by the interposition of other business, from calling that subject to the attention of the Senate. I desire to say now, that I shall ask the Senate to-morrow to take up and come to a vote on that subject. All I desire is to have the yeas and nays upon it.

PAPERS WITHDRAWN.

Mr. MASON. I move that T. W. Tansill have leave to withdraw his petition and papers. I am informed by a note from Mr. Tansill, that the matter was referred to the Committee on Naval Affairs, who reported adversely on his claim. He asks leave to withdraw them, in order that he may present them to the Secretary of the Navy, or may obtain redress, if he can, through the courts of justice.

The motion was agreed to.

REPORTS FROM STANDING COMMITTEES.

Mr. BRODHEAD, from the Committee on Claims, to whom was referred a report of the Secretary of the Treasury, in compliance with a resolution of the Senate, calling for correspondence, &c., relative to the claim of Gibbons & Kelly, asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

Mr. SHIELDS, from the Committee on Military Affairs, to whom was referred a joint resolution of the House, for the relief of George C. McCerren, reported it without amendment.

Mr. TOUCEY, from the Committee on the Judiciary, to whom was referred the bill for the relief of Joseph Ridgway, reported adversely thereon.

Mr. MASON, from the Committee on Foreign Relations, to whom was referred the joint resolution to authorize the payment to William H. De Forrest of the sum of $12,000 for a quantity of powder destroyed at Punta Arenas, reported it with amendments, together with a report thereon; which was ordered to be printed.

Mr. SEWARD, from the Committee on Commerce, to whom the subject was referred, reported a bill making appropriations for the repair, preservation, and completion of certain harbors on the Atlantic, Gulf, and Pacific coasts; which was read a first and second time by unanimous consent, and placed on the Calendar.

COMMITTEE ON ENROLLED BILLS.

Mr. JONES, of Iowa, moved that an additional member be appointed on the Committee on Enrolled Bills.

The motion was agreed to; and Mr. WELLS was appointed.

DUNLOP'S LAWS OF THE UNITED STATES.

Mr. COOPER asked and obtained the unanimous consent of the Senate to introduce a joint resolution authorizing a subscription, by certain officers and others, to Dunlop's edition of the laws of the United States; which was read twice by its title, and referred to the Committee on the Library.

COMPENDIUM OF EXECUTIVE REPORTS.

Mr. FESSENDEN, from the Committee on Printing, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to cause to be laid before the Senate, at the commencement of the next session, with the annual reports of the heads of the Departments, and the accompanying reports of the chiefs of bureaus, an abstract or compendium also of said last named reports; and a like abstract or compendium of the reports of the Secretary of the Treasury on the finances, and on commerce and navigation, together with the full report thereon, to facilitate the preparation of a compendium of the annual public documents.

ARMS, ETC., IN STATE ARSENALS.

Mr. PEARCE. I offer a resolution of inquiry:

Resolved, That the President be requested to communicate to Congress a statement of the number of muskets, rifles, and other arms and equipments, delivered to the State arsenals respectively, the number remaining on hand, and the number sold and accounted for; also, the date and amount of such.

I have only to say that I present the resolution at the request of a colleague in the House of Representatives, who has information which satisfies me that it is important that it should be passed.

The resolution was considered by unanimous consent, and agreed to.

SOLDIERS OF THE WAR OF 1812.

Mr. BELL. As a matter of gratification to the old soldiers—I fear they will get little else—I present this resolution, and I hope it will not be objected to:

Resolved, That five thousand copies of the memorial and proceedings of the convention of the soldiers of the war of 1812, held at Washington, be printed.

Mr. SLIDELL and others. It should go to the Committee on Printing.

Mr. BELL. I hope not. Let it be acted on immediately.

Mr. SLIDELL. Our rules require that all resolutions of this kind should be referred to the Committee on Printing. I think great mischief will result from a violation of our rules, which, I think, we should follow.

The PRESIDENT. The resolution will be referred to the Committee on Printing.

SENATE EMPLOYEE.

Mr. CLAYTON submitted the following resolution for consideration:

Resolved, That Horatio Ragan be continued in the service of the Senate, under the authority of the Sergeant-at-Arms, until the further order of the Senate.

NAVAL DISCIPLINE.

Mr. MALLORY. I ask the indulgence of the Senate, this morning, to take up and pass a House bill, which will not occupy any time; but which is one of very great importance to the public interests. It is a bill to provide a more efficient discipline for the Navy. To show the importance of this appeal which I am making, I may state that the bill was prepared by the Navy Department and sent to the House, and passed there almost without objection. It has been examined by the Naval Committee of the Senate, and reported without amendment, and will, I suppose, not occupy five minutes. It is a subject of very great importance to the Navy. It is to supply a portion of the discipline necessary for the service in the absence of any other.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

It proposes to make it the duty of every commanding officer of any of the vessels of the Navy, on returning from a cruise hereafter, to forward, immediately on his arrival in port, to the Secretary of the Navy, a list of the names of such of the crew who enlisted for three years as, in his opinion, on being discharged, are entitled to an "honorable discharge," as a testimonial of fidelity and obedience; and he is to grant it to them, according to the form prescribed by the Secretary of the Navy. If any seaman, ordinary seaman, landsman, or boy, should reënlist for three years, within three months after his discharge, he is, on presenting his honorable discharge, or on accounting in a satisfactory manner for its loss, to be entitled to pay during the three months, equal to that to which he would have been entitled if he had been employed in actual service. Commanders of naval vessels, in granting temporary leave of absence and liberty on shore, are to exercise carefully a discrimination in favor of the faithful and obedient. Summary courts-martial may be ordered upon petty officers and persons of inferior ratings by the commander of any vessel in the Navy to which they belong, for the trial of offenses which he may deem deserving of greater punishment than the commander of a vessel himself is by law authorized to inflict of his own authority, but not sufficient to require trial by general court-martial. The summary courts-martial are to consist of three officers not below the rank of passed midshipmen, and of some competent person to act as recorder, who are to take an oath for the faithful discharge of their duty. Evidence before them is to be given orally. Summary courts-martial may sentence petty officers and persons of inferior ratings to any one of the following punishments: *First*. Discharge from the service with bad conduct discharge, but the sentence not to be carried into effect in a foreign country. *Second*. Solitary confinement in irons, single or double, on bread and water, or diminished rations; but no such confinement is to exceed thirty days. *Third*. Solitary confinement

in irons, single or double, not exceeding thirty days. *Fourth.* Solitary confinement not exceeding thirty days. *Fifth.* Confinement not exceeding two months. *Sixth.* Reduction to next inferior rating. *Seventh.* Deprivation of liberty on shore on foreign station. Extra police duties, and loss of pay, not to exceed three months, may be added to any of these punishments. No sentence of a summary court-martial is to be carried into effect without the approval of the officer ordering the court, who may remit, in part or altogether, but cannot commute any sentence. It is to be his duty to remit any part or the whole of any sentence, the execution of which would, in the opinion of the surgeon or senior medical officer on board, given in writing, produce serious injury to the health of the person sentenced, or, in case he shall refuse to do so, it shall be his duty, without delay, to submit the case again to the same or to another summary court-martial, which shall have power, upon the testimony already taken, to remit the former punishment, and to assign some other of the authorized punishments in the place thereof. It is further provided that any person who shall entice any seaman, ordinary seaman, landsman, or boy, who may have enlisted into the naval service of the United States, to desert, or who shall conceal any deserter, and refuse to give him up upon the order of his commanding officer, shall, upon legal conviction thereof, be fined at the discretion of the court, in any sum not exceeding three hundred dollars, or be imprisoned for any term not exceeding one year.

Mr. MALLORY. I will only say to the Senate that the bill was prepared at the Department with great care. It is simply to legalize the punishment of imprisonment, and to furnish a reward to good service by way of three months' extra wages. There were but two amendments put on the bill in the House. One was to provide a mode of punishment for those who entice seamen to desert, which was inserted at the suggestion of the district attorney for New York. The other was that no seaman should be discharged in a foreign port. The bill is confined to the Navy alone, and does not affect the merchant marine.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ST. PETER'S RESERVE.

Mr. STUART. I desire the Senate now to take up and dispose of the bill which was the unfinished business at the adjournment on Monday. It is very important to the interests of Minnesota that it should be disposed of at once. It is a bill of the House of Representatives to amend the act approved the 26th August, 1852, entitled "An act to reduce and define the boundaries of the military reserve at St. Peter's river, in the Territory of Minnesota," and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill, the question pending being on the amendment of Mr. CHASE, to add to the first section the following proviso:

Provided, also, That the heirs of Stephen Johnston be, and they are hereby, confirmed in the location of the lands applied for, under the certificate or warrant issued to said heirs, so far as the same did not interfere with the settlement and improvement of an actual settler, or settlers, at the time said location was applied for.

Mr. STUART. I trust the Senate will not adopt the amendment; and I wish to state, in a very few words, why I think it should not be adopted. As I understand his statement of the case, it is this: The heirs of Johnston had a right, which is sometimes denominated a floating right, to locate the scrip issued to them on any land that was surveyed. The consequence is, that it may be located on any surveyed land in the United States, whether it has ever been put into market or not, provided it does not interfere with an actual settler. Now, to undertake to apply it to this bill will, as I am informed by the Delegate from Minnesota, interfere with the fixed rights of a large number of actual settlers on the lands. Why should it be so applied? It can be located anywhere. The object of the bill is not such a one as the Senator's amendment has in view, and I trust the Senate will allow me a brief space, perhaps not five minutes, to state what this bill is.

The military reserve at St. Peters river was originally a very large one. Two years ago, Congress reduced it, but it still comprises several hundred acres; but in reducing it, they provided that all the lands should be put up and sold at auction. In the mean time certain actual settlers have located upon the land in good faith under what they supposed to be their rights as preëmptors; and so extensive are their improvements, that they have sent a special delegation here to Congress to secure them in what they say is all they have in the world. They have expended in some instances, $3,000 on a forty acre tract for a home. The effect of this amendment is to spread this floating right over the improvements of those actual settlers. This floating claim, as I said, can be located on any other land in the United States which is surveyed, whether it has ever been put into market or not, provided the land is not actually settled on. I have a letter from the Commissioner of the General Land Office, saying that it can be located on this piece of land under the bill as it now stands without any amendment, provided it is not located on the improvements of an actual settler.

For this reason, I hope, the amendment will not be agreed to. The bill does not affect the question of the reduction of the military reserve; that was disposed of two years ago, but it is simply a question of applying the public land laws to the land which was thus taken off from the military reserve. I express myself with some little anxiety upon this subject, because the Territory of Minnesota, like all other Territories, has no representative on this floor. I shall not detain the Senate by reading the facts which the Delegate has furnished me. I have stated them substantially. The consequence of the amendment would be to do harm to a very large class of meritorious applicants on that land.

Mr. WALKER. If I understand this case, land-scrip was issued to the heirs of Johnston. They, at some particular time, located the warrants granted to them, on land now to be affected by this bill. The bill provides for the disposition of that land. The amendment asks that the location made by the heirs of Johnston shall be protected, provided that protection shall not extend to any location which covered a settlement at the time such location was made. Now, the view which I take of the subject is, that if the warrant to which these parties were rightfully entitled was located at a time when there was no settlement there, why should not the settlement be valid? In other words, what right had any other person, subsequent to that location, to enter on the land, settle and improve it, and by this subsequent act of theirs divest these locators of the rights acquired by them? If that be the case, I am in favor of the location, and opposed to its being divested by any subsequent settlement of a settler, he, from necessity, having notice that the location was made.

Mr. STUART. I think I can satisfy the Senator in a moment. These men had no right to locate the scrip on the land at the time. The location is a nullity, and has been decided to be so at the Land Office, because the land was not subject to that kind of entry. It was, therefore, notice to nobody. Subsequently, others have gone on and made settlements and improvements, without any knowledge whatever of that location. They could have no knowledge of it, for the location was a nullity. It might as well have been spread over another man's farm. Now it is sought to give effect and force to a location which was good for nothing then; and in giving effect to it, to exclude meritorious actual settlers from their improvements, and ruin them.

Mr. CHASE. Mr. President, I can state my view of this case in a few words. I do not pretend that I am infallible by any means, and I shall not speak as if I were. The military reserve at Fort Snelling was reduced, as the honorable Senator from Michigan has stated. Certain land, by the reduction, included within the original reserve, was excluded from it. By the act excluding it from the reserve, it is subjected to public sale, but not to preëmption. There could be no right of preëmption upon that land. At that time the heirs of Johnston, who, as I stated to the Senate the other day, was murdered by the Indians in the service of his country——

Mr. SHIELDS. Will the honorable Senator permit me to ask him what the condition of the reserve was at the time the heirs of Johnston located?

Mr. CHASE. I am about to state that. At that time the heirs of Johnston who, as I said before, was murdered by the Indians, had from this Government a land certificate applicable to any lands owned by the Government, not subject to preëmption. Their representative applied to enter this land, which was not subject to preëmption, under that certificate. He had, in my judgment, a perfect right so to apply; but he was met by the statement that, inasmuch as the act excluding these lands from the military reserve subjected them specially to public sale, that took them out of the operation of his certificate; and therefore his entry was not recognized by the Land Office. This was only about six months ago. At that time there was no settler upon the land for which he applied, and, of course, his entry could come into conflict with the rights of no actual settler at that time.

Now, the restriction to public sale is proposed to be removed by this bill, and it provides for allowing any person who has settled these lands to take them at $1 25 per acre. Then, when the restriction is removed, this right of Johnston's heirs attaches. They have just as good a right to the piece of land on which they desire to locate, as any persons holding a contract with the Government for any piece of land can have. If this bill shall be passed as it is, however, they will be excluded. It was not designed to do it, as the bill was framed at the Land Office; but it is actually so framed that if it be passed it will exclude them. In order to prevent this exclusion, upon a statement to the Commissioner of the General Land Office, he drew up this amendment which he has sent here himself, and which he says would seem fair and just to all persons. It provides for these heirs, and comes to us from the Land Office, and there is upon the table a letter from the Commissioner of the General Land Office, in which he says that the amendment would do justice to all parties. That is all I ask, simply that the representative of these heirs, who has this right, shall be secured in it. It is an honest right, which would be his legal right but for this act. I ask that it shall not be cut off from him by the act.

Mr. COOPER. The amendment is wrong in principle, and would do injustice; and besides that, would defeat the bill, which ought to be passed. I hope that the debate will not be continued, but that the question will be taken.

Mr. SHIELDS. I entirely concur with the honorable Senator from Pennsylvania, and I will merely add, that I think the Senator from Ohio is mistaken in relation to the principle. As has been stated, this is a floating right, and that float can be laid upon any land subject to sale and entry. The effect of the amendment of the Senator from Ohio is to retroact and make a location which was null and void and illegal at the time it was made, now legal from that time, and deprive a man who has settled on the land from all benefits from his settlement and possession since that time. That will be the effect of the amendment. I explain it simply that it may be fully understood. It is to make a thing which was null and void at the particular time act back and legalize the original entry, though it was illegal when made, and thus deprive a man who has made a subsequent settlement and is entitled to the benefit of preëmption from the advantage given to him by the preëmption laws. I do not agree with the honorable Senator from Ohio, and the bill itself does not exclude this party from the benefit of his float. He can lay that float on any land not subject to preëmption at this time.

Mr. DOUGLAS. The great objection to this amendment is, that, if it be adopted it will be necessary to send the bill back to the House of Representatives at a time when it cannot be taken up, and there are now two thousand settlers whose homes are dependent on the passage of the bill. I trust we shall pass it without amendment.

Mr. CHASE. If this family had, as was conceded, a right to this land, this act ought not to deprive them of it. They had a right to the land except so far as it was subject to public sale. To that all agree. The Commissioner of the General Land Office agrees to it. We now are removing the only obstacle which prevented their right from attaching. Then it ought to be permitted to attach. It is common justice, and it seems to me common honesty, that it should. It interferes with the right of no actual settler made at the time; but if any persons have taken up these lands since that time, it has been for the purpose of getting lands worth ten or twelve dollars an acre, for $1 25 from the Government.

The amendment was rejected.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PURCHASERS OF SWAMP LANDS.

On motion by Mr. STUART, the Senate proceeded to the consideration of the motion yesterday made by Mr. JOHNSON, to reconsider the vote by which the report of the committee of conference on the disagreeing votes of the two Houses on the House bill for the relief of purchasers and locators of swamp and overflowed lands was agreed to.

Mr. JOHNSON. Mr. President, I made the motion to reconsider under the belief that if Senators consider the subject in the view in which I intend to present it, the result will be different now from what it was yesterday. I know, sir, that in considering the report of this committee of conference, there are a large number of Senators disposed to vote for it, simply because it is the report of a committee of conference, though they have not taken the pains to investigate the subject, or even to follow the investigation which was made here in the debate that occurred yesterday, so far as to make up their own minds upon the result of this legislation on the people of the States affected by it. I am aware that many of those Senators were induced, by feelings of kindness, to vote for this party or that party, without a full knowledge of the effect of their action; and I wish only to say to them—I believe there is no harm in telling the truth, and I trust no offense—that, in my opinion, the effect will be injurious to a large body of our people, and I shall presently endeavor to make some approximation to the number who will be thus affected. Let me say to those gentlemen who do not make up their minds upon the merits of the case, that it will be very hard to those who will suffer under the provisions of this legislation if it should be done by the votes of Senators who do not fully understand the question, even to their own satisfaction. Ought they not to be induced to defer the adoption of this report when they reflect that the act can be passed at the next Congress, and still do the good which its advocates contend it will do? If, when the next Congress comes together, after an investigation of the subject, they think some such provision ought to be adopted, they can easily pass it. Ought they not to refrain, particularly when they must see that they are casting their votes without full knowledge, and with a protest on the part of many of those who will be seriously affected by it, against it as a measure which is wrong. Let them reflect that when this wrong is once committed, it is irremediable. It seems to me that this consideration should induce those gentlemen who have voted for the report without having studied and investigated this question, which is altogether legal and local in its character, and consequently not interesting personally to themselves, to say that, at this session, they will not pass such an act, when the opposition to it is so earnest and sincere, but that they will let the matter go by; and if they find hereafter, that those who are the protestants in this case are wrong in their protest, the delay of nine, or ten, or twelve months which will ensue before another act can be passed, will certainly do no injury. That is the point on which I put the case to those gentlemen. I protest against their voting in favor of this motion under a simple promise that they will do so, without knowing the full effect of their legislation. I appeal to them whether it is not inconsistent with the character of the legislation which is expected at the hands of grave, reflective, and honorable Senators.

Upon the grounds which I have stated I appeal for delay. I feel that many of my constituents stand here in a singular position—I will not say with a halter about their necks, for I do not like to use offensive figures of that kind—but I will say that they stand here before you, their judges, with the prospect of having a sentence passed upon them, which will most seriously injure them, and vitally destroy their interests, and that, too, by judges who themselves say they do not understand the question. I repeat, it will be hard to those who suffer by the consequences of this act, if the wrong shall be inflicted by the votes of Senators who are not satisfied with the correctness of the report; particularly when they can afterwards take time to satisfy themselves, and can remedy so soon whatever injury may be inflicted by delay. It will be hard if wrong shall be done to these individuals by gentlemen who are not satisfied with the bill, and who vote for it because some feeling of kindness to this, that, or the other person affects them at present to do a favor. I protest that that course of conduct cannot be sustained by our own convictions of a proper discharge of duty in matters which are alleged to be a direct destruction of vested rights, conferred by a previous act of Congress. Then I entreat those Senators who are not satisfied of the merit of the provision proposed by the committee, to vote for delay. I entreat them to leave it unacted on at present, and pass a law when they can do it understandingly.

So much, Mr. President, for that branch of the subject. I now come to the question of the effect of the legislation proposed by the committee of conference. I went to the Land Office to obtain information on some points connected with this bill, and I have received from the Commissioner a letter, which I propose to read to the Senate. He says:

"From my conversation with you this morning, I understood that the proposed amendment to the swamp land bill, if adopted, would require the assent of the State to the issue of patents for sales and locations by the United States, only where the State had sold the land prior to such sales and locations."

That is another exemplification of this proposition. In all cases where a State did not sell her swamp land prior to the sale of the same land by the United States land officers, a patent is required, by this provision, absolutely to be issued, without any release on the part of the Government. The Commissioner says, further:

"In Missouri, Iowa, and Illinois, the swamp lands have been granted to the counties."

Now, I will ask the Senator from Illinois if it is not true that the State of Illinois has granted the swamp lands to the counties, instead of the State, going on to carry out the terms of the grant, and reclaim those lands?

Mr. DOUGLAS. The State has substituted the counties as its agent, under the provisions of the law.

Mr. JOHNSON. The act of Congress which was passed in 1850 gave these swamp lands to the State of Illinois, among others, on condition that that State should go forward and reclaim the land by drains and levees. The State of Illinois has substituted the counties, giving the counties the swamp lands which lie within their boundaries, and leaving those counties comparatively irresponsible agents to carry out the terms and provisions of the act of Congress by which the swamp lands were granted. I do not intend to make any charge in relation to that matter; but I allude to it as I am passing. Those lands, I understand, have been almost entirely disposed of by the counties already. I have heard strong complaints against the manner in which that State has managed this public grant by which she was made a trustee for the carrying out of a specific object, which was the redemption and reclamation of the swamp and overflowed lands within her limits. I shall not go further into that question; but I understand, as I wish the whole class brought before the Senate at once, that the State of Iowa has already given away these lands to her counties on condition that they will carry out the objects of the grant. Will the Senator from that State answer, if that be so?

Mr. JONES, of Iowa. That is so. An act for the purpose was passed at the last session of the Legislature.

Mr. JOHNSON. Now, let me ask the Senator from Indiana whether Indiana also has not granted the swamp lands to the counties in which they lie for them to carry out the terms of the act of Congress?

Mr. PETTIT. No, sir; they have not been granted to the counties; but they have been sold mostly by the State at public auction.

Mr. BUTLER. Did you drain them first.

Mr. PETTIT. No, sir, we reserved a fund for the purpose of draining, and that draining is going on now.

Mr. JOHNSON. Then there are a large number of individuals who have purchased those lands in the State of Indiana, under the action of the Legislature of that State, and there are, therefore, conflicting claims there.

Mr. PETTIT. The State of Indiana did not sell the lands until the patent issued from this Government for them—not until they had been patented to the State of Indiana.

Mr. JOHNSON. Then that saves Indiana the difficulty in which this will involve Arkansas and other States. I wish now to ask the Senator from Michigan whether his State has parted with the swamp lands to the counties?

Mr. STUART. The State of Michigan has not parted with its title, to the counties, or to any other municipal corporations.

Mr. JOHNSON. Has that State done anything towards carrying out the act of Congress, by reedeming and reclaiming the swamp land?

Mr. STUART. She has disposed of portions of those lands to individuals, for the purpose of carrying out the intention of Congress.

Mr. JOHNSON. Then I must contend that the Senator, by agreeing to the passage of this bill, is doing harm to some of his constituents also.

Mr. BROWN. I wish to call the attention of the Senator from Indiana to one point which he stated. He said that his State did not sell the swamp lands until they were patented to the State by the United States. Now, the idea of the issuing of a patent, I know, has made an impression on the minds of some Senators; but I think the fact is, that no patent has been issued to the States at all.

Mr. PETTIT. The Senator is mistaken; a patent has been issued from the General Land Office. The State of Indiana has a patent.

Mr. BROWN. I think the Senator must be mistaken.

Mr. PETTIT. No, sir; I am not.

Mr. BROWN. I never heard of a patent being issued to my State or any other.

Mr. JOHNSON. I will call the attention of my friend from Mississippi to the fact that there is an act of Congress operating as a patent, which was passed at the last session, I believe. It is well for Indiana to support this proposed legislation, when it is remembered that, under the lead of an honorable gentleman, Indiana was the most urgent and pressing of all the States to get possession of her rights under the swamp land act, and she obtained them more speedily than any other. Pass this act, which issues a patent to the United States alienee, and he meets a patent to all who have bought from the State of Indiana; therefore the Indiana purchaser of swamp land is protected, while the rights of the Arkansas purchaser of swamp land are destroyed by the same bill. Is that right? The legislation proposed here now, under the lead of those States who will be benefited by this act, will operate unequally upon the same class of persons in different States, from the fact that one had its rights perfected more rapidly than another, for the reason that the General Land Office could not settle all at once, but they had to go on with some first, and, of course, they settled the grants of those States which were most urgent.

The Commissioner in his letter says that "this act of course could only operate in those States" which have granted their lands to the counties, "by construction," regarding the sales made by the counties as made by the States. Those gentlemen whose States have not received a patent, by their contending for the passage of this act, expect that, having granted away their lands to the counties at an early day, the citizens, holding the first title under the swamp land act, will make that title take date from the time at which the State granted the lands to the counties, and consequently that they will be protected from the passage of this act, which authorizes the issue of a patent by the United States at once and directly to the alienee of the United States.

Mr. DOUGLAS. I am sure the Senator does not mean to give an erroneous impression of the proviso against which he is arguing.

Mr. JOHNSON. No, sir, I am always happy to be corrected.

Mr. DOUGLAS. The proviso expressly guards against the very objection which the Senator urges, to wit, that the grant made to the counties will protect the purchaser; for in the committee of conference we strike out the word "county," and put in the word "individuals." For this reason the objection which he has made is expressly removed by the language of the proviso.

Mr. JOHNSON. The Senator says the language is "when granted to individuals." Now counties are bodies corporate, having the right to sue and be sued; and if those gentlemen rely upon the fact, that having made grants to the counties,

those who purchase under the counties would be construed as taking date in their purchase from the period of the grant made to the counties, they would be saved from the injurious effect of the bill which they now propose to pass. If they do not come to that conclusion, I beg to say that I think, and such is the Commissioner's statement of his impression, he would be compelled to decide that they were mistaken, and that the counties could be only regarded and treated as the States; and those who purchased individually would have to take date from the time they made the purchase from the counties. So that, by that construction, the constituents of those gentlemen must ultimately suffer, though they may believe they are protecting and defending their own people, while injuring other States. Let me read what the Commissioner says in relation to the operation of the present system. We are getting along without any such law as this; and I ask the attention of the Senate to what the Commissioner says, so that it may be seen what our condition is without the passage of any law. All I now ask at the hands of the Senate is, to keep their hands off. The Commissioner says:

"As the matters now stand, investigations are ordered in such cases, when, if the land is shown to be swamp, the claim of the State is confirmed; if not, the sales or locations made by the United States officers are confirmed."

Mr. MASON. Is that under the law of Arkansas?

Mr. JOHNSON. No, sir, under the operation of the United States law. But the effect of this measure is to lead to litigation—to drive all the claimants before the courts, and I protest against it. I say you are driving those parties from the local land offices which are near their homes, where they can bring their neighbors, and settle the question without cost and difficulty, and you compel us to go into different parts of the country. You drive our citizens into the State courts, and where non-residents are concerned, you drive us into the Federal courts, subject to all the delays of litigation, and all the complexity which may be introduced by new points of law, and subject us to the expense of all the costs which may be accumulated by a litigation for a series of years. All I ask is, that you shall allow these disputes to be settled in the quiet way in which they are now settled under the laws. Listen to the language of the Commissioner of the General Land Office:

"Should the bill pass as proposed, this office would execute it and issue the patents in all cases of sales &c., by the United States, leaving contestants to try their rights before the courts, except where the sales were made by the States or counties, anterior to those made by the Government officers. No action would be had in such cases, except on the relinquishment by the State."

That is what I say; by the terms of this bill you protect one class of men who entered swamp lands at the State offices before another who entered at the United States land office; while another man, who entered at the State land office, is cast to the winds by the terms of the act. This is proposed, although the United States have no title, but conveyed it away by an act of Congress which took effect as a statutory grant, at the very moment of the passage of the act. That is the point which was made by my honorable friend from South Carolina, [Mr. BUTLER,] at the time, and which he can better explain than I can. I do not intend myself to go into any further explanation on that point, but I desire to have read some further extracts from the Commissioner's letter. He says:

"In answer to your inquiry, further, I have to state, that, as near as can be estimated, there are about eight hundred and forty thousand acres of sales and locations made by the United States, conflicting with swamp land selections, as follows:

Illinois, extent of conflictions			180,000 acres.
Missouri,	"	"	125,000 "
Mississippi,	"	"	50,000 "
Iowa,	"	"	100,000 "
Louisiana,	"	"	40,000 "
Michigan,	"	"	50,000 "
Arkansas,	"	"	125,000 "
Florida,	"	"	36,000 "
Wisconsin,	"	"	134,000 "
			840,000 "

Thus it appears that this is no light matter. There are entries made by the people all through the swamp land States in tracts of forty, eighty, one hundred and sixty, and three hundred and twenty acres, amounting, in all, to eight hundred and forty thousand acres, which now stand in conflict. What is proposed by this bill? That all conflicts arising from the titles in those States to those eight hundred and forty thousand acres shall be taken away from the local land offices, where, as I said before, they can be settled easily, without cost, under a process which has not been complained of to any extent; and you compel those claiming the eight hundred and forty thousand acres to go into the courts of the country, where the parties litigant will be subjected to all the delay incident to litigation, and all the costs of court; and not only that, but they have to endure the evils of divided jurisdiction—the jurisdiction of the State courts and of the Federal courts; for a non-resident can take a case to the Federal courts, while a resident is confined to the State courts.

I alluded, a short time since, to the position of the Senator from South Carolina on the legal point involved in the effect of the act making the original grant. I would be much obliged to the honorable Senator if he would now explain his views upon that point.

Mr. BUTLER. Mr. President, I am somewhat complimented by the request of my friend from Arkansas. I did make a few remarks upon this subject at one time, but I do not recollect them now; still, as my friend from Arkansas has requested it, I will state my view of the subject. The Federal Government made a grant of swamp lands to the different States in which those lands were located. The grant is contained in the act which was referred to, and read yesterday; and I say that, so far as regards the Federal Government, it is a perfect grant to the States, a statutory grant, and the Federal Government cannot evade, revoke, or qualify that grant in any way. That is my opinion upon that point.

It is said, however, that the grant could not be perfected until the issuance of the patent. Why, sir, the only necessity for the patent was to enable the States, after the land should be surveyed and located, to avail themselves of each subdivision conveyed by this perfect grant. Indeed, they could avail themselves even by the act itself, with as much certainty as if the land were described as running west from such a point to such a point, and it had not been closed at the different corners. Suppose that I, or any individual, at that time had gone in and taken forty or one hundred and sixty acres within those lines, not exactly defined, but yet comprehended in the grant of the Federal Government, I should like to know whether such a locator would have any title at all? The grant being in the State, is, of course, a paramount grant; it is a perfect grant; and an individual coming in under the authority, or color of authority, of the United States, and making a settlement within those limits, or purchasing the lands from the United States, acquires no title whatever; and I say it is not in the power of this Government to sanctify such a transaction, and it ought not to do it.

Sir, I have an objection to this measure on another ground. I think it is a legislative interference with the judicial tribunals which are to adjudicate these claims, and it is the interposition of the Federal Government in matters affecting private rights. I say if the States had a perfect grant, their aliences ought to be regarded. I contend that the title of the States is a perfect one, under the act which my friend from Arkansas has read, merely to be carried out by a patent after the survey was made. I believe I may go thus far as a lawyer, and say, that when the survey was made, the State could compel, by *mandamus*, one of your proper officers to grant a patent.

Mr. JOHNSON. I have the act before me.

Mr. BUTLER. Will my friend please read it for me?

Mr. JOHNSON. The first section is:

"That to enable the State of Arkansas to construct the necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands made unfit thereby for cultivation, which shall remain unsold at the passage of this act, shall be, and the same are hereby, granted to said State."

Mr. BUTLER. I hold myself responsible for the opinion that, under the terms of that act, the grant is a perfect one, so far as regards the Federal Government. It has passed from us to the States, and can never be reclaimed. The patent is a mere evidence of the particular land granted, and I regard it as unimportant. My friend from Arkansas has appealed to me on this subject, and I have given him my opinion that it is a statutory grant to Arkansas, and that no individual can deprive her of it, or acquire any right, under any anterior law whatever, as against her.

Before I conclude, allow me to say further, that after the appeal which has been made by the Senator from Arkansas, I think it is the duty of Congress at this time to pause in regard to this matter. An appeal has been made to our justice. I have given my opinion, though, I admit, not upon full information; but it seems to me that when we decide upon a question affecting so deeply as this does private rights and the rights of States, we ought to do it with more intelligence than we have now before us. For this reason, I think it is but proper that the appeal which the Senator from Arkansas has made to our justice should be responded to. Delay, as he has well said, can hurt no one. Precipitation may hurt a great many. If we precipitate a decision on this matter, we may come to a conclusion which will lead to great mischief. We ought to leave the door open for every member to inform himself on the delicate questions involved in the proposition of the committee of conference. It does seem to me, however, to be a very clear case, that when the grant was made, the land passed from this Government to the State of Arkansas, and that we had no further control over it, except to perform the ministerial office of issuing the patent after the survey.

Mr. JOHNSON. If the honorable Senator from South Carolina is correct in the legal opinion which he gives on examination of that act, then we are about to order the issuance of patents to parties who can have no right to them, and to confer them upon whom will be a violation of rights secured to others under a previous act of Congress. It would be an attempt at an *ex post facto* law, which could be met and resisted nowhere but in the courts of justice, after litigious and expensive contests. I hope this body will not by its action undertake to bring about such a state of things.

It appears from the records of the Land Office, as I have shown, that one hundred and eighty thousand acres of land in Illinois are involved in these conflicting claims. You now propose by this act to decide them, as far as your action can, in favor of one set of claimants. In the State of Missouri there are one hundred and twenty-five thousand acres involved in the same conflicts of title between her citizens. In the State of Mississippi there are fifty thousand acres, and her Senators are found standing here, with my colleague and myself, to relieve those citizens from the unauthorized interference by Congress. The State of Iowa has one hundred thousand acres of land involved in the same conflict, in which different sets of her people profess to own it. In Louisiana there are only forty thousand acres of these lands involved in conflict. In the State of Michigan the same conflicts exist to the amount of fifty thousand acres. In Arkansas there are one hundred and twenty-five thousand acres in regard to which there are conflicts amongst our own people. In Florida there are thirty-six thousand acres, and in Wisconsin one hundred and thirty-four thousand acres.

The State which I have the honor to represent has a larger amount of these conflicts than any other State in the Union, with the exception of Illinois and Wisconsin. Illinois has more than any other. This bill will have the effect in Illinois, and all the others, of ordering the patents for that quantity of lands to issue to those who have entered them in the United States land office, although the United States, by the terms of the original grant, had parted with all her title. The State of Illinois then, under the terms of this act, will receive $1 25 an acre from the United States Treasury for that quantity of land, thus drawing $225,000 from the Treasury by the passage of this measure. I acknowledge that is a benefit which will be done to that State; but, sir, it is done over the rights of a class of conflicting claimants, who hold under the grant of the State herself. Under this measure, in every instance where it can be proved that the person entering, under the State, actually entered before the same land was entered in the United States land office, the State will receive the money for that tract from the Treasury.

It must be regarded by all, as at least doubtful, whether the United States did not part with all

title to those lands by the terms of the grant. The honorable Senator from South Carolina, the chairman of the Committee on the Judiciary, says the United States unquestionably did part with the legal title, for the statutory grant was equivalent to the patent. Here it is proposed, after the United States parted with all their title, to pay over the money received from those to whom they sold land without any right, into the hands of the State to whom it had been previously granted. This must inevitably lead to difficulties, and must complicate the accounts of the United States land office.

Let us see in what a position this will place the United States. Take the case of the State of Illinois as an example. The United States, we will suppose, sold the land, after parting with their title. Then, according to this proposition, they will transfer the money received from those individuals to the treasury of the State of Illinois; but afterwards, if it is found that the money was wrongfully paid to Illinois, because the land really belonged to the United States, the party evicted from the land will come to the Treasury for the return of the money which he paid. This Government will answer that it has paid the money to Illinois He then will be compelled to come to Congress to get a special act passed for his relief; and who can doubt that, under such circumstances, the money would be returned?

It seems to me that the result of this measure will be to complicate very much the land accounts of the General Government, and to lead us into difficulties hereafter in the halls of legislation. It will lead to difficulties which will have no end in the next ten years of the legislation of this body, and no end for fifty years to come in the contests of your courts. Who, then, cannot see what a mass of human suffering, of chagrin, of wrong and injury, will be inflicted upon individuals by this course of legislation? Will not Senators refrain from doing such injury, when they must see that this measure, if necessary, can be as well passed at the next Congress as now. I know gentlemen allege, as an excuse for sustaining the report of the committee, that they do not understand the question. I appeal to them for Heaven's sake, if they do not understand it, not to put this complication on us now, but wait until they can understand it. I think that, when they do come fully to examine and investigate it, they will find that this legislation is entirely wrong and will inflict untold injury upon people who have vested rights under the action of Congress.

I have already stated, sir, that there are eight hundred and forty thousand acres of land to which there are conflicting titles which will be brought before the courts by the operation of this act. I have given you the number of acres to which the titles are conflicting in the different States, and now I propose to read what the Commissioner of the General Land Office says about the present mode of settling these conflicts:

"The settlement of conflicts, as now conducted, is productive of labor and delay only in this office. There are no charges necessary of any kind, either general or individual, except what may arise from travelling. I am not aware of any case, except, probably, one or two, where the officer required examinations by deputies in the field, and then, even, the cost was merely nominal.

"In cases where the swamp lands have been granted to the counties, the latter would be regarded merely as the representatives of the States, and not as assignees."

Thus it appears that matters now go on smoothly, quietly, and easily. Why then the necessity for this interposition? For the purpose of enabling some of the States to achieve a yet greater good, it is proposed that the United States shall confirm the title to those who paid money into the United States Treasury, and that the State shall draw the money out of the Treasury and leave the conflicting elements to fight their battles under changed circumstances, under changed relations, with changed legal rights, and when unfortunate results must necessarily follow. I have given my views of the subject, and unless something shall be said making it necessary for me to address the Senate again, I shall have nothing more to say upon this question.

Mr. WELLER. I move that the subject be laid upon the table.

Mr. JOHNSON. My motion is to reconsider the vote agreeing to the report of the committee of conference. Will this motion carry that proposition with it?

Mr. WELLER. It carries the whole bill and everything connected with it. The pending motion is to reconsider. My motion to lay on the table, if adopted, will carry with it, as I understand, the bill and the whole subject.

The PRESIDING OFFICER, (Mr. STUART in the chair.) Certainly.

Mr. WELLER. My object is to stop debate, and proceed to the consideration of other business. The Senator from Arkansas tells us that this question can be as well disposed of at the next session of Congress. We have no opportunity of investigating it now. A matter so deeply affecting large local interests ought not to be passed on without investigation; and therefore, for the purpose of having it sleep until the next session, I move that it lie on the table.

Mr. DOUGLAS. I trust the Senator from California will withdraw that motion. An allusion has been made to my own State, to which I think I ought to reply.

Mr. JOHNSON. I hope the Senator from California will allow the Senator from Illinois to be heard on the subject.

Mr. WELLER. There is a great deal of overflowed land in the State which I have the honor in part to represent, and therefore reference has also been made to that State as well as the State of Illinois, and on the same principle I should be entitled to speak; but I prefer that we should proceed with other business, and I must therefore insist on my motion.

Mr. DOUGLAS. I trust the motion will not be agreed to.

Mr. BENJAMIN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 23, nays 23; as follows:

YEAS—Messrs. Adams, Bell, Brainerd, Brown, Butler, Clay, Clayton, Dawson, Evans, Geyer, Johnson, Jones of Tennessee, Morton, Pearce, Rusk, Sebastian, Seward, Thompson of Kentucky, Toombs, Toucey, Walker, Weller, and Wilson—23.

NAYS—Messrs. Allen, Bayard, Benjamin, Bright, Cass, Chase, Cooper, Dodge of Wisconsin, Douglas, Fitzpatrick, Foot, Gillette, Hunter, James, Jones of Iowa, Mason, Pettit, Pratt, Shields, Slidell, Stuart, Thomson of New Jersey, and Wright—23.

So the motion to lay on the table was not agreed to.

Mr. DOUGLAS. I shall detain the Senate but a moment; for, if I can get their attention, I think I can place this question, in a very few words, in such a light as will put it beyond all difficulty. The facts are few and simple. In 1850, we granted the swamp lands to the States in which they lay, on certain conditions and for certain purposes. It was about eighteen months, on the average, before the Legislatures of the different States assembled, and accepted the grant, and provided for complying with its conditions. In the mean time, the public land offices of the United States were open, and sales of the public lands went on as before. A large portion of the lands which were returned as swamp lands when surveyed thirty years ago, had, in process of time, become dry. Some of them are our best lands, and many of them have been cultivated for years.

That being the case, the Government not having designated what were swamp lands, no man had an opportunity of knowing which were swamp and which were not, during the time which elapsed from the date of the grant to the acceptance by the States. During that period, emigrants from New England, Virginia, Pennsylvania, Georgia, and the various old States, going into the new States, to select homes, chose pieces of land which were dry and susceptible of cultivation. Finding that they were vacant, they went to the land offices of the United States, entered them, and paid their money. They have converted them into farms. After paying for them, and improving them, the Legislature of the State assembled and accepted the grant, and provided for disposing of the swamp lands. Then the States were stimulated to go on and provide for all those lands, under the impression that the money which had been paid into the national Treasury would be lost by them unless they claimed the whole of the lands. Some of the States now are going on to sell over again the very lands which the United States have sold, and received pay for, and of which the purchasers from the United States are in possession, and cultivating as their homes.

The question now is, shall we, by our legislation, turn out of possession all those settlers who have acquired their homes under our laws by paying their money into the Treasury of the United States before the States accepted the grant and the land was conveyed to them? That is the simple question. The report of the committee of conference, to which the House has agreed, provides that the patent shall be issued to the first purchaser, whether that purchaser be under the State or the Federal Government, in order that parties may then contest their rights in court if they please. The proposition of the Senator from Arkansas is to affirm the sales made by the States, and to dispossess every one acquiring a title under the United States.

Mr. JOHNSON. I am certain the Senator does not wish to misrepresent me.

Mr. DOUGLAS. Certainly not.

Mr. JOHNSON. I know it, and therefore I wish to correct his statement of my position. I have made no proposition at all, except to ask that Congress shall keep its hands off when they are going to do what is wrong. The statement which is presented by the Senator, I beg leave to say, needs much help to sustain it.

Mr. DOUGLAS. Then I will say that the defeat of this bill, for the reasons assigned by the Senator from Arkansas, is in order that the title may be held to be in the States, the effect of which will be to dispossess the purchasers under the United States.

Mr. JOHNSON. The Senator is incorrect again, because if the land, when it was bought by the meritorious parties, of whom he speaks, by entering it in the United States land offices, was high, dry, and good for cultivation, it was not conveyed by the original grant. If it was swamp land, it belonged to the State from the time of the grant.

Mr. DOUGLAS. That is not the point.

Mr. JOHNSON. The law, as it now stands, does not cut out such a man, nor is he driven to the courts.

Mr. DOUGLAS. The Senator has shown already that eight hundred and forty thousand acres of these lands have been sold by the Government, which is proven to be swamp lands.

Mr. JOHNSON. Not proven to be so; that is the conflict.

Mr. DOUGLAS. But, according to his claim, the effect would be to turn out of possession the purchasers under the United States Government to eight hundred and forty thousand acres of land. Let me say to him, that in regard to the one hundred and eighty thousand acres in Illinois, there is no conflict. The purchasers under the Federal Government there paid their money into the national Treasury before the State accepted the grant, and no man in Illinois pretends to make a conflict as to the validity of that sale; but if you now cast a doubt on the legality of the sales made by the Federal Government, you will raise up competitors for these one hundred and eighty thousand acres of land, and according to the construction of the Senator from Arkansas, every one of those settlers will be turned out of possession.

I ask is it not just and wise that we should give the patent to the first purchaser? If the first purchaser be under the Federal Government, let him take his patent. If the first purchaser be under the State Government, let the State get the patent, and make out title to him. The simple question is, whether the first purchaser or the second shall be recognized by us. I hold that the first *bona fide* purchaser should be protected, and that, as a general rule, the second purchaser ought not to be favored, for the reason that, in most cases, he entered the land knowing that his neighbor had previously bought it, and, perhaps, that he had put improvements upon it. The second purchaser, therefore, is not to be presumed to be the *bona fide* one. I insist that if we adopt any other rule, then to give the patent to the first purchaser, whether under the State or under the Federal Government, we adopt a rule which encourages fraud and bad faith in the disposition of these lands. For this reason, I think, justice requires that we should concur in the report of the committee of conference, which was unanimously adopted, and which has been concurred in by the House, and thus put an end to this question. I shall occupy no more time, for I know that it is important for us to get through with this subject, and proceed to other business.

Mr. WALKER. As I understand this ques-

tion, a great part of what the Senator from Illinois has said, has been but to draw a fancy picture of this matter. I did not think much about it until last evening and to-day, but my reflection has satisfied me of the impropriety of the course of legislation proposed by this report. An act was passed granting these lands to the States, and operating *in præsenti*. Then it becomes plain that the lands immediately vested in the States. We have the opinion of the chairman of the Committee on the Judiciary that such was the operation of that law. Now, the Senator from Illinois makes the law to depend upon the subsequent acceptance of the grant by the State Legislatures. I do not think there is anything in the act which causes its vitality, its operative energy, to depend upon the acceptance of the States. The act in itself declares that "there shall be, and hereby is, granted," to the States a certain description of land. The grant was then complete to the States. Now we are about to pass a remedial law to operate upon individuals who have since purchased these lands.

The first question is, is any remedy needed? We are told by the Commissioner of the General Land Office, that the present mode of settling these conflicts is cheap, expeditious, and certain. How does that happen? Suppose you, sir, went to the United States land office and bought a piece of land, and I had bought the same tract at the State land office: whether it is mine or not depends, according to the present law, on a certain easily ascertained fact—whether it was swamp land or not at the time of the passage of the act which vested these lands in the States. How is that fact to be ascertained? In the simple method pointed out in the letter of the Commissioner of the General Land Office. Notice is sent to the local land officers to summon parties before them. They go before the land officers, and call together from the vicinity of the land persons perfectly familiar with its quality, and they testify as to the fact whether it is swamp land or not. If it be determined, on their testimony, that it is swamp land, as a matter of course, the land was vested in the State, and the purchaser from the State is the person entitled to it. If it turns out that it was not swamp land at the time of the passage of the act, it never was vested in the State, and consequently the purchaser from the State could get no title.

Now, what is proposed in this remedial law, is, not to remedy the evil, but to make the evil greater. It is to throw all those persons who have purchased the eight hundred and forty thousand acres in regard to which there is a contest, into the State and Federal courts, where they are to litigate their rights for years, when the simple fact whether the land was swamp or not, can be easily ascertained, as the Commissioner of the General Land Office says, without much cost to the parties or to the Government. Shall we pass this act, and thus involve all these claimants in this indefinite, vast, and expensive sea of litigation? I hope not. For my part, I sympathize with the feelings and the views entertained by the Senator from Arkansas, and hope the report will be rejected.

Mr. HUNTER. I move to postpone the prior orders, for the purpose of taking up the mail steamer appropriation bill.

Mr. JOHNSON. I hope we shall soon dispose of this subject.

Mr. DOUGLAS. I think we can dispose of it in a few minutes.

Mr. BADGER. I wish to suggest to the Senator from Arkansas now to renew the motion to lie on the table, as a test question, to ascertain the sense of the Senate.

Mr. JOHNSON. I desire, before such a motion shall be made, to correct a statement of the honorable Senator from Illinois, which, I think, is calculated to lead to error. He said, in the course of his remarks, that there were no conflicts in the State of Illinois in regard to these lands. I have already read to the Senate a statement from the Commissioner of the General Land Office, under his own signature, that there are one hundred and eighty thousand acres in conflict there. The explanation of the Senator from Illinois in regard to that point is substantially what I said before. Illinois will be a beneficiary under this act, and her citizens will escape, in a great measure, if not entirely, from being affected by its provisions, because that State, not having sold lands to individuals, is not placed in the difficulty in which my State and others are. I suppose that to be the Senator's explanation, in substance and meaning.

Mr. DOUGLAS. There is no conflict, because there is not an instance, within our knowledge, of a conflicting claimant.

Mr. JOHNSON. According to the records of the Land Office there are one hundred and eighty thousand acres of conflicts certified to that office. I have read to the Senate the statement of the Commissioner of the General Land Office to that effect. According to the explanation which I have given in regard to Illinois, she can easily release her right; but in other States we cannot release the right of the State, or disregard it, by a general act of Congress, and do justice to those to whom we have sold lands. Illinois, in the circumstances in which she is placed, will derive much benefit from this act; but in doing so you are perpetrating injustice upon others.

It is a plausible statement to speak of my construction of the act as driving away settlers from Virginia and other States, who went to the new States after the passage of the swamp land act, and, knowing nothing about it, entered lands in the United States land offices. My construction does not turn out a single one, and I defy human reason to point to a single case where my construction would turn out a settler. I say that if the United States owned the land, if it was not swamp land, in such a case the alienee of the United States needs no protection. If it was swamp land, and the State has sold it, her alienee ought not to be more harshly treated, though he may not be an emigrant from any other State, but a native citizen of the State where he lives. He ought to have equal rights with emigrants, certainly, as long as he is an honest citizen, and recognized by his own community as fit to live among them. He ought to be protected by this Government in the rights which he has acquired under your previous laws. I do not wish to detain the Senate; I am willing that the vote shall be taken; but I hope that the reconsideration will be agreed to, and that then the report of the committee of conference will be rejected.

Mr. BRIGHT. Mr. President, at this late hour of the session it is with extreme reluctance that I claim a moment of time on a question which seems so unimportant as this; but, sir, in view of the fact that this is, in reality, a very important question to many humble individuals, who will only know what we do here to-day, except as the intelligence may reach them through an officer of the law carrying with him authority to eject them from their homes; and as the success of the measure deeply interests many who have confided their rights to me on this floor, I must claim the attention of the Senate for a few moments, while I discharge what I regard an imperative duty.

I claim, Mr. President, to be a law-abiding man; and I have ever taught, by precept and example, obedience to the laws of my country. But if the doctrine contended for by the honorable Senator from Arkansas should obtain in this case, I would not advise acquiescence in its execution on the part of the many that would be affected and ruined by it.

The honorable Senator from Illinois, has stated better than I can, the practical effect of the bill agreed upon by the committee of conference. He has given very satisfactory reasons, to my mind, in favor of the passage of the bill before us. He has very truly said that the party first entering the land is entitled to the ownership, and that is substantially what this bill gives; nothing more. Now sir, I venture the opinion, that there are thousands of instances in the States of the Northwestern Territories, where, between the time of the passage of the act by Congress, granting the swamp and overflown lands to the States within which they lie; and the period when the States made the selection under the act; that persons have entered at the Government land offices, and gone on to improve the very same lands that have since been selected by the States, and are now attempted to be given to speculators, under entries made, or purchases made of the States. Sir, this I say would be iniquitous and unjust toward these hardy pioneers that fell your forests, open up and develop the resources of the country. Now I am for protecting this class of my constituency in what I regard their vested rights. They have paid for and entered upon these lands, your officers have taken their money, and it is no satisfactory answer to these honest sons of toil, when they ask for a patent, to be told, you can have your money back, but the land belongs to the State, or belongs to some land jobber, that has bought the State out. No, sir, in the language of the honorable Senator from Illinois: "Give the land to the man that first entered upon it, to the man that has improved it, and if there be any refunding of money, let those questions be settled between the United States, the States, and the individuals that claim under the States; but again, I say protect the honest settler." The honorable Senator from Arkansas has said that he knows instances where great injustice would be done by the enactment of the law as recommended by the conference committee. If he says so, no doubt it is so; but the instances are rare—very rare—not, I venture to say, as one is to a hundred, where a failure to enact this law would be ruinous in its results on that unprotected hardy class of honest pioneers, that I have described. I envy no Senator the feeling he must undergo, in striking such a blow at the humble inmates of the cabins of the West. I shall vote against reconsidering, because I am satisfied the report of the committee is right and ought to be agreed to.

Mr. JOHNSON. I appreciate the remarks of the honorable Senator from Indiana; they are, no doubt, in his opinion, in good temper and good style. The substance of his remarks was, that, if the iniquity and injustice contended for by the Senator from Arkansas shall be perpetrated by the sanction of the Senate, it will be so gross an outrage that an honest man cannot look at it with patience. Now, let me tell him that the Senator from Arkansas has contended for nothing but to leave the law as it stands, and allow these conflicts to be settled, as they now are, with ease and without difficulty, cost, or expense. That honorable Senator told us, further, that he will be inclined, although a law-abiding man, and a good citizen, to countenance and advise resistance to law, if the course which I propose be followed.

Sir, if we take his words as sound in reason or justice, the Senator from Arkansas must stand here in a character which he disavows. I will not defend myself from such an imputation; I leave that to others. I will only bow beneath the Senator's delicate sense of moral right and his high and distinguished character. As to his sensitive care of what is right, I admit his perceptions to be far more correct than mine; but I protest against his dictum being taken as conclusive, to trample down one so humble as myself. Such denunciations as those we have heard from that distinguished Senator are based upon no reason. I have contested this matter with gentlemen who wished to benefit their States at the expense of others. Though we are acting under a common law, they seek to inforce their claims by the superiority which they have in *prestige* upon this floor, and not per force of human reason and common sense addressed to honorable Senators who are members of this body.

I tell you, sir, that this legislation is for the advantage of certain States—that they may go to your Treasury and draw out the money that you have received for lands which have been sold at the United States land offices on certain conditions. This cannot be disputed. The States will get the money, though some of their citizens will be the sufferers. Arkansas has another class to protect; and I thank God there are Senators from other States who stand by the Senators from Arkansas on this question. I do not stand here alone. I am not the only representative from the land States who opposes the adoption of this report. Others join with me in saying that they have another class to protect—the class of humble citizens who have acquired a right to their swamp lands from the States in which they live, and who desire to be protected in the enjoyment of their forty, eighty, or one hundred and sixty acre tracts, which they have purchased from their States. They say to this Government that they hold rights under its legislation, which were vested by a previous act, and of which you ought not to deprive them. You say that, by giving a patent to their opponents, you leave them to contest the question before the regular tribunals, where they are now being settled; but they say that it is not so.

Upon this question, I have acted merely on the defensive. I have simply protested against the

passage of wrong laws, under the mere *dicta* of Senators here. I protest against the adoption of this report of the committee of conference, though I understand it is a unanimous report. The members of that committee consulted with themselves alone. I heard nothing of their consultations, and knew nothing of the terms of the agreement at which they arrived, until they presented their report here. Now, we are called on to adopt it because of the unanimity of the committee; and Senators are asked to do it against the protest of those who pray for delay, who request time. Gentlemen who profess not to understand it are requested to wait until such time as they can fully appreciate it. We are appealing to your sense of justice, and of right towards those who are not here, and cannot protect themselves.

The PRESIDENT. The question is on reconsidering the vote by which the Senate concurred in the report of the committee of conference.

Mr. DOUGLAS called for yeas and nays, and they were ordered; and being taken, resulted—yeas 21, nays 24; as follows:

YEAS—Messrs. Adams, Badger, Bell, Brown, Butler, Clay, Clayton, Dawson, Fessenden, Geyer, Johnson, Jones of Tennessee, Morton, Rusk, Sebastian, Seward, Thompson of Kentucky, Toucey, Wade, Walker, and Weller—21.

NAYS—Messrs. Allen, Benjamin, Bright, Cass, Chase, Cooper, Dodge of Wisconsin, Douglas, Foot, Gillette, Gwin, Hunter, James, Jones of Iowa, Mallory, Mason, Pettit, Pratt, Shields, Slidell, Stuart, Thomson of New Jersey, Wilson, and Wright—24.

So the motion was not agreed to.

SENATE BILLS BECOME LAWS.

A message was received from the President of the United States by Mr. WEBSTER, his Secretary, announcing that he had approved and signed the following acts and joint resolutions:

An act to establish a court for the investigation of claims against the United States;

An act granting bounty land to Susan Palmer;

A joint resolution for the relief of Rebecca Hinton; and

An act authorizing the issuing of a register to the Russian-built ship Aina.

An act to promote the efficiency of the Navy;

An act for the relief of Mrs. Helen Mackay, administratrix of Lieutenant Colonel Æneas Mackay, late a deputy quartermaster in the United States Army;

A joint resolution accepting the sword of General Andrew Jackson, and returning the thanks of Congress to the family of the late General Robert Armstrong; and

An act to provide for the payment of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9, 1850.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives by Mr. FORNEY, their Clerk, announcing that they had passed the following bills:

A bill for the relief of Daniel Searle & Co., for extra services rendered the Post Office Department of the United States; and

A bill for the relief of Charles H. Pointer.

Also, that they had passed Senate bill to prevent mistrials in the district and circuit courts of the United States in certain cases, with amendments.

MAIL STEAMER APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the ocean mail steamer appropriation bill; and after much debate, (which will be found in the Appendix,) the bill was passed as it came from the House, without amendment.

Mr. JOHNSON. I move that the Senate do now adjourn. I think we have done work enough for one day.

Mr. HUNTER. I hope the motion will not be agreed to.

The motion was rejected.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCKEAN, Chief Clerk, announced that they had passed a bill for the increase of John C. Burton's pension.

Also, that they had passed the following Senate bills and joint resolutions:

A bill for the relief of the heirs of Brigadier General Richard B. Mason;

A bill for the relief of Charles W. Carroll;

A bill to amend "An act to establish a land district in the State of Florida, to be called the district of Tampa;"

A bill to settle certain accounts between the United States and the State of Alabama;

A bill to establish the collection districts of Cape Perpetua and Port Orford, in the Territory of Oregon, and to fix the salaries of the officers of the customs therein; and

A joint resolution in relation to the New Orleans custom-house.

INDIAN APPROPRIATION BILL.

A message from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that the House had agreed to the first, second, third, fourth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth, thirty-ninth, fortieth, forty-second, forty-third, forty-fourth, forty-sixth, forty-ninth, and fifty-third amendments of the Senate, to the bill making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending the 30th of June, 1856; that they had agreed to the fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, and thirteenth amendments of the Senate, with an amendment; that they had agreed to the forty-fifth and forty-seventh amendments of the Senate, with amendments, and that they had disagreed to the forty-eighth, fiftieth, fifty-first, and fifty-second amendments of the Senate.

Mr. HUNTER. I think we can dispose of the bill without a committee of conference. The Committee on Indian Affairs have examined the subject. I have looked into it, and I think we had better agree at once in the action of the House.

Mr. SHIELDS. There are some amendments which have been rejected by the House, which I think ought to be fully considered.

Mr. HUNTER. There are only four of our amendments to which the House has objected, and they are small amendments.

Mr. SHIELDS. I think we had better have a committee of conference. There are some of the amendments which ought not to be lost.

Mr. JOHNSON. A little delay on this matter, I think, can do no harm, and I therefore move that the Senate adjourn.

Mr. HUNTER. I hope not. I trust we shall finish this bill, and then go on with the civil and diplomatic appropriation bill.

The motion to adjourn was not agreed to.

Mr. HUNTER. I hope the Senate will now proceed with the consideration of the Indian appropriation bill. The Senate will find that there are only four unimportant amendments remaining undisposed of. The House concurred in everything we did with some slight amendments, to which the Committee on Indian Affairs agreed, and the House have dissented from but four of our amendments.

Mr. STUART. If the Committee on Indian Affairs have no objection to the action of the House, let us take the question at once on concurring in that action.

Mr. SHIELDS. The honorable Senator from Virginia says that the amendments which have been rejected by the House are unimportant. Now, there is one which, I think, is very important. The honorable Senator will recollect the struggle which we had here about putting on the bill the amendment to which I allude. If I understand the action of the House, they considered the amendment just, and fair, and right, and objected to it only because, in their opinion, it was put upon the wrong bill. I trust we shall insist on that amendment. It is one allowing a percentage to some of the paymasters in the Army. It was recommended by the Committee on Military Affairs, and as chairman of that committee, I am bound to insist upon it, because I believe it is universally acknowledged that it is just and right; the only objection is that this bill is not the proper place for it.

Mr. JOHNSON. It is a question of place, and not of merit.

Mr. SHIELDS. As the honorable Senator from Arkansas says, it is altogether a question of place, and not of justice or right. I always desire to treat the honorable Senator from Virginia, and the committee at the head of which he is, and the duties of which he manages with so much ability, with fairness; but I hope he will allow us to have a committee of conference on this bill. There can be no harm done by that.

Mr. HUNTER. If the Senator chooses to move for a committee of conference, he can do so, but I think it best to concur in the action of the House.

Mr. SHIELDS. I think it better to insist upon our amendments. My conviction is that it is just that we should do so. I must, therefore, ask that a committee of conference be appointed.

Mr. JOHNSON. In addition to what has been stated by the honorable Senator from Illinois, I wish to remark that the amendment to which he alludes was brought forward by the Committee on Military Affairs after the Army appropriation bill had passed this body, and it consequently had to be put on any bill to which it was in our power to attach it. He was requested and instructed by the committee to offer it to this bill, though, seemingly, inconsistent with its general objects. He did so on a full consideration of the merits of the case. The Senate adopted the amendment. On the simple question of the propriety of placing it on this bill, the House have rejected it without any regard to its merits. Under such circumstances, the Senator from Illinois asks a simple departure from the rule from which we depart every day, in relation to the congruity of the measures which we attach to appropriation bills. I hope a proposition which has merit will be kept by the Senate in the position in which they have previously placed it.

Mr. BADGER. I concur entirely in what has been said by the Senator from Illinois, and seconded by the Senator from Arkansas. We put an amendment upon this bill which in itself nobody doubts is right. The House rejected that amendment. If they rejected it upon the ground that they considered it wrong, it is a fair and legitimate question for consideration on a committee of conference. We are not to yield our own judgment as to what is right merely because the House differ from us; for if so, it is in vain for us to put an amendment on a bill if we are to yield without a question to the rejection by the House of that amendment, merely because, although right in itself, they do not think it ought to be in this bill. Now, we have no joint rule between the two Houses which determines what amendments shall be put upon particular bills. That is a matter for our consideration. If the amendment is right, and the House recognizes it as right, I pray you why should we recede from it because the House think we ought to have put it on some other bill? I hope the motion of the Senator from Illinois will prevail.

Mr. HUNTER. I propose that we concur in the amendments of the House to the Senate amendments, and thus dispose of that part of the bill; and then, if the Senator from Illinois desires to insist on the amendments to which the House have not agreed, he can do so, and move at the same time for a conference.

Mr. SHIELDS. I agree to that.

Mr. ADAMS. I desire to ask the Senator from North Carolina by what means he knows officially the ground on which the House of Represenatives rejected our amendment to which allusion has been made.

Mr. BADGER. I did not undertake to state that I knew officially, or in any other way, the ground. The ground was stated here by Senators who had preceded me, that the House rejected the amendment, not because it was not right in itself, but because they thought it ought not to be put upon this bill. But my objection to receding from the position we have taken is in either point of view. If the amendment is right, why should we not insist upon it? Has anything been offered to show the Senate that it is not right?

The PRESIDING OFFICER, (Mr. WELLER.) The question is on the motion submitted by the Senator from Illinois that the Senate insist on their amendments, and ask for a conference on the disagreeing votes of the two Houses.

Mr. HUNTER. I have suggested that the first question shall be taken on concurring in the House amendments to our amendments; there is no objection to those amendments of the House; and then let the Senator from Illinois move to

insist on those amendments to which the House have disagreed, and ask for a conference.

Mr. SHIELDS. I withdraw my motion, to enable the Senator from Virginia to pursue the course he has indicated.

Mr. HUNTER. I move that the Senate concur in the House amendments to the Senate amendments.

The motion was agreed to.

Mr. SHIELDS. Now I move that the Senate insist on the amendments to which the House have disagreed and ask for a committee of conference on the disagreeing votes of the two Houses.

The motion was agreed to; and Mr. SHIELDS, Mr. PEARCE, and Mr. JOHNSON were appointed managers of the conference on the part of the Senate. The four points to be settled by the committee are the forty-eighth, fiftieth, fifty-first, and fifty-second amendments of the Senate.

The forty-eighth amendment is:

SEC. 8. *And be it further enacted*, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized to allow the paymasters of the United States Army, who served as such in Mexico during the war with that Republic, commissions of one and a half per cent. on all moneys collected or received, and paid over by them into the Treasury of the United States, arising from duties on imports, and from internal assessments and taxes in Mexico during that war: *Provided*, That no commissions shall be allowed on any such sums of money, so collected or received, on which commissions have heretofore been allowed to any other collector, or receiver, or other officer of the United States.

The fiftieth amendment is:

SEC. 10. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized and directed to pay to Jean Baptist Faribault, and Pelagie Faribault, his wife, the sum of $12,000, with interest thereupon from the 12th of March, 1839, in full payment of their claim to the island at the confluence of the rivers Mississippi and St. Pierre, on which Fort Snelling now stands.

The fifty-first amendment is:

SEC. 11. *And be it further enacted*, That Indian agents and sub agents be, and they are hereby, authorized to take acknowledgments of deeds, wills, and other instruments of writing, and that acknowledgments so taken shall have the same effect as if taken before a justice of the peace.

The fifty-second amendment is:

SEC. 12. *And be it further enacted*, That from and after the passage of this act, the salary of the central superintendent of the Indian affairs for the central superintendency shall be $2,500 per annum, and for that purpose the sum of $500 is hereby appropriated in addition to the existing appropriation.

TRIAL OF CAUSES.

Mr. TOUCEY. The Senate bill to prevent mistrials in the district and circuit courts of the United States in certain cases, has been concurred in by the House, with an amendment to which there is no objection. I ask that it may now be taken up and acted upon.

There being no objection, the Senate proceeded to consider the amendment of the House to the bill, which was to add the following section:

SEC. 2. *And be it further enacted*. That when letters rogatory shall have been addressed from any court of a foreign country to any circuit court of the United States, with a United States commissioner designated by said circuit court, to make the examination of witnesses in said letters mentioned, said commissioner shall be empowered to compel the witnesses to appear and depose in the same manner as to appear and testify in court.

The amendment was agreed to.

PUBLIC LANDS IN OHIO.

Mr. CHASE. I ask the Senate to take up a bill which has been returned from the House with an amendment. It is the bill passed by the Senate to cede to the State of Ohio the unsold residue of the public lands within her limits. The House has struck out the whole bill, and has inserted a bill confirming certain selections of canal lands. I think the original bill did but slight justice to my State. I think the act of striking it out, of refusing the grant, was an act of injustice. But there is now no hope of passing the original bill through the House. The amendment preserves so much of the original bill only as saves the rights of the State, and persons claiming under the State, to certain selections of canal lands. Under the circumstances, I am compelled to move a concurrence in the amendment. I must say that I deeply regret the necessity of doing so.

The amendments of the House were to strike out all after the enacting clause of the bill, and insert:

"That the selections of lands by the State of Ohio for canal purposes, under the act of the 2d of March, 1827, and the 24th of May, 1828, be, and the same are hereby, confirmed."

And to amend the title by substituting in lieu thereof, "An act to confirm the canal selections in the State of Ohio."

The amendments were concurred in.

EXTENSION OF PRE-EMPTION RIGHTS.

The bill of the Senate extending, in certain cases, the provisions of an act entitled "An act to extend preëmption rights to certain land therein mentioned," approved March 3, 1853, was returned from the House of Representatives with an amendment, to insert after "Maison Rouge grant," the words "and the De Bastrop grant."

Mr. JOHNSON. The original bill in this case was passed by the Senate on the unanimous recommendation of the Committee on Public Lands. It was sent to the House, and has been returned with an amendment simply providing that the lands in the De Bastrop grant shall be placed in the same situation with those in the Maison Rouge grant. I hope the amendment will be agreed to.

The amendment was concurred in.

HOUSE BILLS REFERRED.

The bill from the House of Representatives for the relief of Charles H. Pointer, and the bill for the increase of John C. Burton's pension, were severally read a first and second time, and referred to the Committee on Pensions.

DANIEL SEARLE AND COMPANY.

The bill from the House of Representatives for the relief of Daniel Searle & Co., for extra services rendered the Post Office Department of the United States, was read the first and second time by its title.

Mr. BRODHEAD. The Committee on the Post Office and Post Roads have considered this bill, concur in it, and recommend its passage without a reference. It is a small bill which is recommended by Mr. Whittlesey and the accounting officers, to pay two hundred or three hundred dollars. I trust it will be passed immediately.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Its object is to allow the proper accounting officers to settle the accounts of Daniel Searle & Co., for extra service rendered under the orders of the Post Office Department during a contract, made in 1835, for carrying the mail on routes 956, 979, and 1157, from Jersey city to Owego, New York, and to allow a *pro rata* compensation for the extra services.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

STATE OF OREGON.

Mr. DOUGLAS. I ask leave to report from the Committee on Territories, House bill to enable the people of Oregon to form a Constitution and State government, and for the admission of such State into the Union on an equal footing with the original States. I desire to ask for the present consideration of the bill. It is in the usual form of all such bills. The Committee on Territories report it with an amendment providing that the State shall not be admitted before it has sixty thousand inhabitants. I hope the bill will be immediately acted upon, and the amendment agreed to.

The PRESIDING OFFICER. (Mr. WELLER in the chair,) If there be no objection the bill will now be considered.

Mr. PEARCE. I am very sorry to be compelled to do so, but I must object to its present consideration.

The PRESIDING OFFICER. Then the bill must lie over until to-morrow.

CIVIL AND DIPLOMATIC APPROPRIATION BILL.

Mr. HUNTER. I am directed by the Committee on Finance to report back House bill making appropriation for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1856, and for other purposes. I will state to the Senate that I have been instructed by the Committee on Finance to make this report without amendment. The purpose is to ask the Senate to consider the bill as a whole and without amendment; and we intend, if such should be the pleasure of the Senate, to bring in the amendments which otherwise would have been offered to this bill, either in the shape of a supplemental bill, or else as an addition to one of the appropriation bills, probably the navy bill.

Mr. President, perhaps I ought to state the reasons which have led us to this conclusion as briefly as possible. It is known to every one that this bill contains a proposition for modifying the tariff—an unusual course of legislation; and it seemed to us that we ought to bring the subject to the Senate, that they might act according to what might seem best to them in their discretion. I know, sir, that there is objection to associating incongruous subjects with the general appropriations of the country. No man feels it more than I do. None has oftener expressed his dissent from it. If this were an original question, and the proposition were here to make such association, I should resist it; but, sir, there is a difference between what we ought to do, now that it comes here by the action of the House, now that it is in the bill, and what we should do if it were an original question.

I find, upon an analysis of the vote in the House of Representatives, that it was not put in by one party against the views of another, or by one section against another, or by one association of interests against another; but that it had, among its friends, men of all parties and of all sections; and that they did not thus use the power of an appropriation bill, to coerce, either one section by another, or one interest by another; and that, perhaps, it had the assent of more persons, of different parties and of different sections, than any other bill on the same subject that was ever introduced. We find, sir, men from Massachusetts and South Carolina, men from Pennsylvania and Virginia—Whigs and Democrats—voting for it together.

Under these circumstances, believing that the measure itself was a good one; believing that it would be wholesome to revise our tariff law as is proposed here, we have thought that it was proper to submit it to the Senate; and not only that it was proper to submit it, but to submit it at once; because it is just to the Senate, if they should think they ought not to agree to any alteration of the revenue system upon the bill, that they should have the question to act upon at once. It is also just to those who desire this amendment and reduction of the tariff, that they should have the means of acting upon it as an entirety; for it must be obvious that if we once begin to amend the bill, not only for the general purposes of a civil and diplomatic bill, but also in order to meet the various and conflicting views upon the tariff itself, we never should come to an end upon it, and the probability is, that, late in the session, the bill might be lost.

If the Senate should be of opinion that they ought not to act upon such a subject, now is the time for them to say so. If, on the other hand, they should think, as I think, that, as the amendment has been sent to us in the mode which I have described, and is good itself, it ought to be passed, then, I hope, they will act accordingly, and pass the bill in the shape in which it was adopted in the House. If they do so, we shall bring in the amendments which otherwise would have been offered to this bill, either as an amendment to some other of the general appropriation bills, or as a bill supplemental to this. And I am assured by the chairman of the Committee of Ways and Means of the House, and other gentlemen in whom I have confidence, that our proposition to amend will be considered in the House; so that we shall have a chance to accomplish both objects without losing the appropriation bills. At any rate, it is for the Senate to say what they will do, and we report the bill thus early to give them that opportunity.

Mr. PEARCE. Mr. President, I believe I violate none of the proprieties of the Senate when I say, that I was opposed, as a member of the Committee on Finance, to this report. It struck me that it was our duty to introduce amendments, whether of addition or of excision, which seemed to us, and might seem to the Senate, proper to make. I was opposed to it also, because I was unwilling to attach to a bill of this sort a measure of such great importance, so vitally affecting all the great interests of the country as a general revision of the tariff. I am very ready to admit, that I think the tariff ought to be amended. I am desirous myself of reducing the amount of revenue. I think it is too full. I think it is a temptation to extravagant and inordinate legislation. But,

although I desire to reduce the revenue, and amend the tariff as a means of reducing the revenue, I must say that I am utterly opposed to the introduction of such a measure as an amendment to the general civil and diplomatic bill; and especially am I opposed to the passage of a bill of this sort by this body, without any amendment, which I think is a surrender of the fair equality of the Senate, in participation with the House, of the business of legislation. There are many other considerations which belong to the subject, which I forbear, at this time, to submit to the Senate.

Mr. JOHNSON. I wish to ask the Senator from Virginia whether he proposes now to take up for action the civil and diplomatic appropriation bill?

Mr. HUNTER. I have reported the bill, and it is before the Senate.

Mr. JOHNSON. I thought the question was, whether the Senator should be permitted to report the bill.

The PRESIDING OFFICER. It has been reported.

Mr. JOHNSON. Then what is the condition of it?

Mr. HUNTER. It is before the Senate. My object was that the Senate might have it before them.

Mr. JOHNSON. I have attended to the matter very closely, and I was not aware that the bill was reported; but I supposed the Senator had asked leave to report the bill. I stood ready to object. Now, I wish to know whether the bill is before the Senate or not?

The PRESIDING OFFICER. The bill has been reported, and of course it requires some motion to dispose of it.

Mr. JOHNSON. Has even its title been read?

The PRESIDING OFFICER. It has not, because Senators have been on the floor since it was reported.

Mr. JOHNSON. The Chair should have put the question whether there was objection to reporting the bill. I heard no such question put.

The PRESIDING OFFICER. The Chair heard no objection, and, of course, received the report.

Mr. JOHNSON. The Chair never proposed to receive objection. The Senator from Illinois [Mr. DOUGLAS] just now made a report on a bill for the organization of Oregon into a State, but that was objected to, and it was not taken up. Forthwith this bill seems to be taken up at once, without giving gentlemen a chance to object to it.

The PRESIDING OFFICER. The Chair decides that the bill is before the Senate as in Committee of the Whole.

Mr. JOHNSON. I shall not appeal from the decision of the Chair, but I hope the bill will not be passed now.

Mr. SHIELDS. I move to postpone the further consideration of this bill until to-morrow, in order that we may proceed to Executive business.

Mr. HUNTER. I shall consent to the motion if the Senator will agree to make the bill the special order for twelve o'clock.

Mr. SHIELDS. I include that in my motion.

The motion was agreed to.

EXECUTIVE SESSION.

On motion by Mr. SHIELDS, the Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 28, 1855.

The House met at eleven o'clock, a. m. Prayer by Rev. WILLIAM H. MILBURN.

The Journal of yesterday was read and approved.

NEW ORLEANS CUSTOM-HOUSE.

Mr. DUNBAR. I ask the unanimous consent of the House to take from the Speaker's table joint resolution of the Senate (No. 30) in relation to the custom-house at New Orleans, giving authority to the Secretary of the Treasury to make such change in the mode of constructing that custom-house, as will, in his judgment, relieve the foundation from the great weight of the superstructure.

The bill was then ordered to a third reading; and, having been read the third time, it was subsequently passed.

Mr. DUNBAR moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

INCREASE OF PENSION TO JOHN C. BURTON.

Mr. LANE, of Indiana. I ask the unanimous consent of the House to introduce a bill for the increase of John C. Burton's pension. There is a very short report from the Committee on Invalid Pensions accompanying the bill, which I ask may be read.

The bill and report were then read by the Clerk.

From the report in this case it appears that the petitioner while gallantly fighting under the command of Colonel J. H. Lane, at Buena Vista, lost his right arm by a cannon shot from the enemy; that he is now upon the pension rolls at the rate of eight dollars per month; that he is poor, with a wife and four children depending upon him for support.

The bill having been read the first and second time, was then ordered to a third reading; and, having been read the third time, it was subsequently passed.

TRIAL OF CAUSES.

Mr. CUTTING. I ask the unanimous consent of the House to take from the Speaker's table, Senate bill No. 683, being "An act to prevent mistrials in the district and circuit courts of the United States, in certain cases." It is a very short bill, containing but eleven lines in all. I have been requested by the Attorney General to add a section to the bill, which is demanded in consequence of difficulties now existing in the trials of cases in the circuit and district courts.

The amendment was then read, as follows:

That where letters rogatory which have been addressed from any court of a foreign country to any circuit court of the United States, and the United States commissioner designated by said circuit court to make the examination of witnesses in said letters mentioned, said commissioner shall be empowered to compel witnesses to appear and depose in the same manner, as to appear and testify in court.

The question was then taken; and the amendment was agreed to.

The bill, as amended, was then ordered to be read a third time; and having been read the third time, it was subsequently passed.

DANIEL SEARLE AND COMPANY.

Mr. GROW. I ask that the Committee of the Whole House be discharged from the further consideration of House bill No. 78, for the relief of Daniel Searle & Co., for extra services rendered the Post Office Department.

Mr. OLDS. The bill ought to be referred to some committee.

The SPEAKER. It is already in the hands of the Committee of the Whole, and the desire of the gentleman is that the committee be discharged from its further consideration.

Mr. GROW. It is simply a bill authorizing an accounting officer of the Government to settle his accounts.

The bill was taken up, considered, and finally passed.

CHARLES W. CARROLL.

Mr. WITTE. I ask the unanimous consent of the House to take from the Speaker's table Senate bill No. 456. The bill has been passed unanimously by the Senate, and I trust that there will be no objection to it on the part of the House.

Mr. HAVEN. I wish to inquire of the Chair what is the regular order of business?

The SPEAKER. The first business is the gentleman's own motion to suspend the rules.

Mr. HAVEN. Is not the first business the appeal taken by the gentleman from Ohio [Mr. CAMPBELL] from the decision of the Chair last evening?

The SPEAKER. The Chair is informed by the Clerk that there is an appeal pending, taken last evening, from the decision of the then occupant of the chair. That is the first business in order.

Mr. HAVEN. Well, I will call that up when the present matter is disposed of.

The SPEAKER. The gentleman from Pennsylvania asks leave of the House to take up the bill which will be reported by the Clerk.

The Senate bill (No. 456) for the relief of Charles W. Carroll, which was reported, provides that the sum of $5,000 be paid to Charles W. Carroll, as compensation and damage for injuries sustained by him by reason of his wrongful arrest and imprisonment as a deserter from the Army of the United States.

The bill was then ordered to be read a third time; and having been read, it was subsequently passed.

Mr. WITTE moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

GERARD WOOD.

Mr. SHOWER. I ask the unanimous consent of the House to take up Senate bill (No. 633) for the relief of the legal representatives of Gerard Wood, deceased. The bill provides that there shall be paid to the legal representatives of Gerard Wood five years' half-pay as surgeon's mate in the revolutionary war, and provides that such sum shall be in full of all claims for such services.

Mr. JONES, of Tennessee. I object.

Mr. SHOWER. Then I move to suspend the rules to enable me to enter a motion to take it up.

The SPEAKER. There is already a motion pending to suspend the rules; and, until that is disposed of, another motion to suspend cannot be entertained.

REGISTERS AND RECEIVERS.

Mr. MILLER, of Indiana. I ask the unanimous consent of the House to take up and pass Senate bill (No. 515) in reference to the compensation of registers and receivers.

Mr. OLDS. Before the gentleman presses this matter, I wish to say that a bill has just been returned to the House from the Senate—which has heretofore passed the House—in relation to the prepayment of postage. It has been returned with one or two unimportant amendments, and I desire to have the House consider them now. It will require but a few moments to dispose of them, and I hope there will be no objection to that course. I ask the gentleman from Indiana to yield for that purpose.

The SPEAKER. Is it the unanimous consent of the House to take up the bill referred to by the gentleman from Ohio?

Mr. BRIDGES. No. I object.

Mr. MILLER. Senate bill No. 515 is a bill to increase the compensation of the registers of the land offices, and the receivers of public moneys, under the act to reduce and graduate the price of the public lands to actual settlers and cultivators, approved August 4, 1854. I ask the unanimous consent of the House to take it up.

Mr. PRINGLE. I object.

Mr. HAVEN. I call now for the regular order of business.

The SPEAKER. The business first in order is the consideration of the appeal taken last evening from the decision of the Chair by the gentleman from Ohio.

Mr. HENDRICKS. The gentleman from New York withdraws his objection to Senate bill No. 515. The object of the bill is to do justice to gentlemen of the land offices, under the bill of the gentleman from Alabama, [Mr. COBB,] known as the land graduation bill. It is designed to give them something to live upon.

Mr. PRINGLE. I withdraw my objection.

Mr. FULLER. I renew the objection. We made ample provision for them two years ago.

Mr. HENDRICKS. The gentleman is mistaken.

Mr. FULLER. I believe there is no class of officers who are better paid than the registers and receivers.

Mr. MILLER. I hope the gentleman from Maine will withdraw his objection.

Mr. FULLER. I cannot.

Mr. MURRAY. I rise to a privileged question. I desire to report a resolution from the Committee on Printing.

The SPEAKER. That is not in order while a motion is pending to suspend the rules.

Mr. MURRAY. I believe the rules say that reports from the Committee on Printing are in order at any time.

The SPEAKER. The rules also say that motions to suspend the rules are in order during the last ten days of the session, and that is a little ahead of the gentleman.

Mr. MURRAY. The rules say reports from that committee are in order at any time.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. WEDNESDAY, FEBRUARY 28, 1855. NEW SERIES....No. 63.

The SPEAKER. Yesterday evening the gentleman from New York [Mr. HAVEN] submitted a motion to commit a bill then pending before the House; and before taking his seat he made a motion to suspend the rules. The motion was entertained by the then occupant of the chair. Being objected to by some gentleman upon the floor, the gentleman from Ohio took an appeal from the decision of the Chair entertaining the motion to suspend the rules. The Chair sustains the decision of the occupant of the chair of last evening.

Mr. CAMPBELL. I respectfully beg leave to disagree with the Chair, but as I do not wish to consume the time of the House in discussing a question involving a very unimportant matter, and perhaps a very just claim, I withdraw the appeal.

The SPEAKER. Will the House hear the Chair a moment upon the question of order, as perhaps the same question may arise again? The gentleman from New York [Mr. HAVEN] having the floor, and having submitted a motion to commit a bill, was entitled to make a speech. There is no doubt of that. If he choose to give up that speech, he can make a motion. Can there be any objection to that?

Mr. CAMPBELL. I draw a distinction between the right to make a speech, and the right to make a motion.

The SPEAKER. The two motions are not double, so as to conflict with each other and disarrange the order of business. The appeal being withdrawn, the motion to suspend the rules is the first business in order.

REPORT FROM SELECT COMMITTEE.

Mr. ETHERIDGE, by unanimous consent, from the select committee to which was referred the memorial of Samuel A. Warner and others, in relation to leveeing the east bank of the Mississippi, in the States of Kentucky and Tennessee, reported a joint resolution in relation to the overflow of land near the Mississippi river, in the States of Kentucky and Tennessee; which was read twice, and referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. MAXWELL here obtained the floor.

Mr. HAVEN. I call for the regular order of business.

The SPEAKER. The Chair would beg leave to suggest to the House that it should allow all unimportant business, which shall give rise to no debate, to be submitted to the House, and if anything is presented that shall give rise to debate, it shall be returned to the member presenting it. It would be a great relief to the Chair, as well as to members, if that course should be pursued.

Mr. HAVEN. Suppose I omit to call for the regular order of business, and surrender the floor, and a member should object to any business, would not my motion come up first?

The SPEAKER. The gentleman certainly will not lose any right he now has.

Mr. HAVEN. Well, then, under the suggestion of the Chair, I will not call for the regular order of business, but allow business to progress as suggested.

The SPEAKER. The Chair will again state that the first business in order is the consideration of the gentleman's motion for a suspension of the rules.

Mr. HAVEN. I will withdraw that motion for the present.

Mr. BRIDGES. Mr. Speaker, I have a motion to submit, which, I am sure, can meet with no objection when it is explained.

The SPEAKER. The gentleman from Florida is entitled to the floor if there be no objection to his proposition.

Mr. BRIDGES. I hope the gentleman from Florida will yield to me for a moment.

Mr. MAXWELL. I would be glad to do so at any other time, but, under existing circumstances, the gentleman must excuse me from doing so.

The SPEAKER. The Chair does not understand that the gentleman from New York has entirely withdrawn his motion for suspension of the rules, but that he has only postponed its consideration. He used the word withdraw.

Mr. HAVEN. The Chair's understanding is correct. My motion is only suspended.

Mr. McDOUGALL. I demand the regular order of business.

Mr. BRIDGES. I would appeal to the gentleman from California to withdraw that demand for a moment, so as to allow me to have disposed of a bill to which there will be no objection?

Mr. McDOUGALL. At the request of several gentlemen, I withdraw my demand for the regular order of business.

The SPEAKER. Then the gentleman from Florida will submit his proposition.

TAMPA LAND DISTRICT.

Mr. MAXWELL. Mr. Speaker, I move to take up and put on its passage Senate bill (No. 534) to amend an act entitled "An act to establish a land district in the State of Florida, to be called the district of Tampa." A word of explanation will satisfy the House of the propriety of the passage of the bill. It is merely to supply an omission in an act passed at the last session of Congress.

The bill was read *in extenso;* and then ordered to be read a third time; and it was read the third time, and passed.

Mr. MAXWELL. I move to reconsider the vote by which the bill was passed, and to lay that motion on the table.

The latter motion was agreed to.

The SPEAKER. The Chair will submit a proposition. Is it the pleasure of the House that for a half hour such business as will give rise to no debate may be received and disposed of?

[Cries of "Agreed!" "Go on!"]

Mr. JONES, of Tennessee. Until twelve o'clock.

The SPEAKER. Is there objection made?

Mr. JONES. There is.

Mr. BRIDGES. I ask the unanimous consent of the House that the Committee of the Whole House be discharged from the further consideration of House bill (No. 465) for the relief of Isaac Adams. It is for the extension of a patent until 1864.

[Cries of "I object!" "I object!"]

Mr. BRIDGES. One word of explanation will satisfy the House of the justice of the measure.

Mr. CLINGMAN. I object. Discussion is out of order.

Mr. BRIDGES. Then I move that the rules of the House be suspended for the purpose I have indicated.

The SPEAKER. There is a motion pending for the suspension of the rules.

Mr. HENDRICKS. I rise to a question of order. My colleague obtained the floor for the purpose of having taken up and put on its passage a bill for the relief of some land officers who have suffered much. It is a righteous bill. He could not move a suspension of the rules for the purpose indicated, because there was a motion to suspend the rules already pending. I demand the regular order of business—the disposition of the motion to suspend the rules made by the gentleman from New York—so that we may get to the business of my colleague.

Mr. HAVEN. I will call up and have my motion disposed of when we have taken action on the amendments of the Senate to the Indian appropriation bill. We can do it in a few minutes. They ought to go back to the Senate as soon as possible.

INDIAN APPROPRIATION BILL.

The SPEAKER. Is it the unanimous consent of the House that the amendments of the Senate to the Indian appropriation bill be taken up and disposed of?

There was no objection.

The SPEAKER. The Clerk will proceed to read the amendments, with the action of the Committee of the Whole on the state of the Union.

Mr. HOUSTON. These amendments were all read yesterday, in the Committee of the Whole on the state of the Union, and I do not see any necessity for their being again read. One vote will dispose of the whole matter.

The SPEAKER. If there be no objection their reading will be dispensed with.

There was no objection.

Mr. HAVEN. I withdraw the motion to recommit the amendments; and I move that, by unanimous consent, the fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, and thirteenth Senate amendments, which are as follows, be transferred to that portion of the bill after the one hundred and fifty-second line; and that there be put at their head the words: "For fulfilling treaties with the Chippewas of Lake Superior, so as to conform to the treaty concluded the 30th of September, 1854." My motion is at the instance of the Committee on Indian Affairs.

Fifth amendment:

For expenses (in part) of selecting reservations, and surveying and marking the boundaries thereof, per second, third, and twelfth articles of the treaty of September 30, 1854, $3,009.

Sixth amendment:

For the payment of the first of twenty installments in coin, goods, &c., agricultural implements, &c., and education, &c., per fourth article of the treaty of September 30, 1854, $19,000.

Seventh amendment:

For the purchase of clothing and other articles, to be given to the young men at the next annuity payment, as per fourth article of the treaty of September 30, 1854, $4,800.

Eighth amendment:

For the purchase of agricultural implements and other articles, as presents for the mixed-bloods, per fourth article of the treaty of September 30, 1854, $6,000.

Ninth amendment:

For the payment of such debts as may be directed by the chiefs in open council, and found to be just and correct by the Secretary of the Interior, per fourth article of the treaty of September 30, 1854, $90,000.

Tenth amendment:

For the payment of such debts of the Bois Forte bands as may be directed by their chiefs, and found to be just and correct by the Secretary of the Interior, per twelfth article of the treaty of September 30, 1854, $10,000.

Eleventh amendment:

For the payment of the first of five installments in blankets, cloth, &c., to the Bois Forte band, per twelfth article of the treaty of September 30, 1854, $2,000.

Twelfth amendment:

For the first of twenty installments for the pay of six smiths and assistants, per fifth and second articles of the treaty of September 30, 1854, $5,040.

Thirteenth amendment:

For the first of twenty installments for the support of six smith-shops, per fifth and second articles of the treaty of September 30, 1854, $1,320.

The question was taken; and the motion was agreed to.

The question was then taken on the report of the Committee of the Whole on the state of the Union, as amended on motion by Mr. HAVEN; and it was adopted.

Mr. HAVEN. I move to reconsider the vote by which the report of the committee, as amended, was adopted, and to lay that motion upon the table.

The latter motion was agreed to.

ACCOUNTS OF ALABAMA.

Mr. DOWDELL obtained the floor.

Mr. HAVEN. I will suggest to the gentleman from Alabama, and to gentlemen upon all sides, that it will be better to dispose of my motion to suspend the rules, and then other motions to suspend the rules will be in order.

Mr. DOWDELL. I have detained the House scarcely a moment during the present session. I have preferred to evince my disposition to serve the country by action rather than words. This is the second time I have obtained the floor. I have a little favor to ask of the House. It is the first favor I have asked of the House, and it will be the last.

[Cries of "Agreed!" "No speech!"]

Mr. DOWDELL. I ask the House to take up and pass Senate bill (No. 543) to settle certain

accounts between the United States and the State of Alabama. It is simply a bill to authorize the proper officers to settle the accounts with the State of Alabama growing out of the sixth section of the act for the admission of that State into the Union.

By the sixth section of that act it is provided:

"That five per centum of the net proceeds of lands lying within the said Territory, and which shall be sold by Congress from and after the first day of September, in the year 1819, after deducting all the expenses incident to the same, shall be reserved for making roads, canals," &c.

Under this compact and subsequent laws, that amount is to be paid over to the State. This provision was made for the State, in consideration of her agreement that the public lands within her limits should be exempt from taxation, and those which might be sold should likewise not be taxed for five years after such sale. When this compact was made, the practice of the Government had been to sell all of the public lands for *cash*. The State, therefore, on entering into the compact, very justly expected the same rule to be observed; at least, that no departure would be made to her injury. By treaties subsequently made with the Choctaws, Creeks, and Chickasaws, the United States acquired large bodies of lands within the limits of Alabama, portions of which were reserved to individual Indians, to procure the assent of the tribes to a cession of their lands, and for other purposes. The Government has long since parted with its title to much the larger part of these reservations, and patents have been issued to the reservees or their assignees. For these reservations the United States received a valuable consideration in being enabled to extinguish the Indian title for a less sum of money. It is proposed by the bill to pay to the State the five per centum fund due upon these lands, estimating them at the minimum price. It is in pursuance of the compact, and strictly just and equitable. I hope there will be no objection.

Mr. GIDDINGS. I object.

Mr. DOWDELL. The bill was unanimously reported by the Committee on Public Lands in the Senate. It is recommended by the Commissioner of Public Lands, who is a vigilant and faithful officer. I hope the gentleman will withdraw his objection.

Mr. GIDDINGS. I cannot.

Mr. WASHBURNE, of Illinois. Let me ask the Chair a question. I desire to ask the Chair whether, if the motion of the gentleman from New York [Mr. HAVEN] is put and disposed of, it will not be in order for other members to move to suspend the rules in other cases?

The SPEAKER. It will be in order.

Mr. DOWDELL. The gentleman from Ohio [Mr. GIDDINGS] has consented to withdraw his objection to the bill for settling the accounts with the State of Alabama. I ask the consent of the House, therefore, that that bill may be taken up and disposed of.

There being no objection, the bill was taken up, and read through by the Clerk, and then ordered to a third reading; and was accordingly read the third time, and passed.

Mr. PHILLIPS. I rise to a privileged question. I move to reconsider the vote by which the bill just now taken up upon the motion of my colleague, [Mr. DOWDELL,] was passed, and to lay the motion to reconsider on the table.

The question was taken, and the latter motion agreed to.

Mr. WASHBURNE, of Illinois. I call for the regular order of business.

The SPEAKER. The Chair again states that the regular order of business is upon the motion of the gentleman from New York, to suspend the rules.

Mr. LANE, of Indiana. I rise to a privileged question. I move that when this House adjourns, it adjourn to meet at seven o'clock this evening, for the purpose of considering private claims.

Mr. JONES, of Tennessee. That is not a privileged question.

The SPEAKER. It is not only not a privileged question, but the motion is not in order.

WITHDRAWAL OF PAPERS.

On motion by Mr. SIMMONS, it was

Ordered, That leave be granted to withdraw from the files of the House the papers in the case of Sally Slyter, widow of Jonathan Slyter, deceased, for the purpose of having them presented before the Commissioner of Pensions.

On motion by Mr. KURTZ, it was

Ordered, That leave be granted to withdraw from the files of the House the papers in the case of Andrew Chapman, a soldier in the war of the Revolution, for the purpose of having them presented to the Senate.

On motion by Mr. WALBRIDGE, it was

Ordered, That leave be granted to take from the files of the House copies of the papers in the case of Michael Nourse.

POST OFFICE APPROPRIATION BILL.

Mr. HOUSTON. Will the House allow me to report back the Senate amendments to the Post Office appropriation bill, for the purpose of having it printed and referred?

There being no objection, the bill of the House making appropriations for the service of the Post Office Department for the year ending the 30th of June, 1856, with the Senate amendments thereto, was reported back, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

HON. B. W. DENT.

Mr. CHASTAIN. I ask the consent of the House to introduce a resolution.

Mr. INGERSOLL. I object, and call for the vote upon the motion to suspend the rules.

Mr. CHASTAIN. If the gentleman will hear the resolution, he will not object. It is in behalf of my colleague, Colonel DENT, who has been confined at home by sickness for the whole session. The resolution is to give him his per diem for the session. It is precisely the same as has been passed by the House in all similar cases.

I move the following resolution:

Resolved, That there be paid to the honorable B. W. DENT his per diem for the second session of the Thirty-Third Congress, he having been detained at home by sickness.

Mr. INGERSOLL. I will withdraw my objection.

There being no objection, the resolution was received, considered, and adopted.

Mr. PECKHAM. I desire the consent of the House to take up a bill to which there can be no possible objection. I ask consent to take up Senate bill No. 560.

Mr. WENTWORTH, of Massachusetts. I rise to a question of order. I demand the vote upon the motion to suspend the rules upon the Mason case.

GENERAL RICHARD B. MASON.

The motion of Mr. HAVEN to suspend the rules for the purpose of taking up Senate bill (No. 285) for the relief of the heirs of Brigadier General Richard B. Mason, was then taken up for consideration.

The bill was read through by the clerk. It provides that all the provisions of the act approved February 3d, 1853, entitled "An act for the relief of Brevet Brigadier General Riley, and to enable hm to settle his accounts with the United States," be applied to the heirs of Brigadier General Richard B. Mason, in reference to all moneys raised and collected by him for contributions, penalties, internal assessments, duties, or other objects, in California, from June 1, 1847, to April 15, 1849; and that the proper accounting officers of the Treasury Department, in settling the accounts of Mason, be authorized and required to allow as a credit a commission of one and a half per cent. upon the moneys so raised, collected, and disbursed by him, while he was Governor of California during the time stated above.

Mr. HAVEN. I desire to say these few words to the House——

[Cries of "Oh, no!" and "Let the bill pass!"]

Mr. HAVEN. I want it to pass, and the few words that I have to say are, that I move the previous question on the passage of the bill.

The previous question was seconded, and the main question was ordered to be put.

The bill was then ordered to be read a third time, and it was accordingly read the third time, and passed.

SETTLERS ON GOVERNMENT LANDS.

Mr. GIDDINGS, of Nebraska. I ask the unanimous consent of the House to discharge the Committee of the Whole on the state of the Union from the further consideration of a bill to amend the act of Congress, approved May 23, 1844, entitled "An act for the relief of citizens of towns upon lands of the United States, under certain circumstances."

The bill was read for information.

Mr. JONES, of Tennessee. I ask for the reading of the act of 1844.

Mr. WALSH. I object to the bill.

Mr. GIDDINGS. Then I move to suspend the rules, for the purpose of having it taken up, and I will inform the House what are the provisions of the act which this bill proposes to amend. It is an act of Congress, passed in 1844, for the benefit of the proprietors of towns upon public lands belonging to the United States. That act gave these proprietors the right to enter three hundred and twenty acres, at the Government price of $1 25 an acre. That act applied only to surveyed lands. The proposition now is to extend the provisions of that act also to unsurveyed lands, that it may meet the wants of the citizens of the Territories where the lands have not been surveyed.

The SPEAKER, (interrupting.) The time has arrived (twelve, o'clock, m.) to which the bill taken up yesterday, granting bounty lands to the officers and soldiers of the war of 1812, was postponed, and that is the first business in order.

Mr. WHITFIELD. I hope the House will act upon the motion of the gentleman from Nebraska.

Mr. WHEELER. I call for the regular order of business.

Mr. STANTON, of Tennessee. I ask the unanimous consent of the House to report a bill from the Committee on the Judiciary, for the purpose of reference merely.

Mr. GIDDINGS. I have submitted a motion to suspend the rules, and it has not yet been acted on.

The SPEAKER. The gentleman submitted his motion at the very moment when the bounty land bill came up, being a special order. The gentleman's motion to suspend the rules will hold over until that matter is disposed of, and then come up regularly in its order.

R. R WARD AND OTHERS.

Mr. STANTON, of Tennessee, from the Committee on the Judiciary, then, by unanimous consent, reported a bill for the relief of R. R. Ward, F. G. Halleck, and Jacob Little; which was read a first and second time by its title.

Mr. STANTON. I ask if it is in order, under the bill lately passed, to refer this bill to the court of claims?

The SPEAKER. Why the court is not yet organized.

Mr. STANTON. Then I move that the bill be referred to a Committee of the Whole House, and printed.

The motion was agreed to.

NEW COLLECTION DISTRICTS.

Mr. LANE, of Oregon. I ask the unanimous consent of the House to take up Senate bill No. 679, relating to Oregon and Oregon affairs, and necessary for the protection of the interests of the Government in that Territory.

Mr. READY. I rise to a question of order. I obtained the floor half an hour since, when the gentleman from New York [Mr. HAVEN] claimed his privilege. I thought that I should have been entitled to the floor when that bill was disposed of, and if so, I insist on it.

The SPEAKER. Under the rules, the gentleman would not have been entitled to the floor; but, had the Chair remembered the circumstances, a feeling of courtesy, at least, would have induced him to hunt out the gentleman from Tennessee from among the mass of gentlemen seeking the floor, but the gentleman has no claim under the rule.

Mr. READY. I will not object to the bill of the gentleman from Oregon, but I hope I shall be allowed to have the floor when he has disposed of his bill.

Mr. MIDDLESWARTH. I desire to know what becomes of the bounty land bill?

The SPEAKER. The effect of these motions is to postpone that bill for the moment only.

On motion by Mr. LANE, of Oregon, by unanimous consent, the following bill was then taken from the Speaker's table, and read a first and second time by its title:

Senate bill (No. 679) to establish the collection districts of Cape Perpetua and Port Orford, in the Territory of Oregon; and to fix the salaries of the officers of customs therein.

The bill was read *in extenso*.

Mr. WENTWORTH, of Massachusetts. I

ask the gentleman from Oregon whether that bill has been recommended by the Secretary of the Treasury?

Mr. LANE. At the last session I introduced a bill, and had it referred to the Committee on Commerce in this House. I was sent to the Secretary of the Treasury by that committee, and the bill just read has been prepared by the Secretary of the Treasury himself, and sent to this House. A copy of it was also sent to the Senate, and passed.

The bill was ordered to be read a third time; and it was read the third time, and passed.

RECIPROCITY TREATY BILL.

Mr. PECKHAM. I ask the unanimous consent of the House to take up——

Mr. CHASTAIN, (interrupting.) I call for the regular order of business.

Mr. PECKHAM. I hope the gentleman from Georgia will withdraw that call. The gentleman from Pennsylvania, [Mr. MIDDLESWARTH,] who holds the floor, consents that I should offer this bill.

Mr. CHASTAIN withdrew the call for the regular order of business.

Mr. PECKHAM. I now ask the unanimous consent of the House to allow me to call up Senate bill (No. 560) to carry into effect the treaty stipulations between the United States and Great Britain. I mean the Canadian reciprocity treaty. It is a bill to which there is not the slightest objection. It contains only two sections; and it has unanimously passed the Senate.

There being no objection, the House proceeded to take up Senate bill (No. 560) to amend an act to carry into effect the treaty between the United States and Great Britain, approved 5th August, 1854.

The bill was read *in extenso*.

The SPEAKER. If there be no objection, the bill will be read a second time.

Mr. CHASTAIN. I give notice that after the passage of this bill I shall insist on the regular order of business.

Mr. COBB. I object to the bill being read a second time.

Mr. PECKHAM. Is it not in order to move to suspend the rules?

The SPEAKER. That motion is not in order, as we are now acting under suspension of the rules.

Mr. HENN. I rise to a question of order. That is, that under the 31st rule, a member shall rise in his seat when he addresses the Chair; and I ask the Chair if that rule does not require the member to rise from *his own* seat?

The SPEAKER. The Chair decides that, within the spirit of the rule, a member rises from his own seat if he rises from a seat at all. That is a decision as old, almost, as the legislation of Congress. The Chair sustains the point of order to the extent that it is proper for a gentleman to rise from his seat, or, at least, from *a* seat, when he addresses the Chair.

Mr. HENN. The rule says *his* seat.

The SPEAKER. The Chair will not, as it stated this morning, recognize any gentleman addressing the Chair except from his seat.

Mr. HENN. I wish to state to the Speaker the reason why I make this point of order. It is, that those gentlemen who retain their seats do not get the floor, while those gentlemen who leave their seats alone get it.

The SPEAKER. The Chair acknowledges the force of what the gentleman says, and will state that, even if it should happen that a gentleman standing on the floor had been recognized, the Chair will rule him off the floor unless he rises from his seat.

Mr. HENN. I hope that the rule will be carried out.

The SPEAKER. The Chair mentions this that the House may aid in the execution of the rule.

Mr. CHASTAIN. Mr. Speaker——

The SPEAKER. The Chair cannot recognize the gentleman, as he has not been in his seat for half an hour.

Mr. WENTWORTH, of Illinois. I rise from my seat, and call for the regular order of business.

COMMUNICATION FROM SECRETARY OF THE TREASURY.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, containing the annual report of that officer, showing the condition of all the banks throughout the United States, which, on motion by Mr. JONES, of Tennessee, was laid on the table, and ordered to be printed.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; which received the signature of the Speaker:

An act to establish a circuit court of the United States in and for the State of California;

An act changing the times of holding the United States courts in Tennessee;

An act authorizing the purchase or construction of four additional revenue cutters; and

An act for the relief of the heirs and legal representatives of Joseph Savage, deceased.

MESSAGES FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, notifying the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill for the relief of the purchasers and locators of swamp and overflowed lands.

A message was also received from the Senate, by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed bills of the House, without amendments, with the following titles:

An act to provide a more efficient discipline in the Navy; and

An act to amend the act approved August 26, 1852, entitled "An act to reduce and define the boundaries of the military reserve at St. Peter's river, in the Territory of Minnesota," and for other purposes.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by SIDNEY WEBSTER, Esq., his Private Secretary, notifying the House that he had approved and signed bills of the following titles:

An act making appropriation for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1856, and for other purposes;

An act for the relief of Lot Davis; and

An act making appropriation for military defenses at Proctor's Landing, in Louisiana.

BOUNTY LAND BILL.

The SPEAKER. The regular order of business is the consideration of the following bill:

Senate bill (No. 511) in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States, upon which the gentleman from Missouri [Mr. BENTON] is entitled to the floor.

Mr. PECKHAM. If the gentleman from Missouri will yield the floor to me for a moment, I will ask the House to pass the bill which I have already asked the consent of the House to take up and pass, as the gentleman from Alabama [Mr. COBB] who objected to its passage, will withdraw his objection.

Mr. MAYALL. I object.

Mr. JONES, of Tennessee. If the gentleman from Missouri will yield the floor to me for a moment, I will move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union; and I will move, also, that the bounty land bill be postponed until twelve o'clock to-morrow.

Mr. BENTON. I will not object to it.

Mr. DISNEY. I rise to make a privileged motion. I am aware of the impatience of the House in listening to the reports of the Committee on Public Lands. The House have been engaged in evening sessions in general discussion. My proposition is this: If the House will give the Committee on Public Lands this evening in which to report, I will pledge myself to trouble them no more this session. Instead of spending this evening in general discussion, let us devote it to the disposal of matters from the Committee on Public Lands. My motion is, that when this House adjourns, it adjourn to meet at seven o'clock this evening, for the purpose of hearing reports from the Committee on Public Lands.

The SPEAKER. The Chair decides that the motion of the gentleman from Ohio is not in order under the rules. We cannot change the hour of meeting by a motion of that kind.

Mr. DISNEY. I do not propose to change the hour of meeting of the House, but only to change the disposition of business of the evening session.

The SPEAKER. It can be only done by unanimous consent. It is a proposition to take a recess; and we have no rule authorizing us to do this.

Mr. DISNEY. I expressly stipulated that it should be an adjournment.

The SPEAKER. To be sure it is an adjournment; but the motion would not be in order.

Mr. DISNEY. The rule expressly says, that a motion to adjourn shall take precedence of all other motions.

The SPEAKER. The motion submitted by the gentleman from Ohio can only be entertained by unanimous consent, and under a suspension of the rules. The gentleman from Missouri [Mr. BENTON] yields the floor to the gentleman from Tennessee, [Mr. JONES,] who submits the motion that the further consideration of the bounty land bill be postponed until to-morrow at twelve o'clock.

Mr. CHASTAIN. And upon that I raise the question of order. I wish to know if it is in order for the enemies of the bill, by farming out the floor, to defeat its passage?

The SPEAKER. The Chair overrules the point of order raised by the gentleman from Georgia.

Mr. CHASTAIN. I hope the motion of the gentleman from Tennessee, will be voted down.

Mr. MIDDLESWARTH. Will the House allow me to say one word before the question is taken.

Mr. HENN. I rise to a question of order, that the gentleman from Pennsylvania rises from the main aisle.

The SPEAKER. But the gentleman rises from a seat. If objected to, the seats will be removed.

Mr. HENN. I want the gentlemen upon this side of the House to have a fair chance.

The SPEAKER. If the gentleman insists upon it, the Chair will order the officers of the House to remove the seats from the main aisle, and to keep them out. The officers of the House will execute the order, which is, that the chairs in the area be removed, and not returned there.

Mr. COBB. What about these side seats?

The SPEAKER. That is another arrangement.

[The officers of the House then proceeded to execute the order, and the chairs in the area and in the main aisle were removed.]

Mr. CHASTAIN. How is it with reference to the seats which are immediately in front of the usual seats of the Hall? I have been an outsider for some time——

The SPEAKER. The Chair will state that, by the unanimous consent of the House, as he understands it, these seats were placed in the position which they now occupy.

Mr. WALSH. The gentleman from Georgia has been an outsider during the whole session.

Mr. MIDDLESWARTH. I believe a member has the right to speak from any part of the Hall he pleases. I understand the gentleman from Missouri has given way to the gentleman from Tennessee, to enable him to make a motion to postpone the further consideration of this bill until to-morrow morning. Is that so?

The SPEAKER. That is the state of the question.

Mr. MIDDLESWARTH. Well, the House has given me the right to say a few words before that motion is taken.

The SPEAKER. The gentleman has the right to make a speech.

Mr. MIDDLESWARTH. When this bill was brought up yesterday, the House will recollect that I made a motion to strike out the proviso to the first section of the bill, and that I called the previous question upon it. The previous question was not sustained. I desire to state that it was my intention, if the vote had been taken upon the amendment, to have followed it up by asking that other amendments might be adopted.

Now, I will, with the permission of the House, point out what other amendments I desire should be made. I am free to say that the thirteenth section of this bill is such a one as I never could vote for myself. I am perfectly astonished that such a body as the Senate of the United States should pass such a bill. It must have been passed through inadvertence, for I desire to cast no reflection upon

that body. I think the whole House will agree that the thirteenth section ought to be stricken out. I understand that the Commissioner of Pensions has said that if the bill should pass with that section attached to it, he can never carry it into effect; that it is contradictory to the other parts of the bill; that he would let it stand unexecuted until the next session of Congress, and would then call upon that Congress to pass an act explanatory of this bill. I trust that section will be stricken out.

There is another section which, I think, does not properly belong to the bill. The object of the bill, in the first place, is bounty—that is, the giving to the soldiers of the war of 1812 the same bounty land which was given to those engaged in the Mexican war, but the seventh section of this bill is upon another subject. Its object is to increase the invalid pensions, and I say it does not properly belong to this bill. If the majority of the House desire to have it stricken out, I have no objection. If both sections mentioned be stricken out, the bill will then provide for bounty lands, as it was originally intended to do. If the amendment offered by the gentleman from Missouri is adopted, and the bill be passed in that form, it will repeal the bounty land act of 1850. I understand, by hearing his amendment read, that it requires six months' service before the soldiers can be entitled to bounty land.

I hope the friends of this bill will not agree to postpone its consideration for another hour. We have already had a great deal of trouble to get the bill before the House, and now that it is before it, I hope it will be retained there until it is disposed of, one way or the other.

Mr. McMULLIN. I desire to inquire of the Chair what the question is before the House?

The SPEAKER. The question is the motion to postpone, until twelve o'clock to-morrow, the further consideration of this bill, and all discussion must be confined to the question of time alone.

Mr. McMULLIN. I will say that I hope it is not the pleasure of the House to postpone its consideration another hour. I appeal to every gentleman who is in favor of the general provisions of this bill to vote against the proposition to postpone its consideration, and to meet the question now, to go on and perfect the bill, and make it as perfect as we can, and then dispose of it before we adjourn to-day. It has been once postponed. It was postponed yesterday; and I have heard no reason assigned to-day why it should be further postponed. There has not been a bill before the present Congress, which appeals so strongly to the patriotism of every member upon this floor as this very bill. There are enough friends to pass it; and I hope we shall now perfect it, and pass it. If its friends think the bill is imperfect, let them perfect it, and pass it. I appeal to gentlemen upon both sides of the House to meet this question now. If you postpone it until to-morrow, the important appropriation bills from the Senate may come to the House and demand consideration, and throw this over still longer, at great hazard of its being lost for want of time to act upon it. I appeal to the House to go on with the subject now, and not postpone it. I beg gentlemen not to permit the enemies of the bill to defeat it, by carrying its postponement from day to day.

Mr. HENN. I rise to a question of order. The gentleman is not speaking to the question of time when the bill shall be considered, and he is not, therefore, in order.

Mr. McMULLIN. It is unnecessary for the gentleman to call me to order, as I have made all the remarks I desire to make at this time.

Mr. WENTWORTH, of Illinois. If I understand the feeling and views of the friends of this bill, it will take but five or ten minutes to modify the bill, so as to meet the approbation of its friends. My colleague, [Mr. RICHARDSON,] who has proved himself the soldier's friend by something better than talk, is now preparing a substitute for the whole bill, which, I think, will meet the approbation of the friends of the bill, and that is all we want, and we can then pass the bill. There are gentlemen here who are trying to postpone the consideration of this bill, when they know that important business, indispensable to be done, is accumulating every hour, and which, if this bill is postponed, will not only endanger its passage, but other bills now before Congress. I hope we shall pass it now, and the sooner it is done the better.

Mr. MIDDLESWARTH. I would inquire of the Chair whether, at this time, it is in order to move to submit an amendment to strike out certain portions of the bill, with the permission of the gentleman from Missouri, [Mr. BENTON?]

The SPEAKER. It is not now in order to submit any motion in the nature of an amendment. The gentleman from Pennsylvania [Mr. MIDDLESWARTH] has submitted an amendment to strike out the proviso to the first section, and the gentleman from Missouri [Mr. BENTON] has a pending amendment to that proviso. The Chair will now hear the nature of the proposition of the gentleman from Pennsylvania.

Mr. MIDDLESWARTH. I wish to inquire of the Chair whether it is in order now to submit to the House a modification of the amendment I submitted yesterday, that is, to strike out the proviso to the first section?

The SPEAKER. No amendment is in order until the motion to postpone is disposed of.

Mr. MIDDLESWARTH. I hope the friends of the bill will vote down the motion to postpone.

The question was then taken on the motion to postpone, and, on a division, there were—ayes 60, noes 86.

So the House refused to postpone the consideration of the bill.

Mr. BENTON took the floor.

Mr. BRIDGES. The gentleman will permit me to say a single word before he commences his remarks. I understand that my colleague from Pennsylvania [Mr. MIDDLESWARTH] intends, at the proper time, to move to strike out the thirteenth section, which, I believe, is objectionable to the gentleman from Missouri. I would say to that gentleman—and it is proper that he should hear it—that, if the thirteenth section be stricken out, and soldiers receive their allotments of land under the bill as it will then stand, there will be something like one billion three hundred and thirty million acres of land left as the property of the United States.

Mr. BENTON. Mr. Speaker, I have no objection to the amendment proposed by the member from Pennsylvania to the bill which he has in charge. The bill needs amendment, God knows! and all in the way he proposes, by striking out—even to the last word of it. I will vote with him for the amendment; and I make him a thousand thanks in the name of the country for what he has said this morning upon the floor of the House. Did ever a legislative body receive such an admonition against hasty, inconsiderate, headlong legislation as that member gave to this House this morning? Was there ever an instance so striking, and which ought to go to the heads and hearts of men charged with the duty of national legislation, as that admonition? I will not say what he said with respect to the Senate who passed this bill. He was right, but the rules will not let me repeat his words—his heart was against the manner in which he is proceeding—but the friends of this measure felt called on yesterday to demand the previous question. It was not the gentleman from Pennsylvania—no, sir; his heart was against that headlong step, against calling the previous question on a bill of the magnitude of this one, and that too when it had been unconsidered by any of the standing committees of this House, unconsidered by the House in Committee of the Whole on the state of the Union, when we had been warned against it by that appalling report made out on the spur of the occasion by the Commissioner of Pensions; but he was forced into it. We all saw what was done—members tugging and pulling at him, and urging him to call the question. Appalling as that report is, I know that it does not reach the amount of damage which this bill is to do, not merely to the United States, but to the old soldiers themselves. What does the member say this morning? He gets up and moves to strike out the very provisions which were to be passed through under the screw and gag of the previous question if it had not been for the struggle which a small minority of us made.

Mr. MIDDLESWARTH. Will the distinguished gentleman permit me to explain?

Mr. BENTON. Certainly, sir.

Mr. MIDDLESWARTH. When I called for the previous question, it was not my intention to have it operate on the passage of the bill. I desired to have a vote of the House on the amendment which I had proposed, and on other amendments. I did not want the previous question on the passage of the bill, for I was as much opposed to the thirteenth section as any other member. I never would vote for it.

Mr. BENTON. Mr. Speaker, I accept all that is said by the venerable and respectable member from Pennsylvania. His heart is right. But what have we got? What did he tell us this morning? He spoke from his feelings—his honest feelings—when he expressed his amazement that such a bill as this could have come from the other branch of the Legislature. He may have been out of order in making that remark, but it was honest sentiment, which is above all rules of order. He expressed an honest sentiment, sir, in condemning the conduct of the Senate; and what is the lesson which it reads the House? It reads us this lesson: that our ancestors, the fathers of this form of Government under which we live, in providing two Houses of Congress, intended that one should be a check upon the other—not a single body, like a French National Convention, in which a proposition, no matter of what magnitude, the larger the better, was passed by acclamation the moment stated. We were not to be a single body for legislation. We were to have two bodies, and each body was to do its duty in examining everything to be done. The body receiving a measure from the other, takes it up as an original proposition, uninfluenced by what took place in the other body. The two Houses were to check, and not to follow each other. In obedience to the duty of this body, and under the rules of this House, this measure was to go to one of the standing committees, then to a Committee of the Whole House, or to the Committee of the Whole on the state of the Union; and in all these places to be thoroughly examined. This is the character of our form of Government; these are the guards which the wisdom and patriotism of our ancestors provided, in order to prevent hasty, inconsiderate, crude, rash, heedless legislation.

This bill was received from the Senate, and under the press of the previous question was to be put on its passage without having been considered by any standing committee, or by the Committee of the Whole, or discussed by the House. If it had passed as it was then intended it should pass, what a bill we should have had, in the words of the member himself? What a dreadful thing we should have had yesterday, according to his own account of it this morning? We should have passed a bill upon a blind rush, the enormity of which astounds him at the conduct of the Senate in passing it.

But, sir, what has one night produced? What has been discovered? What has been developed by him this morning? It stands for a lesson, a warning, a caution. It is an admonition which I hope and trust may not be lost to this House. It is an admonition which should make us pause and think—make us send this bill to a standing committee of this House—to the Committee on Public Lands, for examination into it under all its aspects; the classes it will embrace; the land it will take; the frauds it will breed; the plunder it will make, both of the "*old soldiers*" and the young Government. It should be put through every form which legislation prescribes or permits. Let the Public Land Committee examine into it, and then let them come forward and give us the results of their investigations.

Mr. Chairman, we are here two hundred and thirty-four members. Every one is precisely equal to the other, in station and privilege. It is not for one member to rise in his place and say, "I am satisfied with the bill. I call the previous question. Pass it." Every member has the right to examine it for himself. Sir, it is not competent for the friends of a bill here, to whisper together here, or commune together elsewhere, and then say *they* are satisfied with a bill, and they will pass it. It is defeating the object for which the House was created. This House was created for consideration. Every member of the House—those against it as well as those for it—have the right to be satisfied also. Those opposed to a measure have a right to think and to know—to learn what they are about—as well as its friends. Rules were made to secure those rights, and it is an abuse of rules to deprive the opposition of those rights. I hope a proposition I propose to make before I sit down will succeed, and that one of the standing committees of this House—the Commit-

tee on Public Lands—will have this bill referred to them.

Sir, the report made by the Commissioner of Public Lands is perfectly appalling; but it is not up to the mark. I am, perhaps, older than he is, and have seen more of the working of this class of bills; and have studied this one. I cannot assent to his estimate—his inadequate estimate—that this bill will involve only near two hundred millions of acres of the public lands. His numbers are large, but limited, and no man can assign limits to this depredation; no one can assign the limit at which this bill will stop its ravages—the limit either in point of time or quantity. I cannot estimate the number of cases—instances—of volunteer citizens who have turned out upon an alarm, sometimes well founded and sometimes without foundation; who turned out and sought the danger, never thinking of receiving pay for it; who turned out for their country and for their own homes. Many of them were absent from their homes for some days or weeks; many of them not engaged in any active service at all, only going towards the seat of alarm and coming back, and long enough going and returning to make the fourteen days' campaign which this bill puts on a level with a three years' or five years' actual service.

Sir, those extemporaneous men turned out in defense of their homes and country, without any expectation of receiving lands or pensions of the Government for their few days patriotic excursion, hardly thinking of pay, most of them. Yet fourteen days riding backwards and forwards, and that forty years after the time, they are to get one hundred and sixty acres of land. No! *They* are not to get it. But of that hereafter.

Sir, there are no assignable limits to the operation of this bill, either in time or land.

Mr. Chairman, let me call the attention of the House to some facts which it will only be necessary for the House to hear—to be made to think of—only made to remember—in order to enable them to begin to form conceptions of the effect of the passage of this bill. Take as an example the case of the military bounty land warrants which were granted by the State of Virginia in 1784, to her soldiers who were engaged in the Continental service. See how that case worked, and is working; for it is still going on. To furnish the land believed by those who knew how many served—who were contemporaries with the service—it was estimated at more than sufficient to satisfy these land warrants, a strip of land between the Sciota and Little Miami rivers. And, sir, what was the number of these continentals? In other words, what was the population of Virginia then? Not more than one third what it is now. And how long has it taken to settle up the claims for warrants under the Virginia bounty land act of 1784? Seventy years! Yes, seventy years! and not done yet. Upwards of two generations have passed in efforts to satisfy those claims, no satisfaction yet—not through yet—constant paying, but never finishing.

During a long service in the Senate, I have witnessed the repeated efforts that have been made to bring them to a close. We have tried upon time, and tried upon quantities; but in vain. We have provided, about every two years, that they should be closed up within two years. Failing on time, we tried quantities. We asked how much would do?—got the answer—gave all that was demanded—only to be succeeded by new and larger demands. Effort after effort has been made, without getting to the end. The claims propagate and multiply. Contrary to the laws of animal gestation, the older they get the more prolifically they breed. I repeat, that seventy years have gone by in satisfying claims for Virginia bounty, when her population was less than one third what it is now. And not done yet. Time works on with them, and space expands for them also. Those lands between the Sciota and the Little Miami were soon exhausted, (though deemed more than enough by those who were contemporary, and the overplus ordered to revert,) and these warrant holders were permitted to cross the rivers into the State of Ohio—and then cross over from Ohio into Indiana—then into Illinois—into all the Northwest Territory that Virginia ever granted—and since have been permitted to leap the Mississippi—that boundary of the Union when they were granted, and spread over the new and vast acquisition of Louisiana. And where now? Crossing the Rocky mountains—ready to descend the western slope of the continent, and reach the Pacific ocean—to take those lands which Mexico granted to her citizens when California was hers, and which this Federal Government confiscates under the forms of predatory legislation—more cruel than the confiscations of Antony and Cæsar, when the old farmers were ordered to depart—*veteres coloni migrate*—that the victors of Pharsalia and Phillippi might take their fields, and orchards, and houses; more cruel, because more expensive, and mocked with the forms of legislation.

These claimants are ready, as soon as offered at public sale, to seize these confiscated lands and appropriate them. No! not they. Not the old claimants—not the meritorious men of the Virginia line—but a brood who know not war, except by its spoils—know not the Revolution, except by the chance it gives them to pillage, and plunder, and depredate, in their names. Claims agents, and speculators, are the beneficiaries of this *bounteous* legislation for "*old soldiers.*" Think of these things, men intrusted with the responsible duty of legislation! Think of them! Take a slate and pencil and set yourselves a sum in the double rule of three, and say, if these few Virginia claims have taken seventy years to satisfy them, and are still unsatisfied, how many times seventy years will it take to settle these proposed claims, embracing a population of twenty-five millions scattered all over the Union, and going back to the war of the Revolution? How many years would this bounteous dispensation require? Four hundred and twenty! for the population of the Union is sixty times that of Virginia seventy years ago. There is not land enough in our America, to satisfy the endless claims to be bred under this bill. We shall have to make new annexations, and perhaps to advertise for another Columbus, to come and discover a new continent to enable us to meet these demands. Sir, I make the prophecy now, and I want it to go down to posterity, that if this bill passes, future Congresses will see people coming here in endless streams, and countless numbers, and getting new laws—though God knows this is wide enough—until our lands are exhausted—all gone—and complain against this Congress for having cheated them! having acknowledged that they owed them lands, and then giving them a false title—given them warrants for land, when they had no land to satisfy them! They will come here and claim damages for spoliations—for the value of the land promised them, and interest, and get many "*five millions*" out of the Treasury—the more demanded, the easier got, because, the dividends are greater. These things are possible, and probable—nay, provable, by what has been done; and the possibility of them requires us to stop, and consider what we are about.

Mr. Speaker, I have arrived at that age, and at that state of feeling—particularly on *this* day—(alluding to the invaluable losses in his house, still smoking in view of the Capitol) which would render it impossible for me to rise and speak here, except under an inexorable sense of duty. Nothing but an overpowering sense of what I owe to my fellow-members, and to the country, could make me stand up here and speak to the House. But I am here. It is my post; it is my place. I left my post yesterday to witness an irreparable calamity—I do not speak of wood and bricks. I come to my post this morning to discharge my duty to my country, painful as it is to me to mix in public business. But it is the duty of my position, and I will not flinch. It is said that this is a bill for the benefit of "*old soldiers.*" Let us see how that is. I know these "*old soldiers.*" I have served with them, and commanded them, and, for a great number of years after the war of 1812, I was accustomed to present their petitions for bounty land to Congress. And what was the answer always given? I say *their* petitions! not those who pillage in their name. Why, sir, members stood up and said that we had voted them eight millions of acres of land at one time—two millions each in four different Territories at one time—and other lands afterwards; that they had all received land and pay, but that they had been cheated out of their land by speculators; and that it will be impossible to stand guardian over them.

Mr. MILLSON, (interrupting.) I dislike very much to interrupt the distinguished gentleman from Missouri, but I desire to make a brief explanation respecting an error into which the gentleman has inadvertently fallen—certainly not intentionally—in regard to the Virginia bounty lands. I understood the gentleman from Missouri to say that those land claims, though now seventy years old, has not yet been satisfied, and that the claimants were seeking, not merely to locate their warrants within the districts heretofore reserved, but even on the distant shores of the Pacific. I desire to remind the gentleman of what I think justice to the claimants of Virginia requires that I should mention, and it is this: there are now very few claims upon the continental establishment remaining unsatisfied. Nearly all the claims for which the Congress of the United States has made provision from time to time, are claims for services in the State line. The delay in adjusting those claims I beg leave to explain to the gentleman, that he may have an opportunity to correct the error into which I am sure he has unintentionally fallen. At the time the cession of territory was made by Virginia, with the reservation of the right to satisfy the claims of the soldiers of the continental and State establishment, the State of Kentucky was a part of Virginia. It was in the State of Kentucky that lands were reserved for the payment of the officers and soldiers of the State line. But in the year 1792, immediately after the admission into the Union of the State of Kentucky, that State, in consequence of Indian troubles occurring there, because of the surveys of the land, passed an act prohibiting surveys, and no surveys could be made for the purpose of setting apart lands for the payment of the State line of Virginia, until the extinguishment of the Indian titles. Those titles were not extinguished until 1818; nor was it competent for any soldier of that line to locate a single warrant upon the reserved portion of the Kentucky lands until the year 1818, when the Indian title was extinguished. After the extinguishment of the Indian titles, the State of Kentucky passed a law prohibiting any of these warrants from being located within her limits, and a long controversy ensued between the States of Virginia and Kentucky, during which commissioners were sent by the respective Legislatures of those States. That controversy was only terminated by the compulsory withdrawal of the right of the State of Virginia to demand the enforcement of the original stipulation of the grant of the territory. And in that way, sir, those who claimed the right to locate lands in the State of Kentucky were obliged to come to Congress for the satisfaction of their claims.

Mr. BENTON. I accept the gentleman's corrections; for I really included what he says in my mind and calculations, though not in the words. When I stated that some of these claims would be located on the shores of the Pacific ocean, I stated it with a qualification—with the qualification that they might be so located after the public sales, and that by laws now existing—so located under the act of 1852, by which the holders of these warrants may locate their lands without limitation of space, and with a subdivision of the warrants down to forty acres, so as to enable them to go and pick out the eyes of the land, the springs, the groves, the valleys, mountain passes, leaving rocks and deserts, cutting off the fat, leaving the bones and the lean for the Government to sell. I do not desire to make any invidious allusions or comparisons between States. I take the Virginia case because it is prominent on our statute-book, seventy years' legislation to satisfy them, and yet unsatisfied. I intended to include all the Virginia revolutionary land claimants; and, therefore, took her whole white population seventy years ago, as a basis of my calculations, as the data for my sum to be worked out in the double rule of three.

The gentleman admits that forty-four acts—which he calls only—were passed for this purpose; also, that no persons who received or were entitled to receive bounty lands under any one of these forty-four acts passed by Congress should be entitled to any benefit from this act. That is right. It is what my amendment aims at. He admits, also, that after forty-four acts passed for this purpose there are some claims outstanding. That is right, no doubt, again; and is more than I said; and I thank him for telling it. I was going on the assumption that at last, at the end of seventy years, we were done; but he says there are a "few"—that is precisely the word—I have heard it too often not to recognize it as an old familiar word—

a few outstanding yet! Why, this is what I have heard for above thirty years—a few more yet; and these few multiplying daily, and breeding with the fecundity of the rabbit. What will it be under this universal, boundless, and endless bill, if it passes, and with all its apparently studied looseness, vagueness, and generalities?

Mr. Speaker, I have taken a dreadful cold sitting up at night, looking over this subject, going back to the Revolution. I think I have enumerated some one hundred and fifty acts granting or securing bounty lands to the persons who would be entitled to them under this law. I have no voice to speak, and can do little better than bark!' but it is a case to justify barking. There are acts for the relief of Canadian and British deserters; acts for Nova Scotian and other refugees who served in our army. There are acts which may include the representatives of all foreigners who served in our army. And under these acts it seems to me that the descendants of British deserters, of Canadian and Nova Scotian refugees, of Hessians, of the whole French army and navy, who served in the revolutionary war, could receive everything which was given to American citizens who served in the army. I do not undertake to assign limits to these acts. I cannot make any positive statement as to their effect. I have had my amendment printed and read. It is part of my speech, and must be taken in connection with it to show gentlemen the dangers of this bill. I ask for a committee. Let this matter be put through the regular forms of legislation, so as that we may be enabled to see clearly how the facts stand, and what are the dangers incurred.

I am a friend, Mr. Speaker, to old soldiers, and to young soldiers, also. So, also, I am an enemy to old speculators, and to young speculators likewise, who look upon soldiers, "*old*" and young, and their widows and children, alse, as a lawful prey, and pursue them and devour them as sharks do shoals of little fishes. Sir, I was born in the last year of the Revolution; and one of the earliest things that I can remember is to have seen revolutionary soldiers coming to my father's house (who was a lawyer) to tell the story of the manner in which they had been cheated out of their earnings—out of their certificates—out of all the rights growing out of their service; and to consult him as a lawyer, to see if there was any way by which they could recover their rights. Of course there was no way. You had as well attempt to get a herring out of the maw of a live shark. These were men out of whose hands were filched these certificates at the rate of two shillings and sixpence per pound. They, not knowing the value of their certificates, and being told that they were valueless, disposed of them at two shillings and sixpence a pound, paper money, and these same certificates afterwards funded at thirty shillings per pound, solid money. This was their case, and it has been the same ever since. And the history of the day shows, that while the act was being passed, and before it was passed, or before the time it could be generally known, swift horses were employed to run the country—swift vessels engaged in ploughing the ocean, to go and seek out these men wherever they could be found, and purchase from them their certificates at the merest price; and so these certificates were swept out of their hands.

And what have we seen since? I have already adverted to it. We have seen the warrants of the soldiers of 1812, selling at from ten to fifteen dollars each, and the patents at from twenty to twenty-five dollars each. I have seen all that; and I have endeavored, sir, to save the soldier from these plunderers. And when, during the Mexican war, we passed bills for the purpose of granting bounty lands, I voted for them. I, with others, was then successful in getting a provision inserted to try and protect them; but all efforts at protection were unavailing and valueless. The soldier, old and young, his widow and children, even minors, are doomed to be plundered by speculators, and by this bill above all others. Here we have an unlimited bill; an unlimited bill for the benefit of people who are dead, of heirs who know nothing, of some, aged and living, who have no idea of what we are doing, and will never know it until a speculator penetrates their locality and finds them; for, the earth cannot hide them living, nor save them dead; for the claim will be got, and by foul means if not by fair. Should they not have some notice, some time, some chance to hear of our law—six months or a year—to become acquainted with the provisions proposed for their benefit? Give them time to know what they are entitled to before these depredating speculators are upon them as wolves in the sheep-fold.

Shall we not give these people—old and young, heirs and widows—time to be prepared for these speculators? That, sir, I avow is my object. I avow it, and I glory in it. I want time. I want delay. I want to have this bill sent to a committee to be reported upon. I want that report to go out. I want it to go over the country. I want the people to know what they are to get before these ravenous wolves are on, as on sheep, and devour them—old wethers, rams, ewes, lambs, and all. That is what I am after. I want to procure a delay that this knowledge may go to the people, so that they may know how to save themselves from these rapacious plunderers, who plead for themselves in the name of "*old soldiers;*" and who, like certain administrators of charitable funds in Gil Blas, get rich by administering the funds of the poor. I have enumerated about one hundred and fifty acts under which persons have received lands. I submitted an amendment to the bill yesterday, which was ordered to be printed some days ago, but which did not come up here till yesterday, and which had not been examined till then by members of the House. I was called away from my post last evening under urgent circumstances, which members understand. I left my work to others. Since then members have taken the bill, examined the amendment which I offered, and have suggested modifications, carefully considered, which I accept; and I now ask the Clerk to read the amendment as it is modified; and I move that the bill and amendments be committed to the Committee on Public Lands.

Here the amendment was read, as follows?

Provided, That the representatives of no British deserter who received bounty land, or was entitled to receive it, for services in the revolutionary war, under the acts approved August 8, 1776, and March 27, 1792, shall be entitled to receive any land, or pension, or increase of pension, under this act; also, that the representatives of no Canadian or Nova Scotia refugee, who received or was entitled to receive land or pension, for services in the revolutionary war, under the acts passed April 23, 1783, April 13, 1785, May 20, 1785, February 18, 1801, April 29, 1816, April 7, 1790, March 16, 1804, February 18, 1801, March 3, 1803, April 23, 1802, March 3, 1830, or under any other act granting lands or pensions to said Canadian or Nova Scotia refugees, or their representatives, shall receive any bounty land, or pension, or increase of pension under this act; also, that no officer or soldier of the revolutionary war, or their representatives, who received bounty land for revolutionary services, or were entitled to receive it, under any one of the forty-seven acts passed for such purpose, from May the 20th, 1785, to March 3, 1830, inclusively, shall receive any land under this act; also that no person, or their representatives, who received, or were entitled to receive, bounty lands under any one of the forty-four of the acts passed by Congress for satisfying bounties granted by the State of Virginia to her officers and soldiers engaged in the revolutionary war; also, that no person, or his representative, shall receive any bounty land under the said act who shall have received, or been entitled to receive, bounty land from any one of the States for services performed in the revolutionary war; also, that no person, or his representative, who belonged to French or other foreign troops, who served in the revolutionary war, shall receive any land under this act; also, that the evidence shall be the same as is now received and acted upon in any case whatever for bounty land under the provisions of this act: *And provided further*, That no person, or his representative, who served in any war between the years 1790 and 1812, shall be entitled to receive any bounty land under this act, who shall have received, or been entitled to receive, any land under this act, and that all claims for land founded on such service shall only be considered and allowed upon record evidence: *And provided further*, That no person, or his representative, claiming land under this act, who served in the war of 1812, and who received bounty land, or were entitled to receive bounty land, under any one of the fifty-eight acts, public or private, passed from December 24, 1811, to March 3, 1845, inclusively, for granting or assuring bounty lands to persons serving in said war, and especially who received bounty lands under the act of May 6, 1812, granting six millions of acres for bounties to such persons, lying in the Territories of Michigan, Illinois, and Missouri, or under the act of April 16, 1816, granting an additional quantity of two millions of acres to such persons, lying in the Territory of Arkansas, shall be entitled to receive any bounty land under this act; and that the evidence shall be the same as that received or considered in support of any claim for service in the said war of 1812 with Great Britain: *And provided further*, That no person, or his legal representative, who shall claim bounty land for services in the late war with Mexico, and who received, or were entitled to receive, bounty lands for such service, under either of the thirteen acts passed for that purpose, from February 11 to July 25, 1848, inclusively, shall receive any land under this act; nor shall any evidence except such as is now received be received in support of any such claim after the lapse of thirty years after the date of the origin of such claim: *And provided further*, That no Indian shall be considered as entitled to the benefits of a white man under this act, unless he shall have been domiciliated among the white people, and shall have been regularly enrolled in the military service, and his claim proved by record evidence: *And provided further*, That no person, or his legal representative, belonging to the naval service of the United States, shall be allowed to receive any bounty land under this act, who received, or were entitled by law to receive, prize money for captures, or destruction of enemies' vessels, during the war, or who have received pensions for such service; and no evidence but such as is now received shall be received or considered in support of any claim which shall, at the time it is offered, relate back to a period of thirty years: *And provided further*, That no increase of pension shall be made under this act to any person whatever, or his representative, which person shall already have received his or her pension for a period of seven years, without having made to Congress, or the Government, a written application for an increase, and stating the particular reasons on which such application was founded: *And provided further*, That all bounty lands granted under this act, shall be free from tax until the patent shall be granted therefor, and shall be unassignable or transferable during the same period, and that all contracts with agents for any part of the same, or for money, or other thing, in consideration of being instrumental in getting this act passed, or obtaining the warrant or patent after it shall have passed, shall be, and the same is hereby declared to be, null and void; and all payments made on such account shall be recoverable back by any person interested therein, without limitation of time; and that no member of the present Congress, or any person related to him within the levetical degrees of prohibited marriages, shall ever receive an assignment or transfer of any bounty land granted under this act, all such transfers and assignments being hereby declared to be null and void, *ab initio*.

Mr. GROW obtained the floor.

Mr. CLINGMAN. I ask my friend from Pennsylvania to give way for a moment, that I may offer an amendment to the bill. I only hope that the gentleman who has the floor will modify his amendment, so as to move also to strike out the seventh section, which proposes a general increase of pensions, for which I see no necessity. I am not disposed to see all present pensions increased. I hope, alse, the gentleman will move to strike out the thirteenth section, which seems to be so general that the Commissioner of Pensions cannot tell whether it will require thirty, or a hundred, or two hundred millions of acres to satisfy it.

Mr. RICHARDSON. I have prepared an amendment to the bill. It proposes to strike out the seventh and the thirteenth section, and makes two or three other slight changes in the bill; and I desire, as soon as I can obtain the floor, to offer it as a substitute for the entire original bill. I would inquire of the Chair whether pending a motion to commit, a motion to amend is in order?

The SPEAKER. It is not.

Mr. GROW. It is not my purpose to trespass long on the patience of the House. Nor would I at all at this time, save to state briefly the reasons for my action on this bill. It is an ungracious task at any time to refuse a request made in the name of those who have served their country amid danger and death. And the men who go forth in the hour of trial to uphold her standard and vindicate her honor are deserving, it is true, of a more substantial reward than tears to the dead and thanks to the living. But what real benefit do you propose to confer by this bill? It simply grants a land warrant of one hundred and sixty acres of land to each soldier. Of what use is this warrant to him? These veterans of your battle fields are grey with age, and most of them close on the confines of the grave. Will they, then, in their old age, leave their present homes, and tear themselves from the society of their kindred and the spots around which tendril the associations of their earlier years, and seek a new home in the wilderness. Sir, no one expects this to be done. It is not, therefore, for the purpose of furnishing them homes that this grant of land is made. The soldier, then, must go into the market and sell his warrant before he can derive any benefit from this grant. And if the statement of the Commissioner of Pensions be correct, that it will require two hundred millions of acres of land to satisfy this bill, the soldier will receive but a mere pittance. Most of the Mexican warrants sold for sixty and seventy dollars, and these would command a less price, for a much larger amount of land will be thrown at once upon the market, thus giving a new stimulus to land speculation and entailing upon the new States its consequent evils, and upon the labor of the country, injustice and wrong. While professing to confer a benefit upon the soldiers of the country by this bill, the only parties really benefited would be speculators in bounty land warrants. Then, why not keep the land and prevent its absorption by speculators, and grant money to the soldier. A hundred and

sixty acres of land, under the present regulations of the land office, would sell for $200. If you would confer, then, a real and substantial good upon the soldier, let the Government keep the land and grant him $150 or $200, instead of the warrant. By such an arrangement you benefit the soldier without injury to the Government, and save the labor of the country from the burdens of wild and sweeping land speculators.

Mr. MIDDLESWARTH, (interrupting.) I desire to know whether the gentleman from Pennsylvania is in order in discussing the bill when a motion is pending to commit to the Committee on Public Lands?

The SPEAKER. The Chair thinks the gentleman from Pennsylvania is in order.

Mr. GROW. I will not take the time of the House but a few minutes longer, nor would I have said a word, on account of exceeding hoarseness, resulting from a severe cold, but for the reason——

Mr. HENN, (interrupting.) I wish to call the attention of the gentleman from Pennsylvania, just at this point, to an amendment which I propose to offer. It covers the very ground which the gentleman's remarks allude to.

Mr. GROW. No amendment is in order now, as the gentleman is probably aware, but I will hear it.

Mr. HENN. I will send it to the Clerk's desk to be read, and he will see that it covers the point. I think it is a very important amendment.

The amendment of Mr. HENN was read, as follows:

That every such non-commissioned officer, musician, and private, seaman, ordinary seaman, marine, clerk, and landsman, in the Navy, who may be entitled, under the provisions of this act, to receive a certificate or warrant for one hundred and sixty acres of land, or any less legal subdivision of the public lands, shall be allowed the option to receive in lieu of such certificate, or warrant, a Treasury scrip for $100, and so in proportion for any quantity of land to which such officer, non-commissioned officer, musician, and private, seaman, ordinary seaman, marine, clerk, and landsman, may be entitled, and such scrip, whenever it is preferred, shall be issued by the Secretary of the Treasury to such person or persons as would be authorized to receive such certificates or warrants for lands; said scrip to bear an interest of six per cent. per annum, payable semi-annually, redeemable at the pleasure of the Government.

Mr. GROW. Mr. Chairman, I yielded to my friend from Iowa in order that he might have his amendment read for the information of the House. As the gentleman suggested, the amendment meets my ideas of what Congress should do in reference to this matter, and that is to appropriate the money directly to the soldier, so that, on proof of service, he can draw it directly from the Treasury of the United States, and not compel him to sacrifice what you give under the plea of a bounty, or to seek a home amid strangers in a far distant region.

And in closing my remarks, I protest against this traffic by claim agents and land speculators in the patriotism of the country. While the public lands have become a fund to be scrambled for by all sorts of combinations, these men seek to absorb them by a law passed in the name and behalf of the "old soldiers." The penury and wounds of scarred veterans are pressed into their service, and the sympathy and gratitude of the country is to minister to their advantage. And, sir, unless this bill be so amended as to prevent this enormous land speculation and to secure to the soldiers the bounty that we profess to give, I shall vote against it.

Mr. ORR obtained the floor, but yielded to

Mr. DISNEY. Mr. Speaker, I send up to the Clerk to be read for the information of the House an amendment which I propose to offer to the bill if I can get an opportunity to do so.

The Clerk read the proposed amendment, as follows:

But provided that the benefits of this act shall not be extended to any person who served in the militia that refused to cross the river to save the gallant troops who were captured at Queenstown in the war of 1812.

Mr. DISNEY. Mr. Speaker, I am not now at liberty to go into a full discussion of the propriety of the amendment. I will merely refresh the memory of members with the facts of the case. On the occasion when the American army under General Scott was shot down, and the remnant ultimately captured, at Queenstown, if those who are now here clamoring for public land, and who were on the opposite shore at that time, and refused on some alleged constitutional ground—if one third of them had gone over, the tide of battle would have been turned. I suggest this amendment as illustrative of a series of amendments which I should like to offer to this bill.

Mr. COBB. With the permission of the gentleman from South Carolina, I shall send up to the Clerk, to be read for the information of the House, an amendment which was considered by the Committee on Public Lands at the last and at the present session, and approved by it. It will make the law of 1850 conform to this bill.

The Clerk read the proposed amendment, as follows:

Provided, That when any commissioned or non commissioned officer, musician, or private, to whom bounty land is promised by the act of September 28, 1850, or the act of March 22, 1852, shall make, or shall have made, application therefor, and shall die, or shall have died before the issue of his warrant, without leaving a widow or a minor child, a warrant in such case may issue to, and vest in, his heir-at law, upon proof of identity and heirship.

SEC. 3. *And be it further enacted*, That the children of a deceased officer or soldier, who were minors on the day of the passage of said acts, respectively, may receive the warrants promised them by said acts, although they may have since attained the age of twenty-one years: *Provided*, That a warrant for the identical service for which the claim is made has not already issued to some person entitled to receive the same.

Mr. FAULKNER. With the permission of the gentleman from South Carolina, I send up to the Clerk's table, to be read for the information of the House, a bill which the Committee on Military Affairs instructed me to report on this subject.

The Clerk read the bill, as follows:

An act in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each of the surviving commissioned and non-commissioned officers, musicians, and privates, whether regulars, volunteers, rangers, or militia, who were regularly mustered into the service of the United States, in the war of 1812, with Great Britain, shall be entitled to receive a certificate or warrant from the Department of the Interior for one hundred and sixty acres of land, or where any of those who have so served shall have received a certificate or warrant, he shall be entitled to a certificate or warrant for such quantity of land as will make, in the whole, with what he may have heretofore received, one hundred and sixty acres to each such person having served as aforesaid.

SEC. 2. *And be it further enacted*, That in case of the death of any person who, if living, would be entitled to a certificate or warrant as aforesaid under this act, leaving a widow, or, if no widow, a child or children, such widow, or if no widow, such child or children, shall be entitled to receive a certificate or warrant for the same quantity of land that such deceased person would be entitled to receive under the provisions of this act if now living: *Provided*, That a subsequent marriage shall not impair the right of any such widow to such warrant if she be a widow at the time of making her application, and at the date of such warrant: *And provided further*, That no member of the present Congress, nor any descendant of such member, shall be entitled to the benefit of this act.

SEC. 3. *And it be further enacted*, That said certificates or warrants may be assigned, transferred, and located by the warrantees, or their heirs-at-law, according to the provisions of existing laws regulating the assignment, transfer, and location of bounty-land warrants.

Mr. ORR. I desire to inquire of the Chair how many amendments are now pending in order?

The SPEAKER. The gentleman from Pennsylvania [Mr. MIDDLESWARTH] moved to strike out one of the sections of the bill. The gentleman from Missouri [Mr. BENTON] moved to amend the proviso to the first section of the bill.

Mr. ORR. Then there is an amendment to an amendment pending?

The SPEAKER. There is; and no other amendment is now in order.

Mr. JONES, of Tennessee. And there is also pending a motion to commit the bill.

The SPEAKER. There is.

Mr. ORR. I understand that no amendment would be in order, even if the motion to commit were withdrawn. If the call for the previous question should be seconded—and I believe that I propounded the same question to the Chair yesterday, but it seems, although I understood the Chair very distinctly, that his answer was not understood by a portion of the House—if the previous question should be now sustained on the bill and amendments, will not the House be brought to vote first on the amendments and then upon the third reading of the bill?

The SPEAKER. Certainly.

Mr. ORR. And of course there can be no amendment offered after the previous question has been seconded and the main question has been ordered to be put.

The SPEAKER. None whatever.

Mr. ORR. It will not be in order, then, to move to strike out the thirteenth section of the bill?

The SPEAKER. It will not be in order.

Mr. ORR. It would not be in order even if the motion to commit were withdrawn.

The SPEAKER. It would not.

Mr. RICHARDSON. The gentleman from South Carolina will permit me to interrupt him for a moment. If the gentleman from Missouri will withdraw his motion to commit the bill, I will submit a substitute for the bill now under consideration—a substitute which will be the same as the original bill with the exception of the omission of the seventh and thirteenth sections.

Mr. ORR. I do not understand how the gentleman's proposition can be introduced in order unless as a substitute. There is an amendment to an amendment pending to the original bill.

Mr. RICHARDSON. It is a substitute which I propose offering.

Mr. ORR. Then the House will be brought to vote between the original bill and amendments and the substitute. Now, Mr. Speaker, it is perfectly apparent that the Senate bill should be amended. I believe that is the opinion of every member of the House. It is perfectly apparent that we cannot make these amendments in the House. It is, therefore, manifest that it is necessary to send this bill—a motion for which purpose has been made by the gentleman from Missouri, [Mr. BENTON]—to the Committee on Public Lands, that it may be considered and amended, or to the Committee of the Whole on the state of the Union, where it can be perfected by amendments offered by any gentleman who desires to put it in less objectionable form.

I recollect, Mr. Speaker, in the region of country where I reside, some years ago there arose a controversy between learned naturalists as to the existence and habits of a certain curious animal that was upon exhibition there, which was called by the bills a mermaid. Many naturalists, greatly learned in natural history, insisted that there was such an animal as a mermaid, and others maintained that there was no such animal, and that its existence was to be found nowhere save in the fertile brains of imaginative poets. The controversy waxed warm, and after much time had been consumed in examining this animal, and speculating upon its habits and peculiarities each party retired from the contest fully persuaded that their views were correct. The dispute was adjourned without settling the question. Recently the autobiography of Barnum settles the question, by his admission that the mermaid was manufactured by uniting the head of a monkey and the tail of a fish.

Now, sir, the bill which we have before us is, in many respects, emphatically a mermaid. It embraces materials belonging to both land and sea. The first section provides that any person who has been mustered into the service of the United States, and shall have continued in the service for fourteen days—officers, privates, musicians, whether regulars, rangers, or militia, and all seamen, ordinary seamen, marines, clerks, and landsmen—shall be entitled to the benefits of the bill. And the final section provides that "each of the surviving officers and privates who, in any of the wars in which this country has been engaged, performed military service against the public enemy, *though not regularly called or mustered into the service of the United States, and the widows* and children of such officers and privates as are dead, *shall be entitled to* all the benefits of the *first* and *second sections of this act.*"

Now, sir, the title of the Senate bill does not truly describe the objects of the bill. It is "An act in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States."

But if you will look a little further on, you will find that it makes provision, in the seventh section, for increasing the pensions of all persons upon the roll of invalid pensions—if officers, twenty-one per centum, and non-commissioned officers and privates forty-two per centum. The eighth section extends the same land bounties to Indians as to whites; and the thirteenth section, which I have just quoted, embraces every one not included in the first and second sections, and gives the advantage to such as were never called into service by the United States, by allowing the latter class one hundred and sixty acres of land, if they were in service a single day; whereas those provided for in the first and second sections, and who were

regularly mustered into service, are not entitled to any land unless they actually served fourteen days. Such absurd inconsistencies in the bill shows it to have been made up of shreds and patches, and that it was passed by the Senate without that grave and considerate attention which its importance demanded. The gentleman from Missouri [Mr. BENTON] was right when he said such evidence of haste and indigestion had rarely ever before emanated from a deliberative body, and it behooves us to subject its provisions to a closer scrutiny than they have yet received.

Mr. Speaker, this is an important bill. It proposes, if the conjectural estimates from the Interior Department are to be credited—and I know of no reason to doubt their accuracy—to absorb from one to two hundred millions of acres of the public lands, should the bill pass in its present form. The estimate is, of course, conjectural, but more reliable data upon which to predicate an estimate is in that office than is possessed by any member on this floor. From the letter of the Commissioner of Pensions read yesterday to the House, I assume that this great anaconda will swallow up at least one hundred and fifty millions of acres of the public domain. Is the bill, then, one of little consequence, and to be passed without deliberate consideration? The friends of the bill claim for it a favorable consideration upon the ground that this bounty is for the benefit of the old soldiers. It is an argument which addresses itself to our feelings, if not to our understandings. I appreciate and admire their patriotism; I honor them for the service they have rendered the country in the days of peril; but, sir, it is a delusion to suppose that those old soldiers, upon the credit of whose patriotism this bill is pressed to its passage, are to be the recipients, in fact, of this munificent bounty. Their share of the bounty will be small, indeed, when agents and speculators shall have pocketed the several amounts that will certainly go into these hands. I shall demonstrate, if the basis of this calculation is correct, that much the larger part of this princely donation must go into the coffers of capitalists and speculators.

I do not believe that the old soldiers will receive more in actual cash than one fifth of the value of the land to be absorbed by the warrants they are to receive, if the bill passes.

The number of acres is conjecturally estimated at one hundred and fifty millions. Their value, at Government price, $1 25 per acre, will be $187,500,000; certainly a very large sum. In this connection, by way of episode, let me say, Mr. Speaker, the demand was made on yesterday, with all these provisions in the bill, and with this enormous sum involved, by the friends of the measure, for the previous question; and the effort was made to force the bill through the House without amendment, and without a single remark being made in opposition to its principles or details. It appeared to me that the friends of the measure relied much more for its passage on general undefined patriotism than upon the logic or merits of the measure itself. Luckily they were defeated; the previous question was not seconded, and now we are allowed to examine and expose its incongruities. But to return from this digression. Now, sir, one hundred and fifty millions of acres is the amount of land——

Mr. BENTON. To start upon.

Mr. ORR. Yes, sir, to start upon, one hundred and fifty millions will be required. Now, if you will examine the reports of the Commissioner of the General Land Office for a few years past, you will find that the quantity of lands sold for the purposes of actual occupation and cultivation, does not exceed four million acres per annum. During the last year, when money was abundant, and speculations were highly stimulated, it is true that ten millions of acres were sold. But the year before, only four million five hundred thousand were disposed of; and, in my opinion, for many years to come, the annual average of new lands for cultivation and settlement, will not exceed that amount. But I will assume that five millions will be necessary to supply the annual demand upon the public lands for settlement and cultivation. You give, under this bill, warrants for one hundred and fifty million acres. How long will it take to absorb all these lands when the actual demand is but five million acres per annum? Most of the warrants will be issued in the course of three or four years by the additional force which will be placed in the Pension Office for that purpose, and you will then have cast, within that short space of time, upon the market warrants for one hundred and fifty million acres, when the annual *demand* will not exceed five million acres.

It will require a lapse, then, of thirty years to absorb the warrants which you propose to issue under this bill. Yes, sir, thirty years for the demand to exhaust this supply. What, then, will these warrants be worth? How much will the old soldier be able to realize per acre for his sacrifices in the wars. Their value must, from every known law of trade, when supply so greatly exceeds the demand for use or consumption, diminish to a very low point. Will it be unreasonable to assume the price at which they can effect sales at twenty cents per acre? The supply the first year exceeds thirty times the demand. What will the warrants be worth? If this bill passes, it is doubtful whether sales could be effected at twenty cents per acre. The old soldiers, whom gentlemen here are so very solicitous to serve, will receive, out of this stupendous grant, $30,000,000, all told, while the speculators and capitalists will receive the remainder, amounting to not less than $157,000,000. Contrast the bounty; the meritorious subjects of the bill receiving only one fifth, while the remaining four fifths goes to those who did not serve the country in any of its wars.

Mr. SOLLERS. I want to know upon what authority the gentleman from South Carolina asserts that all these proceeds will go into the hands of speculators?

Mr. McNAIR. I desire to know upon what data the gentleman bases his calculations in reference to the amount of land that will be required? How can he tell how many deaths have occurred? I should like to know upon what data he bases his calculations?

Mr. ORR. I will tell the gentleman. My calculations are predicated on the conjectural estimates of the Interior Department. They are supposed to be informed in reference to these matters better than any member of this House can possibly be. It is their business. They devote their whole time to the subject.

Mr. McNAIR. But how can they tell how many deaths have occurred?

Mr. ORR. They have the data upon which to make these calculations, and I merely take them as true. Now, in reply to the question of the gentleman from Maryland, [Mr. SOLLERS.] I have shown the data upon which I have made my calculations, and if he had listened to my remarks, I think he would have seen what it was.

Mr. SOLLERS. My friend from South Carolina does not understand me at all. He has made a calculation on which he founds the fact, or the presumption, that the value of these public lands is to go into the hands of speculators. Now, I want to know on what authority he makes that statement?

Mr. ORR. Very well; I will tell the gentleman. The land warrants that you give under this bill are assignable. They can be transferred. What is the history of your acts of 1847, of 1850, and 1852? How many of the soldiers who did the service ever entered the lands granted by those acts in the western country? Not one in fifty. It is true they received more than twenty cents an acre. But when you put this quantity of land scrip into the market, when one fourth, or perhaps one half, of all the beneficiaries are in necessitous circumstances, desirous of raising money, and forced to go into the market, you will find that the value of these warrants will be regulated by the quantity of the supply in the market; and if it is known and seen that it will require thirty years, according to our former progress, to take up all the warrants which you grant, is it not a just inference that the price will be down even to a point below that which I have assumed?

Mr. MIDDLESWARTH, (interposing.) It appears to me that the gentleman sets out with a wrong computation. He is arguing upon the idea that this bill is to be passed precisely in the shape in which it now is. I ask him what amount will be required to meet the demands of the bill, if the thirteenth section be stricken out? I think it will not be more than twenty millions of acres.

Mr. RICHARDSON. If the thirteenth section be stricken out, it will not take twenty millions of acres.

Mr. ORR. If the honorable gentleman from Illinois will turn to the annual report of the Commissioner of the General Land Office which was made out before this question was started, and see the warrants that have been granted under the acts of 1850 and 1852, he will find, I think, that the proofs in the office now will amount to more than that sum, to make up the deficiency of forty and eighty acre claimants to one hundred and sixty acres as provided in this bill.

Mr. RICHARDSON. Will the gentleman from South Carolina permit me to say a word?

Mr. ORR. What does the gentleman say about the sixty thousand marines?

Mr. RICHARDSON. Will the gentleman from South Carolina permit me to say, that nearly all the soldiers who served in Mexico have received the entire amount of one hundred and sixty acres; they are out of the calculation. The soldiers of the war of 1812, all who were in the regular Army, received one hundred and sixty acres, and they are out of the calculation. In all the cases where they have survived the war of 1812, and where their service was six months or a year, they have received, under previous acts, one hundred and sixty acres, and they are out of the calculation. I ask the gentleman, then, to consider how few survive who will receive the additional grant, and tell me if the amount will be as enormous as he says it will?

Mr. TAYLOR, of Tennessee, (Mr. ORR yielding.) Let me state in connection with what the gentleman from Illinois has said, that I learn from a gentleman of veracity that he has had a conversation with the Commissioner of Pensions who told him, that the whole amount of land that would be absorbed by this act, if it were passed, would not exceed twenty-five millions of acres.

Mr. DAWSON. Without the thirteenth section?

Mr. TAYLOR. Nothing was said about any particular section.

Mr. ORR. I have no doubt the gentleman from Tennessee has heard this statement, and perhaps it is immaterial that I should ask the name of the gentleman who makes it, but I think that when the matter comes to be sifted, it will be found that there has been a sad misunderstanding between the gentleman's informant and the Commissioner of Pensions. The bill commences by providing for everybody who has been in the service since 1790. It begins with 1790, and comes up to the present time. It extends to every individual who has been engaged in an Indian war, and not only that, but it extends to every friendly Indian who has been engaged in the service of the United States. It not only does that, but it goes upon the high seas, and provides for the sailors and marines who have been engaged in any war since 1790—including Tripoli and the Barbary Powers, I presume. Their number is estimated by the Commissioner of Pensions at sixty thousand.

Mr. RICHARDSON. Will the gentleman from South Carolina permit me to make a single statement here?

Mr. ORR. Yes; if the gentleman will be brief.

Mr. RICHARDSON. In none of the Indian wars have marines or seamen been engaged.

Mr. ORR. Except a few marines in the Florida war.

Mr. RICHARDSON. I would ask the gentleman how many of the soldiers in the regiment, that went from South Carolina into the war with Mexico eight years ago, survive to-day? I can state to the gentleman that of the four thousand men who started from Illinois not half are living to-day. Of the soldiers who served in the wars previous to that with Mexico not one in fifty survives; and when the gentleman comes to analyze the bill, he will find that the amount given is small indeed.

Mr. CHASTAIN. Let me state in this connection, that of a company of one hundred and three who went to Mexico from my town, but fourteen are now living.

Mr. WALSH. You will find plenty of substitutes for the dead.

Mr. ORR. I assume, sir, that your officers who were charged with this matter under the resolution sent to them from this House, a few days since, inquiring how much land would be required under this very bill, would give you the most correct information. It is information infinitely more correct than that derived from mere hearsay

outside of this Hall, or from the mere opinion of gentlemen within this Hall as to how many of the soldiers who have been heretofore engaged in the service of their country have died.

The basis of my calculation, sir, is the estimate from the Department of the Interior. Now, for the purpose—if my calculation is right—of securing to the old soldiers a donation amounting to $30,000,000 you give away public property—the public lands—amounting in value to $187,000,000. But that is not the worst of it, Mr. Speaker. Assuming that the soldiers themselves will get fifty cents per acre, how is this bill to result, suppose you pass it? What would be its operation? Why the land will pass from the control and custody of the Government. If it were to go into the hands of actual settlers who desired to cultivate it, I should not object to it. If it were to place it in a condition so that those who might desire in ten, or fifteen, or twenty years hence to make settlements could effect a fair purchase of it at fair prices, I should not be so much opposed to it. But the effect of it will be to place these land warrants in the hands of capitalists who are able to purchase them, and who will locate them on public lands, and hold them until their enhanced value induces them to sell at large profits. I do not know how much of the public domain this bill will enable them to take up—perhaps one half of all the lands surveyed at the present day. And your settlers will be compelled, in five or ten years hence, not to come to the Government, which would have, perhaps, graduated these lands according to the necessities of the country, and the length of time they were in the market, but they will be compelled to go to the speculator, to the capitalist, who will have been enabled to make his investment in the land, and to retain it there, and pay him his price for it, bringing him his ten or fifteen per cent. interest. You transfer, as I say, the custody and control of this Government over the public domain to the speculators. Will these speculators deal more tenderly, sir, with your citizens than this Government would deal with them? Will your citizens get homesteads from speculators at less price than they will get them from the Government? It is the policy, I think, of the Government, to have every one of its citizens a landholder, if possible. The possession of land will attach them more to the country, and be one of the very strongest and most powerful stimulants to industry, virtue, refinement, and general intelligence. Why, sir, if there be anything in this country which we ought to try to guard against, now when we have the power to do it, it is to prevent a great land monopoly which will be created if we go on and pass this bill, and other bills of the same character and purpose. That is to be the result of it, sir; you are to have a great land monopoly here; and if those who hereafter may desire to effect the purchase of land, have not the ability to pay the enhanced price laid upon it, they may become the serfs or tenants of capitalists and land jobbers.

If the thirteenth section of this bill, however, should be stricken out, it would greatly reduce the quantity of land donated—the precise sum I shall not venture to state—leaving still an enormous amount that must go into the hands of those who do not till the soil, and who never served the country in any of its wars.

But another objection to this bill is, that it commits a serious wrong and injury on the new States which have not yet been settled up. It inflicts a serious injury on your Territories; for, instead of the lands falling into the control and possession of actual settlers, they will, as I have tried to prove, fall into the hands and possession of speculators, and your citizens will be practically precluded from going there for the purpose of making a settlement, unless they consent to pay whatever profits may be demanded of them. And I think, sir, while we are dispensing bounties to the old soldiers, that we ought to have some regard for the just rights and interests of your new Territories and the new land States.

There seems to be a desire manifested by the gentleman from Illinois [Mr. RICHARDSON] to amend this bill. Other gentlemen have manifested a like desire. I do not perceive how the bill can be amended in the House. I think it ought to be sent to a committee; it ought to be scrutinized by that committee. All these incoherent matters, which have been thrown here together, should be analyzed; and that which is not properly in the bill should be taken out. There should be a separation. Let the bill go to the Committee on Public Lands. Let that committee report it back. They have the floor, and may report it back at this session; but, if they cannot do so, it is of more consequence that this bill should be passed in a perfect state than that it should be precipitated through with all its incoherencies and inconsistencies.

Besides, these old soldiers, about whom so much has been said, and on whose credit the bill is to be passed, if passed at all; these old soldiers whom it is proposed to benefit by it; these soldiers who were engaged in the war of 1812, in the Florida war, and in all the Indian wars since 1790, have they not already received bounty lands in proportion to their service? It is proposed now to place the men who went out and served fourteen days, or one day, if the thirteenth section is retained in the bill, on exactly the same footing on which you place a soldier who served for one, or two, or five years. Is that just? Is it right? If the donation is predicated on services rendered, may not the one or five years' soldier justly complain when you give the fourteen days' soldier an equal quantity of land, one hundred and sixty acres to all?

Mr. ZOLLICOFFER and Mr. RICHARDSON each appealed to Mr. ORR to yield the floor for a question.

Mr. ORR. I yield to the gentleman from Tennessee.

Mr. ZOLLICOFFER. As to this part of the gentleman's speech I trust the House will allow me to make a single remark. Almost every member in opposition to the bill has indicated a wish to cut out the thirteenth section of the bill. Even the gentleman who has the bill in charge has indicated his opinion that this section should be stricken out. I simply wish to remark, that this section of the bill covers the claims of some of the most gallant men, and some of those who performed the most signal service in the defense of their country. I wish merely to call attention to the fact that it covers the case of a large majority of the gallant men who fought the battle of King's Mountain, and who beat the British and Tory forces in North Carolina, South Carolina, Georgia, and south-western Virginia; and that it also covers the case of the gallant men who fought in the battle of Nickojack, one of the most signal events in the history of the early times of this country. These men are covered under the thirteenth section of the bill. They were never regularly in the service. They were men who snatched up their muskets at the call of patriotism, and rushed to the standard of their country, performing services which will live in the annals of our revolutionary and Indian wars so long as the history of our Government is known. These men never received one red cent. And, sir, if an opportunity be given to me I will move to amend the thirteenth section by striking out the general language of it, and making it read thus:

That each of the surviving officers and privates who, in the battles of King's Mountain and Nickojack, were actually engaged in battle against the public enemy, though not regularly called or mustered into the service of the United States, and the widows and children of such officers and privates as are dead, shall be entitled to all the benefits of the first and second sections of this act.

Mr. RICHARDSON. Will the gentleman from South Carolina permit me to ask him a question connected with the argument he is now submitting?

Mr. ORR. Make it short.

Mr. RICHARDSON. The gentleman says he is in favor of allowing land to these soldiers in proportion to their services.

Mr. ORR. I have not finished my argument upon that point.

Mr. RICHARDSON. That is what the gentleman was aiming at. I call the attention of the gentleman to this fact. The soldiers who served in the war of 1812, in the Indian wars, and in the war with Mexico, get for their services one hundred and sixty acres of land, and it does not matter to what extent the service has been rendered. If there is reason in this provision, why not extend these acts so as to give this bounty land to those who have served in different wars?

Mr. ORR. I will answer the gentleman. The law which the gentleman quotes results from the decision of the Department upon the act of 1850, except as to the Mexican war. I never believed that the decision was correct; and if correct, that the law was just and proper. If the gentleman from Illinois will introduce a bill here providing to give every soldier bounty land, forty, eighty, or one hundred and sixty acres of land in proportion for each of the different tours of service which he has performed, I will vote for it with a great deal of cheerfulness.

Mr. RICHARDSON. I could not vote for it, because I am interested in the passage of such a bill, having served in two wars.

Mr. ORR. The gentleman from Illinois, does himself injustice in supposing that any imputation or insinuation could be made against his character, although he may have a slight interest in the passage of such a bill. He stands too high in the estimation of the country for him to suffer by introducing any such an act, especially such as do justice to his old associates and companions in arms. These soldiers have received forty, eighty, and one hundred and sixty acres of land. I was a member of Congress here, in 1850, when the bounty land bill passed. I voted for it cheerfully, because I thought that they were entitled to it, and I thought that the amount proposed to be given to them, was graduated upon something like correct principles—forty acres to those who had served not more than three months; eighty acres to those who have served as much as four months; and one hundred and sixty acres to those who have served as much as nine months or more. I would have been willing to have extended the law to those who served for more than twelve months, and to have increased the amount proposed to be given to them, because justice required it. And, sir, such of our fellow-citizens as have served in more than one war, I would cheerfully vote to give them lands for each tour, the amount being graduated by the length of the service not restricting the whole amount to one hundred and sixty acres as is now done by the construction of the Department.

If the gentleman desires to modify the bounty land law so as to render justice to the soldier who has performed various tours of service at different times, he will find no more ardent advocate of the passage of such a bill than myself. But I protest, in the name of these soldiers who have served six and twelve months, against the man who has served but one day, being entitled, at the hands of the Government, to an equal donation with them. It is inequitable and unjust. But there are so many provisions in this bill that are objectionable, that I think it ought to be committed to the Committee on Public Lands, the committee who originally reported the bounty land bill to this House. Let them consider it, and if there is not time during this Congress to pass it, turn it over to the next Congress. These soldiers have waited now for forty-five years or more—they have, in the mean time, already received lands for their services, and upon the question whether any more is due if it should be postponed another year—for want of time to consider—it will not entail much additional wrong upon them to wait one short year more, which will soon roll around. Then the subject can be taken up, carefully examined, matured, and passed upon according to its merits. I hope, therefore, that the bill will be referred to the Committee on Public Lands.

Mr. TAYLOR, of Tennessee, opposed the reference of the bill to the Committee on Public Lands. He suspected that such a disposition of it was intended to consign it to "the tomb of the Capulets." He was surprised at the argument advanced by gentlemen against the bill, that the old soldiers would be compelled to sell their titles to the land to speculators to enable them to support their wives and children. If the old soldiers are entitled to this land, the manner in which they are to dispose of it is no business of ours. If a man made him a present of $100, he had no right to tell him how to spend it. If the bill required upwards of one hundred and fifty millions of acres of land, it was an additional reason why it should be passed. He hoped that every acre of the public domain would be taken up by the old soldiers. This vexed land question would then be settled, and the Government of the United States would be released from this system of fraud and corruption.

Mr. CAMPBELL obtained the floor.

Mr. DISNEY. I hope the gentleman will move the previous question.

Mr. CAMPBELL. If there was any indication that it was the purpose upon the part of gentlemen upon this floor to discuss the merits of this bill in detail, I should not make the motion I am about to submit. But there seems to be no such purpose. The close of our session is drawing near. There is but little time to glorify the old soldiers in Fourth of July orations.

Sir, it is not necessary that I should testify the devotion of my feelings to those who have served our country. I happen to be so identified with that class of our citizens as to render it unnecessary. But, sir, I wish to economise the little time we have left of the present session; and without embarking in the discussion of the general merits of the bill, I will simply say for myself, that I voted on yesterday in the affirmative upon the motion to lay the bill upon the table, when the effort was being made to press the previous question upon the bill, under the operation of which there was great danger of carrying the bill to its final passage in the outrageous form in which it came from the Senate.

That is the explanation I have to make, so far as my own course is concerned. I regard this bill, as it came from the Senate, as nothing more nor less than a proposition to transfer the land department of the Federal Government, and to open the public domain to speculators in lands merely, and not to do anything for the benefit of the war-worn veteran.

But the programme has been changed this morning, I understand. I shall wait, therefore, until I understand what is the temper of the House in relation to the amendments that are proposed to the bill. I am anxious that the bill shall be so amended by the House, as to do justice to the war-worn veteran without opening the public domain for the plunder of every speculator who may choose to avail himself of it. If the House so amends the bill as to accomplish this object, I shall give it my support, but not otherwise.

Mr. Speaker, the purpose I had in seeking the floor was to make a motion that should bring the House to some specific action upon this subject, in order that the House may have an opportunity of considering other public business. I move the previous question.

Mr. HAMILTON. I desire to ask the Speaker a question, that the House may act understandingly upon the subject. I wish to know if the amendments which the gentleman from Pennsylvania [Mr. MIDDLESWARTH] proposed to the bill are before the House?

The SPEAKER *pro tempore*, (Mr. JONES, of Tennessee, in the chair.) The Chair will state the question before the House. The gentleman from Pennsylvania [Mr. MIDDLESWARTH] moved to strike out the last paragraph of the first section of the bill. The gentleman from Missouri [Mr. BENTON] moved to amend the amendment of the gentleman from Pennsylvania by inserting a proviso offered by him in lieu of that proposed to be stricken out. The gentleman from Missouri then moved to commit the bill to the Committee on Public Lands, which latter motion is the first upon which the House are to act.

Mr. HAMILTON. Then the motion of the gentleman from Pennsylvania to strike out the seventh and the thirteenth sections of the bill is not in order.

The SPEAKER *pro tempore*. It is not. The Chair, however, is reminded that there is also a motion pending to commit the bill to the Committee of the Whole on the state of the Union, which is entered upon the Journal, and which was made by the present occupant of the chair.

Mr. MIDDLESWARTH. I hope the gentleman from Ohio will withdraw the demand for the previous question until I can get the motion which I have indicated before the House.

Mr. SEWARD. I rise to a question of order. The previous question having been demanded, I hold that no debate is in order.

The SPEAKER *pro tempore*. The gentleman from Georgia is correct. No debate is in order.

Mr. HENN. Would it be in order to move to refer the bill to a select committee?

The SPEAKER *pro tempore*. It would not, for the reason that the previous question has been demanded.

Mr. HENN. But the Chair held that it was in order to move to refer it to the Committee on Public Lands.

The SPEAKER *pro tempore*. That motion was made before the previous question was demanded.

Mr. HENN. I ask the gentleman from Ohio to withdraw his motion for the previous question until I can move to refer the bill to a select committee.

The SPEAKER *pro tempore*. The other motions to commit would then take precedence of the motion the gentleman proposes to submit.

Mr. MIDDLESWARTH. I desire to ask the Chair a question——

Mr. RICHARDSON. I ask the gentleman from Ohio to withdraw his demand for the previous question a single moment.

Mr. SEWARD. I rise to a question of order. I insist that the rules of the House be inforced. I call the gentleman from Illinois to order.

The SPEAKER *pro tempore*. Then the Chair will not permit any further debate pending the demand for the previous question.

Mr. CAMPBELL. I will withdraw the demand for the previous question for a moment, for the purpose of asking a question of the Chair. If the previous question be not seconded, will any further amendment be in order?

The SPEAKER *pro tempore*. No further amendment will be in order.

Mr. CAMPBELL. I desire that the House shall understand distinctly what will be the effect of voting down the demand for the previous question.

Mr. SEWARD. I call the gentleman from Ohio to order. He has demanded the previous question.

Mr. CAMPBELL. I have withdrawn the demand for the moment. Mr. Speaker, I should be very glad to have this bill put in such a shape as to enable the House to vote upon the amendment of the gentleman from Illinois, [Mr. RICHARDSON,] upon the amendment of the gentleman from Pennsylvania, [Mr. MIDDLESWARTH,] and upon all the amendments which other gentlemen desire to submit. But the House must observe, that if I withdraw the demand for the previous question altogether, it will open the bill again to general debate, and will give no further opportunity of offering any further amendment at all.

Mr. RICHARDSON. Will the gentleman from Ohio allow me to offer a single remark before he renews the demand for the previous question?

Mr. CAMPBELL. I will.

Mr. RICHARDSON. I have been unfortunate in not being able to obtain the floor. It was my misfortune, and not the fault of anybody. But I desire to give notice to the friends of the bill upon this floor that they had better sustain the demand for the previous question, and vote down the motion to refer. We can then reconsider the vote by which the main question was ordered to be put, go back, and I will then offer the substitute which I have prepared, which I think will be satisfactory to every friend of the bill.

Mr. SMITH, of Virginia. Will the gentleman from Ohio allow me to make a single remark?

Mr. CAMPBELL. If it is for information—my only desire is that the question may be understood by the House.

Mr. SMITH. I desired the floor, which I have obtained by the indulgence of the gentleman from Ohio, to inquire of the Chair whether it would be in order to move to commit the bill to the Committee on Public Lands, with instructions to report it back to-morrow.

The SPEAKER *pro tempore*. Not while the demand for the previous question is pending.

Mr. SMITH. But I understand the gentleman from Ohio withdrew the demand for the previous question.

The SPEAKER *pro tempore*. In the opinion of the Chair it would not be in order to instruct a committee to report upon a particular day or hour.

Mr. CAMPBELL. The House, I think, now perfectly understands that no further amendments in the present stage of the bill would be in order, or be entertained by the Chair, even though I might withdraw the demand for the previous question. If gentlemen have meritorious amendments, the only way to get at them is to dispose of the question in its present form, and then retrace our steps. Therefore, Mr. Speaker, in order to bring this thing to a focus, I again move the previous question.

The previous question was seconded, and the main question was ordered to be put.

Mr. ORR. I move to reconsider the vote by which the main question was ordered to be put, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. CAMPBELL. If the motion to reconsider is laid upon the table, will it not prevent the House from getting back to the position desired by the gentleman from Illinois, [Mr. RICHARDSON.]

Mr. RICHARDSON. There will be no trouble about it at all. When we have voted on the third reading of the bill, the previous question will be exhausted.

The SPEAKER *pro tempore*. No debate is in order. The motion of the gentleman from South Carolina has been agreed to.

The question now being upon committing the bill to the Committee of the Whole on the state of the Union,

Mr. CLARK demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 71, nays 110; as follows:

YEAS—Messrs. Aiken, James C. Allen, David J. Bailey, Barksdale, Barry, Belcher, Benton, Bliss, Caruthers, Clark, Cobb, Craige, John G. Davis, Disney, Dowdell, Dunbar, Eastman, Eddy, Edgerton, Edmands, Faulkner, Fenton, Fuller, Goode, Hamilton, Aaron Harlan, Sampson W. Harris, Wiley P. Harris, Hastings, Hendricks, Henn, Hibbard, Hiester, Houston, Johnson, George W. Jones, Roland Jones, Keitt, Lamb, Latham, Letcher, Macdonald, McDougall, McQueen, Macy, Meacham, Smith Miller, Millson, Nichols, Orr, Parker, Peck, Peckham, Bishop Perkins, Phelps, Seward, Seymour, Shannon, Shaw, Singleton, William Smith, William R. Smith, George W. Smyth, Hestor L. Stevens, John J. Taylor, Tracy, Wade, Walbridge, Walker, Walsh, and Wells—71.

NAYS—Messrs. Willis Allen, Appleton, Ball, Banks, Benson, Bocock, Bridges, Bristow, Bugg, Campbell, Carpenter, Caskie, Chandler, Chastain, Chrisman, Cook, Corwin, Cox, Crocker, Cullom, Thomas Davis, Dawson, De Witt, Dickinson, Thomas D. Eliot, John M. Elliott, Ellison, English, Etheridge, Everhart, Farley, Flagler, Florence, Gamble, Goodrich, Goodwin, Green, Greenwood, Grey, Andrew J. Harlan, Harrison, Haven, Howe, Hughes, Hunt, Ingersoll, Daniel T. Jones, Kerr, Kidwell, Knox, Kurtz, Lewis, Lilly, Lindley, Lindsley, Lyon, McCulloch, McMullin, McNair, Mace, Matteson, Maurice, Middleswarth, Morgan, Murray, Noble, Andrew Oliver, Mordecai Oliver, Packer, Pennington, Powell, Pratt, Pringle, Puryear, Ready, Recse, Richardson, Riddle, Robbins, Rowe, Russell, Sabin, Sage, Sapp, Shower, Simmons, Skelton, Sollers, Frederick P. Stanton, Richard H. Stanton, Stratton, Straub, David Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Trout, Upham, Vansant, Walley, Elihu B. Washburne, Israel Washburn, John Wentworth, Tappan Wentworth, Westbrook, Wheeler, Hendrick B. Wright, Yates, and Zollicoffer—110.

So the House refused to refer the bill to the Committee of the Whole on the state of the Union.

Mr. HENN stated that Mr. JONES, of Pennsylvania, who was detained from the House by sickness, had requested him to say to the House that had he been present he should have voted against the bill as it came from the Senate, but for it if properly amended.

The question now being upon committing the bill to the Committee on Public Lands,

Mr. WASHBURNE, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 72, nays 105; as follows:

YEAS—Messrs. Aiken, James C. Allen, David J. Bailey, Barry, Belcher, Benton, Bliss, Brooks, Clark, Clingman, Cobb, Craige, Curtis, Cutting, John G. Davis, Dawson, Disney, Dowdell, Dunbar, Eastman, Eddy, Edgerton, Edmands, Faulkner, Fenton, Fuller, Hamilton, Aaron Harlan, Sampson W. Harris, Wiley P. Harris, Hastings, Hendricks, Henn, Hibbard, Houston, Johnson, George W. Jones, Roland Jones, Keitt, Lamb, Latham, Letcher, Macdonald, McDougall, McQueen, Macy, Meacham, Smith Miller, Millson, Nichols, Orr, Parker, Peck, Bishop Perkins, Phelps, Phillips, Sage, Seward, Seymour, Shannon, Shaw, Singleton, William Smith, William R. Smith, George W. Smyth, Hestor L. Stevens, John J. Taylor, Tracy, Wade, Walker, Walsh, and Wells—72.

NAYS—Messrs. Abercrombie, Willis Allen, Ball, Barksdale, Benson, Bocock, Bridges, Bristow, Bugg, Campbell, Carpenter, Caskie, Chandler, Chastain, Chrisman, Cook, Corwin, Cox, Crocker, Thomas Davis, De Witt, Dickinson, Edmundson, Thomas D. Eliot, John M. Elliott, Ellison, English, Etheridge, Farley, Flagler, Florence, Gamble, Goode, Goodrich, Green, Greenwood, Grey, Harrison, Haven, Hiester, Howe, Hunt, Daniel T. Jones, Kerr, Kidwell, Knox, Kurtz, Lewis, Lilly, Lindsley, Lyon, McCulloch, McMullin, McNair, Mace, Matteson, Maurice, Middleswarth, Morgan, Murray, Noble, Norton, Olds, Andrew Oliver, Mordecai Oliver, Packer, Pennington, Powell, Pratt, Preston, Pringle, Puryear, Ready, Reese, Richardson, Riddle, Robbins, Rowe, Ruffin, Russell, Sabin, Sapp, Shower, Simmons, Skelton, Frederick P. Stanton, Richard H. Stanton, Stratton, Straub, David Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Trout, Upham, Walley, Elihu B. Washburne, John Wentworth, Tappan Wentworth, Westbrook, Wheeler, Witte, Hendrick B. Wright, Yates, and Zollicoffer—105.

So the House refused to commit the bill to the Committee on Public Lands.

The question then recurred on Mr. BENTON's amendment.

Mr. EDDY demanded the yeas and nays.

The yeas and nays were ordered.

Mr. CULLOM. I ask for the reading of that amendment.

The SPEAKER *pro tempore*. It will be read again, if no objection be made.

Mr. ROWE. I object.

The question was taken; and it was decided in the negative—yeas 62, nays 100; as follows:

YEAS—Messrs. Aiken, James C. Allen, David J. Bailey, Barksdale, Barry, Belcher, Benton, Bliss, Brooks, Caruthers, Clark, Cobb, Craige, Curtis, John G. Davis, Dawson, Disney, Dowdell, Dunbar, Eddy, Edgerton, Fenton, Fuller, Goode, Hamilton, Aaron Harlan, Sampson W. Harris, Hastings, Haven, Hendricks, Henn, Houston, Hughes, Johnson, George W. Jones, Roland Jones, Lamb, Letcher, Lindsley, Macdonald, McDougall, McQueen, Macy, Matteson, May, Smith Miller, Nichols, Orr, Parker, Peckham, Pennington, Bishop Perkins, Seward, Shannon, Shaw, Singleton, William R. Smith, George W. Smyth, Hestor L. Stevens, Wade, Walker, Walsh, and Wells—62.

NAYS—Messrs. Abercrombie, Willis Allen, Ball, Banks, Benson, Bridges, Bristow, Bugg, Campbell, Carpenter, Caskie, Chandler, Chastian, Chrisman, Clingman, Cook, Corwin, Cox, Crocker, Cullom, Thomas Davis, De Witt, Dickinson, Edmundson, Thomas D. Eliot, John M. Elliott, Ellison, English, Etheridge, Everhart, Farley, Flagler, Florence, Gamble, Goodrich, Greenwood, Grey, Andrew J. Harlan, Harrison, Hiester, Howe, Hunt, Daniel T. Jones, Kidwell, Knox, Kurtz, Lewis, Lilly, McCulloch, McNair, Maurice, Meacham, Middleswarth, Morgan, Murray, Noble, Norton, Andrew Oliver, Packer, Powell, Pratt, Preston, Pringle, Puryear, Ready, Reese, Richardson, Riddle, Robbins, Rowe, Russell, Sabin, Sapp, Seymour, Shower, Simmons, Skelton, William Smith, Solders, Frederick P. Stanton, Richard H. Stanton, Stratton, Straub, John L. Taylor, Nathaniel G. Taylor, Teller, Trout, Upham, Vansant, Walley, Elihu B. Washburne, Israel Washburn, John Wentworth, Tappan Wentworth, Westbrook, Witte, Hendrick B. Wright, Yates, and Zollicoffer—100.

So the amendment was rejected.

Pending the announcement of the vote,

Mr. CLARK announced that he had paired off on this question with Mr. JONES, of Pennsylvania, who was confined to his bed with illness.

Mr. KEITT also announced that he had paired off with Mr. MACE; if he had voted it would have been in the affirmative.

The SPEAKER. The question recurs on the following amendment:

Strike out from the commencement of the twenty-sixth to the end of the thirtieth line, as follows:

"*And provided further*, That no officer, non-commissioned officer, or private of the militia or volunteers who was called out for the service of any State, and refused by the authorities of such State to be placed in the service of the United States, shall be entitled to the benefits of this act."

Mr. WALSH. On that amendment I call for the yeas and nays.

The yeas and nays were ordered.

Mr. MIDDLESWARTH. I wish to inquire of the Chair whether it is in my power to modify that amendment now?

The SPEAKER. After the previous question has been seconded, the Chair doubts whether it would be in order unless by unanimous consent.

Mr. WALSH and others. I object.

Mr. MIDDLESWARTH. Well, that is a good amendment, and I hope it will be adopted.

The question was taken; and it was decided in the affirmative—yeas 93, nays 74; as follows:

YEAS—Messrs. Abercrombie, James C. Allen, Ball, Banks, Belcher, Benson, Bridges, Bugg, Campbell, Carpenter, Chandler, Chrisman, Cook, Corwin, Cox, Crocker, Cullom, Thomas Davis, De Witt, Dickinson, Dunbar, Eastman, Edmands, Thomas D. Eliot, Everhart, Farley, Flagler, Florence, Fuller, Gamble, Goodrich, Goodwin, Aaron Harlan, Andrew J. Harlan, Harrison, Haven, Howe, Hunt, Ingersoll, Daniel T. Jones, Knox, Kurtz, McCulloch, McDougall, McNair, Matteson, Maurice, Mayall, Meacham, Middleswarth, Morgan, Murray, Nichols, Norton, Mordecai Oliver, Packer, Peck, Pennington, Bishop Perkins, Pratt, Pringle, Ready, Reese, Richardson, Robbins, Rowe, Russell, Sabin, Sapp, Seymour, Simmons, Richard H. Stanton, Hestor L. Stevens, Straub, David Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Trout, Upham, Wade, Walley, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Wheeler, Hendrick B. Wright, and Yates—93.

NAYS—Messrs. Aiken, Willis Allen, David J. Bailey, Barksdale, Barry, Benton, Bliss, Bocock, Bristow, Brooks, Caruthers, Caskie, Chastian, Clark, Clingman, Cobb, Craige, Curtis, John G. Davis, Dawson, Disney, Dowdell, Eddy, Edgerton, John M. Elliott, Etheridge, Faulkner, Fenton, Goode, Greenwood, Grey, Hamilton, Sampson W. Harris, Wiley P. Harris, Henn, Hibbard, Hiester, Houston, Johnson, George W. Jones, Roland Jones, Kerr, Lamb, Letcher, Lewis, Lilly, Lindsley, McMullin, McQueen, May, Smith Miller, Millson, Noble, Andrew Oliver, Orr, Parker, Peckham, Phelps, Powell, Preston, Puryear, Shaw, Shower, Singleton, Skelton, William Smith, William R. Smith, George W. Smyth, Frederick P. Stanton, Stratton, Vansant, Walker, Walsh, and Witte—94.

So the amendment was adopted.

Pending the announcement of the vote,

Mr. HENDRICKS said that his colleague, Mr. ENGLISH, was absent, under the impression that he (Mr. H.) had paired off with him. He would not, therefore, vote on this question; otherwise, he would have voted against the amendment.

The bill was then ordered to a third reading, and it was accordingly read a third time.

Mr. RICHARDSON. Is the bill in a condition to be amended now?

The SPEAKER. It is not.

Mr. RICHARDSON. Then I move to reconsider the vote by which the bill was ordered to be read a third time. And I will state that my object is to amend it in the nature of a substitute. The amendments which I propose are the striking out the seventh and thirteenth sections of the bill.

[Cries of "Good! that is right."]

Mr. RICHARDSON. There are other amendments, not so important, which I shall propose in the substitute which I purpose to submit, if the House reconsider the vote, and place the bill back in a condition where it can be amended, and which, I think, will be acceptable to a very large majority of the House. I move the previous question on the reconsideration.

The previous question was seconded, and the main question was ordered to be put; and under the operation of the previous question, the vote by which the bill was ordered to be read a third time was reconsidered.

Mr. HOWE. I ask the gentleman from Illinois if he will not accept of my substitute, which provides that the benefits of the act shall be extended to wagoners, teamsters, and others, engaged in the transport of military supplies?

Mr. RICHARDSON. Without accepting it, I have no objection to the gentleman from Pennsylvania offering it, and if the House desire to adopt it, I have no objection. I am inclined to the opinion, however, that we had better take what we can get now. I am perfectly willing that the gentleman should offer it, or I shall offer it for him myself.

Mr. RICHARDSON's amendment, in the nature of a substitute, was reported, as follows:

Strike out all after the enacting clause, and insert:

That each of the surviving commissioned and non-commissioned officers, musicians, and privates, whether of regulars, volunteers, rangers, or militia, who were regularly mustered into the service of the United States, and every officer, commissioned and non-commissioned, seaman, ordinary seaman, marine, clerk, and landsman, in the navy, in any of the wars in which this country has been engaged, since 1790, and each of the survivors of the militia, or volunteers, or State troops of any State or Territory, called into the military service, and regularly mustered therein, and whose services have been paid by the United States, shall be entitled to receive a certificate or warrant from the Department of the Interior for one hundred and sixty acres of land; and where any of those who have so been mustered into service and paid shall have received a certificate or warrant, he shall be entitled to a certificate or warrant for such quantity of land as will make, in the whole, with what he may have heretofore received, one hundred and sixty acres to each such person having served as aforesaid: *Provided*, The person so having been in service shall not receive said land warrant if it shall appear by the muster rolls of his regiment or corps that he deserted, or was dishonorably discharged from service.

SEC. 2. *And be it further enacted*, That in case of the death of any person who, if living, would be entitled to a certificate or warrant as aforesaid under this act, leaving a widow, or, if no widow, a minor child or children, such widow, or, if no widow, such minor child or children shall be entitled to receive a certificate or warrant for the same quantity of land that such deceased person would be entitled to receive under the provisions of this act, if now living: *Provided*, That a subsequent marriage shall not impair the right of any such widow to such warrant, if she be a widow at the time of making her application: *And provided further*, That those shall be considered minors who are so at the time this act shall take effect.

SEC. 3. *And be it further enacted*, That in no case shall any such certificate or warrant be issued for any service less than fourteen days, except where the person shall actually have been engaged in battle, and unless the party claiming such certificate or warrant shall establish his or her right thereto by record evidence of said service.

SEC. 4. *And be it further enacted*, That said certificates or warrants may be assigned, transferred, and located, by the warrantees, their assignees, or their heirs-at-law, according to the provisions of existing laws regulating the assignment, transfer, and location of bounty-land warrants.

SEC. 5. *And be it further enacted*, That no warrant issued under the provisions of this act shall be located on any public lands, except such as shall at the time be subject to sale at either the minimum or lower graduated prices.

SEC. 6. *And be it further enacted*, That the registers and receivers of the several land offices shall be severally authorized to charge and receive for their services in locating all warrants under the provisions of this act, the same compensation or percentage to which they are entitled by law for sales of the public lands for cash, at the rate of $1 25 per acre, the said compensation to be paid by the assignees or holders of such warrants.

SEC. 7. *And be it further enacted*, That the provisions of this act, and all the bounty land laws heretofore passed by Congress, shall be extended to Indians in the same manner, and to the same extent, as if the said Indians had been white.

SEC. 8. *And be it further enacted*, That the officers and soldiers of the revolutionary war or their widows or minor children shall be entitled to the benefits of this act.

SEC. 9. *And be it further enacted*, That the benefits of this act shall be applied to, and embrace, those who served as volunteers at the invasion of Plattsburg, in September, 1814; also at the battle of King's Mountain, in the revolutionary war, and the battle of Nickojack, against the confederated savages of the South.

SEC. 10. *And be it further enacted*, That the provisions of this act shall apply to the chaplains who served with the Army in the several wars of the country.

SEC. 11. *And be it further enacted*, That the provisions of this act be applied to those who served as volunteers at the attack on Lewistown, in Delaware, by the British fleet, in the war of 1812 '15.

Mr. RICHARDSON. Some of the provisions of the bill as it originally came from the Senate that were objectionable to very many gentlemen upon this floor, have been stricken out in the substitute I now offer. I desire to say here, that the bill does not embrace all the cases that it ought to embrace. It has been suggested and appeals have been made to me to embrace various classes of cases besides those embraced in the bill, where individuals have rendered distinguished services to the country. I wish that I could embrace them all in the provisions of the bill now under consideration.

Mr. MAY. I wish to call the attention of the gentleman from Illinois to the case of a most meritorious class of very gallant men dwelling along the shores of the Chesapeake Bay, in both Maryland and Virginia. I speak of the flotilla men. I ask the gentleman to accept an amendment, after the words "ordinary seamen" in the seventh line of the first section to insert the words "flotilla men."

Mr. RICHARDSON. Knowing very little about the difference between seamen of the different classes, I understand that the bill now embraces flotilla men.

Mr. MAY. The gentleman is quite mistaken. Nothing is more clearly ascertained than the meaning of the words "ordinary seamen," and "landsmen." The gallant men who served under Commodore Barney, Truxten, and others, were men who were called from the shores of the Chesapeake, who lived in their boats for months, occupying them as their homes.

Mr. TAYLOR, of Ohio. What were they denominated?

Mr. MAY. Flotilla men.

Mr. RICHARDSON. I have no objection, myself, to the adoption of the amendment.

Mr. LEWIS. I ask the gentleman from Illinois to allow me to offer the following amendment, to come in at the end of the tenth section of his substitute:

And also at the battle of Point Pleasant, on the 10th of October, 1774.

I wish to tresspass upon the time of the House but for a moment, not to make any remarks of my own, but simply to read a few passages from the "Historical Collections of Virginia," which I hold in my hands, showing the propriety of the amendment I now offer. I ask the attention of the House to the following statement of facts:

"Fort Pleasant is on the site of the bloodiest battle ever fought with the Indians in Virginia—the battle of Point Pleasant—which took place in Dunmore's war, October 10, 1774.

"This battle (says Colonel Stuart in his historical memoir) was, in fact, the beginning of the revolutionary war that obtained for our country the liberty and independence enjoyed by the United States, and a good presage of future success; for it is well known that the Indians were influenced by the British to commence the war to terrify and confound the people, before they commenced hostilities themselves the following year at Lexington. It was thought by British politicians that, "to excite an Indian war would prevent a combination of the colonies for opposing parliamentary measures to tax the Americans." The blood, therefore, spilt upon this memorable battle will long be remembered by the good people of Virginia and the United States with gratitude."

The SPEAKER. The amendment of the gentleman from Pennsylvania [Mr. HOWE] is pending to the substitute offered by the gentleman from Illinois, [Mr. RICHARDSON.]

Mr. HOWE. I again appeal to the gentleman

from Illinois to accept the amendment I have offered.

Mr. RICHARDSON. I cannot determine, nor shall I undertake to determine, when the American Revolution began. By the provisions of the bill, all the surviving soldiers, and their widows, of the Revolution, are included. I therefore decline to accept the amendment, because I do not want the bounties to begin before the Revolution began. If it was after the Revolution, they are already included in the bill; if it was before, they ought not to be paid by this Government.

One word more, and I shall demand the previous question. I believe and think that the proposition of the gentleman from Pennsylvania ought to be attached to the bill. I did not think, however, that it was clear enough to make a part of the bill itself.

Mr. TAYLOR, of Tennessee. I wish to appeal to the gentleman from Illinois to accept an amendment which I will indicate. He can do as he pleases; but the amendment will cover a worthy class of soldiers in the gentleman's own district. The amendment which I wish him to admit, is to add to the last clause of the substitute the following:

Also, those who served in company K, United States Mounted Rangers, under Captain Jesse Bean, in any of the years from June, 1832, to May, 1835, as volunteers, and to their widows and children. Also, to the volunteer troops who served in 1836 '7-'8, in the removal of the Cherokees to their present homes, and in preventing hostilities pending said removal.

Mr. RICHARDSON. I must respectfully decline. I cannot accept any more amendments. I wish I could embrace them all. I move the previous question.

The previous question was seconded, and the main question ordered to be put.

The question was then put upon the amendment of Mr. HOWE to the amendment of Mr. RICHARDSON; and it was, on a division, agreed to—ayes 80, noes 59.

The question then recurring upon the amendment as amended, it was put; and agreed to.

Mr. ZOLLICOFFER. I would be pleased to suggest to the gentleman from Illinois another amendment.

[Cries of "No!" "No!"]

The SPEAKER. Objection being made, it is not in order to propose an amendment, the previous question not having been exhausted.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was read the third time.

Mr. RICHARDSON. I demand the previous question upon the passage of the bill.

The previous question was seconded, and the main question was then ordered to be put.

Mr. MIDDLESWARTH. I demand the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

Mr. JONES, of Pennsylvania. I move that the House do now adjourn.

[Cries of "No!" "No!"]

The question was taken on the passage of the bill, and resulted—yeas 135, nays 39; as follows:

YEAS—Messrs. James C. Allen, Appleton, Ball, Barksdale, Barry, Bennett, Benson, Bliss, Bocock, Bridges, Bristow, Bugg, Campbell, Carpenter, Caruthers, Chandler, Chastain, Chrisman, Clingman, Cobb, Cook, Corwin, Cox, Crocker, Cullom, Thomas Davis, Dawson, De Witt, Dickinson, Edmundson, Thomas D. Eliot, John M. Elliott, Ellison, Etheridge, Everhart, Farley, Faulkner, Fenton, Flagler, Florence, Gamble, Goode, Goodwin, Green, Greenwood, Grey, Hamilton, Sampson W. Harris, Wiley P. Harris, Harrison, Haven, Hiester, Howe, Hughes, Hunt, Ingersoll, Johnson, Daniel T. Jones, Kerr, Kidwell, Knox, Kurtz, Letcher, Lewis, Lilly, Lindsley, Lyon, McCulloch, McMullin, McNair, Matteson, Maurice, May, Mayall, Meacham, Middleswarth, Morgan, Murray, Noble, Norton, Olds, Andrew Oliver, Mordecai Oliver, Packer, Peckham, Pennington, Phelps, Powell, Pratt, Preston, Pringle, Putnam, Ready, Reese, Richardson, Riddle, Rogers, Rowe, Russell, Sabin, Sage, Sapp, Seward, Shower, Simmons, Singleton, Skelton, Samuel A. Smith, William Smith, Sollers, Frederick P. Stanton, Richard H. Stanton, Stratton, Straub, Andrew Stuart, David Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Trout, Upham, Vansant, Walbridge, Walley, Elihu B. Washburne, Israel Washburn, John Wentworth, Tappan Wentworth, Westbrook, Wheeler, Witte, Hendrick B. Wright, Yates, and Zollicoffer—135.

NAYS—Messrs. Aiken, Belcher, Benton, Clark, Craige, John G. Davis, Disney, Dowdell, Dunbar, Eastman, Eddy, Edgerton, Edmunds, Fuller, Aaron Harlan, Henn, Hibbard, Houston, George W. Jones, Roland Jones, Lamb, McDougall, McQueen, Macy, Smith Miller, Millson, Morrison, Nichols, Orr, Parker, Seymour, Shaw, William R. Smith, George W. Smyth, Hestor L. Stevens, Wade, Walker, Walsh, and Wells—39.

So the bill was passed.

Pending the vote,

Mr. STRAUB announced that his colleague, Mr. JONES, was absent from sickness, but had he been here he would have voted in favor of the bill; that he had been informed that his colleague would have voted in the affirmative, but he had it not from the gentleman himself.

Mr. S. also said that he himself had desired to make a speech in favor of the bill, but had not been able to get the floor to do so.

Mr. RICHARDSON. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The question was taken; and the latter motion was agreed to.

Mr. STUART, of Michigan, here obtained the floor.

Mr. SINGLETON. I would ask the gentleman from Michigan to yield to me a moment.

Mr. STUART. I will yield to the gentleman from Mississippi.

Mr. CAMPBELL. I rise to a question of privilege. I would state, Mr. Speaker, that I propose to move to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union, with a view to order an evening session under the resolution. But if the gentleman from Mississippi has a proposition to make I will withdraw it, with the understanding that I shall have the opportunity to renew it before the House adjourns.

Mr. PHELPS. I have this to say, that the state of the public business requires the evening sessions for the transaction of public business, and not for Buncombe.

Mr. SINGLETON. I merely desire to ask permission of the House to print a few remarks which I have prepared, but have not been able to present to the House.

[Cries of "Agreed!" "Agreed!"]

[The speech will be found in the Appendix.]

BILL NO. 494.

Mr. ELLISON. I ask the unanimous consent of the House to discharge the Committee of the Whole from bill No. 494——

Mr. WALSH. I object.

Mr. ELLISON. I will simply state that the Government has been twice paid for one hundred and sixty acres of land, and the bill to which I refer, barely authorizes the Commissioner to pay back what surplus he has received.

Mr. WALSH. I objected, and objected loud enough to be heard. This discussion is out of order.

Mr. ELLISON. Then I move to suspend the rules to enable me to make that motion.

The SPEAKER. Does the gentleman from Michigan yield to the gentleman from Ohio for the purpose of moving to suspend the rules?

Mr. STUART. No, sir; I do not.

Mr. ELLISON. I have not asked the House for one single favor during the session until this moment.

FRANKLIN CHASE.

Mr. READY. The gentleman from Michigan indicates his willingness to yield the floor to me for a moment, and I ask the unanimous consent of the House to discharge the Committee of the Whole on the state of the Union from the further consideration of Senate bill No. 590, being a bill for the relief of Franklin Chase, in order that it be put upon its passage now. It will require but a moment to dispose of it. It passed the Senate by a strong vote, and has been reported by the Committee on Commerce of this House unanimously.

Mr. JONES, of Tennessee. I would say that the House is not now in a condition to take up this bill and pass it.

Mr. WALSH. I object to it.

Mr. READY. I move to suspend the rules for the purpose I have indicated.

The SPEAKER. The gentleman has not the floor, and cannot take it from the gentleman from Michigan for that purpose.

ST. CLAIR FLATS.

Mr. STUART. I move that the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill (No. 498) making appropriations for deepening the channel over the St. Clair flats, and for deepening the channel over the flats of the St. Mary's river, in the State of Michigan. I move that the House do now adjourn, with a view of to-morrow bringing up the other internal improvement bills.

Mr. CAMPBELL. I withdrew my motion under the understanding that we should go into the Committee of the Whole on the state of the Union, for the purpose of taking a recess, and having an evening session for general debate.

Mr. STUART. I withdraw the motion to adjourn.

Mr. CAMPBELL. I move that the House do now resolve itself into the Committee of the Whole on the state of the Union.

The question was taken; and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HENDRICKS in the chair.)

ARMY APPROPRIATION BILL.

The CHAIRMAN. The amendments of the Senate to the Army appropriation bill are before the committee. The pending question is on the amendment of the Committee of Ways and Means to the fifth amendment of the Senate. The Clerk will report it.

The Clerk reported the amendment, as follows:

Strike out the words "For repairs, preservation, and contingencies of arsenals, $50,000," and insert:

For arsenals, including the purchase of sites for new arsenals in Texas and New Mexico, and the erection of suitable magazines and other arsenal buildings in Texas, California, Oregon, and New Mexico, $268,175.

The Committee of Ways and Means recommend that the Senate amendment be stricken out, and that the following be inserted in lieu of it:

For repairs, preservation, and contingencies of arsenals, $50,000, and for continuing the construction of the arsenal at Benicia, California, $40,000. *And it is hereby provided*, That the annual compensation of the civil superintendents of the national armories be $2,500, without perquisites, allowances, or additions of any kind, and that the same be paid out of any money in the Treasury not otherwise appropriated.

Mr. PHELPS. Mr. Chairman, I rise for the purpose of appealing to the committee to give this evening to the public business. There are amendments to the Army bill sent us from the Senate which are of the utmost importance, and demand our most careful consideration. One provides for four additional regiments for the Army.

Mr. JONES, of Tennessee. I rise to a question of order. The gentleman is not discussing the amendment under consideration.

Mr. PHELPS. I trust that I may be allowed to proceed. I shall occupy but a moment. I repeat that there are several of the Senate amendments to this bill which require consideration. They will excite, I have no doubt, strong opposition.

Mr. WHEELER. The gentleman is not speaking to the amendment under consideration, and is, therefore, out of order. I call him to order.

Mr. PHELPS. I am speaking to the bill under consideration.

The CHAIRMAN. The gentleman must confine his remarks to the amendment before the committee.

Mr. PHELPS. There are amendments relating to the defense of our Indian frontier. We have to take action on them, and it is important that we should act on them promptly; for, if there be a disagreement between the two Houses, as I trust there may be in relation to the mode of defending the frontier, there must be necessarily a committee of conference. I expect that these amendments will give rise to some discussion. That discussion can take place in the evening session, instead of, as it will, unless my suggestion be adopted, occupying the most of one of the few days left us.

Mr. WHEELER. The gentleman is not speaking to the amendment, and is out of order. I insist on the enforcement of the rules.

EVENING SESSION.

Mr. CAMPBELL. The committee will allow me a word here. In making the motion that the House resolve itself into the Committee of the Whole on the state of the Union, I expressly declared that when we got into committee it was my intention to move for a recess and evening session under the resolution of the House, with a view to general debate. Now there may be great force in the remark of the gentleman, that the public busi-

ness is pressing, and I will go as far as he can, or dare go, under proper circumstances, to expedite the public business; but he has too much experience to believe that this body is in a temper to finally dispose of the important matters to which he alludes this evening. We know very well that there will be no quorum present to-night.

Mr. WHEELER. I rise to a question of order.

The CHAIRMAN. The debate between the gentleman from Missouri and the gentleman from Ohio is out of order.

Mr. CAMPBELL. I suggest that the gentleman yield the floor to me for the purpose of moving that we take a recess until seven o'clock this evening.

[Cries of "Agreed!"]

The CHAIRMAN. Does the gentleman from Missouri yield for that purpose?

Mr. PHELPS. My object is to expedite the public business. It appears that the committee wish an evening session, and not wishing to detain it any longer, I move that the committee take a recess until seven o'clock this evening. I wish to discuss the amendments to the Army bill. There are others who wish to express their views on the subject.

Mr. EDGERTON. Are not the debates during the evening session unrestricted as regards the topic?

The CHAIRMAN. That will depend, so far as this evening's session is concerned, on the order which the committee now makes.

Mr. CAMPBELL. I move to amend the motion of the gentleman from Missouri, so as to make the committee take a recess for the purpose of general debate.

The CHAIRMAN. Will the gentleman first allow the Chair to understand the question of order raised by the gentleman's colleague?

Mr. EDGERTON. My question of order was this: I understand the resolution adopted by the House to provide that evening sessions shall be for the purpose of general debate. I hold, therefore, that if an evening session is held, it must be for the purpose of general debate.

Mr. PHELPS. I will modify my motion then, so as to move that the committee take a recess until seven o'clock for the purpose of considering public business.

Mr. CAMPBELL. I will still move to amend the motion of the gentleman from Missouri, as he now submits it, by substituting the motion that the committee take a recess until seven o'clock, for the purpose of general debate.

The CHAIRMAN. Then the question will be first upon the amendment of the gentleman from Ohio.

Mr. HENN. Is it in order to move that the committee do now rise?

The CHAIRMAN. It is not in order. The motion that the committee take a recess having been made first would take precedence.

Mr. JONES, of Tennessee. Is a motion that the committee take a recess amendable?

The CHAIRMAN. In the opinion of the Chair, under the resolution of the House, the motion is amendable.

Mr. JONES. Well, sir, I will not appeal from the decision of the Chair, but I think it is wrong.

Mr. McQUEEN. Does not the resolution of the House providing for these evening sessions, make the debate general in such sessions, without any further action of the committee?

The CHAIRMAN. The Chair thinks it is for the committee to decide.

Mr. MIDDLESWARTH. Mr. Chairman, I think that when the House passed the resolution——

The CHAIRMAN. The motion is not debatable. The resolution of the House is in the following words:

Resolved, That for the remainder of the present session, all debate in the Committee of the Whole House on the state of the Union shall be confined strictly to a discussion of the proposition under consideration, unless during such evening sessions as a majority of said committee may order for the express purpose of general debate.

Mr. MIDDLESWARTH. Well, sir, I hold that the committee have no right to alter the character of that resolution.

The CHAIRMAN. It is not so proposed. The question is now upon the proposition of the gentleman from Ohio, that the House take a recess until seven o'clock, for the purpose of general debate.

Mr. FARLEY. I demand tellers upon the motion.

Tellers were ordered; and Messrs. FARLEY and HENN were appointed.

Mr. McMULLIN. I rise to a question of order. I desire to know if it is in the power of this committee to take a recess without the order being made by the House.

The CHAIRMAN. It is competent for the committee to take a recess.

Mr. MILLSON. Will the Chair allow me to propound an inquiry?

The CHAIRMAN. The Chair must say again that the motion is not debatable.

Mr. PHELPS. To avoid the necessity for a division of the committee, I will withdraw the motion to take a recess for the purpose of attending to the public business. It seems to be the wish of a majority of those present that the committee should meet for the purpose of general debate.

The CHAIRMAN. Then the question is only upon the proposition of the gentleman from Ohio.

The question was put; and the motion was agreed to.

And thereupon, at half past five o'clock, the committee took a recess until seven o'clock, p. m.

EVENING SESSION.

Shortly after seven o'clock, the Chairman again called the committee to order.

Mr. YATES obtained the floor.

MESSAGE FROM THE SENATE.

The committee then rose, informally, and the Speaker *pro tempore* (Mr. LETCHER) having taken the chair, a message was received from the Senate, by Mr. ASBURY DICKINS, their Secretary, informing the House that the Senate agreed to the amendments of the House to the following bills:

An act to grant to the State of Ohio the unsold and unappropriated public lands remaining in that State;

An act extending in certain cases the provisions of the act entitled "An act to extend preëmption rights to certain lands therein mentioned," approved March 3, 1853; and

An act to prevent mistrials in the district and circuit courts of the United States, in certain cases.

Also, that the Senate had passed without amendment, the bills of the House making appropriations for the transportation of the United States mails by ocean steamers and otherwise, during the fiscal years ending 30th June, 1855, and 30th June, 1856.

And also, that the Senate insisted on their amendments to the Indian appropriation bill, disagreed to by the House, and asked a conference on the disagreeing votes of the two Houses.

Mr. YATES then replied to the speech heretofore made by Mr. STEPHENS, of Georgia. He was surprised to hear that gentleman and others assume the position that the result of the elections last fall, returning to the next Congress a triumphant majority opposed to the repeal of the Missouri compromise, was not to be regarded as a test of the popular sentiment upon the subject of the Nebraska question. From the first dawning of our national existence down to the present time, never had a public measure received such a withering and blighting rebuke as the Nebraska bill passed by the last session. The condemnation of the public had swept over that measure, its aiders and abettors, like the wasting and destroying sirocco. By the result of the fall elections, as he understood it, freedom had nobly vindicated herself, and showed herself capable of rising superior to the domination of political parties and aspiring political leaders. The Nebraska question was the dominant issue in the late canvass, and the result had been a total overthrow of an Administration which came into power upon a tempest of popularity. In no State in the Union was the defeat of this measure so signal as in Illinois; for it must be recollected that she was the banner State of Democracy, and that, while other States had occasionally failed, she had never faltered in her fealty to the Democratic party.

Mr. GOODRICH spoke of the Kansas Emigration Society, of which he was president. It was his intention to justify the principles and purposes of that organization upon the principles and policy, and public, political, and moral sentiment of the country at the time this Government was formed. If he could not do this, he would abandon the principles and purposes of that organization. He spoke at length on the subject.

Mr. CAMPBELL replied to the speech of Mr. STEPHENS, of Georgia, made some time since, and entered into an argument to prove the error of the assertion of the latter gentleman that slave labor is better calculated to develop the resources of the country than free labor. Mr. C. also adverted to other subjects connected with slavery.

Mr. BAILEY, of Georgia, in brief terms, deprecated the subject of controversy between his colleague and the gentleman from Ohio.

Mr. BANKS replied to a speech of Mr. KEITT, in which the latter gentleman had referred to the character of the Federal party of Massachusetts in the war of 1812. In further reply to that speech, he argued to show that the head of the Church of Rome did claim the power of directing the temperal affairs of those who embrace the Catholic faith.

Mr. KEITT rejoined at considerable length. In the course of his remarks an interesting discussion ensued between Messrs. KEITT, SOLLERS, and BANKS, as to the course which the Know-Nothing party will pursue on the subject of slavery.

[The above speeches will be found in the Appendix.]

Mr. FLORENCE. I had intended to review the remarks of the gentleman from Ohio in their connection with this subject, but as the hour is very late, I do not desire to speak this evening. I move that the committee do now rise.

The motion was agreed to.

And the committee rose; and the Speaker *pro tempore* (Mr. MILLSON) having taken the chair, Mr. HENDRICKS reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the amendments of the Senate to the Army appropriation bill, and had come to no resolution thereon.

Mr. HENDRICKS. I desire to submit a motion to suspend the rules, for the purpose of taking up two or three pension bills to put them upon their passage. As there are so few members present, I shall not ask for a vote upon my motion now, but I desire that it may be entered in case opposition should be made to taking up the bills to-morrow.

Mr. FLORENCE. I move that the House do now adjourn.

The motion was agreed to, and thereupon (at half past twelve o'clock) the House adjourned until to-morrow at eleven o'clock, a. m.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 1, 1855.

The House met at eleven o'clock, a. m. Prayer by Rev. HENRY SLICER.

Mr. DAVIS, of Indiana. There is a very long Journal. I move that the reading of it be dispensed with.

The motion was agreed to.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House the following message from the President of the United States:

WASHINGTON, *February* 27, 1855.

To the Senate and
House of Representatives of the United States:

I transmit to Congress herewith a communication of this date from the Secretary of the Interior, and recommend that the appropriation therein asked for be made.

FRANKLIN PIERCE.

On motion by Mr. WASHBURNE, of Illinois, the message, with the accompanying communication, were referred to the Committee of Ways and Means, and ordered to be printed.

Also, the following message:

WASHINGTON, *February* 27, 1855.

To the Senate and
House of Representatives of the United States:

I communicate herewith, for the consideration of Congress, a letter of this date from the Secretary of the Interior, and the accompanying papers, recommending certain appropriations on account of the Indian service.

FRANKLIN PIERCE.

On motion by Mr. HENN, the message and accompaning papers were referred to the Committee of Ways and Means, and ordered to be printed.

Also, a communication from the Second Auditor of the Treasury, transmitting copies of such accounts as have been rendered by persons charged or intrusted with the disbursement and application of money, goods, or effects for the benefit of Indians from the 1st of July, 1853, to the 30th of June, 1854, inclusive, together with a statement containing a list of the names of all persons to whom goods, money, and effects have been delivered within the same time, specifying the amounts and the objects for which intended, the amounts accounted for, and the balances under each specific head.

On motion by Mr. HAVEN, the communication was laid upon the table, and ordered to be printed.

Also, a communication from the Treasurer of the United States, transmitting copies of his accounts, and the receipts and disbursements for the Post Office Department for the year ending 30th June, 1854.

On motion by Mr. WASHBURNE, of Illinois, the communication was ordered to lie upon the table, and be printed.

And, also, a communication from the Post Office Department, transmitting copies of the abstracts of offers for carrying the mail made within the year, and all the contracts necessary for the transportation of the mails, &c.

On motion by Mr. BRIDGES, the communication was ordered to lie upon the table, and be printed.

ORDER OF BUSINESS.

The SPEAKER. The Chair desires to make a single suggestion with reference to the business of the body.

Mr. OLDS. Let me ask the unanimous consent of the House to bring in the post route bill. It will take no time.

The SPEAKER. Then the Chair must withdraw his suggestion.

Mr. HAMILTON. Let us hear the Speaker's suggestion.

The SPEAKER. The suggestion of the Chair is simply this, that as there is a great variety of business to which no objection will be made, half an hour or an hour be devoted to the reception of such matters.

Mr. BRIDGES. I would suggest one hour.

Mr. HOUSTON. I must object to an hour, but I will not object to half an hour.

The SPEAKER. Then, if there be no objection, half an hour will be devoted to that purpose, with the understanding that if debate shall arise the measures shall go back to their original resting places.

No objection was made to the course suggested.

Mr. HENDRICKS. I have a motion pending to suspend the rules to take up some pension bills. This order will not interfere with that motion, I suppose.

The SPEAKER. Not at all. It is only a pause in the current business of the body.

Mr. DAVIS, of Indiana. I wish to know if the time agreed upon is one hour, or only half an hour?

The SPEAKER. Half an hour is all that is allowed. Perhaps we can get through in half an hour.

Mr. SEWARD. I desire to understand the extent of the rule which has been adopted; whether gentlemen from each particular State will be entitled to the floor as their States are called?

The SPEAKER. Yes; and none others.

The SPEAKER then proceeded to carry out the unanimous understanding of the House, by calling the States in their order.

PORTS OF DELIVERY.

Mr. FULLER, from the Committee on Commerce, reported a bill to establish Columbus, in the State of Mississippi, Chattanooga, in the State of Tennessee, and Hickman, in the State of Kentucky, ports of delivery; which was read a first and second time by its title.

Mr. SEWARD. With the leave of the gentleman from Maine, I desire to amend that bill. I desire to move to append to it Senate bill No. 112.

The SPEAKER. If not objected to that can be done.

Mr. HARLAN, of Ohio. I object.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FULLER. I have but one more bill to offer. It is a bill to carry into effect the reciprocity treaty between the United States and Great Britain. It has passed the Senate.

[Cries of "Object!"]

Mr. RICHARDSON. One bill is enough for any gentleman to offer.

Mr. WASHBURNE, of Illinois. It is not fair for one gentleman to offer more than one bill; and I object to it.

INTERNAL IMPROVEMENTS.

Mr. WENTWORTH, of Massachusetts, from the Committee on Commerce, reported the following bills; which were read a first and second time by their respective titles, referred to the Committee of the Whole on the state of the Union, and ordered to be printed:

A bill making appropriation for continuing the improvement of the harbor of Huron, Ohio;

A bill to provide for a resurvey of the harbors at Marblehead, Nantucket, and Sandy Bay in the State of Massachusetts;

A bill making appropriation for continuing the improvement of the Kennebec river, in the State of Maine;

A bill for continuing the improvement of the navigation of the Arkansas river;

A bill making appropriation for continuing the removal of the rocks obstructing the navigation near Fall's Island, Maine;

A bill for continuing the improvement of the harbor of Oak Orchard, on Lake Ontario;

A bill making appropriation for the construction and repair of certain dredge, snag, and scow boats;

A bill making appropriation for continuing the breakwater at Rockland harbor, Maine;

A bill making appropriation for the improvement of the navigation of the Missouri river;

A bill making appropriation for continuing the improvement of the harbor of Kenosha, Wisconsin;

A bill making appropriation for the improvement of the Appomattox river, below Petersburg, Virginia;

A bill making appropriation for continuing the improvement of the harbor of Sodus bay, Wayne county, New York;

A bill making appropriation for continuing the construction of a levee across the mouth of the river San Diego, California, and other works;

A bill for the improvement of the harbor of St. Joseph's, Michigan;

A bill for the improvement of the harbor of East Pascagoula river;

A bill making appropriation for continuing the improvement of the harbor of Buffalo, New York;

A bill making appropriation for the improvement of the navigation of the Tennessee river;

A bill making appropriation for the continuing of the Delaware breakwater, in the Delaware;

A bill making appropriation for continuing the improvement of the harbor of Sandusky City, Ohio;

A bill making appropriation for continuing the improvement of the harbor at Racine, Wisconsin;

A bill making appropriation for repairs of the piers in Saco river, in the State of Maine;

A bill making appropriation for continuing the improvement of the harbor at the mouth of Clinton river, Michigan;

A bill making appropriation for the further improvement of the navigation of James river, Virginia;

A bill making appropriation for continuing the construction of the harbor on Lake Ponchartrain, Louisiana;

A bill making appropriation for the improvement of the Colorado river;

A bill making appropriation for continuing the improvement of the harbor of Ashtabula, Ohio;

A bill for continuing the improvement of the navigation of the Illinois river;

A bill making appropriation for the removal of obstructions from the Susquehanna river;

A bill for the improvement of the harbor of New Buffalo, Michigan;

A bill making appropriation for the improvement of the harbor of Oswego, New York;

A bill making appropriation for continuing the improvement of the Hudson river above and below Albany, New York;

A bill making appropriation for continuing the removal of the rocks at Hell Gate, New York harbor;

A bill making appropriation for continuing the connection of the waters of the Indian river and Musquito lagoon, Florida;

A bill for the improvement of the harbor of Waukegan, Illinois;

A bill making appropriation for the construction of steam dredges, steam tug equipments, and discharging scows, for the Chesapeake bay, and the Atlantic coast;

A bill making appropriation for the improvement of the harbor of Manitou, Wisconsin;

A bill making appropriation for continuing the breakwater at Richmond Island harbor, Maine;

A bill for continuing the improvement of the Des Moines rapids, in the Mississippi river;

A bill making appropriation for continuing the survey of the harbor of Galveston, and Passo Cavello, and other harbors and rivers in Texas;

A bill making appropriation for continuing the repairs of the piers and improvements of the harbor of Newcastle, Delaware;

A bill for the improvement of the harbor of Black Lake, Michigan;

A bill for the removal of obstructions at Colbert's shoals, in the Tennessee river;

A bill making appropriation for continuing the repairs of the breakwater in Portland harbor, Maine;

A bill making appropriation for the improvement of the harbor of Bridgeport, in Connecticut;

A bill making appropriation for the improvement of the Ohio river;

A bill making appropriation for continuing the repairs of the injuries done to the Government works on Plymouth beach;

A bill for the improvement of the harbor of Grand Haven, Michigan;

A bill making appropriation for continuing the improvement of the harbor of Erie, Pennsylvania;

A bill making appropriation for continuing the improvement of the harbor of Conneaut, Ohio;

A bill for continuing the improvement of the Rock river rapids, in the Mississippi river;

A bill making appropriation for the improvement of the harbor of Burlington, Vermont;

A bill making appropriation for continuing the improvement of the harbor at the mouth of Grand river, Ohio;

A bill making appropriation to continue and extend the piers in the harbor of Monroe, in the State of Michigan;

A bill making appropriation for the improvement of the harbor of Dubuque;

A bill making appropriation for the improvement of the harbor of Sheboygan, Wisconsin;

A bill making appropriation for continuing the removal of the obstructions near the mouth of the Seekunk river, Rhode Island; and

A bill making appropriation for continuing the improvement of the harbor at Milwaukie, Wisconsin.

Mr. WENTWORTH, from the same committee, reported back, with a recommendation that they do pass, the following bills; which were severally referred to the Committee of the Whole on the state of the Union, and ordered to be printed:

A bill making an appropriation for continuing the sea-wall for the protection of Great Brewster's Island, in the harbor of Boston, Massachusetts;

A bill making a further appropriation for deepening the bar of Charleston harbor;

A bill making appropriation for continuing the repairs of the breakwater at Hyannis harbor, Massachusetts;

A bill making appropriation for the completing of the shelter or harbor at Reedy Island, in the river Delaware;

A bill making appropriation for the repair of the sea-walls on Deer and Lowell's islands, in Boston harbor, Massachusetts;

A bill for continuing the improvement of the harbor of Dunkirk, New York, on Lake Erie;

A bill making appropriation for continuing the pier and constructing a breakwater at Michigan City, in the State of Michigan, and to otherwise improve the harbor at said city;

A bill making a further appropriation for completing the improvement of Mobile bay;

A bill making appropriation for the improvement for the preservation of Great Wood's-Hole harbor, Massachusetts;

A bill making appropriation for continuing the improvement of the harbor of Sodus bay, Cayuga county, New York; and

A bill making appropriation for continuing the improvement of Taunton river, Massachusetts.

Mr. WENTWORTH. I desire also to move to discharge the committee from the further consideration of certain matters.

Mr. RICHARDSON. I object to that.

WILLIAM CARR LANE.

Mr. DICKINSON. I offer the following resolution:

Resolved, That the Clerk of the House pay to William Carr Lane the usual mileage and per diem from the commencement of the last session until the day upon which the contest between himself and the Hon. José Manuel Gallegos, for a seat in this House, as Delegate from the Territory of New Mexico, was finally decided.

Mr. HAMILTON. We cannot consider that resolution now; and I object to it.

JOHN D. COLMESNIL.

Mr. UPHAM. I desire to have the Committee of the Whole House discharged from the further consideration of joint resolution of the House (No. 24) for the final adjustment of the accounts of John D. Colmesnil, in order that it may be put upon its passage.

Mr. COBB. That is a very complicated case.

Mr. DISNEY. It is a clear case, and the resolution ought to be passed.

Mr. COBB. I object to it.

PETER AMEY.

Mr. ELIOT, of Massachusetts. I wish to have taken from the Speaker's table a small bill; and I hope gentlemen will not object to it. It is a small claim for an old man who fought on board the Essex.

The bill was taken up and read by its title, as follows:

Senate bill for the relief of Peter Amey, colored man.

The bill, which was read *in extenso*, directs the Secretary of the Interior to place the name of Peter Amey on the list of invalid pensioners of the Navy, and pay him $96 per annum, to commence from the 1st of January, 1850, and to continue during his life.

Mr. ELIOT. I ask that the bill be put upon its passage.

The question being on ordering the bill to be read a third time,

Mr. CHASTAIN. I object.

Mr. ELIOT. I appeal to the gentleman to withdraw his objection.

Mr. CHASTAIN. I would ask if the beneficiary of this bill is a negro?

Mr. ELIOT. He is a colored man. He fought on board the frigate Essex.

Mr. CHASTAIN. Then I do not withdraw my objection.

The SPEAKER. Then the bill must return to its original place on the Calendar.

JOHN D. COLMESNIL—AGAIN.

Mr. UPHAM. The gentleman from Alabama [Mr. COBB] agrees to withdraw the objection which he offered to the joint resolution presented by me.

Mr. COBB. I will state the reason why I withdraw my objection.

The SPEAKER. If debate arises it must go over.

Mr. COBB. I merely want to state the reason of my objection. I supposed that this was an old case which we had up several years ago. I find it is altogether a different case, and I have no objection at all to it.

Mr. UPHAM. My proposition is a substitute.

It was reported as follows:

Joint resolution for the final adjustment of the accounts of John D. Colmesnil.

The joint resolution directs the Postmaster General to have the accounts of John D. Colmesnil, president of the Ohio and Mississippi Mail Line Company, reëxamined for the purpose of determining whether any further compensation is due in law or equity to him, and to pay him such sum as may be adjudged to be due, for the use of himself and his assistants, out of the funds in the Treasury appropriated to the transportation of mails, the decision of the Department being subject, as in all other cases, to the proviso of the eighth section of the act of July 2, 1836, "to change the organization of the Post Office Department."

Mr. LETCHER. I wish merely to say—as I made objection to this bill before—that it has been altered in conformity with my views, and I have no further objection to its passage.

The question was taken; and the amendment, in the nature of a substitute, was agreed to.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

PETER AMEY—AGAIN.

Mr. ELIOT. The gentleman from Georgia [Mr. CHASTAIN] agrees to withdraw his objection to the bill for the relief of Peter Amey.

Mr. CHASTIAN. I withdraw my objection, but I desire the gentleman from Massachusetts to explain what service this man performed.

The SPEAKER. Under the special order of the House, inquiry or debate cannot be had.

Mr. ELIOT. The report will show.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. HUGHES obtained the floor.

Mr. HIBBARD. I ask the consent of the gentleman from New York to let me present a matter. I was not here when the State of New Hampshire was called.

Mr. HUGHES. I am always willing to yield, if I do not lose my own right to the floor.

Mr. HIBBARD. Then I present——

Mr. J. C. ALLEN, (interrupting.) I object to going back.

G. W. TORRENCE.

Mr. HUGHES. I ask that the Committee of the Whole be discharged from the further consideration of Senate bill No. 552 for the relief of George W. Torrence.

The bill, which was read, directs the Secretary of War to pay to George W. Torrence the sum of $1,574, in full compensation for his gallant military service at the National Bridge, Mexico, on the 9th September, 1847, and for the extraordinary expenses incurred by him in consequence of wounds received by him In the service of the United States.

Mr. HUGHES. This is a Senate bill to which there can be no objection. I ask that it be put upon its passage.

Mr. DUNHAM objected, but subsequently withdrew his objection.

Mr. JONES, of Tennessee. I know nothing about this bill, except what I have seen of it here in the House. I suppose that if any of those soldiers are entitled to special compensation, this claimant is one of them.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

RECIPROCITY TREATY BILL.

Mr. PECKHAM. I ask the unanimous consent of the House to take up Senate bill, No. 560, which was read yesterday. My friend from Alabama objected to it, and withdrew his objection subsequently. It is a bill to carry into effect the last treaty stipulations between Great Britain and the United States.

The bill was reported by its title, as follows:

Senate bill to amend an act to carry into effect the treaty between the United States and Great Britain, signed June 5, 1854, and approved August 5, 1854.

Mr. PECKHAM. The bill was read in full yesterday. I move that the reading now be dispensed with.

Mr. JONES, of Tennessee. Let it be read; I want to know what it is.

The bill was read *in extenso*, and finally passed.

JESSE FRENCH.

Mr. EDMANDS. I ask the unanimous consent of the House to take from the Speaker's table House bill (No. 733) for the relief of Jesse French, of Braintree, Massachusetts.

The bill was then read through by the Clerk. It provides that the name of the petitioner be placed upon the pension rolls, at the rate of four dollars per month, to commence on the 1st day of January, 1852, and to continue during his natural life.

The bill was then ordered to be engrossed and read a third time; and having been engrossed, was read the third time, and passed.

AMOS KNAPP.

Mr. CARPENTER. I ask the unanimous consent of the House to take from the Speaker's table Senate bill (No. 192) for the relief of Amos Knapp.

The bill in this case directs the Secretary of the Interior to pay to Amos Knapp, out of any money in the Treasury not otherwise appropriated, a sum equal to eleven dollars per month from July 1, 1848, to the date of approval of this act; and to increase his pension, granted by the act of July 12, 1852, to the rate of eleven dollars per month, to continue during his natural life; provided that any sum which Knapp may have received, under the act of July 12, 1852, shall be deducted from the amount required to be paid by the provisions of this act.

The bill was then ordered to a third reading; and having been read the third time, was passed.

PRINTING DOCUMENTS.

Mr. MURRAY. I offer the following resolution from the Committee on Printing:

Resolved, That such extra numbers of the Executive documents as are ordered to be printed in quarto form, shall be bound by the public binder of the House, as the House Committee on Printing shall authorize and direct, at such price as such committee shall deem reasonable and just.

The question was taken; and the resolution was adopted.

CORPORATION OF GEORGETOWN.

Mr. SAGE. I ask the unanimous consent of the House to take up and consider House bill (No. 517) to authorize the corporate authorities of Georgetown to impose additional taxes, and for other purposes.

Mr. HAMILTON. It is one of the bills relating to the District of Columbia. It has already passed the House, and is now returned from the Senate with amendments.

The amendments to the bill were then read, as follows:

Page 1, line ten, after the word "law," insert the word "now," and in line eleven, after the word "town," insert the following:

And all moneys vested or held in any bank, insurance, brokerage, or exchange company, or institution, upon all State or corporation stocks, and money loaned at interest on bond mortgage or other indebtedness.

The question was then taken; and the amendments were concurred in.

BOUNTY LANDS.

Mr. WHEELER. I ask the unanimous consent of the House to take up and consider House bill (No. 567) supplemental to an act granting bounty lands to certain officers and solders who have been engaged in the military service of the United States, approved September 28, 1850, and also an act entitled "An act to make land warrants assignable, and for other purposes," approved March 2, 1852.

Mr. COBB. I wish to inquire who offered that bill?

Mr. WHEELER. I did.

Mr. COBB. I ask the gentleman to accept the bill I hold in my hand as a substitute?

Mr. WHEELER. I cannot.

Mr. COBB. I offer it, then, as an amendment to the bill.

Mr. WASHBURNE, of Illinois. I hope the gentleman will withdraw that amendment. It will lead to the defeat of this bill.

Mr. COBB. Then I object to the bill, if the gentleman will not accept my substitute. It has been recommended by the Committee on Public Lands.

Objection being made, the bill was not considered.

MESSAGE FROM THE SENATE.

A message was here received from the Senate, by ASBURY DICKINS, Esq., their Secretary, informing the House that the Senate had passed, without amendment, bills of the House of the following titles:

A bill for the relief of Charles H. Pointer;

A bill for the relief of the children and grandchildren of Thomas Morris;

An act for the benefit of the heirs of Philip R. Rice, deceased;

An act for the relief of Sarah Morriss, only heir of Robert Mitchell, deceased;

An act for the relief of William G. Preston;

An act for the relief of William G. Howison; and

An act for the relief of Amos E. Cook.

Also, that the Senate had passed a bill of the House of the following title:

An act for the relief of Thomas Underhill, executor of Thomas Underhill, deceased; with an amendment; in which he was directed to ask the concurrence of the House.

Also, that the Senate had indefinitely postponed a bill of the House of the following title:

An act for the relief of the legal representatives of Henry Hoffman.

Also, that the Senate had passed a resolution suspending the 16th joint rule of the two Houses, so far as relates to the bill of the Senate No. 684.

HENRY S. SANFORD.

Mr. MORGAN. I move to take up Senate bill (No. 420) for the relief of Henry S. Sanford.

The bill, which was read, provides that the Secretary of the Treasury shall pay to H. S. Sanford, acting chargé d'affaires of the United States at Paris, $6,222 83, being the difference between the salary received by him as secretary of legation at Paris from May 14, 1853, to January 22, 1854, and the salary of chargé d'affaires for the same period; and also $1,170 63 as necessary expenses, clerk hire, and office rent for the same period.

No objection being made, the bill was ordered to be read a third time; and was subsequently read a third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

MARY JEMISON.

Mr. PRINGLE. I ask the House to take up House bill (No. 769) for the relief of the heirs of Mary Jemison, deceased.

The bill provides for the payment to the heirs of Mary Jemison, deceased, otherwise called the "White Woman," the sum of $998 25, for money unlawfully withheld from her by the Government Indian agent for the State of New York, provided that no portion of such sum should be paid to Polly, daughter of said Mary Jamison.

No objection being made, the bill was ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

PAMELIA SLAVIN.

Mr. MATTESON. I ask the House to take up Senate bill (No. 521) for the relief of Pamelia Slavin.

Mr DAVIS, of Indiana. I wish to make a suggestion to the Chair, in reference to the manner of the execution of this order of the House. The House agreed to devote one half hour to the calling of the States for reports, and that as they were called, each member from the State should have the liberty to report or introduce one bill, which should be considered, if there should be no objection. Now it turns out that many members, as their States are called, have no bills in charge, which they wish to report, and I submit that it is not a fair execution of that order, that such gentlemen should take bills from members whose names are low down on the Calendar, and will probably not be reached under this order, and report such bills as their own. As such a course consumes time it operates as an injustice to those who have bills of their own to report, and who are ready to report them as soon as their States are reached.

I do not refer to the gentleman from New York, [Mr. MATTESON,] but I am speaking generally of the course which has been pursued here to some extent.

The SPEAKER. The Chair does not hesitate to say that the tranfers of bills is not a fair execution of the order adopted by the House.

The bill which Mr. MATTESON moved to take up was then read for information. It provides that the name of Pamelia Slavin shall be placed on the pension roll at the rate of four dollars per month, for five years from January 1, 1848, in full satisfaction of the claim for pension, as widow of John Blue, her first husband.

No objection being made, the bill was ordered to be read a third time, and having been read, it was subsequently passed.

GEORGE M. FARNHAM.

Mr. CUTTING. I call up for consideration Senate bill (No 387) for the relief of George M. Farnham, commercial agent at the port of St. Louis.

The bill was read for information.

Mr. JONES, of Tennessee. Is there a report in this case.

Mr. CUTTING. There is. But I will, in a word, explain the case as it will consume less time. The design of the bill is to reimburse money which was paid out of pocket for the relief of shipwrecked seamen.

[Cries of "Order!" "Order!"]

The SPEAKER. It is not in order to indulge in debate. The Chair is informed that the report is not here.

Mr. JONES, of Tennessee. Then let the bill go over.

Objection being made, the bill was not considered.

Mr. JONES, of Tennessee. Has not the half hour expired?

The SPEAKER. It has.

Mr. JONES. Then I demand the regular order of business.

Mr. SIMMONS. I have a resolution which I desire to offer, that it may be referred to the Committee on Printing.

ORDER OF BUSINESS.

The SPEAKER. The gentleman from Tennessee has called for the regular order of business, which is an objection to all business out of order.

Mr. FLAGLER. I had the floor, and I would ask the Chair whether it could be taken from me by the gentleman from Tennessee for the purpose of making the demand which he has?

The SPEAKER. The gentleman from New York was upon the floor under the order of the House. The half hour during which that order held good having expired, the gentleman from Tennessee was entitled to make the demand which he has.

WARD, HALLECK AND LITTLE.

Mr. STANTON, of Tennessee. I rise to a privileged question. I reported yesterday, from the Committee on the Judiciary, a bill for the relief of Ward, Halleck & Little. At the time I suggested that it should be referred to a Committee of the Whole House on the Private Calendar. Since I have examined the bill, which has been approved and signed by the President, creating a court of claims, I find that it authorizes bills to be referred by either House to that court. I move to reconsider the vote by which that bill was referred to a Committee of the Whole House on the Private Calendar, in order that it may be sent to the court of claims. And if there be no objection, I would offer the joint resolution, which I send to the Clerk's table to be read for information, in order to cover all cases.

The Clerk read the resolution, as follows:

Resolved, That all the bills upon the Private Calendar which shall not have been disposed of at the close of this Congress, be referred, with the reports and accompanying papers, to the court of claims.

Mr. HUGHES. I object.

A. B. GRAY'S REPORT.

Mr. SIMMONS. I have asked the unanimous consent of the House for leave to introduce a resolution for reference to the Committee on Printing. Is there objection to it?

The SPEAKER. The resolution will be read for information.

The Clerk read the resolution, as follows:

Resolved, That ten thousand copies of the report and map of A. B. Gray, late United States surveyor under the treaty of Guadalupe Hidalgo, be printed for the use of the House of Representatives; and that the Superintendent of the Public Printing be authorized, and directed, to add to such report and map any additional information obtained by Mr. Gray in his recent exploration through the newly acquired territory from Mexico, as authorized and conditioned by the Senate; and that one hundred copies of the same be, and are hereby, appropriated to the use of A. B. Gray.

Mr. COBB. I object to that resolution.

SUSPENSION OF THE RULES.

The SPEAKER. The question first in order is the consideration of the motion to suspend the rules, made by the gentleman from Nebraska, [Mr. GIDDINGS,] in order to discharge the Committee of the Whole on the state of the Union from the further consideration of a bill to amend the act of Congress, approved May 23, 1844, entitled "An act for the relief of the citizens of towns upon lands of the United States, under certain circumstances."

Mr. HENDRICKS. Mr. Speaker, I obtained the floor last evening previous to the adjournment, and made a motion, which was entertained, that the rules be suspended for the purpose of considering two or three invalid pension bills.

The SPEAKER. The Chair understands—not being present himself—that, by unanimous consent, the House last evening entertained a second motion for the suspension of the rules. The motion of the gentleman from Nebraska [Mr. GIDDINGS] is certainly the first thing in order this morning.

Mr. GOODWIN. I would ask the gentleman from Nebraska to yield to me for a moment.

The SPEAKER. Several gentlemen desire the floor to ask unanimous consent for the disposition of certain private bills. Is there any objection?

Mr. FLAGLER. I was taken from the floor by a single objection, and I shall object to all other business unless the House proceeds as it did this morning in regard to the private bills now asked to be considered and passed.

The SPEAKER. Is it the pleasure of the House that, for another half hour, the Chair shall proceed to call upon States for business, as has been done this morning?

[Cries of "Agreed!"]

Mr. JONES, of Tennessee. I object. If there be two thirds of the House in favor of that course, let a motion be made to suspend the rules for the purpose.

The SPEAKER. There is a motion to suspend the rules now pending, and no other motion for suspension can be entertained until that is disposed of. Therefore, the gentleman from Tennessee ought to know that one objection blocks the game. [Laughter.]

Mr. GIDDINGS, of Nebraska. I ask that my motion for the suspension of the rules may be disposed of, so that the House may proceed to the consideration of other business. My object is to bring before the House and put upon its passage a bill which does but a simple act of justice to my constituents.

Mr. McMULLIN. I would be happy to see the Chair continue to call upon States for business, as he has been doing this morning.

The SPEAKER. The gentleman from Tennessee objects, and it cannot be done.

Mr. JONES. I demand the regular order of business.

RELIEF OF CITIZENS ON PUBLIC LANDS.

The SPEAKER. The question is on the motion to suspend the rules to discharge the Committee of the Whole on the state of the Union from the further consideration of a bill to amend the act of Congress, approved May 23, 1844, entitled "An act for the relief of the citizens of towns upon lands of the United States, under certain circumstances." The bill will be read.

The Clerk read the bill *in extenso*. It provides that the act of Congress, approved May 23, 1844, entitled "An act for the relief of the citizens of towns upon the lands of the United States under certain circumstances," be so amended that its provisions shall apply to all lands belonging to the United States, whether surveyed or unsurveyed, except such towns as are or may be located on lands that, by treaty stipulation, are to be sold for the benefit of any of the Indian tribes, and except, also, such towns as may be located on any military, Indian, or other reserve; that the Legislature of any of the States or Territories in which the public lands are situated may, by law, designate the officer or person who shall make the entry or entries provided for in said act, in trust for the owners and occupants of the lots in any such towns where the same are not incorporated; and that the entries under said act may include any adjoining fractional subdivisions on which said towns may in whole or in part be located: *Provided*, That not more than three hundred and twenty acres shall be entered for the use and benefit of any one town.

Mr. DISNEY. Mr. Speaker, I will only say to the House that this bill was reported from the Committee on Public Lands after it had been carefully prepared. The only alteration of existing laws is in applying the provisions of the act of 1844 to unsurveyed lands.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. THURSDAY, MARCH 1, 1855. NEW SERIES.....No. 64.

Mr. RICHARDSON. I desire to ask the gentleman a question.

Mr. SEWARD. I rise to a question of order. If the motion to suspend the rules is not debatable, I object to this debate.

Mr. BENSON. I ask the gentleman who has charge of this bill whether he will not, in a few words, explain its provisions?

The SPEAKER. Gentlemen on all sides call to order. The quest on is not debatable. No debate is in order.

Mr. RICHARDSON. I have no objection to this bill if it is to apply only to Nebraska and Kansas, or only to the Territories of the United States; but if it is to become the law of the land, and made applicable to the States, I am opposed to it.

Mr. WASHBURNE, of Illinois. I call the gentleman to order. No debate is in order while the motion is pending to suspend the rules.

Mr. BENSON. Is it not in order to make an inquiry?

The SPEAKER. It is not. No debate of any character whatever is in order pending a motion to suspend the rules.

Mr. PRINGLE. As I do not understand the provisions of the bill, and as we can have no explanation, I demand the yeas and nays upon the motion to suspend the rules.

Mr. DISNEY. The House evidently misunderstands the character of the bill.

Mr. PRINGLE. It is for that very reason that I have demanded the yeas and nays.

The yeas and nays were ordered.

Mr. PHELPS. I desire to know upon what the yeas and nays have been ordered?

The SPEAKER. Upon the motion of the gentleman from Nebraska to suspend the rules.

Mr. PRINGLE. I understand by the chairman of the Committee on Public Lands, that this bill provides for guarding properly the rights of the Indians to their lands. If it is in my power, therefore, I will withdraw my call for the yeas and nays.

The SPEAKER. The yeas and nays having been ordered, the demand cannot be withdrawn except by unanimous consent.

Mr. WENTWORTH, of Illinois. I object until I can hear the bill read.

The SPEAKER. The bill has been read twice already. Is it the pleasure of the House that it shall be read the third time.

[Loud cries of "No!" "No!"]

Mr. DISNEY. If the House will allow me for a moment I will explain the bill.

The SPEAKER. Is it the pleasure of the House to hear the gentleman?

[Cries of "No!" "No!" "Object!"]

Mr. DISNEY. Then it seems the House will neither hear the bill read nor allow it to be explained.

The SPEAKER. It can only be done, then, by a vote of the House.

The question was then taken; and decided in the negative—yeas 76, nays 83; as follows:

YEAS—Messrs. Willis Allen, Ashe, David J Bailey, Barksdale, Barry, Belcher, Bell, Caruthers, Chrisman, Chugman, Cobb, Cook, Cullom, Curtis, Cutting, Disney, Dowd II, Drum, Dunbar, Dunham, Eastman, Edgerton, John M. Elliott, Etheridge, Faulkner, Green, Greenwood, Andrew J. Harlan, Samson W Hards, Wiley P. Harris, Houston, Ingersoll, Roland Jones, Keitt, Kurtz, Lamb, Lane, Latham, Lindsley, McDougall, Macy, Maxwell, May, Mayall, Smith Miller, Nichols, Olds, Mordecai Oliver, Packer, Peckham, Phelps, Phillips, Powell, Pratt, Ready, Riddle, Thomas Ritchey, Seymour, Shannon, Singleton, William Smith, William R Smith, George W. Smyth, Sollers, Hestor L Stevens, Stratton, Straub, David Stuart, John L Taylor, Trout, Vansant, Wells, Westbrook, and Hendrick B Wright—76

NAYS—Messrs. Ball, Banks, Bennett, Benson, Boyce, Breckinridge, Bridges, Bristow, Campbell, Carpenter, Chandler, Chastain, Clark, Corwin, Cox, Craige, Crocker, John G. Davis, Dawson, Dickinson, Eddy, Edmands, Edmundson, Ellison, Everhart, Farley, Florence, Giddings, Goode, Goodrich, Grey, Hamilton, Aaron Harlan, Harrison, Hastings, Haven, Hendricks, Heister, Howe, Hughes, Johnson, Daniel T. Jones, George W. Jones, Kerr, Knox, Letcher, Lewis, Lyon, Macdonald, McNair, McQueen, Matteson, Maurice, Middleswarth, Morgan, Murray, Noble, Norton, Parker, Pennington, Reese, David Ritchie, Rogers, Russell, Sabin, Sage, Sapp, Simmons, Frederick P. Stanton, Andrew Stuart, John J. Taylor, Nathaniel G. Taylor, Teller, Thurston, Tracy, Wade, Walbridge, Walley, Walsh, Elihu B. Washburne, Israel Washburn, John Wentworth, and Wheeler—83.

So (two thirds not having voted in the affirmative) the rules were not suspended.

Pending the call of the roll,

Mr. GREEN asked leave to vote, he having been absent, in the discharge of his duty as a member of the Committee on Enrolled Bills, when his name was called.

No objection was made, and Mr. G. was allowed to vote.

ADDITIONAL MEMBERS OF THE COMMITTEE ON ENROLLED BILLS.

The SPEAKER. The gentleman from Ohio [Mr. GREEN] also states, that it is impossible for the Committee on Enrolled Bills, with the present number of members, to examine all the bills that are referred to them. If there be no objection, the Chair will appoint additional members on that committee.

There being no objection,

The SPEAKER accordingly appointed Mr. STRATTON, Mr. NICHOLS, and Mr. SEWARD, upon that committee.

INDIAN APPROPRIATION BILL CONFERENCE.

Mr. HAVEN. I rise to what I believe is a privileged question. The Indian appropriation bill has been sent back from the Senate, that body insisting upon four of the amendments to which the House disagreed, and disagreeing to some of the amendments upon the part of the House. I ask that the House insist upon its disagreement to the Senate amendments, and insist upon its amendments, and ask for a committee of conference.

The question was put; and the motion agreed to.

The SPEAKER thereupon appointed Mr. HAVEN, Mr. ORR, and Mr. DAVIS, of Indiana, as managers of the said committee upon the part of the House.

GRANT OF LANDS TO OHIO.

Mr. HENN. I rise to a privileged question. There is a bill returned from the Senate granting to the State of Ohio the unsold lands in that State. The House amended the bill by substituting another provision. I understand it has been returned from the Senate with a disagreement to the House amendment. I move that the House insist upon its amendment, and ask a committee of conference.

The question was put; and the motion agreed to.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled, bills of the following titles; which were thereupon signed by the Speaker:

House bill to provide a more efficient discipline for the Navy;

House bill to amend the act approved the 26th of August, 1852, entitled "An act to reduce and define the boundaries of the military reserve at St. Peter's river, in the Territory of Minnesota," and for other purposes;

House resolution for the relief of purchasers and locators of swamp and overflowed lands;

House bill for the relief of John R. Bowes, agent in charge of the property of the United States at Michigan City, in the State of Indiana, and of Isaac S. Smith, of the city of Buffalo, New York;

House bill making appropriations for the transportation of the United States mail, by ocean steamers and otherwise, during the fiscal years ending the 30th of June, 1855, and the 30th of June, 1856;

House bill for the relief of John Searle & Co., for extra service rendered the Post Office Department of the United States;

Senate bill to confirm the canal selections within the State of Ohio;

Senate resolution in relation to the New Orleans custom-house;

Senate bill for the relief of the heirs of Brigadier General Richard B. Mason;

Senate bill extending in certain cases the provisions of the act entitled "An act to extend preemption rights to certain land therein mentioned," approved March 3, 1853;

Senate bill for the relief of Charles W. Carroll;

Senate bill to amend an act to establish a land district in the State of Florida, to be called the District of Tampa;

Senate bill to settle certain accounts between the United States and the State of Alabama;

Senate bill to establish the collection district of Cape Perpetua, and Port Orford, in the Territory of Oregon, and to fix the salaries of the officers of the customs therein; and

Senate bill to prevent mistrials in the district and circuit courts of the United States in certain cases.

PENSION BILLS.

Mr. HENN. I think it unfair that a part of the States should have been called and not all of them. I would suggest that all the States should be called, with the understanding that there shall be no transfer of bills from one member to another.

[Cries of "Object!"]

Mr. HENN. If it is in order, I move to suspend the rules that we may adopt that course.

The SPEAKER. It is not in order, for the reason that there is a motion now pending to suspend the rules.

Mr. WASHBURNE, of Illinois. Let us dispose of that motion, and then adopt the suggestion of the gentleman from Iowa.

Mr. HENDRICKS. It will not take two minutes to dispose of the three bills which I desire to present to the House. I hope they may be taken up, without a suspension of the rules, by unanimous consent. [Loud cries of "Agreed!"]

Senate bill for the relief of Mrs. J. Josephine McClellan was then taken up, ordered to a third reading, read the third time, and passed.

Mr. PHELPS. I call for the regular order of business. I want to get into such a position that we may go into the Committee of the Whole on the state of the Union, and finish the Army bill.

The SPEAKER. The gentleman from Indiana [Mr. HENDRICKS] moved to suspend the rules to enable him to take up three several bills. Whilst that motion was pending, he appealed to the House to allow him to introduce the bills by unanimous consent. That has been done in reference to one case, and the gentleman now appeals to the House to do it in the other cases.

Mr. WALSH. I object.

Mr. HENDRICKS. Well, my motion is pending to suspend the rules.

The question was taken; and the rules were suspended to enable the two bills to be acted on.

Mr. HENDRICKS then reported, from the Committee on Invalid Pensions, Senate bill for the relief of Mrs. Nancy Weatherford, widow of Colonel William Weatherford, of the first regiment of Illinois volunteers, in the Mexican war; and Senate bill to continue the pension of Frances E. Baden; the former with two immaterial amendments, which were agreed to, and the latter without amendment.

The bills were then severally ordered to a third reading; and were read the third time, and passed.

Mr. PHELPS. Is it in order now to submit a motion to go into the Committee of the Whole on the state of the Union?

The SPEAKER. It is in order.

CLOSE OF DEBATE ON THE ARMY APPROPRIATION BILL.

Mr. PHELPS. Then I submit that motion. But before the question is put I desire to introduce a resolution to close debate on the Army appropriation bill within two hours after the committee shall have resumed its consideration.

Mr. McDOUGALL. I move to amend that resolution by making the time thirty minutes.

Mr. TAYLOR, of Ohio. I propose to amend the amendment by making it five minutes.

The question was taken; and Mr. TAYLOR's amendment to the amendment was agreed to.

The question recurred on the amendment, as amended; and it was agreed to.

Mr. KEITT. I desire to ask my friend from Missouri to let me give notice of a motion which I want to have entered before the House resolves itself into the Committee of the Whole on the state of the Union.

Several MEMBERS. What is the motion?

Mr. KEITT. It is to suspend the rules at a particular time for the purpose of taking up Senate bill No. 629.

Mr. HENN. I object.

Mr. CRAIGE. I ask the unanimous consent of the House to offer the following resolution, which I think will meet no objection at all.

Mr. HOUSTON. If the House would take up these appropriation bills to-day we could get through them in a few hours at most.

The SPEAKER. The gentleman from North Carolina [Mr. CRAIGE] asks the unanimous consent of the House to allow him, at this time, to offer the following resolution:

Resolved, That the usual extra compensation be paid to the pages, folders, and such other employees who have heretofore received the same, including the watchmen employed upon the extension of the Capitol, who have not received the same, and who have not, and shall not hereafter receive the benefits of the joint resolution approved July 20, 1854.

Mr. EDGERTON and others objected.

Mr. CRAIGE. I move to suspend the rules for the purpose of introducing the resolution.

The SPEAKER. That motion is not in order, there being a motion now pending to suspend the rules.

The question recurred on Mr. PHELPS's resolution as amended; and it was adopted.

The question recurring on the motion to suspend the rules to go into the Committee of the Whole on the state of the Union—

Mr. HENN. I wish to appeal to the gentleman from Missouri [Mr. PHELPS] to suspend his motion till I can submit a motion which I believe the House will unanimously agree to. It is that the Speaker may call through the States for reports of committees

Mr. WALSH. We can do that to-morrow morning.

Mr. PHELPS declined to withdraw his motion.

Mr. FAULKNER. I rise to a privileged question. I move to reconsider the vote by which the resolution closing debate on the Army appropriation bill was adopted. I desire to say a word on that motion.

The SPEAKER. Debate is not in order.

The question was taken; and the motion was not agreed to.

The question recurred on Mr. PHELPS's motion; and it was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HENDRICKS in the chair.)

ARMY APPROPRIATION BILL.

The committee resumed the consideration of the Army appropriation bill.

The CHAIRMAN. The following is the pending amendment:

Strike out the fifth amendment of the Senate, and insert in lieu thereof the following:

For repairs, preservation, and contingencies of arsenals, $50,000; and for continuing the construction of the arsenal at Benicia, California, $40,000; and it is hereby provided that the annual compensation of the civil superintendents of the national armories be $2,500, without perquisites, allowances, or additions of any kind; and that the same be paid out of any money in the Treasury, not otherwise appropriated.

Mr. FAULKNER. Mr. Chairman, I do not know what this extraordinary action of the House foreshadows in reference to that measure for the increase of the Army, in which I feel so deep an interest. But I must be permitted to express the opinion, that the Army has not received from this body, during the present session at least, that consideration which is due to that branch of the public service, and to the just expectations of the country. I claim no merit for myself; but I do assert, that the Committee on Military Affairs of this House has honestly and faithfully discharged the trust reposed in it. Yet, sir, from the commencement of the session to the present moment, that committee has not been able to procure the attention of this body to one of its important general recommendations. Whilst every interest throughout this broad Confederacy has, to some extent, been favored with a hearing; whilst every other committee of this body has had more or less of its recommendations acted upon; whilst almost every private claim which could enlist the zeal or sympathy of a single member, has been favorably received, the appeals of the Secretary of War, of the President of the United States, and of the Military Committee of this House, fortified, as they have been, by daily intelligence of the destruction of the lives and property of our citizens on the frontiers, have been unable to extort one responsive feeling from this body.

And now, sir, when the interests of the Army are fairly before us—not, however, through the courtesy, justice, or patriotism of the House, but by the action of the Senate, in appending an amendment to the appropriation bill, a motion is made, and carried, to close the debate in five minutes; thus depriving that committee of all opportunity of vindicating measures which it has elaborately prepared for the action of this House. Sir, when I look back to the time which has been consumed here in irrelevant discussion, I feel shocked at this exhibition of false economy, which would seek now to arrest debate at the very moment when debate is important to the country. If this House has already lights before it sufficient to enable it to act upon the Army bill; if you are prepared to vote down all competing propositions, and to give me what I am ready to demonstrate the interests of the country demand, an increase of four regiments to the regular Army, I feel no desire to address you. But, if you have not already in your minds fully determined upon the adoption of the views of the Military Committee of this House, I pronounce this close of the debate, under the circumstances, a monstrous violation of propriety. The condition of our frontiers demand an increase of the Army. I am prepared to show the necessity for such increase. It is called for by that department of the Government upon which the Constitution has devolved the protection of the lives and property of our people. And if further information is required beyond that contained in the official communications of the Executive, I am prepared to show, from authentic sources, facts occurring since the date of the special message of 16th of January——

[Here the hammer fell.]

The CHAIRMAN. The time for closing the general debate upon this bill has now arrived.

Mr. PERKINS, of New York. I ask the unanimous consent of the committee to allow the gentleman from Virginia to proceed with his remarks.

Mr. HUNT. I hope that the committee will grant their consent to the gentleman to continue his remarks, as he is the chairman of the Committee on Military Affairs.

The CHAIRMAN. Is there any objection to the gentleman from Virginia proceeding with his remarks?

Mr. SMITH, of Virginia. I understand that the House ordered the debate to be closed upon this bill in five minutes. Can we extend the time then?

The CHAIRMAN. If this were a new proposition, the Chair would decide, that the committee had no such power; but the Chair is informed that it has been the practice of the committee to extend the time when unanimous consent was given for that purpose As there seems to be no objection, the gentleman from Virginia [Mr. FAULKNER] will be allowed to proceed with his remarks.

Mr. FAULKNER. Mr. Chairman, I thank the committee for the courtesy extended to me, and I will now proceed to lay before it the considerations which have prompted the recommendation of an increase of the Army.

Ever since the close of the Mexican war, when, with the annexation of new territory, we acquired so large an addition to our Indian population, we have been more or less engaged in hostilities with the savage tribes of the West. I have not time to enter into any explanations of the causes of these hostile relations; but the fact is so, and will not be denied. Every annual communication of President Fillmore called the attention of Congress to the fact; and his Secretary of War, in his last report, even recommended the total abandonment of the Territory of New Mexico, the removal of the whites, and payment for their property by the Government. The present Secretary of War, in his report of December, 1853, earnestly invoked the attention of Congress to the state of the western Indian tribes, and to the causes which tended to bring them into hostility with our citizens. In his last annual report, the subject was again brought forward, with the additional considerations presented by a realization of the evils anticipated. On the 16th of January last, we received a special communication from the President of the United States, in which it is stated, that, since the 1st of December, "intelligence received from officers on the frontier, and through the Department of the Interior, from Indian agents and other sources, show that the Indians of the western prairies and mountains are in hostile and defiant attitude; that several of those tribes have entered into combinations for the purpose of making a general war upon the whites during the approaching spring and summer; and that these tribes can bring into the field from four to six or eight thousand warriors." These are official annunciations, made to us by that department of the Government upon which the Constitution has devolved the responsibility of recommending the measures necessary for the public defense; and if any member of this body will read the communications upon which that Executive statement is founded, he will be satisfied that it is in no wise magnified or exaggerated.

Do you desire any information received since the date of that special message confirmatory of its views? It is here before me in a letter from the commandant of Fort Kearney, bearing date the 24th of January last; in a letter from the Governor of Iowa to the delegation of that State in Congress, bearing date the 29th of January, 1855; in the letter of General Garland of the 2d of February, announcing his call for five companies of mounted volunteers, to aid the regular forces to repel the attacks of the Indians in New Mexico. You have it in the intelligence which has reached us through the public papers of the murders perpetrated in Texas, Oregon, Iowa, and at Puebla, making in all forty-three men, women, and children, victims of Indian barbarity, to be added to the bloody catalogue of the past twelve months, thus exhibiting, in one year, the appalling fact of two hundred and eleven citizens—that we know of—that have fallen victims to the pence wise and life reckless policy which has characterized the legislation of Congress. I say two hundred and eleven whose names and fates are known, how many, within the same time, have, unknown to us, been waylaid and scalped in the pathless forest; how many in their toilsome journeys across the plains, and amidst the gorges and cañons of the mountains have been robbed and murdered by the same unscrupulous foes, I leave it to those familiar with their secresy and cunning to imagine.

Mr. Chairman, when I read of these constantly recurring incidents of frontier massacre, I am filled with amazement at the apathy and indifference which have marked the conduct of this House. We all remember in 1846 how the murder of one American citizen caused a thrill of horror to vibrate from one end of this Union to the other; and here is the murder, within twelve months, of more of our people than fell in all the battles of the Rio Grande, and yet this House cannot be roused to a sense of the high and imperative duty which now devolves upon it.

Sir, let me assure gentlemen, that the country is now awake to the voice which is crying for relief from the western frontiers, and that it will not hold that department of the Government guiltless which, at a time like this, shall refuse the relief so urgently asked for. So far as the public press may be regarded as a reflection of public sentiment, it is united in its patriotic appeals, and however entitled to the applause of the country this Congress may be for its many valuable enactments, it will leave one source of merited rebuke and disappointment, if it does not before it adjourns strengthen the arm of the Executive to protect the citizen and repel Indian hostility and aggression.

I spoke of the Press—and in this connection it gives me pleasure to commend the elevated and patriotic tone which the leading Whig press of the country has assumed upon this question. It exhibits a just discrimination in vindicating the Executive from responsibility for the recent outrages upon our frontiers, and in casting blame where it should justly fall—upon Congress, but more especially upon this House of Congress.

I read the following extracts from one of the leading Whig journals of the country:

"This is a serious state of things. It is not only perplexing but humiliating. That the Administration should be reduced to acknowledge its inability to make adequate resistance against the various band. of hostile savages which are laying waste the soil of the nation, tomahawking its citizens, and destroying or carrying off their property, is a fact which is indeed disgraceful. *The fault*, of course, *is not with the Executive*, because he may have done, and we are disposed to take for granted has done, all that the means at his command would admit of. But Congress has thus far disregarded the appeals which have been made to it in this exigency, and the probabilities now are that we shall find ourselves in the midst of a terrible contest with a most wily, vindictive, and obstinate foe, before we have begun to put ourselves in any suitable condition for the war.

"The present strength of the Army is shamefully and dangerously disproportionate to that which is required for the public defense. The very latest official estimates exhibit this deficiency in a most striking manner. There is not a community in the world, of any pretensions to political dignity and power, which has not a more respectable military armament. Our whole establishment is not much, if any, greater than that with which some Powers fortify remote and petty colonies; and it is illustrative of a spirit of parsimony and a degree of folly which are eminently unworthy of an extensive and enlightened State, which, in all other respects, is entitled to rank among the first-rate empires of the earth.

"But pride in this matter is not the consideration we have now to do with in urging an increase of our Army. There is a war coming—a bloody and fierce war—with a combined multitude of sanguinary savages, infuriated by the rapid encroachment of civilized settlements upon their aboriginal and hereditary domains; and it is against that necessity that we have now to prepare. We have postponed preparation too long to stave off the evil, and the best that can be done now is to provide as speedily as possible a force of such magnitude and efficiency as will suffice to render the war as short and harmless as practicable. *The delay of Congress to act in this emergency is highly reprehensible, and may be deplorably fatal.* Too much time has already been lost. The interest of the country can afford to have no more careless temporizing with danger. Let the Army be augmented at once, and on the most liberal scale demanded by the exigency."

Sir, these are the views of the leading Whig press of this country, so far as I have had the means of ascertaining them, and they are views which do honor to the patriotism and public spirit of that party; and I trust they will not be without their proper influence upon a Democratic House of Representatives.

The absolute necessity of an increase of the military force of this country in some form, either of regulars or volunteers, is universally conceded. It is conceded by the gentleman from Missouri [Mr. BENTON] in the plan proposed by him of raising eight battalions of mounted rangers. It is conceded by the Committee of Ways and Means in their proposition to call out three thousand volunteers. It is conceded by the Senate in the amendment now pending before us for our adoption.

If I were at liberty to prescribe a policy suited to the present emergency, I would retain the amendment of the Senate, which provides for an increase of four regiments to the regular Army, and add to that, an authority in the Executive to call out a force not exceeding three thousand volunteers, if the necessities of the country demanded it.

Mr. McMULLIN. I desire to ask my colleague a question just here.

Mr. FAULKNER. I hope the question will be brief.

Mr. McMULLIN. I understood my colleague to say that he desires the House to adopt the amendment of the Senate, which proposes to add four regiments to the regular Army of the United States, and that in addition to that, there ought to be placed at the command of the Executive, if he shall deem it necessary to use them in the exigencies of the country, also a volunteer force. I desire now to ask my colleague what number of men would be required to fill up the present existing companies? And I desire to know whether or not the present companies, when filled up, will not supersede the necessity of adding the four new regiments?

Mr. FAULKNER. My opinion is, that the four regiments are necessary. But I cannot, at this time, enter into the details to which the gentleman refers, but I will give him all the information he desires during the five-minute debate. But to proceed. I would retain the provision for an increase of the regular Army, because I believe, as a permanent measure of policy, it is essential to the protection of the frontiers, and will be so for many years to come. I would give to the Executive the authority to call forth volunteers, for I have such confidence in the prudence and discretion of the Secretary of War, and so thorough a knowledge of his views as to the expediency of employing that description of force, that I know he would never call out one single company, unless the exigencies of the occasion most imperatively required it.

But, sir, I do not feel at liberty to prescribe a policy now. We have but three days of the session left. The Senate has already acted upon this subject, and after full and mature discussion, it has rejected the proposition to employ volunteers, and has decided in favor of an increase of the regular Army. It is too late to enter into a contest with the Senate now—time is too precious and the exigency too urgent; we are driven to the necessity of choosing between a regular or a volunteer force—indeed, I might say, in view of the action of the Senate, that we are driven to the necessity of choosing between an increase of the regular Army, or no increase of our military force at all. The necessity for an increase of our regular military establishment is not now for the first time brought to the attention of Congress. Nor is the demand for it based alone upon the present threatening character of our relations with the Indian tribes of the West, although recent events have stimulated that demand, and rendered more apparent the foresight of the Executive in asking for an additional force. Mr. Fillmore, whilst President, in every annual message urged the policy upon the consideration of Congress. He saw, from the large addition to our territory, the vast increase of our Indian population, the extension of our military posts, and the new routes of emigration opened through the Indian country, that an additional force was essential to the protection of the emigrants, and our citizens living upon the frontiers. The same appeals have been made to Congress in every annual communication from the present Executive. One would naturally suppose that the opinion of General Scott would not, upon such a subject, be without its just influence upon this body—especially, since it has so recently testified its sense of his exalted military genius and character, by bestowing upon him the just and distinguished compliment of a title never before enjoyed in this country, except by the Father of our Country. I extract, from his examination before the Committee on Military Affairs on the 3d of January last, the following questions and answers:

Question by Mr. Faulkner, chairman of the committee: What, in your opinion, should be the strength of the Army of the United States at this time, in view of our extensive sea-board and foreign frontier; our present and prospective relations with the Indian tribes of the West, and the protection due to our several routes of emigration?

Answer. The increase in the strength of the Army, as provided for in the bill submitted in the War Department, now under consideration by the committee, I deem highly necessary. The bill proposes that there shall be two additional regiments of infantry and two of cavalry. This is, I consider, *the minimum force* that is essential to be added to the Army to protect the frontiers against the hostilities of Indians, the present force on the frontiers being entirely inadequate for that purpose. In Texas, the Indian hostilities have been more destructive than at other points, principally on account of the small force stationed in that country. The troops are constantly engaged in encounters with hostile Indians, and the loss of men, when successful, is always in the inverse ratio of our inferior numbers. Hence the proposed increase, simply in reference to Indian frontiers, seems to be dictated by considerations both of policy and humanity, in order that adequate protection may be afforded to our border inhabitants without a useless sacrifice of our brave detachments.

The increase proposed, of two regiments of infantry and two of cavalry, organized like the present forces, and characterized by the like zeal and activity, would, in my opinion, give reasonable protection to our frontiers and overland emigrants.

No fact is more susceptible of demonstration, by the most conclusive testimony, than that most of the outrages perpetrated by the Indians within the last few years are attributable to the very small force occupying our important military posts, and to the contempt of our power, generated in the minds of the Indian warriors by the knowledge of such feeble and inefficient detachments. There is not at any of our posts a force sufficient for a sortie, nor is it possible for the Secretary of War, looking to the proper distribution of our limited Army, and with the troops now at his disposal, to enlarge these commands. I will refer you to the report of almost every Indian agent, and of every officer stationed upon the frontiers, in proof of this assertion. General Whitfield, who was an Indian agent up to the period of his recent election to this body as the Delegate from the Territory of Kansas, has presented this view with great force in his last report, and will now, if necessary, sustain it upon this floor.

Why this seemingly unconquerable prejudice against a moderate and reasonable increase of our Army? Will any man assert that, with the four additional regiments, it will be larger than the necessities of the country demand? What is the present strength of our Army? Its greatest legal strength, as now posted on the western frontiers—and when there posted the companies may be carried up to seventy-four—is fourteen thousand two hundred and sixteen. Its actual strength but a little exceeds ten thousand. The history of our own and of every army shows that there will always be a wide difference between its legal and its actual strength. In our country, from our rigid adherence to law, and from the wide diffusion of our troops over so extensive a territory, the per centum of difference will be greater than elsewhere. Secretary Conrad estimates the difference in our Army from thirty to forty per centum. But this is greater than it will be, or than should be, under our new enlistment law. General Scott, in his testimony before the Military committee, very justly remarks:

"We can never bring the numbers per company (and consequently not those of the Army) up to the full extent. If, for instance, the legal complement be ten thousand men, we can never have on the muster and pay-rolls more than eight thousand five hundred. If the legal establishment be limited to twelve thousand men, ten thousand would probably be our nearest approach, and so on.

"Under the law, we never can recruit up to the maximum, from the fear that we may exceed it. On any given day the Government must always be months behind in its knowledge of the deaths and desertions which have occurred at all the distant posts, and with detachments of recruits in route to join those posts. As we cannot assume an average number of casualties in advance, for they vary exceedingly, we are obliged to fall considerably below, in order not to exceed the law by a single man."

The actual strength of our Army under its present organization, it is estimated, will never much exceed eleven thousand. Here, then, is eleven thousand men to be distributed over three millions of square miles to garrison one hundred military posts, to overawe and hold in subjection forty thousand Indian warriors, to guard ten thousand miles of foreign and sea-board frontier, and to protect our citizens upon eight thousand miles of emigrant routes through the Indian country. Will any man assert that this is an adequate force? Take a single one of the five military departments—that of the west—in which those combinations are now forming among the Sioux and other kindred tribes, threatening to commence the work of pillage and murder with the opening of spring. That department embraces seven hundred and fifty-seven thousand nine hundred and ninety-six square miles; has an aggregate amount of sea-board, Indian and foreign frontier, of two thousand four hundred miles, and two thousand miles of emigrant routes through the Indian territory. It has in it twelve military posts where it should have at least twenty; and those twelve so feeble in their commands, as to be inefficient for the purposes of protection. That department embraces an Indian population of one hundred and eighty thousand souls, and at least twenty thousand Indian warriors, armed with our most improved rifles, and skillful in the use of those arms; and yet the whole force which the Secretary of War is enabled to throw into that department is eighteen hundred and fifty-five men—but one soldier to each four hundred and eight square miles, and but one soldier to every ninety-seven and a half of the Indian population. Now, sir, are there no general facts and reasoning upon the basis of which we can be guided in determining what should be the strength of our Army at this time? Can no light be thrown upon this point by a comparison of its present force with what it has been at former periods of our history in times of profound peace? This subject was many years ago elaborately considered by one of the ablest and most accomplished minds that ever presided over the War Department of this country. His lucid and statesmanlike reasoning then made in opposition to a reduction of the Army, is applicable now to the increase of the Army. I quote from the report of Mr. Calhoun as Secretary of War, made to Congress on the 11th of September, 1818. In discussing, at that time, what should be the proper strength of the Army, he says:

"Considered as an original question, it would involve in its discussion the political institutions of the country, its geographical position and character, the number and dis

tances of our posts, and our relations with the Indian tribes and the principal European Powers.

"It is conceived, however, that a satisfactory view of it may be taken without discussing topics so extensive and indefinite."

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"The military establishments of 1802 and 1808 have been admitted, almost universally, to be sufficiently small. The latter, it is true, received an enlargement, from the uncertain state of our foreign relations at that time; but the former was established at a period of profound quiet—the commencement of Mr. Jefferson's administration—and was professedly reduced, with a view to economy, to the smallest number then supposed to be consistent with the public safety. Assuming these as a standard, and comparing the present establishment (taking into the comparison the increase of the country) with them, a satisfactory opinion may be formed on a subject which otherwise might admit so great a diversity of opinion."

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"It will appear that our military establishments, at the respective periods, taken in the order of their dates, present an aggregate of 3,323, 9,996, and 12,656. It is obvious that the establishment of 1808, compared with the then wealth and population of the country, the number and extent of military posts, is larger in proportion than the present; but the unsettled state of our relations with France and England at that period renders the comparison not entirely just. Passing, then, that of 1808, let us compare the establishment of 1802 with the present. To form a correct comparison, it will be necessary to compare the capacity and necessities of the country then with those of the present time. Since that period our population has nearly doubled, and our wealth more than doubled.

"We have added Louisiana to our possessions, and with it a great extent of frontier, both maritime and inland. With the extension of our frontier, and the increase of our commercial cities, our military posts and fortifications have been greatly multiplied. Document marked C exhibits the number and position of posts in the year 1802, and document D those of the present time, by a reference to which it will be seen that at a former period we had but twenty-seven posts, the most remote of which were, to the North, at Mackinaw, and to the South, at Fort Stoddert, on Mobile river; but now we have seventy-three, which occupy a line of frontier proportionally extended. On the lakes, the Mississippi, Missouri, Arkansas, and Red river, our posts are now, or will be shortly, extended, for the protection of our trade and the preservation of the peace of the frontiers to Green Bay, the mouths of the St. Peter's and the Yellow Stone river, Bellepoint, and Nachitoches. Document marked E exhibits a statement of the extent of the line of our frontier, inland and maritime, with the distance of some of the more remote posts from the seat of Government, drawn up by Major Long, of the Topographical Engineers, from the most approved maps.

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"If, then, the military establishment of 1802 be assumed to be as small as was then consistent with the safety of the country, our present establishment, when we take into the comparison the prodigious increase of the wealth, population, extent of territory, number and distances of military posts, cannot be pronounced extravagant; but, on the contrary, after a fair and full comparison, that of the former period must, in proportion to the necessities and capacities of the country, be admitted to be quite as large as the present; and on the assumption that the establishment was as small as the public safety would then admit, a reduction of the expense of our present establishment cannot be made, with safety to the public service, by reducing the Army. In coming to this conclusion, I have not overlooked the maxim that a large standing army is dangerous to the liberty of the country, and that our ultimate reliance for defense ought to be on the militia. Its most zealous advocate must, however, acknowledge that a standing army, to a limited extent, is necessary; and no good reason can be assigned why any should exist but which will equally prove that the present is not too large. To consider the present Army as dangerous to our liberty partakes, it is conceived, more of timidity than wisdom."

Comparing the capacity and necessities of the country with what they were in 1818—the period of Mr. Calhoun's report—and adopting the same process of reasoning, to what conclusion would it lead us as to the proper strength of our Army? If population be the standard of comparison, our Army now, as compared with that of 1818, should be thirty-six thousand two hundred and seventy-eight. But I concede that, whilst population may, amongst European Powers, form a standard by which to regulate the size of an army, (their military establishments being equal to about one hundredth part of their entire population,) it forms no accurate basis to regulate the strength of an army in this country. The army is needed there to hold the people in subjection to the Government. We have no such use for it here. But if you will take the legitimate subjects of comparison, our extended territorial area, the number of our military posts, the increase of our Indian population, their possession and proficiency in the use of firearms, the extent of emigrant routes through their territory, their growing desperation, resulting from loss of game, and the extent to which they are now hemmed in on all sides, north, south, east, and west, by the advancing tide of white emigration, it would be no exaggeration to say that our Army now, compared to what it was in 1818, should be at least fifty thousand in strength. But no such increase as that is asked for. The four new regiments now proposed will not make our actual available strength much beyond twelve thousand men. General Scott, in his testimony before the military committee, in speaking of the sliding scale proposed by which a company might, at the discretion of the President, be increased from sixty-four to one hundred, according to the varying exigencies of the service, but which sliding scale has not been adopted, says:

"Under the proposed augmentation, and *the discretion given to the President*, the establishment might be set down at nineteen thousand privates; yet, for the reasons mentioned, we should never have on the pay rolls, at the same time, more than fifteen thousand five hundred, and *present, fit for duty*, fourteen thousand eight hundred."

But the discretion referred to by General Scott has not been vested in the President, so that the utmost actual strength of the Army, which, with the proposed increase, we can calculate upon will be about twelve thousand privates.

Now, sir, will any gentleman hesitate in voting for an increase of the regular Army, because of the additional burden which it will impose upon the public treasury? I stand here prepared to demonstrate that it is a measure of economy, of clear, plain, undeniable economy. Does any man suppose that a failure by Congress to provide the regular and constitutional means of defense, will prevent the people or their agents in the States and Territories from contracting, under the great law of self-preservation, expenditures to four times the amount, whenever the emergency demands it. Look at the history of this country for the last twenty years and tell me what have you saved by your penurious policy in restricting the regular Army to its present small number. Look on the bill now in your hands which appropriates $137,755 38 to defray the expenses of the Texas volunteers. This morning I received a communication from the Secretary of War, asking me to have added to the appropriation bill $108,000 to pay the five companies just ordered out by General Garland for the protection of the people of New Mexico. Show me a single session of Congress, since I, at least, have been a member of the body, that from a quarter to a half million of dollars, and some times a million of dollars, have not been appropriated to pay the volunteer forces of States and Territories, because of the deficiency of your regular military force. It is well known that your difficulties with the Sac and Fox Indians in 1832 cost you $3,000,000, that you made definite appropriations between 1836 and 1841 to subdue the Seminole Indians of $18,000,000; and that the aggregate of your expenditures for the last twenty years, independent of the support of your regular Army, has exceeded $30,000,000, and this, exclusive of loss of life, of labor, and of property, exclusive of the withdrawal of fifty thousand citizens from their ordinary productive employment, and the immense increase to the pension list. Sir, let no man tell me in the face of these admitted facts, that an increase of your regular establishment is not a measure of economy, as it certainly is of justice, of humanity, and of constitutional obligation.

Go to the War Department, and examine the bills presented by these volunteers, for their own services and the use of their horses, in those constantly recurring Indian expeditions, and you will see where true economy would lead you. Why, sir, charges for the use of a horse, upon short service, where the horse was brought back safe and sound by the owner, have, in repeated instances, seven times exceeded its value. And the present Secretary of War, with all his rigor, could only enforce a rule that the compensation for a horse, returned sound, shall not more than twice exceed its value. You cannot dispute these requisitions made for volunteers. You must recognize the propriety of the call in all cases, for you are conscious of your own delinquency, in not providing a sufficient regular force. You cannot dispute their bills—and if you can, you will not dispute them. Sooner or later, they are all paid, no matter how unnecessary the call, or how unreasonable the prices charged. I believe, sir, that the Committee on Military Affairs has exhibited the first instance, this winter, of overruling one of these claims. Not that we dared to reject it. Sir, no; we postponed it for further proof. It was the claim of the volunteers for New Mexico, for services against the Indians in the summer of 1854. Well, the acting Governor of New Mexico appeared before the committee after its postponement, to ask a reconsideration, and to exhibit the necessary documentary proof of the claim. He was earnest, and eloquent in pleading on behalf of those four hundred volunteers, and exhibited, in glowing language, their sacrifices and sufferings. Amongst the papers that he handed to me, was an official communication from himself to the Commissioner of Indian Affairs, bearing date the 30th of May, 1854, minutely describing the acts and proceedings of the troops. In looking over it, I was attracted by the following passage: "The militia of this Territory is in a most pitiable condition. The best armed men of the counties were detailed, and not one in five of them has a gun, among the whole four hundred now in actual service, and there is not to be found five pounds of powder." Well, I inquired of his Excellency how they succeeded under such circumstances in killing the Indians which he spoke of. He said the militia had *stoned* them to death. Now these, and all such claims will pass, and they cannot be successfully resisted. And you are thus paying high prices for four hundred volunteers, without powder or guns—when a single company of regulars, at one sixth of the cost per day, would do more efficient service than a regiment of such militia.

Mr. Calhoun, in 1818, as I have before shown, and in 1821, whilst the Secretary of War argued with great ability and power against a reduction of the Army, and yet, notwithstanding his powerful and unanswerable reasoning, the Army was reduced in the latter year to six thousand men. Let us now see, so far as history can guide us, the consequences of this improvident reduction of our military establishment. I think it may be fairly asserted that since that period, we have expended largely upwards of $100,000,000 in Indian and other wars that might have been avoided, if, by a wise foresight, we had placed at the command of the War Department, a military force commensurate with the wants and necessities of the country. It is stated in a report of high authority, and seems to be universally conceded, that if there had been a regiment available near St. Louis in 1832, the war with Black Hawk might have been easily avoided, and it rests upon equally high authority that these scenes of devastation and savage warfare which overspread the Floridas for nearly seven years, and cost the country some $30,000,000, might have been avoided if two regiments had been at the command of the War Department. And it may with equal historical truth be said, that if our Government, instead of pushing forward a small force of two thousand men in the face of a large Mexican army, had occupied the country between the Nueces and the Rio Grande with a well organized army of even eight thousand men, the war with Mexico might have been avoided—but in all these instances, the smallness of our force offered inducements to the attacks upon us. And now, sir, I have no hesitation in saying, that if we are, in the course of the approaching spring and summer, to be involved in the expenditures and bloodshed of a general Indian war, it is susceptible of the clearest demonstration, that it may be traced to the neglect of Congress in not responding promptly and favorably to those repeated appeals made by the Executive to increase its means for the defense of the country.

Amongst the several propositions now pending before the committee, feeling myself driven to a choice between an increase of the regular Army and the employment of an equal number of mounted volunteers or rangers, I cannot hesitate between the two. I decidedly prefer an increase of the regular Army, and I will briefly assign my reasons for that conclusion.

1. It is the proper and constitutional force to be employed in the service contemplated. It is the means of protection and defense provided by the Constitution for the precise purposes for which it is now asked. Power is given to Congress to call forth the militia to suppress insurrection, and to repel invasion; and when that call is properly made, it will be promptly responded to by the patriot hearts of the nation. Indian wars upon our remote, unsettled frontiers present no field for the exercise of that patriotic feeling. Duty does not require the sacrifice; ambition need not seek it. It is well remarked by Fisher Ames, that "it is not in Indian wars that heroes are celebrated; although it may be there that they are

formed." It is the appropriate field for those who make arms their profession, and who covenant for a reward to protect the peaceful citizen from predatory outrage and annoyance.

2. It is the cheapest and most efficient force for the purposes for which it is wanting. Look at the estimate of the Secretary of War for the three thousand volunteers for a period of twelve months. It is $3,920,485. What are his estimates for the four regiments of the regular Army? They are less by near $1,500,000. But it may be said that these are mere paper estimates. Then I invite your attention to an inquiry instituted by Congress in 1838, and which was responded to by Mr. Poinsett, then Secretary of War, presenting, from actual data in the War Office, the comparative expense of volunteers, militia, and regular troops. Mr. Poinsett, in his report of the 21st of March, 1838, sums up the result of the inquiries instituted, with these concluding remarks:

"The difference of expense between the employment of volunteers and regulars is, at least, as four to one, independently of the wastage attending their ignorance of every administrative branch of the service, the enormous expense of marching to and from distant points for short periods of service, and the great increase that will be made to the pension list under the provisions of the act of the 19th of March, 1836."

The Paymaster General, in his letter in the same document, enlarges upon one view of the question that is not unworthy of attention:

"There is one comparison that would place the contrast between the expenses of regular and irregular troops in a much stronger light, if I had the data to enable me to state it in figures; that is, the comparative loss and destruction of military stores and public property by the two forces. The immense importance attached to this subject by European Governments, as a principal means of sustaining war, has led to the most rigid economy, and the strictest accountability in everything connected with the *materiel* of an army. We have profited by their experience, and it is probable a more perfect system of accountability is nowhere to be found than in our little Army; but it requires the study of years to understand, and the exercise of martial law to enforce it. This cannot be expected of irregular troops, that serve, at most, but a few months. As volunteers are frequently relieved, and their places supplied by others, it requires a large number to keep up a moderate force in the field. This increases in proportion not only the travelling and clothing expenses, but adds greatly to the pension list."

Halleck, an American writer, in his work on Military Art and Science, furnishes one fact strongly corroborative of the Paymaster's views. He states that during our late war with Great Britain, of less than three years' duration, two hundred and eighty thousand muskets were lost —average cost of which is stated at twelve dollars, making an aggregate loss of muskets alone of $3,360,000, resulting mainly from that neglect and waste of public property which almost invariably attends the movements of newly raised and inexperienced forces.

Secretary Spencer, in a report to Congress in 1842, says that "the expenses of the militia invariably exceed those of regulars by at least three hundred per cent."

3. I am opposed to the substitution of volunteers for regulars, because it is not the description of force which those responsible for its employment before the country ask for from Congress. Surely, if there is a point upon which the Legislature might properly defer to the Executive, it would be as to the means and instruments to accomplish a given result. Sir, it may be very well for Congress to determine whether the present exigency requires any increase of our military force; but when we determine that it does, the views of the Executive as to the particular kind of force required, are well entitled to the respectful consideration of this body. If he asked for cavalry would you give him artillery? If he asked for artillery would you give him infantry? Why, sir, this would be merely sporting with the interests of the country, and with the dignity of Congress. It would be nothing less than mockery. So when he asks you for regulars, will you give him what he does not want—volunteers? Sir, I fear the Secretary of War, in asking for a fish, would regard you as giving him a scorpion; for I know that it is his deliberate opinion that the effect of your giving to him a volunteer force as a substitute for the regular Army, will be only to provoke an interminable Indian war, without the means of averting its disastrous consequences. I will take the liberty here of reading an extract from a letter, which, on the 13th of February, he addressed to the gentleman from Missouri, [Mr. PHELPS,] who requested him to furnish an estimate of the cost of three thousand volunteers for a period of twelve months. He says:

"In communicating this estimate I take the liberty of exceeding the limits of your inquiry, so far as to say, that the substitution of a militia force for the regular force asked for, will not, in my opinion, secure permanent peace and good order on our frontiers, and that such a change being against the views of this Department, the responsibility for the consequences will not be mine."

4. I am opposed to the substitution of volunteers for an increase of the regular Army, because I believe that the present exigency requires some action by Congress, and because the Senate has so decisively and conclusively exhibited its determination not to employ volunteers, that a persistence in demanding them would lead to the loss of all increase of our military forces.

5. I prefer the regular to the volunteer force, for it will avoid all those perplexing questions about the respective rights of the Federal and State Governments in the appointment of officers, about which I know the two gentlemen from Missouri [Messrs. BENTON and PHELPS] will be unable to agree when they come to act upon their respective schemes of a volunteer force.

And lastly, I will express it as my deliberate opinion, that I do not think that our relations with the Indian tribes have reached such a point as to justify the employment of that avenging force, which rangers, as their duties are prescribed in the amendment of the gentleman from Missouri, [Mr. BENTON,] must be, and which volunteers, if they come from the frontiers warm with resentment for injuries to their persons and property, will be. That the Indians have committed many horrible and heart-rending atrocities within the last twelve months, is not to be denied; and that there is much to palliate and excuse their acts will, I think, be admitted by all. I would seek out, demand, and punish the perpetrators of those inhuman outrages which have so shocked the sensibilities of the country. I would place a force in the vicinity of the Indian population sufficient to impress them with the power of this Government, of which they seem now to be ignorant. I would break up their combinations; I would repel their assaults and punish their aggressions. I would war with them, if need be, with that cool, unimpassioned force which we may expect to find in a well-trained, disciplined body of regulars. But I should long hesitate before I would send against them a force that would esteem forbearance a crime and inactivity a disgrace—a force selected from the frontiers, with their passions kindled by a sense of injury, and who, from the very call upon them by their country, would hold it to be their mission to exterminate and destroy.

Mr. PHELPS. I do not intend to enter into any analysis of the reports which have been made by the officers of the Government who have been engaged in the Indian country, which have reference to the subject of this amendment. I might refer to the reports of the military officers who have been engaged in the west of Texas. I might refer to those who have been engaged in New Mexco, and, indeed, to the reports of the officers engaged upon our entire frontier, for the purpose of showing that hostilities have existed between many of the Indian tribes and the whites during the last twelve months. From the examinations I have made, I have no doubt that as many as three hundred citizens have been killed within the last twelve months by the Indians, and more than sixty of the regular forces of the country, embracing officers and men. An engagement has taken place at Fort Laramie, some two or three engagements have taken place in New Mexico, and engagements have also taken place in the State of Texas, besides the engagements which have taken place upon the Pacific, between the whites and the Indians. By referring to a report made by Mr. Vaughan, who is an Indian agent, and has been stationed among the Indians on the Upper Missouri and on the Platte—a man who has been in the Indian service for many years—you will see that he tells you that he is satisfied, from information which he derives from the Indians, and from those who have been with them, and know their habits, that an Indian war is about to take place upon the frontier, and that there is a general understanding among many of the tribes that they shall reject all offers of presents from the Government, take in their hands the tomahawk and the scalping-knife, and murder the defenseless people who may be crossing the plains.

Mr. Chairman, I enter on the investigation of this subject with some feeling. During the last five years about thirty thousand people a year have started from the western border of Missouri for California and Oregon. During the same period, many persons engaged in trade and business have crossed the plains not only to the Territories of New Mexico and Utah, but to the Territories of Washington and Oregon, and the State of California. Their lives and property are exposed to the ravages of the merciless and savage Indians, who rove the plains seeking to destroy the one and capture the other. Everything points to the necessity of making provision for the protection of these people, and of those who live upon the frontier.

We have a large Indian country crossed by several trails. One of these leads to the Territory of Oregon, and, diverging, to the Territory of Utah, and by the Great Salt Lake to California, and is more than two thousand miles in length. Then you have one still further south, leading from Independence to the Territory of New Mexico, a distance of eight hundred and forty miles, and on those great lines of travel there are no white settlements except the settlements in the Territory of Utah. Then, sir, there is a road from the State of Arkansas to New Mexico traveled by emigrants to California, and persons engaged in trade with New Mexico, eight hundred miles in length, and the road from New Mexico to California is about eight hundred miles further. Throughout the entire country through which these various roads pass, there are hostile Indians, who exhibit a disposition to prosecute their hostilities during the ensuing summer. There is, therefore, an imperative necessity upon Congress to make some immediate provision for the protection of the people on the frontier, who are surrounded by these hostile Indians.

The gentleman from Virginia [Mr. FAULKNER] took occasion to refer to the opinion of the Senate as to the proper force to be employed for this purpose. Now, I say that the question between a volunteer or a regular force has not been tested in that body. It is, I know, unparliamentary to refer to the deliberations of the other branch of Congress. We may speak of the bills which they may have passed, but we cannot refer to the debate which may have taken place, nor to the course of procedure upon propositions there pending.

But, I ask you, sir, who is to be swerved from the path of duty by the opinion or action of Senators? Who is willing to surrender his own opinion to the opinions which may have been expressed by Senators upon this subject? Have you assembled here for the purpose of deliberation, or have you surrendered your right to deliberate to another body which, under the Constitution, possesses no more rights than you possess? I am willing to listen to suggestions from those skilled and experienced in matters pertaining to warfare, and if they produce conviction in my mind, I am ready to adopt those suggestions. But if not, I must pursue that course which my judgment tells me is proper and right.

But the gentleman from Virginia objects to the employment of volunteers. He says they would enter upon this campaign with an avenging spirit and a remorseless disposition. Why did not the gentleman think of that when he was endeavoring to introduce a bill into this House providing for the calling out of three thousand volunteers and five hundred friendly Indians? The gentleman came forward here and said that he held in his hand a bill of great public importance, to provide for the defense of the people on the frontier in the only way in which it could be done, and that very bill proposed to call out three thousand volunteers and five hundred Indians. Where then were the gentleman's fears that volunteers would go upon the plains with an avenging spirit!

Mr. FAULKNER. I stated in my remarks, but a few moments since, that if I was at liberty to prescribe a bill, I would, in addition to an increase of four regiments to the regular Army, place a volunteer force at the disposal of the Executive, to be used if the emergency demanded it, not because I think a volunteer force the most proper and suitable in the present condition of our relations with the Indians, but because I thought, when I introduced that bill, and think now, that it is a power that may be very safely confided to

the present Secretary of War, who, I well know, would never use the power given to him in such a service as is now contemplated, so long as he could dispense with volunteers with safety to the lives of our people.

Mr. PHELPS. The gentleman from Virginia read an extract from a letter which has been addressed to him, to show the committee what is the opinion of the Secretary of War on this subject. I invite the attention of the committee to the message of the President and the opinion of the Secretary of War which accompanies it, and say I concur in their opinion, and believe the exigency exists requiring the calling out of a volunteer force.

The President of the United States, in inviting the attention of Congress to the subject, says:

"I transmit herewith a letter of the Secretary of War upon the subject of Indian hostilities. The employment of volunteer troops, as suggested by the Secretary, seems to afford the only practicable means of providing for the present emergency."

He further remarks:

"Unless, by the plan suggested, or some other equally effective, a force can be early brought into the field, adequate to the suppression of existing hostilities, the combination of predatory bands will be extended, and the difficulty of restoring order and security greatly magnified."

The Secretary of War, whilst expressing a desire for an increase of the regular Army, and regretting that such a provision has not been made by Congress, remarks:

"This measure, however, has not been acted on, and at this advanced period, should the bills, now pending in Congress, be passed, it will be found too late to organize a regular enlisted force, and place it in position in season to prevent the anticipated attack, or to suppress it until after much mischief shall have been done. The only course now left to the Department in anticipation of the proposed increase, is the employment of a volunteer force to cooperate with such of the regular troops as can be collected for the present emergency, and it is accordingly recommended that authority be asked of Congress to call into service three thousand mounted volunteers, to be organized into companies, squadrons, and battalions, and to serve for a period of eighteen months, unless sooner discharged."

Such is the recommendation of the Secretary of War. Such is the recommendation of the President of the United States communicated to Congress, and which goes among the public archives of the country. These are not letters addressed to an individual member of this House, as that from which the gentleman from Virginia has quoted, but are official communications to Congress.

Mr. FAULKNER, (interrupting.) The gentleman will perceive that throughout the whole of the special communication to which he refers, the President and the Secretary of War contemplate the increase of the regular Army by four additional regiments, and that they speak of this volunteer force as one to be used if emergencies required it, and to be dispensed with as soon as the regular force can be employed.

Now, permit me to state another fact which I did not present when I was addressing the body, but which it is important to state now. This second message was sent to Congress on the 16th of January of this year. Congress did not take action upon it. But when emergencies seemed to require it, and when the Secretary of War found that it was absolutely necessary to do so, he, in conjunction with General Scott and other military men, had to resort to some other means to meet the emergency, and he took eight companies of the sixth regiment of dragoons, and had them sent to the scene where danger was anticipated. I think that fact should be made known to the committee.

Mr. PHELPS. I refer to the opinion of the Secretary of War, and of the President of the United States, to prove that the emergency had arrived which required a force additional to the regular Army. The Secretary of War, although he desires to see the regular Army increased, yet declares to you that the only way in which we can provide for the existing emergency is by the call for volunteers, who are to be taken into the service of the United States for a period not exceeding eighteen months. No other way, sir. That is the recommendation of the Secretary of War to meet the exigency which now exists, and the importance of which the gentleman from Virginia [Mr. FAULKNER] well knows. How does the gentleman propose to obviate this difficulty? Four weeks ago he proposed to obviate it in precisely the same way as the Committee of Ways and Means now propose to obviate it. But now he has another proposition to present. It is true, I am not so well posted in relation to Army affairs as it is to be presumed the gentleman from Virginia is; but I ask him whether, at the assembling of Congress, the Secretary of War did not report to us that there was a deficiency of three thousand five hundred rank and file in the regular Army of the United States? And now the gentleman from Virginia comes forward and proposes, as a remedy for the protection of the people on the frontier, that we shall organize four additional regiments, although the regiments now in service cannot be filled; and if these deficiencies were filled, he would get more men than by the bill which the gentleman himself advocates.

I am aware that this difficulty of inducing men to enlist in the Army of the United States has been lessened. Congress at the last session provided for an increase of the pay of the rank and file; and since the date of the passage of that law, enlistments in the regular Army have been progressing more rapidly than previous to that time.

But I desire to call the attention of the committee to another fact. All of the forces which are required for the protection of the frontier may be supplied without raising new regiments. You may still, with the regiments at present organized, increase the force of the Army to four or five thousand men more than the Secretary of War reported was in the Army at the date of the last reports. You may, therefore, provide for the additional force of the regular Army without organizing new regiments; without fastening upon the country four regiments, which, if once fastened upon it, we will never be able to dispense with. They will be permanently attached to the Army, and you never will have them disbanded.

It is proposed thus to have nineteen regiments in the service of the United States. I am aware that among a certain class of gentlemen this increase of the Army is popular, because they are in the expectation of the promotion which it holds out to officers. In the event of our organizing these four regiments, perhaps every captain in the Army expects to be promoted to the rank of a field officer; and every first lieutenant in the Army to the rank of captain. It is easy to be perceived, therefore, that this amendment of the Senate has become popular with the Army, and the proposition for volunteers as unpopular with the same gentlemen. And in addition to this, you have many citizens who desire to enter the Army. Members of Congress have been beset with applications from their respective constituencies, asking them to obtain for the applicants appointments in the Army in the event of these four additional regiments being organized. And I have no doubt that if every one of these applicants was forced to enter into the service of the country, and take his chance of a commission, we would have a sufficiently strong army to defend the people of the frontier from all the dangers to which they are now exposed.

According to the last report of the Secretary of War, the Army of the United States had one commissioned officer for every ten persons in the Army; and yet the gentleman from Virginia now proposes to place on the rolls one hundred and forty-odd more officers, to hold their commissions for life. In the department of the West the effective force under the command of a captain but little exceeds fifty men; and on the frontier it will not average more than sixty men. And yet the companies now organized would, if filled, have more than eighty rank and file.

Mr. SKELTON. I want to know whether, if the present regiments were filled up, we would have as large an army as it is proposed to have by the creation of these four additional regiments?

Mr. PHELPS. Larger.

Mr. RICHARDSON. I desire to ask the gentleman from Missouri if he does not know that it is utterly impossible that every company should, at all times, have its quota?

Mr. PHELPS. Oh, certainly. That is a well-known fact. This House is often times deficient of its regular number of members.

Mr. ORR. I should like to inquire of the gentleman from Missouri if the failure to fill up the vacancies in these companies arises from the same cause? Is it not from the necessities of the case that the companies have not been filled up? Is it not a long time before the Department of War hears of the casualties?

Mr. PHELPS. Recruits might and ought to be sent out.

Mr. ORR. But recruiting officers must get information of the want of recruits before they can take steps to have men sent out.

Mr. PHELPS. The gentleman from Virginia says he prefers regulars, because he believes that that is the proper and constitutional manner of suppressing these disturbances of the Indians. Now, I suppose that the proper and constitutional manner is by calling out either the militia or the regular Army, or by calling out the volunteers—for the volunteers are militia—and by enrolling them in the service of the United States for such period of time as the exigencies of the service may require. His position is this: that if there is any disturbance between the Indians and the United States, you must increase your regular Army to meet the exigency, and when those disturbances shall have ceased, and peace shall have been restored, then you must reduce your Army. I do not believe in the doctrine which the gentleman advocates. It is quite as constitutional to quell these disturbances with the Indians by volunteers as it is with regulars.

But the gentleman says that the regulars would be more efficient than the volunteers. Now, I join issue with him on that. Where does he expect to enlist these men in the event of our creating these additional regiments? I have heard gentlemen declare they would go to the West and enlist men there to serve in the Army of the United States for five years; men accustomed to the use of horses, and trained to fire-arms; and they declared that these men would make the best soldiers in the country. I grant you that they would make the best soldiers in the country. But will gentlemen from the West come here and declare on the floor of the House how many men they expect could be enlisted in the regular Army in their respective districts?

I do not believe that in the district which I have the honor to represent upon this floor, you could enlist twenty men to serve for five years in the Army of the United States. And I ask any gentleman who represents a rural district in Missouri, Illinois, Iowa, Arkansas, Tennessee, Kentucky, or any other western State, how may soldiers can be raised within the limits of his district to enter the regular Army? Where are they enlisted at the present time, and in what parts of the country do you find the greatest enlistments? They are made at the sea-board, and your regiments are filled up at Boston, Philadelphia, New York, Albany, Baltimore, and various places upon the Atlantic seaboard. Are they efficient men for service in the Army? Most of them are men of foreign birth, and from countries where the use of fire-arms is forbidden to the subjects. They are neither accustomed to the management of the horse nor the use of fire-arms, whilst the frontier man is accustomed to both. You want mounted troops for the expected service; men who are accustomed to the use of horses, who can rapidly traverse the plains and follow the Indians to the places to which they retreat. I ask you if you can reasonably depend upon men who are unaccustomed to the use of horses and fire-arms for the pursuit of the Indians? The frontier men are as well accustomed, from boyhood, to the use of arms and horses, as the best Indian riders upon the plains.

I am astonished to hear the gentleman from Virginia assert that the regulars, compared with volunteers, are the cheapest military force. I know that declarations of this kind have been made, and repeated again and again. The gentleman from Virginia, for the purpose of sustaining his position, referred to the report of Mr. Poinsett, former Secretary of War, wherein he speaks of the expense of volunteers. I am ready to meet the gentleman upon those statistics, and I refer to the report of General Towson, then paymaster general, contained in the same document, who also speaks of the expense of volunteers.

He remarks, whilst speaking of the comparative expense of a regular and volunteer force, and stating the latter is more expensive than the former:

"It is caused principally by expenses for traveling to and from the place where the services of volunteers and militia are required; to the hire, maintenance, and indemnity for horses; and to furnishing them a full supply of clothing as a bounty, without regard to length of service."

Will the gentleman tell me what is the expense of transporting regulars from the East to the

West? I grant you if you are to transport volunteers from this side of the Alleghanies, and pay the expenses of their transportation to the frontier, then the volunteers would be more expensive than the regulars; but in this case it is expected the volunteers will be raised near the scene of action, some of them in Missouri, Iowa, Arkansas, Texas, and probably some of them in New Mexico, and some of them, perhaps, in the Territories of Washington and Oregon. You will get volunteers near the place where they are to be employed.

The gentleman from Virginia, to sustain his position, referred to the estimated expenses of a company of dragoons for six months, and the expenses of a company of mounted volunteers called from the State of Tennessee into Florida, during the Seminole war, and contrasted the expenses of the dragoons and mounted volunteers. He shows that these expenses are as $13,000 to $23,000; but I say that the contrast is a very unfair and unjust one, and I will demonstrate to every member of this committee that the statement of the expenses contained in the document to which the gentleman refers is not reliable.

The pay for volunteers is estimated at seven months and six days, while that of the regulars is estimated at six months, as the record shows. In the estimate for the regulars have you included the cost of horses? Have you estimated the expenses of transporting the soldier from the place where he enlisted to the place where he performs his service? Have you estimated anything for horse equipments for mounted soldiers? Have you estimated the cost of enlistment? The statement upon which the gentleman from Virginia relies embraces no estimate for those expenses. The average value of horses procured for the service of the United States, in 1837, in the Seminole war, was estimated at something like $160. Now, it is a well known fact to every person in the country that, at that period of time property of every description was very high. It appears, from the report of the quartermaster general at this time, that the average value of horses is about $120 a piece. The estimate submitted by General Towson is the expense of a company of dragoons for six months; and I have added to it an estimate for the horses which these soldiers are to ride, at $120 per head, of $17,322. I have added an estimate for the transportation of soldiers, calling it $10 a head, which is the amount estimated by the quartermaster general, and I have added an estimate for horse equipments and expenses of recruiting, making the cost of a company of dragoons, in all, some $24,736. General Towson makes an estimate for the company of dragoons of $13,573, which embraces clothing and subsistence. To recapitulate, I add to it the estimated cost of horses for the use of these dragoons, which, at the price now asked for horses, would amount to $7,320. I add the amount of transportation now estimated at $10 a head, which makes $610; for recruiting, $15 per head, $915; and I add to this an estimate for horse equipments $2,318, making in all $24,736; the actual cost of a company of dragoons for six months in the service of the United States. The same documents show that the cost of a mounted company of volunteers, for six months, is $22.575, even if they be paid for one month and six days more, in going to the place where they are mustered into the service, and returning to their homes from the place where they may be discharged. I ask gentlemen if I have not shown the cost of a company of mounted volunteers is less than a company of dragoons in the Army. I dislike to have statements presented for the purpose of discrediting the services of the citizens when called into military service, and to induce this committee to reject the proposition for volunteers, the best troops for the service required—to adopt a proposition for troops which will be less efficient than the volunteers, and that, too, on the score of economy. I will ask you what kind of troops you desire to go upon the plains? Do you desire efficient men, or men who have been broken down by disease and dissipation? Look at the returns of the Army. Many of the soldiers have been discharged in consequence of disability; and although they may go through the formality of an examination at the time of their enlistment, I am satisfied, for I am so assured by officers of the Army, that there are many persons who are unfit for the military service at the time they were enlisted.

Mr. SMITH, of Virginia. I wish to ask the gentleman from Missouri if he is not aware that every soldier, before he is enlisted into the service, is examined and thoroughly inspected?

Mr. PHELPS. I spoke of that; but, notwithstanding the examination so made, many persons have been received into the service who were soon afterwards discharged for want of the proper physical qualifications.

Mr. FAULKNER. I desire to state one fact to the gentleman from Missouri. During the year ending 1st of September last, more than fourteen thousand persons presented themselves for enlistment, of which number more than four thousand were accepted, and the officers say they have been enabled to make selections of better men than formerly.

Mr. PHELPS. The explanation offered by the gentleman from Virginia only substantiates the truth of the remarks I made. I stated that it had been the practice to receive into the service of the Army, men who were supposed to be able-bodied men, but who were not sound, as they should have been, and whom it became necessary to discharge very soon after they were enlisted. When there are many persons seeking to enlist in the Army, as a matter of course the recruiting officers make a selection; but after all the examinations I submit whether persons have not imposed themselves upon the recruiting officers, as able-bodied men, when they were not such; men who are really not able-bodied, though they appear to be such: and men who, the moment you subject them to hard work, fail in being able to discharge the duties imposed upon them, and have to be discharged as unfit for military duty. Such is the experience of every man who knows anything about it.

Mr. SMITH, of Virginia. I would also ask the gentleman if he does not know that volunteers are examined before they are enlisted?

Mr. PHELPS. Most certainly. An officer, before he musters a company of volunteers into the service, must ascertain whether, in his opinion, the men are fit for the discharge of military service, and if not so satisfied, he will not muster them into service.

Mr. SMITH. They have to be examined by a military surgeon.

Mr. PHELPS. I must appeal to the gentleman from Virginia, [Mr. FAULKNER,] because I do not know, and have not been able to ascertain, to inform me how many mounted troops we have in the service? I ask him if there are any other than three regiments—the two regiments of dragoons, the rifle regiment, and the eight companies of light artillery.

I only desire to call the attention of the committee to the fact, that with from eighteen hundred to two thousand mounted men in the service of the country, the average expenditures of the last three years has been something like $186,000 per year for horses, and that, too, for the purpose of keeping the troops in the service mounted. I am aware that those who are opposed to the employment of volunteers, say that they lose their horses while in the service of the country, and come afterwards to Congress and implore Congress to recompense them, and remunerate them for the loss. Now I desire to call the attention of the committee to the fact, that for the last three years the expense of *keeping mounted* eighteen hundred troops has been $186,000 a year, almost enough to purchase for each mounted man in the service a horse. This shows that those mounted troops—those which you advocate, (addressing himself to Mr. FAULKNER,) on the score of economy—require a horse for each man each year.

I submit to to the committee that the expenses incurred by a regiment of mounted volunteers is less than that of a regiment of regular mounted troops. If you wish to arrive at correct results, let the comparison be made of the cost of a regiment of regulars and volunteers in the Mexican war. If you please, you may compare the cost of the regiment commanded by Colonel Doniphan, raised in my own State, and which marched from the frontier of Missouri, through New Mexico, and Chihuahua, to the Rio Grande, with either of the regiments of dragoons, and I predict whenever it shall be made, continuing over a period of one year, it will be found that the expenses of a volunteer regiment are less than the expenses of a regiment of regulars.

I say also that for the present fiscal year, you have appropriated, as far as the action of this House is concerned, the sum of $200,000 for the purpose of purchasing horses for the mounted troops, and that upon estimates which were not based upon the expectation of the existence of any hostilities with the Indians. The average expenditure is $200,000 for the purchase of horses. Talk with any officer of the Army, and he will tell you that the probable loss of horses for each year is twenty-five per centum, but the expenses of the Quartermaster's Department show that the loss of horses is nearly one hundred per centum per annum. Now, will the gentleman from Virginia [Mr. FAULKNER] ascertain the cost of each horse, as shown by the expenditure from year to year, and add such cost to the estimate which General Towson submitted as the expense of a company of dragoons? Will he calculate the cost of enlistment, the value of the horses and horse equipments, of transporting from the place of enlistment to the point of destination, of every member of that company; estimate the cost of keeping their horses each month, and add all those expenses together, and communicate to this committee the result, and then I will leave it to their judgment to say which force is the cheapest, volunteers or regulars.

Entertaining the opinion I do, I can come to no other conclusion than that the volunteers will be the most efficient. They will be immediately on the spot. The force is needed, as the President and Secretary inform us, immediately, and these men ought to be on the frontiers, ready to go upon the plains. Your regulars cannot be raised in time. How does the gentleman from Virginia expect to have these regulars—these four regiments—in the field before the next autumn? If Congress adopts the amendment for raising four additional regiments and it be approved by the President, that force cannot be in the field before next fall. Where, and how are they to be recruited? It is said that many of the officers are to be appointed from civil life, and that they will soon fill up their companies with those who are acquainted with them to serve for five years. It is proposed to have them in the field by the first of May; but I predict, without fearing contradiction, they will not enlist the requisite number before September next. If you permit these officers to raise their respective companies, the Government will be doing a monstrous injustice to men who have enlisted to serve under these officers if they be transferred to other regiments and put under other commanders. Is the gentleman prepared to justify such a course?

Mr. Chairman, the Secretary tells us that every mail brings information of atrocious outrages committed by the Indians. General Garland, commanding in New Mexico, has felt himself called on to order out five companies of volunteers for the purpose of protecting the frontier settlements. The Indians have come down from the mountains, and have swept in terrible destruction through the settlements. The herdsmen have been killed, citizens driven from their homes, their property consumed, and their children captured. Indeed, sir, these Indians make regular descents upon the New Mexican people, for the purpose of capturing and retaining among them whatever children they may fall in with.

I would refer, Mr. Chairman, to the Ward massacre if it had not been already drawn to the attention of members. That party was on its way to Oregon, and nineteen of them were murdered by the Indians. A few days afterwards another party on the same trail met a like fate. The mail party have been attacked. Our troops have been cut up under Lieutenant Gratton, near Fort Laramie. We have had engagements with the Indians in Texas and New Mexico. We are now called upon to protect the emigrant across the plains. All who are acquainted with the Indians express the opinion that we are to have a general war with them. I fear every mail will bring us the intelligence that our citizens have been killed by the Indians.

Therefore, I say, Mr. Chairman, if we intend to afford protection to the people who are traveling across the plains, and those who live in the Territories, against the attacks of these nomadic tribes that he must prepare the means for that purpose immediately. Protection promised in September will not do. Protection promised next

year will not do. Protection is needed against the ravages which are expected to be perpetrated this summer upon those who will travel upon the plains. There will be citizens who will endeavor to cross these plains regardless of the dangers that beset their path.

Mr. Chairman, it is for these reasons that I feel myself bound to sustain the amendment reported by the Committee of Ways and Means. I believe that the volunteers will be most efficient and the cheapest force. When the necessity which brings the volunteers into the service ceases they will be discharged. Not so with the regulars. You will add to the annual expense of the Government by raising the four regiments from two and a half to three millions. I have hurriedly presented my opinions In behalf of my constituents I demand protection for the people on the frontier; I demand protection for the people who may cross the plains, and if I cannot obtain that force which I deem the best, I shall be constrained to vote that which can be obtained.

Mr. BENTON remarked that we needed protection for our frontiers, and the question was what kind of protection? Two modes were proposed: one by the Senate, to add four regiments to the Army; the other by the Committee of Ways and Means, to raise a volunteer force. He considered the mode proposed by the Committee of Ways and Means as far superior to that which had been adopted by the Senate in this bill. Volunteers, in his opinion, were preferable to regulars, as they could be raised instanter, and, coming from the frontiers and the West, knew how to prosecute an Indian warfare, while regulars came from the purlieus of cities, and were not only worthless, but pestiferous. He held, however, that rangers were the most suitable troops that could be used in Indian warfare, and explained the amendment which he had given notice he would offer, providing for the raising of eight battalions of mounted rangers.

[Mr. B's remarks have been consolidated with subsequent remarks on the same subject, on the same day, and will appear connectedly as one speech in the Appendix.]

The CHAIRMAN. The Chair must state to the gentleman from Missouri that no further debate is now in order. The gentleman from Missouri, [Mr. PHELPS,] under instructions from the Committee of Ways and Means, proposes to strike out the fifth amendment of the Senate, which is as follows:

"For arsenals, including the purchase of sites for new arsenals in Texas and New Mexico, and the erection of suitable magazines and other arsenal buildings in Texas, California, Oregon, and New Mexico, $268,175"—

and to insert in lieu thereof the following:

For repairs, preservation, and contingencies of arsenals, $50,000.

For continuing the construction of the arsenal at Benicia, California, $40,000.

And it is hereby provided that the annual compensation of the civil superintendents of the national armories be $2,500, without perquisites, allowances, or additions of any kind, and that the same be paid out of any money in the Treasury not otherwise appropriated.

Mr. PHELPS. Then no further amendment is now in order.

Mr. FAULKNER. I would inquire if it is not in order to amend at this time?

The CHAIRMAN. It is not. The amendment of the gentleman from Missouri is in the second degree, and no further amendment is in order.

The question was then taken on Mr. PHELPS's amendment; and it was agreed to.

Mr. FAULKNER. Is it not in order now to move to amend the amendment by adding to it?

The CHAIRMAN. It is in order to amend by adding to it, but not by striking out.

Mr. FAULKNER. I propose to amend the amendment by adding after the words "allowances of any kind, or additions of any kind," the words "quarters excepted."

Mr. PHELPS. I rise to a question of order. We have already adopted the amendment of the Senate as amended; and though it may be, perhaps, in order to add to it, it is not in order to insert in it.

Mr. FAULKNER. My amendment adds to, and perfects the section.

Mr. PHELPS. The amendment of the gentleman from Virginia is to insert in that amendment, which is already adopted.

The CHAIRMAN. The Chair holds that that is in order.

Mr. HUNT. Insertion is addition.

Mr. FAULKNER. I merely desire to state to the committee, Mr. Chairman, that the civil superintendents at these national armories have, I believe, ever since they were established, been entitled to quarters. Since the military superintendents were placed over them, better quarters have been built for them on the Government property than before existed there. Now, I ask, with what reason can this House be called upon to declare that the civil superintendents, recently appointed, shall not be allowed to enjoy the use of the quarters which the Government has expressly constructed for the use and accommodation of those officers?

It was said by the gentleman, [Mr. PHELPS,] the other day, that we should ask a merely nominal rent for these quarters. Sir, I am opposed to vesting in the Department of War any discretion of the kind over the question of quarters. No rent should be required at all. Unless this House should fix, by its amendment, the amount of rent which is to be paid by the superintendents, it would leave it in the discretion of the head of the Department to fix a larger or a smaller sum, according to the will or pleasure of that officer. The buildings are there. They have been erected by the Government on its own property, for the use of the superintendents. They can be used for no other purpose, public or private. I ask, then, with what justice could we deprive these officers of the use of those buildings? Or why should they be required to pay out of the small salary allowed them, a rent to the Government for the occupation of them? I say, sir, that these quarters, or quarters of some kind, provided by the Government, have been used by the superintendents ever since my first knowledge of these establishments; and I see no reason why a civil superintendent, placed there by the direct will and action of Congress, should be deprived of quarters erected for the express use and accommodation of those officers, which can be used for no other public purpose, and which, since their erection, have been occupied, with higher salaries, by the military superintendents.

Mr. PHELPS. I rise to a question of order. I desire to know where this proposition is intended to come in, for if it is to be inserted in the substitute adopted to the Senate's amendment, I conceive it is not in order.

The CHAIRMAN. The Chair understands it is a proposition to insert; and the Chair decides it to be in order.

Mr. DICKINSON. I desire to make an additional explanation to that made by the gentleman from Virginia.

The CHAIRMAN. The gentleman cannot speak to the proposition unless in opposition to it.

Mr. DICKINSON. Then I oppose the amendment, not because I oppose the principle, but because I regard it as unnecessary in this place. I am in favor of it; but I oppose it because I think that the occupation of these buildings by the civil superintendents follows as a matter of course, and that it is, therefore, entirely unnecessary to attach it to the amendment.

The House well knows that I have been opposed to the civil superintendency of these armories. But the change has been effected; and I desire now that the civil superintendents may have a liberal salary. I desire that all the officers of these establishments shall be properly compensated. I desire to see the armories under civil superintendency made as effective, and, if possible, more effective, than they were before. I wish that the men employed in all the situations there shall enjoy all the privileges that the like officers ever have enjoyed; and I shall, when I get the floor for that purpose, propose to amend the bill by increasing the compensation of these very officers, and by placing them on the ground on which I think their services require them to be placed.

Now, I oppose this amendment, as I have said, because I regard it as unimportant; but if there be any question about it, I hope the amendment will be adopted, and that these quarters will be secured to the superintendent.

The question was taken on Mr. FAULKNER's amendment; and it was agreed to.

Mr. RICHARDSON. I move to amend the amendment by adding to it either as an additional section or in some convenient place in the bill, a provision to authorize the President of the United States, by and with the advice and consent of the Senate, to appoint a brigadier general.

Mr. PHELPS. I rise to a question of order. That amendment is not in order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. RICHARDSON. I withdraw my amendment for the present, not because of the point of order which has been made, but because I want to introduce it into the proper place.

The CHAIRMAN. The gentleman does not withdraw it, because it is not before the committee.

Mr. DICKINSON. I move to amend by adding, at the end of the amendment, the following:

And the compensation of the superintendent's clerk to be $1,200, without perquisites, allowances, or additions of any kind, other than quarters, as now allowed by law.

Mr. PHELPS. I rise to a question of order. The amendment proposes to change existing laws; and it is not germane to the subject under consideration. I refer to the 55th rule.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment out of order.

Mr. DICKINSON. I appeal from the decision of the Chair. Can I not state my reasons for the appeal?

The CHAIRMAN. No, sir; it is not in order.

The question was taken; and the decision of the Chair was sustained.

Mr. DICKINSON. I offer the following amendment:

And that each of the other clerks in the national armories, $1,000, without perquisites, or allowances, or additions of any kind, other than the quarters now allowed by law.

Mr. PHELPS. The amendment is liable to the same objection as the other amendment submitted by the gentleman from Massachusetts.

The CHAIRMAN. The same point of order is presented by the gentleman from Missouri, and the Chair decides the amendment to be out of order.

Sixth amendment of the Senate:

For surveys for military defenses of the sea and inland frontier, $15,000.

Mr. PHELPS. The Committee of Ways and Means recommend a concurrence in the amendment.

The amendment was concurred in.

Seventh amendment of the Senate:

For printing a new system of light infantry and rifle tactics, to be stereotyped, with engraved plates, and for procuring for distribution to the militia of the United States books of tactical instruction, including the system of regulations now in course of preparation, $30,000.

Mr. PHELPS. The appropriation here asked is for the purpose of providing a new system of tactics for the Army of the United States. A new system of tactics has been introduced at West Point, which meets with the approval of military men, and which is recommended by the Secretary of War to be printed. The appropriation now asked for is for the printing of that system of tactics, not merely to furnish the Army, but the militia of the country with it. The Committee of Ways and Means recommend a concurrence in the amendment.

Mr. DICKINSON. I offer the following amendment to the amendment of the Senate:

After "$30 000" add the words "and for inventions and improvements in machinery and arms made by Cyrus Buckland, for the United States, to be paid to said Buckland, provided he shall assign his claim to said inventions to the United States, $15,000."

I offer this amendment for the purpose of bringing the subject before the committee——

Mr. PRINGLE. The amendment is clearly not in order.

Mr. LETCHER. It is a private claim.

The CHAIRMAN. The Chair thinks that the amendment is not in order.

Mr. DICKINSON. The amendment only asks an appropriation for an invention which has been in use for twenty-five years.

Mr. PHELPS. There is no connection between printing a system of tactics and the improvement for which the gentleman desires an appropriation.

Mr. STANTON, of Kentucky. I desire to take an appeal from the decision of the Chair, and to state the grounds upon which I propose to take an appeal.

The CHAIRMAN. It is not in order to debate the question.

Mr. STANTON. I do not intend to debate it, but I wish to state the reasons why I take an appeal.

The CHAIRMAN. It is right for the gentleman to state from what he takes an appeal, but not the reasons which govern him.

Mr. STANTON. I will state from what I do appeal. Here is a proposition made by a Representative on this floor to purchase, for the use of the Government, the genius and labor of an American mechanic, and, although in the employment of the Government, he has invented a series of machines which have saved thousands and thousands of dollars to the Government——

Mr. SMITH, of Virginia. I rise to a question of order, that the gentleman cannot debate the proposition.

Mr. STANTON. I am stating the proposition itself——

Mr. WALSH. Will the Chair enforce order?

Mr. STANTON. I have had six years' experience as a member of this House, and I never knew the privilege denied to a gentleman before to state the reasons why he takes an appeal from a decision of the Chair.

The CHAIRMAN. The Chair would be very glad to hear the reasons of the gentleman, but objection is made by several gentlemen, and the Chair must sustain the objection, because the question is not debatable.

Mr. STANTON. It is equivalent to taking my rights away as a Representative upon this floor.

A MEMBER. Appeal.

Mr. STANTON. I have appealed, and I wish to state the grounds of my appeal.

The CHAIRMAN. I would hear, with great pleasure, the reasons of the gentleman, but debate is out of order.

Mr. STANTON. I do not intend to debate the question, but merely to state the proposition itself. I take an appeal from the decision of the Chair.

Mr. RICHARDSON. Do I understand the Chair to say where a gentleman submits a proposition and the Chair rules it out of order, that he cannot state what that proposition is?

The CHAIRMAN. The Chair decides no such thing; but he decides that the question of appeal is not debatable.

Mr. STANTON. I do not intend to debate it. I merely intended to say that an American mechanic of great genius had invented a large number of machines, although he was in the employment of the Government at the time—machines which were valuable to the Government, and from which the Government has realized a saving of thousands and thousands of dollars each year. The proposition of the gentleman from Massachusetts [Mr. DICKINSON] is, if I understand it, to pay that man for his genius; but gentlemen object to this proposition as being out of order, because it proposes either a change of existing law, or because it is in conflict with some rule in regard to the presentation of private claims——

Mr. PHELPS. Is this question debatable?

Mr. STANTON. The proposition of the gentleman from Massachusetts is simply to pay him for his genius and for inventions from which the Government has realized an immense benefit.

Mr. PHELPS. I desire the first clause of the 55th rule to be read. I made the question of order against the amendment.

"No motion or proposition different from the subject under consideration shall be admitted under color of an amendment."

The CHAIRMAN. The Chair decides that the amendment proposed by the gentleman from Massachusetts is not to carry out any existing law known to the Chair. The Chair also decides that the amendment is not germane to the Senate amendment which it proposes to amend. For these two reasons the Chair decides the point of order well taken, and rules the amendment out of order.

Mr. PHELPS. I believe the question is now upon concurring in the Senate amendment, in which the Committee of Ways and Means recommend a concurrence.

The question was put; and the amendment was concurred in.

The eighth amendment next in order.

Mr. PHELPS. There are several amendments just here all of the same character, in all of which the Committee of Ways and Means recommend a concurrence. The appropriations contained in all these amendments are estimated for by the proper Deparument—the Secretary of War; and the Senate have inserted the amounts in the bill. The amendments to which I refer are the eighth, ninth, tenth, eleventh, and twelfth. They are all for military roads in the Territories.

The CHAIRMAN. If no objection is made the amendments will be read, and the vote taken upon them in gross.

No objection being made, the several amendments were read, as follows:

Eighth amendment:

To complete the road from Point Douglass, on the Mississippi river, to the mouth of the St. Louis river, of Lake Superior, in Wisconsin, $34,213 50.

Ninth amendment:

To complete the road from Point Douglass to Fort Gaines, now Fort Ripley, $13,494 09.

Tenth amendment:

To complete the road from Swan river to the Winnebago agency, $2,535 39.

Eleventh amendment:

To complete the road from Wabashaw to Mendota, $13,871 76. The said road to be completed under the direction of the Secretary of War.

Twelfth amendment:

To complete the road from Mendota to the Big Sioux river, $27,475 68.

Mr SMITH, of Virginia. I offer an amendment, to come in at the end of the twelfth amendment, which has just been read. It is for military roads in the Territory of New Mexico.

Mr. PHELPS. I would say to the gentleman from Virginia that the amendments which have just been read make appropriations for roads which have already been commenced under existing laws.

Mr SMITH. Let my amendment be read, and I will satisfy the committee that the amendment is proper, and ought to pass.

The amendment was reported, as follows:

"That the sum of $32,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of War, in the manner following, namely: $16,000 for the improvement of the road from Fort Union to Santa Fé; $10,000 for the improvement of the road from Socalote to Albuquerque, via Canon Blanco and Canon Carnue; and $6,000 for the improvement of the road from Canada to Abiquiea; all the said roads being in the Territory of New Mexico.

Mr. SMITH. I will state to the committee, that the amendment which I have offered is a bill which was reported from the Committee on Military Affairs for the improvement of roads in the Territory of New Mexico, and I offer it here because I want to get the bill through. It was a Senate bill, passed that body, and had been reported back to this House by the committee I have named with a recommendation that it should pass. The Delegate from New Mexico has not had one single dollar appropriated for him this year, and he came to me, and asked as a favor that I would offer this bill as an amendment to the Army bill. For that reason I have done it, and I hope the committee will pass it.

Mr. FAULKNER. If the gentleman will permit me, I will make one single remark about the amendment he has introduced. As my colleague has said, the amendment was reported as a bill by the Committee on Military Affairs, and I will simply state that the committee were unable to obtain from the Delegate from New Mexico information as to the necessary wants of his Territory, for the reason that he is unacquainted with our language. But the committee reported unanimously in favor of the bill which my colleague now offers as an amendment, and I think the committee should pass it.

Mr. HOUSTON. I think the gentleman from Virginia, instead of offering that as an amendment here, had better rely upon the indulgence of the House to take up the bill and pass it whenever the committee goes into the House. The Senate's amendments are before the committee for concurrence. Now, from every indication, some of the appropriation bills, and this among the rest, are in danger of being lost. It is better to lose this amendment than to lose the entire bill. If it be put into the bill, it will have to go before the Committee on Finance in the Senate, to undergo the routine of discussion and examination, and that will delay action upon the bill to the great danger of its being lost.

Mr. SMITH. I hope the gentleman from Alabama will not object, but allow the amendment to go in.

Mr. HOUSTON. I am not going to raise a question of order, nor am I going to speak to the merits of the amendment. But I ask the gentleman rather to appeal to the House to take up and pass it as a separate bill.

The question was then taken upon the amendment offered by Mr. SMITH; and it was agreed to.

The question then recurring upon concurring in the several amendments of the Senate above reported, as amended, it was put; and decided in the affirmative.

Mr. STANTON, of Kentucky, offered the following amendment:

After the twelth amendment of the Senate, insert the following:

SEC. —. *And be it further enacted*, That the Secretary of War, with the approval of the President of the United States, be authorized to allow and pay, under the provision of the act of March 3, 1849, out of the military contribution fund under his control, to such persons in the civil service as were engaged in the settlement of the accounts arising under such fund, the same rate of compensation as was allowed to the persons belonging to the War Department and the quartermaster general's service: *Provided*, The amounts so allowed shall not exceed to any one person, with the salary already received, the sum of $1,600 per annum previous to the 1st day of July, 1853.

Mr. PHELPS. I rise to a question of order. The amendment proposes to change the existing law, and is not germane to the bill under consideration.

The CHAIRMAN. The Chair thinks the amendment is not connected with the subject under consideration. It seems to be entirely disconnected from it. The Chair, therefore, holds the point of order well taken, and rules the amendment out of order.

Mr. STANTON. I see in this bill, as it came back from the Senate, various sections proposed as amendments to the bill, and I only propose to add an additional section. I know the amendment is not precisely germane to the one which immediately precedes it, but it comes in very appropriately, as it relates to a matter exclusively under the cognizance and jurisdiction of the Department of War, and it provides pay for services rendered to the War Department.

The CHAIRMAN. The Chair thinks it is not in order.

Mr. STANTON. There are several amendments made to the bill by the Senate, but I do not propose it as an amendment to an amendment, but as an independent section between the twelfth and thirteenth sections.

The CHAIRMAN. The Chair understands it.

Mr. STANTON. These amendments of the Senate are in the shape of independent sections, and I offer mine in the same form.

The CHAIRMAN. But there is no amendment of the Senate upon the subject contained in the amendment of the gentleman from Kentucky.

Mr. STANTON. But they relate to the affairs of the War Department.

Thirteenth amendment of the Senate:

SEC. 2. *And be it further enacted*, That the board of officers appointed under the sixth section of the act making appropriations for the support of the Army for the year ending June 30, 1853, approved August 31, 1852, is hereby authorized and directed, in addition to the powers and duties already conferred upon it, to extend its examinations to claims arising from the destruction of property by the troops serving under the command of Lieutenant Colonel John C. Frémont, in California, in the years 1846 and 1847, by his orders, as well as for the destruction of property by the enemy, caused by the occupancy of the claimants' premises by the said United States troops; that the said board is empowered to summon and examine witnesses under oath, and take testimony in California (if necessary) and elsewhere; that for the payment of the claims reported favorably upon by the board in its report to the Secretary of War, dated 5th December, 1854, Executive document 8, Thirty-Third Congress, second session, including that numbered 197, being the claim of Santiago E. Arguillo, and amounting to $11,584, and for the compensation of the members of said board for, and during, their period of service as such, at a rate not exceeding $3,000 per annum each, deducting therefrom their Army pay, the sum of $40,548 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated; and the Secretary of the Treasury is hereby authorized and directed to pay to the treasurer of said board, out of any money in the Treasury not otherwise appropriated, the sum of $10,000 for the contingent expenses of the said board, including therein office rent and clerk's hire, stationery, fuel, the payment of witnesses' fees duly summoned by the board, at a rate not exceeding those paid by the United States district courts in California or elsewhere, as the case may be, the traveling expenses of said board, not exceeding sixteen cents per mile to each member, and other incidental expenses.

Mr. PHELPS. Mr. Chairman, in order that

I may be allowed opportunity to submit a few remarks, I move that the latter portion of the amendment be stricken out. The Committee of Ways and Means recommend a non-concurrence in the amendment of the Senate. In 1852 a board of officers was directed to assemble in the city of Washington, for the purpose of examining claims incurred by the battalion of troops commanded by Colonel Frémont, in California, during the Mexican war. The proposition now before the committee is to extend and enlarge their duties. For this reason the committee deem it unwise to continue the labors of the board.

Again, there is another reason why the amendment should not be agreed to: We have provided, at this Congress, for a court of claims; and whatever claims have not been acted on by that board, can be preferred before this court of claims. They will be put precisely on the same footing with claims of other citizens. Nor am I prepared, sir, to say that it is right and proper to have a board of military officers traveling about the country as a court of claims for the purpose of searching out and determining what claims exist against the Government of the United States, and whether or not they should be allowed. Officers of the Army are appointed, and ought to be employed for an entirely different purpose. They are to discharge military duties, and not to seek to usurp the position of civilians.

In the examination of claims preferred by citizens of California against the United States legal questions may arise, many of them of an intricate nature. If you wish the claims examined, why not create a board of eminent civilians for that purpose? If a proposition to create a board of civil officers to proceed to California for the investigation of these claims were now pending in this body, I do not think it would receive twenty votes. The answer would at once be made by members, let these claimants prefer their claims before the court of claims, which has been created at the present session of Congress.

It is proposed that these military officers shall be taken from the military duties assigned to them, taken from the Army, to discharge civil duties, and there is in the amendment a provision in regard to their salaries. If the amendment be adopted, and those officers repair to California, I say they will receive for their services, during a period of one year, about $8,000 each. For investigating claims of the value of $150,000 is this committee willing to incur an expense of something like twenty per cent? The report of the Secretary of War shows that the amount of the claims submitted to the board is $950,000. It was estimated at the time by Colonel Frémont and the officers under his command, that $700 000 would cover all claims arising out of that military service. Under the act of Congress, $149 000 of claims have been paid; $8 000 additional has been allowed. They have disallowed claims to the amount of $157,000; suspended claims to the amount of $357,000; and ruled out claims, as not within their jurisdiction, to the amount of $186,000.

For these reasons the Committee of Ways and Means recommend a non-concurrence in the Senate amendment.

Mr. McDOUGALL. The objection of the gentleman from Missouri, [Mr. PHELPS,] representing the Committee of Ways and Means, to this amendment of the Senate, is that there is now a court of claims for the transaction of such business. Then he says that the board of claims alluded to is composed of military officers. The late Secretary of War thought this was a business which would be peculiarly well understood by military men, and insisted that the board should be composed of military men. A military board was organized, and they have been at work for some three years. They have already investigated, in whole or in part, nearly all of the class of cases submitted for their adjudication. Many cases have been disposed of while still a number of claims have been suspended for the want of satisfactory evidence. Under this bill there are, in all probability, some $400,000 of claims yet to be investigated. These military officers say that the trouble with them is that they are dependent on *ex parte* testimony; that they have to rely on affidavits and depositions taken by the claimants in California; and that it would be a matter of economy to the Government if they were enabled to go and inquire into all the merits of the claims, the then condition of the country, the value of various commodities, &c. I think that it would be economical to the Government to continue this board, and send them, as desired, to California. I believe it would be a saving of at least $200,000 to the Government.

It was with a view to economy that the Committee on Military Affairs of the Senate proposed the amendment. It was as a matter of economy to the Government, as well as of justice to the claimants, that the Senate adopted it. I can see no objection to the amendment, and I hope it will be concurred in. I see no objection to this board being a military board. The claims are claims growing out of the movements of Colonel Frémont at the head of his battalion during the war in California.

Now, sir, as to the competency of a military board, and as to the propriety of a military board for this particular duty, it is my opinion that military officers are peculiarly fitted for such a commission; but, sir, whether a civil or military commission would have been the best is not the question. The fact that this military board has been constituted, and has been in existence for three years, and the fact that they have had before them the greater portion of the claims that are to be adjudicated upon, and understand them; that they have already applied most of the labor necessary to a full discharge of their duties, these considerations are sufficient, in my opinion, to justify a continuance of the present board.

And, sir, this amendment of the Senate only provides for one additional class of claims other than those provided for in the act originally constituting this board, which is for property destroyed by our troops in the course of the war, or destroyed by reason of its use for Government purposes. Sir, the residence of one of our largest proprietors was taken and occupied by the Government troops as a fortification. A battle was fought there. The place was taken by the enemy, and was burned. I ask the committee whether a case like this should not be provided for? The additional claims provided for by this bill are of the same description. They are just claims against the Government, and justice requires that the amendment should pass.

Mr. WALSH. I would suggest to the gentleman from California whether, as this board was originally constituted a military board, and as such, have become acquainted with most of the claims that are adjudicated upon, and inasmuch as these claims arose under military auspices, it would not, for this reason, be proper that they should be acted upon now by a military board?

Mr. McDOUGALL. Certainly. And further than this, I will state that the board was made a military board, because it was insisted upon by the then Department that military officers would be required to understand the business to be brought before the board.

Mr. PHELPS. If there be no objection I will withdraw my amendment.

There being no objection the amendment was withdrawn.

Mr. LATHAM. To enable me to submit a few remarks, I move to amend the Senate amendment by striking out, in the twenty-sixth line, "$548." The question which the committee have to decide is, simply, whether this board shall be discontinued, and the parties who are interested in claims which have not been adjudicated shall have their claims decided by the board of claims which has recently been created by an act of Congress, or whether the military board shall be continued until they have decided finally upon the claims, most of which have already been submitted to them. That is the question embodied in this amendment of the Senate. Now, sir, this board, if they are continued, are to have under their jurisdiction, as has been correctly stated by the gentleman from Missouri, [Mr. PHELPS,] claims which arose under Frémont's battalion. If the motion prevails which is insisted upon by the Committee of Ways and Means, the result will be that those claims will have to be acted upon by persons entirely unacquainted with them.

I repeat, that these claims have been, for the most part, preferred before this board, and that, if you refuse to concur in the Senate amendment, you will transfer these claims from the jurisdiction of men who understand them perfectly to those who are unacquainted with the same.

It has been stated here that this board would probably have to adjudicate upon claims to the amount of $100,000. Sir, they will adjudicate upon claims to the amount of $400,000 or $500,000, and most of them claims which have been before this board, but upon which they have failed to act for want of evidence.

But, again: It is absolutely impossible for this board to act understandingly upon these claims as they are now constituted, from the fact, as my colleague [Mr. McDOUGALL] has stated, that the evidence is entirely *ex parte*, and they can form no idea of the charges that are made, except from the evidence before them. Now, I ask if it is not the most proper place to adjudicate upon these claims where they originated; to wit: in the State of California?

Sir, I think this amendment of the Senate ought to pass. It is simply to provide that the claims shall be decided upon in the locality where they originated, and that witnesses who were cognizant of the facts connected with the claims may be subpenaed, and compelled to attend and to testify in reference to them. I have no hesitation in saying that if the recommendation of the Committee of Ways and Means is not followed by the House, and that if the amendment of the Senate is concurred in, that it will save to the Government not less than $100,000.

Mr. PHELPS. The gentleman from California states that it is necessary to extend this commission in order that they may adjudicate upon claims that have been regularly preferred before them.

Mr. McDOUGALL. The gentleman is mistaken. I said, in order that they may act upon claims that have been irregularly preferred before them.

Mr. PHELPS. I then misunderstood the gentleman, and I stand corrected.

Mr. Chairman, when this board was established it was for the purpose of examining into, and adjudicating upon, all claims that were brought before them, on account of supplies which were taken or were furnished to Frémont's battalion, and that was as far as it extended. That was the only class of claims they were to consider. But, sir, it is now proposed to enlarge the sphere of the duties of this board, and allow them to adjudicate upon another class of claims. And upon what?

The Senate amendment proposes that

"In addition to the powers and duties already conferred upon it, to extend its examinations to claims arising from the destruction of property by the troops serving under the command of Lieutenant Colonel John C. Frémont, in California, in the years 1846 and 1847, by his orders, as well as for the destruction of property by the enemy, caused by the occupancy of the claimants' premises by the said United States troops."

This board are to examine into any claims for property destroyed by order of Colonel Frémont, and these claims, if they are allowed, are to be paid out of the National Treasury. If they are empowered to examine into these claims, of course it is expected that they shall report, and that they shall report favorably for action thereon. And if they report favorably, as a matter of course, they are to be paid out of the National Treasury—claims for property destroyed by Colonel Frémont in invading the enemy's Territory.

Mr. McDOUGALL. I understand that Colonel Frémont's troops destroyed property belonging to an enemy.

Mr. PHELPS. California was then in the possession of the enemy.

Mr. McDOUGALL. California was precariously situated. She had been in a state of revolution for a long time. Most of the inhabitants had become Americans and were the friends of the United States.

Mr. PHELPS. I would with great pleasure indulge the gentleman from California, but I have not time enough.

[Here the hammer fell.]

Mr. LATHAM. I withdraw my amendment.

Mr. SMITH, of Virginia. I understand that the question is now upon the amendment of the Senate.

The CHAIRMAN. Yes, sir.

Mr. SMITH. I propose to make a few remarks upon this subject. I am sorry I have not time to speak more at length.

Mr. PHELPS. Propose an amendment.

Mr. SMITH. I am speaking in favor of the Senate amendment.

The CHAIRMAN. Does the gentleman pro-

pose an amendment to the amendment of the Senate?

Mr. SMITH. Yes, sir. I move to increase the sum $10,000. Mr. Chairman, whether the board, as organized, is a correct board, is not the question for us to determine. The law is as it is. Whether military men should perform civil duties is not the question either. The question is, whether the board, organized as it is, ought to be allowed additional powers requisite to the public interests. What are those interests? Why, that the public shall be protected against false and unfounded claims. How is that to be done? By testimony taken in the wilds of the Pacific coast, without cross-examination, and without any of the elements requisite to protect the public interests? It is not to be expected. The consequence of such a proceeding is, that a vast amount of evidence has been sent in here, in strict conformity with all the requirements of law, that is known to be false. They have charged $100 a piece for mules, when it is known that mules can be bought in that country for from thirty to fifty dollars. This board has protected the Government against claims of this character. Sir, the officers composing this board do not ask Congress to give them these additional powers, and to send them on this work. The whole question is, is it for the public interests that they should be sent there? If they are to receive mileage, they will have to spend mileage. I was surprised to hear the gentleman from Missouri refer to that as a consideration. The whole question is, whether they are to be *required* to go there; and not whether they are to be permitted to go there. I say to this committee, being somewhat acquainted with the manner in which business is transacted in that section of country, that the public interests require that this board shall be commanded to go there. I say it is indispensable that the Californian who testifies should be confronted by his judges, and subjected to cross-examination. I therefore think that the amendment of the Senate ought to be adopted.

Mr. STUART, of Michigan. I am opposed to the amendment, and ask for a vote upon it.

The question was taken on Mr. SMITH's amendment; and it was rejected.

The question recurred upon concurring in the amendment of the Senate,

Mr. McMULLIN. Is it in order for me now to speak to the amendment of the Senate.

The CHAIRMAN. It will be if the gentleman offers an amendment, but not otherwise.

Mr. McMULLIN. Well, I move to strike out the last ten lines of the amendment. Mr. Chairman, I desire the attention of the committee, for it is not my purpose to say one word for the benefit of my constituents. This is a very important bill. I shall not stop here to discuss the question as to the policy of increasing the Army, whether by voluntary enlistment or under the rules of the standing Army. I am perfectly satisfied that there ought to be an increase——

Mr. LILLY. Is this in order?

The CHAIRMAN. The Chair thinks the gentleman from Virginia does not understand the question before the committee. We are now considering an amendment in reference to the California board.

Mr. McMULLIN. Then I withdraw my amendment, and will reserve my fire for another occasion.

Mr. WALSH. I move to strike out "$10,000," in the thirty-second line. I have heard it said, theologically, that there is more joy in Heaven over one repentant sinner than over ten just men; and it has been with a great deal of satisfaction that I have found my friend from Virginia, [Mr. SMITH,] now, nearly at the close of the session, after having voted for nearly every claim that I regarded as obnoxious, so eager in his attempts to protect the Government against the just claim of one whom I regard as one of the purest men that ever existed. As I understand the extension of this commission, it is simply intended to reach the case of one man, who has never obtruded himself upon anybody—one man whose name and fame I had heard of repeatedly before ever I put my foot upon the floor of this Hall—I refer to Colonel Williams; and if the committee will allow me one or two words of explanation, I think I can easily satisfy them that there is a difference between destroying the enemy's property and destroying the property of one of our most faithful friends.

Colonel Williams was in California some fifteen or twenty years before the breaking out of the war, and had a large plantation of several thousand acres. His house was always an asylum and a home for every one of his countrymen who wanted protection. When the war broke out, with the instinctive patriotism of a true man, he took sides with his own countrymen, and was driven from his home by the Mexican troops. When Colonel Frémont arrived there with his men, he did not find Colonel Williams in possession of his property, but he found that the enemies of his country had driven Colonel Williams from his home. Between them they destroyed nearly every vestige of his property, left his house so that it has since only been a fit resort for owls and bats, and cut down all his vines and trees, so that they will never again grow during the short remnant of time left him in this world. I now withdraw my amendment.

Mr. SKELTON. I move to amend the amendment of the Senate by striking out the two last lines, which read thus:

"The traveling expenses of said board, not exceeding sixteen cents per mile to each member, and other incidental expenses."

This proposition appears to me as one of those which have been recently multiplying to a great extent. We have in the Army, and in the Navy, and in the civil service, commissioners in various parts of the country; and we have recently added to that sort of organization another board of claims. And what will it amount to? It will amount just to this, that we shall have to pay traveling commissions all over the country, hunting up claims against the Government of the United States.

Now I think it is time that this course of policy should be stopped. It is not only multiplying offices, multiplying traveling expenses, and multiplying incidental expenses, but it is multiplying claims against the Government to such an extent, that the Government is absolutely overrun with claims of various kinds—and very few of them having any justice in them. Sir, the court of claims recently organized by this House, without debate or investigation, has established not only a board of judges here, an attorney and clerks, but it authorizes the court to send commissioners all over the country hunting up evidence to substantiate claims against the Government.

Now, I think that since the last central board has been organized all other boards should be discontinued; and if any individual has a just claim against the Government, it should be the business of that individual to come and present his claim. It is not the business of courts to hunt up these claims. It is the business of the claimants to come and present their claims against the Government. My opinion is that these claims are multiplied to an extent which is beginning to be felt by the people of the United States. So far from affording any further facilities to such claims, it should be our business to prevent the Treasury being preyed upon by depredators. I hope, sir, that the commission will not be established for the investigation of this particular class of claims, and that we will not have commissioners sent all over the Union hunting up claims against the Government. If the claims are not worth coming here to look after, let the claimants do without them. I think that the people are sufficiently robbed without multiplying more of these offices. But besides the evil of having these additional offices multiplied, they are greatly detrimental to the community in their effect in multiplying claims *ad infinitum* against the Government. I hope, therefore, this section of the bill will be stricken out, and that we will hear no more of this fishing for claimants against the Government in order to get money for their private claims.

Mr. McDOUGALL. I am opposed to the amendment of the gentleman from New Jersey.

Mr. SKELTON. I ask leave to withdraw it.

The amendment was withdrawn.

The question recurred on the amendment of the Senate, and it was concurred in.

Fourteenth amendment of the Senate:

SEC. 3. *And be it further enacted*, That the provisions of an act entitled "An act for the payment of the civil officers employed in the Territory of New Mexico while under military government," approved July 17, 1854, be, and the same are hereby, extended to embrace the case of Lieutenant Colonel J. M. Washington, deceased, late of the Army, for and during the period of his appointment and service as military Governor of New Mexico, ex officio superintendent of Indian affairs, and commander of the troops prior to the formation of the civil government.

Mr. PHELPS. The Committee of Ways and Means recommend non-concurrence in that amendment, and for the following reason——

Mr. STANTON, of Kentucky, (interrupting.) I propose the following amendment:

At the end of the fourteenth amendment of the Senate add the following:

And that the Secretary of War may, under the provisions of the act of 3d March, 1849, pay out of the military contribution fund, to such persons in the civil service as were engaged in the settlement of the accounts arising under that fund, the same rate of compensation as was allowed to persons belonging to the War Department and quartermaster's service: *Provided*, The whole compensation of such persons shall not exceed the sum of $1,600 per annum.

Mr. PHELPS. I rise to a question of order on that amendment. The amendment of the gentleman proposes to give pay to military officers for the discharge of civil duties under the civil government of New Mexico. The proposition of the gentleman from Kentucky is, I believe, to pay civilians who discharged service in a military capacity out of the military contribution fund. It is not germane, and is not in order under the fifty-fifth rule.

Mr. STANTON. The amendment of the Senate is to extend the provisions of a certain law, so as to give certain military officers additional compensation for certain civil services which they rendered. My amendment is to extend the provisions of another law, and give compensation to certain civil officers who performed service in a military capacity under that law. The gentleman from Missouri says that my proposition is not germane to the amendment of the Senate. They are the offspring of a pair of brothers. They are therefore cousins, and cousins germane. One is the offspring of the civil service, and the other the offspring of the military service.

The CHAIRMAN. The Chair thinks that the amendment of the gentleman from Kentucky is not in order.

Mr. STANTON. The Senate propose to extend the provisions of one law. The proposition which I make is to extend the provisions of another law.

The CHAIRMAN. It is another law, and has an entirely different set of provisions.

Mr. SMITH, of Virginia. The gentleman from Missouri says that the Committee of Ways and Means recommend non-concurrence in the fourteenth amendment of the Senate. I am sure, sir——

The CHAIRMAN. Does the gentleman propose to amend?

Mr. SMITH. I suppose it is not in order.

The CHAIRMAN. It is not in order to discuss the amendment without submitting a proposition to amend it.

Mr. SMITH. If the committee recommend a non-concurrence, is it not in order to state the reasons why we should agree to the proposition or suggestion?

The CHAIRMAN. It is not in order to debate the amendment, unless the gentleman offers an amendment.

Mr. SMITH. I offer an amendment to strike out the words "until his return home," after the words "New Mexico." I beg the committee to observe that this gallant officer, who is now no more, and who went down in the San Francisco, with all the ruin, distress, and loss of life, accompanying that melancholy catastrophe, was Colonel Washington, who had been in New Mexico officiating in a civil as well as a military character. There is not a gentleman upon this floor but knows that, in the position of civil governor of New Mexico he was subjected to great expense, in addition to his private personal expenses. He was the leading man of the country, had to receive and entertain company and was obliged to incur the usual expenses incident to his new position; and to say now that the benefit of this provision of the Senate, designed to include him as well as all others similarly situated, shall be denied to him is a proposition which I should have scarcely expected from the gentleman from Missouri. Not only was this benefit extended to General Riley, but he was allowed the large sum of $20,000, by express appropriation, to cover the expenses to which he was subjected while acting as territorial Governor of California. It was only yesterday that a bill was passed extending to General Mason a similar

benefit. I say it would be monstrous to deny to this gallant man the benefits of the provision contemplated by this amendment of the Senate. I hope, therefore, that the amendment of the Senate will be adopted.

Mr. PHELPS. The gentleman does not seem to understand the provisions of the law of which he is speaking—a law which passed no longer ago than the last session of Congress, and a law which, I presume, received the assent and sanction of the gentleman himself. The duties discharged by Colonel Washington in New Mexico are not like those discharged by General Mason, nor like those discharged by General Riley. Large amounts of money passed through their hands, and both these gentlemen made collections under orders issued by the Administration during the prosecution of the war with Mexico. They were allowed commissions upon their disbursement of moneys, and not allowed a fixed salary.

Mr. SMITH. That was the only way to pay them.

Mr. PHELPS. At the last session of Congress we passed a law providing for the payment of officers discharging civil duties in New Mexico. No contributions were levied, and no money was collected there. Colonel Kearney, when he went to New Mexico, was appointed civil Governor there, and several other gentlemen were appointed to discharge the duties of secretary, judge, &c. Before the organization of the territorial government in New Mexico, the office of Governor being made vacant by death, Colonel Washington being the chief officer in command, discharged the duties of civil Governor for a short period of time. At the last session of Congress we passed a bill providing for the payment of the salaries of the civil officers in New Mexico, with this proviso:

"*Provided*, That under the provisions of this act no compensation shall be allowed any officer of the Army of the United States for discharging the duties of any civil office in the Territory of New Mexico."

This is the provision of the law which the amendment of the Senate proposes to repeal.

Mr. SMITH. It ought to be repealed.

Mr. PHELPS. We happen to disagree upon that subject. I do not consider that the mere fact of Colonel Washington's bravery and gallantry has anything to do with the justice of this claim.

Mr. SMITH, of Virginia. Let me call the attention of the gentleman to a clause in the amendment. It is this:

"That the provisions of an act entitled 'An act for the payment of the civil officers employed in the Territory of New Mexico while under military government,' approved July 17, 1854, be, and the same are hereby, extended to embrace the case of Lieutenant Colonel J. M. Washington, deceased, late of the Army, for and during the period of his appointment and service as military Governor of New Mexico," &c.

Mr. PHELPS. Why should Colonel Washington be named more than any one else?

Mr. SMITH. Because he was the Governor, and performing those additional duties.

Mr. PHELPS. I ask this committee if they desire to see this Army bill, which is designed for making appropriations for the support of the Army, loaded down with private bills? Do you desire to see upon these general appropriation bills, everything incorporated which ought to pass in separate bills by themselves? I do not. The Committee of Ways and Means do not, and for these reasons that committee recommended a nonconcurrence in the Senate amendment.

Mr. SMITH withdrew his amendment, no objection being made.

The question was then taken upon concurring in the Senate amendment; and it was decided in the negative.

Fifteenth amendment:

SEC. 4. *And be it further enacted*, That the sum of $30,000 be, and the same is hereby, appropriated, to be expended under the direction of the War Department in the purchase and importation of camels and dromedaries to be employed for military purposes.

Mr. GREENWOOD. I desire to make an inquiry of the gentleman from Missouri, [Mr. PHELPS,] who has charge of this bill. I wish to know whether the Secretary of War would have the power, under the provisions of this amendment, to import Arabs into this country to take care of the dromedaries? They do not understand our language, and it would seem to be useless to bring them here.

Mr. PHELPS. I was about to say that the Committee of Ways and Means recommend a concurrence in this amendment; but I have no desire to enter into any explanation of it. The Secretary of War is in favor of introducing dromedaries, for the purpose of testing the use of them upon the plains.

Mr. ROWE. I desire to offer an amendment to the fifteenth section before a vote is taken upon it.

The amendment was read, as follows:

And $1,696 15, to settle a deficiency in the appropriation for building four steam dredge boats in use by the War Department on lakes Champlain, Erie, Michigan, and Ontario, to be applied to the payment for materials, tools, machinery, and labor furnished in painting said boats.

Mr. JONES, of Tennessee. I rise to a question of order. The amendment is not germane, and therefore not in order.

Mr. ROWE. I hope the gentleman from Tennessee will not object. Allow me to say that this amendment was proposed in another place, when the House went into committee on this bill some three or four days ago, and objection was made then, not because the appropriation ought not to be made, but because it was offered in an improper place. The chairman of the Committee on Military Affairs has permitted me to offer this amendment at the end of the fifteenth Senate amendment, believing himself that it is in order, and I concur with him in that opinion.

The CHAIRMAN. The gentleman from New York states that this amendment is favored by the Committee on Military Affairs, and asks the favor that no objection be made to it.

Mr. JONES, of Tennessee. I object to it.

The CHAIRMAN. Then the Chair must rule it out of order.

Mr. ROWE. I hope the gentleman from Tennessee will withdraw his objection. The amendment has the indorsement of the Secretary of War. It is perfectly correct, or it would not have been indorsed by the Department. I hold in my hand the papers sent in by the War Department.

The CHAIRMAN. Objection is not withdrawn, and the amendment cannot be received.

The question then recurred on concurring in the fifteenth Senate amendment.

Mr. McDOUGALL. I desire to say I do not want this amendment lost, simply for the reason that the gentleman from Missouri [Mr. PHELPS] did not concur with the Committee of Ways and Means in recommending a concurrence. The heads of the War Department have for years recommended an appropriation for this purpose, and I think the results of the experiment will prove invaluable to the country.

The question was put; and, on a division, there were—ayes 72, noes 2; whereupon,

Mr. WHEELER called for tellers.

Mr. HOUSTON. I hope the gentleman from New York will withdraw his demand for tellers, and let the amendment be concurred in, and when we get into the House we can have a vote upon it by yeas and nays.

Mr. WHEELER. I have let in several things in that way, and when they were taken up in the House they have gone through, and I do not mean to do it again. I cannot withdraw.

Mr. HOUSTON. I am opposed to the amendment as well as the gentleman from New York.

Mr. WALSH. I do not think there will be any difficulty about getting a quorum on a vote by tellers, for I understand that there is a large number of members up stairs regaling themselves.

Mr. FLORENCE. That is a mistake.

Tellers were then ordered; and Messrs. BRIDGES and BOYCE were appointed.

The question was then taken; and the tellers reported—ayes 79, noes 42.

So the amendment was concurred in.

Sixteenth amendment of the Senate:

And be it further enacted, That the provisions of the first section of the act entitled, "An act making appropriations for the support of the Army for the year ending the 30th of June, 1851," approved September 28, 1850, granting extra pay to the officers and enlisted men of the Army serving in Oregon and California, be extended to the officers and men composing the garrison of the post of Fort Laramie, on the Oregon route, for the same period of time as was allowed by the sixth section of the act of 3d March, 1853, to the officers and men of the two companies of regiment of mounted riflemen that garrisoned Fort Laramie; and that the provisions of the same section of the same act be also extended to the officers and men composing the escort of Mexican boundary commission while they were serving as such escort.

Mr. PHELPS. The Committee of Ways and Means recommend a concurrence in the amendment.

Mr. McDOUGALL. I move to amend by adding the following:

And that the provisions of the same act be extended to the officers and men of the regiment of New York volunteers, under the command of Colonel John D. Stevenson, serving in California, while serving in that State.

Mr. PHELPS. I rise to a question of order on the amendment. The amendment changes the existing law. It will increase the pay of the volunteers during the period of their service. It is not applicable; it is not germane. The proposition of the Senate is not to increase the pay of the officers and men serving in California, but the officers and men of two companies of infantry stationed at Fort Laramie.

Mr. McDOUGALL. I do not think that the gentleman's point of order can be sustained. My amendment is to extend the same act that the Senate's amendment proposes to extend. Their amendment extends it to officers and men in one locality; mine to officers and men in another.

The CHAIRMAN. Although the Chair does not understand the gentleman very well, he will rule the amendment to be in order.

Mr. McDOUGALL. Mr. Chairman, I now ask the attention of the committee to an explanation of the amendment. The officers and seamen of the Navy of the United States who served during this same period upon the California coast have had the benefits of a similar provision. The regular troops who served in California at the same time have had the benefits of the same provision; and I know of no reason why the officers and men of the New York volunteers, who first went out to California, and who were there during the war, who underwent all the hardships of that new and then unsettled country, should not be placed upon just the same footing as the officers and seamen of the Navy and the officers and men of the regular troops, to whom I have referred. I never understood why this mere act of justice to these officers and men has been so long delayed. I think there can be no good objection to the amendment.

Mr. SMITH, of Virginia. One objection to the gentleman's amendment is this: The New York volunteers went out to that country at the public expense. It was where they wished to go; and after having got there, they were soon discharged, having performed but little service. That is not all. Not wishing to return, they were paid for a constructive return. They did not return; they had too much good sense to leave that country.

Mr. McDOUGALL. How was it that the New York volunteers wanted to go to California? Gold had not been discovered there at that time.

Mr. SMITH. I am stating a matter of fact. Those volunteers went to California at the public expense, and, after discharging but little service, they were discharged. They staid there, and went to work. Some have grown very rich, and become members of Congress, and what not.

Mr. McDOUGALL. They, like other volunteers, were discharged away from home.

Mr. PHELPS. I oppose the amendment of the gentleman from California. I will call the attention of the committee to the fact that this increased pay comes——

Mr. McDOUGALL. Discussion has been exhausted on the amendment. I shall not be allowed reply, and I call the gentleman to order.

Mr. PHELPS. I will state that the gentleman's amendment——

Mr. STUART, of Michigan. I call the gentleman to order. Debate has been had for and against the amendment, and is now exhausted.

The CHAIRMAN. The gentleman from Missouri is not in order in now submitting remarks on the amendment.

Mr. McDOUGALL. I will modify my amendment, for the purpose of being enabled to reply to the gentleman from Virginia.

The CHAIRMAN. That cannot be done.

Mr. McDOUGALL. Then I would ask a question of the gentleman from Missouri, [Mr. PHELPS.]

Mr. INGERSOLL. I object.

The question was taken; and the amendment to the amendment was disagreed to.

Mr. KEITT. I move that the committee take a recess until seven o'clock this evening. I wish to have an evening session for business.

Mr. DISNEY. Let us go into the House, and then adjourn until seven o'clock this evening. If that be done, when we come here in the evening the House can go into committee for the consideration and disposition of the Army bill, or take up other business for action. If the committee take a recess, it can dispose of no business except that before it as a committee.

Mr. KEITT. Then I withdraw the motion for a recess, and move that the committee do now rise. My purpose is to advance the business of the House.

Mr. JONES, of Tennessee. If the committee intend to dispose of these Senate amendments, let them do it to-night. If we go into the House and adjourn to meet at seven o'clock, we will not get into committee during the evening.

The CHAIRMAN. The Chair holds that a majority vote can control the committee.

Mr. DISNEY. If my suggestion be adopted, we can meet this evening in the House, and go on with the business acted on during the morning. Fifty gentlemen would be able to have a disposition made of the business which they have in charge. If we come back as a committee, they cannot have that opportunity.

Mr. HOUSTON. I have no doubt about it being competent for us to take up any business we please. When this bill shall have been disposed of I shall move to take up the Military Academy bill.

Mr. INGERSOLL. I call the gentleman to order.

Mr. HOUSTON. I am not out of order.

Mr. SEWARD. I move that the committee do now rise.

Mr. KEITT. I have moved that the committee take a recess until seven o'clock for the purpose of continuing the consideration of the public business. Does not that motion take precedence?

The CHAIRMAN. The gentleman's motion being made first will take precedence.

Mr. SEWARD. I rise to a question of order. I submit that the committee have no right to take a recess for that purpose.

The CHAIRMAN. The Chair has already decided that they have that right.

Mr. SEWARD. I think the Chair is wrong.

The CHAIRMAN. Does the gentleman from Georgia take an appeal?

Mr. SEWARD. Not now.

Mr. STANTON, of Kentucky. I wish to know distinctly whether the recess, if it be taken, is to be for the purpose of general debate, or for continuing the public business?

The CHAIRMAN. For the consideration of the public business.

Mr. PRINGLE. Have the committee the right to take a recess for that purpose?

The CHAIRMAN. They have.

Mr. SEWARD. I rise to a question of order. I want to know what has become of my motion that the committee rise? I insist upon that motion.

The CHAIRMAN. The Chair has decided that the motion of the gentleman from South Carolina—that the committee take a recess—being made first, must be taken first.

Mr. SEWARD. I appeal from the decision of the Chair.

Mr. HOUSTON. It is clearly in order for the committee to take a recess. It is in order under the rules and practice of the House; and it is clearly in order under the resolution adopted by the House. I drew that resolution myself, and drew it with especial reference to this very question.

The CHAIRMAN. The Chair decides that it is in order, both under the general rules of the House and under the resolution which has been adopted during the present session. The gentleman from Georgia appeals from this decision, and the question will be, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. SEWARD. Well, sir, I desire to expedite the business of the House as much as possible. I will withdraw the appeal.

The question was then taken upon Mr. KEITT's motion; and it was agreed to;

And the committee thereupon, at half past four o'clock, took a recess until seven o'clock.

EVENING SESSION.

The committee reassembled, and were called to order at half past seven o'clock, (Mr. JONES, of Tennessee in the chair.)

The CHAIRMAN stated the question to be upon concurring in the following Senate amendment:

SEC. 5. *And be it further enacted*, That the provisions of the first section of the act entitled "An act making appropriations for the support of the Army for the year ending 30th of June 1851," approved September 28, 1850, granting extra pay to the officers and enlisted men of the Army serving in Oregon and California, be extended to the officers and men composing the garrison of the post of Fort Laramie, on the Oregon route, for the same period of time as was allowed by the sixth section of the act of 3d March, 1853, to the officers and men of the two companies of regiment of mounted riflemen that garrisoned Fort Laramie; and that the provisions of the same section of the same act be also extended to the officers and men composing the escort of Mexican boundary commission while they were serving as such escort.

Mr. McDOUGALL. I move to amend that amendment by adding the following:

And that the benefits of the said act shall also be extended to the troops of the United States who served in California during the war with Mexico, and until the 1st of July, 1850, for the period of time they were so serving.

Mr. PHELPS. I rise to a question of order.

Mr. McDOUGALL. I hope the gentleman from Missouri will not raise a question of order upon my amendment.

Mr. PHELPS. Perhaps it will be a better way to dispose of the amendment to allow the committee to vote it down. I will withdraw my question of order.

Mr. McDOUGALL. Before the committee took a recess this afternoon, I had offered an amendment giving to the volunteers who served in California the same pay that had been given to the soldiers in the regular service. I then stated that during the entire war this extra pay had been allowed to the whole naval service upon the Pacific. I then said, and I now say, that the land force in California were entitled to be placed upon the same footing.

Now, sir, I give notice that I shall insist upon the adoption of this amendment, if I can. My statement that this extra compensation was allowed for the same time to the officers of the Navy and the seamen of the Navy, was questioned by the gentleman from Missouri who had charge of this bill, (Mr. PHELPS.) Upon an examination of the law, I find this provision:

"And the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to allow and pay, out of any money in the Treasury not otherwise appropriated, to the officers, petty officers of the United States Navy, to the officers, non-commissioned officers, musicians and privates of the marine corps, and to the officers and men of the revenue service, who served in the Pacific ocean on the coast of California and Mexico, during the late war with Mexico, and since the conclusion of the war up to the 28th of September, 1850, the same additional compensation as has been directed to be paid to the officers and soldiers of the Army who served in California; and this provision, allowing extra pay, as well as that contained in the Navy appropriation act of August 31, 1852, shall extend to and include all naval storekeepers who were stationed on the Pacific coast; and the additional compensation authorized by the foregoing provision, and by the Navy appropriation act of 1852, shall be paid to the legal representatives of all deceased persons who would have been entitled to the same if living."

Now, I propose to extend the same provisions, and place upon equal ground the officers and men who served upon the land in California. The amendment that I have now proposed includes those under Kearny's command. The difficulties of their service, and the value of their service, are understood, I believe, all over the country. I place them upon the same ground as the volunteers of New York. I differ most essentially with my friend from Virginia, [Mr. SMITH,] who says they rendered no service. After a most dangerous and difficult voyage, in which they underwent great sufferings, they arrived in California, and rendered most efficient service, as I am advised by the history of my State.

I ask, therefore, that these men who have made all these sacrifices shall be placed upon the same footing with the marine corps of the United States, with the seamen of the United States who served upon that coast. It is but equal justice that it should be done. I hope the amendment will be adopted.

Mr. PHELPS. I think that to adopt the amendment of the gentleman from California would be setting a very dangerous precedent in reference to our Army.

Mr. McDOUGALL. It sets no precedent.

Mr. PHELPS. Well, sir, I differ with the gentleman from California in this respect. This amendment is to give extra pay to the officers and men who served on land in California in 1850. They did not receive the extra compensation during the time of the prosecution of the war in California, yet now the gentleman comes here and asks us to give extra compensation to that regiment. Sir, they did not go there as soldiers; they went there as emigrants. The instructions were given by the Department that this regiment in California and New Mexico should be discharged there. They were discharged there, and became citizens. Sir, there is no apology for giving these men extra pay; and I hope the amendment of the gentleman from California will be voted down.

Mr. FAULKNER. I desire to offer an amendment to the Senate amendment. I move to insert after the word "officers" in the seventh line, the word "chaplains;" so that it will read "officers, chaplains, and men composing the garrison of the post of Fort Laramie." The object of this amendment is to extend the extra compensation which is extended to the officers and men, to the chaplains. It is in conformity with the rules and usages of the service, and I have nothing further to say.

Mr. RICHARDSON. I desire the gentleman from Virginia to tell me by what law chaplains are allowed in the Army? Can the gentleman tell me?

Mr. FAULKNER. I can tell the gentleman that there is such a law. I have it not now before me.

Mr. RICHARDSON. I desire to oppose the amendment of the gentleman from Virginia.

Mr. FAULKNER. I will say to the gentleman from Illinois that the chaplains are regularly recognized and paid their regular compensation in the Army.

Mr. RICHARDSON. Well, sir, I have some little experience in this thing of war, and I was not prayed for by a chaplain. I do not know that here is any law by which they are recognized in the regular Army.

Mr. WALSH. Did the gentleman from Illinois ever pray for himself? [Laughter.]

Mr. WHEELER. Perhaps the gentleman from Illinois may be past praying for. [Renewed laughter.]

Mr. RICHARDSON. If anybody needs it, the gentlemen from New York need it more than any other members that I know of in this House. [Laughter.] I turn aside from them, however, to my friend from Virginia, and ask him for the law authorizing the employment of chaplains in the Army.

Mr. FAULKNER. I can only inform my friend that there is a law authorizing the employment of chaplains at military posts.

Mr. RICHARDSON. That is not an answer to my question. I refer to the army in the field.

The CHAIRMAN. Debate is not in order.

The question was taken; and the amendment was disagreed to.

Mr. McDOUGALL. I wish to move an amendment, to which I think there will be no objection. It will be remembered that Lieutenant Beale, of the Navy——

Mr. PHELPS. Will the gentleman state his amendment. It may not be in order.

Mr. McDOUGALL. I will state it. It is that Lieutenant Beale, of the Navy, be allowed the same compensation under this act for the time he served on land——

Mr. PHELPS. That is not in order. I raise a question of order upon it.

Mr. McDOUGALL. I hope the gentleman will withdraw the question of order.

The CHAIRMAN. The Chair thinks that this is special legislation for an individual—a private claim—and that it is not in order as an amendment to this bill.

Mr. McDOUGALL. It simply proposes to place Lieutenant Beale upon the same footing as other officers.

The CHAIRMAN. There is no law authorizing it.

Mr. McDOUGALL. The gentleman from Virginia proposed to include the chaplain at Fort Laramie. Was not that special legislation?

The CHAIRMAN. Does the gentleman appeal from the decision of the Chair?

Mr. McDOUGALL. No, sir. I will change my amendment so as to provide that officers of the Navy of the United States who served on land connected with the Army, and carried expresses for the Army from California to this country and

back, be allowed the same compensation. That will cover a single case, the case of one of the most meritorious officers that ever served the Republic, and there ought to be no objection to it from any quarter.

Mr. HOUSTON. If the Chair decides the amendment out of order I object to debate.

The CHAIRMAN. The Chair thinks the amendment is not in order to this section.

Mr. McDOUGALL. Why, then, was the chaplain's amendment in order?

The CHAIRMAN. The Chair would have decided it out of order if the question had been raised.

The question was then taken; and the sixteenth amendment of the Senate was concurred in.

Seventeenth amendment of the Senate:

SEC. 6. *And be it further enacted*, That the same allowance in respect of rations be hereafter made to the military commandant of the Schuylkill arsenal in the quartermaster's department as to the commandants of the arsenals in the ordnance department.

Mr. PHELPS. The Committee of Ways and Means recommended a non-concurrence in that amendment.

The question was taken; and the amendment was non-concurred in.

Eighteenth amendment of the Senate:

SEC. 7. *And be it further enacted*. That the laws granting extra pay to officers and soldiers who had served in California apply to chaplains who were at ached to the army in California during the period embraced by such laws.

Mr. PHELPS. The Committee of Ways and Means recommend a concurrence in that amendment.

Mr. HOWE. I propose to amend that amendment by adding thereto the following:

And that the military storekeeper at the Rome arsenal New York, be allowed, from the 1st day of October, 1842, the same compensation which is allowed by the act of 23d August, 1842, to be paid to the military storekeepers at the Washington, Pittsburg, and Watervliet arsenals, and that there be paid to James S. Abeel, twenty dollars a month for and during the time he has performed the duties of commissary and assistant commissary of subsistence and quartermaster.

Mr. GREENWOOD. I raise a question of order upon that amendment.

The CHAIRMAN. The Chair thinks this is special legislation, also, and does not belong to this bill.

Mr. HOWE. A similar provision has been inserted in two previous military appropriation bills.

The CHAIRMAN. That fact would have no bearing on the rules of the House. Many amendments are put in in the Senate which would not be in order here, and they are sometimes even put in here when questions of order are not raised.

Mr. FAULKNER. I move to amend the amendment of the Senate by striking out the word "chaplains." I do not mean to insist upon the amendment, but I wish to say that every individual at Fort Laramie has been paid, and will be paid under this bill, except a venerable old gentleman with eight children, who is excluded under the idea that there is no authority of law for employing chaplains at these military posts.

Mr. SEWARD. I call the gentleman to order. I submit that his amendment is not in order.

The CHAIRMAN. The Chair sustains the point of order. The effect of the gentleman's amendment would be to destroy the section.

The question was then taken; and the amendment of the Senate was concurred in.

Nineteenth amendment of the Senate:

SEC. 8. *And be it further enacted*, That the annual distribution of arms to the several States under the act approved April 23, 1803, entitled "An act making provision for arming and equipping the whole body of the militia of the United States," shall be hereafter made according to the number of their Representatives and Senators in Congress, respectively; and that arms be distributed to the Territories and the District of Columbia, in such quantities and under such regulations as the President, in his discretion, may prescribe.

Mr. PHELPS. The Committee of Ways and Means recommend a non-concurrence in that amendment.

Mr. HENN. I have an amendment to offer to that section; and I think that, when the House comes to understand the true situation of the matter, they will not agree to the recommendation of the Committee of Ways and Means. My amendment is as follows:

Provided, That the Secretary of War shall first equalize, as far as practicable, the number of arms heretofore distributed and now in possession of the several States, so that each State which has received less than its *pro rata* share shall receive the number sufficient to make an equal *pro rata* proportion for all the States, according to the present number of their Representatives and Senators respectively.

I understand that the Committee of Ways and Means recommend non-concurrence in that amendment. If the gentleman from Missouri will look at the report of the Secretary of War, he will see the necessity of adopting the amendment, and also of adopting the amendment which I have offered. In the State of Connecticut, for instance, there were three hundred and forty-two stand of arms distributed last year, while in the State of Illinois there were nine hundred and fifty-seven. In the State of Texas there were only one hundred and eleven, while in California, with the same represenation, there were eleven hundred and thirty-two, or ten times as many as in Texas. This is caused by the irregularity of the militia returns on which the present distribution is made. By the adoption of the amendment of the Senate, that irregularity cannot take place. And it is equally necessary, in my opinion, that we should make a *pro rata* distribution of all the arms, according to population. The frontier States have few or no arms, while there a great many are actually needed. How many have we in the Northwestern Territory? We have only one hundred and ninety-five in the State of Iowa.

Mr. HOWE. If the gentleman from Iowa will allow me a moment, I shall state, in relation to the State of Pennsylvania, that the distribution of arms was made last year on the basis of the returns of the previous year, and that it turns out they fell short some six hundred muskets. The returns of the militia for the year before last showed some two hundred and sixty-eight thousand, whereas last year the returns showed only one hundred and ten thousand, or one hundred and eleven thousand. It shows the inaccuracy of the data on which the arms were distributed. Everybody knows that there could not be that falling off in the State of Pennsylvania in one year.

Mr. HENN. If the members of the Committee of Ways and Means will read the report of the ordnance department, page 356, they will there find proof of the inequality of the present mode of distribution; and they will find that for a number of years past the change has been recommended.

Mr. HOWE. There is every reason in the world in favor of the proposed change. Representation is based on population. That is actually ascertained. The necessity which the people have for arms is in proportion to the number of the population. These militia returns, however, are notoriously inaccurate. The Senate amendment strikes me as being a proper one.

Mr. LILLY. I have no particular objection to the amendment of the Senate, but I have certainly serious objection to portions of the amendments proposed by the gentleman from Iowa. The amendment of the gentleman from Iowa, if I understand it, proposes to deprive the old States, which have their muskets now, of any distribution, until the new States shall have received as many arms, *pro rata*, as the old States.

Mr. HENN. The gentleman is mistaken entirely. His State would be benefited by my amendment.

Mr. LILLY. I shall object to the amendment of the gentleman from Iowa. If I understand it right, the latter portion of it would prevent us getting any more arms until these States which had not received their *pro rata* were supplied with their full amount.

The question was taken on Mr. HENN's amendment to the amendment of the Senate, and it was agreed to.

The question recurred on the adoption of the Senate amendment, as amended.

Mr. FAULKNER. I regard that amendment of the Senate as one of some importance.

The CHAIRMAN. The amendment is not now debatable.

Mr. FAULKNER. Well, I move to amend the amendment by striking out the words "and Senators," so that the amendment will read that the distribution of arms shall hereafter be made according to the number of their Representatives in Congress. Mr. Chairman, I cannot but express some surprise that the Committee of Ways and Means has recommended non-concurrence in this amendment of the Senate. Ever since I have been in Congress—now four years—I know that the Secretary of War has been every year recommending that proposition to the attention of Congress. And I know that every time that that recommendation has been before the Committee on Military Affairs we have invariably reported favorably. And why, sir? The act of 1808, under which our arms are now distributed, direct that these arms shall be distributed according to the effective militia of the several States Now, there is no standard by which this distribution can be equally made. The law of Congress does not prescribe the number of effective militia, and very many of the States send no militia returns at all. The consequence is that some of the States get a distribution of arms, and others do not.

In relation to the State of Iowa, represented by the gentleman who has just addressed the committee, Congress, in 1853, passed a law directing, so far as Iowa is concerned, that arms were to be distributed to that State according to representation in Congress; and every year the Department of War has been recommending Congress to adopt some fixed standard of distribution, such as that adopted in relation to the State of Iowa. Now, I believe that the fairest standard or basis of distribution would be the House of Representatives. I am perfectly willing, however, that the distribution should take place on the basis of the House of Representatives and Senate. It is absolutely necessary that there should be such a basis, as there is now no standard of distribution of these arms in some of our States. Virginia, for instance, having abolished the militia. The returns of militia are so irregular and uncertain as to form no basis for distribution. I hope, therefore, that the amendment of the Senate will be adopted.

Mr. PRATT. I believe it is proper to debate the proposition of the gentleman from Virginia.

Mr. FAULKNER. I ask to withdraw my amendment.

Mr. PRATT. I object to that. I think the proposition of the gentleman from Virginia is proper and right. There should be a distribution of arms *pro rata* as near as possible. The distribution of arms was originally designed to encourage a correct enrollment of the militia, or citizens subject to military duty. When the present law was passed it was a judicious one. But, as has been well remarked by the gentleman from Virginia, the militia is at present disbanded in some of the States. Besides, it is to be presumed that many of the militia returns to the War Department are incorrect. I am told that such is the fact, and I have no doubt of it. I am in favor of the Senate amendment, with the amendment proposed by the gentleman from Virginia, to strike out the words "and Senators," because I think the committee cannot fail to see the impropriety of giving to the State of Delaware, which has about half the population of the State of Rhode Island, nearly as many arms as the State of Rhode Island. The object is to secure equality, and this would be accomplished if the arms are distributed in proportion to and according to the representation of the popular branch.

Mr. WALSH. I would ask the Chair whether it is in order for my distinguished military friend from Connecticut [laughter] to discuss the same side of the question that has already been presented by another gentleman.

Mr. PRATT. I believe I am in order.

The question was then taken upon Mr. FAULKNER's amendment; and, upon a division, there were—ayes thirty-eight; noes not counted.

So the amendment was rejected.

Mr. McDOUGALL. I have been fortunate to differ with the committee and Chair heretofore; and I hope that the amendment which I now offer will be regarded as in order. I will state that it is nothing more or less than a proposition for the construction of a railroad from the valley of the Mississippi to the Pacific coast. It is more important to the military defense of the country that the amendment I offer should pass than any other provision of the bill, and it ought to receive the favorable consideration of this committee.

The Clerk then proceeded to read the amendment, as follows:

That with the view of protecting the interior Territories of the United States, and of maintaining the defense of the Pacific coast, and for those and other Government purposes, of aiding in the construction of suitable railroads and telegraphic communications between the Mississippi valley and the Pacific ocean, there shall be, and is hereby, appro-

priated and set apart a quantity of public land equal to the alternate sections for the space of twelve miles on each side of said roads from their eastern to their western termini, as follows:

One road and telegraph, to commence on the western border of the State of Texas, and to pursue the most eligible route to the navigable waters of the Pacific, in the State of California; which line shall be known as the Southern Pacific railroad.

Mr. PHELPS. There is no necessity of reading the amendment any further. I rise to a question of order, that the amendment is not in order.

The CHAIRMAN. The Chair decides that the amendment is not in order.

Mr. McDOUGALL. I respectfully take an appeal from the decision of the Chair, and I wish to say one word——

The CHAIRMAN. The question is not debatable. The committee are engaged in the consideration of the nineteenth amendment of the Senate, which provides for the distribution of arms to the several States. The gentleman from California [Mr. McDOUGALL] proposes to amend by adding a proposition for the establishment of a railroad from the Mississippi to the Pacific, which the Chair decides to be out of order. From that decision the gentleman from California appeals, and the question now is "Shall the decision of the Chair stand as the judgment of the committee?"

The question was taken, and the decision of the Chair was sustained.

Mr. MATTESON. I move to strike out in the sixth line, after the word "then," the words "Representatives and Senators in Congress respectively," and insert the following:

White male inhabitants between the ages of eighteen and forty-five, to be ascertained through the last census.

The proposition I submit, it strikes me, is a much better one than a distribution according to the number of Senators and Representatives. It seems to me that the persons who are to use these arms will be of the class that I have indicated in the amendment I submit. I think it would be much better to distribute arms to free white male inhabitants, between the ages of eighteen and forty-five, than in the way proposed by the amendment of the Senate.

Mr. PHELPS. The gentleman from New York proposes to strike out the words "Senators and Representatives," and insert in their place the words "free white male citizens between the ages of eighteen and forty-five." Flagrant injustice will be done to the new States if the amendment offered by the gentleman from New York be adopted. The census is taken only once in ten years, and this will offer an inducement for many of the States to keep up the present militia system. The gentleman from New York is dissatisfied with the distribution of arms proposed by the amendment of the Senate, and proposes that they shall be distributed according to the number of free white male citizens between the ages of eighteen and forty-five. How is that census to be taken? Does the gentleman propose that the Government of the United States shall take a census every year, or must we depend upon the census taken once in ten years. If so, is it not injustice done to every State upon the frontier? Can we expect that the States upon the Atlantic coast, which have been receiving arms for the last forty-seven years will increase as rapidly in population as the States west of the Alleghanies, and in the valley of the Mississippi? Would it be just to make a distribution for the ensuing decade according to the population which they had in 1850? For these reasons, I am opposed to the amendment of the gentleman from New York.

Mr. MATTESON. I demand tellers upon the amendment I have offered.

Tellers were ordered; and Messrs. PRINGLE and NICHOLS were appointed.

The question was then taken, and the tellers reported—ayes 29, noes 91.

So the amendment was non-concurred in.

Twentieth amendment of the Senate:

SEC. 9. *And be it further enacted*, That the Governors of the several States and Territories be, and they are hereby, authorized to sell, to the best advantage, the arms heretofore distributed under the act of April 28, 1808, and invest the funds arising out of such sales in other arms more suitable for the purposes contemplated by said act: *Provided*, That no arms be so purchased or provided, except such as may be of the same description and caliber as those regularly adopted and in use in the Army of the United States.

Mr. SMITH, of Virginia. I move to amend by striking out all after "1808." The balance of the amendment which I propose to strike out only undertakes to direct how the States shall dispose of the proceeds of such sales—the proceeds of sales which they have the right to make, and which they are accustomed to make. I move, therefore, to strike it out, for I deny that the Government has the right to pass a law directing how the States shall dispose of what is their own.

Mr. PHELPS. I rise merely to oppose the amendment of the gentleman from Virginia *pro forma*. The Committee of Ways and Means recommend a non-concurrence in this amendment, and I suggest to the gentleman from Virginia that he withdraw his amendment and let the vote be taken.

Mr. SMITH. I have no objection. I withdraw it. I only desired to call the attention of the committee to the matter.

The question was put; and it was decided in the negative.

So the amendment was non-concurred in.

Twenty-first amendment:

SEC. 10. *And be it further enacted*, That there shall be added to the Army two regiments of infantry and two regiments of cavalry, organized as in the existing force; and that the officers and men authorized by this act shall be entitled to the same provisions for wounds and disabilities, and the same provisions for widows and children, and the same allowances and benefits, in every respect, as are allowed to other troops composing the Army of the United States; they shall be subject to the rules and articles of war, and the men shall be recruited in the same manner as other troops, and with the same conditions and limitations.

Mr. PHELPS. I am instructed by the Committee of Ways and Means to propose a substitute for the amendment under consideration. It is to strike out all after the enacting clause, and insert what I send to the Clerk's desk to be read.

The substitute was read, as follows:

That the President, for the purpose of maintaining peace with the Indian tribes, of protecting the citizens on the routes of emigration in the Territories of the United States, and the citizens inhabiting said Territories, and to suppress Indian hostilities in the same, be, and he is hereby, authorized to call for and accept the services of any number of mounted volunteers not exceeding in all three thousand, officers and men, to be organized as hereinafter directed, who shall, as circumstances may direct, be employed as rangers, scouts, and spies, and serve for twelve months, unless sooner discharged: *Provided*, That the number of privates for each company of volunteers herein authorized shall not exceed sixty-four: *And provided further*, That the said volunteers may be required to serve on foot, if circumstances should render such service necessary.

SEC. —. *And be it further enacted*, That the said volunteers shall furnish their own horses and horse equipments, and when mustered into the service shall be armed at the expense of the United States, and, until discharged therefrom, shall be subject to the rules and articles of war, and shall in all respects, not set forth in the provisions and limitations of this act, be organized in the same manner with the present regiment of mounted riflemen of the United States Army.

SEC. —. *And be it further enacted*, That the said volunteers so offering their services may be accepted by the President in companies, squadrons, battalions, or regiments—whose officers shall be appointed in the same manner prescribed by law in the several States and Territories to which said companies and squadrons shall belong.

SEC. —. *And be it further enacted*, That the volunteers who may be received into the service of the United States by virtue of this act, and who may be wounded or otherwise disabled in the service, shall be entitled to all the benefits which may be conferred by existing laws on other persons wounded or disabled in the service of the United States.

SEC. —. *And be it further enacted*, That the pay of the said volunteers, including compensation for the use and risk of horses not killed in action, shall be as follows: For officers of all grades, the pay and emoluments of the like grade in the present corps of mounted riflemen of the United States Army; for sergeants, $1 20 per day; for corporals, blacksmiths, farriers, and musicians, $1 10 per day, and for privates $1 per day: *Provided, however*, That if any mounted volunteer, other than a commissioned officer, shall not keep himself provided with a serviceable horse, and with serviceable horse equipments, the said volunteer shall serve on foot, and shall forfeit one half his daily pay during the period of such service dismounted: *And provided further*, That the pay herein allowed shall be in lieu of all pay allowances and bounties now authorized by law, except rations, clothing, and commutation in money of clothing, and excepting all such claims as may be valid under existing laws for wounds or disability incurred in service, or for horses killed in action: *Provided further*, That the quartermaster's department may furnish the volunteer with horse equipments at the cost of the same to the Government.

SEC. —. *And be it further enacted*, That the President be, and he is hereby, authorized to prescribe and to vary from time to time, as may be in his judgment expedient, the arms and equipments of the volunteers authorized to be accepted, or any portion thereof.

Mr. PHELPS. Mr. Chairman, I presume that it will be in order to perfect the Senate's amendment before we proceed to the consideration of the substitute proposed by the Committee of Ways and Means, which has just been read. I do not, therefore, intend to now submit any remarks, although I shall when the question arises on the substitute.

Mr RICHARDSON. I move to amend the amendment of the Senate by inserting after the words "that there shall be added to the Army two regiments of infantry and two regiments of cavalry, organized as in the existing force," the following:

And there shall be appointed, by and with the advice and consent of the Senate, one brigadier general.

Mr. Chairman, if the provision be passed that there be four additional regiments to the Army then it is necessary to add another brigadier general. We have now one major general and two brigadier generals. Two regiments constitute the command of a brigadier general. We shall not have brigadier generals enough if the present regular force be increased as proposed. I have no doubt about the urgent necessity for an increase of the Army; none in the world. If I had the election of the mode in which it should be increased, I would have two volunteer and two regular regiments.

I take it for granted that the Army is to be increased in some shape or other. It is, therefore, necessary to have another brigadier general, so that we shall have general officers enough for the command of the Army. For that reason I have moved my amendment. If the substitute of the Committee of Ways and Means should prevail, I will move a similar amendment to it.

Mr. BENTON again addressed the committee, in continuation of his former remarks, and which will be published in a connected form in the Appendix. Having yielded the floor,

The question was taken on Mr. RICHARDSON's amendment; and it was agreed to, there being, on a division—ayes 66, noes 60.

Mr. BLISS. I move to amend the amendment of the Senate by adding thereto the following:

And shall be armed with Sharpe's patent breech-loading rifle or carbine.

Mr. BENTON. I rise to a point of order. I desire to know what we are now exactly acting upon. I submitted an amendment long since, during the day session, proposing to strike out the whole of the Senate's amendment, and inserting what I sent to the desk.

The CHAIRMAN. The gentleman's amendment is not in order. The amendment of the Senate is first under consideration.

Mr. BENTON. Yes.

The CHAIRMAN. The Committee of Ways and Means have reported an amendment in lieu of it.

Mr. BENTON. Yes.

The CHAIRMAN. That is an amendment to an amendment, and until it is disposed of, under the rules of the House and of the committee, the gentleman cannot offer his substitute.

Mr BENTON. Well, when they are all disposed of, then my amendment will come in, I suppose.

The CHAIRMAN. If, when the committee get through perfecting the Senate's amendment, the amendment proposed by the Committee of Ways and Means shall be voted down, then the gentleman from Missouri can offer his.

Mr. BENTON. Now let me carry the point of order a little further and see how it works. I am in favor of the amendment of the Committee of Ways and Means as against the Senate's amendment, but I am against them both. I want to strike out the Senate's amendment. Will my amendment come in for that purpose if these are all rejected?

The CHAIRMAN. Under the rules of the House, the gentleman cannot offer his amendment until the amendment of the Committee of Ways and Means is disposed of, for the reason that the Senate amendment is an amendment to the bill, and the proposition of the Committee of Ways and Means is an amendment to that amendment. No further amendment can, therefore, be in order.

Mr. PENNINGTON. I ask the Chair whether the amendment of the gentleman from Ohio [Mr. BLISS] is in order?

The CHAIRMAN. The Chair thinks that perhaps it would be competent to direct how these troops shall be armed.

Mr. PENNINGTON. Would it not be changing existing law?

The CHAIRMAN. No.

[Here Mr. HENDRICKS resumed the chair.]

Mr. BLISS. I will state, for the information of the committee, that an appropriation has already been made, and placed under the control of the public authorities, for the purpose of purchasing these arms to introduce into the Army. Sir, it is utterly impossible that I should, in the five minutes allowed me, discuss the merits of the instrument called Sharp's rifle. But I have here letters, some of them of an official character, which I will ask the Clerk to read, and which represent the merits of Sharp's rifle or carbine—for they are but modifications of the same arm; and I think that these letters will satisfy every gentleman that it would be of the highest possible economy on the part of the Government to purchase that arm, on account of its extreme efficiency, and to place it in the hands of all your citizens who are required to do battle. I ask that these letters be read.

The following letters were then read:

WASHINGTON CITY, *June* 19, 1854.

In reply to your request, that I would give in writing the opinion I have formed after using your Sharp's rifle, I have to say, that, in my journey last winter to California, I took with me two of them—one designed for use on horseback, and one for my own use, of the usual western rifle length and weight. I found it the most convenient gun I had ever used, requiring only care to keep it dry. I had with me a party of Delaware Indians, who very much admired the rifle, and preferred it to any thing they had ever seen.

On an occasion of emergency, when the party was reduced to starvation, I offered one of your rifles as a prize to the Delaware who should kill the fattest deer—and it was considered by them as a prize to be struggled for. They are practical judges of what is a good rifle, and opposed to any innovation, so that their judgment carries weight.

Very respectfully yours, J. C. FREMONT.

I have used Sharp's rifle over my mail route between Independence, in Missouri, and Salt Lake City, Utah, and have found it ever faithful, whether used against hostile Indian, or deer, or buffalo. It is easily kept in repair, will fire ten times a minute, and brings down whatever it is aimed at, even at a distance of four hundred yards. It is the greatest weapon extant, so far as my experience and knowledge extend. Truly yours,

WM. M. F. MAGRAW, *Mail contractor*.

WASHINGTON, *January*, 1855.

In answer to your inquiries relative to Sharp's rifle, and my experience with it, I take great pleasure in bearing testimony to its great value and use. Upon two expeditions across the continent to California I have used it. The last year in a party of twenty five men, ten were armed with Sharp's rifle, having the Maynard primer.

I left San Antonio, Texas, first January, and reached San Diego on the Pacific coast in June—having had the above ten rifles in active use the whole time in the field; no injury occurred but to one, which, from some defect in the material, the hammer broke. They passed through wet weather and dry; were used for purposes of killing game, as well as for our defense, with great success; a number of the men were old frontiers men and hunters, preferring them to any rifle they had ever used. With the ten men armed with this rifle (Sharp shooters) we felt equal to thirty having the ordinary rifle. The simplicity of the arm enabled our men to understand it at a glance; and they became expert in its use almost immediately, loading and firing with great accuracy and rapidity. We killed game at four hundred and fifty yards with them.

Another important feature in its favor was the great confidence it seemed to inspire the men with, in regard to their strength and power to defend themselves against superior numbers. With only ten men, a colored servant, and Mexican arriero, I kept at bay one hundred and forty Apache warriors, all fully armed, and just on the eve of an attack upon Governor Gandara's ranch in Sonora. We passed through them without loss, although they watched every chance to attack and defeat us. I look upon it as far the best rifle, and the only proper one for mounted men, that I have ever seen used. Against Indians, or other hostile bodies, with Colt's revolver for a side weapon, it is most destructive. Any further information respecting it, I will be happy to give you, as far as my experience goes.

Very respectfully, yours, A. B. GRAY.

SIR: I have used Sharp's rifle for some time, as a defense of the United States mail between Independence, Missouri, and Santa Fé. I believe it the best arm for use on the plains now in existence, carrying, with great precision and force, from four to six hundred yards. They are not liable to get out of repair, and, in the hands of one skilled in their use, can be discharged as often as ten times per minute. I have frequently killed deer, antelope, and buffalo, with them at a distance of over four hundred yards.

Yours very respectfully, &c, JACOB HALL.

SAN ANTONIO, TEXAS, *February* 10, 1855.

It affords me great pleasure to bear testimony, as I do, from actual observation and experience, to the merits and practical worth of Sharp's patent rifle. I have carried and used it for some two years, during a part of the time over my mail route from San Antonio to Santa Fé, in New Mexico, and have, on all occasions, found it reliable, certain, and superior in execution to any other rifle I have used or seen. It has proved a savior to me and my men, when any other species of fire-arms, as I feel assured, would have been of no service. The sight of it, or the knowledge that you or your party are armed with that far reaching and fatal weapon, intimidates and disheartens your enemies. But if they do recklessly rush up to the scratch, they soon find the terrible execution it will effect.

As for killing of deer, buffalo, bears, &c., &c., I will pit the Sharp rifle against all other shooting instruments that have yet been invented and brought into use. I trust the Government will take care that all its troops and forces on the frontier will be provided with a full supply of that most useful and faithful weapon.

Very respectfully, your obedient servant,

G. H. GIDDINGS,

Mail contractor on route from San Antonio, Texas, to Santa Fé, New Mexico.

LAS LUNAS, NEW MEXICO, *March* 18, 1854.

SIR: I have had five of Sharp's carbines on hand for six months, and have endeavored to test them, both in the field and garrison, and am satisfied that they are superior to any fire-arm yet furnished the dragoons. But twenty have been brought to the department, as yet, and I cannot learn that they have estimated for any more. It would add to the efficiency of my company, if I could receive a full complement of these carbines. Should this not be judged advisable, I would ask for twenty five. A much larger detachment than twenty five men could hardly expect to be engaged in any serious affair with Indians in this country.

I should think that twenty-five or thirty of Sharp's carbines in skillful hands would be equal to any emergency likely to arise.

I have found the "Maynard primer" to fail so often, that time is saved by using the ordinary percussion cap.

My experience with Sharp's carbine does not authorize the suggestion of any alteration, except that, for accurate firing, it should be easier on the trigger.

In the above, I speak of the "Maynard primer" as applied to Sharp's carbine of 1848, the kind I have.

Nor do I make any comparison between Sharp's carbine and his rifle. The latter I have not seen, but am told is better, unless it be too heavy, for dragoons.

Of course, any improvement that may have been made in this arm could be advantageously applied to those sent here.

Respectfully, R. S. EWELL.

Captain First Dragoons.

Colonel H. K. CRAIG,

Ordnance Department, United States Army.

WASHINGTON, D. C., *June* 26, 1854.

SIR: The Sharp rifle issued by you for the service of the exploration under my charge, proved an excellent and reliable arm. It can be used on horseback at full speed. It was much sought after both by the enlisted men and employees of the exploration, and not the slightest difficulty was experienced to learn the use of it. I took much pains to show it to the Indians, and especially to the Blackfeet Indians; and I was of opinion that even the limited number in our hands served to increase our numbers with these experienced hunters and warriors.

The Maynard primer issued to us were almost entirely worthless; and unless they were of very inferior quality, or unless great improvements can be made in them, our experience is that they are entirely unreliable.

Truly, your obedient servant,

ISAAC D. STEVENS.

Colonel H. K. CRAIG, *Colonel of Ordnance.*

WASHINGTON, *March* 1, 1855.

SIR: I have been acquainted and used Sharp's breech-loading rifle for the last three years, and cheerfully say that I give it the preference to any gun I have ever used, and consider it the best arm in existence.

Respectfully, &c., H. L. KINNEY.

Mr. HIBBARD. I rise to a question of order. I submit that this amendment is not in order, as it proposes to change existing law.

The CHAIRMAN, (Mr. HENDRICKS in the chair.) The Chair understands that the gentleman who occupied the chair a few moments ago, [Mr. JONES, of Tennessee,] decided this amendment to be in order; and relying, as I do, confidently on his judgment, I will decide so.

Mr. PENNINGTON. I am entirely opposed to special legislation for the benefit of patentees. We have seen enough of it already at this session. I am disposed to leave this subject to the Secretary of War, and to the officers of the Army and Navy of the United States. There the matter should be left. It may be safely and properly left there. I raise no question as to the value of this arm. It may be superior to all other arms of the kind. If so, sir, the Secretary of War will have power to test its use in the organization of these new regiments. Armories are now in operation for the manufacture of this article for the Government; and its value can be tested.

Mr. FAULKNER. Will the gentleman from New Jersey permit me to state one fact in relation to this matter?

Mr. PENNINGTON. Certainly.

The CHAIRMAN. The gentleman from Ohio [Mr. BLISS] has the floor.

Mr. FAULKNER. There is a fact to which I wish to call the attention of the gentleman from New Jersey, that an appropriation was made at the last Congress for the purpose of testing experiments with different guns.

Mr. PENNINGTON. I was about to allude to the fact, that the Secretary of War, under an appropriation made at the last Congress, has been making experiments, and I understand that the Perry arm has so far received the approbation of the ordnance corps over the Sharp arm, which is a competitor with it.

Mr. LANE, of Oregon. I do not like to consume the time of the committee——

The CHAIRMAN. Debate is exhausted upon the amendment.

Mr. LANE. I rise, if it is in order, to move an amendment to the amendment.

The CHAIRMAN. An amendment to the amendment would not be in order at this time. The question now pending is upon the amendment proposed by the gentleman from Ohio, [Mr. BLISS.]

Mr. BLISS. I think that I am entitled, by my non-intrusion upon the time of this floor, or, as my friend near me suggests, by my modesty, to five minutes more time to express a few facts that I know about this matter, and to make a few explanations. Will the committee give me the time?

Mr. JONES, of Tennessee. If the rules are to be suspended continually, we will never get this bill out of the committee. I object to any person speaking contrary to the rules.

The CHAIRMAN. The Chair will enforce the rules.

Mr. BLISS. I ask for tellers on the amendment.

Tellers were not ordered.

The question was then taken; and the amendment was rejected.

Mr. HIBBARD. I move to increase the sum proposed by the Senate's amendment $1,000. It is evident, sir, that the condition of affairs upon the frontiers imperatively requires an increase of the military force. Our Territories have been invaded, the lives and property of our citizens have been destroyed, and greater and still more numerous and formidable combinations of the savages are now gathering, with hostile intent upon our borders. In this state of things I am for vigorous measures of defense. I am inclined to support the Senate's amendment in preference to either of the other propositions, because it appears to me the most effective one upon which it will be found practicable at this time for both Houses to agree. I hope, sir, it will be adopted. But I do not propose now to discuss the respective merits of these different propositions.

The gentleman from Missouri, sir, [Mr. BENTON,] has alluded to several massacres committed upon our troops by the Indians, in which I understood him to express the opinion that our people were in the wrong, and that the massacres have been caused by their misconduct. Among them the gentleman mentioned the recent slaughter of our troops by the Sioux, at Fort Laramie. Mr. Chairman, the information which I have upon this subject has led me to an entirely different conclusion. Lieutenant Grattan and his command were destroyed by the savages without adequate provocation, in the attempt to execute the order of his superior, in the plain path of a rightful duty. I regard it, sir, as an unprovoked and fiendish outrage, which we are called upon to avenge. The recurrence of which we should take vigorous measures to prevent in the future.

The facts of the affair I understand, from papers in the War Department, to be these: A party of emigrants was passing in the neighborhood of Fort Laramie, where about fifteen hundred Sioux Indians were encamped. The Indians having killed one of the emigrants' cattle, one of the head chiefs, and, I believe, the principal chief of the Sioux, called "The Bear," went to the fort, reported the fact to the commandant, Lieutenant Herring, and proposed that if he would send a detachment of troops to the Indian camp for the offender, he should be delivered up. Lieutenant Grattan was accordingly sent, with a party of twenty-nine men, to the Indian camp, to take the offender. He declined to go, and the Indians refused to give him up. Lieutenant Grattan persisting in his demand, a collision ensued, in the course of which Lieutenant G., and all his party but one, were killed upon the spot. One man escaped, severely wounded, and died of his wounds at the fort a few days afterwards. So far, I believe, the facts are undisputed and indisputable. The lieutenant and his party were slaughtered in an honest endeavor to execute an order of his superior, in the way of legitimate duty. He fell

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by one of his guns, pierced in an instant by twenty or thirty arrows. Accounts disagree as to whether Lieutenant Grattan or the Indians gave the first fire. The weight of evidence is clearly, in my judgement, that the savages were the first assailants. It would also seem that it was a preconcerted arrangement, on the part of the Indians, to decoy these men into their camp, under promise of delivering up the offending individual, and then massacre them, as they did.

Mr. BENTON. I will answer the gentleman.

Mr. HIBBARD. The gentleman from Missouri will, I trust, have an opportunity after I have concluded. I decline to yield from no feeling of discourtesy towards him. He has, doubtless, stated his honest opinion of the matter. My own is different. The reports on file go to show that Lieutenant Grattan's party was first attacked. Be that as it may, the fact is clear that they were killed in the execution of a plain duty, in an attempt to punish a wanton destruction of the emigrants' property. It is true that an Indian trader [Bordeau] gives a different account. He says that Grattan's party fired first upon the Indians. That, sir, is the statement of an Indian trader, a Canadian Frenchman, as I understand, who married an Indian wife, and is said to be an adopted member of the tribe. His relations and interests are all with the Indians, and he now, as I understand, prefers a claim against the Government for damages done to his property by the Indians on that occasion. To make it appear that the loss was occasioned by the misconduct of our troops might give his claim a better color. Colonel Steptoe, and others, whose statements are on file, have come to a different conclusion. Decoyed by treachery into the Indian camp, surrounded by hostile savages, who had plotted his destruction, and were about to execute their plan, what matters it whether he or they struck the first blow? Was he to fall without a struggle or an effort to save himself and his little band? No, sir. He did no more than his duty. He fell, together with his gallant associates, all slaughtered, and but one man escaped to tell the story of their destruction.

[Here the hammer fell.]

Mr. BENTON again addressed the committee. His remarks will be found in the Appendix.

The question was then taken on the amendment offered by Mr. HIBBARD; and it was not agreed to.

Mr. WHITFIELD. As much has been said recently in relation to the Indians in Kansas, and as it is known to most of the members of this House that for some time I acted in the capacity of agent, and reference having been frequently made to my last annual report, I deem it to be my privilege and duty to state what I know from personal observation to be the condition of the tribes to which I sustained the relation of agent, as well as of other tribes through which it was necessary for me to pass in going to and returning from my agency.

In traveling across the plains to meet the Indians on Arkansas river, it was necessary for me to pass over the hunting grounds of the Osages. I found them encamped at different points along the Santa Fé road. Here they had taken their position, for the purpose of exacting toll from the trains passing that way, stealing mules and horses, and committing other depredations. Whenever a train passed, if a suitable opportunity presented itself, they attacked it. In the conflicts which ensued several of the Indians were killed, and some of the persons having charge of the trains were wounded. Among the trains thus attacked was that conveying Government goods to the Camanches. On this occasion, the Indians went so far as to demand that one of the drivers should be given up to be put to death by them, alleging, as a reason for making this demand, that one of their number had been killed by a person connected with another train. When I passed their encampment I was stopped by them, and ordered to pay toll, and nothing but the fact of their ascertaining that I was agent of the Camanches, whom they greatly fear, prevented me from being forced to submit to their demand. Another act of insolence and outrage, which I may here mention, was committed by them last fall. The agent was among them for the purpose of making a treaty, and paying their annuity goods. Their hostile intentions became so manifest, and the danger so threatening, that he was compelled to flee in the night for safety.

Now, sir, if something is not done to prevent these lawless banditti from harassing the numerous trains which come from Santa Fé to Weston, Missouri, to obtain their annual supplies of goods, we may reasonably calculate upon a repetition of the tragic occurrences of last summer. Nay, the Indians, emboldened by impunity, will rise in their demands upon each passing train. Bloody combats will ensue, until the entire route to Santa Fé will present a scene of deadly conflict, attended with all the horrors which characterize savage warfare. A military force should be placed on this road, sufficient to afford protection to the traders and emigrants, and confine the savages to the limits assigned them by Government. The Camanches, Kiowas, and Apaches, who inhabit the country bordering on the Arkansas river, have remained peaceable during the past summer, and if a satisfactory treaty should be made with them, they will probably so continue, at least so far as emigrants and traders are concerned. If, however, ignoring, as they have done, the stipulations of the treaty of 1853, they continue their depredations upon New Mexico, there is no other alternative left the Government than the employment against them of a military force adequate to the purpose of chastising them for past offenses and preventing their recurrence.

To prevent an outbreak on the part of these tribes —the Osages, Camanches, Kiowas, and Apaches— it is, in my opinion, necessary that from three to five hundred mounted men should be placed permanently on the Arkansas river. Of the importance of preserving friendly relations with these Indians, or if peaceable relations cannot be maintained by treaty, of awing them into subjection by the presence among them of an adequate military force, some idea may be formed from taking into consideration the great extent and value of our inland commerce carried on between western Missouri and New Mexico. In addition to the large number of wagons which pass between Independence and Santa Fé, loaded with goods for the New Mexican traders, the Government sends out by this road all its supplies for the military posts in New Mexico. Over this road, also, pass many emigrant trains from Arkansas and eastern Texas to California, with immense herds of cattle and droves of horses. I have myself seen as many as seven caravans of this description pass in one day.

In a special report which I submitted to the Commissioner of Indian Affairs in relation to the unfortunate affair of the 19th August last, between Lieutenant Grattan and the Sioux Indians, I stated what were my conclusions from all the evidence I was enabled to obtain. Whilst I have no desire to cast any reflection upon the memory of Lieutenant Grattan, (for what he has done is passed, and if he committed an error, he has made atonement with his life,) I am aware that there is some discrepancy between my report and that of the officers of the military department. This discrepancy arises from a difference of opinion as to the circumstances which led to the unfortunate affair referred to; and while I concede to these officers the right to freely exercise and express their own opinions, I hope that candor will accord the same privilege to me. On one point we are fully agreed, and that is, that Lieutenant Grattan's interpreter was drunk, and went into the village of the Sioux, using threatening language, and such epithets as were calculated to provoke the Indians to fight. In regard to the statements of Mr. Bordeau and others, which accompanies my report, I place entire confidence in what he says—his character being without reproach, his credibility unimpeached and unimpeachable. The charge against the Sioux is, that they provoked the combat between themselves and Grattan's command, which led to the massacre, by shooting the ox of an emigrant whilst in the yoke and attached to the wagon. The facts are, that the animal killed by them was a lame cow, which had been either designedly abandoned by the owners, or had escaped from them, and wandered into the village.

I am satisfied that there was no premeditation on the part of the Sioux. Any one acquainted with the Indian character and habits knows that they never admit an enemy into their camp, amidst their women and children, for the purpose of bringing on a conflict. Indians never permit their women and children to approach a battle field during the time of an engagement—their custom being to remove them as far as possible for safety. In this case, if the Sioux had desired to attack the soldiers, they had every opportunity to do so, as about twenty of the soldiers were, at the time, twenty miles distant from the fort cutting hay. This small party could have been easily destroyed by the Indians, and it is much more consistent with their character to suppose that they would assail this small party with the certainty of an easy victory, than that they should invite Lieutenant Grattan and his command, armed with muskets and two howitzers, into the midst of their village. As far as the various trading posts are concerned, they are entirely at the mercy of the Indians; but remained unmolested up to the time of the affair at Laramie. Besides, the Government has kept at Fort Laramie a herd of four or five hundred cattle, which have been frequently sent off several miles for pasturage. The cattle could at any time have been taken by the Indians, if, as is alleged, they were disposed to plunder public and private property.

I have heard of but one other instance in which the Sioux have been charged with theft or robbery. It has been alleged against them that they killed two cows belonging to the interpreter at Laramie. But there is no certainty whether this depredation was the act of the Sioux or the Cheyennes.

I am not here, sir, as the apologist or advocate of the Indians. But I wish to see justice done; and I defy any man to show any act of the Sioux, prior to 19th August last, evincing any hostility to the whites, or showing that they premeditated acts of outrage. As I have stated, better opportunities were often presented than that afforded by the presence among them of Lieutenant Grattan and his company. Emigrant trains were passing daily, frequently not more than three or four persons being together in one party. Large herds of cattle, attended by not more than ten or fifteen men, were also daily passing; and the Salt Lake mail, guarded by only three or four persons, passed monthly, without any interruption or molestation. In addition to all these circumstances, the important fact must not be overlooked, that at the time of the destruction of Lieutenant Grattan and his company, the Sioux were encamped on a spot where they had been in the habit of encamping for several years. They were there peaceably and lawfully, awaiting the arrival of the agent. No hostile feeling, not the slightest, had been previously exhibited by them towards the whites; and it may be added, that if the Mormon emigrant whose cow was killed, had made proper exertions, she might have been recovered, or, at least, her value in money, and the subsequent unfortunate collision would not have taken place. By the act of Congress known as the intercourse law, the Mormon should have presented his account to the agent of the tribe, and by him payment should have been demanded of the chiefs, and in case of their refusal to satisfy the demand, it would have become the duty of the Commissioner of Indian Affairs to deduct the amount from the annuity of the tribe Thus the difficulty might, and should, have been peaceably adjusted, and the unfortunate catastrophe which followed, a catastrophe which brought so many gallant men to an untimely end, and now threatens to plunge the nation in a long and bloody Indian war, would never have occurred.

On the 13th of November last, five of the Sioux, brothers and nephews of the Bear Chief, who was mortally wounded on the 19th of August, in the affair at Laramie, attacked and killed the three mail carriers, and wounded Mr. Kincaid, who was traveling in their company from Salt Lake. This massacre was committed in revenge for the death of the Bear Chief. I have recently received a letter from Mr. Ward, who resides near Laramie, inclosing a statement of two of the Sioux chiefs, and detailing the circumstances of the murder of the mail party. The chiefs state that they are willing to surrender the murderers. I have no doubt that the chiefs are now sincere, but I believe that the murderers will not be surrendered unless a respectable military force should be sent into the country.

There are other Indians that have stolen property and committed murders on the Oregon road during the emigrant season. Early in the spring the Puncas come down to the North Platte, and establish themselves for the purpose of exacting toll from the emigrants and stealing their property. Several skirmishes took place last summer between them and the whites, in which several on both sides were shot. Many horses and mules were lost to the emigrants by the depredations of this tribe. I learned from an old Indian agent, who had been traveling among them last summer, that when they returned from their marauding expedition, they brought with them over one hundred horses and mules.

The Pawnees, who inhabit the country on the south side of Platte river, are such old and hardened offenders, and their numerous depredations so well known, that I do not deem it necessary to do more than mention them in this connection. During the spring and summer it is almost impossible to take up a western paper that does not contain some account of the thefts and robberies committed by this treacherous, lawless, and marauding band. As these Indians infest the great emigrant road to Oregon, and render it extremely unsafe, it seems to me that the Government should lose no time in stationing a force of three or four hundred men at Fort Kearny, to overawe and punish these savage highwaymen; and afford protection to the lives and property of the emigrants.

Sir, the great question which this Government must soon decide with respect to the Indians of the plains, is, what is to be done with them? The tide of civilization rolling resistlessly onward, is driving them further and further towards those vast, sterile wastes which separate the eastern and western slopes of the continent. Hitherto the Indian has depended for subsistence mainly upon the buffalo, which, in countless herds, roamed over the vast plains between the Missouri river and the Rocky mountains. But, these herds are seen no more, or in greatly diminished numbers, and soon this noble animal, so long the pride of the prairies, will have ceased to exist. What, then, becomes of the Indian, when, pressed by hunger, and no longer able to subsist on the buffalo, he is driven to the dreadful alternative of starvation or robbery? Can any one doubt that their depredations on the whites will increase until both races, exasperated by mutual injuries, shall wage against each other a war of extermination? To avert this direful calamity, which, from the great superiority of the whites in numbers and discipline, must necessarily result in the extinction of the Indian race, what course shall the Government pursue? Shall it provide the means of subsistence which nature seems about to deny them? Shall it permit them to continue in their present barbarous state, or attempt to reclaim and teach them the arts of civilized life? These are questions which I leave to the statesman and philanthropist. I confess myself unable to arrive at a satisfactory solution.

In this connection, it may not be inappropriate that I should say a word in relation to the policy of the Government of paying the Indians annuities in money. Observations of the prodigal and wasteful habits of the Indians, have convinced me that these annuities are attended with no benefit to either party, the giver or receiver; on the contrary, the Indians regard these bounties as an annual stipend paid to them to appease their anger, and prevent them from exterminating the whites, which, in their rude simplicity, they imagine they have the power to do. Tell them of the power of the Government—of the number of soldiers which their Great Father can send against them—and they will laugh derisively, telling you they have heard such *talk* before. The meagerness of the force usually employed by the Government on the frontier, the frequent threats (never executed) with which they are so familiar, the late unfortunate affair at Fort Laramie, have powerfully contributed to deepen this feeling of contempt for our supposed weakness, while their ideas of their own prowess and invincibility have, by the same causes, been proportionably heightened.

My own opinion of what should be the policy of the Government at this time is, that a force should be sent into the Indian country sufficient to overawe them, and prevent a bloody and expensive war. While, for the purpose of vindicating the truth of history, I have shown that the massacre at Fort Laramie was unpremeditated, yet I believe the exasperation growing out of that affair, and other collisions to which I have referred, renders a general outbreak very probable, unless the Government take proper precautions to avert it. I do not advocate a war of extermination. I do not say that there should be any war. But I do say that something must be done to avert it. I have been taught to believe that, in the treatment of disorders of the body, "an ounce of prevention is worth a pound of cure." Apply this maxim in the management of our Indian affairs, and all will be well. Disregard it, and I fear that thousands of lives, and millions of money, must be the penalty we must pay for our culpable and suicidal apathy.

Mr. HIBBARD. Mr. Chairman, I do not deem it necessary to enter into a controversy with the gentleman from Kansas about the matters stated in his report, which I have not had an opportunity to read. The gentleman not having been present at the scene of these occurrences at the time, made his report upon such statements as were given to him by others, and which he doubtless believed to be correct. It is true, as the gentleman states, that Lieutenant Grattan had with him an intoxicated interpreter, who was obnoxious to the Indians, and who conducted towards them in an irritating manner on this occasion. The evidence of some of the military officers substantiates that fact. I do not understand the gentleman from Kansas to allege any other act of provocation on the part of Lieutenant Grattan or his party. Did that, sir, justify the conduct of the Indians? They knew this interpreter, and his character well. They knew that Lieutenant Grattan and his company were not responsible for his language. Besides, it appears that Grattan desired to change his interpreter, and proposed to Bordeau to go in his place, but Bordeau declined, saying, in advance, that "those white men were going to be killed."

I propose, sir, to read a letter from Colonel Steptoe, who was in the neighborhood at the time, who took pains to ascertain all the facts, whose character as an officer and as a man is so well and so favorably known as to need no eulogy from me.

Mr. WASHBURNE, of Illinois. What is the amendment under consideration?

The CHAIRMAN. The amendment is to decrease the number of regiments from four to one.

Mr. WASHBURNE. Is this discussion in order on that amendment?

The CHAIRMAN. This discussion commenced before the present occupant of the Chair took his seat this evening. In his judgment it is not in order to go so much into detail in reference to the Indian wars.

Mr. HIBBARD. I submit that my remarks are pertinent to that amendment; besides, this discussion has already been begun and continued at length.

The CHAIRMAN. The Chair will allow the gentleman from New Hampshire to reply, if the point of order be not insisted upon.

Mr. HIBBARD. I will now read Colonel Steptoe's letter.

Mr. TWEED. I object.

Mr. HIBBARD. My remarks are in order, as showing the necessity for a greater force on the frontiers than the amendment proposes. Here is the letter of Colonel Steptoe:

GREAT SALT LAKE CITY, UTAH, *September* 29, 1854.

MY DEAR GENERAL: During the past week, contradictory rumors of some difficulty between the Indians and the troops at Fort Laramie were rife here; but it was only upon the arrival of the mail yesterday that the facts could be ascertained. These rumors kept me in most painful suspense, which was only removed by the cheering assurance of a gentleman there, that the surviving garrison is prepared and able to defend itself in any further emergency.

Hearing it whispered about that the difficulty was occasioned entirely by the rashness of Lieutenant Grattan, I think it due to the memory of that young officer that you shall be thoroughly informed as to the facts, and therefore take the liberty of extracting from a private letter just received.

Mr. J. H. Reid, a gentleman who accompanied my command as far as Fort Laramie, where he remained sick, writes:

"The best authenticated account seems to be, that Mr. Grattan, expecting to get the Indian without any trouble, went into the midst of the Indian village with his men and pieces. He could not well have avoided this, as the lodges covered a space of three miles. The chief of the Brulies, amongst whom the offender was staying, went with Mr. Grattan to the man, and he refused to go, saying, 'he had two guns and plenty of arrows, and would fight.' About the time that Grattan regained his command, this Indian fired; Grattan then ordered his musketry to fire. The Indians, who had gathered about him, to the number of fifteen hundred, perhaps, fell flat on their faces, and the balls passed over, as did also the whole charge of the pieces, which were fired immediately afterwards. The whole party was then destroyed, before either the cannon or the muskets could be reloaded. They were all killed with knives and arrows. Lieutenant Grattan had dismounted, and given his horse to one of the men, while he worked as gunner, and was found where he fell, by the side of his piece."

This statement shows that Lieutenant Grattan did not take the initiative; and it goes to confirm my opinion, that the attack upon the troops was part of a deliberate plan. Why the attack was not followed by one upon the fort I do not know.

Mr. Reid inveighs severely against the *traders*, a number of whom were in the vicinity. He asserts that they behaved in a dastardly manner, fleeing from their stone and adobe houses, which could have been easily defended, and not even stopping at the fort to give information that a fight had taken place.

My only purpose in troubling and intruding upon you with this letter, is to throw a little light upon the matter in justice to Mr. Grattan.

I have the honor to be, General, very truly, your friend,
E. J. STEPTOE.

General DAVIS, Washington, D. C.

To show that the massacre was probably preconcerted, I will read an extract from a letter from Mr. McGraw, who was in the vicinity of the fort at the time of the difficulty. He is now in this city, and his character will be vouched for by all who know him:

"Such being the state of feeling on the part of these Indians, and such their desire of vengeance against the force stationed at Laramie, it is easy to conceive, and such, indeed, is the fact, that they resorted to false pretenses for the purpose of luring the detachment of troops into their power. They had no intention of surrendering any one of their men into the hands of the United States, and they had made ample preparation for the massacre which ensued. An evidence of this is the fact that they had removed their women and children to the cotton wood, six or seven miles distant, and that they were in a state of complete readiness for action. When Lieutenant Grattan found that he had been trifled with, and that there was no intention of giving up the Indian he went to receive, he thought he had gone too far to retire without an assertion of the dignity of the Government. He, therefore, in the hope of intimidating the Indians into a compliance with his demand, fired two field pieces into the tops of their lodges, doing no injury to any one. This was instantly followed by a flight of arrows, which struck down all of the party except five, as is supposed, before preparation for firing in return had been made, and before the danger had been perceived. Some of the troops—how many is not known—fired upon the Indians, and one chief received three wounds; but whether they were all inflicted by gun shots, or some of them by the arrows of the Indians, is uncertain. The whole was the work of an instant. Most of the slain received many wounds, and Lieutenant Grattan had no less than twenty-four. The whole party was scalped; those who wore beards had their chins scalped, and the bodies were otherwise horribly mutilated. These barbarous and wanton atrocities give a flat contradiction to the pretense set up on behalf of these Indians, that they were acting in self-defense, and sought to avoid the conflict. Further proof, if it were needed, may be found in the fact that, when the affair was over, they retired to a trading post in the neighborhood of the disaster, and there, flourishing the trophies of their victory, boasted that they had been lied to and deceived; that they had been told that one soldier could kill ten Indians; but now it was seen that one Indian could kill ten soldiers; and that the big guns were no account."

I have heard, not without surprise, expressions that have fallen from honorable gentlemen this evening. I am sure, sir, their own cooler judgments would not approve them. I knew Lieutenant Grattan well. He was a citizen of my State, my constituent, and my neighbor. Though young, no braver or truer-hearted man is in the country's service. Is it not enough, sir, that he has thus fallen; that he has poured out his blood and his life in defending our frontier from a savage foe? It is true that he was inexperienced in the habits and character of the Indians; but is that a reason, in the absence of any act of misconduct or provocation on his part, why he should have been

murdered in cold blood, his death be unavenged, our frontiers be left without protection, and our pioneers and emigrants become the prey of a merciless foe who keeps no faith, whose cruelty spares neither age nor sex, and who, emboldened by impunity for past offenses, is now gathering in force upon our western borders for a more indiscriminate and more general destruction. Sir, I have, thank God, none of that philanthropy which mourns over the imaginary wrongs of the red man or the black, but has no protection for our own country invaded and laid waste, no tears for our citizens butchered, their dwellings burned, their wives and children made victims of the tomahawk and the scalping knife, or reserved for outrages more terrible than death itself.

Mr. WALSH. I move to strike out two, and insert one. Mr. Chairman, I have listened to-day with a great deal of attention to what has been said upon this question. I believe I know something about the Indian character and history. I have myself been among them in different regions of our country. I have seen them in all the several varieties in which they, at present, exist amongst us, from the wildest and freest, to the most civilized and subdued. What, sir, has been the history of their treatment by us? Why, from the, to them, fatal day on which the so-called Pilgrims landed at Plymouth, up to the present hour, it has been one of perfidy, plunder, persecution, and blood. Shall we still persist in this dishonorable, this atrocious policy, until the last dwindling vestige of this once happy, but now deplorably unfortunate race are sacrificed to the inhuman cupidity of the monsters who are eagerly anxious of an opportunity to plunder them of their remaining hunting grounds? Westward we have driven them, league by league, with such wanton cupidity, that, unless we speedily desist, they will soon have no resting place left save beneath the waves of the Pacific.

In my opinion, if peace with the red men is really our object, it can be much more readily and permanently secured, without either regulars or volunteers, by the Government sending, as its agents among them, honest, humane, and magnanimous men. Yes, sir. Do but simple justice to the Indians, and, notwithstanding the gross vices which you have incorporated into their character, while denying them all the benefits of your civilization; notwithstanding the countless and atrocious wrongs which have been perpetrated upon them, you will do more to secure a sincere and lasting peace with them than can ever be effected by the brutal employment of your whole Army multiplied ten times over. I have never been, I believe, accused of any mawkish sensibility on the question of war. I have no opposition to the shedding of blood when it is in defense of the national honor, or in support of our country's rights. I do not care if oceans flow, so long as some great compensating good to mankind generally shall result from it; but when human life is profusely sacrificed, with no higher or worthier purpose sought to be accomplished than that of following up and hunting down, with a heartless, insatiable, and God-accursed pertinacity, a poor heart-broken race, now melted down to a moiety in numbers so meager that, if the whole of them were located in one of the petty principalities of Germany, they would not excite apprehension, the act shall ever meet my most unequivocal condemnation, and the instigators my most bitter and heartless execration.

Sir, we have millions upon millions of acres of public domain already untouched. You have voted away tens of millions—nay, hundreds of millions of acres during this very Congress to railroad companies, land-jobbers, and, in short, to every conceivable purpose under heaven, while you have, at the same time, been wringing it from the Indians by the most shameless violation of treaties, in many instances through the venal connivance and coöperation of their own chiefs, who have been bribed for the base and unholy purpose of betraying the confidence, sacrificing the rights and property, and blasting the hopes of their own people. Yes, sir! while the members of these tribes are dragging out a miserable existence in the most squalid wretchedness and abject want, how often do we see their chiefs here, and elsewhere, boarding at our most costly hotels, and wearing broadcloth, and huge silver medals, which, though bearing lying inscriptions, are in reality presents for their perfidy—mementoes of their shame.

Let us change this inhuman policy. Let us do as William Penn did in Pennsylvania. Let us act justly, kindly, and if need be, forbearingly towards these poor creatures, and there will be no cause for sending troops to butcher what is left of them. They are melting away before our superiority, as the snow melts before the genial heat of the vigorous spring sun. In Heaven's name let them melt as quietly. I suppose, however, that troops will be sent. Indeed it is very evident, from what has already transpired, that the proposed increase will be granted, so that it is only left for us to say what character of troops shall compose that increase. While I sincerely and bitterly deprecate the state of affairs which is said to call for a larger force, I am willing to protect those who, without having had any agency in producing the existing feeling among the Indians, are likely to be made its victims.

For this reason, and this only, I am willing to vote for four more regiments—but not for volunteers. The arguments which have been offered here to-day in favor of volunteers are, to my mind, the strongest which could be urged against them. What has that argument been? Why, that those regiments should be composed of volunteers, because then they can be filled up of men on the frontier—of those who live alongside the Indians, and know them better than others can. Sir, it might have been added with equal truth, and tenfold more force, that the Indians know *them*, too, far better than we do. What! take your volunteers from the very margin of the Indians' lands which they so eagerly crave, when each and every one of them are directly interested in creating a quarrel which will enable them to steal a portion of it.

[Here the hammer fell.]

Mr. ORR. I am opposed to the amendment of the gentleman from New York, and in favor of the passage of the amendment as it came from the Senate without change or alteration. Mr. Chairman, with reference to the subject-matter which has been incidentally introduced into this debate, I desire to remark, that when the honorable gentleman from Missouri [Mr. BENTON] brings the attention of the House to the excesses and outrages committed by the regular soldiers, and by the officers of the regular Army, is it to be inferred that all your soldiers and all your officers in the regular Army should come under the ban of the displeasure of Congress? Because these excesses have been committed in the cases to which the gentleman from Missouri has referred, is the regular Army to be destroyed and the country henceforth to rely for protection solely upon volunteers? Sir, I think if you will go back and examine the history of the acts of the volunteer forces of the country, you will find that atrocities have been committed of as barbarous a character as any of those enumerated by the gentleman from Missouri. The excesses, referred to by the gentleman from Missouri, then, ought not to determine the committee to vote against the Senate amendment on that ground. If there be no other objection to the adoption of the amendment, it should most certainly be voted on favorably by the committee. Sir, I think the regular troops are the most efficient troops for all purposes. It is the Indians upon the plains that you are to send your troops to, and if you send volunteers there they will embark in a regular Indian hunt. They will go there for the purpose of cutting and hewing down these Indians. They will not wait to find a hostile red man; they will level their rifles at the first one they meet and bring him down. It will be impossible for the officers to restrain their men from committing excesses, even if they desire to do so.

But, sir, the soldiers of your regular Army will be posted at certain localities, to be selected by a common general; and the troops will only be called out in case of actual hostilities upon the part of the Indians. I think it is a misapprehension to suppose, as the understanding seems to be in some quarters, that we are engaged in a universal Indian war. A large portion of the Indians upon our frontiers are emigrant Indians, who are, all of them, on terms of peace with the United States. The plain Indians, those who reside upon the plains in the far West—they may be properly designated as wild Indians—are the ones who are committing the depredations. And it is these Indians that we are to guard against and to restrain. And, sir, I take it for granted it is perfectly evident that we can never succeed in restoring them to peace. We can never prevent these depredations from being committed, until we have a force there sufficient to overawe them and deter them from further hostilities.

Now, sir, in the case of Lieutenant Grattan, I think the statement of the gentleman from Kansas [Mr. WHITFIELD] is corroborated in every material fact by the statements of the officers who were in that neighborhood. I think it was unfortunate. I think the difficulty could have been, and should have been, avoided. But it should be remembered that he was a young man, and some allowance should be made for his want of proper discretion. He has paid the penalty of his indiscretion by his consignment to an early and inglorious grave. Inglorious, because the kind of military service our troops are engaged in in our Indian warfare weave no laurels upon their brow. Sir, he only graduated at West Point last year, and, of course, lacked the experience which older men have, and which, if he had, would have saved this young man from the sad consequences of his rash conduct.

But, sir, these Indians are carrying on the hostilities to an extent that should be permitted no longer. Some of the tribes, we are told, have now with them as many as eight hundred prisoners, Mexicans and Americans, kept by them, and treated by them as slaves. Sir, is it the policy of our Government to permit this state of things to continue? I am no advocate for hostilities towards these savages if they can be restrained by any other means. Treat them tenderly, if you can restrain them by that means. But it is unnecessary for me to say that the lives and liberties of our citizens must be protected, and that they cannot be protected unless you send a military force there for that purpose.

[Here the hammer fell.]

The question was then taken upon Mr. WALSH's amendment, and it was not agreed to.

Mr. EDGERTON. I offer the following amendment, to come in at the end of the Senate amendment:

And that the monthly pay proper of the several grades of the Army, hereinafter enumerated, shall be at the following rates: A major general, $250; a brigadier general, $150: a colonel, $135; a lieutenant colonel, $115; a major, $95; a captain of cavalry, $85; a captain of artillery and infantry, $75; a first lieutenant of cavalry, $65; a first lieutenant of artillery and infantry, $57; a second lieutenant of cavalry, $55; a second lieutenant of artillery and infantry, $47; a cadet, $33.

That the surgeon general and paymaster general of the Army shall be allowed the pay and emoluments of a colonel.

Mr. PHELPS. I rise to a question of order. The amendment of the gentlemen from Ohio is not in order. It proposes to change the existing law.

Mr. EDGERTON. Well, sir, how is it a proposition to change existing laws more than the amendment of the Senate. The amendment of the Senate provides for soldiers, and I think it is in order to such an amendment to determine the rate of pay they shall receive.

The CHAIRMAN. The Chair thinks the amendment is not in order. It proposes to establish the rate of pay for the whole Army. Unless the rate of pay proposed is different from that provided for by law, the effect will be to change the law, and the amendment would not, therefore, be in order. If it is the same, then the amendment is unnecessary.

Mr. EDGERTON. I ask if it is not as much in order to regulate the pay of a regiment as it is to raise the regiment?

The CHAIRMAN. The Chair decides the amendment not to be in order.

Mr. BARRY. I have an amendment which is in order, and which I desire to offer to the twenty-first Senate amendment.

Mr. EDGERTON. Does the Chair decide my amendment to be out of order?

The CHAIRMAN. The Chair has so decided.

Mr. EDGERTON. I take an appeal from the decision of the Chair.

Mr. PHELPS. It is too late.

The CHAIRMAN. The gentleman from Mississippi having been recognized, the gentleman from Ohio cannot take the floor from him to appeal from the decision of the Chair.

Mr. BARRY. I move to amend by substituting five regiments for the four provided for in the

Senate amendment. Mr. Chairman, gentlemen may talk here day after day, and night after night about treating the Indians kindly. Well, sir, I think the true policy is to treat them kindly so long as it is consistent with the safety of our citizens, but if the idea is as it seems to be, upon the part of some gentlemen, to civilize the Indians and make white men of them, I say the idea is simply an absurdity. I am not for waging a war of extermination against them. I am for treating them kindly, for elevating them if I can, but, I repeat, that to suppose them capable of becoming so far civilized and elevated as to exercise the discretion of the Anglo-Saxon race is an absurdity.

Now, sir, as to the kind of force needed to send to the West for the suppression of these Indian hostilities, I think the regular force is far preferable to any other. Whenever you want a force to do deeds of daring, regardless of life, and regardless of whatever consequences may ensue, your volunteer force, selected from the people, with personal friends, personal courage, and personal reputation to sustain them, are the men. But if you want peace preserved upon the disputed frontier never send such men out to keep peace. They volunteer not for peace, but for war. They go out, not to come home with bloodless laurels, but to come home with sanguinary laurels plucked upon bloody battle-fields. Men do not leave their peaceful homes to go through an idle period of volunteer service. They go out because they think there is occasion for military service; they go out to fight, and do not want to come home until they have had a fight. If, therefore, you send volunteers upon your frontier, except in case of an emergency, you send men to get up a fight, and not to suppress difficulties. They are men of gallantry and courage, and go out for war and not for peace. If you want war with these Indians, send out your volunteers, and they will exterminate them. They will act with the most reckless disregard of their own lives, as well as of the lives of those they are at war with. The very nature of their service is a recklessness of danger. They go out for glory, and for the honor of the flag under which they march.

[Here the hammer fell.]

Mr. GREENWOOD. I do not rise for the purpose of engaging in this discusssion, but simply to oppose the amendment offered by the gentleman from Mississippi, and to appeal to the committee to proceed to vote directly on the proposition pending before them.

Ever since we have been here this evening we have been violating the express rule of this House, that debate shall be confined to the question under consideration. Gentlemen have wandered from the propositions which have been submitted for the purpose of indulging in remarks of a character expressly prohibited by the rules; and I give notice now that I shall, in future call every gentleman to order who discusses anything but the proposition immediately pending.

The question was then taken on Mr. BARRY's amendment; and it was rejected.

Mr. LYON. I move to amend the amendment, so as to make the number of regiments one instead of four. Mr. Chairman, I believe that it is for the interest of this Government to maintain an efficient army of cavalry and infantry upon the frontier, and that it should belong to the regular service. But while I believe that, let me say that we should not overlook the fact that men should be selected for the command of these companies who have had long experience, and who have knowledge, also, and not green Cadets but one year old from West Point, who go to these far-off posts with no knowledge of human nature, no knowledge of the Indian character, and no experience, and who are the cause of these massacres all over the western country.

Mr. GREENWOOD. I rise to a question of order.

Mr. LYON. I hope I am not to be gagged.

Mr. GREENWOOD. I do not want to gag the gentleman, but he is out of order, and I have a right to call him to order, and I do it. I make the point of order that the gentleman is wandering from the question before the committee.

Mr. LYON. The gentleman himself wandered from the proposition before the committee when he spoke just now.

The CHAIRMAN. The Chair will decide the question of order, when he has heard more of the remarks of the gentleman from New York.

Mr. LYON, (resuming.) When Lewis and Clark were appointed by President Jefferson, they were chosen because they had some knowledge and experience, and what kind of fate did they meet with? The Indians, nine times nine stronger than they are now, met them everywhere with kindness and friendship. And later than that, we have seen John C. Frémont, with a little band of men, pursue his devious road to the golden shores of the Pacific, meeting the chiefs everywhere in friendship, winning their respect, and forming ties of friendship that are the golden chains and the best chains of peace.

Sir, we shall have another Seminole war upon us unless due discretion is exercised in sending men of enlarged experience to take command of these far-off posts; and, for that reason, I hope that extra compensation will be given to the men who occupy them, instead of to these who come here to Washington to lobby for places, and who——

[Here the hammer fell.]

Mr. OLIVER, of Missouri. I am opposed to the amendment offered by the gentleman from New York. I believe that there is abundant evidence before us to satisfy the House that there is a necessity for an increase of the military force of the country. It is reported to us by the Secretary of the Interior that there are in the country lying between the Mississippi river and the Rocky mountains one hundred and eighty-five thousand Indians, thirty thousand of whom are warriors. We are assured by the Secretary of War, and others, that those Indians occupying that territory are confederating with a view to a general war upon the whites in the spring. The reports of the Secretary of War, the Commissioner of Indian Affairs, and the Indian agents, and the letters and newspapers which we receive daily from the West, show that such depredations have recently been committed by the Indians in that territory as indicate a fixed purpose on their part to open their hostilities against the whites in the ensuing spring. This territory is traversed annually by thousands of American citizens, carrying with them millions of dollars worth of property. Sir, this Government owes to those citizens protection to life and property in return for obedience on their part. Are gentlemen, then, willing to fold their arms, and make no provision for the protection of the lives and property of our own people, going to our own country on the Pacific, stimulated by the inducements that the Government has held out to them?

Gentlemen tell us that there is no necessity for an increase of the Army, that these difficulties are brought about by the wanton conduct of white men. It is true that white men have acted wrongly——

The CHAIRMAN, (interrupting.) The Chair decides that it is not in order to discuss the conduct of white men or of Indians in the controversy. The gentleman must confine his remarks to the question whether we ought to have four new regiments or only one.

Mr. OLIVER. I understood, Mr. Chairman, that the widest latitude of debate has been extended to us.

The CHAIRMAN. Quite too wide. [Laughter.]

Mr. OLIVER. My argument is to show the necessity of the increase of the Army. It has been asserted on the floor here that these massacres are brought on by the whites, and if so, this is an important matter for the consideration of the committee. If the Fort Laramie massacre was brought about by the improper conduct of troops there, it may be, perhaps, used as an argument against the increase of the Army.

The CHAIRMAN. The Chair decides that line of argument to be out of order.

Mr. OLIVER. I am opposing the amendment to reduce the number of regiments from four to one.

The CHAIRMAN. Then the gentleman from Missouri will confine his remarks to that single question.

Mr. OLIVER. Other gentlemen have been allowed a latitude in debate.

The CHAIRMAN. The gentleman from Missouri will allow the Chair to say he is required to enforce the rule, and will attempt to do it.

Mr. OLIVER. I hardly know what line of argument to pursue. But I desire to remark, in connection with what I was saying, that while I have the highest confidence in the statement of the gentleman from Kansas [Mr. WHITFIELD] in his report on this subject, that report is based upon testimony which he received from others. Here is the report of Mr. Bond——

The CHAIRMAN. The Chair would state that that line of argument is not in order. The first part is clearly in order, showing the necessity of there being four regiments raised instead of one; but the latter portion is not.

Mr. OLIVER. I was arguing that the Army should be increased, and I was showing that by referring to the depredations committed by the Indians on our people. The Indians have commenced the war. It has been commenced by them, and we apply for the increase of the Army as a protection for the people from the tomahawk and scalping-knife of these red fiends on the plains. Who recollects not the unhappy fate of the lamented Mrs. White, who was taken captive by the barbarians, and who, on an attempt being made by her countrymen to rescue her, was basely shot, and her innocent infant's head dashed against a tree? These things are recent. Lieutenant Grattan and his party who, a few months ago——

[Here the hammer fell.]

The question was taken on the amendment of the gentleman from New York; and the amendment was rejected.

Mr. LANE, of Oregon. For the purpose of giving my views in relation to this matter, I move to amend by increasing the number of new regiments two, so as to make the regiments to be organized six, instead of four. I hope, Mr. Chairman, I will be able to occupy my five minutes without interruption, and I will try to keep in order. We have a very large frontier, some thousand miles of it; and there are between thirty thousand and forty thousand warlike savages on this frontier. Our Army, as it is, is not sufficient to afford protection to the settlers and to the emigrants on their route. It is not able to afford them that protection which our Government ought to extend to its citizens. It will be therefore necessary to increase the regiments in the regular service, for they alone can afford permanent protection. It is nonsense to talk about volunteers to serve against the Indians. Volunteer troops are good in a battle; they are made up of gallant men who go to war——

The CHAIRMAN, (interrupting.) The gentleman from Oregon is not in order in discussing the comparative merits of volunteer and regular forces at this stage of the question.

Mr. LANE. I only wanted to say that I have a high opinion of volunteers, and now I drop that subject.

I wish to repeat what my friend from Missouri [Mr. OLIVER] has said, that the blood of your people lying on the plains, with their bones bleaching the highways on the emigrant trail, is calling on this House for revenge. The friends of those who have been massacred, tomahawked, and burned to death in the most savage manner, without cause, without provocation, without any injury being inflicted on the Indians by the whites, are calling upon Congress for protection and for revenge. The whole country, from Maine to the Pacific must see the necessity there is for increasing the regular Army. A regular army can alone afford us protection, for they will be permanently in the service, permanently on duty. And depots can be established to furnish men when required. I am perfectly well acquainted with the regular Army. I am well acquainted with its officers; and I am sorry that it should be out of order to talk of Lieutenant Grattan, and the death of that gallant young man. I know but few officers of our Army, none, indeed, who have not proved themselves worthy, faithful, and gallant men in battle—men of sound decision, sound judgment, and kind hearted, who treat the Indians kindly in peace, but are ever ready to punish them in war.

Such a force the country needs, and without it our people cannot settle up the frontiers from Texas to the Pacific. We cannot settle up New Mexico without a force adequate to protect the settlers. Nor can emigrants cross the plains from the Atlantic to the Pacific, unless the Government affords them protection. The committee will recollect the fate of the party who went from the

State of my excellent friend here—Missouri—and which fell into the hands of the Indians, or rather was attacked by the Indians, and every one of that party of nineteen—men, women, and children—were put to death. The accounts of it you have all read. It is too horrible to relate. It was a massacre without cause; and will any man say that the Indians who committed that terrible massacre should not be punished?

[Here the hammer fell.]

The question being on the adoption of Mr. LANE's amendment—

Mr. LANE. I ask to withdraw my amendment.

The amendment was withdrawn.

Mr. DUNHAM. I am opposed to the Senate amendment, and want a vote to be taken upon it.

Mr. EDGERTON. I propose the following amendment:

The amendment was then read, as follows:

And that the monthly pay of officers shall be as follows: A major general, $250; a brigadier general, $150; a colonel, $135; a lieutenant colonel, $115; a major, $95; a captain of cavalry, $85; a captain of artillery, and infantry, $75; a first lieutenant of cavalry, $65; a first lieutenant of artillery, and infantry, $57; a second lieutenant of cavalry, $55; a second lieutenant of artillery, and infantry, $47; a cadet, $33; and the surgeon general and paymaster general, shall have the pay and allowances of a colonel: *Provided*, That an officer absent from duty, except by reason of wounds received in action, for a longer period than at the rate of one month per year, shall, for the time of such absence, be entitled only to his pay and service rations, and no other allowances.

Mr. PHELPS. I rise to a question of order, that the amendment submitted by the gentleman from Ohio is not in order.

The CHAIRMAN. As the amendment changes existing law it is not in order.

Mr. EDGERTON. I will ask if the amendment of the Senate does not propose to change existing law? I take an appeal from the decision of the Chair.

The CHAIRMAN. The Chair decides the amendment of the gentleman from Ohio to be out of order. From that decision the gentleman takes an appeal, and the question now is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. STANTON, of Tennessee. I think that these various propositions have been sufficiently discussed, and I would suggest the propriety of suspending the rule authorizing five minutes' debate. Unless we do, we shall not get through with this debate to-night. The committee might rise, and in the House we could then pass such a resolution.

The CHAIRMAN. Does the gentleman from Tennessee propose that the committee rise?

Mr. STANTON. If the proposition meets with general approbation I would like to do it.

Mr. HOUSTON. If the gentleman will withdraw the motion I think we will soon dispose of the bill, as there seems to be a disposition manifested to get through with the bill as soon as possible. If debate springs up again, I will unite with him in suspending the rule authorizing the five-minute debate.

The CHAIRMAN. The Chair will say to the gentleman from Tennessee that he will endeavor to confine debate to the propositions before the committee.

Mr. STANTON. I withdraw my motion.

Mr. McDOUGALL. I move to insert, after the words "two regiments," the words "five hundred volunteers." I offer this amendment for the purpose of expressing my own convictions as to what is necessary legislation upon this subject. Representing that part of the country upon the Pacific coast interested in the line of communication between the Atlantic sea-board and the Pacific, I suppose that my colleagues and myself have a deeper interest in this pending question than any other Representatives upon the floor of the House. Now, it is a well known fact to every member upon this floor, that the State of California, one of the States of this Union, upon the shores of the Pacific, is cut off, separated, and divided, by impassable barriers, from the States of this Confederacy upon the Atlantic sea-board and in the valley of the Mississippi. This is a well known fact, and legislation, I say, therefore, is necessary for the purpose of securing the integrity of this Union, which does not now exist.

Mr. DUNHAM. I call the gentleman to order. He is clearly wandering from the question.

The CHAIRMAN. The Chair thinks that the gentleman from California must confine his argument to the necessity of raising five hundred volunteers.

Mr. McDOUGALL. I say that these five hundred volunteers are necessary for the purpose of effecting a communication between the Atlantic sea-board and the Pacific coast. I have no intention of violating the rules of this committee, but I wish to prove that an increased force is necessary for the purpose of securing this communication. I wish to prove, in the first place—and that is the basis upon which I make my argument—that my amendment is auxiliary to that end. Our present Army was not formed for the present time and for a Republic as expanded as our own, and it does not answer for the present necessities of the Confederacy.

The CHAIRMAN. An argument showing why the regular Army is not sufficient for our present purposes, is not in order, and the Chair is compelled to decide that the line of remark indulged in by the gentleman is not in order.

Mr. McDOUGALL. I am only laying down the premises upon which I predicate my conclusions, and I cannot make myself understood without having that privilege.

The CHAIRMAN. The gentleman must confine himself to the necessity of providing these five hundred volunteers.

Mr. McDOUGALL. There is now known to be a combination between the Sioux, Rapaboes, Apaches, Camanches, Utahs, and other great tribes of Indians, from the extreme northern to the extreme southern limits of the frontier. Spring is opening, and emigration over the plains will properly commence in April or May. I hold that the force designated in the bill is required for military purposes; and I hold, too, that a force is required immediately to be thrown out in the line of emigration to keep open the communication for this year. I do not want a war force, but a force formidable enough to go out upon the frontiers with an agent of the Government, with power to make peace and adjust terms. That force must be respectable enough to protect the lines of emigration and to demand respect from the Indian tribes upon the frontier.

[Here the hammer fell.]

Mr. BRIDGES. I am opposed to the amendment of the gentleman from California, and I ask a vote upon it. I do it for the purpose of disposing of this amendment in a brief manner, and I hope every amendment will be disposed of in the same way. I think that we have had discussion enough of this kind.

The question was taken on Mr. McDOUGALL's amendment; and it was rejected.

Mr. SKELTON obtained the floor.

Mr. SEWARD. I rise to a privileged question.

The CHAIRMAN. The gentleman will state his privileged question.

Mr. SEWARD. Whether any gentleman upon this side of the House can be heard at all? [Laughter.]

The CHAIRMAN. That is not a question of privilege at all.

Mr. SKELTON. I offer the following amendment:

At the end of the section add the following:

And to be discharged when peace is made with the Indians.

I offer this amendment, because I believe it will be necessary to secure the public service of our country from accumulating a load of lumbering officers in the Army. If it is necessary to have these regiments for the purpose of suppressing Indian hostilities, I am willing to vote what is necessary, but I am unwilling to vote for a perpetual Army, which is intended merely to suppress a present momentary difficulty. If these regiments are raised as regular regiments, they remain when peace is made, and if Government has nothing for them to do, the officers necessarily become imbecile and disqualified when war arises for the discharge of the active duties of the Army. For the purpose, then, of preventing the service from becoming lumbered up with these old, idle, and useless officers, I hope that the amendment which I have offered will be adopted. I do not propose to consume the time of the committee at any length, and I will not, therefore, trespass upon their patience any further.

Mr. LANE, of Oregon. I want to say a word, and give my experience in Indian matters.

Mr. SEWARD. What is the question before the committee?

The CHAIRMAN. The question is whether these regiments shall be abandoned at the close of the war.

Mr. LANE. I have to say that the Indians will never cease hostilities so long as there is one of them left. The amendment of the gentleman from New Jersey is perfectly harmless. We will never have peace with the Indians as long as we live.

Mr. BARRY. We will never have peace with the Indians as long as they have land which we want and which they do not want to sell.

The question was then taken on Mr. SKELTON's amendment; and it was rejected.

Mr. SEWARD. I move that the committee rise.

The question was taken; and it was decided in the negative.

So the committee refused to rise.

The CHAIRMAN. The question is now upon the amendment reported by the Committee of Ways and Means, and as a substitute for the amendment of the Senate, upon which the gentleman from Missouri [Mr. PHELPS] is entitled to make a five-minute speech.

Mr. WASHBURNE, of Illinois. I will ask the Chair if the gentleman from Missouri has not already occupied his five minutes.

The CHAIRMAN. The gentleman from Missouri has not yet occupied his five minutes.

Mr. HOUSTON. I have occupied no time upon this bill, and I do not intend to. I will, however, if I can get the floor and an opportunity, offer an amendment, adding one regiment of cavalry to the present Army, giving authority to increase the existing companies up to ninety privates, and giving discretion to receive two thousand volunteers.

Mr. PHELPS. I am desirous of having the question taken upon the amendment submitted by me, at the instance of the Committee of Ways and Means. I have discussed the question, and now forbear any further discussion, in the hope that we may now have a vote taken.

[Cries of "Question!" "Question!"]

Mr. WHEELER. Read the amendment again.

Mr. WASHBURNE, of Illinois. I object. It has been read once.

Mr. WHEELER. Then it is a question for the committee to dispose of, and I move that the amendment be again read.

The question was put; and decided in the negative.

The question recurring on the amendment offered by Mr. PHELPS, it was put; and the amendment was not agreed to.

Mr. HOUSTON. I now offer the amendment of which I spoke a little while since. The amendment is the amendment of the gentleman from Missouri, [Mr. BENTON,] striking out "three," and inserting in lieu thereof the word "two," so as to provide that the volunteers shall not exceed two thousand. It authorizes an increase of the present companies to ninety privates, which will give twenty-five hundred soldiers to the existing Army, and then an additional regiment of volunteers.

The amendment was reported, as follows:

SEC. —. *And be it further enacted*, That there shall be added to the Army one regiment of cavalry, organized as the regiment of mounted riflemen of the existing force.

SEC. —. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized, by voluntary enlistment, to increase the number of privates in each or any of the companies of the existing regiments of the Army, to any number not exceeding ninety.

SEC. —. *And be it further enacted*, That the President, for the purpose of maintaining peace with the Indian tribes, of protecting the citizens on the routes of emigration in the Territories of the United States, and the citizens inhabiting said Territories, and to suppress Indian hostilities in the same, be, and he is hereby, authorized to call for and accept the services of any number of mounted volunteers not exceeding, in all, two thousand, officers and men, to be organized as hereinafter directed, who shall, as circumstances may direct, be employed as rangers, scouts, and spies, and serve for twelve months, unless sooner discharged: *Provided*, That the number of privates for each company of volunteers herein authorized shall not exceed sixty-four: *And provided further*, That the said volunteers may be required to serve on foot, if circumstances should render such service necessary.

Mr. PECKHAM. I hope the amendment will be voted down.

Mr. FAULKNER. I ask the committee to

hear me a moment in expression of my views upon the amendment which has just been offered by the gentleman from Alabama.

[Cries of "No!" and "Vote it down!"]

The question was taken on Mr. HOUSTON's amendment; and it was not agreed to.

The question recurring on concurring in the amendment of the Senate as amended, it was put, and the Chair announced that it was decided in the affirmative.

[Cries of "Division!" "Division!"]

Mr. HENN. I called for a division before the Chair announced the decision.

[Cries of "Order!" "Order!"]

The CHAIRMAN. The Chair will not undertake to do any business until order is restored.

Mr. HENN. I claim my right to call for a division.

Mr. PECKHAM. I hope the gentleman's right will be respected.

Mr. PHELPS. The gentleman from Iowa was upon the floor before the Chair announced the decision.

[Cries of "Order!" "Order!"]

The CHAIRMAN. When order is restored the Chair will respond to the gentleman from Iowa, and not before.

[Cries of "Order!" "Order!"]

The CHAIRMAN. The gentleman from Iowa addressed the Chair while the Chair was putting the question to the committee. It was not in order for the gentleman to address the Chair at that particular time. The Chair continued the question, and decided that the amendment was concurred in—the gentleman from Iowa not again addressing the Chair.

Mr. HENN. I addressed the Chair before the Chair put the motion, and I did it at the request of the gentleman from Missouri, [Mr. BENTON,] for the purpose of offering his amendment, and I think it but fair that the Houe should give him a vote upon it.

[Cries of "Order!" "Order!"]

The CHAIRMAN. The Chair is sorry that he did not observe the gentleman from Iowa. He did not, and he decides that the amendment has been concurred in.

Mr. FAULKNER. I propose that, by unanimous consent, the committee take a vote upon the amendment of the gentleman from Missouri.

Mr. PECKHAM. Does the Chair decide it is regular to take a vote upon it?

The CHAIRMAN. The gentleman from Virginia appeals to the committee to let a vote be taken on the amendment of the gentleman from Missouri, [Mr. BENTON.] Is there objection?

Mr. EDGERTON. I object.

Twenty-second amendment of the Senate:

SEC. 11. *And be it further enacted*, That, to enable the President of the United States to carry into effect the provisions of so much of this act as relates to the employment of an additional military force, such sum of money, not exceeding $2,500,000, as may be necessary, be, and the same hereby is, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. ROWE. I offer the following amendment to the amendment of the Senate:

And $1,696 15 to supply a deficiency in the appropriation for building four steam dredge boats in use by the War Department on Lakes Champlain, Erie, Michigan, and Ontario, to be applied to the payment for materials, tools, machinery, and labor, furnished in painting said boats.

Mr. PHELPS. I rise to a question of order. I hold that the amendment of the gentleman from New York is out of order, and ask the Chair's decision.

The CHAIRMAN. The amendment appears to provide for a deficiency in a former appropriation, and the Chair will rule it in order as an addition to the section.

Mr. PHELPS. As the amendment is decided to be in order, I suggest that we first take the vote on the Senate's amendment, and then let it come in as an additional section.

Mr. ROWE. I do not adopt the gentleman's suggestion. I wish the amendment where it has been offered. I have had the honor of twice presenting it before. It was twice ruled out, not because it lacked merit, but for the reason that it was not presented at a proper place. In my hand I hold a recommendation from the War Department in favor of the proposed appropriation. Gentlemen are satisfied, I am sure, that it would not be indorsed by that Department unless it was right. The object is merely to provide for the painting, &c., of four dredge boats now in use upon the lakes, by the Department, for war purposes. Twenty thousand dollars were appropriated by a former Congress, but it was not large enough to cover the expenses of building, painting, &c. This is merely to supply a deficiency in that appropriation. Satisfied that the committee understands the facts in the case, I will not consume further time than to ask that the amendment may be adopted.

Mr. HUGHES. As the amendment has been decided to be in order, I send up another one of a similar nature for the action of the committee.

The CHAIRMAN. No other amendment is now in order. The amendment of the gentleman from New York [Mr. ROWE] is in the second degree.

At the request of Mr. LETCHER the amendment was again read.

Mr. LETCHER. Does the Chair decide that to be a proper amendment to the army bill?

The CHAIRMAN. That is the Chairman's decision.

Mr. WALSH. I suggest the modification of the amendment, so that it will provide for mud-scows instead of dredge boats. [Laughter.]

Mr. ORR. Is the amendment germane to this bill?

The CHAIRMAN. The Chair decides that it is.

Mr. ORR. I appeal from the decision of the Chair.

[Cries of "Too late!"]

The CHAIRMAN. The Chair decides that it is now too late to take an appeal. He was not entirely satisfied of the amendment being in order, but seeing the gentleman from New York [Mr. ROWE] so anxious for its introduction, he ruled it in order. If the committee are not in favor of it they can vote it down.

The question was taken; and the amendment was lost; there being, on a division, only forty-eight in the affirmative.

The CHAIRMAN. The amendment is disagreed to.

Mr. FLORENCE obtained the floor.

Mr. TWEED. I demand a division. The negative has not been counted.

[Cries of "Too late!"]

Mr. TWEED. We have the right to a count on both sides.

The CHAIRMAN. There was not a majority of a quorum in the affirmative.

Mr. TWEED. I want to know whether there is a quorum here.

Mr. FLORENCE. I rise to a privileged question. I want to know whether this count's in my time? [Laughter.]

Mr. BARKSDALE. I move that the committee do now rise.

The CHAIRMAN. The gentleman has not the floor for that purpose.

Mr. TWEED. I ask for my rights, and I intend to have them.

Mr. HOUSTON. I ask for a vote upon the Senate amendment.

Mr. TWEED. I demand to be heard by the Chair, and that the Chair shall put the motion made by me.

The CHAIRMAN. The Chair did put the motion of the gentleman from New York and decided that it was lost.

Mr. TWEED. Did the Chair count those who voted in the negative?

The CHAIRMAN. The Chair decided the motion to be lost for the reason that a majority of a quorum had not voted in the affirmative, and a quorum of members are present.

Mr. TWEED. I am satisfied with the explanation of the Chair.

Mr. FLORENCE. Now, Mr. Chairman, my amendment will come in as an additional section. It seems to be the desire upon all hands that the vote should be taken upon the Senate amendment with a view of expediting the public business. I will refrain from offering the important amendment that I have, and allow the vote to be taken upon the Senate amendment.

Mr. HUGHES. I have an amendment which, according to the decision of the Chair just now, will be in order at this point. I offer it in good faith, and hope the committee will adopt it. I move to insert, at the end of the Senate amendment, the following:

For the current expenses of the steam dredge on Lake Champlain, New York, to be expended under the direction of the Secretary of War, $7,500.

Mr. WHEELER. Before any other vote is taken I rise to a question of order. I want to know at what stage of the proceedings it is necessary to call for a division to be recognized by the Chair?

The CHAIRMAN. At any time before the Chair announces the vote.

Mr. WHEELER. Well, sir, divisions have been called for long before the Chair announced the vote, which the Chair refused to recognize.

The CHAIRMAN. The gentleman from New York is not in order.

Mr. PHELPS. I raise a question of order upon the amendment of the gentleman from New York, [Mr. HUGHES.]

The CHAIRMAN. The Chair decides that the amendment is not in order.

Mr. HUGHES. I will submit to the decision of the Chair.

Mr. LETCHER. I rise to a question of order.

Several MEMBERS rose simultaneously, and made various propositions; and much confusion prevailed.

Mr. LYON. I ask the consent of the House to print a speech on the eastern war question. [Roars of laughter.]

Mr. ROWE. I move that the committee rise.

Mr. SAGE. I move that the committee rise and report the bill to the House.

Several MEMBERS. Not in order.

Mr. ROWE. I demand tellers upon my motion.

[Shouts of "Question!" and great confusion.]

Tellers were not ordered.

The question was taken; and the committee refused to rise.

The question was then taken; and the Senate amendment was concurred in.

Mr. HOWE. I have an amendment which I am instructed by the Committee on Military Affairs to offer.

Mr. FAULKNER. I rise to a question of order. I have an amendment which I desire to offer as an addition to the amendment which has just been adopted. I am instructed by the Committee on Military Affairs to offer it. It is to defray the expenses of the volunteers that have been recently called out in New Mexico. I move the following:

And be it further enacted, That a sum not exceeding $108,740 84 be, and the same is hereby, appropriated to defray the expenses of the volunteers recently called out under General Garland in the Territory of New Mexico.

Mr. STANTON, of Kentucky. I rise to a question of order. I ask if all the Senate amendments have not been voted on except that to the title?

The CHAIRMAN. They have.

Mr. STANTON. Then I submit that this and all other amendments of the kind are out of order. We have nothing before us but the Senate amendments, and they being disposed of we have nothing at all. There is nothing to which an amendment can possibly be attached, except in reference to the title, and, therefore, no more amendments are in order except to that.

The CHAIRMAN. The Chair sustains the point of order raised by the gentleman from Kentucky, and decides the amendment, upon that ground, to be out of order.

The last amendment was then reported, as follows:

Amend the title by adding thereto "and for other purposes."

The question was then put; and the amendment agreed to.

Mr. PHELPS. I move that the committee rise, and report the bill to the House.

The question was taken; and the motion agreed to.

So the committee rose; and the Speaker *pro tempore* (Mr. ORR) having taken the chair, the Chairman (Mr. HENDRICKS) reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House (No. 562) making appropriations for the support of the Army for the year ending the 30th of June, 1856, with the amendments of the

Senate thereto, and had instructed him to report the same to the House, with the recommendation that some of the amendments be concurred in with amendments, and one without, and that others be non-concurred in.

Mr. PHELPS. I move the previous question upon concurring in the Senate amendments.

The previous question was seconded, and the main question ordered to be put.

Mr. WASHBURN, of Maine. The previous question has been ordered, which will keep the bill before the House, and I move that the House do now adjourn.

Mr. HOUSTON. I hope the gentleman will withdraw that motion. We can dispose of the plain amendments to which there is no objection just as well this evening as to-morrow.

Mr. WASHBURN. We can dispose of them all in the morning.

Mr. HUGHES. I hope the gentleman will withdraw the motion, and allow us to vote upon these amendments. It will require only a few minutes.

Mr. WASHBURN. I will withdraw it.

Mr. STRATTON. I ask the consent of the House to take from the Speaker's table a bill to which I think there will be no objection.

The SPEAKER *pro tempore*. It is not in order after the main question has been ordered upon the Army Bill.

Mr. ROWE. I move that the House do now adjourn.

The question was put; and the motion was disagreed to.

Mr. STANTON, of Tennessee. I would suggest that it is not necessary to read all these amendments. Let gentlemen name those upon which they desire a separate vote, and let the report of the Committee of the Whole on the state of the Union be concurred in in respect to the others.

The SPEAKER *pro tempore*. That course will be taken unless some one objects.

The first and second amendments of the Senate were then read, and concurred in.

Mr. HENN. I propose that we agree to the report of the Committee of the Whole on the state of the Union upon all the amendments except in those instances where a separate vote is desired.

The SPEAKER *pro tempore*. The gentleman from New York [Mr. ROWE] objects to that.

Mr. ROWE. I withdraw the objection.

The SPEAKER *pro tempore*. Is there any objection to the course suggested by the gentleman from Iowa?

Mr. McDOUGALL. I must object.

Mr. BRECKINRIDGE. I would suggest that the Speaker should cause the amendments to be read over, so that gentlemen who desire separate votes upon particular amendments may indicate them, and that we should then vote in gross upon all the amendments which are not objected to.

The SPEAKER *pro tempore*. Is there any objection to the course suggested by the gentleman from Kentucky?

No objection was made.

The Clerk accordingly read over the amendments; when separate votes were demanded on the thirteenth amendment by Mr. HOUSTON, on the fifteenth amendment by Mr. WHEELER, and on the seventeenth, eighteenth, nineteenth, twentieth, twenty-first, and twenty-second amendments by Mr. WALSH.

The question was then taken on concurring in the report of the Committee of the Whole on the state of the Union in reference to all those amendments on which separate votes had not been demanded; and that report was concurred in.

Mr. RICHARDSON. I think we had better vote on the balance of the amendments in the morning when we can have a full House. I therefore move that the House do now adjourn.

Mr. STRATTON. I appeal to the gentleman to withdraw that motion for one moment.

Mr. RICHARDSON. I withdraw it.

Mr. STRATTON, I desire to ask the unanimous consent of the House to take up joint resolution No. 10.

[Cries of "Object."]

Mr. STRATTON. I move to suspend the rules, and I ask that that motion may be entered.

Mr. PHILLIPS. I make the point of order that it is not in order to move to suspend the rules now, the previous question having been ordered on the amendments of the Senate to the Army appropriation bill.

The SPEAKER *pro tempore*. The gentleman from Alabama is correct. The motion of the gentleman from New Jersey cannot be recognized.

SUSPENSION OF A JOINT RULE.

Mr. FULLER. The House is aware that no bill passing the House during the last three days of the session can be sent to the Senate without a suspension of the 16th joint rule. The House passed bill No. 794 this morning, and I ask a suspension of that rule to enable it to be sent to the Senate.

Several MEMBERS. Make the order general to apply to all bills.

Mr. FULLER. Will it be in order for me to move the suspension of that rule generally, or must my motion be confined to the particular bill indicated?

The SPEAKER *pro tempore*. It will be in order to make the proposition general.

Mr. LATHAM. Then I trust the gentleman from Maine will so modify his motion as to make it general, not special.

Mr. FULLER. Certainly. I move generally that the 16th rule be suspended.

The question was taken; and the motion was agreed to.

CLARK MILLS.

Mr. BRECKINRIDGE. Before the House adjourns I want to offer a resolution which, I presume, every member will agree to.

The resolution was read a first and second time by its title, as follows:

Joint resolution for the relief of Clark Mills.

The resolution directs the President of the United States to cause the sum of $5,000 to be advanced to Clark Mills on his personal application and receipt in addition to the sum already advanced him out of the $50,000 appropriated by the act of January 25, 1853, to erect, at the capital of the nation, an equestrian statue of Washington.

Mr. BRECKINRIDGE. If the House desire it I will state, in two sentences, the reason for this resolution.

[Cries of "Oh, no!" "There is no objection."]

Mr. WALSH. I object, unless it is explained.

Mr. BRECKINRIDGE. Congress appropriated $50,000, to be paid under the direction of the President, for an equestrian statue of Washington by Clark Mills, the artist. By a contract made with the President he received $20,000 in hand, and the other $30,000 was to be retained in the Treasury till the statue should be completed. But by a storm which blew down his building, and a fire which consumed his model, he is much curbed in circumstances, and being a poor man, he asks Congress for no gratuity but to authorize the President to advance part of the sum appropriated for him.

Mr. ROWE. I would ask the gentleman from Kentucky whether a large appropriation was not made to Mr. Mills at the last session.

Mr. BRECKINRIDGE. There was $50,000 appropriated for him in 1853.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. KEITT. I now ask leave to record a motion to suspend the rules, to take up a bill in the morning, and then I will move that the House adjourn.

The SPEAKER *pro tempore*. Does the Chair understand the gentleman from South Carolina to move that the House do now adjourn?

Mr. KEITT. No, sir. I move to suspend the rules.

Mr. GOODE. I move that the House do now adjourn.

Mr. BARKSDALE and several other members appealed to Mr. GOODE to withdraw his motion.

Mr. GOODE. No; I insist upon it.

Mr. FLORENCE. Then I demand tellers.

Tellers were ordered; and Messrs. SAGE and CASKIE were appointed.

The question was taken; and the tellers reported—ayes 59, noes 11.

So the motion was agreed to; and thereupon, at ten o'clock and fifty-three minutes, the House adjourned till to-morrow at eleven o'clock, a. m.

IN SENATE.

THURSDAY, *March* 1, 1855.

Prayer by Rev. HENRY SLICER.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, in compliance with a resolution of the Senate of the 22d of February, calling for a copy of a letter of Francis W. Rice, late United States consul at Acapulco, to the Secretary of State, in relation to outrages committed on him by Mexican authorities at that port; which was ordered to lie on the table and be printed.

Also, a message from the President of the United States, communicating a report of the Secretary of the Interior, asking for certain appropriations on account of the Indian service; which was referred to the Committee on Finance, and ordered to be printed.

Also, a message from the President of the United States, communicating a report of the Secretary of the Interior, asking for an appropriation for the survey of lands acquired under a treaty with the Chippewa Indians; which was referred to the Committee on Finance, and ordered to be printed.

Also, a report of the Second Auditor of the Treasury, accompanied by copies of such accounts as have been rendered by persons charged with the disbursement or application of moneys, goods, or effects, for the benefit of the Indians, for the year ending June 30, 1854, together with lists of the names of all persons to whom goods, money, or effects have been delivered within the same period; which was ordered to lie on the table and be printed.

Also, a letter from the Treasurer of the United States, accompanied by copies of his accounts of receipts and disbursements for the Post Office Department for the year ending June 30, 1854; which was ordered to lie on the table and be printed.

Also, a report of the Postmaster General, in compliance with a resolution of the Senate of February 24, 1855, calling for copies of correspondence with the British Government relative to the postal treaty between that Government and the United States; which was ordered to lie on the table and be printed.

Also, a report of the Secretary of War, in compliance with a resolution of the Senate of February 19, 1855, calling for information relative to the appropriation of lands for military purposes at Fort Laramie and other forts; which was ordered to lie on the table and be printed.

MEMORIALS.

Mr. DODGE of Wisconsin, presented a memorial of the Legislature of Wisconsin, praying for the establishment of a mail route from Portage City to La Crosse; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Also, resolutions of the Legislature of Wisconsin, in favor of granting bounty lands and pensions to the officers and soldiers of the war of 1812, and to the widows and legal representatives of those deceased; which were referred to the Committee on Public Lands.

WILLIAM G. PRESTON.

On motion by Mr. JOHNSON, the Senate, as in Committee of the Whole, proceeded to consider the House bill for the relief of William G. Preston.

Its object is to direct the payment to him of $375 25, to reimburse him for subsisting his command and horses from Ozark to Washington, Hempstead county, State of Arkansas.

William G. Preston was the captain of the late company H, of Arkansas mounted volunteers, in the Mexican war; he raised and enrolled the company at Ozark, in Arkansas, and marched it to Washington, in that State, where it was mustered into the service of the United States. The company consisted of seventy-nine men, the subsistence for which, and the forage for the horses, he furnished at his own expense, whilst marching from Ozark to Washington, a distance of one hundred and eighty-five miles.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

RELIGIOUS FREEDOM ABROAD.

Mr. CASS. I yesterday gave notice to the

Senate that I should to-day ask for the consideration of the resolutions which I submitted sometime since in respect to the right of American citizens to the enjoyment of religious freedom abroad. I ask the Senate now to take them up and vote on them. That is all I desire.

Mr. HUNTER. I hope the resolutions will not be taken up. I fear they will lead to debate, and interfere with a great deal of indispensable business which ought to be done.

Mr. CASS. As objection is made to my motion I ask for the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 8; as follows:

YEAS—Messrs. Adams, Allen, Benjamin, Bright, Brodhead, Brown, Cass, Chase, Dodge of Wisconsin, Foot, James, Jones of Iowa, Mallory, Pearce, Pettit, Rusk, Sebastian, Seward, Shields, Stuart, Sumner, Thompson of Kentucky, Wade, Weller, Wells, and Wilson—26.

NAYS—Messrs. Butler, Clay, Evans, Fitzpatrick, Hunter, Johnson, Morton, and Walker—8.

So the motion was agreed to; and the Senate proceeded to the consideration of the following resolutions:

Resolved, That it would be just and wise on the part of the Government of the United States, in future treaties with foreign nations, to secure, if practicable, to our citizens residing abroad the right of worshipping God freely and openly, according to the dictates of their own consciences, by providing that they shall not be disturbed, molested, or annoyed in any manner, on account of their religious belief, nor in the proper exercise of their peculiar religion, either within their own private houses, or in churches, chapels, or other places appointed for public worship; and that they shall be at liberty to build and maintain places of worship in convenient situations, interfering in no way with, but respecting the religion and customs of the country in which they reside.

Resolved further, That it would be just and wise in our future treaties with foreign nations, to secure to our citizens residing abroad the right to purchase and own burial places, and to bury any of our citizens dying abroad in such places, with those religious ceremonies and observances deemed appropriate by the surviving relatives and friends of the deceased.

Mr. CASS. I will only say that they are the resolutions which were reported two years ago by Mr. Underwood, of Kentucky, from the Committee on Foreign Relations.

The resolutions were adopted.

SARAH MORRIS.

On motion by Mr. MALLORY, the Senate, as in Committee of the Whole, considered the House bill for the relief of Sarah Morris, only heir of Robert Mitchell, deceased. It proposes to pay her $173 23 as the heir of Robert Mitchell, one of the captors of the Algerine vessels taken by the American squadron under Commodore Decatur.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM G. HOWISON.

Mr. BROWN. I am instructed by the Committee on the District of Columbia to report back the House bill for the relief of William G. Howison. It is a unanimous report; the bill is a small one, and I hope it will now be put on its passage.

There being no objection, the bill was considered as in Committee of the Whole.

It proposes to allow Howison $167 in full for all services as a member of the Auxiliary Guard of the city of Washington.

He was a member of the Auxiliary Guard, and whilst acting in that capacity he became sick. He remained so for one hundred and sixty-seven days, when, on account of it, he was discharged from the service. Whilst sick he was docked in his pay, which, he maintains, was not right, and not justified by precedent.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANNA E. COOK.

Mr. BUTLER. There is on the Calendar a House bill for the relief of Anna E. Cook. She is not my constituent, but is a lady residing in New York. She has written me many letters describing her poverty, and appealing to the justice of Congress to award her this pittance. I move that the bill be taken up.

The motion was agreed to, and the bill was considered as in Committee of the Whole. A pension will be provided for her by it, of fifteen dollars a month for five years, from the 1st of January, 1854. The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

CYRUS H. M'CORMICK.

Mr. WALKER. I move to dispense with the prior orders and proceed to the consideration of Senate bill for the relief of Cyrus H. McCormick. As I understand it, it is simply a bill relieving Mr. McCormick from the abandonment which was occasioned by the renewal of his patent in the Patent Office, upon a technicality which it was out of his power to remove before the time expired. The bill simply refers the matter to the Patent Office, there to be considered as though the time had not passed. It grants no patent, renews no patent, but simply refers the question to the Patent Office. The bill has been here now for a number of years. Almost every application of the same kind has been heard and passed. I make the motion to take up this bill to test the sense of the Senate whether they are disposed to act on it or not.

The motion was not agreed to.

VIRGINIA LAND SCRIP.

Mr. WALKER. I have another motion to make, and it is that the bill from the House of Representatives which I reported two days ago from the Committee on Revolutionary Claims, to amend the act of July 31, 1852, in reference to Virginia bounty land warrants, be taken up.

Mr. MASON. I hope it will be taken up.

Mr. STUART. That bill will necessarily give rise to a great deal of debate. There are many gentlemen here who wish this morning to make reports from committees which will not give rise to debate. I hope that bill will be passed over, at least until reports can be made.

Mr. COOPER. I do not think it will give rise to much debate.

Mr. STUART. I am certain that it will.

Mr. MASON. I ask leave to say to the Senate that this is a bill deeply interesting to the State of Virginia, involving the execution of her own laws giving bounty land to her own citizens. I hope it will be taken up and acted on.

Mr. WALKER. I hope so, too. The committee were unable to agree upon the bill. They reported it back, and asked leave to be discharged from its further consideration. I shall ask, perhaps, twenty or twenty-five minutes to explain the bill, as I understand it, and the reasons on which it is founded. I do not know that there will be any other discussion. The Senator from Michigan, perhaps, in somewhat the same view which I take of it, will ask leave to address the Senate. At the same time, it is a matter of importance, which I think ought to be acted upon. Let the Senate take up the bill; and, if it require discussion, discuss it, vote upon it, and determine it one way or the other.

Mr. HUNTER. This is a matter which concerns my State, and in which she takes a deep interest. I believe, in the whole course of my service here, I have never asked the Senate to take up a bill for my accommodation except one on this subject, which was taken up two years ago, and acted on in this body. The proposition now is to amend that, and I hope the Senate will give us an hour some morning for the consideration of this bill—if not this morning, to-morrow.

Several SENATORS. To-morrow.

Mr. COOPER. I do not think the bill will give rise to much discussion. I was on the committee which reported it, and it is true, as has been remarked by the Senator from Wisconsin, that the committee did not come to any decision in regard to it; but the whole question is embraced in a very short compass, and I am sure I can present the views of one side of the committee in a very brief space of time. I should not occupy ten minutes in doing it.

Mr. PETTIT. I hope this bill will not now be taken up, or, at least, that a little time will be given me to put upon its passage a bill of vast importance to the State of California; one that involves no principle injurious to the Government, but simply gives further time for land claimants under Spanish and Mexican grants to file their claims. The Senators and people of California feel a deep interest in it, and I trust it will be acted upon. I am perfectly willing to agree to take up the bill mentioned by the Senator from Wisconsin, after I can have an opportunity to pass the bill to which I have alluded, which has been reported by the Committee on Private Land Claims. It is important that it should be passed at an early hour in order to get through the House. It is a measure to which there can be no objection. I shall have no opposition to taking up the other bill if I can be allowed to have this one passed.

Mr. STUART. I am perfectly willing to say to the Senator from Virginia that I shall consent, so far as I am concerned, that the Virginia bounty land bill shall be taken up to-morrow, and an hour or two hours devoted to its consideration, but I again express the hope that we shall not be prevented this morning from taking up business which will not give rise to debate, and disposing of it. This bill, notwithstanding what Senators seem disposed to say, is a bill of much more interest to other States of this Union than it is to Virginia. It is one in which I feel that my constituents have a very deep interest, and I consider myself compelled to take care of their interests as far as I can; but I assure the Senate that I have not the slightest disposition to prevent action on the bill. On the contrary, I think we should act on it, and that decidedly. I shall consent that to-morrow, or any other morning, shall be devoted to it, when we can dispose of the business now pressing upon us.

Mr. WELLER. In my opinion, half a dozen bills could have been passed during the time that this discussion has been going on as to the mode of proceeding. I hope now that there will be an agreement, by common understanding, that we shall not discuss, during this session, the question of the priority of business. These little measures could be disposed of while we are debating which we shall take up first.

The PRESIDENT. The question is on the motion of the Senator from Wisconsin.

Mr. HUNTER. If it be the pleasure of the Senate to agree to lay this bill over until to-morrow, and take it up at eleven o'clock, I have no objection.

Several SENATORS. Agreed.

Mr. HUNTER. I make that motion.

The motion was agreed to.

BOUNTY LAND BILL.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that the House had passed the bill of the Senate, in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States, with amendments, in which they requested the concurrence of the Senate.

REPORTS FROM STANDING COMMITTEES.

Mr. JONES, of Iowa, from the Committee on Pensions, to whom were referred the following bills from the House of Representatives, reported them back without amendment:

A bill for the relief of William Brown;

A bill for the relief of James McIntire;

A bill for the relief Elizabeth Foreman;

A bill for the further relief of Isaac Allen, of Turner, in the State of Maine;

A bill for the relief of Wyatt Griffith, of Washington county, in the State of Tennessee; and

A bill for the relief Paul S. Ridgway, of Ohio.

He also, from the same committee, to whom were referred the following bills from the House of Representatives, reported adversely thereon:

A bill for the relief of Solomon Lafollet;

A bill for the relief of Thomas C. Ramsey, Ananias O. Richardson, and James McLaughlin;

A bill to amend an act entitled "An act for the relief of George M. Bentley, of the State of Indiana," approved August 5, 1854; and

A bill for the increase of John C. Burton's pension.

He also, from the same committee, to whom was referred the memorial of Anthony Phelps, a militia soldier in the revolutionary war, praying to be allowed a pension, submitted a report, accompanied by a bill for the relief of Anthony Phelps, of Hardin county, State of Kentucky; which was read and passed to a second reading. The report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Daniel Doland, a private in Captain Steele's company of New York volunteers, in the Mexican war, praying a pension for injuries received in the line of his duty, submitted a report, accompanied by a bill for his relief; which was read and passed to a second reading. The report was ordered to be printed.

Mr. THOMPSON, of Kentucky, from the Committee on Private Land Claims, to whom was referred the petition of Alexander McKee, praying

the passage of a law authorizing him to locate certain lands in Texas, on copies of certificates which have been lost, as he alleges, while in possession of the United States, asked to be discharged from its further consideration; which was agreed to. He also submitted a report on the case; which was ordered to be printed.

CHARLES H. POINTER.

Mr. JONES, of Iowa, from the Committee on Pensions, to whom was referred the House bill for the relief of Charles H. Pointer, reported it back without amendment, and recommended its passage.

Mr. MASON. The object of that bill is to place an old man on the pension roll. I hope the Senate will pass it at once.

There being no objection, the bill was considered as in Committee of the Whole. It provides for placing Pointer's name on the roll of invalid pensioners, at eight dollars per month, from the 1st of January, 1854, during his life. The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

LYON AND HOWARD.

Mr. JONES, of Iowa. At the instance of my friend from Illinois [Mr. SHIELDS] I move to take up the House bill for the relief of L. R. Lyon & Dean S. Howard, of the State of New York.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, the object of which is to pay Lyon & Howard a balance of $8,617 81, for constructing dredging machines in 1836.

Mr. STUART. I hope the Senate will not act on this bill now. I have been investigating it for two weeks with great care, and I think I can satisfy the Senate that nearly every dollar which the bill proposes to appropriate is wrong. I move to postpone its further consideration until to-morrow.

Mr. BRODHEAD. This bill was before the Committee on Claims, of which I am chairman, and the same allegation was made that there was no part of the money due. The committee investigated the matter thoroughly, and came to the conclusion that every penny was due. Much more was claimed than the bill allowed, but the committee concluded not to go further than the bill. All that the bill allows is just.

The motion to postpone was not agreed to; there being, on a division—ayes 18, noes 19.

Mr. STUART. I have sent to my committee room for some papers in respect to this subject; and if it is the desire to press the bill at this time, I shall have something to say in regard to it. As long ago as the Thirtieth Congress, I, together with three or four other gentlemen, examined this case. It was thoroughly discussed in the House of Representatives, and rejected in 1848. I have the papers, and I have nearly completed the examination of the question, so that I may present it in a few minutes.

Mr. WALKER. The bill ought to be laid over.

Mr. HUNTER. I hope it will be postponed, as the Senator wishes to debate it.

Mr. JONES, of Iowa. I called up this bill for the benefit of my friend from Illinois, [Mr. SHIELDS.] I know nothing about it myself.

Mr. SHIELDS. This is a House bill which came to the Senate, and was referred to the Committee on Claims, and reported back by them unanimously, as I understand. I know nothing of what the honorable Senator from Michigan suggests. If his surmises be true, of course the bill ought to be rejected; but I take it for granted that the Committee on Claims have examined it thoroughly, and that, as they reported it unanimously, the bill must be correct. The chairman of the Committee on Claims is, no doubt, ready to defend his report.

Mr. STUART. The condition of the bill is such as I say. I have no desire, by consuming time, to destroy this bill or any other. If I shall fail to-morrow, or next day, to satisfy the Senate that I am correct, let the bill pass.

Mr. SHIELDS. In order to give the honorable Senator time, I move that the further consideration of the bill be postponed until to-morrow.

The motion was agreed to.

HENRY HOFFMAN.

Mr. EVANS. There are four or five bills, which have been passed by the House and reported by the Committee on Revolutionary Claims of the Senate, without amendment, which I should like to have disposed of this morning. Unless they are passed at this session, all the labor of investigating them will have to be gone over again next year. I do not think that more than ten minutes will be required to dispose of all of them. I first move to take up House bill for the relief of the legal representatives of Henry Hoffman.

The motion was agreed to. The purpose of the bill is to direct the Secretary of the Treasury to pay eighty dollars to the legal representatives of Henry Hoffman, being the amount of a reward provided in certain cases by a resolution of Congress, adopted May 15, 1778.

The PRESIDENT. It appears from the Calendar that there is an adverse report in this case.

Mr. EVANS. Yes, sir. I made a mistake. This is not the bill which I intended to call up.

Mr. JOHNSON. I move that the adverse report be concurred in.

The motion was agreed to; and the bill was, therefore, rejected.

THOMAS UNDERHILL.

On motion by Mr. EVANS, the House bill for the relief of Thomas Underhill, executor of Thomas Underhill, deceased, was considered as in Committee of the Whole.

It proposes to direct the Secretary of the Treasury to pay to Thomas Underhill, executor of Thomas Underhill, deceased, $11,055, in full payment for damages sustained and property used by the ninth regiment of the Virginia army of the Revolution.

The Committee on Revolutionary Claims of the Senate reported an amendment to strike out "$11,055" and insert "$990."

Thomas Underhill, deceased, in the year 1776, was the occupant of a farm in Northampton county, Virginia, which he had leased for a term of years, with a number of slaves. A part of the ninth Virginia regiment, which was then recruiting and drilling, was stationed during the summer and fall of that year on the farm, and they committed the usual depredations of soldiers, in burning his fences and turning their horses into his fields, whereby the crop was destroyed, and the plantation left in a ruinous state. He alleges that he remonstrated with the officers, and was told the Government would pay him. He was ignorant, he says, of the mode of applying for relief, and no application was made to Congress until 1836, a period of sixty years after the alleged injury. The committee doubt very much the propriety of granting any relief in these antiquated claims, which may have been settled soon after their origin, or, if not settled, it is the fault or the misfortune of the claimants. The claim was not made at a time when the facts could have been better ascertained, and when, if paid, the evidence could have furnished proof of that fact. It is not, in general, true that parties who have fair claims on the Government do not very soon find out how and where to present them. Yet the committee are unwilling to run the risk of doing injustice to one who was a sufferer in our struggle for independence.

The petitioner claims for the loss of two crops, at the annual rent of £330, £660, and a loss of one half of three succeeding crops, at £165 a year, equal to £495, and making in all £1,155, Virginia currency, equal to $3,465. The bill from the House proposes to appropriate $11,055 for the relief of the petitioner How this sum was ascertained the committee have no means of information The whole sum claimed is only, when reduced to dollars, $3,465. There is certainly some mistake, which probably arose from copying. The committee learn from the evidence that the troops were marched to Cambridge, to join the Army in November or December of that year, and they are wholly unable to conjecture how the injuries complained of could run into the four succeeding years after the departure of the troops. Even if the entire fencing of the plantation was burned, this injury could soon have been repaired by the number of negroes which he hired with the plantation. Assuming the fact of the troops being quartered on the plantation, he may have a just claim for the loss of one crop, and to this might be added the expense of renewing the fences on the plantation, if there was any means of ascertainment; but there is no proof on this point. The committee have concluded to allow him one year's rent, or £330, Virginia currency, equal to $990. They therefore recommend that the bill be so amended as to strike out $11,055, and insert $990.

Mr. EVANS. There is an error in the report of the committee in reducing Virginia currency to dollars. Instead of $990, the amount should be $1,100. The committee of the House of Representatives reported the bill for $11,000, but I apprehend that was a mistake. "Thousands" was inserted instead of "hundreds." I am authorized to withdraw the amendment of the committee, and in lieu of it to move to insert $1,100 as the sum.

The amendment was agreed to. The bill was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed, and the bill to be read the third time. The bill, as amended, was read the third time, and passed.

PHILIP R. RICE.

On motion by Mr. EVANS, the Senate, as in Committee of the Whole, proceeded to consider the bill of the House for the relief of the heirs of Philip R. Rice, the object of which is to direct the payment to them of $3,450, in full payment for the loss of a vessel in the service of the United States, during the war of the Revolution.

Philip R. Rice, while a resident of King William county, Virginia, in the year 1781, was the owner of a small trading vessel, the cost of which was $2,200. Shortly before Lord Cornwallis took possession of Yorktown, he, with two of his servants, who composed the crew of the vessel, was trading in the York, Potomac, and James rivers, and while thus engaged, he, together with his two servants and vessel, was pressed into the service of the United States by the press-masters, Robert Radford and Micajah Crews, for the purpose of transporting munitions of war, military and quartermaster's stores, from the town of Cumberland to Taylor's ferry, which duty was performed under the direction of the press-masters, they being with him, and superintending the loading and unloading of the cargo. He was then directed by them to go to Newcastle, and load with flour from Colonel Simm's mill, and with cannon, shells, and pork, and transport them to York. In accordance with their direction, he repaired to Newcastle and loaded, and on his return, before he reached Goodman's Island, he was attacked by the British, who, since he had left Taylor's ferry, had taken possession of Yorktown. The enemy's force was so well provided with field artillery, that, to effect his own escape, and that of his crew, he was compelled to scuttle the vessel to prevent the cargo from falling into the hands of the enemy, and escape in a skiff. The vessel went down shortly after they left her.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had passed the bill of the Senate for the relief of Nancy Weatherford, with amendments.

Also, that they had passed the following Senate bills without amendment:

A bill for the relief of Amos Knapp;

A bill for the relief of Peter Amey, (colored man;)

A bill for the relief of Henry S. Sanford;

A bill for the relief of Parmelia Slavin, late the wife of John Blue, deceased;

A bill for the relief of George W. Torrence;

A bill to amend "An act to carry into effect a treaty between the United States and Great Britain," signed on the 5th June, 1854, and approved August 5, 1854; and

A bill for the relief of Mrs. J. Josephine McClellan;

Also, that they had passed a bill to establish Columbus, in the State of Mississippi; Chattanooga, in the State of Tennessee, and Hickman, in the State of Kentucky, ports of delivery.

THOMAS MORRIS.

On motion by Mr. EVANS, the Senate, as in Committee of the Whole, proceeded to consider the House bill for the relief of the children and grandchildren of Thomas Morris.

It is intended to require the proper accounting officers of the Treasury to pay to the children and grandchildren of Thomas Morris, who was a captain in the Georgia line on the Continental establishment in the revolutionary war, and who died in the service of the United States during the war, the full amount of the half-pay of a captain of artillery for seven years.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CALIFORNIA LAND CLAIMS.

Mr. WELLER. I ask the Senate now to take up and pass a bill, which it is necessary should go to the House for action, simply extending the time for filing claims before the board of land commissioners in California. It is a bill which has been reported from the Committee on Private Land Claims, "supplemental to an act entitled 'an act to ascertain and settle the private land claims in the State of California.'"

The motion was agreed to, and the bill was read the second time, and considered as in Committee of the Whole. It proposes to allow persons holding private land claims in California under Spanish or Mexican grants, until the 1st of July next to present them to the board of commissioners.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PASSENGER LAWS.

Mr. BENJAMIN. I am instructed by the Committee on Commerce to report back the House bill to regulate the carriage of passengers in steamships and other vessels, in relation to which the committee have come to a unanimous conclusion. They report two or three amendments, in which I am instructed to ask the concurrence of the Senate now, so that the bill may be disposed of immediately.

Mr. HUNTER. I am afraid it will give rise to debate. If so, I must ask for the consideration of the special order.

Mr. BENJAMIN. If it gives rise to a word of debate I shall consent that it lie over. This is a unanimous report from the committee.

Mr. SEWARD. We are all agreed. It will lead to no debate.

Mr. BENJAMIN. I will state to the Senate, that the amendments of the committee are simply to provide for the insertion of those provisions of the bill of our colleague, [Mr. FISH,] which he desired to have inserted.

The amendments reported by the committee were agreed to. The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. SHIELDS. It was my intention when this bill came up to say a few words in justification of the course of the honorable Senator from New York, who is now absent, [Mr. FISH.] I was a member of the special committee, of which he was chairman, upon this subject, and I had intended to correct the injustice which I saw was done him in the proceedings of a meeting held in New York a short time since. I intended to make the matter right for him as far as it was in my power to do so, in consequence of his not being here to do it for himself. In order to have this bill passed immediately, as I know that time is precious, I shall make no remarks on this occasion; I will merely say that I regret that such injustice was done to him.

The amendments were ordered to be engrossed, and the bill to be read the third time. The bill, as amended, was read the third time, and passed.

CIVIL AND DIPLOMATIC BILL.

On motion by Mr. HUNTER, the Senate, as in Committee of the Whole resumed the consideration of the bill of the House of Representatives making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1856, and for other purposes.

Mr. WELLER. I desire to inquire why this bill has not been laid on the tables of Senators? It is a very important and a very long bill, and if it is necessary to print any bill it certainly is necessary to print the civil and diplomatic appropriation bill. How are we to ascertain its merits without having a printed copy before us? So far as I know there has not been a single copy laid on our tables. We are now called upon to vote on a bill making an expenditure of perhaps $10,000,000 or $12,000,000 without knowing what it is. I think it is very singular legislation. Somebody is to blame, and I desire to know who it is.

Mr. HUNTER. I know nothing about it. The members of the Committee on Finance have had printed copies of the bill, and I do not know why the Senator from California has not.

Mr. CLAYTON. I move to strike out all that part of the bill which relates to the revision of the tariff, and I have a very few words to say on my motion; for I know well that the Senate is in no condition to listen to a speech on this or any other subject. But, sir, this is the first time, in the whole course of my congressional experience, that an attempt was ever made to put a tariff bill upon the general civil and diplomatic appropriation bill.

Mr. PEARCE. Will the Senator from Delaware allow me to make a statement before he goes on?

Mr. CLAYTON. Yes, sir.

Mr. PEARCE. The Committee on Finance, this morning, had some conversation on this subject, and they requested me to move an amendment to the bill, which would be the first amendment in order, if the committee should propose any, with the desire and hope that the Senate would make the vote on that amendment a test vote. The amendment is one to which there can be no objection on account of its provisions. It is one in regard to the expenses of the Senate. There is an appropriation for legislative expenses, and for the compensation and mileage of Senators; and the bill then goes on to say:

"For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the Senate, to wit."

And then it proceeds to specify each officer and his salary. The Senate committee were disposed to have these details stricken out, so as to leave the general provision for the pay of clerks and other officers of the Senate without the details which the House put in. The committee supposed the Senate would have no difficulty in agreeing to that, and that, therefore, if the Senate should be unwilling to pass that amendment, it would be considered by the committee as a test vote, and they would govern themselves accordingly. If the Senate shall accept that the committee will go on to offer their amendments; but if the Senate refuse to adopt it, they will then cease to offer any amendments as a committee. It is intended to submit that amendment as a test question of the disposition of the Senate to follow our report or not. I submit to the Senator the propriety of first allowing that amendment to be moved.

Mr. CLAYTON. I am very happy always to defer to the Committee on Finance, but it seems to me that this attempt to alter the tariff, and to force a change of the tariff on one branch of Congress, ought to be met directly by a motion to strike it out of the bill; and I make that motion.

Now, sir, what must be the consequence hereafter of sustaining such a proposition as the House have put into this bill? Whenever a majority in one branch of Congress shall desire any great object which they cannot attain by a separate bill, they will move to put it on the civil and diplomatic appropriation bill, and thus compel the other branch of Congress to accept the whole or none; to lose all the appropriations to support the Government for the current year, or take a proposition utterly unpalatable to them. Why, sir, let me tell the honorable Senator from Virginia, that if this precedent is adopted, the day may come when a majority in one branch of Congress may attach to a general appropriation bill a proposition to repeal the fugitive slave law, or some other law, which is held by himself and his friends, and by me, too, as essential to sustain the Union of these States. It is a most dangerous precedent; it is an example that has never been set to us before, and I hope will never be attempted again.

But, sir, independently of that consideration, there is another one worthy of attention. On looking over the tariff sections of this bill, they seem to me to be defective throughout. I do not speak now merely in reference to the general question of reducing the duties, but I ask attention to the sixth section:

"All goods, wares, and merchandize, which shall be imported from foreign countries after the passage of this act, and be in the public stores on the 1st day of July aforesaid, shall be subject, on entry thereof for consumption, to no other duty than if the same had been imported respectively after that day."

Now, sir, this is certainly, I think, a measure which could not have met with much reflection on the part of those who drafted it. What will be its effects? The present duty on wool is thirty per cent. It is reduced by this proposition to eight per cent. by transferring it to another schedule, and then by a reduction of twenty per cent. on the duty. Now, suppose that a cargo of wool is imported and entered on Saturday next, of the value of $100,000; the duty to be paid on that cargo would be $30,000. Suppose, then, there comes another ship with an equal cargo of wool on Monday. That cargo pays duty to the amount of $8,000; but the unfortunate man who imported on Saturday must pay $30,000, making a difference of $22,000 between those two men, merely because one happened to get into port on Saturday, and the other on Monday.

I was looking this morning at another statement which produces similar results. Suppose a cargo of Manilla hemp worth, say $200,000, is imported on Saturday next, and another cargo of the same amount is imported on Monday; the difference in duty between the two will be found to be more than $43,000, that is to say, one man gains $43,000 by being a day or two later in importing his goods. This is proof, to go no further, to show that this is a badly adjusted tariff provision. Other tariff bills passed heretofore have made provisions for cases of this description. This makes none.

Sir, I might go on and object to other details in it; and particularly would I, if I were to go into the consideration of the general question, object to the reduction of the duty on wool in any way. It is low enough, and too low, now. I am not one of those who believe in the doctrine of our northern friends, that the reduction of the duty on wool will be beneficial to the agriculture of this country. I entertain the opposite opinion; and it is further my opinion, that if this bill shall go into operation as it stands, it will put the knife to the throats of millions of sheep in this country. The farmer cannot raise or keep sheep merely for the profit on the carcass. If he is to receive nothing for the fleece he will cease to keep them, and an immense and growing business in this country, yielding nearly as many millions to the wealth of the nation as cotton itself, will be abandoned.

All these, however, sir, are considerations which sink into insignificance when compared with the evils of the great precedent you are about to set. I entreat the Senate to pause and not sanction such a measure as this, which may lead to consequences hereafter most fatal, perhaps, to the peace and Union of these States.

The sections of the bill which Mr. CLAYTON proposes to strike out, are the following:

SEC. 4. *And be it further enacted*, That on and after the first day of July, 1855, there shall be a reduction of twenty per centum on the rates of duty imposed by the act entitled "An act reducing the duty on imports, and for other purposes," approved July 30, 1846, on the goods, wares, and merchandise imported from foreign countries, enumerated and provided for in schedules A, B, C, D, E, F, G, and H, and also those provided for in the third section of said act, except as hereinafter provided.

SEC. 5. *And be it further enacted*, That the following named articles, embraced in schedule D of the said act of 31st July, 1846, be, and they are hereby, transferred to schedule C, to wit: Manufactures and articles of silk, or of which silk shall be a component material; that the manufactures and articles of flax, or of which flax shall be a component material, and blankets of all kinds, embraced in schedule E of the said act of 31st July, 1846, be transferred to schedule D; that wool, unmanufactured, shall be transferred to schedule G; that flax unmanufactured, silk, raw, with or without the gum, not being doubled, twisted, or advanced in manufacture in any way; jute, Manilla, and Sisal grass, coir, and other vegetable substances, unmanufactured, not otherwise provided for; lac spirits; lac sulphur; lamp-black; Prussian blue; articles not in a crude state used in dyeing or tanning, not otherwise provided for; brimstone, crude, in bulk; cream-of-tartar; extracts of indigo; India rubber, in bottles; slabs or sheets unmanufactured; extract of madder; barilla; cudbear; bleaching powder, or chloride of lime; indigo; cochineal; woad or pastel; acids: acetic, benzoic, boracic, citric, muriatic, white and yellow, nitric, oxalic, pyroligneous, and tartaric, and all other acids of every description used for chemical, medicinal, or manufacturing purposes, not otherwise provided for, be transferred to schedule H. And that salt, berries, nuts, flowers, plants, and vegetables, used exclusively in dyeing or in composing dyes; but no article shall be classed as such that has undergone any manufacture; Brazil-woad, brazilletto, and all other dye-woods in sticks; burr-stones, wrought or unwrought; cordilla, or tow of hemp or flax; fruits and vegetables, green or ripe, not otherwise provided for; garden seeds, and all other seeds for agricultural, horticultural, medicinal, and

manufacturing purposes, not otherwise provided for; bolting-cloths; madder-root, madder ground or prepared; ice; animals of all kinds, be transferred to schedule I.

SEC. 6. *And be it further enacted*, That all goods, wares, and merchandise, which shall be imported from foreign countries after the passage of this act, and be in the public stores on the first day of July aforesaid, shall be subject, on entry thereof for consumption, to no other duty than if the same had been imported respectively after that day.

SEC. 7. *And be it further enacted*, That on the entry of any goods, wares, and merchandise, imported on and after the 1st day of July aforesaid, the decision of the collector of the customs at the port of importation and entry, as to their liability to duty or exemption therefrom, shall be final and conclusive against the owner, importer, consignee, or agent, of any such goods, wares, and merchandise, unless the owner, importer, consignee, or agent, shall, within ten days after such decision, give notice to the collector, in writing, of his dissatisfaction with the same, setting forth therein distinctly and specifically his grounds of objection thereto, and shall, within thirty days after the date of such decision, appeal therefrom to the Secretary of the Treasury, whose decision on such appeal shall be final and conclusive; and the said goods, wares, and merchandise, shall be liable to duty, or exempted therefrom accordingly, any act of Congress to the contrary notwithstanding, unless suit shall be brought within thirty days after such decision by said Secretary, for any duties that may have been paid, or may thereafter be paid, on said goods, or within thirty days after the duties shall have been paid in cases where such goods shall be in bond.

SEC. 8. *And be it further enacted*, That on and after the 1st day of July aforesaid, all provision of existing laws inconsistent with the provisions of this act shall be inoperative and void.

Mr. HUNTER. Mr. President, as a general proposition, no man agrees more thoroughly with the Senator from Delaware as to the impropriety of the practice of what is called "tacking" than I do, and I believe no man has endeavored more earnestly to prevent it; but, sir, to say that this is without precedent is a great mistake. There may be no precedent which has gone to this length, but there have been precedents—indeed, hardly an appropriation bill passes which does not contain one, so far as the principle is concerned. Indeed, sir, we have a conference now engaged, as I understand, on a subject of difference between the two Houses, because an incongruous matter was put upon the Indian appropriation bill; but that is not all. It will be remembered that, on the civil and diplomatic bill, there has been more than one instance in which there has been legislation in regard to this very subject of duties. Why, sir, it was upon a general appropriation bill that a law was passed which sanctioned the circulars issued by the Treasury Department in order to carry out the act of 1846, and which made a very important modification in the system.

But, sir, I do not propose to go into the question of precedent, because I feel, as the Senator from Delaware has said, that there is but little time to discuss these questions. And while I admit the general rule, I must at the same time be allowed to say, that there are exceptions, and I think this case presents one. It must be remembered how it comes here; and it must be remembered what would be the result if the Senate were to succeed in striking out this tariff provision. It is well known that, in the House of Representatives, a proposition was offered to amend this bill by reducing the duties upon railroad iron. The chairman of the Committee of the Whole ruled it out of order. The chairman of the Committee of Ways and Means of the House, and the majority of those who usually act with him, voted to sustain the decision, but a majority of the whole body ruled it to be in order, and put in the proposition. That being before the Committee of the Whole, the alternatives were between a general reduction of the tariff like this, and special legislation only for the benefit of railroads. In that competition this provision succeeded, and after it was once upon the bill, the House retained it; and, as I said yesterday, it was retained by a vote from all parties, and from all sections. I do not say including a majority of all parties, but having members of all parties and all sections. Indeed, sir, I incline to think that there never yet has been a tariff bill which could command as many friends from different parties and different sections as this modification which is now before us.

Well, sir, under the circumstances, when we come to see that the result of striking out this inevitably would be to substitute another proposition, which certainly I do not think as meritorious as this, and would be to substitute special action upon the subject of railroad iron, instead of this general reduction; I think the case has come for an exception to the rule; I think, too, that the case has come because it is eminently important, I may say necessary, to do something with our revenue system. We see the excesses of legislation to which we are led by the large surplus revenue; and we see, sir, or, at least, I think we see, that trade requires the relief which this will afford it; and looking to the very great benefits which I believe would ensue from the adoption of this measure, I think we should be justified, under the circumstances, in adhering to this provision and retaining it here. We did not put it here. If the House should ever send on the appropriation bill a measure which is contrary to the views of a majority of the Senate, they can strike it out and take their stand; but if the opinion of the Senate is that the provision itself is a good one, and not only good, but one which will carry blessings to a large portion of the American people, why should they not adhere to it?

Now, sir, in the conjuncture of circumstances in which we are placed, is it not evident that we should do better for all interests to adhere to this, rather than strike it out, and take the chance of what may follow its rejection?

But I am admonished by the Senator from Delaware, that this may be a dangerous precedent hereafter; that the House may attach to appropriation bills hereafter measures which would put at issue the Union itself. Sir, if the day should ever come when men shall be so madly intent upon these measures as to stake the Union upon them, they certainly would not be restrained from trying them, by any consideration of congruity in the objects of an appropriation bill. If the greater consideration will not restrain them, the smaller certainly will not; but if there was nothing of this sort on the statute-book, so far as precedent is involved, they would still find a pretext if they needed one. Sir, if that day should ever come—and sad day let me call it—when a majority of either House shall be so madly and fatally bent upon such measures as to stake the Union itself upon them, they will not be restrained from carrying out their purpose by any consideration as to the congruity of the appropriation bills.

Sir, I do not think that, under the circumstances of this case, this could be referred to as a precedent; because, as I said before, the history of its adoption shows that it was carried by no particular section; that it was not carried by the whole of one party against the whole of another, but by a mixture of all parties and all sections; and that it was introduced, not as a competition between what is called "a clean" bill and no provision at all in relation to the tariff, but in a question as between a special and a particular provision, applying only to railroads and a general provision; for one or the other we must have had in this bill. For one, I think—and certainly upon that subject the Senator from Delaware must agree with me—that we had better have a general provision than a special one.

But, sir, I stated some of these considerations yesterday, when I reported the bill to the Senate. I said then that the Committee on Finance thought it their duty, taking this view of the case, to present the bill to the Senate without amendment, that the body might determine at once what course it would pursue. If the Senate shall think as I do, that we had better pass this bill, and if they also wish to obtain the amendments which they mean to propose, the quickest and most convenient mode will be to do what the Committee on Finance have recommended that they should do—pass this bill without amendment, and then attach our amendments to some other bill. If, on the other hand, the Senate should think it is better to amend this bill, the Senator from Maryland [Mr. PEARCE] stands ready to propose the question which the Committee on Finance intended to consider as a test; and if a majority determine to amend, then they will bring in their amendments; but if a majority refuse to amend, they would take it as the sense of the Senate that this bill is to be passed as a whole. The committee will be governed by the opinion which the Senate shall express.

Mr. BADGER. Mr. President, the motion made by the honorable Senator from Delaware embraces the striking out of several sections of this bill, commencing with the fourth. Before the question is taken upon that, I wish to submit a motion for the purpose of amending the fourth section. I believe I have a right to move to amend any portion of that which is proposed to be stricken out.

In reference to what has been said by my honorable friend from Delaware, I wish to state that, for one, I shall proceed with regard to this bill, both in proposing and in voting upon amendments, just exactly as if the bill were here at a point earlier in the session; and I will not consent to surrender the whole authority and control of the Senate over the general appropriation bills, because it has so happened, from the delay of the House in passing this bill, that we reach it but three days before the close of the session. To do so would be, in my opinion, now, at once and forever, to announce that the Senate stands ready, under similar circumstances, at all times hereafter, to surrender its judgment upon the details of a measure, and to take whatever may be sent by the House of Representatives unamended and unconsidered, for this is not one of those cases in which the Senate has possibly the alternative left of rejecting the bill. We are obliged to pass an appropriation bill, and, therefore, there are but two alternatives left us. They are either to insist upon our right of amending the bill where we think it requires amendment, or to agree to pass just what the House sends us, without amendment or consideration. The last alternative I, for one, will never consent to accept.

Having said thus much to state the principle on which I shall proceed, both in voting for and moving amendments, I propose to strike out from the fourth section all of it after the word "that," the first word of the section, and to insert what I shall send to the Chair. Before sending it, however, I wish to state that it is, in substance, an amendment which was offered in the House in Committee of the Whole, ruled by the Chairman to be out of order, and, upon an appeal taken from his decision, that ruling was reversed. This amendment was agreed to in the Committee of the Whole, but subsequently the tariff bill, to which my friend from Delaware offers his motion to strike out, was inserted in lieu of what I now send to the Chair.

The PRESIDENT. The amendment of the Senator from North Carolina is to strike out all after the word "that," in the fourth section, and insert:

"The duties paid on railroad iron actually and permanently laid down, from and after the 30th day of June, 1853, up to the 1st day of July, 1856, being for the full period of three years, shall, on satisfactory proof being made to the Secretary of the Treasury of the laying down as aforesaid, be refunded to the State or company so laying down said iron, or causing the same to be laid down. And from and after the passage of this act, dyes, dye-woods, dye-stuffs, of whatever name and nature, and wool unmanufactured, costing more than eight cents and less than sixteen cents per pound at the place whence imported, may, and shall be, imported into the United States free of duty: *Provided*, That in all cases of wool falsely invoiced and valued, under the foregoing section, to defraud the revenue, there shall be levied and collected on the same double the amount of duty now imposed by law on said article.

Mr. CLAYTON. Mr. President, in reply to the honorable Senator from Virginia, [Mr. HUNTER,] I wish to make a few observations in addition to those which I have already submitted. It must be remembered that this is a proposition to revise and change the whole tariff system of the country, brought here to be considered by the Senate of the United States within the three last days of the session, presenting questions which would occupy the attention of the Senate for a month, if every man here were acquainted with the details of the tariff system. There is no time to consider it. That, of itself is a fatal objection to the proposition in the bill which I desire to strike out; but, sir, there are others.

The House of Representatives has sent this measure, at this late stage of the session, when more than half of the members of that House, nearly three-fourths of them, will be succeeded next year by other men. There never was such a political revolution known in the character of the House of Representatives, as now presents itself. Shall the men whom the people have elected decide upon this great question, so vitally affecting their interests, or shall those, many of whom have received their *quietus* from the people, and are dismissed from the public service, decide the question for them? Upon every true principle belonging to a republican Government, I object to this attempt to fasten upon the country, amidst the expiring agonies of the present Congress, a measure of this character. The Senate is in no temper to hear

debate on any subject. I have already pointed out a monstrous absurdity in the tariff provisions of this bill, and no man has pretended to deny that the absurdity exists, and no one can. Notwithstanding this, because there happened to be a large majority of gentlemen in the House of Representatives, forsooth, in favor of this measure, we must take it, and take it, too, as an amendment to the civil and diplomatic appropriation bill.

Let us beware, sir. The honorable gentleman from Virginia himself admits that there never was a precedent which went to the length of this. The cases which he has cited are not of this description at all. If you can revise your whole tariff system in this way, you may undertake, in the same manner, to revise your whole judicial system, your whole revenue and postal system, your whole criminal code, all your navigation laws, and all the laws most deeply affecting the vital interests of the country, can be pressed on the Senate of the United States within the last three days of the session, and the Senate forced to take them as the other House dictates, or to go home without providing for the payment of the expenses of the Government. I adhere to my proposition to strike out, and I hope the Senate will sustain it.

Mr. BRODHEAD. Mr. President, this is certainly a very important question. It is a proposition which affects the industrial interests of the entire country. It is a proposition to modify all the existing revenue laws, and such a proposition is proposed to us at this late period of the session.

Now the first question which presents itself, in my view, is, whether this is out of time and out of place, without reference to the particular merits of the measure itself. Upon this point, there seems to be a general concurrence of opinion; it is believed to be both out of time and out of place. The honorable Senator from Virginia, however, says that this measure will be an exception to the general rule; that though it is attempted to be forced upon the Senate by the House of Representatives in an improper place, we had better take it as a choice of evils. Mr. President, I think that the forms of legislation are the guardians of its principles. The issue now presented to us is whether, in view of coming events, with reference to the particular character of the next House of Representatives, this is the mode to make a precedent. The first and great question which presents itself naturally to the minds of our southern friends, is whether, by this course of proceeding, you are not teaching bloody instructions which will return to plague their inventors in one year from this time, and, perhaps, less.

Look at the measure submitted to us by the Senator from North Carolina. The Senator from Virginia proposes, by the adoption of the bill as it comes to us from the House of Representatives, a general revision of the tariff policy of the country. The Senator from North Carolina proposes a special amendment, to promote particular interests in this country. The amendment of the Senator from North Carolina would be out of order if we had not the general proposition before us. Under the rules of the Senate, the Senator from North Carolina could not offer his amendment unless he was authorized to do so by a committee. The appropriate committee of this body has already reported against his proposition. The Committee on Finance reported against the bill introduced by the Senator from Tennessee [Mr. JONES] to accomplish the same object; and hence, I say, the amendment of the Senator from North Carolina would not be in order if there were not in the bill from the House of Representatives a provision in regard to the tariff.

How, sir, does this measure come to us from the House of Representatives? What was the manner in which it was placed in this bill? A breach was first made by private interests, by immense combinations of capital and energy brought here from various sections of the country, to procure a repeal and payment back to railroad companies of the duties on railroad iron. There was no general request of the people of the country for a modification of the tariff; but these combinations of State and railroad corporations, before which the old combination of Bank and State sinks into utter insignificance, came here, in the first place, for the purpose of getting $12,000,000 from the public Treasury; but not being able to get that, they propose to have $12,000,000 given to them on credit; and, as a choice of evils, this proposition in the civil and diplomatic appropriation bill was placed there to keep them out. My opinion is, that both propositions are out of time and out of place, and deserve the defeat which so justly awaits them.

Mr. President, the Congress now about to expire has done a great deal of business. During the first year that we were in session, several treaties were negotiated and ratified. Under those treaties important advantages were conferred upon New England and the eastern States, to which I shall presently allude. We have passed important measures at the present session; and now the question arises, have we time, during the next two days, to pass the appropriation bills, and properly consider a proposition which is to affect, more or less, all the industrial interests of the country? My friend from Virginia says that the exigencies of the Treasury, arising from a plethora, require it. He seems to think that that evil is likely to continue; but upon that point I take issue with him. I say this measure is unnecessary because the public Treasury will not be redundant in a year, or even in six months, from this time. Having made that assertion, I feel it to be my duty to sustain it by the proof, and I shall do so.

During the past fiscal year nearly $10,000,000 were received from the sales of the public lands. It is admitted that during the present fiscal year there will be a falling off of at least $6,000,000 in the receipts from public lands. We generally receive about $3,000,000 or $4,000,000 of revenue from that source. Last year, in consequence of the railroad bills which we passed, we received nearly $10,000,000. The decrease in that item will be about $6,000,000. There is on the table a bill which came from the House of Representatives this morning. I refer to the bounty land bill, granting about twenty millions of acres to those who defended the country during the war of 1812 That measure will tend, as a matter of course, to diminish, to some extent, the receipts of the Government from the public lands.

The falling off in the revenues in consequence of the reciprocity treaty, will be about a million and a half of dollars. I have before me the report of the Secretary of the Treasury, giving full information on this point. He informs us that during the fiscal year ending the 30th June, 1854, there were $7,398,000 worth of goods imported from the British North American provinces on which duties were paid, that are now taken off by the terms of the reciprocity treaty. The duties paid on those articles amounted to $1,524,457. The adoption of that treaty will consequently cause a diminution in the revenue to the amount of $1,500,000. I desire to call the attention of gentlemen from New York, and from the eastern States, to the articles upon which the duties are taken off by that treaty. During the last fiscal year there were imported from the British North American provinces $390,000 worth of grain, flour, and breadstuffs, on which the duty paid, twenty per cent., amounted to $781,214. Of fish of all kinds there was imported $901,671 worth, on which the duty paid amounted to $180,334. Of coal, on which the duty is thirty per cent, there was imported $254,775 worth, yielding a duty of $76,432. These are some particular items forming the aggregate of $1,500,000.

Our friends in New England and New York, who are engaged in manufacturing, have, under the reciprocity treaty, their coal and their breadstuffs free from Canada. Now, in order to have the manufacturers benefited still further, the Senator from North Carolina proposes that wool and dye-stuffs shall be admitted duty free. I think that is going very far to aid the manufacturers in one section of the country. I do not begrudge them any advantages they may have; I only allude to this fact for the purpose of showing that there is no absolute, pressing necessity, which should require us to force a proposition of this kind for the general revision of our tariff policy into the civil and diplomatic appropriation bill.

I undertake to say that the falling off of the revenue from imports during the current fiscal year will be between $10,000,000 and $12,000,000. I have shown a diminution of $6,000,000 from the land revenue, and of a million and a half in consequence of the reciprocity treaty. I can show, by reference to the official returns of the Treasury Department, that there will be a large falling off in the import duties generally—between $6,000,000 and $10,000,000. We shall then have, under the existing Democratic tariff of 1846, during the current fiscal year, a decrease of $14,000,000 in our revenue. The President has this morning notified us of his approval of the act for the payment of the creditors of Texas. Add the seven and three quarter millions appropriated by that bill to the $14,000,000 which I have stated, and you have over $21,000,000 to be deducted from our resources for the current year.

Sir, in view of these facts, I think I may with propriety ask, why we should set such an example at this late period of the session, when we have so much other important and pressing business before us? Why depart from the usual mode of legislation? Why break down the barriers which our forefathers have established and laid down for purposes of wise legislation? What are we to have to protect us hereafter if we break down these barriers now? It seems to me that these questions cannot be answered, and this provision retained.

I am opposed both to the provision of the bill from the House, which the Senator from Delaware has moved to strike out, and to the proposition of the Senator from North Carolina; but the first question which presents itself is, whether, without reference to the propriety or impropriety of the proposed revision of the tariff, without considering whether its provisions are correct or not, we will retain it in this bill. For my part I am opposed to it. I hope we shall go on with the regular appropriation bills, pass them, adjourn in peace, and let the industrial interests of the country alone.

Mr. COOPER. I need not say, sir, that I am opposed to the sections of the bill which the amendment of the Senator from Delaware proposes to strike out. I am opposed to them in principle, because they strike a blow at the industrial interests of the country at a period when those interests are in a state far from prosperous. I am opposed to it because it is introducing into the legislation of the country a new rule by which the great interests of the country may, by an amendment proposed in the last hours of the session, be destroyed one by one. You know, Mr. President, that a subject of so much magnitude as this, embracing, as it does, a great variety of objects, requires careful examination and a great deal of research, in order that legislation upon them may be judicious. There are embraced in the provisions contained in the fourth, fifth, and sixth sections of this bill, articles amounting to twelve or thirteen hundred in numbers, and yet a committee which cannot be otherwise than badly informed on the subject, undertakes to introduce such a provision as this, and force it upon the country, however reluctant it may be.

Sir, I am opposed to this, and I intend to point out some of the inconveniences and mischiefs which must necessarily result from it.

Even if the provisions which are proposed to be stricken out had been well considered by the House, it is the right of the Senate to reëxamine them, one by one, through its appropriate committees, and by its members, if they think fit, in order to ascertain whether the reduction or increase—for it proposes both to reduce and increase—be proper or not. Now, sir, we know, from the experience of many years, that the appropriation bills are scarcely ever introduced into the Senate until the last days of the session; and often not till within the last hours, and are then hurried through, without a proper opportunity being afforded to examine even the ordinary subjects which are embraced in them, with that care and attention which are required, in order to secure just and appropriate legislation. Yet the mischiefs resulting from hasty legislation on appropriation bills generally are much less; for the subjects ordinarily proposed to be introduced into acts of legislation of this kind are generally well understood. We know in advance something of what is necessary to support the Army; something of the amount that is necessary to keep up the Navy in a proper state of efficiency; something near the amount that is necessary to defray the expenses of our diplomatic relations; and so of all the other various subjects which sometimes find their way into appropriation bills; but if these appropriations bills are to be made the vehicle of legislation for all purposes, they ought to be introduced the first day of the session instead of the last, in order that

an opportunity might be afforded to discuss them fully, and to have a fair exposition of the views of the various parts of the country upon them. But if this course be pursued, that will be utterly impracticable.

As a general thing, this kind of legislation, embracing incongruous subjects in the same bill, is mischievous, and has always been disapproved by every well-ordered deliberative body; but here we are about to break down the barriers between congruity and incongruity, and introduce into the appropriation bills, designed for a particular purpose, all kinds of subjects, miscellaneous in their character, diverse in their objects, and thus render impracticable what is always difficult: I mean legislation in regard to the duties required on fabrics of foreign manufacture.

Now, sir, without regard to impropriety of time or place, is this kind of legislation justified by the condition of things existing in the country? A year ago it may be admitted that the country was in a prosperous condition, that most of its industrial interests were flourishing, and remunerative to those engaged in them; but suddenly, from circumstances over which this Government had no control, an entirely different state of things took place. Instead of the prosperity existing a year before, a very general prostration of the industrial interests and business of the country now prevails. This prostration pervades all the departments of industry. It is not only the one which I am supposed particularly to represent on this floor that is suffering, but all other branches of industry have been affected, more or less, by the operation of the causes to which I have referred. The iron interest, one of the most important in my own State, is now in an extremely depressed condition. Already influenced by causes independent of our legislation, many manufacturing establishments have been prevented from going into operation, as they would have done if the prosperity of the country had continued as it existed a year ago. Some of these establishments have ceased operations entirely, whilst others have been compelled materially to curtail them. This is true of the woolen and cotton interests which exist in my own State, as well as of the iron interest, though not to the same extent. They, too, feel the pressure of the times; they, too, are suffering, and need the helping hand of Government in order to the enjoyment of a proper degree of prosperity. But instead of this, all these branches of industry are met with legislation calculated to prostrate and destroy them.

Now, sir, is this the time, independent of other circumstances, to introduce a measure of this kind? The Senator from Virginia has said that this measure will carry blessings into the homes of the American people. Sir, he is mistaken. Instead of blessings, it will carry misery and want to the hearths of thousands and tens of thousands of the laborers of the country, who are now comparatively prosperous and happy. It will drive them from the employments by which they earn their bread to seek a livelihood in new vocations with which many of them are unacquainted. This will be one of its effects; and if the Senator from Virginia doubts it, he has but to solicit information, which will come to him thick and fast from every quarter of the country, and especially from the manufacturing and mining districts. Sir, if he will but condescend to inquire, he will learn how widely he mistakes the condition of things that will ensue upon the passage of this measure.

Mr. President, I do not oppose this measure for the purpose of consuming the little remaining time of the session; but I regard it as a duty which I owe to the interests of industry everywhere, and especially in my own State, to make such feeble opposition as I can to this most untimely and uncalled-for legislation.

Another of the evil effects of this measure consists in the precedent which it will help to establish, namely, that of placing every particular interest of the country at the mercy of combinations. The iron interest may be assailed to-day—a combination of the railroad men and those who want cheap iron, and think they can get it in this way, may strike it down. To-morrow those who want cheap cloth may call for a reduction of the duty on that article, and then there will be a combination, induced by interest, on the part of all those to whom this would be desirable. In this manner that branch of industry may be destroyed; and so, one by one, all the interests of the country may be stricken down.

Sir, this is neither the way nor the place to legislate on this subject. The proper way is so to legislate as to balance interests, and thus prevent very high duties or ruinously low ones, so that all may be regulated properly; and that, acting one upon the other, all may be kept down to a moderate standard; but that will not be the case if this system be pursued. Establish the precedent by introducing this, which is at once the largest and most difficult of all subjects of legislation, into your appropriation bills, and you will find hereafter that, instead of being a bill to provide for the civil and diplomatic expenses of the Government, it will be a great omnibus into which all the legislation of the country, congruous and incongruous, will be crowded together, to the detriment of the whole. Such will be the inevitable result; and I now give notice that, if this measure shall prevail, I will ask to amend the bill by introducing the French spoliation bill which was defeated by the Executive veto. It is much more congruous, and more in harmony with the pending measure than the tariff. It provides for the payment of a class of creditors to whom justice has been long postponed; and if anything could justify a departure from the proper and ordinary rules of legislation, it would be to provide for a class of men who have so long been suppliants to Congress for justice. Under ordinary circumstances, I would not attempt to introduce into the appropriation bill a subject which I admit to be incongruous; but if the revision of the tariff, to be effected by the fourth, fifth, and sixth sections of this bill is not stricken out, I shall consider it proper to introduce the bill to which I have just referred. Somebody else may introduce the river and harbor bill, which is equally proper with what will, in that case, have already found a place in it. We shall find Miss Dix's bill to provide for the indigent insane attempted to be ingrafted on it. Numerous other subjects will present themselves, and members will claim the right to have them inserted. And why should they not, after having inserted the tariff?

I need not recur to what has been said already by my friend from Delaware, [Mr. CLAYTON,] and said so much better than I can say it, that it is playing into the hands of classes in all sections of the country who are pleased with agitation. You will find measures of dangerous tendency constantly thrust upon you, and especially in the last days of the session, when your time is occupied with measures of indispensable and pressing necessity, from which your attention cannot be diverted without detriment to great public interest. Measures of this kind will be crowded upon you in the expiring hours of the session, to multiply the confusion which ordinarily reigns, and to make legislation uncertain and dangerous.

Mr. President, perhaps the most fatal blow that is to be struck by this measure is upon the interests of my own State; but let not those who represent other States and other interests "lay the flattering unction to their souls" that they are to be exempt from similar treatment when the time for it shall arrive. Let our New England friends, our Massachusetts friends especially, remember that they have great and important interests which require protection as much as the iron, or wool and coal of Pennsylvania, that may be sometime or another affected in the same way. Let them remember that their day, too, will come, and that, although they may unite to-day, as they did a few days ago with their ancient enemies, to break down and prostrate the interests of Pennsylvania, it may not be long before they will be treated in the same way, and have the chalice which they are now commending to our lips returned to their own. Though it may be alleged here by the representatives of Massachusetts that she needs no protection, we should remember that this is not the language of their constituency, who, if I am rightly informed, deprecate the course pursued by their Senators on this floor. Of this much, Mr. President, I am certain, that if this be not the language of Massachusetts to-day, it is not long since it has been.

Mr. President, I desire no improper combinations to support Pennsylvania interests. I desire to ally myself neither with the East, the West, the North, or the South, to ward off this blow, in any other way than justice and a community of interests should unite us. I would have been happy, it is true, to stand side by side with the Senators of Massachusetts, as in times past, to prevent injustice to the interests of their State and mine. I would have been glad of it on account of old associations and memories, and of common interests, preserved and promoted by common efforts. I would have been glad, too, to have seen them remain true to their ancient faith and ancient friendships; but, sir, they have gone, and peace go with them.

Now, sir, is it possible that we can legislate judiciously upon this measure? Did you, sir, acquaint yourself, or have you had an opportunity to acquaint yourself, with the provisions of this bill before to-day? Until the last hour, my eyes have never rested upon a page of this appropriation bill. I believe it was not printed until yesterday; and certainly, it did not come upon our desks until to-day. Yet the almost innumerable subjects embraced in the various schedules of the act of 1846, amounting to twelve hundred and upwards in number, are brought in here to-day to be passed upon *en masse* in the course of a few minutes, without consideration, without investigation, without knowing what interest we may prostrate, or what injury we may do.

It is objectionable, Mr. President, in another point of view. It is objectionable because it forces Senators to act under compulsion. Here, to-day, I feel that I am acting under compulsion. I know that it would be wrong to defeat the appropriation bill. I feel that it would be wrong to compel the President to bring Congress together in an extra session; yet I must either permit that to be done, or I must take the bill as I find it, without consideration, or without attempting to show, by a minute examination of it, that it is subject to the gravest objections and destructive to great and vital interests. This measure is wrong for these reasons, if for no others. But it is wrong for manifold reasons, and although the reduction of duty which it proposes might be so small as to create no great distress on that account, it will have, nevertheless, all the effects of an entire repeal. Why so? Because, sir, it will be known hereafter that this subject may be brought into Congress alone; that the great railroad interests of the country, now become prominent, powerful, and influential, may come here whenever it suits them, and by allying themselves with other interests strike down the iron interest. If the subjects, as formerly, were treated as a whole, and brought in together in one bill, there would be that kind of balancing of interests which would protect all; but now, if this measure should be adopted, the security which we formerly felt we possessed in the fact that this measure would be acted on by itself is lost; and we feel ourselves at the mercy of such combinations as various opposing interests may dictate—such interests as are guided by no other motive than selfishness. We know it; we feel it; and the manufacturers of my own State would as soon to-day see the duty entirely repealed as that this bill should pass in the form in which it comes from the House. It may appear strange, but when you know how sensitive that interest is, when you remember the blows which it has received, blows which have prostrated it, breaking down private fortunes, sending thousands and thousands of men adrift without labor, and without bread, it will cease to be a wonder that they would as soon see the duties entirely repealed as to see this system of legislation introduced.

I may have more to say before the question is taken, but I have said enough now to indicate my opposition to the bill. I hesitated long before I determined to oppose it at all, and it was not until I had consulted with those who are much wiser than myself on this subject, and on all subjects, that I ventured upon this opposition; but as I have embarked in it, I give notice that, if my physical energy permits, I will continue it until my object has been achieved, if that be practicable.

Mr. BADGER obtained the floor.

Mr. WELLER. I ask my friend from North Carolina to allow me to introduce a resolution in regard to a bill which has passed the Senate and the House. We are now within the last three days of the session, and we cannot have it signed without a suspension of the rules.

Mr. BADGER. I yield.

SUSPENSION OF JOINT RULES.

Mr. WELLER. I offer the following resolution:

Resolved, (the House of Representatives concurring,) That the 16th and 17th joint rules of the two Houses be suspended, so far as relates to the bill of the Senate 684, supplemental to an act entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3, 1851.

Mr. BADGER. I would suggest to my friend from California to strike out the limitation, and let it refer to all bills.

Mr. WELLER. I should have made the proposition in that way, but I was afraid that it might meet with opposition. If there be no opposition, I will do that.

Mr. PEARCE. I object to its being generally applied to all bills.

Mr. BADGER. There is a rule of the Senate which expressly provides that resolutions suspending the joint rules, or for agreeing to the suspension of the joint rules when proposed by the House of Representatives, shall always be in order, and shall be immediately considered and decided without debate.

The PRESIDENT. The question is on the resolution as proposed. The Senator from Maryland objects to a resolution suspending the rule generally.

Mr. HUNTER. I think it has been generally limited. I suggest to my friend from North Carolina that it is generally introduced with a limitation.

Mr. BADGER. If it is to be limited I shall certainly object to it.

The PRESIDENT. The question is on agreeing to the resolution.

A SENATOR. There is objection to it.

The PRESIDENT. The question is now on its adoption.

The resolution was agreed to.

SLAVE TRADE IN CUBA.

Mr. MASON. On the 26th of July, 1854, a message was received from the President of the United States, communicating a report of the Secretary of State, in answer to a resolution of the 23d of May, 1854, relative to the slave trade in the Island of Cuba; but for certain reasons they were not ordered to be printed. A call has been made upon the Executive for papers of a like character, and it is desirable to know what papers shall be printed, and what not. I desire that those papers may be taken from the file and referred to the Committee on Foreign Relations.

The order was made accordingly.

INDIAN APPROPRIATION BILL.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they insisted on their disagreement to the forty-eighth, fiftieth, fifty-first, and fifty-second amendments of the Senate to the bill making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending the 30th of June, 1856; that they agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and that they had appointed Mr. HAVEN, Mr. ORR, and Mr. JOHN G. DAVIS managers at the same on their part.

ENROLLED BILLS SIGNED.

The PRESIDENT *pro tempore* signed the following enrolled bills and joint resolution, which had been signed by the Speaker of the House:

A bill to confirm the canal selections in the State of Ohio;

A bill for the relief of the heirs of Brigadier General Richard B. Mason;

A bill extending in certain cases the provisions of the act entitled "An act to extend preëmption rights to certain land therein mentioned," approved March 3, 1853;

A bill for the relief of Charles W. Carroll;

A bill to amend "An act to establish a land district in the State of Florida, to be called the district of Tampa;"

A bill to settle certain accounts between the United States and the State of Alabama;

A bill to establish the collection districts of Cape Perpetua and Port Orford, in the Territory of Oregon, and to fix the salaries of the officers of the customs therein;

A bill to prevent mistrials in the district and circuit courts of the United States in certain cases;

A bill for the relief of purchasers and locators of swamp and overflowed lands;

A bill to provide a more efficient discipline for the Navy;

A bill for the relief of John R. Bowes, agent in charge of the property of the United States at Michigan City, in the State of Indiana, and of Isaac S. Smith, of the city of Buffalo, New York;

A bill making appropriations for the transportation of the United States mail, by ocean steamers and otherwise, during the fiscal years ending the 30th June, 1855, and the 30th June, 1856;

A bill to amend the act approved 26th August, 1852, entitled "An act to reduce and define the boundaries of the military reserve at St. Peter's river, in the Territory of Minnesota," and for other purposes;

A bill for the relief of Daniel Searle & Co., for extra service rendered the Post Office Department of the United States; and

A joint resolution in relation to the New Orleans custom-house.

CIVIL AND DIPLOMATIC BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the civil and diplomatic appropriation bill.

Mr. BADGER. I desire, Mr. President, before submitting a remark or two on the general subject, to explain the purpose of the amendment which I have introduced, and the effect which I design it to have. It is offered as an amendment to the fourth section of the bill; which section is the first of the five sections, comprehending the tariff part of the bill. If the Senate should agree to that amendment, I shall then call for a division of the question upon the striking out, on the motion of my friend from Delaware, in hope that the Senate will retain the fourth section as it will stand, if the amendment which I have offered be adopted, and strike out the residue of the tariff bill. In other words, my amendment is proposed as a substitute for the tariff bill sent to us from the House of Representatives as a part of the general appropriation bill. Having said that, Mr. President, with the view of explaining the effect and operation of it, I desire to say a word or two to my friends from Pennsylvania. They are naturally solicitous that the provision sent to us by the House of Representatives should not become a law; they manifest a natural and a just sensitiveness to any provision by which the protection afforded by the tariff is to be stricken down or reduced. But my friends will allow me to say to them that, in the eagerness with which they pursue their object, they are likely to fall into the mistake of losing all, because they are unwilling to concede a part. Now, sir, for myself, I am not disposed, if I can help it, to vote for a general tariff bill upon this appropriation bill. I think that such a procedure in itself is unwise; that the most mischievous consequences have followed to this country from frequent changes of the system of duties that governs our commercial intercourse with foreign States; that nothing is more desirable, more highly important, than that some general system should be maintained with regularity; and that no deviation should be made from it, except in cases of necessity, and no general revision entered into, except upon the fullest and most accurate investigation, and the amplest time for debate. But, Mr. President, the amendment which I have proposed is intended to grant some relief, which is extremely important to my own State at this time, and to many other States similarly situated, to the great enterprises which are now on foot, and in which are put forth the whole energy and means of a large portion of the southern country. In my own State the measure of relief which my amendment proposes is of the highest importance. It is the case in other States, and I desire to obtain that advantage. It is the remission or surrender of duties on railroad iron imported and laid down, for a period of three years, commencing eighteen months past, and ending eighteen months after the passage of this bill. The amendment also embraces a concession as to the importation of dye-stuffs free of duty, and of the finest quality of unmanufactured wool. If that amendment can be obtained, I stand ready, for one, to vote against the tariff which the House have proposed to incorporate in this bill. I do so for the reasons which I have stated of the general impolicy of undertaking, without extreme care, and full examination to revise so delicate a subject as the tariff generally.

Now, sir, my friend from Pennsylvania [Mr. COOPER] says that he looks upon this subject not as a sectional man; he knows no North, no South, no East, no West; he is altogether American. I have no doubt, Mr. President, that my friend is perfectly sincere, and thinks that that is the view which he takes of this and of every other subject; but he will pardon me for saying that we have had repeated proofs in the past, that Pennsylvania, unknown to himself, represents, in his mind, all these vast interests, and embraces the extent of this whole empire. Sir, Pennsylvania spreads so vast a disc, that she not only fills the zenith, but, in his view, she stretches even to the horizon; and when he sees Pennsylvania, he thinks he sees North, South, East, and West all combined. It is natural; I do not urge it as an objection against him. His is a great State. His people have a great interest in this question; and while nothing would induce him, consciously, to depart from the pursuit of that high and elevated patriotism which influences, and ought to influence, the dictates of his heart, he must permit me to say that he is evidently misled, and that the vast object which now fills his mind, directs his desires, regulates his conduct, and governs his vote, is Pennsylvania first, Pennsylvania next, and Pennsylvania all the time. Is it not so, Mr. President?

My friend, in the remarks which he has just made, broke ground upon this subject. He stated that he had said all he had to say at the present time; but he gave us distinct notice, entirely unmistakable, that not only by reasoning and argument, but so far as he shall possess physical powers, he will, by putting to the test the endurance of the Senate prevent the adoption of this measure, whether the Senate are in favor of it or not. Does not my friend see, at once, that the announcement of such a proposition does not show that enlarged and liberal view which he says, and I have no doubt, he thinks, actuates him? Does he not see that it springs from sectionalism? Does he not perceive that it is dictated by Pennsylvania interests? Does he not see that such an announcement as that can only proceed from a mistaken view, in his mind, of the great and leading motive which directs him in this species of assault? Now, I say to him, that irrespective of the period of the session when this measure comes forward, it is right and just that he should debate it; it is proper and becoming that he should fully deliver his sentiments upon it. Even if it were the last day, I would say that he ought to do it, and that he ought not to be driven from discharging the high duty which he thinks he owes to his constituents and the country, by the consideration that the House have sent us this tariff bill in the last few days of the session; but will my friend allow me to call his mind to the distinction between doing that and announcing a purpose, by entering into a physical contest, and putting forth all the energies which his capacity of endurance will enable him to put forth, to prevent the decision of this question according to what may be the judgment of the Senate? I beg to say to him that, as far as the general tariff is concerned, if he will allow me, I will stand by him and vote against its incorporation into this appropriation bill. But, sir, we are in such a situation in the southern country that we must have some relief. I am willing to obtain it with as little injury to the other portions of the country as possible. I am willing to obtain it with as little displacement of the tariff regulations as possible; but if we cannot have it in a moderate form, I say to my friend that I must be compelled, however reluctantly, to vote for obtaining it in the form in which it is proposed by the House of Representatives. I shall deeply regret it, but necessity knows no law; I must have some respect for the portion of country which I represent; I must have some respect for interests which are languishing, which are struggling, which are endeavoring to bring forth the resources of my own State, and of the circumjacent southern country; and if our friends who are opposed to the general revision of the tariff, will not give us any assistance, they necessarily drive us to do, from the overpowering considerations which I have stated, what, otherwise, we should willingly forbear to do. I hope, therefore, that it will meet with the approbation of the Senate to adopt the proposition which I have offered, and discard the other provisions of the tariff part of the bill.

Mr. PEARCE. Mr. President, the subject of

the tariff has always heretofore been considered as that which, of all others, requires the most careful examination and the most mature deliberation. And surely, sir, this is right, when we consider that upon the revenue system of the country depend the means for the support of the Government, and influences always of the greatest importance upon all the industrial interests of the country—interests which are complicated and intricate, which are interwoven with, and depend upon each other—interests, commercial, manufacturing, and agricultural; for you can enact no tariff bill which will not affect all those interests, either directly or indirectly. Heretofore, sir, when such a measure has been proposed, it has been the work of a long session of Congress. It has been the subject of much debate and discussion, both in the appropriate committees and the two Houses, and of long and elaborate reports, often able, extensive, and minute, reaching, in detail, to all the subjects which are comprehended in it, and tracing, with careful scrutiny, all the probable results of its various provisions. I remember, sir, to have heard Mr. Webster say of Sir Robert Peel, whom he considered to be one of the most eminent statesmen that ever labored in the councils of Great Britain, that when he introduced his great measure for the reform of the duties on imports into the House of Commons, he analyzed, with a master's hand, the subjects of revenue and protection. Mr. Webster spoke with admiration, not only of the ability with which he treated the general principles belonging to the subject, but of the elaborate and exact information with which he entered upon the minutest details of that system, showing how the operation of the proposed duties would affect the commerce of the country, in almost every article of the various schedules, and what would be the resulting influences upon the general interests of industrial England.

Sir, how will the proceedings of the American Senate contrast with such an exhibition as that which the great statesman of England made upon a similar occasion? Who is there here prepared to vindicate the general principles of this measure? Who is prepared to show its practical operation? Who is there in this body who can tell me, in a word, without hunting up the provisions of the act of 1846, the provisions of the bill which is now before me? Who can tell me what articles are included in the schedules of the tariff of 1846, and how they are to be affected by this tariff? We can all say, generally, that this tariff adopts a general principle of cutting down all duties upon the different schedules twenty per cent.; that brandies, which are now one hundred per cent., will come down to eighty per cent.; that wines, which are at forty per cent., will be reduced to thirty-two per cent., &c., but who can tell me what articles are transferred from one class to another, and who can say what articles not specified by name are included in the general description contained in this bill? Who can tell me what articles are affected by certain provisions of the bill by which transfers are made from the class paying twenty per cent. duties to that paying five per cent. duties? How many in this Senate, who, if they now know nothing of this bill, or are at present but partially informed of its details, will be able to inform themselves by an examination in the few remaining days of the session? Sir, I have sat in this Chamber some two hours this morning, and I feel very confident that not half a dozen members of the body have given any attention to the discussion which has been going on—one half have been out of their seats; others have been reading newspapers; some have been writing letters; others, again, conversing together on different topics; and that is the way in which a measure so vitally affecting the public welfare, and reaching, in its operation, to all the commercial, agricultural, and manufacturing interests of the country, is treated by the Senate of the United States. Sir, let us never talk again about this august body, or pretend to the character of a deliberative assemblage. It is gone from the Senate of the United States, and I know not when it will return.

Sir, this bill was not examined in the House of Representatives. It passed there by what was called a stampede. It was a great legislative spasm which gave it birth. It sprang from the throe of an hour; and how is it to be examined and matured here? Sir, the Committee on Finance, of which I am a member, had no opportunity to examine the subject. Not a day had they to devote to it—I think I may say not an hour. It is no fault of the committee that such has been the case. The chairman, [Mr. HUNTER,] if he had time, would, I know, proceed to the examination of the subject with the assiduous care and intelligent inquiry which mark all his legislative labors. But neither he nor others have had the opportunity.

It does not belong to this body to originate a bill of this kind. The Constitution has devolved that duty upon the House; and all that we can do is to consider and amend that which they may send to us. But when the Constitution has so restricted us, we ought, at all events, to have it in our power to examine carefully into these bills. Must we swallow the whole without an inquiry as to what is in the dose? Shall we not look to the ingredients so as to know what they are, and what are their proportions? Sir, if we pass this bill now we shall do that very thing, and some of us may be very much surprised to see the effect of the bill prove to be quite different from that which we now apprehend.

I said that all tariff bills had a very important influence in two respects; one is in regard to the supply of means for the support of the Government. Let me ask the attention of the Senate for a few moments to this subject. I do not profess to be well informed upon it. I have had no more opportunity than any one else to investigate it; perhaps less than other gentlemen have had; but how is this measure likely to affect the revenue of the country at the present time? In the first place the revenue of the last fiscal year from customs amounted to about $64,000,000, and from the public lands $8,500,000. The operation of this bill, taking off twenty per centum from the duties, may be assumed to diminish the income twenty per centum from the customs, and twenty per centum taken from the $64,000,000 will be nearly thirteen millions. We may assume, then, that the operation of the bill directly will be to bring the revenues of the next fiscal year from the customs down to $51,000,000. Then, sir, I take it that the public lands are not going to bring us $8,000,000 per annum, as they did last year. We have no right, from the experience of the past, to anticipate any such supply of money coming from that source, and more especially when we recollect that our legislation at the present session disposes of vast bodies of the public lands, without our receiving a cent for them into the Treasury. Indeed, these bounties will themselves occasion a sensible expenditure of public moneys, in clerk hire, &c. I doubt, therefore, whether that source of the public revenue will yield one sixth of what was received the last year. We come, then, to about $52,000,000 for the whole revenue of the next fiscal year.

But this is not the whole reduction which is to be effected. It is provided in the bill that some articles, which are of large import, shall be transferred from one schedule of duty to another, which will lead to a much greater reduction than twenty per cent.; for example, there are transfers directed to be made from the twenty to the ten and five per cent. schedules, and the reduction of twenty per cent. being applied to these schedules brings the duties down to eight and four per cent. respectively. There is also a considerable addition to our free list. I do not know, and I do not suppose any member of the Senate is prepared to say, what is the amount of imports of those articles which are thus transferred under the bill, from duty paying classes to the class which pays no duty, or from the twenty per cent. to the eight and four per cent. schedules.

But then, sir, look at the matter a little further. We are not to assume that the imports of the next year will be equal to the imports of the last fiscal year. We know that there has been a large decline in those imports. We know that in the last four or five months there has been a reduction of $6,000,000 in the duties received. I have heard the Secretary of the Treasury say, I believe that I betray no confidence in repeating it, that he anticipates a reduction of $10,000,000 of revenue from imports next year. Well, sir, if that reduction is to ensue from a diminution of imports, and then there is to be the further reduction which I have mentioned from the lessening of the rates of duties, the revenue will be greatly decreased. That is not all. There are other considerations yet to be added. There is a large class of articles which, as the Senator from Pennsylvania says, now come in free under the reciprocity treaty with Canada. How much they amount to I do not know, but several millions more, I presume. So that it will be very surprising to me, sir, if this bill be passed, if our entire revenue should come up to the amount of $45,000,000. I do not believe it will. I think our revenue of $74,000,000 for the last year too much for a proper, fair, and an economical administration of the Government. I admitted yesterday, and I admit again, that it is not desirable to have a great excess of revenue. I know that it leads to extravagance. I know that where there is a surplus revenue of millions, there will be a thousand schemes for plundering it, and I desire to reduce the revenue of the country down to the demands of an economical administration of the Government, which, while economical, shall yet be liberal towards all proper objects of public expenditure, and whenever we can do so, upon mature consideration, I shall not become slack in that work. But I am not disposed to make hasty and ill-considered reductions under the peculiar circumstances of the case which I have already described.

Then we should inquire what are to be the expenditures of the next fiscal year? It is true that we cannot say with any precision; but they were $75,000,000 last year. I understand that the appropriations and expenditures for the Navy last year were $10,768,000. The naval bill, which has come up from the House, this year appropriates nearly $15,000,000. Those of the War Department were $11,733,000; and these we know must be considerably increased by the addition to our Army of about three thousand men employed in distant and expensive service, for which this House has already provided, and the House of Representatives will in some form undoubtedly concur with us. What additions are to be made to the expenditures for the civil list, for foreign intercourse, and miscellaneous matters, I do not know. But of this I am sure, that they can be no less than they were last year; for we have created new offices and raised many salaries, have proposed to pay in money $7,750,000 in lieu of the $5,000,000 of retained Texan bonds, and have passed an unusual number of private bills—all these items last year amounted to nearly $26,000,000 and I think it is extremely probable that we shall find the appropriations in all the general branches of the Government increased during the present year.

These are some of the general considerations which belong to the subject. I do not intend to go into details; but, while I am up, I will ask the Senate to indulge me in a few remarks upon one or two articles, of minor importance, it is true, but in regard to which I do not think the details of this tariff have been well considered. The people of my State are interested in various branches of business, some of which are among the minor ones, but which, with many others of a similar sort, make up an aggregate of a large amount in value. Now, I find in the fifth section of this bill a provision "that Prussian blue, articles not in a crude state, used in dying and tanning, not otherwise provided for, be transferred to schedule H." That is the five per centum class, which, by the operation of the bill, will be reduced to four per centum. This list of articles not in a crude state, but changed by American industry and labor into manufactured articles, includes chromate and bichromate of potash, which are extensively manufactured in Baltimore. The chromic ores are found in the neighborhood of that city; and the part of Pennsylvania adjoining, and these ores are manufactured to a very large extent. I understand that the consumption of these chromates and bichromates is about twenty thousand pounds a week, at present prices, requiring $150,000 worth in a year. Well, sir, since the discovery of chromic ores in that region, and the manufacuring of these articles, the price has been brought down from twenty-five cents to thirteen and a half cents per pound. The duties now are twenty per centum, and I understand that the competition between our manufactures and those of Scotland is a very close one. Reduce the duties to four per centum, and probably you will seriously affect, if not entirely destroy, the manufacture here.

I have been told by one respectable person, that the duty of four per cent. will break up the establishment in which he has invested a large amount of money. But Senators tell me that this will not be the effect, and that these words, "not

otherwise provided for" will completely prevent the result which I anticipate. I do not think so; I think the words "not otherwise provided for" refer to the provisions of this bill, and I cannot see how it can possibly otherwise be construed. I know that my friend from Virginia thinks differently, and perhaps he considers that it is very extraordinary that I do not arrive at the same conclusion to which he has come. But so it strikes me. I think, therefore, those articles will be subject to this operation of the bill. While I am entirely willing to allow many crude articles to come in free of duty, for the benefit of American manufacturing industry, I am not willing to relieve from the revenue duties which belong to our system, or to transfer to a lower schedule, such manufactured articles as those which are the products of our own industry, as well as that of foreign countries. Especially should I be unwilling to do this when the probable result would be by destroying the home competition, to give a monopoly to the foreign manufacturer, who, in such case, would be sure to raise the price, and thus burden instead of benefit the consumer.

But, if my construction of the words I have mentioned is wrong, there is another portion of the bill in which the same words are used, where the operation will be equally disastrous. There is this provision, "garden seeds and all other seeds for agricultural, horticultural, medicinal, and manufacturing purposes not otherwise provided for," shall "be transferred to schedule 1." The article of linseed is not named, but as an article used in manufacturing purposes I suppose it comes in under the general description just quoted; and if the Senator's construction of the words "not otherwise provided for" applies to the other section, and has the same effect in this section, it will not be transferred to the schedule to which I think it ought to be transferred. We imported into the United States more than eleven hundred thousand bushels of linseed during the last fiscal year, of which more than a million bushels came from the East Indies. It now pays a duty of ten per cent. in the United States, while Great Britain allows its importation duty free. The consequence is, that Great Britain imports a much larger quantity of this linseed from the East Indies than we do, besides immense quantities from the Russian possessions on the Black Sea and Sea of Azof. We import it for the purpose of making linseed oil, an article of large and necessary consumption, and not supplied by our manufacturers—the deficiency being made up by the importation of about a million and a half of gallons, almost all of which comes from England. The refuse, after expressing the oil, is shipped to England to fatten cattle. Now the price of linseed varies from $1 30 to $1 60 per bushel, and is, at present, higher still. So that the commerce of the United States in this crude article, amounting to more than $1,500,000 per annum, is well worthy the attention of a statesman. It would injure no American interest to allow its entry free of duty, but would directly benefit those concerned in the manufacture of the oil, and, most probably, the consumer too. But it cannot come in free of duty under the construction of the words "not otherwise provided for," which Senators think the proper construction.

These are not interesting details, I know, and I do not mention them with the expectation that they will have any effect upon the Senate, otherwise than to show that this is not a well considered bill—that we are not certain how it is going to operate, and that it requires more careful consideration than can possibly be given to it at this time. I think, when I have shown some of the general considerations which belong to the subject, and a few of the details, to which I have stated specific objections, I have said enough to justify me in voting against the measure at this time. More especially do I think so when it comes to us as an amendment to the civil and diplomatic appropriation bill. Sir, if we do not strike out this part of the bill, we shall set a very bad example for future legislation. Bills for raising revenue should not be mingled with bills making appropriations for the current expenses of Government. The one is under the control originally of the House of Representatives only—bills of the other class are equally within the authority of the Senate.

If we allow a measure of this character and importance, which heretofore has always been well considered, and considered by itself, irrespective of and unconnected with bills of a different character, to be forced upon us by the House of Representatives; if we permit this to be done in the expiring days of the session, when such a vast amount of business remains undisposed of; when all the great bills for the support of the Government are behind, some of them not yet even considered by the Committee on Finance; if we allow this, and thus surrender up our equal share in the legislation of Congress to the other House, we become dependent upon it, subservient to its will, and practically under its discipline and control. Sir, I will not consent to it. If the bill shall be defeated by my refusing to give my vote for it, it shall be defeated. I am willing to go to the country upon this issue, and let the people of the United States determine whether it is a factious or legitimate opposition. For my part, sir, I shall not be sorry to see the civil and diplomatic bill fail in this House if these provisions be not stricken out; not because I do not consider that an evil; not because I would not avoid it if possible, but because I think the time has come when the Senate must demand sufficient time to consider such questions as these, or abandon its independence. The practical operation of most of our legislation on the appropriation bills is, that the House keeps them there until the Senate have arrived at such a period of the session as renders it impossible for them to discharge their duties understandingly.

Great as this evil is, it is much less when confined to a measure for supplying the wants of the Government for a single year, than when to such a bill the House of Representatives adds a measure which affects the whole industry of the country, does not expire with the fiscal year, but is permanent in its terms, and may not be modified without a serious struggle.

Mr. HUNTER. Some criticism has been passed upon this portion of the bill, which it seems to me I ought to notice as briefly as I can. First comes the objection made by the Senator from Delaware, and the Senator from Maryland, my friend, who find portions of the bill to which they can raise some opposition. The Senator from Delaware says that we have made an improper discrimination between bonded goods—between those which come in after a certain date, and those which come in before. I admit, sir, that there is some error in that regard, but it is an error which can easily be remedied in another bill by subsequent legislation; and at any rate it is not more of an error, if it be one, than was found in the tariff of 1842, which was originated as a separate measure, and which imposed a duty without a sufficient previous notice to merchants, and thus made them pay at a higher rate when they had bought them under the expectation of paying only according to the then existing and lower scale of duties.

So great was the injury thus inflicted, that it has been the foundation of more than one petition which has been referred to our committee to have the duties refunded. Sir, mistakes of this kind will occur in every bill, no matter whether you mature it separately, or consider it, as this is considered, in connection with an appropriation bill.

Nor, sir, can it be fairly said that this comes upon us suddenly, and that we have had no time to consider it. What is it? It is in its general principles merely a modification of the tariff act of 1846. Does not every man know what that is who has attended to the subject at all? This consists in a reduction of one fifth of the duties imposed by that act, and a transfer of a few articles to a lower schedule—of these wool is the most important, which is reduced from thirty to eight per cent. The other transfers consist of a few dyestuffs, which are carried to a lower schedule, or to the free list. That is the whole of it; and can it be said that this is a proposition which none of us understand, which it requires time to enable us to study so as to perceive the whole force of it? Surely not. We know what has been the effect and operation of that measure. I think I may say that we must all admit that its consequences have been beneficial. We know that it now places in our Treasury a larger amount of money than it is wholesome for us to have, and we believe we can stand the reduction of something like one fifth in that revenue without feeling it.

I know that the honorable Senator from Maryland talks of the extravagant expenditures that are likely to be incurred. Of course they will be incurred, if we collect a large revenue. We shall expend whatever we collect, if it be $120,000,000; and it seems to me the great benefit of this measure is that it will reduce our revenue to something like the proper standard, and impose a practical check on mischievous and extravagant legislation.

But, sir, the honorable Senator from Pennsylvania, who first spoke, [Mr. BRODHEAD,] seemed to think that it was impossible that this would yield us revenue enough. Now, sir, I hold in my hand a table, which has been very carefully prepared, not upon the importations of the fiscal year, ending the 1st of July, 1854, because they were large and were made under an expansion, but upon the importations of the fiscal year ending in 1853. According to this table, which I say has been very carefully prepared, taking the rate of duties upon the various articles imported in that year, according to the changes proposed in this bill, I find that the collection of revenue would be some $49,000,000 and a fraction, from the customs. I acknowledge that this is subject to the deduction mentioned by the Senator from Pennsylvania, in regard to the articles which have been made free under the reciprocity treaty—amounting to something like a million and a half of dollars. It still yields us, though, $48,000,000, and we all know that the proposed duties would probably yield more than that sum. We know that when we reduce duties, imports increase; for if you will look to the history of exports and imports, you will find that they have much more than doubled since 1844; you will find that the tariff of 1846 acted like magic in increasing, not only the exports, but the imports. This is to have that effect, also. This will have the effect of increasing the foreign trade by diminishing the burdens upon it. It is known, too, that it must increase, because our population is increasing at a rate something like three and a third per centum a year; and our wealth is increasing at a much larger ratio. The table of exports and imports will show that it is increasing even at a larger ratio than our population.

In view of these circumstances, it seems to me, we may reasonably expect, from the customs alone, a revenue equal to what ought to be the economical expenditures of this Government. What were they during the last fiscal year? In the last fiscal year, excluding the payments of the public debt, they were something like $51,000,000—between $50,000,000 and $51,000,000; and this included $7,000,000 paid under a treaty with Mexico. Well, now we know that the public lands are bringing us in, at the present time, large revenues. About $8,000,000 were brought in during the last fiscal year. They will yield us fully as much this year. They will probably continue to bring in as much for a year or two, unless the bounty land bill, which has been passed in the House with amendments, should become a law. That will diminish the receipts to some extent. I know not how much. But I believe the revenue from the customs alone will, in the course of a very short time, equal what ought to be the expenditures of the Government, for its actual wants—I mean the wants exclusive of the payment of the public debt. It would be a great thing, a beneficial thing, if we could avoid this large surplus in the Treasury, which is tempting us into extravagant and mischievous appropriations. Need I enlarge upon the beneficial results which this would have upon trade? In proportion as you liberate it from burdens, in proportion as you make enterprise and industry more profitable, and enable them to bring in larger returns, you add not only to the general prosperity and the wealth of the country, but to its revenues. I do not believe it will be very long before this tariff will bring us in more than is required for the legitimate wants of the Government.

But, Mr. President, my friend from Maryland, who is usually moderate, discreet, prudent, and wise, said—and I regretted to hear him say—that he would be glad to see the civil and diplomatic appropriation bill fail, if this tariff provision is retained in it. Has he thought of the consequences of the failure of such a bill?

Mr. PEARCE. My friend from Virginia slightly misapprehends me. I stated that I should be very sorry to see it fail under ordinary circumstances, but that I should prefer to see it fail to having these propositions pass along with it.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. THURSDAY, MARCH 1, 1855. NEW SERIES....No. 66.

Mr. HUNTER. I think the Senator said yesterday, when he made his first remarks upon this bill, that, as a separate and independent measure, he would not object to the proposition. I think I heard him say so. Now, if, as a separate and independent measure, it was so nearly right as that, how in the world would he be justified in wishing to see the civil and diplomatic appropriation bill fail because of its connection with it? What would be the result of the failure of that bill at this time? What would be the effect of an extra session which would, of necessity, have to be called in the spring, at a time when a number of the southern States would not have filled their delegation; when we should have a Congress composed almost entirely of representatives from particular sections? What would be the effect upon business, upon trade, upon the prosperity, aye, sir, and upon the peace of the country?

Mr. President, I acknowledge that the House of Representatives have not dealt by the Senate as they should have done, in sending up these appropriations at the proper time. But, although we cannot apply the remedy now, we may at another session. The remedy consists not in defeating one of the appropriation bills, and forcing the Executive to call an extra session under such circumstances, but the remedy would be in originating such measures in the Senate hereafter, and taking them up in time to consider and discuss them. I do think that hereafter we ought to do that, and if we do, we shall have found an effectual remedy against this mischief which seems to alarm gentlemen so much. It is to be remembered, in regard to this precedent, that it is a precedent that has been set, not by the Senate, but by the House of Representatives. We do not unite these incongruous subjects. They come to us in a bill from that House; and it will not be for them to quote their own precedents in order to practice wrong on us hereafter.

I believe, sir, under the circumstances, the wisest and best thing we could do would be to pass this measure. I do not believe—I should regret to think—that it would carry a pang to the bosom of any man in Pennsylvania, or injure a single individual, as the Senator from that State seems to suppose. I do not believe it would injure any of his constituents; on the contrary, I have no sort of doubt but that it would prove to be a beneficial measure to that great State. I know the alarm and apprehension which she felt in 1846, for I was here at the time. Can she say that she has been injured by the tariff of that year? Has she not arisen strengthened and refreshed by its influence and operation? I believe the same result will follow if this measure passes. Her iron interest will enjoy the highest measure of protection. It stands along side of sugar and manufactures of wool, and all those articles which are most protected. What more can she ask? Is she not willing to "share and share alike" with her sister States, and with their interests? Is she not content if she is placed along side of those who have the most? Does she desire to get more than an equal share? Surely she would not be justified, from the prospect of the passage of such a measure as this, in defeating the appropriation bill. How did this measure pass? Is it a sectional measure? Was it passed by any one party over another? I hold in my hand an analysis of the vote. I have not time to go over it and give the number of votes from each State, but it will be found, I believe, that it embraced a large majority of the free States of the Northwest; it will be found that it was advocated by many from New England; it will be found that it received votes from every section of the Union, from the Representatives of every interest in the community.

Mr. JAMES. I would suggest to the honorable Senator, as he is quoting the different States which supported this bill, that many members, I have no doubt, voted for it with the understanding that it would be amended in this body. Otherwise they would not have voted for it.

Mr. HUNTER. I do not know how that was. I am not prepared to say. But, sir, I find that Pennsylvania contributed seven votes in favor of the bill; and so it will be found that all the States of this Union have given votes to its passage. It is an equal and a just measure. It is no new thing. It is a modification of the old law, which is well understood by everybody who has ever paid attention to the subject. It raises the duties upon nothing. Silks, which have been heretofore regarded as the subject of a sumptuary list, are diminished but one per cent. The manufactures of flax, like those of silk, as yet constitute but a small interest in this country; they paid but twenty per cent. under the tariff of 1846, and would pay the same under this. Blankets would pay us, under this, but twenty per cent.—this being still a lower rate of duty than that imposed upon most other manufactures of wool. For the rest, the twenty per cent. reduction may be said to fall upon nearly all important articles. The duties upon iron, sugar, manufactures of wool and of cotton, are all reduced one fifth. Some dye-stuffs are, it is true, greatly reduced, or put on the free list; but it will be seen, from the table which I hold in my hand, that the entire amount of duties lost by this reduction is comparatively small. Upon wool, as a raw material, the reduction is much larger; but it would not be difficult to show that the wool-grower here, as was proved lately in England, would derive more benefit from the increased activity of woolen manufacturing at home than from the exclusion of foreign competition by high duties upon raw material. In every material point of view, then, this measure is to be commended as wise and good.

Why, then, this angry denunciation, and what are the provisions which would justify the defeat of the general appropriation bill. The table which I hold in my hand will show that the modifications which it makes in the tariff of 1846 are simple and few. But upon this topic I will forbear to enlarge.

The following are the documents that were referred to:

Revenue on substitute proposed, based upon the Importations of 1853.

Articles transferred from one class to another, and which prove exceptions to the uniform reduction of 20 per cent. on the rates of schedules A, B, C, D, E, F, G, and H, imposed by act of 1846.	1846	Imports.	Revenue.	Propos'd rates.	Revenue.
Manufactures and articles of silk, or of which silk shall be a component material, not otherwise provided for	25	$29,482,427 00	$7,370,666 75	24	$7,075,785 48
Manufactures and articles of flax, or of which flax shall be a component material, not otherwise provided for	20	10,400,236 00	2,080,047 20	20	2,080,047 20
Blankets of all kinds	20	1,445,659 00	289,131 80	20	289,131 80
Wool unmanufactured	30	2,669,718 00	800,915 40	8	213,577 44
Flax unmanufactured	15	135,684 00	20,352 60	4	5,427 36
Silk, raw, with or without the gum, imported in the condition in which it comes from the cocoon, not being doubled, twisted or advanced in manufacture in any way	15	712,092 00	106,813 80	4	28,483 68
Jute manilla and seral grass, coir and other vegetable substances unmanufactured, not otherwise provided for	25	1,690,332 00	422,583 00	4	67,613 28
Lac spirits	20	-	-	4	-
Lac sulpher	20	-	-	4	-
Lampblack	20	-	-	4	-
Litharge	20	436 00	87 20	4	17 44
Prussian blue	20	-	-	4	-
Articles not in a crude state used in dying or tanning, not otherwise provided for	20	-	-	4	-
Brimstone, crude, in bulk	15	62,331 00	9,349 60	4	2,493 24
Cream of tartar	20	395,280 00	79,056 00	4	14,811 20
Extracts of indigo	20	6,183 00	1,236 60	4	247 32
Extracts and decoctions of logwood and other dye-woods, not otherwise provided for	20	590 00	118 00	4	23 60
Extract of madder	20	4,539 00	907 80	4	181 56
Barilla	10	845,443 00	84,544 30	4	33,817 72
Cudbear	10	4,287 00	428 70	4	171 48
Bleaching powder, or chloride of lime	10	161,668 00	16,166 80	4	6,466 72
Indigo	10	1,282,367 00	128,236 70	4	51,294 68
Cochineal	10	415,613 00	41,561 30	4	16,624 52
Woad or pastil	10	2,099 00	209 90	4	83 96
Acids—acetic, benzoic, boracic, citric, muriatic, white and yellow nitric, oxalic, pyroligneous, and tartaric, and all other acids of every description used for chemical, medicinal, or manufacturing purposes not otherwise provided for	20	24,611 00	4,922 20	4	984 44
Salt of all kinds	20	1,059,432 00	211,886 40	free.	-
Berries, nuts, flowers, plants, and vegetables used exclusively in dyeing, or in composing dyes, but no article shall be classed as such that has undergone any manufacture	5	65,645 00	3,282 25	free.	-
Brazil-wood, brazilletto, and all other dye-woods in sticks	5	341,445 00	17,072 25	free.	-
Burr-stones, wrought or unwrought	10	49,157 00	4,915 70	free.	-
Codilla, or tow of hemp or flax	15	16,931 00	2,539 65	free.	-
Fruits and vegetables, green or ripe, not otherwise provided for	20	-	-	free.	-
Garden seeds and all other seeds for agricultural, horticultural, medicinal, and manufacturing purposes, not otherwise provided for	20	-	-	free.	-
Bolting cloths	25	40,232 00	10,058 00	free.	-
Madder root	5	964,488 00	48,224 40	free.	-
Madder ground or prepared	5				
Ice	20	-	-	free.	-
Animals of all kinds	20	274,489 00	54,897 80	free.	-
			$11,810,212 10		$9,887,284 12

Revenue from imports for the year 1853	$60,964,929 16
Deduct revenue on articles, which being transferred from one class to another, prove exceptions to the uniform reduction of 20 per cent., as enumerated above, with a few exceptions where the revenue could not be arrived at	11,810,212 10
	49,174,717 06
Deduction of 20 per cent. thereon	9,834,943 41
	39,339,773 65
Add revenue on articles which, being transferred from one class to another, form exceptions to the uniform reduction of 20 per cent., as enumerated above, with a few exceptions where the importations cannot be arrived at—at the proposed rates	9,887,284 12
Revenue upon importations of 1853	$49,227,057 77

The following table is contained in the report of the Secretary of the Treasury, made to Congress at the commencement of the present session:

Statement of duties, revenues, and public expenditures, during the fiscal year ending June 30, 1854, agreeably to warrants issued, exclusive of trust funds and Treasury notes funded.

The receipts into the Treasury during the fiscal year ending June 30, 1854, were as follows:

From customs, viz:	
During the quarter ending September 30, 1853	$19,718,832 00
During the quarter ending December 31, 1853	13,587,821 27
During the quarter ending March 31, 1854	16,896,724 83
During the quarter ending June 30, 1854	14,020,822 17
	$64,224,190 27
From sales of public lands, viz:	
During the quarter ending September 30, 1853	$1,489,562 05
During the quarter ending December 31, 1853	2,223,076 39
During the quarter ending March 31, 1854	2,012,908 36
During the quarter ending June 30, 1854	2,745,251 59
	$8,470,798 39
From miscellaneous and incidental sources	$854,716 54
Total receipts	73,549,705 20
Balance in the Treasury July 1, 1853	21,942,892 56
Total means	$95,492,597 76

The following letter exhibits estimated effect of the reductions proposed by the Secretary of the Treasury:

TREASURY DEPARTMENT, *January* 22, 1855.

SIR: Inclosed is the draft of a bill to reduce the tariff. This draft, taking the importations of 1853 as the criterion, including the effect of the reciprocity treaty, would raise from customs, in round numbers, $45,600,000. The revenue from customs in 1854 exceeded that of 1853 about $6,500,000. The receipts of the first six months of the fiscal year 1855, up to the 1st of January, is about $4,500,000 less than that of 1854; and if the next six months, up to the 30th June, 1855, shall be reduced at the same rate, the reduction for the year will be $9,000,000, and the receipts of 1855 less than those of 1853, near $3,000,000; but as the bill, if passed, will not take effect until after the 30th of June, 1855, the reduced imports of 1855 would not affect the receipts under the reduction.

The reduction will operate upon the importations of the fiscal year, 1856, which, in all probability, from present indications, will equal the importations of 1853; say that the receipts of 1856 may be calculated at $45,600,000, under this bill.

I have the honor to be, very respectfully,

JAMES GUTHRIE, *Secretary of the Treasury.*

Hon. R. M. T. HUNTER,
Chairman Committee on Finance, United States Senate.

The following comparative tables were also referred to:

Statement A—Revenue.

Years.	From customs.	From public lands.	From other sources, inclusive of Treasury notes, loans, &c.	Total.
1850	$39,668,686 43	$1,839,894 25	$2,061,308 21	$43,599,888 88
1851	49,017,567 92	2,352,305 30	1,185,166 11	52,555,039 33
1852	47,339,326 69	2,043,239 58	464,249 40	49,846,815 60
1853	58,931,865 52	1,667,094 99	884,779 80	61,483,730 31
1854	64,224,990 27	8,470,798 39	854,716 54	73,549,705 20
Average five years.	$281,028,179 02			$356,905,635 86

The increased per centum on the receipts from customs for 1854, over those of 1850, is equal to sixty-one per centum, or an average of fifteen per centum each year.

Statement B—Expenditures.

	Exclusive of public debt and trust funds.	On account of public debt and trust funds.
1850	$37,165,990 09	$7,438,728 17
1851	44,049,949 48	4,426,154 83
1852	40,389,954 56	6,322,654 27
1853	44,078,156 35	10,498,905 39
1854	51,018,249 60	24,336,380 66
	$216,692,300 08	
Average five years	$43,338,460 02	

Statement C—Imports.

Years.	Total.	Free, including specie and bullion.	Paying duties.
1850	$178,138,318	$22,710,382	$155,427,936
1851	216,224,932	25,106,587	191,118,345
1852	212,945,442	29,692,934	183,252,508
1853	267,978,647	31,383,534	236,595,113
1854	305,780,453	33,233,822	272,546,431
			$1,038,940,333
	Average five	years.	$207,788,066

The increased per centum of the total importations of 1854 over those of 1850, is equal to seventy-one per centum.

The increased per centum of the importations of free goods, including specie and bullion of 1854, over those of 1850, is equal to forty-six per centum.

The increased per centum of the importations of goods paying duties of 1854 over those of 1850, is equal to seventy-five per centum, or an average of eighteen and three quarters per centum each year.

Statement D—Revenue.

Years.	From non-enumerated articles, paying 5, 10, 15, 20, 25, 30, and 40 per centum in the tables of commerce and navigation, but included in receipts from customs.	Probable amount on non-enumerated articles, paying 5, 10, 15, 20, 25, 30, and 40 per centum, at the rates in bill of committee imports of 1853.	On importations of 1854, on articles made free by reciprocity treaty.
1850	$1,003,103 20	-	-
1851	2,382,508 60	-	-
1852	2,206,123 60	-	-
1853	2,838,165 80	$2,624,175 00	-
1854	-	-	$1,524,457 40
			Value. $7,398,358 00 equal to 20.61 per centum.

Mr. BENJAMIN. I do not rise to discuss this bill. I propose to do that a little later in the day, or to-morrow, or the next day. I rise now to ask one or two questions of the honorable chairman of the Committee on Finance, [Mr. HUNTER,] who has taken upon himself the defense of the bill and of this innovation upon legislation, much to the surprise of those who thought they knew him best. I wish, I say, to put one or two inquiries to him, with the view of correcting a misapprehension, if I entertain it, or of setting him right if he is in error. In his statement in relation to the details of the tariff part of the bill, I understood him to say that it comprised only two principles, or two main features; one a diminution by one fifth of the general rate of duties now placed upon importations into the country; and the other a transfer of certain articles in an unmanufactured state, from certain schedules to lower schedules. I understood him to say that that was the general scope of the bill.

Mr. HUNTER. I did not confine the transfer to unmanufactured articles. I said a few articles of dye-stuffs.

Mr. BENJAMIN. I wish to ask the honorable Senator for what reason all the textile fabrics of New England are raised from lower to higher schedules?

Mr. HUNTER. I am not aware that such is the fact.

Mr. BENJAMIN. If the Senator is not aware of the fact there comes back in full force the consideration urged by my friend from Maryland, [Mr. PEARCE,] that the very committee that reported the bill does not know what is in it.

Mr. HUNTER. Can the Senator find an instance in which there is such a transfer from a lower to a higher rate?

Mr. BENJAMIN. Here is one clause of the bill:

"That the following named articles, embraced in schedule D of the said act of 31st July, 1846 be, and they are hereby transferred to schedule C."

That is from a lower to a higher schedule.

Mr. HUNTER. Yes; and schedule D was twenty-five per centum under the old act, and schedule C is twenty-four under the new. Is not that a reduction?

Mr. BENJAMIN. The Senator from Virginia cannot get out of the difficulty in that way; for I shall prove in a moment, by a comparison of the clauses of this bill, that, under the pretense of reducing the duties upon all fabrics throughout the country, upon all manufactured articles, at the same rate, the textile fabrics of New England recover the amount thus reduced by being changed from a lower to a higher schedule. Let me read again the clause which I have already read, and then go a little further on:

"The following named articles, embraced in schedule D of the said act of 31st July, 1846, be, and they are hereby, transferred to schedule C, to wit:"

Remember, that is to a higher schedule.

"Manufactures and articles of silk, or of which silk shall be a component material."

That is a transfer from D to C. What next?

"That the manufactures and articles of flax, or of which flax shall be a component material, and blankets of all kinds, embraced in schedule E of the said act of 31st July, 1846, be transferred to schedule D."

You first begin by taking the entire manufactures of the country, and reducing them all, as you state, upon the same ratio, in the same way, to the same extent, and then you fix——

Mr. HUNTER. I am sure the Senator from Louisiana does not wish to fall into an error. He cannot find a single article which, under this proposed tariff, will pay more duty than is paid under the existing one.

Mr. BENJAMIN. That is not the point. The point is, that you first pretend, by the bill, to reduce all articles on the same scale, and then you except out of that general provision certain favored articles. Now, I wish to know upon what ground this special protection is given to these special manufactures.

Mr. HUNTER. If the Senator thinks that silk is a special manufacture of New England, I assure him that it is not treated so by those who are acquainted with the subject.

Mr. BENJAMIN. How about flax and wool?

Mr. HUNTER. Very little flax is manufactured, and wool is transferred to a reduced schedule.

Mr. BENJAMIN. Here are blankets in the scale next to silk.

Mr. HUNTER. Blankets are five per cent. lower than that, and they will pay no more duty under this than they do now.

Mr. BENJAMIN. They pay no more duty, because the duty is reduced upon all, but then you raise the scale to compensate for the diminution. I want to know why these special manufactures are chosen out as objects of the peculiar favor of the Finance Committee—why, after having been once stricken down to the same rate as all the other manufactures through the country, the apparent reduction thus created is overcome again by transferring them to a higher scale; thus, in point of fact, excepting them from the reduction that strikes every other article in the country?

Mr. HUNTER. Does the Senator desire an answer now?

Mr. BENJAMIN. Certainly.

Mr. HUNTER. Blankets are left at twenty per cent., and other manufactures of wool at twenty-five. They are still better off than other manufactures of wool.

Mr. BENJAMIN. Then, if I understand the Senator from Virginia, he has gone into the details of the tariff, and taken out special articles which he thinks ought to be excepted from the general operation of the reduction of twenty per cent.

Mr. HUNTER. I stated that there were some transfers. They are not numerous.

Mr. BENJAMIN. Let us go on with this examination of the principle upon which the tariff is to be reduced as regards these particular northern textile fabrics. The Committee on Finance which reported the bill has not been satisfied with taking the manufactures of these textile fabrics and transferring them from a lower to a higher

rank, but they have gone on and either taken away or reduced the duty upon every article of raw material which enters into manufactures. They begin by raising blankets, by raising manufactures of flax, by raising manufactures of silk, into a higher scale; and then, when they have got their manufactured articles better protected in that way, they turn round and take every article of raw material, and give still further protection by reducing them, not, as they do every other article in the tariff, twenty per cent., but by carrying them down to the free list or to four per cent. duties. In other words, the bill is equivalent to a direct protection of about one hundred per cent. to those manufactures. It is a bill to protect them, and not a bill to act upon the general manufactures of the country on a fair or equal footing.

I shall not go into the general details of the bill now; but as the Senator from Virginia stated that the synopsis which he gave of its provisions was correct and embraced its main and most important features, I desire to call the attention of Senators around me to the fact that, so far as the tariff provision is concerned, it is not for the benefit of the general revenue system, but is especially aimed at protecting certain manufacturing interests to the detriment of others.

Mr. COOPER. I had not the pleasure of hearing the beginning of the lecture of my friend from North Carolina; but I had the pleasure of listening to its close. The principal fault found by my friend with my conduct, in this debate, is, my want of broad and national views; and that I devote myself to Pennsylvania's interests, and Pennsylvania's interests alone; that, although many other things are patent and open to the vision of everybody else, my eyes are closed to all that do not pertain to Pennsylvania; and that all the broad vista between the limits of my own State and the far off horizon is entirely shut out from my view. Sir, if that were true, my friend ought to have commisserated the feebleness of vision which is limited to objects immediately surrounding me; and should have kindly labored to couch the mental cataract which shortens it, instead of finding fault and holding up such an imperfection to ridicule. It was not generous in my friend; not at all in consonance with the usual gentleness which characterizes his conduct, so invariably forbearing towards his fellows here. But he has charged upon me as a grievous transgression my devotion to Pennsylvania and her interests.

It is true, sir, that I am devoted to Pennsylvania. I was sent here to represent her interests in the best manner I could, though feebly, I admit, and I felt justified in doing so, knowing very well that whilst such men as my friend from North Carolina represent the interests of other States and sections, they would be well taken care of, though I should entirely neglect them. But, sir, to the charge I plead guilty, and I admit that I love my own country better than any other country; that I love my own State better than any other State; my own county better than any other county; and I confess likewise that my own household, and my own hearth, and those who cluster around it, are dearer to me than any others. And does my friend impute it to me as an offense that I do not love his home and his wife more than I do my own? [Laughter.] Would he regard me with more favor if my affections were so enlarged and universal as to induce me to disregard my own and covet his? [Laughter.] No, sir; I doubt it. Instead, therefore, of this being a reproach, I consider it a matter of commendation. And let me tell my friend from North Carolina, that he whose heart does not throb with affection for his own home and that which is nearest, is not apt to feel a very lively regard for things at a distance. If you do not feel a cordial regard for objects that are about you, it is but a poor sign that you take much interest in those which are more remote.

Mr. President, I admit that my friend entertains broad and enlarged views; that he is not only patriotic, but philanthropic—embracing all mankind in the scope of his exertions for their welfare; but yet, sir, I have sometimes seen that honorable Senator, for a moment—only for a moment, I admit—shortening his vision and dropping his eyes upon things that are at home. I remember, sir, on one occasion, when we had here before us a great bill—a bill to provide for the improvement of the harbors and rivers of the whole country, there was a certain obstruction in the river Cape Fear, in my friend's own State, for which he was willing to legislate at the expense of all the rest of the country. I have, too, a faint recollection about an appropriation for improving a certain locality called Nagg's Head, which he prosecuted with more than his usual energy; and I doubt, sir, if he would have made the same exertion for an improvement anywhere else. But I do not blame my friend for that; I commend him for it. I think I went with him; and I like to see a representative stand up stoutly for the interests of his own constituents. Every Senator is presumed to take care of his own State, and there is nothing wrong in doing so. Nor in pursuing the course which he did on these occasions do I charge him with sectionalism, or with conduct in the least degree unbecoming in a liberal statesman. But on another occasion, not very long since, my friend, if I recollect right, was found combating alongside of those whose conduct did not rise even to the dignity of sectionalism. Not only did their efforts fall short of the interests of the whole country, but even below those of a section or a State, to the interests of a few corporations who came here seeking advantages at the expense of the rest of the people. I shall not blame my friend even for that, for his own State was to receive a part of the advantage of the measure which he aided to pass. I rather give him credit for the able support which he gave to that, as he does to every measure which he undertakes to support at all. I only blame him for finding fault with my ineffectual and feeble attempts at that which his superior ability generally enables him to accomplish.

But, Mr. President, this is all foreign to the question. I have only one remark more to make on this subject, and that is in reference to what I said in the conclusion of the remarks which I had the honor to submit to the Senate a short time ago. I then declared that I would continue to oppose this bill, if my physical ability would enable me to do so. But I did not mean to say that I would set up my own will in defiant opposition to the will of the Senate; no such thing. I meant that, so far as I should have the power, and it was legitimate to do it, I would feel myself called on to prevent the fourth, fifth, and sixth sections of the bill before us from being enacted into a law. And this I still declare my purpose to do.

I gave my views pretty much at length on the subject-matter of the provisions of these sections when I was last upon the floor. I did not elaborate them, or point out the particular mischiefs which would result from them. I did not think that it was proper to do so at this stage of the session; but I find that the bill is to be discussed; and that topics even somewhat foreign to it are to be brought into the discussion. The effects of the tariff of 1846 upon the revenue and interests of the country, have been introduced by the Senator from Virginia, [Mr. HUNTER,] and I feel called upon to notice them, and show how little that Senator knows of the effects of that measure on the industry of my own State, upon which he pretends to speak with knowledge. He says that when that measure was pending before Congress, delegations from Pennsylvania declared, as her Senators now declare, that it was fraught with incalculable mischief to the interests of that State; but that, under its influence, we have seen those interests growing in prosperity enlarging from day to day. Mr. President, is this the fact? Had my friend from Virginia paid attention to the condition of things in Pennsylvania since the passage of the act of 1846, he would not have made the statement which he did. I explained here, a few days ago, what, I presume, is known to most members on this floor—that that measure did not commence to operate efficiently until two or three years after its passage; perhaps, not until the fourth year. A state of things had arisen in Europe which prevented its legitimate operation. A mania for railroads had taken possession of the minds of the people which resulted in chequering the whole continent with railroad lines, requiring a large amount of iron, and thus furnishing a market to England for her iron; leaving our own market free from the competition of foreign fabrics, especially of iron.

In addition to that, the crops of Europe were visited with blight; the potato rot came; and in 1847 there was a failure of crops in the middle portions of Europe, and this furnished a market for the agricultural products of this country; and the manufacturing establishments did not at once furnish so large a market as they would have done if the act of 1842 had not been repealed; but, as the prosperity of the country continued to exist, a market was still found for our agricultural products. Our farmers sold their wheat, and corn, and meat at fair prices, and the condition of the country remained prosperous until that state of things ceased to exist. In 1848 the revolutions came; the works of internal improvement in Europe were suspended. Good seasons came, and with them abundant crops; and again the markets of Europe were supplied with the products of Europe, and our farmers were left with a home market of diminished extent in which to sell their surplus products.

Then commenced the operation of the act of 1846 in all its force. England, no longer finding a market on the continent for her iron, was obliged to return to her old customer, the United States, and she sent large quantities of iron here for our supply. The consequence was, that the establishments of Pennsylvania were broken down, and remained prostrate until another change came about. Congress had refused to lend its aid on the application of our people for relief against the effects of the act of 1846; but a change, arising from causes extraneous altogether, took place, and produced a temporary restoration of prosperity. It was, however, sir, but temporary. But a few months of high prices existed, and then the reduction in price again took place; and at this moment, instead of these establishments being prosperous, and receiving remunerative prices, many of them have ceased to produce altogether, while others have curtailed operations to a considerable extent. In the latter part of 1848, when the tariff of 1846 began to operate in its full force, instead of there being a prosperous condition of things in Pennsylvania and elsewhere, we had a recurrence of the state of things which existed in 1841 and 1842. Enterprises of all kinds, especially the manufacture of iron, were prostrated under the influence of that blow, and the manufacturers became bankrupt. Their establishments were put up for sale, and sold by the sheriff. The hands were turned adrift, and not being able to adapt themselves to other employments, were in a condition of absolute want, suffering for bread in many instances.

This is no fancy picture, and yet the Senator from Virginia tells you that the act of 1846 brought prosperity in its train to Pennsylvania. I thought that my friend was better informed than this. I know that he is not in the habit of making statements which are not founded in fact; and therefore, I repeat, I was surprised when I heard him declare that prosperity followed in the train of the act of 1846, and as a consequence of it.

My friend, too, seems to attribute to that measure an effect different from what he supposes this will produce in respect to the revenue likely to accrue from it. He tells us that the act of 1846 produced an increase of revenue; that a diminution of duties increases the revenue; and yet he advocates this measure by which the duties are reduced in order to diminish the revenues. He declares that is one of the purposes of this act. He asserts that the revenue is now too large, and that extravagance in legislation is a consequence of the redundance of the revenue; and that it produces large appropriations for objects that do not properly belong to the class for which Congress ought to provide. But why, sir, is it, that if the reduction of the tariff in 1846 increased the amount of revenue, this act, which likewise proposes a reduction, will not have a similar effect? I should like to hear the reason for it. I do not believe that a satisfactory reason can be given why it will not be followed by the same effects as the tariff of 1846. But suppose an increase of importations should follow upon the diminution of the duties, as possibly may be the case, what will be the consequence upon the prosperity of the country? Our foreign debt will be inevitably increased by it; you will be obliged to send out still larger amounts of specie in order to pay the interest upon the debt that will be created. It will not increase the amount of the products of the country that are to be sent abroad, by way of exchange, for the fabrics of foreign countries, but it will increase the amount of importations. Then,

sir, the inevitable consequence will be an increase in the exportation of specie, and this will be followed by a further diminution in the business of the country. Every one knows that. No one can shut his eyes to it.

But, Mr. President, is there to be no stop to this legislation, calculated to break down the interests of the State which I represent? I refer to my own State, particularly, because I am the immediate representative of her interests; and because I know that every Senator here is ready to take care of his own. I ask, then, if these assaults upon her interests are never to cease?

Much less than a year ago, we had reciprocity thrust upon us—reciprocity that aimed at elevating the prosperity of a neighbor, while it proscribed important domestic interests. These interests have begun to feel it, and they will feel it still more sensibly. A week ago a measure passed this body, striking another blow at the same interests; and now there comes another, the heaviest and the last; for beyond this you need not go, as the prostration will be entire and complete. This blow will finish what is left of the prosperity of several branches of the industry of Pennsylvania. Sir, I think, if I wished to travel beyond her limits, I could show that other interests are to be deeply affected by it also; but I will forbear to do it. I have answered my friend from North Carolina; I have answered some remarks made by the Senator from Virginia, and I shall, for the present, take my seat, trusting that the blow may be yet avoided by the fidelity of the representatives of the interests which are assailed.

Mr. BADGER. I have been extremely gratified to hear from my friend the announcement of the intense and exclusive devotion which he has to his domestic circle. It has afforded me great consolation, sir, because it is a mitigation in considering that he, like myself, must shortly leave the public service of his country; and I am happy to know that the enjoyments which he has derived here from the patriotic discharge of his duties to the great State which he represents, and the great Union of which that State is so large and important a part, will be amply compensated by the uninterrupted enjoyment of domestic pleasure. There he can offer up the incense of his affectionate heart upon the domestic altar. Soul mixed with soul may find Elysium there. I hope it may be permanent and perpetual; and I assure him, most emphatically, that I am not only extremely glad to hear that he has thus exclusive devotion to his own hearth and fireside, but that I am the last man in the world who would desire that that concentration of affection should diffuse itself into a general admiration. I commend him for the prosecution of his own particular, heartfelt affection; and hope that in his retirement he will find ample compensation for what he may lose here. My friend intimates that it will not be much. I had misjudged him. I thought, when I recollected that he would lose his associations with me, and a great many other excellent and honorable men here, he might be supposed to think he would be losing a great deal, [laughter;] but whether the loss be small or great, I hope it will be more than compensated for; and I hope he will never be tempted, young as he is, in the spring-time of his life, to forget what belongs to home, and look beyond the proper circle in which his affections may luxuriate with the production of happiness for himself and those around him.

Now, I have an apology to make to my friend, because I misunderstood him; and I have an explanation to make for myself, because he misunderstood me. I have an apology to make to him, because I understood his closing remarks as indicating a disposition, which I did not expect from him, to persevere in a factious opposition to the pending measure. I admit that the conclusion was hastily drawn, and attributed to him unjustly a purpose which he has honorably disavowed; and I beg him to consider me as taking it back, and tendering him a sincere apology for having made it.

Now, Mr. President, I must make an explanation in regard to myself. My friend supposes that I attributed to him a blindness, a shortness of vision, an incapacity of seeing objects at a distance, and of comprehending at a view the interests and the broad expanse of this whole Union. Sir, my friend mistook me. I knew that he possessed that far-reaching vision; but the particular complaint I made was that on this occasion, and on this only, so far as my observation extends, he had permitted that far-reaching vision of his to be interrupted by the interposing vastness and majesty of the great State of Pennsylvania; and that, sincerely thinking he was consulting the interests of the whole Union, he was, unknown to himself, prosecuting the interests of Pennsylvania only.

As to myself, Mr. President, and the modest and unpretending State which I have the honor in part to represent, permit me, in this connection, to say a word. My friend supposes that I have, on certain occasions, manifested a disposition to promote the interests of North Carolina. If that is to be considered a charge, I freely plead guilty. I have been at all times desirous, so far as I was able, to promote the interests of the State which has honored me with a seat here. But let me ask every gentleman on this floor to consider what has that State ever received at the hands of the General Government? What enterprises of hers have been fostered? What large outlays of public money have been made to advance her interests, to adorn her with populous cities, and to give her the advantages of a large and extensive commerce? Sir, what is the whole of it? My friend has referred to two matters in which that State has taken a great and deep interest. One is what is commonly called the Nagg's Head improvement—an endeavor to procure from this Government some appropriation to test the practicability of reopening a communication with the Atlantic ocean, which was once known to exist, and is believed to be capable of being restored to the commerce of the State. And what has been the success of the State in those applications? Not one dollar of the public money has ever been expended there for the purpose of making, or for the purpose of testing the practicability of making, that communication. Once, a number of years ago, an appropriation of the sum of $50,000 was obtained in a general bill, which met with the complimentary notice of a presidential veto, fell under the influence of a tender conscience, and was destroyed by the sensitive apprehensiveness of the President of the United States lest some good should be done to the general interests of the country. Well, sir, within a few years another appropriation was made; but it was found that, in consequence of a specific direction as to the mode of its application, it was impossible that any application could be made of it at all; and the Senate knows, that early in the commencement of the last session, I introduced a bill to correct the mistake in the manner of the appropriation. The Senate was kind enough to pass it—it being an obvious case of propriety—in two minutes. What became of it? What good has it produced? It has lingered here to the end of the session, and at last it has received the favorable consideration of the other House. What is it? An appropriation of $50,000 towards an object in which the whole State feels a deep interest, and which concerns especially the whole northeastern part of the State.

Well, then, sir, there is the Cape Fear river. I introduced here a bill in regard to it. Was it warring against the general interests of the country? Did it put any obstacle in the way of any general bill which the friends of the improvement of rivers and harbors might desire to introduce and pass? No, sir; it was introduced here as an isolated measure. It passed the Senate; it went to the House of Representatives, and, after remaining there more than a year, it at length received an apparently reluctant assent, and passed with a most beneficial provision stricken out. That, I believe, is the beginning, the middle, and the end of the whole story of what the Government of the United States has done for improving the commercial condition of North Carolina.

Now, let me ask my friend if he has ever known me, in this body, to give a vote against any liberal or just measure to promote and advance the interests, the happiness, and the welfare of any portion of the people of this country? No, sir; never in a single instance. I have—to borrow a common, almost a cant phrase—a clear and clean record upon that subject. Though I love my own State, and desire to promote her interests and advancement, I never had a feeling of grudging or envy against the wealth, the power, or the advancement of any portion of this great country. I call the whole of it my country, and my heart expands with joy and gratification when I see prosperity pouring into it, and into every portion of it. I know that my friend and I sympathize entirely in that. I know his whole course of voting and legislation is honorable, and liberal, and fair. The only exception I have taken has been, that, on this occasion, the view of the mighty interests of Pennsylvania, and the interposition of that large and resplendent orb have overpowered his own clear vision, and he was able to see nothing else. But when my friend spoke of anything said by me in unkindness, let me say that, if anything that I have said sounded like unkindness, may it be blotted out forever. I have not a feeling of unkindness towards him, or towards any of my associates on this floor.

Mr. COOPER. I did not suppose one word said by the Senator from North Carolina was conceived in unkindness. I knew that it was badinage. I knew that it was said in kindness, and meant in kindness. Nor, sir, did I intend to reproach him for the efforts he has made in behalf of his own State. On the contrary I commend him for them; and I sympathized with him when those efforts were defeated by causes which were entirely beyond his control. As far as personal regard is concerned, I can say to the Senator that I never entertained a feeling of unkindness towards him; nor is there a member on this floor towards whom I entertain any such feeling. On the contrary, I believe there is not a member here with whom my associations have not always been of the most agreeable nature. I can say sincerely, that when I part with my colleagues here, unless something very extraordinary should occur, I shall part with them in kindness and with feelings of deep regret.

The PRESIDENT. The question is on the amendment of the Senator from North Carolina.

Mr. BAYARD. Mr. President, I have a few remarks to make, not on the amendment offered by the honorable Senator from North Carolina, but on the proposition submitted to us last evening by the honorable Senator from Virginia who stands at the head of the Committee on Finance. I heard that proposition with mingled surprise and regret. I had not expected that such a proposition would come from a gentleman whose conservative course has been one which has always been a matter of admiration with me.

Mr. President, I can hardly express in language the objections which I entertain to the condition of things at which we are now arriving, resulting from the abandonment of all rules necessary for the preservation of order and the rights of the minority in reference to the legislation of the country. Here we find tacked to an appropriation bill a general revision of the entire impost system of the country. For this we have a substitute offered by the honorable Senator from North Carolina, which does not go quite so far. Both, in my view, without entering into their merits, are leading us to the culminating point of coercive legislation. My objection to them both is founded altogether on that principle. We have, at times, hitherto, within the last ten years, introduced a system of attaching to the appropriation bills legislation to a small amount, and on subjects either of local interest or which required no great discussion. Those were evils; but the injury which must inevitably follow the adoption of this bill, as it comes to us from the House, without striking out the general legislation in reference to the tariff, is the establishment of a precedent which will put an end to all other legislation in Congress, than that which is effected by coercion through the medium of the appropriation bills. I consider the principle involved in that far more momentous than the question whether the tariff, if it is too high, should be modified at this or the next session of Congress, or even the session after that. In relative importance there is no comparison whatever.

I am not willing, by my vote, to sanction the adoption of a general system of legislation on the appropriation bills for any and every purpose that a majority may see fit to place on them. The effect necessarily must be to stop the discussion of matters of general legislation; and then what becomes of our country as a free country, and what becomes of legislative bodies as bodies in which there is to be full, fair, and free discussion and investigation of measures, the effect of which is afterwards to be judged of by the people of the

country? If you can coerce a minority by placing them in this position, that either they must abandon the discussion of the principles of a measure, and adopt it, or they must stop the wheels of Government by voting down an appropriation bill which is necessary for its support, to what fearful consequences may it not lead? And yet that is the effect of the system.

The honorable Senator from Virginia seems to think that this is an exceptional case, because he says this legislation was not put on this bill in the House by a sectional combination; that it was not produced by political combination; but that members of Congress from Massachusetts and South Carolina, from Virginia and Pennsylvania united in favor of tacking this measure on this bill. Sir, whether it be political combination or sectional combination, is not the question; it is combination of some kind; it is combination for the purpose of coercive legislation. It amounts, then, to personal and objectionable combination. I care not from what source it springs; it is a violation of right; it is a violation not of mere forms, but of those rules of order which lie at the foundation of deliberative assemblies. By my vote no such general legislation, even if I thought the legislation in itself perfectly right and proper in all respects, shall be tacked to an appropriation bill.

Sir, if the issue comes—I say it deliberately, and others will agree in it, that if my vote can defeat this appropriation bill—rather than tack this general legislation to it, I am perfectly willing to take the responsibility of the rejection of the bill. I know that result must come hereafter, beyond all question, if this precedent be set. You have never gone heretofore to anything like this extent. Why, sir, at the last session of Congress the Committee on Public Buildings instructed me to move, as an amendment to the civil and diplomatic appropriation bill, a provision for the enlargement of the General Post Office Building. The honorable Senator from Virginia opposed it on the ground that it was legislation inappropriate to the bill, and it was voted down by the Senate on that ground. What was there in that measure which was liable to such an objection? It was not general legislation for the country. It was a measure which, undoubtedly, was absolutely requisite, and the Senate have recognized the necessity by passing a separate bill for that purpose at this session without a dissenting voice. It was voted down at the last session on the ground which I have stated. I considered it proper and fair to introduce it then as an amendment to the civil and diplomatic appropriation bill, because it involved, in fact, no legislation whatever, but was merely an appropriation for the enlargement of one of the public buildings, though, of course, there was implied in that the legislation necessary to authorize the enlargement of that building. Perhaps I was wrong in doing that; but I followed a settled practice, which had gone even beyond that extent, and I kept myself within it. Hereafter, however, I mean to act on the rigid rule of excluding all legislation on appropriation bills, so far as my vote can do it, because I see the evil has now arrived at such a point, that, by the assent of the chairman of the Committee on Finance, and apparently of a large number of Senators, we are to legislate on general principles affecting the industry of the country by a provision tacked to an appropriation bill, when, by no possibility, can the details of that measure be matured according to the judgment of the Senate.

Sir, I do not know that I should have any objection to this tariff bill if it came here as a separate measure and was thoroughly discussed. I am in favor, and always have been, of a tariff formed upon the revenue principle. I may differ in regard to some of the details of this measure. I have not examined them; I have not had time to examine them. They come to us here within four days of the expiration of the session, and they are presented to us by the chairman of the Committee on Finance with a recommendation to adopt them without amendment. I have no time to look into these matters. I think there are some errors in the present tariff. I think that tariff requires revision, but I, by no means, am satisfied that it is necessary to revise it at this or the next session of Congress. The country will not be ruined if you do not do so; but, sir, the country, if not ruined now, will be ultimately ruined by a system which puts at defiance all the rules of legislation necessary for the preservation of the rights of a minority.

My objection, then, applies equally either to the amendment of the honorable Senator from North Carolina, or to the proposition of the Senator from Virginia—the attempt to retain in this bill, as it comes from the House, legislation on the subject of the tariff. I should take the same course if I were entirely in favor of the particular proposition. Sir, I voted in this Hall for what is called the French spoliation bill. If an attempt should be made in this body to tack that bill to an appropriation bill, I should vote against it without a moment's hesitation; and yet that would not be comparable to the questions involved in this attempt to modify the tariff under present circumstances; because one is a mere relief to individual claimants, very much in the nature of a private bill, and the other involves legislation which must be felt in its details throughout this whole country—a revision of a general system of legislation; I do not know the extent of the changes proposed by it.

As has been well stated, you might just as well alter your judiciary system by tacking it to the same bill; and if gentlemen who entertain particular opinions on another delicate question ever obtain a majority in either House, they may adopt the same course. It may happen that, in the House of Representatives of the United States, the day will come when there will be a majority—perhaps in the next Congress—who will believe that the fugitive slave law is unconstitutional, who will believe that you have the right, and that it is your duty, to abolish slavery in the District of Columbia, who will believe that you were wrong in repealing the Missouri compromise line, and that it ought to be restored. If such a majority should exist, and they should tack to a general appropriation bill all those measures, they will plead your own example. They will say: "We entertain these opinions conscientiously; you have shown us that this system of legislation ought to be adopted; that is, that one House may coerce the other under the penalty of either stopping the operations of the Government or yielding their independent opinions; and we have only followed your own example."

Such a course of events may come about, for ought I know, whether a tariff provision be attached to the present appropriation bill or not; but I never mean to afford the precedent of my vote to this system, nor do I think those who desire orderly legislation should afford such a precedent by their action. I do not think they can go properly before the country and say, that, entertaining particular opinions, one branch of Congress undertakes to coerce the other branch under the penalty of stopping the appropriations if they do not yield their own opinions on particular questions which they consider of moment. That is the whole case here. You cannot say that both branches agree as to this measure, for you cannot tell whether the Senate would agree to it or not. We have no time to discuss it; we have no time to go into its details. It would be morally impossible to go into the amendments necessary for the purpose of ascertaining what would be the deliberate judgment of the Senate. When it comes to us in this shape, it is coercive legislation on this body, and it is coercive legislation in this body on the minority of the body. If legislation is coercive, it matters not what is the source or motive which tempts to the coercion. The principle is equally erroneous in legislation; it equally strikes at the fundamental basis on which deliberative assemblies in a free Government must necessarily be constituted.

This is no mere point of order; it is an important and vital question. We have gone on some steps, and we come now to an issue which will try the form of this Government to its utmost. If you adopt this tariff provision attached to a general appropriation bill, as has been done by the House of Representatives, the result will be that hereafter all your legislation must be through the medium of appropriation bills, for you will have the sanction of precedent which cannot possibly be avoided.

Now, Mr. President, I consider the principle far too important to yield it, at least without a struggle, with reference to the present bill. It will last in all time. You rarely go backwards in measures of this kind. You have only to look at your own experience in reference to this subject to be sure of that result. If twenty years ago this proposition had been made in the Senate of the United States, it would have been voted down almost unanimously, without reference at all to the question of whether the tariff ought to be revised or not. They would have said: "If the tariff requires revision, revise it; but do it in the proper manner. If there are any exceptions to be made, make them, but make them in the proper bill, and in the appropriate manner, and do not attempt to coerce either one House or the other, or the minority in either House, into your particular frame of bill by throwing on them the responsibility, and saying to them, you shall defeat the appropriation bill, or we hold this measure to it." Sir, be it so. As far as I am concerned, if my vote must kill this bill, or must pass it, with this general legislation attached to it, the bill will be killed, and I am willing to take the responsibility of the act. The result will come hereafter, if not now, if this precedent be established; and it may as well be met at once. I should be sorry to see the Senate adopt this course of legislation, for I know it will be pleaded as a precedent for future action. Gentlemen who favor the particular measure they now seek to carry in this mode, may find that measures very obnoxious to them will be enforced in the same mode, and they will be placed in a false position before the country when they go before the people, and say: "The spirit of fanaticism has tempted men not only to pass certain laws which we consider violative of the Constitution, but it has tempted them to put upon us the issue of stopping the operations of the Government, or yielding to what, in our consciences, we believed to be wrong." Sir, you cannot answer them when they tell you here is your precedent of general legislation. If you set this precedent you will have no argument before the country to resist the tacking to the appropriation bills of those measures to which I have alluded.

Mr. President, in all cases there is no safety but in the observance of the rules of order. I am one of those who believe there is far more danger in a free country, governed by deliberative assemblies, of too much rather than too little legislation. I believe that if a measure is in itself eminently right, it will ultimately triumph, and the mere *quantum* of injury that may exist until public opinion forces the triumph of that measure, is of comparatively little moment. I say there is far more danger of too much legislation in a country governed by a representative form of government, than there is in too little legislation. The one is a positive evil, the other merely a defect.

Entertaining these opinions, I believe the rule which prevents appropriation bills being used as the vehicles for general legislation, to be a wise one; that it is meant to prevent coercion on the part of the majority of one body over the other body; and I think that principle is essential for free deliberation and free discussion, and for the proper passage of laws. Though I may deem a measure valuable, and a great improvement in the administration of public affairs, I would rather see it lost, and rely upon the sense of the country to return representatives afterwards who would pass it, than to sacrifice a great principle which, I think, lies at the bottom of all legislative organization in free countries, of not permitting coercive legislation.

On these grounds, sir, I shall vote for the motion which has been made by my honorable colleague, to strike out the last sections of this bill, and against the motion of the Senator from North Carolina to insert his proposition. If that be inserted in this bill, or if the provisions which my honorable colleague has moved to strike out be retained by the Senate, I shall vote against the passage of the bill.

Mr. SEWARD addressed the Senate, but before he had proceeded far——

Mr. JOHNSON. If the Senator will give way for a moment, I will make a suggestion.

Mr. SEWARD. I yield the floor.

Mr. JOHNSON. It is now half past three o'clock, and it is evident that a night session is inevitable. It may be said that a night session is necessary in any event, if we mean to do our duty, and that we should come to some determination of these questions. It is easy to perceive, however, that there is much to be said on this matter. That being the case, and there being many gen-

tlemen here who will not be able to endure the fatigue of a continuous session to a late hour in the night, I move that the Senate take a recess to six o'clock.

Mr. CLAY. I trust the motion of the Senator from Arkansas will not prevail. I feel a deep interest in this question. I am physically unable to come here and sit the greater part of the night, which I fear we shall have to do if we adjourn until six or seven o'clock. Furthermore, after the intimations which have been given of a purpose to defeat this measure, so far as physical power will enable gentlemen to do so, I think it behooves the friends of this measure, if it have any, to resist any proposition for adjournment or recess, whereby they will be enabled to recover their strength, and come here fully prepared to carry out their menaces. I trust we shall hold on, and come to some definite conclusion, and either vote out this provision, or indicate a purpose to retain it.

Mr. JOHNSON. Let me say to my friend from Alabama that the purpose which I have in view in regard to this measure is the same as that which he has expressed. I am for a settlement of the question, and he knows that my views upon it coincide very much with his. He has objected to my motion that it will enable those who are opposed to the measure to recuperate. Well, sir, I think that those in favor of it ought also to have an opportunity to recuperate. He seems to think, however, that by sitting on we shall exhaust those who are opposed to it; but it strikes me that those in favor of it would also be exhausted in the same way. The simple question with me is, whether we cannot do more work now by taking a short recess, than by continuing steadily on. If we meet at six o'clock, we shall have six hours before twelve o'clock, which is a reasonable bed time here. It is indifferent to me, whether the Senate take a recess or not, for I believe I can sit here as long as nine out of every ten members in the body.

Mr. BENJAMIN. I shall vote against the proposition for a recess, because I see no benefit in it whatever; but before I take my seat I shall move an adjournment, for the reasons which I will now state.

I perceive, from what is going on around us, that we shall be apt, in discussing this subject any further to-day, to allow our passions to get the better of our reason, and excitement to take the place of argument. I believe, sir—I cannot but believe—that when the honorable Senator from Virginia, whose whole course through his whole life to this hour, has been so conservative as it has been, and those gentlemen who have just spoken for and against this recess, who have usually acted with him, I say I cannot but believe that when the hour of calm reflection shall come after an adjournment, when they go home and reflect upon the consequences of the determination which they seem now to evince, they will hesitate long before they will bring this Government to a stand; they will hesitate before they adopt any such revolutionary expedient for so questionable an end; they will long hesitate, ere, with a decided Democratic majority in both branches of Congress, a Democratic President shall find himself without means to carry on the Government, except by resorting to that most perilous of all expedients, an extra session of Congress. If, however, under the circumstances, and after such reflection, they shall think proper to persist in that course, those who, with the honorable Senator from Delaware, who last spoke, [Mr. BAYARD,] believe that self-government by deliberative assemblies cannot exist under the pressure of coercive principles like these now sought to be applied to the minority; those who believe that the bitter chalice which is now recommended to some lips, may, at some future day, with ten-fold effect, be turned to the lips of those who now offer that chalice to others; those of us who believe that, under no circumstances, and in no event, is it proper to allow the ordinary appropriations for carrying on the Government to be embarrassed by measures involving the great interests of the country to the extent to which this measure does involve them, without examination, without consideration, without an opportunity for examination or for consideration, will be compelled to resist this expedient to the bitter end, and let the country determine upon which side shall rest the responsibility.

We stand here upon this subject, as I have said I have stood upon others, resisting encroachment, resisting aggression, resisting that which is admitted by the honorable chairman of the Committee on Finance himself to be an objectionable precedent in legislation, what he seeks to defend merely as a temporary expedient of the moment, what he would not defend for one instant if the measures which are proposed to be tacked to this bill were not such measures as his own political principles would lead him under other circumstances to advocate. I have no special objection myself to many provisions of the tariff amendment in this bill, but I say, with the honorable Senator from Delaware, if I approved of every word and line contained in them, I would still deem it my duty to resist this mode of passing them. It is obvious to us, Mr. President, that if we once accede to this, the legislation of the country will no longer be the legislation of both branches of Congress, but will be the legislation of the Finance Committees of the two Houses of Congress. It is obvious to all, that whatever measure a majority of the Finance Committee of either House may agree with the Finance Committee of the other House to press through, will be pressed through, regardless of all consequences, and those who may feel opposed to those measures, will have thrown upon them the alternative, either of defeating the appropriations necessary for the ordinary business of the country, or of yielding to the agreement between the Finance Committees of the two Houses. Up to the present time, there is scarcely a general subject of important legislation that is brought into these appropriation bills. Why should we depart from the usual course? Let us look at the danger of this, as it is exhibited to us at the present Congress.

Cast your eyes to the vote given in the House the other day upon this very civil and diplomatic appropriation bill. With a large majority in both branches of Congress in favor of what is called the French spoliation bill, an attempt to tack that to this bill was voted down in the House, voted down by its own friends upon the ground that it was improper to attempt to force the President to sign that bill by threatening him with withholding the appropriations if he did not. And yet, some of the very men (whose action I most heartily concurred in and I most heartily approved of) who voted against putting that appropriation upon this bill upon the ground that it was a violation of precedent, that it was subversive of all just legislation, and of the constitutional rights of minorities, voted to put a general tariff bill into the civil and diplomatic appropriation bill of the country!

Now, Mr. President, what is all this except what the honorable Senator from Delaware has said, a combination of interest to defeat considerate legislation upon any subject, and to put the legislation of the country at the mercy of the Finance Committees of both Houses? Why, sir, it is the old question which lies at the very foundation of your own Revolution. It is that the interests of the country are determined upon without representation, and without the right of discussion, without our being heard upon them, without the slightest opportunity to examine or debate them.

I believe, sir, that an adjournment will be productive of good; I believe gentlemen will think over the matter; I believe when they get home in quiet they will ask themselves how they would like a measure of this kind forced upon them under such circumstances. If the majority here is in favor of this particular legislation now, the members of that majority may each in turn find himself in the minority upon some other question. I do not believe, I cannot bring myself to believe, that the Senator from Virginia will so far depart from those principles which have hitherto marked his legislative action; will so far violate all that propriety and consistency of legislation of which he has been the most distinguished advocate upon this floor, as to persist in the course which he has thus far recommended to the adoption of the Senate. I move that the Senate adjourn.

The motion was not agreed to; there being, on a division—ayes 14, noes 22.

The PRESIDENT. The question now is on the motion of the Senator from Arkansas, that the Senate take a recess until six o'clock.

Mr. JOHNSON. As I perceive that there is much opposition to the motion, and that all the young Senators are opposed to it, except myself, I withdraw it.

The PRESIDENT. The Senator from New York is entitled to the floor.

Mr. TOOMBS. I hope the Senator from Arkansas will renew his motion for a recess. I will vote for that, though I cannot vote for an adjournment at this time.

Mr. JOHNSON. I should have preferred to have the motion made by a greater and wiser member of the body. I feel able to sit here until twelve o'clock to-morrow, if necessary, but as the Senator from Georgia has requested me to renew the motion, I do so.

Mr. BRODHEAD. I move that the recess be until seven o'clock.

Mr. JOHNSON. My motion is six o'clock.

The PRESIDENT. The Chair will put the question first on the longest time. The question is on taking a recess until seven o'clock.

The motion was not agreed to.

Mr. JOHNSON's motion was agreed to—ayes 17, noes 16; and the Senate accordingly took a recess until six o'clock.

EVENING SESSION.

The Senate reassembled at six o'clock.

SMITHSONIAN INSTITUTION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Smithsonian Institution, communicating the ninth annual report of the Board of Regents of that Institution; which was ordered to lie on the table and be printed.

A motion by Mr. BRODHEAD to print ten thousand additional copies of the report, was referred to the Committee on Printing.

HORATIO RAGAN.

The Senate proceeded to consider the following resolution, which was submitted by Mr. CLAYTON yesterday:

Resolved, That Horatio Ragan be continued in the service of the Senate under the authority of the Sergeant-at-Arms, until the further order of the Senate.

Mr. WELLER. I understand that is simply to continue one of the pages who has reached the age of sixteen.

The resolution was agreed to.

PER DIEM OF SENATORS.

The Senate proceeded to consider the following resolution, which was presented by Mr. SEWARD on the 26th ultimo:

Resolved, That the Secretary of the Senate pay, under the direction of the President of the Senate the usual *per diem* to such Senators as did not take their seats at the opening of the session by reason of sickness of themselves or families, providential causes, or necessary business.

Mr. CLAYTON. I move to strike out "or necessary business." That is necessary to make it conform to the usual course of procedure.

Mr. SEWARD. If a Senator appears here on the first day of the session, goes away on the second, and comes back on the last day of the session, as I understand it, he receives his compensation for the full time. There is no record kept, no question raised, but he receives pay for the time that he was absent between the period when he appeared in the Senate and the period when the Senate adjourns. Now, that being, as I understand, the customary and settled practice of the Senate, I am unable to see why a Senator who is delayed by necessary business, one day, or two, or three, or five, or ten days, at the beginning of the session, shall forfeit his pay, when, if he came on the first day, and left, and was absent the same length of time, he would receive it. I see no reason for that. It is best to be consistent, and either reform our practice of paying absentees at all, or else make it consistent at all times, under all circumstances. I submit to the Senator from Delaware that it is a distinction without any degree of difference.

Mr. CLAYTON. There is no law for paying any man who stays away upon his own business. The object of this resolution is to make a law to allow a man pay while he is at home attending to his own affairs. That is unexampled. No such a law as that has ever been passed, and I hope it will not pass now.

The PRESIDENT put the question, and declared that the amendment was agreed to.

Mr. SEWARD. I call for a division.

Mr. BRODHEAD. I hope my friend from Delaware will withdraw his amendment. We have pretty hard work and poor pay as it is.

The PRESIDENT. There is not a quorum present.

Mr. ADAMS. Before the vote is taken, I beg leave to call the attention of what few Senators are here, to what I understand from the Senator from Delaware to have been the custom heretofore. I understand him to propose to amend the resolution in conformity with the resolutions which have heretofore been passed on this subject. I think we have made a sufficient number of innovations at this session of Congress, being the short session, without making any more. Why that provision should be put in there, I am unable to see. The Senator from New York called upon the Senator from Delaware to give some reason why it should be stricken out. I expected, as a matter of course, that the Senator from New York would give some reason why it should be put there; but he does not. There is no good reason that can be given—none, except he says that Senators come here, their arrival is announced, their names are placed upon the Journal, and if they go away and remain for a time, no account is taken of that, but they receive their full pay. Is that any reason why that provision should be put in there? I cannot see it. All Senators who have once arrived, are presumed to remain here, unless the Journal shows their absence. I care nothing about this thing; but I think the language was made broad enough to cover any case before it came to embrace that general term; and inasmuch as it is not in accordance with the resolutions which have heretofore been passed, I prefer that we should continue to be governed by those resolutions.

Mr. BRODHEAD. I appeal to my friend from Delaware, who is a very liberal gentleman, to withdraw his motion. I apprehend we have pretty hard work to earn our pay, and sometimes we receive no thanks for our services here.

Mr. TOOMBS. This is a small matter; but we should have a full Senate here. I think we ought to have a call of the Senate.

Mr. WELLER. That has never been done here.

The PRESIDENT. There is no rule authorizing a call of the Senate. Does the Senator from Delaware withdraw his motion to amend?

Mr. CLAYTON. No, sir; but I will state that a man who does no work, ought not to have any pay. I think that the one who stays at home attending to his business, working in the courts or attending to anything that keeps him away, ought not to be paid by the Government. Let him pay himself. The other part of the resolution is perfectly unexceptionable. I know that we are very poorly paid; but let us only take what we are entitled to.

Mr. WELLER. I think the argument of the Senator from Delaware would require that we should go a step further, and that, whenever a Senator is absent from his seat, upon professional business, his pay should be stopped. He refuses to pay Senators who are detained by business until some weeks after the session commences. I can see no reason, which would exclude them from receiving their pay, that would not apply with equal force to a Senator who leaves his public business, and goes home to prosecute his private affairs. Every body knows that that is the practice with Senators who reside in States adjacent to the District of Columbia; and I apprehend that unless they did avail themselves of this privilege, they would find, at the termination of the session, that they had been great losers by serving the public.

Mr. ADAMS. I beg leave to call the attention of my friend from Delaware to the fact, that my position was taken upon what I understood him to say; but I now understand, from the Secretary, that the resolution, as introduced by the Senator from New York, is in the language of a similar resolution of last session, so that it is not, as he supposes, introducing a new feature.

The PRESIDENT. The question is on agreeing to the amendment of the Senator from Delaware.

Mr. SEWARD. The Secretary is looking for the former resolution, to see whether it is similar to this. I understand that the one which I introduced was exactly in the words of the resolution which passed at the last session. It was not my intention to enlarge or diminish it. The Secretary is looking for it, and we shall be advised as to the matter.

Mr. ADAMS. I will read from the Journal the resolution of last session:

"Mr. GWIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

"*Resolved*, That the Secretary of the Senate pay, under the direction of the President of the Senate, the usual per diem to such Senators as did not take their seats at the beginning of the session by reason of sickness of themselves or families, providential causes, or necessary business."

I see this is in exact conformity with it.

Mr. CLAYTON. And so you consider that the example of last session is made a precedent for to-day, and this will be made a precedent for all time to come.

Mr. TOOMBS. This is picayuning on a very small scale. Last session I took the money to which I was entitled; and I think Senators who do not get here at the beginning of the session ought to have it. There is no difference between them and Senators who come here the first day and the next, and then go off for ten days. The resolution is right in itself. If the amendment be agreed to, the injustice will be done of paying Senators while absent in the middle of the session, and refusing to pay those who were a few days late in taking their seats, on account of necessary business.

Mr. CLAYTON. It is picayuning on a very small scale for a man to put in his pocket money that he never earned. That is picayuning on a small scale. Those who choose may take the money; I will not.

Mr. SEWARD. On the 2d of August, 1854, a resolution passed the Senate *nemine contradicente* in the same words as are contained in this resolution. Nobody objected to it. The honorable Senator from Delaware was a member of the Senate at that time, and he raised no question about it.

Mr. CLAYTON. I never heard a word of it.

Mr. SEWARD. Then the honorable Senator was away, and took pay when he ought to have been here to protect the public Treasury. [Laughter.] The records will show that the Senator was paid eight dollars for August 2, 1854, and has that money in his pocket.

Mr. CLAYTON. And was well entitled to it for faithful service when here.

Mr. SEWARD. But the Senator was absent, and did not make objection to that resolution, or he was present, and was not faithful to his duty. If he was absent he ought not to have received the money.

Mr. CLAYTON. I did not hear anything of such a resolution.

Mr. TOOMBS. The remarks of the Senator from Delaware require some notice. He talks of men getting money that they have never earned. If he will look to the records he will find that he has been absent from his seat, after coming here at the beginning of the session, and yet received money for the time during which he was absent.

Mr. CLAYTON. No, sir.

Mr. TOOMBS. Was it deducted?

Mr. CLAYTON. Yes, sir.

Mr. TOOMBS. Well, sir, he differs, I presume, from almost every member of the Senate; but it is too small a matter to look into. The question is, whether a man who can get here from his business on the first day, or for the first twenty days, and is absent for thirty, forty, or fifty days afterwards, is more entitled to pay than one who does not arrive here for some days after the beginning of the session? There is not a member of the Senate who does not draw pay when he is not here. From the foundation of the Government to this time no man has ever sat in the American Senate who has been here every day. There has been no such case. It is contemptible to insist on this.

Mr. CLAYTON. Yes, indeed, it really strikes me as contemptible for a man to remain away, say half a session of Congress, and then come here and say, I was at home attending to my farm, or superintending my business, or practising law in the courts, and could not get here, and now I mean to put the public money in my pocket for services that were not rendered. There is no act of Congress that authorizes that to be done. Sir, when a man is sick, or is absent, detained, not by his business, but by causes that are inevitable—for example, when a man's family is sick, or when one of his family is dead, he might be justified in remaining away. I went home for a short time last session, in consequence of the death of a niece, but otherwise I stayed here and transacted my business in the Senate, from the commencement until the close of the session, and received no compensation for services not rendered.

Now, the Senator from New York says that no question was raised in regard to the resolution of last session, and that we ought to be consistent, Sir, I never heard of it. Other Senators never heard of it; but the Secretary found it in the Journal, and handed it to one of the Senators. Then it turns out that a precedent has been adopted. It is not my intention, if the Senate choose to pass the resolution, to interfere with their determination. I only wish to say myself that, having been requested to call up some resolution authorizing the payment to Senators who were necessarily absent upon public business, or who were sick, or who from providential causes, as the resolution says, could not attend here—on hearing it read, the latter clause in it struck me as improper, and I moved to strike it out. I desire to consume no more time. I leave it to the judgment of every gentleman. It is a question of delicacy to be decided by every gentleman for himself.

The amendment was rejected, and the resolution was agreed to.

EXTRA COMPENSATION.

Mr. WELLER. I desire to introduce a resolution in regard to three colored men who are in the employ of the Senate, but receive no compensation. It has been the usual practice of the Senate to give them fifty dollars at least, at the close of the session. The resolution is as follows:

Resolved, That there be paid out of the contingent fund of the Senate to Robert Carter, Henry Dodson, and Cornelius Lee, fifty dollars each.

The resolution was agreed to.

PETITIONS.

Mr. WILSON presented a petition of citizens of Worcester, Massachusetts, praying the repeal of the fugitive slave law; which was ordered to lie on the table.

Also, a petition of citizens of Boston, Massachusetts, praying the repeal of the naturalization laws; which was ordered to lie on the table.

PAGES' EXTRA COMPENSATION.

Mr. WELLER. A resolution was offered the other day by the Senator from Florida, [Mr. MORTON,] who is not now in his seat, in regard to the pages. I ask the unanimous consent of the Senate to offer that resolution now:

Resolved, That there be paid to each of the pages in the service of the Senate, out of the contingent fund, the usual extra compensation heretofore allowed them by resolution of the Senate at the end of the session.

The PRESIDENT. That is in violation of a law passed at the last session.

Mr. WELLER. I am not aware that it is in violation of any law. On the contrary, I know it has been the usual practice of the Senate, at the close of every session, to make the allowance, and I think it has been made by resolution since the law to which the Chair refers was passed.

The PRESIDENT. At the last session the Senator from Virginia [Mr. MASON] reported a bill, which became a law, and which prohibits the allowance of extra compensation to the officers and other employees of the Senate.

Mr. WELLER. I ask that it may be allowed to lie over until I can ascertain how the law stands.

PROFESSOR ESPY'S REPORT.

Mr. PEARCE. I yesterday gave notice to the Senate that I should to-day move a reconsideration of the vote concurring in the report of the Committee on Printing on the subject of printing Mr. Espy's meteorological report. I now ask the Senate to take up the resolution, with a view to vote upon the motion to reconsider.

The PRESIDENT. It will require unanimous consent, as there is another subject before the Senate.

Mr. BRODHEAD. Does the Senator wish to have it printed? I am opposed to printing anything upon that subject.

Mr. PEARCE. I hope the Senator will allow me to give my reasons for it.

The PRESIDENT. The civil and diplomatic appropriation bill was before the Senate when the recess was taken, and that is now under consideration. Any other business can be done only by unanimous consent. The Senator from New York

having the floor upon that bill, the Chair will not entertain any other motion, unless by unanimous consent.

Mr. SEWARD. I have no objection to it.

The PRESIDENT. Does the Senator from Pennsylvania object to the motion of the Senator from Maryland?

Mr. BRODHEAD. I should like to know what it is. If it is to print anything coming from Professor Espy on the subject of meteorology, I am opposed to it.

Mr. PEARCE. A report was made to the Senate by the Committee on Printing, and the Senate concurred in that report without consideration. I believe that most of the Senate did not know—I certainly did not know—what was the subject of the report. It related to the printing of Professor Espy's meteorological report. What I want is, to reconsider the vote by which the report of the committee was concurred in, in order to have it printed.

Mr. ADAMS. I object. Let us go on with the regular order of business.

BOUNTY LAND BILL—BOUNDARY OF FLORIDA AND GEORGIA.

Mr. BRODHEAD. I wish to make an appeal to the Senator from New York and to the Senate. If anybody objects, of course I will yield. A great public measure has come back to us from the House of Representatives, with amendments. I mean the bounty land bill. It has been greatly reduced in its dimensions, and I hope, by unanimous consent, the Senate will take it up, and concur in its amendments.

Mr. PEARCE. I shall be obliged to object, while another motion is pending.

The PRESIDENT. The Senator from New York is entitled to the floor, if he claims it; if he does not, the civil and diplomatic appropriation bill being under consideration, any other Senator can take the floor, or the question will be taken on the pending amendment.

Mr. MALLORY. If my friend from New York will allow me, I will ask the Senate to take up a resolution, which is lying on the table, in reference to printing some public documents, which was objected to a few days since by the Senator from Maine, [Mr. FESSENDEN.]

Mr. SEWARD. I have no objection, if it produces no debate.

Mr. MALLORY. If it will produce any debate, I will consent to let it go over.

The order was as follows:

Ordered, That the Secretary of the Senate cause to be compiled and printed, with the documents of the present session, all the documents and other papers in any wise relating to the boundary line between the States of Georgia and Florida, heretofore laid before either House of Congress, and all reports of committees, and all proceedings and actions of either House thereon, so arranging the same that no papers be twice printed in such compilation.

The PRESIDENT. It requires unanimous consent to consider that order.

Mr. WELLER. I simply desire to ask my friend from Florida what necessity there is for printing all this correspondence? I believe the line has been established. I would like to know the necessity for the publication of this matter at the present time?

Mr. MALLORY. The line has not been established; but if the matter is to be discussed, I must let it go over.

Mr. BADGER. Let it lie over for the present.

Mr. WELLER. I do not wish to be considered as objecting; but I supposed the Senator from Florida could, in a word, answer my question.

Mr. BRODHEAD. With the consent of the Senator from New York, I wish to make another appeal to the Senate to take up and consider the amendment to the bounty land bill. It seems to me there can be no objection to it.

Mr. HUNTER. I would suggest to the Senator from Pennsylvania that he would save time by permitting Senators who wish to look into the bill to do so. My impression is, that there will be no difficulty about it after it has been examined.

Mr. BRODHEAD. It has been published in this morning's papers.

Mr. HUNTER. So far as I am concerned, I am satisfied with it.

Mr. SLIDELL. I must object.

CIVIL AND DIPLOMATIC BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the civil and diplomatic appropriation bill.

Mr. SEWARD. Mr. President, I regard the proposition to incorporate a new tariff system into the civil and diplomatic appropriation bill as one of a revolutionary character. I believe that if we shall suffer the House of Representatives thus to attach a condition, and *such* a condition, to their assent to an appropriation bill, to the principal one of the appropriation bills, we shall establish a precedent which can never be revoked, and which will leave the Senate and the whole Government under the coercive dictation of a majority of the other branch of the Legislature. I think it belonged to the honorable gentleman—the senior Senator from Delaware—to protest against that measure, and to arouse the attention of the Senate. It belonged to him not only on account of his great experience here, but also because the Senate is the body which is necessarily relied on to save the rights of the States, especially of the smaller States, in which class Delaware belongs. I award to him, and also to his colleague, [Mr. BAYARD,] the tribute of my thanks for the fidelity with which they, in the name of their State, have sustained the independence of the Senate in this debate.

Let me state the question. The House of Representatives virtually say that if the Senate will agree that certain modifications of the tariff in regard to wool shall be made for the benefit of the manufacturer of that staple, and will also consent to certain modifications of the tariff in regard to iron, for the benefit of consumers of that metal, chiefly railroad companies, then the President and other executive officers of the Government, civil, judicial, and diplomatic, may receive their salaries secured to them by the Constitution and laws, and the Senators and members of Congress may also receive their legal compensation for their services during the year. But if the Senate will not consent to those modifications, then no officer of the Government however high, no servant of the people however low, shall receive any compensation whatever. Well, sir, as this poor world of ours goes even the laborer in spiritual things claims his "hire;" much more reason is there to suppose that if patriots are denied their pay the public service must stop. If the public service is ended, then the Government itself ceases. This, sir, is the way in which they bring about a change of Ministry in Great Britain. It is proposed to try the same process in this country. I speak, sir, only for myself; but I do not hesitate to declare that I will, if need be, stand here protesting against this innovation until Sunday morning, the 4th of March next, shall come in to relieve all of us of further duties here.

Sir, there is great wisdom, there is Nestorian wisdom in the counsel of the honorable Senators from Delaware. It may be that it is only now a question of relieving woolen manufacturers and railroad builders, but another House of Representatives may give us, in the same form, a question of slavery or a question of freedom, and may seek in the same way to coerce our consent to their policy in that respect. Are you prepared for that? When the precedent shall have once been established, what will protect you against the most unbounded license of assumption by the House of Representatives?

Again, sir, when you shall have suffered the House of Representatives to incorporate a new tariff into the civil and diplomatic appropriation bill, what shall hinder the same power from attaching the French spoliation bill to the naval service bill. Moreover, when the President of the United States shall hereafter veto any bill, a majority of the two Houses, adopting the precedent now to be established, can practically annul the veto by suspending his own compensation and arresting the wheels of the Government.

Sir, I was quite surprised to hear the honorable Senator from Virginia [Mr. HUNTER] say that this measure does not come suddenly upon us; that we cannot plead that it was unforeseen, and, therefore, we are unprepared. It seems a sufficient reply, that this bill was laid on our tables only yesterday, and that we sat here throughout that day and into the night, occupied with other national subjects. There is no member of the Senate who has had an opportunity to examine the bill and to ascertain what is its bearing on even any one, much less on all the hundred interests of agriculture, and manufactures, and trade, which are involved in this measure.

The House of Representatives is without excuse in this matter. We met the House here on the first Monday in December, 1853. The operation of the then existing tariff was as apparent then as it is now. The country looked to Congress then to correct the evils now complained of. We are now just about to part, on the 3d of March, 1855. They have had two years to mature a bill. They have delayed to do it; and now they bring us a bill just as we are ready to adjourn. And when we ask them to examine its details and decide on its merits, they virtually tell us, take it as it is, without altering a figure, or the appropriations for the support of the Government shall be withheld.

What is the character of the tariff project annexed to the bill? Does any one pretend that it has any other design than first to relieve railroad companies, and secondly, to favor the manufacturers of woolens. This is apparent, because the honorable Senator from North Carolina [Mr. BADGER] accepts it as a substitute for his own plan, which is confined exclusively to those two objects. I see no necessity, and even no reason, for adopting either of the two plans, nor for adopting any tariff plan whatever, unless it be one very different from either; namely, a tariff of protection to American agriculture and American manufactures generally. Such a tariff, sir, you will not now propose, nor will it ever be sustained here until you are brought back to it by not an overflowing Treasury, but an exhausted one.

This tariff project visits with severe inflictions two of the greatest interests in the country. First, the protection of iron. The reduction of duty proposed is practically a denial of all protection. Is the iron interest so strong that it can bear actual oppression? On the contrary, there is not a rolling mill for making railroad iron left in operation in the whole country.

The friends of the railroads leave us only the alternatives of this project, or the one that is brought forward by the honorable Senator from North Carolina, [Mr. BADGER,] viz: a credit of three years, without interest or duties, upon railroad iron. That would be equivalent to an entire abolition of the duties; for, at the end of that period, the railroad companies would obtain, without difficulty, an entire remission of the duties. So, in either case, we see before us a destruction of the domestic manufacture of iron for railroads.

Sir, I am one of those who believe that the one interest which this country ought to preserve and cherish, even more sedulously than most others, is the production of iron. I believe that if it were compelled to choose, whether it would surrender mining of gold in California, or mining of iron in Pennsylvania, or in Virginia, it would wisely relinquish the precious metals, and stand fast by the useful and necessary one. It is not gold, but iron, that is the chief agent of civilization. It was the refusal of the liberty to work iron mines, not a refusal of the privilege of searching for gold, that was among the causes of the Revolution which freed the Colonies from British dominion, and insured their independence.

It is not my purpose to go minutely into the details of this project. It would require time to understand them, and time to discover their probable operation. No time is allowed for either purpose. But I think I see plainly one general feature that marks the project, which is, that whatever benefits it offers to manufacturers of any class, it denies such benefits altogether to the iron manufacturer. I have commented on this feature sufficiently already.

There is another feature of the project not any less prominent. It is, that whatever benefit it gives to manufacturers of any class are given at the expense, not of foreign manufacturers, but of American producers of raw materials. There are some manufactures in which salt is used. Salt imported for such use is to be free, at the expense of our own salt manufacturers. Manufacturers of wool are favored, but the wool grower is made to bear the burden from which the manufacturer is released. You propose to reduce the duty on wool to eight cents, which is practically making wool a free article. So something is given by way of favor to the manufacturer of linseed oil, but it is at the cost of the producer of flaxseed. Yet, while we are engaged in such legislation as this—legislation so destructive of mining and agriculture—we are enlarging our borders, and bringing in new

coal-fields, new prairies, and new pasturages. Sir, I can conceive of no caprices in Government equal to this form of statesmanship. We have vast plains in New Mexico, and the mountain slopes of the Rocky mountains, and of the Sierra Madre mountains, recently added to the western prairies, and to the sides of the Alleghany mountains, boundless regions adapted to sheep culture, and here we are proposing to go abroad to buy wool for our own manufacture. Senators tell us that we can raise sheep as cheaply as they can be raised in foreign countries. So we can; and so we can manufacture all fabrics as cheaply, if you leave the element of human labor out of the account. Men are dearer, costlier here than in the Old World. They are so for the reason that they are free, independent men, not mere peasants or serfs.

[Here the Senate took a recess.]

Mr. SEWARD resumed. I have now to say a word about the manner in which tariff laws ought to be prepared and submitted to Congress. I think that heretofore such laws have been prepared by a committee charged with that special duty, and after conference with persons interested in all the various departments of agriculture, manufactures, and trade, and after a careful balancing, so as to equalize the benefits and burdens of the laws as much as possible. I believe that this is the way in which revenue laws are always prepared in the British Parliament. I am quite sure that this was the way which was taken in preparing the tariff laws of 1842, and of 1846. How widely different is the course which has been taken here. This project was suddenly sprung on the House of Representatives within a week of the day fixed for adjournment. No examination has been made, no conferences with the representatives of the interests to be affected have been had. No notice has been given to those interests. The bill was passed in the House without debate, and it is only when the measure has come up before the Senate for its immediate adoption that the parties interested appear before us. I have a letter here from a person in Baltimore who writes to me that he is engaged in the manufacture of bichromate of potash; that that foreign article is subject to duty of twenty per centum, and that by the operation of that duty of twenty per centum, a single manufacturer in this country (for he himself is the only one) has been able to reduce the market price of the article from twenty-five cents to thirteen cents. My informant says that the project before us contains a reduction of the duty to four per cent.

Mr. HUNTER. The Senator from New York is mistaken. It proposes to reduce it to fifteen per cent.

Mr. SEWARD. I am unable to ascertain the operation of the project from the tables. They are complex and obscure.

Mr. HUNTER. I will explain it to the Senator. The schedule in which it is now is twenty per cent. That schedule is reduced one fifth, and that is fifteen per cent.

Mr. BADGER. I would ask the honorable Senator from New York what bichromate of potash is? Some of us do not know. [Laughter.]

Mr. SEWARD. The honorable Senator from North Carolina has presented a striking illustration of my argument. We want time to understand what we are about. I cannot tell him what *bichromate* of potash is.

Mr. HUNTER. I should have said that it will be reduced to sixteen per cent. instead of fifteen.

Mr. SEWARD. When so wise a statesman and so learned a scholar as the honorable Senator from North Carolina is, and when so practical a one as the honorable chairman of the Committee on Finance is, are ignorant, and when I am ignorant, the Senate, I am sure, does not know what they are doing, at least in regard to this one article.

Mr. BADGER. I want to know why the Senator does not understand it. He brings it forward. If he undertakes to found an argument on it, it will be an argument which the Senate certainly cannot understand. [Laughter.]

Mr. SEWARD. That is precisely what I was saying. We take up a thing and engage in discussion, while we do not understand the subject, and allow ourselves no time to examine it, so that it can be understood. Mr. President, we are told by the honorable Senator from North Carolina [Mr. BADGER] that we must adopt either the tariff project before us or his amendment, because the railroad interest requires relief.

This brings me back to the precise question which I discussed here a few days ago. I think, sir, that the restoration of the business of railroad building to a healthy state requires us either to leave it to work out its own cure, or else to adopt a remedy very different from what is here proposed. A remedy which will stimulate production of the raw material and of fabrics by manufacture. Anything short of this will fail to give any tone to the general financial system of the country, now so much deranged. The troubles with which we are contending arose from excessive importations. The project before us tends to reduce duties, and so to encourage and stimulate imports still more. It is a fever of which we are sick. You propose to add fuel to the flame that is consuming us.

Let us look backward for instructions. In 1834, by excessive importations, by an unexampled enlargement of credits, we had brought on great fiscal embarrassments. Property of every kind was depreciated; everybody wanted relief loans; credit was paralyzed. The Bank of the United States exerted itself and gave relief; the crisis seemed to have been passed. Importations were immediately resumed; credit was again expanded. Wheat rose to two dollars per bushel; prices of all descriptions of property were inflated The relief obtained was only temporary. The embarrassments of 1834 returned in 1837, aggravated ten-fold. And then came that fearful convulsion which carried distress and ruin throughout this broad land—distress and ruin from which we have required twenty years to recover. Sir, we, in 1854, just passed through the premonitory symptoms of a crushing pressure, which is to come on in 1857, or some year not long thereafter. Let this not be thought strange. It is near twenty years since the last revulsion. Commercial revulsions come once in twenty years. The circumstances of our condition now correspond exactly with our condition previous to the last revulsion. Government then refused to stimulate production by a tariff of protection, and, on the contrary, stimulated importation. It went on to the bitter end. Government refuses to stimulate production now by a tariff for protection, and gives fresh impulse to importation. The results must, unavoidably, be the same. Those who think otherwise, rely upon the fresh contributions to our currency which are derived from the gold mines of California. I grant that those contributions may delay a commercial revulsion for a time, and may modify and break its force when it shall have come. But they can neither postpone it indefinitely, nor can they break its force, so that it will leave the country harmless. What will be the limits of the influence of those contributions upon commercial revulsions, is mere speculation. After the severe revulsion of 1837, produced by excessive importations, Government returned to a system of protection in 1842, and so restored the prosperity of the country. We shall return to the same policy, for the same purpose, in the present case. The only question is, whether we shall adopt that policy as a preventive, or wait until the distemper has become otherwise incurable. I am for applying protection now. Nevertheless, I stand alone. Congress is not prepared to raise the duties upon imports. All that remains for me, is to do all that I can to prevent the reduction of those duties.

The alleged design of the project before us is to diminish the revenues, and so to deplete the Treasury. But this design is forgotten throughout all the legislation of this Congress. We are increasing salaries, increasing the Army and the Navy, establishing new Territories, paying off public debts before their maturity. Senators need not be anxious to reduce the revenues. The Treasury is likely to be empty soon enough. If, however, its condition shall still seem to be too plethoric, there are objects of public expenditure which cannot fail to command the attention of a just, of a wise Government. We want fortifications upon the Pacific coast, where all our possessions are exposed and absolutely defenseless. We want extensive improvements of our navigable rivers, and of harbors, thereby to reduce the hazards and expenses of inland commerce. We want railroad communications and telegraphic communications between the Atlantic and Pacific coasts, and without them the Union cannot be held together. So long as we are without those communications, California, Oregon, and Washington maintain colonial or provincial relations towards the Atlantic States. Those relations cannot continue long. The Pacific States will be independent of the Atlantic States, or will be equal with them. Senators are accustomed to treat such alarms as chimerical, or, at least, premature. Let all such Senators remember that it required only ten years of discontentedness with colonial relations to produce the separation of these Colonies from Great Britain. The people on the Pacific coast are not more loyal to the Union now than the people of these Colonies were to the British Government at the end of the campaign which added Canada to their number, while it seemed to fortify the British power, and render it impregnable on this continent.

Mr. WADE. Mr. President, I do not rise to debate the general question involved in this discussion, and for the best of all reasons, that I have not had an opportunity to inform myself of the effect of the measure now under consideration. That it is a measure of great importance to the country, no one seems to entertain any doubt. Important questions are always presented when the revenue laws of the country are sought to be changed in any form, because such changes affect the business interests of the Union from one extreme to the other. For this reason, when a change is made, it should be made with the utmost deliberation.

I do not claim to be very conversant with the peculiar principles of revenue and trade, nor very competent, at any time, to inform myself so as to furnish any guide for the action of others; but when I am called upon to record my vote in this body upon so important a question, I must protest against the attempt to compel me to do it without having had an opportunity to investigate the subject, and satisfy my own mind, at all events, in some measure, as to its merits. Now, sir, this proposition, so highly important, reaching into the business of the whole country, has been sprung upon us suddenly. I doubt whether there is a member of either branch of the National Legislature who has had an opportunity to compare it with former tariffs, and to come to a conclusion satisfactory even to himself in regard to its effect and operation. I have always believed, sir, that it was in general the policy of this country to encourage its own industry, and to protect, to a certain extent, its own labor against foreign competition. I have never been the advocate of a high and exclusively protective tariff, but reasonable encouragement should be given, in my judgment, to our own laborers in all departments of industry, rather than to those of foreign countries. I have for a long time acted upon the principle that such a course of policy would be wise and just, and ought to be upheld and maintained by our country. In observing the effects of those restrictions and those tariffs which have, from time to time, been made to regulate the commerce of this country with foreign countries, I have noticed that whenever we had a tariff which discriminated for the protection of our own industry, our country seemed prosperous; the agricultural, the mineral, the manufacturing interests, all seem, on the passage of such laws, to arise from depression, and to flourish. Without minute investigation into the precise mode and manner of the operation, this fact has forced me to believe that there was the relation of cause and effect, that the general prosperity of the country resulted from that degree of protection to American labor which those tariffs have, from time to time, provided. It has always seemed to me absurd that a people possessed, at all events, of a reasonable share of enterprise and ingenuity, and well adapted, so far as I can see, to manufacture everything they want for comfort, convenience, and even luxury, should go abroad three thousand miles to obtain those articles upon which, as it seems to me, they ought to exercise their own ingenuity. I believe there is no man who, in conducting his own private concerns, acts upon the principle which this Government adopts in relation to other countries respecting its labor and industry.

The evil under which we now labor is, as has been well said, an excess of importation, and the consequent accumulation of an immense debt abroad. If this foreign debt for importations of iron and other merchandise were due to our own citizens, I have no idea that it would cause us the

least embarrassment. There is much valuable labor lost by this manner of doing business, if the American people are well adapted to the culture and manufacture of those things which conduce to their comfort and convenience. It would be really a strange state of things, to put a strong case of this kind, if the farmers in the valley of the Mississippi, or the farmers of Ohio, should conceive the idea that they would transport their wheat to New York, there to be manufactured into flour and returned for their consumption. There is not a man who would not say they would be doing a very unnecessary and very foolish thing; and yet, sir, that would be hardly more unwise than it is to carry our flour to England or any other European country, to feed the laborer there who manufactures the iron, and then to bring the iron three thousand miles to be laid on your tracks, when you have all the materials which are necessary to produce the article.

I know it has been said that free trade is the principle which is most productive of benefits and advantages to nations. There is one party who talk constantly of free trade as being a universal principle which every nation should adopt, without any regard whatever, apparently, to its condition and its relation to other nations; while there is another party who contend for high tariffs and restrictions. Now, sir, they may both be right; for, in my judgment, it will depend very much on how the nation is situated in relation to other nations. If the people are necessarily an agricultural people, if they have not skill and enterprise, and the necessary materials, of course they must go abroad for them. If they are essentially an agricultural people; if their genius runs in that direction with such tenacity that it cannot be diverted; or, in other words, if they have not the ingenuity to compete with other nations in manufactures, there is a reason, yea, there is a necessity, why they must be free traders. If they live in a climate where but few things can be produced, while their wants extend to, and embrace, many other articles, it is highly proper that they should endeavor to barter and trade the things which they can produce for those which they wish to consume. But a great people, possessed of ingenuity, of enterprise, and the requisites to vie with all the world, not only in production, but in manufacture, pursue, it seems to me, a very unwise course when they betake themselves to raising nothing but the gross article, and then carrying it abroad, at an expense almost equal to its production, to be exchanged for what they could better manufacture themselves.

But what is the purpose of this bill? I am told, and it is not disputed, that its object is to reduce the duty on everything. I cannot tell how much is embraced in the free list. My idea is, that all those things which we wish for our comfort, convenience, or luxury, and which, from the nature of things, the want of proper soil and climate, or from any other cause, we cannot produce ourselves, should come to us free of duty; such as tea, coffee, spices, and all those things which we cannot, in our country, produce or manufacture for ourselves. Then, sir, no tariff can be called a free-trade tariff which undertakes to discriminate between one class of these articles and another. If you are really in favor of free trade, or of raising just so much as is necessary for revenue, and for revenue alone, why do you not place tea, and coffee, and spices, and a great many other things which might be named, on the same range that you do anything else? It is manifest that those who let these things come in free, are not the consistent advocates of free trade. The tariff of 1846, which has been so much spoken of as a free-trade tariff, was as far from it in principle, as was the tariff of 1842. It discriminated with no kind of consistency. It frequently discriminated against the labor, enterprise, and industry of our own citizens, and in favor of the interests of foreign countries, and in other cases, it discriminated partially, feebly, and fitfully, in favor of our own industry. As I understand it, there was really no principle asserted by it.

But, Mr. President, how is it with the bill under consideration? I do not know anything about it further than I have been informed by those gentlemen who have had an opportunity to compare it with other tariffs, and to ascertain how the general principle is affected by it; but I believe it is conceded on all hands that its object, intent, and effect, are really to reduce that meed of protection which is now afforded to our citizens by the act of 1846. It is enough for me to know that such is the general aim, scope, and intention of the act, for I am a protectionist, and would give protection to every department of industry in the country. First, and most important of all, the farmer, the agriculturist, whose interest I understand, is entirely thrown away and annihilated by the reduction here attempted, I would protect. The great and all pervading interest of that class embracing the most in number—a class which is inferior in no respect to any other in point of intelligence, worth, or any sterling quality—a class that does so much to adorn and build up a nation, should receive our most sedulous and careful attention.

In the next place, all kinds of manufactures should be looked to, but not to build up one interest while disregarding another. I know it has been said that these tariffs operate by way of monopoly, favoring one class at the expense of another. If they do that, sir, I would so modify them that it would be impossible they should have that effect; but I understand that the scope and intention of the measure under consideration is to build up some interests in derogation of others. I understand that the great and growing interests of the manufacture of iron in the various modes and manners of its use, are utterly and entirely disregarded, and are to be prostrated by this measure. I can never yield my assent to that; I can never yield my assent to any such regulation of your tariff as shall build up one particular branch of industry at the expense of another. Your legislation should be like the dews of Heaven—impartial, falling alike upon every branch of industry in this great country. I suppose it would be very difficult to regulate it so that it should operate precisely in the manner that I have stated, but it should always be the intent and purpose of legislation to effect that great object.

Under what circumstances does this great question arise? During this session I have had ample time to investigate such a question as this. Time after time we have adjourned from Thursday to Monday, when I found it very difficult to occupy myself in any laudable occupation, and when, if you had given notice that you were about to interfere with and regulate anew this great subject, I should have taken great pleasure in endeavoring to inform myself upon it, so that if I could not instruct others, I could, at all events, vote with satisfaction to myself. But you failed to give us notice that you had such a thing in contemplation. The measure has slept upon your files or in the minds of men until within a day or two past. I do not know when the bill was placed upon our tables, but I believe not until yesterday or the day before, and at this time of the session we are too much engaged with other matters which challenge our serious consideration to give any attention to these abstruse and abstract principles. On looking into the bill, all that I can see is, that you have taken various articles in table A, B, or C, and transferred them from one to another—you have transposed them from one equation to another, until you have made a problem which I cannot work out. I have no time to compare one table with another to ascertain what they are, and how your proposed alteration will affect them, and I question whether one-half the members of the Senate have any intelligent idea upon the subject; yet we are asked to give our votes, blindfold, for a measure which will affect for weal or for woe an infinity of the great interests of the country. I protest against it. I deplore that we should be driven, upon an important subject like this now, in the night time, and be told the first moment you take up this bill, that it is to be forced through before we shall give "slumber to our eyelids." Here, in the middle of the night, when the bill has just been taken up, when no man has had time to reflect upon it, you give us notice that we must take it, and I know we must. Sir, I see here a stern majority determined to sit sullenly silent until the time comes to impose this upon the neck of an unwilling, an outraged, and an injured people.

Mr. President, I protest against it, but I find no fault with the House of Representatives. In that particular I differ, wide as the poles, from my friend from New York, [Mr. SEWARD.] He has censured the House of Representatives because they have attached this great measure, undigested, and almost without knowing themselves what it contained, to a bill with which it has no congruity and thus they compel us either to take both these measures, with no principle, in common, or to oppose both. It was a bold movement; but I cannot persuade myself that the House of Representatives have not the power, under the Constitution, legitimately to do it. Why have they not the power? Why do we stand here as censurers of the House of Representatives for that which, in the plenitude of their power over this subject of taxation, they have a right, under all circumstances, to do? What says the Constitution of the United States? Does it not deliberately declare that they are the proper tribunal to determine to what degree the people of the United States shall be taxed?

Mr. SEWARD. If the honorable Senator from Ohio will allow me, I would like to ask him a question. If the House of Representatives have legitimately a right to attach a tariff to an appropriation bill, especially such a tariff as this, what kind of a bill have they not a right to attach to an appropriation bill, and is there any subject which they cannot attach to it, and so enforce the passage of a measure upon the Senate, however odious it may be?

Mr. WADE. I am not embarrassed, Mr. President, with the question of the Senator. Under the Constitution of the United States, the House of Representatives have full and plenary power to originate all money bills. It was the determination of those who framed the Constitution of the United States that the House of Representatives should be the body in which taxation should commence; yea, sir, and be controlled from the time it was commenced until it was finished. Why did you go into the Revolution? Was it not, as much as anything else, because representation and taxation did not go together? Was it not the chief reason why our forefathers rose up against the power of Great Britain, that she claimed the right to tax the Co'onies while they were not represented? How would it have been if they had given us here in the Senate of the United States the power of taxation? What equality would there have been? Great Britain never proposed a measure by which she would have governed a Province on principles more tyrannical. Why, sir, how are we composed here? My friend from New York represents more millions of men than the Senator from Delaware does hundreds of thousands; and yet, if I understand him, he would insinuate that the same power which exists in the House of Representatives over the great subject of taxation ought to be possessed here with this imperfect, partial, fitful, representation. In some cases it is scarcely any representation at all.

A SENATOR. It would destroy their sovereignty.

Mr. WADE. Yes, sir; it would amount to a veto upon their rights. We have the right to amend money bills if we please; but, under the Constitution, the House of Representatives have the sole power to originate them, and to say to what extent their constituents shall be taxed. The power was placed there because in that body there was known to be a proper, not a partial and dependent representation of the people of the United States. They are not like petty German sovereignties, with a duke in one place, and a marquis in another, possessing kingly power, and claiming an equality with an Emperor. I say, it is absurd and ridiculous to deny that power, and our forefathers were guilty of no such inconsistency. In forming the Constitution they intended that if strife should arise between the two bodies, those who had the constitutional power to originate these bills should have power to do it upon just such conditions as they saw fit to attach to it. They who have jurisdiction over the whole matter must always have jurisdiction over all its parts. If they should say, we will raise no tax at all, you might complain of that as revolutionary, though the Government could run on for five years on what has already been given. [Laughter.]

Mr. SEWARD. I hope I may be allowed to ask another question. Does the honorable Senator pretend that it would be legitimate for the House of Representatives to attach to an appropriation bill a provision for the admission of a State into the Union, or that a State should be rejected?

Mr. WADE. I have already answered the

question. I know of no limit to the power which the Constitution places in the House of Representatives over the subject of taxation. They are sovereign, independent, and can attach just such a condition as they see fit. In my judgment, the case supposed by the honorable Senator is not such an extreme case as it may appear to some. Nothing is more probable than that just such a case will arise; and God forbid that I should throw out an intimation here that I will not stand by them, if such a case, in the course of human events, should occur. They have the right to say to you, and the State, receive this or receive nothing at all; and if such a state of things should arise, I should stand here contending for that power with the same firmness and boldness as now. If such a state of things should come, you may then look back through the columns of the Globe to ascertain my consistency, and you will not find me shrinking from the doctrine which I put forth to-night. I am exceedingly sorry to hear my friend assert a doctrine that he may find his constituents will compel him to go counter to hereafter. Aye, sir, the House has the right to attach any condition, and we have no right to complain, though we may say, as I now say, that it would have been more generous and fair to have acted differently. We, as a coördinate branch of the Government, have the power to negative what they do in this particular, and we may no doubt suggest to them defects in the propositions which they submit to us; but if they stand upon the Constitution and their right under it to originate these bills, I say again they may do it upon just such conditions as they please; I do not think that, in the exercise of that power in this case, they have used it very wisely; and I only contend for their sovereign rights, and we are not to be their censurers; because, upon this subject of taxation, they are greater than we.

I wish, sir, that they had sent up this bill at an earlier period of the session, for it would have given me great pleasure, as I intimated before, to investigate it, at least so far as to satisfy myself how the proposed measure would operate. But now I am asked to "go it blind." I know nothing about it, except that there is hardly an interest in the whole range of this country that is not threatened with serious invasion by a measure which has been brought up here, and about which I know nothing.

A SENATOR. Then you are a "Know-Nothing."

Mr. WADE. Sir, I find many gentlemen here, who, judging from their apparent information upon this bill, justly come under the category of "Know-Nothings." I find scarcely two who agree as to what the bill contains, or what articles are affected by it, or how they are affected. They say here is class A, with a certain amount of duty; class B is to be transferred; and so they are carried backward and forward. It is complex; it is difficult for an unsophisticated man, so dull of apprehension as myself, to understand how it is to operate. I suppose there are some so keen that all the complex, intricate, and recondite subjects are to them as clear as noon-day, and beam upon their luminous minds by a kind of intuition, for by no other means could they be enlightened upon it now, when there is no time to examine it. The Committee ought to understand the subject, because they have had it under consideration for a little time; but, in regard to it, the body at large know scarcely anything at all, and I gather this from what they have said.

I protest against this measure. I am opposed to reducing duties and withholding even that miserable meed of protection which our industry now receives. I see that it is fraught with great and serious evil. I see vast numbers of men thrown out of employment, laboring under hardships and difficulties which appeal strongly to the feelings of every man who has any compassion, to afford them some measure of relief and protection, or at all events so to regulate his conduct here as not to aggravate that which is almost insupportable now. Mr. President, I understand this is about to be done; but it is enough for me to say that I must oppose your proposition though it may be a good one. Why, sir? Because I do not know that it is a good one. If you had time and opportunity, perhaps you might show me that it is a most beneficent measure, and that its continued operation will be beneficial to the whole country; but you have not the time and opportunity; you have brought it on at a period when it is impossible that we can understand it; and when an important subject like this is involved, I can never vote for a measure which I do not, at least, think I understand. I know that as regards this measure I am altogether unprepared to say what its effect and operation will be, and therefore I must give my vote against it.

Mr. WILSON obtained the floor.

Mr. BENJAMIN. If the Senator will allow one moment, I wish to ask the Senator from Virginia a question. I am endeavoring to get an understanding of the bill. At the bottom of page 63, in the fifth section, I find that "slabs or sheets unmanufactured" are transferred to schedule H. I should like to know what they are?

Mr. HUNTER. That is india rubber slabs or sheets unmanufactured.

Mr. BENJAMIN. Then the bill is punctuated wrong. There is something wrong about it.

Mr. HUNTER. The bill may be punctuated wrong, but that is a venial error.

Mr. BENJAMIN. That is india rubber, is it?

Mr. HUNTER. Yes, in slabs or sheets unmanufactured.

Mr. BUTLER. It is very elastic.

Mr. WILSON here addressed the Senate. His remarks, withheld for revision, will be found in the Appendix.

Mr. BRODHEAD. I do not design to occupy the time or attention of the Senate long. I take the floor now for the purpose of asking for a division of the question on the amendment of the Senator from North Carolina. It seems to me that it has a double aspect, and there ought to be a division of the question upon it. I will thank the Secretary to read it.

The Secretary read the amendment.

Mr. BRODHEAD. It will be perceived, Mr. President, that the first part of the amendment is intended to benefit the projected railroads of the south and southwest, and the latter part is intended to benefit the manufacturer in New England. Pro-slavery and Abolitionism! Pro-slavery, and Know-Nothingism! I congratulate our southern friends upon their new and accomplished allies in the pursuit of free trade. My friend from Massachusetts undertakes the advocacy of this proposition, and he intimates—old Massachusetts intimates—that the idea of protection is to be forsaken. This is the first time we have heard it from that quarter for a very considerable period. I know that it originated there; and so did the slave trade. I know that the slave trade originated there, and they made a similar bargain with the South to continue it, which is now proposed. I regret this state of things, because, as the Senator from Massachusetts has intimated, there are to be measures coming up from the House of Representatives during the next session, which he does not want to have arrested in the Senate. I suppose he alludes to the restoration of the Missouri compromise.

Mr. WILSON. I made no allusion of that kind.

Mr. BRODHEAD. I understood my friend from Massachusetts to say that the next House of Representatives would be composed of different political materials.

Mr. BUTLER made a remark in an undertone.

Mr. BRODHEAD. I admire the candor and gallantry of my venerable friend from South Carolina in defending the Senator from Massachusetts upon this question of free trade. I will not do my friend from Massachusetts any injustice by misstating his position; but he did say, as I understood him, that the next House of Representatives was to be composed of different political materials from the present. What does that mean? Why, sir, that the political majority there will go for the repeal of the fugitive slave law and the restoration of the Missouri compromise; and then, when such propositions as those come up to the Senate from that House, he would be consistent, and would vote for such a measure upon the civil and diplomatic appropriation bill, and appeal to his position here this evening as a precedent for his course. But, sir, he looks further. He looks into the future. I understood him to say, the other day, and to intimate this evening, that we must come to some more liberal commercial policy, something like free trade and direct taxation, and I think I can see the reason for it. I understand why Massachusetts is changing her position. There is something like $1,400,000,000 worth of negro property in the southern States, and when we come to direct taxation, a large amount will fall on that kind of property. I can understand why the people of Massachusetts, who feel so much upon the question of slavery, are willing to yield up the policy which they have so long advocated, of protection to manufactures. Why, sir, they have been protected until Lowell and other towns have been built up throughout the State, and now they want further protection by having the latter clause of that amendment adopted, so that their dye-stuffs and wool for manufacturing establishments may be admitted free of duty. They are willing to contract with those who are making railroads in the southern country for the purpose of accomplishing it. Is this the way to legislate? It is unwise, it is impolitic, it is uncalled for by the exigencies of the Treasury. I know that we have a redundant Treasury at present; but, as I undertook to show this morning, it will not continue so long; under the operation of the legislation which has been recently going forward, it will soon be depleted. There is the increase of the Army to the extent of four regiments; that will be about $4,000,000 a year, I think. There is the increase of the Navy—the building of six frigates, costing $1,000,000 each, and seven sloops of war, $500,000 each. There is the payment of the Texas creditors, $7,750,000. Then there is nearly $1,000,000 per annum to the Collins line. This is the way you spend the public money. On the other hand, there is a falling off of $6,000,000 in the receipts from the public lands, and $1,500,000 under the reciprocity treaty; and all for the purpose of aiding New England in carrying on her manufactures, and admitting her breadstuffs free, in large quantities, from Canada. As I showed this morning, she can, if necessary, gain the admission of coal free of duty from the British Provinces—the only kind that can enter into competition with the coal of Pennsylvania. So it is with fish, and many other articles. New England was never better provided for. I congratulate New England upon the skill and ability with which she has been able to manage the legislation of this country for her own benefit. If she can succeed in this—I will not say by an arrangement, I will not say that there is any bargain among honorable Senators, but there is a community of interest; they have a like interest; they put that and that together—if she can succeed in getting wool and dye-stuffs free of duty; and if, at the same time, though her railroads are built, and she does not want to build many more, or does not want to lay down a double track, she can disregard the great iron manufacturing interests of the country, and give railroad iron, and all other iron free of duty, to the southern country, for the purpose of making railroads, it is decidedly her interest to do it.

But I think that this amendment to the civil and diplomatic appropriation bill is entirely out of time. It is out of place. It is revolutionary. I think it is the most revolutionary proposition that I have ever heard advocated in the Senate. It furnishes a bad example. It is a precedent which will hereafter rise up against southern gentlemen.

"The evil that men do lives after them."

And this will live after us.

"We but teach
Bloody instructions, which, being taught, return
To plague the inventor."

Let me tell southern Senators that, if they agree to this proposition, there is danger that hereafter the ingredients of the poisoned chalice may be commended to their own lips.

Mr. President, I do not wish to occupy the time of the Senate; but Senators will excuse me for feeling a deep interest upon this subject. It is one in which those whom I have the honor in part to represent feel a deep interest, and, therefore, it is one on which I cannot be insensible.

Mr. WILSON again addressed the Senate. His speech will be published hereafter.

Mr. BROWN. I have no purpose to engage in a general discussion of the tariff on this amendment, and but for the remarks of my friend from Pennsylvania, whose opinions I am accustomed to respect, I should have been silent. The other day I felt a little galled when we had up the railroad iron bill, that the Senator should, as I thought, very unnecessarily have lugged in the slavery question, and intimated to us that, unless we of

the South, whose opinions were well known and well defined on the tariff policy of the country, should more accurately accord with his than we were likely to do, hereafter on the subject of slavery we should not receive that cordial support from certain portions of the North which we have been accustomed to receive; and to-night we have the same lesson read to us from the same source. I confess, Mr. President, that I am growing a little restive under this. I feel thankful to my friend from Pennsylvania for what I concede to have been his stern and steady support of our constitutional rights; but I never dreamed that we were to be placed under special personal obligations to him or to any one else for the course which they pursued here. We have assumed and maintained that we had rights under the Constitution; and the Senator, concurring with us in that view, has come manfully up to the support of those constitutional rights; but I never for a moment dreamed that we were to pay a consideration for support like that. I did not suppose that because that Senator, or any other northern gentleman, chose to support us on the subject of slavery—giving to us simply our constitutional rights, nothing more, for that is all we have ever asked—we were to be required, on the other hand, to surrender something to the North. I confess, Mr. President, I did not listen with much composure to the appeal of the Senator, when he said, with emphasis, that he congratulated us of the South that we were found in company with the Senator from Massachusetts, [Mr. WILSON.]

The Senator from Massachusetts comes here heralded with certain antecedents which are exceedingly distasteful to me and to the whole South; but I believe my friend from Pennsylvania claims to be a Democrat; and pray, sir, in what company, upon this subject, is he caught? A Democrat, standing up in the Senate to-night, and appealing to the policy of the Clays and Websters of days that are gone by—to the old fashioned protective tariff policy of the country, palpably in the teeth of the whole Democratic policy of the land. When he congratulates me that I chance to be found on this occasion in company with the Senator from Massachusetts, I ask him where is he found?

Mr. BRODHEAD. My friend from Mississippi misunderstands my position.

Mr. BROWN. I hope so.

Mr. BRODHEAD. I have not been appealing on my own behalf to that policy. I alluded to the change in Massachusetts on that subject. What I complain of is, that my friends from the South now strike at the Democratic principle contained in the act of 1846, by special legislation for railroad corporations.

Mr. BROWN. As to the change of policy in Massachusetts, I am as proud to see it as any one can be. I am very glad that a change has come o'er the spirit of the dream of that State; and now, since she has commenced reforming, I trust she will carry the reformation clear through, and get right by and by on the subject of slavery, as she seems to have got on the subject of the tariff. We ought not to be taunted because a solitary Senator from Massachusetts, entertaining extreme views on the subject of slavery, happens to coincide with us on the tariff. Where do the Senators on the other side of the Chamber stand? The Senator from New York, [Mr. SEWARD,] the Senator from Ohio, [Mr. WADE,] the Senator from Connecticut, [Mr. GILLETTE,] and the Senator from Maine, [Mr. FESSENDEN,] all entertaining extreme views on the subject of slavery, where are they? Cheek by jowl with my friend from Pennsylvania. Why, sir, the only man in the whole crowd that we have captured is the Senator from Massachusetts. [Laughter.]

Mr. SEWARD. I hope that the honorable Senator does not intimate that I entertain extreme views on the subject of slavery. [Renewed laughter.]

Mr. BROWN. Oh no! everybody knows that the Senator from New York is exceedingly moderate on the subject of slavery, [laughter;] but he has a marvelously queer way of expressing his opinions.

I said in the outset that I did not mean to discuss the subject of the tariff. I do not conceive that we have any time, even if it were necessary to do so; and now I am free to say that I think this tariff movement is out of place; but since it is here, I shall vote for it, because I will record no vote here or anywhere else other than that which I shall record if I vote to retain this provision. I should infinitely have preferred to see the tariff stand by itself, and not have it forced upon us or upon a reluctant Senate, or even upon a reluctant minority in the Senate, in this way; but if it shall please a majority to pass it in this form, let it be so. I do not sympathize with the declaration made on the other side, that there is anything revolutionary in this. The same thing has been done before. That has been very well shown by the Senator from Massachusetts. Even the Senator from New York, who complains of this thing as being revolutionary, voted for the river and harbor bill as an amendment to the civil and diplomatic appropriation bill, and that was certainly as much out of place on an appropriation bill as this can be. But I think, myself, that a bad example is more honored in the breach than in the observance. I am not wedded to this movement. I do not think it a fortunate movement; and I have several reasons for thinking so, which, perhaps, it would not be altogether prudent to express on this occasion. Certainly, there is no necessity for expressing them.

Mr. BAYARD. I understood the Senator to state that such a thing as is proposed by this bill has been done before—not that individual Senators have attempted it, but that it has been done before. Will he be kind enough to state to me, in the history of the country, one instance in which, on the civil and diplomatic appropriation bill, a general system of legislation, in reference to any interest, has ever passed both Houses?

Mr. BROWN. I have not the precedents at my finger's ends; but we all know that the system of "tacking," as it is termed in parliamentary language, has been going on for years.

Mr. HUNTER. I can furnish the Senator with an instance, which occurred in the act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th day of June, 1847, and for other purposes, which was approved August 10, 1846. In that bill is found this provision:

"And in appraising all goods, at any port of the United States, heretofore subjected to specific duties, but upon which *ad valorem* duties are imposed by the act of the 30th of July last, entitled 'An act reducing the duty on imports, and for other purposes,' reference shall be had to values and invoices of similar goods imported during the last fiscal year, under such general and uniform regulations for the prevention of fraud or undervaluation as shall be prescribed by the Secretary of the Treasury."

Mr. BRODHEAD. That was not a revision of the tariff.

Mr. BUTLER. My friend from Delaware made a remark to which I will interpose an answer. I did not intend to take part in this debate, but I say that the southern portion of the members here have always protested against using the appropriation bills as vehicles to carry out favorite measures. My friend from Delaware has asked very emphatically whether we can point to a single instance——

Mr. BAYARD. Of general legislation.

Mr. BUTLER. That is a qualification.

Mr. BAYARD. It is what I asked.

Mr. BENJAMIN. That was the question.

Mr. BUTLER. I recollect that, to an appropriation bill, a late Senator from New Hampshire [Mr. Hale,] offered as an amendment a provision to abolish flogging in the Navy, one of the most important measures, almost without exception, in the opinion of naval officers, that has ever affected the Navy of this country, and destroyed its discipline. What had that to do with an appropriation bill? Was not that pretty general? It was agreed to against the protestation of nearly the whole of us; and yet my friend says there has never been a single instance of such legislation. I have never been in favor of this tacking of one thing to another, in order to carry them all through; or of using an appropriation bill as a great omnibus to carry the favorite measures of gentlemen who happen to be in a majority in the Senate.

But since the subject has been discussed—and I protested against it—I will ask gentlemen who are so much opposed to this as a precedent, to answer me one question; and if they will answer it, it will have a very important influence upon my vote. The position has been taken by the honorable Senator from New York, and, I believe, by others, that if this is established as a precedent, it will be one that will be resorted to in the House of Representatives, and one in which they can take refuge for an indicated measure which is to come up at the next session. Now, will that Senator, or will any of those other Senators tell me that, if there is a party in the House strong enough to carry that measure upon an appropriation bill, they will not vote for it? I ask them to say so in the face of the Senate.

Mr. BROWN. I have very little more to say. I was proceeding to remark that the business of tacking, as it has been termed, has been growing upon us for years. It is, as every one must know, clearly in violation of true parliamentary law. Every subject ought legitimately to stand upon its own merits. When you commence tacking them together in this way, there is no telling where it is to stop, but by and by one bill will be made to contain the whole legislation of Congress. It was for this consideration, I said, that this thing was not at all to my taste at the beginning; but I am not responsible for its being here. It was put in by the House of Representatives, who have the taxing power, and who alone have the power to originate taxing bills. They sent it to us in this form; and now the question is, whether we shall strike it out. A vote to strike out would seem to indicate that we were opposed to the thing itself. I am not opposed to it. I am decidedly in favor of it; and I only mean to express my conviction that I should have preferred to vote for it in another form—as a separate and distinct bill. I see ahead precisely what has been foreshadowed by my friend from South Carolina, that this is to lead to consequences more potential in the end than the mere passage of this tariff bill. A bad example is more honored in the breach than in the observance anyhow; but when, by following it, it may lead to serious consequences in the future, and present a state of things in which you must stand at a disadvantage, it seems to me the sooner you beat a retreat the better. Suppose the House of Representatives put something upon the civil and diplomatic appropriation bill which shall be exceedingly distasteful to a majority of the Senate, and they choose to stand out obstinately in favor of their position, where are you to stand? Are you to take the ground that the thing is in violation of parliamentary law, if you stand up for this proposition, now, in its present form? There is at least a point gained by being right on the record on a question of this kind. So I have felt from the beginning. The measure was not presented in its present form after any consultation with me, nor did I know that it was to come up in this form. But now that it is here, I must vote either to retain or to reject it. If I should vote to reject it, it would seem that I was voting to sustain the tariff as it now is, and I am not for that; if I vote to retain it, then I set an example which is to embarrass us hereafter. Without pursuing the subject further, Mr. President, I suggest, with great diffidence, and with great deference, that it would be better for those of us who are in favor of the measure, and opposed to the motion of the Senator from Delaware, by common consent to let it go off. It is out of place; and we cannot sustain it.

Mr. JONES, of Tennessee. I apprehend that it is the intention and wish of the Senate to close this debate if they can; and it occurs to my mind that there is a mode of reaching it directly. The great question of debate is not upon the amendment which is immediately pending before the Senate, and which was offered by yourself, sir, [Mr. BADGER in the chair,] but upon another proposition altogether, and that proposition is the bill as it came to us from the House of Representatives. I rise to ask leave to withdraw your amendment, and let us take a direct vote upon the abstract proposition of striking out the tariff sections of the bill. If the Senate does not mean to strike them out, then your amendment is in order. If it means to strike them out, let it do so, and then this whole debate will be at an end. I ask, you, sir, if consistent with your own feelings, to withdraw your amendment, and let the Senate come to a direct vote upon the proposition of the Senator from Delaware.

Mr. CLAYTON. I hope so.

Mr. BRIGHT. The Senator from Tennessee has anticipated me in part. The question now is on the amendment offered by yourself. If the wish of the Senator from Tennessee be complied with, and that be withdrawn, we shall come to a

direct vote upon the amendment of the Senator from Delaware, which is to strike out so much of the bill as revises our present tariff system; and upon that I desire to say a few words. I am in favor of the principles contained in that part of the bill.

Mr. BADGER, (occupying the chair.) If the Senator will permit me, without leaving my temporary occupancy of the chair, I will state that I have no desire to embarrass the Senate. I concur entirely in the views suggested of bringing the Senate to a vote, and I very cheerfully withdraw my amendment.

Mr. BRIGHT. Then the question is on the motion of the Senator from Delaware, to strike out all that relates to the revision of the tariff. I was about to remark that I am in favor of the principles contained in that bill; and as a separate and independent proposition I will vote for it. I do not feel that in voting for the motion of the Senator from Delaware I shall, in the least, compromit my principles upon that subject. This provision was, as I understand, ruled out of order in the House of Representatives as an amendment to the civil and diplomatic appropriation bill—and very properly ruled out. If it had been offered in this Chamber as an amendment to the bill, I ask if there is any Senator, occupying the chair, who would not, under the 30th rule of the Senate, decide it to be out of order? If that be the fact, why should we hesitate for an instant to disembarrass this, the most important bill of the session, and get to legitimate legislation? One thing is very apparent. If we continue to debate this important subject, embracing great and diversified interests, no more business will be done this session. I am only surprised that my friend from Virginia, [Mr. HUNTER,] who has ever been an adherent to this rule, and has ever advocated and insisted upon its execution, should have yielded and consented to permit this to remain a part of the civil and diplomatic appropriation bill. I do not censure him for doing it. I know that, coming from the House of Representatives, and, in its main features, corresponding with his notions of right, it was natural that he should favor it. I think it is probable that he cannot consent that it shall be stricken out; but I hope there are enough of us on this side of the Chamber who dare take the responsibility of striking it out; and at another time, and on a proper occasion, we will vote for it as a separate and independent proposition.

The object of the bill is a good one. It is for a general reduction in our tariff system; and of that I approve. But we ought to bear in mind that in insisting upon it on this bill, we shall be setting a most pernicious and demoralizing example for future legislators. It is important that we should keep the great public measures of the session, the appropriation bills, free from all these geographical and general questions. If we adopt a general tariff system in the civil and diplomatic appropriation bill of this year, we shall have important geographical questions presented to us on the civil and diplomatic appropriation bill of next year. It is that which I wish to avoid. I wish to point to the legislation of this session and of past sessions, for the purpose of showing the purity of our example; but if we incorporate this tariff provision into this civil and diplomatic appropriation bill, we cannot point to any such evidence. I am anxious to see this bill stripped of this irrelevant matter, and I shall vote for the amendment of the Senator from Delaware without the least compunction of conscience.

Mr. HUNTER. I have been referred to so often in regard to this matter, that I feel bound, from a sense of duty to myself, to reply to the various criticisms which have been passed upon me, in relation to this bill. Surprise has been expressed, in more than one quarter, that I should have agreed to retain a measure which I believed would contribute to the very best interests of this country, merely because it had been placed in an appropriation bill by the House of Representatives. It was said that in doing so I had departed from those conservative principles which ought to regulate the Senate in its course. I appeal to you, sir, to know if I have not, whenever the appropriation bills were up, sought to preserve them from this mixture of incongruous subjects; and if I have not been overruled. Scarcely a bill has ever passed in which I was not overruled. The Senate, whenever it has any favorite object in view, makes no scruple in overriding the rule for the purpose of putting it on a bill which may force it through. My friend from South Carolina [Mr. BUTLER] has referred to the fact that they put the incongruous clause, abolishing flogging in the Navy, in a general appropriation bill. I may say that the whole general legislation for the Navy and Army has been, for the last five or six years, done on general appropriation bills. I have resisted it, and resisted it in vain. Where, then, were the voice of these conservative Senators who are so sensitive now in regard to a measure that promises great benefit to the country when it is brought up, not by us, but by the House of Representatives? Where is the coercion? If a majority here are in favor of a measure which is proposed by a majority there, and agree to it, is that coercion? Not at all, sir; but if a majority here were opposed to it, and the House of Representatives were then to insist upon it, it would be wrong, and it would be coercive. Whenever that state of things occur, I admit it would be wrong and coercive; but I say when they propose what we are willing to accept, it is then simply the act of a majority ruling a minority—nothing more can be made of it.

But this practice of tacking is mischievous, because it leads in the same body to improper legislation. Especially is it mischievous, as it affords a temptation to one of the Houses to practice upon another on one of these appropriation bills; but if they invariably receded when objection was made on that account, surely there would be no reason to complain on the scorce of coercion.

It was to meet that very thing that I proposed we should take a vote. I reported the bill, and I said that we stood ready in the Committee on Finance to conform to the sense of the Senate; if they said amend the bill, we would come in with the amendments which we had ready for it. If they said pass it as it stands, then we would go for it as it stood; and I think myself that it would have been better for the country if we had done so; for I believe this is a valuable measure.

Now, sir, one word in regard to these threats as to legislation on the slavery subject. I dislike to allude to it; but I say if the South had no better protection for its rights and its liberties than a mere rule of order, we are already, aye, sir, we are already more than half slaves. Sir, if ever a majority of that House shall be disposed to pass any such measure, I care not what bill they put it upon —an appropriation bill would be the preferable bill, for the sooner you bring it to an issue the better—in that event, let the Government stand still until you ascertain whether we are to have our rights under the Constitution, and within the Confederacy. Sir, I do not listen to that argument. I will not, for a moment, and I am sorry that it should have come from any southern man. It is by no such tenure that we hold our rights and liberties. Whenever it comes to this, that there is nothing but a rule of order, behind which we may shelter and hide ourselves for protection, I, for one, will walk out of that door, and leave a place in which I should feel myself degraded. Mr. President, I repel all that class of argument.

But I have said from the beginning that I stood here ready to abide by the action of the Senate. If a majority believe that we had better abandon this, and go on with the bill, I am ready to do so. I am willing to take the vote at once; and I have done nothing to delay a decision. Let us see what the sense of the Senate is. If they will strike out the tariff part of the bill, let them say so at once, and I will bring in the amendments which I have been instructed to offer, in that event, by the Committee on Finance.

Mr. BAYARD. I do not know that I should have taken any further part in this debate, but that the honorable Senator from South Carolina undertook to answer a question which I put to the Senator from Mississippi. I will repeat the question. It has not been answered yet. Whatever explanations may have been made by the honorable Senator from Virginia, and whatever precedents are cited, nothing has ever been done here which approximates to the violation of all order and of principle which is involved in the measure now before the Senate—the bill as it came from the House. The question I put was, whether there was a single precedent in which the general legislation of the country, in reference to any branch of its service, had ever been tacked to an appropriation bill? I knew—we all knew—that it had been attempted—that isolated cases of improper legislation on minute subjects had taken place, and that the evil was growing; but I say that none of them approximated to the violation of every principle of order which is contained in this bill. When I speak of a principle of order, I wish to draw a line of distinction. There are, whether it be in parliamentary bodies or in courts of justice, rules which in themselves are mere forms, and there are rules which are essential to the preservation of the body itself and of any organization whatever; and I hold that in any parliamentary body, in any free country, it is impossible long to maintain the rights of a minority and the rights of deliberation, if a system of coercive legislation is adopted by compelling men to vote for a measure under the penalty, if they vote to the contrary, of stopping the operations of the Government by denying its supplies. There is the principle of coercion. The honorable Senator from Virginia may tell me that it is nothing but the majority ruling the minority! That is coercion when one House adopts a measure and puts it in such a position that if the other House do not accede to it, the appropriation bill—the bill of supply—may be lost. That is the principle of coercion. It may apply to the minority of the members of this House, or of the other House. Is not the honorable Senator from Virginia, I ask, striving to put gentlemen in the responsible position of voting to defeat the appropriation bill, because he wants to carry a favorite measure that suits his views? There is no difference, in my opinion, between the principle of coercion applied from one body to another—it is far less tyrannical —and the attempt to coerce individual members of the body, founded on the responsibility of defeating the bill of supplies. Sir, if this goes on, and the Senate determines upon it, I mean to test this question thoroughly. Coercion shall be tried elsewhere as well as in the two Houses of Congress. I will try it on a fair principle and see how far coercive legislation is to be carried out. They have cited to me two cases, and two only. The one occurred in the Senate of the United States. It was an isolated provision not to revise the whole system of the Navy—for that had been tried, and the Senate had invariably voted it down—but to abolish flogging in the Navy; and that was incorporated in an appropriation bill. Yes, sir, it was; and if I wanted an instance of the dangerous character of this legislation it would be the very adoption of that measure. What was it? Without reference at all to whether it was proper or improper to abolish the system of corporal punishment in the Navy, as a means of discipline, it, beyond all question, was improper legislation to abolish the only mode of discipline known to the Navy, without making provision for any substitute whatever. The result has been that your seamen, both in your commercial and naval marine, have been disorganized and rendered so insubordinate that there is no reliance to be placed upon the safety of a vessel in which large numbers of sailors are congregated. The accident of a very commanding energy and will may succeed in navigating a vessel with strict subordination. This sprung from false legislation on an appropriation bill, and you have periled the safety of every vessel which you have in your service from a spirit of insubordination that has been produced by this system of legislation on appropriation bills. It shows the improper character of such proceedings.

What is the other provision cited by the honorable Senator from Virginia? The gentleman evidently has been hunting up precedents to sustain a very doubtful course. He brings us a mere provision in regard to appraisement. It does not relate to a general system of legislation in regard to the tariff at all. The whole thing is irregular. I admit it has been done in minute cases, and to a small degree; and it has been growing; but the proposition now made has no parallel, has nothing to approximate to it in the legislation of this country.

What is the defense which the honorable Senators give? They say, though we admit that all this is wrong; though we admit it is conducive, and must lead to the most improper legislation, and that the system is a false one; yet because we approve of the particular measure embodied in the bill we will abandon the rules of order in reference to this measure, and will vote for it.

The honorable Senator from Mississippi says he is not responsible for it, because the House has sent it here, and he simply suffers it to remain. I cannot recognize the distinction which he draws. The responsibility may be greater in the authorship of the wrong, but if we, acting as an independent body, sanction that which is wrong, we are nearly equal in responsibility with the House.

The honorable Senator from Virginia has chosen to denounce this as a mere rule of order; and says that the rights of the South are not to be dependent upon mere rules of order; that if questions are to be raised relating to the rights of the South upon such bills, which course might be sanctioned in part by this action of the Senate, they had better come in that shape than in any other, and that whenever they do come, but one result would take place. Sir, I have been the more opposed to this particular provision, because I deem it tending to disunion. I confess, Mr. President, since I have been a member of this body, deeply attached as I am to the Union, I have had increasing upon me forebodings as to the success of the experiment on which our forefathers entered in 1787; but sir, there are others, both North and South, who agree with me, that the Union may be endangered by the state of things that are now existing, and yet who consider that the danger to the Union is no reason for voting against a provision that will tend to its accomplishment. Such are not my sentiments. I can understand, if a man values not the Union, if he is ready to throw it away, he will disclaim the protection of rules of order, and be ready to meet the issue, let disunion come when it may; but I cannot understand that a gentleman who knows on what basis all free governments must rest, that it is on principles of order and principles of order alone, can very well scout at rules of order. I speak now not of forms, but of principle. Mr. President, what is the system of a Republican Government, but rules of order? What is the organization of the two Houses? What is the object of reading bills on different days? What is the object of debate? What is the object of all the forms that you go through, but the preservation of the liberty of debate? It is to restrain the natural tendency of mankind towards excess, which under the phrenzy of passion or interest, men are apt to run into. Are we to be told that this restraining influence of rules of order, is not to be relied upon for preserving a Union which has proved itself to be a great benefit to the world, and which, if it can be maintained, will spread more extensively the benefits which it now confers upon humanity? I cannot conceive that he who values the permanence of the Federal Union, if he has fears as I have, in regard to its continuance, should be willing, by any act, direct, or indirect, to take any course which will promote a tendency to disunion, or sever or break down those bonds which tend to promote, cherish, and render the Union permanent.

Mr. TOUCEY. Mr. President, this seems to me to be a very plain question, and one which is not difficult of solution. The Constitution has conferred upon the House of Representatives the exclusive right of originating revenue bills. This body has no power, under the Constitution, to bring forward any measure of that kind. The House has seen fit to pass and send to the Senate, connected with the general appropriation bill, a revenue bill which has met with its approbation. It has been referred to the Committee on Finance, and upon its being considered by that committee it was thought proper to submit it to this House, whether that revenue measure, as a whole, was acceptable to the Senate, and if so, to pass it with the bill. Is there anything improper in this? Is there anything coercive in this? Is this body to undertake to dictate to the House of Representatives in what form they shall exercise the exclusive power conferred upon them by the Constitution? Are we to prescribe the rules of their action when they are acting under an exclusive power which, for wise purposes, the framers of the Constitution put into their hands? Undoubtedly this body has a right to reject the measure or to modify it; but at this late period of the session, the Committee on Finance thought it to be their duty, without delay, without waiting to amend the bill, without presenting an amendment to it, to submit to this body the question, whether they would take that revenue measure as a whole. If they saw fit to reject it, then it was the intention of the committee to go forward and present the amendments which they had prepared. Is there anything wrong in this? Is there anything improper in the proposition of the chairman of the committee or of the committee itself? Nay, Mr. Chairman, is there anything wrong in the position assumed by the House of Representatives? Sir, I can easily imagine the question which is raised here in anticipation, when it would become wrong. If, sir, we reject this revenue measure, and the appropriation bill goes back to the House of Representatives, and they insist upon it, or else will permit the civil and diplomatic bill to fail, and the wheels of Government to stop, then I take occasion to say that the House of Representatives would have reached the point of revolution. If they undertake, by their subsequent action, to force this revenue bill upon the Senate contrary to its opinion, or to stop the wheels of Government, they will then have assumed a revolutionary attitude, and the event will have arrived which has been darkly shadowed forth by some Senators in the course of this debate.

I concur in what has been said by my honorable friend from Virginia, that if, hereafter, there shall be connected with this bill, which is indispensably necessary to keep the Government in operation, a measure violating the constitutional rights of any portion of the people of this country, and the House of Representatives should insist upon it, or stop the wheels of Government, then they will have reached the point when it will become necessary to decide whether this Union shall any longer continue, or whether the greatest calamity that ever has fallen on the human race shall be enacted here. Sir, when that comes, for one I am ready to meet it; for one I am ready to put it to the people of this country, of every section of the country, whether they will justify anybody, in the House of Representatives or the Senate, in undertaking to force upon us a violation of the rights of a portion of the people of this country, or to stop the wheels of Government. I have no fear that there will be any measure of that kind while the people are intelligent and patriotic; but, sir, until that question comes let us not trouble ourselves with idle fears. If we are ripe for revolution, if we are ripe for dissolution, if the measure is presented to us, I know very well the issue will be met, and the consequences will be disastrous; but are we now to raise a phantom in this debate, when the House of Representatives has simply submitted to us a proposition for our acceptance? If we reject it, and when they consider it again they acquiesce in what we do, is there any coercion? Does any Senator suppose that the House of Representatives are ready to stop the wheels of Government unless you pass this tariff bill? I apprehend no such thing. I am sorry to hear any imputation, any reflection, or any suspicion cast upon that body, or upon any branch of the Government, until a foundation is laid for it. None such is laid in the present case.

But I rose only for the purpose of vindicating the course of the committee. I am opposed to blending in our legislation subjects that are not connected. I think it wrong. When I say wrong, I mean impolitic. We have a right, a perfect right, and without coercion, to adopt this measure if we approve of it. We have a right, a perfect right, to reject it, if we disapprove of it. When the issue comes, if it does come, let us meet that issue. At this late period of the session, I agree that we cannot go into the details extensively of a revenue measure. It is not open to much discussion, and it may be inexpedient to act upon it. What the committee of which I have the honor to be a member, proposes is, that the Senate shall say whether it is expedient to act upon it, and to reject it; and then take up the bill itself, strictly as an appropriation bill, and go on as usual with the public business. If that course be taken, the usual course will be taken. If, on the other hand, a majority of the Senate approves of the tariff bill which is here presented, they can say they approve of it, and pass it as it is, without any amendment.

In regard to a tariff bill, I agree with those who say that it is material to the public interests that the revenue should be diminished. There are many things in this bill that meet my hearty approbation; there are some that I could improve; but, upon the whole, I regard it as a beneficial measure, and, therefore, I shall record my vote in its favor; but yet, if the majority of the Senate are of opinion that it ought not to be adopted, they have only to say so by their vote, and the appropriation bill will then stand in its usual form, and when it is perfected by amendments will go back to the other House to be acted upon by them.

Mr. GWIN. As a member of the Committee on Finance, I voted in favor of reporting the bill in its present form, and, Mr. President, I am in favor of passing it in its present form. There has been a good deal said about tacking one bill to another. The two Houses of Congress have their proper constitutional duties. There is no doubt about it, Mr. President, that the House of Representatives ought, long since to have reported a tariff bill. They ought to have sent us a bill in a separate form to revise the present tariff; but having failed in their duty in that respect, I do not consider that it becomes us to vote against this measure, when we are in favor of it, because they have attached it to another bill where it does not properly belong. I think it becomes every friend of the reduction of the tariff to vote for the bill as it stands, because it will accomplish our object. In this way we can reduce the tariff, and we cannot do it in any other way. It is well known that if we amend the bill at all, we shall lose this provision. I am in favor of passing it as it came from the House, and we can put our amendments on another appropriation bill which is now pending in the Senate.

Mr. President, I look upon the tariff provision of this bill as more important to the State I represent than any other that has been presented to Congress except the Pacific railroad bill. We are emphatically a free trade people. Every reduction of duty is favorable to the interests of the people of that State, and I feel myself called upon to sustain every measure that is brought forward to reduce the tariff, no matter in what form, provided it be a legitimate form in which it is sent to us by the other House.

Now, Mr. President, I give notice to those gentlemen who are determined, if they can, to strike the tariff provision out of this bill, that they will soon find in it a provision more offensive than that. Many of those who would vote against taking off the duty on railroad iron if this provision be incorporated in the bill, will assuredly agree to put it on this bill, and stand by it, whether the appropriation bill fail or not, if this provision is struck out; I notify those gentlemen who have fought this bill all day, and opposed its passage in the present form, that if they succeed in defeating this provision, the moment it goes out, they will find that the provision in regard to railroad iron will go in; and that is more offensive on the ground that it is more partial legislation than the present bill. I hope that we shall sustain the action of the Committee on Finance. We reported the bill in good faith, and are determined to sustain it. I hope we shall pass it as it came from the House.

Mr. BRODHEAD. I know, Mr. President, very well, that the other measure to which my honorable friend from California refers, is the real one. I know very well, also, that he voted for it when it was before us as a separate bill, and it passed. Are we to have it again? Well, sir, we shall see when the time comes.

Mr. WELLS. Mr. President, there has been a great deal said in the course of to-day and this evening in relation to this bill and the proposition of the Senator from Delaware; but one thing has struck me forcibly, and that is, that scarcely any man upon this floor has pointed out any real objection to the measure. The main objection that has been urged is merely technical, that it has not come in here in the proper, ordinary, and legitimate form. I honor the chairman of the Committee on Finance, [Mr. HUNTER,] as the people of my portion of the country have long honored him, for the honorable and high position which he has maintained on this floor as an American statesman. I honor him more than ever after the language which he has used here to-night, that he, as an American statesman, and an American citizen, will exercise the rights and privileges which he possesses, and discharge the duties which are incumbent upon him, independent of any of these technical trammels.

What is the proposition before the Senate? It is to reduce the tariff; and it is confessed on all hands that it should be reduced. Gentlemen stand here and say that they will vote to amend this bill as the Senator from Delaware has asked them to

do; and yet they confess that they would sustain the measure which he proposes to strike out, if it stood singly and alone. I want some better reason than that. Who, I would ask, Mr. President, are expecting and requiring this great change in the tariff of our country? It is not the Senators who are occupying places upon this floor, but the toiling millions of the country, who are hoping to-day that they are to be relieved from the immense burden that is imposed upon them, by which such a large amount of money has been placed at the disposal of Congress, that, as it has been said eloquently, and, I fear truthfully, has induced extraordinary legislation, which has spread broadcast over the nation the impression that the high position which the American Senate and House of Representatives ought to occupy, has been invaded and injured to some considerable extent. I cannot wish such a state of things to exist. Why do we want this money? We had about $63,000,000 last year, and only $51,000,000 were expended in the large appropriations which were made. Now, you are asked to relieve the country from the balance of $15,000,000, or $20,000,000. The proposition which is before the Senate does that, and is it not proper and right? Ought we not to do it? I think we should do it, regardless of forms, especially when the very mode which is proposed here has been proved by the records to have been adopted in the Senate before.

What will the people say? I appeal to a certain class of gentlemen in this Chamber who have stood at the hustings, and who have said, everywhere, "we are in favor of low tariffs; we are in favor of taking off the burden from the masses;" and who could not have come here upon any other than that great theory that every man is compelled to advocate when he goes before the people, that he is in favor of low taxes—will they go out from this Chamber and ask the people to meet them, and say, we stood against relieving you from this burden simply and solely upon a technical objection? We should have voted for the bill if it had been brought in alone; but simply and solely because it came in as a rider to another bill against which no human being objects, we objected to it, threw it out, and left you to pay from $15,000,000 to $20,000,000 per annum, to be expended upon some Collins operation, such as has already been acted upon at this session. I do not believe in such legislation. I do not believe the people of the country will approve and sanction it.

But one thing struck me as most extraordinary. This is simply a question of revenue. What strikes me as so extraordinary is, that the subject of negro slavery is so often drawn into the debates here, upon every subject, no matter how extraneous it is. I say it as a New England man, that I think southern gentlemen have shown their good sense, and it is in accordance with what I expected, that they do not start and moot these questions themselves. The subject of slavery is originated by men from the free States; and it is a theme which demagogues are always using. It is urged both at the South and the North by demagogues, who desire to get here, and it is to be regretted. Let each question stand on its legitimate footing. There are times and places, we all know, to consider the great question of negro slavery. It may then be properly and justly considered, and we can all, North and South, East and West, on the proper occasion, consider it; but why, on every subject, upon a mere matter of raising money to carry on our Government, a mere question of reducing the taxes upon the people, shall this exciting subject, extraneous as it is, be thrust into the debate? It is, as I say, a demagogue movement, in my estimation, and I scorn and spurn it.

I only rose to say that I look upon this simply as a question of revenue—simply a question whether the people shall be relieved from the heavy burden which is now imposed upon them—and I ask gentlemen who have been trained in my own political school, and who preach the doctrine that I believe, that the revenues of the country should be brought down to the wants of the Government and there stop, when they say that if this were here, as a separate proposition, they would vote for it, how will they go from this Hall before the people and justify their vote in refusing this boon to them, simply and solely because it is connected with another measure which is not usually debated, and which would pass the Senate in five minutes, if this matter were struck out of it?

Mr. CLAYTON. Until this moment, Mr. President, I had resolved not to participate again in the debate on this bill to-night; and I rise now only for the purpose of saying a very few words, caused by the remarks of the honorable Senator who last addressed the body, [Mr. WELLS.]

He says that no objections have been made to the measure which I have moved to strike out, that it is universally admitted that the measure is in itself unexceptionable, and the only objection is to the place and form in which the proposition is presented to the Senate. Is that a fair view of the manner in which the question has been treated here? Why, sir, I tell the honorable Senator that I look upon this measure if it were separated from a general appropriation bill, as a stab at the great farming and agricultural interests of the country for the benefit of a few manufacturers in the North. In fact, from what we have already heard in the debate, that is sufficiently confessed. What said the Senator from Massachusetts, [Mr. WILSON?] This bill was properly described by the Senator from Louisiana, [Mr. BENJAMIN,] when he said it was a measure of protection—protection to the manufacturer, but death to the farmer and ruinous to the agricultural interest. I said this morning that the part of the bill which I propose to strike out, reduces the duty on wool from thirty to eight per cent. *ad valorem*, and that that measure would apply the knife to the throats of millions of sheep in this country.

Sir, the farmers of the country have been already sufficiently prostrated by your legislation, and I predict that the day is rapidly coming when they will rise against your oppression. But, if the manufacturers are resolved to array themselves in opposition to the agricultural interest, if they have determined to prosecute the contest against us, let that contest come. I have been all my life a faithful advocate of the doctrine of protection. I stood here more than a quarter of a century ago advocating the claims of the New England manufacturers to protection. I have defended my votes before the agriculturists of my own section of the country, chiefly on the very ground that, by maintaining those manufacturers, we supplied ourselves with a home market for our grain. But now, sir, how stand we? Massachusetts, for whom we have stood up so long and so faithfully, fails us entirely in the hour of our need. She is ready to join in the crusade against the agricultural interests of the country. She is ready to agree that wool shall receive no protection. She has already agreed and voted that all the agricultural products of the British North American possessions shall come into the United States duty free. There is not a single article that a farmer in the middle States, or the southern States, or the northwestern States can produce, which you have not admitted duty free under the reciprocity treaty of last year. Do you suppose, sir, that the farming interest finding itself now deserted by the manufacturing interest of the north will submit quietly?

Sir, I understand that already the cry has come from an agricultural convention, composed of delegates from numerous parts of this country, sitting in this city, to-day, declaring that if the farming interest can have no protection, there shall be no protection to others who seek to discriminate in the legislation of the country against them; and do you expect to maintain yourselves in a contest against them, successfully? Let me warn you to beware of the day when you meet them in battle array. There are three millions of farmers in this country; and they are able to put down both your commercial and manufacturing protection, if they unite. In the first place, you took away protection by admitting every product of agriculture from the Canadas and British North America duty free; and here, now, you have another proposition to bring in wool duty free; or, what is equivalent to that subject, to a duty of only eight per cent.

Notwithstanding this, the honorable Senator from New Hampshire tells us that no objection whatever has been taken to this measure. Oh no, he says, it is admitted to be an excellent measure, but the objection is as to the form and place. Sir, I do not wish to protract the debate; but I do say now that, independent of the objections to the place and time at which this is proposed to be done, there are objections which the honorable Senator has not met, and cannot meet, arising out of the impropriety, the gross oppression, of such a measure as this. But, sir, if the proposition were even just, it has been rightly described by my colleague, [Mr. BAYARD,] and others, in its present form and place, as a measure of coercion, a revolutionary measure, that will be attended in the future with the most disastrous consequences to the country. Let the honorable Senator from New Hampshire meet this argument if he can.

The argument for reducing duties is, that you thereby reduce revenue. Nothing can be more fallacious. You reduced duties by the tariff of 1846, and yet you double the revenue by it. Low duties often increase importations, and fill the country with foreign manufactures, increase our foreign debt, draw away our specie to pay it, and thus generally depreciate the value of all the property in the country more than twenty times the amount of the specie withdrawn from circulation. We have just emerged from one disastrous contraction of the currency. Shall we now have another, and a still more distressing one?

Again, I repeat, that the House of Representatives, which has passed this measure, is a House a large majority of whose members go home to return no more. These are the expiring moments of the session of that House. Other persons have been elected to represent the interests of the country upon all questions. The present House, under these circumstances, has passed the civil and diplomatic bill with this clause in it. It comes here to the Senate, and we are told that it is well enough to let it pass now, and that next year the true Representatives of the people may repeal it. Ah, sir, may they do so? If this be passed, and receive Executive approval now, as we are assured by the President's friends it will, then next year when the repealing bill comes to be passed by those who do represent the wishes of the people, the Executive veto awaits the expression of the popular will through their Representatives in Congress. Is that fair? Is it not manifest that, by this means of forcing this measure on us, and getting the Executive approval of it, the advantage is taken of the agricultural interest of the country?

Mr. President, I rose only to say a few words. Allow me now to add one or two things more, and I shall have done. After having, for more than a quarter of a century, voted with my friends of the North, and with the manufacturing interests generally, I find myself, and those whom I represent, "whistled down the wind, a prey to fortune." I find that the basis, the very groundwork, on which I have heretofore sustained the protective policy is taken from under my feet by its own professed friends. I must be permitted hereafter to maintain my own independent position, truly representing those who sent me here, on this question. And let me say, sir—for I think it proper now to indicate so much—that, in my future action in reference to the tariff, in consequence of the revolution which has occurred in other quarters, and has been announced to us here, instead of following the lights which have passed away, I shall stand here as a faithful representative of the farming and agricultural interests of the country, and shall regard them as paramount to all others in every vote I shall give.

Mr. JONES, of Tennessee. Mr. President, [Mr. BADGER in the chair,] when I requested you to withdraw the amendment which you offered, I did it with the hope and under the impression that the Senate would come immediately to a direct vote. I see no reason why they should not come to a vote now. The opinion of every Senator here is made up as to the isolated question whether he will vote to strike out the tariff provisions of this bill or not. If that vote be taken, the question will be settled either one way or the other. If the motion to strike out be rejected, the debate can then go on profitably, but if there be a fixed determination to agree to the motion to strike out, this whole debate is a useless consumption of time, as I think. All I ask is, that the Senate will take the vote on the question whether they mean to strike out or not.

Mr. BUTLER. Mr. President, I am not responsible for this debate, nor do I make any apology for the remarks which I now propose to submit. They will be very few.

I think the honorable Senator from Delaware [Mr. CLAYTON] said that the farming and agricultural interests of the country required the guardian care of this Government. I wish him to distinguish, and to tell us what agricultural interests he alludes to. I can inform the honorable

Senator that his Procrustean doctrine of protection will, in ten years from this time, be as lonesome a doctrine as will obtain anywhere. Sir, I represent a portion of the agricultural interests of this country. I represent a small portion of the cotton growing and the rice growing interests of the country, and so far as I am their representative, I am willing to do without the guardian protection of this Government.

The Senator from Delaware alluded to the views expressed by the Senator from Massachusetts, [Mr. WILSON,] who has spoken upon this subject. His constituents have the carrying trade by their ships; and they are deeply concerned in the manufacturing interest, which has grown up, in some measure, by protection. Allow me to tell him that we are all of age; we are not in a state of minority, requiring any further protection by this Government. I am willing to say, as far as I can speak as an humble representative, and a partial representative—I do not mean partial so far as regards interest, but as one representing in part only the people of the South—that now, and hereafter, we want no revenue raised out of one interest at the expense of another. I do not understand that any Government ought to perform the office of bestowing bounties, or giving advantages to one part, or one interest, or one section, over another. Your section, and mine, sir, [Mr. BADGER in the chair,] can do without this protection. Perhaps there was a time after the termination of the war, in 1815, when there was an excuse, a patriotic excuse, for the interposition of the Government to save the manufacturers of the North, who had, in some measure, grown up under that war. They are now able to take care of themselves. Although, I dare say, I shall be arrayed against the honorable Senator from Massachusetts next year, I will pay him the compliment this evening—I do not care who hears it—of saying that he has confined himself to the legitimate sphere of debate, and has not gone out of his way to make allusions to other subjects which have been introduced by others, in my opinion, without discretion.

Sir, I thank my honorable friend from New Hampshire for saying that, upon no occasion, have these topics been brought into debate by a southern man. No, sir; the question of what will be the effect of this precedent, or this measure, or any other measure, upon southern slavery, has never originated with a southern man. It has been the mischievous intermeddling of those who seek to regulate society by the wisdom of legislation, which I would rather dispense with. It came not from the South. It has never come from the South. Now, sir, to return to the subject. When the honorable Senator from Delaware speaks of agricultural interests, allow me to tell him that there are some agricultural interests besides those of the State of Delaware.

Mr. CLAYTON. Allow me to tell the honorable Senator that there are some other agricultural interests also, besides those of the State of South Carolina. Now, sir, will the Senator permit me to name a few of those agricultural interests?

Mr. BUTLER. Certainly.

Mr. CLAYTON. All the interests of the mighty West, the great valley of the Mississippi, the North and Northwest, comprehending the great States of Indiana, Ohio, Illinois, and the weaker States and Territories of Iowa, Wisconsin, and Minnesota, Pennsylvania, New York, New England, New Jersey, Maryland, Virginia, and last and least, Delaware. Now, sir, if the honorable Senator does not consider that the production of all the cereal grains, of wheat, corn, oats, rye, barley, all the products of the farmer in the northwestern, the northern, and the middle States, are worthy of consideration, I have nothing more to say.

Mr. BUTLER. Mr. President, is it not strange that a country which produces eighty bushels of wheat to the acre should require protection? Why, sir, the States in the valley of the Mississippi will govern us eventually. I know that. Why talk about the protection of an interest that will be a controlling interest in spite of all the influence you can exert there? What an idea that California needs protection, when they raise eighty bushels of barley to the acre! Who wants protection? None of the States which the Senator from Delaware has named want it.

Mr. CLAYTON. Oh, yes.

Mr. BUTLER. New England says she can do without it. Hardy New England, which makes more by granite and ice than she says we make out of cotton and rice, can stand up for herself. Any people who can make money out of granite and ice, want no protection. [Laughter.] We, who buy their articles, send them back cotton and rice to feed and clothe them. I think they make a pretty fair bargain. We want nothing but free trade and a fair understanding.

The gentleman has spoken about protecting the middle States. I suppose he has a limited notion of a *stratum* of States that are to be protected. I believe he did not name any southern State; and the amount of it is this: If protection is to come at all, we shall be under the proscription of the legislation of Congress. Well, sir, we have fallen upon strange times; but allow me to say to the honorable gentleman from Delaware—for whose literary attainments and general views I have a very great respect, though I believe I have never agreed with him upon political subjects—that time is running so fast, that he, with his little doctrines of close trade and protection, might as well undertake to oppose the great torrent of free trade as to throw a bundle of fodder into the Mississippi to endeavor to stop its mighty waters. [Laughter.] He cannot do it. Why, sir, we want no protection against England. When we are reduced to a certainty that the two nations can see each other face to face, and have dealings with each other in ten days, what need have we of protection? God himself has proclaimed that trade and intercourse are not to be controlled by the puny legislation of man.

I do not know but that the earth is to be governed hereafter, as perhaps it has been governed heretofore, by very wise dispensations. There was a time when the pillars of Hercules were the *ultima thule* of the earth; and there was no other way of going from one part to the other than by keeping close to the shore in galleys; but scarcely had Columbus discovered America when new motive powers of intercourse between one part of the world and another were discovered, and scarcely was that done before steam brought nations together which were enemies before, and made them friends. Sir, I say, in my place here, that I believe the time will come, and it is not far off, when we shall be brought so close together that my friend from Delaware and myself will be living, as it were, in opposite streets, and we can run down to each other and trade according as we may think it convenient to trade one with the other. Then I hardly think he will be prating for protection to agriculture. I do not want your protection; I do not ask it.

Here allow me to return my thanks to my honorable friend from New Hampshire for the remark which he made, that not one of the agitating questions which have been brought into this debate has ever originated with a southern gentleman; and now I shall close by another remark, which I wish distinctly to be remembered.

Mr. WELLS. Will the honorable Senator allow me to make a single remark, merely to call the minds of the gentlemen of the Senate to it, and that is, in speaking of what has been done for the States, to compare what has been done by this Government for the Old Thirteen with what has been done for all the others now in the Union?

Mr. BUTLER. Why, sir, the Old Thirteen were the hive which sent out these swarms, and as long as the old hive can feed them I dare say they will come to it. [Laughter.] We may feel very much complimented by that. Let us have our colleges and schools to which the children of the West can come to be educated. I do not care how far you extend them if they come to us and get true doctrines, [laughter,] but none of these close protective doctrines. If they will come and get true doctrines, let them come back to us. I have no doubt we are destined to be the poorest portion of the Union; but when I say that I am not sure that we may not be the strongest. I doubt very much whether those people who fatten upon mere wealth extracted either from the Government or from the natural productions of the soil, and who are sent here to govern, will trample on the poorer portions of this Confederacy. I do not believe it. You may resort to the history of Egypt, and of Asia, and of all others for illustrations on this point. It is a remarkable fact in the history of nations that Julius Cæsar reported that Great Britain was not worth occupying; and yet Great Britain by the toil bestowed on her soil is governing the earth, and she has come to the conclusion that the best way to govern the world is by free trade. I do not ask any gentleman upon any occasion for any other than perfect free trade and a fair trial.

Now, sir, I intend to close by a question which I desire the honorable Senator from New York [Mr. SEWARD] to hear. He has stated on this occasion, that what he opposed in this case was the precedent which this will set. Now, I wish him, for himself and those who concur with him, to say, in the presence of the Senate, and before the tribunal which we are now erecting by the tributary testimony which we are giving, whether if an appropriation bill should come from the House of Representatives, next year, with a provision repealing the fugitive slave law, or the Nebraska bill, he would vote for it?

Mr. MASON. Mr. President, I have taken no part in this debate; I do not desire to consume the public time; I have been willing to wait for the vote; but, sir, after what we have heard, I am not at liberty to be silent. I must respond to the admonition which came early this day, and came first from the Senator from Delaware, who has suggested what might happen next winter from those who, that Senator says now, are to speak the sentiments of the people of the United States.

Mr. CLAYTON. Does the Senator mean to say that I first suggested what might happen next winter?

Mr. MASON. I do.

Mr. CLAYTON. The gentleman is mistaken altogether. What I said was this: When I this morning made the motion to strike out these clauses of this bill, I warned my friends from the South that, on some future occasion, a proposition might be made from the other House, connected with an appropriation bill, to repeal the fugitive slave law—a measure which I deprecated as strongly as the gentleman himself. I mentioned it by way of argument, to warn my southern friends of the danger of the precedent they were about to establish. I never made the suggestion that the next Congress would do anything of the sort.

Mr. MASON. Mr. President, I heard the warning, and I marked the quarter whence it came—from a Senator representing a State the furthest north and east of any where the institution of slavery now exists. It was prophetic. I think I am right in saying that the suggestion first came from that Senator; I mean first upon this floor, for we had heard it out of doors before. I am certainly right in saying that that Senator spoke of the party in this country who were to make that attempt as a party now enjoying the public confidence of the country.

Mr. CLAYTON. No, sir, the honorable Senator mistakes me entirely. Now, I wish to put a question to him in return. Does he mean to say that I suggested, or that I desired, or that "the wish was father to the thought," that such a measure, so repugnant to all my feelings and all my opinions of propriety as that, should be introduced by any party in this country? Does the honorable Senator mean to insinuate in any degree that not only I suggested, but in any way desired, such a thing as that? Is he not perfectly conscious that I deprecate and abhor such a movement as much as he possibly can?

Mr. MASON. Mr. President, I have ascribed nothing to the Senator. I have spoken of a fact—the fact that this suggestion came from that quarter. As to the Senator's views or opinions, let him answer for himself. But, sir, I shall speak of that presently.

Now, as to the question immediately before us, that there exists a great, imminent, urgent, public necessity for reducing the revenue of the country, I presume few can doubt. What is our condition? For years we have had a Treasury redundant and overflowing, a Treasury filled by taxation from the people, and no step whatever taken to diminish the stream which creates that redundancy. Why, sir, the Treasury is filled by your taxes upon the people, and it is perfectly immaterial whether they are taxes direct or indirect; they come at last from the pockets of the people. What is a tax? A legitimate and fair tax is nothing but the necessary contribution which the citizen pays to support the Government. A tax is spoken of as a public burden, but one which

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a patriotic man must bear in order to sustain and support the Government which protects him against other Governments. Our Treasury is so redundant that we are paying the debt of the country before it is due, and giving a premium of from twelve to twenty dollars on a hundred dollars for permission to do it, yet gentlemen say you must protect industry, and should not reduce the public burdens. This country presents an extraordinary phenomenon to the world. With this public burden upon the people, the taxation from your revenue laws filling the Treasury to such an extent that you are, as I have said, and I wish to repeat it in order to bring it before the people, paying your debt before it is due, and giving from twelve to twenty dollars on the one hundred dollars for the privilege of doing it—gentlemen say you are not to reduce that burden! That is the exact state of facts.

But, sir, there is another great necessity for reducing the revenue. As long as the Treasury is redundant, it is a corrupting fund, and debauches the public morals. It is a hot-bed, which creates that pseudo-patriotism which brings men here day by day, to your doors, offering wonderful projects to improve the condition of the public by their schemes. It is that which gives to your Collins line hundreds of thousands of dollars out of your Treasury, in a way which was so severely rebuked here yesterday, and the day before. No greater evil, in my opinion, can befall a people desiring to be free, than to have their Treasury full to overflowing, and derived from sources which the people do not feel and do not know; but yet when there is a proposition to reduce that burden honorable gentlemen talk of protection.

Now, Mr. President, let us come back to the issue between the honorable Senator from Delaware and myself. I meant to make no imputation upon him whatever. No, sir, I will take back that word; it is too strong. I will say that I meant to suggest nothing as to his views on this subject. I stated, as a fact, according to my recollection, that the first suggestion on the agitating subjects which have been introduced into the debate, came from that honorable gentleman. What was it? That at the next session of Congress, when in the popular branch of representation that party would be in power, which, I understood him to say, more than once, represented the true feeling of the country, they might

"Commend the ingredients of our poison'd chalice
To our own lips."

How? Why, that they might put some of those obnoxious measures to which allusion has been made upon an appropriation bill, and thus compel us either to take those measures or to destroy the bill. Sir, I heard rumors of that before, out of doors. I meant to ascribe nothing in the world to the Senator further than this: that I understand him to be here the exponent of that party. I will do the honorable Senator the justice to say that if such a measure—I mean one repealing the fugitive slave law, or repealing the Nebraska law, or any law connected with the institution of slavery—should come from that House to this, either as a separate measure, or as ingrafted upon an appropriation bill, he will be found with those who are repelling it. I meant only to say that when the suggestion came from that quarter, it came from a Senator who, I have understood, (and if it is untrue, let him deny it,) is the exponent of that new party on this floor, and I wanted to call public attention to it, coming from that quarter, because I presume he speaks from authority.

Now, Mr. President, I agree with my honorable colleague, [Mr. HUNTER,] and with others who entertain the sentiments which he has avowed here. It is irregular legislation to place a tariff bill, or any other incongruous matter, in an appropriation bill. But what is the experience of the country? Why, sir, we have found from practical experience that, at least, at the short session of Congress, you can get no measure through unless you can make that measure avail itself of the vehicle of an appropriation bill. This is not the first instance. There is no precedent in this. The precedent has been established before. It startles honorable gentlemen because it is a great measure which is placed in this vehicle in order to get it through; but we have measures comparatively minor every day made to avail themselves of the same aid of getting through in legislation. I again frankly admit that it is irregular, but what are we to do?

I have not gone into this tariff scheme as some honorable gentlemen have done. I do not know whether it will take a little here, or add a little there; whether it will elevate this interest, or depress the other. I do know that it will reduce the revenue; I do know that it will deplete the Treasury, or, at least, I know that it is intended for that purpose, and is expected so to operate. If the fact be that the popular branch of representation—where alone these measures can originate—prefer doing it in this mode, and sending it to us, I should consider that I was almost suicidal to my country, entertaining the views I do, if I refused to adopt it because it comes in a manner not altogether regular. I know it will deplete the Treasury; and I care not whether it adds a little here, or takes a little there, if it will produce that general and great result. I want to bring the Treasury down, to stop its overflow; I want to leave the money derived from taxation, which is not needed for the Government of the country, with the people from whom it is taken.

I look upon taxation as a public burden, one which the people must bear, and ought to bear, fairly and loyally, and which the American people always have borne as long as it was necessary, that they should bear that burden; but, that you should inflict a burden upon the people with a view to protection, I agree with my honorable friend from South Carolina, is an exploded doctrine. It has gone by. The age for protection to any interest, I care not what, has gone with the doctrine of monopolies and building up classes and interests. I understood the honorable Senator from Delaware, in speaking of those agricultural States requiring or asking protection, I know not which, to include my own and very honored State, Virginia. Sir, Virginia has now become a grower of the cereal grains. Her largest capital is invested in the product of the cereal grains; and I claim, so long as she confides to me the honor of representing her, the right of speaking her opinions on this subject. She wants no protection. I may confidently, as her representative, repudiate the idea of protection for her.

Sir, I think the signs of the times show that the American people, laboring as they once did under this exploded doctrine of protection, have risen far superior to it. They want to be let alone. Legislate for them no further than actual protection against each other in their private relations, or against foreign Governments in their national relations is concerned, and they will best thrive. Let them alone; let each man seek out the path to his own happiness and welfare; do not attempt to guide it or control it by legislation; and then you best subserve the interests of your people.

Mr. President, in the Constitution of the United States, it is provided that "all bills for raising revenue shall originate in the House of Representatives." They cannot originate in the Senate; we can do nothing on that subject, but revise that which is sent to us by the coördinate branch of the Legislature. The Treasury Department, as a branch of the Executive, in the documents communicated to Congress at the commencement of this session, recommended a revision of the tariff. The other House did not go into it in detail. Why, all gentlemen may determine for themselves. They sent it to us here as a concrete measure in this bill. I dare say it would have been far better, in order to adjust all the conflicting interests, that they should have sent this measure in a separate bill; but they have sent to us a bill to reduce the revenue. The great end to be attained is to reduce the revenue—to cease to take from the people money which is not wanted by the Government. I repeat there is a great public necessity, imminent, pressing, that this should be done. If the fact be that, in the mode proposed in these various classes and schedules, there is some injustice done, leave to future legislation to remedy it. I will go with honorable gentlemen who have given their attention to the subject; always keeping in view the great end of reducing the revenue, to do it in such manner as shall be least oppressive to the industrial classes of the country. But, sir, reduce the revenue; that is the great end to be attained; and when we find a proposition in this bill, incongruous if you will, and yet having precedent every year, the result of which will be to reduce the revenue, I say, so far as I know the disposition of the American people, certainly of that portion of them whom I represent, they demand it at our hands.

Sir, I have no desire to go into this subject further than may be necessary in anticipation of what may occur at the time, when the honorable Senator from Delaware said, if I understood him aright, the prevailing opinion of the people of the United States will be represented in the popular branch of Congress next winter. It may be competent to our coördinate branch in legislation to place upon an appropriation bill a proposition to repeal the fugitive slave law, or to restore the Missouri line. I again disclaim connecting that honorable Senator with any such measure. It is not my purpose to do it. But, sir, that day may come; it is threatened; and I tell honorable Senators around me, when that time shall come, when the popular branch of this Legislature shall adopt a measure either to restore the Missouri line, or to repeal the law for the reclamation of fugitive slaves, I trust, for the honor of the South, for the dignity and character of my people, that no objection will be taken to it because of the form in which it comes. I trust it will be considered perfectly immaterial whether it comes as an independent measure, or as a clause in an appropriation bill. Sir, if there is no protection for us but in a mere matter of form in legislation, we are gone, and deserve to die, and to die the inglorious and ignoble death of dependents who have not the power or the spirit to protect themselves.

Now, sir, I frankly tell the honorable Senator from Delaware that, in ordinary legislation, this may be irregular in an appropriation bill, but it is a great measure for the country to reduce the revenue, to deplete the Treasury; and if injustice be done to particular industrial classes, we can adjust that hereafter. But so far as it is a precedent for any measure that the South may hereafter resist, I care not a two-pence for it, and I know my people will never inquire whether there was a precedent or not. If that great party—numerically great, for I suppose even the honorable Senator from Delaware would not dignify it by speaking of its greatness, or allowing me to speak of it, in any other term than as numerically great—if that party, or any other, at the next session of Congress, or at any future session, should propose to repeal the existing legislation for the reclamation of fugitive slaves, I put it to that honorable Senator, will he ask whether it is done according to rule or not, will he frame any objection to it merely on account of its being done according to rule, or not? Sir, it is perfectly immaterial to me—I admit I speak only for myself, but I also speak as a representative from the State of Virginia, a State holding the largest interest of any in the Union in that species of property—and I say if that thing is done, and that State should be so recreant to herself as to tolerate it for one hour, I should be lost to all sense of self-respect, I should be humiliated to represent her here after that hour on this floor. High and honorable as I consider the trust, I should be humiliated to represent her here from that hour, if she were to tolerate it.

Mr. President, I shall not go into this subject. I should not allude to it now but that honorable gentlemen, and amongst them the Senator from New York, have spoken of it as a precedent that the South might have occasion possibly ——

Mr. SEWARD. I beg the honorable Senator's pardon. He is under a misapprehension of what

I said. I have said nothing about the South to-night; not a word.

Mr. MASON. I do not mean to do injustice to the Senator from New York, or any other Senator. I do not know that he spoke of the South, perhaps I misconstrued him; but I did understand him to say and to mean, that at a future day the appropriation bills might be made a vehicle for putting upon the country some of those obnoxious measures, with the alternative of defeating the bills, and I understood his allusion to be to measures affecting the institution of slavery. If I do him injustice, let him correct me.

Mr. SEWARD. My argument was that this was a revolutionary and factious measure. I traced it out to its consequences, and I said, by way of illustration, that if this precedent should be established, there might be ingrafted upon appropriation bills hereafter, measures of freedom, or of slavery. I said that.

Mr. MASON. Precisely; then it is perfectly immaterial whether the Senator spoke the word "South" or not. The institution is at the South, and at the South alone. Now, I only mean to say to that honorable Senator, and all others, as far as my opinion goes, that any suggestion of that sort cannot affect my course upon this appropriation bill one jot. I care not for the precedent, and I repeat, that I trust, for the honor, the dignity, and the character of the South, where this institution prevails, when such a measure is perfected in the other branch of the Legislature—that branch where alone revenue bills can originate—and they ingraft upon them anything affecting the institution of slavery, the South will never object to it because it is incongruous, or not warranted by rule, or comes out of place. If they do so object to it, they will deserve, what they will receive, to pass under the yoke, and be themselves slaves. They will merit their destiny.

Mr. CLAYTON. Mr. President, I had purposed to reply to the honorable Senator from South Carolina, [Mr. BUTLER,] when the member from Virginia [Mr. MASON] rose, and voluntarily interposed between us; but he has imposed on me the double necessity of replying both to him and the honorable Senator from South Carolina, and I shall endeavor to do it in the shortest possible time.

The honorable Senator from Virginia has chosen to represent me here as the exponent of a great party in this country. The allusion everybody understands—the American party of the country, if it may be so called; others may call it the Know-Nothing party. Now, sir, if the gentleman means to represent me as the exponent of the secret order of United Americans, I must express my surprise, because I supposed that that honorable Senator, and every other here, knew perfectly well that while I entertained the highest respect for such gentlemen of that order as I happen to know belong to it, and regard them as patriots who seek the public good, as much as he or I can, yet I had not the honor to belong to the mysterious order to which he has referred. Nor, sir, is the honorable member justifiable in representing me as the exponent of the American party of the country; but I am an humble member of that party, proud to acknowledge it, and ready to defend its principles against him here, and at all times and places.

Mr. MASON. Will the Senator allow me to ask him whether the party which he calls the American party is that party which other people call the Know-Nothing party.

Mr. CLAYTON. No, sir; I speak of a party whose principles are publicly avowed, a party, the members of which have met in public in my own State and in many others, and proclaimed their creed to the world, a party which in Delaware triumphed at the election and carried the State, a party not made up of men who meet in secret merely, but promulgating an open platform to the country; and I will refer to just so much of its creed (every portion of which I am ready to defend against all comers, I repeat, whenever it is proper to discuss it) as the gentleman has seen fit to draw into controversy.

Mr. MASON. Every part of which, I understand the Senator, he is prepared to defend. Does he defend the secret organization and the secret oaths of that party.

Mr. CLAYTON. The gentleman knew perfectly well when he propounded that question that I know nothing about the secret oaths, never having belonged to the order, yet he thought it would have a fine effect to put it. [Laughter.] He calls on me to defend something about which I am as ignorant as he is. If he wishes to learn the principles of the American party to which I am attached, I shall be happy to instruct him when he desires it. I do not mean at this time to go into a general discussion of the principles of the American party, unless it is his wish to provoke such a discussion. I intend to answer just so much as the honorable gentleman has chosen to charge against me. I say "charge," because by inuendo, if he has not done it directly and openly, he has undertaken to represent that, at the next session of Congress, in the other House, there is to be a party—and he even ventured to quote me as authority for it—in the majority there, that is to aid in the fatal measure of placing a provision for the repeal of the fugitive slave law upon the general appropriation bills, or of placing upon those bills some one or other of those propositions which have heretofore divided the North and South; such, for instance, as the repeal of the Missouri compromise line, or a declaration that no slave State shall be admitted into the Uuion, or the abolition of slavery in this District. He thought it politic and advisable to single me out and hold me up as the man who had first shown the Senate how, if this iniquitous proposition to coerce this body into a repeal or alteration of the tariff should prevail, the repeal of the fugitive slave law might at some future session (I did not even say the next session) be thus forced into the general appropriation bills by one House, and the other compelled to accept it, or leave the Government without supplies. Six other Senators, including the honorable member from Louisiana, [Mr. BENJAMIN,] my own colleague, [Mr. BAYARD,] and both the Senators from Pennsylvania followed me, taking the same view of the subject, and even more elaborately pointing out the very same danger of forcing the repeal of the fugitive slave law upon one House of Congress by the other as a consequence of this mode of coercing an alteration of the tariff. Yet the Senator from Virginia made no allusion to one of them. He held me alone responsible, as I was the only "American" among them, for a sentiment common to more than half the Senate. He shall be welcome to all he gains by this discrimination.

Now, sir, let me tell the honorable gentleman—and I tell him with pride and pleasure—that the party to which I am attached, and which calls itself American, has publicly repudiated everything of the kind which he and his party Democrats seek to attribute to it, firmly resolved to ignore the slavery question in the halls of Congress, so far as it has power, and to permit no man to take a seat in either branch of Congress who does not agree to ignore it. That is the vital principle of the great American party in this country to which I belong.

Mr. MASON. I did not mean to go into this party question. I alluded to it only because I understood the honorable Senator from Delaware to say that there was to be a true expression of the public feeling in the next House of Representatives, derived through that party; and I have heard out of doors, from every quarter, and I believe it is true, that one of the great measures they are to project is to affect this institution.

Mr. CLAYTON. No, sir. There is not one word of truth in that accusation. The gentleman has suffered himself to be grossly deceived.

Mr. MASON. The honorable Senator says that one of the great measures of that party is to ignore the question of slavery as a matter of Federal legislation.

Mr. CLAYTON. Yes, sir. It intends to put down all agitations, northern or southern.

Mr. MASON. Now, I ask the honorable Senator is not that party in the ascendant in Massachusetts? Is not that party in the ascendant in Michigan? Is not that party in the ascendant in Illinois? I will go no further. Have we not the representatives of that party either now upon this floor or about to come here, and are they not those who go furthest upon this question of Federal legislation in reference to the institution of slavery.

Mr. CLAYTON. While these interrogatories surprise, and even astonish me, I am yet quite willing to answer them, so far as it is in my power to do so; but the honorable gentleman has put about half a dozen in quick succession, and it is not only very hard to remember so many, but impossible to answer them while he interrupts me before he allows me time to reply. [Laughter.]

Mr. MASON. Allow me to say to the Senator, "By their fruits ye shall know them."

Mr. CLAYTON. Yes, sir, you shall know them by their fruits; you shall know all about them in a year or two from this time. [Laughter.] He will probably acquire some knowledge of these fruits sooner than that. [Laughter.] Though I might well deny his right to catechise me, yet I choose to answer his inquiries when it is in my power to do so; because I may, by doing so, expose some current and very gross misrepresentations in regard to the principles of the American organization in the States of this Union.

Mr. MASON. I asked about three States.

Mr. CLAYTON. Let him have patience till I can answer. But I mean, before I answer all his questions, to confine the gentleman to the point on which he ventured to arraign my friends, and called on me to defend them. I do not intend that he shall escape from it, by drawing off my attention by his questions. If he meant anything by appealing to me, he meant that the American party to which I am attached is a party which is to connect itself hereafter with the base purpose of dissolving this Union, or jeopardizing its safety. On the other hand, I repeat the declaration I have already made, that the main pillar in the edifice which that party have erected, the great substratum upon which the whole party rests, is the determination to ignore the slavery question, and everything connected with it, as a party question. It will be their great object to exert themselves to the utmost to make brothers and friends of northern and southern, eastern and western men. They will seek to bind together all true Americans, in every quarter of the country, in the glorious purpose of maintaining the union and tranquillity of these States. For this purpose, they will not only refuse to agitate topics of a sectional character, or which can excite discord and bad feelings between men residing in different parts of the country, but they will repudiate all such agitators, whether northern or southern, as demagogues who are dangerous to their peace and safety. They will study and sustain all measures which can elevate the character of the American citizen both at home and abroad, and to enable themselves to achieve these objects they will throw all their ancient party feuds to the winds.

The preservation of the Union of the States is the greatest of all the objects they have in view. Sir, let me tell the honorable gentleman that object, in their judgment, rises infinitely above all others, and especially above all former petty party considerations. I know, sir, that at this moment, the friends to whom I am attached, now to be found in every State of the Union, have taken this view of this great subject of discord which exists between the North and South, and I commend it now to the attention of the gentleman from Virginia as worthy of his own approval and adoption. They have feared, from all they have witnessed during the last year, for the safety of their country; and, sir, with true American hearts, they have resolved to sustain the dearest interests of that country, to support the Union, at all hazards and to the last extremity, against all former parties and all existing parties in any and every quarter. And they will sink out of sight tariffs, internal improvements, Whigism, Democracy, and every other issue that has existed between the old, worn out, effete parties of former days, in order to attain that great purpose.

Mr. RUSK. Will the honorable Senator allow me to ask him a question, as I begin to feel a little alarmed about that party?

Mr. CLAYTON. I hope the honorable gentleman will recollect that I am plied quite liberally with questions at this time.

Mr. RUSK. I know that; but I intend to ask but one question as to the tremendous power of that party.

Mr. MASON. I hope the Senator will allow me to notice that the Senator from Delaware has not answered a single question which I put to him.

Mr. CLAYTON. Come one at a time, gentlemen. How can you expect me to answer either of you until you give me time. Be not so restless and uneasy.

Mr. MASON. I propose to give time.

Mr. RUSK. I begin to feel some apprehension about the force of that party; and I desire to know from the honorable Senator if there has been a regular organization of it outside the State of Delaware?

Mr. CLAYTON. Yes, sir; in your own State as well as all others. The open American party is found now in nearly every part of the Union. Let the gentleman from Texas wait for the developments that are to come, and he will hear enough to quiet him. There will be music around his own ears within eighteen months from this night. [Laughter.]

Mr. President, I am a very good-natured man, and shall endeavor to answer the remarks and questions of these impatient and sensitive gentlemen with my usual good temper. So I recur to what the gentleman from Virginia desires me to meet, but he must permit me to answer him in my own way, and in my own time. Sir, in the progress of their remarks, the Senators from Virginia and South Carolina both indulged in a tone by no means unusual here: of defiance of the power and contempt for the authority of this Union in certain contingencies which they stated as possible to occur. I have heard during this debate threats and menaces of what Virginia or South Carolina was to do, if a new attempt at certain improper legislation should be futurely made; and in a debate, which occurred a few days ago, I was sorry to hear menaces against the existence of this Union, as well as contingencies stated in which it might be and should be dissolved. Sir, when I first came to the Senate of the United States, these threats were strange to me and quite appalled me. They sound now painfully in my ears. They do, indeed, give me infinite pain. But, sir, knowing the character and power of the great party which means to sustain this Union, knowing that the great American heart is united and ready to maintain it, I am not to be frightened from my propriety and duty by menaces. No, sir, you may threaten here, in Congress, as much as you please; you may throw your taunts and sneers at each other, (and it always gives me pain when it is done by a northern man towards a southern man, or a southern man to a northern man;) you may talk largely about the dissolution of the Union; but, sirs, it is my confident belief that if every man of you were to resolve to-morrow that the Union should be dissolved—if every man in both Houses were to resolve it—the people of the United States, attached as they are to that Union by considerations infinitely above all the party politics of the day, would come here, and either hang the whole of you, or throw you all into the Potomac. [Laughter, and applause in the galleries.] Sir, knowing that these threats are made to achieve party objects at this time, I regard them as proper subjects of derision. This Union stands upon a basis that cannot be shaken, and it never will be, in the lifetime of any man of you, or of your children, or grandchildren after you. We shall hear for some months to come pending certain elections, that the Know-Nothings are about to repeal the fugitive slave law, or perpetrate some other enormity that will dissolve the Union. But this silly outcry will cease when the party purpose for which it has been raised shall have been achieved or frustrated. The Union will stand when the agitators shall be forgotten, and with every succeeding year, it will become more and more the object of the love, the admiration, and the veneration of every true American heart.

"As some tall cliff that rears its mighty form,
Swells from the vale, and midway leaves the storm,
Though round its breast the rolling clouds are spread,
Eternal sunshine settles on its head!"

[Applause in the galleries.]

After order had been restored by the Presiding Officer, Mr. CLAYTON proceeded.

Now, Mr. President, for the other questions which the honorable gentleman from Virginia asked me, whether the party which had possession of the government of Michigan and some other States, were not Abolitionists?

Mr. MASON. No, sir; I asked the Senator this: whether the party which I call, or which the world calls, Know-Nothings, but which he now calls the American party, is not the party that has possession of the government of Michigan, and is in the ascendency in the Legislature of that State? I want to know that.

Mr. CLAYTON. I have less knowledge of it than the gentleman himself. He knows well I have no knowledge of it. But while I do not know, I can say to him that I do not believe a syllable of the story that the American party is in the ascendant in the government of those States to which he refers. Three days ago, in the debate on the bill to execute the laws of the United States, we were told that the anti-Nebraska men were those who governed these States. We were then told, by those who reside in the Northwest and understand this matter a great deal better than either he does or I do, that the anti-Nebraska men had carried the northwestern States, and elected several Democratic (not American) Senators, all thorough Abolitionists, or Free-Soilers, but still, good Democrats, like the gentleman's associates who sit next or near to him in this Chamber, [Messrs. SUMNER and CHASE,] and who were elected by Democratic, yes, Democratic Legislatures, and are now about to vote with him on this bill. But, sir, the honorable gentleman must not catechise me in regard to the proceedings of the Know-Nothings. What riget has he to put questions to me about the Know-Nothings, when I tell him again and again that I am not a member of that or any other secret order?

Mr. MASON. The American party—is not that in possession of the government of that State?

Mr. CLAYTON. No, sir; but the American party is now a powerful one in nearly every State in this Union.

Mr. MASON. I take it for granted that the Senator means to answer the question, because he has said so.

Mr. CLAYTON. Well, sir, what does the honorable gentleman wish more?

Mr. MASON. I ask the Senator, in his own terms, is not this party which he calls the American party, that which is now in possession of the government of Michigan, in its Legislature?

Mr. CLAYTON. I have told you that I do not know it, [laughter,] and do not believe it. Gentlemen on the other side of the Chamber have told us that it is in the possession of those who are anti-Nebraska men.

Mr. MASON. Then I will ask as to Massachusetts?

Mr. CLAYTON. Let the gentleman turn to the Senator immediately behind him, [Mr. WILSON.] [Laughter.] He has declared himself here to be a Democrat of the State-Rights school of 1798, and, like his friend from Virginia, is now an advocate for this repeal of the tariff, and votes with him.

Mr. MASON. Mr. President, allow me to say to the Senator, I am answered—in the face of the American people, I am answered.

Mr. CLAYTON. Yes, you are answered; but you are not quite as fully answered yet, as you shall be before I have done with you.

Mr. MASON. I am answered.

Mr. CLAYTON. The gentleman wishes to know where the Americans are. Well, sir, there is an election about to come off in the State of Virginia shortly, and he will then find out one place where they are; and I venture to say, they will give him ample satisfaction on all subjects connected with the extent and power of their organization, about which he has made, or desires to make inquiry. [Laughter.]

Mr. President, I know well that I ought to be the last man to prolong this debate. I made the motion to strike out from this bill so much as relates to the tariff; I feel the responsibilities of the position I assumed in making the motion; and duty forbids that I should do or say anything which would prevent the success of that motion; but I have something to say in regard to the subject of protection upon which the Senator from Virginia and the Senator from South Carolina have dwelt.

The Senator from Virginia says he does not want any protection for the agricultural interests of Virginia, and the Senator from South Carolina says the same thing for her. Well, sir, I will not deny the superior claim of the Senator from Virginia to speak for the Virginia farmers; but he will allow me to express a doubt whether they are not still as they formerly were—the supporters of the same doctrines which the Senator himself and his colleague [Mr. HUNTER] so ably advocated by their speeches and sustained by their votes, when a former Senator from New York, [Mr. Dix,] vainly endeavored to procure the passage of his bill for establishing reciprocal free trade for all the products of agriculture between the United States and the British North American possessions. Then, indeed he did represent the Virginia farmer. But what has he done since, and what does he now seek to do? He has voted for, and sustained with all his energies, the very measure in the shape of a treaty (the reciprocity treaty with Great Britain) which he condemned so much in the shape of a law, and that, too, although the treaty depended on a law to make it a constitutional measure. By this treaty everything which the Virginia farmer can produce—grain, cattle, provisions of all kinds, down to the poultry, cheese, butter, and eggs, are made duty free to the Canadian farmers, who, of course, will appropriate our northern home market, as they are nearer to it, to themselves. And now he is ready to bring down, by the very measure before us, the duty on wool from thirty per cent. *ad valorem* to eight, for the sake of supplying the woolen manufacturers with cheap wool at the expense of the farmer. Are the Virginia farmers satisfied with this too? Sir, it is protection to the manufacturer by discriminating against the farmer, and it is oppressive and ruinous to him, while it temporarily enriches others.

Let us examine the claims I now make for the farmer, and see whether I ask protection for him, and how: A duty of twenty per cent. was never called a protective duty; it was never regarded as anything more than a revenue duty. You have repealed this duty, so far as it was laid on British North American agricultural products, by your treaty. In the year 1833, when we passed the compromise act, which settled the then existing differences between North and South, I was one of those who participated in that action. At that time men both from the South and North agreed that a duty of twenty per cent. was not a protective, but a mere revenue duty, and the end of that measure was, at the expiration of nine and a half years, to bring the duties down from the existing condition of things to twenty per cent. *ad valorem* assessed on a home valuation. That was intended to be the minimum of duty; we were by that bargain never to go below twenty per cent. Every southern man was then in favor of maintaining a horizontal duty of twenty per cent. on everything we produced, cotton included. The farmer never had any other duty for his protection than a mere revenue duty. Twenty per cent. was all that he had on his grain, and was all that protected him against foreigners for everything he produced on his farm. He asked no more. He never asked for a protective duty, and I do not ask it for him now. But, sir, you discriminate against him. You give a protection to the amount of thirty, forty, and even fifty per cent. to the interests of the manufacturers of the country; and by the reciprocity treaty of 1854 you swept away from agriculture the whole of the former twenty per cent., which could yield protection only as it was incident to revenue, against the immense productions of the British North American provinces. More, sir, you have, as a necessary consequence of this reciprocity treaty, admitted Prussian wheat—wheat from the immense and fertile regions around the Vistula, from Dantzic, the great wheat market of the world, free of duty also.

The same principle which was applied to exempt Portuguese wines from duty in consequence of the admission of French wines at a lower rate by the treaty of 1831, must necessarily be applied in the construction of the Prussian and reciprocity treaties. Now, sir, is the farmer to be insulted and told he demands protection when he resists this oppressive discrimination which, while it gives to the commercial and manufacturing interests either prohibition or high duties for their protection against foreign competition, refuses to him the lowest duty that is given to every one else. While you are compelling him to use American manufactures or pay duties amounting to thirty and forty per cent. on foreign fabrics, while you prohibit him from sending his grain coastwise in any vessel that is not American-built and owned, commanded, and navigated by Americans, you deny him even the lowest revenue duty and buy your very breadstuffs of foreigners duty free, degrading him to the level of the foreigner whose interests you delight to cherish. And yet you taunt him and tell him, when he complains, that

he wants protection and bounties in his favor! No, sir, he wants no favors of you, he desires no injustice to others, but he will not submit to injustice to himself when it is thus grossly practised against him. He is now receiving war prices for his grain, and has to pay heavy prices for all he buys, but the reciprocity treaty has scarcely gone into operation, and he does now not feel it. When that treaty shall be in full operation, and the European war is ended you will hear from him. These farmers have stout hearts and strong arms, sir, and when once roused to a sense of the injustice done them, I think you will have to hear from them more fully than any feeble effort of mine could induce you to regard them upon this question.

As to the disclaimer of the Senator from South Carolina, [Mr. BUTLER,] that his constituents want no protection; they have nothing to sell that requires it. I know that in adjusting the tariff of 1833 Mr. Calhoun insisted on the duty on raw cotton and obtained it—and at this moment if any other nation could successfully raise cotton to compete with ours, South Carolina would be quite willing to accept it again.

I did not say that the farmers of my State came here asking protection. I said no such thing. They will be the last men to ask favors of you, or anybody else, especially if those favors are to be granted at the expense of others. Neither the honorable Senator from South Carolina nor the Senator from Virginia was justified in drawing such an inference from anything that I said. What I did say was, that protection *was* granted to all others, and denied to the farmers; and that here was a measure calculated and intended to strike them down still more by reducing the duty upon their wool, now thirty per cent. to eight per cent. *ad valorem*.

Let me not be misunderstood. I have ever been of the opinion that the duty on woolen manufactures was far too low to enable those engaged in them to compete successfully with foreigners. By the tarif of 1846 you have ruined many of them; and I would rejoice now to increase this protection, as well as that due to the wool-growers, but I would not ruin either of these interests to profit the other.

Sir, I know that I have trespassed upon the patience of the Senate. I am well aware that a speech at this late hour of the night, (eleven o'clock p. m.,) from any man, would be unwelcome; and I forbear to go further with the discussion, trusting that it may end here, as I suppose, having made the motion, I am entitled to the concluding argument of the question. I am ready for the vote, and will detain the Senate no longer.

Mr. SEWARD. The honorable Senator from South Carolina [Mr. BUTLER] addressed a question to me which I heard, being in the Chamber, although I was then at a considerable distance from my seat.

Mr. BRODHEAD, (at twenty-five minutes after ten o'clock, p. m.) With the consent of the Senator from New York, I move that the Senate do now adjourn.

Mr. WELLER called for the yeas and nays; which were ordered; and being taken, resulted—yeas 23, nays 26; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Brodhead, Chase, Clayton, Cooper, Douglas, Foot, Gillette, James, Jones of Tennessee, Morton, Pearce, Pettit, Pratt, Seward, Shields, Sumner, Thompson of New Jersey, Wade, and Wright—23.

NAYS—Messrs. Adams, Badger, Brainerd, Bright, Brown, Butler, Clay, Dawson, Fitzpatrick, Geyer, Gwin, Hunter, Johnson, Jones of Iowa, Mallory, Mason, Rusk, Sebastian, Slidell, Stuart, Toombs, Toucey, Walker, Weller, Wells, and Wilson—26.

So the Senate refused to adjourn.

The PRESIDING OFFICER, (Mr. BADGER.) The Senator from New York is entitled to the floor.

Mr. DOUGLAS. The Senator from New York has been kind enough to yield me the floor, for which I return him my thanks. I will accept his kindness for the reason that it is probable the state of my health will not allow me to remain in the Senate to-night long enough to vote upon this question; and I have a few words to say, so that, if I shall be absent when the vote is taken, there may be no misapprehension as to how I would vote if I were present.

I am for a reduction of the tariff to a strict revenue standard. I am a free trade man to the fullest extent that we can carry it and at the same time collect revenue enough to defray the expenses of Government. In other words, I am for no other kind of a tariff than a revenue tariff; but, sir, ought we to revise the tariff and change the whole revenue policy of the Government in the mode proposed in this bill? What is the history of the tariff measure which we have now before us? I should like to know from the chairman of the Committee on Finance if it has the sanction of any committee of either House of Congress? I should like to know if it has ever been before a committee of either House, and received its approval as such? If so, I am not aware of it. Then, has it the sanction of the Executive branch of the Government? I understand, on the contrary, that the Secretary of the Treasury reported in favor of a different bill, and that this measure ignores the recommendations of the Treasury Department.

Then, sir, we are called upon to revise the tariff, and change the whole revenue policy of the Government by the adoption of a measure brought forward by a member of the House of Representatives upon his own responsibility, in opposition to the wishes of the Treasury Department, in opposition to the policy of the Executive branch of the Government entrusted with the execution of fiscal affairs, without the concurrence of a committee of either House, and adopted by the House under the operation of the previous question, without a word of debate, in violation of the rules of the House; and it is sent to us, and we are required to take it without the slightest consideration, and even without a reading, in violation of the rules of the Senate also.

Sir, I wish to know what is to be the effect of this measure on the great interests of the country before I can give it my vote. So far as I have been able to understand it, instead of being predicated on the revenue principle, it is a thorough, rigid, protective bill, abandoning the principles of the tariff of 1846, abandoning the revenue principle upon which we supposed the country had planted itself, and, in lieu of it, substituting a protective principle, with odious and unjust discriminations against great material interests in our own country.

I am willing to reduce the tariff in accordance with the principles of the tariff of 1846; I am willing to take that act and provide for a reduction of twenty per cent. on the schedules contained in it. But in lieu of that, it is here proposed to transfer articles from one schedule to another, and to reverse the principles of that act, by making discriminations against the great agricultural interests of the country, and unjust to my own constituents. Under these circumstances, I cannot be expected to take it without examination or explanation. Without having the opportunity of reviewing the measure in all its details, I may be permitted to call attention to one or two items. While the bill professes to reduce the duties twenty per cent. on the schedules of the tariff of 1846, it changes the schedules so as to protect and foster certain interests, by abandoning or oppressing certain other interests. It transfers wool from one schedule to another, and then, by applying the graduation of twenty per cent., I am informed that it reduces the duty on wool from thirty to eight per cent., which is equivalent to a nominal duty. Why this departure from the revenue standard, by shifting the schedules, if the object be, as is alleged, merely to reduce the duties to the wants of the Government for revenue purposes. Why should the interests of the wool grower be depressed by a reduction from thirty to eight per cent., while the duty is retained at its maximum on the manufactured article for the protection of the manufacturer? Why not put both interests on an equality, by reducing each twenty per cent. on the schedule of 1846?

Besides, this measure transfers all dye-stuffs, and almost all raw materials from the schedule in which they were placed in the act of 1846, and puts them in the free list, or in a schedule on which the duty is merely nominal. By transferring those articles from one schedule to another, you legislate away large amounts, perhaps millions of revenue, into the hands of the manufacturers to reconcile them to this project. I have asked gentlemen from the New England States, the highest protective tariff men from Massachusetts, and other States, why they support this bill, and they tell me they do so because it is the best protective tariff they have ever had. If this were a free trade measure, as my two friends from Virginia seem to argue, how is it that you have the representatives of Massachusetts unanimously for it in both Houses of Congress? Has Massachusetts all of a sudden abandoned the old American system? Has she abandoned the protective policy? Has she become an advocate for free trade in the most radical form? Has she suddenly and marvelously made this revolution? It must be so, if this be a revenue tariff or a free trade bill, receiving the unanimous support of the Massachusetts delegation in both Houses of Congress. Sir, the fact is, that it is changing the principles of our system from a revenue tariff to one more or less protective, and we have not the means of knowing how high the protective character is, to what extent it prevails, or what interests are protected, and what discriminated against by this measure.

When you call on me as a revenue tariff man, or as a free trader, to abandon my principles and turn protectionist, I wish to know, first, how far you are going to carry your protective doctrines; and second, whether you have discriminated against my constituents. My State is one of the largest wool-growing States in the Union. The Northwest has become, and is to be, the greatest wool-growing region of America. Those vast prairies and plains, sloping from the Rocky mountains on the one side, and the Alleghany on the other, into the valley of the Mississippi, are the seats from which your wool is to come. With that great interest in my region of the country you ask me to vote to strike off the duty on wool, now thirty per cent., and reduce it to eight per cent., in order that you may induce the protective and manufacturing interest in New England to come forward and take your free trade measure, as you call it, as a better protective tariff than the one which was adopted in 1842!

Sir, I should be against this measure at the first blush, on the ground that it is not a revenue tariff; that it is not a free trade measure; that it is a return to what I had hoped was the exploded doctrine of protection. In the next place, even if the bill were right in itself, if its provisions were correct, I could not consent by my vote to put it on this appropriation bill, for the reason that such a course is revolutionary in its character. You have to override all the rules, all the usages, all the safeguards which time and experience have thrown around your legislative proceedings, in order to insert this provision into your civil and diplomatic appropriation bill. If you can put in a provision for the revision of the tariff, thus remodeling the whole financial and commercial policy of the country, what is there which you cannot introduce into such bills? What reason can you give, after you have retained the tariff amendment in this appropriation bill, for complaining of my friend from Missouri [Mr. GEYER] when he brings forward his river and harbor bill, and endeavors to put that, also, upon this civil and diplomatic appropriation bill? What complaint can you make of my friend from Iowa [Mr. JONES] when he brings forward his darling, cherished, Iowa railroad bills, and endeavors to put them in this bill?

Sir, if you begin to break through those safeguards which experience and wisdom in all free Governments and legislative bodies have erected, you will have opened the gates to the floods which will flow in and overwhelm your appropriation bills. What objection can the Senator from Virginia make to putting the French spoliation bill upon his appropriation bills, if this example be set? What reason can he give for not allowing to be inserted any and every measure which a majority of this body may choose to put on an appropriation bill? Whenever you establish this precedent, that your appropriation bills are to be the common receptacles for all measures which have failed for want of time, or for any other cause, they will become an *omnium gatherum*, in which all the unfinished business of the two Houses of Congress will be concentrated, and piled up in one mass, and rushed through at the last moment, when the President of the United States has not the time to read the items of your bills. It is a mode of legislation the inevitable consequence of which will be to defeat your appropriation bills altogether. I say, therefore, that I cannot give my sanction to a course of proceeding so dangerous, so revolutionary in its character as this, even if I were satisfied with the character of the tariff provision which is proposed to be retained in this bill.

Sir, I beg the pardon of the Senate for having trespassed on their time, when I know they wish to vote, and I will not weary their patience by any further remarks. I have deemed it due to myself, to my constituents, and to the subject, to make this explanation, in order that, if I cannot be present when the vote is taken, my opinions on the subject may be known.

Mr. SEWARD. Mr. President, when I was up before, I stated, as my first and great objection to this measure, that it was a revolutionary one. I described how that was. I showed that it was attaching a condition nothing less than the revision of the entire tariff system of the country, to an appropriation bill the most indispensable for carrying on the operations of the Government. Having done so, I showed that it was without precedent heretofore, and that it was of dangerous tendency as a precedent hereafter. I indicated that the time might come when great sectional questions would be brought in as conditions for the grant by the House of Representatives of the necessary funds for carrying on the operations of the Government. There I stopped. It is not my fault, if others have taken this hint, and carried it beyond the point at which I left it. It had sufficiently illustrated the chief argument I addressed to the Senate.

But, sir, my honorable friend from Ohio [Mr. WADE] took the argument where I left it, and advanced the extraordinary proposition that it was a legitimate exercise of power by the House of Representatives. He maintained that it was legitimate for the House of Representatives to attach any conditions which it should think proper to bills appropriating money for carrying on the operations of the Government, and fortified his argument by referring to the example of the British Constitution. I think my honorable friend, on reflection, will be satisfied that he is mistaken in the supposed analogy between the Constitution of Great Britain and the American Constitution.

Mr. WADE. The Senator is mistaken; I made no allusion at all to the British Constitution.

Mr. SEWARD. I understood my honorable friend to suppose that the House of Representatives was exercising only the power which the British House of Commons exercises in similar cases.

Mr. BENJAMIN. Will the honorable Senator from New York permit me to interrupt him by making a motion to adjourn?

Mr. SEWARD. Certainly.

Mr. BENJAMIN. I think a majority of the Senate are disposed to adjourn; and if so, it is no use for us to sit here longer. I move that the Senate do now adjourn.

Mr. WELLER. I ask for the yeas and nays on that question, as I think an adjournment now will inevitably result in the defeat of some of the appropriation bills.

Mr. DOUGLAS. I hope my friend from Louisiana will withdraw the motion, and allow us to vote on this amendment at once. It may be that if we can strike out this provision, an end will be put to the controversy, and we can go on with the bill regularly. If the motion should not be agreed to, it will not be too late, because the same motion to strike out can be made in the Senate when the bill shall be reported from the Committee of the Whole. Let us have a test vote, and find out where we stand.

Mr. CLAYTON. Very well.

Mr. WELLER. Let us have the vote.

Mr. BENJAMIN. I cannot withdraw the motion to adjourn, because I know we cannot have a vote. If we could vote on the proposition now, I should be willing to withdraw the motion.

Mr. DOUGLAS. Let us try it.

Mr. BENJAMIN. I know we cannot get a vote, because I know friends who will not allow the vote to be taken until they speak on the subject. They wish to go on, and I am not disposed to sit here all night.

The PRESIDING OFFICER. The question is on the motion to adjourn.

Mr. WELLER. I call for the yeas and nays on that motion. I think some of the appropriation bills will be lost, if we now adjourn, and I wish the country to see who is for doing that.

The yeas and nays were ordered.

Mr. WADE. I have been requested to state that the Senator from Maine, [Mr. FESSENDEN,] and the Senator from South Carolina, [Mr. EVANS,] have paired off on all questions connected with this matter.

The yeas and nays being taken on the motion to adjourn, resulted—yeas 20, nays 23; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Brainerd, Brodhead, Chase, Clayton, Cooper, Foot, Geyer, Gillette, James, Pearce, Pratt, Seward, Shields, Sumner, Wade, and Wright—20.

NAYS—Messrs. Adams, Badger, Butler, Clay, Dawson, Fitzpatrick, Gwin, Hunter, Johnson, Jones of Iowa, Mallory, Mason, Rusk, Sebastian, Slidell, Stuart, Thomson of New Jersey, Toombs, Toucey, Walker, Weller, Wells, and Wilson—23.

So the motion was not agreed to.

SUSPENSION OF RULE.

A message from the House of Representatives, by Mr. McKEAN, Chief Clerk, announced that the House had passed the following resolution:

Resolved, (with the concurrence of the Senate,) That the 16th joint rule of the two Houses be suspended for the present session.

The PRESIDING OFFICER, (Mr. BADGER.) The Chair is of opinion that, under the rules of the Senate, this question is immediately to be considered, unless the Senate postpones it.

Mr. STUART. I hope the resolution will be agreed to.

The resolution was agreed to. The 16th joint rule, which is thus rescinded for the residue of the session, provides, that "no bill that shall have passed one House shall be sent for concurrence to the other on either of the three last days of the session."

CIVIL AND DIPLOMATIC APPROPRIATION BILL.

The consideration of the civil and diplomatic appropriation bill having been resumed,

Mr. SEWARD. I was saying that there was no analogy between the Constitution of Great Britain and the Constitution of the United States, in this respect. The powers of the British Constitution consist of an aristocracy; which is represented by the King and House of Lords; and of a Democracy or commons, represented by the House of Commons. So great is the landed interest, the aristocratic interest of that country, that it is indispensably necessary that the House of Commons should be armed with revolutionary power, there being no written constitution, and such being the adjustment of the political forces of the State. All that fails here, where there is no aristocracy, and where all the interests of the country are equally represented in both branches of Congress, the only difference being that one is made, by its peculiar Constitution, somewhat more conservative than the other.

From the foundation of the Government, until this day, it has been settled as a matter of habit, and become a habit of the Government, that the House of Representatives shall not only exercise its constitutional right of originating all revenue bills, but that it shall exercise that original right in a certain regular way; that is by introducing bills of appropriation separate and distinct from all other matters, and confined to matters of appropriation alone. It is a part of that great conservative principle of legislation which is necessary for the safe transaction of the public business and for the preservation of the balance of political affairs in any State, that every act of legislation should be distinct and separate from all other acts; and for the obvious reason that, where many subjects are combined, in regard to which Representatives have different opinions representing different interests, there is no distinct and separate opportunity for each of them, but a compromise is made in which one party gives up something to obtain an advantage from the other party. This, in small matters, passes without observation; but when the matters thus combined are great questions of State, involving the safety of the State, or involving the harmony of the Union, then we are all made aware at once how important it is to adhere to the safe and cardinal principle of discussing every separate matter by itself independent of all others.

When I first came into the Senate I took the ground that a combination of many great measures affecting great interests and engaging different and conflicting opinions, was irregular, was factious, was revolutionary; and upon that ground, among others, I voted against the compromise bill of 1850, though it contained an object which I was most sedulous and anxious to obtain—the admission of the State of California. I insisted that California, much as I desired her to come into the Union—and all men know how anxious, at that time, I was for the admission of the State of California—must come in without condition, without compromise, without qualifications; and because she was not allowed to come in in that way by the compromise bill, I voted against it. I have always been in favor of advancing the interests of that State, and of admitting States of the character of California; but, at the same time, I have never been willing to resort to a revolutionary or factious measure to obtain an important object, however beneficial it might be to the interests of the Union in my view, or to the interests of the community.

Sir, this has been my rule of action from the beginning. The honorable Senator from South Carolina appeals to me how I would act in a case which he imagines, which may happen and which may never happen; and that is, that, if there shall be a House of Representatives the next year—which I trust in God may be the case—that will send here a bill to repeal the fugitive slave law, then how will I vote on that?

Mr. BUTLER. That was not the question which I propounded.

Mr. SEWARD. If the honorable Senator will wait I will state his question and answer it.

Mr. BUTLER. Very well, sir.

Mr. SEWARD. When the House of Representatives sends that bill here, it will be the beginning of that reaction which, when the fugitive slave law was passed, I knew was to begin in the near future. The question being stated in that simple form, of course the honorable Senator knows, and everybody here and throughout the country, I trust, knows what my answer would be. I have voted here more than once for the repeal of the fugitive slave law; and when the question comes, this year, or the next year, or the year after, or so long as I have a place in the Senate, I shall always vote for it, when I can vote for it constitutionally, and that I can always do when it comes here as a separate bill.

Other honorable Senators ask what I will do if the House of Representatives shall next year send a bill for the restoration of the Missouri compromise? Sir, I trust that that House of Representatives, whether it be constituted of anti-Nebraska men, or of American men, or whatever may be its constitution, will send up such a bill here. I think the next House will send it, or at any rate, the next one after that; and when it shall come here, I will be prepared to vote for expunging slavery from every foot of the common territory of the United States of America, when I can do that constitutionally; and I can always do it when it is in a separate bill.

Now, sir, having thus stated my faith as to what I can do constitutionally and without faction or revolution, I will tell the honorable Senator from South Carolina—and there are on this floor the witnesses of what I say—that more than once since the fugitive slave law was passed, I have warned my friends that they must not put upon an appropriation bill, which involves the payment of the expenses of Government, a provision for the repeal of the fugitive slave law, and that if they did they would not have my vote. I can tell the honorable Senator from South Carolina that there are those here who will bear me witness that when it has been proposed on this bill I have refused to give it my support.

Mr. FOOT. I am a witness.

Mr. SEWARD. Here is one Senator who says he is a witness. That is for the past. Now I will tell the honorable Senator for the future. The Senate of the United States has pursued, in advancing the interest of slavery, according to my judgment, a course of faction and of revolution, which has crushed the anti-slave power in this House. It is weak here. I have remonstrated at every step, and been at the same time, as I think, loyal and orderly; but the Senate of the United States can establish and will establish with or without my remonstrance, what is factious, what is orderly, what is regular, and what is revolutionary. If the Senate of the United States now establish the position that I am wrong in supposing that it is faction and revolution thus to compel a revision of the tariff without rhyme and without reason; without giving men throughout all this broad land an opportunity to know that their interests are brought into question, and without giving us, their representatives here, an

opportunity to ascertain their case, then I shall be overruled; then I shall learn, by the consent of the honorable chairman of the Committee on Finance, by the concurrence of the venerable and distinguished Senator from South Carolina, by the support of the majority of this House, by the concurrence of the House of Representatives, and, when the President shall have signed their ill-starred bill, by the concurrence and approval of the President of the United States, that I have been heretofore altogether wrong, and that the true way to abolish slavery in the District of Columbia is to attach it as a condition to the civil and diplomatic bill; that the true way to restore freedom to the Territories is to attach it to the civil and diplomatic bill; and that the true way to repeal the fugitive slave law is to make the repeal conditional on the grant of the money with which the Government is to maintain itself in all its domestic operations and in all its foreign relations. I shall have learned, sir, that instruction. How I shall profit by it, I do not now say. I only say that when the time comes I will consider.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Delaware, which is to strike out the five last sections of the bill.

Mr. BROWN. In the early part of the day I agreed to pair off with the Senator from Kentucky, [Mr. THOMPSON.] If he were here he would vote for this motion, and I should vote against it, but as he is absent I shall not vote at all.

The question was taken, and the vote was—yeas 22, nays 23, but before the vote was announced Mr. DOUGLAS changed his vote for the purpose, as he stated, of moving a reconsideration.

The vote was announced—yeas 21, nays 24; as follows:

YEAS—Messrs. Allen, Badger, Bayard, Bell, Benjamin, Brainerd, Bright, Brodhead, Clayton, Cooper, Foot, Geyer, James, Pearce, Pratt, Seward, Shields, Stuart, Thomson of New Jersey, Wade, and Wright—21.

NAYS—Messrs. Adams, Butler, Chase, Clay, Dawson, Douglas, Fitzpatrick, Gillette, Gwin, Hunter, Johnson, Jones of Iowa, Mallory, Mason, Rusk, Sebastian, Slidell, Sumner, Toombs, Toucey, Walker, Weller, Wells, and Wilson—24.

Mr. DOUGLAS. I now submit the motion to reconsider.

Mr. GWIN. On that I call for the yeas and nays.

Mr. DOUGLAS. I had reason to suppose that the motion to strike out would be agreed to, and, therefore, I endeavored to stop debate.

Mr. SEWARD. I hope the honorable Senator will do me the justice to acknowledge that I advised against it.

Mr. DOUGLAS. That is the case; but I had reason to suppose that the motion to strike out would be agreed to or the question should not have been taken.

The PRESIDING OFFICER. The question is on reconsidering the amendment moved by the Senator from Delaware.

Mr. PEARCE. I move that the Senate do now adjourn.

Mr. HUNTER and Mr. MASON called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 24, nays 22; as follows:

YEAS—Messrs. Allen, Badger, Bayard, Bell, Benjamin, Brainerd, Bright, Brodhead, Clayton, Cooper, Douglas, Foot, Geyer, Gillette, James, Pearce, Pratt, Seward, Shields, Stuart, Sumner, Thomson of New Jersey, Wade, and Wright—24.

NAYS—Messrs. Adams, Brown, Butler, Chase, Clay, Dawson, Fitzpatrick, Gwin, Hunter, Johnson, Jones of Iowa, Mallory, Mason, Rusk, Sebastian, Slidell, Toombs, Toucey, Walker, Weller, Wells, and Wilson—22.

So the motion was agreed to; and the Senate, at twenty minutes after eleven o'clock, p. m., adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March* 2, 1855.

The House met at eleven o'clock, a. m. Prayer by Rev. HENRY SLICER.

On motion by Mr. BRIDGES, the reading of the Journal of yesterday was dispensed with.

POST ROUTE BILL.

Mr. OLDS. I ask the unanimous consent of the House to enable me to report my post route bill, and to ask that it be put upon its passage. It is not necessary that the bill should be read. But I will state to the House that it contains nothing but lists of post routes.

No objection being made, the bill was taken up and read a first and second time by its title, as follows, viz:

Bill to establish certain post routes.

Mr. FAULKNER. I move that the reading of the bill be dispensed with.

The motion was agreed to.

Mr. McDOUGALL. I have an amendment which I wish to offer to the bill to establish a post route. I think there will be no objection to it on the part of any member of the House. It is an amendment which, on a former occasion, I offered to the House, when objection was made to it. It is no Pacific railroad bill, nor anything of that kind. I have, to some extent, consulted with gentlemen who objected to it at that time, and I have found, as far as I am informed or advised, that those who objected then have since become satisfied of the propriety of the amendment. It merely provides for a post route from St. Louis to San Francisco, and makes certain provisions for postal service on that road. I think there can be no objection to it.

Mr. HOUSTON. Is this business regular, Mr. Speaker?

The SPEAKER. By the unanimous consent of the House.

Mr. HOUSTON. If that amendment proposes to establish mail service on that route, and if the chairman of the Committee on the Post Office and Post Roads will not object to it, I will make a point of order against it.

Mr. McDOUGALL. If the amendment is not in order I do not wish to move it, but I believe it is in order.

Mr. OLDS. I should like to move the previous question on the amendment, and stop all discussion.

Mr. LETCHER. Let the amendment be read first.

Mr. McDOUGALL. I do not want any discussion upon it. I move the previous question.

The Clerk proceeded to read the amendment, as follows:

That the Postmaster General be, and he is hereby, authorized and directed, after the usual advertisement, to contract with the best bidder in point of time and amount of compensation, for a daily express mail service from the city of St. Louis, in the State of Missouri, through the Territories of the United States, to San Francisco, in the State of California, for the term of four years from and after the time of the commencement of the service, which shall not be more than one year after the proposals are made and accepted: *Provided*, Parties will propose and contract to transport such express mail between the points named within twenty days during the first year of service, within eighteen days during the second year of service, and within sixteen days thereafter, and for the sum of not more than $500,000 per annum; and in the event of failure to make any one trip within the time named as aforesaid, an amount shall be deducted from the gross sum payable to said contractors equal to the proportion thereof payable for one trip: and it is hereby further provided, that the surplus of expenses over and above the amount received for postages by express as herein provided, shall be a charge upon the Treasury of the United States.

SEC. 2. *And be it further enacted.* That no letter or package shall be sent or carried by said express mail without the same shall be marked by the postmaster in whose office the same is deposited, with the words "Overland express mail," and the signature of the postmaster shall be thereto annexed; and no letter or package shall be sent or carried by said express mail without prepayment therefor at the office where the same is mailed, as follows: For every letter or package of one half ounce or under, twenty-five cents; of more than one half ounce, and not more than one ounce, fifty cents; and for each additional half ounce, twenty-five cents; and no one package of more than eight ounces shall be sent or carried by said express mail. And it is hereby further provided, that the parties accepting or entering into such contract shall not be required to receive additional mail matter at more than four points between the termini aforesaid, to be designated by the Postmaster General; and the points so designated shall be on the route selected by the contractors; which route is hereby declared to be constituted a mail route as soon as so selected, and the said contractors shall not be required to wait at any of the said intermediate points for more than one hour for such way mail; and for all way matter the same amount shall be charged as if mailed for the entire route.

SEC. 3. *And be it further enacted*, That the parties contracting as aforesaid shall have the right to open a road upon such route as they may select, and to use the same, and to construct bridges, sink wells, and do such other acts as may be necessary to render such road a good common road; and the said parties so contracting are authorized to expend, in the construction of necessary bridges and in the sinking of wells along the route so selected by them, a sum of money, for, and on account of the United States, not to exceed $150,000, for which such parties shall take and preserve evidence and vouchers satisfactory to the Postmaster General; and the said parties shall have the right to enter upon, use, and occupy, any unoccupied and unappropriated lands of the United States, along the said line through the Territories of the United States which may be required by them for stations, or other purposes necessary to the maintenance and use of the said road as a post road.

Mr. COBB. My people want horse mails, but I cannot get them, because you say here that you have to pay for them. I therefore object to the introduction of this amendment.

Mr. HAMILTON. If there is an appropriation in it, it is out of order.

Mr. McDOUGALL. I wish to inquire of the Speaker whether the amendment I have offered, providing for this post route, and for service upon it, is not in order as an amendment to the post route bill? I do not wish to violate the rules of order, and I will not offer the amendment if it be out of order. I can see no good reason why it is not in order.

The SPEAKER. There is a marked difference between the amendment and the bill itself. The bill establishes post routes under the general law relating to the post office establishment, but the amendment of the gentleman from California proposes to do more than that. It not only establishes a post route, but it provides for the service, and the manner of carrying the mail, changing the general law of Congress upon the subject.

Mr. JONES, of Tennessee. I understand that the post route bill is under consideration. The amendment proposed by the gentleman from California, which has been read by the Clerk, proposes to establish a mail route from St. Louis to San Francisco. That would be an overland route through the Territories of the United States, and does not touch upon any foreign country, and it seems to me that it would be but just and right to establish a post route, like other post routes of the country, from St. Louis, in Missouri, to San Francisco, in California, leaving it in the discretion of the Postmaster General to advertise and receive proposals for the service. If, in his discretion, it would be right and proper to give the contract for the service to the best bidder, why, of course, he will do it. I do not see why we should make a special exception to this route, going, as it does, through the Territories of the United States.

Mr. McDOUGALL. I will explain to the gentleman from Tennessee the reason for making a special provision in this case. The present postal service of California is through a foreign country. In order to get a postal service, which will answer the necessities of the Pacific coast, it is necessary to take extraordinary measures——

Mr. DAVIS, of Indiana. I rise to a question of order. I do not think that either of the gentlemen who are discussing this matter are in order.

The amendment was again read by the Clerk.

The SPEAKER. This amendment contains no appropriation of money, and the Chair does not know how it can be otherwise than in order.

Mr. McDOUGALL. I move the previous question.

Mr. JONES, of Louisiana. It involves an expenditure of money.

The SPEAKER. It does involve an expenditure of money, but it does not appropriate money. That is a distinction always drawn under our rules.

The previous question was seconded, and the main question ordered to be now put.

The main question being the adoption of the amendment,

Mr. COBB called for the yeas and nays, and tellers upon the yeas and nays.

Tellers were ordered; and Messrs. HAMILTON and McDOUGALL were appointed.

The House was then divided; and the tellers reported thirty in the affirmative—a sufficient number—so the yeas and nays were ordered.

The question was then taken; and resulted—yeas 49, nays 78; as follows:

YEAS—Messrs. Banks, Cook, Corwin, De Witt, Dickinson, Edmands, Etheridge, Farley, Florence, Green, Andrew J. Harlan, Hendricks, Henn, Hughes, Kurtz, Lamb, Lane, Latham, McDougall, McNair, Mace, Macy, Matteson, Maurice, Maxwell, Smith Miller, Olds, Parker, Pennington, Phelps, Pratt, Richardson, Riddle, Rowe, Russell, Samuel A. Smith, and Daniel B. Wright—49.

NAYS—Messrs. Aiken, James C. Allen, Appleton, David J. Bailey, Barksdale, Bennett, Bocock, Bridges, Bristow, Campbell, Carpenter, Chandler, Chase, Chrisman, Clark, Clingman, Cobb, Cox, Craige, John G. Davis, Thomas Davis, Dawson, Dowdell, Drum, Dunbar, Eddy, Faulkner, Flagler, Fuller, Giddings, Goode, Greenwood, Hamilton, Aaron Harlan, Sampson W. Harris, Hibbard, Hiester, Houston, Johnson, Daniel T. Jones, George W. Jones, Ro-

land Jones, Kerr, Knox, Letcher, Lewis, Lilly, May, Middleswarth, Morgan, Murray, Andrew Oliver, Orr, Bishop Perkins, Phillips, Preston, Pringle, Ready, Thomas Ritchey, Robbins, Sabin, Sapp, Shower, Simmons, Singleton, Skelton, George W. Smyth, Richard H. Stanton, Stratton, John J. Taylor, John L. Taylor, Thurston, Tracy, Trout, Tweed, Vansant, Israel Washburn, Tappan Wentworth, and Witte —78.

So the amendment was not agreed to.

Mr. COBB moved to reconsider the vote just taken, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

The bill was then ordered to be engrossed and read the third time.

Mr. JONES, of Tennessee. I would inquire if the bill is engrossed?

The SPEAKER. It is ordered to be engrossed.

Mr. JONES. I was going to suggest, if it would meet the views of the gentleman from California, [Mr. McDOUGALL,] that we put into the bill an ordinary route from St. Louis to San Francisco, and let it stand upon the same footing as the other routes in the bill.

Mr. BENTON. There is already such a route in the bill.

Mr. McDOUGALL. But they are of no avail.

The bill being engrossed, it was subsequently read the third time, and passed.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, here reported as correctly enrolled bills of the following titles; which thereupon received the signature of the Speaker:

An act for the relief of Henry S. Sanford;

An act for the relief of Parmelia Slavin, late the wife of John Blue;

An act for the relief of Amos Knapp;

An act for the relief of George W. Torrence;

An act for the relief of Peter Amey, (colored man;)

An act for the relief of Mrs. J. Josephine McClellan;

An act to amend "An act to carry into effect a treaty between the United States and Great Britain," signed on the 5th June, 1854, and approved August 5, 1854;

An act for the relief of William G. Howison;

An act for the relief of Charles H. Pointer;

An act for the relief of the heirs of Philip R. Rice, deceased;

An act for the relief of Sarah Morris, only heir of Robert Mitchell, deceased;

An act for the relief of William G. Preston, late a captain in the war of the United States with Mexico;

An act authorizing the corporate authorities of Georgetown to impose additional taxes, and for other purposes;

An act for the relief of the children and grandchildren of Thomas Morris; and

An act for the relief of Amos E. Cook.

The SPEAKER. The regular order of business is the consideration of the report of the Committee of the Whole on the state of the Union on the Army appropriation bill, and no other business is in order unless it be a question of order or privilege.

Mr. WASHBURN, of Maine. Will the Chair allow me to ask the consent of the House to a proposition?

The SPEAKER. The gentleman will state what it is.

Mr. WASHBURN. I have a little matter, and I beg the indulgence of the House to take it up and dispose of it, which can be done in a minute. It is a resolution of the Senate, which was drawn up by the First Comptroller, Mr. Whittlesey. The resolution proposes to authorize the Comptroller to pay a small sum of money to the Secretary of the Territory of Minnesota.

Mr. HOWE. I object.

Mr. DAVIS, of Indiana. Will the Chair allow me to make an appeal to the House?

The SPEAKER. The Chair will hear what the gentleman proposes.

Mr. DAVIS. It is this: that by unanimous consent the House spend one hour, this morning, in the call of the States, as we did yesterday, commencing where we left off on yesterday.

Mr. HOUSTON and others called for the regular order of business.

Mr. SMITH, of Virginia. I was going to suggest——

The SPEAKER. The regular order of business is insisted on by a dozen members, and it is not in order for members to be making propositions while other matters are pending. If they do, propositions multiply so that it is impossible to keep pace of them. The gentleman from Indiana asks, that when this bill, upon which the previous question has been ordered by the House, is disposed of, the States shall be called, as on yesterday morning, with the understanding that if objection is made at any time during the progress of the bill——

Mr. COBB. Mr. Speaker, Mr. Speaker——

The SPEAKER. Order! The Chair would like to make a statement without interruption.

Mr. COBB. I wanted to state to the Chair——

The SPEAKER. Well, the Chair must insist upon not being interrupted, unless the gentleman is determined to interrupt him. The Chair does not know whether it is the purpose of the gentleman from Alabama to interrupt the Chair or not.

Mr. COBB. It is not my purpose to interrupt the Chair, but to discharge my duty fearlessly and faithfully.

The SPEAKER. Then the Chair will allow the gentleman to state his proposition.

Mr. COBB. Very well; I merely want to object to the proposition of the gentleman from Indiana, [Mr. DAVIS.] I hope the Chair will not consider me disrespectful.

The SPEAKER. Certainly not.

Mr. COBB. It is not my intention to be so.

Mr. SEWARD. I rise to a privileged question. I wish to inquire of the Chair whether it is in order to move to suspend the rules?

The SPEAKER. It is not, as the previous question is ordered upon the Army appropriation bill, and the consideration of that bill is first in order.

ARMY APPROPRIATION BILL.

The House then proceeded to consider the amendments to the Army appropriation bill, as reported to the House from the Committee of the Whole on the state of the Union yesterday, commencing where the House left off last evening.

The thirteenth was reported, as follows:

SEC. 2. *And be it further enacted*, That the board of officers appointed under the sixth section of the act making appropriations for the support of the Army for the year ending June 30, 1853, approved August 31, 1852, is hereby authorized and directed, in addition to the powers and duties already conferred upon it, to extend its examinations to claims arising from the destruction of property by the troops serving under the command of Lieutenant Colonel John C. Frémont, in California, in the years 1846 and 1847, by his orders, as well as for the destruction of property by the enemy, caused by the occupancy of the claimants' premises by the said United States troops; that the said board is empowered to summon and examine witnesses under oath, and take testimony in California (if necessary) and elsewhere; that for the payment of the claims reported favorably upon by the board in its report to the Secretary of War, dated 5th December, 1854, Executive document 8, Thirty-Third Congress, second session, including that numbered 197, being the claim of Santiago E. Arguillo, and amounting to $11,584, and for the compensation of the members of said board, for and during their period of service as such, at a rate not exceeding $3,000 per annum each, deducting therefrom their Army pay, the sum of $40,548 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated; and the Secretary of the Treasury is hereby authorized and directed to pay to the treasurer of said board, out of any money in the Treasury not otherwise appropriated, the sum of $10,000 for the contingent expenses of the said board, including therein office rent and clerk hire, stationery, fuel, the payment of the witnesses' fees duly summoned by the board, at a rate not exceeding those paid by the United States district courts in California or elsewhere, as the case may be, the traveling expenses of said board, not exceeding sixteen cents per mile to each member, and other incidental expenses.

Mr. PHILLIPS. I demand the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. DAVIS, of Rhode Island. The amendment is not understood in this part of the Hall, and I ask that it be again read.

Mr. WALSH. I object.

The SPEAKER. Is it the pleasure of the House that the amendment be again read?

The question was taken; and the House decided that the amendment should be again read.

The Clerk then read the amendment.

Mr. BENTON. Mr. Speaker, the first I heard of that case was when I heard it last night. I passed it through my mind whether I had ever heard of any cases that would come under that description. All my feelings last night were against it.

The SPEAKER. The previous question having been ordered to be put, debate is not in order.

Mr. BENTON. I will not make debate, but a brief statement. I know that Colonel Frémont protected property, and that he did not destroy it; and I know that he conscientiously gave certificates wherever there was any just claims, and, on the contrary, refused certificates where there were not just claims. That is the way the thing stands.

The question was taken on the thirteenth amendment of the Senate; and it was non-concurred in—yeas 62, nays 101; as follows:

YEAS—Messrs. Abercrombie, Ashe, Barksdale, Bell, Bocock, Breckinridge, Bristow, Caruthers, Clark, Cook, Curtis, De Witt, Dickinson, Dowdell, Drum, Dunbar, Edmands, Edmundson, John M. Elliott, English, Florence, Fuller, Green, Greenwood, Harrison, Hastings, Roland Jones, Lamb, Latham, Lindley, Macdonald, McDougall, McNair, Macy, Matteson, Maxwell, Preston, Reese, Riddle, Rogers, Sage, Seward, Shower, William Smith, William R. Smith, Frederick P. Stanton, Hestor L. Stevens, Straub, David Stuart, Nathaniel G. Taylor, Teller, Trout, Tweed, Upham, Vansant, Elihu B. Washburne, Wells, John Wentworth, Westbrook, Witte, Daniel B. Wright, and Hendrick B. Wright—62.

NAYS—Messrs. Aiken, James C. Allen, Willis Allen, Appleton, David J. Bailey, Ball, Banks, Belcher, Benson, Benton, Boyce, Bridges, Campbell, Carpenter, Caskie, Chamberlain, Chandler, Chase, Chrisman, Clingman, Cobb, Corwin, Cox, Craige, Crocker, Cutting, Thomas Davis, Dawson, Dunham, Eastman, Eddy, Edgerton, Farley, Flagler, Giddings, Goode, Grey, Hamilton, Aaron Harlan, Andrew J. Harlan, Sampson W. Harris, Hendricks, Henn, Hibbard, Hiester, Hill, Houston, Howe, Hughes, Hunt, Johnson, Daniel T. Jones, George W. Jones, Keitt, Knox, Kurtz, Letcher, Lewis, Mace, Maurice, May, Middleswarth, Smith Miller, Morgan, Murray, Norton, Andrew Oliver, Orr, Packer, Parker, Peckham, Pennington, Bishop Perkins, Phelps, Pratt, Pringle, Ready, David Ritchie, Thomas Ritchey, Robbins, Rowe, Russell, Sabin, Sapp, Seymour, Shaw, Simmons, Skelton, George W. Smyth, Richard H. Stanton, Stratton, John J. Taylor, John L. Taylor, Thurston, Tracy, Wade, Walley, Tappan Wentworth, Wheeler, and Zollicoffer—101.

Mr. PHELPS. I move to reconsider the vote by which the amendment was non-concurred in; and that that motion be laid upon the table.

The latter motion was agreed to.

The fifteenth amendment was reported, as follows:

SEC. 4. *And be it further enacted*, That the sum of $30,000 be, and the same is hereby, appropriated, to be expended under the direction of the War Department in the purchase and importation of camels and dromedaries to be employed for military purposes.

Mr. MACE. I demand the yeas and nays on that amendment.

The yeas and nays were ordered.

The question was taken; and the amendment was non-concurred in—yeas 66, nays 90; as follows:

YEAS—Messrs. Appleton, Barksdale, Bell, Benton, Breckinridge, Chamberlain, Clark, Clingman, Corwin, Crocker, Curtis, Cutting, John G. Davis, De Witt, Drum, Dunham, Edgerton, Edmands, Edmundson, Farley, Faulkner, Florence, Gamble, Greenwood, Sampson W. Harris, Wiley P. Harris, Hastings, Hendricks, Hibbard, Hill, Howe, Hunt, Roland Jones, Keitt, Kerr, Latham, Lilly, Lindley, Lyon, McDougall, Macy, Matteson, Maurice, May, Parker, Pennington, Riddle, Sabin, Sage, Seward, Seymour, Singleton, Skelton, Frederick P. Stanton, David Stuart, John J. Taylor, Nathaniel G. Taylor, Teller, Upham, Vansant, Wade, Wells, Westbrook, Witte, Daniel B. Wright, and Zollicoffer—66.

NAYS—Messrs. Abercrombie, Aiken, James C. Allen, Willis Allen, David J. Bailey, Ball, Belcher, Bennett, Benson, Bocock, Boyce, Brooks, Campbell, Carpenter, Chase, Chrisman, Cobb, Cox, Craige, Cullom, Thomas Davis, Dawson, Dickinson, Dowdell, Dunbar, Eastman, Thomas D. Eliot, John M. Elliott, Etheridge, Flagler, Fuller, Giddings, Goode, Grey, Hamilton, Aaron Harlan, Andrew J. Harlan, Harrison, Henn, Hiester, Hughes, Johnson, Daniel T. Jones, George W. Jones, Knox, Lane, Letcher, Lewis, McMullin, McNair, Mace, Middleswarth, Smith Miller, Morgan, Murray, Norton, Andrew Oliver, Mordecai Oliver, Peckham, Bishop Perkins, Phelps, Pratt, Preston, Pringle, Ready, Reese, David Ritchie, Thomas Ritchey, Robbins, Russell, Sapp, Shower, Simmons, William Smith, George W. Smyth, Richard H. Stanton, Hestor L. Stevens, Stratton, John L. Taylor, Thurston, Tracy, Trout, Walley, Walsh, Elihu B. Washburne, Israel Washburn, John Wentworth, Tappan Wentworth, Wheeler, and Hendrick B. Wright—90.

Sixteenth amendment of the Senate:

SEC. 5. *And be it further enacted*, That the provisions of the first section of the act entitled "An act making appropriations for the support of the Army for the year ending the 30th of June, 1851," approved September 28, 1850, granting extra pay to the officers and enlisted men of the Army serving in Oregon and California, be extended to the officers and men composing the garrison of the post of Fort Laramie, on the Oregon route, for the same period of time as was allowed by the sixth section of the act of 3d March, 1853, to the officers and men of the two companies of regiment of mounted riflemen that garrisoned Fort Laramie; and that the provisions of the same section of the same act be also extended to the officers and men composing the escort of Mexican boundary commission while they were serving as such escort.

The question was taken; and the amendment was concurred in.

Seventeenth amendment of the Senate:

SEC. 6. *And be it further enacted*, That the same allowance in respect of rations be hereafter made to the military commandant of the Schuylkill arsenal in the quartermaster's department as to the commandants of the arsenal in the ordnance department.

Mr. PHELPS. The Committee of the Whole on the state of the Union recommend a non-concurrence in that amendment.

The question was taken; and the amendment was non-concurred in.

Eighteenth amendment of the Senate:

SEC. 7. *And be it further enacted*, That the laws granting extra pay to officers and soldiers who had served in California apply to chaplains who were attached to the army in California during the period embraced by such laws.

The question was taken; and the amendment was concurred in.

Nineteenth amendment of the Senate:

SEC. 8. *And be it further enacted*, That the annual distribution of arms to the several States, under the act approved April 23, 1808, entitled "An act making provision for arming and equipping the whole body of the militia of the United States," shall be hereafter made according to the number of their Representatives and Senators in Congress, respectively; and that arms be distributed to the Territories and the District of Columbia, in such quantities and under such regulations as the President, in his discretion, may prescribe.

The SPEAKER. The Committee of the Whole on the state of the Union recommend the following amendment:

Provided, That the Secretary of War shall first equalize, as far as practicable, the number of arms heretofore distributed and now in the possession of the several States, so that each State which has received less than its *pro rata* share, shall receive a number sufficient to make an equal *pro rata* proportion for all States according to the present number of their Representatives and Senators in Congress respectively.

The question was taken; and the amendment to the amendment was agreed to.

Then the Senate amendment, as amended, was concurred in.

Twentieth amendment of the Senate:

SEC. 9. *And be it further enacted*, That the Governors of the several States and Territories be, and they are hereby, authorized to sell, to the best advantage, the arms heretofore distributed under the act of April 28, 1808, and invest the funds arising out of such sales in other arms more suitable for the purposes contemplated by said act: *Provided*, That no arms be so purchased or provided, except such as may be of the same description and caliber as those regularly adopted and in use in the Army of the United States.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a non-concurrence in the amendment.

The question was taken; and the amendment was non-concurred in.

Twenty-first amendment of the Senate:

SEC. 10. *And be it further enacted*, That there shall be added to the Army two regiments of infantry and two regiments of cavalry, organized as in the existing force; and that the officers and men authorized by this act shall be entitled to the same provisions for wounds and disabilities, and the same provisions for widows and children, and the same allowances and benefits, in every respect, as are allowed to other troops composing the Army of the United States; they shall be subject to the rules and articles of war, and the men shall be recruited in the same manner as other troops, and with the same conditions and limitations.

The SPEAKER. The Committee of the Whole on the state of the Union report the following amendment to that amendment:

After the word "force" insert as follows:

And there shall be appointed by the President, by and with the advice and consent of the Senate, one brigadier general.

Mr. WHEELER. I demand the yeas and nays on that amendment.

The yeas and nays were ordered.

[Here a message was received from the President, by SIDNEY WEBSTER, Esq., his Private Secretary, notifying the House that he had approved and signed sundry bills, and transmitted two messages in writing.

A message was also received from the Senate, by ASBURY DICKINS, Esq., their Secretary, notifying the House that that body had passed a resolution for the suspension of the 18th joint rule, which prevents the sending of any original bill from one body to the other within the last three days of the session, and asking concurrence therein.]

The question was taken, and the amendment to the twenty-first amendment was agreed to—yeas 102, nays 70; as follows:

YEAS—Messrs. Abercombie, Aiken, James C. Allen, Willis Allen, Appleton, Ashe, Barksdale, Belcher, Bell, Benson, Breckinridge, Bristow, Brooks, Carpenter, Caruthers, Caskie, Chamberlain, Chandler, Chrisman, Clark, Clingman, Cullom, Thomas Davis, Dawson, De Witt, Dickinson, Disney, Drum, Dunbar, Eddy, Edgerton, Edmands, Edmundson, Thomas D. Eliot, John M. Elliott, Etheridge, Farley, Faulkner, Florence, Goode, Green, Greenwood, Andrew J. Harlan, Harrison, Henn, Hibbard, Hiester, Hill, Howe, Hughes, Hunt, Johnson, Roland Jones, Keitt, Kerr, Knox, Kurtz, Lane, Latham, Lilly, Lindley, McDougall, McNair, Macy, Matteson, Maxwell, Smith Miller, Olds, Mordecai Oliver, John Perkins, Phillips, Preston, Puryear, Richardson, Riddle, Rogers, Russell, Sabin, Sage, Seward, Shannon, Shower, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Straub, David Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Trout, Tweed, Upham, Vansant, Walley, Elihu B. Washburne, Tappan Wentworth, Westbrook, Daniel B. Wright, and Zollicoffer—102.

NAYS—Messrs. Ball, Bennett, Benton, Bocock, Boyce, Campbell, Corwin, Crocker, John G. Davis, Dowdell, Dunham, Eastman, English, Everhart, Flagler, Fuller, Giddings, Goodwin, Grey, Hamilton, Aaron Harlan, Sampson W. Harris, Wiley P. Harris, Hastings, Hendricks, Houston, Daniel T. Jones, George W. Jones, Letcher, Lewis, Lindsley, McCulloch, Macdonald, McMullin, Mace, Maurice, May, Middleswarth, Millson, Morgan, Murray, Nichols, Andrew Oliver, Packer, Parker, Peck, Peckham, Pennington, Bishop Perkins, Powell, Pratt, Pringle, Ready, Reese, David Ritchie, Robbins, Rowe, Sapp, Shaw, Singleton, Skelton, William R. Smith, Hestor L. Stevens, Stratton, Wade, Walsh, Wells, Wheeler, Witte, and Hendrick B. Wright—70.

The question then recurred on the Senate amendment as amended.

Mr. WASHBURN, of Maine. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and decided in the affirmative—yeas 121, nays 61; as follows:

YEAS—Messrs. Abercrombie, Aiken, James C. Allen, Willis Allen, Appleton, Banks, Barksdale, Belcher, Bell, Bocock, Breckinridge, Bridges, Bristow, Caruthers, Chamberlain, Chandler, Chrisman, Clark, Clingman, Cook, Crocker, Cumming, Curtis, Cutting, Dickinson, Dowdell, Drum, Dunbar, Dunham, Eddy, Edgerton, Edmands, Edmundson, Thomas D. Eliot, John M. Elliott, Farley, Faulkner, Florence, Gamble, Goode, Green, Greenwood, Grey, Wiley P. Harris, Harrison, Hastings, Henn, Hibbard, Hiester, Howe, Hughes, Hunt, Roland Jones, Keitt, Kerr, Kurtz, Lane, Latham, Lilly, Lindley, McDougall, McNair, Matteson, Maxwell, Smith Miller, Millson, Noble, Olds, Mordecai Oliver, Orr, Packer, Peckham, Pennington, Bishop Perkins, John Perkins, Phillips, Preston, Ready, Richardson, Riddle, David Ritchie, Thomas Ritchey, Rogers, Rowe, Russell, Sabin, Sage, Seymour, Shannon, Shower, Singleton, William Smith, William R. Smith, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, David Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Tracy, Trout, Tweed, Upham, Vansant, Walbridge, Walker, Walley, Elihu B. Washburne, Wells, Tappan Wentworth, Westbrook, Witte, Daniel B. Wright, Hendrick B. Wright, and Zollicoffer—121.

NAYS—Messrs. Ball, Bennett, Benson, Benton, Boyce, Campbell, Carpenter, Chase, Cobb, Corwin, Cox, Cullom, John G. Davis, Thomas Davis, Dawson, Disney, Eastman, English, Etheridge, Everhart, Flagler, Fuller, Giddings, Hamilton, Aaron Harlan, Andrew J. Harlan, Sampson W. Harris, Hendricks, Hill, Houston, Daniel T. Jones, George W. Jones, Knox, Letcher, Lewis, Lindsley, McCulloch, Macdonald, Mace, Macy, Maurice, Mayall, Middleswarth, Morgan, Murray, Nichols, Andrew Oliver, Parker, Peck, Pratt, Pringle, Puryear, Reese, Robbins, Sapp, Shaw, Skelton, Stratton, Wade, Israel Washburn, and Wheeler—61.

So the amendment as amended was concurred in.

Pending the call of the roll,

Mr. PHELPS said he was in favor of volunteers, but we must have protection for the country. He voted "aye."

Mr. PHELPS moved that the vote by which the amendment was concurred in be reconsidered, and that the motion to reconsider be laid upon the table; which latter motion was agreed to.

Twenty-second amendment:

SEC. 11. *And be it further enacted*, That, to enable the President of the United States to carry into effect the provisions of so much of this act as relates to the employment of an additional military force, such sum of money, not exceeding $2,500,000, as may be necessary, be, and the same hereby is, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. DRUM. Is the bill now amendable?

The SPEAKER. It is not; being under the operation of the previous question.

The question was then taken; and the Senate amendment concurred in.

The twenty-third amendment, adding to the title the words "and for other purposes," was read and adopted.

INDIAN APPROPRIATION BILL.

A message was received from the Senate, informing the House that the Senate had agreed to the report of the committee of conference to the bill of the House (No. 555) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1856, and for other purposes.

Mr. HAVEN. I ask that the report of the committee may be taken up.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. 555) making appropriations for the current and contingent expenses of the Indian department, &c., for the year ending June 30, 1856, met, and after full and free conference, have agreed to recommend to their respective Houses as follows:

That the Senate recede from the forty-eighth and fifty-second amendments, disagreed to by the House. That the House agree to the following as a substitute for the fiftieth amendment of the Senate:

SEC. 10. *And be it further enacted*, That the sum of $12,000 is hereby appropriated to enable the Secretary of War to execute the contract entered into by Joel R. Poinsett, late Secretary of War, on the 12th day of March, 1839, with Jean B. Faribault, and Pelagie, his wife, pursuant to a joint resolution of Congress approved the 13th of February, 1839: *Provided*, That the Secretary of War shall be satisfied with the validity of their title to the lands mentioned in said contract; and that the conveyance to the United States be sufficient to pass the title.

That the House agree to the fifty-first amendment of the Senate, as follows:

In second line, after the word "agents," strike out the words "and sub-agents." In the third line, after the word "deeds," strike out the word "wills." In line four, after the word "writing," insert "and to administer oaths in investigations committed to them in the Indian country, pursuant to such rules and regulations as may be prescribed for that purpose by the Secretary of the Interior."

S. G. HAVEN,
J. L. ORR,
J. G. DAVIS,
Managers on the part of the House.

JAMES SHIELDS,
J. A. PEARCE,
Managers on the part of the Senate.

The following is the report in detail. The Senate recede from the following amendments which were disagreed to by the House:

SEC. 8. *And be it further enacted*, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized to allow the paymasters of the United States Army, who served as such in Mexico during the war with that Republic, commissions of one and a half per cent. on all moneys collected or received, and paid over by them into the Treasury of the United States, arising from duties on imports, and from internal assessments and taxes in Mexico during that war: *Provided*, That no commissions shall be allowed on any such sums of money so collected or received, on which commissions have heretofore been allowed to any other collector or receiver, or other officer of the United States.

SEC. 12. *And be it further enacted*, That from and after the passage of this act, the salary of the central superintendent of the Indian affairs for the central superintendency shall be $2,500 per annum, and for that purpose the sum of $500 is hereby appropriated in addition to the existing appropriation.

The following amendment of the Senate was disagreed to by the House:

SEC. 10. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized and directed to pay to Jean Baptist Faribault, and Pelagie Faribault, his wife, the sum of $12,000, with interest thereupon from the 12th of March, 1839, in full payment of their claim to the island at the confluence of the rivers Mississippi and St. Pierre, and on which Fort Snelling now stands.

The committee report that the above amendment be stricken out, and that the following be substituted for it:

SEC. 10. *And be it further enacted*, That the sum of $12,000 is hereby appropriated to enable the Secretary of War to execute the contract entered into by Joel R. Poinsett, late Secretary of War, on the 12th day of March, 1839, with Jean Baptist Faribault, and Pelagie, his wife, pursuant to a joint resolution of Congress, approved the 13th of February, 1839: *Provided*, That the Secretary of War shall be satisfied with the validity of their title to the lands mentioned in said contract, and that the conveyance to the United States be sufficient to pass the title.

The committee report in favor of amending the fifty-first amendment of the Senate, disagreed to by the House, as follows:

In line two, after the word "agents" strike out the words "and sub-agents."

In line three, after the word "deeds," strike out the word "wills."

In line four, after the word "writing," insert "and to administer oaths in investigations committed to them in the Indian country pursuant to such rules and regulations as may be prescribed for that purpose by the Secretary of the Interior"—

so that the amendment as amended would read:

SEC. 11. *And be it further enacted*, That Indian agents be, and they are hereby, authorized to take acknowledgments of deeds, and other instruments of writing, and to administer oaths in investigations committed to them in the Indian country pursuant to such rules and regulations as may be prescribed for that purpose by the Secretary of the Interior; and that acknowledgments so taken shall have the same effect as if taken before a justice of the peace.

The question was taken; and the report concurred in.

Mr. ORR moved that the vote by which the

report was concurred in be reconsidered, and that the motion to reconsider be laid upon the table; which latter motion was agreed to.

REFUNDING DUTIES.

Mr. FENTON. I ask the unanimous consent of the House to take up Senate bill (No. 591) to remit or refund duties upon goods, wares, and merchandise destroyed by fire.

Mr. JONES, of Tennessee. I object. That is too important a bill to be taken up and passed without consideration.

Mr. FENTON. I move to suspend the rules to enable me to take up the bill. I will state that the bill is substantially the same as that reported by the Committee on Commerce at the last session.

Mr. SEWARD. I rise to a question of order. Is this debate in order?

The SPEAKER. Debate is not in order.

Mr. FENTON. Then I ask for the vote upon the motion to suspend the rules.

The question was taken; and decided in the affirmative—ayes 104, noes 30.

So the rules were suspended and the bill was taken up for consideration.

The bill was read through by the Clerk.

Mr. FENTON. I demand the previous question on the bill.

Mr. WALLEY. I ask the gentleman from New York to withdraw the previous question for a moment. I have no objection to the bill, but I desire to move to strike out, in the seventh line, the words "7th of July, 1838," and to insert in lieu thereof "1st of April, 1835;" so as to embrace the great fire in Broad street, Boston, which stands upon precisely the same principle.

Mr. SKELTON. I raise the question of order that the bill contains an appropriation, and must, therefore, be first considered in the Committee of the Whole on the state of the Union.

Mr. FENTON. I move to suspend the rule requiring the bill to be so considered.

Mr. JONES, of Tennessee. I demand the yeas and nays on that motion.

The yeas and nays were ordered.

The question was then taken; and there were—yeas 105, nays 55; as follows:

YEAS—Messrs. Abercrombie, Appleton, Ball, Belcher, Bell, Bennett, Benson, Benton, Breckinridge, Bristow, Bugg, Campbell, Carpenter, Chamberlain, Clark, Cook, Corwin, Crocker, Cullom, Cumming, Curtis, Cutting, Thomas Davis, Dickinson, Disney, Drum, Eastman, Edmands, Thomas D. Eliot, John M. Elliott, Etheridge, Farley, Fenton, Flagler, Florence, Fuller, Giddings, Goodwin, Green, Grey, Andrew J. Harlan, Harrison, Hastings, Hiester, Hill, Howe, Hughes, Hunt, Johnson, Keitt, Kerr, Knox, Lane, Latham, Lyon, McDougall, McNair, Mace, Macy, Matteson, Maurice, Maxwell, May, Mayall, Meacham, Middleswarth, Morgan, Andrew Oliver, Peck, Peckham, Pennington, Preston, Pringle, Puryear, Reese, Rowe, Sabin, Sage, Sapp, Seward, Shower, Simmons, Sollers, Hestor L. Stevens, David Stuart, John J. Taylor, John L. Taylor, Teller, Thurston, Tracy, Trout, Tweed, Upham, Walbridge, Walker, Walley, Ellihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Wheeler, Daniel B. Wright, and Zollicoffer—105.

NAYS—Messrs. David J. Bailey, Barksdale, Bridges, Brooks, Caskie, Chrisman, Craige, John G. Davis, Dawson, Dowdell, Dunbar, Dunham, Eddy, Gamble, Goode, Hamilton, Aaron Harlan, Sampson W. Harris, Henn, Hibbard, Houston, George W. Jones, Roland Jones, Kidwell, Kurtz, Letcher, Lilly, Lindley, Lindsley, McCulloch, Macdonald, McMullin, Smith Miller, Millson, Nichols, Noble, Olds, Parker, Phelps, Ready, Richardson, Thomas Ritchey, Ruffin, Shannon, Shaw, Singleton, Skelton, Samuel A. Smith, William R. Smith, Stratton, Straub, Andrew Stuart, Vansant, and Walsh—55.

So (two thirds not voting in favor thereof) the rule was not suspended.

Mr. FENTON. I move to refer the bill to the Committee on Commerce.

The motion was agreed to.

Mr. HOUSTON. There are two appropriation bills—the Military Academy bill and the Post Office appropriation bill—returned from the Senate with about half a dozen amendments, which it will not take an hour to dispose of. If the House will agree to it I will move to close debate upon these amendments.

Mr. WHEELER. I object.

Mr. HOUSTON. Then I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. ORR. I call for tellers on that motion.

Tellers were ordered; and Messrs. JOHNSON and RICHARDSON were appointed.

The question was taken; and the tellers reported—ayes 72, noes 70.

Mr. MATTESON. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 74; as follows:

YEAS—Messrs. Abercrombie, Aiken, James C. Allen, Willis Allen, Appleton, David J. Bailey, Barksdale, Benson, Benton, Boyce, Breckinridge, Bristow, Brooks, Caskie, Chamberlain, Chrisman, Clark, Cobb, Curtis, Dawson, Dowdell, Drum, Dunham, Eddy, Edgerton, Edmundson, John M. Elliott, Ellison, Etheridge, Faulkner, Florence, Fuller, Goode, Greenwood, Grow, Hamilton, Sampson W. Harris, Wiley P. Harris, Hendricks, Hibbard, Houston, Hughes, Johnson, Daniel T. Jones, George W. Jones, Kidwell, Kurtz, Lewis, Lindsley, Macdonald, McMullin, Maxwell, May, Millson, Murray, Nichols, Orr, Packer, Bishop Perkins, Phelps, Puryear, Robbins, Ruffin, Seymour, Shannon, Shaw, Shower, Skelton, Samuel A. Smith, William Smith, William R. Smith, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Andrew Stuart, David Stuart, Trout, John Wentworth, Daniel B. Wright, Hendrick B. Wright, and Zollicoffer—82.

NAYS—Messrs. Ashe, Bennett, Bugg, Campbell, Carpenter, Chandler, Cook, Corwin, Crocker, Cutting, John G. Davis, Thomas Davis, De Witt, Dickinson, Disney, Eastman, Thomas D. Eliot, Everhart, Farley, Flagler, Franklin, Giddings, Grey, Andrew J. Harlan, Harrison, Henn, Hiester, Howe, Hunt, Keitt, Lilly, Lindley, McCulloch, McDougall, Mace, Macy Matteson, Maurice, Meacham, Morgan, Noble, Andrew Oliver, Mordecai Oliver, Peck, Pennington, Phillips, Preston, Ready, Reese, Richardson, Rogers, Russell, Sabin, Sage, Sapp, Seward, Simmons, Stratton, John L. Taylor, Nathaniel G Taylor, Teller, Tracy, Tweed, Upham, Vansant, Wade, Walbridge, Walley, Walsh, Ellihu B. Washburne, Tappan Wentworth Westbrook, Wheeler, and Witte—74.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair.)

MILITARY ACADEMY BILL.

Mr. HOUSTON. I move to take up the amendments of the Senate to House bill (No. 561) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1856.

The motion was agreed to.

Mr. WENTWORTH, of Illinois. I should like to know from the chairman of the Committee of Ways and Means how many bills he has to dispose of?

Mr. HOUSTON. Only one more besides this. There are but eight amendments to this bill, and, in my judgment, they will not occupy ten minutes.

Mr. WENTWORTH. What is the other bill?

Mr. HOUSTON. The Post Office appropriation bill.

Mr. WENTWORTH. I hope the House will sit here in good humor, and help the chairman of the Committee of Ways and Means to hurry through these bills, and I hope then that the Committee of Ways and Means will allow the House of Representatives to do a little business on their own account.

The Clerk proceeded to report the Senate amendments to the bill.

First amendment:

In line twenty, page 2, strike out "3,000," and insert in lieu thereof "4,160;" so as to make the clause read:

For expenses of the Board of Visitors, $4,160.

Mr. HOUSTON. This increased amount is appropriated for the expenses of the Board of Visitors to West Point. It is rendered necessary, owing to the fact that last year one of these visitors was appointed from the State of California, and his mileage was so large that this deficiency was left. The Committee of Ways and Means recommend concurrence.

The question was taken; and the amendment was concurred in.

Second amendment:

At the end of the bill, add the following:

For repairs and additions to professors' quarters, $5,000.

Mr. HOUSTON. The Committee of Ways and Means recommend non-concurrence in that amendment. From line thirteen to line seventeen the same item is substantially introduced.

The question was taken; and the amendment was non-concurred in.

Third amendment:

For furnishing hospital for cadets, $500.

Mr. HOUSTON. The Committee of Ways and Means recommend concurrence in that amendment.

The question was taken; and the amendment was concurred in.

Fourth amendment:

For gas-house and apparatus, $15,000.

Mr. HOUSTON. The Committee of Ways and Means recommend non-concurrence. The appropriation was recommended by the superintendent, but it was not recommended by the War Department.

The question was taken; and the amendment was non-concurred in.

Fifth amendment:

For deficiency for expenses of the Board of Visitors for the year ending the 30th of June, 1855, $688 52.

Mr. HOUSTON. The explanation which I have given for the other amendment in relation to the visitors applies to this. This appropriation is for the next fiscal year. One of the visitors will be from the State of California; and it is necessary to appropriate this sum in order to meet the actual expenses. The Committee of Ways and Means recommend concurrence.

The question was taken; and the amendment was concurred in.

Sixth amendment:

For additional pay allowed to enlisted men employed on extra duty as mechanics and laborers, per act of 4th of August, 1854, for the year ending the 30th of June, 1855, $2,868 40.

Mr. HOUSTON. That amendment is rendered necessary by an act of Congress of last session. The Committee of Ways and Means recommend concurrence.

The question was taken; and the amendment was concurred in.

Seventh amendment:

For cavalry instruction, $200.

Mr. HOUSTON. The Committee of Ways and Means recommend non-concurrence.

The question was taken; and the amendment was non-concurred in.

Eighth amendment:

SEC. 2. *And be it further enacted*, That hereafter the yearly allowance of the professor of French and Spanish, and of the professor of drawing, shall be the same as is now allowed to the other professors.

Mr. HOUSTON. The Committee of Ways and Means recommend non-concurrence in that amendment. I will send up to the Clerk's desk, however, a recommendation, which I desire to be read. It is very short. The two professors mentioned here are the only ones who have not received the higher rate of compensation. We commenced by raising the pay of one professor, then of another, until we have raised all except those two. I ask the reading of the extract, which I send up to the Clerk's desk.

It was read, as follows:

"The pay and allowances of the professor of French and Spanish—one person—and of drawing, and of geography, history, and ethics—one person—and of the chaplain, ought, on account of their occupying precisely the same social position, the same general relation to the cadets, and being subjected to expenses of living in no degree less, to be the same as those of the other professors of the academy. The Secretary of War, however, as I am bound to say, does not incline to raise the allowances of the professor of drawing to that amount, nor to assign that amount to the chaplain; as to the professor of French and Spanish, and of ethics, &c., he approves."

Mr. PECKHAM. Does the Committee of Ways and Means recommend concurrence?

The CHAIRMAN. No; non-concurrence.

Mr. PECKHAM. I hope the committee will concur in the amendment of the Senate.

Mr. BRIDGES. I should like to know from the chairman of the Committee of Ways and Means what the allowance of one of these professors is?

Mr. HOUSTON. I believe $2,000 a year.

Mr. SMITH, of Virginia. I should be glad to hear, from some quarter, the reason for this increased compensation.

Mr. PECKHAM. The reason is very obvious. These positions are very important, and are well filled; and their incumbents should be paid as much as other professors are paid in the same place.

Mr. SMITH. Is the place well filled now?

Mr. PECKHAM. Undoubtedly.

Mr. SMITH. Has there ever been any difficulty in getting a competent professor for this place?

Mr. PECKHAM. The gentleman might ask the same question with regard to many responsible situations where the salary is inadequate; and he might ask the question with truth in regard to the Judges of the Supreme Court. Plenty of men would like to occupy the seat of my honorable friend from Virginia, but not fill it half so well. I hope that the committee will have the justice and liberality to grant the increase of salary here asked

for. It costs these professors as much to live there as it does the other professors, and yet there is a discrimination made between their salaries.

Mr. PRESTON. I do not know who the professor of French and Spanish is at West Point, but I know the professor of drawing, Mr. Weir, who painted the Embarkation of the Pilgrims from Delft Haven, in the rotunda, to be one of the most eminent artists of the country. The amendment now before the committee simply proposes an increase of salaries of the professors of French and Spanish, and drawing, equal to the salary now received by the other professors there. The compensation now allowed them is found to be inadequate, and a professor of the first genius in the country, on this account, is now hesitating whether he will resign his place or not. I hope that the committee will grant the increase of salary asked, and concur in the amendment of the Senate.

Mr. KERR. I simply desire to make a single remark. I understand that the question is upon increasing the salaries of the professors whose salaries were not increased at the time the increase took place with regard to others. The neglect of these two gentlemen, the professor of French and Spanish, and the professor of drawing, when the increase was made in the case of the other professors, made an invidious distinction, justified neither by a sense of justice or a proper regard for national economy. I can see no reason in the world why the professor of French and Spanish, or the professor of drawing, equal as they are to their associate professors, should not receive precisely the same amount of annual compensation that the other professors do.

Mr. HOUSTON. I have only a few words to say about this matter. I care nothing about the amendment, one way or the other. The Secretary of War declines to recommend any increase of salary in these cases. As regards the increase of salary in these cases, the argument has always been presented, when we have raised salaries generally, that the duties of these professors were not of an arduous character.

Mr. HUNT. Their knowledge of the languages must be very thorough, and my appreciation of that knowledge is far different from that of the gentleman from Alabama or the Secretary of War.

Mr. SMITH, of Virginia. Without meaning to go into anything like an elaborate discussion, and in perfect ignorance of these gentlemen—except, perhaps, I might have had an introduction to one of them—I would join issue as to the statement that a teacher of languages occupies as important and responsible position as a teacher of mathematics. I deny the truth of the statement, but, on the contrary, I say that, while the duties of the military professors of the Academy at West Point are constant and onerous, those of the teacher of modern languages are comparatively slight, because, after giving his lessons, he finds time to prosecute his own pursuits out of the Academy. We all know, those of us who have ever taken lessons in French, or who have had children take them, that they are generally very brief, and consume but little time, as compared with the time and attention necessary to a knowledge of mathematics. Does it follow as a necessary consequence, because we have increased the salaries of some of these professors who have spent their lives in the laborious cultivation of science, that we should do so in the case of these other professors whose duties are not so arduous or difficult.

One word more. We should be careful to avoid pampering these establishments too much. There is a growing sentiment in the country against these exclusive establishments. I think, under proper regulations, that they are necessary; and I am willing to sustain them, but I am only willing to increase the salaries of officers in these establishments where it is absolutely necessary to secure the services of competent men, and where such services can only be had without an increase of salaries.

Mr. JONES, of Tennessee. The present salaries of professors at West Point, if I mistake not, are now as high as was recommended by the Departments. When the Department recommended an increase of the salary of the other professors to $2,000, a salary of $1,500 was all that they recommended for the professors of French and Spanish, and drawing. It was then thought, not only by the Department, but also by the House, that $1,500 was ample compensation for the services required of them. It was thought by many that this salary was above what should really be paid, and that we could get as competent and faithful men for the discharge of the duties of these professorships as any in the nation. I think that the Government should pay its officers, of every grade and class, such compensation as would command the services of competent, worthy, and faithful men.

Mr. PRESTON. I would ask my friend from Tennessee how much difference there is between the salary of Mr. Weir, the professor of drawing, and that of the other professors?

Mr. JONES. The salary of the professor of drawing and of the professors of French and Spanish is $1,500, while that of the other professors is $2,000.

Mr. PRESTON. As I understand the amendment, the salary of Mr. Weir, as professor of drawing, would be increased to $2,000.

Mr. JONES. We can get as competent men in the United States at the salary of $1,500. It is all that is recommended by the Department.

Mr. PECKHAM. I would inform the gentleman from Tennessee that the former professor of French and Spanish at West Point, Professor Molinard, left the institution upon the ground that the salary was not sufficient.

Mr. JONES. I would ask the gentleman if there is a professor in any of the literary institutions of the country of the same grade that is paid as much as we are paying these professors at West Point? Whenever you go beyond the amount sufficient to command the services of competent men, you are giving gratuities and special favors to individuals.

Mr. ASHE. It is very seldom that I take part in discussions in this House, but I wish to say a very few words upon this subject. I am of the opinion that the professors of drawing and the French and Spanish ought to be paid the same salary as the other professors. The gentleman from Tennessee says that we can secure the services of as good professors by giving the salaries that we do at present; but the gentleman must bear in mind that professors at other places may perform duties outside of the institution in which they may have a place, and may give separate lessons from which they will derive advantage. At West Point their duties are confined to the institution itself, and they are allowed no such privileges. For that reason, and for the purpose of securing professors of ability, I shall support the amendment of the Senate; and I wish to say this, in reply to the gentleman from Virginia, that I think a knowledge of modern languages is as necessary for the pupils at West Point as a knowledge of mathematics.

Mr. WENTWORTH, of Massachusetts. I believe the committee understand this matter, and are now ready to vote upon it, and I hope it will be done immediately.

The question was then taken; and the Senate amendment was concurred in.

Mr. HOUSTON. That is the last amendment to the Military Academy bill, and I move that it be laid aside, and that the committee proceed to the consideration of the Senate amendments to House bill (No. 594) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1856.

The question was put; and the motion was agreed to.

[Here the committee informally rose, in order that a message might be received from the Senate, by ASBURY DICKINS, Esq., their Secretary, notifying the House that that body insisted on its amendments to the Army bill, and asked for a committee of conference; and that it had appointed Messrs. SHIELDS, TOOMBS, and WELLER, managers on its part. The committee resumed its session.]

POST OFFICE APPROPRIATION BILL.

The committee accordingly proceeded to the consideration of the Senate amendments to the Post Office appropriation bill.

First amendment:

Page 2, line one, strike out "20," and insert in lieu thereof "80;" so as to make the clause read:

For transportation of the mails, $5,981,938.

Mr. HOUSTON. That amendment proposes to add to the sum appropriated in the bill, $60,000, the necessity of which arises from the fact that the expenses of the service of the Post Office Department in Kansas and Nebraska were not provided for in the original bill. The Committee of Ways and Means recommend a concurrence.

The question was put; and the amendment was concurred in.

Second amendment:

After line eleven, insert—

For the transportation of the United States mail over the Michigan Central railroad, five hundred and eighteen miles, from the 9th of June, 1849, to the 28th November of the same year, $5,177 60.

Mr. HOUSTON. The Committee of Ways and Means recommend a concurrence in that amendment. The services now claimed for, is for transportation over the gradual extension of the road beyond that provided for in the contract, made during the administration of the Post Office Department under Mr. Hubbard.

The letters from Mr. Hubbard and from the present Assistant Postmaster General will explain the claim.

The letters are as follows:

POST OFFICE DEPARTMENT, *February* 22, 1853.

SIR: The Michigan Central Railroad Company present the annexed bills for mail service, and in explanation of the account the following statement is submitted:

It appears that on the 1st October, 1846, the company took possession of the road, it having previously belonged to the State of Michigan, and at that time only completed to Paw Paw. On the 23d of April, 1849, the road was completed by the company to New Buffalo. During the period of the year 1849, mentioned in the annexed bills, the company performed the service alluded to in addition to the regular service, and now claim pay of the Department on the following grounds: "That they are justly entitled to it, the Department being fully aware that the company were performing the service, and that no contract existed under which the payments could be made; that the Department never notified the company that, if they continued to perform the service, they could not expect to receive payment; that the Department continued to send the mails both by the Sunday train and the additional daily train; that the facilities afforded by the extension of the road to New Buffalo enabled the Department to form a connection with a line of steamboats running between New Buffalo and Chicago, thus expediting the Great Western mails many hours in advance of heretofore existing schedules; that the Company continued to run an additional daily train and a Sunday train up to the close of navigation, 1849, viz: November 28th; that in April, 1850, the Department and the company agreed upon a contract, and the rate of payment stipulated in the contract was the same as that asked by the company for the service previous to the existence of the contract, and as noticed in the annexed bills, and the points between which the service was to be performed remaining the same, viz: from Detroit to New Buffalo."

The completion of the road to New Buffalo gave to it additional importance, and without doubt was of great convenience both to the Department and the public. Not conceiving that power is vested in me to pay for the service, but as the principle upon which this claim is based has been acknowledged by my predecessor, in the case of the Michigan Southern railroad, I refer this to Congress for its decision as he did in that case.

Yours respectfully,

S. D. HUBBARD, *Postmaster General.*

Hon. T. J. RUSK, *Chairman of the Committee on the Post Office and Post Roads, United States Senate.*

POST OFFICE DEPARTMENT,
CONTRACT OFFICE, *March* 1, 1855.

SIR: The claim of the Michigan Central railroad appears to be for extending the mail service west of New Buffalo.

They have received pay for service between Detroit and New Buffalo since July 1, 1850. But in October, 1851, they applied for pay beyond the latter point, to take effect from October 10, 1850, and the decision of the Department then was that the claim could not be allowed, because the extended service had not been formally ordered.

I have the honor to be, &c., &c.,

WILLIAM H. DUNDAS,
Second Assistant Postmaster General.

Hon. G. S. HOUSTON, *House of Representatives.*

The question was then put; and the amendment concurred in.

Third amendment:

At the end of the bill insert the following:

For compensation to William M. F. Magraw, for carrying the mail on route No. 8911, from Independence, Missouri, to Great Salt Lake City, Utah Territory, monthly each way, according to the contract under which said service is now being performed, the sum of $36,000 per annum, commencing with the contract aforesaid, and in lieu of the compensation therein stipulated.

Mr. HOUSTON. The Committee of Ways and Means recommend a concurrence in that amendment, with an amendment. The amendment they propose is, to strike out the words "contract aforesaid," and to insert in lieu thereof "18th day of August, 1854, and to be continued one year." The amendment of the Senate proposes to date the commencement of this compensation from the date of the contract. The amendment recommended

by the Committee of Ways and Means proposes that the increased compensation shall commence on the 18th day of August, 1854, the time when the Indian hostilities commenced, and that it shall continue one year. I want to propose, myself, an amendment to the Senate amendment at the proper time. It is this:

Provided, The Postmaster General, with the assent of the contractors, be, and he is hereby, authorized to annul said contract.

Mr. CHAMBERLAIN. I do not understand this matter. I thought the amendment was the amendment recommended by the Committee of Ways and Means.

The CHAIRMAN. The first question is upon the amendment recommended by the committee. But the gentleman from Alabama indicated a wish to offer an amendment, on his own responsibility, hereafter. The proposition now is to strike out the words "contract aforesaid," and to insert "18th day of August, 1854."

Mr. EDGERTON. I wish to inquire of the chairman of the Committee of Ways and Means whether the gentleman mentioned in this Senate amendment did not take this contract for carrying the mails for a specific period, at a stipulated price?

Mr. HOUSTON. He did.

Mr. EDGERTON. Well, then, I would inquire why the price is now proposed to be enlarged?

Mr. HOUSTON. It is for the purpose of affording—at least that is my understanding of the object of it—an indemnity, to some extent, for the very heavy losses he has sustained by the outbreak of Indian hostilities all along the line of his route. The hostilities commenced in the middle of August, shortly after his line of service was put into operation. Since that time, if I am not very much mistaken, he has lost from thirty to sixty mules. He has lost some of his guard. Two or three men, I believe. Now, this amendment is designed to remunerate him, to some extent, for losses arising from Indian depredations.

Mr. EDGERTON. I think this is one of those cases which frequently arise, in which parties make bids at a rate less than that for which the mails can be carried, but who, after getting the contract, and finding that they cannot make money out of it, come to Congress and crave an additional compensation.

Mr. FLORENCE. This is not one of those cases, and the gentleman has no right to assume it.

Mr. HOUSTON. I think I can show the gentleman from Ohio that he is laboring under an erroneous impression in regard to this case. I have before me the bid which was made by this man, at the original letting. I find by the paper which I have that this bid was $14,400; the service to be performed in four mule coaches, and under sufficient guard. His bid was the only bid made at the time.

Mr. EDGERTON. I presume this man who took this contract was entirely unacquainted with the character of the service he had to perform, and consequently he made a proposition for carrying the mail at a less price than the service was really worth, and thereby forcing off those parties who are responsible parties, and who understand what they are about. This party, failing in his contract, comes here and claims an additional compensation. I am opposed to this whole principle, for by it responsible parties are forced to withhold their bids, and persons ignorant of the country, and who propose to carry the mails for less than it is worth, get the contracts. I say that parties who make these contracts should be held strictly to their fulfillment, and if this be one of those cases, I am opposed to any change of the contract; but if it is not, and the gentleman from Alabama can satisfy me of the fact, that he has sustained a loss by the Indian depredations, I will support the amendment.

Mr. PHELPS. Mr. Chairman, I am astonished to hear the gentleman from Ohio declare that he is opposed to this amendment for the reason that it increases the compensation of a contractor who entered into a contract with the Government to carry the mail from Independence, Missouri, to Great Salt Lake City, Utah Territory, for a stipulated price. Did not that gentleman, only the other day, vote to increase the compensation of the Collins line, when it was contracted by the company to perform a stipulated service, at a certain fixed price? Is there not more justice in an increase of compensation in this, than there was in that instance? Look at the dangers and difficulties which had to be overcome by this contractor? Are they not greater than those of these ocean steamers? Most assuredly they are. But the gentleman says that this contractor bid less than a reasonable price for carrying this mail, in order to prevent others from getting the contract. I will state that there were several gentlemen who bid for this service, and that their bids were very little less than that of Mr. Magraw.

There is another thing to be taken into consideration. Indian hostilities have increased, and the guard for the mail has been necessarily largely increased. In consequence of these dangers from the Indians, those who accompany the mail demand, and have to be paid, larger wages. This is a route of twelve hundred miles in length, over plains, and through a country of hostile and warlike savages. At every opportunity they waylay and attack the mail party, murder them frequently, and run off, or destroy all the mules and other property. Since, indeed very shortly after the difficulty in which Lieutenant Grattan and his party were massacred, the same Sioux Indians assailed this mail party, wounded Mr. Kincade, a passenger, and killed three of the men, besides running off all the contractor's mules.

There is another consideration which ought not to be lost sight of. These contractors expect, and properly, that they will have some revenue from the carriage of passengers over their routes; but in this case, so long as the Indian difficulties continue, no passengers will take passage with the mail.

It seems to me only just that the compensation should be continued for twelve months, during the probable continuance of these Indian hostilities, no longer. I hope, therefore, Mr. Chairman, that the amendment of the Committee of Ways and Means may be adopted, and the Senate's amendment as amended then concurred in.

Mr. EDGERTON. Mr. Chairman, I do not know that the statement of the gentleman from Missouri has altered my mind in this case. I think that it is just one of those cases where the party took a contract and failed to make money, but not by the fault of the Government.

Mr. DAWSON. The gentleman from Ohio seems to be a great stickler for the strict letter of the contractor in this case. He makes no allowance for unforeseen difficulties and obstructions. He does not take into consideration that, although the contract was entered into during a period of profound peace, the country has been from a short while afterwards involved in Indian hostilities. Hostile Indians have scattered themselves across the plains and assail parties upon all the traveling routes.

This contract has been executed in the face of the common enemy. Still the honorable gentleman insists upon a compliance with the strict letter of the contract. I know that my friend has been more liberal than he is now on other occasions. His general character is one of liberality and integrity. I would ask him, however, why he exacts so severe a duty in this instance, when he was willing to disregard a contract made by a great corporation for the carrying of the mail across the ocean? He then voted for an increase of compensation from $19 000, the original contract price, to $33,000 the trip, being an increase of $13,750 for each and every trip.

Mr. EDGERTON. Mr. Chairman, I will now proceed to answer the gentleman from Pennsylvania, [Mr. DAWSON.] He alludes to the Collins steamers. That line did not ask, nor did it get retrospective increased compensation. It is only prospective, and the increased compensation is given for increased service. The cases are not parallel. This contractor does not propose to perform additional service.

Mr. JONES, of Tennessee. Did not the Collins steamers commence the additional service before the law was passed giving them increased compensation? and, therefore, was not the law giving that increased compensation retrospective?

The CHAIRMAN. The Chair thinks that the gentleman from Ohio had better not answer the question, for he will not be in order in doing so. He must confine his remarks to his objections to the amendment.

Mr. EDGERTON. I want to place myself right in the matter. I voted against the first proposition for the Collins line; I voted for the second one because it was to give additional compensation for service to be thereafter rendered. It was not retrospective. This gentleman claims additional compensation for services, not additional services—why? Because he has made no money out of his contract. That is the only reason; and why did he not make any money out of his contract? Was it the fault of the Government? He does not so allege. It is because accidents have occurred.

Mr. DAWSON. I say that it was the fault of the Government which has not properly protected that line of frontier.

Mr. EDGERTON. The Government was not bound to furnish protection along his route. The gentleman from Missouri [Mr. PHELPS] says that the Government has not preserved peace with the Indians. I say that the Government was not bound, under the circumstances, to protect this contractor against Indian hostilities. If the gentleman will show me that, under the contract, the Government was bound to protect the contractor against Indian hostilities, or against any other depredations committed on the mail, then I will say that there may be some claim for additional allowance. Here the only claim is, that by accident, or otherwise, the contractor has failed to make as much money on the contract as he anticipated that he would. It is because I am against this whole contract system, of contractors asking for increased compensation, not for additional service, but for service which they never did perform, that I am opposed to this amendment.

The question was taken on the amendment to the amendment; and it was agreed to.

Mr. HOUSTON. I offer the following amendment to the amendment:

Provided, The Postmaster General, with the assent of the contractor, be, and he hereby is, authorized to annul said contract.

Mr. HOUSTON. I have nothing further to say, except merely to remark that the Postmaster General has no power to release the party from his contract under the existing law, and this proviso is to give him that power.

The amendment was agreed to.

Mr. OLDS. I have an amendment to offer to this amendment, which is similar in its character to that which has just been adopted. I move to amend by adding at the end of the forty-second line the following amendment:

Also for compensation to Jacob Hall, for carrying the mail on route No. 8912, from Independence, Missouri, to Sante Fé, Territory of New Mexico, monthly each way, according to the contract under which said service is now being performed, the sum of $22,000 per annum for one year, from the 18th day of August, 1854.

Now, Mr. Chairman, one word of explanation. I will say that this amendment stands upon the same ground as the provision for the Magraw case, which the Senate have adopted. This gentleman has made application under similar circumstances, and the chairman of the Committee on the Post Office and Post Roads in the Senate has requested me, inasmuch as the application was not received soon enough to be acted upon in the Senate, to offer it here. It meets the concurrence, as I understand, of the chairman of the Committee of Ways and Means, and the claim ought to be allowed. I hope the amendment will be adopted.

Mr. SEWARD. I rise to a question of order. This amendment provides for a distinct appropriation upon a different subject from that embraced in the Senate amendment.

Mr. OLDS. No, sir; it is a case precisely similar to the Magraw case.

Mr. SEWARD. I think the gentleman is entirely mistaken. This is a distinct appropriation relating to a distinct contract.

The CHAIRMAN. The Chair thinks the amendment is in order.

Mr. BENTON. I will say one word in support of this amendment. It is to provide for an old contractor, for the same man who has been carrying the mail upon this route five years. And he has carried the mail all this time without ever once suffering from Indian depredations. But, sir, in the present state of Indian hostilities in that country he now finds his contract, out of which he has heretofore made money, a losing business. This is a most meritorious case. I hope the House will adopt the amendment.

Mr. PRINGLE. Will the gentleman from Mis-

souri allow me to inquire whether the Indians who are committing these depredations are not Indians with which this Government have entered into treaty stipulations?

Mr. BENTON. If the gentleman refers to the Sioux Indians, I reply in the affirmative.

Mr. PRINGLE. Then I will inquire whether we have not already laws which can be enforced, to collect indemnity from these Indians?

Mr. BENTON. No, sir; I think not.

Mr. PRINGLE. If I am not mistaken, there is a general law by which we can collect indemnity for depredations committed by the Indians to which we are paying annuities. I think the amount may be deducted from their annuities.

Mr. BENTON. Why, this amendment is not for Indian depredations. It is for carrying the mail.

Mr. OLDS. I wish further to amend by inserting the same proviso which was added to the Magraw case, authorizing the Postmaster General to release this party from the contract if it should be deemed advisable.

Mr. SEWARD. I hope the amendment will not be adopted. If it be, the House will place itself in this absurd position: that we are legislating to make a separate and distinct appropriation to pay for contracts made with parties for the transportation of the mail. And we are not only providing for increased compensation for past services, but we are, in addition, giving the Postmaster General authority to release them from the performance of their contracts in case they wish a release.

Mr. PHELPS. If the gentleman will give way for an explanation, I will say that this contract was made before the commencement of Indian hostilities, and certainly this party should not be compelled to carry out his contract for the compensation originally agreed upon under these circumstances.

Mr. SEWARD. Yes, sir; I understand the proposition perfectly. It is to give these parties a double favor. First, an appropriation of money to supply a deficiency which they say exists for past services; and then, to give them leave to withdraw from all further services. Sir, I say this is wrong. If these parties contracted to carry the mail for less than they could afford to carry it, I say they ought to be the losers. They were men acquainted with the country through which the mail was to be carried. They knew the risks that were to be incurred when they entered into their contracts, and they ought to be made to conform to their original contracts.

Mr. PHELPS. But these hostilities had not commenced when they entered into the contract, and they had no reason to expect that they would commence.

Mr. SEWARD. They knew the country, and they knew the character of the Indians, and they had the right to calculate upon just what has occurred.

Mr. PERKINS, of New York. Oh! no; the Nebraska bill had not passed then.

Mr. EDGERTON. I have a single word more to say in relation to this proposition. Now, sir, these parties proposed to carry the mail from Independence to Great Salt Lake City for $14,400 per annum.

Mr. PHELPS. I rise to a question of order. The amendment to which the gentleman from Ohio is speaking has already been adopted, providing for additional compensation for the route from Independence to Salt Lake. The proposition now before the committee is in reference to the route from Independence to Santa Fé. I ask that the gentleman shall be confined to the discussion of the proposition under consideration.

Mr. EDGERTON. I will state that the general debate has not yet been closed on this bill, and it is in order to discuss any provision in it. There are some facts connected with this contract which I desire to bring to the attention of the committee.

The CHAIRMAN. The Chair will state to the gentleman from Missouri, [Mr. PHELPS,] that the proposition to which he alludes has not passed from the consideration of the committee. It has been adopted as an amendment to the Senate amendment. But, the amendment submitted by the gentleman from Ohio [Mr. OLDS] is an amendment to it, and both will have to be acted upon again by the committee.

Mr. EDGERTON. Then I am in order in discussing this proposition, am I not?

The CHAIRMAN. The gentleman is in order.

Mr. EDGERTON. Now, sir, I wish to state that this contractor, Magraw, proposed to carry the mail for $14,440 per annum, and to provide a good and sufficient guard. He proposed to furnish a good and sufficient guard, which no other bidder proposed to do; and it was for this very reason, I have no doubt, that he obtained the contract over other bidders. Mr. Chairman, I ask the attention of the committee again to what he proposed to do, and to what it is now proposed to do for him. He proposed to carry the mail and to furnish a good and sufficient guard for the sum of $14,440. He did not furnish such a guard, and, therefore, it is proposed to raise his compensation to $36,000 per annum, increasing the amount originally contracted to be paid him by $21,560 per annum. I stated that the inducement, undoubtedly, in the outset, with the Postmaster General, in awarding him the contract, was that he stipulated, which no other contractor would agree to do, to carry the mail with a good and sufficient guard. And the term, "good and sufficient guard," I take it, means a guard sufficient to protect the mails from depredations, and to protect him in carrying the mail. He has failed in this part of his contract, and I think he is entitled to no relief at the hands of Congress. Certainly he is not entitled to receive an addition of $21,560 per annum.

The question now being upon the adoption of the amendment,

Mr. PHELPS demanded tellers.

Tellers were ordered; and Messrs. EDMUNDSON and CHAMBERLAIN were appointed.

The question was taken; and the tellers reported —ayes seventy-one; noes not counted.

So the amendment was agreed to.

Mr. BENTON. Mr. Chairman, I have an amendment to offer, which I think will pass unanimously. It does not propose to take one dollar out of the Treasury. It is as follows:

And be it further enacted, That every contractor engaged, or to be engaged, in carrying the mails through any of the territory west of the Mississippi, shall have the privilege of occupying stations at the rate of not more than one in every twenty miles, on the route on which he carries the mail, and shall have a preëmption right thereon, whenever the same shall be brought into market, to the extent of six hundred and forty acres, to be taken contiguously, and to include his improvements, but no such preëmptive right shall extend to any pass in a mountain or defile.

Mr. SEWARD. I submit that that amendment is not in order.

The CHAIRMAN. The Chair sustains the question of order, and rules the amendment out of order.

Mr. JONES, of Tennessee. I submit to the Chair if the amendment of the gentleman from Missouri does not apply directly to the two amendments we have just been acting on, and cover them by giving to the contractors the preemptive right to enter not more than six hundred and forty acres of land, and to stations twenty miles distant?

The CHAIRMAN. The Chair thinks that the amendment modifies the existing law in various particulars, and is, therefore, out of order.

Mr. JONES. So does the amendment we have just been acting upon.

The CHAIRMAN. Does the gentleman appeal from the decision of the Chair?

Mr. JONES. No, sir; but I hope the gentleman from Georgia will withdraw his objection.

Mr. SEWARD. As I am inclined to accommodate the gentleman, I will withdraw the question of order.

Mr. BRIDGES. I renew it.

Mr. PHELPS. Oh, I hope not.

Mr. BRIDGES. Well, I withdraw it.

Mr. TRACY. I insist upon it.

Mr. BENTON. Has the Chair pronounced a decision?

The CHAIRMAN. The Chair has decided the amendment out of order.

Mr. BENTON. Whilst I am certain that the Chair is conscientious in his decision, at the same time I am sure that his heart is with us, and I therefore appeal to the committee from his decision.

Mr. WENTWORTH, of Illinois. I would like to know how much land is appropriated by this amendment.

Mr. PHELPS. Very little.

Mr. JONES, of Tennessee. None at all. The bill merely gives preëmptive rights.

Mr. PHELPS. It merely secures their stations.

The question was then taken on the appeal; and the decision of the Chair was overruled, and the amendment decided to be in order.

Mr. BENTON. I now ask for a vote upon the amendment.

The CHAIRMAN. The Chair desires to call the attention of the gentleman from Missouri to the particular shape in which his amendment was sent up. It can only come in as an amendment to the amendment, and therefore the words "and be it further enacted" should be stricken out.

Mr. BENTON. Well, strike them out, and put in "and," a-n-d, and. [Laughter.]

Mr. ZOLLICOFFER. Let the amendment be read.

The CHAIRMAN. It will be read again if no objection be made.

Mr. WALSH. I object.

Mr. LETCHER. I move that it be read.

The motion was agreed to.

The amendment was accordingly read.

The question was then taken on Mr. BENTON's amendment to the amendment; and it was agreed to.

The question recurred on the amendment of the Senate as amended.

Mr. EDGERTON demanded tellers.

Tellers were not ordered.

The question was taken on the Senate amendment, as amended; and it was concurred in.

Fourth amendment:

For compensation to George H. Giddings, for carrying the mail on route No. 12900, from Santa Fé, New Mexico, to San Antonio, Texas, monthly each way, according to the contract under which said service is now being performed, the sum of $33,500 per annum, commencing with the contract aforesaid, and in lieu of the compensation therein stipulated.

Mr. HOUSTON. The Committee of Ways and Means have instructed me to report an amendment to the fourth amendment of the Senate, similar to the amendment offered in the case of Magraw.

The amendment was reported, as follows:

Line forty-eight, strike out the words "contract aforesaid," and insert in lieu thereof "18th August, 1854, and to continue one year."

The amendment, as amended, reads:

For compensation to George H. Giddings for carrying the mail on route No. 12900, from Santa Fé, New Mexico, to San Antonio, Texas, monthly each way, according to the contract under which said service is now being performed, the sum of $33,500 per annum, commencing with the 18th August, 1854, and to continue one year, and in lieu of the compensation therein stipulated.

The question was taken; and the amendment to the amendment was agreed to.

Mr. HOUSTON. The Committee of Ways and Means have also instructed me to offer the following amendment:

Add the following proviso:

Provided, The Postmaster General, with the assent of the contractor, be, and he hereby is, authorized to annul said contract.

The question was taken; and the amendment to the amendment was agreed to.

Mr. STRAUB. Is it in order to further amend the amendment at this stage?

The CHAIRMAN. It is.

Mr. STRAUB. Then I propose the following amendment:

At the end of line forty-nine insert the following:

That all mail route agents whose salary does not exceed $1,600 per annum shall be allowed twenty per centum additional compensation.

Mr. JONES, of Tennessee. I submit a question of order. This proposition has no relation to the amendment under consideration, and is changing the laws which govern this matter.

The CHAIRMAN. The Chair is of the same opinion, and rules the amendment out of order.

Mr. HOUSTON. In connection with the fourth amendment I desire to have read a letter from the Postmaster General.

Mr. SEWARD. I object to having it read unless it is an official communication under the Constitution. I am tired of having these letters read.

The CHAIRMAN. The Chair thinks the gentleman from Georgia [Mr. SEWARD] has no right to object, if the reading of the letter is to come out of the gentleman's time.

Mr. HOUSTON. It is an official communica-

tion, directed to the chairman of the Post Office Committee of this House.

Mr. SEWARD Then it is not official.

Mr. HOUSTON. This is a copy of the communication, and I desire the committee to hear it read.

Mr. SEWARD. Do I understand the Chair to decide that it is to come out of the gentleman's time?

The CHAIRMAN. Yes, sir.

Mr. SEWARD. I have another question of order. If that letter is to be part of the gentleman's speech, it does not relate to the subject-matter under consideration.

The CHAIRMAN. The Chair is of opinion it is in order as a part of the remarks of the gentleman from Alabama, because the amendment has not yet been adopted.

Mr. SEWARD. But must not the gentleman's speech conform to the character of the amendment? And if so, is this letter in order?

Mr. HOUSTON. I do not want to annoy the committee with the communication. If the gentleman from Georgia does not desire information on the subject, I do not care about it. I have read the communication myself, and unless the committee desire to have it read, I do not.

The communication was read, as follows:

POST OFFICE DEPARTMENT, *March* 1, 1855.

SIR: In answer to your call for information in relation to route 12900, Santa Fé to San Antonio, I have the honor to state that the route was let on the 22d of April last, after due advertisement for proposals, to David Wasson, at $16,750 per annum for two horse coach service, contract to run from 1st July, 1854, to July 1, 1858; and service to be monthly each way, and trips in twenty-five days.

The following were the other bids sent in, viz:

David Wasson—
- $19,000 per annum, four-horse coaches.
- 30,000 per annum, two-horse coaches, twice a month.
- 34,000 per annum, four-horse coaches, twice a month.
- 19,000 per annum, two-horse coaches, trips in twenty days.
- 22,000 per annum, four-horse coaches, trips in twenty days.
- 36,000 per annum, two-horse coaches, trips twice a month, trips in twenty days.
- 40,000 per annum, four-horse coaches, twice a month, trips in twenty days.

Jacob Hall—
- $25,000 per annum, with certainty, celerity, and security.
- 45,000 per annum, with certainty, celerity, and security, twice a month.
- 30 000 per annum, trips in twenty days.
- 50,000 per annum, trips twice a month, through in twenty days.

William F. Magraw and John E. Reeside—
- $22,500 per annum, in stages, with guards.
- 33,750 per annum, in stages, with guards, twice a month.
- 29,400 per annum, once a month, twenty days for trip.
- 44,000 per annum, twice a month, twenty days for trip.

Instructions were given to the postmaster of Santa Fé, accompanying the notice to him of the letting and schedule, to engage temporary mail service on the route if the accepted bidder should fail to appear; but that such service was not to be engaged except in case of absolute and unquestionable failure on the part of such individual. He was further directed to have no interest, direct or indirect, in such temporary engagement, as well as to make it upon the best terms for the Department that could be obtained, and in no event at an extravagant cost.

It appears from the reports, that Mr. Wasson did not appear at either end of the route on the 1st of July, and that the postmaster of Santa Fé engaged, in consequence, Messrs. Houghton and Brevort from that date, (the actual performance being by Henry Skillman, the old contractor,) at $28 000 per annum, the rate of pay made Mr. Skillman under the contract ending 30th June, 1854, for four-horse coach transportation.

Wasson commenced service on the 1st of August, 1854, at the lower end of the road, (San Antonio,) but did not apply at the Santa Fé end for the mail till about the 1st of October.

The Department has paid Brevort & Houghton $4,195 11, for the July and August service, viz: at the rate of H. Skillman's after time proposition (dated August 9, 1854) of $24,900 per annum.

Mr. Wasson and his agent, Mr. G. H. Giddings, have been paid down to 1st of January, 1855, as far as reports of postmasters extend, at the rate of his accepted bid of $16,500 per annum, after deduction of the $4,195 11 paid Brevort & Houghton for the July and August service.

It is to be remarked, further, that the postmaster of Santa Fé, in the letter of instructions alluded to, was directed to see that the carriers were duly sworn, and not to deliver the mail to any person as carrier not sworn as such; also, that he has continued from the 1st of October last to the latest date of which we have reports from the route, to withhold the mail from Mr. Wasson's carriers, on the ground that they had not been sworn. Further, he continued to give the mail to Skillman as carrier of Brevort & Houghton, down to December last; so that Wasson's carriers did not perform any of the down trips during the first six months of the contract term. I directed, however, that Mr. Wasson, whose interest as assignee, or proposed transferee, Mr. Giddings seems to represent, (although no transfer to the latter has yet been authorized by this Department,) should be settled with, after charging him with the damages specified, by the payment to Skillman, growing out of his failure to appear in July and August at Santa Fé, because he made application for the mail on the 1st of October at each end of the road, and because if his (Mr. Wasson's) carriers were not sworn, as represented, it was his (the postmaster's) duty to have caused them to be sworn, and give them the mail thereupon.

It seems to me that the Department has dealt with indulgence towards Mr. Wasson, considering that the original difficulty in the case grew out of his failure to comply with his contract obligations.

I have to add that Brevort & Houghton are claiming for the full six months specified, at the rate of $28,000 a year; further, that of the pay made to the Wasson interest he drew $1,500 in person, and Mr. Giddings the residue.

Very respectfully, your obedient servant.

JAMES CAMPBELL, *Postmaster General.*

Mr. EDGERTON. I understand, from the reading of the communication from the Postmaster General, that this Mr. Giddings was not a contractor upon this mail route; that some special arrangement had been made by which he was to receive some $33,500 for carrying the mail from San Antonio, in Texas, to Santa Fé, in New Mexico. The bid accepted by the Postmaster General was the bid of Mr. Wasson, who proposed to carry the mail for $19,000. Captain Henry Skillman having previously carried the mail on the same route for some $28,000. Mr. Wasson was the bidder accepted by the Postmaster General for $19,000, for a contract which had been performed by Captain Skillman for $28,000. I think, during the whole time of the service of Captain Skillman, there never was any failure in the transportation of the mail upon this route; and I believe it to be a fact that Captain Skillman was ready and willing to perform the service again for his original bid. The allegation now is, that Mr. Wasson did not appear, at the time stipulated in the contract, to take the mail from San Antonio to Santa Fé, or his carriers did not, and, for some reason, the postmasters at these places on the route refused to deliver the mail to them, and an agreement or contract was made with another party to carry the mail for an additional compensation. In what manner this Mr. George H. Giddings appears now a contractor I do not know, for there is no evidence upon this point. Some special agreement has been made by which he, as contractor, claims the sum of $32,000 for carrying the mail, which the Postmaster General let for $19,000, and which Captain Skillman was ready to carry for $28,000.

I state, in the first place, that I am opposed to this whole principle of giving extra compensation for services of this character. If it be worth $28,000 or $30,000 to carry the mail from San Antonio to Santa Fé, let the Postmaster General, as it is his duty to do in case of a failure of contract, instead of making these contracts with favorites, advertise for bids.

Mr. McNAIR. It now requires sixteen mules to carry the mail upon that route, where it only required five before, on account of the depredations of the Indians. This very contractor, Giddings, with his men, fought seventy-five Indians, and beat them off, having nine of his mules killed and three of his men wounded; and had it not been for the Sharp rifle picking off the Indians two hundred and fifty yards distant they would have all been killed. Giddings now comes and asks increased compensation because it takes three times as many mules to carry the mail as it did before.

Mr. EDGERTON. I do not care whether it takes six or sixteen mules to carry the mail or not. These contractors agreed to carry the mail for a certain sum of money, but they failed to do it, and it was the duty of the Postmaster General to advertise for proposals for the service, and to let the contract to the lowest bidder. That is the right way to do it. Again, the whole of this proposition is, that Indian hostilities have made it necessary that a greater number of guards should be furnished this mail contractor, and consequently make this appropriation here, in the Post Office bill, under the name of a mail contract, to prevent Indian hostilities in the Indian country. If that be the proposition, make it clearly and distinctly; but do not, in the name of Post Office appropriation, make a contract for suppressing Indian hostilities.

Mr. GROW. As I understand the facts, Mr. Giddings was the assignee of Wasson. The gentleman from Ohio seems to think that this special contract with Giddings was an arrangement of the Postmaster General. The original contractor had failed to perform the contract, as I understand it, and Mr. Giddings was made the assignee of this contract, and, therefore, presents a legal claim.

Mr. EDGERTON. If Mr. Giddings was the assignee of Wasson, how is he to receive $33,000, when Wasson was to receive but $19,000?

Mr. BELL. There was a transfer and assignment of the contract with the consent of the Department.

Mr. EDGERTON. The gentleman from Texas says that a transfer and assignment of the contract had been made by Mr. Wasson to Mr. Giddings, with the consent of the Department. I undertake to say that Captain Stillman would have performed that service for $28,000.

Mr. BELL. I do not desire to interrupt the gentleman, but I wish to say that Captain Stillman, with all his bravery and determination as a pioneer, was unwilling to undertake the service for $28,000 again. He said that if he had reached here in time, his bid would have been for a larger sum.

Mr. EDGERTON. What I said in relation to Captain Stillman was information I obtained from the Post Office Department myself. Captain Stillman's bid was not accepted, because it was not made in time; but, I will venture to say, if this contract was advertised by the Postmaster General to be let to the lowest bidder, that responsible parties would come in here and take it for a much less sum than the sum now proposed to be given. I think it is an innovation in the contract system of the Post Office Department, where, by special favor, individuals get special contracts for a less sum than they can carry the mails, that they should then come here and ask for special allowances. It is because I am opposed to this whole principle that I am against the proposition now under consideration.

Mr. HENN. I move that the committee rise, for the purpose of closing the five-minute debate.

Mr. JONES, of Tennessee. I would propose, sir, that the committee, by unanimous consent, close the general debate, and allow discussion to go on under the five-minute rule.

Mr. SEWARD. No, no.

Mr. WALSH. I object.

Mr. SEWARD. I object to passing the general appropriation bills until some other business before the House is disposed of.

Mr. HENN. If unanimous consent can be given to close the general debate, I will withdraw my motion; but if not, I insist upon it.

Mr. SEWARD. I object.

Mr. JONES. I understand the gentleman from Georgia will withdraw his objection.

The CHAIRMAN. There being, then, no objection to closing——

Mr. ENGLISH. I object.

Mr. WALSH. I objected, and do not withdraw anything.

Mr. HENN. Then I insist upon my motion.

Mr. ENGLISH. I withdraw my objection.

The CHAIRMAN. The Chair would inform the gentleman, however, that the gentleman from New York upon the right of the Chair objected, as also one or two others.

Mr. WALSH. And when I object, I never withdraw.

The question was then put upon Mr. HENN's motion, and it was agreed to.

So the committee rose, and the Speaker having resumed the chair, the Chairman of the committee reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the Senate amendments to House bill No. 594, and the post office appropriation bill, and had come to no resolution thereon; also, that the committee had had under consideration the Senate amendments to the Military Academy bill, and had instructed him to report the same back to the House, with a recommendation to concur in some of the Senate amendments, to disagree to others, and to concur in others with amendments.

Mr. SEWARD. Mr. Speaker——

Mr. HOUSTON was recognized by the Speaker.

Mr. SEWARD. I rise to a question of order.

Mr. HOUSTON. I move the usual resolution to close debate upon the Post Office appropriation bill in five minutes after the committee shall again resume its consideration.

Mr. SEWARD. I insist upon my right to the floor.

The SPEAKER. The gentleman from Georgia is not in order.

Mr. SEWARD. I appeal from that decision of the Chair.

The SPEAKER. The gentleman from Georgia addressed the Chair, but the Chair recognized the gentleman from Alabama [Mr. HOUSTON.] The gentleman from Georgia insists that he has the right to the floor, declaring that he took the floor first, and has a right to address the Chair first. The Chair decides that he is not entitled to the floor, not having been recognized by the Chair. From that decision the gentleman from Georgia appeals. The question is, "Shall the decision of the Chair stand as the judgment of the House?"

[Cries of "Question!" "Question!"]

The question was put; and the decision of the Chair was sustained.

Mr. HOUSTON. I move that the House agree to the report of the Committee of the Whole on the state of the Union, and upon that I demand the previous question.

ROBERT C. SCHENCK.

Mr. PRESTON. I ask the gentleman from Alabama to withdraw that for a moment, until I can make a report from the Committee on Foreign Affairs in behalf of the chairman of that committee, [Mr. BAYLY,] who is confined to his room by sickness—my only object being to have it laid upon the table, and printed.

Mr. WITTE. I object unless I can know what it is.

The SPEAKER. Objection is made, and the report will be returned to the gentleman from Kentucky.

Mr. WITTE. I only objected until I could hear what the report was about.

Mr. PRESTON. It is for extra compensation to Robert C. Schenck, former Minister to Brazil, for diplomatic services with the Argentine Confederation.

Mr WALSH. I object.

The SPEAKER. Objection is made.

The previous question was then seconded, and the main question ordered to be put.

The main question being on agreeing with the report of the Committee of the Whole—

The SPEAKER. Is it the pleasure of the House to take a vote upon the Senate amendments to the Military Academy bill in mass?

Mr. SEWARD. I object.

MILITARY ACADEMY BILL.

The amendments to the Military Academy bill were then severally read, and acted on, and in each case the report of the Committee of the Whole on the state of the Union was concurred in.

ARMY APPROPRIATION BILL.

Mr. PHELPS. The Army appropriation bill has been returned to us from the Senate. I desire to take it from the table, and submit a motion that the House insist upon its disagreement to the amendment of the Senate, and ask a committee of conference.

The SPEAKER. If there is no objection the order will be made.

Mr. WHEELER. I object.

The SPEAKER. It is objected to, and we must have a regular vote upon it.

The question was put upon Mr. PHELPS's motion; and it was agreed to.

The Speaker thereupon appointed Messrs. PHELPS, of Missouri, FAULKNER, of Virginia, and TAYLOR, of Ohio, as the managers of the conference on the part of the House.

POST OFFICE APPROPRIATION BILL—AGAIN.

Mr. HOUSTON. I now move to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union. But before that motion is put I desire to have a vote taken upon my motion to close debate upon the Post Office appropriation bill in five minutes after the committee shall again resume its consideration.

Mr. LILLY. I rise to a question of order.

Mr. PHELPS. I rise to a question of privilege.

The SPEAKER. The Chair will hear the question of privilege first.

Mr. LILLY. I rise to a privileged question. Is it proper for the Chair to recognize the gentleman from Alabama, [Mr. HOUSTON,] who leaves his seat and goes down into the area, when there are gentlemen in this part of the Hall who are up, and have risen again and again, in their seats to be recognized?

The SPEAKER. The Chair will state in his own defense, that when a bill is reported by any one of the committees, he feels it to be his duty, under the rules and usage as old as parliamentary proceedings, to recognize the gentleman having the conduct of the bill. [Cries of "That is right!"] The Chair will not violate that rule to gratify any member upon this floor. [Cries of "Good!" "That is right!"] The Chair would, however, have failed to recognize the gentleman from Alabama, if his attention at the time had not been called to the fact referred to by the gentleman from New Jersey.

Mr. ORR. The gentleman from Alabama had been recognized previously, and was entitled to the floor.

Mr. HOUSTON. Yes, sir; and I went into the area to speak to my friend from New York.

The SPEAKER. The question is on a resolution, introduced by the gentleman from Alabama, that debate be closed on the Senate amendments to the Post Office appropriation bill within five minutes after its consideration shall be resumed in the Committee of the Whole on the state of the Union.

Mr. HOUSTON. I call for the previous question on the resolution.

Mr. BRECKINRIDGE. That resolution does not cut off the five-minute debate?

Mr. HOUSTON. No, sir; only the general debate.

The call for the previous question received a second, and the main question was ordered to be now put.

Mr. WENTWORTH, of Massachusetts. Is it in order for me to ask the unanimous consent of the House for the introduction of a bill, to which there can be no objection?

[Cries of "I object!" "I object!"]

Mr. WENTWORTH. I move to suspend the rules, that I may be enabled to introduce a bill.

The SPEAKER. There is a motion now pending to suspend the rules to resolve the House into the Committee of the Whole on the state of the Union. By special rule, the House has first to vote on the resolution closing debate, as a privileged question.

The question was taken; and the resolution closing debate was adopted.

The question was taken on the motion to go into the Committee of the Whole on the state of the Union; and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair.)

The CHAIRMAN. The question pending when the committee rose, was on agreeing to the fourth Senate amendment to the Post Office appropriation bill as amended.

The question was taken; and the amendment, as amended, was concurred in.

The fifth amendment was reported, as follows:

SEC. 2 *And be it further enacted*, That the fourth section of the act of Congress, approved 5th August, 1854, entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1855." be, and the same is hereby, continued for one year from August 5, 1855, and that the allowance granted by said section to the deputy postmaster at Washington city, District of Columbia, of one mill per pound upon the aggregate weight of public documents printed by order of Congress, and deposited in the office of the said postmaster to be mailed, shall be so construed as to commence on the 5th of August, 1853.

Mr. HOUSTON. The Committee of Ways and Means recommend a concurrence in the amendment, with an amendment striking out all after the words "August 5th, 1855." The portion proposed to be stricken out provides for giving back pay for the year previous to 1854. The Committee of Ways and Means recommend a concurrence in the provision for increased compensation to the clerks in the Washington post office; but they thought that it was inexpedient to provide for the giving of extra pay for the year previous to the one when they commenced to draw it. I think there are good reasons why the recommendation of the Committee of Ways and Means should be adopted. By reference to the law of the last session, when this compensation commenced, the committee will discover that the month of January is taken as the month by which all the others are to be regulated. All of us know that in that month there is more of this matter than in any other. The present session will terminate in a few days, and for many months there will be comparatively little of this matter to be mailed by the post office clerks of this city. I have no objection to hereafter continuing the compensation under the law, from time to time, as Congress may see fit; but I think that it is a bad principle to now go back twelve months previous to the time when they commenced drawing it.

Mr. CHANDLER. Mr. Chairman, I rise to oppose the amendment of the Committee of Ways and Means, advocated by the chairman, who has just taken his seat. I examined this matter carefully a year ago, as a member of a committee of conference. It was well understood in that committee that this compensation was due to these post office clerks, whose labor is double that of any other clerks in any other branch of the public service, whether you take the clerks in this or in any other city of the Union. The post office clerks get generally about half the pay that other clerks do anywhere, and they have to do double the work. In this city, sir, it is well known that the clerks in the post office are compelled to labor hard to get through with the duty which we impose on them. The gentleman says that January is made the measure because it is the heavy month. As I understand, that is not the heavy month. We know that in the month of January we have few, if any of the public documents printed. We know that we do not receive them until after that; therefore it would be better for the clerks if they took any other month than January. But that has been decided on as one of the conveniences to them and to all.

Mr. Chairman, I examined the question with great care when I was on the committee of conference at the last session, and it was only to secure some measure of greater importance, though not of so much convenience to laboring individuals, that the committee on the part of the House receded. The Senate gave up to us an important measure to let this pass, but with the distinct understanding that, on the first occasion it came up, gentlemen would feel at liberty to vote for it. It is only taking the compensation back to the time contemplated by that law, and to the time when the other clerks of the city—the clerks of the other Departments—began drawing their increased salaries, salaries increased far above those of these hard-working men, to whom we have to trust our correspondence and its contents, and who have ever proved faithful. I hope, sir, that this House will not dally with so small a matter as that. I hope they will adopt the amendment, which simply does an act of justice.

Mr. HOUSTON. Will the gentleman allow me to state one fact? I want to correct the gentleman in this particular: This amendment, as it passed the Senate, will give to these clerks in the city post office an extra compensation, going further back than the increased compensation which was given to the clerks in the Department.

Mr. CHANDLER. However that may be, it only goes back to the time when this heavy labor was imposed upon them without any augmentation of their compensation. But, sir, I do not think it is worth while to take up the time of the committee, every moment of which is precious. I hope the amendment will be adopted as it passed the Senate, and that the amendment of the Committee of Ways and Means will be rejected.

Mr. STANTON, of Kentucky. I merely desire to say, to correct an erroneous impression which may have been created by the remark of the gentleman from Alabama, [Mr. HOUSTON,] that this extra compensation only extends back to the same year for which the clerks of the Departments were allowed extra compensation.

Mr. CHANDLER. Certainly. I thought so.

The question was then taken; and the amendment of the Committee of Ways and Means was not agreed to.

The question then recurred upon concurring in the Senate amendment; and, being taken, was carried in the affirmative.

So the amendment was concurred in.

Sixth amendment:

SEC. 3. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to establish and put in operation a semi-monthly mail, by sea, from San Francisco, in the State of California, to Olympia, in the Territory of Washington, touching at Humboldt bay, Trin-

idad, and Crescent City, in the State of California, Port Orford, Gardiner City, or Umpqua, and Astoria, in the Territory of Oregon, Shoalwater bay, Port Townsend, in the Territory of Washington, and at such other points as shall be designated by the Postmaster General: *Provided*, The whole cost of said service shall not exceed the sum of $120,000 per annum.

Mr. HOUSTON. I am instructed by the Committee of Ways and Means to recommend a concurrence in that amendment, with an amendment. I move to insert, in the tenth line, after the word "Provided," the words, "that the contract for said service be advertised by the Postmaster General, in pursuance of existing laws, and let to the lowest bidder: *Provided further;*" so that the clause will read:

Provided, That the contract for said service shall be advertised by the Postmaster General, in pursuance of existing laws, and let to the lowest bidder: *Provided further*, That the whole cost of said service shall not exceed the sum of $120,000.

That amendment merely provides that these contracts shall be advertised and let in the same manner that other mail contracts are.

Mr. LANE, of Oregon. I desire to offer an amendment to that amendment.

The CHAIRMAN. No further amendment is in order.

The question was taken; and the amendment of the Committee of Ways and Means was adopted.

Mr. LANE. I now offer my amendment. I move to add at the end of the amendment the following:

Provided further, That the Postmaster General may, if he shall deem it for the public interest, contract for such public service with the lowest bidder, as aforesaid, under advertisements and proposals heretofore made for the mail service between the points aforesaid.

There can be no objection to this amendment, I imagine.

Mr. HOUSTON. I do not know whether I clearly understand the purport of that amendment; but if I do, it seems to me it will be legislating in the dark. We do not know what proposals may have heretofore been made. I think we had better have the contracts made in the ordinary way.

Mr. JONES, of Tennessee. But this leaves it discretionary with the Postmaster General.

Mr. HOUSTON. If that is a fact I have no objection to the amendment.

The question was taken; and Mr. LANE's amendment was adopted.

The question then recurred upon the Senate amendment as amended, and being put, was carried in the affirmative.

Seventh amendment:

SEC. 4. *And be it further enacted*, That the right to frank letters and documents now allowed by law to the Vice President be continued to those who have heretofore, or shall hereafter hold that office, during life.

Mr. HOUSTON. The Committee of Ways and Means recommend a non-concurrence in that amendment.

Mr. SEWARD. I move to strike out, in the fourth line, the words "during life." The amendment would then read:

SEC. 4. *And be it further enacted*, That the right to frank letters and documents now allowed by law to the Vice President be continued to those who have heretofore or shall hereafter hold that office.

Mr. Chairman, this amendment of the Senate proposes to confer upon the Vice President now in office, and those who have heretofore or shall hereafter hold that office, a franchise for life—an incorporeal inheritance. Now, sir, I object to any such provision being made, because if Congress has the power to confer that right upon these officers, they have the right to transfer it to others. We have had illustrations enough of late of the assumption of high Federal officers to the utmost limit of the power intrusted to them, to make us cautious how we extend that power. But a few days ago, one of these officers undertook to strike down the representatives of the people by refusing his assent——

The CHAIRMAN. The gentleman from Georgia must confine himself to the discussion of the amendment he has offered.

Mr. SEWARD. So I am. I was giving an illustration of the danger of extending further power to those officers by an example of the way that power had been used.

The CHAIRMAN. The Chair thinks the example is not in order.

Mr. SEWARD. Then if the Chair possesses the authority of determining what arguments should operate upon my mind to favor or oppose any proposition, and what example may be given and what may not, I think that authority is an infringement upon my rights.

The CHAIRMAN. The Chair has the authority to enforce the rules of order, and he will enforce them.

Mr. SEWARD. If I do not conform to the rules of order, then I will submit to be called to order by the Chair. But I submit to the Chair whether it is not in order, in discussing an amendment proposing to confer additional powers upon public officers, to show, by examples, the mischief that may arise from the extension of those powers? But, sir, having said thus much, not desiring to consume the time of the House, and not wishing to come in conflict with the Chair or the rules of order, I will withdraw my amendment.

Mr. JONES, of Tennessee. I hope the amendment of the Senate will be rejected. I will merely state that it is to extend the franking privilege. The Committee of Ways and Means recommend a non-concurrence, and I hope that recommendation will be adopted.

The question was taken; and the amendment was non-concurred in.

Eighth amendment:

SEC. 5. *And be it further enacted*, That all books, maps, and charts, or other publications entered for copyright, and which, under the act of August 10, 1846, are required to be deposited in the Library of Congress, and in the Smithsonian Institution, may be sent through the mail free of postage, under such regulation as the Postmaster General may prescribe.

Mr. JONES, of Tennessee. The Committee of Ways and Means recommend a concurrence in that amendment. The act referred to in the amendment requires each person who obtains a copyright for a book to deposit six copies of the work in the Congressional Library, and six in the library of the Smithsonian Institution. This amendment merely proposes that the copies thus required to be forwarded to the Congressional Library, and the Smithsonian Institution, shall come free of postage, and nothing more.

Mr. CHANDLER. The Committee on the Library are anxious that this amendment shall be adopted.

Mr. HENN. I offer the following amendment to the amendment of the Senate:

After the word "Institution" insert the words "and all publications made by the Smithsonian Institution."

I have no desire to debate the amendment. I wish merely to test the sense of the committee upon it. I am in favor of it, and think that the publications of the Smithsonian Institution ought to be disseminated through the country free of charge.

Mr. JONES, of Tennessee. I think that that is not appropriate to this amendment. It proposes to extend the franking privilege.

Mr. HENN. Not at all. It merely allows these documents to go free of postage.

Mr. JONES. It certainly does extend it, and I think we had better confine ourselves to the amendment of the Senate.

The question was taken on Mr. HENN's amendment; and it was rejected.

Mr. LETCHER. I move to amend the amendment of the Senate by adding the words "and that an account thereof shall be taken." I will explain the reason why I offer that amendment. We have applications for relief from the Post Office Department upon the ground of the quantity of matter sent through the post office under the franking privilege. Now, I desire that Congress shall have some reliable data upon that subject. I propose that an account shall hereafter be taken of all this mail matter, to be certified to by the Post Office Department, so that hereafter the House may be able to make some near approximation to the amount of matter that goes through the mails free of charge.

Mr. JONES. I would ask the gentleman from Virginia not to insist upon his amendment to this bill. It can be better done by a resolution. It is not the sort of provision that should be put in an appropriation bill. It is not appropriate to it.

Mr. LETCHER. My amendment applies exclusively to the matter referred to in this amendment.

Mr. JONES. This amendment only applies to such books as the authors shall get copyrights for, and as shall be sent here to be deposited in the Congressional Library, and in the Smithsonian Institution.

Mr. LETCHER's amendment was disagreed to.

The amendment of the Senate was then concurred in.

Mr. BRIDGES. I move that the committee take a recess until six o'clock.

Mr. DAVIS, of Indiana. I move to amend that motion by inserting seven o'clock in lieu of six o'clock.

The amendment was adopted.

The motion of Mr. BRIDGES, as amended, was then agreed to; and thereupon—at ten minutes after four o'clock, p. m.—the House took a recess until seven o'clock, p. m.

EVENING SESSION.

The CHAIRMAN called the committee to order at twenty minutes past seven o'clock, p. m., and the committee resumed the consideration of the amendments of the Senate to the Post Office appropriation bill.

The Clerk reported the ninth amendment of the Senate, as follows:

SEC. 6. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized, in the settlement of the accounts of the late postmaster at Waterville, Maine, to allow such sum, in addition to the commissions which accrued at his office during his term of service, as will make his compensation equal to $175 per quarter, and cover all such necessary items of incidental expenses as have been usually incurred and allowed in a post office of this class: *Provided, however*, That the whole compensation and expenses shall not exceed $425 per quarter.

Mr. HOUSTON. The Committee of Ways and Means, in considering this amendment, had not the papers before them, and they, therefore, recommended a non-concurrence in this amendment; but they authorized me to change that recommendation, if I could get satisfactory information from the Department. I have since had a conference with the Postmaster General, and he is of the opinion that the claim is just, and that it ought to be allowed.

The question was taken; and the amendment of the Senate was concurred in.

Tenth amendment of the Senate:

SEC. 7. *And be it further enacted*, That the First Comptroller of the Treasury be instructed to examine the claim of William R. Glover and Thomas W. Mather and their associates, and ascertain and allow such damages as they are entitled to in justice and equity, in consequence of the refusal of the Postmaster General to carry into effect the contract entered into between William R. Glover and Thomas W. Mather and the Postmaster General, in 1853, for the transportation of the mails on the Mississippi and Ohio rivers, and that such damages be paid to the said William R. Glover and Thomas W. Mather and their associates, out of any money in the Treasury not otherwise appropriated.

Mr. HOUSTON. The Committee of Ways and Means had no examination made of these amendments, and but a very slight examination of this amendment on its merits, for the reason that we had not time to go into such investigation as the magnitude of the claim demanded. We, however, bestowed such attention upon it as we could give in the one morning which we had to appropriate in our session to this bill. The committee determined to recommend non-concurrence in the amendment, believing that it is peculiarly appropriate for investigation by the court of claims, which Congress has recently established. The contest between the Post Office Department and these gentlemen grows out of what they allege to be a violation of law on the part of the Department. The Postmaster General does not consider that he has violated the law. Hence the case turns exclusively and entirely on the point of law, and the committee believe it should be referred to the court which has recently been established for the purpose of investigation and decision. The committee, therefore, recommend non-concurrence.

Mr. BRECKINRIDGE. I move to amend the amendment by requiring the First Comptroller of the Treasury to report whatever action he may take to Congress, for its approbation or rejection. I offer this amendment to enable me to make some remarks on this question. In this bill, Mr. Chairman, you have allowed a good many individual claims which seemed to the committee to be just. I do not know whether it is the sense of the committee and of the House to allow this one. I desire to preface my remarks by saying that I have the highest possible respect for the Postmaster General, and my observations will relate solely to

his official connection with this case. But as some of the individuals interested in this matter are my constituents, I feel that I would be derelict in my public duty if I failed to enter my protest against their being reduced to bankruptcy and ruin by what I consider to be an act of Executive oppression. As I have five minutes to go upon, I will try to cram all the points in the case before the committee in that time.

We have been for years trying to get mail facilities on the Ohio and the Mississippi rivers. In August, 1852, Congress passed a resolution requiring a daily mail line to be established between Louisville and St. Louis, and Louisville and New Orleans, and intermediate places; the mail to be carried in "safe and suitable steamboats." That is the language of the congressional resolution. In the autumn following, under Mr. Fillmore's administration, Mr. Hubbard, the Postmaster General, advertised for bids under that resolution. In that advertisement he stipulated that the mail should be carried in boats constructed for the transportation of mails and passengers only, and of low-pressure. I will not comment upon that further than to say that low-pressure boats cannot be run on the western waters, and that there is not a boat on the waters which carries mails and passengers only. They all have holds, and carry freight. Thirty boats nearly are required to carry the mail under this resolution, and not one of them is built to transport mails and passengers only. These gentlemen offered to take the contract to carry the daily mails at $450,000 a year. Soon afterwards Mr. Fillmore's administration went out, and the present Administration came in.

Mr. Campbell, the Postmaster General, had a correspondence with the claimants in relation to the low-pressure question, and other subjects connected with the contract, the result of which was that he addressed a letter to the Post Office Committee, stating that the only way to carry out the instructions of Congress was to accept the bid made by these gentlemen. They proposed to take the contract for the conveyance of the mail on "suitable and safe steamboats"—following the language of the congressional resolution—the boats to be approved by the agent of the Department. Accordingly, on the 20th May, 1853, they entered into a contract with the present Postmaster General—which contract I hold in my hand—changing the price from $450,000 to $297,000; also changing the schedule of time, saying nothing about the low-pressure boats, and stipulating, in the language of the contract, which, I repeat, I hold in my hand, that they should convey the mail in "safe and suitable steamboats," the mails to be free from wet and other injury. The terms were "safe and suitable steamboats" alone—following the language of the congressional resolution. They provided these safe and suitable steamboats. They were inspected at Louisville by agents of the Government, and they were received by them as answering the terms of the contract. They were prepared to receive the mail. On the 1st of December, when the mails were to be delivered for the first time, the agent of the Post Office Department met them at Louisville with an order from the Department not to allow the mails to be received on board if the boats had a pound of freight.

That is the history of the matter. The Department refused to give them the mails for transportation; and they have not been allowed to carry them. They were compelled to build several boats, and to hire others, to be ready to carry out their contract. Some of these claimants are young men without much capital. They have complied with every stipulation required by Congress and contained in their contract. They were ready to receive and transport these mails, but the agent refused to deliver them because they had some freight on board.

That is the sum of the whole transaction. Now, you may place the facts before any tribunal, from a justice of the peace up to Heaven's chancery itself, and you cannot find any tribunal which will not say that it is a case of Executive oppression, and that these men should be compensated for the loss and damage sustained by them in consequence of the violation of contract by the Postmaster General. I speak of this as an official transaction, and intend not the slightest disrespect to the distinguished head of the Department. On the contrary, I respect and confide in his motives, although I disagree wholly with his official action. I want the committee to recollect this point, that the acceptance of their bid took place under Mr. Hubbard. It was accepted under the advertisement by him for low-pressure boats, and for boats constructed for the transportation of mails and passengers only. These bids were afterwards delivered up to the Postmaster General, and a new contract was entered into with them, which contract I hold in my hand, and in which nothing was said except that they should carry the mails in "safe and suitable steamboats." They provided these boats, and they were accepted by the agent of the Post Office Department. I am bound to say that we have never been able to get proper mail facilities on these western waters; and the committee will recollect that an effort was made by my friend from Mississippi, at last session, to get mail facilities established on these waters.

[Here the hammer fell.]

Mr. HAVEN. This is a very extraordinary case, Mr. Chairman, and I desire to say to this committee, that in respect to the facts put forth by my friend from Kentucky, I cannot say nay to any of them, so far as my knowledge extends. Nor have I any reason to suppose that there is any incorrectness in any of them, unless it may grow out of the fact that if they are true they present a most remarkable case of official delinquency or obliquity, or something of the kind. I am unwilling to believe it to that extent; and I think the Postmaster General should be heard on the subject. I do not think that this committee should act upon *ex parte* statements, however much force they may appear to have.

Mr. PECKHAM. Hear the Postmaster General where? On this floor?

Mr. HAVEN. I want to go a little further than that. Mr. Chairman, I am not willing that a claim which I understand, from the way in which it is put forward by my friend from Kentucky—and which, I think, he will tell you—amounts to $1,000,000 at least, should go through under the five-minute debate rule, and at this Congress, which I believe has gone on so far with clean hands, however much they may be stained hereafter with the cry of Galphinism by gas-light. I think it should have a better investigation. At least I think we should allow the Postmaster General to report to this House the facts at the next session, and then we can act on the facts as reported.

The Committee of Ways and Means having had no time to look at these facts from beginning to end, and regarding it as a private claim, only reported on it to this degree, that they believed that these claimants were entitled to have the matter investigated, and that they should not have their claim in any way injured by suspicion being thrown upon it here; and the committee, therefore, took upon themselves to say to the House that this matter should go to the new court of claims for the purpose of investigation.

I beg the committee not to understand me as saying anything derogatory of this claim; but you must recollect that it was on reference to the head of a Department that the Galphin claim was paid, and you must recollect how much the country heard in relation to that transaction. Do not let this Congress stain itself by a transaction of this kind. I believe this has been a fair, honest Congress; and I want they should justify that character by their action. I do not want that these contractors should be lowered in the public estimation, and I want the proposition of my friend from Kentucky to be taken up and acted upon by the House. I want the valley of the Mississippi to have these mail facilities, but I want the committee to remember that they have resulted so far only in damages for violation of steam contracts. These contractors are clear-headed, eagle-eyed men, and are ever on the alert to attend to their interests, while we have a little of everything to attend to; and how can it be expected that we can meet them in all their claims? I want this matter fairly investigated, and if these parties have been injured by the Postmaster General I hope justice may be done them.

Mr. BRECKINRIDGE. With the leave of the committee I withdraw the amendment, and offer another for the purpose of making a single remark in reply to the gentleman from New York. I move to substitute in the place of the First Comptroller of the Treasury the Auditor for the Post Office Department. The gentleman from New York talks about Galphinism, and I thought that the remark was made in order to produce a panic in the mind of the committee. I am happy to see hostility to Galphinism springing up in the right quarter. The party with which I act, I am glad to say, is not responsible for the name or the example. The remark of the gentleman being general in its character, I will only add on this point, that I am pretty well known here as a determined enemy to everything in the form of Galphinism and public plunder of every sort.

But to return to the case. The gentleman intimated, in the course of his remarks, that there were $1,000,000 damages involved in this case, which the House were asked to vote blindly; but according to the best information I can get the damages claimed by the violation of the contract on the part of the Postmaster General are less than $100,000. I am perfectly willing to substitute the Auditor of the Post Office Department for the First Comptroller of the Treasury, to whom this matter shall be referred, and who shall report the result to this House. The matter has already been discussed and acted upon by the Senate. The gentleman from New York said that the Postmaster General ought to be heard. He has been heard for two years, and the case has undergone a careful investigation in the Senate, and after full and ample discussion the amendment now before the committee was adopted by an overwhelming majority.

I will tell you what I understand the answer of the Postmaster General to be. It is that the contract, which I hold in my hand, binds these men according to the advertisement of Mr. Hubbard. That is the answer which the Postmaster General gives; but it is no answer at all, and why? First, because Mr. Hubbard's advertisement was in violation of the resolution of Congress; and next, because they had yielded up to Mr. Campbell the bid which they had made under Mr. Hubbard's advertisement; whereupon Mr. Campbell entered into a new contract with them, changing the price, and changing the contract in many other particulars, in which no reference is made to Mr. Hubbard's advertisement; and in which no reference is made to the fact that the boats to be used must be low-pressure boats. Here is a contract which stands upon its own merits, and which must be construed by itself; and here is a letter from the Second Assistant Postmaster General, dated about the time the contract was made:

POST OFFICE DEPARTMENT,
CONTRACT OFFICE, *May* 30, 1853.

GENTLEMEN: The Postmaster General has made the following order in regard to the mail service between Louisville and New Orleans:

"Modify the acceptance of March 1, 1853, so as to dispense with the restriction to low-pressure boats, and with the way mail service between Cairo and St. Francisville; and adjust the compensation by the standard of the lowest bids received under the advertisement of 31st December, 1852.

"Contract, therefore, with Glover and Mather for the daily express service between Louisville and New Orleans in seven days each way, and the daily way service between Louisville and Cairo, and between St. Francisville and New Orleans, at $297,975 per annum from 1st of December next, or as much earlier as practicable, the Postmaster General reserving the right to require the supply of six additional offices by the express line, without additional pay. The whole service to be performed in safe and suitable steamboats." Very respectfully, yours, &c.,

WILLIAM H. DUNDAS,
Second Assistant Postmaster General.

Messrs. GLOVER and MATHER.

That is the order of the Postmaster General, following literally the language of the congressional resolution. The language incorporated into this contract was, that the mail should be carried in a safe and secure manner in safe and suitable steamboats. That is the contract. When the boats were offered they were accepted by the agent of the Post Office Department, but a dispatch was afterwards received that they should not take the mails, if freight was found on board. I trust that the committee will adopt the amendment, and do justice to these parties. And to guard against one dollar being improperly taken from the public Treasury, I am perfectly willing that the First Comptroller of the Treasury should report his proceedings to the next Congress. I think that proposition is a perfectly fair one.

Mr. HAVEN. I desire to make a single remark in reply to the suggestion that fell from my friend from Kentucky, and I will endeavor to do it with entire fairness. He tells us that there have been thirty boats put into order for the service

THE CONGRESSIONAL GLOBE.

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of the Post Office Department, for the purpose of performing the mail service required of them. It was upon that portion of the statement, as well as upon his statement that these men had been at all times ready to perform their contract, that I predicated the suggestion I made that here was a claim for immense damage, which must amount, at least, to $1,000,000. With thirty boats held in readiness, to perform the contract, and the entire unwillingness, repugnance, and entire abnegation upon the part of the Postmaster General of the contract, and his refusal to perform it, what damages do this committee believe will be claimed before the officers of the Government by these parties? There are $297,000 a year which they claim to receive for carrying the mail, and then, to use the classic language of my honorable friend from Virginia, [Mr. SMITH,] they have been chiseled out of all they might have made by carrying freight and passengers. I am a little fearful that, under these circumstances, this will happen so. I will not say it for the purpose of catching the ear of the committee, but I say it in all sincerity, that we shall have a claim for damages of something more than $100,000. I beg the committee to understand that the statement which is made by my friend from Kentucky I cannot gainsay. He makes it so clear, explicit, and conclusive, that I understand it, and I doubt not, the committee understand it. I can hardly believe though, that the officer of the Government, after he had inspected these boats, and accepted them, should then, willfully, and without any cause whatever, refuse to take them into his service.

Mr. HOUSTON. The Postmaster General says that these boats were not accepted.

Mr. BRECKINRIDGE. I understand the boats were accepted.

Mr. HAVEN. Mr. Chairman, in reference to that, I neither affirm or deny anything.

Mr. BRECKINRIDGE. This is what my friend from Alabama probably means. He means that the Postmaster General would not allow the mails to be carried on those boats because there was freight on board.

Mr. HOUSTON. The gentleman from Alabama does not mean that at all. He means just what he says, and quotes the Postmaster General himself.

Mr. HAVEN. I only want to say one thing further, and that is in reference to the suggestion of my friend from Kentucky, in reference to the advertisement of the Postmaster General, in reference to safe and suitable boats. I am not prepared to say that either the present or the previous Postmaster General mistook the contract upon the subject. It may be that he regarded boats, loaded down with freight and passengers, as not suitable boats. He had the right to do so; and the only question is, whether he exercised his discretion with propriety.

I desire to say again, and I want the committee to understand it, that I have said what I have in justification of the report of the Committee of Ways and Means. I fear there may be some cat under this heap of meal, which I do not understand. I do not know anything about it; but I am unwilling that this committee, unheard by me, at least, should vote this proposition.

[Here the hammer fell.]

Mr. BRECKINRIDGE, by unanimous consent, withdrew his amendment.

Mr. PRESTON. I move to amend the amendment by inserting, after the words "out of any money in the Treasury not otherwise appropriated," the words "provided such sum shall not exceed $200,000." I offer this amendment for the purpose of making a remark in reference to this matter. The gentleman from New York [Mr. HAVEN] takes the ground that, because the Committee of Ways and Means have not had time to examine this claim, therefore you are to permit these contractors to go without redress, and to leave them without any remedy from this House for the wrongs they have sustained at the hands of the Postmaster General. When Mr. Hubbard made these contracts, the lowest competing bid was about $800,000. The Postmaster General, when those contracts were invited, coupled the mail service with the requisition that the contractors should perform it in low-pressure boats, and in vessels constructed for the transportation of passengers only. Such was the character of the advertisements of the Department, which varied from the law authorizing the service.

Every one who is acquainted with the navigation of the river between Louisville and New Orleans knows that three fourths of the profits of the steamboats carrying passengers on those waters arises from freights. Glover and Mather, however, offered to perform the service for $450,000 a year, and received the contract. After Mr. Hubbard left office, the present Postmaster General, Mr. Campbell, entered into a new arrangement and contract, by which the service was to be performed on "safe and suitable boats" for $297,000 instead of $450,000 a year. Mr. Glover, who had been our consul at Vera Cruz, where he had amassed a handsome fortune, having taken the original contract, consented to this alteration, and entered into the present contract with the Postmaster General. Afterwards the Postmaster General refused to permit freight to be carried upon the boats, and directed that the mails should not be delivered to boats having freight on board, insisting that the original advertisements, upon which the original contracts had been based, governed the last contract, though the service, in the first instance, was to be performed for $450,000 a year, and under the modified contract, calling only for "safe and suitable boats" at $297,000 a year. I remember that Benedict and Carter, who are among the most experienced and responsible boat-owners in the West, considered that, so far as low-pressure boats were required, in the first proposition made by Mr. Hubbard, the thing was impracticable, and that somewhere about $800,000 would be as small a sum as would remunerate contractors for a daily service on first-class passenger boats carrying freight. Twice the sum would not have been sufficient if the boats had been forbidden to carry freight.

The Postmaster General has fully considered this case, and has been fully heard and understood in regard to it. If my friend from New York does not understand it, it must arise from the heavy pressure of business upon the Committee of Ways and Means, of which he is a member; but this should form no objection to the House to prevent them from acting upon the subject now and relieving these contractors from embarrassment, if not ruin. I have been informed that the principal contractor has suffered the most serious loss, and has been subjected to executions for a large amount on account of these very transactions, and I think that Congress should not refuse to give him relief. The Senate, after full consideration, has determined in his favor, and we should not reject the amendment they propose. It is true that the amendment does not limit the sum which may be allowed, and which the gentleman from New York imagines may reach $1,000,000; but, as I am convinced a fifth of that sum will largely more than cover any allowance the Comptroller may make, I deem it best to obviate the objection by the amendment I offer. The gentleman from New York alleges that, by allowing the settlement of the accounts of these contractors upon principles of justice and equity, it may give rise to claims like that of Galphin. Let me ask him, sir, who is to be the instrument in this anticipated fraud? To whom is it referred? To Elisha Whittlesey, the First Comptroller, a man who is, I know, not only in my opinion, but in that of my friend from New York himself, one of the most honest, intelligent, and vigilant accounting officers that our Government has ever possessed, and who equally commands the confidence of Congress and the country. I trust the House will confide the matter to him to audit on principles of equity and justice, and that they will not defer the matter, as it is essential to true justice that this relief should be promptly given.

[Here the hammer fell.]

Mr. PHILLIPS. The gentlemen who have advocated this claim have asserted that it is a matter beyond doubt; and, sir, to take the statements of gentlemen, one would suppose it to be so. But still we have a fact on the other side, which is rather a startling one, and that is, that a gentleman who occupied one of the highest offices in the Government, and who has held one of the highest judicial stations in his native State, a man esteemed for his integrity and intelligence, denies any liability on the part of the Government. Now, it is very remarkable that there should not be a doubt in a case where a man, having no interest but the public good, having no duty to discharge but a public duty, does deny any obligation. And, sir, there is no better, and certainly no safer, rule for us to adopt, than the one which compels us to hear the other side before we decide. Here is a proposition made by the chairman of the Committee of Ways and Means, and which has not been answered by either of the gentlemen who have spoken, and it is, not to deny the rights of these parties, but that we refer the claim to a tribunal which Congress has established, the court of claims. And what does the gentleman from Kentucky say? He says he is perfectly willing to permit this claim to be referred to the Comptroller of the Treasury for his decision, and that the Comptroller may have the privilege of reporting the matter to Congress to be acted upon. When will he do it? If the Comptroller is to do what the gentleman from Kentucky desires, the report will not come here until the next Congress. This party can get his claim just as speedily before the court of claims, and have the judgment of that court upon it as soon as he can have the judgment of the Comptroller upon the claim. If we begin, so soon after having established a tribunal, to take away from it its jurisdiction, we should at once introduce a bill to abolish that court. Is it not a perfect farce that we should sit here and organize a judicial tribunal, and especially for the adjudication of just such cases as this, and when the first case arises, take from that court the very jurisdiction which was conferred upon it?

[The committee here informally rose and received a message from the Senate, by Mr. ASBURY DICKINS, their Secretary, informing the House that the Senate had passed the following joint resolution and bills of the House, severally, without amendment:

An act for the relief of James Holstein;

A bill allowing the further time of two years to those holding land by entries in the Virginia military district in Ohio, which were made prior to the 1st of January, 1852, to have the same surveyed and patented;

An act for the relief of Clark Mills;

An act to amend an act approved August 4, 1854, entitled "An act to graduate and reduce the price of the public lands to actual settlers and cultivators;"

An act to carry into effect the convention upon the subject of claims between the United States and her Britannic Majesty of the 8th of February, 1853; and

An act making appropriations for the support of the Military Academy for the year ending June 30, 1856.

Also, that the Senate had passed the following Senate resolution:

An act requiring the Secretary of the Treasury to ascertain the value of certain powder destroyed by order of Commodore Hollins, of the Navy of the United States, and to pay the value thereof to the persons to whom it belongs; and

Also, that the Senate had receded from its second, fourth, and seventh amendments to House bill (No. 445) to reorganize the courts of the District of Columbia, and to reform the laws thereof, to which said amendments the House had disagreed.

The committee then again resumed its session.]

Mr. BRECKINRIDGE. Mr. Chairman, I suggest that, as the gentleman from New York said this matter is unlimited, the proposition of limitation made by my colleague had better be

adopted. I am perfectly willing that it shall be adopted, although I suppose the amount ascertained by the Comptroller will be below that sum.

Mr. HAVEN. I should like to make a statement in answer to what the gentleman has said, if it be in order.

The CHAIRMAN. If there be no objection, the Chair will hear the suggestion.

Mr. HAVEN. The suggestion is this: as I understand the proposition of the gentleman from Kentucky, it is that this matter should be referred to certain officers who are to report to Congress. The proposition of the Committee of Ways and Means is, that it should go to the court of claims. If the proposition be that there shall be no reporting to Congress, then I am against it in any shape whatever.

Mr. BRECKINRIDGE. The amendment for limitation is before the committee. I am perfectly willing that the matter shall be referred to the First Comptroller, and that he shall report to Congress.

Mr. PRESTON modified his amendment, so that it would read:

Provided, That the same shall not exceed $200,000.

The question was taken; and the amendment was agreed to; there being, on a division—ayes eighty-six, noes not counted.

Mr. JONES, of Tennessee. I offer the following amendment in lieu of the Senate amendment as amended:

That the claim of William R. Glover and Thomas W. Mather, and their associates, be referred to the court of claims to investigate, and report to the next Congress.

Mr. Chairman, if there be any question which should properly go to the court of claims it is this one.

Mr. SEWARD. I submit the point of order whether the gentleman from Tennessee can offer an entirely new section in lieu of the Senate's amendment?

Mr. JONES. Certainly I can.

The CHAIRMAN. Why cannot the gentleman from Tennessee do so?

Mr. SEWARD. For the reason that the gentleman's amendment is an independent section, and different from that of the Senate.

The CHAIRMAN. The amendment of the gentleman from Tennessee is in lieu of that of the Senate, and in the opinion of the Chair is in order.

Mr. JONES, of Tennessee. If there be a claim set up against this Government which ought properly to go before the court of claims it is this one. And I am confident, sir, that when that court shall be announced to the country it will command universal respect. Without knowing who are to compose it, I feel assured that it will have the country's confidence.

But, Mr. Chairman, how does this claim come here? Prior to the law authorizing this contract to be entered into, the Department was in the habit of giving the carriage of the mails on these rivers to the freight and passenger boats whenever they were ready to depart from one port for another. Under that regulation the cost was $80,000 per annum. That, however, was found to be a slow arrangement. Congress then authorized the making of a contract, under which the cost finally settled down to $297,000 the year. Yet the mails were carried upon the same boats which did the same character of service as they had done before. What advantage, then, was gained to those interested in that mail? It was for the purpose of getting rid of these freight boats that the contract was authorized and this service put on these rivers.

The gentleman from Kentucky says that it was because these boats carried freight that the mail was not put on them. Sir, as I understand, when these contractors asked for the mails, they presented themselves with the same boats, and under the same circumstances, as they did under the former arrangement, and when the Government paid $297,000 the year under the contract, it had the right to demand that the mails should be carried upon mail and passenger boats, and not upon freight boats. It was not because they were the same boats, but, as I understand, because they were engaged in the freight business. I believe that the Postmaster General has done what he believed to be right; that he has done what will be promotive of the best interests of the service, and what will be to the advantage of the country.

It is easy for gentlemen to get up here and speak of Executive oppression, of wrong done to individuals; but there is no one here, I venture to say, who knows the pressure that is made upon the Post Office Department by corporations, railroads, and steamboats, for carrying the mails of the country. And, sir, it is a wonder to me that he has ever succeeded as well as he has in resisting demands and preserving the business of the country as he has.

Mr. STANTON, of Tennessee. My colleague [Mr. JONES] says, that before this contract was entered into by the Postmaster General with these gentlemen whose names are mentioned in this amendment, the mail service upon the western waters was performed in ordinary freight and passenger boats for $80,000 per annum. That is true according to my belief, but does not my colleague know that the mails were then usually given to the slowest boats upon the rivers, for the reason that the fast boats—those that are the only ones proper for the mail service—would not take the mails at the prices which were paid for transportation.

Mr. BRECKINRIDGE. And no obligation for regularity.

Mr. STANTON. Certainly no obligation was entered into in respect to regularity.

Mr. PECKHAM. A single remark if the gentleman will allow me. The gentleman says no obligation for regularity was required. Now, sir, the time in which these trips were to be made was expressly stipulated for, and I apprehend there was no other obligation for regularity necessary.

Mr. STANTON. That is true. But now it is urged for the purpose of defeating this proposition, which I believe to be perfectly just, that the Postmaster General has not been heard in his own defense. Now, sir, it is but three or four days since that officer was so severely handled in the Senate.

Mr. STANTON, of Kentucky. I ask the gentleman from Tennessee to allow me to make a single remark? I have before me the report of the Postmaster General made in February 9, 1854, which is a public document, and is to be found in our document room, which contains the history of the whole matter. He excuses himself upon the ground that the boats stipulated for were not supplied. Nothing else.

Mr. STANTON, of Tennessee. I do not yield the floor further. I say it has been urged that the Postmaster General has had no opportunity to defend himself. Sir, it is some days since that officer was handled so severely in the Senate upon this very proposition. He has had ample time to make known to his friends in this House his wishes, or his defense, in reference to the matter. But, sir, we have heard no facts from that quarter, and the very fact that we have heard nothing from him, is the strongest evidence that he has no defense to present.

Now, sir, another proposition which has been presented here for the purpose of defeating this amendment is, that it shall be referred to the board of claims, which has been authorized, but not yet organized. Why, sir, on yesterday I desired to get a matter before that board upon which I could get no definite action before the House, and I was not able to get up the resolution referring it to their action. Yet here we have a proposition, which has been well matured, which has been referred to committees in this House and in the Senate, which has been fully and elaborately discussed in the Senate, and fully matured by that body, and now it is proposed to refer it to the board of claims.

Sir, the only objection to this postponement of action in reference to this claim is, that it is one in which these gentlemen are clearly entitled to what it is proposed to pay them.

Mr. PHILLIPS. Will the gentleman from Tennessee allow me to ask him a single question?

Mr. STANTON. Yes, sir.

Mr. PHILLIPS. The gentleman says this claim has been fully examined by committees of both Houses. I desire to ask the gentleman if it has not been reported against by the committee in this House to which it was referred?

Mr. STANTON. That is true; but not upon its merits.

Mr. HOUSTON. It has never been examined by any committee in this House.

[Here the hammer fell.]

Mr. JONES, of Tennessee. I desire to say a single word in reply to my colleague, [Mr. STANTON.] It is true that, under the old arrangement, the mail was intrusted to slow boats. But the reason, according to my understanding, was, not that the price paid was not sufficient, but because the crack boats upon the river were running for reputation, and, in order to make quick trips, they would not consent to stop at the regular mail stations between Louisville and New Orleans. That was the reason. It was to acquire a reputation for speed, by which they could get all the passengers.

Mr. LETCHER. I desire to offer an amendment.

The CHAIRMAN. No amendment is in order.

Mr. HAVEN. Is it not in order to amend the substitute offered by the gentleman from Tennessee, [Mr. JONES?] I have an amendment which I desire to offer to that.

The CHAIRMAN. It is not in order to offer an amendment to the substitute, but the Chair is of opinion that it is in order to amend the Senate amendment, which it is proposed to strike out.

Mr. LETCHER. Well, sir, I desire to amend the Senate amendment before it is stricken out. I move to strike out the words "Comptroller of the Treasury," and insert the words "First Auditor of the Post Office Department." Mr. Chairman, I have offered that amendment, not for the purpose of consuming the five minutes to which I am entitled, but for the purpose of obtaining some information in reference to this matter, if I can. I find, by reference to the Journal of the House, that, on the 26th day of July last, a petition was presented by Glover and Mather, and referred to the Committee on the Post Office and Post Roads. Now, sir, I desire to know of the chairman of that committee, or of any member of the Post Office Committee, what has been the action of this committee upon this petition? Is there a member of that committee present?

A MEMBER. Why, certainly. Here is the chairman.

Mr. LETCHER. Well, sir, I desire to know of the chairman what action was taken by his committee upon this petition?

Mr. OLDS. Mr. Chairman, I am not able to say what action has been taken upon it. It was presented near the close of the last session; and if any action was taken upon it, I do not recollect it. I do not think it has been taken up by the committee during the present session.

Mr. LETCHER. Has the claim never been examined by the committee at all?

Mr. OLDS. No, sir; not that I recollect.

Mr. LETCHER. Well, sir, I regard this claim as nothing more than a claim that should undergo the scrutiny of the committees of the two Houses of Congress as much as any proposition that has come before us. Sir, these men come here and ask that relief at the hands of Congress. It seems to me that it would be very unsafe legislation for us to pass here upon a question of this sort without first having it examined by a committee of this House. Sir, I do not know what peculiar merit there is in this case. I do not know what particular hardship these parties have undergone that should entitle them more than any others who come here and present private claims, that should entitle it to be selected out from the rest and attached to an appropriation bill. I have heard the explanation of the friends of the bill in this House. I have seen the correspondence upon the subject. I have referred to the debate which took place in the other end of the Capitol. The Postmaster General maintains one view, and my friend from Kentucky [Mr. BRECKINRIDGE] another; and it seems to me that, at least, the case is not presented with sufficient clearness to authorize us to decide upon it now without investigation. It ought first to have the action of the committee of this House, to which it has been referred.

Mr. WASHBURN, of Maine. I do not know anything about the particular merits of this case. I do not know whether any damages have been incurred for which this Government is properly responsible or not. It seems to me that this is purely a question of reference, a question with regard to the tribunal to which it shall be referred It is not proposed that we shall decide upon the particular amount that shall be paid; and, therefore, it seems to me that this general discussion which we have had upon the merits of the controversy is somewhat out of place The only question which we have to decide is, whether this

claim shall be referred to Mr. Whittlesey, the First Comptroller, who we all know, or whether it shall be referred to a board of claims which has not been organized, and which we do not know. It is true the gentleman from Tennessee [Mr. JONES] has particular confidence in that board of claims, however it may be constituted, and I trust his confidence may turn out to be well founded. I hope it may. But I would respectfully suggest to the committee, that inasmuch as it seems to be conceded that this claim is to be referred either to the board of claims or to Mr. Whittlesey, that, without consuming more time in reference to the matter, we had better allow it to go to Mr. Whittlesey, whom we all know, and in whom we all have the utmost confidence. I think it will be safer for the country to have the question left to him, with this limitation, than to the court of claims. The only question, it seems to me, is, whether we shall leave it to men whom we do not know, or to Mr. Whittlesey, whom we do know.

The question was then taken on Mr. LETCHER's amendment; and it was disagreed to.

The question recurred on the amendment proposed by Mr. JONES, of Tennessee.

Mr. JONES demanded tellers.

Tellers were ordered; and Messrs. EDMUNDSON, and WASHBURNE of Illinois, were appointed.

The question was taken; and the tellers reported —ayes 44, noes not counted.

So the amendment was disagreed to.

The amendment of the Senate, as amended, was then agreed to.

Eleventh amendment of the Senate:

SEC. 8. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to pay to Cranston Laurie a reasonable compensation for performing the duties of two desks in the Post Office Department, not to exceed half-pay of a clerk for the time he was so employed.

Mr. HOUSTON. This amendment proposes to give extra compensation to a clerk in the Post Office Department. The Committee of Ways and Means recommend a non-concurrence.

Mr. CHAMBERLAIN. I offer an amendment to that section for the purpose of saying a few words. I move to strike out "half-pay," and insert in lieu thereof, "two thirds pay."

Mr. WHEELER. I hope the Chair will enforce the rule, and confine members to the discussion of the amendment under consideration.

Mr. CHAMBERLAIN. I propose to confine myself to the pending amendment, and I desire to read to the committee the language of that amendment, which will show the justice of this claim. It is as follows:

That the Postmaster General be, and he is hereby, authorized to pay to Cranston Laurie a reasonable compensation for performing the duties of two desks in the Post Office Department, not to exceed half-pay of a clerk for the time he was so employed.

Mr. Chairman, this is not a claim involving millions nor thousands of dollars. No, sir. At the most it cannot amount to more than a few hundreds of dollars, and not even that, until the claim shall have passed under the supervision of the Postmaster General, and shall have been established by evidence sufficient to satisfy him. But the language of the bill declares that he performed the duties of two desks. And, sir, is it an answer to this proposition, when the gentleman from Alabama gets up and informs this committee that if we adopt this amendment we shall have all the clerks of all the Departments clamoring at the Treasury? No, sir. Why was not the compensation paid to Mr. Laurie at the time the service was performed? For the reason, sir, that the head of the Department was prohibited by express law from exercising any discretionary power in relation to the compensation of his clerks.

Now, then, sir, there being a vacant desk, Mr. Laurie, by the direction of the Department, performed the service of his own and the extra desk. And although I have not given a full investigation to the facts on which the claim is founded, yet I have investigated it sufficiently to satisfy my mind that these services were of a peculiarly laborious character. The labors of these clerks in the Post Office Department consist mainly, as I understand, of laborious statistics. These were the duties which Mr. Laurie discharged. This amendment has already twice passed the Senate of the United States, unanimously, once at last session, and once at this.

[Here the hammer fell.]

Mr. HOUSTON. I should like to know, Mr. Chairman, what evidence there is before this committee that the clerk whose name is inserted in this amendment does any more duty than any other clerks in the Post Office Department. I know there are clerks now in the Post Office Department who work extra hours, who return to their duties after nightfall and work till bed-time; and they do it for months in succession—and there are many of them. Well, I ask, are they to be compensated with an extra allowance of half salary? Are we to adopt that rule, or are we to pay this clerk and none other? Why this discrimination between clerks in the Post Office Department?

Mr. CHAMBERLAIN. Will the gentleman from Alabama allow me to answer his question?

Mr. HOUSTON. It is a question which I propound to the committee, not to the gentleman from Indiana. I ask why we should make an odious discrimination between the clerks of the Post Office Department?

Mr. CHAMBERLAIN. It is not proposed.

Mr. HOUSTON. Why should we do it, particularly when there is no evidence before us tending to establish the fact that this man does more service than other clerks in the Department? I ask this committee if they are prepared to adopt a policy like that? If this clerk rendered any service beyond his ordinary service, why is there not some evidence of it here? Why does not the Postmaster General, or the head of the bureau, or any other person who has charge of his service, and knows of them, send us some information on the subject? Why should we select one clerk out of a Department of one hundred clerks, and say that he does duty for which he should be doubly compensated? I ask the committee if it will do that kind of injustice? I hope, Mr. Chairman, that a vote will be taken at once on this amendment.

The question being on Mr. CHAMBERLAIN's amendment,

Mr. CHAMBERLAIN withdrew his amendment.

Mr. BENSON. I desire, Mr. Chairman, to move a substitute for the amendment, giving Mr. Laurie three fourths pay extra. I propose this amendment for the purpose of making a single remark. The chairman of the Committee of Ways and Means commenced his remarks by asking what evidence we had that this clerk performed any extra service. It is not necessary that we should have evidence that these extra duties have been performed. We refer that matter to that hard-hearted Postmaster General, of whom so much has been just now said. We allow him to examine the whole facts, and then give this clerk, Mr. Laurie, not one half of his regular pay, but as much as will pay him for the duties he has performed. If there was no extra service, this cruel Postmaster General will give him no extra pay; and if he has performed this service, I ask, in the name of all that is just, why should he not at least, have half-pay extra? It seems to me that it would be better we were attending to many important matters, than be quarreling about this small pittance which it is proposed to give a faithful servant. I hope this committee will concur with the amendment of the Senate.

Mr. OLDS. I wish merely to say to the committee, that during the last session of Congress this same question was in abeyance between the two Houses. The Senate put the same amendment in the Post Office bill, as it has done now. On investigation, the House refused to concur. The matter was then discussed by the committee of conference of both Houses, and it was on the report of the committee of conference that the House succeeded in cutting this amendment out of the bill last year. The House then cut it out, and it should now be cut out, too. I will say, further, that in conversation with the Postmaster General on this very question, he thought that this proposition was making a distinction which should not be made.

Mr. BENSON. I ask leave to withdraw my amendment.

Mr. BRIDGES. I object.

The question was taken; and the amendment to the amendment was not agreed to.

Mr. SEWARD. I offer an amendment, to come in after the word "employed," in the fifth line. It is to insert the following:

And an extra compensation of twenty per cent. to the mail route agents from Atalanta, Georgia, to Chattanooga, Tennessee.

Mr. JONES, of Tennessee. I submit that that amendment is not in order. It has nothing to do with the amendment under consideration.

The CHAIRMAN. In the opinion of the Chair the amendment is not in order. It is not germane to the subject.

Mr. SEWARD. I hope the Chair will let me read the amendment of the Senate in connection with this.

The CHAIRMAN. Does the gentleman appeal from the decision of the Chair?

Mr. SEWARD. I do not desire to appeal; but I would state that a section of the Senate's amendment gives extra compensation to officers of the Department, and therefore my proposition is germane.

The CHAIRMAN. If the gentleman's amendment were in order, then it would be equally in order to place upon the bill every private claim against the Government, or provisions for increased compensation for every officer of the Government.

Mr. SEWARD. It is for an increase of compensation.

Mr. LILLY. After the word "Department," in the fourth line, insert the following:

Any other clerks in either of the Departments, whose duties require them to labor more than their usual hours per day.

Mr. HAMILTON. I make a question of order on that amandment.

Mr. LILLY. I understand that the amendment of the Senate provides for the increase of the pay of a clerk; and the amendment I offer is precisely of the same character.

The CHAIRMAN. The Chair is inclined to the opinion that the amendment of the gentleman from New Jersey is germane to the pending amendment; but the Chair decides it to be out of order, as it changes existing laws regulating the compensation of these officers.

Mr. DISNEY. I desire to call the attention of the friends of this measure to the obvious omission in the phraseology of the amendment. I move to insert the word "extra," after the word "reasonable;" so that the amendment would provide for paying this Mr. Laurie a reasonable extra compensation for performing the duties of two desks in the Post Office Department. I offer this amendment for the purpose of aiding the friends of the amendment.

The question was taken; and the amendment was agreed to.

The question then recurring on the Senate amendment, as amended, it was taken, and, upon a division, there were—ayes fifteen, noes not counted.

Mr. CHAMBERLAIN demanded tellers; which were ordered; and Messrs. MIDDLESWARTH, and DAVIS of Indiana, were appointed.

The question was taken; and the tellers reported—ayes 71, noes 63.

So the Senate amendment, as amended, was agreed to.

Twelfth amendment of the Senate:

SEC. 9. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to pay to Uriah P. Monroe, his representatives or assigns, as pay in full for extra mail service on the mail route from Sacramento to Shasta, in the State of California, commencing October 1, Anno Domini 1851, and ending July 15, 1852, the sum of $5,541 66.

Mr. HOUSTON. I have received some letters from the Postmaster General in relation to this matter, which I will ask the Clerk to read. The Postmaster General states in these letters that there is no satisfactory evidence in the Department showing that extra service has been performed, and they show further that he is endeavoring to obtain information upon that point.

The letters were then read, as follows:

POST OFFICE DEPARTMENT, *January* 12, 1855.

SIR: I have the honor to make the following statement touching the claim of U. P. Monroe, in reference to which your letter of the 3d calls for information: He held a contract from July 1, 1851, to July 1, 1854, at $7,000 per annum, for weekly conveyance of the mail on route 5088, (old) Sacramento City to Shasta, in California. In July, 1852, he informed the Department that he had run an extra trip on the route—above half the distance in steamboats—since the 1st October previous, under instructions from the special agent of the Department, J. M. Goggin, for which additional service he requested to be allowed at the rate of $7,000 per annum. Mr. Goggin had been in the habit of reporting, from time to time, on the state of the service in that State, stating how frequently the mails were run, &c.;

but had made no allusion to any extra service on this route. On the 29th of September, 1852, the contract office wrote to Mr. G., informing him of Mr. Monroe's statement, and asking his explanation. In his reply, of December 20, 1852, he seems to admit that he had authorized such extra performance, which he said he had deemed necessary to put down the private expresses.

I would here state that a prior letter, dated 18th August, 1851, had been addressed to Mr G., forbidding him to make any arrangements increasing the expenses of the Department, without its special directions; on the receipt of which, it is presumed, he would, as a faithful agent, have ordered the suspension of the extra trip referred to, had he have previously directed the same (as he alleged by way of explanation in answer to the letter of September 29 had been the case.)

Mr. Monroe did not renew the claim till September, 1853, nor is it discoverable from our files that he has at any time claimed to have run the extra trip during a longer period than nine and a half months, between 1st October, 1851, and 15th July, 1852. The tenor of his original request on the subject, dated 15th July, 1852, to be allowed therefor at the rate of $7,000 a year, makes it quite clear that no price was agreed upon with Mr. Goggin for the same; nor does Mr. G. allege that there was.

Further, there is no evidence from postmasters, or any other agent of the Department, showing actual performance of such additional service. On this point we have merely the statement of Mr. Monroe and his agent, J. F. Willis, who state that the extra trip was made during the period above specified, "with some few exceptions during the period of high waters in the Sacramento valley."

The claim has never been formally rejected by the Department; nor has it been regarded as a proper one for allowance, when brought up, owing to the vagueness and insufficiency of the evidence sustaining it.

Very respectfully, your obedient servant,
JAMES CAMPBELL, *Postmaster General.*

Hon. E. B. OLDS, *Chairman Post Office Committee, House of Representatives, Washington, D. C.*

CONTRACT OFFICE, POST OFFICE DEPARTMENT,
February 13, 1855.

SIR: Be pleased to report to this office whether or not, U. P. Monroe regularly performed a second weekly trip on 5088 (old) Sacramento City to Shasta, between 1st October, 1851, and 15th July, 1852. State your views as to the necessity that existed for such additional service (in case it was performed) and as to its having been undertaken solely or mainly with a view to the passengers and freight, or to the mail interests. In case the contractor was put to considerable extra outlay in consequence, you will so state in your report. The Postmaster General wishes such information in the case as you would deem useful in deciding upon an application of Mr. Monroe for extra pay for such service.

W. H. DUNDAS,
Second Assistant Postmaster General.

TO POSTMASTER, *Sacramento City, California.*

POST OFFICE DEPARTMENT, CONTRACT OFFICE,
February 14, 1855.

SIR: The Department had a contract from 1st of July, 1851, to 30th June, 1854, with U. P. Monroe at $7,000 a year, for a weekly mail on 5088 (old) Sacramento City to Shasta. He claims to have run a second weekly trip, most of the way in steamboats, under the directions of the late special agent, from 1st of October, 1851 to 15th of July, 1852, and requests pay therefor. The Postmaster General requests you to visit the locality and ascertain whether such extra service was performed, and with what regularity; whether or not there was urgent necessity for the same, and whether the contractor was thereby put to any considerable additional outlay for means of transportation. If the additional trip was performed solely or mainly with a view to passenger or freight interests, so state in your report.

W. H. DUNDAS,
Second Assistant Postmaster General.

TO J. D. FRY, Esq., *Special Agent, San Francisco, California.*

Mr. HOUSTON. I had forgotten to state that the copies of letters which I sent up to be read, I received since the bill was acted upon by the Committee of Ways and Means, and I felt it due to the Postmaster General that those letters should be communicated to the Committee of the Whole on the state of the Union. The Committee of Ways and Means recommend a concurrence in the amendment.

Mr. STUART, of Michigan. I desire to offer an amendment, which I send to the Clerk.

The amendment was read, as follows:

At the end of the eighth line insert:

And the Second Comptroller, under the advice of the Attorney General, is hereby directed to examine and liquidate the claim of Arthur Edwards for extra mail service on Lake Erie and Detroit river, the compensation of which is not provided for by law, and that the amount found due be paid out of any money in the Treasury not otherwise appropriated.

Mr. HAMILTON. I rise to a question of order upon that amendment.

Mr. STUART. If the gentleman will hear me a moment I will explain the amendment, and then I think there will be no objection to it.

Mr. HAMILTON. Well, I will reserve my question of order until I hear what the gentleman has to say.

Mr. STUART. The amendment merely provides that the Second Comptroller of the Treasury, under the advice of the Attorney General, shall determine upon the claim made by Captain Edwards for the transportation of extra mails between the city of Buffalo and Detroit. The circumstances under which the claim originated are briefly these: Captain Edwards had a line of steamboats upon the lakes, and was paid by the Government for performing the regular mail service, but was not paid for the extra mail service which he performed. He transported the local mail from Buffalo to Cleveland, for which he was paid under the rules of the Department. For the other mail, which is the extra mail, and which was four or five times the size of the local mail, he is not paid under the law of the Department. I wish to say, in reference to this claim, that the boats which ran in connection with his line on alternate days, were paid precisely according to the amount of service which was rendered by them to the Department. They were paid for the extra mail service by the last Administration, which service was four times as large as the local mails. The Postmaster General, notwithstanding the precedent which was established by the last Administration, has decided, and perhaps correctly, that there is no power in the Department under the law to settle this amount. Now, the amendment asks that the claim be referred to the Second Comptroller of the Treasury Department, under the advice of the Attorney General, to examine and settle it, and I trust there will be no objection to the proposition. If the claim is not a just one—and, in the opinion of the Postmaster General, it is—he will receive no compensation. If it is just, there ought to be made some provision of law for its liquidation.

Mr. HAMILTON. We made a provision a few days since for this kind of cases. I know nothing about this claim, but I will say that this is a general appropriation bill, and we ought not to include in it appropriations to satisfy private claims. It is bad enough that the Senate have placed private claims upon the bill, without our endeavoring to violate all the rules of the House by doing the same thing.

Mr. HOUSTON. Did not the Chair decide the question of order?

The CHAIRMAN. He did not. The gentleman from Maryland deferred raising a question of order in order to hear what the gentleman from Michigan had to say in explanation of the amendment.

Mr. HOUSTON. Well, I raise a question of order upon the amendment.

The CHAIRMAN. The Chair thinks the amendment is not in order.

Mr. HOUSTON. I desire to offer an amendment, which I suppose will be proper and germane to the preceding amendment of the Senate now under consideration. I propose to add to the end of the Senate amendment the following proviso:

Provided, That satisfactory evidence be furnished to the Postmaster General that said extra service was rendered.

Mr. McDOUGALL. I object to that amendment. That is exactly like my case.

Mr. HOUSTON. I do not see what objection there can be to the amendment. The case is this: The Postmaster General says there is not sufficient evidence in the Department to establish the fact that the extra service was rendered between Sacramento City and Shasta. Now, I propose that we agree to the Senate amendment with an amendment providing that sufficient evidence shall be presented to the Department that the service was performed.

Mr. McDOUGALL. I ask the gentleman from Alabama to send up to the Clerk's desk the letters of the special agent of the Post Office Department?

Mr. HOUSTON. I have no letters which I have not already sent to the Clerk's desk.

Mr. McDOUGALL. Those letters were sent to the Committee of Ways and Means.

Mr. HOUSTON. Then I have not seen them to my recollection. I do not remember any letters, such as those to which the gentleman from California refers. I will examine my bundle, and, if I find them, I will send them up. But we have the head of the Department, who, according to the letters which have been read, is satisfied of the fact, without equivocation, that the testimony is not sufficient to support the claim, and why allow a claim, when the Department tells us it is not established by evidence? The proviso I have offered can do no harm. If the services were rendered, of course it can be established by evidence.

Mr. McDOUGALL. That is what the Postmaster General has been telling me the whole winter.

Mr. HOUSTON. There is an issue, then, between the gentleman and the Postmaster General. All I want is, that in our legislation we should do what is just, fair, and proper. If there can be any objection to the proviso, I cannot imagine how it can arise. If the case is all right, let it go through, as it will. If it cannot be established, it ought not to be paid.

Mr. McDOUGALL. I ask the gentleman for the evidence before his committee. I will state, Mr. Chairman, that on my first arrival here, having this claim in charge, I laid it before the Committee on the Post Office and Post Roads. According to the custom of that committee, a call was made on the Post Office Department for information. The Department stated that there was not sufficient evidence on a particular point. They had evidence that extra service had been performed, but they had not specific evidence as to the extent of that service. To meet that demand of the Post Office Department, the Post Office agent, who had full power at the time in the State of California, and who was in the city of Washington, sent in a communication setting forth particularly the extent, amount, and value of the service, complying exactly with the demand of the Postmaster General.

This, with other testimony to the same point, being before the Department, I pursued this question without success for sixty days. I called on the Postmaster General at least thirty times; twenty times he promised to examine the accounts. At the very last week of the session, when legislation is hardly hoped for, I went there and found that there had been no action. I then brought the papers, or rather copies of the papers, before the Department, to the Committee on the Post Office and Post Roads. I stated that the Postmaster General had not acted upon the subject. I was authorized by that committee to report a bill. That bill and accompanying report are now upon the tables of members. The facts are simple and easily understood. They are unquestioned and unquestionable. Still, there is no apology why the account has not been adjusted and paid. I do not understand these delays. I have occupied more time about this little claim, to get it up, adjusted, and paid, than any business of public importance. I have been forced to do it by the manner of conducting business in the Post Office Department at Washington.

I wish to be understood as saying that the letter of the postal agent of the Government states specifically that the special service was rendered from the 1st of October, 1851, to the middle of July, 1852; and that it was worth $7,000. Under the instruction of the Committee on the Post Office and Post Roads, I reported a mere *pro rata* compensation of $5,000. There is no excuse which I can see for not having adjusted this account long ago. The information is in the Department; and I ask that this amendment, which has passed the Committee on the Post Office and Post Roads of the Senate, and which has come to us in this bill, may be passed as a simple act of justice to this claimant.

Mr. WASHBURNE, of Illinois. The amendment simply *authorizes* the Postmaster General to pay this claim, and I would ask the gentleman whether he expects that it will be paid under the amendment?

Mr. McDOUGALL. I shall move that he be directed to pay it.

The question was taken on Mr. HOUSTON's amendment; and it was disagreed to.

Mr. WASHBURNE. I move to amend the amendment, so that it would read, "That the Postmaster General be, and he is hereby, authorized and directed to pay to Uriah P. Monroe," &c.

The question was taken; and the amendment was disagreed to, on a division, only twenty-two voting in the affirmative.

The question was taken on the amendment of the Senate; and it was concurred in.

Thirteenth amendment of the Senate:

SEC. 10. *And be it further enacted*, That the proper Comptroller of the Treasury, under instructions of the Attorney General, inquire whether the contract made by the

Postmaster General with William L. Blanchard for carrying the United States mail on route numbered 5056, in the year 1853, was violated by the Postmaster General without legal and adequate cause given by said Blanchard; and if it was so violated, then to ascertain and allow such damages as he is entitled to in equity and justice, by reason of such violation, and that such damages be paid to said Blanchard out of any money in the Treasury not otherwise appropriated.

Mr. HOUSTON. The Committee of Ways and Means recommend a non-concurrence in the amendment. They believed that it was a claim peculiarly belonging to the court of claims which has been recently established. Without attempting to argue the merits of the claim, the committee have directed me to move the reference of the claim to the court of claims.

Mr. PRESTON. Mr. Chairman, I move to amend the amendment of the Senate by adding to it the following:

That the First Comptroller of the Treasury be, and he is hereby, authorized to cause the claim of James Thompson, surviving partner, and Sarah B. Strader, widow and administratrix of C. M. Strader, of the late C. M. Strader and company, mail contractors, for a violation of their contract, by the Post Office Department, for carrying the mail, to be settled upon principles of equity and justice; and the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the said James Thompson, surviving partner, and the legal representatives of the aforesaid C. M. Strader and company, mail contractors, the amount which may be found due them, after the settlement aforesaid shall have been made, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000.

Mr. HOUSTON. I rise to a question of order. The amendment provides for a private claim. Although germane to the amendment of the Senate, it is not in order to an appropriation bill under the 81st rule. It changes existing law, and proposes to make an appropriation not authorized by law.

Mr. PRESTON. I desire to say that this is like the Glover and Mather amendment. It has been acted on by the committee of this House, as well as that of the Senate, and reported on favorably. I appeal to the gentleman from New York [Mr. JONES] to bear me out, that they have reported this claim, and that it stands exactly in the same category with the Glover and Mather claim.

Mr. HOUSTON. That may be so, but that claim was put on in the Senate.

Mr. PRESTON. I know that this widow needs this money.

Mr. HOUSTON. That may be.

Mr. PRESTON. And I know she has been unjustly deprived of it, and that there is no reason why it should not be given to her.

The CHAIRMAN. No debate is in order.

Mr. PRESTON. The claim passed the Senate unanimously——

The CHAIRMAN. The Chair again reminds the gentleman that no debate is in order. It is the opinion of the Chair that the amendment is not in order.

Mr. PRESTON. I feel constrained to take an appeal from the decision of the Chair.

Mr. PHILLIPS. I do not think the question is well understood by the committee. I ask that the Chair will state distinctly what is the question of order raised, and the decision of the Chair upon it.

The CHAIRMAN. The gentleman from Kentucky [Mr. PRESTON] proposes to amend the amendment of the Senate, which is to provide extra compensation for carrying the mail in California, by providing for the payment to Strader and company, and to the representatives of another party, extra compensation for carrying the mail upon a different route at a different time. The Chair states that the amendment of the Senate would not have been in order under the rules of the House as an original proposition. If such a proposition had been offered, the present occupant of the chair would have ruled it to be out of order. Now, the same rules apply in reference to amendments to amendments to the Senate amendments that would apply when the bill was originally before the House. And, therefore, although the amendment of the gentleman from Kentucky, so far as language is concerned, is germane to the Senate amendment, yet the Chair decides that it is a private claim, that it proposes to change the existing laws, and that, according to the 81st rule of the House, it is not in order.

Mr. PRESTON. Did not the committee decide a similar proposition to be in order this morning?

The CHAIRMAN. Because the committee did wrong this morning, is not a sufficient reason for the Chair to decide in violation of the rule now.

Mr. PRESTON. I think the same gentleman was in the chair then as now.

The CHAIRMAN. The Chair decides the amendment not to be in order.

Mr. PRESTON. I insist upon my appeal.

The CHAIRMAN. Then the question will be, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. PRESTON. I call for tellers.

Tellers were ordered; and Messrs. HUGHES and BOYCE were appointed.

The question was taken; and the tellers reported —ayes 94, noes 30.

So the decision of the Chair was sustained, and the amendment ruled out of order.

Mr. LATHAM. For the purpose of enabling me to submit a few remarks, I move to amend by striking out "the First Comptroller of the Treasury," and substituting "the First Auditor of the Treasury."

FORTIFICATION BILL.

The committee here informally rose, and the Speaker having resumed the chair, a message was received from the Senate, by Mr. ASBURY DICKINS, their Secretary, informing the House that the Senate had passed, with an amendment, the fortification bill.

Mr. HAVEN. I ask the consent of the House that the bill may be referred to the Committee of Ways and Means.

The proposition was agreed to.

POST OFFICE BILL—AGAIN.

The committee then again resumed its session, and proceeded with the consideration of the Senate amendments to the Post Office bill.

Mr. LATHAM. The chairman of the Committee of Ways and Means has very correctly stated that this amendment stands in the same category with the tenth amendment of the Senate in reference to the claim of Messrs. Glover and Mather, with this exception, that the provisions of this amendment are more strictly guarded, if possible, than those of that amendment. Instead of intrusting the whole matter to the jurisdiction of the Comptroller of the Treasury, as was done in that case, this refers the matter to the Attorney General and to the Comptroller of the Treasury. The Attorney General is to have the claim referred to him, to decide the question of law, and then the Comptroller is to determine the amount that should be paid.

Now, sir, what are the circumstances under which this claim arises? In the first place, a contract was made with Woodward and Chorpenning, to carry the mail between Salt Lake City, in Utah Territory, and Sacramento, in California. They were unable to comply with the contract, and Mr. Hubbard, the Postmaster General under the late Administration, then entered into a contract with Mr. Blanchard to carry this mail for $50,000 per annum. I hold that contract in my hand. It was made after the usual manner, Mr. Blanchard's bid being the lowest. This party having entered into the contract, made preparations for carrying it into effect in good faith. He provided the animals, and, in the discharge of his duty, actually went so far as to carry the mail for one or two trips.

But when the present Postmaster General was inaugurated in office, he refused to recognize the act of his predecessor, entering into a contract with Mr. Blanchard.

Up to this time the Postmaster General has refused to recognize any claim upon the part of Messrs. Blanchard and company. They have appealed to him that their contract might be renewed. They have asked him to regard them as contracting parties with the Government, knowing that no action could be maintained against it; but he has turned a deaf ear to them. Now, all that they ask is, that the Comptroller of the Treasury shall pass upon their claim, under the instructions of the Attorney General, who is to determine the law governing the case. I ask if that is not a more reasonable proposition than the one contained in the tenth section, which the committee has already adopted? But I do not wish to occupy the time of the committee, because I conceive that the same reasons which have governed them in agreeing to the tenth section, inserted by the Senate, will also govern them in this case.

Mr. STANTON, of Kentucky. I am opposed to the amendment proposed by the gentleman from California. Mr. Blanchard is a citizen of the county in which I reside. I have known him from his childhood up to the present moment, and a gentleman of better standing, or higher character, does not reside in the State of Kentucky. Now, sir, the contractors who originally got this contract for the route from Sacramento City to Salt Lake City, failed in every trip that they made, from the time that they took the contract until the time at which the subsequent contract was made with Blanchard. The condition of the country and the necessities of the people were such that it required a change, and Mr. Hubbard entered into a contract with Blanchard and his partner for the purpose of carrying these mails and securing to the people, at both ends of the route, their proper mail facilities. No one could have been more indefatigable in the discharge of their duty. They never failed during the time that they continued to carry the mails. They passed through the mountains sometimes when the snow was so deep as to be over their heads. They slept in the snow, and encountered extraordinary hardships in their efforts to carry out the contract according to its terms. They continued to do so for six or eight months, and then, without the slightest notice, the contract was annulled and abrogated by the Postmaster General, and they were not even allowed the full amount of what they had contracted to receive for their services, but were reduced down to the sum for which the contract was originally given to the other contractors.

Now, sir, these men have incurred extraordinary expense to provide the means by which the mail should be carried from the Great Salt Lake City to Sacramento City. I know the difficulty of that young man (Blanchard) in raising money. I know that, during the period when he was struggling to comply with the obligations of his contract, his father died, and his widowed mother became embarrassed in order that he might meet the expenses which he had incurred. I know that that widowed mother is now laboring under a heavy debt to the bank in the town in which I reside in consequence of this interruption of the contract by the Postmaster General. All that this gentleman now asks is that his claim shall be referred to the First Comptroller of the Treasury, and that the questions of law in relation to it shall be decided by the Attorney General. Certainly, sir, this House, which knows Mr. Whittlesey so well, need have no hesitation in trusting the examination of the facts to him.

Mr. LATHAM. I now withdraw my amendment.

Mr. SKELTON. I move to amend the amendment by striking out the words "the Comptroller of the Treasury," and inserting "the United States courts" in lieu thereof. I submit that motion for the purpose of calling the attention of the committee to the singular phraseology of this amendment of the Senate, and the very singular proposition contained in it. I find, sir, that the Senate propose to require the Comptroller of the Treasury to inquire whether the Postmaster General has violated a contract. Now, if we are to adopt this proposition, if the Postmaster General is to be subject to the investigation of the Comptroller of the Treasury, I think the country is getting into a very ridiculous position. If the Postmaster General has violated his contracts, I think the courts of law are the proper tribunals to determine that fact, or it should be referred to the court which we have organized expressly for this purpose. I take it for granted that if this House has power to refer a question of this kind to the jurisdiction of the Comptroller of the Treasury, it has the same power to refer it to the United States courts. We know that very delicate questions of this kind are growing up all over the United States. If the Postmaster General is faithful and honest in the discharge of his duty—and I believe that he is the most faithful officer in the Executive department of the Government—it is unbecoming the House to authorize a subordinate officer to investigate his conduct and decide whether he has violated his contracts or not. I say that the proposition is unjust, ridiculous, and subversive of the very principles of this Government. It is as ridiculous as it would be to appoint a subordinate clerk to investigate the conduct of the President and determine whether he has violated treaties

with foreign Governments. That would be an extreme case, but the principle is the same. Now I say that it is due to this House that we should reject this amendment, for the reason that it is an insult to one of the most faithful officers that ever occupied the chair of the Postmaster General.

[Here the hammer fell.]

Mr. HOUSTON. I have a letter addressed to Senator Weller by the Postmaster General in relation to this subject, and I ask that it may be read as my speech upon this case. The committee will observe that the Postmaster General gives as the main reason why he rescinded the contract with Blanchard, that there was an existing contract with other parties which had been annulled, as he believed, without cause, and upon his accession to office, he found that the contract with Blanchard had not been made in pursuance of any advertisement or any existing law. I ask that the letter may be read.

The letter was read, as follows:

POST OFFICE DEPARTMENT, *February* 7, 1854.

SIR: In reply to your communication of the 30th ultimo, in reference to the service on route 5066, Sacramento City to Salt Lake I will first state the facts:

On the 15th of January, 1852, the then Postmaster General (N. K. Hall) ordered to accept and confirm contract with Woodward and Chorpenning for the service, at the rate of $14,000 per annum, until the 1st of July, 1854.

On the 18th of November of the same year, his successor in office (S. D. Hubbard) ordered the annulment of the contract, for repeated failures to perform agreeably to its requirements; also to make a contract with William L. Blanchard for service on the road, at $50,000 per annum, to continue in force four years.

Soon after entering upon my present duties, Mr. Chorpenning, of the firm of Woodward and Chorpenning, called at the Department, complaining that his firm had been unjustly dealt with in being deprived of their contract at a time when they were making great exertions to comply with its provisions—exertions which had resulted in the loss of the life of his partner, Mr. Woodward, by the hands of the Indians who had infested the road.

On an examination of the papers in the case on file in the Department, I came to the conclusion that, although the service had been quite irregular, the defect was owing to the difficulties of the road, occasioned by storms and impassable snow drifts, as well as Indian hostilities, rather than inattention or want of effort on the part of the contractors. Considering it my imperative obligation to protect contractors in the rights secured to them by their contracts, I deemed it proper and just, under these circumstances, to rescind the arrangement with Mr. Blanchard, and restore the contract to Woodward and Chorpenning at the original pay of $14,000 per annum. I acted accordingly.

An additional reason, of a weighty character, influenced me in this decision. It was this: The postal laws prohibit the Postmaster General from making any but temporary arrangements for mail service without a previous advertisement for bids, the object of the statute being, no doubt, to obtain the conveyance of the mails at the most reasonable rates of pay by submitting it to competition. The period of advertising called for by the law is twelve weeks at the regular annual lettings, four weeks at the minor lettings. In this case a contract had been ordered, without advertisement of any kind, in violation of the statute referred to, for a full contract term of four years, and at a very high rate of pay. I could not consent to have such a contract stand.

Entertaining, as I do, no doubt as to the law relative to the questions which have arisen in regard to Mr. Blanchard's contract, I do not think it proper, or necessary to submit them to the Attorney General. It is only in cases where the head of a Department is doubtful as to the true interpretation of a law that the case is submitted to that officer for his opinion.

Very respectfully, your obedient servant,

JAMES CAMPBELL, *Postmaster General.*

HON. J. B. WELLER, *United States Senate.*

The question was taken on Mr. SKELTON's amendment; and it was not agreed to.

The question recurred on the amendment of the Senate.

Mr. PRINGLE demanded tellers.

Tellers were ordered; and Messrs. KERR and MAXWELL were appointed.

The committee was divided, and the tellers reported—ayes eighty-five, noes not counted.

So the Senate amendment was concurred in.

Mr. HAMILTON. I move that the committee rise, and report the amendments to the bill.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, the Chairman of the committee reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the amendments of the Senate to House bill No. 594, making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1856, and had instructed him to report the same back, with a recommendation that the House concur in some without amendments, in some with amendments, and non-concur in the remaining amendments.

Mr. HOUSTON. I move the previous question on the amendments.

Mr. HENN. Will the House unanimously consent to do me one favor, the first, I believe, that I will have had this session. That favor is to take up a Senate bill which is on the Speaker's table, for the purpose of acting upon it, in order that it may go back to the Senate to be acted on this session. It is a bill to create an additional land office upon the frontier part of our State.

Mr. WALSH. I object.

Mr. HENN. I move to suspend the rules for that purpose.

Mr. JONES, of Tennessee. Is that motion in order now?

The SPEAKER, (Mr. ORR temporarily occupying the chair.) The motion to suspend the rules is in order at any time when a gentleman gets the floor. It would not be in order if the demand for the previous question were pending. Perhaps the gentleman from Iowa and the House, will agree to dispense with the consideration of the matter he desires to introduce, until the amendments to the Post Office appropriation bill are disposed of.

Mr. JONES, of Tennessee. We shall never get through with this bill if we continue to entertain motions to suspend the rules.

The demand for the previous question was seconded, and the main question ordered.

Mr. STANTON, of Tennessee. For the purpose of saving time, I suggest that the action of the Committee of the Whole be concurred in by the House, except as to such amendments upon which gentlemen may desire a separate vote.

The SPEAKER *pro tempore*. The Chair would propose, if it meets with the approbation of the House, that the amendments be read through, and let gentlemen ask separate votes upon amendments as they are being read, and then the House can vote upon those *en masse* to which no objection is made. Is that proposition agreed to by the House?

[Cries of "Agreed!" "Agreed!"]

The Clerk then proceeded to read the amendments through; and the amendments to which no objection was made were then concurred in by the House.

The following amendments, upon which separate votes were demanded, were then taken up, and disposed of as follows:

The third amendment of the Senate, as amended, was then read, as follows:

For compensation to William M. F. Magraw, for carrying the mail on route No. 8911, from Independence, Missouri, to Great Salt Lake City, Utah Territory, monthly each way, according to the contract under which said service is now being performed, the sum of $36,000 per annum, commencing with the contract aforesaid, and in lieu of the compensation therein stipulated, strike out the words "contract aforesaid," and insert in lieu thereof "on the 18th day of August, 1854, and continuing one year;" and at the end of the section add the following:

Provided, That the Postmaster General, with the assent of the contractor, be, and he is hereby, authorized to annul said contract.

Also, for compensation to Jacob Hall, for carrying the mail on route No. 8912, from Independence, Missouri, to Santa Fé, Territory of New Mexico, monthly each way, according to the contract under which said service is now being performed, the sum of $22,000 per annum for one year from the 18th day of August, 1854, *Provided*, That the Postmaster General, with the assent of the contractor, be, and he is hereby, authorized to annul said contract.

Mr. PRINGLE demanded the yeas and nays; but they were not ordered.

The question was taken; and, upon a division, there were—ayes fifty-eight, noes not counted.

Tellers were then called for, and ordered; and Messrs. ELLIOTT, of Kentucky, and LAMB were appointed.

The question was taken; and the tellers reported—ayes seventy-eight, noes not counted.

So the amendment was agreed to.

Fourth amendment:

Strike out the words "contract aforesaid," and insert in lieu thereof the words "18th day of August, 1854, continuing one year; and add at the end thereof a proviso, so that it will read, as follows:

For compensation to George H. Giddings, for carrying the mail on route No. 12960, from Santa Fé, New Mexico, to San Antonio, Texas, monthly each way, according to the contract under which said service is now being performed, the sum of $33,500 per annum, commencing with the 18th day of August, 1854, continuing one year; and in lieu of the compensation therein stipulated: *Provided*, That the Postmaster General, with the assent of the contractor, be, and he is hereby, authorized to annul said contract, and that each contractor engaged, or to be engaged, in carrying the mails through any of the Territories west of the Mississippi, shall have the privilege of occupying stations at the rate of not more than one for every twenty miles of the route on which he carries a mail; and shall have a preëmptive right therein, when the same shall be brought into market, to the extent of six hundred and forty acres, to be taken contiguously, and to include his improvement; but no such preemptive right shall extend to any pass in a mountain or other defile.

The question was put upon the amendment to the amendment; and it was agreed to.

The amendment, as amended, was then concurred in.

Sixth amendment:

After the word "provided," insert the words "that the contract for said services be advertised by the Postmaster General in pursuance of existing law, and let to the lowest bidder: *And provided further*, That;" so that it will read:

SEC. 3. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to establish and put in operation a semi-monthly mail, by sea, from San Francisco, in the State of California, to Olympia, in the Territory of Washington, touching at Humboldt bay, Trinidad, and Crescent City, in the State of California, Port Orford, Gardiner City, or Umpqua, and Astoria, in the Territory of Oregon, Shoalwater bay, Port Townsend, in the Territory of Washington, and at such other points as shall be designated by the Postmaster General: *Provided*, That the contract for said services be advertised by the Postmaster General in pursuance of existing law, and let to the lowest bidder: *And provided further*, That the whole cost of said service shall not exceed the sum of $120,000 per annum."

The question was put upon the amendment to the amendment; and it was agreed to.

The amendment, as amended, was then concurred in.

Tenth amendment:

Add to the amendment of the Senate the words, "*Provided*, The sum allowed shall not exceed $200,000;" so that it will read:

SEC. 7. *And be it further enacted*, That the First Comptroller of the Treasury be instructed to examine the claim of William R. Glover and Thomas W. Mather and their associates, and ascertain and allow such damages as they are entitled to in justice and equity, in consequence of the refusal of the Postmaster General to carry into effect the contract entered into between William R. Glover and Thomas W. Mather and the Postmaster General, in 1853, for the transportation of the mails on the Mississippi and Ohio rivers, and that such damages be paid to the said William R. Glover and Thomas W. Mather and their associates, out of any money in the Treasury not otherwise appropriated; *Provided*, The sum allowed shall not exceed $200,000.

The question was put upon the amendment to the amendment; and it was agreed to.

The amendment, as amended, was then concurred in.

Eleventh amendment:

Insert after the word "reasonable" the word "extra;" so that it will read:

SEC. 8. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to pay to Cranston Laurie a reasonable extra compensation for performing the duties of two desks in the Post Office Department, not to exceed half-pay of a clerk for the time he was so employed.

The amendment to the amendment was agreed to.

Mr. HOUSTON. I now ask the yeas and nays upon concurring in the amendment as amended.

The yeas and nays were ordered.

The question was then taken; and resulted—yeas 70, nays 74, as follows:

YEAS—Messrs. Willis Allen, Appleton, Belcher, Bell, Bennett, Benson, Benton, Bugg, Campbell, Caruthers, Chamberlain, Chandler, Chrisman, Cook, Corwin, Cullom, Cutting, Thomas Davis, De Witt, Dickinson, Eastman, Edmands, Thomas D. Eliot, John M. Elliott, Etheridge, Everhart, Farley, Flagler, Florence, Franklin, Giddings, Goodwin, Green, Aaron Harlan, Andrew J. Harlan, Harrison, Hiester, Hill, Howe, Hughes, Kerr, Lamb, McCulloch, Matteson, Mayall, Middleswarth, Morgan, Norton, John Perkins, Reese, Russell, Sabin, Sapp, Seward, Simmons, Frederick P. Stanton, Richard H. Stanton, Andrew Stuart, Tracy, Upham, Wade, Walker, Walley, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Wheeler, and Yates—70.

NAYS—Messrs. James C. Allen, Ashe, David J. Bailey, Barksdale, Bocock, Boyce, Breckinridge, Bridges, Brooks, Caskie, Clingman, Cobb, Cox, Craige, John G. Davis, Dawson, Drum, Edgerton, Edmundson, Ellison, Fuller, Gamble, Goode, Greenwood, Hamilton, Sampson W. Harris, Wiley P. Harris, Hastings, Hendricks, Houston, Johnson, George W. Jones, Kidwell, Kurtz, Lane, Latham, Lilly, Lindsley, Maurice, May, Smith Miller, Millson, Murray, Olds, Andrew Oliver, Orr, Packer, Peck, Peckham, Pennington, Bishop Perkins, Powell, Pratt, Pringle, Ready, Thomas Ritchey, Robbins, Rowe, Sage, Seymour, Shower, Skelton, Samuel A. Smith, William Smith, Hestor L. Stevens, Stratton, Straub, John J. Taylor, Trout, Vansant, Walsh, Witte, Daniel B. Wright, and Hendrick B. Wright—74.

So the amendment, as amended, was not concurred in.

Pending the call,

Messrs. LETCHER and RUFFIN gave notice

that, had they been within the bar when their names were called, they would have voted against the claim, and against concurring in the amendment.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, here reported as correctly enrolled joint resolution and bills of the following titles; which thereupon received the signature of the Speaker:

Joint resolution for the relief of Clark Mills;

An act making appropriations for the support of the Military Academy for the year ending 30th June, 1856;

An act to amend an act, approved August 4, 1854, entitled "An act to graduate and reduce the price of the public lands to actual settlers and cultivators;"

An act for the relief of James Holstein;

An act allowing the further time of two years to those holding lands by entries in the Virginia military district in Ohio, which were made prior to the 1st of January, 1852, to have the same surveyed and patented;

An act for carrying into effect the convention upon the subject of claims between the United States and Her Britannic Majesty of the 8th of January, 1853;

An act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1856, and for other purposes;

An act for the relief of Mrs. Nancy Wetherford, widow of Colonel William Wetherford, of the first regiment of Illinois volunteers of the Mexican war; and

An act in addition to certain acts, continuing bounty lands to certain officers and soldiers who have been engaged in the military service of the United States.

POST OFFICE APPROPRIATION BILL—AGAIN.

Twelfth amendment:

SEC. 9. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to pay to Uriah P. Monroe, his representative or assigns, as pay in full for extra mail service on the mail route from Sacramento to Shasta, in the State of California, commencing October the 1st, Anno Domini 1851, and ending July the 15th, 1852, the sum of $5,541 66.

The amendment was concurred in.

Thirteenth and last amendment:

SEC. 10. *And be it further enacted*, That the proper Comptroller of the Treasury, under instructions of the Attorney General, inquire whether the contract made by the Postmaster General with William L. Blanchard for carrying the United States mail on route numbered 5066, in the year 1853, was violated by the Postmaster General without legal and adequate cause given by said Blanchard; and if it was so violated, then to ascertain and allow such damages as he is entitled to in equity and justice, by reason of such violation, and that such damages be paid to said Blanchard out of any money in the Treasury not otherwise appropriated.

Mr. PENNINGTON. I ask for the yeas and nays upon concurring in that amendment.

The yeas and nays were not ordered.

Mr. SKELTON. I demand tellers on the amendment.

Tellers were not ordered.

The question was taken; and the amendment was concurred in.

Mr. HOUSTON. I rise to a privileged question. I move to reconsider the vote by which the eleventh amendment of the Senate was rejected; and that that motion be laid upon the table.

Mr. CHAMBERLAIN. I demand the yeas and nays on that motion.

The yeas and nays were not ordered.

Mr. BENSON. I demand tellers on the motion.

Tellers were not ordered.

The question was taken; and the motion to reconsider was laid upon the table.

LAND DISTRICTS IN IOWA.

Mr. HENN. I ask the unanimous consent of the House for leave to take up and put on its passage Senate bill (No. 621) to change the boundaries of the land districts in the State of Iowa, and for other purposes.

Mr. COX. I rise to a privileged question. I move to reconsider the vote by which the thirteenth Senate amendment to the Post Office appropriation bill was adopted; and that that motion be laid upon the table.

The latter motion was agreed to.

Mr. DAVIS, of Indiana. I appeal to the gentleman from Iowa to let me introduce a resolution of about six lines in length, in reference to the order of business. It will facilitate business, and relieve the House.

Mr. HENN. Read it for information.

The Clerk read the resolution, as follows:

Resolved, That one hour, commencing at twelve o'clock to-morrow, be set apart for the call of the States and Territories for motions, reports, and business generally, to which no objection may be made at any time before being disposed of; and if objection be made it shall be held as though such report, bill, or resolution had not been received by the House. No member shall be entitled to the floor but once under this order to make a report, or present a bill or resolution; and further, that said call under this resolution shall commence where the same was left off yesterday, under the order thus made by the House for that purpose.

Mr. CAMPBELL. I object.

Mr. McDOUGALL. I would like to have the unanimous consent of the House to a proposition that we commence where we left off yesterday, and continue the call of States and Territories until they are called through.

Mr. EDGERTON. I object.

Mr. SMITH, of Virginia. I move a suspension of the rules for the purpose of having introduced and passed the motion of the gentleman from California.

The SPEAKER. The gentleman from Iowa is entitled to the floor.

Mr. DAVIS, of Indiana. I am willing to accept the proposition of the gentleman from California as a modification of my resolution.

The SPEAKER. The gentleman from Iowa asks the unanimous consent of the House to take from the Speaker's table, and put upon its passage, Senate bill (No. 621) to change the boundaries of the land districts in the State of Iowa, and for other purposes.

Mr. SMITH, of Virginia. Mr. Speaker, there was a call of the States the other day, but it only went down to New York. There it was arrested; and I will insist on objecting to all bills until we shall resume that call, and continue it until all the States and Territories shall have been called. I do not care what the proposition may be. I will submit a motion that that call be continued.

The SPEAKER. The gentleman from Iowa is upon the floor.

Mr. HENN. As objection is made, I move to suspend the rules for the purpose which I have indicated.

Mr. SMITH. I will withdraw my objection to this case, but it is the only case where I shall do it.

Mr. HENN. I now move the following as a substitute for the Senate bill:

An act to establish additional land districts in the State of Iowa.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that portion of the public lands in the State of Iowa lying north of the township line dividing township ninety-three (93) and ninety-four, (94,) and east of the range line dividing ranges twenty-four (24) and twenty-five, (25,) shall constitute a new land district, to be called the Turkey river district. That all that portion of the public lands in said State now situated in the northern land district, which lies north of the township line dividing townships eighty-five (85) and eighty-six, (86,) and not included in the Turkey river and Dubuque districts, shall constitute a new land district, to be called the Fort Dodge district; and the name of the northern district is hereby changed to, and shall be hereafter called, the Fort des Moines district. That all that portion of the public lands in said State, now lying in the Kanesville district, and situated north of the township line dividing townships eighty-five (85) and eighty-six, (86,) shall constitute a new land district, to be called the Sioux river district; and the name of the Kanesville district is hereby changed to, and shall be hereafter called, the Council Bluffs district. That townships eighty-six, eighty-seven, eighty-eight, eighty-nine, ninety, ninety-one, ninety-two, and ninety-three, of ranges seventeen and eighteen, are hereby attached to, and made a part of, the Dubuque land district; and townships sixty-seven, sixty-eight, sixty-nine, seventy, seventy-one, seventy-two, seventy-three, seventy-four, and seventy-five, of ranges thirty-two and thirty-three, are hereby attached to, and made a part of, the Chariton land district.

SEC. 2. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, a register and a receiver of the public moneys for each of the districts respectively hereby created, who shall each be required to reside at the site of the respective office to which he may be appointed, and who shall have the same powers, perform the same duties, and be entitled to the same compensation as are, or may be, prescribed by law in relation to other land offices of the United States.

SEC. 3. *And be it further enacted*, That the President of the United States is authorized to cause the public lands in said districts respectively, (with the exception of sections numbered sixteen in each township, reserved for the use of schools, or such lands as may be selected by law in lieu thereof, and such other tracts as may be selected for military or other purposes,) to be exposed to sale in the same manner, and upon the same terms and conditions as the other public lands of the United States.

SEC. 4. *And be it further enacted*, That the President of the United States is hereby authorized to designate the sites at which each of the several offices shall be established, and to remove the same to any other places within said districts respectively, whenever, in his opinion, it may be deemed expedient.

SEC. 5. *And be it further enacted*, That any locations, or sales of land in either of the districts of land now subject to sale at Dubuque, Fort des Moines, or Kanesville, after the passage of this act, and before the receipt by the land officers respectively thereat, of instructions from the Commissioner of the General Land Office, under this act, shall be as good and valid in law as if this act had not been passed.

Mr. HENN. I merely wish to say that this bill is drawn in precisely the same form with all bills establishing land districts. I call the previous question upon it.

Mr. LANE, of Oregon. I desire to appeal to the gentleman from Iowa to allow me to offer an amendment, which is precisely in point. It is an amendment to which no one will object. I wish merely to give the President power to appoint a register and receiver in the land district of Umpqua, in the Territory of Oregon.

Mr. HENN. I will say that, with all due deference to the gentleman from Oregon, I must decline to yield the floor to allow it to go out of my own hands. And I could not accept it as an amendment without betraying the confidence of the House. If it is the unanimous consent of the House that the amendment come in, I certainly have no objection. Otherwise I am afraid I cannot accommodate the gentleman.

Mr. LANE. I ask the consent of the House to hear me for a moment, and I am sure there will be no objection.

The SPEAKER *pro tempore*. No debate is in order except by general consent.

Mr. SMITH, of Virginia. I object.

Mr. LANE. About two weeks ago the House passed a bill establishing an additional land district in Oregon——

The SPEAKER *pro tempore*. The previous question has been demanded, and no debate is in order.

Mr. JONES, of Tennessee. The gentleman from Iowa has the right to withdraw the demand for the previous question, to allow the gentleman from Oregon to make an explanation.

Mr. HENN. I do not withdraw the demand for the previous question. Let the gentleman from Oregon send up his amendment, and if no objection be made I will accept it.

The SPEAKER *pro tempore*. Does the gentleman from Iowa withdraw the demand for the previous question to allow the amendment to be read?

Mr. HENN. No, sir; not unless I can still retain the floor. Let the amendment be read for information.

The amendment was read, as follows:

And that the President be authorized to appoint a register and receiver for the Umpqua land district, in the Territory of Oregon, created by the act of February 5, 1855: *Provided*, That they shall not enter upon the discharge of their duties until the 17th of May, 1855, nor receive any compensation for the intervening time.

Mr. HENN. I will accept it if there be no objection.

Mr. LETCHER. I want to know exactly how this matter is. I do not comprehend it perfectly. Does the gentleman from Iowa propose to establish two new land districts?

Mr. WASHBURNE, of Illinois. It is merely to change the boundaries of a land district.

Mr. LETCHER. Does it not create a new land district?

Mr. WASHBURNE. Yes; one new one.

Mr. LETCHER. Well, now, what is the proposition of the gentleman from Oregon?

The SPEAKER *pro tempore*. The proposition of the gentleman from Oregon is not before the House.

Mr. LANE. There is no objection.

Mr. CARPENTER. I object.

Mr. HENN. Then I must insist upon the demand for the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. SKELTON. I move that the House do now adjourn.

The question was taken; and the House refused to adjourn.

The question then recurred upon the amendment offered by Mr. HENN as a substitute for the bill.

Mr. LETCHER. Well, I want the substitute read.

Mr. HENDRICKS. I object. It has been read once, and is very long.

Mr. DISNEY. The bill is exactly in the usual form of bills for the creation of land districts.

The SPEAKER *pro tempore*. The Chair calls the gentleman to order. Debate is not in order.

Mr. DISNEY. I am not debating the proposition. I merely stated a fact.

The question was taken; and the amendment was agreed to.

The bill, as amended, was ordered to a third reading; and was accordingly read the third time.

Mr. HENN. I demand the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

The question was taken; and the bill was passed.

Mr. HENN moved to reconsider the vote by which the bill passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

PASSENGER VESSELS.

Mr. FULLER. I ask the consent of the House to take up House bill (No. 175) regulating the carriage of passengers by steamships and other vessels. The Senate have returned it with several amendments. They are unimportant. The committee have recommended, and I ask that the House will concur in them without reading.

Mr. LETCHER. I object. I want to have the amendments read.

There being no objection the bill was taken up for consideration.

The amendments of the Senate were read by the Clerk.

The previous question was seconded, and the main question was ordered to be put; and under the operation of the previous question, the amendments of the Senate were concurred in in gross.

Mr. FULLER moved to reconsider the vote by which the amendments were concurred in, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

MADALENA VAN NESS.

Mr. WRIGHT, of Pennsylvania. I move that the Committee of the Whole House be discharged from the further consideration of Senate bill No. 445, entitled "An act for the relief of Madalena Van Ness, widow of Cornelius P. Van Ness, deceased."

Mr. SMITH, of Virginia. I object.

Mr. WRIGHT. Then I move to suspend the rules for the purpose of making the motion I have indicated.

Mr. SMITH. I withdraw my objection.

Mr. JONES, of Tennessee. There is a very important principle involved in this act——

The SPEAKER *pro tempore*, (interrupting.) The question is not debatable.

Mr. JONES. Well, then, I object.

Mr. WRIGHT. I renew my motion to suspend the rules.

The bill was reported. It appropriates $9,000 to be paid out of the Treasury to Madalena Van Ness, widow of Cornelius P. Van Ness, deceased, on account of services rendered by him in the seizure of goods imported into the District of Vermont, in violation of the laws of the United States, during the years 1813 and 1814, while he was collector of customs for said district, and for which services he did not receive the award provided by law in such cases.

The question being on the motion to suspend the rules,

Mr. JONES, of Tennessee, demanded the yeas and nays.

Mr. HENDRICKS called for tellers on the demand for the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The question was taken; and the rules were suspended.

Mr. WRIGHT. I now move to discharge the Committee of the Whole House from the further consideration of Senate bill (No. 445) for the relief of Mrs. Van Ness.

The question was taken; and the motion was agreed to.

The question being on ordering the bill to a third reading,

Mr. WRIGHT moved the previous question.

The previous question was seconded, and the main question was ordered to be put.

Mr. PRATT. I understood there was an amendment reported by the Committee on the Judiciary.

The SPEAKER *pro tempore*. Debate is not in order, the previous question operating.

Mr. PRATT. I understood the gentleman from Pennsylvania [Mr. WRIGHT] to say there was an amendment pending.

The SPEAKER *pro tempore*. Debate is not in order, the previous question having been seconded, and the main question having been ordered to be put. Neither is the bill now amendable.

Mr. PRATT. I hope the House will hear one word from me.

Mr. WALSH. I call the gentleman from Connecticut to order; and I call on the Chair to enforce order.

The SPEAKER *pro tempore*. Is there objection to the gentleman from Connecticut making an explanation?

Mr. WALSH and others objected.

Mr. SKELTON. I move that the House do now adjourn.

The motion was not agreed to.

The bill was then ordered to a third reading; and it was accordingly read the third time.

Mr. WRIGHT. I call for the previous question on the passage of the bill.

Mr. PRATT. I hope the call for the previous question will be voted down, and for this reason——

The SPEAKER *pro tempore*, (interrupting.) It is not debatable.

Mr. PRATT. Well, sir, I have been imposed upon in this matter.

The SPEAKER *pro tempore*. The Chair would call the attention of the gentleman from Connecticut to the 35th rule of the House, which directs that if any member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order, in which case the member so called to order must sit down, unless permitted to explain.

Mr. PRATT. I do not desire to disturb the House, but——

[Loud cries of "Order!" "Order!"]

Mr. JONES, of Tennessee. I move to lay the bill on the table.

The question was taken; and the motion was not agreed to.

The demand for the previous question was seconded, and the main question ordered.

Mr. JONES, of Tennessee, demanded the yeas and nays upon the passage of the bill.

Mr. SEYMOUR. I rise to a question of privilege. As I understand the bill from its reading at the Clerk's desk, it is a different bill from that reported from the Committee on the Judiciary. The Committee on the Judiciary report this bill with amendments.

Mr. WRIGHT, of Pennsylvania. The Senate recommended that the sum of $9,000 be paid Mrs. Van Ness, in full satisfaction of her claim. The bill came to this House, was referred to the Committee on the Judiciary, and that committee doubled the amount, upon the ground that, if she was entitled to anything, she was entitled to full consideration for her claim, which was $18,000, and that was the amount recommended by the Judiciary Committee to the House to be paid to Mrs. Van Ness.

Mr. SEYMOUR. There was another amendment that the money should be paid to the executor of Van Ness.

Mr. STUART, of Michigan. I desire to ask the gentleman from Michigan a single question. I merely wish to know whether the members from Connecticut are aware that, within the last forty-eight hours, we have voted to Mr. Sanford, a citizen of Connecticut, the sum of $7,000 or $9,000 for services while acting as secretary of l-gation at Paris, and that they are now objecting to this bill?

The SPEAKER *pro tempore*. In the printed bill there appears to be an amendment reported.

Mr. WRIGHT, of Pennsylvania. I move to reconsider the vote that has been taken adopting the bill in its original shape, in order to take the vote upon the bill as it came from the Judiciary Committee, which gives the sum of $18,000. The original bill gives but $9,000.

The CHAIRMAN. The printed bill provides for striking out "$9,000" and inserting "$17,000," and for striking out "Mrs. Madalena Van Ness," and inserting "the legal representatives of Cornelius Van Ness."

Mr. CUTTING. I desire to say one word upon this subject. I was not present at any time during the meeting of the Committee on the Judiciary when this matter was under consideration, and was not aware of the amendment which has been referred to. But the House will see at once, if the amendment proposed by the Committee on the Judiciary be adopted, that it gives to the executors of Cornelius Van Ness his assets, to be distributed among his creditors; whereas the bill, as it now stands, is for the benefit of a helpless widow. I ask the House, then, to vote down the recommendation of the committee.

Mr. PRATT. I should think that any gentleman would be opposed to a fraud.

Mr. WRIGHT. I withdraw the motion to reconsider.

The SPEAKER *pro tempore*. The Chair is of the opinion that the House must pass upon the amendment to the bill reported by the Judiciary Committee.

Mr. CUTTING. I hope that they will vote it down.

Mr. PHILLIPS. I would inquire what bill it is that we have been acting upon. Is it the $17,000 or $9,000 bill?

The SPEAKER *pro tempore*. It is the $9,000 bill which was ordered to be read the third time.

Mr. WHEELER. I desire to ask the gentleman from Connecticut if he has not charge of some claim against the estate of Van Ness?

The SPEAKER *pro tempore*. The inquiry is not in order, and the gentleman cannot be indulged in making it.

Mr. PRATT. I have the charge of no claim, but I have a constituent who has an honest claim against the estate of General Van Ness.

Mr. McDOUGALL. Has the previous question been ordered?

The SPEAKER *pro tempore*. The previous question was demanded, and the yeas and nays were demanded upon the passage of the bill. If the House do not choose to go back and correct the error in this matter, the Chair has no power to compel them to do so.

Mr. LETCHER. I call for the reading of the bill again. I do not think that anybody knows what it is.

The bill was then read through by the Clerk again.

Mr. JONES, of Tennessee. Is it in order to call for the reading of the report made by the committee who had this matter in charge.

The CHAIRMAN. It is not in order.

Mr. JONES. I ask for the yeas and nays upon the passage of the bill.

Mr. DAWSON demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs SMITH, of Virginia, and MAXWELL were appointed.

The House was divided; and the tellers reported —ayes thirty-two, (a sufficient number.)

So the yeas and nays were ordered.

Mr. SEYMOUR. I rise to a privileged question. Am I to understand that the bill is now upon its passage?

The SPEAKER. It is.

Mr. SEYMOUR. Has any vote been taken upon the amendment?

The SPEAKER. There has not.

Mr. SEYMOUR. Then I suggest to the Chair that we must take a vote upon the amendment. The committee is not discharged from the consideration of the bill, and it is only before the House as it was reported by the Committee on the Judiciary. I have no desire to interfere with the passage of the bill, but I think the regularity of business requires that it should be done. The money, if it is a debt, should be given to the representatives of the party, and should not be given as a charity.

The SPEAKER. It is the opinion of the Chair that the question upon the amendment cannot be taken, unless the House go back and reconsider the vote by which the bill was ordered to be read a third time. It is not in order to amend a bill upon its passage. The Clerk could have no knowledge

that amendments were reported to the bill, as they were only in the printed bill.

Mr. SEYMOUR. Then I move to reconsider the vote by which the bill was ordered to a third reading.

Mr. WALBRIDGE. Is that motion in order?

The SPEAKER. It is.

Mr. COOK. I move to lay the motion to reconsider upon the table

Mr. RUSSELL. I wish to know what has become of the amendment offered by the gentleman from Tennessee?

The SPEAKER. It has been acted upon, and was rejected.

Mr. SEYMOUR. I claim the floor, and the gentleman from Iowa [Mr. COOK] could not take it from me to make his motion.

The SPEAKER. The motion to reconsider is not debatable.

Mr SEYMOUR. Why not?

The SPEAKER. Because the previous question has been seconded, and the main question ordered to be now put.

Mr. DISNEY. Has not the previous question been seconded upon the passage of the bill?

The SPEAKER. It has.

Mr. DISNEY. Then I contend that it is unparliamentary to go behind that and consider any other question.

The SPEAKER. The practice has been different in this body. The motion to reconsider has been entertained, and the Chair entertained the motion to lay the motion to reconsider upon the table.

The question was put; and it was decided in the affirmative.

So the motion to reconsider was laid upon the table.

The question then recurring upon the passage of the bill, upon which the yeas and nays had been ordered, it was put; and resulted—yeas 83, nays 44; as follows:

YEAS—Messrs. Aiken, Appleton, Ashe, Banks, Barksdale, Benson, Benton, Brooks, Campbell, Chandler, Clark, Clingman, Cook, Crocker, Cullom, Cutting, Thomas Davis, De Witt, Dickinson, Disney, Eastman, Edgerton, Edmands, Edmundson, Thomas D. Eliot, Etheridge, Farley, Florence, Franklin, Fuller, Gamble, Goodrich, Green, Andrew J. Harlan, Wiley P. Harris, Harrison, Hibbard, Hiester, Howe, Johnson, Kerr, Kurtz, Lamb, Lane, Latham, Lilly, McDougall, McMullin, McNair, Macy, Matteson, Maurice, Maxwell, Norton, Olds, Andrew Oliver, Mordecai Oliver, Orr, Peck, John Perkins, Phillips, Preston, Riddle, Rowe, Sabin, Sage, Sapp, Seward, Shower, Simmons, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Andrew Stuart, David Stuart, John L. Taylor, Teller, Thurston, Upham, Vansant, Walker, Walley, Walsh, Elihu B. Washburne, Tappan Wentworth, Westbrook, Wheeler, Witte, Daniel B. Wright, and Hendrick B. Wright—83.

NAYS—Messrs. Bocock, Bridges, Carpenter, Caskie, Craige, Curtis, John G. Davis, Dawson, Drum, Dunham, Ellison, Faulkner, Flagler, Goode, Greenwood, Aaron Harlan, Hendricks, Daniel T. Jones, George W. Jones, Letcher, Lindsley, McCulloch, Macdonald, Mayall, Millson, Morgan, Murray, Nichols, Packer, Pennington, Phelps, Pratt, Pringle, Reese, Ruffin, Russell, Seymour, Shaw, Singleton, Skelton, William Smith, John J. Taylor, Trout, and Israel Washburn—44.

So the bill was passed.

Mr. WRIGHT, of Pennsylvania, moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

UNITED STATES COURT HOUSE IN JACKSON, MISSISSIPPI.

Mr. SINGLETON. I ask the unanimous consent of the House to allow me about three minutes to have taken up and disposed of, one way or another, a little matter which I brought before the House a few days since, when I made the best speech I could upon it. It relates to the construction of a court-house in the city of Jackson, Mississippi. The Committee on the Judiciary have had this matter under their consideration, and they have unanimously reported in its favor, and they have given the bill to me for the purpose of allowing me to ask the House to take it up and pass it.

The bill was reported by its title, as follows:

A bill to provide accommodations for the United States court, in the city of Jackson, Mississippi.

Mr. DUNHAM. I object.

Mr. SINGLETON. Then I move to suspend the rules.

The question was put; and the motion was agreed to; two thirds voting in favor thereof.

The bill was then taken up, and read *in extenso*.

Mr. SINGLETON. I move the previous question upon ordering the bill to be engrossed and read a third time.

The previous question was seconded, and the main question was ordered to be now put.

The bill being engrossed, was read the third time, and subsequently passed.

Mr. SINGLETON moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

OBSTRUCTIONS IN SAVANNAH RIVER.

Mr. BAILEY, of Georgia, was here recognized by the Chair.

Mr. McMULLIN. I appeal to the gentleman from Georgia to yield to me a moment.

Mr. BAILEY. I cannot yield. I have a matter which will consume but a moment. I ask the unanimous consent of the House to take up Senate bill No. 549, which is upon the Speaker's table.

Mr. SMITH, of Virginia. While the Clerk is looking for that bill, I will ask the indulgence of the gentleman from Georgia for a moment to allow me to——

Mr. EDGERTON. I rise to a question of order. I insist that gentlemen in the area shall take their seats. Those who occupy their seats have no chance in the world.

The SPEAKER. The Chair would be very much gratified if gentlemen would take their seats. The Chair has talked and talked, until he is hoarse, to prevail upon gentlemen to take their seats, and occupy them. If they would do so, we should get on a great deal better than we do.

Mr. MURRAY. I rise to a question of privilege. I move this House do now adjourn.

The SPEAKER. The gentleman has no right to take the floor from the gentleman from Georgia to make that motion.

Mr. BAILEY. I ask that the bill may be reported.

The bill was reported by its title, as follows:

An act appropriating money to remove the obstructions in the Savannah river below the city of Savannah.

Mr. JONES, of Tennessee. I object to that bill.

Mr. BAILEY. Then I move to suspend the rules for the purpose of allowing me to move to take it up.

Mr. JONES, of Tennessee. I demand the yeas and nays upon it.

Mr. EDGERTON. I move that the House do now adjourn.

The question was put; and there were, on a division—ayes 51, noes 75.

So the House refused to adjourn.

Mr. SMITH, of Virginia. Mr. Speaker, I would ask the gentleman from Georgia for the privilege of offering the following resolution, with a view to the economy of the business of the House. It will save all this confusion.

Mr. BAILEY. I insist on proceeding first with the disposition of the business which I have called up.

[Cries of "Hear the resolution!" "Read it!"]

Mr. BAILEY. I have no objection to the resolution being read for information.

The Clerk read the resolution, as follows:

Resolved, That the Speaker make a call of the States and Territories for motions, reports, and business generally, to which no objection may be made, at any time before being disposed of; and, if objection be made, it shall be held as though such report, bill, or resolution had not been received by the House. No member shall be entitled to the floor but once under this order, to make a report, or present a bill or resolution: and further, that said call, under this resolution, shall commence where the same was left off yesterday, under the order thus made by the House for that purpose, and shall continue until all the States and Territories are called.

Mr. EDGERTON. I object to the resolution.

Mr. PENNINGTON. Is the motion of the gentleman from Georgia amendable?

The SPEAKER. It is not.

The yeas and nays were ordered on the motion to suspend the rules.

Mr. GIDDINGS, of Ohio. I move that the House do now adjourn.

The question was put; and, on a division, there were—ayes 68, noes 63.

Mr. BANKS. I demand tellers.

Tellers were ordered; and Messrs. MACY and EDMUNDSON were appointed.

The question was taken; and the motion was agreed to, the tellers having reported—ayes 64, noes 52.

Thereupon (at fifteen minutes to twelve o'clock, p. m.) the House adjourned until to-morrow, at eleven o'clock, a. m.

IN SENATE.

FRIDAY, *March* 2, 1855.

Prayer by Rev. WILLIAM H. MILBURN.

On motion by Mr. HUNTER, the reading of the Journal was dispensed with.

WASHINGTON MONUMENT.

Mr. BADGER asked and obtained the unanimous consent of the Senate to introduce a bill to incorporate the Washington National Monument Society; which was read twice by its title, and referred to the Committee on the District of Columbia.

SMITHSONIAN INSTITUTION.

Mr. JOHNSON, from the Committee on Printing, to whom was referred a motion to print additional copies of the Ninth Annual Report of the Smithsonian Institution, reported the following:

Ordered, That ten thousand additional copies of the ninth annual report of the Board of Regents of the Smithsonian Institution be printed.

Mr. PEARCE. I move to amend that order by adding "twenty-five hundred of which shall be for the use of the Secretary of the said Institution."

Mr. JOHNSON. I am willing to accept that.

The amendment was agreed to; and the order, as amended, was adopted.

VIRGINIA BOUNTY LAND WARRANTS.

Mr. HUNTER. I yesterday understood the Senate to agree, by general consent, that they would give me a vote this morning on the bill in regard to Virginia bounty land warrants. I therefore move that the Senate proceed to its consideration.

Mr. STUART. I want to dispose of three or four House bills, which will occupy about fifteen minutes' time. They are of a very important public character, and I hope the Senate and the Senator from Virginia will give me an opportunity to do so. I gave way yesterday morning during the whole two hours.

The PRESIDENT. Does the Senator from Virginia insist upon his motion?

Mr. HUNTER. I do.

Mr. WALKER. I have a word to say in regard to this matter. I moved yesterday to take up the bill. I did it under the supposition that a letter from the Commissioner of the General Land Office upon the subject of the bill had been printed. I understand that it is not yet printed. Without that letter, I suppose, it will not be in the power of the Senate to consider the question intelligently; and, for one, I must, in presenting the views of one part of the Committee on Revolutionary Claims, have that report.

The PRESIDENT. The Senator is mistaken in supposing that the letter of the Commissioner has not been printed.

Mr. WALKER. If it has been printed I have no objection to considering the bill.

Mr. STUART. I again ask the Senator from Virginia to allow me to report and have passed three or four House bills, to which no opposition will be made. One of them is simply to extending a law to the Territory of Kansas.

Mr. HUNTER. As soon as we have disposed of this that bill can be reported.

Mr. HUNTER's motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives to amend the act approved August 31, 1852, entitled "An act making further provision for the satisfaction of Virginia land warrants." It will require the Secretary of the Interior, in executing the act mentioned, to issue land scrip in satisfaction of all such outstanding and unsatisfied military land warrants, or parts of warrants, as may be surrendered in pursuance of its provisions, and which may have been regularly allowed by the proper authorities of Virginia, unless it shall be ascertained that fraud was practiced in obtaining the allowance from the authorities, or unless the allowance be proved to be erroneous by evidence not before the authorities, or unless some error or mistake was committed by

the register of the Virginia land office in issuing them to improper parties.

Mr. BRODHEAD. While my friend from Wisconsin [Mr. WALKER] is arranging his papers, I ask, by unanimous consent, that the Senate take up and concur in the amendment of the House to the bounty land bill. It will not take more than two minutes. I do not think there will be any objection to it. If it leads to debate I will give way.

Mr. HUNTER. Let us dispose of this bill in some way first.

Mr. BADGER. I will suggest to my friend from Wisconsin, if there be no difficulty about the amendment to the bounty land bill, why not agree to it and let it be disposed of?

Mr. HUNTER. If there will be no difficulty I have no objection.

Mr. CLAY and others objected.

Mr. HUNTER. The Senator from Alabama objects.

Mr. WALKER. In 1852, it will be remembered, Congress passed an act setting apart and appropriating a certain quantity of land to meet the outstanding land warrants issued by the authorities of Virginia. The provisions of that act were generally that the warrants issued by Virginia prior to a particular date, which was in 1851, should be presented to the General Land Office. It was then made the duty of the Commissioner of the General Land Office to review the cases in which Virginia had granted those warrants, and if they were found to have been correctly issued under the laws of Virginia, he was to substitute for them scrip, which might be located in the hands of those to whom issued, or their assignees, upon any land of the United States subject to private entry. In the discharge of his duty under that act, the Commissioner entered upon the investigation of the cases. As they were presented to him, he went into a review of the grounds upon which the warrants were originally issued by Virginia, and he found large classes in which, in his opinion, they had been improperly issued. He so decided, and in those cases refused to substitute scrip for them. I have here a list of a large portion of them, and to give to the Senate some idea of the nature of the Commissioner's objection, I will read a portion of the abstract which has been sent to us by him. He puts down the cases. The first is:

"John Ashby, captain continental line, four thousand acres of land bounty were allowed by Governor Tazewell in 1834, for the services of this officer as a captain for three years.

"The Washington papers in the State Department show that said Captain Ashby entered the service April 1, 1776, and resigned his commission October 30, 1777."

Here we find that in place of this person having served three years, and being entitled to bounty land to the amount of four thousand acres, he served very little over one year. I bring this class of cases to the notice of the Senate simply that they may see how loosely, upon how vague grounds, the authorities of Virginia have issued these land warrants. They acknowledged this individual, and numerous others contained in this synopsis, to have served three years, when, as the evidence adverted to by the Commissioner of the General Land Office shows, they did not serve three, and most of them served less than one year. Another case is that of

"William Armistead, paymaster State Line. William Armistead held the lineal rank of *captain*, and as such, was allowed, in 1783, *four thousand acres of land bounty for his services. Four thousand acres additional*, for his staff service, were granted by Governor Floyd in 1851."

This case falls within another class where double allowance was made. One allowance was made to the officer for his lineal rank, and another of as much more for his staff rank, which he held at the same time. They were but one term of office, they were held at the same time, and yet a double allowance was made. That class of cases the Commissioner has disallowed in his decision—that is, he has issued scrip for the warrants obtained for the lineal rank, but refused to issue scrip for warrants issued for the staff rank.

Mr. BADGER. Will my friend allow me to ask whether this bill proposes to overreach the Commissioner's decision in such cases?

Mr. STUART. Certainly.

Mr. WALKER. Yes, sir; I was coming to that, as soon as I had presented the grounds of the decision, to enable the Senate to judge of the propriety of the Commissioner's action, or of the propriety of the bill now before the Senate. There are a great many cases specified here, but I will read only a few more to bring to the notice of the Senate the classes which the Commissioner has disallowed.

"Henry Aimes, Colonel, Continental Line.

"This claim was allowed for service from March 12, 1776, to the end of the war, by Governor Floyd, in 1851; *having been rejected by* the Executive and Council of Virginia in 1836."

Here, again, is another class of cases. It seems, at an earlier period, when the rights of the parties could be more manifestly brought before the authorities of Virginia, there were a great many applications made for land warrants which the Governor and Council of the State disallowed. At a later period, so late as 1851, these cases were brought up again before Governor Floyd, and there seems to have been a general sweep made of them. Governor Floyd seems generally to have given the warrants for double allowance, whether the party served one or three years, and in almost every instance there is scarcely an objection to be found as having been interposed by him in his allowance. The Commissioner adds on these cases:

"No record evidence, in support of the same, was furnished, nor can any such be found in any accessible quarter. He was, probably, a *militia officer*."

Again:

"Joseph Blackwell, Lieutenant and Brigade Quartermaster, Continental line.

"This officer was allowed (his heirs) three thousand two hundred and sixty acres in 1850, for his services *as lieutenant* from July 1, 1776, to the end of the war; and, in 1851, Governor Floyd granted five thousand three hundred and thirty-three and one third acres of land bounty for his services—three years—*as a brigade quartermaster*.

"The 'Washington Papers' show that Lieutenant Blackwell entered the service April 29, 1776, *and resigned his commission April* 16, 1778."

Two allowances, one for three thousand two hundred and sixty acres, and another for five thousand three hundred and thirty three and one third acres, were made for his services, which seem to have been less than two years when the evidence was looked into by the commissioners. Again:

"George Brooke, Colonel Virginia State line, six thousand six hundred and sixty-six and two third acres of land bounty were allowed in 1834, for the services of this party, as colonel, by Governor John Floyd.

"The evidence filed with the claim does not show that said George Brooke *ever held any lineal rank* in the service, but merely occupied a *staff position*.

"John Brent, Major Continental line. Land bounty was allowed for his services as a captain for three years, by Governor John Floyd, in 1834; and, in 1840, additional allowance for his services as major was granted by Governor Campbell.

"The 'Washington Papers' show that John Brent entered the service as captain February 23, 1776; was promoted to a majority December 25, 1777; *and resigned his commission May* 7, 1778."

That is another case where the allowance was made in violation of the law of Virginia; and so, without detaining the Senate, this list goes on to a great number, in some instances showing that the allowance of land warrants was made when the party is shown, by the evidence, to have been cashiered for cowardice before the enemy.

Now, sir, what is the bill which the Senate is asked to pass into a law? What is it that is asked for by it? This is a point which it is necessary for the Senate to consider. By the law of 1852, as I have said, the Commissioner is authorized and required to review, as he has done, the evidence upon which these land warrants were issued. It was found, when he came to investigate them, that this vast number of errors had been committed. Now it is proposed that this bill shall be enacted into a law which shall deprive the Commissioner of the ability to look into any testimony that was before the authorities of Virginia when they made the allowance. This is the act which is proposed:

"That the Secretary of the Interior be, and he is hereby, authorized and required, in executing the act entitled 'An act making further provision for the satisfaction of Virginia land warrants,' approved August 31, 1852, to issue land scrip in satisfaction of all such outstanding and unsatisfied military warrants, or parts of warrants, as may be surrendered in pursuance of the provisions of the act aforesaid, and which may have been regularly allowed by the proper authorities of Virginia, unless it shall be ascertained that fraud was practiced in obtaining the allowance thereof from the said authorities, or unless such allowance be proved erroneous by evidence not before said authorities, or unless some error or mistake was committed by the register of the Virginia land office in issuing such warrants to improper parties."

When a warrant is presented to the General Land Office, and the Commissioner is asked to issue scrip in lieu of it, in place of being allowed, as under the act of 1852, to investigate the case and ascertain, by whatever evidence he may or can, whether or not it was properly issued, he will be restricted by this bill, and be required to allow it if it appears to have been regularly issued by the authorities of Virginia. He will not be permitted to advert to any testimony that was before the authorities of Virginia. Suppose he can show incontestably that, under the laws of that State, the issue has been wrong, the reply will be, you cannot take that into consideration as a ground of objection to issuing the scrip. Why can I not? Because the amended law says you shall not look to any testimony which was before the authorities of Virginia. Therefore, if it should be manifest that an over issue has been made under the laws of Virginia, the Commissioner cannot take into consideration the laws themselves of the State, and say that there has been an impropriety in the issue. No, sir; though there has been a palpable violation of the laws of Virginia, he must be concluded and issue scrip in lieu of the warrants in all these double allowances for lineal and staff rank—for every class which he has rejected. Though it may be proved, even by the evidence which was before the authorities, that the party had not served three years, yet he must issue the warrants. He can look to nothing whatever which was before the authorities of Virginia. For the life of me, I cannot see why we should do this. Perhaps the "Washington Papers" were not before the authorities of Virginia when they allowed these land warrants; and perhaps the poor privilege may be left to the Government to have the Commissioner look into them, and from them deduce the evidence that there has been an improper allowance made; but unless he can find it there, I can imagine scarcely any other evidence which may not be presumed to have been before the authorities of Virginia, and consequently be excluded from the view of the Commissioner in reviewing these cases.

I called upon the Commissioner of the General Land Office when I had this subject under investigation, and he sent me a letter, in the form of a report upon it. I ask the Secretary to read it.

The Secretary read the following:

GENERAL LAND OFFICE, *February* 14, 1855.

SIR: In accordance with your request, I have carefully examined House bill (No. 742) to amend the act approved August 31, 1852, entitled "An act making further provision for the satisfaction of Virginia land warrants," and the accompanying papers, which were left by you at this office for that purpose, and in relation thereto have the honor to state:

That if that bill becomes a law, it will require the issue of scrip in satisfaction of claims heretofore disallowed by this Office; in fact, it will require scrip to issue for all warrants regularly allowed by the proper authorities of Virginia, unless it be ascertained that fraud was practiced in obtaining such allowance, or such allowance be *proved* erroneous by evidence not before said authority; or unless some error or mistake was committed by the register of the Virginia land office in issuing such warrants to improper parties. It does not relieve the Office from the duty of examining each case as are of original jurisdiction, for such examination is indispensable to ascertain—

1. If the warrant was regularly allowed by the proper authorities of Virginia.

2. Whether fraud was practiced in obtaining such allowance.

3. If such allowance was erroneous, whether it can be proved to be so by evidence not before said authorities.

4. Whether the register of the Virginia land office committed some error or mistake in issuing such warrants to improper parties.

But it does not require that all such cases shall be satisfied, however erroneous or inconsistent with the laws of Virginia, unless it can be shown that fraud was practiced in obtaining them, or the error in the allowance can be proved by evidence not before the authorities of that State.

What should be regarded as *fraud* in such cases? Ignorance of existing facts might be plead, and honestly, too, and the decision sustained, because the intent to deceive, which constitutes the fraud, could not be shown. When error has been committed, and it can be clearly shown that that error was caused by the character of the testimony before the authorities of Virginia at the time the allowance was made, the claim must still be satisfied under this law, because that evidence was thus before those authorities at the time of such allowance. But suppose such evidence was not before the Executive at the time of the allowance, how can that fact be shown? No record or filing has been kept of such evidence, so far as I am advised, by which it could be shown that certain documents, and those only, were before the Executive of Virginia when the allowance was made.

The act of May 30, 1830, (vol. 4 Statutes at Large, page 423,) which first authorized the issue of scrip in satisfaction of these warrants, limits the privilege to those "to whom the State had engaged to pay a land bounty for service in that war, (revolutionary,) of any description, by any law or resolution passed before, and in force at the date of, the said deed of cession," with certain exceptions therein men-

tioned. Several other laws were passed and executed; and finally, that of 31st August, 1852, which required the Secretary of the Interior to issue scrip for such warrants, "upon being satisfied, by a revision of the proof, or by additional testimony, that any warrant thus surrendered was fairly and justly issued, in pursuance of the laws of said Commonwealth," &c.

The duty here devolved upon the Secretary is clear and explicit, and the reason for it, as stated in the printed letter of Hon. J. R. Underwood, of 27th August, 1853, with the papers was, "because it had been often suggested that many frauds had been practiced upon the Governor and Council of Virginia, by which warrants had been illegally obtained." This duty was transferred to this Office, with fixed principles, approved by the Secretary of the Interior, for its government in the discharge of the duty.

In discharging that duty in accordance with those principles, this Office has refused to satisfy a number of claims, a synopsis of some of which is inclosed, giving a brief history of each, and the reason for refusing to issue scrip on it. You can see and judge for yourself whether Congress, in passing this scrip law, contemplated such cases, and whether this Office erred in refusing to satisfy them.

It seems to be urged, however, that the Governor and Council, in deciding these claims, acted as the highest tribunal known to the law; that they were the exclusive judges both of the law and the facts, and, therefore, their decisions were final—reference being had to the opinions of the Supreme Court of the United States in Green *vs.* Neal, 6 Peters, page 291, and Elmendorff *vs.* Taylor, 10 Wheaton, page 159. If this principle be sound, the earlier decisions of the Governors and Councils rejecting many of these claims were also final, and their successors had no right or power to review those decisions; and the principle "*stare decisis*" must prevail throughout.

Aside from the singular language of this law, however, which seems to require an examination of these claims, while substantially it deprives the Department of all control except to allow them, the principal issue raised is in relation to what is known as double allowances; that is, where officers have served both in the line and staff, a full allowance for each rank. This has been refused by this Office for the following reasons: Virginia, by act of May, 1782, granted lands to all the officers who had not been cashiered or suspended, and who had served three years, with one sixth additional allowance to those who had served more than six years, for each year over six that he had served.

The allowances, however, were only fixed with reference to lineal rank, the officers of the Navy ranking one grade higher than those of the same designation in the land service, but the allowances for *staff* rank were not fixed.

By the letter from the register of the Virginia land office, in page 8 of the printed memorial of James Cornick and Catharine Bloomick, with the papers, it will be perceived that, according to the precedents of his office, founded on allowances and orders, a paymaster of the line ranked with a captain of the line; a quartermaster general and a deputy quartermaster general with a colonel of the line, and other quartermasters as majors of the line. Hence, where a *lieutenant* in the line was acting as *paymaster* in the line, he has been allowed the bounty land due a *captain* of the line; where a *captain* of the line has acted as *quartermaster general* or *assistant quartermaster general* of the line, he has been allowed the bounty land due a *colonel* of the line; and where a *captain* of the line has acted as *quartermaster* only, he has been allowed the bounty land due a *major* of the line. This, I will now proceed to show, is precisely the principle decided by the court of appeals, in the case of Wyatt Coleman, cited in the printed memorial above referred to, page 6, to prove the reverse of this principle.

Wyatt Coleman, says the memorial, was a lieutenant and adjutant in Dabney's legion, (infantry.)

The pay, per month, of a lieutenant of infantry in the line was	$26 66⅔
Adjutants taken from the line, in addition to their pay as officers in the line, per month	13 00
Total pay as adjutant	$39 66⅔

Or within 33⅓ cents of the pay of a captain of the line.

In Virginia currency the pound was equal to $3 33⅓; making the above pay of $39 66⅔ exactly equal to £11 18*s.* allowed by the court of appeals in this case.

If he had been allowed full pay in each rank, it would have been:

As lieutenant, per month,	$26 66⅔
As adjutant, per month,	39 66⅔
Total	$66 33⅓

Or £19 18*s.* per month, instead of £11 18*s.* allowed by the court of appeals.

The other cases cited are, no doubt, equally in point.

In cases of this kind this Office has allowed the lieutenant acting as adjutant the bounty land due a captain; precisely following the principle thus laid down by the court of appeals of Virginia.

The other cases cited in that memorial are presumed to be of like character, and, as evidence of the facts in relation to such allowances, I refer you to the letter from the Commissioner of Pensions, of the 6th instant, in which the matter is fully explained, and the case of William Armistead given as an illustration, precisely opposite to the light in which it is cited in this memorial.

It will thus be seen that the action of the Pension Office and of this Office, in cases of this character, has been in exact conformity with the decisions of the district courts and court of appeals of Virginia; and it is believed that the action of the authorities of Virginia have, also, been of like character, till the erroneous impression obtained, as stated in this memorial, that the decisions of the court of appeals sustained a double allowance, instead of an allowance for the higher grade of service only, as shown above from the memorialist's own testimony. The lapse of time, involved character of the laws, and vagueness of terms used in reporting these cases, can well excuse an error of this kind, but cannot justify the perpetuation of it. Neither can they justify the harsh expressions used in this memorial towards the Department of the Interior and this Office, for refusing to carry out this error; which refusal the memorialists are pleased to "denounce as an outrage upon their State, a contempt of her sovereignty, an insult to her dignity, and a sacrifice of the just rights of her people!"

There is one case cited in this document in which double pay and bounty were allowed, by a resolution of the Continental Congress of July 23, 1776, but that resolution distinctly stated that this case should not be drawn into precedent. I allude to the case of David Griffith, who received half-pay as surgeon, and also half-pay as chaplain.

The other cases cited I have not examined; time would not permit it; but as they are brought forward *en masse* to sustain the grounds taken by the memorialists, it is presumed they all prove the same facts, and, therefore, fully sustain the action of this Office. As already stated, you have most of the cases refused, and the reasons for refusing them. In my opinion they all stand upon precisely the same basis, with reference to the laws of Virginia and the decisions of the courts, the double bounty cases having no higher equities than those where the parties resigned or were cashiered or superseded. If it be the pleasure of Congress to satisfy these cases, however, I have nothing to say. I have gone thus fully into this subject, not to prejudice these claims, but to show that the Department and this Office have endeavored to carry out the laws of Congress and Virginia in relation to these claims, as construed by the courts of Virginia, though much has been said and written to the contrary in a spirit or tone for the indulgence of which there was no good reason.

Inclosed, as requested, I also send a copy of the letter from this Office to the Secretary of the Interior, of June 2, 1854, and to the Hon. JOHN S. CASKIE, of the House of Representatives, under date of the 7th instant, both relating to these claims.

Other questions were raised in cases of persons who had died or been killed in service and those who had been discharged and claimed as supernumeraries, which were decided by the Secretary in favor of the claimants.

I have the honor to be, very respectfully, your obedient servant, JOHN WILSON, *Commissioner.*

Hon. I. P. WALKER, *Chairman Committee on Revolutionary Claims, Senate of the United States.*

Mr. WALKER. I hold in my hand a reply to that letter, written by a gentleman who seems to be thoroughly acquainted with these cases, and who represents, as he assured the committee, a very large number of claimants.

Mr. BADGER. I wish to suggest to the Senator whether, in the present stage of the session and of the public business, it is worth while to pursue this inquiry further. It is evidently going to consume a great deal of time; and it is certain from what has been said by the Senator, that there are doubts and difficulties about it. It is a matter of considerable amount; and I would suggest to my friend whether, in a spirit of patriotic devotion to the transaction of the great public business, he would not allow this to stand over until the next session.

Mr. WALKER. What I have to say I can conclude in five minutes, unless something is said by others to which I shall have to reply. In answer to that letter of the Land Commissioner, I repeat, I have a paper which was drawn up and handed to me by a gentleman who is now in the city, Mr. Segar, and who represents a large number of claimants and possesses a very intimate knowledge of the matter. In regard to these double allowances, I will make the assertion that there is nothing in the laws of Virginia which authorizes the issue of warrants for double rank, lineal and staff. The only precedent proper that can be found at an early day, is one in the case of David Griffith, and that was a peculiar case. The Commissioner says in his letter that the allowance was there made under a resolution of Congress; but I disagree with him when he says that an allowance for lineal and staff rank was made under that resolution. As this is relied upon as the precedent upon which all the double allowances are based, I wish the Senate to give their attention to it.

Mr. MASON. Do I understand the Senator to say that the case of David Griffith was the only case in which double bounty land was given by the State of Virginia to the same person holding two commissions?

Mr. WALKER. No, sir; I say it is the only one, at this early period when these allowances were first made, and that I will show was made under peculiar circumstances. Since that, I have stated, Governor Floyd made a clean sweep, and seems to have given bounty land in every case where it was asked.

Mr. MASON. I can give the Senator another case—that of Thomas H. Drew. He received bounty land as captain in the Continental line, in 1782, and also as captain in the State line, in 1782.

Mr. WALKER. I am going to remark on those cases, for I have the original papers in my possession. But the case of David Griffith is taken as a precedent at an early period, and is alleged as evidence to show that Virginia, at that early period, recognized the right of her officers to receive bounty land both for their lineal and staff rank. Here is the resolution in regard to him:

IN CONGRESS, *July* 23, 1776.

Resolved, That Dr. David Griffith be appointed to the stations of chaplain and surgeon in the third Virginia regiment, he being a person of uncommon merit, and there being very few surgeons of ability who will enter into the army in that station. This appointment "not to be drawn into precedent." That Mr. Griffith draw pay in both these capacities for the time he has served in the regiment.

CHARLES THOMSON, *Secretary.*

Extract from the Minutes.

There we see the foundation of Mr. Griffith's right, under the Government, to double pay; but it shows nothing in regard to his right to double allowance under the laws of Virginia. But in the letter drawn up by the agent of the parties, I find this commentary upon the Commissioner's letter:

"The principal class of claims excluded by the decisions of the Secretary of the Interior is, as correctly stated by the Commissioner in his letter, to the Hon. Mr. Walker, of the Senate, that of double allowances for double service, or staff allowances. Against this class the Commissioner argues with much zeal and ingenuity, but with all my respect for his excellent sense and general administrative ability, I am bound to dissent, utterly, from his conclusions. With all deference, I say it, his view of the case is erroneous, clearly erroneous.

"I will promise, on this point, that Virginia, actually before she ceded her vast domain to the Confederation, and of course when she had the absolute right to do with it what she pleased, recognized and made these double allowances for double service. In 1783, she granted a land warrant for six thousand six hundred and sixty-six and two thirds acres to David Griffith, for his services as chaplain, and one of six thousand acres for his services as surgeon.

"But the Commissioner of the Land Office, in his zeal, altogether commendable, to vindicate the action of his Department, cites a resolution of the Continental Congress to show that the case of Griffith, was a case *sui generis*, not to grow into a precedent, which resolution was as follows."

I have read that resolution. Mr. Segar comments on it in this way:

"Now, it is a conclusive reply to this very specious and ingenious argument of the Commissioner, that this resolution operated upon Congress, and Congress only, and that Virginia, in granting double bounty to David Griffith for double service, so granted it under her own proper and peculiar land bounty laws, and not under any resolution or law of Congress. In proof of this I submit the following letter from the register of the Virginia land office, just received."

After his promising a letter showing so much, we should expect to see it refer to some law of Virginia. Should we not expect that that register of the land office would point out that in the case of David Griffith it had been lawfully allowed under the laws of Virginia? But what says the register?

VIRGINIA LAND OFFICE,
RICHMOND, *February* 16, 1855.

DEAR SIR: In reply to your letter of the 11th instant, inquiring whether David Griffith (surgeon and chaplain) received bounty land under a resolution of Congress, or under the land bounty laws of Virginia, I have to inform you that it appears he received the double bounty land by virtue of allowances made by the executive of this State, in the year 1783.

I am, dear sir, yours, very respectfully,
S. H. PARKER,
Register Virginia Land Office.

JOSEPH SEGAR, Esq., *Washington.*

He refers to no law; but simply says it appears that it was under an Executive order, in 1783.

Mr. MASON. Does that not necessarily show that it was the construction placed by the Executive upon a law?

Mr. WALKER. That does seem to be the conclusion to which one would come at first blush; but I tell the Senator it has not been followed, and when the Executive looked at the laws of Virginia he saw nothing whatever in them that would authorize him to make such an allowance. I have said, and I say so still, if the law can be produced from which that conclusion could have been drawn by the Governor and Council of Virginia, for one, I will vote for the passage of the bill without another word. I made that offer some days ago; and the register of the Virginia land office was telegraphed to, as I understand; but no law could be found, and the register answers to the full extent that he can answer, when he says, not that it was allowed under the laws of Virginia, but, as appears, by an order of the Executive in 1783. When we take into consideration what Congress did, can we ever believe that Virginia would have stood by and done anything less for her great surgeon and chaplain than Congress proposed to do? Here is a resolution of Congress appointing Doctor Griffith as a surgeon and a chaplain in the

Army. Here is a resolution of Congress acknowledging his great merit and declaring that he should receive from the Government pay in both capacities. Was not that a sufficient foundation for Virginia, in the case of Doctor Griffith to follow the example of Congress? She did follow it; but she followed it no further; and in that resolution, so far as the Government is concerned, it is expressly declared that it shall not be drawn into precedent. Virginia did just what Virginia would do again; she would say of her great men what Congress would say. She would want to get such a person into the service, and having gone into it, and having received this compliment from the Government, she would say, we will pay him the same compliment in giving him land bounty for the service; but when you turn to the laws you can find nothing in them even to warrant that case. This is the extent of the Griffith precedent.

No law, then, being produced, I inquired next if the practice of Virginia could be shown to have been consistent, running through a period of years which would constitute a custom on her part. I waived the production of a statute, and said, if you can show that through a series of years, it was the custom of Virginia to make this double allowance, that is for lineal and staff rank, I will take that as the common law of Virginia, and vote in favor of the claim, as far as I am concerned. At first, I really thought that point of the case was made out, and I somewhat regret that it was not.

Now, I come to the case of Drew—and not only of Drew, but a number of others. Here are the original papers, furnished by Mr. Segar, and I will take them up from 1782 to 1783. Let the Senator from Virginia look at these cases, and then answer me if he terms them double allowances. I will read them, ranging along according to their dates, and he will see what they are. Here is the letter which inclosed to Mr. Segar the certificates:

"VIRGINIA LAND OFFICE,
"RICHMOND, *September* 21, 1854.

"Yours of yesterday was received to-day, and inclosed I send certificates. It appears from the books on which the warrants were recorded, that No 23, issued for Thomas H. Drew, was for services of captain of the Continental line, and warrant 77 for services as captain in the State garrison regiment."

The Senator brings this up as a case of double allowance. It was for double time—one was when he served the State, and the other when he served in the Continental line. This is not one of the cases of double allowances for lineal rank and for staff rank; but it is for different terms of service. To make this more manifest let us go on with the cases:

"COUNCIL CHAMBER, *June* 19, 1783.

"I do certify that John Warner, musician, is entitled to the proportion of land allowed a musician of the Virginia Continental line, who was enlisted for the war, and has served three years ending February, 1783."

That is, for three years ending February, 1783, he received one allowance, and a warrant for two hundred acres was issued to him. But, then, it is also certified that he was entitled to an allowance for three years service prior to 1780. The first was for services for three years up to 1783, and the second for prior to 1780, showing two distinct terms—from 1777 to 1780, and then from 1780 to 1783. That is not the class of cases that the Commissioner rejected. That is not what we are complaining of. This bill is not proposed to remedy that case. The Commissioner does not complain of it. That man had two terms of service, and was properly entitled to two warrants. Take another case in 1783:

"I do certify that Henry Marshall is entitled to the proportion of land allowed a sergeant of the Virginia Continental line, who was enlisted for the war, and has served three years ending April, 1782."

Then again:

"I do certify that Surgeon Henry Marshall is entitled to the proportion of land allowed a surgeon of the Virginia Continental line for three years service prior to 1779."

One is subsequent, and the other prior to 1779—two terms again, and the Commissioner issued scrip for them. This does not constitute a precedent for what is asked under this bill. He allows all such cases; and all the person has to do is to present the scrip, and show, as these papers do, double terms, and he gets his warrants for each. Again, in 1783:

"I do certify that Sergeant John Williams is entitled to the proportion of land allowed a sergeant of the Virginia Continential line, who was enlisted for the war, and served three years, ending March 7, 1783."

The next one is for three years service prior to 1780—showing, again, two distinct terms, for which the warrants were issued. If I had time, I could go through with these cases that are brought up as precedents, and which the Senator a moment ago, seemed to suppose constituted precedents, and could show that they were for double terms of service; and, with the exception of the Griffith case, it was not until a late period, until the time of Governor Floyd, that this vast class was taken up, swept clean of all controversy, and the warrants allowed. I do think the Senate should pause before it enacts what it is proposed it shall enact by this bill, and deprive the Department of the Interior, of all ability through the Commissioner of the General Land Office, to look into the cases. Having generally, and but very imperfectly, brought the subject to the notice of the Senate, I have said all that I propose to say at present, and shall leave the matter to others.

Mr. COOPER obtained the floor.

Mr. TOUCEY. If the Senator from Pennsylvania will give way, I will move to postpone the subject until to-morrow. We have not time to consider it.

Mr. COOPER. If the Senators who have the control of it desire its postponement, of course I make no objection; but I think we had better dispose of it now.

Mr. MASON. I think we can dispose of it in half an hour. The debate will not be protracted on our side.

Mr. TOUCEY. If the Senator from Pennsylvania will give way, such is the pressure of the public business that I must submit the motion that the subject lie upon the table.

Mr. COOPER. I understand that it is the desire of the Senators from Virginia that a few moments more should be allowed to this bill; and I pledge myself to occupy but a very short time.

By the act of 1852, of which this is intended to be declaratory, the Commissioner of the Land Office was authorized, on the presentation of warrants which had been issued by the Commonwealth of Virginia to officers and soldiers of the Revolution, to issue scrip on the surrender of the old warrants. The necessity of this measure arises from the fact that a misconstruction of the terms of that act has been made by the Commissioner of the Land Office. The bill which is now pending proposes to declare what is the meaning and intent of that act. The only material question that presents itself is this: Shall the decisions made by the tribunals of Virginia, who had the cognizance of these cases, stand, in all instances where they are not impeached, as fraudulent, or where a clear mistake is not shown in the adjudication? That is the simple question. Now, it can hardly be denied that the courts of the United States have, generally, if not always, acted on the principle of being governed, in reference to causes arising within a particular State, by the adjudications of the tribunals of those States; and the Governor and Council of the State of Virginia, being, by the laws of that State, substituted for the courts, their decisions being final, would have, and ought to have, the same force as the decisions of the courts, and ought to govern in all cases, unless fraud, or clear and manifest mistake be shown in the adjudication. That is the simple question presented; and it needs no elaborate argument to show that the present bill ought to pass. This was the opinion of the Commissioner of the Land Office, as is shown by at least two reports which he has made. He was of opinion that the whole thing would be unsettled and confused, unless the decisions of those tribunals should be binding upon the Department here, with the exceptions to which I have referred.

Now, sir, in reference to these cases of double allowance, it is undoubtedly true that Virginia did allow her officers and soldiers double pay in this form where they served in two capacities.

Mr. WALKER. I will ask the Senator to produce one single case, except that of David Griffith, in regard to which Congress passed a resolution in 1776.

Mr. COOPER. There is the case of Drew, to which the Senator has himself referred, and it is perfectly in point, notwithstanding the explanation which the Senator from Wisconsin has given. They are not in the habit of making the allowance by piecemeal, but all the terms of service of the officers and soldiers are added together, both in the Pension Office and in the bounty land office, and the warrants are issued for the whole amount to which the officer is entitled. That has been the rule, as I understand it, in the Department. We have the certificate of the proper officer of the State of Virginia, showing that it has been the practice. I did not know until this morning that that was a controverted point. Now, sir, was it not competent for Virginia to establish such a rule as this? Previously to the time when she donated to the United States that vast domain which now embraces within its limits four or five of the States of the Union, she made this decision, allowing, out of the abundance of her public domain, to those who had served her faithfully in two capacities, double pay for double services. Had she not a perfect right to do with her own possessions as she thought proper? and, if she did so, and Congress authorized scrip to be issued in lieu of the warrants, which should be presented to the Department and surrendered, is not the Land Office or the United States bound, in good faith, to compensate the officers and soldiers of the State of Virginia as they should have been compensated, and as they were compensated under the adjudications of her own tribunals?

I have promised not to detain the Senate, and I will only state that Judge Underwood, who, if I remember rightly, introduced the bill of 1852, has written a letter stating what his understanding of it was at the time; and every one who knew that gentleman, his conscientiousness and rectitude, will be assured that this opinion was not made for the occasion, but really represents his intention at the time that the measure was introduced into Congress. Sir, in my judgment it is the fair construction of the act. It was not intended that these adjudications should be reëxamined, unless fraud or palpable mistake was made evident by the production of other testimony. Where the decisions were regularly made, without fraud, or without the commission of mistake, who could have believed that they would have been reopened for investigation from the beginning, at a period when the evidence in most cases upon which they were formerly established, must, in the nature of things, be lost. The decisions of the tribunals of last resort of Virginia ought to govern the officers in the Land Department here. It is but just that it should be so, and on that ground I based the conclusion to which I came in committee. It is true my friend from Wisconsin differed with me, and I do not at all impeach his judgment. It may be much better than mine, but I have presented the facts of the case, and I think that is all that is necessary to the intelligent members of this body. With what has been said *pro* and *con.*, I think they are prepared for the decision of the case.

Mr. STUART. This subject, as I stated yesterday, is one of very great importance. It is one that it has become my duty to examine at considerable length, and if it is the intention of the Senate to retain it here and dispose of it at this time, late as it is in the session, such are my convictions of its importance and of its impropriety, that I shall feel myself compelled to go into its discussion at length. But for the purpose of ascertaining the sense of the Senate upon that question, because I no not desire to consume time at this stage of the session, I move that the bill lie upon the table.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. MCKEAN, Chief Clerk, announcing that they had passed the following bills and joint resolutions:

A bill for the relief of the heirs of Mary Jemison, deceased;

A bill for the relief of Jesse French, of Braintree, Massachusetts;

A bill to continue the pension of Frances E. Baden;

A joint resolution for the final adjustment of the account of John D. Colmesnil; and

A joint resolution for the relief of Clark Mills.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. WEBSTER, his Secretary, announcing that he had approved and signed the following acts and joint resolutions:

An act to confirm the canal selections in the State of Ohio;

An act for the relief of the heirs of Brigadier General Richard B. Mason;

An act extending in certain cases the provisions of the act entitled "an act to extend preëmption rights to certain land therein mentioned," approved March 3, 1853;

An act for the relief of Charles W. Carroll;

An act to amend "an act to establish a land district in the State of Florida, to be called the district of Tampa;"

An act to settle certain accounts between the United States and the State of Alabama;

An act to establish a circuit court of the United States in and for the State of California;

A joint resolution in relation to the New Orleans custom-house;

An act to establish the collection districts of Cape Perpetua and Port Orford, in the Territory of Oregon, and to fix the salaries of the officers of the customs therein; and

An act to prevent mistrials in the district and circuit courts of the United States in certain cases.

NOTICE OF A BILL.

Mr. BROWN gave notice of his intention to ask leave to introduce a bill to repeal certain sections of the neutrality laws.

ENROLLED BILLS SIGNED.

The PRESIDENT *pro tempore* signed the following enrolled bills, which had been previously signed by the Speaker of the House:

A bill for the relief of Amos Knapp;

A bill for the relief of Peter Amey, (colored man;)

A bill for the relief of Henry S. Sanford;

A bill for the relief of Parmelia Slavin, late the wife of John Blue, deceased;

A bill for the relief of George W. Torrence;

A bill to amend "An act to carry into effect a treaty between the United States and Great Britain, signed on the 5th June, 1854," and approved August 5, 1854;

A bill for the relief of Mrs. J. Josephine McClellan;

A bill for the relief of William G. Howison;

A bill for the relief of Anna E. Cook;

A bill authorizing the corporate authorities of Georgetown to impose additional taxes, and for other purposes;

A bill for the relief of William G. Preston, late a captain in the war of the United States with Mexico;

A bill for the relief of Sarah Morris, only heir of Robert Mitchell, deceased;

A bill for the benefit of the heirs of Philip R. Rice, deceased;

A bill for the relief of the children and grandchildren of Thomas Morris; and

A bill for the relief of Charles H. Pointer.

HOUSE BILLS REFERRED.

The bill from the House for the relief of Jesse French, of Braintree, Massachusetts, was read twice by its title; and referred to the Committee on Pensions.

The bill from the House to continue the pension of Francis E. Baden, was read twice by its title; and referred to the Committee on Pensions.

The bill from the House for the relief of the heirs of Mary Jemison, deceased, was read twice by its title; and referred to the Committee on Indian Affairs.

The bill from the House to establish Columbus, in the State of Mississippi, Chattanooga, in the State of Tennessee, and Hickman, in the State of Kentucky, ports of delivery, was read twice; and referred to the Committee on Commerce.

The joint resolution of the House for the final adjustment of the accounts of John D. Colmesnil was read twice by its title; and referred to the Committee on the Post Office and Post Roads.

CLARK MILLS.

The joint resolution from the House for the relief of Clark Mills was read twice by its title.

Mr. PEARCE. I hope it will be put upon its passage.

The Senate, as in Committee of the Whole, considered the joint resolution. It directs the President to cause $5,000 to be advanced to Clark Mills, on his personal application and receipt, in addition to the sum already advanced out of the $50,000 appropriated by the act of January 25, 1853, to erect, at the capital of the nation, an equestrian statue of Washington.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE PRESIDENT.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a report from the Secretary of the Treasury, and also one from the Secretary of the Interior, with accompanying papers, containing information called for by the resolution adopted by the Senate on the 30th ultimo, respecting the advance of public moneys to the marshal of the United States for the western district of Arkansas; which were ordered to lie on the table, and be printed.

Also, a report of the Secretary of State, communicating, in compliance with a resolution of the Senate, correspondence between the United States and the British Government on the subject of the existing postal treaty between the two Governments; which was ordered to lie on the table, and be printed.

MRS. NANCY WEATHERFORD.

The PRESIDENT. The bill for the relief of Mrs. Nancy Weatherford, widow of Colonel William Weatherford, of first regiment Illinois volunteers in the Mexican war, has been returned from the House, with amendments.

The amendments were to make the pension commence from the date of the death of the said Colonel William Weatherford, instead of "on the first day of January, 1855," and to make it continue instead of "so long as she shall remain a widow," for five years: *Provided*, That she shall be entitled to the benefits of any general act of Congress which may hereafter be passed, extending or continuing the half-pay of widows, as if she had been placed on the pension roll, under the provisions of the act entitled "An act amending the act entitled 'an act granting half-pay to widows and orphans, when their husbands and fathers have died of wounds received in the military service of the United States, and in case of the decease of officers and soldiers of the militia and volunteers,' passed July 4, 1836, approved July 21, 1848."

Mr. JONES, of Iowa. The Committee on Pensions have examined the amendments, and have instructed me to move a concurrence in them.

The motion was agreed to.

BOUNTY LAND BILL.

The PRESIDENT. The bill, in addition to certain acts granting bounty lands to certain officers and soldiers who have been engaged in the military service of the United States, has been returned from the House with an amendment.

Mr. BRODHEAD. This bill, as it passed the House, was published in the papers yesterday morning. I will state the changes which are made, if it is the pleasure of the Senate, and then they can have it read or not as they please. It comes back to us with the section offered by the Senator from Tennessee, [Mr. BELL,] the amendment of the Senator from California, [Mr. WELLER,] increasing the invalid pensions, and the amendment of the Senator from Wisconsin omitted. That is the bill as it comes from the House. I therefore move the concurrence of the Senate in the amendment. I feel bound to say that the Senator from Louisiana stated he desired a vote upon the question respecting the militia from the eastern States.

The motion was agreed to.

GRADUATION BILL.

Mr. STUART. I am instructed by the Committee on Public Lands, to whom was referred House bill to amend the act of the 4th of August, 1854, entitled "An act to graduate and reduce the price of the public lands to actual settlers and cultivators," to report it without amendment, and recommend its passage. It contains but a single provision which authorizes the taking of affidavits before another officer instead of the land officer. I hope it will be considered, and passed.

The Senate, as in Committee of the Whole, considered the bill. It will construe the act so that the affidavits required by the third section of that act may be made before any officer duly authorized by law to administer oaths, according to such forms and pursuant to such regulations as shall be prescribed by the Secretary of the Interior.

The bill was reported to the Senate without amendment, and ordered to a third reading. It was read the third time, and passed.

VIRGINIA MILITARY DISTRICT.

Mr. STUART. The Committee on Public Lands have also instructed me to report back the House bill allowing the further time of two years to those holding lands by entries in the Virginia military district in Ohio, which were made prior to the 1st of January, 1852, to have the same surveyed and patented. It is simply to correct a mistake in another bill, using the word "or" for "on." It is indispensable in order to carry out the provisions of the other bill. I ask for its consideration.

The Senate, as in Committee of the Whole, proceeded to consider the bill. No amendment being proposed, the bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JAMES HOLSTIN.

Mr. STUART. I also have a bill for the relief of James Holstin. It is a very hard case, from your own State, sir, where a man entered erroneously a quarter section which belonged to the State, expended $300 in improving it, and was then driven out. The bill proposes to allow him one hundred and sixty acres of Government land.

The Senate, as in Committee of the Whole, considered the bill. Holstin made an erroneous location with military bounty land warrant 8,782, at the Vincennes land district office, on the 1st of February, 1848; the bill will authorize him, as a full satisfaction for his loss, to enter one hundred and sixty acres on any public land subject to private entry at the rate of $1 25 an acre.

The bill was reported to the Senate without amendment, and ordered to a third reading. It was read the third time, and passed.

INDIAN APPROPRIATION BILL.

Mr. SHIELDS, from the committee of conference on the part of the Senate on the disagreeing votes of the two Houses on the bill making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes for the year ending the 30th of June, 1856, reported, that having met, after full and free conference, they had agreed to recommend to their respective Houses as follows:

That the Senate recede from their forty-eighth and fifty-second amendments, disagreed to by the House, which were as follows:

"SEC. 8. *And be it further enacted*, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized to allow the paymasters of the United States Army, who served as such in Mexico during the war with that Republic, commissions of one and a half per cent. on all moneys collected and received, and paid over by them into the Treasury of the United States, arising from duties on imports, and from internal assessments and taxes in Mexico during that war: *Provided*, That no commissions shall be allowed on any such sums of money so collected or received on which commissions have heretofore been allowed to any other collector or receiver, or other officer of the United States.

"SEC. 12. *And be it further enacted*, That from and after the passage of this act, the salary of the central superintendent of Indian affairs for the central superintendency shall be $2,500 per annum, and for that purpose the sum of $500 is hereby appropriated in addition to the existing appropriation."

That, as a substitute for the fiftieth amendment, as follows:

"SEC. 10. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized and directed to pay to Jean Baptist Faribault, and Pelagie Faribault, his wife, the sum of $12,000, with interest thereupon from the 12th of March, 1839, in full payment of their claim to the island at the confluence of the rivers Mississippi and St. Pierre, and on which Fort Snelling now stands"—

the House agree to the following:

"SEC. 10. *And be it further enacted*, That the sum of $12,000 is hereby appropriated to enable the Secretary of War to execute the contract entered into by Joel R. Poinsett, late Secretary of war, on the 12th day of March, 1839, with Jean B. Faribault and Pelagie, his wife, pursuant to a joint resolution of Congress, approved the 13th of February, 1839: *Provided*, That the Secretary of War shall be satisfied with the validity of their title to the lands mentioned in said contract, and that the conveyance to the United States be made sufficient to pass the said title."

That the House agree to the 51st amendment of the Senate, as follows:

"SEC. 11. *And be it further enacted*, That Indian agents and sub-agents be, and they are hereby, authorized to take acknowledgments of deeds, wills, and other instruments of writing, and that acknowledgments so taken shall have the same effect as if taken before a justice of the peace."

With amendments to strike out the words "and sub-agents;" after the word "deeds" strike out the word "wills;" and after the word "writing" insert "and to administer oaths in investigations committed to them in the

Indian country, pursuant to such rules and regulations as may be prescribed for that purpose by the Secretary of the Interior."

The report was concurred in. A subsequent message from the House of Representatives announced that they also concurred.

ALFRED G. BENSON.

Mr. CLAYTON. I ask the Senate to take up the joint resolution for the relief of Alfred G. Benson. Let me say, without occupying time, that it is simply a reference of the claim to the Secretary of the Treasury to settle. Nothing can be allowed, if nothing is due. The position of the man is this: He will be utterly and absolutely ruined if some measure of redress be not passed this session. I implore the Senate to let the resolution be taken up, and I shall immediately move to strike out "Secretary of the Treasury," and insert "Secretary of State," who has in his possession all the papers in connection with the subject, and upon whose judgment I think the Senate will agree to rely. I move that the resolution be taken up.

Mr. MASON. I am sorry to interfere; but if the resolution is taken up, I must oppose the claim.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It would direct the Secretary of the Treasury to adjust and settle, upon principles of equity and justice, Mr. Benson's claim for damages and losses sustained by him in consequence of the withdrawal of protection from the vessels which were chartered by him previous to August 25, 1852, to take guano from the Lobos Islands, under the assurances of protection given by the Executive Department.

Mr. CLAYTON. I move the amendment which I indicated, to substitute "Secretary of State" for "Secretary of the Treasury," so that the former shall audit and settle this claim. The reason for making that motion is this: the Secretary of State is in possession of all the information in relation to the matter. That information could not be obtained in time for the action of the Senate. The whole reference is intended to be made to the Secretary of State, and if the Senate have the confidence in him that I have, of course there will be no objection to the passage of the resolution.

Mr. MASON. When the Senator from Delaware asked that the resolution should be taken up, I said if it was taken up, I should feel it to be my duty to state to the Senate why I think it ought not to pass.

Mr. HUNTER. Will my colleague give way to a motion to lay it upon the table, and let me try to get up the appropriation bill?

Mr. MASON. I shall not object.

Mr. HUNTER. I move that it lie upon the table.

The motion was not agreed to.

Mr. MASON. The claim is this: It seems that in June, 1852, an inquiry was made of Mr. Webster, then Secretary of State, by James C. Jewett, master of the bark Philomela, to know whether American citizens could, safely to themselves, go to the Lobos Islands, where, it was said, there was deposited guano, and take that guano for the purposes of trade. The inquiry was further made whether protection would be extended to them by the American Government. Mr. Webster replied on the 5th of June, 1852, and went into some reasoning to show that, in his opinion, those islands had not been appropriated by any Government; and, therefore, that all persons were at liberty to go there and take guano.

Mr. BRODHEAD. This is a very large claim. It can go before the court which is about to be established. It is a very proper one to go there. I hope we shall go on with the appropriation bill.

Mr. MASON. It was hard upon this man to be misled by the opinion of the Secretary of State; but I am satisfied, and I have given it some attention, that no claim or obligation devolves upon this Government to relieve him. If it is admitted it will at once open the Treasury to immense claims derived from this source. The Senator from Delaware says that the resolution does not admit the claim, but leaves it to the Secretary of State to determine whether there is a claim or not. I say that is not its construction. If it passes, it will express the sense of Congress that there is a claim, and the extent of damages under that claim the Secretary of State will adjust on principles of equity and justice. If the Senate want to dispose of the subject, I will not go on; otherwise, I must do so.

The PRESIDENT. Does the Senator submit any motion?

Mr. BRODHEAD. I move that the subject lie upon the table.

The motion was agreed to, there being, on a division—ayes 19, noes 14.

JUDICIARY OF THE DISTRICT OF COLUMBIA.

Mr. HUNTER. I move that the Senate proceed to the consideration of the civil and diplomatic appropriation bill.

Mr. TOOMBS. May I ask the Senator from Virginia for five minutes for the consideration of a bill in which the people of this District feel a deep interest, and to which there is now no objection?

Mr. HUNTER. Will it not do as well to-morrow?

Mr. TOOMBS. It will not; because the bill has to go to the House with our amendments.

Mr. HUNTER. Will the Senator consent to lay it aside if it gives rise to debate?

Mr. TOOMBS. I will move myself to postpone it if it gives rise to debate.

Mr. HUNTER. I withdraw my motion for the present.

Mr. TOOMBS. I move to take up the bill from the House of Representatives to "reorganize the courts of the District of Columbia, and to reform and improve the laws thereof."

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. TOOMBS. The friends of this bill not being able to carry the measure which they desire, have unanimously, as far as I am informed, agreed to accept the amendments proposed by the Committee on the Judiciary. Not being able to get what they desire, they are willing to take what this body will give them. I therefore ask the Senate to concur in the amendments of the Committee on the Judiciary.

Mr. FOOT. What are they?

Mr. TOOMBS. They reserve to the present judges their tenure, and make the bill simply one to change the forms and practice of the courts.

Mr. TOUCEY. Before the question is taken on the amendments, in order to make the bill explicit, as it was understood by the Committee on the Judiciary, I move to add this proviso:

Provided, That nothing herein contained shall be construed to abolish the offices now held by the judges of the said circuit court, but their duties shall hereafter be as prescribed by this act.

Mr. TOOMBS. I have no objection to that.

Mr. BUTLER. It is what the committee meant.

The amendment was agreed to; and the amendments of the committee, as thus amended, were adopted.

Mr. GEYER. I offer, as an additional section, the following provision, which was part of the judicial salary bill, reported by the Judiciary Committee of the Senate:

And be it further enacted, That the salary of the judge of the orphans' court of the District of Columbia be, and the same is hereby, increased to $2,000 per annum.

The amendment was rejected.

Mr. BADGER. There is an amendment which I wish to suggest, which meets the approbation of my friend from Georgia. It is to strike out the 14th section of the bill as it came from the House, which provides, by the consent of the party, for trying offenses, not capital, without an indictment, and upon an affidavit trying him by the court without a jury, which, I think, is a violation of the Constitution. It ought to be stricken out. I move to strike out that section.

Mr. TOOMBS. I agree to it.

The amendment was agreed to.

Mr. BADGER. There is one other small objection which I wish removed. There is a provision towards the end of the second section which provides, in case of a judgment by default where damages are to be assessed, that they shall be assessed either by the jury or the judge at the election of the plaintiff. I think that is wrong, and I move, therefore, to strike out the words "or the judge may assess the damages, as the plaintiff may elect, and enter judgment thereon as in other cases."

Mr. BUTLER. This is an omission. The Committee on the Judiciary would have recommended the striking out if they had noticed it.

Mr. TOOMBS. I have no objection to the amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in, and ordered to be engrossed, and the bill to be read the third time. The bill, as amended, was read the third time, and passed.

The bill, as originally passed by the House, proposed to abolish all the existing courts in the District, and in lieu of them to establish a court of equity, a court of common pleas, and a criminal court, with new judges. It also provided for the appointment of two persons learned in the law to revise, simplify, and codify the laws of the District, and the rules and principles of practise, pleading, evidence, and conveyancing. The code prepared by them, it was declared, should be expressed in language concise and plain, and level to the understanding of a person of ordinary intelligence. The code was to be submitted to a board consisting of a prescribed number, appointed by the Corporations of Washington and Georgetown, and the levy court of Washington county; and such parts as they should approve of, be certified to the President, who was to cause it to be published, and to appoint a time for an election of the citizens to vote on its adoption, and then to be reported to Congress; and when adopted by Congress, to be the law of the District.

The principal amendments of the Senate are to strike out the provision for the abolition of the office of the present judges, and for the submission of the revised code to a popular vote.

Mr. BADGER subsequently said: I wish to call the attention of the Senate to a circumstance with regard to the District judiciary bill. A proviso was inserted, on the motion of the honorable Senator from Connecticut, [Mr. TOUCEY,] that nothing herein contained should be construed to remove the judges of the circuit court, thereby leaving the inference that the act intended to remove the other judges. The word "circuit" should be stricken out so as to leave it to read "said courts." I ask the unanimous consent of the Senate to make this correction.

There being no objection, the correction was ordered to be made.

ARMY APPROPRIATION BILL.

A message from the House of Representatives, by Mr. FORNEY, their Clerk, announced that the House had agreed to some, and disagreed to others of the amendments of the Senate to the bill making appropriations for the support of the Army for the year ending the 30th of June, 1856; and that they agreed to other amendments of the Senate with amendments, in which they requested the concurrence of the Senate.

Mr. SHIELDS. I move that the Senate agree to the amendments of the House of Representatives to our amendments, and that we insist on our amendments which have been disagreed to by the House; and ask for a conference on the disagreeing votes of the two Houses.

The motion was agreed to; and Mr. SHIELDS, Mr. TOOMBS, and Mr. WELLER, were appointed the committee on the part of the Senate.

A message from the House, by Mr. MCKEAN, Chief Clerk, afterwards announced that they insisted on their disagreement to the amendments of the Senate, and agreed to the conference asked for by the Senate; and had appointed Mr. PHELPS, Mr. FAULKNER, and Mr. JOHN L. TAYLOR, managers on their part.

CIVIL AND DIPLOMATIC BILL.

On motion by Mr. HUNTER, the Senate, as in Committee of the Whole, resumed the consideration of the bill from the House of Representatives making appropriations for the civil and diplomatic expenses of Government for the year ending June 30, 1856, and for other purposes, the question being on the motion of Mr. DOUGLAS to reconsider the vote by which the Senate refused to agree to the motion of Mr. CLAYTON, to strike out the fourth, fifth, sixth, seventh, and eighth sections of the bill, being those portions providing for a revision of the tariff.

Mr. WELLER called for the yeas and nays; and they were ordered.

Mr. COOPER. Mr. President, I believe the question now pending is the motion of the Senator from Illinois, [Mr. DOUGLAS,] to reconsider the vote by which the Senate last night rejected the proposition of the Senator from Delaware, [Mr. CLAYTON.] I desire, before that question is taken, to submit some further remarks to the Senate on the subject of the reduction of duties proposed by the fourth, fifth, and sixth sections of the bill, and especially as to the time, place, and manner of effecting such reduction.

Yesterday, in the course of the debate, the junior Senator from Massachusetts [Mr. WILSON] declared that he listened to a number of "Buncombe" speeches, made without reference to the question before the Senate; and the only inference to be deduced from his remarks was, that the speeches to which he had listened were intended to subserve the private political interests of the Senators who made them. I was somewhat surprised to hear such a remark from the Senator from Massachusetts, inasmuch as I did not remember that any speeches of that kind had been made. As far as my memory serves me, all the remarks made yesterday by the various Senators who took part in the debate were certainly as pertinent to the question as remarks generally are in this body.

That Senator informed us that the day for protection had gone by, and the era of free trade had been ushered in. And yet but a day or two ago the same Senator, it seemed to me, was as anxious for protection for the peculiar interests of Massachusetts, and of some other of the northern and eastern States, as any of his predecessors had ever been; for it does not matter whether protection comes in the form of duties assessed on particular articles, or by the reduction of duties on other articles which enter into the fabrics used by the people of those sections of the country in their manufacturing establishments. Why was it the Senator told us a few days ago that he was for free coal, free iron, free wool, free sugar, and free logwood, if it was not for the purpose of protecting the manufacturers of his own section of the country against the competition which they now encounter from abroad? Was it not to minister to the advantage of his own constituents, and of the particular classes engaged in the production of certain fabrics, that he desired the raw material to be admitted free? Sir, it was a bounty he was asking for the benefit of his own constituents; and it is no more than that which is asked for by those who coincide with me in opinion upon this floor. We ask for a certain amount of duty upon iron, coal, and other articles, in order to prevent the prostration of those engaged in producing them; but we do not confine ourselves to these, nor desire to strike a blow at any particular interest; on the contrary, we wish that all the objects which need protection should have it. It is for this reason that we resist the passage of the bill now pending before this body. Exclusive as the representatives of Pennsylvania are represented to be, they have never sought protection for their own staples at the expense of those of other sections of the country. While they desire prosperity for their own constituents, they are willing to accord it to the constituents of all others.

Mr. President, I said I was surprised that such a remark should have been made by a Senator from New England, and especially from Massachusetts; and I was still further surprised to see one of the representatives of that old Commonwealth parting, without even a shake of the hands, with those besides whom his noble and distinguished predecessors had stood shoulder to shoulder in all previous conflicts of this kind. Sir, amongst the first names that were familar to my ears were those of Concord, and Lexington, and Bunker Hill; and it was not long until these places became associated, in my mind, with the names of the illustrious men, whose teachings were vindicated upon them, and made them remarkable, if not immortal. Their patriotism and devotion to the interests of their country, rendered the names of the Adamses, and Hancocks, and Warrens, dear to the friends of freedom everywhere. Their efforts were not limited to Massachusetts; they embraced the whole country, and all its people and all their interests. At a later day, in another struggle to render the country independent of other nations in its commercial and manufacturing industry, Massachusetts again took the lead, and her sons stood prominently forward as the vindicators of the policy of protection—of that policy which her present representatives repudiate in words, whilst they cling to it in substance as far as the interests of their own State are concerned. The Adamses, and Websters, and Hudsons, the great advocates of protection, were statesmen in the estimation of all. They could see beyond the limits of their own State, and were just enough to legislate for the welfare of others as well as their own. Whilst they asked that the interests of their own States should be protected against a competition that was destructive to them, they were willing to see the interests of others properly secured. The difference between them and the present representatives of Massachusetts seems to be, that whilst the former looked abroad from the top of Bunker Hill, and surveyed the interests of the whole country, her present representatives stand at its base, where they can see but a part of their own. How far this is to result in misfortune to the country time alone can tell.

Mr. President, I am sorry that Massachusetts has found it to be her interest to separate herself from Pennsylvania on this subject, and the time may come when she will regret it. Let me, sir, tell her Senators that her interests are no more secure against combinations than ours; and that, when they come to be assailed, they will find quite as little sympathy in the quarters from which they expect it as we find now. It is in vain, sir, that the Senators from Massachusetts should attempt, by repudiating the doctrines of their predecessors on this subject, to secure either the forbearance or countenance of their present allies, in relation to their declared views upon another subject. They will find that a pretended coöperation in securing free trade will not induce these allies to look with complacency upon any effort of theirs which may have a tendency to make free negroes. But, Mr. President, I should have far less objection to this measure in another place and on another occasion than I have to it where it is. It is to the pernicious principle of legislating upon such a subject as this in an appropriation bill, that I object most strongly. By pursuing this course each individual interest which, by itself, can command but a small support, is placed at the mercy of a combination of other interests; and that these interests will form such combinations, is as certain as that the sun is shining above us.

Mr. CASS. Mr. President, it is very obvious that this discussion will consume much, and perhaps the whole time of the Senate. I rise now to ask the honorable Senator from Pennsylvania, if he is disposed to tell me, whether it is probable that the discussion will continue during the remainder of the day and night?

Mr. COOPER. I will answer frankly that the opponents of this measure conceive it to be their duty to make every effort to defeat it; and to continue that effort so long as it will be calculated to promote the end which they have in view. I would consider myself wanting in frankness if I did not declare my purpose to defeat the bill at any cost.

Mr. BELL. I merely desire to state that, if this debate goes on, I shall feel it to be my duty to ask the attention of the Senate for a short time at least. If, however, the debate is abandoned, and the measure is dropped by its friends, I shall not propose to say one word. I have not been able for two or three days to say anything in the Senate; in fact, I am hardly able to be present; but I cannot allow this provision to be retained in the bill without expressing my views.

Mr. CASS. Under the circumstances, I wish to suggest to the honorable chairman of the Committee on Finance, whether it is worth while to push this discussion further. I believe, for myself, that the tariff should be reduced. I believe the revenue of the country is too great, and I am prepared, on the proper occasion, to vote for a reduction of the tariff; but I submit to the honorable chairman of the Committee on Finance, whether it is not better now to let this matter go by. I am opposed myself to the conjunction of such measures. I have expressed that sentiment often, and I cannot help saying that I do not think a measure of this kind should be put upon the civil and diplomatic appropriation bill. Such a course is wrong in every way. There are certain considerations that must now be obvious to us, which, it seems to me, make it most unpropitious for the future, to set this example. If we shall come to a vote, I shall vote, therefore, against putting this measure on the civil and diplomatic appropriation bill, though, I repeat, I am in favor of a reduction of the tariff. Under the circumstances presented to us, I submit to the honorable member from Virginia at the head of the Committee on Finance, whether it is not better to abandon the project, or rather, to abandon this union of the measures.

Mr. BRODHEAD obtained the floor, but yielded to

Mr. WELLER. I voted last night against striking this provision from the bill, and I did so solely for the reason that the House of Representatives alone have the constitutional power to originate revenue bills; and that we have no right to prescribe the manner in which they shall perform that duty. They have seen proper to do it by adding such a bill to the civil and diplomatic appropriation bill—a very inappropriate place indeed. It was with great reluctance last night that I did not join the Senators from Pennsylvania in voting to strike out this portion of the bill. Now, I am satisfied, from the course this debate has taken, that it will be utterly impossible to pass the civil and diplomatic appropriation bill if this provision be retained. I have, therefore, come to the conclusion that, under the circumstances, I am not justified in voting for a reduction of the tariff here and now, though I am satisfied that the public interests demand such a reduction.

Like the Senator from Virginia, [Mr. MASON,] I consider all taxation a burden on the people, and you are only justifiable in imposing such burdens when they are absolutely necessary to defray the expenditures of the Government; but this measure ought not to have been brought up at the last stage of the session. A measure which affects all the interests of the country, the agricultural, commercial, and manufacturing interests of every section of the Republic, is thrown in upon us at the last days of the session, when no opportunity can be given for the necessary investigation. If the Senator from Pennsylvania will allow the vote to be taken, I have very little doubt that we shall agree to the motion to reconsider, and then strike this provision from the bill. I appeal to my friend from Virginia, [Mr. HUNTER,] who has charge of the bill, and who has no other object in view than to discharge the public duty imposed upon him, to agree to the withdrawal or striking out of this provision, for, in my judgment, if it be retained, the bill must inevitably be lost.

Mr. COOPER. I shall certainly feel myself called upon, at the suggestion of my friend from California, to stop short here, and permit the vote to be taken.

Mr. STUART. I had intended, if this measure were pressed, to occupy perhaps ten minutes in the discussion of it; but I shall not do so now. I only rise to make a statement as to what I consider to have been last evening, and perhaps again to-day, a slight misconception on the part of some gentlemen, in relation to the right of the House of Representatives. The House of Representatives have a right to originate all revenue bills, but they are as much bound by the rules of their House, as to the manner of originating them, as they are bound by the Constitution itself. The Constitution expressly provides that each House shall "determine the rules of its proceedings;" and when those rules are made under the Constitution, they are as binding as the laws of the land; and, so long as they remain unrepealed, as binding as the Constitution itself. Now, sir, it is known that the rules of the House of Representatives, as administered there, were set aside by a majority, in order to put this provision on the civil and diplomatic appropriation bill. That argument, therefore, does not weigh with me at all. This is all I desire to say on the question.

Mr. JAMES. I have no wish to detain the Senate; and I rise merely to say, that, if this debate goes on, I shall feel myself constrained to enter into the subject at length. I am in favor of a modification of the tariff laws, and I had hoped to see a modification of them made during this session; but this is not the time, nor is this bill the place, to do that.

Mr. SHIELDS. I should vote in favor of the motion to strike out, but for the fact that I have paired off with the honorable Senator from Texas, [Mr. RUSK,] who has been called away from the Senate Chamber.

Mr. THOMPSON, of Kentucky. I should

certainly vote in the affirmative, if I were at liberty to do so; but, to accommodate my friend from Mississippi, [Mr. BROWN,] I have paired off with him on this motion.

The question being taken by yeas and nays on the motion to reconsider, resulted—yeas 25, nays 19; as follows:

YEAS—Messrs. Allen, Badger, Bayard, Bell, Benjamin, Brainerd, Bright, Brodhead, Cass, Clayton, Cooper, Fessenden, Foot, Geyer, Houston, James, Jones of Tennessee, Pearce, Pettit, Pratt, Seward, Stuart, Thomson of New Jersey, Weller, and Wright—25.

NAYS—Messrs. Adams, Butler, Chase, Clay, Dawson, Dodge of Wisconsin, Evans, Fitzpatrick, Gillette, Hunter, Jones of Iowa, Mallory, Mason, Morton, Slidell, Sumner, Toombs, Wells, and Wilson—19.

So the motion was agreed to.

The PRESIDENT. The question recurs on the motion of the Senator from Delaware to strike out from the fourth to the eighth sections of the bill inclusive.

Mr. DAWSON. I shall soon leave the Senate, and I desire, before I go, to place upon record a few observations on this subject. When I came here, at the present Congress, I found the Executive department of the Government anxious for the reduction of the tariff. That desire was communicated to us. I had thought the party in power was for that reduction. Now a bill has been passed by the House of Representatives, presenting that solitary question. It may possibly be attended, as some gentlemen suppose, with embarrassment; but it provides for reducing the tariff on a nearly horizontal scale twenty per cent., founded on the idea as expressed by the Executive department, and known to the country, that the revenue which is going into the Treasury is largely above the wants of the Government. When that question was presented to me, I came to the conclusion, as a representative of the people who had to pay these taxes, that it was my duty to comply with the request of the Executive, that so much money should not go into the Treasury, but be left in the pockets of the people. I then determined to vote for this bill. It was passed in the House of Representatives by a majority, I think, of more than forty. It has been in this body fully discussed and sustained by the majority. Now the question is, whether we shall knock out all that we have done, and leave this superabundance of money still to continue to go into the Treasury. For one, I shall vote against the motion to strike out; and desiring not to delay the Senate in the transaction of other business, I shall say no more upon the subject. I have voted upon it as a question merely of reduction, founded upon the declaration of the Executive, that so much money as is now received is not wanted. In compliance with that assertion I vote to reduce the tariff for the benefit of the country.

Mr. TOOMBS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 24, nays 21; as follows:

YEAS—Messrs. Allen, Badger, Bayard, Bell, Benjamin, Brainerd, Bright, Brodhead, Clayton, Cooper, Fessenden, Foot, Geyer, Houston, James, Jones of Tennessee, Pearce, Pettit, Pratt, Seward, Stuart, Wade, Weller, and Wright—24.

NAYS—Messrs. Adams, Butler, Chase, Clay, Dawson, Evans, Fitzpatrick, Gillette, Hunter, Jones of Iowa, Mallory, Mason, Morton, Sebastian, Slidell, Sumner, Toombs, Toucey, Walker, Wells, and Wilson—21.

So the motion to strike out was agreed to.

Mr. HUNTER. An amendment having been made, I shall now proceed to offer the amendments of the Committee on Finance. The first is, to increase the appropriation for the compensation of the librarian, three assistant librarians, and messenger, in the library of Congress, from $7,500 to $9,000.

The amendment was agreed to.

Mr. HUNTER. The next amendment is to insert, after the appropriations for the printing of Congress, the following:

Provided, That the printed sheets for the finer descriptions of books authorized by either House of Congress, shall be dry-pressed before being bound, whenever, in the opinion of the Joint Committee on Printing, it is deemed necessary, the cost thereof not to exceed the sum of fifty cents per ream, medium.

That amendment explains itself. It is to require the drying of the printed sheets before they are bound, and thus add to the value and permanency of the documents.

The amendment was agreed to.

Mr. HUNTER. The next is to strike out, after the appropriation for the expenses incurred by Dr. John Evans in geological explorations in Oregon and Washington, the following words:

"And the Department of the Interior is hereby authorized to have the report of Dr. Evans published by the printer of the House, the expense to be paid out of any money in the Treasury not otherwise appropriated."

We propose to strike out the proviso, leaving this matter with the Department, as heretofore.

The amendment was agreed to.

Mr. HUNTER. The next is to insert, after the appropriation for repairs of the General Post Office Building, the following:

For the renewal of the furnaces in the General Post Office Building, and for repairing mantels and fire places therein, $2,000.

That is according to estimate.

The amendment was agreed to.

Mr. HUNTER. Our next amendment is to strike out the following proviso, which has been added by the House to the appropriation for paper and printing for the Executive Departments:

"*Provided*, All blank books, binding and ruling the same, for the several Executive departments herein appropriated for, shall be furnished under the direction and supervision of the Superintendent of the Public Printing."

This is a proviso which puts the Departments under the control of the Superintendent, which seemed to the committee not to be proper. We therefore move to strike it out.

The amendment was agreed to.

Mr. HUNTER. The next amendment is to insert, after the appropriations for the Territory of Utah:

For the construction of a Warden's house, and outer yard, and twelve cells and fixtures, for the Penitentiary in the Territory of Utah, $13,000.

This is according to estimate.

The amendment was agreed to.

Mr. HUNTER. Our next amendment is to insert, among the appropriations for the light-house establishment:

To enable the Secretary of the Treasury to replace the lost light vessel to mark the dangerous New South shoals off Nantucket, Massachusetts, $30,000.

This is in pursuance of an earnest recommendation of the Secretary of the Treasury that a light vessel should be placed there, instead of one which has been lost.

The amendment was agreed to.

Mr. HUNTER. The next is to insert, at the end of the appropriations for custom-houses, the following:

For the completion of the custom-house at Mobile, with granite facing, in place of brick, $95,000.

The amendment was agreed to.

Mr. HUNTER. The next is to insert, at the end of the appropriations for intercourse with foreign nations:

For compensation of a consul-general to reside at Samodi, in Japan, at the rate of $5,000 per annum, $3,750.

This is in pursuance of treaty stipulations.

The amendment was agreed to.

Mr. HUNTER. The next is to insert, at the end of the appropriations for surveys in the Territories:

For surveying the base principal meridian, correction parallels, townships, and section lines, in the Territory of Utah, at augmented rates, $50,000.

This is in pursuance of estimate.

The amendment was agreed.

Mr. HUNTER. The next is to add the words "under the direction and approval of the President of the United States," to the clause providing for the removing the present dome over the Capitol, and the construction of a new one upon the plan of Mr. Walter.

The amendment was agreed to.

Mr. HUNTER. The next is to insert, after the appropriation for the repairs of Pennsylvania avenue:

For footway on north front of the President's house, in lieu of the brick pavement now much broken, and containing seventeen thousand one hundred and seventy-six square feet, at twenty-eight cents per foot, $4,809 23.

For finishing the brick pavement on the south front of Lafayette square, $1,000.

For making a culvert, and improving Judiciary square, $5,000.

For repairing and extending the culvert running from the Capitol grounds down the center of south Capitol street towards the canal, $5,000.

The amendment was agreed to.

Mr. HUNTER. The Committee on Finance propose to insert, after the enacting clause of the second section, which proposes to appropriate for deficiencies for the present year:

For additional to the appropriations by the act of 4th August, 1854, for the contingent expenses of the Senate, to wit:

For binding, $30,000.

For lithographing and engraving, $25,000.

For the House of Representatives, to wit:

Then go on the appropriations in this section for furnishing the Congressional Globe to members of the House, and for binding the Globe, and reporting their debates.

The amendment was agreed to.

Mr. HUNTER. The next is to insert, in the same section:

To enable the Commissioner of Indian Affairs to pay the amount due George R. Herrick for arrears of pay for services from 1st April, 1846, to the 18th July, 1849, in the business of reservations and grants under Indian treaties, and provided for one clerk at $1,400 per annum by the act of 9th May, 1836, entitled "An act to provide for the salaries of certain officers therein named, and for other purposes," $1,109 79.

For payment of clerks temporarily employed in the office of the Postmaster General from 1st July to 10th August, 1854, $387 38.

The amendment was agreed to.

Mr. HUNTER. The next is to insert, after the amendment just adopted:

For amount equal to drafts, checks, and deposits, awaiting decision in certain applications for the approval of sales of Indian reserves, including $803 collected by, and deposited with, the late firm of Selden, Withers & Co., by a former disbursing officer of the Government, $4,400: *Provided*, Such portion of this sum as may be recovered from said firm and disbursing officer shall be reimbursed to the Treasury of the United States.

The amendment was agreed to.

Mr. HUNTER. The next is to insert the words "subject to the approval of the Secretary of the Interior," after the words "accounting officers," in the following clause:

For contingent expenses of the Territory of Utah, $1,168 37, to discharge such sums as the accounting officers may deem to have been necessarily expended by the Executive of said Territory during the years 1852, 1853, and 1854.

The amendment was agreed to.

Mr. HUNTER. The next amendment is in the same section, after the provision for deficiencies for the support of the Army, to insert:

For allowances for fuel, quarters, and transportation, and for *per diem* to officers, under the special direction of the War Department, for which there is no appropriation available during the fiscal year ending the 30th of June, 1855, $5,563 12.

The amendment was agreed to.

Mr. HUNTER. The next is in the same section, after the appropriation for deficiencies for the Mint at Philadelphia, to insert:

For increased compensation of the chief clerk at the branch Mint at New Orleans, by the thirteenth section of the act of August 4, 1854, $400.

The amendment was agreed to.

Mr. HUNTER. The next is to increase the appropriation for expenses of complying with the resolution of the House of Representatives of December 26, 1854, from $3,000 to $5,000. This is in pursuance of estimate.

The amendment was agreed to.

Mr. HUNTER. The next is in the same section, under the heading "miscellaneous," to insert:

For fuel for President's house, $1,000.

For furnace keeper at the President's house, $365.

The amendment was agreed to.

Mr. HUNTER. The next is to insert, after the amendment just adopted:

To enable the Secretary of State to reimburse to Edward Riddle, such sums as shall be satisfactorily shown to have been expended by him, or which said Riddle may have obligated himself to pay, on account of his official capacity at the Industrial Exhibition at London, England, or so much as shall be necessary, $26,000: *Provided*, That no portion of the payments made *pro rata* by contributors at said exhibition shall be regarded as within this appropriation.

I will say, in regard to this, that it is an amendment which was put on the bill by the Senate last year, and was stricken out by the committee of conference. I opposed it then; but it has been renewed by the Committee on Finance, and as the opinion of the Senate has been expressed upon it, I do not think it necessary to make any further opposition.

Mr. BRODHEAD. This is the same appropriation which the House of Representatives rejected at the last session. The Senator from Virginia admits that it is not right, and it is not right. The

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amendment proposes to hand over to Mr. Riddle of Boston, $26,000, for what? For moneys distributed and paid out by him in his "official capacity" at the Industrial Exhibition at London. Who conferred upon him official capacity? Who appointed him to any office there? Was not this a private affair? The Government had nothing to do with it. Why, sir, if we are to pay Mr. Riddle, we must pay every mechanic who went to any expense to send his machines there, and we must pay every merchant who sent his goods or wares to the Exhibition at London. Here is an appropriation of $26,000 to a gentleman who chose to go on his own hook, on his own motion, to the Exhibition at London, and claim to be an officer of this Government to look after American goods, wares, and merchandise. I do not wish to occupy the time and the attention of the Senate on this point. It seems to me that the amendment ought to be rejected, but I have very little hope that it will be.

The amendment was agreed to.

Mr. HUNTER. Our next amendment is to add the following as an additional section:

And be it further enacted, That the proper accounting officers of the Treasury be, and are hereby, authorized and required to credit T. Butler King, late collector and depositary at San Francisco, with the sum of $12,824 98, being the amount of money proved to have been lost by the destruction of the custom-house building and vault at San Francisco by the fire of May, 1851.

This is in pursuance of an estimate from the Secretary of the Treasury, who says he has abundant evidence of the loss.

The amendment was agreed to.

Mr. HUNTER. The next is to add the following additional section:

SEC. —. *And be it further enacted*, That there shall be appointed and paid, in the manner now provided by law, four principal examiners and four assistant examiners of patents in addition to the examining force now authorized by law to be so employed in the Patent Office; and should the necessities of the public service, in the estimation of the Commissioner of Patents, require any additional examining force to that herein provided, previous to the next session of Congress, there may also be appointed and paid, in the manner now provided by law, in addition to the foregoing, not exceeding two principal and two assistant examiners, who shall not so continue so to be employed subsequent to the expiration of the said next session of Congress without further provision of law: *Provided*, That the provisions heretofore made by law for the return to applicants who elect to withdraw their applications, or on any other account, any portion of the sums which by law they are required to pay into the Patent Office fund, shall be, and are hereby repealed, to take effect on and after the 30th of June, 1855.

Mr. WALKER. I should like to hear some explanation of that amendment.

Mr. HUNTER. It is offered in accordance with the recommendation of the Commissioner of Patents, who says he requires the additional force. He thinks there ought to be a provision to repeal the allowance to patentees, if unsuccessful, to withdraw two thirds of the fee. He thinks that provision does no good, but is an injury to the Department, and ought to be abolished. I believe there are now $50,000 or $60,000 unclaimed, arising from those fees. He says the fee is small enough. It was fixed, perhaps forty years ago, and never raised, and if this provision be made he will be enabled to carry on his Department without coming on the Treasury of the United States. In this view, the amendment was offered in accordance with his recommendation.

Mr. WALKER. It seems to me to be a great folly to talk of the Patent Office being a self-sustaining institution, when we know that within the last four or five years enormous appropriations have been made from the patent fund for the extension of the building, for the use of the Department of the Interior. It will sustain itself, even if you reduce the fees; but the patent fund will not sustain the Patent Office, and also erect buildings for the Department of the Interior. I move to amend the amendment by striking out the latter clause, which proposes to repeal the laws authorizing the return of two thirds of the fee, in cases where the application may be unsuccessful, or may be withdrawn.

On a division on the amendment to the amendment, the ayes were ten.

Mr. WALKER. This matter is evidently not understood, or I think the Senate would adopt my amendment without difficulty. It is now proposed to repeal the law which allows applicants for patents to withdraw two thirds of the fee which they paid in, if they fail to obtain a patent. The present fee which they are required to pay is thirty dollars, and if they fail to get a patent, or see proper to withdraw their application, they get back from the Patent Office twenty dollars. If the amendment of the committee be agreed to, they will be required to pay thirty dollars for the mere examination and rejection of an application for a patent. It seems to me that ten dollars is sufficient for that. If the patent fund to which patentees themselves contribute, is to be frittered away on other departments of the Government, the Patent Office never will be self-sustaining. A mere inspection of our legislation for the last four or five years, will show that the patent fund has been reduced by appropriations for the erection of buildings for the use of the Department of the Interior and other Departments. For one, I should regret exceedingly, to see this right of draw-back taken from applicants for patents. I think it unjust to require thirty dollars to be paid for the mere examination of an application in a case where no patent is obtained, no benefit derived, but where the model goes from the applicant into the depository of rejected models.

The PRESIDING OFFICER, (Mr. FOOT.) The Chair will again put the question, and request Senators to vote. The question is on the amendment of the Senator from Wisconsin to the amendment, of the Committee on Finance.

The amendment to the amendment was agreed to; and the amendment, as amended, was adopted.

Mr. HUNTER. I now propose, by direction of the Committee on Finance, to move to strike out the following provision in the second section:

"To enable John C. Rives to pay to the reporters of the House for the Congressional Globe, viz: William W. Curran, William Hincks, Francis H. Smith, John J. McElhone, Theodore F. Andrews, Charles B. Collar, and Henry G. Hayes, the same amount of additional compensation for reporting the debates of the House for the present session of Congress as has been heretofore paid them, $800 each, $5,600: *Provided*, That the usual extra compensation shall not be allowed to said reporters at the close of the present session."

Mr. CLAYTON. Before the vote is taken on the motion to strike out, I desire to move an amendment to the clause to place the reporters of the Senate on precisely the same footing with the reporters of the House. I do not propose to object to striking out the appropriation for the reporters of the House, but I desire before that is done to insert an amendment in favor of our own reporters. Then if both should be rejected, the whole subject will go before a committee of conference where our own reporters will be on the same footing with those of the House. To this I suppose there will be no objection. My amendment is to insert, before the proviso in this clause, the following words:

And for the payment of a like sum to each of the reporters of the Senate, namely: Richard Sutton, Dennis F. Murphy, R. M. Patterson, Henry Pardon, James J. Murphy, and David W. Brown, $4,800.

The amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on striking out the whole clause, both the words in the original bill, and those which have just been incorporated on the motion of the Senator from Delaware.

Mr. BADGER. I desire merely to say that, as on the motion of my friend from Delaware this provision has been made right and equal, I hope it will not be stricken out. I think it a great deal better that this should be done here, than be paid by resolutions from the contingent fund of each House at the end of the session.

Mr. HUNTER. I do not know why we should make these gratuities. We have a regular contract with Mr. Rives and his reporters, which we pay punctually, and I do not know why we should make these gratuities to them. It is for the Senate, however, to say. If they begin it now, I have no doubt it will become a constant practice.

Mr. PEARCE. The item, as it now stands in the bill, gives to each of the congressional reporters of both Houses, who are paid by Mr. Rives, under his contract, a sum of money more than the per diem pay of every member of Congress at this session. My colleague does not receive $800 for his pay and mileage together at the present session. You propose to give, as additional compensation to these gentlemen, as much as you pay to many members of the two Houses of Congress for their entire compensation. That does not seem to me to be fair. I shall not, however, persist in opposition to it.

Mr. BRODHEAD. My friend from Virginia says this is a gratuity. Why, sir, one half of this bill is made up of gratuities, not near so meritorious as this. We have just voted a gratuity to Mr. Riddle of $26,000 for his attendance at the exhibition in London, when there was no authority. And now objection is made to this small appropriation that it is a gratuity.

Mr. BADGER. I merely wish to say to my friend from Maryland in regard to this notion about the difference between a reporter and a Senator, that I would rather do the duties of a Senator five times over, during the session, than the duties of a reporter for half the time.

The PRESIDING OFFICER put the question on the motion to strike out, and declared that the noes appeared to have it.

Mr. HUNTER. It is suggested that I should call for a division of the question. I am told there is a mistake, and that there is a majority in favor of the proposition. I ask, therefore, that the vote may be taken again, and thus save the trouble of reconsideration.

The PRESIDING OFFICER. The Chair will put the question again, on the suggestion of the Senator from Virginia. The question is on agreeing to the motion of the Committee on Finance to strike out certain words, the provision proposed to be stricken out having been amended by incorporating other words on the motion of the Senator from Delaware.

Mr. GEYER called for the yeas and nays, and they were ordered, and being taken resulted—yeas 14, nays 25; as follows.

YEAS—Messrs. Adams, Allen, Brainerd, Chase, Geyer, Hunter, Jones of Tennessee, Mallory, Mason, Pearce, Thompson of Kentucky, Toombs, Toucey, and Wright—14.

NAYS—Messrs. Badger, Bell, Benjamin, Bright, Brodhead, Brown, Butler, Clayton, Cooper, Dawson, Dodge of Wisconsin, Fessenden, Fitzpatrick, Foot, Gwin, James, Morton, Sebastian, Seward, Shields, Stuart, Thomson of New Jersey, Wade, Weller, and Wells—25.

So the Senate refused to strike out the clause, as amended.

Mr. HUNTER. My next amendment is to offer the following, as an additional section:

SEC. —. *And be it further enacted*, That from and after the 30th of June, 1855, the Secretary of State be, and he is hereby, authorized and required to cause the examination, classification, and distribution of the clerks in the Department of State, in the same manner as directed in the other Executive departments by the provisions of the third section of the act entitled "An act making appropriations for the civil and diplomatic expenses of Government," approved March 3, 1853, who shall be paid annual salaries, according to the act amendatory thereof, approved April 22, 1854. And the whole permanent clerical force in said Department shall consist of three clerks of class one, two of class two, eight of class three, eight of class four, and one chief clerk, in lieu of those now authorized by law. And one of said clerks of class four shall give bond as required by the independent treasury act, and make the disbursements for the Department, and superintend the Northeast Executive Building, and shall receive therefor $200 per annum, in addition to his salary of clerk of class four: *Provided*, That the increase of salary hereby allowed to the Chief Clerk shall be construed to take effect from the 1st of July, 1853, and be paid accordingly."

The amendment was agreed to.

Mr. HUNTER. In order to make the appropriation for compensation of the clerks in the State Department correspond to this classification, I move to strike out, in the proper place, $48,342, and insert $52,692.

The amendment was agreed to.

Mr. HUNTER. The next is to add the following, as an additional section:

SEC. —. *And be it further enacted*, That the Secretary of the Treasury shall be allowed, in lieu of the clerks now authorized to be temporarily employed in the office of the Secretary of the Treasury, one clerk of class two; in the First Comptroller's office, one of class two and one of class three; in the First Auditor's office, two of class two, and one of class three; in the Third Auditor's office, twenty of class two and one of class four; in the Fifth Auditor's office, six of class one and one of class two. And also the Secretary of War shall be, and is hereby, directed, to discontinue one clerk in his office of class two, and be allowed in lieu thereof one of class four; in the Adjutant General's office, one of class one; and in the office of Topographical Engineers, as draughtsman, one of class four.

The amendment was agreed to.

Mr. HUNTER. The next is:

SEC. —. *And be it further enacted*, That the provisions contained in the second section of the act entitled "An act making appropriations for the civil and diplomatic expenses of Government," approved the 17th day of June, 1844, be required to be carried into effect in all particulars, any act in conflict therewith being hereby repealed. And all estimates for the compensation of the officers of Government authorized by law to be employed, shall be based upon the express provisions of law, and not upon the authority of the Executive distribution thereof, and the act and section authorizing the same, with the volume and page where such authority may be found, shall be cited in each and all estimates respectively.

The amendment was agreed to.

Mr. HUNTER. I move, by direction of the Committee on Finance, to increase the appropriation for the compensation of the Superintendent of Public Printing, and the clerks and messengers in his office, from $9,598 to $11,517, and to add, after the appropriation:

And the Superintendent, and the clerks and messenger in his office; and the librarian, and assistant librarian, and messenger in the library of Congress, shall be entitled to, and shall receive, the benefits of the joint resolution approved July 20, 1854, fixing the compensation of the legislative employees of the Government, in the same manner, and to the same extent, as officers of the same grade in the legislative department.

Mr. GWIN. I move to amend the amendment by inserting, before the words "shall be," the following:

And such of the clerks in the Executive departments of the Government at Washington, as are not included in the act making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1854, and for other purposes.

Mr. HUNTER. I am inclined to think that the amendment offered by the Senator from California, if it be as it would perhaps seem to be, a legitimate consequence of the other, is an argument against the whole. I believe the Committee on Finance went too far, because these officers are not officers in the legislative department, and I do not well see how, if we give them the twenty per centum, we can avoid giving it to others. Upon a deliberate vote it was determined by the Senate, when fixing the compensation under the bill of the Senator from Mississippi, [Mr. ADAMS,] that they would not make an addition of twenty per centum to the higher salaries. The effect of our legislation in regard to the clerks employed in this Capitol, to whom we give so much more than is allowed to the clerks in the Departments, is to dissatisfy the latter with their position. Although they receive, as I think, very ample compensation for their services, yet as they do not receive the allowances which are given to those who are employed here, it has the effect to make them think they are dealt with unequally and unjustly. We have heretofore drawn this distinction that we would compensate the officers of the two Houses upon one scale, while we have dealt with a more equal hand in regard to those of the Executive departments; but if we take this first step and assimilate the office of the Superintendent of Public Printing, which is an Executive office, with the clerks of the two Houses, we shall have to go on, and I do not know how much money it will cost us, because some officers of the two Houses have very high salaries. I believe there is a messenger here who receives $1,720 a year.

Mr. BUTLER. A messenger?

Mr. HUNTER. One of the clerks who came to see me in relation to this matter, and complained of the injustice done to those employed in the Executive departments, stated to me that one of the messengers of the House of Representatives received something like $1,700. Now, we ought to draw the line somewhere; and, although I should be very willing to see the clerks of the Superintendent of Public Printing put upon a par with the others, if it was clear they belonged to the Legislative and not the Executive department, I am afraid of the precedent, and shall vote against the whole.

Mr. MASON. I entirely agree with my colleague in the view which he has taken of this system of compensation. At the last session, under the instruction of the Senate, I brought in a report fixing the compensation of all the employees of the Senate, from the Secretary and the Sergeant-at-Arms down, embracing all the officers. I am free to say that we agreed to pay them, I think, upon a scale of very remunerative and liberal compensation. It was the policy to separate the officers of the Senate, at least, from the general employees of the Government. The Superintendent of Public Printing is not an officer of the Senate; but he is an officer of the two Houses, and his clerks stand on the same footing with himself. If we make this precedent, I am afraid we shall cause dissatisfaction, and let in constant changes in the compensation. We know the tendency of the Senate, as the tendency of all bodies, forming a sort of common family, is to lapse into a species of nepotism and favoritism to those around us. I trust the amendments will not be adopted.

Mr. FITZPATRICK. As a member of the Committee on Printing, I have investigated this matter, and I must dissent from the view of the honorable gentleman from Virginia, [Mr. HUNTER,] who says that the Superintendent of Public Printing belongs to the Executive departments. He is an officer appointed under a law of Congress. It is true he was appointed by the President of the United States, but, except in that particular, he is altogether disconnected from the Executive, and is amenable to Congress alone. The Senator from Virginia, who last spoke, [Mr. MASON,] says, I think correctly, that he is an officer of the two Houses. From my position as a member of the Committee on Printing, I am brought into very close association with that officer, and my opinion is, that he is not only an officer of this body, but of the House of Representatives, and should have been embraced in the joint resolution, passed at the last session, giving twenty per cent additional compensation to the officers of the legislative branch of the Government.

There is a marked distinction between the Superintendent of Printing and his clerks, who are under the entire control of Congress, and the officers spoken of in the amendment of the Senator from California, who are not at all connected with Congress. What duties does the Superintendent of Printing perform connected with the executive departments? He is here; he is under the control of the Committees on Printing of both Houses. The class of clerks embraced in the amendment of the Senator from California are not in that position at all. They belong entirely to the executive departments.

I think the Secretary of the Treasury, in ruling that the Superintendent of Printing and his clerks did not belong to the legislative department, in my opinion, did those officers injustice, and thereby deprived them of the twenty per cent. to which, I think, they were entitled. Of course I do not mean to impugn the Secretary's motives, because I am satisfied that he acted conscientiously; but, in my opinion, it is clear that the Superintendent of Printing is a legislative, and not an executive officer. Though he is appointed by the President, he is, in fact, an officer of the two Houses, subject to the printing committees of both branches of Congress. I risk nothing in saying that it was the deliberate conviction of the committee that he belonged to the legislative department, and ought to receive the twenty per cent. additional.

I hope the Senator from California will not press his amendment, but that the amendment of the Committee on Finance, which simply declares that the Superintendent is embraced in the joint resolution of last year, will receive the sanction of the Senate. The office is a very laborious one. I can bear testimony to the fact that the duties are very onerous, and every member of the committee, I think, will bear testimony that he is as eminently entitled to increased compensation, as any officer embraced in the joint resolution of last year.

Mr. HUNTER. I was not aware, when I made the objection, that there had been a decision by the Treasury Department that these officers belonged to the executive branch of the Government.

Mr. FITZPATRICK. That is the fact.

Mr. FESSENDEN. I will state to the honorable Senator from Virginia, that it was originally properly decided that the Superintendent of Printing and his clerks belonged to the legislative department; but last summer a new decision was made. According to these conflicting decisions, they do not belong to either the executive or the legislative departments, and have thus been deprived of the increased compensation allowed to each class. The amendment of the committee is necessary in order to decide where they do belong, and to pay them accordingly.

Mr. HUNTER. That being the case, I shall vote against the amendment of the Senator from California, and I shall not object to the amendment of the Committee on Finance.

Mr. GWIN. I am in favor of the original amendment as reported by the Committee on Finance, and I should like to pass it in exactly the form in which it is presented; but I think the amendment which I have proposed includes a class of cases equally as meritorious as any of the legislative employees of the Government. My proposition includes the higher clerks of the Departments, who do more labor, in my opinion, han any other set of clerks in the employment of the Government. They were excluded under the former law increasing the salaries of the clerks. I think there is no more meritorious class of officers in the employment of the Government. I do not offer it for the purpose of embarrassing the amendment of the committee, because I am in favor of both; but I cannot offer mine in order except as an amendment to that of the committee. I hope the members of the Senate who have transacted business with the Bureaus and the Departments, and with their chief clerks and principal clerks, and who have seen the labors which they have to perform, will stand by me in the adoption of this amendment.

Mr. TOUCEY. As I understand this question, it was in the first place decided that the Superintendent of the Public Printing did not belong to the officers of the executive department, and was not entitled to the allowance which was made to those officers. Afterwards there was a provision making an allowance of twenty per centum to the employees of the legislative department of the Government; and now it has been decided that the Superintendent of Public Printing and his clerks do not belong to the legislative department. Thus, it is decided that they belong nowhere. Now, sir, I entertain a very clear opinion upon the law that these officers are employees of the legislative department of the Government. They perform duties connected with the two Houses of Congress, almost exclusively; they are under the control of the committees and the presiding officers of the two Houses in the discharge of their duties, and I think that, clearly, under the law, they should be entitled to the twenty per centum increase. It is a matter of justice in itself that the allowance should be made.

Mr. MORTON. I wish to suggest to my friend from California the propriety of withdrawing his amendment for the present. There can be no question as to the propriety of voting twenty per cent. to the Superintendent of Public Printing and his clerks. The amendment of the Senator from California may embarrass the provision reported from the Committee on Finance. I am clearly in favor of the committee's proposition, and I am not prepared to vote against the amendment of the Senator from California; but I think insisting upon it may put in jeopardy the amount which no Senator questions should be voted to the clerks of the Superintendent of Public Printing.

Mr. FITZPATRICK. I trust my honorable friend from California will not embarrass this proposition with his. If I find his to be one of merit, I shall vote for it afterwards.

Mr. GWIN. After the appeals of my friends I withdraw my amendment, but I give notice that I will renew it when the bill shall be reported to the Senate.

The amendment was agreed to.

Mr. HUNTER. I offer now the last amendment which I have prepared, but I give notice that I shall have to come in with amendments hereafter, to make this bill conform to the diplomatic and consular bill which has been lately passed. As soon as I can get them ready, I shall offer them. The amendment I now present is to add the following additional sections:

SEC. —. *And be it further enacted*, That a tract of ten acres of the land heretofore purchased of the United States for the purposes of the naval hospital at Chelsea, Massa-

chusetts, be selected and set apart, under the direction of the President of the United States, for the use of the marine hospital of the district of Boston and Charlestown.

SEC. —. *And be it further enacted*, That, upon the tract so to be selected and set apart, there shall be erected, under the direction of the Secretary of the Treasury, a marine hospital for said district, of faced brick exterior walls, upon a hammered granite underpinning, one hundred and forty feet long, fifty-two feet deep in the center, and one hundred feet deep at the wings, and forty-five feet from the top of the entrance story.

This is a provision to allow the Government to sell its property at the Chelsea hospital, and take the proceeds to erect another hospital at the navy-yard, where it has the site at a better place.

The amendment was agreed to.

CONVENTION WITH GREAT BRITAIN.

Mr. HUNTER. I ask the unanimous consent of the Senate to lay aside, for a moment, the bill before us, in order that we may take up and pass immediately a bill which it is necessary we should pass before the next steamer goes out to England. It is a House bill to carry into effect the treaty between the United States and Great Britain of the 8th of February, 1853. I hope there will be no objection to putting it upon its passage now.

There being no objection, the civil and diplomatic appropriation bill was temporarily laid aside; and the House bill "for carrying into effect the convention on the subject of the claims between the United States and her Britannic Majesty, of the 8th of February, 1853," was considered as in Committee of the Whole. It proposes to direct the payment of $277,102 88, the amount awarded by the commission to British subjects, claimants under the convention, from which there is to be deducted, pursuant to the sixth article of the treaty, on account of the expenses of the commission, such ratable proportion, not exceeding five per cent. of the whole amount awarded to both the citizens of the United States and British subjects, as may be sufficient to defray the expenses.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CIVIL AND DIPLOMATIC BILL—AGAIN.

The Senate, as in Committee of the Whole, resumed the consideration of the bill of the House of Representatives making appropriations for the civil and diplomatic expenses of Government, for the year ending the 30th June, 1856, and for other purposes.

Mr. GWIN. I have an amendment to offer from the Committee on Finance—to insert after the appropriation for compensation of marshals:

And in the settlement of the accounts of the late United States attorney, the late marshal, and the clerk of the United States district court of the northern district of California, the whole or aggregate amount of fees, compensation, and emoluments, at the rates prescribed for said officers, severally in the second, eighth, and ninth sections of an act of Congress, chapter eighty-six, approved September 28, 1850, shall be allowed and paid them severally for the services rendered by them respectively prior to the 26th day of February, 1853, as taxed by the judge of said court.

The amendment was agreed to.

Mr. PEARCE. I am instructed by the Committee on Finance to move to strike out this clause:

"For payment of the draft of Francis Dainese, late United States consul for Constantinople, of December 20, 1852, being for compensation, under the act approved 11th August, 1848, of his services from the 16th May, 1849, to the 20th of December, 1852, inclusive, $3,594 40."

The reasons of the committee for proposing to strike out the appropriation may be briefly stated. Mr. Dainese was resident in Constantinople when Mr. Porter, then United States consul, returned to this country. Before he returned, he left Mr. Dainese in charge of the consulate. Mr. Dainese was never appointed, as I understand, by the Department of State, consul to Constantinople; but merely acted by authority delegated to him by the consul. He was, however, recognized by the State Department as in charge of the consulate.

His claim is made up of three items. In the first place, he charges for compensation for judicial services. Our treaty with Turkey provided for the performance of judicial functions by the minister and by the consul, and an allowance of $1,000 a year is made by law to the minister for these judicial services. Mr. Dainese claims that, as he was acting as consul, he should be paid for judicial services; but whether rendered, or which he was liable to render, I do not know. I consider that he was not entitled to perform judicial services at all. No fact is shown that he did perform them, so far as I am informed, and I think he is not entitled to any compensation for them.

Another item of his claim is for traveling expenses. He came to this country and returned. He expected to go back, and I believe some order or promise was given that he should be conveyed in a public vessel. A part of the voyage was performed in a public vessel, and a part at his own expense. He wishes to be allowed traveling expenses. I understand from a letter of the Secretary of State on this subject, traveling expenses are never allowed to consuls. The next item is for money expended by him to entertain Poles and Hungarians during the revolution of Hungary. It did not seem to us that there was a good claim for any of these items; and, therefore, the Committee on Finance proposed to strike out this clause.

Mr. COOPER. I am not perfectly acquainted with the justness of these claims, but one of my colleagues from the House, who has investigated the subject thoroughly, has called upon me and requested me to exert myself to prevent the clause referred to from being stricken out. He states that he knows that a portion at least of these services were authorized to be performed by the then Secretary of State, Mr. Webster; that he had various conversations with Mr. Webster on the subject, and that he was anxious that Mr. Dainese should receive compensation for them. I state this at the request of a colleague [Mr. CHANDLER] in whose judgment and integrity of purpose I have very full confidence.

Mr. BROWN. I trust this clause will not be stricken out. This question has undergone very elaborate investigation in the House of Representatives, and a report has been there made by the Committee on Foreign Affairs in favor of the claim, showing, as I think, conclusively that this gentleman is entitled to his compensation. Certainly, it seems to me that upon the statement of my friend from Maryland there is not enough to justify the striking out of a claim of this kind. The bare opinions of my friend, no matter how much weight they may be entitled to, as coming from a solitary Senator, ought not to outweigh the action of a committee of one House of Congress, and the action of that House itself. I understand from the reading of the report that Mr. Dainese has performed very important services for the country. While he was consul at Constantinople he had some difficulty with the resident Minister, which resulted in a quarrel, about which I know very little, and care much less; but that he is entitled to be compensated for his services I think is proved beyond all question. Without going into an investigation of this subject, or even asking for the reading of the report, which is a long paper, but which I shall feel myself constrained to ask for the reading of if there be a settled purpose to strike out this provision, I content myself with saying that I do not think the private differences of gentlemen ought to influence the action of the Senate when there has been mature examination and a deliberate report made, sanctioned by one House. I hope the motion to strike out will not prevail.

Mr. PEARCE. My opinion is not very great authority; but I think the facts which I have stated are of some consequence. There is no mistake in this, that the Department of State says it is not the practice to allow consuls traveling expenses, and that is one item of the claim. It is a fact, that another item in the claim is for judicial services, which I do not think Mr. Dainese had any right to perform, if he did perform them, and I doubt whether he did. The evidence of his performing them has not been exhibited. Then the third item is for moneys disbursed, not by authority, but at his own motion, among Hungarians and Poles. I do not think the provision ought to be kept in. It certainly should be made the subject of a private bill, and not be recognized in this way.

Mr. GEYER. I hope the motion of the honorable Senator from Maryland will not prevail. This subject has been fully investigated by the Committee on Foreign Affairs of the other House. I have read the report of that committee, and it is entirely satisfactory to my mind. I have requested the honorable Senator from Pennsylvania [Mr. COOPER] to have it brought into the Senate in order that it may be read here for information.

Mr. Dainese was at one time vice-consul. He left Constantinople, having appointed some other person—I forget his name—in his place. During his absence an individual, by the direction, perhaps, of the secretary of legation, violently broke into the office and seized the papers of Mr. Dainese. Information was communicated here to the Department, and the whole subject was investigated by Mr. Webster, who appointed Mr. Dainese a full consul, and sent him back to Constantinople. All these facts, I understand, are clear. They are not familiar to me, but they all appear in the report of the Committee on Foreign Affairs of the other House. It seems to me to be one of the hardest cases that has ever been presented for the consideration of Congress. If, after being adopted on deliberate consideration by the House, it is to be rejected by the Senate merely upon the motion of a Senator here, acting on the authority of the Committee on Finance, without an inquiry into the facts as reported by the House, without endeavoring to ascertain why it was that this gentleman, whose claims are now about to be repudiated, was reappointed to a full consulate at Constantinople after these occurrences at that place, it is very singular legislation.

The amendment was rejected.

Mr. DOUGLAS. I have just come into the Senate Chamber, and I should like to be heard upon that amendment.

The PRESIDING OFFICER. The Chair put the question on the amendment, and it was rejected.

Mr. DOUGLAS. There is a letter of the Secretary of State on the subject, which I should like to have read. I hope some Senator will accommodate me by moving a reconsideration.

Mr. BADGER. I move to reconsider the vote by which the amendment was rejected.

The motion was agreed to; and the question recurred on the amendment of the Committee on Finance, to strike out the clause.

Mr. DOUGLAS. I ask to have the letter of the Secretary of State read.

The Secretary read the letter, as follows:

DEPARTMENT OF STATE,
WASHINGTON, *July* 25, 1854.

SIR: I have the honor to acknowledge the receipt of your communication of the 17th instant, inclosing the memorial, with the accompanying papers of Francis Dainese, late United States consul at Constantinople, with a request that I would furnish the committee with any information touching the several demands of the memorialist that may be afforded by the files of this Department. These demands are stated by him to be:

"1. For balance of expenses incurred by him for the relief of refugees under the protection of the United States, in the years 1849-'50, and '51, $819 55. 2. For balance of contingent expenses of the United States consulate at Constantinople, in the years 1849-'50-'51, and '52, $635. 3. For compensation under the act of August 11, 1848, as incumbent of the United States consulate at Constantinople from May 16, 1849, to December 20, 1852, $3,594 40. 4. For traveling expenses in the service, and by order of this Government, $2,852 60."

In respect to the first item above mentioned, it becomes necessary to remind the committee that, after the disastrous termination of the Hungarian compaign, in 1849, Kossuth, with four thousand of his companions—Poles and Hungarians—fled from Hungary, and found safety in Choumla, in the dominions of the Sultan of Turkey. Others, who had taken refuge at Widdin, in Bulgaria, confiding in the amnesty offered them by the Austrian general, sent there for that purpose, returned into Hungary only to meet with death in the most ignominious form.

The existing struggle between Hungary and Austria had been watched with close attention by the people of this country; and the Government had manifested its interest through the attempt, on the part of the chargé d'affaires of the United States at Vienna, in 1848, "to open the door of reconciliation between the opposing parties," which course received, as was stated by Mr. Buchanan, then Secretary of State, the entire approval of the President. Soon after, a special and confidential agent was authorized by President Taylor to obtain minute and reliable information in regard to Hungary, and invested with full powers to conclude and sign a treaty with her in the name of the United States. Public meetings were held to give expression to the general sympathy, and it was officially stated, by this Department, that this Government, in the event of the recognition of her independence, would be most happy to enter into commercial as well as diplomatic relations with independent Hungary. And when the conflict was finally determined, the deepest interest was felt among the people of the United States in the fate of Kossuth, and his compatriots, who had sought an asylum within the boundaries of the Ottoman Empire. The diplomatic agent of the United States was instructed by Mr. Clayton, in January, 1850, to intercede with the Sultan in their behalf; and it was suggested that the President would be gratified if they could find a retreat under the American flag; and, it was added, that their safe conveyance to this country by any one of our national ships would be hailed with lively satisfaction by the American people.

Various obstacles interfered to prevent the immediate fulfillment of the design. Finally, in February, 1851, Mr. Webster, by direction of the President, instructed Mr.

Marsh to assure the Sultan, that if Kossuth and his companions were allowed to depart from the dominions of his Imperial Majesty, at the expiration of the year commencing in May, 1850, for which period he had promised the Austrian Government to detain them, that they would find conveyance to the United States in its national vessels, then in the Mediterranean sea. In September of the same year, Kossuth, and so many of his companions as could conveniently be received on board the United States steamship Mississippi, embarked for the United States.

The original number of the refugees was much diminished during their stay in Turkey; a large number escaped through the connivance of the Turkish authorities, made their way, by means of passports, or official certificates given by the United States agents, to different ports of Europe, and even to the United States; some returned to Hungary; others wandered into the interior, and many arrived in Constantinople, where they remained in a state of great destitution until opportunities occurred for departure; their necessities compelled the legation and the consulate of the United States, (the latter then, and for a considerable time previously, in charge of the memorialist,) to contribute, as it is alleged by both, to their relief, to an extent which, as stated by Mr. Marsh, "was a serious embarrassment to him; he was aware that he could not lawfully claim any allowance for this expenditure in his account with the contingent fund, but the action of the Government, and the expression of public sympathy in America, had put him in a position which absolutely compelled him to go much beyond his means in supplying the wants of these suffering outcasts."

These considerations, doubtless, influenced my predecessor, Mr. Everett, in the settlement of Mr. Marsh's accounts, to allow an item of $433 20 "for passports and relief given to Hungarian and Italian political refugees."

In a letter of November 27, 1852, Mr. Everett instructed the Fifth Auditor, in adjusting Mr. Marsh's accounts, as follows:

"With reference to the various items enumerated in the second paragraph of your communication, under the miscellaneous head, I have to remark that they appear to have been proper expenditures. That for the relief of the Hungarian and Italian political refugees appears to have been made by the Minister in view of the course adopted by this Government for their liberation, and the smaller ones are such as it is unavoidable to incur, when we take into consideration the customs of the East. They may, therefore, all be allowed in the settlement of Mr. Marsh's accounts."

In June, 1853, a payment of $1,648 06 was made to the memorialist on account of expenses alleged to have been incurred by him "for the relief of refugees possessed with American passports from the year 1849 to 1851." Two items in the account, amounting to $819 55, were suspended until the rendition of vouchers; it is for this sum that the memorialist now makes application to Congress.

For more full information on the subject of Hungarian refugees, reference may be had to Senate Executive Documents No. 43, parts first and second, Thirty-First Congress, first session, March, 1851; also, Senate Executive Document No. 2, special session, and Executive Document No. 78, of House of Representatives, Thirty-Second Congress, first session; also, the extracts from Mr. Marsh's letter herewith inclosed, explaining his expenditures under this head.

In respect to the second claim of $635, for "balance of contingent expenses of the consulate of Constantinople under his charge during the years 1849,-'50,-'51, and '52," I have to state that this amount was claimed by the memorialist in a communication, No. 97, addressed to the Department of State, under date of January 2, 1852.

It appears, from the files of the Department, that Mr. G. A. Porter, on the 23d September, 1849, being then United States consul at Constantinople, obtained from the United States legation leave of absence for six months, and returned to the United States, leaving the consulate in charge of the memorialist, who had been, for a considerable time previously, connected with it. Mr. Porter remained thereafter in the United States, and the duties of the office were discharged by the memorialist, in person, till July, 1851. It is stated, in a letter from the Fifth Auditor, "inclosing a list of the persons to whom payments have been made on account of the expenses of the United States consulate at Constantinople, from the 1st of April, 1849, to the 20th of December, 1852," that these payments appear to have been made in full. It is also stated in a memorandum from the same office, that the "accounts from 1st of April, 1849, to 31st March, 1850, rendered by Mr. Dainese, were settled in the name of Mr. Porter, he being the consul, and I think, drawing for their amount, accounts kept in the name of Francis Dainese, from the 1st April, 1850, to the 30th of June, 1851." It is also understood that the accounts were kept in the name of the memorialist from the last date to the 20th of December, 1852, when he received notice of the revocation of his commission. It further appears, from the list above mentioned, that payments were made to G. A. Porter on account of the contingent expenses of the consulate from April 1st, 1849, to March 31, 1850—$500, and to the memorialist, from 1st April, 1850, to 20th December, 1852, $1,365 66 which sums exceed the amount claimed by $5 66.

At the expiration of Mr. Porter's leave of absence, he did not return to Constantinople, but continued to reside in this country, and the memorialist appears to have considered himself, at least for a portion of the time, acting as consul, with the implied sanction of this Department; and Mr. Porter having neither resigned, nor been formally removed, claimed, in July, 1851, to have the control of the consulate. This conflict of jurisdiction, doubtless, gave rise to the subsequent difficulties connected with this consulate, which have demanded and received laborious investigation, on the part of this Department, in order to settle and adjust the various claims which have been set up by the several parties connected in these controversies.

The several amounts drawn by Mr. Porter from the Treasury of the United States, under the circumstances above stated, on account of the contingent expenses of the United States consulate at Constantinople, constitute the sums, in part, as it is believed, for which the memorialist now presents a claim to the consideration of Congress.

In respect to the third claim for $3,594 40, compensation alleged to be due to him for his services as vice consul, acting consul, and consul for Constantinople, from the 16th of May, 1849, to the 20th of December, 1852, during which period the memorialist was recognized as consular agent, vice consul, or consul by this Department. I have the honor to state that, in the Treaty of the United States with the Ottoman Porte, in 1830, it is provided that citizens of the United States "even when they may have committed some offense, shall not be arrested and put in prison, by the local authorities, but shall be tried by the minister or consul, and punished according to their offense, following, in this respect, the usage observed towards the Franks," (8 statutes at large, 409.) By the second article of the same treaty, it is agreed that the "United States may appoint their citizens to be consuls or vice-consuls, at the commercial places in the dominions of the Sublime Porte, where it shall be found needful to superintend the affairs of commerce."

The ministers resident and consuls of the United States in China and Turkey, by the act approved 11th August, 1848, are clothed with certain judicial powers; in China these powers extend to civil as well as criminal matters; in Turkey jurisdiction is limited to criminal offenses.

Annual appropriations have been made in the civil and diplomatic bill for compensation under the above act referred to, to the consuls at the five ports in China, but no appropriation has been made for compensation for the United States consuls in Turkey; and the Fifth Auditor states that "no accounts for judicial services have been rendered to that office by the United States consuls at Constantinople. Mr. D. S. Carr, late minister resident in Turkey, was allowed, under the above act, and that making appropriation for the civil and diplomatic expenses of Government of 31st of August, 1852, at the rate of $1,000 a year, from the 11th August, 1848, to the 20th of October, 1849."

In settling the accounts of United States consuls in China for judicial services, I find that different constructions have been placed on those terms of the act relating to the compensation and the powers of consuls. It has been held that a consul is entitled to his "compensation" from the date of his commission, and consular accounts have been thus allowed and paid; and again, that the consuls' compensation commences with the date of entering on his official duties. It has been held that a consul cannot delegate to a vice-consul his judicial functions, and, consequently, a vice-consul can receive no "compensation" except the usual consular fees; and, on the contrary, the accounts of vice-consuls for compensation for the performance of judicial services have repeatedly been allowed and paid.

This want of uniformity in settling consular accounts probably arises from the two-fold nature of the consul's duties in China. If he is considered by the accounting officers as holding the position of a judge, his compensation may be thought to commence, like those of United States judges, with the date of commisssion; if regarded simply as consul, his compensation, like that of the United States consul in London, at the time of entering on his duties.

In respect to the fourth item, for traveling expenses, I have to state, that no allowance is ever made for the traveling expenses of consuls, unless they are charged with special duties, which was not the case in the present instance.

I am, sir, with high respect, your obedient servant,

W. L. MARCY.

Hon. J. M. MASON, *Chairman of the Committee on Foreign Relations, United States Senate.*

Mr. DOUGLAS. I was called out for a moment while this claim was originally pending, and I regret exceedingly that I am under the necessity of troubling the Senate by a reconsideration in order to reach the question. I know enough, and have heard enough, of this man Dainese to be willing to take nothing on credit except what he produces vouchers for. He came to me with his complaints and made representations in regard to the conduct of our minister at Constantinople, and of Mr. Brown, our dragoman there, as connected with the Kozsta affair, which occurred about the time I was in Constantinople and Smyrna, and every report which he made to me was false from beginning to end. For these reasons I have no faith in him, and believe him to be an imposter. His own personal representations are worth nothing with me beyond what he produces vouchers or proofs to sustain. Consequently I wish to know whether there are vouchers for the expenditure of this money. If I understand the report of the Secretary of State, there are no testimonials or vouchers in the Department as to these expenditures. The impressions which I have formed adverse to this man were occasioned by his representations to me of matters of fact connected with our legation in Turkey, and circumstances in Constantinople and in Smyrna, of which he professed to have a personal knowledge; but it so happened that I was in those places about the time when the circumstances occurred, and he was not within thousands of miles. I exposed to him at the time the fact that such was the case. Hence I cannot take on credit what he states.

Mr. MASON. If the Senator will allow me for a moment, I think I can dispose of this matter by a simple statement.

Mr. DOUGLAS. Very well, sir, I yield.

Mr. MASON. The letter of the Secretary of State which has been read was addressed to me as chairman of the Committee on Foreign Relations at the last session. The subject was then before that committee, and my recollection is that we made no report. It seems to me, from the reading of the paper, that the law disposes of the whole subject. By our treaties with Turkey and China it is provided that the commissioner in China, and the consuls both in China and Turkey, shall have jurisdiction in certain cases specified under the treaty. Well, sir, by the act of 1848, to which reference is made in the letter, there is this provision: "That in consideration of the duties herein imposed upon the commissioner," that is the commissioner in China, "there shall be paid to him out of the Treasury, annually, the sum of $1,000 in addition to his salary; and there shall also be paid, annually, to each of said consuls," meaning the consuls in China and in Turkey, "for a like reason," that is for the discharge of judicial duties, "the sum of $1,000 in addition to consular fees." Then the last section of the act provides: "the word 'consul' shall be understood to mean any person vested by the United States with, and exercising the consular authority in any of the five ports of China named in the treaty, or in any port in Turkey." It appears from the statement of the letter, that this gentleman never was vested by the United States with the office of consul. Mr. G. A. Porter was the consul.

Mr. WELLER. This case was before the Committee on Foreign Relations, and referred to me for examination. I investigated the papers, and became satisfied from them that this man was entitled to nothing. Such being the case, I have made no report. I hold the papers in my hand, and my intention was to ask to be discharged from their further consideration.

Mr. MASON. My impression was that no report had been made; but at any rate, it appears, from the letter of the Secretary of State, that Mr. Porter was the consul at Constantinople. When he came to the United States he left the consulate in charge of Mr. Dainese. It appears that the accounts of the consulate were settled in the name of Porter up to a given time, and after that time Mr. Dainese claimed to have been acting as consul, and entitled to salary for judicial services; but it is clear under the law that he is not entitled.

Mr. DOUGLAS. I was about to state that Mr. Porter was the consul, and I apprehend that we have to deal with him, and not with Mr. Dainese. He is not a citizen of the United States, by birth or naturalization. He is an Italian, or an Austrian, or a Turk, according to circumstances. He is descended, I believe, from an Italian family living under Austrian jurisdiction, and was, perhaps born in Turkey. At any rate, he has been employed under the Turkish Government. We have nothing to do with him as he was not appointed by this Government; but we have to deal with Mr. Porter, our own consul.

I have only to say, in regard to him, that I can take nothing on faith. If he has legitimate claims against the Government let him produce his vouchers or proofs for them. Besides, this is a matter of private claim, and a proper subject for a private bill. It should be referred to a committee, and carefully investigated, and then, if we find that anything is due him, I shall be as ready as any man to pay him whatever may be due him; but I do not think it is proper that the matter should be sprung upon an appropriation bill without investigation. I know he has given this Government much trouble by coming here and making representations against our late worthy minister to Constantinople, Mr. Marsh, and against our most excellent and efficient dragoman, Mr. Brown, endeavoring to prejudice them, and injure the public interests in a matter where truth, justice, patriotism, and gratitude required us to place confidence both in Mr. Marsh and Mr. Brown. I hope this will be treated as a private claim, and not inserted upon a general appropriation bill, and then we shall have an opportunity to examine it by itself on its own merits.

Mr. BROWN. I said a few words in favor of this claim a short time ago, based upon the printed report of the Committee on Foreign Affairs in the House of Representatives, to which my attention had been called. Of course, I know nothing of these outside transactions, of which the Senator from Illinois speaks. If it is to be resisted here, against a report prepared and published in the House, in opposition to the action of the House of Representatives, it seems to me that we ought to have some authorized statement to justify our

action. Looking for that, and not finding it, I was proceeding to base my action upon the only data before us, the proper legitimate action of a committee of the other House of Congress.

Mr. SEWARD. Will the honorable Senator from Mississippi allow me to say a word in explanation?

Mr. BROWN. Certainly.

Mr. SEWARD. I am desirous to bring the matter to a close, but I think I owe a duty to the honorable Senator on the floor, as well as others. Mr. Dainese presented his claim to me when he first came to this country, and it was at my instance, more, perhaps, than any other cause, or at least in compliance with my urgency, that he was appointed consul, or vice consul, at Constantinople, by the administration of General Taylor. He presented to me about the same time his accounts, I suppose the same which make up this estimate. Among them were accounts for contributions made to the suffering Hungarians after their expulsion from their country. The Senate all know that those were a class of claims which excited my sympathies very deeply, and I engaged, in good heart, to present them to the Government for payment. Governor Kossuth was in the country at that time, and I stated the matter to him, and told him the nature of the claims, and asked him whether they were right and just? He replied to me that Mr. Dainese was a man not to be trusted, and the effect of the communication was that there was no confidence to be reposed in him. I have, from that time to this, preserved the matter secret in my own bosom, but discontinued the prosecution of the claims.

Mr. BROWN. My object in speaking was to justify the attitude I occupy in reference to this matter. I proceeded to base my action on a printed report coming to us from one of the committees of the other House; and inasmuch as no committee had made a counter report, I, as a matter of course, took that as being correct. I could know nothing of these secrets locked up in the minds of gentlemen, and I only wish to justify myself before the Senate and the country for having committed myself to the support of a claim like this.

Mr. COOPER. I do not wish to continue the debate. I only desire to say that I never heard of Mr. Dainese until within the last half hour; but I have been informed that there are vouchers. I see it is so asserted by the report of the Committee on Foreign Affairs in the House. After what has been said, however, I shall not occupy the attention of the Senate in pressing this claim upon it.

Mr. GEYER. In advocating this appropriation, I rely with entire confidence on the report of the Committee on Foreign Affairs in the other House. I will take their report, especially coming from the member who made that report, [Mr. CHANDLER,] and who, I know, reports nothing which he does not understand.

Mr. COOPER. That is true.

Mr. GEYER. He reports this appropriation, not for the purpose of reimbursing any expenditure, not as a thing that depends upon vouchers, but as a compensation to which Mr. Dainese was entitled for his judicial services under the act of Congress. If he acted as consul and rendered those services, he is entitled to the compensation by law. Now, without going into the inquiry, I am content to rely upon the report made by an honorable member from Pennsylvania in the House of Representatives, on behalf of the Committee on Foreign Affairs, that these services have been performed; and if performed I do not understand how we can refuse to pay for them because there may be another claim, which is a private claim, that is reported in a separate bill, not sustained by vouchers.

Mr. DOUGLAS. I have only to say, that I presume the worthy gentleman who made that report in the House of Representatives was imposed upon, as many others have been. I think we ought to reject the claim at once.

Mr. BUTLER. I was the author of the act of 1848, conferring jurisdiction upon the Commissioner to China, and the consuls in China and Turkey. It was at that time a matter of great difficulty and doubt how far we could take jurisdiction in foreign countries over our own citizens. We could not do it except by treaty. But for such a jurisdiction, they would be subject to the bowstring and the summary judgments pronounced in China and Turkey. Those Governments were very willing to give us jurisdiction over our own citizens in their territories, and an act conferring that power was passed after great deliberation. I recollect that Mr. Davis, of Massachusetts, said it was a most important tribunal which we were creating or recognizing. It never was dreamed, at that time, that a mere transient person, exercising for the time being, for a day, or a month, or six months, such functions, should have this important jurisdiction conferred upon him. In any point of view, it seems to me the claim ought to be rejected.

The motion to strike out was agreed to.

Mr. PEARCE. I have another amendment from the Committee on Finance. It is to insert, in the second section:

For the compensation and expenses of the commissioner and the agent of the United States, under the convention for the adjustment of claims between the United States and Great Britain, at $12,000 each, for the entire service, $24,000: *Provided*, That this sum shall include what has already been paid to either of them under the said convention.

The amendment was agreed to.

Mr. GWIN. I am instructed by the Committee on Finance to offer the following amendment:

For professional services additional to his regular and ordinary official duties, rendered by the United States attorney for the northern district of California, on behalf of the United States, in the district court at San Francisco, in appeals from the land commissioner to ascertain and settle the private land claims in California from the 1st June, 1853, to the 1st June, 1855, the sum of $10,000.

The amendment was agreed to.

Mr. MASON. I am instructed by the Committee on Foreign Relations to offer the following amendments as additional sections:

SEC. —. *And be it further enacted*, That the sum of $300,000 shall be, and the same is hereby, appropriated for the extinguishment of the claims of the Hudson's Bay Company and Puget's Sound Agricultural Company to all of their claims or rights in Oregon and Washington Territories, under the treaty with Great Britain of the 15th June, 1846: *Provided, however*, That no part of said appropriation shall be paid out until satisfactory evidence is produced to the President of the United States that all and every claim under said treaty in the Territories aforesaid can be extinguished for the amount thus appropriated. And the President of the United States shall be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint a commissioner with full power and authority to negotiate for the extinguishment of said claims, who shall also examine and report the nature, the character, and extent of each, and the value of improvements thereon; and if it be found that the whole amount does not exceed the $300,000 hereby appropriated, that amount, or so much thereof as may be necessary, shall be paid out to the person or persons respectively authorized to receive the same, on a full and entire relinquishment to the United States of all right, title, and interest in and to the said claims by the said companies and individuals; the compensation of said commissioner not to exceed $3,000 per annum and his necessary expenses, to be paid out of any money in the Treasury.

SEC. —. *And be it further enacted*, That on the extinguishment of the claims aforesaid, the President shall be, and is hereby, authorized to take military possession of the several forts so claimed, and to sell and dispose of the other improvements, with a sufficient quantity of land to each, subject to such minimum as to the commissioner aforesaid shall appear just and reasonable, not less, however, than $1 25 per acre; and said lands shall not be subject to donation or preëmption under any existing laws.

This amendment is recommended by the Secretary of State in a letter which I ask may be read.

The Secretary read the letter, as follows:

DEPARTMENT OF STATE,
WASHINGTON, *January* 25, 1855.

SIR: I herewith inclose a draft of a bill, or sections to be added to some proper bill, providing for the purchase or extinguishment of certain rights secured by the Oregon treaty to the Hudson's Bay Company, Puget's Sound Agricultural Company, &c., in Washington Territory. It is very certain that if these claims and rights are not settled by purchase, they will be the source of many difficulties which will be detrimental to the interests of that quarter of the Union, and may embarrass our relations with Great Britain. I have taken some pains to ascertain the value of the interests which would be acquired by the proposed arrangement. For information on the subject I take the liberty to refer you to the Delegates from the Territories of Oregon and Washington. I think those gentlemen will concur with me in opinion that if the claims and rights in question can be acquired for the sum mentioned in the inclosed draft, the bargain will be advantageous to the United States. I deem it important that something should be done by Congress on this subject at the present session.

Yours, very respectfully,

WILLIAM L. MARCY.

To the Hon. JAMES M. MASON, *Chairman of the Committee on Foreign Relations, United States Senate.*

Mr. MASON. I will say to the Senate that, in order to get the best information which the committee could obtain within their reach, they asked the attendance before them of the Delegates from Washington and Oregon Territories. Those gentlemen differed in their views as to the necessity and expediency of making the proposed purchase; but after having heard them very elaborately, a majority of the committee decided that there was such danger of collision between British subjects and American citizens claiming under their respective rights, that it would probably materially interfere with the settlement of the Territory of Washington; and that, as the Executive would have the best information to survey the whole ground, it would be safer to accede to his request; and I was instructed, therefore, to propose this amendment, which was drawn up at the Department.

Mr. BRODHEAD. I presume this will pass, as a matter of course, but I am not sure that it is correct. I am opposed to making such appropriations in advance. I know we appropriated the money under the Mexican treaty in advance, but that was an exceptional case. I am willing to authorize the Executive to negotiate; and if the Executive sends an agreement here, so that we can see it, I shall consent to pay what is reasonable, provided I concur in opinion with him. If we appropriate $300,000 now, and authorize other expenses to be paid out of the Treasury generally, of course the commissioner appointed will find property worth that amount. I am opposed to making any such appropriations in advance.

Mr. TOOMBS. I concur with the Senator from Pennsylvania. We have no information as to the value of these possessory rights. We have no means of knowing whether they are valuable to us or not.

Mr. MASON. Allow me to say to the Senator that the Senate caused to be printed at the request of the Committee on Foreign Relations, some two or three weeks ago, the document upon which these estimates were founded. The Secretary of State directed Governor Stevens to make minute inquiry into the value of these possessions and report upon them to him. That report has been presented in a very elaborate document, which has been printed and laid before the Senate. It shows that he has given close attention to the subject. He has corrected the exaggerated estimates given to the value of the possession of the property, by those claiming to be entitled to it. Upon his report this estimate is made up.

Mr. TOOMBS. I am aware of that, but so far as the real point is concerned, the report does not show that this property is worth one dime to us. If you buy it from this company, I suppose it will be given to somebody else. Why the British traders may not as well occupy it as anybody else, I do not see. We shall open it to the whole world if we get it, and any one can come in and squat upon it. Why buy it from one set of squatters, and then open it to another? Even the same people, after selling to you, may turn round and lay claim to the land under the preëmption laws, and settle on it.

Mr. MASON. The Senator will find that the lands acquired under the amendment are not to be open to preëmption or donation.

Mr. TOOMBS. How long will that last? I know what will be done. Will you exclude these lands in Washington and Oregon Territories from the general laws of all the lands in the United States? No, sir; it may be done for a time, but it will not be long before they will be thrown open on the same terms as all the others. If you throw them open, on what principle should these people be specially excluded? This Government has never sold a foot of land west of the Rocky mountains, and, in my opinion, never will. You are, then, simply giving $300,000 to buy the possessory rights of one set of squatters to throw them into the hands of another.

Mr. BRODHEAD. I do not understand whether the Delegate from Oregon and the Delegate from Washington concur in this amendment or not.

Mr. MASON. I stated to the Senate that the Committee on Foreign Relations had requested the attendance of both those gentlemen, and that the Delegate from Oregon did not think it necessary to make the purchase. The Delegate from Washington did. We heard them both very elaborately for a whole morning.

Mr. BRODHEAD. Then the Delegate from Oregon dissents from this proposition. Now, let us look at this matter a little further. These

$300,000 are to go to these British corporations, if I understand the matter, and then the individual members of those corporations may go upon the land, and claim it under the preëmption laws. That will be the result.

Mr. SLIDELL. It is due, in justice to myself, to state, that as a member of the Committee on Foreign Relations, I dissented altogether from the view taken by the majority on this question. I considered it in substance paying $300,000 to certain individuals in Oregon and Washington Territories, for a very doubtful title to land, which land they would afterwards obtain, without any consideration whatever, either in the form of preemption or donation. That, to my mind, is the substance of this provision.

Mr. MASON. This measure is recommended by the Executive, upon the responsibility of the Executive. It is recommended to prevent collision between our people and the people of a foreign Government. The treaty with Great Britain for settling the boundaries of Oregon provided that the possessory rights of the Hudson's Bay company should be respected, and provided further, that the property belonging to the Puget's Sound Agricultural Company should be subject to purchase, if at a future day it should be found necessary. The Senate may adopt this amendment or not, at their discretion; but I would wager (according to our Virginia habit of backing judgment) at the rate of a guinea to a sixpence, that, unless some provision be made by law for adjusting these conflicting claims, the ultimate cost to the Government will be five fold the $300,000 now proposed.

Mr. SEWARD. Will the honorable chairman explain what the conflict is?

Mr. MASON. The conflict is this: The property claimed by the Puget's Sound Agricultural Company is not ascertained. They claim a very large extent of territory. They were very large graziers. They had, I think, several thousand cattle, various thousands of sheep, and other stock grazing on these lands, and have claimed to the extent to which their lands were grazed. There were houses, rather indifferent houses, cabins, etc., put on various parts of the lands. Our settlers have gone in upon them and now claim donation and preemption rights on land claimed by these British subjects. The possessory rights of the Hudson Bay Company are undefined. It is intended that the Commissioner shall define and ascertain them. The Delegate from Washington Territory, where the Pugets' Sound Agricultural Company's claim is, stated to us with a great deal of energy and a great deal of interest, that it would materially retard the settlement of that country unless some provision were made for adjusting these respective claims.

The amendment was rejected.

Mr. MASON. I am also instructed by the Committee on Foreign Relations to offer the following amendment to come in at the end of the appropriations for "intercourse with foreign nations:"

To reimburse Commodore M. C. Perry of the United States Navy, the extraordinary expenses incurred by him on his recent mission to Japan, and as a consideration for his eminent public services in effecting a treaty of amity and commerce with that Power, $20,000, to be received in full of all expenses or other charges incurred by him on that mission.

The Committee on Foreign Relations made a report accompanying the bill which was reported on this subject, the substance of which was, that an amount of $15,000 had been placed in the hands of Commodore Perry by the Department of State to defray the extraordinary expenses of his mission, but he used only $2,000, and those $2,000 he used in having presents purchased at Paris for the purposes of his mission. The residue he very properly, I think, abstained from using because it would involve the settlement of accounts here for expenditures of an extraordinary character incident to that mission. The committee examined the subject with great care, and entertain, as I believe the country entertains, a very high sense of the eminent services which Commodore Perry rendered to the country in opening a communication with Japan.

Mr. TOOMBS. I move to amend the amendment by adding to it:

And the Secretary of the Treasury is hereby directed to pay, out of any moneys not otherwise appropriated, to Robert C. Schenck, of Ohio, for his full compensation while employed as Envoy Extraordinary and Minister Plenipotentiary of the United States on special mission to the Oriental Republic of Uruguay, in the year 1852, the sum of $9,000; and for his full compensation as Envoy Extraordinary and Minister Plenipotentiary of the United States on special mission to the Argentine Confederation, in the year 1853, the sum of $9,000, such payment to be in lieu of the per diem compensation provided for said Robert C. Schenck in the act "making appropriations for the civil and diplomatic expenses of the Government," approved August 4, 1854.

At the last session of Congress, as this amendment shows, there was inserted in the civil and diplomatic appropriation bill a provision coming from the Committee on Foreign Relations of the Senate, to pay Mr. Schenck and Mr. Pendleton a fixed per diem compensation. Mr. Pendleton was chargé d'affaires at Buenos Ayres, and Mr. Schenck was minister plenipotentiary to Rio Janiero. They were commissioned first in 1852, and again in 1853, to make treaties in South America with the Argentine Confederation, with Paraguay, and Uruguay. They were very successful in making those treaties. It was a special mission entrusted to them. It turns out, however, that the compensation allowed in the bill of last year to Mr. Schenck, who was minister plenipotentiary, is about one third of what the same bill allowed to Mr. Pendleton, who was chargé.

Sir, I will not argue this question; it is unnecessary to do so. My amendment goes back to the usual practice. We know that these services in South America were very valuable. Large extents of country were closed up almost as long as Japan, and shut out from the trade of the world. There is an existing trade with them now of above $4,000,000, and a prospective trade of ten times that amount in a very few years. These gentlemen rendered eminent services, and I only ask that they shall be paid according to the usual practice of making payments in such cases.

Mr. MASON. I would say to the honorable Senator that the Committee on Foreign Relations have had the case under consideration again at this session, and I have an amendment, which is prepared, to modify, so far as he is concerned, the provision of the act of last session with which I understood that Mr. Schenck was satisfied.

Mr. TOOMBS. I know nothing about it. If it is other than this provision, I do not believe it is on principle.

Mr. MASON. It is other than that.

Mr. TOOMBS. If the Senate intend to depart from the precedent in former cases, let them vote down my amendment; but if they do so, they will depart from precedent in a case as loudly calling for the inforcement of the rule, as that of Commodore Perry, or any body else.

Mr. MASON. At the last session the Senate put on the civil and diplomatic appropriation bill an amendment, which was afterwards adopted by the House, for the payment to Mr. Pendleton and Mr. Schenck of a per diem allowance of twenty-five dollars for the time they were engaged in those service, and provided, also, that all their expenses of every kind should be reimbursed, whether they had vouchers or not, on their certificate that such were their expenditures. The Senator from Georgia then endeavored to get an appropriation in lieu of it, of the character he now proposes, but the Senate voted it down. We have ascertained that, by the construction placed on the act of last year, injustice has been done to Mr. Schenck, in so far as the compensation allowed to him would not equal that of Mr. Pendleton, and the committee have authorized me to offer an amendment, which I shall presently submit, if this be rejected, to put them on an equal footing. That is conforming, as we understood, to the intention of the Senate last year. I cannot agree, therefore, to the amendment of the Senator from Georgia.

Mr. TOOMBS. That certainly would not satisfy me nor this gentleman. I intend to put him on the uniform usage of the Government, what I have considered settled law and usage. Mr. Pendleton, although his compensation under the act of last year is larger than that of Mr. Schenck, did not receive what the established rule would have allowed him by some few thousands of dollars. I shall, after deducting that, insist that he shall be paid on the same rule, if this meets the approbation of the Senate.

Mr. MASON. I shall offer an amendment presently, intended to affect this case. I ask the Senator from Georgia, therefore, to withdraw his amendment now, and let him offer it as an amendment or substitute for the proposition which I shall submit from the Committee on Foreign Relations on this subject.

Mr. TOOMBS. If I saw any reason for withdrawing it I would do so; but I think my proposition is germane to this.

Mr. MASON. The reason is, that we shall then be acting upon the same subject. This is an independent proposition.

Mr. TOOMBS. No, sir; this is to pay a commodore in the Navy for very valuable services as a negotiator in a distant land. He was not sent there as a minister, but he rendered service in that character, and the amendment of the Senator from Virginia proposes to pay him for it. I think the questions are directly relative; I wish to see them associated. Probably there is a better chance of doing justice by that course.

Mr. SEWARD. I shall very cheerfully vote for the proposition of the Senator from Georgia, not with a desire at all to embarrass the original proposition, because I am in favor of the amendment in regard to Commodore Perry; but I think this comes precisely within the same principle, and is justified by the same considerations, from the extraordinary character of the services performed, and the extraordinary results which followed the negotiations. I hope, therefore, both will be put upon the same footing.

Mr. BENJAMIN. I do not mean to detain the Senate; I am not well enough to do so, if I were so disposed; but I rise merely to appeal to my friend from Georgia to withdraw his amendment to this particular proposition. I shall be compelled otherwise to vote against it, although I am strongly in favor of the appropriation which he proposes, and am anxious to vote for it. If, however, we are all agreed upon the proposition made by the Committee on Foreign Relations, that Commodore Perry is entitled to a testimonial of this kind from the country, and there should unfortunately be a difference of opinion in relation to the other gentleman whose claim is placed in this amendment, I must say I can see no justice in defeating an admitted claim because there is a difference of opinion on another. I myself consider both claims meritorious in the highest degree, and shall vote for both; but I trust my friend from Georgia will withdraw his proposition as an amendment to this, and allow us to act upon each case on its independent merits.

Mr. TOOMBS. I should be very much pleased to gratify my honorable friend from Louisiana, but I think both cases stand on precisely the same principle, except that one has the precedent of law and the other has not. I acknowledge the distinguished services of Commodore Perry, and I am willing to make him compensation for them; but when you establish the rule of compensation, I do not wish gentlemen who have gone abroad and rendered great services to the country, to be, from any cause which I can control, unjustly discriminated against. For this reason, at the expense of losing the vote of my friend from Louisiana, I must stand by what my judgment approves.

Mr. ADAMS. I shall neither vote for the amendment proposed by my friend from Georgia nor for that offered by the Committee on Foreign Relations. It is not pretended that either of these officers performed more than his duty. To introduce a system of legislation by which you give extra compensation to individuals for performing their duty, on account of their success in its performance, is, in my judgment, altogether wrong. It is setting a bad precedent. A man who labors faithfully, and with equal skill, and fails in his negotiation, is entitled to as much as the one who succeeds. This is introducing, in my judgment, a bad system in legislation. If, because parties have been successful, you pay them extra for performing no more than their duty, it is an implication on others who have equally performed their duty, and is traveling out of the ordinary course.

Mr. TOOMBS. My friend from Mississippi is mistaken about my amendment. I have differed from his policy in paying men large sums for inferior services. I voted against his bill; I did not support the policy he has put upon the country in reference to subaltern officers here. But these gentlemen had new duties imposed on them, and performed them, and they rendered extraordinary services. Mr. Schenck was Minister to Rio; and

was sent on another foreign mission, and discharged another duty, and I only ask that he shall be allowed what settled law and usage have given him for the services. When he came back, he was again ordered by the Government at home on another mission, and performed that duty. I ask that he shall receive the compensation which has been generally allowed for similar services; I propose not to give a dime in extra compensation, but to pay for services which he was by law made to perform.

Mr. ADAMS. My remarks had application more particularly to the original amendment. The amendment of the Senator from Georgia, as I understand, is to pay this minister for services under his regular appointment, though I admit he was not, at the same time, attending to the duties of his regular appointment. You propose to pay him for extra services in a different capacity, paying him for two services at the same time. That is my objection to that portion of the amendment. The other remarks which I made in reference to extra compensation had reference particularly to the amendment of the committee.

Mr. WELLER. I think this is rather an unusual mode of proceeding. The claim of Mr. Schenck has been referred to the Committee on Foreign Relations, and that Committee are prepared to report an amendment to this bill to provide for it. If that amendment be not satisfactory, when it is offered will, in my judgment, be the proper time and place for the Senator from Georgia to offer his substitute; but why offer it here? This is a simple amendment to provide for extraordinary services rendered by Commodore Perry in opening negotiations and commerce with Japan. That is an independent proposition. The claim of Mr. Schenck was before us at the last session. We supposed then we had passed a bill which would do ample justice to him, but such a construction was given to that law by the Department as to prevent him from receiving a large amount of money which it was the design of the framers of the law he should receive. I think the proposition now submitted by the Senator from Virginia ought first to be passed upon, and then, when he offers the amendment which has been agreed upon by the Committee on Foreign Relations in reference to Mr. Schenck, if it be not acceptable to the Senator, that will be the proper time to offer his. Then I shall be ready to meet it; but I beg the Senate not to embarrass this amendment by tacking on to it that which belongs to an entirely different question.

Mr. MASON called for the yeas and nays, and they were ordered.

Mr. BENJAMIN. I shall vote against the amendment of the Senator from Georgia, intending to vote for the same thing presently, when, in my opinion, it comes properly before the Senate.

The question being taken on Mr. TOOMBS's amendment, by yeas and nays, resulted—yeas 23, nays 21; as follows:

YEAS—Messrs. Badger, Bell, Cass, Chase, Cooper, Dawson, Fessenden, Fitzpatrick, Foot, Geyer, Houston, Jones of Tennessee, Mallory, Morton, Pearce, Pettit, Rusk, Seward, Sumner, Thompson of Kentucky, Toombs, Wade, and Wilson—23.

NAYS—Messrs. Adams, Allen, Bayard, Benjamin, Brodhead, Brown, Butler, Dodge of Wisconsin, Douglas, Hunter James, Johnson, Jones of Iowa, Mason, Sebastian, Stuart, Thomson of New Jersey, Toucey, Walker, Weller, and Wells—21.

So the amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

On motion by Mr. WELLER, the Senate took a recess until six o'clock.

EVENING SESSION.

The Senate reassembled at six o'clock.

WILLIAM H. DE FORREST.

On motion by Mr. SEWARD, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution to authorize the payment to William H. De Forrest of the sum of $12,000, for a quantity of powder destroyed at Punta Arenas.

The joint resolution had been reported from the Committee on Foreign Relations, with an amendment to strike out all after the resolving clause, and insert:

That the Secretary of the Treasury be, and he is hereby, authorized and required to ascertain the value of certain gunpowder destroyed by Commander George N. Hollins, of the Navy of the United States, at Punta Arenas, in Central America, in July, 1854, alleged to have belonged, at the time, to William H. De Forrest, a citizen of the United States, and to pay the value thereof, not exceeding, in the whole, the sum of $12,000, out of any money in the Treasury not otherwise appropriated, to the said William H. De Forrest, or to whomsoever may have appeared to be the owner of said powder at the time it was destroyed: *Provided*, Such owner was at the time a citizen of the United States.

Mr. PEARCE. Is that for the destruction of property at Greytown?

Mr. SEWARD. No, sir; at Punta Arenas, an entirely different affair.

Mr. WELLER. The Senator from Maryland inquires whether this was connected with the affair at Greytown? It unquestionably was. This powder was placed at Punta Arenas, two miles from Greytown. Captain Hollins, who, under the orders of the Government, demolished Greytown, upon reports and representations of the agents of the Transit Company, destroyed this powder, which was at Punta Arenas. Now, I think myself that it involves the whole question; because Captain Hollins commanded, under the reports of the agent of the Transit Company there, the destruction of the powder. Why they had that quantity of powder there—$12,000 worth—I really cannot imagine, but I shall interpose no objection to this resolution. The whole question, I believe, is to be referred to the Treasury Department to ascertain the value of the property destroyed; but it certainly was destroyed by Captain Hollins, at the request of the agent of the Transit Company at Punta Arenas, who thought it insecure there.

Mr. MASON. I am sure the honorable Senator from California does not intend to mislead the Senate; but this does not involve any responsibility of the Government for injuries done at Greytown. This was at Punta Arenas, out of the jurisdiction of the Greytown people.

Mr. WELLER. The Senator must allow me to say that the authorities of Greytown claimed jurisdiction over Punta Arenas, and that was the great point of difficulty between them and the Transit Company. They attempted to exercise jurisdiction over Punta Arenas, and the Transit Company refused to recognize that jurisdiction. That was one of the questions which led to the bombardment of Greytown; and, in my opinion, this had better be postponed.

Mr. PEARCE. I should like to know the principle on which the obligation to pay for this powder rests, because it may well happen that if the Government of the United States, by its action in the present case, declares itself to be responsible for the conduct of one of its officers in the destruction of this property, it may follow that its responsibility may extend to a great many other things, and involve the many important questions that grow out of the Greytown affair.

Mr. MASON. This resolution has been reported from the Committee on Foreign Relations. Now, the majority of the committee consider that it did not involve any question for losses sustained at Greytown from the bombardment by Captain Hollins. This property was at Punta Arenas, on the opposite side of the river. It was American property, and it was destroyed by Captain Hollins, as he stated in his evidence before the committee, because he believed that, if it was not destroyed, the people of Greytown would, by going there and exploding the powder, destroy the whole property of the Transit Company. The principle is this: When Mr. Borland, our Minister to Central America, went through Greytown, he was, as we know, offended and insulted by the people of that place, and, I think, imprisoned. He felt it to be his duty to employ a body of American citizens to protect the property of American citizens at Punta Arenas. He did employ a large guard, at large expense, to protect the property of American citizens, and, at the last session of Congress, we recognized that act by paying the expenses. Here was an American officer who, as he considered in the discharge of his duty, destroyed a small amount of American property for the protection of a greater amount. The same principle is involved. We made the payment to those who were enrolled to protect the property of American citizens, and if that would authorize the payment, surely this case may be brought within the same general principle.

Mr. PEARCE. I must say that there are few cases in which more difficult and delicate questions arise than in precisely such a case as this, where the authority of an officer of the Navy is employed for the destruction of private property, upon considerations which appear to him to be sufficient to justify him in destroying that property, lest some greater evil may arise. I say that question is very difficult to be settled, and it seems to me it is impossible to settle it with the consideration which we can now give it.

Mr. MASON. I hope there will be no further debate.

The PRESIDENT. The question is on agreeing to the amendment.

Mr. MASON. I do not understand that there is any amendment. This is an independent resolution altogether.

The PRESIDENT. The joint resolution was referred to the Committee on Foreign Relations, and they reported it back with an amendment, as the Chair understands, so that the question is on agreeing to the amendment recommended by the committee.

Mr. FITZPATRICK. I want to correct a statement made by the honorable Senator from Virginia, connected with the facts of this case. Our Minister, while at Greytown, never was in prison, although the gentleman may have come to that conclusion. I had a very long interview with the honorable gentleman who was our Minister there, since his return from Greytown. He was present at the time the man was killed, ascending the river, and he justified the act. There was an attempt to arrest him, and perhaps a file of men were sent after him, but they ultimately declined his arrest. He was perhaps confined, but voluntarily so, in the house of our commercial agent.

Mr. MASON. I know all the facts, and the Senator need not detail them.

Mr. FITZPATRICK. I understood the Senator to say that our Minister was imprisoned.

Mr. MASON. I did not say so.

Mr. FITZPATRICK. Yes, sir, I understood the gentleman to say so.

Mr. MASON. I said that he was insulted, offended, and, perhaps, imprisoned.

Mr. FITZPATRICK. Yes, sir, he was grossly insulted, but not imprisoned. This is a dangerous percedent, and I should like to know the facts fully, upon which we are required to vote. We ought to understand the facts of the case better as to what was the necessity for that amount of powder there, and for its destruction? I should like to have some explanation made, because it is setting a very dangerous precedent.

The amendment was agreed to. The joint resolution was reported to the Senate as amended, and the amendment was concurred in; the joint resolution was then ordered to be engrossed for a third reading, was read the third time, and passed; and the title was amended so as to read: A joint resolution requiring the Secretary of the Treasury to ascertain the value of certain powder, destroyed by order of Commander George N. Hollins, of the Navy of the United States, and pay the value thereof to the persons to whom it belongs.

RINGGOLD'S EXPLORING EXPEDITION.

Mr. SEWARD submitted the following resolutions for consideration; which were referred to the Committee on Printing:

Resolved, That the Secretary of the Navy be requested to communicate to the Senate copies of all charts, maps, and drawings, of all surveys made during the voyage of the Exploring Expedition under the command of Commander Cadwalader Ringgold, United States Navy, together with the hydrographic reports and sailing directions accompanying them, to be printed, together with the results in the various branches of science and natural history, meteorology, and other phenomena, &c.

Resolved, That five thousand additional copies be for the use of the Senate, and that five hundred book copies be delivered to Commander C. Ringgold.

Also, that if the Senate shall have finally adjourned before the report of the said Secretary of the Navy, in answer to this resolution, shall have been received, the said report shall be sent to the Secretary of the Senate, to be printed and sent as above to the members of the Senate and the officer above named.

A. G. BENSON.

Mr. BRODHEAD. On my motion this morning, a joint resolution respecting Mr. Benson's case was laid upon the table. I am told that it is a meritorious case, and I appeal to the Senate to take it up.

The PRESIDENT. That is not in order, unless by unanimous consent. The civil and diplomatic bill is before the Senate.

Mr. BRODHEAD. Then let a motion to reconsider the vote be entered.

The PRESIDENT. That subject must be taken up before a motion to reconsider can be entered.

CIVIL AND DIPLOMATIC BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill from the House of Representatives making appropriations for the civil and diplomatic expenses of Government for the year ending 30th June, 1856, and for other purposes.

Mr. MASON. I have some more amendments from the Committee on Foreign Relations. The first is to insert the following:

To enable the Secretary of State, through the diplomatic and consular representatives of the United States in foreign countries, to provide means for returning home to such citizens of the United States in foreign countries as may have been reduced to a state of destitution of the necessaries of life by shipwreck or the necessary abandonment of the vessel in which they have embarked, and also to such citizens of the United States as, being on their way from one part of the United States to another become destitute in foreign countries in consequence of shipwreck, disease, or any other casualty, $20,000.

The amendment was agreed to.

Mr. MASON. The next amendment is to insert:

To enable the Secretary of State to pay Blythe & Co., of Port Louis, in the Island of Mauritius, the amount of two bills of exchange drawn upon the Department of State by George M. Farnum, commercial agent, in payment of the expenses incurred in relieving destitute American citizens, which drafts were cashed by said Blythe & Co., $7,854 50.

This is a recommendation from the Department of State because they have acknowledged these drafts, but have no appropriation to pay them.

The amendment was agreed to.

Mr. MASON. The next amendment is:

That the Secretary of the Treasury cause the accounts of William Hunter, Chief Clerk in the Department of State, for services rendered by him as acting Secretary of State in the absence of the Secretary, and under the appointment of the President, during the years 1852 and 1853, to be settled in such manner as to allow him the difference between the compensation of Chief Clerk and that of Secretary of State during the several periods he acted in the latter capacity, to be paid out of any money in the Treasury not otherwise appropriated.

That is to pay the present Chief Clerk of the State Department the difference between the salary of Chief Clerk and that of the Secretary of State during the time he was commissioned by the President of the United States.

The amendment was agreed to.

Mr. MASON. The next amendment is to insert:

That the Secretary of the Treasury be, and he is hereby, directed to audit and settle the accounts of George P. Marsh, late Minister resident of the United States at the Ottoman Porte, for additional compensation and expenditures incurred by him in the performance of special services, not appertaining to his mission, and at points different from that to which he was accredited, in compliance with instructions from the Department of State, and for judicial services rendered by him under the act of August 11, 1848, entitled "An act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to ministers and consuls of the United States in those countries," in settling which accounts the sum of $4,500 shall be allowed as compensation for said special services in the mission to Greece; and in ascertaining the amount of said expenses the certificate of the party shall be regarded as sufficient, where no regular vouchers can be produced; and a further allowance, at the rate of $1,000 per annum, shall be made to said George P. Marsh for judicial services during the period of said mission to the Ottoman Porte, to be paid out of any money in the Treasury not otherwise appropriated.

Mr. SEWARD. I move to amend the amendment by adding:

And that the sum of $18,000 be paid to John S. Pendleton, in full compensation for his services in the missions in which he was associated with Mr. Schenck, deducting anything which he may heretofore have received as compensation for the same.

The PRESIDENT. The Chair is under the impression that both amendments, the amendment and the amendment to the amendment, are excluded by the 30th rule, which excludes private claims.

Mr. WELLER. Both are for diplomatic services rendered to the Government.

The PRESIDENT. The Chair will submit the question to the Senate whether they shall be received under the rule.

Mr. FOOT. The original amendment, or, at any rate, a portion of it, is in pursuance of an existing law, which is specified in it, the act of 1848, and is for judicial services as Minister resident at Constantinople.

Mr. MASON. As the Senator apparently appeals to me, I will state that this does not arise under an existing law. The existing law provides for payment for judicial services of the Commissioner in China; but we have precedents for this in paying to the predecessor of Mr. Marsh. Such, I have no doubt, was the intention of the law, but it is not provided for.

Mr. FOOT. My remarks were elicited by the terms of the amendment itself; it refers to a law. The committee intended to make this allowance in pursuance of that act, and under the legislative construction already given to it.

Mr. TOOMBS. The amendment of the honorable Senator from New York is precisely similar to one which I gave notice at the last session I would move if the one which I offered in regard to Mr. Schenck should be approved. Those two gentlemen, one from Virginia and one from Ohio, were engaged in the same missions. The gentleman from Ohio has now, as far as our action is concerned, obtained nearly all that was due to him. This is a very small matter; and I gave notice that I would move precisely the same amendment as the honorable Senator from New York has now moved. It is right.

Mr. WELLER. I think the difference is about this: Under the amendment which we made at the last session Mr. Pendleton has received every dollar we intended he should receive, but Mr. Schenck, by the construction given at the Department, failed to receive a large amount which we intended he should obtain. There is the difference. Now, I think the amendment is in order. This is the civil and diplomatic appropriation bill. The amendment proposes to pay for services rendered by these gentlemen in their diplomatic character. If it is not in order, I do not know what is.

The PRESIDENT. The Chair will put the question upon receiving the amendment of the Senator from Virginia.

The amendment was received.

The PRESIDENT. The question is now on the amendment of the Senator from New York to the amendment. The Chair believes that, also, to be out of order, but will submit it to the Senate.

The amendment was received.

Mr. WALKER called for the yeas and nays on the amendment to the amendment.

Mr. STUART. I desire to make an inquiry of the Senator from Georgia. I understood him to-day, when he offered the amendment for Mr. Schenck, to put it upon the ground that Mr. Pendleton had received a certain sum which Mr. Schenck, for some reasons, had not received. That amendment passed. Now it is proposed to give an additional sum to Mr. Pendleton. I should like to hear an explanation of it.

Mr. TOOMBS. I made the statement to show the injustice of the amendment presented by the Committee on Foreign Relations last session, and showed that Mr. Schenck, who was minister plenipotentiary to Rio, under the rule of compensation adopted by the committee, received $4,000, and Mr. Pendleton, a chargé, received $13,000.

Mr. BRODHEAD. Thirteen thousand dollars?

Mr. TOOMBS. Yes, sir; and a little over. I made an elaborate argument last session of Congress to show that the rule of compensation was wrong. I intended to show that the principle, for forty years, has been to give persons in such cases simply their outfit and their expenses. It was established in the time of President Monroe. Mr. Pendleton has received about $13,000. He received that with a protest against the rule of compensation. Now, we have put Mr. Schenck upon the proper rule of outfit. I desire to put Mr. Pendleton on the same basis.

Mr. MASON. At the last session of Congress, upon this question being brought forward by the Senator from Georgia, it was most elaborately discussed. He offered an amendment to pay both gentlemen a larger allowance than was proposed by the Committee on Foreign Relations. The Senate voted it down. The Committee on Foreign Relations proposed to pay each a per diem of twenty-five dollars for the time they were actually engaged upon the missions, and to pay them in addition, not only the expenses for which they could produce vouchers, but all other expenses were to be allowed upon their own certificate. It was stated at this session that Mr. Pendleton had settled his accounts at the Treasury, and that his per diem allowance had very far exceeded the per diem allowance made to Mr. Schenck; from which we could only infer that Mr. Pendleton had been more days employed in his mission than Mr. Schenck. The law was general that these two gentlemen should each receive the per diem allowance of twenty-five dollars. It was stated, and, I have no doubt, correctly stated, that Mr. Pendleton's per diem allowance far exceeded that of Mr. Schenck—I do not remember by what amount. The Senator from Georgia says that one received $13,000, and the other $4,000 or $5,000. I presume he is correct. Now, to-day, on the motion of the Senator from Georgia, the Senate determined to pay Mr. Schenck, according to my recollection, two outfits amounting to $18,000. The Committee on Foreign Relations were prepared to report a recommendation to the Senate that he should be allowed the same amount of per diem allowance that was made to Mr. Pendleton; but they were anticipated by the amendment of the Senator from Georgia. The Senate to-day ordered that there should be paid to Mr. Schenck two outfits amounting to $18,000. Then there is a law upon your statute-book authorizing him to receive twenty-five dollars per day for the time he was engaged; and here is that additional amendment to pay him $18,000. Now, I understand the Senator from New York to propose to pay Mr. Pendleton the sum of $10,000. That, I suppose, is in addition to what he has received; but, be that as it may, I shall vote against the last as I voted against the first.

Mr. SEWARD. The amendment which I have offered is for $18,000—not $10,000—deducting what has already been made, which is $13.000. That leaves $5,000, which is the amount that he will receive under this amendment. It places him entirely on the same footing with Mr. Schenck, in whose favor an amendment has already been agreed to.

Mr. WELLER. I never heard any complaint until to-day from Mr. Pendleton. I had heard that Mr. Schenck complained, and I believe he had just cause of complaint, against the injustice which had been done to him in the construction of the law passed at the last session of Congress, because under that, at the Treasury Department, there had been allowed to a mere chargé, Mr. Pendleton, a much larger sum than was paid to him, and he was a full minister. He had just right to complain of that; but the Committee on Foreign Relations were willing to place Mr. Schenck upon a fair and equal footing. The chairman was instructed by the committee to offer an amendment, which he has in his hand, to remedy the injustice which has been done to Mr. Schenck; but the Senator from Georgia to-day has moved to increase his compensation to $18,000, thus anticipating the action of the Committee on Foreign Relations. Now, upon the heel of that, the Senator from New York comes in and claims $18,000 for Mr. Pendleton, the chargé. Sir, I consider, if you will allow me to say so, that this is the grossest outrage that I have ever known to be attempted upon the public Treasury. I do regard it as public plunder. That is my opinion of it.

Mr. TOOMBS. I wish to put this thing right. We differ so much that it is sometimes possible for even a man as moderate as I am to use strong and extravagant terms about which he may be wrong. When I stated that what I moved had been the universal rule for forty years, I was mistaken. I ought to have said the most common rule. It was not universal because there were exceptions to it. I moved that Mr. Schenck be allowed the outfit of two independent missions which had been given for forty times by the Government; and I gave notice that if that passed, I would move the same for Mr. Pendleton, who was engaged in the same character and in the same service. Both failed. The Committee on Foreign Relations introduced an amendment to pay their expenses and twenty-five dollars a day. Well, their scheme is confessed by themselves to have been a failure.

Mr. MASON. Certainly not.

Mr. TOOMBS. I understand they want to amend it; for the gentleman says himself that by their rule a minister plenipotentiary got $4,000, a small amount, and a larger one was received by a chargé.

Mr. MASON. They were paid twenty-five dollars a day for their services, and what they received depended upon the number of days they were engaged; and I take it for granted, their own

statement was received. Now, if it resulted, as has been stated, and I have no doubt of it, that Mr. Pendleton received more as his per diem, than Mr. Schenck, it would follow that he had served more days than the other; and I will add what I learned from a conversation with those gentlemen, that Mr. Pendleton was negotiating with a Power within four miles of him; but they were in a state of revolution, and his per diem was increased beyond that of Mr. Schenck. I will ask the honorable gentleman from Georgia to do me the favor to hear what I have to say. There was no failure of the committee. The committee fixed the per diem, and the per diem regulated the amount; and if one received more than another, it was because one was a longer time engaged than the other.

Mr. TOOMBS. I have heard the explanation with pleasure, and I say it is a failure confessed by the committee. Let us see if I am wrong about it; and if I am wrong, I will hear the honorable Senator with the greatest pleasure, as I always do. They attempted to fix a just rate of compensation to public servants in a distant country. The principle on which they fixed it was so unsatisfactory, that the honorable chairman of the committee has told us, over and over again, that he proposes to remedy it. Am I right, or am I wrong? Therefore it is a failure. Well, I say, they reported an amendment to give twenty-five dollars a day. Now, it turns out that twenty-five dollars a day was not a just compensation, and the judgment of the Senate confirmed me in that to-day. They have voted an additional amount; therefore, I am not alone in my opinion that the Committee on Foreign Relations have erred. I mean no sort of disrespect for the honorable gentlemen upon that committee, for whom I entertain the highest respect, and especially for its chairman, for whom I have every respect, as a friend and a gentleman. But, I say, they have fixed a rule, by not looking at the working of the matter, which does not answer the ends of public justice; and they have honorably announced to the Senate to-day that they want to correct the error which they have made. I did not think their proposition would correct it, as fully as is consistent with justice, and I proposed to the Senate a rule which would do that. The Senate has adopted it; and now I only wish that the other gentleman shall have applied to him exactly the same rule which a majority of the Senate has said was right.

Mr. MASON. I will concede to the honorable Senator from Georgia that he obtained this victory, but I submit to him it was not over the Committee on Foreign Relations, but over the Senate. At the last session they voted down this proposition to pay double salaries, and at this session they have determined to do it.

Mr. WELLER. Allow me to state another reason which has occurred to me, why injustice is done to Mr. Schenck. Previous to the passage of that act, he had settled his accounts for expenses. Upon the passage of that act, the Department was authorized to receive certificates alone. As a matter of course, under the certificates, without any regular vouchers, Mr. Pendleton could receive a much larger amount than he could produce vouchers for. That is one reason of the inequality. The Committee on Foreign Relations did not pretend to discriminate. They desired to do justice to both of these public officers. A construction was given to the law by the Department, which was not anticipated by us, and which did injustice to one of these gentlemen. That we desire to remedy.

Mr. TOOMBS. I have listened with pleasure to the explanation of the honorable chairman of the committee, and of the honorable Senator from California. I do not think the chairman of the committee ought to consider a triumph of justice as my victory. God knows I wish no victory over any man. I simply desire that public servants shall get what belongs to them. I have claimed no victory; I desire none. The committee adopted a wrong rule. I tried to satisfy them; I tried to satisfy the Senate that it was wrong. I then failed; but the result of the experiment showed that the Senate made a mistake; and the Senate, with that magnanimity and justice that become the great representatives of a great country, repented of their error. That is all there is in it. I have sought no triumph. It is impossible that I could aim at one, but I say that the Committee on Foreign Relations, the honorable gentlemen who compose it, and who, I know, desire to do justice, had a complicated question before them in regard to two gentlemen who were called upon to do extra service. They were careful of the public money, probably over-careful of it. Their fault was an honorable fault; they erred upon the right side, a side upon which I could wish the Senate to err more than they do. But now being satisfied that they have done wrong, I would rather applaud the honorable gentleman for having triumphed over himself in admitting that they had done wrong, and now wish to do right. Sir, that is the noblest of all triumphs. Your committee have triumphed; they have made right triumph over wrong, and they have come here to-day and said that the rule which was adopted is not a good one, that it works unjustly, it works improperly, it departed from principle; and they have tried to remedy the mistake. I would to God I could remedy all mistakes in that way. Sir, he who never corrects any of his errors has an enormous load to carry with him to the next world, and he has lived to small purpose. I rather admire their triumph over themselves; I do not wish to deprive them of it. The committee have triumphed over themselves, and that is the greatest glory. They have admitted that the rule which they adopted has done injustice; they have desired to correct it. I merely seek now, as here are two gentlemen who have been in the same grade of service, and occupied the same rank in the new commission, to put them upon the same footing as regards compensation. They did the same work; they performed the same honorable service, and I want to put them on the same basis.

I will say a word here, which if I thought other influences might operate, I would not say. I think, whatever there may be of difficulty in our local transactions, that Mr. Schenck was a talented, honorable, and high toned representative of this country. I have met him, when I thought he was an Ohio man; I presume he thought I was a Georgia man. I admit that I love my own country better than any other; but, when Mr. Schenck went to Rio, he was there as an American; when he went to the De La Platte, he was an American; when he went to Paraguay, he preserved every interest of every part of this Republic. Commodore Perry when he went to the Eastern seas illustrating the great memories and the great and glorious name which he so honorably bears, was an American, and as an American I scorn to refuse the amount that it costs him in vindicating the common flag of a common country.

Mr. WELLER. Mr. President, I have no doubt these are all Americans, and that they are just as patriotic as the Senator from Georgia; but the isolated question presented here is, whether they have already received a full compensation for the services which they have rendered to this Government. I said, but a moment ago, that one of the reasons for this inequality between Mr. Pendleton and Mr. Schenck, was found in the fact that Mr. Schenck was compelled to settle all his accounts for his expenses upon strict vouchers, but by the passage of the law of last session a simple certificate was allowed to be received. Mr. Pendleton took advantage of that, and upon his certificate alone a much larger amount of money was allowed for his expenses than was allowed to Mr. Schenck. I know, sir, that they are both distinguished men; and from the knowledge I have of them, I doubt not nearly all the services in the mission were performed by the gentleman from Ohio, to whom the Senator alludes. I know him to be one of the ablest men in this country. He has diplomatic talents of the very highest order, and I doubt not, no matter who was associated with him, whether that associate came from Virginia or elsewhere, he was the master spirit of the negotiation. I am willing to pay him a just and fair compensation; but I say that Mr. Pendleton has received every dollar to which he is entitled upon any rule either of law or justice.

Mr. TOOMBS. I wish to state that the Senator is mistaken. I showed at the last session that a chargé on a special mission for his service is entitled to this amount. This amendment puts Mr. Schenck and Mr. Pendleton upon a precise equality. They were equal in authority with the British and French ministers in the country, although one was a captain and the other a colonel. They ought to be equal in pay. That has been the rule of the Government for fifty years.

Mr. WELLER. The only way in which to make them equal in pay is to pass the amendment proposed by my friend from Virginia. It is to allow Mr. Schenck the same compensation as was allowed in the settlement of the accounts of Mr. Pendleton, the gentleman from Virginia. That is the only way to do justice to these gentlemen.

Mr. TOOMBS. That would not put them exactly upon the same ground. The amendment offered by the Senator from New York puts them upon the true ground, that of equal pay. This amendment, and the amendment that I offered in the afternoon, will put both these gentlemen upon the ground on which they are entitled to stand in regard to their pay.

Mr. WELLER. My friend from Georgia is assuming what I think he has no right to assume, that the amendment which he has had placed in this bill, in Committee of the Whole, is going to become a part of the law of the land. He will find out whether it is or not. There are other questions to be taken upon that. I shall demand the yeas and nays upon it in the Senate, and I shall then appeal to the Senate to know whether, in justice, they will allow to this officer $18,000 for services which he never rendered.

Now, Mr. President, Mr. Schenck was a full minister from this Government. He received his outfit. He was in the receipt of his per annum compensation, and while he was discharging the duties of a Minister to Brazil he was sent upon this special mission for which the Senator from Georgia proposes to pay him $18 000. I shall vote for no such thing. I have as high regard for the gentleman from Ohio as the Senator from Georgia possibly can have. He is associated with all my early recollections. Although differing widely in politics we were associated in boyhood, and I would not take advantage of my position here to inflict the slightest injustice upon him. He is an American in every sense of the word, whether at home or abroad. His heart is devoted to the best interests of the country; but that is no reason why we should vote in favor of allowing him compensation for services which I know he has not rendered; nor is it any reason why we should give to the gentleman from Virginia a large amount he never dreamed of claiming for his services until the Senator from Georgia got his amendment in this bill this afternoon. Then, sir, he discovered that there was a chance of getting an extension of the very liberal appropriation that was made to him at the last session.

Mr. TOOMBS. Will the honorable Senator from California allow me to correct his extraordinary statement?

Mr. WELLER. Certainly.

Mr. TOOMBS. I will state that Mr. Schenck, by memorials now on the files of the Senate, and also Mr. Pendleton, demanded these two outfits equal to the very amount which the Senate passed to-day. I, as a friend of Mr. Pendleton, voted against the amendment which the chairman of the Committee on Foreign Relations reported at the last session.

Mr. WELLER. I am well aware of that.

Mr. TOOMBS. I wish to state that I voted against the compensation which was made by the Senate at the last session because it violated a rule of right. It passed against my vote and against the wishes of Mr. Pendleton. It did not do him justice. As for saying that he was put up to the idea of getting the compensation by the amendment which was made by the Senate this afternoon, the Senator from California is wholly mistaken. He makes a statement in which he is utterly at fault.

Mr. WELLER. At the last session of Congress both of these gentlemen presented their memorials to the Senate. They were referred to the Committee on Foreign Relations. The Committee made a report. Their amendment was agreed to. Under the operation of that amendment, it has been claimed that Mr. Pendleton, a gentleman from Virginia, had received a much larger amount of money than was allowed to Mr. Schenck, a gentleman from Ohio; and what I say is, that at this session of Congress, Mr. Schenck has presented his memorial, very justly complaining against the injustice that has been done to him. That memorial was referred to the Committee on Foreign Relations; but not a word, sir, had been heard from Mr. Pendleton until the amendment of the Senator from Georgia was put upon the bill to-day. That is what I say.

I understand the Senator from Georgia to dispute the facts. I assert, that although Mr. Schenck had complained, and, as I said, very justly, and that complaint has been sent to the Committee on Foreign Relations, and they were prepared to report upon it, not one word was uttered by Mr. Pendleton until the amendment was put upon the bill this afternoon.

Mr. PETTIT. I must be allowed to say, in opposition to what the Senator from California says, that Mr. Pendleton, in private conversation, very early in the session, repeatedly said to me that he should apply for further pay and compensation. He said the difference between him and Mr. Schenck was, that he had taken what he was entitled to by the provision of last session under a protest, but that Mr. Schenck had rejected the whole. He said he should come here again and again, until a further allowance was made.

Mr. WELLER. The only way in which a public officer can complain of the action of this Government, is by sending a memorial to Congress where he can have it referred to a committee. Mr. Pendleton and Mr. Schenck came here last year with sundry complaints, which were referred to the Committee on Foreign Relations. They reported upon it, and the Senate acted upon it. Mr. Schenck, considering that injustice was done to him, has come back again; but I say that, so far as the Senate is concerned, so far as the Committee on Foreign Relations is concerned, they have never heard a word of complaint from Mr. Pendleton, of Virgina, until to-night. He may have made the statement to the Senator from Indiana, which he says he did. I do not doubt that he did so. He might have told other Senators that he intended to make an application in the event that Mr. Schenck got more money. I do not deny that; but I say he never came before the Senate claiming any additional compensation until the Senator from Georgia had, to-day, an amendment made, allowing Mr. Schenck $18,000 more. I have no disposition to continue the discussion. I have said enough to show that while I am disposed to do justice to both of these public officers, I am not willing to allow them an amount of money which, in my judgment, they have never earned. An amendment was proposed by the Senator from Georgia for Mr. Schenck; that was put upon the appropriation bill; then comes the Senator from New York—I know not whether by arrangement or otherwise—and offers to increase the compensation of Mr. Pendleton.

Mr. TOOMBS. Allow me to supply the Senator's lack of information. I did not know that the Senator from New York was going to offer this amendment. I thank him publicly for having done so.

Mr. WELLER. Then the Senator from New York acted upon the assumption that if the Senate would increase the pay of Mr. Schenck to $18,000, they would be equally liberal in giving $18,000 to Mr. Pendleton, of Virginia. I say, Mr. President, that Mr. Pendleton has been fully paid for all the services he ever rendered to this Government. In my opinion, Mr. Schenck has not been paid. In my judgment, he is entitled to a larger compensation than was allowed him at the last session, but not to the extent of $18,000. I cannot go with the Senator from Georgia for that, because, in my judgment, it would be manifestly improper; but, Mr. President, I have no disposition to continue the debate.

POST ROUTE AND MILITARY ACADEMY BILLS.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that they had passed a bill to alter and establish certain post routes; also, that they had disagreed to the amendments of the Senate to the bill making appropriations for the support of the Military Academy for the year ending the 30th of June, 1856.

Mr. HUNTER. I have consulted with the chairman of the Committee on Military Affairs, [Mr. SHIELDS,] and we have agreed that we had better recede from the amendments to the Military Academy bill, to which the House have disagreed, so that we may close up the matter. I submit that motion.

The motion was agreed to.

CIVIL AND DIPLOMATIC BILL—AGAIN.

The Senate resumed, as in Committee of the Whole, the consideration of the civil and diplomatic appropriation bill.

Mr. BRODHEAD. I have a document in my hand, furnished by the State Department, which will perhaps throw some light on this subject, especially upon the amendment offered by my friend from Virginia. These three gentlemen, Mr. President, were all appointed when General Taylor came into office. They are all highly honorable and talented gentlemen. I take it for granted they will get all the money they want, because they are our associates. We all respect them; they are not like other claimants who are obliged to set up in the galleries; they have the privilege of this floor; they are entitled to it. They are highly honorable gentlemen, and hence, I suppose, from their social relation with us, they will get pretty much what they want.

Let us take up Mr. Marsh in the first place. He was appointed minister resident to Turkey on the 29th of May, 1849. His pay commenced on the same day. On the 21st of September, of the same year, he took his departure, and on the 11th of March, 1850, entered upon the discharge of his duties. This document is furnished by the State Department; and it shows us that it was not until nearly one year after his salary commenced of $6,000—I think that is the salary of the minister resident—that he entered upon the discharge of his duties. He remained from spring until September in this country, enjoying the salary before he went; and then, I suppose he tarried in Paris or London, or some other place, for I take it for granted it did not take him from September to March to reach Turkey. Therefore, nearly one years' salary was received before he entered upon the discharge of the duties of his office. That is the case of Mr. Marsh.

Mr. TOOMBS. I suggest to the Senator to argue that case when it comes up; that is not the question that is now pending.

Mr. MASON. Some gentlemen of the Senate cannot exactly keep before their minds what is before the Senate. I offered an amendment to make compensation to Mr. Marsh; and that is the one to which the Senator from Pennsylvania is alluding.

Mr. TOOMBS. But the pending question is on an amendment to that.

Mr. MASON. If the Senator will allow me, I will state it. The Senator from New York proposes to amend that amendment by making compensation to Mr. Pendleton. The case of Mr. Marsh is before the Senate.

Mr. BRODHEAD. We have an amendment to the amendment before the Senate. I mention these facts for the purpose of showing under what circumstances these gentlemen were appointed to foreign missions. No doubt they were very glad to get them; because under the old practice, which we have very properly abolished, they could remain in the country, enjoying themselves for sometime after their appointment, and then take their own time to get to the place to which they were sent, and enter upon the discharge of their duties. Now take up Mr. Pendleton. He was appointed to the Argentine Republic in February 27, 1851. His pay began on the same day. On the 9th of June, in the same year, he took his departure. On the 21st of September he arrived at his place of destination. His salary, of course, began the day he was appointed, and continued from that time. He was appointed February 27, 1851, and reached his post in September, having remained at home until the 9th of June, 1851; so that during the summer he remained at home on his salary.

Mr. Schenck was appointed March 12, 1851. His pay began on the same day. He took his departure on the 8th of July, 1851, and August 9th, 1851, arrived at his post of duty. These two gentlemen, while they were in the public service, were directed to unite and to proceed somewhere up the Paraguay river. I do not know how they got up—I suppose by canoes or boats. I do not know how they found the country, but I think they ought to be well paid for finding it. They proceeded on their way, and made treaties. What do we do? We allow them their salary while they are in the performance of these extra services. Their salary goes on, and we pay Mr. Pendleton for the extra services $13,000. Recollect, sir, that is added to his regular salary, while he is in the service. I am willing to pay Mr. Schenck also, but not quite $18,000. He received $9,000 outfit, and $9,000 a year, and an infit also of about $3,500. To that we are now to add $18,000, or two more outfits, because he happened to visit two countries down in South America somewhere, and make treaties. I suppose, sir, they were Indian tribes down there, for they are but little more, with whom he made the treaties. Mr. Pendleton has received $13,000 besides his regular pay as a chargé. If I am correctly informed that is the truth, and now we are to pay him how much more? Five thousand dollars more. I do not know how long they were on this special service. I do not suppose it took them more than two months; but we are to pay Mr. Pendleton $21,000 for making a treaty, or assisting in making a treaty with some Indian tribes down in South America somewhere. That is the sum and substance of it. I have nothing more to say.

Mr. SEWARD. I am somewhat surprised at my honorable friend from Pennsylvania attacking the late Minister at Constantinople for having received pay, according to the law of the land, from the time when he was appointed to the period when he arrived at the place to which he was accredited.

Mr. BRODHEAD. I beg leave to explain to my friend from New York that I attack nobody. I stated a fact, and then I asked whether we ought to give the extra compensation.

Mr. SEWARD. Certainly; I understood no attack was made by the Senator except in a Pickwickian or senatorial sense. I wish my honorable friend to answer me a question. The Hon. James Buchanan, now Envoy Extraordinary and Minister Plenipotentiary of the United States to the Court of St. James, received a salary equal to between $3,000 and $4,000 while remaining in this country after the date of his commission, and before he departed for Great Britain.

Mr. WELLER. What has that to do with this question?

Mr. BRODHEAD. When Mr. Buchanan asks for extra pay, we shall discuss and settle that question.

Mr. SEWARD. Very well, sir; here is no demand for extra pay. In the next place, my honorable friend complained because these gentlemen have the privilege of this floor.

Mr. BRODHEAD. Not at all.

Mr. SEWARD. Is that their fault, or is it a fault at all? Is a censure to be cast upon those who have the privilege of this floor, because they have heretofore been members of Congress?

Mr. President, I leave the case of Mr. Marsh to rest upon the report of the Committee on Foreign Relations, that is sufficient for that purpose. I am in favor of the amendment providing for Mr. Marsh. What I wish to say in regard to Mr. Pendleton is this: It is said that he has received $13,000 of extra pay, beyond his proper pay as chargé. What Mr. Pendleton has received, under the law of last session, is $7,000, and no more, for his services, his extraordinary services, entirely aside from the commission under which he was acting as resident minister. He has received $7,000 compensation for those services, and $6,000 for his expenses at three different courts, entirely distinct from the court or place where his original mission was to be fulfilled; and those duties he performed under the order of the Government. Then he has received no extra pay whatever, except $7,000. That $7,000 was accorded to him under a law, of the benefit of which he availed himself, and if others did not know that he did not regard that as a full satisfaction of his claim for these extraordinary services, I did, from the time the law was passed until this day. Mr. Schenck is further alleged to have been a minister, and Mr. Pendleton only a chargé at the place where he was accredited; but Mr. Pendleton was associated equally in rank, dignity, power, and authority with Mr. Schenck in the extraordinary mission to three other courts at which these negotiations were held. Therefore, he stands precisely on the same footing with Mr. Schenck; we have decided that Mr. Schenck was entitled to the extra compensation; and this amendment only does the same justice to Mr. Pendleton, in extending to him the benefits of a provision which have already been given to Mr. Schenck.

Mr. MORTON. If I understand this question aright, Mr. Schenck was appointed Minister to Brazil, and Mr. Pendleton was Chargé to the Argentine Republic. During the time they were

discharging the duties of their missions, they were called upon by this Government to go to some distance and perform other services as commissioners or ministers. For the payment of these services, at the last session of Congress, a provision was put into the civil and diplomatic appropriation bill, to the effect that they should receive twenty-five dollars per day, and also their incidental expenses. That appears not to have been satisfactory to Mr. Schenck or Mr. Pendleton. The Committee on Foreign Relations, as I understand it from their chairman, propose giving Mr. Schenck a larger amount. The Senator from Georgia proposed an amendment to this bill, which has been adopted, whereby Mr. Schenck will be paid outfits as full minister, upon his new mission to two separate courts where he made treaties. Whether the arrangement made at the last session of Congress was just or equitable to these ministers, I am not prepared to say; but inasmuch as the Senate has determined to pay Mr. Schenck $18,000 as an outfit to these courts, the same measure of justice should be extended to Mr. Pendleton. In the extraordinary missions on which they were sent they were equal. They performed the same duty. They were perfectly upon an equality, although Mr. Schenck was a full minister to the court to which he was first sent, viz: Brazil, while Mr. Pendleton was only a chargé at the Argentine Republic. I repeat, when they went upon these extraordinary missions, if I understand it aright, they were perfectly upon an equality. They were equal, and performed the same extraordinary services, under the order of the Government, which services did much for the interest and honor of the country, and they should, therefore, receive the same compensation. What that compensation should be, as I before remarked, I am not prepared to say, but whatever Mr. Schenck received Mr. Pendleton should receive. The Senate, by a vote in the early part of the day, has decided that the per diem was not a sufficient compensation for Mr. Schenck, and, therefore, agreed to pay him $18,000. Mr. Pendleton was his equal in the missions; he discharged the same duties; they together negotiated treaties which have been highly honorable and beneficial to the country, and, therefore, I say, whatever one minister receives the other should be allowed. It matters not about this extra compensation of $18,000. Whatever Mr. Pendleton has received is to be taken from it; and he will be placed upon a perfect equality with Mr. Schenck. I believe, sir, that is the correct view of the question. If Mr. Schenck receives $18,000, surely Mr. Pendleton should not receive less. If we make a different provision for one from what the Committee on Foreign Relations reported at the last session, the same provision should be made for the other. To discriminate between them would be manifestly unjust.

Mr. BADGER. I am afraid that this question may be disposed of with too little being said about it. I therefore beg to add a few words, to use a senatorial expression, to what has been said by others. I think my young friends from California and Georgia have permitted themselves to become excited in this discussion, and, therefore, do not perceive, as I think, exactly the question which is presented for the consideration of the Senate. I understand the case to be this: Two gentlemen, who occupied the situation of foreign ministers or foreign agents, were, by the direction of the Government, united in one diplomatic commission, to two other Governments or courts. They executed the commission in which they were united; and I understand that, under such circumstances, it is the general custom of the Government to allow an outfit to the commissioners who are sent upon these special services. If so, it seems to me to follow necessarily that the outfit ought to be allowed to these gentlemen, and to both of them equally, irrespective of the positions which they held under their previous appointments. They were joined in their new commission. They were then diplomatic agents of the country abroad. The custom of the country has been, by way of awarding compensation for the special services, to give an outfit. That is the whole affair. No reason has been assigned, that I have heard, why we should depart from the custom in these cases. The amendment which is now under consideration to the amendment proposed by the Senator from Virginia will give that outfit to Mr. Pendleton.

Mr. MASON. Each Senator assumes his own facts, as I understand it, and the honorable Senator from North Carolina assumes his facts.

Mr. BADGER. We all assume our own facts, of course.

Mr. MASON. He says it has been the invariable custom of this Government to make such allowances.

Mr. BADGER. I said it had been the general custom of the country.

Mr. MASON. Well, sir, the general custom, the Senator states, has been when a minister has been sent on an extraordinary service, to give him a special outfit. I am not aware of such a custom. There was a precedent set two years ago which we did not consider in point. It was the case of a gentleman from Maryland, who was sent as Minister to New Granada or Nicaragua, Mr. Kerr. He was accredited, by proper credentials, to the Central American Government. These gentlemen were not accredited to any Government, but were sent to negotiate treaties, and we did not propose to give them an outfit. The Senate may dispose of it as they think proper; but the question comes to this at last; there is no law for paying these gentlemen; the law is to be made for the occasion; and if the Senate chooses, upon such information as they can obtain from various sources, to overrule the judgment of the committee, I shall not be the man to complain.

Mr. RUSK. I had occasion, during the last session of Congress, to examine this matter. I went into it at some considerable length. I feel satisfied that this amendment ought to pass. As everybody knows, there was a long discussion upon the subject last year, when the Committee on Foreign Relations reported an amendment to the civil and diplomatic appropriation bill. It was then contended by many gentlemen that that was an inadequate compensation. The amendment, however, was agreed to. These gentlemen were both in the diplomatic service—one as minister, and the other as chargé d'affaires. They were ordered by the Government to go to other Governments than those to which they were accredited, for the purpose of making treaties. It was regarded by this Government, and also by the Governments of England and France, as important in the opening of that South American territory, that there should be treaties with the Governments there. These men were ordered, therefore, from their positions, to go upon this extraordinary service, which they performed to the entire satisfaction of every one. They carried out the instructions of the American Government. As I understand it, they went in company with the British and French ministers, and made as good treaties, if not better, than the other Governments did. One honorable Senator has said that they found some Indian tribes there. Well, sir, they were that sort of Indian tribes that the President of the United States thought it was necessary for us to have treaties with, and it was thought desirable by the Governments of England and France that we should get no advantage in the treaties with them. If there was a fault committed by the President it was not the fault of either of these gentlemen.

If the President had appointed two new chargés, or two new ministers, and sent them out for this express purpose, the expense would have been much larger than is claimed to be paid to these gentlemen. Under the circumstances, situated, as they were, in a foreign country, where it was impossible to keep their accounts, and where they had considerable traveling to do, we cannot expect them to present vouchers for all their expenses. I think the United States lose nothing in granting the allowance asked for by the amendments. The amendment that was made last year was against their protest I know, and I voted against it. I voted, at the last session of Congress, for the amount which is now proposed.

I regret that a comparison has been drawn in the Senate between these two gentlemen. I know very little of them. I met them some years ago; and what I saw of them convinced me that they are both gentlemen of high respectability and talent. The allowance seems to me, Mr. President, as not at all extravagant. If they had been sent from here, as I stated before, the expenses would have been much larger; but they were drawn from the courts to which they were originally accredited to perform the duties; and no complaint is made that they did not discharge them properly. Then, sir, we shall lose nothing, in money or reputation, by paying them what is claimed.

Mr. HUNTER. I rise merely to suggest that it will be necessary to take the question without much debate, so as to close this bill in time to have it acted upon and sent to the other House to-night.

Mr. MASON. I desire to add a few words, which escaped me before, but which I am reminded to say by the remark of the honorable Senator from Texas. I regret, with him, that the Senator from California went into any comparison of the merits of these two gentlemen. One is from Ohio, and the other from Virginia. They were both placed upon the same footing. They are both honorable men; and I take it for granted that they discharged their duties properly. I have not the pleasure of an intimate acquaintance with the gentleman from Ohio; I have known for years Mr. Pendleton, the gentleman from Virginia. He is a gentleman of intellect, and a gentleman of address, perfectly competent to perform the duties of any mission on which he should be sent, so far as I can determine, and I regret very much that the Senator from California has thought it right to institute any comparison between them.

Mr. WELLER. The only apology that I have to offer is, that that is my deliberate opinion, and I saw proper to express it. That is my opinion of the ability of the two gentlemen.

Mr. MASON. Having said that, I will add this: I voted against the appropriation for Mr. Schenck, of Ohio, but it was carried. I shall vote against the appropriation for the gentleman from Virginia, Mr. Pendleton. My opinion is unchanged.

Mr. BROWN. I shall vote for this amendment; and as I shall probably differ from some of my friends upon that subject, I desire to say, without protracting the debate, why I mean to do it. I have nothing to say as to the respective mental abilities of these two gentlemen. I had the honor to serve in the House of Representatives with them; and I think they are both gentlemen of a very high order of talent. The Administration which sent them abroad showed a great deal of discrimination in selecting such gentlemen. When that Administration chose to transfer them from one place to another in the discharge of high diplomatic duties, I take it for granted it had a pupose in doing so. What was that? To avail itself, and the country, of the advantage which their experience would give. Now, sir, if it had taken new men from home and sent them to each one of these missions, what would you have got? Certainly no higher order of service than you did get, because you got everything which the Administration sought. What would it have cost you? Precisely what you are now asked to pay. They were selected because they had the native ability and the experience which would enable them to conduct the negotiations successfully. You are asked now to pay no more than would have been required if other men had been appointed instead of these, and sent from this country for the special purpose.

Mr. PRATT. It is less by the amount of the salary.

Mr. BROWN. The Senator says it is less. I should be willing to pay quite as much as it would have cost to send an independent mission to each of the courts. Through the negotiation we obtained important advantages. We obtained them through the talent, the energy, the skill, the ability, and the experience of those gentlemen, and it would be disgraceful to the country not to pay for them. That is my judgment.

Mr. PRATT. My vote depends upon a question of fact. As I understand from the Senator from Georgia, it has been the general practice of the Government heretofore, where a minister of this Government has been accredited to one foreign country, and he has been directed to go to another, for the purpose of some diplomatic agency, to pay him the outfit. That has been the general practice heretofore.

Mr. TOOMBS. I am glad the Senator has asked the question, for it corrects the honorable chairman of the Committee on Foreign Relations. I assure the Senator I have the report of Mr. James Monroe, and that has been, not the universal, but the ordinary practice of the Government for forty years. I can show that report, and any gentleman can ascertain that that has been the

custom for the last forty years. The Senator from Virginia cannot show three exceptions in that time to that rule.

Mr. PRATT. Then, if that be true, unless the honorable Senators composing the Committee on Foreign Relations of the Senate can show that that has not been the general practice, I submit to you, sir, and to every Senator on this floor, whether there is any reason why we should make these gentlemen an exception from that general practice. If, according to the antecedent practice of the Government, these parties were entitled to this outfit, I submit that there is no reason apparent from anything which has been said why they ought to be excluded from it. Unless, therefore, that statement is corrected, I shall vote for the amendment.

Mr. MASON. As to the practice of the Government, I say again, there is no law to pay for these extra services. Each case stands upon its own merits. It is a question of *quantum meruit*.

Mr. TOOMBS. I never stated that there was a law. I said it was the rule of the Government. I have stated that Mr. Clay, Mr. Monroe, Mr. Bayard, and the great majority of our diplomatic agents, in such circumstances, had that rule applied to them. I did not say that it was universal; but I do claim that, in a majority of cases, that rule has been applied for forty years, and if the argument is continued, I will produce the documents before the Senate.

Mr. MASON. I did not say that the Senator from Georgia stated there was a law. I say there is no law prescribing payment for these extra services. The Senator from Georgia adduced all these instances at the last session, and he was overruled. I repeat, sir, the case is one of *quantum meruit*. Each Congress determines for itself what compensation shall be given for extra services. Take the ordinary case of our secretaries of legation who are made chargé d'affaires *ad interim*, or chargés who are made ministers *ad interim;* sometimes we grant outfit, sometimes not. If you will look at the cases you will find that they preponderate on one side or the other, but each case stands on its own merits. There is no invariable usage about it. In this particular case the committee thought that in measuring the compensation with the extent of the services they had done these gentlemen justice. That is all I have to say.

The question being taken on the amendment to the amendment, resulted—yeas 25, nays 15; as follows:

YEAS—Messrs. Allen, Badger, Bell, Benjamin, Brainerd, Brown, Cooper, Dawson, Foot, Geyer, Gillette, Gwin, Houston, Jones of Iowa, Morton, Pearce, Pettit, Pratt, Rusk, Seward, Thompson of Kentucky, Thomson of New Jersey, Toombs, Wade, and Wright—25.

NAYS—Messrs. Bayard, Bright, Brodhead, Butler, Chase, Dodge of Wisconsin, Evans, Jones of Tennessee, Mason, Slidell, Stuart, Toucey, Weller, Wells, and Wilson—15.

So it was agreed to, and the question recurred upon the amendment of the Committee on Foreign Relations as amended.

Mr. FOOT. I have an amendment to offer to the amendment. It is one which I intended to offer before the Senator from New York offered his. It is to strike out $4,500 and insert $9,000 so that the compensation to Mr. Marsh, for his services in the extraordinary mission on which he was sent from the Government to which he was regularly accredited to the Government of Greece, will be $9,000 instead of $4,500. I have but a few words to say in reference to this amendment. I am not subject to the imputation of overtalking upon any subject, and I have had sufficient parliamentary experience, I believe, to have learned, long since, better than to kill my own proposition by overspeaking.

Mr. Marsh, while resident minister of this Government at Constantinople, was directed and instructed by the Government to proceed to the Government of Greece to examine into certain complaints which had been preferred against that Government by an American citizen, touching his rights of property and his rights of personal liberty. Mr. Marsh, in pursuance of the instructions, went to Greece. He was instructed to make a report upon the case, and after making his report to remain subject to the further order of this Government. He was occupied in the investigation and the report of the case, under his instructions, for eleven months and one week—twenty-five days only short of one full year.

The character of the special mission upon which he was sent, involved an unusual and extraordinary amount of labor. It necessarily involved a critical examination of the civil and criminal laws of that country. It involved the necessity of translating and transcribing a vast amount of manuscript testimony, judicial documents, and judicial records from the language of the country, with which Mr. Marsh happened to be quite familiar, as I may say he is familiar, with most, if not all, of the languages of Europe, modern and ancient.

All then that I ask for this year's service, lacking twenty-five days only, is the sum of $9,000. I care not whether you call it an outfit, or a salary, or *quantum meruit*. I do not wish you to depart, in the case of Mr. Marsh, from the ordinary practice of the Government in such cases; I do not wish you to depart from the rule adopted by the Government in allowing compensation for these extraordinary services of foreign ministers, who are sent on extraordinary missions, outside of, and foreign to, the Government to which they were originally accredited. If you adopt the rule in the case of Mr. Marsh, which you adopted last session of Congress, of allowing the per diem of twenty-five dollars, as in the case of Mr. Pendleton, holding the position of chargé, a lower commission than that which was held by Mr. Marsh at Constantinople, it would amount to $8,500, within a fraction of the sum proposed by my amendment. If you adopt the rule of compensation which is stated to have been the ordinary rule adopted by the Government in similar cases, of what is sometimes an outfit, for a full mission, of $9,000, it would be quite satisfactory, I presume, to Mr. Marsh; but I may be allowed to say here that the sum proposed by the committee, $4,500, is hardly a remuneration to Mr. Marsh for his breaking up, as necessarily he had to break up, his domestic arrangements at Constantinople, and his being obliged to dispose of a large amount of valuable property, horses, furniture, &c., because the uncertainty of the time which he would be required to remain at Greece forbade his making permanent arrangements for remaining there. This subjected him to a larger expense than he would otherwise have had to encounter. I trust, certainly, after the precedents which we have had in other cases on this bill, at the last session, and after the precedents which we have had from the commencement of the Government, my proposition will meet with the acceptance of the whole Senate.

Mr. COOPER. There is no possible reason for any discrimination against Mr. Marsh. The rule established by the Senate in the case of Mr. Schenck and Mr. Pendleton, of course, ought to be carried out. The services performed by Mr. Marsh were of quite as arduous a character as those performed by the two gentlemen to whom I have referred, and for whom provision has been made. I think the provision which has been made for those gentlemen for the services which they performed, it being in accordance with the precedents running almost from the beginning of the Government to the present day, was proper. As remarked by the honorable Senator from Vermont, Mr. Marsh's mission required the examination of voluminous records, and a large amount of testimony in a foreign language. It involved the necessity of making himself acquainted with the laws of that country, and fitting himself to comprehend and advocate them. This kind of service ought to be compensated fairly, and as there is no rule, even that established last session for the payment of Mr. Schenck and Mr. Pendleton, but what will assure to Mr. Marsh almost the amount proposed by the amendment of the Senator from Vermont, I trust there will be no objection to it. It is but simple justice. It is putting this minister on an equality with other ministers. If we were to make a discrimination in the same session, within the same hour, it would involve us in an amount of inconsistency that would be discreditable to us, to say nothing else.

Mr. MASON. It is a very ungracious office to assume to endeavor to administer this Government with economy. The Senate have twice to-night overruled the Committee on Foreign Relations in making extra allowances for extra services in foreign lands; and I am free to admit that the proposition made by the Senator from Vermont is in strict accordance with the precedents which the Senate have set. I shall vote against it. My opinions are unchanged; but it is in accordance with the precedents which have already been set.

Mr. WELLER. I have only to say that I hope the amendment offered by the Senator from Vermont will be adopted. From the examination which I have given to the case of Mr. Marsh, I have come to the conclusion that he has peformed more distinguished services than either of the gentlemen who were alluded to a few minutes ago. I know of no more faithful representative abroad than Mr. Marsh. I know of no man who was placed in a situation where he was able to render us more efficient services. If the Senate determine to pay from ninety to one hundred dollars a day to foreign agents, I will join them in it. Every one knows I am liberal in my views in regard to the compensation of our agents, both at home and abroad. As I desire, after awhile, to move to increase the salaries of some officers in my portion of the country, I hope the very liberal gentlemen upon the other side, who have been voting for these allowances to-night, will be found voting with me. I go for the highest sum named.

Mr. FOOT's amendment to the amendment was agreed to, and the amendment, as amended, was agreed to.

Mr. RUSK. I desire to appeal to the Senate to act upon a bill which has come from the House. It is the bill in regard to post routes. The clerks will not have a single moment's leisure between this and the adjournment, and I am requested to ask the Senate to take it up and pass it now.

Mr. WELLER. I desire to offer some amendments to that bill. I shall move a provision for the establishment of a post route from San Francisco to St. Louis.

Mr. MASON. I have some more amendments which I am instructed to offer by the Committee on Foreign Relations, to pay to secretaries of legation the difference between their salaries as secretary and their salaries as chargé d'affaires when they were left in charge of the legation by instructions from the Government of the United States. This difference of salary has always been allowed them. The cases all stand on the same footing; and I shall offer them at the same time, and the vote can be taken upon all unless some Senator objects.

For compensation to William Rich, as acting chargé d'affaires in Mexico, from the 2d day of August to the 30th day of November, 1852, three months and thirty days, which shall be in full for all demand for such services for the period named, $830.

For compensation to C. E. Henderson, as acting chargé d'affaires at Paris for seven months and twenty-nine days, from the 1st day of July to the 27th day of November, 1837, which shall be in full for all demands for such services for the period named, $1,659 72.

For compensation to Horatio J. Perry, as acting chargé d'affaires at Madrid, from the 3d of July to the 24th of October, 1852, from the 11th day of May to the 21st of June, 1853, and from the 4th of September to the 21st of October, 1853, an aggregate period of six months and twenty-two days, which shall be in full for all demands for such services for the period named, $1,402 75.

For balance of compensation to Robert M. Walsh, as acting chargé d'affaires in Mexico, in the years 1848 and 1849, which shall be in full for all demands for all such services during that period, $8,333 33.

For compensation to Joseph Graham, United States consul at Buenos Ayres, as acting chargé d'affaires at that place, from the 3d of August to the 11th of September, 1852, and from the 25th of November, 1852, to the 20th of March, 1853, an aggregate period of five months and ten days, which shall be in full for all demands for such services, $950 50.

For compensation to Ferdinand Cox, as acting chargé d'affaires to Brazil, from the 2d of May, to the 6th of August, 1853, a period of three months and four days, which shall be in full for all demands for such services for the period named, $729 17.

That the Secretary of State cause the accounts of Joseph Eve, deceased, late chargé d'affaires of the United States to the late Republic of Texas, to be audited and adjusted by the proper accounting officers of the Government, and that the amount found due thereon be paid to Betsey W. Eve, widow of said Joseph Eve, out of any moneys in the Treasury not otherwise appropriated.

All these cases have been submitted to the Department of State, and the facts on which they are founded are fortified by the Department. I suggest that a vote be taken upon all together.

The amendments were agreed to.

Mr. MASON. I now offer a number of amendments, which are all of one class, for compensation to consuls who have acted as chargé d'affaires. They have been criticised by the Department of State, and the facts have been verified:

For compensation to John P. Brown as acting chargé d'affaires at Constantinople for twelve months and nineteen days, between the 30th day of July, 1852, and the 31st day of January, 1854, which shall be in full for all demands for such services for the period named, $2,116 12.

For compensation to George W. Lippitt, United States consul at Vienna, for taking charge of the archives of the United States legation at that place, and performing diplomatic services from the 13th day of October, to the 10th day of December, 1852, and from the 21st day of May to the 13th day of September, 1853, an aggregate period of five months and twenty-one days, $1,075 10.

For compensation to Henry Savage, United States consul at Guatemala, for his services in taking charge of and preserving the archives of the former legation of the United States at that place, and communicating to his Government at home regularly useful and highly important information during the several intervals of from February, 1830, to November, 1833, from May, 1842, to November, 1848, and from May, 1850, to February, 1854, an aggregate of fourteen years, during which the United States had no other diplomatic or consular agent at that place, $14,000.

For compensation to Peter Parker, as acting chargé d'affaires at Canton, in China, from the 24th day of May, 1852, to the 31st day of January, 1853, and from the 27th day of January, to the 14th day of April, 1854, an aggregate period of ten months and twenty-five days, which shall be in full for all demands for such services for the period named, $1,805 54.

The amendments were agreed to.

Mr. MASON. The next amendment which I am instructed by the Committee on Foreign Relations to offer, is a very small one, of a different character, which I can explain in a moment. It is to add the following additional section:

SEC. —. *And be it further enacted*, That so much of the act entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending 30th June, 1853, and for other purposes," as provided for compensation to certain subjects of Spain, at New Orleans and at Key West, shall be construed to embrace any losses sustained on the same occasion by Michael Papenitza.

Three years ago Congress authorized compensation to be made to certain Spanish subjects, for losses sustained by riotous demonstrations at New Orleans and Key West. Among the sufferers on the occasion, was one unfortunate Austrian, who cannot be paid because he is not a Spanish subject. His whole claim does not exceed $200. This is to place him in the position which he would have occupied if he were a Spanish subject.

The amendment was agreed to.

Mr. MASON. I have one more amendment, but I do not offer it by authority of the Committee on Foreign Relations:

SEC. —. *And be it further enacted*, That nothing contained in the ninth section of the act entitled "An act to remodel the diplomatic and consular systems of the United States," passed at the present session of Congress, shall be so construed as to prohibit the appointment as consul or commercial agent, under the provisions of said act, of any person who may have held said office when said act passed, and who, though not a citizen of the United States, shall have heretofore resided therein, and shall have married a citizen of the United States.

This is designed to effect but a single case under the diplomatic and consular bill which was recently passed, and has now been approved and become a law. That law provides that none but an American citizen shall be a consul or a commercial agent. There is a gentleman abroad, our consul at Leghorn, who, although he resided in the United States, and took the preliminary steps to become an American citizen, had not completed them when he went abroad. He married while in this country a lady of South Carolina. The object of this amendment is to make a single exception to the general rule, and to provide that the requirement alluded to shall not be construed to extend to a foreigner who has resided in the United States, and married an American wife, and now holds office.

Mr. BUTLER. I think this amendment will be unanimously adopted when I make a very brief explanation. Mr. Sanford, our late Secretary of Legation at Paris, told me that Madame Binder—the lady alluded to by my friend from Virginia—had exercised a more powerful influence abroad in favor of Americans than almost any person with whom he had been associated. All I have to add is that she is the granddaughter of General Sumpter of the Revolutionary Army.

Several SENATORS. That is enough.

The amendment was agreed to.

Mr. PEARCE. I am instructed by the Committee on the Library to offer sundry amendments. The first is:

To enable the Commissioner of the Public Buildings to provide additional furnaces for the Library of Congress, $1,000.

The amendment was agreed to.

Mr. PEARCE. My next amendment is:

To construct suitable iron alcoves in front of the archives of the Library, and other repairs, in addition to the balance of appropriation unexpended "for the repairs of the Congressional Library," under the direction of the architect, $3,500.

The amendment was agreed to.

Mr. PEARCE. The next is:

For the support of the public green houses, including the pay of the superintendent and assistants, $3,000.

The amendment was agreed to.

Mr. PEARCE. The next:

For the erection of a suitable house for the plants recently brought from Japan for the United States, $1,500, to be expended under the direction of the Commissioner of Public Buildings.

The amendment was agreed to.

Mr. PEARCE. I have another amendment from the same committee:

For completing the publication of the works of the Exploring Expedition, $29,320.

Mr. BRODHEAD. This amendment proposes to appropriate $29,320 to continue the publication of the works of the Exploring Expedition which returned in 1842. I thought that a year or two ago we served on Captain Wilkes notice to quit, but it seems that Monsieur Tonson has come again. [Laughter.] I know, sir, that there is great anxiety to get the bill through, but if we are to go on adding to it in this way, it will be as long as the moral law.

Mr. STUART. Allow me to suggest to the Senator that perhaps an explanation from the gentleman who offers the amendment would prevent a misunderstanding in regard to it.

Mr. BRODHEAD. Let us have an explanation.

Mr. STUART. I shall be glad to hear it.

Mr. PEARCE. I will give as full an explanation as I can. In 1842, Congress passed an act directing the Joint Committee on the Library to cause the reports of the Exploring Expedition to be published. They adopted a particular form of publication, and I directed that the works should be published in the style in which the voyage of the Astralabe and the Zêlé, a French voyage of discovery of very great celebrity, had been published. We have followed that form. It has so happened here, as it has in very many other countries, that the publication of such works, being scientific works of the highest character, has occupied a great deal of time. One gentleman has been employed to write memoirs upon four different subjects. Mr. Dana, of New Haven, for example, wrote a work upon the Zoophytes and the Corals, a very admirable work, which Professor Lyell, the celebrated British geologist, when here, declared to be the great desideratum in that branch of natural history. He has written another work on the geology of the cruise, and a third one. These three works are of such a character as could not be written in one, two, three, or four years; he has now, however, completed the whole of them.

Almost all the works are complete; but there still remains a portion of the botany unfinished, one volume of which has been published by Dr. Gray. In regard to that, I may say that the gentleman originally employed upon it failed to perform his work. He left the service of the Government in that capacity, and entered into the military service, and went to Mexico during the war with that country; hence we were obliged to employ another person to write up the botany. Dr. Gray, the most eminent botanist in this country, was employed. He has executed the work, and it is nearly all ready for the press.

About two years ago, I did inform the Senate that I did not expect to be obliged to call on them for another appropriation. I could only judge from what was told me, because I could not personally know how much it would cost to write, print, and bind all these works; particularly as they are illustrated by a great many valuable plates, the engraving of which costs much money. I told the Senate when I asked for the last appropriation, that I believed that would finish the matter; but I was mistaken. The information I then received was not correct. I have on this occasion, however, taken extraordinary pains to get the most minute information, and I have a detailed estimate, showing the cost of the composition of the works by the authors, of the printing by the printers, of the binding, of the engraving of the plates and their coloring, and, in fact, everything connected with the expenses; and I am sure this sum will cover the entire amount.

This, sir, is a very great work of its kind. It is considered, particularly by scientific people, as an honor to the country. The expedition was a pet of General Jackson's. It never would have gone out but for his authority. I remember very well when objection was made in the House of Representatives, at the time I was a member of that body, to the sailing of this expedition, that two gentlemen from New York of very considerable influence in the House opposed it, and for a time it was defeated.

Mr. SEWARD. Who were they?

Mr. PEARCE. Mr. Cambreleng and Mr. Jarvis. I remember, too, that a member of the House from Rhode Island, who was consulted by a friend of mine from Massachusetts, who was very anxious that this expedition should sail, was advised to go to General Jackson and use his influence with him upon the subject. He did go down, and on returning to our parlor, in the evening, my friend who had called on him for this service was not at home, and he left his card with this memorandum on it: "I have seen the old man and he swears by the Eternal the expedition shall sail." [Laughter.] Accordingly the two gentlemen from New York the next day withdrew their opposition, and the measure passed without a word in the House of Representatives. Now, I want to see the matter closed and the publication completed.

Mr. MALLORY. I move to amend the amendment by adding to it:

And the Committee on the Library are authorized and directed to cause one thousand copies of all the works of the said expedition to be published for distribution in the manner provided for the distribution of the works of Jefferson and Adams: *Provided*, That the text shall be published in octavo form, and that each volume shall not cost more than five dollars.

Mr. JOHNSON. This amendment is to provide for printing one thousand additional copies, the cost of which, I understand, will be $160,000. An independent resolution for that purpose was offered in the House of Representatives a few days ago, and it was asserted there, and I have not heard it contradicted, that the cost of the publications connected with the Wilkes' explorations has already amounted to nearly a million of dollars.

Mr. PEARCE. It is an entire mistake.

Mr. JOHNSON. Well, sir, will the Senator from Maryland state anything like an approximation to the actual cost?

Mr. PEARCE. If the gentleman means to include the cost of keeping the ships in commission on the service he is right. The cost has been something like $900,000, including the amount expended for keeping up the ships.

Mr. JOHNSON. I understood the cost was about $1,000,000. The expense of the additional printing proposed by the amendment of the Senator from Florida will be $160,000. I do not see any necessity for the publication of one thousand additional copies of these works for the purposes of distribution. Distribution to whom? I presume that, for all the purposes of science, there are enough in the country already, and that all those who are capable of availing themselves of what is contained in these works, can obtain a copy somewhere, out of the large number already printed.

Mr. PEARCE. Allow me to correct the Senator in a matter of fact. He assumes that there are a large number printed. Now it so happens that when the Committee on the Library introduced the bill under which these works were originally undertaken, a gentleman from Ohio, who then presided over it, and who seemed to be actuated by, perhaps, that spirit of jealousy which occasionally characterizes men distinguished for fine arts, determined that there should be but one hundred copies printed, and there were but one hundred copies printed, although we have the plates from which we can print any number. Of these one hundred copies, one half have been sent out of the country to foreign Governments; one half of the other half are locked up in State libraries, and there are not half a dozen copies of the work accessible in the whole country.

Mr. JOHNSON. In connection with the proposition to print one thousand copies of this work, I desire to state that the cost of the public print-

ing for this Congress alone has already reached to an amount between $1,250,000 and $1,500,000. At the last session the cost of the printing ordered was very large; and at the present session, though a short one, we have almost reached the amount of the last year. The Committee on Printing have resisted this increase of expenditure, but they have been unsuccessful. Before we are through with the printing of this Congress, it is estimated that it will cost at least $1,500,000. That is a startling amount, and should be a warning to us how we proceed in this course.

Mr. BRODHEAD. Mr. President, in view of what we have seen going on here this evening, in view of the scenes which are yet to be enacted, in view of the appropriations which are yet to be made, I may well ask whether Republican Governments are not to be brought into disrepute? Here, sir, is a proposition to appropriate over $29,000 for the continuation of the works of the exploring expedition, and the Senator from Florida moves as an amendment to that, a provision for printing a thousand copies of them at an expense of $160,000 more. I take it for granted that both will be agreed to. I know very well that any thing which is asked here to-night in the shape of money will be granted; but, sir, I wish to place on record a few facts in connection with this matter.

This exploring expedition was out four years, and Captain Wilkes and his men have been engaged for twelve years in publishing the results of their explorations. Twelve years, in this enlightened age, when printing is done with so much facility, to publish the results of the labors of four years! I know they have a great many fine pictures in their books of birds and creeping things, and bugs, and things of that kind. I know that is science. According to the statement of my friend from Maryland, there were but one hundred copies of these precious books published, for which the people have had to pay so much for the benefit of science! One half of them are abroad in foreign countries, and most of the residue are locked up in libraries. Let us see what we have been paying for this benefit to science. In 1843 the first appropriation of $20,000 was made; the next year $10,000; and in an act passed on the 3d of March, 1845, just ten years ago, I find this provision on the statute-book:

"For completing the publication of the work on the exploring expedition, including the printing of an extra number of charts, $30,000."

Ten years ago, $30,000 were appropriated for "completing" these publications. We have been going on appropriating about $25,000 a year since 1842; and I wish to know when we are going to stop. In an act passed in March, 1853, I find in the statute-book this provision:

"For the completion of the publication of the works of the exploring expedition in pursuance of contracts already made, $25,000."

Mr. DOUGLAS. Will the Senator please state the appropriations from 1845?

Mr. BRODHEAD. In 1846, $30,000 were appropriated; in 1847, $15,000; in 1848, $30,000; in 1849, $15,000; in 1849 again, $15,000; in 1850, $25,000; in 1851, $25,000; in 1853, the provision which I have just read, for the completion of the publication, was made. In that clause the idea was lugged in, that we were bound by contract, and there was this proviso added to it:

"*Provided*, That this appropriation shall finish the publication."

That is what I called the notice which we served on them to quit. I have nothing more to say.

Mr. PEARCE. Mr. President, I stated when I was first up that, two years ago, I supposed—and I had good reason to suppose—that the sum for which I then asked would complete these works. I have stated to the Senate frankly why it has not answered the purpose. I have stated also that I have now most reliable data, detailed estimates, showing that the appropriation for which I now ask will complete the publication.

Permit me to say, sir, that this is a very great collection of books. There are twenty-two volumes of text, published in the most costly and luxurious style, because we were directed to do so by act of Congress. There are eleven volumes of plates, and they are very expensive. They require coloring, and that increases the expense. There is nothing remarkable in the amount which we have spent on this publication. About $50,000 of all the money we have expended has gone to the support of the collection of curiosities brought back from the South Seas, and deposited in the patent office. The balance is not at all remarkable for a work of this kind. Why, sir, I have had occasion to tell the Senate before, that an edition of the Encyclopœdia Brittanica, published in Philadelphia, and consisting of twenty-one volumes no larger than these for which we are now paying, and by no means so handsomely illustrated, cost $500,000. Works of this kind are necessarily very expensive. If you object to this publication because of the cost, I might remind you that Congress ought to have thought of that before they ordered the publication. They should not have embarked in an enterprise of this sort until they knew what the cost would be. Every man who would take the trouble to inquire might have ascertained that it would be an expensive publication. These works have distinguished all the great and liberal Governments of the age. I do not know but that Napoleon has acquired as much reputation and credit for some of the magnificent works which he published on Egypt, as for his victories on the borders of the Nile.

But, sir, I do not mean to be very strenuous in urging the amendment of the Senator from Florida, though I think it is right and proper that the Senate should know some reasons which can be fairly presented in support of his proposition. We have undertaken the publication of these great works for some reason, doubtless because we supposed they would be of some value. As the law now stands they are of no value to the country, because one half of them are sent abroad, and the greater portion of the other half, as I have said, have been locked up in the State libraries; and all those which remained on deposit in the Library of Congress, were consumed by the great fire a few years ago; so that after we shall have completed the works, we shall have really spent the money to comparatively little purpose, unless we multiply copies. The error was in not ordering the printing of a greater number of copies at first; when it could have been done with very little increased expense. Now the estimate which the Senator from Florida has, shows that this work, magnificent and beautiful as it is, will cost an average of about five dollars a volume. It is the cheapest work of the sort published in any country. I know the contracts were made by the Committee on the Library with the greatest care and circumspection; and I say such a work cannot be purchased for any such sum in any part of the world. If the work was of any value, if it was worth while to order the publication of it originally, it is worth while now to order the printing of so large a number as will suffice to distribute it among the people of the country, and give the country access to it.

But, sir, gentlemen talk about expense. Do they know how much money they are spending in the publication of documents good for nothing but waste paper? They spend over $100,000 a year in the publication of the Patent Office Reports. They have spent how many thousands I know not, but not very far from $60,000 or $70,000 in the publication of a work on Indian antiquities—the ethnographical work of Professor Schoolcraft; $70,000 or $80,000 have been spent on a work of Mr. Gillis in reference to the astronomical expedition to Chili. We publish every day documents which nobody reads, and nobody values, costing us thousands upon thousands of dollars. This expenditure is not half as extravagant as a great many others.

Mr. JOHNSON. The Senator from Maryland has spoken of the cost of printing the work on Indian antiquities. I desire to call his attention, and the attention of the Senate, to the fact that the present Committee on Printing of the two Houses have raised their voice against the continuation of that work, and it has been cut off by law.

Mr. PEARCE. Allow me to say to the Senator that the law directed it to be stopped before the committee reported it.

Mr. JOHNSON. I am not aware of that.

Mr. PEARCE. I know it.

Mr. JOHNSON. I understood the proposition came from the committee of the House, and I supported it as a member of the Senate committee at the first moment it could be brought forward. The Senator has also referred to the cost of printing the Patent Office Report. The Committee on Printing have made many efforts to curtail that expenditure, but they have not been successful. Our printing expenses are now enormous, and beyond all reason. The committee have earnestly endeavored to reduce them. In doing that, they have annulled some of the contracts made without authority of law, by which useless matter is collected for publication for the Patent Office and other reports. Every effort has been made by the Committee on Printing, on the part of the Senate at least, to my knowledge, to curtail these expenditures, and, if possible, to bring down the cost of our public printing to something like a reasonable amount. But, sir, what limit can be put on it if we here disregard an existing law of the land, which provides for the mode of executing all our public printing? Several resolutions have been adopted by this body during the present session, ordering printing without going through the forms prescribed by the printing law. It is impossible, when you depart from that law every day, and put the printing out of the hands of the proper committee, and beyond the reach of the superintendent of printing, that there can be any systematic course adopted to arrest the increase of expenditures in this department.

Now, we have a proposition presented to us to have this printing carried on not in accordance with the present law. You have a law which provides who shall do your public printing. It prescribes a certain mode of getting the paper, by contract, at the cheapest price. You have, under existing laws, an arrangement by which the binding is to be done; and here let me say that the expense of binding, and other incidental matters connected with it, is almost as much as the expense of the actual printing which is done for Congress. By this proposition all the safeguards of the present law are thrown aside, and a special power is given by which the Committee on the Library shall have charge of this whole matter. Now, I ask the Senator from Maryland, the chairman of that committee, whether they will not put the superintendence of the publication in the hands of the party who commanded the expedition? Is it not the case that it has been confided hitherto to Captain Wilkes, who, it is said, has acquired so much distinction by his discoveries during the cruise of this exploring expedition?

Mr. PEARCE. Captain Wilkes will have no more authority over it than the Senator from Arkansas, except when he is requested or directed by the Library Committee to do something they wish.

Mr. JOHNSON. But would not the Library Committee feel themselves not only authorized but justified in consulting with him, and adopting his views whenever they seem reasonable to themselves?

Mr. PEARCE. There are no views of his to adopt. The work has been printed. I do not know what occasion there will be to consult Captain Wilkes about it at all.

Mr. JOHNSON. Then all that is to be done is to reprint one thousand copies of these works, the cost of which, I believe, will be five dollars a volume. How many volumes are there? Will the Senator be kind enough to state?

Mr. PEARCE. Twenty-two of text, and eleven of plates.

Mr. DOUGLAS. Thirty-three altogether.

Mr. JOHNSON. There will then be thirty-three thousand volumes, which, at five dollars a volume, will amount to $165,000. Why is it, when this republication is asked, that the law of the land, which is good for all other publications under the authority of Congress, is not good enough for the works of Mr. Wilkes? If there is any reason for this exception, I do not discover it. You have passed a law providing for the execution of the public printing according to a certain system. You have provided that it shall be placed under the direction and supervision of the Superintendent of Printing. You have required that all works of this character shall be subjected to certain legal tests; and now you come forward with a proposition to except out of that law the publication of the works of the Wilkes' Exploring Expedition, and provide that it shall be conducted in a different manner and not subject to the forms and guards thrown about other public printing. I think this is wrong; and I therefore give notice that, whenever an amendment will be in order, I shall move to amend this proposition by providing

that this printing shall be done under the law regulating other public printing. Unless this be done, you can have no uniform method of arranging the system. It either ought to go under the law, or the law itself ought to be wholly repealed. I give notice that at the proper time I shall move this amendment:

And the same shall be printed in conformity with the provisions of the laws and regulations now governing the public printing.

Mr. MALLORY. It is quite indifferent to me how these volumes may be printed. My object is, that, if this work shall be printed at all, it may be published in such a way as to be beneficial to the country at large. Hitherto I have been unable even to get sight of one of these volumes. But one hundred sets have been printed, and they are stored away in the State Libraries, or have been presented to foreign Governments. My proposition is, that, if these works shall be printed, they shall be distributed in a manner to conform to the distribution of Adams's and Jefferson's works, a copy to each member of Congress, and two hundred and thirty copies to different libraries throughout the United States.

I regard this as the only work which we have which has ever conferred on us the slightest national reputation. The exploring squadron was sent out under the auspices of the Navy Department. It was directed and controlled entirely by the Navy, and it has added greatly to the fame and character of the Navy. Hitherto the work has been printed in accordance with these views. It is quoted all over the earth. We have distributed copies to foreign Governments, and we are in the daily habit of receiving from foreign Governments, not only books, but charts of foreign harbors; though we never contribute anything of that sort; and until the last few years, we have not had it in our power to give even a chart in return for those received from foreign Governments.

My friend from Pennsylvania undertakes to undervalue these works by making use of the terms, "bugs and creeping things." Why, sir, I know he has too much taste to base his estimate of a work of this kind on any such *ad captandum* assertion. Whether it has taken twelve years to publish the work or not, I neither know nor care: that has not added a single dollar to the expense. Such a work must necessarily be published in a slow manner; it cannot be published speedily. In order that I may be perfectly fair and accurate about this matter, I will state frankly that the cost of printing a thousand volumes of the books and plates, instead of being $165,000, according to the estimate which I have, will be $171,000. I concur in the opinion of the Senator from Maryland, that, at that price, it will be the cheapest work of the sort ever published. If gentlemen will refer to the price which we have paid for printing Gillis's report, and the reports of Sitgreaves and others, of explorations beyond the Rocky mountains, and compare it with this, they will see, at a glance, that this work is the most important and the cheapest published. I want it placed in the hands of the people; I want it placed where newspapers and magazines, at least can quote from it, and lay its valuable treasures before the world.

FORTIFICATION BILL.

Mr. HUNTER. Is it too much to ask the Senate at this time to permit me to report and have put on its passage the fortification bill, which will give rise to no debate.

The PRESIDING OFFICER, (Mr. STUART.) The Senator from Virginia asks the unanimous consent to lay the pending bill aside in order to take up the fortification bill for consideration. The Chair hears no objection.

Mr. HUNTER. I am directed by the Committee on Finance to report back the House bill making appropriations for fortifications and other works of defense, and for the repairs of barracks and quarters for the year ending 30th June, 1856, with an amendment which makes it conform entirely to estimates.

The amendment was to insert at the end of the bill:

For the purchase of additional land for defensive purposes on Staten Island, New York harbor, $42,300; and that all the unexpended balances of sums appropriated for fortifications which have not reverted and would be liable to revert to the surplus fund on the 1st July, 1855, are hereby reappropriated.

Mr. HUNTER. I will state in explanation of this amendment that it is to authorize the purchase of a piece of land which the Government has long coveted, and now has an opportunity of purchasing. If it should miss this opportunity it may never have it again. The provision is recommended by the Department.

The amendment was agreed to, the bill was reported to the Senate as amended, and the amendment was concurred in; and it was ordered that the amendment be engrossed, and the bill be read a third time. The bill, as amended, was read the third time, and passed.

CIVIL AND DIPLOMATIC BILL—AGAIN.

The Senate, as in Committee of the Whole, resumed the consideration of the civil and diplomatic appropriation bill, the pending question being on Mr. MALLORY's amendment to the amendment of Mr. PEARCE.

Mr. DOUGLAS. I supposed that we had got through with this Exploring Expedition. I found it pending when I entered Congress twelve or thirteen years ago, and I believe we have been finishing it every year since that time. The first appropriation was $20,000. The next was $10,000. Then, in 1845, as has been stated by the Senator from Pennsylvania, $30,000 were appropriated for completing the work. We were at that time given clearly to understand that with that expenditure, making the whole amount $60,000, the work could be finished. Since that period there have been appropriated, in 1847, $15,000; in 1848, $30,000; in 1849, $30,000; in 1850, $25,000; in 1851, $25,000; in 1852, $25,000; in 1853, $25,000; making the whole amount $235,000, though it was understood in 1845 that the $60,000 which were appropriated before and at that time, would complete the work.

Mr. PEARCE. Will the Senator allow me a word?

Mr. DOUGLAS. Certainly.

Mr. PEARCE. I beg leave to say to the Senator from Illinois, in the first place, that $20,000 were appropriated and expended by a former Secretary of the Navy before anything was ever done on the work, for which the Committee on the Library are not responsible. It was before they were charged by law with the subject. In the next place, there was an appropriation of $15,000, which was never paid, because it was a double appropriation. It was not paid, the accounting officer of the Treasury determining there was only one appropriation in fact, though apparently two. Then, as I said before, there were $50,000 expended in maintaining the Patent Office establishment. I never denied that the amount was large. Before I sit down, I only wish to make one more remark, and that is, that the appropriation of which the Senator speaks, in 1845, for the completion of the work, was before I had anything to do with it as a member of the Committee on the Library. I never made any such pledge except the one which was made at the last Congress, which I have explained.

Mr. DOUGLAS. I am not arraigning the Committee on the Library. I am not arraigning any Department of the Government. My object is not to cast censure anywhere. If there is any blame in the matter, it rests upon Congress for voting the money. We have been induced each year to vote the money on the request just to give this one appropriation.

Mr. PEARCE. No, sir.

Mr. DOUGLAS. I have always understood it so.

Mr. PEARCE. I never said so until the last appropriation was made.

Mr. DOUGLAS. I am not stating what the Senator said. So far back as 1845, when only $30,000 had been expended, the law said it was for the completion of the work. Then, in 1853, we find this provision:

"For the completion of the works of the exploring expedition, in pursuance of contracts already made, $25,000: *Provided*, That this appropriation shall finish the publication."

Now, sir, how is it that, after such a law as that was passed to discharge the whole work, and for its final completion, these writers have been employed with additional material to go on?

Mr. PEARCE. Will the Senator allow me to explain?

Mr. DOUGLAS. Certainly.

Mr. PEARCE. No writer has been employed on any new work. I gave express orders, immediately on the passage of that act, that no new work should be entered upon. It was desired that I should allow certain other memoirs to be printed, but I flatly said "no." We had contracted already for the publication of the ornithology and the botany, and several other things; and it was impossible for us to limit the amount of expenditure to $25,000, unless we chose to break our contracts.

Mr. DOUGLAS. Then I understand that the $29,000 now asked for are to finish the contracts made prior to that time.

Mr. PEARCE. Yes, sir.

Mr. DOUGLAS. Now, I wish to call attention to the fact that in 1853 we were assured that the $25,000 then appropriated would finish the contracts entered into. Is it possible that our contracts are written in such a way that after they have been made you cannot tell within one half of the sum necessary to complete them? If $25,000 then were supposed to be required to finish them, and it now requires $29,000 in addition for that purpose, what assurance have we that this is not going to drag on year after year for ten years to come with additional sums asked from time to time?

Sir, it seems that when the entering wedge is once driven in this business of making books, there is no law or process by which it can be restrained. Without casting censure on any one, I must say that I think it is time we arrested this work. When we commenced, there was evidently an impression that $20,000 was all that was necessary, and, if I am correctly informed upon this question, after the narrative was done a copyright was given to Captain Wilkes for that narrative of five volumes, which became his private property.

Now let us see how this operates. The Government sent out ships for an exploring expedition, paying all the expenses. After the officers made their explorations and returned, and we footed up the bills, we detailed the commanding officer from his official duties, allowed him to go on writing a book, the Government paying him his salary as an officer while he was writing it, and paying his clerks for all their copying. The Government then paid for the plates on which the illustrations were engraved. After the whole book was got up at the public expense, and paid for out of the public Treasury, we gave Captain Wilkes a copyright, and made it individual property. Then, sir, when that is done, contracts are let for working up the material which was collected, until there is no end to the expenditures which are made.

It seems to me that this is one of the most enormous abuses which has ever grown up under this Government, and I do not know when or how it can be stopped except by refusing to appropriate the money asked for its continuance. It is evident that no law can be framed which will stop it in any other way. Two years ago it was supposed that $25,000 would discharge our liabilities under the contracts which had been made; but now it seems $29,000 more will be required for that purpose. Can any man tell how much more it is going to take under a contract as vaguely written as that? Is it the contract that you are going to pay them so much a line and so much a page, and are they at liberty to write until doomsday?

Mr. PEARCE. Will the Senator allow me to tell him?

Mr. DOUGLAS. Of course, sir.

Mr. PEARCE. I will tell the Senator what the contracts are. The expedition made collections in natural history. The direction of the law is to publish memoirs descriptive of those collections. The rule is, that nothing shall be described except that which was not known before, but that all shall be described which was not previously known. Authors were employed, before I had anything to do with the Committee on the Library, to prepare these memoirs, at a salary of $1,440 a year. The printer is to print at so much per thousand ems, and the binding is at so much per volume. Until the novelties, the new specimens of natural history which this expedition collected, have been published, the law is not carried out; and the Committee on the Library are bound to go on and have these new things described; and they have been, from the beginning, bound to have them described as long as there is anything new to be described in the several branches of natural history. That is the nature of the contracts.

Mr. DOUGLAS. Then, according to these contracts, as long as these men can find anything to do at the rate of $1,440 a year they are to go on.

Mr. PEARCE. I forgot to say, that, after the passage of the last appropriation, I considered that the committee were bound to restrict the publications to such as were then in hand, and I positively forbade any new one to be entered upon. Now, there is no abuse in this. It is the obedience which the committee owe to the law of Congress that directs them to do what they have done. There is no abuse in that.

Mr. DOUGLAS. I should like to inquire whether these writers are not at the same time engaged in other business, and receiving salaries for other duties?

Mr. PEARCE. Some few of them are; but they are not paid at the rate of $1,440 a year. Indeed, as soon as I was able, after I became chairman of the Committee on the Library, I put a stop to those annual payments, believing that it was an expensive way of doing the work, and I contracted by the job. For example, I made a contract with a gentleman in Philadelphia to write the ornithology for about $3,000, which is $5,000 or $6,000 less than the cost would have been if I had employed somebody else, to write by the year. So I have done in regard to others.

Mr. DOUGLAS. We see, then, that this work has been kept on because the Committee on the Library conceived themselves compelled, under the law to which the Senator has alluded, to have everything new which was collected by this exploring expedition described. They have not been able to form any estimate of the cost, because they did not know what was new, and how long it would take these men to describe what was new.

Mr. PEARCE. I told the Senate that I had an estimate here. It shows precisely the whole amount required for the work.

Mr. DOUGLAS. How much?

Mr. PEARCE. The amount stated in the amendment—$29,320.

Mr. DOUGLAS. I suppose the Senator has just as good authority for that estimate as he had for the $25,000 estimate two years ago.

Mr. PEARCE. I never had such an estimate before.

Mr. DOUGLAS. There is the very difficulty. The confident expectation was impressed upon us then that that sum was to complete the work; now the amount is more than doubled; and I ask, when is this to stop, unless we withhold the money. I am told it will stop when they get through. That is just the objection I make, that we cannot get through. The fact is, that as long as we allow these officers, after having been sent off on an expedition, to be here, out of their regular sphere, on special duty, to lobby about these Halls, we shall never get through. My objection is, that a naval officer gets a job of this kind, abandons his duty in the service, gets into Washington on special duty, where he can lobby and obtain jobs for life, and never get through with them.

Sir, it is unjust to the Navy; it is ruinous to the service; and it will never stop until we rebuke these applications upon Congress. What are your naval officers worth when detailed here for twelve years, with a quill behind the ear, instead of being on board ship and going to sea, where they ought to be, on service. It produces a desire on the part of other officers to get detailed for a short time on explorations, and then go to bookmaking, and acquire a reputation for scientific or literary attainments. Sir, it is this system which is destroying your Navy, and it will destroy your Army, if you allow it to go on. I think it is time to cut loose at once from the whole system. Otherwise we shall have to go on until the end of time. I know no other way to stop it, but to withhold the money.

Mr. BROWN. Mr. President, I concur with my friend from Illinois, that the time has come to put a stop to the whole business of book making by the Government. It has grown into a monstrous abuse, and it is becoming greater every day. Why, sir, in this case, the author of the book was first paid by the Government at enormous expense to get up the material, and then he was allowed a copyright.

Mr. PEARCE. I ask leave to explain on that point, if the Senator will allow me, for I neglected to do so in reply to the Senator from Illinois.

Mr. BROWN. Certainly.

Mr. PEARCE. I am not responsible for anything that was done on that score; but this much I feel it due to say in justice to Captain Wilkes. I learned the fact from Mr. Tappan, the former chairman of the Library Committee of this House. He told me that Captain Wilkes wrote his Narrative out of office hours. He was regularly employed during office hours in the other business of the expedition; the publication of charts which have proved of immense value to the country, and are in great demand by the mercantile marine, as well as the vessels of our Navy. Out of office hours, in the hours usually devoted to gaiety and amusement, he wrote his Narrative, and on that account Mr. Tappan allowed him to take out a copyright for it. That is all I have to say on that score.

Mr. BROWN. Well, Mr. President, if the book has been written out of office hours, I take it for granted, without looking at it, that it is a very badly written book; because the man who performs his official duties well and only takes up little scraps of time that are usually given to recreation, to write a book, will not be apt, in my opinion, to write a very good book. Still, it does not avoid the objection. Here was an officer in the regular pay of the Government, sent out at a large expense, and while thus engaged in the service of the country, he gathered a large quantity of material. He came home, and in the service and pay of the Government went to work and wrote his book. The Government, at enormous expense, prepared the plates to accompany the publication of it, and then they gave him the copyright. With all this he is not satisfied, but comes back and asks us to publish another edition for him.

When, sir, is this to stop? You publish two or three hundred thousand copies a year of the Patent Office Report, one of the greatest humbugs, in my opinion, that was ever palmed off on an intelligent people. You publish other books, and I observe of late that many of them are full of pictures. There is a picture on almost every other page—mere toys, got up at the expense of the public to amuse children. Why, sir, look at your books, they are full of the pictures of snakes and frogs, and of every indescribable thing on the face of the earth, and in the water below the earth; and all this is done at the expense of the national Treasury. What have we noticed during this winter? Not content with getting up pictures at public expense, they have got to painting them at public expense. Now you have a Patent Office Report with beautifully engraved pictures of strawberries and flowers; and all such ridiculous nonsense as that is crammed into the book, to multiply the expense of it. How is the national intelligence increased by such expenditures of money? How is the great national mind expanded by these publications? Not at all.

Let me tell you, sir, that whenever a book is worth publishing at all, the enterprising American publishers will put it in print, and place it in the bookstores to be sold. Whenever you find men knocking at the doors of Congress for the publication of a book, you have internal evidence of the fact that the book is not worth publishing, that the copyright cannot be sold to an American publisher. Books are published at the national expense, and our constituents send here to get them, and we compliment them by sending a copy through the mail free of postage. Your mail is literally broken down under the weight of the free matter which is sent out from Congress at the public expense. Not less than from two to five tons a day during this session have gone out from this city, weighing down the mail, depriving honest tax-payers of the benefit to which they are entitled from the mail service.

Mr. MALLORY. Allow me to ask my friend whether the mails could be burdened in any other way more generally conducive to the interests of the country?

Mr. BROWN. I think they could. Let them be used for the purpose for which they were established, to carry mailable matter, newspapers bought by honest people and paid for, and letters sent by honest men to honest, fair correspondents. Why, sir, this thing has grown to be enormous, and it is increasing on us every day. I think it is time to put a stop to it. I do not want to send any picture-books to my constituents. There are only two books which I would vote to print at public expense, and I am prepared to stop the printing of all others here until we shall have supplied every man, woman, and child with a bible and Webster's spelling book. They are standard works. The whole Christian world has approved them.

A SENATOR. And Hickey's Constitution.

Mr. BROWN. We have published the Constitution of the United States pretty extensively already, and I think we have nearly got through with that; but Webster's Spelling Book and the Bible are standard works. I am prepared to publish them at the public expense, and then stop. As to Wilkes's book, I am against that.

Mr. PEARCE. I am very sorry to have to trouble the Senate so much, but I am sure I am more troubled than the rest of the body, and, therefore, I may be excused for saying a few words more.

The Narrative of Captain Wilkes is in five volumes. There are no expensive colored plates to go with that. The whole cost of publishing that Narrative of his cannot exceed, by the terms of the amendment of the Senator from Florida, $12,500, so that it is the smallest part of the expense of publishing that work, to which the Senator has objected as being copyrighted.

Now, let me say, once for all, that there have been no applications about this business to trouble Congress. There has been no lobbying about it. I do not lobby. When I come here and ask Congress to make this appropriation, I do that which it is as much my duty to do as it is the duty of the Secretary of the Navy, or of the Secretary of the Interior, to ask for an appropriation for an object required in their Departments. There is a law of Congress binding upon us all, and especially on me, whose duty it is, under that law, to superintend this publication. I therefore come to discharge my duty when I ask Congress to make the necessary appropriation to complete the publication which they themselves determined on, and have continued to prescribe.

But, sir, I beg leave to assure the Senate that to me it would be an infinite relief if they were to break the whole thing up. I would think it disreputable—I do not like to say disgraceful, because that would be offensive to some gentlemen—but I say that it would be disreputable to the country to break up this publication, but to me it would be a great relief. Nobody knows what a serious annoyance it has been to me. I can tell gentlemen that every month, whether here or at home, I have to audit fifty or sixty accounts of this exploring expedition. I have had to read over manuscripts of six hundred pages long, in the crabbed hand of the scientific gentlemen, which has been as difficult, almost more difficult, than it was for Champollion to decipher the manuscripts of Egypt. Not only have I had to read them, but to think on them, and determine whether they were proper to be published or not. Sometimes I have been compelled to make excisions from the work. I have thought I saw things which ought not to go into print, and I have had them cut out.

This, sir, is no slight task. I have had squabbles upon squabbles with some of the savans. Sometimes a bottle of water, got from some remote part of the ocean, near the sea of Ochotz, would be analyzed by some of your scientific gentlemen, and forthwith there would spring up a quarrel about the amount of pay for it. I have got into several disputes of that sort with them, and some of them set me down as a morose fellow.

Mr. BADGER. Very false. [Laughter.]

Mr. PEARCE. Nothing more false in the world. [Laughter.] All this I have had to bear, sir; and then I have been snubbed, [laughter,] twitted, taunted, scolded, and ranted at, or thundered at, by gentlemen here in the Senate, until it would have been no wonder if I had vanished into mist, and disappeared from your sight forever. [Laughter.] I think my good temper and endurance have been most remarkably demonstrated by the patience and equanimity with which I have borne these things. My patience, I confess, is almost worn out; and therefore, if the Senate think that it is well to break up this work, though it requires only the appropriation I have mentioned to complete it, as I most earnestly believe, let them break it up, and they will relieve me of a great deal of trouble, and I shall at least be exonerated from the discredit.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. SATURDAY, MARCH 3, 1855. NEW SERIES.....No. 70.

Mr. BADGER. Mr. President, I wish to take this occasion to express my dissent from an opinion advanced by my friend from Mississippi, [Mr. BROWN,] lest it should be supposed, if passed unnoticed, to meet with the general concurrence of the Senate. He says that he is opposed to the pictures in such books as Herndon's, Sitgreaves', and a number of others which we have published of explorations. Sir, I differ from my honorable friend totally. The pictures in those books are to me entirely the most valuable part of them. [Laughter.] The text I do not feel inclined to read, but the pictures I pore over with as much interest as I would have done in my youthful days. [Laughter.]

Now, sir, I wish to say another thing. I am extremely sorry to learn from my friend from Maryland that these savans—savages I think he had better call them—have had the effrontery to suppose he is not the most good-natured man in the world. Why, sir, I should as soon expect a man who had read the play of "The Rivals" to say that Sir Anthony Absolute was not a man of entire equanimity of temper. [Laughter.] The charge is unjust and unfounded, and almost tempts me to vote for the immediate and absolute discontinuance of this whole appropriation. People who are so undiscriminating, and advance such unfounded charges, deserve very little support from the Senate or the Congress of the United States.

Well, sir, having said this, I desire to say to my friend from Illinois, who has inquired when this work will come to an end, that I cannot answer him; but I wish to remind him, and all the rest of us, that this session will very soon come to an end; and I think, therefore, we had better vote than speak.

Mr. DOUGLAS. I am aware that this session will soon come to an end, and I had hoped this book business would also come to an end. I have been coaxed out of my opposition, I believe, for ten or twelve years—by the Senator from Maryland for seven, in this body—under the expectation that each appropriation was to end the exploring expedition.

Mr. PEARCE. I never gave that assurance till the last appropriation.

Mr. DOUGLAS. If the Senator from Maryland wanted testimony about his good humor in it, I can bear witness that he has got the appropriation every time, I believe, by begging, and coaxing, and by his good humor. The trouble is, that we shall bankrupt the Treasury by his good humor, if we keep on. [Laughter.] If we do not look sharp, his good humor will carry it this time. He says that good humor is regulated and stimulated by law, because he is required to have every thing described that is new; but I wish him to understand that the law of 1853, two years ago, made only a conditional appropriation. At the end of that appropriation was attached this proviso: "*Provided*, That this appropriation shall finish the publication." He had no right to apply that money, except on a plan that would finish it. It was a conditional appropriation. We said then: "You promise that $25,000 will put a stop to it, and we are not to be troubled any more; we give it on that condition." If a conditional appropriation, providing that it should finish the work, cannot stop this expenditure, there is no hope of stopping it as long as men can get jobs by describing everything that is new under the sun; for I suppose that among the vast collections and shiploads they brought back, they can find something new for them on which to write a book. I believe there is no mode of stopping it but by administering a rebuke by withholding the money which is asked. If this appropriation be made, I have no expectation that it will be the last.

Mr. BADGER. Mr. President, I propose a compromise to my friend from Illinois. Let us put upon this appropriation that it shall be "positively the last time." [Laughter.] If he will do that, I give my solemn assurance that no consideration on earth, not even the persuasive eloquence and good nature of my friend from Maryland, shall induce me at the next session to vote another dollar of appropriation. [Renewed laughter.]

Mr. DOUGLAS. I have no doubt of it.

Mr. PEARCE. I must say a word more, and only one. The Senator from Illinois has said that I had no right to apply this money except in such a way as to complete the publication. Well, sir, if I have abused the trust—not I, but the whole committee, but I am willing to stand for them—let the law officer of the Government be directed to institute suit against me to recover the money. I should like to see such a proceeding attempted, and with what ridicule I would turn it out of court. I am required by law to follow a certain mode. There are prescriptions in the law. One is that the publication shall be made in a certain manner. The Senator says that the stipulation that the last appropriation should complete the work overrode the first, and I was bound to conduct the work in such a way as to complete it with that appropriation. I do not think so. I think I was bound to have whatever was done, done according to the model prescribed in the original law. But, as I said before, I am perfectly willing that you shall break up the whole affair. I prefer that you would make an appropriation, and appoint the Senator from Illinois chairman of the Committee on the Library, for which purpose I will very cheerfully resign in his favor, and let him have for one year the trouble I have had for the last seven, and then "we shall see what we shall see."

Mr. SEWARD. Mr. President, I cannot let this occasion pass by without uttering a word in dissent from a great many positions which have been taken here to-night; and first in regard to the uselessness of publishing books at the public expense.

It is said by the honorable Senator from Mississippi that a book which is worth printing, will be printed and paid for by the public. I apprehend that is a position which is to be taken with many grains of allowance, and that there is no real scientific work printed in this country or in Europe, which is not printed with contributions from the public Treasury, or the patronage of the rich and great specifically awarded to it by subscription. Sir, the public buy such books as suit their present taste and temper. A publisher in New York, or in Philadelphia, or in Boston, will find fifty thousand, or one hundred thousand, or five hundred thousand subscribers for the life of Barnum, and the accounts of his skill in mountebankery, while they will not buy a real contribution to science.

This practice is spoken of as if it were new and peculiar to our own Government; but, sir, it is the practice of all modern Governments. When Napoleon made his great expedition into Egypt, he was attended by a corps of the savans of France. The expedition turned out "dust and ashes," so far as the ambition of the French people was concerned; but the contributions to human knowledge obtained in that expedition, and published, are invaluable and imperishable.

It is spoken of as if it were a matter of reproach that the officers of our Army and of our Navy, after making reconnoissances in our new Territories, or in foreign countries, should come home and gather their acquisitions into a book which they offer to the world. Sir, that is the very contribution by which they most effectually reward the public for the compensation they receive in the employments in which they are engaged, and for their education at the public expense. It is only six years ago, when I came into the Senate of the United States, that I was advised by an honorable and distinguished statesman, that it was quite unnecessary to attempt to establish governments in the new Territories acquired from Mexico, including California, for that the whole country between the western borders of the Missouri and the Pacific ocean was untenantable, uninhabitable, and totally worthless. We understand those things much better now. We were told half a dozen years ago that it was impracticable to make a railroad to the Pacific ocean. We understand that thing much better, and we know now that not only is it feasible to make a railroad to the Pacific ocean, but the whole difficulty in the case arises in adopting that one of the many routes upon which such a railroad can be constructed.

Then, sir, in regard to the explorations of Captain Wilkes. It is but a short time ago that we were involved, and necessarily involved, in the discussion of the wisdom and expediency of annexing the Sandwich Islands to the United States. I had occasion to examine that subject, and I found the researches and discoveries of Captain Wilkes, as furnished by his publication here, a guide for fixing my judgment in regard to that transaction. Sir, we cannot arrest this book except upon the principle of prohibiting the dissemination of knowledge. Captain Wilkes has but followed in the rear of Sir John Franklin, happily with much better auspices for his country and for mankind; and both of those explorers have but followed in the career of Hudson, and of Columbus. They were explorers, and the world is the greater, the wiser, and the better, for the discoveries they have made.

I should not have entered into this discussion if it had not been that Captain Wilkes is confined at his house on a sick bed, and my attention to that fact was called, and my sympathy in his behalf excited.

The PRESIDENT. The question is on the amendment offered by the Senator from Florida, [Mr. MALLORY,] to the amendment of the Senator from Maryland.

The amendment to the amendment was rejected.

The PRESIDENT. The question is now on the adoption of the amendment offered by the Senator from Maryland from the Committee on the Library.

Mr. DOUGLAS called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 25, nays 18; as follows:

YEAS—Messrs. Allen, Badger, Bayard, Bell, Benjamin, Cooper, Fessenden, Foot, Geyer, Gillette, Houston, James, Mallory Mason, Morton, Pearce, Pratt, Rusk, Seward, Stuart, Sumner, Thompson of Kentucky, Wade, Wells, and Wilson—25.

NAYS—Messrs. Adams, Bright, Brodhead, Brown, Butler, Chase, Dawson, Douglas, Evans, Fitzpatrick, Johnson, Jones of Iowa, Jones of Tennessee, Petit, Sebastian, Slidell, Thomson of New Jersey, and Toombs—18.

So the amendment was agreed to.

Mr. PEARCE. I am also directed by the Committee on the Library to offer this amendment:

And the accounting officers of the Treasury are hereby directed to settle and pay the account of C. W. Hinman, third assistant librarian, from the 1st day of July, 1854, at the rate of $1,500 per annum.

This requires an explanation which I will make briefly.

Mr. HUNTER. It is all right.

Mr. PEARCE. Then I need say no more than that it is to correct an error in the printing of the law of last session.

The amendment was agreed to.

Mr. PEARCE. I have another amendment from the Committee on the Library:

To enable the Librarian of Congress to subscribe for and purchase one thousand copies of the works of General Nathaniel Greene, to be published by George Washington Greene, in an edition of six volumes: *Provided*, The cost of the same shall not exceed $2 25 a volume; said volumes to be distributed as provided by law for the distribution of Thomas Jefferson's works.

Mr. President, the published papers of General Washington furnish us with the best historical account which we have of the war of the Revolution in the North. The papers of General Greene will furnish us with a similar authentic account of the operations of the army of the South. I need not say, sir, that he held the place in the Army next to that which General Washington held; that his ability and his valor enabled him to triumph in that southern campaign, which taxed to the utmost the skill and courage of all who were engaged in it. In 1786 he died, and on the 8th of August of that year Congress passed this resolution:

"*Resolved*, That a monument be erected to the memory of Nathaniel Greene, Esq., at the seat of the Federal Government, with the following inscription:

"'Sacred to the memory of Nathaniel Greene, Esq., a native of the State of Rhode Island, who died on the 19th of

June, 1786, late major general in the service of the United States, and commander of their army in the southern department.

"'The United States in Congress assembled, in honor of his patriotism, valor, and ability, have erected this monument.'"

They never carried that resolution into effect. These works, if Congress shall purchase them, will furnish a monument to his memory quite as honorable to him, and more important to the country, than any monument of marble. They are by a gentleman whom I have described in the amendment as George Washington Greene. I was informed by a former Senator from Georgia [Mr. Berrien] that he was the son of Nathaniel Greene.

Mr. TOOMBS. He left no lineal male descendants.

Mr. PEARCE. Perhaps I am mistaken; he may be the descendant of a brother; but, I believe, he is the grandson of General Greene. I find it impossible, sir, to talk. My cold has increased so much that I cannot proceed. I suppose the Senate will understand the amendment without further explanation.

Mr. TOOMBS. I have a great admiration for General Greene. His name is not only national and historical but greatly identified with my own State. He rendered us eminent services. We have rewarded them. We so far met his approbation that he lived and died among us. His lineal descendants are my constituents. He has no male descendants by the name of Greene. I do not know who this man is. He may be an interloper. I know General Greene's descendants have not written his history; but when they do, it will be a national contribution. A very eminent gentleman, for all the qualities which become a man and a good citizen, had a bill passed during the present Congress for the relief of the heirs of General Greene—Colonel Nightingale and his other descendants. Who this individual is I do not know. I desire, when we print the papers of General Greene, that it shall be by the consent of his family. I have no evidence that this man even stands as a collateral descendant. I know that the lineal heirs of General Greene have nothing to do with it; and I trust that when we attempt to give the history of the war from General Greene, we shall do it through his lineal descendants, the heirs of his blood and of his honor. When that is done, the Senate will do justice to a great and glorious memory.

Mr. SUMNER. I simply wish to correct an error into which the Senator from Georgia has fallen, in his allusion to the editor of the proposed work. I know him well personally. I have known him from his youth. I know him, so far as I can testify to such a fact, as the grandson of General Greene, of the Army of the Revolution. I know him, also, as one of the most accomplished scholars and most cultivated gentlemen whom it has ever been my fortune to meet in this country. If he should undertake the service which is mentioned, I believe it may be safely assumed that it will be done faithfully, that the part of an editor will be fully and adequately performed. That is what I have to say in direct reply to the Senator from Georgia in regard to the editing.

Mr. COOPER. I wish to ask the Senator from Massachusetts if General Greene had any son? I understand he never had a son.

Mr. SUMNER. He had a son living in Newport, Rhode Island. The gentleman who proposes to edit this work is the son of that son.

Mr. TOOMBS. The records of the Senate will show that is not so. General Greene's heirs, Colonel Nightingale, of Georgia, and the Skipwiths of Mississippi got a settlement as his representatives at the last session. It is a mistake to suppose that he left a son. We have voted $40,000 to his heirs at this Congress.

Mr. SUMNER. Then, Mr. President, with regard to the character of the work, I need not add anything to what has been so ably presented by the chairman of the Committee on the Library, [Mr. PEARCE.] We all know the position maintained in the army of the Revolution by General Greene, second only to Washington. He died shortly after the close of the war, before any of those political differences had occurred with which the names of some of the other statesmen of the country are associated; so that his correspondence will belong purely to the uncontroverted history of the country. On that account, I think Congress may well undertake to publish it. Besides, it will throw important light upon a whole period of our history, with regard to which there is, at this moment, less authentic intelligence than with regard to any other. I say, therefore, the work is important in itself; and it is to be edited by a gentleman who is entitled to the confidence of this body.

Mr. BUTLER. Is he a grandson?

Mr. SUMNER. The grandson of General Greene.

Mr. BUTLER. I doubt it; but, of course, if the gentleman from Massachusetts says so, I cannot controvert his statement; but I think he is wrong.

Mr. SUMNER. No, sir; I am not.

Mr. BUTLER. I think so; but it may be possible that he is correct. I recollect distinctly, and that associates me somewhat with an historical personage, the meeting of General Lafayette with Mr. Shaw, in South Carolina. I remember that a great many ladies said Lafayette kissed them, but I never saw him kiss any of them but Mrs. Shaw and two other revolutionary personages. [Laughter.] My impression is that General Greene had no son. But, if the gentleman from Massachusetts knows the fact to be otherwise, I cannot, of course, contradict him. I recollect Mrs. Shaw well, one of the daughters of General Greene, and I never heard that he had a son. As regards the character of this gentleman as an editor, I have no doubt the gentleman from Massachusetts is a good indorser, and if he says he is competent for the task, it is quite sufficient.

Mr. SUMNER. I have no doubt of it.

Mr. BUTLER. I do not know anything about him; but I am inclined to think there must be a mistake in supposing that General Greene had a son. He had three daughters. I knew one of them, Mrs. Shaw, of whom I have spoken.

Mr. DAWSON. During the present session we have allowed a claim to Colonel Nightingale and Dr. Skipwith, the representatives of General Greene. Mrs. Nightingale was his daughter.

Mr. BUTLER. I knew her, too.

Mr. DAWSON. She was a daughter of General Greene. If there be any son-in-law I do not know it, nor do I know that one ever existed. These ladies are now living, one, I think, in Georgia, and the other in Virginia. They received the claim to which I have alluded, many thousand dollars, as the representatives of General Greene. The papers in that case can be referred to to see who are his lineal descendants; but my impression is that when he died he left no son living.

Mr. PEARCE. I think, sir, it is perhaps proper, under the circumstances, that this amendment should not be acted upon now. I knew not that there was any question at all about the connection of this gentleman with the family of General Nathaniel Greene. I understood, from a former Senator from Georgia, [Mr. Berrien,] that he was the son of Nathaniel Greene. Now, whether Nathaniel Greene was the nephew or the son of General Greene I do not know.

Mr. BUTLER. Probably a nephew.

Mr. PEARCE. I apprehend he is a connexion of the family directly; but as there is a question about it, and as his character is involved in it, I would rather not press the amendment to a vote.

Mr. HUNTER. I hope it will be withdrawn for the present at least.

Mr. PEARCE. I have no authority to withdraw it, except by the unanimous consent of the Senate and of the committee, which, I suppose, the members of the committee present will give.

The PRESIDENT. No objection being made, the amendment will be considered as withdrawn.

Mr. PEARCE. I have only one more amendment from the Committee on the Library. It is:

To enable the Committee on the Library to pay to William H. Powell $2,000 in full for the picture painted by him for the United States, in addition to the sums heretofore appropriated by law.

The amendment was agreed to.

Mr. HUNTER. Mr. President, the diplomatic and consular bill which has been lately passed makes an entire change necessary in the portion of this bill which refers to our foreign intercourse. I submit, therefore, an amendment for that purpose, which is in pursuance of an estimate from the State Department; and in connection with it I ask that this letter from the Department of State, which I hold in my hand, may be read.

The Secretary read the letter, as follows:

DEPARTMENT OF STATE,
WASHINGTON, *March 2*, 1855.

SIR: I herewith send you an estimate for appropriations under the "act to remodel the diplomatic and consular systems of the United States," signed by the President last night. The aggregate, you will perceive, is over $700,000. If appropriated, it will supercede the necessity of using any considerable part of the $215,300, for which an estimate has been sent in. It will be very difficult, I think impossible, to carry out the recent law without an extra call of the Senate, unless it can be modified in the appropriation clause of the civil and diplomatic bill now before Congress, or by a supplemental act.

I respectfully suggest a proviso to the appropriation declaring that the salaries shall attach to the Envoys Extraordinary and Ministers Plenipotentiary who shall be in office when the new law will go into effect, to wit: on the 1st of July next. This will supersede the necessity of the very awkward process of reappointing them in order to give them the increased salary.

I am most decidedly of opinion that the compulsion on the President to raise all the ministers resident to envoys extraordinary, and to give each a secretary of legation should be removed.

I think that matter ought to be left at his discretion. Under the new act he is obliged, under all circumstances, to have the highest grade of minister known to this country at every Government with whom we now have a diplomatic representative. Not more than four or five of the twenty new envoys extraordinary and ministers plenipotentiary can have much use for a secretary of legation. I should regard more than half of them as useless appendages. I consider it to be very desirable that the parts of the new law which relate to the consuls, &c., should not go into effect until after the first of January next. I have not time to state the many considerations which force this conclusion upon my mind.

Without some such modifications as I have above suggested, I do not see how a call of the Senate in the summer can be avoided.

I have the honor to be, sir, your obedient servant,
W. L. MARCY.

HON. R. M. T. HUNTER, *Chairman of the Committee on Finance, United States Senate.*

Mr. HUNTER. That letter, which accompanies the estimates, recommends, as the Senate will perceive, that we should so modify the law as to enable those ministers who are in office when it goes into effect to take the increased salary without a reappointment. The Secretary of State also recommends that it should not be imperative to send a secretary of legation with each minister, because that is more than is wanted. He also recommends some other change in regard to the time when the portion of the law in regard to consulships shall go into effect, and says that unless some of these changes shall be made, an extra session of the Senate will become necessary in the summer. It was on that account I asked to have the letter read in connection with this amendment which the Committee on Finance have reported to carry out the estimate. They have also reported a section which provides for two of the recommendations of the Secretary of State, to wit: that the ministers may take the increased salary without a reappointment, and that the Government shall not be compelled to send a secretary of legation with each minister. The amendment is to strike out all those provisions of the bill appropriating for the compensation of ministers, charges, and secretaries of legation to foreign countries; and for the salaries of the commissioners to the Sandwich Islands and to China, of the consuls to London, Constantinople, Smyrna, Candia, Alexandria, Beyroot, and the five ports in China; and in lieu thereof to insert:

For salaries of envoys extraordinary and ministers plenipotentiary of the United States, $267,500.
For the salaries of secretaries of legation, $44,500.
For the salary of the commissioner to the Sandwich Islands, $6,000.
For the dragoman to the mission to Turkey, $2,500.
For the interpreter to the mission to China, $2,500.
For salaries of the consuls of the United States, $271,750.
For return allowance of ministers and commissioners abroad, or so much thereof as may be necessary, $48,875.
For contingent expenses of all the missions abroad, or so much thereof as may be necessary, $96,543 75.

The amendment was agreed to.

Mr. HUNTER. I am also directed by the Committee on Finance to offer this amendment, as a supplemental section:

SEC. —. *And be it further enacted*, That the salaries to which envoys extraordinary and ministers plenipotentiary shall be entitled on the 1st July, 1855, may be allowed to such as may be in office on that day without reappointment; nor shall such envoys extraordinary and ministers plenipotentiary be required to take with them secretaries of legation unless they should be allowed by the President of the United States.

The amendment was agreed to.

Mr. HUNTER. I now submit an amendment which provides for the clerks estimated to be necessary in order to carry out the bounty land law

which we have passed recently. It is to insert at the end of the first section:

For compensation of thirty clerks of class one, ten of class two, nine of class three, and one at $2,000 per annum, one messenger at $840, one messenger at $600, two laborers at $576 each, and four watchmen at $600 per annum, for temporary service, at the discretion of the Secretary of the Interior, in the Pension Office, on account of bounty lands, $71,392.

For contingent expenses, viz: for rent of rooms, stationery, engraving plates for bounty land warrants, paper, and printing the same, binding books, blank books for registers, office furniture, and miscellaneous items, $20,000.

For expenses of the current fiscal year on account of military bounty lands, $30,000.

For clerk hire, patents, records, stationery, and miscellaneous items in the General Land Office, on account of military bounty lands, $70,000: *Provided, however*, That the Secretary of the Interior, at his discretion, shall be, and he is hereby, authorized to use any portion of said appropriation for piece work, or by the day, week, month, or year, at such rate, or rates, as he may deem just and fair.

For compensation of ten clerks of class one, to be employed temporarily in the office of the Third Auditor, on account of military bounty lands, $12,000.

Mr. WELLER. This appropriation is made necessary, I believe, by the bounty land law which we have passed. In other words, we propose expending more than $80,000 a year to give the lands away to the old soldiers!

Mr. WADE. I have an amendment to offer, from the Committee on Claims, to the amendment. It is to add:

And that the Secretary of the Interior be, and he is hereby, authorized and directed to pay to Jacob P. Chase the usual compensation for the services of his two sons as clerks in the Pension Office, for the time they were engaged as such, and the sum necessary to pay the same be, and the same is hereby, appropriated.

Mr. HUNTER. I hope the Senator will not offer that proposition as an amendment to this. Let my proposition go through by itself. His seems to me to be in the nature of a private claim. It is necessary to adopt my amendment in order to carry the law into operation. I hope the Senator will present his amendment somewhere else, as a separate measure.

Mr. WADE. I suppose it might as well come here as anywhere; the claim was deemed by the committee to be a just and equitable one.

The amendment to the amendment was adopted; and the amendment, as amended, was agreed to.

Mr. HUNTER. We have passed a bill for the establishment of a court of claims. For the expenses of that court we have had no regular estimate, but the Senator from Pennsylvania, [Mr. BRODHEAD,] upon looking over the act, has made an estimate which I find accords with one that I understand has been making up, but I am afraid will not reach us in time. I therefore move this amendment now on my own responsibility:

For salaries of three judges of the court of claims, $12,000.
For the salary of solicitor of said court, $3,500.
For salaries of two clerks, $3,500.
For contingent expenses of said court, $2,000.
For the salaries of the judges, solicitor, and clerks of said court, and for other expenses thereof prior to the 1st day of July, 1855, or so much thereof as may be required, $5,000.

The amendment was agreed to.

Mr. DAWSON. I have some amendments to offer from the Committee on the District of Columbia. The first is to add to the appropriation for the compensation of the officers of the penitentiary of this District:

And twenty per centum additional salary is hereby appropriated to be paid to the said officers of the penitentiary, which per centum shall commence from the 1st day of July, 1853.

The amendment was agreed to.

Mr. DAWSON. I am also instructed by the same committee to report the following amendment:

And the sum of $2,000 additional is hereby appropriated for lighting with gas Bridge and High streets, in Georgetown, to be expended under the direction of the Commissioner of Public Buildings; and said Commissioner is hereby authorized and directed to complete the lighting of the street with gas, from Pennsylvania avenue where it intersects Fifteenth street, to the commencement of said avenue at Seventeenth street, being west of the Treasury Department and north of the President's House.

The amendment was agreed to.

Mr. DAWSON. I am also instructed by the Committee on the District of Columbia to present the following amendment:

For filling up the present canal, basin, and the construction of two new basins, and for clearing out the Washington branch of the Chesapeake and Ohio Canal, the sum of $46,408 40 is hereby appropriated: *Provided, however*, That no money shall be expended until the Chesapeake and Ohio Canal Company shall raise the bridges in Georgetown across the canal to the height required by the report of Lieutenant B. S. Alexander to the Secretary of War, of the date of February 10, 1855: *And provided further*, That said work shall be done according to the plans and estimates submitted in the report of said Lieutenant Alexander, if said plans and estimates shall meet the approval of the Secretary of War. And said appropriation shall be expended under his direction.

Mr. HUNTER. Is that an appropriation to clean out this canal?

Mr. DAWSON. No, sir. The Chesapeake and Ohio Canal comes into the city of Washington. It has been filled up, and is now destructive of health and of no convenience whatever to the city.

Mr. HUNTER. I hope it will not be adopted. I am willing to be liberal to this District, but I cannot consent to this.

The amendment was agreed to.

Mr. DAWSON. I am also directed by the same committee to offer this amendment:

And the Secretary of War be, and he hereby is, directed to cause to be constructed on such site in a central position on the public grounds in the city of Washington as may be selected by the President of the United States, a suitable building for the care and preservation of the arms, ordnance, and accouterments of the United States, required for the use of the volunteers and militia of the District of Columbia, and for the care and preservation of the military trophies of the revolutionary and other wars, and for the deposit of newly invented and model arms for the military service; the said ordnance and arms, and the building to be used by the volunteers and militia of the District of Columbia, under such regulations as may be prescribed by the President; and for the purpose of carrying this act into effect the sum of $30,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

Mr. DAWSON. The next amendment to which I wish to call the attention of the Senate particularly, as it has been before them previous to this, is for the purpose of bringing water into the city with a view to stop fires. It is a reduced amount:

For continuing the work on the Washington aqueduct, $250,000.

Mr. HUNTER. I believe we have as much debatable matter in this bill now as we can carry. We know that this proposition has been the cause of severe and serious contests between the two Houses. I believe to put it in this bill will very much embarrass its ultimate passage. I am in favor of the water appropriation in the right place where it can be carried, but not here. I hope the Senate will not put it in this bill now.

Mr. DAWSON. I will not discuss the question. Time is too precious to allow that. For fear of opposition we have reduced the sum. The works which have already begun are now dilapidated for want of a little appropriation. We know that the city must have water. The people want water; the Union wants water; and Congress in particular, [laughter.] I cannot see why the amendment should not be agreed to.

Mr. TOOMBS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 31, nays 15; as follows:

YEAS—Messrs. Allen, Badger, Bayard, Bell, Benjamin, Bright, Brodhead, Butler, Chase, Cooper, Dawson, Douglas, Foot, Gwin, Houston, James, Jones of Iowa, Jones of Tennessee, Mallory, Mason, Pearce, Pratt, Rusk, Seward, Shields, Stuart, Sumner, Walker, Wells, Wilson and Wright—31.

NAYS—Messrs. Adams, Brainerd, Evans, Fitzpatrick, Geyer, Gillette, Hunter, Morton, Petit, Sebastian, Slidell, Thompson of Kentucky, Thomson of New Jersey, Toombs, and Wade—15.

So the amendment was adopted.

Mr. BADGER. Mr. President, I have been waiting all day for the purpose of moving a little amendment to this bill. It is to insert immediately after the appropriation for the salaries of the Justices of the Supreme Court:

And from and after the passage of this act the annual salaries of the several Justices of the Supreme Court of the United States shall be as follows, to wit: of the Chief Justice of the Supreme Court, $7,500; of the Associate Justices of the Supreme Court, $7,000.

I merely wish to mention that this amendment is precisely in the language of a bill which was passed by the Senate during this session by a large majority. My reason for moving it here is not at all for the purpose of making any factious proposition, but to enable the House to act in the mode in which, if I am correctly informed, the majority of the House are disposed to act if their rules would enable them to reach the bill which we have passed.

Mr. STUART. I move to amend the amendment by reducing the salary in each case $1,000, and on that question I ask for the yeas and nays.

Mr. BADGER. I have only to say that I hope that amendment will not be agreed to.

The yeas and nays were ordered.

Mr. STUART. I think that in any fair estimate which can possibly be made among the Departments of this Government, $6,500 for the Chief Justice and $6,000 for the Associate Justices is equivalent to any other compensation. It has become quite too common to undertake to show that somebody, somewhere, gets a high salary, and, therefore, everybody else should. It is equally common to show by the same course of logic that the employees about the Capitol ought to be paid more than the members of Congress. If there is anything in these two arguments which tallies, if one is consonant with the other, I have never been able to understand it.

Sir, the district judges employ all their time; they do nothing and can do nothing else than attend to their duties as judges; and yet they do not get, on an average, over $2,500 a year, even at the increased salaries allowed by the law recently passed. Most of them are compelled to reside in the cities of the Union, where the expense of living is as great as are the expenses of the Judges of the Supreme Court. They spend as many dollars in the year in the way of expense, and they occupy their whole time. They have not a moment to apply to anything else. It is proposed, by the amendment of the Senator from North Carolina, to give $7,500 to one of the Judges of the Supreme Court, and $7,000 to the rest, while but $2,500, on the average, is given to the district judges of the same court, the expense of whose living is just as much. Is there any proportion between the two? Besides, look at the present salary—$4,500. This amendment almost doubles it.

I cannot, of course, consent to go into any lengthy discussion of this question at the present time. I think that perhaps we have spent as much time as we can, with propriety, upon these amendments to-night. I am very anxious to offer some myself, and I am admonished on that account that I had better shorten whatever I have to say. I hope the amendment which I have presented will be agreed to upon the principle that it is as much in proportion to the salaries of the other judiciary officers of the Government as these gentlemen are entitled to. So far as regards their ability, and distinction, and their usefulness in the Government, I accord to them as much as any other man can, but I apprehend that the salary I have proposed is sufficient.

I hear it suggested in whispers around me, that the Cabinet officers get $8,000 a year; but what is required of them by custom? Here I beg leave to say that I was never an advocate of that increase, but I only now wish to compare it with what these gentlemen are obliged to do. The Secretaries are obliged to live here constantly, in the city of Washington, and, by custom, to entertain everybody at an enormous expense, while the Judges of the Supreme Court do no such thing. I think if a reason is required for the difference of salary that is reason enough.

Mr. BUTLER. If salaries be at all indicative of dignity, the Judges of the Supreme Court are not equal to the Attorney General. The fact is, Mr. President, that the highest official dignitaries of this country, who are more responsible than any others, are very poorly paid. These judges have the grave responsibility of judgment; they occupy a high position, and, in fact, considering their duties, they are hardly paid equal to the common laborers in the city of Washington. Let me remind the Senator from Michigan that he has always been perfectly willing to increase the salary of Michigan judges. He has told us that they could not live on the salaries they were receiving. Allow me to say to him that I do not put this on the ground of mere living. Sir, these judges work more than any functionaries in this Government, and are paid less, and I believe they are the most worthy functionaries upon whom I can bestow patronage.

Mr. STUART. Now, sir, I wish to test the honorable Senator's argument of dignity, so far as pay is an evidence of dignity. The average pay of Senators on this floor, including the distinguished Senator himself, is not equal to the pay of your clerks. This goes to show that the

honorable Senator's argument, so far as he applies it, is misapplied.

Mr. BUTLER. No, sir; I am willing to make my argument good, and I venture to say that the Senator is not. [Laughter.] I am willing to increase the pay of Senators, but he is not.

Mr. STUART. Yes, sir, I am.

Mr. BUTLER. How much?

Mr. STUART. As much as I think necessary.

Mr. BUTLER. But, sir, it is immaterial now about that. I venture to say, that I will go to as high a standard as any one; but, sir, when I see the Chief Justice of the United States—a man who is to live in the judicial history of this country—a man, who, in my opinion, has illustrated it by the justice of his decisions, by the wisdom of the law which he has dispensed, and by the simplicity of his deportment in life—when I see such a man unrepresented here, I am perfectly willing to take him under my protection, and not put him upon the *quantum meruit* of how much he earns in grinding out this case or that case.

Mr. TOOMBS. Mr. President, I should not trouble the Senate now, but for the fact that this particular subject was referred to me by the Committee on the Judiciary, of which I have the honor to be last and the least—the junior member. That committee unanimously recommended the salaries proposed by the amendment of the Senator from North Carolina. That this is the best legislative mode to get at it, I believe is not disputed. It is to force nobody; but if it be the judgment of the Senate that the salaries of the Justices of the Supreme Court ought to be changed, this is the regular, appropriate, proper, and effectual mode of doing it. I am something like the Senator from Ohio, [Mr. WADE;] when I want to do a thing, if I am certain it is a good thing, I am for doing it, even if I ride over rules; but there is no violation of rules here. I am very much of that Senator's order in this respect.

Now, sir, the question is, whether or not we shall give a decent compensation to gentlemen preëminent for their ability, their learning, and for their character. I will assume them all to be so; I know they all ought to be so. I do not legislate for to-day. I am not the eulogist of this court; I have sought no other position here but that of a representative of the people. But as far as I am personally acquainted with these gentlemen, I know of no body of men better entitled to public confidence. Some of them, I know, are preëminent, but I do not put this amendment on the personal qualifications of any of them. To some of them I am opposed in politics. I do not believe there is one of them with whom I have fully concurred. I think nearly all of them have been appointed against my political opinions. But whether that be so or not, they are the final arbiter between sovereigns, between nations. All our treaties, all our State controversies, all that can concern every man of the Republic, we must submit to their final arbitrament, or resort to revolution. Well, sir, I look upon revolution as one of those incidents which is very much more feared than it ought to be. I am not very squeamish upon that point. I follow regular order as long as it will meet justice; but when it does not, I go outside of it with great facility. But, sir, as long as you have constituted Governments, no body of men can be half so important as those who finally determine, within the law, upon the highest rights which can concern nations and individuals.

It seems to me strange that objection should be made to this proposition, when I have seen men here every day voting to give to small law officers the most extravagant compensation. I have seen it on this bill within the last twenty-four hours. There is one case—I do not mention it invidiously—where the district attorney for the northern district of California has been allowed by the vote of the Senate to-day $5,000 a year for two years for past services, without a question being made. The vigilant Senator from Michigan was then in his seat, but he made no objection. Here is a proposition to give the Judges of the Supreme Court of the United States a compensation which every gentleman knows is barely sufficient to maintain them respectably in this city, not like men of fortune, for that they cannot do. They are withdrawn from the ordinary pursuits of life; they confine themselves to their business here, and yet I find speeches made against a proposition to give them a reasonable compensation.

Mr. PETTIT. They are compelled to go afoot instead of taking hacks, much less keeping carriages.

Mr. TOOMBS. I tell you, sir, it is a shame, it is a reflection on the nation, and I do not believe there is any dissenting voice as to the propriety of granting proper compensation. My friend from Michigan wanted to increase the salary of the district judge in that State; he appealed to me as a member of the Committee on the Judiciary, and not in vain. I listened to his complaints; I responded to them, and I voted with him, because I do not like to see a man of ability and integrity performing honestly, fairly, and truly, as he ought to do, the duties of a judge, without being appropriately compensated. Sir, the Supreme Court of the United States pass upon our relations with foreign countries; they decide controversies between these thirty-one sovereignties, which may even in our time extend to fifty stars in the firmament, from the utmost verge of the southern continent, even to the unknown lands to which you have sent an expedition in the dark. These men determine questions of boundary, and great questions of peace and war; and yet you speculate whether they shall have $7,000 or $6,000 a year.

I am an economist. I do not pay two fellows $2,500 when I can buy them for $500, although that is the custom of the Senate. I think that is a small, disreputable business. When I hire laborers I hire them cheap; but it seems that here cheap labor is paid dear, and mental labor, that which ought to be paid, is trampled in the dust. I will not comment upon it. These gentlemen have no solicitors here. I never appeared before them. I believe I was admitted to the bar of the court, on account of some of my friends who wished to use my name, but I certainly have never addressed them in any case.

Mr. STUART. That is about my condition.

Mr. TOOMBS. I never expected to have a case before them; but my distant constituents may sometimes find it useful to use my name, and I therefore put myself to the trouble of paying the fees and getting myself admitted to the bar of the Supreme Court. Sir, that court has responsibility, power, and duties, transcendant; the highest that the human intellect can conceive of; the highest that human beings can ever discharge. If gentlemen here thought as I do, they would vote to-day to give them a salary of $20,000, and make them independent of faction, independent of the influences of the hour. I would make them the repositories, as long as they were trustworthy, of the rights of a great and free people. This pittance, I had trusted, would pass without a word. I would enlarge upon it; I would refer to questions which I probably would not, but that I reported it from the committee; but I know the opinion of the American Senate, from their votes, has been so decided and so conclusive, that I should but appear to magnify myself by attaching myself to so great a question, one upon which we are so well agreed. I trust the amendment of the Senator from North Carolina will be adopted without a division.

Mr. RUSK. Mr. President——

Mr. BUTLER. Will the Senator allow me to make a single remark?

Mr. RUSK. Certainly.

Mr. BUTLER. I rise to express the desire that no one will say another word on this question, except the honorable Senator from North Carolina, who made this motion. I, sir, have been associated with him here, and I have many considerations to respect him, and I wish that the last speech he makes in this body, and the last measure with which he may be identified, shall be the judiciary of the United States. I hope my honorable friend from North Carolina will be the only person allowed to speak on this occasion, and that, upon his speech being made, the vote shall be taken.

Mr. RUSK. I think the request of the honorable Senator from South Carolina is a reasonable one.

Mr. BADGER. I freely yield to my friend from Texas.

Mr. RUSK. I should be disposed to concur in the suggestion of the Senator from South Carolina, but that I intend to make a very short address myself, and then I hope the Senator from North Carolina will conclude. I regard this, sir, as a much more important matter than the mere raising of a salary, and you have been doing that all the time in regard to the district judges of the United States. As to the mere point of proper salary for the services rendered, the amount now proposed to be given is certainly not as large in reference to the expenses and other things to be considered at this time, as the sum of $4,500 was when that was allowed. The Supreme Court is invested with some of the most important powers under the Constitution under which we live. It has been regarded by men much more competent to judge than myself, as the last sheet anchor to which we have to look for the preservation of our present form of Government. So far, the conduct of the tribunal has been such as to justify the community, and to vindicate the framers of the Constitution in investing them with such important powers. Sir, as we are now drifting, according to my judgment, it will not be long before upon the firmness and integrity of that tribunal the safety of this Union may depend.

I think it is a proper act, upon the part of Congress at this time, in view of the peculiar circumstances of the country, and those likely to approach us, by this proceeding to mark our confidence in that tribunal to which the last appeal, under the Constitution, can be taken. I hope, therefore, the amendment offered by the Senator from Michigan will be rejected, and that offered by the Senator from North Carolina will meet a support commensurate with the confidence that I know all well-meaning, law-abiding men throughout the United States have in this august tribunal.

Mr. WELLER. I understand the amendment offered by the Senator from North Carolina proposes to increase the compensation of Judges of the Supreme Court to $7,000, and the Chief Justice to $7,500. In the State in which I have the honor in part to represent, we pay our State district judges $7,000. I think the Judges of the United States Supreme Court ought to receive as high a compensation as the district judges of the State of California. We pay our judges of the supreme court of that State $8,000. We originally paid them $10,000; but we have lately begun the work of reform and economy, and we have cut their salaries down to $8,000. I think the Chief Justice of the United States ought to receive within at least $500 of what we pay our supreme judges in my State. I shall vote for the amendment of the Senator from North Carolina.

Mr. BADGER. Mr. President, my speech, which my friend from South Carolina is so anxious I should make, shall be very brief. I desire nothing but a vote, and I have only to say that I have entire confidence that the Senate will not ignore a measure which they passed a short time ago with such decided unanimity to give the judges the salary I propose.

The question being taken by yeas and nays upon Mr. STUART's amendment to the amendment, resulted—yeas 9, nays 30; as follows:

YEAS—Messrs. Brainerd, Fitzpatrick, Gillette, Jones of Iowa, Seward, Stuart, Sumner, Wade, and Wilson—9.

NAYS—Messrs. Adams, Allen, Badger, Bayard, Bell, Benjamin, Brodhead, Butler, Chase, Cooper, Dawson, Evans, Geyer, Houston, Hunter, Jones of Tennessee, Mallory, Mason, Morton, Pearce, Pettit, Pratt, Rusk, Thompson of Kentucky, Thomson of New Jersey, Toombs, Walker, Weller, Wells, and Wright—30.

So the amendment to the amendment was rejected.

The amendment was agreed to.

Mr. GEYER. I have charge of two amendments which I desire to offer, the first of which is presented with the concurrence of the chairman of the Committee on Finance. It is to add, after the provison for the salaries of the assistant treasurers:

And hereafter the annual salaries of the assistant treasurers at Boston and St. Louis shall be $4,000 each.

The amendment was agreed to.

Mr. GEYER. The next is proposed as an additional section:

And be it further enacted, That the provisons of the fifth section of the act entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year 1841," approved the third day of March, 1841, relating to the compensation of collectors of customs, shall be construed to include surveyors of ports who perform the duties of collectors; and such surveyors shall be entitled to the same compensation as if they had been appointed and commissioned as collectors of customs.

I will state the object of this amendment in a few words. The compensation to collectors depends, in the first instance, on the amount of collec-

tions, but by the fifth section of the act of 1841, they are limited to a certain sum. The object of my amendment is to put surveyors who perform the duty of collectors on the same footing. I will mention an instance which has called my attention to the subject, that of the port of St. Louis. In the last six months the surveyor of that port has collected $404,000 of duties. They are rapidly increasing. His emoluments are limited much below those of a collector collecting the same amount, though he has all the responsibilities, and has to perform all the duties of a collector.

Mr. HUNTER. This bill is already so large that it will be a very difficult matter to get it through the necessary forms of legislation; and if we now commence increasing the salaries of the custom-house officers we shall add to it very largely, both in amount and in volume. If we are to meddle with that subject at all, the most meritorious class, or rather those who most deserve an increase, are the inspectors. Although I am of that opinion, I have forborne to offer any such amendment to this bill; because I foresaw the difficulties into which it would lead us. I hope, therefore, when we see the subject which we are opening up, the Senator from Missouri will consent to withdraw his amendment.

Mr. GEYER. I cannot consent to withdraw my amendment. I think it is a duty I owe to these officers to present it. They are charged with every responsibility of collectors, and are compensated now on a graduated scale, according to the amount which they receive. They are paid a per centum for their collections, but there is a limitation on the surveyors which does not apply to the collectors, although the surveyors of the interior ports perform the duties, and have all the responsibilities, of collectors. I suppose they were originally appointed as surveyors, under the idea that there would be a very small amount of duties collected. Indeed, I believe, under the revenue laws originally, there could have been no collections there, but all must have been made at ports of entry; but by a change in the revenue laws, the payments are now made in the interior ports of delivery, and your surveyors there have all the responsibilities of collecting the amounts of money which are to be paid in duties. I will mention to the honorable Senator from Virginia, that nearly half a million has been paid at the port of St. Louis alone within the last six months—more than at Baltimore. My amendment will not increase the compensation beyond what it would be if you were to appoint the officer who, by law, is charged with those duties; that is, a collector. If you were to appoint a collector there where the revenue is to be collected, he would receive, under the fifth section of the act of 1841, the compensation of a collector.

Mr. HUNTER. I find, sir, that Senators are very willing to alter the revenue laws on this bill if the proposed alterations suit their views, and they oppose such an alteration only when it does not suit their views. Now, we are appropriating to carry out existing laws, but the Senator from Missouri is proposing to alter on this bill the laws in relation to the revenue system of the country, and that, too, when it is already one of the largest bills we have ever had in the Senate, and when we have scarcely twenty-four hours to carry it through.

Mr. GEYER. I do not wish to involve debate, but I have to say to the honorable Senator from Virginia, that this is not a change of the revenue laws, but it is what has been done in reference to other laws—a change of compensation. That is all.

Mr. HUNTER. It is a change of the limit imposed by law.

The amendment was rejected.

Mr. BADGER. I desire to offer a very small amendment, to which, I suppose, there will be no objection. It is to amend the appropriation for the Judges of the Supreme Court, so as to make it correspond with the rates of salaries which we have agreed to. I move to strike out "$41,000," and to insert "$63,500."

The amendment was agreed to.

Mr. BADGER. I now propose to add, after the amendment which has been adopted with regard to the judges, this provision:

And hereafter the crier and messengers attending the Supreme Court be allowed the sum of three dollars per day each, during their attendance, commencing with the present term of the court; and that the marshal of the District of Columbia pay the same out of any moneys of the United States in his hands.

We have increased, I believe, the compensation of all the subordinates of this Government, except the officers in attendance on the Supreme Court. I propose to make a small increase of their compensation, to be paid by the marshal out of the moneys he collects and receives.

The amendment was agreed to.

Mr. MALLORY. I offer this amendment as an additional section:

And be it further enacted, That for the purpose of carrying into effect the ninth article of the treaty of the 22d of February, 1819, between the United States and Spain, the Secretary of the Treasury be, and he hereby is, authorized and directed to pay the persons entitled to receive the same, or to their proper agent or attorney, the full amount, so far as not heretofore paid, of the damages decreed by the territorial and district judges of the United States, for the losses in East Florida under the ninth article of the treaty aforesaid, out of the general appropriations heretofore made by the acts of the 3d of March, 1823, and of the 26th of June, 1834, passed to carry said treaty into effect.

Mr. HUNTER. Is this in order? Does it come from a committee?

Mr. MALLORY. No, sir.

Mr. HUNTER. Then I raise a question of order.

Mr. MALLORY. I meet the question of order by asking the gentleman to state what the point of order is.

Mr. HUNTER. It requires an appropriation of money, and is presented without an estimate or the recommendation of a committee.

Mr. MALLORY. That is a mistake of fact; it does not require any appropriation.

Mr. HUNTER. I should like to have it read again; I am very much mistaken if it does not require an appropriation.

The Secretary again read the amendment.

Mr. MALLORY. I will state to my friend from Virginia that under the ruling of the Department, and the opinion of the Attorney General, no appropriation is required. It is a continuing appropriation since the act of 1823. The money is in the Treasury, and this is to authorize the distribution of it to those entitled.

Mr. HUNTER. It cannot be paid without this provision; and if this passes it is to be paid. Is not that an appropriation within the meaning of the rule?

The PRESIDING OFFICER, (Mr. MASON in the chair.) Upon the best information before the Chair, he considers the amendment as in order.

Mr. BAYARD. I must appeal from the decision of the Chair if he decides the amendment to be in order.

The PRESIDING OFFICER. The appeal will be allowed, of course. The Chair rules that this amendment is in order. From that decision the Senator from Delaware takes an appeal. The question is, "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. BAYARD. Mr. President——

Mr. BENJAMIN. Let me suggest to my friend from Delaware that I do not think it is possible that the Senate can adopt the amendment. He had, therefore, perhaps, better let us vote on it directly, and we will vote it down.

Mr. BAYARD. I have no desire to occupy the time of the Senate.

The PRESIDING OFFICER. Does the Senator withdraw the appeal?

Mr. BAYARD. I withdraw the appeal on the suggestion of the Senator from Louisiana; but in reference to the amendment itself, I have to say——

The PRESIDING OFFICER. The Senator from Florida, who offers the amendment, is entitled to the floor upon it.

Mr. MALLORY. Mr. President, the suggestion of my friend from Louisiana does not come gracefully to my ears. It is saying in advance, without hearing this proposition, that the Senate will vote it down.

Mr. BENJAMIN. Allow me to say to my friend from Florida, that I have read the debate in the House of Representatives on this subject, and it is for that reason that I said so.

Mr. MALLORY. I take my friend from Louisiana to be just exactly that man who, if he shall find, on reforming his opinion, he has done injustice, will be the first to take the opportunity of rectifying the error. I do not desire to make a speech on this subject, although it is a matter perfectly familiar to me, and I know it is not so to the Senate. I have but a few words to say. This is a proposition to pay what are known, as the Florida interest claims. The amount, as I am told—I have no means of knowing myself—is about $1,000,000.

Mr. BAYARD. Over $1,200,000 at least.

Mr. MALLORY. Perhaps the honorable gentleman from Delaware has better means of information than I have; because the matter has been before the Committee on the Judiciary, and that Senator has had an opportunity of investigating it. But, sir, I wish to state the manner in which these claims originated. The ninth article of the treaty of 1819, is in these words:

"The United States will cause satisfaction to be made for the injuries, if any, which, by process of law, shall be established to have been suffered by the Spanish officers and individual Spanish inhabitants, by the late operations of the American Army in Florida."

In 1823, the Congress of the United States passed an act to carry into effect the ninth article of the treaty of 1819, by which they delegated to the judges, in their capacity as judges, within their respective jurisdictions as judges of the Territories of East and West Florida, the province of ascertaining the amount of these damages. The judges went on and ascertained the amount of damages, and they allowed for the actual value of the property at the time taken, and also the reasonable amount of five per cent. for the value of the property withheld, not interest *eo nomine*.

Mr. SEWARD. Can the honorable Senator state what was the aggregate amount of principal that was adjudged and decreed?

Mr. MALLORY. I have no means at hand of stating it; I might approximate to it, but I presume it is within the knowledge of the Committee on the Judiciary. I do not know, however, what point there is in the question of the honorable Senator from New York, because whatever the principal may have been, if they only paid the amount actually taken, there is no rule for withholding from them, having agreed upon the amount, the sum of money awarded for the detention of the property, not as interest, but in the way of damages. It is, therefore, unimportant to say what amount the claimants received under that award.

It was contended, under the operation of the act of 1823, by Secretaries Crawford and Rush, that the act did not refer to the spoliations committed in Florida in 1812 and 1813. But, sir, in 1834, so just were these claims, and so satisfied was Congress that they were really embraced in the treaty, that they passed the act of 1834, embracing those of a previous date, and the judges of East and West Florida uniformly ascertained the amount of damage and reported to the Secretary of the Treasury, who had the revising power over the amount, the actual value of the property at the time taken, and five per cent. for the use of the property for the time withheld. Five per cent. was taken as the sum allowed under the Spanish law in Florida, and as that sum which was allowed under treaty stipulations between foreign nations generally, and as the sum which we ourselves had received in our stipulations with foreign nations.

In this manner these claims arose; and the question for the Senate now to decide is, the money being in the Treasury, but the Departments having uniformly refused to allow interest, as it is called, or damages for the property taken, whether we shall direct it to be paid to those to whom it was awarded. Up to this hour they have been refused it under a departmental usage, under no pretense whatever that they were justified in this refusal by any act of law; but, on the contrary, Mr. Spencer, when Secretary of the Treasury, expressly stated that in refusing to pay interest on these claims, he was governed entirely by the usage of the Department, and that he never contemplated taking into consideration the feature of national law on the subject.

In order to meet some of the statements which were made a few days ago in the House of Representatives, and which have been referred to by the honorable Senator from Louisiana, I desire to say a few words further. It has been stated in relation to these claims that the testimony was taken *ex parte*, and that the parties originally were allowed more than they were entitled to. If that were so, after the sum has been adjudicated and determined by the tribunals selected by the Government itself, upon what ground will any lawyer

contend that we can go behind the record and refuse to allow them for the withholding of the property? I say, sir, that having once determined upon the sum to be allowed as principal, on what ground will any lawyer stand up in the Senate and deny to the parties something for the use of the property? Certainly if a slave taken in 1813, worth $1,000, was paid for in 1823, you would not be making indemnification by giving the owner only the $1,000. That is a self-evident proposition; and yet the principle involved in this case was the same in regard to the holders of these claims, Spanish subjects, not our own citizens, and therefore we should have made it a point of honor to deal fairly with them, because the faith of the Government was pledged. The Spanish subjects come forward and say "You have paid the principal, but under a departmental usage, which refuses interest on claims, you deny us damages for the use of our property."

Mr. STUART. I desire to appeal to the honorable Senator from Florida to allow the Senate to take the vote on his proposition. There are several committees which have not yet been able to report amendments to this bill. There is no disposition, as I understand, to contest his amendment in argument. I trust he will let the Senate vote on it.

Mr. MALLORY. I am aware of the importance of the time of the Senate. I feel bound, however, to put this matter as briefly as possible in a fair point of view before the Senate. There are reasons governing me in doing so which the Senator from Michigan may not be aware of.

Mr. STUART. I hope the Senator understands me. I mean if he can do so consistently with his own views of propriety; certainly not otherwise.

Mr. MALLORY. Of course, sir. The reason for the departmental usage on the subject of interest, is based upon the presumption that the Government is always ready to pay all just demands against it, and that the failure of the Government to pay is in consequence of the *laches* of the claimant, and not of the Government. That in this case is a fiction; and when the philosophy fails, the rule also fails. Here the Government has uniformly refused to pay the damages. Although the value awarded for the use of the property became due at the time the principal was due, the Government has uniformly refused to allow it.

Now, sir, I have stated simply the outlines of these claims. They are known to the Committee on the Judiciary. I am aware that the members of that committee have investigated them, and I shall not detain the Senate longer upon the question.

Mr. PETTIT. Mr. President, if there has been any one subject before the Senate at this session which I have thoroughly investigated, and, I think, thoroughly understood, it is this question. I have had the misfortune, however, to disagree with the majority of the Committee on the Judiciary in regard to it. I am bound to suppose these gentlemen have investigated it to the full extent that I have; and that, from the organization of their minds, according to the evidence before them, they have come to different conclusions. For the last four or five weeks it has been the determination of the majority of that committee to report against those claims, and I have, for nearly all that time, been prepared to make a counter or minority report, the Senator from Georgia [Mr. TOOMBS] uniting with me in it.

Mr. President, I have never seen, in my life, the evidence which convinced me that one man owed another five dollars, and ought to pay it, more conclusively than I have that this Government owes this money, and consequently ought to pay it. The question is briefly this: In 1812–'13 our army committed depredations in the then Spanish possessions of East and West Florida. In 1819 we bought Florida, and annexed it to the United States, stipulating to pay for it an amount of money well known to the Senate. We further stipulated that all those damages, trespasses, and injuries, should be paid for to the persons, or their representatives, who had been so injured and wronged. We also stipulated in that treaty that these claims should be assessed and determined by "due process of law," a phrase well known to our own and to English jurisprudence, having a technical and definite meaning. We stipulated with the then sovereign of the people of that territory, in transferring them to our jurisdiction, that we would adjust those claims by due process of law. No man can deny that in our own and English jurisprudence, that simply means by legal adjudication before the courts of the country. They were to pay our citizens certain indemnities according to the same treaty; but having no term in their jurisprudence so understood or applicable, or so interpreted as this term in ours, they did not stipulate to settle the claims in favor of our citizens by due process of law; but they raised a commission under the treaty, the only course, perhaps, known to that Government and many others. They raised a commission by which the claims of our citizens were to be settled; but we were to settle the claims of their former subjects, our new citizens, by "due process of law." We therefore bound ourselves to open the courts of the country for the investigation of these claims. We did so in 1823, and again in 1834, by laws passed to carry out the provisions of the treaty. We provided that the courts in Florida should hear, adjudicate, and determine those claims; but, unfortunately, (the thing which has given rise to all this difficulty,) there was a provision that the Secretary of the Treasury should have a revisory control over the subject, or words which have been so construed. This is a provision which I regard as directly in violation of the terms of the treaty, and investing the Secretary of the Treasury, if it is to be construed as some gentlemen understand it, with judicial power, which cannot be done. There is no authority in Congress to invest him with any such power.

But, sir, now let me say to Senators how these claims are made up. The courts investigated the claims. A man proved that he lost so many acres of corn, so many cattle and hogs, so much property of this kind or the other, taken twenty, eighteen, or ten years ago. The basis of fixing the liability of the Government was to estimate, first, by evidence clearly proven, what the property was worth at the time it was taken, and then to add to that value five per cent., the legal interest in Florida at that time, for the number of years payment was withheld and delayed, making up the aggregate sum of the value of the property and damages or interest for its detention or non-payment for the years withheld.

Now, Mr. President, the question arises, what is the law, and what is the custom and usage of nations? I have not time to read and refer to it, though I should be glad to do so at length. I should be glad to be able to read the counter report which I have prepared, at length, to the Senate, presenting the whole question, but I have not time to do so. Sir, beyond all question, the universal law of nations is, that, in all such instances, you pay interest as well as principal. Our own Government has uniformly demanded, and uniformly recovered it. All nations have demanded and recovered it. No nation ever did, in my judgment, submit to a different measure of damages. In this case a difficulty is interposed. There was a quibble raised at first, whether these claims came within the purview of the provision of the treaty; but that is admitted now. The Secretary of the Treasury did reject them entirely, but he paid what the court found was the original value of the property taken from the citizen or subject perhaps twenty years before; but he refused to pay the whole amount of the finding of the court. Now, I hold that the finding of the court must necessarily be conclusive upon the subject; that by our treaty stipulation we cannot vest the power to decide as to what the claims were within the treaty, nor what was the amount of damages, but in the courts, for they were to be investigated and settled by "due process of law." The courts have so settled them; they have found that one man's damages originally, if promptly paid, would have been fifty dollars, but that the delay caused a damage of thirty-four dollars more; and, therefore, they awarded, adjudged, and decreed him, by due process of law, eighty-four dollars instead of fifty dollars. The Secretary turned round and said "we will pay you only fifty dollars, that which we ought to have paid twenty years ago." That is the true state of the case.

Now, sir, this is briefly the question: As stated by the Senator from Florida, the money is already appropriated, and the question is, whether we shall direct the Secretary of the Treasury to carry out the treaty, and pay the money which is in the Treasury, and to reverse his notions on this subject? That he is in error I cannot entertain a doubt. No question to my mind is clearer or plainer than that these claims have been settled by well-established international law and international jurisprudence; that they have been, pursuant to treaty, established by due process of law, in our own courts; and that nothing remains to us but disgrace if we do not honestly and honorably pay them.

Mr. BAYARD. I do not mean to enter into any discussion upon this subject. It is for the Senate to decide it. The majority of the Committee on the Judiciary did not determine upon it five weeks ago, as the honorable Senator supposes, for they were prevented from arriving at a decision at the request of the honorable Senator himself to postpone and delay it. It is only within two weeks that it was intrusted to me to draw up the report of the majority. I was unable to do it from circumstances which it is not worth while to trouble the Senate with, except to make a short report stating the conclusion they have arrived at. The questions involved are numerous. There are several legal questions, about which, I have no doubt, Senators may differ with great propriety. I hold myself prepared, at the proper time and on the proper occasion, to vindicate those views which I entertain in reference to the matter. My only object now is to say that this claim has been decided against by the majority of the Committee on the Judiciary; that the same claim, with a favorable report in the House of Representatives, has been voted down by a decided majority within ten days; and in my opinion and belief, independent of the question of interest which is connected with it, and other legal questions arising under a treaty, all of which can come before the court of claims which we have constituted, and if it is all so clear, as the honorable Senator from Indiana supposes, there can be no difficulty at all in obtaining a decision of that court, and, of course, in consequence of that decision, Congress would order the money to be paid. I will state, further, that the Gardiner claim can hardly be pronounced to be a greater and more atrocious fraud upon the people of this country, than the mode in which these claims were ascertained against the people of the United States.

Mr. MALLORY. I did not intend to say a word in reply to the Senator from Delaware.

Mr. STUART. I ask the honorable Senator if he will give way for a motion to adjourn?

Mr. MALLORY. No, sir, I will not give way for any motion until I have answered the honorable Senator from Delaware. So far as previous debate in regard to this claim is concerned, I have nothing to say; but the honorable Senator from Delaware concluded his observations by saying that even the Gardiner claim did not disclose such frauds, if I understood him correctly, as are connected with this. We differ, Mr. President, very widely. The faith of the Government is pledged, as I conceive, for these claims; and when the honorable Senator stands up here and makes remarks of that kind, he adds insult to injury. My own honor is dear to me, and next to that the honor of my constituents; and with all courtesy to the Senate, I say to that gentleman that I cannot sit here and permit him, or any other gentleman on this floor, to charge fraud upon them.

Mr. BAYARD. The honorable Senator can permit or not permit, what he pleases. I will take the liberty, when I think any claim comes before the Congress of the United States which has been produced by fraud, to repeat it. If the honorable Senator supposes that I shall be prevented from doing so, he is entirely mistaken.

Mr. MALLORY. All charges of fraud are false.

Mr. BAYARD. If the honorable Senator applies that to me——

The PRESIDING OFFICER, (Mr. MASON in the chair.) The Chair cannot allow that sort of remark to go on any further.

Mr. MALLORY. I do not desire to hold any improper language here; but when an honorable Senator rises in his place and charges fraud upon my constituents, without specifying a single instance of fraud, I cannot but repel it. Sir, the people of Florida stood before your own tribunals, your judges, and their cases were sifted, not by *ex parte* testimony, not in an *ex parte* manner, but they were sifted by the judges themselves. The testimony was sent here and it was sifted over

again. It was not *ex parte*, and every sum that has been paid was paid deliberately. Not a single officer of the Government has ever yet held up his head and talked about fraud; not one. Sir, I would be the last man, though representing the State in part, and having her honor dear to me, to see her citizens, to whom the faith of the Government is pledged, charged with fraud in presenting a claim, when that charge is not sustained by a single instance of fraud.

Mr. TOOMBS. I had not intended to take any part in this discussion, but, being in the minority of the Committee on the Judiciary, agreeing with my friend from Indiana [Mr. PETTIT] on this subject, I must take a part of the odium which is placed upon our opinions by the honorable Senator from Delaware's charge of fraud, to the fullest extent, and, therefore, I wish to give a statement of the case. The question that came before the Committee on the Judiciary was this, and I invite the attention of every man in the Senate to a very plain statement of it. By a treaty, the Government of the United States engaged to pay whatever were determined, by due process of law, to be the damages inflicted by the Government of the United States upon citizens of Spain.

Mr. HUNTER. Will my friend from Georgia permit me?

Mr. TOOMBS. Not one moment. I want but ten minutes, and then you may have the whole balance of the night. I am with the Senator from Indiana. I do not believe these claims are entitled to the allegation made by the Senator from Delaware of Gardinerism. I have heard Gardinerism and Galphinism often alluded to. I had as much to do as any one man could have, in passing the Galphin claim through the House. That claim was an honest and honorable one, and I am ready to maintain it in the Senate or out of it.

Mr. BAYARD. I used no word like Galphinism.

Mr. TOOMBS. I know that. I do not apply that to you; but these are terms which I think are used sometimes for want of argument. By this treaty we were to pay what was determined by legal process. Very well; the Florida people went into the court of the United States, and that court determined that they were damaged so much in the interests of their property. The United States courts give interest. There is the question. Whether these claims were fraudulent, whether they were maintained by perjury, whether they were for too much or not I do not know; but I do know that that is not the question now before the Senate; I do know that the Government paid the awards to the uttermost farthing; I do know that no allegation of that sort, no attempt to prove it, has come before the committee on which the honorable Senator from Delaware and myself have sat; I know there has been not only no attempt to prove it, but not even an allegation of it, and I have not gone out of doors to get it. Whether fraudulent or not, there are the judicial decisions, and those judicial decisions have been paid to the uttermost farthing. An appeal went to the Treasury, and the Treasury said they must be paid. If they were fraudulent, your Government has paid them in the face of the fraud. That is Gardinerism! If it is Gardinerism, the Government has paid every dollar of the principal upon it, without a word of objection from any Secretary of the Treasury who sat on the cases from 1819 until 1851. These are facts. Let us look at them as Senators and as true men.

I say that the principle of these claims, adjudicated under acts of Congress by judges of the United States, has been paid, to the last dollar, without one word of allegation of fraud, until the honorable Senator from Delaware to-night, compares it to Gardinerism! I never heard it before. It was not heard of in the Committee on the Judiciary. There never was, to my knowledge, such an allegation made before that committee, in which he and I investigated the claims. But the committee decided, against the Senator from Indiana [Mr. PETTIT] and myself, that interest ought not to be paid. That is a question on which the Senator from Delaware and I may differ, and that is a question for gentlemen to differ upon. I believed, when we agreed to pay indemnity, that the thing destroyed, and the use of it, were both to be paid for; but the Government said, we will not pay interest, because, by a rule of the Departments, the Government ought never to pay interest. Sir, by the law of nation, every statesman knows, we are bound to pay interest in such cases. That is a well-laid down and clearly-settled principle. We have agreed to pay indemnity for these losses; Spain has asserted her rights; and all that they demand is to pay the judgment of the United States courts, as decided by the United States law, with interest upon the principal which has been paid.

This, Mr. President, is the plain proposition which is presented to us. I simply wish Senators to know where the difficulty is. I am sorry I have not voice enough now to cover the body. The Committee on the Judiciary differed from me; and I acquiesced. I have great respect for the members of that committee; but the difference was solely upon the question whether, under this treaty, interest ought to be allowed. The question of whether anybody cheated, or whether there was Gardinerism, or whether these claims were open to the charge of fraud, never was before the committee. I think such a charge is unsustained by ascertained evidence. That is my opinion about it. I express it decidedly. I express it with confidence, with the freedom that becomes a man, with the candor that is due to a Senator.

Well, now, sir, the sole question is, whether, under the treaty of 1819, we ought to pay these people interest. That is the sole question. The principal has been paid. Mr. Woodbury paid it. All the Secretaries have paid it. You went before the courts. The judicial decision was, that you should pay damages, with the interest added up to the date of the judgment, by way of indemnity. That is Gardinerism! I appeal to the Senator from Delaware to show any other Gardinerism than that. They have the judgment of the courts; it has been reversed as to interest by your Treasury Department, but the integrity of the transaction is as free from suspicion as is the question of his compensation or mine. That is Gardinerism! That is the case which is presented to you. Not one dollar is asked for by this amendment, but what the district court of the United States said was due. What is demanded is interest upon the judicial decisions of the courts of the United States—not a dollar more. The judgments themselves, under the treaty, required that we should pay principal and interest. That was the decision of your judge. The interest is a part of the judgment; but our Secretary of the Treasury, in reviewing the judgment, paid the principal, but rejected the interest, on what they called a technical rule. I say that when the provision of the treaty was to make indemnity to a man who was injured, it is not sufficient to pay him for the thing lost; but you should pay him for the use of it, which civilized nations have agreed to compound with interest up to the time when it is paid. That is all the Gardinerism there is in these Florida claims.

POST OFFICE APPROPRIATION AND PASSENGER VESSEL BILLS.

A message was received from the House of Representatives by Mr. FORNEY, their Clerk, announcing that they had agreed to some, and disagreed to other of the amendments of the Senate to House bill making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1856; and that they had agreed to other amendments of the Senate to the said bill with amendments. Also, that they had agreed to the amendments of the Senate to the House bill to regulate the carriage of passengers in steamships and other vessels.

Mr. HUNTER. I move that the Senate disagree to the amendments of the House to the amendments of the Senate, insist on our amendments disagreed to by the House, to the Post Office appropriation bill, and ask a conference on the disagreeing votes of the two Houses; and that the Chair appoint the managers on the part of the Senate. I do not desire to be one of them. The members of the Committee on the Post Office and Post Roads can take charge of it.

The motion was agreed to; and Mr. RUSK, Mr. BRODHEAD, and Mr. BENJAMIN, were appointed managers on the part of the Senate.

CIVIL AND DIPLOMATIC BILL—AGAIN.

The Senate, as in Committee of the Whole, resumed the consideration of the civil and diplomatic appropriation bill.

Mr. BUTLER. It becomes my duty, notwithstanding I may trespass upon the time of the Senate, to make some observations respecting the claims embraced in the amendment offered by my honorable friend from Florida; and in doing so I shall endeavor to confine myself to a statement of facts, without designating the case as one of Gardinerism, Galphinism, or anything else. In 1811, and 1812, and 1813, before and during the war between the United States and Great Britain, an insurrection occurred in East Florida, and the parties attempted to establish a Government independent of the Spanish authorities. A large number of armed men joined the so-called patriots, some from the State of Georgia, and some from other parts, but they mostly went into Florida, through St. Mary's, Georgia. They did not succeed in establishing their new Government, for the Spaniards called in the Seminoles to aid in repelling them. The Indians, it seems, when the war was raging did not discriminate much between their Spanish allies, or the revolutionists, and volunteers from Georgia. The first disturbance, or the "patriot war" of 1811–'12, was succeeded by an invasion of East Florida by an armed militia force, under the command of Colonel Newnan, of Georgia, and Colonel Williams, of Tennessee. It has been said that these proceedings, in both instances, had the countenance of the Federal Government, and were under the secret acts and resolution of Congress of 1811. But this was expressly denied by Mr. Madison, then President, and Mr. Monroe, Secretary of State. Regular troops of the United States were on the borders of Florida, and interfered to preserve our rights. The patriots were defeated, and those that remained in Florida were pardoned by the King of Spain. The claims now urged are by the residents of East Florida in 1811,–'12,–'13, and are not only preferred by those who were loyal Spanish subjects, but even by some of the patriot insurrectionists, for spoliations by the Seminoles, and the patriots and Georgia volunteers. They are for houses burned, crops of corn and cotton destroyed, horses, hogs, and cattle taken, and slaves killed or stolen; and all kinds of injuries.

The second invasion was in 1814. General Jackson, whilst in the service of the United States, finding the Spaniards of West Florida, then a Spanish province, were incapable of fulfilling the duties and obligations of neutrality, and that they harbored and permitted British incendiaries and white and black renegades from the United States to take advantage of that weakness and instigate the savages on the frontiers to war—and they did commit the massacre at Fort Mimms under such instigation—with the United States troops under his command, and militia regularly called into service, chastised the Indians in several battles, and finally drove them into West Florida, pursued them, and took possession of Pensacola, and followed the Indians in hot pursuit across several rivers, till they fled into East Florida. He acted under the authority of the United States, and under the law of nations. This was during the war with the British, and nobody ever disputed his right to pursue the Indians as he did.

In 1817–'18, when we had no war on hand except that with the southern Indians, whilst in the service of the United States, with the regular troops and militia under his command, after the massacres on the frontiers, General Jackson attacked the hostile Creeks and Seminoles on this side the boundary, whipped them in several battles, and followed them in hot pursuit into West Florida, again took possession of Pensacola, the Barancas, and St. Marks, and drove the Indians a second time beyond the Suwanee. He executed two British subjects (Arbuthnot and Ambrister) and several Indians at St. Marks, in April, 1818, and John Quincy Adams sustained him. He defended him on the ground that the Spanish authorities in Florida, and British incendiaries there, aided, abetted, instigated, and harbored the savages; and that the laws of nations justified him.

Sir, we acquired the two Floridas by treaty in 1819, after these three different invasions, or, if you choose, *aggressions* upon the Spanish territory. The treaty of 1819, ratified in 1821, is express, that as to all the *recent* or the late operations of the American army in Florida, the United States expressly stipulated that they would cause satisfaction to be made for the injuries, if any, which, by process of law, should be established to have been suffered by the Spanish officers and individual Spanish inhabitants. Mr. Crawford

was then Secretary of the Treasury. These were the depredations of 1814–'18, upon what was called West Florida. Those which had been committed, as was alleged, in 1811, and 1812, and 1813, were in what is called *East* Florida. The last were those alluded to in the treaty as "recent" or "late operations" of the American army.

Mr. MALLORY. Will my honorable friend allow me to correct him? He will recollect that in the Spanish version of the treaty the word "recent," or the word "late," does not occur.

Mr. BUTLER. Colonel White, former Delegate from Florida, started that idea. In the renunciation of the claims to indemnity, the words "recent events," or "transactions," are in both versions; and the treaty refers only to the Federal army and commanders. The fact is, that, from the beginning to the end, there was an effort to bring these East Florida claims of 1811, 1812, and 1813 within the purview of the treaty. They never were within it, and nobody formerly thought them within it, except those who were interested in the claims. Two clauses of the ninth article of the treaty of 1819 provided that the United States should indemnify those persons who had suffered wrong or injury by the late or recent operations, events, or transactions of the American army, or commanders and officers of the United States—Federal troops in the Floridas, and nothing else. These claims, in 1823, were, by law, referred to the judges of Florida as commissioners, simply to ascertain what were those injuries, and to report them to the Secretary of the Treasury, with an express stipulation that his judgment should be the controlling and the final judgment upon the subject.

I am not mistaken on that point, because Chief Justice Taney—and I have his opinion before me, or rather the Supreme Court of the United States—has so decided after argument by counsel, on a case brought into that court in an effort to get a judicial decree or a judicial sanction in some form for those interest claims, which was denied by the court. When the commissioners first sat, in 1823 and 1824, the judges of the different districts in Florida, each being a commissioner for his district, some few of the claimants for the alleged spoliations of 1811, 1812, 1813, and of 1814, presented their claims to the judges. One of the judges (Breckinridge, I think) would not decide that any but the claims of 1818 were within the treaty, but left that question to the decision of the Treasury Department, taking the testimony, and making a "provisional" award, in case the Department should decide the claims anterior to 1818 were included. The East Florida judge, a Mr. Smith, held that the claims of 1811, 1812, and 1813, presented to him, were within the treaty, and sent to the Department some cases for allowance. Mr. Crawford was then Secretary of the Teasury, and he was also a member of the Cabinet when the treaty with Spain was concluded, in 1819.

On the claims for spoliations prior to 1818 being presented to his view, he said they are not embraced by the treaty, and so indorsed on the papers of each claim. There might have been some reason for considering the claims founded on General Jackson's invasion of West Florida, in 1814, with an army of the United States under his command, and as a Federal commander in hot pursuit of the hostile savages, and to dislodge and disperse the British incendiaries harbored by the Spanish authorities at Pensacola and St. Marks, who were instigating the Indians to murder our southern frontier population, as being within the treaty; but he decided that the treaty never intended to reach back even to those cases. As to the East Florida claims, arising out of what was called the *Palnot war* of 1811, 1812, and 1813, he refused to allow any of them, on the express ground that the treaty was not intended to include, and did not embrace, them; and he refused to pay the claimants a single cent. But they were not satisfied. They brought their claims before Mr. Richard Rush, who succeeded Mr. Crawford as Secretary of the Treasury. Mr. Rush gave them the same answer as his predecessor. He told them: Gentlemen, the treaty does not go back to, and include, the injuries and wrongs you allege were incurred at a period prior to, or during, the war between the United States and Great Britain.

Some of the East Florida claimants of 1826 then petitioned Congress, and contended their claims were within the treaty. John Quincy Adams, who negotiated the treaty, and who, it is presumed, knew what claims were intended to be included, was a member of Mr. Monroe's cabinet when Mr. Crawford decided these claims were not embraced, and was President when Mr. Rush decided the same way. They were the arbiters, according to the terms of the law of 1823. Congress, or more properly speaking, the House of Representatives, again and again decided these claims were not embraced within the treaty, by approving of reports of its committees at different sessions rejecting the claims on that express ground. I have not the documents at hand, nor time to go over them if I had, but I distinctly recollect that Mr. Forsyth, in 1826; Mr. C. A. Wickliffe, in 1827; and Mr. Archer, in 1830, 1832, and 1834, all made reports maintaining the doctrine that those claims were not strictly embraced by the treaty, and confirming the decision of Secretaries Crawford and Rush.

But these claimants pertinaciously persevered. They would not be denied. They would not be content with the repeated decisions of the Executive, and of the Legislature. They could not be choked off. After some eleven years' importunity, at last, in 1834, they procured an act to be passed. Now, sir, what was then represented to Congress. Congress was told that the whole amount of claims did not amount to more than $41,000. The amount of the East Florida claims for all the invasions, which had, prior to 1834, been presented, it is true, according to the papers sent by the judge to the Treasury, amounted to about that sum. Nobody had any idea that the claims would be swelled up to millions. Congress was deceived. It did not pass the act of 1834, because it supposed these claims were embraced by the treaty. The reports of the committee that reported the bill show this. The prior reports and the action of Congress upon them show it. The act of 1834 does not decide that these claims were in the treaty. It only refers to the act of 1823 as furnishing the *modus operandi* as to proofs and the rule of decision, and it provides expressly that none but Spanish subjects should be allowed, and no losses except those of the two years 1812 and 1813, or for depredations prior to the entrance into East Florida of the Federal agent or Federal troops. The decisions of Secretaries Crawford and Rush are referred to, and the cases allowed to be examined by the judge of East Florida notwithstanding such decisions; but it is a mistake to say the act of 1834 overruled their decision. The reports of the committee show this.

The three first are express and unequivocal that the treaty has nothing to do with the claims. Mr. Everett's report of 1829 suggests that they may be brought within the treaty by extending its terms pretty liberally. He thought, as we had acquired Florida, and Spain was no longer an adversary, and as the people had become our own citizens and members of our own family, we might afford to treat them kindly and generously, and pay them the $41,000; and as that was the only claim they preferred, even this was refused by Congress. Mr. Archer's reports contain the same suggestions, but take even a more liberal view than Mr. Everett's, for while they deny the obligation for indemnity under the treaty, they propose to allow them without reference to the treaty. Mr. Archer expressly said, that he concurred in the Treasury decisions. So all the reports made by him contend. Mr. White, the Florida Delegate, insisted, with great vehemence and earnestness, that the claims were within the treaty, his chief ground being alleged error in translation; but he was overruled.

I do not care who are concerned in it; the claim that they were in the treaty was an impudent pretension. They were not within the treaty. The act was a gratuity, an indulgence, a kindness, a liberal donation, nothing more. Congress said: We will recognize it not at all as coming under the obligation of the treaty, for the committees said it did not. Inasmuch as it was cheapest to quiet the claim, as it was only $41,000, the committee concluded to report a bill, and allow the matter to be referred to the courts in Florida as commissioners to take testimony to ascertain by process of law and certify what amount of injury was really sustained.

Now, Mr. President, what do you think is the fact in relation to this matter? Since they have brought it up I will state it. Forty-one thousand dollars was the utmost that was alleged originally to have been due, before the liberal act of 1834 was passed; and yet, so soon as the act of 1834 passed swarms of claimants presented claims, and upwards of $2,700,000 was claimed. Upwards of $1,100,000 has been paid. Some of the patriot revolutionists or insurrectionists have preferred their claims, and have been allowed thousands of dollars! The United States is asked to pay all the losses on both and all sides, as well when the Spaniards and patriots were fighting and plundering each other, or when the Seminole Indians plundered either. This is fact, sir, proved by the record. There have been several reports in the Senate and the House in favor of paying the claims of 1814. They had little to do with these claims. There is more plausibility for saying the claims of 1814 were embraced by the treaty than there is for saying these claims are. The operations of 1814 were by authority of the United States, and by Federal troops, and we may have been bound by the law of nations to pay some damages, but we were not bound to pay for the acts of the patriots, filibusters, Indians, and Spaniards of Florida in 1811, 1812, and 1813. Some of those reports contend that the claims of 1814 should be held to be within the treaty because they were later, and because Congress has held that those of 1812 were within it. This is a *petitio principii*. Congress has never so held, and Congress has refused steadily to sanction those reports; so that they make nothing out of them.

I am very sorry that they have brought up this subject. I do not intend to make an apology for speaking upon it. If it was supposed that it would go through the Senate without hearing my opinion upon it, or the opinion of the Judiciary Committee, they were mistaken. I have never known a claim with less justice, or one which, in my opinion, has less in it to commend it to us. There are agents, I suppose, persons interested in it, who urge it with a great deal of pertinacity. I know that many believe, because about $1,200,000 have been stated by the judges, who acted as commissioners, to be due, that interest ought to be given upon that sum. But, sir, I say, the only parties who really had a right to avail themselves of the treaty of 1819, were those who suffered damages, if you choose to say so, by the operations of 1818. They have never claimed interest. Those who had no right, under the treaty, to claim at all, have waited until they have got some foothold, as they think, by the liberality of the Federal legislation, and make this claim for interest. They have got what they call a verdict—I am told that is the term they use—and they claim interest upon it. They had no right to the principal, except through the liberality of the Legislature, and after they have secured that, they have claimed more than those who were entitled under the treaty of 1819.

My colleague upon the committee [Mr. PETTIT] has said something about the term "due process of law" used in the treaty. I have stated, Mr. President, that I have Chief Justice Taney's opinion before me. He says, in regard to this due process of law, in so many words, that the judges to whom the acts of 1823 and 1834 referred these claims, were but "commissioners," whose decisions were under the control and supervision of the Secretary of the Treasury; and, sir, those who preferred their claims, and asked to have them allowed under the act, cannot gainsay the provisions of the act under which they ask relief, and have no right to require any other "process of law" than that which was contemplated, and prescribed, and acted upon, under that very act. The process of law which gentlemen talk about, being prescribed under the very act by which these claimants prefer their demand, it stands as an estoppel to them. It was an act which was extended to them as a matter of liberality, and if gentlemen choose to read Chief Justice Taney's opinion, they will find that the very act under which these gentlemen claim, prescribed the tribunal, and the process of law by which their claims were to be decided. Yet, sir, after that tribunal has decided, they have an *apex juris*, a law that turns upon a point—upon a pivot. I am impatient when I hear it asserted that these claims are embraced by the treaty; and that if they are, the acts of 1823 and 1834 do not afford a "judicial process," and next, that these parties can claim interest, as upon a judgment or verdict. I know I have not time to go into this matter fully; but I trust they

have gained nothing by their motion, in bringing this before the Senate at this time of night. Let the claim go to the court of claims if they have jurisdiction of it, but what court would decide in their favor, with Crawford and Rush, and Chief Justice Taney's adverse decisions. Secretary Guthrie and Attorney General Cushing are also both adverse to this claim, as their report of last session shows. I do not include that of the majority of the Committee on the Judiciary, for I will not say that it is much authority.

Mr. TOOMBS. Is there any other question involved in this amendment than that of whether the interest allowed by the courts ought to be paid? Is not that the only question that is presented to us? Is there any other?

Mr. BUTLER. I do not know that there is any other. The amendment seems to include all the amount of principal allowed by the judges and disallowed by the different Secretaries of the Treasury since 1823; and there is about as much right to allow the deductions of principal as there is for allowing the interest for forty years past. The Secretary of the Treasury reported at the last session that the interest, up to last July, claimed, was upwards of $1,500,000. There has been already paid $1,100,000 principal. If the interest was the only question it would be a pretty important one.

But, I have never heard of interest being allowed in cases of this kind, even if the claims were embraced by the treaty, much less if they were mere gratuities. I cannot do myself justice in going further into this matter; but, since lawyers have set their judgments up in favor of this allowance, I intend to go into it. I shall stand perhaps condemned if I do not. I assert the true principles of the case to be, that the claims are not within the treaty—that the act of 1834, was a gratuity—that interest cannot be claimed on losses of this kind—that donees, like these claimants have no right in law or equity to interest; and that the Florida judges heard and awarded these cases as *commissioners*, and not as a *court*. It has been said under the authority of Todd, that the judges of Florida could not be invested with judicial powers as commissioners. In that case, Todd undertook to claim from the judges, as commissioners, their decision allowing a pension under an act of Congress, and the Supreme Court said to him, you have no right to our action, because the "court" have not been appointed as "commissioners."

The Florida judge seems to think that he could not act as commissioner. If the position is taken that he could not act as "commissioner," how and in what capacity did he act? Was his proceeding to make awards an usurpation? Let them take the ground that he did not act as commissioner, and I will put them at defiance at once and say his awards were no decisions at all. By the acts of 1823 and 1834, the judges' awards were subjected to the revision of the Secretary of the Treasury. It must follow one way or the other. If they were commissioners they did not act as judges, and if they acted as judges they did not act as commissioners. The Supreme Court said they were commissioners, and not judges, not a court. I have their authority for that, and that their awards are not judicial decisions or decrees subject to appeal.

I have detained the Senate much longer than I expected; but I never felt more clearly convinced upon any one subject than upon this. I believe this claim is less founded in justice than any other which I have examined. I went into its examination upon the supposition that it had in it some justice. I have had a great deal said to me upon the subject. I have been beleagured and invested so closely that I had to lock myself up in my committee room. [Laughter.] But I think they have made a mistake, a great mistake, in having this matter urged for discussion here to-night.

How much do they want us to pay? The claims, including those of 1818, presented to the judges up to this time amount to about $2,700,000. The judges *allowed* about $1,199,000, and interest at five per cent. on each from the 10th of May, 1813, amounting to about $1,280,000 more; in all, $2,479,000. The Treasury Department allowed and paid about $1,106,000, deducting about $90,000, part of the principal and all of the interest awarded by the commissioners, being, together, $1,370,000. The amendment proposes to pay the "full amount of the damages decreed by the territorial judges, not heretofore paid." The amendment refers only to the cases in East Florida, of 1811, 1812, and 1813. It does not include the West Florida claims of 1814 and 1818, amounting to some $85,000 more, of which about $25,000 was allowed and paid, and $12,000 deducted and $48,000 disallowed as not being within the treaty, and this does not include any interest. These will come by and by.

It is said that no specific appropriation is necessary in this amendment, as the acts of 1823 and 1834 contain a continuing appropriation, out of which the balance claimed, principal and interest, can be paid if allowed. If so, the claim has no business in this appropriation bill. It seems the amendment is broad enough to cover the whole amount awarded by the Florida judges, including the deductions made from the awards at the Treasury. This amendment, if it passes, will, I presume, cover about $1,370,000, being the amount awarded by the commissioners, principal and interest, after deducting the $1,106,000 paid. Then there is interest up to this time amounting to $250,000 more, not "more or less," but more. These claimants, I verily believe, never had a shadow of right under the law of nations, or any other law, or upon any principle of justice, to demand of the United States one cent of what they call the principal, much less any interest. What Congress has allowed them has been a gratuity, a gift, a donation, and nothing more. And they complain and ask for interest because it was not given to them sooner, and because the gift was not more liberal. Of all the persons in the United States preferring claims to Congress I believe these claimants have the least right. They have already got about $1,000,000 out of the Treasury under the act of 1834, though it was represented, to get that act passed, the whole amount did not exceed $41,000. Yes, sir! they have got this $1,000,000, and they have so run it through these technical funnels that I do not know what, in the progress of the business, they may make out of it. [Laughter.] The claim for interest upon the value of the property destroyed, or taken, or injured, is first founded on the word "losses" in the treaty, and hence the judges allowed it in their award. The award of the judge is called a verdict or judgment, and then it is said the interest is due upon the claim awarded as upon a "liquidated demand." A doctor, it is said, once congratulated himself when he was told his medicine had thrown his patient into fits, and exclaimed, "I—but I will not repeat the story. Sir, I do not think these claims have been, as yet, brought within the treaty; nor that, if they were within it, there is anything in the treaty, or in the acts of 1823 or 1834, that makes the judges' awards, either of principal or interest, final and conclusive; so that the revision by the Secretary of the Treasury, disallowing and deducting the principal when exorbitant, and the interest, in all cases, is to pass for nothing; and that the claimants are entitled to have those disallowances and deductions, and all back interest paid to them. Such claim is preposterous. It is extravagant, sir, positively extravagant, and without reason, right, or justice. I regard it as one of those claims which is asserted with the idea that there is a congressional judgment different from that which would be pronounced by any other tribunal. Sir, I do not hesitate to say that there are many claims urged here which could not be urged anywhere else. I make no imputation, because there are differences of opinion among us; but there is a congressional chord which will give a response to anything styled a verdict that you could not find in any tribunal upon earth, governed by fixed rules of justice and right. I am sorry that I have taken up so much time; but I am positive upon this subject. If Senators, however, mean to sustain this claim, be it so.

Mr. MALLORY. It is not my design to discuss this measure any more; but some friends are apprehensive, perhaps, that the honorable Senator from Delaware, whom I addressed just now, may misinterpret or misunderstand the extent of my remarks; it is, therefore, due to the Senate, and to myself, and to my feelings towards that honorable Senator, to state distinctly that, in declaring, as I did, that all charges of fraud upon my constituents I considered false, I designed no imputation upon the honorable Senator, for whose public and private character I have the highest regard, and with whom my relations, social and official, have ever been cordial and kind.

Mr. MORTON. It is foreign from my intention, Mr. President, to take any part in this discussion. I would prefer to leave it to the members of the Committee on the Judiciary, as there are important legal questions involved. But, in consequence of the turn which this debate has taken, I would be wanting in duty to my constituents and myself if I did not say a few words. My friend from South Carolina, in his argument, if I may use the expression, has traveled out of the record; indeed, he has gone behind it. If he had been representing the United States, before the court which adjudicated these claims, then, perhaps, his argument would have been well enough.

But, Mr. President, the question of the validity of these claims is not before the Senate. The question is whether this Government will comply with a solemn treaty stipulation made and ratified more than thirty years ago. By the last clause of the ninth article of the treaty of February 22d, 1819, between the United States and Spain, it was agreed that "the United States will cause satisfaction to be made for the injuries, if any, which, by the process of law, shall be established to have been suffered by the Spanish officers and individual Spanish inhabitants by the late operations of the American Army."

To give effect to this clause of the treaty, Congress, on the 3d of March, 1823, passed "An act to carry into effect the ninth article of the treaty concluded between the United States and Spain on the 22d of February, 1819." The first section of that act authorized and directed the judges of the superior courts, established at St. Augustine and Pensacola, in the Territory of Florida, respectively, to receive and adjust all claims arising within their respective jurisdictions, of the inhabitants of said Territory, or their representatives, agreeably to the provisions of the said ninth article. The second section required the decisions made by the said judges, and the evidence on which they were founded, to be reported to the Secretary of the Treasury, who, on being satisfied that the same were just and equitable, within the provisions of the treaty, were required to pay the amount thereof to the parties entitled thereto.

There were two invasions of East Florida, that of 1812-'13 and that of 1818. There were, also, two invasions of West Florida, the first in 1814, and the other in 1818. The judge at St. Augustine adjudicated the losses occasioned by the operations of the American army in 1812-'13 and 1818. When the claims were presented at the Treasury, Mr. Rush, the then Secretary, paid those of 1818, but refused to pay those of 1812-'13, alleging that his immediate predecessor, Mr. Crawford, had decided that the word "*late*" had reference to the *last* operations of the army in 1818. The losses sustained by the inhabitants of West Florida in 1818 were likewise paid, but those of 1814 have not been paid to this day, upon one flimsy pretext or another. This, however, Mr. President, has nothing to do with the question now under consideration, as the claims of West Florida are embraced in a separate and independent bill now pending before the Senate.

The losses sustained by the people of East Florida in 1812-'13, were the heaviest, and after much delay, Congress, on the 26th June, 1834, passed an act directing the Secretary of the Treasury to pay all the claims of the people of East Florida for losses sustained in 1812-'13 that had been adjudicated, and where the claimants had failed to have their losses adjudicated in consequence of the decision of the Secretary of the Treasury that they were not embraced by the treaty, the judge of the superior court at St. Augustine was authorized to receive, examine, and adjudge such claims as the parties had failed to present. The judges at St. Augustine did adjudicate these claims, and, as a part of the damages sustained, they awarded five per cent. interest from 1813 to 1834; and, Mr. President, the principal of these claims have been paid at the Treasury, but the interest has not been, and the claimants are now asking Congress that it will direct the Secretary of the Treasury to pay the balance of the damages which have been awarded them by the court.

My friend from South Carolina speaks of the small amount of claims which were first presented

to the Treasury. Why, Mr. President, the reason is very obvious, that the amount was small. The Secretary had decided that the claims for losses sustained in 1812–'13 were not embraced by the treaty; and until Congress, in 1834, by overruling the decision of the Treasury Department, and giving a legislative construction to the treaty, the claimants had no means of having their claims adjudicated. Then why should the honorable Senator, at this remote period, go into an argument upon the meaning and interpretation of the treaty. Congress, a little upwards of twenty years ago, solemnly decided that the claims of 1812–'13 were embraced by the treaty; therefore, I say my friend from South Carolina is traveling out of and behind the record.

I am well aware, sir, that at this late hour of the night it is impossible for such a question as this to be discussed as it should be.

Mr. SEWARD. With the consent of the honorable Senator, I move an adjournment.

Mr. HUNTER. I hope not; we ought to try to get this bill through to-night.

The motion was not agreed to; there being, on a division—ayes 14, noes 18.

Mr. MORTON. When I gave way to my friend from New York to move an adjournment, I had asked why the honorable Senator from South Carolina brought into this discussion the meaning and interpretation of this treaty? I repeat the question, sir, why should the construction of the treaty be now brought in review? Did not Congress, by the act of June 26, 1834, decide that their losses were embraced by the terms of the treaty, and direct and authorize the judiciary of Florida to adjudicate them?

Then, Mr. President, the requisitions and stipulations of the treaty have only been in part complied with. Congress established the tribunal before which the claimants, by "process of law," established their losses. The Secretaries of the Treasury, from Mr. Woodbury down, have ratified the decisions by paying the principal, and have refused to pay the five per centum interest which was awarded by the judge as a part of the losses sustained by the claimants. Congress is now called to discharge in full the obligations of a solemn treaty which is the supreme law of the land.

My friend from South Carolina, Mr. President, complains that the Senators from Florida have brought this claim forward at this late hour of the night. Whose fault is that? I ask the honorable Senator whose fault is it that this claim has come up at so late an hour? Was not the matter referred to the Committee on the Judiciary, of which that Senator is chairman? Has that committee ever reported upon the claim? What other course, then, could the Senators from Florida adopt but to endeavor to embrace in the civil and diplomatic bill the direction to pay these claims?

Mr. BUTLER. My friend is right. I never will do injustice. Three weeks ago we ordered the report to be prepared; but it has been delayed; and the fact is, I attribute it to what my friend from Delaware does not think I know of him: that he will never trust himself to anything that he does not do much better than anybody else, and he was afraid to trust himself with this until this time. [Laughter.] The subject was committed to him three weeks ago, or perhaps four weeks ago; I think he will say that much.

Mr. BAYARD. This matter is of very little moment, of course. The Senator desired that I should make a report four weeks ago; but the committee were divided in opinion, and the ultimate expression of opinion had not been given. I told him I was unwilling to take the labor of drafting such a report as I thought ought to be made, with the other duties that devolved upon me, until the committee should make a formal decision. My recollection is, that three weeks ago last Wednesday, when we desired to have a final decision, the honorable Senator from Indiana desired us not to act upon it, but postpone it.

Mr. PETTIT. I will state my recollection of it.

Mr. BAYARD. I will go on with what I have to say, and then the honorable Senator can make his statement. Two weeks ago we did decide. Two weeks ago last Wednesday the committee authorized me to make a report. There are circumstances, with which it is not worth while to trouble the Senate, which have delayed it. It would be a very laborious thing to write. I would not undertake to write it without reading a good deal. An individual might express himself freely in an oral argument on a question, but when he comes to write out a report on a very important matter, he would desire to refer to his authorities. I had no opportunity or time to consult them with the pressure of other business which has been upon me. I therefore put it off from day to day. That, with other things, with which, I say, it is not worth while to trouble the Senate, prevented me from drawing up the report. It was, however, only two weeks ago, according to my own distinct recollection, that I was authorized by the committee to draw it up.

Mr. BUTLER. I believe the Senator is right.

Mr. GEYER. This report was agreed upon two weeks ago, I think. I, being one of the majority of the committee, was importuned by persons whom I supposed to be interested, to ask a postponement of it; and I did so. It was their desire that we should not make a report at this session at all.

Mr. MORTON. This involves the question which I intended to put. What was the cause of the committee not having made the report? My friend from South Carolina asks the question, emphatically, why this subject was thrust upon the attention of the Senate at this late hour of the night; and he forewarned us, also, that it should not pass without a free and full discussion upon his part. I thought it was due to myself, sir, and due to the State that I represent, that I should present the fact to the notice of the country that the Senators from Florida had not whereon to act, that they were waiting for a report from the Judiciary Committee of a bill, or something in a tangible and substantial form, on which they could act. What caused the delay of the committee I know not, nor is it necessary for my purpose that I should know.

Mr. PETTIT. Will my friend allow me to make a statement?

Mr. MORTON. Certainly.

Mr. PETTIT. I had been absent from the city for a month, having left on the 20th day of December and returned on the 20th of January. At the first meeting of the Committee on the Judiciary, after I returned, I was told that this thing was settled and determined, that the majority had agreed upon a report against it. I learned that the Senator from Georgia, [Mr. TOOMBS,] one of my colleagues on the committee, agreed with me that the claims ought to be paid—that there was a legal obligation upon the Government to pay them. Then it was that I asked, once or twice, that the report should be delayed until that Senator came here, in order that he might join with me in a minority report. But that was over and done long ago; and we have been looking for weeks past for the report from the majority. I prepared, as I have said, with a good deal of labor, a minority report of considerable length; and I was absolutely told that it was not in order, and that I would not be allowed to present a report from the minority of the committee. I replied to that, that I would print it at my own expense, and would be quite willing to let the two arguments go together; but, now, at this late day, no report has been prepared by the majority of the committee.

Mr. BUTLER. I never will allow anything to go forth to the public that is not exactly correct, if my statement will make it correct. When the honorable Senator from Indiana [Mr. PETTIT] returned, he asked what had been the decision of the committee. I am not sure, however, whether he asked; perhaps I told him. It was one or the other. The question was, what had been the decision of the committee on the Florida claims? I told him that the majority were against the claims, and against the report of the House of Representatives. I said to him, it is due to the committee that we should make a report promptly. The honorable Senator from Indiana said, I hope you will wait until the Senator from Georgia [Mr. TOOMBS] returns. I said, certainly. It was understood by the committee that the Senator from Georgia would not be likely to be here before the close of the session; and then the Senator from Delaware was requested to make the report. Well, sir, he was too proud, with his bright intellect, and wanted to do it so well, that nobody else could question it. [Laughter.] And finally no report was made to the Senate. That was the fact.

Mr. BAYARD addressed the Chair.

The PRESIDING OFFICER, (Mr. WELLER in the chair.) The Senator from Florida is entitled to the floor.

Mr. MORTON. My object in referring to the remark made by the Senator from South Carolina was to remove any impression that might be made upon the Senate, that the Senators from Florida were disposed to thrust this matter before the Senate, and through the Senate, without full discussion. If that impression exists upon the mind of any Senator, it is not founded on fact; for all that the Senators from Florida, or those who advocated the claim upon this floor, desired, was free and full discussion, and a full understanding by Senators of the entire question. I shall not, Mr. President, further detain the Senate with any protracted remarks upon the question. I leave the discussion of the legal questions involved to those who, from the nature of their profession, are better qualified than myself to discuss them; but I will, in conclusion, sir, say that these claims of Florida have been established by due "process of law," that they have been adjudicated by your courts, and, so far as the principle is concerned, have been approved by every Secretary of the Treasury before whose revision they have passed; and I have never heard from a representative of the United States before the courts, any charge or allegation of fraud. No such allegation has ever been made before the courts; no such allegation has ever been made before the Secretaries of the Treasury, and none has ever been made before, as I am aware, in the Senate of the United States.

I will say nothing further in reply to the remark of the Senator from Delaware. I think it would have been in better taste and better subserved the purposes of justice if he had withheld the remark that these claims were as fraudulent as the Gardiner claims, until he had presented the evidence of fraud to the Senate, until his committee had made a report and brought that fraud to the notice of the Senate and of the country. I say that the Senator should not have indulged in that remark, with all deference to him I say it, until an *exposé* of the fraud had been made by his committee to the Senate. No allegation of fraud of this character was made before the courts that I am aware of. Nothing of the kind was attempted before the Secretary of the Treasury, before whose revision the decisions of the court passed; and then, I say in the Senate of the United States, such fraud ought not to be charged against my constituents unless that charge was supported by evidence. No evidence has been adduced here or elsewhere to this day or hour to sustain such an allegation.

ENROLLED BILLS SIGNED.

The PRESIDENT *pro tempore* signed the following enrolled bills and joint resolution to which the Speaker had previously affixed his signature:

A bill in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States;

A bill for the relief Mrs. Nancy Weatherford, widow of Colonel William Weatherford, of the first regiment Illinois volunteers in the Mexican war;

A bill making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1856, and for other purposes;

A bill for the relief of James Holstin;

A bill making appropriations for the support of the Military Academy for the year ending June 30, 1856;

A bill allowing the further time of two years to those holding lands by entries in the Virginia military district in Ohio, which were made prior to the 1st of January, 1852, to have the same surveyed and patented;

A bill to amend an act approved the 4th of August, 1854, entitled "An act to graduate and reduce the price of the public lands to actual settlers and cultivators;"

A bill for carrying into effect the convention upon the subject of claims between the United States and her Britannic Majesty of the 8th of February, 1853; and

A joint resolution for the relief of Clark Mills.

MESSAGE FROM THE HOUSE.

A message was received from the House of

Representatives, by Mr. FORNEY, their Clerk, announcing that they had passed a bill to provide accommodations for the United States courts in the city of Jackson, Mississippi.

Also, that they had passed Senate bill for the relief of Madelina Van Ness, widow of Cornelius Van Ness, deceased.

IOWA LAND DISTRICTS.

The message also announced that they had passed the bill of the Senate to change the boundaries of the land districts in the State of Iowa, and for other purposes, with an amendment.

On motion by Mr. JONES, of Iowa, the Senate concurred in the amendment.

Mr. DAWSON, (at five minutes past twelve o'clock.) I move that the Senate adjourn.

Mr. BROWN. I ask my friend from Georgia to withdraw that motion for a moment.

Mr. DAWSON. I cannot; my friend must excuse me.

Mr. BROWN. A bill has come from the House in which my State is interested, that I should like to have passed.

Mr. DAWSON. Will you renew the motion?

Mr. BROWN. I will. I ask the Senate to take up House bill 857.

COURTS IN MISSISSIPPI.

The PRESIDING OFFICER. If there be no objection the bill indicated by the Senator to provide accommodations for the United States courts in the city of Jackson, Mississippi, will be taken up. The bill is before the Senate as in Committee of the Whole.

Mr. ADAMS. It is the only appropriation my State has asked for during the whole Congress, and it is the only one it will ask for.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. BROWN. In pursuance of my promise to my friend from Georgia, I move that the Senate adjourn, and, with his permission, I will add that it be to meet at ten o'clock to-morrow morning. We had better save an hour.

Mr. HUNTER. I hope the motions will be put separately. Put the question first on meeting at ten o'clock.

The PRESIDING OFFICER. If there be no objection, the motion that the Senate do now adjourn until ten o'clock to-morrow will be entertained.

Mr. HUNTER. I object to an adjournment now. I am willing to fix the hour of meeting.

Mr. DAWSON. I want to make a motion to adjourn.

Mr. STUART. I will cut off the discussion by objecting to changing the time of meeting.

The PRESIDING OFFICER. Then the question is the adjournment simply.

Mr. HUNTER. I ask for the yeas and nays upon it. I wish to get through with the civil and diplomatic appropriation bill to-night.

The yeas and nays were ordered and taken.

Pending the announcement of the result,

Mr. RUSK said: I hope the Senate will agree, by unanimous consent, to meet at ten o'clock to-morrow morning.

The PRESIDING OFFICER. That can be done only by unanimous consent.

Mr. STUART. I agree to it, if there is to be no talking about it.

By unanimous consent the order was made.

The PRESIDING OFFICER announced the result of the call of the yeas and nays—yeas 22, nays 22; as follows:

YEAS—Messrs. Benjamin, Brainerd, Brodhead, Butler, Cooper, Dawson, Evans, Fitzpatrick, Foot, Geyer, Gillette, James, Jones of Iowa, Pearce, Pratt, Sebastian, Seward, Stuart, Sumner, Thompson of Kentucky, Wade, and Wright—22.

NAYS—Messrs. Adams, Badger, Bayard, Bright, Brown, Gwin, Houston, Hunter, Mallory, Mason, Morton, Pettit, Rusk, Shields, Slidell, Thomson of New Jersey, Toombs, Toucey, Walker, Weller, Wells, and Wilson—22.

Mr. BROWN. The Senator from Massachusetts [Mr. WILSON] addressed the Chair before the result was announced.

Mr. WILSON. I wished to change my vote; but I suppose it is too late now.

The PRESIDING OFFICER. The Senate refuses to adjourn.

CIVIL AND DIPLOMATIC BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the civil and diplomatic appropriation bill.

Mr. COOPER. I desire to say a few words on the subject of the amendment now pending in relation to the Florida claims. I think, Mr. President, that this will be a plain question when the facts are once understood. I will make a brief statement of those facts before I proceed to give my reasons why the interest which is proposed by the amendment to be paid, should be allowed.

Mr. SEWARD. Will the Senator give way to a motion to adjourn?

Mr. COOPER. I will.

Mr. SEWARD. I submit the motion.

The motion was agreed to; and the Senate, at twenty minutes past twelve o'clock, p. m., adjourned until to-morrow at ten o'clock, a. m.

IN SENATE.

SATURDAY, *March* 3, 1855.

The Senate met at ten o'clock, a. m.

Prayer by Rev. HENRY SLICER.

On motion by Mr. BADGER, the reading of the Journal was dispensed with.

W. IRVING.

Mr. BADGER. Mr. President, I beg to throw myself on the indulgence of the Senate, and ask from them, probably, nay, I may say almost certainly, the last favor I shall ever ask here. Some days ago I thoughtlessly, and perhaps wantonly, objected to the consideration of a small bill, which I find is one of great merit. It was passed with great unanimity in the House of Representatives. It is to appropriate a small sum of money to the widow of a gentleman by the name of Irving, for his compensation while he was Acting Superintendent of the Census. I appeal to the Senate, in order to relieve my mind from the sense of having thoughtlessly done injustice, to take up that bill and pass it this morning.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. Its object is to direct the payment of $466 67 to Sarah Irving, for the services rendered by her husband as Acting Superintendent of the Census.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REPORTS FROM STANDING COMMITTEES.

Mr. RUSK, from the Committee on the Post Office and Post Roads, to whom was referred the resolution from the House of Representatives for the final adjustment of the account of John D. Colmesnil, reported it without amendment.

Mr. SEWARD, from the Committee on Commerce, to whom was referred the bill from the House of Representatives to establish Columbus, in the State of Mississippi, Chattanooga, in the State of Tennessee, and Hickman, in the State of Kentucky, ports of delivery, reported it back without amendment.

COMMITTEE ON ENROLLED BILLS.

On motion by Mr. JONES, of Iowa, an additional member of the Committee on Enrolled Bills was authorized to be appointed; and Mr. WRIGHT was designated.

CIVIL AND DIPLOMATIC BILL.

Mr. HUNTER. I rise to ask the Senate by unanimous consent now to take up the civil and diplomatic appropriation bill, and to lay aside the contested amendment of the Senator from Florida, and go on with some amendments from committees, which will give rise to no debate, and we can be acting on them until there is a fuller attendance to decide contested amendments. I am induced to ask this, because I fear if we cannot get this bill through by twelve o'clock to-day, we shall either lose the bill or our amendments. ["Agreed!" "Agreed!"]

Mr. FOOT. I ask the Senate to take up the joint resolution for the relief of Alfred G. Benson.

Mr. THOMPSON, of Kentucky. I hope the Senator from Virginia will withdraw his motion for the present.

Mr. HUNTER. If I withdraw it, I may just as well give it up and abandon the bill at once. I have done my best to get on with it.

The motion of Mr. HUNTER was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill from the House of Representatives making appropriations for the civil and diplomatic expenses of Government, and for other purposes, for the year ending June 30, 1856.

The PRESIDENT. The unfinished business of yesterday is the amendment of the Senator from Florida, [Mr. MALLORY.]

Mr. MALLORY. On the appeal of the Senator from Virginia, I must consent, of course, to allow the amendment to be laid aside for the present; and I ask the Senator from Virginia, when the committees shall be through with reports of uncontested amendments, to call up this.

Mr. HUNTER. Certainly; this can be acted on then.

Mr. STUART. I have some amendments to offer from the Committee on Commerce. The first is simply to change the location of a collector of the customs in Texas, from one point to another. It is as an additional section:

And be it further enacted, That Franklin, in the collection district of Paso del Norte, be, and the same is hereby, made the port of entry for said district, instead of Frontera, and the collector shall reside thereat.

The amendment was agreed to.

Mr. STUART. I also offer, from the same committee, an amendment for furnishing the new custom-house at Bangor, Maine, which is recommended by the Department. It is, in the second section, under the heading "custom-houses," to insert:

For furnishing the custom-house, post office, and United States court-room at Bangor, Maine, $1,500 for each, making $4,500; the appropriation for the custom-house to be expended under the direction of the Secretary of the Treasury; that for the post office under the Postmaster General; that for the court-room under the Secretary of the Interior.

The amendment was agreed to.

Mr. STUART. The next amendment of the Committee on Commerce is to provide for the construction of two or three light-houses, which are recommended by the Secretary of the Treasury, and by the Light-House Board.

The amendment is to insert, under the heading "light-house establishment," in the first section:

For the building of a light-house on the Government reservation at Minnesota Point, near the head of Lake Superior, in the Territory of Minnesota, $15,000. And for the construction of two light-houses in California, one at Crescent City, and one at Trinity Bay, $15,000 each, should the Secretary of the Treasury decide that such light-houses are necessary, after proper examinations and surveys.

The amendment was agreed to.

Mr. STUART. I now offer, from the same committee, an amendment simply authorizing the Secretary of the Treasury to regulate the pay of light-house keepers, without increasing the general amount:

And be it further enacted, That from and after the first day of July next, the Secretary of the Treasury be, and he is hereby, authorized and empowered to regulate and fix the salaries of the respective keepers of light-houses in such manner as he shall deem just and proper: *Provided*, The whole sum allowed shall not exceed an average of $500 to each keeper.

The amendment was agreed to.

Mr. STUART. I offer now an amendment simply to provide for taking care of sick and disabled seamen at the port of Havana, with an express provision that no erection of buildings is to be had there.

Mr. HUNTER. I hope that will not be pressed. I do not think it is right. I do not wish to debate it, however; I cannot do so, knowing the state of the public business and the value of time.

Mr. STUART. I do not want to debate it, but I wish to say to the Senate that there is collected of these men $130,215. There is a letter from the consul at Havana, showing the importance of it. It is recommended by the Department. The amendment is:

And be it further enacted, That it shall be lawful for the President of the United States to cause such measures to be taken as, in his opinion, may be expedient for providing convenient accommodations, medical attendance, necessary assistance and supplies for the relief of the sick and disabled seamen of the United States who may be at or near the port of Havana, Cuba, in case the same can be done with the assent of the Government having jurisdiction over said port; and, for this purpose, to establish regulations, and authorize the employment of such persons as he may judge proper. And for defraying the expenses thereof, a sum not exceeding $10,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, That no building shall be erected or purchased under the provisions of this section.

The amendment was agreed to.

Mr. STUART. At the last session, Congress

made an appropriation for the construction of a marine hospital at Cincinnati. The site has been purchased, and there is a surplus remaining. The Secretary of the Treasury asks for $75,000 additional to enable him to make the construction. I therefore offer this amendment, to come in under the "miscellaneous head:"

For the construction of a building for a marine hospital at Cincinnati, Ohio, $75,000.

The amendment was agreed to.

Mr. STUART. I have an amendment which is desired by the Treasury Department in respect to the fees of United States clerks in the Territories, simply to extend the provisions of the law to Territories as it exists in respect to States. It is to insert the following additional section:

SEC. —. *And be it further enacted*, That the provisions of the act of February 26, 1853, "to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," are hereby extended to the Territories of Minnesota, New Mexico, and Utah, as fully in all particulars, as they would be had the word "Territories" been inserted in the sixth line after the word "States," and the same had read "in the several States and in the Territories of the United States;" this clause to take effect from and after the date of said act, and the accounting officers will settle the accounts within its purview accordingly.

The amendment was agreed to.

Mr. STUART. I offer an amendment, recommended by the Secretary of the Treasury, for the purpose of establishing an officer to carry out the reciprocity treaty between this country and the British Provinces:

SEC. —. *And be it further enacted*, That there be appointed a consul general to reside in the British North American Provinces, with a salary of $4,000 per annum; and the sum of $4,000 is hereby appropriated for that object.

The amendment was agreed to.

Mr. STUART. I have one other amendment, on the recommendation of the Committee on Commerce and the Department of the Treasury, for marine hospitals at Burlington, Vermont, and Wilmington, North Carolina. It is to insert these additional sections:

SEC. —. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to cause to be constructed the following buildings:

At Burlington, Vermont, a marine hospital, to cost not more than $35,000.

At Wilmington, North Carolina, a marine hospital, including a pest-house, for the separate accommodation of patients with contagious and infective diseases, to cost not more than $40,000.

SEC. —. *And be it further enacted*, That the several sums mentioned in the preceding section as the cost of the buildings therein authorized to be constructed, together with ten per centum thereon, to cover the compensation of architects, superintendents, advertising, and other contingent expenses, and so much as may be required to purchase suitable sites for said buildings, be, and the same are hereby, appropriated for the purposes aforesaid, out of any money in the Treasury not otherwise appropriated: *Provided*, That no money hereby appropriated shall be used or applied for the purposes mentioned until a valid title for the land for the site of such building shall, in each case, be vested in the United States, and until the State shall duly release and relinquish to the United States the right to tax or in any way assess said site, or the property of the United States that may be thereon, during the time that the United States shall be or remain the owner thereof.

The amendment was agreed to.

Mr. SEWARD. I am instructed by the Committee on Commerce to submit an amendment for the erection of custom-houses at Bristol, Rhode Island; Pensacola, Florida; Cleveland, Ohio; Plattsburg, New York; Alexandria, Virginia; and Barnstable, Massachusetts—all of which are recommended by the Department. The amendment is to add the following additional sections:

SEC. —. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause to be constructed the following buildings:

At Bristol, Rhode Island, for the accommodation of the custom-house and post office, a building of brick, with fireproof floors, constructed of iron beams and brick-work, iron roof, shutters, sills, &c., twenty-five feet by thirty, and twenty-five feet high, to cost not more than $12,500;

At Pensacola, Florida, for the accommodation of the custom-house, post office, and United States court, a building of like materials, thirty-five by fifty feet, and forty feet high, to cost not more than $35,000;

At Cleveland, Ohio, for the accommodation of the custom-house, post office, and United States court, a building of stone, eighty-five by sixty feet, and sixty feet high, of like floors, beams, roof, shutters, &c., to cost not more than $88,000;

At Plattsburg, New York, for the accommodation of the custom-house, post office, and United States court, a building of brick, of like floors, roof, beams, shutters, &c., forty-five feet by sixty, and forty-eight feet high, to cost not more than $50,000;

At Alexandria, Virginia, to accommodate the custom-house, post office, and United States court, a building of brick, of like floors, beams, roof, shutters, &c., forty-five feet by sixty, and forty-eight feet high, to cost not more than $50,000;

At Barnstable, Massachusetts, for the accommodation of the custom-house and post office, a building of brick, of like floors, beams, roof, shutters, &c., forty-five feet by thirty-two, and thirty-two feet high, and to cost not more than $20,000.

SEC. —. *And be it further enacted*, That the several sums mentioned in the preceding section of this act as the cost of the buildings therein authorized to be constructed, together with ten per cent. thereon to cover the compensation of architects, superintendents, advertising, and other contingent expenses, and so much as may be required to purchase suitable sites for said buildings, be, and the same are hereby, appropriated for the purposes aforesaid out of any money in the Treasury not otherwise appropriated: *Provided*, That no money hereby appropriated shall be used or applied for the purposes mentioned until a valid title to the land for the site of such buildings in each case shall be vested in the United States, and until the State shall also duly release and relinquish to the United States the right to tax or in any way assess said site or the property of the United States that may be thereon, during the time that the United States shall be or remain the owner thereof.

Mr. HUNTER. Is that from a committee?

Mr. SEWARD. Yes, sir, from the Committee on Commerce, and recommended by the Department of the Treasury.

Mr. HUNTER. May I appeal to the Senator from New York, knowing how little time we have, to refrain from offering these custom-house amendments which have been such a source of contention heretofore?

Mr. SEWARD. There is no contention about them at all. They are in all parts of the Union, including Pensacola, Alexandria, and Barnstable.

Mr. HUNTER. No matter where they are, it is wrong. They ought not to go on this bill. I only regret that I have not time to oppose the amendment. I cannot see anything but the loss of the bill to result from adding such propositions.

Mr. BRODHEAD. I do not wish to debate this question, but I perceive that this amendment provides for the building of a number of custom-houses and post offices and court-houses throughout the United States; and yet, the great cities of Philadelphia, New York, and Boston, are without structures of this kind. I move, therefore, the following amendment to the amendment:

And that the following sums be appropriated for the purchase of sites and erection of buildings for the use of the courts of the United States, and post offices: for the city of New York, $550,000; for the city of Philadelphia, $475,000; for the city of Boston, $400,000; the same to be expended under the direction of the President of the United States and the Secretary of the Interior, and Postmaster General.

Mr. HUNTER. I hope we shall vote all these propositions down.

The amendment to the amendment was rejected; and the question recurring on the amendment of Mr. SEWARD,

Mr. WADE called for the yeas and nays; and they were ordered.

Mr. JAMES. One of these appropriations is asked for a place in my own State, Bristol, where there have been $5,000,000 of revenue collected and paid into the Treasury in a single year; and yet the Government does not own a building there. It has to hire a place in which to deposit its records which are liable to be burned at any time. There is no case which has come before the Senate where a proper building is so much needed for the purposes of the Government.

Mr. WADE. There is no appropriation in this bill which is more necessary than that proposed in the amendment for the erection of a building for a custom-house, court-house, and post office, at Cleveland, Ohio. There is no court-house, no post office building there, and no opportunity to do the public business of the United States; and yet, as the report which superinduced the offering of this amendment shows, there is more post office business done in the city of Cleveland than in Cincinnati, or almost any city of the whole West, but there are no conveniences provided for the accommodation of that business. There is no place to hold the courts. By the recent action of Congress, the State of Ohio has been divided into two judicial districts, and it is provided by law that the district and circuit courts for the northern district of Ohio shall be held in the city of Cleveland, but there is no place provided for the holding of those courts.

Mr. PETTIT. Allow me to ask the Senator whether there is not a county court-house where the State courts are held?

Mr. WADE. There is a county court-house, but a very poor one.

Mr. PETTIT. It was only built about twenty-five years ago. I have thought it was a very good one.

Mr. WADE. That court-house is constantly in use for the legitimate purposes for which it was designed. The Department has recommended this appropriation, and if there is any question about it, I ask that the report of the Department may be read. ["No!" "No!"]

Mr. SEWARD. Each of them is recommended by the Department, and there is a specific estimate for each.

Mr. WADE. There is a specific report showing the propriety and necessity of the building at Cleveland, and if there is any question about it, I ask that the report may be read.

Mr. HUNTER. I hope the Senator will not ask for the reading of any reports. Let us take a vote. I have nothing to say; the Senator has made his speech, and now let us take the vote.

Mr. WADE. I will not insist on the reading of the report.

Mr. MORTON. I am not going to make a speech, but I rise to express my regret at the opposition to this little amendment. It comes regularly before the Senate by the estimates of the Department for certain custom-houses not in the large cities of the United States. We have been voting large amounts to the great cities of the Union, and now these small towns ask for but a small appropriation.

The question being taken by yeas and nays on the adoption of the amendment of Mr. SEWARD, resulted—yeas 24, nays 8; as follows:

YEAS—Messrs. Badger, Bayard, Bell, Butler, Cass, Cooper, Foot, Gwin, James, Johnson, Mallory, Mason, Morton, Pearce, Sebastian, Seward, Stuart, Sumner, Toucey, Wade, Walker, Weller, Wells, and Wilson—24.

NAYS—Messrs. Brodhead, Evans, Fitzpatrick, Hunter, Jones of Iowa, Pettit, Rusk, and Thompson of Kentucky—8.

So the amendment was adopted.

Mr. SEWARD. I am directed by the Committee on Commerce to submit a further amendment which is asked for by the Treasury Department:

And be it further enacted, That the Secretary of the Treasury is hereby authorized to appoint for the collection district of New York five weighers and twenty inspectors, in addition to the number heretofore allowed by law.

The amendment was agreed to.

Mr. SEWARD. I have another amendment, in relation to the compensation of weighers, measurers, gaugers, and inspectors, recommended by the Department:

SEC. —. *And be it further enacted*, That the weighers, gaugers, and measurers for the collection district of New York shall hereafter receive a compensation at the rate of $2,000 each per annum; and inspectors for the said district shall, hereafter, receive as compensation a sum not exceeding four dollars per day each for their services.

Mr. HUNTER. The provision ought to be extended to more ports than New York. If we begin with that subject I do not know where we shall end. I believe the inspectors ought to have more, but I do not think the provision ought to be put on this bill now.

Mr. SEWARD. I have limited it to the recommendation of the Department.

The amendment was agreed to.

Mr. SEWARD. I am also instructed by the same committee to offer the following amendment:

And that the compensation of collectors of customs at Sandusky, Toledo and Cleveland, be hereafter the same as now allowed by law to the collector at Detroit.

The amendment was agreed to.

POST ROUTE BILL.

Mr. RUSK. I desire to make an appeal to the Senate to lay aside the civil and diplomatic appropriation bill and take up the post route bill. That is a very long bill, which has yet to be enrolled and examined. I understand the Senator from California [Mr. WELLER] does not propose to add any amendment, and I hope none will be offered. If any be presented I fear the bill will be entirely lost. There are a large number of post routes necessary to be provided for the new Territories.

Mr. WELLER. It was my intention the other day to offer an amendment to this bill, but I fear now that the bill itself will be lost if I attempt to amend it. It was my design to move a provision for the transportation of the mail from St. Louis, Missouri, to San Francisco, overland—a measure, in my judgment, of the utmost importance; but it was proposed last night in the House of Representatives, and defeated there by a large majority,

I regret to say. I will not, therefore, endanger the passage of this bill by pressing that question so late in the session.

Mr. GWIN. I shall move to amend this bill. I want a proposition attached to have a weekly mail; the one rejected in the House was for a daily mail.

The PRESIDENT. The first question is on taking up the bill. It requires unanimous consent.

Mr. JAMES. I shall object if gentlemen are going to debate it.

Mr. RUSK. Very well, sir; I shall make no further effort.

Mr. JAMES. I will withdraw the objection if Senators will not go into debate upon it.

Mr. GWIN. I have no desire to debate it.

Mr. RUSK. Nor have I.

Mr. JAMES. I withdraw my objection.

The PRESIDENT. The Chair hears no objection.

The bill of the House of Representatives to establish certain post roads was read twice by its title and considered as in Committee of the Whole.

Mr. GWIN. I shall move an amendment to it.

Mr. RUSK. I desire the Senator from California to consider the length of the bill, and to recollect that if his amendment is added to it, both the bill and the amendment will be certainly lost in the House of Representatives.

Mr. GWIN. The House are now pretty much out of business; we know they have plenty of time. The proposition rejected in the House was to establish a daily express mail. The amendment which I propose was reported on favorably by the Committee on the Post Office and Post Roads, of which the Senator from Texas himself is chairman. It proposes a weekly express mail which will pay for itself, requiring fifty cents to be paid in advance on each half ounce letter, and the same amount for each additional half ounce. This is one of the most important measures proposed at this session. Sir, we have lost our Pacific railroad bill; and are you going to give us no connection by land between California and the Mississippi valley? I undertake to say that if the chairman of the Committee on the Post Office and Post Roads will permit this amendment to go on the bill it will not be lost.

Mr. HUNTER. I think it likely that this subject will lead to debate. If so, I must ask that it be laid aside for the present, and that we go on with the civil and diplomatic appropriation bill.

Mr. COOPER and others. We will vote this down immediately.

The PRESIDENT. The amendment of the Senator from California will be read.

It was read, as follows:

That the Postmaster General of the United States be, and he is hereby, directed, without delay, to advertise three months for proposals to carry an express mail weekly, each way, from some point on the Mississippi river to San Francisco, in California, in the shortest practicable time, not exceeding fourteen days. The postage on the letters carried by such mail to be at the rate of fifty cents for each half ounce, or less, and to be always prepaid. A failure, from any cause, to complete the trip within sixteen days, to work an absolute forfeiture of payment for that trip. And the Postmaster General shall, at his discretion, accept the proposals most beneficial to the United States, and contract with the person offering the same; but the compensation shall not exceed $6,000 per trip. The contract shall last not more than five years, and the service shall commence within one year. The contractors shall have the privilege of using for stations or depots any necessary and unsurveyed portion of the public lands, not exceeding one section in any one place, nor any two places nearer than twenty miles from each other. The weight of the mail and contents carried shall not exceed two hundred pounds, unless directed by the Postmaster General, and in case of such increased weight the compensation shall be increased pro rata. After the first year the contract may be annulled by the President absolutely in case of failure to effect the delivery of the mail within sixteen days on three successive trips. The Postmaster General may issue the necessary directions to regulate the transmitting, carrying, and protection of the mail.

Mr. GWIN called for the yeas and nays; and they were ordered.

Mr. WELLER. I shall vote for the amendment, because I am decidedly in favor of the conveyance of an overland mail from St. Louis to San Francisco. Although I prefer a daily express, I vote for the proposition of my colleague to establish a weekly express, but yet I am perfectly satisfied that it cannot succeed. It is offered here now, on the last day of the session, as an amendment to a very long bill, and I am satisfied that it will be defeated.

Mr. GWIN. I am perfectly confident that if the Senate put this amendment on the bill, there is no danger of its being lost.

The question being taken by yeas and nays, resulted—yeas 15, nays 23; as follows:

YEAS—Messrs. Adams, Bell, Brainerd, Fessenden, Foot, Geyer, Gillette, Gwin, Mallory, Morton, Seward, Shields, Wade, Walker, and Weller—15.

NAYS—Messrs. Badger, Bright, Brodhead, Butler, Cass, Clay, Cooper, Evans, Fitzpatrick, Hunter, Johnson, Jones of Iowa, Mason, Pettit, Pratt, Rusk, Sebastian, Slidell, Stuart, Thompson of Kentucky, Toombs, Wells, and Wilson—23.

So the amendment was rejected.

Mr. ADAMS. I offer, as an amendment, to include among post routes:

From Wetumpka, Alabama, via Buckleville, Travellers' Rest, and Wegoffee, to Sally Coger's.

Mr. RUSK. I hope my friend from Mississippi will withdraw that amendment. No amendment can be adopted without defeating the bill.

The amendment was rejected.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CIVIL AND DIPLOMATIC BILL—AGAIN.

The Senate, as in Committee of the Whole, resumed the consideration of the civil and diplomatic appropriation bill.

Mr. SEWARD. I offer an amendment, which is recommended by the Department, and concurred in by the Committee on Commerce:

SEC. —. *And be it further enacted*, That $1,696 50 be appropriated to supply a deficiency in the appropriation for building four steam dredge boats in use by the War Department, on Lakes Champlain, Erie, Michigan, and Ontario, to be applied for materials, machinery, tools, and labor, furnished in painting said boats.

The amendment was agreed to.

Mr. SEWARD. I now offer an amendment on my own responsibility. It is to insert after the appropriation for transportation of bullion from the New York assay office to the Mint for coinage:

Provided, That all bullion required by law to be transmitted from said office to the Mint for coinage shall, if practicable, be in the form of refined bars.

The amendment was agreed to.

The PRESIDENT. The Chair will suggest to the Senate that, if it be their pleasure, he would prefer recognizing gentlemen representing committees in the order in which those committees stand on the printed list. ["Agreed!"]

Mr. WELLER. I have an amendment to offer from the Committee on Foreign Relations. It is

For paying to Asbury Dickins the difference between the compensation of the head of a Department and the chief clerk of a Department, for the time he acted as Secretary of State and Secretary of the Treasury, by appointment from President Jackson, to be ascertained by the proper accounting officer, a sum not exceeding $2,500.

The amendment was agreed to.

Mr. MASON. In offering amendments yesterday of the class of secretaries of legation, there was one which, in the noise and confusion, escaped me. I ask now to be allowed to offer it from the Committee on Foreign Relations. It is to add, as an additional section:

SEC. —. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury not otherwise appropriated, to C. E. Anderson, late secretary of legation of the United States at Paris, the sum of $1,659 72, it being the difference between the compensation received by him as secretary of legation and that of a chargé d'affaires, from the 1st day of April, to the 29th day of November, 1837, during which period he acted in the latter capacity.

The amendment was agreed to.

Mr. HUNTER. I have an amendment to offer from the Committee on Finance, to carry out a law which we have just passed. It is to insert, after the appropriation for salaries of Judges of the Supreme Court:

For the salary of the circuit judge of California, $4,500.

The amendment was agreed to.

Mr. WELLER. We have already agreed to fix the salary of circuit judges of the United States at $7,000, and I do not know why the circuit judge in California should be paid only $4,500. I move to strike out "$4,500," and insert "$7,000.

Mr. HUNTER. Four thousand five hundred dollars is the salary fixed by law. I hope we shall appropriate what is fixed by law, and not go further.

Mr. WELLER. When that law was passed, it was intended to give this judge the same salary as is allowed to the judges of the Supreme Court of the United States. We have since put an amendment on this bill increasing their compensation to $7,000. I do not see, therefore, why the salary of the circuit judges in California should be fixed at less than that amount.

Mr. GWIN. In the debate on the bill, gentlemen stated that the ground on which they voted for a salary of $4,500 was expressly to make it equal to the salary of a Judge of the Supreme Court.

The PRESIDENT. Does the Senator from California move to reconsider the vote by which the amendment of the Senator from Virginia was agreed to?

Mr. WELLER. Yes, sir; I do.

The motion to reconsider was not agreed to.

Mr. WELLER. I give notice that I shall renew the motion after the bill shall have been reported to the Senate.

Mr. MORTON. I am instructed by the Committee on Agriculture to propose this amendment, as a separate section:

For obtaining information on the insects injurious to vegetation and the fruits of the United States, and procuring drawings and models of the same, as far as practicable, $12,000; said information to be embodied in the annual agricultural report, to be expended under the direction of the Secretary of the Interior.

I shall not support the amendment by anything like a speech, but simply say that it is recommended by the Commissioner of Patents, and also by the United States Agricultural Society, which has lately been in session in this city.

The amendment was rejected.

Mr. MALLORY. I am instructed by the Committee on Naval Affairs to offer an amendment, to come in at the end of the second section:

That the second section of the act of 31st of August, 1852, which provides that the clerks, messengers, watchmen, and laborers, employed at an annual salary or in temporary positions in the Executive Departments of the Government at the City of Washington, whose annual compensation does not exceed $1,200, shall, in addition thereto, be allowed an increased compensation of twenty per cent., shall be construed to include the principal clerk at the National Observatory at Washington; and that, hereafter, the salary of said clerk shall be $1,500 per annum.

This is to correct an oversight in the act of 1852.

Mr. STUART. I hope it will not be agreed to.

Mr. HUNTER. It ought to go on the naval appropriation bill.

Mr. MALLORY. This clerk is not included in the general provision; and the Department says he is entitled to the compensation, but, by a technicality, he cannot be paid it.

The amendment was agreed to.

The PRESIDENT. Amendments are in order from the Committee on Public Lands.

Mr. JOHNSON. I am instructed by the Committee on Public Lands to move to add after the words "Land Office," in the provision for the compensation of the Commissioner of the General Land Office, the words "whose salary shall be $4,000." The Commissioner of the General Land Office is the most laborious head of a bureau that we have. The amendment has been agreed to by the Committee on Public Lands of the House of Representatives, having been brought to their attention by the Senate committee. It could not be offered in that House; their rules of order exclude it; but at the instance of the House committee, as well as of our own committee, I am instructed to offer it. The Commissioner of the General Land Office has, I doubt not, the heaviest duties to discharge of any head of a bureau under this Government. He has to pass upon cases of the most complex and difficult character. The salary he now receives is $3,000. The committee believe that a salary of $4,000, under the circumstances, is not too much for him, and, therefore, they have instructed me to offer this amendment.

Mr. HUNTER. It must be an extreme case which would make me interpose a word at this late period of the session. I have only to say that, if we raise the salary of one of the heads of bureaus, we shall have to raise them all. That is inevitable.

Mr. BRODHEAD. Why not increase the salary of the Commissioner of Pensions, also? I agree with what my friend from Arkansas says; but we have passed a bounty land law imposing increased duties on both the Commissioner of the General Land Office and the Commissioner of Pensions; and if we increase the salary of the one I insist that the head of the Pension Office shall also be included.

Mr. WELLER. I only desire to say that I fell into an error last night, in speaking of the addi-

tional expense incident to this Government in consequence of the bounty land law, of which the Senator from Pennsylvania [Mr. BRODHEAD] is the father. I said the annual expense would be $80,000. I understand, in fact, that it will be about $200,000. In other words, it will cost the Government $200,000 per annum to distribute to the old soldiers the land provided for in that bounty land act.

Mr. BADGER. I congratulate my two friends from Virginia, who are both desirous of depleting the Treasury, upon that announcement. [Laughter.]

Mr. ADAMS. I had no disposition to interfere with these salaries, but if they are to be increased anywhere, I think the most striking injustice within my knowledge is the case of the Second Comptroller, who performs equal duties with the First Comptroller, but receives $500 less. I feel it to be my duty to offer an amendment to the amendment, that the Second Comptroller shall receive $3,500, so as to put him on an equality with the First.

The amendment to the amendment was rejected.

The original amendment was not agreed to.

Mr. JOHNSON. By the authority of the same committee, I move to insert after the word "New Mexico," in the clause for compensation of the surveyor general of that Territory, "whose salary shall be $4,500." The Committee on Public Lands of the House of Representatives concur with the Senate committee in urging that this increase should be made. The salary of the surveyor general of New Mexico is now but $3,000, while the pay of the same officer in California and Oregon is $4,500, though the expenses of living are no greater in the one case than in the other. In addition to that, the surveyor general of New Mexico is appointed a commissioner of land titles, having, in that respect, most difficult and arduous duties to discharge. The case of a surveyor general of that Territory, therefore, stands out single and apart from any other in the character and extent of the duties to be discharged, while the Territory itself appears from the evidence before the committee, and the declarations made from the Commissioner of the General Land Office as to the truth of that evidence, to be equal in expense to any part of the Union. Twenty dollars a barrel for flour has been the standing price for I do not know how long. I hope the amendment will be adopted in accordance with the wishes of the committee.

The amendment was agreed to.

Mr. JOHNSON. I am instructed by the same committee to strike out "$7,000," and insert "$18,500" in the same clause; so that, as amended, it shall read "for compensation of the surveyor general of New Mexico, whose salary shall be $4,500, and the clerks in his office, $18,500." This amendment is offered by the committee upon the authority of an estimate from the Commissioner of the General Land Office. The original estimates on which this clause was founded were made without having the necessary information from the office in New Mexico, and consequently were insufficient. If it is desired by gentlemen I shall have the letters on the subject read.

Several SENATORS. That is not necessary.

Mr. JOHNSON. Well, sir, I content myself by saying that this is for the actual expenses of the office, and the payment of the salaries of the clerks and employees under the surveyor general in New Mexico.

The amendment was agreed to.

Mr. JOHNSON. I am further instructed by the same committee to move to amend the clause "for the compensation of the surveyor general of Kansas and Nebraska," by inserting after Nebraska, "whose salary shall be $3,500. There is but one surveyor general for both those Territories whose salary is now $3,000. It appears from a report of the Commissioner of the General Land Office that, in consideration of the cost of everything in those Territories, $3,500 is not deemed too large a salary.

The amendment was agreed to.

Mr JOHNSON. The next amendment of the Committee on Public Lands is to strike out of the provision for the compensation of the surveyor general of Utah "three" and insert "four," so that the clause shall read:

For compensation of the surveyor general of Utah Territory, $4,000.

In the classification of the position of these several offices, the duties which are attached to each, and the expense of living, it will be found, that while each is different, there has been an effort to preserve a regular proportion. Four thousand dollars is recommended by the Department for this office, and I hope the amendment will be adopted.

The amendment was agreed to.

Mr. JOHNSON. The next is to insert, after the clause providing for the pay of the draughtsman employed upon the maps of the public lands for the House of Representatives, the following:

And the draughtsman employed on the maps of the public lands, under the charge of the Clerk of the House of Representatives, shall be paid the same compensation as is paid to the draughtsman similarly employed under the direction of the Senate.

This amendment was presented to the Committee on Public Lands of this body from the committee of the House of Representatives, and considered by us and approved.

The amendment was agreed to.

Mr. JOHNSON. The next amendment is to insert at the end of the clause appropriating for the pay of the Commissioner of the General Land Office, and the clerks and other officers in his bureau, this proviso:

Provided, That the difference between the amount paid to the several principal accountants of the General Land Office, and that contemplated for such service by the act of July 4th, 1836, reorganizing that office, shall be paid out of any money in the Treasury not otherwise appropriated.

The necessity for this amendment originates in the fact that the sum of $1,400 was fixed as the salary for four accountants in the General Land Office, and from three of those accountants the amount of $100 was diverted, leaving them at $1,300. There is a difference of $100 per annum, consequently, against them. This is to authorize them to receive the amount to which they are properly entitled.

The amendment was agreed to.

The PRESIDENT. Amendments will be received from the Committee on Indian Affairs.

Mr. SEBASTIAN. I have two amendments to offer now, which escaped my attention in time to be added to the Indian appropriation bill. One is:

For the salary of three Indian agents in the State of California, $9,600; which sum can be applied to the payment of the salaries of said agents from and after the date of their appointment.

Mr. WELLER. I move to amend that amendment by adding:

And that in the settlement of the accounts of E. F. Beale, late superintendent of Indian affairs in California, the accounting officers of the Treasury be authorized to allow him the amount actually paid by him to interpreters during the years 1853 and 1854, upon producing satisfactory vouchers therefor.

Mr. SEBASTIAN. I have no objection to that.

The amendment to the amendment was agreed to, and the amendment, as amended, was adopted.

Mr. SEBASTIAN. I offer another amendment from the Committee on Indian Affairs:

And be it further enacted, That the Secretary of the Interior be authorized, in his discretion, to allow the employment of temporary clerks by superintendents of Indian affairs, upon such occasions, and for such periods of time as he may deem necessary for the public service, for which purpose there is hereby appropriated the sum of $5,000.

The amendment was agreed to.

Mr. SEBASTIAN. I offer this amendment from the Committee on Indian Affairs, to come in as an additional section:

SEC. —. *And be it further enacted*, That the treaties made during the present Congress with the Indian tribes, and those to be made in future, shall be published as the laws and other treaties in the newspapers of such States and Territories as the Secretary of the Interior may think expedient.

The amendment was agreed to.

Mr. SEBASTIAN. I have another amendment from the Committee on Indian Affairs:

SEC. —. *And be it further enacted*, That the sum of $765, the balance of $2,200 directed to be paid to James T. Miller, and Pyne-y-oh-te-mah, or either of them, by the Senate amendment to the treaty with the Miami Indians, made in August, 1854, be, and the same is hereby, directed to be paid to Miller and Pyne-y-oh-te-mah, out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

Mr. SEBASTIAN. I am also directed by the Committee on Indian Affairs to offer this amendment:

For arrearages due the Choctaw Indians under various treaty stipulations, as per report and statement of the proper accounting officer, transmitted by the Secretary of the Interior, in answer to a resolution of the Senate of the 10th of March, 1853, to be paid over or expended for the benefit of the Choctaw nation, as may be required by the authorized delegation thereof in Washington, $——.

The PRESIDENT. There is a blank in the amendment which should be filled.

Mr. SEBASTIAN. I think it should be $72,000; but I will get the precise amount before the bill is passed. The amount to be inserted should be that reported by the Auditor and Comptroller, and by reference to their report it can be ascertained.

The PRESIDENT. The amendment will be laid over until the amount can be ascertained.

Mr. SEBASTIAN. I am also instructed, by the same committee, to offer this amendment:

To pay the amount for interest due the Chickasaws at the rate of five per cent. per annum, in pursuance of the treaty of 1832, on the sum of $112,042 99, improperly charged to said nation according to the decision of the proper accounting officers of the Treasury, from 1st of September, 1837, until the 9th of March, 1850, $72,960 25.

The amendment was agreed to.

Mr. COOPER. I am instructed by the Committee on Indian Affairs to offer the following amendment:

SEC. —. *And be it further enacted*, That, in accordance with the memorial of the Menomonee Indians to the President and Congress, dated the 4th of October, 1854, and executed in general council of the nation, the Secretary of the Treasury pay to Richard W. Thompson, out of any money in the Treasury not otherwise appropriated, one half of the amount stipulated in said memorial and in an agreement of said Indians with said Thompson, dated the 15th of February, 1851, for services as attorney for said Indians in the prosecution of a claim in their behalf for additional compensation for lands ceded by them to the United States by the treaty of 1848. And that the sum so paid be deducted from the annuities, when due and payable, that are to be paid to the said Indians under the treaty of the 12th of May, 1854, and the amendments thereto.

This is the same claim which was presented some time ago to the Senate, and which was debated at length, especially by my friend from Mississippi, [Mr. BROWN.] It differs from the claim then presented in this, that it appropriates one half of the amount to which Mr. Thompson was entitled under his agreement with the Indians, and he is to be paid by the accounting officer out of the annuities *pro rata* as those annuities fall due during a number of years. I shall not occupy the time of the Senate at this late moment by a discussion of it, trusting that the general facts of the case still abide in the memory of the Senate.

Mr. HUNTER. We have not time to discuss these things, and they ought not to be added to the bill.

Mr. BROWN called for the yeas and nays, and they were ordered and taken.

Mr. STUART at first voted in the negative, but changed his vote for the purpose, as he stated, of moving a reconsideration.

The result was announced—yeas 20, nays 15; as follows:

YEAS—Messrs. Adams, Badger, Bell, Brainerd, Bright, Brown, Cooper, Dawson, Fessenden, Foot, Geyer, James, Morton, Pettit, Rusk, Seward, Thompson of Kentucky, Wade, and Weller—20.

NAYS—Messrs. Allen, Benjamin, Brodhead, Evans, Fitzpatrick, Hunter, Mason, Pratt, Shields, Sumner, Thomson of New Jersey, Toucey, Wells, Wilson, and Wright—15.

So the amendment was agreed to.

Mr. RUSK. I am authorized by the Committee on Indian Affairs to offer the following as an additional section:

SEC. —. *And be it further enacted*, That the proper accounting officer of the Department of the Interior be authorized and directed to audit and settle the claim of John Random, deceased, a friendly Creek Indian, a half breed, for losses sustained and property destroyed by the hostile Creek Indians in the war of 1814, in such manner and upon such terms as may be just and equitable; the amount, when so ascertained, to be paid out of any money in the Treasury not otherwise appropriated to the heirs and legal representatives of said John Random: *Provided*, That the amount shall not exceed the sum of $5,925.

The amendment was agreed to.

The PRESIDENT. Amendments will be received from the Committee on the Post Office and Post Roads.

Mr. ADAMS. That committee have instructed me to offer this amendment:

SEC. —. *And be it further enacted*, That the proper accounting officers of the Treasury be, and they are hereby, authorized and required to inquire into and ascertain the actual amount of damage sustained by Carmick & Ramsey, under a contract made with them by Samuel D. Hubbard, Postmaster General, on the 15th of February, 1853, for the

transportation of the mails between Vera Cruz and San Francisco, by Acapulco; and that the amount so ascertained be paid to the said Carmick & Ramsey out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

Mr. RUSK. I have an amendment to offer from the Committee on the Post Office and Post Roads, to insert the following additional section:

SEC. —. *And be it further enacted*, That the sum of $15,000 be appropriated towards the erection and completion of a court house in the town of Exeter, county of Rockingham, State of New Hampshire: *Provided*, That the other parties in interest in the said court-house appropriate at least an equal sum to the said purpose: *And provided further*, That the authorities of said county of Rockingham having control thereof, execute in writing, and deliver to the clerk of the district court of the United States for the district of New Hampshire, a sealed license granting to said courts of the United States the perpetual use of said court house for United States court purposes, free of rent or other charge.

The amendment was agreed to.

The PRESIDENT. Amendments will be received from the Committee on the District of Columbia.

Mr. DAWSON. I am authorized by the Committee on the District of Columbia to move to strike out the word "chaplain," in the clause appropriating for the compensation of the officers of the penitentiary of this District. The object is to give the chaplain $500. His salary at present is but $250. The amendment is to strike out the word "chaplain" where it occurs, and to add at the end of the clause, "and the annual compensation of the chaplain of the penitentiary shall be $500, to commence from the present fiscal year."

The amendment was agreed to.

Mr. MASON. I am instructed by the Committee on the District of Columbia to offer this amendment:

For repairs of the Potomac, navy-yard, and upper bridges, and to refund to the Commissioner of Public Buildings $3,000 advanced to him by the Corporation of Washington in 1853, and expended on the Potomac bridge, $10,000.

The amendment was agreed to.

Mr. MASON. I desire now to offer an amendment, from the Committee on Foreign Relations, of the same class with the consuls who were provided for last night. It is to insert after the clause providing for office-rent of the consul at Basle:

For office-rent of the commercial agent at St. Martin, from the 12th November, 1852, to the end of the present fiscal year, at the rate of $100 per annum, $263 33; the same to be allowed because of unexpected losses sustained at said consulate.

The amendment was agreed to.

The PRESIDENT. Amendments are in order from the Committee on Patents and the Patent Office.

Mr. JAMES. I am instructed by that committee to move this amendment, to come in after the clause appropriating for the contingent expenses of the eastern wing of the Patent Office Building:

For the reimbursement of the Patent Office fund for moneys heretofore paid out by appropriations of acts of Congress for seeds and the collection of agricultural statistics, $40,078 78, to be paid out of any money in the Treasury not otherwise appropriated.

I hold in my hand a certificate from the proper officer, showing that this amount has been taken from the Patent fund.

The amendment was agreed to.

Mr. JAMES. I offer the following as an additional section from the same committee:

SEC. —. *And be it further enacted*, That when any judge, before whom an appeal from the decision of the Commissioner is now or shall hereafter be pending, shall, from any cause, be unable to hear and determine the same with reasonable promptness, the Commissioner of Patents may require the appellant to select one of the other judges, to whom the case shall be transferred, and if, within a reasonable time to be fixed by the Commissioner, such selection is not made, the appeal shall be dismissed.

The object of this amendment is apparent on its face without any explanation.

The amendment was agreed to.

Mr. JAMES. I have another amendment, as an additional section, from the same committee:

SEC. —. *And be it further enacted*, That the right to file caveats, and to apply for and receive patents, shall be enjoyed hereafter equally, and upon the payment of the same fees, by citizens of the United States and citizens or subjects of any foreign State or Power, under the laws and regulations of which citizens of the United States are, or may hereafter become, entitled to equal privileges in these respects with the said subjects or citizens.

Mr. BROWN. I move to amend the amendment by adding, at the end of it, the following:

And that it shall be the right hereafter of any person applying for a patent, to withdraw or abandon his application at any time before the same shall be finally acted on by the Commissioner of Patents, and receive back twenty dollars of the thirty dollars required to be filed on applications for patents, any law, usage, or custom to the contrary notwithstanding.

Mr. JAMES. I hope that provision will not be agreed to. It is intended to have a revision of the whole patent system.

Mr. BROWN. I will explain it.

Mr. HUNTER. Allow me to suggest to the Senate that by inserting such provisions they are putting general legislation on this bill.

Mr. BROWN. They are putting it on without my amendment.

Mr. COOPER. Both ought to be voted down.

Mr. JAMES. The amendment which I have offered is necessary, for this reason: I hold in my hand a bill entitled "An act for the protection of British and American manufactures, arts, and sciences," which has been introduced into the Canadian Parliament, the object of which is to put American citizens upon the same footing in regard to patents, with British subjects in Canada. If this provision be adopted, there is no doubt that that bill will immediately be passed by the Canadian Parliament, and that is the reason I have offered this clause.

Mr. COOPER. I concur with the Senator from Virginia that this is general legislation, and I do not think we should add it to this bill.

Mr. HUNTER. If we are to be adding such matters, how can we ever expect to pass the bill?

Mr. JAMES. To save discussion I withdraw my amendment.

The PRESIDENT. The amendment to the amendment follows it.

Mr. JAMES. I am further directed by the Committee on Patents and the Patent Office to offer this amendment:

SEC. —. *And be it further enacted*, That the first assistant examiners in the Patent Office shall be rated as of the fourth class of clerks, and the several assistant examiners, machinist, and librarian as of the third class.

The amendment was agreed to.

Mr. JAMES. I have another amendment, from the same committtee:

SEC. —. *And be it further enacted*, That the salary of the Commissioner of Patents shall be the sum of $4,500 per annum, and the salary of the chief clerk shall be the same as that of the principal examiner.

Mr. WELLER. What is the Commissioner's salary now?

Mr. JAMES. Three thousand dollars.

Mr. BROWN. It is wrong to be increasing salaries in this way.

Mr. HUNTER. We cannot take one of these heads of bureaus without taking all.

The amendment was rejected.

Mr. JAMES. I have only one more amendment from the same committee:

For compensation of those who have been employed to perform the duties of principal examiners and assistant examiners of patents in the Patent Office, at salaries fixed by law for these grades respectively, for the time they shall perform or shall have performed these duties, $14,850, or so much thereof as may be necessary.

The amendment was agreed to.

Mr. RUSK. I overlooked an amendment from the Committee on the Post Office and Post Roads when that committee was called. I offer it now as an additional section:

SEC. —. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized and required so to construe the act of Congress, approved 27th July, 1854, for the relief of James M. Goggin, late special agent of the Post Office Department in California, as that he shall be paid the same salary for the time he acted as such agent as is now paid to his successor in office under the present law, and also the amounts for office rent and clerk hire which may be shown by proper vouchers to have been actually paid by him for the same.

The amendment was agreed to.

Mr. JOHNSON. I overlooked an amendment of the Committee on Public Lands which I ought to have presented when that committee was called. It is to insert at the end of the appropriations for surveyors general and their clerks:

That there be paid to the surveyor general of Washington Territory and the officers employed under him, the same amount of compensation as is allowed to the surveyor general of New Mexico and the officers employed under him.

The amendment was agreed to.

Mr. CASS. At this point I desire to suggest that it would be very desirable for us to know what we are voting upon. It seems to me that this bill now is a general revision of salaries. It is a very ruinous state of things. We are voting upon subjects which we do not consider and about which we know nothing. All we get is the favorable report of a committee, without an explanation. It is a very vicious kind of legislation.

The PRESIDENT. The next committee is the Committee on Retrenchment.

Mr. ADAMS. I am instructed by that committee to offer this amendment as an additional section:

SEC. —. *And be it further enacted*, That the act of August 4, 1854, making appropriations for the civil and diplomatic expenses of the year ending 30th June, 1855, is hereby amended in section six so as to allow the laborers then performing messengers' duty, in whole or in part, the same compensation they were entitled to before the passage of the said act.

The amendment was agreed to.

The PRESIDENT. Amendments will be received from the Committee on Territories.

Mr. COOPER. I am instructed by the Committee on Territories to offer this amendment, to which I presume there will be no objection:

SEC. —. *And be it further enacted*, That the proper accounting officers of the Treasury of the United States be, and they are hereby, authorized and required to credit the secretary of the Territory of Minnesota, in the settlement of his accounts, with the sum of $885, the amount paid by the said secretary for collating, indexing, and superintending the printing of the statutes of said Territory for the years 1849, 1851, 1852, and 1853; and for arranging, indexing, and in part reporting the decisions of the supreme court of said Territory, under a joint resolution of the Legislative Assembly of said Territory passed in the year 1853.

The amendment was agreed to.

ARMY APPROPRIATION BILL.

Mr. SHIELDS. I desire to make a report from a committee of conference, if it be in order.

The PRESIDENT. The Chair will receive the report.

Mr. SHIELDS, from the committee of conference on the disagreeing votes of the two Houses on the amendments to the bill of the House of Representatives making appropriations for the support of the Army for the year ending the 30th of June, 1856, reported that, having met, after full and free conference, they agreed to recommend to their respective Houses as follows:

That the Senate recede from their sixth, fourteenth, fifteenth, seventeenth and twentieth amendments disagreed to by the House.

That the House agree to the thirteenth amendment of the Senate, with the following amendments: In line eight, after the word "property," insert "of American citizens;" in line twelve, after "property," insert "of American citizens;" in line twenty-five, after the word "each," insert "during the time of their service in California;" in line thirty-seven, after the word "board," insert "not exceeding the usual mileage of an officer going to and returning from California;" in line thirty-eight, after the word "member," insert "for necessary traveling in California."

At the end of this amendment add the following:

Provided, however, That the said board shall not continue its service exceeding one year: *And provided further*, That it shall be lawful for the President of the United States alone, to appoint such of the commissioned officers authorized by this act, below the grade of field officer, as may not be appointed during the present session, as in the case of vacancies occuring during the recess of Congress.

The amendments from which the committee recommend that the Senate recede are as follows:

Sixth amendment:

For surveys for military defenses of the sea and inland frontier, $15,000.

Fourteenth amendment:

SEC. 3. *And be it further enacted*, That the provisions of an act entitled "An act for the payment of the civil officers employed in the Territory of New Mexico while under military government," approved July 17, 1854, be, and the same are hereby, extended to embrace the case of Lieutenant Colonel J. M. Washington, deceased, late of the Army, for and during the period of his appointment and service as military Governor of New Mexico, ex officio superintendent of Indian affairs, and commander of the troops prior to the formation of the civil government.

Fifteenth amendment:

SEC. 4. *And be it further enacted*, That the sum of $30,000 be, and the same is hereby, appropriated, to be expended under the direction of the War Department in the purchase and importation of camels and dromedaries to be employed for military purposes.

Seventeenth amendment:

SEC. 6. *And be it further enacted*, That the same allowance, in respect of rations, be hereafter made to the military commandant of the Schuylkill arsenal in the quartermaster's department, as to the commandants of the arsenals in the ordnance department.

Twentieth amendment:

SEC. 9. *And be it further enacted*, That the Governors of the several States and Territories be, and they are hereby,

authorized to sell to the best advantage the arms heretofore distributed under the act of April 28, 1808, and invest the funds arising out of such sales in other arms more suitable for the purposes contemplated by said act: *Provided*, That no arms be so purchased or provided except such as may be of the same description and caliber as those regularly adopted and in use in the Army of the United States.

The thirteenth amendment of the Senate, as proposed to be amended by the committee of conference, is as follows, (the modifications of the committee being in *italics:*)

SEC. 2. *And be it further enacted*, That the board of officers appointed under the sixth section of the act making appropriations for the support of the Army for the year ending June 30, 1853, approved August 31, 1852, is hereby authorized and directed, in addition to the powers and duties already conferred upon it, to extend its examinations to claims arising from the destruction of property *of American citizens*, by the troops serving under the command of Lieutenant Colonel John C. Frémont, in California, in the years 1846 and 1847, by his orders, as well as for the destruction of property *of American citizens* by the enemy, caused by the occupancy of the claimants' premises by the said United States troops; that the said board is empowered to summon and examine witnesses under oath, and take testimony in California (if necessary) and elsewhere; that for the payment of the claims reported favorably upon by the board in its report to the Secretary of War, dated 5th December, 1854, Executive document 8, Thirty-Third Congress, second session, including that numbered 197, being the claim of Santiago E. Arguello, and amounting to $11,584, and for the compensation of the members of said board for and during their period of service as such, at a rate not exceeding $3,000 per annum each, *during the time of their service in California*, deducting therefrom their Army pay, the sum of $40,548 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated; and the Secretary of the Treasury is hereby authorized and directed to pay to the treasurer of said board, out of any money in the Treasury not otherwise appropriated, the sum of $10,000 for the contingent expenses of the said board, including therein office rent and clerk hire, stationery, fuel, the payment of witnesses' fees duly summoned by the board, at a rate not exceeding those paid by the United States district courts in California or elsewhere, as the case may be, the traveling expenses of said board, *not exceeding the usual mileage of an officer going to and returning from California*, not exceeding sixteen cents per mile to each member *for necessary travel in California*, and other incidental expenses: *Provided, however, That the said board shall not continue its service exceeding one year: And provided further, That it shall be lawful for the President of the United States alone to appoint such of the commissioned officers authorized by this act, below the grade of field officer, as may not be appointed during the present session, as in the case of vacancies occurring during the recess of Congress.*

Mr. WELLER. I simply wish to notify the Senate that that report contains a proposition to authorize the President of the United States alone to appoint all the officers below the grade of field officers in the four regiments which are authorized to be raised.

The PRESIDENT. The question is on agreeing to the report.

Mr. PRATT. I have some doubts whether we can transfer to the President alone the power which, under the Constitution, is given to the President and Senate to appoint the officers who are to be appointed under the provisions of this bill; and I should be glad to have my friend from Illinois give us some explanation in regard to it.

Mr. CASS. I am sure it has been done before.

Mr. SHIELDS. This provision has been inserted at the request of the Secretary of War, according to the precedents in similar cases. It is utterly impossible to make all the nominations for field officers to-day, and the amendment is indispensable. It is only referring the matter to be acted upon by the President and the next Senate, when the Senate meet here again, and enables the President to fill up the inferior offices during the recess of Congress.

Mr. PETTIT. My opinion is that not only ought this provision to be passed, but it ought to be extended further, to minor and inferior civil services, such as inferior land officers. I should prefer to move that amendment.

The PRESIDENT. The report of a committee of conference cannot be amended. The report must be taken as an entirety or not at all.

The report was agreed to.

CIVIL AND DIPLOMATIC BILL—AGAIN.

The Senate, as in Committee of the Whole, resumed the consideration of the civil and diplomatic appropriation bill.

Mr. BELL. I am directed by the Committee on Territories, to which I belong, to offer the following amendment, to come in after the provision for the compensation and mileage of members and delegates of the House:

For payment to Richard H. Weightman, of New Mexico, for mileage and compensation for attendance during the second session of the Thirty-First Congress, $2,465.

I will only state that this is the third session, I believe, at which I have presented this amendment, and it has been agreed to on each occasion by the Senate.

The amendment was agreed to.

The PRESIDENT. Amendments will now be received from the Committee on Public Buildings.

Mr. BAYARD. I have a few amendments to offer from that committee. The first is, in the clause "for removing fences, grading streets, &c., preparatory to the extension of the Capitol square, in accordance with the plan submitted by the Commissioner of Public Buildings, $15,000," to strike out the words "in accordance with the plan submitted by the Commissioner of Public Buildings." The ground of this motion is, that no plan has been adopted by Congress; and as there are several plans before us, we do not wish to recognize any one incidentally.

The motion was agreed to.

Mr. BAYARD. Our next amendment is to insert, at the end of the clause which has just been amended:

For filling up and draining the grounds in the vicinity of the national green-houses known as the botanic garden, and for walling the creek which passes through the same, $12,000.

The amendment was agreed to.

Mr. BAYARD. The same committee have instructed me to offer this amendment:

To enable the Secretary of the Interior to purchase five hundred burial sites in Washington cemetery for the interment of members of Congress and such public officers as Congress may direct, $5,000: *Provided*, Said sites shall be as near as practicable to those heretofore purchased by the United States; and that the money paid therefor shall be applied to the erection of an iron fence on the north front of said cemetery.

The amendment was agreed to.

Mr. BAYARD. I have but a single other amendment. It comes, however, from the Committee on the Library, and, as I have no other to offer, I ask leave to present it now.

To enable the President of the United States to contract with Hiram Powers for some work of art executed, or to be executed by him, and suitable for the ornament of the Capitol, a sum not exceeding $25,000.

Mr. CASS. I would much prefer that there should be power left to the President to designate the sculptor.

The amendment was rejected.

The PRESIDENT. Amendments from individual Senators will now be received.

Mr. GWIN. I have one to offer from the Committee on Finance. It is to insert, after the clause providing for the salaries of the officers and clerks of the assay office, New York, this proviso:

Provided, That the Secretary of the Treasury be authorized to fix the salaries of such officers and clerks, so as not to exceed those allowed by law to like officers and clerks in the Mint or its branches.

The amendment was agreed to.

Mr. RUSK. I offer this amendment, as an additional section:

SEC. —. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized to cause to be paid to the Government of Mexico any portion of the remaining $3,000,000 appropriated by the act of 29th June, 1854, not exceeding $2,000,000, at any time after the passage of this act, whenever, in his opinion, the public interests may be thereby promoted.

I have no desire, Mr. President, to consume the time of the Senate, but I will explain in a very few words the reason why I offer the amendment. It will be remembered that by the late treaty between Mexico and the United States, $3,000,000 were reserved until the boundary line should be run, marked, and established. The full appropriation of $10,000,000 has already been made in pursuance of the treaty. This amendment, therefore, does not make the appropriation of a single dollar. According to the treaty, however, $3,000,000 were required to be retained in our Treasury until the boundary line should be run and marked. The commissioners of the two nations are now engaged in the performance of that duty, and, as I understand, are progressing with it very rapidly. In the mean time the United States have taken possession of the Mesilla valley, which was a subject of dispute, and one of the main ingredients of that treaty in settling boundary lines. The citizens of the United States, unmolested, have gone on and settled on other portions of the territory.

Mr. STUART. Allow me to suggest to the Senator that there is no necessity for discussing the amendment, as I think there is no objection to it.

Several SENATORS. There is.

Mr. TOUCEY. There is an objection taken to that amendment. I object to altering a treaty here in the last hours of the session upon an appropriation bill. I insist upon the treaty as it stands. I think it important that it should be insisted upon. I prefer to have that security that the boundary line will be run. It was thought fit here in the Senate, in the treaty between the two Governments, to make that provision, and I am unwilling in this hasty manner to surrender it.

Mr. RUSK. The whole question is in a nutshell. As I said before, $3,000,000 were reserved by the treaty to secure the boundary line. The running of that line is going on rapidly without any obstruction from Mexico or the United States, and I presume it will, in a very short time, be entirely completed. As I said before, the Territory has been taken possession of by the people of the United States. This has created some difficulty and ill-feeling in Mexico, rendering it proper that a part, at least, of this money should be paid over.

My amendment proposes to retain in the Treasury $1,000,000 as security for the completion of the boundary line. We have important negotiations with Mexico, which should be prosecuted in an amicable and friendly manner; and yet, here we stand reserving in our Treasury $3,000,000 which belong to Mexico; we have taken possession of the territory for which that sum was to be paid, and we are rapidly progressing in running the boundary line between the two countries. A security of $3,000,000, under such circumstances, is exorbitant. For the purpose of bringing about a good understanding between us and Mexico, it may be more important than the honorable Senator from Connecticut seems now to appreciate, to allow this money to be used. I cannot see the slightest objection to authorizing the President, when, in his judgment, the public good may require it, for such are the terms of the amendment, to pay over to the Government of Mexico $2,000,000, reserving in our Treasury $1,000,000, which is certainly ample to secure the running of the boundary line. It alters no treaty.

Mr. MASON. I wish to ask the Senator whether he has the opinion of the Executive on this subject, for I am unaware what that is. Does he know the opinion of the Executive as to the expediency and propriety of surrendering part of this reservation?

Mr. RUSK. There is no objection in the Executive Department that I know of.

Mr. CASS. I think the objection of the Senator from Connecticut is well taken. It may all be obviated by making provision for the appropriation to be made as soon as the treaty shall be carried into complete effect.

Mr. RUSK. I am not asking for an appropriation. There is not a dollar appropriated by my amendment.

Mr. TOUCEY. There are negotiations pending with the Mexican Government, and if it be desired on the part of that Government that this money should be paid in anticipation of its becoming due, it will be an item in the negotiations, which is a benefit to be offered for new stipulations on their part. I am unwilling now by legislation to vary the provisions of a treaty.

Mr. CLAYTON. I hope the Senator from Texas will withdraw this amendment. Surely the Senate cannot agree to it. I have been looking at it, and I see that the effect of it is to furnish the present Dictator of Mexico, who is in power and against whom that country is contending, with this large amount of money to enable him to carry on the war against those whom he calls rebels.

Mr. RUSK. Will the Senator allow me to explain?

Mr. CLAYTON. Yes, sir.

Mr. RUSK. I shall withdraw the amendment, but I will not do so until after the Senator may have had an opportunity to reply.

Mr. HUNTER. I hope the amendment will be withdrawn.

Mr. CLAYTON. I shall not consume time if it be withdrawn.

Mr. RUSK. We owe to Mexico $3,000,000. That sum is appropriated, and is now lying in our Treasury, to be paid out on the happening of a certain event, in the performance of a certain duty, which is in rapid progress. We have taken

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possession of the territory for which the money was paid. For myself, I have had some little experience with the Dictator of Mexico, to whom the Senator from Delaware has referred, and I presume I shall not be suspected of favoring him. I do not think the affairs of Mexico are a legitimate subject of discussion in the Senate of the United States, on the question of paying to that country what we owe it. It may do them some good. It can do us none. So far as the present Dictator of Mexico is concerned, it is my opinion, from some experience of that country, that he is the best man to govern them that they have.

Mr. CLAYTON. If he is the best, God help the rest. The gentleman agrees to withdraw the amendment, I believe, and I will not, therefore, renew the debate.

Mr. PRATT. Before the amendment is withdrawn, I desire to make a suggestion in regard to it. The honorable Senator from Connecticut, according to my notion, is mistaken. The effect of the amendment is not to place in the hands of Santa Anna, or the Mexican Government, this money at once; but to place it in the hands of the Executive Department of our own Government, there being important negotiations pending, with the power of making the very stipulations to which the Senator has referred. We are trying to make a treaty—a treaty of commerce with Mexico—which will be of vast importance to our citizens.

The PRESIDENT. The Chair understands there is nothing before the Senate.

Mr. PRATT. The amendment of the Senator from Texas is pending. He has not yet withdrawn it.

Mr. HUNTER. I understand it has been withdrawn.

Mr. RUSK. I said I would withdraw it. I have not done so yet.

Mr. PRATT. I very seldom talk at all, and never out of order. I asked the Senator from Texas before I commenced whether he had withdrawn his amendment, and he told me he had not. I never speak on a subject which is not before the Senate, and I very seldom occupy the floor at any time. I desire to say now but a very few words.

Mr. TOUCEY. Will the Senator allow me to correct his misapprehension?

Mr. PRATT. I desire the Senator from Connecticut first to understand what I say, and then I shall be happy to be corrected. As I have already remarked, sir, there are negotiations pending between this country and Mexico. The Senator from Connecticut supposes that the very fact that this money is tied up in the Treasury will enable our negotiators with Mexico to get better terms than if we were to make this provision. I apprehend that is an error. The amendment does not require the President to pay, but simply gives him the power to pay anterior to the settlement of the boundary line, provided the public interests will be promoted by so doing. In a negotiation between our country and Mexico, will not every one see that if the President can pay $2,000,000 to Mexico he will have it in his power to obtain terms which could not be obtained if that money were tied up in our Treasury till the pending questions should be settled? It could, then, only be paid by treaty, and the affirmance of that treaty by the Senate, which does not assemble until December next.

I think, therefore, that whilst there can be no danger of injury resulting from the passage of the amendment of the Senator from Texas, great beneficial results may follow to the country if it be adopted. We have possession of the territory ceded. Why, then, do we want any security for the running of the boundary line? We have possession of the whole country, and have the strength to hold it. This amendment is merely to place in the hands of our Executive the power of using in advance this money rightfully due to Mexico hereafter, provided he can do so on terms beneficial to the commerce of the country. It seems to me that it is a proper amendment to this bill.

Mr. TOUCEY. The Senator from Maryland has based his remarks upon an assumption that does not exist. I do not understand or suppose the fact to be as he assumes I do. I do not suppose that the passing of this provision gives the money to Santa Anna. I suppose, on the other hand, if this does not pass, the payment of the money before it becomes due will be a legitimate subject of negotiation and an item in any pending negotiation.

Mr. HOUSTON. It seems to me very curious, under the circumstances, that any objection should be made to this amendment. If we have negotiations pending with Mexico intended to result to the benefit of our commerce I cannot see why power should not be placed in the hands of the President of the United States, as circumstances may dictate, to pay or withhold this amount. If this amendment be adopted he will have the power to use the money already appropriated, if, in the conduct of our diplomatic affairs with that country it should become proper and necessary. If he should regard it as improper, of course he would withhold it. It seems to me, therefore, the plainest thing in the world. As the President is in charge of the diplomatic relations of the country, a discretion should be left to him, that he may avail himself of all the advantages arising from our former, as well as our present, relations with Mexico. If you keep it out of his power to use this money, and it should be expedient and desirable to allow Mexico to have it, he will not be in a situation to extend to her the benefits arising from the present payment of it, and it may debar him from obtaining advantages which, under other circumstances, he might obtain from that Government in the establishment of a treaty of commerce.

The money is already appropriated, and I can see no reason why it should not be placed in the discretion of the Executive to pay it as soon as the public interests make it necessary. The amendment of my colleague does not require him to pay it, but it will depend entirely upon his own option and the exercise of his discretion, when he may be called upon by the circumstances under which he is negotiating. It seems to me that it merely places in the power of the President the advantage which results from present payment, leaving to him the exercise of his discretion to withhold it, unless the power to pay can be beneficially exercised in the promotion of our relations with Mexico.

Mr. HUNTER. I rise to make one more appeal to the Senate. We have but twenty-four hours, and the Navy appropriation bill has not yet been acted upon at all. This bill, with the amendments the Senate have already put upon it, will be almost as large as one of our volumes of Statutes at Large. The House of Representatives can have no means of hearing our amendments read unless we pass the bill at once. I had hoped that we should get through by twelve o'clock, but it seems that we are to have a long debate upon a disputed proposition, and I do not see that we shall be through by noon to-morrow, if we go on in this way.

Mr. TOUCEY. I beg leave to ask the chairman of the Committee on Foreign Relations, or any member of that committee, whether a communication has been made to them asking for any provision of this kind?

Mr. CASS. Before the honorable chairman of the Committee on Foreign Relations answers that question, allow me to state that it was the very question which I myself intended to ask. All seem to know more about our relations with Mexico than I do. It is said that a commercial treaty is being negotiated. Well, sir, if the Executive needs money for that purpose it is his duty to come and ask for it. This volunteer legislation is not proper.

Mr. MASON. The honorable Senator from Texas mentioned this subject to me some days since, and I told him, so far as I could form any opinion, I saw no objection to it, reserving to myself, of course, the purpose never to form a judgment until I should have the whole ground laid before me by the proper organ of the Government, the Executive. The Committee on Foreign Relations never heard of it from the Executive in any form, so far as I am apprised; and though, in my own judgment, I can see no objection to it, my judgment must be uninformed on such questions except on the suggestion of the Executive.

The amendment was rejected.

Mr. GWIN. I have been requested by the Delegate from Oregon to offer an amendment to remedy a defect in the law in regard to the appointment of two land officers in the district of Oregon. The law will not go into effect until May next, and power is wanted to appoint the officers before that time. It is simply to give the power to appoint. They will receive no compensation for three months. The amendment is to insert, after the provision for the incidental expenses of the surveyor general's office in Oregon:

The President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, during the present session of Congress, the register and receiver for the Umpqua land district, in the Territory of Oregon, established by the act of the 17th of February, 1855: *Provided*, That they shall not enter on the discharge of their duties until the 17th of May, 1855, nor receive any compensation for the intervening time.

Mr. STUART. The Executive cannot possibly approve this law, and send the nominations here before the adjournment.

Mr. GWIN. The law creating the offices has been passed, and all that is wanted is power to make the appointment.

Mr. STUART. I understand that; but this law cannot be approved and the nominations sent here before the Senate will adjourn.

Mr. GWIN. Why not? They are ready to be sent in, if the President had the power.

The amendment was rejected.

Mr. RUSK. I offer this amendment, as an additional section:

SEC. —. *And be it further enacted*, That the sum of $25,000 be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to pay the necessary expenses of six companies of volunteers called into the service of the United States by Brigadier General Smith in the State of Texas, to be paid under the direction of the Secretary of War.

The United States called into the service in Texas six companies of volunteers, and the object of this amendment is to cover the expenses of their rendezvous and transportation to the Army of the United States. This has been done with every volunteer company which has ever been paid by the United States. The only question is whether it shall be paid now, or those persons who furnished means and supplies shall wait for their money until another Congress.

The question being put there was found to be no quorum voting.

Mr. RUSK. If there is a single Senator who will rise in his place and say he does not believe these expenses will be paid, I shall withdraw the amendment. There have never been any troops called out from the States and mustered into the service of the United States whose expenses in getting into the service have not been paid by this Government.

Mr. HUNTER. This amendment ought to go upon another bill; it seems to me that we have already as much as can be carried in this bill. I think it is time that we closed it. I am voting against all amendments.

Mr. RUSK. Does the Senator believe this will not be paid eventually?

Mr. HUNTER. Probably it may be paid. I might think it right on examination; but we ought not to add anything more to this bill now.

Mr. BENJAMIN. These troops were called out by General Smith for the defense of the frontier to protect the inhabitants against the Indians in a case of absolute emergency. We shall have to pay the money, and I cannot conceive what objection there is to paying it now.

Mr. HUNTER. I withdraw my objection Let the amendment go on the bill. Ten minutes' time is worth more than all the controversy.

The amendment was agreed to.

Mr. SLIDELL. I offer an amendment to cor-

rect an error which occurred at the last session by the omission to include, in the civil and diplomatic appropriation bill, a provision which was agreed to, for the increase of the salaries of the clerks at the New Orleans Mint from $1,500 to $1,800. The chairman of the Committee on Finance deems the proposition a just one and makes no objection. My amendment is:

SEC. —. *And be it further enacted*, That the seventh section of the act of the 18th of January, 1837, entitled "An act supplementary to an act establishing the Mint and regulating the coins of the United States," be so amended as to extend the allowance for the annual salary of the clerks in the branch Mint of the United States at New Orleans to $1,800 per annum, after the 1st day of July, 1854, at the discretion of the officers authorized by law to appoint with the approbation of the President of the United States.

The amendment was agreed to.

Mr. CLAYTON. I desire to make one more appeal to the Senate in a case which demands earnest consideration from every Senator here. I desire to make the appeal for the sake of humanity. Alfred G. Benson, to whose case I called attention a few days ago, is now in the hands of the sheriff. I do not ask the Senate to decide whether his claim be right or wrong, but I do entreat them, in the name of justice, to permit the Secretary of State, or some other tribunal, to decide whether anything is due to him or not. Merely with that purpose, as the Secretary of State is in possession of the necessary information, I propose this amendment to the bill:

SEC. —. *And be it further enacted*, That the Secretary of State be, and he is hereby, authorized to adjust and settle, upon the principles of equity and justice, the claim of Alfred G. Benson for damages and losses sustained by him in consequence of the withdrawal of protection from the vessels which were engaged and chartered by him previous to the 25th of August, 1852, to take guano from the Lobos Islands under the assurance of protection given by the Executive Department: *Provided*, That nothing shall be allowed if, in the opinion of the Secretary of State, nothing is due.

It does not appropriate one dollar in money. It gives the man a tribunal in the last hour—it is all I can do for him,—a tribunal to decide his case; and I entreat the Senate to suffer it to go on this bill.

Mr. MASON. I cannot agree, as far as I am concerned, to the adoption of this amendment. The claim is one alleged to exist against the Government, either as an obligation or in equity, because of a misapprehension or construction by the late Secretary of State, of a question propounded to him by the claimant; that is to say, as to the title to the Lobos Islands. Now the proposition is, that we shall delegate to the present Secretary of State the right to determine whether the Government is under an obligation to pay—a right which I cannot agree to delegate to any Secretary of State, because it resides with Congress, and ought to remain here.

Mr. CLAYTON. There is no other remedy or relief for the man. You refuse to hear him; you refuse to consider his case. He is ruined by the oppression of the Government, and he is now in the hands of the sheriff, and you will not open any tribunal whatever to hear and decide upon his claim. I insist upon it that this amendment ought to be added to the bill.

Mr. SLIDELL called for the reading of the amendment, and it was again read.

Mr. EVANS. I object to it, because it is a private claim.

Mr. CLAYTON. The amendment does not appropriate any money.

The PRESIDENT. The Chair decides that it is in order under the practice of the Senate.

Mr. SLIDELL. The amendment is in the terms in which I supposed it to be. It assumes all the facts and recognizes the existence of some obligation on the part of the United States.

Mr. CLAYTON. I beg the gentleman's pardon. The proviso which I have inserted at the end of the amendment provides that nothing shall be allowed if, in the opinion of the Secretary of State, nothing is due.

Mr. SLIDELL. I know that; but the first part assumes that something is due. I have given some attention to this case, and I am clearly of opinion that this gentleman has no claim on the United States at all. I consider it one of those cases peculiarly adapted for the consideration and decision of the court of claims which we have created. I hope the amendment will not be adopted.

Mr. MASON. I must ask the yeas and nays upon it, for it is a most important matter, in my opinion, as a precedent.

The yeas and nays were ordered.

Mr. BADGER. I merely wish to say, as my friend from Louisiana suggests that this case should go to the court of claims, that, in the nature of the case, it is not a demand that can go before that court. That court is not vested with any jurisdiction to consider it. It was not intended to confer such authority. It would be dangerous if they should have it. The proposed amendment commits the Government to nothing, but, in the emergency, authorizes the Secretary of State, an officer of the Government, to ascertain the case that we may know what the state of the facts is. That is all.

Mr. CLAYTON. That is all.

Mr. BRODHEAD. I am against putting this claim on this bill.

The question being taken by yeas and nays, resulted—yeas 18, nays 27; as follows:

YEAS—Messrs. Badger, Bell, Brainerd, Brown, Clayton, Cooper, Douglas, Fessenden, Foot, Geyer, Houston, Morton, Pettit, Shields, Thompson of Kentucky, Walker, Weller, and Wilson—18.

NAYS—Messrs. Adams, Allen, Bayard, Brodhead, Butler, Clay, Dawson, Dodge of Wisconsin, Evans, Fitzpatrick, Gwin, Hunter, James, Jones of Iowa, Jones of Tennessee, Mallory, Mason, Pearce, Pratt, Rusk, Sebastian, Slidell, Stuart, Sumner, Thompson of New Jersey, Toombs, and Wade—27.

So the amendment was rejected.

Mr. WELLER. I now ask leave to submit an amendment, to which, I hope, there will be no objection:

SEC. —. *And be it further enacted*, That the fees and compensation allowed to the marshals of the United States, in the respective districts, shall hereafter be the same which may be allowed to the sheriffs under State laws for similar services: *Provided*, This shall not be construed to diminish the present fees allowed.

Mr. HUNTER. Is not this general legislation?

Mr. WELLER. No more general than is already in the bill. It was adopted by the Senate last year as an amendment to the same bill, but did not become a law.

The amendment was agreed to.

Mr. JONES, of Iowa. I offer an amendment which has been before the Committee on Finance, to give the acting Governor of the Territory of Nebraska the same pay which the Governor would have had if there. It is recommended by the Department, and has been agreed to by the Committee on Finance.

Mr. HUNTER. It has never been agreed to by the Committee on Finance to my knowledge.

Mr. JONES, of Iowa. The Senator himself told me so.

Mr. HUNTER. It must be a mistake; I have no recollection of it.

Mr. JONES, of Iowa. The Senator told me to offer it.

Mr. HUNTER. I may have told the Senator to offer it.

Mr. JONES, of Iowa. The amendment is:

That the accounting officers of the Treasury are hereby authorized to allow to the secretary of the Territory of Nebraska the difference between the salary of the Governor of said Territory and his salary as secretary during the period he acted as Governor after the decease of, and until the arrival in the Territory of the successor of the late Governor Burr; which amount, after being ascertained, is payable out of the appropriation "for salaries of Governor, three judges, and secretary" of said Territory as made by Congress for the fiscal year ending the 30th of June, 1855.

The amendment was agreed to.

Mr. JONES, of Iowa. I am authorized by the Committee on Pensions to move this amendment:

That the salary of the Commissioner of Pensions is hereby increased to $4,000 per annum, to commence from the first day of January, 1855.

Mr. BRODHEAD. I hope the Senator will add:

And that his chief clerk shall receive a salary of $2,500.

Mr. HUNTER. We have already voted down a proposition to increase the salaries of the other heads of bureaus. If we now increase one, we shall have to increase all.

Mr. JONES, of Iowa. The passage of the bounty land law imposes increased duties on the Commissioner of Pensions, and makes it proper that his salary should be increased in proportion, and that of his chief clerk also.

Mr. HUNTER. We have already voted down a proposition to increase the salary of the Commissioner of the General Land Office and the Commissioner of Patents. We ought to deal equally by all—raise all or none.

Mr. JONES, of Iowa. I think all three ought to be increased.

The amendment was rejected.

Mr. DOUGLAS. I offer the following amendment, to come in after the appropriations for surveys of the public land:

The President be authorized to appoint during the recess of Congress, to be nominated to the Senate for confirmation at the next session, the register and receiver of the land office for the Umpqua land district, in the Territory of Oregon, established by the act of February 17, 1855, to take effect on the 17th of May, 1855.

You have passed a law dividing the present land district in Oregon into two, to take effect on the 17th of May. The President cannot appoint the officers now, because the law is not in effect. He cannot appoint during the recess of Congress, as it is not a vacancy happening during the recess. The object of this provision is to authorize him to appoint the officers when the law does take effect.

The amendment was agreed to.

Mr. BROWN. I move to amend the bill by adding the following proviso in the second section to the provision for binding the Congressional Globe for members for this session of Congress:

Provided, The binding for both branches of Congress shall be executed by the publisher, if he will contract for the same at sixty cents per volume.

This is to secure the proper binding of the Congressional Globe, which we take, by the publisher, at the same price which we now pay. As the work is now done, beyond the control of the publisher, the sheets frequently get mixed and destroyed. I suppose there will be no objection to it.

Mr. FITZPATRICK. This provision makes a change in the publication of these works, the propriety of which I very much doubt.

Mr. BROWN. It has nothing to do with the publication; it is simply as to the binding.

Mr. FITZPATRICK. The binding generally has been under the control of the Superintendent of Public Printing and the Committee on Printing; but I believe the Committee on Contingent Expenses has assumed authority to direct the binding of the Congressional Globe. This is making a change in the established custom, the propriety of which, I think, is exceedingly doubtful.

Mr. BROWN. The Senator from Alabama misunderstands the matter entirely. I wish these volumes to be bound by the publisher for the reason that they now go into the hands of some other binder and the sheets get misplaced, and when Senators go to look into the volumes of the Congressional Globe, they find whole sheets left out and others transposed. Frequently, in consequence of this, the volumes are thrown back on the hands of the publisher. I propose to pay him no more than you already pay for the same work. I only want to get in competent hands, and allow the man to do it who is now responsible for having it well done.

The amendment was agreed to.

Mr. COOPER. I am requested to offer the following amendment, to come in after the provision in the second section for the reporters of the two Houses:

And that there be paid to William A. Rind, the reporter for the National Intelligencer, the sum of $500.

This is to pay the reporter for the National Intelligencer who was not provided for when the other officers engaged in the same duties were. I trust that discrimination adverse to this reporter will not be made.

Mr. WALKER. He is not one of our reporters.

The amendment was rejected.

Mr. BRIGHT, (Mr. WELLER in the chair.) I have a small amendment which I desire to offer:

For completing, inclosing, and furnishing the marine hospital at Evansville, Indiana, $10,000.

I have a letter from the Secretary of the Treasury requesting and recommending this appropriation, but I presume it is not necessary to consume time by reading it.

The amendment was agreed to.

Mr. BRIGHT. I have another amendment:

For the erection of a building for a court house, post office, and other public purposes, at Indianapolis, Indiana, $50,000.

The amendment was agreed to.

Mr. SHIELDS. I offer the following amendment:

SEC. —. *And be it further enacted*, That the Secretary of the Interior be, and he is hereby, authorized and required

to allow and pay to the agents for paying pensions a commission of three per centum on the amount of moneys by such agents annually disbursed, which shall be paid out of the fund for the payment of revolutionary pensions. Said commission shall be in full for all services and contingent expenses of said agency, except for books, printing, and stationery: *Provided*, That the amount of compensation allowed to any one agent shall not exceed the sum of $1,500 a year.

SEC. —. *And be it further enacted*, That the above provisions of this act be, and they are hereby, extended to those persons, their heirs and legal representatives, who served as pension agents prior to the 20th of February, 1847, and subsequently to the 20th of April, 1836, when no compensation was provided by law for such service: *Provided*, Such agents were not banking corporations or the agents or officers thereof.

Mr. HUNTER. If there were time to discuss this measure, I should have a great deal to say against it on its merits; but it is one which ought to be considered by itself, and independently, especially since the Senate have said they would not consider a measure of general legislation in connection with this bill. But, sir, I rose to ask the Senate that we may, after taking the question on the amendment of the Senator from Florida, [Mr. MALLORY,] who was kind enough to lay it aside, that we might take up amendments on which there was no dispute, and report the bill to the Senate. If we do not get through with it very soon, it will be impossible even for the committee of conference to read the amendments.

Mr. CLAY. This amendment has been offered, in various forms, two or three times, and discussed by the Senate.

Mr. SHIELDS. I wish to state, for the information of the honorable Senator from Alabama, that when it was offered before, it was suggested that it should be kept back for this bill.

Mr. CLAY. I say it has been offered before, once or twice, and rejected by the Senate. It has not been recommended by the Committee on Finance, and I do not think the Senate ought to adopt it. At all events, it ought not to be agreed to now.

Mr. CASS. I know something about this matter, and I can safely say that there is no more just provision to be found in this bill than that which the honorable Senator from Illinois seeks to insert in it. I occupied a station which brought the question before me twenty years ago. At that time the Bank of the United States and its branches were the pension agents, but in consequence of the immense amount of deposits they received, they were not allowed any compensation for the service. The receipt of the money on deposit was considered sufficient. When the banks could not do the business, pension agents came forward to do it without having the deposits, and the law for two or three years contained no provision for their compensation. When in the War Department, I assured the officers that Congress would make an appropriation to pay them during the three years when the service was performed without the expense of a cent to the Government. I believe there is not a person who has occupied the War Department from that day to this who has not recommended it. The provision has been passed by the Senate once or twice, and I do not know that it was ever objected to by any man who examined the subject. The officers rendered the service without a single cent of compensation.

Mr. HUNTER. The Secretary of the Interior does not approve of it.

Mr. CASS. Then I must say the Secretary of the Interior has not examined it. These gentlemen were kept out of their pay and allowed nothing. The pension agent at one time was the bank, and the bank was allowed nothing in consequence of the amount of deposits. On that turns the whole question. You have got their services for nothing, and the question is whether you will pay for them.

The amendment was agreed to.

Mr. COOPER. I have an amendment to offer from the Committee on Indian Affairs:

SEC. —. *And be it further enacted*, That the tenth section of the act making appropriations for the current and contingent expnses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, approved July 30, 1854, be carried into effect by paying the valuations ascertained and reported by Messrs. Upton and Summey, and other official assessors, as ordered by the commissioners under the Cherokee treaty of 1835 and 1836, with interest on said valuations respectively from the date of said commissioners' orders for assessment; and that the Secretary of the Interior be further directed to fill the blanks in such awards as are on his files with such amounts respectively as may be established by proof of value satisfactory to him, and pay the same.

Mr. JAMES. I am instructed by the Committee on Public Buildings to offer this amendment, to come in after the appropriation for repairs of Pennsylvania avenue:

For taking up, relaying, and renewing so much as has washed away at the sewer along Fifteenth street west, contiguous to the public grounds south of the President's House, $3,000.

The amendment was agreed to.

Mr. JAMES. I have another amendment from the same committee, to insert after "avenue" the words "East Capitol street to 2d street," so as to make the clause read:

For lighting the President's House and Capitol, the public grounds around them and around the Executive offices, and Pennsylvania avenue, *and East Capitol street to Second street*, $25,000.

The amendment was agreed to.

Mr. FITZPATRICK. There is a clause in the bill appropriating $30,000 to enable the Secretary of the Interior to execute the provisions of the graduation law of last year. I move to add to that clause the following proviso:

Provided, however, That in all cases where lands have been, or shall hereafter be, sold under the act of 4th August 1854, to graduate and reduce the price of the public land to actual settlers and cultivators, at a higher rate than authorized by that act, the Secretary of the Interior shall be, and he is hereby, authorized to direct the receivers of public money for the proper land district to refund the cases out of any money in his hands derived from sales of the public lands; and the periods and principle of graduation fixed by the instructions of the General Land Office of 30th October, 1854, shall be, and they are hereby, confirmed.

I will state to the Senate that there are a great many entries of land where the parties have made their claims and sent them here which cannot be settled without such a provision as this. The amendment is recommended by the Commissioner of the General Land Office and the Secretary of the Interior.

Mr. HUNTER. This may do for general legislation as an independent measure, but it ought not to be here.

Mr. BADGER. I hope we shall not adopt this amendment.

Mr. FITZPATRICK. It is a very important measure, which is offered at the suggestion of the proper officers to prevent immense expense as well as trouble. It is not brought forward at my own instance. I am assured by the Commissioner of the General Land Office and the Secretary of the Interior, that unless some provision of this kind be made, there will be required an additional number of clerks throughout the whole country, besides the vast labor entailed on the Department here. Under the law, in all cases where money is to be refunded, the papers have to be forwarded here and examined by the Secretary of the Interior. All he asks is to be permitted to direct the receivers to pay out the money, and obviate the necessity and expense of having additional force.

The PRESIDENT put the question, and there were—ayes 16, noes 14; not a quorum voting.

Mr. FITZPATRICK. As a proper way to ascertain whether there be a quorum present, I call for the yeas and nays.

The yeas and nays were ordered; and being taken, were—yeas 34, nays 8; as follows:

YEAS—Messrs. Adams, Benjamin, Brodhead, Brown, Cass, Chase, Clay, Dawson, Dodge of Wisconsin, Evans, Fitzpatrick, Foot, Geyer, Gwin, Houston, James, Jones of Iowa, Jones of Tennessee, Mallory, Morton, Pettit, Pratt, Sebastian, Shields, Slidell, Thompson of Kentucky, Thomson of New Jersey, Toombs, Toucey, Wade, Walker, Weller, Wells, and Wilson—34.

NAYS—Messrs. Allen, Badger, Brainerd, Gillette, Hunter, Mason, Seward, and Wright—8.

So the amendment was agreed to.

Mr. THOMPSON, of Kentucky. At the request of the Delegate from Oregon Territory, which has no representative on this floor, and being assured by the Senator from California [Mr. GWIN] that it is correct and proper, and as I know it is for the benefit of a gentleman, I offer the following amendment:

And be it further enacted, That the Secretary of the Treasury be authorized and required to settle and adjust the accounts of John Adair, collector of customs at Astoria, Oregon, upon fair and equitable principles, taking into consideration the particular circumstances of the case.

The amendment was agreed to.

Mr. SEBASTIAN. I have a number of amendments from the Committee on Indian Affairs, which are estimated for by the Department, and are necessary to carry out the treaties made and laws passed at this session:

For the increased pay of Indian agents, and pay of additional agents by the act passed March 1, 1855, $6,375.

For the increase of pay to Indian sub-agents, authorized by the act passed March 1, 1855, $1,334.

For pay of three Indian agents in California, per act September 28, 1850, and the act passed March 1, 1855, $12,000.

For expenses of the reconnoissance of the boundary line between the Choctaw and Chickasaw Indians, $1,000.

For fulfilling the treaty with the Wyandott Indians of January 31, 1855: *Provided*, That the appropriations made for said Indians by the Indian appropriation bill, passed at this session of Congress, are hereby repealed, $128,566 67.

For arrearages due the Choctaw Indians, under various treaty stipulations, as per report and statement of the proper accounting officers of the Treasury, transmitted by the Secretary of the Interior in answer to a resolution of the Senate of the 10th of March, 1853, to be paid to or expended for the benefit of the Choctaw nation, as may be requested by the authorized delegation thereof, now in Washington, $92,258 53.

For fulfilling treaty with the Chippewa Indians, negotiated February 22, 1855, $197,286 66.

For fulfilling treaties with the Winnebagoes, per articles 27th February, 1855, $73,700.

For fulfilling the articles with the Umpquas and Calapooias of the Umpqua valley, Oregon, of the 29th November, 1854, $23,980.

For fulfilling the articles negotiated November, 1854, with certain bands of Shasta, Scoton, and Umpqua Indians, $35,780.

For fulfilling treaty with the Rogue river Indians, per articles of the 15th November, 1854, $2,150.

For fulfilling the articles negotiated December 26, 1854, with certain bands of Indians of Puget's Sound, Washington Territory, $16,560.

For fulfilling the articles negotiated July 10, 1853, with certain confederated bands of Calipooias, Molala, and Clockamas Indians, of Oregon, $62,260.

The amendment was agreed to.

Mr. GWIN. I have an amendment from the Committee on Finance, which is in accordance with the estimates from the Department:

For rebuilding and repairs of the building for the branch mint at New Orleans, $55,000.

Mr. SLIDELL. I will state, for the information of the Senate, that by some unaccountable error, this provision was not introduced into the appropriations made in the original bill as it was passed by the House of Representatives, and only this morning by mere accident I discovered that it was omitted. The Secretary of the Treasury states that this is absolutely necessary, not only to prevent the mint at New Orleans from becoming dilapidated, but to enable its operations to be carried on; and that if this sum be not now allowed, the consequence will be that you will have to make a new building next year.

Mr. HUNTER. I hope the amendment will be adopted.

The amendment was agreed to.

Mr. MALLORY. I now propose, without further discussion, that the vote be taken on the amendment which I offered in regard to the Florida claims, which was laid aside this morning.

Mr. HUNTER. I hope so.

The PRESIDING OFFICER, (Mr. WELLER.) That amendment will be regarded as before the Senate. The yeas and nays were asked upon it last night, and the question is upon now ordering them.

The yeas and nays were ordered, and being taken, resulted—yeas 10, nays 31; as follows:

YEAS—Messrs. Badger, Brown, Cooper, Dawson, Mallory, Morton, Pettit, Thompson of Kentucky, Toombs, and Walker—10.

NAYS—Messrs. Allen, Benjamin, Brainerd, Brodhead, Butler, Chase, Clay, Clayton, Dodge of Wisconsin, Evans, Fessenden, Foot, Geyer, Gillette, Houston, Hunter, Jones of Iowa, Mason, Pearce, Rusk, Seward, Shields, Slidell, Sumner, Thomson of New Jersey, Toucey, Wade, Weller, Wells, Wilson, and Wright—31.

So the amendment was rejected.

Mr. PETTIT. I wish to offer an amendment to this bill. I have offered none. The one I now submit proposes no appropriation. By the act of 1852, certain steamboat boiler inspectors were appointed up and down the Ohio river, but none for Indiana. It is very desirable that there should be two at Evansville. The amendment which I now offer is merely to authorize the judge of the district court, with the approbation of the Secretary of the Treasury, to appoint two for Indiana.

Mr. HUNTER. It is unnecessary to read the amendment; the Senator has stated the substance of it. We are now at the mercy of any individual. Let us take the vote without hearing the amendment read.

Mr. PETTIT. It is simply to authorize the appointment of two inspectors of steamboat boilers at Evansville, Indiana.

The amendment was rejected.

Mr. DAWSON. I dislike to trouble the Senate, but I have an amendment to offer.

Mr. HUNTER. Before the Senator goes on, I desire to ask my friend from Iowa, the chairman of the Committee on Enrolled Bills, to state the probability of getting this bill enrolled.

Mr. JONES, of Iowa. I do not think there is any probability of having it enrolled in time. I told the chairman of the Committee on Finance, a few minutes since, that, unless amendments were stopped, we could not get the bill enrolled in time.

Mr. DAWSON. My amendment is a very small one. It is, in line eleven hundred and sixty-two, to strike out the word "one" and insert "six."

The PRESIDING OEFICER. There is no such word in the line, according to the printed bill before the Chair. Will the Senator be good enough to state the substance of his amendment?

Mr. DAWSON. It is to appropriate $6,000 instead of $1,000.

Mr. BADGER. For what purpose?

Mr. DAWSON. To enable the Commissioner of Public Buildings to complete the grading of Pennsylvania avenue to Georgetown. The object is to pay back $5,000 advanced by the city of Washington for the purpose.

The PRESIDING OFFICER. The reference of the Senator is wrong. There is no such provision to be found at the line which he has stated.

Mr. DAWSON. I will offer it to some other bill.

The bill was reported to the Senate as amended, and the question was stated to be on concurring in the amendments made as in Committee of the Whole.

Mr. GWIN. I hope the question will be taken on all the amendments together, except such as any Senator may desire to except. I desire to except the amendment in regard to the salary of the circuit judge in California.

Mr. PEARCE. I have a word to say before the bill is finally disposed of. I do not intend to renew the amendment which I offered and withdrew last night, solely because it is too late to do so; but it is only an act of justice to a gentleman whose character is likely to suffer serious injury from a remark which fell from my friend from Georgia, [Mr. TOOMBS,] that I should make this statement to the Senate. Since the adjournment last night, I have looked at a book published by himself, in which he describes himself as the grandson of General Nathaniel Greene, and which is dedicated to his father, Nathaniel Ray Greene, son of General Nathaniel Greene. The title page of that work, is:

"Life of Nathaniel Greene, Major General in the Army of the Revolution. By his grandson, George W. Greene, late American consul at Rome. Boston: Charles C. Little and James Brown, 1846."

In the volume which is lying now on the table of the Senator from Maine, [Mr. FESSENDEN,] the life of Greene, by Judge Johnson, of South Carolina, the history of the family is given. He states that General Nathaniel Greene left two sons and three daughters. One of these sons was Nathaniel Ray Greene, the father of this gentleman, who resided in Rhode Island. The eldest son went to Georgia, and was drowned in the Savannah river early. In that work we find this account of the family:

"General Greene left five children—George Washington, Martha Washington, Cornelia Lott, Nathaniel Ray, and Louisa Catharine.

"George Washington accompanied the Marquis Lafayette to France, in the year 1785, and pursued his education under the Marquis's care until the revolution broke out in that country, when his mother's apprehensions induced her to recall him. He returned to Georgia, in 1794, everything that the fondest parent could desire, but was unfortunately drowned in the Savannah river, a short time after his return. Martha intermarried with John C. Nightingale, Esq., and after his death with Dr. Henry Turner, with whom she is now living, in the State of Tennessee. Cornelia married Peyton Skipwith, Esq., and after his death Edward B. Littlefield, Esq., and is also living in Tennessee. Nathaniel married Miss Ann Clarke, and settled in Rhode Island, where he is now living, at East Greenwich; all these children have large families. Louisa Catharine, who was born a few months after the death of her father, intermarried with Mr. James Shaw, and is now the hospitable and amiable mistress of the mansion built by her mother, on the south end of Cumberland Island."

I make this statement because it exonerates this gentleman from the charge of being an interloper, which my friend from Georgia made yesterday, and which, I am very sure, he will retract.

Mr. TOOMBS. The gentleman is wholly mistaken. I said I did not desire an interloper to come in. I do not know the family except those who reside in Georgia; but I am satisfied now that this gentleman is the grandson of General Greene. Whether he is possessed of the family papers I do not know; and until that fact is ascertained, I do not see how we can propose to engage him to publish these works.

Mr. PEARCE. I did not propose to renew the amendment, but simply to make the statement which I have made.

Mr. BUTLER. I am obliged to say a word on this subject. I was very cautious in what I said last night, and I stated to the Senator from Massachusetts, [Mr. SUMNER,] that what I said was an impression formed on acquainiance with Mrs. Shaw. I knew her very well, and I intended to use her name only as a compliment to the family of General Greene. I did not state it from any positive knowledge, nor did I deny it. I would be the last man who would touch, in the least, the reputation of one of the descendants of General Greene. I know now that I was entirely mistaken.

Mr. GWIN. I hope all the amendments made as in Committee of the Whole will be agreed to, with the exception of those which Senators may desire to reserve.

Mr. HUNTER and Mr. BADGER. Let us agree to them all.

The PRESIDENT. Any Senator has the right to ask that any amendment shall be excepted.

Mr. GWIN. I ask that the amendment in regard to the salary of the circuit judge in California may be excepted, and also the provision striking out the clause putting the binding of documents for the Departments under the control of the Superintendent of Public Printing.

The PRESIDENT. Those two amendments will be excepted.

The residue of the amendments made as in Committee of the Whole were concurred in.

The PRESIDENT. The question is on concurring with the Committee of the Whole in striking out these words:

Provided, All blank books, binding, and ruling the same, for the several Departments of the Government herein appropriated for, shall be furnished under the direction and supervision of the Superintendent of Public Printing.

Mr. GWIN. I hope we shall retain the provision as it comes from the House, and not strike it out.

Mr. HUNTER. I will simply state that the clause, as it comes from the House, puts the heads of the Departments under the Superintendent of Public Printing; and if stricken out, as the Committee on Finance reported that it should be, they will be relieved from that *surveillance*, and allow them to superintend their own printing and binding.

The amendment was concurred in.

The PRESIDENT. The question now is on the amendment appropriating $4,500 for the salary of the circuit judge of California.

Mr. TOOMBS. I wish to make a small amendment to that amendment. When we passed the bill providing for the circuit judge in California, it seemed to be the general understanding that he should have the same salary as the Associate Justices of the Supreme Court. Since that bill has been passed, we have agreed, by an amendment to this bill, to raise their salaries. I therefore move, in lieu of the amendment which has been agreed to as in Committee of the Whole, to insert:

The salary of the said circuit judge shall be the same as that of the Associate Justices of the Supreme Court.

Mr. GWIN. I hope there will be no objection to it. It is merely to carry out the design of the Senate.

Mr. FESSENDEN. Seven thousand dollars is a larger sum than the other Senator from California [Mr. WELLER] demanded originally.

Mr. TOOMBS's amendment to the amendment was rejected; and the amendment made as in Committee of the Whole was concurred in.

The PRESIDENT. The bill is still open to amendment.

Mr. CHASE. I ask the kind indulgence of the Senate while I renew an amendment offered from the Committee on the Library. It embodies the substance of a joint resolution submitted by me some time since. It proposes the appropriation of a sum not exceeding $25,000, to enable the President to contract with Hiram Powers for some work of art suitable for the ornament of the Capitol. There is no time for a speech, and I shall make none. Let the renown of the great sculptor, whose works honor his country and his age, be the sufficient recommendation of the amendment which I submit:

To enable the President of the United States to contract with Hiram Powers for some work of art, executed or to be executed by him, and suitable for the ornament of the Capitol, a sum not exceeding $25,000.

The amendment was agreed to.

Mr. MORTON. I desire now to renew the amendment which I offered in Committee of the Whole from the Committee on Agriculture, which was then rejected, as I think, without a proper understanding of it.

The PRESIDENT. The Senator will have an opportunity on some other bill.

Mr. HUNTER. I hope the Senator will allow us to get through with this bill. He can offer his amendment to some other.

Mr. MORTON. Very well, sir.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill, as amended, was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had passed the following bills and resolution of the Senate:

A bill making appropriations for deepening the channel over the St. Clair flats, and for deepening the channel over the flats of the St. Mary's river, in the State of Michigan;

A bill for the relief of Franklin Chase;

A resolution explanatory of an act entitled "An act for the relief of Abigail Stafford;" and

A bill to appropriate money to remove obstructions in the Savannah river below the city of Savannah, in the State of Georgia.

POST OFFICE APPROPRIATION BILL.

The message also announced that the House insisted on their disagreement to certain amendments of the Senate to the bill of the House making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1856; and on their amendments to other amendments of the Senate disagreed to by the Senate; that they had agreed to the conference asked for by the Senate on the disagreeing votes of the two Houses, and had appointed Mr. HOUSTON, of Alabama, Mr. READY, of Tennessee, and Mr. DAWSON, of Georgia, managers at the same on their part.

ENROLLED BILLS SIGNED.

The PRESIDENT *pro tempore* signed the following enrolled bills, which had been previously signed by the Speaker of the House:

An act for the relief of Madalena Van Ness, widow of Cornelius Van Ness, deceased;

An act to change the boundaries of the land districts in the State of Iowa, and for other purposes;

An act to regulate the carriage of passengers in steamships and other vessels;

An act for the relief of the widow of W. Irving, deceased;

An act to establish certain post routes; and

An act to provide accommodations for the United States courts in the city of Jackson, Mississippi.

SENATE BILLS BECOME LAWS.

A message from the President of the United States, by Mr. WEBSTER, his Secretary, announced that he had this day approved and signed the following bills:

An act for the relief of Amos Knapp;

An act for the relief of Peter Amey, (colored man;)

An act for the relief of Henry S. Sanford;

An act for the relief of Parmelia Slavin, late the wife of John Blue, deceased;

An act for the relief of George W. Torrence;

An act to amend "An act to carry into effect a treaty between the United States and Great Britain," signed on the fifth day of June, 1854, and approved August 5, 1854; and

An act for the relief of Mrs. J. Josephine McClellan.

ARMY APPROPRIATION BILL.

A message from the House of Representatives announced that the House disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill making appropriations for the support of the Army for the year ending the 30th of June, 1856; asked for a further conference; and had appointed Mr. PHELPS, of Missouri, Mr. EDGERTON, of Ohio, and Mr. WALLEY, of Massachusetts, managers at the same on their part.

On motion by Mr. HUNTER, the Senate agreed to the second conference asked for by the House; and Mr. WELLER, Mr. BAYARD, and Mr. DAWSON were appointed the committee on the part of the Senate.

FORTIFICATION BILL.

Mr. WELLER. The Senate last night passed the fortification bill with a small amendment. Although that amendment is a small one, it will, in my judgment, entirely defeat the bill in the other House. I desire, therefore, to make a motion to reconsider; but in order to be able to do so, we must have the bill before us. For that purpose I offer the following resolution:

Resolved, That a message be sent to the House of Representatives, requesting the return of the bill of the House making appropriations for fortifications and other works of defense, and for repairs of barracks and quarters for the year ending the 30th of June, 1856.

The resolution was considered by unanimous consent, and agreed to.

NAVAL APPROPRIATION BILL.

Mr. HUNTER. I am instructed by the Committee on Finance to report back the House bill making appropriations for the naval service for the year ending the 30th of June, 1856, with one amendment.

The Senate, as in Committee of the Whole, proceeded to consider the bill. The amendment of the Committee on Finance was to insert, after the clause appropriating $250,000 for the Stevens war steamer:

Provided, That the Secretary of the Navy may, at his discretion, apply the said sum, in whole or in part, during the fiscal year ending 30th June, 1855.

To enable the Secretary of the Navy to carry into effect the joint resolution respecting the Arctic expedition, commanded by passed assistant surgeon E. K. Kane, or so much thereof as may be necessary, $150,000.

The amendment was agreed to.

Mr. GWIN. The Committee on Naval Affairs have instructed me to offer various amendments to this bill. The first is to insert after the clause for pay of the superintendents, naval constructors, and all the civil establishments at the navy-yards and stations:

That in lieu of $2,000 per annum, the maximum of compensation now allowed by law to navy agents, there shall be allowed two per centum commission on the first $100,000, or under, disbursed by them, and one per centum on every succeeding $100,000, or under, disbursed by them, until the compensation reaches the sum of $4,000 per annum, which amount shall be the maximum of compensation for said agents: *Provided*, That the compensation named herein shall be in lieu of all extra compensation for services of every nature and description rendered by navy agents, by order of the Navy Department, from and after the passage of this act.

The amendment was agreed to.

Mr. GWIN. The next amendment is to insert before the one just adopted:

And such further sum as may be necessary for paying to the clerks and others in the Washington navy-yard the compensation authorized by the act approved April 22, 1854.

The amendment was agreed to.

Mr. GWIN. The next amendment of the Committee on Naval Affairs is to insert after the clause for provisions of officers and seamen:

That the purser at the navy-yard at Washington, District of Columbia, shall, from and after the passage of this act, receive the same pay as is now allowed by law to the pursers at the navy-yards at Boston, New York, Norfolk, and Pensacola.

The amendment was agreed to.

Mr. GWIN. The next amendment is to insert, after the clause making appropriations for the repairs of the buildings of the Naval Academy:

For repainting, calking, and other repairs of the floating balance, dry dock, basin, and railway at the navy-yard, Pensacola, the sum of $10,000; and the Secretary of the Navy is hereby authorized to receive the said works: *Provided*, It shall appear, from the certificates of the officers appointed by the Government to superintend and direct the construction thereof, that the same have been faithfully built according to the stipulations of the contract, and that a ship furnished by the contractors at their own expense, has been successfully docked, and hauled on and off the land by a railway, of equal or greater weight than the displacement of the ships by which the docks, basins, and railways at Philadelphia and Kittery were tested.

The amendment was agreed to.

Mr. GWIN. The next amendment is to insert, after the one which has already been adopted in regard to the purser of the Washington navy-yard, the following:

Provided, That when pursers of the Navy shall be appointed inspectors of provisions, clothing, and small-stores, they shall, while so acting, receive the same compensation as the pursers of the navy-yards to which they may be attached.

The amendment was agreed to.

Mr. GWIN. The next amendment is to insert, after the clause appropriating for the wages of the persons employed at the Observatory:

That the Secretary of the Navy be, and he is hereby, authorized, after giving public notice, to contract, for the period of five years, with the lowest bidders, for supplying water-rotted hemp, for the use of the Navy, giving the preference to bidders for American hemp at the same price, with a test of four thousand two hundred yards to a rope of one and three quarter inches in circumference.

The amendment was agreed to.

Mr. GWIN. The next amendment is, in the clause appropriating for the navy-yard at San Francisco, to strike out $230,000 and insert $345,000, and to include among the erections to be appropriated for "houses for quarters, and repairs of all kinds." This is in pursuance of the estimates of the Department.

Mr. HUNTER. I wish to ask the chairman of the Committee on Naval Affairs whether these amendments are to restore the estimates of the Bureau of Yards and Docks?

Mr. GWIN. Yes, sir; there are only two of them.

Mr. HUNTER. I only wish to say, in regard to them, that it is known the estimates were very large, and they were pruned in the House.

Mr. GWIN. This is to restore the estimate in regard to the navy-yard at San Francisco, which was evidently cut down to an amount not large enough. We only take up those cases where the increase is absolutely necessary.

The amendment was agreed to.

Mr. GWIN. The next amendment of the Committee on Naval Affairs, is to insert after the word "shell-house," in the appropriation for the Pensacola navy-yard, "wall around shell-house," and after "spar-house," insert "towards the west basin," and to increase the appropriation from $104,870 to $255,470, so as to make the clause read:

Pensacola.—For permanent wharf, deep basin, and dredging; coping for basin; filling in and paving; paint-shop and cooperage, (to complete;) repairs of cisterns Nos. 14, 25, and 26; water pipes to permanent wharf; guard-house at west gate; shell-house; wall around shell-house; lightning conductors; railway to spar house towards the west basin; steam-box; fire-engine house; and repairs of all kinds, $255,470.

The amendment was agreed to.

Mr. GWIN. Our next amendment is:

And the sum of $100,000 be, and the same is hereby, appropriated, for the establishment of a naval depot on the right bank of the river Mississippi, in descending, at the site now owned and held by the United States for that purpose, near the city of New Orleans, and for such buildings and improvements as may be adjudged necessary for the accommodation of United States vessels of war in that quarter.

The amendment was agreed to.

Mr. GWIN. The next is to insert, as an additional section:

SEC. 3. *And be it further enacted*, That the Secretary of the Navy be, and he is hereby, authorized to cause the channel of Wallabout creek between the property of the naval hospital and that of certain citizens of the city of Brooklyn, New York, to be laid out so as to make said channel sixty feet wide, as heretofore contemplated: *Provided*, The citizens of Brooklyn, owners of land on each side thereof, shall pay to the commissioner of the hospital fund such sum therefor as, in the opinion of the Secretary of the Navy, shall be just and reasonable: *And provided further*, That said strip of land which may be required for said purpose from the land of the naval hospital shall not exceed an acre and a half.

Mr. HUNTER. Is that recommended by the Department?

Mr. MALLORY. It will not cost the Government a single cent. It is as much for the convenience of the Government property as the property of the citizens. It is to take off an acre and a half of land of not the slightest possible moment to the Government, and to arrange it in such a manner as to be an advantage both to the Government property and that of the adjoining landholders.

The amendment was agreed to.

Mr. GWIN. The next amendment of the Committee on Naval Affairs is an additional section:

SEC. 4. *And be it further enacted*, That the fifth section of the act "making appropriations for the naval service for the year ending the 30th June, 1855," approved August 5, 1854, shall not be so construed as in any case to reduce the pay of boatswains, carpenters, sailmakers, and gunners of the Navy from the passage of the said act.

The amendment was agreed to.

Mr. GWIN. Our next amendment is:

And that the salary of the assistant astronomer at the National Observatory shall be $2,500, commencing with his service as such, deducting, however, the amount already received by him as such assistant astronomer.

The amendment was agreed to.

Mr. GWIN. The next amendment is:

For two clerks or assistants employed from the commencement of the present fiscal year in the United States Naval Astronomical Expedition, to be paid as first or lowest class clerks, deducting their present rate of compensation, $1,400.

For their compensation for the next fiscal year $2,400, or at that rate so long as they may be necessarily employed.

The amendment was agreed to.

Mr. GWIN. There is one more amendment of the Committee on Naval Affairs. It is to strike out this clause:

"To enable the Secretary of the Navy to pay the salary of Professor James P. Espy, for the current fiscal year ending June 30, 1856, $2,000; the payment to be made in the same manner and under the like control as former appropriations for meteorological observations."

This will evidently lead to a long debate, and for that reason I hope the Committee on Naval Affairs will allow the clause to remain as it is. I hope I shall be permitted to withdraw the amendment. I am directed, however, by the Committee on Naval Affairs to move to strike out the clause.

Mr. PEARCE. It will not be stricken out without as full a discussion as my physical ability will enable me to give to it. Just as soon as the motion is made I shall begin my speech, and I will speak till three o'clock; yes, sir, until four. [It was now half past one o'clock.]

Mr. GWIN. I trust the committee will permit me to withdraw the motion to strike out. It will evidently lead to a long discussion, and cause a great loss of time.

Mr. MALLORY. Is there an objection to striking it out?

Mr. BADGER and Mr. PEARCE. Decided objection.

Mr. MALLORY. I shall consent, as a member of the Committee on Naval Affairs to the withdrawal of that proposition, but I must be permitted to say a word in doing so. It is my perfect conviction, from years of examination of the meteorological journal of Professor Espy, that, so far as the interests of the country are concerned, it is entirely a useless expenditure. Our committee, at the last session of Congress, agreed to report in favor of allowing Professor Espy $2,000, with the understanding that the proposition should never come before them again. At this year, however, it has come up again. The Committee on Printing have twice reported against printing the meteorological journal. Now, I hold, as I did last year, that if we want these observations we can get them from the observatory. But, sir, as the honorable Senator from Maryland, for whose judgment I have profound respect, differs from me on this question, and as he says he will talk until three o'clock, I am willing to withdraw the amendment. I would rather lose the $2,000 than have the time lost.

Mr. GWIN. I withdraw the amendment.

Mr. PEARCE. If it is withdrawn I will not say a word; but if it is not, I will speak.

Mr. MORTON. I offer the following amendament:

SEC. —. *And be it further enacted*, The right of way, one hundred feet in width, through the lands reserved west of the navy-yard, Pensacola, be, and the same is hereby, granted to Jasper Strong, George Terrill, and their associates, for the construction of a railroad from the Perdido river, on the most direct and practicable route, to the waters of Pensacola bay, and the use of any timber or other materials along the route of said road, and within a half a mile on each side thereof, which may be necessary in the construction thereof; and at the terminus of said road on Pensacola bay, the said Strong, Terrill, and their associates, shall have the privilege of erecting a wharf and of establishing a depot for lumber and other articles, not more than one acre in extent: *Provided*, Said road shall be constructed on such line, and the terminus be at such point on Pensacola bay as

shall be approved by the Navy Deparment: *And provided further*, That this act shall not be so construed as to authorize said Strong, Terrill, and their associates, to use or destroy any timber which the Navy Department may direct to be preserved for navy purposes.

SEC. —. *And be it further enacted*, That the like privilege in every respect to the grant here made to Jasper Strong, George Terrill, and their associates, be, and the same is hereby, granted to James Heron, of Escambia county, and his associates, for the erection of his steam grist mill on the Perdido river, through the Government land west of the navy-yard to the bay of Pensacola.

It is simply a bill which has passed the Senate, but cannot be reached in the House of Representatives, and may very properly be placed upon the naval appropriation bill.

Mr. STUART. I desire to know whether there is any discretion left by the amendment to the Navy Department, or to the President on the subject?

Mr. MORTON. It requires the full and complete approbation of the Navy Department.

Mr. STUART. I understand that it gives the right to take timber and materials within half a mile, and gives the right to make a wharf, and divers and sundry other things. I think full discretion ought to be left to the proper Department in regard to such a matter. I ask that the amendment be read again.

Mr. MORTON. I think the reading of it will satisfy the Senator from Michigan that the utmost discretion is left.

The amendment was read.

Mr. STUART. There should be a proviso reserving the Navy Department the right to determine whether this can be done without prejudice to the public property. This amendment, as it stands only gives the Secretary of the Navy power to determine where the railroad shall be, but it is peremptory that it shall be somewhere.

Mr. MORTON. It gives the Navy Department full power to object to the use of any timber which may be required for naval purposes.

Mr. STUART. That is not the point. It proposes to give the right of way through grounds at Pensacola, belonging to the Navy Department, and there has always been attached to such provisions this proviso: "*Provided*, The same can be done, in the opinion of the Secretary of the Navy, without prejudice to the public interests."

Mr. MALLORY. Let me tell the Senator that the provision was prepared by the Secretary of the Navy, and is entirely satisfactory to his Department.

Mr. HUNTER. There is some mistake about it. The proviso suggested by the Senator from Michigan ought certainly to be inserted.

Mr. MORTON. I have no objection to it, and I will therefore temporarily withdraw the amendment, so that my friend from Michigan may place any restriction upon it which he think proper. It would not grant these gentlemen any timber which the Navy Department requires; and I therefore withdraw the amendment for the present, and ask my friend from Michigan to take it in hand, and draw up any stipulation he finds necessary.

The PRESIDENT. That amendment being withdrawn, others will be received.

Mr. MORTON. I move this amendment, as an additional section:

SEC. —. *And be it further enacted*, That the Secretary of the Navy be authorized to allow Hiram Paulding, a captain in the Navy of the United States, such sums as the said Paulding may have expended while in command of the frigate St. Lawrence, in the years 1849 and 1850, in the entertainment of the officers of the Governments at Bremerhaven and Stockholm, and the authorities of Southampton, when they officially visited the said frigate; and that the same be paid out of any money in the Treasury not otherwise appropriated: *Provided*, The amount allowed the said Paulding shall not exceed the sum of $3,653 92.

Mr. PRATT. The Senate have refused to a commodore in my own State payment for carrying out certain ministers by the direction of the Government. The Senate, after deliberation, determined that he should not be paid. The argument of the honorable Senator from Michigan, [Mr. CASS,] the honorable Senator from Louisiana, [Mr. SLIDELL,] and other Senators, in that case, was that it was unusual and improper to pay naval officers for these entertainments, or for carrying ministers in our public vessels from here to foreign countries. I do not wish a discrimination to be made in favor of one against the other; I must, therefore, object to this amendment.

Mr. MORTON. This is not a similar case to that to which the Senator from Maryland has alluded, on which adverse action was had by the Senate a few days since. That was a case where an allowance was asked for the transportation of ministers of the United States to foreign countries. The Senate then expressed the opinion that where the ministers were furnished with an outfit and salary they should have paid their own expenses and mess bills. This case is one of extreme hardship. Captain Paulding was sent in the frigate St. Lawrence to the Baltic, in 1849, a sea in which an American man of war had not been for many years. He was necessarily compelled to expend a large amount of money in returning the civilities and honors paid to him and the flag of his country. He also visited Southampton, in England, which is a place very unusual for an American man of war to go to. When the hospitalities of the city were extended to him by the authorities, he considered it due to his flag and country that he should return those civilities. In consequence of that these extra expenses were incurred. Captain Paulding is not a man of fortune. Of course, as no allowance was made by law, the Navy Department did not allow him, in the settlement of his accounts, these expenses; and this has put him in straightened and unpleasant circumstances since. This is a very different case from that where the captain or the commander of one of our vessels takes out a minister for whom the Government provides the means of supporting himself. I hope the amendment will be adopted.

Mr. SEWARD. I trust it will be adopted without further debate.

The amendment was agreed to.

Mr. MORTON. I now submit an amendment to this bill which I proposed, by direction of the Committee on Agriculture, to the civil and diplomatic appropriation bill. It is for the benefit of one of the most important interests of the country, which has received very little attention from this Government. It is the only amendment the Committee on Agriculture have thought proper to offer, and I hope it will meet with the favorable consideration of the Senate. It is to insert:

For obtaining information on the insects injurious to the vegetation and fruits of the United States, and procuring models and drawings of the same, so far as practicable, $12,000, said information to be embodied in the annual agricultural report, to be expended under the direction of the Secretary of the Interior.

Mr. HUNTER. I do not object to the incongruity of this amendment with the present bill, because the Senator from Florida was kind enough to withdraw it from the civil and diplomatic appropriation bill, when an appeal was made to him for that purpose.

The amendment was agreed to.

Mr. MALLORY. By authority of the Committee on Naval Affairs I offer this amendment:

SEC. —. *And be it further enacted*, That the Secretary of the Navy be, and he is hereby, authorized to cause to be constructed for the United States Navy, at as early a day as practicable, consistently with a proper regard for economy and efficiency, seven steam sloops of war, of which four shall be built in the navy-yards of the Government, and three shall be constructed by private contract, under such restrictions and limitations as may be proper to protect the interest of the Government, and to secure the utmost rate of speed which may be attainable, consistently with their proper adaptation for war purposes.

SEC. —. *And be it further enacted*, That, for the purpose aforesaid, there be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $1,000,000.

There is no time to detain the Senate with discussing the propriety of this measure. I have reported it by authority of the majority of the Naval Committee.

Mr. GWIN. I intend to oppose it.

Mr. MALLORY. The chairman of the committee, of course, is at full liberty to oppose the construction of war ships at his pleasure. I am instructed by the majority of the Committee on Naval Affairs to offer this amendment, which is in the terms of a House bill for the purpose. It contemplates the construction of seven steam sloops of war for the naval service, three of which are to be constructed in private, and four in public establishments. It meets the approbation of the Secretary of the Navy. The urgency of the public service imperatively demands the vessels, and it is for the Senate to say whether they will authorize them to be constructed or not.

Mr. GWIN. I should like to know from my colleague on the committee when this proposition was agreed to by the committee? Certainly so important a measure should not have been brought forward without my being notified, if not present at the time.

Mr. MALLORY. The chairman has notified me, on various occasions, that he would oppose this measure. He told me so yesterday, and at other times, but a majority of the committee agree with me as to the propriety of it.

Mr. GWIN. When was it brought before the committee? Every amendment which I have proposed from the committee has been communicated to its members. I never heard of this proposition being brought forward in a formal manner. I desire to know if this was ever brought before and formally passed upon by the committee?

Mr. MALLORY. There is no disposition between the chairman and myself to place this matter in any but exactly its true attitude. Yesterday morning, in the committee room, the subject was mentioned, and he notified me of his opposition to the project. This morning I informally asked his assent to it, but he declined it. I have, however, in the same informal manner, obtained the approbation of a majority of the committee. It is precisely the same manner in which the approbation of a committee to an amendment to an appropriation bill is obtained nine times out of ten. I deem it a matter of duty to the Navy to press this amendment. I care not personally one farthing whether it be adopted or not. It is a matter entirely of general interest.

Mr. GWIN. This amendment involves an expenditure of $6,000.000 or $7,000,000, for these sloops of war will cost $1,000,000 apiece. Without our amendments the naval appropriation bill, as it comes to us from the House, appropriates between $14,000,000 and $15,000,000. Here is another measure brought forward, certainly not matured by any committee of this body, which was rejected in the other House after deliberation, which will involve the expenditure of $6,000,000 or $7,000,000. I call upon the Senate not to load down this bill, not to put upon it measures which we know cannot be acted upon favorably in the other House. Now, at the expiring hours of the session, this is not the right way to bring forward a proposition of this sort, which involves so large an expenditure of money. If I had expected it to be brought forward, I should be prepared to oppose it; but surely at the heel of a session like this, after the House of Representatives have rejected this very measure on deliberation, we should not bring it forward and put it on an appropriation bill.

Mr. MALLORY. In reply to my friend from California, who says that this measure has been voted down in the House after mature deliberation, I desire to say that I was present myself in the House on that occasion, and it was done without deliberation. Only one day was allowed for naval business in that House, and in the face of a long and able speech made on the subject by the chairman of the Naval Committee of that House, the proposition was laid aside. Now, the chairman of the Committee on Naval Affairs of the Senate and myself differ as to the expediency of this measure. It is simply a difference of opinion on the question of expediency. I do not desire to debate it; I ask for the vote.

Mr. STUART. As my friend from California says, this question was thoroughly discussed in the House. The bill was debated one day, passed over until the next, and on the succeeding day there was a decided majority against a motion to take it up again. I hope the Senate will reject it.

Mr. MALLORY called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 17, nays 27; as follows:

YEAS—Messrs. Allen, Bell, Benjamin, Brown, Cass, Clayton, Dawson, James, Mallory, Morton, Pearce, Pratt, Slidell, Thomson of New Jersey, Weller, Wells, and Wright—17.

NAYS—Messrs. Bayard, Brainerd, Brodhead, Butler, Chase, Clay, Evans, Fessenden, Fitzpatrick, Foot, Geyer, Gillette, Gwin, Houston, Hunter, Jones of Iowa, Pettit, Rusk, Seward, Shields, Stuart, Sumner, Thompson of Kentucky, Toucey, Wade, Walker, and Wilson—27.

So the amendment was rejected.

Mr. MALLORY. I have another amendment to offer from the Committee on Naval Affairs:

Provided, That the compensation of the chiefs of the Bureaus of Construction, Equipment, and Repair, and of Medicine and Surgery, be the same as now allowed to the other chiefs of bureaus in that Department, and the deficiency be paid out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

Mr. STUART. I have examined the amendment of the Senator from Florida, [Mr. MORTON,] and I think it will be perfectly correct with the addition of this proviso:

Provided further, That in the opinion of the Secretary of the Navy the privileges conferred by this act will not be prejudicial to the public interests or public property.

Mr. MORTON. I have no objection to that. I renew my amendment with that modification.

The amendment was agreed to.

Mr. CLAYTON. I desire to offer an amendment for the purpose of paying to the owners of the Collins line of steamers what is now due to them. It has become necessary in consequence of a fact which is well known here, but to which I cannot refer.

Mr. BELL. We have some amendments from the Committee on Naval Affairs.

The PRESIDENT. The amendments of the committee will be first received.

Mr. BELL. I am directed by the Committee on Naval Affairs to report the following amendment, to come in at the close of the appropriation for navy-yards:

Memphis.—For excavation, embankment, smith-shop, store-house, and repairs of all kinds, $30,000: *Provided*, That no part of this sum shall be expended until the board of Mayor and Aldermen of the city of Memphis shall have retroceded to the United States the said navy yard, with all the fixtures and appurtenances thereunto belonging, unconditionally, by deed, in such form as shall be approved by the Secretary of the Navy.

Mr. STUART. As I understand that amendment, it proposes to make an appropriation for the Memphis navy-yard, which we gave away a year ago. That certainly is not in order under the rules of the Senate. There is no estimate for it, and cannot be, for we do not own the property. The amendment proposes by its very terms that it shall have no application until the Mayor and Aldermen of Memphis retrocede the property to the United States. Now, sir, how can you, on an appropriation bill, appropriate money for such a purpose as that under our rules. I make the point of order.

Mr. BELL. The question is left open by the proceedings of the Mayor and Aldermen of the city of Memphis. I consider this provision important, not so much to the city of Memphis and the State of Tennessee as to the public interests of the country at large. But, sir, a question of order is raised. I presume, however, there will be no difficulty in deciding that when the question is fairly stated.

The PRESIDENT. The Chair will inquire whether the amendment is recommended by the Committee on Naval Affairs?

Mr. BELL. It is, and has the approbation of the Secretary of the Navy inofficially and informally communicated.

Mr. STUART. That is not my point of order.

Mr. BELL. If there is no further objection on the point of order, I desire to make a short statement in relation to the amendment.

The PRESIDENT. The Chair decides the amendment to be in order.

Mr. STUART. The Chair has not decided the point of order which I raised. That point of order is this: That the United States do not own the property. It was ceded a year ago, and the authorities of Memphis, to whom it was ceded, have agreed to recede it in case the United States will retake it. It is not at this day the property of the United States, and the amendment itself, as the Chair will perceive on reading it, provides that the money shall not be applied until the city authorities retrocede the property. Now, I ask, under the rules, how can you, in a general appropriation bill, which only appropriates for the affairs of Government money to be applied to the property of the Government, make an appropriation of that sort?

The PRESIDENT. That is a matter for the Senate to determine for themselves. The amendment having been reported by a committee, the Chair recognizes it as in order.

Mr. BELL. Although an act was passed at the last session ceding the navy-yard to the city of Memphis, the consummation of it has been suspended by the consent of the Government to see whether any adjustment of the question can be arrived at between the authorities of the city of Memphis, to whom the property was ceded and the Government.

Mr. EVANS. How much do they ask for?

Mr. BELL. The sum of $30,000 is all that we propose to appropriate now. This navy-yard, so far as improvements have been made at it, is of the most substantial character. The work, so far as it is finished, has been done in a workmanlike and artistic manner. The Government has not, at any time, made any arrangements to construct vessels of war at that yard. The policy seems to have been, in the first place at all events, to employ it as a rope-walk, or as a place for the manufacture of cordage for the use of the Navy of the United States, and for that purpose the most perfect machinery now known in the world has been purchased. It is even more perfect than that which is employed at the navy-yard at Charlestown, Massachusetts; because there has been combined with the new machinery all the improvements known in this country and in Europe. This Government has expended upon the property between $700,000 and $800,000.

Upon a very brief discussion, and surely with very little deliberation, it was agreed, at the last session, to cede the property to the city of Memphis, without any consideration. It has given rise to some difference of opinion as to the point of policy among the city authorities and inhabitants of Memphis, and it has given rise to some complaints and dissatisfaction throughout that whole section of the Union, that property of this great value, situated as this is, and intended for such national and indispensable purposes, should be thus disposed of. It would be of some advantage, in a pecuniary point of view, to the corporate authorities of Memphis to hold the property, and they have manifested a disinclination to surrender it unless the Government will come under engagements to make it a yard of construction and equipment. That the Executive Government has positively declined to do. The Congress of the United States have heretofore declined to employ it as a yard of equipment and construction, and I believe that is not uncommon in regard to some other navy-yards which are still sustained by the United States. The proposition is now, taking up the estimates of the Navy Department for the last session of Congress, to make an appropriation of less than one half the amount estimated for at that time. The estimate then was $65,000. It is now proposed to appropriate only $30,000 for the purposes specified in the estimate of the Secretary of the Navy at the last session of Congress, so that there is no committal of this Government to make it a yard of construction or equipment. The amendment leaves the Government to exercise the discretion of making that a yard of construction or equipment at their pleasure, or never, if they think proper. It never will be, so long as the present Executive Government is in power; and so it may be with every other Executive Government that succeeds. They will exercise the discretion of recommending whether or not public vessels shall be built or equipped there, or whether the yard shall be employed exclusively for the manufacture of cordage.

Now, Mr. President, the proposition is, to make this small appropriation for the objects contemplated by the Navy Department, not one of which includes the idea of making this a yard of construction or equipment, and not one dollar is to be expended until the city authorities shall have unconditionally retroceded the property to the Government of the United States. There is a conditional retrocession already tendered to the Government, to which the Executive refused to accede, and to which Congress are not disposed to accede. The Committee on Naval Affairs have therefore authorized me to offer this amendment, refusing to accede to it. You have already expended nearly $800,000 on this yard. The machinery alone for the manufacture of cordage cost $100,000. That is ready to operate in a hemp region, and which is likely to be the only available hemp region as long as the present war continues in Europe. I refer to Tennessee and the States lying north of it on the Mississippi river, as our hemp region. I should like to know who at present can foresee the termination of that war. This yard, in every respect, is well adapted to the manufacture of that indispensable article for the consumption and sustenance of the Navy of the United States.

But, sir, I do not propose to go into any argument on this subject, because it is too late. I must submit to whatever the Senate shall, in their wisdom and discretion, think proper to enact. We propose to make this small appropriation when the authorities of Memphis shall have retroceded their property absolutely to the United States. It has already cost the Government nearly $800,000. This amendment leaves it to the discretion of Congress and the Executive Department hereafter, to use it as a ropewalk or as a yard of construction and equipment, as they think proper. I think the time may come when it will be found most expedient for the public service to use it as a yard of construction and equipment as well as for the manufacture of cordage, because it is secure from any invasion of an enemy from any part of the Gulf coast. It never can be reached by a public enemy. I will say now, that I think most of our navy-yards on the Atlantic coast might be reached by the overwhelming powers of some of the Governments across the Atlantic, either by England or France, or both combined; but I leave all these views out of the question. I simply refer it to Congress to say whether or not they will hold this property, and use it for public purposes to the extent that they, in their discretion, shall think it ought to be used, upon the condition of absolute retrocession by the city of Memphis.

Mr. SEWARD. I wish to say that I suppose the Senate understood last year that it was rather an act of caprice than otherwise which established this navy-yard. I concurred in the suggestion which was then made, and which came from some Senator who understood the matter.

Mr. STUART. It was the Senator from Tennessee, [Mr. JONES.]

Mr. SEWARD. I concurred in it with regret; and I now join in putting it back to where it belongs.

Mr. STUART. I do not intend, at this stage of the session, to go into a discussion of this subject, further than to say that Congress, at the last session, disposed of this property to the city of Memphis without fee and without price. They made a donation of it to that city. There were certain reasons that were stated, of a general character, why it should be done. They were not applied particularly to this navy-yard; but they were applied to the subject of navy-yards generally. It was insisted, and insisted with great propriety, that the Government of the United States were maintaining such a number of navy-yards as to constitute unnecessarily a very great tax upon the Treasury of the United States; and after an attempt was made to get an appropriation for this navy-yard, and the sense of the Senate had been obtained decidedly against it, I think the Senator from Tennessee—I may be mistaken in that; but, at all events, some Senator—moved the proposition to make a donation of it to the city, and the Senate agreed to it. Now, sir, for certain reasons best known to the people of that portion of the country, they prefer that the United States should keep the property, and keep up the annual expenditures, rather than have an unconditional donation of it to them. I, of course, do not undertake to speak authentically; but they are reasons which can very well be imagined, for a navy-yard in a community leads to an extensive reception of the public money to be expended there every year, and it might be well inferred that the people in that immediate vicinity would prefer that course to be pursued.

All that I mean to say upon this occasion, at least for the present, is this: that Congress, with the approval of the Executive Department, having a year ago taken this step, it would be best to have the recommendation from the Executive Department that we should retrace it rather than to proceed to retrace it in this manner. If it is believed to be best for the public interests to retrace the step, to take a retrocession of the property, and again go on with the expenditures, I shall not vote against it; but believing, as I did, that a navy-yard, thus situated, is not subservient to the best interests of that Department of the service, I confess I was glad to see the act, while, at the same time, I could not see the authority to do it. But, sir, that question is foreclosed. The act has been performed; the deed is consummated; and it seems to me that on this the last day of the session of this Congress, we should do well to wait for a recommendation from the proper Department before we take the initiatory step to again procure the right and authority over that property. This is the only suggestion I desire to

make. I only ask the Senate to consider it, and, if they disagree with me, as a matter of course, I shall be bound to believe that my views upon the subject are erroneous.

Mr. JONES, of Tennesse. I had not intended, Mr. President, to say one word upon the subject, nor should I depart from that purpose, but for the fact that allusion has been made to my course with regard to it at the last session of Congress. It is true, as stated by the Senator from Michigan, that I then offered to the Senate a proposition to cede the navy-yard at Memphis to the city authorities of Memphis. I have been understood as having done that in a moment of excitement. It is true that I was excited. I felt that I had a right to be excited. But whether there was excitement or not, under the same circumstances I would make the same proposition that I then made. If the same determination obtains in the Senate, or in the Congress of the United States to-day, as manifested itself then, I will stand by that proposition.

What were the circumstances under which I offered that proposition to the Senate? Here was a navy-yard that had been established by the Government of the United States at the city of Memphis. The city authorities had ceded to the General Government the ground upon which the property was to be located. The General Government had agreed and contracted to build thereupon a navy-yard. It went forward to execute that contract, and after spending some $800,000 it stopped, turned its attention in a different direction, and when the appropriation bill came up here at the last session, to continue that navy-yard, we were tendered in lieu of it the miserable, contemptible sum of $13,000. That for a national navy-yard! Under that infliction of wrong and injustice to my constituents, the Government having taken their property from them by a donation for a specific purpose, under a written contract that it was to build a navy-yard upon it, I felt the time had come that I, representing that constituency, should tell the Senate, if it was their deliberate purpose to abandon the navy-yard, that, in justice and common honesty, they were bound to give back the property to those to whom it belonged originally. That I maintain to-day; that I shall maintain as long as I live; and when I come to die I shall maintain it. If the Congress of the United States are willing to carry out in good faith their original contract I desire that they shall do it. I have always desired that they should do it, not because my constituents are interested in it, but because I consider the whole country, and particularly the great valley of the Mississippi, interested in it. To abandon it, and convert it into a contemptible rope-walk having thirty acres of ground almost in the heart of the city, is an act of injustice to which the Congress of the United States can never lend its sanction, in my judgment.

I am content with the proposition submitted by my colleague. It simply provides that an appropriation of $30,000 shall be made to continue the yard, without any other specification in it than that the corporation shall retrocede the property to the Government of the United States. It leaves it with the corporation to decide for themselves what is best for themselves. I will never, by vote or act of mine here, lessen the power which the corporation has over that. I do not believe that this proposition does do it. I think the proposition is fair; it is just, so far as it goes; it is not just, so far as the original intention and purpose of the contract is concerned; but it can do no harm to anybody, and if the Congress of the United States choose to pass it, I am content with it, and shall give it my sanction. It simply refers the question to the decision of those to whom you have conveyed the property. If they are willing to give it back to the Government unconditionally, without requiring the Government to carry out the original contract, be it so; I shall not complain. They have the right to do it; and, therefore, I am content that we shall pass the amendment offered by my colleague. The course which I took is such a one as I am ready to maintain at all times.

Mr. RUSK. This navy-yard was established many years ago. It was alleged by the Departments, I believe, to be necessary. I shall not go into the reasons for it. Memphis was then, compared with what it is now, an unimportant place; and it is now, compared with what it will be very soon, in my judgment, an unimportant place. I look upon it as destined to be one of the most important places in the United States; and if, in the exercise, perhaps, of a hasty temper, we last year passed a law giving the property back to the city, I hope that temper will not now be kept up, but that the amendment will prevail.

Mr. MALLORY. I shall vote for the amendment; but I only wish to say that it must not be taken as an indication of my willingness to support the constructing of a navy-yard at that place.

Mr. STUART. I ask for the yeas and nays on the amendment.

The yeas and nays were not ordered.

Mr. STUART. I shall ask them again in the Senate.

The amendment was agreed to.

Mr. SEWARD. I offer the following amendment from the Committee on Naval Affairs:

That the sum of $80,000 be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, for the establishment of a marine barracks at Brooklyn, New York; the said sum to be expended under the direction of the Secretary of the Navy.

Mr. HUNTER. I understand that the Committee on Naval Affairs restored the appropriation for the navy-yard at New York, which was very large—I think upwards of $400,000. This bill contains unusually large appropriations.

Mr. SEWARD. The amendment submits the question of erecting marine barracks to the discretion of the Secretary of the Navy.

Mr. MALLORY. In reply to the Senator from Virginia, I will say that the object of the expenditure is legitimate. The present marine barracks is an old alms-house, which, being unfit for poor, was considered fit for the marines; but even that has become unfit, and it now leaks so badly that they cannot stay there.

The amendment was agreed to.

Mr. MALLORY. The Committee on Naval Affairs desire to restore the estimates, which were reduced in the House, in regard to the academy. I therefore move to amend the clause—

"For repairs of buildings, for the necessary additions and repairs to the works for heating the buildings, and support of the Naval Academy at Annapolis, Maryland, $25,044 22,"

so that it shall read:

For repairs of buildings, for the necessary additions and repairs to the works, for house for professor and assistants, for heating the buildings, and support of the Naval Academy at Annapolis, Maryland, $34,044 22.

The amendment was agreed to.

Mr. SEWARD. I offer the following amendment from the Committee on Commerce:

And that the salary of the surveyor of customs at the port of Cairo, Illinois, shall be $800 per annum, instead of the sum now allowed by law.

Mr. HUNTER. This ought to go upon the Navy bill. We ought not to begin increasing the salaries of the collectors of customs upon it.

Mr. SEWARD. I gave way to let the other bill pass, with the understanding that the amendments could be put upon this. I call the attention of the honorable Senator from Illinois [Mr. DOUGLAS] to this amendment.

Mr. HUNTER. We last night voted down a similar amendment in regard to the surveyor at St. Louis, who was, perhaps, more entitled to it than any other surveyor. They ought all to be treated equally.

Mr. DOUGLAS. I am sure, if the Senator knew the facts, he would not object to this. Here was this office created just where the Central railroad terminates. The salary of the officer certainly was not fixed with reference to his duties. The amount now proposed is only $800 a year, and certainly you would not require him to perform his duties at a less sum than that. I put it at the lowest sum, in order that there might be no objection to it. I know there will be none.

The amendment was agreed to.

Mr. BENJAMIN. I am instructed by the Committee on Commerce to offer the following amendment:

And be it further enacted, That the several laws of the United States relating to pilots on steamboats and other steam vessels, and especially the act of Congress approved the 30th of August, 1852, entitled "An act to amend an act to provide for the better security of lives of passengers on board of vessels propelled in whole, or in part, by steam, and for other purposes," shall not be so construed as to affect, annul, or impair the validity of any laws of any State regulating pilotage in its ports and harbors, or over bars at the mouths of rivers, where such bars are within the territorial jurisdiction of such State.

The amendment was agreed to.

Mr. RUSK. I offer the following amendment:

And be it further enacted, That the existing laws, limiting the number of officers in the Navy of the United States, be so far modified as to entitle the officers of the Navy and revenue marine of Texas, at the time of annexation, to the pay of officers of the United States on leave of absence pay, to the present time: *Provided*, The number of such officers shall not exceed eight of the naval and of the revenue service.

Mr. HUNTER. What is this?

Mr. SLIDELL. The sense of the Senate ought to be expressed on this, and I ask for the yeas and nays. It is to incorporate certain officers of the Texas marine and navy into the United States Navy.

Mr. WELLER. The sense of the Senate was expressed last session, and expressed favorably upon it.

The yeas and nays were ordered.

Mr. RUSK. The Senate understand this matter very well, for it has been often discussed here. I believe these officers are entitled, fairly and equitably, on a fair construction of the joint resolutions of annexation, to be incorporated into the Navy of the United States. But a proposition to that effect was rejected by the Senate at the last session, and this was offered and agreed to. I trust it will now be adopted.

Mr. BUTLER. I have had some difficulty upon this question, but, upon the whole, I shall vote "Aye."

The question being taken by yeas and nays, resulted—yeas 22, nays 19; as follows:

YEAS—Messrs. Badger, Bayard, Benjamin, Butler, Cass, Douglas, James, Jones of Iowa, Jones of Tennessee, Mallory, Morton, Pettit, Pratt, Rusk, Sebastian, Seward, Shields, Thompson of Kentucky, Thomson of New Jersey, Toucy, Weller, and Wright—22.

NAYS—Messrs. Allen, Brainerd, Brodhead, Chase, Clay, Clayton, Dawson, Evans, Foot, Geyer, Hunter, Pearce, Slidell, Stuart, Sumner, Wade, Walker, Wells, and Wilson—19.

Mr. CLAYTON. I offer the following amendment:

And be it further enacted, That there be paid to E. K. Collins and his associates, out of any money in the Treasury not otherwise appropriated, for carrying the mails between New York and Liverpool, the amount now due them for that service.

Mr. GWIN. I hope the Senator will withdraw that. An amendment covering that ground will be reported from the Committee on Finance.

Mr. HUNTER. A member of the Committee on Finance will offer the mail steamer bill as it would have stood if amended in accordance with the recommendation of the committee.

Mr. CLAYTON. I withdraw the amendment.

Mr. JONES, of Tennessee. I offer the following:

That for the purpose of obtaining a semi-monthly mail service between New York and Liverpool, the Postmaster General be, and he is hereby, authorized to contract with Cornelius Vanderbilt for the transmission of the mail, once in two weeks, intermediate, between the said points, to be carried in safe and suitable steamships, the service to be performed within the average time occupied in the voyages of the Cunard steamers: *Provided*, The service can be obtained for a sum not exceeding $15,000 the round trip from New York and back: *And provided further*, That the service be commenced within sixty days from the commencement of this contract, which shall continue for five years.

I do not intend to make an argument on the subject. The discussion a few days ago demonstrated clearly the vast importance of mail service between New York and Liverpool. Honorable gentlemen here told us it was not only indispensable, but that millions of dollars a year were saved by the difference of a few days in speed. Now, there is a proposition to establish mail service semi-monthly between New York and Liverpool for $15,000 a round trip. Whether the Congress of the United States desires such services as that or not, I do not know; I simply ask for the yeas and nays.

The yeas and nays were ordered.

Mr. RUSK. I desire simply to say that the returns from the Post Office Department in regard to the other line, showed that that Department would be much more than remunerated for this service from the mails of the country.

Mr. TOUCEY. The amendment is contrary to an existing contract. I shall vote "No."

Mr. JOHNSON. I am against the whole of these contracts, and therefore shall vote "No."

The question being taken by yeas and nays, resulted—yeas 8, nays 33; as follows:

YEAS—Messrs. Cooper, Dawson, Jones of Tennessee, Morton, Pratt, Rusk, Slidell, and Thomson of New Jersey—8.

NAYS—Messrs. Allen, Badger, Bayard, Bell, Benjamin, Brainerd, Bright, Brodhead, Brown, Butler, Cass, Chase, Clay, Clayton, Evans, Fitzpatrick, Foot, Hunter, James, Johnson, Jones of Iowa, Pettit, Sebastian, Seward, Shields, Stuart, Thompson of Kentucky, Toombs, Toucey, Wade, Walker, Wells, and Wilson—33.

So the amendment was rejected.

Mr. COOPER. I offer the following amendment, on a recommendation from Colonel Huger, from the Ordnance Department, and also from the Secretary of War:

And be it further enacted, That the sum of $6,000 be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of continuing the experiments for testing Lieutenant Rodman's plan of casting cannon hollow, so as to effect the cooling of the cast from the interior instead of the exterior.

Mr. GWIN. If that is in pursuance of estimate, there is no objection to it. I hope it will not occupy time.

The amendment was agreed to.

Mr. SEWARD. I desire to offer a further amendment as an additional section. It is the bill making appropriations for mail steamers, striking out that part which is supposed to have been obnoxious to the President, and which is in the following words:

"Fifty-eight thousand dollars; and that the proviso contained in the first section of the act entitled 'An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852,' approved the 21st day of July, 1852, be, and the same is hereby, repealed: *Provided*, That Edward K. Collins and his associates shall proceed, with all due diligence, to build another steamship, in accordance with the terms of their contract, and have the same ready for the mail service in two years from and after the passage of this act. And if the said steamship is not ready within the time above mentioned, by reason of any neglect, or want of diligence on their part, then the said Edward K. Collins and his associates shall carry the United States mails between New York and Liverpool from the expiration of the said two years every fortnight free of charge to the Government, until the new steamship shall have commenced the said mail service."

The amendment was agreed to.

Mr. SHIELDS. I offer the following amendment:

For the erection of a marine hospital at Galena, Illinois, $15,000.

The amendment was agreed to.

Mr. MORTON. I offer the following amendment:

That the sum of $617 be paid to Lieutenant John Guest, of the United States Navy, out of any money in the Treasury not otherwise appropriated, for services performed by him as passed midshipman in the survey of the coast between Appalachicola, Florida, and the Mississippi, from the 19th of August, 1843, to the 26th of April, 1845, being at the rate of one dollar per day for the time employed.

Mr. GWIN. I hope it will be agreed to.

Mr. CASS. Why agree to it more than to any other private claim?

Mr. GWIN. It is not a private claim. It is a deficiency in the appropriation. All the others were paid except that. The services were performed, but the money was lost.

The PRESIDENT. Does the Senator from Michigan raise the point of order?

Mr. CASS. I understand it is a private claim against the Government, which has not been liquidated.

Mr. GWIN. A certain amount of money was appropriated, part of which should have gone to this gentleman; but he was called off on the naval service of the United States, and while the others were paid, he was not.

Mr. CASS. Then I want to know why you do not simply make an appropriation and let the Department apply it. I am willing to make the appropriation, and let the Department apply it; otherwise it is a mere private claim.

Mr. GWIN. There is but one party to pay, and that is the party indicated.

The amendment was agreed to.

Mr. BELL. I offer the following amendment:

And be it further enacted, That the Secretary of the Navy be authorized to contract, for the term of five years, with the lowest bidder for a supply of water-rotted hemp for the use of the Navy, giving the preference to American hemp.

Mr. GWIN. I have offered that, and it is in the bill already.

Mr. BELL. Then I withdraw it.

The bill was reported to the Senate as amended.

The PRESIDENT. The question is on concurring in the amendments made as in Committee of the Whole.

Mr. BRODHEAD. On that question I desire to say a word or two. I did not concur with the Committee on Naval Affairs, though a member of it, in many of those amendments; but in view of the anxiety of the members to pass upon them, I forebore saying anything upon them. I had another reason for it. I am unable further to resist this kind of legislation. Let it go.

Mr. GWIN. I hope the question will be taken, generally, on all of the amendments.

Mr. STUART. I ask to have the one in regard to the Memphis navy-yard, on which the Senate refused to give me the yeas and nays in Committee of the Whole, excepted.

The question was taken on the other amendments; and they were concurred in.

The question then recurring on the one excepted by Mr. STUART, in regard to the Memphis navy-yard, he called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 26, nays 17; as follows:

YEAS—Messrs. Adams, Bell, Benjamin, Brown, Chase, Clay, Clayton, Dawson, Douglas, Fitzpatrick, Foot, Geyer, Gillette, Gwin, Houston, Johnson, Jones of Iowa, Jones of Tennessee, Mallory, Morton, Rusk, Sebastian, Seward, Thompson of Kentucky, Thomson of New Jersey, and Weller—26.

NAYS—Messrs. Allen, Badger, Bayard, Brainerd, Brodhead, Butler, Cass, Evans, Hunter, Pettit, Slidell, Stuart, Sumner, Walker, Wells, Wilson, and Wright—17.

So the amendment was concurred in.

The amendments were then ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

FORTIFICATION BILL.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had passed a resolution directing the return to the Senate, agreeably to their request, of the bill making appropriations for fortifications and other works of defense, and for repairs of barracks and quarters, for the year ending the 30th of June, 1856.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker had signed the following enrolled bills and joint resolution; which were signed by the President *pro tempore:*

A bill making appropriations for deepening the channel over the St. Clair flats, and for deepening the channel over the flats of the St. Mary's river, in the State of Michigan;

A bill to appropriate money to remove obstructions in the Savannah river, below the city of Savannah, in the State of Georgia;

A bill for the relief of Franklin Chase; and

A joint resolution explanatory of an act entitled "An act for the relief of Abigail Stafford."

JOHN D. COLMESNIL.

On motion by Mr. RUSK, the Senate, as in Committee of the Whole, considered the joint resolution from the House of Representatives for the final adjustment of the accounts of John D. Colmesnil.

It will direct the Postmaster General to have the accounts of John D. Colmesnil, president of the Ohio and Mississippi Mail Line Company, reëxamined, for the purpose of determining whether any further compensation is due in law or equity to him, and to pay him such sum as may be adjudged to be due, for the use of himself and his assistants, out of the funds in the Treasury appropriated to the transportation of mails, the decision of the Department being subject, as in all other cases, to the proviso of the eighth section of the act of July 2, 1836, "to change the organization of the Post Office Department."

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PORTS COLUMBUS, CHATTANOOGA, AND HICKMAN.

On motion by Mr. BROWN, the Senate, as in Committee of the Whole, considered the bill from the House of Representatives to establish Columbus, in the State of Mississippi, Chattanooga, in the State of Tennessee, and Hickman, in the State of Kentucky, ports of delivery.

No amendment being proposed, the bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

RIGHT OF WAY THROUGH PUBLIC LANDS.

Mr. STUART. The Committee on Public Lands have instructed me to report back bill from the House of Representatives, extending the provision of the act of August 4, 1852, entitled "An act to grant the right of way to all rail and plank roads, and macadamized turnpikes passing through the public lands belonging to the United States to the public lands in the Territories of the United States. I do not think there is much necessity for the law; but the House thinks there is. It is simply extending through the public lands in the Territories the right of way to turnpikes, &c., which has heretofore been given through the lands in the States. The Delegate from one of the Territories wants it passed; and I should be glad to oblige him.

The bill was considered as in Committee of the Whole; and no amendment being proposed, it was reported to the Senate, ordered to a third reading, read the third time, and passed.

WILLIAM A. CHRISTIAN.

On motion by Mr. MALLORY, the Senate, as in Committee of the Whole, considered the bill from the House of Representatives for the relief of the legal representatives of William A. Christian.

The bill directs the proper accounting officers of the Treasury to allow to Purser Christian, in the settlement of his accounts, the sum of $2,643 74, being the amount disallowed him in former settlements of his accounts for payments made to the warrant officers of the United States steamship Princeton.

On assuming his duties on board the United States steamer Princeton, a regular transfer was made to him by Purser Upshur, of the accounts of the officers and crew of that vessel. Among these were the accounts of officers having acting appointments, namely: C. C. Bartling, acting sailmaker, William Taylor, acting boatswain, and James H. Conley, acting carpenter, to whom he continued to pay their salaries, as it had been done by his predecessors, Pursers McBlair and Upshur, on whose books they had previously been borne. He states that he knew the appointments of these officers had been made with the approbation of the Secretary of the Navy, and no orders had been received from the Navy Department, or from Captain Stockton, for their discharge from the service after the passage of the act of June 17, 1844, they being still continued in the performance of their respective duties.

Under the belief that they were properly in the service, he therefore paid them the amount of compensation appertaining to officers of their respective grades.

A proviso in the Navy appropriation act of August 4, 1842, prohibited any increase of the officers of the Navy beyond the number in the respective grades that were in service on the 1st day of January, 1842. As the warrant officers paid by Purser Christian had been employed in violation of this restriction, the Fourth Auditor very properly refused to allow a credit for the items of disbursement covering their pay.

It is believed, from the testimony presented, that Purser Christian made the payments under an honest belief, founded upon reasonable grounds, that he was bound to do so; and that the payments were legal. No other person than the Secretary of the Navy was authorized to determine when the complement of officers in any particular grade was full; and the fact of his authority to Captain Stockton to make these appointments, indicated to all the subordinates of the department that the list of the grade mentioned was not full, and that the appointments were legal. Whatever fault there was in the transaction, was on the part of the acting Secretary of the Navy, who disregarded the existing law.

The bill was reported to the Senate without amendment, and ordered to a third reading. It was read the third time, and passed.

PAUL S. RIDGWAY.

Mr. CHASE. I ask the Senate to take up, and I trust they will pass, a House bill for the relief of Paul S. Ridgway. He is a citizen of Ohio, was wounded in the last war with Great Britain, and, as I am informed by the Representative of his

district, completely disabled. The Committee on Pensions recommend the passage of the House bill which gives him a pension of eight dollars per month.

The Senate, as in Committee of the Whole, considered the bill. His name will be placed on the pension roll at eight dollars per month for life, from June 1, 1854.

The bill was reported to the Senate without amendment, and ordered to a third reading. It was read the third time, and passed.

SUSPENSION OF JOINT RULE.

Mr. STUART submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, (the House of Representatives concurring,) That the seventeenth joint rule of the two Houses be suspended for the present session.

EXECUTIVE SESSION.

On motion by Mr. SLIDELL, the Senate proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened.

JAMES W. SHEAHAN.

Mr. DOUGLAS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Senate pay to James W. Sheahan, out of the contingent fund of the Senate, the sum of $717, being at the rate of seven dollars and fifty cents per column for reporting the trial of George A. Gardiner, in full compensation of his claim.

The Senate then took a recess until seven o'clock.

EVENING SESSION.

The Senate reassembled at seven o'clock, p. m.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, in compliance with a resolution of the Senate of February 28, 1855, calling for a statement of the number of muskets and other arms, and of those delivered to State arsenals, or sold; which was ordered to lie on the table and be printed.

Also, a message of the President of the United States, communicating a report of the Secretary of the Interior, asking for appropriations to fulfill certain treaty stipulations with the Wyandot Indians; which was ordered to lie on the table and be printed

Also, a message from the President of the United States, communicating a copy of an act of the Legislature of Texas, making partial provision for running and marking the boundary line between that State and the Territories of the United States; which was ordered to lie on the table and be printed.

Also, a report of the Secretary of War, in compliance with a resolution of the Senate, of February 24, 1855, calling for a report of the survey in Florida, under act of August 30, 1852, or so much as relates to a line between Cedar Key and Amelia Island; which, on motion by Mr. MORTON, was ordered to lie on the table and be printed, together with the maps and papers accompanying the same.

NAVY BILL—MAIL STEAMERS.

Mr. SEWARD. There was a mistake made in the engrossment of the naval appropriation bill. I therefore ask for the consideration of the following:

Resolved, That the House of Representatives be requested to return the bill of the House making appropriations for the naval service for the year ending the 30th of June, 1856.

The resolution was considered by unanimous consent, and agreed to.

A message was subsequently received from the House of Representatives, by Mr. McKEAN, Chief Clerk, returning the bill.

Mr. GWIN. I hope, by general consent, the bill will be taken up in order to correct a mistake. Only a portion of the amendment offered by the Senator from New York, [Mr. SEWARD,] in relation to the appropriation for the mail steamer service, was inserted.

It will be recollected that after the mail steamer appropriation bill had been vetoed, the Senator from New York submitted to this bill an amendment which was the bill that had been vetoed with parts omitted that were objectionable to the Executive; but only that portion was read that was intended to be omitted, and by mistake the appropriation was only made for the New York and Liverpool line of steamers. The intention was to make the whole appropriation that was contained in that bill, striking out the provision which was designed to repeal the clause in the existing law that authorized Congress to give notice of the intention to terminate the contract with the Collins line. I hope, by general consent, it will be so amended.

The PRESIDENT. The first question is on reconsidering the vote by which the bill was passed. If there be no objection, the votes on the passage of the bill, on ordering it to a third reading, and on the amendment alluded to, will be reconsidered.

There was no objection.

Mr. GWIN. I offer this as a substitute for the amendment:

And be it further enacted, That the following sums be, and the same are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the year ending the 30th June, 1856:

For transportation of the mails from New York to Liverpool and back, $858,000.

For transportation of the mails from New York to New Orleans, Charleston, Savannah, Havana, Chagres, and back, $261,000.

For transportation of the mails from Panama to California and Oregon, and back, $328,350.

For carrying out the contract entered into by the Post Office Department, under the provisions of the act approved 30th August, 1852, establishing a tri-monthly mail by steam vessels between New Orleans and Vera Cruz, via Tampico, $69,750.

That the following sums be, and they are hereby, appropriated for the service of the Post Office Department for the year ending the 30th of June, 1856, out of any moneys in the Treasury arising from the revenues of said Department, in conformity to the act of the 2d of July, 1836:

For transportation of the mails, in two steamships, from New York, by Southampton, to Bremen, and back, $100,000 for each ship; and in two steamships from New York, by Cowes, to Havre, and back, at $75,000 for each ship, under the contract with the Ocean Steam Navigation Company, of New York, $350,000.

For transportation of the mails between Charleston and Havana, a sum not exceeding $50,000.

For transportation of the mails across the Isthmus of Panama, $150,000.

That the following sums be, and the same are hereby, appropriated to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1855, out of any money in the Treasury not otherwise appropriated, namely:

For transportation of the mails from New York to Liverpool, and back, $559,238 65.

For transportation of the mails from New York to New Orleans, Charleston, Savannah, Havana, and Chagres, and back, $202,378 21.

For transportation of the mails from Panama to California and Oregon, and back, $249,242 02.

That the following sums be, and the same are hereby, appropriated for the service of the Post Office Department for the year ending the 30th of June, 1855, out of any moneys in the Treasury arising from the revenues of said Department, in conformity to the act of the 2d of July, 1846:

For transportation of the mails in two steamships, from New York, by Southampton, to Bremen, and back, at $100,000 for each ship; and in two steamships, from New York, by Cowes, to Havre, and back, at $75,000 for each ship, under the contract with the Ocean Steam Navigation Company of New York, $350,000.

For transportation of the mails between Charleston and Havana, under the contract with M. C. Mordecai, $50,000.

For transportation of the mails across the Isthmus of Panama, $120,000.

Mr. MASON. Does that amendment contain anything more than the present stipulated appropriations for carrying those mails?

Mr. GWIN. Nothing more.

The amendment was agreed to. The bill was again ordered to a third reading, and was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. McKEAN, Chief Clerk, announcing that they had passed the joint resolution explanatory of an act passed August 3, 1854; and also that they had agreed to the resolution that the 17th joint rule of the two Houses be suspended for the remainder of the session.

FORTIFICATION BILL.

Mr. WELLER. A resolution was passed this afternoon requesting the House of Representatives to return the bill making appropriations for fortifications and other works of defense, and for repairs of barracks and quarters for the year ending the 30th of June, 1856, in order to reconsider our amendments. I desire to get rid of the amendments, in order that the bill may be finally passed. I move to reconsider the votes on the passage of the bill, on ordering it to a third reading, and on the amendments.

The motion was agreed to.

The PRESIDENT. The question is on the amendments.

Mr. WELLER. I hope they will be voted down, and that we shall pass the bill as it came from the House of Representatives, so as to have it finally disposed of.

The amendments were rejected.

The bill was ordered to a third reading, read the third time, and passed.

JOHN DUGAN.

Mr. BROWN. I ask the Senate to consider and pass a joint resolution from the House of Representatives for the relief of John Dugan. It is for the benefit of a soldier who was unfortunately left in Mexico when the army returned home, and was reported "absent without leave," on which account he has not been able to get his bounty land.

It is intended to authorize the Secretary of the Interior to issue to John Dugan, late a private in company C, Mississippi volunteers, in the Mexican war, a bounty land warrant for one hundred and sixty acres of land; and the proper accounting officer of the Treasury Department to pay to him the arrears of pay and extra pay that would be due to him, as though it had not been marked opposite his name on the rolls of the company, "absent without leave."

Dugan was a volunteer in the war with Mexico, and served as a private in company C, Mississippi volunteers. He was mustered into service on the 3d of June, 1846, at Vicksburg, Mississippi, for twelve months, and was "absent without leave" from the 20th of May following, thus reducing the period of his service about twenty days. It has been shown that he was a good soldier, and acted well in the battles of Monterey and Buena Vista. He states that he was too unwell to leave Monterey when the regiment was ordered to Brazos Santiago, preparatory to embarking for the United States. It appears that his remaining at Monterey could not be regarded as desertion, as the whole regiment was virtually disbanded the moment General Taylor ordered it home. He performed his duty well; and his failure to return home with his regiment, in preference to remaining in a hostile country, should not be regarded as at all equivalent to an act of desertion, as his own safety, and not the interests of the Government, was involved by his conduct.

The joint resolution was reported to the Senate without amendment, and ordered to a third reading. It was read the third time, and passed.

THOMAS S. J. JOHNSON.

On motion by Mr. MALLORY, the Senate, as in Committee of the Whole, considered the House bill for the relief of Thomas S. J. Johnson, of the Territory of New Mexico.

It is proposed by this bill to direct the Secretary of the Treasury to pay to Thomas S. J. Johnson $4,800, in full compensation for thirty-two wagons taken by the officers of the United States Army, and appropriated to necessary public use.

He was in August, 1850, the owner of thirty-two large road wagons, suitable for carrying heavy burdens. Upon his request, Captain A. W. Reynolds, acting assistant quartermaster of the United States army at Santa Fé, in New Mexico, permitted him to store them for safe-keeping in the Government corral at that place, which contained sufficient unoccupied room for that purpose. In the month of June following, he applied to the United States wagon master in charge of the corral for his wagons, when he first learned that they had, from time to time, been taken by the officers and employees of the quartermaster's department for the necessary use of the United States army in its operations in that vicinity, and that they were so taken and put in use in the month of September following their storage. He immediately made a demand of his wagons from Captain Reynolds, the assistant quartermaster, or payment of their value. Captain Reynolds refused to deliver them, on the ground that they were necessary for the service, and could not be dispensed with, and referred him to Captain L. C. Easton, assistant quartermaster. Upon application to him, he refused to deliver the wagons or to pay for them, and referred the matter to General Jesup, the quartermaster general at Washington, for settlement.

Upon application to General Jesup, he decided that it was a matter beyond his control; expressed a favorable opinion of the claim, and referred the case to the Hon. C. M. Conrad, then Secretary of War, who gave an order for the return of the wagons to the petitioner. They were not, however, returned, and could not be, for the reason that most of them had been worn out and broken to pieces by severe usage in the service of the United States Army; and such as were fit for use were still in service, and could not be dispensed with without serious detriment to the service.

The wagons were worth, at the time they were taken and put into the service of the United States, $150 each.

No amendment being proposed the bill was reported to the Senate, and ordered to a third reading. It was read the third time, and passed.

FERDINAND CLARK.

On motion by Mr. BENJAMIN, the Senate proceeded to consider the House bill for the relief of Ferdinand Clark.

By the passage of this bill the duties imposed by the act of June 30, 1834, concerning the tonnage upon Spanish vessels, on the Spanish brig Conde de Villanueva, Captain Carlos de Agao, and paid to the collector of the port of Charleston, in South Carolina, previous to the clearance of the vessel from that port for Cuba, on the 11th of September, 1835, with a cargo of rice and lard, will be refunded to Ferdinand Clark, the owner of the brig, she having been wrecked on the coast of Florida, on the 17th of the same month, and lost, with the greater portion of her cargo.

Mr. ADAMS. I should like to hear the report read.

Mr. BENJAMIN. I can state the case to the Senator in a few words, if he wishes it.

Mr. ADAMS. I withdraw the request.

The bill was reported to the Senate without amendment, and ordered to a third reading. It was read the third time, and passed.

TITIAN R. PEALE.

On motion by Mr. FOOT, the Senate considered the House bill for the relief of Titian R. Peale.

The bill proposes to direct the payment of $1,782 20 to Titian R. Peale, of Philadelphia, or his legal representative, in full payment for the losses which he sustained of his private property when wrecked in the United States ship Peacock, at the mouth of the Columbia river.

Mr. Peale was appointed by the Navy Department on the 28th of December, 1836, a member of the scientific corps to be attached to the South Sea surveying and exploring expedition, organized under the act of Congress of the 18th of January, 1836. He performed constant and valuable service during the expedition, and was on board the United States ship Peacock when she proceeded to the northwest coast of America. On the 18th July, 1841, that vessel was entirely lost in endeavoring to enter the mouth of the Columbia river, the officers and crew having scarcely time to escape with their lives, and being unable to save anything from the wreck. Mr. Peale, upon this occasion, lost all his personal effects—his books and instruments, and a large number of articles which he had collected in his department, and which it would be difficult to replace. But, notwithstanding the calamity, he was enabled, by the exertions of the commanding officer, Captain Hudson, and his own strenuous efforts, to replace, at extravagant prices, and as far as practicable from his own funds, such articles as were indispensably necessary for the completion of the contemplated surveys of the country, and was thus enabled to continue his usefulness to the expedition; and, with others of the scientific corps, traversed over a large portion of Oregon and Upper California, thereby adding much to the information of those countries which we now possess.

No amendment being proposed, the bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

VIRGINIA BOUNTY LAND WARRANTS.

Mr. MASON. The Senate has passed a great many private bills; I want now to take up a public one. I ask the Senate, while we have leisure, to be good enough to take up the bill which was laid upon the table yesterday, relating to Virginia land scrip—the House bill to amend the act approved August 31, 1852, entitled "An act making further provision for the satisfaction of Virginia land warrants." I hope the Senate will not vote the motion down. The Senator from Michigan [Mr. STUART] may make his speech, and I promise, if the Senate will indulge me, to reply to him in three minutes, and take the vote.

Mr. STUART. The motion to take up the bill is not debatable.

Several SENATORS. Do not debate it.

Mr. STUART. I made the motion yesterday that the bill lie upon the table as a test question, and I only ask for the yeas and nays on this motion.

Mr. MASON. The motion to take the bill up is debatable, at least so far as the Senator has debated it.

The PRESIDENT. The motion is not debatable.

Mr. MASON. This is a question in which a sovereign State is interested. They have got our land—the Senator's State among the rest—and now they refuse to carry out the appropriations made in the days of the Revolution. That is the fact.

Mr. STUART. In my opinion that is not the fact.

Mr. MASON. Very well, sir; I ask the Senate to take up the bill, and I will only ask for three minutes' time on my side.

The yeas and nays were ordered.

Mr. JOHNSON. I would call attention——

The PRESIDENT. This is not a debatable question.

Mr. JOHNSON. It has to be debated when taken up; and when the yeas and nays have been ordered, I have never known any one prevented from stating his reasons against taking up a bill.

The PRESIDENT. The motion to lay upon the table was not debatable.

Mr. JOHNSON. Then this is bound to be debated for four hours. I hope it will not be taken up.

The PRESIDENT. No, sir; motions to postpone all prior orders of business, and take bills from the files for consideration, are debatable, but not motions to take bills from the table.

Mr. JOHNSON. I mean that if the bill is taken up, it will be debated at least four hours.

Mr. MASON. I have a word to say. ["Order!" "Order!"] If it is debated four hours, it will be by the other side.

The question being taken by yeas and nays, resulted—yeas 21, nays 22; as follows:

YEAS—Messrs. Adams, Bell, Bright, Brodhead, Brown, Butler, Cass, Clayton, Cooper, Dawson, Geyer, Gwin, Houston, Hunter, Mallory, Mason, Morton, Pettit, Pratt, Rusk, and Weller—21.

NAYS—Messrs. Bayard, Benjamin, Brainerd, Dodge of Wisconsin, Fessenden, Fitzpatrick, Foot, James, Johnson, Jones of Iowa, Jones of Tennessee, Sebastian, Seward, Slidell, Stuart, Sumner, Thompson of New Jersey, Wade, Walker, Wells, Wilson, and Wright—22.

So the motion to take the bill from the table was not agreed to.

JAMES HUGHES.

On motion by Mr. JONES, of Tennessee, the Senate, as in Committee of the Whole, considered the joint resolution of the House for the relief of James Hughes.

It is designed to direct the Secretary of War to adjudicate and settle the claim of James Hughes, of Madison county, Tennessee, for such clothing as was furnished by him to the company of volunteers engaged in the Seminole war, commanded by Captain Alexander D. Bradford, and afterwards by Captain Jesse McMahon. About June, 1836, a company of volunteers, commanded by Captain Alexander B. Bradford, was raised at Jackson, Tennessee, for the Seminole war; it served during the period of enlistment in the suppression of Indian hostilities in Florida, and was discharged at the expiration of that period. After it was organized, the memorialist, at the request of the officers, furnished clothing for it; which clothing was worn by those to whom it was furnished while in the service of the Government in the Seminole war, for which he has not been paid.

No amendment being proposed the joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

JOEL H. DYER.

Mr. JONES, of Tennessee. I move that the Senate take up the House joint resolution for the relief of Joel Henry Dyer, a citizen of Texas. It is a very meritorious case.

Mr. RUSK. I hope it will be taken up.

The motion was agreed to; and the Senate, as in Committee of the Whole, considered the bill.

It directs the accounting officers of the Treasury to pay Dyer $820 43 in full satisfaction for his services as judge advocate in the company in which he served in the Seminole war, less the amount paid him as private.

The joint resolution was reported to the Senate without amendment, and ordered to a third reading. It was read the third time, and passed.

JEPTHA L. HEMINGER.

On motion by Mr. WADE, the Senate, as in Committee of the Whole, considered the House bill for the relief of Jeptha L. Heminger.

It will direct the Secretary of the Interior to cause the name of Jeptha L. Heminger to be placed upon the roll of invalid pensioners, at the rate of eight dollars per month during his natural life, commencing January 1, 1853.

The bill was reported to the Senate without amendment, and ordered to a third reading. It was read the third time, and passed.

JAMES CAPEN.

On motion by Mr. SUMNER, the Senate, as in Committee of the Whole, considered the House joint resolution to pay the pension due James Capen to his administrator.

At the last session of Congress an act was passed granting a pension to James Capen of eight dollars per month, commencing on the 4th of March, 1851. He is now dead, and in order to secure the pension to his representatives, the bill directs the proper officer to pay to his administrator, out of the money appropriated for payment of invalid pensions; the amount of pension due him by the act of the 5th of August, 1854.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS PARK.

Mr. EVANS. The Committee on Revolutionary Claims have had under consideration the bill from the House of Representatives for the relief of the heirs of Thomas Park, deceased, and have instructed me to report it back without amendment, and recommend its passage. I hope it will be put upon its passage now.

The Senate, as in Committee of the Whole, considered the bill.

The Secretary of the Treasury is to be authorized to pay to the heirs and legal representatives of Thomas Park, deceased, $800, the amount and value of certain sails and rigging sold by Park to Captain Harding, as agent of the United States during the revolutionary war; the amount to be received in full of all demands against the Government on this account.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LIEUTENANT ANDREW FINLY.

On motion by Mr. EVANS, the Senate, as in Committee of the Whole, considered the House bill for the relief of the heirs of Lieutenant Andrew Finly.

The Secretary of the Treasury will be required to pay to Nancy Hough, formerly Nancy Finly, for herself and the heirs of Andrew Finly, late a lieutenant in the Pensylvania line in the Continental establishment of the war of the Revolution, one year's extra pay of a lieutenant as promised in the resolves of Congress.

Lieutenant Finly was an officer in the eighth Pennsylvania regiment. He became a deranged officer on the 10th of September, 1778. This was before the deranged officers, or those who became supernumerary by the reorganization of the Army, were promised half-pay for life, which was afterwards commuted for five years' full pay. But the case of Lieutenant Finly comes within the resolution of the 24th November, 1778, by which it was resolved "that all supernumerary officers be entitled to one year's pay of their commissions respectively, to be computed from the time such officer had leave of absence from the commander-in-chief on this account."

No amendment being proposed the bill was

reported to the Senate, ordered to a third reading, read the third time, and passed.

FRANCIS E. BADEN—MINNESOTA RAILROAD.

Mr. JONES, of Iowa. I am instructed by the Committee on Pensions to report back the House bill to continue the pension to Francis E. Baden, and ask for its present consideration.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

It will continue for five years, from January 1, 1855, the pension granted by the act approved March 2, 1853, for the relief of Francis E. Baden.

Mr. PEARCE. I move to amend the bill by adding the following:

And be it further enacted, That Congress does hereby disapprove and disaffirm the act of the Legislative Assembly of the Territory of Minnesôta entitled "An act to incorporate the Transit Railroad Company," approved by the Governor of the said Territory on the 4th March, 1854, and the said act is hereby declared null and void, and of no effect.

Mr. JONES, of Iowa. I hope that will not be done. It will require the bill that I have reported to go back to the House of Representatives, and it will never be passed there.

Mr. PEARCE. I am well assured that if the bill goes back with that amendment it will be passed beyond all question.

Mr. JONES, of Iowa. The Committee on Territories have unanimously agreed upon a recommendation against that proposition contained in a joint resolution which has come from the House of Representatives.

Mr. PEARCE. That resolution has passed the House of Representatives and come to the Senate. The object of it is to prevent the operation of certain transactions which took place at the last session of Congress. The Senate will recollect that a House bill was changed in its language—the word "and" being substituted for "or." They will recollect the excitement which grew out of it, and all the proceedings which followed. I understand that in spite of the repeal of the act which granted the eight hundred and fifty-eight thousand acres of land to the Territory of Minnesota, the railroad company, which was constituted the day after that act was signed by the President, claims this land as a vested right, because it was constituted before the period limited in the act.

The PRESIDENT. The bill is one which proposes to continue a pension; the amendment, the Chair thinks, is not in order.

Mr. PEARCE. Allow me to say that a bill granting a pension was precisely the bill to which, last year, I moved the amendment which I then offered for the repeal of the act granting the very lands which are in question; and a large majority of the Senate determined that it was in order.

The PRESIDENT. That may have been; but had the present occupant been then in the chair he would have decided it out of order.

Mr. PEARCE. Then I take an appeal.

Mr. MALLORY. This pension is for a very aged and indigent pensioner—a lady—who stands much in need of her pension; and I hope that however just the amendment may be, the honorable Senator from Maryland will attach it to some other bill.

Mr. PEARCE. If it passes this body with that amendment it will not be lost in the House.

The PRESIDENT. The Chair decides the amendment to be out of order on account of incongruousness, and its not being germane to the subject-matter of the bill. From that decision the Senator from Maryland takes an appeal.

Mr. COOPER. I suppose, of course, that question is open to debate.

The PRESIDENT. The Chair cannot restrict the Senate.

Mr. WELLER. I ask if the appeal is not to be decided without debate?

The PRESIDENT. No, sir; the appeal is open to debate.

Mr. COOPER. The subject-matter of the amendment was before the Committee on Territories, and an elaborate report, which was well considered, and which received the assent of every member who was present, was prepared—and I believe the whole committee, certainly a majority, were present. If I can have the attention of the Senate for a moment, I will state the facts in relation to the resolution of the House which is offered here as an amendment. In the first place, however, I shall content myself, until the appeal is decided, with stating the action of the committee upon it.

The resolution which is now proposed as an amendment by my honorable friend from Maryland came from the House of Representatives, and was referred to the Committee on Territories. The committee examined it carefully, and have agreed upon an elaborate report recommending that it be negatived. That report, as I have stated, was unanimous, and I trust that a measure of so much importance to the Territory of Minnesota will not be passed through by being attached to a bill of this kind, and at this late hour of the session. If it is expected that it will pass without a thorough investigation, all I would say is that I shall not only ask for the reading of the report, but that I shall undertake to defend every argument and principle contained in it. I merely state this in order that if this pension bill is a meritorious one, it may not be burdened with the amendment.

The PRESIDENT. Shall the decision of the Chair stand as the judgment of the Senate?

Mr. MASON. I understand that the Chair has decided the amendment to be irrelevant or incongruous. I want to understand the proposition.

The PRESIDENT. The chairman of the Committee on Pensions reported a bill to continue a certain pension. The Senator from Maryland proposes to amend it by repealing an act granting a railroad charter to a certain company in the Territory of Minnesota. The Chair decides that the amendment is clearly out of order on the ground of incongruousness and not being germane to the subject under consideration.

Mr. PEARCE. I beg leave to say, before the Senate votes upon the appeal, that there is nothing new in this practice. Not only did the occupant of the chair at the last session admit such amendments as this to be in order, although incongruous, but the Senate, upon an appeal, decided, by a vote of thirty-odd to ten, that it was in order, and such has been the practice of the Senate and House of Representatives for a very long course of years. Incongruity, of itself, does not constitute a breach of order. Nothing is more common than to make such amendments. We pass, every day of the session, bills that have incongruous provisions and which relate to subjects not kindred to each other, not in the slightest degree alike; but, because incongruous, they are not to be considered out of order. We have no rule here, at all events, which excludes them. But I cannot continue this discussion. It is evident that my voice will not permit it. I must leave it to other gentlemen.

Mr. WELLER. If I understand the rules of the Senate there is none which prevents the reception of an amendment because of incongruity. There is a rule of that character in the House of Representatives. I believe the uniform practice of the Senate has been to receive an amendment although it does not assimilate itself to the bill which is before the body. I shall, therefore, vote for the amendment, because I think it ought to pass, and that, with me, is reason enough. I always vote for a measure that I think just, no matter how presented; but I think it is no violation of the practice of the Senate to receive this amendment.

Mr. MASON. If I recollect aright, at the last session of Congress a bill passed the House of Representatives to reach the same end proposed to be reached now by this amendment. It came to the Senate at the very close of the session. The Senator from Michigan, [Mr. STUART,] if I remember aright, objected to its being considered, and in that way would have prevented its passage. The Senator from Maryland, who now offers this amendment, in order to attain the end of the House of Representatives, to remedy what was alleged to be a fraud—whether it was fraud or not I am not well informed—overcame that objection by ingrafting it upon a private bill, and in that form it passed. If it was right then, I suppose it is right now.

Mr. STUART. Mr. President, it is insisted that the custom of the Senate is to put any two or three things together, no matter how incongruous they are. I think that declaration will hardly bear an examination in connection with the history of the Senate. It depends altogether upon the desire of the Senate. If the Senate desires to do a thing in violation of its rules, and in violation of parliamentary law, like most other legislative bodies, they pass on and do it. If they desire not to do a thing, then there is no difficulty in finding either a rule of the Senate or some rule of parliamentary law to prevent it. But upon this occasion I am willing to base the decision of the Chair, and to seek, so far as my ability will permit me, to sustain it upon the principles of parliamentary law; for there is not a rule of the Senate, there is no principle of parliamentary law better settled, than that you cannot move an amendment which is incongruous to the subject to which you move it. I think at this point I might very well say, that the legislation of the country would be better carried forward, it would be more consistently done, there would be less difficulty in finding out, by an examination of our statute-books, what we had done, if we adhered to the parliamentary law.

At the last session of Congress, when the case occurred which has just been cited by the honorable Senator from Virginia, it was admitted by the honorable Senator from Georgia, [Mr. TOOMBS,] that it was in violation of all parliamentary law, and that he was prepared to violate all parliamentary law to carry out the purpose of it. That was his declaration. But, sir, I beg leave to suggest—and I do it with great respect to the Senate and to the Chair, and, if possible, with a still greater respect for the business of the session at this late hour of the night—that if we shall adhere, for the few remaining hours of the session, to the rules of parliamentary law, we shall probably very much better dispose of the business. A very slight inspection of the manual will sustain every word that I have said in relation to the irrelevancy of the amendment; and I think it is important that the decision of the Chair, when correct, whould be sustained. I think the Senate owe that respect to the decisions of the Chair; I may be allowed to say that I think they owe that measure of respect to themselves.

It is remarked by the Senator from Virginia that he has a very great desire to effect the object of this amendment; and he does not seem to indicate that he is very particular as to the manner in which he accomplishes that object. Sir, if there be any one thing which, in my judgment, is more important than another, at this time, it is to prevent the object of this amendment. It is not to be denied, because it is written in the book of history, that a very large portion of the last session of this honorable body was spent in sustaining the doctrine that the people of a Territory should legislate upon their domestic affairs in their own way. That is the doctrine that the late elections have been carried upon. It is the doctrine which is maintained to-day by the Democratic party of this Union, if it is true to itself; and not only by the Democratic party, but by almost every honorable member of the Senate who belongs to the other party. We declared that the people of a Territory had the right to legislate in respect to their domestic affairs, in their own way, subject to the Constitution of the United States only. I do not know, Mr. President, that it is very material to me, I do not know that it is very material to the people I have the honor, in part, to represent, to sustain that doctrine. I do not know that I should particularly object, if the present Senate, after passing the act that was passed last year, in respect to Nebraska and Kansas, now deliberately overturn their own work; but I do think that as they make their bed they will be compelled to lie in it.

Mr. COOPER. Will the honorable Senator allow me to refer to a case in reference to the ruling of the Chair which took place last session? A bill was introduced, I think, on the motion of the Senator from New York. I occupied the chair at the moment. An amendment was proposed, I think, by the Senator from Massachusetts. The Senator from Virginia, if my memory serves me right, made the point that the amendment proposed was not in order. I ruled the amendment out, and I was sustained by the Senate.

Mr. STUART. There is no more doubt that the Chair is correct in his ruling than there is that he is at this moment occupying the chair. If the question of correctness is to be determined by the parliamentary law, that which, in the absence of rules, governs every legislative body, I have not made this remark any too strong. I have stated, in a few words, what was the declaration of the Congress of the United States, in the Kansas and Nebraska act, in respect to the right of the people of the Territories to govern themselves upon every domestic question.

Mr. MASON. Does not that act contain a provision by which all their legislation is subject to the revision of Congress?

Mr. STUART. No, sir; it was expressly stricken out.

Mr. MASON. I thought it was there.

Mr. STUART. It was in the bill when it was reported to the Senate, but it was expressly stricken out. That makes the position which I have taken, I say to my honorable friend from Virginia, so much stronger. Sir, the agreement of this Congress, in the Nebraska and Kansas act was, that there should be no supervision by Congress over the domestic affairs of the Territory. I have said, that to me, individually, and to the people whom I have the honor, in part, to represent, it is not very material how you settle this question.

Mr. MASON. I was not aware, or if I was, it escaped my memory, that that uniform provision in relation to the Territories had been stricken out of the Kansas and Nebraska act; but it is in the Minnesota territorial bill now.

Mr. STUART. Let me correct the honorable Senator from Virginia in relation to his ideas of uniformity. That power is neither in the New Mexico act, nor in the Utah act. The acts that were passed in the compromise of 1850, contain no such reserved power; and, sir, the friends of the Nebraska bill—as did the honorable Senator from Illinois when he brought it in here, and in the whole course of the debate—placed it upon the ground of its being in consonance with the compromise of 1850, which reserved no power of revision to Congress. Thus, since the compromise of 1850, stands the action of Congress upon this important subject.

Now, Mr. President, I call the attention of the Senate, and I beg the particular attention of the honorable Senator from Virginia, to what the people of the Territory themselves have done on this question; so that it cannot be considered a matter of mistake, it cannot be considered a matter of inadvertence, if the Senate go forward now and violate the principle of the territorial acts of New Mexico, Utah, Kansas, and Nebraska.

Mr. WELLER. I think the Senator from Michigan is mistaken in regard to New Mexico and Utah. The power of Congress to nullify their legislation is retained, in my judgment. At all events, I join issue with him upon that question, and require the production of the record.

Mr. STUART. Very well, find the law if I am mistaken. I may, sir, be mistaken in this respect.

Mr. CHASE. The Senator is right as to the Nebraska and Kansas act. I believe I was the first to call the attention of the Senate to the fact that the retaining of the power to revise or control the legislation of those Territories was in the bill, and it was subsequently, on the motion of the Senator from Illinois, stricken out, not as the Senator supposes, because it was inconsistent with the principle of the New Mexico and Utah act, but because it was inconsistent with the principle upon which that legislation was proposed to be founded. I hold in my hand the New Mexico act, and in the seventh section there is this provision:

"All the laws passed by the Legislative Assembly and Governor shall be submitted to the Congress of the United States, and if disapproved shall be null and of no effect."

There is exactly the same provision in the Utah bill.

Mr. STUART. The Senator from Ohio is correct. I had in my mind the veto power of the Governor, and I made the mistake in that way; but, sir, such was the action upon the Kansas and Nebraska act. As the Senator from Ohio says, it was stricken out because it was inconsistent with the other principle of the bill, the main feature in it, to allow the people to legislate for themselves.

I was about to call the attention of the Senate to what the Territory itself has done, and I should be very glad if every Senator would listen to the short detail which I will make of what the people of Minnesota Territory have done upon this question. The Governor of the Territory, in his last message to that Territorial Legislature——

Mr. ADAMS. I make the question of order whether my friend from Michigan is in order in discussing the merits of the amendments upon an appeal from the decision of the Chair.

The PRESIDENT. It is not in the power of the Chair to restrict debate. Senators must decide that for themselves.

Mr. STUART. I was stating that the Governor of Minnesota Territory, at the last meeting of that Legislature in January, recommended to the Legislature to repeal this law; or if there was any doubt about their power to do it, to petition Congress to repeal the law by disapproving of it. The Legislature, elected by the people of that Territory, acted upon the recommendation; and, so far from conforming their action to it, they sent a request here, a petition, which was, four or five days ago, on the motion of the Senator from Illinois, [Mr. DOUGLAS,] referred to the Committee on Territories, asking Congress to repeal that provision of their act which gives to Congress the supervisory power over their laws as being inconsistent with their rights. Therefore, I say to the honorable Senator from Virginia, that there can be no inadvertence of action upon this question. The Legislature of the Territory have acted; they have refused to repeal the law; they have refused to ask Congress to disapprove it on the question being presented to them by the Governor; but instead of that, they have demanded that they be put upon an equal footing with Nebraska and Kansas. Now, sir, the issue is directly presented to the Senate of the United States, whether it will stand by the principle of that act, or whether it will, before the Congress which passed it expires, repudiate it.

With this short detail of the facts, I think I am justified in what I stated to the Senate at the outset, that there is no act before the Senate at this session which is more important than the one now under consideration. Sir, most of the people of the northern States, in my humble judgment, are prepared to stand by the principle of the Kansas and Nebraska act, and leave the people of the Territories to legislate upon their own domestic affairs in their own way; but they are not disposed to fight that battle alone. If the advocates of the Kansas and Nebraska bill from other portions of the Union are prepared now to repudiate its principle, it is repudiated for the whole country. Sir, there is no question more domestic in its character than the construction of a railroad in a Territory, wholly within the Territory, and that Territory within a year or two to become a State.

Mr. PRATT. With the consent of the Senator I will make a statement in regard to this case. A fact has come to my knowledge which has not yet been stated in the debate, and which, if I am correctly informed, will probably be decisive of the question. It will be recollected, Mr. President, that at the last session, a railroad company having been chartered by the territorial government of Minnesota, the Congress of the United States passed a law by which they made a grant of lands to that company. After that law was passed and signed by the President, Congress ascertained, or supposed they ascertained, that there was some mistake, error, or fraud in it, and they passed an act repealing that law. The company to whom the grant was made, notwithstanding the repealing law, have acted under the grant, and have taken possession of the lands under it. The Government of the United States has resisted that claim. The courts in Minnesota determined that the company were entitled to it, notwithstanding the repealing law, and the case is now in the Supreme Court for its decision. I admit that inasmuch as there is a power reserved in the Minnesota territorial act to Congress, to repeal any law which may be passed by its Legislature, we may have the abstract power to repeal this charter; but I do not think it would be right to go behind the grant we have made to this company, by repealing the charter of the company itself when it is a question in litigation in the Supreme Court of the United States as to the legality of the grant.

Mr. STUART. That is a fact I am perfectly well aware of. I am very much obliged to the honorable Senator for having stated it. I intended to refer to it. I was intending to show, sir, with the consent of the Senate, that this was the strongest case of interference with the rights of the Territories that had ever been presented to Congress, in all its features; and I was going on to show, as I had stated, that if Congress now, by this deliberate action, should adopt this amendment, there would be no room to deny hereafter any interference whatever.

What is the extent of this reserved power to disapprove of the laws of the Territories? Is it to disapprove any law that you may arbitrarily please at any time, and under any circumstances? Or is it upon the principle that the territorial government is, in a degree, a child of the parent Government, and you hold the power, in case she shall seek to carry out a law violative of your Constitution, violative of the rights of the people of the States, violative of any other great fundamental right, to interpose and disapprove of the act? Is not that the extent of it? Will it be contended by any Senator that, if you reserve the power you do in this case, and the Legislature of a Territory pass a law defining what shall be criminal in that Territory, you have the right to supervise and say it shall not be criminal? If they pass a law saying that the interest on promissory notes shall be four per cent., have you the right to disapprove of it? If they pass a law providing for the laying out of public highways, or regulating the marriage contract, have you the right to disapprove of it, and say it shall not be a law? I do not understand that to be the effect of the reserved power to Congress in these territorial organizations. I understand it to be that power which is reserved to protect the Constitution and the rights of the people at large against a plain and violent invasion of their rights.

I have said that the Legislature of this Territory, acting for the people, elected no longer ago than last fall, since the repealing act of Congress was passed, with a full view of all the facts in the case before them, have refused to repeal this charter. Nay, more, Mr. President, that Legislature have passed a law amending and continuing this charter, and they have come up here and asked the Congress of the United States, instead of disapproving of their law, to repeal the power which preserves to Congress the authority to disapprove of it. As the Senator from Maryland [Mr. PRATT] has stated, a certain company, organized by the laws of that Territory, claim that at the instant Congress passed the law granting the land to the Territory, the right to the land vested in them. They went on, in virtue of their charter within the Territory of Minnesota, and they commenced the construction of their road by cutting down timber and opening it. The United States officers commenced a suit against them. They pleaded the charter and the grant of Congress. The United States officers replied that the law was repealed. The company demurred. The question was decided by the United States court in Minnesota in favor of the company, and against the United States. An appeal was taken to the supreme court of the Territory. The decision was affirmed. The district attorney of the United States, residing there, appealed to the Supreme Court of the United States. That question is now pending in that court to be determined. Now, I ask the Senate of the United States—that body, which, under the Constitution, is peculiarly intended to secure the rights of all individuals, whether in a corporate or other capacity—if it intends now, by an amendment upon a pension bill, to seek to subvert the very foundation on which the Territory of Minnesota claims that this grant is of force? Why not leave the Supreme Court of the United States to decide that question? Did not Congress vindicate itself to the extent that it possessed the power when it repealed the law, and is it nothing that your own judicial officers—I say your own judicial officers, because it is your court that sits in Minnesota, and not a court elected by the people of that Territory; it is a court constituted on the nomination of the President, and confirmed by the Senate—is it nothing that a court thus constituted have determined that the right did vest in the Territory, and, by their law, in this chartered company? And is it not as unbecoming an act now on the part of the Government of the United States to seek, by the repeal of that charter, to defend that suit, as it would be for an individual litigant to bribe a juror? For, sir, give it any complexion you may, it is but a method of defending that suit. I never thought very much of the ground on which Congress proceeded last session; I never could see very much reason for saying that because some officer in and about Congress had committed a censurable act, therefore the Territory should be deprived of the grant of the land. It never seemed to me to be quite logical; nor did it ever seem to me to be at all just.

It is suggested to me by honorable Senators that the Senate is anxious to take the question, and certainly, at this hour of the night, the last night of the session, nothing—I say, emphatically, nothing—short of a violation of the first principles of human rights, would lead me to stand here and consume time. If the Senate desire to take the question I yield the floor.

Mr. MASON. I shall detain the Senate but a very short time. The proposition made by the Senator from Maryland is of exactly the character that was made at the last session to enable the House of Represenatives, as the House has determined, to vindicate the purity of the legislation of Congress. It was attained at the last session—at the very heel of the session—by placing what was proposed to be done upon a separate, independent subject, as we are now compelled to do again to enable us to vindicate the purity of the legislation of Congress. What was done at the last session? The House of Representatives passed a bill, which was sent to us, as I said just now, for the purpose of repealing this grant of land to the railroad company, because the House considered—whether right or wrong I am uninformed—that improper practices had been used toward the bill *in transitu*—a word had been altered—and to remedy it they passed that bill. It was sent to the Senate. It was read once. The Senator from Michigan, whom we have just heard, objected, as he had a right to do under the rules of the Senate, to its being then considered. If that rule had availed him, he could have avoided the legislation at that session. The Senator from Maryland, in order to obtain it, moved to ingraft the bill upon an independent measure. The Senate sustained him; it was so ingrafted; and the bill passed to repeal the law making the grant. What is the present state of affairs? It is contended, on the part of those interested in the grant, that *non obstante* the repeal, a right vested in law which the repeal could not take away. That is the right which, it is now said, is litigated in the courts, and has been carried to the Supreme Court of the United States. What has the House done? We stand here again, to meet this obnoxious measure, in the attitude in which we stood at the last session. The House has passed this resolution:

"That Congress disapprove and disaffirm the act of the Legislative Assembly of the Territory of Minnesota, entitled 'An act to incorporate the Minnesota and Northwestern Railroad Company,' &c., 'and submitted to Congress, and the said act of the Assembly is hereby declared null and void.'"

The House, then, again is seeking, by this mode, to vindicate the purity of legislation. It repealed the grant, and now it repeals the railroad charter; and how are we met here? The Committee on Territories of the Senate has offered, as a substitute for that bill, an act to deprive us of the power of annulling the act at all, which the honorable Senator says is in consonance with the spirit and intention of the Kansas and Nebraska bill. Be that as it may, we have the power—none deny that it is in the act organizing the Minnesota Territory to annul and disaffirm the act of the Legislature. But the honorable Senator says we should not exercise it, notwithstanding the extraordinary occasion which requires its exercise at our hands. I am ignorant of the facts. I do not know whether fraud was designed or not; but this, sir, I do know, that the House of Representatives, where this thing originated, has twice appealed to the Senate to sustain it in the effort to vindicate the purity of the legislation of the country. The first proposition was a repeal of the law making the grant of land. That is met by the declaration that *non obstante* your repeal, the right has vested. The attempt is again made by repealing the charter of the railroad company; and now we are met by the proposition to take away from us the power to make that repeal. Sir, we have got the power. None deny that. The act organizing Minnesota Territory reserves that power to Congress. Nobody denies that. The question is, shall we exercise it? The honorable Senator says if we do, it will be in derogation of the rights of the people of Minnesota. He says that the majority of the people, as represented in their Territorial Legislature, have confirmed this grant, Sir, we have had sent to us through the mails and laid upon our tables very recently, an appeal from the minority of that Legislature against permitting this iniquitous thing to be done. They are all strangers to me; I never saw one of them; but the minority have sent an appeal here to Congress against allowing this thing to be done; and minorities have rights. What do we know? Recently, I am informed, only through the public prints, and I take it for granted it is true, that the Executive has dismissed from office the district attorney of Minnesota for allowing this suit to be carried through the courts without giving information at Washington of its existence. I do not inquire who is right and who is wrong in that; but the fact exists.

I say, Mr. President, that the House of Representatives originated this proposition. They say that this alleged fraud was practiced on their legislation. They appealed to us at the last session to enable them to correct it. We did so, in the mode proposed to be pursued now. The company have overcome that by declaring that there is a vested right which they appeal to the courts to establish. The House again appeals to us to enable it to vindicate the purity of the legislation of Congress by passing this resolution, and our committee propose to nullify that by taking away our power to go into that Territory. How is the objection to the amendment sustained by the honorable Senator from Michigan? He says it is incongruous, it is irrelevant; and the Presiding Officer of the body, as I understood him, declared it was out of order because it was incongruous. I say, at the last session of Congress we did that very thing. I say it has been done at every session of Congress, so far as I recollect. I have a law handed to me by the honorable Senator from Maryland to show that in 1849, this very Territory of Minnesota derived an appropriation to pay the salaries of its officers by ingrafting it upon a pension bill. It will be found in the ninth volume of the Statutes at Large, page 787. It is an act for the relief of James Norris, and for other purposes; and in that act, placing James Norris, of New Hampshire, on the roll of invalid pensioners, there is this provision:

"That there be appropriated, out of any money in the Treasury not otherwise appropriated, the following sums:
For salaries of the Governor, three judges, and Secretary of the Territory of Minnesota, $9,000.
Contingent expenses, $350.
Compensation and mileage of members of the Legislature, $13,700.

And yet the Senator from Michigan says, and the Chair rules, that this amendment is out of order because it is irrelevant and incongruous; though at the last session we attained the end of vindicating the purity of the legislation of the country by the very means now sought to be adopted. Sir, there is a prevailing spirit of equity, known to all who are conversant with the forms of proceedings in courts of equity, that fraud vacates and overrides everything. Here the House of Representatives, where this thing is alleged to have arisen, have again appealed to us, if we can, to arrest this fraudulent purpose, conceived I know not where, but alleged to exist. The question is upon the appeal. I have shown a case in 1849; and I have shown that, at the last session, we did the very thing now sought to be done for the purpose of enabling the House of Representatives to attain what they seek to attain.

Mr. BADGER. I rise, sir, to a question far above the merits, the intrinsic merits, of the subject offered for the consideration of the Senate. I rise for the purpose of vindicating, as far as I am able, the rights and privileges of the Senate against the most extraordinary decision that has ever been pronounced by a Presiding Officer of this body since I have been a member of it. I understand the Presiding Officer rules the amendment out of order because it is incongruous. I demand to know where is the rule of the Senate which authorizes him to take cognizance of the question of congruity? Where is it? There is no such rule. There never was such a rule of this body. The Presiding Officer might as well tell us that he rules an amendment out of order because he thinks it is inexpedient to adopt it. Who gave him authority to decide whether a measure is congruous or incongruous, and, if incongruous, whether it was in the power of the Senate to consider and adopt it or not? Sir, he has no such authority. Since I have been a member of the Senate, the question has been twenty times raised, and twenty times decided in the same manner. Incongruity! Where is the head of parliamentary law, or of the rules of the Senate, that makes incongruity a question of order? It is no question of order. I desire to understand now, departing, as I am, from the Senate, whether we are to commence a new *regimé* in its government, to overturn these principles, to surrender tamely to the Presiding Officer of the body, an authority which no rule of parliamentary law, and no rule of this body gives him, and sit down quietly and say we cannot consider any question unless he thinks it is—what, sir? Congruous. What does he mean by congruous?

Mr. BRIGHT, (Mr. FOOT in the chair.) I did not use the word congruous. I beg leave to correct the Senator.

Mr. BADGER. What was the word?

Mr. BRIGHT. I did not use that word. The Senator can ascertain what word I used.

Mr. BADGER. Well, the Presiding Officer ruled it to be out of order, for some reason or other. I demand to know what rule of the Senate it is which determines that any one proposition is not admissible, when moved as an amendment to another, except the 30th rule, in respect to appropriation bills? There is none. If this proposition is moved, it is a question to be entertained by the Senate; it is a question to be determined by the Senate, whether they will adopt it or not. It may be an incongruous amendment; it may be one that is not germane to the subject; it may be one that is inconsistent with it; it may be that one is extremely improper and wrong to be adopted; but all that is a question for the Senate, not a question of order. There is, beyond dispute, Mr. President, no rule of the Senate, as such, which authorizes the Presiding Officer to rule any amendment of a proposition out of order, except, as I mentioned, under the 30th rule, with regard to the appropriation bills, and except the general principle that an amendment cannot be made beyond the second degree.

With regard to the agreement of propositions as being germane, or congruous, or incongruous, parliamentary law is clear. Says Mr. Jefferson's Manual:

"If an amendment be proposed inconsistent with one already agreed to, it is a fit ground for its rejection by the House; but not within the competence of the Speaker to suppress, as if it were against order. For were he permitted to draw questions of consistence within the vortex of order, he might usurp a negative on important modifications, and suppress, instead of subserving, the legislative will.

"Amendments may be made so as totally to alter the nature of the proposition; and it is a way of getting rid of a proposition by making it bear a sense different from what it was intended by the movers, so that they vote against it themselves. A new bill may be ingrafted by way of amendment on the words 'Be it enacted,'" &c.

Now, sir, if this proposition of parliamentary law be correct, and nothing can be cited against it, why cannot this repeal be made upon a pension bill? What is there to hinder it? What objection can there be except want of consistence and of congruity? When I used the word congruity, I supposed it was the one used by the Presiding Officer. I did not hear his decision ruling the amendment out of order, but I understood, as I came into the Senate, that it was upon that ground. But whether that was the word used or not is a matter of no importance; it was upon the ground that the proposition was incongruous, or inconsistent, or improper, to be entertained; it was upon some ground; and I say, Mr. President, the Senate have a right to put any proposition they please upon this bill. More than that, they have a right to put upon this bill what, under the 30th rule, they cannot put upon a general appropriation bill. They can put an appropriation upon it. Any member of this body can move an appropriation; the Chair must entertain the question for the appropriation; and it is for the Senate to say whether they will adopt it or not; although if the bill before us were an appropriation bill, no individual member of this body could move an additional appropriation to it.

I say this, Mr. President, because I think it is important to vindicate the rules of the body, not that I suppose, for a moment, that the honorable gentleman who presides over us has any disposition to trample upon them. No doubt he decides the question according to his views of propriety, according to what he thinks to be right, and what he thinks to be the rules of order of the Senate; but I say there is no foundation upon which an amendment can be ruled out of order, whether on the ground of being inconsistent, or incongruous, or not pertinent to the subject-matter of the bill. That is a question for the body. It is a question

of propriety of action for us, not a question of order as to whether the proposition should be entertained or not. As I have said, I think that a far more important question than the question of whether this amendment ought to be adopted or not, because it goes to the control of the Senate over the prosecution of the business.

The PRESIDING OFFICER, (Mr. FOOT.) The Chair will state the question. The Senate was considering a bill extending a pension to a person therein named. To that bill the Senator from Maryland moved, as an amendment, another bill disapproving a certain act of the Territorial Legislature of Minnesota. The permanent Presiding Officer of the Senate ruled that amendment out of order. From that ruling of the Chair the Senator from Maryland took an appeal. The question upon that appeal is now pending. The direct question is, "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. BADGER. Will the Chair be good enough to inform the Senate upon what grounds it was ruled out?

The PRESIDING OFFICER. The present occupant of the chair is unable to decide what reasons controlled the President of the Senate in that decision.

Mr. BAYARD. On this question of order, without expressing any opinion on the merits of the amendment, it seems to me a very simple proposition. There is no rule of the Senate which prescribes that incongruity shall make an amendment out of order. It seems to be founded upon parliamentary practice, if it has any foundation at all; and if you will take parliamentary rules, probably you will find that that is a rule of parliamentary practice in general; but, Mr. President, the practice of the Senate of the United States must, after all, govern all relations of that kind, in the absence of written rules. Since I have been in the Senate—a very limited time—I think I have scarcely ever seen a bill pass which, if this doctrine of incongruity had been applied, would not have rejected the amendments offered to it. I think the proper limitation is, that incongruity, under a specific rule of the Senate, ought to be an objection to an amendment; but in the absence of any such rule, under the practice of the Senate, I confess I cannot bring my mind to say that any amendment whatever can be ruled out of order on the ground of incongruity.

Mr. COOPER. I desire to make a very brief statement of the facts of this case. As the merits of the whole question have been discussed I feel called upon to do so; and it seems to me that after those facts have been presented, there will hardly be any persistence on the part of the friends of the measure which is proposed as an amendment to the bill under consideration.

In March last the Territory of Minnesota passed a law incorporating a railroad company, conferring upon it the ordinary privileges which are conferred upon such companies. On the 29th of June last, some three months afterwards, Congress made an appropriation of land, in the territory of Minnesota, to that company. Immediately after the passage of the act making the appropriation, and in consequence of it, the corporators met, and, in pursuance of the act of the Assembly of the 4th of March, formed the company. They elected officers, and subscribed over $1,000,000 for the purpose of making the road. On that subscription an installment of ten per centum was paid, and paid before the act of repeal of the 4th of August took place. To that the Senator from Virginia, in the remarks which he has submitted to the Senate, did not refer; but yet it is a very important fact. Afterwards, as I have stated, on the 4th of August Congress passed an act repealing the act of June 29, in consequence of some irregularity which took place in relation to the bill, but about which Minnesota had no concern, with which it was connected in no degree whatever. It was the mere substitution of the word "and" for "or." A committee of investigation was raised by the House to inquire in what manner the change had been made, and both the majority and the minority reported that there was nothing fraudulent on the part of any of those who had taken part in the transaction. Therefore, the assertion of fraud so liberally made by the Senator from Virginia has no foundation in the facts of the case.

Mr. MASON. I hope the Senator will understand that I made no charges of fraud.

Mr. COOPER. You spoke of it as a fraudulent transaction.

Mr. MASON. I say that the House, as we learn historically, at the last session repealed the grant because it was alleged that there had been improper dealing with the legislation of Congress, but that of the facts I knew nothing.

Mr. COOPER. If the Senator had first remarked in the same way that he does now, I should not have referred to that part of the subject; but, Mr. President, what I wish to say is, that both the majority and minority of the committee exonerated the parties connected with the transaction—that is, with changing the word from "and" to "or" with any fraudulent purpose or design. Now, how does the case stand? The honorable Senator tells you that this proposition is to vindicate the purity of legislation. Is there anything impure alleged in relation to the legislation of Minnesota, or anything impure even in relation to the legislation of Congress? Congress intended to grant the land to Minnesota. The land was granted. The act was afterwards repealed. Whether that repeal is valid and constitutional is a question not for this tribunal, but for another, before which it is now pending. Now, are we to punish Minnesota for an act which was committed by others entirely beyond her control? There are no grievous charges alleged against Minnesota, and yet a stranger to our doings here would have believed that she had been guilty of some grievous offense against propriety.

The Senator tells you that Minnesota had a bill for the payment of her public officers attached to a pension bill. Minnesota had no such thing done. Some Senator, or member of the House, had the amendment made perhaps without her knowledge. I presume it was my friend, the able chairman of the Committee on Territories [Mr. DOUGLAS] who had it done; because it was part of his duty as chairman of the committee to have it done. Minnesota was not to blame.

Now, Mr. President, are we, after a year has elapsed, to do this? I admit that we have the power to disapprove of her act—an act which she has repeated during the present winter twice over, by her Legislature first passing a law in strict conformity to the act of March 4, 1854, and when it was vetoed by the Governor, then passing it over his head by the constitutional majority; and after that a majority memorialized Congress and asked them to forbear to touch the legislation of the Territory. Yet, the Senator from Virginia, forgetting the memorial of the majority tells you that there is memorial of the minority, and asks you to take it without reference to that of the majority.

Let us go a step further. Having organized a company in pursuance of the act of incorporation of March 4th, the company went to work, located the road, gave out contracts, bought provisions, made all necessary arrangements for going on with the work. They went upon the public lands, which had been the property of the United States, but which, by the act of June 29, were granted to the Territory of Minnesota, and cut timber. The district attorney, in pursuance to his instructions, being at a distance from the seat of Government, commenced a suit against them for trespassing upon the public lands. That suit was first tried in the county in which the alleged trespass had been committed. A judgment was rendered in favor of the defendants, and against the United States. The United States appealed from that decision. The case was carried into the supreme court by appeal or writ of error, I do not know which. It was there argued for the United States by the district attorney, with the aid of assistant counsel. The judgment of the court below was affirmed. From that, an appeal was taken to the Supreme Court of the United States, where the case is now pending, the question arising being whether the act of the 4th of August last, repealing the grant, after the subscription had been made, and the money paid, was valid and constitutional or not?

The Senator from Virginia tells you that, without notice, the district attorney commenced this suit. He avers most positively, and that testimony was before the committee, that he immediately transmitted to the Attorney General of the United States intelligence of the fact that he had commenced it. But if he had not done so, the instructions addressed to all the district attorneys of the country require them to commence proceedings when trespasses are committed upon the lands of the United States. This being one of the enumerated cases, over which the direction operates, he commenced the suit, and transmitted intelligence of it afterwards. That was done, sir.

Another fact has been stated here, of which the committee had no cognizance whatever, and that is, that the district attorney was removed because he had commenced the suit. I do not know how that is. Perhaps the Senator from Virginia has better information on that subject than the committee had. It seems to me it would have been a strange ground for removal if it had been acted on.

Mr. MASON. I saw the correspondence in the public journals of the day. I presumed that the Senator saw it also——

Mr. COOPER. Stating that he was removed on that account? No, sir.

Mr. MASON. Stating that he was removed because he allowed that suit to be brought in the name of the United States without informing the Government.

Mr. COOPER. I think there must be some mistake about that, for he did not allow the suit to be brought; he brought it himself as it was his duty to do, as I have shown it was by his instructions.

Sir, this power to repeal, or disapprove of, acts of the Territorial Legislature, it is true, is incorporated in the original territorial act. It has been incorporated in many territorial acts; but when was it ever exercised? It is a power that has not been used for many years to my knowledge; and no case in which it was used within the last dozen, perhaps the last twenty years, was brought to the notice of the committee. And, Mr. President, there is another thing. Congress has passed its time. There is no time fixed, it is true, when Congress must disapprove of an act, but undoubtedly it ought to be speedily. Common sense teaches that it will not do that a territorial act shall be disapproved after important rights have grown up and become vested under it, and thus be divested at a subsequent period by the operation of an act of Congress disapproving it. Congress had notice of this measure early last year and acted upon it. It had it before it. It is referred to in several reports of the session; and in one case they legislated in reference to one provision of this very bill, the provision contained in the ninth section. Therefore, sir, it virtually passed upon it and approved it; and shall it now, after having done so, turn about and disapprove it? This is a fact of great importance, and, in this connection, ought to be remarked by those who desire to vote understandingly upon it; Congress has had the subject before it and virtually approved the bill, by legislating upon it.

But, again, will you disapprove it without showing some cause why it should be disapproved? Are you to strike in the dark because Congress committed some blunder in its legislation, or some impropriety in regard to an act which it passed? Are you to turn round for this reason and attack the Territory in its vital interests, by disapproving its legislation, against which nothing has been urged, against which, I say, nothing can be urged? You must judge from the face of the act, as the committee did.

But it is said the House passed this resolution. How did they pass it? It was introduced, the previous question was called when there were a dozen members on their feet to oppose it, and it was passed without discussion, and without knowledge, therefore, on the part of a great majority of the House. But that was not the case here. It went to a committee. That committee gave labor and examination to it, and unanimously agreed that it would be improper to disapprove the act of the Territory against whose legislators, or the legislation thereof, no objection had been urged.

Now, Mr. President, having made this statement, I trust to the justice of the Senate to vote down the amendment of my honorable friend from Maryland. It is not often I differ from him. I am sorry to differ from him now. I must distrust my own judgment when I do differ from him; but I think I have given a more attentive examination to this question than he has done, and that fortifies me a little.

Mr. PETTIT. I do not rise to debate the technicalities of the rules of the Senate; for I will acknowledge, perhaps to my great disadvantage,

that I have never read them, and I have no idea that I ever should read them, if I were to remain here to the age of Methusaleh. But I rise to vindicate the truth of history, in reference to a remark made by the Senator from Ohio, [Mr. CHASE.] I am not going to deny that his remark is strictly and technically true—that is, that he moved the striking out of that provision which was in the Kansas and Nebraska bill, when it was reported to the Senate, retaining the supervision of their laws here; but I will remind that Senator, and the Senate, and the country, that I was the first who suggested it. On the 20th of February of last year, I made a speech, at very considerable length, upon the bill, in which it will be found, if any Senator has the curiosity to know the history of this matter, that there, for the first time, I publicly avowed that I should, if no other Senator did, move to strike out that provision, because I was in favor of leaving that most delicate of all legislative questions to the Territory itself, as I was in favor of leaving all other less delicate and less important questions. The record will bear me evidence as to what I say—that I first suggested the striking out of that provision.

Now, Mr. President, the truth of history is vindicated as to who first moved in the matter. The Senator, when the bill was up, possibly did, probably he did, if he says so, make the motion formally, though I had given notice that I should make it days and weeks before.

As to the order, or want of order, of this proposition, I am not prepared to say, for the reason that I have assigned; but I am prepared to say that, as a matter of principle, and adherence to our last year's settled policy, I am opposed to the amendment. I do not pretend to say that, if I were a member of the Minnesota Legislature, or a citizen of that Territory, I should not be in favor of the repeal of that law. It is altogether likely I should be. So, sir, if I were a citizen of Kansas or Nebraska, I should, beyond question, be opposed to the introduction of slavery; but I have advocated, and maintained, and have so voted here, that even that question, of all others, perhaps, that we might exercise authority upon, should be left to the people of the Territory. Mr. President, the Senator from Maryland, who offered this amendment, the Senator from Virginia, who most warmly advocates it, I would remind you and them, were last year the warm, the consistent, and the unyielding advocates of leaving all that power to the Territories. When the question of liberty or slavery, the most important and most exciting question that has ever distracted or agitated legislative bodies, was under discussion, both those Senators were in favor of leaving it, not to an old, a long established, a permanently fixed Territory, but to a new one just to be rolled into existence; and I most cordially then, as I do now, indorsed that policy; but when the minor question of the disposition to this company, or to that company, of a few trees, of a few rocks, of a few acres of land, comes up, then the Senators are the first to object to it, the first to demand, and the first fiercely to urge, that we shall interfere with the domestic legislation of the Territories. Let me say to them, and to those who advocate this measure, that the time is coming when another and more important proposition for the control of your Territorial Legislatures and laws, will be presented for their consideration, and when that shall come up, I beg that they will obliterate from the record the speeches and the motion they have made to-night, that they may not be read in their teeth, and to their blush.

I shall not detain the Senate, as I might, upon this subject; but it is well known to the Senate and to the country, that upon the mere question of power I entertain no doubt. In making the remark that I did, in the speech on the 20th of February of last year, I conveyed to the fullest extent, and I reasserted all that I said in the House years ago, in reference to our entire power over the Territories. It will be remembered that the distinguished Senator from Michigan [Mr. CASS] and myself had a very considerable contest over that question. He holds that the power does not exist. I hold that it does exist, if we saw fit to exercise the extreme and *ne plus ultra* power in our hands, but that it ought not to be exercised; and when I hold that it ought not to be exercised upon the highest, the most important question that can be submitted to us, or to the Territories, why should I not hold that in such a minor and inconsiderable question as the disposition of a few acres of land, a few mountain oaks, or valley oaks, a few rocks, or a few materials for the construction of a railroad, the legislation shall be left to them?

I have nothing to say as to whether this proposition is in order or out of order, for I have said I am no parliamentarian. I have endeavored to seek after higher motives, higher objects, than the mere quibbles of rules—forms, I will not say it, for there are some gentlemen here who stickle and adhere to them; but Ethan Allen once, in a court of justice in your State, sir, (Mr. FOOT in the chair,) when remonstrated with for wearing his epaulets and sword in the court, and advised that it was out of order, stripping himself and laying them off, turned round very significantly to the court, saying that, the court having said it was merely for form's sake, he would comply, but that forms were made for fools. So far, then, as these forms of legislation are concerned, I care nothing about them; the principle involved is the important point. The policy heretofore, until recently, has been to reserve to Congress the right to supervise all legislative action of the Territories—a power, I admit that we cannot divest ourselves of, and that we may exercise if we see fit. Our action in the premises will be obligatory upon the Territory. Now, let me advise all Senators who have an interest in maintaining the right of the Territories to legislate for themselves upon any subject, to carry out consistently their views, and say that they shall have power to legislate upon all domestic questions. I grant you that if they had passed a law declaring war against any independent nation, we should then not only have the right, but it would be our duty to suppress them at once and repeal any such declaration. So, when they undertake to interfere with anything that is national, or that properly and appropriately belongs to us, that which the States, under the Constitution, could not interfere with, we ought to control them, and I trust we ever shall control them. Let me ask the Senator from Virginia, and I ask all southern Senators especially who feel an interest in this matter, when next year, as you anticipate, the question will be presented in both Houses of Congress to repeal a certain provision of the Nebraska bill, and to prohibit, by direct action, the existence of slavery there, what will be their argument? It will be, as it has been, that there is no power to do it at all.

Mr. MASON. If that time comes, when there is a proposition to repeal so much of that act as to restore the Missouri line, the Senator from Virginia, if then present, will be silent.

Mr. PETTIT. I regret to hear it. I had hoped that the warning voice and the potential influence of that Senator would be thrown against any such measure. Mine would be, I know. Much, sir, as I deprecate the extension of slavery, ardently as I would labor, if a citizen of the Territory, to prevent its extension there, yet, as a Senator or Representative here, I would not interfere with the rights of the people. In my own State, wherever I reside, my voice is against the extension of slavery. That subject, however, I have discussed enough heretofore; but I warn Senators, again and again, not to set a precedent here, in so trifling a matter, in reversing the act of the Territorial Legislature, to have it hurled in their teeth, and presented to them hour after hour, day after day, and time after time. I was going to refer to the Senator from Ohio, [Mr. CHASE,] but I believe he and I depart from here soon, and the place that now knows us will probably know us no more forever; but there are other Senators with the same proclivities who will be left here. The bills are on your tables already to reinstate the Missouri compromise. Thousands of petitions have been sent here, and bills have been introduced, to prohibit slavery by act of Congress in all the Territories. Suppose such a proposition is taken up; one Senator from the South will say such a bill cannot pass; the venerable Senator from South Carolina [Mr. BUTLER] will say there is no power to pass it; the Senator from Michigan [Mr. CASS] will reiterate his doctrine again, that no power exists; Senators agreeing with my views will grant that the power in extreme cases may be exercised, but that prudence, reason, and analogy to the rights of the States, forbid that it should be exercised. But how will you answer the Senators holding the reverse position, seeing that, in a question of human freedom and liberty, you leave it to a neophyte society, an unorganized territory, where squatters, where rabble, where everybody, without law and without order, may get together and determine it; but in a settled, a fixed, an old Territory, that the Legislature shall not have the power even to dispose of trees, and sticks, and a few acres of land? Sir, it is a bad policy; and I warn Senators against any such attempt. It will meet them, and rise before them ever after, and haunt them worse than Banquo's ghost. Withdraw your objection. Let the resolution of the House be defeated, as it ought to be defeated. Leave the question to the Territorial Legislature; leave to the Supreme Court here the question of the validity and efficiency of their enactment. I do not pretend to say whether the bill which they have passed is proper or not, whether, as a legislator or citizen of the Territory, I would indorse it or not; but I protest not only against interference from this Government with territorial action in large and important matters, but in small ones, too. Sir, I have detained the Senate too long already.

Mr. DOUGLAS. I think the discussion has arisen on this question more, perhaps, from not having carefully read the very able and lucid report made by the Senator from Pennsylvania, [Mr. COOPER,] from the Committee on Territories, than from any other cause. I believe if that report had been clearly understood, if the facts had been weighed carefully, there would have been no doubt as to the propriety of rejecting the motion of the Senator from Maryland; in fact, I do not believe that motion would have been made.

The facts are these: In March, 1853, when there was no probability of a grant of land being made by Congress for railroads in the Territory of Minnesota, some capitalists, or speculators, as the case may have been, applied to that Legislature for certain railroad charters, and procured five in number. Among them were one or two granting to the companies, in advance, all lands which Congress should thereafter grant in aid of railroads in the Territory. When the Territorial Legislature assembled the next year, they found that the Senate of the United States had passed a bill making a grant of land to the Territory, which was likely to pass the House of Representatives and become a law. In view of this anticipated grant, a new company was chartered by the Legislature for the purpose of making the railroad provided for in the bill before Congress.

Now, sir, if you agree to the proposition of the Senator from Maryland disapproving the charter named in the amendment, you thereby revive and put in force a company one year older, and award the land to that company, when nobody ever intended they should have it. It is not a question, sir, whether or not this company shall have the land? It is a contest between two railroad companies in Minnesota; one incorporated in March, 1853, and the other in March, 1854, each charter having a clause providing that they might take any land that Congress should thereafter grant. If you leave it as a judicial question to the courts to determine, they will decide whether the one company or the other shall have the grant, or whether either of them is entitled to it. What interest have the United States in following this question into the Territory, and interfering between two rival railroad companies? You first made the grant of land, and then repealed it. Since that a suit has been brought to determine the validity of the repealing act. If that repealing act was valid—and that question is now pending before the Supreme Court of the United States—in that case neither company will get the land. Suppose it is not valid; then the grant is good to the Territory; and it is for the Territory to say whether the company of 1853 or that of 1854 shall have it. What interest have the United States in interfering between these companies? The Minnesota Legislature awarded it to the company in 1854. This session they have memorialized us not to interfere with them. Why should we interfere, and thus legislate the lands out of the possession of the company the people of Minnesota wish to give it to, and into the hands of a band of speculators whom nobody in Minnesota ever intended should have it? I tell you the agents of that first company are here now pressing on this movement, professing that it is to vindicate the purity of legislation, when their sole object is to pocket the grant, in the event you will remove out of their way the

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territorial act, which the Senator from Maryland proposes to disapprove and annul.

I think, sir, we had better suppress a little of our virtuous indignation, and leave these railroad companies to fight their own battles. The United States have no manner of interest in the question. If we have parted with our title, we have parted with our interest; if we have not parted with our title, then neither of the companies can have it. The question is depending before the Supreme Court in the chamber below, on a record made up that involves the whole isolated fact whether the United States have parted with the title or not. Let us trust that court. If the repealing act is valid, the land belongs to the United States; if invalid, it belongs to the Territory; if it belongs to the Territory, we have no interest as to what company make the road. The people of the Territory ought to be allowed to settle it. Hence, I think, we had better not be agents, involuntarily and unconsciously, of either the old company or the new, to get one charter out of the way for the benefit of another. I think we had better drop the subject, and leave them to prosecute it in the courts. With this statement of the case, I am sure, if the honorable Senator from Maryland had had the opportunity, which the late hour at which the report was printed deprived him of, of seeing the facts as set out in that report by the honorable Senator from Pennsylvania, he would have been perfectly satisfied; he would have seen that it would not be proper for this repealing act to take place, when its effect would be to legislate the grant out of the hands of one company into another.

Mr. MASON. I am utterly ignorant of the facts except so far as I hear them from others. This matter, as I said, originated in the House. It is the second proposition which the House has sent to us to attain the object it had in view. The matter, I suppose, was investigated there. I find this statement in the debate which took place:

"When the Committee on the Judiciary came to look at the names of the persons mentioned in the territorial act proposed to be repealed, who were to receive this grant of eight hundred and fifty thousand and odd acres of the public lands, the committee found that one of the immediate grantees of the Government was the Governor of that Territory, who signed the bill, and another was the secretary of the Territory, who certified the bill."

Mr. DOUGLAS. I can put that right in a moment.

Mr. MASON. Allow me one moment. Here is the letter of the Attorney General to the district attorney to which I referred, telling him that the President had ordered his dismissal from office because he had entered this suit without the knowledge of the Government. Under date of December 30, 1854, he writes, "I am directed by the President to say that he has learned with surprise that you, as attorney of the United States for the Territory of Minnesota, have presumed, without any orders whatever, to commence a suit in that Territory," &c. "These acts are in direct violation of explicit instructions. The President will not, and until he has further information on the subject he cannot, undertake to question the motives of your conduct in that matter, it being sufficient for the present purpose of the Department that in view of the ascertained facts he cannot suffer the legal interests of the United States to remain longer in your charge. You will, therefore, consider your official position terminated on the receipt of this communication."

We all know what the law's delay is; but I find in the report of the debate again that the suit which was thus commenced by the district attorney in that Territory, is thus spoken of:

"It was commenced on the 23d of October. The pleadings are exceedingly voluminous; but within the remarkably short space of twelve days the summons were served, declaration filed, plea put in, replication to the plea filed, and demurrer to the plea; issue was thus joined, the cause set down for argument, argued and decided against the United States, and all in twelve days!"

The whole thing was carried through the court in twelve days, and then sent to the Supreme Court of the United States.

Mr. DOUGLAS. I will answer these two points with a great deal of pleasure. The first reason assigned in the House of Representatives for their action, by Mr. Cutting, who made the report, is that Governor Gorman and the Secretary of the Territory were corporators in the grant. From that fact the committee draw the inference of fraud. If they had reflected for a moment, they would have found that a corporator in a charter has no beneficial interest in it; he is a mere agent to receive subscriptions; if he does not subscribe and become a stockholder, he has no beneficial interest at all. It is well known that neither of these gentlemen ever did have a farthing of beneficial interest in that company. The company was organized without their uniting with it. The fact is that both of them are on the other side of this question. They were named in the law to receive subscriptions to the stock; and they were put there simply because they were territorial officers, and thus could see whether the law was complied with. From that clause, which was a precautionary measure, and a proper one on the part of the Legislature to insert the names of the Governor and Secretary to see that the law was complied with, the inference is drawn that these two gentlemen acted corruptly, although they never became interested to the amount of a farthing, and could not even receive pay for the services rendered.

As to the record of the case in the Supreme Court it is stated that it is very voluminous, and that in the space of twelve days they actually made up the pleadings and had the case decided. What is the record? It is an action of trespass by the United States, against an agent of the company for cutting timber. The first paper is the declaration. The defendants plead the charter from the Territorial Legislature of Minnesota, the grant of land, and aver compliance. The plaintiff then replies the repealing act of Congress. The defendants demur. That is the whole record. Would it take twelve days to make that up? What lawyer would require one day to make up a record of that kind? The pleadings consist of a printed charter, a printed act of Congress, and a general demurrer. That is all there is in it. What did the record present to the court? The isolated fact of whether the United States were owners of the land or not. If they are the owners, they have the right to damages; if not, they have no right to damages at all. It does not decide whether the Territory owns the land, whether the company owns it, or who does, except the question whether the United States have parted with their title. That record presents all that the United States have any interest in. Nothing beyond that affects us. It may affect the Territory of Minnesota, or the two rival companies. Then, sir, what is the necessity for complaining that they were only twelve days altogether in making up such a record and getting a decision upon it? I repeat, no lawyer would want over one day to make it up, and then the court might want a reasonable time after the argument to decide upon it.

As to your district attorney, I have no defense to make. I do not know him. I believe, from what I have heard, that he is a most excellent, worthy man, of strict integrity, a fine and elegant scholar, but, perhaps, not a very experienced lawyer. That is what I believe of him. I believe he acted sincerely; but this record was made up by his deputy, not by himself. I believe he is not responsible for it; though I believe it was made up correctly to put in issue all that interested the United States.

Mr. SEWARD. Mr. Warren, the district attorney who has been mentioned, is a native of New York. He is, in regard to scholarly and gentlemanly habits and associations, all that has been said of him by the Senator from Illinois. But I think the honorable Senator does him injustice in saying that he is a very bad lawyer; and it not only does injustice to him, but it brings some suspicion upon the Administration which appointed him, and of which the Senator from Illinois is one of the great pillars. What I wish, however, to say is, that in anticipation of this question, and supposing that it might come up, I have preserved for a long time the correspondence of this district attorney in his own vindication, by which I understand that what was done was done in his absence, and by his deputy, that he was not responsible for it, and that he even denies the fact charged against him. I do not wish to raise the issue; but I ask the consent of honorable Senators that when this debate shall go out, these remarks may go in justification of Mr. Warren, for whose honor and truth I have great respect.

Mr. DOUGLAS. I have no doubt of the correctness of all the Senator has said of the merits of Mr. Warren, but that is a matter of no consequence, for whoever made up the record, every lawyer will say that it presents the issue precisely in the mode to test the only question in which this Government has a particle of interest, to wit: have the United States parted with their title to the land? That being the case, we have no interest now beyond that decision which is to be made by the Supreme Court. Let Minnesota fight her own battles in her domestic legislation, as to who shall make the railroad. Let the rival railroad companies fight their own battles. Let them not come here, by their agents, lobbying us, to get us to become the agents of one company or the other, to legislate the grant into the hands of one to the exclusion of the other. Sir, I think we had better wash our hands of it, and let the question drop. I am sorry to have detained the Senate so long.

Mr. MASON. The Senator from Illinois spoke of there being agents here for these rival railroad companies, to affect the deliberation and decision of Congress on this question. If that is known to him, it is unknown to me. I never heard of the proposition; I never saw the bill until my attention was called to it by the Senator from Maryland.

Mr. SEBASTIAN. It is quite necessary, Mr. President, that we should have a brief Executive session.

Mr. MASON. Let us vote.

Mr. SEBASTIAN. If I can understand it to be the general assent of the Senate to take the vote now, of course I will not make the motion.

The PRESIDING OFFICER. Is the Senate ready for the question upon the appeal?

Mr. PEARCE. I prefer not to have it decided just at this moment, for I have no hesitation in saying, after the suggestions which have fallen from the Senator from Illinois, that it seems to me if we are to repeal one charter, we ought to repeal the others to which he has alluded. I am quite satisfied that there is nothing in the case to justify the repeal of one, yet I do not know so well the history of the other companies as to feel entirely justified in proposing, at this time, the repeal of all the charters. I do not believe, myself, that the charter proposed to be repealed by the amendment is worth anything. I doubt very much whether it has a legal existence, if closely examined into; and of one thing I am very certain, that the repealing act is entirely valid, and that neither one company nor the other can ever acquire a title to any lands, the grant of which was repealed by that act. I understand the Senator to concur in that. That being the case, I shall be disposed, under the circumstances, to withdraw my amendment; but I cannot do so while the appeal is pending. I prefer, therefore, to go into Executive session, and after we come out, I think we can arrange the matter.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business.

FRANCIS E. BADEN—MINNESOTA RAILROAD

When the doors were reopened, the PRESIDENT stated that he would submit the question to the Senate whether they would receive Mr. PEARCE's amendment, for the purpose of having a vote upon it.

Mr. BADGER. I desire to say that I was requested and authorized by my friend from Maryland, who was indisposed, and obliged to leave the Chamber, to withdraw the amendment which he offered.

Leave was given, and the amendment was withdrawn.

Mr. BADGER. I fear that, in the observations which I made on this question of order, when I was speaking with a great deal of energy upon the subject, I used expressions which seemed to be not exactly courteous toward the gentleman who occupied the chair. I hope he did not so understand them. If anybody did so, I wish them to be considered taken back and utterly forgotten.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ARMY APPROPRIATION BILL.

Mr. WELLER, from the second committee of conference on the disagreeing votes of the two Houses on the bill making appropriations for the support of the Army for the year ending June 30, 1856, reported:

That the Senate recede from their seventeenth and twentieth amendments disagreed to by the House, which are as follows:

SEC. 6. *And be it further enacted*, That the same allowance in respect of rations be hereafter made to the military commandant of the Schulykill arsenal in the quartermaster's department as to the commandants of the arsenals in the ordnance department.

SEC. 9. *And be it further enacted*, That the Governors of the several States and Territories be, and they are hereby, authorized to sell to the best advantage, the arms heretofore distributed under the act of April 28, 1808, and invest the funds arising out of such sales in other arms more suitable for the purposes contemplated by said act: *Provided*, That no arms be so purchased or provided, except such as may be of the same description and caliber as those regularly adopted and in use in the Army of the United States.

That the House recede from their disagreement to the sixth, fourteenth, and fifteenth amendments of the Senate, as follows:

For surveys for military defenses of the sea and inland frontier, $15,000.

And be it further enacted, That the provisions of an act entitled "An act for the payment of the civil officers employed in the Territory of New Mexico, while under military government," approved July 17, 1854, be, and the same are hereby, extended to embrace the case of Lieutenant Colonel J. M. Washington, deceased, late of the Army, for and during the period of his appointment and service as military Governor of New Mexico, ex officio superintendent of Indian affairs, and commander of the troops prior to the formation of the civil government.

SEC. 4. *And be it further enacted*, That the sum of $30,000 be, and the same is hereby, appropriated to be expended, under the direction of the War Department, in the purchase and importation of camels and dromedaries to be employed for military purposes.

That the House agree to the thirteenth amendment of the Senate, as follows:

SEC. 2. *And be it further enacted*, That the board of officers appointed under the sixth section of the act making appropriations for the support of the Army for the year ending June 30, 1853, approved August 31, 1852, is hereby authorized and directed, in addition to the powers and duties already conferred upon it, to extend its examinations to claims arising from the destruction of property by the troops serving under the command of Lieutenant Colonel John C. Frémont, in California, in the years 1846 and 1847, by his orders, as well as for the destruction of property by the enemy, caused by the occupancy of the claimants' premises by the said United States troops; that the said board is empowered to summon and examine witnesses under oath, and take testimony in California (if necessary) and elsewhere; that for the payment of claims reported favorably upon by the board in its report to the Secretary of War, dated 5th December, 1854, Ex. Doc. 8, 33d Cong., 2d sess., including that numbered one hundred and ninety seven, being the claim of Santiago E. Arguillo, and amounting to $11,584, and for the compensation of the members of said board, for and during the period of service as such, at a rate not exceeding $3,000 per annum each, deducting therefrom their Army pay, the sum of $40,548 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated; and the Secretary of the Treasury is hereby authorized and directed to pay to the treasurer of said board, out of any money in the Treasury not otherwise appropriated, the sum of $10,000 for the contingent expenses of the said board, including therein office rent and clerk's hire, stationery, fuel, the payment of the witnesses' fees duly summoned by the board, at a rate not exceeding those paid by the United States district courts in California or elsewhere, as the case may be, the traveling expenses of said board, not exceeding sixteen cents per mile to each member, and other incidental expenses—

With an amendment to strike out all after the word "hereby," where it first occurs, and add "abolished," and also the following: *Provided*, That it shall be lawful for the President of the United States to appoint, during the recess of Congress, such of the commissioned officers authorized by this act, below the grade of field officers, as may not be appointed during the present session, whose commissions shall expire on the 1st day of May, 1856.

The Senate proceeded to consider the report; and it was concurred in.

A message was subsequently received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had also agreed to the report.

ENROLLED BILLS SIGNED.

The PRESIDENT *pro tempore* signed the following enrolled bills and joint resolutions, which had previously received the signature of the Speaker of the House of Representatives:

A joint resolution for the final adjustment of the accounts of John D. Colmesnil;

A bill to establish Columbus, in the State of Mississippi, Chattanooga, in the State of Tennessee, and Hickman, in the State of Kentucky, ports of delivery;

A bill for the relief of the legal representatives of William A. Christian;

A bill for the relief of Paul S. Ridgway of Ohio;

A bill extending the provision of the act of August 4, 1852, entitled "An act to grant the right of way to all rail and plank roads, and Macadamized turnpikes passing through the public lands belonging to the United States, to the public lands in the Territories of the United States;

A resolution explanatory of an act passed August 3, 1854;

A bill for the relief of Ferdinand Clark;

A bill for the relief of Thomas S. J. Johnson, of the Territory of New Mexico;

A bill for the relief of the heirs of Thomas Park, deceased;

A bill for the relief of Titian R. Peale;

A bill for the relief of the heirs of Lieutenant Andrew Finley;

A bill for the relief of Jeptha L. Heminger;

A bill making appropriations for fortifications and other works of defense, and for repairs of barracks and quarters, for the year ending the 30th of June, 1856;

A joint resolution for the relief of John Dugan; and

A joint resolution to pay the pension due James Capen, to his administrator;

A joint resolution for the relief of James Hughes; and

A joint resolution for the relief of Joel Henry Dyer.

THE PRESIDENT PRO TEMPORE.

Mr. CLAYTON submitted the following resolution; which was considered by unanimous consent, and unanimously agreed to:

Resolved, That the unanimous thanks of the Senate be, and the same are hereby, tendered to the Hon. JESSE D. BRIGHT, for the very able, dignified, and impartial manner in which he had presided over the deliberations of the Senate during the present session, now about to terminate.

DISTRICT INSANE ASYLUM.

Mr. DAWSON, from the Committee on the District of Columbia, to whom was referred the House bill to organize an institution for the insane of the Army and Navy, and for the District of Columbia, in said District, reported it back without amendment.

The Senate, as in Committee of the Whole, considered the bill.

No amendment being proposed, it was reported to the Senate.

Mr. BRODHEAD. How is the superintendent of the institution to be appointed, and by whom?

Mr. DAWSON. By the Secretary of the Interior.

Mr. BRODHEAD. Then it is to be a political office, to be filled every four years. It is all wrong.

Mr. DAWSON. I know it is wrong; but no amendment can be made at this time, and the institution is needed immediately.

The bill was ordered to a third reading; and was read the third time, and passed.

WASHINGTON MONUMENT.

Mr. DAWSON. I hold in my hand a bill which was referred to the committee yesterday, to incorporate the Washington National Monument Society. It was read a first and second time yesterday. There is no possibility of passing it, and I am not directed to report it.

The PRESIDENT. It will lie upon the table, if their be no objection.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had agreed to the resolution of the Senate to suspend the 17th joint rule of the two Houses for the present session.

Also, that they had passed the following resolution:

Resolved, On reconsideration, that the bill of the House entitled "An act making appropriations for the transportation of the United States mail, by ocean steamers and otherwise, during the fiscal year ending the 30th of June, 1855, and the 30th of June, 1856," returned this day by the President of the United States, do not pass.

POST OFFICE APPROPRIATION BILL.

Mr. RUSK, from the committee of conference on the disagreeing votes of the two Houses on the bill making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1856, reported:

That the Senate recede from their disagreement to the House amendment of the third amendment of the Senate.

That the Senate recede from their disagreement to the House amendment to the fourth amendment of the Senate.

That the Senate recede from their disagreement and agree to the House amendment to the sixth Senate amendment.

That the Senate recede from their disagreement and agree to the amendment of the House to the tenth amendment of the Senate.

That the House recede from its disagreement to the seventh amendment of the Senate.

That the House recede from their disagreement to the eleventh amendment of the Senate.

The report was concurred in.

The third amendment of the Senate was to add:

For compensation to William M. F. Magraw, for carrying the mail on route 8911, from Independence, Missouri, to the Great Salt Lake City, Utah Territory, monthly each way, according to the contract under which said service is now being performed, the sum of $36,000 per annum, commencing with the contract aforesaid, and in lieu of the compensation therein stipulated.

The amendments of the House to that were to insert in lieu of "contract aforesaid" the words "18th of August, 1854, and continuing one year;" and to add:

Provided, That the Postmaster General, with the assent of the contractors, be, and he is hereby, authorized to annul said contract.

Also, for compensation to Jacob Hall, for carrying the mail on route No. 8912, from Independence, Missouri, to Santa Fé, Territory of New Mexico, monthly each way, according to the contract under which said service is now being performed, the sum of $22,000 per annum for one year from the 18th day of August, 1854: *Provided*, That the Postmaster General, with the assent of the contractor, be, and he is hereby, authorized to annul said contract.

The fourth amendment of the Senate was:

For compensation to George H. Giddings for carrying the mail on route 12900, from Santa Fé, New Mexico, to San Antonio, Texas, monthly each way, according to the contract under which said service is being performed, the sum of $33,500 per annum, commencing with the contract aforesaid, and in lieu of the compensation therein stipulated.

The amendments of the House to it were to strike out "contract aforesaid" and insert "18th day of August, 1854, and continuing one year;" and to add:

Provided, That the Postmaster General, with the assent of the contractor, be, and he is hereby, authorized to annul said contract.

And that each contractor, engaged or to be engaged in carrying the mails through any of the Territories west of the Mississippi shall have the privilege of occupying stations at the rate of not more than one for every twenty miles of the route on which he carries the mail, and shall have a preëmptive right therein when the same shall be brought into market, to the extent of six hundred and forty acres, to be taken contiguously, and to include his improvements; but no such preëmptive right shall extend to any pass in the mountain or other defile.

The sixth amendment of the Senate was:

SEC. 3. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to establish and put in operation a semi-monthly mail by sea, from San Francisco, in the State of California, to Olympia, in the Territory of Washington, touching at Humboldt bay, Trinidad, and Crescent City, in the State of California; Port Orford, Gardiner City, or Umpqau, and Astoria, in the Territory of Washington; Shoal Water bay and Port Townsend, in the Territory of Washington, and such other points as shall be designated by the Postmaster General: *Provided*, The whole cost of said service shall not exceed the sum of $120,000 per annum.

The amendments of the House to it were, to insert after "*Provided*," the words:

That the contract for said service be advertised by the Postmaster General in pursuance of existing laws, and let to the lowest bidder: *And provided further*, That.

And to add:

And provided further, That the Postmaster General may, if he shall deem it for the public interest, contract for said service with the lowest bidder, as aforesaid, under advertised proposals heretofore made for mail service between the points aforesaid.

The tenth amendment of the Senate was:

SEC. —. *And be it further enacted*, That the First Comptroller of the Treasury be instructed to examine the claim of William R. Glover and Thomas W. Mather, and their associates, and ascertain and allow such arrearage as they are entitled to, in justice and equity, on account of the refusal of the Postmaster General to carry into effect the contract entered into between William R. Glover and Thomas W. Mather and the Postmaster General, in 1853, for the transportation of the mail on the Mississippi and

Ohio rivers; and that such damages shall be paid to William R. Glover and Thomas W. Mather and their associates, out of any moneys in the Treasury not otherwise appropriated.

The amendment of the House to it, was to add:

Provided, The sum shall not exceed the sum of $200,000.

From their disagreement to these amendments of the House to their amendments the Senate recede, and agree to them.

The seventh and eleventh amendments, from their disagreement to which the House recede, were:

SEC. 4. *And be it further enacted*, That the right to frank letters and documents now allowed by law to the Vice President, be continued to those who have heretofore or shall hereafter occupy that office, during life.

SEC. 8. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to pay Cranston Laurie, a reasonable compensation for performing the duties of two desks in the Post Office Department, not to exceed half pay of a clerk for the time he was so employed.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had agreed to the report.

The PRESIDENT *pro tempore* subsequently signed the enrolled bill of the House making appropriations for the service of the Post Office Department during the fiscal year ending 30th June, 1856. The signature of the Speaker of the House having been previously affixed thereto.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. WEBSTER, his Secretary, announcing that he had approved and signed the following acts and resolutions:

An act for the relief of Madalena Van Ness, widow of Cornelius Van Ness, deceased;

An act to appropriate money to remove the obstructions in the Savannah river, below the city of Savannah, in the State of Georgia;

An act for the relief of Franklin Chase;

An act in addition to certain acts granting bounty lands to certain officers and soldiers who have been engaged in the military service of the United States;

An act for the relief of Mrs. Nancy Weatherford, widow of Colonel William Weatherford, of the first regiment Illinois volunteers in the Mexican war;

An act to change the boundaries of the land districts in the State of Iowa, and for other purposes;

A resolution explanatory of an act entitled "An act for the relief of Abigail Stafford," and

A resolution explanatory of an act passed August 3, 1854.

METROPOLITAN RAILROAD.

Mr. DAWSON. There is a bill from the House of Representatives to authorize the Metropolitan Railroad Company to come into the city of Washington, to which there are several amendments proposed which may consume time; but, if there be no objection, I should like to take it up.

Mr. BENJAMIN. I hope my friend from Georgia will not press that. Let us pass some private bills.

Mr. DAWSON. Then I withdraw it.

Mr. STUART. I will make the motion that the bill lie on the table.

The motion was agreed to.

KANSAS PUBLIC BUILDINGS.

Mr. JONES, of Iowa. The Committee on Territories have instructed me to report back the House bill to provide for the erection of public buildings in the Territory of Kansas, without amendment, and ask its immediate consideration.

The Senate, as in Committee of the Whole, considered the bill.

It appropriates $25,000 for the continuation and erection of public buildings for the use of the Legislature of the Territory of Kansas, to be expended under the direction of the Governor of the Territory; but the money, or any part thereof, or of any portion of the money heretofore appropriated for this purpose, is not to be expended until the Legislature of the Territory shall have fixed by law the permanent seat of government.

Mr. BRODHEAD. It seems to me there is no necessity for this bill. During the last session of Congress we appropriated $25,000 for the public buildings in Kansas. I do not know whether that has been expended or not. If it has been expended, this bill is all wrong. If it has not been expended, there is no necessity for a further appropriation. The proviso directs that the money heretofore appropriated shall not be expended unless on a certain contingency. What did we do at the last session? That in the event the Secretary of War should deem it inconsistent with the interests of the military service to furnish Fort Leavenworth for the use of the territorial government of Kansas, the sum of $25,000 should be, and in that contingency was, appropriated for the erection of public buildings for the use of the Legislature. This power was conferred upon the Governor at the last session, and $25,000 were placed in his hands for that purpose. I take it for granted, as he has had ten months, he has exercised the power. If he has exercised it, how are you to take the money out of his hands that was appropriated at the last session, as this bill does? Sir, this requires some consideration. How many people are to be accommodated out there with these buildings? It is for the permanent seat of the Legislature. Well, how long is it to be permanent? I take it for granted that it will come into the Union as a State before long. How many are we to accommodate out there? We have already appropriated $25,000. I believe there are eighteen or nineteen members of the Council, and twenty-six of the House. Are we to go on and appropriate money in this way? I should like to know something about this.

Mr. JONES, of Iowa. All that it is necessary to say on this occasion is, that we have precedents in the case of Wisconsin and Iowa. As Delegate from one of those Territories, I obtained $20,000 for the construction of the buildings, and afterwards my successor—my colleague—obtained $20,000 more, and an additional appropriation of a section of land for the completion of the public buildings of Iowa. I do not wish to consume time in discussing the question. I want Kansas and Nebraska to be treated exactly like other Territories which have gone before. They are young Territories. They stand much more in need of relief than Wisconsin and Iowa did. The Delegate cannot be heard here; but I ask you to act justly towards the Territory.

Mr. BRODHEAD. That all may be; but has the money which we have already appropriated been expended? If it has, the bill is wrong. If it has not, what is the effect of the proviso? It directs that the money heretofore appropriated and placed in the hands of the Executive shall not be expended until the Legislature fix the permanent seat of Government. He may have made a contract. I suppose he has.

Mr. WELLER. Suppose the $25,000 heretofore appropriated has all been expended, the Senate must readily perceive that it will require at least $50,000 to construct any sort of buildings there for the accommodation of the territorial government. I take it for granted that $50,000 would be necessary to construct the buildings which are indispensable for the use of the Territory. In my judgment, whether the former appropriation has been expended or not, there is a necessity for the passage of this bill.

Mr. BRODHEAD. I think we ought not to proceed in this manner without some knowledge on the subject. I do not know whether the money has been expended or not. I do not know whether the Governor has made any contract or not. He has had the power for the last ten months, and now you propose to take it out of his hands. Well, sir, how can you reverse what he has already done in pursuance of law by congressional action? It cannot be done.

Mr. JONES, of Iowa. It could not be done, in the first instance, because no seat of government was established in the original act. The Governor of the Territory was to convene the Legislature at such point as he thought proper, and at their meeting they were to fix the permanent seat of government. This additional appropriation is asked for to complete the buildings, exactly as was done in the case of Wisconsin and Iowa.

Mr. BRODHEAD. I take it for granted, in the case of Wisconsin and Iowa, the money first appropriated was expended. I think $25,000 is enough; at any rate we ought to have an amendment adopted, and I offer the following:

Provided further, That nothing in this act contained shall be construed to render invalid any contract or contracts made by the said Governor in pursuance of existing laws, for such site, or for the erection of such public buildings.

Mr. JONES, of Iowa. I should have no objection to that; but it would require the bill to go back to the House, and it would necessarily fail.

Mr. WELLER. I think the adoption of that amendment will operate to defeat the entire bill. At the present time, therefore, I hope it will be voted down.

Mr. BRODHEAD. That is not a good argument against a proper amendment. If we are going to do injustice without the amendment, surely the allegation that it will defeat the bill should not prevail. Is there a wonderful and pressing necessity for another appropriation of $25,000 before we know whether the first is expended? At the next session this can be appropriated, if it is necessary. I hope, therefore, the amendment will be agreed to. We conferred the power upon the Executive at the last session; and now, without any allegations against him, by this bill we should reflect upon him. It is not a proper mode of legislation to confer a power upon the Executive one session, place the money in his hands, direct him to proceed to execute the law, and then, without inquiring whether he has executed it or not, take it from him. Sir, it is improper; and I hope it will not be persisted in.

Mr. JONES, of Iowa. I hold in my hand a bill which has passed the House of Representatives, making an appropriation of $50,000 for Nebraska Territory. This additional $25,000 for Kansas puts the two Territories on the same footing.

Mr. BRODHEAD called for the yeas and nays, and they were ordered.

Mr. JOHNSON. Governor Reeder has asked for the appropriation, and it has always been usual for the Legislature to have the selection of the site.

Mr. BRODHEAD. The proviso should be struck out.

Mr. WELLER. The bill simply provides for an additional appropriation of $25,000 to be expended under the direction of the Governor, and not until the Legislature shall have permanently fixed the seat of government, just as the other appropriation was. The whole effect of it is to make the amount $50,000. The effect of the amendment is inevitably to defeat the bill; and I hope it will be voted down.

Mr. BRODHEAD. As my friend from California has several times informed the Senate that the amendment will defeat the bill, I hope I may be permitted to restate my objections to it. He, as far as he proceeded, stated it correctly, but all of its provisions were not stated. It is true, it appropriates $25,000 in addition to what has heretofore been appropriated. Twenty five thousand dollars was appropriated last session. Who knows whether it has been expended or not? Then follows the proviso that no part of the appropriation heretofore made shall be expended until the Territorial Legislature does so and so. The Legislature may legislate not for the future, but for the present. If these are to be permanent, and it is our money, why not let our Executive officer continue in the discharge of the duties imposed on him at the last session?

The question being taken by yeas and nays, resulted—yeas 10, nays 23; as follows:

YEAS—Messrs. Brainerd, Brodhead, Cooper, Dawson, Foot, Gillette, Jones of Tennessee, Seward, Sumner, and Walker—10.

NAYS—Messrs. Adams, Bell, Benjamin, Bright, Brown, Clayton, Douglas, Gwin, Houston, Hunter, James, Johnson, Jones of Iowa, Mallory, Mason, Morton, Rusk, Sebastian, Stuart, Thompson of Kentucky, Toombs, Weller, and Wells—23.

So the amendment was rejected.

Mr. STUART. I wish to make an inquiry of the Committee on Territories. As I understand it, the appropriation of last year was not limited as to the time of expenditure as this is. The proviso in this bill limits both the law of last year and this one, without any statement of what the Governor may have done under the appropriation of last year. So far as that is concerned, the information ought to be before the Senate. I understand from the chairman of the Committee on Territories, that the appropriation of last year contained no such limitation.

Mr. BRODHEAD. I will read the provision of the law of last year. It is:

"That in the event the Secretary of War shall deem it inconsistent with the interest of the military service to furnish a sufficient portion of the military buildings at Fort Leavenworth for the use of the territorial government of

Kansas, the sum of $25,000 shall be, and in that contingency hereby is, appropriated for the erection of public buildings for the use of the Legislature of the Territory of Kansas, to be expended under the direction of the Governor of said Territory."

The Governor of the Territory communicated with the Secretary of War on the subject, and the Secretary informed him officially that no portion of the buildings at that reservation could be used for the purpose. Hence it was that the section which I have just read was passed. It was passed, as the Senator from Illinois [Mr. DOUGLAS] well knows, in consequence of the refusal of the Secretary of War to permit those buildings to be used. In the original Kansas act we provided that the Territorial Legislature should hold its sessions in the Fort Leavenworth property. The Secretary of War informed us that he could not spare it for the purpose, and thereupon, in the military appropriation bill, an appropriation was made in the language which I have read. This was eight months ago. The power was then conferred upon the Governor.

Mr. STUART. I submit, that being the case, that the proviso of this bill which locks up the appropriation of last year, without knowing what contracts may have been entered into under it, is improper.

Mr. BRODHEAD. I move further to amend the bill in the following clause:

"*Provided*, Said money, or any part thereof, or any sum heretofore appropriated for this purpose, shall not be expended until the Legislature of the said Territory shall have fixed by law the permanent seat of government"—

by striking out the words "or any sum heretofore appropriated for this purpose."

Mr. JONES, of Iowa. I hope the Senate will not agree to the amendment.

Mr. BRODHEAD. I ask for the yeas and nays upon it, because I know that the provision as it stands is wrong.

The yeas and nays were ordered.

Mr. JONES, of Iowa. I only desire to say, that the adoption of this amendment will defeat the bill; because, if it be amended, it cannot be passed through the House of Representatives. The result of the amendment of the Senator from Pennsylvania will be to give to the Governor of Kansas, instead of to the Legislature, the power of fixing the seat of government.

Mr. BRODHEAD. I beg leave to correct that statement. If my amendment be adopted, the words "provided said money, or any part thereof, shall not be expended until the Territorial Legislature of said Territory shall fix by law the permanent seat of government," will remain in the bill.

The question being taken on the amendment by yeas and nays, resulted—yeas 9, nays 25; as follow:

YEAS—Messrs. Brainerd, Brodhead, Chase, Foot, Gillette, Seward, Stuart, Wade, and Walker—9.

NAYS—Messrs. Adams, Benjamin, Bright, Brown, Clayton, Cooper, Dawson, Douglas, Gwin, Houston, James, Johnson, Jones of Iowa, Jones of Tennessee, Mallory, Mason, Morton, Pearce, Rusk, Sebastian, Thompson of Kentucky, Thomson of New Jersey, Toombs, Weller, and Wells—25.

So the amendment was rejected.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PUBLIC BUILDINGS IN NEBRASKA.

On motion by Mr. JONES, of Iowa, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives to provide for the erection of public buildings in the Territory of Nebraska. It proposes to appropriate $50,000 for that purpose, to be expended under the direction of the Governor of the Territory, but no part of the money is to be expended until the Territorial Legislature shall have fixed by law the permanent seat of government.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS C. RAMSEY AND OTHERS.

Mr. JONES, of Tennessee. I ask the Senate to take up the House bill for the relief of Thomas C. Ramsey, Ananias O. Richardson, and James McLaughlin.

Mr. BENJAMIN. I perceive there is an adverse report in that case.

Mr. JONES, of Tennessee. I desire to have the bill taken up and then I will state the adverse report. I am sure the Senator from Louisiana will go with me in favor of the bill when he understands it.

Mr. BENJAMIN. I think, at this hour of the night, we ought to pass only such bills as are not objected to.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. Its object is to increase the pensions now received by Thomas C. Ramsey and Ananias O. Richardson, of Tennessee, and James McLaughlin, of Virginia, to sixteen dollars instead of eight dollars a month. The increase to commence from the 19th of December, 1854.

Mr. JONES, of Tennessee. I am aware that the report of the Senate Committee on Pensions, in this case, is adverse, and the indorsement upon the papers will show, as the chairman of the committee will remember, that the committee made an adverse report simply on the ground that there was no precedent for the bill. I will state the facts.

Ramsey and Richardson, of Tennessee, were in the battle of Monterey. Both of them were young men, and each lost an arm in the engagement. McLaughlin, of Virginia, lost his arm in some other battle in Mexico. The simple question is, whether you shall increase their pensions from eight to sixteen dollars a month? Whether there be precedent for it or not, I neither know nor care. What I do know is, that these gallant young men, in serving their country in the prime of life, in the vigor of youth, with bright prospects before them, were maimed, and were each reduced to a solitary arm. The very ball which carried off the arm of both these young men carried with it the lives of four other Tennesseans, as you, sir, know, [addressing Mr. WHITFIELD, Delegate from Kansas, who was sitting by the side of the honorable Senator.] Now, Mr. President, the question is, will the American Senate, because there is no precedent, refuse to give men, for such services, a pension of sixteen instead of eight dollars a month? If there is no precedent, I want to make one. I hope the Senate will pass the bill. It was passed by the House unanimously. There never was so just a case presented.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

GEORGE W. M'CERREN.

Mr. BENJAMIN. I have tried for fifty times to get up a little resolution of the House for the relief of a constituent of mine. It is a joint resolution, which has been reported back favorably by the Committee on Military Affairs, for the relief of George W. McCerren, and I move that it be now taken up.

The motion was agreed to; and the Senate proceeded, as in Committee of the Whole, to consider the joint resolution.

Its object is to direct the Secretary of War to adjudicate, settle, and pay the claim of George W. McCerren, for such bread, beans, and pork, or bacon, in barrels, as were taken out of his possession in 1847, by order of the commanding officer of the United States Army in command at Brazos Santiago, and used in the construction of Fort Harney.

In the early part of 1847, the petitioner was the owner of several hundred barrels of hard bread, a lot of pork, in barrels, and a few barrels of beans. These articles had been previously purchased by him at a public sale made by the proper officers of the Government, they being sold as damaged. The petitioner seems to have been engaged in the business of purchasing such provisions as were considered unfit for the use of the Army, and transporting them to New Orleans. About this time a report reached Brazos Santiago that the Mexicans, in great force, were crossing the Rio Grande at Matamoras, which caused the officer in command at the former place to order the construction of fortifications for the defense of the post. Under this order these provisions were used in the construction of Fort Harney, and wholly lost to the memorialist, without any fault of his own.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

STEPHEN LUTZ.

Mr. TOOMBS. The Committee on the Judiciary, to whom was referred the bill from the House of Representatives for the relief of Stephen Lutz, of New York, have directed me to report it back without amendment. It is simply to refund to him $500 which he paid to the Government for goods sold by it under a misapprehension. I ask for its present consideration.

There being no objection, the Senate proceeded, as in Committee of the Whole, to consider the bill.

It proposes to direct the Secretary of the Treasury to pay to Lutz $500, with interest at the rate of six per centum per annum, from the 10th of March, 1851, being the amount paid by him for thirty-one cases containing machinery and apparatus for the light or lantern of a light-house imported into New York for the United States, and there, by mistake, sold at public sale to Lutz, the highest bidder.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CLAIMS CONVENTION WITH GREAT BRITAIN.

Mr. WELLS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to furnish to the Senate the report of the commissioners for the adjustment of claims under the convention of February 8, 1853, between the United States and Great Britain, with the decisions of the commissioners and umpire, and the arguments of the agents as reported by them; and that the usual number of copies of the same be printed for the use of the Senate, under the direction of the Department of State, to be properly bound, edited, and indexed.

JOSEPH M'CORMACK.

On motion by Mr. JONES, of Iowa, the Senate, as in Committee of the Whole, proceeded to consider the bill of the House of Representatives granting a pension to Joseph McCormack. The amount of the proposed pension is four dollars a month, to commence January 1, 1854.

In the war of 1812, McCormack served two tours—one to Norfolk as a drafted soldier, and the other to Baltimore as a substitute. In the Mexican war, although he had attained a very advanced age, he was prominent in his efforts to raise the company which was formed in Berkeley county, Virginia. He went with the company to Richmond, and was rejected by the inspector general, for the reason that his teeth were too defective to enable him to bite off the end of a cartridge. Anxious as he was to engage for the second time in the service of his country, and mortified by his rejection, he refused to remain behind, but persisted in going to the war on his own responsibility. His determined purpose excited the sympathy of the officers, and he was permitted to go along with the Berkeley company, which his efforts had contributed so much to raise. He remained in Mexico during the time that the company remained, supporting himself by honest toil; and although the Virginia regiment had no opportunity of engaging in action on the field of battle, McCormack always was ready to enter into action when the regiment with which he had gone to the seat of war should be called upon to do so.

He was injured by a fall in landing from the vessel at Brazos Santiago, in which the troops were transported, and his health was entirely destroyed by the relaxing influence of the Mexican climate upon his aged system. He is now a very old man, in a state of disability, incurred in the service of his country, unable to earn his daily bread, and is living upon the charity of a few patriotic citizens, who do not desire to see the old soldier consigned to the common asylum of the poor.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

VIRGINIA LAND SCRIP.

Mr. MASON. I now ask that the bill from the House of Representatives to amend the act of August, 1852, in relation to military bounty land warrants may be taken up.

Mr. STUART. I make the point of order that at this time, on this day of the month, we cannot take up that bill.

Mr. MASON. Why?

Mr. STUART. Because we have passed twelve o'clock, midnight.

M. WELLER. That clock is wrong.

Mr. STUART. That excuse will not do. If

the motion is insisted upon, I will make the point of order. I am satisfied that this bill ought not to pass, and I cannot consent that it shall. I therefore deem it my duty to submit the point of order that the time having expired, in fact, at which this Congress has any authority, nothing can be considered. I make the point on this bill, that it is not in order to move to take it up now. I should not make the point of order on any other bill if we were to sit here until next Tuesday.

Mr. MASON. I thank the Senator for making that point. It is indicative of the character of the opposition to this bill. Here we have sat legislating without opposition from anybody, and none from that Senator; but when a proposition is made to bring up this bill, to comply with the obligations of the State of Virginia during the Revolution, to grant her own lands, at the instigation of the Continental Congress, in order to work out our Revolution, a Senator from one of those States where the lands are, makes the objection that we cannot legislate after twelve o'clock on the night of the 3d of March. I thank the Senator for making the objection. It is indicative of the character of his opposition to this bill. I have nothing more to say. Let the Senator make his point of order.

Mr. STUART. The pertinacity with which this bill is persevered in is indicative of the outrage sought to be perpetrated upon the public lands of the United States, and upon the land States. I undertake to say further, that, apply the same bill to Missouri, to Iowa, to Illinois, and there is not a Representative here from Virginia who would vote for it.

Mr. MASON. Then the Senator does not know the Senators from Virginia.

Mr. STUART. I undertake to say that there is not in the bill, from the beginning to the ending, a principle that is not violative of the rights of the old States and of the new. Now, sir, when the Senator tells me that I stand here to oppose a bill from mere pertinacity, I tell him, no matter what State he represents, that he is mistaken. I consider myself as much bound to oppose this bill with every power that belongs to me, mentally and physically, as if it were a proposition to execute the Senator from Virginia without a trial.

Mr. MASON. That day may come, sir.

Mr. STUART. That is my conviction of my duty. Now, sir, some time ago, (and since gentlemen will go into the history of this transaction, I will say, I do not think under very proper circumstances,) the Senator's colleague [Mr. HUNTER] had this bill taken up to the exclusion of all the business of the morning hour. We discussed it at full length. I rose and stated my opposition to the bill, and that it could not be yielded; and, as a test question, I moved to lay it on the table, and it was done. The Senator [Mr. MASON] came in here to-night, and moved to take up this bill. I simply asked for the yeas and nays, and upon the yeas and nays the Senate refused to take it up; and yet it comes here again. Every opportunity that can be got, a motion is made to take up the bill. I do not think, under these circumstances, it becomes a Senator to taunt me with the character of my opposition to this bill. Sir, I have been led to believe that every Senator on this floor was the equal, constitutionally, of every other Senator.

Mr. MASON. Will the Senator allow me a moment?

Mr. STUART. Certainly, with great pleasure.

Mr. MASON. I have said nothing in the world about the Senator; I mean to say nothing about him; I respect him; he ought to know that I mean to say nothing of him; but I mean to assail the rapacity of the States where these public lands are situated—nothing more.

Mr. STUART. Then, Mr. President, the Senator and myself will come to the best understanding in the world, for I mean to assail, from this time forth, as long as this Congress sits, the rapacity of Virginia, in undertaking to get lands to which she has no right or title.

Mr. MASON. Do so.

Mr. STUART. Sir, I say again, this bill is in itself violative of the plainest principles of a law which was drawn up by the Senator's colleague, a law placed upon your statute-book in 1852, which is as liberal in its terms as that Senator asked for when he drew it. That law was penned by the Senator's colleague, and he knows, sir, that I mean to say nothing against either him or his colleague, for I respect them both for their talents and ability. That law, penned by his colleague, expressly says that the testimony in these cases shall be revised by the Commissioner of the General Land Office, and the scrip shall be issued, provided, in his opinion, the warrant was issued according to the laws of Virginia. That law was penned, it will be recollected, more than seventy years after the service was rendered, when, upon all questions except those concerning the Government, the statute of limitation would have applied more than three times, when the testimony must necessarily have been of the most doubtful and equivocal character. A Senator from Virginia, after that lapse of time, had leave to pen his own law in his own words. It has been literally complied with, and there has not been a case rejected under it that would not be rejected by any honorable Senator in this body, who was acting impartially and without feeling. Still, sir, it is said that by making a point of order which I would not have made upon any other question—to which I have been forced by the manner in which this bill has been pressed upon the Senate again and again, after the Senate have expressed their sense against it—for making the point of order which is to save the remaining business of the country——

Mr. SEWARD. Let me ask the honorable Senator whether this is a House bill.

Mr. STUART. Certainly; and if I go into the discussion of it I intend to show how it passed the House; I intend to trace the manner in which it got through the House and came here, and show what its peregrinations have been since it got here, for I have been obliged to look at it throughout. I was saying, sir, that for making the point of order now, to save the business of the country which is pending between the two Houses, to save my own strength upon the occasion, I am charged with rapacity.

Mr. MASON. Allow me to ask the Senator why does he not make the point of order as to all business pending before us? Why does he limit it to this bill?

Mr. STUART. I will tell the Senator very freely. I know of no other bill now pending, I have not seen any, which I consider wrong in itself. I have heard of a proposition to take up none such. This I consider radically and totally wrong.

Mr. MASON. It is not a question whether the bill is wrong, but our right to legislate at all, because it is after twelve o'clock, is called in question by the Senator's point of order.

Mr. ADAMS. I ask my friend from Michigan, if his question of order is sustained in relation to legislative action on this subject, will it not exclude us from all legislative action upon all other subjects from this time out?

Mr. MASON. Certainly.

Mr. STUART. Not at all, sir.

Mr. ADAMS. I should like to know the reason.

Mr. STUART. I take it that as long as the Senate sits here and nobody makes the point of order on a question, you will act, and it is all as of yesterday, even if you were to sit here a week. That is the mode of making up the Journal. That is the mode in which your business appears. There is no second day until there is an adjournment.

The PRESIDENT. The Chair will request the Senator from Michigan to suspend. The Chair has no difficulty in reference to the point of order. It has been the uniform practice of both Houses of Congress to sit until twelve o'clock of the 4th of March. The Chair will feel it to be his duty to sit here and entertain all legitimate motions until twelve o'clock to-morrow, if it shall be so long the pleasure of the Senate to sit. This debate, however, is out of order. The Chair has just been informed that the bill is now upon the table. The Chair was under the impression that the bill was on the files, but he understands that it has been ordered to lie on the table.

Mr. MASON. I moved to take it from the table.

The PRESIDENT. That question is not debatable.

Mr. STUART. I ask for the yeas and nays upon the motion.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 20; as follows:

YEAS—Messrs. Adams, Bayard, Bell, Bright, Butler, Cooper, Dawson, Hunter, Mallory, Mason, Morton, Pearce, Pettit, Rusk, Thompson of Kentucky, Toombs, Toucey, Weller, and Wilson—19.

NAYS—Messrs. Allen, Benjamin, Brainerd, Brodhead, Brown, Chase, Foot, Gillette, James, Johnson, Jones of Iowa, Sebastian, Seward, Slidell, Stuart, Sumner, Thomson of New Jersey, Wade, Walker, and Wright—20.

So the Senate refused to take up the bill.

LYON AND HOWARD.

Mr. COOPER. I ask the indulgence of the Senate to take up the bill from the House of Representatives for the relief of L. R. Lyon and Dean S. Howard, of the State of New York.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill. Its object is to direct the Secretary of the Treasury to cause to be paid to Lyon and Howard, or their legal representatives, $8,617 81 in full for balance due them for constructing a dredging machine at Whitehall, New York, under a contract entered into the 2d of November, 1836, and a dredging machine to be delivered, at Monroe, Michigan, by contract entered into October 15, 1836.

Mr. TOOMBS. This bill ought not to be passed. When a member of the House of Representatives, I had occasion to look into it, and I came to the conclusion, on investigation, that not one dollar was due to these people. They have received $40,000 or $50,000 under contracts for dredging machines from the Government. I have a large bundle of papers in connection with this case, but I do not desire to read them. I do not think these contested matters which have been pending for years, and have been condemned time after time, should be taken up and passed at this hour. I am prepared to show, if I had time to do so, the utter baselessness of the claim. The present Secretary of the Interior, [Hon. R. McClelland,] when a member of the other House, made a report in which he showed that these people had been actually paid, and their receipt was produced, but the parties then came forward and said they gave the receipt under duress. From my investigation I came to the conclusion that they had received ten times as much as they were entitled to. I move that the bill lie on the table.

Mr. BRODHEAD. As I reported the bill I trust the Senator will allow me to say a word.

Mr. TOOMBS. I withdraw the motion for the present.

Mr. BRODHEAD. I have no doubt my friend from Georgia states the truth when he says the parties gave a receipt, but that transaction is excluded from this bill, and of that money they will not get one dollar.

Mr. TOOMBS. I know that.

Mr. BRODHEAD. This bill came before the committee of which I am a member. In the House of Representatives a favorable report was made on it by Mr. READY, of Tennessee. The Senate Committee on Claims examined it, and thought it perfectly right. It is true the parties gave a receipt, and we considered that receipt conclusive against them nothwithstanding they allege it was obtained under duress. This bill excludes everything covered by that receipt, and if the Senator will read the report he will find it to be so.

Mr. TOOMBS. I have not only read the report, but I looked through the case myself six or eight years ago, and I think I could satisfy the Senator or any fair man who would hear me for ten minutes, from the papers in the case, that there is not one cent due these men. From the report, which I have read carefully, it appears that they have already received $40,000 or $50,000 for a miserable concern of a dredging machine not worth one groat. Gentlemen who knew the working of it, the present Secretary of the Interior, and others, said it was not worth a cent. I must insist on the motion to lay the bill on the table as a test question.

Mr. COOPER. As I made the motion to take up the bill, and have said nothing upon it, I trust the Senator from Georgia will withdraw the motion to allow me to say a word.

Mr. TOOMBS. I withdraw the motion with that view.

Mr. COOPER. I am not going to enter at length into this discussion; I merely desire to say two or three words. This bill has been before Congress on several occasions. During the Twenty-Ninth Congress it was reported upon favorably. A favorable report was also made in the Thirtieth

Congress. After that, it was submitted to Colonel Totten, the chief engineer, and he was required to make a report in relation to it. He did so, and upon his report the committee have based theirs. I know nothing personally about the facts, but it appears to me that if they be as set forth in the report of the House committee, the claim is a just one. I ask that the report be read, and I shall not say a word more, because I do not desire to continue the discussion.

The Secretary read as follows:

The Committee of Claims, to whom were referred the petitions and accompanying documents of Messrs. Lyon & Howard, respectfully report:

That there are three several and distinct claims preferred by the petitioners.

The first is for compensation for constructing a dredge in November, 1836, to be delivered at Whitehall, in the State of New York. This claim was favorably reported on by the Committee of Claims in two successive Congresses, to wit, the Twenty-Ninth and Thirtieth, to which your committee refer, and beg leave to adopt the first mentioned report. It appears, therefore, that the petitioners are entitled to $6,994 31, for a balance unpaid them on said dredging machine; and the payment of which your committee now recommend.

The next claim is in consequence of the construction by the petitioners, for the United States Government, in 1835 and 1836, of four steam-dredging machines for the Hudson river, in the State of New York. Whatever may have been the original rights, legal and equitable, of the petitioners in this case, your committee find that on the 3d of April, 1837, they settled with the proper officer of the Government, received and receipted in full, for the sum of $5,920, found to be then due them.

The statement of said account and receipt is as follows:

The United States, To Lyon & Howard, Dr.

Services of the Improvement of the Navigation of the Hudson river, New York.

September 17, 1836: For four steam-dredging machines, complete, as per contract dated the 29th day of May, 1835, at $6,250 each	$25,000
March 28, 1837: For additional improvements made to the same, and recommended for payment by the chief engineer, in a communication addressed to the Secretary of War *ad interim*, under date of the 7th of February, 1837, and subsequently approved by the Hon. J. R. Poinsett, Secretary of War, and directed to be paid by the engineer department, under date of the 25th of March, 1837, at the rate of $87 per ton for 90 tons of sand raised per hour, being the excess of work done over that estimated to be required by the terms of the contract, for the performance of each machine; 90 tons × 4 = 360 tons, at $87 per ton, being a full and final payment of the above account	31,320
	$56,320

Cr.

By amount received for four dredging machines, as per contract, as credited in voucher No. 145 of abstract B, disbursements by the Bank of Troy in the 4th quarter of 1836	$25,000
By cash received, as per said vouchers	18,400
By cash received, as per voucher No. 210 of abstract C, 1st quarter 1837	7,000
	50,400
	$5,920

Received at Troy, this 3d day day of April, 1837, from the Bank of Troy, the sum of five thousand nine hundred and twenty dollars —— cents, in full payment of the above account. LYON & HOWARD.

A true copy of the original on file in the office of the Third Auditor. PETER HAGNER, *Auditor.*

January 13, 1848.

Your committee are unable to perceive any reason for disregarding said settlement, and again opening the account. It appears to have been fairly, understandingly, and freely made by the parties; and without the intervention of fraud, accident, mistake, or restraint, your committee cannot sanction a violation of long-established and wise rules. They, therefore, disallow this claim.

The third claim is founded on a contract entered into with an agent of the Government of the United States, on the 15th of October, 1836, for the construction of a dredging machine of certain dimensions, capable of raising one hundred and fifty tons of sand, or one hundred tons of clay, as equivalent thereto, in an hour, for the price of $15,500. The contract provided "if said machine, on a fair trial of from one to four hours, in water not exceeding six feet deep, in dredging not exceeding twelve feet deep, shall raise more than one hundred and fifty tons of sand per hour, eighty-five dollars for each additional ton shall be added to the above price, and in the same proportion for clay; that is, for clay, as two to three; but if, on such trial it shall be ascertained that said machine will not raise one hundred and fifty tons of sand per hour, or one hundred tons of clay, that a deduction from the price above specified shall be made of $100 per ton for sand, and in the same proportion for clay; that is, for clay as two to three.

The machine, on a test, excavated one hundred and seventy-six and two fifths tons in an hour, and was thereupon received by the Government. But a controversy arose as to the true construction of the foregoing clause of the contract and the character of this excavation. If the material excavated was clay, then the machine exceeded the capacity contracted for by seventy-six and two fifths tons; if it was sand, then the excess was only twenty six and two fifths tons.

The subject was referred to Colonel Totten, chief of engineers. He made an estimate upon the basis that one half of the excess was clay, and the other half sand, which the committee believe was correct from the proof; and upon that basis it appeared the Government was still indebted to the petitioners, for this machine, $1,623 50. This sum the committee believe correct. The Committee on Claims in the Thirtieth Congress adopted it as correct; to whose report, and the testimony therewith filed, reference is here made.

This sum, added to the balance of $6,994 31, due petitioners on the Whitehall machine, makes the aggregate of $8,617 81, to which the committee believe they are entitled from the Government, and for which sum they report a bill and recommend its passage.

All of which is respectfully submitted.

Mr. TOOMBS. I now renew the motion that the bill lie on the table.

Mr. ADAMS called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 16, nays 18; as follows:

YEAS—Messrs. Adams, Allen, Badger, Benjamin, Bright, Brown, Chase, Dawson, Foot, Gillette, Johnson, Morton, Stuart, Sumner, Toombs, and Wright—16.

NAYS—Messrs. Brainerd, Brodhead, Clayton, Cooper, Douglas, Houston, James, Jones of Iowa, Jones of Tennessee, Pearce, Pettit, Rusk, Sebastian, Seward, Thompson of Kentucky, Wade, Walker, and Weller—18.

So the Senate refused to order the bill to lie on the table. It was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EXTRA COMPENSATION.

On motion by Mr. MORTON, the Senate proceeded to consider the following resolution, submitted by him on Monday, the 26th of February:

Resolved, That there be paid to each of the pages in the service of the Senate, out of the contingent fund, the usual extra compensation heretofore allowed them by resolution of the Senate at the end of the session.

Mr. MORTON. I move to amend the resolution by striking out all after the word "resolved," and inserting:

That there be paid out of the contingent fund of the Senate to each of the pages in the service of the Senate, and the laborers employed in the public grounds, the usual compensation allowed them at the close of the session, after deducting therefrom the sum they may have received under the joint resolution approved July 20, 1854.

Mr. MASON. I am very sorry to find that this resolution has been offered. At the last session I thought we definitively settled the pay of the officers of the Senate, and I am sorry to find that such a provision as this is introduced.

Mr. MORTON. I regret very much that my friend from Virginia did not withhold the expression of his sorrow at the presentation of this resolution until he heard an explanation of it. I was well aware that something of the kind was offered last year and within a few days since, which was obnoxious to the proviso of the joint resolution of the 20th of July, 1854. That joint resolution prescribes the pay which the employees of the Senate and House of Representatives should receive. It made an addition to their former salaries of twenty per cent., and provided that those receiving the twenty per cent. should not be entitled to the usual extra allowance which had been previously voted to the employees of the two Houses. The same joint resolution, which is equally obligatory upon both branches of Congress, provides that the employees of the House should not receive a less compensation than those of the Senate of the same class. The object was to put the employees of both Houses on a perfect equality. I find to-day that the House of Representatives have passed this resolution, (and if that is not obnoxious to the joint resolution of July 20, 1854, the one which I have submitted certainly is not:)

Resolved, That the usual extra compensation be paid to the pages, folders, and such other employees who have heretofore received the same, including the watchmen, etc., who have not received the same, and who have not and shall not hereafter receive the benefits of the joint resolution of 20th July, 1854.

It was the intention of the House of Representatives, by the passage of this resolution, to give their employees and pages $200 extra compensation, provided they did not receive the twenty per centum allowed under the joint resolution of July 20, 1854. The substitute which I have offered for the resolution before the Senate excludes our pages and other employees from receiving this extra allowance, if they received in full the twenty per centum extra. I understand that some of them received the twenty per centum extra for the first month of the session, but not since that time. My substitute provides that what they have received under that joint resolution shall be deducted from this allowance. The object is to place them on an equality with the pages and other employees of the House of Representatives.

It was certainly the intention of the joint resolution of July 20, 1854, to place the officers of both Houses on a perfect equality. It provides that those of the House of Representatives should not receive less compensation than those of the Senate of the same class. If it had said that the employees of one House should not receive less compensation than those of the other, the simple effect of its passage would, in my humble estimation, give the employees of the Senate the full amount which those of the House receive under the resolution passed this day by the House of Representatives. My only object is to carry out the spirit, if not the letter, of the joint resolution of July 20, 1854, and to place the employees of the Senate upon the same footing as to compensation with those of the House.

Mr. MASON. I had hoped that we settled at the last session the question of the payment of the officers of the Senate. We gave them permanent offices, and we gave them liberal salaries. Now, sir, if this proposition is to come upon us session after session, I shall change my opinion of those who constitute the officers of the Senate. I object to the consideration of the resolution, and I suppose that will stop it for the present.

Mr. MORTON. I desire to draw attention to the joint resolution of July 20, 1854. It is not obligatory on the pages under that resolution to receive the twenty per cent. It is not a fixed law which prevents any extra allowance in future, for it is in these words:

"*And provided further*, That the usual extra compensation shall not hereafter be allowed to any person who receives the benefit of this joint resolution."

But whoever does not receive the benefit of the joint resolution is entitled to the extra compensation, if the two Houses think proper to vote it. The pages of our House have not received the full benefit of the joint resolution.

Mr. MASON. I understand the resolution of the Senator from Florida cannot be considered if there be one objection.

Mr. BADGER. The resolution was offered some days ago.

The PRESIDENT. The resolution has been lying on the table for some days. An objection now cannot prevent its consideration. It is before the Senate, and the question is on the substitute of the Senator from Florida.

Mr. WELLER. We only propose to put the pages of the Senate on an equal footing with the pages of the House of Representatives. It is a small allowance.

Mr. MASON. In the Senate, which is, comparatively, a small body, we have, fortunately, and I hope we may always retain, a sort of family relation, and kindness, and good feeling, not to ourselves alone, but to all connected with us; and we are apt to generate into favoritism and nepotism. That is my fear. Now, sir, we have given, from time to time, extra compensation to the boys who are here as pages. At the last session we made them a liberal and adequate compensation, and I had hoped we cut off forever this scheme of giving them an extra compensation at the end of the session. If it is to be persevered in, I, for one, shall be obliged to ask the Senate, at a future day, to revise the compensation of the officers of the Senate. It is a gratuity; it is a benevolence; it ought not to be indulged in. It is liable, I am afraid strongly liable, to improper indulgence of personal feeling towards these officers. I hope the resolution will not be passed.

Mr. GWIN. Mr. President, I am sorry to hear the Senator from Virginia make an onslaught on the officers of the Senate. They have nothing to do with this matter. It is merely to pay the pages, the boys in the Senate Chamber. I do not think the officers of the Senate have anything to do with it at all. I hope we shall give the boys the same compensation which those of the other House get.

Mr. JONES, of Tennessee. Mr. President, I am as much inclined to favor these children as anybody else; but I confess that I have many difficulties about supporting this resolution. I know it is just in accordance with the liberal heart of my friend from Florida who has offered it. I remember that at the close of the last session of Congress, when there were but six or seven Senators on this floor, he came here with a proposition to do the same act of kindness to these little

boys. But, sir, I am astonished at the Senator from Virginia. I reciprocate all he has said about the kindness which ought to exist between members of this little family; but I do not see on what ground he objects to paying these little boys extra compensation when he stands here and advocates with all his zeal, and power, and majesty, the paying of extra compensation to others. What is the difference between extra compensation to Commodore Perry and to a page?

Mr. MASON. I cannot inform the Senator, I am sure.

Mr. JONES, of Tennessee. The Senator does not know, nor does any man know. He cannot inform me, nor can anybody else inform me. You employ Commodore Perry as an officer of this Government, and you send him to discharge the duties of his office. He discharged them with ability and with honor. He comes back, and you agree to pay him an extra allowance of $20,000. You employ these little pages at a salary, as you employ Commodore Perry. They perform their duties faithfully and honestly, and at the end of the session a proposition is made to give them extra allowance, and the Senator from Virginia is horrified at it!

I do not think the principle is right. I am not for paying the pages this extra allowance, and, upon the same principle, I am opposed to paying Commodore Perry, Mr. Schenck, Mr. Pendleton, Mr. Marsh, and every other officer of the Government, extra allowance for performing his duty. If it is just in one case, it is just in the other. If it is just to pay a commodore, or a minister, it is just to pay the humblest servant of the Government an extra allowance.

Now, sir, if your salaries are not large enough, make them large enough, and stop these extra allowances. At every session we come here with a provision for additional compensation at the close. Why not act fairly and openly? Why not fix the pay of these persons so that the world may see and understand it? If their pay is not enough, make it enough; but if you intend to commit a fraud on the country say so. But you say you give them two dollars a day, and at the end of the session you vote an extra allowance of $200. Why not give them at once four dollars a day, or three dollars a day, or whatever will make that amount which is necessary to compensate them for their services?

I have not been here long, and I shall not be here very much longer; but since I have been here I have seen a great many strange things. I have seen among others extra allowances, paying men outside of their contract. Why should you pay Mr. Pendleton, or Mr. Schenck, or Mr. Marsh, or Commodore Perry, or anybody else, more than you agree to pay? If it is because they have discharged their duties faithfully, then pay us and pay all other faithful officers of the Government an extra allowance; pay your Supreme Judges, and every man who has been faithful, extra compensation. Unless you establish that principle, I do not know how you are to equalize this matter. I am opposed to the whole system from beginning to end; but if it is to begin with the big ones and stop at the small ones, I shall take up the small ones and go with them.

Mr. BADGER. I think this discussion is taking a wider range than is warranted by the subject itself. As I understand the resolution of my friend from Florida, it is simply, by this means, for this session, to put our boys on a footing with the boys of the House. Now, I submit that our boys are as good boys as those of the House.

Mr. PETTIT. And another thing, allow me to suggest, they are all the sons of widows.

Mr. BADGER. I submit, also, that this body is a body of as much respectability as the House, to say nothing more; and I am for putting our boys on the same footing with the boys of the House. That is the whole question.

Mr. JOHNSON. I do not desire to make a speech, but I wish to ask the Senator from Florida how much these boys receive.

Mr. MORTON. I really do not recollect, but I believe it is two dollars a day. That, however, is a matter of perfect indifference so far as this question is concerned.

Mr. JOHNSON. Two dollars and forty cents a day, I understand, is the pay they now receive. That is considered very good pay for hard labor by a man of full growth.

Mr. MASON. Double pay.

Mr. WELLER. Not in California.

Mr. JOHNSON. It may not be in California, and I do not care whether it is or not, but I know that it is here. I believe the Senator from Virginia is entirely right in saying that the joint resolution regulating and increasing the salaries of our officers was passed on the presumption that it was to be an end of this whole matter. I desire to call the attention of the Senate to the fact, that now, at the rate of pay these pages receive, $2 40, there is such a rush on our proper officers and the members of the body to procure these places, as to render it exceedingly disagreeable. The pay is either enough or it is not. Anybody who will say that $2 40 a day is not enough for the services of these boys, ought to vote to give more; but those who believe that it is sufficient, and that the increased allowance of twenty per cent. was made with the view of putting a stop to these extra compensations, will vote against the resolution. Certainly it seems to me to be proper to stop the matter here, and not get up a glorification over doing something for the boys. If gentlemen wish to give gratuities to widows, let them fix it on some other principle. If they wish to give gratuities to the boys, let them come out and say that the purpose is to give the money as a charity; but do not fix a certain salary, and pass a law prohibiting the gratuities which existed before, and then go on and violate that law. If you violate it in regard to the pages, you must do it in regard to all the other employees of the Senate. Every Senator who votes on this question knows full well that that is the inevitable tendency of it.

Mr. SEWARD. I suppose, sir, that I have a right to be just as exact in my action in a public capacity as I have in a private one. There is a personal relation which grows up between the pages and subordinate officers, and the members of the Senate and the Senate itself. I never dismissed a faithful page or servant without giving him a gratuity, and what it is right to do in private life I think it is right for us to do as representing the Government of the United States. I do not think it will hurt anybody, and I am sure it is a present which will be profitable to these children and to their parents. Without standing on any precedent about it I shall always vote that way.

Mr. JAMES. I am in favor of giving extra compensation to the pages, and I hope we shall be able to do so; but I am opposed to paying extra compensation to the laborers on the public grounds, for this reason: I have had occasion to walk through the public grounds east of the Capitol during the winter season at this session, and at every snow-storm we have had our walks left precisely as the storm left them, without being cleaned, without being touched. When these laborers do their duty I shall vote to pay them. The pages having done their duty, I am perfectly willing to vote to pay them, but not to pay the laborers.

Mr. ADAMS. I desire to call the attention of the Senate to what occurred two years ago. The very objections made by the Senator from Tennessee were made by the Senator from Iowa [Mr. DODGE] and myself at the close of the session two years ago. It was then apparently generally understood that such compensation as should be provided for the employees of the Government, should be done by law, and that extra compensation at the close of the session, without investigation, should be put an end to. In accordance with that suggestion, at the commencement of the succeeding session the Senator from Virginia [Mr. MASON] brought in the bill which has been referred to, and in lieu of the extra allowance which had become a custom, and with the distinct understanding that it was in lieu of that extra allowance, twenty per cent. was added to these salaries. Two dollars and forty cents a day in place of two dollars was allowed to the pages. I say that twenty per cent. was fixed as compensation expressly with the view of avoiding the bringing up of extra compensation resolutions at the close of the session. What is the use of passing a law with the understanding that it is to control, if we are to depart from it every session?

Now, sir, I concur fully with the Senator from Tennessee, that if we do not pay a sufficient compensation to each one of the employees of the Government, we should raise it by law; but whatever the contract is, with young or old, important or unimportant employees of the Government, I am in favor of complying with the contract. I am not willing to depart from it unless there shall be some extra service not understood by the parties at the time the contract was made. If the pages are worthy, as I know them to be, and have had duties to perform not anticipated at the time of fixing the compensation, and at the time they were employed, then, I say, make them whatever extra allowance they are entitled to, but if nothing of that sort has occurred, upon what principle can any man change the contract? I am unable to see any.

Mr. WELLER. Allow me to tell the Senator that they have had a good deal to do which they did not expect. They had no idea that we would sit here until one or two o'clock in the morning, talking about nothing, [laughter,] and they are compelled to hear it. This is a striking illustration of a fact which was not in the contract. They did not suppose they would be compelled to stand and run around here all night. If we cannot put our boys on an equal footing with those of the other House, we had better back out at once.

Mr. COOPER. I do not believe I could sleep well to-night if I did not vote for this pay for these boys; and, in order to sleep well, I mean to vote to pay them.

Mr. MORTON. I have no wish to protract the discussion; but I desire to make one remark in reply to my friend from Mississippi, and one to my friend from Rhode Island. The Senator from Mississippi, if I understand him, says that the twenty per cent. was given with the distinct provision that no extra pay was to be allowed.

Mr. ADAMS. I did not say "distinct provision." I said that two years ago the Senator from North Carolina [Mr. BADGER] delivered a farewell address on this habit of the Senate, and it was understood that we were not thereafter to allow extra compensation.

Mr. MORTON. In consequence of the high price of everything, when we were raising the wages of all the officers and employees of the Government, we raised the compensation of the employees of the Senate twenty per cent., with the proviso that those who received the twenty per cent. should not be entitled to the extra compensation which had been usually given. From the very phraseology of the proviso, one would be led to infer that it would be left discretionary with the employees to receive the extra allowance or the twenty per cent. So much in reply to the Senator from Mississippi. The Senator from Rhode Island objects to paying the laborers about the Capitol in their humble vocation.

Mr. JAMES. Not the laborers about the Capitol; but the laborers on the public grounds.

Mr. MORTON. Well, sir, the public grounds are around the Capitol. I drew the resolution at first so as only to embrace the pages, but my attention was called to the laborers by the venerable Senator from Wisconsin, [Mr. DODGE,] who was very anxious to introduce a provision for their compensation. He has witnessed the fidelity with which they have discharged their duties, and is willing to pay them. I am unwilling to protract the discussion, as to do so will endanger the passage of the resolution. I only desire a direct vote upon it.

Mr. MASON. This resolution is confined to the pages and laborers on the public grounds. It would seem, therefore, that I did injustice in supposing that it comprised other officers of the Senate. I now offer this amendment to the resolution, and I desire to say that it will be the necessary consequence of these efforts, by gratuities or benevolences at the end of the session, to increase the compensation of any of the officers of the Senate.

Provided, That hereafter the compensation now paid to the pages and others named in the resolution, shall be reduced twenty per cent.

Mr. JOHNSON. I wish to read the law, for I am certain it has been forgotten by many Senators. I refer to the law giving an increase of twenty per cent. The pages, before that, received two dollars a day. The addition of twenty per cent. made their salaries two dollars and forty cents a day. After making this provision, there is, at the end of the section, the following proviso:

And provided further, That the usual extra compensation shall not hereafter be allowed to any person receiving the benefits of this joint resolution.

That proviso was adopted with entire unanim-

ity by both Houses, and tended greatly to promote the passage of the joint resolution itself.

Mr. PETTIT. I desire to say to the Senator from Arkansas that the law which he has read will not apply to the employees of the Senate this winter, for in but very few, if any, cases, are the pages of last year the pages this. I say further, sir, that whenever a question comes up involving the payment or furnishing of money to boys situated as most of these are, who are endeavoring to sustain widowed mothers, and orphan brothers and sisters, there is no limit to the extent to which I would go. I have made it my business in life to study more than one code of laws. I have studied, I believe, thoroughly and effectually, the civil polity of the Jews in early times; and, sir, while there are to be found in the sacred Scriptures about three hundred offenses for which the severest penalties are denounced, and while there are for all those, except one, provisions as to the persons by whom and the manner in which they shall be punished, there is one which is reserved to the Almighty to punish. He explicitly says, after providing that the judges, the community, the assembly, should punish this, that, and the other offense, that "he who wrongs the widow and the fatherless, toward him my wrath shall wax hot; I will annihilate him from the face of the earth; I will make his wife a widow, and his children orphans." It is a severe denunciation, and whenever and wherever, in public or in private life, I can give my vote to benefit the widow and the orphan, I will be found doing it.

Mr. MASON. The text quoted by the honorable Senator from Indiana is a very striking and a very impressive one; but we have here some eight or nine boys who are alleged to be the sons of widows, and I presume are so, and he proposes to take out of the public Treasury a gratuity to those eight or nine at the expense of all in his community, and in mine, and in all the rest of the States. We are administering a trust. The widows and those who have a dependence only upon their own small resources, all contribute to the public Treasury, and he proposes to take their mite from thousands and give it to eight or nine. I think that is an answer to his quotation.

I have offered the amendment which I have submitted, so that if the resolution is adopted, it may be adopted, if it be the pleasure of the Senate to take it, with a warning of what the consequence will be of this plan of giving gratuities at the end of the session.

Mr. JAMES. I shall not now move to strike out the provision for the extra compensation of the laborers on the public grounds. I shall allow it to pass for this time in the hope that they will look out for the future, and discharge their duties in such a manner that I shall be warranted in voting it hereafter.

The PRESIDENT. The question is on the amendment of the Senator from Virginia.

Mr. PETTIT. I hope it will not prevail.

The amendment was rejected.

Mr. WILSON. I wish to propose an amendment to the resolution. One of the boys who has acted as a page during this session will receive nothing under the resolution as it stands. I believe he has been a very faithful boy, and I therefore propose to add an amendment to the resolution:

That Selby Griffith, who has acted as a page, be allowed one dollar a day for the time he has served.

Mr. BROWN. Pay him as much as the others.

Mr. PETTIT. He ought to be put on the same footing with the rest.

Mr. WILSON. I modify my amendment according to the suggestion of Senators.

The amendment was agreed to.

Mr. JAMES. I wish to move an amendment to include Thomas Peters, jr., the son of Thomas Peters, the messenger on the floor where my committee-room is. He is a small boy, who has worked regularly during the whole session. He has attended to my committee-room, has been a good boy, and has worked faithfully. He has discharged his duties as well as any boy here, and I hope he will be included.

The amendment was agreed to.

Mr. JONES, of Iowa. I desire to include the policemen of the Capitol. They were not included in the increase of twenty per cent. provided by the law which has just been read by the Senator from Arkansas. I understand the House has agreed to raise the compensation of the policemen on their side twenty per cent. I move that the same amount be allowed to the policemen on this side.

Mr. ADAMS. I wish to inquire what their present compensation is?

Mr. JONES, of Iowa. Their compensation was not increased by the joint resolution of last year. It has been increased, as far as the House is concerned, by a resolution passed by that body to-night.

Mr. MASON. I think the Senator from Iowa is right; put in the whole camp, pioneers, and all. [Laughter.]

The amendment was rejected.

Mr. JONES, of Tennessee. I cannot vote for this resolution as it is. I desire to know where we are to stop? You have a clerk to almost every committee of the Senate; you have a porter on every floor where there are committee rooms; and now the Senator from Rhode Island [Mr. JAMES] has put in a page to the clerk of a committee. [Laughter.]

Mr. JAMES. No, sir.

Mr. JONES, of Tennessee. I do not see how the Senator can make anything else out of it.

Mr. MASON. It is a necessary consequence of the system.

Mr. JONES, of Tennessee. I know it is a necessary consequence. It follows the Perry affair. [Laughter.] It is a regular graduation, going all the way down from the one to the other. Now, I wish to know where we are to stop? You have given clerks to committees that never met, and you have paid them for two whole sessions. There is a committee, of which I am a member, that never met more than twice for two sessions of Congress, and you have paid a clerk for them against my solemn protest. Now, the Senator from Rhode Island comes here and wants a page to that sort of clerkship, in addition to a porter on the floor where the committee room is.

Mr. JAMES. I have only to say to the gentleman that the clerkship is one thing, the pageship another; and the page, the boy of whom he speaks, has worked not only for my committee, but for every committee which has a room on the same floor. The honorable President of the Senate knows the facts as well as I do. The boy has labored not only for me, but for every other Senator on this floor, and I am for paying him what he has earned. I never give a vote in this body with more satisfaction than when I give one to pay for services rendered under my own eye.

Mr. JONES, of Tennessee. I am willing to pay for services rendered; but I never saw this page.

Mr. JAMES. The honorable Senator said he never attended the committee but twice.

Mr. JONES, of Tennessee. I never was at the meeting of the Committee on Roads and Canals more than once.

Mr. JAMES. The Senator is not a member of the Committee on Patents.

Mr. JONES, of Tennessee. I never belonged to it, and hope never to belong to it. [Laughter.] But, sir, this is my point: You have established committees here to do the public business. The first step was to give clerks to the important committees. The next was to give every committee a clerk. The third step was to give a porter to each floor. This is the first time I heard there was a page in addition to a porter, a porter in addition to a clerk, a clerk in addition to a committee, and a committee in addition to the Senate. [Laughter.] That is the whole system. Now is there any Senator here who has a page to his committee? I never heard of such a thing before. I can tell the honorable Senator his page never waited on me. There is but one committee on which I have served, though I am a member of two committees; and I hope never to be on another, and if I keep my senses I do not think I shall under your present dispensations here. I have served on the Committee on Military Affairs since I became a member of the body, and I never yet saw a page there. As to the Committee on Roads and Canals I have not been there this session. I was notified to attend once, but I did not go, because I knew they had nothing to do. [Laughter.] They have a clerk, however, who is paid out of the Treasury.

Now, sir, the Senate may spend this money as they please. I do not care much for the money, but I protest against the establishment of such a principle. If one committee is to have a page, every other committee will ask for one; and in order to have it operate fairly all round, let us begin by giving every Senator a secretary and a page. [Laughter.] I tell gentlemen they are running this matter into the ground, unless they mean to establish some principle. Let them employ persons at certain fixed rates; let us stand by the contract, and make them stand by it; make them discharge their duty, and pay them what you agree to pay, and no more.

Mr. BRODHEAD. I wish to inquire of my friend from Florida whether his amendment includes the three or four watchmen who are stationed about the Capitol at night, in exposed positions, watching the gates? I think they ought to be included.

Mr. MORTON. If the honorable Senator from Pennsylvania will listen to the reading of the resolution, he will find that it will explain itself. ["Question!" "Question!"] I will say no more.

The PRESIDENT. The question is on the amendment of the Senator from Florida, as amended, to strike out all of the original resolution after the word "resolved," and insert:

That there be paid out of the contingent fund of the Senate to each of the pages in the service of the Senate, and the laborers employed in the public grounds, the usual compensation allowed them at the close of the session, after deducting therefrom the sum they may have received under the joint resolution approved July 20, 1854; and that Selby Griffith and Thomas Peters, jr., be allowed the same compensation as is allowed to the other pages.

The amendment was agreed to.

Mr. JOHNSON. As I perceive the resolution is to be adoped, I move to amend it by adding, "and that there be allowed to John Brown and Jacob Dodson, fifty dollars each."

The amendment was agreed to.

The question being on the adoption of the resolution as amended,

Mr. JONES, of Tennessee, called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 22, nays 10; as follows:

YEAS—Messrs. Badger, Brown, Chase, Cooper, Gillette, Gwin, Houston, James, Jones of Iowa, Mallory, Morton, Pettit, Sebastian, Seward, Stuart, Sumner, Thompson of Kentucky, Wade, Weller, Wells, Wilson, and Wright—22.

NAYS—Messrs. Adams, Benjamin, Bright, Brodhead, Douglas, Foot, Hunter, Johnson, Jones of Tennessee, and Toombs—10.

So the resolution was adopted.

KANSAS MILITARY ROADS.

Mr. DOUGLAS. I am instructed by the Committee on Territories to report back the bill from the House of Representatives for the construction of certain military roads in the Territory of Kansas. It is recommended by the War Department. I ask for its immediate consideration.

The Senate, as in Committee of the Whole, proceeded to consider the bill, which proposes to appropriate $50,000 for a road from Fort Riley to such point on the Arkansas river as, in the opinion of the Secretary of War, may be most expedient for military purposes; and $50,000 for a road from Fort Riley, to Brader's pass in the Rocky mountains.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

TERRITORIAL LIBRARIES.

Mr. DOUGLAS. I am also directed by the Committee on Territories to report back the House joint resolution making an appropriation for the purchase of territorial libraries. This is to correct an omission of last year. I hope it will be now considered.

The joint resolution (the object of which is to appropriate $5,000 for the purchase of territorial libraries for each of the Territories of Kansas and Nebraska) was considered as in Committee of the Whole, reported to the Senate, ordered to a third reading, read the third time, and passed.

MERCANTILE MARINE.

Mr. BENJAMIN. I have just been reminded by my colleagues on the Committee on Commerce that our chairman, [Mr. HAMLIN,] who was called home in consequence of illness in his family, left in our charge a resolution which I ask the Senate to take up and adopt.

The motion to take up the resolution was agreed

to. It was presented by Mr. HAMLIN on the 22d of February, and is as follows:

Resolved, That the Committee on Commerce of the Senate be authorized to designate three of its members, who may sit during the coming recess for the purpose of examining into the subject of the laws now existing for the government of our mercantile marine for the encouragement and improvement of American seamen; but they shall not sit more than ninety days, and they shall prepare a bill for the better organization and encouragement of seamen, to be submitted, together with their report, at the next Congress.

Mr. BENJAMIN. I will merely say, in relation to the resolution, that the Committee on Commerce had a vast number of petitions and memorials submitted to them from different boards of trade throughout the United States on the subject of reforming the discipline in the mercantile marine of the United States, which is considered to be in an exceedingly disorganized state, by reason of the act of Congress which abolished flogging. Under these circumstances, the committee being without the necessary information, it was suggested that it would be proper for them to obtain the information during the recess. I consented to urge the adoption of this resolution in behalf of the chairman, being myself utterly unable to sit as a member of the committee during the recess, but thinking that it would be a very useful body of information to be got together, and that this is probably the only way in which we can succeed in getting a good law.

Mr. HUNTER. I think about two years since the Senate expressed its sense in regard to allowing committees to sit in the recess. The result of our experience in that matter has been such, I think, as to convince us that it is better to confine the action of the committees to the session of the Senate. It is a very dangerous practice to allow them to sit in the recess. I hope the Senate will not depart from the rule which it seemed to establish for itself, because it refused several such applications about two years since.

The PRESIDENT. The question is on the adoption of the resolution.

Mr. HUNTER. Does it require unanimous consent?

The PRESIDENT. No, sir.

Mr. BENJAMIN. I hope the Senate will act on the resolution. I think it is a duty we owe to our absent colleague to dispose of it. I shall not discuss it; I only ask for the vote.

The resolution was rejected.

PENSION AND BOUNTY LAND LAWS.

Mr. SUMNER. I am instructed by the Committee on Pensions to offer the following resolution:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized to purchase, for the use of the Senate, five thousand copies of Triplett's Digest of the Pension and Bounty Land Laws: *Provided*, The cost of the same shall not exceed one dollar per volume, and that it shall be printed in a style of paper and type equal to that of documents published during the present session of Congress, and be bound well in law sheep: *And provided, also*, That the work shall contain all the pension and bounty land laws passed at this session of Congress.

Mr. HUNTER. I shall be much obliged to my friend, the chairman of the Committee on Printing, [Mr. JOHNSON,] to state what it is we are now paying for printing.

Mr. JOHNSON. We are paying for the public printing of this Congress $1,500,000. For the Departments, so far as their printing has been done under the law, the cost has been $500,000. All the public printing which has yet been subjected to the general printing law has cost $2,000,000.

The resolution was rejected.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. FORNEY, their Clerk, announced that the Speaker of the House had signed the following enrolled bills; which were thereupon signed by the President *pro tempore:*

An act to provide for the erection of public buildings in the Territory of Nebraska;

A joint resolution for the relief of George W. McCerren;

An act to continue the pension of Francis E. Baden;

An act for the relief of Stephen Lutz, of New York;

An act for the relief of Thomas C. Ramsey, Ananias O. Richardson, and James McLaughlin;

An act to provide for the erection of public buildings in the Territory of Kansas;

An act granting a pension to Joseph McCormack;

An act making appropriations for the support of the Army for the year ending the 30th of June, 1856, and for other purposes; and

An act to organize an institution for the insane of the Army and Navy, and of the District of Columbia, in the said District.

KATHERINE M. HAMER.

Mr. JONES, of Iowa. I am instructed by the Committee on Pensions, to whom was referred the bill for the relief of Katherine M. Hamer, widow of the late General Thomas L. Hamer, to report it back without amendment, and recommend its passage. I ask that it may now be considered.

The bill (which proposes to direct the Secretary of the Interior to place the name of Katherine M. Hamer on the pension roll at the same rate per month during her natural life as that of Margaret L. Worth, widow of the late Brevet Brigadier General Worth) was considered as in Committee of the Whole, reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JESSE FRENCH.

On motion by Mr. JONES, of Iowa, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives for the relief of Jesse French, of Braintree, Massachusetts. It proposes to direct the Secretary of the Interior to place his name on the pension roll at four dollars per month, commencing January 1, 1852, and to continue during his life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

IRENE G. SCARRITT.

On motion by Mr. MALLORY, the Senate, as in Committee of the Whole, proceeded to consider the bill for the relief of Mrs. Irene G. Scarritt, the object of which is to place her on the pension roll at twenty-five dollars a month for five years from July 1, 1854.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

VIRGINIA LAND SCRIP.

Mr. ADAMS. The Senate to-night declined to take up a little bill of the Senator from Virginia, as I supposed, in consequence of having other pressing business. As there seems to be nothing else before us, I move that the Senate now proceed to the consideration of the bill in relation to the Virginia bounty lands.

Mr. STUART called for the yeas and nays, but they were not ordered.

Mr. STUART. I move that the Senate adjourn; and on that motion I ask for the yeas and nays. [It was now fifteen minutes after two o'clock, a. m.]

The yeas and nays were ordered, and, being taken, resulted—yeas none, nays 22; as follows:

NAYS—Messrs. Adams, Badger, Benjamin, Brainerd, Bright, Brodhead, Brown, Chase, Clayton, Cooper, Dawson, Douglas, Foot, Houston, Johnson, Mallory, Mason, Morton, Pettit, Rusk, Slidell, Sumner, Toombs, Weller, Wells, and Wright—22.

So the Senate refused to adjourn.

Mr. WADE. I move that the Senate take a recess until eight o'clock in the morning.

Mr. MASON. I understand that the motion of the Senator from Mississippi, to take up the Virginia land scrip bill, is before the Senate.

The PRESIDING OFFICER, (Mr. WELLER.) That motion is pending, but there was not a quorum voting on the motion to adjourn.

Mr. MASON. I suppose the first question now is on the motion of the Senator from Mississippi.

The PRESIDENT. No motion can be entertained for want of a quorum.

Mr. JONES, of Tennessee. Is it not in order to take a recess?

The PRESIDING OFFICER. The Chair will entertain that motion. The fact whether there be a quorum or not can be ascertained by a vote.

Mr. ADAMS. The chairman of the Committee on Finance is absent at this time, and I think the Senate ought not to take a recess until we ascertain the condition of business. The business may be in such a position that it would be improper to take a recess.

Mr. BADGER. The Senator from Virginia [Mr. HUNTER] has his hands full. He is here, and in the other House, and I trust we shall not take a recess in his absence. It is too serious and important a matter.

Mr. WADE. I withdraw the motion.

The PRESIDING OFFICER. Then the question is on the motion of the Senator from Mississippi.

Mr. STUART. That motion cannot be entertained when there is not a quorum present.

Mr. MASON. Let us take a vote, and ascertain the fact.

The PRESIDING OFFICER. If it be ascertained in voting on the motion that there is a quorum the bill can be taken up.

Mr. STUART. But it is already ascertained that there is not a quorum.

The PRESIDING OFFICER. The last vote shows no quorum, but if, on this motion, a quorum vote, the bill may be taken up.

Mr. STUART. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CLAYTON. I have paired off with my colleague [Mr. BAYARD] on this bill.

The yeas and nays were taken; and resulted—yeas 10, nays 7; as follows:

YEAS—Messrs. Adams, Bright, Dawson, Hunter, Mallory, Mason, Morton, Rusk, Toombs, and Weller—10.

NAYS—Messrs. Badger, Benjamin, Brodhead, Brown, Chase, Toucey, and Walker—7.

The PRESIDING OFFICER. There is not a quorum voting.

Mr. BRAINERD. I should like to have the Senate take up the bill from the House of Representatives, for the relief of Andrew H. Patterson, which has been reported unanimously by the Senate Committee on Claims, and to which, I presume, there will be no objection.

Mr. DAWSON. We cannot legislate without a quorum.

The PRESIDING OFFICER. No business can be done until a quorum shall be present.

Mr. DAWSON. If I did not know that there was not a quorum present, I should not object to going on with this bill, but knowing that fact, I cannot consent to proceed with business.

EXECUTIVE SESSION.

On motion by Mr. PETTIT, the Senate proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened.

REPORTS FROM COMMITTEES.

Mr. GWIN, from the Committee on Naval Affairs, to whom was referred the petition of Hugh Wallace Wormeley, asked to be discharged from its further consideration; which was agreed to.

He also, from the select committee on the Pacific railroad, to whom was referred the petition of E. G. Chambers, asked to be discharged from its further consideration; which was agreed to.

ENROLLED BILLS SIGNED.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that the Speaker had signed the following enrolled bills and joint resolution:

A bill for the relief of L. R. Lyon and Dean S. Howard, of the State of New York;

A bill for the construction of certain military roads in the Territory of Kansas;

A bill for the relief of Jesse French, of Braintree, Massachusetts; and

A joint resolution making an appropriation for the purchase of territorial libraries;

Which were thereupon signed by the President *pro tempore.*

IOWA SENATORIAL ELECTION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the President of the Senate of Iowa, accompanied by resolutions of the Senate of that State relative to the joint convention alleged to have been held by the General Assembly of Iowa for the election of an associate judge, and a United States Senator, at which the Hon. JAMES HARLAN was said to be chosen a United States Senator for six years from March 4, 1855. The letter was ordered to lie on the table.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. FORNEY, their Clerk, announced that the House had agreed to the amendments of the Senate to the bill further to amend the act entitled "An act to reduce and modify the rates of postages in the United States, and for other purposes," passed March 3, 1851; and that they had passed a joint resolution making appropriation for the payment of those entitled to the benefits of the resolution of the House of Representatives of the United States, passed March 3, 1855, voting extra compensation to pages, folders, and others. And that they had passed the Senate bill for the relief of Mrs. Irene G. Scarritt.

NAVAL APPROPRIATION BILL.

The message also announced that they disagreed to all the amendments of the Senate to the bill making appropriations for the naval service for the year ending the 30th of June, 1856; that they asked for a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. PHELPS, of Missouri, Mr. UPHAM, of Massachusetts, and Mr. BOCOCK, of Virginia, managers at the conference on their part.

On motion by Mr. HUNTER, the Senate insisted on their amendments and agreed to the conference asked for by the House of Representatives on the disagreeing votes of the two Houses thereon.

Mr. GWIN, Mr. JONES, of Tennessee, and Mr. DOUGLAS, were appointed the committee on the part of the Senate.

CIVIL AND DIPLOMATIC BILL.

The message also announced that they had agreed to some and disagreed to other amendments of the Senate to the bill making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1856, and for other purposes; and that they agreed to other amendments of the Senate with amendments in which they requested the concurrence of the Senate.

On motion by Mr. HUNTER, the Senate insisted on their amendments disagreed to by the House of Representatives, disagreed to the amendments of the House to their amendments, and asked for a conference on the disagreeing votes of the two Houses.

Mr. HUNTER, Mr. TOUCEY, and Mr. DAWSON were appointed the conferees on the part of the Senate.

A subsequent message from the House of Representatives announced that they insisted on their disagreement to the amendments of the Senate to the civil and diplomatic appropriation bill; insisted on their amendments to the amendments of the Senate disagreed to by the Senate; agreed to the conference asked for by the Senate on the disagreeing votes of the two Houses; and had appointed Mr. HOUSTON, of Alabama, Mr. HAVEN, of New York, Mr. HENN, of Iowa, managers on their part.

JUDICIARY OF THE DISTRICT.

The message also informed the Senate that the House disagreed to the amendments of the Senate to the bill to reorganize the courts of the District of Columbia, and to reform and improve the laws thereof; asked for a conference on the disagreeing votes of the two Houses, and appointed Mr. MAY, of Maryland, Mr. KERR, of North Carolina, and Mr. CLARK, of Michigan, conferees on their part.

On motion by Mr. PETTIT, the Senate insisted on their amendments, and asked for a conference on the disagreeing votes of the two Houses.

Mr. BADGER, Mr. BENJAMIN, and Mr. STUART, were appointed managers at the conference on the part of the Senate.

EXECUTIVE SESSION.

The Senate again proceeded to the consideration of Executive business, and at six o'clock, a. m., the doors were reopened.

LIST OF CLAIMS.

Mr. EVANS. I hold in my hand a resolution in relation to the book which was published some years ago by order of Congress, called the "List of Claims." In the House of Representatives it has been brought down to the present time; in the Senate it has not been brought down to a later period than 1849. I have found it, in the course of my investigations, a book of immense value. Without it I should never have known what was done in a great number of cases which I have been called upon to examine. The object of this resolution is to direct the Secretary to continue the work to the present time. I offer the resolution, and ask for its immediate consideration:

Resolved, That the Secretary of the Senate cause the "List of Claims," heretofore prepared by him, to be printed for the use of the Senate; and that he cause the list to be brought down to the close of the present session, including such continuation in the list thus to be printed; and that the usual number of copies be printed.

The resolution was considered by unanimous consent, and agreed to.

On motion by Mr. BROWN, the Senate took a recess for two hours.

The Senate reassembled at half-past eight o'clock, a. m., [of Sunday, March 4.]

ENROLLED BILLS SIGNED.

The PRESIDENT *pro tempore* signed the following enrolled bills, which had been previously signed by the Speaker of the House:

An act further to amend the act entitled "An act to reduce and modify the rates of postage in the United States, and for other purposes," passed March 3, 1851;

An act to amend an act entitled "An act for the relief of George M. Bentley, of the State of Indiana," approved August 5, 1854; and

An act for the relief of Irene G. Scarritt.

BARK SARANAC.

Mr. STUART. I desire to have a bill passed which is a mere matter of form, to change the name of a vessel trading to Wilmington, North Carolina. The whole thing is a matter of form, and I suppose there can be no possible objection to it.

There being no objection, leave was granted to introduce a bill "to change the name of the bark Saranac, and grant her a new register;" and it was read the first and second time, and considered as in Committee of the Whole.

The Saranac is an American-built vessel, now owned by citizens of Wilmington, North Carolina, and the object is to have the name changed.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SAMUEL SMOOT.

Mr. BADGER. Under the resolution which was adopted last night in favor of the pages, there is a small boy, Samuel Smoot, a page employed in the office of the Secretary of the Senate, who is excluded. The committee have come to the conclusion that he is not embraced in the resolution. I am sure it was not the intention of the Senate to exclude him. It is supposed by the committee that he is not included in the resolution because he happens to be employed in the Secretary's office instead of in the Senate Chamber. I desire to ask whether there can be any doubt about the intention of the Senate?

Several SENATORS. Of course not.

Mr. BADGER. Then I ask, by unanimous consent, that the resolution may be amended by adding at the end of it, "and Samuel Smoot, a page in the Secretary's office."

There being no objection, the resolution was ordered to be so modified.

JUDICIARY OF THE DISTRICT.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill to reorganize the courts in the District of Columbia, and to reform and improve the laws thereof.

Mr. BADGER made the following report:

The managers at the conference on the disagreeing votes of the two Houses on the bill entitled "An act to reorganize the courts of the District of Columbia, and to reform and improve the laws thereof," have met, and, after full and free conference, have agreed to recommend, and do recommend to their respective Houses, as follows:

First. That the Senate recede from its amendments to the nineteenth section of the bill, and agree to the same section as passed by the House.

Second. That the House agree to the other amendments of the Senate, with this amendment, to wit: to strike out the preamble and all the sections of the bill, except the said nineteenth section.

Third. That the title be amended so as to read as follows: "An act to improve the laws of the District of Columbia, and to codify the same."

The Senate proceeded to consider the report, and, on motion by Mr. BADGER, it was concurred in. The bill, as thus amended, contains but one section, and is as follows:

That the President of the United States is hereby authorized, by and with the advice and consent of the Senate, to appoint two persons, learned in the law, to revise, simplify, digest, and codify the laws of said District, and also the rules and principles of practice, of pleadings, of evidence and conveyancing, and also to add thereto and codify such laws of the State of Maryland as may be or become in force during the preparation of said code and applicable to the circumstances and condition of said District; and the said code shall be constructed according to a simple method, and be expressed in language concise and plain, and, as far as possible, be made level to the understanding of a person of ordinary intelligence and education; and it shall contain a full and particular index to all its contents; and the preparation of the said code shall be made under the superintendence and revision of the Attorney General of the United States, and as the same progresses shall be printed, under his direction; and the said codifiers shall each be paid for their services, out of the Treasury of the United States, at the rate of $3,000 a year. And the Board of Aldermen and Common Council of the city of Washington may together elect five competent persons, and the Board of Aldermen and Council of Georgetown may elect two competent persons, and the levy court of the county of Washington may elect one competent person, which persons together shall compose a board, to consider, at convenient seasons, the provisions of said code, as it may be prepared; and any three of said persons shall constitute a quorum of said board; and the said code, or such provisions thereof as may be approved by a majority of said board, shall be adopted, and become the law of said District, as hereinafter provided. And it shall be the duty of the said persons who may be appointed to codify the said laws, to attend, and also the said Attorney General may attend the meetings of said board, to explain the several provisions of the said code. And when the said code and the provisions thereof shall have been adopted by the said board, or by a majority thereof, they shall certify the same to the President of the United States, who shall thereupon cause it to be published in a neat and convenient form, and to be substantially bound; and he shall cause a sufficient number of volumes of said code to be printed and bound as may be necessary for the amplest distribution of the same among the people of said District, and for the preservation of said code; and a copy thereof shall be furnished to every justice of the peace, and every judge, to each court, to each clerk of said court, to each coroner, to said levy court, to each public school, to each public library, to each public department of Government, and to the Mayors and each of the Councils of Washington and Georgetown, to be by them kept and carefully preserved, and transferred to their several successors in office. And the said code so deposited with said clerks of courts and justices of the peace, shall at all times be open in their several offices for the inspection and information of the people of said District, and others who may desire to consult the same. And when the said code shall be printed and distributed, the President of the United States shall, by his proclamation, appoint a time and places in the said District for taking the sense of the citizens thereof, for or against the adoption of the said code, and he shall cause judges to be selected who shall preside at such election, and he shall provide and proclaim the mode and rules of conducting the same, provided every free white male citizen of the United States, above the age of twenty-one years, who has resided in the said District for one year next preceding said election, shall be permitted to vote thereat; and the result of said election shall be reported to the said President, and the same, with the said code, be by him reported to Congress, and when ratified and approved by the same, he shall, by his proclamation, declare it to be in force, from the day of the date thereof, as the law of the said District of Columbia; and the same, when so proclaimed, shall thereafter be and remain as such, without any further act or proceedings to that effect, until altered or repealed by the Congress of the United States. And the persons who may compose said board, or such of them as may act on the same, shall be paid out of the Treasury of the United States a reasonable compensation for their services, according to the time employed by them, respectively, upon the same: *Provided*, That the said code shall be reported to Congress on or before the first Monday in December, in the year 1857.

GEORGIA AND FLORIDA BOUNDARY LINE.

Mr. MALLORY. There is on the table a resolution for printing so much of a public document as relates to the boundary line between Georgia and Florida. The propriety of printing it is evident from the fact that the Attorney General has interfered in the suit before the Supreme Court on behalf of the United States. The resolution was laid aside on a former occasion at the suggestion of the Senator from North Carolina, [Mr. BADGER.] He has withdrawn his objection, and I ask the Senate now to take it up.

The motion was agreed to, and the Senate proceeded to consider the following resolution submitted by Mr. MALLORY on the 22d of February:

Ordered, That the Secretary of the Senate cause to be compiled and printed, with the documents of the present session, all the documents and other papers in anywise relating to the boundary line between the States of Georgia and Florida, heretofore laid before either House of Congress, and of the reports of committees, and all proceedings and action of either House thereon, so arranging the same that no paper be twice printed in such compilation.

Mr. STUART. What will the cost be?

Mr. MALLORY. A similar resolution in these precise words was passed in 1845, and under it the Secretary of the Senate was required to have such a document published; but the suit was stayed and it never was published. The object now is to carry out that resolution. I do not know how much it will cost, but it cannot be much.

Mr. STUART. I should like to know the cost of printing.

The PRESIDENT. Is there objection to the consideration of the resolution?

Mr. STUART. I do not wish to object, but I desire to know what it is to cost.

Mr. BRODHEAD. What is the object of this printing?

Mr. MALLORY. There is a suit pending between Georgia and Florida, in which a large district of country, some three hundred and fifty thousand acres, I am told, is concerned. The Attorney General has told me that these papers are necessary.

The resolution was adopted.

NAVAL APPROPRIATION BILL.

Mr. GWIN. I am instructed to make a report from the committee of conference on the naval appropriation bill. The conference have agreed on all but three amendments, and I am instructed to ask the concurrence of the Senate in the items agreed upon in the committee of conference, excluding the three upon which we could not agree, and ask for the action of the Senate upon them.

The PRESIDENT. The Chair will state that the Senator from Louisiana [Mr. SLIDELL] desired to be here when that bill should be acted upon.

Mr. GWIN. The amendment in which he feels an interest is one of those upon which we could not agree.

Mr. BENJAMIN. I have taken cognizance of what the Committee on Naval Affairs has done, and I am aware that the matter in which Louisiana is concerned is one of the points which is reserved. There can be no objection, therefore, to considering the report as far as it goes.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill making appropriations for the naval service for the year ending the 30th of June, 1856, have met, and, after full and free conference, have agreed to recommend to their respective Houses as follows:

That the House recede from its disagreement to the Senate amendments, as follows: First, third, fourth, fifth, sixth, seventh, eleventh, filling the blank therein with "three," thirteenth, seventeenth, twentieth, twenty-first, twenty-second, and twenty-third.

That the House agree to the Senate's second amendment with an amendment, as follows:

In the eighth line, strike out "four" and insert "three;" and at the end of the amendment add: "*And provided further*, That nothing herein contained shall be construed to reduce the salary to which any Navy agent is entitled under the existing laws."

That the Senate recede from its amendments disagreed to by the House, as follows: Eighth, twelfth, fourteenth, fifteenth, sixteenth, nineteenth, twenty-fourth, twenty-fifth, twenty-ninth.

That the House agree to the twenty-sixth amendment of the Senate with amendments, as follows:

In line two, after the word "shall," insert "hereafter," and strike out, after the word "dollars," in the third line.

That the House agree to the twenty-eighth amendment, by substituting as follows:

SEC. 8. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the year ending the 30th of June, 1856:

For the transportation of the mails from New York to Liverpool, and back, $819,500.

For transportation of the mails from New York to New Orleans, Charleston, Savannah, Havana, and Chagres, and back, $261,000.

For transportation of the mails from Panama to California and Oregon, and back, $328,350.

For carrying out the contract entered into by the Post Office Department, under the provisions of the act approved 30th August, 1852, establishing a tri-monthly mail by steam vessels between New Orleans and Vera Cruz, via Tampico, $69,750.

SEC. 9. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated for the service of the Post Office Department for the year ending the 30th of June, 1856, out of any moneys in the Treasury arising from the revenues of said Department, in conformity to the act of the 2d of July, 1836:

For transportation of the mails, in two steamships, from New York, by Southampton, to Bremen, and back, at $100,000 for each ship; and in two steamships from New York, by Cowes, to Havre, and back, at $75,000 for each ship, under the contract with the Ocean Steam Navigation Company of New York, $350,000.

For transportation of the mails between Charleston and Havana, a sum not exceeding $50,000.

For transportation of the mails across the Isthmus of Panama, $150,000.

SEC. 10. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1855, out of any money in the Treasury not otherwise appropriated, namely:

For transportation of the mails from New York to Liverpool, and back, $559,238 65.

For transportation of the mails from New York to New Orleans, Charleston, Savannah, Havana, and Chagres, and back, $202,378 21.

For transportation of the mails from Panama to California and Oregon, and back, $249,242 02.

SEC. 11. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated for the service of the Post Office Department for the year ending the 30th of June, 1855, out of any moneys in the Treasury arising from the revenues of said Department, in conformity to the act of the 2d of July, 1846:

For transportation of the mails in two steamships, from New York, by Southampton, to Bremen, and back, at $100,000 for each ship; and in two steamships, from New York, by Cowes, to Havre, and back, at $75,000 for each ship, under the contract with the Ocean Steam Navigation Company of New York, $350,000.

For the transportation of the mails between Charleston and Havana, under the contract with M. C. Mordecai, $50,000.

For transportation of the mails across the Isthmus of Panama, $120,000.

That the House agree to that portion of the tenth amendment which provides as follows: "removing sunk caisson."

That the Senate recede from the remainder of the said amendment with the following amendment: in lieu of "two hundred and fifty-five thousand four hundred and seventy," insert "one hundred and fifty thousand dollars."

That the committee of conference cannot agree upon the disagreeing votes of the two Houses upon amendments numbered nine, eighteen, and twenty-seven.

The amendments on which the committee of conference were unable to agree, are as follows:

Ninth amendment:

And the sum of $100,000 be, and the same is hereby, appropriated for the establishment of a naval depot on the right bank of the river Mississippi in descending, at the site now owned and held by the United States for that purpose, near the city of New Orleans, and for such buildings and improvements as may be judged necessary for the accommodation of the United States vessels of war in that quarter.

Tenth amendment:

Add at the end of the appropriations for navy-yards: *Memphis*—For excavation and embankments, smith-shop, store-house, and repairs of all kinds, $30,000: *Provided*, That no part of this sum shall be expended until the board of Mayor and Aldermen of the city of Memphis shall have retroceded to the United States the said navy-yard with all the fixtures and appurtenances thereunto belonging, unconditionally, by deed in such form as shall be approved by the Secretary of the Navy.

Twenty-seventh amendment:

SEC. —. *And be it further enacted*, That the existing laws limiting the number of officers in the Navy of the United States be so far modified as to entitle the officers of the navy and revenue marine of Texas at the time of annexation, to the pay of officers of the United States on leave-of-absence pay to the present time: *Provided*, The number of such officers shall not exceed eight of the naval and of the revenue service.

Mr. GWIN. I hope the question will be taken on the report of the committee of conference as far as they have been able to agree.

Mr. MORTON. There is one amendment in which I feel a deep interest, which was proposed by the Committee on Agriculture, and which was adopted by the Senate. I desire to know its fate.

Mr. GWIN. It was considered by the committee as not properly connected with this bill.

Mr. MORTON. Then I understand the committee have given it up.

Mr. GWIN. Yes, sir.

The PRESIDENT. The question is on agreeing to the report, leaving the three questions which are reserved.

The report was agreed to.

Mr. GWIN. Now, I leave it to the Senate to say what shall be done with the three amendments on which the committee could not agree.

Mr. JAMES. I move that the Senate recede.

Mr. JONES, of Tennessee. I hope the Senate will not recede. In lieu of that, I move that a new committee of conference be asked for upon those three disagreeing votes. I never can agree to recede from them. As the report of the committee has been agreed to, I move that the Senate insist on the three amendments on which the committee could not agree, and ask for a new committee of conference upon them.

Mr. MALLORY. I understand the three points on which the committee of conference have been unable to agree are in regard to the navy-yard at Memphis, the proposed naval depot near New Orleans, and the payment of the officers of the Texas navy. Those are the three points.

Mr. DOUGLAS. Yes, sir.

Mr. MALLORY. As a member of the Committee on Naval Affairs, I voted for each of those propositions, and shall be prepared on all proper occasions to sustain them again; but I hope the Senate will not for these hesitate about receding. In relation to the improvements in my own State, the committee of conference have cut down the estimates of the Bureau of Yards and Docks very largely indeed—I believe about one half. Of this I say nothing; but these three measures are controverted, and from inquiries which I have made, I am satisfied there is not the remotest chance of their being adopted by the House of Representatives.

Mr. DOUGLAS. As a member of the committee of conference, I am bound to say that, after the most thorough discussion, coming together as the two committees did with the greatest disposition to harmonize as far as possible, after a four hours' session, they were unable to agree; and I am perfectly satisfied it will be utterly impossible for any new committee to agree on these three disputed items. I think, therefore, it is a simple question whether we shall recede from those points or lose the bill. They are the Memphis navy-yard, the New Orleans naval depot, and the Texas navy. From the information we have, there is no possibility of their being adopted by the House. I think the committees on both sides have approached the questions with the most anxious desire to harmonize if possible. It is a simple matter of receding or losing the bill.

Mr. WELLER. I ask my friend from Illinois whether there has been any vote in the House on the three amendments which constitute the points of difference?

Mr. DOUGLAS. There has not. The House had not time to go through with the amendments. They disagreed to them all, and sent them to a committee of conference. If they had not pursued that course the bill would certainly have been lost.

Mr. WELLER. I am very anxious that at least two of those amendments should be agreed to; and as I think the House of Representatives is a very reasonable assembly, the better way for us would be to have another committee of conference. The Senate, no doubt, in that event could get one of the amendments by abandoning the other two. That is the usual mode of compromise when there is a conference between the Senate and the House of Representatives.

Mr. DOUGLAS. I am one of those who, in the committee of conference, stood by these three amendments. I voted to put each of them on the bill in the Senate, and I stood by them in the committee; but my conviction is, that it is hopeless to carry the struggle further.

Mr. GWIN. We have but three hours to sit here, and this bill has yet to be enrolled on parchment, and the imminent danger is, if we do not act immediately, that it will be lost. The whole bill has to be enrolled on parchment, and if it be not put into the hands of the clerks for that purpose as soon as possible the bill will inevitably fail. I hope the Senate will act promptly on it.

Mr. BELL. It cannot be certainly known what is the disposition of the other House on either of these amendments. I was present in that House when the conference was asked for, and I know that no consideration was given to the amendments of the Senate at all. Considerable interest was felt in that House in regard to one of the amendments at all events, and what the sentiment of a majority of the House upon it is could not have been known to the members of the committee of conference on the part of that House. Whatever efforts may have been made by the friends of either or all those measures, it is impossible they could know the feeling of the House, because the House had no opportunity to vote in regard to any of them.

We do not know but that the House may recede from their disagreement to these amendments if we give them a chance. The fairest method, it seems to me, is to ask for another conference, and not at once recede, though it seems that the Senate must give up everything when the pinch comes. There are no debatable points involved except these three on which the committee of conference could not agree. Are we at once, on the report of our committee, to recede from these amendments to which the majority of the Senate have agreed? I think that it would be much better to appoint another committee of conference on the part of the Senate, and when they meet a similar committee

from the House of Representatives they can determine, in a few minutes, whether there is any prospect of an agreement. I think, therefore, the proper course is that suggested by the motion of my colleague.

Mr. GWIN. The question is not what the House will do in regard to these three amendments, but it is perfectly evident that if we appoint another committee of conference the bill will be lost. It is utterly impossible to get through the enrollment of the bill before the expiration of the session unless it be put in the hands of the clerks at once. I am as anxious as those Senators immediately interested in these three amendments to secure the objects which they have in view in their adoption; but we must look to the fact that we cannot pass this bill unless we recede from these amendments at the present time, and send the bill immediately to the House. There is no room for doubt on that point. There is now a call of the House, and in a very short time it will be difficult for them to get a quorum. Unless they act on this report at once it will be impossible to get the bill signed at all. I should be very willing to have another committee of conference if I thought there was any chance in the world of saving the bill; but, sir, we have now only three hours, and it is impossible in any shorter time than that to enroll the bill and have it ready for the signature of the President.

Mr. JONES, of Tennessee. I am very sorry to differ from my friends from California and Illinois, who have been very kind to me on the committee; but I do not concur in their idea that we endanger the bill by asking for another conference. I would not endanger the bill for these or any other amendments. I am no factionist, no revolutionist. I desire to see the forms of legislation adhered to; but if a majority want anything done, I desire to see them do it. The clerks may go on enrolling the bill as far as we have agreed to it. There are only three points left to be decided. Let us have another committee of conference, and while that committee is in session the clerks can be enrolling that part of the bill to which we have agreed.

Mr. GWIN. I will state to the Senator from Tennessee that the clerks cannot enroll the bill as he supposes, because the committee of conference must have it in hand while they are acting on it. Until it passes from their hands, it cannot go into the hands of the clerks to work upon it.

Mr. BENJAMIN. All know perfectly well that a good portion of this bill has been already enrolled.

Mr. GWIN. I have been told not.

Mr. BENJAMIN. I have been on enrolling committees, and I know a little about that. There is no doubt in the world that most of the bill is enrolled now. The idea that it is not is a bugbear held out to frighten us. The appropriation for the naval depot at New Orleans has been put by the Senate into the naval appropriation bill four or five times, and invariably been given up on the objection of the House. I think, in view of the precedent action of the Senate, it is time that the House should, in its turn, recede, or at all events that we should make some effort at an agreement.

Mr. BRODHEAD. My friend from Louisiana says we have time enough to dispose of this bill. My opinion is, that to-day is not the time for us to be in session. If Senators will look into the House of Representatives they will see an exhausted congregation of gentlemen, scarcely a quorum present. Why sir, physical endurance will go no further. Now, may we not lose all by grasping at too much?

Mr. BADGER. Will my friend allow me to suggest that debate on any subject, at this time, is fatal.

Mr. BRODHEAD. I surrender.

Mr. BADGER. If my friend from Tennessee does not feel disposed, under the circumstances, to recede from our amendments, and another committee is to be appointed, it ought to be done without any delay.

The PRESIDENT. The report of the committee of conference must be regarded as an entirety. The report, as made, agreeing as to part, and disagreeing as to part, stands for naught.

Mr. BADGER. Allow me to state, sir, that this report was made on searching the precedents of both Houses. The report is an entirety, but the two Houses can adopt the report, which is, that the committee have agreed upon certain things, and cannot agree upon certain others; and thereupon it is in order to further insist upon the remaining points of difference, and appoint a committee of conference on them.

The PRESIDENT. Suppose the committee fails to agree on the three disputed points?

Mr. BADGER. It is just reducing the number of disputes. In 1850 we had three committees of conference, on one of which I was, on the civil and diplomatic appropriation bill. The first committee agreed on all the disputed points except five or six. They made their report, and the two Houses agreed to it. We had another committee on the remaining points of difference. The second committee agreed on all except three amendments which related to one subject, which you will well recollect, I have no doubt, sir—the payment of money which was claimed by Mr. Ritchie. A report was made that the committee had agreed upon all but this point, and it was then moved that another committee should be appointed; but in the mean time the House of Representatives resolved to adhere to the remaining point, and a motion was made in the Senate that we recede. We did recede, and thus the bill was passed.

The PRESIDENT. The point the Chair makes is this: It is important that the two Houses should agree on the remaining disputed points. If they should fail to agree, the bill would be lost.

Mr. BADGER. Undoubtedly.

The PRESIDENT. The first question is on the motion of the Senator from Rhode Island, [Mr. JAMES,] to recede from the three amendments of the Senate. Will the Senate recede from the amendments reserved by the committee of conference? If they refuse to recede, then will come up the question of appointing another committee of conference.

Mr. BADGER. Of course.

Mr. BENJAMIN. If it is the pleasure of the Senate to wait in taking the vote on this question until my colleague reaches the Chamber, I should be glad.

The PRESIDENT. There is evidently not a quorum present, and that would be the better course.

Mr. BADGER. I hope that will not be done. I think we had better agree to the proposition of the Senator from Tennessee rather than wait; for delay now is fatal.

The PRESIDENT put the question on receding from the amendments, and the ayes were 20, noes 10—not a quorum voting.

Mr. BRODHEAD. I ask for the yeas and nays; that will show whether there is a quorum present or not.

The yeas and nays were ordered.

The Secretary proceeded to call the roll, and Mr. BELL, Mr. BENJAMIN, and Mr. JONES, of Tennessee, did not answer to their names. When the call was completed, one vote was necessary to make a quorum.

Mr. JONES, of Tennessee. I have never taken any course in the Senate that was factious. I occupy a very peculiar position upon this subject, known to some of my personal friends, and I cannot agree to surrender my position to these amendments. I cannot do it in justice to myself; but, sir, I would not endanger the public business in any way. The Senator from Arkansas, [Mr. JOHNSON,] knows my position. All that I have asked is that you will appoint an additional committee of conference to take charge of the three remaining questions of dispute and relieve me. I think the Senate might have done it without any danger to the public business. If I did not believe so, I should not have asked for it. If, however, the Senate are deliberately of opinion that the bill will be endangered by this course, I am willing to sacrifice myself to what I believe to be a parliamentary law and usage. Therefore I am ready to vote and take the responsibility of thereby making a quorum. I vote "nay."

Mr. BELL. I will vote in the negative also.

Mr. BENJAMIN. There is a quorum voting, and I will therefore vote "nay," although I should have been disposed to persist in this matter to the end at the risk of the loss of the bill, and should have done so willingly.

Mr. RUSK. And so would I.

Mr. SLIDELL appeared in the Chamber during the calling of the roll, and voted in the negative.

The result was announced—yeas 22, nays 13; as follows:

YEAS—Messrs. Allen, Badger, Brainerd, Brodhead, Chase, Dodge of Wisconsin, Douglas, Evans, Fessenden, Foot, Gwin, Hunter, James, Jones of Iowa, Mallory, Mason, Seward, Stuart, Toucey, Wade, Wells, and Wilson—22.

NAYS—Messrs. Adams, Bell, Benjamin, Bright, Brown, Dawson, Johnson, Jones of Tennessee, Morton, Rusk, Sebastian, Slidell, and Weller—13.

So the motion to recede was agreed to.

A message from the House of Representatives, by Mr. FORNEY, their Clerk, announced that they had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill making appropriations for the naval service for the year ending the 30th of June, 1856.

EXTRA COMPENSATION.

The House joint resolution making appropriations for the payment of those entitled to the benefits of the resolution of the House of Representatives of the United States, passed March 3, 1855, voting extra compensation to pages, folders, and others, was read twice by its title, considered as in Committee of the Whole, reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANDREW H. PATTERSON.

On motion by Mr. BRAINERD, the Senate, as in Committee of the Whole, proceeded to consider the bill of the House of Representatives for the relief of Andrew H. Patterson, the object of which is to direct the Secretary of the Treasury to pay to Patterson $6,802, for mail bags manufactured by him under a contract with the Post Office Department entered into on the 23d of May, 1840.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NEUTRALITY LAWS.

Mr. BROWN. I gave notice yesterday of my intention to introduce a bill to repeal certain sections of the neutrality laws. I now ask leave to introduce the bill.

Leave was granted, and the bill was read a first time and ordered to a second reading.

Mr. BROWN. I ask that it may now be read a second time and put upon its passage.

Mr. MASON and others. I object.

Mr. BADGER. Let us take it up to-morrow. [Laughter.]

Mr. BROWN. I should like to have a vote upon it in some form. If some Senator will move to lay it on the table, and let us have a vote upon that, I shall be satisfied.

Mr. SEWARD. One objection is enough, and there are several such already.

Mr. BROWN. Then, of course, I shall have to let it go, if its consideration be objected to.

CIVIL AND DIPLOMATIC BILL.

Mr. HUNTER. The committee of conference of the two Houses on the civil and diplomatic appropriation bill, like the committee which sat upon the naval appropriation bill, find it necessary to consult the Senate upon three points. The first is in regard to the salaries of the Judges of the Supreme Court. The Senate adopted an amendment fixing the salary of the Chief Justice at $7,500, and of the Associate Justices at $7,000 each. The House have struck it down, giving $6,500 to the Chief Justice, and $6,000 to the associates. The next point is in relation to the allowance for the diplomatic services of George P. Marsh and John S. Pendleton, who were associated in the same amendment. The House have allowed the claim of Mr. Schenck, as it was put on by the Senate, and have thrown out the other. On these two points the committee of the two Houses have differed, and I come here, by their direction, to ask what instructions the Senate will give us on them.

Mr. STUART. Let us recede.

Mr. FOOT. Is it in order to move to insist on the amendment in the case of Mr. Marsh?

Mr. HUNTER. We have already insisted, and the question can be tried upon the motion to recede.

Mr. FOOT. The Senate voted an allowance to three or four gentlemen for extra diplomatic services, and the House has agreed to it in some instances, and refused it in others.

Mr. DAWSON. As a member of the committee of conference, I take this occasion to say to you, Mr. President, and through you to the

Senate, that we have surrendered, I may say, nearly three fourths of our propositions. Our amendment in regard to the salaries of the Judges of the Supreme Court I consider such an act of justice that I would stand upon it individually at the risk of this bill. The next point was this: Mr. Schenck and Mr. Pendleton were united in the same special mission, occupied the same position, discharged the same duties. The House have agreed to provide for one, but rejected the other. Mr. Marsh, whose services and position, in the judgment of this body, entitled him to the same compensation, has also been disregarded by the House. The third point upon which we differ is in relation to the arsenal in this city.

Mr. HUNTER. Allow me to suggest to my friend that I think there will be no difficulty on that point. We have not much time left. At twelve o'clock we must adjourn. It is now half past nine. I think it will be better for us to recede from these disputed points, and close up this troublesome bill. It must be remembered that the House of Representatives have had to give up a great deal which they valued. They originally passed a majority of our amendments. I was willing, for myself, to close the matter, and bring in a report at once receding from these points; but my colleagues on the committee were so reluctant to do so that I thought it best to take the sense of the Senate. I hope the question will be taken without debate, for we have not time for discussion. Sooner than waste time I would take the responsibility of going into the committee room and yielding these points.

Mr. FOOT. Mr. President, after the allowance to Commodore Perry of $20,000 for his diplomatic services, after the allowance of $18,000 to Mr. Schenck for his diplomatic services, the Senate voted, with great unanimity, an amendment allowing $9,000 to Mr. Marsh for his extraordinary services for a full year, at the Government of Greece. The House have concurred in the allowance to Commodore Perry and to Mr. Schenck, but have disagreed to the amendment allowing $9,000 for the extraordinary services of Mr. Marsh, for which he never received a single dollar. I am unable to comprehend upon what possible ground, except upon some error, some mistake, on the part of the House, they could have inflicted this atrocious act; for I say it is atrocious, if done knowingly and advisedly. Under these circumstances, I hope the Senate will not recede from that amendment, and that this unjust discrimination will not be made with the consent of the Senate of the United States.

Mr. HUNTER. I hope the question will be taken. We have but two hours and a half; the report has not been written, and that will take twenty minutes. I move that we recede, and I ask that the question be taken on the amendments together.

Mr. FOOT. I call for a division of the question.

The PRESIDENT. The first question will be upon receding from the disagreement of the Senate to the amendment of the House to our amendment in regard to the salaries of the Judges of the Supreme Court.

Mr. BENJAMIN. I hope the Senate will not recede from that.

Mr. BADGER. I hope so too.

The motion to recede was agreed to.

Mr. HUNTER. I now move that we recede from the amendment in relation to Mr. Marsh and Mr. Pendleton. I regret very much to have to do so; nothing but a sense of necessity in order to close up the matter would induce me to do so.

Mr. FOOT. I hope we shall not recede.

Mr. BROWN. We can put them in next year.

The motion to recede was agreed to.

Mr. DAWSON. The question need not be taken on receding from the amendment in regard to the arsenal; the other points being settled, we can negotiate about that.

ENROLLED BILLS SIGNED.

The PRESIDENT *pro tempore* signed the following enrolled bills, which had previously received the signature of the Speaker of the House:

An act for the relief of Andrew H. Patterson;

A joint resolution making appropriations for the payment of those entitled to the benefits of the resolution of the House of Representatives of the United States, passed March 3, 1855, voting extra compensation to pages, folders, and others; and

An act to improve the laws of the District of Columbia and codify the same.

WITHDRAWAL OF PAPERS.

On motion by Mr. SEWARD, it was

Ordered, That Christian Hansen have leave to withdraw his petition and papers.

On motion by Mr. GWIN, it was

Ordered, That R. M. Ironside have leave to withdraw his petition and papers.

On motion by Mr. SEWARD, it was

Ordered, That the widow of Charles Newbold have leave to withdraw her petition.

On motion by Mr. TOUCEY, it was

Ordered, That Charles Stearns have leave to withdraw his petition and papers.

On motion by Mr. WELLER, it was

Ordered, That Isaac Williams have leave to withdraw his petition and papers.

On motion by Mr. SHIELDS, it was

Ordered, That the heirs of Simeon McKnight have leave to withdraw their petition and papers.

Mr. ALLEN. I ask leave to withdraw from the files the papers of the widow of Dr. McMillan, of the Army, who has petitioned for a pension. An adverse report was made. She has addressed me a letter requesting the withdrawal of the papers.

Mr. BADGER. Allow me to ask the Senator whether the adverse report was concurred in by the Senate?

Mr. ALLEN. I presume so. It was presented by myself.

The PRESIDENT. If there is an adverse report the papers cannot be withdrawn.

Mr. ALLEN. That is sufficient. I can state that in answer to the application.

EXECUTIVE SESSION.

On motion by Mr. GWIN, the Senate proceeded to the consideration of Executive business; and after some time spent therein the doors were reopened.

STATE OF OREGON.

On motion by Mr. DOUGLAS, the Senate proceeded to consider the bill of the House of Representatives to enable the people of Oregon Territory to form a constitution and State government, and for the admission of such State into the Union.

Mr. CLAY. I move to lay the bill on the table, and on that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 18, nays 20; as follows:

YEAS—Messrs. Adams, Badger, Benjamin, Brodhead, Brown, Clay, Dawson, Evans, Fitzpatrick, Geyer, Hunter, Johnson, Mason, Rusk, Sebastian, Slidell, Thompson of Kentucky, and Toucey—18.

NAYS—Messrs. Bell, Brainerd, Bright, Chase, Cooper, Dodge of Wisconsin, Douglas, Fessenden, Foot, Gwin, Houston, Jones of Iowa, Jones of Tennessee, Seward, Stuart, Sumner, Wade, Welter, Wells, and Wilson—20.

So the motion was not agreed to.

The PRESIDENT. The question now is on agreeing to the amendment reported by the Committee on Territories.

Mr. DOUGLAS. The amendments are simply to require Oregon to have at least sixty thousand population before admission.

The amendments were agreed to.

The PRESIDENT. The question is, shall the amendments be engrossed and the bill be ordered to a third reading?

Mr. MASON. Mr. President——

Mr. DOUGLAS. I hope the Senator will allow the bill to go to the House of Representatives. I have very little hope that it will be reached there, but I think that I ought to discharge my duty by insisting that it shall be sent there.

Mr. MASON. The Senator always discharges his duty, I have no doubt, but in the discharge of mine I shall be very reluctant to see this bill passed at the present session. I must ask for the yeas and nays on it.

Mr. JOHNSON. I move to postpone the further consideration of the bill until to-morrow.

Mr. DOUGLAS. We can have a test question on its passage just as well.

Mr. JOHNSON. I insist on my motion.

Mr. SEWARD called for the yeas and nays; and they were ordered.

Mr. CLAY. I wish to know if a single objection will not prevent the third reading and passage of the bill to-day?

The PRESIDENT. No, sir; the bill was read twice some time ago, and referred to the Committee on Territories, and reported back.

Mr. JONES, of Tennessee. My friend from Alabama shows some feeling about this matter; for myself, I have none. I have no difficulty in my course upon such a question as this. For my part I do not care how many new States are brought into the Union. Let them come in as fast as they can when they have the necessary population. It is thought by some that this Territory is too small for a State. Well, sir, if it is as large as Missouri, as I understand it is, I do not want it to be any larger. I know some gentlemen entertain the idea that, by the passage of this bill we shall be breaking down the balance of power between the free States and the slaveholding States. For my part I do not care whether new States come here with or without slavery; that is a question for themselves, not for us. I am for admitting them. I believe it is the constitutional prerogative of a State to come here and ask to be admitted. If forty were to come here to-day with the necessary population asking to be admitted without slavery, as ultra as I am on that subject, I would vote to admit them. Sir, when the time comes when a State asks to be admitted with slavery, and shall be rejected solely because she tolerates slavery, I am for revolution, and I am willing to give to others what I ask for myself. I will vote for this bill because I am willing that States shall come here with or without slavery as the people choose. I desire to stand right on the record, and, therefore, I vote for this bill. When a State comes here asking for admission with slavery, I will stand by her and fight for her.

CIVIL AND DIPLOMATIC BILL.

The pending bill having been temporarily laid aside,

Mr. HUNTER submitted the following report:

The commitee of conference on the disagreeing votes of the two Houses on the bill making appropriations for the civil and diplomatic expenses of Government for the year ending June 30, 1856, and for other purposes, have met, and, after a full and free conference, have agreed to recommend, and do recommend to their respective Houses, as follows:

That the Senate do concur in the amendments of the House of Representatives to the ninth, fourteenth, one hundred and thirty-sixth, and one hundred and forty-third amendments of the Senate.

That the House of Representatives agree to the twenty-fourth amendment of the Senate, with an amendment as follows:

Add at the end thereof:

Provided, That the same shall not extend to the chaplain.

That the House of Representatives agree to the seventy-first amendment of the Senate, with an amendment, as follows:

Strike out all after the word "which," in the nineteenth line, to the end of the section, and insert, "a sum equal to the proceeds of the sale hereinafter directed, is hereby appropriated."

That the House of Representatives do recede from its amendment to the sixty-seventh amendment of the Senate.

That the Senate do recede from its seventh, tenth, twenty-first, twenty-fifth, twenty-ninth, thirtieth, thirty-seventh, forty-first, forty-third, forty-sixth, forty-seventh, forty-eighth, fifty-first, fifty-second, fifty-third, fifty fourth, fifty-fifth, fifty-seventh, fifty-eighth, fifty-ninth, sixtieth, sixty-first, sixty-sixth, seventy-seventh, seventy-eighth, seventy-ninth, eighty-fourth, eighty-sixth, eighty-eighth, ninety-first, ninety-fourth, ninety-sixth, one hundred and third, one hundred and fourth, one hundred and fifth, one hundred and seventh, one hundred and ninth, one hundred and tenth, one hundred and eleventh, one hundred and sixteenth, one hundred and nineteenth, one hundred and twenty-first, one hundred and twenty-sixth, one hundred and twenty-eighth, one hundred and twenty-ninth, one hundred and thirty-eighth, and one hundred and forty-first amendments to the bill.

And that the House of Representatives do concur in the thirty-second, thirty-fifth, fiftieth, sixty-ninth, eighty-seventh, eighty-ninth, one hundred and second, one hundred and twelfth, one hundred and twenty-second, one hundred and twenty-fourth, one hundred and thirty-third, and one hundred and thirty-seventh amendments of the Senate.

Mr. HUNTER. I will state to the Senate that we adopted to the civil and diplomatic appropriation bill one hundred and forty-eight amendments. Of those the House of Representatives, either by itself or through its committee of conference, has agreed to one hundred and one.

Mr. STUART. That will do pretty well.

Mr. BROWN. I should like to know what we have given up.

Mr. HUNTER. A large number of amendments.

Mr. BROWN. I should like to know what they are.

Mr. HUNTER. I cannot state them until the

papers come here from the other House. If the Senator insists on having them read, when the papers come here they may be read, perhaps, by twelve o'clock, but I doubt whether they could be.

Mr. FOOT. Is it not competent for any member of the Senate to call for the reading of the several amendments on which we are called upon to act?

The PRESIDENT. Certainly.

Mr. FOOT. I call for the reading of the amendments.

Mr. HUNTER. Then it must lie over until the bill comes to us from the House.

STATE OF OREGON.

The Senate resumed the consideration of the Oregon bill.

Mr. BELL. Before the question is taken on this bill, I feel it due to myself, as a member of the Committee on Territories, to say a word by way of explanation. I voted against laying the bill on the table, and now I desire to state the circumstances under which I propose to vote for the bill.

The honorable Senator from Illinois will do me the justice to say that I opposed this bill in the committee as it came from the House. As it came to us there was no limitation whatever in regard to population. I understood that it was adopted in the House by an overwhelming majority, which surprised me very much. I think the committee laid it over for two or three weeks upon my objection. I objected that we were acting without satisfactory information, without any data upon which Congress could determine whether they had sufficient population to justify their admission. Finally, the committee yielded, the honorable Senator from Illinois himself agreeing to fix the limitation of sixty thousand inhabitants, at least, before they should be admitted. Information was also before the committee that the people of Oregon were already proceeding to form their constitution. Under these circumstances I gave my consent to the honorable Senator from Illinois to report the bill with the amendments which have been adopted, fixing the limitation on the number of inhabitants. Now, I feel constrained to go for the bill because I consider that I was, perhaps, the cause of the postponement, and I suppose the great objection now is, that it is brought upon us at a time when we have not an opportunity to consider it. I should like very much if the honorable Senator from Illinois could forbear to press the bill at the present time, in order that the members of the Senate generally might have time to look into it; but, under the circumstances, I feel bound to vote for the passage of the bill.

Mr. DOUGLAS. The explanation of the Senator from Tennessee is entirely correct, according to my recollection, in all respects. I had hoped that our friends here would allow us to pass the bill, inasmuch as the committee kept it back for two or three weeks to accommodate the Senator, otherwise I should have had it passed before. I hope the Senate will allow the bill to be passed in its present unobjectionable shape.

CIVIL AND DIPLOMATIC BILL.

A message was received from the House of Representatives, by Mr. FORNEY, their Clerk, announcing that they had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1856, and for other purposes.

Mr. HUNTER. I ask now, by general consent, that the report may be taken up and acted upon. Unless it be done immediately, the clerks cannot enroll the bill.

Mr. DOUGLAS. I will not object to the consideration of the appropriation bills, if the Senate are ready to go on; but when this bill is disposed of, I shall again call up the Oregon bill.

The PRESIDENT. Are all the amendments required to be read?

Mr. HUNTER. I think Senators, on reflection, will hardly require that. It will take a long time to read them all, more time than we have left.

Mr. FOOT. Will the Senator from Virginia state generally, from recollection, from what amendments the committee of conference ask us to recede?

Mr. HUNTER. If the Senator will ask the question as to any particular amendment, I may be able to answer him. We recede from about forty-seven amendments out of the one hundred and forty-eight. The most important amendments have been agreed to by the House.

Mr. FOOT. There were several providing for the construction of custom-houses and marine hospitals?

Mr. HUNTER. All the provisions for custom-houses were adopted, together with all those for marine hospitals except one in Indiana.

Mr. FOOT. There was an appropriation of $25,000 agreed to by the Senate to authorize the President of the United States to have a work of art executed by Hiram Powers for the adornment of the Capitol?

Mr. HUNTER. That was adopted by the House.

Mr. FOOT. I will not insist upon the reading of the amendments.

Mr. BROWN. I wish to inquire of the Senator from Virginia what became of the amendment we adopted in regard to the claim of Richard W. Thompson? I believe the House amended it.

Mr. HUNTER. We have agreed to the amendment of the House, which was a proviso that the consent of the Menomonee Indians should be obtained.

Mr. JOHNSON. I should be very glad if the Senator would state what was done with the amendments adopted by this body in regard to the public land system, and especially in reference to the salaries of the surveyors general in the Territories of New Mexico, Washington, Utah, and Nebraska?

Mr. HUNTER. Several of them were adopted by the House; but those provisions increasing the salaries were refused.

Mr. JOHNSON. In every instance?

Mr. HUNTER. I recollect no exception; nearly all increases of salary were refused.

Mr. BRODHEAD. Was the increase refused to the Mint officers at New Orleans?

Mr. HUNTER. No, sir; that provision is in the bill.

The report of the committee was agreed to.

STATE OF OREGON—AGAIN.

The Senate resumed the consideration of the bill to enable the people of Oregon to form a constitution and State government, and for the admission of such State into the Union.

Mr. BROWN addressed the Senate in opposition to the bill.

Mr. WILSON. Mr. President, the honorable Senator from Illinois, [Mr. DOUGLAS,] who presses this matter upon the Senate at this hour, has distinctly informed us that he does not expect to secure the passage of this bill through Congress at this session. He wishes, he tells us, to put it upon its passage in the Senate, although he does not expect it to pass the House. The feeling manifested by the honorable Senator from Mississippi [Mr. BROWN] and other Senators who have spoken, or are striving to obtain the floor to speak on this question, makes it absolutely certain that we cannot, if we would, in the brief hour of our existence, carry it through the Senate. Nothing whatever can be gained by spending the few remaining moments of the session in wrangling over this measure. I therefore hope the honorable Senator from Illinois, who has charge of this measure, and all of us who are its friends, will now consent to lay it aside. There is no earthly chance for the bill to pass through the Senate to-day; and I hope we shall agree, by common consent, to lay aside this measure, and all other measures not absolutely necessary to carry on the Government until the meeting of the next Congress.

The Congress of the United States, Mr. President, at this moment stands in a most extraordinary position before the country. We, the representatives of Christian America, on this hallowed Sabbath morning, at eleven o'clock, are in session, engaged in the duties of legislation. At this very hour, millions of our countrymen, summoned by the "church-going bells," are assembling to engage in the services this sacred day brings along with it. Hundreds of thousands of our fellow-citizens, when they shall read the proceedings of this day, will feel sincere and deep regret. They will see no necessity for this violation of the command to "Remember the Sabbath day and keep it holy," and they will hold us to a just responsibility for so conducting the public business as to make it necessary that we should sit here at this hour of the Sabbath, to consummate measures to carry on the Government for the current year. I am willing, sir, to act, this morning, upon those measures which are absolutely indispensable to enable the Administration to carry on the Government; but I am not willing to sit here at this hour of the Sabbath, wrangling over a measure that cannot be consummated at this session. We owe it to our characters, to the dignity of the Senate, and to the honor of the country, to close this unnecessary debate, which can lead to no practicable result, and to put aside this bill.

Mr. SEWARD. I wish to make a suggestion to my honorable friend. When California came here to be admitted as a State, one great objection to her application was, that she had not been invited to come by act of Congress, according to the established precedents, but that she had come in like the State of Michigan, without a previous act of Congress authorizing her to apply for that purpose. It was only after a long contest that she was admitted. Now we have the case of Oregon, and this application is made in her behalf, inviting her to form a constitution and come in. That is the old way—the way upon which all were agreed before the case of Michigan. If we pass this bill, we shall provide for the admission of Oregon in the old, customary, and unobjectionable way. If we do not, does not my honorable friend see that she will come here at the next session of Congress, without an invitation, and subject to the objection that she has come prematurely, and without the authority of Congress?

Again, can my honorable friend say that it is more important to pass a bill for paying creditors or for fulfilling contracts of the Government than it is to admit into this Union a State on the Pacific coast? I think not. I think this is a very good day. Legitimately and legislatively this is Saturday, the 3d day of March. It will be so on the records, and so the world understands it. If, however, the honorable Senator understands this to be Sunday, and if it be so, I think this is a very good deed to be done on this day.

Mr. WILSON. The honorable Senator from New York, Mr. President, says that this is legitimately and legislatively Saturday, the 3d day of March—that it will be so on the records, and so the world will understand it. I know, sir, that legislatively, Sunday, the 4th day of March at eleven o'clock, is Saturday, the 3d day of March; but I think, and the unsophisticated people of the country will think, that this, the 4th of March, is Sabbath day, and that we should consult the dignity of the Senate and the honor of the country by so regarding it. The honorable Senator from New York wished to know if I consider it more important to pass the appropriation bills than to pass an act authorizing a Territory on the shores of the Pacific to form a State constitution. The honorable Senator knows that it is of the highest importance to pass the civil and diplomatic bill, not yet reported by your conference committee, in order to fulfill the obligations of the Government and to carry into effect the laws of the country. I am as anxious as the honorable Senator from New York, or any other Senator can be, to welcome Oregon into this Confederacy of free Commonwealths, but the honorable Senator knows that this bill cannot become a law at this session, that it cannot, by any possibility, pass the Senate, and that all that can be gained by pressing it at this time, will be an hour's delay, in which its friends will gain nothing. I therefore appeal to the honorable Senator from Illinois to press the measure no further, and to the Senate to lay it aside by common consent.

Mr. WELLER. I think I could very readily make a reply to the honorable Senator from Mississippi, [Mr. BROWN,] but, sir, I cannot consent, upon the Sabbath, to engage in any secular business except that which is absolutely necessary; and, in my judgment, speaking is not at all necessary now. It is necessary to vote on these measures; they ought to be decided. I stay here for the purpose of voting, but not for the purpose of speaking, on them. I am sorry that my friend from Massachusetts [Mr. WILSON] has not acted upon the same rule, and abstained from doing any business, except necessary business, on the Sabbath.

Mr. DOUGLAS. I am perfectly satisfied, from

the demonstrations which we have had here, that it is impossible to pass this bill this morning. We are now within an hour and a half of the expiration of the Thirty-Third Congress. As long as the discussion of this bill was confined to its opponents, I felt disposed to sit it out; but when I am advised from the North that we had better not press the bill, and when it is very clear that there is a union of the extreme North and South against us, it is perfectly hopeless to persist. I therefore give up the struggle, and move that the bill lie on the table.

Mr. SEWARD called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 27, nays 11; as follows:

YEAS—Messrs. Allen, Badger, Bayard, Bell, Benjamin, Brown, Clay, Dawson, Dodge of Wisconsin, Douglas, Evans, Fitzpatrick, Geyer, Johnson, Jones of Tennessee, Mallory, Mason, Morton, Pearce, Rusk, Sebastian, Shields, Stidell, Thompson of Kentucky, Thomson of New Jersey, Toucey, and Wells—27.

NAYS—Messrs. Brainerd, Chase, Fessenden, Foot, Gillette, Houston, Seward, Stuart, Sumner, Wade, and Weller—11.

So the bill was ordered to lie on the table.

EXAMINATION OF ENROLLED BILLS.

Mr. HUNTER. I wish to ask general consent to enable the Committee on Enrolled Bills to carry the bills yet to be signed to the President without reading them word for word. They cannot do that; but they may examine them in pages, *sparsim*, if I may use the expression, and in that way test, with tolerable accuracy, the correctness of the enrolled bills.

Mr. JONES, of Iowa. The committee cannot do this without the consent of the Senate, and I hope it will be granted.

There being no objection, it was

Ordered, That leave be given to the Committee on Enrolled Bills, in examining them, to use, in their discretion, the best means for ascertaining their correctness, which may be in their power, there not being time to read them thoroughly.

COURT HOUSE IN NEW HAMPSHIRE.

Mr. WELLS. An amendment to the civil and diplomatic appropriation bill was agreed to by the Senate, making an appropriation for aiding in the construction of a court house in Exeter, New Hampshire, but in the hurry it was stricken out. I am informed, however, by gentlemen of the House, that if we pass the proposition as a separate joint resolution, they will agree to it. I therefore ask leave to introduce a joint resolution providing for the construction of a court house for the use of the United States at Exeter, New Hampshire.

Leave was granted, and the joint resolution was read a first time and ordered to a second reading. It proposes to appropriate $15,000 for the purpose, provided the authorities of the county of Rockingham, New Hampshire, shall execute to the United States a license for the perpetual use of the court house by the United States, free of rent or other charge.

Mr. WELLS. I ask for its present consideration.

Mr. SEWARD. I object to any new business at this time.

The PRESIDENT. Objection being made the joint resolution cannot be considered now.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. KcKEAN, Chief Clerk, announced that they had passed the bill of the Senate to increase the compensation of the registers of land offices and receivers of public moneys, under the act entitled "An act to graduate and reduce the price of the public lands to actual settlers and cultivators," approved August 4, 1854.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills:

An act making appropriations for the naval service for the year ending June 30, 1856;

An act to increase the compensation of the registers of land offices and receivers of public moneys, under the act entitled "An act to graduate and reduce the price of the public lands to actual settlers and cultivators," approved August 4, 1854; and

An act making appropriations for the civil and diplomatic expenses of Government for the year ending June 30, 1856, and for other purposes.

The bills were then signed by the President *pro tempore*.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a report of the Secretary of War containing all the information that can now be furnished in reply to the resolution of the Senate of the 28th of February, requiring a statement of the number of muskets, rifles, and other arms and equipments delivered to the State arsenals respectively, the number remaining in hand, and the number sold and accounted for; which was ordered to lie on the table and be printed.

Also, a message from the President of the United States containing a communication from the Secretary of the Interior, with accompanying estimates, and recommending that the appropriations therein asked for be made; which was ordered to lie on the table and be printed.

Also, a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate, a copy of the report of Lieutenant M. L. Smith of the survey of the line between Cedar Key and Amelia Island, in Florida; which was ordered to lie on the table and be printed.

TEXAS BOUNDARY LINE.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a copy of an act of the Legislature of the State of Texas, approved 11th February, 1854, making partial provision for running and marking the boundary line between that State and the Territories of the United States from the point where it leaves the Red river to its intersection with the Rio Grande, and appropriating $10,000 for the purpose, when the United States shall have made provision by an enactment of law, for the appointment of the necessary officers to join in the execution of the survey. The President recommends that provision be made by law for the appointment of officers to act in conjunction with those to be appointed by the State of Texas; and that $10,000, at least, be appropriated for the payment of their salaries and other incidental expenses. The message was ordered to lie on the table and be printed.

EXECUTIVE SESSION.

On motion by Mr. MASON, the Senate proceeded to the consideration of Executive business. The doors were reopened at twenty minutes before twelve o'clock.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. WEBSTER, his Secretary, announcing that he had approved and signed an act to increase the compensation of the registers of land offices and receivers of public moneys under the act entitled "An act to graduate and reduce the price of the public lands to actual settlers and cultivators," approved August 4, 1854; and

An act for the relief of Irene G. Scarritt.

FINAL ADJOURNMENT.

Mr. FITZPATRICK. I move that a committee of two members be appointed to join such committee as may be appointed on the part of the House of Representatives, to wait on the President of the United States and inform him that the two Houses of Congress are ready to close the present session of Congress by an adjournment.

The motion was agreed to; and Mr. FITZPATRICK and Mr. FOOT were appointed the committee on the part of the Senate.

A message from the House of Representatives, by Mr. FORNEY, their Clerk, informed the Senate that the House had closed its business, and was ready to adjourn, and had appointed Mr. GEORGE W. JONES, of Tennessee, and Mr. J. R. CHANDLER, of Pennsylvania, a committee on their part, to join the committee on the part of the Senate, to wait on the President of the United States, and inform him that, unless he had further communication to make to the two Houses of Congress, they were ready to close their respective sessions by an adjournment.

The committee retired, and in a few minutes returned.

Mr. FITZPATRICK. Mr. President, the committee appointed on the part of the Senate to wait on the President of the United States, and inform him that the two Houses have closed their labors and are ready to adjourn, have performed that duty, and received for answer, that he has no further communication to make to either branch of Congress.

The PRESIDENT. The time for the expiration of the session having arrived, nothing remains but for the Presiding Officer to declare the Senate adjourned *sine die*.

HOUSE OF REPRESENTATIVES.

SATURDAY, *March* 3, 1855.

The House met at eleven o'clock, a. m. Prayer by Rev. WILLIAM H. MILBURN.

The SPEAKER. It was impossible for the Clerks to make up the Journal of yesterday in time for the meeting of the House this morning.

Mr. HAMILTON. I move that the reading of the Journal be dispensed with.

The motion was agreed to.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a message from the President of the United States transmitting and recommending estimates of appropriations made by the Secretary of the Interior for the purpose of fulfilling the stipulations of the treaty of 21st of January, 1855, with the Wyandot Indians; which was, on motion by Mr. OLDS, laid upon the table, and ordered to be printed.

Also, a communication from the President, transmitting a copy of an act of the Legislature of Texas, approved 11th February, 1854, making partial provision for running and marking the boundary line between said State and the Territories of the United States, from the point where said line leaves the Red river to its intersection with the Rio Grande, and appropriating $10,000 towards carrying the same into effect when the United States shall have made provision, by enactment of law, for the appointment of the necessary officers to join in the execution of said survey. The President concludes the communication by a recommendation that provision be made by law for the appointment of officers to act in conjunction with those to be appointed by the State of Texas, and that the sum of $10.000, at least, be appropriated for the payment of their salaries, and the necessary incidental expenses.

On motion by Mr. HAMILTON, the communication was laid upon the table, and ordered to be printed.

The SPEAKER also laid before the House a communication from the War Department, transmitting, in compliance with the resolution of the House of Representatives of 21st February, 1855, the report and accompanying maps by Colonel C. A. Fuller, of his late survey of Red river, in the region of the raft; which was laid upon the table, and ordered to be printed.

Also, the report of the Secretary of War on the several Pacific railroad explorations, and accompanying maps; which were laid upon the table, and ordered to be printed.

The SPEAKER also laid before the House a communication from the Postmaster General, transmitting a report of the fines imposed and deductions from the pay of contractors, made during the preceding year for failures to deliver the mail, or for any other cause, &c.; which was ordered to lie on the table, and be printed.

The SPEAKER also laid before the House the ninth annual report of the Board of Regents of the operations, expenditures, and condition of the Smithsonian Institution; which was laid upon the table, and ordered to be printed.

REPORT ON SMITHSONIAN INSTITUTION.

Mr. UPHAM. Mr. Speaker, I would ask the unanimous consent of the House for leave, in this connection, to submit a report and accompanying papers from the select committee raised to investigate the management and condition of the Smithsonian Institution.

There was no objection, and the report was received.

Mr. UPHAM. A minority report will be submitted; and I move that both reports be laid upon the table, and ordered to be printed.

The motion was agreed to.

Mr UPHAM. I would now ask the unanimous consent of the House for leave to introduce

and have passed a resolution authorizing the payment of the clerk of that select committee for the time during which he has been employed.

There was no objection, and the resolution was reported, as follows:

Resolved, That the select committee of the House on the Smithsonian Institution be allowed to make compensation, at the usual rate, to a clerk for the period of his services.

The question was taken; and the resolution was passed.

Mr. ENGLISH. Mr. Speaker, what disposition was made of the annual report of the Board of Regents of the Smithsonian Institution? Was there an order to print?

The SPEAKER. The report was laid upon the table, and ordered to be printed.

Mr. ENGLISH Has there been a motion made to print the usual number of extra copies?

The SPEAKER. There has not; but that motion is now in order, and will go to the Committee on Printing.

Mr. ENGLISH. I submit that motion.

The proposition for the printing of extra copies of the report was referred to the Committee on Printing.

ORDER OF BUSINESS.

Mr. SMITH, of Virginia. I demand the regular order of business.

Mr. DAVIS, of Indiana. I ask the unanimous consent of the House for leave to introduce a resolution in reference to the order of business.

The SPEAKER. The gentleman from Virginia demands the regular order of business, which is equivalent to an objection to the introduction of the resolution.

Mr. SMITH. I withdraw my call for the regular order of business, in order that the gentleman's resolution may be introduced.

Mr. DAVIS. I ask leave to introduce the following resolution. It is to facilitate our business, and I do not think that there will be objection to it. The House can fix the time as it pleases:

Resolved, That three hours be now set apart for the call of States and Territories for reports and business generally to which no objection shall be made at any time before the same is disposed of; and if objection be made, it shall be held as though such report, motion, bill, or resolution, had not been received by the House; and no member shall be entitled to the floor more than once under this resolution, and said call shall begin where the same was left off on Thursday last, under the order then made for that purpose, and shall continue until all the States shall have been called.

Mr. DISNEY. I object to that resolution, and call for the regular order of business.

The SPEAKER. The question pending is the motion to suspend the rules for the purpose of taking up Senate bill (No. 549) to appropriate money to remove obstructions in the Savannah river, below the city of Savannah, in the State of Georgia.

Mr. HAMILTON. Mr. Speaker, there is a bill for the District of Columbia here which was passed early in the session, and which has come back from the Senate with three small amendments. I ask that they may be taken up for consideration. It will not consume much time.

Mr. SEWARD. My colleague, [Mr. BAILEY,] who submitted the motion to suspend the rules, which is now pending, is detained at home by illness, and I would ask that, by unanimous consent, its consideration be postponed for a little while.

The SPEAKER. The Chair begs to remark at the outset of the proceedings to-day, that it is impossible to get along unless better order is preserved. The Chair feels like nerving himself to the task of enforcing the rules and requiring the business to be done in order, or not at all. The gentleman from Georgia [Mr. SEWARD] requests that, as the House is thin, his motion to suspend the rules may be postponed for a few minutes. Is there objection?

Mr. HAMILTON. There is no objection. I ask the consent of the House to take up a bill of the House which has been returned from the Senate with a single amendment, for the purpose of concurring in that amendment.

Mr. FAULKNER. I object to everything, and call for the regular order of business.

Mr. WASHBURNE, of Illinois. I move to suspend the rules, for the purpose of introducing the resolution of the gentleman from Indiana, [Mr. DAVIS.]

The SPEAKER. One motion to suspend the rules is pending, and another cannot be made.

Mr. WASHBURNE. I understood the gentleman from Georgia to withdraw his motion to suspend the rules.

The SPEAKER. The Chair did not so understand him.

Mr. WASHBURNE. Well, sir, I appeal to him to withdraw it until this resolution can be adopted.

Mr. BAILEY, of Georgia. I have only to do what seems to be the wish of a large majority of the members present, I call for the regular order of business.

IMPROVEMENT OF THE SAVANNAH RIVER.

The SPEAKER. The regular order of business is the motion to suspend the rules for the purpose of taking up Senate bill (No. 549) appropriating money to remove the obstructions in the Savannah river, below the city of Savannah, in the State of Georgia, upon which the yeas and nays have been ordered.

Mr. PHILLIPS. I wish to make a suggestion to the gentleman from Georgia. I appeal to that gentleman to accept, as a substitute for his bill, the bill which has been reported for working the dredging machines of the Government in all sections of the country, in the Savannah river, in the northern lakes, in the Mississippi river, Mobile, and all other points equally interested.

Mr. BAILEY. I have merely to say this: I shall make no captious objection to the amendment which the gentleman from Alabama proposes to offer, but the work for which this bill is to provide has been delayed for such a length of time that I cannot consent to jeopardize it by accepting anything as an amendment to it.

Mr. DAVIS, of Indiana. I object to discussion.

Mr. HENDRICKS. I have a motion which I desire to make if it is in order. I wish to move that the motion to suspend the rules be postponed for one hour, for the purpose of taking up the resolution of my colleague, [Mr. DAVIS.]

Mr. BAILEY. I have no objection to that arrangement.

Mr. HOUSTON. I submit whether that motion is in order?

The SPEAKER. It is not.

Mr. WENTWORTH, of Massachusetts. I rise to a question of order. The Chair has announced his intention of inforcing the rule that gentlemen shall rise from their seats when they have motions to make. I ask that the Chair will carry out his intention.

The SPEAKER. The Chair asks that gentlemen will remind him of his duty in regard to that matter. It is the intention of the Chair to inforce the rule, and if, through inadvertence, he assign the floor to any one who does not rise regularly in his seat, if any gentleman will call his attention to the fact, he will withdraw the recognition, and give the floor to some other gentleman.

Mr. MACE. I desire to ask the Chair a question.

Mr. CLINGMAN. I insist upon the regular order of business.

Mr. MACE. Well, I suppose we shall reach the regular order in a short time. I desire to know whether, if this bill is taken up, we can amend it by substituting the river and harbor bill?

The SPEAKER. The Chair will decide that question when it arises.

POST OFFICE APPROPRIATION BILL.

A message was here received from the Senate, informing the House that the Senate had insisted upon certain amendments disagreed to by the House, had disagreed to certain amendments of the House, and asked a committee of conference upon the bill of the House making appropriations for the service of the Post Office Department for the year ending June 30, 1856, and for other purposes.

SAVANNAH RIVER—AGAIN.

The question was then taken upon the motion to suspend the rules; and the result was—yeas 76, nays 35; as follows:

YEAS—Messrs. Appleton, Ashe, David J. Bailey, Bristow, Chamberlain, Chandler, Chastain, Clark, Clingman, Cook, Cox, Crocker, Cullom, Cutting, De Witt, Dickinson, Dowdell, Dunbar, Eastman, Edmands, John M. Elliott, Flagler, Florence, Giddings, Goodrich, Greenwood, Andrew J. Harlan, Haven, Henn, Hill, Howe, Hughes, Kerr, Latham, Lindsley, McDougall, Macy, Matteson, Maxwell, May, Morgan, Nichols, Mordecai Oliver, Pennington, Phillips, Ready, Reese, David Ritchie, Thomas Ritchey, Robbins, Russell, Sabin, Sapp, Seward, Seymour, Shannon, Shower, Simmons, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Stratton, Straub, John L. Taylor, Teller, Tweed, Upham, Vansant, Wade, Walley, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, and Westbrook—76.

NAYS—Messrs. Bridges, Carpenter, Chrisman, John G. Davis, Thomas Davis, Dunham, Edmundson, Ellison, English, Everhart, Farley, Fuller, Goode, Hamilton, Aaron Harlan, Hendricks, Hibbard, Houston, Daniel T. Jones, George W. Jones, Kurtz, Letcher, Mace, Mayall, Meacham, Smith Miller, Millson, Murray, Norton, Parker, Phelps, William Smith, William R. Smith, Trout, and Walsh—35.

No quorum voting.

The SPEAKER then proceeded to count the House to ascertain whether a quorum was present, and announced that one hundred and thirty-seven members—a quorum—were present.

Mr. HENDRICKS. I would suggest that, by unanimous consent, those gentlemen in the House who have not voted may be allowed to vote, whether they were within the bar or not.

Mr. WALSH. I object.

The question was again taken; and decided in the affirmative—yeas 92, nays 40; as follows:

YEAS—Messrs. Appleton, Ashe, David J. Bailey, Banks, Benson, Bristow, Chamberlain, Chandler, Chastain, Clark, Clingman, Cook, Corwin, Cox, Crocker, Cullom, Dawson, De Witt, Dickinson, Dowdell, Dunbar, Eastman, Edgerton, Edmands, Thomas D. Eliot, John M. Elliott, Etheridge, Everhart, Flagler, Florence, Franklin, Giddings, Goodrich, Green, Greenwood, Grey, Andrew J. Harlan, Haven, Henn, Hill, Howe, Hughes, Kerr, Knox, Latham, Lindsley, McDougall, Macy, Matteson, Maxwell, May, Meacham, Middleswarth, Morgan Nichols, Mordecai Oliver, Pennington, Phillips, Puryear, Ready, Reese, Riddle, Thomas Ritchey, Robbins, Russell, Sabin, Sage, Sapp, Seward, Seymour, Shaw, Shower, Simmons, Frederick P. Stanton, Hestor L. Stevens, Stratton, Straub, Andrew Stuart, John L. Taylor, Teller, Tracy, Tweed, Upham, Vansant, Wade, Walley, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, and Westbrook—92.

NAYS—Messrs. James C. Allen, Belcher, Bridges, Carpenter, Chrisman, Cobb, Curtis, Dunham, Edmundson, Ellison, English, Farley, Faulkner, Fuller, Goode, Hamilton, Aaron Harlan, Hendricks, Hibbard, Houston, Ingersoll, Johnson, Daniel T. Jones, George W. Jones, Kurtz, Lamb, Letcher, McNair, Mace, Mayall, Smith Miller, Millson, Olds, Parker, Phelps, David Ritchie, Rowe, William Smith, Walsh, and Hendrick B. Wright—40.

So, two thirds having voted in the affirmative, the rules were suspended, and the bill taken up for consideration.

The bill was read a first and second time by its title.

Mr. BAILEY. I demand the previous question upon the third reading of the bill.

The previous question was seconded, and the main question ordered to be put.

The bill was read through by the Clerk.

It appropriates $160,000 for the removal of the obstructions in the Savannah river, below the city of Savannah, placed there during the revolutionary war for the common defense.

The bill was then ordered to a third reading, and was accordingly read the third time.

Mr. BAILEY. I demand the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. HAMILTON. I demand the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

Mr. MACE. I move to lay the bill upon the table, and demand the yeas and nays upon that.

The yeas and nays were not ordered.

The question was taken; and the House refused to lay the bill upon the table.

The question was then taken on the passage of the bill; and it was decided in the affirmative—yeas 85, nays 59; as follows:

YEAS—Messrs. Appleton, Ashe, David J. Bailey, Banks, Benson, Benton, Bristow, Carpenter, Caruthers, Chandler, Chastian, Clark, Clingman, Cook, Crocker, Cullom, De Witt, Dickinson, Dowdell, Dunbar, Eastman, Edmands, Thomas D. Eliot, Etheridge, Everhart, Flagler, Florence, Goodrich, Green, Haven, Henn, Hiester, Hill, Howe, Hunt, Knox, Lindsley, McDougall, Macy, Matteson, Maxwell, May, Meacham, Middleswarth, Morgan, Mordecai Oliver, Packer, Peckham, Pennington, Preston, Puryear, Ready, Reese, Richardson, Thomas Ritchey, Rogers, Ruffin, Russell, Sabin, Sage, Sapp, Seward, Shannon, Shaw, Shower, Simmons, William R. Smith, Frederick P. Stanton, Hestor L. Stevens, Andrew Stuart, John L. Taylor, Teller, Thurston, Tracy, Tweed, Upham, Vansant, Wade, Walley, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, and Tappan Wentworth—85.

NAYS—Messrs. James C. Allen, Belcher, Bocock, Bridges, Caskie, Chrisman, Cobb, Cox, Thomas Davis, Dawson, Edmundson, John M. Elliott, Ellison, English, Farley, Fuller, Goode, Greenwood, Grey, Hamilton, Aaron Harlan, Wiley P. Harris, Hendricks, Hibbard, Houston,

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. SATURDAY, MARCH 3, 1855. NEW SERIES.....No. 73.

Ingersoll, Johnson, Daniel T. Jones, George W. Jones, Kuriz, Lamb, Letcher, Lewis, McCulloch, McNair, Mace, Maurice, Mayall, Smith Miller, Millson, Murray, Nichols, Norton, Olds, Andrew Oliver, Parker, Phelps, Powell, Pratt, Pringle, Rowe, Stratton, Straub, John J. Taylor, Trout, Walsh, Wheeler, Witte, and Hendrick B. Wright—59.

So the bill was passed.

Mr. SEWARD. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. CLARK obtained the floor.

POST OFFICE APPROPRIATION BILL.

Mr. HOUSTON. I rise to a privileged question. I move that the House insist upon its disagreement to the amendments of the Senate to the Post Office appropriation bill, and that a committee of conference be appointed to meet a like committee on the part of the Senate.

The motion was agreed to; and the Speaker thereupon appointed Messrs. HOUSTON, READY, and DAWSON said committee on the part of the House.

ST. CLAIR FLATS.

Mr. CLARK. I ask that Senate bill No. 489 may now be taken from the Speaker's table and considered by the House.

Mr. MAURICE. What bill is it?

The Clerk reported the title of the bill, as follows:

An act making appropriation for deepening the channel over the St. Clair Flats, and for deepening the channel over the flats in the St. Mary's river, in the State of Michigan.

Mr. WALSH. I object.

Mr. CLARK. Believing that I have a right to claim this indulgence from the House, I ask a suspension of the rules.

REPORTS OF THE LAND OFFICE AND SMITHSONIAN INSTITUTION.

Mr. RUSSELL. I have a privileged question to present. I am instructed by the Committee on Printing to offer the following resolution:

Resolved, That there be printed six thousand extra copies of the annual report of the Smithsonian Institution, four thousand for the use of members, and two thousand for the Institution; and also five hundred extra copies of the report of the Commissioner of the Land Office for the use of said Commissioner.

The resolution was adopted.

ARMY APPROPRIATION BILL.

Mr. FAULKNER. I rise to a privileged question. I desire to make a report from the committee of conference upon the Army appropriation bill.

The Clerk read the report, which is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to bill No. 562, making appropriations for the support of the Army for the year ending the 30th of June, 1856, met, and after full and free conference, have agreed to recommend to their respective Houses as follows:

That the Senate recede from the sixth, fourteenth, fifteenth, seventeenth and twentieth amendments, disagreed to by the House. That the House agree to the thirteenth amendment of the Senate, with amendments as follows: in line eight, after the word "property," insert "of American citizens;" in line twelve, after the word "property," insert "of American citizens;" in line twenty-five, after the word "each," insert "during the time of their services in California;" in line thirty-seven, after the word "board," insert "not exceeding the usual mileage of an officer going to and returning from California, and;" and in line thirty-eight, after the word "member," insert "for necessary travel in California." At the end of the amendment add the following:

Provided, however, That said board shall not continue its service exceeding one year: *Provided, further*, That it shall be lawful for the President of the United States alone to appoint such of the commissioned officers authorized by this act below the grade of field officers as may not be appointed during the present session, as in case of vacancies occurring during the recess of Congress.

JAMES SHIELDS,
ISAAC TOUCEY,
JOHN B. WELLER,
Managers on the part of the Senate.
CHARLES J. FAULKNER,
JOHN L. TAYLOR,
Managers on the part of the House.

The following shows the recommendation of the committee of conference in detail:

The Senate to recede from the following:

Sixth amendment:

For surveys for military defenses of the sea and inland frontier, $15,000.

Fourteenth amendment:

SEC. 3. *And be it further enacted*, That the provisions of an act entitled "An act for the payment of the civil officers employed in the Territory of New Mexico while under military government," approved July 17, 1854, be, and the same are hereby, extended to embrace the case of Lieutenant Colonel J. M. Washington, deceased, late of the Army, for and during the period of his appointment and service as military Governor of New Mexico, ex officio superintendent of Indian affairs, and commander of the troops prior to the formation of the civil government.

Fifteenth amendment:

SEC. 4. *And be it further enacted*, That the sum of $30,000 be, and the same is hereby, appropriated, to be expended, under the direction of the War Department, in the purchase and importation of camels and dromedaries to be employed for military purposes.

Seventeenth amendment:

SEC. 6. *And be it further enacted*, That the same allowance in respect of rations be hereafter made to the military superintendent of the Schuylkill arsenal in the quartermaster's department as to the commandants of the arsenals in the ordnance department.

Twentieth amendment:

And be it further enacted, That the Governors of the several States and Territories be, and they are hereby, authorized to sell, to the best advantage, the arms heretofore distributed under the act of April 28, 1808, and invest the funds arising out of such sales in other arms more suitable for the purposes contemplated by said act: *Provided*, That no arms be so purchased or provided, except such as may be of the same description and caliber as those regularly adopted and in use in the Army of the United States.

The House to recede from its disagreement to the thirteenth amendment of the Senate, and the same to be amended so as to read as follows:

SEC. 2. *And be it further enacted*, That the board of officers appointed under the sixth section of the act making appropriations for the support of the Army for the year ending June 30, 1853, approved August 31, 1852, is hereby authorized and directed, in addition to the powers and duties already conferred upon it, to extend its examinations to claims arising from the destruction of property of American citizens by the troops serving under the command of Lieutenant Colonel John C. Frémont, in California, in the years 1846 and 1847, by his orders, as well as for the destruction of property of American citizens by the enemy, caused by the occupancy of the claimant's premises by the said United States troops; that the said board is empowered to summon and examine witnesses under oath, and take testimony in California (if necessary) and elsewhere; that for the payment of the claims reported favorably upon by the board in its report to the Secretary of War, dated 5th December, 1854, Executive document 8, Thirty-Third Congress, second session, including that numbered 197, being the claim of Santiago E. Arguello, and amounting to $11,584, and for the compensation of the members of said board, for and during their period of service as such, at a rate not exceeding $3,000 per annum each, during the time of their services in California, deducting therefrom their army pay, the sum of $40,548 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated; and the Secretary of the Treasury is hereby authorized and directed to pay to the treasurer of said board, out of any money in the Treasury not otherwise appropriated, the sum of $10,000 for the contingent expenses of the said board, including therein office rent and clerk's hire, stationery, fuel, the payment of the witnesses' fees duly summoned by the board, at a rate not exceeding those paid by the United States district courts in California or elsewhere, as the case may be, the traveling expenses of said board not exceeding the usual mileage of our officers going to and returning from California, and not exceeding sixteen cents per mile to each member, for necessary travel in California, and other incidental expenses: *Provided, however*, That said board shall not continue the service exceeding one year: *Provided further*, That it shall be lawful for the President of the United States alone, to appoint such of the commissioned officers authorized by this act, below the grade of field officers, as may not be appointed during the present session, as in the case of vacancies occurring during the recess of Congress.

Mr. PHELPS. Is the report of the committee of conference now before the House?

The SPEAKER. It is.

Mr. PHELPS. I desire to say a few words with reference to it.

[Cries of "Move the previous question!"]

Mr. PHELPS. No, sir. I am not going into a discussion of this matter. But I could not concur in the report which has been made by the committee of conference. I was opposed to extending and enlarging the duties of the board of officers who were appointed under the act of 1852 to examine claims for subsistence and supplies furnished to the troops under the command of Colonel Frémont, in California. The amendment of the Senate enlarged their duties and extended their inquiries to claims for property destroyed by Colonel Frémont, or by his order. It was stated in this House, only yesterday, that no property was destroyed in California by order of Colonel Frémont.

Mr. BENTON, (Mr. PHELPS yielding the floor.) I have no doubt in the world that this is a false claim.

Mr. McDOUGALL. I would ask the gentleman what is the name of the gentleman he refers to?

Mr. BENTON. I do not know who they are and I do not care who they are. Sir, Colonel Frémont has been before this board. He was anxious unto shame that every man should be paid who had a just claim. I know he has paid money out of his own pocket to widows and others, and never told it to the Government, or to anybody else. He was anxious that every just claim should be paid, but at the same time, knowing that there were unjust and unfounded claims, he urged the Government, five or six years ago, to settle at once while it could be done, and keep false claims from coming here afterwards. Now, if this man has a just claim, let him show Frémont's word for it. He is now in California, but will be here before the next session.

Mr. LATHAM. Will the gentleman from Missouri allow me to say a word?

Mr. PHELPS. Not now. I have but a few more words to say, and then I will yield the floor. Well, Mr. Speaker, I was opposed to sending this board of officers to California to investigate any claims whatever. We have established a court of claims. That tribunal is to sit in this city. It is provided with a solicitor who is to protect the interests of the Government, and it has power to send for testimony. If claims shall be preferred before this court of claims arising out of the military operations in California, testimony can be taken, under the direction of the court of claims, in the State of California. But instead of that, it is proposed to send a roving commission through the State of California, for the purpose of hunting up claims against the Government—a privilege which is not extended to the people of any other State in the Union. This board is composed of military officers. Let them remain at their proper posts, instead of being charged with duties which properly belong to civilians, or which now properly belong to the court of claims which you have established at this session of Congress. These are the reasons why I cannot concur in the report of the committee of conference. In the other portions of that report I concur.

Mr. JONES, of Tennessee. I wish to inquire of the gentleman from Missouri, if the Army officers upon this board are not getting much larger compensation for this service than they would receive for the performance of their regular duties as officers of the Army? And whether, if this proposition passes, it will not, at least, continue them, whether they have any business to do or not, until the end of another long session of Congress, or for nearly two years from this time?

Mr. PHELPS. Their compensation is greatly increased, even with the modifications recommended by the committee of conference. Their compensation, as I am informed and believe, under the amendment in the form in which it passed the Senate, would amount to about $8,000 per annum. There have been some modifications of the amendment made by the committee of conference which will somewhat reduce the amount. I think their compensation, even under the modified form of the amendment, would amount to something like $6,000.

Mr. CLINGMAN. I now move the previous question upon the adoption of the report.

Mr. FAULKNER. I ask of this House that I shall have the privilege of replying to the gentleman from Missouri. As the introducer of the report I certainly ought to be heard.

The SPEAKER. The gentleman from Virginia [Mr. FAULKNER] made this report, and was

entitled to the floor. He occupied it and relinquished it. The gentleman from Missouri [Mr. PHELPS] was regularly recognized by the Chair, and submitted some remarks. When he had finished his speech, the gentleman from North Carolina [Mr. CLINGMAN] was regularly recognized, and moved the previous question. If the Chair could have imagined for a moment that the gentleman from Virginia desired the floor, it is more than likely he would have recognized him. But the gentleman is not deprived of his right by any decision of the Chair, because he had yielded the floor; and under that impression the Chair assigned it to another gentleman.

Mr. FAULKNER. I desire to make a statement to the Chair and to the House. When I made the report, I did not choose to go into any argument in support of it, because I was in hopes that it would have been acted on without one single word being said upon the subject. I therefore waited to see if the report would be attacked; and as it has been attacked, I now inquire of the Chair whether, if the previous question shall be sustained, I shall be cut off from an opportunity of making a reply to the gentleman from Missouri?

Mr. PHELPS. I did not make an attack on the report. I merely gave the reasons why I could not concur in it.

Mr. LILLY. I wish to inquire of the Chair what was the vote in the House by which this amendment in relation to the California board was rejected?

The SPEAKER. The Chair does not recollect.

Mr. LILLY. Were there not about three to one against it?

The SPEAKER. The Chair thinks the majority against it was a large one, but does not recollect the precise vote. The Chair decides that the gentleman from Virginia [Mr. FAULKNER] having reported this measure, or "matter pending," in the language of the rule, he will be entitled to be heard if the previous question shall be sustained.

The previous question received a second, and the main question was ordered to be put, being upon agreeing to the report of the committee of conference.

Mr. FAULKNER. Mr. Speaker, I feel some embarrassment in the position which I now occupy before this House. This is the first committee of conference that I have had the honor to serve upon in this body, and when appointed I supposed that I was to act a very subordinate part upon the committee. I find, however, from the course pursued by the gentleman from Missouri, [Mr. PHELPS,] in declining to concur in its conclusions, and in his attack upon its action, that I am thrown into the foreground of the fight as the defender of a measure which never before especially attracted my inquiry or enlisted my favor. The course of that gentleman renders it necessary that I should make a very brief explanation to the House of the action of the committee of conference, and of the reasons which prompted the conclusions to which we arrived.

I assume it for granted, that on every committee of conference there must be some mutual concessions made, especially where no vital and fundamental principles are involved. This is alike due to the dignity and character of the two Houses, who are presumed, when they so solemnly insist upon their respective views, to attach some importance to them. I wish the House to recollect that the disagreement between the two Houses in this case has resulted solely from the amendments of the Senate, every amendment which originated in this House having been concurred in by the Senate.

I wish further to state, that this disagreement has resulted from six amendments of the Senate; and that the Senate has receded, in conference, from five of those amendments, and has submitted to important modifications of the only amendment in which we have recommended a concurrence by the House.

What, then, is that amendment which is deemed by the gentleman from Missouri [Mr. PHELPS] so objectionable as to justify an opposition which may, upon the last day of the session, even hazard the success of the Army appropriation bill, with the increase of the Army? It is a section which proposes to continue in existence for one year longer a board created by the act of August, 1852, and charged with an inquiry into claims contracted in California, under Colonel Frémont, in 1846-'7. Had the creation of such a board been submitted to me as a question of original policy, I should have been opposed to it; but it was created in 1852. It has been in existence for more than two years. All admit the ability and fidelity with which its labors have been performed. It has already, as I learn, saved the Government from the payment of thousands of spurious and fraudulent claims; and now, when a few months more will close its labors, it is urged that we ought to disband it, and turn over these subjects to the new board of claims.

When the amendment of the Senate was before the House, a few days ago, it was rejected, I admit, by a most decisive and overwhelming vote. And if I, acting on behalf of the House, have since yielded your assent to that amendment, I did not do so until I had made of it a very distinct proposition from what it was when it was rejected by so decisive a vote of this body.

It was urged here, as an objection to the amendment of the Senate, that it recognized our obligation to pay for property of an enemy, destroyed during a period of war, in an enemy's country. If such was the true construction of the section, this House did right to reject it; and I would be the last to sanction it. To repel any such construction, the committee on the part of this House required the section to be so amended as to confine, in terms, all such relief to American citizens; and so it was accordingly amended in conference.

Again, it was objected that the Senate's amendment gave to the officers of the Army composing the board an extra compensation from the commencement of their labors to its termination. To obviate this objection we inserted a provision limiting the extra pay to the period of their service in California.

Again, it was urged that the existence of the board was continued without limitation as to time. We had it amended so as to guard against its continuance beyond one year longer. It is thought a few months will be sufficient to close its labors.

Again, the mileage was objected to. We have reduced the mileage going to and returning from California, to the mileage usually given to officers of the Army.

Again, it was urged against the amendment of the Senate, that it made provision for a private claim—that of Santiago E. Arguello. I examined this claim in conference, and found it to possess high merit. And whilst, as a general rule, I am opposed to providing for private claims in an appropriation bill, I could see nothing in the circumstances of this case to justify the rejection of this claim, when pressed by the Senate's committee. Who is the claimant? From a report now before me, made to the Senate by the Committee on Claims, on the 23d of March, 1852, I find that

"The petitioner was a wealthy and influential inhabitant of California, residing in the vicinity of San Diego. On the invasion of that country during the Mexican war, and on the appearance of the proclamation of Commodore Stockton, then in command of that division of the American forces, Arguello placed himself at the head of a company raised through his influence and exertions, and immediately joined the United States forces, and fought with distinguished bravery and effect in several actions, under the command of Commodore Stockton, who fully attests his gallantry, and the importance of his services.

"On the 25th November, 1846, he was appointed by Governor Stockton a captain of riflemen in the California battalion, and on the 16th January, 1847, a member of the legislative council of that Territory.

"In consequence of his attachment to the cause of the United States, and the zeal and activity which he manifested in their service, his *rancho* was ravaged and laid waste, his buildings burnt, and his cattle and other movable effects taken away by the enemy, by which he appears to have been reduced from competence and wealth to penury and dependence.

"A commission, appointed by H. Fitch, Esq., alcalde of San Diego, to examine and report upon the losses of Arguello, state, under oath, and after a personal examination, that the personal property thus destroyed by the enemy amounted, 'at the lowest value,' to $14,888." * * *

"On leaving California, Governor Stockton, who rendered such valuable, important, and arduous service in that then distant and almost unknown Territory, addressed a communication to Arguello, in which, after acknowledging his services, sacrifices, and losses, he says: 'I hope—nay, I have not the least doubt—but that the losses which you have sustained will be reimbursed by the Government of the United States.'"

This claim of $14,888 has, in the amendment of the Senate, been reduced to $11 548.

I find further, in a letter of Commodore Stockton, bearing date the 5th of March, 1852, the following summary of the services and sacrifices of Arguello:

"1st. Don Santiago E. Arguello was one of the first, after my proclamation, to espouse the American cause, and take up arms in its defense.

"2d. He assisted in taking and holding San Diego under the American flag.

"3d. He raised a company, and served under me during the whole campaign.

"4th. He fought most gallantly, side by side with me in every battle, always distinguished.

"5th. By his enterprise and boldness he contributed, more than any one else, to supply me with cattle and animals for transportation purposes.

"6th. He exercised a powerful and salutary influence in harmonizing and reconciling the Californians to the change of flag.

"7th. His family were driven from their home; his house pillaged and burnt; his numerous flocks and herds destroyed; his peons scattered and driven off; his inclosures and growing crops wantonly laid waste; and not a vestige of his perishable property left. Thus, at the end of the war he found himself rich in honors, but a houseless, homeless, and poverty-stricken man."

Mr. BENTON. Who did it? The enemy did it.

Mr. FAULKNER. The statement from which I have been reading is made by Commodore Stockton. Of course the injuries there recited were done by our enemies.

Mr. BENTON. Does he say that Frémont did it?

Mr. FAULKNER. The statement of Commodore Stockton does not say that Frémont did it; nor have I said that Frémont did it.

Mr. BENTON. I ask the gentleman if Frémont did it?

The SPEAKER. The gentleman from Missouri is out of order.

Mr. BENTON. I am vindicating truth, order, and justice.

Mr. FAULKNER. The gentleman from Missouri will not go further to vindicate truth and justice than I will.

The SPEAKER. The Chair hopes that gentlemen will try and preserve order.

Mr. FAULKNER. At the time I was so strangely interrupted by the gentleman from Missouri, I was not making the slightest allusion to Colonel Frémont, or to any injury or destruction of property that occurred, so far as I know, even when he was in California. I was speaking of the private claim of Arguello, which was embraced in the bill, and which was deemed objectionable by some gentlemen in this House, because he was provided for by that amendment of the Senate in which the concurrence of this House is now asked. I have already quoted the testimony of Commodore Stockton, as gallant a man as this country has ever produced, and as reliable a witness as could testify to any fact, and who presents this man as a martyr, and a victim to his zeal and devotion to the American cause.

Mr. BENTON. Does he say that Frémont did it?

Mr. FAULKNER. He makes not the slightest allusion to Frémont.

Mr. BENTON. The bill says he did it, and the law says he did it.

The SPEAKER. The gentleman from Missouri is out of order.

Mr. BENTON. I know I am out of order, but my indignation is great——

Mr. FAULKNER. There is not the slightest occasion for the indignation or temper of the gentleman from Missouri, so far as this bill is concerned, for, if, as he alleges, no property was destroyed by the order of Colonel Frémont, why then this bill is a dead letter, for it makes no provision for any case except where that destruction was by his order.

I will, in conclusion, then, say, sir, that my reasons for yielding my assent to this amendment of the Senate, modified as it has most materially been in our conference committee, were: That it was strongly sustained by the Senator from California in the conference committee, who expressed it as his firm conviction, resulting from no slight acquaintance with the facts, that a continuance of the labors of this board, for a few months longer, was highly important to the interests of this Government, in ferreting out and rejecting a large number of spurious and fraudulent claims. Of the same opinion, are the two Representives from California on the floor. These are all honorable and high-minded gentlemen who would not deceive Congress, or trifle with their word.

Again, I have taken some pains to examine the work of the board, and I have found their decisions marked by great deliberation and caution,

and by a firm determination to do justice between the Government and the claimants. And whilst I should have opposed the creation of any such board as an original proposition, I believe it is now better to let them proceed to close their investigations into these claims. The labors of two years have made them familiar with the whole subject, and they can now bring to a termination in six months what it might require another tribunal years to decide upon. I have some acquaintance with the gentlemen composing this board. The value of their work speaks for itself, and is disputed by no one; and certainly no three officers of the Army maintain a higher character for integrity and fidelity in the performance of that or any other duty assigned to them.

I will consume no more of the time of the House on this subject. If not satisfied with the action of the committee of conference, let this body reject it, and refer the disagreement to another committee. I feel satisfied, if larger concessions could have been extorted from the Senate, it would have been at the expense of the public interests.

Mr. BENTON. I beg to state to the House that I have a letter from an officer of the board, who wishes it continued, and says to me in the concluding part of it, "you know the solicitude of Colonel Frémont to have every honest claim paid." I do——

Mr. McDOUGALL. If the gentleman from Missouri is going to make a speech I wish to answer him.

Mr. WASHBURN, of Maine, demanded the yeas and nays upon agreeing to the report of the committee of conference, which were ordered.

The question was taken; and there were—yeas 64, nays 90; as follows:

YEAS—Messrs. Aiken, James C. Allen, Appleton, Barksdale, Belcher, Bocock, Breckinridge, Bristow, Brooks, Caruthers, Chastain, Clark, Clingman, Cook, Corwin, Crocker, Cutting, Dowdell, Drum, Dunbar, Edmands, Edmundson, John M. Elliott, English, Etheridge, Faulkner, Florence, Fuller, Goode, Green, Aaron Harlan, Sampson W. Harris, Harrison, Haven, Hendricks, Ingersoll, Roland Jones, Kerr, Lamb, Latham, McDougall, McNair, Smith Miller, Olds, Orr, Packer, Preston, Ready, Richardson, Seymour, Shower, William Smith, William R. Smith, John L. Taylor, Teller, Thurston, Tweed, Walley, Walsh, John Wentworth, Westbrook, and Hendrick B. Wright—64.

NAYS—Messrs. Ashe, Ball, Benson, Benton, Boyce, Campbell, Carpenter, Caskie, Chamberlain, Chrisman, Cobb, Cox, Craige, Curtis, John G. Davis, Thomas Davis, Dawson, Dent, Disney, Eastman, Edgerton, Thomas D. Eliot, Ellison, Everhart, Farley, Flagler, Gamble, Giddings, Greenwood, Grey, Grow, Hamilton, Henn, Hiester, Hill, Houston, Howe, Hughes, Hunt, George W. Jones, Keitt, Kurtz, Letcher, Lewis, Lilly, McCulloch, Matteson, Maurice, Mayall, Meacham, Middleswarth, Millson, Morgan, Murray, Nichols, Noble, Norton, Andrew Oliver, Parker, Peck, Pennington, Bishop Perkins, Phelps, Powell, Pratt, Pringle, David Ritchie, Thomas Ritchey, Rowe, Ruffin, Russell, Sabin, Sage, Sapp, Seward, Shaw, Skelton, Hestor L. Stevens, Stratton, Straub, Andrew Stuart, John J. Taylor, Nathaniel G. Taylor, Tracy, Upham, Vansant, Elihu B. Washburne, Israel Washburn, Wells, and Wheeler—90.

So the House refused to agree to the report of the committee of conference

Mr. PHELPS. I move that the House insist upon their disagreement to the amendments of the Senate to the Army appropriation bill; and I ask that another committee of conference be appointed.

The question was taken; and it was decided in the affirmative.

The SPEAKER appointed Messrs. PHELPS, EDGERTON, and WALLEY to act as the committee of conference on the part of the House.

Mr. PHELPS moved to reconsider the vote by which the report of the committee of conference was rejected, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; which received the signature of the Speaker:

An act to regulate the carriage of passengers in steamships and other vessels;

An act for the relief of Madalena Van Ness widow of Cornelius Van Ness, deceased;

An act to provide accommodations for the United States courts in the city of Jackson, Mississippi;

An act for the relief of the widow of W. Irving, deceased;

An act to establish certain post roads; and

An act to change the boundaries of the land districts in the State of Iowa, and for other purposes.

CHARGES AGAINST HON. T. H. BAYLY.

Mr. WITTE. I rise to a question of privilege. I desire to present the report of the select committee raised in this House for the purpose of investigating certain charges made against Hon. THOMAS H. BAYLY, of Virginia, which I ask may be laid upon the table, and be printed.

There being no objection it was so ordered.

POST OFFICES, ETC—SMITHSONIAN INSTITUTION.

Mr. WITTE. I desire, also, to present a report from the select committee raised in this House to whom the message of the President, in relation to sites for post offices and court rooms, was referred; and also a report from the select committee appointed by this House to examine and investigate the management of the Smithsonian Institution. I ask that the reports in both these cases be laid on the table and ordered to be printed. There being no objection it was so ordered.

ST. CLAIR FLATS, ETC.

The SPEAKER. The question is upon suspending the rules.

Mr. JONES, of Tennessee. Upon what?

The SPEAKER. Upon a motion to take up Senate bill No. 498.

Mr. JONES. I ask for the yeas and nays upon that motion. Let the bill be reported.

The title of the bill was reported, as follows:

An act making appropriations for deepening the channel over the St. Clair flats, and for deepening the channel over the flats of the St. Mary's river, in the State of Michigan.

Mr. EASTMAN. I ask the gentleman from Michigan to yield to me a moment, to enable me to move to take up a Senate resolution, the object of which is to put a construction upon a law of Congress passed last session for the benefit of the State of Wisconsin.

Mr. CLARK. I can only say, if it is the unanimous wish of the House to take up that bill, and I do not lose my right to the floor, I have no objection.

Several MEMBERS objected.

Mr. STUART. I believe the yeas and nays have not been ordered on the bill called up by my colleague, [Mr. CLARK.]

The SPEAKER. The Clerk says not.

Mr. JONES. I demand the yeas and nays.

The yeas and nays were not ordered.

The question was then put upon the motion to suspend the rules; and it was decided in the affirmative.

Mr. CLARK. I demand the previous question upon ordering the bill to be read a third time.

The previous question was seconded, and the main question ordered to be put.

The bill was then ordered to a third reading; and was accordingly read the third time.

Mr. HAMILTON. Upon the passage of the bill I demand the yeas and nays.

Mr. JONES, of Tennessee. I demand tellers upon the yeas and nays.

Tellers were ordered; and Messrs. EDMUNDSON and HUNT were appointed.

The House was then divided; and the tellers reported twenty-two in the affirmative, (not a sufficient number.)

So the yeas and nays were not ordered.

The bill was then passed.

Mr. STUART, of Michigan, moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

PUBLIC WORKS IN MASSACHUSETTS.

Mr. WALLEY. I ask the unanimous consent of the House to take from the Speaker's table Senate bill (No. 611) for continuing certain public works in the State of Massachusetts.

Mr. HAMILTON. I object to the consideration of the bill.

Mr. WALLEY. Then I move to suspend the rules.

Mr. HAMILTON. I demand the yeas and nays upon that motion.

The yeas and nays were ordered.

The question was then put; and resulted—yeas 84, nays 66; as follows:

YEAS—Messrs. Appleton, David J. Bailey, Banks, Benson, Benton, Bristow, Campbell, Carpenter, Caruthers, Chandler, Clark, Cook, Corwin, Cox, Crocker, Cutting, Thomas Davis, DeWitt, Dickinson, Dunbar, Eastman, Edgerton, Edmands, Thomas D. Eliot, Etheridge, Farley, Flagler, Franklin, Giddings, Goodrich, Andrew J. Harlan, Harrison, Haven, Henn, Howe, Hughes, Hunt, Kerr, Knox, Latham, Lindsley, Macy, May, Morgan, Nichols, Noble, Norton, Mordecai Oliver, Peckham, Pennington, Preston, Pringle, Ready, Richardson, Rogers, Russell, Sabin, Sage, Sapp, Seward, Seymour, Shower, Simmons, Frederick P. Stanton, Hestor L. Stevens, Stratton, Andrew Stuart, David Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Tracy, Upham, Vansant, Wade, Walley, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, and Zollicoffer—84.

NAYS—Messrs. James C. Allen, Willis Allen, Thomas H. Bayly, Barksdale, Bocock, Caskie, Chastain, Chrisman, Cobb, Craige, Curtis, John G. Davis, Dawson, Disney, Dowdell, Edmundson, Ellison, English, Faulkner, Fuller, Gamble, Greenwood, Grey, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Hendricks, Hiester, Houston, Ingersoll, George W. Jones, Keitt, Kidwell, Kurtz, Lamb, Lane, Letcher, Lewis, Lilly, Lindley, McCulloch, McMullin, McNair, McQueen, Maurice, Maxwell, Mayall, Smith Miller, Millson, Murray, Andrew Oliver, Packer, Peck, Phelps, Powell, Rowe, Ruffin, Shannon, Shaw, Skelton, Samuel A. Smith, William Smith, Richard H. Stanton, Straub, Walsh, and Wheeler.—66.

So, two thirds not voting in favor thereof, the rules were not suspended.

ABIGAIL STAFFORD.

Mr. STRATTON. I ask the unanimous consent of the House to take from the Speaker's table Senate resolution (No. 10) explanatory of an act entitled "An act for the relief of Abigail Stafford."

The resolution was read *in extenso*.

No objection being made the resolution was ordered to be read a third time, and being read the third time, it was subsequently passed.

FRANKLIN CHASE.

Mr. READY. I ask the unanimous consent of the House to take up Senate bill (No. 590) for the relief of Franklin Chase.

The bill was then read, and ordered to a third reading; it was subsequently read the third time, and passed.

CAPTAIN THOMAS AP CATESBY JONES.

Mr. SMITH, of Virginia. I ask the unanimous consent of the House that the Committee of the Whole House be discharged from the further consideration of Senate bill (No. 481) for the relief of Captain Thomas Ap Catesby Jones.

Mr. CRAIGE. I object.

Mr. SMITH. I move the suspension of the rules for the purpose which I have indicated.

The bill was read for information. It authorizes and directs the proper accounting officer of the Treasury to pay to Captain Thomas Ap Catesby Jones, United States Navy, the pay of which he was deprived by the decision of a court-martial in 1851; provided the act is not to be construed as an expression of opinion on the organization, conduct, or decision of said court.

Mr. JONES, of Tennessee. I demand the yeas and nays on the motion to suspend the rules.

The yeas and nays were ordered.

The question was taken; and it was disagreed to—yeas 65, nays 61; as follows:

YEAS—Messrs. Aiken, Appleton, Ashe, Ball, Banks, Bocock, Breckinridge, Campbell, Chandler, Clingman, Cox, Cullom, Cutting, Thomas Davis, Disney, Dunbar, Eddy, Edgerton, Edmundson, John M. Elliott, Farley, Faulkner, Florence, Franklin, Gamble, Goodrich, Greenwood, Grey, Harrison, Haven, Hiester, Howe, Hunt, Keitt, Kerr, Lamb, Lane, Lilly, Lindley, McQueen, Macy, Maxwell, May, Smith Miller, Norton, Parker, John Perkins, Phillips, Powell, Pratt, Preston, Ready, Reese, Robbins, Ruffin, Sapp, Shannon, William Smith, Richard H. Stanton, Straub, John L. Taylor, Nathaniel G. Taylor, Vansant, Walbridge, Elihu B. Washburne, John Wentworth, Westbrook, Witte, and Hendrick B. Wright—65.

NAYS—Messrs. James C. Allen, Willis Allen, Benson, Carpenter, Chamberlain, Chastain, Cobb, Craige, John G. Davis, Dawson, De Witt, Dickinson, Dowdell, Eastman, Edmands, Thomas D. Eliot, Ellison, English, Flagler, Fuller, Giddings, Grow, Hamilton, Aaron Harlan, Andrew J. Harlan, Hastings, Hendricks, Hibbard, Hill, Houston, Howe, Daniel T. Jones, George W. Jones, Knox, Lindsley, McCulloch, Mace, Matteson, Maurice, Middleswarth, Millson, Morgan, Murray, Nichols, Andrew Oliver, Peck, Peckham, Pennington, Pringle, Rowe, Sabin, Sage, Seward, Skelton, John J. Taylor, Tracy, Upham, Wade, Walsh, Wells, Wheeler, and Zollicoffer—61.

So the House refused to suspend the rules.

VETO MESSAGE FROM THE PRESIDENT.

A message was received from the President, by SIDNEY WEBSTER, Esq., his Private Secretary, notifying the House that he had approved and signed sundry private bills, and returning the mail steamer appropriation bill with his objections thereto.

The SPEAKER. Is it the pleasure of the House that the veto message be read?

Mr. TAYLOR, of Ohio. It is not the pleasure of the House to have the veto message read.

The SPEAKER. It is the duty of the Chair to have the message read.

Mr. TAYLOR. Let the House decide whether or not it will interrupt the business of the House by the reading of that message. Let it be laid upon the table. I make that motion.

The SPEAKER. Gentlemen will remember the provision of the Constitution in reference to veto messages of the President. Bills being returned with the President's objections, the House shall proceed to consider them.

Mr. TAYLOR. I was not aware that the Constitution required the immediate consideration of a veto message in preference to other business.

The SPEAKER. The Chair does not think that the rules of the House conflict with the provisions of the Constitution. The Clerk will proceed to read the message.

The Clerk then read the Message, as follows:

To the House o Representatives:

I return herewith to the House of Representatives, in which it originated, the bill entitled "An act making appropriations for the transportation of the United States mail, by ocean steamers and otherwise, during the fiscal years ending the 30th of June, 1855, and the 30th of June, 1856," with a brief statement of the reasons which prevent its receiving my approval.

The bill provides, among other things, that "the following sums be, and the same are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the year ending the 30th of June, 1856:

"For transportation of the mails from New York to Liverpool and back, $858,000; and that the proviso contained in the first section of the act entitled 'An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852,' approved the 21st of July, 1852, be, and the same is hereby, repealed: *Provided*, That Edward K. Collins and his associates shall proceed, with all due diligence, to build another steamship, in accordance with the terms of their contract, and have the same ready for the mail service in two years from and after the passage of this act. And if the said steamship is not ready within the time above mentioned, by reason of any neglect or want of diligence on their part, then the said Edward K. Collins and his associates shall carry the United States mails between New York and Liverpool from the expiration of the said two years, every fortnight, free of any charge to the Government, until the new steamship shall have commenced the said mail service."

The original contract was predicated upon the proposition of E. K. Collins of March 6, 1846, made with abundant means of knowledge as to the advantages and disadvantages of the terms which he then submitted for the acceptance of the Government. The proposition was in the following terms:

"E. K. Collins and his associates propose to carry the United States mail between New York and Liverpool twice each month during eight months of the year, and once a month during the other four months, for the sum of three hundred and eighty five thousand dollars ($385,000) per annum, payable quarterly. For this purpose they will agree to build five steamships, of not less than two thousand tons measurement, and of one thousand horse-power each, which vessels shall be built for great speed, and sufficiently strong for war purposes.

"Four of said vessels to be ready for service in eighteen months from the signing of the contract. The fifth vessel to be built as early as possibly practicable, and, when not employed in the mail service, to be subject to the orders of the Government for carrying dispatches, for which service a fair compensation is to be paid. Contract to be for the term of ten years. It is also proposed to secure to the United States the privilege of purchasing said steamships whenever they may be required for public purposes, at a fair valuation, to be ascertained by appraisers appointed by the United States and by the owners.

("Signed,) EDWARD K. COLLINS.

"WASHINGTON, *March* 6, 1846."

The act of March 3, 1847, provides: "That from and immediately after the passage of this act, it shall be the duty of the Secretary of the Navy to accept, on the part of the Government of the United States, the proposals of E. K. Collins and his associates, of the city of New York, submitted to the Postmaster General, and dated at Washington, March 6, 1846, for the transportation of the United States mail between New York and Liverpool, and to contract with the said E. K. Collins and his associates for the faithful fulfilment of the stipulations therein contained, and in accordance with the provisions of this act;" and under this proposition and enactment the original contract was made.

According to the terms of that contract, the parties were to receive from the United States, for twenty round trips each year, the sum of $19,250 the trip, or $385,000 per annum; and they were to construct and provide five ships, of a stipulated size and quality, for the performance of this or other service for the Government.

Of the ships contracted for, only four have been furnished, the Atlantic, Pacific, Arctic, and Baltic, and the present bill proposes to dispense entirely with the original condition of a fifth ship, by only requiring the construction of one, which would but supply the place of the Arctic, recently lost by peril of the sea. Certain minor conditions, involving expense to the contractors, among which was one for the accommodation and subsistence of a certain number of passed midshipmen on each vessel, had previously been dispensed with on the part of the United States.

By act of Congress of July 21, 1852, the amount of compensation to the contractors was increased from $19,250 to $33,000 a trip, and the number of trips from twenty to twenty-six each year—making the whole compensation $858,000 per annum. During the period of time from the commencement of the service of these contractors on the 27th of April 1850, to the end of the last fiscal year, June 30, 1854, the sum paid to them by the United States amounted to $2,620,906, without reckoning public money advanced on loan to aid them in the construction of the ships; while the whole amount of postages derived to the Department has been only $734,056; showing an excess of expenditures above receipts of $1,886,440 to the charge of the Government. In the mean time, in addition to the payments from the Treasury, the parties have been in the enjoyment of large receipts from the transportation of passengers and merchandise, the profits of which are in addition to the amount allowed by the United States.

It does not appear that the liberal conditions heretofore enjoyed by the parties were less than a proper compensation for the service to be performed, including whatever there may have been of hazard in a new undertaking; nor that any hardship can be justly alleged calling for relief on the part of the Government.

On the other hand, the construction of five ships of great speed, and sufficiently strong for war purposes, and the services of passed midshipmen on board of them, so as thus to augment the contingent force and the actual efficiency of the Navy, were among the inducements of the Government to enter into the contract.

The act of July 21, 1852, provides "that it shall be in the power of Congress at any time after the 31st day of December, 1854, to terminate the arrangement for the additional allowance herein provided for upon giving six months' notice," and it will be seen that, with the exception of the six additional trips required by the act of July 21, 1852, there has been no departure from the original engagement but to relieve the contractors from obligation; and yet, by the act last named the compensation was increased from $385,000 to $858,000, with no other protection to the public interests provided than the right which Congress reserved to itself to terminate the contract, so far as this increased compensation was concerned, after six months' notice. This last provision, certainly a primary consideration for the more generous action of the Government, the present bill proposes to repeal, so as to leave Congress no power to terminate the new arrangement.

To this repeal the objections are, in my mind, insuperable, because, in terms, it deprives the United States of all future discretion as to the increased service and compensation, whatever changes may occur in the art of navigation, its expenses, or the policy and political condition of the country. The gravity of this objection is enhanced by other considerations. While the contractors are to be paid a compensation nearly double the rate of the original contract, they are exempted from several of its conditions, which has the effect of adding still more to that rate; while the further advantage is conceded to them, of placing their new privileges beyond the control even of Congress.

It will be regarded as a less serious objection than that already stated, but one which should not be overlooked, that the privileges bestowed upon the contractors are without corresponding advantages to the Government, which receives no sufficient pecuniary, or other return for the immense outlay involved; which could obtain the same service of other parties at less cost; and which, if the bill becomes a law, will pay them a large amount of public money, without adequate consideration—that is, will in effect confer a gratuity, whilst nominally making provision for the transportation of the mails of the United States.

To provide for making a donation of such magnitude, and to give to the arrangement the character of permanence which this bill proposes, would be to deprive commercial enterprise of the benefits of free competition, and to establish a monopoly, in violation of the soundest principles of public policy, and of doubtful compatibility with the Constitution.

I am, of course, not unmindful of the fact that the bill comprises various other appropriations which are more or less important to the public interests; for which reason my objections to it are communicated at the first meeting of the House following its presentation to me, in the hope that by amendment to bills now pending, or otherwise, suitable provision for all the objects in question may be made before the adjournment of Congress.

FRANKLIN PIERCE.

WASHINGTON, *March* 3.

Mr. HUNT. Mr. Speaker, I would be false to my duty, and unworthy of a seat on this floor as a national Representative, if I did not give utterance to the feelings of my heart. Sir, veto follows veto, in the rapid march of tyranny over the liberties of the people. The abominable veto just read is the very heighth of tyranny—a usurpation of power unknown to our ancestors, and without precedent in the history of this free country. I desire gentlemen to know who they are;—the Representatives of an independent people, sent here to express their minds freely as grave, conscientious, and patriotic men, on public affairs, and to determine on matters like the present, peculiarly and properly within their legislative discretion:—not slaves, to act as the medium of recording the will of the Executive, bent entirely upon superseding and doing away with the legislative power of the country. The times are melancholy, indeed, if the President is to dictate to this people.

That officer claims a right to exercise the veto power as freely as any one of us Representatives standing here can exercise his individual judgment upon a matter for the legislative consideration of this body. This is a power which was never conferred by the Constitution; which would take away our constitutional power of legislation; and which, if permitted or tolerated, would result in the overthrow of the liberties of the country. When our revolutionary fathers fought for, and established, this free Republic, they thought they had put an end to monarchy. But this is all a dream, if Franklin Pierce—by an accident, as I think of the foreign vote—President of the United States, is allowed to dictate to the people of this free country, and to say what they shall do and what laws they shall make.

Sir, I see some gentlemen over the way smiling with self-complacency, no doubt, at the result of this veto, as in conformity with their votes on the bill. But, sir, if they will sound their hearts as patriots, I think they will rather be overwhelmed with grief and sorrow to see a tyrant thus striking down the will of the sovereign people.

Mr. BOYCE. I move the previous question.

Mr. CAMPBELL. A revolution has commenced——

[Shouts of "Order!" "Order!" and tumultuous confusion, in which the remainder of the sentence was lost.]

Mr. LETCHER. Bloodless, as yet.

Mr. BRECKINRIDGE. I ask the gentleman from South Carolina to withdraw the demand for

the previous question, to enable me to submit some remarks in support of the veto.

Mr. WHEELER. I move that the House do now adjourn; and on that motion I ask the yeas and nays.

Mr. BRECKINRIDGE. I asked the gentleman from South Carolina [Mr. BOYCE] to yield me the floor, not that I expected to get it——

Mr. WHEELER, (amid great noise and confusion.) I insist upon my motion to adjourn; and on it I call for the yeas and nays.

Mr. ASHE. I rise to a point of order. Do I not understand that the Chair recognized the gentleman from South Carolina, [Mr. BOYCE,] and is he not now entitled to the floor?

The SPEAKER. The gentleman from South Carolina demanded the previous question, and of course cannot retain the floor, as the call for the previous question is not debatable.

The question being on Mr. WHEELER's motion to adjourn,

The yeas and nays were ordered.

Mr. ASHE. I desire to ask the Chair if the House adjourn now to what time will it adjourn?

[Loud cries of "Order!" "Order!"]

The Clerk commenced to call the roll.

Mr. PHILLIPS. I rise to a question of order. I understand that the motion of the gentleman from New York is——

[Loud cries of "Order!" "Order!"]

The SPEAKER. The Chair, as a matter of privilege, cannot hear a question of order while the roll is being called.

Mr. PHILLIPS. There was no response.

The SPEAKER. Then the gentleman from Alabama may state his question of order.

Mr. PHILLIPS. I desire to ask a question of order; but I will first state the fact as it stands. The gentleman from New York [Mr. WHEELER] moves that the House do now adjourn. The consequence is, that if the motion should prevail——

[Renewed cries of "Order!"]

Mr. PHILLIPS. I hope the Chair will hear my point of order.

The SPEAKER. The Chair will be pleased to hear the gentleman from Alabama, but he will recollect that the rules do not allow debate.

Mr. PECK. I object.

Mr. PHILLIPS. I do not desire to debate the question; I simply desire to make a point of order.

The SPEAKER. Every member knows that any one occupying the position which I do is often cut off from stating what is before the body.

Mr. PHILLIPS. I cannot help it.

Mr. WHEELER. No point of order can be raised when there is a motion to adjourn.

Mr. BENTON. The Constitution requires that we shall consider a veto message.

[Loud cries of "Order!" "Order!"]

The SPEAKER. The gentleman from New York [Mr. WHEELER] submits a motion that the House do now adjourn. On that motion the yeas and nays are ordered. The gentleman from Alabama [Mr. PHILLIPS] is addressing the House on the subject of the propriety of adjournment. That question is not debatable.

Mr. PHILLIPS. No, sir; I do not propose to debate that motion.

Mr. WHEELER. As I understand the rules, no question of order can be raised on the motion to adjourn.

The SPEAKER, (to Mr. PHILLIPS.) The subject is not debatable. The House refuses to hear the gentleman from Alabama, and the Chair must enforce the rule.

Mr. PHILLIPS, (amid loud cries of "Order!") I do not propose to debate it, but I do propose to submit a point of order——

The SPEAKER. The gentleman from Alabama has a right, under the rule, to state the question of order; but he must not make a speech.

Mr. PHILLIPS. I do not propose to make a speech. I know what the rules of order are.

The SPEAKER. The gentleman sees the necessity the Chair is under to enforce the rule.

Mr. PHILLIPS. I understand the position of the Chair. My point of order is this——

Mr. WHEELER, (interrupting.) I rise to a question of order.

The SPEAKER. The gentleman from Alabama has a right to state his question of order. How otherwise can the Chair determine whether the gentleman is in order or not?

Mr. PHILLIPS. My point of order is this: that, under the Constitution of the United States, when a veto message is received by the House, the House is bound to proceed with the consideration of the bill vetoed; and that a motion to adjourn on the last day of the session, before its consideration, is contrary to the Constitution of the United States, and out of order.

The SPEAKER. The Chair decides that it is competent for this House to adjourn if it choose to do so, and no debate can arise on the proposition that the House do now adjourn.

The question being on the motion to adjourn,

The roll was called; and the question was decided in the negative—yeas 8, nays 180; as follows:

YEAS—Messrs. Ball, Farley, Maurice, Meacham, Morgan, Peck, John L. Taylor, and Wheeler—8.

NAYS—Messrs. Aiken, James C. Allen, Appleton, Ashe, Thomas H. Bayly, Banks, Barksdale, Belcher, Bell, Bennett, Benson, Benton, Bocock, Boyce, Breckinridge, Bridges, Bristow, Brooks, Campbell, Carpenter, Caruthers, Caskie, Chamberlain, Chandler, Chastain, Chrisman, Clark, Clingman, Cobb, Cook, Corwin, Cox, Craige, Crocker, Cumming, Curtis, Cutting, John G. Davis, Thomas Davis, Dawson, De Witt, Dickinson, Disney, Dowdell, Drum, Dunbar, Dunham, Eastman, Eddy, Edgerton, Edmands, Edmundson, Thomas D. Eliot, John M. Elliott, Ellison, English, Etheridge, Faulkner, Florence, Franklin, Fuller, Gamble, Goode, Goodrich, Green, Greenwood, Grey, Grow, Hamilton, Aaron Harlan, Andrew J. Harlan, Sampson W. Harris, Wiley P. Harris, Harrison, Hastings, Haven, Hendricks, Henn, Hibbard, Hiester, Hill, Houston, Howe, Hunt, Ingersoll, Johnson, Daniel T. Jones, George W. Jones, Roland Jones, Keitt, Kerr, Knox, Kurtz, Lamb, Lane, Latham, Letcher, Lewis, Lilly, Lindley, Lindsley, McCulloch, Macdonald, McDougall, McMullin, McQueen, Mace, Macy, Maxwell, May, Middleswarth, Smith Miller, Millson, Murray, Nichols, Noble, Norton, Olds, Andrew Oliver, Orr, Packer Parker, Peckham, Pennington, Bishop Perkins, John Perkins, Phelps, Phillips, Powell, Pratt, Preston, Pringle, Puryear, Ready, Reese, Richardson, Riddle, Robbins, Rogers, Rowe, Ruffin, Russell, Sabin, Sapp, Seward, Shannon, Shower, Simmons, Singleton, Skelton, Samuel A. Smith, William Smith, William R. Smith, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Stratton, Straub, Andrew Stuart, John J. Taylor, Nathaniel G. Taylor, Teller, Thurston, Tracy, Trout, Tweed, Upham, Vansant, Walbridge, Walker, Walley, Walsh, Ellihu B. Washburne, Israel Washburn, Tappan Wentworth, Westbrook, Witte, Daniel B. Wright, Hendrick B. Wright, and Zollicoffer—180.

So the House refused to adjourn.

The question recurred on the demand for the previous question made by Mr. BOYCE.

Mr. MATTESON. On that I call for the yeas and nays.

The SPEAKER. That is not in order. No yeas and nays can be had on seconding the previous question.

Mr. SAGE demanded tellers.

Tellers were ordered; and Messrs. HAMILTON and WHEELER were appointed.

The House divided; and the tellers reported—ayes 83, noes 58.

So the previous question was seconded.

The question recurred on ordering the main question to be put.

Mr. WHEELER called for the yeas and nays.

Mr. MATTESON. I move that the House do now adjourn, and on that I call for the yeas and nays, and for tellers on the yeas and nays.

Tellers were ordered; and Messrs. DUNHAM and PHELPS were appointed.

The House divided; and the tellers reported—ayes twenty, (not one fifth of a quorum.)

So the yeas and nays were not ordered.

The question was taken on Mr. MATTESON's motion; and it was not agreed to.

The question recurred on the call for the yeas and nays on ordering the main question to be put.

The yeas and nays were ordered.

Mr. SEWARD. I wish to know the state of the question.

The SPEAKER. It is on ordering the main question to be put, and on that the yeas and nays are ordered.

Mr. OLDS. Let me ask a question. The effect of not ordering the previous question would be to carry the whole matter for discussion before the House?

The SPEAKER. The Chair will decide the question when it arises.

Mr. HUNT. And if the main question is ordered it will bring the House to vote distinctly on the bill?

The SPEAKER. Yes.

The question was taken; and it was decided in the affirmative—yeas 131, nays 42; as follows:

YEAS—Messrs. Aiken, James C. Allen, Appleton, Ashe, Thomas H. Bayley, Barksdale, Belcher, Benton, Boyce, Breckinridge, Bridges, Bristow, Brooks, Caruthers, Caskie, Chamberlain, Chastain, Chrisman, Clark, Clingman, Cobb, Corwin, Cox, Craige, Crocker, Cumming, John G. Davis, Thomas Davis, Dawson, Dickinson, Dowdell, Dunbar, Dunham, Eastman, Eddy, Edmands, Edmundson, Thomas D. Eliot, Ellison, English, Etheridge, Everhart, Faulkner, Florence, Fuller, Gamble, Green, Greenwood, Grey, Grow, Hamilton, Sampson W. Harris, Wiley P. Harris, Hastings, Haven, Hendricks, Henn, Hibbard, Hiester, Hill, Houston, Howe, Johnson, George W. Jones, Roland Jones, Keitt, Kurtz, Lamb, Lane, Latham, Letcher, Lewis, Lindley, Lindsley, McCulloch, Macdonald, McMullin, McNair, McQueen, Mace, Macy, Maxwell, May, Smith Miller, Millson, Murray, Nichols, Noble, Mordecai Oliver, Orr, Packer, John Perkins, Phillips, Powell, Pratt, Preston, Puryear, Ready, Reese, Richardson, Thomas Ritchey, Rogers, Ruffin, Russell, Seward, Seymour, Shannon, Shaw, Singleton, Skelton, William Smith, Frederick P. Stanton, Richard H. Stanton, Stratton, Andrew Stuart, David Stuart, John J. Taylor, Teller, Tracy, Trout, Tweed, Upham, Vansant, Walker, Ellihu B. Washburne, Wells, Witte, Daniel, B. Wright, Hendrick B. Wright, and Zollicoffer—131.

NAYS—Messrs. Banks, Benson, Campbell, Carpenter, Cullom, Cutting, De Witt, Disney, Farley, Flagler, Franklin, Goodrich, Goodwin, Aaron Harlan, Andrew J. Harlan, Hunt, Kerr, Knox, Matteson, Maurice, Meacham, Middleswarth, Morgan, Norton, Andrew Oliver, Parker, Peck, Peckham, Pennington, Pringle, David Ritchie, Sabin, Sage, Sapp, Simmons, John L. Taylor, Nathaniel G. Taylor, Wade, Walbridge, Walsh, Israel Washburn, and Wheeler—42.

So the main question was ordered to be put.

The question being "Shall the bill pass, the objections of the President to the contrary notwithstanding?"

Mr. WHEELER called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 79, nays 98; as follows:

YEAS—Messrs. Appleton, Thomas H. Bayly, Ball, Belcher, Benson, Campbell, Carpenter, Chamberlain, Chandler, Clark, Clingman, Cook, Corwin, Crocker, Cullom, Cutting, Thomas Davis, Dickinson, Disney, Drum, Dunbar, Eastman, Edgerton, Edmands, Thomas D. Eliot, Everhart, Farley Flagler, Franklin, Goodrich, Goodwin, Green, Andrew J. Harlan, Harrison, Hastings, Howe, Hughes, Hunt, Daniel T. Jones, Kerr, Knox, Latham, Lyon, Macy, Matteson, Maurice, Mayall, Meacham, Middleswarth, Morgan, Norton, Olds, Andrew Oliver, Peck, Peckham, Pennington, David Ritchie, Sage, Sapp, Simmons, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Tweed, Upham, Wade, Walbridge, Walley, Ellihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, and Wheeler—79.

NAYS—Messrs. Aiken, James C. Allen, Barksdale, Benton, Bocock, Boyce, Breckinridge, Bridges, Bristow, Brooks, Caruthers, Caskie, Chastain, Cox, Craige, Cumming, John G. Davis, Dawson, Dowdell, Dunham, Eddy, Edmundson, John M. Elliott, Ellison, Etheridge, Faulkner, Florence, Fuller, Goode, Greenwood, Grey, Grow, Hamilton, Aaron Harlan, Sampson W. Harris, Wiley P. Harris, Haven, Hendricks, Henn, Hibbard, Hiester, Hill, Houston, Johnson, George W. Jones, Roland Jones, Keitt, Kurtz, Lamb, Lane, Letcher, Lewis, Lilly, Lindley, Lindsley, McCulloch, McNair, McQueen, Maxwell, Smith Miller, Millson, Murray, Nichols, Noble, Mordecai Oliver, Orr, Packer, Parker, Bishop Perkins, John Perkins, Phelps, Phillips, Pratt, Preston, Ready, Richardson, Thomas Ritchey, Robbins, Ruffin, Russell, Seward, Seymour, Shannon, Shaw, Singleton, Skelton, William Smith, William R. Smith, Stratton, Straub, Andrew Stuart, John J. Taylor, Tracy, Vansant, Walker, Witte, Daniel B. Wright, Hendrick B. Wright, and Zollicoffer—98

So the bill was rejected.

Pending the announcement of the vote—

Mr. ASHE said: I was not within the bar when my name was called; I was attending to business; but if I had been present I should have voted in the negative.

Mr. McQUEEN made a similar announcement.

Mr. ENGLISH. I happened to be out when my name was called. If I had been present I should have voted in the negative.

Mr. CHRISMAN. I desire to say that I was not in the House when my name was called. If I had been, I should have voted no.

Mr. BANKS. Mr. Speaker, I was not present at the moment my name was called, during the vote on the reconsideration of the mail steamer appropriation bill under the veto of the President, but if I had been I should have voted in the affirmative.

FORTIFICATION BILL.

Mr. HAVEN. The Senate has sent in a message asking us to send back the fortification bill. I think we had better let them have it.

The SPEAKER. If there be no objection the bill will be sent in.

Mr. WHEELER. I object.

The SPEAKER. Then the question will be whether the bill indicated shall be sent back to the Senate.

The question was taken; and the fortification bill was ordered to be sent in to the Senate.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled the following bills; which thereupon received the signature of the Speaker:

Resolution explanatory of an act entitled "An act for the relief of Abigail Stafford;"

Bill for the relief of Franklin Chase;

Bill making appropriations for deepening the channel over the St. Clair flats, and for deepening the channel over the flats of the St. Mary's river, in the State of Michigan; and

Bill to appropriate money to remove the obstructions in the Savannah river, below the city of Savannah, in the State of Georgia.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. WEBSTER, his Private Secretary.

Mr. BAYLY, of Virginia. I ask that the message just received from the President may be presented to the House, and then I shall move to have it laid on the table and printed.

The SPEAKER. Is it the pleasure of the House that the message shall be read?

Several MEMBERS. What is it about?

Mr. BAYLY. I believe it is in reference to the Ostend conference.

Mr. WHEELER. I object.

The SPEAKER. There are several communications from the President, which will be read.

The messages were read, two of them transmitting communications from the Secretary of the Interior, and recommending that the appropriations therein mentioned be made. Referred to the Committee of Ways and Means, and ordered to be printed.

Also, a communication transmitting to the House of Representatives a report from the Secretary of State, with accompanying documents, in answer to the resolutions of 30th January and 23d of February last.

Mr. BAYLY, of Virginia. It is too late to refer this matter; and so I move that it be laid on the table and ordered to be printed.

Mr. WHEELER. I object.

Mr. HIBBARD. I rise to a question of order. The gentleman from New York [Mr. WHEELER] objects, but he is not in order, because he did not rise from his seat.

The Chair did not sustain the point of order.

The question was put on Mr. BAYLY's motion; and it was agreed to.

IMPROVEMENT OF THE PATAPSCO RIVER.

Mr. MAY. I ask the unanimous consent of the House to go to the consideration of a very pressing subject—Senate bill 436.

Mr. LETCHER. Let us hear what it is.

The SPEAKER. It is Senate bill (No. 436) for the improvement of the navigation of the Patapsco river, and to render the port of Baltimore accessible to the war steamers of the United States.

Objection was made.

Mr. MAY. Then I ask to suspend the rules for the purpose of taking up this bill.

Mr. WHEELER. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 82, nays 63; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, Appleton, Ashe, Thomas H. Bayly, Barksdale, Benton, Bridges, Bristow, Brooks, Chandler, Chastain, Chrisman, Clark, Corwin, Cox, Crocker, Cullom, Cumming, Dawson, De Witt, Dunbar, Edmands, John M. Elliott, English, Etheridge, Florence, Franklin, Giddings, Goodrich, Goodwin, Green, Greenwood, Harrison, Haven, Henn, Hunt, Roland Jones, Keitt, Kerr, Latham, Lindley, Lindsley, Lyon, Macy, May, Mcacham, Middleswarth, Smith Miller, Nichols, Noble, Mordecai Oliver, Parker, Pennington, John Perkins, Phillips, Pratt, Preston, Reese, Richardson, Riddle, Ruffin, Russell, Seward, Seymour, Shower, Singleton, Frederick P. Stanton, Hestor L. Stevens, Straub, David Stuart, John L. Taylor, Tweed, Vansant, Wade, Walbridge, Elihu B. Washburne, Wells, John Wentworth, Westbrook, Witte, and Hendrick B. Wright—82.

NAYS—Messrs. Abercrombie, Belcher, Benson, Bocock, Campbell, Carpenter, Caskie, Cobb, John G. Davis, Dickinson, Drum, Eastman, Thomas D. Eliot, Ellison, Farley, Fuller, Goode, Grey, Grow, Hamilton, Aaron Harlan, Andrew J. Harlan, Hendricks, Hibbard, Hiester, Houston, Howe, Hughes, Daniel T. Jones, George W. Jones, Knox, Kurtz, Letcher, Lilly, McCulloch, McNair, Matteson, Maurice, Mayall, Millson, Morgan, Murray, Norton, Olds, Andrew Oliver, Peck, Bishop Perkins, Powell, Pringle, Rogers, Sage, Sapp, Shannon, Simmons, Skelton, William Smith, Richard H. Stanton, Andrew Stuart, Nathaniel G. Taylor, Thurston, Tracy, Upham, Walsh, Israel Washburn, Wheeler, and Daniel B. Wright—63.

So the rules were not suspended.

THE FOX AND WISCONSIN RIVERS.

Mr. EASTMAN. I ask the unanimous consent of the House to enable me to take from the Speaker's table Senate resolution No. 48.

Mr. WASHBURNE, of Illinois. What is it?

Mr. EASTMAN. It is a resolution recommended by the Commissioner of the General Land Office, in order to remove from his mind any doubt in regard to the construction of a certain bill.

Objection was made.

Mr. EASTMAN. Then I move to suspend the rules.

The resolution was reported as follows:

Senate resolution (No. 48) explanatory of an act approved August 3, 1854.

The resolution is to the effect, that it was the intent of the act of Congress approved August 3, 1854, that the same should be construed to give to the State of Wisconsin, in aid of the improvement of the navigation of the Fox and Wisconsin rivers, a quantity of land, equal mile for mile for its improvement, to that given to Indiana under the provisions of the act of Congress approved May 9, 1848.

The question being on the motion to suspend the rules,

Mr. WASHBURNE, of Illinois, demanded tellers.

The question was taken by tellers; and they reported—ayes 92, noes 25.

So the rules were suspended.

Mr. EASTMAN. I demanded the previous question upon the passage of the resolution I have submitted.

The previous question was seconded, and the main question ordered to be put.

The resolution was then ordered to be read a third time, and having been read the third time,

Mr. EASTMAN demanded the previous question upon the passage of the resolution, which was seconded, and the main question ordered to be put.

Mr. JONES, of Tennessee, demanded the yeas and nays, and tellers upon the yeas and nays. Tellers were ordered; and Messrs. JAMES C. ALLEN and EDMUNDSON were appointed.

The House was then divided; and the tellers reported—ayes 29, noes 95.

So the yeas and nays were ordered.

The question was then taken; and resulted—yeas 99, nays 42; as follows:

YEAS—Messrs. James C. Allen, Appleton, Thomas H. Bayly, Banks, Belcher, Benson, Benton, Campbell, Carpenter, Caruthers, Chandler, Clark, Cook, Corwin, Crocker, Cullom, Cutting, Thomas Davis, Dawson, De Witt, Dickinson, Disney, Dunbar, Dunham, Eastman, Edmands, Thomas D. Eliot, Etheridge, Farley, Flagler, Florence, Franklin, Giddings, Goodrich, Green, Greenwood, Grey, Harrison, Haven, Henn, Hiester, Howe, Hughes, Hunt, Johnson, Daniel T. Jones, Roland Jones, Knox, Kurtz, Lindley, McCulloch, Macy, Matteson, Maxwell, Meacham, Middleswarth, Morgan, Noble, Norton, Olds, Andrew Oliver, Mordecai Oliver, Parker, Pennington, Pringle, Richardson, Russell, Sage, Sapp, Seward, Simmons, Singleton, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Andrew Stuart, David Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Thurston, Upham, Wade, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Westbrook, Wheeler, and Hendrick B. Wright—99.

NAYS—Messrs. Ashe, Barry, Bridges, Caskie, Chastain, Cobb, Cox, Craige, John G. Davis, Dowdell, Edmundson, Fuller, Goode, Grow, Aaron Harlan, Sampson W. Harris, Hastings, Hendricks, Hibbard, Houston, George W. Jones, Keitt, Letcher, Lilly, Lindsley, Maurice, Smith Miller, Millson, Murray, Packer, Peck, Bishop Perkins, Robbins, Ruffin, Shaw, Shower, Skelton, Straub, Trout, Walsh, Daniel B. Wright, and Zollicoffer—42.

So the bill was passed.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by the hands of ASBURY DICKINS, Esq., their Secretary, informing the House that they had passed a resolution to suspend the 17th joint rule of the two Houses, and asking the concurrence of the House therein.

Several MEMBERS. Read the resolution.

The resolution was then read, as follows:

Resolved, (the House of Representatives concurring) That the 17th joint rule of the two Houses be suspended for the present session.

The SPEAKER. The Clerk will read the seventeenth joint rule:

"No bill or resolution that shall have passed the House of Representatives and the Senate shall be presented to the President of the United States for his approbation on the last day of the session."

The question was then taken; and the resolution was agreed to.

Also, a message was received from the Senate, by ASBURY DICKINS, Esq., their Secretary, informing the House that the Senate had passed a bill of the House (No. 569) making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1856, and for other purposes, with sundry amendments; in which he was directed to ask the concurrence of the House.

EXTRA COMPENSATION TO PAGES, ETC.

Mr. APPLETON. I ask the unanimous consent of the House to offer this resolution:

Resolved, That the usual extra compensation be paid to the pages, folders, and such other employees who have heretofore received the same, including the watchmen employed upon the Capitol extension who have not received the same, and who have not, and shall not hereafter, receive the benefits of the joint resolution approved July 20, 1854.

Mr. PRATT. I object.

Mr. APPLETON. Then I move to suspend the rules, to enable me to introduce the resolution.

The question was put; and the motion was agreed to, two thirds voting in favor thereof.

So the rules were suspended.

Mr. GREEN. I wish to offer the following amendment:

Resolved, That J. M. D. France, who has been acting as page on the floor of the House of Representatives during the present session, since the 5th day of December last, be paid the same amount of compensation as shall be paid to the other pages during the same time.

Mr. CAMPBELL. I have an amendment, which I think is appropriate here; and I offer it as an amendment to this amendment.

The amendment was reported, as follows:

Resolved, That the Clerk of the House pay to the widow of Charles W. Stewart, late assistant doorkeeper, the salary of said office from the day of his death to the end of the present session.

Mr. APPLETON. I demand the previous question.

The previous question was seconded, and the main question ordered to be put.

The question was put upon the amendment; and it was agreed to.

The question recurred upon the amendment as amended, and being put, it was agreed to.

The resolution, as amended, was then agreed to.

Mr. GREEN moved to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

IMPROVEMENT OF NEWARK HARBOR.

Mr. PENNINGTON. I ask the unanimous consent of the House to discharge the Committee of the Whole on the state of the Union from the further consideration of Senate bill (No. 530) for continuing the improvement of the harbor of Newark, New Jersey.

The bill, which was read for information, appropriates $25,000 for the improvement of Newark harbor and bay, to be expended under the direction of the Secretary of War.

Mr. SMITH, of Virginia. I object.

Mr. PENNINGTON. I move to suspend the rules.

The question was put; and, on a division, sixty only voting in the affirmative—

Mr. PENNINGTON. I demand the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and decided—yeas 85, nays 43; as follows:

YEAS—Messrs. Appleton, Banks, Benson, Benton, Bristow, Bugg, Campbell, Carpenter, Caruthers, Chamberlain, Chandler, Clark, Cook, Cox, Crocker, Cullom, Cutting, De Witt, Dickinson, Dunbar, Eastman, Edmands, Thomas D. Eliot, Etheridge, Farley, Flagler, Florence, Franklin, Giddings, Goodrich, Green, Greenwood, Harrison, Haven, Henn, Hiester, Howe, Hughes, Hunt, Roland Jones, Knox, Lindley, Lindsley, Macy, Matteson, Middleswarth, Morgan, Nichols, Noble, Mordecai Oliver, Parker, Peckham, Pennington, Phillips, Preston, Pringle, Richardson, Riddle, David Ritchie, Robbins, Rogers, Russell, Sabin, Sage, Sapps Simmons, Skelton, Frederick P. Stanton, Hestor L. Stevens, Straub, Andrew Stuart, David Stuart, John L. Taylor, Teller, Upham, Vansant, Wade, Elihu B. Washburne, Israel Washburn, Wells, John Wentworth, Tappan Wentworth, Wheeler, and Zollicoffer—85.

NAYS—Messrs. James C. Allen, Thomas H. Bayly, Barry, Belcher, Bocock, Boyce, Caskie, Cobb, Craige, John G. Davis, Dawson, Disney, Drum, Dunham, Eddy, Ellison, Goode, Grey, Aaron Harlan, Hendricks, Hibbard, Houston, Daniel T. Jones, Kurtz, Lamb, Latham, Letcher, Lilly, McCulloch, McQueen, Maxwell, Smith Miller, Millson, Murray, Olds, Andrew Oliver, Packer, Ruffin, William Smith, Richard H. Stanton, John J. Taylor, Trout, and Walsh—43.

Not being two thirds, the rules were not suspended.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, Esq., their Secretary, notifying the House that that body had passed the naval appropriation bill with sundry amendments, and asking its concurrence therein.

CIVIL AND DIPLOMATIC BILL.

Mr. HOUSTON. The civil and diplomatic bill has been returned to us from the Senate with one hundred and thirty pages of amendments. It is too late to refer it to the Committee of Ways and Means, and therefore I move to refer it to the Committee of the Whole on the state of the Union, with a view to move that we go into Committee of the Whole to consider it.

Mr. HENDRICKS. I desire to make a proposition in reference to the bill referred to by the gentleman from Alabama. Although I am a very ardent supporter of the proposition to reduce the tariff, yet I feel it my duty, considering the condition of the public business, to move that the House recede from that tariff amendment, and reject all the other Senate amendments.

Mr. LETCHER. Is that motion in order?

The SPEAKER. The motion of the gentleman from Alabama is the business first in order.

Mr. WENTWORTH, of Illinois. I wish to suggest to the gentleman from Alabama that he withhold that motion for the present. By the votes which have been taken here to-day, there has been a majority of some twenty-odd upon different propositions to suspend the rules to take up some small bills in favor of river and harbor improvements. I hold that in this late stage of the session the majority cannot afford to accord to the minority. We have the power to pass these bills, and the country expects it of us.

Mr. WASHBURNE, of Illinois. We ought not to pass the civil and diplomatic bill without knowing what the amendments of the Senate are.

Mr. RICHARDSON. I wish to make a suggestion to the gentleman from Alabama, touching the business in the House.

The SPEAKER. The proposition of the gentleman from Alabama is not debatable.

Mr. JONES, of Louisiana. Then I ask for the question.

Mr. WHEELER. I ask for the yeas and nays upon the motion to go into the Committee of the Whole on the state of the Union.

Mr. DAWSON. I ask leave to make a single suggestion, before the motion is put, which will meet the views of all interests.

Mr. WALSH. I object.

Mr. DAWSON. It is this. There are one hundred and twenty pages of the Senate amendments.

Mr. WHEELER. I object to this debate, unless I can be heard.

Mr. WASHBURNE. We shall not vote without knowing what we are voting about.

Mr. WHEELER. I demand the yeas and nays upon the motion to go into committee, and I demand tellers on the yeas and nays.

Tellers were ordered; and Messrs. WHEELER and KEITT were appointed.

The House was divided; and the tellers reported —ayes 33, noes 88; so the yeas and nays were ordered.

Mr. HUGHES. Is not the first question on referring the bill to the Committee of the Whole on the state of the Union?

The SPEAKER. The bill has already been referred to the Committee of the Whole on the state of the Union by unanimous consent.

The question was taken on going into the Committee of the Whole on the state of the Union, and it was agreed to—yeas 110, nays 23; as follows:

YEAS—Messrs. Aiken, James C. Allen, Appleton, Ashe, Banks, Barry, Belcher, Bell, Bocock, Boyce, Bristow, Chamberlain, Chastain, Cobb, Corwin, Crocker, Cutting, John G. Davis, Dawson, De Witt, Disney, Drum, Dunbar, Dunham, Eastman, Eddy, Edmands, Edmundson, Ellison, Etheridge, Farley, Florence, Fuller, Giddings, Goode, Goodrich, Greenwood, Sampson W. Harris, Wiley P. Harris, Hendricks, Henn, Hibbard, Hill, Houston, Howe, Hughes, Johnson, Daniel T. Jones, Roland Jones, Keitt, Kurtz, Lamb, Lane, Latham, Letcher, Lewis, Lilly, Lindsley, McCulloch, McDougall, McQueen, Macy, May, Middleswarth, Smith Miller, Millson, Morrison, Murray, Nichols, Noble, Olds, Andrew Oliver, Mordecai Oliver, Orr, Packer, Parker, Peckham, Phillips, Powell, Puryear, Ready, Richardson, Robbins, Rogers, Ruffin, Russell, Sabin, Seymour, Shower, Singleton, Skelton, William Smith, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, Andrew Stuart, John J. Taylor, Teller, Trout, Upham, Wade, Walker, Israel Washburn, Wells, Westbrook, Witte, Daniel B. Wright, Hendrick B. Wright, and Zollicoffer—110.

NAYS—Messrs. Benson, Campbell, Cook, Cullom, Dickinson, Thomas D. Eliot, Franklin, Grey, Hunt, Knox, Matteson, Mayall, Morgan, Pennington, Preston, Pringle, Reese, Sage, Sapp, Elihu B. Washburne, John Wentworth, Tappan Wentworth, and Wheeler—23.

So the House agreed to resolve itself into the Committee of the Whole on the state of the Union.

Mr. MAY. Before the Speaker leaves the chair, I would state to the House, by unanimous consent, that a bill has just come from the Senate, the District judiciary bill, with many amendments, which can only be adjusted at this late hour of the session by a committee of conference. Therefore, I move that the House disagree to the amendments of the Senate, and that a committee of conference be asked on the disagreeing votes between the two Houses.

Mr. WHEELER. I object.

The House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair.)

Mr. HUNT. I move that the committee take a recess until seven o'clock this evening.

[Cries of "No!" "No!"]

Mr. HUNT. I will modify my motion, so that it will read, that the committee take a recess until six o'clock this evening.

Mr. WHEELER. I hope the motion for six o'clock will be voted down, and that the committee will take a recess until seven o'clock this evening.

Mr. WITTE. I move an amendment to the motion for a recess, to make it read seven o'clock, instead of six o'clock.

The amendment was agreed to.

Mr. WHEELER. I demand tellers on the motion, as amended.

Tellers were not ordered.

The question was taken; and the motion, as amended, was agreed to.

Thereupon the committee (at half-past four o'clock, p. m.) took a recess until seven o'clock.

EVENING SESSION.

At seven o'clock, p. m., the Committee of the Whole on the state of the Union resumed its session, (Mr. HIBBARD in the chair.)

The CHAIRMAN. The question before the committee is the consideration of the amendments of the Senate to the civil and diplomatic appropriation bill. They will be reported, and the question taken on them in their order.

First amendment of the Senate:

From the following paragraph strike out "$7,500," and insert in lieu thereof "$9,000:"

"*Library of Congress.*—For compensation of Librarian, three assistant librarians, and messenger, $7,500."

Mr. HOUSTON. Mr. Chairman, the Committee of Ways and Means informally examined about forty of these amendments this morning, and I shall be able to state its action on most of them. In the first amendment, the committee recommend a concurrence.

The amendment was concurred in.

Second amendment:

After the paragraph for printing for the First Session of the Thirty-Fourth Congress, $115,000, insert the following proviso:

Provided, That the printed sheets for the finer description of books authorized by either House of Congress shall be dry-pressed before being bound, whenever, in the opinion of the Joint Committee on Printing, it is deemed necessary; the cost thereof not to exceed the sum of fifty cents per ream medium.

Mr. HOUSTON. The Committee of Ways and Means recommend a concurrence.

The amendment was concurred in.

Third amendment:

Strike from the following paragraph "$48,342," and in lieu thereof insert "$52 692:"

"*Department of State.*—For compensation of the Secretary of State and Assistant Secretary of State, clerks, messenger, assistant messenger, and laborers in his office, $48,342."

Mr. HOUSTON. The Committee of Ways and Means recommend a concurrence in that Senate amendment, with an amendment, as follows:

Strike out "$52,692," and in lieu thereof insert "$50,892."

The amendment was adopted; and then the Senate amendment, as amended, was concurred in.

Fourth amendment:

From the following paragraph strike out the words "and the Department of the Interior is hereby authorized to have the report of Dr. Evans published by the printer of the House, the expense to be paid out of any money in the Treasury not otherwise appropriated:"

"For expenses incurred by Dr. John Evans, in geological explorations in Oregon, Washington, etc., and for the completion of those explorations in Washington Territory, and on Coose Bay, $2,500. And the Department of the Interior is hereby authorized to have the report of Dr. Evans published by the printer of the House, the expense to be paid out of any money in the Treasury not otherwise appropriated."

Mr. HOUSTON. The Committee of Ways and Means recommend a concurrence in the Senate amendment.

The amendment was concurred in.

Fifth amendment:

From the following paragraph strike out "$9,598," and in lieu thereof insert "$11,517:"

"For compensation of the Superintendent of Public Printing, and the clerks and messenger in his office, $9,598"—

and add the following:

And the Superintendent, and clerks and messenger in his office, and the librarian and assistants, and messengers in the library of Congress, shall be entitled to, and shall receive, the benefit of the joint resolution approved July 20, 1854, fixing the compensation of the legislative employees of the Government, in the same manner and to the same extent as officers of the same grade in the legislative department.

Mr. HOUSTON. The Committee of Ways and Means recommend a disagreement in that amendment.

The amendment was disagreed to.

Mr. STANTON, of Kentucky. I do not understand that the Committee of Ways and Means have had these amendments regularly before them. I understand that the House refused to refer them back to the Committee of Ways and Means, and referred them to the Committee of the Whole on the state of the Union, and they are now before us, without having gone to any standing committee; yet here we have the chairman of the Committee of Ways and Means announcing what that committee recommend in reference to amendments of the Senate which they have never officially considered. Now, sir, this proposition is right and proper, and the committee ought not to reject it upon the mere recommendation of the chairman.

Mr. HOUSTON. If the gentleman from Kentucky had been in his place, and heard the remarks I made upon taking up these amendments, he would not have made the remarks he has.

Mr. STANTON. I was in my place all the time, and am seldom out of it.

Mr. HOUSTON. Well, sir, I think the remarks were unnecessary. I stated, in the outset, that these amendments had been informally before the Committee of Ways and Means, and that we had come to an opinion upon some forty of them; and that if it was the pleasure of this committee, I would state what was the opinion of the Committee of Ways and Means.

Mr. STANTON. What the gentleman says does not in the slightest degree alter the case. He says the amendments were before the Committee of Ways and Means informally. Does that authorize him to make an announcement to us of the opinion of his committee to control our action? I hold the chairman of the Committee of Ways and Means has no right to announce what that committee recommend or do not recommend unless they have the authority of the House to report. The Committee of Ways and Means have not had that authority. Yet here are we to be controlled all night by the gentleman from Alabama announcing that the Committee of Ways and Means recommend thus and so.

Mr. Chairman, this amendment is an important one, and ought to be concurred in. It is to do justice to a meritorious class of the employees of the legislative body, who really labor more assiduously and for a greater length of time each day than any other clerks about the Capitol. The question is one for this committee, and not the gentleman from Alabama to decide, and I hold that the Committee of Ways and Means have no more right to come in here and announce what is their opinion than the Committee on Printing have to give theirs. The Committee on Printing have considered the subject and agreed that this amendment ought to be concurred in. It was recommended by that committee to the Senate. The amendment was considered in the Senate, after full consideration,

and as it is just and proper, I hope this committee will concur in it.

Mr. HOUSTON. If I knew nothing of my rights here the gentleman from Kentucky is the very last man to whom I should go to learn, for two or three reasons that it is now unnecessary to state. I do not propose to control the action of this committee at all. I stated, distinctly and candidly, to the committee at the start that we had these amendments informally before the Committee of Ways and Means, and that, if it was the pleasure of this committee, I would state the opinion to which we had come. I did suppose that every member of the House, with the exception, perhaps, of the gentleman from Kentucky, would be glad to obtain any information from any source in reference to these amendments. If it is not the pleasure of the committee to hear our opinions, it is certainly no pleasure to me to state them.

The question nowbeing upon concurring in the amendment of the Senate,

Mr. STANTON demanded tellers.

Tellers were ordered; and Messrs. WRIGHT, of Pennsylvania, and WITTE, were appointed.

The question was taken; and the tellers reported—ayes 83, noes 38.

So the amendment was concurred in.

Sixth amendment:

Page 40, after line twenty-two, insert the following:

For the renewal of the furnaces in the General Post Office Building, and for repairing the mantels and fire-places therein, $2,000.

The amendment was concurred in.

Seventh amendment:

Page 40, strike out the following words:

"*Provided*, All blank books, binding, and ruling the same for the several executive departments herein appropriated for, shall be furnished under the direction and supervision of the Superintendent of Public Printing."

Mr. JONES, of Tennessee. I understand that that proviso was stricken out by mistake. The Committee on Finance of the Senate did not recommend it, but it was done under a mistake. I hope this committee will, therefore, non-concur in the amendment.

The amendment was non-concurred in.

Eighth amendment:

Page 47, after line ten, insert the following:

For construction of a warden's house, an outer yard, and twelve cells, and fixtures for the penitentiary in the Territory of Utah, $13,000.

Mr. HOUSTON. Agree to that.

The amendment was concurred in.

Ninth amendment:

Page 49, lines eighteen and nineteen, strike out "41," and insert "63;" so that the clause will read:

For salaries of the Chief Justice of the Supreme Court, and eight Associate Judges, $63,000.

Mr. HOUSTON. The Committee of Ways and Means recommend a concurrence in that amendment, with an amendment to strike out "$63,000," and insert "$54,000" in lieu thereof. I will state in half a dozen words the effect of the amendment. The Senate put in an amendment increasing the salary of the Chief Justice of the Supreme Court of the United States to $7,500, and the salaries of the Associate Judges to $7,000. The Committee of Ways and Means have instructed me to recommend a concurrence in that amendment with an amendment fixing the salary of the Chief Justice at $6,500, and the salaries of the Associate Justices at $6,000.

Mr. TAYLOR, of Ohio. I am opposed to the amendment proposed by the chairman of the Committee of Ways and Means, which proposes to amend the amendment of the Senate which fixes the salary of the Chief Justice at $7,500, and the salaries of the Associate Justices at $7,000, so as to fix the former at $6,500, and the latter at $6,000. I am opposed to amending the amendment of the Senate, and, therefore, opposed to the proposition of the gentleman from Alabama. I believe that these gentlemen richly deserve the compensation which the Senate of the United States propose to give them. I wish to say here, in my place, that I think the eminent Chief Justice of the Supreme Court of the United States, and the Associate Judges deserve the increase of salary which the Senate propose to give them.

[Here the committee rose informally, and the Speaker having taken the chair, a message was received from the Senate, by Mr. ASBURY DICKINS, their Secretary, requesting the return of the naval appropriation bill. The committee then resumed its session.]

Mr. TAYLOR, (continuing.) I know the impatience of the committee, and I shall not trespass upon their time long, though, if I were to follow the example of some of my friends upon this floor, I should speak an hour upon this question. But I shall say but very few words in relation to this amendment. I wish to say whilst we pay the Attorney General and the members of the Cabinet $8,000 a year, we ought not to deny to the Judges of the Supreme Court the increase of salary proposed by the Senate. Sir, I entertain the same opinion with regard to the members of the Cabinet, except the Secretary of State, that Mr. John Quincy Adams, I am told, often expressed, viz: that any good business man, of honest principles, could transact the business of those Departments.

Mr. JONES, of Tennessee, (interposing.) The Senate have just sent a message here asking the return of the naval appropriation bill. I desire that the bill shall be returned, and in order that it may be done it will be necessary for the committee to rise and for us to go into the House, and when we get into the House I shall move to close the general debate upon these amendments.

Mr. TAYLOR. I cannot give way for that purpose.

Mr. CUTTING. Oh, I hope the gentleman will give way. The object of all of us is to advance the public business, and this will take but a moment.

Mr. TAYLOR. Well, I will yield for that purpose.

Mr. JONES. I move that the committee do now rise.

The motion was agreed to.

So the committee rose, and the Speaker *pro tempore* (Mr. ORR) having taken the chair, the Chairman of the committee reported that the committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the amendments of the Senate to the civil and diplomatic appropriation bill, and had come to no resolution thereto.

NAVAL APPROPRIATION BILL.

Mr. JONES. I move that the House return the naval appropriation bill to the Senate, as requested by that body.

The motion was agreed to.

CIVIL AND DIPLOMATIC BILL—CLOSE OF DEBATE.

Mr. JONES. I now submit a resolution to close debate on the Senate amendments to the civil and diplomatic bill in five minutes after its consideration shall have been resumed in the Committee of the Whole on the state of the Union, and on that resolution I call the previous question.

Mr. WHEELER. I call for a division on that.

Mr. HOUSTON, (to Mr. WHEELER.) If you want longer time, say so.

Mr. JONES. Does the gentleman from Ohio request longer time?

Mr. TAYLOR, of Ohio. I only want ten minutes.

Mr. JONES. Then I modify the resolution so as to close debate in ten minutes after its consideration shall have been resumed.

The previous question was seconded, and the main question ordered to be put; and, under the operation of the previous question, the resolution was adopted.

Mr. JONES. I now move to suspend the rules, and go into the Committee of the Whole on the state of the Union.

ARMY APPROPRIATION BILL.

Mr. PHELPS. I have a privileged motion which I desire to submit. The committee of conference on the part of the House of Representatives, has met the committee of conference on the part of the Senate, on the disagreeing votes of the two Houses on the bill making appropriations for the support of the Army for the ensuing fiscal year, and we have been unable to agree. This has been the second committee of conference that has met the Senate committee, and I therefore submit a motion that the House adhere to its disagreement; and on that motion I demand the previous question.

Mr. BENTON. I desire to make a statement to the House.

The SPEAKER *pro tempore*, (Mr. ORR in the chair.) The previous question has been demanded, and debate is not in order.

Mr. BRECKINRIDGE took the floor.

Mr. HOUSTON. I ask a vote on the demand for the previous question.

Mr. WHEELER. I rise to a question of order. The previous question has been demanded.

Mr. BRECKINRIDGE. I rise for the purpose of appealing to the gentleman from Missouri [Mr. PHELPS] to withdraw his call for the previous question, in order that we may make one more effort, by having another committee of conference.

Mr. HOUSTON. The report of the committee of conference on the disagreement is not debatable; and the motion in order is, either to insist on our action or to ask a committee of conference. These are the only two motions in order, and neither of them is debatable.

Mr. PHELPS. I have submitted this motion on due consideration. Two committees of conference have met the committee on the part of the Senate, and the House refused to agree to the first report of the committee. In the second conference the committee were unable to agree, and we have not time to spend longer in these committees of conference. I would cheerfully yield to my colleague, [Mr. BENTON,] but time is precious, and I must insist on the previous question on my motion to adhere.

Mr. BRECKINRIDGE. I give notice that, if the House will vote down the demand for the previous question, I will ask for another committee of conference.

Mr. CUTTING. Is it in order, Mr. Speaker, to ask a question?

Mr. WALSH. No; the previous question has been called for.

Mr. BENTON. I rise to a personal explanation.

The SPEAKER *pro tempore*. If there be no objection the gentleman from Missouri may proceed with his personal explanation.

Mr. McDOUGALL. I object.

The question being on seconding the demand for the previous question,

Mr. MATTESON demanded the yeas and nays.

The SPEAKER *pro tempore*. It is not in order to call for the yeas and nays on seconding the demand for the previous question.

Mr. CUTTING. I am requested by a large number of gentlemen to inquire what is the precise point of disagreement. If we knew that, we could vote; but if we do not know it, we cannot vote. I desire simply to know the point of disagreement?

Mr. HOUSTON. I would state that it is not in order to make an inquiry of this kind. I am going to appeal to the gentleman from Missouri [Mr. PHELPS] to withdraw his report, and to meet again the committee of conference on the part of the Senate, and see if they cannot come to some adjustment.

Mr. PHELPS. It appears to be the wish of the House that this course should be pursued. I therefore withdraw my motion.

The question recurred on Mr. JONES's motion to go into the Committee of the Whole on the state of the Union.

SMITHSONIAN INSTITUTION.

Mr. CHANDLER. I ask permission to present a report from the select committee on the Smithsonian Institution, not to be acted upon, but to be laid on the table and ordered to be printed.

There being no objection, the report was received, and was ordered to lie on the table and be printed.

Mr. FLORENCE. As the gentleman from Missouri has withdrawn the call for the previous question, I ask to offer a joint resolution to pay extra compensation.

Mr. JONES, of Tennessee, (interrupting.) I insist that my motion be put to the House.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled the following bills and joint resolution; which thereupon received the signature of the Speaker:

A joint resolution for a final adjustment of the accounts of John D. Colmesnil;

An act to establish Columbus, in the State of Mississippi, Chattanooga, in the State of Ten-

nessee, and Hickman, in the State of Kentucky, ports of delivery; and

Resolution explanatory of an act passed 31 August, 1854.

The question being on Mr. JONES's motion, it was taken; and the motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair.)

CIVIL AND DIPLOMATIC BILL.

The CHAIRMAN. The question recurs on the amendment offered by the gentleman from Alabama, to the ninth amendment of the Senate, and the gentleman from Ohio [Mr. TAYLOR] is entitled to the floor.

Mr. TAYLOR, of Ohio. I am desirous, Mr. Chairman, of facilitating the public business. I do not at all wish to delay it. But this is a question which, I think, the committee ought to consider closely, and say, by their votes, whether they are not willing to pay this compensation to the Judges of the Supreme Court.

Mr. MAY. Before the gentleman from Ohio proceeds further in his remarks, I wish to say to him and to the committee, that this subject of the compensation of the Judges of the Supreme Court was well considered by the Judiciary Committee of this House, and I believe we were all agreed, after a most careful investigation, that the amount of labor performed by that bench, entitled them to this compensation. We all know how faithfully they perform their duties, and that this compensation is not too high. Besides, we took into consideration the fact that these men can have no home, and that they must come here and stay half the year or more at enormous expense. We considered, without any division of opinion among us, that that measure of compensation was the least that ought to be accorded to them. I speak of the amount proposed by the Senate.

Mr. TAYLOR, of Ohio. I am very glad to hear the statement of the honorable gentleman from Maryland, who, as an eminent lawyer, commands the respect of this House, and as a distinguished member of the Judiciary Committee, whose opinions have swayed the action of this body upon more occasions than one. I am not the advocate of high salaries, but I believe that the laborer is worthy of his hire, and I believe that we do not pay the Judges of the Supreme Court of the United States compensation sufficient to command the first talent of the country for that high tribunal. A great many of the most eminent men of the country would be called to the bench in the event of vacancies occurring, if they could be persuaded to accept the position; but the public places of this country, in my humble opinion, are getting to be, in many respects, burdensome and intolerable—as, for example, the place of United States Senator from a neighboring State, or Representative in Congress from a neighboring district, on account of the immense labor attendant upon the position, and the inadequate compensation paid to officials. This question of salaries ought, in my judgment, long since to have undergone the investigation of Congress, and the pay of members of Congress ought to have been equalized. The question of an increase of compensation to the Judges of the Supreme Court is now before us. We now have an opportunity to do them justice, and I ask every intelligent man upon this floor, if he is not willing to make the salaries of the Judges of the Supreme Court equal to those of your Attorney General and Secretary of the Interior? I know that there is a difference of opinion upon this subject; but I appeal to the committee to adhere to the amendment of the Senate, and vote down the amendment of the Committee of Ways and Means.

Mr. SKELTON. I hope that the amendment of the Committee of Ways and Means will prevail. The arguments presented by the honorable gentleman from Ohio amount to this, that while the salaries of the Judges of the Supreme Court was only $5,000——

Mr. TAYLOR. Four thousand five hundred dollars.

Mr. SKELTON. Are only $4,500, while those of the Cabinet officers are $8,000. There is a material difference between the position of a Judge of the Supreme Court, and that of one of the Cabinet officers. A Cabinet officer holds his office only during one Administration, and very frequently not for that length of time. There is not a gentleman upon this floor who will not say that the duties of a Cabinet officer are twice as arduous as those of a Judge of the Supreme Court of the United States. Cabinet officers are engaged constantly and unceasingly, while the Judges of the Supreme Court have their intervals of rest; and in addition to that, they hold their offices for life. They receive a salary sufficient for the position they occupy, and it is a salary which is guaranteed to them as long as they live. The very best talent of the country can be secured to fill places upon the bench of the Supreme Court of the United States, because the places are held for life, and they are situations of high distinction. The gentleman from Ohio asks, will men of the best talent accept these high offices? I will answer the gentleman by asking him, if he ever knew an instance where a vacancy occurred in the office of Judge, of any individual refusing to accept the place? On the contrary, I know that those places are sought for in preference to any other appointments under the Federal Government. They are more desirable than any other offices in the gift of the President of the United States, and are so considered by the distinguished men of this country. The Judges upon the bench have ample means to support themselves, and they have the situations as long as they live.

The gentleman from Ohio talks about the arduous nature of the duties of the Judges upon the bench. I ask if the duties they perform are to be compared at all in this respect with those performed by the Cabinet officers? The gentleman says that he is not in favor of high salaries. I would ask if it is not a well known fact that the gentleman has uniformly advocated an increase of salaries, whenever propositions of that character have been made in the House? I think that we have gone far enough in this matter of increase of salaries. We have already multiplied places and increased salaries to such an extent, that the contest in this country between the two political parties has become a mere contest for spoils. It is not a contest for principle; and I think it is high time that we should put an end to this increase of salaries. We are about returning to our homes, and we should not inflict any more evils upon the country by an increase of salaries.

The question being on Mr. HOUSTON's amendment,

Mr. SKELTON demanded tellers; which were ordered; and Messrs. HAMILTON and NOBLE were appointed.

The question was taken; and the tellers reported —ayes 89, noes 62.

So the amendment was agreed to.

Mr. CLINGMAN. Is it in order to oppose the Senate amendment now?

The CHAIRMAN. It is not. Debate is exhausted upon the amendment.

Mr. CLINGMAN. Is it in order to move to reduce the sum further?

The CHAIRMAN. It is.

Mr. CLINGMAN. I move to reduce the sum $500.

Mr. ORR. I submit that it is not in order to move to strike out a sum which has been put in by the committee.

The CHAIRMAN. The Chair thinks the gentleman is right, and that the amendment is not in order.

Mr. CLINGMAN. My object in moving the amendment was only to get an opportunity to say a single word.

The CHAIRMAN. The Chair thinks it is not in order to move to change the amount which has been adopted by a vote of the committee.

The question recurred on agreeing to the Senate amendment.

Mr. STANTON, of Tennessee. I offer an amendment. I do not intend to discuss it, but I should like to have a vote upon it. It was omitted by the Senate unintentionally.

The amendment was read, as follows:

And the salary of the judge of the orphans' court, in the District of Columbia, shall be $2,000.

Mr. JONES, of Tennessee. I raise a point of order on that amendment.

The CHAIRMAN. The Chair holds the amendment not in order.

The question was then taken on concurring in the Senate amendment, as amended; and it was decided in the affirmative.

Tenth amendment:

Page 50, line twenty-seven, after the word "dollars," insert the following:

And in the settlement of the accounts of the late United States Attorney, and the late marshal of the United States district court of the northern district of California, the whole or aggregate amount of fees, compensation, and emoluments, at the rates prescribed for said officers severally in the second, eighth, and ninth sections of an act of Congress, chapter 86, approved September 28, 1850, shall be allowed and paid them severally for the services rendered by them respectively prior to the 26th day of February, 1853, as taxed by the judge of said court.

Mr. HOUSTON. The Committee of Ways and Means recommend a non-concurrence in that amendment.

The amendment was non-concurred in.

Eleventh amendment:

Page 51, line eight, after the word "dollars," add the following:

And hereafter the annual salaries of the assistant treasurers at Boston and St. Louis shall be $4,000 each.

Mr. CLINGMAN. I move to reduce the amount $1,500. My object in moving the amendment is to say that there is not an officer of this Government, in my opinion, whose salary ought to be increased. If there be such a one I do not know it, and I do not believe such a case exists, and I want to settle that principle by this vote.

Mr. HOUSTON. The Committee of Ways and Means recommend a non-concurrence.

Mr. PHELPS. I have but a word to say upon this amendment. I oppose the amendment of the gentleman from North Carolina. The assistant treasurer at St. Louis has, for the last two years, had, on an average, more than $5,000,000 a year under his control. By a regulation of the Secretary of the Treasury—Mr. Guthrie—he is obliged to keep the accounts of thirty-three disbursing officers. During this period of time he has, to enable him to conform to that requisition, employed an old and experienced clerk, and has been compelled to pay him three hundred dollars a year out of his own salary. The amount of salary allowed to the clerk is only $900. The average daily business of that office exceeds $50,000.

Mr. CLINGMAN. I have no reference to this case any more than to any other. My object was to call the attention of the committee to this matter of increase of salary, and I hope gentlemen who agree with me will unite and vote down the amendment.

Mr. PHELPS. I believe the salary of that treasurer is inadequate, and ought to be increased, in consequence of the responsibility attached to the office.

Mr. CLINGMAN, by unanimous consent, withdrew his amendment.

The question was then taken on the amendment, and it was non-concurred in.

Twelfth amendment:

Page 59, line thirteen, insert the following:

To enable the Secretary of the Treasury to replace lost light vessels to mark the dangerous New South Shoals off Nantucket, Massachusetts, $30,000.

Mr. HOUSTON. The Committee of Ways and Means recommend a concurrence.

The amendment was concurred in.

Thirteenth amendment:

Page 59½, line twenty, insert the following:

For the completion of the custom house at Mobile with granite facing in the place of brick, $95,000.

Mr. ROBBINS. The Committee of Ways and Means recommend a concurrence in that amendment.

The question was put, and the Chair declared the amendment concurred in, whereupon—

Mr. PHILLIPS. I ask for a division on that amendment, and I simply desire to state a fact to the House.

Mr. LETCHER. It is too late.

Mr. PHILLIPS. I do not desire to debate the amendment, but merely to state that the Committee on Commerce have recommended it; a committee of the Senate have recommended it, and the Committee of Ways and Means of this House have recommended it.

Mr. PHELPS. I demand tellers on the amendment.

Tellers were ordered.

Mr. PHELPS. I move to increase the appropriation to $100,000. The Committee of Ways and Means recommend a concurrence in the amendment of the Senate. It is for the completion of

the Mobile custom-house with granite facing instead of brick. The appropriation of the last session was made under the expectation that a brick building would be erected. The Secretary of the Treasury has had an examination made, and the engineer has reported that in consequence of the climate, and its effect on brick, granite would have to be substituted. I hope the Senate amendment may be concurred in. I now withdraw my amendment.

Mr. COX. I object to the withdrawal of the amendment.

The question was taken; and the amendment to the amendment was rejected.

Messrs. NOBLE and ASHE were appointed tellers.

The question was taken; and the Senate amendment was concurred in, the tellers having reported—ayes 92, noes 31.

Fourteenth amendment:

Under the head of intercourse with foreign nations, insert as follows:

For salaries of envoys extraordinary and ministers plenipotentiary of the United States, $207,500.

For salaries of secretaries of legation, $44,500.

For salary of the commissioner to the Sandwich Islands, $6,000.

For the dragoman to the mission to Turkey, $2,500.

For the interpreter to the mission to China, $2,500.

For the salaries of consuls of the United States, $271,750.

For return allowances of ministers and commissioners abroad, or so much thereof as may be necessary, $48,875.

For contingent expenses of all the missions abroad, or so much thereof as may be necessary, $96,543 75.

Mr. HAVEN. These appropriations, although large, are in conformity with the provisions of the bill which was passed during this session for the purpose of regulating our intercourse abroad. I hope that it may be concurred in.

Mr. PERKINS, of Louisiana. The item for contingencies, $96,543 75, seems to be large, and I should like to have some explanation of it.

Mr. PERKINS, of New York. Oh, no. Let us go it blind. [Laughter.]

Mr. HOUSTON. There is so much confusion that it is impossible to hear what is being done. The Committee of Ways and Means recommend to amend that amendment by striking out the ninth, tenth, and eleventh lines, as follows:

For return allowances to ministers and commissioners abroad, or so much thereof as may be necessary, $48,875.

The reason for striking that out is that the recent consular bill which passed both Houses, makes provision for excluding foreign ministers from any return allowances as well as outfits. This provision proposes to take effect the 1st of July next, at the same time that this bill takes effect. As a matter of course, therefore, I think this allowance is entirely unnecessary.

The amendment was agreed to.

The question then recurred upon concurring in the amendment as amended, and being taken, was decided in the affirmative.

So the amendment was concurred in.

Fifteenth amendment:

In page 60, line one, strike out to page 61, line one, as follows:

"For salary of ministers of the United States to Great Britain, France, Russia, Prussia, Spain, Brazil, Peru, Mexico, and Chili, $81,000.

"For salaries of secretaries of legation to the same places, $18,000.

"For salary of a minister resident to Turkey, $6,000.

"For salary of the dragoman to the legation to Turkey, $2,500.

"For payment of the draft of Francis Dainese, late United States consul for Constantinople, of December 20, 1852, being for compensation under the act approved 11th August, 1848, of his services from the 16th May, 1849, to the 20th of December, 1852, inclusive, $3,534 40.

"For salaries of charge d'affaires or ministers resident to Portugal, Austria, Denmark, Sweden, Holland, Belgium, Naples, Sardinia, the Papal States, New Granada, Venezuela, Buenos Ayres, Bolivia, Ecuador, Switzerland, Nicaragua and Guatemala, $76,500.

"For salary of a clerk to the United States legation at London, $800.

"For contingent expenses of all the missions abroad, $40,000."

Mr. HOUSTON. We have just adopted an amendment that is to be inserted in lieu of this.

The amendment was concurred in.

Sixteenth amendment:

Page 61, line five, after the word "Powers" strike out the word "nine," and insert "six" in the following paragraph:

"For expenses of intercourse with the Barbary Powers, $9,000."

Mr. HOUSTON. The Committee of Ways and Means recommend a concurrence in that amendment.

The amendment was concurred in.

Seventeenth amendment:

Page 61, after line five, strike out all to the end of line six, page 62, as follows:

"For salary of the consul at London, $7,000.

"For salary of the commissioner to the Sandwich Islands, $5,000.

"For interpreters, guards, and other expenses of the consulates at Constantinople, Smyrna, Candia, and Alexandria, $2,000.

"For office rent of the consuls at Basle and Zurich, in Switzerland, $200

"For salary of a commissioner to reside in China, $9,000.

"For salary of the interpreter and secretary to said mission, $2,500.

"For salary of a consul general at Alexandria, $5,000.

"For compensation to the consuls at the five ports in China, viz: Kwang Chow, Amoy, Fuchow, Ning Po, and Shanghai, $5,000."

Mr. HOUSTON. That is of the same character as the other. The Committee of Ways and Means recommend a concurrence.

The amendment was concurred in.

Eighteenth amendment:

Page 63, strike out the following:

"For clerk hire, office rent, and other expenses of the office of the consul of the United States at Leghorn, $2,800.

"For salary of the consul at Beirout, in Syria, $2,000;"

and insert, at the end of the following paragraph:

"For the purchase of blank books, stationery, arms of the United States, presses, and flags, and for the payment of postages for the consuls of the United States, $10,000;"

as follows:

For compensation of a consul general to reside at Simoda, in Japan, at the rate of $5,000 per annum, $3,750.

Mr. HOUSTON. The Committee of Ways and Means recommend a concurrence in that amendment.

The amendment was concurred in.

Nineteenth amendment:

At the end of line fourteen, page 63, insert the following:

To reimburse Commodore M. C. Perry, of the United States Navy, for the extraordinary expenses incurred by him on his recent mission to Japan, and as a consideration for his eminent public service in effecting a treaty of amity and commerce with that power, $20,000, to be received in full of all expenses or other charges incurred by him on that mission.

Mr. HOUSTON. The Committee of Ways and Means recommend a concurrence in that amendment.

The amendment was concurred in.

Twentieth amendment:

Insert, after line fourteen, page 63, the following words:

And the Secretary of the Treasury is hereby directed to pay, out of any money in the Treasury not otherwise appropriated, to Robert C. Schenck, of Ohio, for his full compensation while employed as Envoy Extraordinary and Minister Plenipotentiary of the United States, on special mission to the Oriental Republic of Uruguay, in the year 1852, the sum of $9,000; and for his full compensation as Minister Plenipotentiary and Envoy Extraordinary of the United States, on special mission to the Argentine Confederation in the year 1853, the sum of $9,000; such payment to be in lieu of the per diem provided for said Robert C. Schenck, in the act "making appropriations for the civil and diplomatic expenses of the Government," approved August 4, 1854.

Mr. BRECKINRIDGE. I am instructed by the Committee of Ways and Means to recommend a non-concurrence in that amendment.

Mr. WHEELER. Before the question is taken upon that amendment, I desire that the law relating to such cases as this may be read.

The Clerk read as follows:

"*And be it further enacted*, That no person, hereafter, who holds or shall hold any office under the Government of the United States, whose salary or annual compensation shall amount to the sum of $2,500, shall receive compensation for discharging the duties of any other office."

Mr. TAYLOR, of Ohio. I demand tellers upon concurring in that amendment.

Tellers were ordered; and Messrs. TAYLOR, of Ohio, and WALSH were appointed.

The question was taken; and the tellers reported—ayes 79, noes 59.

So the amendment was concurred in.

Twenty first amendment:

To enable the Secretary of State, through the diplomatic and consular representatives of the United States in foreign countries, to afford relief, and to provide the means of returning home, to such citizens of the United States in foreign countries as may have been reduced to a state of destitution of the necessaries of life, by shipwreck or the necessary abandonment of the vessel in which they had embarked, and also to such citizens of the United States as, being on their way from one part of the United States to another, have become destitute in foreign countries in consequence of shipwreck, disease, or any other casualty, $20,000.

Mr. BRECKINRIDGE. I am instructed by the Committee of Ways and Means to recommend a non-concurrence in that amendment.

The amendment was disagreed to.

Twenty-second amendment:

To enable the Secretary of State to reimburse to Edward Riddle such sum as shall be satisfactorily shown to have been expended by him, or which said Riddle may have obligated him elf to pay on account of his official position at the industrial exhibition at London, England, or so much as shall be necessary, $26,000: *Provided*, That no portion of the payments made *pro rata* by contributors to said exhibition shall be regarded as within this appropriation.

Mr. BRECKINRIDGE. The Committee of Ways and Means recommend a concurrence in that amendment.

Mr. SMITH, of Virginia. I do not desire to make a speech upon this proposition, but simply to remark to the committee that it proposes to reimburse Mr. Riddle a sum of money alleged to have been expended by him without a shadow of authority. Now, if individuals all over the country can charge the Treasury of the United States at will, we have no control over that Treasury.

The amendment was concurred in.

Twenty-third amendment:

Page 71, after line seventeen, insert as follows:

For surveying the base, principal meridian, correction parallels, township, and section lines in the Territory of Utah at augmented rates, $50,000.

Mr. BRECKINRIDGE. The Committee of Ways and Means recommend a concurrence in that amendment.

The amendment was concurred in.

Twenty-fourth amendment:

Page 71, after line twenty-three, (in the clause providing for the officers of the penitentiary in the District of Columbia,) insert as follows:

And twenty per cent. additional salary is hereby appropriated to be paid to the said officers of the penitentiary, which per cent. shall commence from the 1st day of July, 1853.

Mr. BRECKINRIDGE. The majority of the Committee of Ways and Means recommend a non-concurrence in that amendment.

The amendment was non-concurred in.

Twenty-fifth amendment:

Page 73, after line ten, insert as follows:

For filling up the present canal basin, and the construction of two new basins, and for clearing out the Washington branch of the Chesapeake and Ohio Canal, the sum of $16,408 40 is hereby appropriated: *Provided*, however, that no money shall be expended until the Chesapeake and Ohio Canal Company shall raise the bridges in Georgetown across the canal to the height required by the report of Lieutenant B. S. Alexander to the Secretary of War, of date the 16th day of February, 1853: *And provided further*, That said work shall be done according to the plans and estimates submitted in the report of said Lieutenant Alexander, if said plans and estimates shall meet the approval of the Secretary of War, and said appropriation shall be expended under his direction.

Mr. BRECKINRIDGE. The Committee of Ways and Means recommend a non-concurrence in that amendment.

The amendment was disagreed to.

Twenty-sixth amendment:

Page 76, line twenty-one, after the word "extension," insert the following:

Under the direction of the President of the United States.

The amendment was concurred in.

Twenty-seventh amendment:

Page 77, after line thirteen, insert:

For footway on north front of the President's House, in lieu of the brick pavement, now much broken, containing seventeen thousand one hundred and seventy six square feet, at twenty eight cents per foot, $3,809 28.

Mr. BRECKINRIDGE. The Committee of Ways and Means recommend concurrence.

The amendment was concurred in.

Twenty-eighth amendment:

For finishing the brick pavement on the south front of Lafayette square, $1,000.

Mr. HOUSTON. The committee recommend concurrence in that amendment.

The amendment was concurred in.

Twenty-ninth amendment:

For making a culvert, and improving Judiciary square $5,000.

Mr. BRECKINRIDGE. The committee recommend non-concurrence in that amendment.

The amendment was non-concurred in.

Thirtieth amendment:

For repairing and extending culvert running from the Capitol grounds to the center of south Capitol street, towards the canal, $5,000.

Mr. BRECKINRIDGE. The committee recommend non-concurrence in that amendment.

The amendment was non-concurred in.

Thirty-first amendment:

After line three, on page 79, insert as follows:

For continuing the work on the Washington aqueduct, $250,000.

Mr. WITTE. I have an amendment which I desire to offer here.

The amendment to the amendment was reported, as follows:

Strike out the Senate amendment, and insert the following:

For the introduction of an abundant supply of water into the city of Washington, on or before the 1st day of January, 1857, on the plan of Lemmon & Co., $250 000: *Provided*, A contract is first made with them in accordance with their proposal, and the whole cost does not exceed $1,000,000; they guaranteeing the efficiency, permanency, and maintenance of the works for four years after completion, as proposed by them. The whole to be approved by the President of the United States.

The amendment to the amendment was rejected.

The question recurred on the Senate amendment.

Mr. GREENWOOD called for tellers.

Tellers were ordered; and Messrs. HAMILTON and CHAMBERLAIN were appointed.

The committee divided; and the tellers reported —ayes 82, noes 74.

So the amendment was concurred in.

[Applause in the galleries.]

Mr. WALSH. There is a specimen of the way this matter is carried on.

Mr. KEITT. The Chair must declare to the galleries that this thing is disgraceful.

[Great confusion and disorder.]

Mr. STUART, of Ohio. I move that the galleries be cleared.

Mr. ORR. I hope that the motion will be so modified as to clear the gentlemen's galleries.

Mr. JONES, of Tennessee. I hope that the gentleman from Ohio will withdraw his motion to clear the galleries. The galleries are in better order than this House.

Mr. STUART. I withdraw my motion, but I give notice that I will renew it if the applause in the galleries is again renewed.

The CHAIRMAN. The Chair begs leave to remind the committee if like disorder occurs again, that the utmost powers of the Chair will be exerted to keep order, whether the disorder occurs in the galleries or in the House.

Thirty-first and a half amendment:

Page 79, after line seventeen, add the following:

For compensation of thirty clerks of class one; ten of class two; nine of class three, and one at $2,000 per annum; one messenger at $840; one messenger at $600; two laborers at $576 each; and four watchmen at $600 each per annum; for temporary service at the discretion of the Secretary of the Interior in the Pension Office on account of bounty lands, $31,492.

For contingent expenses, viz: for rent of rooms, stationery, engraving plates for bounty land warrants, paper, and printing the same, binding books, blank books for registers, office furniture, and miscellaneous items, $20,000.

For expenses of the current fiscal year on account of military bounty lands $30,000.

For clerk hire, patents, records, stationery, and miscellaneous items in the General Land Office on account of military bounty lands, $70,000: *Provided, however*, That the Secretary of the Interior, at his discretion, shall be, and he is hereby, authorized to use any portion of said appropriation for piece work, or by the day, week, month, or year, at such rate or rates as he may deem just and fair.

For compensation of ten clerks of class one, to be employed temporarily in the office of the Third Auditor on account of military bounty lands, $12,000.

And that the Secretary of the Interior be, and he hereby is, authorized and directed to pay to Jacob P. Chase the usual compensation for the services of his two sons as clerks in the Pension Office for the time they were engaged as such, and the sum necessary to pay the same be, and the same is hereby, appropriated.

Mr. HOUSTON. The Committee will see that the amendment now under consideration is necessary in consequence of the passage of the bounty land law a few days ago. It is intended to enable the Department to execute the provisions of that law.

The amendment was agreed to.

Mr. BAILEY, of Georgia. I desire to offer an amendment to this effect: that in the appointment of clerks there shall be an equalizing of the number from the different States. I offer this amendment because there are no clerks of the Democratic party from the State of Georgia in the Departments here, and it is but right and just that there should be an equal distribution of clerks in the governmental offices to all the States. I do protest against this thing of giving patronage to one State to the exclusion of other States.

Mr. JONES, of Tennessee. I think the amendment of the gentleman from Georgia will hardly be in order. The amendment of the Senate provides for an increase of clerical force in order to execute the provisions of the bounty land law and we cannot make any such arrangement here as that proposed by the gentleman from Georgia.

The CHAIRMAN. The impression of the Chair is, that the amendment proposed by the gentleman from Georgia would not be in order.

The question was then taken upon the Senate amendment; and it was agreed to.

Thirty-second amendment:

And that the Secretary of War be, and he hereby is, directed to cause to be constructed on such site in a central position on the public grounds in the city of Washington, as may be selected by the President of the United States, a suitable building for the care and preservation of the ordnance, and arms, and accouterments of the United States, required for the use of the volunteers and militia of the District of Columbia; and for the care and preservation of the military trophies of the revolutionary and other wars; and for the deposit of newly invented and model arms for the military service; the said ordnance, and arms, and building to be used by the volunteers and militia of the District of Columbia, under such regulations as may be prescribed by the President; and for the purpose of carrying this act into effect, the sum of $30,000 be, and the same hereby is, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. BRECKINRIDGE. The Committee of Ways and Means recommend a non-concurrence in the amendment.

The amendment was non-concurred in.

Thirty-third amendment:

Page 79, after line twenty-four, insert as follows:

For additional to the appropriations by the act of 4th August, 1854, for the contingent expenses of the Senate, viz:

For binding, $30 000.

For lithographing and engraving, $25,000.

The amendment was concurred in.

Thirty-fourth amendment:

Page 80, line twenty two, after the word "dollars," insert "and for the payment of a like sum to each of the reporters of the Senate, namely: Richard Sutton, D. F. Murphy, R. M. Patterson, Henry Pardon, James J. Murphy, and David W. Brown, $4,800."

So that the section would read:

To enable John C. Rives to pay to the reporters of the House for the Congressional Globe, viz: William W. Curran, William Hincks, Francis H. Smith, John J. McElhone, Theodore F. Andrews, Charles B. Collar, and Henry G. Hayes, the same amount of additional compensation for reporting the debates of the House for the present session of Congress, as has been heretofore paid them, $800 each, $5,600; and for the payment of a like sum to each of the reporters of the Senate, namely: Richard Sutton, D. F. Murphy, R. M. Patterson, Henry Pardon, James J. Murphy, and David W. Brown, $4 800: *Provided*, That the usual extra compensation shall not be allowed to said reporters at the close of the present session.

The amendment was concurred in.

Thirty-fifth amendment:

Page 82, after line ten, insert:

For amount equal to drafts, checks, and deposits awaiting decisions in certain appropriations for approval of sales of Indian reserves, including $800 collected by, and deposited with, the late firm of Selden, Withers & Co., by a former disbursing officer of the Government, $4,400: *Provided*, That such portion of this sum as may be recovered from said firm and disbursing officer shall be reimbursed to the Treasury of the United States.

Mr. BRECKINRIDGE. The Committee of Ways and Means recommend a non-concurrence in this amendment.

The amendment was non-concurred in.

Thirty-sixth amendment:

Page 85, line two, after the word "officers," insert "subject to the approval of the Secretary of the Interior;" so that the section would read:

For contingent expenses of the Territory of Utah, $1,168 37, to discharge such sums as the accounting officers, subject to the approval of the Secretary of the Interior, may deem to have been necessarily expended by the Executive of said Territory during the years 1852, '53, and '54.

Mr. BRECKINRIDGE. The Committee of Ways and Means recommend a concurrence in this amendment.

The amendment was concurred in.

Thirty-seventh amendment:

Page 85, after line fourteen, insert:

For allowance for fuel, quarters, and transportation, and per diem to officers under special direction of the War Department, for which there is no appropriation available during the fiscal year ending 30th June, 1855, $5,563 12.

Mr. BRECKINRIDGE. The Committee of Ways and Means recommend a non-concurrence.

The amendment was non-concurred in.

Thirty-eighth amendment:

Page 86, after line thirteen, insert:

For increased compensation of the Chief Clerk of the branch Mint at New Orleans, by the thirteenth section of the act of 4th of August, 1854, $400.

Mr. BRECKINRIDGE. The Committee of Ways and Means recommend a concurrence.

The amendment was concurred in.

Thirty-ninth amendment:

Page 88, line twenty two, strike out "three" and insert instead "five;" so as to make the clause read:

To defray expenses incurred and to be incurred in complying with the resolution of the House of Representatives, 26th December, 1854, $5,000.

Mr. BRECKINRIDGE. The Committee of Ways and Means recommend a concurrence in that amendment.

The amendment was concurred in.

Fortieth amendment:

To enable the Secretary of State to pay Blythe & Co., Port Louis, in the Island of Mauritius, the amount of two bills of exchange, drawn upon the Department of State by George M. Farnham, commercial agent, in payment of the expenses incurred in relieving destitute American citizens, which drafts were cashed by said Blythe & Co., $7,854 50.

Mr. BRECKINRIDGE. The Committee of Ways and Means recommend a non-concurrence in that amendment.

Mr. CUTTING. I disagree entirely with the recommendation of the Committee of Ways and Means in relation to the Senate amendment, and the ground of my objection to their recommendation is this: An American vessel, with a large number of American passengers, sailed from the port of New York, bound to Australia. She encountered stress of weather, was greatly damaged, and put into the Brazils in distress. She was detained there a long while, the passengers being at their own expense. She sailed again, met disasters from the perils of the seas, and put into the cape of Good Hope. There she remained a long while, her passengers exhausting all their means. She sailed again upon her voyage, and again met with accidents of the seas, and put into the Isle of Mauritius or Isle of France. She there underwent a regular survey, and was found to be so badly damaged that she was condemned and sold, and these American passengers were left helpless and destitute in a foreign country. The American agent of the United States was compelled to take care of them, and obliged to put them on board of a British vessel bound to Australia, and to pay the sum of seven thousand and odd dollars out of his own pocket for their expenses and passage. He drew bills of exchange upon the State Department, and British merchants cashed the bills, and paid the passage of these wretched, forlorn Americans. When these bills were presented to the State Department, they were protested, for the reason that there was no authority to pay them, however much the Government might have desired to do so, and I say the honor of the country is at stake in reimbursing these British merchants who cashed those bills. The Senate have reported in favor of it, but the Committee of Ways and Means recommend a non-concurrence in it. I am satisfied that the gentlemen of that committee would gladly have recommended a concurrence had it not partaken of the character of a private claim. But the money was paid by an official agent of the Government. Suppose that agent had refused to interfere. Suppose he had left these, our countrymen, to starve and rot in a foreign clime, I ask would not the whole American people have been roused with indignation at an American official who had left his countrymen to suffer under such circumstances?

I invoke the committee to stand by the Senate amendment, and not agree with the recommendation of the Committee of Ways and Means.

Mr. BRECKINRIDGE. I do not intend to discuss this matter, but desire only to make a statement. The Committee of Ways and Means reported against this amendment because they deemed it the sense of the House. The House has voted down repeatedly propositions to establish depots in foreign countries, to take care of American seamen who happen to be out of funds in those countries.

This is a proposition to repay a sum of money to an individual who drew a draft upon the Secretary of State for supplies furnished to Americans who encountered stress of weather. He supplied their necessities, and drew a draft upon the State Department. The Departmemt could not pay it, because the Secretary had no authority, and application is now made to Congress, and the question is whether Congress will commit itself to an obligation to pay the expenses of all American citizens who find themselves in distress in foreign countries.

Mr. CUTTING. I submit to the committee that this is an exceptional case. It is a case where

an official of the Government paid the money out of his own pocket, and British merchants furnished the funds. I would not let American citizens be under obligation to English merchants, and allow these drafts to remain protested.

The question was then taken on the Senate amendment; and it was concurred in.

Forty-first amendment:

That the Secretary of the Treasury cause the accounts of Mr. Hunter, chief clerk in the Department of State, for services rendered by him as Acting Secretary of State in the absence of the Secretary, and under appointment of the President, during the years 1852 and 1853, to be settled in such manner as to allow him the difference between the compensation of a chief clerk and that of the Secretary of State, during the several periods he acted in the latter capacity, to be paid out of any money in the Treasury not otherwise appropriated.

Mr. BRECKINRIDGE. The Committee of Ways and Means recommend a non-concurrence in that amendment.

The amendment was non-concurred in.

Forty-second amendment:

For professional services, additional to his regular and ordinary official duties rendered by the United States attorney for the northern district of California, on behalf of the United States, in the district court of San Francisco, in appeals from the land commission to ascertain and settle the private land claims in California, from the 1st of June, 1853, to 1st of June, 1855, the sum of $10,000.

Mr. BRECKINRIDGE. The Committee of Ways and Means recommend a concurrence.

The amendment was concurred in.

Forty-third amendment:

For compensation to Mr. Rich as acting chargé d'affaires in Mexico, from the 2d day of August to the 13th day of November, 1852, three months and thirty days, which shall be in full for all demands for such services for the period named, $630.

Mr. BRECKINRIDGE. The Committee of Ways and Means recommend a non-concurrence.

The amendment was non-concurred in.

Mr. BRECKINRIDGE. This morning, while the civil and diplomatic bill was before the Senate, the Committee of Ways and Means met and acted upon the amendments which have been read—forty-three in number. The remaining amendments have not been acted upon by the Committee of Ways and Means. There are about one hundred amendments put upon the civil and diplomatic appropriation bill, which have not been acted on by the Committee of Ways and Means. It is now for the committee to determine whether, at this late hour, it is best to go on and act upon the amendments, or to disagree to them, and appoint a committee of conference. I have no suggestion to make, but simply inform the committee of the facts.

Mr. WHEELER. Let the amendments be read.

Mr. SMITH, of Virginia. I understand that one branch of the legislative power has agreed to these amendments, and instead of disagreeing, it would be more courteous to agree to them in a lump.

Mr. CAMPBELL. I object to either agreeing or disagreeing until I know what they are.

Mr. JONES, of Tennessee. I would suggest to the committee the propriety of allowing some gentleman to take the chair informally, that the committee of conference upon the Army appropriation bill, who have agreed upon terms which, I doubt not, will receive the approbation of this House, may make their report. The report should be made that the clerks may enroll the bill. There is a great press of business upon the clerks, and it would be best for the committee to rise informally and receive the report. It will require but a few minutes.

Mr. ROWE. I object.

Mr. JONES, of Tennessee. I move that the committee do now rise.

The question was taken; and the motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the Senate amendments to the civil and diplomatic appropriation bill, and had come to no resolution thereon.

Mr. JONES, of Tennessee. Mr. Speaker, I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

ARMY APPROPRIATION BILL.

Mr. PHELPS. Mr. Speaker, I rise to a privileged question. I submit the report of the committee of conference on the disagreeing votes of the two Houses on the Army appropriation bill.

The SPEAKER. The report will be read.

Mr. FLORENCE. I would suggest that the gentleman from Missouri explain from the Clerk's desk the action taken by the committee of conference.

Mr. PHELPS. When the formal report has been read, I will proceed to explain the action of the committee of conference.

The Clerk then read the report of the committee of conference.

Mr. PHELPS. Mr. Speaker, the second committee of conference on the disagreeing votes of the two Houses on the Army appropriation bill, the report of the first committee having been disagreed to, have, after a full and free conference, agreed to make certain recommendations to their respective Houses. It is recommended that the House shall recede from its disagreement to the sixth amendment of the Senate which appropriates for surveys for military defenses of the sea and inland frontier, the sum of $15,000. This appropriation is in accordance with the estimates which have been submitted by the Secretary of War; but the Committee of Ways and Means did not think that it was expedient to include it in this bill, and therefore recommended a non-concurrence. It was embraced in the bill by the Senate, and it is recommended by the managers of the conference on the part of the House, that it recede from its disagreement. The committee of conference on the part of the House also recommend that it recede from its disagreement to the fourteenth amendment of the Senate. It is in these words:

SEC. 3. *And be it further enacted*, That the provisions of an act entitled "An act for the payment of the civil officers employed in the Territory of New Mexico while under military government," approved July 17, 1854, be, and the same are hereby, extended to embrace the case of Lieutenant Colonel J. M. Washington, deceased, late of the Army, for and during the period of his appointment and service as military governor of New Mexico, ex officio superintendent of Indian affairs, and commander of troops prior to the formation of the civil government.

The appropriation is a small one, Colonel Washington is dead, and the committee of conference recommend that the House recede from its disagreement. The committee of conference recommend that the House recede from its disagreement to the fifteenth Senate amendment, which is as follows:

SEC. 4. *And be it further enacted*, That the sum of $30,000 be, and the same is hereby, appropriated, to be expended under the direction of the War Department in the purchase and importation of camels and dromedaries to be employed for military purposes.

In the opinion of the Secretary of War, these camels and dromedaries can be advantageously used in sending expresses between the western frontiers and points in our remote Territories and across the ocean prairies.

Mr. TAYLOR, of Ohio. Then the committee of conference agree to this appropriation, for the employment, by the Government, of camels and dromedaries?

Mr. PHELPS. The committee of conference recommend that the House recede from its disagreement to that Senate amendment. The Senate recedes from its seventeenth amendment, which is as follows:

SEC. 6. *And be it further enacted*, That the same allowance, in respect to rations, be hereafter made to the military commandant of the Schuylkill arsenal in the quartermaster's department as to the commandants of the arsenals in the ordnance department.

The Senate recedes from the twentieth amendment, which is as follows:

SEC. 9. *And be it further enacted*, That the Governors of the several States and Territories be, and they are hereby, authorized to sell, to the best advantage, the arms heretofore distributed under the act of April 28, 1808, and invest the funds arising out of such sales in other arms more suitable for the purposes contemplated by said act: *Provided*, That no arms be so purchased or provided, except such as may be of the same description and caliber as those regularly adopted and in use in the Army of the United States.

The next amendment is the thirteenth. It is as follows:

SEC. 2. *And be it further enacted*, That the board of officers appointed under the sixth section of the act making appropriations for the support of the Army for the year ending June 30, 1853, approved August 31, 1852, is hereby authorized and directed, in addition to the powers and duties already conferred upon it, to extend its examinations to claims arising from the destruction of property by the troops serving under the command of Lieutenant Colonel John C. Frémont, in California, in the years 1846 and 1847, by his orders, as well as for the destruction of property by the enemy, caused by the occupancy of the claimants' premises by the said United States troops; that the said board is empowered to summon and examine witnesses under oath, and take testimony in California, if necessary, and elsewhere. That for the payment of the claims reported favorably upon by the board in its report to the Secretary of War, dated December 5, 1854, Executive document 8, Thirty-Third Congress, second session, including that numbered 197, being the claim of Santiago E. Arguello, and amounting to $11,584, and for the compensation of the members of said board, for and during their period of service as such, at a rate not exceeding $3,000 per annum each, deducting therefrom their Army pay, the sum of $40,548, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated; and the Secretary of the Treasury is hereby authorized and directed to pay to the treasurer of said board, out of any money in the Treasury not otherwise appropriated, the sum of $10,000 for the contingent expenses of the said board, including therein office rent and clerk's hire, stationery, fuel, the payment of the witnesses' fees duly summoned by the board, at a rate not exceeding those paid by the United States district courts in California or elsewhere, as the case may be, the traveling expenses of said board, not exceeding sixteen cents per mile to each member, and other incidental expenses.

This is the roving commission. The committee of conference recommend a concurrence in only part of it. If the report of the committee be adopted, the section will read as follows:

And be it further enacted, That the board of officers appointed under the sixth section of the act making appropriations for the support of the Army for the year ending June 30, 1853, approved August 31, 1852, is hereby abolished.

The residue of the Senate's amendment is stricken out; so that this board will not go on the proposed roving mission to California. The committee of conference, finding that there was some difficulty in regard to the appointment of officers for the four additional regiments to the Army, recommend to their respective Houses the adoption of the following proviso:

Provided, That it shall be lawful for the President of the United States to appoint, during the recess of Congress, such of the commissioned officers authorized by this act, below the grade of field officers, as may not be appointed during the present session, whose commission shall expire the 1st day of May, 1856.

The Constitution of the United States authorizes Congress to vest the appointment of inferior officers in the President alone; but it was the desire of the committee on the part of the House of Representatives that these officers should hereafter be appointed by and with the advice and consent of the Senate. Hence this proviso that their commission shall expire on the 1st day of May, 1856, which gives an opportunity for nominations to be submitted to the Senate, at its next session, for its confirmation. This was done for the purpose of avoiding any constitutional objections on the subject.

Having made this explanation of the action of the committee of conference, I call for the previous question on the adoption of their report.

Mr. TAYLOR, of Ohio. I wish to ask the gentleman from Missouri a question. How does the gentleman propose to settle claims in California if this board be abolished?

Mr. PHELPS. They will be examined and acted on by the court of claims, which has been established at this session of Congress. They will be settled in the same manner as the claims of the gentleman's constituents and the claims of my constituents.

Mr. PRINGLE. Mr. Speaker, there is one amendment upon which I should like to have a separate vote.

The SPEAKER. It is not competent to divide the report of a committee of conference. The question must be taken on it as a whole.

The previous question received a second, and the main question was ordered to be now put.

Mr. CAMPBELL. I demand the yeas and nays on the adoption of the report.

Mr. WHEELER. I demand tellers upon the yeas and nays.

Tellers were ordered; and Messrs. JOHNSON, and STUART of Michigan, were appointed.

The House was then divided; and the tellers reported—ayes 27.

So, less than one fifth the members having voted in the affirmative, the yeas and nays were not ordered.

The question was then taken; and the report of the committee of conference was concurred in.

Mr. PHELPS moved that the vote by which the report was adopted be reconsidered, and that the motion to reconsider be laid upon the table; which latter motion was agreed to.

The question then recurred upon the motion to suspend the rules and go into the Committee of the Whole on the state of the Union; and being put, the motion was agreed to.

CIVIL AND DIPLOMATIC BILL—AGAIN.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair,) and resumed the consideration of the Senate amendments to the bill making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1856.

Forty-fourth amendment:

Page 57, at the end of line twenty-one, insert the following words:

To enable the Committee on Indian Affairs to pay the amount due George R. Herrick for arrears of pay for services from 1st of April, 1846, to the 1st of July, 1849, in the business of reservations and grants, under the Indian treaties, as provided, for one clerk at $1,400 per annum, by the 9th of May, 1836, entitled "An act providing for the salaries of certain officers therein named for other purposes," $1,109 79.

Mr. ORR. I move to amend that amendment by adding one dollar. I desire simply to say that the papers upon which this amendment was predicated were referred to the Committee on Indian Affairs, and they unanimously instructed me to report in favor of the claim. I hope the amendment will be concurred in. I withdraw my amendment.

Mr. HARLAN, of Indiana. I move to amend the amendment by inserting at the end, the following:

Also, the further sum of $165, the balance of $2,200 directed to be paid to James F Miller, or Pym-y ch-te-nah, or either of them, by the Senate amendment to the treaty with the Miami Indians, made in August 1854, which shall be paid out of any money in the Treasury not otherwise appropriated, as therein directed.

Mr. JONES, of Tennessee. That has nothing to do with the subject of the Senate amendment. I submit that it is not in order.

The CHAIRMAN. The Chair so thinks, and decides the amendment to be out of order.

The question then recurred upon concurring in the Senate amendment; and being taken, it was concurred in.

Forty-fifth amendment:

Page 57, at the end of line twenty-one, insert the following:

For the payment of clerks temporarily employed in the office of the Postmaster General from the 1st of July to the 10th of August, 1854, $33,738.

Mr. HOUSTON. That is for expenses actually incurred. It is recommended by the Department, and I have no doubt is necessary to be passed.

Mr. STRATTON. I move to amend the Senate amendment by adding, at the end thereof, the following:

Provided, That hereafter appointments made by the heads of the several Departments shall be given to residents of States and Territories which may have the fewest employees in proportion to population.

Mr. JONES, of Tennessee. That is to change existing law. I submit that it is not in order.

The CHAIRMAN. The Chair so thinks, and decides the amendment to be out of order.

The question was then taken; and the Senate amendment was concurred in.

Forty-sixth amendment:

That the Secretary of the Treasury be, and he is hereby, directed to settle the accounts of George P. Marsh, late minister resident of the United States to the Ottoman Porte, for additional compensation and expenses incurred by him in the performance of special services not pertaining to his mission, and at a point different from that to which he was accredited, in compliance with instructions from the Department of State, and for judicial services rendered by him under the act of August 11, 1848, entitled "An act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to the ministers and consuls of the United States in those countries;" in settling of which accounts the sum of $9,000 shall be allowed as compensation for said services in the mission to Greece; and in ascertaining the amount of said expenses the certificate of the party shall be regarded as sufficient, when no vouchers can be produced; and a further allowance, at the rate of $1,000 per annum, shall be made to the said George P. Marsh for his judicial services during the period of his said mission to the Ottoman Porte, to be paid out of any money in the Treasury not otherwise appropriated. And that the sum of $18,000 be paid to John S. Pendleton, in full compensation for his services in the mission in which he was associated with Mr. Schenck, deducting anything he may heretofore have received as compensation for the same.

Mr. PECKHAM. I am opposed to that amendment. I believe that, under the law of 1852, Congress prohibited the allowance of any additional compensation to any officer of the Government for any additional services whose salary exceeds $2,500 per annum. Now, sir, I understand that the salary of Mr. Marsh was certainly as much as that, and I think more.

Mr. WHEELER. His salary was $6,000 per annum.

Mr. PECKHAM. Very well. His extra services were very trifling in that character. He traveled, I understand, some thirty or forty miles. His expenses were very trifling, and yet we have here a claim before Congress for something like $18,000. I submit that, if we are to pay any sort of heed to this act at all, that this amendment most certainly should not be concurred in. I can see no sort of reason for this extra allowance. I always endeavor, in my action here, to be not only just, but liberal. But I can see no reason for this allowance upon the ground either of justice or liberality.

Mr. WHEELER. He was only there eighteen days.

Mr. PECKHAM. The expense he incurred must have been of a very trifling character. It has become customary, I know, in regard to these foreign missions, to add extra allowances upon very slight grounds. I do not think the practice should be indulged in, and I hope that, in this instance, the committee will require evidence of some extraordinary service or expenditures before they allow this claim.

Mr. LYON. I desire to say one word in reply to the gentleman who has just spoken. The services of Mr. Marsh have been termed of a trifling character, and it has been said that he traveled only some thirty miles. If I recollect aright, the distance from Constantinople to Athens is two hundred and twenty-seven miles. Mr. Marsh went there in a Government vessel. He went there to investigate the claim of Mr. King, and the differences of opinion that gentleman had with the Greek Government, and he translated from Greek into English more than five hundred and ninety pages of a claim that has been before the Greek Government and before our Government for some seven or eight years. It was one of the most laborious positions that a man could be placed in. Mr. Marsh did the work himself without hiring a solitary assistant. He worked there in the most unhealthy portion of the year.

Mr. PECKHAM. How long a time did he spend in Athens?

Mr. LYON. He spent eleven months in Athens. That was precisely the time.

Mr. WHEELER. He has already been paid $1,000 extra for it.

Mr. PECKHAM. Was he eleven months there on his official duties?

Mr. LYON. Yes, sir; he spent eleven months there on official duty. Mr. Chairman, I am surprised that this objection should come from the quarter from which it does. But a few days ago a bill was passed here giving several thousand dollars to Mr. Sandford for doing nothing—for services as chargé d'affairs and secretary of legation at Paris—and the gentleman from New York did not make a solitary objection to it. Here is a hard-working scholar, who has done much to elevate the standard of the country abroad by showing that he is perfectly familiar with the languages of the nations to which he is accredited, and who has displayed very extraordinary powers in two diplomatic stations, and he is to be stricken down because he brings in a fair, just, and honest claim for compensation.

Mr. PECKHAM. Where was my worthy colleague when that improper claim of Mr. Sandford's went through the House?

Mr. LYON. I was getting a pension for a poor soldier—arguing his case at the Pension Office. I hope, if the committee have any love of justice, that they will concur in the amendment of the Senate.

Mr. EDGERTON. I move to decrease the amount $1,000. My reason for offering that amendment is to enable me to state to the House that, by the eighteenth section of the act of Congress approved August 31, 1852, it was provided that no person who held, or should thereafter hold any office under the Government of the United States, whose salary or annual compensation should amount to the sum of $2,500, should receive compensation for discharging the duties of any other office. Mr. Marsh occupied a position with a salary of $6,000 per annum, and he wants $9,000 more. Now, unless it can be clearly shown that he has performed services for the Government that entitle him to this additional compensation, and would justify us in violating this law, I am certainly opposed to the amendment.

Again, sir, we have no precedent for it. We have heard of extra compensation to consuls for performing judicial duties and discharging the duties of chargés d'affaires, but it must be borne in mind that their salaries are only $2,000. I am aware of no case since 1852, in which additional compensation for extra services has been allowed to any foreign agent whose salary is over $2,500. It is because this amendment is in violation of this law, and not justified by the extra services that Mr. Marsh has rendered, that I am opposed to it. A gentleman near me states that he spent only eighteen days on this special mission.

Mr. LYON. That is a mistake. Mr. Marsh was at Athens for eleven months.

Mr. EDGERTON. He receives $6,000 per annum, and now asks $9,000 extra.

Mr. WHEELER. And he has received $1,000 extra compensation already.

Mr. EDGERTON. I now withdraw my amendment.

Mr. SMITH, of Virginia. I propose to reduce the amount $1,000. Mr. Chairman, Mr. Marsh was our representative at the Ottoman Porte, and in that character received a salary of $6,000 per annum. I understand that, while so situated, he was called upon by the State Department to perform certain services at Athens. While thus engaged of course he was not performing his duty at the Ottoman Porte. I understand that this amendment proposes to give him $9,000 in addition to the $1,000 extra compensation already received—making $10,000 for eleven months' work, in addition to his salary of $6,000 per annum.

Mr. WHEELER. And not only that, but the gentleman who discharged his duties at Constantinople while he was absent, is here, also, for extra pay.

Mr. SMITH. Now, I ask the committee, without any feeling of opposition to this man, if they really intend to give him $16,000 for eleven months' service? That is the whole question. It is a mere question of dollars and cents. I have not a word further to say. I now withdraw my amendment.

The question recurred on the Senate amendment.

Mr. MEACHAM. I move to amend the amendment by adding to the appropriation $100; and I ask that the memorial of Mr. Marsh be read as part of my speech.

Mr. WALSH. I object; we have heard enough of this matter.

The CHAIRMAN. The gentleman from Vermont has a right to have it read as part of his speech.

The memorial was read.

Mr. MEACHAM then withdrew his amendment to the amendment.

The question recurred on the Senate amendment.

Mr. TAYLOR, of Ohio, demanded tellers.

Tellers were ordered; and Messrs. WALSH and MEACHAM were appointed.

The committee divided; and the tellers reported—ayes 45, not half of a quorum.

So the Senate amendment was non-concurred in.

ENROLLED BILLS.

The committee here rose informally, and the following bills and joint resolutions were reported as correctly enrolled; and thereupon received the signature of the Speaker:

An act making appropriations for fortifications and other works of defense, and for repairs of barracks and quarters for the year ending 30th June, 1856;

Joint resolution for the relief of James Hughes;

Joint resolution for the relief of John Dugan;

Joint resolution for the relief of Joel Henry Dyer;

An act for the relief of Thomas Parker;

An act for the relief of Thomas F. Johnson; and

An act for the relief of Frederick Clark.

The committee resumed its session.

MESSAGE FROM THE PRESIDENT.

The committee rose informally, and Mr. ORR having taken the chair as Speaker *pro tempore*, a message was received from the President of the United States notifying the House that he had

approved and signed certain bills of a private character.

POST OFFICE APPROPRIATION BILL.

Mr. JONES, of Tennessee. I understand, Mr. Speaker, that the committee of conference on the part of the House on the disagreeing votes of the two Houses on the Post Office appropriation bill are ready to report. It is important that it should be agreed to, and that the bill should be enrolled.

There was no objection.

Mr. DAWSON. The committee of conference, to whom was referred the disagreeing votes of the two Houses upon House bill (No. 594) making appropriation for the service of the Post Office Department during the fiscal year ending the 30th June, 1856, respectfully submit the following report, and upon its adoption I ask the previous question.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R., No. 594) making appropriations for the service of the Post Office Department, during the fiscal year ending the 30th of June, 1856, have met, and, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their disagreement to the House amendment to the third amendment of the Senate. That the Senate recede from their disagreement and agree to the House amendment to the sixth amendment of the Senate. That the Senate recede from their disagreement and agree to the amendment of the House to the tenth amendment of the Senate. That the House recede from its disagreement to the seventh amendment of the Senate. That the Senate recede from their disagreement to the House amendment to the eleventh amendment of the Senate.

THOMAS J. RUSK,
J. E. BENJAMIN,
RICHARD BRODHEAD,
Managers on the part of the Senate.
GEORGE S. HOUSTON,
J. L. DAWSON,
CHARLES READY,
Managers on the part of the House.

The report in detail is as follows:

The Senate recede from its disagreement to the amendments of the House to the following amendment of the Senate:

For compensation to William M. F. Magraw, for carrying the mail on route No. 8911, from Independence, Missouri, to Great Salt Lake City, Utah Territory, monthly each way, according to the contract under which said service is now being performed, the sum of $36,000 per annum, commencing with the contract aforesaid, and in lieu of the compensation therein stipulated.

The House amended by striking out the words "contract aforesaid," and inserting in lieu thereof "18th day of August, 1854, and continuing one year."

The House further amended by adding at the end of the Senate amendment the following:

Provided, That the Postmaster General, with the assent of the contractors, be, and he is hereby, authorized to annul said contract.

Also, for compensation of Jacob Hall, for carrying the mail on route No. 8912, from Independence, Missouri, to Santa Fé, Territory of New Mexico, monthly each way, according to the contract under which said service is now being performed, the sum of $22,000 per annum, for one year from the 18th day of August, 1854: *Provided*, That the Postmaster General, with the assent of the contractors, be, and he is hereby, authorized to annul said contract.

The Senate recede from its disagreement to the amendment of the House to the following amendment of the Senate:

For compensation to George H. Giddings, for carrying the mail on route No. 12900, from Santa Fé, New Mexico, to San Antonio, Texas, monthly each way, according to the contract under which said service is now being performed, the sum of $33,500 per annum, commencing with the contract aforesaid, and in lieu of the compensation therein stipulated.

The House amended by striking out the words "contract aforesaid," and inserting in lieu thereof, "18th day of August, 1854, and continuing one year." Also, by adding, at the end of the Senate amendment, as follows:

Provided, That the Postmaster General, with the assent of the contractors, be, and he is hereby, authorized to annul said contract.

And that each contractor engaged, or to be engaged, in carrying the mails through any of the Territories west of the Mississippi, shall have the privilege of occupying stations at the rate of not more than one for every twenty miles of the route on which he carries a mail, and shall have a preëmptive right therein, when the same shall be brought into market, to the extent of six hundred and forty acres, to be taken contiguously and so include his improvement, but no such preëmptive right shall extend to any pass in a mountain or other defile.

The Senate recede from its disagreement to the amendment of the House to the sixth amendment of the Senate:

The House amended by inserting, after the word "provided," the following:

That the contract for the said service be advertised by the Postmaster General in pursuance of existing laws, and let to the lowest bidder. *And provided further*, That,

And by adding, at the end of the Senate amendment, the following:

Provided further, That the Postmaster General may, if he shall deem it for the public interest, contract for said service with the lowest bidder as aforesaid under the advertised proposals heretofore made for mail service between the points aforesaid.

So that the amendment, as amended, would read as follows:

SEC. 3. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to establish and put in operation a semi monthly mail, by sea, from San Francisco, in the State of California, to Olympia, in the Territory of Washington, touching at Humboldt bay, Trinidad, and Crescent City, in the State of California, Port Orford, Gardiner City, or Umpqua, and Astoria, in the Territory of Oregon, Shoalwater bay, Port Townsend, in the Territory of Washington, and at such other points as shall be designated by the Postmaster General: *Provided*, That the contract for the said service shall be advertised by the Postmaster General, in pursuance of existing laws, and let to the lowest bidder: *And provided further*, That the whole cost of said service shall not exceed the sum of $120,000 per annum: *Provided further*, That the Postmaster General may, if he shall deem it for the public interest, contract for said service with the lowest bidder, as aforesaid, under the advertised proposals heretofore made for mail service between the points aforesaid.

The House recedes from its disagreement to the seventh amendment of the Senate, as follows:

SEC. 4. *And be it further enacted*, That the right to frank letters and documents now allowed by law to the Vice President be continued to those who have heretofore, or shall hereafter hold that office, during life.

The Senate recedes from its eleventh amendment, which is as follows:

SEC. 8 *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to pay to Cranston Laurie a reasonable compensation for performing the duties of two desks in the Post Office Department, not to exceed half-pay of a clerk for the time he was so employed.

Mr. JONES, of Tennessee. I understand from the report that the committee of conference recommend that the Senate recede from all its amendments except the one conferring the franking privilege upon the Vice President, and that the House recede from their disagreement to that.

The previous question was seconded, and the main question was ordered to be put.

Mr. CHAMBERLAIN demanded the yeas and nays upon the adoption of the report.

The yeas and nays were not ordered.

The question was then taken; and it was decided in the affirmative.

So the report of the committee of conference was agreed to.

Mr. DAWSON moved to reconsider the vote by which the report was agreed to, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

WITHDRAWAL OF PAPERS.

On motion by Mr. CUMMING, it was ordered that he have leave to withdraw the papers in the case of Eli Darling from the files of the Committee on Invalid Pensions, for the purpose of getting a certificate.

CIVIL AND DIPLOMATIC BILL—AGAIN.

The Committe of the Whole on the state of the Union resumed the consideration of the Senate amendments to the civil and diplomatic bill.

The forty-seventh amendment was read, as follows:

For compensation to John P. Brown, as acting chargé d'affaires at Constantinople, for twelve months and nineteen days, between the 30th day of July, 1852, and the 31st day of January, 1854, which shall be in full for all demands for such services for the period named, $2,116 12.

Mr. EDGERTON. I move to reduce the amount one dollar. The law of August 31, 1852, provides that where the compensation is over $2,500, there shall be no additional compensation whatever. The same law that included Mr. Marsh would include Mr. Brown.

Mr. TAYLOR, of Ohio. Mr. Brown is a constituent of mine, and I would ask the attention of the committee to the report made by Mr. MASON, July 14, 1854, in the Senate in this case. I send it up to the Clerk's desk, and ask the hearing of the committee while it is read.

The report was then read, as follows:

"The Committee on Foreign Relations, to whom was referred the petition of John P. Brown, principal interpreter of the Turkish language to the United States legation at Constantinople, have had the same under consideration, and report:

"That the petitioner sets forth in his petition, that while acting as principal interpreter of the Turkish language to the legation of the United States at Constantinople, he was, on the 30th July, 1852, accredited by an order of the President of the United States charge d'affaires *ad interim* to the Ottoman Government, by Mr. Marsh, United States minister resident in Turkey; that he filled that office in the absence of any other diplomatic agent of the United States at Constantinople, until the return of Mr. Marsh from Greece on the 5th July, 1853; that on the 13th December, 1853, he was again accredited by order of the President of the United States, as chargé d'affaires *ad interim* to the Ottoman Government, by Mr. Marsh, on his return to the United States, and continued to act as such until the arrival of Mr. Spence, on the 31st January, 1854; that during the two periods above stated, amounting to twelve months and nineteen days, he performed all the duties, and incurred all the expenses incumbent on the representative of the United States; and having received only the compensation of principal interpreter of the Turkish language during that time, he prays that he may be allowed the difference between that compensation and the usual allowance of salary and outfit to a chargé d'affaires.

"A letter from the Secretary of State, in answer to inquiries made by the committee, and dated May 31, 1854, fully sustains the statements of the petition, and adds: 'It gives me pleasure to bear witness to the general merits and services of Mr. Brown as a faithful and efficient officer.'

"The committee believe that in this case the claimant is justly entitled to receive the compensation of a chargé d'affaires during the time he acted in that capacity, less the amount heretofore received by him as secretary of legation for the same period. They do not allow an outfit because they are not aware of any precedent for such allowance where there was a minister accredited at the post, nor do they think the circumstances of the present application call for it. They report a bill in accordance with these views, and recommend its passage."

Mr. TAYLOR. Mr. Brown was dragoman or interpreter of the Turkish language to the embassy at Constantinople. Mr. Marsh was ordered to Greece upon a special mission, and Mr. Brown was ordered by the President of the United States to act as chargé d'affaires *ad interim*. I presume that no gentleman will question the power of the President in the case. The Secretary of State says that Mr. Brown acted as such chargé d'affaires *ad interim*, and he bears testimony to his faithful services for the time specified. The committee of the Senate made a favorable report in the case, as you will observe from the report which has just been read in your hearing. I wish to state, in justice to Mr. Brown, that I do not believe the United States have ever had a more intelligent, faithful, patriotic, and devoted public servant than Mr. Brown proved himself to be, while he acted as chargé d'affaires *ad interim*. He discharged his duties to the entire satisfaction of the Government and the Secretary of State. I ask the committee if Mr. Brown is not, then, fairly and justly entitled to the compensation now asked for.

The question was taken on Mr. EDGERTON's amendment; and it was not agreed to.

Mr. SMITH, of Virginia. I offer the following amendment:

And that the Secretary of the Treasury be, and he hereby is, authorized to allow to George P. Marsh such sum as shall be reasonable, in order to indemnify him for his expenses and losses, by reason of his having been ordered to Greece.

Mr. WHEELER. I rise to a question of order. That amendment is not germane to the subject under consideration, and cannot, for that reason, be received.

Mr. SMITH, of Virginia. I will only say——

Mr. WHEELER. Well, it is unnecessary for the gentleman to explain it, for we all understand it, as it has been decided upon, and rejected by the committee already.

The CHAIRMAN. The Chair holds the point of order well taken, and rules the amendment out of order.

Mr. SMITH, of Virginia. Then I will offer another amendment. I move to increase the sum contained in the amendment five dollars. If the committee will give me their attention, for a moment only, I wish to state a few facts in relation to Mr. Marsh. When he went to Greece, Mr. Brown was chargé d'affaires by appointment. He does not claim this amount for services as an interpreter to that mission. The amount is not extra compensation, but pay for services actually rendered in that official character. There is proof of it, and there is no mistake about the fact. No man ought to object, because he was in commission there as a representative of his country, and with the usual allowance of $4,500 a year. I think myself he ought to be fully indemnified; and the amendment I offered, and which the Chair

ruled out of order, was intended to secure that indemnity.

Mr. LETCHER. This is a very fortunate country. I believe no man has been abroad who has not been the very best qualified man for the particular place he was appointed to fill that ever was selected, and not only entitled to the regular salary, but to any amount of extra compensation which can be got through Congress for him by his friends. Here is a law upon our statute-book which undertakes to declare that those who receive the sum of $2,500 shall receive no extra compensation, and yet here is my colleague now, and there was the gentleman from Ohio [Mr. TAYLOR] the other day, and we had a gentleman from Pennsylvania a few days since, who all bring in propositions here to make allowance, one to one man, and then to Mr. Marsh, and then to Mr. Brown, all of whom were located at the same point, and all coming here and demanding extra compensation for services.

Mr. SMITH. The gentleman's argument would be good if he could show that it is extra compensation.

Mr. LETCHER. I imagine it cannot be anything but extra, or they would not be applying to Congress for it. If it is regular pay it is provided for by law already.

Mr. PECKHAM. I wish to state one fact, and that is, that this same Mr. Brown, who applies for this extra compensation, is fulfilling the duties of an office which, in reality, is a sinecure. He left Constantinople, and was gone fifteen months, and he employed a man to perform the duties of that office as dragoman in his absence, at the compensation of eight dollars a month.

Mr. CUMMING. Well, sir, I will say that this Mr. Brown is the very man who gave authority to Captain Ingraham, by letter, to protect Koszta, and for whose gallant protection we have been rewarding Captain Ingraham by all sorts of glorification.

Mr. LETCHER. It seems there is a controversy between these three men, all at the same place, and if we undertake to give it to one of them, another will come in and claim, and get it from another Congress, and before the thing is all over, the third will come in and get it, too, and all for the same service.

Mr. SMITH, of Virginia, by unanimous consent, withdrew his amendment.

Mr. TAYLOR, of Ohio. I move to amend by increasing the amount ten dollars. I have most cheerfully voted a compensation to Commodore Perry, of $20,000 for services recently performed for his country in the East; and I am surprised at the opposition made here to the small amount proposed to be paid to this gentleman, who, as I stated before, is a native-born son of Ohio. He is very well known as one of the best Oriental scholars in our country. He receives, it is true, $2,500 as dragoman, and he has been kept in that position through several Administrations on account of his peculiar qualifications for that office, and there is no man whose correspondence with the Department of State tells more strongly in his favor than Mr. Brown's. My friend from Virginia speaks of this as extra compensation. It is not so. Mr. Marsh was sent away, and then our difficulty with Austria occurred. The Koszta affair took place, and the very correspondence with Captain Ingraham, and the orders to take him from the Austrians, was the correspondence and command of this very Mr. Brown.

Now, sir, in reference to what my friend from New York said. It is true that he left Constantinople for some time. He came to this country on a visit by leave of the President of the United States, and, in connection with that visit, to conduct the commissioner of Turkey to the World's Fair. He was ordered by Mr. Webster, then Secretary of State, to accompany that commissioner here. The records of the State Department show that he performed his duties faithfully and honestly to his country. This is not extra compensation. It is compensation for services performed by order of the President through the Secretary of State.

Mr. LYON. With the permission of the committee I want to say one word in relation to this matter. The position of Mr. Brown at Constantinople, was an arduous one, and he is one of the first of the Americans who ever understood the Turkish language thoroughly. What were his duties?

Mr. WHEELER. I call the gentleman to order. He has spoken once upon this subject.

Mr. LYON. I have not. I spoke upon another subject.

Mr. TAYLOR. I withdraw my amendment.

Mr. LYON. Then I make another, and move to increase the appropriation ten dollars.

Mr. WHEELER. I object to this farming out the floor, and ask for a vote upon the amendment of the gentleman from Ohio.

The question was taken; and the amendment was not agreed to.

The question then recurring upon agreeing to the Senate amendment,

Mr. TAYLOR called for tellers.

Tellers were ordered; and Messrs. MEACHAM and WHEELER were appointed.

The amendment was non-concurred in, the tellers having reported—ayes 40, noes not counted.

Forty-eighth amendment:

For compensation to Joseph Graham, United States consul at Buenos Ayres, as acting chargé d'affaires at that place, from the 3d day of August to the 11th day of September, 1852, and from the 25th day of November, 1852, to the 26th day of March, 1853, an aggregate period of five months and ten days, which shall be in full for all demands for such services for the period named, $990 50.

The amendment was non-concurred in.

Forty-ninth amendment:

For compensation and expenses of the commissioner and the agent of the United States under the convention for the adjustment of claims between the United States and Great Britain, at $12,000 each for the entire service, $24,000: *Provided*, That this sum shall include what has already been paid to either of them under the said convention.

Mr. HOUSTON. This amendment is for the compensation of the commissioners who have been adjusting the claims of citizens of the United States and subjects of Great Britain against their respective Governments under treaty.

The amendment was concurred in; there being, on a division—ayes seventy-eight, noes not counted.

Fiftieth amendment:

That the Secretary of State cause the accounts of Joseph Eve, deceased, late chargé d'affaires of the United States to the late Republic of Texas, to be audited and adjusted by the proper accounting officers of the Government, and that the amount found due thereon be paid to Betsey W. Eve, widow of said Joseph Eve, out of any money in the Treasury not otherwise appropriated.

The question was taken; and the amendment was concurred in.

Fifty-first amendment:

For compensation to Henry Savage, United States consul at Guatamala, for his services in taking charge of and preserving the archives of the former legation of the United States at that place, and communicating to his Government at home regularly useful and highly important information during the several intervals from February, 1830, to November, 1833, from May, 1842, to November, 1848, and from May, 1850, to February, 1854, an aggregate of fourteen years, during which the United States had no other diplomatic or consular agent at that place, $14,100.

The amendment was non-concurred in.

Fifty-second amendment:

For compensation to George W. Lippett, United States consul at Vienna, for taking charge of the archives of the United States legation at that place, and performing diplomatic services from the 13th day of October to the 10th day of December, 1852, and from the 21st day of May to the 13th day of September, 1853, an aggregate period of five months and 21 days, $1,075 10.

The amendment was non-concurred in.

Fifty-third amendment:

For compensation to Peter Parker, as acting chargé d'affaires at Canton, China, from the 24th day of May, 1852, to the 31st day of January, 1853, and from the 27th day of January to the 14th day of April, 1854, an aggregate period of ten months and twenty five days, which shall be in full for all demand for such services for the period named, $1,805 54.

The amendment was non-concurred in.

Fifty-fourth amendment:

For compensation to Ferdinand Coxe, as acting chargé d'affaires in Brazil, from the 12th day of May to the 16th day of August, 1853, a period of three months and four days, which shall be in full for all demand for such services for the period named, $729 17.

The amendment was non-concurred in.

Fifty-fifth amendment:

For compensation to Horatio J. Perry, as acting chargé d'affaires at Madrid from the 3d day of July to the 24th day of October, 1852, from the 11th day of May to the 21st day of June, 1853, and from the 4th day of September to the 22d day of October, 1853, an aggregate period of six months and twenty-two days, which shall be in full for all demand for such services for the period named, $1,402 75.

The amendment was non-concurred in.

Fifty-sixth amendment:

For salaries of the three judges of the court of claims, $12,000;
For salary of solicitor of said court, $3,500;
For salaries of the two clerks, $3,500;
For contingent expenses of said court, $2,000;
For the salaries of the judges, solicitor, and clerks of said court, and for other expenses thereof, prior to the 1st day of July, 1855, or so much thereof as may be required, $5,000.

Mr. HOUSTON. These appropriations are made necessary by reason of the law passed by Congress at the present session for the establishment of a court of claims.

The amendment was concurred in.

Fifty-seventh amendment:

For balance of compensation to Robert M. Walsh, as acting chargé d'affaires in Mexico in the years 1848 and 1849, which shall be in full for all demand for such services during that period, $838 33.

The amendment was non-concurred in.

Fifty-eighth amendment:

For compensation of C. E. Andrews as acting chargé d'affaires at Paris, for seven months and twenty-nine days, from the 1st day of April to the 29th day of November, 1837, which shall be in full of all demands for such services for the period named, $1,659 72.

The amendment was non-concurred in.

Fifty-ninth amendment:

For paying to Asbury Dickens the difference between the compensation of head of a Department and chief clerk of a Department, for the time he acted as Secretary of State and Secretary of the Treasury by appointment from President Jackson, to be ascertained by the proper accounting officers, a sum not exceeding $2,500.

Mr. LETCHER. I move to amend that amendment by striking out the name of "Asbury Dickens." I have merely to say that this claim came before the Committee of Claims and was rejected, over and over again, upon a full meeting of the committee. It finally passed that committee by one majority when only seven out of the nine members were present. I think the amendment should be rejected.

Mr. HUNT. I ask to have the memorial read. I think it will satisfy the committee that it is a just claim.

The CHAIRMAN. It will be read unless objection be made.

Mr. WALSH. I object.

Mr. HUNT. I ask to have it read as a part of my speech. The gentleman from Virginia moved to amend by striking out the name of Asbury Dickins. I oppose that amendment, and ask to have the memorial read as a part of my speech. Is that not in order?

The CHAIRMAN. It is in order, but the Clerk informs the Chair that there is no memorial accompanying the amendment.

Mr. LETCHER. There is no need of the memorial being read. The amendment explains the nature of the case.

Mr. HUNT. The reading of the memorial satisfied me of the justice of the claim, and I have no doubt it would satisfy the committee.

Several MEMBERS. Explain it yourself.

Mr. HUNT. I do not recollect the facts with sufficient distinctness to repeat them. The memorial will be here in a minute.

Mr. LETCHER. I withdraw my amendment.

Mr. KERR. I call for tellers upon concurring in the Senate amendment.

Tellers were ordered; and Messrs. HUNT and WITTE were appointed.

The question was taken; and the tellers reported—ayes twenty-four, not a majority of a quorum.

So the amendment was non-concurred in.

Mr. HUNT. The memorial is now here. I ask that it may be read.

The CHAIRMAN. It can only be read by unanimous consent.

Mr. ROWE. I object.

Sixtieth amendment:

For fuel for President's House, $1,000;
For furnace-keeper at President's House, $365.

Mr. CLARK. I demand tellers upon concurring in the amendment.

Tellers were not ordered.

The amendment was non-concurred in.

Sixty-first amendment:

For the erection of a suitable house for the plants recently brought from Japan for the United States, $1,500, to be expended under the direction of Commissioner of Public Buildings.

The amendment was non-concurred in.

Sixty-second amendment:

For support of public green-houses including pay of horticulturist and assistants, $3,000.

Mr. McDOUGALL. I wish to make a suggestion to the committee for the purpose of expediting business.

The CHAIRMAN. No debate is in order except by general consent.

Mr. WALSH. I object.

Mr. McDOUGALL. I do not wish to enter into any discussion; but, Mr. Chairman, it is evident that we are legislating here without understanding the subject-matter of legislation.

Mr. WALSH. I object to the gentleman proceeding. He may speak for himself, but he has no right to make such a reflection upon others.

Mr. McDOUGALL. I would suggest that the committee of conference on the part of the two Houses can examine these various matters, and come to a sound and just conclusion in reference to them. I ask the unanimous consent of the committee that we disagree to the remaining amendments.

Mr. FLORENCE. I object.

The question now being upon concurring in the amendment of the Senate, it was taken, and said amendment was concurred in.

Sixty-third amendment:

To enable the Commissioner of Public Buildings to provide additional furnaces for the library of Congress, $1,000.

The amendment was concurred in.

Sixty-fourth amendment:

To construct suitable iron railings in front of the alcoves of the library, and other repairs, in addition to the balance of appropriations unexpended for the repairs of Congressional Library, under the direction of the architect, $3,500.

The amendment was concurred in.

Sixty-fifth amendment:

And be it further enacted, That the salaries to which envoys extraordinary and ministers plenipotentiary shall be entitled on 1st July, 1855, may be allowed to such as may be in office on that day without reappointment; nor shall such envoys extraordinary and ministers plenipotentiary be required to take with them secretaries of legation unless they should be allowed by the President of the United States.

The amendment was concurred in.

Sixty-sixth amendment:

And the sum of $2,000 additional is hereby appropriated for lighting with gas Bridge and High streets, in Georgetown, to be expended under the direction of the Commissioner of Public Buildings; and said Commissioner is hereby authorized and directed to complete the lighting of the streets with gas from Pennsylvania avenue, where it intersects with Fifteenth street, to the commencement of said avenue at Seventeenth street, being east of the Treasury Department, and north of the President's House.

The amendment was non-concurred in.

Sixty-seventh amendment:

For completing the publication of the works of the exploring expedition, $29,320.

Mr. STANTON, of Kentucky. I offer the following amendment:

Provided, That there be printed, by the public printer, and bound under the direction of the Joint Committee on Printing, one thousand copies of the narrative and scientific reports of the exploring expedition under Captain Charles Wilkes, of the United States Navy, together with the plates, maps, and charts, accompanying the same, said work to be distributed as follows: One copy, or full set, to each member of the Senate and House of Representatives of the present Congress; one copy, or full set, to some library or literary institution easily accessible to the public in each congressional district, to be designated by the Representative therefrom, and one copy, or full set, to some library or literary institution, to be designated by each Senator; the remaining copies to be distributed by the State Department, as now provided for by law.

Mr. JONES, of Tennessee. Is that offered as an original amendment?

The CHAIRMAN. It is offered as an amendment to the Senate amendment.

Mr. JONES. It seems to me that it is not in order here. It is a new proposition, and not germane to the amendment of the Senate.

Mr. STANTON. The Senate propose to continue the publication of this work.

The CHAIRMAN. The Chair is unable to see that the amendment is out of order.

Mr. STANTON. I desire to say only a few words. When this matter was before the House a few days ago, reported by the Joint Committee on the Library, I opposed the proposition, and I opposed it for the reason that I thought the expense which would be incurred under that arrangement was too great to justify the publication of the work. Since then I have caused the Superintendent of Public Printing and his chief clerk to make a close examination of what it would cost to publish it under our printing law, and the difference between the estimate made by Captain Wilkes and that made by the Superintendent of Public Printing, is just $74 000. By publishing it under our law, it would cost $74,000 less than it would cost if published in the manner proposed by the Committee on the Library, and the work can be done quite as well—if not better—under the arrangement we propose, as it could be done under the arrangement proposed by that committee. Let me state further, that there are only one hundred copies of this work extant. Only one hundred copies of it have ever been published by the Government, and they are distributed not only throughout this country, but throughout other countries.

Mr. JONES, of Tennessee. I wish to inquire of the gentleman from Kentucky if Captain Wilkes does not own the copyright of this work?

Mr. STANTON. I believe that Captain Wilkes does own the copyright of his narrative, but that is only a small portion of the work, and the least valuable of all.

Mr. JONES. Then, if you take his narrative and publish it, what will be his claim for his copyright?

Mr. STANTON. Nothing in the world.

Mr. PECKHAM. Not one dollar.

Mr. JONES. That will be a matter for future consideration.

Mr. STANTON. I believe that Captain Wilkes is willing and anxious that the Government shall publish his book.

Mr. JONES. I move to add a proviso to the amendment, to the effect that nothing shall be paid Captain Wilkes for the copyright of this work.

Mr. STANTON. I have no objection to that. I will accept it as a modification of my amendment.

Mr. JONES. You will find that before you have done with this thing, it will cost the Government half a million of dollars.

Mr. STANTON. It will only cost $90,000.

The question was then taken on Mr. STANTON's amendment, as modified; and it was agreed to.

The question recurred on the amendment of the Senate, as amended.

Mr. JONES, of Tennessee, demanded tellers.

Tellers were ordered; and Messrs. WHEELER and JONES were appointed.

The committee was divided; and the tellers reported—ayes 85, noes 40.

So the Senate amendment, as amended, was concurred in.

Sixty-eighth amendment:

To enable the Committee on the Library to pay William H. Powell $2,000, in full, for the picture painted by him for the United States, in addition to the sums heretofore appropriated by law; and the accounting officers of the Treasury are hereby directed to settle and pay the accounts of C. W. Hinman, third assistant librarian, from 1st January, 1854, at the rate of $1,500 per annum.

Mr. WALSH. I move to amend the first clause of that amendment by increasing the appropriation $500. This is an appropriation, Mr. Chairman, of $2,000 to one of the most distinguished artists of which our country now has to boast. It is to the painter of De Soto discovering the Mississippi, which has been lately put up in the rotunda. Mr. Powell has worked five years on that picture. There are gentlemen present who knew him in Paris, where he labored on it incessantly; and that picture is as rigidly true to history as any picture ever painted for the country. As a work of art, it has no superior in the rotunda; and Judge Perkins, of Louisiana, can testify to the fact that Mr. Powell has worked on that picture for years and years, and paid enormous sums of money to perfect it, and keep it as true to history as it is now. I now withdraw my amendment to the amendment.

Mr. STRAUB. I would inquire whether the gentleman from New York, [Mr. WALSH,] or any other gentleman, can state the amount already received by Mr. Powell for this picture?

The CHAIRMAN. The amendment is not debatable.

The question was taken on the Senate amendment; and it was concurred in.

Sixty-ninth amendment:

That from and after the 30th June, 1855, the Secretary of State be, and he hereby is, authorized and required to cause the examination, classification, and distribution of the clerks in the Department of State, in the same manner as is directed in the other executive departments by the provisions contained in the third section of an act entitled "An act making appropriations for the civil and diplomatic expenses of the Government," approved 3d March, 1853, who shall be paid annual salaries according to the act amendatory thereof, approved 22d April, 1854. And the whole permanent clerical force in his Department shall consist of three clerks of class one; two of class two; eight of class three; eight of class four; and one chief clerk, in lieu of those authorized by law; and one of said clerks of class four shall give bonds as required by the Department of the Treasury, act and make disbursements for the Department, and superintend the Northeast Executive Building, and shall receive therefor $200 per annum in addition to his salary as clerk of class of four: *Provided*, The increase of salary hereby allowed the chief clerk be construed to take effect from 1st July, 1853, and be paid accordingly.

Mr. HOUSTON. That amendment has relation to one already passed, where we reduce the gross amount of appropriation for the payment of these clerks. The amendment I send up is a simple change of classification of these clerks:

Strike out the classification in the Senate amendment, and insert the following:

Five clerks of class one, one clerk of class two, ten clerks of class three, and five clerks of class four.

Mr. PERKINS, of Louisiana. I hope that the amendment of the Senate will not be stricken out. It is in accordance with the recommendation of the Secretary of State. The object of the amendment is to make a change corresponding with that made as to clerks in the other Departments. I suppose that the additional expense will not be more than $1,000.

Mr. JONES, of Tennessee. The additional expense will be more than $2,000.

Mr. PERKINS. The additional expense, I think, cannot be more than $1,000. Some of these clerks have been employed in the Department for more than twenty years, and they have a traditional knowledge of their duties, which cannot be supplied by any other persons. I trust that the House will adopt the amendment of the Senate.

Mr. HOUSTON. The amendment which I propose really classifies the clerks in the State Department higher than the clerks in any other Department of the Government.

The CHAIRMAN. Debate is not in order.

The question being on Mr. HOUSTON's amendment,

Mr. JONES, of Tennessee, demanded tellers; which were ordered; and Messrs. PRINGLE and BRIDGES were appointed.

The question was then taken; and the tellers reported—ayes forty-seven, noes not counted.

So the amendment was not agreed to.

Upon concurring in the Senate amendment,

Mr. WALKER demanded tellers; which were ordered; and Messrs. PRINGLE and BRIDGES were appointed.

The question was taken; and the tellers reported—ayes fifty, noes not counted.

So the amendment of the Senate was non-concurred in.

Seventieth amendment:

Add at end of the bill:

SEC. —. *And be it further enacted*, That a tract of ten acres of the land heretofore purchased by the United States for the purposes of the naval hospital at Chelsea, Massachusetts, be selected and set apart, under the direction of the President of the United States, for the use of the marine hospital of the district of Boston and Charlestown.

The amendment was concurred in.

Seventy-first amendment:

SEC. —. *And be it further enacted*, That upon the tract so to be selected and set apart there shall be erected, under the direction of the Secretary of the Treasury, a marine hospital for said district, of faced brick exterior walls, upon a hammered granite underpinning, one hundred and forty feet long, fifty-two feet deep in the center, and one hundred feet deep at the wings, and forty five feet high from top of entrance. Story floor to the eaves, with verandas to each story on each side between the wings, and on each end of the building; for the construction of which the sum of $192,000, with the addition thereto of ten per centum for contingencies, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. LETCHER. Where is that? We cannot hear at this remote part of the Hall.

The CHAIRMAN. It is an amendment to appropriate $192,000 for a marine hospital at Chelsea, Massachusetts.

Mr. WITTE. I move to amend that amendment by adding the following:

And that the sum of $1,925,000 be, and is hereby, appropriated for the purchase of sites and the erection of buildings for post offices and United States court rooms, in the cities of New York, Philadelphia, Boston, and Baltimore,

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in the following manner: $550,000 for the city of New York; $475,000 for the city of Philadelphia; $400,000 for the city of Boston, and for the city of Baltimore $400,000, the same to be expended under the direction of the President of the United States, the Secretary of the Interior, and the Postmaster General.

Mr. LETCHER. I raise a question of order. The amendment proposed by the gentleman from Pennsylvania is not germane to the Senate appropriation for the erection of an hospital.

Mr. WITTE. I will only say, that in a report submitted by the Department some time ago, the sums named in my amendment were suggested as the sums necessary to carry out the various purposes indicated in it; and from the best information the committee which has had this matter under consideration can obtain from the Department of the Interior, those amounts are required.

Mr. LETCHER. Is this debate in order after a question of order is raised?

The CHAIRMAN. It is not.

Mr. BRECKINRIDGE. I would inquire if, in the amendment of the gentleman from Pennsylvania, there is any indication of the sites on which these buildings shall be erected?

Mr. WITTE. None at all.

The CHAIRMAN. This question is not debatable. The Chair decides that the amendment is not in order.

The question was then taken upon the Senate amendment; and it was non-concurred in.

Mr. TAYLOR. I rise to a question of order. I wish to know upon what amendment the committee just voted? I supposed it was upon the amendment offered by the gentleman from Pennsylvania.

The CHAIRMAN. The Chair ruled the amendment of the gentleman from Pennsylvania out of order, and the question was then put upon the Senate amendment; and it was non-concurred in.

Mr. WITTE. I did not so understand it, nor do I believe the committee understood that the Chair ruled my amendment out of order.

The CHAIRMAN. As there seems to be a misunderstanding, at least by two gentlemen, the question will be put again, if there is no objection.

Several MEMBERS objected.

Mr. ELIOT, of Massachusetts, was here recognized by the Chair, and said: I am happy at last to have attracted the attention of the Chair.

The CHAIRMAN. The gentleman is not in order.

Mr. ELIOT. I called for a division before the Chair decided the last question.

The CHAIRMAN. The Chair did not hear the gentleman.

Mr. ELIOT. I thought I spoke loud enough.

The CHAIRMAN. The Chair did not hear the call for a division. Is there objection to taking the question again?

Mr. BRIDGES and others objected.

The CHAIRMAN. The Clerk will read the next amendment.

Seventy-second amendment:

SEC. —. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized to sell and convey the land, with the buildings thereon, belonging to the United States, now occupied as the marine hospital at Chelsea, as may seem to be most advantageous to the United States; and he is hereby empowered to execute valid title deeds of the same to the purchasers; and that the proceeds of such sales shall be paid into the Treasury of the United States.

Mr. FULLER. I move an amendment to that amendment. I move to insert $195,000 for the purpose of completing the building, and I wish the attention of the committee a moment to my amendment.

Mr. SKELTON. I rise to a question of order. The Senate amendment contains no appropriation of money, but authorizes only the sale of the lot. The amendment to add an appropriation of money is not in order.

Mr. FULLER. I wish to say to the committee that the present building was erected in 1826, at a cost of $27,000, out of the seamen's fund. A site of ten acres was purchased in the town of Chelsea for the benefit of the seamen. The present building is wholly unsuited and inadequate to the accommodation and wants of that class of men. Competent judges say that the property is now worth $100,000, and moneyed men stand ready to give that for it. Contiguous to that property the Government own a tract of seventy-five acres, on a part of which is the Government naval hospital. It is proposed to take ten of that seventy-five acres of land, and upon it erect the marine hospital, and sell the old hospital ground. The whole outlay will be $195,000, and the Government will be reimbursed $100,000 of that by the sale of the present marine hospital and site. New Orleans, New York, and Boston, are the principal points, and Boston more especially, where accommodations for sick and disabled seamen are required. I have twice visited that hospital at Chelsea, and I personally know its entire inadequacy. And it is apparent that the accommodations there are wholly unsuitable to the wants of the community. It is a fact that there is but one marine hospital north of this, and to show what number are south of it, I will read——

[Here the hammer fell.]

The amendment was adopted, there being, on a division—ayes 72, noes 44.

Mr. FULLER. I demand tellers on the Senate amendment, as amended.

Tellers were ordered; and Messrs. BOYCE and PRINGLE were appointed.

The question was taken; and the Senate amendment, as amended, was concurred in, the tellers having reported, ayes ninety-six, noes not counted.

Seventy-third amendment:

SEC. —. *And be it further enacted*, That the provisions contained in the second section of the act entitled "An act making appropriations for the civil and diplomatic expenses of the Government," approved the 17th day of June, 1844, be required to be carried into effect, in all particulars, any act in conflict therewith being hereby repealed; and all estimates for the compensation of officers of the Government, authorized by law to be employed, shall be based upon the expressed provisions of law, and not upon the authority of Executive distribution thereof, and the act and section authorizing the same, with the volume and page where such authority may be found, shall be cited in each and all estimates respectively.

Mr. HOUSTON. From the reading of that amendment it is evidently a good one, and I hope that it may be concurred in. It requires estimates presented to Congress to be printed in strict conformity with law.

The amendment was concurred in.

Seventy-fourth amendment:

SEC. —. *And be it further enacted*, That the Secretary of the Treasury shall be allowed, in lieu of the clerks now authorized to be temporarily employed in the office of the Third Auditor, in the office of Secretary of the Treasury, one clerk of class two; in the First Comptroller's office, one of class two and one of class three; in the First Auditor's, two of class two and one of class three; in the Third Auditor's office, twenty of class two and one of class four; in the Sixth Auditor's office, six of class one and one of class two; and in the office of the Solicitor of the Treasury: And also the Secretary of War shall be, and he is hereby, directed to discontinue one clerk in his office of class two, and be allowed in lieu thereof one of class four; in the Adjutant General's office one of class one; and in the office of the Topographical Engineers (as draughtsman) one of class four.

The amendment was non-concurred in.

Seventy-fifth amendment:

SEC. —. *And be it further enacted*, That the proper accounting officers of the Treasury be, and they are hereby, authorized and required to credit T. Butler King, late collector and depositary at San Francisco, in the sum of $12,824 98, being the amount of money proved to have been lost by the destruction of the custom-house building and vault at San Francisco by the fire of May, 1851.

Mr. HOUSTON. Here is a letter upon the subject, if it is the pleasure of the committee that it should be read.

The letter was read, and is as follows:

TREASURY DEPARTMENT, *February* 27, 1855.

SIR: I have the honor to recommend the insertion in the general appropriation bill of a clause authorizing the accounting officers of the Treasury to credit T. Butler King, late collector and depositary at San Francisco, in the sum of $12,824 98, being the amount of money proved to have been lost by the destruction of the custom-house building and vault at San Francisco by the fire of May, 1851.

Public money in specie to the amount above indicated was totally lost in the conflagration referred to, and the additional legislation is necessary to enable the accounting officers of the Treasury to give the late collector the credit to which he is entitled. The testimony on the subject will be furnished if desired by the committee.

Very respectfully, your obedient servant,

JAMES GUTHRIE, *Secretary of the Treasury.*

Hon. R. M. T. HUNTER, *Chairman of the Committee on Finance, United States Senate.*

The amendment was concurred in.

Seventy-sixth amendment:

SEC. 9. *And be it further enacted*, That there shall be appointed, and paid in the manner now provided by law, four principal examiners and four assistant examiners of patents, in addition to the examining force now authorized by law, to be so employed in the Patent Office; and should the necessities of the public service, in the estimation of the Commissioner of Patents, require any additional examining force to that herein provided, previous to the next session of Congress, there may also be appointed, and paid in the manner now provided by law, in addition to the foregoing, not exceeding two principal and two assistant examiners, who shall not so continue to be employed subsequent to the expiration of said next session of Congress without further provision of law.

Mr. BRECKINRIDGE. I have a single remark to make with regard to that amendment.

The CHAIRMAN. Debate is not in order.

Mr. BRECKINRIDGE. Well, sir, for the purpose of saying a word, I move to strike out one of the examiners provided for in the Senate amendment. I will simply say that this provision is recommended by the Commissioner of Patents, who states that these examiners are absolutely required to transact the business in that office.

Mr. WASHBURNE, of Illinois. I rise to a question of order. I ask if the amendment is not to change the existing law?

Mr. BRECKINRIDGE. No, sir; it is simply to increase the number of clerks authorized under the existing law; and is one of the contingencies for carrying on the Government.

Mr. WASHBURNE. The gentleman is right, and I desire to give my testimony in addition to his, that these examiners are absolutely required.

Mr. BRECKINRIDGE. If there is any doubt about the fact in the minds of the committee, I will read the recommendation.

[Cries of "No!" "No!" "It is all right."]

Mr. BRECKINRIDGE. Very well, then, I will withdraw my amendment.

The question was then taken; and the amendment was concurred in.

Seventy-seventh amendment:

SEC. —. *And be it further enacted*, That so much of the act entitled "An act making appropriations for the civil and diplomatic expenses for the year ending June 30, 1853, and for other purposes," as provided for compensation to certain subjects of Spain at New Orleans and at Key West, shall be construed to embrace any losses sustained on the same occasion by Michael Passrirubza, a subject of Austria.

The amendment was non-concurred in.

Seventy-eighth amendment:

SEC. —. *And be it further enacted*, That nothing contained in the act entitled "An act to remodel the diplomatic and consular system of the United States," passed at the present session of Congress, shall be so construed as to prohibit the appointment as consul or commercial agent, under the provisions of said act, of any person who may have held such office when said act passed, and who, though not a citizen of the United States, shall have heretofore resided therein, and shall have married a citizen of the United States.

Mr. HOUSTON. I hope the amendment will not be concurred in.

The amendment was non-concurred in.

Seventy-ninth amendment:

SEC. —. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, directed to pay out of any money in the Treasury not otherwise appropriated, to C. E. Anderson, late secretary of legation of the United States, at Paris, the sum of $1,659 72, it being the difference between the compensation received by him as secretary of legation, and that of chargé d'affaires, from the first day of April, to the 29th day of November, 1837, during which period he acted in the latter capacity.

Mr. HOUSTON. I hope the amendment will not be concurred in.

The amendment was non-concurred in.

The CHAIRMAN. The Chair understands from the Clerk that the next amendments are with the enrolling clerks.

Eighty-third amendment.

SEC. —. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to cause to be constructed the following buildings:

At Burlington, Vermont, a marine hospital, to cost not more than $35,000.

At Wilmington, North Carolina, a marine hospital, including a pest-house, for the separate accommodation of patients with contagious and infective diseases, to cost not more than $4[illegible],000.

SEC. —. *And be it further enacted*, That the several sums mentioned in the preceding section as the cost of the buildings therein authorized to be constructed, together with ten per centum thereon, to cover the compensation of architects, superintendents, advertising, and the contingent expenses, and so much as may be required to purchase suitable sites for said buildings be, and the same are hereby, appropriated for the said purposes out of any moneys in the Treasury not otherwise appropriated: *Provided*, That no money hereby appropriated shall be used and applied for the purposes mentioned until the State shall also duly release and relinquish to the United States the right to tax or in any way assess said site or property of the United States that may be thereon during the time that the United States shall be or remain the owner thereof.

Mr. WITTE. I now offer the following as an amendment to that amendment:

And that the sum of $1,825,000 be, and is hereby, appropriated for the purchase of sites and the erection of buildings for post offices and United States court rooms, in the cities of New York, Philadelphia, Boston, and Baltimore, in the following manner, $550,000 for the city of New York, $475,000 for the city of Philadelphia, $400,000 for the city of Boston, and for the city of Baltimore, $400,000. The same to be expended under the direction of the President of the United States, the Secretary of the Interior, and the Postmaster General.

Mr. LETCHER. I rise to a question of order. That amendment is not in order.

The CHAIRMAN. The Chair sustains the question of order, and rules the amendment to be out of order.

Mr. WITTE. I will take an appeal from the decision of the Chair, and now, sir, I desire to state——

Mr. HENDRICKS. I object to any arguments.

Mr. WITTE. Have I not the right to state the grounds of my appeal?

The CHAIRMAN. The Chair thinks it would be in the nature of argument and not in order.

The question now being upon the appeal from the decision of the Chair,

Mr. KERR demanded tellers.

Tellers were ordered; and Messrs. WITTE and LETCHER were appointed.

The question was then taken, "Shall the decision of the Chair stand as the judgment of the committee?" and the tellers reported—ayes 89, noes 41.

So the decision of the Chair was sustained.

Mr. DAVIS, of Indiana. I rise to a question of order, and I ask for the reading of the order of the House, which I send up to the Chair.

The Clerk read the order, as follows:

"*Resolved*, That the Speaker be requested to direct the Sergeant-at-Arms and Doorkeeper to keep all persons except members of Congress and the officers of the Senate and House from coming within the bar of the House."

Mr. DAVIS. Now, sir, the confusion of which gentlemen complain here this evening, is caused by the great number of persons within this Hall who are not entitled to be here under that order; and I desire that it shall be enforced.

The CHAIRMAN. The Chair is informed that persons not entitled to admission within the Hall are present, and directs the Sergeant-at-Arms and the Doorkeeper to enforce the rule of the House, and to enforce it strictly, and to cause the immediate departure of persons who are not entitled to admission.

The officers of the House thereupon proceeded to obey the order of the Chair, and conducted from the Hall a large number of persons who were not entitled to admission.

The question now being upon concurring in the amendment of the Senate, after a few words from Mr. ASHE, which were wholly inaudible at the reporters' desk, it was taken; and the amendment was agreed to.

Eightieth amendment of the Senate:

That the second section of the act of 31st August, 1852, which provides that the clerks, messengers, watchmen, and laborers, employed at an annual salary, or in temporary positions in the executive and legislative departments of the Government in the city of Washington, whose annual compensation does not exceed $1,200 shall, in addition thereto, be allowed an increased compensation of twenty per cent, shall be construed to include the principal clerk at the National Observatory at Washington, and that hereafter the salary of said clerk shall be $1,500 per annum.

The amendment was concurred in.

Eighty-first amendment of the Senate:

And $1,696 15 to supply a deficiency in the appropriation for building four steam dredge-boats, in use by the War Department on Lakes Champlain, Erie, Michigan, and Ontario, to be applied for materials, machinery, tools, and labor, furnished in painting said boats.

Mr. PHILLIPS. I move to amend the amendment by offering the provisions of a bill, reported by the Committee on Commerce, for working the dredge-boats in different parts of the country.

Mr. HOUSTON. That amendment is not in order.

The CHAIRMAN. The Chair would inquire if the amendment which the gentleman offers is a bill now pending before the House?

Mr. PHILLIPS. I do not offer it as a bill; but I offer these printed provisions of a bill as an amendment to this amendment.

The CHAIRMAN. The Chair thinks if the amendment is a bill, or the provisions of a bill, it is not in order.

Mr. PHILLIPS. It is not a bill, because the enacting clause is stricken out. I ask that it be read.

Mr. HOUSTON. I do not want to have the time of the committee consumed in this matter; and, therefore, I rise to a point of order. The amendment of the Senate is a bill which was offered a few days ago by the gentleman from New York, [Mr. FENTON,] and is now put in by the Senate. It is merely to supply a deficiency in the expenses of these dredge-boats. But my colleague is offering an amendment which proposes to set dredge-boats in operation all over the country.

Mr. PHILLIPS. No, sir; I desire to state to my colleague that there is not a provision in the amendment which I offer for the working of a new dredge-boat. Every one of its provisions is for working boats now in existence, and for which appropriations are made.

Mr. HOUSTON. That makes no difference. That amendment is a portion of the internal improvement bill, and it is not in order in a civil and diplomatic appropriation bill, which is the bill now before the committee. I feel it my duty to press this point of order.

The amendment was reported, as follows:

For dredging on Lake Champlain, $7,500;
For dredging on Lake Erie, $7,500;
For dredging on Lake Ontario, $7,500;
For dredging on Lake Michigan, $7,500;
For dredging the mouths of the Mississippi river, $100,000;
For dredging at Mobile, $75,000;
For dredging at Charleston, South Carolina, $25,000;
For dredging at Baltimore, $8,333;
For working the three twin snag-boats on the Mississippi, Ohio, Missouri, and Arkansas rivers, $70,000.

The CHAIRMAN. The Chair rules the amendment to be out of order, it being on a subject different from the one now before the committee.

Mr. PHILLIPS. I appeal from the decision of the Chair.

The question being "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. WASHBURNE, of Illinois, demanded tellers.

Tellers were not ordered.

The committee divided; and the Chair announced 67 members voting in the affirmative, 54 in the negative.

So the decision of the Chair was sustained.

The question recurred on the Senate amendment; and being taken, it was concurred in.

Eighty-second amendment:

Add as follows:

Provided, That all bullion required by law to be transmitted from said office to the Mint for coinage shall, if practicable, be in the form of refined bars.

Mr. WITTE. I am opposed to this amendment, and I will briefly state the reasons for my opposition. The existing law provides that all bullion deposited at the assay office in New York intended for coinage shall be assayed only. It gives the depositors the right to choose whether they shall deposit bullion, or whether they shall have it assayed and refined, or simply have it assayed.

The CHAIRMAN, (interrupting.) Debate is not in order on the Senate amendment.

Mr. WITTE. I move to amend the amendment by striking out the word "coinage." The committee will recollect that not very long since I stated what would present itself obviously as the wisdom of the law. When the annual assay is made at the parent Mint, it is, of course, of the first importance that it should be known.

Mr. WHEELER. I insist upon the gentleman from Pennsylvania confining his remarks to the amendment.

Mr. WITTE. I will say to the gentleman from New York that I propose to show that the bullion deposited in the assay office for coinage ought not to be parted and refined there, for the reason that, as the parent Mint places the stamp of the United States upon the coin, she alone is responsible for the standard. If a depositor puts bullion in the assay office in New York, it is only necessary to assay it there. The committee must understand it is not essentially necessary to ascertain the value of bullion, that it should be separated and refined. The value is determined by the first process of assaying, and it is stamped accordingly. It will appear perfectly obvious to the committee, that the parent Mint will not, and ought not to be required to place its stamp upon coin unless it has had the entire control of the preparation of the bullion. Suppose, at the annual assay, it be found that there is a defect or an error. How is the parent Mint, and how are the assayers, to go to work and ascertain where the error was committed? I cannot, for my own part, ascertain the reason why the amendment in question should be placed in the bill. I cannot understand what the object can be in so doing, unless it is to take an additional step towards the erection of a full Mint at New York. If that be the purpose of the gentleman who inserted this amendment in the bill, let it be announced. The Government has already been taxed to the extent of nearly $750,000 for the establishment of an assay office in New York, while the entire expense of building the machinery, and the expenses of every name and character for the parent Mint, now competent to do the work required in this country, are less than $250,000.

Mr. CUTTING. I am in favor of the amendment of the Senate, and I must say that I think the opposition to it arises rather from the jealousy of the Philadelphia Mint against the small assay office of New York, than from any other cause. That office was created, as expressly declared in the act, for the purpose of melting, parting, refining, and assaying gold, and whenever the owner of metal to be melted leaves it at the New York office, they give him a receipt for it to be payable either in bullion or coin. Then the office proceeds to melt, refine, part, and assay it. When the office was first established, there was no dispute as to the fact that it was to do more than melt, but it was to part and refine also. For six weeks they continued to do it, but then the Mint at Philadelphia insisted that they could only do so where bullion was deposited to be run into bars, but if it was to be run into coin, then it should be sent to Philadelphia. The Secretary of the Treasury decided against this claim on the part of the Mint at Philadelphia, but during his absence at Louisville, the Assistant Secretary of the Treasury suspended operations at the New York office contrary to the previous decision of the Secretary of the Treasury. The Senate have again declared what the provisions of the original law are by this amendment. See the folly of the position assumed by the Mint at Philadelphia, that where a depositor is to receive bullion in pay for gold, the New York office only melts, refines, and parts, but where he is to receive coin, then he must only melt and assay it at New York, but must send it here to be parted and refined. It is a mere verbal criticism of the act, robbing the New York office of a part of its function for the purpose of having one half the job, the finishing up in Philadelphia.

I trust the committee will not yield to the spirit manifested on the part of the Philadelphia Mint, in endeavoring to control and undermine the operations of the assay office in New York. We have asked for no Mint there, and do not intend to make any proposition of the kind; but we ask Congress to leave us the power, that the original act establishing an assay office gives us, and not encourage the mere verbal criticisms, which are made after the manner of small lawyers.

The question was then taken on Mr. WITTE's amendment; and it was rejected.

Mr. WITTE. I move to strike out the word "practicable." I desire to state briefly the various processes of an assaying office, and the various processes of a Mint, in order that the committee may come to a correct understanding of this question. I understand them not as a lawyer, a little or a big lawyer, but I understand the practical operations of these offices, and I will state them. The assay office in New York receives the metal,

and the depositor, when he places it, informs them whether he will have it returned to him in the condition of bullion for coin, or whether he will have it returned merely assayed; in other words, whether he will have the value stamped upon it, so many hundreds of gold or silver, or whether he will have it parted and refined.

It is important to understand, in this connection, that it is not necessary to part and refine the bullion in order to make it marketable, for the value is clearly ascertained by the process of assaying. The Secretary of the Treasury did, in the first instance, by the importunities of gentlemen from New York, make the decision to which the gentleman has alluded. One of the directors of the Mint made a complaint to him, and said, if you permit the assay office in New York to assay, part, refine, and stamp the bars, and then send them here to Philadelphia, and compel me to take them in and coin them, I will resign my position, and I will not perform the functions of a director of this Mint. And why did he make this complaint? Because, as I have already stated, if there be an error, the directors of the Mint want to know where it has been committed.

With regard to the other point made by the gentleman from New York, there is nothing required now to render that assay office as efficient as an assay office can be rendered. The depositor may place his bullion there, may have it assayed, may have its value clearly stamped upon it, may ship it abroad or use it at home, and it is as current as coin with the eagle stamped upon it. But when the office asks for the additional processes which make up the standard of the coin, then the parent Mint, which alone has the right to place the stamp of the United States upon it, claims to herself the preparation of her own metal, because she gives receipts for it.

With regard to the statement of the gentleman from New York, that Philadelphia is jealous of the assay office in New York, the manner in which she has managed will prove that she is not jealous, and she can well afford to draw a comparison in which New York suffers immensely.

[Here the hammer fell.]

Mr. CUTTING. I desire to direct the attention of the committee to the language of the original act establishing an assay office in New York, and if they do not see, after a careful reading of it, that it was the intention of Congress to bestow upon the assay office at New York the power not only to melt and assay, but to part and refine, I will give up the case, and yield the point entirely. And if the committee are satisfied upon this subject, I ask that they shall not give Pennsylvania $10,000 for the purpose of paying the freight upon bullion, and for incidental expenses, but leave the office in New York to perform its specific duties prescribed by law. Here is a portion of the law:

"The Secretary of the Treasury is hereby authorized and required to establish in the city of New York an assay office, for the receipt, and for the melting, refining, parting, and assaying all gold and silver bullion, and foreign coin, and for casting the same into bars, ingots, or disks. The assistant treasurer of the United States in New York shall be treasurer of said assay office, and the Secretary of the Treasury shall, with the consent and approbation of the President of the United States, appoint such other officers and clerks, and authorize the employment of such assistants, workmen, and servants, as shall be necessary for the proper conduct and management of said office, and of the business pertaining thereto, at such compensation as shall be approved by the President: *Provided*, That the same shall not exceed that allowed for corresponding services under existing laws, relating to the Mint of the United States and its branches. That the owner or owners of any gold or silver bullion, in dust or otherwise, or of any foreign coin, shall be entitled to deposit the same in the said office, and the treasurer thereof shall give a receipt, stating the weight and description thereof, in the manner, and under regulations which are or may be provided in like cases of deposit at the Mint of the United States, with the treasurer thereof. And such bullion shall, without delay, be melted, parted, refined, and assayed, and the net value thereof, and of all foreign coin deposited in said office shall be assayed, and the treasurer shall, thereupon, forthwith issue his certificate of the net value thereof, payable in coin of the same metal as that deposited, either at the office of the assistant treasurer of the United States, in New York, or at the Mint of the United States, at the option of the depositor, to be expressed in the certificate, which certificates shall be receivable at any time within sixty days from the date thereof, in payment of all debts due to the United States at the port of New York, for the full sum therein certified. All gold or silver bullion and foreign coin deposited, melted, parted, refined, or assayed, aforesaid, shall, at the option of the depositor, be cast in the said office into bars, ingots, or disks, either of pure metal or of standard fineness (as the owner may prefer) with a stamp thereon, of such form and device as shall be prescribed by the Secretary of the Treasury, accurately designating its weight and fineness," &c. * * "And all gold or silver bullion and foreign coin intended by the depositor to be converted into the coins of the United States, shall, as soon as assayed, and its net value certified as above provided, be transferred to the Mint of the United States, under such directions as shall be made by the Secretary of the Treasury, and at the expense of the contingent fund of the Mint, and shall there be coined."

The receipt is given and payable either in coin or bullion. If payable in coin, at the New York assay office, the office is directed to send the bars to the Philadelphia office; but in directing that the bars shall be sent to Philadelphia the provision simply says the "gold melted and assayed as aforesaid" shall be sent to Philadelphia. How melted and assayed? Why melted, parted, refined, and assayed. I submit to the committee that it was the intention of Congress, in passing that act, that the whole operation of melting and assaying, which includes parting and refining, should be done in New York, and not that it should be melted and assayed, and then, in a crude condition, sent to Philadelphia to have the operation finished. It will cost $50,000 more if this amendment is rejected.

The question was taken on Mr. WITTE's amendment; and it was not agreed to.

Mr. WITTE. I move to amend by striking out the word "coin."

Mr. McDOUGALL. I insist, then, that the gentleman shall be confined to showing the necessity of striking out that word.

Mr. WITTE. Then I will move to strike out the word "refined." Mr. Chairman, this is a very plain case. My friend from New York has read the law, and read it truly. I do not dispute that the office has been established for the purpose of melting, assaying, refining, and parting. I do not dispute it. But there is one great point, worthy of consideration, which he has not touched upon, and that is, that the question whether the bullion which is deposited shall be parted, assayed, and refined, depends upon the depositor. It is for the depositor to say whether he will have it assayed, parted, and refined. The gentleman from New York says, "will you take from us the functions which were bestowed upon us by the act, and prevent us from exercising the duties which the act intended we should exercise." I say no. But the act says clearly that that shall be a question for the depositor to settle. Hear what the law says:

"And all gold or silver bullion, and foreign coin intended by the depositor to be converted into the coins of the United States shall, as soon as assayed, and its net value certified as above provided, be transferred to the Mint of the United States."

Now mark the point. It is this: The depositor shall have the choice whether he will have it assayed and parted or not. If he prefers to have it assayed he can have it done. But the law clearly and explicitly provides, that if it is deposited for the purpose of being coined, that then, as soon as it is assayed according to the provisions of the act, it shall be transferred to the Mint of the United States.

Now, sir, Philadelphia does not seek to take away from the assay office in New York anything to which she is entitled. Philadelphia does not dispute that that office may refine and part. But the law says that the question, whether it shall do so, is a question for the depositor to decide. The assay office may claim the right to assay, part, and refine, if the bullion is intended to go to the parent Mint.

Now, if the committee will look to the amendment, they will find that it provides what the depositor shall do. There is now nothing in the law which prevents the depositor from making his election as to what he will have done with the bullion. The act, as it now exists, contains no provisions except such as are absolutely essential for the parent Mint. I ask the simple, plain, practical question, if you were called upon to put upon a piece of coin a stamp, fixing and establishing the standard and precise value thereof, would you not like to know how the value and standard were ascertained? Would you not like to know whether that value had accurately been ascertained?

[Here the hammer fell.]

The question was then taken upon Mr. WITTE's amendment; and it was not agreed to.

The question recurring on the Senate amendment,

Mr. FLORENCE demanded tellers.

Tellers were ordered; and Messrs. WITTE and CUTTING were appointed.

The question was taken, and the tellers reported—ayes 77, noes 46.

So the Senate amendment was concurred in.

Mr. GREENWOOD. I perceive that there are some sixty amendments still to be acted on, and if we intend to pass the bill at all, I think that we had better go into the House and close this five-minute debate. With that view, I move that the committee do now rise.

The motion was agreed to.

The committee rose, and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the amendment of the Senate to the civil and diplomatic appropriation bill, and had come to no resolution thereon.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled a bill of the following title; which thereupon received the signature of the Speaker:

An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1856.

SUSPENSION OF FIVE-MINUTE DEBATE.

Mr. JONES, of Tennessee. I move that the rules be suspended for the purpose of submitting a motion to suspend the rule authorizing the five-minute debate in the Committee of the Whole on the state of the Union.

The question was taken; and the rule was suspended.

The five-minute debate in committee on the bill indicated was ordered to be closed.

Mr. JONES, of Tennessee. I move that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

CIVIL AND DIPLOMATIC BILL—AGAIN.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair.)

Eighty-fourth amendment of the Senate to the civil and diplomatic appropriation bill:

SEC. —. *And be it further enacted*, That it shall be lawful for the President of the United States to cause such measures to be taken as, in his opinion, may be expedient for providing convenient accommodations, medical assistance, nursery attendance, and supplies for the relief of sick and disabled seamen of the United States who may be at or near the port of Havana, Cuba, in case the same can be done with the assent of the Government having jurisdiction over said port; and for this purpose to establish such regulations and to authorize the employment of such persons as he may judge proper; and that for defraying the expenses thereof, a sum not exceeding $10,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, That no buildings shall be erected or purchased under the provisions of this section.

The amendment was non-concurred in.

Eighty-fifth amendment:

That the compensation of the collector of customs at Sandusky, Toledo, and Cleveland, be hereafter the same as is now allowed by law to the collector at Detriot.

The amendment was concurred in.

Eighty-sixth amendment:

SEC. —. *And be it further enacted*, That the weighers, gaugers, and measurers for the collection district of New York shall hereafter receive a compensation at the rate of $2,000 each per annum; and inspectors for the said district shall hereafter receive as compensation a sum not exceeding four dollars per day each for their services.

The amendment was non-concurred in.

Eighty-seventh amendment:

SEC. —. *And be it further enacted*, That there shall be appointed a consul general, to reside in the British North American Provinces, with a salary of $4,000 per annum, and the sum of $4,000 is hereby appropriated for that object.

The amendment was non-concurred in.

Eighty-eighth amendment:

SEC. —. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized to appoint, for the collection district of New York, five weighers and twenty inspectors in addition to the number heretofore allowed by law.

The amendment was non-concurred in.

Eighty-ninth amendment:

For furnishing the custom-house, post office, and United States court room at Bangor, Maine, $1,500 for each, making $4,500; the appropriation for the custom-house to be expended under the direction of the Secretary of the Treasury, that for the post office, under the Postmaster General, and that for the court room, under the Secretary of the Interior.

Mr. WITTE. I desire to offer the following amendment:

And that the sum of $1,825,000 be, and is hereby, appropriated for the purchase of sites and the erection of buildings for post offices and United States court rooms in the cities of New York, Philadelphia, Boston, and Baltimore, in the following manner: $550,000 for the city of New York; $475,000 for the city of Philadelphia; $400,000 for the city of Boston; and for the city of Baltimore $400,000; the same to be executed under the direction of the President of the United States, the Secretary of the Interior, and the Postmaster General.

Mr. ORR. I rise to a question of order. I submit that that amendment is not in order.

The CHAIRMAN. The Chair decides that the amendment is not in order.

The question was then taken; and the Senate amendment was non-concurred in.

Ninetieth amendment:

That the provisions of the act of February 26, 1853, "to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," are hereby extended to the Territories of Minnesota, New Mexico, and Utah, as fully, in all particulars, as they would be had the word "Territories" been inserted in the sixth line, after the word "States," and the same had read: "in the several States, and in the Territories of the United States," this clause to take effect from and after the date of said act; and the accounting officers will settle the accounts within its purview accordingly.

The amendment was concurred in.

Ninety-first amendment:

Page 34, after line eight hundred and thirty, insert the following:

For the construction of a building for a marine hospital at Cincinnati, Ohio, $75,000.

The amendment was non-concurred in.

Ninety-second amendment:

For the building of a light-house on the Government reservation at Minnesota Point, near the head of Lake Superior, in the Territory of Minnesota, $15,000.

The amendment was concurred in.

Ninety-third amendment:

And for the construction of two light-houses in California, one at Crescent City and one at Trinity Bay, $15,000 each, should the Secretary of the Treasury decide that said light-houses were necessary, after proper examination and surveys.

The amendment was concurred in.

Ninety-fourth amendment:

SEC. —. *And be it further enacted*, That from and after the 1st day of July next the Secretary of the Treasury be, and he is hereby, authorized and empowered to regulate and fix the salaries of the respective keepers of light-houses in such manner as he shall deem just and proper: *Provided*, The whole sum allowed shall not exceed an average of $500 to each keeper.

Mr. EDGERTON. I call for tellers upon that amendment. We can get no fair vote from a division, because gentlemen will not rise in their places to vote.

Tellers were not ordered.

The question was then taken; and the amendment was non-concurred in.

Ninety-fifth amendment:

And be it further enacted, That Franklin, in the collection district of Paso del Norte, Texas, be, and the same is hereby, made the port of entry for said district instead of Frontera, and the collector shall reside thereat.

Mr. SEWARD. I want to amend that amendment. I move to add the following words:

And that Brunswick, in the State of Georgia, be made a port of entry.

Mr. LETCHER. I rise to a point of order. I submit that the amendment of the gentleman from Georgia is not in order.

The CHAIRMAN. The Chair sustains the question of order, and decides the amendment to be out of order.

The question was taken; and the amendment of the Senate was concurred in.

Ninety-sixth amendment:

At the end of the paragraph, "for compensation of the Commissioner of the General Land Office, and the recorder, draughtsman, assistant draughtsman, clerks, messengers, assistant messengers, packers, and laborers, in his office, $168,186," insert the following:

Provided, That the difference between the amount paid to the several principal accountants of the General Land Office, and that contemplated for such service by the act of July 4, 1836, reorganizing that office, shall be paid out of any money in the Treasury not otherwise appropriated.

The amendment was non-concurred in.

Ninety-seventh amendment:

At the end of the paragraph, "To pay the draughtsman and clerks employed upon the maps of the public lands for the House of Representatives and the Committee of Public Lands for the balance of the present fiscal year, $4,000," insert the following:

And the draughtsmen employed on the maps of the public lands under the charge of the Clerk of the House of Representatives, shall be paid the same compensation as is paid to the draughtsmen similarly employed under the direction of the Senate.

The amendment was concurred in.

Ninety-eighth amendment:

SEC. —. *And be it further enacted*, That the treaties made during the present Congress with the Indian tribes, and those to be made in future, shall be published as the laws and other treaties in the newspapers of such States and Territories as the Secretary of the Interior may think expedient.

The amendment was concurred in.

Ninety-ninth amendment:

That in the settlement of the accounts of E. F. Beale, late superintendent of Indian affairs in California, the accounting officers of the Treasury be authorized to allow him the amount actually paid by him to an interpreter during the years 1853 and 1854, upon producing satisfactory vouchers therefor.

The question was taken; and the amendment was concurred in.

One hundredth amendment:

SEC. —. *And be it further enacted*, That the sum of $765, the balance of $2,200, be paid to James F. Miller, and Pym-y-oh-te-mah, or either of them, by the Senate amendment to the treaty with the Miami Indians, made in August, 1854, be, and the same is hereby, directed to be paid to the said Miller and Pym-y-oh-te-mah, out of any moneys in the Treasury not otherwise appropriated.

Mr. HARLAN, of Indiana, demanded tellers.

Tellers were ordered; and Messrs. KERR and MCDOUGALL were appointed.

The question was taken, and the tellers reported —ayes seventy-five, noes not counted.

So the amendment of the Senate was concurred in.

One hundred and first amendment:

To pay this amount for interest due to the Chickasaws at the rate of five per centum per annum, in pursuance of the treaty of 1832, on the sum of $112,042 99, improperly charged to said nation, according to the decision of the proper accounting officers of the Treasury, from 1st September, 1837, until the 9th March, 1850, $72,960 25.

The amendment was concurred in.

One hundred and second amendment:

For the repairs of the Potomac, navy-yard and upper bridges, and to refund the Commissioner of Public Buildings $3,000, advanced to him by the Corporation of Washington in 1853, and expended on the Potomac bridge, $10,000.

The amendment was disagreed to.

One hundred and third amendment:

And be it further enacted, That the proper accounting officers of the Treasury be, and they are hereby, authorized and required to inquire into and ascertain the actual amount of damages sustained by Cormack and Ramsey under a contract made with them by Samuel D. Hubbard, Postmaster General, on the 15th of February, 1853, for the transportation of the mails between Vera Cruz and San Francisco, via Acapulco, &c., and that the amount so ascertained be paid to said Cormack and Ramsey out of any money in the Treasury not otherwise appropriated.

Mr. HOUSTON. I call for tellers on that amendment.

Tellers were ordered; and Messrs. WHEELER and PRINGLE were appointed.

The question was taken; and the tellers reported —ayes 18; noes not counted.

So the amendment was disagreed to.

One hundred and fourth amendment:

Strike out "3" and insert in lieu thereof "4;" so as to make the clause read:

For compensation of the surveyor general of Utah Territory, $4,000.

The amendment was non-concurred in.

One hundred and fifth amendment:

And be it further enacted, That the sum of $15,000 be appropriated towards the erection and completion of a court-house in the town of Exeter, in the county of Rockingham, and State of New Hampshire: *Provided*, That the other parties in interest in said court-house appropriate at least an equal sum to said purpose: *And provided further*, That the authorities of said county of Rockingham, having control thereof, execute in writing and deliver to the clerk of the circuit court of the United States for the district of New Hampshire a lease or license granting to the courts of the United States the perpetual use of such court-house for United States court purposes free of rent or other charge.

Mr. FLORENCE. I now offer, as an amendment to the Senate amendment, the proposition submitted a moment ago by my colleague.

Mr. JONES, of Tennessee. The committee is not considering the general bill, but the Senate amendment thereto——

Mr. WALSH, (interrupting.) I rise to a question of order. No debate is in order.

Mr. WITTE. I have only a word to say——

Mr. WALSH, (interrupting.) No debate.

Mr. FLORENCE. Does the Chair decide the amendment out of order?

The CHAIRMAN. The committee has decided that it is. The Chair would hold that the amendment is in order as well as other amendments which were not ruled out of order.

Mr. FLORENCE. It was ruled out of order before; but here it is germane to the amendment.

Mr. WITTE. I rise to a point of order. The Chair decided this amendment out of order a few minutes ago, because it was not germane to the Senate amendment. But here is a provision for a court-house, and this proposition is also for a court-house. Now, sir, it is common sense that the amendment is in order here.

[Loud cries of "Order!" "Order!"]

Mr. WITTE. I appeal for a hearing. I have a right to be heard.

Mr. WALSH. The gentleman is not stating his question of order.

The CHAIRMAN. The Chair will rule the amendment to be in order.

Mr. WHEELER. I appeal from the decision of the Chair.

The question being "Shall the decision of the Chair stand as the judgment of the committee?" it was taken; and the decision of the Chair was not sustained.

Mr. WALSH. Now, let us hear no more of that.

One hundred and sixth amendment:

And be it further enacted, That the Secretary of the Treasury be, and he hereby is, authorized and directed to cause to be constructed the following buildings:

At Bristol, Rhode Island, for the accommodation of the custom-house and post office, a building of brick, with fire-proof floors, constructed of iron beams and brick work, iron roof, shutters, sills, &c., twenty five feet by thirty, and twenty-five feet high, to cost not more than $12,500;

At Pensacola, Florida, for the accommodation of the custom-house, post office, and United States court, a building of like materials, thirty-five by fifty feet, and forty feet high, to cost not more than $35,000;

At Cleveland, Ohio, for the accommodation of the custom-house, post-office, and United States court, a building of stone, eighty-five by sixty feet, and sixty feet high, of like floors, beams, roof, shutters, &c., to cost not more than $88,000;

At Plattsburg, New York, for the accommodation of the custom-house, post office, and United States court, a building of brick, of like floors, roof, beams, shutters, &c., forty-five feet by sixty, and forty-eight feet high, to cost not more than $50,000;

At Alexandria, Virginia, to accommodate the custom-house, post office, and United States court, a building of brick, of like floors, beams, roof, shutters, &c., forty-five feet by sixty, and forty-eight feet high, to cost not more than $50,000;

At Barnstable, Massachusetts, for the accommodation of the custom-house and post office, a building of brick, of like floors, beams, roof, shutters, &c., forty-five feet by thirty-two, and thirty-two feet in height, and to cost not more than $25,000.

And be it further enacted, That the several sums mentioned in the preceding section of this act as the cost of the buildings therein authorized to be constructed, together with ten per centum to cover the compensation of architects, superintendents, advertising, and other contingent expenses, and so much as may be required to purchase suitable sites for said buildings be, and the same are hereby, appropriated for the purposes aforesaid, out of any money in the Treasury not otherwise appropriated: *Provided*, That no money hereby appropriated shall be used or applied for the purposes mentioned until a valid title to the land for the site of such buildings in each case shall be vested in the United States, and until the State shall also duly release and relinquish to the United States the right to tax, or in any way assess, said site or the property of the United States that may be thereon during the time that the United States shall be or remain the owner thereof.

The question being on the Senate amendment, Mr. WADE demanded tellers.

Tellers were ordered; and Messrs. ROWE and HUNT were appointed.

The committee was divided; and the tellers reported—ayes 79, noes 49.

So the amendment of the Senate was concurred in.

One hundred and seventh amendment:

SEC. —. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized and required so to construe the act of Congress approved 27th of July, 1854, for the relief of James Goggin, late special agent of the Post Office Department in California, as that he shall be paid the same salary for the time he acted as such agent as is now paid to his successor in office, under the present law, and also the amount for office rent and clerk hire, which may be shown, by proper vouchers, to have been actually paid by him for the same.

Mr. EDMUNDSON demanded tellers; but they were not ordered.

The question was then taken; and, upon a division, there were—ayes twenty-eight, noes not counted.

So the amendment was non-concurred in.

One hundred and eighth amendment:

And be it further enacted, That the proper accounting officers of the Treasury of the United States be, and they

are hereby, authorized and required to credit the secretary of the treasury of Minnesota, in the settlement of his accounts, with the sum of $885, the amount paid by the said secretary for collating, indexing, and superintending the printing of the statutes of said Territory for the years 1849, 1851, 1852, and 1853; and for arranging, indexing, and in part reporting the decisions of the supreme court of said Territory, under a joint resolution of the Legislative Assembly of said Territory, passed in the year 1853.

The amendment was concurred in.

One hundred and ninth and one hundred and tenth amendments:

Page 20, of the printed bill, line four hundred and seventy-eight, after "New Mexico," insert "whose salary shall be $4,500," and strike out "$7,000," and insert in lieu thereof "$18,500;" so that the section shall read:

For compensation of the surveyor general of New Mexico, whose salary shall be $4,500, and the clerks in his office, $18,500.

The amendments were non-concurred in.

One hundred and eleventh amendment:

Page 20, line four hundred and eighty, after "Nebraska," insert "whose salary shall be $3,500;" so that the section shall read:

For compensation of the surveyor general of Kansas and Nebraska, whose salary shall be $3,500, and the clerks in his office, $8,300.

The amendment was non-concurred in.

One hundred and twelfth amendment:

And be it further enacted, That the proper accounting officer of the Department of the Interior be authorized and directed to audit and settle the claim of John Random, deceased, a friendly Creek Indian, of the half blood, for losses sustained and property destroyed by the hostile Creek Indians in the war of 1814, in such manner and upon such terms as may be just and equitable; the amount, when so ascertained, to be paid out of any money in the Treasury not otherwise appropriated to the heirs and legal representatives of the said John Random: *Provided*, That the amount shall not exceed the sum of $5,925.

The amendment was non-concurred in.

One hundred and thirteenth amendment:

Add, after line seven hundred and thirteen, the following:

Provided, That the Secretary of the Treasury be authorized to fix the salaries of such officers and clerks so as not to exceed those allowed by law to like officers and clerks in the Mint or its branches.

The amendment was agreed to.

One hundred and fourteenth amendment:

Insert, after line one thousand and twenty-four, the following:

For office rent of the commercial agent at St. Martin, from the 12th of November, 1852, to the end of the present fiscal year, at the rate of $100 per annum, $263 33, the same being allowed because of unexpected losses sustained at said consulate.

The amendment was agreed to.

One hundred and fifteenth amendment:

Page 33, after line seven hundred and ninety-four, insert as follows:

For salary of the circuit judge for California, $4,500.

The amendment was agreed to.

One hundred and sixteenth amendment:

To enable the Secretary of the Interior to purchase five hundred burial sites in the Washington Cemetery for the interment of members of Congress and such public officers as Congress may direct, $5,000: *Provided*, The said sites shall be as near as practicable to those heretofore purchased by the United States, and that the money paid therefor shall be applied to the erection of an iron fence on the north front of said cemetery.

The amendment was non-concurred in.

One hundred and seventeenth amendment:

Page 19, after line four hundred and fifty, insert:

For the reimbursement of the Patent Office fund for moneys heretofore paid out, by appropriations of acts of Congress for deeds, and the collection of agricultural statistics, $40,078 78, to be paid out of any moneys in the Treasury not otherwise appropriated.

The amendment was concurred in.

One hundred and eighteenth amendment:

For filling up, and draining the grounds in the vicinity of the national green-houses, known as the "Botanic Garden," and for walling the creek which passes through the same, $12,000.

The amendment was concurred in.

One hundred and nineteenth amendment:

Page 3, after line fifty-eight, insert:

For payment to R. H. Weightman, of New Mexico, for mileage and compensation for attendance during the second session of the Thirty-First Congress, $2,465.

The amendment was non-concurred in.

One hundred and twentieth amendment:

SEC. —. *And be it further enacted*, That the sum of $25,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to pay the necessary expenses of six companies of volunteers called into the service of the United States by Brigadier General Smith in the State of Texas, to be paid under the direction of the Secretary of War.

The amendment was concurred in.

One hundred and twenty-first amendment:

SEC. —. *And be it further enacted*, That when any judge before whom an appeal from the decision of the commissioner is now, or shall hereafter be pending, shall for any cause be unable to hear and determine the same with reasonable promptness, the Commissioner of Patents may require the appellants to select one of the other judges to whom the case shall be transferred, and if, within a reasonable time, to be fixed by the commissioner, such selection is not made, the appeal shall be dismissed.

The amendment was non-concurred in.

One hundred and twenty-second amendment:

SEC. —. *And be it further enacted*, That the seventh section of the act of 18th January, 1837, entitled "An act supplementary to an act establishing the Mint and regulating the coins of the United States," be so amended as to extend the allowance for the annual salary of the clerks in the branch Mint of the United States at New Orleans to $1,800 each, from and after the 1st day of July, 1854, at the discretion of the officers authorized by law to appoint, with the approbation of the President of the United States.

The amendment was non-concurred in.

One hundred and twenty-third amendment:

That the President be authorized to appoint, during the recess of Congress, to be nominated to the Senate for confirmation at the next session, the register and receiver of the land office for the Umpqua land district, in the Territory of Oregon, established by the act of February 17, 1855, to take effect on the 17th day of May, 1855.

The amendment was concurred in.

One hundred and twenty-fourth amendment:

That the accounting officers of the Treasury are hereby authorized to allow to the Secretary of the Territory of Nebraska the difference between the salary of the Governor of said Territory and his salary as Secretary, during the period he acted as Governor, after the decease of, and until the arrival in the Territory of the successor of, the late Governor Burt, which amount, after being ascertained, is payable out of the appropriation "for salaries of Governor, three judges, and secretary" of said Territory, as made by Congress for the fiscal year ending June 30, 1855.

The amendment was non-concurred in.

One hundred and twenty-fifth amendment:

SEC. —. *And be it further enacted*, That the Secretary of the Interior be authorized, in his discretion, the employment of temporary clerks by superintendents of Indian affairs, upon such occasions and for such periods of time as he may deem necessary to the public service; for which purpose there is hereby appropriated the sum of $5,000.

The amendment was concurred in.

One hundred and twenty-sixth amendment:

SEC. —. *And be it further enacted*, That the act of August 4, 1854, making appropriations for the civil and diplomatic expenses of the year ending 30th June, 1855, is hereby amended in section six, so as to allow the laborers then performing messenger duty, in whole or in part, the same compensation they were entitled to before the passage of said act.

The amendment was non-concurred in.

One hundred and twenty-seventh amendment:

SEC. —. *And be it further enacted*, That the tenth section of the act making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes, approved July 31, 1854, be carried into effect by paying the valuations ascertained and reported by Messrs. Upton and Summey, and other official assessors, as ordered by the commissioners under the Cherokee treaty of 1835 and 1836, with interest on said valuations, respectively, from the date of said commissioners' orders for assessment; and that the Secretary of the Interior be further directed to fill the blanks in such awards as are on his files with such amounts, respectively, as may be established by proof of value satisfactory to him, and pay the same.

The amendment was concurred in.

One hundred and twenty-eighth amendment:

SEC. —. *And be it further enacted*, That the Secretary of the Interior be, and he is hereby, authorized and required to allow and pay to agents for paying pensions a commission of three per centum on the amount of moneys by such agents annually disbursed, and shall be paid out of the fund appropriated for the payment of revolutionary pensions. Said commission shall be in full for all services and contingent expenses of said agency, except for books, printing, and stationery: *Provided*, That the amount of compensation allowed to any one agent shall not exceed the sum of $1,500.

SEC. —. *And be it further enacted*, That the provisions of the above section of this act be, and they are hereby, extended to those persons, their heirs or legal representatives, who served as pension agents prior to the 20th of February, 1847, and subsequent to the 20th of April, 1836, when no compensation was provided by law for such services: *Provided*, Such agents were not bankers, corporations, or the agents or officers thereof.

The amendment was non-concurred in.

One hundred and twenty-ninth amendment:

For compensation of those who have been employed to perform the duties of principal examiners and assistant examiners of patents in the Patent Office, at salaries paid by law for those grades respectively, for the time they shall perform, or shall have performed, these duties, $14,850, or so much thereof as may be necessary to be paid out of the Patent Office fund.

The amendment was non-concurred in.

One hundred and thirtieth amendment:

For taking up and relaying, and renewing so much as was washed away, of the sewer along Fifteenth street west, contiguous to the public grounds south of the President's House, $3,000.

The amendment was concurred in.

One hundred and thirty-first amendment:

SEC. —. *And be it further enacted*, That the first assistant examiners in the Patent Office shall be rated as of the fourth class of clerks, and the second assistant examiners, machinist, and librarian, as of the third class.

The amendment was concurred in.

One hundred and thirty-second amendment:

Insert in the following paragraph, after the word "avenue," the words "East Capitol street to Second street:"

"For lighting the President's House, and Capitol, the public grounds around them, and around the Executive offices, and Pennsylvania avenue, $25,000."

The amendment was concurred in.

One hundred and thirty-third amendment:

That the Secretary of the Treasury be authorized and required to settle and adjust the accounts of John Adair, collector of customs at Astoria, Oregon, upon fair and equitable principles, taking into consideration the particular circumstances of the case.

The amendment was non-concurred in.

One hundred and thirty-fourth amendment:

Provided, however, That in all cases where lands have been or shall hereafter be sold under the act of 4th August, 1854, to graduate and reduce the price of the public lands to actual settlers and cultivators, at a higher rate than authorized by that act, the Secretary of the Interior shall be, and he is hereby, authorized to direct the receivers of public money for the proper land district to refund the excess out of any money in his hands derived from the sales of public lands; and the periods and principle of graduation fixed by the instructions of the General Land Office of 30th October, 1854, shall be, and they are hereby, confirmed.

The amendment was concurred in.

One hundred and thirty-fifth amendment:

SEC. —. *And be it further enacted*, That there shall be paid to the surveyor general of Washington Territory, and the officers employed under him, the same amount of compensation as is allowed to the surveyor general of New Mexico and the officers employed under him.

The amendment was concurred in.

One hundred and thirty-sixth amendment:

SEC. —. *And be it further enacted*, That, in accordance with the memorial of the Menomonee Indians to the President and Congress, dated the 4th of October, 1854, and executed in general council of the nation, the Secretary of the Treasury pay to Richard W. Thompson, out of any money in the Treasury not otherwise appropriated, one half of the amount stipulated in said memorial, and in an agreement of said Indians with said Thompson, dated the 15th of February, 1851, for his services as attorney for said Indians in the prosecution of a claim in their behalf for additional compensation for lands ceded by them to the United States by the treaty of 1848; and that the sum so paid be deducted from the annuities, when due and payable, that are to be paid to the said Indians under the treaty of the 12th of May, 1854, and the amendments thereto.

Mr. ORR. I move to amend by adding as follows:

Provided, That the same shall be paid with the consent of the Menomonee Indians.

Mr. HENDRICKS. Such consent is now in writing and on file.

Mr. ORR. I prefer to have it in the act.

The question was taken; and the amendment was adopted.

The Senate amendment, as amended, was then concurred in.

One hundred and thirty-seventh amendment:

After the paragraph, "for compensation of the warden, clerk, physician, chaplain, assistant keepers, guards, and porter, of the penitentiary of the District of Columbia, $11,229 31," insert the following:

And the annual compensation of the chaplain of the penitentiary shall be $500, to commence from the present fiscal year.

The amendment was non-concurred in.

One hundred and thirty-eighth amendment:

That the fees and compensation allowed to the marshals of the United States in the respective districts shall hereafter be the same which may be allowed to the sheriffs under the State laws for similar services: *Provided*, This shall not be construed to diminish the present fees allowed.

The amendment was non-concurred in.

One hundred and thirty-ninth amendment:

For rebuilding and repairs of the building for the branch Mint at New Orleans, $55,000.

Mr. HOUSTON. Here is a letter which will show the necessity for the appropriation, if the committee will hear it read.

[Cries of "No!" "No!" "All right."]

The amendment was concurred in.

One hundred and fortieth amendment:

For the erection of a building for a court-house, post office, and other public purposes, at Indianapolis, Indiana, $50,000.

Mr. DAVIS, of Indiana. I demand tellers upon concurring in that amendment.

Tellers were ordered; and Messrs. DAVIS, of Indiana, and WASHBURNE, of Illinois, were appointed.

The question was then taken; and the tellers reported—ayes seventy-one; a further count not having been demanded.

So the amendment was concurred in.

One hundred and forty-first amendment:

For completing, inclosing, and furnishing the marine hospital at Evansville, Indiana, $10,000.

The amendment was non-concurred in.

One hundred and forty-second amendment:

SEC. —. *And be it further enacted*, That to enable the President of the United States to contract with Hiram Powers for some work of art, executed, or to be executed by him, and suitable for the ornament of the Capitol, a sum not exceeding $25,000.

Mr. EDGERTON. I hope the House will not concur in that amendment. There is something in it more than appears upon its face. It is to make a contract for somebody else. Powers will not take a contract.

A MEMBER. Yes, he will.

The amendment was concurred in.

One hundred and forty-third amendment:

For the increased pay of Indian agents, and pay of additional agents authorized by the act passed the 1st of March, 1855, $6,375.

Mr. ORR. I have an amendment which I desire to offer at this point. I do not know that it is strictly in order to that of the Senate, but it is required by treaties with the Indians ratified by the Senate to-day. I hope no question of order will be raised on it. I move to add, at the end of the amendment of the Senate, the following:

For fulfilling treaty with the Chippewa Indians, negotiated February 22d, 1855, $197,286 66.

For fulfilling treaties with the Winnebagoes, per articles of 27th February, 1855, $73,709.

For fulfilling the articles with the Umpquas, Calapoorias of the Umpqua Valley, Oregon, of the 29th November, 1854, $ 33,980.

For fulfilling the articles negotiated November 18, 1854, with certain bands of Shasta, Scoton, and Umpqua Indians, $35,780.

For fulfilling treaties with the Rogue River Indians, per articles of 15th November, 1854, $2,150.

For fulfilling the articles negotiated December 26, 1854, with certain bands of Indians of Puget's Sound, Washington Territory, $16,500.

For fulfilling the articles negotiated January 10, 1855, with certain confederated bands of Calapooria, Molala, and Chackamas Indians of Oregon, $62,260.

The amendment was adopted.

The question then recurred upon concurring in the Senate amendment, as amended; and being taken, it was carried in the affirmative.

So the amendment was concurred in.

One hundred and forty-fourth amendment:

For the increase of pay to Indian sub-agents, authorized by the act passed March 1, 1855, $1,334.

The amendment was concurred in.

One hundred and forty-fifth amendment:

For pay of three Indian agents in California, per act of 28th September, 1850, and act passed March 1, 1855, $12,000.

The amendment was concurred in.

One hundred and forty-sixth amendment:

For expense of reconnoissance of the boundary line between the Choctaw and Chickasaw Indians, $1,000.

The amendment was concurred in.

One hundred and forty-seventh amendment:

For fulfilling treaty with the Wyandot Indians of 31st January, 1855: *Provided*, That the appropriations made for said Indians by the Indian appropriation bill passed at this session of Congress are hereby repealed, $128,566 67.

The amendment was concurred in.

One hundred and forty-eighth amendment:

For arrearages due the Choctaw Indians under various treaty stipulations, as per report and statement of the proper accounting officers of the Treasury, transmitted by the Secretary of the Interior in answer to a resolution of the Senate of 10th March, 1853, to be paid over, or expended, for the benefit of the Choctaw Nation as may be requested by the authorized delegation thereof now in Washington, $92,258 50.

The amendment was concurred in.

One hundred and forty-ninth and last amendment:

Strike out sections four, five, six, seven, and eight, (being the provisions in relation to the tariff.)

Mr. ORR. I ask that the question on that amendment may be taken by tellers.

Tellers were ordered; and Messrs. SMITH, of Virginia, and WHEELER were appointed.

The question was taken; and the tellers reported—ayes 95, noes 55.

So the amendment of the Senate was concurred in.

Mr. JONES, of Tennessee. We have now got through with all the amendments of the Senate. I move that the committee rise and report its action to the House.

Mr. SMITH, of Virginia. I will state to the committee, if I can be heard for a moment——

Mr. WALSH. I call the gentleman to order. No debate is in order.

Mr. SMITH. I am perfectly in order. I am not submitting any argument. A provision has been omitted. The committee will remember that we adopted an amendment in reference to Mr. Schenck. It was supposed that the provision for the benefit of Mr. Pendleton was in connection with that. But in some way it got connected with Mr. Marsh's claim, which was rejected. I call attention to the fact in order that we may act upon it now.

Mr. JONES, of Tennessee. It is too late to go back now.

Mr. SMITH. The point I raise is, that that amendment has not been acted on at all.

The CHAIRMAN. The Chair decides that the committee cannot go back now.

Mr. SMITH. I appeal from the decision of the Chair.

The CHAIRMAN. The Chair decides that the committee cannot go back to the consideration of the proposition referred to by the gentleman from Virginia if objection be made.

[Loud cries of "Object!"]

Mr. SMITH. Allow me to state my point.

The CHAIRMAN. The question of order is not debatable.

Mr. SMITH. I have a right to state my point. I say that the proposition in reference to an allowance to Mr. Pendleton has been overlooked, and has never been acted upon, and I now claim that it shall be acted on.

Mr. HOUSTON. I presume that the clerks have read all the amendments that have been sent to us by the Senate, and if the Senate have omitted to send in the amendment referred to by the gentleman, we have no jurisdiction over it and cannot touch it.

Mr. SMITH. But it is here.

Mr. HOUSTON. I do not understand that it is here at all.

Mr. JONES, of Tennessee. It is here, and has been read and acted upon.

The CHAIRMAN. The Chair proposes, if there be an amendment reported to the bill which has not been acted upon, to take it up and have it acted on.

Mr. RITCHIE, of Pennsylvania. The amendment has been read.

Mr. SMITH. I shall make no further difficulty about it. I have sufficiently vindicated the character of the proceedings to go before the committee of conference.

Mr. WALBRIDGE. I rise to a privileged question. I addressed the Chair and was recognized before the amendments were finally disposed of. I now submit the following proposition, and if the Chair rules it out of order I will take an appeal:

Provided, That none of the money hereby appropriated shall be derived from any duty on foreign coal, the same being hereby repealed so as to be admitted duty free.

The CHAIRMAN. The Chair holds that no amendment is in order, the committee having finished the Senate amendments.

Mr. WALBRIDGE. I take an appeal from the decision of the Chair; and I want to make a statement——

[Cries of "Order!" "No statement!"]

The question being "Shall the decision of the Chair stand as the judgment of the committee?" it was taken; and the decision of the Chair was sustained.

The question recurred on the motion of Mr. JONES, of Tennessee, and being put, it was agreed to.

The committee accordingly rose; and Mr. HAVEN having taken the chair as Speaker *pro tempore*, the Chairman of the committee reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the Senate amendments to House bill (No. 569) making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1856, and for other purposes, and had directed him to report back the same, with a recommendation that the House disagree to some of the amendments, that it agree to others, and that it agree to others with amendments.

Mr. HOUSTON. I ask for the previous question on these amendments.

Mr. CHANDLER. Will the gentleman from Alabama yield me the floor to offer a resolution?

Mr. HOUSTON. Certainly.

VOTE OF THANKS TO THE SPEAKER.

Mr. CHANDLER. I offer the following resolution:

Resolved, That the thanks of this House are eminently due, and are hereby presented, to the Hon LINN BOYD, for the able, impartial, and dignified manner in which he has discharged the duties of Speaker during the present Congress.

Mr. Speaker, [Mr. HAVEN in the chair,] in preparing the resolution which I have now the honor to offer, I confined myself to the most simple form of expression that precedent would warrant, because I felt that if the formality of a resolution of thanks was all that was to be offered, the less elaborate the more safe would be the effort; and if the spirit of grateful recognition of important duties ably performed was to be manifested, that spirit would redeem the simplest expression from the character of mere formality.

It has been my good fortune to sit for six sessions of Congress with Mr. BOYD, and though on many points of national policy we hold opposing opinions, yet the courtesy of his bearing has been so attractive, and the strength of his conviction so evident, that he commanded the respect of those with whom he most earnestly contended.

But it is of the merits of Mr. BOYD as Speaker of his House, that we are now by this resolution to offer an opinion. The Speakership of this body is an office of much mental and physical labor, and often the duties are painful and embarrassing. That labor, sir, has been constantly, ably, and faithfully, performed by Mr. BOYD, in health and even in sickness. A legislative body formed as this, and representing those active principles which mark our institutions, and make them, indeed, is not likely to sink into inertness, or to need suggestions for animation. The warmth of debate and the earnestness for results which sometimes trespass on the limits of order, seem to be a part of the necessary inconvenience of the youth and vigor of our nation. They call for some forbearance; they render necessary, on the part of the presiding officer, much effort to limit, direct, or restrain them.

These, sir, are the scenes most trying to the powers, mental and physical, of a Speaker, and in the discharge of this branch of his duties Mr. BOYD has acquitted himself with the forbearance which circumstances warrant, and with the decision required by the character and self-respect of the House. Admonishing all, without wounding the feelings of those whose warmth of temperate or special zeal may have lead them, for a moment, to forget the proprieties of the place.

But, sir, there are times when the duties of the Chair call for more than even mental and physical sacrifice—more than the mere preservation of proprieties and the direction of the order of debate; times when public sentiment is aroused abroad toward an important measure before the popular branch of Congress, and past legislation is to be disturbed, and future interests to be effected.

Such an occasion presented itself at the first session of the present Congress; and it is not too much to say that, at that hour of extraordinary sensitiveness, the whole peace and usefulness of this body depended on the possession and exercise of high moral qualities in the presiding officer—honesty of purpose and lofty independence of aim, and with a full knowledge of the rules of the body, and an entire impartiality in administering them. At such a time, when advantages seemed to depend less upon the letter of the law than upon a favorable construction of its provisions, every eye was turned towards the Chair with jealous scrutiny. And it was a beautiful and a hopeful sign to see, above the storm of feeling and violent agitation, the presiding mind of the Speaker settling each question of order, upon which some party advantage rested, so calmly and so justly that satisfaction at once followed decision.

Mr. Speaker, there are men on the floor conver-

sant with parliamentary laws and customs; they felt and admitted the purity and justice of those decisions.

That, sir, was an evidence of high ability, that a proof of entire impartiality—and those make the dignity of the office of Speaker.

In offering these reasons for thanks to the Speaker I comply with the wishes of many friends on both sides of the House, and I utter, I doubt not, the general sentiment of this body; and I feel that all will cordially join in the vote.

I know, Mr. Speaker, that I am occupying the valuable minutes of the close of the session. They are the most valuable, and, therefore, sir, I use them—that the offering which I am now making, in behalf of the House, to its able and faithful head, may be considerable from the value of the time in which it is received, as well as from the sincerity with which it is presented.

Mr. HUNT. Mr. Speaker, I will not make harsh comment on the studied eulogium of a friend; but my self-respect, my love of truth, and my sense of public duty, oblige me to declare that I cannot approve a resolution affirming that the presiding officer of this House, Mr. LINN BOYD, has conducted himself with impartiality and dignity throughout his official career. I will, therefore, be compelled painfully to vote against the resolution.

Mr. WALLEY. I regret extremely, that I was called out just before this resolution was presented to the House, and I cannot now permit the question to be taken without adding one word in support of the sentiments which have been already expressed by my friend from Pennsylvania, who offered it. I know something by experience what are the trials of a presiding officer, not of this body but of one somewhat like it. I know what it is to be embarrassed, perplexed, and overwhelmed in such a position, when a man has within him a conscience void of offense, and when he is determined to do right. I know that however much he may be determined to do right, it is not always in his power. Hold the scales as evenly as he may, poise them as justly as he may, to convince friends and foes that he is right he must satisfy himself, and then he may leave the judgment of the world to be as it may. During the short period that I have had the honor of a seat upon this floor, I have carefully observed, not only the deliberations of this House, but the acts and doings of its presiding officer, and I am happy to say, and I do it heartily and cheerfully, that I have not seen anything which has led me to believe that the presiding officer has ever been actuated by anything but a desire to do what was right, and to do that which would satisfy every honest man of the honesty of his purpose and the sincerity of his intentions. I do not say, that he may not have made mistakes. It is the part of man to err, but I do say, that I believe it has been his intention, and I think that he has been very fortunate in every case in carrying out his intention, to conduct the business of this House fairly and impartially, and in such a manner as to secure for himself the respect and confidence of all. I should be happy were I in his place, whatever might be the judgment of this House and of my peers, to carry away from any scene like this, so upright a conscience as I believe Mr. BOYD can bear with him when he leaves that chair.

Mr. CASKIE. Mr. Speaker, I wish to say a word, and only a word. That much I feel I must say. At the close of the last Congress, I voted against a resolution of thanks to our Speaker, and publicly indicated my opposition in a few remarks. I mean now, with equal publicity, to mark my altered estimate of him. I never doubted his integrity; and I have come to believe that the objections to him as a presiding officer which prompted the vote to which I have alluded, were traceable rather to my own inexperience and want of familiarity with the difficulties and necessities of his position, than to anything in him. Under these circumstances, it is with very especial cordiality and pleasure, that I unite in the tribute which, as Speaker of the present Congress, he, in my judgment, so eminently merits, and which is so appropriately rendered in the resolution of the gentleman from Pennsylvania.

Mr. KERR. I merely desire to say that I came to this Congress with stronger prejudice against the Speaker of this House than I ever permitted myself to entertain against any man in my life. I had long known him as a strong partisan, and I confess to you that there was no public man against whom I had stronger antipathies than against LINN BOYD, of Kentucky. I took no part in his election when he was elected Speaker of this House, save that I voted against him. I have been a calm observer of his conduct throughout the last and the present session, amid the most trying scenes, and I never expected to see him exhibit the firmness and impartiality which he has shown upon all occasions, and which would do honor to any man, and all the prejudice which I entertained against him when I came here yielded to a sentiment of profound respect for what I believed to be the purity of motive by which he was always guided, and the uprightness which characterized every decision which he has made while in that chair. I have never seen a public officer in whose motives or conduct I had more reason to confide, and I rejoice to have it in my power, thus publicly speaking as I do from the fullness of my heart, to bear my humble testimony to the purity of his motives and his firmness of character in the discharge of his duties as a public officer.

Mr. WALBRIDGE. I desire to make but a single remark. When this Congress convened, and it became necessary to designate, by the respective parties, candidates to be supported for the position of Speaker of this House, it was not within my power to be present. I gave expression to my feelings, however, by a dispatch from the city of New York, designating the distinguished gentleman from South Carolina, [Mr. ORR,] personally unknown to me then, as my choice for Speaker. Mr. BOYD was elected, however, and I have seen nothing since I have been a member here to detract from his justly-earned reputation; and I can bear the most ample testimony to the impartiality, firmness, and correctness which have marked his decisions in the discharge of his duties.

The question was then taken on the resolution; and it was adopted.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, here reported as correctly enrolled bills of the following titles; which thereupon received the signature of the Speaker:

An act organizing the institution for the insane of the Army and Navy, and of the District of Columbia, in the said District;

An act making appropriations for the support of the Army for the year ending the 30th June, 1856;

An act to continue the pension of Frances E. Baden;

An act to provide for the erection of public buildings in the Territory of Kansas;

An act for the relief of Stephen Lutz, of New York;

An act for the relief of Thomas E. Ramsey and Ananias Richardson, and James McLaughlin;

An act to provide for the erection of public buildings in the Territory of Nebraska;

Joint resolution for the relief of George W. McCerren; and

An act continuing the pension of Joseph McCormick.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, Esq., their Secretary, informing the House that the Senate had passed a resolution and bills of the following titles, severally without amendment:

An act for the construction of certain military roads in the Territory of Kansas;

Joint resolution making an appropriation for the purchase of territorial libraries; and

Also, sundry private bills.

CIVIL AND DIPLOMATIC BILL—AGAIN.

The SPEAKER *pro tempore*, (Mr. HAVEN.) The previous question has been demanded by the gentleman from Alabama [Mr. HOUSTON] upon the Senate amendment to the civil and diplomatic bill.

The previous question was seconded, and the main question was ordered to be now put.

Mr. BRECKINRIDGE. I want to make to the House this general proposition in regard to the matter now before it, that the House concur in the report made from the Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee. I object to that course; and I would propose this, that we take a vote first upon concurring in the report of the Committee of the Whole on the state of the Union as to all those amendments of the Senate to which the Committee of the Whole recommend a disagreement, and then that we take a vote upon the amendments adopted by the committee to the Senate's amendments, and then upon the amendments in which we propose to concur.

Mr. PECKHAM. Is it competent for the House to decide, by a majority vote, whether they will agree to the proposition made by the gentleman from Kentucky?

Mr. JONES. It is not, nor to my proposition either.

Mr. BRECKINRIDGE. It is very desirable that a committee of conference should be appointed on the bill as soon as possible; and I will make another suggestion, and it is that the House, by unanimous consent, concur in the action of the Committee of the Whole upon the amendments of the Senate, in regard to which we disagreed with the Senate, and then a committee of conference can be appointed, and take those amendments under consideration, while the House, at the same time, can go on and act upon the other amendments at their leisure.

Mr. WENTWORTH, of Massachusetts. I desire to have a separate vote taken upon the amendment which increases the salaries of the assistant treasurer at St. Louis and Boston, and I hope the House will allow it.

Mr. WENTWORTH, of Illinois. I want a separate vote upon the tariff.

Mr. BRECKINRIDGE. The tariff amendment is not embraced in my proposition, because the Committee of the Whole recommend an agreement with the action of the Senate thereon. My motion was that the House concur in the action of the Committee of the Whole as to those amendments to which we have disagreed.

The SPEAKER. Will the House allow the Chair to make a suggestion? There seems to be a general call, from various parts of the House, that there should be a separate vote upon one or two amendments, one of which is the tariff amendment. That being so, perhaps it is the sense of the House that that amendment should be separated from the others, and then to adopt the proposition of the gentleman from Kentucky.

Mr. BRIDGES. I suggest that the waterworks amendment should also be separated.

Mr. VANSANT. I want a separate vote upon the balance of the amendments. I object to the proposition of the gentleman from Kentucky.

Mr. DAWSON. And I give notice that if a special and separate vote is required on the tariff amendment, there are other gentlemen in this House who will insist upon a separate vote upon each and every amendment.

Mr. BRECKINRIDGE. I think gentlemen are proceeding under a misapprehension of my proposition. I understand the Committee of the Whole agreed with the Senate in their action upon the tariff amendment, and that was to strike it out. My motion does not embrace the tariff; and hence, if you adopt my proposition, you will have a separate vote in the House upon that amendment. The motion simply embraces all those amendments as to which the committee disagreed with the Senate, and you ought to have a committee of conference now acting upon them.

Mr. JONES, of Tennessee. I submit to the gentleman from Kentucky that we cannot appoint a committee of conference, or ask it of the Senate, until we shall have disposed of all these amendments.

Mr. CAMPBELL. I want to make one inquiry of the gentleman from Kentucky. How is the committee of conference to know, if it is appointed and goes out, whether we concur or nonconcur in the balance?

Mr. BRECKINRIDGE. I will answer the gentleman. Everybody must know that it will take the committee of conference two or three hours to act upon the amendments to which we have disagreed, and in the mean time the House will have acted upon the others, and the action will be reported to them.

Mr. CAMPBELL. But the character of the committee of conference proposed to be appointed, might depend very much upon the character of the matter which is to go before them, and that can-

not be determined until the House has acted upon all the amendments.

Mr. HOUSTON. I wish to say one word to the gentleman from Ohio. If we agree to the proposition, made by the gentleman from Kentucky, it will expedite the public business very much. There are many amendments, probably sixty or seventy, to which the committee have disagreed.

The SPEAKER *pro tempore*. The Chair would say to the House that if some of the propositions which have been suggested are not adopted within a reasonable time, he will decide all debate and suggestions out of order, and have the amendments taken up and acted on *seriatim*.

Mr. WENTWORTH, of Massachusetts. Let me make a single suggestion. Why cannot gentlemen who desire separate votes on amendments name them, and then let us vote on the rest in a body? There are but one or two upon which gentlemen desire a separate vote.

[Cries of "That is right!"]

Mr. WALSH. No, I object. Go on with the amendments.

Mr. ENGLISH. I move that the rules be suspended for the purpose of allowing us to dispose of these amendments by one vote.

Mr. WALSH. That cannot be done for the reason that the call for the previous question has been seconded, and the main question has been ordered to be now put. All this debate is out of order.

Mr. BRECKINRIDGE. Mr. Speaker, I desire to say again to those gentlemen who are anxious to have a separate vote on the tariff amendment, the water-works——

Mr. SMITH, of Virginia. And other things.

Mr. BRECKINRIDGE. And other things; that we agree to all the rest. My motion does not embrace the tariff, or the water-works.

Mr. WALSH. I insist on the Clerk proceeding to read the amendments.

The SPEAKER. Objection is made to all propositions suggested, and the Clerk will proceed to read the amendments.

Mr. PHILLIPS. I would suggest, for the purpose of facilitating the business, that the form of putting the question to the House be dispensed with, unless it be demanded by gentlemen.

Mr. WALSH. Provided that the action of the Committee of the Whole on the state of the Union be stated.

Mr. PHILLIPS. Very well, sir.

The SPEAKER. If there be no objection the Chair will pursue the course suggested.

[Cries of "I object!"]

Mr. BRECKINRIDGE. I suggest that the Clerk classify the amendments, reading those first which have been disagreed to.

Mr. WALSH. I object, and insist on the Chair proceeding in the usual manner. More time is lost in these suggestions than need be.

The SPEAKER. The Clerk will now read the amendments, and action will be taken on them *seriatim*.

The action of the Committee of the Whole on the state of the Union was only questioned on the amendments which will follow. The report of the committee in reference to the others was adopted.

The third Senate amendment was to strike out from the following paragraph "$48,342," and in lieu thereof to insert "$52,692:"

"For compensation of the Secretary of State, and assistant Secretary of State, clerks, messenger, assistant messenger, and laborers in his office, $48,342."

The Committee of the Whole on the state of the Union amended by substituting "$50,892" for "$52,692."

Mr. HOUSTON. The committee have overruled that amendment in another part of the bill, and I think that it had better be rejected.

The amendment was rejected. The Senate amendment was concurred in.

The eleventh amendment was reported, as follows:

Page 51, line eight, after the word "dollars," insert the following words:

And hereafter the annual salaries of the assistant treasurers at Boston and St. Louis shall be $4,000 each.

Mr. LETCHER. I demand tellers upon concurring in the report of the Committee of the Whole in relation to that amendment.

Tellers were ordered; and Messrs LETCHER and PRATT were appointed.

The question was taken; and the tellers reported —ayes 56, noes 72.

So the report of the committee was non-concurred in; and the Senate amendment concurred in.

Mr. BRECKINRIDGE. Mr. Speaker, I again ask the unanimous consent of the House to allow us to vote *en masse* upon all those amendments of the Senate to which we have disagreed.

Mr. CRAIGE. I object to that.

Mr. BRECKINRIDGE. That would not include the tariff question.

Mr. CRAIGE. I insist on my objection.

Mr. BRECKINRIDGE. Then, objection being made, I move to suspend the rules for the purpose I have indicated.

Mr. WALSH. You cannot do that. We are acting under the previous question.

Mr. DUNHAM. The main question having been ordered the motion of the gentleman is not in order.

Mr. BRECKINRIDGE. Why, that rule will be suspended along with the rest.

Mr. SEYMOUR. The gentleman can accomplish his purpose by moving to reconsider the vote by which the main question was ordered to be put. A majority can do that.

Mr. BRECKINRIDGE. I think my motion is in order, because, if the rules are suspended, the rule which would prevent my motion from being made after the main question has been ordered will, of course, be suspended.

Mr. DUNHAM. But the gentleman is out of order in making the motion to suspend the rules.

The SPEAKER *pro tempore*. The Chair is inclined to the opinion that the gentleman from Kentucky cannot properly make the motion he suggests, inasmuch as, the previous question being operative, no motion, with the exception of voting on the proposition before the House, can be in order.

Mr. BRECKINRIDGE. Then I move to reconsider the vote by which the main question was ordered.

Mr. CAMPBELL. I rise to a question of order. That is, that the main question having been ordered to be put, and the House being engaged in the execution of that order, the gentleman cannot now take the floor for the purpose of moving to reconsider.

The SPEAKER *pro tempore*. The Chair thinks he must overrule the point of order raised by the gentleman from Ohio, [Mr. CAMPBELL,] from the fact that a motion to reconsider is a privileged question, and can be made at any time. The question, therefore, is on reconsidering the vote by which the main question was ordered.

The question was taken; and the vote was reconsidered.

Mr. BRECKINRIDGE. I ask the Chair if it is not now in order for me to move to suspend the rules, in order to enable the House to vote *en masse* on those amendments of the Senate to which the committee disagreed.

The SPEAKER *pro tempore*. The Chair thinks that a motion to suspend the rules is in order.

Mr. BRECKINRIDGE. Then I make that motion.

Mr. STANTON, of Tennessee. I wish to make a suggestion to the gentleman from Kentucky, which I think will facilitate this matter. I think that the gentleman had better propose to suspend the rules in order to take a vote upon concurring with the Committee of the Whole on the state of the Union in its entire action, because the House cannot properly separate these amendments in which the committee disagreed from the Senate, and send them to a committee of conference, leaving the other amendments to be acted on in the House.

Mr. BRECKINRIDGE. If I can get the ear of the House for a moment I will try and make my proposition intelligible. I want to separate the propositions on which the committee has agreed from those on which it has disagreed, in order that the committee of conference may be acting on those to which the committee has disagreed, and that the House may be acting on those to which the committee agreed.

Mr. CRAIGE, (interrupting.) Mr. Speaker——

Mr. BRECKINRIDGE. I have the floor, and I beg not to be interrupted. I am aware that, formally, it is not in order to appoint a committee of conference on a portion of the amendments and leave the remainder in possession of this House. But it will be done by the Speaker in this House, and by the Presiding Officer in the Senate. Now, for the purpose of facilitating business, I move, as a practical proposition, to suspend the rules in order that we may vote *en masse* on those amendments to which we have disagreed; and when the committee of conference, informally appointed, is considering them, we can discuss and vote in the House on the tariff question and other propositions which we have agreed to.

The SPEAKER *pro tempore*. The Chair desires to say to the gentleman from Kentucky, and to the House, that it is, in the opinion of the Chair, competent for him to make a motion to suspend in the way he suggests. As to the consequences which flow from it, and whether a committee of conference should be appointed, it is not proper for the Chair and for the House at present to determine.

Mr. BRECKINRIDGE. Precisely.

Mr. DAWSON. Is the motion of the gentleman from Kentucky open to amendment?

The SPEAKER *pro tempore*. The Chair thinks not.

Mr. DAWSON. The previous question has not been called.

Mr. WALSH. But it is a motion to suspend the rules.

The SPEAKER *pro tempore*. A motion to suspend the rules is not amendable.

Mr. DAWSON. Well, then, I hope the proposition of the gentleman from Kentucky will be voted down, for it is a most novel and extraordinary one.

The question being on Mr. BRECKINRIDGE's motion—

Mr. DAWSON. I call for the yeas and nays.

The yeas and nays were not ordered.

The question was taken; and the motion was agreed to.

So the rules were suspended.

Mr. BRECKINRIDGE. I now, Mr. Speaker, move that the House vote *en masse* on these amendments as to which we have not concurred with the Senate; and on that motion I ask the previous question.

Mr. OLDS. If the previous question be seconded, it cuts off the motion the gentleman has made.

Mr. JONES, of Tennessee. The second for the previous question is pending; and the House having determined, by the vote taken, to vote on all of those amendments in which the committee recommend non-concurrence, they can be sent to a committee of conference, and then we can go on with the others.

Mr. CLINGMAN. I make this point of order to the Chair, that, as the rules are suspended, it is in order to move to amend that; and I desire so to amend it as to have a vote taken on concurring in the action of the Committee of the Whole on the state of the Union generally. I hold that I have a right to amend the gentleman's motion by this proposition.

Mr. SEWARD. I desire to divide the question, so as to take a separate vote upon the amendment which increases the salaries of the Judges of the Supreme Court.

The SPEAKER *pro tempore*. The Chair is of the opinion that the motion of the gentleman from Georgia is not in order, inasmuch as the demand for the previous question is pending.

Mr. SEWARD. It has been demanded, but not seconded. My motion is, therefore, in order.

The SPEAKER *pro tempore*. The Chair overrules the point of order made by the gentleman from Georgia.

The previous question was seconded, and the main question ordered to be put.

The SPEAKER *pro tempore*. The question is upon the proposition of the gentleman from Kentucky [Mr. BRECKINRIDGE] to concur with the Committee of the Whole in its disagreement to the amendments of the Senate *en masse*.

Mr. JONES, of Tennessee. The question is, will this House adopt the report of the Committee of the Whole on the state of the Union disagreeing to all those amendments of the Senate to which the Committee of the Whole recommend that we should disagree?

The question was taken; and it was decided in the affirmative.

Mr. DAWSON. The motion which has just been adopted, if persisted in without any addi-

tional action on the part of the House, will present the extraordinary spectacle in legislative proceedings of one portion of the civil and diplomatic bill, which contains appropriations of millions of dollars, being referred, by the action of the House, to a committee of conference, while its remaining provisions, which had been concurred in by the Committee of the Whole, are still under consideration. The motion, sir, is as novel as it is unprecedented. If it is intended by this motion to send, finally, the tariff amendment with other portions of the bill, to another committee of conference, and eventually to secure its passage, I must be allowed to say that the effort shall prove fruitless. This bill cannot pass without fair consideration, and only by conforming to the parliamentary forms of legislation. I am no advocate of high duties, but, on the contrary, am satisfied that the receipts from the customs should be curtailed. In reducing the scale, however, justice should be done to all parts of the country. The interests of Pennsylvania should not be sacrified to those of Massachusetts or of New England. The first step to be taken in a curtailment of the revenue should be an enlargement of the free list, placing upon it such additional articles as do not come in competition with American manufactures. This being done, then prevent excessive revenues, if they exist, by a *pro rata* reduction of the duties upon the residue. Sir, the whole question, in my judgment, is contained in the above proposition, and I am ready for it.

Mr. BRECKINRIDGE. I move to reconsider the vote just taken, and to lay the motion to reconsider upon the table.

Mr. DAWSON. I was about to submit another motion.

Mr. JONES, of Tennessee. The previous question covers all the amendments, and no debate is in order.

Mr. DAWSON. I intended to submit a proposition which I think would relieve the difficulty in which we are involved, and extricate us from the confusion that now attends this matter.

The SPEAKER *pro tempore*. The Chair hopes that the suggestion of the gentleman from Pennsylvania will be heard.

Mr. DAWSON. It is a simple motion to concur with the Committee of the Whole in reference to the remainder of the amendments; and upon that motion I ask for the previous question.

The SPEAKER *pro tempore*. The Chair is of the opinion that the previous question, when called, applied not only to the proposition of the gentleman from Kentucky, but to all the pending amendments before the House.

Mr. CLINGMAN. I then appeal from the decision of the Chair. The point I made is this: that the motion of the gentleman from Kentucky, upon which the previous question was sustained, applied only to a certain class of amendments, and those amendments having been voted upon, that it is now exhausted. He expressly made his motion to apply to them, and the previous question could not go beyond them.

Mr. HENN. I rise to a question of order, that this discussion is not in order.

The SPEAKER *pro tempore*. The Chair sustains the point of order made by the gentleman from Iowa, and holds that no further discussion is in order. The pending question is upon the appeal taken by the gentleman from North Carolina, and the question now is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. CLINGMAN demanded tellers; which were ordered; and Messrs. HUGHES and KERR were appointed.

The question was then taken; and the tellers reported—ayes 89, noes 33.

So the decision of the Chair was sustained.

Mr. JONES, of Tennessee. I wish to make one more appeal to the House, and it is that we take a separate vote upon the amendments relating to the water-works; to increasing the salaries of the Judges of the Supreme Court of the United States; to the tariff, and on such others as gentlemen may indicate; and that as to all the others we take a vote upon them in the aggregate.

Mr. LETCHER. I desire a separate vote upon the amendment making an appropriation to Mr. Schenck.

Mr. FULLER. I desire a separate vote upon the amendment in reference to the Chelsea hospital.

The SPEAKER *pro tempore*. If there is no objection to the proposition of the gentleman from Tennessee, that course will be pursued in reference to the amendments which have been specified. The Chair hears no objection.

Mr. WITTE. I desire a separate vote upon the amendment relating to the assay office in the city of New York.

Mr. CUTTING. I object to that.

Mr. HOUSTON. I desire to say to the House that the action of the committee in relation to the first branch of the amendment for the classification of clerks in the State Department makes it necessary that I should ask a separate vote upon that amendment.

The SPEAKER *pro tempore*. The House have, by unanimous consent, agreed that first a vote should be taken upon the remaining amendments in mass, with the exception of those amendments which were mentioned by the gentlemen from Tennessee and Virginia. The gentleman from Alabama and others now ask for separate votes upon other amendments mentioned by them.

Mr. McDOUGALL. I object.

Mr. SMITH, of Virginia. I ask the unanimous consent of the House to take a separate vote upon James M. Goggin's claim, and that of John S. Pendleton.

Mr. BRECKINRIDGE. I rise to a question of order. Unanimous consent having been given to the proposition of the gentleman from Tennessee, I object to all further application for a separate vote on other amendments, and I ask the Chair to enforce the action of the House.

The SPEAKER *pro tempore*, (Mr. HAVEN.) The proposition before the House is, that the House concur in the action of the Committee of the Whole on the state of the Union on all amendments not already passed upon, with the exception of those relating to the water works, the salaries of the judges, the tariff, the Chelsea hospital, and the claim of Mr. Schenck. That proposition was concurred in by unanimous consent, and the Chair will proceed to carry it out.

Mr. WITTE. I rise to a question of privilege. I disagree with the Chair, and while I have great respect for him, and his decisions, I wish to state distinctly that I have given my assent to no such proposition. I rose for the purpose of asking a separate vote upon the amendment relating to the assay office, in New York, and I ask it now.

The SPEAKER *pro tempore*. The Chair put the question distinctly, and heard no objection; but, if there is no objection, he will put it to the House whether the amendment mentioned by the gentleman shall be included in the number upon which a separate vote will be taken.

Mr. CUTTING. I object.

Mr. WITTE. I claim my right, as a member of this House; and I will state the facts—confining my remarks to that clearly and distinctly. When the proposition was made by the gentleman from Tennessee, and when other gentlemen arose for the purpose of asking for separate votes upon distinct propositions, I arose, also, upon the floor, and during the time that requests were being made by other gentlemen for distinct votes, I waited on the floor for my time and my turn for a distinct vote upon a distinct proposition; and now I am to be told that a single member may object to my asking for that privilege. I say I have the right to ask it, and to have it, because I did not give my consent to the proposition of the gentleman from Tennessee, but, on the contrary, objected to the proposition.

The SPEAKER *pro tempore*. The proposition was put by the Chair to the House in the way already stated, and universal consent was given. After that was done the gentleman from Pennsylvania rose, as he has stated, and asked that a separate vote should also be taken on the amendment in reference to the assay office. The Chair then asked the House if unanimous consent was given, and objection was made.

Mr. ROBBINS. Was a vote taken authorizing the Chair to assume that power?

The SPEAKER *pro tempore*. It was given by the unanimous consent of the House.

Mr. WITTE. I made objection at the time, distinctly and unequivocally.

Mr. FULLER. I hope unanimous consent will be given to the request of the gentleman from Pennsylvania.

The SPEAKER *pro tempore*. For the third time, the Chair will ask that unanimous consent be given.

Mr. PECK. I object.

The question was then put upon concurring in the action of the committee upon all the amendments, except those above excluded and those already acted upon; and it was decided in the affirmative.

Mr. ORR moved to reconsider the vote last taken, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

The Clerk reported the twentieth amendment of the Senate, upon which a separate vote had been asked, as follows:

And the Secretary of the Treasury is hereby directed to pay, out of any money in the Treasury not otherwise appropriated, to Robert C. Schenck, of Ohio, for his full compensation while employed as envoy extraordinary and minister plenipotentiary of the United States on special mission to the Oriental Republic of Uruguay, in the year 1852, the sum of $9,000, and for his full compensation as minister plenipotentiary and envoy extraordinary of the United States on special mission to the Argentine Confederation, in the year 1853, the sum of $9,000; such payment to be in lieu of the per diem provided for said Robert C. Schenck in the act making appropriations for the civil and diplomatic expenses of the Government, approved August 4, 1854.

The SPEAKER *pro tempore*. The Committee of the Whole on the state of the Union report a concurrence in the amendment.

Mr. LETCHER. I demand the yeas and nays on the amendment.

The SPEAKER *pro tempore* put the question, and announced that sixteen only seconded the demand for the yeas and nays; not a sufficient number.

Mr. FLORENCE. I demand tellers on the yeas and nays.

Mr. WALSH. No. Withdraw that, and ask for tellers on the proposition.

Mr. FLORENCE. No, sir; I want tellers on the yeas and nays.

The SPEAKER *pro tempore*. Those who are in favor of tellers will rise, stand, and be counted.

Thirty-three members rose.

The SPEAKER *pro tempore*. A sufficient number, and tellers are ordered. Messrs. SHAW and FLORENCE will please act as tellers.

The tellers took their places.

Mr. WHEELER. Are the tellers on the yeas and nays, or the amendment?

The SPEAKER *pro tempore*. They are on the amendment.

Mr. FLORENCE. No, sir; I demanded tellers on the yeas and nays.

Members crowded into the area, and passed through the tellers, but Mr. FLORENCE refused to count.

The SPEAKER *pro tempore*. If the gentleman from Pennsylvania refuses to act as teller, he will please stand aside.

Mr. FLORENCE. I demanded tellers on the yeas and nays. I still continue the demand.

Mr. CLINGMAN. Call the Sergeant-at-Arms.

Mr. FLORENCE. I do not care for the Sergeant-at-Arms, nor for any man in this House.

The SPEAKER *pro tempore*. The gentleman from Pennsylvania calls for tellers on the yeas and nays—is there objection to the proposition?

[Cries of "I object!" "I object!"]

Mr. FLORENCE. I rise to a question of order. I clearly demanded tellers on the yeas and nays. Gentlemen all around me can certify to the fact.

Mr. WALSH. I was near the gentleman from Pennsylvania when he made his demand for tellers on the yeas and nays. I asked him to modify his motion and to call for tellers on the amendment, but he refused.

The SPEAKER *pro tempore*. If there has been any mistake, the Chair hopes that the question may be again taken. Is there objection?

Mr. CLINGMAN. I object.

Mr. BANKS. The proposition of the Chair cannot be rejected by a single objection. The gentleman from Pennsylvania says that he did demand the tellers on the yeas and nays.

Mr CLINGMAN. I do not give my consent to going back. I insist on the question as it was understood by the Chair.

The SPEAKER *pro tempore*. Objection is made, and the tellers will resume their places.

Mr. ORR. If the Chair misunderstood the gentleman it is proper that there should be a correction. I do not think that a single objection can defeat it.

The SPEAKER *pro tempore*. The Chair will state that he endeavored to give his entire attention to the subject. He understood tellers to be demanded. He inquired whether they were demanded on the yeas and nays or on the amendment. Some member answered no. If the circumstance mentioned by the gentleman from Pennsylvania took place, it certainly did not reach the Chair's ear.

Mr. FLORENCE. With due respect, I will say a single word to the House and Speaker. All present can observe, and the Chair especially, that I am suffering from hoarseness. I have been scarcely able to speak for a week. I have not participated in the debates of the House in consequence of this hoarseness. From this cause, the Chair may not have heard me distinctly. I have no special anxiety on the subject, but I desire that the position which I occupy upon this floor shall receive its full recognition from the Chair and the House.

[Cries of "Order!" "Order!"]

Mr. FLORENCE. I am in order; and so long as I have a voice I shall lift it in demand for my rights.

The SPEAKER. The Chair can only proceed on the understanding which he has of the matter. Is there objection to tellers on the yeas and nays?

Mr. CLINGMAN. I object.

The SPEAKER *pro tempore*. Then tellers will be appointed on the proposition.

Messrs. SHAW and PHELPS were appointed tellers.

The question was taken; and the tellers reported—ayes 80, noes 62.

So the amendment was concurred in.

The next amendment was read, as follows:

For continuing the work on the Washington aqueduct, $250,000.

Mr. ROWE. I demand the yeas and nays upon concurring in that amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 83, nays 77; as follows:

YEAS—Messrs. Appleton, Ball, Banks, Barksdale, Bell, Benson, Breckinridge, Bugg, Campbell, Chamberlain, Chandler, Clark, Clingman, Cook, Craige, Crocker, Cullom, Curtis, Cutting, Dawson, DeWitt, Dickinson, Dunbar, Eastman, Eddy, Edmundson, Thomas D. Eliot, Everhart, Farley, Faulkner, Florence, Franklin, Goode, Goodrich, Goodwin, Hamilton, Andrew J. Harlan, Wiley P. Harris, Harrison, Hastings, Hill, Howe, Hughes, Hunt, Keitt, Kerr, Kurtz, Lyon, Macdonald, McDougall, Macy, Matteson, Maxwell, May, Noble, Norton, Packer, Peckham, Pennington, John Perkins, Preston, Riddle, Robbins, Rogers, Russell, Sabin, Seward, William Smith, William R. Smith, Hestor L. Stevens, David Stuart, John J. Taylor, Teller, Thurston, Tweed, Upham, Vansant, Walbridge, Walker, Walley, John Wentworth, Tappan Wentworth, and Westbrook—83.

NAYS—Messrs. Aiken, James C. Allen, Willis Allen, Belcher, Bocock, Boyce, Bridges, Brooks, Carpenter, Caskie, Cobb, Dowdell, Dunham, Edgerton, Edmands, English, Flagler, Fuller, Gamble, Giddings, Green, Greenwood, Aaron Harlan, Sampson W. Harris, Haven, Hendricks, Henn, Hibbard, Hiester, Houston, Johnson, Daniel T. Jones, George W. Jones, Knox, Lamb, Letcher, Lewis, Lilly, Lindsley, McCulloch, McNair, McQueen, Maurice, Middleswarth, Smith Miller, Millson, Morgan, Murray, Nichols, Andrew Oliver, Mordecai Oliver, Orr, Parker, Peck, Phelps, Powell, Pratt, Pringle, Puryear, Richardson, Thomas Ritchey, Ruffin, Sage, Sapp, Shaw, Simmons, Skelton, Stratton, Straub, Andrew Stuart, Trout, Wade, Walsh, Elihu B. Washburne, Wells, Witte, and Hendrick B. Wright—77.

So the amendment was concurred in.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which that amendment was concurred in.

Mr. HAMILTON. I move to lay that motion on the table.

Mr. PRINGLE. I demand the yeas and nays upon the motion to lay upon the table.

Mr. CULLOM. I rise to a question of order. I desire to know if the gentleman from Illinois voted in the affirmative?

Mr. WASHBURN. I did not.

The SPEAKER *pro tempore*. Then the gentleman is not entitled to make the motion to reconsider.

Mr. CULLOM. I renew the motion to reconsider, and also move to lay the motion to reconsider upon the table.

Mr. PRINGLE. I demand the yeas and nays upon the motion.

The yeas and nays were ordered.

Mr. CULLOM. I will withdraw the motion.

The next amendment was reported, as follows:

In the paragraph "for salaries of the Chief Justice of the Supreme Court and eight Associate Judges, $41,000," strike out "$41,000" and insert "$63,000," and add at the end thereof the following:

And from and after the passage of this act the annual salaries of the several Justices of the Supreme Court of the United States shall be as follows, to wit: of the Chief Justice of the Supreme Court, $7,500; of the Associate Justices of the Supreme Court, $7,000 each; and hereafter the messengers attending the Supreme Court be allowed the sum of three dollars per day each during their attendance, commencing with the present term of the court, and that the marshal of the District of Columbia pay the same out of any moneys of the United States in his hands.

The amendment was reported from the Committee of the Whole with the following amendment:

Strike out "$63,000" and insert in lieu thereof "54,000;" strike out "$7,500" and insert $6,500;" and strike out "$7,000" and insert "$6,000."

The question was first upon concurring in the amendment of the Committee of the Whole to the Senate amendment.

Mr. CUTTING. I desire simply to ask this question: If the amendment of the House be voted down, the question——

Mr. JONES, of Tennessee. I rise to a question of order. The question before the House is not debatable, and I object to all debate.

Mr. SKELTON. Well, sir, I desire to ask the Chair what the precise question is, upon which we are to vote?

The SPEAKER *pro tempore*. It is on concurring in the amendment of the Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. PHILLIPS. If the House refuse to concur in the report of the Committee of the Whole, the question will recur upon the adoption of the Senate amendment, will it not?

The SPEAKER *pro tempore*. It will recur upon the adoption of the amendment as it came from the Senate.

Mr. JONES, of Tennessee. And if the House concur in the amendment of the Committee of the Whole, the question will then recur upon agreeing to the Senate amendment as amended?

The SPEAKER *pro tempore*. It will.

The question was then taken; and it was decided in the affirmative—yeas 111, nays 38; as follows:

YEAS—Messrs. Aiken, James C. Allen, Willis Allen, David J. Bailey, Banks, Barksdale, Belcher, Bell, Benson, Bocock, Boyce, Bridges, Bugg, Campbell, Carpenter, Caskie, Clark, Clingman, Cobb, Cook, Craige, Cullom, Curtis, John G. Davis, Thomas Davis, De Witt, Dickinson, Dowdell, Dunbar, Eastman, Eddy, Edgerton, Edmands, Edmundson, Thomas D. Eliot, English, Farley, Florence, Fuller, Gamble, Giddings, Goode, Greenwood, Hamilton, Aaron Harlan, Andrew J. Harlan, Wiley P. Harris, Harrison, Hastings, Haven, Hendricks, Henn, Hiester, Hill, Houston, Hughes, George W. Jones, Kerr, Knox, Kurtz, Lamb, Letcher, Lewis, Lilly, Lindsley, McCulloch, McQueen, Matteson, Maxwell, Smith Miller, Millson, Murray, Nichols, Noble, Norton, Olds, Mordecai Oliver, Packer, Parker, Phelps, Powell, Pratt, Pringle, Puryear, Riddle, David Ritchie, Robbins, Rogers, Ruffin, Russell, Sabin, Sage, Sapp, Shaw, Simmons, Skelton, Richard H. Stanton, Stratton, Andrew Stuart, John J. Taylor, Thurston, Trout, Upham, Vansant, Wade, Walker, Walley, Walsh, Wells, John Wentworth, and Hendrick B. Wright—111.

NAYS—Messrs. Appleton, Breckinridge, Brooks, Chandler, Crocker, Cutting, Dawson, Etheridge, Faulkner, Franklin, Green, Howe, Hunt, Daniel T. Jones, McDonald, McDougall, McNair, Macy, Maurice, May, Middleswarth, Andrew Oliver, Orr, Pennington, John Perkins, Phillips, Richardson, Seward, William Smith, Frederick P. Stanton, Hestor L. Stevens, Teller, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, Westbrook, and Witte—38.

So the amendment of the Committee of the Whole on the state of the Union was agreed to.

The question then recurred upon concurring in the Senate amendment as amended.

Mr. JONES, of Tennessee. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 101, nays 47; as follows:

YEAS—Messrs. Aiken, James C. Allen, Appleton, Banks, Barksdale, Benson, Bocock, Boyce, Breckinridge, Brooks, Campbell, Carpenter, Chamberlain, Chandler, Clark, Crocker, Cullom, Cutting, Thomas Davis, Dawson, De Witt, Dickinson, Dunbar, Eddy, Edmands, Edmundson, Thomas D. Eliot, Etheridge, Everhart, Farley, Florence, Franklin, Fuller, Goode, Goodrich, Green, Andrew J. Harlan, Sampson W. Harris, Wiley P. Harris, Harrison, Hastings, Haven, Hill, Howe, Hughes, Hunt, Keitt, Kurtz, McCulloch, Macdonald, McDougall, McQueen, Macy, Matteson, Maurice, Maxwell, May, Middleswarth, Millson, Morgan, Noble, Norton, Andrew Oliver, Orr, Parker, Pennington, John Perkins, Phillips, Powell, Preston, Pringle, Richardson, Riddle, David Ritchie, Robbins, Rogers, Russell, Sage, Sapp, Seward, Shaw, Simmons, William Smith, Frederick P. Stanton, Richard H. Stanton, Straub, David Stuart, Teller, Thurston, Upham, Vansant, Walker, Walley, Walsh, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, Westbrook, Wheeler, Witte, and Daniel B. Wright—101.

NAYS—Messrs. David J. Bailey, Belcher, Bridges, Clingman, Cobb, Craige, Curtis, John G. Davis, Edmundson, Edgerton, English, Gamble, Giddings, Greenwood, Hamilton, Aaron Harlan, Henn, Hiester, Daniel T. Jones, George W. Jones, Knox, Letcher, Lewis, Lilly, Lindley, Lindsley, Smith Miller, Murray, Nichols, Olds, Packer, Peck, Bishop Perkins, Puryear, Thomas Ritchey, Rowe, Ruffin, Sabin, Skelton, Hestor L. Stevens, Stratton, Andrew Stuart, John J. Taylor, Trout, Wade, Wells, John Wentworth, and Hendrick B. Wright—47.

So the Senate amendment, as amended, was concurred in.

Mr. CUTTING moved that the vote by which the amendment was concurred in be reconsidered, and that the motion to reconsider be laid upon the table; which latter motion was agreed to.

The next amendment of the Senate was to strike out of the bill the provisions in relation to the tariff.

Mr. WENTWORTH, of Illinois. As this is a party measure, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative—yeas 86, nays 80; as follows:

YEAS—Messrs. James C. Allen, Willis Allen, Ball, Belcher, Benson, Bugg, Campbell, Carpenter, Chandler, Crocker, Cullom, Curtis, Thomas Davis, Dawson, Dunbar, Etheridge, Everhart, Farley, Flagler, Florence, Franklin, Gamble, Giddings, Goodwin, Aaron Harlan, Wiley P. Harris, Harrison, Haven, Hendricks, Hiester, Hill, Howe, Hughes, Hunt, Johnson, Kerr, Knox, Kurtz, Lilly, Lyon, McCulloch, Macdonald, McDougall, McNair, Matteson, Maurice, Mencham, Middleswarth, Morgan, Norton, Andrew Oliver, Mordecai Oliver, Packer, Parker, Pennington, Preston, Pringle, Puryear, Riddle, David Ritchie, Robbins, Rowe, Russell, Sabin, Sage, Sapp, Seward, Simmons, Skelton, Stratton, Straub, John J. Taylor, Teller, Thurston, Trout, Tweed, Vansant, Wade, Walker, Elihu B. Washburne, Israel Washburn, Tappan Wentworth, Wheeler, Witte, and Hendrick B. Wright—86.

NAYS—Messrs. Aiken, Appleton, David J. Bailey, Banks, Barksdale, Bocock, Boyce, Breckinridge, Bridges, Brooks, Caskie, Chamberlain, Clark, Clingman, Cobb, Craige, Cutting, John G. Davis, De Witt, Dickinson, Dunham, Eastman, Eddy, Edgerton, Edmands, Edmundson, Thomas D. Eliot, English, Fuller, Goode, Goodrich, Green, Greenwood, Hamilton, Andrew J. Harlan, Sampson W. Harris, Hastings, Henn, Hibbard, Houston, Daniel T. Jones, George W. Jones, Keitt, Lamb, Letcher, Lewis, Lindsley, McQueen, Macy, Maxwell, May, Smith Miller, Millson, Murray, Nichols, Noble, Olds, Orr, Peck, Bishop Perkins, John Perkins, Phelps, Phillips, Powell, Thomas Ritchey, Rogers, Ruffin, Shower, William R. Smith, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Andrew Stuart, Upham, Walbridge, Walley, Walsh, Wells, John Wentworth, and Westbrook—80.

So the amendment of the Senate was concurred in.

Mr. DAWSON. I rise to a privileged question. I move to reconsider the vote by which that amendment was concurred in and to lay the motion to reconsider upon the table.

Mr. WENTWORTH, of Illinois. I demand the yeas and nays.

Mr. DAWSON. I withdraw the motion.

Mr. CULLOM obtained the floor.

Mr. PHELPS. I ask the gentleman from Tennessee to yield the floor to me and to allow me to occupy the attention of the House for a moment. I desire to facilitate the transaction of public business.

Mr. CULLOM. I yield to the gentleman from Missouri temporarily.

NAVAL APPROPRIATION BILL.

Mr. PHELPS. The Senate have returned the Navy appropriation bill with some twenty-nine amendments. It would be utterly impossible, at this stage of the session, for us to consider those amendments in committee. I propose, therefore, that the bill be taken up, and that the House disagree to the amendments of the Senate and ask for a committee of conference.

The SPEAKER *pro tempore*. Is there any objection to the proposition of the gentleman from Missouri?

Mr. WALSH. I object.

Mr. WHEELER. Well, let the question be put to the House.

Mr. PHELPS. I move to suspend the rules.

The SPEAKER *pro tempore*. The gentleman from Tennessee [Mr. CULLOM] has the floor.

Mr. PHELPS. I hope the gentleman from Tennessee will allow me to move to suspend the rules to take up the naval appropriation bill. The bill is in imminent peril.

Mr. WALSH. I withdraw my objection.

No further objection being made, the House took up and proceeded to consider the amend-

ments of the Senate to the naval appropriation bill.

Mr. PHELPS. I move that the House disagree to the amendments of the Senate, and ask for a committee of conference on the disagreeing votes of the two Houses.

Mr. WENTWORTH, of Illinois. I want to know what these amendments are?

Mr. PHELPS. I hope the gentleman will not require them to be read.

Mr. WENTWORTH. I voted for the annexation of Texas with the understanding that we were to annex the Texan navy, and I want to settle that question here to-night.

Mr. PHELPS. I demand the previous question.

The previous question received a second, and the main question was ordered to be put.

Mr. STANTON, of Tennessee. I do not want to be troublesome to the House, but there is a little amendment to that bill for the benefit of the navy-yard at Memphis. [Laughter.]

Mr. HUNT. I pledge you my word that that will give rise to debate. [More laughter.]

Mr. STANTON. I should like to have a vote upon it. If the House is prepared to vote it down, I have nothing more to say.

Mr. CLINGMAN. I insist upon the question.

The question was taken, and Mr. PHELPS's motion was agreed to.

JUDICIARY OF THE DISTRICT OF COLUMBIA.

Mr. MAY. I ask the gentleman from Tennessee to allow me to submit a similar motion to that just agreed to. The Senate have made several amendments to the judiciary bill for the District of Columbia. I move that the House disagree to those amendments, and ask a committee of conference on the disagreeing votes.

The motion was agreed to.

Mr. HIBBARD. I ask the gentleman from Tennessee to let me call up a matter which will meet with no objection.

Mr. McDOUGALL. I object.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled the following bills and joint resolutions; which thereupon received the signature of the Speaker:

An act for the relief of L. R. Lyon and D. S. Howard;

A joint resolution making appropriations for the purchase of territorial libraries;

An act for the relief of Jesse French, of Braintree, Massachusetts; and

An act for the construction of certain military roads in the Territory of Kansas.

DUTIES ON GOODS DESTROYED BY FIRE.

Mr. CULLOM. I ask the unanimous consent of the House to take up the bill to remit the duties on certain goods destroyed by fire in the cities of New York and San Francisco.

Mr. WALSH. Was not the same motion on the bill voted down yesterday?

Mr. JONES, of Tennessee. I object to it.

Mr. CULLOM. Then I move a suspension of the rules.

Mr. HAMILTON. On that motion I ask for the yeas and nays.

Mr. STANTON, of Tennessee. Before that proposition is put, I ask my colleague to allow me to offer a resolution which I think will not be objected to.

Mr. CULLOM yielded the floor.

Mr. STANTON. I ask leave to offer the following resolution:

Resolved, That all reports which any of the committees have directed to be made to the House shall be delivered to the Clerk, and they are hereby ordered to be printed, and such of them as are of a private character, together with all the bills now on the Private Calendar, are hereby referred, with the accompanying papers, to the court of claims.

Mr. SEWARD. I object.

Mr. CULLOM. Perhaps it would economize time, if instead of the House bill I should call up Senate bill No. 591, which is to the same effect.

Mr. CUTTING. The Senate bill was referred to the Committee on Commerce.

The SPEAKER. Does the Chair understand the gentleman from Tennessee to move to suspend the rules with a view of taking up Senate bill No. 591? Is that the gentleman's motion?

Mr. CULLOM. That is my motion.

The bill was reported as follows:

Senate bill (No. 591) to remit or refund duties on goods, wares, or merchandise, destroyed by fire.

Mr. WALLEY. I desire to ask the gentleman from Tennessee whether, if the rules are suspended, he will agree to an amendment?

Mr. SKELTON. I object to these bargains altogether.

The yeas and nays were ordered.

Mr. MILLSON. I rise to a question of order. I wish to know whether this bill was not, two days ago, referred to the Committee on Commerce?

The SPEAKER *pro tempore*, (Mr. ORR in the chair.) The bill is properly before the House, as the Chair is informed. It was referred to the Committee on Commerce, but the committee was discharged from its further consideration, and then the House refused to suspend the rules to take it up.

Mr. MILLSON. Yes; and there was a motion made by the gentleman from New York, [Mr. FENTON,] to refer it to the Committee on Commerce, and it was so referred.

The SPEAKER *pro tempore*. The Chair is informed by the Clerk that if such a motion as that was made, no minute has been made of it on the Journal. The bill, therefore, is on the Speaker's table, and the motion of the gentleman from Tennessee [Mr. CULLOM] is properly before the House.

Mr. WASHBURN, of Maine. I ask whether the rules were not suspended yesterday, and this bill taken from the Speaker's table?

Mr. CUTTING. No; it failed by one vote.

The SPEAKER *pro tempore*. The Chair has decided that the bill is on the Speaker's table, and that the motion of the gentleman from Tennessee is in order.

Mr. JONES, of Tennessee. That bill was up a day or two ago on a motion made to suspend the rule which required it to go to the Committee of the Whole on the state of the Union; and my recollection is, that the rule was not suspended, and that it was sent to the Committee of the Whole.

The SPEAKER *pro tempore*. The Chair has decided, and has so stated to the House twice, that the bill is on the Speaker's table, and that the motion of the gentleman from Tennessee is in order. That is the way the Journal is made up, and upon which the decision of the Chair is predicated.

The question was then taken on Mr. CULLOM's motion; and there were—yeas 90, nays 46; as follows:

YEAS—Messrs. Aiken, Ball, Banks, Belcher, Benson, Bridges, Bugg, Campbell, Carpenter, Chamberlain, Chandler, Clark, Clingman, Cook, Crocker, Cullom, Curtis, Cutting, Dickinson, Dunbar, Eastman, Edmunds, Thomas D. Eliot, Etheridge, Everhart, Farley, Flagler, Florence, Franklin, Fuller, Goodwin, Green, Greenwood, Andrew J. Harlan, Harrison, Hastings, Haven, Hiester, Hill, Howe, Hughes, Hunt, Kerr, Knox, Lyon, McCulloch, McDougall, McMullin, McNair, Macy, Matteson, Maurice, Middleswarth, Morgan, Nortou, Olds, Andrew Oliver, Mordecai Oliver, Parker, Peck, Pennington, Bishop Perkins, Phillips, Pringle, Thomas Ritchey, Rogers, Rowe, Russell, Sabin, Sage, Sapp, Simmons, William R. Smith, Richard H. Stanton, Hestor L. Stevens, David Stuart, Teller, Tweed, Upham, Wade, Wildbridge, Walker, Walley, Elihu B. Washburne, Israel Washburn, Wells, Pappan Wentworth, Westbrook, Wheeler, and Hendrick B. Wright—90.

NAYS—Messrs. David J. Bailey, Bocock, Caskie, Cobb, John G. Davis, Dawson, Dunham, Eddy, Edmundson, English, Faulkner, Goode, Hamilton, Aaron Harlan, Hendricks, Henn, Hibbard, Houston, Johnson, Daniel T. Jones, George W. Jones, Keitt, Kurtz, Lamb, Letcher, Macdonald, Smith Miller, Millson, Murray, Orr, John Perkins, Phelps, Powell, Pratt, Puryear, Ruffin, Shaw, Shower, Skelton, William Smith, Stratton, Straub, Andrew Stuart, Trout, Walsh, and Witte—46.

So the rules were not suspended, two-thirds not voting in the affirmative.

Mr. OLDS obtained the floor.

EXTRA COMPENSATION TO EMPLOYEES.

Mr. HENDRICKS. With the consent of the gentleman from Ohio, I desire to offer a joint resolution to correct a resolution that we have passed for the benefit of the pages and employees of the House. The gentleman from Maine introduced the resolution, saying that it was intended to benefit those who did not get the twenty per centum, but there is one of the watchmen who does not get it, and I ask that his name shall be included in the resolution.

Several MEMBERS. Let it come in by unanimous consent.

The SPEAKER. There being no objection, it will be so ordered.

Mr. HENDRICKS. I ask leave, also, to offer the following resolution:

Joint resolution making appropriation for the payment of those entitled to the benefits of the resolution of the House of Representatives, passed March 3, 1855, voting extra compensation to pages, folders, and others.

Resolved, (the Senate concurring,) That the sum voted by the House of Representatives, March 3, 1855, for the payment of pages, folders, and other employees, be paid out of any moneys in the Treasury not otherwise appropriated.

The resolution was read a first and second time by its title, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. EDMUNDSON. With the consent of the gentleman from Ohio, [Mr. OLDS,] who is entitled to the floor, I offer the following resolution:

Resolved, That the Clerk of this House be, and he is hereby, directed to pay to John Costan, a laborer employed in the office of the Clerk, two dollars per day, in consideration for additional labor performed by him, commencing from the time he was employed, and deducting therefrom the per diem already paid him.

Mr. JONES, of Tennessee. I object.

Mr. EDMUNDSON. I move to suspend the rules that I may introduce the resolution.

RATES OF POSTAGE.

Mr. OLDS. I claim the floor until my proposition is disposed of. I ask the House to take up and consider the amendments that have been made by the Senate to House bill (No. 406) to amend the act entitled "An act to reduce and modify the rates of postage in the United States, and for other purposes," passed March 3, 1851.

No objection being made, the bill was taken up; and the amendments were read and agreed to, as follows:

First amendment:

Page 1, line four, strike out the word "on" and insert "in;" so that the section would read:

For every single letter, in manuscript, or paper of any kind, in which information shall be asked for or communicated in writing, or by marks or signs conveyed in the mail for any distance, between places in the United States not exceeding three thousand miles, three cents; and for any distance exceeding three thousand miles, ten cents.

Second amendment:

Pages 1 and 2, strike out the following clause:

For every such letter, or paper, when conveyed, wholly or in part, by sea, and to or from the ports of the country, for any distance not exceeding three thousand miles, the ocean postage shall be five cents; and for any distance exceeding three thousand miles, such ocean postage shall be ten cents, excepting, however, all cases where such postages have been, or shall be, adjusted at different rates by postal treaty or convention already concluded, or hereafter to be made.

Third amendment:

Page 2, line thirty-one, after the word "are," insert the words "to or;" so as to make the clause read:

And upon all letters passing through or in the mail of the United States, except such as are to or from a foreign country, the postage, as above specified, shall be prepaid.

Fourth amendment:

Page 2, line thirty-two, after the word "prepared," insert the following:

Except upon letters and packages addressed to officers of the Government on official business, which shall be so marked on the envelop.

Fifth and sixth amendments:

Page 2, line thirty-four, strike out "fifty-five" and insert "fifty-six;" and strike out the words "such prepayment shall be by stamps," and insert in lieu thereof "the Postmaster General may require postmasters to place postage stamps upon all prepaid letters upon which such stamps may not have been placed by the writers;" so as to make the clause read:

And from and after the 1st day of January, 1856, the Postmaster General may require postmasters to place postage stamps upon all prepaid letters upon which such stamps may not have been placed by the writers.

Seventh, eighth, and ninth amendments:

Page 3, section 2, line four, strike out the words "post office stamps or stamped envelopes," and insert "postage stamp or stamp envelop." Also, same section, line six, insert before the word "stamp" the word "postage." Also, in same line, strike out the words "or stamped envelop," and insert in lieu thereof the words "or for a larger sum than that charged therefor by the Post Office Department;" so as to make the section read:

And be it further enacted, That it shall not be lawful for any postmaster or other person to sell any postage stamp or stamp envelop for any larger sum than that indicated upon the face of such postage stamp, or for a larger sum than that charged therefor by the Post Office Department, and any person who shall violate this provision shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not less than nor more than $500.

Tenth and eleventh amendments:

At the end of the bill, add the following proviso and the succeeding new section:

Provided, That nothing herein contained shall be so

construed as to alter the laws in relation to the franking privilege.

SEC. 3. *And be it further enacted*, That for the greater security of valuable letters posted for transmission in the mails of the United States, the Postmaster General be, and hereby is, authorized to establish a uniform plan for the registration of such letters, on application of parties posting the same, and to require the prepayment of the postage, as well as a registration fee of five cents on every such letter or packet, to be accounted for by the postmasters receiving the same, in such manner as the Postmaster General shall direct: *Provided, however*, That such registration shall not be compulsory, and it shall not render the Post Office Department or its revenue liable for the loss of such letters or packets, or the contents thereof.

BILLS REFERRED TO COURT OF CLAIMS.

Mr. STANTON, of Tennessee. The gentleman who objected to my resolution has withdrawn his objection, and I ask that it may be read.

The resolution was read, as follows:

Resolved, That all reports which any of the committees directed to be made to the House shall be delivered to the Clerk, and they are hereby ordered to be printed; and such of them as are of a private character, together with all the bills now on the Private Calendar or on the Speaker's table, are hereby referred, with the accompanying papers, to the court of claims.

Mr. PRATT. I object to it.

Mr. STANTON. Then I move to suspend the rules to enable me to introduce it.

The question was taken; and the motion was agreed to, (two thirds voting in favor thereof.)

Mr. STANTON. I now demand the previous question upon the passage of the resolution.

Mr. McMULLIN. I desire to inquire of the gentleman from Tennessee if his resolution provides that all applications for pensions shall be referred to the board of claims?

Mr. STANTON. It provides that all bills upon the Private Calendar, with the accompanying papers, shall be referred to that board, and that is where they ought to be. Mr. Speaker, at the suggestion of a friend near me, I will change the phraseology of the resolution, so that it shall provide that all bills remaining upon the Private Calendar or on the Speaker's table, at the close of the present session, shall be referred, &c.

The previous question was seconded, and the main question ordered to be put, viz: "Shall the resolution pass?" and, being put, it was decided in the affirmative.

So the resolution was adopted.

HARBOR AT REEDY ISLAND.

Mr. CHANDLER. I ask the unanimous consent of the House to take from the Speaker's table, for the purpose of putting it upon its passage, Senate bill No. 615.

The bill was read through for information. It authorizes and directs the appropriation of $30,000, out of any money in the Treasury not otherwise appropriated, for continuing the construction of the harbor on the east side of Reedy Island, in the Delaware river.

Mr. HAMILTON. I object to that bill.

Mr. CHANDLER. I move a suspension of the rules for the purpose which I have indicated.

WITHDRAWAL OF PAPERS.

Mr. McMULLIN. I would ask the leave of the gentleman from Pennsylvania and the unanimous consent of the House to take from the files of the House the petition and papers in the case of ——— Humphreys.

Mr. JONES, of Tennessee. Is it proposed to leave copies?

Mr. McMULLIN. Copies will be left.

It was ordered accordingly.

BOUNTY LAND BILL.

Mr. HIBBARD. I hope the gentleman from Pennsylvania will yield to me to ask the unanimous consent of the House for leave to discharge the Committee of the Whole on the state of the Union from the further consideration of House bill (No. 567) supplemental to the act entitled "An act granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," approved September 28, 1850; and also to the act approved March 22, 1852, to make land warrants assignable, and for other purposes.

Mr. STANTON, of Kentucky. I object. It is unfair to other gentlemen and myself, who have bills in charge.

Mr. WENTWORTH, of Illinois. Mr. Speaker, the bill which the gentleman from Pennsylvania desires to have passed has been passed by Congress, since my service here, six or eight times.

Mr. CHANDLER. And has been vetoed in the river and harbor bill. It is now offered as a separate bill.

The question was taken; and the House refused to suspend the rules.

RETIRED LIST IN THE ARMY.

Mr. FAULKNER. Mr. Speaker, I ask the unanimous consent of the House for leave to report back from the Committee on Military Affairs Senate bill (No. 120) to promote the efficiency of the Army by a retired list.

Mr. HAMILTON. I object.

Mr. FAULKNER. The subject has been carefully examined for twenty years, and has always been reported on favorably. I move to suspend the rules for the purpose which I have indicated; and on that motion I demand the yeas and nays.

The yeas and nays were not ordered.

The question was taken; and the House refused to suspend the rules.

IRENE G. SCARRITT.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I ask the unanimous consent of the House for leave to take up and pass Senate bill (No. 686) to give a pension to the widow of Colonel Scarritt, who fell at the battle of Buena Vista. I will state that the Legislature of Illinois voted him a sword for his gallantry.

The bill was read through. It authorizes and directs the Secretary of the Interior to place the name of Mrs. Irene G. Scarritt, widow of J. M. Scarritt, deceased, late an officer in the United States Army, upon the list of widows entitled to half-pay, and pay her the sum of twenty-five dollars per month, commencing on the first day of July, 1854, and continuing for five years, provided, that in case of her death or intermarriage before the expiration of the term of five years, then the pension granted shall inure to the benefit of the child or children of J. M. Scarritt, deceased, under sixteen years of age, if such there be; and if there be none, then it shall cease.

Mr. JONES, of Tennessee. Why does not this lady get a pension under the general law?

Mr. WASHBURNE. On account of some technical objection. I am certain if the gentleman understood the facts that he would not object.

Mr. JONES. Did her husband fall at Buena Vista?

Mr. WASHBURNE. He did.

Mr. JONES. Then she is entitled to ten years' half-pay pension under the general law.

Mr. WASHBURNE. She is not allowed it. This is a case which appeals most strongly to our sympathies.

Mr. PRATT. I object.

Mr. WASHBURNE. I move to suspend the rules for the purpose which I have indicated.

The rules were suspended; there being, on a division—ayes eighty-four, noes not counted.

Mr. WASHBURNE. I call for the previous question on the bill.

The previous question received a second, and the main question was ordered to be put.

Mr. HAMILTON. What pay is proposed to be given?

Mr. WASHBURNE. Twenty-five dollars per month for five years only.

Mr. WENTWORTH, of Illinois. What was his rank?

Mr. WASHBURNE. He was a colonel, and fell at Buena Vista.

Mr. STANTON, of Tennessee. Is it in order to move that we take a recess until eight o'clock.

The SPEAKER *pro tempore*. It would not be in order as a question of order.

The bill was ordered to be read a third time; and it was read the third time, and passed.

MESSAGE FROM THE SENATE.

A message from the Senate was here received by the hands of ASBURY DICKINS, Esq., their Secretary, informing the House that the Senate insisted upon their amendments to the civil and diplomatic bill to which the House had disagreed, and asking for a committee of conference.

Mr. HOUSTON. I move that a committee of conference be appointed on the part of the House.

The motion was agreed to.

The SPEAKER thereupon appointed Messrs. HOUSTON, HAVEN, and HENN, to act as said committee of conference on the part of the House.

ELIZA M. EVANS.

Mr. LILLY. I ask the unanimous consent of the House that the Committee of the Whole House be discharged from the further consideration of Senate bill (No. 337) for the relief of Eliza M. Evans.

Mr. WHEELER. I object.

The bill was read through for information.

Mr. LILLY. I move to suspend the rules for the purpose which I have indicated.

The House refused to suspend the rules.

POWDER DESTROYED BY CAPT. HOLLINS.

Mr. WESTBROOK. I ask the unanimous consent of the House to take up and put on its passage Senate bill No. 48, requiring the Secretary of the Treasury to ascertain the value of certain powder destroyed by order of Commander George N. Hollins, of the Navy of the United States, and to pay the value thereof to the person to whom it belonged.

Mr. DUNHAM. I object.

Mr. WESTBROOK. I move to suspend the rules.

The question was taken; and two thirds not having voted in the affirmative, the rules were not suspended.

Mr. WESTBROOK. May I have the consent of the House to have the papers referred to the board of claims?

The SPEAKER *pro tempore*. They will go there under the resolution already passed by the House.

IMPORTATION OF PAUPERS, ETC.

Mr. WENTWORTH, of Massachusetts. I ask the consent of the House to report, from the Committee on Commerce, a bill to prevent the importation into the United States of foreign criminals, paupers, lunatics, insane, idiots, and blind persons. It is a Senate bill, and I am instructed to report it back with amendments.

Mr. HAMILTON. I object.

Mr. WENTWORTH. I move to suspend the rules to enable me to report it.

Mr. PHELPS. I must make an appeal to the House. I have, up to this time, been all the time engaged in the public business. I now ask the consent of the House to take up a bill for the relief of one of my constituents. It is a very meritorious case, and I trust there will be no objection to it. Can I have the consent of the House?

Mr. McDOUGALL. No, sir; I object.

Mr. WENTWORTH. I now ask that the bill for which I have asked unanimous consent to report may be read.

The bill was read *in extenso* by the Clerk.

The question was taken; and the rules were suspended.

Mr. WENTWORTH demanded the previous question.

The previous question received a second, and the main question was ordered to be put.

The Committee on Commerce reported sundry immaterial amendments to the bill; which were read, considered, and severally agreed to.

The bill was then ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time.

Mr. WENTWORTH demanded the previous question on the passage of the bill.

Mr. WHEELER called for tellers on seconding the demand for the previous question.

Tellers were ordered; and Messrs. McDOUGALL and PRINGLE were appointed.

The question was taken; and the tellers reported —ayes 45, noes 48.

Less than a quorum voting.

Mr. WHEELER. I move that the House take a recess till eight o'clock.

Mr. McDOUGALL. I move a call of the House.

Mr. HENDRICKS. I wish to appeal to the gentleman from Massachusetts [Mr. WENTWORTH] not to urge the consideration of this bill.

The SPEAKER *pro tempore*. The Chair cannot entertain a motion while there is no quorum present.

Mr. HUNT. I move that we take a recess till nine o'clock.

Mr. BRECKINRIDGE. I rise to a question of order. Is it in order for the gentleman to make that motion?

The SPEAKER *pro tempore*. That is a motion which cannot be made unless by unanimous consent, or under a suspension of the rules.

Mr. BRECKINRIDGE. I object. If the House took a recess we could not get members back.

Mr. HENDRICKS. I appeal to the gentleman from Massachusetts, [Mr. WENTWORTH,] not to urge this bill any further. It is a long bill, and the consideration of it now cannot result in any good. We have no time to consider it.

Mr. WENTWORTH. There are calls upon me to withdraw the bill. I suppose I may do so.

The SPEAKER *pro tempore*. The gentleman cannot withdraw the bill.

The question being on Mr. McDOUGALL's motion, it was agreed to.

So a call of the House was adopted.

Mr. McMULLIN. I understood the Chair to decide that less than a quorum cannot take a recess.

The SPEAKER *pro tempore*. The Chair made no such decision. The Chair stated that a motion to take a recess could not be made except by unanimous consent, or under a suspension of the rules. It is a motion not known to the rules of the House.

Mr. BRECKINRIDGE. Less than a majority cannot suspend the rules.

The roll was then called, and one hundred and thirty gentlemen answered to their names.

The following is the list of the absentees:

Messrs. Abercrombie, Willis Allen, Thomas H. Bayly, Banks, Barry, Bell, Bennett, Benton, Bissell, Bliss, Bocock, Boyce, Bridges, Bristow, Caruthers, Chamberlain, Chase, Chastain, Churchwell, Clingman, Colquitt, Cox, Craige, Crocker, Cullom, Cumming, Curtis, Thomas Davis, Dent, Dick, Drum, Ellison, English, Everhart, Faulkner, Fenton, Flagler, Franklin, Giddings, Grey, Grow, Sampson W. Harris, Wiley P. Harris, Harrison, Haven, Henn, Hiester, Hill, Hillyer, Houston, Ingersoll, Daniel T. Jones, J. Glancy Jones, Roland Jones, Kidwell, Kittredge, Lamb, Lane, Latham, Lewis, Lindley, Macdonald, McMullin, Mace, Mayall, Meacham, John G. Miller, Morrison, Parker, Peckham, John Perkins, Phelps, Puryear, Ready, Richardson, David Ritchie, Thomas Ritchey, Rogers, Rowe, Sabin, Seymour, Shannon, Simmons, Singleton, Samuel A. Smith, William Smith, William R. Smith, George W. Smyth, Sollers, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Thurston, Tracy, Upham, Vail, Warren, Yates, and Zollicoffer.

Mr. HENDRICKS. I move that all further proceedings under the call be dispensed with.

The motion was agreed to.

The SPEAKER. The question now is upon seconding the demand for the previous question on the bill introduced by the gentleman from Massachusetts, [Mr. WENTWORTH.]

Mr. BRECKINRIDGE. I hope the gentleman from Massachusetts will withdraw the demand for the previous question.

Mr. WENTWORTH. If gentlemen desire to discuss it I will do so.

Mr. BRECKINRIDGE. It will require some time for the committees of conference to bring in their reports——

Mr. DAVIS, of Indiana. With the consent of the gentleman from Kentucky, I desire to say that the gentleman from Pennsylvania, [Mr. EVERHART,] who sits near me, has been compelled to leave the Hall on account of indisposition. He has prepared some remarks upon the subject of the tariff, and he wished me to make a request of the House for leave to publish them.

[Cries of "Agreed!" "Agreed!"]

Mr. RUSSELL. I ask the consent of the gentleman from Kentucky to allow me to move that the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill No. 327, for the relief of Robert Graham.

Mr. BRECKINRIDGE. I will yield the floor to the gentleman from Pennsylvania, if I do not thereby lose my own right to it.

Mr. JONES, of Tennessee. Let the question now before the House go over by unanimous consent.

Mr. EDGERTON. I object.

Mr. RUSSELL. I ask my friend from Kentucky to yield me the floor for a moment.

Mr. EDGERTON. If the gentleman from Kentucky is intending to make a speech, he must go on now.

Mr. BRECKINRIDGE. I claim the floor, and I ask for my rights.

Mr. EDMUNDSON. I ask leave of the House to take up and consider House bill No. 353, which has come back from the Senate with a few amendments.

Mr. RUSSELL. I object to anybody but the gentleman from Kentucky occupying the floor.

Mr. EDMUNDSON. I am sure that my friend from Pennsylvania will withdraw his objection, and not interfere with the consideration of the matter upon which I desire the action of the House.

Mr. RUSSELL. I had the floor by the permission of the gentleman from Kentucky a few minutes since, but objection was made.

Mr. BRECKINRIDGE. I have been standing here for the last fifteen minutes for the Speaker to enforce order so as to allow me to proceed.

The SPEAKER *pro tempore*. The gentleman has been standing upon the floor for half an hour, and if he stands there much longer for his friends to ask him to yield the floor to them, his time will be up. [Laughter.]

Mr. BRECKINRIDGE. Here is a bill which has been sprung upon us to-night, which I never saw until a few moments since at the Clerk's desk. I desire to call the attention of the House to one or two objectionable features in it. The object of the bill is declared to be, by its title, "to prevent the introduction into the United States of foreign criminals, paupers, idiots, lunatics, and insane and blind persons," and it provides that no one of that class of persons shall be introduced into the United States under certain penalties prescribed in the bill.

Mr. WELLS. I appeal to the gentleman from Kentucky to allow me a moment to ask the House to allow me to make a report, that it may be printed.

Mr. BRECKINRIDGE. No, sir; I cannot yield any more. I have been baffled here half an hour in my efforts to commence my remarks. I will not yield, and it is useless to make appeals to me. I ask the Chair to give me my rights. [Laughter.]

Mr. WELLS. I wish to make an inquiry.

The SPEAKER *pro tempore*. The gentleman from Kentucky is upon the floor, and it is not in order to make an inquiry.

Mr. BRECKINRIDGE. I do not propose to discuss the question as to the power of the General Government to prevent the different States in this Union from allowing such persons, as they choose to come within their borders. I do not profess to have examined the subject thoroughly; but that is immaterial to my argument. My impression is, that the State of Virginia, the State of Massachusetts, the State of Kentucky, or any other State has the right to allow or to prevent certain classes of persons from coming within their borders. This bill, however, if that power exists within the States, takes it away from them. I will not, however, discuss that question.

Assuming the power, however, to exist in the Federal Government, there is a cruel exercise of it in this bill. It provides that every human being desirous of coming within the limits of the United States shall obtain from an American consul a certificate, or pass, stating that he is not insane, that he is not an idiot, that he is not a lunatic, that he is not poor, nor blind, and that he has not, for the space of five years next preceding the date of the certificate, been afflicted with lunacy, insanity, idiocy, or any derangement of intellect, and, I might say, I think, if they had added "nor derangement of the bowels" it would have made the bill complete. [Laughter.] The certificate so furnished shall, if possible, also state the name, the birth-place, and the residence of the applicant, together with his age, if known.

Now, sir, in looking at the latter part of this bill the first thing which struck my attention was, that a man might be emigrating to the United States with his family, his wife and children, one of whom might be afflicted with blindness, and under the bill, as it originally came from the committee, that family would have to be severed. The father could not bring his blind child within the limits of the United States. But the bill is not as it originally was, but has been patched up from time to time, and I see there is an amendment attached to the fifteenth section, which provides that the first, fifth, and eighth sections of the act shall not be held to be applicable to any blind, insane, or idiotic person who is a member of a family emigrating to the United States, if he is a person of sufficient property to maintain himself. The bill, therefore, as it now stands, allows any blind person, who is a member of a family emigrating to the United States, to come in; but if he happens not to be one of a family, or to comprise the whole family in his own person, be he old or young, rich or poor, and, by accident, is afflicted with blindness, the bill repels him from the shores of the United States. Now, I want no property qualification in this country as a condition of residence within our borders of those we allow to come in. None, sir. If you allow a blind European to come here, if he is worth $100,000, you ought to allow a blind European to come here who is not worth a cent. Such a restriction is anti-American, anti-republican, and it is contrary to the spirit of our whole system to draw such distinctions. This property qualification is most odious in my judgment, with all respect to the gentleman who offered the bill.

Another provision of the bill requires that the term "pauper," as used in the bill, shall be held to designate a person who, within one year from the time of making the application specified in the first section of the act, has received support as a poor and indigent person. How will that operate? Is it proper to draw this distinction? Can you not imagine a person of the loftiest intellect, of the noblest character, by inevitable misfortune reduced to the necessity of receiving support from his friends, or from the public, and yet be as worthy of emigrating to the United States as one who counts his funds by the millions? And yet such a person, if, by misfortune, he has, at any time within one year previous to making such application, been obliged to depend upon friendship or charity, is excluded from the shores of the United States.

I do not propose to enlarge upon this subject. I regard this bill as one of the fruits of the proscriptive feeling which is just now pervading this country. I know it is popular, and I know it is sweeping like a hurricane from one end of the country to the other; but it is in conflict with the fundamental principles of our system of Government, and I am willing to oppose my hand to it, and await the time when there shall be a reaction in the public sentiment, as I know there will be. I want the gentlemen of this House to know that, if they vote for this bill, they draw a distinction between the rich and the poor, and allow only the latter class to come—nor can they come except—with a pass in their hands, like a negro going from one plantation to another.

Mr. CAMPBELL. I wish to inquire of the gentleman from Kentucky, inasmuch as he has spoken of some "ism" as pervading and spreading over this country like a hurricane—I know nothing of it myself—whether it has not been understood and currently reported all over the country that the honorable gentleman from Massachusetts, [Mr. WENTWORTH,] who has charge of this bill, and has presented it to us this morning, was not beaten and swept down by this hurricane?

Mr. BRECKINRIDGE. I will answer the gentleman. I have understood the gentleman from Massachusetts, who presented this bill to us, was beaten by a political society, under the name of "Know-Nothing."

Mr. CAMPBELL. Then why charge the bill to that particular class of persons?

Mr. BRECKINRIDGE. I understand that the gentleman from Massachusetts was defeated by this organization, and I think it extremely probable he may have introduced this bill with a view to put an extinguisher upon "Know-Nothingism." But it does not follow that I spoke untruly when I stated it was one of the fruits of the feeling which was pervading the country; for if with such motives he introduced the bill, he still acted under the influence of that spirit. But it is immaterial. I would rather trust to the next Congress, full of "Know-Nothings," as it is likely to be, to pass a bill upon this subject, than to take this bill, patched up and thrust upon us at this late period of the session, with a view to compromise the question.

I will close with recapitulating what I was about to say when I was interrupted by the gentleman from Ohio. I want this House to remember that this is a bill which requires every human being who emigrates to these shores to obtain a certificate that he is not blind, nor insane, nor idiotic, nor poor, nor has been so for five years preceding his application for such certificate, making an

exception in favor of those blind who have property sufficient to support themselves, and excluding those, whatever may be their qualifications otherwise, who have not property. I am opposed to it; and, having explained my views of the bill, I am perfectly willing for the House to vote on it.

Mr. WENTWORTH, of Massachusetts. Mr. Speaker, a word or two in reply to the gentleman from Kentucky, and in reference to the particular features of this bill. For myself, I am willing to bring the discussion to a close, because I think that we have not time, at this late hour of the session, to spend in debating this or any other question.

The gentleman from Kentucky opened his remarks by saying this bill had been sprung upon the House in the night. Sir, it has been printed more than two months. It was reported from the Committee of Commerce on the 2d of January, and ordered to be printed; and it has been in the document room ever since, accessible to any member of the body. It has not, therefore, been sprung upon the House. The bill has been sent over the country. It has been sent to the northern States, and especially to those persons who have charge of emigrants and emigrant paupers, with a view of getting information in regard to its propriety and feasibility. The result has been, from the information received and the conference with the Judiciary Committee, which has, by resolution of this House, been instructed to report on the subject, the bill and amendments now before us.

The gentleman says that he regards it as the fruit of the new *ism* which has sprung up in the country. This project was started by me at the last session by a resolution of inquiry introduced and referred to the Committee of Commerce. That was before I had much knowledge of the existence of the new *ism;* nor have I got it up with a view of heading off that *ism*, or in any way affecting the question which seems to have in some degree disturbed the gentleman from Kentucky.

Mr. Speaker, the State from which I come is largely burdened with foreign paupers. We have built within two or three years three large poor houses in that State, at which we maintain from two to three thousand foreign paupers at an expense of between one and two hundred thousand dollars per annum. The emigrant society of New York expends about one million of dollars per year for the support of foreign paupers, blind, insane, and idiotic; and our country suffers no one can tell how much, by the introduction of foreign criminals upon these shores. They come here without our having any means of inquiry as to their character or their previous life.

The eastern States, the whole Atlantic sea-board, is calling upon Congress for a law with regard to foreign paupers. The gentleman may not know the evil which we suffer—probably that class of persons do not reach Kentucky. Of the emigrants who come here, I suppose that the western portion of the country get mostly the hale and hearty, and that most of the imbecile, insane, blind, and criminal remain in the eastern cities. The State of Rhode Island has legislated on this subject, and has instructed her representatives in both Houses of Congress to favor the passage of a bill like the one under consideration. The Common Council of New York have legislated upon the subject; and gentlemen from that body were here as late as Friday, for the purpose of procuring the passage of this bill by tendering whatever information they possessed upon the subject to gentlemen concerned in it. The Emigrant Society of New York has sent here delegates, with a bill of some thirty-two sections, much more penal and restrictive than this, with a view of having it presented to Congress. They laid it before the Judiciary Committee. It has been before the Committee on Commerce; and some additions have been made to the bill before us in consequence of the examination of the New York bill.

Mr. WALSH. I suspect that they came here to lobby on some other question.

Mr. WENTWORTH. The gentleman says that he doubts the power of the General Government to limit or restrict the right of Virginia or New York to introduce persons within their limits. With the decision of the Supreme Court, saying that Congress has the right to regulate this entire subject, and with that opinion pronounced by every western judge on the bench, I think that the gentleman does well not to discuss the question. The court has decided that Congress has the right to control the introduction of foreigners into this country, and that the States have no right to legislate in any way to contravene their introduction or importation. And for the present, although it is a decision upon which the court was divided, it may be considered as the law of the land. The case of Gibbons and Ogden, and the passenger cases, have settled this question.

Mr. MILLSON. I will say a word, with the gentleman's permission.

Mr. WENTWORTH. I cannot yield.

Mr. MILLSON. Being a member of the Committee on Commerce, I desire to make a remark.

Mr. WENTWORTH. I should have been glad to have had the gentleman's assistance on this bill in the Committee on Commerce. I was saying that the Supreme Court of the United States has decided that this matter must be regulated by Congress, and that the States cannot prevent importation of foreign persons, if they are disposed to do so. And it has declared the laws passed by Massachusetts and New York imposing certain restrictions upon the importation of emigrants, to be unconstitutional and void. So that if any legislation be necessary, if any is to be had, it must come from Congress alone.

The gentleman from Kentucky says that this bill makes a property qualification, that it is an odious and anti-republican measure, and that he had rather trust to the next Congress, Know-Nothing as it will be, to pass such measures as they may think proper, than to see the provisions of this bill adopted. Why, sir, this bill is no more stringent in its provisions than that passed at the last Congress for carrying passengers upon vessels propelled, in whole or in part, by steam. We have had passenger bills upon our statute-books since 1848 equally restrictive and penal with the bill before you.

The gentleman is incorrect in saying that this bill makes a property qualification. It merely provides that foreign paupers shall not, as such, be imported from Europe to this country. If a man be not a pauper he may come, though worth not a farthing. If he is able to pay twenty-five cents for his certificate, he has a right to embark, and no man has the power to prevent him, nor does this Congress, by this bill, attempt to prevent him.

Mr. PHILLIPS. I ask the gentleman from Massachusetts, under what clause in the Constitution he claims this power to prohibit persons from coming to our shores?

Mr. WENTWORTH. I claim it under the decision of the Supreme Court of the United States that the Constitution confers such a power.

Mr. PHILLIPS. The gentleman does not answer my question. I ask what provision of the Constitution gives to Congress the power.

Mr. WENTWORTH. I do not think it necessary to go into a constitutional argument upon this subject, nor have we the time at this late hour. It is enough for me to know that the highest tribunal in the land declares it to be constitutional.

I will say, in conclusion, that this bill is drawn in accordance with the demands of all the Atlantic cities for additional legislation upon this subject. If I know the sentiments prevailing almost universally in Massachusetts, New York, and the other States, in which passengers are landed from abroad in any considerable numbers, they require just such a bill as this. They require that Europe shall be compelled to keep her paupers at home. They require that she shall be compelled to keep her criminals at home, and that they shall not be permitted to land in Boston, New York, and other cities, sent by foreign municipal authorities, either to fill our alms-houses or asylums, or, by the practice of foreign vices, to corrupt the morals or prey upon the substance of our citizens. We ask Congress to exercise its undoubted powers, and to relieve us from the evils to which we are now exposed, and from the pecuniary burdens under which we are suffering. Whilst the bill will not operate to restrict the emigration of any person fit to become an American citizen, it would, in my judgment, if passed and faithfully carried out, relieve us of a large portion of that worthless population, to the support of which we have been so long subjected. I move the previous question.

Mr. BRECKINRIDGE. I ask the gentleman from Massachusetts to yield me the floor to enable me to offer a substitute for the bill under consideration. I desire to say——

The SPEAKER *pro tempore*. No debate is in order. Does the gentleman from Massachusetts withdraw his demand for the previous question?

Mr. WENTWORTH. No, sir; I do not. I have no reason to believe the substitute of the gentleman is any more perfect than the bill which a committee of the House have had before it, and have prepared after much consideration.

Mr. BRECKINRIDGE. Then I hope the House will vote down the demand for the previous question, to enable me to offer my substitute.

Mr. WENTWORTH. I hope not.

Mr. DAVIS, of Indiana. I move to lay the bill upon the table; and upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. STANTON, of Kentucky. I will state that the Senate have taken a recess. I ask the unanimous consent of the House to take a recess until eight o'clock.

Mr. TWEED. I object.

NOTICE OF A SPEECH.

Mr. LYON. I ask the consent of the House to print a speech upon certain resolutions offered by me some days since.

There was no objection, and the proposition was assented to.

PASSENGER BILL—AGAIN.

The question was taken upon Mr. DAVIS's motion; and the result was—yeas 64, nays 49; as follows:

YEAS—Messrs. Aiken, James C. Allen, Ashe, David J. Bailey, Barksdale, Breckinridge, Brooks, Caskie, Chamberlain, Chrisman, John G. Davis, Disney, Dowdell, Dunham, Eddy, Edmundson, John M. Elliott, Florence, Gamble, Goode, Greenwood, Hamilton, Andrew J. Harlan, Hastings, Hendricks, Hibbard, George W. Jones, Keitt, Kurtz, Lamb, Letcher, Lindsley, Macdonald, McNair, McQueen, Macy, Maxwell, Smith Miller, Millson, Murray, Nichols, Noble, Olds, Orr, Packer, Phillips, Powell, Richardson, Riddle, Seward, Shaw, Skelton, Richard H. Stanton, Straub, Andrew Stuart, Trout, Tweed, Vansant, Walker, Walsh, Wells, John Wentworth, Westbrook, and Witte—64.

NAYS—Messrs. Appleton, Banks, Benson, Bridges, Bugg, Campbell, Carpenter, Chandler, Cobb, Corwin, De Witt, Dickinson, Dunbar, Eastman, Edmands, Thomas D. Eliot, English, Farley, Flagler, Goodrich, Aaron Harlan, Howe, Hughes, Hunt, Knox, Lyon, McDougall, McMullin, Matteson, Middleswarth, Morgan, Norton, Andrew Oliver, Peck, Pennington, Bishop Perkins, Pratt, Pringle, David Ritchie, Russell, Sage, Sapp, Hestor L. Stevens, Teller, Wade, Walley, Israel Washburn, Tappan Wentworth, and Wheeler—49.

The SPEAKER *pro tempore* announced that no quorum had voted.

Mr. HUGHES. I understand that the committees of conference will not be ready to report for some two hours yet. I ask unanimous consent that the House take a recess until nine o'clock.

Mr. McDOUGALL. I object.

Mr. HENDRICKS. I must again appeal to the gentleman from Massachusetts not to attempt to pass this bill at this late hour. I ask him to withdraw the bill, and let us proceed to other business.

The SPEAKER *pro tempore*. No quorum has voted, and no motion is in order except for a call of the House.

Mr. McDOUGALL. I move that there be a call of the House.

Mr. LETCHER. I think, if the Chair will allow me to make a suggestion, we may obviate the necessity for a call of the House. If we can have the members who are asleep around the Hall awakened——

[Cries of "Order!" "Order!"]

Mr. McMULLIN. I ask if it is not competent for the Speaker to ascertain whether there is a quorum in the House by counting?

Mr. McDOUGALL. I insist upon my motion that there be a call of the House.

The SPEAKER *pro tempore*. It is competent for the gentleman from Virginia to call for tellers upon the motion for a call of the House, if he desires to ascertain whether there is a quorum in the House.

Mr. McMULLIN. I demand tellers upon that motion.

Tellers were ordered; and Messrs. STUART, of Ohio, and WALSH were appointed.

The question was then taken; and the tellers reported—ayes 13, noes 105.

So a call of the House was refused.

A quorum having voted, the question recurred upon laying the bill on the table.

Mr. McDOUGALL. I insist on the regular order of business, and shall do so from now until the adjournment.

Mr. McMULLIN. I move that the House take a recess until nine o'clock.

The SPEAKER *pro tempore*. The Chair decides that it is not in order to make that motion, except by unanimous consent.

Mr. McDOUGALL. I object.

Mr. McMULLIN. Is it in order then to suspend the rules for that purpose?

The SPEAKER *pro tempore*. It is not; for the reason that the House is now acting under a suspension of the rules.

Mr. BENSON. Is it in order to move to suspend the rules to go into Committee of the Whole on the state of the Union?

The SPEAKER *pro tempore*. The Chair thinks that motion would be in order.

Mr. BENSON. Then I make it, and I give notice that if it is agreed to, I shall, as soon as we get into committee, move to take a recess until nine o'clock.

Mr. DAVIS, of Indiana. I submit that the motion of the gentleman from Maine is not in order. It is to suspend the rules, and, as the Chair has decided, we are now acting under a suspension of the rules.

The SPEAKER *pro tempore*. The rule expressly says that the House may at any time suspend the rules to go into the Committee of the Whole on the state of the Union.

Mr. MILLER, of Indiana. Is it in order to move to proceed to the consideration of the business on the Speaker's table?

The SPEAKER *pro tempore*. It is not.

Mr. McDOUGALL. I demand the yeas and nays on the motion of the gentleman from Maine, [Mr. BENSON.]

Mr. EDMUNDSON. I ask the gentleman from Maine to waive his motion for a moment, that I may ask the House to pass a small bill.

[Cries of "Object," and "Not in order."]

Mr. HENDRICKS. I rise to a question of order. Under the decision which the Speaker made awhile ago, is it in order after acting under suspension of the rules to move to go into the Committee of the Whole on the state of the Union?

The SPEAKER *pro tempore*. It is under that express rule of the House which provides that a majority may at any time suspend the rules and go into the Committee of the Whole on the state of the Union.

The yeas and nays were not ordered.

Tellers were called for, and ordered; and Messrs. FLORENCE and PRINGLE were appointed

The question was taken; and the tellers reported—ayes 67, noes 26.

No quorum voting,

Mr. STUART, of Ohio, (at twenty-five minutes past seven, a. m.) I move that the House do now adjourn to meet again at eight o'clock.

The SPEAKER *pro tempore*. Less than a quorum cannot, by the Constitution, adjourn except from day to day.

Mr. STUART. I appeal from the decision of the Chair.

The SPEAKER *pro tempore*. The gentleman from Ohio moves that the House adjourn until eight o'clock. The Chair decides that to be not only contrary to rule, but contrary to the Constitution.

Mr. KEITT. How is it, then, that the House has adjourned for some hours in the evening without a quorum being present?

The SPEAKER *pro tempore*. When has that been done?

Mr. KEITT. Frequently.

The SPEAKER *pro tempore*. There has been only a recess taken.

Mr. KEITT. Well, then, I move that we have a recess.

The SPEAKER *pro tempore*. That motion is not in order in the House; it would be if we were in committee.

Mr. McDOUGALL. I now move a call of the House.

Mr. STRATTON. On that I ask for tellers.

The SPEAKER *pro tempore*. An appeal is pending.

Mr. ORR. Less than a quorum, I suppose, cannot well dispose of this appeal. Before the question is put for the call of the House, I think we certainly could come to some understanding which would be satisfactory to the House.

The SPEAKER *pro tempore*. The gentleman from California moves a call of the House. The Chair is of opinion that less than a quorum can do no business at this time but to call the House.

Mr. ORR. It is very evident that less than a quorum cannot go into the Committee of the Whole.

The SPEAKER *pro tempore*. That is true.

Mr. ORR. I propose that there be a recount on the proposition to go into the Committee of the Whole.

The SPEAKER *pro tempore*. If there be no objection a recount will be had.

Mr. BRECKINRIDGE and others objected.

ENROLLED BILLS.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled the following bills:

An act further to amend an act entitled "An act to reduce and modify the rates of postage in the United States, and for other purposes," passed March 3, 1851.

Mr. MORGAN. I object to these bills being reported when there is no quorum present.

Mr. MEACHAM. Cannot we have a recount?

The SPEAKER *pro tempore*. A recount has been objected to.

Mr. STUART, of Ohio. Is there any other motion in order except the motion to adjourn?

The SPEAKER *pro tempore*. A motion to adjourn at this time without a quorum is not in order. Less than a quorum may adjourn from day to day. There does not remain another day to adjourn to at this session of Congress. When the House does adjourn it must be *sine die*.

Mr. STUART. I move to suspend business for two hours.

The SPEAKER *pro tempore*. That is not in order.

Mr. STUART. I appeal from the decision of the Chair.

The SPEAKER *pro tempore*. That is not in order, because there is no quorum present. The gentleman from California [Mr. McDOUGALL] moves a call of the House, and, in the opinion of the Chair, that is the only motion in order.

Mr. COBB demanded tellers.

Mr. STUART, of Ohio. I ask again, will the Chair put my appeal to the House?

The SPEAKER *pro tempore*. The Chair thinks that he cannot entertain it; and that less than a quorum cannot settle a question of order.

Mr. STUART, of Ohio. The Chair will see at once that he puts his judgment against the will of the House.

Mr. STUART, of Michigan. I call the gentleman from Ohio to order.

The question then being "Shall there be a call of the House?"

Mr. STUART, of Ohio, demanded tellers; which were ordered; and Messrs. STUART, of Ohio, and McDOUGALL were appointed.

The question was then taken; and the tellers reported—ayes 61, noes 47.

So a call of the House was ordered.

The roll was then called, and one hundred and fifty gentlemen answered to their names.

The following is the list of the absentees:

Messrs. Abercrombie, Willis Allen, Ashe, Thomas H. Bayly, Barry, Bennett, Benton, Bissell, Bliss, Bocock, Boyce, Bristow, Caruthers, Chase, Chastain, Chrisman, Churchwell, Clark, Clingman, Colquitt, Corwin, Cox, Crocker, Cumming, Thomas Davis, Dent, Dick, Drum, Ellison, Fenton, Franklin, Giddings, Grey, Grow, Sampson W. Harris, Wiley P. Harris, Hill, Hillyer, Howe, Ingersoll, J. Glancy Jones, Roland Jones, Kerr, Kidwell, Kittredge, Lane, Latham, Lewis, Lindley, Mace, May, Mayall, Meacham, John G. Miller, Morrison, Olds, Andrew Oliver, Packer, Peckham, Puryear, Ready, Reese, Thomas Ritchey, Seymour, Shannon, Simmons, Singleton, Samuel A. Smith, William Smith, William R. Smith, George W. Smyth, Sollers, Alexander H. Stephens, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Thurston, Tracy, Vail, Warren, Daniel B. Wright, Hendrick B. Wright, Yates, and Zollicoffer.

Mr. PRINGLE. I move that all further proceedings under the call be dispensed with.

The question was taken; and it was decided in the affirmative.

So all further proceedings under the call were dispensed with.

JUDICIARY OF THE DISTRICT OF COLUMBIA.

Mr. MAY. I rise to a privileged question. The committee of conference on the part of the House upon House bill (No. 445,) to reorganize the courts in the District of Columbia, and to improve the laws thereof, beg leave to submit the following report:

The managers of the conference upon the disagreeing votes of the two Houses upon the bill entitled "An act to reorganize the courts in the District of Columbia, and to reform the laws thereof," have met, and after full and free conference, have agreed to recommend, and do recommend, to their respective Houses, as follows:

1st. That the Senate recede from its amendments to the nineteenth section of the bill, and agree to said section as passed by the House.

2d. That the House agree to the other amendments of the Senate, with this amendment, to wit: to strike out the preamble and all the sections of the bill, except the said nineteenth section.

3d. That the title be amended so as to read as follows: "An act to improve the laws of the District of Columbia, and to codify the same."

H. MAY,
S. CLARK,
JOHN KERR,
Committee on the part of the House.

GEORGE E. BADGER,
CHARLES E. STUART,
Committee on the part of the Senate.

The recommendation of the committee of conference was to strike out all the other parts of the bill but the nineteenth section, which was to remain as it passed the House. The nineteenth section of the bill reads as follows:

SEC. 19. *And be it further enacted*, That the President of the United States is hereby authorized, by and with the advice and consent of the Senate, to appoint two persons, learned in the law, to revise, simplify, digest, and codify the laws of said District, and also the rules and principles of practice, of pleadings, of evidence, and conveyancing, and also to add thereto and codify such laws of the State of Maryland as may be or become in force during the preparation of said code and applicable to the circumstances and condition of said District; and the said code shall be constructed according to a simple method, and be expressed in language concise and plain, and, far as possible, be made level to the understanding of a person of ordinary intelligence and education; and it shall contain a full and particular index to all its contents; and the preparation of the said code shall be made under the superintendence and revision of the Attorney General of the United States, and as the same progresses shall be printed, under his direction; and the said codifiers shall each be paid for their services, out of the Treasury of the United States, at the rate of $3,000 a year. And the Board of Aldermen and Common Council of the city of Washington may together elect five competent persons, and the Board of Aldermen and Council of Georgetown may elect two competent persons, and the levy court of the county of Washington may elect one competent person, which persons together shall compose a board, to consider, at convenient seasons, the provisions of said code, as it may be prepared; and any three of said persons shall constitute a quorum of said board; and the said code, or such provisions thereof as may be approved by a majority of said board, shall be adopted, and become the law of said District, as hereinafter provided. And it shall be the duty of the said persons who may be appointed to codify the said laws, to attend, and also the said Attorney General may attend the meetings of said board, to explain the several provisions of the said code. And when the said code and the provisions thereof shall have been adopted by the said board, or by a majority thereof, they shall certify the same to the President of the United States, who shall thereupon cause it to be published in a neat and convenient form, and to be substantially bound; and he shall cause a sufficient number of volumes of said code to be printed and bound as may be necessary for the amplest distribution of the same among the people of said District, and for the preservation of said code; and a copy thereof shall be furnished to every justice of the peace, and every judge, to each court, to each clerk of said court, to each coroner, to said levy court, to each public school, to each public library, to each public department of Government, and to the Mayors and each of the Councils of Washington and Georgetown, to be by them kept and carefully preserved, and transferred to their several successors in office. And the said code so deposited with said clerks of courts and justices of the peace, shall at all times be open in their several offices for the inspection and information of the people of said District, and others who may desire to consult the same. And when the said code shall be printed and distributed, the President of the United States shall, by his proclamation, appoint a time and places in the said District for taking the sense of the citizens thereof, for or against the adoption of the said code, and he shall cause judges to be selected who shall preside at such election, and he shall provide and proclaim the mode and rules of conducting the same, provided every free white male citizen of the United States, above the age of twenty-one years, who has resided in the said District for one year next preceding said election, shall be permitted to vote thereat; and the result of said election shall be reported to the said President, and the same, with the said code, be by him reported to Congress, and when ratified and approved by the same, he shall by his proclamation declare it to be in force, from the day of the date thereof, as the law of the said District of Columbia; and the same, when so proclaimed, shall thereafter be and remain as such, without any further act or proceedings to that effect, until altered or repealed by the Congress of the United States. And the persons who may compose said board, or such of them as may act on the same, shall be paid out of the Treasury of the United States a reasonable compensation for their

services, according to the time employed by them, respectively, upon the same: *Provided*, That the said code shall be reported to Congress on or before the first Monday in December, in the year 1857.

Mr. MAY. The committee of conference found it impossible to come to any agreement touching the reorganization of the courts of the District, but they concurred in the plan for codifying the laws of the District, and we now ask that the branch of the bill relating to that subject, as it passed the House, and was agreed to by the committee of conference, may be adopted.

The question was taken; and it was decided in the affirmative.

So the report of the committee of conference was agreed to.

Mr. MAY moved to reconsider the vote by which the report was adopted, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

PAY OF EMPLOYEES.

Mr. LETCHER. I desire to offer the following resolution:

Resolved, That the Clerk of the House of Representatives be, and he is hereby, ordered to pay out of the contingent fund of the House to the boys accompanying the mail wagons the same compensation received by the boys performing similar duties in the Senate, commencing with the present Congress.

Mr. HUGHES. I ask the gentleman from Virginia if he will not allow the following resolution to come in:

Resolved, That the Clerk of the House be, and he is hereby, directed to pay to the messengers who receive less than those that are stationed at the several doors of the Hall the same pay that those thus stationed now receive, commencing with the last fiscal year.

It gives to the folders stationed behind the Speaker's chair the same pay that the other messengers receive.

Mr. EDMUNDSON. I also ask leave to introduce an amendment.

Mr. LETCHER. I will hear the suggestions which gentlemen have to offer, and then I will accept them or not, as I think best.

Mr. ASHE. I beg leave to offer a resolution by way of amendment.

Mr. LETCHER. I must beg to be excused. I will take the proposition of my colleague, [Mr. EDMUNDSON,] and then I can accept no more.

Mr. EDMUNDSON's amendment to the resolution was read, as follows:

And that the Clerk of this House be directed to pay to John Costin, a laborer employed in the office of Clerk, two dollars per day, in consideration of additional labor performed by him, commencing from the time employed, deducting the per diem already paid him.

Mr. LETCHER. I accept that, and there stop.

Mr. CUTTING. I ask the gentleman to allow me to offer a resolution in regard to our two faithful clerks, Messrs. Dorsey and Galpin?

Mr. EDGERTON. I want to know how much they get now?

Mr. CUTTING. Just hear it read.

Mr. EDGERTON. I object to it anyhow.

The resolution was read, as follows:

Resolved, That there be paid out of the contingent fund to the two assistant clerks now employed at the desk in the Hall of this House a sum which will make their annual compensation for services during the present Congress equal to that of the Journal Clerk of this House.

Mr. EDGERTON. That is eight dollars a day, and I object.

Mr. LETCHER. I accept only the amendment of my colleague, and I demand the previous question.

The previous question was seconded, and the main question was ordered to be put.

The main question being on the adoption of the resolution, it was put; and decided in the affirmative.

Mr. MILLSON. The House, acting under a suspension of the rules, has now before it a bill, reported by the gentleman from Massachusetts, upon which the previous question has been demanded, and there is a pending motion to lay it upon the table. And now, as there is very little time left, I wish to inquire if the reports of the two committees of conference, the one upon the civil and diplomatic bill, and the other upon the Navy appropriation bill, will be regarded in the nature of a question of privilege, and supersede the business introduced by the gentleman from Massachusetts?

The SPEAKER *pro tempore*. The practice of the present occupant of the chair has been to regard reports from committees of conference as privileged. The pending question before the House is to lay the bill introduced by the gentleman from Massachusetts upon the table. There is also another pending motion, which is to go into the Committee of the Whole on the state of the Union. The question is on the latter motion first.

Mr. DAWSON. I call for the yeas and nays upon that motion.

The yeas and nays were not ordered.

Mr. ASHE. If it is in order I would like to ask the unanimous consent of the House to take up a small bill.

Mr. WALSH. I object.

Mr. EDMUNDSON. I demand tellers on the motion that the House resolve itself into the Committee of the Whole on the state of the Union.

Tellers were ordered; and Messrs. EDMUNDSON and CUTTING were appointed.

The question was then taken; and the tellers reported—ayes 41, noes 60, (no quorum voting.)

CALL OF THE HOUSE.

Mr. WALSH. I move that there be a call of the House.

The motion was agreed to.

The roll was then called, and one hundred and seven members answered to their names.

The following is the list of the absentees:

Messrs. Abercrombie, James C. Allen, Willis Allen, Appleton, Thomas H. Bayly, Ball, Barry, Bell, Bennett, Benton, Bissell, Bliss, Bocock, Boyce, Bridges, Bristow, Bugg, Carpenter, Caruthers, Chamberlain, Chase, Chastain, Churchwell, Clingman Colquitt, Cox, Crocker, Cullom, Cumming, Thomas Davis, Dent, De Witt, Dick, Dickinson, Edmands, English, Everhart, Faulkner, Fenton, Flagler, Franklin, Goodrich, Goodwin, Grey, Grow, Hamilton, Sampson W. Harris, Wiley P. Harris, Harrison, Haven, Henn, Hill, Hillyer, Houston, Hunt, Ingersoll, George W. Jones, J. Glancy Jones, Roland Jones, Kidwell, Kittredge, Lamb, Lane, Latham, Lewis, Lilly, Lindley, Lyon, McMullin, Mace, Maurice, Mayall, John G. Miller, Morgan, Morrison, Nichols, Andrew Oliver, Mordecai Oliver, Peckham, Bishop Perkins, John Perkins, Phelps, Powell, Preston, Puryear, Ready, Reese, Richardson, David Ritchie, Thomas Ritchey, Rogers, Rowe, Russell, Sabin, Sage, Seymour, Shannon, Shaw, Shower, Simmons, Singleton, Skelton, William Smith, William R. Smith, George W. Smyth, Sollers, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, Andrew Stuart, John J. Taylor, John L. Taylor, Nathaniel G. Taylor, Thurston, Tracy, Trout, Upham, Vail, Vansant, Walbridge, Walley, Warren, Wells, Wheeler, Hendrick B. Wright, Yates, and Zollicoffer.

The SPEAKER. The officers of the House will close the doors.

Mr. WALSH. Mr. Speaker, I think that we had better proceed under the call until we get enough here for the transaction of business. Unless we do so we shall have this thing over and over again.

Mr. HENDRICKS. I move that the Sergeant-at-Arms be sent for the absentees.

Mr. BENSON. I hope that my colleague [Mr. MAYALL] will be excused. He is, and has been, very ill.

Mr. HENDRICKS. If we begin to receive excuses for absent members, it will occupy the whole forenoon, and will be very uninteresting.

Mr. McNAIR. My colleague [Mr. JONES] has been sick for many days past.

Mr. HENDRICKS. I object. If the gentlemen referred to are sick the Sergeant-at-Arms will not bring them here.

The SPEAKER. It is evident that we are not in a condition to legislate beyond disposing of the bills which will be reported on in a short time. Suppose, then, we agree to rest on our arms for an hour, or for half an hour, or until some bills have been reported.

Mr. WALSH. Let the Chair designate an hour.

The SPEAKER. The Chair would suggest that the suspension of business be for a period not longer than three quarters of an hour.

Mr. DISNEY. I move that we take a recess until nine o'clock.

The SPEAKER. The Chair proposes a simple suspension of business. As there seems to be no unanimity on the proposition, the Chair will now put the question on the motion of the gentleman from Indiana, [Mr. HENDRICKS,] that the Sergeant-at-Arms be sent for absent members.

Mr. CAMPBELL. Let us proceed with the call, that we may know why it is we cannot have a quorum to take a recess or do anything else.

Mr. HENDRICKS. I suggest that in place of my motion the Chair put the question to the House that we do no business for an hour.

[Cries of "No!" and "That is right!"]

Mr. HENDRICKS. I then withdraw the suggestion and insist on my motion.

Mr. HUGHES. I suggest the exclusion of all members out on committees of conference from the operation of the motion of the gentleman from Indiana.

The SPEAKER. That will be done as a matter of course.

Mr. MATTESON. I demand the yeas and nays on the motion of the gentleman from Indiana, [Mr. HENDRICKS.]

The yeas and nays were not ordered.

The question was taken; and the motion was agreed to.

The Sergeant-at-Arms was ordered to compel the attendance of absent members.

Mr. FULLER. Mr. Speaker, while we are waiting for the presence of the absentees I will state that I have prepared, by a great deal of labor, a speech on the codification of the navigation laws. As I have not had a chance to deliver it, I think it is but reasonable that I should be allowed to publish it.

Mr. WENTWORTH, of Illinois. I cannot take it on trust.

Mr. FULLER. If you cannot take it on trust you cannot take it at all.

Mr. LETCHER. The light-house on Cape Race is against the gentleman.

Mr. FULLER. Light-houses are put upon land to be used on the sea. May be that fact never occurred to the gentleman.

Mr. LETCHER. Yes, sir; and they are put out of the United States. But I do not object to the publication of the gentleman's speech.

Leave was granted for the publication of the speech.

Mr. KNOX. I move that all further proceedings under the call be dispensed with.

A MEMBER. Let us wait until the Sergeant-at-Arms brings in the absentees.

The Doorkeeper introduced the Sergeant-at-Arms of the House of Representatives, who reported that Messrs. SMITH, of Virginia, SEYMOUR, BRISTOW, SAGE, MORGAN, WHEELER, LYON, ENGLISH, SMYTH of Texas, and HARRISON, were now present under the order of the House.

Mr. FLORENCE. I move that the gentlemen be excused, and permitted to take their seats.

The motion was agreed to.

Mr. LYON. I would ask if it is competent to call up Senate bill No. 444, which now lies upon the Speaker's table? It is a bill for the relief of Mrs. Nancy D. Halkar for flour and provisions furnished the United States during the revolutionary war by her husband, the Hon. John Halkar. She is over ninety years of age, and if the debt which stands upon the Treasury books is ever to be paid, it should be paid now. I hope the House will consent to take up the bill and pass it at once.

The SPEAKER. No legislative business can be done during the call of the House.

Mr. OLDS. I move that all further proceedings under the call be dispensed with.

Mr. SMITH, of Virginia. I was here during the whole night, and only left the House at six o'clock this morning to get my breakfast and put on a clean shirt. On my return I found my name at the head of a list of half a dozen absentees when there are only about twenty members here. I desire to know why the names of the other absentees are not also on that list?

The SPEAKER. If there be no objection, the Chair will respond to the gentleman.

[Cries of "Go ahead!"]

The SPEAKER. The House found itself without a quorum. A call of the House was had. The absentees were all called, and the Sergeant-at-Arms was directed to hunt up members, and bring them in so as to enable us to have a quorum to do business. That is all. It was done under the order of the House, that the Sergeant-at-Arms be sent in pursuit of absent members.

Mr. LYON. I desire to ask a question for information.

The SPEAKER. The Chair will hear the gentleman.

Mr. LYON. I desire to know whether the list, headed by my friend from Virginia, [Mr. SMITH,] will appear on the Journal, as he has been excused?

The SPEAKER. Certainly it will appear on the Journal.

The question was then taken on Mr. OLDS's motion; and it was disagreed to.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

33D CONGRESS, 2D SESSION. SATURDAY, MARCH 3, 1855. NEW SERIES....NO. 75.

The Sergeant-at-Arms here appeared at the bar, and reported that Messrs. STANTON, of Tennessee, STANTON, of Kentucky, DRUM, and LANE, of Indiana, were present by order of the House.

The SPEAKER. What disposition shall be made of the gentlemen?

Mr. FLORENCE. I move that they be excused, and permitted to resume their seats.

The motion was agreed to.

Mr. ENGLISH. I desire to ask the Chair if the Sergeant-at-Arms is not entitled to a fee for the arrest of each member who may be brought into the Hall?

The SPEAKER. Certainly he is.

Mr. ENGLISH. Then I move to dispense with all further proceedings under the call.

The motion was disagreed to.

Mr. RUFFIN. I recollect that we had a call here last session, and that my colleague, [Mr. ASHE,] amongst others, was brought in by the Sergeant-at-Arms, and he was required to make his excuse to the House. I desire to know why the same course is not pursued with reference to the gentlemen who are brought in to-day?

The SPEAKER. It depends upon the peculiarity of the order of the House. The House has determined, in this case, not to put the gentlemen on trial, but to acquit them without trial.

Mr. RUFFIN. Can nothing be done at all?

The SPEAKER. Not until the House chooses to suspend all further proceedings in the call.

Mr. DUNBAR. Is it in order for me to make an excuse for one of my colleagues who is sick?

The SPEAKER. It is not in order, for the reason that the House has not authorized any excuses to be made. The House has chosen, instead of putting gentlemen upon their trial, to excuse them, and permit them to take their seats as they appear.

Mr. McDOUGALL. I want to make a suggestion, which I think will meet the general approval of the House. There is a number of bills on the Speaker's table to which there can be no possible objection.

Mr. KNOX. I object to them all.

Mr. McDOUGALL. I would suggest——

Mr. WALSH. I rise to a question of order. I submit that no business is in order whilst the call is in progress.

The SPEAKER. The Chair sustains the question of order.

Mr. McDOUGALL. I do not propose business at all. I want to explain my proposition.

Mr. WALSH. I object to the explanation.

Mr. McDOUGALL. Then I move that all further proceedings under the call be dispensed with, with a view of taking up and acting upon such bills on the Speaker's table as there is no objection to.

Mr. SMITH, of Virginia. There are no such bills.

Mr. McDOUGALL. Oh yes, there are several to which there can be no possible objection.

The question was then taken on Mr. McDOUGALL's motion; and it was disagreed to.

Mr. GREENWOOD. I desire to state, in justice to my messmate, the honorable Mr. SMYTH, of Texas, that he is suffering from indisposition.

Mr. EDDY. I should, perhaps, make the same remark in relation to my colleague, Colonel MILLER. He has been ailing for several days; but, notwithstanding that, he remained here during the entire night and only left this morning.

Mr. KERR. Is this in order?

The SPEAKER. Excuses are not in order.

Mr. KERR. Then I object.

After a long pause, during which nothing was said or done, the Sergeant-at-Arms again made his appearance at the bar, and reported that Messrs. GAMBLE, RITCHIE, of Pennsylvania, LILLY, CARPENTER, THURSTON, MAYALL, McMULLIN, REESE, CHASTAIN, and HAMILTON, were present by order of the House.

The SPEAKER. What disposition shall be made of the gentlemen?

Mr. LYON. I move that they be excused.

Mr. McMULLIN. I confess my mortification and regret at this proceeding. I was here during the whole night, and endeavored, on various occasions, to get the House to take a recess, with a view to afford myself and other gentlemen an opportunity to take some refreshment. [Laughter.] Failing in that, I went and ate my breakfast, and just as I got back to the door of this Hall, I was summoned by the Sergeant-at-Arms to appear at the bar of the House. Now, in the first place, this is the Sabbath day, and we are serving the country without any consideration whatever, from motives of patriotism and love of country. [Laughter.] Gentlemen may laugh, but I regret that this proceeding should go to the people of the country, because those of us who have been absent may appear as having been derelict in the discharge of our duties. For myself, I can only say that the records of the House will show that I have been in my seat as long and as often as almost any other gentleman upon this floor.

Mr. STANTON, of Tennessee. I do not think there is any ground for mortification. Every gentleman here knows that it was very evident, some two hours ago, that the committee of conference, having in charge the only business that remained to be done, would not be ready to report for two or three hours, and that nothing but the objection of a few members prevented the House from taking a recess—as it should have done—to enable members to refresh themselves after the long and weary night session. The objection of those gentlemen has kept us here doing nothing, and this proceeding has originated from that cause. I do not see that any gentleman has reason to complain.

Mr. McMULLIN. That is a difference of opinion between the gentleman from Tennessee and myself. Gentlemen from New York, [Mr. LYON, Mr. WHEELER, Mr. SAGE, Mr. MORGAN,] and myself——

Mr. LETCHER. I rise to a question of order. It is not proper to call gentlemen by their names.

Mr. McMULLIN. Yes, it is, when we are on trial before the House.

Mr. BRECKINRIDGE. I regard this matter in a more serious aspect than my friend from Tennessee, [Mr. STANTON,] and when my friend from Virginia [Mr. McMULLIN] speaks of sporting with the feelings of gentlemen, I desire him to remember that it is no light sporting for a portion of the House to go off toward the end of a long sitting, eat, drink, shave, refresh themselves, and leave other members at their posts. [Laughter.] It is queer sport, that. Some of us have been obliged to stay here the five-long night, and we have felt it to be our duty, in the discharge of our constitutional obligations, to have a call of the House, and to send for these absentees. I submit that it is most disrespectful to the House for these absentees, when they come, to put on lofty airs, and talk about sporting with the feelings of fellow-members. [Laughter.] I do not wish to say anything that would deepen the sense of delinquency upon the part of these gentlemen, but I wish them to consider that they stand in the attitude of gentlemen who will be obliged to account for their conduct. We who have remained here are sufferers, eminent sufferers, and we are martyrs to our public duty. We have been here all the time under the most inauspicious circumstances, and we have resisted every attempt upon the part of these gentlemen to leave the House. We have maintained our posts, we have kept a nucleus of organization, a rallying point, and at last, under the opportunity afforded by the rules of this House, we have recalled the back-sliders, [laughter;] we have brought them back into the fold without their making due and proper acknowledgments for their delinquencies; however, so far from that, according to the view of my friend from Virginia, [Mr. McMULLIN,] it appears that the Representatives who have been on duty here are to be lectured by the deserters. [Laughter.] I object to any proceeding of that kind. I want the members who have been on duty all night to feel that they are public benefactors, and I call upon those who brought these men to the bar of judgment to stand by their rights and to hold them to a strict accountability. [Laughter.]

Mr. WHEELER. As I am one of these unfortunate individuals who have been brought to the bar of the House, I desire to let my friend from Kentucky know, and the House know, that while he was out of the House, I was here all night.

Mr. BRECKINRIDGE. I was not out of the House at all during the night.

Mr. WHEELER. If he was not out of the House, then, I will retract the statement I have made so far as he is concerned. I wish to let this House know that I was here all night and until half-past seven o'clock this morning. I desire to have it go upon the record that I have been here attending to my duties, and it is very evident since I left the House that there has not been anything done of consequence. [Laughter.]

Mr. KEITT. I call the gentleman to order. This discussion is not in order.

The SPEAKER. The Chair sustains the point of order.

Mr. KEITT. I move that all further proceedings under the call be dispensed with with a view of facilitating the public business.

The SPEAKER. The Chair suggests to gentlemen that the cases of those who have been admitted into the Hall should be disposed of.

Mr. MORGAN. I wish merely to say, as the gentleman from Kentucky has referred to some of us who were absent this morning, that I was here until eight o'clock this morning.

The SPEAKER. The gentleman from South Carolina demands the execution of the order. There is a motion pending to excuse the gentleman from Virginia [Mr. McMULLIN] and others.

The question was taken; and the motion was agreed to.

Mr. SKELTON. I wish to ask if I am reported as an absentee?

The SPEAKER. The gentleman from New Jersey is reported as an absentee.

Mr. SKELTON. I desire to say, then, that I was here until half-past seven o'clock this morning, when I left. I have no apology to make except for one thing. I have an apology to make to the House and country for being here on this sacred day——

The SPEAKER. This course of debate is not in order, and the Chair must enforce the rules.

Mr. KEITT. I move that all further proceedings under the call be dispensed with.

The motion was agreed to.

So all further proceedings under the call were dispensed with, and the doors of the House were reopened.

Mr. BARKSDALE. I have been endeavoring for the last three days to get the floor with the view of asking a favor of the House, the only one I have ever asked or ever expect to ask at their hands.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASBURY DICKINS, their Secretary, informing the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses upon the bill for improving and codifying the laws of the District of Columbia.

Also, that they had agreed to the report of the committee of conference upon the disagreeing votes of the two Houses upon the naval appropriation bill.

ENROLLED BILL.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled an act to improve the laws of the District of Columbia, and to codify the same; which was signed by the Speaker.

NAVAL APPROPRIATION BILL.

Mr. PHELPS. I rise to a privileged question. The committee of conference upon the naval appropriation bill have agreed, and I desire now to present their report.

The SPEAKER *pro tempore*. The Chair will remark that many of the amendments upon which the committee of conference have acted have never

been read in the House at all, and it is important that the House should pay especial attention to the reading of the report.

Mr. JONES, of Tennessee. I would suggest that, instead of reading the report of the committee of conference, referring to the amendments merely by numbers, that the amendments should be read in full.

Mr. PHELPS. Let the report of the committee of conference be read, and then I will explain the amendments in less time than it will take to read them. The Senate have agreed to this report, and it is important that the House should act upon it as soon as possible, so that the bill may go into the hands of the enrolling clerks.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. 579) making appropriations for the naval service for the year ending June 30, 1856, met, and after a full and free conference, have agreed to recommend to their respective Houses as follows:

That the House recede from its disagreement to the Senate amendments as follows, viz: first, third, fourth, fifth, sixth, seventh, eleventh, filling the blank therein with "three," thirteenth, seventeenth, twentieth, twenty-first, twenty-second, and twenty-third. That the House agree to the Senate amendment with an amendment, as follows:

In the fifth line strike out "four" and insert "three," and at the end of the amendment add: "*And provided further*, That nothing herein contained shall be construed to reduce the salary to which any navy agent is entitled under existing laws."

That the Senate recede from its amendments disagreed to by the House, as follows: Eighth, ninth, twelfth, fourteenth, fifteenth, sixteenth, eighteenth, nineteenth, twenty-fourth, twenty-fifth, twenty seventh, and twenty-ninth. That the House agree to the twentieth amendment of the Senate, with an amendment, as follows: In line two, after "shall," insert "hereafter," and strike out all after "dollars" in the third line. That the House agree to the twenty-eighth amendment, by substituting as follows: [Here follows the ocean mail steamer appropriation, printed in another column.]

That the House agrees to that portion of the tenth amendment which provides as follows, "removing sunk caisson." That the Senate recede from the remainder of said amendment with the following amendment: In lieu of "$255,470," insert "$150,000."

W. M. GWIN,
S. A. DOUGLAS,
Managers on the part of the Senate.

J. S. PHELPS,
THOMAS S. BOCOCK,
CHARLES W. UPHAM,
Managers on the part of the House.

Mr. PHELPS. I will endeavor to make the action of the committee of conference as intelligible as I can, in the few minutes I propose to occupy.

The eighteenth amendment of the Senate is in reference to the compensation of the chiefs of the Bureaus of Construction, Equipment, and Repairs, and of Medicine and Surgery. It raises it to the sum now allowed to the chiefs of the other bureaus in the Navy Department. It gives them an additional compensation of $500 each. We report that the House recede from its disagreement to that amendment.

The third amendment of the Senate is for paying the clerks and others in the navy-yard of the city of Washington the compensation authorized. They are not embraced in the joint resolution passed at the last session of Congress. Their salaries are only some $700 or $900 per annum, and the Senate thought it was right that they should receive this increase. We recommend that the House recede from its disagreement to that amendment.

The fourth amendment makes an appropriation for repairs of the floating balance dry-dock, basin, and railway, at the navy-yard at Pensacola, Florida, of $10,000. It also authorizes the Secretary of the Navy to accept these works at Pensacola, upon proof that they have been faithfully built, according to the stipulations of the contract; and that a ship, furnished by the contractors at their own expense, has been successfully docked and hauled off and on the land by the railway of equal or greater weight and displacement than the ships by which the docks, basins, and railways at Philadelphia and Kittery were tested. We recommend that the House recede from its disagreement to that amendment.

The fifth amendment changes the compensation of the purser at the navy-yard in Washington city, and makes it the same as that of the pursers at the navy-yards in Boston, New York, Norfolk, and Pensacola. When the compensation of this purser was fixed there was but little business for him to do. But his duties have increased to such an extent that it was thought proper to make his pay the same as that of the others. The amendment also provides that, when pursers of the Navy shall be assigned to the duty of inspecting and certifying to provisions, clothing, &c., in the regular line of the Navy, they shall receive the same compensation as pursers of the navy-yards to which they may be attached. The House recedes from its disagreement and agrees to that amendment of the Senate.

The sixth amendment attaches a proviso to the appropriation of $250,000 for Stevens's war steamer, for the purpose of making the appropriation available. It gives the Secretary of the Navy power, in his discretion, to apply the same, in whole or in part, during the present fiscal year, instead of the next fiscal year, to enable him to purchase materials. The House recedes from its disagreement and agrees to that amendment.

The seventh amendment makes an appropriation of $150,000 for the purpose of carrying into effect the joint resolution respecting the Kane expedition. The House agrees to that amendment.

The eleventh amendment makes the appropriation for the improvements of the navy-yard at San Francisco conform to the estimates of the Department. It increases the appropriation from $230,000, I believe, to $245,000, and inserts the words "houses for quarters, and repairs of all kinds." The additional appropriation is principally for the erection of houses at the navy-yard. It is stated that there are at this time no dwellings for the officers who are discharging their duties there. The House recedes from its disagreement, and agrees to that amendment.

The thirteenth amendment provides that the two clerks employed upon the naval and astronomical expedition shall be entitled to receive the same as the lowest class of clerks in the Department for the present fiscal year, and that they shall receive the same rate of compensation as long as they are employed in that capacity. The House recedes, and agrees to that amendment.

The seventeenth amendment provides that the salary of the surveyor of customs at the port of Cairo, Illinois, shall be $800 per annum, instead of the sum now allowed. The Navy bill is not the proper place for such amendment, but the committee concluded to recommend a concurrence.

The twentieth amendment provides for the erection of a marine hospital at Galena, Illinois, and appropriates $15,000 for that purpose. The committee recommend a concurrence. I understand that the Secretary of the Treasury, by letter, recommends the appropriation.

The twenty-first amendment merely grants the right of way through certain lands contiguous and attached to the naval grounds at Pensacola for railroads. The matter is left entirely to the discretion of the Secretary of the Navy. He may give his permission, or withhold it. The committee recommend a concurrence in this Senate amendment.

The twenty-second amendment enacts, that a provision contained in an act passed at the last session of Congress shall not be so construed as to reduce the pay of boatswains, carpenters, sailmakers, and gunners. There was some ambiguity arising from the construction of that act. I am assured that there was no intention on the part of the committee which reported the appropriation bill at the last session, to reduce the pay of these inferior officers of the Navy.

The committee recommend a concurrence in the twenty-third amendment, which appropriates $6,000 for the purpose of testing the experiments of Lieutenant Rodman in casting cannon. The appropriation was recommended by the Secretary of War. These experiments have been prosecuted for some time past, with results which will prove very beneficial.

The committee recommend a concurrence in the Senate's second amendment, which provides that the pay of navy agents shall be regulated by the commissions on their disbursements, with the following proviso:

Provided, That their salary shall not exceed $3,000: *And provided*, That this provision shall not extend to the navy agent who is discharging the duties of both purser and navy agent at the California navy-yard.

The Senate recedes from its eighth amendment, which was disagreed to by the House. It provides that the Secretary of the Navy may enter into a contract for supplying the Navy with American water-rotted hemp for a period of five years. We thought that, from the high price of hemp at this time in the market, it was improvident to force the Secretary of the Navy to make a contract for five years at that price.

The Senate also recede from their amendment appropriating $10,000 for the purpose of procuring information in regard to insects injurious to fruits and vegetation.

From the imperfect manner in which the amendments have been engrossed in the Senate the committee have been somewhat troubled. There are two provisions for the transportation of mails by ocean steamers. The fourteenth amendment is incomplete, and the Senate recedes from it. When I come to the other amendment I will explain the action of the committee.

The Senate recedes from its fifteenth amendment, which appropriates $8,000 for the erection of marine barracks at the Brooklyn navy-yard; and also from its sixteenth amendment, which repeals, to a certain extent, the act regulating the mode of navigating vessels propelled in whole or in part by steam upon the navigable waters of the country.

The Senate recedes from its nineteenth amendment. It appropriates $34,000 for improvements at the Annapolis Naval Academy. A portion of this amount has been included in the appropriations already made by the House for that academy. It was improvident legislation on the part of the co-ordinate body.

The Senate recedes from its twenty-fourth amendment, which authorizes the payment to Hiram K. Paulding, a captain in the Navy, for certain expenses he incurred in entertaining the authorities at Bremerhaven, Stockholm, and at Southampton.

The twenty-fifth Senate amendment is in reference to the channel at the Brooklyn navy-yard. It appears that people had encroached upon the channel, and the proposition of the Senate is not to remedy ourselves, but to yield to the encroachments and deepen the channel upon our own land. The Senate recedes from it.

The Senate recedes from its twenty-seventh amendment, which incorporates into the Navy of the United States the Texan navy and the revenue officers of that late Republic, and authorizes the payment to them of leave-of-absence pay of their grade in the navy of Texas, from the time of the annexation of Texas to the present time.

The Senate recedes from its twenty-ninth amendment, which appropriates money for the payment of a claim in the nature of a private one—the claim of Lieutenant John Guest, employed on the coast survey.

The Senate recedes from its ninth amendment, appropriating $100,000 for the establishment of a naval depot at New Orleans, or, in other words, the commencement of a navy-yard; and also from its eighteenth amendment, providing, to a certain extent, for the reëstablishment of a navy-yard at Memphis.

The House recedes from its disagreement to the twenty-sixth Senate amendment. It provides that the salary of a very worthy gentleman, by the name of Ferguson, who is the assistant astronomer at the National Observatory, shall be $2,500 per annum from the present date. It is now $2,000. The increase is recommended by the Secretary of the Navy.

The House concur in the twenty-eighth Senate amendment, with a substitute. The Senate provided for the transportation of the mails by ocean steamers only for this fiscal year. We supplied the deficiency. The substitute is a clean appropriation bill for that purpose. It appropriates the money necessary to comply with existing contracts. There is nothing said about notice, nor anything in regard to repealing the law which gives the United States the right to give the notice. That the House may understand the amendment, I will read it. It is as follows:

And be it further enacted, That the following sums be, and the same are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the year ending the 30th of June, 1856:

For transportation of the mails from New York to Liverpool, and back, $819,500;

For transportation of the mails from New York to New Orleans, Charleston, Savannah, Havana, and Chagres, and back, $261,000;

For transportation of the mails from Panama to California and Oregon, and back, $328,350;

For carrying out the contract entered into by the Post Office Department, under the provisions of the act approved 30th August, 1852, establishing a tri-monthly mail by steam vessels between New Orleans and Vera Cruz, via Tampico, $69,750.

SEC. —. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated for the service of the Post Office Department for the year ending the 30th of June, 1856, out of any moneys in the Treasury arising from the revenues of said Department, in conformity to the act of the 2d of July, 1836:

For transportation of the mails, in two steamships, from New York, by Southampton, to Bremen, and back, at $100,000 for each ship; and in two steamships, from New York, by Cowes, to Havre, and back, at $75,000 for each ship, under the contract with the Ocean Steam Navigation Company of New York, $350,000;

For transportation of the mails between Charleston and Havana, a sum not exceeding $50,000;

For transportation of the mails across the Isthmus of Panama, $50,000.

SEC. —. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1855, out of any money in the Treasury not otherwise appropriated:

For transportation of the mails from New York to Liverpool, and back, $559,238 65;

For transportation of the mails from New York to New Orleans, Charleston, Savannah, Havana, and Chagres, and back, $202,378 21;

For transportation of the mails from Panama to California and Oregon, and back, $249,242 02.

SEC. —. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated for the service of the Post Office Department for the year ending the 30th of June, 1855, out of any moneys in the Treasury arising from the revenues of said Department, in conformity to the act of the 2d of July, 1846:

For transportation of the mails, in two steamships, from New York, by Southampton, to Bremen and back, at $100,000 for each ship; and in two steamships, from New York, by Cowes, to Havre, and back, at $75,000 for each ship, under the contract with the Ocean Steam Navigation Company of New York, $350,000;

For the transportation of the mails between Charleston and Havana, under the contract with M. C. Mordecai, $50,000;

For transportation of the mails across the Isthmus of Panama, $120,000.

Mr. STEVENS, of Michigan. What amount is appropriated for the Collins line for the current, and what for the last fiscal year?

Mr. PHELPS. In reply to the gentleman from Michigan, I will state, that the appropriation for the fiscal year ending 30th June, 1856, is $819,500. If you add ten per cent. on the advance which the Government made Mr. Collins to build his ships, it will be found to make $858,000. The House concurs in so much of the tenth amendment as provides for the removal of the sunk caisson at the Pensacola navy-yard. The House diminished the appropriations for that yard. We have inserted one additional item, which the Committee of Ways and Means thought at the time expedient to strike out. The amount appropriated for that yard, improvement sand all, is something like $70,000 less than the estimates of the Secretary of the Navy.

This, Mr. Speaker, is the report of the committee of conference; and I now call for the previous question on its adoption.

The previous question was seconded, and the main question ordered to be put.

Mr. HAMILTON. I ask for the yeas and nays upon concurring in the report of the committee of conference.

The yeas and nays were not ordered.

Mr. ETHERIDGE. I desire to know if it is possible to separate the report?

The SPEAKER. It is not. It must be adopted or rejected as a whole.

The question was taken; and the report was concurred in.

Mr. PHELPS moved to reconsider the vote by which the report was concurred in; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

PAY OF REGISTERS AND RECEIVERS.

Mr. BARKSDALE. When I was upon the floor I was about to ask the consent of the House to take up and put upon its passage Senate bill (No. 555) to increase the compensation of registers and receivers. I now ask consent to take up that bill.

Mr. SMITH, of Virginia. I object.

Mr. BARKSDALE. I ask that the bill may be read for information.

The SPEAKER. It will be read, unless objection be made.

Mr. SMITH, of Virginia. I object to the reading.

Mr. BARKSDALE. I move to suspend the rules.

The SPEAKER. The motion is not in order, for the reason that the House is now acting under a suspension of the rules.

Mr. COBB. I call for the regular order of business.

Mr. PHELPS. I appeal once more to the gentleman from Alabama, and to the House, to allow me to take up the bill indicated by me some time since. I have been absent twice during the night for three or four hours upon the public service, and have had no opportunity to attend to the matter.

Mr. ETHERIDGE. I object, and demand the regular order of business.

ENROLLED BILL AND JOINT RESOLUTION.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled a bill for the relief of Andrew H. Patterson; also a joint resolution making an appropriation to pay those entitled to the extra compensation under the resolution of the House of the 3d March, 1855, giving extra compensation to pages, folders, and others, when the Speaker signed the same.

The SPEAKER. The question pending is upon the motion to lay the bill to prevent the importation of paupers, &c., upon the table.

REQUESTS FOR UNANIMOUS CONSENT.

Mr. TWEED. Some time since, a communication from the President of the United States, in reference to buildings for post offices in the cities of Baltimore, Philadelphia, New York, and Boston, was referred to a select committee. That committee have considered the subject, and are now ready to report. I ask the unanimous consent of the House to report from that committee a joint resolution.

Mr. SMITH, of Virginia. I object.

Mr. PHELPS. The gentleman who objected to the bill which I desired to take up has now withdrawn his objection. I hope I shall now have the consent of the House.

Mr. WALSH. The gentleman from Missouri is sadly mistaken if he expects it. I object.

Mr. ETHERIDGE. I call for the regular order of business.

Mr. STUART, of Ohio. There is upon the Speaker's table a bill for the relief of Mrs. L. Browning. It is simply for an increase of pension. It is for the relief of a widow, and the case is a hard one. I hope there will be no objection to taking it up.

Mr. WALSH. To save time, I will give notice that I will, from now until we adjourn, give unanimous consent to nothing.

Mr. PHELPS. I have simply to say this: If the House will give me the privilege of making a statement in reference to the bill I wish to take up, if there be objection then I will trouble them no further with the matter.

Mr. WALSH. I object to the statement for the reason that I have not had the unanimous consent of the House for any proposition since I have been here.

Mr. TWEED. I ask to have the joint resolution which I have been instructed to present by the select committee upon post office buildings in Baltimore, Philadelphia, New York, and Boston, read for information, and I think there will be no objection to it.

Mr. SMITH, of Virginia. I have been trying all night to get up the bill for the relief of Commodore Jones, and if the House will not give consent to have that bill taken up and passed, I will give my consent to nothing.

IMPORTATION OF PAUPERS, ETC.

Mr. JONES, of Tennessee. I call for the regular order of business.

The SPEAKER. The regular order of business is the motion to lay upon the table the bill called up by the gentleman from Massachusetts to prevent the importation of foreign paupers, criminals, &c., upon which the yeas and nays have been ordered.

Mr. SMITH, of Virginia. Is it in order to move to reconsider the vote by which the main question has been ordered upon that bill?

The SPEAKER. The main question has not been ordered. The previous question has only been demanded.

Mr. STANTON, of Tennessee. Is it in order to move to postpone the consideration of the bill?

The SPEAKER. It is not.

The question was then taken; and it was decided in the affirmative—yeas 68, nays 53; as follows:

YEAS—Messrs. Aiken, James C. Allen, Willis Allen, David J. Bailey, Barksdale, Barry, Bocock, Breckinridge, Caskie, Chastain, Clark, John G. Davis, Thomas Davis, Disney, Eddy, Edgerton, John M. Elliott, English, Florence, Gamble, Goode, Greenwood, Hamilton, Andrew J. Harlan, Hastings, Hendricks, Henn, Hibbard, Hughes, Johnson, George W. Jones, Kurtz, Letcher, Lilly, Lindsley, Macdonald, Macy, Maxwell, Smith Miller, Millson, Murray, Noble, Olds, Andrew Oliver, Orr, Packer, Phillips, Richardson, Rowe, Ruffin, Seymour, Shannon, Shower, Skelton, Frederick P. Stanton, Straub, Andrew Stuart, Trout, Tweed, Vansant, Walker, Walsh, Elihu B. Washburne, Wells, Westbrook, Witte, and Hendrick B. Wright—68.

NAYS—Messrs. Ashe, Banks, Benson, Bristow, Bugg, Campbell, Carpenter, Chandler, Cobb, Cox, Cutting, De Witt, Dickinson, Dunbar, Eastman, Edmands, Thomas D. Eliot, Farley, Fuller, Giddings, Goodwin, Grey, Aaron Harlan, Harrison, Knox, Lindley, McCulloch, Matteson, Middleswarth, Morgan, Norton, Parker, Peck, Pennington, Pratt, Pringle, Ready, Reese, Riddle, Russell, Sapp, Hestor L. Stevens, Stratton, John L. Taylor, Teller, Thurston, Tracy, Upham, Wade, Walley, Israel Washburn, Tappan Wentworth, and Wheeler—53.

So the bill was laid upon the table.

PAY OF REGISTERS AND RECEIVERS.

Mr. MILLER, of Indiana. I ask the unanimous consent of the House to take from the Speaker's table Senate bill to increase the compensation of registers of land offices and receivers of public money, under the act entitled "An act to graduate and reduce the price of the public lands to actual settlers and cultivators," approved August 4, 1854.

Mr. BALL. I am willing to sit here this morning for the purpose of perfecting the necessary appropriation bills, but I object to the transaction of any other business.

Mr. MORGAN. I also object, and I give notice now that I shall object to everything but the appropriation bills. I will not sit here to legislate on Sunday morning.

Mr. MILLER. I move to suspend the rules for the purpose of taking up the bill.

Mr. BALL. I demand the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. HENDRICKS. The bill which my colleague proposes to take up is very short. I ask that it may be read for information.

The Clerk read the bill.

CIVIL AND DIPLOMATIC BILL.

Mr. HOUSTON. I desire to make a report from the committee of conference on the disagreeing votes of the two Houses on the civil and diplomatic appropriation bill.

Mr. ETHERIDGE. Is it in order to move a concurrence in the report without having it read?

The SPEAKER *pro tempore*. The Chair thinks it would hardly be in order.

The Clerk then read the report, which is as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 569) making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1856, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate do concur in the amendments of the House of Representatives to the ninth, fourteenth, one hundred and thirty-sixth, and one hundred and forty-third amendments to the amendments of the Senate. That the House of Representatives agree to the twenty-fourth amendment of the Senate with an amendment, as follows:

Add, at the end thereof, "*Provided*, That the same shall not extend to the chaplain."

That the House of Representatives agree to the seventy-first amendment of the Senate with an amendment, as follows:

Strike out all after the word "which," on nineteenth line, to the end of the section, and insert "A sum equal to the proceeds of the sale, hereinafter directed, is hereby appropriated."

That the House of Representatives do recede from its amendment to the sixty-seventh amendment of the Senate. That the Senate do recede from its seventh, tenth, twenty-first, twenty-fifth, twenty-ninth, thirtieth, thirty-seventh, forty-first, forty-third, forty-sixth, forty-seventh, forty-eighth, fifty-first, fifty-second, fifty-third, fifty-fourth, fifty-fifth, fifty-seventh fifty-eighth, fifty-ninth, sixtieth, sixty-first, sixty-sixth, seventy-seventh, seventy-eighth, seventy-ninth, eighty-fourth, eighty-sixth, eighty-eighth, ninety-first, ninety-fourth, ninety-sixth, one hundred and third, one hundred and fourth, one hundred and fifth, one hundred and seventh, one hundred and ninth, one hundred and tenth, one hundred and eleventh, one hundred and sixteenth, one hundred and nineteenth, one hundred and twenty-first, one hundred and twenty-sixth, one hundred and twenty-eighth, one hundred and twenty-ninth, one hundred and thirty-eighth, and one hundred and forty-first amendments to the bill. And that the House of Representatives do concur in the thirty-second, thirty-fifth, fiftieth, sixty-ninth, eighty-seventh, eighty-ninth, one hundred and second, one hundred and twelfth, one hundred and twenty-second, one

hundred and twenty-fourth, one hundred and thirty-third, and one hundred and thirty-seventh amendments of the Senate.

GEORGE S. HOUSTON,
S. G. HAVEN,
BERNHART HENN,
Managers on the part of the House.

R. M. T. HUNTER,
WILLIAM C. DAWSON,
I. TOUCEY,
Managers on the part of the Senate.

The following shows the action of the committee of conference in detail:

The ninth amendment of the Senate was to amend the House clause "for salaries of the Chief Justice of the Supreme Court and eight Associate Judges, $41,000," by striking out "$41,000" and inserting in lieu thereof "$63,000," and adding thereto the following:

And from and after the passage of this act the annual salaries of the several Justices of the Supreme Court of the United States shall be as follows, to wit: of the Chief Justice of the Supreme Court, $7,500; of the Associate Justices of the Supreme Court, $7,000 each. And hereafter the messengers attending the Supreme Court shall be allowed the sum of three dollars per day each during their attendance, commencing with the present term of the Court; and that the marshal of the District of Columbia pay the same out of any moneys of the United States in his hands.

The House amended the said Senate amendment by striking out "$63,000," and inserting in lieu thereof "$54,000;" by striking out "$7,500," and inserting in lieu thereof "$6,500;" and by striking out "$7,000," and inserting in lieu thereof "$6,000;" so as to make the clause read:

For salaries of the Chief Justice of the Supreme Court and eight Associate Justices, $54,000; and from and after the passage of this act the annual salaries of the several Justices of the Supreme Court of the United States shall be as follows, to wit: Of the Chief Justice of the Supreme Court $6,500; of the Associate Justices $6,000 each; and hereafter the messengers attending the Supreme Court be allowed the sum of three dollars per day each, during their attendance, commencing with the present term of the Court, and that the marshal of the District of Columbia pay the same out of any moneys of the United States in his hands.

The committee of conference recommend that the Senate do concur in said House amendment.

The fourteenth amendment of the Senate, among other appropriations for foreign ministers, contained the following clause:

For return allowances of ministers and commissioners abroad, or so much thereof as may be necessary, $48,875.

The House amended the said amendment of the Senate by striking out all of the clause. The committee of conference recommend that the Senate do concur in said House amendment.

The one hundred and thirty-sixth amendment of the Senate was to insert the following:

SEC. —. *And be it further enacted*, That, in accordance with the memorial of the Menomonee Indians to the President and Congress, dated the 4th of October, 1854, and executed in general council of the nation, the Secretary of the Treasury pay to Richard W. Thompson, out of any money in the Treasury not otherwise appropriated, one half of the amount stipulated in said memorial and in an agreement of said Indians with said Thompson, dated the 15th of February, 1851, for his services, as attorney for said Indians, in the prosecution of a claim in their behalf for additional compensation for lands ceded by them to the United States by the treaty of 1848; and that the sum so paid be deducted from the annuities, when due and payable, that are to be paid to the said Indians under the treaty of the 12th of May, 1854, and the amendments thereto.

The House amended the same by adding: "*Provided*, That the same be paid with the consent of the Menomonees." The committee of conference recommend that the Senate concur in such House amendment.

The one hundred and forty-third amendment of the Senate was to insert the following:

For the increased pay of the Indian agents, and pay of additional agents authorized by the act passed the 1st March, 1855, $6,375.

The House amended the same by adding thereto the following:

For fulfilling treaty with the Chippewa Indians, negotiated February 22, 1855, $197,286 66;

For fulfilling treaties with the Winnebagoes, per articles of 22d February, 1855, $73,700;

For fulfilling the articles with the Umpquas and Calapoorias of the Umpqua Valley, Oregon, of the 29th November, 1854, $23,980;

For fulfilling the articles negotiated November 18, 1854, with certain bands of Shasta, Scoton, and Umpqua Indians, $35,780;

For fulfilling treaties with the Rogue River Indians, per articles of 15th November, 1854, $2,150;

For fulfilling the articles negotiated December 26, 1854, with certain bands of Indians of Puget's Sound, Washington Territory, $16,500;

For fulfilling the articles negotiated January 10, 1855, with certain confederated bands of Calapooria, Molala, and Clackama Indians of Oregon, $62,260.

The committee of conference recommend that the Senate concur in said amendment of the House.

The twenty-fourth amendment of the Senate was to amend the clause "for compensation of the warden, clerk, physician, chaplain, assistant keepers, guards, and porter of the penitentiary of the District of Columbia, $11,229 31," by adding the following:

And twenty per centum additional salary is hereby appropriated, to be paid to the said officers of the penitentiary, which per centum shall commence from the 1st day of July, 1853.

The committee of conference recommend that the House agree to the said Senate amendment, with an amendment to add at the end thereof, "*Provided*, That the same shall not extend to the chaplain."

The seventy-first amendment of the Senate was in reference to the marine hospital at Chelsea, Massachusetts, as follows:

SEC. —. *And be it further enacted*, That upon the tract so to be selected and set apart, there shall be erected, under the direction of the Secretary of the Treasury, a marine hospital for said district, of faced brick, exterior walls upon a hammered granite underpinning, one hundred and forty feet long, fifty-two feet deep in the center, and one hundred feet deep at the wings, and forty five feet high from top of entrance—story floor to the eaves, with verandas to each story on each side between the wings, and on each end of the building; for the construction of which the sum of $192,000, with the addition thereto of ten per centum for contingencies, is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

The committee of conference recommend that the House agree to said amendment of the Senate, with an amendment to strike out all after the words "construction of which" to the end of the section, and insert "a sum equal to the proceeds of the sale hereinafter directed, is hereby appropriated."

The sixty-seventh amendment of the Senate was to insert the following:

For completing the publication of the works of the Exploring Expedition, $29,320.

The House amended the same by adding thereto the following:

Provided, That there be printed by the public printer, and bound under the direction of the Joint Committee on Printing, one thousand copies of the Narrative and Scientific Reports of the Exploring Expedition under Captain Charles Wilkes, of the United States Navy, together with the plates, maps, and charts accompanying the same; the said work to be distributed as follows: One copy, or full set, to each member of the Senate and House of Representatives of the present Congress; one copy, or full set, to some library or literary institution easily accessible to the public in each congressional district, to be designated by the Representative therefrom; and one copy, or full set, to some library or literary institution, to be designated by each Senator; the remaining copies to be distributed by the State Department as now provided for by law: *Provided further*, That nothing shall be paid to Captain Wilkes for his copyright.

The committee of conference recommend that the House do recede from its said amendment and agree to the Senate amendment.

The committee of conference recommend that the Senate do recede from its following amendments:

Seventh amendment:

Page 40, strike out lines twenty-six, twenty-seven, and twenty-eight, as follows:

"*Provided*, All blank books, binding, and ruling the same for the several Executive Departments herein appropriated for, shall be furnished under the direction and supervision of the Superintendent of Public Printing."

Tenth amendment:

And in the settlement of the accounts of the late United States attorney, the late marshal, and the clerk of the United States district court of the northern district of California, the whole or aggregate amount of fees, compensation and emoluments, at the rates prescribed for said offices, severally, in the second, eighth, and ninth sections of an act of Congress, chapter eighty-six, approved September 28, 1850, shall be allowed and paid them, severally, for the services rendered by them, respectively, prior to the 26th day of February, 1853, as taxed by the judge of said court.

Twenty-first amendment:

To enable the Secretary of State, through the diplomatic and consular representatives of the United States in foreign countries, to afford relief and to provide the means of returning home to such citizens of the United States in foreign countries as may be reduced to a state of destitution of the necessaries of life, by shipwreck or the necessary abandonment of the vessel in which they had embarked; and also to such citizens of the United States as, being on their way from one part of the United States to another, have become destitute in foreign countries, in consequence of shipwreck, disease, or any other casualty, $20,000.

Twenty-fifth amendment:

For filling up the present canal basin and the construction of two new basins, and for clearing out the Washington branch of the Chesapeake and Ohio canal, the sum of $46,408 40 is hereby appropriated: *Provided, however*, That no money shall be expended until the Chesapeake and Ohio Canal Company shall raise the bridges in Georgetown across the canal to the height required by the report of Lieutenant B. S. Alexander to the Secretary of War, of date of 10th of February, 1855: *And provided further*, That said work shall be done according to the plans and estimates submitted in the report of said Lieutenant Alexander if said plans and estimates shall meet the approval of the Secretary of War; and said appropriation shall be expended under his direction.

Twenty-ninth amendment:

For making a culvert and improving Judiciary square, $5,000.

Thirtieth amendment:

For repairing and extending the culvert running from the Capitol grounds down the center of South Capitol street, towards the canal, $5,000.

Thirty-seventh amendment:

For allowances for fuel, quarters, and transportation, and for per diem to officers under special direction of the War Department, for which there is no appropriation available during the fiscal year ending 30th June, 1855, $5,563 12.

Forty-first amendment:

That the Secretary of the Treasury cause the account of William Hunter, chief clerk in the Department of State, for services rendered by him as acting Secretary of State, in the absence of the Secretary, and under appointment of the President, during the years 1852 and 1853, to be settled in such manner as to allow him the difference between the compensation of a chief clerk and that of Secretary of State during the several periods he acted in the latter capacity, to be paid out of any money in the Treasury not otherwise appropriated.

Forty-third amendment:

For compensation to Mr. Rich, as acting chargé d'affaires in Mexico, from the 2d day of August to the 30th day of November, 1852, three months and thirty days, which shall be in full for all demand for such services for the period named, $830:

Forty-sixth amendment:

That the Secretary of the Treasury be, and he is hereby, directed to audit and settle the accounts of George P. Marsh, late minister resident of the United States to the Ottoman Porte, for additional compensation, and expenses incurred by him in the performance of special services not pertaining to his mission, and at a point different from that to which he was accredited, in compliance with instructions from the Department of State, and for judicial services rendered by him under the act of August 11, 1848, entitled "An act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to the ministers and consuls of the United States in those countries." In settling which accounts the sum of $9,000 shall be allowed as compensation for said special services in the mission to Greece; and in ascertaining the amount of said expenses, the certificate of the party shall be regarded as sufficient where no regular voucher can be procured; and a further allowance, at the rate of $1,000 per annum, shall be made to the said George P. Marsh, for his judicial services during the period of his said mission to the Ottoman Porte, to be paid out of any money in the Treasury not otherwise appropriated; and that the sum of $18,000 be paid to John S. Pendleton, in full compensation of his services in the missions in which he was associated with Mr. Schenck, deducting anything he may heretofore have received as compensation for the same.

Forty-seventh amendment:

For compensation to John P. Brown, as acting chargé d'affaires at Constantinople for twelve months and nineteen days, between the 20th day of July, 1852, and the 31st day of January, 1854, which shall be in full for all demand for such services for the period named, $2,116 12.

Forty-eighth amendment:

For compensation to Joseph Graham, United States consul to Buenos Ayres, as acting chargé d'affaires at that place from the 3d day of August to the 11th day of September, 1852, and from the 25th day of November, 1852, to the 26th day of March, 1853, an aggregate period of five months and ten days, which shall be in full of all demand for such services for the period named, $990 50.

Fifty-first amendment:

For compensation to Henry Savage, United States consul at Guatemala, for his services in taking charge of and preserving the archives of the former legation of the United States at that place, and communicating to his Government at home, regularly, useful and highly important information during the several intervals of from February, 1830, to November, 1833, from May, 1842, to November, 1848, and from May, 1850, to February, 1854, an aggregate of fourteen years, during which the United States have had no other diplomatic or consular agent at that place, $14,000.

Fifty-second amendment:

For compensation to George N. Lippett, United States consul at Vienna, for taking charge of the archives of the United States legation at that place, and performing diplomatic services from the 13th day of October to the 10th day of December, 1852, and from the 21st day of May to the 13th day of September, 1853, an aggregate period of five months and twenty-one days, $1,075 10.

Fifty-third amendment:

For compensation to Peter Parker, as acting chargé d'affaires at Canton, China, from the 24th day of May, 1852, to the 31st day of January, 1853, and from the 27th day of January to the 14th day of April, 1854, an aggregate period of ten months and twenty-five days, which shall be in full for all demand for such services for the period named, $1,805 54.

Fifty-fourth amendment:

For compensation to Ferdinand Coxe, as acting chargé d'affaires in Brazil, from the 12th day of May to the 16th day of August, 1853, a period of three months and four days, which shall be in full for all demand for such services for the period named, $729 17.

Fifty-fifth amendment:

For compensation to Horatio J. Perry, as acting chargé d'affaires at Madrid from the 3d day of July to the 4th day of October, 1852; from the 11th day of May to the 21st day of June, 1853; and from the 24th day of September to the 22d day of October, 1853, an aggregate period of six months and twenty-two days, which shall be in full of all demand for such services for the period named, $1,402 75.

Fifty-seventh amendment:

For balance of compensation to Robert M. Walsh, as acting chargé d'affaires in Mexico in the years 1848 and 1849, which shall be in full for all demand for such services during that period, $833 33.

Fifty-eighth amendment:

For compensation to C. E. Anderson, as acting chargé d'affaires at Paris, for seven months and twenty-nine days, from the 1st day of April to the 29th day of November, 1837, which shall be in full for all demand for such services for the period named, $1,659 72.

Fifty-ninth amendment:

For paying to Asbury Dickins the difference between the compensation of head of a Department and chief clerk of a Department for the time he acted as Secretary of State and Secretary of the Treasury, by appointment by President Jackson, to be ascertained by the proper accounting officers, a sum not exceeding $2,500.

Sixtieth amendment:

For fuel for the President's House, $1,000. For furnace keeper at the President's House, $365.

Sixty-first amendment:

For the erection of a suitable house for the plants recently brought from Japan for the United States, $1,500; to be expended under the direction of the Committee on Public Buildings.

Sixty-sixth amendment:

And the sum of $2,000 additional is hereby appropriated for lighting with gas Bridge and High streets in Georgetown; to be expended under the direction of the Commissioner of Public Buildings; and said committee is hereby authorized and directed to complete the lighting of the street with gas, from Pennsylvania avenue, where it intersects with 15th street, to the commencement of said avenue at 17th street, being at the east of the Treasury Department, and north of the President's House.

Seventy-seventh amendment:

SEC. —. *And be it further enacted*, That so much of the act entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1853, and for other purposes," as provided for compensation to certain subjects of Spain at New Orleans and at Key West, shall be construed to embrace any losses sustained on the same occasion by Michael Paprinitza, a subject of Austria.

Seventy-eighth amendment:

SEC. —. *And be it further enacted*, That nothing contained in the ninth section of the act entitled "An act to remodel the diplomatic and consular systems of the United States," passed at the present session of Congress, shall be so construed as to prohibit the appointment as consul or commercial agent, under the provisions of said act, of any person who may have held such office when said act passed, and who, though not a citizen of the United States, shall have heretofore resided therein, and shall have married a citizen of the United States.

Seventy-ninth amendment:

SEC. —. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury not otherwise appropriated, to C. E. Anderson, late secretary of legation of the United States at Paris, the sum of $1,659 72, it being the difference between the compensation received by him as secretary of legation and that of a chargé d'affaires from the 1st day of April to the 29th day of November, 1837, during which period he acted in the latter capacity.

Eighty-fourth amendment:

SEC. —. *And be it further enacted*, That it shall be lawful for the President of the United States to cause such measures to be taken as, in his opinion, may be expedient for providing convenient accommodations, medical assistance, necessary attendance, and supplies for the relief of sick and disabled seamen of the United States who may be at, or near, the port of Havana, Cuba, in case the same can be done with the assent of the Government having jurisdiction of such port, and for this purpose to establish such regulations and to authorize the employment of such persons as he may judge proper; and that for defraying the expenses thereof, a sum not exceeding $10,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated: *Provided*, That no building shall be erected or purchased under the provisions of this section.

Eighty-sixth amendment:

SEC. —. *And be it further enacted*, That the weighers, gaugers, and measurers for the collection district of New York shall hereafter receive compensation at the rate of $2,000 each per annum; and inspectors for said district shall hereafter receive as compensation a sum not exceeding four dollars per day each for their services.

Eighty-eighth amendment:

SEC. —. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized to appoint for the collection district of New York five weighers and inspectors, in addition to the number heretofore allowed by law.

Ninety-first amendment:

For the construction of a building for a marine hospital at Cincinnati, Ohio, $75,000.

Ninety-fourth amendment:

SEC. —. *And be it further enacted*, That from and after the 1st day of July next the Secretary of the Treasury be, and he is hereby, authorized and empowered to regulate and fix the salaries of the respective keepers of light-houses in such manner as he shall deem just and proper: *Provided*, The whole sum allowed shall not exceed an average of $500 to each person.

Ninety-sixth amendment:

Page 15, line three hundred and fifty-nine, to the clause "for compensation of the Commissioner of the General Land Office, and the recorder, draughtsman, assistant draughtsman, clerks, messengers, assistant messengers, packers, and laborers in his office, $168,186," add the following:

Provided, That the difference between the amount paid to the several principal accountants of the General Land Office and that contemplated for such service by the act of July 4, 1836, reorganizing that office, shall be paid out of any money in the Treasury not otherwise appropriated.

One hundred and third amendment:

SEC. —. *And be it further enacted*, That the proper accounting officers of the Treasury be, and they are hereby, authorized and required to inquire into and ascertain the actual amount of damage sustained by Cormack & Ramsey under a contract made with them by Samuel D. Hubbard, Postmaster General, on the 15th of February, 1853, for the transportation of the mails between Vera Cruz and San Francisco, via Acapulco, &c.; and that the amount so ascertained be paid to said Cormack & Ramsey out of any money in the Treasury not otherwise appropriated.

One hundred and fourth amendment:

Page 49, line eleven hundred and eighty, strike out "3" and insert "4;" so as to make the clause read:

For compensation of the surveyor general of Utah Territory, $4,000.

One hundred and fifth amendment:

SEC. —. *And be it further enacted*, That the sum of $15,000 be appropriated towards the erection and completion of a court house in the town of Exeter, in the county of Rockingham and State of New Hampshire: *Provided*, That the other parties in interest in said court house appropriate at least an equal sum to said purpose: *And provided further*, That the authorities of said county of Rockingham (having control thereof) execute in writing and deliver to the clerk of the circuit court of the United States for the district of New Hampshire, a lease or license granting to the said courts of the United States the perpetual use of said court house for United States court purposes, free of rent or other charge.

One hundred and seventh amendment:

SEC. —. *And be it further enacted*, That the Postmaster General be, and is hereby, authorized and required so to construe the act of Congress, approved July 27, 1854, for the relief of James M. Goggin, late special agent of the Post Office Department in California, as that he shall be paid the same salary for the time he acted as such agent as is now paid to his successor in office under the present law; and also the amounts for office rent and clerk hire, which may be shown by proper vouchers to have been actually paid by him for the same.

One hundred and ninth and one hundred and tenth amendments of the Senate:

Page 20, line four hundred and seventy-eight, after "New Mexico," insert "whose salary shall be $4,500," and strike out "$7,000," and insert in lieu thereof "$18,500;" so as to make the clause read:

For compensation of surveyor general of New Mexico, whose salary shall be $4,500, and the clerks in his office, $18,500.

One hundred and eleventh amendment:

Page 20, line four hundred and eighty, after "Nebraska," insert "whose salary shall be $3,500;" so as to make the clause read:

For compensation of surveyor general of Kansas and Nebraska, whose salary shall be $3,500, and the clerks in his office, $8,300.

One hundred and sixteenth amendment:

To enable the Secretary of the Interior to purchase five hundred burial sites in the Washington Cemetery, for the interment of members of Congress, and such public officers as Congress may direct, $5,000: *Provided*, The said sites be as near as practicable to those heretofore purchased by the United States, and that the money paid therefor shall be applied to the erection of an iron fence on the north front of said cemetery.

One hundred and nineteenth amendment:

For payment to R. H. Weightman, of New Mexico, for mileage and compensation for attendance during the second session of the thirty-first Congress, $2,465.

One hundred and twenty-first amendment:

SEC. —. *And be it further enacted*, That when any judge before whom an appeal from the decision of a commissioner is now or shall hereafter be pending, shall for any cause be unable to hear and determine the same with reasonable promptness, the Commissioner of Patents may require the appellant to select one of the other judges, to whom the case shall be transferred; and if, within a reasonable time, to be fixed by the commissioner, such selection is not made, the appeal shall be dismissed.

One hundred and twenty-sixth amendment:

SEC. —. *And be it further enacted*, That the act of August the 4th, 1854, making appropriations for the civil and diplomatic expenses of the year ending the 30th of June, 1855, is hereby amended in section six so as to allow the laborers there performing messengers' duty, in whole or in part, the same compensation they were entitled to before the passage of said act.

One hundred and twenty-eighth amendment:

SEC. —. *And be it further enacted*, That the Secretary of the Interior be, and he is hereby, authorized and required to allow and pay to agents for paying pensions a commission of three per centum on the amount of moneys by such agents annually disbursed, and shall be paid out of the funds appropriated for the payment of revolutionary pensioners; said commission shall be in full for all services and contingent expenses of said agency, except for books, printing, and stationery: *Provided*, That the amount of compensation allowed to any one agent shall not exceed the sum of $1,500 a year.

SEC. —. *And be it further enacted*, That the provisions of the above section of this act be, and they are hereby, extended to those persons, their heirs, or legal representatives who served as pension agents prior to the 20th of February, 1847, and subsequent to the 20th of April, 1836, when no compensation was provided by law for such services: *Provided*, Such agents were not bankers, corporations, or the agents or officers thereof.

One hundred and twenty-ninth amendment:

For the compensation of those who have been employed to perform the duties of principal examiners of patents in the Patent Office, at salaries paid by law for those grades respectively, for the time they shall perform, or shall have performed, those duties, $14,850, or so much thereof as may be necessary, to be paid out of the Patent Office fund.

One hundred and thirty-eighth amendment:

That the fees and compensation allowed to the marshals of the United States in the respective districts, shall hereafter be the same which may be allowed to the sheriffs under the State laws for similar services: *Provided*, This shall not be construed to diminish the present fees allowed.

One hundred and forty-first amendment:

For completing, inclosing, and furnishing the marine hospital at Evansville, Indiana, $10,000.

The committee of conference recommend that the House do recede from its disagreement to the following amendments of the Senate, and concur in the same:

Thirty-second amendment:

And that the Secretary of War be, and he hereby is, directed to cause to be constructed on such sites, in a central position, on the public grounds, in the city of Washington, as may selected by the President of the United States, a suitable building for the care and preservation of the ordnance, and arms, and accouterments of the United States, required for the use of the volunteers and militia of the District of Columbia, and for the care and preservation of the military trophies of the revolutionary and other wars, and for the deposit of newly invented and model arms for the military service; the said ordnance, and arms, and the building, to be used by the volunteers and militia of the District of Columbia, under such regulations as may be prescribed by the President; and for the purpose of carrying this act into effect, the sum of $30,000 be, and the same hereby is, appropriated out of any money in the Treasury not otherwise appropriated.

Thirty-fifth amendment:

For amount equal to drafts, checks, and deposits awaiting decisions in certain applications for approval of sales of Indian reserves, including $800 collected by and deposited with the late firm of Selden, Withers & Co., by a former disbursing officer of the Government, $4,400: *Provided*, That such portion of this sum as may be recovered from said firm and disbursing officer shall be reimbursed to the Treasury of the United States.

Fiftieth amendment:

That the Secretary of State cause the accounts of Joseph Eve, deceased, late chargé d'affaires of the United States to the late Republic of Texas, to be audited and adjusted by the proper accounting officers of the Government; and that the amount found due thereon be paid to Betsy W. Eve, widow of said Joseph Eve, out of any money in the Treasury not otherwise appropriated.

Sixty-ninth amendment:

SEC. —. *And be it further enacted*, That from and after the 30th of June, 1855, the Secretary of State be, and he is hereby, authorized and required to cause the examination, classification, and distribution of the clerks in the Department of State, in the same manner as directed in other Executive Departments by the provisions contained in the third section of an act entitled "An act making appropriations for the civil and diplomatic expenses of the Government," approved March 3, 1853, who shall be paid annual salaries according to the act amendatory thereof, approved 22d April, 1854. And the whole permanent clerical force in said Department shall consist of three clerks of class one; two of class two; eight of class three; eight of class four; and one chief clerk, in lieu of those now authorized by law; and one of the said clerks of class four shall give bonds as required by the independent Treasury act, and make the disbursements for the Department, and superintend the Northeast Executive Building; and shall receive therefor $200 per annum in addition to his salary as clerk of class four: *Provided*, That the increased salary hereby allowed the chief clerk shall be construed to take effect from the 1st of July, 1853, and be paid accordingly.

Eighty-seventh amendment:

SEC. —. *And be it further enacted*, That there shall be appointed a consul general, to reside in the British North American Provinces, with a salary of $4,000 per annum, and the sum of $4,000 is hereby appropriated for that object.

Eighty-ninth amendment:

For furnishing the custom-house, post office, and United

States court room at Bangor, Maine, $1,500 for each, making $4,500: the appropriation for the custom-house to be expended under the direction of the Secretary of the Treasury; that for the post office under the Postmaster General; and that for the court room under the Secretary of the Interior.

One hundred and second amendment:

For the repairs of the Potomac, navy yard, and upper bridges, and to refund to the Commissioner of Public Buildings, $3,000, advanced to him by the Corporation of Washington in 1853, and expended on the Potomac bridge, $10,000.

One hundred and twelfth amendment:

SEC. —. *And be it further enacted*, That the proper accounting officer of the Department of the Interior be authorized and directed to audit and settle the claim of John Random, deceased, a friendly Creek Indian, of the half blood, for losses sustained and property destroyed by the hostile Creek Indians in the war of 1814, in such manner and upon such terms as may be just and equitable; the amount, when so ascertained, to be paid, out of any money in the Treasury not otherwise appropriated, to the heirs and legal representatives of said John Random: *Provided*, That the amount shall not exceed the sum of $5,925.

One hundred and twenty-second amendment:

SEC. —. *And be it further enacted*, That the seventh section of the act of 18th January, 1837, entitled "An act supplementary to an act establishing the Mint and regulating the coins of the United States," be so amended as to extend the allowance for the annual salary of the clerks in the branch Mint of the United States at New Orleans to $1,800 from and after the 1st day of July, 1854, at the discretion of the officers authorized by law to appoint, with the approbation of the President of the United States.

One hundred and twenty-fourth amendment:

That the accounting officers of the Treasury are hereby authorized to allow to the secretary of the Territory of Nebraska the difference between the salary of the Governor of said Territory and his salary as secretary, during the period he acted as Governor after the decease of, and until the arrival in the Territory of the successor of, the late Governor Burt, which amount, after being ascertained, is payable out of the appropriation for salaries of Governor, three judges, and secretary of said Territory as made by Congress for the fiscal year ending June 30, 1855.

One hundred and thirty-third amendment:

That the Secretary of the Treasury be authorized and required to settle and adjust the accounts of John Adair, collector of customs at Astoria, Oregon, upon fair and equitable principles, taking into consideration the particular circumstances of the case.

One hundred and thirty-seventh amendment, relating to the chaplain of the penitentiary in the District of Columbia:

And the annual compensation of the chaplain of the penitentiary shall be $500, to commence from the present fiscal year.

Mr. FULLER. I think there is a mistake in reference to the seventieth amendment.

Mr. HOUSTON. That is the amendment in relation to the marine hospital at Chelsea, in Massachusetts. The House last evening passed an appropriation of $190,000, upon the motion of the gentleman from Maine, [Mr. FULLER,] for the erection of a marine hospital at that point. The committee of conference could not find that amendment, but believing it to be the desire of the House that an appropriation should be made for that purpose we have changed the Senate amendment so far as to appropriate the proceeds of the lot, which was authorized by a vote of the House to be sold, for the erection of the building.

Mr. FULLER. But the House concurred in that amendment of the Senate.

Mr. HOUSTON. The seventieth amendment authorized the Secretary to purchase a lot at some particular point. The seventy-first appropriated $190,000, and the seventy-second authorized the sale of the present lot. The House agreed to the seventieth and seventy-second, but disagreed to the seventy-first. When the seventy-first was disagreed to the gentleman from Maine—I called his attention at the time to the subject—moved an amendment attaching an appropriation of $190,000 to the seventy-second amendment, and that is the amendment which we have not been able to find. Believing such to be the desire of the House we have provided an ample appropriation for this year.

Mr. FULLER. Very well.

Mr. HOUSTON. I have not the bill before me, although I have sent for it. It is necessary that the clerks should have it for the purpose of engrossment. If any gentleman, however, desires an explanation about any of the amendments, I am prepared to give it. I ask the previous question on the adoption of the report.

The previous question was seconded, and the main question was ordered to be put; which was, "Shall the report of the committee be agreed to?"

Mr. CAMPBELL. On that question I call for the yeas and nays.

The yeas and nays were not ordered.

The question was taken; and the report of the committee was agreed to.

Mr. HOUSTON moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

NAVAL APPROPRIATION BILL—AGAIN.

Mr. PHELPS. I rise to what I consider a privileged question, if the House will indulge me one minute. I rise to what I consider to be not only a privileged question, but a question of justice to myself, lest any imputation might rest upon me. Owing to the manner in which the report was laid on the Clerk's desk, and while I was only referring to my own memorandum to state the amendments in which the committee of conference recommended the House should concur, I have neglected to notice one matter; and I now desire that, by unanimous consent, the House will proceed to act on it.

[Cries of "Agreed!"]

Mr. PHELPS. Some time since an act, or joint resolution, was passed directing the Secretary of the Navy to send an expedition in search of Dr. Kane, and those men who had set out on the Arctic expedition with him. The Secretary of the Navy estimated that $150,000 would be necessary for the purpose. It was an appropriation demanded by existing laws. The House committee concurred in the amendment of the Senate; but I had neglected to notice it before.

[Cries of "All right!"]

SALARIES OF LAND REGISTERS.

The question recurred on Mr. MILLER's motion to suspend the rules for the purpose of taking from the Speaker's table the bill indicated by him; and on that motion the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 106, nays 33; as follows:

YEAS—Messrs. Aiken, James C. Allen, Willis Allen, Appleton, David J. Bailey, Banks, Barksdale, Barry, Bell, Campbell, Caruthers, Chamberlain, Chastain, Clark, Clingman, Cobb, Cumming, Cutting, John G. Davis, Thomas Davis, De Witt, Disney, Dunbar, Dunham, Eastman, Eddy, Edgerton, Thomas D. Eliot, John M. Elliott, Ellison, English, Etheridge, Florence, Fuller, Gamble, Goodrich, Goodwin, Greenwood, Hamilton, Andrew J. Harlan, Harrison, Hendricks, Hibbard, Hill, Houston, Hughes, Johnson, George W. Jones, Roland Jones, Kerr, Lane, Letcher, Lindley, Lindsley, Lyon, Macdonald, McDougall, McNair, Mace, Matteson, Maxwell, May, Mayall, Middleswarth, Smith Miller, Noble, Olds, Mordecai Oliver, Orr, Parker, Peckham, Pennington, John Perkins, Phillips, Pratt, Puryear, Reese, David Ritchie, Robbins, Ruffin, Sabin, Sage, Seward, Shannon, Shower, George W. Smyth, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Stratton, Straub, Andrew Stuart, John L. Taylor, Teller, Thurston, Tweed, Upham, Vansant, Walker, Walley, Ellihu B. Washburne, Wells, Westbrook, Witte, and Daniel B. Wright—106.

NAYS—Messrs. Ball, Benson, Bristow, Carpenter, Caskie, Cox, Curtis, Farley, Giddings, Grey, Aaron Harlan, Hiester, Daniel T. Jones, Knox, Lilly, McMullen, Millson, Morgan, Murray, Norton, Andrew Oliver, Packer, Peck, Bishop Perkins, Pringle, Ready, Russell, Sapp, Shaw, Simmons, Skelton, Tracy, Trout, Wade, Walsh, Israel Washburn, Tappan Wentworth, and Wheeler—35.

Pending the announcement of the vote,

Mr. DOWDELL said: I have been present at the whole sitting of the body, but I have not voted on this question because I consider it wrong to legislate on the Sabbath except for the appropriation bills.

So the rules were suspended; and the bill was taken from the Speaker's table, and read a first and second time by its title.

Mr. MILLER. I ask the previous question on the third reading of the bill.

The previous question was seconded, and the main question was ordered to be put.

The bill was ordered to a third reading; and it was accordingly read the third time.

Mr. MILLER. I call for the previous question on the passage of the bill.

The previous question was seconded, and the main question was ordered to be put.

Mr. SMITH, of Virginia. I call for the yeas and nays.

The yeas and nays were not ordered.

The question was taken; and the bill was passed.

CATHARINE M. HAMER.

Mr. LINDLEY. I ask the unanimous consent of the House to enable me to take up Senate bill (No. 650) for the relief of Catharine M. Hamer, widow of the late General Thomas L. Hamer.

Mr. MORGAN. I object to it. A pretty scene this of a Sunday morning!

The bill was reported. It directs the Secretary of the Interior to place the name of Catharine M. Hamer, widow of the late Brigadier General Hamer, on the pension roll at the same rate as that of Margaret L. Worth, widow of the late Brevet Major General Worth.

Mr. LINDLEY. I move to suspend the rules for the purpose of taking up this bill.

Mr. SMITH, of Virginia. On that I call for the yeas and nays.

The yeas and nays were ordered.

Mr. McMULLIN. I submit a motion that the House take a recess till half-past eleven o clock, at which time I presume the business will be finished.

The SPEAKER *pro tempore*. The Chair decides that that motion is not in order.

Mr. McMULLIN. I think that similar motions have been heretofore entertained.

The SPEAKER *pro tempore*. Will the gentleman from Virginia point to a single instance, since he has been in Congress, when that motion was entertained in the House?

Mr. McMULLIN. Then I will bring myself within the rule of precedence, and I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. CLINGMAN. That is not in order, as there is a motion pending to suspend the rules.

The SPEAKER *pro tempore*. That is so; there is a motion already pending to suspend the rules.

The question was taken; and there were—yeas 80, nays 39; as follows:

YEAS—Messrs. Aiken, Willis Allen, Ashe, Banks, Barksdale, Barry, Bell, Brooks, Campbell, Chamberlain, Chandler, Chastain, Clark, Cox, Cumming, Cutting, John G. Davis, Thomas Davis, Dickinson, Eddy, Edgerton, Edmundson, Ellison, English, Florence, Greenwood, Aaron Harlan, Andrew J. Harlan, Harrison, Hendricks, Hill, Hughes, Kerr, Lamb, Lindley, Lindsley, McCulloch, McDougall, McNair, Mace, Macy, Matteson, Maxwell, May, Mayall, Middleswarth, Noble, Olds, Orr, Packer, Parker, Peckham, Pratt, Puryear, Ready, Reese, Robbins, Ruffin, Sage, Sapp, Shannon, Shower, Simmons, William R. Smith, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Straub, Andrew Stuart, John L. Taylor, Teller, Trout, Tweed, Upham, Vansant, Ellihu B. Washburne, John Wentworth, Westbrook, Witte and Hendrick B. Wright—80.

NAYS—Messrs. Boyce, Bristow, Bugg, Carpenter, Caskie, Clingman, Cobb, Curtis, Dunham, Thomas D. Eliot, Farley, Flagler, Giddings, Goode, Grow, Hamilton, Daniel T. Jones, George W. Jones, Lewis, Lilly, Macdonald, McMullin, Millson, Morgan, Murray, Norton, Andrew Oliver, Peck, Bishop Perkins, Sabin, Skelton, William Smith, George W. Smyth, Tracy, Walbridge, Walsh, Israel Washburn, Wheeler, and Zollicoffer—39.

So the rules were suspended.

Pending the call of the roll,

Mr. BENTON appeared in the door fronting the Speaker's desk, and addressed the Chair.

The SPEAKER *pro tempore*. Was the gentleman within the bar when his name was called?

Mr. BENTON. No, sir. I am here, sir. I appear outside the bar, sir, as an ex-member of Congress, to protest against any man calling my name. If any man calls my name I will sue him, sir.

The SPEAKER *pro tempore*. The gentleman from Missouri is out of order.

Mr. BENTON. Yes, sir. And if the Sergeant-at-Arms attempts to arrest me, I will sue him, sir.

The SPEAKER *pro tempore*. If the gentleman from Missouri is not a member of the House, the Doorkeeper will keep him outside the Hall.

[Roars of laughter, and cries of "Good!"]

Mr. LINDLEY moved the previous question on the third reading of the bill.

The previous question was seconded, and the main question ordered to be put.

The bill was then ordered to a third reading; and was accordingly read the third time.

Mr. MACE moved the previous question on the passage of the bill.

Mr. McMULLIN. I rise to a question of order, and I beg the attention of the House to it. Congress have already passed a bill referring all private claims to a board of claims, whose duty it is to examine and report upon them. The subject of this claim is not, and cannot be, before the House until a reconsideration of that resolution is had.

The SPEAKER. The Chair overrules the point of order made by the gentleman from Virginia, for the reason that the resolution to which he refers expressly provided, that such bills *as were undisposed of at the end of the present Congress* should be referred to the board of claims.

Mr. McMULLIN. According to the decision of the gentleman from Missouri [Mr. BENTON] Congress is now at an end. [Laughter.]

Mr. SMITH, of Virginia. I ask for the yeas and nays upon the passage of the bill.

DUTIES OF COMMITTEE ON ENROLLED BILLS.

Mr. HOUSTON. I rise to a privileged question. The Committee on Enrolled Bills report that it is utterly impossible to compare all the bills accurately between the present time and the hour of adjournment. The bills are enrolled, and the committee believe that they are accurately enrolled, but they are unwilling, unless they obtain the consent of the House, to present them in their present shape, without accurately reading them, word for word, as they usually do. The Senate have given their consent, unanimously, to this course of proceeding, and I now ask the House to grant the same consent.

Mr. WALSH. On condition that no other business is transacted. I object unless there is a cessation of all other business.

Mr. HOUSTON. I move a suspension of the rules then.

The question was taken; and the rules were suspended.

Mr. HOUSTON's motion that the Committee on Enrolled Bills have leave to report without accurately examining all the bills, was then agreed to.

ENROLLED BILL.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled House bill (No. 579) making appropriations for the naval service for the year ending the 30th of June, 1856; which thereupon received the signature of the Speaker.

MRS. HAMER—AGAIN.

The previous question was then seconded, and the main question ordered to be put.

The yeas and nays were then ordered.

The question was then taken; and there were—yeas 92, nays 24; and follows:

YEAS—Messrs. Aiken, James C. Allen, Willis Allen, Ashe, David J. Bailey, Banks, Barksdale, Barry, Bell, Brooks, Bugg, Campbell, Carpenter, Chamberlain, Chandler, Clark, Cumming, Curtis, Cutting, John G. Davis, Thomas Davis, Disney, Eastman, Eddy, Edgerton, Edmundson, John M. Elliott, Ellison, English, Farley, Florence, Gamble, Goodrich, Green, Greenwood, Aaron Harlan, Andrew J. Harlan, Harrison, Haven, Hiester, Hill, Hughes, Johnson, Roland Jones, Kerr, Knox, Lamb, Lindsley, McCulloch, McDougall, McNair, Mace, Macy, Matteson, May, Mayall, Middleswarth, Smith Miller, Nichols, Noble, Orr, Parker, Peckham, Pennington, Phillips, Pratt, Puryear, Ready, Reese, Ruffin, Russell, Sabin, Sage, Shannon, Shower, Simmons, Frederick P. Stanton, Richard H. Stanton, Hestor L. Stevens, Stratton, Andrew Stuart, John L. Taylor, Nathaniel G. Taylor, Teller, Trout, Tweed, Vansant, Walker, Elihu B. Washburne, Wells, John Wentworth, Witte, Daniel B. Wright, and Hendrick B. Wright—92.

NAYS—Messrs. Belcher, Bristow, Chrisman, Clingman, Cobb, Faulkner, Flagler, Fuller, Goode, Grow, Hendricks, Hibbard, Daniel T. Jones, George W. Jones, Letcher, Lindley, Macdonald, Millson, Murray, Norton, William Smith, John J. Taylor, and Wheeler—24.

No quorum voting.

ENROLLED BILL.

Mr. GREEN, from the Committee on Enrolled Bills, reported as correctly enrolled House bill (No. 569) making appropriations for the support of the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1856, and for other purposes; which thereupon received the signature of the Speaker.

Mr. JONES, of Tennessee. I move that a committee of two be appointed, to join such committee as may be appointed on the part of the Senate, to wait upon the President of the United States, and inform him that the Thirty-Third Congress have closed their labors, and are ready to adjourn if he has no further communications to make to them.

The SPEAKER. The gentleman from Tennessee and the House will indulge the Chair in ascertaining whether there is a quorum present.

The SPEAKER then proceeded to count the House, and announced that there were one hundred and sixty-six gentlemen present.

Mr. DISNEY. I appeal to the gentleman from Tennessee to withdraw his resolution until the case now pending is disposed of. I believe that a quorum is present.

The SPEAKER. There is a quorum in the House, but no quorum voted. By unanimous consent, gentlemen whose names do not appear on the list will be allowed to vote.

Objection was made.

The question was then taken on Mr. JONES's resolution, and it was agreed to.

The SPEAKER appointed Messrs. JONES, of Tennessee, and CHANDLER, as the committee on the part of the House.

Mr. JONES, of Tennessee. I move that the Clerk inform the Senate that the House of Representatives of the Thirty-Third Congress have closed their labors, and are now ready to adjourn.

LEAVE TO PRINT A SPEECH.

Mr. CHAMBERLAIN. Before that proposition is voted upon, I have a request to make of this House. I have been desirous during the session of submitting some remarks upon the questions involved in the recent election in our State, and I was desirous, also, to some extent, to discuss questions raised by the proposition, notice of which was given by my colleague, [Mr. MACE.] I have been unwilling, however, to trespass upon the time of the House, and I simply desire now, if I can get time, to write out my remarks upon these subjects, asking the leave of the House to publish them.

Mr. KEITT. I object.

The SPEAKER. The question is on the motion of the gentleman from Tennessee.

Mr. ELLIOTT, of Kentucky. I ask the gentleman from Tennessee to withdraw his motion.

Mr. JONES, of Tennessee. I think we have done enough.

Mr. ELLIOTT. I wish to offer a resolution. I do not care whether it is voted down or not.

[Cries of "I object!" "I object!"]

Mr. LANE, of Oregon. I desire to ask a special favor of the House.

Mr. ELLIOTT. I have already asked one in advance.

Mr. LANE. The favor I ask is leave to make a personal explanation.

Mr. WALSH. I object.

Mr. LANE. It is due to the House that I should make it.

Mr. ELLIOTT. I object until I can be permitted to present my matter. I ask that my resolution may be read.

The SPEAKER. It is objected to by twenty members upon the right of the Chair. The gentleman from Oregon again appeals to the House to be heard by way of personal explanation.

Mr. PECK. I object.

Mr. SMITH, of Virginia. I call for a vote upon the resolution of the gentleman from Tennessee.

Mr. TWEED. I move to suspend the rules to allow the gentleman from Oregon to make a personal explanation.

The SPEAKER. The motion of the gentleman from Tennessee takes precedence.

Mr. STEVENS, of Michigan. The House will bear me witness that I have been a modest, unassuming young member, and I now ask the unanimous consent of the House that I may report Senate bill No. 157, and——

[Cries of "Object!" "Object!"]

Mr. STEVENS. Then I move to suspend the rules.

The SPEAKER. The motion of the gentleman from Tennessee is a privileged motion, and must be put if insisted on.

Mr. BRECKINRIDGE. We are about to separate, and the gentleman from Oregon desires to make a very brief personal explanation touching the difficulty which occurred between himself and another member of this House, and I hope the House will hear him. We are all about to part, and let us depart in peace.

Mr. MORGAN. We have had enough of that thing, and I want no more of it upon this floor.

Mr. LANE. I desire to say that which is due to the House, and especially to the gentleman from Maine, [Mr. FARLEY,] who has always been a friend of the Territories.

Mr. MORGAN. I object.

Mr. HUNT. I hope the House will allow the gentleman to say what he desires.

Mr. CAMPBELL. I would inquire if it is in order to move to suspend the rules to enable the gentleman from Oregon to proceed?

The SPEAKER. The Chair has decided that the motion of the gentleman from Tennessee is a privileged motion, and must be first put to the House.

The question was then put upon the motion of Mr. JONES; and it was agreed to.

Mr. MORGAN. As there seems to be a general desire to here the gentleman from Oregon, I will not insist upon my objection.

MESSAGE FROM THE PRESIDENT.

A message was here received from the President of the United States, by SIDNEY WEBSTER, his Private Secretary, informing the House that the President had this day approved and signed a joint resolution and bills of the following titles:

A bill further supplemental to an act to authorize the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes;

An act to improve the laws of the District of Columbia, and to codify the same;

A bill further to amend the act entitled "An act to reduce and modify the rates of postage in the United States, and for other purposes," passed March 3, 1851;

A bill making appropriations for the civil and diplomatic expenses of the Government for the year ending 30th June, 1856, and for other purposes;

A bill making appropriations for the naval service for the year ending the 30th June, 1856;

A bill to amend an act entitled "An act for the relief of George M. Bentley, of the State of Indiana," approved August 5, 1854; and

Joint resolution making appropriations for the payment of those entitled to the benefit of the resolution of the House of Representatives of the United States, passed March 3, 1855, voting extra compensation to pages, foldesrs, and others.

PERSONAL EXPLANATION.

Mr. LANE, of Oregon. I feel it due to the House, as well as to myself and to the gentleman from Maine, [Mr. FARLEY,] that I should have the opportunity of saying that I would not be myself could I entertain unkind and unfriendly feelings towards any fellow-member. Such feelings have no resting place within my breast. Under circumstances of excitement we often do that which we would not in our calmer and unimpassioned moments. At a time, Mr. Speaker, when I believe that very much depended, indeed, everything, upon the consideration of territorial business, a discussion sprung up in this House, which occasioned, for a time, some warmth of feeling between myself and the gentleman from Maine. Angry words ensued; but I now desire to say to that gentleman, and to the House, that up to that time I had felt under obligation to him for his friendly action towards the Territories. He was a member of the Committee on Territories. I knew him well, and appreciated his liberal action, and now, in taking leave of him, and of other members of the House, I cannot refrain from saying that I have not, in my heart, any unkind feelings towards any member of this body, and I thank God I have not. We may differ in purposes, differ upon measures, differ upon all matters relating to the country, and differ honestly, too. I have a right to my own opinions, and other gentlemen have a right to theirs. If I have done anything against the order, decorum, and dignity of this House—anything for which blame could be ascribed to me—I beg the pardon of the House; and feeling that I never had any such deliberate purpose, I know, from their justice and generosity, it will be granted to me. In leaving this Hall I entertain the warmest and kindliest feeling of personal regard for each and every member. There is not an unkind feeling in my heart toward the gentleman from Maine. I hope always to meet him as a friend.

Mr. FARLEY. Mr. Speaker, I have always had a strong aversion to personal collisions of any description upon this floor. Whatever I may have said, or done, on the occasion alluded to by the gentleman from Oregon, in violation of the rules of this House, and of that decorum which

should always distinguish a deliberative body like this, I regret, and I ask that it may be overlooked. I felt, at that time, I had a reason for my course in what had transpired prior to the breach of order on my part.

I have heard with gratification the remarks which have been made by the gentleman from Oregon. I reciprocate the disposition which he has manifested for a proper understanding of the difficulty between us, which, on reflection, I think was accidental. I am pleased that he has given me an opportunity to declare to him, and to the House, that down to the very moment it occurred, I had said nothing which I intended should be in the slightest degree offensive or disrespectful to him. The relations which had previously existed between us were of a gentlemanly character. I shall now forget their unpleasant interruption, and consider those relations restored.

Mr. GREENWOOD. With the permission of the House I will say a single word of explanation. It will be recollected by those around me, that, for a day or two, I have been earnestly endeavoring to have taken up Senate bill (No. 277) for the relief of Theresa Dardenne, widow of Abraham Dardenne, deceased, and their children. Up to this time I have been unsuccessful in obtaining the floor to submit the necessary motion. It is due to myself, to my colleague in the Senate, as well as my colleague in this House, that I should make known my efforts to represent them in regard to the public business.

Mr. LYON. Mr. Speaker, to-day is the Sabbath, and the good book tells us that it is right to do good on that day. I therefore appeal to gentlemen to allow me to take up, and have put on its passage, Senate bill (No. 444) for the relief of Nancy D. Holkar, a poor widow, who is ninety-seven years old. Her claim has been reported on seven times in the Senate, and five times in the House, and has passed successively each one of these bodies. The committees were unanimous in their report, and I now ask unanimous consent for the purpose which I have indicated.

The SPEAKER. There are but nineteen remaining minutes of the session. Within that time, the gentleman is aware that it is impossible to pass a bill.

Mr. VANSANT. I have a case of a poor old widow, which is equally meritorious and deserving of consideration as the one referred to by the gentleman from New York.

The SPEAKER. At twelve m. the Speaker will adjourn this body.

Mr. LYON. If the yeas and nays are called I will withdraw the bill. I appeal to the whole House on the score of humanity.

Mr. WALSH. I object. I have several bills of the same character which I should like to have considered.

Mr. LYON. I move to suspend the rules for the purpose which I have indicated.

The SPEAKER. The House is now acting under a suspension of the rules, if the Chair is correctly informed; and another motion to suspend, until that is disposed of, cannot, therefore, be entertained.

Mr. GOODRICH. Mr. Speaker, with the permission of the House I will say a word of explanation, because some of my constituents have expected that I would do what I have been unable to do; for, without intending to cast the slightest reflection on the Speaker, I have been, among a great many others, so unfortunate as to have failed in obtaining the floor. Many have been disappointed. Had I obtained the floor two hours ago, I should have offered a bill extending the benefits of the laws giving pensions to revolutionary soldiers who had served over six months to those who had served less than that time—for three, four, and five months. This much I feel bound to say in justice to myself.

COMPENSATION OF MESSENGERS.

Mr. WELLS. Mr. Speaker, I desire to offer a resolution in reference to the messengers of this House. If there be objection I will not press it.

Mr. SMITH, of Virginia. The House has just resolved that they have concluded their business, and are only waiting for the other House to adjourn. After such a resolution has been adopted and sent to the other House, is there any power of action here?

The SPEAKER. The Chair thinks it would be a contradiction of the message which the House has just sent to the Senate; but, nevertheless, the Chair would not decide that it is not competent for the House still to transact business if it shall think proper.

The resolution was read for information, as follows:

Resolved, That the Clerk of the House be, and he is hereby, directed to pay all the messengers of the House that receive less pay than the messengers standing at the doors of the Hall, the same pay as is now paid them, and commencing with the last fiscal year.

Mr. EDGERTON. I object to that resolution.

Mr. WELLS. Is it not in order to move to suspend the rules to enable me to introduce it?

The SPEAKER. The Chair decides that such a motion would not be in order, for the reason that the House was acting under a suspension of the rules when it was interrupted by the privileged motion made by the gentleman from Tennessee, [Mr. JONES.]

Mr. STANTON. I beg to state that there are two young men who accompany the mail messengers of the House when they convey the mail to our houses. These young men are not employed by the House of Representatives. They are employed by the messengers themselves.

Mr. JONES, of Tennessee, and Mr. CHANDLER, the committee to wait upon the President, here entered the Hall.

Mr. JONES, of Tennessee. The committee of the House, appointed to wait upon the President of the United States and inform him that the Thirty-Third Congress had closed its labors and was ready to adjourn, have discharged that duty, and have learned from the President that he has no further communication to make.

ADJOURNMENT SINE DIE.

Ten minutes before twelve o'clock, m.

Mr. ORR. I move that this House do now adjourn *sine die*.

The question was put; and the motion was agreed to.

The SPEAKER then rose, and said:

GENTLEMEN OF THE HOUSE OF REPRESENTATIVES: Beyond expressing the hope that our labors may contribute to the common welfare, it may be regarded out of place for me to refer to our acts of legislation. Before announcing the final adjournment of this body, however, I desire, in an *especial* manner, to make you my sincere and heartfelt acknowledgments for the liberal support, marked respect, and *positive* personal kindness which, at all times and under all circumstances, I have received at your hands. And again, I feel that I am under scarcely less obligation to you for the very cordial and impressive terms in which you have been pleased to manifest your approbation of my conduct as your presiding officer. In all sincerity I may say I have never witnessed, and I doubt whether, in the whole history of legislative proceedings, it can be shown that a greater share of forbearance and respectful consideration has ever been exercised towards any presiding officer than that which you have generously accorded to me.

Being about to exchange the toils and cares of official station for the more quiet and peaceful pursuits of private life, bearing with me the consciousness that, in my official conduct, I have at least aimed well, these testimonials, in connection with the oft-repeated expression of unfaltering confidence on the part of my fellow-citizens at home, will be forever cherished by me as among the most gratifying recollections of my past life. In this connection it is a pleasing task to bear testimony to the general courtesy and personal kindness which has prevailed one toward another throughout this Hall.

If, springing from the exciting causes to which we have been subjected, occasional ebullitions of unfriendly feeling have arisen, they have, I trust, passed away, and will be remembered no more.

Cordially sharing the pleasure this must afford to all, and with feelings of unmixed personal kindness toward each of you, I bid you adieu.

This House stands adjourned without day.

The Speaker's address was received with applause; and, after many expressions of regard towards him and towards each other, the members of the Thirty-Third Congress separated for their homes in the various parts of the country.

HOUSE HALL, WASHINGTON, *March* 3, 1855.

Publisher of the Globe:

DEAR SIR: General WHITFIELD, the Delegate from Kansas Territory, has called my attention to a letter of his, quoted in my published remarks on the Senate's amendments to the Indian appropriation bill. He says that "the lands referred to in that letter were lands belonging to the Kaw half-breed Indians; that they lie above the Delaware country, on the Kansas river, and belonging, as they did, to individual Indians, who held them under reservations long since made, and having upon them abundance of valuable timber, they have a value, in his opinion, above those of the Delawares, which were not well timbered, and which were owned by the nation in common." As it is impossible to get the floor at this stage of the session, for an explanation of any kind, and as the treaty, and the proposed evasion of it by the Senate's amendment, were the main points in the discussion, I desire you to publish this, in order that General WHITFIELD may not incur the charge of inconsistency.

Respectfully yours, M. H. NICHOLS.